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# UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
ONE HUNDRED TENTH CONGRESS
OF THE UNITED STATES OF AMERICA

## 2008

AND

PROCLAMATIONS

## VOLUME 122

IN FOUR PARTS

## PART 1

PUBLIC LAWS 110–181 THROUGH 110–235

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| 110–262 .... | To designate the United States bankruptcy courthouse located at 271 Cadman Plaza East in Brooklyn, New York, as the "Conrad B. Duberstein United States Bankruptcy Courthouse". | July 15, 2008 ..... | 2479 |
| 110–263 .... | To redesignate Lock and Dam No. 5 of the McClellan-Kerr Arkansas River Navigation System near Redfield, Arkansas, authorized by the Rivers and Harbors Act approved July 24, 1946, as the "Colonel Charles D. Maynard Lock and Dam". | July 15, 2008 ..... | 2480 |
| 110–264 .... | To designate the station of the United States Border Patrol located at 25762 Madison Avenue in Murrieta, California, as the "Theodore L. Newton, Jr. and George F. Azrak Border Patrol Station". | July 15, 2008 ..... | 2482 |
| 110–265 .... | To designate the facility of the United States Postal Service located at 1190 Lorena Road in Lorena, Texas, as the "Marine Gunnery Sgt. John D. Fry Post Office Building". | July 15, 2008 ..... | 2483 |
| 110–266 .... | To designate the Port Angeles Federal Building in Port Angeles, Washington, as the "Richard B. Anderson Federal Building". | July 15, 2008 ..... | 2484 |

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| 110–267 .... | To designate the facility of the United States Postal Service located at 11151 Valley Boulevard in El Monte, California, as the "Marisol Heredia Post Office Building". | July 15, 2008 ..... | 2485 |
| 110–268 .... | To designate the facility of the United States Postal Service located at 19101 Cortez Boulevard in Brooksville, Florida, as the "Cody Grater Post Office Building". | July 15, 2008 ..... | 2486 |
| 110–269 .... | To designate the facility of the United States Postal Service located at 11001 Dunklin Drive in St. Louis, Missouri, as the "William 'Bill' Clay Post Office Building". | July 15, 2008 ..... | 2487 |
| 110–270 .... | To designate the facility of the United States Postal Service located at 117 North Kidd Street in Ionia, Michigan, as the "Alonzo Woodruff Post Office Building ". | July 15, 2008 ..... | 2488 |
| 110–271 .... | To designate the facility of the United States Postal Service located at 7231 FM 1960 in Humble, Texas, as the "Texas Military Veterans Post Office". | July 15, 2008 ..... | 2489 |
| 110–272 .... | To designate the facility of the United States Postal Service located at 120 Commercial Street in Brockton, Massachusetts, as the "Rocky Marciano Post Office Building". | July 15, 2008 ..... | 2490 |
| 110–273 .... | District of Columbia Water and Sewer Authority Independence Preservation Act. | July 15, 2008 ..... | 2491 |
| 110–274 .... | To amend the Water Resources Development Act of 2007 to clarify the authority of the Secretary of the Army to provide reimbursement for travel expenses incurred by members of the Committee on Levee Safety. | July 15, 2008 ..... | 2493 |
| 110–275 .... | Medicare Improvements for Patients and Providers Act of 2008. | July 15, 2008 ..... | 2494 |
| 110–276 .... | To designate the United States customhouse building located at 31 Gonzalez Clemente Avenue in Mayagüez, Puerto Rico, as the "Rafael Martĩnez Nadal United States Customhouse Building". | July 15, 2008 ..... | 2598 |
| 110–277 .... | American Veterans Disabled for Life Commemorative Coin Act. | July 17, 2008 ..... | 2599 |
| 110–278 .... | Children's Gasoline Burn Prevention Act ..... | July 17, 2008 ..... | 2602 |
| 110–279 .... | To provide for certain Federal employee benefits to be continued for certain employees of the Senate Restaurants after operations of the Senate Restaurants are contracted to be performed by a private business concern, and for other purposes. | July 17, 2008 ..... | 2604 |
| 110–280 .... | Maritime Pollution Prevention Act of 2008 ..... | July 21, 2008 ..... | 2611 |
| 110–281 .... | National Fish and Wildlife Foundation Establishment Act Amendment of 2008. | July 21, 2008 ..... | 2617 |
| 110–282 .... | To designate a portion of United States Route 20A, located in Orchard Park, New York, as the "Timothy J. Russert Highway". | July 23, 2008 ..... | 2618 |
| 110–283 .... | New and Emerging Technologies 911 Improvement Act of 2008. | July 23, 2008 ..... | 2620 |
| 110–284 .... | To designate the United States courthouse located at 1716 Spielbusch Avenue in Toledo, Ohio, as the "James M. Ashley and Thomas W.L. Ashley United States Courthouse". | July 23, 2008 ..... | 2627 |
| 110–285 .... | Caroline Pryce Walker Conquer Childhood Cancer Act of 2008. | July 29, 2008 ..... | 2628 |
| 110–286 .... | Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008. | July 29, 2008 ..... | 2632 |
| 110–287 .... | Approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003. | July 29, 2008 ..... | 2649 |
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| 110–290 .... | Regulatory Improvement Act of 2007 ..... | July 30, 2008 ..... | 2914 |

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| 110–291 .... | Over-the-Road Bus Transportation Accessibility Act of 2007. | July 30, 2008 ..... | 2915 |
| 110–292 .... | To name the Department of Veterans Affairs outpatient clinic in Ponce, Puerto Rico, as the "Euripides Rubio Department of Veterans Affairs Outpatient Clinic". | July 30, 2008 ..... | 2917 |
| 110–293 .... | Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008. | July 30, 2008 ..... | 2918 |
| 110–294 .... | To authorize the Edward Byrne Memorial Justice Assistance Grant Program at fiscal year 2006 levels through 2012. | July 30, 2008 ..... | 2971 |
| 110–295 .... | DTV Transition Assistance Act ..... | July 30, 2008 ..... | 2972 |
| 110–296 .... | Criminal History Background Checks Pilot Extension Act of 2008. | July 30, 2008 ..... | 2974 |
| 110–297 .... | Soboba Band of Luiseño Indians Settlement Act ..... | July 31, 2008 ..... | 2975 |
| 110–298 .... | Law Enforcement Congressional Badge of Bravery Act of 2008. | July 31, 2008 ..... | 2985 |
| 110–299 .... | To clarify the circumstances during which the Administrator of the Environmental Protection Agency and applicable States may require permits for discharges from certain vessels, and to require the Administrator to conduct a study of discharges incidental to the normal operation of vessels. | July 31, 2008 ..... | 2995 |
| 110–300 .... | To temporarily extend the programs under the Higher Education Act of 1965. | July 31, 2008 ..... | 2998 |
| 110–301 .... | Libyan Claims Resolution Act ..... | Aug. 4, 2008 ..... | 2999 |
| 110–302 .... | To designate the Department of Veterans Affairs outpatient clinic in Wenatchee, Washington, as the Elwood "Bud" Link Department of Veterans Affairs Outpatient Clinic. | Aug. 12, 2008 ..... | 3003 |
| 110–303 .... | To designate the facility of the United States Postal Service located at 401 Washington Avenue in Weldon, North Carolina, as the "Dock M. Brown Post Office Building". | Aug. 12, 2008 ..... | 3004 |
| 110–304 .... | To name the Department of Veterans Affairs medical center in Miami, Florida, as the "Bruce W. Carter Department of Veterans Affairs Medical Center". | Aug. 12, 2008 ..... | 3005 |
| 110–305 .... | To designate the facility of the United States Postal Service located at 120 South Del Mar Avenue in San Gabriel, California, as the "Chi Mui Post Office Building". | Aug. 12, 2008 ..... | 3006 |
| 110–306 .... | To designate the facility of the United States Postal Service located at 10449 White Granite Drive in Oakton, Virginia, as the "Private First Class David H. Sharrett II Post Office Building". | Aug. 12, 2008 ..... | 3007 |
| 110–307 .... | To designate the facility of the United States Postal Service located at 1155 Seminole Trail in Charlottesville, Virginia, as the "Corporal Bradley T. Arms Post Office Building". | Aug. 12, 2008 ..... | 3008 |
| 110–308 .... | To designate the facility of the United States Postal Service located at 219 East Main Street in West Frankfort, Illinois, as the "Kenneth James Gray Post Office Building". | Aug. 12, 2008 ..... | 3009 |
| 110–309 .... | To designate the facility of the United States Postal Service located at 42222 Rancho Las Palmas Drive in Rancho Mirage, California, as the "Gerald R. Ford Post Office Building". | Aug. 12, 2008 ..... | 3010 |
| 110–310 .... | To designate the facility of the United States Postal Service located at 14500 Lorain Avenue in Cleveland, Ohio, as the "John P. Gallagher Post Office Building". | Aug. 12, 2008 ..... | 3011 |
| 110–311 .... | To designate the Federal building and United States courthouse located at 300 Quarropas Street in White Plains, New York, as the "Charles L. Brieant, Jr., Federal Building and United States Courthouse". | Aug. 12, 2008 ..... | 3012 |

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| 110–312 .... | United States Parole Commission Extension Act of 2008 | Aug. 12, 2008 ..... | 3013 |
| 110–313 .... | To amend title 35, United States Code, and the Trademark Act of 1946 to provide that the Secretary of Commerce, in consultation with the Director of the United States Patent and Trademark Office, shall appoint administrative patent judges and administrative trademark judges, and for other purposes. | Aug. 12, 2008 ..... | 3014 |
| 110–314 .... | Consumer Product Safety Improvement Act of 2008 ..... | Aug. 14, 2008 ..... | 3016 |
| 110–315 .... | Higher Education Opportunity Act ..... | Aug. 14, 2008 ..... | 3078 |
| 110–316 .... | To amend the Federal Food, Drug, and Cosmetic Act to revise and extend the animal drug user fee program, to establish a program of fees relating to generic new animal drugs, to make certain technical corrections to the Food and Drug Administration Amendments Act of 2007, and for other purposes. | Aug. 14, 2008 ..... | 3509 |
| 110–317 .... | Hubbard Act ..... | Aug. 29, 2008 ..... | 3526 |
| 110–318 .... | To amend the Internal Revenue Code of 1986 to restore the Highway Trust Fund balance. | Sept. 15, 2008 .... | 3532 |
| 110–319 .... | To designate the United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, as the "Theodore Roosevelt United States Courthouse". | Sept. 17, 2008 .... | 3533 |
| 110–320 .... | To designate the United States courthouse located in the 700 block of East Broad Street, Richmond, Virginia, as the "Spottswood W. Robinson III and Robert R. Merhige, Jr., United States Courthouse". | Sept. 18, 2008 .... | 3534 |
| 110–321 .... | To provide for extensions of certain authorities of the Department of State, and for other purposes. | Sept. 19, 2008 .... | 3535 |
| 110–322 .... | To amend the Federal Rules of Evidence to address the waiver of the attorney-client privilege and the work product doctrine. | Sept. 19, 2008 .... | 3537 |
| 110–323 .... | Government Accountability Office Act of 2008 ..... | Sept. 22, 2008 .... | 3539 |
| 110–324 .... | Veterans' Compensation Cost-of-Living Adjustment Act of 2008. | Sept. 24, 2008 .... | 3549 |
| 110–325 .... | ADA Amendments Act of 2008 ..... | Sept. 25, 2008 .... | 3553 |
| 110–326 .... | To amend title 18, United States Code, to provide secret service protection to former Vice Presidents, and for other purposes. | Sept. 26, 2008 .... | 3560 |
| 110–327 .... | Need-Based Educational Aid Act of 2008 ..... | Sept. 30, 2008 .... | 3566 |
| 110–328 .... | SSI Extension for Elderly and Disabled Refugees Act ..... | Sept. 30, 2008 .... | 3567 |
| 110–329 .... | Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009. | Sept. 30, 2008 .... | 3574 |
| 110–330 .... | Federal Aviation Administration Extension Act of 2008, Part II. | Sept. 30, 2008 .... | 3717 |
| 110–331 .... | To designate the facility of the United States Postal Service located at 301 Commerce Street in Commerce, Oklahoma, as the "Mickey Mantle Post Office Building". | Sept. 30, 2008 .... | 3720 |
| 110–332 .... | To designate the Department of Veterans Affairs clinic in Alpena, Michigan, as the "Lieutenant Colonel Clement C. Van Wagoner Department of Veterans Affairs Clinic". | Sept. 30, 2008 .... | 3721 |
| 110–333 .... | To designate the facility of the United States Postal Service located at 1717 Orange Avenue in Fort Pierce, Florida, as the "CeeCee Ross Lyles Post Office Building". | Sept. 30, 2008 .... | 3722 |
| 110–334 .... | To designate the Federal Bureau of Investigation building under construction in Omaha, Nebraska, as the "J. James Exon Federal Bureau of Investigation Building". | Oct. 1, 2008 ..... | 3723 |
| 110–335 .... | To amend title 11, District of Columbia Official Code, to implement the increase provided under the District of Columbia Appropriations Act, 2008, in the amount of funds made available for the compensation of attorneys representing indigent defendants in the District of Columbia courts, and for other purposes. | Oct. 2, 2008 ..... | 3724 |

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| 110–336 .... | Library of Congress Sound Recording and Film Preservation Programs Reauthorization Act of 2008. | Oct. 2, 2008 ..... | 3726 |
| 110–337 .... | To amend title 49, United States Code, to expand passenger facility fee eligibility for certain noise compatibility projects. | Oct. 2, 2008 ..... | 3729 |
| 110–338 .... | John F. Kennedy Center Reauthorization Act of 2008 ..... | Oct. 3, 2008 ..... | 3731 |
| 110–339 .... | Healthy Start Reauthorization Act of 2007 ..... | Oct. 3, 2008 ..... | 3733 |
| 110–340 .... | Child Soldiers Accountability Act of 2008 ..... | Oct. 3, 2008 ..... | 3735 |
| 110–341 .... | To amend Public Law 108–331 to provide for the construction and related activities in support of the Very Energetic Radiation Imaging Telescope Array System (VERITAS) project in Arizona. | Oct. 3, 2008 ..... | 3738 |
| 110–342 .... | Expressing the consent and approval of Congress to an interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin. | Oct. 3, 2008 ..... | 3739 |
| 110–343 .... | To provide authority for the Federal Government to purchase and insure certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes. | Oct. 3, 2008 ..... | 3765 |
| 110–344 .... | Emmett Till Unsolved Civil Rights Crime Act of 2007 ..... | Oct. 7, 2008 ..... | 3934 |
| 110–345 .... | Drug Endangered Children Act of 2007 ..... | Oct. 7, 2008 ..... | 3938 |
| 110–346 .... | North Korean Human Rights Reauthorization Act of 2008 | Oct. 7, 2008 ..... | 3939 |
| 110–347 .... | To designate the facility of the United States Postal Service located at 101 West Main Street in Waterville, New York, as the "Cpl. John P. Sigsbee Post Office". | Oct. 7, 2008 ..... | 3944 |
| 110–348 .... | To designate the facility of the United States Postal Service located at 101 Tallapoosa Street in Bremen, Georgia, as the "Sergeant Paul Saylor Post Office Building". | Oct. 7, 2008 ..... | 3945 |
| 110–349 .... | To designate the facility of the United States Postal Service located at 200 North Texas Avenue in Odessa, Texas, as the "Corporal Alfred Mac Wilson Post Office". | Oct. 7, 2008 ..... | 3946 |
| 110–350 .... | To extend the authority of the Secretary of Education to purchase guaranteed student loans for an additional year, and for other purposes. | Oct. 7, 2008 ..... | 3947 |
| 110–351 .... | Fostering Connections to Success and Increasing Adoptions Act of 2008. | Oct. 7, 2008 ..... | 3949 |
| 110–352 .... | To designate the facility of the United States Postal Service located at 18 S. G Street, Lakeview, Oregon, as the "Dr. Bernard Daly Post Office Building". | Oct. 7, 2008 ..... | 3982 |
| 110–353 .... | To designate the facility of the United States Postal Service located at 1700 Cleveland Avenue in Kansas City, Missouri, as the "Reverend Earl Abel Post Office Building". | Oct. 7, 2008 ..... | 3983 |
| 110–354 .... | Breast Cancer and Environmental Research Act of 2008 ... | Oct. 8, 2008 ..... | 3984 |
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| 110–356 .... | Federal Protective Service Guard Contracting Reform Act of 2008. | Oct. 8, 2008 ..... | 3996 |
| 110–357 .... | National Infantry Museum and Soldier Center Commemorative Coin Act. | Oct. 8, 2008 ..... | 3998 |
| 110–358 .... | To amend title 18, United States Code, to provide for more effective prosecution of cases involving child pornography, and for other purposes. | Oct. 8, 2008 ..... | 4001 |
| 110–359 .... | Old Post Office Building Redevelopment Act of 2008 ..... | Oct. 8, 2008 ..... | 4005 |
| 110–360 .... | Debbie Smith Reauthorization Act of 2008 ..... | Oct. 8, 2008 ..... | 4008 |
| 110–361 .... | Paul D. Wellstone Muscular Dystrophy Community Assistance, Research, and Education Amendments of 2008. | Oct. 8, 2008 ..... | 4010 |

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| 110–362 .... | To extend for 5 years the program relating to waiver of the foreign country residence requirement with respect to international medical graduates, and for other purposes. | Oct. 8, 2008 ..... | 4013 |
| 110–363 .... | Boy Scouts of America Centennial Commemorative Coin Act. | Oct. 8, 2008 ..... | 4015 |
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| 110–366 .... | To extend the waiver authority for the Secretary of Education under section 105 of subtitle A of title IV of division B of Public Law 109–148, relating to elementary and secondary education hurricane recovery relief, and for other purposes. | Oct. 8, 2008 ..... | 4025 |
| 110–367 .... | Defense Production Act Extension and Reauthorization of 2008. | Oct. 8, 2008 ..... | 4026 |
| 110–368 .... | To make a technical correction in the NET 911 Improvement Act of 2008. | Oct. 8, 2008 ..... | 4027 |
| 110–369 .... | United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. | Oct. 8, 2008 ..... | 4028 |
| 110–370 .... | Native American Heritage Day Act of 2008 ..... | Oct. 8, 2008 ..... | 4035 |
| 110–371 .... | Appalachian Regional Development Act Amendments of 2008. | Oct. 8, 2008 ..... | 4037 |
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| 110–374 .... | Prenatally and Postnatally Diagnosed Conditions Awareness Act. | Oct. 8, 2008 ..... | 4051 |
| 110–375 .... | To repeal the provision of title 46, United States Code, requiring a license for employment in the business of salvaging on the coast of Florida. | Oct. 8, 2008 ..... | 4055 |
| 110–376 .... | To reauthorize the United States Fire Administration, and for other purposes. | Oct. 8, 2008 ..... | 4056 |
| 110–377 .... | Poison Center Support, Enhancement, and Awareness Act of 2008. | Oct. 8, 2008 ..... | 4063 |
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| 110–379 .... | QI Program Supplemental Funding Act of 2008 ..... | Oct. 8, 2008 ..... | 4075 |
| 110–380 .... | To provide that funds allocated for community food projects for fiscal year 2008 shall remain available until September 30, 2009. | Oct. 8, 2008 ..... | 4080 |
| 110–381 .... | Michelle's Law ..... | Oct. 9, 2008 ..... | 4081 |
| 110–382 .... | Military Personnel Citizenship Processing Act ..... | Oct. 9, 2008 ..... | 4087 |
| 110–383 .... | Pechanga Band of Luiseno Mission Indians Land Transfer Act of 2007. | Oct. 10, 2008 ..... | 4090 |
| 110–384 .... | Let Our Veterans Rest in Peace Act of 2008 ..... | Oct. 10, 2008 ..... | 4094 |
| 110–385 .... | To improve the quality of Federal and State data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation. | Oct. 10, 2008 ..... | 4096 |
| 110–386 .... | Hydrographic Services Improvement Act Amendments of 2008. | Oct. 10, 2008 ..... | 4106 |
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| 110–388 .... | To provide for the appointment of the Chief Human Capital Officer of the Department of Homeland Security by the Secretary of Homeland Security. | Oct. 10, 2008 ..... | 4144 |
| 110–389 .... | Veterans' Benefits Improvement Act of 2008 ..... | Oct. 10, 2008 ..... | 4145 |
| 110–390 .... | White Mountain Apache Tribe Rural Water System Loan Authorization Act. | Oct. 10, 2008 ..... | 4191 |
| 110–391 .... | Special Immigrant Nonminister Religious Worker Program Act. | Oct. 10, 2008 ..... | 4193 |
| 110–392 .... | Comprehensive Tuberculosis Elimination Act of 2008 ..... | Oct. 13, 2008 ..... | 4195 |

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| 110–393 .... | To authorize the Secretary of Commerce to sell or exchange certain National Oceanic and Atmospheric Administration property located in Norfolk, Virginia, and for other purposes. | Oct. 13, 2008 ..... | 4203 |
| 110–394 .... | National Sea Grant College Program Amendments Act of 2008. | Oct. 13, 2008 ..... | 4205 |
| 110–395 .... | To designate the facility of the United States Postal Service located at 245 North Main Street in New City, New York, as the "Kenneth Peter Zebrowski Post Office Building". | Oct. 13, 2008 ..... | 4210 |
| 110–396 .... | To designate the facility of the United States Postal Service located at 2523 7th Avenue East in North Saint Paul, Minnesota, as the "Mayor William 'Bill' Sandberg Post Office Building". | Oct. 13, 2008 ..... | 4211 |
| 110–397 .... | To designate the facility of the United States Postal Service located at 4233 West Hillsboro Boulevard in Coconut Creek, Florida, as the "Army SPC Daniel Agami Post Office Building". | Oct. 13, 2008 ..... | 4212 |
| 110–398 .... | To amend the commodity provisions of the Food, Conservation, and Energy Act of 2008 to permit producers to aggregate base acres and reconstitute farms to avoid the prohibition on receiving direct payments, countercyclical payments, or average crop revenue election payments when the sum of the base acres of a farm is 10 acres or less, and for other purposes. | Oct. 13, 2008 ..... | 4213 |
| 110–399 .... | To designate the facility of the United States Postal Service located at 156 Taunton Avenue in Seekonk, Massachusetts, as the "Lance Corporal Eric Paul Valdepenas Post Office Building". | Oct. 13, 2008 ..... | 4223 |
| 110–400 .... | Keeping the Internet Devoid of Sexual Predators Act of 2008. | Oct. 13, 2008 ..... | 4224 |
| 110–401 .... | Providing Resources, Officers, and Technology To Eradicate Cyber Threats to Our Children Act of 2008. | Oct. 13, 2008 ..... | 4229 |
| 110–402 .... | To extend the authority of the United States Supreme Court Police to protect court officials off the Supreme Court Grounds and change the title of the Administrative Assistant to the Chief Justice. | Oct. 13, 2008 ..... | 4254 |
| 110–403 .... | Prioritizing Resources and Organization for Intellectual Property Act of 2008. | Oct. 13, 2008 ..... | 4256 |
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| 110–408 .... | Criminal History Background Checks Pilot Extension Act of 2008. | Oct. 13, 2008 ..... | 4301 |
| 110–409 .... | Inspector General Reform Act of 2008 ..... | Oct. 14, 2008 ..... | 4302 |
| 110–410 .... | To designate the Department of Veterans Affairs Outpatient Clinic in Hermitage, Pennsylvania, as the Michael A. Marzano Department of Veterans Affairs Outpatient Clinic. | Oct. 14, 2008 ..... | 4318 |
| 110–411 .... | Native American Housing Assistance and Self-Determination Reauthorization Act of 2008. | Oct. 14, 2008 ..... | 4319 |
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| 110–415 .... | Methamphetamine Production Prevention Act of 2008 ..... | Oct. 14, 2008 ..... | 4349 |
| 110–416 .... | Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008. | Oct. 14, 2008 ..... | 4352 |

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| 110–417 .... | Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. | Oct. 14, 2008 ..... | 4356 |
| 110–418 .... | To designate a portion of the Rappahannock River in the Commonwealth of Virginia as the "John W. Warner Rapids". | Oct. 14, 2008 ..... | 4772 |
| 110–419 .... | To clarify the boundaries of Coastal Barrier Resources System Clam Pass Unit FL–64P. | Oct. 15, 2008 ..... | 4773 |
| 110–420 .... | Code Talkers Recognition Act of 2008 ..... | Oct. 15, 2008 ..... | 4774 |
| 110–421 .... | Bulletproof Vest Partnership Grant Act of 2008 ..... | Oct. 15, 2008 ..... | 4778 |
| 110–422 .... | National Aeronautics and Space Administration Authorization Act of 2008. | Oct. 15, 2008 ..... | 4779 |
| 110–423 .... | To provide that Federal employees receiving their pay by electronic funds transfer shall be given the option of receiving their pay stubs electronically. | Oct. 15, 2008 ..... | 4818 |
| 110–424 .... | To authorize funding to conduct a national training program for State and local prosecutors. | Oct. 15, 2008 ..... | 4819 |
| 110–425 .... | Ryan Haight Online Pharmacy Consumer Protection Act of 2008. | Oct. 15, 2008 ..... | 4820 |
| 110–426 .... | Stephanie Tubbs Jones Organ Transplant Authorization Act of 2008. | Oct. 15, 2008 ..... | 4835 |
| 110–427 .... | To authorize the Administrator of General Services to take certain actions with respect to parcels of real property located in Eastlake, Ohio, and Koochiching County, Minnesota, and for other purposes. | Oct. 15, 2008 ..... | 4837 |
| 110–428 .... | Inmate Tax Fraud Prevention Act of 2008 ..... | Oct. 15, 2008 ..... | 4839 |
| 110–429 .... | To authorize the transfer of naval vessels to certain foreign recipients, and for other purposes. | Oct. 15, 2008 ..... | 4842 |
| 110–430 .... | Appointing the day for the convening of the first session of the One Hundred Eleventh Congress and establishing the date for the counting of the electoral votes for President and Vice President cast by the electors in December 2008. | Oct. 15, 2008 ..... | 4846 |
| 110–431 .... | To authorize funding for the National Crime Victim Law Institute to provide support for victims of crime under Crime Victims Legal Assistance Programs as a part of the Victims of Crime Act of 1984. | Oct. 15, 2008 ..... | 4847 |
| 110–432 .... | To amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes. | Oct. 16, 2008 ..... | 4848 |
| 110–433 .... | To extend through 2013 the authority of the Federal Election Commission to impose civil money penalties on the basis of a schedule of penalties established and published by the Commission. | Oct. 16, 2008 ..... | 4971 |
| 110–434 .... | Vessel Hull Design Protection Amendments of 2008 ..... | Oct. 16, 2008 ..... | 4972 |
| 110–435 .... | Webcaster Settlement Act of 2008 ..... | Oct. 16, 2008 ..... | 4974 |
| 110–436 .... | To extend the Andean Trade Preference Act, and for other purposes. | Oct. 16, 2008 ..... | 4976 |
| 110–437 .... | Capitol Visitor Center Act of 2008 ..... | Oct. 20, 2008 ..... | 4983 |
| 110–438 .... | National Guard and Reservists Debt Relief Act of 2008 ..... | Oct. 20, 2008 ..... | 5000 |
| 110–439 .... | To designate the facility of the United States Postal Service located at 2150 East Hardtner Drive in Urania, Louisiana, as the "Murphy A. Tannehill Post Office Building". | Oct. 21, 2008 ..... | 5003 |
| 110–440 .... | To designate the facility of the United States Postal Service located at 100 West Percy Street in Indianola, Mississippi, as the "Minnie Cox Post Office Building". | Oct. 21, 2008 ..... | 5004 |
| 110–441 .... | To designate a portion of California State Route 91 located in Los Angeles County, California, as the "Juanita Millender-McDonald Highway". | Oct. 21, 2008 ..... | 5005 |

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| 110–442 .... | To designate the facility of the United States Postal Service located at 1750 Lundy Avenue in San Jose, California, as the "Gordon N. Chan Post Office Building". | Oct. 21, 2008 ..... | 5007 |
| 110–443 .... | To designate the facility of the United States Postal Service located at 300 Vine Street in New Lenox, Illinois, as the "Jacob M. Lowell Post Office Building". | Oct. 21, 2008 ..... | 5008 |
| 110–444 .... | To designate the facility of the United States Postal Service located at 4 South Main Street in Wallingford, Connecticut, as the "CWO Richard R. Lee Post Office Building". | Oct. 21, 2008 ..... | 5009 |
| 110–445 .... | To designate the facility of the United States Postal Service located at 801 Industrial Boulevard in Ellijay, Georgia, as the "First Lieutenant Noah Harris Ellijay Post Office Building". | Oct. 21, 2008 ..... | 5010 |
| 110–446 .... | To designate the facility of the United States Postal Service located at 513 6th Avenue in Dayton, Kentucky, as the "Staff Sergeant Nicholas Ray Carnes Post Office". | Oct. 21, 2008 ..... | 5011 |
| 110–447 .... | To designate the facility of the United States Postal Service located at 210 South Ellsworth Avenue in San Mateo, California, as the "Leo J. Ryan Post Office Building". | Oct. 21, 2008 ..... | 5012 |
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ENACTED DURING

## SECOND SESSION OF THE ONE HUNDRED TENTH CONGRESS

OF THE

## UNITED STATES OF AMERICA

*Begun and held at the City of Washington on Thursday, January 3, 2008, adjourned sine die on Saturday, January 3, 2009.* GEORGE W. BUSH, *President;* RICHARD CHENEY, *Vice President;* NANCY PELOSI, *Speaker of the House of Representatives.*

# Public Law 110–181
# 110th Congress

## An Act

To provide for the enactment of the National Defense Authorization Act for Fiscal Year 2008, as previously enrolled, with certain modifications to address the foreign sovereign immunities provisions of title 28, United States Code, with respect to the attachment of property in certain judgments against Iraq, the lapse of statutory authorities for the payment of bonuses, special pays, and similar benefits for members of the uniformed services, and for other purposes.

Jan. 28, 2008
[H.R. 4986]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National Defense Authorization Act for Fiscal Year 2008.

**SECTION 1. SHORT TITLE; TREATMENT OF EXPLANATORY STATEMENT.**

(a) SHORT TITLE.—This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2008".

(b) EXPLANATORY STATEMENT.—The Joint Explanatory Statement submitted by the Committee of Conference for the conference report to accompany H.R. 1585 of the 110th Congress (Report 110–477) shall be deemed to be part of the legislative history of this Act and shall have the same effect with respect to the implementation of this Act as it would have had with respect to the implementation of H.R. 1585, if such bill had been enacted.

**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

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

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**SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.** 10 USC 101 note.

For purposes of this Act, the term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

# DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

# TITLE I—PROCUREMENT

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Sec. 136. Transfer to Government of Iraq of three C–130E tactical airlift aircraft.
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# Subtitle A—Authorization of Appropriations

**SEC. 101. ARMY.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for procurement for the Army as follows:

(1) For aircraft, $4,168,798,000.

(2) For missiles, $1,911,979,000.

(3) For weapons and tracked combat vehicles, $3,007,489,000.

(4) For ammunition, $2,214,576,000.

(5) For other procurement, $12,451,312,000.

(6) For the Joint Improvised Explosive Device Defeat Fund, $228,000,000.

**SEC. 102. NAVY AND MARINE CORPS.**

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2008 for procurement for the Navy as follows:

(1) For aircraft, $12,432,644,000.

(2) For weapons, including missiles and torpedoes, $3,068,187,000.

(3) For shipbuilding and conversion, $13,596,120,000.

(4) For other procurement, $5,209,330,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2008 for procurement for the Marine Corps in the amount of $2,299,419,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2008 for procurement of ammunition for the Navy and the Marine Corps in the amount of $1,058,832,000.

**SEC. 103. AIR FORCE.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for procurement for the Air Force as follows:

(1) For aircraft, $12,117,800,000.

(2) For ammunition, $854,167,000.

(3) For missiles, $4,984,102,000.

(4) For other procurement, $15,405,832,000.

**SEC. 104. DEFENSE-WIDE ACTIVITIES.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for Defense-wide procurement in the amount of $3,280,435,000.

**SEC. 105. NATIONAL GUARD AND RESERVE EQUIPMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for the procurement of aircraft, missiles, wheeled and tracked combat vehicles, tactical wheeled vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces in the amount of $980,000,000.

## Subtitle B—Army Programs

**SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR M1A2 ABRAMS SYSTEM ENHANCEMENT PACKAGE UPGRADES.**

The Secretary of the Army, in accordance with section 2306b of title 10, United States Code, may enter into a multiyear contract, beginning with the fiscal year 2008 program year, for procurement of M1A2 Abrams System Enhancement Package upgrades.

**SEC. 112. MULTIYEAR PROCUREMENT AUTHORITY FOR M2A3/M3A3 BRADLEY FIGHTING VEHICLE UPGRADES.**

The Secretary of the Army, in accordance with section 2306b of title 10, United States Code, may enter into a multiyear contract, beginning with the fiscal year 2008 program year, for procurement of M2A3/M3A3 Bradley fighting vehicle upgrades.

**SEC. 113. MULTIYEAR PROCUREMENT AUTHORITY FOR CONVERSION OF CH-47D HELICOPTERS TO CH-47F CONFIGURATION.**

The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2008 program year, for conversion of CH-47D helicopters to the CH-47F configuration.

**SEC. 114. MULTIYEAR PROCUREMENT AUTHORITY FOR CH-47F HELICOPTERS.**

The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2008 program year, for procurement of CH-47F helicopters.

**SEC. 115. LIMITATION ON USE OF FUNDS FOR INCREMENT 1 OF THE WARFIGHTER INFORMATION NETWORK-TACTICAL PROGRAM PENDING CERTIFICATION TO CONGRESS.**

(a) FUNDING RESTRICTED.—Of the amounts appropriated pursuant to an authorization of appropriations for fiscal year 2008 or otherwise made available for Other Procurement, Army, that are available for Increment 1 of the Warfighter Information Network-Tactical program, not more than 50 percent may be obligated or expended until the Director of Operational Test and Evaluation submits to the congressional defense committees a certification, in writing, that the Director of Operational Test and Evaluation has approved a Test and Evaluation Master Plan and Initial Operational Test Plan for Increment 1 of the Warfighter Information Network-Tactical program.

(b) INCREMENT 1 DEFINED.—For the purposes of this section, Increment 1 of the Warfighter Information Network-Tactical program includes all program elements described as constituting "Increment 1" in the memorandum titled "Warfighter Information

Network-Tactical (WIN-T) Program Acquisition Decision Memorandum", dated June 5, 2007, and signed by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

**SEC. 116. PROHIBITION ON CLOSURE OF ARMY TACTICAL MISSILE SYSTEM PRODUCTION LINE PENDING REPORT.**

(a) PROHIBITION.—Amounts appropriated pursuant to the authorization of appropriations in section 101(2) for missiles, Army, and in section 1502(4) for missile procurement, Army, and any other appropriated funds available to the Secretary of the Army may not be used to close the production line for the Army Tactical Missile System program until after the date on which the Secretary of the Army submits to the congressional defense committees a report that contains—

Certification.

(1) the certification of the Secretary that the long range surface-to-surface strike and counter battery mission of the Army can be adequately performed by other Army weapons systems or by other elements of the Armed Forces; and

Plan.

(2) a plan to mitigate any shortfalls in the industrial base that would be created by the closure of the production line.

(b) SUBMISSION OF REPORT.—The report referred to in subsection (a) is required not later than April 1, 2008.

**SEC. 117. STRYKER MOBILE GUN SYSTEM.**

(a) LIMITATION ON AVAILABILITY OF FUNDS.—None of the amounts authorized to be appropriated by sections 101(3) and 1501(3) for procurement of weapons and tracked combat vehicles for the Army may be obligated or expended for purposes of the procurement of the Stryker Mobile Gun System until 30 days after the date on which the Secretary of the Army certifies to Congress that the Stryker Mobile Gun System is operationally effective, suitable, and survivable for its anticipated deployment missions.

(b) WAIVER.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary—

(1) determines that further procurement of the Stryker Mobile Gun System utilizing amounts referred to in subsection (a) is in the national security interest of the United States notwithstanding the inability of the Secretary of the Army to make the certification required by that subsection; and

(2) submits to the Congress, in writing, a notification of the waiver together with a discussion of—

(A) the reasons for the determination described in paragraph (1); and

(B) the actions that will be taken to mitigate any deficiencies that cause the Stryker Mobile Gun System not to be operationally effective, suitable, or survivable, as that case may be, as described in subsection (a).

## Subtitle C—Navy Programs

**SEC. 121. MULTIYEAR PROCUREMENT AUTHORITY FOR VIRGINIA-CLASS SUBMARINE PROGRAM.**

(a) AUTHORITY.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into multiyear contracts, beginning with the fiscal year 2009 program

year, for the procurement of Virginia-class submarines and Government-furnished equipment associated with the Virginia-class submarine program.

(b) LIMITATION.—The Secretary may not enter into a contract authorized by subsection (a) until—

(1) the Secretary submits to the congressional defense committees a certification that the Secretary has made, with respect to that contract, each of the findings required by subsection (a) of section 2306b of title 10, United States Code; and Certification.

(2) a period of 30 days has elapsed after the date of the transmission of such certification. Deadline.

**SEC. 122. REPORT ON SHIPBUILDING INVESTMENT STRATEGY.**

(a) STUDY REQUIRED.—The Secretary of the Navy shall provide for a study to determine the effectiveness of current financing mechanisms for providing incentives for contractors to make shipbuilding capital expenditures, and to assess potential capital expenditure incentives that would lead to ship construction or life-cycle cost savings to the Federal Government. The study shall examine—

(1) potential improvements in design tools and techniques, material management, technology insertion, systems integration and testing, and other key processes and functions that would lead to reduced construction costs;

(2) construction process improvements that would reduce procurement and life-cycle costs of the vessels under construction at the contractor's facilities; and

(3) incentives for investment in shipyard infrastructure that support construction process improvements.

(b) REPORT.—Not later than October 1, 2008, the Secretary of the Navy shall submit to the congressional defense committees a report providing the results of the study under subsection (a). The report shall include each of the following:

(1) An assessment of the shipbuilding industrial base, as measured by a 10-year history for major shipbuilders with respect to—

(A) estimated value of shipbuilding facilities;
(B) critical shipbuilding capabilities;
(C) capital expenditures;
(D) major investments in process improvements; and
(E) costs for related Navy shipbuilding projects.

(2) A description of mechanisms available to the Government and industry to finance facilities and process improvements, including—

(A) contract incentive and award fees;
(B) facilities capital cost of money;
(C) facilities depreciation;
(D) progress payment provisions;
(E) other contract terms and conditions;
(F) State and Federal tax provisions and tax incentives;
(G) the National Shipbuilding Research Program; and
(H) any other mechanisms available.

(3) A summary of potential shipbuilding investments that offer greatest reduction to shipbuilding costs, including, for each such investment—

(A) a project description;

(B) an estimate of required investment;
(C) the estimated return on investment; and
(D) alternatives for financing the investment.

(4) The Navy's strategy for providing incentives for contractors' capital expenditures that would lead to ship construction or life-cycle savings to the Federal Government, including identification of any specific changes in legislative authority that would be required for the Secretary to execute this strategy.

(c) UTILIZATION OF OTHER STUDIES AND OUTSIDE EXPERTS.—The study shall build upon the results of the 2005 and 2006 Global Shipbuilding Industrial Base Benchmarking studies. Financial analysis associated with the report shall be conducted in consultation with financial experts independent of the Department of Defense.

**SEC. 123. SENSE OF CONGRESS ON THE PRESERVATION OF A SKILLED UNITED STATES SHIPYARD WORKFORCE.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the preservation of a robust domestic skilled workforce is required for the national shipbuilding infrastructure and particularly essential to the construction of ships for the United States Navy.

(b) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of the Navy shall determine, on a one-time, non-recurring basis, and in consultation with the Department of Labor, the average number of H2B visa workers employed by the major shipbuilders in the construction of United States Navy ships during the calendar year ending December 31, 2007. The study shall also identify the number of workers petitioned by the major shipbuilders for use in calendar year 2008, as of the first quarter of calendar year 2008.

(2) REPORT.—Not later than April 1, 2008, the Secretary of the Navy shall submit to the congressional defense committees a report containing the results of the study required by subsection (b).

(3) DEFINITIONS.—In this paragraph—

(A) the term "major shipbuilder" means a prime contractor or a first-tier subcontractor responsible for delivery of combatant and support vessels required for the naval vessel force, as reported within the annual naval vessel construction plan required by section 231 of title 10, United States Code; and

(B) the term "H2B visa" means a non-immigrant visa program that permits employers to hire foreign workers to come temporarily to the United States and perform temporary non-agricultural services or labor on a one-time, seasonal, peakload, or intermittent basis.

10 USC 7291 note.

**SEC. 124. ASSESSMENTS REQUIRED PRIOR TO START OF CONSTRUCTION ON FIRST SHIP OF A SHIPBUILDING PROGRAM.**

(a) IN GENERAL.—Concurrent with approving the start of construction of the first ship for any major shipbuilding program, the Secretary of the Navy shall—

Reports.

(1) submit a report to the congressional defense committees on the results of any production readiness review; and

Certification.

(2) certify to the congressional defense committees that the findings of any such review support commencement of construction.

(b) REPORT.—The report required by subsection (a)(1) shall include, at a minimum, an assessment of each of the following:

(1) The maturity of the ship's design, as measured by stability of the ship contract specifications and the degree of completion of detail design and production design drawings.

(2) The maturity of developmental command and control systems, weapon and sensor systems, and hull, mechanical and electrical systems.

(3) The readiness of the shipyard facilities and workforce to begin construction.

(4) The Navy's estimated cost at completion and the adequacy of the budget to support the estimate.

(5) The Navy's estimated delivery date and description of any variance to the contract delivery date.

(6) The extent to which adequate processes and metrics are in place to measure and manage program risks.

(c) APPLICABILITY.—This section applies to each major shipbuilding program beginning after the date of the enactment of this Act.

(d) DEFINITIONS.—For the purposes of subsection (a):

(1) START OF CONSTRUCTION.—The term "start of construction" means the beginning of fabrication of the hull and superstructure of the ship.

(2) FIRST SHIP.—The term "first ship" applies to a ship if—

(A) the ship is the first ship to be constructed under that shipbuilding program; or

(B) the shipyard at which the ship is to be constructed has not previously started construction on a ship under that shipbuilding program.

(3) MAJOR SHIPBUILDING PROGRAM.—The term "major shipbuilding program" means a program for the construction of combatant and support vessels required for the naval vessel force, as reported within the annual naval vessel construction plan required by section 231 of title 10, United States Code.

(4) PRODUCTION READINESS REVIEW.—The term "production readiness review" means a formal examination of a program prior to the start of construction to determine if the design is ready for production, production engineering problems have been resolved, and the producer has accomplished adequate planning for the production phase.

**SEC. 125. LITTORAL COMBAT SHIP (LCS) PROGRAM.**

Section 124 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3157) is amended by striking subsections (a), (b), (c), and (d) and inserting the following:

"(a) LIMITATION OF COSTS.—

"(1) IN GENERAL.—The total amount obligated or expended for the procurement costs of post-2007 LCS vessels shall not exceed $460,000,000 per vessel.

"(2) PROCUREMENT COSTS.—For purposes of this section, procurement costs shall include all costs for plans, basic construction, change orders, electronics, ordnance, contractor support, and other costs associated with completion of production drawings, ship construction, test, and delivery, including work performed post-delivery that is required to meet original contract requirements.

"(3) POST-2007 LCS VESSELS.—For purposes of this section, the term 'post-2007 LCS vessel' means a vessel in the Littoral Combat Ship (LCS) class of vessels, the procurement of which is funded from amounts appropriated pursuant to an authorization of appropriations or otherwise made available for fiscal year 2008 or any fiscal year thereafter.

"(b) CONTRACT TYPE.—The Secretary of the Navy shall employ a fixed-price type contract for construction of post-2007 LCS vessels.

"(c) LIMITATION OF GOVERNMENT LIABILITY.—The Secretary of the Navy shall not enter into a contract, or modify a contract, for construction or final delivery of post-2007 LCS vessels if the limitation of the Government's cost liability, when added to the sum of other budgeted procurement costs, would exceed $460,000,000 per vessel.

"(d) ADJUSTMENT OF LIMITATION AMOUNT.—The Secretary of the Navy may adjust the amount set forth in subsections (a)(1) and (c) for vessels referred to in such subsections by the following:

"(1) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2007.

"(2) The amounts of outfitting costs and costs required to complete post-delivery test and trials.".

# Subtitle D—Air Force Programs

### SEC. 131. LIMITATION ON JOINT CARGO AIRCRAFT.

Deadline. Submissions.

No funds appropriated pursuant to an authorization of appropriations or otherwise made available for procurement, or for research, development, test, and evaluation, may be obligated or expended for the Joint Cargo Aircraft until 30 days after the Secretary of Defense submits to the congressional defense committees each of the following:

(1) The Air Force Air Mobility Command's Airlift Mobility Roadmap.

Study.

(2) The Department of Defense Intra-Theater Airlift Capabilities Study.

(3) The Department of Defense Joint Intra-Theater Distribution Assessment.

(4) The Joint Cargo Aircraft Functional Area Series Analysis.

(5) The Joint Cargo Aircraft Analysis of Alternatives.

(6) The Joint Intra-Theater Airlift Fleet Mix Analysis.

Certification.

(7) The Secretary's certification that—

(A) there is, within the Department of the Army, Department of the Air Force, Army National Guard, or Air National Guard, a capability gap or shortfall with respect to intra-theater airlift; and

(B) validated requirements exist to fill that gap or shortfall through procurement of the Joint Cargo Aircraft.

### SEC. 132. CLARIFICATION OF LIMITATION ON RETIREMENT OF U–2 AIRCRAFT.

Section 133(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2112) is amended—

(1) in paragraph (1)—

(A) by striking "After fiscal year 2007" and inserting "For each fiscal year after fiscal year 2007"; and

(B) by inserting after "Secretary of Defense" the following: ", in that fiscal year,"; and

(2) in paragraph (2)—

(A) by inserting after "Department of Defense" the following: "in a fiscal year"; and

(B) by inserting after "Congress" the following: "in that fiscal year".

**SEC. 133. REPEAL OF REQUIREMENT TO MAINTAIN RETIRED C–130E TACTICAL AIRCRAFT.**

(a) IN GENERAL.—Effective as of the date specified in subsection (b), section 137(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2114) is repealed. Effective date.

(b) SPECIFIED DATE.—The date specified in this subsection is the date that is 30 days after the date on which the Secretary of the Air Force submits to the congressional defense committees the Fleet Mix Analysis Study. Study.

**SEC. 134. LIMITATION ON RETIREMENT OF C–130E/H TACTICAL AIRLIFT AIRCRAFT.**

(a) GENERAL PROHIBITION.—The Secretary of the Air Force may not retire C–130E/H tactical airlift aircraft during fiscal year 2008, except as provided in subsection (b).

(b) CONTINGENT AUTHORITY TO RETIRE CERTAIN C–130E AIRCRAFT.—Effective as of the date specified in subsection (d), subsection (a) shall not apply to C–130E tactical airlift aircraft, and the number of such aircraft retired by the Secretary of the Air Force during fiscal year 2008 may not exceed 24. Effective date.

(c) TREATMENT OF RETIRED AIRCRAFT.—The Secretary of the Air Force shall maintain each C–130E tactical airlift aircraft that is retired during fiscal year 2008 in a condition that would allow recall of that aircraft to future service.

(d) SPECIFIED DATE.—The date specified in this subsection is the date that is 30 days after the date on which the Secretary of the Air Force submits to the congressional defense committees the Fleet Mix Analysis Study. Study.

**SEC. 135. LIMITATION ON RETIREMENT OF KC–135E AERIAL REFUELING AIRCRAFT.**

(a) LIMITATION ON RETIREMENT OF MORE THAN 48 AIRCRAFT.—The Secretary of the Air Force may not retire more than 48 KC–135E aerial refueling aircraft of the Air Force during fiscal year 2008, except as provided in subsection (b).

(b) CONTINGENT AUTHORITY TO RETIRE 37 ADDITIONAL AIRCRAFT.—Effective as of the date specified in subsection (c), the number of such aircraft retired by the Secretary of the Air Force during fiscal year 2008 may not exceed 85. Effective date.

(c) SPECIFIED DATE.—The date specified in this subsection is the date that is 15 days after the date on which the Secretary of the Air Force submits to the congressional defense committees the Secretary's certification that— Certification.

(1) the system design and development contract for the KC-X program has been awarded; and

(2) if a protest is submitted pursuant to subchapter 5 of title 31, United States Code—

(A) the protest has been resolved in favor of the Federal agency; or

(B) the Secretary has authorized performance of the contract (notwithstanding the protest).

**SEC. 136. TRANSFER TO GOVERNMENT OF IRAQ OF THREE C–130E TACTICAL AIRLIFT AIRCRAFT.**

The Secretary of the Air Force may transfer not more than 3 C–130E tactical airlift aircraft, allowed to be retired under the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364), to the Government of Iraq.

**SEC. 137. MODIFICATION OF LIMITATIONS ON RETIREMENT OF B–52 BOMBER AIRCRAFT.**

(a) MAINTENANCE OF PRIMARY, BACKUP, AND ATTRITION RESERVE INVENTORY OF AIRCRAFT.—Subsection (a) of section 131 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2111) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(C) shall maintain in a common capability configuration a primary aircraft inventory of not less than 63 such aircraft, a backup aircraft inventory of not less than 11 such aircraft, and an attrition reserve aircraft inventory of not less than 2 such aircraft; and

"(D) shall not keep any such aircraft referred to in subparagraph (C) in a status considered excess to the requirements of the possessing command and awaiting disposition instructions."; and

(2) by adding at the end the following:

"(3) DEFINITIONS.—For purposes of paragraph (1):

"(A) The term 'primary aircraft inventory' means aircraft assigned to meet the primary aircraft authorization to—

"(i) a unit for the performance of its wartime mission;

"(ii) a training unit primarily for technical and specialized training for crew personnel or leading to aircrew qualification;

"(iii) a test unit for testing of the aircraft or its components for purposes of research, development, test and evaluation, operational test and evaluation, or to support testing programs; or

"(iv) meet requirements for special missions not elsewhere classified.

"(B) The term 'backup aircraft inventory' means aircraft above the primary aircraft inventory to permit scheduled and unscheduled depot level maintenance, modifications, inspections, and repairs, and certain other mitigating circumstances without reduction of aircraft available for the assigned mission.

"(C) The term 'attrition reserve aircraft inventory' means aircraft required to replace anticipated losses of primary aircraft inventory due to peacetime accidents or wartime attrition.

"(4) TREATMENT OF RETIRED AIRCRAFT.—Of the aircraft retired in accordance with paragraph (1)(A), the Secretary of the Air Force may use not more than 2 such aircraft for maintenance ground training.".

(b) NOTICE OF RETIREMENT.—Subsection (b)(1) of such section is amended by striking "45 days" and inserting "60 days".

# TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Operational test and evaluation of Future Combat Systems network.
Sec. 212. Limitation on use of funds for systems development and demonstration of Joint Light Tactical Vehicle Program.
Sec. 213. Requirement to obligate and expend funds for development and procurement of a competitive propulsion system for the Joint Strike Fighter.
Sec. 214. Limitation on use of funds for defense-wide manufacturing science and technology program.
Sec. 215. Advanced Sensor Applications Program.
Sec. 216. Active protection systems.

Subtitle C—Ballistic Missile Defense

Sec. 221. Participation of Director, Operational Test and Evaluation, in missile defense test and evaluation activities.
Sec. 222. Study on future roles and missions of the Missile Defense Agency.
Sec. 223. Budget and acquisition requirements for Missile Defense Agency activities.
Sec. 224. Limitation on use of funds for replacing warhead on SM–3 Block IIA missile.
Sec. 225. Extension of Comptroller General assessments of ballistic missile defense programs.
Sec. 226. Limitation on availability of funds for procurement, construction, and deployment of missile defenses in Europe.
Sec. 227. Sense of Congress on missile defense cooperation with Israel.
Sec. 228. Limitation on availability of funds for deployment of missile defense interceptors in Alaska.
Sec. 229. Policy of the United States on protection of the United States and its allies against Iranian ballistic missiles.

Subtitle D—Other Matters

Sec. 231. Coordination of human systems integration activities related to acquisition programs.
Sec. 232. Expansion of authority for provision of laboratory facilities, services, and equipment.
Sec. 233. Modification of cost sharing requirement for Technology Transition Initiative.
Sec. 234. Report on implementation of Manufacturing Technology Program.
Sec. 235. Assessment of sufficiency of test and evaluation personnel.
Sec. 236. Repeal of requirement for separate reports on technology area review and assessment summaries.
Sec. 237. Modification of notice and wait requirement for obligation of funds for foreign comparative test program.
Sec. 238. Strategic Plan for the Manufacturing Technology Program.
Sec. 239. Modification of authorities on coordination of Defense Experimental Program to Stimulate Competitive Research with similar Federal programs.
Sec. 240. Enhancement of defense nanotechnology research and development program.
Sec. 241. Federally funded research and development center assessment of the Defense Experimental Program to Stimulate Competitive Research.
Sec. 242. Cost-benefit analysis of proposed funding reduction for High Energy Laser Systems Test Facility.
Sec. 243. Prompt global strike.

# Subtitle A—Authorization of Appropriations

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $10,840,392,000.

(2) For the Navy, $16,980,732,000.

(3) For the Air Force, $25,692,521,000.

(4) For Defense-wide activities, $20,213,900,000, of which $180,264,000 is authorized for the Director of Operational Test and Evaluation.

**SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.**

(a) FISCAL YEAR 2008.—Of the amounts authorized to be appropriated by section 201, $10,913,944,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research, applied research, and advanced technology development" means work funded in program elements for defense research and development under Department of Defense budget activity 1, 2, or 3.

# Subtitle B—Program Requirements, Restrictions, and Limitations

**SEC. 211. OPERATIONAL TEST AND EVALUATION OF FUTURE COMBAT SYSTEMS NETWORK.**

(a) OPERATIONAL TEST AND EVALUATION REQUIRED.—The Secretary of the Army, in cooperation with the Director, Operational Test and Evaluation, shall complete an operational test and evaluation (as defined in section 139(a)(2)(A) of title 10, United States Code), of the FCS network in a realistic environment simulating operational conditions. The operational test and evaluation shall—

(1) be conducted in accordance with a Future Combat Systems Test and Evaluation Master Plan approved by the Director, Operational Test and Evaluation;

(2) be conducted using prototype equipment, sensors, and software for the FCS network;

(3) be conducted in a manner that simulates a full Future Combat Systems brigade;

(4) be conducted, to the maximum extent possible, using actual communications equipment instead of computer simulations;

(5) be conducted in a realistic operational electronic warfare environment, including enemy electronic warfare and network attacks; and

(6) include, to the maximum extent possible, all sensor information feeds the FCS network is designed to incorporate.

(b) FCS NETWORK DEFINED.—In this section, the term "FCS network" includes all sensors, information systems, computers, and

communications systems necessary to support Future Combat Systems brigade operations.

(c) REPORT.—Not later than 120 days after completing the operational test and evaluation required by subsection (a), the Director, Operational Test and Evaluation shall submit to the congressional defense committees a report on the outcome of the operational test and evaluation. The report shall include, at a minimum—

(1) an evaluation of the overall operational effectiveness of the FCS network, including—

(A) an evaluation of the FCS network's capability to transmit the volume and classes of data required by Future Combat Systems approved requirements; and

(B) an evaluation of the FCS network's performance in a degraded condition due to enemy network attack, sophisticated enemy electronic warfare, adverse weather conditions, and terrain variability;

(2) an evaluation of the FCS network's ability to improve friendly force knowledge of the location and capability of enemy forces and combat systems; and

(3) an evaluation of the overall operational suitability of the FCS network.

(d) LIMITATION PENDING SUBMISSION OF REPORT.—

(1) IN GENERAL.—No funds, with the exception of funds for advanced procurement, appropriated pursuant to an authorization of appropriations or otherwise made available to the Department of the Army for any fiscal year may be obligated for low-rate initial production or full-rate production of Future Combat Systems manned ground vehicles until 60 days after the date on which the report is submitted under subsection (c).

(2) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in paragraph (1) if the Secretary determines that such a waiver is critical for national security. Such a waiver shall not become effective until 45 days after the date on which the Secretary submits to the congressional defense committees a written notice of the waiver.

(3) INAPPLICABILITY TO THE NON LINE OF SIGHT CANNON VEHICLE.—The limitation in paragraph (1) does not apply to the Non Line of Sight Cannon vehicle.

**SEC. 212. LIMITATION ON USE OF FUNDS FOR SYSTEMS DEVELOPMENT AND DEMONSTRATION OF JOINT LIGHT TACTICAL VEHICLE PROGRAM.**

Of the amounts appropriated pursuant to an authorization of appropriations or otherwise made available for the Joint Light Tactical Vehicle Program for the acquisition program phase of systems development and demonstration for fiscal year 2008 or any fiscal year thereafter, no more than 50 percent of those amounts may be obligated or expended until after—

Certification.

(1) the Under Secretary of Defense for Acquisition, Technology, and Logistics, or the appropriate milestone decision authority, makes the certification required by section 2366a of title 10, United States Code, with respect to the Joint Light Tactical Vehicle Program; and

(2) the certification has been received by the congressional defense committees.

**SEC. 213. REQUIREMENT TO OBLIGATE AND EXPEND FUNDS FOR DEVELOPMENT AND PROCUREMENT OF A COMPETITIVE PROPULSION SYSTEM FOR THE JOINT STRIKE FIGHTER.**

Of the funds appropriated pursuant to an authorization of appropriations or otherwise made available for fiscal year 2008 or any year thereafter, for research, development, test, and evaluation and procurement for the Joint Strike Fighter Program, the Secretary of Defense shall ensure the obligation and expenditure in each such fiscal year of sufficient annual amounts for the continued development and procurement of 2 options for the propulsion system for the Joint Strike Fighter in order to ensure the development and competitive production for the propulsion system for the Joint Strike Fighter.

10 USC 2521 note.

**SEC. 214. LIMITATION ON USE OF FUNDS FOR DEFENSE-WIDE MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.**

No funds available to the Office of the Secretary of Defense for any fiscal year may be obligated or expended for the defense-wide manufacturing science and technology program unless the Director, Defense Research and Engineering, ensures each of the following:

(1) A component of the Department of Defense has requested and evaluated—

(A) competitive proposals, for each project under the program that is not a project covered by subparagraph (B); and

(B) proposals from as many sources as is practicable under the circumstances, for a project under the program if the disclosure of the needs of the Department of Defense with respect to that project would compromise the national security.

(2) Each project under the program is carried out—

(A) in accordance with the statutory requirements of the Manufacturing Technology Program established by section 2521 of title 10, United States Code; and

(B) in compliance with all requirements of any directive that applies to manufacturing technology.

(3) An implementation plan has been developed.

**SEC. 215. ADVANCED SENSOR APPLICATIONS PROGRAM.**

Deadlines.

(a) TRANSFER OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation, Air Force activities, and made available for the activities of the Intelligence Systems Support Office, an aggregate of $13,000,000 shall be transferred to the Advanced Sensor Applications Program not later than 60 days after the date of the enactment of this Act.

(2) Of the amount authorized to be appropriated by section 301(2) for operation and maintenance, Navy activities, and made available for the activities of the Office of Naval Intelligence, an aggregate of $5,000,000 shall be transferred to the Advanced Sensor Applications Program not later than 60 days after the date of the enactment of this Act.

(b) ASSIGNMENT OF PROGRAM.—Management of the program shall reside within the office of the Under Secretary of Defense for Intelligence until certain conditions specified in the classified annex to the statement of managers accompanying this Act are

met. The program shall be executed by the Commander, Naval Air Systems Command in consultation with the Program Executive Officer for Aviation for the Navy.

**SEC. 216. ACTIVE PROTECTION SYSTEMS.**

(a) LIVE-FIRE TESTS REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall undertake live-fire tests, of appropriate foreign and domestic active protection systems with size, weight, and power characteristics suitable for protecting wheeled tactical vehicles, especially light wheeled tactical vehicles, in order—

(A) to determine the effectiveness of such systems for protecting wheeled tactical vehicles; and

(B) to develop information useful in the consideration of the adoption of such systems in defense acquisition programs.

(2) REPORTS.—Not later than March 1 of each of 2008 and 2009, the Secretary shall submit to the congressional defense committees a report on the results of the tests undertaken under paragraph (1) as of the date of such report.

(3) FUNDING.—The live-fire tests required by paragraph (1) shall be conducted using funds authorized and appropriated for the Joint Improvised Explosive Device Defeat Fund.

(b) COMPREHENSIVE ASSESSMENT REQUIRED.—

(1) IN GENERAL.—The Secretary shall undertake a comprehensive assessment of active protection systems in order to develop information useful in the development of joint active protection systems and other defense programs.

(2) ELEMENTS.—The assessment under paragraph (1) shall include—

(A) an identification of the potential merits and operational costs of the use of active protection systems by United States military forces;

(B) a characterization of the threats that use of active protection systems by potential adversaries would pose to United States military forces and weapons;

(C) an identification and assessment of countermeasures to active protection systems;

(D) an analysis of collateral damage potential of active protection systems;

(E) an identification and assessment of emerging direct-fire and top-attack threats to defense systems that could potentially deploy active protection systems; and

(F) an identification and assessment of critical technology elements of active protection systems.

(3) REPORT.—Not later than December 31, 2008, the Secretary shall submit to the congressional defense committees a report on the assessment under paragraph (1).

## Subtitle C—Ballistic Missile Defense

**SEC. 221. PARTICIPATION OF DIRECTOR, OPERATIONAL TEST AND EVALUATION, IN MISSILE DEFENSE TEST AND EVALUATION ACTIVITIES.**

Section 139 of title 10, United States Code, is amended—

(1) by redesignating subsections (f) through (j) as subsections (g) through (k), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

Records.

"(f)(1) The Director of the Missile Defense Agency shall make available to the Director of Operational Test and Evaluation the results of all tests and evaluations conducted by the Missile Defense Agency and of all studies conducted by the Missile Defense Agency in connection with tests and evaluations in the Missile Defense Agency.

"(2) The Director of Operational Test and Evaluation may require that such observers as the Director designates be present during the preparation for and the conducting of any test and evaluation conducted by the Missile Defense Agency.

"(3) The Director of Operational Test and Evaluation shall have access to all records and data in the Department of Defense (including the records and data of the Missile Defense Agency) that the Director considers necessary to review in order to carry out his duties under this subsection.".

**SEC. 222. STUDY ON FUTURE ROLES AND MISSIONS OF THE MISSILE DEFENSE AGENCY.**

(a) IN GENERAL.—The Secretary of Defense shall enter into an agreement with 1 of the Federally Funded Research and Development Centers under which the Center shall carry out an independent study to examine, and make recommendations with respect to, the long-term structure, roles, and missions of the Missile Defense Agency.

(b) MATTERS INCLUDED.—

(1) REVIEW.—The study shall include a full review of the structure, roles, and missions of the Missile Defense Agency.

(2) ASSESSMENTS.—The study shall include an examination and assessment of the current and future—

(A) structure, roles, and missions of the Missile Defense Agency;

(B) relationship of the Missile Defense Agency with—

(i) the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics;

(ii) the Office of the Under Secretary of Defense for Policy;

(iii) the Director of Operational Test and Evaluation;

(iv) the Commander of the United States Strategic Command and other combatant commanders;

(v) the Joint Requirements Oversight Council; and

(vi) the military departments;

(C) operations and sustainment of missile defenses;

(D) acquisition process for missile defense;

(E) requirements process for missile defense; and

(F) transition and transfer of missile defense capabilities to the military departments.

(3) RECOMMENDATIONS.—The study shall include recommendations as to how the Missile Defense Agency can be made more effective to support the needs of the warfighter, especially with regard to near-term missile defense capabilities. The study shall also examine the full range of options for

the future of the Missile Defense Agency and shall include, but not be limited to, specific recommendations as to whether—

(A) the Missile Defense Agency should be maintained in its current configuration;

(B) the scope and nature of the Missile Defense Agency should be changed from an organization focused on research and development to an organization focused on combat support;

(C) any functions and responsibilities should be added to the Missile Defense Agency, in part or in whole, from other entities such as the United States Strategic Command and the military departments; and

(D) any functions and responsibilities of the Missile Defense Agency should be transferred, in part or in whole, to other entities such as the United States Strategic Command and the military departments.

(c) COOPERATION FROM GOVERNMENT.—In carrying out the study, the Federally Funded Research and Development Center shall receive the full and timely cooperation of the Secretary of Defense and any other United States Government official in providing the Center with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

(d) REPORT.—Not later than September 1, 2008, the Federally Funded Research and Development Center shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on its findings, conclusions, and recommendations.

(e) FUNDING.—Funds for the study shall be provided from amounts appropriated for the Department of Defense.

**SEC. 223. BUDGET AND ACQUISITION REQUIREMENTS FOR MISSILE DEFENSE AGENCY ACTIVITIES.**

10 USC 223 note.

(a) REVISED BUDGET STRUCTURE.—The budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 2009 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) shall set forth separately amounts requested for the Missile Defense Agency for each of the following:

(1) Research, development, test, and evaluation.

(2) Procurement.

(3) Operation and maintenance.

(4) Military construction.

(b) REVISED BUDGET STRUCTURE FOR FISCAL YEAR 2009.—The budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2009 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) shall—

(1) identify all known and estimated operation and support costs; and

(2) set forth separately amounts requested for the Missile Defense Agency for each of the following:

(A) Research, development, test, and evaluation.

(B) Procurement or advance procurement of long lead items, including for Terminal High Altitude Area Defense firing units 3 and 4, and for Standard Missile-3 Block 1A interceptors.

(C) Military construction.

(c) AVAILABILITY OF RDT&E FUNDS FOR FISCAL YEAR 2009.—Upon approval by the Secretary of Defense, and consistent with the plan submitted under subsection (f), funds appropriated pursuant to an authorization of appropriations or otherwise made available for fiscal year 2009 for research, development, test, and evaluation for the Missile Defense Agency—

(1) may be used for the fielding of ballistic missile defense capabilities approved previously by Congress; and

(2) may not be used for—

(A) military construction activities; or

(B) procurement or advance procurement of long lead items, including for Terminal High Altitude Area Defense firing units 3 and 4, and for Standard Missile-3 Block 1A interceptors.

(d) FULL FUNDING REQUIREMENT NOT APPLICABLE TO USE OF PROCUREMENT FUNDS FOR FISCAL YEARS 2009 AND 2010.—In any case in which funds appropriated pursuant to an authorization of appropriations or otherwise made available for procurement for the Missile Defense Agency for fiscal years 2009 and 2010 are used for the fielding of ballistic missile defense capabilities, the funds may be used for the fielding of those capabilities on an "incremental" basis, notwithstanding any law or policy of the Department of Defense that would otherwise require a "full funding" basis.

(e) RELATIONSHIP TO OTHER LAW.—Nothing in this provision shall be construed to alter or otherwise affect in any way the applicability of the requirements and other provisions of section 234(a) through (d) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1837; 10 U.S.C. 2431 note).

Deadline.

(f) PLAN REQUIRED.—Not later than March 1, 2008, the Director of the Missile Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a plan for transitioning the Missile Defense Agency from using exclusively research, development, test, and evaluation funds to using procurement, military construction, operations and maintenance, and research, development, test, and evaluation funds for the appropriate budget activities, and for transitioning from incremental funding to full funding for fiscal years after fiscal year 2010.

(g) OBJECTIVES FOR ACQUISITION ACTIVITIES.—

(1) IN GENERAL.—Commencing as soon as practicable, but not later than the submittal to Congress of the budget for the President for fiscal year 2009 under section 1105(a) of title 31, United States Code, the Missile Defense Agency shall take appropriate actions to achieve the following objectives in its acquisition activities:

(A) Improved transparency.

(B) Improved accountability.

(C) Enhanced oversight.

(2) REQUIRED ACTIONS.—In order to achieve the objectives specified in paragraph (1), the Missile Defense Agency shall, at a minimum, take actions as follows:

(A) Establish acquisition cost, schedule, and performance baselines for each ballistic missile defense system element that—

(i) has entered the equivalent of the systems development and demonstration phase of acquisition; or

(ii) is being produced and acquired for operational fielding.

(B) Provide unit cost reporting data for each ballistic missile defense system element covered by subparagraph (A), and secure independent estimation and verification of such cost reporting data.

(C) Include, in the budget justification materials described in subsection (a), a description of actions being taken in the fiscal year in which such materials are submitted, and the actions to be taken in the fiscal year covered by such materials, to achieve such objectives.

(3) SPECIFICATION OF BALLISTIC MISSILE DEFENSE SYSTEM ELEMENTS.—The ballistic missile defense system elements that, as of October 2007, are ballistic missile defense system elements covered by paragraph (2)(A) are the following elements:

(A) Ground-based Midcourse Defense.

(B) Aegis Ballistic Missile Defense.

(C) Terminal High Altitude Area Defense.

(D) Forward-Based X-band radar-Transportable (AN/TPY–2).

(E) Command, Control, Battle Management, and Communications.

(F) Sea-Based X-band radar.

(G) Upgraded Early Warning radars.

**SEC. 224. LIMITATION ON USE OF FUNDS FOR REPLACING WARHEAD ON SM–3 BLOCK IIA MISSILE.**

Certification.

None of the funds appropriated or otherwise made available pursuant to an authorization of appropriations in this Act may be obligated or expended to replace the unitary warhead on the SM–3 Block IIA missile with the Multiple Kill Vehicle until after the Secretary of Defense certifies to Congress that—

Japan.

(1) the United States and Japan have reached an agreement to replace the unitary warhead on the SM–3 Block IIA missile; and

(2) replacing the unitary warhead on the SM–3 Block IIA missile with the Multiple Kill Vehicle will not delay the expected deployment date of 2014–2015 for that missile.

**SEC. 225. EXTENSION OF COMPTROLLER GENERAL ASSESSMENTS OF BALLISTIC MISSILE DEFENSE PROGRAMS.**

Section 232(g) of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2431 note) is amended—

(1) in paragraph (1), by striking "through 2008" and inserting "through 2013"; and

(2) in paragraph (2), by striking "through 2009" and inserting "through 2014".

**SEC. 226. LIMITATION ON AVAILABILITY OF FUNDS FOR PROCUREMENT, CONSTRUCTION, AND DEPLOYMENT OF MISSILE DEFENSES IN EUROPE.**

(a) GENERAL LIMITATION.—No funds authorized to be appropriated by this Act may be obligated or expended for procurement, site activation, construction, preparation of equipment for, or

deployment of a long-range missile defense system in Europe until the following conditions have been met:

(1) The governments of the countries in which major components of such missile defense system (including interceptors and associated radars) are proposed to be deployed have each given final approval to any missile defense agreements negotiated between such governments and the United States Government concerning the proposed deployment of such components in their countries.

Deadline.

(2) Forty five days have elapsed following the receipt by Congress of the report required under subsection (c)(6).

Reports. Certification.

(b) ADDITIONAL LIMITATION.—In addition to the limitation in subsection (a), no funds authorized to be appropriated by this Act may be obligated or expended for the acquisition or deployment of operational missiles of a long-range missile defense system in Europe until the Secretary of Defense, after receiving the views of the Director of Operational Test and Evaluation, submits to Congress a report certifying that the proposed interceptor to be deployed as part of such missile defense system has demonstrated, through successful, operationally realistic flight testing, a high probability of working in an operationally effective manner.

(c) REPORT ON INDEPENDENT ASSESSMENT FOR BALLISTIC MISSILE DEFENSE IN EUROPE.—

(1) INDEPENDENT ASSESSMENT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall select a federally funded research and development center to conduct an independent assessment of options for ballistic missile defense for forward deployed forces of the United States and its allies in Europe and for the United States homeland.

(2) ANALYSIS OF ADMINISTRATION PROPOSAL.—The study shall provide a full analysis of the Administration's proposal to protect forward-deployed forces of the United States and its allies in Europe, forward-deployed radars in Europe, and the United States by deploying, in Europe, interceptors and radars of the Ground-Based Midcourse Defense (GMD) system. In providing the analysis, the study shall examine each of the following matters:

(A) The threat to Europe and the United States of ballistic missiles (including short-range, medium-range, intermediate-range, and long-range ballistic missiles) from Iran, including the likelihood and timing of such threats.

(B) The technical capabilities of the system, as so deployed, to effectively protect forward-deployed forces of the United States and its allies in Europe, forward-deployed radars in Europe, and the United States against the threat specified in subparagraph (A).

(C) The degree of coverage of the European territory of members of the North Atlantic Treaty Organization.

(D) The political implications of such a deployment on the United States, the North Atlantic Treaty Organization, and other interested parties.

(E) Integration and interoperability with North Atlantic Treaty Organization missile defenses.

(F) The operational issues associated with such a deployment, including operational effectiveness.

(G) The force structure implications of such a deployment, including a comparative analysis of alternative deployment options.

(H) The budgetary implications of such a deployment, including possible allied cost sharing, and the cost-effectiveness of such a deployment.

(I) Command and control arrangements, including any command and control roles for the United States European Command and the North Atlantic Treaty Organization.

(J) Potential opportunities for participation by the Government of Russia.

(3) ANALYSIS OF ALTERNATIVES.—The study shall also provide a full analysis of alternative systems that could be deployed to fulfill, in whole or in part, the protective purposes of the Administration's proposal. The alternative systems shall include a range of feasible combinations of other missile defense systems that are available or are expected to be available as of 2015 and 2020. These should include, but not be limited to, the following:

(A) The Patriot PAC–3 system.

(B) The Medium Extended Air Defense System.

(C) The Aegis Ballistic Missile Defense system, with all variants of the Standard Missile–3 interceptor.

(D) The Terminal High Altitude Area Defense (THAAD) system.

(E) Forward-Based X-band Transportable (FBX-T) radars.

(F) The Kinetic Energy Interceptor (KEI).

(G) Other non-United States, North Atlantic Treaty Organization missile defense systems or components.

(4) MATTERS EXAMINED.—In providing the analysis, the study shall examine, for each alternative system included, each of the matters specified in paragraph (2).

(5) COOPERATION OF OTHER AGENCIES.—The Secretary of Defense shall provide the federally funded research and development center selected under paragraph (1) data, analyses, briefings, and other information as the center considers necessary to carry out the assessment described in that paragraph. Furthermore, the Director of National Intelligence and the heads of other departments and agencies of the United States Government shall also provide the center the appropriate data, analyses, briefings, and other information necessary for the purpose of carrying out the assessment described in that paragraph.

(6) REPORT.—Not later than 180 days after the date of the enactment of this Act, the federally funded research and development center shall submit to the congressional defense committees and the Secretary of Defense a report on the results of the study. The report shall be in unclassified form, but may include a classified annex.

(7) FUNDING.—Of the amounts appropriated or otherwise made available pursuant to the authorization of appropriations in section 201(4), $1,000,000 is available to carry out the study required by this subsection.

(d) CONSTRUCTION.—Nothing in this section shall be construed to limit continuing obligation and expenditure of funds for missile

defense, including for research and development and for other activities not otherwise limited by subsection (a) or (b), including, but not limited to, site surveys, studies, analysis, and planning and design for the proposed missile defense deployment in Europe.

**SEC. 227. SENSE OF CONGRESS ON MISSILE DEFENSE COOPERATION WITH ISRAEL.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should have an active program of ballistic missile defense cooperation with Israel, and should take steps to improve the coordination, interoperability, and integration of United States and Israeli missile defense capabilities, and to enhance the capability of both nations to defend against ballistic missile threats present in the Middle East region.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the status of missile defense cooperation between the United States and Israel.

(2) CONTENT.—The report submitted under this subsection shall include each of the following:

(A) A description of the current program of ballistic missile defense cooperation between the United States and Israel, including its objectives and results to date.

(B) A description of steps taken within the previous five years to improve the interoperability and coordination of the missile defense capabilities of the United States and Israel.

(C) A description of steps planned to be taken by the governments of the United States and Israel in the future to improve the coordination, interoperability, and integration of their missile defense capabilities.

(D) A description of joint efforts of the United States and Israel to develop ballistic missile defense technologies.

(E) A description of joint missile defense exercises and training that have been conducted by the United States and Israel, and the lessons learned from those exercises.

(F) A description of the joint missile defense testing activities of the United States and Israel, past and planned, and the benefits of such joint testing activities.

(G) A description of how the United States and Israel share threat assessments regarding the ballistic missile threat.

(H) Any other matters that the Secretary considers appropriate.

Certification.

**SEC. 228. LIMITATION ON AVAILABILITY OF FUNDS FOR DEPLOYMENT OF MISSILE DEFENSE INTERCEPTORS IN ALASKA.**

None of the funds authorized to be appropriated by this Act may be obligated or expended to deploy more than 40 Ground-Based Interceptors at Fort Greely, Alaska, until the Secretary of Defense, after receiving the views of the Director of Operational Test and Evaluation, submits to Congress a certification that the Block 2006 Ground-based Midcourse Defense element of the Ballistic Missile Defense System has demonstrated, through operationally realistic end-to-end flight testing, that it has a high probability of working in an operationally effective manner.

**SEC. 229. POLICY OF THE UNITED STATES ON PROTECTION OF THE UNITED STATES AND ITS ALLIES AGAINST IRANIAN BALLISTIC MISSILES.**

10 USC 2431 note.

(a) FINDING.—Congress finds that Iran maintains a nuclear program in continued defiance of the international community while developing ballistic missiles of increasing sophistication and range that—

(1) pose a threat to—

(A) the forward-deployed forces of the United States;

(B) North Atlantic Treaty Organization (NATO) allies in Europe; and

(C) other allies and friendly foreign countries in the region; and

(2) eventually could pose a threat to the United States homeland.

(b) POLICY OF THE UNITED STATES.—It is the policy of the United States—

(1) to develop, test, and deploy, as soon as technologically feasible, in conjunction with allies and friendly foreign countries whenever possible, an effective defense against the threat from Iran described in subsection (a) that will provide protection—

(A) for the forward-deployed forces of the United States, NATO allies, and other allies and friendly foreign countries in the region; and

(B) for the United States homeland;

(2) to encourage the NATO alliance to accelerate its efforts to—

(A) protect NATO territory in Europe against the existing threat of Iranian short- and medium-range ballistic missiles; and

(B) facilitate the ability of NATO allies to acquire the missile defense systems needed to provide a wide-area defense capability against short- and medium-range ballistic missiles; and

(3) to proceed with the activities specified in paragraphs (1) and (2) in a manner such that any missile defense systems fielded by the United States in Europe are integrated with or complementary to missile defense systems fielded by NATO in Europe.

## Subtitle D—Other Matters

**SEC. 231. COORDINATION OF HUMAN SYSTEMS INTEGRATION ACTIVITIES RELATED TO ACQUISITION PROGRAMS.**

10 USC 1701 note.

(a) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall coordinate and manage human systems integration activities throughout the acquisition programs of the Department of Defense.

(b) ADMINISTRATION.—In carrying out subsection (a), the Secretary shall designate a senior official to be responsible for the effort.

(c) RESPONSIBILITIES.—In carrying out this section, the senior official designated in subsection (b) shall—

(1) coordinate the planning, management, and execution of such activities; and

(2) identify and recommend, as appropriate, resource requirements for human systems integration activities.

Deadline.

(d) DESIGNATION.—The designation required by subsection (b) shall be made not later than 60 days after the date of the enactment of this Act.

**SEC. 232. EXPANSION OF AUTHORITY FOR PROVISION OF LABORATORY FACILITIES, SERVICES, AND EQUIPMENT.**

Section 2539b of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "and" at the end;

(B) in paragraph (3) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) make available to any person or entity, through leases, contracts, or other appropriate arrangements, facilities, services, and equipment of any government laboratory, research center, or range, if the facilities, services, and equipment provided will not be in direct competition with the domestic private sector.";

(2) in subsection (c)—

(A) by striking "for services"; and

(B) by striking "subsection (a)(3)" and inserting "subsections (a)(3) and (a)(4)"; and

(3) in subsection (d)—

(A) by striking "for services made available"; and

(B) by striking "subsection (a)(3)" and inserting "subsections (a)(3) and (a)(4)".

**SEC. 233. MODIFICATION OF COST SHARING REQUIREMENT FOR TECHNOLOGY TRANSITION INITIATIVE.**

Paragraph (2) of section 2359a(f) of title 10, United States Code, is amended to read as follows:

"(2) The amount of funds provided to a project under paragraph (1) by the military department or Defense Agency concerned shall be the appropriate share of the military department or Defense Agency, as the case may be, of the cost of the project, as determined by the Manager.".

**SEC. 234. REPORT ON IMPLEMENTATION OF MANUFACTURING TECHNOLOGY PROGRAM.**

(a) REPORT REQUIRED.—Not later than September 1, 2008, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of the technologies and processes developed under the Manufacturing Technology Program required by section 2521 of title 10, United States Code.

(b) ELEMENTS.—The report shall identify each technology or process implemented and, for each such technology or process, shall identify—

(1) the project of the Manufacturing Technology Program through which the technology or process was developed, the Federal and non-Federal participants in that project, and the duration of the project;

(2) the organization or program implementing the technology or process, and a description of the implementation;

(3) the funding required to implement the technology or process, including—

(A) funds provided by military departments and Defense Agencies under the Manufacturing Technology Program;

(B) funds provided by the Department of Defense, or any element of the Department, to co-develop the technology or process;

(C) to the maximum extent practicable, funds provided by the Department of Defense, or any element of the Department, to—

(i) mature the technology or process prior to transition to the Manufacturing Technology Program; and

(ii) provide for the implementation of the technology or process;

(4) the total value of industry cost share, if applicable;

(5) if applicable, the total value of cost avoidance or cost savings directly attributable to the implementation of the technology or process; and

(6) a description of any system performance enhancements, technology performance enhancements, or improvements in a manufacturing readiness level of a system or a technology.

(c) DEFINITION.—For purposes of this section, the term "implementation" refers to—

(1) the use of a technology or process in the manufacture of defense materiel;

(2) the inclusion of a technology or process in the systems engineering plan for a program of record; or

(3) the use of a technology or process for the manufacture of commercial items.

(d) SCOPE.—The report shall include technologies or processes developed with funds appropriated or otherwise made available for the Manufacturing Technology programs of the military departments and Defense Agencies for fiscal years 2003 through 2005.

**SEC. 235. ASSESSMENT OF SUFFICIENCY OF TEST AND EVALUATION PERSONNEL.**

(a) ASSESSMENT REQUIRED.—The Director of Operational Test and Evaluation shall assess whether the Director's professional staff meets the requirement of section 139(j) of title 10, United States Code, that the staff be sufficient to carry out the Director's duties and responsibilities.

(b) INCLUSION IN REPORT.—The Director shall include the results of the assessment in the report, required by section 139(g) of title 10, United States Code, summarizing the operational test and evaluation activities during fiscal year 2007.

**SEC. 236. REPEAL OF REQUIREMENT FOR SEPARATE REPORTS ON TECHNOLOGY AREA REVIEW AND ASSESSMENT SUMMARIES.**

Subsection (c) of section 253 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3179; 10 U.S.C. 2501 note) is repealed.

**SEC. 237. MODIFICATION OF NOTICE AND WAIT REQUIREMENT FOR OBLIGATION OF FUNDS FOR FOREIGN COMPARATIVE TEST PROGRAM.**

Paragraph (3) of section 2350a(g) of title 10, United States Code, is amended to read as follows:

Deadline.

"(3) The Director of Defense Research and Engineering shall notify the congressional defense committees of the intent to obligate funds made available to carry out this subsection not less than 7 days before such funds are obligated.".

**SEC. 238. STRATEGIC PLAN FOR THE MANUFACTURING TECHNOLOGY PROGRAM.**

(a) IN GENERAL.—Section 2521 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) FIVE-YEAR STRATEGIC PLAN.—(1) The Secretary shall develop a plan for the program that includes the following:

"(A) The overall manufacturing technology goals, milestones, priorities, and investment strategy for the program.

"(B) The objectives of, and funding for, the program for each military department and each Defense Agency that shall participate in the program during the period of the plan.

"(2) The Secretary shall include in the plan mechanisms for assessing the effectiveness of the program under the plan.

"(3) The Secretary shall update the plan on a biennial basis.

"(4) Each plan, and each update to the plan, shall cover a period of five fiscal years.".

10 USC 2521 note.

(b) INITIAL DEVELOPMENT AND SUBMISSION OF PLAN.—

(1) DEVELOPMENT.—The Secretary of Defense shall develop the strategic plan required by subsection (e) of section 2521 of title 10, United States Code (as added by subsection (a) of this section), so that the plan goes into effect at the beginning of fiscal year 2009.

Deadline.

(2) SUBMISSION.—Not later than the date on which the budget of the President for fiscal year 2010 is submitted to Congress under section 1105 of title 31, United States Code, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the plan specified in paragraph (1).

**SEC. 239. MODIFICATION OF AUTHORITIES ON COORDINATION OF DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH WITH SIMILAR FEDERAL PROGRAMS.**

Section 257(e)(2) of the National Defense Authorization Act for Fiscal Year 1995 (10 U.S.C. 2358 note) is amended by striking "shall" each place it appears and inserting "may".

**SEC. 240. ENHANCEMENT OF DEFENSE NANOTECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.**

(a) PROGRAM PURPOSES.—Subsection (b) of section 246 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2500; 10 U.S.C. 2358 note) is amended—

(1) in paragraph (2), by striking "in nanoscale research and development" and inserting "in the National Nanotechnology Initiative and with the National Nanotechnology Coordination Office under section 3 of the 21st

Century Nanotechnology Research and Development Act (15 U.S.C. 7502)"; and

(2) in paragraph (3), by striking "portfolio of fundamental and applied nanoscience and engineering research initiatives" and inserting "portfolio of nanotechnology research and development initiatives".

(b) PROGRAM ADMINISTRATION.—

(1) ADMINISTRATION THROUGH UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—Subsection (c) of such section is amended—

(A) by striking "the Director of Defense Research and Engineering" and inserting "the Under Secretary of Defense for Acquisition, Technology, and Logistics"; and

(B) by striking "The Director" and inserting "The Under Secretary".

(2) OTHER ADMINISTRATIVE MATTERS.—Such subsection is further amended—

(A) in paragraph (2), by striking "the Department's increased investment in nanotechnology research and development and the National Nanotechnology Initiative; and" and inserting "investments by the Department and other departments and agencies participating in the National Nanotechnology Initiative in nanotechnology research and development;";

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

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

"(4) oversee Department of Defense participation in interagency coordination of the program with other departments and agencies participating in the National Nanotechnology Initiative.".

(c) PROGRAM ACTIVITIES.—Such section is further amended—

(1) by striking subsection (d); and

(2) by adding at the end the following new subsection (d):

"(d) STRATEGIC PLAN.—The Under Secretary shall develop and maintain a strategic plan for defense nanotechnology research and development that—

"(1) is integrated with the strategic plan for the National Nanotechnology Initiative and the strategic plans of the Director of Defense Research and Engineering, the military departments, and the Defense Agencies; and

"(2) includes a clear strategy for transitioning the research into products needed by the Department.".

(d) REPORTS.—Such section is further amended by adding at the end the following new subsection:

"(e) REPORTS.—

"(1) IN GENERAL.—Not later than March 1 of each of 2009, 2011, and 2013, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the program.

"(2) MATTERS INCLUDED.—Each report under paragraph (1) shall include the following:

"(A) A review of—

"(i) the long-term challenges and specific technical goals of the program; and

"(ii) the progress made toward meeting such challenges and achieving such goals.

"(B) An assessment of current and proposed funding levels for the program, including an assessment of the adequacy of such funding levels to support program activities.

"(C) A review of the coordination of activities under the program within the Department of Defense, with other departments and agencies of the United States, and with the National Nanotechnology Initiative.

"(D) A review and analysis of the findings and recommendations relating to the Department of Defense of the most recent triennial external review of the National Nanotechnology Program under section 5 of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 1704), and a description of initiatives of the Department to implement such recommendations.

"(E) An assessment of technology transition from nanotechnology research and development to enhanced warfighting capabilities, including contributions from the Department of Defense Small Business Innovative Research and Small Business Technology Transfer Research programs, and the Department of Defense Manufacturing Technology program, and an identification of acquisition programs and deployed defense systems that are incorporating nanotechnologies.

"(F) An assessment of global nanotechnology research and development in areas of interest to the Department, including an identification of the use of nanotechnologies in any foreign defense systems.

"(G) An assessment of the defense nanotechnology manufacturing and industrial base and its capability to meet the near and far term requirements of the Department.

"(H) Such recommendations for additional activities under the program to meet emerging national security requirements as the Under Secretary considers appropriate.

"(3) CLASSIFICATION.—Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.".

**SEC. 241. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER ASSESSMENT OF THE DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.**

(a) ASSESSMENT REQUIRED.—The Secretary of Defense shall—

(1) utilize a defense federally funded research and development center to carry out an assessment of the effectiveness of the Defense Experimental Program to Stimulate Competitive Research; and

Deadline. Reports.

(2) not later than nine months after the date of the enactment of this Act, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on that assessment.

(b) MATTERS ASSESSED.—The report under subsection (a) shall include the following:

(1) A description and assessment of the tangible results and progress toward the objectives of the program, including—

(A) an identification of any past program activities that led to, or were fundamental to, applications used by, or supportive of, operational users; and

(B) an assessment of whether the program has expanded the national research infrastructure.

(2) An assessment whether the activities undertaken under the program are consistent with the statute authorizing the program.

(3) An assessment whether the various elements of the program, such as structure, funding, staffing, project solicitation and selection, and administration, are working effectively and efficiently to support the effective execution of the program.

(4) A description and assessment of past and ongoing activities of State planning committees under the program in supporting the achievement of the objectives of the program.

(5) An analysis of the advantages and disadvantages of having an institution-based formula for qualification to participate in the program when compared with the advantages and disadvantages of having a State-based formula for qualification to participate in supporting defense missions and the objective of expanding the Nation's defense research infrastructure.

(6) An identification of mechanisms for improving the management and implementation of the program, including modification of the statute authorizing the program, Department regulations, program structure, funding levels, funding strategy, or the activities of the State committees.

(7) Any other matters the Secretary considers appropriate.

**SEC. 242. COST-BENEFIT ANALYSIS OF PROPOSED FUNDING REDUCTION FOR HIGH ENERGY LASER SYSTEMS TEST FACILITY.**

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report containing a cost-benefit analysis of the proposed reduction in Army research, development, test, and evaluation funding for the High Energy Laser Systems Test Facility.

(b) EVALUATION OF IMPACT ON OTHER MILITARY DEPARTMENTS.—The report required under subsection (a) shall include an evaluation of the impact of the proposed reduction in funding on each Department of Defense organization or activity that utilizes the High Energy Laser Systems Test Facility.

**SEC. 243. PROMPT GLOBAL STRIKE.**

10 USC 113 note.

(a) RESEARCH, DEVELOPMENT, AND TESTING PLAN.—The Secretary of Defense shall submit to the congressional defense committees a research, development, and testing plan for prompt global strike program objectives for fiscal years 2008 through 2013.

(b) PLAN FOR OBLIGATION AND EXPENDITURE OF FUNDS.—

(1) IN GENERAL.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a plan for obligation and expenditure of funds available for prompt global strike for fiscal year 2008. The plan shall include correlations between each technology application being developed in fiscal year 2008 and the prompt global strike alternative or alternatives toward which the technology application applies.

Deadline.

(2) LIMITATION.—The Under Secretary shall not implement the plan required by paragraph (1) until at least 10 days after the plan is submitted as required by that paragraph.

# TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.

Subtitle B—Environmental Provisions

Sec. 311. Reimbursement of Environmental Protection Agency for certain costs in connection with Moses Lake Wellfield Superfund Site, Moses Lake, Washington.
Sec. 312. Reimbursement of Environmental Protection Agency for certain costs in connection with the Arctic Surplus Superfund Site, Fairbanks, Alaska.
Sec. 313. Payment to Environmental Protection Agency of stipulated penalties in connection with Jackson Park Housing Complex, Washington.
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Sec. 327. Public-private competition required before conversion to contractor performance.
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Subtitle D—Extension of Program Authorities

Sec. 341. Extension of Arsenal Support Program Initiative.
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Subtitle E—Reports

Sec. 351. Reports on National Guard readiness for emergencies and major disasters.
Sec. 352. Annual report on prepositioned materiel and equipment.
Sec. 353. Report on incremental cost of early 2007 enhanced deployment.
Sec. 354. Modification of requirements of Comptroller General report on the readiness of Army and Marine Corps ground forces.
Sec. 355. Plan to improve readiness of ground forces of active and reserve components.
Sec. 356. Independent assessment of Civil Reserve Air Fleet viability.
Sec. 357. Department of Defense Inspector General report on physical security of Department of Defense installations.
Sec. 358. Review of high-altitude aviation training.
Sec. 359. Reports on safety measures and encroachment issues and master plan for Warren Grove Gunnery Range, New Jersey.
Sec. 360. Report on search and rescue capabilities of the Air Force in the northwestern United States.

Sec. 361. Report and master infrastructure recapitalization plan for Cheyenne Mountain Air Station, Colorado.

Subtitle F—Other Matters

Sec. 371. Enhancement of corrosion control and prevention functions within Department of Defense.

Sec. 372. Authority for Department of Defense to provide support for certain sporting events.

Sec. 373. Authority to impose reasonable restrictions on payment of full replacement value for lost or damaged personal property transported at Government expense.

Sec. 374. Priority transportation on Department of Defense aircraft of retired members residing in Commonwealths and possessions of the United States for certain health care services.

Sec. 375. Recovery of missing military property.

Sec. 376. Retention of combat uniforms by members of the Armed Forces deployed in support of contingency operations.

Sec. 377. Issue of serviceable material of the Navy other than to Armed Forces.

Sec. 378. Reauthorization of Aviation Insurance Program.

# Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $28,787,219,000.

(2) For the Navy, $33,355,683,000.

(3) For the Marine Corps, $4,967,193,000.

(4) For the Air Force, $33,118,462,000.

(5) For Defense-wide activities, $22,500,253,000.

(6) For the Army Reserve, $2,509,862,000.

(7) For the Navy Reserve, $1,186,883,000.

(8) For the Marine Corps Reserve, $208,637,000.

(9) For the Air Force Reserve, $2,821,817,000.

(10) For the Army National Guard, $5,857,409,000.

(11) For the Air National Guard, $5,456,668,000.

(12) For the United States Court of Appeals for the Armed Forces, $11,971,000.

(13) For Environmental Restoration, Army, $434,879,000.

(14) For Environmental Restoration, Navy, $300,591,000.

(15) For Environmental Restoration, Air Force, $458,428,000.

(16) For Environmental Restoration, Defense-wide, $12,751,000.

(17) For Environmental Restoration, Formerly Used Defense Sites, $270,249,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $103,300,000.

(19) For Former Soviet Union Threat Reduction programs, $428,048,000.

(20) For the Overseas Contingency Operations Transfer Fund, $5,000,000.

## Subtitle B—Environmental Provisions

**SEC. 311. REIMBURSEMENT OF ENVIRONMENTAL PROTECTION AGENCY FOR CERTAIN COSTS IN CONNECTION WITH MOSES LAKE WELLFIELD SUPERFUND SITE, MOSES LAKE, WASHINGTON.**

(a) AUTHORITY TO REIMBURSE.—

(1) TRANSFER AMOUNT.—Using funds described in subsection (b), the Secretary of Defense may, notwithstanding section 2215 of title 10, United States Code, transfer not more than $91,588.51 to the Moses Lake Wellfield Superfund Site 10–6J Special Account.

(2) PURPOSE OF REIMBURSEMENT.—The payment under paragraph (1) is to reimburse the Environmental Protection Agency for its costs incurred in overseeing a remedial investigation/feasibility study performed by the Department of the Army under the Defense Environmental Restoration Program at the former Larson Air Force Base, Moses Lake Superfund Site, Moses Lake, Washington.

(3) INTERAGENCY AGREEMENT.—The reimbursement described in paragraph (2) is provided for in the interagency agreement entered into by the Department of the Army and the Environmental Protection Agency for the Moses Lake Wellfield Superfund Site in March 1999.

(b) SOURCE OF FUNDS.—Any payment under subsection (a) shall be made using funds authorized to be appropriated by section 301(16) for operation and maintenance for Environmental Restoration, Defense-wide.

(c) USE OF FUNDS.—The Environmental Protection Agency shall use the amount transferred under subsection (a) to pay costs incurred by the Agency at the Moses Lake Wellfield Superfund Site.

**SEC. 312. REIMBURSEMENT OF ENVIRONMENTAL PROTECTION AGENCY FOR CERTAIN COSTS IN CONNECTION WITH THE ARCTIC SURPLUS SUPERFUND SITE, FAIRBANKS, ALASKA.**

(a) AUTHORITY TO REIMBURSE.—

(1) TRANSFER AMOUNT.—Using funds described in subsection (b), the Secretary of Defense may, notwithstanding section 2215 of title 10, United States Code, transfer not more than $186,625.38 to the Hazardous Substance Superfund.

(2) PURPOSE OF REIMBURSEMENT.—The payment under paragraph (1) is to reimburse the Environmental Protection Agency for costs incurred pursuant to the agreement known as "In the Matter of Arctic Surplus Superfund Site, U.S. EPA Docket Number CERCLA–10–2003–0114: Administrative Order on Consent for Remedial Design and Remedial Action", entered into by the Department of Defense and the Environmental Protection Agency on December 11, 2003.

(b) SOURCE OF FUNDS.—Any payment under subsection (a) shall be made using funds authorized to be appropriated by section 301(16) for operation and maintenance for Environmental Restoration, Defense-wide.

(c) USE OF FUNDS.—The Environmental Protection Agency shall use the amount transferred under subsection (a) to pay costs

incurred by the Agency pursuant to the agreement described in paragraph (2) of such subsection.

**SEC. 313. PAYMENT TO ENVIRONMENTAL PROTECTION AGENCY OF STIPULATED PENALTIES IN CONNECTION WITH JACKSON PARK HOUSING COMPLEX, WASHINGTON.**

(a) AUTHORITY TO TRANSFER FUNDS.—

(1) TRANSFER AMOUNT.—Using funds described in subsection (b), the Secretary of the Navy may, notwithstanding section 2215 of title 10, United States Code, transfer not more than $40,000.00 to the Hazardous Substance Superfund.

(2) PURPOSE OF TRANSFER.—The payment under paragraph (1) is to pay a stipulated penalty assessed by the Environmental Protection Agency on October 25, 2005, against the Jackson Park Housing Complex, Washington, for the failure by the Navy to timely submit a draft final Phase II Remedial Investigation Work Plan for the Jackson Park Housing Complex Operable Unit (OU–3T–JPHC) pursuant to a schedule included in an Interagency Agreement (Administrative Docket No. CERCLA–10–2005–0023).

(b) SOURCE OF FUNDS.—Any payment under subsection (a) shall be made using funds authorized to be appropriated by section 301(14) for operation and maintenance for Environmental Restoration, Navy.

(c) USE OF FUNDS.—The amount transferred under subsection (a) shall be used by the Environmental Protection Agency to pay the penalty described under paragraph (2) of such subsection.

**SEC. 314. REPORT ON CONTROL OF THE BROWN TREE SNAKE.**

(a) FINDINGS.—Congress finds the following:

(1) The brown tree snake (*Boiga irregularis*), an invasive species, is found in significant numbers on military installations and in other areas on Guam, and constitutes a serious threat to the ecology of Guam.

(2) If introduced into Hawaii, the Commonwealth of the Northern Mariana Islands, or the continental United States, the brown tree snake would pose an immediate and serious economic and ecological threat.

(3) The most probable vector for the introduction of the brown tree snake into Hawaii, the Commonwealth of the Northern Mariana Islands, or the continental United States is the movement from Guam of military aircraft, personnel, and cargo, including the household goods of military personnel and other military assets.

(4) It is probable that the movement of military aircraft, personnel, and cargo, including the household goods of military personnel, from Guam to Hawaii, the Commonwealth of the Northern Mariana Islands, or the continental United States will increase significantly coincident with the increase in the number of military units and personnel stationed on Guam.

(5) Current policies, programs, procedures, and dedicated resources of the Department of Defense and of other departments and agencies of the United States may not be sufficient to adequately address the management, control, and eradication of the brown tree snake on Guam and the increasing threat of the introduction of the brown tree snake from Guam into Hawaii, the Commonwealth of the Northern Mariana Islands,

the continental United States, or other non-native environments.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the following:

(1) The actions currently being taken (including the resources being made available) by the Department of Defense to control, and to develop new or existing techniques to control, the brown tree snake on Guam and to prevent the introduction of the brown tree snake into Hawaii, the Commonwealth of the Northern Mariana Island, the continental United States, or any other non-native environment as a result of the movement from Guam of military aircraft, personnel, and cargo, including the household goods of military personnel and other military assets. Such actions shall include any actions taken by the Department of Defense to implement the recommendations of the Brown Tree Snake Review Panel commissioned by the Department of the Interior, as contained in the Review Panel's final report entitled "Review of Brown Tree Snake Problems and Control Programs" published in March 2005.

(2) Current plans for enhanced future actions, policies, and procedures and increased levels of resources in order to ensure that the projected increase of military personnel stationed on Guam does not increase the threat of introduction of the brown tree snake from Guam into Hawaii, the Commonwealth of the Northern Mariana Islands, the continental United States, or other non-native environments.

(3) The results of management, control, and eradication carried out by the Secretary of Defense, in consultation with the Secretary of the Interior, before the date on which the report is submitted with respect to brown tree snakes through the integrated natural resource management plans prepared for military installations in Guam under the pilot program authorized by section 101(g) of the Sikes Act (16 U.S.C. 670a(g)).

Deadlines.

**SEC. 315. NOTIFICATION OF CERTAIN RESIDENTS AND CIVILIAN EMPLOYEES AT CAMP LEJEUNE, NORTH CAROLINA, OF EXPOSURE TO DRINKING WATER CONTAMINATION.**

(a) NOTIFICATION OF INDIVIDUALS SERVED BY TARAWA TERRACE WATER DISTRIBUTION SYSTEM, INCLUDING KNOX TRAILER PARK.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Navy shall make reasonable efforts to identify and notify directly individuals who were served by the Tarawa Terrace Water Distribution System, including Knox Trailer Park, at Camp Lejeune, North Carolina, during the years 1958 through 1987 that they may have been exposed to drinking water contaminated with tetrachloroethylene (PCE).

(b) NOTIFICATION OF INDIVIDUALS SERVED BY HADNOT POINT WATER DISTRIBUTION SYSTEM.—Not later than 1 year after the Agency for Toxic Substances and Disease Registry (ATSDR) completes its water modeling study of the Hadnot Point water distribution system, the Secretary of the Navy shall make reasonable efforts to identify and notify directly individuals who were served by the system during the period identified in the study of the drinking water contamination to which they may have been exposed.

(c) NOTIFICATION OF FORMER CIVILIAN EMPLOYEES AT CAMP LEJEUNE.—Not later than 1 year after the date of the enactment

of this Act, the Secretary of the Navy shall make reasonable efforts to identify and notify directly civilian employees who worked at Camp Lejeune during the period identified in the ATSDR drinking water study of the drinking water contamination to which they may have been exposed.

(d) CIRCULATION OF HEALTH SURVEY.—

(1) FINDINGS.—Congress makes the following findings:

(A) Notification and survey efforts related to the drinking water contamination described in this section are necessary due to the potential negative health impacts of these contaminants.

(B) The Secretary of the Navy will not be able to identify or contact all former residents and former employees due to the condition, non-existence, or accessibility of records.

(C) It is the intent of Congress that the Secretary of the Navy contact as many former residents and former employees as quickly as possible.

(2) ATSDR HEALTH SURVEY.—

(A) DEVELOPMENT.—

(i) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the ATSDR, in consultation with a well-qualified contractor selected by the ATSDR, shall develop a health survey that would voluntarily request of individuals described in subsections (a), (b), and (c) personal health information that may lead to scientifically useful health information associated with exposure to trichloroethylene (TCE), PCE, vinyl chloride, and the other contaminants identified in the ATSDR studies that may provide a basis for further reliable scientific studies of potentially adverse health impacts of exposure to contaminated water at Camp Lejeune.

(ii) FUNDING.—The Secretary of the Navy is authorized to provide from available funds the necessary funding for the ATSDR to develop the health survey.

(B) INCLUSION WITH NOTIFICATION.—The survey developed under subparagraph (A) shall be distributed by the Secretary of the Navy concurrently with the direct notification required under subsections (a), (b), and (c).

(e) USE OF MEDIA TO SUPPLEMENT NOTIFICATION.—The Secretary of the Navy may use media notification as a supplement to direct notification of individuals described under subsections (a), (b), and (c). Media notification may reach those individuals not identifiable via remaining records. Once individuals respond to media notifications, the Secretary will add them to the contact list to be included in future information updates.

## Subtitle C—Workplace and Depot Issues

**SEC. 321. AVAILABILITY OF FUNDS IN DEFENSE INFORMATION SYSTEMS AGENCY WORKING CAPITAL FUND FOR TECHNOLOGY UPGRADES TO DEFENSE INFORMATION SYSTEMS NETWORK.**

(a) IN GENERAL.—Notwithstanding section 2208 of title 10, United States Code, funds in the Defense Information Systems Agency Working Capital Fund may be used for expenses directly related to technology upgrades to the Defense Information Systems Network.

(b) LIMITATION ON CERTAIN PROJECTS.—Funds may not be used under subsection (a) for—

(1) any technology insertion to the Defense Information Systems Network that significantly changes the performance envelope of an end item; or

(2) any component with an estimated total cost in excess of $500,000.

(c) LIMITATION IN FISCAL YEAR PENDING TIMELY REPORT.—If in any fiscal year the report required by paragraph (1) of subsection (d) is not submitted by the date specified in paragraph (2) of subsection (d), funds may not be used under subsection (a) in such fiscal year during the period—

(1) beginning on the date specified in paragraph (2) of subsection (d); and

(2) ending on the date of the submittal of the report under paragraph (1) of subsection (d).

(d) ANNUAL REPORT.—

(1) IN GENERAL.—The Director of the Defense Information Systems Agency shall submit to the congressional defense committees each fiscal year a report on the use of the authority in subsection (a) during the preceding fiscal year.

(2) DEADLINE FOR SUBMITTAL.—The report required by paragraph (1) in a fiscal year shall be submitted not later than 60 days after the date of the submittal to Congress of the budget of the President for the succeeding fiscal year pursuant to section 1105 of title 31, United States Code.

(e) SUNSET.—The authority in subsection (a) shall expire on October 1, 2011.

**SEC. 322. MODIFICATION TO PUBLIC-PRIVATE COMPETITION REQUIREMENTS BEFORE CONVERSION TO CONTRACTOR PERFORMANCE.**

(a) COMPARISON OF RETIREMENT SYSTEM COSTS.—Section 2461(a)(1) of title 10, United States Code, is amended—

(1) in subparagraph (F), by striking "and" at the end;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph (G):

"(G) requires that the contractor shall not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

"(i) not making an employer-sponsored health insurance plan (or payment that could be used in lieu of such a plan), health savings account, or medical savings account

available to the workers who are to be employed to perform the function under the contract;

"(ii) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees of the Department under chapter 89 of title 5; or

"(iii) offering to such workers a retirement benefit that, in any year, costs less than the annual retirement cost factor applicable to civilian employees of the Department of Defense under chapter 84 of title 5; and".

(b) CONFORMING AMENDMENTS.—Such title is further amended—

(1) by striking section 2467; and

(2) in section 2461—

(A) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(B) by inserting after subsection (a) the following new subsection (b):

"(b) REQUIREMENT TO CONSULT DOD EMPLOYEES.—(1) Each officer or employee of the Department of Defense responsible for determining under Office of Management and Budget Circular A–76 whether to convert to contractor performance any function of the Department of Defense—

"(A) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with civilian employees who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

"(B) may consult with such employees on other matters relating to that determination.

"(2)(A) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

"(B) In the case of employees other than employees referred to in subparagraph (A), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in paragraph (1).

"(C) The Secretary of Defense shall prescribe regulations to carry out this subsection. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in subparagraph (B) for purposes of the consultation required by paragraph (1).". Regulations.

(c) TECHNICAL AMENDMENTS.—Section 2461 of such title, as amended by this section, is further amended—

(1) in subsection (a)(1)—

(A) in subparagraph (B), by inserting after "2003" the following: ", or any successor circular"; and

(B) in subparagraph (D), by striking "and reliability" and inserting ", reliability, and timeliness"; and

(2) in subsection (c)(2), as redesignated by subsection (b)(2), by inserting "of" after "examination".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 146 of such title is amended by striking the item relating to section 2467.

**SEC. 323. PUBLIC-PRIVATE COMPETITION AT END OF PERIOD SPECIFIED IN PERFORMANCE AGREEMENT NOT REQUIRED.**

Section 2461(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) A military department or Defense Agency may not be required to conduct a public-private competition under Office of Management and Budget Circular A–76 or any other provision of law at the end of the performance period specified in a letter of obligation or other agreement entered into with Department of Defense civilian employees pursuant to a public-private competition for any function of the Department of Defense performed by Department of Defense civilian employees.".

**SEC. 324. GUIDELINES ON INSOURCING NEW AND CONTRACTED OUT FUNCTIONS.**

(a) CODIFICATION AND REVISION OF REQUIREMENT FOR GUIDELINES.—

(1) IN GENERAL.—Chapter 146 of title 10, United States Code, is amended by inserting after section 2462 the following new section:

**"§ 2463. Guidelines and procedures for use of civilian employees to perform Department of Defense functions**

"(a) GUIDELINES REQUIRED.—(1) The Under Secretary of Defense for Personnel and Readiness shall devise and implement guidelines and procedures to ensure that consideration is given to using, on a regular basis, Department of Defense civilian employees to perform new functions and functions that are performed by contractors and could be performed by Department of Defense civilian employees. The Secretary of a military department may prescribe supplemental regulations, if the Secretary determines such regulations are necessary for implementing such guidelines within that military department.

"(2) The guidelines and procedures required under paragraph (1) may not include any specific limitation or restriction on the number of functions or activities that may be converted to performance by Department of Defense civilian employees.

"(b) SPECIAL CONSIDERATION FOR CERTAIN FUNCTIONS.—The guidelines and procedures required under subsection (a) shall provide for special consideration to be given to using Department of Defense civilian employees to perform any function that—

"(1) is performed by a contractor and—

"(A) has been performed by Department of Defense civilian employees at any time during the previous 10 years;

"(B) is a function closely associated with the performance of an inherently governmental function;

"(C) has been performed pursuant to a contract awarded on a non-competitive basis; or

"(D) has been performed poorly, as determined by a contracting officer during the 5-year period preceding the date of such determination, because of excessive costs or inferior quality; or

"(2) is a new requirement, with particular emphasis given to a new requirement that is similar to a function previously performed by Department of Defense civilian employees or is a function closely associated with the performance of an inherently governmental function.

"(c) EXCLUSION OF CERTAIN FUNCTIONS FROM COMPETITIONS.—The Secretary of Defense may not conduct a public-private competition under this chapter, Office of Management and Budget Circular A–76, or any other provision of law or regulation before—

"(1) in the case of a new Department of Defense function, assigning the performance of the function to Department of Defense civilian employees;

"(2) in the case of any Department of Defense function described in subsection (b), converting the function to performance by Department of Defense civilian employees; or

"(3) in the case of a Department of Defense function performed by Department of Defense civilian employees, expanding the scope of the function.

"(d) USE OF FLEXIBLE HIRING AUTHORITY.—(1) The Secretary of Defense may use the flexible hiring authority available to the Secretary under the National Security Personnel System, as established pursuant to section 9902 of title 5, to facilitate the performance by Department of Defense civilian employees of functions described in subsection (b).

"(2) The Secretary shall make use of the inventory required by section 2330a(c) of this title for the purpose of identifying functions that should be considered for performance by Department of Defense civilian employees pursuant to subsection (b). Inventory.

"(e) DEFINITIONS.—In this section the term 'functions closely associated with inherently governmental functions' has the meaning given that term in section 2383(b)(3) of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2462 the following new item:

"2463. Guidelines and procedures for use of civilian employees to perform Department of Defense functions.".

(3) DEADLINE FOR ISSUANCE OF GUIDELINES AND PROCEDURES.—The Secretary of Defense shall implement the guidelines and procedures required under section 2463 of title 10, United States Code, as added by paragraph (1), by not later than 60 days after the date of the enactment of this Act. 10 USC 2463 note.

(b) INSPECTOR GENERAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of Defense shall submit to the congressional defense committees a report on the implementation of this section and the amendments made by this section.

(c) CONFORMING REPEAL.—The National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) is amended by striking section 343.

10 USC 2461 note.

**SEC. 325. RESTRICTION ON OFFICE OF MANAGEMENT AND BUDGET INFLUENCE OVER DEPARTMENT OF DEFENSE PUBLIC-PRIVATE COMPETITIONS.** 10 USC 2461 note.

(a) RESTRICTION ON OFFICE OF MANAGEMENT AND BUDGET.—The Office of Management and Budget may not direct or require the Secretary of Defense or the Secretary of a military department to prepare for, undertake, continue, or complete a public-private

competition or direct conversion of a Department of Defense function to performance by a contractor under Office of Management and Budget Circular A–76, or any other successor regulation, directive, or policy.

(b) RESTRICTION ON SECRETARY OF DEFENSE.—The Secretary of Defense or the Secretary of a military department may not prepare for, undertake, continue, or complete a public-private competition or direct conversion of a Department of Defense function to performance by a contractor under Office of Management and Budget Circular A–76, or any other successor regulation, directive, or policy by reason of any direction or requirement provided by the Office of Management and Budget.

(c) INSPECTOR GENERAL REVIEW.—

Reports. Deadline.

(1) COMPREHENSIVE REVIEW REQUIRED.—The Inspector General of the Department of Defense shall conduct a comprehensive review of the compliance of the Secretary of Defense and the Secretaries of the military departments with the requirements of this section during calendar year 2008. The Inspector General shall submit to the congressional defense committees the following reports on the comprehensive review:

(A) An interim report, to be submitted by not later than 90 days after the date of the enactment of this Act.

(B) A final report, to be submitted by not later than December 31, 2008.

Records.

(2) INSPECTOR GENERAL ACCESS.—For the purpose of determining compliance with the requirements of this section, the Secretary of Defense shall ensure that the Inspector General has access to all Department records of relevant communications between Department officials and officials of other departments and agencies of the Federal Government, whether such communications occurred inside or outside of the Department.

**SEC. 326. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76.**

(a) ELIGIBILITY TO PROTEST PUBLIC-PRIVATE COMPETITIONS.—Section 3551(2) of title 31, United States Code, is amended to read as follows:

"(2) The term 'interested party'—

"(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

"(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 with respect to the performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, includes—

"(i) any official who submitted the agency tender in such competition; and

"(ii) any one individual who, for the purpose of representing the Federal employees engaged in the performance of the activity or function for which the public-private competition is conducted in a protest

under this subchapter that relates to such public-private competition, has been designated as the agent of the Federal employees by a majority of such employees.".

(b) EXPEDITED ACTION.—

(1) IN GENERAL.—Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

**"§ 3557. Expedited action in protests of Public-Private competitions**

"For any protest of a public-private competition conducted under Office of Management and Budget Circular A–76 with respect to the performance of an activity or function of a Federal agency, the Comptroller General shall administer the provisions of this subchapter in the manner best suited for expediting the final resolution of the protest and the final action in the public-private competition.".

(2) CLERICAL AMENDMENT.—The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 3556 the following new item:

"3557. Expedited action in protests of public-private competitions.".

(c) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) If an interested party who is a member of the private sector commences an action described in paragraph (1) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 regarding the performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, then an interested party described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.".

(d) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (c)), shall apply to— 28 USC 1491 note.

(1) a protest or civil action that challenges final selection of the source of performance of an activity or function of a Federal agency that is made pursuant to a study initiated under Office of Management and Budget Circular A–76 on or after January 1, 2004; and

(2) any other protest or civil action that relates to a public-private competition initiated under Office of Management and Budget Circular A–76, or to a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, on or after the date of the enactment of this Act.

**SEC. 327. PUBLIC-PRIVATE COMPETITION REQUIRED BEFORE CONVERSION TO CONTRACTOR PERFORMANCE.**

(a) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

41 USC 439.

**"SEC. 43. PUBLIC-PRIVATE COMPETITION REQUIRED BEFORE CONVERSION TO CONTRACTOR PERFORMANCE.**

"(a) PUBLIC-PRIVATE COMPETITION.—(1) A function of an executive agency performed by 10 or more agency civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition that—

"(A) formally compares the cost of performance of the function by agency civilian employees with the cost of performance by a contractor;

"(B) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003, or any successor circular;

"(C) includes the issuance of a solicitation;

"(D) determines whether the submitted offers meet the needs of the executive agency with respect to factors other than cost, including quality, reliability, and timeliness;

"(E) examines the cost of performance of the function by agency civilian employees and the cost of performance of the function by one or more contractors to demonstrate whether converting to performance by a contractor will result in savings to the Government over the life of the contract, including—

"(i) the estimated cost to the Government (based on offers received) for performance of the function by a contractor;

"(ii) the estimated cost to the Government for performance of the function by agency civilian employees; and

"(iii) an estimate of all other costs and expenditures that the Government would incur because of the award of such a contract;

"(F) requires continued performance of the function by agency civilian employees unless the difference in the cost of performance of the function by a contractor compared to the cost of performance of the function by agency civilian employees would, over all performance periods required by the solicitation, be equal to or exceed the lesser of—

"(i) 10 percent of the personnel-related costs for performance of that function in the agency tender; or

"(ii) $10,000,000; and

"(G) examines the effect of performance of the function by a contractor on the agency mission associated with the performance of the function.

"(2) A function that is performed by the executive agency and is reengineered, reorganized, modernized, upgraded, expanded, or changed to become more efficient, but still essentially provides the same service, shall not be considered a new requirement.

"(3) In no case may a function being performed by executive agency personnel be—

"(A) modified, reorganized, divided, or in any way changed for the purpose of exempting the conversion of the function from the requirements of this section; or

"(B) converted to performance by a contractor to circumvent a civilian personnel ceiling.

"(b) REQUIREMENT TO CONSULT EMPLOYEES.—(1) Each civilian employee of an executive agency responsible for determining under

Office of Management and Budget Circular A–76 whether to convert to contractor performance any function of the executive agency—

"(A) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with civilian employees who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

"(B) may consult with such employees on other matters relating to that determination.

"(2)(A) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, United States Code, consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

"(B) In the case of employees other than employees referred to in subparagraph (A), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in paragraph (1).

"(C) The head of each executive agency shall prescribe regulations to carry out this subsection. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in paragraph (2)(B) for purposes of consultation required by paragraph (1). Regulations.

"(c) CONGRESSIONAL NOTIFICATION.—(1) Before commencing a public-private competition under subsection (a), the head of an executive agency shall submit to Congress a report containing the following:

"(A) The function for which such public-private competition is to be conducted.

"(B) The location at which the function is performed by agency civilian employees.

"(C) The number of agency civilian employee positions potentially affected.

"(D) The anticipated length and cost of the public-private competition, and a specific identification of the budgetary line item from which funds will be used to cover the cost of the public-private competition.

"(E) A certification that a proposed performance of the function by a contractor is not a result of a decision by an official of an executive agency to impose predetermined constraints or limitations on such employees in terms of man years, end strengths, full-time equivalent positions, or maximum number of employees. Certification.

"(2) The report required under paragraph (1) shall include an examination of the potential economic effect of performance of the function by a contractor on—

"(A) agency civilian employees who would be affected by such a conversion in performance; and

"(B) the local community and the Government, if more than 50 agency civilian employees perform the function.

"(3)(A) A representative individual or entity at a facility where a public-private competition is conducted may submit to the head of the executive agency an objection to the public-private competition on the grounds that the report required by paragraph (1)

Deadline.

has not been submitted or that the certification required by paragraph (1)(E) is not included in the report submitted as a condition for the public-private competition. The objection shall be in writing and shall be submitted within 90 days after the following date:

"(i) In the case of a failure to submit the report when required, the date on which the representative individual or an official of the representative entity authorized to pose the objection first knew or should have known of that failure.

"(ii) In the case of a failure to include the certification in a submitted report, the date on which the report was submitted to Congress.

"(B) If the head of the executive agency determines that the report required by paragraph (1) was not submitted or that the required certification was not included in the submitted report, the function for which the public-private competition was conducted for which the objection was submitted may not be the subject of a solicitation of offers for, or award of, a contract until, respectively, the report is submitted or a report containing the certification in full compliance with the certification requirement is submitted.

"(d) EXEMPTION FOR THE PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED PERSONS.—This section shall not apply to a commercial or industrial type function of an executive agency that—

"(1) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

"(2) is planned to be changed to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped persons in accordance with that Act.

"(e) INAPPLICABILITY DURING WAR OR EMERGENCY.—The provisions of this section shall not apply during war or during a period of national emergency declared by the President or Congress.".

(b) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by adding at the end the following new item:

"Sec. 43. Public-private competition required before conversion to contractor performance.".

**SEC. 328. EXTENSION OF AUTHORITY FOR ARMY INDUSTRIAL FACILITIES TO ENGAGE IN COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.**

(a) EXTENSION OF AUTHORITY.—Section 4544 of title 10, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: "This authority may be used to enter into not more than eight contracts or cooperative agreements."; and

(2) in subsection (k), by striking "2009" and inserting "2014".

10 USC 4544 note.

(b) REPORTS.—

(1) ANNUAL REPORT ON USE OF AUTHORITY.—The Secretary of the Army shall submit to Congress at the same time the budget of the President is submitted to Congress for fiscal years 2009 through 2016 under section 1105 of title 31, United States Code, a report on the use of the authority provided under section 4544 of title 10, United States Code.

(2) ANALYSIS OF USE OF AUTHORITY.—Not later than September 30, 2012, the Secretary of the Army shall submit to the congressional defense committees a report assessing the advisability of making such authority permanent and eliminating the limitation on the number of contracts or cooperative arrangements that may be entered into pursuant to such authority.

**SEC. 329. REAUTHORIZATION AND MODIFICATION OF MULTI-TRADES DEMONSTRATION PROJECT.**

10 USC 5013 note.

(a) REAUTHORIZATION AND EXPANSION.—Section 338 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 10 U.S.C. 5013 note) is amended—

(1) by striking subsection (a) and inserting the following new subsection (a):

"(a) DEMONSTRATION PROJECT AUTHORIZED.—In accordance with section 4703 of title 5, United States Code, the Secretary of a military department may carry out a demonstration project under which workers who are certified at the journey level as able to perform multiple trades may be promoted by one grade level. A demonstration project under this subsection may be carried out as follows:

"(1) In the case of the Secretary of the Army, at one Army depot.

"(2) In the case of the Secretary of the Navy, at one Navy Fleet Readiness Center.

"(3) In the case of the Secretary of the Air Force, at one Air Force Logistics Center.";

(2) in subsection (b)—

(A) by striking "a Naval Aviation Depot" and inserting "an Air Force Air Logistics Center, Navy Fleet Readiness Center, or Army depot"; and

(B) by striking "Secretary" and inserting "Secretary of the military department concerned";

(3) by striking subsection (d) and redesignating subsections (e) through (g) as subsections (d) through (f), respectively;

(4) in subsection (d), as so redesignated, by striking "2004 through 2006" and inserting "2008 through 2013";

(5) in subsection (e), as so redesignated—

(A) by striking "2007" and inserting "2014";

(B) by inserting after "Secretary" the following "of each military department that carried out a demonstration project under this section"; and

(C) by adding at the end the following new sentence: "Each such report shall include the Secretary's recommendation on whether permanent multi-trade authority should be authorized."; and

(6) in subsection (f), as so redesignated—

(A) in the first sentence, by striking "The Secretary" and inserting "Each Secretary who submits a report under subsection (e)"; and

(B) in the second sentence—

(i) by striking "receiving the report" and inserting "receiving a report"; and

(ii) by striking "evaluation of the report" and inserting "evaluation of that report".

(b) CLERICAL AMENDMENT.—The heading for such section is amended to read as follows:

**"SEC. 338. MULTI-TRADES DEMONSTRATION PROJECT.".**

**SEC. 330. PILOT PROGRAM FOR AVAILABILITY OF WORKING-CAPITAL FUNDS TO ARMY FOR CERTAIN PRODUCT IMPROVEMENTS.**

(a) IN GENERAL.—Notwithstanding section 2208 of title 10, United States Code, the Secretary of the Army may use a working-capital fund established pursuant to that section for expenses directly related to conducting a pilot program for a product improvement described in subsection (b).

(b) PRODUCT IMPROVEMENT.—A product improvement covered by the pilot program is the procurement and installation of a component or subsystem of a weapon system platform or major end item that would improve the reliability and maintainability, extend the useful life, enhance safety, lower maintenance costs, or provide performance enhancement of the weapon system platform or major end item.

(c) LIMITATION ON CERTAIN PROJECTS.—Funds may not be used under subsection (a) for—

(1) any product improvement that significantly changes the performance envelope of an end item; or

(2) any component with an estimated total cost in excess of $1,000,000.

(d) LIMITATION IN FISCAL YEAR PENDING TIMELY REPORT.—If during any fiscal year the report required by paragraph (1) of subsection (e) is not submitted by the date specified in paragraph (3) of that subsection, funds may not be used under subsection (a) in such fiscal year during the period—

(1) beginning on the date specified in paragraph (3) of subsection (e); and

(2) ending on the date of the submittal of the report under paragraph (1) of subsection (e).

(e) ANNUAL REPORT.—

(1) IN GENERAL.—Each fiscal year, the Assistant Secretary of the Army for Acquisition, Logistics, and Technology, in consultation with the Assistant Secretary of the Army for Financial Management and Comptroller, shall submit to the congressional defense committees a report on the use of the authority in subsection (a) during the preceding fiscal year.

(2) RECOMMENDATION.—In the case of the report required to be submitted under paragraph (1) during fiscal year 2012, the report shall include the recommendation of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology regarding whether the authority under subsection (a) should be made permanent.

(3) DEADLINE FOR SUBMITTAL.—The report required by paragraph (1) in a fiscal year shall be submitted not later than 60 days after the date of the submittal to Congress of the budget of the President for the succeeding fiscal year pursuant to section 1105 of title 31, United States Code.

(f) SUNSET.—The authority under subsection (a) shall expire on October 1, 2013.

# Subtitle D—Extension of Program Authorities

**SEC. 341. EXTENSION OF ARSENAL SUPPORT PROGRAM INITIATIVE.**

Section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (10 U.S.C. 4551 note) is amended—

(1) in subsection (a), by striking "2008" and inserting "2010"; and

(2) in subsection (g)(1), by striking "2008" and inserting "2010".

**SEC. 342. EXTENSION OF PERIOD FOR REIMBURSEMENT FOR HELMET PADS PURCHASED BY MEMBERS OF THE ARMED FORCES DEPLOYED IN CONTINGENCY OPERATIONS.**

(a) EXTENSION.—Section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1857) is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: ", or in the case of protective helmet pads purchased by a member from a qualified vendor for that member's personal use, ending on September 30, 2007";

(2) in subsection (c)—

(A) by inserting after "Armed Forces" the following: "shall comply with regular Department of Defense procedures for the submission of claims and"; and

(B) by inserting before the period at the end the following: "or one year after the date on which the purchase of the protective, safety, or health equipment was made, whichever occurs last"; and

(3) in subsection (d), by adding at the end the following new sentence: "Subsection (a)(1) shall not apply in the case of the purchase of protective helmet pads on behalf of a member.".

(b) FUNDING.—Amounts for reimbursements made under section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 after the date of the enactment of this Act shall be derived from supplemental appropriations for the Department of Defense for fiscal year 2008, contingent upon such appropriations being enacted.

**SEC. 343. EXTENSION OF TEMPORARY AUTHORITY FOR CONTRACT PERFORMANCE OF SECURITY GUARD FUNCTIONS.**

(a) EXTENSION.—Subsection (c) of section 332 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) is amended by striking "September 30, 2009" both places it appears and inserting "September 30, 2012". 116 Stat. 2513.

(b) LIMITATION FOR FISCAL YEARS 2010 THROUGH 2012.—Subsection (d) of such section is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(4) for fiscal year 2010, the number equal to 70 percent of the total number of such personnel employed under such contracts on October 1, 2006;

"(5) for fiscal year 2011, the number equal to 60 percent of the total number of such personnel employed under such contracts on October 1, 2006; and

"(6) for fiscal year 2012, the number equal to 50 percent of the total number of such personnel employed under such contracts on October 1, 2006.".

## Subtitle E—Reports

### SEC. 351. REPORTS ON NATIONAL GUARD READINESS FOR EMERGENCIES AND MAJOR DISASTERS.

(a) ANNUAL REPORTS ON EQUIPMENT.—Section 10541(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(9) An assessment of the extent to which the National Guard possesses the equipment required to perform the responsibilities of the National Guard pursuant to sections 331, 332, 333, 12304(b), and 12406 of this title in response to an emergency or major disaster (as such terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)). Such assessment shall—

"(A) identify any shortfall in equipment provided to the National Guard by the Department of Defense throughout the United States and the territories and possessions of the United States that is likely to affect the ability of the National Guard to perform such responsibilities;

"(B) evaluate the effect of any such shortfall on the capacity of the National Guard to perform such responsibilities in response to an emergency or major disaster that occurs in the United States or a territory or possession of the United States; and

"(C) identify the requirements and investment strategies for equipment provided to the National Guard by the Department of Defense that are necessary to plan for a reduction or elimination of any such shortfall.".

(b) INCLUSION OF ASSESSMENT OF NATIONAL GUARD READINESS IN QUARTERLY PERSONNEL AND UNIT READINESS REPORT.—Section 482 of such title is amended—

(1) in subsection (a), by striking "and (e)" and inserting "(e), and (f)";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection (f):

"(f) READINESS OF NATIONAL GUARD TO PERFORM CIVIL SUPPORT MISSIONS.—(1) Each report shall also include an assessment of the readiness of the National Guard to perform tasks required to support the National Response Plan for support to civil authorities.

"(2) Any information in an assessment under this subsection that is relevant to the National Guard of a particular State shall also be made available to the Governor of that State.

"(3) The Secretary shall ensure that each State Governor has an opportunity to provide to the Secretary an independent evaluation of that State's National Guard, which the Secretary shall include with each assessment submitted under this subsection.".

10 USC 10541 note.

(c) EFFECTIVE DATE.—

(1) ANNUAL REPORT ON NATIONAL GUARD AND RESERVE COMPONENT EQUIPMENT.—The amendment made by subsection (a) shall apply with respect to reports submitted after the date of the enactment of this Act.

(2) QUARTERLY REPORTS ON PERSONNEL AND UNIT READINESS.—The amendment made by subsection (b) shall apply with respect to the quarterly report required under section 482 of title 10, United States Code, for the second quarter of fiscal year 2009 and each subsequent report required under that section. 10 USC 482 note.

(d) REPORT ON IMPLEMENTATION.—

(1) IN GENERAL.—As part of the budget justification materials submitted to Congress in support of the budget of the President for each of fiscal years 2009 and 2010 (as submitted under section 1105 of title 31, United States Code), the Secretary of Defense shall submit to the congressional defense committees a report on actions taken by the Secretary to implement the amendments made by this section.

(2) ELEMENTS.—Each report required under paragraph (1) shall include a description of the mechanisms to be utilized by the Secretary for assessing the personnel, equipment, and training readiness of the National Guard, including the standards and measures that will be applied and mechanisms for sharing information on such matters with the Governors of the States.

**SEC. 352. ANNUAL REPORT ON PREPOSITIONED MATERIEL AND EQUIPMENT.**

(a) ANNUAL REPORT REQUIRED.—Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2229a. Annual report on prepositioned materiel and equipment**

"(a) ANNUAL REPORT REQUIRED.—Not later than the date of the submission of the President's budget request for a fiscal year under section 1105 of title 31, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the materiel in the prepositioned stocks as of the end of the fiscal year preceding the fiscal year during which the report is submitted. Each report shall be unclassified and may contain a classified annex. Each report shall include the following information:

"(1) The level of fill for major end items of equipment and spare parts in each prepositioned set as of the end of the fiscal year covered by the report.

"(2) The material condition of equipment in the prepositioned stocks as of the end of such fiscal year, grouped by category or major end item.

"(3) A list of major end items of equipment drawn from the prepositioned stocks during such fiscal year and a description of how that equipment was used and whether it was returned to the stocks after being used.

"(4) A timeline for completely reconstituting any shortfall in the prepositioned stocks.

"(5) An estimate of the amount of funds required to completely reconstitute any shortfall in the prepositioned stocks

and a description of the Secretary's plan for carrying out such complete reconstitution.

"(6) A list of any operations plan affected by any shortfall in the prepositioned stocks and a description of any action taken to mitigate any risk that such a shortfall may create.

"(b) COMPTROLLER GENERAL REVIEW.—(1) By not later than 120 days after the date on which a report is submitted under subsection (a), the Comptroller General shall review the report and, as the Comptroller General determines appropriate, submit to the congressional defense committees any additional information that the Comptroller General determines will further inform such committees on issues relating to the status of the materiel in the prepositioned stocks.

"(2) The Secretary of Defense shall ensure the full cooperation of the Department of Defense with the Comptroller General for purposes of the conduct of the review required by this subsection, both before and after each report is submitted under subsection (a). The Secretary shall conduct periodic briefings for the Comptroller General on the information covered by each report required under subsection (a) and provide to the Comptroller General access to the data and preliminary results to be used by the Secretary in preparing each such report before the Secretary submits the report to enable the Comptroller General to conduct each review required under paragraph (1) in a timely manner.

Termination date.

"(3) The requirement to conduct a review under this subsection shall terminate on September 30, 2015.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2229a. Annual report on prepositioned materiel and equipment.".

**SEC. 353. REPORT ON INCREMENTAL COST OF EARLY 2007 ENHANCED DEPLOYMENT.**

Section 323(b)(2) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2146; 10 U.S.C. 229 note) is amended—

(1) in subparagraph (A), by striking "; and" and inserting a semicolon;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) each of the military departments for the incremental changes in reset costs resulting from the deployment and redeployment of forces to Iraq and Afghanistan above the levels deployed to such countries on January 1, 2007.".

**SEC. 354. MODIFICATION OF REQUIREMENTS OF COMPTROLLER GENERAL REPORT ON THE READINESS OF ARMY AND MARINE CORPS GROUND FORCES.**

(a) SUBMITTAL DATE.—Subsection (a)(1) of section 345 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2156) is amended by striking "June 1, 2007" and inserting "June 1, 2008".

(b) ELEMENTS.—Subsection (b) of such section is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) An assessment of the ability of the Army and Marine Corps to provide trained and ready forces to meet the requirements of increased force levels in support of Operation Iraqi Freedom and Operation Enduring Freedom above such force levels in effect on January 1, 2007, and to meet the requirements of other ongoing operations simultaneously with such increased force levels.

"(3) An assessment of the strategic depth of the Army and Marine Corps and their ability to provide trained and ready forces to meet the requirements of the high-priority contingency war plans of the regional combatant commands, including an identification and evaluation for each such plan of—

"(A) the strategic and operational risks associated with current and projected forces of current and projected readiness;

"(B) the time required to make forces available and prepare them for deployment; and

"(C) likely strategic tradeoffs necessary to meet the requirements of each such plan.".

(c) DEPARTMENT OF DEFENSE COOPERATION.—Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) DEPARTMENT OF DEFENSE COOPERATION.—The Secretary of Defense shall ensure the full cooperation of the Department of Defense with the Comptroller General for purposes of the preparation of the report required by this section.".

**SEC. 355. PLAN TO IMPROVE READINESS OF GROUND FORCES OF ACTIVE AND RESERVE COMPONENTS.**

(a) REPORT REQUIRED.—At the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for a fiscal year, the Secretary of Defense shall submit to the congressional defense committees a report on improving the readiness of the ground forces of active and reserve components of the Armed Forces. Each such report shall include—

(1) a summary of the readiness of each reporting unit of the ground forces of the active and reserve components and a summary of the readiness of each major combat unit of each Armed Force by readiness level;

(2) an identification of the extent to which the actual readiness ratings of the active and reserve components of the Armed Forces have been upgraded based on the judgment of commanders and any efforts of the Secretary of Defense to analyze the trends and implications of such upgrades;

(3) the goals of the Secretary of Defense for managing the readiness of the ground forces of the active and reserve components, expressed in terms of the number of units or percentage of the force that the Secretary plans to maintain at each level of readiness, and the Secretary's projected timeframe for achieving each such goal;

(4) a prioritized list of items and actions to be accomplished during the fiscal year during which the report is submitted, and during the fiscal years covered by the future-years defense program, that the Secretary of Defense believes are necessary to significantly improve the readiness of the ground forces of the active and reserve components and achieve the goals and timeframes described in paragraph (3); and

(5) a detailed investment strategy and plan for each fiscal year covered by the future-years defense program under section 221 of title 10, United States Code, that is submitted during the fiscal year in which the report is submitted, that outlines the resources required to improve the readiness of the ground forces of the active and reserve components, including a description of how each resource identified in such plan relates to funding requested by the Secretary in the Secretary's annual budget, and how each such resource will specifically enable the Secretary to achieve the readiness goals described in paragraph (3) within the projected timeframes.

Deadline.

(b) COMPTROLLER GENERAL REVIEW.—By not later than 60 days after the date on which a report is submitted under subsection (a), the Comptroller General shall review the report and, as the Comptroller General determines appropriate, submit to the congressional defense committees any additional information that the Comptroller General determines will further inform the congressional defense committees on issues relating to the readiness of the ground forces of the active and reserve components of the Armed Forces.

(c) TERMINATION.—The requirement to submit a report under subsection (a) shall terminate on the date the Secretary of Defense submits the fifth report required under that subsection.

**SEC. 356. INDEPENDENT ASSESSMENT OF CIVIL RESERVE AIR FLEET VIABILITY.**

(a) INDEPENDENT ASSESSMENT REQUIRED.—The Secretary of Defense shall provide for an independent assessment of the viability of the Civil Reserve Air Fleet to be conducted by a federally-funded research and development center selected by the Secretary.

(b) CONTENTS OF ASSESSMENT.—The assessment required by subsection (a) shall include each of the following:

(1) An assessment of the Civil Reserve Air Fleet as of the date of the enactment of this Act, including an assessment of—

(A) the level of increased use of commercial assets to fulfill Department of Defense transportation requirements as a result of the increased global mobility requirements in response to the terrorist attacks of September 11, 2001;

(B) the extent of charter air carrier participation in fulfilling increased Department of Defense transportation requirements as a result of the increased global mobility requirements in response to the terrorist attacks of September 11, 2001;

(C) any policy of the Secretary of Defense to limit the percentage of income a single air carrier participating in the Civil Reserve Air Fleet may earn under contracts with the Secretary during any calendar year and the effects of such policy on the air carrier industry in peacetime

and during periods during which the Armed Forces are deployed in support of a contingency operation for which the Civil Reserve Air Fleet is not activated; and

(D) any risks to the charter air carrier industry as a result of the expansion of the industry in response to contingency operations resulting in increased demand by the Department of Defense.

(2) A strategic assessment of the viability of the Civil Reserve Air Fleet that compares such viability as of the date of the enactment of this Act with the projected viability of the Civil Reserve Air Fleet 5, 10, and 15 years after the date of the enactment of this Act, including for activations at each of stages 1, 2, and 3—

(A) an examination of the requirements of the Department of Defense for the Civil Reserve Air Fleet for the support of operational and contingency plans, including any anticipated changes in the Department's organic airlift capacity, logistics concepts, and personnel and training requirements;

(B) an assessment of air carrier participation in the Civil Reserve Air Fleet; and

(C) a comparison between the requirements of the Department described in subparagraph (A) and air carrier participation described in subparagraph (B).

(3) An examination of any perceived barriers to Civil Reserve Air Fleet viability, including—

(A) the operational planning system of the Civil Reserve Air Fleet;

(B) the reward system of the Civil Reserve Air Fleet;

(C) the long-term affordability of the Aviation War Risk Insurance Program;

(D) the effect on United States air carriers operating overseas routes during periods of Civil Reserve Air Fleet activation;

(E) increased foreign ownership of United States air carriers;

(F) increased operational costs during activation as a result of hazardous duty pay, routing delays, and inefficiencies in cargo handling by the Department of Defense;

(G) the effect of policy initiatives by the Secretary of Transportation to encourage international code sharing and alliances; and

(H) the effect of limitations imposed by the Secretary of Defense to limit commercial shipping options for certain routes and package sizes.

(4) Recommendations for improving the Civil Reserve Air Fleet program, including an assessment of potential incentives for increasing participation in the Civil Reserve Air Fleet program, including establishing a minimum annual purchase amount during peacetime.

(c) SUBMISSION TO CONGRESS.—Upon the completion of the assessment required under subsection (a) and by not later than April 1, 2008, the Secretary shall submit to the congressional defense committees a report on the assessment.

(d) COMPTROLLER GENERAL REPORT.—Not later than 90 days after the report is submitted under subsection (c), the Comptroller

General shall conduct a review of the assessment required under subsection (a).

**SEC. 357. DEPARTMENT OF DEFENSE INSPECTOR GENERAL REPORT ON PHYSICAL SECURITY OF DEPARTMENT OF DEFENSE INSTALLATIONS.**

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Inspector General of the Department of Defense shall submit to Congress a report on the physical security of Department of Defense installations and resources.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of the progress in implementing requirements under the Physical Security Program as set forth in the Department of Defense Instruction 5200.08–R, Chapter 2 (C.2) and Chapter 3, Section 3: Installation Access (C3.3), which mandates the policies and minimum standards for the physical security of Department of Defense installations and resources.

(2) Recommendations based on the findings of the Comptroller General of the United States in the report required by section 344 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–366; 120 Stat. 2155).

(3) Recommendations based on the lessons learned from the thwarted plot to attack Fort Dix, New Jersey, in 2007.

**SEC. 358. REVIEW OF HIGH-ALTITUDE AVIATION TRAINING.**

(a) REVIEW REQUIRED.—The Secretary of the Defense shall conduct a review of the training requirements of the Department of Defense for helicopter operations in high-altitude or power-limited conditions.

(b) CONTENT.—The review required under subsection (a) shall include an examination of—

(1) power-management and high-altitude training requirements by military department, helicopter, and crew position;

(2) training methods and locations currently used by each of the military departments to fulfill those training requirements;

(3) department or service regulations that prohibit or inhibit joint-service or inter-service high-altitude aviation training;

(4) costs for each of the previous 5 years associated with transporting aircraft to and from the High-Altitude Aviation Training Site, Gypsum, Colorado, for training purposes;

(5) potential risk avoidance and reductions in accident rates due to power management if training of the type offered at the High-Altitude Aviation Training Site was required training, rather than optional training; and

(6) potential cost savings and operational benefits, if any, of permanently stationing no less than 4 UH–60, 2 CH–47, and 2 LUH–72 aircraft at the High-Altitude Aviation Training Site, Gypsum, Colorado.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the conduct and findings of the review required under subsection (a) along with a summary of changes to policy, regulation, or asset allocation necessary to

ensure that Department of Defense helicopter aircrews are adequately trained in high-altitude or power-limited flying conditions prior to being exposed to such conditions operationally.

**SEC. 359. REPORTS ON SAFETY MEASURES AND ENCROACHMENT ISSUES AND MASTER PLAN FOR WARREN GROVE GUNNERY RANGE, NEW JERSEY.**

(a) ANNUAL REPORT ON SAFETY MEASURES.—Not later than March 1, 2008, and annually thereafter for 2 additional years, the Secretary of the Air Force shall submit to the congressional defense committees a report on efforts made by all of the military departments utilizing the Warren Grove Gunnery Range, New Jersey, to provide the highest level of safety.

(b) MASTER PLAN FOR WARREN GROVE GUNNERY RANGE.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a master plan for Warren Grove Gunnery Range.

(2) CONTENT.—The master plan required under paragraph (1) shall include measures to mitigate encroachment of the Warren Grove Gunnery Range, taking into consideration military mission requirements, land use plans, the surrounding community, the economy of the region, and protection of the environment and public health, safety, and welfare.

(3) INPUT.—In establishing the master plan required under paragraph (1), the Secretary shall seek input from relevant stakeholders at the Federal, State, and local level.

**SEC. 360. REPORT ON SEARCH AND RESCUE CAPABILITIES OF THE AIR FORCE IN THE NORTHWESTERN UNITED STATES.**

(a) REPORT.—Not later than April 1, 2008, the Secretary of the Air Force shall submit to the appropriate congressional committees a report on the search and rescue capabilities of the Air Force in the northwestern United States.

(b) CONTENT.—The report required under subsection (a) shall include the following:

(1) An assessment of the search and rescue capabilities required to support Air Force operations and training.

(2) A description of the compliance of the Air Force with the 1999 United States National Search and Rescue Plan (referred to hereinafter in this section as the "NSRP") for Washington, Oregon, Idaho, and Montana.

(3) An inventory and description of the search and rescue assets of the Air Force that are available to meet the requirements of the NSRP.

(4) A description of the use of such search and rescue assets during the 3-year period preceding the date when the report is submitted.

(5) The plans of the Air Force to meet current and future search and rescue requirements in the northwestern United States, including plans that take into consideration requirements related to support for both Air Force operations and training and compliance with the NSRP.

(6) An inventory of other search and rescue capabilities equivalent to such capabilities provided by the Air Force that may be provided by other Federal, State, or local agencies in the northwestern United States.

(c) USE OF REPORT FOR PURPOSES OF CERTIFICATION REGARDING SEARCH AND RESCUE CAPABILITIES.—Section 1085 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2065; 10 U.S.C. 113 note) is amended by striking "unless the Secretary first certifies" and inserting "unless the Secretary, after reviewing the search and rescue capabilities report prepared by the Secretary of the Air Force under subsection (a), first certifies".

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

(1) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on Homeland Security, the Committee on Energy and Commerce, the Committee on Natural Resources, and the Committee on Appropriations of the House of Representatives.

**SEC. 361. REPORT AND MASTER INFRASTRUCTURE RECAPITALIZATION PLAN FOR CHEYENNE MOUNTAIN AIR STATION, COLORADO.**

(a) REPORT ON RELOCATION OF NORTH AMERICAN AEROSPACE DEFENSE COMMAND CENTER.—

(1) IN GENERAL.—Not later than March 1, 2008, the Secretary of Defense shall submit to Congress a report on the relocation of the North American Aerospace Defense Command center and related functions from Cheyenne Mountain Air Station, Colorado, to Peterson Air Force Base, Colorado.

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) an analysis comparing the total costs associated with the relocation, including costs determined as part of ongoing security-related studies of the relocation, to anticipated operational benefits from the relocation;

(B) a detailed explanation of the backup functions that will remain located at Cheyenne Mountain Air Station, and how such functions planned to be transferred out of Cheyenne Mountain Air Station, including the Space Operations Center, will maintain operational connectivity with their related commands and relevant communications centers;

(C) the final plans for the relocation of the North American Aerospace Defense Command center and related functions; and

(D) the findings and recommendations of an independent security and vulnerability assessment of Peterson Air Force Base carried out by Sandia National Laboratory for the United States Air Force Space Command and the Secretary's plans for mitigating any security and vulnerability risks identified as part of that assessment and associated cost and schedule estimates.

(b) LIMITATION ON AVAILABILITY OF FUNDS PENDING RECEIPT OF REPORT.—Of the funds appropriated pursuant to an authorization of appropriations or otherwise made available for fiscal year

2008 for operation and maintenance for the Air Force that are available for the Cheyenne Mountain Transformation project, $5,000,000 may not be obligated or expended until Congress receives the report required under subsection (a).

(c) COMPTROLLER GENERAL REVIEW.—Not later than 120 days after the date on which the Secretary of Defense submits the report required under subsection (a), the Comptroller General shall submit to Congress a review of the report and the final plans of the Secretary for the relocation of the North American Aerospace Defense Command center and related functions.

(d) MASTER INFRASTRUCTURE RECAPITALIZATION PLAN.—

(1) IN GENERAL.—Not later than March 16, 2008, the Secretary of the Air Force shall submit to Congress a master infrastructure recapitalization plan for Cheyenne Mountain Air Station.

(2) CONTENT.—The plan required under paragraph (1) shall include—

(A) a description of the projects that are needed to improve the infrastructure required for supporting missions associated with Cheyenne Mountain Air Station; and

(B) a funding plan explaining the expected timetable for the Air Force to support such projects.

# Subtitle F—Other Matters

### SEC. 371. ENHANCEMENT OF CORROSION CONTROL AND PREVENTION FUNCTIONS WITHIN DEPARTMENT OF DEFENSE.

(a) OFFICE OF CORROSION POLICY AND OVERSIGHT.—

(1) IN GENERAL.—Section 2228 of title 10, United States Code, is amended by striking the section heading and subsection (a) and inserting the following:

**"§ 2228. Office of Corrosion Policy and Oversight**

Establishment.

"(a) OFFICE AND DIRECTOR.—(1) There is an Office of Corrosion Policy and Oversight within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(2) The Office shall be headed by a Director of Corrosion Policy and Oversight, who shall be assigned to such position by the Under Secretary from among civilian employees of the Department of Defense with the qualifications described in paragraph (3). The Director is responsible in the Department of Defense to the Secretary of Defense (after the Under Secretary of Defense for Acquisition, Technology, and Logistics) for the prevention and mitigation of corrosion of the military equipment and infrastructure of the Department of Defense. The Director shall report directly to the Under Secretary.

"(3) In order to qualify to be assigned to the position of Director, an individual shall—

"(A) have management expertise in, and professional experience with, corrosion project and policy implementation, including an understanding of the effects of corrosion policies on infrastructure; research, development, test, and evaluation; and maintenance; and

"(B) have an understanding of Department of Defense budget formulation and execution, policy formulation, and planning and program requirements.

"(4) The Secretary of Defense shall designate the position of Director as a critical acquisition position under section 1733(b)(1)(C) of this title.".

(2) CONFORMING AMENDMENTS.—Section 2228(b) of such title is amended—

(A) in paragraph (1), by striking "official or organization designated under subsection (a)" and inserting "Director of Corrosion Policy and Oversight (in this section referred to as the 'Director')"; and

(B) in paragraphs (2), (3), (4), and (5), by striking "designated official or organization" and inserting "Director".

(b) ADDITIONAL AUTHORITY FOR DIRECTOR OF OFFICE.—Section 2228 of such title is further amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) ADDITIONAL AUTHORITIES FOR DIRECTOR.—The Director is authorized to—

"(1) develop, update, and coordinate corrosion training with the Defense Acquisition University;

"(2) participate in the process within the Department of Defense for the development of relevant directives and instructions; and

"(3) interact directly with the corrosion prevention industry, trade associations, other government corrosion prevention agencies, academic research and educational institutions, and scientific organizations engaged in corrosion prevention, including the National Academy of Sciences.".

(c) INCLUSION OF COOPERATIVE RESEARCH AGREEMENTS AS PART OF CORROSION REDUCTION STRATEGY.—Subsection (d)(2)(D) of section 2228 of such title, as redesignated by subsection (b), is amended by inserting after "operational strategies" the following: ", including through the establishment of memoranda of agreement, joint funding agreements, public-private partnerships, university research and education centers, and other cooperative research agreements".

(d) REPORT REQUIREMENT.—Section 2228 of such title is further amended by inserting after subsection (d) (as redesignated by subsection (b)) the following new subsection:

"(e) REPORT.—(1) For each budget for a fiscal year, beginning with the budget for fiscal year 2009, the Secretary of Defense shall submit, with the defense budget materials, a report on the following:

"(A) Funding requirements for the long-term strategy developed under subsection (d).

"(B) The return on investment that would be achieved by implementing the strategy.

"(C) The funds requested in the budget compared to the funding requirements.

"(D) An explanation if the funding requirements are not fully funded in the budget.

"(2) Within 60 days after submission of the budget for a fiscal year, the Comptroller General shall provide to the congressional defense committees—

"(A) an analysis of the budget submission for corrosion control and prevention by the Department of Defense; and

"(B) an analysis of the report required under paragraph (1).".

(e) DEFINITIONS.—Subsection (f) of section 2228 of such title, as redesignated by subsection (b), is amended by adding at the end the following new paragraphs:

"(4) The term 'budget', with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

"(5) The term 'defense budget materials', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 of such title is amended by striking the item relating to section 2228 and inserting the following new item:

"2228. Office of Corrosion Policy and Oversight.".

**SEC. 372. AUTHORITY FOR DEPARTMENT OF DEFENSE TO PROVIDE SUPPORT FOR CERTAIN SPORTING EVENTS.**

(a) PROVISION OF SUPPORT.—Section 2564 of title 10, United States Code, is amended—

(1) in subsection (c), by adding at the end the following new paragraphs:

"(4) A sporting event sanctioned by the United States Olympic Committee through the Paralympic Military Program.

"(5) Any national or international paralympic sporting event (other than a sporting event described in paragraphs (1) through (4))—

"(A) that—

"(i) is held in the United States or any of its territories or commonwealths;

"(ii) is governed by the International Paralympic Committee; and

"(iii) is sanctioned by the United States Olympic Committee;

"(B) for which participation exceeds 100 amateur athletes; and

"(C) in which at least 10 percent of the athletes participating in the sporting event are members or former members of the armed forces who are participating in the sporting event based upon an injury or wound incurred in the line of duty in the armed force and veterans who are participating in the sporting event based upon a service-connected disability."; and

(2) by adding at the end the following new subsection:

"(g) FUNDING FOR SUPPORT OF CERTAIN EVENTS.—(1) Amounts for the provision of support for a sporting event described in paragraph (4) or (5) of subsection (c) may be derived from the Support for International Sporting Competitions, Defense account established by section 5802 of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208; 10 U.S.C. 2564 note), notwithstanding any limitation under that section relating to the availability of funds in such account for the provision of support for international sporting competitions.

"(2) The total amount expended for any fiscal year to provide support for sporting events described in subsection (c)(5) may not exceed $1,000,000.".

(b) SOURCE OF FUNDS.—Section 5802 of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208; 10 U.S.C. 2564 note) is amended—

(1) by inserting after "international sporting competitions" the following: "and for support of sporting competitions authorized under section 2564(c)(4) and (5), of title 10, United States Code,"; and

(2) by striking "45 days" and inserting "15 days".

**SEC. 373. AUTHORITY TO IMPOSE REASONABLE RESTRICTIONS ON PAYMENT OF FULL REPLACEMENT VALUE FOR LOST OR DAMAGED PERSONAL PROPERTY TRANSPORTED AT GOVERNMENT EXPENSE.**

Section 2636a(d) of title 10, United States Code, is amended by adding at the end the following new sentence: "The regulations may include a requirement that a member of the armed forces or civilian employee of the Department of Defense comply with reasonable restrictions or conditions prescribed by the Secretary in order to receive the full amount deducted under subsection (b).".

**SEC. 374. PRIORITY TRANSPORTATION ON DEPARTMENT OF DEFENSE AIRCRAFT OF RETIRED MEMBERS RESIDING IN COMMONWEALTHS AND POSSESSIONS OF THE UNITED STATES FOR CERTAIN HEALTH CARE SERVICES.**

(a) AVAILABILITY OF TRANSPORTATION.—Chapter 157 of title 10, United States Code, is amended by inserting after section 2641a the following new section:

**"§ 2641b. Space-available travel on Department of Defense aircraft: retired members residing in Commonwealths and possessions of the United States for certain health care services**

"(a) PRIORITY TRANSPORTATION.—The Secretary of Defense shall provide transportation on Department of Defense aircraft on a space-available basis for any member or former member of the uniformed services described in subsection (b), and a single dependent of the member if needed to accompany the member, at a priority level in the same category as the priority level for an unaccompanied dependent over the age of 18 traveling on environmental and morale leave.

"(b) ELIGIBLE MEMBERS AND FORMER MEMBERS.—A member or former member eligible for priority transport under subsection (a) is a covered beneficiary under chapter 55 of this title who—

"(1) is entitled to retired or retainer pay;

"(2) resides in or is located in a Commonwealth or possession of the United States; and

"(3) is referred by a military or civilian primary care provider located in that Commonwealth or possession to a specialty care provider for services to be provided outside of that Commonwealth or possession.

Applicability.

"(c) SCOPE OF PRIORITY.—The increased priority for space-available transportation required by subsection (a) applies with respect to both—

"(1) the travel from the Commonwealth or possession of the United States to receive the specialty care services; and

"(2) the return travel.

"(d) DEFINITIONS.—In this section, the terms 'primary care provider' and 'specialty care provider' refer to a medical or dental professional who provides health care services under chapter 55 of this title.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2641a the following new item:

"2641b. Space-available travel on Department of Defense aircraft: retired members residing in Commonwealths and possessions of the United States for certain health care services.".

**SEC. 375. RECOVERY OF MISSING MILITARY PROPERTY.**

(a) IN GENERAL.—Chapter 165 of title 10, United States Code, is amended by adding at the end the following new sections:

**"§ 2788. Property accountability: regulations**

"The Secretary of a military department may prescribe regulations for the accounting for the property of that department and the fixing of responsibility for that property.

**"§ 2789. Individual equipment: unauthorized disposition**

"(a) PROHIBITION.—No member of the armed forces may sell, lend, pledge, barter, or give any clothing, arms, or equipment furnished to such member by the United States to any person other than a member of the armed forces or an officer of the United States who is authorized to receive it.

"(b) SEIZURE OF IMPROPERLY DISPOSED PROPERTY.—If a member of the armed forces has disposed of property in violation of subsection (a) and the property is in the possession of a person who is neither a member of the armed forces nor an officer of the United States who is authorized to receive it, that person has no right to or interest in the property, and any civil or military officer of the United States may seize the property, wherever found, subject to applicable regulations. Possession of such property furnished by the United States to a member of the armed forces by a person who is neither a member of the armed forces, nor an officer of the United States, is prima facie evidence that the property has been disposed of in violation of subsection (a).

"(c) DELIVERY OF SEIZED PROPERTY.—If an officer who seizes property under subsection (b) is not authorized to retain it for the United States, the officer shall deliver the property to a person who is authorized to retain it.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"2788. Property accountability: regulations.
"2789. Individual equipment: unauthorized disposition.".

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Such title is further amended by striking the following sections:

(A) Section 4832.

(B) Section 4836.

(C) Section 9832.
(D) Section 9836.

(2) CLERICAL AMENDMENTS.—

(A) CHAPTER 453.—The table of sections at the beginning of chapter 453 of such title is amended by striking the items relating to sections 4832 and 4836.

(B) CHAPTER 953.—The table of sections at the beginning of chapter 953 of such title is amended by striking the items relating to sections 9832 and 9836.

**SEC. 376. RETENTION OF COMBAT UNIFORMS BY MEMBERS OF THE ARMED FORCES DEPLOYED IN SUPPORT OF CONTINGENCY OPERATIONS.**

(a) RETENTION OF COMBAT UNIFORMS.—Chapter 152 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2568. Retention of combat uniforms by members deployed in support of contingency operations**

"The Secretary of a military department may authorize a member of the armed forces under the jurisdiction of the Secretary who has been deployed in support of a contingency operation for at least 30 days to retain, after that member is no longer so deployed, the combat uniform issued to that member as organizational clothing and individual equipment.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2568. Retention of combat uniforms by members deployed in support of contingency operations.".

**SEC. 377. ISSUE OF SERVICEABLE MATERIAL OF THE NAVY OTHER THAN TO ARMED FORCES.**

(a) IN GENERAL.—Part IV of subtitle C of title 10, United States Code, is amended by adding at the end the following new chapter:

**"CHAPTER 667—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES**

"Sec.
"7911. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.
"7912. Rifles and ammunition for target practice: educational institutions having corps of midshipmen.
"7913. Supplies: military instruction camps.

**"§ 7911. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.**

"Under such conditions as he may prescribe, the Secretary of the Navy may issue arms, tentage, and equipment that the Secretary considers necessary for proper military training, to any educational institution at which no unit of the Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by the Secretary and which has at least 50 physically fit students over 14 years of age.

**"§ 7912. Rifles and ammunition for target practice: educational institutions having corps of midshipmen**

"(a) AUTHORITY TO LEND.—The Secretary of the Navy may lend, without expense to the United States, magazine rifles and appendages that are not of the existing service models in use at the time and that are not necessary for a proper reserve supply, to any educational institution having a uniformed corps of midshipmen of sufficient number for target practice. The Secretary may also issue 40 rounds of ball cartridges for each midshipman for each range at which target practice is held, but not more than 120 rounds each year for each midshipman participating in target practice.

"(b) RESPONSIBILITIES OF INSTITUTIONS.—The institutions to which property is lent under subsection (a) shall—

"(1) use the property for target practice;

"(2) take proper care of the property; and

"(3) return the property when required.

"(c) REGULATIONS.—The Secretary of the Navy shall prescribe regulations to carry out this section, containing such other requirements as he considers necessary to safeguard the interests of the United States.

**"§ 7913. Supplies: military instruction camps**

"Under such conditions as he may prescribe, the Secretary of the Navy may issue, to any educational institution at which an officer of the naval service is detailed as professor of naval science, such supplies as are necessary to establish and maintain a camp for the military instruction of its students. The Secretary shall require a bond in the value of the property issued under this section, for the care and safekeeping of that property and except for property properly expended, for its return when required.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle C of such title, and the table of chapters at the beginning of part IV of such subtitle, are each amended by inserting after the item relating to chapter 665 the following new item:

"667. Issue of serviceable material other than to Armed Forces ..... 7911.".

**SEC. 378. REAUTHORIZATION OF AVIATION INSURANCE PROGRAM.**

Section 44310 of title 49, United States Code, is amended by striking "March 30, 2008" and inserting "December 31, 2013".

# TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.
Sec. 403. Additional authority for increases of Army and Marine Corps active duty end strengths for fiscal years 2009 and 2010.
Sec. 404. Increase in authorized strengths for Army officers on active duty in the grade of major.
Sec. 405. Increase in authorized strengths for Navy officers on active duty in the grades of lieutenant commander, commander, and captain.
Sec. 406. Increase in authorized daily average of number of members in pay grade E–9.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2008 limitation on number of non-dual status technicians.
Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.
Sec. 416. Future authorizations and accounting for certain reserve component personnel authorized to be on active duty or full-time National Guard duty to provide operational support.
Sec. 417. Revision of variances authorized for Selected Reserve end strengths.

Subtitle C—Authorization of Appropriations

Sec. 421. Military personnel.

# Subtitle A—Active Forces

**SEC. 401. END STRENGTHS FOR ACTIVE FORCES.**

(a) IN GENERAL.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 2008, as follows:

(1) The Army, 525,400.
(2) The Navy, 329,098.
(3) The Marine Corps, 189,000.
(4) The Air Force, 329,563.

(b) LIMITATION.—

(1) ARMY.—The authorized strength for the Army provided in paragraph (1) of subsection (a) for active duty personnel for fiscal year 2008 is subject to the condition that costs of active duty personnel of the Army for that fiscal year in excess of 489,400 shall be paid out of funds authorized to be appropriated for that fiscal year by section 1514.

(2) MARINE CORPS.—The authorized strength for the Marine Corps provided in paragraph (3) of subsection (a) for active duty personnel for fiscal year 2008 is subject to the condition that costs of active duty personnel of the Marine Corps for that fiscal year in excess of 180,000 shall be paid out of funds authorized to be appropriated for that fiscal year by section 1514.

**SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.**

Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following new paragraphs:

"(1) For the Army, 525,400.
"(2) For the Navy, 328,400.
"(3) For the Marine Corps, 189,000.
"(4) For the Air Force, 328,600.".

**SEC. 403. ADDITIONAL AUTHORITY FOR INCREASES OF ARMY AND MARINE CORPS ACTIVE DUTY END STRENGTHS FOR FISCAL YEARS 2009 AND 2010.**

(a) AUTHORITY TO INCREASE ARMY ACTIVE DUTY END STRENGTHS.—For each of fiscal years 2009 and 2010, the Secretary of Defense may, as the Secretary determines necessary for the purposes described in subsection (c), establish the active-duty end strength for the Army at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2008 baseline plus 22,000.

(b) MARINE CORPS.—For each of fiscal years 2009 and 2010, the Secretary of Defense may, as the Secretary determines necessary for the purposes described in subsection (c), establish the active-duty end strength for the Marine Corps at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2008 baseline plus 13,000.

(c) PURPOSE OF INCREASES.—The purposes for which increases may be made in Army and Marine Corps active duty end strengths under this section are—

(1) to support operational missions; and

(2) to achieve transformational reorganization objectives, including objectives for increased numbers of combat brigades and battalions, increased unit manning, force stabilization and shaping, and rebalancing of the active and reserve component forces.

(d) RELATIONSHIP TO PRESIDENTIAL WAIVER AUTHORITY.—Nothing in this section shall be construed to limit the President's authority under section 123a of title 10, United States Code, to waive any statutory end strength in a time of war or national emergency.

(e) RELATIONSHIP TO OTHER VARIANCE AUTHORITY.—The authority under this section is in addition to the authority to vary authorized end strengths that is provided in subsections (e) and (f) of section 115 of title 10, United States Code.

(f) BUDGET TREATMENT.—

(1) FISCAL YEARS 2009 AND 2010 BUDGETS.—The budget for the Department of Defense for fiscal years 2009 and 2010 as submitted to Congress shall comply, with respect to funding, with subsections (c) and (d) of section 691 of title 10, United States Code.

(2) OTHER INCREASES.—If the Secretary of Defense plans to increase the Army or Marine Corps active duty end strength for a fiscal year under this section, then the budget for the Department of Defense for that fiscal year as submitted to Congress shall include the amounts necessary for funding that active duty end strength in excess of the fiscal year 2008 active duty end strength authorized for that service under section 401.

(g) DEFINITIONS.—In this section:

(1) FISCAL-YEAR 2008 BASELINE.—The term "fiscal-year 2008 baseline", with respect to the Army and Marine Corps, means the active-duty end strength authorized for those services in section 401.

(2) ACTIVE-DUTY END STRENGTH.—In this subsection, the term "active-duty end strength" means the strength for active-duty personnel of one of the Armed Forces as of the last day of a fiscal year.

(h) REPEAL OF OTHER DISCRETIONARY AUTHORITY TO TEMPORARILY INCREASE ARMY AND MARINE CORPS ACTIVE DUTY END STRENGTHS.—Section 403 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 115 note), as amended by section 403 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2169), is repealed.

**SEC. 404. INCREASE IN AUTHORIZED STRENGTHS FOR ARMY OFFICERS ON ACTIVE DUTY IN THE GRADE OF MAJOR.**

The portion of the table in section 523(a)(1) of title 10, United States Code, relating to the Army is amended to read as follows:

| "Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty: | Number of officers who may be serving on active duty in grade of: | | |
|---|---|---|---|
| | Major | Lieutenant Colonel | Colonel |
| Army: | | | |
| 20,000 | 7,768 | 5,253 | 1,613 |
| 25,000 | 8,689 | 5,642 | 1,796 |
| 30,000 | 9,611 | 6,030 | 1,980 |
| 35,000 | 10,532 | 6,419 | 2,163 |
| 40,000 | 11,454 | 6,807 | 2,347 |
| 45,000 | 12,375 | 7,196 | 2,530 |
| 50,000 | 13,297 | 7,584 | 2,713 |
| 55,000 | 14,218 | 7,973 | 2,897 |
| 60,000 | 15,140 | 8,361 | 3,080 |
| 65,000 | 16,061 | 8,750 | 3,264 |
| 70,000 | 16,983 | 9,138 | 3,447 |
| 75,000 | 17,903 | 9,527 | 3,631 |
| 80,000 | 18,825 | 9,915 | 3,814 |
| 85,000 | 19,746 | 10,304 | 3,997 |
| 90,000 | 20,668 | 10,692 | 4,181 |
| 95,000 | 21,589 | 11,081 | 4,364 |
| 100,000 | 22,511 | 11,469 | 4,548 |
| 110,000 | 24,354 | 12,246 | 4,915 |
| 120,000 | 26,197 | 13,023 | 5,281 |
| 130,000 | 28,040 | 13,800 | 5,648 |
| 170,000 | 35,412 | 16,908 | 7,116". |

**SEC. 405. INCREASE IN AUTHORIZED STRENGTHS FOR NAVY OFFICERS ON ACTIVE DUTY IN THE GRADES OF LIEUTENANT COMMANDER, COMMANDER, AND CAPTAIN.**

The table in section 523(a)(2) of title 10, United States Code, is amended to read as follows:

| "Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty: | Number of officers who may be serving on active duty in grade of: | | |
|---|---|---|---|
| | Lieutenant Commander | Commander | Captain |
| Navy: | | | |
| 30,000 | 7,698 | 5,269 | 2,222 |
| 33,000 | 8,189 | 5,501 | 2,334 |
| 36,000 | 8,680 | 5,733 | 2,447 |
| 39,000 | 9,172 | 5,965 | 2,559 |
| 42,000 | 9,663 | 6,197 | 2,671 |
| 45,000 | 10,155 | 6,429 | 2,784 |
| 48,000 | 10,646 | 6,660 | 2,896 |
| 51,000 | 11,136 | 6,889 | 3,007 |

| "Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty: | Number of officers who may be serving on active duty in grade of: | | |
|---|---|---|---|
| | Lieutenant Commander | Commander | Captain |
| 54,000 | 11,628 | 7,121 | 3,120 |
| 57,000 | 12,118 | 7,352 | 3,232 |
| 60,000 | 12,609 | 7,583 | 3,344 |
| 63,000 | 13,100 | 7,813 | 3,457 |
| 66,000 | 13,591 | 8,044 | 3,568 |
| 70,000 | 14,245 | 8,352 | 3,718 |
| 90,000 | 17,517 | 9,890 | 4,467". |

**SEC. 406. INCREASE IN AUTHORIZED DAILY AVERAGE OF NUMBER OF MEMBERS IN PAY GRADE E–9.**

Section 517(a) of title 10, United States Code, is amended by striking "1 percent" and inserting "1.25 percent".

# Subtitle B—Reserve Forces

**SEC. 411. END STRENGTHS FOR SELECTED RESERVE.**

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2008, as follows:

(1) The Army National Guard of the United States, 351,300.
(2) The Army Reserve, 205,000.
(3) The Navy Reserve, 67,800.
(4) The Marine Corps Reserve, 39,600.
(5) The Air National Guard of the United States, 106,700.
(6) The Air Force Reserve, 67,500.
(7) The Coast Guard Reserve, 10,000.

(b) END STRENGTH REDUCTIONS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

(c) END STRENGTH INCREASES.—Whenever units or individual members of the Selected Reserve of any reserve component are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

**SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.**

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2008, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 29,204.
(2) The Army Reserve, 15,870.
(3) The Navy Reserve, 11,579.
(4) The Marine Corps Reserve, 2,261.
(5) The Air National Guard of the United States, 13,936.
(6) The Air Force Reserve, 2,721.

**SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).**

The minimum number of military technicians (dual status) as of the last day of fiscal year 2008 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 8,249.
(2) For the Army National Guard of the United States, 26,502.
(3) For the Air Force Reserve, 9,909.
(4) For the Air National Guard of the United States, 22,553.

**SEC. 414. FISCAL YEAR 2008 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.**

(a) LIMITATIONS.—

(1) NATIONAL GUARD.—Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2008, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) ARMY RESERVE.—The number of non-dual status technicians employed by the Army Reserve as of September 30, 2008, may not exceed 595.

(3) AIR FORCE RESERVE.—The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2008, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given that term in section 10217(a) of title 10, United States Code.

**SEC. 415. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.**

During fiscal year 2008, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

(1) The Army National Guard of the United States, 17,000.
(2) The Army Reserve, 13,000.
(3) The Navy Reserve, 6,200.
(4) The Marine Corps Reserve, 3,000.

(5) The Air National Guard of the United States, 16,000.
(6) The Air Force Reserve, 14,000.

**SEC. 416. FUTURE AUTHORIZATIONS AND ACCOUNTING FOR CERTAIN RESERVE COMPONENT PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY OR FULL-TIME NATIONAL GUARD DUTY TO PROVIDE OPERATIONAL SUPPORT.**

(a) REVIEW OF OPERATIONAL SUPPORT MISSIONS PERFORMED BY CERTAIN RESERVE COMPONENT PERSONNEL.—

(1) REVIEW REQUIRED.—The Secretary of Defense shall conduct a review of the long-term operational support missions performed by members of the reserve components authorized under section 115(b) of title 10, United States Code, to be on active duty or full-time National Guard duty for the purpose of providing operational support, with the objectives of such review being—

(A) minimizing the number of reserve component members who perform such service for a period greater than 1,095 consecutive days, or cumulatively for 1,095 days out of the previous 1,460 days; and

(B) determining which long-term operational support missions being performed by such members would more appropriately be performed by members of the Armed Forces on active duty under other provisions of title 10, United States Code, or by full-time support personnel of reserve components.

(2) SUBMISSION OF RESULTS.—Not later than March 1, 2008, the Secretary shall submit to Congress the results of the review, including a description of the adjustments in Department of Defense policy to be implemented as a result of the review and such recommendations for changes in statute, as the Secretary considers to be appropriate. Deadline.

(b) IMPROVED ACCOUNTING FOR RESERVE COMPONENT PERSONNEL PROVIDING OPERATIONAL SUPPORT.—Section 115(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) As part of the budget justification materials submitted by the Secretary of Defense to Congress in support of the end strength authorizations required under subparagraphs (A) and (B) of subsection (a)(1) for fiscal year 2009 and each fiscal year thereafter, the Secretary shall provide the following:

"(A) The number of members, specified by reserve component, authorized under subparagraphs (A) and (B) of paragraph (1) who were serving on active duty or full-time National Guard duty for operational support beyond each of the limits specified under subparagraphs (A) and (B) of paragraph (2) at the end of the fiscal year preceding the fiscal year for which the budget justification materials are submitted.

"(B) The number of members, specified by reserve component, on active duty for operational support who, at the end of the fiscal year for which the budget justification materials are submitted, are projected to be serving on active duty or full-time National Guard duty for operational support beyond such limits.

"(C) The number of members, specified by reserve component, on active duty or full-time National Guard duty for operational support who are included in, and counted against, the

end strength authorizations requested under subparagraphs (A) and (B) of subsection (a)(1).

"(D) A summary of the missions being performed by members identified under subparagraphs (A) and (B).".

**SEC. 417. REVISION OF VARIANCES AUTHORIZED FOR SELECTED RESERVE END STRENGTHS.**

Section 115(f)(3) of title 10, United States Code, is amended by striking "2 percent" and inserting "3 percent".

## Subtitle C—Authorization of Appropriations

**SEC. 421. MILITARY PERSONNEL.**

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2008 a total of $117,091,420,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2008.

# TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Assignment of officers to designated positions of importance and responsibility.
Sec. 502. Enhanced authority for Reserve general and flag officers to serve on active duty.
Sec. 503. Increase in years of commissioned service threshold for discharge of probationary officers and for use of force shaping authority.
Sec. 504. Mandatory retirement age for active-duty general and flag officers continued on active duty.
Sec. 505. Authority for reduced mandatory service obligation for initial appointments of officers in critically short health professional specialties.
Sec. 506. Expansion of authority for reenlistment of officers in their former enlisted grade.
Sec. 507. Increase in authorized number of permanent professors at the United States Military Academy.
Sec. 508. Promotion of career military professors of the Navy.

Subtitle B—Reserve Component Management

Sec. 511. Retention of military technicians who lose dual status in the Selected Reserve due to combat-related disability.
Sec. 512. Constructive service credit upon original appointment of Reserve officers in certain health care professions.
Sec. 513. Mandatory separation of Reserve officers in the grade of lieutenant general or vice admiral after completion of 38 years of commissioned service.
Sec. 514. Maximum period of temporary Federal recognition of person as Army National Guard officer or Air National Guard officer.
Sec. 515. Advance notice to members of reserve components of deployment in support of contingency operations.
Sec. 516. Report on relief from professional licensure and certification requirements for reserve component members on long-term active duty.

Subtitle C—Education and Training

Sec. 521. Revisions to authority to pay tuition for off-duty training or education.
Sec. 522. Reduction or elimination of service obligation in an Army Reserve or Army National Guard troop program unit for certain persons selected as medical students at Uniformed Services University of the Health Sciences.

Sec. 523. Repeal of annual limit on number of ROTC scholarships under Army Reserve and Army National Guard financial assistance program.
Sec. 524. Treatment of prior active service of members in uniformed medical accession programs.
Sec. 525. Repeal of post-2007–2008 academic year prohibition on phased increase in cadet strength limit at the United States Military Academy.
Sec. 526. National Defense University master's degree programs.
Sec. 527. Authority of the Air University to confer degree of master of science in flight test engineering.
Sec. 528. Enhancement of education benefits for certain members of reserve components.
Sec. 529. Extension of period of entitlement to educational assistance for certain members of the Selected Reserve affected by force shaping initiatives.
Sec. 530. Time limit for use of educational assistance benefit for certain members of reserve components and resumption of benefit.
Sec. 531. Secretary of Defense evaluation of the adequacy of the degree-granting authorities of certain military universities and educational institutions.
Sec. 532. Report on success of Army National Guard and Reserve Senior Reserve Officers' Training Corps financial assistance program.
Sec. 533. Report on utilization of tuition assistance by members of the Armed Forces.
Sec. 534. Navy Junior Reserve Officers' Training Corps unit for Southold, Mattituck, and Greenport High Schools.
Sec. 535. Report on transfer of administration of certain educational assistance programs for members of the reserve components.

Subtitle D—Military Justice and Legal Assistance Matters

Sec. 541. Authority to designate civilian employees of the Federal Government and dependents of deceased members as eligible for legal assistance from Department of Defense legal staff resources.
Sec. 542. Authority of judges of the United States Court of Appeals for the Armed Forces to administer oaths.
Sec. 543. Modification of authorities on senior members of the Judge Advocate Generals' Corps.
Sec. 544. Prohibition against members of the Armed Forces participating in criminal street gangs.

Subtitle E—Military Leave

Sec. 551. Temporary enhancement of carryover of accumulated leave for members of the Armed Forces.
Sec. 552. Enhancement of rest and recuperation leave.

Subtitle F—Decorations and Awards

Sec. 561. Authorization and request for award of Medal of Honor to Leslie H. Sabo, Jr., for acts of valor during the Vietnam War.
Sec. 562. Authorization and request for award of Medal of Honor to Henry Svehla for acts of valor during the Korean War.
Sec. 563. Authorization and request for award of Medal of Honor to Woodrow W. Keeble for acts of valor during the Korean War.
Sec. 564. Authorization and request for award of Medal of Honor to Private Philip G. Shadrach for acts of valor as one of Andrews' Raiders during the Civil War.
Sec. 565. Authorization and request for award of Medal of Honor to Private George D. Wilson for acts of valor as one of Andrews' Raiders during the Civil War.

Subtitle G—Impact Aid and Defense Dependents Education System

Sec. 571. Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 572. Impact aid for children with severe disabilities.
Sec. 573. Inclusion of dependents of non-department of Defense employees employed on Federal property in plan relating to force structure changes, relocation of military units, or base closures and realignments.
Sec. 574. Payment of private boarding school tuition for military dependents in overseas areas not served by defense dependents' education system schools.

Subtitle H—Military Families

Sec. 581. Department of Defense Military Family Readiness Council and policy and plans for military family readiness.

Sec. 582. Yellow Ribbon Reintegration Program.
Sec. 583. Study to enhance and improve support services and programs for families of members of regular and reserve components undergoing deployment.
Sec. 584. Protection of child custody arrangements for parents who are members of the Armed Forces deployed in support of a contingency operation.
Sec. 585. Family leave in connection with injured members of the Armed Forces.
Sec. 586. Family care plans and deferment of deployment of single parent or dual military couples with minor dependents.
Sec. 587. Education and treatment services for military dependent children with autism.
Sec. 588. Commendation of efforts of Project Compassion in paying tribute to members of the Armed Forces who have fallen in the service of the United States.

Subtitle I—Other Matters

Sec. 590. Uniform performance policies for military bands and other musical units.
Sec. 591. Transportation of remains of deceased members of the Armed Forces and certain other persons.
Sec. 592. Expansion of number of academies supportable in any State under STARBASE program.
Sec. 593. Gift acceptance authority.
Sec. 594. Conduct by members of the Armed Forces and veterans out of uniform during hoisting, lowering, or passing of United States flag.
Sec. 595. Annual report on cases reviewed by National Committee for Employer Support of the Guard and Reserve.
Sec. 596. Modification of Certificate of Release or Discharge from Active Duty (DD Form 214).
Sec. 597. Reports on administrative separations of members of the Armed Forces for personality disorder.
Sec. 598. Program to commemorate 50th anniversary of the Vietnam War.
Sec. 599. Recognition of members of the Monuments, Fine Arts, and Archives program of the Civil Affairs and Military Government Sections of the Armed Forces during and following World War II.

# Subtitle A—Officer Personnel Policy

### SEC. 501. ASSIGNMENT OF OFFICERS TO DESIGNATED POSITIONS OF IMPORTANCE AND RESPONSIBILITY.

(a) CONTINUATION IN GRADE WHILE AWAITING ORDERS.—Section 601(b) of title 10, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

Deadline.

"(4) at the discretion of the Secretary of Defense, while the officer is awaiting orders after being relieved from the position designated under subsection (a) or by law to carry one of those grades, but not for more than 60 days beginning on the day the officer is relieved from the position, unless, during such period, the officer is placed under orders to another position designated under subsection (a) or by law to carry one of those grades, in which case paragraph (2) will also apply to the officer; and".

(b) CONFORMING AMENDMENT REGARDING GENERAL AND FLAG OFFICER CEILINGS.—Section 525(e) of such title is amended by striking paragraph (2) and inserting the following new paragraph:

Deadline.

"(2) At the discretion of the Secretary of Defense, an officer of that armed force who has been relieved from a position designated under section 601(a) of this title or by law to carry one of the grades specified in such section, but only during the 60-day period beginning on the date on which the assignment of the officer to the first position is terminated or until the officer is assigned to a second such position, whichever occurs first.".

**SEC. 502. ENHANCED AUTHORITY FOR RESERVE GENERAL AND FLAG OFFICERS TO SERVE ON ACTIVE DUTY.**

Section 526(d) of title 10, United States Code, is amended—

(1) by inserting "(1)" before "The limitations"; and

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

"(2) The limitations of this section also do not apply to a number, as specified by the Secretary of the military department concerned, of reserve component general or flag officers authorized to serve on active duty for a period of not more than 365 days. The number so specified for an armed force may not exceed the number equal to 10 percent of the authorized number of general or flag officers, as the case may be, of that armed force under section 12004 of this title. In determining such number, any fraction shall be rounded down to the next whole number, except that such number shall be at least one.". Deadline.

**SEC. 503. INCREASE IN YEARS OF COMMISSIONED SERVICE THRESHOLD FOR DISCHARGE OF PROBATIONARY OFFICERS AND FOR USE OF FORCE SHAPING AUTHORITY.**

(a) ACTIVE-DUTY LIST OFFICERS.—

(1) EXTENDED PROBATIONARY PERIOD.—Paragraph (1)(A) of section 630 of title 10, United States Code, is amended by striking "five years" and inserting "six years".

(2) SECTION HEADING.—The heading of such section is amended by striking "**five years**" and inserting "**six years**".

(3) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of subchapter III of chapter 36 of such title is amended to read as follows:

"630. Discharge of commissioned officers with less than six years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade).".

(b) OFFICER FORCE SHAPING AUTHORITY.—Section 647(b)(1) of such title is amended by striking "5 years" both places it appears and inserting "six years".

(c) RESERVE OFFICERS.—

(1) EXTENDED PROBATIONARY PERIOD.—Subsection (a)(1) of section 14503 of such title is amended by striking "five years" and inserting "six years".

(2) SECTION HEADING.—The heading of such section is amended by striking "**five years**" and inserting "**six years**".

(3) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of chapter 1407 of such title is amended to read as follows:

"14503. Discharge of officers with less than six years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade).".

**SEC. 504. MANDATORY RETIREMENT AGE FOR ACTIVE-DUTY GENERAL AND FLAG OFFICERS CONTINUED ON ACTIVE DUTY.**

Section 637(b)(3) of title 10, United States Code, is amended by striking "but such period may not (except as provided under section 1251(b) of this title) extend beyond the date of the officer's sixty-second birthday" and inserting "except as provided under section 1251 or 1253 of this title".

**SEC. 505. AUTHORITY FOR REDUCED MANDATORY SERVICE OBLIGATION FOR INITIAL APPOINTMENTS OF OFFICERS IN CRITICALLY SHORT HEALTH PROFESSIONAL SPECIALTIES.**

Section 651 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) For the armed forces under the jurisdiction of the Secretary of Defense, the Secretary may waive the initial period of required service otherwise established pursuant to subsection (a) in the case of the initial appointment of a commissioned officer in a critically short health professional specialty specified by the Secretary for purposes of this subsection.

"(2) The minimum period of obligated service for an officer under a waiver under this subsection shall be the greater of—

"(A) two years; or

"(B) in the case of an officer who has accepted an accession bonus or executed a contract or agreement for the multiyear receipt of special pay for service in the armed forces, the period of obligated service specified in such contract or agreement.".

**SEC. 506. EXPANSION OF AUTHORITY FOR REENLISTMENT OF OFFICERS IN THEIR FORMER ENLISTED GRADE.**

(a) REGULAR ARMY.—Section 3258 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "a Reserve officer" and inserting "an officer"; and

(B) by striking "a temporary appointment" and inserting "an appointment"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "a Reserve officer" and inserting "an officer"; and

(B) in paragraph (2), by striking "the Reserve commission" and inserting "the commission".

(b) REGULAR AIR FORCE.—Section 8258 of such title is amended—

(1) in subsection (a)—

(A) by striking "a reserve officer" and inserting "an officer"; and

(B) by striking "a temporary appointment" and inserting "an appointment"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "a Reserve officer" and inserting "an officer"; and

(B) in paragraph (2), by striking "the Reserve commission" and inserting "the commission".

**SEC. 507. INCREASE IN AUTHORIZED NUMBER OF PERMANENT PROFESSORS AT THE UNITED STATES MILITARY ACADEMY.**

Paragraph (4) of section 4331(b) of title 10, United States Code, is amended to read as follows:

"(4) Twenty-eight permanent professors.".

**SEC. 508. PROMOTION OF CAREER MILITARY PROFESSORS OF THE NAVY.**

(a) PROMOTION.—

(1) IN GENERAL.—Chapter 603 of title 10, United States Code, is amended—

(A) by redesignating section 6970 as section 6970a; and

(B) by inserting after section 6969 the following new section 6970:

**"§ 6970. Permanent professors: promotion**

"(a) PROMOTION.—An officer serving as a permanent professor may be recommended for promotion to the grade of captain or colonel, as the case may be, under regulations prescribed by the Secretary of the Navy. The regulations shall include a competitive selection board process to identify those permanent professors best qualified for promotion. An officer so recommended shall be promoted by appointment to the higher grade by the President, by and with the advice and consent of the Senate. Regulations. President.

"(b) EFFECTIVE DATE OF PROMOTION.—If made, the promotion of an officer under subsection (a) shall be effective not earlier than three years after the selection of the officer as a permanent professor as described in that subsection.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 6970 and inserting the following new items:

"6970. Permanent professors: promotion.

"6970a. Permanent professors: retirement for years of service; authority for deferral.".

(b) CONFORMING AMENDMENTS.—Section 641(2) of such title is amended—

(1) by striking "and the registrar" and inserting ", the registrar"; and

(2) by inserting before the period at the end the following: ", and permanent professors of the Navy (as defined in regulations prescribed by the Secretary of the Navy)".

(c) COMPETITIVE SELECTION ASSESSMENT.—The Secretary of Defense shall conduct an assessment of the effectiveness of the promotion system established under section 6970 of title 10, United States Code, as added by subsection (a), for permanent professors of the United States Naval Academy, including an evaluation of the extent to which the implementation of the promotion system has resulted in a competitive environment for the selection of permanent professors and an evaluation of whether the goals of the permanent professor program have been achieved, including adequate career progression and promotion opportunities for participating officers. Not later than December 31, 2009, the Secretary shall submit to the congressional defense committees a report containing the results of the assessment. Deadline. Reports.

(d) USE OF EXCLUSIONS FROM AUTHORIZED OFFICER STRENGTHS.—Not later than March 31, 2008, the Secretary of the Navy shall submit to the congressional defense committees a report describing the plans of the Secretary for utilization of authorized exemptions under section 523(b)(8) of title 10, United States Code, and a discussion of the Navy's requirement, if any, and projections for use of additional exemptions by grade. Deadline. Reports.

# Subtitle B—Reserve Component Management

### SEC. 511. RETENTION OF MILITARY TECHNICIANS WHO LOSE DUAL STATUS IN THE SELECTED RESERVE DUE TO COMBAT-RELATED DISABILITY.

Section 10216 of title 10, United States Code, is amended by inserting after subsection (f) the following new subsection:

"(g) RETENTION OF MILITARY TECHNICIANS WHO LOSE DUAL STATUS DUE TO COMBAT-RELATED DISABILITY.—(1) Notwithstanding subsection (d) of this section or subsections (a)(3) and (b) of section 10218 of this title, if a military technician (dual status) loses such dual status as the result of a combat-related disability (as defined in section 1413a of this title), the person may be retained as a non-dual status technician so long as—

"(A) the combat-related disability does not prevent the person from performing the non-dual status functions or position; and

"(B) the person, while a non-dual status technician, is not disqualified from performing the non-dual status functions or position because of performance, medical, or other reasons.

Deadline.

"(2) A person so retained shall be removed not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age.

"(3) Persons retained under the authority of this subsection do not count against the limitations of section 10217(c) of this title.".

### SEC. 512. CONSTRUCTIVE SERVICE CREDIT UPON ORIGINAL APPOINTMENT OF RESERVE OFFICERS IN CERTAIN HEALTH CARE PROFESSIONS.

(a) INCLUSION OF ADDITIONAL HEALTH CARE PROFESSIONS.—Paragraph (2) of section 12207(b) of title 10, United States Code, is amended to read as follows:

"(2)(A) If the Secretary of Defense determines that the number of officers in a health profession described in subparagraph (B) who are serving in an active status in a reserve component of the Army, Navy, or Air Force in grades below major or lieutenant commander is critically below the number needed in such health profession by such reserve component in such grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment as an officer for service in such health profession with a period of constructive credit in such amount (in addition to any amount credited such person under paragraph (1)) as will result in the grade of such person being that of captain or, in the case of the Navy Reserve, lieutenant.

"(B) The types of health professions referred to in subparagraph (A) include the following:

"(i) Any health profession performed by officers in the Medical Corps of the Army or the Navy or by officers of the Air Force designated as a medical officer.

"(ii) Any health profession performed by officers in the Dental Corps of the Army or the Navy or by officers of the Air Force designated as a dental officer.

"(iii) Any health profession performed by officers in the Medical Service Corps of the Army or the Navy or by officers of the Air Force designated as a medical service officer or biomedical sciences officer.

"(iv) Any health profession performed by officers in the Army Medical Specialist Corps.

"(v) Any health profession performed by officers of the Nurse Corps of the Army or the Navy or by officers of the Air Force designated as a nurse.

"(vi) Any health profession performed by officers in the Veterinary Corps of the Army or by officers designated as a veterinary officer.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of such section is amended by striking "a medical or dental officer" and inserting "officers covered by paragraph (2)".

**SEC. 513. MANDATORY SEPARATION OF RESERVE OFFICERS IN THE GRADE OF LIEUTENANT GENERAL OR VICE ADMIRAL AFTER COMPLETION OF 38 YEARS OF COMMISSIONED SERVICE.**

(a) MANDATORY SEPARATION.—Section 14508 of title 10, United States Code, is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) THIRTY-EIGHT YEARS OF SERVICE FOR LIEUTENANT GENERALS AND VICE ADMIRALS.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of lieutenant general and each reserve officer of the Navy in the grade of vice admiral shall be separated in accordance with section 14514 of this title on the later of the following:

"(1) 30 days after completion of 38 years of commissioned service.

"(2) The fifth anniversary of the date of the officer's appointment in the grade of lieutenant general or vice admiral.".

(b) CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "FOR BRIGADIER GENERALS AND REAR ADMIRALS (LOWER HALF)" after "GRADE" in the subsection heading; and

(2) in subsection (b), by inserting "FOR MAJOR GENERALS AND REAR ADMIRALS" after "GRADE" in the subsection heading.

**SEC. 514. MAXIMUM PERIOD OF TEMPORARY FEDERAL RECOGNITION OF PERSON AS ARMY NATIONAL GUARD OFFICER OR AIR NATIONAL GUARD OFFICER.**

10 USC 12301 note.

Section 308(a) of title 32, United States Code, is amended in the last sentence by striking "six months" and inserting "one year".

**SEC. 515. ADVANCE NOTICE TO MEMBERS OF RESERVE COMPONENTS OF DEPLOYMENT IN SUPPORT OF CONTINGENCY OPERATIONS.**

(a) ADVANCE NOTICE REQUIRED.—The Secretary of a military department shall ensure that a member of a reserve component under the jurisdiction of that Secretary who will be called or ordered to active duty for a period of more than 30 days in support of

a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) receives notice in advance of the mobilization date. In so far as is practicable, the notice shall be provided not less than 30 days before the mobilization date, but with a goal of 90 days before the mobilization date.

Deadline.

(b) REDUCTION OR WAIVER OF NOTICE REQUIREMENT.—The Secretary of Defense may waive the requirement of subsection (a), or authorize shorter notice than the minimum specified in such subsection, during a war or national emergency declared by the President or Congress or to meet mission requirements. If the waiver or reduction is made on account of mission requirements, the Secretary shall submit to Congress a report detailing the reasons for the waiver or reduction and the mission requirements at issue.

Reports.

**SEC. 516. REPORT ON RELIEF FROM PROFESSIONAL LICENSURE AND CERTIFICATION REQUIREMENTS FOR RESERVE COMPONENT MEMBERS ON LONG-TERM ACTIVE DUTY.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the requirements to maintain licensure or certification by members of the National Guard or other reserve components of the Armed Forces while on active duty for an extended period of time.

(b) ELEMENTS OF STUDY.—In the study, the Comptroller General shall—

(1) identify the number and type of professional or other licensure or certification requirements that may be adversely impacted by extended periods of active duty; and

(2) determine mechanisms that would provide relief from professional or other licensure or certification requirements for members of the reserve components while on active duty for an extended period of time.

(c) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representative a report containing the results of the study and such recommendations as the Comptroller General considers appropriate to provide further relief for members of the reserve components from professional or other licensure or certification requirements while on active duty for an extended period of time.

## Subtitle C—Education and Training

**SEC. 521. REVISIONS TO AUTHORITY TO PAY TUITION FOR OFF-DUTY TRAINING OR EDUCATION.**

(a) INCLUSION OF COAST GUARD.—Subsection (a) of section 2007 of title 10, United States Code, is amended by striking "Subject to subsection (b), the Secretary of a military department" and inserting "Subject to subsections (b) and (c), the Secretary concerned".

(b) COMMISSIONED OFFICERS ON ACTIVE DUTY.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by inserting after "commissioned officer on active duty" the following: "(other than a member of the Ready Reserve)";

(B) by striking "the Secretary of the military department concerned" and inserting "the Secretary concerned"; and

(C) by striking "or full-time National Guard duty" both places it appears; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "the Secretary of the military department" and inserting "the Secretary concerned";

(B) in subparagraph (B), by inserting after "active duty service" the following: "for which the officer was ordered to active duty"; and

(C) in subparagraph (C), by striking "Secretary" and inserting "Secretary concerned".

(c) AUTHORITY TO PAY TUITION ASSISTANCE TO MEMBERS OF THE READY RESERVE.—

(1) AVAILABILITY OF ASSISTANCE.—Subsection (c) of such section is amended to read as follows:

"(c)(1) Subject to paragraphs (3) and (5), the Secretary concerned may pay the charges of an educational institution for the tuition or expenses described in subsection (a) of a member of the Selected Reserve.

"(2) Subject to paragraphs (4) and (5), the Secretary concerned may pay the charges of an educational institution for the tuition or expenses described in subsection (a) of a member of the Individual Ready Reserve who has a military occupational specialty designated by the Secretary concerned for purposes of this subsection.

"(3) The Secretary concerned may not pay charges under paragraph (1) for tuition or expenses of an officer of the Selected Reserve unless the officer enters into an agreement to remain a member of the Selected Reserve for at least 4 years after completion of the education or training for which the charges are paid.

"(4) The Secretary concerned may not pay charges under paragraph (2) for tuition or expenses of an officer of the Individual Ready Reserve unless the officer enters into an agreement to remain in the Selected Reserve or Individual Ready Reserve for at least 4 years after completion of the education or training for which the charges are paid.

"(5) The Secretary of a military department may require an enlisted member of the Selected Reserve or Individual Ready Reserve to enter into an agreement to serve for up to 4 years in the Selected Reserve or Individual Ready Reserve, as the case may be, after completion of the education or training for which tuition or expenses are paid under paragraph (1) or (2), as applicable.".

(2) REPEAL OF SUPERSEDED PROVISION.—Such section is further amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(3) REPAYMENT OF UNEARNED BENEFIT.—Subsection (e) of such section, as redesignated by paragraph (2) of this subsection, is amended—

(A) by inserting "(1)" after "(e)"; and

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

"(2) If a member of the Ready Reserve who enters into an agreement under subsection (c) does not complete the period of

service specified in the agreement, the member shall be subject to the repayment provisions of section 303a(e) of title 37.".

(d) REGULATIONS.—Such section is further amended by adding at the end the following new subsection:

"(f) This section shall be administered under regulations prescribed by the Secretary of Defense or, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security.".

(e) STUDY.—

(1) STUDY REQUIRED.—The Secretary of Defense shall carry out a study on the tuition assistance program carried out under section 2007 of title 10, United States Code. The study shall—

(A) identify the number of members of the Armed Forces eligible for assistance under the program, and the number who actually receive the assistance;

(B) assess the extent to which the program affects retention rates; and

(C) assess the extent to which State tuition assistance programs affect retention rates in those States.

(2) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the study.

**SEC. 522. REDUCTION OR ELIMINATION OF SERVICE OBLIGATION IN AN ARMY RESERVE OR ARMY NATIONAL GUARD TROOP PROGRAM UNIT FOR CERTAIN PERSONS SELECTED AS MEDICAL STUDENTS AT UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.**

Paragraph (3) of section 2107a(b) of title 10, United States Code, is amended to read as follows:

"(3)(A) Subject to subparagraph (C), in the case of a person described in subparagraph (B), the Secretary may, at any time and with the consent of the person, modify an agreement described in paragraph (1)(F) submitted by the person for the purpose of reducing or eliminating the troop program unit service obligation specified in the agreement and to establish, in lieu of that obligation, an active duty service obligation.

"(B) Subparagraph (A) applies with respect to the following persons:

"(i) A cadet under this section at a military junior college.

"(ii) A cadet or former cadet under this section who is selected under section 2114 of this title to be a medical student at the Uniformed Services University of the Health Sciences.

"(iii) A cadet or former cadet under this section who signs an agreement under section 2122 of this title for participation in the Armed Forces Health Professions Scholarship and Financial Assistance program.

"(C) The modification of an agreement described in paragraph (1)(F) may be made only if the Secretary determines that it is in the best interests of the United States to do so.".

**SEC. 523. REPEAL OF ANNUAL LIMIT ON NUMBER OF ROTC SCHOLARSHIPS UNDER ARMY RESERVE AND ARMY NATIONAL GUARD FINANCIAL ASSISTANCE PROGRAM.**

Section 2107a(h) of title 10, United States Code, is amended by striking "not more than 416 cadets each year under this section, to include" and inserting "each year under this section".

**SEC. 524. TREATMENT OF PRIOR ACTIVE SERVICE OF MEMBERS IN UNIFORMED MEDICAL ACCESSION PROGRAMS.**

(a) MEDICAL STUDENTS OF USUHS.—

(1) TREATMENT OF STUDENTS WITH PRIOR ACTIVE SERVICE.—Section 2114 of title 10, United States Code, is amended—

(A) by redesignating subsections (c) through (h) as subsections (d) through (i), respectively; and

(B) in subsection (b)—

(i) by inserting "(1)" after "(b)"; and

(ii) by inserting after the second sentence the following new paragraph:

"(2) If a member of the uniformed services selected to be a student has prior active service in a pay grade and with years of service credited for pay that would entitle the member, if the member remained in the former grade, to a rate of basic pay in excess of the rate of basic pay for regular officers in the grade of second lieutenant or ensign, the member shall be paid basic pay based on the former grade and years of service credited for pay. The amount of such basic pay for the member shall be increased on January 1 of each year by the percentage by which basic pay is increased on average on that date for that year, and the member shall continue to receive basic pay based on the former grade and years of service until the date, whether occurring before or after graduation, on which the basic pay for the member in the member's actual grade and years of service credited for pay exceeds the amount of basic pay to which the member is entitled based on the member's former grade and years of service.".

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in subsection (b), by striking "Upon graduation they" and inserting the following:

"(c) Medical students who graduate"; and

(B) in subsection (i), as redesignated by paragraph (1), by striking "subsection (b)" and inserting "subsection (c)".

(b) PARTICIPANTS IN HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.—Section 2121(c) of such title is amended—

(1) by inserting "(1)" after "(c)"; and

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

"(2) If a member of the uniformed services selected to participate in the program as a medical student has prior active service in a pay grade and with years of service credited for pay that would entitle the member, if the member remained in the former grade, to a rate of basic pay in excess of the rate of basic pay for regular officers in the grade of second lieutenant or ensign, the member shall be paid basic pay based on the former grade and years of service credited for pay. The amount of such basic pay for the member shall be increased on January 1 of each year by the percentage by which basic pay is increased on average

on that date for that year, and the member shall continue to receive basic pay based on the former grade and years of service until the date, whether occurring before or after the conclusion of such participation, on which the basic pay for the member in the member's actual grade and years of service credited for pay exceeds the amount of basic pay to which the member is entitled based on the member's former grade and years of service.".

(c) OFFICERS DETAILED AS STUDENTS AT MEDICAL SCHOOLS.—

(1) APPOINTMENT AND TREATMENT OF PRIOR ACTIVE SERVICE.—Section 2004a of such title is amended—

(A) by redesignating subsections (e) through (h) as subsections (f) through (i), respectively; and

(B) by inserting after subsection (d) the following new subsection:

"(e) APPOINTMENT AND TREATMENT OF PRIOR ACTIVE SERVICE.—(1) A commissioned officer detailed as a student at a medical school under subsection (a) shall be appointed as a regular officer in the grade of second lieutenant or ensign and shall serve on active duty in that grade with full pay and allowances of that grade.

"(2) If an officer detailed to be a medical student has prior active service in a pay grade and with years of service credited for pay that would entitle the officer, if the officer remained in the former grade, to a rate of basic pay in excess of the rate of basic pay for regular officers in the grade of second lieutenant or ensign, the officer shall be paid basic pay based on the former grade and years of service credited for pay. The amount of such basic pay for the officer shall be increased on January 1 of each year by the percentage by which basic pay is increased on average on that date for that year, and the officer shall continue to receive basic pay based on the former grade and years of service until the date, whether occurring before or after graduation, on which the basic pay for the officer in the officer's actual grade and years of service credited for pay exceeds the amount of basic pay to which the officer is entitled based on the officer's former grade and years of service.".

(2) TECHNICAL AMENDMENT.—Subsection (c) of such section is amended by striking "subsection (c)" and inserting "subsection (b)".

**SEC. 525. REPEAL OF POST-2007–2008 ACADEMIC YEAR PROHIBITION ON PHASED INCREASE IN CADET STRENGTH LIMIT AT THE UNITED STATES MILITARY ACADEMY.**

Section 4342(j)(1) of title 10, United States Code, is amended by striking the last sentence.

**SEC. 526. NATIONAL DEFENSE UNIVERSITY MASTER'S DEGREE PROGRAMS.**

(a) MASTER OF ARTS PROGRAM AUTHORIZED.—Section 2163 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or master of arts" after "master of science"; and

(2) in subsection (b), by adding at the end the following new paragraph:

"(4) MASTER OF ARTS IN STRATEGIC SECURITY STUDIES.—The degree of master of arts in strategic security studies, to graduates of the University who fulfill the requirements of the program at the School for National Security Executive Education.".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 2163. National Defense University: master's degree programs".**

(2) TABLE OF CONTENTS.—The table of sections at the beginning of chapter 108 of such title is amended by striking the item relating to section 2163 and inserting the following new item:

"2163. National Defense University: master's degree programs.".

(c) APPLICABILITY TO 2006–2007 GRADUATES.—Paragraph (4) of section 2163(b) of title 10, United States Code, as added by subsection (a) of this section, applies with respect to any person who becomes a graduate of the National Defense University on or after September 6, 2006, and fulfills the requirements of the program referred to in such paragraph (4). 10 USC 2163 note.

**SEC. 527. AUTHORITY OF THE AIR UNIVERSITY TO CONFER DEGREE OF MASTER OF SCIENCE IN FLIGHT TEST ENGINEERING.**

Section 9317(a) of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) The degree of master of science in flight test engineering upon graduates of the Air Force Test Pilot School who fulfill the requirements for that degree in a manner consistent with the recommendations of the Department of Education and the principles of the regional accrediting body for the Air University.".

**SEC. 528. ENHANCEMENT OF EDUCATION BENEFITS FOR CERTAIN MEMBERS OF RESERVE COMPONENTS.**

(a) ACCELERATED PAYMENT OF EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.—

(1) IN GENERAL.—Chapter 1606 of title 10, United States Code, is amended by inserting after section 16131 the following new section:

**"§ 16131a. Accelerated payment of educational assistance**

"(a) The educational assistance allowance payable under section 16131 of this title with respect to an eligible person described in subsection (b) may, upon the election of such eligible person, be paid on an accelerated basis in accordance with this section.

"(b) An eligible person described in this subsection is a person entitled to educational assistance under this chapter who is—

"(1) enrolled in an approved program of education not exceeding two years in duration and not leading to an associate, bachelors, masters, or other degree, subject to subsection (g); and

"(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of educational assistance allowance otherwise payable with respect to the person under section 16131 of this title.

"(c)(1) The amount of the accelerated payment of educational assistance payable with respect to an eligible person making an election under subsection (a) for a program of education shall be the lesser of—

"(A) the amount equal to 60 percent of the established charges for the program of education; or

"(B) the aggregate amount of educational assistance allowance to which the person remains entitled under this chapter at the time of the payment.

"(2)(A) In this subsection, except as provided in subparagraph (B), the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary of Veterans Affairs) for tuition and fees which similarly circumstanced individuals who are not eligible for benefits under this chapter and who are enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

"(i) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

"(ii) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

"(B) In this subsection, the term 'established charges' does not include any fees or payments attributable to the purchase of a vehicle.

"(3) The educational institution providing the program of education for which an accelerated payment of educational assistance allowance is elected by an eligible person under subsection (a) shall certify to the Secretary of Veterans Affairs the amount of the established charges for the program of education.

"(d) An accelerated payment of educational assistance allowance made with respect to an eligible person under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary of Veterans Affairs receives a certification from the educational institution regarding—

"(1) the person's enrollment in and pursuit of the program of education; and

"(2) the amount of the established charges for the program of education.

"(e)(1) Except as provided in paragraph (2), for each accelerated payment of educational assistance allowance made with respect to an eligible person under this section, the person's entitlement to educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of educational assistance allowance otherwise payable with respect to the person under section 16131 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

"(2) If the monthly rate of educational assistance allowance otherwise payable with respect to an eligible person under section 16131 of this title increases during the enrollment period of a

program of education for which an accelerated payment of educational assistance allowance is made under this section, the charge to the person's entitlement to educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the manner provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary of Veterans Affairs.

"(f) The Secretary of Veterans Affairs shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment of educational assistance allowance under this section. The regulations may include such elements of the regulations prescribed under section 3014A of title 38 as the Secretary of Veterans Affairs considers appropriate for purposes of this section. Regulations.

"(g) The aggregate amount of educational assistance payable under this section in any fiscal year for enrollments covered by subsection (b)(1) may not exceed $4,000,000.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1606 of such title is amended by inserting after the item relating to section 16131 the following new item:

"16131a. Accelerated payment of educational assistance.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2008, and shall only apply to initial enrollments in approved programs of education after such date.

(b) ACCELERATED PAYMENT OF EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS SUPPORTING CONTINGENCY OPERATIONS AND OTHER OPERATIONS.— 10 USC 16131a note.

(1) IN GENERAL.—Chapter 1607 of title 10, United States Code, is amended by inserting after section 16162 the following new section:

**"§ 16162a. Accelerated payment of educational assistance**

"(a) PAYMENT ON ACCELERATED BASIS.—The educational assistance allowance payable under section 16162 of this title with respect to an eligible member described in subsection (b) may, upon the election of such eligible member, be paid on an accelerated basis in accordance with this section.

"(b) ELIGIBLE MEMBERS.—An eligible member described in this subsection is a member of a reserve component entitled to educational assistance under this chapter who is—

"(1) enrolled in an approved program of education not exceeding two years in duration and not leading to an associate, bachelors, masters, or other degree, subject to subsection (g); and

"(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of educational assistance allowance otherwise payable with respect to the member under section 16162 of this title.

"(c) AMOUNT OF ACCELERATED PAYMENT.—(1) The amount of the accelerated payment of educational assistance payable with

respect to an eligible member making an election under subsection (a) for a program of education shall be the lesser of—

"(A) the amount equal to 60 percent of the established charges for the program of education; or

"(B) the aggregate amount of educational assistance allowance to which the member remains entitled under this chapter at the time of the payment.

"(2)(A) In this subsection, except as provided in subparagraph (B), the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary of Veterans Affairs) for tuition and fees which similarly circumstanced individuals who are not eligible for benefits under this chapter and who are enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

"(i) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

"(ii) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

"(B) In this subsection, the term 'established charges' does not include any fees or payments attributable to the purchase of a vehicle.

"(3) The educational institution providing the program of education for which an accelerated payment of educational assistance allowance is elected by an eligible member under subsection (a) shall certify to the Secretary of Veterans Affairs the amount of the established charges for the program of education.

"(d) TIME OF PAYMENT.—An accelerated payment of educational assistance allowance made with respect to an eligible member under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary of Veterans Affairs receives a certification from the educational institution regarding—

"(1) the member's enrollment in and pursuit of the program of education; and

"(2) the amount of the established charges for the program of education.

"(e) CHARGE AGAINST ENTITLEMENT.—(1) Except as provided in paragraph (2), for each accelerated payment of educational assistance allowance made with respect to an eligible member under this section, the member's entitlement to educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of educational assistance allowance otherwise payable with respect to the member under section 16162 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

"(2) If the monthly rate of educational assistance allowance otherwise payable with respect to an eligible member under section 16162 of this title increases during the enrollment period of a program of education for which an accelerated payment of educational assistance allowance is made under this section, the charge

to the member's entitlement to educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the manner provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary of Veterans Affairs.

"(f) REGULATIONS.—The Secretary of Veterans Affairs shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment of educational assistance allowance under this section. The regulations may include such elements of the regulations prescribed under section 3014A of title 38 as the Secretary of Veterans Affairs considers appropriate for purposes of this section.

"(g) LIMITATION.—The aggregate amount of educational assistance payable under this section in any fiscal year for enrollments covered by subsection (b)(1) may not exceed $3,000,000.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1607 of such title is amended by inserting after the item relating to section 16162 the following new item:

"16162a. Accelerated payment of educational assistance.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2008, and shall only apply to initial enrollments in approved programs of education after such date. 10 USC 16162a note.

(c) ENHANCEMENT OF EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS SUPPORTING CONTINGENCY OPERATIONS AND OTHER OPERATIONS.—

(1) ASSISTANCE FOR THREE YEARS CUMULATIVE SERVICE.—Subsection (c)(4)(C) of section 16162 of title 10, United States Code, is amended by striking "for two continuous years or more." and inserting "for—

"(i) two continuous years or more; or

"(ii) an aggregate of three years or more.".

(2) CONTRIBUTIONS FOR INCREASED AMOUNT OF EDUCATIONAL ASSISTANCE.—Such section is further amended by adding at the end the following new subsection:

"(f) CONTRIBUTIONS FOR INCREASED AMOUNT OF EDUCATIONAL ASSISTANCE.—(1)(A) Any individual eligible for educational assistance under this section may contribute amounts for purposes of receiving an increased amount of educational assistance as provided for in paragraph (2).

"(B) An individual covered by subparagraph (A) may make the contributions authorized by that subparagraph at any time while a member of a reserve component, but not more frequently than monthly.

"(C) The total amount of the contributions made by an individual under subparagraph (A) may not exceed $600. Such contributions shall be made in multiples of $20.

"(D) Contributions under this subsection shall be made to the Secretary concerned. Such Secretary shall deposit any amounts received as contributions under this subsection into the Treasury as miscellaneous receipts.

Effective date.

"(2) Effective as of the first day of the enrollment period following the enrollment period in which an individual makes contributions under paragraph (1), the monthly amount of educational assistance allowance applicable to such individual under this section shall be the monthly rate otherwise provided for under subsection (c) increased by—

"(A) an amount equal to $5 for each $20 contributed by such individual under paragraph (1) for an approved program of education pursued on a full-time basis; or

Regulations.

"(B) an appropriately reduced amount based on the amount so contributed as determined under regulations that the Secretary of Veterans Affairs shall prescribe, for an approved program of education pursued on less than a full-time basis.".

**SEC. 529. EXTENSION OF PERIOD OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE FOR CERTAIN MEMBERS OF THE SELECTED RESERVE AFFECTED BY FORCE SHAPING INITIATIVES.**

Section 16133(b)(1)(B) of title 10, United States Code, is amended by inserting "or the period beginning on October 1, 2007, and ending on September 30, 2014," after "December 31, 2001,".

**SEC. 530. TIME LIMIT FOR USE OF EDUCATIONAL ASSISTANCE BENEFIT FOR CERTAIN MEMBERS OF RESERVE COMPONENTS AND RESUMPTION OF BENEFIT.**

(a) MODIFICATION OF TIME LIMIT FOR USE OF BENEFIT.—

(1) MODIFICATION.—Section 16164(a) of title 10, United States Code, is amended by striking "this chapter while serving—" and all that follows and inserting "this chapter—

"(1) while the member is serving—

"(A) in the Selected Reserve of the Ready Reserve, in the case of a member called or ordered to active service while serving in the Selected Reserve; or

"(B) in the Ready Reserve, in the case of a member ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve); and

"(2) in the case of a person who separates from the Selected Reserve of the Ready Reserve after completion of a period of active service described in section 16163 of this title and completion of a service contract under other than dishonorable conditions, during the 10-year period beginning on the date on which the person separates from the Selected Reserve.".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 16165(a) of such title is amended to read as follows:

"(2) when the member separates from the Ready Reserve as provided in section 16164(a)(1) of this title, or upon completion of the period provided for in section 16164(a)(2) of this title, as applicable.".

(b) RECLAIMING BENEFIT FOR MEMBERS REENTERING SERVICE.—Section 16165(b) of such title is amended by striking "of not more than 90 days" after "who incurs a break in service in the Selected Reserve".

10 USC 16164 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 28, 2004, as if included in the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375), to which such amendments relate.

**SEC. 531. SECRETARY OF DEFENSE EVALUATION OF THE ADEQUACY OF THE DEGREE-GRANTING AUTHORITIES OF CERTAIN MILITARY UNIVERSITIES AND EDUCATIONAL INSTITUTIONS.**

(a) EVALUATION REQUIRED.—The Secretary of Defense shall carry out an evaluation of the degree-granting authorities provided by title 10, United States Code, to the academic institutions specified in subsection (b). The evaluation shall assess whether the current process, under which each degree conferred by each institution must have a statutory authorization, remains adequate, appropriate, and responsive enough to meet emerging military service education requirements.

(b) SPECIFIED INSTITUTIONS.—The academic institutions covered by subsection (a) are the following:

(1) The National Defense University.

(2) The Army War College and the United States Army Command and General Staff College.

(3) The United States Naval War College.

(4) The United States Naval Postgraduate School.

(5) Air University and the United States Air Force Institute of Technology.

(6) The Marine Corps University.

(c) REPORT.—Not later than April 1, 2008, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the evaluation. The report shall include the results of the evaluation and any recommendations for changes to policy or law that the Secretary considers appropriate.

**SEC. 532. REPORT ON SUCCESS OF ARMY NATIONAL GUARD AND RESERVE SENIOR RESERVE OFFICERS' TRAINING CORPS FINANCIAL ASSISTANCE PROGRAM.**

(a) REPORT REQUIRED.—Not later than 150 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the success of the financial assistance program of the Senior Reserve Officers' Training Corps under section 2107a of title 10, United States Code, in securing the appointment of second lieutenants in the Army Reserve and Army National Guard. The report shall include detailed information on the appointment of cadets under the financial assistance program who are enrolled in an educational institution described in subsection (b) and address the efforts of the Secretary to increase awareness of the availability and advantages of appointment in the Senior Reserve Officers' Training Corps at these institutions and to increase the number of cadets at these institutions.

(b) COVERED EDUCATIONAL INSTITUTIONS.—The educational institutions referred to in subsection (a) are the following:

(1) An historically Black college or university that is a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

(2) A minority institution, as defined in section 365(3) of that Act (20 U.S.C. 1067k(3)).

(3) An Hispanic-serving institution, as defined in section 502(a)(5) of that Act (20 U.S.C. 1101a(a)(5)).

**SEC. 533. REPORT ON UTILIZATION OF TUITION ASSISTANCE BY MEMBERS OF THE ARMED FORCES.**

(a) REPORTS REQUIRED.—Not later than April 1, 2008, the Secretary of each military department shall submit to the congressional defense committees a report on the utilization of tuition assistance by members of the Armed Forces, whether in the regular components of the Armed Forces or the reserve components of the Armed Forces, under the jurisdiction of such military department during fiscal year 2007.

(b) ELEMENTS.—The report with respect to a military department under subsection (a) shall include the following:

(1) Information on the policies of such military department for fiscal year 2007 regarding utilization of, and limits on, tuition assistance by members of the Armed Forces under the jurisdiction of such military department, including an estimate of the number of members of the reserve components of the Armed Forces under the jurisdiction of such military department whose requests for tuition assistance during that fiscal year were unfunded.

(2) Information on the policies of such military department for fiscal year 2007 regarding funding of tuition assistance for each of the regular components of the Armed Forces and each of the reserve components of the Armed Forces under the jurisdiction of such military department.

New York.

**SEC. 534. NAVY JUNIOR RESERVE OFFICERS' TRAINING CORPS UNIT FOR SOUTHOLD, MATTITUCK, AND GREENPORT HIGH SCHOOLS.**

For purposes of meeting the requirements of section 2031(b) of title 10, United States Code, the Secretary of the Navy may and, to the extent the schools request, shall treat any two or more of the following schools (all in Southold, Suffolk County, New York) as a single institution:

(1) Southold High School.

(2) Mattituck High School.

(3) Greenport High School.

**SEC. 535. REPORT ON TRANSFER OF ADMINISTRATION OF CERTAIN EDUCATIONAL ASSISTANCE PROGRAMS FOR MEMBERS OF THE RESERVE COMPONENTS.**

(a) REPORT REQUIRED.—Not later than September 1, 2008, the Secretary of Defense, in cooperation with the Secretary of Veterans Affairs, shall submit to the congressional defense committees and the Committees on Veterans Affairs of the Senate and House of Representatives a report on the feasibility and merits of transferring the administration of the educational assistance programs for members of the reserve components contained in chapters 1606 and 1607 of title 10, United States Code, from the Department of Defense to the Department of Veterans Affairs.

(b) ELEMENTS OF REPORT.—The report shall specifically address the following:

(1) A discussion of the history and purpose of the educational assistance benefits under chapters 1606 and 1607 of title 10, United States Code, and the data most recently available, as of the date of the enactment of this Act, relating to the cost of providing such benefits and the projected costs

of providing such benefits over the ten-year period beginning on the such date.

(2) The effect of a transfer of administrative jurisdiction on the delivery of educational assistance benefits to members of the reserve components.

(3) The effect of a transfer of administrative jurisdiction on Department of Defense efforts relating to recruiting, retention, and compensation, including bonuses, special pays, and incentive pays.

(4) The extent to which educational assistance benefits influence the decision of a person to join a reserve component.

(5) The extent to which the educational assistance benefits available under chapter 1606 of title 10, United States Code, affect retention rates, including statistics showing how many members remain in the reserve components in order to continue to receive education benefits under such chapter.

(6) The extent to which the educational assistance benefits available under chapter 1607 of title 10, United States Code, affect retention rates, including statistics showing how many members remain in the reserve components in order to continue to receive education benefits under such chapter.

(7) The practical and budgetary issues involved in a transfer of administrative jurisdiction, including a discussion of the cost of equating the educational assistance benefits for members of the active and reserve components.

(8) Any recommendations of the Secretary for legislation to enhance or improve the delivery of educational assistance benefits for members of the reserve components.

(9) The feasibility and likely effects of transferring the administration of the educational assistance programs for members of the reserve components contained in chapters 1606 and 1607 of title 10, United States Code, from the Department of Defense to the Department of Veterans Affairs through the recodification of such chapters in title 38, United States Code, as proposed in section 525 of H.R. 1585 of the 110th Congress, as passed by the House of Representatives, together with any recommendations of the Secretary for improving that section.

(10) A discussion of the effects and impact of the amendments to chapter 1607 of title 10, United States Code, made by section 530 of this Act, relating to the extension of the time limit for the use of educational assistance benefits under that chapter.

(c) REVIEWS OF REPORT.—Before submission of the report to Congress, the Secretary of Defense shall secure the review of the report by the Defense Business Board, in cooperation with the Reserve Forces Policy Board. The Secretary of Veterans Affairs shall secure the review of the report by the Veterans Affairs Advisory Committee on Education. The results of such reviews shall be included as an appendix to the report.

Deadline.
Assessment.

(d) COMPTROLLER GENERAL REVIEW.—Not later than November 1, 2008, the Comptroller General shall submit to the congressional committees referred to in subsection (a) an assessment of the report, including a review of the costs inherent in the transfer of administrative jurisdiction and the recruiting and retention data and other assumptions used by the Secretary of Defense in preparing the report. As part of the assessment, the Comptroller General shall

solicit responses from the Secretary of Defense and the Secretary of Veterans Affairs.

## Subtitle D—Military Justice and Legal Assistance Matters

### SEC. 541. AUTHORITY TO DESIGNATE CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT AND DEPENDENTS OF DECEASED MEMBERS AS ELIGIBLE FOR LEGAL ASSISTANCE FROM DEPARTMENT OF DEFENSE LEGAL STAFF RESOURCES.

Section 1044(a) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(6) Survivors of a deceased member or former member described in paragraphs (1), (2), (3), and (4) who were dependents of the member or former member at the time of the death of the member or former member, except that the eligibility of such survivors shall be determined pursuant to regulations prescribed by the Secretary concerned.

"(7) Civilian employees of the Federal Government serving in locations where legal assistance from non-military legal assistance providers is not reasonably available, except that the eligibility of civilian employees shall be determined pursuant to regulations prescribed by the Secretary concerned.".

### SEC. 542. AUTHORITY OF JUDGES OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES TO ADMINISTER OATHS.

Section 936 of title 10, United States Code (article 136 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

"(c) The judges of the United States Court of Appeals for the Armed Forces may administer the oaths authorized by subsections (a) and (b).".

### SEC. 543. MODIFICATION OF AUTHORITIES ON SENIOR MEMBERS OF THE JUDGE ADVOCATE GENERALS' CORPS.

(a) DEPARTMENT OF THE ARMY.—

(1) GRADE OF JUDGE ADVOCATE GENERAL.—Subsection (a) of section 3037 of title 10, United States Code, is amended by striking the third sentence and inserting the following new sentence: "The Judge Advocate General, while so serving, has the grade of lieutenant general.".

(2) REDESIGNATION OF ASSISTANT JUDGE ADVOCATE GENERAL AS DEPUTY JUDGE ADVOCATE GENERAL.—Such section is further amended—

(A) in subsection (a), by striking "Assistant Judge Advocate General" each place it appears and inserting "Deputy Judge Advocate General"; and

(B) in subsection (d), by striking "Assistant Judge Advocate General" and inserting "Deputy Judge Advocate General".

(3) CLERICAL AMENDMENTS.—(A) The heading of such section is amended to read as follows:

**"§ 3037. Judge Advocate General, Deputy Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties".**

(B) The table of sections at the beginning of chapter 305 of such title is amended by striking the item relating to section 3037 and inserting the following new item:

"3037. Judge Advocate General, Deputy Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties.".

(b) GRADE OF JUDGE ADVOCATE GENERAL OF THE NAVY.—Section 5148(b) of such title is amended by striking the last sentence and inserting the following new sentence: "The Judge Advocate General, while so serving, has the grade of vice admiral or lieutenant general, as appropriate.".

(c) GRADE OF JUDGE ADVOCATE GENERAL OF THE AIR FORCE.—Section 8037(a) of such title is amended by striking the last sentence and inserting the following new sentence: "The Judge Advocate General, while so serving, has the grade of lieutenant general.".

(d) INCREASE IN NUMBER OF OFFICERS SERVING IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.—Section 525(b) of such title is amended in paragraphs (1) and (2)(A) by striking "15.7 percent" each place it appears and inserting "16.3 percent".

(e) LEGAL COUNSEL TO CHAIRMAN OF THE JOINT CHIEFS OF STAFF.—

(1) IN GENERAL.—Chapter 5 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 156. Legal Counsel to the Chairman of the Joint Chiefs of Staff**

"(a) IN GENERAL.—There is a Legal Counsel to the Chairman of the Joint Chiefs of Staff.

"(b) SELECTION FOR APPOINTMENT.—Under regulations prescribed by the Secretary of Defense, the officer selected for appointment to serve as Legal Counsel to the Chairman of the Joint Chiefs of Staff shall be recommended by a board of officers convened by the Secretary of Defense that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title. Regulations.

"(c) GRADE.—An officer appointed to serve as Legal Counsel to the Chairman of the Joint Chiefs of Staff shall, while so serving, hold the grade of brigadier general or rear admiral (lower half).

"(d) DUTIES.—The Legal Counsel of the Chairman of the Joint Chiefs of Staff shall perform such legal duties in support of the responsibilities of the Chairman of the Joint Chiefs of Staff as the Chairman may prescribe.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by adding at the end the following new item:

"156. Legal Counsel to the Chairman of the Joint Chiefs of Staff".

(f) STRATEGIC PLAN TO LINK GENERAL AND FLAG OFFICER NUMBERS, ASSIGNMENTS, AND DEVELOPMENT TO THE MISSIONS AND REQUIREMENTS OF THE DEPARTMENT OF DEFENSE.—

(1) STRATEGIC PLAN REQUIRED.—The Secretary of Defense shall develop a strategic plan linking the missions and requirements of the Department of Defense for general and flag officers to the statutory limits on the numbers of general and flag

officers, and current assignment, promotion, and joint officer development policies for general and flag officers.

(2) ADVICE OF CHAIRMAN OF JOINT CHIEFS OF STAFF.—The Secretary shall develop the strategic plan required under paragraph (1) with the advice of the Chairman of the Joint Chiefs of Staff.

(3) MATTERS TO BE INCLUDED.—The strategic plan required under paragraph (1) shall include the following:

(A) A description of the process for identification of the present and emerging requirements for general and flag officers and recommendations for meeting these requirements.

(B) Identification of the numbers of general and flag officers by service, grade, and qualifications currently available compared with the numbers needed to meet existing statutory requirements in support of the overall missions of the Department of Defense.

(C) An assessment of the problems or issues (and proposed solutions for any such problems or issues) arising from existing numerical limitations on the number and grade distribution of active and reserve component general and flag officers under sections 525, 526, and 12004 of title 10, United States Code.

(D) A discussion of how wartime requirements for additional general or flag officers have been addressed in support of Operation Enduring Freedom and Operation Iraqi Freedom, including the usage of wartime or national emergency authorities.

(E) An assessment of any problems or issues (and proposed solutions for any such problems or issues) arising from existing statutory provisions regarding general and flag officer assignments and grade requirements and the need, if any, for revision of provisions in title 10, United States Code, specific to individual general and flag officer positions along with recommendations to mitigate the need for routine legislative intervention as positions change to support organizational demands.

(F) An assessment of the use currently being made of reserve component flag and general officers and discussion of barriers to the qualification, selection, and assignment of National Guard and Reserve officers for the broadest possible range of positions of importance and responsibility.

(4) DEADLINE FOR SUBMISSION.—The Secretary shall submit the plan required under paragraph (1) to the Committees on Armed Services of the Senate and the House of Representatives not later than March 1, 2009.

10 USC note prec. 651.

**SEC. 544. PROHIBITION AGAINST MEMBERS OF THE ARMED FORCES PARTICIPATING IN CRIMINAL STREET GANGS.**

Regulations.

The Secretary of Defense shall prescribe regulations to prohibit the active participation by members of the Armed Forces in a criminal street gang.

## Subtitle E—Military Leave

**SEC. 551. TEMPORARY ENHANCEMENT OF CARRYOVER OF ACCUMULATED LEAVE FOR MEMBERS OF THE ARMED FORCES.**

(a) TEMPORARY INCREASE IN ACCUMULATED LEAVE CARRYOVER AMOUNT.—Section 701 of title 10, United States Code, is amended—

(1) in subsection (b), by striking "subsection (f) and subsection (g)" and inserting "subsections (d), (f), and (g)"; and

(2) by inserting after subsection (c) the following new subsection:

"(d) Notwithstanding subsection (b), during the period beginning on October 1, 2008, through December 31, 2010, a member may accumulate up to 75 days of leave.".

(b) CONFORMING AMENDMENTS RELATED TO HIGH DEPLOYMENT MEMBERS.—Subsection (f) of such section is amended—

(1) in paragraph (1)(A), by striking "any accumulated leave in excess of 60 days at the end of the fiscal year" and inserting "at the end of the fiscal year any accumulated leave in excess of the number of days of leave authorized to be accumulated under subsection (b) or (d)";

(2) in paragraph (1)(C)—

(A) by striking "60 days" and inserting "the days of leave authorized to be accumulated under subsection (b) or (d) that are"; and

(B) by inserting "(or fourth fiscal year, if accumulated while subsection (d) is in effect)" after "third fiscal year"; and

(3) in paragraph (2), by striking "except for this paragraph—" and all that follows through the end of the paragraph and inserting "except for this paragraph, would lose at the end of that fiscal year any accumulated leave in excess of the number of days of leave authorized to be accumulated under subsection (b) or (d), shall be permitted to retain such leave until the end of the second fiscal year after the fiscal year in which such service on active duty is terminated.".

(c) CONFORMING AMENDMENT RELATED TO MEMBERS IN MISSING STATUS.—Subsection (g) of such section is amended by striking "60-day limitation in subsection (b) and the 90-day limitation in subsection (f)" and inserting "limitations in subsections (b), (d), and (f)".

(d) PAY.—Section 501(b) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(6) An enlisted member of the armed forces who would lose accumulated leave in excess of 120 days of leave under section 701(f)(1) of title 10 may elect to be paid in cash or by a check on the Treasurer of the United States for any leave in excess so accumulated for up to 30 days of such leave. A member may make an election under this paragraph only once.".

**SEC. 552. ENHANCEMENT OF REST AND RECUPERATION LEAVE.**

Section 705(b)(2) of title 10, United States Code, is amended by inserting "for members whose qualifying tour of duty is 12 months or less, or for not more than 20 days for members whose qualifying tour of duty is longer than 12 months," after "for not more than 15 days".

President.

## Subtitle F—Decorations and Awards

**SEC. 561. AUTHORIZATION AND REQUEST FOR AWARD OF MEDAL OF HONOR TO LESLIE H. SABO, JR., FOR ACTS OF VALOR DURING THE VIETNAM WAR.**

(a) AUTHORIZATION.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the Armed Forces, the President is authorized and requested to award the Medal of Honor under section 3741 of such title to Leslie H. Sabo, Jr., for the acts of valor during the Vietnam War described in subsection (b).

(b) ACTS OF VALOR DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of Leslie H. Sabo, Jr., on May 10, 1970, as a member of the United States Army serving in the grade of Specialist Four in the Republic of Vietnam with Company B of the 3d Battalion, 506th Infantry Regiment, 101st Airborne Division.

**SEC. 562. AUTHORIZATION AND REQUEST FOR AWARD OF MEDAL OF HONOR TO HENRY SVEHLA FOR ACTS OF VALOR DURING THE KOREAN WAR.**

(a) AUTHORIZATION.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the Armed Forces, the President is authorized and requested to award the Medal of Honor under section 3741 of such title to Henry Svehla for the acts of valor described in subsection (b).

(b) ACTS OF VALOR DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of Henry Svehla on June 12, 1952, as a member of the United States Army serving in the grade of Private First Class in Korea with Company F of the 32d Infantry Regiment, 7th Infantry Division.

**SEC. 563. AUTHORIZATION AND REQUEST FOR AWARD OF MEDAL OF HONOR TO WOODROW W. KEEBLE FOR ACTS OF VALOR DURING THE KOREAN WAR.**

(a) WAIVER OF TIME LIMITATIONS.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the Armed Forces, the President is authorized and requested to award the Medal of Honor under section 3741 of such title to Woodrow W. Keeble for the acts of valor described in subsection (b).

(b) ACTS OF VALOR DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of Woodrow W. Keeble of the United States Army as an acting platoon leader on October 20, 1950, during the Korean War.

**SEC. 564. AUTHORIZATION AND REQUEST FOR AWARD OF MEDAL OF HONOR TO PRIVATE PHILIP G. SHADRACH FOR ACTS OF VALOR AS ONE OF ANDREWS' RAIDERS DURING THE CIVIL WAR.**

(a) AUTHORIZATION.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals

to persons who served in the Armed Forces, the President is authorized and requested to award the Medal of Honor under section 3741 of such title posthumously to Private Philip G. Shadrach of Company K, 2nd Ohio Volunteer Infantry Regiment for the acts of valor described in subsection (b).

(b) ACTS OF VALOR DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of Philip G. Shadrach as one of Andrews' Raiders during the Civil War on April 12, 1862.

**SEC. 565. AUTHORIZATION AND REQUEST FOR AWARD OF MEDAL OF HONOR TO PRIVATE GEORGE D. WILSON FOR ACTS OF VALOR AS ONE OF ANDREWS' RAIDERS DURING THE CIVIL WAR.**

(a) AUTHORIZATION.—The President is authorized and requested to award the Medal of Honor under section 3741 of title 10, United States Code, posthumously to Private George D. Wilson of Company B, 2nd Ohio Volunteer Infantry Regiment for the acts of valor described in subsection (b).

(b) ACTS OF VALOR DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of George D. Wilson as one of Andrews' Raiders during the Civil War on April 12, 1862.

## Subtitle G—Impact Aid and Defense Dependents Education System

**SEC. 571. CONTINUATION OF AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.**

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $30,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of section 572 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3271; 20 U.S.C. 7703b).

(b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT CHANGES DUE TO BASE CLOSURES, FORCE STRUCTURE CHANGES, OR FORCE RELOCATIONS.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b) of such section 572.

(c) LOCAL EDUCATIONAL AGENCY DEFINED.—In this section, the term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

**SEC. 572. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.**

Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

**SEC. 573. INCLUSION OF DEPENDENTS OF NON-DEPARTMENT OF DEFENSE EMPLOYEES EMPLOYED ON FEDERAL PROPERTY IN PLAN RELATING TO FORCE STRUCTURE CHANGES, RELOCATION OF MILITARY UNITS, OR BASE CLOSURES AND REALIGNMENTS.**

Section 574(e)(3) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2227; 20 U.S.C. 7703b note) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) elementary and secondary school students who are dependents of personnel who are not members of the Armed Forces or civilian employees of the Department of Defense but who are employed on Federal property.".

**SEC. 574. PAYMENT OF PRIVATE BOARDING SCHOOL TUITION FOR MILITARY DEPENDENTS IN OVERSEAS AREAS NOT SERVED BY DEFENSE DEPENDENTS' EDUCATION SYSTEM SCHOOLS.**

Section 1407(b)(1) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(b)(1)) is amended by inserting after the first sentence the following new sentence: "Schools to which tuition may be paid under this subsection may include private boarding schools in the United States.".

## Subtitle H—Military Families

**SEC. 581. DEPARTMENT OF DEFENSE MILITARY FAMILY READINESS COUNCIL AND POLICY AND PLANS FOR MILITARY FAMILY READINESS.**

(a) IN GENERAL.—Subchapter I of chapter 88 of title 10, United States Code, is amended by inserting after section 1781 the following new sections:

### "§ 1781a. Department of Defense Military Family Readiness Council

Establishment.

"(a) IN GENERAL.—There is in the Department of Defense the Department of Defense Military Family Readiness Council (in this section referred to as the 'Council').

"(b) MEMBERS.—(1) The Council shall consist of the following members:

"(A) The Under Secretary of Defense for Personnel and Readiness, who shall serve as chair of the Council.

"(B) One representative of each of the Army, Navy, Marine Corps, and Air Force, who shall be appointed by the Secretary of Defense.

"(C) Three individuals appointed by the Secretary of Defense from among representatives of military family organizations, including military family organizations of families of members of the regular components and of families of members of the reserve components.

"(D) In addition to the representatives appointed under subparagraph (B), the senior enlisted advisors of the Army, Navy, Marine Corps, and Air Force, or the spouse of a senior

enlisted member from each of the Army, Navy, Marine Corps, and Air Force.

"(2) The term on the Council of the members appointed under paragraph (1)(C) shall be three years.

"(c) MEETINGS.—The Council shall meet not less often than twice each year.

"(d) DUTIES.—The duties of the Council shall include the following:

"(1) To review and make recommendations to the Secretary of Defense regarding the policy and plans required under section 1781b of this title.

"(2) To monitor requirements for the support of military family readiness by the Department of Defense.

"(3) To evaluate and assess the effectiveness of the military family readiness programs and activities of the Department of Defense.

"(e) ANNUAL REPORTS.—(1) Not later than February 1 each year, the Council shall submit to the Secretary of Defense and the congressional defense committees a report on military family readiness.

"(2) Each report under this subsection shall include the following:

"(A) An assessment of the adequacy and effectiveness of the military family readiness programs and activities of the Department of Defense during the preceding fiscal year in meeting the needs and requirements of military families.

"(B) Recommendations on actions to be taken to improve the capability of the military family readiness programs and activities of the Department of Defense to meet the needs and requirements of military families, including actions relating to the allocation of funding and other resources to and among such programs and activities.

**"§ 1781b. Department of Defense policy and plans for military family readiness**

"(a) POLICY AND PLANS REQUIRED.—The Secretary of Defense shall develop a policy and plans for the Department of Defense for the support of military family readiness.

"(b) PURPOSES.—The purposes of the policy and plans required under subsection (a) are as follows:

"(1) To ensure that the military family readiness programs and activities of the Department of Defense are comprehensive, effective, and properly supported.

"(2) To ensure that support is continuously available to military families in peacetime and in war, as well as during periods of force structure change and relocation of military units.

"(3) To ensure that the military family readiness programs and activities of the Department of Defense are available to all military families, including military families of members of the regular components and military families of members of the reserve components.

"(4) To make military family readiness an explicit element of applicable Department of Defense plans, programs, and budgeting activities, and that achievement of military family readiness is expressed through Department-wide goals that are identifiable and measurable.

"(5) To ensure that the military family readiness programs and activities of the Department of Defense undergo continuous evaluation in order to ensure that resources are allocated and expended for such programs and activities to achieve Department-wide family readiness goals.

"(c) ELEMENTS OF POLICY.—The policy required under subsection (a) shall include the following elements:

"(1) A list of military family readiness programs and activities.

"(2) Department of Defense-wide goals for military family support, including joint programs, both for military families of members of the regular components and military families of members of the reserve components.

"(3) Policies on access to military family support programs and activities based on military family populations served and geographical location.

"(4) Metrics to measure the performance and effectiveness of the military family readiness programs and activities of the Department of Defense.

"(5) A summary, by fiscal year, of the allocation of funds (including appropriated funds and nonappropriated funds) for major categories of military family readiness programs and activities of the Department of Defense, set forth for each of the military departments and for the Office of the Secretary of Defense.

"(d) ANNUAL REPORT.—Not later than March 1, 2008, and each year thereafter, the Secretary of Defense shall submit to the congressional defense committees a report on the plans required under subsection (a) for the five-fiscal year period beginning with the fiscal year in which the report is submitted. Each report shall include the plans covered by the report and an assessment of the discharge by the Department of Defense of the previous plans submitted under this section.".

(b) REPORT ON MILITARY FAMILY READINESS POLICY.—Not later than February 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the policy developed under section 1781b of title 10, United States Code, as added by subsection (a).

(c) SURVEYS OF MILITARY FAMILIES.—Section 1782 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) SURVEY REQUIRED FOR FISCAL YEAR 2010.—Notwithstanding subsection (a), during fiscal year 2010, the Secretary of Defense shall conduct a survey otherwise authorized under such subsection. Thereafter, additional surveys may be conducted not less often than once every three fiscal years.".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 88 of such title is amended by inserting after the item relating to section 1781 the following new items:

"1781a. Department of Defense Military Family Readiness Council.
"1781b. Department of Defense policy and plans for military family readiness.".

10 USC 10101 note.

**SEC. 582. YELLOW RIBBON REINTEGRATION PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a national combat veteran reintegration program to provide National Guard and Reserve members and their families

with sufficient information, services, referral, and proactive outreach opportunities throughout the entire deployment cycle. This program shall be known as the Yellow Ribbon Reintegration Program.

(b) PURPOSE OF PROGRAM; DEPLOYMENT CYCLE.—The Yellow Ribbon Reintegration Program shall consist of informational events and activities for members of the reserve components of the Armed Forces, their families, and community members to facilitate access to services supporting their health and well-being through the 4 phases of the deployment cycle:

(1) Pre-Deployment.
(2) Deployment.
(3) Demobilization.
(4) Post-Deployment-Reconstitution.

(c) EXECUTIVE AGENT.—The Secretary shall designate the Under Secretary of Defense for Personnel and Readiness as the Department of Defense executive agent for the Yellow Ribbon Reintegration Program. Designation.

(d) OFFICE FOR REINTEGRATION PROGRAMS.—

(1) ESTABLISHMENT.—The Under Secretary of Defense for Personnel and Readiness shall establish the Office for Reintegration Programs within the Office of the Secretary of Defense. The office shall administer all reintegration programs in coordination with State National Guard organizations. The office shall be responsible for coordination with existing National Guard and Reserve family and support programs. The Directors of the Army National Guard and Air National Guard and the Chiefs of the Army Reserve, Marine Corps Reserve, Navy Reserve, and Air Force Reserve may appoint liaison officers to coordinate with the permanent office staff. The office may also enter into partnerships with other public entities, including the Department of Health and Human Services, Substance Abuse and the Mental Health Services Administration, for access to necessary substance abuse and mental health treatment services from local State-licensed service providers.

(2) CENTER FOR EXCELLENCE IN REINTEGRATION.—The Office for Reintegration Programs shall establish a Center for Excellence in Reintegration within the office. The Center shall collect and analyze "lessons learned" and suggestions from State National Guard and Reserve organizations with existing or developing reintegration programs. The Center shall also assist in developing training aids and briefing materials and training representatives from State National Guard and Reserve organizations. Establishment.

(e) ADVISORY BOARD.— Establishment.

(1) APPOINTMENT.—The Secretary of Defense shall appoint an advisory board to analyze the Yellow Ribbon Reintegration Program and report on areas of success and areas for necessary improvements. The advisory board shall include the Director of the Army National Guard, the Director of the Air National Guard, Chiefs of the Army Reserve, Marine Corps Reserve, Navy Reserve, and Air Force Reserve, the Assistant Secretary of Defense for Reserve Affairs, an Adjutant General on a rotational basis as determined by the Chief of the National Guard Bureau, and any other Department of Defense, Federal Government agency, or outside organization as determined by the

Secretary of Defense. The members of the advisory board may designate representatives in their stead.

(2) SCHEDULE.—The advisory board shall meet on a schedule determined by the Secretary of Defense.

(3) INITIAL REPORTING REQUIREMENT.—The advisory board shall issue internal reports as necessary and shall submit an initial report to the Committees on Armed Services of the Senate and House of Representatives not later than 180 days after the end of the 1-year period beginning on the date of the establishment of the Office for Reintegration Programs. The report shall contain—

(A) an evaluation of the implementation of the Yellow Ribbon Reintegration Program by State National Guard and Reserve organizations;

(B) an assessment of any unmet resource requirements; and

(C) recommendations regarding closer coordination between the Office of Reintegration Programs and State National Guard and Reserve organizations.

(4) ANNUAL REPORTS.—The advisory board shall submit annual reports to the Committees on Armed Services of the Senate and the House of Representatives following the initial report by the first week in March of subsequent years following the initial report.

(f) STATE DEPLOYMENT CYCLE SUPPORT TEAMS.—The Office for Reintegration Programs may employ personnel to administer the Yellow Ribbon Reintegration Program at the State level. The primary function of team members shall be—

(1) to implement the reintegration curriculum through the deployment cycle described in subsection (g);

(2) to obtain necessary service providers; and

(3) to educate service providers regarding the unique military nature of the reintegration program.

(g) OPERATION OF PROGRAM THROUGH DEPLOYMENT CYCLE.—

(1) IN GENERAL.—The Office for Reintegration Programs shall analyze the demographics, placement of State Family Assistance Centers and their resources before a mobilization alert is issued to affected State National Guard and Reserve organizations. The Office of Reintegration Programs shall consult with affected State National Guard and Reserve organizations following the issuance of a mobilization alert and implement the reintegration events in accordance with the Reintegration Program phase model.

(2) PRE-DEPLOYMENT PHASE.—The Pre-Deployment Phase shall constitute the time from first notification of mobilization until deployment of the mobilized National Guard or Reserve unit. Events and activities shall focus on providing education and ensuring the readiness of members of the unit, their families, and affected communities for the rigors of a combat deployment.

(3) DEPLOYMENT PHASE.—The Deployment Phase shall constitute the period from deployment of the mobilized National Guard or Reserve unit until the unit arrives at a demobilization station inside the continental United States. Events and services provided shall focus on the challenges and stress associated with separation and having a member in a combat zone. Information sessions shall utilize State National Guard and

Reserve resources in coordination with the Employer Support of Guard and Reserve Office, Transition Assistance Advisors, and the State Family Programs Director.

(4) DEMOBILIZATION PHASE.—

(A) IN GENERAL.—The Demobilization Phase shall constitute the period from arrival of the National Guard or Reserve unit at the demobilization station until its departure for home station.

(B) INITIAL REINTEGRATION ACTIVITY.—The purpose of this reintegration program is to educate members about the resources that are available to them and to connect members to service providers who can assist them in overcoming the challenges of reintegration.

(5) POST-DEPLOYMENT-RECONSTITUTION PHASE.—

(A) IN GENERAL.—The Post-Deployment-Reconstitution Phase shall constitute the period from arrival at home station until 180 days following demobilization. Activities and services provided shall focus on reconnecting members with their families and communities and providing resources and information necessary for successful reintegration. Reintegration events shall begin with elements of the Initial Reintegration Activity program that were not completed during the Demobilization Phase.

(B) 30-DAY, 60-DAY, AND 90-DAY REINTEGRATION ACTIVITIES.—The State National Guard and Reserve organizations shall hold reintegration activities at the 30-day, 60-day, and 90-day interval following demobilization. These activities shall focus on reconnecting members and their families with the service providers from the Initial Reintegration Activity to ensure that members and their families understand what benefits they are entitled to and what resources are available to help them overcome the challenges of reintegration. The Reintegration Activities shall also provide a forum for members and their families to address negative behaviors related to combat stress and transition.

(C) MEMBER PAY.—Members shall receive appropriate pay for days spent attending the Reintegration Activities at the 30-day, 60-day, and 90-day intervals.

(h) OUTREACH SERVICES.—As part of the Yellow Ribbon Reintegration Program, the Office for Reintegration Programs may develop programs of outreach to members of the Armed Forces and their family members to educate such members and their family members about the assistance and services available to them under the Yellow Ribbon Reintegration Program. Such assistance and services may include the following:

(1) Marriage counseling.
(2) Services for children.
(3) Suicide prevention.
(4) Substance abuse awareness and treatment.
(5) Mental health awareness and treatment.
(6) Financial counseling.
(7) Anger management counseling.
(8) Domestic violence awareness and prevention.
(9) Employment assistance.
(10) Preparing and updating family care plans.

(11) Development of strategies for living with a member of the Armed Forces with post-traumatic stress disorder or traumatic brain injury.

(12) Other services that may be appropriate to address the unique needs of members of the Armed Forces and their families who live in rural or remote areas with respect to family readiness and servicemember reintegration.

(13) Assisting members of the Armed Forces and their families find and receive assistance with military family readiness and servicemember reintegration, including referral services.

(14) Development of strategies and programs that recognize the need for long-term follow-up services for reintegrating members of the Armed Forces and their families for extended periods following deployments, including between deployments.

(15) Assisting members of the Armed Forces and their families in receiving services and assistance from the Department of Veterans Affairs, including referral services.

**SEC. 583. STUDY TO ENHANCE AND IMPROVE SUPPORT SERVICES AND PROGRAMS FOR FAMILIES OF MEMBERS OF REGULAR AND RESERVE COMPONENTS UNDERGOING DEPLOYMENT.**

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the most effective means to enhance and improve family support programs for families of deployed members of the regular and reserve components of the Armed Forces before, during, and after deployment. The study shall also take into account the potential to utilize non-governmental and local private sector entities and other Federal agencies having expertise in health and well-being of families, including family members who are children, infants, or toddlers.

(b) ELEMENTS.—The study shall include at a minimum the following:

(1) The assessment of the types of information on health care and mental health benefits and services and other community resources that should be made available to members of the regular and reserve components and their families, including—

(A) crisis services;

(B) marriage and family counseling; and

(C) financial counseling.

(2) An assessment of means to improve support to the parents and caretakers of military dependent children in order to mitigate any adverse effects of the deployment of members on such children, including consideration of the following:

(A) The need to develop materials for parents and other caretakers of children to assist in responding to the effects of such deployment on children, including extended and multiple deployments and reunion (and the death or injury of members during such deployment), and the role that parents and caretakers can play in addressing or mitigating such effects.

(B) The potential best practices that are identified which build psychological and emotional resiliency in children in coping with deployment.

(C) The potential to improve dissemination throughout the Armed Forces of the most effective practices for outreach, training, and building psychological and emotional resiliency in children.

(D) The effectiveness of training materials for education, mental health, health, and family support professionals who provide services to parents and caretakers of military dependent children.

(E) The requirement to develop programs and activities to increase awareness throughout the military and civilian communities of the effects of deployment of a military spouse or guardians for such children and their families and to increase collaboration within such communities to address and mitigate such effects.

(F) The development of training for early child care and education, mental health, health care, and family support professionals to enhance the awareness of such professionals of their role in assisting families in addressing and mitigating the adverse implications of such deployment.

(G) The conduct of research on best practices for building psychological and emotional resiliency in such children in coping with the deployment of such members.

(3) An assessment of the effectiveness of family-to-family support programs—

(A) in providing peer support for families of deployed members of the regular and reserve components;

(B) in identifying and preventing family problems in such families;

(C) in reducing adverse outcomes for children of such families, including poor academic performance, behavioral problems, stress, and anxiety;

(D) in improving family readiness and post-deployment transition for such families; and

(E) in utilizing spouses of members of the Armed Forces as counselors for families of deployed members, in order to assist such families in coping before, during, and after the deployment, and the best practices for training spouses of members of the Armed Forces to act as counselors for families of deployed members.

(4) An assessment of the effectiveness of transition assistance programs and policies for families of members during post-deployment transition from a combat zone back to civilian or military communities—

(A) in identifying signs and symptoms of mental health conditions for both service members and their families; and

(B) in receiving information and resources available within the local communities to ease transition.

(5) An assessment of the impact of multiple overseas deployments of members on their families, particularly in the case of members serving in Operation Iraqi Freedom and Operation Enduring Freedom, including financial impacts and emotional impacts.

(6) An assessment of the most effective timing of providing information and support to the families of deployed members

before, during, and after deployment, including at least six months after the date of return of deployed members.

(7) An assessment of the need for additional long-term research on the effects of multiple wartime deployments on families, including children, and critical areas of focus that should be addressed by such research.

(c) REPORT ON RESULTS OF STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report containing the results of the study conducted under subsection (a).

**SEC. 584. PROTECTION OF CHILD CUSTODY ARRANGEMENTS FOR PARENTS WHO ARE MEMBERS OF THE ARMED FORCES DEPLOYED IN SUPPORT OF A CONTINGENCY OPERATION.**

(a) PROTECTION OF SERVICEMEMBERS AGAINST DEFAULT JUDGMENTS.—Section 201(a) of the Servicemembers Civil Relief Act (50 U.S.C. App. 521(a)) is amended by inserting ", including any child custody proceeding," after "proceeding".

(b) STAY OF PROCEEDINGS WHEN SERVICEMEMBER HAS NOTICE.—Section 202(a) of the Servicemembers Civil Relief Act (50 U.S.C. App. 522(a)) is amended by inserting ", including any child custody proceeding," after "civil action or proceeding".

**SEC. 585. FAMILY LEAVE IN CONNECTION WITH INJURED MEMBERS OF THE ARMED FORCES.**

(a) SERVICEMEMBER FAMILY LEAVE.—

(1) DEFINITIONS.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is amended by adding at the end the following new paragraphs:

"(14) ACTIVE DUTY.—The term 'active duty' means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

"(15) CONTINGENCY OPERATION.—The term 'contingency operation' has the same meaning given such term in section 101(a)(13) of title 10, United States Code.

"(16) COVERED SERVICEMEMBER.—The term 'covered servicemember' means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

"(17) OUTPATIENT STATUS.—The term 'outpatient status', with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to—

"(A) a military medical treatment facility as an outpatient; or

"(B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

"(18) NEXT OF KIN.—The term 'next of kin', used with respect to an individual, means the nearest blood relative of that individual.

"(19) SERIOUS INJURY OR ILLNESS.—The term 'serious injury or illness', in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the

member medically unfit to perform the duties of the member's office, grade, rank, or rating.".

(2) ENTITLEMENT TO LEAVE.—Section 102(a) of such Act (29 U.S.C. 2612(a)) is amended—

(A) in paragraph (1), by adding at the end the following new subparagraph:

"(E) Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation."; and

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

"(3) SERVICEMEMBER FAMILY LEAVE.—Subject to section 103, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period.

"(4) COMBINED LEAVE TOTAL.—During the single 12-month period described in paragraph (3), an eligible employee shall be entitled to a combined total of 26 workweeks of leave under paragraphs (1) and (3). Nothing in this paragraph shall be construed to limit the availability of leave under paragraph (1) during any other 12-month period.".

(3) REQUIREMENTS RELATING TO LEAVE.—

(A) SCHEDULE.—Section 102(b) of such Act (29 U.S.C. 2612(b)) is amended—

(i) in paragraph (1), in the second sentence—

(I) by striking "section 103(b)(5)" and inserting "subsection (b)(5) or (f) (as appropriate) of section 103"; and

(II) by inserting "or under subsection (a)(3)" after "subsection (a)(1)";

(ii) in paragraph (1), by inserting after the second sentence the following new sentence: "Subject to subsection (e)(3) and section 103(f), leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule."; and

(iii) in paragraph (2), by inserting "or under subsection (a)(3)" after "subsection (a)(1)".

(B) SUBSTITUTION OF PAID LEAVE.—Section 102(d) of such Act (29 U.S.C. 2612(d)) is amended—

(i) in paragraph (1)—

(I) by inserting "(or 26 workweeks in the case of leave provided under subsection (a)(3))" after "12 workweeks" the first place it appears; and

(II) by inserting "(or 26 workweeks, as appropriate)" after "12 workweeks" the second place it appears;

(ii) in paragraph (2)(A), by striking "or (C)" and inserting "(C), or (E)"; and

(iii) in paragraph (2)(B), by adding at the end the following: "An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave,

family leave, or medical or sick leave of the employee for leave provided under subsection (a)(3) for any part of the 26-week period of such leave under such subsection, except that nothing in this title requires an employer to provide paid sick leave or paid medical leave in any situation in which the employer would not normally provide any such paid leave.".

(C) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended—

(i) in paragraph (2), by inserting "or under subsection (a)(3)" after "subsection (a)(1)"; and

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

"(3) NOTICE FOR LEAVE DUE TO ACTIVE DUTY OF FAMILY MEMBER.—In any case in which the necessity for leave under subsection (a)(1)(E) is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.".

(D) SPOUSES EMPLOYED BY SAME EMPLOYER.—Section 102(f) of such Act (29 U.S.C. 2612(f)) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), and aligning the margins of the subparagraphs with the margins of section 102(e)(2)(A);

(ii) by striking "In any" and inserting the following: "(1) IN GENERAL.—In any"; and

(iii) by adding at the end the following:

"(2) SERVICEMEMBER FAMILY LEAVE.—

"(A) IN GENERAL.—The aggregate number of workweeks of leave to which both that husband and wife may be entitled under subsection (a) may be limited to 26 workweeks during the single 12-month period described in subsection (a)(3) if the leave is—

"(i) leave under subsection (a)(3); or

"(ii) a combination of leave under subsection (a)(3) and leave described in paragraph (1).

"(B) BOTH LIMITATIONS APPLICABLE.—If the leave taken by the husband and wife includes leave described in paragraph (1), the limitation in paragraph (1) shall apply to the leave described in paragraph (1).".

(E) CERTIFICATION REQUIREMENTS.—Section 103 of such Act (29 U.S.C. 2613) is amended—

(i) in subsection (a)—

(I) by striking "section 102(a)(1)" and inserting "paragraph (1) or paragraph (3) of section 102(a)"; and

(II) by inserting "or of the next of kin of an individual in the case of leave taken under such paragraph (3)," after "parent of the employee,"; and

(ii) by adding at the end the following:

"(f) CERTIFICATION RELATED TO ACTIVE DUTY OR CALL TO ACTIVE DUTY.—An employer may require that a request for leave under section 102(a)(1)(E) be supported by a certification issued

at such time and in such manner as the Secretary may by regulation prescribe. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the employer.".

(F) FAILURE TO RETURN.—Section 104(c) of such Act (29 U.S.C. 2614(c)) is amended—

(i) in paragraph (2)(B)(i), by inserting "or under section 102(a)(3)" before the semicolon; and

(ii) in paragraph (3)(A)—

(I) in clause (i), by striking "or" at the end;

(II) in clause (ii), by striking the period and inserting "; or"; and

(III) by adding at the end the following:

"(iii) a certification issued by the health care provider of the servicemember being cared for by the employee, in the case of an employee unable to return to work because of a condition specified in section 102(a)(3).".

(G) ENFORCEMENT.—Section 107 of such Act (29 U.S.C. 2617) is amended, in subsection (a)(1)(A)(i)(II), by inserting "(or 26 weeks, in a case involving leave under section 102(a)(3))" after "12 weeks".

(H) INSTRUCTIONAL EMPLOYEES.—Section 108 of such Act (29 U.S.C. 2618) is amended, in subsections (c)(1), (d)(2), and (d)(3), by inserting "or under section 102(a)(3)" after "section 102(a)(1)".

(b) SERVICEMEMBER FAMILY LEAVE FOR CIVIL SERVICE EMPLOYEES.—

(1) DEFINITIONS.—Section 6381 of title 5, United States Code, is amended—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(7) the term 'active duty' means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10;

"(8) the term 'covered servicemember' means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in an outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness;

"(9) the term 'outpatient status', with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to—

"(A) a military medical treatment facility as an outpatient; or

"(B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients;

"(10) the term 'next of kin', used with respect to an individual, means the nearest blood relative of that individual; and

"(11) the term 'serious injury or illness', in the case of a member of the Armed Forces, means an injury or illness incurred by the member in line of duty on active duty in

the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.".

(2) ENTITLEMENT TO LEAVE.—Section 6382(a) of such title is amended by adding at the end the following:

"(3) Subject to section 6383, an employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 administrative workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period.

"(4) During the single 12-month period described in paragraph (3), an employee shall be entitled to a combined total of 26 administrative workweeks of leave under paragraphs (1) and (3). Nothing in this paragraph shall be construed to limit the availability of leave under paragraph (1) during any other 12-month period.".

(3) REQUIREMENTS RELATING TO LEAVE.—

(A) SCHEDULE.—Section 6382(b) of such title is amended—

(i) in paragraph (1), in the second sentence—

(I) by striking "section 6383(b)(5)" and inserting "subsection (b)(5) or (f) (as appropriate) of section 6383"; and

(II) by inserting "or under subsection (a)(3)" after "subsection (a)(1)"; and

(ii) in paragraph (2), by inserting "or under subsection (a)(3)" after "subsection (a)(1)".

(B) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by adding at the end the following: "An employee may elect to substitute for leave under subsection (a)(3) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 26-week period of leave under such subsection.".

(C) NOTICE.—Section 6382(e) of such title is amended by inserting "or under subsection (a)(3)" after "subsection (a)(1)".

(D) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following:

"(f) An employing agency may require that a request for leave under section 6382(a)(3) be supported by a certification issued at such time and in such manner as the Office of Personnel Management may by regulation prescribe.".

Procedures.
10 USC 991 note.

**SEC. 586. FAMILY CARE PLANS AND DEFERMENT OF DEPLOYMENT OF SINGLE PARENT OR DUAL MILITARY COUPLES WITH MINOR DEPENDENTS.**

The Secretary of Defense shall establish appropriate procedures to ensure that an adequate family care plan is in place for a member of the Armed Forces with minor dependents who is a single parent or whose spouse is also a member of the Armed Forces when the member may be deployed in an area for which imminent danger pay is authorized under section 310 of title 37, United States Code. Such procedures should allow the member to request a deferment of deployment due to unforeseen circumstances, and the request for such a deferment should be considered and responded to promptly.

**SEC. 587. EDUCATION AND TREATMENT SERVICES FOR MILITARY DEPENDENT CHILDREN WITH AUTISM.**

10 USC 1781 note.

(a) ASSESSMENT OF AVAILABILITY OF SERVICES.—The Secretary of Defense shall conduct a comprehensive assessment of the availability of Federal, State, and local education and treatment services on and in the vicinity of a covered military installation for children of members of the Armed Forces who are diagnosed with autism. This assessment shall include the following:

(1) The local availability of adequate educational services for children with autism.

(2) The local availability of adequate medical services for children with autism.

(3) The local availability of supplemental services for children with autism.

(4) The ease of access of children with autism to adequate educational services, such as the length of time on waiting lists.

(b) REVIEW OF BEST PRACTICES.—In preparing the assessment under subsection (a), the Secretary of Defense shall conduct a review of best practices in the United States in the provision of covered educational services and treatment services for children with autism, including an assessment of Federal and State education and treatment services for children with autism in each State, with an emphasis on locations where eligible members and eligible dependents reside. The Secretary of Defense shall conduct the review in coordination with the Secretary of Education.

(c) PERSONNEL MANAGEMENT REQUIREMENTS.—

(1) LIMITED STATIONING OPTIONS.—The Secretary of the military department concerned shall ensure that, whenever practicable, eligible members are only assigned to military installations that are identified in the report required by subsection (g)(1).

(2) STABILIZATION POLICY.—The Secretary of the military department concerned shall ensure that, whenever practicable, the families of eligible members residing at a military installation that is identified in such report are permitted to remain at that installation for a period of not less than 4 years.

(d) CASE MANAGERS AND SERVICES.—

(1) CASE MANAGERS.—The Secretary of the military department concerned shall ensure that eligible members are assigned case managers for both medical services and covered educational services for eligible dependents, which shall be required under the Exceptional Family Member Program pursuant to the policy established by the Secretary.

(2) INDIVIDUALIZED SERVICES PLAN.—The Secretary of the military department concerned shall provide for the voluntary development for eligible dependents of individualized autism services plans for use by case managers, caregivers, and families to ensure continuity of services throughout the active military service of eligible members.

(3) AUTISM SUPPORT CENTERS.—The Secretary of the military department concerned may establish local centers on military installations for the purpose of providing and coordinating autism services for eligible dependents.

(4) PARTNERSHIPS AND CONTRACTS.—The Secretary of the military department concerned is encouraged to enter into partnerships or contracts with other appropriate public and private entities to carry out the responsibilities of this section.

(e) DEMONSTRATION PROJECTS.—

(1) PROJECTS AUTHORIZED.—The Secretary of Defense may conduct 1 or more demonstration projects to evaluate improved approaches to the provision of covered educational services and treatment services to eligible dependents for the purpose of evaluating strategies for integrated treatment and case manager services, including early intervention and diagnosis, medical care, parent involvement, special education services, intensive behavioral intervention, and language, communications, and other interventions considered appropriate by the Secretary.

(2) CASE MANAGERS AND SERVICES PLAN.—Each demonstration project shall include the assignment of case managers under paragraph (1) of subsection (d) and utilize the services plans prepared for eligible dependents under paragraph (2) of such subsection.

(3) SUPERVISORY LEVEL PROVIDERS.—The Secretary of Defense may utilize for purposes of the demonstration projects personnel who are professionals with a level (as determined by the Secretary) of post-secondary education that is appropriate for the provision of safe and effective services for autism and who are from an accredited educational facility in the mental health, human development, social work, or education field to act as supervisory level providers of behavioral intervention services for autism. In so acting, such personnel may be authorized—

(A) to develop and monitor intensive behavior intervention plans for eligible dependents who are participating in the demonstration projects; and

(B) to provide appropriate training in the provision of approved services to participating eligible dependents.

(4) SERVICES UNDER CORPORATE SERVICES PROVIDER MODEL.—In carrying out the demonstration projects, the Secretary of Defense may utilize a corporate services provider model. Employees of a provider under such a model shall include personnel who implement special educational and behavioral intervention plans for eligible dependents that are developed, reviewed, and maintained by supervisory level providers approved by the Secretary. In authorizing such a model, the Secretary shall establish—

Criteria.

(A) minimum education, training, and experience criteria required to be met by employees who provide services to eligible dependents;

Requirements.

(B) requirements for supervisory personnel and supervision, including requirements for supervisor credentials and for the frequency and intensity of supervision; and

(C) such other requirements as the Secretary considers appropriate to ensure safety and the protection of the eligible dependents who receive services from such employees under the demonstration projects.

Deadline.

(5) PERIOD.—If the Secretary of Defense determines to conduct demonstration projects under this subsection, the Secretary shall commence such demonstration projects not later

than 180 days after the date of the enactment of this Act. The demonstration projects shall be conducted for not less than 2 years.

(6) EVALUATION.—The Secretary of Defense shall conduct an evaluation of each demonstration project conducted under this section. The evaluation shall include the following:

(A) An assessment of the extent to which the activities under the demonstration project contributed to positive outcomes for eligible dependents.

(B) An assessment of the extent to which the activities under the demonstration project led to improvements in services and continuity of care for eligible dependents.

(C) An assessment of the extent to which the activities under the demonstration project improved military family readiness and enhanced military retention.

(f) RELATIONSHIP TO OTHER BENEFITS.—Nothing in this section precludes the eligibility of members of the Armed Forces and their dependents for extended benefits under section 1079 of title 10, United States Code.

(g) REPORTS.—

(1) REPORT IDENTIFYING COVERED MILITARY INSTALLATIONS.—As a result of the assessment required by subsection (a), the Secretary of Defense shall submit to the congressional defense committees, not later than December 31, 2008, a report identifying those covered military installations that have covered educational services and facilities available (on the installation or in the vicinity of the installation) for eligible dependents that provide special education and related services consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(2) REPORTS ON DEMONSTRATION PROJECTS.—Not later than 30 months after the commencement of any demonstration project under subsection (e), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration project. The report shall include a description of the project, the results of the evaluation under subsection (e)(6) with respect to the project, and a description of plans for the further provision of services for eligible dependents under the project.

(h) COVERED EDUCATIONAL SERVICES PLAN.—After completing the assessment required by subsection (a) and the report required by subsection (g)(1), the Secretary of Defense shall develop a plan that would ensure that all eligible dependents are able to obtain covered educational services. In the event that eligible members are assigned to military installations that are not identified in the report required by subsection (g)(1), the plan should ensure that such eligible dependents are still able to obtain covered educational services, including by the use of authority granted to the Secretary under section 2164 of title 10, United States Code. The plan shall also include any legislative actions that the Secretary recommends to implement the plan and describe what funding or funding mechanisms may be needed to ensure eligible dependents obtain covered educational services. The Secretary shall submit the plan to the congressional defense committees not later than July 1, 2009. Deadline.

(i) DEFINITIONS.—In this section:

(1) The term "autism" refers to the Autism Spectrum Disorders, which are developmental disabilities that cause substantial impairments in the areas of social interaction, emotional regulation, communication, and the integration of higher-order cognitive processes and are often characterized by the presence of unusual behaviors and interests. The term includes autistic disorder, pervasive developmental disorder (not otherwise specified), and Asperger's syndrome.

(2) The term "child" has the meaning given that term in section 1072 of title 10, United States Code.

(3) The term "covered military installation" means a military installation at which at least 1,000 members of the Armed Forces are assigned who are eligible for an assignment accompanied by dependents.

(4) The term "eligible member" means a member of the Armed Forces who—

(A) has a dependent child who is diagnosed with autism; and

(B) is enrolled in an Exceptional Family Member Program of the Department of Defense.

(5) The term "eligible dependent" means a child of an eligible member who is diagnosed with autism.

(6) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)), except that the term includes publicly financed schools in communities, Department of Defense domestic dependent elementary and secondary schools, and schools of the defense dependents' education system.

(7) The term "covered educational services" includes behavioral intervention services for autism, such as Applied Behavioral Analysis.

**SEC. 588. COMMENDATION OF EFFORTS OF PROJECT COMPASSION IN PAYING TRIBUTE TO MEMBERS OF THE ARMED FORCES WHO HAVE FALLEN IN THE SERVICE OF THE UNITED STATES.**

Kaziah M. Hancock.

(a) COMMENDATION.—Congress, on the behalf of the people of the United States, commends Kaziah M. Hancock and the 4 other volunteer professional portrait artists of the nonprofit organization known as Project Compassion, as well as the entire Project Compassion organization, for their ongoing efforts to provide, without charge, to the family of each member of the Armed Forces who has died on active duty since September 11, 2001, a museum-quality original oil portrait of the member.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the people of the United States owe the deepest gratitude to Kaziah M. Hancock and the members of Project Compassion.

## Subtitle I—Other Matters

**SEC. 590. UNIFORM PERFORMANCE POLICIES FOR MILITARY BANDS AND OTHER MUSICAL UNITS.**

(a) IN GENERAL.—

(1) CONSOLIDATION OF SEPARATE AUTHORITIES.—Chapter 49 of title 10, United States Code, is amended by inserting after section 973 the following new section:

**"§ 974. Uniform performance policies for military bands and other musical units**

"(a) RESTRICTIONS ON COMPETITION AND REMUNERATION.—Bands, ensembles, choruses, or similar musical units of the armed forces, including individual members of such a unit performing in an official capacity, may not—

"(1) engage in the performance of music in competition with local civilian musicians; or

"(2) receive remuneration for official performances.

"(b) MEMBERS PERFORMING IN PERSONAL CAPACITY.—A member of a band, ensemble, chorus, or similar musical unit of the armed forces may engage in the performance of music in the member's personal capacity, as an individual or part of a group, for remuneration or otherwise, if the member—

"(1) does not wear a military uniform for the performance;

"(2) does not identify himself or herself as a member of the armed forces in connection with the performance; and

"(3) complies with all other applicable regulations and standards of conduct.

"(c) RECORDINGS.—(1) When authorized pursuant to regulations prescribed by the Secretary of Defense for purposes of this section, bands, ensembles, choruses, or similar musical units of the armed forces may produce recordings for distribution to the public, at a cost not to exceed production and distribution expenses.

"(2) Amounts received in payment for recordings distributed to the public under this subsection shall be credited to the appropriation or account providing the funds for the production of such recordings. Any amounts so credited shall be merged with amounts in the appropriation or account to which credited, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such appropriation or account.

"(d) PERFORMANCE OF MUSIC IN COMPETITION WITH LOCAL CIVILIAN MUSICIANS DEFINED.—(1) In this section, the term 'performance of music in competition with local civilian musicians' includes performances—

"(A) that are more than incidental to events that are not supported solely by appropriated funds and are not free to the public; and

"(B) of background, dinner, dance, or other social music at events, regardless of location, that are not supported solely by appropriated funds.

"(2) The term does not include performances—

"(A) at official Federal Government events that are supported solely by appropriated funds;

"(B) at concerts, parades, and other events that are patriotic events or celebrations of national holidays and are free to the public; or

"(C) that are incidental, such as short performances of military or patriotic music to open or close events, to events that are not supported solely by appropriated funds, in compliance with applicable rules and regulations.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 973 the following new item:

"974. Uniform performance policies for military bands and other musical units.".

(b) REPEAL OF SEPARATE SERVICE AUTHORITIES.—

(1) REPEAL.—Sections 3634, 6223, and 8634 of such title are repealed.

(2) TABLE OF SECTIONS.—(A) The table of sections at the beginning of chapter 349 of such title is amended by striking the item relating to section 3634.

(B) The table of sections at the beginning of chapter 565 of such title is amended by striking the item relating to section 6223.

(C) The table of sections at the beginning of chapter 849 of such title is amended by striking the item relating to section 8634.

**SEC. 591. TRANSPORTATION OF REMAINS OF DECEASED MEMBERS OF THE ARMED FORCES AND CERTAIN OTHER PERSONS.**

Section 1482(a)(8) of title 10, United States Code, is amended by adding at the end the following new sentence: "When transportation of the remains includes transportation by aircraft under section 562 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 10 U.S.C. 1482 note), the Secretary concerned shall provide, to the maximum extent practicable, for delivery of the remains by air to the commercial, general aviation, or military airport nearest to the place selected by the designee.".

**SEC. 592. EXPANSION OF NUMBER OF ACADEMIES SUPPORTABLE IN ANY STATE UNDER STARBASE PROGRAM.**

Section 2193b(c)(3) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking "more than two academies" and inserting "more than four academies"; and

(2) in subparagraph (B), by striking "in excess of two" both places it appears and inserting "in excess of four".

**SEC. 593. GIFT ACCEPTANCE AUTHORITY.**

(a) PERMANENT AUTHORITY TO ACCEPT GIFTS ON BEHALF OF THE WOUNDED.—Section 2601(b) of title 10, United States Code, is amended by striking paragraph (4).

Regulations. 10 USC 2601 note.

(b) LIMITATION ON SOLICITATION OF GIFTS.—The Secretary of Defense shall prescribe regulations implementing sections 2601 and 2608 of title 10, United States Code, that prohibit the solicitation of any gift under such sections by any employee of the Department of Defense if the nature or circumstances of such solicitation would compromise the integrity or the appearance of integrity of any program of the Department of Defense or of any individual involved in such program.

**SEC. 594. CONDUCT BY MEMBERS OF THE ARMED FORCES AND VETERANS OUT OF UNIFORM DURING HOISTING, LOWERING, OR PASSING OF UNITED STATES FLAG.**

Section 9 of title 4, United States Code, is amended by striking "all persons present" and all that follows through the end of the section and inserting the following: "all persons present in uniform should render the military salute. Members of the Armed Forces

and veterans who are present but not in uniform may render the military salute. All other persons present should face the flag and stand at attention with their right hand over the heart, or if applicable, remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Citizens of other countries present should stand at attention. All such conduct toward the flag in a moving column should be rendered at the moment the flag passes.".

**SEC. 595. ANNUAL REPORT ON CASES REVIEWED BY NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE.**

Section 4332 of title 38, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (3), (4), (5), (6), and (7) respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The number of cases reviewed by the Secretary of Defense under the National Committee for Employer Support of the Guard and Reserve of the Department of Defense during the fiscal year for which the report is made."; and

(3) in paragraph (5), as so redesignated, by striking "(2), or (3)" and inserting "(2), (3), or (4)".

**SEC. 596. MODIFICATION OF CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214).**

10 USC 1168 note.

The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall modify the Certificate of Release or Discharge from Active Duty (DD Form 214) in order to permit a member of the Armed Forces, upon discharge or release from active duty in the Armed Forces, to elect that the DD–214 issued with regard to the member be forwarded to the following:

(1) The Central Office of the Department of Veterans Affairs in the District of Columbia.

(2) The appropriate office of the Department of Veterans Affairs for the State or other locality in which the member will first reside after such discharge or release.

**SEC. 597. REPORTS ON ADMINISTRATIVE SEPARATIONS OF MEMBERS OF THE ARMED FORCES FOR PERSONALITY DISORDER.**

(a) SECRETARY OF DEFENSE REPORT ON ADMINISTRATIVE SEPARATIONS BASED ON PERSONALITY DISORDER.—

(1) REPORT REQUIRED.—Not later than April 1, 2008, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on all cases of administrative separation from the Armed Forces of covered members of the Armed Forces on the basis of a personality disorder.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A statement of the total number of cases, by Armed Force, in which covered members of the Armed Forces have been separated from the Armed Forces on the basis of a personality disorder, and an identification of the various forms of personality disorder forming the basis for such separations.

(B) A statement of the total number of cases, by Armed Force, in which covered members of the Armed Forces

who have served in Iraq and Afghanistan since October 2001 have been separated from the Armed Forces on the basis of a personality disorder, and the identification of the various forms of personality disorder forming the basis for such separations.

(C) A summary of the policies, by Armed Force, controlling administrative separations of members of the Armed Forces based on personality disorder, and an evaluation of the adequacy of such policies for ensuring that covered members of the Armed Forces who may be eligible for disability evaluation due to mental health conditions are not separated from the Armed Forces on the basis of a personality disorder.

(D) A discussion of measures being implemented to ensure that members of the Armed Forces who should be evaluated for disability separation or retirement due to mental health conditions are not processed for separation from the Armed Forces on the basis of a personality disorder, and recommendations regarding how members of the Armed Forces who may have been so separated from the Armed Forces should be provided with expedited review by the applicable board for the correction of military records.

(b) COMPTROLLER GENERAL REPORT ON POLICIES ON ADMINISTRATIVE SEPARATION BASED ON PERSONALITY DISORDER.—

(1) REPORT REQUIRED.—Not later than June 1, 2008, the Comptroller General shall submit to Congress a report evaluating the policies and procedures of the Department of Defense and of the military departments relating to the separation of members of the Armed Forces based on a personality disorder.

(2) ELEMENTS.—The report required by paragraph (1) shall—

(A) include an audit of a sampling of cases to determine the validity and clinical efficacy of the policies and procedures referred to in paragraph (1) and the extent, if any, of the divergence between the terms of such policies and procedures and the implementation of such policies and procedures; and

(B) include a determination by the Comptroller General of whether, and to what extent, the policies and procedures referred to in paragraph (1)—

(i) deviate from standard clinical diagnostic practices and current clinical standards; and

(ii) provide adequate safeguards aimed at ensuring that members of the Armed Forces who suffer from mental health conditions (including depression, post-traumatic stress disorder, or traumatic brain injury) resulting from service in a combat zone are not separated from the Armed Forces on the basis of a personality disorder.

(3) ALTERNATIVE SUBMISSION METHOD.—In lieu of submitting a separate report under this subsection, the Comptroller may include the evaluation, audit and determination required by this subsection as part of the study of mental health services required by section 723 of the Ronald W. Reagan National

Defense Authorization Act of 2005 (Public Law 108–375; 118 Stat. 1989).

(c) COVERED MEMBER OF THE ARMED FORCES DEFINED.—In this section, the term "covered member of the Armed Forces" includes the following:

(1) Any member of a regular component of the Armed Forces who has served in Iraq or Afghanistan since October 2001.

(2) Any member of the Selected Reserve of the Ready Reserve of the Armed Forces who served on active duty in Iraq or Afghanistan since October 2001.

**SEC. 598. PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE VIETNAM WAR.** 10 USC 113 note.

(a) COMMEMORATIVE PROGRAM AUTHORIZED.—The Secretary of Defense may conduct a program to commemorate the 50th anniversary of the Vietnam War. In conducting the commemorative program, the Secretary shall coordinate, support, and facilitate other programs and activities of the Federal Government, State and local governments, and other persons and organizations in commemoration of the Vietnam War.

(b) SCHEDULE.—The Secretary of Defense shall determine the schedule of major events and priority of efforts for the commemorative program in order to ensure achievement of the objectives specified in subsection (c).

(c) COMMEMORATIVE ACTIVITIES AND OBJECTIVES.—The commemorative program may include activities and ceremonies to achieve the following objectives:

(1) To thank and honor veterans of the Vietnam War, including personnel who were held as prisoners of war or listed as missing in action, for their service and sacrifice on behalf of the United States and to thank and honor the families of these veterans.

(2) To highlight the service of the Armed Forces during the Vietnam War and the contributions of Federal agencies and governmental and non-governmental organizations that served with, or in support of, the Armed Forces.

(3) To pay tribute to the contributions made on the home front by the people of the United States during the Vietnam War.

(4) To highlight the advances in technology, science, and medicine related to military research conducted during the Vietnam War.

(5) To recognize the contributions and sacrifices made by the allies of the United States during the Vietnam War.

(d) NAMES AND SYMBOLS.—The Secretary of Defense shall have the sole and exclusive right to use the name "The United States of America Vietnam War Commemoration", and such seal, emblems, and badges incorporating such name as the Secretary may lawfully adopt. Nothing in this section may be construed to supersede rights that are established or vested before the date of the enactment of this Act.

(e) COMMEMORATIVE FUND.—

(1) ESTABLISHMENT AND ADMINISTRATION.—If the Secretary establishes the commemorative program under subsection (a), the Secretary the Treasury shall establish in the Treasury of the United States an account to be known as the "Department

of Defense Vietnam War Commemoration Fund" (in this section referred to as the "Fund"). The Fund shall be administered by the Secretary of Defense.

Regulations.

(2) USE OF FUND.—The Secretary shall use the assets of the Fund only for the purpose of conducting the commemorative program and shall prescribe such regulations regarding the use of the Fund as the Secretary considers to be necessary.

(3) DEPOSITS.—There shall be deposited into the Fund—

(A) amounts appropriated to the Fund;

(B) proceeds derived from the Secretary's use of the exclusive rights described in subsection (d);

(C) donations made in support of the commemorative program by private and corporate donors; and

(D) funds transferred to the Fund by the Secretary from funds appropriated for fiscal year 2008 and subsequent years for the Department of Defense.

(4) AVAILABILITY.—Subject to subsection (g)(2), amounts deposited under paragraph (3) shall constitute the assets of the Fund and remain available until expended.

(5) BUDGET REQUEST.—The Secretary of Defense may establish a separate budget line for the commemorative program. In the budget justification materials submitted by the Secretary in support of the budget of the President for any fiscal year for which the Secretary establishes the separate budget line, the Secretary shall—

(A) identify and explain any amounts expended for the commemorative program in the fiscal year preceding the budget request;

(B) identify and explain the amounts being requested to support the commemorative program for the fiscal year of the budget request; and

(C) present a summary of the fiscal status of the Fund.

(f) ACCEPTANCE OF VOLUNTARY SERVICES.—

(1) AUTHORITY TO ACCEPT SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the commemorative program. The Secretary of Defense shall prohibit the solicitation of any voluntary services if the nature or circumstances of such solicitation would compromise the integrity or the appearance of integrity of any program of the Department of Defense or of any individual involved in the program.

(2) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Secretary may provide for reimbursement of incidental expenses incurred by a person providing voluntary services under this subsection. The Secretary shall determine which expenses are eligible for reimbursement under this paragraph.

(g) FINAL REPORT.—

(1) REPORT REQUIRED.—Not later than 60 days after the end of the commemorative program, if established by the Secretary of Defense under subsection (a), the Secretary shall submit to Congress a report containing an accounting of—

(A) all of the funds deposited into and expended from the Fund;

(B) any other funds expended under this section; and

(C) any unobligated funds remaining in the Fund.

(2) TREATMENT OF UNOBLIGATED FUNDS.—Unobligated amounts remaining in the Fund as of the end of the commemorative period specified in subsection (b) shall be held in the Fund until transferred by law.

(h) LIMITATION ON EXPENDITURES.—Total expenditures from the Fund, using amounts appropriated to the Department of Defense, may not exceed $5,000,000 for fiscal year 2008 or for any subsequent fiscal year to carry out the commemorative program.

(i) FUNDING.—Of the amount authorized to be appropriated pursuant to section 301(5) for Defense-wide activities, $1,000,000 shall be available for deposit in the Fund for fiscal year 2008 if the Fund is established under subsection (e).

**SEC. 599. RECOGNITION OF MEMBERS OF THE MONUMENTS, FINE ARTS, AND ARCHIVES PROGRAM OF THE CIVIL AFFAIRS AND MILITARY GOVERNMENT SECTIONS OF THE ARMED FORCES DURING AND FOLLOWING WORLD WAR II.**

Congress hereby—

(1) recognizes the men and women who served in the Monuments, Fine Arts, and Archives program (MFAA) under the Civil Affairs and Military Government Sections of the United States Armed Forces for their heroic role in the preservation, protection, and restitution of monuments, works of art, and other artifacts of inestimable cultural importance in Europe and Asia during and following World War II;

(2) recognizes that without their dedication and service, many more of the world's artistic and historic treasures would have been destroyed or lost forever amidst the chaos and destruction of World War II;

(3) acknowledges that the detailed catalogues, documentation, inventories, and photographs developed and compiled by MFAA personnel during and following World War II, have made, and continue to make, possible the restitution of stolen works of art to their rightful owners; and

(4) commends and extols the members of the MFAA for establishing a precedent for action to protect cultural property in the event of armed conflict, and by their action setting a standard not just for one country, but for people of all nations to acknowledge and uphold.

# TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Fiscal year 2008 increase in military basic pay.

Sec. 602. Basic allowance for housing for reserve component members without dependents who attend accession training while maintaining a primary residence.

Sec. 603. Extension and enhancement of authority for temporary lodging expenses for members of the Armed Forces in areas subject to major disaster declaration or for installations experiencing sudden increase in personnel levels.

Sec. 604. Income replacement payments for reserve component members experiencing extended and frequent mobilization for active duty service.

Sec. 605. Midmonth payment of basic pay for contributions of members of the uniformed services participating in Thrift Savings Plan.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 610. Correction of lapsed authorities for payment of bonuses, special pays, and similar benefits for members of the uniformed services.
Sec. 611. Extension of certain bonus and special pay authorities for Reserve forces.
Sec. 612. Extension of certain bonus and special pay authorities for health care professionals.
Sec. 613. Extension of special pay and bonus authorities for nuclear officers.
Sec. 614. Extension of authorities relating to payment of other bonuses and special pays.
Sec. 615. Increase in incentive special pay and multiyear retention bonus for medical officers.
Sec. 616. Increase in dental officer additional special pay.
Sec. 617. Increase in maximum monthly rate of hardship duty pay and authority to provide hardship duty pay in a lump sum.
Sec. 618. Definition of sea duty for career sea pay to include service as off-cycle crewmembers of multi-crew ships.
Sec. 619. Reenlistment bonus for members of the Selected Reserve.
Sec. 620. Availability of Selected Reserve accession bonus for persons who previously served in the Armed Forces for a short period.
Sec. 621. Availability of nuclear officer continuation pay for officers with more than 26 years of commissioned service.
Sec. 622. Waiver of years-of-service limitation on receipt of critical skills retention bonus.
Sec. 623. Accession bonus for participants in the Armed Forces Health Professions Scholarship and Financial Assistance Program.
Sec. 624. Payment of assignment incentive pay for Reserve members serving in combat zone for more than 22 months.

Subtitle C—Travel and Transportation Allowances

Sec. 631. Payment of inactive duty training travel costs for certain Selected Reserve members.
Sec. 632. Survivors of deceased members eligible for transportation to attend burial ceremonies.
Sec. 633. Allowance for participation of Reserves in electronic screening.
Sec. 634. Allowance for civilian clothing for members of the Armed Forces traveling in connection with medical evacuation.
Sec. 635. Payment of moving expenses for Junior Reserve Officers' Training Corps instructors in hard-to-fill positions.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 641. Expansion of combat-related special compensation eligibility.
Sec. 642. Inclusion of veterans with service-connected disabilities rated as total by reason of unemployability under termination of phase-in of concurrent receipt of retired pay and veterans' disability compensation.
Sec. 643. Recoupment of annuity amounts previously paid, but subject to offset for dependency and indemnity compensation.
Sec. 644. Special survivor indemnity allowance for persons affected by required Survivor Benefit Plan annuity offset for dependency and indemnity compensation.
Sec. 645. Modification of authority of members of the Armed Forces to designate recipients for payment of death gratuity.
Sec. 646. Clarification of application of retired pay multiplier percentage to members of the uniformed services with over 30 years of service.
Sec. 647. Commencement of receipt of non-regular service retired pay by members of the Ready Reserve on active Federal status or active duty for significant periods.
Sec. 648. Computation of years of service for purposes of retired pay for non-regular service.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

Sec. 651. Authority to continue commissary and exchange benefits for certain involuntarily separated members of the Armed Forces.
Sec. 652. Authorization of installment deductions from pay of employees of nonappropriated fund instrumentalities to collect indebtedness to the United States.

Subtitle F—Consolidation of Special Pay, Incentive Pay, and Bonus Authorities

Sec. 661. Consolidation of special pay, incentive pay, and bonus authorities of the uniformed services.
Sec. 662. Transitional provisions.

Subtitle G—Other Matters

Sec. 671. Referral bonus authorities.
Sec. 672. Expansion of education loan repayment program for members of the Selected Reserve.
Sec. 673. Ensuring entry into United States after time abroad for permanent resident alien military spouses and children.
Sec. 674. Overseas naturalization for military spouses and children.
Sec. 675. Modification of amount of back pay for members of Navy and Marine Corps selected for promotion while interned as prisoners of war during World War II to take into account changes in Consumer Price Index.

# Subtitle A—Pay and Allowances

**SEC. 601. FISCAL YEAR 2008 INCREASE IN MILITARY BASIC PAY.**

37 USC 1009 note.

(a) RESCISSION OF PRIOR BASIC PAY ADJUSTMENT.—The adjustment made as of January 1, 2008, pursuant to section 4 of Executive Order No. 13454 (issued January 4, 2008), in elements of compensation of members of the uniformed services pursuant to section 1009 of title 37, United States Code, is hereby rescinded in order to permit the 3.5 percent increase in monthly basic pay for members of the uniformed services required by subsection (b) to take effect as intended.

Effective date.

(b) INCREASE IN BASIC PAY.—Effective as of January 1, 2008, the rates of monthly basic pay for members of the uniformed services are increased by 3.5 percent.

**SEC. 602. BASIC ALLOWANCE FOR HOUSING FOR RESERVE COMPONENT MEMBERS WITHOUT DEPENDENTS WHO ATTEND ACCESSION TRAINING WHILE MAINTAINING A PRIMARY RESIDENCE.**

(a) AVAILABILITY OF ALLOWANCE.—Section 403(g)(1) of title 37, United States Code, is amended—

(1) by inserting "to attend accession training," after "active duty" the first place it appears; and

(2) by inserting a comma after "contingency operation" the first place it appears.

37 USC 403 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to months beginning on or after the date of the enactment of this Act.

**SEC. 603. EXTENSION AND ENHANCEMENT OF AUTHORITY FOR TEMPORARY LODGING EXPENSES FOR MEMBERS OF THE ARMED FORCES IN AREAS SUBJECT TO MAJOR DISASTER DECLARATION OR FOR INSTALLATIONS EXPERIENCING SUDDEN INCREASE IN PERSONNEL LEVELS.**

(a) MAXIMUM PERIOD OF RECEIPT OF EXPENSES.—Section 404a(c)(3) of title 37, United States Code, is amended by striking "20 days" and inserting "60 days".

(b) EXTENSION OF AUTHORITY FOR INCREASE IN CERTAIN BAH.—Section 403(b)(7)(E) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

**SEC. 604. INCOME REPLACEMENT PAYMENTS FOR RESERVE COMPONENT MEMBERS EXPERIENCING EXTENDED AND FREQUENT MOBILIZATION FOR ACTIVE DUTY SERVICE.**

(a) CLARIFICATION REGARDING WHEN PAYMENTS REQUIRED.—Subsection (a) of section 910 of title 37, United States Code, is amended by inserting before the period at the end of the first

sentence the following: ", when the total monthly military compensation of the member is less than the average monthly civilian income of the member".

(b) ELIGIBILITY.—Subsection (b) of such section is amended to read as follows:

"(b) ELIGIBILITY.—(1) A member of a reserve component is entitled to a payment under this section for any full month of active duty of the member, when the total monthly military compensation of the member is less than the average monthly civilian income of the member, while the member is on active duty under an involuntary mobilization order, following the date on which the member—

"(A) completes 547 continuous days of service on active duty under an involuntary mobilization order;

"(B) completes 730 cumulative days on active duty under an involuntary mobilization order during the previous 1,826 days; or

"(C) is involuntarily mobilized for service on active duty for a period of 180 days or more within 180 days after the date of the member's separation from a previous period of active duty for a period of 180 days or more.

"(2) The entitlement of a member of a reserve component to a payment under this section also shall commence or, if previously commenced under paragraph (1), shall continue if the member—

"(A) satisfies the required number of days on active duty specified in subparagraph (A) or (B) of paragraph (1) or was involuntarily mobilized as provided in subparagraph (C) of such paragraph; and

"(B) is retained on active duty under subparagraph (A) or (B) of section 12301(h)(1) of title 10 because of an injury or illness incurred or aggravated while the member was assigned to duty in an area for which special pay under section 310 of this title is available.".

(c) TERMINATION OF AUTHORITY.—Subsection (g) of such section is amended to read as follows:

"(g) TERMINATION.—No payment shall be made to a member under this section for months beginning after December 31, 2008, unless the entitlement of the member to payments under this section commenced on or before that date.".

**SEC. 605. MIDMONTH PAYMENT OF BASIC PAY FOR CONTRIBUTIONS OF MEMBERS OF THE UNIFORMED SERVICES PARTICIPATING IN THRIFT SAVINGS PLAN.**

(a) SEMI-MONTHLY DEPOSIT OF MEMBER'S CONTRIBUTIONS.—Section 1014 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(c) With respect to a member of the uniformed services who has elected to participate in the Thrift Savings Plan under section 211 of this title, subsection (a) does not preclude the payment of an amount equal to one-half of the monthly deposit to the Thrift Savings Fund otherwise to be made by the member in participating in the Plan, which amount may be deposited in the Thrift Savings Fund at midmonth.".

(b) SEMI-MONTHLY REPAYMENT OF BORROWED AMOUNTS.—Section 211 of such title is amended by adding at the end the following new subsection:

"(e) REPAYMENT OF AMOUNTS BORROWED FROM MEMBER ACCOUNT.—If a loan is issued to a member under section 8433(g) of title 5 from funds in the member's account in the Thrift Savings Plan, repayment of the loan may be required on the same semi-monthly basis as authorized for contributions to the Thrift Savings Fund on behalf of the member under section 1014(c) of this title.".

## Subtitle B—Bonuses and Special and Incentive Pays

**SEC. 610. CORRECTION OF LAPSED AUTHORITIES FOR PAYMENT OF BONUSES, SPECIAL PAYS, AND SIMILAR BENEFITS FOR MEMBERS OF THE UNIFORMED SERVICES.**

10 USC 2130a note.

(a) RETROACTIVE EFFECTIVE DATE FOR PAYMENT AUTHORITIES.—The amendments made by sections 611, 612, 613, and 614 shall take effect as of December 31, 2007.

(b) RATIFICATION OF EXISTING CONTINGENT AGREEMENTS.—In the case of a provision of title 10 or 37, United States Code, amended by section 611, 612, 613, or 614 under which an individual must enter into an agreement with the Secretary concerned for receipt of a bonus, special pay, or similar benefit, the Secretary concerned may treat any agreement entered into under such a provision during the period beginning on January 1, 2008, and ending on the date of the enactment of this Act as having taken effect as of the date on which the agreement was signed by the individual.

(c) TEMPORARY ADDITIONAL AGREEMENT AUTHORITY.—

(1) AUTHORITY.—In the case of a provision of title 10 or 37, United States Code, amended by section 611, 612, 613, or 614 under which an individual must enter into an agreement with the Secretary concerned for receipt of a bonus, special pay, or similar benefit, the Secretary concerned, during the 120-day period beginning on the date of the enactment of this Act, may treat any agreement entered into under such a provision by an individual described in paragraph (2) as having been signed by the individual during the period beginning on January 1, 2008, and ending on the date of the enactment of this Act.

(2) COVERED INDIVIDUALS.—An individual referred to in paragraph (1) is an individual who would have met all of the qualifications for a bonus, special pay, or similar benefit under a provision of title 10 or 37, United States Code, amended by section 611, 612, 613, or 614 at any time during the period beginning on January 1, 2008, and ending on the date of the enactment of this Act, but for the fact that the statutory authority for the bonus, special pay, or similar benefit lapsed on December 31, 2007.

(d) TAX TREATMENT.—The payment of a bonus, special pay, or similar benefit under a provision of title 10 or 37, United States Code, amended by section 611, 612, 613, or 614 to an individual who would have been entitled to the tax treatment accorded by section 112 of the Internal Revenue Code of 1986 on the date on which the member would have otherwise earned the bonus, special pay, or similar benefit, but for the fact that the statutory authority for the bonus, special pay, or similar benefit lapsed on

December 31, 2007, shall be treated as covered by such section 112.

(e) RETROACTIVE IMPLEMENTATION OF ARMY REFERRAL BONUS.—The Secretary of the Army may pay a bonus under section 3252 of title 10, United States Code, as added by section 671(a)(1), to an individual referred to in subsection (a)(2) of such section 3252 who made a referral, as described in subsection (b) of such section 3252, to an Army recruiter during the period beginning on January 1, 2008, and ending on the date of the enactment of this Act.

(f) SECRETARY CONCERNED DEFINED.—In this section, the term "Secretary concerned" has the meaning given that term in section 101(5) of title 37, United States Code.

**SEC. 611. EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.**

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(g) of title 37, United States Code, is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(b) SELECTED RESERVE AFFILIATION OR ENLISTMENT BONUS.—Section 308c(i) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(d) READY RESERVE ENLISTMENT BONUS FOR PERSONS WITHOUT PRIOR SERVICE.—Section 308g(f)(2) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(e) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.—Section 308h(e) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(f) SELECTED RESERVE ENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.—Section 308i(f) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

**SEC. 612. EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR HEALTH CARE PROFESSIONALS.**

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking "January 1, 2008" and inserting "January 1, 2009".

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(e) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(g) ACCESSION BONUS FOR PHARMACY OFFICERS.—Section 302j(a) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(h) ACCESSION BONUS FOR MEDICAL OFFICERS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302k(f) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(i) ACCESSION BONUS FOR DENTAL SPECIALIST OFFICERS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302l(g) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

**SEC. 613. EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.**

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(f) of title 37, United States Code, is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

**SEC. 614. EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.**

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(c) ENLISTMENT BONUS.—Section 309(e) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(d) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS OR ASSIGNED TO HIGH PRIORITY UNITS.—Section 323(i) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(e) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(f) INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY TO EASE PERSONNEL SHORTAGE.—Section 326(g) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(g) ACCESSION BONUS FOR OFFICER CANDIDATES.—Section 330(f) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(h) PROHIBITION ON CHARGES FOR MEALS RECEIVED AT MILITARY TREATMENT FACILITIES BY MEMBERS RECEIVING CONTINUOUS CARE.—Section 402(h)(3) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

**SEC. 615. INCREASE IN INCENTIVE SPECIAL PAY AND MULTIYEAR RETENTION BONUS FOR MEDICAL OFFICERS.**

(a) INCENTIVE SPECIAL PAY.—Section 302(b)(1) of title 37, United States Code, is amended by striking "$50,000" and inserting "$75,000".

(b) MULTIYEAR RETENTION BONUS.—Section 301d(a)(2) of title 37, United States Code, is amended by striking "$50,000" and inserting "$75,000".

37 USC 301d note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to agreements entered into under section 301d(a) or 302b(c) of title 37, United States Code, on or after the date of the enactment of this Act.

**SEC. 616. INCREASE IN DENTAL OFFICER ADDITIONAL SPECIAL PAY.**

(a) INCREASE.—Section 302b(a)(4) of title 37, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by striking "at the following rates" and inserting "at a rate determined by the Secretary concerned, which rate may not exceed the following";

(2) in subparagraph (A), by striking "$4,000" and inserting "$10,000"; and

(3) in subparagraph (B), by striking "$6,000" and inserting "$12,000".

37 USC 302b note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to agreements entered into under section 302b(b) of title 37, United States Code, on or after the date of the enactment of this Act.

**SEC. 617. INCREASE IN MAXIMUM MONTHLY RATE OF HARDSHIP DUTY PAY AND AUTHORITY TO PROVIDE HARDSHIP DUTY PAY IN A LUMP SUM.**

Section 305 of title 37, United States Code, is amended to read as follows:

**"§ 305. Special pay: hardship duty pay**

"(a) SPECIAL PAY AUTHORIZED.—A member of a uniformed service who is entitled to basic pay may be paid special pay under this section while the member is performing duty that is designated by the Secretary of Defense as hardship duty.

"(b) PAYMENT ON MONTHLY OR LUMP SUM BASIS.—Special pay payable under this section may be paid on a monthly basis or in a lump sum.

"(c) MAXIMUM RATE OR AMOUNT.—(1) The monthly rate of special pay payable to a member under this section may not exceed $1,500.

"(2) The amount of the lump sum payment of special pay payable to a member under this section may not exceed the product of—

"(A) the maximum monthly rate in effect under paragraph (1) at the time the member qualifies for payment of special pay under this section; and

"(B) the number of months during which the member will be performing the designated hardship duty.

"(d) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Special pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

"(e) REPAYMENT.—A member who is paid special pay in a lump sum under this section, but who fails to perform the designated hardship duty during the months included in the calculation of the amount of the lump sum under subsection (c)(2), shall be subject to the repayment provisions of section 303a(e) of this title.

"(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the payment of hardship duty pay under this section, including the specific monthly rates at which the special pay will be available.".

**SEC. 618. DEFINITION OF SEA DUTY FOR CAREER SEA PAY TO INCLUDE SERVICE AS OFF-CYCLE CREWMEMBERS OF MULTI-CREW SHIPS.**

Section 305a(e)(1)(A) of title 37, United States Code, is amended—

(1) by striking "or" at the end of clause (ii); and

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

"(iv) while serving as an off-cycle crewmember of a multi-crewed ship; or".

**SEC. 619. REENLISTMENT BONUS FOR MEMBERS OF THE SELECTED RESERVE.**

(a) MINIMUM TERM OF REENLISTMENT OR ENLISTMENT EXTENSION.—Subsection (a)(2) of 308b of title 37, United States Code, is amended by striking "his enlistment for a period of three years or for a period of six years" and inserting "an enlistment for a period of at least three years".

(b) MAXIMUM BONUS AMOUNT.—Subsection (b)(1) of such section is amended by striking "may not exceed" and all that follows through the end of the paragraph and inserting "may not exceed $15,000.".

(c) CONFORMING AMENDMENTS REGARDING ELIGIBILITY REQUIREMENTS.—Subsection (c) of such section is amended—

(1) by striking the subsection heading and all that follows through "(2) In the case" and inserting "WAIVER OF CONDITION ON ELIGIBILITY.—In the case"; and

(2) by striking "paragraph (1)(B) or".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to reenlistments or extensions of enlistment that occur on or after the date of the enactment of this Act.

37 USC 308b note.

**SEC. 620. AVAILABILITY OF SELECTED RESERVE ACCESSION BONUS FOR PERSONS WHO PREVIOUSLY SERVED IN THE ARMED FORCES FOR A SHORT PERIOD.**

Section 308c(c)(1) of title 37, United States Code, is amended by inserting before the semicolon the following: "or has served in the armed forces, but was released from such service before completing the basic training requirements of the armed force of which the person was a member and the service was characterized as either honorable or uncharacterized".

**SEC. 621. AVAILABILITY OF NUCLEAR OFFICER CONTINUATION PAY FOR OFFICERS WITH MORE THAN 26 YEARS OF COMMISSIONED SERVICE.**

(a) INCREASE.—Section 312 of title 37, United States Code, is amended—

(1) in subsection (a)(3), by striking "26 years" and inserting "30 years"; and

(2) in subsection (e)(1), by striking "the end of 26 years of commissioned service" and inserting "the maximum number of years of commissioned service authorized by subsection (a)(3)".

37 USC 312 note.

(b) EFFECT ON EXISTING AGREEMENTS.—The Secretary of the Navy and an officer of the naval service who is a party to an agreement under section 312 of title 37, United States Code, that was entered into before the date of the enactment of this Act may revise the agreement to reflect the new limitation on the number of years of commissioned service that the officer may serve while remaining eligible for special pay under such section.

**SEC. 622. WAIVER OF YEARS-OF-SERVICE LIMITATION ON RECEIPT OF CRITICAL SKILLS RETENTION BONUS.**

Section 323(e) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(4) The Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may waive the limitations in paragraph (1) with respect to a member who, during the period of active duty or service in an active status in a reserve component for which the bonus is being offered, is assigned duties in a skill designated as critical under subsection (b)(1). The authority to grant a waiver under this paragraph may not be delegated below the Under Secretary of Defense for Personnel and Readiness or the Deputy Secretary of the Department of Homeland Security.".

**SEC. 623. ACCESSION BONUS FOR PARTICIPANTS IN THE ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.**

(a) ACCESSION BONUS AUTHORIZED.—Subchapter I of chapter 105 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2128. Accession bonus for members of the program**

"(a) AVAILABILITY OF BONUS.—The Secretary of Defense may offer a person who enters into an agreement under section 2122(a)(2) of this title an accession bonus of not more than $20,000 as part of the agreement.

"(b) RELATION TO OTHER PAYMENTS.—An accession bonus paid a person under this section is in addition to any other amounts payable to the person under this subchapter.

"(c) REPAYMENT.—A person who receives an accession bonus under this section, but fails to comply with the agreement under section 2122(a)(2) of this title or to commence or complete the active duty obligation imposed by section 2123 of this title, shall be subject to the repayment provisions of section 303a(e) of title 37.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2128. Accession bonus for members of the program.".

10 USC 2128 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements entered into under section 2122(a)(2) of title 10, United States Code, on or after the date of the enactment of this Act.

**SEC. 624. PAYMENT OF ASSIGNMENT INCENTIVE PAY FOR RESERVE MEMBERS SERVING IN COMBAT ZONE FOR MORE THAN 22 MONTHS.**

37 USC 307a note.

(a) PAYMENT.—The Secretary of a military department may pay assignment incentive pay under section 307a of title 37, United States Code, to a member of a reserve component under the jurisdiction of the Secretary for each month during the eligibility period of the member determined under subsection (b) during which the member served for any portion of the month in a combat zone associated with Operating Enduring Freedom or Operation Iraqi Freedom in excess of 22 months of qualifying service.

(b) ELIGIBILITY PERIOD.—The eligibility period for a member extends from January 1, 2005, through the end of the active duty service of the member in a combat zone associated with Operating Enduring Freedom or Operation Iraqi Freedom if the service on active duty during the member's most recent period of mobilization to active duty began before January 19, 2007.

(c) AMOUNT OF PAYMENT.—The monthly rate of incentive pay payable to a member under this section is $1,000.

(d) QUALIFYING SERVICE.—For purposes of this section, qualifying service includes cumulative mobilized service on active duty under sections 12301(d), 12302, and 12304 of title 10, United States Code, during the period beginning on January 1, 2003, through the end of the member's active duty service during the member's most recent period of mobilization to active duty beginning before January 19, 2007.

# Subtitle C—Travel and Transportation Allowances

**SEC. 631. PAYMENT OF INACTIVE DUTY TRAINING TRAVEL COSTS FOR CERTAIN SELECTED RESERVE MEMBERS.**

(a) PAYMENT OF TRAVEL COSTS AUTHORIZED.—

(1) IN GENERAL.—Chapter 7 of title 37, United States Code, is amended by inserting after section 408 the following new section:

**"§ 408a. Travel and transportation allowances: inactive duty training outside of normal commuting distances**

"(a) ALLOWANCE AUTHORIZED.—The Secretary concerned may reimburse an eligible member of the Selected Reserve of the Ready Reserve for travel expenses for travel to an inactive duty training location to perform inactive duty training when the member is required to commute a distance from the member's permanent residence to the inactive duty training location that is outside the normal commuting distance (as determined under the regulations prescribed under subsection (d)) for that commute.

"(b) ELIGIBLE MEMBERS.—To be eligible for reimbursement under subsection (a), a member of the Selected Reserve of the Ready Reserve must be—

"(1) qualified in a skill designated as critically short by the Secretary concerned;

"(2) assigned to a unit of the Selected Reserve with a critical manpower shortage or in a pay grade in the member's reserve component with a critical manpower shortage; or

"(3) assigned to a unit or position that is disestablished or relocated as a result of defense base closure or realignment or another force structure reallocation.

"(c) MAXIMUM REIMBURSEMENT AMOUNT.—The amount of reimbursement provided a member under subsection (a) for each round trip to a training location may not exceed $300.

"(d) REGULATIONS.—The Secretary concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.

"(e) TERMINATION.—No reimbursement may be provided under this section for travel that occurs after December 31, 2010.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 408 the following new item:

"408a. Travel and transportation allowances: inactive duty training outside of normal commuting distances.".

37 USC 408a note.

(b) APPLICATION OF AMENDMENT.—No reimbursement may be provided under section 408a of title 37, United States Code, as added by subsection (a), for travel costs incurred before the date of the enactment of this Act.

**SEC. 632. SURVIVORS OF DECEASED MEMBERS ELIGIBLE FOR TRANSPORTATION TO ATTEND BURIAL CEREMONIES.**

(a) ELIGIBLE RELATIVES.—Paragraph (1) of section 411f(c) of title 37, United States Code, is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) The child or children of the deceased member (including stepchildren, adopted children, and illegitimate children).''; and

(2) by adding at the end the following new subparagraphs:

"(D) The sibling or siblings of the deceased member.

"(E) The person who directs the disposition of the remains of the deceased member under section 1482(c) of title 10 or, in the case of a deceased member whose remains are commingled and buried in a common grave in a national cemetery, the person who would have been designated under such section to direct the disposition of the remains if individual identification had been made.".

(b) OTHER PERSONS.—Paragraph (2) of such section is amended to read as follows:

"(2) If no person described in subparagraphs (A) through (D) of paragraph (1) is provided travel and transportation allowances under subsection (a)(1), the travel and transportation allowances may be provided to one or two other persons who are closely related to the deceased member and are selected by the person referred to in paragraph (1)(E). A person provided travel and transportation allowances under this paragraph is in addition to the person referred to in paragraph (1)(E).".

**SEC. 633. ALLOWANCE FOR PARTICIPATION OF RESERVES IN ELECTRONIC SCREENING.**

(a) ALLOWANCE FOR PARTICIPATION IN ELECTRONIC SCREENING.—

(1) IN GENERAL.—Chapter 7 of title 37, United States Code, is amended by inserting after section 433 the following new section:

**"§ 433a. Allowance for participation in Ready Reserve screening**

"(a) ALLOWANCE AUTHORIZED.—(1) Under regulations prescribed by the Secretaries concerned, a member of the Individual Ready Reserve may be paid a stipend for participation in the screening performed pursuant to section 10149 of title 10, in lieu of muster duty performed under section 12319 of title 10, if such participation is conducted through electronic means. Regulations.

"(2) The stipend paid a member under this section shall constitute the sole monetary allowance authorized for participation in the screening described in paragraph (1), and shall constitute payment in full to the member for participation in such screening, regardless of the grade or rank in which the member is serving.

"(b) MAXIMUM PAYMENT.—The aggregate amount of the stipend paid a member of the Individual Ready Reserve under this section in any calendar year may not exceed $50.

"(c) PAYMENT REQUIREMENTS.—(1) The stipend authorized by this section may not be disbursed in kind.

"(2) Payment of a stipend to a member of the Individual Ready Reserve under this section for participation in screening shall be made on or after the date of participation in such screening, but not later than 30 days after such date.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 433 the following new item:

"433a. Allowance for participation in Ready Reserve screening.".

(b) BAR TO DUAL COMPENSATION.—Section 206 of such title is amended by adding at the end the following new subsection:

"(f) A member of the Individual Ready Reserve is not entitled to compensation under this section for participation in screening for which the member is paid a stipend under section 433a of this title.".

(c) BAR TO RETIREMENT CREDIT.—Section 12732(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(8) Service in the screening performed pursuant to section 10149 of this title through electronic means, regardless of whether or not a stipend is paid the member concerned for such service under section 433a of title 37.".

**SEC. 634. ALLOWANCE FOR CIVILIAN CLOTHING FOR MEMBERS OF THE ARMED FORCES TRAVELING IN CONNECTION WITH MEDICAL EVACUATION.**

Section 1047(a) of title 10, United States Code, is amended by inserting "and luggage" after "civilian clothing" both places it appears.

**SEC. 635. PAYMENT OF MOVING EXPENSES FOR JUNIOR RESERVE OFFICERS' TRAINING CORPS INSTRUCTORS IN HARD-TO-FILL POSITIONS.**

Section 2031 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) When determined by the Secretary of the military department concerned to be in the national interest and agreed upon by the institution concerned, the institution may reimburse a Junior Reserve Officers' Training Corps instructor for moving expenses incurred by the instructor to accept employment at the institution in a position that the Secretary concerned determines is hard-to-fill for geographic or economic reasons.

"(2) As a condition on providing reimbursement under paragraph (1), the institution shall require the instructor to execute a written agreement to serve a minimum of two years of employment at the institution in the hard-to-fill position.

"(3) Any reimbursement provided to an instructor under paragraph (1) is in addition to the minimum instructor pay otherwise payable to the instructor.

"(4) The Secretary concerned shall reimburse an institution providing reimbursement to an instructor under paragraph (1) in an amount equal to the amount of the reimbursement paid by the institution under that paragraph. Any reimbursement provided by the Secretary concerned shall be provided from funds appropriated for that purpose.

"(5) The provision of reimbursement under paragraph (1) or (4) shall be subject to regulations prescribed by the Secretary of Defense for purposes of this subsection.".

# Subtitle D—Retired Pay and Survivor Benefits

### SEC. 641. EXPANSION OF COMBAT-RELATED SPECIAL COMPENSATION ELIGIBILITY.

(a) EXPANDED ELIGIBILITY FOR CHAPTER 61 MILITARY RETIREES.—Subsection (c) of section 1413a of title 10, United States Code, is amended by striking "entitled to retired pay who—" and all that follows and inserting "who—

"(1) is entitled to retired pay (other than by reason of section 12731b of this title); and

"(2) has a combat-related disability.".

(b) COMPUTATION.—Paragraph (3) of subsection (b) of such section is amended—

(1) by striking "In the case of" and inserting the following:

"(A) GENERAL RULE.—In the case of"; and

(2) by adding at the end the following new subparagraph:

"(B) SPECIAL RULE FOR RETIREES WITH FEWER THAN 20 YEARS OF SERVICE.—In the case of an eligible combat-related disabled uniformed services retiree who is retired under chapter 61 of this title with fewer than 20 years of creditable service, the amount of the payment under paragraph (1) for any month shall be reduced by the amount (if any) by which the amount of the member's retired pay under chapter 61 of this title exceeds the amount equal to 2½ percent of the member's years of creditable service multiplied by the member's retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member.".

Applicability. 10 USC 1413a note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2008, and shall apply to payments for months beginning on or after that date.

**SEC. 642. INCLUSION OF VETERANS WITH SERVICE-CONNECTED DISABILITIES RATED AS TOTAL BY REASON OF UNEMPLOYABILITY UNDER TERMINATION OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.**

(a) INCLUSION OF VETERANS.—Section 1414(a)(1) of title 10, United States Code, is amended by striking "except that" and all that follows and inserting "except that payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following:

"(A) A qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent.

"(B) A qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability.".

(b) EFFECTIVE DATE.— 10 USC 1414 note.

(1) IN GENERAL.—Subject to paragraph (2), the amendment made by subsection (a) shall take effect as of December 31, 2004.

(2) TIMING OF PAYMENT OF RETROACTIVE BENEFITS.—Any amount payable for a period before October 1, 2008, by reason of the amendment made by subsection (a) shall not be paid until after that date.

**SEC. 643. RECOUPMENT OF ANNUITY AMOUNTS PREVIOUSLY PAID, BUT SUBJECT TO OFFSET FOR DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) LIMITATION ON RECOUPMENT; NOTIFICATION REQUIREMENTS.—Section 1450(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) LIMITATION ON RECOUPMENT OF OFFSET AMOUNT.—Any amount subject to offset under this subsection that was previously paid to the surviving spouse or former spouse shall be recouped only to the extent that the amount paid exceeds any amount to be refunded under subsection (e). In notifying a surviving spouse or former spouse of the recoupment requirement, the Secretary shall provide the spouse or former spouse—

"(A) a single notice of the net amount to be recouped or the net amount to be refunded, as applicable, under this subsection or subsection (e);

"(B) a written explanation of the statutory requirements for recoupment of the offset amount and for refund of any applicable amount deducted from retired pay;

"(C) a detailed accounting of how the offset amount being recouped and retired pay deduction amount being refunded were calculated; and

"(D) contact information for a person who can provide information about the offset recoupment and retired pay deduction refund processes and answer questions the surviving spouse or former spouse may have about the requirements, processes, or amounts.".

(b) APPLICATION.—Paragraph (3) of subsection (c) of section 1450 of title 10, United States Code, as added by subsection (a), shall apply with respect to the recoupment on or after April 1, 2008, of amounts subject to offset under such subsection. 10 USC 1450 note.

**SEC. 644. SPECIAL SURVIVOR INDEMNITY ALLOWANCE FOR PERSONS AFFECTED BY REQUIRED SURVIVOR BENEFIT PLAN ANNUITY OFFSET FOR DEPENDENCY AND INDEMNITY COMPENSATION.**

Section 1450 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(m) SPECIAL SURVIVOR INDEMNITY ALLOWANCE.—

"(1) PROVISION OF ALLOWANCE.—The Secretary concerned shall pay a monthly special survivor indemnity allowance under this subsection to the surviving spouse or former spouse of a member of the uniformed services to whom section 1448 of this title applies if—

"(A) the surviving spouse or former spouse is entitled to dependency and indemnity compensation under section 1311(a) of title 38;

"(B) except for subsection (c) of this section, the surviving spouse or former spouse is eligible for an annuity by reason of a participant in the Plan under section 1448(a)(1) of this title; and

"(C) the eligibility of the surviving spouse or former spouse for an annuity as described in subparagraph (B) is affected by subsection (c) of this section.

"(2) AMOUNT OF PAYMENT.—Subject to paragraph (3), the amount of the allowance paid to an eligible survivor under paragraph (1) for a month shall be equal to—

"(A) for months during fiscal year 2009, $50;

"(B) for months during fiscal year 2010, $60;

"(C) for months during fiscal year 2011, $70;

"(D) for months during fiscal year 2012, $80;

"(E) for months during fiscal year 2013, $90; and

"(F) for months after fiscal year 2013, $100.

"(3) LIMITATION.—The amount of the allowance paid to an eligible survivor under paragraph (1) for any month may not exceed the amount of the annuity for that month that is subject to offset under subsection (c).

"(4) STATUS OF PAYMENTS.—An allowance paid under this subsection does not constitute an annuity, and amounts so paid are not subject to adjustment under any other provision of law.

"(5) SOURCE OF FUNDS.—The special survivor indemnity allowance shall be paid from amounts in the Department of Defense Military Retirement Fund established under section 1461 of this title.

Applicability.

"(6) EFFECTIVE DATE AND DURATION.—This subsection shall only apply with respect to the month beginning on October 1, 2008, and subsequent months through the month ending on February 28, 2016. Effective on March 1, 2016, the authority provided by this subsection shall terminate. No special survivor indemnity allowance may be paid to any person by reason of this subsection for any period before October 1, 2008, or beginning on or after March 1, 2016.".

Termination date.

**SEC. 645. MODIFICATION OF AUTHORITY OF MEMBERS OF THE ARMED FORCES TO DESIGNATE RECIPIENTS FOR PAYMENT OF DEATH GRATUITY.**

(a) AUTHORITY TO DESIGNATE RECIPIENTS.—Section 1477 of title 10, United States Code, is amended—

(1) by striking subsections (c) and (d);

(2) by redesignating subsection (b) as subsection (d) and, in such subsection, by striking "Subsection (a)(2)" and inserting "TREATMENT OF CHILDREN.—Subsection (b)(2)"; and

(3) by striking subsection (a) and inserting the following new subsections:

"(a) DESIGNATION OF RECIPIENTS.—(1) On and after July 1, 2008, or such earlier date as the Secretary of Defense may prescribe, a person covered by section 1475 or 1476 of this title may designate one or more persons to receive all or a portion of the amount payable under section 1478 of this title. The designation of a person to receive a portion of the amount shall indicate the percentage of the amount, to be specified only in 10 percent increments, that the designated person may receive. The balance of the amount of the death gratuity, if any, shall be paid in accordance with subsection (b).

"(2) If a person covered by section 1475 or 1476 of this title has a spouse, but designates a person other than the spouse to receive all or a portion of the amount payable under section 1478 of this title, the Secretary concerned shall provide notice of the designation to the spouse. Notification.

"(b) DISTRIBUTION OF REMAINDER; DISTRIBUTION IN ABSENCE OF DESIGNATED RECIPIENT.—If a person covered by section 1475 or 1476 of this title does not make a designation under subsection (a) or designates only a portion of the amount payable under section 1478 of this title, the amount of the death gratuity not covered by a designation shall be paid as follows:

"(1) To the surviving spouse of the person, if any.

"(2) If there is no surviving spouse, to any surviving children (as prescribed by subsection (d)) of the person and the descendants of any deceased children by representation.

"(3) If there is none of the above, to the surviving parents (as prescribed by subsection (c)) of the person or the survivor of them.

"(4) If there is none of the above, to the duly-appointed executor or administrator of the estate of the person.

"(5) If there is none of the above, to other next of kin of the person entitled under the laws of domicile of the person at the time of the person's death.

"(c) TREATMENT OF PARENTS.—For purposes of subsection (b)(3), parents include fathers and mothers through adoption. However, only one father and one mother may be recognized in any case, and preference shall be given to those who exercised a parental relationship on the date, or most nearly before the date, on which the decedent entered a status described in section 1475 or 1476 of this title.".

(b) CLERICAL AND CONFORMING AMENDMENTS.—Subsection (e) of such section is amended—

(1) by inserting "EFFECT OF DEATH BEFORE RECEIPT OF GRATUITY.—" after "(e)";

(2) by striking "subsection (a) or (d)" and inserting "subsection (a) or (b)"; and

(3) by striking "subsection (a)." and inserting "subsection (b)".

(c) EXISTING DESIGNATION AUTHORITY.—The authority provided by subsection (d) of section 1477 of title 10, United States Code, as in effect on the day before the date of the enactment of this Termination date. 10 USC 1477 note.

Act, shall remain available to persons covered by section 1475 or 1476 of such title until July 1, 2008, or such earlier date as the Secretary of Defense may prescribe, and any designation under such subsection made before July 1, 2008, or the earlier date prescribed by the Secretary, shall continue in effect until such time as the person who made the designation makes a new designation under such section 1477, as amended by subsection (a) of this section.

10 USC 1477 note. Deadline.

(d) REGULATIONS.—

(1) IN GENERAL.—Not later than April 1, 2008, the Secretary of Defense shall prescribe regulations to implement the amendments to section 1477 of title 10, United States Code, made by subsection (a).

(2) ELEMENTS.—The regulations required by paragraph (1) shall include forms for the making of the designation contemplated by subsection (a) of section 1477 of title 10, United States Code, as amended by subsection (a) of this section, and instructions for members of the Armed Forces in the filling out of such forms.

**SEC. 646. CLARIFICATION OF APPLICATION OF RETIRED PAY MULTIPLIER PERCENTAGE TO MEMBERS OF THE UNIFORMED SERVICES WITH OVER 30 YEARS OF SERVICE.**

(a) COMPUTATION OF RETIRED AND RETAINER PAY FOR MEMBERS OF NAVAL SERVICE.—The table in section 6333(a) of title 10, United States Code, is amended in Column 2 of Formula A by striking "75 percent." and inserting "Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to the member under section 1405.".

(b) RETIRED PAY FOR CERTAIN MEMBERS RECALLED TO ACTIVE DUTY.—The table in section 1402(a) of such title is amended by striking Column 3.

Applicability. 10 USC 1402 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as of January 1, 2007, and shall apply with respect to retired pay and retainer pay payable on or after that date.

**SEC. 647. COMMENCEMENT OF RECEIPT OF NON-REGULAR SERVICE RETIRED PAY BY MEMBERS OF THE READY RESERVE ON ACTIVE FEDERAL STATUS OR ACTIVE DUTY FOR SIGNIFICANT PERIODS.**

(a) REDUCED ELIGIBILITY AGE.—Section 12731 of title 10, United States Code, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) has attained the eligibility age applicable under subsection (f) to that person;"; and

(2) by adding at the end the following new subsection:

"(f)(1) Subject to paragraph (2), the eligibility age for purposes of subsection (a)(1) is 60 years of age.

"(2)(A) In the case of a person who as a member of the Ready Reserve serves on active duty or performs active service described in subparagraph (B) after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008, the eligibility age for purposes of subsection (a)(1) shall be reduced below 60 years of age by three months for each aggregate of 90 days on which such person so performs in any fiscal year after such date, subject

to subparagraph (C). A day of duty may be included in only one aggregate of 90 days for purposes of this subparagraph.

"(B)(i) Service on active duty described in this subparagraph is service on active duty pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) or under section 12301(d) of this title. Such service does not include service on active duty pursuant to a call or order to active duty under section 12310 of this title.

"(ii) Active service described in this subparagraph is also service under a call to active service authorized by the President or the Secretary of Defense under section 502(f) of title 32 for purposes of responding to a national emergency declared by the President or supported by Federal funds. President.

"(C) The eligibility age for purposes of subsection (a)(1) may not be reduced below 50 years of age for any person under subparagraph (A).".

(b) CONTINUATION OF AGE 60 AS MINIMUM AGE FOR ELIGIBILITY OF NON-REGULAR SERVICE RETIREES FOR HEALTH CARE.—Section 1074(b) of such title is amended—

(1) by inserting "(1)" after "(b)"; and

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

"(2) Paragraph (1) does not apply to a member or former member entitled to retired pay for non-regular service under chapter 1223 of this title who is under 60 years of age.".

(c) ADMINISTRATION OF RELATED PROVISIONS OF LAW OR POLICY.—With respect to any provision of law, or of any policy, regulation, or directive of the executive branch that refers to a member or former member of the uniformed services as being eligible for, or entitled to, retired pay under chapter 1223 of title 10, United States Code, but for the fact that the member or former member is under 60 years of age, such provision shall be carried out with respect to that member or former member by substituting for the reference to being 60 years of age a reference to having attained the eligibility age applicable under subsection (f) of section 12731 of title 10, United States Code (as added by subsection (a)), to such member or former member for qualification for such retired pay under subsection (a) of such section. 10 USC 12731 note.

**SEC. 648. COMPUTATION OF YEARS OF SERVICE FOR PURPOSES OF RETIRED PAY FOR NON-REGULAR SERVICE.**

Section 12733(3) of title 10, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period and inserting "before the year of service that includes October 30, 2007; and"; and

(3) by adding at the end the following new subparagraph:

"(D) 130 days in the year of service that includes October 30, 2007, and in any subsequent year of service.".

# Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

### SEC. 651. AUTHORITY TO CONTINUE COMMISSARY AND EXCHANGE BENEFITS FOR CERTAIN INVOLUNTARILY SEPARATED MEMBERS OF THE ARMED FORCES.

(a) RESUMPTION FOR MEMBERS INVOLUNTARILY SEPARATED FROM ACTIVE DUTY.—Section 1146 of title 10, United States Code, is amended—

(1) by inserting "(a) MEMBERS INVOLUNTARILY SEPARATED FROM ACTIVE DUTY.—" before "The Secretary of Defense";

(2) in the first sentence, by striking "October 1, 1990, and ending on December 31, 2001" and inserting "October 1, 2007, and ending on December 31, 2012"; and

(3) in the second sentence, by striking "the period beginning on October 1, 1994, and ending on December 31, 2001" and inserting "the same period".

(b) EXTENSION TO MEMBERS INVOLUNTARILY SEPARATED FROM SELECTED RESERVE.—Such section is further amended by adding at the end the following new subsection:

Regulations.

"(b) MEMBERS INVOLUNTARILY SEPARATED FROM SELECTED RESERVE.—The Secretary of Defense shall prescribe regulations to allow a member of the Selected Reserve of the Ready Reserve who is involuntarily separated from the Selected Reserve as a result of the exercise of the force shaping authority of the Secretary concerned under section 647 of this title or other force shaping authority during the period beginning on October 1, 2007, and ending on December 31, 2012, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary of Homeland Security shall implement this provision for Coast Guard members involuntarily separated during the same period.".

### SEC. 652. AUTHORIZATION OF INSTALLMENT DEDUCTIONS FROM PAY OF EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES TO COLLECT INDEBTEDNESS TO THE UNITED STATES.

Section 5514 of title 5, United States Code, is amended—

(1) in subsection (a)(5), by inserting "any nonappropriated fund instrumentality described in section 2105(c) of this title," after "Commission,"; and

(2) by adding at the end the following new subsection:

"(e) An employee of a nonappropriated fund instrumentality described in section 2105(c) of this title is deemed an employee covered by this section.".

# Subtitle F—Consolidation of Special Pay, Incentive Pay, and Bonus Authorities

**SEC. 661. CONSOLIDATION OF SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES OF THE UNIFORMED SERVICES.**

(a) CONSOLIDATION.—Chapter 5 of title 37, United States Code, is amended—

(1) by inserting before section 301 the following subchapter heading:

"SUBCHAPTER I—EXISTING SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES";

and

(2) by adding at the end the following new subchapters:

"SUBCHAPTER II—CONSOLIDATION OF SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES

**"§ 331. General bonus authority for enlisted members**

"(a) AUTHORITY TO PROVIDE BONUS.—The Secretary concerned may pay a bonus under this section to a person, including a member of the armed forces, who—

"(1) enlists in an armed force;

"(2) enlists in or affiliates with a reserve component of an armed force;

"(3) reenlists, voluntarily extends an enlistment, or otherwise agrees to serve—

"(A) for a specified period in a designated career field, skill, or unit of an armed force; or

"(B) under other conditions of service in an armed force;

"(4) transfers from a regular component of an armed force to a reserve component of that same armed force or from a reserve component of an armed force to the regular component of that same armed force; or

"(5) transfers from a regular component or reserve component of an armed force to a regular component or reserve component of another armed force, subject to the approval of the Secretary with jurisdiction over the armed force to which the member is transferring.

"(b) SERVICE ELIGIBILITY.—A bonus authorized by subsection (a) may be paid to a person or member only if the person or member agrees under subsection (d)—

"(1) to serve for a specified period in a designated career field, skill, unit, or grade; or

"(2) to meet some other condition or conditions of service imposed by the Secretary concerned.

"(c) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

"(1) MAXIMUM AMOUNT.—The Secretary concerned shall determine the amount of a bonus to be paid under this section, except that—

"(A) a bonus paid under paragraph (1) or (2) of subsection (a) may not exceed $50,000 for a minimum two-year period of obligated service agreed to under subsection (d);

"(B) a bonus paid under paragraph (3) of subsection (a) may not exceed $30,000 for each year of obligated service in a regular component agreed to under subsection (d);

"(C) a bonus paid under paragraph (3) of subsection (a) may not exceed $15,000 for each year of obligated service in a reserve component agreed to under subsection (d); and

"(D) a bonus paid under paragraph (4) or (5) of subsection (a) may not exceed $10,000.

"(2) LUMP SUM OR INSTALLMENTS.—A bonus under this section may be paid in a lump sum or in periodic installments, as determined by the Secretary concerned.

"(3) FIXING BONUS AMOUNT.—Upon acceptance by the Secretary concerned of the written agreement required by subsection (d), the total amount of the bonus to be paid under the agreement shall be fixed.

"(d) WRITTEN AGREEMENT.—To receive a bonus under this section, a person or member determined to be eligible for the bonus shall enter into a written agreement with the Secretary concerned that specifies—

"(1) the amount of the bonus;

"(2) the method of payment of the bonus under subsection (c)(2);

"(3) the period of obligated service; and

"(4) the type or conditions of the service.

"(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus paid to a person or member under this section is in addition to any other pay and allowance to which the person or member is entitled.

"(f) RELATIONSHIP TO PROHIBITION ON BOUNTIES.—A bonus authorized under this section is not a bounty for purposes of section 514(a) of title 10.

"(g) REPAYMENT.—A person or member who receives a bonus under this section and who fails to complete the period of service, or meet the conditions of service, for which the bonus is paid, as specified in the written agreement under subsection (d), shall be subject to the repayment provisions of section 373 of this title.

"(h) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2009.

**"§ 332. General bonus authority for officers**

"(a) AUTHORITY TO PROVIDE BONUS.—The Secretary concerned may pay a bonus under this section to a person, including an officer in the uniformed services, who—

"(1) accepts a commission or appointment as an officer in a uniformed service;

"(2) affiliates with a reserve component of a uniformed service;

"(3) agrees to remain on active duty or to serve in an active status for a specific period as an officer in a uniformed service;

"(4) transfers from a regular component of a uniformed service to a reserve component of that same uniformed service or from a reserve component of a uniformed service to the regular component of that same uniformed service; or

"(5) transfers from a regular component or reserve component of a uniformed service to a regular component or reserve component of another uniformed service, subject to the approval of the Secretary with jurisdiction over the uniformed service to which the member is transferring.

"(b) SERVICE ELIGIBILITY.—A bonus authorized by subsection (a) may be paid to a person or officer only if the person or officer agrees under subsection (d)—

"(1) to serve for a specified period in a designated career field, skill, unit, or grade; or

"(2) to meet some other condition or conditions of service imposed by the Secretary concerned.

"(c) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

"(1) MAXIMUM AMOUNT.—The Secretary concerned shall determine the amount of a bonus to be paid under this section, except that—

"(A) a bonus paid under paragraph (1) of subsection (a) may not exceed $60,000 for a minimum three-year period of obligated service agreed to under subsection (d);

"(B) a bonus paid under paragraph (2) of subsection (a) may not exceed $12,000 for a minimum three-year period of obligated service agreed to under subsection (d);

"(C) a bonus paid under paragraph (3) of subsection (a) may not exceed $50,000 for each year of obligated service in a regular component agreed to under subsection (d);

"(D) a bonus paid under paragraph (3) of subsection (a) may not exceed $12,000 for each year of obligated service in a reserve component agreed to under subsection (d); and

"(E) a bonus paid under paragraph (4) or (5) of subsection (a) may not exceed $10,000.

"(2) LUMP SUM OR INSTALLMENTS.—A bonus under this section may be paid in a lump sum or in periodic installments, as determined by the Secretary concerned.

"(3) FIXING BONUS AMOUNT.—Upon acceptance by the Secretary concerned of the written agreement required by subsection (d), the total amount of the bonus to be paid under the agreement shall be fixed.

"(d) WRITTEN AGREEMENT.—To receive a bonus under this section, a person or officer determined to be eligible for the bonus shall enter into a written agreement with the Secretary concerned that specifies—

"(1) the amount of the bonus;

"(2) the method of payment of the bonus under subsection (c)(2);

"(3) the period of obligated service; and

"(4) the type or conditions of the service.

"(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—The bonus paid to a person or officer under this section is in addition to any other pay and allowance to which the person or officer is entitled.

"(f) REPAYMENT.—A person or officer who receives a bonus under this section and who fails to complete the period of service, or meet the conditions of service, for which the bonus is paid, as specified in the written agreement under subsection (d), shall be subject to the repayment provisions of section 373 of this title.

"(g) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2009.

**"§ 333. Special bonus and incentive pay authorities for nuclear officers**

"(a) NUCLEAR OFFICER BONUS.—The Secretary of the Navy may pay a nuclear officer bonus under this section to a person, including an officer in the Navy, who—

"(1) is selected for the officer naval nuclear power training program in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants and agrees to serve, upon completion of such training, on active duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; or

"(2) has the current technical and operational qualification for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants and agrees to remain on active duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

"(b) NUCLEAR OFFICER INCENTIVE PAY.—The Secretary of the Navy may pay nuclear officer incentive pay under this section to an officer in the Navy who—

"(1) is entitled to basic pay under section 204 of this title; and

"(2) remains on active duty for a specified period while maintaining current technical and operational qualifications, as approved by the Secretary, for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

"(c) ADDITIONAL ELIGIBILITY CRITERIA.—The Secretary of the Navy may impose such additional criteria for the receipt of a nuclear officer bonus or nuclear officer incentive pay under this section as the Secretary determines to be appropriate.

"(d) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

"(1) MAXIMUM AMOUNT.—The Secretary of the Navy shall determine the amounts of a nuclear officer bonus or nuclear officer incentive pay to be paid under this section, except that—

"(A) a nuclear officer bonus paid under subsection (a) may not exceed $35,000 for each 12-month period of the agreement under subsection (e); and

"(B) the amount of nuclear officer incentive paid under subsection (b) may not exceed $25,000 for each 12-month period of qualifying service.

"(2) LUMP SUM OR INSTALLMENTS.—A nuclear officer bonus or nuclear officer incentive pay under this section may be paid in a lump sum or in periodic installments.

"(3) FIXING BONUS AMOUNT.—Upon acceptance by the Secretary concerned of the written agreement required by subsection (e), the total amount of the nuclear officer bonus to be paid under the agreement shall be fixed.

"(e) WRITTEN AGREEMENT FOR BONUS.—

"(1) AGREEMENT REQUIRED.—To receive a nuclear officer bonus under subsection (a), a person or officer determined to be eligible for the bonus shall enter into a written agreement with the Secretary of the Navy that specifies—

"(A) the amount of the bonus;

"(B) the method of payment of the bonus under subsection (d)(2);

"(C) the period of obligated service; and

"(D) the type or conditions of the service.

"(2) REPLACEMENT AGREEMENT.—An officer who is performing obligated service under an agreement for a nuclear officer bonus may execute a new agreement to replace the existing agreement if the amount to be paid under the new agreement will be higher than the amount to be paid under the existing agreement. The period of the new agreement shall be equal to or exceed the remaining term of the period of the officer's existing agreement. If a new agreement is executed under this paragraph, the existing agreement shall be cancelled, effective on the day before an anniversary date of the existing agreement occurring after the date on which the amount to be paid under this paragraph is increased.

"(f) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A nuclear officer bonus or nuclear officer incentive pay paid to a person or officer under this section is in addition to any other pay and allowance to which the person or officer is entitled, except that a person or officer may not receive a payment under this section and section 332 or 353 of this title for the same skill and period of service.

"(g) REPAYMENT.—A person or officer who receives a nuclear officer bonus or nuclear officer incentive pay under this section and who fails to complete the officer naval nuclear power training program, maintain required technical and operational qualifications, complete the period of service, or meet the types or conditions of service for which the bonus or incentive pay is paid, as specified in the written agreement under subsection (e) in the case of a nuclear officer bonus, shall be subject to the repayment provisions of section 373 of this title.

"(h) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of the Navy.

"(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2009.

**"§ 334. Special aviation incentive pay and bonus authorities for officers**

"(a) AVIATION INCENTIVE PAY.—The Secretary concerned may pay aviation incentive pay under this section to an officer in a regular or reserve component of a uniformed service who—

"(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title;

"(2) maintains, or is in training leading to, an aeronautical rating or designation that qualifies the officer to engage in operational flying duty or proficiency flying duty;

"(3) engages in, or is in training leading to, frequent and regular performance of operational flying duty or proficiency flying duty;

"(4) engages in or remains in aviation service for a specified period; and

"(5) meets such other criteria as the Secretary concerned determines appropriate.

"(b) AVIATION BONUS.—The Secretary concerned may pay an aviation bonus under this section to an officer in a regular or reserve component of a uniformed service who—

"(1) is entitled to aviation incentive pay under subsection (a);

"(2) has completed any active duty service commitment incurred for undergraduate aviator training or is within one year of completing such commitment;

"(3) executes a written agreement to remain on active duty in a regular component or to serve in an active status in a reserve component in aviation service for at least one year; and

"(4) meets such other criteria as the Secretary concerned determines appropriate.

"(c) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

"(1) MAXIMUM AMOUNT.—The Secretary concerned shall determine the amount of a bonus or incentive pay to be paid under this section, except that—

"(A) aviation incentive pay under subsection (a) shall be paid at a monthly rate, not to exceed $850 per month; and

"(B) an aviation bonus under subsection (b) may not exceed $25,000 for each 12-month period of obligated service agreed to under subsection (d).

"(2) LUMP SUM OR INSTALLMENTS.—A bonus under this section may be paid in a lump sum or in periodic installments, as determined by the Secretary concerned.

"(3) FIXING BONUS AMOUNT.—Upon acceptance by the Secretary concerned of the written agreement required by subsection (d), the total amount of the bonus to be paid under the agreement shall be fixed.

"(d) WRITTEN AGREEMENT FOR BONUS.—To receive an aviation officer bonus under this section, an officer determined to be eligible for the bonus shall enter into a written agreement with the Secretary concerned that specifies—

"(1) the amount of the bonus;

"(2) the method of payment of the bonus under subsection (c)(2);

"(3) the period of obligated service; and

"(4) the type or conditions of the service.

"(e) RESERVE COMPONENT OFFICERS PERFORMING INACTIVE DUTY TRAINING.—A reserve component officer who is entitled to compensation under section 206 of this title and who is authorized aviation incentive pay under this section may be paid an amount of incentive pay that is proportionate to the compensation received under section 206 for inactive-duty training.

"(f) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—

"(1) AVIATION INCENTIVE PAY.—Aviation incentive pay paid to an officer under subsection (a) shall be in addition to any other pay and allowance to which the officer is entitled, except that an officer may not receive a payment under such subsection and section 351 or 353 of this title for the same skill and period of service.

"(2) AVIATION BONUS.—An aviation bonus paid to an officer under subsection (b) shall be in addition to any other pay and allowance to which the officer is entitled, except that an officer may not receive a payment under such subsection and section 332 or 353 of this title for the same skill and period of service.

"(g) REPAYMENT.—An officer who receives aviation incentive pay or an aviation bonus under this section and who fails to fulfill the eligibility requirements for the receipt of the incentive pay or bonus or complete the period of service for which the incentive pay or bonus is paid, as specified in the written agreement under subsection (d) in the case of a bonus, shall be subject to the repayment provisions of section 373 of this title.

"(h) DEFINITIONS.—In this section:

"(1) The term 'aviation service' means service performed by an officer in a regular or reserve component (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.

"(2) The term 'operational flying duty' means flying performed under competent orders by rated or designated regular or reserve component officers while serving in assignments in which basic flying skills normally are maintained in the performance of assigned duties as determined by the Secretary concerned, and flying performed by members in training that leads to the award of an aeronautical rating or designation.

"(3) The term 'proficiency flying duty' means flying performed under competent orders by rated or designated regular or reserve component officers while serving in assignments in which such skills would normally not be maintained in the performance of assigned duties.

"(4) The term 'officer' includes an individual enlisted and designated as an aviation cadet under section 6911 of title 10.

"(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2009.

### "§ 335. Special bonus and incentive pay authorities for officers in health professions

"(a) HEALTH PROFESSIONS BONUS.—The Secretary concerned may pay a health professions bonus under this section to a person, including an officer in the uniformed services, who is a graduate of an accredited school in a health profession and who—

"(1) accepts a commission or appointment as an officer in a regular or reserve component of a uniformed service, or affiliates with a reserve component of a uniformed service, and agrees to serve on active duty in a regular component or in an active status in a reserve component in a health profession;

"(2) accepts a commission or appointment as an officer and whose health profession specialty is designated by the Secretary of Defense as a critically short wartime specialty; or

"(3) agrees to remain on active duty or continue serving in an active status in a reserve component in a health profession.

"(b) HEALTH PROFESSIONS INCENTIVE PAY.—The Secretary concerned may pay incentive pay under this section to an officer in a regular or reserve component of a uniformed service who—

"(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and

"(2) is serving on active duty or in an active status in a designated health profession specialty or skill.

"(c) BOARD CERTIFICATION INCENTIVE PAY.—The Secretary concerned may pay board certification incentive pay under this section to an officer in a regular or reserve component of a uniformed service who—

"(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title;

"(2) is board certified in a designated health profession specialty or skill; and

"(3) is serving on active duty or in an active status in such designated health profession specialty or skill.

"(d) ADDITIONAL ELIGIBILITY CRITERIA.—The Secretary concerned may impose such additional criteria for the receipt of a bonus or incentive pay under this section as the Secretary determines to be appropriate.

"(e) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

"(1) MAXIMUM AMOUNT.—The Secretary concerned shall determine the amounts of a bonus or incentive pay to be paid under this section, except that—

"(A) a health professions bonus paid under paragraph (1) of subsection (a) may not exceed $30,000 for each 12-month period of obligated service agreed to under subsection (f);

"(B) a health professions bonus paid under paragraph (2) of subsection (a) may not exceed $100,000 for each 12-month period of obligated service agreed to under subsection (f);

"(C) a health professions bonus paid under paragraph (3) of subsection (a) may not exceed $75,000 for each 12-month period of obligated service agreed to under subsection (f);

"(D) health professions incentive pay under subsection (b) may be paid monthly and may not exceed, in any 12-month period—

"(i) $100,000 for medical officers and dental surgeons; and

"(ii) $15,000 for officers in other health professions; and

"(E) board certification incentive pay under subsection (c) may not exceed $6,000 for each 12-month period an officer remains certified in the designated health profession specialty or skill.

"(2) LUMP SUM OR INSTALLMENTS.—A health professions bonus under subsection (a) may be paid in a lump sum or in periodic installments, as determined by the Secretary concerned. Board certification incentive pay under subsection (c) may be paid monthly, in a lump sum at the beginning of the certification period, or in periodic installments during the certification period, as determined by the Secretary concerned.

"(3) FIXING BONUS AMOUNT.—Upon acceptance by the Secretary concerned of the written agreement required by subsection (f), the total amount of the health professions bonus to be paid under the agreement shall be fixed.

"(f) WRITTEN AGREEMENT FOR BONUS.—To receive a bonus under this section, an officer determined to be eligible for the bonus shall enter into a written agreement with the Secretary concerned that specifies—

"(1) the amount of the bonus;

"(2) the method of payment of the bonus under subsection (e)(2);

"(3) the period of obligated service;

"(4) whether the service will be performed on active duty or in an active status in a reserve component; and

"(5) the type or conditions of the service.

"(g) RESERVE COMPONENT OFFICERS.—An officer in a reserve component authorized incentive pay under subsection (b) or (c) who is not serving on continuous active duty and is entitled to compensation under section 204 of this title or compensation under section 206 of this title may be paid a monthly amount of incentive pay that is proportionate to the basic pay or compensation received under this title.

"(h) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—

"(1) HEALTH PROFESSIONS BONUS.—A bonus paid to a person or officer under subsection (a) shall be in addition to any other pay and allowance to which the person or officer is entitled, except that a person or officer may not receive a payment under such subsection and section 332 of this title for the same period of obligated service.

"(2) HEALTH PROFESSIONS INCENTIVE PAY.—Incentive pay paid to an officer under subsection (b) shall be in addition to any other pay and allowance to which an officer is entitled, except that an officer may not receive a payment under such subsection and section 353 of this title for the same skill and period of service.

"(3) BOARD CERTIFICATION INCENTIVE PAY.—Incentive pay paid to an officer under subsection (c) shall be in addition to any other pay and allowance to which an officer is entitled, except that an officer may not receive a payment under such subsection and section 353(b) of this title for the same skill and period of service covered by the certification.

"(i) REPAYMENT.—An officer who receives a bonus or incentive pay under this section and who fails to fulfill the eligibility requirements for the receipt of the bonus or incentive pay or complete the period of service for which the bonus or incentive pay is paid, as specified in the written agreement under subsection (f) in the case of a bonus, shall be subject to the repayment provisions of section 373 of this title.

"(j) HEALTH PROFESSION DEFINED.—In this section, the term 'health profession' means the following:

"(1) Any health profession performed by officers in the Medical Corps of a uniformed service or by officers designated as a medical officer.

"(2) Any health profession performed by officers in the Dental Corps of a uniformed service or by officers designated as a dental officer.

"(3) Any health profession performed by officers in the Medical Service Corps of a uniformed service or by officers designated as a medical service officer or biomedical sciences officer.

"(4) Any health profession performed by officers in the Medical Specialist Corps of a uniformed service or by officers designated as a medical specialist.

"(5) Any health profession performed by officers of the Nurse Corps of a uniformed service or by officers designated as a nurse.

"(6) Any health profession performed by officers in the Veterinary Corps of a uniformed service or by officers designated as a veterinary officer.

"(7) Any health profession performed by officers designated as a physician assistant.

"(8) Any health profession performed by officers in the regular or reserve corps of the Public Health Service.

"(k) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2009.

**"§ 351. Hazardous duty pay**

"(a) HAZARDOUS DUTY PAY.—The Secretary concerned may pay hazardous duty pay under this section to a member of a regular or reserve component of the uniformed services entitled to basic pay under section 204 of this title or compensation under section 206 of this title who—

"(1) performs duty in a hostile fire area designated by the Secretary concerned, is exposed to a hostile fire event, explosion of a hostile explosive device, or any other hostile action, or is on duty during a month in an area in which a hostile event occurred which placed the member in grave danger of physical injury;

"(2) performs duty designated by the Secretary concerned as hazardous duty based upon the inherent dangers of that duty and risks of physical injury; or

"(3) performs duty in a foreign area designated by the Secretary concerned as an area in which the member is subject to imminent danger of physical injury due to threat conditions.

"(b) MAXIMUM AMOUNT.—The amount of hazardous duty pay paid to a member under subsection (a) shall be based on the type of duty and the area in which the duty is performed, as follows:

"(1) In the case of a member who performs duty in a designated hostile fire area, as described in subsection (a)(1), hazardous duty pay may not exceed $450 per month.

"(2) In the case of a member who performs a designated hazardous duty, as described in subsection (a)(2), hazardous duty pay may not exceed $250 per month.

"(3) In the case of a member who performs duty in a foreign area designated as an imminent danger area, as described in subsection (a)(3), hazardous duty pay may not exceed $250 per month.

"(c) METHOD OF PAYMENT.—Hazardous duty pay shall be paid on a monthly basis. A member who is eligible for hazardous duty pay by reason of subsection (a) shall receive the full monthly rate of hazardous duty pay authorized by the Secretary concerned under such paragraph, notwithstanding subsection (d).

"(d) RESERVE COMPONENT MEMBERS PERFORMING INACTIVE DUTY TRAINING.—A member of a reserve component entitled to compensation under section 206 of this title who is authorized hazardous duty pay under this section may be paid an amount of hazardous duty pay that is proportionate to the compensation received by the member under section 206 of this title for inactive-duty training.

"(e) ADMINISTRATION AND RETROACTIVE PAYMENTS.—The effective date for the designation of a hostile fire area, as described in paragraph (1) of subsection (a), and for the designation of a

foreign area as an imminent danger area, as described in paragraph (3) of such subsection, may be a date that occurs before, on, or after the actual date of the designation by the Secretary concerned.

"(f) DETERMINATION OF FACT.—Any determination of fact that is made in administering subsection (a) is conclusive. The determination may not be reviewed by any other officer or agency of the United States unless there has been fraud or gross negligence. However, the Secretary concerned may change the determination on the basis of new evidence or for other good cause. The regulations prescribed to administer this section shall define the activities that are considered hazardous for purposes of subsection (a)(2). Regulations.

"(g) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—

"(1) IN ADDITION TO OTHER PAY AND ALLOWANCES.—A member may be paid hazardous duty pay under this section in addition to any other pay and allowances to which the member is entitled. The regulations prescribed to administer this section shall address dual compensation under this section for multiple circumstances involving performance of a designated hazardous duty, as described in paragraph (2) of subsection (a), or for duty in certain designated areas, as described in paragraph (1) or (3) of such subsection, that is performed by a member during a single month of service. Regulations.

"(2) LIMITATION.—A member may not receive hazardous duty pay under this section for a month for more than three qualifying instances described in subsection (a)(2).

"(h) PROHIBITION ON VARIABLE RATES.—The regulations prescribed to administer this section may not include varied criteria or rates for payment of hazardous duty for officers and enlisted members.

"(i) TERMINATION OF AUTHORITY.—No hazardous duty pay under this section may be paid after December 31, 2009.

**"§ 352. Assignment pay or special duty pay**

"(a) ASSIGNMENT OR SPECIAL DUTY PAY AUTHORIZED.—The Secretary concerned may pay assignment or special duty pay under this section to a member of a regular or reserve component of the uniformed services who—

"(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and

"(2) performs duties in an assignment, location, or unit designated by, and under the conditions of service specified by, the Secretary concerned.

"(b) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

"(1) LUMP SUM OR INSTALLMENTS.—Assignment or special duty pay under subsection (a) may be paid monthly, in a lump sum, or in periodic installments other than monthly, as determined by the Secretary concerned.

"(2) MAXIMUM MONTHLY AMOUNT.—The maximum monthly amount of assignment or special duty pay may not exceed $5,000.

"(3) MAXIMUM LUMP SUM AMOUNT.—The amount of a lump sum payment of assignment or special duty pay payable to a member may not exceed the amount equal to the product of—

"(A) the maximum monthly rate authorized under paragraph (2) at the time the member enters into a written agreement under subsection (c); and

"(B) the number of continuous months in the period for which assignment or special duty pay will be paid pursuant to the agreement.

"(4) MAXIMUM INSTALLMENT AMOUNT.—The amount of each installment payment of assignment or special duty pay payable to a member on an installment basis may not exceed the amount equal to—

"(A) the product of—

"(i) a monthly rate specified in the written agreement entered into under subsection (c), which monthly rate may not exceed the maximum monthly rate authorized under paragraph (2) at the time the member enters into the agreement; and

"(ii) the number of continuous months in the period for which the assignment or special duty pay will be paid; divided by

"(B) the number of installments over such period.

"(5) EFFECT OF EXTENSION.—If a member extends an assignment or performance of duty specified in an agreement with the Secretary concerned under subsection (c), assignment or special duty pay for the period of the extension may be paid on a monthly basis, in a lump sum, or in installments, consistent with this subsection.

"(c) WRITTEN AGREEMENT.—

"(1) DISCRETIONARY FOR MONTHLY PAYMENTS.—The Secretary concerned may require a member to enter into a written agreement with the Secretary in order to qualify for the payment of assignment or special duty pay on a monthly basis. The written agreement shall specify the period for which the assignment or special duty pay will be paid to the member and the monthly rate of the assignment or special duty pay.

"(2) REQUIRED FOR LUMP SUM OR INSTALLMENT PAYMENTS.—The Secretary concerned shall require a member to enter into a written agreement with the Secretary in order to qualify for payment of assignment or special duty pay on a lump sum or installment basis. The written agreement shall specify the period for which the assignment or special duty pay will be paid to the member and the amount of the lump sum or each periodic installment.

"(d) RESERVE COMPONENT MEMBERS PERFORMING INACTIVE DUTY TRAINING.—A member of a reserve component entitled to compensation under section 206 of this title who is authorized assignment or special duty pay under this section may be paid an amount of assignment or special duty pay that is proportionate to the compensation received by the member under section 206 of this title for inactive-duty training.

"(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Assignment or special duty pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

"(f) REPAYMENT.—A member who receives assignment or special duty pay under this section and who fails to fulfill the eligibility requirements under subsection (a) for receipt of such pay shall be subject to the repayment provisions of section 373 of this title.

"(g) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2009.

**"§ 353. Skill incentive pay or proficiency bonus**

"(a) SKILL INCENTIVE PAY.—The Secretary concerned may pay a monthly skill incentive pay to a member of a regular or reserve component of the uniformed services who—

"(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and

"(2) serves in a career field or skill designated as critical by the Secretary concerned.

"(b) SKILL PROFICIENCY BONUS.—The Secretary concerned may pay a proficiency bonus to a member of a regular or reserve component of the uniformed services who—

"(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and

"(2) is determined to have, and maintains, certified proficiency under subsection (d) in a skill designated as critical by the Secretary concerned.

"(c) MAXIMUM AMOUNTS AND METHODS OF PAYMENT.—

"(1) SKILL INCENTIVE PAY.—Skill incentive pay under subsection (a) shall be paid monthly in an amount not to exceed $1,000 per month.

"(2) PROFICIENCY BONUS.—A proficiency bonus under subsection (b) may be paid in a lump sum at the beginning of the proficiency certification period or in periodic installments during the proficiency certification period. The amount of the bonus may not exceed $12,000 for each 12-month period of certification. The Secretary concerned may not vary the criteria or rates for the proficiency bonus paid for officers and enlisted members.

"(d) CERTIFIED PROFICIENCY FOR PROFICIENCY BONUS.—

"(1) CERTIFICATION REQUIRED.—Proficiency in a designated critical skill for purposes of subsection (b) shall be subject to annual certification by the Secretary concerned.

"(2) DURATION OF CERTIFICATION.—A certification period for purposes of subsection (c)(2) shall expire at the end of the one-year period beginning on the first day of the first month beginning on or after the certification date.

"(3) WAIVER.—Notwithstanding paragraphs (1) and (2), the regulations prescribed to administer this section shall address the circumstances under which the Secretary concerned may waive the certification requirement under paragraph (1) or extend a certification period under paragraph (2).

"(e) WRITTEN AGREEMENT.—

"(1) DISCRETIONARY FOR SKILL INCENTIVE PAY.—The Secretary concerned may require a member to enter into a written agreement with the Secretary in order to qualify for the payment of skill incentive pay under subsection (a). The written agreement shall specify the period for which the skill incentive pay will be paid to the member and the monthly rate of the pay.

"(2) REQUIRED FOR PROFICIENCY BONUS.—The Secretary concerned shall require a member to enter into a written agreement with the Secretary in order to qualify for payment of a proficiency bonus under subsection (b). The written agreement shall specify the amount of the proficiency bonus, the period for which the bonus will be paid, and the initial certification or recertification necessary for payment of the proficiency bonus.

"(f) RESERVE COMPONENT MEMBERS PERFORMING INACTIVE DUTY TRAINING.—

"(1) PRORATION.—A member of a reserve component entitled to compensation under section 206 of this title who is authorized skill incentive pay under subsection (a) or a skill proficiency bonus under subsection (b) may be paid an amount of the pay or bonus, as the case may be, that is proportionate to the compensation received by the member under section 206 of this title for inactive-duty training.

"(2) EXCEPTION FOR FOREIGN LANGUAGE PROFICIENCY.—No reduction in the amount of a skill proficiency bonus may be made under paragraph (1) in the case of a member of a reserve component who is authorized the bonus because of the member's proficiency in a foreign language.

"(g) REPAYMENT.—A member who receives skill incentive pay or a proficiency bonus under this section and who fails to fulfill the eligibility requirement for receipt of the pay or bonus shall be subject to the repayment provisions of section 373 of this title.

"(h) RELATIONSHIP TO OTHER PAYS AND ALLOWANCES.—A member may not be paid more than one pay under this section in any month for the same period of service and skill. A member may be paid skill incentive pay or the proficiency bonus under this section in addition to any other pay and allowances to which the member is entitled, except that a member may not be paid skill incentive pay or a proficiency bonus under this section and hazardous duty pay under section 351 of this title for the same period of service in the same career field or skill.

"(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2009.

"SUBCHAPTER III—GENERAL PROVISIONS

**"§ 371. Relationship to other incentives and pays**

"(a) TREATMENT.—A bonus or incentive pay paid to a member of the uniformed services under subchapter II is in addition to any other pay and allowance to which a member is entitled, unless otherwise provided under this chapter.

"(b) EXCEPTION.—A member may not receive a bonus or incentive pay under both subchapter I and subchapter II for the same activity, skill, or period of service.

"(c) RELATIONSHIP TO OTHER COMPUTATIONS.—The amount of a bonus or incentive pay to which a member is entitled under subchapter II may not be included in computing the amount of—

"(1) any increase in pay authorized by any other provision of this title; or

"(2) any retired pay, retainer pay, separation pay, or disability severance pay.

**"§ 372. Continuation of pays during hospitalization and rehabilitation resulting from wounds, injury, or illness incurred while on duty in a hostile fire area or exposed to an event of hostile fire or other hostile action**

"(a) CONTINUATION OF PAYS.—If a member of a regular or reserve component of a uniformed service incurs a wound, injury, or illness in the line of duty while serving in a combat operation or a combat zone, while serving in a hostile fire area, or while

exposed to a hostile fire event, as described under section 351 of this title, and is hospitalized for treatment of the wound, injury, or illness, the Secretary concerned may continue to pay to the member, notwithstanding any provision of this chapter to the contrary, all pay and allowances (including any bonus, incentive pay, or similar benefit) that were being paid to the member at the time the member incurred the wound, injury, or illness.

"(b) DURATION.—The payment of pay and allowances to a member under subsection (a) may continue until the end of the first month beginning after the earliest of the following dates:

"(1) The date on which the member is returned for assignment to other than a medical or patient unit for duty.

"(2) One year after the date on which the member is first hospitalized for the treatment of the wound, injury, or illness, except that the Secretary concerned may extend the termination date in six-month increments.

"(3) The date on which the member is discharged, separated, or retired (including temporary disability retirement) from the uniformed services.

"(c) BONUS, INCENTIVE PAY, OR SIMILAR BENEFIT DEFINED.—In this section, the term 'bonus, incentive pay, or similar benefit' means a bonus, incentive pay, special pay, or similar payment paid to a member of the uniformed services under this title or title 10.

**"§ 373. Repayment of unearned portion of bonus, incentive pay, or similar benefit when conditions of payment not met**

"(a) REPAYMENT.—Except as provided in subsection (b), a member of the uniformed services who is paid a bonus, incentive pay, or similar benefit, the receipt of which is contingent upon the member's satisfaction of certain service or eligibility requirements, shall repay to the United States any unearned portion of the bonus, incentive pay, or similar benefit if the member fails to satisfy any such service or eligibility requirement.

"(b) EXCEPTIONS.—The regulations prescribed to administer this section may specify procedures for determining the circumstances under which an exception to the required repayment may be granted.

"(c) EFFECT OF BANKRUPTCY.—An obligation to repay the United States under this section is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after—

"(1) the date of the termination of the agreement or contract on which the debt is based; or

"(2) in the absence of such an agreement or contract, the date of the termination of the service on which the debt is based.

"(d) DEFINITIONS.—In this section:

"(1) The term 'bonus, incentive pay, or similar benefit' means a bonus, incentive pay, special pay, or similar payment, or an educational benefit or stipend, paid to a member of the uniformed services under a provision of law that refers to the repayment requirements of this section or section 303a(e) of this title.

"(2) The term 'service', as used in subsection (c)(2), refers to an obligation willingly undertaken by a member of the uniformed services, in exchange for a bonus, incentive pay, or similar benefit offered by the Secretary concerned—

"(A) to a member in a regular or reserve component who remains on active duty or in an active status;

"(B) to perform duty in a specified skill, with or without a specified qualification or credential;

"(C) to perform duty in a specified assignment, location or unit; or

"(D) to perform duty for a specified period of time.

**"§ 374. Regulations**

"This subchapter and subchapter II shall be administered under regulations prescribed by—

"(1) the Secretary of Defense, with respect to the armed forces under the jurisdiction of the Secretary of Defense;

"(2) the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy;

"(3) the Secretary of Health and Human Services, with respect to the commissioned corps of the Public Health Service; and

"(4) the Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.".

(b) TRANSFER OF 15-YEAR CAREER STATUS BONUS TO SUBCHAPTER II.—

(1) TRANSFER.—Section 322 of title 37, United States Code, is transferred to appear after section 353 of subchapter II of chapter 5 of such title, as added by subsection (a), and is redesignated as section 354.

(2) CONFORMING AMENDMENT.—Subsection (f) of such section, as so transferred and redesignated, is amended by striking "section 303a(e)" and inserting "section 373". 37 USC 354.

(3) CROSS REFERENCES.—Sections 1401a, 1409(b)(2), and 1410 of title 10, United States Code, are amended by striking "section 322" each place it appears and inserting "section 322 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008) or section 354".

(c) TRANSFER OF RETENTION INCENTIVES FOR MEMBERS QUALIFIED IN CRITICAL MILITARY SKILLS OR ASSIGNED TO HIGH PRIORITY UNITS.—

(1) TRANSFER.—Section 323 of title 37, United States Code, as amended by sections 614 and 622, is transferred to appear after section 354 of subchapter II of chapter 5 of such title, as transferred and redesignated by subsection (b)(1), and is redesignated as section 355.

(2) CONFORMING AMENDMENT.—Subsection (g) of such section, as so transferred and redesignated, is amended by striking "section 303a(e)" and inserting "section 373". 37 USC 355.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 37, United States Code, is amended to read as follows:

"SUBCHAPTER I—EXISTING SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES

"Sec.
"301. Incentive pay: hazardous duty.
"301a. Incentive pay: aviation career.

"301b. Special pay: aviation career officers extending period of active duty.
"301c. Incentive pay: submarine duty.
"301d. Multiyear retention bonus: medical officers of the armed forces.
"301e. Multiyear retention bonus: dental officers of the armed forces.
"302. Special pay: medical officers of the armed forces.
"302a. Special pay: optometrists.
"302b. Special pay: dental officers of the armed forces.
"302c. Special pay: psychologists and nonphysician health care providers.
"302d. Special pay: accession bonus for registered nurses.
"302e. Special pay: nurse anesthetists.
"302f. Special pay: reserve, recalled, or retained health care officers.
"302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties.
"302h. Special pay: accession bonus for dental officers.
"302i. Special pay: pharmacy officers.
"302j. Special pay: accession bonus for pharmacy officers.
"302k. Special pay: accession bonus for medical officers in critically short wartime specialties.
"302l. Special pay: accession bonus for dental specialist officers in critically short wartime specialties.
"303. Special pay: veterinarians.
"303a. Special pay: general provisions.
"303b. Waiver of board certification requirements.
"304. Special pay: diving duty.
"305. Special pay: hardship duty pay.
"305a. Special pay: career sea pay.
"305b. Special pay: service as member of Weapons of Mass Destruction Civil Support Team.
"306. Special pay: officers holding positions of unusual responsibility and of critical nature.
"306a. Special pay: members assigned to international military headquarters.
"307. Special pay: special duty assignment pay for enlisted members.
"307a. Special pay: assignment incentive pay.
"308. Special pay: reenlistment bonus.
"308b. Special pay: reenlistment bonus for members of the Selected Reserve.
"308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve.
"308d. Special pay: members of the Selected Reserve assigned to certain high priority units.
"308g. Special pay: bonus for enlistment in elements of the Ready Reserve other than the Selected Reserve.
"308h. Special pay: bonus for reenlistment, enlistment, or voluntary extension of enlistment in elements of the Ready Reserve other than the Selected Reserve.
"308i. Special pay: prior service enlistment bonus.
"308j. Special pay: affiliation bonus for officers in the Selected Reserve.
"309. Special pay: enlistment bonus.
"310. Special pay: duty subject to hostile fire or imminent danger.
"312. Special pay: nuclear-qualified officers extending period of active duty.
"312b. Special pay: nuclear career accession bonus.
"312c. Special pay: nuclear career annual incentive bonus.
"314. Special pay or bonus: qualified members extending duty at designated locations overseas.
"315. Special pay: engineering and scientific career continuation pay.
"316. Special pay: bonus for members with foreign language proficiency.
"317. Special pay: officers in critical acquisition positions extending period of active duty.
"318. Special pay: special warfare officers extending period of active duty.
"319. Special pay: surface warfare officer continuation pay.
"320. Incentive pay: career enlisted flyers.
"321. Special pay: judge advocate continuation pay.
"324. Special pay: accession bonus for new officers in critical skills.
"325. Incentive bonus: savings plan for education expenses and other contingencies.
"326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage.
"327. Incentive bonus: transfer between armed forces.
"328. Combat-related injury rehabilitation pay.
"329. Incentive bonus: retired members and reserve component members volunteering for high-demand, low-density assignments.
"330. Special pay: accession bonus for officer candidates.

"SUBCHAPTER II—CONSOLIDATION OF SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES

"331. General bonus authority for enlisted members.

"332. General bonus authority for officers.
"333. Special bonus and incentive pay authorities for nuclear officers.
"334. Special aviation incentive pay and bonus authorities for officers.
"335. Special bonus and incentive pay authorities for officers in health professions.
"351. Hazardous duty pay.
"352. Assignment pay or special duty pay.
"353. Skill incentive pay or proficiency bonus.
"354. Special pay: 15-year career status bonus for members entering service on or after August 1, 1986.
"355. Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units.

"SUBCHAPTER III—GENERAL PROVISIONS

"371. Relationship to other incentives and pays.
"372. Continuation of pays during hospitalization and rehabilitation resulting from wounds, injury, or illness incurred while on duty in a hostile fire area or exposed to an event of hostile fire or other hostile action.
"373. Repayment of unearned portion of bonus, incentive pay, or similar benefit when conditions of payment not met.
"374. Regulations.".

37 USC 801 note.

**SEC. 662. TRANSITIONAL PROVISIONS.**

(a) IMPLEMENTATION PLAN.—

(1) DEVELOPMENT.—The Secretary of Defense shall develop a plan to implement subchapters II and III of chapter 5 of title 37, United States Code, as added by section 661(a), and to correspondingly transition all of the special and incentive pay programs for members of the uniformed services solely to provisions of such subchapters.

Deadline.

(2) SUBMISSION.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit the implementation plan to the congressional defense committees.

(b) TRANSITION PERIOD.—During a transition period of not more than 10 years beginning on the date of the enactment of this Act, the Secretary of Defense, the Secretary of a military department, and the Secretaries referred to in subsection (d) may continue to use the authorities in provisions in subchapter I of chapter 5 of title 37, United States Code, as designated by section 661(a), but subject to the terms of such provisions and such modifications as the Secretary of Defense may include in the implementation plan, to provide bonuses and special and incentive pays for members of the uniformed services.

(c) NOTICE OF IMPLEMENTATION OF NEW AUTHORITIES.—Not less than 30 days before the date on which a special pay or bonus authority provided under subchapter II of chapter 5 of title 37, United States Code, as added by section 661(a), is first utilized, the Secretary of Defense shall submit to the congressional defense committees a notice of the implementation of the authority, including whether, as a result of implementation of the authority, a corresponding authority in subchapter I of such chapter, as designated by section 661(a), will no longer be used.

(d) COORDINATION.—The Secretary of Defense shall prepare the implementation plan in coordination with—

(1) the Secretary of Homeland Security, with respect to the Coast Guard;

(2) the Secretary of Health and Human Services, with respect to the commissioned corps of the Public Health Service; and

(3) the Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

(e) NO EFFECT ON FISCAL YEAR 2008 OBLIGATIONS.—During fiscal year 2008, obligations incurred under subchapters I, II, and

III of chapter 5 of title 37, United States Code, as amended by section 661, to provide bonuses, incentive pays, special pays, and similar payments to members of the uniformed services under such subchapters may not exceed the obligations that would be incurred in the absence of the amendments made by such section.

## Subtitle G—Other Matters

**SEC. 671. REFERRAL BONUS AUTHORITIES.**

(a) CODIFICATION AND MODIFICATION OF ARMY REFERRAL BONUS AUTHORITY.—

(1) ARMY REFERRAL BONUS.—Chapter 333 of title 10, United States Code, is amended by inserting after section 3251 the following new section:

**"§ 3252. Bonus to encourage Army personnel to refer persons for enlistment in the Army**

"(a) AUTHORITY TO PAY BONUS.—

"(1) AUTHORITY.—The Secretary of the Army may pay a bonus under this section to an individual referred to in paragraph (2) who refers to an Army recruiter a person who has not previously served in an armed force and who, after such referral, enlists in the regular component of the Army or in the Army National Guard or Army Reserve.

"(2) INDIVIDUALS ELIGIBLE FOR BONUS.—Subject to subsection (c), the following individuals are eligible for a referral bonus under this section:

"(A) A member in the regular component of the Army.

"(B) A member of the Army National Guard.

"(C) A member of the Army Reserve.

"(D) A member of the Army in a retired status, including a member under 60 years of age who, but for age, would be eligible for retired pay.

"(E) A civilian employee of the Department of the Army.

"(b) REFERRAL.—For purposes of this section, a referral for which a bonus may be paid under subsection (a) occurs—

"(1) when the individual concerned contacts an Army recruiter on behalf of a person interested in enlisting in the Army; or

"(2) when a person interested in enlisting in the Army contacts the Army recruiter and informs the recruiter of the role of the individual concerned in initially recruiting the person.

"(c) CERTAIN REFERRALS INELIGIBLE.—

"(1) REFERRAL OF IMMEDIATE FAMILY.—A member of the Army or civilian employee of the Department of the Army may not be paid a bonus under subsection (a) for the referral of an immediate family member.

"(2) MEMBERS IN RECRUITING ROLES.—A member of the Army or civilian employee of the Department of the Army serving in a recruiting or retention assignment, or assigned to other duties regarding which eligibility for a bonus under subsection (a) could (as determined by the Secretary) be perceived as creating a conflict of interest, may not be paid a bonus under subsection (a).

"(3) JUNIOR RESERVE OFFICERS' TRAINING CORPS INSTRUCTORS.—A member of the Army detailed under subsection (c)(1) of section 2031 of this title to serve as an administrator or instructor in the Junior Reserve Officers' Training Corps program or a retired member of the Army employed as an administrator or instructor in the program under subsection (d) of such section may not be paid a bonus under subsection (a).

"(d) AMOUNT OF BONUS.—The amount of the bonus payable for a referral under subsection (a) may not exceed $2,000. The amount shall be payable as provided in subsection (e).

"(e) PAYMENT.—A bonus payable for a referral of a person under subsection (a) shall be paid as follows:

"(1) Not more than $1,000 shall be paid upon the commencement of basic training by the person.

"(2) Not more than $1,000 shall be paid upon the completion of basic training and individual advanced training by the person.

"(f) RELATION TO PROHIBITION ON BOUNTIES.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of this title.

"(g) COORDINATION WITH RECEIPT OF RETIRED PAY.—A bonus paid under this section to a member of the Army in a retired status is in addition to any compensation to which the member is entitled under this title, title 37 or 38, or any other provision of law.

"(h) DURATION OF AUTHORITY.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after December 31, 2008.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3251 the following new item:

"3252. Bonus to encourage Army personnel to refer persons for enlistment in the Army.".

(b) BONUS FOR REFERRAL OF PERSONS FOR APPOINTMENT AS OFFICERS TO SERVE IN HEALTH PROFESSIONS.—

(1) HEALTH PROFESSIONS REFERRAL BONUS.—Chapter 53 of such title is amended by inserting before section 1031 the following new section:

**"§ 1030. Bonus to encourage Department of Defense personnel to refer persons for appointment as officers to serve in health professions**

"(a) AUTHORITY TO PAY BONUS.—

"(1) AUTHORITY.—The Secretary of Defense may authorize the appropriate Secretary to pay a bonus under this section to an individual referred to in paragraph (2) who refers to a military recruiter a person who has not previously served in an armed force and, after such referral, takes an oath of enlistment that leads to appointment as a commissioned officer, or accepts an appointment as a commissioned officer, in an armed force in a health profession designated by the appropriate Secretary for purposes of this section.

"(2) INDIVIDUALS ELIGIBLE FOR BONUS.—Subject to subsection (c), the following individuals are eligible for a referral bonus under this section:

"(A) A member of the armed forces in a regular component of the armed forces.

"(B) A member of the armed forces in a reserve component of the armed forces.

"(C) A member of the armed forces in a retired status, including a member under 60 years of age who, but for age, would be eligible for retired or retainer pay.

"(D) A civilian employee of a military department or the Department of Defense.

"(b) REFERRAL.—For purposes of this section, a referral for which a bonus may be paid under subsection (a) occurs—

"(1) when the individual concerned contacts a military recruiter on behalf of a person interested in taking an oath of enlistment that leads to appointment as a commissioned officer, or accepting an appointment as a commissioned officer, as applicable, in an armed force in a health profession; or

"(2) when a person interested in taking an oath of enlistment that leads to appointment as a commissioned officer, or accepting an appointment as a commissioned officer, as applicable, in an armed force in a health profession contacts a military recruiter and informs the recruiter of the role of the individual concerned in initially recruiting the person.

"(c) CERTAIN REFERRALS INELIGIBLE.—

"(1) REFERRAL OF IMMEDIATE FAMILY.—A member of the armed forces or civilian employee of a military department or the Department of Defense may not be paid a bonus under subsection (a) for the referral of an immediate family member.

"(2) MEMBERS IN RECRUITING ROLES.—A member of the armed forces or civilian employee of a military department or the Department of Defense serving in a recruiting or retention assignment, or assigned to other duties regarding which eligibility for a bonus under subsection (a) could (as determined by the appropriate Secretary) be perceived as creating a conflict of interest, may not be paid a bonus under subsection (a).

"(3) JUNIOR RESERVE OFFICERS' TRAINING CORPS INSTRUCTORS.—A member of the armed forces detailed under subsection (c)(1) of section 2031 of this title to serve as an administrator or instructor in the Junior Reserve Officers' Training Corps program or a retired member of the armed forces employed as an administrator or instructor in the program under subsection (d) of such section may not be paid a bonus under subsection (a).

"(d) AMOUNT OF BONUS.—The amount of the bonus payable for a referral under subsection (a) may not exceed $2,000. The amount shall be payable as provided in subsection (e).

"(e) PAYMENT.—A bonus payable for a referral of a person under subsection (a) shall be paid as follows:

"(1) Not more than $1,000 shall be paid upon the execution by the person of an agreement to serve as an officer in a health profession in an armed force for not less than 3 years,

"(2) Not more than $1,000 shall be paid upon the completion by the person of the initial period of military training as an officer.

"(f) RELATION TO PROHIBITION ON BOUNTIES.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of this title.

"(g) COORDINATION WITH RECEIPT OF RETIRED PAY.—A bonus paid under this section to a member of the armed forces in a retired status is in addition to any compensation to which the member is entitled under this title, title 37 or 38, or any other provision of law.

"(h) APPROPRIATE SECRETARY DEFINED.—In this section, the term 'appropriate Secretary' means—

"(1) the Secretary of the Army, with respect to matters concerning the Army;

"(2) the Secretary of the Navy, with respect to matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy;

"(3) the Secretary of the Air Force, with respect to matters concerning the Air Force; and

"(4) the Secretary of Defense, with respect to personnel of the Department of Defense.

"(i) DURATION OF AUTHORITY.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after December 31, 2008.".

(2) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 1031 the following new item:

"1030. Bonus to encourage Department of Defense personnel to refer persons for appointment as officers to serve in health professions.".

(c) REPEAL OF SUPERSEDED ARMY REFERRAL BONUS AUTHORITY.—

(1) REPEAL.—Section 645 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) is repealed. 119 Stat. 3310.

(2) PAYMENT OF BONUSES UNDER SUPERSEDED AUTHORITY.—Any bonus payable under section 645 of the National Defense Authorization Act for Fiscal Year 2006, as in effect before its repeal by paragraph (1), shall remain payable after that date and shall be paid in accordance with the provisions of such section, as in effect on the day before the date of the enactment of this Act.

**SEC. 672. EXPANSION OF EDUCATION LOAN REPAYMENT PROGRAM FOR MEMBERS OF THE SELECTED RESERVE.**

(a) ADDITIONAL EDUCATIONAL LOANS ELIGIBLE FOR REPAYMENT.—Paragraph (1) of subsection (a) of section 16301 of title 10, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any loan incurred for educational purposes made by a lender that is—

"(i) an agency or instrumentality of a State;

"(ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;

"(iii) a pension fund approved by the Secretary for purposes of this section; or

"(iv) a nonprofit private entity designated by a State, regulated by that State, and approved by the Secretary for purposes of this section.".

(b) PARTICIPATION OF OFFICERS IN PROGRAM.—Such subsection is further amended—

(1) in paragraph (2)—

(A) by striking "Except as provided in paragraph (3), the Secretary" and inserting "The Secretary"; and

(B) by striking "an enlisted member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and military specialty" and inserting "a member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and in an officer program or military specialty"; and

(2) by striking paragraph (3).

(c) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 16301. Education loan repayment program: members of Selected Reserve".**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 1609 of such title is amended by striking the item relating to section 16301 and inserting the following new item:

"16301. Education loan repayment program: members of Selected Reserve.".

**SEC. 673. ENSURING ENTRY INTO UNITED STATES AFTER TIME ABROAD FOR PERMANENT RESIDENT ALIEN MILITARY SPOUSES AND CHILDREN.**

Section 284 of the Immigration and Nationality Act (8 U.S.C. 1354) is amended—

(1) by striking "Nothing" and inserting "(a) Nothing"; and

(2) by adding at the end the following new subsection:

"(b) If a person lawfully admitted for permanent residence is the spouse or child of a member of the Armed Forces of the United States, is authorized to accompany the member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing with the member (in marital union if a spouse), then the residence and physical presence of the person abroad shall not be treated as—

"(1) an abandonment or relinquishment of lawful permanent resident status for purposes of clause (i) of section 101(a)(13)(C); or

"(2) an absence from the United States for purposes of clause (ii) of such section.".

**SEC. 674. OVERSEAS NATURALIZATION FOR MILITARY SPOUSES AND CHILDREN.**

(a) SPOUSES.—Section 319 of the Immigration and Nationality Act (8 U.S.C. 1430) is amended by adding at the end the following new subsection:

"(e)(1) In the case of a person lawfully admitted for permanent residence in the United States who is the spouse of a member of the Armed Forces of the United States, is authorized to accompany such member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing

with the member in marital union, such residence and physical presence abroad shall be treated, for purposes of subsection (a) and section 316(a), as residence and physical presence in—

"(A) the United States; and

"(B) any State or district of the Department of Homeland Security in the United States.

"(2) Notwithstanding any other provision of law, a spouse described in paragraph (1) shall be eligible for naturalization proceedings overseas pursuant to section 1701(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 8 U.S.C. 1443a).".

(b) CHILDREN.—Section 322 of the Immigration and Nationality Act (8 U.S.C. 1433) is amended by adding at the end the following new subsection:

"(d) In the case of a child of a member of the Armed Forces of the United States who is authorized to accompany such member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing with the member—

"(1) any period of time during which the member of the Armed Forces is residing abroad pursuant to official orders shall be treated, for purposes of subsection (a)(2)(A), as physical presence in the United States;

"(2) subsection (a)(5) shall not apply; and

"(3) the oath of allegiance described in subsection (b) may be subscribed to abroad pursuant to section 1701(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 8 U.S.C. 1443a).".

(c) OVERSEAS NATURALIZATION AUTHORITY.—Section 1701(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 8 U.S.C. 1443a) is amended—

(1) in the subsection heading, by inserting "AND THEIR SPOUSES AND CHILDREN" after "FORCES"; and

(2) by inserting ", and persons made eligible for naturalization by section 319(e) or 322(d) of such Act," after "Armed Forces".

Applicability.
8 USC 1430 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and apply to any application for naturalization or issuance of a certificate of citizenship pending on or after such date.

37 USC 559 note.

**SEC. 675. MODIFICATION OF AMOUNT OF BACK PAY FOR MEMBERS OF NAVY AND MARINE CORPS SELECTED FOR PROMOTION WHILE INTERNED AS PRISONERS OF WAR DURING WORLD WAR II TO TAKE INTO ACCOUNT CHANGES IN CONSUMER PRICE INDEX.**

(a) MODIFICATION.—Section 667(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–170) is amended by adding at the end the following new paragraph:

"(3) The amount determined for a person under paragraph (1) shall be increased to reflect increases in cost of living since the basic pay referred to in paragraph (1)(B) was paid to or for that person, calculated on the basis of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.".

(b) RECALCULATION OF PREVIOUS PAYMENTS.—In the case of any payment of back pay made to or for a person under section 667 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 before the date of the enactment of this Act, the Secretary of the Navy shall—

(1) recalculate the amount of back pay to which the person is entitled by reason of the amendment made by subsection (a); and

(2) if the amount of back pay, as so recalculated, exceeds the amount of back pay so paid, pay the person, or the surviving spouse of the person, an amount equal to the excess.

# TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Improvements to Military Health Benefits

Sec. 701. One-year extension of prohibition on increases in certain health care costs for members of the uniformed services.
Sec. 702. Temporary prohibition on increase in copayments under retail pharmacy system of pharmacy benefits program.
Sec. 703. Inclusion of TRICARE retail pharmacy program in Federal procurement of pharmaceuticals.
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Sec. 705. Authority for expansion of persons eligible for continued health benefits coverage.
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Sec. 707. Extension of pilot program for health care delivery.
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Subtitle B—Studies and Reports

Sec. 711. Surveys on continued viability of TRICARE Standard and TRICARE Extra.
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Sec. 713. Report on patient satisfaction surveys.
Sec. 714. Report on medical physical examinations of members of the Armed Forces before their deployment.
Sec. 715. Report and study on multiple vaccinations of members of the Armed Forces.
Sec. 716. Review of gender- and ethnic group-specific mental health services and treatment for members of the Armed Forces.
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Subtitle C—Other Matters

Sec. 721. Prohibition on conversion of military medical and dental positions to civilian medical and dental positions.
Sec. 722. Establishment of Joint Pathology Center.

## Subtitle A—Improvements to Military Health Benefits

### SEC. 701. ONE-YEAR EXTENSION OF PROHIBITION ON INCREASES IN CERTAIN HEALTH CARE COSTS FOR MEMBERS OF THE UNIFORMED SERVICES.

(a) CHARGES UNDER CONTRACTS FOR MEDICAL CARE.—Section 1097(e) of title 10, United States Code, is amended by striking "September 30, 2007" and inserting "September 30, 2008".

(b) CHARGES FOR INPATIENT CARE.—Section 1086(b)(3) of such title is amended by striking "September 30, 2007." and inserting "September 30, 2008".

(c) PREMIUMS UNDER TRICARE COVERAGE FOR CERTAIN MEMBERS IN THE SELECTED RESERVE.—Section 1076d(d)(3) of such title is amended by striking "September 30, 2007" and inserting "September 30, 2008".

**SEC. 702. TEMPORARY PROHIBITION ON INCREASE IN COPAYMENTS UNDER RETAIL PHARMACY SYSTEM OF PHARMACY BENEFITS PROGRAM.**

During the period beginning on October 1, 2007, and ending on September 30, 2008, the cost sharing requirements established under paragraph (6) of section 1074g(a) of title 10, United States Code, for pharmaceutical agents available through retail pharmacies covered by paragraph (2)(E)(ii) of such section may not exceed amounts as follows:

(1) In the case of generic agents, $3.
(2) In the case of formulary agents, $9.
(3) In the case of nonformulary agents, $22.

**SEC. 703. INCLUSION OF TRICARE RETAIL PHARMACY PROGRAM IN FEDERAL PROCUREMENT OF PHARMACEUTICALS.**

(a) IN GENERAL.—Section 1074g of title 10, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) PROCUREMENT OF PHARMACEUTICALS BY TRICARE RETAIL PHARMACY PROGRAM.—With respect to any prescription filled on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008, the TRICARE retail pharmacy program shall be treated as an element of the Department of Defense for purposes of the procurement of drugs by Federal agencies under section 8126 of title 38 to the extent necessary to ensure that pharmaceuticals paid for by the Department of Defense that are provided by pharmacies under the program to eligible covered beneficiaries under this section are subject to the pricing standards in such section 8126.".

10 USC 1074g note.

(b) REGULATIONS.—The Secretary of Defense shall, after consultation with the other administering Secretaries under chapter 55 of title 10, United States Code, modify the regulations under subsection (h) of section 1074g of title 10, United States Code (as redesignated by subsection (a)(1) of this section), to implement the requirements of subsection (f) of section 1074g of title 10, United States Code (as amended by subsection (a)(2) of this section). The Secretary shall so modify such regulations not later than December 31, 2007.

Deadline.

Regulations. 10 USC 1076 note.

**SEC. 704. STIPEND FOR MEMBERS OF RESERVE COMPONENTS FOR HEALTH CARE FOR CERTAIN DEPENDENTS.**

The Secretary of Defense may, pursuant to regulations prescribed by the Secretary, pay a stipend to a member of a reserve component of the Armed Forces who is called or ordered to active duty for a period of more than 30 days for purposes of maintaining civilian health care coverage for a dependant whom the Secretary determines to possess a special health care need that would be best met by remaining in the member's civilian health plan. In making such determination, the Secretary shall consider whether—

(1) the dependent of the member was receiving treatment for the special health care need before the call or order to active duty of the member; and

(2) the call or order to active duty would result in an interruption in treatment or a change in health care provider for such treatment.

**SEC. 705. AUTHORITY FOR EXPANSION OF PERSONS ELIGIBLE FOR CONTINUED HEALTH BENEFITS COVERAGE.**

(a) AUTHORITY TO SPECIFY ADDITIONAL ELIGIBLE PERSONS.—Subsection (b) of section 1078a of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Any other person specified in regulations prescribed by the Secretary of Defense for purposes of this paragraph who loses entitlement to health care services under this chapter or section 1145 of this title, subject to such terms and conditions as the Secretary shall prescribe in the regulations.". Regulations.

(b) ELECTION OF COVERAGE.—Subsection (d) of such section is amended by adding at the end the following new paragraph:

"(4) In the case of a person described in subsection (b)(4), by such date as the Secretary shall prescribe in the regulations required for purposes of that subsection.". Regulations.

(c) PERIOD OF COVERAGE.—Subsection (g)(1) of such section is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) in the case of a person described in subsection (b)(4), the date that is 36 months after the date on which the person loses entitlement to health care services as described in that subsection.".

**SEC. 706. CONTINUATION OF ELIGIBILITY FOR TRICARE STANDARD COVERAGE FOR CERTAIN MEMBERS OF THE SELECTED RESERVE.**

(a) IN GENERAL.—Section 706(f) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2282; 10 U.S.C. 1076d note) is amended—

(1) by striking "Enrollments" and inserting "(1) Except as provided in paragraph (2), enrollments"; and

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

"(2) The enrollment of a member in TRICARE Standard that is in effect on the day before health care under TRICARE Standard is provided pursuant to the effective date in subsection (g) shall not be terminated by operation of the exclusion of eligibility under subsection (a)(2) of such section 1076d, as so amended, for the duration of the eligibility of the member under TRICARE Standard as in effect on October 16, 2006.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2007. 10 USC 1076d note.

**SEC. 707. EXTENSION OF PILOT PROGRAM FOR HEALTH CARE DELIVERY.**

(a) EXTENSION OF DURATION OF PILOT PROGRAM.—Section 721(e) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1988;

10 U.S.C. 1092 note) is amended by striking "and 2007" and inserting ", 2007, 2008, 2009, and 2010".

(b) EXTENSION OF REPORT DEADLINE.—Section 721(f) of such Act is amended by striking "July 1, 2007" and inserting "July 1, 2010".

(c) REVISION IN SELECTION CRITERIA.—Section 721(d)(2) of such Act is amended by striking "expected to increase over the next five years" and inserting "has increased over the five years preceding 2008".

10 USC 1092 note.

(d) ADDITION TO REQUIREMENTS OF PILOT PROGRAM.—Section 721(b) of such Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period and inserting "; and" at the end of paragraph (4); and

(3) by adding at the end the following:

"(5) collaborate with State and local authorities to create an arrangement to share and exchange, between the Department of Defense and non-military health care systems, personal health information and data of military personnel and their families.".

**SEC. 708. INCLUSION OF MENTAL HEALTH CARE IN DEFINITION OF HEALTH CARE AND REPORT ON MENTAL HEALTH CARE SERVICES.**

(a) INCLUSION OF MENTAL HEALTH CARE IN DEFINITION OF HEALTH CARE.—Section 1072 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(10) The term 'health care' includes mental health care.".

(b) REPORT ON ACCESS TO MENTAL HEALTH CARE SERVICES.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the adequacy of access to mental health services under the TRICARE program, including in the geographic areas where surveys on the continued viability of TRICARE Standard and TRICARE Extra are conducted under section 711 of this Act.

## Subtitle B—Studies and Reports

10 USC 1073 note.

**SEC. 711. SURVEYS ON CONTINUED VIABILITY OF TRICARE STANDARD AND TRICARE EXTRA.**

(a) REQUIREMENT FOR SURVEYS.—

(1) IN GENERAL.—The Secretary of Defense shall conduct surveys of health care providers and beneficiaries who use TRICARE in the United States to determine, utilizing a reconciliation of the responses of providers and beneficiaries to such surveys, each of the following:

(A) How many health care providers in TRICARE Prime service areas selected under paragraph (3)(A) are accepting new patients under each of TRICARE Standard and TRICARE Extra.

(B) How many health care providers in geographic areas in which TRICARE Prime is not offered are accepting patients under each of TRICARE Standard and TRICARE Extra.

(C) The availability of mental health care providers in TRICARE Prime service areas selected under paragraph (3)(C) and in geographic areas in which TRICARE Prime is not offered.

(2) BENCHMARKS.—The Secretary shall establish for purposes of the surveys required by paragraph (1) benchmarks for primary care and specialty care providers, including mental health care providers, to be utilized to determine the adequacy of the availability of health care providers to beneficiaries eligible for TRICARE.

(3) SCOPE OF SURVEYS.—The Secretary shall carry out the surveys required by paragraph (1) as follows:

(A) In the case of the surveys required by subparagraph (A) of that paragraph, in at least 20 TRICARE Prime service areas in the United States in each of fiscal years 2008 through 2011.

(B) In the case of the surveys required by subparagraph (B) of that paragraph, in 20 geographic areas in which TRICARE Prime is not offered and in which significant numbers of beneficiaries who are members of the Selected Reserve reside.

(C) In the case of the surveys required by subparagraph (C) of that paragraph, in at least 40 geographic areas.

(4) PRIORITY FOR SURVEYS.—In prioritizing the areas which are to be surveyed under paragraph (1), the Secretary shall—

(A) consult with representatives of TRICARE beneficiaries and health care and mental health care providers to identify locations where TRICARE Standard beneficiaries are experiencing significant levels of access-to-care problems under TRICARE Standard or TRICARE Extra;

(B) give a high priority to surveying health care and mental health care providers in such areas; and

(C) give a high priority to surveying beneficiaries and providers located in geographic areas with high concentrations of members of the Selected Reserve.

(5) INFORMATION FROM PROVIDERS.—The surveys required by paragraph (1) shall include questions seeking to determine from health care and mental health care providers the following:

(A) Whether the provider is aware of the TRICARE program.

(B) What percentage of the provider's current patient population uses any form of TRICARE.

(C) Whether the provider accepts patients for whom payment is made under the medicare program for health care and mental health care services.

(D) If the provider accepts patients referred to in subparagraph (C), whether the provider would accept additional such patients who are not in the provider's current patient population.

(6) INFORMATION FROM BENEFICIARIES.—The surveys required by paragraph (1) shall include questions seeking information to determine from TRICARE beneficiaries whether they have difficulties in finding health care and mental health care providers willing to provide services under TRICARE Standard or TRICARE Extra.

(b) GAO REVIEW.—

(1) ONGOING REVIEW.—The Comptroller General shall, on an ongoing basis, review—

(A) the processes, procedures, and analysis used by the Department of Defense to determine the adequacy of the number of health care and mental health care providers—

(i) that currently accept TRICARE Standard or TRICARE Extra beneficiaries as patients under TRICARE Standard in each TRICARE area as of the date of completion of the review; and

(ii) that would accept TRICARE Standard or TRICARE Extra beneficiaries as new patients under TRICARE Standard or TRICARE Extra, as applicable, within a reasonable time after the date of completion of the review; and

(B) the actions taken by the Department of Defense to ensure ready access of TRICARE Standard beneficiaries to health care and mental health care under TRICARE Standard in each TRICARE area, including any pending or resolved requests for waiver of payment limits in order to improve access to health care or mental health care in a specific geographic area.

(2) REPORTS.—The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives on a bi-annual basis a report on the results of the review under paragraph (1). Each report shall include the following:

(A) An analysis of the adequacy of the surveys under subsection (a).

(B) An identification of any impediments to achieving adequacy of availability of health care and mental health care under TRICARE Standard or TRICARE Extra.

(C) An assessment of the adequacy of Department of Defense education programs to inform health care and mental health care providers about TRICARE Standard and TRICARE Extra.

(D) An assessment of the adequacy of Department of Defense initiatives to encourage health care and mental health care providers to accept patients under TRICARE Standard and TRICARE Extra.

(E) An assessment of the adequacy of information available to TRICARE Standard beneficiaries to facilitate access by such beneficiaries to health care and mental health care under TRICARE Standard and TRICARE Extra.

(F) An assessment of any need for adjustment of health care and mental health care provider payment rates to attract participation in TRICARE Standard by appropriate numbers of health care and mental health care providers.

(G) An assessment of the adequacy of Department of Defense programs to inform members of the Selected Reserve about the TRICARE Reserve Select program.

(H) An assessment of the ability of TRICARE Reserve Select beneficiaries to receive care in their geographic area.

(c) EFFECTIVE DATE.—This section shall take effect on October 1, 2007.

(d) REPEAL OF SUPERSEDED REQUIREMENTS AND AUTHORITY.—Section 723 of the National Defense Authorization Act for Fiscal Year 2004 (10 U.S.C. 1073 note) is repealed, effective as of October 1, 2007.

(e) DEFINITIONS.—In this section:

(1) The term "TRICARE Extra" means the option of the TRICARE program under which TRICARE Standard beneficiaries may obtain discounts on cost-sharing as a result of using TRICARE network providers.

(2) The term "TRICARE Prime" means the managed care option of the TRICARE program.

(3) The term "TRICARE Prime service area" means a geographic area designated by the Department of Defense in which managed care support contractors develop a managed care network under TRICARE Prime.

(4) The term "TRICARE Standard" means the option of the TRICARE program that is also known as the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of title 10, United States Code.

(5) The term "TRICARE Reserve Select" means the option of the TRICARE program that allows members of the Selected Reserve to enroll in TRICARE Standard, pursuant to section 1076d of title 10, United States Code.

(6) The term "member of the Selected Reserve" means a member of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces.

(7) The term "United States" means the United States (as defined in section 101(a) of title 10, United States Code), its possessions (as defined in such section), and the Commonwealth of Puerto Rico.

**SEC. 712. REPORT ON TRAINING IN PRESERVATION OF REMAINS UNDER COMBAT OR COMBAT-RELATED CONDITIONS.**

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the requirements of section 567 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2224; 10 U.S.C. 1481 note).

(b) MATTERS COVERED.—The report shall include a detailed description of the implementation of such section, including—

(1) where the training program is taking place;

(2) who is providing the training;

(3) the number of each type of military health care professional trained to date; and

(4) what the training covers.

(c) DEADLINE.—The report required by this section shall be submitted not later than 180 days after the date of the enactment of this Act.

**SEC. 713. REPORT ON PATIENT SATISFACTION SURVEYS.**

(a) REPORT REQUIRED.—Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the ongoing patient satisfaction surveys taking place in Department of Defense inpatient and outpatient settings at military treatment facilities.

(b) CONTENT.—The report required under subsection (a) shall include the following:

(1) The types of survey questions asked.

(2) How frequently the surveying is conducted.

(3) How often the results are analyzed and reported back to the treatment facilities.

(4) To whom survey feedback is made available.

(5) How best practices are incorporated for quality improvement.

(6) An analysis of the effect of inpatient and outpatient surveys on quality improvement and a comparison of patient satisfaction survey programs with patient satisfaction survey programs used by other public and private health care systems and organizations.

(c) USE OF REPORT INFORMATION.—The Secretary shall use information in the report as the basis for a plan for improvements in patient satisfaction surveys used to assess health care at military treatment facilities in order to ensure the provision of high quality health care and hospital services in such facilities.

**SEC. 714. REPORT ON MEDICAL PHYSICAL EXAMINATIONS OF MEMBERS OF THE ARMED FORCES BEFORE THEIR DEPLOYMENT.**

Not later than April 1, 2008, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the following:

(1) A comparison of the policies of the military departments concerning medical physical examinations of members of the Armed Forces before their deployment, including an identification of instances in which a member (including a member of a reserve component) may be required to undergo multiple physical examinations, from the time of notification of an upcoming deployment through the period of preparation for deployment.

(2) An assessment of the current policies related to, as well as the feasibility of, each of the following:

(A) A single predeployment physical examination for members of the Armed Forces before their deployment.

(B) A single system for tracking electronically the results of examinations under subparagraph (A) that can be shared among the military departments and thereby eliminate redundancy of medical physical examinations for members of the Armed Forces before their deployment.

**SEC. 715. REPORT AND STUDY ON MULTIPLE VACCINATIONS OF MEMBERS OF THE ARMED FORCES.**

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the policies of the Department of Defense for administering and evaluating the vaccination of members of the Armed Forces.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) An assessment of the Department's policies governing the administration of multiple vaccinations in a 24-hour period, including the procedures providing for a full review of an individual's medical history prior to the administration of multiple vaccinations, and whether such policies and procedures

differ for members of the Armed Forces on active duty and members of reserve components.

(2) An assessment of how the Department's policies on multiple vaccinations in a 24-hour period conform to current regulations of the Food and Drug Administration and research performed or being performed by the Centers for Disease Control, other non-military Federal agencies, and non-Federal institutions on multiple vaccinations in a 24-hour period.

(3) An assessment of the Department's procedures for initiating investigations of deaths of members of the Armed Forces in which vaccinations may have played a role, including whether such investigations can be requested by family members of the deceased individuals.

(4) The number of deaths of members of the Armed Forces since May 18, 1998, that the Department has investigated for the potential role of vaccine administration, including both the number of deaths investigated that was alleged to have involved more than one vaccine administered in a given 24-hour period and the number of deaths investigated that was determined to have involved more than one vaccine administered in a given 24-hour period.

(5) An assessment of the procedures for providing the Adjutants General of the various States and territories with up-to-date information on the effectiveness and potential allergic reactions and side effects of vaccines required to be taken by National Guard members.

(6) An assessment of whether procedures are in place to provide that the Adjutants General of the various States and territories retain updated medical records of each National Guard member called up for active duty.

**SEC. 716. REVIEW OF GENDER- AND ETHNIC GROUP-SPECIFIC MENTAL HEALTH SERVICES AND TREATMENT FOR MEMBERS OF THE ARMED FORCES.**

(a) COMPREHENSIVE REVIEW.—The Secretary of Defense shall conduct a comprehensive review of—

(1) the need for gender- and ethnic group-specific mental health treatment and services for members of the Armed Forces; and

(2) the efficacy and adequacy of existing gender- and ethnic group-specific mental health treatment programs and services for members of the Armed Forces, to include availability of and access to such programs.

(b) ELEMENTS.—The review required by subsection (a) shall include, but not be limited to, an assessment of the following:

(1) The need for gender- and ethnic group-specific mental health outreach, prevention, and treatment services for members of the Armed Forces.

(2) The access to and efficacy of existing gender- and ethnic group-specific mental health outreach, prevention, and treatment services and programs (including substance abuse programs).

(3) The availability of gender- and ethnic group-specific services and treatment for members of the Armed Forces who experienced sexual assault or abuse.

(4) The access to and need for treatment facilities focusing on the gender- and ethnic group-specific mental health care needs of members of the Armed Forces.

(5) The need for further clinical research on the gender- and ethnic group-specific needs of members of the Armed Forces who served in a combat zone.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the review required by subsection (a).

**SEC. 717. LICENSED MENTAL HEALTH COUNSELORS AND THE TRICARE PROGRAM.**

10 USC 1073 note.

(a) REGULATIONS.—The Secretary of Defense shall prescribe regulations to establish criteria that licensed or certified mental health counselors shall meet in order to be able to independently provide care to TRICARE beneficiaries and receive payment under the TRICARE program for such services. The criteria shall include requirements for education level, licensure, certification, and clinical experience as considered appropriate by the Secretary.

(b) STUDY REQUIRED.—The Secretary of Defense shall enter into a contract with the Institute of Medicine of the National Academy of Sciences, or another similarly qualified independent academic medical organization, for the purpose of—

(1) conducting an independent study of the credentials, preparation, and training of individuals practicing as licensed mental health counselors; and

(2) making recommendations for permitting licensed mental health counselors to practice independently under the TRICARE program.

(c) ELEMENTS OF STUDY.—

(1) EDUCATIONAL REQUIREMENTS.—The study required by subsection (b) shall provide for an assessment of the educational requirements and curricula relevant to mental health practice for licensed mental health counselors, including types of degrees recognized, certification standards for graduate programs for such profession, and recognition of undergraduate coursework for completion of graduate degree requirements.

(2) LICENSING REQUIREMENTS.—The study required by subsection (b) shall provide for an assessment of State licensing requirements for licensed mental health counselors, including for each level of licensure if a State issues more than one type of license for the profession. The assessment shall examine requirements in the areas of education, training, examination, continuing education, and ethical standards, and shall include an evaluation of the extent to which States authorize members of the licensed mental health counselor profession to diagnose and treat mental illnesses.

(3) CLINICAL EXPERIENCE REQUIREMENTS.—The study required by subsection (b) shall provide for an analysis of the requirements for clinical experience for a licensed mental health counselor to be recognized under regulations for the TRICARE program, and recommendations, if any, for standardization or adjustment of such requirements.

(4) INDEPENDENT PRACTICE UNDER OTHER FEDERAL PROGRAMS.—The study required by subsection (b) shall provide for an assessment of the extent to which licensed mental health

counselors are authorized to practice independently under other Federal programs (such as the Medicare program, the Department of Veterans Affairs, the Indian Health Service, and Head Start), and a review of the relationship, if any, between recognition of mental health professions under the Medicare program and independent practice authority for such profession under the TRICARE program.

(5) INDEPENDENT PRACTICE UNDER FEHBP.—The study required by subsection (b) shall provide for an assessment of the extent to which licensed mental health counselors are authorized to practice independently under the Federal Employee Health Benefits Program and private insurance plans. The assessment shall identify the States having laws requiring private insurers to cover, or offer coverage of, the services of members of licensed mental health counselors and shall identify the conditions, if any, that are placed on coverage of practitioners under the profession by insurance plans and how frequently these types of conditions are used by insurers.

(6) HISTORICAL REVIEW OF REGULATIONS.—The study required by subsection (b) shall provide for a review of the history of regulations prescribed by the Department of Defense regarding which members of the mental health profession are recognized as providers under the TRICARE program as independent practitioners, and an examination of the recognition by the Department of third-party certification for members of such profession.

(7) CLINICAL CAPABILITIES STUDIES.—The study required by subsection (b) shall include a review of outcome studies and of the literature regarding the comparative quality and effectiveness of care provided by licensed mental health counselors and provide an independent review of the findings.

(d) RECOMMENDATIONS FOR TRICARE INDEPENDENT PRACTICE AUTHORITY.—The recommendations provided under subsection (b)(2) shall include recommendations regarding modifications of current policy for the TRICARE program with respect to allowing licensed mental health counselors to practice independently under the TRICARE program.

(e) REPORT.—Not later than March 1, 2009, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review required by subsection (b).

**SEC. 718. REPORT ON FUNDING OF THE DEPARTMENT OF DEFENSE FOR HEALTH CARE.**

10 USC 221 note.

(a) REPORT.—If the President submits to Congress the budget for a fiscal year under section 1105 of title 31, United States Code, and the aggregate amount included in that budget for the Department of Defense for health care for such fiscal year is less than the aggregate amount provided by Congress for the Department for health care for the preceding fiscal year, and, in the case of the Department, the total allocation from the Defense Health Program to any military department is less than the total of such allocation in the preceding fiscal year, the President shall submit to Congress a report on—

President.

(1) the reasons for the determination that inclusion of a lesser aggregate amount or allocation to any military department is in the national interest; and

(2) the anticipated effects of the inclusion of such lesser aggregate amount or allocation to any military department on the access to and delivery of medical and support services to members of the Armed Forces and their family members.

(b) TERMINATION.—The section shall not be in effect after December 31, 2017.

## Subtitle C—Other Matters

10 USC 129c note.

**SEC. 721. PROHIBITION ON CONVERSION OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL AND DENTAL POSITIONS.**

(a) PROHIBITION.—The Secretary of a military department may not convert any military medical or dental position to a civilian medical or dental position during the period beginning on October 1, 2007, and ending on September 30, 2012.

(b) RESTORATION OF CERTAIN POSITIONS TO MILITARY POSITIONS.—In the case of any military medical or dental position that is converted to a civilian medical or dental position during the period beginning on October 1, 2004, and ending on September 30, 2008, if the position is not filled by a civilian by September 30, 2008, the Secretary of the military department concerned shall restore the position to a military medical or dental position that can be filled only by a member of the Armed Forces who is a health professional.

(c) REPORT.—

(1) REQUIREMENT.—The Secretary of Defense shall submit to the congressional defense committees a report on conversions made during fiscal year 2007 not later than 180 days after the enactment of this Act.

(2) MATTERS COVERED.—The report shall include the following:

(A) The number of military medical or dental positions, by grade or band and specialty, converted to civilian medical or dental positions.

(B) The results of a market survey in each affected area of the availability of civilian medical and dental care providers in such area in order to determine whether there were civilian medical and dental care providers available in such area adequate to fill the civilian positions created by the conversion of military medical and dental positions to civilian positions in such area.

(C) An analysis, by affected area, showing the extent to which access to health care and cost of health care was affected in both the direct care and purchased care systems, including an assessment of the effect of any increased shifts in patient load from the direct care to the purchased care system, or any delays in receipt of care in either the direct or purchased care system because of the conversions.

(D) The extent to which military medical and dental positions converted to civilian medical or dental positions affected recruiting and retention of uniformed medical and dental personnel.

(E) A comparison of the full costs for the military medical and dental positions converted with the full costs

for civilian medical and dental positions, including expenses such as recruiting, salary, benefits, training, and any other costs the Department identifies.

(F) An assessment showing that the military medical or dental positions converted were in excess of the military medical and dental positions needed to meet medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

(d) DEFINITIONS.—In this section:

(1) The term "military medical or dental position" means a position for the performance of health care functions within the Armed Forces held by a member of the Armed Forces.

(2) The term "civilian medical or dental position" means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

(3) The term "uniformed services" has the meaning given that term in section 1072(1) of title 10, United States Code.

(4) The term "conversion", with respect to a military medical or dental position, means a change of the position to a civilian medical or dental position, effective as of the date of the manning authorization document of the military department making the change (through a change in designation from military to civilian in the document, the elimination of the listing of the position as a military position in the document, or through any other means indicating the change in the document or otherwise).

(e) REPEAL.—Section 742 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2306) is repealed.

10 USC 129c note.

**SEC. 722. ESTABLISHMENT OF JOINT PATHOLOGY CENTER.**

10 USC 176 note.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense proposed to disestablish all elements of the Armed Forces Institute of Pathology, except the National Medical Museum and the Tissue Repository, as part of the recommendations of the Secretary for the closure of Walter Reed Army Medical Center in the 2005 round of defense base closure and realignment.

(2) The Defense Base Closure and Realignment Commission altered, but did not reject, the proposal of the Secretary of Defense to disestablish the Armed Forces Institute of Pathology.

(3) The Commission's recommendation that the Armed Forces Institute of Pathology's "capabilities not specified in this recommendation will be absorbed into other DOD, Federal, or civilian facilities" provides the flexibility to retain a Joint Pathology Center as a Department of Defense or Federal entity.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Armed Forces Institute of Pathology has provided important medical benefits to the Armed Forces and to the United States and that the Federal Government should retain a Joint Pathology Center.

(c) ESTABLISHMENT.—

President.

(1) ESTABLISHMENT REQUIRED.—The President shall establish and maintain a Joint Pathology Center that shall function as the reference center in pathology for the Federal Government.

(2) ESTABLISHMENT WITHIN DOD.—Except as provided in paragraph (3), the Joint Pathology Center shall be established in the Department of Defense, consistent with the final recommendations of the 2005 Defense Base Closure and Realignment Commission, as approved by the President.

Deadline.

(3) ESTABLISHMENT IN ANOTHER DEPARTMENT.—If the President makes a determination, within 180 days after the date of the enactment of this Act, that the Joint Pathology Center cannot be established in the Department of Defense, the Joint Pathology Center shall be established as an element of a Federal agency other than the Department of Defense. The President shall incorporate the selection of such agency into the determination made under this paragraph.

(d) SERVICES.—The Joint Pathology Center shall provide, at a minimum, the following:

(1) Diagnostic pathology consultation services in medicine, dentistry, and veterinary sciences.

(2) Pathology education, to include graduate medical education, including residency and fellowship programs, and continuing medical education.

(3) Diagnostic pathology research.

(4) Maintenance and continued modernization of the Tissue Repository and, as appropriate, utilization of the Repository in conducting the activities described in paragraphs (1) through (3).

Acquisition Improvement and Accountability Act of 2007.

# TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Sec. 800. Short title.

Subtitle A—Acquisition Policy and Management

Sec. 801. Internal controls for procurements on behalf of the Department of Defense by certain non-Defense agencies.
Sec. 802. Lead systems integrators.
Sec. 803. Reinvestment in domestic sources of strategic materials.
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Sec. 810. Clarification of limited acquisition authority for Special Operations Command.

Subtitle B—Provisions Relating to Major Defense Acquisition Programs

Sec. 811. Requirements applicable to multiyear contracts for the procurement of major systems of the Department of Defense.
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Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

Sec. 821. Plan for restricting Government-unique contract clauses on commercial contracts.
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Sec. 823. Five-year extension of authority to carry out certain prototype projects.
Sec. 824. Exemption of Special Operations Command from certain requirements for certain contracts relating to vessels, aircraft, and combat vehicles.
Sec. 825. Provision of authority to maintain equipment to unified combatant command for joint warfighting.
Sec. 826. Market research.
Sec. 827. Modification of competition requirements for purchases from Federal Prison Industries.
Sec. 828. Multiyear contract authority for electricity from renewable energy sources.
Sec. 829. Procurement of fire resistant rayon fiber for the production of uniforms from foreign sources.
Sec. 830. Comptroller General review of noncompetitive awards of congressional and executive branch interest items.

Subtitle D—Accountability in Contracting

Sec. 841. Commission on Wartime Contracting in Iraq and Afghanistan.
Sec. 842. Investigation of waste, fraud, and abuse in wartime contracts and contracting processes in Iraq and Afghanistan.
Sec. 843. Enhanced competition requirements for task and delivery order contracts.
Sec. 844. Public disclosure of justification and approval documents for noncompetitive contracts.
Sec. 845. Disclosure of government contractor audit findings.
Sec. 846. Protection for contractor employees from reprisal for disclosure of certain information.
Sec. 847. Requirements for senior Department of Defense officials seeking employment with defense contractors.
Sec. 848. Report on contractor ethics programs of Major Defense contractors.
Sec. 849. Contingency contracting training for personnel outside the acquisition workforce and evaluations of Army Commission recommendations.

Subtitle E—Acquisition Workforce Provisions

Sec. 851. Requirement for section on defense acquisition workforce in strategic human capital plan.
Sec. 852. Department of Defense Acquisition Workforce Development Fund.
Sec. 853. Extension of authority to fill shortage category positions for certain Federal acquisition positions.
Sec. 854. Repeal of sunset of acquisition workforce training fund.
Sec. 855. Federal acquisition workforce improvements.

Subtitle F—Contracts in Iraq and Afghanistan

Sec. 861. Memorandum of understanding on matters relating to contracting.
Sec. 862. Contractors performing private security functions in areas of combat operations.
Sec. 863. Comptroller General reviews and reports on contracting in Iraq and Afghanistan.
Sec. 864. Definitions and other general provisions.

Subtitle G—Defense Materiel Readiness Board

Sec. 871. Establishment of Defense Materiel Readiness Board.
Sec. 872. Critical materiel readiness shortfalls.

Subtitle H—Other Matters

Sec. 881. Clearinghouse for rapid identification and dissemination of commercial information technologies.
Sec. 882. Authority to license certain military designations and likenesses of weapons systems to toy and hobby manufacturers.
Sec. 883. Modifications to limitation on contracts to acquire military flight simulator.
Sec. 884. Requirements relating to waivers of certain domestic source limitations relating to specialty metals.
Sec. 885. Telephone services for military personnel serving in combat zones.
Sec. 886. Enhanced authority to acquire products and services produced in Iraq and Afghanistan.

Sec. 887. Defense Science Board review of Department of Defense policies and procedures for the acquisition of information technology.
Sec. 888. Green procurement policy.
Sec. 889. Comptroller General review of use of authority under the Defense Production Act of 1950.
Sec. 890. Prevention of export control violations.
Sec. 891. Procurement goal for Native Hawaiian-serving institutions and Alaska Native-serving institutions.
Sec. 892. Competition for procurement of small arms supplied to Iraq and Afghanistan.

10 USC 101 note.

**SEC. 800. SHORT TITLE.**

This title may be cited as the "Acquisition Improvement and Accountability Act of 2007".

# Subtitle A—Acquisition Policy and Management

10 USC 2304 note.

**SEC. 801. INTERNAL CONTROLS FOR PROCUREMENTS ON BEHALF OF THE DEPARTMENT OF DEFENSE BY CERTAIN NON-DEFENSE AGENCIES.**

(a) INSPECTORS GENERAL REVIEWS AND DETERMINATIONS.—

(1) IN GENERAL.—For each covered non-defense agency, the Inspector General of the Department of Defense and the Inspector General of such covered non-defense agency shall, not later than the date specified in paragraph (2), jointly—

(A) review—

(i) the procurement policies, procedures, and internal controls of such covered non-defense agency that are applicable to the procurement of property and services on behalf of the Department by such covered non-defense agency; and

(ii) the administration of such policies, procedures, and internal controls; and

(B) determine in writing whether such covered non-defense agency is or is not compliant with defense procurement requirements.

(2) DEADLINE FOR REVIEWS AND DETERMINATIONS.—The reviews and determinations required by paragraph (1) shall take place as follows:

(A) In the case of the General Services Administration, by not later than March 15, 2010.

(B) In the case of each of the Department of the Treasury, the Department of the Interior, and the National Aeronautics and Space Administration, by not later than March 15, 2011.

(C) In the case of each of the Department of Veterans Affairs and the National Institutes of Health, by not later than March 15, 2012.

(3) SEPARATE REVIEWS AND DETERMINATIONS.—The Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency may by joint agreement conduct separate reviews of the procurement of property and services on behalf of the Department of Defense that are conducted by separate business units, or under separate government-wide acquisition contracts, of the covered non-defense agency. If such separate reviews are conducted, the

Inspectors General shall make a separate determination under paragraph (1)(B) with respect to each such separate review.

(4) MEMORANDA OF UNDERSTANDING FOR REVIEWS AND DETERMINATIONS.—Not later than one year before a review and determination is required under this subsection with respect to a covered non-defense agency, the Inspector General of the Department of Defense and the Inspector General of the covered non-defense agency shall enter into a memorandum of understanding with each other to carry out such review and determination. Deadline.

(5) TERMINATION OF NON-COMPLIANCE DETERMINATION.—If the Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency determine, pursuant to paragraph (1)(B), that a covered non-defense agency is not compliant with defense procurement requirements, the Inspectors General shall terminate such a determination effective on the date on which the Inspectors General jointly—

(A) determine that the non-defense agency is compliant with defense procurement requirements; and

(B) notify the Secretary of Defense of that determination. Notification.

(6) RESOLUTION OF DISAGREEMENTS.—If the Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency are unable to agree on a joint determination under this subsection, a determination by the Inspector General of the Department of Defense under this subsection shall be conclusive for the purposes of this section.

(b) LIMITATION ON PROCUREMENTS ON BEHALF OF DEPARTMENT OF DEFENSE.—

(1) Except as provided in paragraph (2), an acquisition official of the Department of Defense may place an order, make a purchase, or otherwise procure property or services for the Department of Defense in excess of the simplified acquisition threshold through a non-defense agency only if—

(A) in the case of a procurement by any non-defense agency in any fiscal year, the head of the non-defense agency has certified that the non-defense agency will comply with defense procurement requirements for the fiscal year;

(B) in the case of—

(i) a procurement by a covered non-defense agency in a fiscal year for which a memorandum of understanding is required by subsection (a)(4), the Inspector General of the Department of Defense and the Inspector General of the covered non-defense agency have entered into such a memorandum of understanding; or

(ii) a procurement by a covered non-defense agency in a fiscal year following the Inspectors General review and determination required by subsection (a), the Inspectors General have determined that a covered non-defense agency is compliant with defense procurement requirements or have terminated a prior determination of non-compliance in accordance with subsection (a)(5); and

(C) the procurement is not otherwise prohibited by section 817 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364) or section 811 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163).

(2) EXCEPTION FOR PROCUREMENTS OF NECESSARY PROPERTY AND SERVICES.—

(A) IN GENERAL.—The limitation in paragraph (1) shall not apply to the procurement of property and services on behalf of the Department of Defense by a non-defense agency during any fiscal year for which there is in effect a written determination of the Under Secretary of Defense for Acquisition, Technology, and Logistics that it is necessary in the interest of the Department of Defense to procure property and services through the non-defense agency during such fiscal year.

(B) SCOPE OF PARTICULAR EXCEPTION.—A written determination with respect to a non-defense agency under subparagraph (A) shall apply to any category of procurements through the non-defense agency that is specified in the determination.

(c) GUIDANCE ON INTERAGENCY CONTRACTING.—

Deadline.

(1) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall issue guidance on the use of interagency contracting by the Department of Defense.

(2) MATTERS COVERED.—The guidance required by paragraph (1) shall address the circumstances in which it is appropriate for Department of Defense acquisition officials to procure goods or services through a contract entered into by an agency outside the Department of Defense. At a minimum, the guidance shall address—

(A) the circumstances in which it is appropriate for such acquisition officials to use direct acquisitions;

(B) the circumstances in which it is appropriate for such acquisition officials to use assisted acquisitions;

(C) the circumstances in which it is appropriate for such acquisition officials to use interagency contracting to acquire items unique to the Department of Defense and the procedures for approving such interagency contracting;

(D) the circumstances in which it is appropriate for such acquisition officials to use interagency contracting to acquire items that are already being provided under a contract awarded by the Department of Defense;

(E) tools that should be used by such acquisition officials to determine whether items are already being provided under a contract awarded by the Department of Defense; and

(F) procedures for ensuring that defense procurement requirements are identified and communicated to outside agencies involved in interagency contracting.

(d) COMPLIANCE WITH DEFENSE PROCUREMENT REQUIREMENTS.—For the purposes of this section, a non-defense agency is compliant with defense procurement requirements if the procurement policies, procedures, and internal controls of the non-defense agency applicable to the procurement of products and services on

behalf of the Department of Defense, and the manner in which they are administered, are adequate to ensure the compliance of the non-defense agency with the requirements of laws and regulations (including applicable Department of Defense financial management regulations) that apply to procurements of property and services made directly by the Department of Defense.

(e) TREATMENT OF PROCUREMENTS FOR FISCAL YEAR PURPOSES.—For the purposes of this section, a procurement shall be treated as being made during a particular fiscal year to the extent that funds are obligated by the Department of Defense for the procurement in that fiscal year.

(f) DEFINITIONS.—In this section:

(1) NON-DEFENSE AGENCY.—The term "non-defense agency" means any department or agency of the Federal Government other than the Department of Defense. Such term includes a covered non-defense agency.

(2) COVERED NON-DEFENSE AGENCY.—The term "covered non-defense agency" means each of the following:

(A) The General Services Administration.

(B) The Department of the Treasury.

(C) The Department of the Interior.

(D) The National Aeronautics and Space Administration.

(E) The Department of Veterans Affairs.

(F) The National Institutes of Health.

(3) GOVERNMENT-WIDE ACQUISITION CONTRACT.—The term "government-wide acquisition contract" means a task or delivery order contract that—

(A) is entered into by a non-defense agency; and

(B) may be used as the contract under which property or services are procured for one or more other departments or agencies of the Federal Government.

(4) SIMPLIFIED ACQUISITION THRESHOLD.—The term "simplified acquisition threshold" has the meaning provided by section 2302(7) of title 10, United States Code.

(5) INTERAGENCY CONTRACTING.—The term "interagency contracting" means the exercise of the authority under section 1535 of title 31, United States Code, or other statutory authority, for Federal agencies to purchase goods and services under contracts entered into or administered by other agencies.

(6) ACQUISITION OFFICIAL.—The term "acquisition official", with respect to the Department of Defense, means—

(A) a contracting officer of the Department of Defense; or

(B) any other Department of Defense official authorized to approve a direct acquisition or an assisted acquisition on behalf of the Department of Defense.

(7) DIRECT ACQUISITION.—The term "direct acquisition", with respect to the Department of Defense, means the type of interagency contracting through which the Department of Defense orders an item or service from a government-wide acquisition contract maintained by a non-defense agency.

(8) ASSISTED ACQUISITION.—The term "assisted acquisition", with respect to the Department of Defense, means the type of interagency contracting through which acquisition officials of a non-defense agency award a contract or task or delivery

order for the procurement of goods or services on behalf of the Department of Defense.

10 USC 2410p note. Effective dates. Contracts.

**SEC. 802. LEAD SYSTEMS INTEGRATORS.**

(a) PROHIBITIONS ON THE USE OF LEAD SYSTEMS INTEGRATORS.—

(1) PROHIBITION ON NEW LEAD SYSTEMS INTEGRATORS.—Effective October 1, 2010, the Department of Defense may not award a new contract for lead systems integrator functions in the acquisition of a major system to any entity that was not performing lead systems integrator functions in the acquisition of the major system prior to the date of the enactment of this Act.

(2) PROHIBITION ON LEAD SYSTEMS INTEGRATORS BEYOND LOW-RATE INITIAL PRODUCTION.—Effective on the date of the enactment of this Act, the Department of Defense may award a new contract for lead systems integrator functions in the acquisition of a major system only if—

(A) the major system has not yet proceeded beyond low-rate initial production; or

(B) the Secretary of Defense determines in writing that it would not be practicable to carry out the acquisition without continuing to use a contractor to perform lead systems integrator functions and that doing so is in the best interest of the Department.

(3) REQUIREMENTS RELATING TO DETERMINATIONS.—A determination under paragraph (2)(B)—

(A) shall specify the reasons why it would not be practicable to carry out the acquisition without continuing to use a contractor to perform lead systems integrator functions (including a discussion of alternatives, such as the use of the Department of Defense workforce, or a system engineering and technical assistance contractor);

(B) shall include a plan for phasing out the use of contracted lead systems integrator functions over the shortest period of time consistent with the interest of the national defense;

(C) may not be delegated below the level of the Under Secretary of Defense for Acquisition, Technology, and Logistics; and

(D) shall be provided to the Committees on Armed Services of the Senate and the House of Representatives at least 45 days before the award of a contract pursuant to the determination.

(b) ACQUISITION WORKFORCE.—

(1) REQUIREMENT.—The Secretary of Defense shall ensure that the acquisition workforce is of the appropriate size and skill level necessary—

(A) to accomplish inherently governmental functions related to acquisition of major systems; and

(B) to effectuate the purpose of subsection (a) to minimize and eventually eliminate the use of contractors to perform lead systems integrator functions.

(2) REPORT.—The Secretary shall include an update on the progress made in complying with paragraph (1) in the annual report required by section 820 of the John Warner

National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2330).

(c) EXCEPTION FOR CONTRACTS FOR OTHER MANAGEMENT SERVICES.—The Department of Defense may continue to award contracts for the procurement of services the primary purpose of which is to perform acquisition support functions with respect to the development or production of a major system, if the following conditions are met with respect to each such contract:

(1) The contract prohibits the contractor from performing inherently governmental functions.

(2) The Department of Defense organization responsible for the development or production of the major system ensures that Federal employees are responsible for—

(A) determining courses of action to be taken in the best interest of the government; and

(B) determining best technical performance for the warfighter.

(3) The contract requires that the prime contractor for the contract may not advise or recommend the award of a contract or subcontract for the development or production of the major system to an entity owned in whole or in part by the prime contractor.

(d) DEFINITIONS.—In this section:

(1) LEAD SYSTEMS INTEGRATOR.—The term "lead systems integrator" means—

(A) a prime contractor for the development or production of a major system, if the prime contractor is not expected at the time of award to perform a substantial portion of the work on the system and the major subsystems; or

(B) a prime contractor under a contract for the procurement of services the primary purpose of which is to perform acquisition functions closely associated with inherently governmental functions with respect to the development or production of a major system.

(2) MAJOR SYSTEM.—The term "major system" has the meaning given such term in section 2302d of title 10, United States Code.

(3) LOW-RATE INITIAL PRODUCTION.—The term "low-rate initial production" has the meaning given such term in section 2400 of title 10, United States Code.

**SEC. 803. REINVESTMENT IN DOMESTIC SOURCES OF STRATEGIC MATERIALS.**

(a) ASSESSMENT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Strategic Materials Protection Board established pursuant to section 187 of title 10, United States Code, shall perform an assessment of the extent to which domestic producers of strategic materials are investing and planning to invest on a sustained basis in the processes, infrastructure, workforce training, and facilities required for the continued domestic production of such materials to meet national defense requirements. Deadline.

(b) COOPERATION OF DOMESTIC PRODUCERS.—The Department of Defense may take into consideration the degree of cooperation of any domestic producer of strategic materials with the assessment conducted under subsection (a) when determining how much weight to accord any comments provided by such domestic producer

regarding a proposed waiver of domestic source limitations pursuant to section 2533b of title 10, United States Code.

(c) REPORT TO CONGRESSIONAL DEFENSE COMMITTEES.—The Board shall include the findings and recommendations of the assessment required by subsection (a) in the first report submitted to Congress pursuant to section 187(d) of title 10, United States Code, after the completion of such assessment.

(d) DEFINITION.—The term "strategic material" means—

(1) a material designated as critical to national security by the Strategic Materials Protection Board in accordance with section 187 of title 10, United States Code; or

(2) a specialty metal as defined by section 2533b of title 10, United States Code.

**SEC. 804. CLARIFICATION OF THE PROTECTION OF STRATEGIC MATERIALS CRITICAL TO NATIONAL SECURITY.**

(a) PROHIBITION.—Subsection (a) of section 2533b of title 10, United States Code, is amended—

(1) by striking "Except as provided in subsections (b) through (j), funds appropriated or otherwise available to the Department of Defense may not be used for the procurement of—" and inserting "Except as provided in subsections (b) through (m), the acquisition by the Department of Defense of the following items is prohibited:";

(2) in paragraph (1)—

(A) by striking "the following" and inserting "The following"; and

(B) by striking "; or" and inserting a period; and

(3) in paragraph (2), by striking "a speciality" and inserting "A specialty".

(b) APPLICABILITY TO ACQUISITION OF COMMERCIAL ITEMS.—Subsection (h) of such section is amended to read as follows:

"(h) APPLICABILITY TO ACQUISITIONS OF COMMERCIAL ITEMS.—(1) Except as provided in paragraphs (2) and (3), this section applies to acquisitions of commercial items, notwithstanding sections 34 and 35 of the Office of Federal Procurement Policy Act (41 U.S.C. 430 and 431).

"(2) This section does not apply to contracts or subcontracts for the acquisition of commercially available off-the-shelf items, as defined in section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c)), other than—

"(A) contracts or subcontracts for the acquisition of specialty metals, including mill products, such as bar, billet, slab, wire, plate and sheet, that have not been incorporated into end items, subsystems, assemblies, or components;

"(B) contracts or subcontracts for the acquisition of forgings or castings of specialty metals, unless such forgings or castings are incorporated into commercially available off-the-shelf end items, subsystems, or assemblies;

"(C) contracts or subcontracts for commercially available high performance magnets unless such high performance magnets are incorporated into commercially available off-the-shelf-end items or subsystems; and

"(D) contracts or subcontracts for commercially available off-the-shelf fasteners, unless such fasteners are—

"(i) incorporated into commercially available off-the-shelf end items, subsystems, assemblies, or components; or

"(ii) purchased as provided in paragraph (3).

"(3) This section does not apply to fasteners that are commercial items that are purchased under a contract or subcontract with a manufacturer of such fasteners, if the manufacturer has certified that it will purchase, during the relevant calendar year, an amount of domestically melted specialty metal, in the required form, for use in the production of such fasteners for sale to the Department of Defense and other customers, that is not less than 50 percent of the total amount of the specialty metal that it will purchase to carry out the production of such fasteners.".

(c) ELECTRONIC COMPONENTS.—Subsection (g) of such section is amended by striking "commercially available" and all that follows through the end of the subsection and inserting "electronic components, unless the Secretary of Defense, upon the recommendation of the Strategic Materials Protection Board pursuant to section 187 of this title, determines that the domestic availability of a particular electronic component is critical to national security.".

(d) ADDITIONAL EXCEPTIONS.—Section 2533b of title 10, United States Code, as amended by subsections (a), (b), and (c), is further amended—

(1) by redesignating subsections (i) and (j) as subsections (l) and (m), respectively; and

(2) by inserting after subsection (h) the following new subsections:

"(i) EXCEPTIONS FOR PURCHASES OF SPECIALTY METALS BELOW MINIMUM THRESHOLD.—(1) Notwithstanding subsection (a), the Secretary of Defense or the Secretary of a military department may accept delivery of an item containing specialty metals that were not melted in the United States if the total amount of noncompliant specialty metals in the item does not exceed 2 percent of the total weight of specialty metals in the item.

"(2) This subsection does not apply to high performance magnets.

"(j) STREAMLINED COMPLIANCE FOR COMMERCIAL DERIVATIVE MILITARY ARTICLES.—(1) Subsection (a) shall not apply to an item acquired under a prime contract if the Secretary of Defense or the Secretary of a military department determines that—

"(A) the item is a commercial derivative military article; and

"(B) the contractor certifies that the contractor and its subcontractors have entered into a contractual agreement, or agreements, to purchase an amount of domestically melted specialty metal in the required form, for use during the period of contract performance in the production of the commercial derivative military article and the related commercial article, that is not less than the greater of— Certification.

"(i) an amount equivalent to 120 percent of the amount of specialty metal that is required to carry out the production of the commercial derivative military article (including the work performed under each subcontract); or

"(ii) an amount equivalent to 50 percent of the amount of specialty metal that is purchased by the contractor and

its subcontractors for use during such period in the production of the commercial derivative military article and the related commercial article.

"(2) For the purposes of this subsection, the amount of specialty metal that is required to carry out the production of the commercial derivative military article includes specialty metal contained in any item, including commercially available off-the-shelf items, incorporated into such commercial derivative military article.

Determination.

"(k) NATIONAL SECURITY WAIVER.—(1) Notwithstanding subsection (a), the Secretary of Defense may accept the delivery of an end item containing noncompliant materials if the Secretary determines in writing that acceptance of such end item is necessary to the national security interests of the United States.

"(2) A written determination under paragraph (1)—

"(A) may not be delegated below the level of the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition, Technology, and Logistics;

"(B) shall specify the quantity of end items to which the waiver applies and the time period over which the waiver applies; and

"(C) shall be provided to the congressional defense committees prior to making such a determination (except that in the case of an urgent national security requirement, such certification may be provided to the defense committees up to 7 days after it is made).

"(3)(A) In any case in which the Secretary makes a determination under paragraph (1), the Secretary shall determine whether or not the noncompliance was knowing and willful.

"(B) If the Secretary determines that the noncompliance was not knowing or willful, the Secretary shall ensure that the contractor or subcontractor responsible for the noncompliance develops and implements an effective plan to ensure future compliance.

"(C) If the Secretary determines that the noncompliance was knowing or willful, the Secretary shall—

"(i) require the development and implementation of a plan to ensure future compliance; and

"(ii) consider suspending or debarring the contractor or subcontractor until such time as the contractor or subcontractor has effectively addressed the issues that lead to such noncompliance.".

(e) ADDITIONAL DEFINITIONS.—Subsection (m) of section 2533b of title 10, United States Code, as redesignated by subsection (c), is further amended by adding at the end the following:

"(3) The term 'acquisition' has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

"(4) The term 'required form' shall not apply to end items or to their components at any tier. The term 'required form' means in the form of mill product, such as bar, billet, wire, slab, plate or sheet, and in the grade appropriate for the production of—

"(A) a finished end item delivered to the Department of Defense; or

"(B) a finished component assembled into an end item delivered to the Department of Defense.

"(5) The term 'commercially available off-the-shelf', has the meaning provided in section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c)).

"(6) The term 'assemblies' means items forming a portion of a system or subsystem that can be provisioned and replaced as an entity and which incorporates multiple, replaceable parts.

"(7) The term 'commercial derivative military article' means an item procured by the Department of Defense that is or will be produced using the same production facilities, a common supply chain, and the same or similar production processes that are used for the production of articles predominantly used by the general public or by nongovernmental entities for purposes other than governmental purposes.

"(8) The term 'subsystem' means a functional grouping of items that combine to perform a major function within an end item, such as electrical power, attitude control, and propulsion.

"(9) The term 'end item' means the final production product when assembled or completed, and ready for issue, delivery, or deployment.

"(10) The term 'subcontract' includes a subcontract at any tier.".

(f) CONFORMING AMENDMENTS.—Section 2533b of title 10, United States Code, is further amended—

(1) in subsection (c)—

(A) in the heading, by striking "PROCUREMENTS" and inserting "ACQUISITIONS"; and

(B) in paragraphs (1) and (2), by striking "Procurements" and inserting "Acquisitions";

(2) in subsection (d), by striking "procurement" each place it appears and inserting "acquisition"; and

(3) in subsections (f) and (g), by striking "procurements" each place it appears and inserting "acquisitions".

(g) IMPLEMENTATION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations on the implementation of this section and the amendments made by this section, including specific guidance on how thresholds established in subsections (h)(3), (i) and (j) of section 2533b of title 10, United States Code, as amended by this section, should be implemented. Deadline. Regulations. 10 USC 2533b note.

(h) REVISION OF DOMESTIC NONAVAILABILITY DETERMINATIONS AND RULES.—No later than 180 days after the date of the enactment of this Act, any domestic nonavailability determination under section 2533b of title 10, United States Code, including a class deviation, or rules made by the Department of Defense between December 6, 2006, and the date of the enactment of this Act, shall be reviewed and amended, as necessary, to comply with the amendments made by this section. This requirement shall not apply to a domestic nonavailability determination that applies to— Deadline. 10 USC 2533b note.

(1) an individual contract that was entered into before the date of the enactment of this Act; or

(2) an individual Department of Defense program, except to the extent that such domestic nonavailability determination applies to contracts entered into after the date of the enactment of this Act.

(i) TRANSPARENCY REQUIREMENT FOR COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEM EXCEPTION.—The Secretary of Defense Deadlines. Reports.

shall submit to the Committees on Armed Services of the Senate and House of Representatives, not later than December 30, 2008, a report on the use of authority provided under subsection (h) of section 2533b of title 10, United States Code, as amended by this section. Such report shall include, at a minimum, a description of types of items being procured as commercially available off-the-shelf items under such subsection and incorporated into non-commercial items. The Secretary shall submit an update of such report to such committees not later than December 30, 2009.

10 USC 2330 note. Deadline.

**SEC. 805. PROCUREMENT OF COMMERCIAL SERVICES.**

(a) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act , the Secretary of Defense shall modify the regulations of the Department of Defense for the procurement of commercial services for or on behalf of the Department of Defense.

(b) APPLICABILITY OF COMMERCIAL PROCEDURES.—

(1) SERVICES OF A TYPE SOLD IN MARKETPLACE.—The regulations modified pursuant to subsection (a) shall ensure that services that are not offered and sold competitively in substantial quantities in the commercial marketplace, but are of a type offered and sold competitively in substantial quantities in the commercial marketplace, may be treated as commercial items for purposes of section 2306a of title 10, United States Code (relating to truth in negotiations), only if the contracting officer determines in writing that the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such services.

(2) INFORMATION SUBMITTED.—To the extent necessary to make a determination under paragraph (1), the contracting officer may request the offeror to submit—

(A) prices paid for the same or similar commercial items under comparable terms and conditions by both government and commercial customers; and

(B) if the contracting officer determines that the information described in subparagraph (A) is not sufficient to determine the reasonableness of price, other relevant information regarding the basis for price or cost, including information on labor costs, material costs, and overhead rates.

(c) TIME-AND-MATERIALS CONTRACTS.—

(1) COMMERCIAL ITEM ACQUISITIONS.—The regulations modified pursuant to subsection (a) shall ensure that procedures applicable to time-and-materials contracts and labor-hour contracts for commercial item acquisitions may be used only for the following:

(A) Services procured for support of a commercial item, as described in section 4(12)(E) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(E)).

(B) Emergency repair services.

(C) Any other commercial services only to the extent that the head of the agency concerned approves a determination in writing by the contracting officer that—

(i) the services to be acquired are commercial services as defined in section 4(12)(F) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(F));

(ii) if the services to be acquired are subject to subsection (b), the offeror of the services has submitted sufficient information in accordance with that subsection;

(iii) such services are commonly sold to the general public through use of time-and-materials or labor-hour contracts; and

(iv) the use of a time-and-materials or labor-hour contract type is in the best interest of the Government.

(2) NON-COMMERCIAL ITEM ACQUISITIONS.—Nothing in this subsection shall be construed to preclude the use of procedures applicable to time-and-materials contracts and labor-hour contracts for non-commercial item acquisitions for the acquisition of any category of services.

**SEC. 806. SPECIFICATION OF AMOUNTS REQUESTED FOR PROCUREMENT OF CONTRACT SERVICES.** 10 USC 221 note.

(a) SPECIFICATION OF AMOUNTS REQUESTED.—The budget justification materials submitted to Congress in support of the budget of the Department of Defense for any fiscal year after fiscal year 2009 shall identify clearly and separately the amounts requested in each budget account for the procurement of contract services.

(b) INFORMATION PROVIDED.—For each budget account, the materials submitted shall clearly identify—

(1) the amount requested for each Department of Defense component, installation, or activity; and

(2) the amount requested for each type of service to be provided.

(c) CONTRACT SERVICES DEFINED.—In this section, the term "contract services"—

(1) means services from contractors; but

(2) excludes services relating to research and development and services relating to military construction.

**SEC. 807. INVENTORIES AND REVIEWS OF CONTRACTS FOR SERVICES.**

(a) INVENTORY REQUIREMENT.—Section 2330a of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (g);

(2) by striking subsection (c) and inserting the following:

"(c) INVENTORY.—(1) Not later than the end of the third quarter of each fiscal year, the Secretary of Defense shall submit to Congress an annual inventory of the activities performed during the preceding fiscal year pursuant to contracts for services for or on behalf of the Department of Defense. The entry for an activity on an inventory under this subsection shall include, for the fiscal year covered by such entry, the following: Deadline.

"(A) The functions and missions performed by the contractor.

"(B) The contracting organization, the component of the Department of Defense administering the contract, and the organization whose requirements are being met through contractor performance of the function.

"(C) The funding source for the contract under which the function is performed by appropriation and operating agency.

"(D) The fiscal year for which the activity first appeared on an inventory under this section.

"(E) The number of full-time contractor employees (or its equivalent) paid for the performance of the activity.

"(F) A determination whether the contract pursuant to which the activity is performed is a personal services contract.

"(G) A summary of the data required to be collected for the activity under subsection (a).

"(2) The inventory required under this subsection shall be submitted in unclassified form, but may include a classified annex.

Deadline. Federal Register, publication.

"(d) PUBLIC AVAILABILITY OF INVENTORIES.—Not later than 30 days after the date on which an inventory under subsection (c) is required to be submitted to Congress, the Secretary shall—

"(1) make the inventory available to the public; and

"(2) publish in the Federal Register a notice that the inventory is available to the public.

Deadline.

"(e) REVIEW AND PLANNING REQUIREMENTS.—Within 90 days after the date on which an inventory is submitted under subsection (c), the Secretary of the military department or head of the Defense Agency responsible for activities in the inventory shall—

"(1) review the contracts and activities in the inventory for which such Secretary or agency head is responsible;

"(2) ensure that—

"(A) each contract on the list that is a personal services contract has been entered into, and is being performed, in accordance with applicable statutory and regulatory requirements;

"(B) the activities on the list do not include any inherently governmental functions; and

"(C) to the maximum extent practicable, the activities on the list do not include any functions closely associated with inherently governmental functions;

"(3) identify activities that should be considered for conversion—

"(A) to performance by civilian employees of the Department of Defense pursuant to section 2463 of this title; or

"(B) to an acquisition approach that would be more advantageous to the Department of Defense; and

"(4) develop a plan to provide for appropriate consideration of the conversion of activities identified under paragraph (3) within a reasonable period of time.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the performance of personal services by a contractor except where expressly authorized by a provision of law other than this section."; and

(3) by adding at the end of subsection (g) (as so redesignated) the following new paragraphs:

"(3) FUNCTION CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL FUNCTIONS.—The term 'function closely associated with inherently governmental functions' has the meaning given that term in section 2383(b)(3) of this title.

"(4) INHERENTLY GOVERNMENTAL FUNCTIONS.—The term 'inherently governmental functions' has the meaning given that term in section 2383(b)(2) of this title.

"(5) PERSONAL SERVICES CONTRACT.—The term 'personal services contract' means a contract under which, as a result of its terms or conditions or the manner of its administration during performance, contractor personnel are subject to the relatively continuous supervision and control of one or more Government officers or employees, except that the giving of

an order for a specific article or service, with the right to reject the finished product or result, is not the type of supervision or control that makes a contract a personal services contract.".

(b) EFFECTIVE DATE.— 10 USC 2330a note.

(1) The amendments made by subsection (a) shall be effective upon the date of the enactment of this Act.

(2) The first inventory required by section 2330a(c) of title 10, United States Code, as added by subsection (a), shall be submitted not later than the end of the third quarter of fiscal year 2008. Deadline.

**SEC. 808. INDEPENDENT MANAGEMENT REVIEWS OF CONTRACTS FOR SERVICES.** 10 USC 2330 note.

(a) GUIDANCE AND INSTRUCTIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance, with detailed implementation instructions, for the Department of Defense to provide for periodic independent management reviews of contracts for services. The independent management review guidance and instructions issued pursuant to this subsection shall be designed to evaluate, at a minimum— Deadline.

(1) contract performance in terms of cost, schedule, and requirements;

(2) the use of contracting mechanisms, including the use of competition, the contract structure and type, the definition of contract requirements, cost or pricing methods, the award and negotiation of task orders, and management and oversight mechanisms;

(3) the contractor's use, management, and oversight of subcontractors;

(4) the staffing of contract management and oversight functions; and

(5) the extent of any pass-throughs, and excessive pass-through charges (as defined in section 852 of the John Warner National Defense Authorization Act for Fiscal Year 2007), by the contractor.

(b) ADDITIONAL SUBJECT OF REVIEW.—In addition to the matters required by subsection (a), the guidance and instructions issued pursuant to subsection (a) shall provide for procedures for the periodic review of contracts under which one contractor provides oversight for services performed by other contractors. In particular, the procedures shall be designed to evaluate, at a minimum—

(1) the extent of the agency's reliance on the contractor to perform acquisition functions closely associated with inherently governmental functions as defined in section 2383(b)(3) of title 10, United States Code; and

(2) the financial interest of any prime contractor performing acquisition functions described in paragraph (1) in any contract or subcontract with regard to which the contractor provided advice or recommendations to the agency.

(c) ELEMENTS.—The guidance and instructions issued pursuant to subsection (a) shall address, at a minimum—

(1) the contracts subject to independent management reviews, including any applicable thresholds and exceptions;

(2) the frequency with which independent management reviews shall be conducted;

(3) the composition of teams designated to perform independent management reviews;

(4) any phase-in requirements needed to ensure that qualified staff are available to perform independent management reviews;

(5) procedures for tracking the implementation of recommendations made by independent management review teams; and

(6) procedures for developing and disseminating lessons learned from independent management reviews.

(c) REPORTS.—

(1) REPORT ON GUIDANCE AND INSTRUCTION.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the guidance and instructions issued pursuant to subsection (a).

(2) GAO REPORT ON IMPLEMENTATION.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the implementation of the guidance and instructions issued pursuant to subsection (a).

10 USC 2326 note.

**SEC. 809. IMPLEMENTATION AND ENFORCEMENT OF REQUIREMENTS APPLICABLE TO UNDEFINITIZED CONTRACTUAL ACTIONS.**

Deadline.

(a) GUIDANCE AND INSTRUCTIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance, with detailed implementation instructions, for the Department of Defense to ensure the implementation and enforcement of requirements applicable to undefinitized contractual actions.

(b) ELEMENTS.—The guidance and instructions issued pursuant to subsection (a) shall address, at a minimum—

(1) the circumstances in which it is, and is not, appropriate for Department of Defense officials to use undefinitized contractual actions;

(2) approval requirements (including thresholds) for the use of undefinitized contractual actions;

(3) procedures for ensuring that timelines for the definitization of undefinitized contractual actions are met;

(4) procedures for ensuring compliance with regulatory limitations on the obligation of funds pursuant to undefinitized contractual actions;

(5) procedures for ensuring compliance with regulatory limitations on profit or fee with respect to costs incurred before the definitization of an undefinitized contractual action; and

(6) reporting requirements for undefinitized contractual actions that fail to meet required timelines for definitization or fail to comply with regulatory limitations on the obligation of funds or on profit or fee.

(c) REPORTS.—

(1) REPORT ON GUIDANCE AND INSTRUCTIONS.—Not later than 210 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the guidance and instructions issued pursuant to subsection (a).

(2) GAO REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the extent to which the guidance and instructions issued pursuant to subsection (a) have resulted in improvements to—

(A) the level of insight that senior Department of Defense officials have into the use of undefinitized contractual actions;

(B) the appropriate use of undefinitized contractual actions;

(C) the timely definitization of undefinitized contractual actions; and

(D) the negotiation of appropriate profits and fees for undefinitized contractual actions.

**SEC. 810. CLARIFICATION OF LIMITED ACQUISITION AUTHORITY FOR SPECIAL OPERATIONS COMMAND.**

Section 167(e)(4) of title 10, United States Code, is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C)(i) The staff of the commander shall include a command acquisition executive, who shall be responsible for the overall supervision of acquisition matters for the special operations command. The command acquisition executive shall have the authority to—

"(I) negotiate memoranda of agreement with the military departments to carry out the acquisition of equipment, material, supplies, and services described in subparagraph (A) on behalf of the command;

"(II) supervise the acquisition of equipment, material, supplies, and services described in subparagraph (A), regardless of whether such acquisition is carried out by the command, or by a military department pursuant to a delegation of authority by the command;

"(III) represent the command in discussions with the military departments regarding acquisition programs for which the command is a customer; and

"(IV) work with the military departments to ensure that the command is appropriately represented in any joint working group or integrated product team regarding acquisition programs for which the command is a customer.

"(ii) The command acquisition executive of the special operations command shall be included on the distribution list for acquisition directives and instructions of the Department of Defense.".

# Subtitle B—Provisions Relating to Major Defense Acquisition Programs

**SEC. 811. REQUIREMENTS APPLICABLE TO MULTIYEAR CONTRACTS FOR THE PROCUREMENT OF MAJOR SYSTEMS OF THE DEPARTMENT OF DEFENSE.**

(a) ADDITIONAL REQUIREMENTS APPLICABLE TO MULTIYEAR CONTRACTS.—Section 2306b of title 10, United States Code, is amended as follows:

(1) Subsection (a) of such section is amended by adding at the end the following new paragraph:

"(7) In the case of a contract in an amount equal to or greater than $500,000,000, that the conditions required by subparagraphs (C) through (F) of paragraph (1) of subsection (i) will be met, in accordance with the Secretary's certification and determination under such subsection, by such contract.".

Certification. Deadline.

(2) Subsection (i)(1) of such section is amended by inserting after "unless" the following: "the Secretary of Defense certifies in writing by no later than March 1 of the year in which the Secretary requests legislative authority to enter into such contract that".

(3) Subsection (i)(1) of such section is further amended—

(A) by redesignating subparagraph (B) as subparagraph (G); and

(B) by striking subparagraph (A) and inserting the following:

"(A) The Secretary has determined that each of the requirements in paragraphs (1) through (6) of subsection (a) will be met by such contract and has provided the basis for such determination to the congressional defense committees.

"(B) The Secretary's determination under subparagraph (A) was made after the completion of a cost analysis performed by the Cost Analysis Improvement Group of the Department of Defense and such analysis supports the findings.

"(C) The system being acquired pursuant to such contract has not been determined to have experienced cost growth in excess of the critical cost growth threshold pursuant to section 2433(d) of this title within 5 years prior to the date the Secretary anticipates such contract (or a contract for advance procurement entered into consistent with the authorization for such contract) will be awarded.

"(D) A sufficient number of end items of the system being acquired under such contract have been delivered at or within the most current estimates of the program acquisition unit cost or procurement unit cost for such system to determine that current estimates of such unit costs are realistic.

"(E) During the fiscal year in which such contract is to be awarded, sufficient funds will be available to perform the contract in such fiscal year, and the future-years defense program for such fiscal year will include the funding required to execute the program without cancellation.

"(F) The contract is a fixed price type contract.".

(4) Subsection (i) of such section is further amended by adding at the end the following new paragraphs:

"(5) The Secretary may make the certification under paragraph (1) notwithstanding the fact that one or more of the conditions of such certification are not met if the Secretary determines that, due to exceptional circumstances, proceeding with a multiyear contract under this section is in the best interest of the Department of Defense and the Secretary provides the basis for such determination with the certification.

"(6) The Secretary of Defense may not delegate the authority to make the certification under paragraph (1) or the determination under paragraph (5) to an official below the level of Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(7) The Secretary of Defense shall send a notification containing the findings of the agency head under subsection (a), and the basis for such findings, 30 days prior to the award of a multiyear contract for a defense acquisition program that has been specifically authorized by law.". Notification. Deadline.

(5) Such section is further amended by adding at the end the following new subsection:

"(m) INCREASED FUNDING AND REPROGRAMMING REQUESTS.—Any request for increased funding for the procurement of a major system under a multiyear contract authorized under this section shall be accompanied by an explanation of how the request for increased funding affects the determinations made by the Secretary under subsection (i).".

(b) APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to multiyear contracts for the purchase of major systems for which legislative authority is requested on or after that date. Effective date. 10 USC 2306b note.

**SEC. 812. CHANGES TO MILESTONE B CERTIFICATIONS.**

Section 2366a of title 10, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) CERTIFICATION.—A major defense acquisition program may not receive Milestone B approval, or Key Decision Point B approval in the case of a space program, until the milestone decision authority—

"(1) has received a business case analysis and certifies on the basis of the analysis that—

"(A) the program is affordable when considering the ability of the Department of Defense to accomplish the program's mission using alternative systems;

"(B) the program is affordable when considering the per unit cost and the total acquisition cost in the context of the total resources available during the period covered by the future-years defense program submitted during the fiscal year in which the certification is made;

"(C) reasonable cost and schedule estimates have been developed to execute the product development and production plan under the program; and

"(D) funding is available to execute the product development and production plan under the program, through the period covered by the future-years defense program submitted during the fiscal year in which the certification is made, consistent with the estimates described in subparagraph (C) for the program; and

"(2) further certifies that—

"(A) appropriate market research has been conducted prior to technology development to reduce duplication of existing technology and products;

"(B) the Department of Defense has completed an analysis of alternatives with respect to the program;

"(C) the Joint Requirements Oversight Council has accomplished its duties with respect to the program pursuant to section 181(b) of this title, including an analysis of the operational requirements for the program;

"(D) the technology in the program has been demonstrated in a relevant environment;

"(E) the program demonstrates a high likelihood of accomplishing its intended mission; and

"(F) the program complies with all relevant policies, regulations, and directives of the Department of Defense.";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(3) by inserting after subsection (a) the following new subsection (b):

Notification.

"(b) CHANGES TO CERTIFICATION.—(1) The program manager for a major defense acquisition program that has received certification under subsection (a) shall immediately notify the milestone decision authority of any changes to the program that—

"(A) alter the substantive basis for the certification of the milestone decision authority relating to any component of such certification specified in paragraph (1) or (2) of subsection (a); or

"(B) otherwise cause the program to deviate significantly from the material provided to the milestone decision authority in support of such certification.

"(2) Upon receipt of information under paragraph (1), the milestone decision authority may withdraw the certification concerned or rescind Milestone B approval (or Key Decision Point B approval in the case of a space program) if the milestone decision authority determines that such certification or approval is no longer valid.";

(4) in subsection (c), as redesignated by paragraph (1)—

(A) by inserting "(1)" before "The certification"; and

(B) by adding at the end the following new paragraph (2):

"(2) A summary of any information provided to the milestone decision authority pursuant to subsection (b) and a description of the actions taken as a result of such information shall be submitted with the first Selected Acquisition Report submitted under section 2432 of this title after receipt of such information by the milestone decision authority.";

(5) in subsection (d), as so redesignated—

(A) by striking "authority may waive" and inserting the following: "authority may, at the time of Milestone B approval (or Key Decision Point B approval in the case of a space program) or at the time that such milestone decision authority withdraws a certification or rescinds Milestone B approval (or Key Decision Point B approval in the case of a space program) pursuant to subsection (b)(2), waive"; and

(B) by striking "paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (9)" and inserting "paragraph (1) or (2)"; and

(6) in subsection (e), as so redesignated, by striking "subsection (c)" and inserting "subsection (d)".

**SEC. 813. COMPTROLLER GENERAL REPORT ON DEPARTMENT OF DEFENSE ORGANIZATION AND STRUCTURE FOR MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on potential modifications of the organization and structure of the Department of Defense for major defense acquisition programs.

(b) ELEMENTS.—The report required by subsection (a) shall include the results of a review, conducted by the Comptroller General for purposes of the report, regarding the feasibility and advisability of, at a minimum, the following:

(1) Revising the acquisition process for major defense acquisition programs by establishing shorter, more frequent acquisition program milestones.

(2) Requiring certifications of program status to the defense acquisition executive and Congress prior to milestone approval for major defense acquisition programs.

(3) Establishing a new office (to be known as the "Office of Independent Assessment") to provide independent cost estimates and performance estimates for major defense acquisition programs.

(4) Requiring the milestone decision authority for a major defense acquisition program to specify, at the time of Milestone B approval, or Key Decision Point B approval, as applicable, the period of time that will be required to deliver an initial operational capability to the relevant combatant commanders.

(5) Establishing a materiel solutions process for addressing identified gaps in critical warfighting capabilities, under which process the Under Secretary of Defense for Acquisition, Technology, and Logistics circulates among the military departments and appropriate Defense Agencies a request for proposals for technologies and systems to address such gaps.

(6) Modifying the role played by chiefs of staff of the Armed Forces in the requirements, resource allocation, and acquisition processes.

(7) Establishing a process in which the commanders of combatant commands assess, and provide input on, the capabilities needed to successfully accomplish the missions in the operational and contingency plans of their commands over a long-term planning horizon of 15 years or more, taking into account expected changes in threats, the geo-political environment, and doctrine, training, and operational concepts.

(c) CONSULTATION.—In conducting the review required under subsection (b) for the report required by subsection (a), the Comptroller General shall obtain the views of the following:

(1) Senior acquisition officials currently serving in the Department of Defense.

(2) Senior military officers involved in setting requirements for the joint staff, the Armed Forces, and the combatant commands currently serving in the Department of Defense.

(3) Individuals who formerly served as senior acquisition officials in the Department of Defense.

(4) Participants in previous reviews of the organization and structure of the Department of Defense for the acquisition of major weapon systems, including the President's Blue Ribbon Commission on Defense Management in 1986.

(5) Other experts on the acquisition of major weapon systems.

(6) Appropriate experts in the Government Accountability Office.

**SEC. 814. CLARIFICATION OF SUBMISSION OF COST OR PRICING DATA ON NONCOMMERCIAL MODIFICATIONS OF COMMERCIAL ITEMS.**

(a) MEASUREMENT OF PERCENTAGE AT CONTRACT AWARD.—Section 2306a(b)(3)(A) of title 10, United States Code, is amended by inserting after "total price of the contract" the following: "(at the time of contract award)".

(b) HARMONIZATION OF THRESHOLDS FOR COST OR PRICING DATA.—Section 2306a(b)(3)(A) of title 10, United States Code, is amended by striking "$500,000" and inserting "the amount specified in subsection (a)(1)(A)(i), as adjusted from time to time under subsection (a)(7),".

**SEC. 815. CLARIFICATION OF RULES REGARDING THE PROCUREMENT OF COMMERCIAL ITEMS.**

(a) TREATMENT OF SUBSYSTEMS, COMPONENTS, AND SPARE PARTS AS COMMERCIAL ITEMS.—

(1) IN GENERAL.—Section 2379 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by redesignating paragraph (2) as paragraph (3);

(ii) in paragraph (1)(B), by striking "and" at the end; and

(iii) by inserting after paragraph (1), the following:

"(2) the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such system; and";

(B) by striking subsection (b) and inserting the following new subsection (b):

"(b) TREATMENT OF SUBSYSTEMS AS COMMERCIAL ITEMS.—A subsystem of a major weapon system (other than a commercially available off-the-shelf item as defined in section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c))) shall be treated as a commercial item and purchased under procedures established for the procurement of commercial items only if—

"(1) the subsystem is intended for a major weapon system that is being purchased, or has been purchased, under procedures established for the procurement of commercial items in accordance with the requirements of subsection (a); or

"(2) the contracting officer determines in writing that—

"(A) the subsystem is a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

"(B) the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such subsystem.";

(C) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(D) by inserting after subsection (b) the following new subsections (c) and (d):

"(c) TREATMENT OF COMPONENTS AND SPARE PARTS AS COMMERCIAL ITEMS.—(1) A component or spare part for a major weapon system (other than a commercially available off-the-shelf item as defined in section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c))) may be treated as a commercial item for the purposes of section 2306a of this title only if—

"(A) the component or spare part is intended for—

"(i) a major weapon system that is being purchased, or has been purchased, under procedures established for the procurement of commercial items in accordance with the requirements of subsection (a); or

"(ii) a subsystem of a major weapon system that is being purchased, or has been purchased, under procedures established for the procurement of commercial items in accordance with the requirements of subsection (b); or

"(B) the contracting officer determines in writing that—

"(i) the component or spare part is a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

"(ii) the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such component or spare part.

"(2) This subsection shall apply only to components and spare parts that are acquired by the Department of Defense through a prime contract or a modification to a prime contract (or through a subcontract under a prime contract or modification to a prime contract on which the prime contractor adds no, or negligible, value).

"(d) INFORMATION SUBMITTED.—To the extent necessary to make a determination under subsection (a)(2), (b)(2), or (c)(1)(B), the contracting officer may request the offeror to submit—

"(1) prices paid for the same or similar commercial items under comparable terms and conditions by both government and commercial customers; and

"(2) if the contracting officer determines that the information described in paragraph (1) is not sufficient to determine the reasonableness of price, other relevant information regarding the basis for price or cost, including information on labor costs, material costs, and overhead rates.".

(2) CONFORMING AMENDMENT TO TECHNICAL DATA PROVISION.—Section 2321(f)(2) of such title is amended by striking "(whether or not under a contract for commercial items)" and inserting "(other than technical data for a commercially available off-the-shelf item as defined in section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c)))".

(b) SALES OF COMMERCIAL ITEMS TO NONGOVERNMENTAL ENTITIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall modify the regulations of the Department of Defense on the procurement of commercial items in order to clarify that the terms "general public" and "nongovernmental entities" in such regulations do not include the Federal Government or a State, local, or foreign government.

Deadline. Regulations. 10 USC 2302 note.

**SEC. 816. REVIEW OF SYSTEMIC DEFICIENCIES ON MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) ANNUAL REVIEW.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall conduct an annual review of systemic deficiencies in the major defense acquisition programs of the Department of Defense for each fiscal year in which three or more major defense acquisition programs—

(1) experience a critical cost growth threshold breach;

(2) have a section 2366a certification withdrawn; or

(3) have a Milestone A approval or Key Decision Point A approval rescinded, by the milestone decision authority under subsection (b) of section 2366b of title 10, United States Code, as added by section 943 of this Act.

(b) CONTENT OF REVIEW.—The review conducted under subsection (a) shall—

(1) identify common factors, including any systemic deficiencies in the budget, requirements, and acquisition policies and practices, that may have contributed to problems with major defense acquisition programs covered by the criteria in subsection (a);

(2) assess the adequacy of corrective actions taken or to be taken to address cost growth or other performance deficiencies in programs covered by the criteria in subsection (a); and

(3) make recommendations for any changes in budget, requirements, and acquisition policies and practices that may be appropriate to avoid similar problems with major defense acquisition programs in the future.

(c) DEFINITIONS.—In this section:

(1) CRITICAL COST GROWTH THRESHOLD BREACH.—The term "critical cost growth threshold breach" means a determination under section 2433(d) of title 10, United States Code, by the Secretary of a military department with respect to a major defense acquisition program that the program acquisition unit cost has increased by a percentage equal to or greater than the critical cost growth threshold or that the procurement unit cost has increased by a percentage equal to or greater than the critical cost growth threshold.

(2) SECTION 2366a CERTIFICATION.—The term "section 2366a certification" means a certification with respect to a major defense acquisition program under section 2366a(a) of title 10, United States Code, by the milestone decision authority.

(d) REPORT.—Not later than July 15, 2008, and not later than August 15 of each year from 2009 through 2012, the Secretary of Defense shall submit to the congressional defense committees a report on the results of the annual review conducted (if any) for the preceding fiscal year under subsection (a).

(e) SUNSET.—The requirement to conduct an annual review under subsection (a) shall terminate on September 30, 2012.

**SEC. 817. INVESTMENT STRATEGY FOR MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) REPORT REQUIRED.—Not later than May 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the strategies of the Department of Defense for balancing the allocation of funds and other resources among major defense acquisition programs.

(b) ELEMENTS.—The report required by subsection (a) shall address, at a minimum, the ability of the organizations, policies, and procedures of the Department of Defense to provide for—

(1) establishing priorities among needed capabilities under major defense acquisition programs, and assessing the resources (including funds, technologies, time, and personnel) needed to achieve such capabilities;

(2) balancing the cost, schedule, and requirements of major defense acquisition programs, including those within the same

functional or mission area, to ensure the most efficient use of resources; and

(3) ensuring that the budget, requirements, and acquisition processes of the Department of Defense work in a complementary manner to achieve desired results.

(c) ROLE OF TRI-CHAIR COMMITTEE IN RESOURCE ALLOCATION.—

(1) IN GENERAL.—The report required by subsection (a) shall also address the role of the committee described in paragraph (2) in the resource allocation process for major defense acquisition programs.

(2) COMMITTEE.—The committee described in this paragraph is a committee (to be known as the "Tri-Chair Committee") composed of the following:

(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics, who is one of the chairs of the committee.

(B) The Vice Chairman of the Joint Chiefs of Staff, who is one of the chairs of the committee.

(C) The Director of Program Analysis and Evaluation, who is one of the chairs of the committee.

(D) Any other appropriate officials of the Department of Defense, as jointly agreed upon by the Under Secretary and the Vice Chairman.

(d) CHANGES IN LAW.—The report required by subsection (a) shall, to the maximum extent practicable, include a discussion of any changes in the budget, acquisition, and requirements processes of the Department of Defense undertaken as a result of changes in law pursuant to any section in this Act.

(e) RECOMMENDATIONS.—The report required by subsection (a) shall include any recommendations, including recommendations for legislative action, that the Secretary considers appropriate to improve the organizations, policies, and procedures described in the report.

**SEC. 818. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS ON TOTAL OWNERSHIP COST FOR MAJOR WEAPON SYSTEMS.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the extent of the implementation of the recommendations set forth in the February 2003 report of the Government Accountability Office entitled "Setting Requirements Differently Could Reduce Weapon Systems' Total Ownership Costs".

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) For each recommendation described in subsection (a) that has been implemented, or that the Secretary plans to implement—

(A) a summary of all actions that have been taken to implement such recommendation; and

(B) a schedule, with specific milestones, for completing the implementation of such recommendation.

(2) For each recommendation that the Secretary has not implemented and does not plan to implement—

(A) the reasons for the decision not to implement such recommendation; and

(B) a summary of any alternative actions the Secretary plans to take to address the purposes underlying such recommendation.

(3) A summary of any additional actions the Secretary has taken or plans to take to ensure that total ownership cost is appropriately considered in the requirements process for major weapon systems.

# Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

10 USC 2304 note.

**SEC. 821. PLAN FOR RESTRICTING GOVERNMENT-UNIQUE CONTRACT CLAUSES ON COMMERCIAL CONTRACTS.**

(a) PLAN.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall develop and implement a plan to minimize the number of government-unique contract clauses used in commercial contracts by restricting the clauses to the following:

(1) Government-unique clauses authorized by law or regulation.

(2) Any additional clauses that are relevant and necessary to a specific contract.

(b) COMMERCIAL CONTRACT.—In this section:

(1) The term "commercial contract" means a contract awarded by the Federal Government for the procurement of a commercial item.

(2) The term "commercial item" has the meaning provided by section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

**SEC. 822. EXTENSION OF AUTHORITY FOR USE OF SIMPLIFIED ACQUISITION PROCEDURES FOR CERTAIN COMMERCIAL ITEMS.**

(a) EXTENSION.—Section 4202(e) of the Clinger-Cohen Act of 1996 (division D of Public Law 104–106; 110 Stat. 652; 10 U.S.C. 2304 note) is amended by striking "January 1, 2008" and inserting "January 1, 2010".

(b) REPORT.—Not later than March 1, 2008, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the use by the Department of Defense of the authority provided by section 4202(e) of the Clinger-Cohen Act of 1996 (10 U.S.C. 2304 note). The report shall include, at a minimum, the following:

(1) Summary data on the use of the authority.

(2) Specific examples of the use of the authority.

(3) An evaluation of potential benefits and costs of extending the authority after January 1, 2010.

**SEC. 823. FIVE-YEAR EXTENSION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.**

Section 845(i) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended by striking "September 30, 2008" and inserting "September 30, 2013".

**SEC. 824. EXEMPTION OF SPECIAL OPERATIONS COMMAND FROM CERTAIN REQUIREMENTS FOR CERTAIN CONTRACTS RELATING TO VESSELS, AIRCRAFT, AND COMBAT VEHICLES.**

Section 2401(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) In the case of a contract described in subsection (a)(1)(B), the commander of the special operations command may make a contract without regard to this subsection if—

"(A) funds are available and obligated for the full cost of the contract (including termination costs) on or before the date the contract is awarded;

"(B) the Secretary of Defense submits to the congressional defense committees a certification that there is no alternative for meeting urgent operational requirements other than making the contract; and

Certification.

"(C) a period of 30 days of continuous session of Congress has expired following the date on which the certification was received by such committees.".

**SEC. 825. PROVISION OF AUTHORITY TO MAINTAIN EQUIPMENT TO UNIFIED COMBATANT COMMAND FOR JOINT WARFIGHTING.**

(a) AUTHORITY.—Section 167a of title 10, United States Code, is amended—

(1) in subsection (a), by striking "and acquire" and inserting ", acquire, and maintain";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection:

"(f) LIMITATION ON AUTHORITY TO MAINTAIN EQUIPMENT.—The authority delegated under subsection (a) to maintain equipment is subject to the availability of funds authorized and appropriated specifically for that purpose.".

(b) TWO-YEAR EXTENSION.—Subsection (g) of such section, as so redesignated, is amended—

(1) by striking "through 2008" and inserting "through 2010"; and

(2) by striking "September 30, 2008" and inserting "September 30, 2010".

**SEC. 826. MARKET RESEARCH.**

(a) ADDITIONAL REQUIREMENTS.—Subsection (c) of section 2377 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end the following:

"(C) before awarding a task order or delivery order in excess of the simplified acquisition threshold."; and

(2) by adding at the end the following:

"(4) The head of an agency shall take appropriate steps to ensure that any prime contractor of a contract (or task order or delivery order) in an amount in excess of $5,000,000 for the procurement of items other than commercial items engages in such market research as may be necessary to carry out the requirements of

subsection (b)(2) before making purchases for or on behalf of the Department of Defense.".

10 USC 2377 note.

(b) REQUIREMENT TO DEVELOP TRAINING AND TOOLS.—The Secretary of Defense shall develop training to assist contracting officers, and market research tools to assist such officers and prime contractors, in performing appropriate market research as required by subsection (c) of section 2377 of title 10, United States Code, as amended by this section.

**SEC. 827. MODIFICATION OF COMPETITION REQUIREMENTS FOR PURCHASES FROM FEDERAL PRISON INDUSTRIES.**

(a) MODIFICATION OF COMPETITION REQUIREMENTS.—

(1) IN GENERAL.—Section 2410n of title 10, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections (a) and (b):

"(a) PRODUCTS FOR WHICH FEDERAL PRISON INDUSTRIES DOES NOT HAVE SIGNIFICANT MARKET SHARE.—(1) Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18 for which Federal Prison Industries does not have a significant market share, the Secretary of Defense shall conduct market research to determine whether the product is comparable to products available from the private sector that best meet the needs of the Department in terms of price, quality, and time of delivery.

"(2) If the Secretary determines that a Federal Prison Industries product described in paragraph (1) is not comparable in price, quality, or time of delivery to products of the private sector that best meets the needs of the Department in terms of price, quality, and time of delivery, the Secretary shall use competitive procedures for the procurement of the product, or shall make an individual purchase under a multiple award contract in accordance with the competition requirements applicable to such contract. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries.

"(b) PRODUCTS FOR WHICH FEDERAL PRISON INDUSTRIES HAS SIGNIFICANT MARKET SHARE.—(1) The Secretary of Defense may purchase a product listed in the latest edition of the Federal Prison Industries catalog for which Federal Prison Industries has a significant market share only if the Secretary uses competitive procedures for the procurement of the product or makes an individual purchase under a multiple award contract in accordance with the competition requirements applicable to such contract. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries.

"(2) For purposes of this subsection, Federal Prison Industries shall be treated as having a significant share of the market for a product if the Secretary, in consultation with the Administrator of Federal Procurement Policy, determines that the Federal Prison Industries share of the Department of Defense market for the category of products including such product is greater than 5 percent.".

10 USC 2410n note.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of the enactment of this Act.

10 USC 2410n note.

(b) LIST OF PRODUCTS FOR WHICH FEDERAL PRISON INDUSTRIES HAS SIGNIFICANT MARKET SHARE.—

(1) INITIAL LIST.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall publish a list of product categories for which Federal Prison Industries' share of the Department of Defense market is greater than 5 percent, based on the most recent fiscal year for which data is available. Deadline.

(2) MODIFICATION.—The Secretary may modify the list published under paragraph (1) at any time if the Secretary determines that new data require adding a product category to the list or omitting a product category from the list.

(3) CONSULTATION.—The Secretary shall carry out this subsection in consultation with the Administrator for Federal Procurement Policy.

**SEC. 828. MULTIYEAR CONTRACT AUTHORITY FOR ELECTRICITY FROM RENEWABLE ENERGY SOURCES.**

(a) MULTIYEAR CONTRACT AUTHORITY.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2410q. Multiyear contracts: purchase of electricity from renewable energy sources**

"(a) MULTIYEAR CONTRACTS AUTHORIZED.—Subject to subsection (b), the Secretary of Defense may enter into a contract for a period not to exceed 10 years for the purchase of electricity from sources of renewable energy, as that term is defined in section 203(b)(2) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)(2)).

"(b) LIMITATIONS ON CONTRACTS FOR PERIODS IN EXCESS OF FIVE YEARS.—The Secretary may exercise the authority in subsection (a) to enter into a contract for a period in excess of five years only if the Secretary determines, on the basis of a business case analysis prepared by the Department of Defense, that—

"(1) the proposed purchase of electricity under such contract is cost effective for the Department of Defense; and

"(2) it would not be possible to purchase electricity from the source in an economical manner without the use of a contract for a period in excess of five years.

"(c) RELATIONSHIP TO OTHER MULTIYEAR CONTRACTING AUTHORITY.—Nothing in this section shall be construed to preclude the Department of Defense from using other multiyear contracting authority of the Department to purchase renewable energy.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

"2410q. Multiyear contracts: purchase of electricity from renewable energy sources.".

**SEC. 829. PROCUREMENT OF FIRE RESISTANT RAYON FIBER FOR THE PRODUCTION OF UNIFORMS FROM FOREIGN SOURCES.** 10 USC 2533a note.

(a) AUTHORITY TO PROCURE.—The Secretary of Defense may procure fire resistant rayon fiber for the production of uniforms that is manufactured in a foreign country referred to in subsection (d) if the Secretary determines either of the following:

(1) That fire resistant rayon fiber for the production of uniforms is not available from sources within the national technology and industrial base.

(2) That—

(A) procuring fire resistant rayon fiber manufactured from suppliers within the national technology and industrial base would result in sole-source contracts or subcontracts for the supply of fire resistant rayon fiber; and

(B) such sole-source contracts or subcontracts would not be in the best interests of the Government or consistent with the objectives of section 2304 of title 10, United States Code.

Deadline.

(b) SUBMISSION TO CONGRESS.—Not later than 30 days after making a determination under subsection (a), the Secretary shall submit to Congress a copy of the determination.

(c) APPLICABILITY TO SUBCONTRACTS.—The authority under subsection (a) applies with respect to subcontracts under Department of Defense contracts as well as to such contracts.

(d) FOREIGN COUNTRIES COVERED.—The authority under subsection (a) applies with respect to a foreign country that—

(1) is a party to a defense memorandum of understanding entered into under section 2531 of title 10, United States Code; and

(2) does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(e) NATIONAL TECHNOLOGY AND INDUSTRIAL BASE DEFINED.—In this section, the term "national technology and industrial base" has the meaning given that term in section 2500 of title 10, United States Code.

(f) SUNSET.—The authority under subsection (a) shall expire on the date that is five years after the date of the enactment of this Act.

Deadline. Reports.

**SEC. 830. COMPTROLLER GENERAL REVIEW OF NONCOMPETITIVE AWARDS OF CONGRESSIONAL AND EXECUTIVE BRANCH INTEREST ITEMS.**

Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the use of procedures other than competitive procedures in the award of contracts by the Department of Defense. The report shall compare the procedures used by the Department of Defense for the award of funds for new projects pursuant to congressionally directed spending items, as defined in rule XLIV of the Standing Rules of the Senate, or congressional earmarks, as defined in rule XXI of the Rules of the House of Representatives, with the procedures used by the Department of Defense for the award of funds for new projects of special interest to senior executive branch officials.

# Subtitle D—Accountability in Contracting

**SEC. 841. COMMISSION ON WARTIME CONTRACTING IN IRAQ AND AFGHANISTAN.**

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission on Wartime Contracting" (in this section referred to as the "Commission").

(b) MEMBERSHIP MATTERS.—

(1) MEMBERSHIP.—The Commission shall be composed of 8 members, as follows:

(A) 2 members shall be appointed by the majority leader of the Senate, in consultation with the Chairmen of the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Foreign Relations of the Senate.

(B) 2 members shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairmen of the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Foreign Affairs of the House of Representatives.

(C) 1 member shall be appointed by the minority leader of the Senate, in consultation with the Ranking Minority Members of the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Foreign Relations of the Senate.

(D) 1 member shall be appointed by the minority leader of the House of Representatives, in consultation with the Ranking Minority Member of the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Foreign Affairs of the House of Representatives.

(E) 2 members shall be appointed by the President, in consultation with the Secretary of Defense and the Secretary of State.

(2) DEADLINE FOR APPOINTMENTS.—All appointments to the Commission shall be made not later than 120 days after the date of the enactment of this Act.

(3) CO-CHAIRMEN.—The Commission shall have two co-chairmen, including—

(A) a co-chairman who shall be a member of the Commission jointly designated by the Speaker of the House of Representatives and the majority leader of the Senate; and

(B) a co-chairman who shall be a member of the Commission jointly designated by the minority leader of the House of Representatives and the minority leader of the Senate.

(4) VACANCY.—In the event of a vacancy in a seat on the Commission, the individual appointed to fill the vacant seat shall be—

(A) appointed by the same officer (or the officer's successor) who made the appointment to the seat when the Commission was first established; and

(B) if the officer in subparagraph (A) is of a party other than the party of the officer who made the appointment to the seat when the Commission was first established, chosen in consultation with the senior officers in the Senate and the House of Representatives of the party which is the party of the officer who made the appointment to the seat when the Commission was first established.

(c) DUTIES.—

(1) GENERAL DUTIES.—The Commission shall study the following matters:

(A) Federal agency contracting for the reconstruction of Iraq and Afghanistan.

(B) Federal agency contracting for the logistical support of coalition forces operating in Iraq and Afghanistan.

(C) Federal agency contracting for the performance of security functions in Iraq and Afghanistan.

(2) SCOPE OF CONTRACTING COVERED.—The Federal agency contracting covered by this subsection includes contracts entered into both in the United States and abroad for the performance of activities described in paragraph (1).

(3) PARTICULAR DUTIES.—In carrying out the study under this subsection, the Commission shall assess—

(A) the extent of the reliance of the Federal Government on contractors to perform functions (including security functions) in Iraq and Afghanistan and the impact of this reliance on the achievement of the objectives of the United States;

(B) the performance exhibited by Federal contractors for the contracts under review pursuant to paragraph (1), and the mechanisms used to evaluate contractor performance;

(C) the extent of waste, fraud, and abuse under such contracts;

(D) the extent to which those responsible for such waste, fraud, and abuse have been held financially or legally accountable;

(E) the appropriateness of the organizational structure, policies, practices, and resources of the Department of Defense and the Department of State for handling program management and contracting for the programs and contracts under review pursuant to paragraph (1);

(F) the extent to which contractors under such contracts have engaged in the misuse of force or have used force in a manner inconsistent with the objectives of the operational field commander; and

(G) the extent of potential violations of the laws of war, Federal law, or other applicable legal standards by contractors under such contracts.

(d) REPORTS.—

(1) INTERIM REPORT.—On March 1, 2009, the Commission shall submit to Congress an interim report on the study carried out under subsection (c), including the results and findings of the study as of that date.

(2) OTHER REPORTS.—The Commission may from time to time submit to Congress such other reports on the study carried out under subsection (c) as the Commission considers appropriate.

(3) FINAL REPORT.—Not later than two years after the date of the appointment of all of the members of the Commission under subsection (b), the Commission shall submit to Congress a final report on the study carried out under subsection (c). The report shall—

(A) include the findings of the Commission;

(B) identify lessons learned relating to contingency program management and contingency contracting covered by the study; and

(C) include specific recommendations for improvements to be made in—

(i) the process for defining requirements and developing statements of work for contracts in contingency contracting;

(ii) the process for awarding contracts and task or delivery orders in contingency contracting;

(iii) the process for contingency program management;

(iv) the process for identifying, addressing, and providing accountability for waste, fraud, and abuse in contingency contracting;

(v) the process for determining which functions are inherently governmental and which functions are appropriate for performance by contractors in a contingency operation (including during combat operations), especially whether providing security in an area of combat operations is inherently governmental;

(vi) the organizational structure, resources, policies, and practices of the Department of Defense and the Department of State for performing contingency program management; and

(vii) the process by which roles and responsibilities with respect to management and oversight of contracts in contingency contracting are distributed among the various departments and agencies of the Federal Government, and interagency coordination and communication mechanisms associated with contingency contracting.

(e) OTHER POWERS AND AUTHORITIES.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any portion thereof, may, for the purpose of carrying out this section—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths (provided that the quorum for a hearing shall be three members of the Commission); and

(B) provide for the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents;

as the Commission, or such portion thereof, may determine advisable.

(2) INABILITY TO OBTAIN DOCUMENTS OR TESTIMONY.—In the event the Commission is unable to obtain testimony or documents needed to conduct its work, the Commission shall notify the committees of Congress of jurisdiction and appropriate investigative authorities.

(3) ACCESS TO INFORMATION.—The Commission may secure directly from the Department of Defense and any other department or agency of the Federal Government any information or assistance that the Commission considers necessary to enable the Commission to carry out the requirements of this section. Upon request of the Commission, the head of such department or agency shall furnish such information expeditiously to the Commission. Whenever information or assistance requested by the Commission is unreasonably refused or not provided, the Commission shall report the circumstances to Congress without delay.

Reports.

(4) PERSONNEL.—The Commission shall have the authorities provided in section 3161 of title 5, United States Code, and shall be subject to the conditions set forth in such section, except to the extent that such conditions would be inconsistent with the requirements of this section.

(5) DETAILEES.—Any employee of the Federal Government may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(6) SECURITY CLEARANCES.—The appropriate departments or agencies of the Federal Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this section without the appropriate security clearances.

(7) VIOLATIONS OF LAW.—

(A) REFERRAL TO ATTORNEY GENERAL.—The Commission may refer to the Attorney General any violation or potential violation of law identified by the Commission in carrying out its duties under this section.

(B) REPORTS ON RESULTS OF REFERRAL.—The Attorney General shall submit to Congress a report on each prosecution, conviction, resolution, or other disposition that results from a referral made under this subparagraph.

(f) TERMINATION.—The Commission shall terminate on the date that is 60 days after the date of the submittal of its final report under subsection (d)(3).

(g) DEFINITIONS.—In this section:

(1) CONTINGENCY CONTRACTING.—The term "contingency contracting" means all stages of the process of acquiring property or services during a contingency operation.

(2) CONTINGENCY OPERATION.—The term "contingency operation" has the meaning given that term in section 101 of title 10, United States Code.

(3) CONTINGENCY PROGRAM MANAGEMENT.—The term "contingency program management" means the process of planning, organizing, staffing, controlling, and leading the combined efforts of participating personnel for the management of a specific acquisition program or programs during contingency operations.

10 USC 2302 note.

**SEC. 842. INVESTIGATION OF WASTE, FRAUD, AND ABUSE IN WARTIME CONTRACTS AND CONTRACTING PROCESSES IN IRAQ AND AFGHANISTAN.**

(a) AUDITS REQUIRED.—Thorough audits shall be performed in accordance with this section to identify potential waste, fraud, and abuse in the performance of—

(1) Department of Defense contracts, subcontracts, and task and delivery orders for the logistical support of coalition forces in Iraq and Afghanistan; and

(2) Federal agency contracts, subcontracts, and task and delivery orders for the performance of security and reconstruction functions in Iraq and Afghanistan.

(b) AUDIT PLANS.—

(1) The Department of Defense Inspector General shall develop a comprehensive plan for a series of audits of contracts, subcontracts, and task and delivery orders covered by subsection (a)(1), consistent with the requirements of subsection (g), in consultation with other Inspectors General specified in subsection (c) with regard to any contracts, subcontracts, or task or delivery orders over which such Inspectors General have jurisdiction.

(2) The Special Inspector General for Iraq Reconstruction shall develop a comprehensive plan for a series of audits of contracts, subcontracts, and task and delivery orders covered by subsection (a)(2) relating to Iraq, consistent with the requirements of subsection (h), in consultation with other Inspectors General specified in subsection (c) with regard to any contracts, subcontracts, or task or delivery orders over which such Inspectors General have jurisdiction.

(3) The Special Inspector General for Afghanistan Reconstruction shall develop a comprehensive plan for a series of audits of contracts, subcontracts, and task and delivery orders covered by subsection (a)(2) relating to Afghanistan, consistent with the requirements of subsection (h), in consultation with other Inspectors General specified in subsection (c) with regard to any contracts, subcontracts, or task or delivery orders over which such Inspectors General have jurisdiction.

(c) PERFORMANCE OF AUDITS BY CERTAIN INSPECTORS GENERAL.—The Special Inspector General for Iraq Reconstruction, during such period as such office exists, the Special Inspector General for Afghanistan Reconstruction, during such period as such office exists, the Inspector General of the Department of Defense, the Inspector General of the Department of State, and the Inspector General of the United States Agency for International Development shall perform such audits as required by subsection (a) and identified in the audit plans developed pursuant to subsection (b) as fall within the respective scope of their duties as specified in law.

(d) COORDINATION OF AUDITS.—The Inspectors General specified in subsection (c) shall work to coordinate the performance of the audits required by subsection (a) and identified in the audit plans developed under subsection (b) including through councils and working groups composed of such Inspectors General.

(e) JOINT AUDITS.—If one or more audits required by subsection (a) and identified in an audit plan developed under subsection (b) falls within the scope of the duties of more than one of the Inspectors General specified in subsection (c), and such Inspectors General agree that such audit or audits are best pursued jointly, such Inspectors General shall enter into a memorandum of understanding relating to the performance of such audit or audits.

(f) SEPARATE AUDITS.—If one or more audits required by subsection (a) and identified in an audit plan developed under subsection (b) falls within the scope of the duties of more than one of the Inspectors General specified in subsection (c), and such Inspectors General do not agree that such audit or audits are best pursued jointly, such audit or audits shall be separately performed by one or more of the Inspectors General concerned.

(g) SCOPE OF AUDITS OF CONTRACTS.—Audits conducted pursuant to subsection (a)(1) shall examine, at a minimum, one or more of the following issues:

(1) The manner in which contract requirements were developed.

(2) The procedures under which contracts or task or delivery orders were awarded.

(3) The terms and conditions of contracts or task or delivery orders.

(4) The staffing and method of performance of contractors, including cost controls.

(5) The efficacy of Department of Defense management and oversight, including the adequacy of staffing and training of officials responsible for such management and oversight.

(6) The flow of information from contractors to officials responsible for contract management and oversight.

(h) SCOPE OF AUDITS OF OTHER CONTRACTS.—Audits conducted pursuant to subsection (a)(2) shall examine, at a minimum, one or more of the following issues:

(1) The manner in which contract requirements were developed and contracts or task and delivery orders were awarded.

(2) The manner in which the Federal agency exercised control over the performance of contractors.

(3) The extent to which operational field commanders were able to coordinate or direct the performance of contractors in an area of combat operations.

(4) The degree to which contractor employees were properly screened, selected, trained, and equipped for the functions to be performed.

(5) The nature and extent of any incidents of misconduct or unlawful activity by contractor employees.

(6) The nature and extent of any activity by contractor employees that was inconsistent with the objectives of operational field commanders.

(7) The extent to which any incidents of misconduct or unlawful activity were reported, documented, investigated, and (where appropriate) prosecuted.

(i) INDEPENDENT CONDUCT OF AUDIT FUNCTIONS.—All audit functions under this section, including audit planning and coordination, shall be performed by the relevant Inspectors General in an independent manner, without consultation with the Commission established pursuant to section 841 of this Act. All audit reports resulting from such audits shall be available to the Commission.

**SEC. 843. ENHANCED COMPETITION REQUIREMENTS FOR TASK AND DELIVERY ORDER CONTRACTS.**

(a) DEFENSE CONTRACTS.—

(1) LIMITATION ON SINGLE AWARD CONTRACTS.—Section 2304a(d) of title 10, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3)(A) No task or delivery order contract in an amount estimated to exceed $100,000,000 (including all options) may be awarded to a single source unless the head of the agency determines in writing that—

"(i) the task or delivery orders expected under the contract are so integrally related that only a single source can reasonably perform the work;

"(ii) the contract provides only for firm, fixed price task orders or delivery orders for—

"(I) products for which unit prices are established in the contract; or

"(II) services for which prices are established in the contract for the specific tasks to be performed;

"(iii) only one source is qualified and capable of performing the work at a reasonable price to the government; or

"(iv) because of exceptional circumstances, it is necessary in the public interest to award the contract to a single source.

"(B) The head of the agency shall notify Congress within 30 days after any determination under subparagraph (A)(iv).". Notification. Deadline.

(2) ENHANCED COMPETITION FOR ORDERS IN EXCESS OF $5,000,000.—Section 2304c of such title is amended—

(A) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(B) by inserting after subsection (c) the following new subsection (d):

"(d) ENHANCED COMPETITION FOR ORDERS IN EXCESS OF $5,000,000.—In the case of a task or delivery order in excess of $5,000,000, the requirement to provide all contractors a fair opportunity to be considered under subsection (b) is not met unless all such contractors are provided, at a minimum—

"(1) a notice of the task or delivery order that includes a clear statement of the agency's requirements; Notification.

"(2) a reasonable period of time to provide a proposal in response to the notice;

"(3) disclosure of the significant factors and subfactors, including cost or price, that the agency expects to consider in evaluating such proposals, and their relative importance;

"(4) in the case of an award that is to be made on a best value basis, a written statement documenting the basis for the award and the relative importance of quality and price or cost factors; and

"(5) an opportunity for a post-award debriefing consistent with the requirements of section 2305(b)(5) of this title."; and

(C) by striking subsection (e), as redesignated by paragraph (1), and inserting the following new subsection (e):

"(e) PROTESTS.—(1) A protest is not authorized in connection with the issuance or proposed issuance of a task or delivery order except for—

"(A) a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued; or

"(B) a protest of an order valued in excess of $10,000,000.

"(2) Notwithstanding section 3556 of title 31, the Comptroller General of the United States shall have exclusive jurisdiction of a protest authorized under paragraph (1)(B).

"(3) This subsection shall be in effect for three years, beginning on the date that is 120 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008.". Effective date.

(3) EFFECTIVE DATES.— Applicability. 10 USC 2304a note.

(A) SINGLE AWARD CONTRACTS.—The amendments made by paragraph (1) shall take effect on the date that is 120 days after the date of the enactment of this Act, and shall apply with respect to any contract awarded on or after such date.

10 USC 2304c note.

(B) ORDERS IN EXCESS OF $5,000,000.—The amendments made by paragraph (2) shall take effect on the date that is 120 days after the date of the enactment of this Act, and shall apply with respect to any task or delivery order awarded on or after such date.

(b) CIVILIAN AGENCY CONTRACTS.—

(1) LIMITATION ON SINGLE AWARD CONTRACTS.—Section 303H(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h(d)) is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3)(A) No task or delivery order contract in an amount estimated to exceed $100,000,000 (including all options) may be awarded to a single source unless the head of the executive agency determines in writing that—

"(i) the task or delivery orders expected under the contract are so integrally related that only a single source can reasonably perform the work;

"(ii) the contract provides only for firm, fixed price task orders or delivery orders for—

"(I) products for which unit prices are established in the contract; or

"(II) services for which prices are established in the contract for the specific tasks to be performed;

"(iii) only one source is qualified and capable of performing the work at a reasonable price to the government; or

"(iv) because of exceptional circumstances, it is necessary in the public interest to award the contract to a single source.

"(B) The head of the executive agency shall notify Congress within 30 days after any determination under subparagraph (A)(iv).".

(2) ENHANCED COMPETITION FOR ORDERS IN EXCESS OF $5,000,000.—Section 303J of such Act (41 U.S.C. 253j) is amended—

(A) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(B) by inserting after subsection (c) the following new subsection (d):

"(d) ENHANCED COMPETITION FOR ORDERS IN EXCESS OF $5,000,000.—In the case of a task or delivery order in excess of $5,000,000, the requirement to provide all contractors a fair opportunity to be considered under subsection (b) is not met unless all such contractors are provided, at a minimum—

Notification.

"(1) a notice of the task or delivery order that includes a clear statement of the executive agency's requirements;

"(2) a reasonable period of time to provide a proposal in response to the notice;

"(3) disclosure of the significant factors and subfactors, including cost or price, that the executive agency expects to consider in evaluating such proposals, and their relative importance;

"(4) in the case of an award that is to be made on a best value basis, a written statement documenting the basis for the award and the relative importance of quality and price or cost factors; and

"(5) an opportunity for a post-award debriefing consistent with the requirements of section 303B(e)."; and

(C) by striking subsection (e), as redesignated by paragraph (1), and inserting the following new subsection (e):

"(e) PROTESTS.—(1) A protest is not authorized in connection with the issuance or proposed issuance of a task or delivery order except for—

"(A) a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued; or

"(B) a protest of an order valued in excess of $10,000,000.

"(2) Notwithstanding section 3556 of title 31, United States Code, the Comptroller General of the United States shall have exclusive jurisdiction of a protest authorized under paragraph (1)(B).

"(3) This subsection shall be in effect for three years, beginning on the date that is 120 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008.". Effective date.

(3) EFFECTIVE DATES.— Applicability.

(A) SINGLE AWARD CONTRACTS.—The amendments made by paragraph (1) shall take effect on the date that is 120 days after the date of the enactment of this Act, and shall apply with respect to any contract awarded on or after such date. 41 USC 253h note.

(B) ORDERS IN EXCESS OF $5,000,000.—The amendments made by paragraph (2) shall take effect on the date that is 120 days after the date of the enactment of this Act, and shall apply with respect to any task or delivery order awarded on or after such date. 41 USC 253j note.

**SEC. 844. PUBLIC DISCLOSURE OF JUSTIFICATION AND APPROVAL DOCUMENTS FOR NONCOMPETITIVE CONTRACTS.**

(a) CIVILIAN AGENCY CONTRACTS.—

(1) IN GENERAL.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended by adding at the end the following new subsection:

"(j)(1)(A) Except as provided in subparagraph (B), in the case of a procurement permitted by subsection (c), the head of an executive agency shall make publicly available, within 14 days after the award of the contract, the documents containing the justification and approval required by subsection (f)(1) with respect to the procurement. Public information. Deadline.

"(B) In the case of a procurement permitted by subsection (c)(2), subparagraph (A) shall be applied by substituting '30 days' for '14 days'. Applicability.

"(2) The documents shall be made available on the website of the agency and through a government-wide website selected by the Administrator for Federal Procurement Policy. Web site.

"(3) This subsection does not require the public availability of information that is exempt from public disclosure under section 552(b) of title 5, United States Code.".

(2) CONFORMING AMENDMENT.—Section 303(f) of such Act is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4).

(b) DEFENSE AGENCY CONTRACTS.—

(1) IN GENERAL.—Section 2304 of title 10, United States Code, is amended by adding at the end the following new subsection:

Public information. Deadline.

"(l)(1)(A) Except as provided in subparagraph (B), in the case of a procurement permitted by subsection (c), the head of an agency shall make publicly available, within 14 days after the award of the contract, the documents containing the justification and approval required by subsection (f)(1) with respect to the procurement.

Applicability.

"(B) In the case of a procurement permitted by subsection (c)(2), subparagraph (A) shall be applied by substituting '30 days' for '14 days'.

Web site.

"(2) The documents shall be made available on the website of the agency and through a government-wide website selected by the Administrator for Federal Procurement Policy.

"(3) This subsection does not require the public availability of information that is exempt from public disclosure under section 552(b) of title 5.".

(2) CONFORMING AMENDMENT.—Section 2304(f) of such title is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

5 USC app. 5 note.

**SEC. 845. DISCLOSURE OF GOVERNMENT CONTRACTOR AUDIT FINDINGS.**

(a) REQUIRED ANNEX ON SIGNIFICANT AUDIT FINDINGS.—

(1) IN GENERAL.—Each Inspector General appointed under the Inspector General Act of 1978 shall submit, as part of the semiannual report submitted to Congress pursuant to section 5 of such Act, an annex on final, completed contract audit reports issued to the contracting activity containing significant audit findings issued during the period covered by the semiannual report concerned.

(2) ELEMENTS.—Such annex shall include—

(A) a list of such contract audit reports;

(B) for each audit report, a brief description of the nature of the significant audit findings in the report; and

(C) for each audit report, the specific amounts of costs identified as unsupported, questioned, or disallowed.

(3) INFORMATION EXEMPT FROM PUBLIC DISCLOSURE.—(A) Nothing in this subsection shall be construed to require the release of information to the public that is exempt from public disclosure under section 552(b) of title 5, United States Code.

(B) For each element required by paragraph (2), the Inspector General concerned shall note each instance where information has been redacted in accordance with the requirements of section 552(b) of title 5, United States Code, and submit an unredacted annex to the committees listed in subsection (d)(2) within 7 days after the issuance of the semiannual report.

(b) DEFENSE CONTRACT AUDIT AGENCY INCLUDED.—For purposes of subsection (a), audits of the Defense Contract Audit Agency shall be included in the annex provided by the Inspector General of the Department of Defense if they include significant audit findings.

(c) EXCEPTION.—Subsection (a) shall not apply to an Inspector General if no audits described in such subsection were issued during the covered period.

(d) SUBMISSION OF INDIVIDUAL AUDITS.—

(1) REQUIREMENT.—The head of each Federal department or agency shall provide, within 14 days after a request in writing by the chairman or ranking member of any committee listed in paragraph (2), a full and unredacted copy of any audit described in subsection (a). Such copy shall include an identification of information in the audit exempt from public disclosure under section 552(b) of title 5, United States Code. Deadline.

(2) COMMITTEES.—The committees listed in this paragraph are the following:

(A) The Committee on Oversight and Government Reform of the House of Representatives.

(B) The Committee on Homeland Security and Governmental Affairs of the Senate.

(C) The Committees on Appropriations of the House of Representatives and the Senate.

(D) With respect to the Department of Defense and the Department of Energy, the Committees on Armed Services of the Senate and House of Representatives.

(E) The Committees of primary jurisdiction over the agency or department to which the request is made.

(e) CLASSIFIED INFORMATION.—Nothing in this section shall be interpreted to require the handling of classified information or information relating to intelligence sources and methods in a manner inconsistent with any law, regulation, executive order, or rule of the House of Representatives or of the Senate relating to the handling or protection of such information.

(f) DEFINITIONS.—In this section:

(1) SIGNIFICANT AUDIT FINDINGS.—The term "significant audit findings" includes—

(A) unsupported, questioned, or disallowed costs in an amount in excess of $10,000,000; or

(B) other findings that the Inspector General of the agency or department concerned determines to be significant.

(2) CONTRACT.—The term "contract" includes a contract, an order placed under a task or delivery order contract, or a subcontract.

**SEC. 846. PROTECTION FOR CONTRACTOR EMPLOYEES FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION.**

(a) INCREASED PROTECTION FROM REPRISAL.—Subsection (a) of section 2409 of title 10, United States Code, is amended—

(1) by striking "disclosing to a Member of Congress" and inserting "disclosing to a Member of Congress, a representative of a committee of Congress, an Inspector General, the Government Accountability Office, a Department of Defense employee responsible for contract oversight or management,"; and

(2) by striking "information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract)" and inserting "information that the employee reasonably believes is evidence of gross mismanagement of a Department of Defense contract or grant, a gross waste of Department of Defense funds, a substantial

and specific danger to public health or safety, or a violation of law related to a Department of Defense contract (including the competition for or negotiation of a contract) or grant".

(b) CLARIFICATION OF INSPECTOR GENERAL DETERMINATION.—Subsection (b) of such section is amended—

(1) by inserting "(1)" after "INVESTIGATION OF COMPLAINTS.—";

(2) by striking "an agency" and inserting "the Department of Defense, or the Inspector General of the National Aeronautics and Space Administration in the case of a complaint regarding the National Aeronautics and Space Administration"; and

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

Reports. Deadline.

"(2)(A) Except as provided under subparagraph (B), the Inspector General shall make a determination that a complaint is frivolous or submit a report under paragraph (1) within 180 days after receiving the complaint.

Reports.

"(B) If the Inspector General is unable to complete an investigation in time to submit a report within the 180-day period specified in subparagraph (A) and the person submitting the complaint agrees to an extension of time, the Inspector General shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between the Inspector General and the person submitting the complaint.".

(c) ACCELERATION OF SCHEDULE FOR DENYING RELIEF OR PROVIDING REMEDY.—Subsection (c) of such section is amended—

Deadline.

(1) in paragraph (1), by striking "If the head of the agency determines that a contractor has subjected a person to a reprisal prohibited by subsection (a), the head of the agency may" and inserting after "(1)" the following: "Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the contractor concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall";

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (1) the following new paragraphs:

Deadlines.

"(2) If the head of an executive agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under paragraph (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the contractor to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

"(3) An Inspector General determination and an agency head order denying relief under paragraph (2) shall be admissible in

evidence in any de novo action at law or equity brought pursuant to this subsection.".

(d) DEFINITIONS.—Subsection (e) of such section is amended—

(1) in paragraph (4), by inserting "or a grant" after "a contract"; and

(2) by inserting before the period at the end the following: "and any Inspector General that receives funding from, or has oversight over contracts awarded for or on behalf of, the Secretary of Defense".

**SEC. 847. REQUIREMENTS FOR SENIOR DEPARTMENT OF DEFENSE OFFICIALS SEEKING EMPLOYMENT WITH DEFENSE CONTRACTORS.**

10 USC 1701 note.

(a) REQUIREMENT TO SEEK AND OBTAIN WRITTEN OPINION.—

(1) REQUEST.—An official or former official of the Department of Defense described in subsection (c) who, within two years after leaving service in the Department of Defense, expects to receive compensation from a Department of Defense contractor, shall, prior to accepting such compensation, request a written opinion regarding the applicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

(2) SUBMISSION OF REQUEST.—A request for a written opinion under paragraph (1) shall be submitted in writing to an ethics official of the Department of Defense having responsibility for the organization in which the official or former official serves or served and shall set forth all information relevant to the request, including information relating to government positions held and major duties in those positions, actions taken concerning future employment, positions sought, and future job descriptions, if applicable.

(3) WRITTEN OPINION.—Not later than 30 days after receiving a request by an official or former official of the Department of Defense described in subsection (c), the appropriate ethics counselor shall provide such official or former official a written opinion regarding the applicability or inapplicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

Deadline.

(4) CONTRACTOR REQUIREMENT.—A Department of Defense contractor may not knowingly provide compensation to a former Department of Defense official described in subsection (c) within two years after such former official leaves service in the Department of Defense, without first determining that the former official has sought and received (or has not received after 30 days of seeking) a written opinion from the appropriate ethics counselor regarding the applicability of post-employment restrictions to the activities that the former official is expected to undertake on behalf of the contractor.

(5) ADMINISTRATIVE ACTIONS.—In the event that an official or former official of the Department of Defense described in subsection (c), or a Department of Defense contractor, knowingly fails to comply with the requirements of this subsection, the Secretary of Defense may take any of the administrative actions set forth in section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) that the Secretary of Defense determines to be appropriate.

(b) RECORDKEEPING REQUIREMENT.—

(1) DATABASE.—Each request for a written opinion made pursuant to this section, and each written opinion provided pursuant to such a request, shall be retained by the Department of Defense in a central database or repository for not less than five years beginning on the date on which the written opinion was provided.

(2) INSPECTOR GENERAL REVIEW.—The Inspector General of the Department of Defense shall conduct periodic reviews to ensure that written opinions are being provided and retained in accordance with the requirements of this section. The first such review shall be conducted no later than two years after the date of the enactment of this Act.

Deadline.

(c) COVERED DEPARTMENT OF DEFENSE OFFICIALS.—An official or former official of the Department of Defense is covered by the requirements of this section if such official or former official—

(1) participated personally and substantially in an acquisition as defined in section 4(16) of the Office of Federal Procurement Policy Act with a value in excess of $10,000,000 and serves or served—

(A) in an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code;

(B) in a position in the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code; or

(C) in a general or flag officer position compensated at a rate of pay for grade O–7 or above under section 201 of title 37, United States Code; or

(2) serves or served as a program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in an amount in excess of $10,000,000.

(d) DEFINITION.—In this section, the term "post-employment restrictions" includes—

(1) section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423);

(2) section 207 of title 18, United States Code; and

(3) any other statute or regulation restricting the employment or activities of individuals who leave government service in the Department of Defense.

**SEC. 848. REPORT ON CONTRACTOR ETHICS PROGRAMS OF MAJOR DEFENSE CONTRACTORS.**

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the internal ethics programs of major defense contractors.

(b) ELEMENTS.—The report required by subsection (a) shall address, at a minimum—

(1) the extent to which major defense contractors have internal ethics programs in place;

(2) the extent to which the ethics programs described in paragraph (1) include—

(A) the availability of internal mechanisms, such as hotlines, for contractor employees to report conduct that may violate applicable requirements of law or regulation;

(B) notification to contractor employees of the availability of external mechanisms, such as the hotline of the Inspector General of the Department of Defense, for the reporting of conduct that may violate applicable requirements of law or regulation;

(C) notification to contractor employees of their right to be free from reprisal for disclosing a substantial violation of law related to a contract, in accordance with section 2409 of title 10, United States Code;

(D) ethics training programs for contractor officers and employees;

(E) internal audit or review programs to identify and address conduct that may violate applicable requirements of law or regulation;

(F) self-reporting requirements, under which contractors report conduct that may violate applicable requirements of law or regulation to appropriate government officials;

(G) disciplinary action for contractor employees whose conduct is determined to have violated applicable requirements of law or regulation; and

(H) appropriate management oversight to ensure the successful implementation of such ethics programs;

(3) the extent to which the Department of Defense monitors or approves the ethics programs of major defense contractors; and

(4) the advantages and disadvantages of legislation requiring that defense contractors develop internal ethics programs and requiring that specific elements be included in such ethics programs.

(c) ACCESS TO INFORMATION.—In accordance with the contract clause required pursuant to section 2313(c) of title 10, United States Code, each major defense contractor shall provide the Comptroller General access to information requested by the Comptroller General that is within the scope of the report required by this section.

(d) MAJOR DEFENSE CONTRACTOR DEFINED.—In this section, the term "major defense contractor" means any company that was awarded contracts by the Department of Defense during fiscal year 2006 in amounts totaling more than $500,000,000.

**SEC. 849. CONTINGENCY CONTRACTING TRAINING FOR PERSONNEL OUTSIDE THE ACQUISITION WORKFORCE AND EVALUATIONS OF ARMY COMMISSION RECOMMENDATIONS.**

(a) TRAINING REQUIREMENT.—Section 2333 of title 10, United States Code is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) TRAINING FOR PERSONNEL OUTSIDE ACQUISITION WORKFORCE.—(1) The joint policy for requirements definition, contingency program management, and contingency contracting required by subsection (a) shall provide for training of military personnel outside the acquisition workforce (including operational

field commanders and officers performing key staff functions for operational field commanders) who are expected to have acquisition responsibility, including oversight duties associated with contracts or contractors, during combat operations, post-conflict operations, and contingency operations.

"(2) Training under paragraph (1) shall be sufficient to ensure that the military personnel referred to in that paragraph understand the scope and scale of contractor support they will experience in contingency operations and are prepared for their roles and responsibilities with regard to requirements definition, program management (including contractor oversight), and contingency contracting.

"(3) The joint policy shall also provide for the incorporation of contractors and contract operations in mission readiness exercises for operations that will include contracting and contractor support.".

Deadlines. Reports.

(b) ORGANIZATIONAL REQUIREMENTS.—

(1) EVALUATION BY THE SECRETARY OF DEFENSE.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall evaluate the recommendations included in the report of the Commission on Army Acquisition and Program Management in Expeditionary Operations and shall determine the extent to which such recommendations are applicable to the other Armed Forces. Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit a report to the congressional defense committees with the conclusions of this evaluation and a description of the Secretary's plans for implementing the Commission's recommendations for Armed Forces other than the Army.

(2) EVALUATION BY THE SECRETARY OF THE ARMY.—The Secretary of the Army, in consultation with the Chief of Staff of the Army, shall evaluate the recommendations included in the report of the Commission on Army Acquisition and Program Management in Expeditionary Operations. Not later than 120 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report detailing the Secretary's plans for implementation of the recommendations of the Commission. The report shall include the following:

(A) For each recommendation that has been implemented, or that the Secretary plans to implement—

(i) a summary of all actions that have been taken to implement such recommendation; and

(ii) a schedule, with specific milestones, for completing the implementation of such recommendation.

(B) For each recommendation that the Secretary has not implemented and does not plan to implement—

(i) the reasons for the decision not to implement such recommendation; and

(ii) a summary of any alternative actions the Secretary plans to take to address the purposes underlying such recommendation.

(C) For each recommendation that would require legislation to implement, the Secretary's recommendations regarding such legislation.

(c) COMPTROLLER GENERAL REPORT.—Section 854(c) of the John Warner National Defense Authorization Act for Fiscal Year 2007

(Public Law 109–364; 120 Stat. 2346) is amended by adding at the end the following new paragraph:

"(3) COMPTROLLER GENERAL REPORT.—Not later than 180 days after the date on which the Secretary of Defense submits the final report required by paragraph (2), the Comptroller General of the United States shall—

"(A) review the joint policies developed by the Secretary, including the implementation of such policies; and

"(B) submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the extent to which such policies, and the implementation of such policies, comply with the requirements of section 2333 of title 10, United States Code (as so amended).".

# Subtitle E—Acquisition Workforce Provisions

**SEC. 851. REQUIREMENT FOR SECTION ON DEFENSE ACQUISITION WORKFORCE IN STRATEGIC HUMAN CAPITAL PLAN.**

10 USC note prec. 1580.

(a) IN GENERAL.—In the update of the strategic human capital plan for 2008, and in each subsequent update, the Secretary of Defense shall include a separate section focused on the defense acquisition workforce, including both military and civilian personnel.

(b) FUNDING.—The section shall contain—

(1) an identification of the funding programmed for defense acquisition workforce improvements, including a specific identification of funding provided in the Department of Defense Acquisition Workforce Fund established under section 1705 of title 10, United States Code (as added by section 852 of this Act);

(2) an identification of the funding programmed for defense acquisition workforce training in the future-years defense program, including a specific identification of funding provided by the acquisition workforce training fund established under section 37(h)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(h)(3));

(3) a description of how the funding identified pursuant to paragraphs (1) and (2) will be implemented during the fiscal year concerned to address the areas of need identified in accordance with subsection (c);

(4) a statement of whether the funding identified under paragraphs (1) and (2) is being fully used; and

(5) a description of any continuing shortfall in funding available for the defense acquisition workforce.

(c) AREAS OF NEED.—The section also shall identify any areas of need in the defense acquisition workforce, including—

(1) gaps in the skills and competencies of the current or projected defense acquisition workforce;

(2) changes to the types of skills needed in the current or projected defense acquisition workforce;

(3) incentives to retain in the defense acquisition workforce qualified, experienced defense acquisition workforce personnel; and

(4) incentives for attracting new, high-quality personnel to the defense acquisition workforce.

(d) STRATEGIC HUMAN CAPITAL PLAN DEFINED.—In this section, the term "strategic human capital plan" means the strategic human capital plan required under section 1122 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3452; 10 U.S.C. prec. 1580 note).

**SEC. 852. DEPARTMENT OF DEFENSE ACQUISITION WORKFORCE DEVELOPMENT FUND.**

(a) IN GENERAL.—

(1) ESTABLISHMENT OF FUND.—Chapter 87 of title 10, United States Code, is amended by inserting after section 1704 the following new section:

**"§ 1705. Department of Defense Acquisition Workforce Development Fund**

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a fund to be known as the 'Department of Defense Acquisition Workforce Fund' (in this section referred to as the 'Fund') to provide funds, in addition to other funds that may be available, for the recruitment, training, and retention of acquisition personnel of the Department of Defense.

"(b) PURPOSE.—The purpose of the Fund is to ensure that the Department of Defense acquisition workforce has the capacity, in both personnel and skills, needed to properly perform its mission, provide appropriate oversight of contractor performance, and ensure that the Department receives the best value for the expenditure of public resources.

"(c) MANAGEMENT.—The Fund shall be managed by a senior official of the Department of Defense designated by the Under Secretary of Defense for Acquisition, Technology, and Logistics for that purpose, from among persons with an extensive background in management relating to acquisition and personnel.

"(d) ELEMENTS.—

"(1) IN GENERAL.—The Fund shall consist of amounts as follows:

"(A) Amounts credited to the Fund under paragraph (2).

"(B) Any other amounts appropriated to, credited to, or deposited into the Fund by law.

"(2) CREDITS TO THE FUND.—(A) There shall be credited to the Fund an amount equal to the applicable percentage for a fiscal year of all amounts expended by the Department of Defense in such fiscal year for contract services, other than services relating to research and development and services relating to military construction.

Deadlines.

"(B) Not later than 30 days after the end of the third fiscal year quarter of fiscal year 2008, and 30 days after the end of each fiscal year quarter thereafter, the head of each military department and Defense Agency shall remit to the Secretary of Defense an amount equal to the applicable percentage for such fiscal year of the amount expended by such military department or Defense Agency, as the case may be, during such fiscal year quarter for services covered by subparagraph (A). Any amount so remitted shall be credited to the Fund under subparagraph (A).

"(C) For purposes of this paragraph, the applicable percentage for a fiscal year is a percentage as follows:

"(i) For fiscal year 2008, 0.5 percent.

"(ii) For fiscal year 2009, 1 percent.

"(iii) For fiscal year 2010, 1.5 percent.

"(iv) For any fiscal year after fiscal year 2010, 2 percent.

"(D) The Secretary of Defense may reduce a percentage established in subparagraph (C) for any fiscal year, if he determines that the application of such percentage would result in the crediting of an amount greater than is reasonably needed for the purpose of the Fund. In no event may the Secretary reduce a percentage for any fiscal year below a percentage that results in the deposit in a fiscal year of an amount equal to the following:

"(i) For fiscal year 2008, $300,000,000.

"(ii) For fiscal year 2009, $400,000,000.

"(iii) For fiscal year 2010, $500,000,000.

"(iv) For any fiscal year after fiscal year 2010, $600,000,000.

"(e) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, amounts in the Fund shall be available to the Secretary of Defense for expenditure, or for transfer to a military department or Defense Agency, for the recruitment, training, and retention of acquisition personnel of the Department of Defense for the purpose of the Fund, including for the provision of training and retention incentives to the acquisition workforce of the Department.

"(2) PROHIBITION.—Amounts in the Fund may not be obligated for any purpose other than purposes described in paragraph (1) or otherwise in accordance with this subsection.

"(3) GUIDANCE.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, acting through the senior official designated to manage the Fund, shall issue guidance for the administration of the Fund. Such guidance shall include provisions—

"(A) identifying areas of need in the acquisition workforce for which amounts in the Fund may be used, including—

"(i) changes to the types of skills needed in the acquisition workforce;

"(ii) incentives to retain in the acquisition workforce qualified, experienced acquisition workforce personnel; and

"(iii) incentives for attracting new, high-quality personnel to the acquisition workforce;

"(B) describing the manner and timing for applications for amounts in the Fund to be submitted;

"(C) describing the evaluation criteria to be used for approving or prioritizing applications for amounts in the Fund in any fiscal year; and

"(D) describing measurable objectives of performance for determining whether amounts in the Fund are being used in compliance with this section.

"(4) LIMITATION ON PAYMENTS TO OR FOR CONTRACTORS.—Amounts in the Fund shall not be available for payments

to contractors or contractor employees, other than for the purpose of providing advanced training to Department of Defense employees.

"(5) PROHIBITION ON PAYMENT OF BASE SALARY OF CURRENT EMPLOYEES.—Amounts in the Fund may not be used to pay the base salary of any person who was an employee of the Department as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008.

"(6) DURATION OF AVAILABILITY.—Amounts credited to the Fund under subsection (d)(2) shall remain available for expenditure in the fiscal year for which credited and the two succeeding fiscal years.

"(f) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the operation of the Fund during such fiscal year. Each report shall include, for the fiscal year covered by such report, the following:

"(1) A statement of the amounts remitted to the Secretary for crediting to the Fund for such fiscal year by each military department and Defense Agency, and a statement of the amounts credited to the Fund for such fiscal year.

"(2) A description of the expenditures made from the Fund (including expenditures following a transfer of amounts in the Fund to a military department or Defense Agency) in such fiscal year, including the purpose of such expenditures.

"(3) A description and assessment of improvements in the Department of Defense acquisition workforce resulting from such expenditures.

"(4) Recommendations for additional authorities to fulfill the purpose of the Fund.

"(5) A statement of the balance remaining in the Fund at the end of such fiscal year.

"(g) ACQUISITION WORKFORCE DEFINED.—In this section, the term 'acquisition workforce' means personnel in positions designated under section 1721 of this title as acquisition positions for purposes of this chapter.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of such chapter is amended by inserting after the item relating to section 1704 the following new item:

"1705. Department of Defense Acquisition Workforce Development Fund.".

10 USC 1705 note.

(b) EFFECTIVE DATE.—Section 1705 of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act.

**SEC. 853. EXTENSION OF AUTHORITY TO FILL SHORTAGE CATEGORY POSITIONS FOR CERTAIN FEDERAL ACQUISITION POSITIONS.**

41 USC 433 note.

Section 1413(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1665) is amended by striking "September 30, 2007" and inserting "September 30, 2012".

**SEC. 854. REPEAL OF SUNSET OF ACQUISITION WORKFORCE TRAINING FUND.**

Section 37(h)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(h)(3)) is amended by striking subparagraph (H).

**SEC. 855. FEDERAL ACQUISITION WORKFORCE IMPROVEMENTS.**

41 USC 433a.

(a) ASSOCIATE ADMINISTRATOR FOR ACQUISITION WORKFORCE PROGRAMS.—The Administrator for Federal Procurement Policy shall designate a member of the Senior Executive Service as the Associate Administrator for Acquisition Workforce Programs. The Associate Administrator for Acquisition Workforce Programs shall be located in the Federal Acquisition Institute (or its successor). The Associate Administrator shall be responsible for—

Designation.

(1) supervising the acquisition workforce training fund established under section 37(h)(3) of the Office of Federal Procurement Policy Act (41 U. S. C. 433(h)(3));

(2) developing, in coordination with Chief Acquisition Officers and Chief Human Capital Officers, a strategic human capital plan for the acquisition workforce of the Federal Government;

(3) reviewing and providing input to individual agency acquisition workforce succession plans;

(4) recommending to the Administrator and other senior government officials appropriate programs, policies, and practices to increase the quantity and quality of the Federal acquisition workforce; and

(5) carrying out such other functions as the Administrator may assign.

(b) ACQUISITION AND CONTRACTING TRAINING PROGRAMS WITHIN EXECUTIVE AGENCIES.—

(1) REQUIREMENT.—The head of each executive agency, after consultation with the Associate Administrator for Acquisition Workforce Programs, shall establish and operate acquisition and contracting training programs. Such programs shall—

(A) have curricula covering a broad range of acquisition and contracting disciplines corresponding to the specific acquisition and contracting needs of the agency involved;

(B) be developed and applied according to rigorous standards; and

(C) be designed to maximize efficiency, through the use of self-paced courses, online courses, on-the-job training, and the use of remote instructors, wherever such features can be applied without reducing the effectiveness of the training or negatively affecting academic standards.

(2) CHIEF ACQUISITION OFFICER AUTHORITIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the head of an executive agency, the Chief Acquisition Officer for such agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this subsection. The Chief Acquisition Officer shall ensure that the policies established by the head of the agency in accordance with this subsection are implemented throughout the agency.

(c) GOVERNMENT-WIDE POLICIES AND EVALUATION.—The Administrator for Federal Procurement Policy shall issue policies to promote the development of performance standards for training and uniform implementation of this section by executive agencies,

with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Administrator shall evaluate the implementation of the provisions of subsection (b) by executive agencies.

(d) ACQUISITION AND CONTRACTING TRAINING REPORTING.—The Administrator for Federal Procurement Policy shall ensure that the heads of executive agencies collect and maintain standardized information on the acquisition and contracting workforce related to the implementation of subsection (b).

(e) ACQUISITION WORKFORCE HUMAN CAPITAL SUCCESSION PLAN.—

Deadline.

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, each Chief Acquisition Officer for an executive agency shall develop, in consultation with the Chief Human Capital Officer for the agency and the Associate Administrator for Acquisition Workforce Programs, a succession plan consistent with the agency's strategic human capital plan for the recruitment, development, and retention of the agency's acquisition workforce, with a particular focus on warranted contracting officers and program managers of the agency.

(2) CONTENT OF PLAN.—The acquisition workforce succession plan shall address—

(A) recruitment goals for personnel from procurement intern programs;

(B) the agency's acquisition workforce training needs;

(C) actions to retain high performing acquisition professionals who possess critical relevant skills;

(D) recruitment goals for personnel from the Federal Career Intern Program; and

(E) recruitment goals for personnel from the Presidential Management Fellows Program.

(f) TRAINING IN THE ACQUISITION OF ARCHITECT AND ENGINEERING SERVICES.—The Administrator for Federal Procurement Policy shall ensure that a sufficient number of Federal employees are trained in the acquisition of architect and engineering services.

(g) UTILIZATION OF RECRUITMENT AND RETENTION AUTHORITIES.—The Administrator for Federal Procurement Policy, in coordination with the Director of the Office of Personnel Management, shall encourage executive agencies to utilize existing authorities, including direct hire authority and tuition assistance programs, to recruit and retain acquisition personnel and consider recruiting acquisition personnel who may be retiring from the private sector, consistent with existing laws and regulations.

(h) DEFINITIONS.—In this section:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning provided in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(2) CHIEF ACQUISITION OFFICER.—The term "Chief Acquisition Officer" means a Chief Acquisition Officer for an executive agency appointed pursuant to section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414).

# Subtitle F—Contracts in Iraq and Afghanistan

**SEC. 861. MEMORANDUM OF UNDERSTANDING ON MATTERS RELATING TO CONTRACTING.**

Deadlines.
10 USC 2302 note.

(a) MEMORANDUM OF UNDERSTANDING REQUIRED.—The Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall, not later than July 1, 2008, enter into a memorandum of understanding regarding matters relating to contracting for contracts in Iraq or Afghanistan.

(b) MATTERS COVERED.—The memorandum of understanding required by subsection (a) shall address, at a minimum, the following:

(1) Identification of the major categories of contracts in Iraq or Afghanistan being awarded by the Department of Defense, the Department of State, or the United States Agency for International Development.

(2) Identification of the roles and responsibilities of each department or agency for matters relating to contracting for contracts in Iraq or Afghanistan.

(3) Responsibility for establishing procedures for, and the coordination of, movement of contractor personnel in Iraq or Afghanistan.

(4) Identification of common databases that will serve as repositories of information on contracts in Iraq or Afghanistan and contractor personnel in Iraq or Afghanistan, including agreement on the elements to be included in the databases, including, at a minimum—

(A) with respect to each contract—

(i) a brief description of the contract (to the extent consistent with security considerations);

(ii) the total value of the contract; and

(iii) whether the contract was awarded competitively; and

(B) with respect to contractor personnel—

(i) the total number of personnel employed on contracts in Iraq or Afghanistan;

(ii) the total number of personnel performing security functions under contracts in Iraq or Afghanistan; and

(iii) the total number of personnel working under contracts in Iraq or Afghanistan who have been killed or wounded.

(5) Responsibility for maintaining and updating information in the common databases identified under paragraph (4).

(6) Responsibility for the collection and referral to the appropriate Government agency of any information relating to offenses under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) or chapter 212 of title 18, United States Code (commonly referred to as the Military Extraterritorial Jurisdiction Act), including a clarification of responsibilities under section 802(a)(10) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), as amended by section 552 of the John Warner National

Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364).

Regulations.

(c) IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING.—Not later than 120 days after the memorandum of understanding required by subsection (a) is signed, the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall issue such policies or guidance and prescribe such regulations as are necessary to implement the memorandum of understanding for the relevant matters pertaining to their respective agencies.

(d) COPIES PROVIDED TO CONGRESS.—

(1) MEMORANDUM OF UNDERSTANDING.—Copies of the memorandum of understanding required by subsection (a) shall be provided to the relevant committees of Congress within 30 days after the memorandum is signed.

(2) REPORT ON IMPLEMENTATION.—Not later than 180 days after the memorandum of understanding required by subsection (a) is signed, the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall each provide a report to the relevant committees of Congress on the implementation of the memorandum of understanding.

(3) DATABASES.—The Secretary of Defense, the Secretary of State, or the Administrator of the United States Agency for International Development shall provide access to the common databases identified under subsection (b)(4) to the relevant committees of Congress.

Effective date.

(4) CONTRACTS.—Effective on the date of the enactment of this Act, copies of any contracts in Iraq or Afghanistan awarded after December 1, 2007, shall be provided to any of the relevant committees of Congress within 15 days after the submission of a request for such contract or contracts from such committee to the department or agency managing the contract.

10 USC 2302 note.

**SEC. 862. CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS IN AREAS OF COMBAT OPERATIONS.**

(a) REGULATIONS ON CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS.—

Deadline.

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretary of State, shall prescribe regulations on the selection, training, equipping, and conduct of personnel performing private security functions under a covered contract in an area of combat operations.

(2) ELEMENTS.—The regulations prescribed under subsection (a) shall, at a minimum, establish—

(A) a process for registering, processing, accounting for, and keeping appropriate records of personnel performing private security functions in an area of combat operations;

(B) a process for authorizing and accounting for weapons to be carried by, or available to be used by, personnel performing private security functions in an area of combat operations;

(C) a process for the registration and identification of armored vehicles, helicopters, and other military vehicles

operated by contractors performing private security functions in an area of combat operations;

(D) a process under which contractors are required to report all incidents, and persons other than contractors are permitted to report incidents, in which—

(i) a weapon is discharged by personnel performing private security functions in an area of combat operations;

(ii) personnel performing private security functions in an area of combat operations are killed or injured; or

(iii) persons are killed or injured, or property is destroyed, as a result of conduct by contractor personnel;

(E) a process for the independent review and, if practicable, investigation of—

(i) incidents reported pursuant to subparagraph (D); and

(ii) incidents of alleged misconduct by personnel performing private security functions in an area of combat operations;

(F) requirements for qualification, training, screening (including, if practicable, through background checks), and security for personnel performing private security functions in an area of combat operations;

(G) guidance to the commanders of the combatant commands on the issuance of—

(i) orders, directives, and instructions to contractors performing private security functions relating to equipment, force protection, security, health, safety, or relations and interaction with locals;

(ii) predeployment training requirements for personnel performing private security functions in an area of combat operations, addressing the requirements of this section, resources and assistance available to contractor personnel, country information and cultural training, and guidance on working with host country nationals and military; and

(iii) rules on the use of force for personnel performing private security functions in an area of combat operations;

(H) a process by which a commander of a combatant command may request an action described in subsection (b)(3); and

(I) a process by which the training requirements referred to in subparagraph (G)(ii) shall be implemented.

(3) AVAILABILITY OF ORDERS, DIRECTIVES, AND INSTRUCTIONS.—The regulations prescribed under subsection (a) shall include mechanisms to ensure the provision and availability of the orders, directives, and instructions referred to in paragraph (2)(G)(i) to contractors referred to in that paragraph, including through the maintenance of a single location (including an Internet website, to the extent consistent with security considerations) at or through which such contractors may access such orders, directives, and instructions. Web site.

(b) CONTRACT CLAUSE ON CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS.—

Deadline.

(1) REQUIREMENT UNDER FAR.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation issued in accordance with section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) shall be revised to require the insertion into each covered contract (or, in the case of a task order, the contract under which the task order is issued) of a contract clause addressing the selection, training, equipping, and conduct of personnel performing private security functions under such contract.

(2) CLAUSE REQUIREMENT.—The contract clause required by paragraph (1) shall require, at a minimum, that the contractor concerned shall—

(A) comply with regulations prescribed under subsection (a), including any revisions or updates to such regulations, and follow the procedures established in such regulations for—

(i) registering, processing, accounting for, and keeping appropriate records of personnel performing private security functions in an area of combat operations;

(ii) authorizing and accounting of weapons to be carried by, or available to be used by, personnel performing private security functions in an area of combat operations;

(iii) registration and identification of armored vehicles, helicopters, and other military vehicles operated by contractors and subcontractors performing private security functions in an area of combat operations; and

(iv) the reporting of incidents in which—

(I) a weapon is discharged by personnel performing private security functions in an area of combat operations;

(II) personnel performing private security functions in an area of combat operations are killed or injured; or

(III) persons are killed or injured, or property is destroyed, as a result of conduct by contractor personnel;

(B) ensure that all personnel performing private security functions under such contract are briefed on and understand their obligation to comply with—

(i) qualification, training, screening (including, if practicable, through background checks), and security requirements established by the Secretary of Defense for personnel performing private security functions in an area of combat operations;

(ii) applicable laws and regulations of the United States and the host country, and applicable treaties and international agreements, regarding the performance of the functions of the contractor;

(iii) orders, directives, and instructions issued by the applicable commander of a combatant command relating to equipment, force protection, security, health, safety, or relations and interaction with locals; and

(iv) rules on the use of force issued by the applicable commander of a combatant command for personnel performing private security functions in an area of combat operations; and

(C) cooperate with any investigation conducted by the Department of Defense pursuant to subsection (a)(2)(E) by providing access to employees of the contractor and relevant information in the possession of the contractor regarding the incident concerned.

(3) NONCOMPLIANCE OF PERSONNEL WITH CLAUSE.—The contracting officer for a covered contract may direct the contractor, at its own expense, to remove or replace any personnel performing private security functions in an area of combat operations who violate or fail to comply with applicable requirements of the clause required by this subsection. If the violation or failure to comply is a gross violation or failure or is repeated, the contract may be terminated for default.

(4) APPLICABILITY.—The contract clause required by this subsection shall be included in all covered contracts awarded on or after the date that is 180 days after the date of the enactment of this Act. Federal agencies shall make best efforts to provide for the inclusion of the contract clause required by this subsection in covered contracts awarded before such date.

(5) INSPECTOR GENERAL REPORT ON PILOT PROGRAM ON IMPOSITION OF FINES FOR NONCOMPLIANCE OF PERSONNEL WITH CLAUSE.—Not later than March 30, 2008, the Inspector General of the Department of Defense shall submit to Congress a report assessing the feasibility and advisability of carrying out a pilot program for the imposition of fines on contractors for personnel who violate or fail to comply with applicable requirements of the clause required by this section as a mechanism for enhancing the compliance of such personnel with the clause. The report shall include—

(A) an assessment of the feasibility and advisability of carrying out the pilot program; and

(B) if the Inspector General determines that carrying out the pilot program is feasible and advisable—

(i) recommendations on the range of contracts and subcontracts to which the pilot program should apply; and

(ii) a schedule of fines to be imposed under the pilot program for various types of personnel actions or failures.

(c) AREAS OF COMBAT OPERATIONS.—

(1) DESIGNATION.—The Secretary of Defense shall designate the areas constituting an area of combat operations for purposes of this section by not later than 120 days after the date of the enactment of this Act. Deadline.

(2) PARTICULAR AREAS.—Iraq and Afghanistan shall be included in the areas designated as an area of combat operations under paragraph (1).

(3) ADDITIONAL AREAS.—The Secretary may designate any additional area as an area constituting an area of combat operations for purposes of this section if the Secretary determines that the presence or potential of combat operations in

such area warrants designation of such area as an area of combat operations for purposes of this section.

(4) MODIFICATION OR ELIMINATION OF DESIGNATION.—The Secretary may modify or cease the designation of an area under this subsection as an area of combat operations if the Secretary determines that combat operations are no longer ongoing in such area.

(d) EXCEPTION.—The requirements of this section shall not apply to contracts entered into by elements of the intelligence community in support of intelligence activities.

10 USC 2302 note.

**SEC. 863. COMPTROLLER GENERAL REVIEWS AND REPORTS ON CONTRACTING IN IRAQ AND AFGHANISTAN.**

(a) REVIEWS AND REPORTS REQUIRED.—

(1) IN GENERAL.—Every 12 months, the Comptroller General shall review contracts in Iraq or Afghanistan and submit to the relevant committees of Congress a report on such review.

(2) MATTERS COVERED.—A report under this subsection shall cover the following with respect to the contracts in Iraq or Afghanistan reviewed for the report:

(A) Total number of contracts and task orders awarded during the period covered by the report.

(B) Total number of active contracts and task orders.

(C) Total value of all contracts and task orders awarded during the reporting period.

(D) Total value of active contracts and task orders.

(E) The extent to which such contracts have used competitive procedures.

(F) Total number of contractor personnel working on contracts during the reporting period.

(G) Total number of contractor personnel, on average, who are performing security functions during the reporting period.

(H) The number of contractor personnel killed or wounded during the reporting period.

(I) Information on any specific contract or class of contracts that the Comptroller General determines raises issues of significant concern.

(3) SUBMISSION OF REPORTS.—The Comptroller General shall submit an initial report under this subsection not later than October 1, 2008, and shall submit an updated report every year thereafter until October 1, 2010.

(b) ACCESS TO DATABASES ON CONTRACTS.—The Secretary of Defense and the Secretary of State shall provide full access to the databases described in section 861(b)(4) to the Comptroller General for purposes of the reviews carried out under this section.

10 USC 2302 note.

**SEC. 864. DEFINITIONS AND OTHER GENERAL PROVISIONS.**

(a) DEFINITIONS.—In this subtitle:

(1) MATTERS RELATING TO CONTRACTING.—The term "matters relating to contracting", with respect to contracts in Iraq and Afghanistan, means all matters relating to awarding, funding, managing, tracking, monitoring, and providing oversight to contracts and contractor personnel.

(2) CONTRACT IN IRAQ OR AFGHANISTAN.—The term "contract in Iraq or Afghanistan" means a contract with the Department of Defense, the Department of State, or the United States Agency for International Development, a subcontract at any

tier issued under such a contract, or a task order or delivery order at any tier issued under such a contract (including a contract, subcontract, or task order or delivery order issued by another Government agency for the Department of Defense, the Department of State, or the United States Agency for International Development), if the contract, subcontract, or task order or delivery order involves worked performed in Iraq or Afghanistan for a period longer than 14 days.

(3) COVERED CONTRACT.—The term "covered contract" means—

(A) a contract of a Federal agency for the performance of services in an area of combat operations, as designated by the Secretary of Defense under subsection (c) of section 862;

(B) a subcontract at any tier under such a contract; or

(C) a task order or delivery order issued under such a contract or subcontract.

(4) CONTRACTOR.—The term "contractor", with respect to a covered contract, means the contractor or subcontractor carrying out the covered contract.

(5) PRIVATE SECURITY FUNCTIONS.—The term "private security functions" means activities engaged in by a contractor under a covered contract as follows:

(A) Guarding of personnel, facilities, or property of a Federal agency, the contractor or subcontractor, or a third party.

(B) Any other activity for which personnel are required to carry weapons in the performance of their duties.

(6) RELEVANT COMMITTEES OF CONGRESS.—The term "relevant committees of Congress" means each of the following committees:

(A) The Committees on Armed Services of the Senate and the House of Representatives.

(B) The Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives.

(C) The Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(D) For purposes of contracts relating to the National Foreign Intelligence Program, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(b) CLASSIFIED INFORMATION.—Nothing in this subtitle shall be interpreted to require the handling of classified information or information relating to intelligence sources and methods in a manner inconsistent with any law, regulation, executive order, or rule of the House of Representatives or of the Senate relating to the handling or protection of such information.

# Subtitle G—Defense Materiel Readiness Board

10 USC 117 note.

## SEC. 871. ESTABLISHMENT OF DEFENSE MATERIEL READINESS BOARD.

Deadline.

(a) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense shall establish a Defense Materiel Readiness Board (in this subtitle referred to as the "Board") within the Office of the Secretary of Defense.

(b) MEMBERSHIP.—The Secretary shall appoint the chairman and the members of the Board from among officers of the Armed Forces with expertise in matters relevant to the function of the Board to assess materiel readiness and evaluate plans and policies relating to materiel readiness. At a minimum, the Board shall include representatives of the Joint Chiefs of Staff, each of the Armed Forces, and each of the reserve components of the Armed Forces.

(c) STAFF.—The Secretary of Defense shall assign staff, and request the Secretaries of the military departments to assign staff, as necessary to assist the Board in carrying out its duties.

(d) FUNCTIONS.—The Board shall provide independent assessments of materiel readiness, materiel readiness shortfalls, and materiel readiness plans to the Secretary of Defense and the Congress. To carry out such functions, the Board shall—

(1) monitor and assess the materiel readiness of the Armed Forces;

(2) assist the Secretary of Defense in the identification of deficiencies in the materiel readiness of the Armed Forces caused by shortfalls in weapons systems, equipment, and supplies;

(3) identify shortfalls in materiel readiness, including critical materiel readiness shortfalls, for purposes of the Secretary's designations under section 872 and the funding needed to address such shortfalls;

(4) assess the adequacy of current Department of Defense plans, policies, and programs to address shortfalls in materiel readiness, including critical materiel readiness shortfalls (as designated by the Secretary under section 872), and to sustain and improve materiel readiness;

(5) assist the Secretary of Defense in determining whether the industrial capacity of the Department of Defense and of the defense industrial base is being best utilized to support the materiel readiness needs of the Armed Forces;

(6) review and assess Department of Defense systems for measuring the status of current materiel readiness of the Armed Forces; and

(7) make recommendations with respect to materiel readiness funding, measurement techniques, plans, policies, and programs.

(e) REPORTS.—The Board shall submit to the Secretary of Defense a report summarizing its findings and recommendations not less than once every six months. Within 30 days after receiving a report from the Board, the Secretary shall forward the report in its entirety, together with his comments, to the congressional defense committees. The report shall be submitted in unclassified

form. To the extent necessary, the report may be accompanied by a classified annex.

**SEC. 872. CRITICAL MATERIEL READINESS SHORTFALLS.** 10 USC 117 note.

(a) DESIGNATION OF CRITICAL MATERIEL READINESS SHORTFALLS.—

(1) DESIGNATION.—The Secretary of Defense may designate any requirement of the Armed Forces for equipment or supplies as a critical materiel readiness shortfall if there is a shortfall in the required equipment or supplies that materially reduces readiness of the Armed Forces and that—

(A) cannot be adequately addressed by identifying acceptable substitute capabilities or cross leveling of equipment that does not unacceptably reduce the readiness of other Armed Forces; and

(B) that is likely to persist for more than two years based on currently projected budgets and schedules for deliveries of equipment and supplies.

(2) CONSIDERATION OF BOARD FINDINGS AND RECOMMENDATIONS.—In making any such designation, the Secretary shall take into consideration the findings and recommendations of the Defense Materiel Readiness Board.

(b) MEASURES TO ADDRESS CRITICAL MATERIEL READINESS SHORTFALLS.—The Secretary of Defense shall ensure that critical materiel readiness shortfalls designated pursuant to subsection (a)(1) are transmitted to the relevant officials of the Department of Defense responsible for requirements, budgets, and acquisition, and that such officials prioritize and address such shortfalls in the shortest time frame practicable.

(c) TRANSFER AUTHORITY.—

(1) IN GENERAL.—The amounts of authorizations that the Secretary may transfer under the authority of section 1001 of this Act is hereby increased by $2,000,000,000.

(2) LIMITATIONS.—The additional transfer authority provided by this section—

(A) may be made only from authorizations to the Department of Defense for fiscal year 2008;

(B) may be exercised solely for the purpose of addressing critical materiel readiness shortfalls as designated by the Secretary of Defense under subsection (a); and

(C) is subject to the same terms, conditions, and procedures as other transfer authority under section 1001 of this Act.

(d) STRATEGIC READINESS FUND.—

(1) ESTABLISHMENT.—There is established on the books of the Treasury a fund to be known as the Department of Defense Strategic Readiness Fund (in this subsection referred to as the "Fund"), which shall be administered by the Secretary of the Treasury.

(2) PURPOSES.—The Fund shall be used to address critical materiel readiness shortfalls as designated by the Secretary of Defense under subsection (a).

(3) ASSETS OF FUND.—There shall be deposited into the Fund any amount appropriated to the Fund, which shall constitute the assets of the Fund.

(4) LIMITATION.—The procurement unit cost (as defined in section 2432(a) of title 10, United States Code) of any item purchased using assets of the Fund, whether such assets are in the Fund or after such assets have been transferred from the Fund using the authority provided in subsection (c), shall not exceed $30,000,000.

(e) MULTIYEAR CONTRACT NOTIFICATION.—

Deadline.

(1) NOTIFICATION.—If the Secretary of a military department makes the determination described in paragraph (2) with respect to the use of a multiyear contract, the Secretary shall notify the congressional defense committees within 30 days of the determination and provide a detailed description of the proposed multiyear contract.

(2) DETERMINATION.—The determination referred to in paragraph (1) is a determination by the Secretary of a military department that the use of a multiyear contract to procure an item to address a critical materiel readiness shortfall—

(A) will significantly accelerate efforts to address a critical materiel readiness shortfall;

(B) will provide savings compared to the total anticipated costs of carrying out the contract through annual contracts; and

(C) will serve the interest of national security.

(f) DEFINITION.—In this section, the term "critical materiel readiness shortfall" means a critical materiel readiness shortfall designated by the Secretary of Defense under this section.

# Subtitle H—Other Matters

10 USC 2225 note.

**SEC. 881. CLEARINGHOUSE FOR RAPID IDENTIFICATION AND DISSEMINATION OF COMMERCIAL INFORMATION TECHNOLOGIES.**

Deadline.

(a) REQUIREMENT TO ESTABLISH CLEARINGHOUSE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, acting through the Assistant Secretary of Defense for Networks and Information Integration, shall establish a clearinghouse for identifying, assessing, and disseminating knowledge about readily available information technologies (with an emphasis on commercial off-the-shelf information technologies) that could support the warfighting mission of the Department of Defense.

(b) RESPONSIBILITIES.—The clearinghouse established pursuant to subsection (a) shall be responsible for the following:

(1) Developing a process to rapidly assess and set priorities and needs for significant information technology needs of the Department of Defense that could be met by commercial technologies, including a process for—

(A) aligning priorities and needs with the requirements of the commanders of the combatant command; and

(B) proposing recommendations to the commanders of the combatant command of feasible technical solutions for further evaluation.

(2) Identifying and assessing emerging commercial technologies (including commercial off-the-shelf technologies) that could support the warfighting mission of the Department of Defense, including the priorities and needs identified pursuant to paragraph (1).

(3) Disseminating information about commercial technologies identified pursuant to paragraph (2) to commanders of combatant commands and other potential users of such technologies.

(4) Identifying gaps in commercial technologies and working to stimulate investment in research and development in the public and private sectors to address those gaps.

(5) Enhancing internal data and communications systems of the Department of Defense for sharing and retaining information regarding commercial technology priorities and needs, technologies available to meet such priorities and needs, and ongoing research and development directed toward gaps in such technologies.

(6) Developing mechanisms, including web-based mechanisms, to facilitate communications with industry regarding the priorities and needs of the Department of Defense identified pursuant to paragraph (1) and commercial technologies available to address such priorities and needs.

(7) Assisting in the development of guides to help small information technology companies with promising technologies to understand and navigate the funding and acquisition processes of the Department of Defense.

(8) Developing methods to measure how well processes developed by the clearinghouse are being utilized and to collect data on an ongoing basis to assess the benefits of commercial technologies that are procured on the recommendation of the clearinghouse.

(c) PERSONNEL.—The Secretary of Defense, acting through the Assistant Secretary of Defense for Networks and Information Integration, shall provide for the hiring and support of employees (including detailees from other components of the Department of Defense and from other Federal departments or agencies) to assist in identifying, assessing, and disseminating information regarding commercial technologies under this section.

(d) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of this section.

**SEC. 882. AUTHORITY TO LICENSE CERTAIN MILITARY DESIGNATIONS AND LIKENESSES OF WEAPONS SYSTEMS TO TOY AND HOBBY MANUFACTURERS.**

(a) AUTHORITY TO LICENSE CERTAIN ITEMS.—Section 2260 of title 10, United States Code, is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) LICENSES FOR QUALIFYING COMPANIES.—(1) The Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary relating to military designations and likenesses of military weapons systems to any qualifying company upon receipt of a request from the company.

"(2) For purposes of paragraph (1), a qualifying company is any United States company that—

"(A) is a toy or hobby manufacturer; and

"(B) is determined by the Secretary concerned to be qualified in accordance with such criteria as determined appropriate by the Secretary of Defense.

"(3) The fee for a license under this subsection shall not exceed by more than a nominal amount the amount needed to recover all costs of the Department of Defense in processing the request for the license and supplying the license.

"(4) A license to a qualifying company under this subsection shall provide that the license may not be transferred, sold, or relicensed by the qualifying company.

"(5) A license under this subsection shall not be an exclusive license.".

Regulations. Deadline. 10 USC 2260 note.

(b) EFFECTIVE DATE.—The Secretary of Defense shall prescribe regulations to implement the amendment made by this section not later than 180 days after the date of the enactment of this Act.

10 USC 2302 note.

**SEC. 883. MODIFICATIONS TO LIMITATION ON CONTRACTS TO ACQUIRE MILITARY FLIGHT SIMULATOR.**

(a) EFFECT ON EXISTING CONTRACTS.—Section 832 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2331) is amended by adding at the end the following new subsection:

"(e) EFFECT ON EXISTING CONTRACTS.—The limitation in subsection (a) does not apply to any service contract of a military department to acquire a military flight simulator, or to any renewal or extension of, or follow-on contract to, such a contract, if—

"(1) the contract was in effect as of October 17, 2006;

"(2) the number of flight simulators to be acquired under the contract (or renewal, extension, or follow-on) will not result in the total number of flight simulators acquired by the military department concerned through service contracts to exceed the total number of flight simulators to be acquired under all service contracts of such department for such simulators in effect as of October 17, 2006; and

"(3) in the case of a renewal or extension of, or follow-on contract to, the contract, the Secretary of the military department concerned provides to the congressional defense committees a written notice of the decision to exercise an option to renew or extend the contract, or to issue a solicitation for bids or proposals using competitive procedures for a follow-on contract, and an economic analysis as described in subsection (c) supporting the decision, at least 30 days before carrying out such decision.".

(b) CHANGE IN GROUNDS FOR WAIVER.—Section 832(c)(1) of such Act, as redesignated by subsection (a), is amend by striking "necessary for national security purposes" and inserting "in the national interest".

10 USC 2533b note.

**SEC. 884. REQUIREMENTS RELATING TO WAIVERS OF CERTAIN DOMESTIC SOURCE LIMITATIONS RELATING TO SPECIALTY METALS.**

(a) NOTICE REQUIREMENT.—At least 30 days prior to making a domestic nonavailability determination pursuant to section 2533b(b) of title 10, United States Code, that would apply to more than one contract of the Department of Defense, the Secretary of Defense shall, to the maximum extent practicable and in a

manner consistent with the protection of national security information and confidential business information—

(1) publish a notice on the website maintained by the General Services Administration known as FedBizOpps.gov (or any successor site) of the Secretary's intent to make the domestic nonavailability determination; and Web site.

(2) solicit information relevant to such notice from interested parties, including producers of specialty metal mill products.

(b) DETERMINATION.—(1) The Secretary shall take into consideration all information submitted pursuant to subsection (a) in making a domestic nonavailability determination pursuant to section 2533b(b) of title 10, United States Code, that would apply to more than one contract of the Department of Defense, and may also consider other relevant information that cannot be made part of the public record consistent with the protection of national security information and confidential business information.

(2) The Secretary shall ensure that any such determination and the rationale for such determination is made publicly available to the maximum extent consistent with the protection of national security information and confidential business information. Public information.

**SEC. 885. TELEPHONE SERVICES FOR MILITARY PERSONNEL SERVING IN COMBAT ZONES.** 10 USC 2304 note.

(a) COMPETITIVE PROCEDURES REQUIRED.—

(1) REQUIREMENT.—When the Secretary of Defense considers it necessary to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones, the Secretary shall use competitive procedures when entering into a contract to provide those services.

(2) REVIEW AND DETERMINATION.—Before soliciting bids or proposals for new contracts, or considering extensions to existing contracts, to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones, the Secretary shall review and determine whether it is in the best interest of the Department to require bids or proposals, or adjustments for the purpose of extending a contract, to include options that minimize the cost of the telephone services to individual users while providing individual users the flexibility of using phone cards from other than the prospective contractor. The Secretary shall submit the results of this review and determination to the Committees on Armed Services of the Senate and the House of Representatives.

(b) EFFECTIVE DATE.— Applicability.

(1) REQUIREMENT.—Subsection (a)(1) shall apply to any new contract to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones that is entered into after the date of the enactment of this Act.

(2) REVIEW AND DETERMINATION.—Subsection (a)(2) shall apply to any new contract or extension to an existing contract to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones that is entered into or agreed upon after the date of the enactment of this Act.

10 USC 2302 note.

**SEC. 886. ENHANCED AUTHORITY TO ACQUIRE PRODUCTS AND SERVICES PRODUCED IN IRAQ AND AFGHANISTAN.**

(a) IN GENERAL.—In the case of a product or service to be acquired in support of military operations or stability operations in Iraq or Afghanistan (including security, transition, reconstruction, and humanitarian relief activities) for which the Secretary of Defense makes a determination described in subsection (b), the Secretary may conduct a procurement in which—

(1) competition is limited to products or services that are from Iraq or Afghanistan;

(2) procedures other than competitive procedures are used to award a contract to a particular source or sources from Iraq or Afghanistan; or

(3) a preference is provided for products or services that are from Iraq or Afghanistan.

(b) DETERMINATION.—A determination described in this subsection is a determination by the Secretary that—

(1) the product or service concerned is to be used only by the military forces, police, or other security personnel of Iraq or Afghanistan; or

(2) it is in the national security interest of the United States to limit competition, use procedures other than competitive procedures, or provide a preference as described in subsection (a) because—

(A) such limitation, procedure, or preference is necessary to provide a stable source of jobs in Iraq or Afghanistan; and

(B) such limitation, procedure, or preference will not adversely affect—

(i) military operations or stability operations in Iraq or Afghanistan; or

(ii) the United States industrial base.

(c) PRODUCTS, SERVICES, AND SOURCES FROM IRAQ OR AFGHANISTAN.—For the purposes of this section:

(1) A product is from Iraq or Afghanistan if it is mined, produced, or manufactured in Iraq or Afghanistan.

(2) A service is from Iraq or Afghanistan if it is performed in Iraq or Afghanistan by citizens or permanent resident aliens of Iraq or Afghanistan.

(3) A source is from Iraq or Afghanistan if it—

(A) is located in Iraq or Afghanistan; and

(B) offers products or services that are from Iraq or Afghanistan.

**SEC. 887. DEFENSE SCIENCE BOARD REVIEW OF DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES FOR THE ACQUISITION OF INFORMATION TECHNOLOGY.**

Deadline.

(a) REVIEW REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall direct the Defense Science Board to carry out a review of Department of Defense policies and procedures for the acquisition of information technology.

(b) MATTERS TO BE ADDRESSED.—The matters addressed by the review required by subsection (a) shall include the following:

(1) Department of Defense policies and procedures for acquiring national security systems, business information systems, and other information technology.

(2) The roles and responsibilities in implementing such policies and procedures of—

(A) the Under Secretary of Defense for Acquisition, Technology, and Logistics;

(B) the Chief Information Officer of the Department of Defense;

(C) the Director of the Business Transformation Agency;

(D) the service acquisition executives;

(E) the chief information officers of the military departments;

(F) Defense Agency acquisition officials;

(G) the information officers of the Defense Agencies; and

(H) the Director of Operational Test and Evaluation and the heads of the operational test organizations of the military departments and the Defense Agencies.

(3) The application of such policies and procedures to information technologies that are an integral part of weapons or weapon systems.

(4) The requirements of subtitle III of title 40, United States Code, and chapter 35 of title 44, United States Code, regarding performance-based and results-based management, capital planning, and investment control in the acquisition of information technology.

(5) Department of Defense policies and procedures for maximizing the usage of commercial information technology while ensuring the security of the microelectronics, software, and networks of the Department.

(6) The suitability of Department of Defense acquisition regulations, including Department of Defense Directive 5000.1 and the accompanying milestones, to the acquisition of information technology systems.

(7) The adequacy and transparency of metrics used by the Department of Defense for the acquisition of information technology systems.

(8) The effectiveness of existing statutory and regulatory reporting requirements for the acquisition of information technology systems.

(9) The adequacy of operational and development test resources (including infrastructure and personnel), policies, and procedures to ensure appropriate testing of information technology systems both during development and before operational use.

(10) The appropriate policies and procedures for technology assessment, development, and operational testing for purposes of the adoption of commercial technologies into information technology systems.

(c) REPORT REQUIRED.—Not later than one year after the date of enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the results of the review required by subsection (a). The report shall include the findings and recommendations of the Defense Science Board pursuant to the review, including such recommendations for legislative or administrative action as the Board considers appropriate, together with any comments the Secretary considers appropriate.

**SEC. 888. GREEN PROCUREMENT POLICY.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Department of Defense should establish a system to document and track the use of environmentally preferable products and services.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on a plan to increase the usage of environmentally friendly products that minimize potential impacts to human health and the environment at all Department of Defense facilities inside and outside the United States, including through the direct purchase of products and the purchase of products by facility maintenance contractors. The report shall also cover consideration of the budgetary impact of implementation of the plan.

**SEC. 889. COMPTROLLER GENERAL REVIEW OF USE OF AUTHORITY UNDER THE DEFENSE PRODUCTION ACT OF 1950.**

(a) THOROUGH REVIEW REQUIRED.—The Comptroller General of the United States (in this section referred to as the "Comptroller") shall conduct a thorough review of the application of the Defense Production Act of 1950, covering the period beginning on the date of the enactment of the Defense Production Act Reauthorization of 2003 (Public Law 108–195) and ending on the date of the enactment of this Act.

(b) CONSIDERATIONS.—In conducting the review required by this section, the Comptroller shall examine—

(1) the relevance and utility of the authorities provided under the Defense Production Act of 1950 to meet the security challenges of the 21st Century;

(2) the manner in which the authorities provided under such Act have been used by the Federal Government—

(A) to meet security challenges;

(B) to meet current and future defense requirements;

(C) to meet current and future energy requirements;

(D) to meet current and future domestic emergency and disaster response and recovery requirements;

(E) to reduce the interruption of critical infrastructure operations during a terrorist attack, natural catastrophe, or other similar national emergency; and

(F) to safeguard critical components of the United States industrial base, including American aerospace and shipbuilding industries;

(3) the economic impact of foreign offset contracts;

(4) the relative merit of developing rapid and standardized systems for use of the authorities provided under the Defense Production Act of 1950, by any Federal agency; and

(5) such other issues as the Comptroller determines relevant.

(c) REPORT TO CONGRESS.—Not later than 150 days after the date of the enactment of this Act, the Comptroller shall submit to the Committees on Armed Services and on Banking, Housing, and Urban Affairs of the Senate and the Committees on Armed Services and on Financial Services of the House of Representatives a report on the review conducted under this section.

(d) RULES OF CONSTRUCTION ON PROTECTION OF INFORMATION.—Notwithstanding any other provision of law—

(1) the provisions of section 705(d) of the Defense Production Act of 1950 (50 U.S.C. App. 2155(d)) shall not apply to information sought or obtained by the Comptroller for purposes of the review required by this section; and

(2) provisions of law pertaining to the protection of classified information or proprietary information otherwise applicable to information sought or obtained by the Comptroller in carrying out this section shall not be affected by any provision of this section.

**SEC. 890. PREVENTION OF EXPORT CONTROL VIOLATIONS.**

10 USC 2302 note. Deadline. Regulations.

(a) PREVENTION OF EXPORT CONTROL VIOLATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations requiring any contractor under a contract with the Department of Defense to provide goods or technology that is subject to export controls under the Arms Export Control Act or the Export Administration of 1979 (as continued in effect under the International Emergency Economic Powers Act) to comply with those Acts and applicable regulations with respect to such goods and technology, including the International Traffic in Arms Regulations and the Export Administration Regulations. Regulations prescribed under this subsection shall include a contract clause enforcing such requirement.

Contracts.

(b) TRAINING ON EXPORT CONTROLS.—The Secretary of Defense shall ensure that any contractor under a contract with the Department of Defense to provide goods or technology that is subject to export controls under the Arms Export Control Act or the Export Administration of 1979 (as continued in effect under the International Emergency Economic Powers Act) is made aware of any relevant resources made available by the Department of State and the Department of Commerce to assist in compliance with the requirement established by subsection (a) and the need for a corporate compliance plan and periodic internal audits of corporate performance under such plan.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report assessing the utility of—

(1) requiring defense contractors (or subcontractors at any tier) to periodically report on measures taken to ensure compliance with the International Traffic in Arms Regulations and the Export Administration Regulations;

(2) requiring periodic audits of defense contractors (or subcontractors at any tier) to ensure compliance with all provisions of the International Traffic in Arms Regulations and the Export Administration Regulations;

(3) requiring defense contractors to maintain a corporate training plan to disseminate information to appropriate contractor personnel regarding the applicability of the Arms Export Control Act and the Export Administration Act of 1979; and

(4) requiring a designated corporate liaison, available for training provided by the United States Government, whose primary responsibility would be contractor compliance with the Arms Export Control Act and the Export Administration Act of 1979.

(d) DEFINITIONS.—In this section:

(1) EXPORT ADMINISTRATION REGULATIONS.—The term "Export Administration Regulations" means those regulations contained in sections 730 through 774 of title 15, Code of Federal Regulations (or successor regulations).

(2) INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—The term "International Traffic in Arms Regulations" means those regulations contained in sections 120 through 130 of title 22, Code of Federal Regulations (or successor regulations).

**SEC. 891. PROCUREMENT GOAL FOR NATIVE HAWAIIAN-SERVING INSTITUTIONS AND ALASKA NATIVE-SERVING INSTITUTIONS.**

Section 2323 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "and" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) Native Hawaiian-serving institutions and Alaska Native-serving institutions (as defined in section 317 of the Higher Education Act of 1965).";

(2) in subsection (a)(2), by inserting after "Hispanic-serving institutions," the following: "Native Hawaiian-serving institutions and Alaska Native-serving institutions,";

(3) in subsection (c)(1), by inserting after "Hispanic-serving institutions," the following: "Native Hawaiian-serving institutions and Alaska Native-serving institutions,"; and

(4) in subsection (c)(3), by inserting after "Hispanic-serving institutions," the following: "to Native Hawaiian-serving institutions and Alaska Native-serving institutions,".

10 USC 2304 note.

**SEC. 892. COMPETITION FOR PROCUREMENT OF SMALL ARMS SUPPLIED TO IRAQ AND AFGHANISTAN.**

(a) COMPETITION REQUIREMENT.—For the procurement of pistols and other weapons described in subsection (b), the Secretary of Defense shall ensure, consistent with the provisions of section 2304 of title 10, United States Code, that—

(1) full and open competition is obtained to the maximum extent practicable;

(2) no responsible United States manufacturer is excluded from competing for such procurements; and

(3) products manufactured in the United States are not excluded from the competition.

Applicability.

(b) PROCUREMENTS COVERED.—This section applies to the procurement of the following:

(1) Pistols and other weapons less than 0.50 caliber for assistance to the Army of Iraq, the Iraqi Police Forces, and other Iraqi security organizations.

(2) Pistols and other weapons less than 0.50 caliber for assistance to the Army of Afghanistan, the Afghani Police Forces, and other Afghani security organizations.

# TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

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Sec. 901. Repeal of limitation on major Department of Defense headquarters activities personnel and related report.
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Sec. 904. Management of the Department of Defense.
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Sec. 906. Department of Defense Board of Actuaries.
Sec. 907. Modification of background requirement of individuals appointed as Under Secretary of Defense for Acquisition, Technology, and Logistics.
Sec. 908. Assistant Secretaries of the military departments for acquisition matters; principal military deputies.
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Subtitle C—Chemical Demilitarization Program

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Sec. 922. Sense of Congress on completion of destruction of United States chemical weapons stockpile.
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Subtitle D—Intelligence-Related Matters

Sec. 931. Technical amendments to title 10, United States Code, arising from enactment of the Intelligence Reform and Terrorism Prevention Act of 2004.

Subtitle E—Roles and Missions Analysis

Sec. 941. Requirement for quadrennial roles and missions review.
Sec. 942. Joint Requirements Oversight Council additional duties relating to core mission areas.
Sec. 943. Requirement for certification of major systems prior to technology development.
Sec. 944. Presentation of future-years mission budget by core mission area.

Subtitle F—Other Matters

Sec. 951. Department of Defense consideration of effect of climate change on Department facilities, capabilities, and missions.
Sec. 952. Interagency policy coordination.
Sec. 953. Expansion of employment creditable under service agreements under National Security Education Program.
Sec. 954. Board of Regents for the Uniformed Services University of the Health Sciences.
Sec. 955. Establishment of Department of Defense School of Nursing.
Sec. 956. Inclusion of commanders of Western Hemisphere combatant commands in Board of Visitors of Western Hemisphere Institute for Security Cooperation.
Sec. 957. Comptroller General assessment of reorganization of the Office of the Under Secretary of Defense for Policy.
Sec. 958. Report on foreign language proficiency.

# Subtitle A—Department of Defense Management

**SEC. 901. REPEAL OF LIMITATION ON MAJOR DEPARTMENT OF DEFENSE HEADQUARTERS ACTIVITIES PERSONNEL AND RELATED REPORT.**

(a) REPEAL OF LIMITATION.—

(1) REPEAL.—Section 130a of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 3 of such title is amended by striking the item relating to section 130a.

10 USC 221 note.

(b) REPORT REQUIRED.—The Secretary of Defense shall include a report with the defense budget materials for each fiscal year that includes the following information:

(1) The average number of military personnel and civilian employees of the Department of Defense assigned to major Department of Defense headquarters activities for each component of the Department of Defense during the preceding fiscal year.

(2) The total increase in personnel assigned to major headquarters activities, if any, during the preceding fiscal year—

(A) attributable to the replacement of contract personnel with military personnel or civilian employees of the Department of Defense, including the number of positions associated with the replacement of contract personnel performing inherently governmental functions; and

(B) attributable to reasons other than the replacement of contract personnel with military personnel or civilian employees of the Department, such as workload or operational demand increases.

(3) An estimate of the cost savings, if any, associated with the elimination of contracts for the performance of major headquarters activities.

(4) The number of military personnel and civilian employees of the Department of Defense assigned to major headquarters activities for each component of the Department of Defense as of October 1 of the preceding fiscal year.

(c) DEFINITIONS.—In this section:

(1) DEFENSE BUDGET MATERIALS.—The term "defense budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year that is submitted to Congress by the President under section 1105 of title 31, United States Code.

(2) CONTRACT PERSONNEL.—The term "contract personnel" means persons hired under a contract with the Department of Defense for the performance of major Department of Defense headquarters activities.

**SEC. 902. FLEXIBILITY TO ADJUST THE NUMBER OF DEPUTY CHIEFS AND ASSISTANT CHIEFS.**

(a) ARMY.—Section 3035(b) of title 10, United States Code, is amended to read as follows:

"(b) The Secretary of the Army shall prescribe the number of Deputy Chiefs of Staff and Assistant Chiefs of Staff, for a total of not more than eight positions.".

(b) NAVY.—

(1) DEPUTY CHIEFS OF NAVAL OPERATIONS.—Section 5036(a) of title 10, United States Code, is amended—

(A) by striking "There are in the Office of the Chief of Naval Operations not more than five Deputy Chiefs of Naval Operations," and inserting "There are Deputy Chiefs of Naval Operations in the Office of the Chief of Naval Operations,"; and

(B) by adding at the end the following: "The Secretary of the Navy shall prescribe the number of Deputy Chiefs of Naval Operations under this section and Assistant Chiefs of Naval Operations under section 5037 of this title, for a total of not more than eight positions.".

(2) ASSISTANT CHIEFS OF NAVAL OPERATIONS.—Section 5037(a) of such title is amended—

(A) by striking "There are in the Office of the Chief of Naval Operations not more than three Assistant Chiefs of Naval Operations," and inserting "There are Assistant Chiefs of Naval Operations in the Office of the Chief of Naval Operations,"; and

(B) by adding at the end the following: "The Secretary of the Navy shall prescribe the number of Assistant Chiefs of Naval Operations in accordance with section 5036(a) of this title.".

(c) AIR FORCE.—Section 8035(b) of title 10, United States Code, is amended to read as follows:

"(b) The Secretary of the Air Force shall prescribe the number of Deputy Chiefs of Staff and Assistant Chiefs of Staff, for a total of not more than eight positions.".

**SEC. 903. CHANGE IN ELIGIBILITY REQUIREMENTS FOR APPOINTMENT TO DEPARTMENT OF DEFENSE LEADERSHIP POSITIONS.**

(a) SECRETARY OF DEFENSE.—Section 113(a) of title 10, United States Code, is amended by striking "10" and inserting "seven".

(b) DEPUTY SECRETARY OF DEFENSE.—Section 132(a) of such title is amended by striking "ten" and inserting "seven".

(c) UNDER SECRETARY OF DEFENSE FOR POLICY.—Section 134(a) of such title is amended by striking "10" and inserting "seven".

**SEC. 904. MANAGEMENT OF THE DEPARTMENT OF DEFENSE.**

(a) ASSIGNMENT OF MANAGEMENT DUTIES AND DESIGNATION OF A CHIEF MANAGEMENT OFFICER AND DEPUTY CHIEF MANAGEMENT OFFICER OF THE DEPARTMENT OF DEFENSE.—

(1) ESTABLISHMENT OF POSITION.—Section 132 of title 10, United States Code is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection (c):

"(c) The Deputy Secretary serves as the Chief Management Officer of the Department of Defense. The Deputy Secretary shall be assisted in this capacity by a Deputy Chief Management Officer, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.". President.

(2) ASSIGNMENT OF DUTIES.— 10 USC 132 note.

(A) The Secretary of Defense shall assign duties and authorities relating to the management of the business operations of the Department of Defense.

(B) The Secretary shall assign such duties and authorities to the Chief Management Officer as are necessary for that official to effectively and efficiently organize the business operations of the Department of Defense.

(C) The Secretary shall assign such duties and authorities to the Deputy Chief Management Officer as are necessary for that official to assist the Chief Management Officer to effectively and efficiently organize the business operations of the Department of Defense.

(D) The Deputy Chief Management Officer shall perform the duties and have the authorities assigned by the Secretary under subparagraph (C) and perform such duties and have such authorities as are delegated by the Chief Management Officer.

(3) EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Defense for Intelligence the following new item:

"Deputy Chief Management Officer of the Department of Defense.".

(4) PLACEMENT IN OSD.—Section 131(b)(2) of title 10, United States Code, is amended—

(A) by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively; and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The Deputy Chief Management Officer of the Department of Defense.".

10 USC 132 note.

(b) ASSIGNMENT OF MANAGEMENT DUTIES AND DESIGNATION OF THE CHIEF MANAGEMENT OFFICERS OF THE MILITARY DEPARTMENTS.—

(1) The Secretary of a military department shall assign duties and authorities relating to the management of the business operations of such military department.

(2) The Secretary of a military department, in assigning duties and authorities under paragraph (1) shall designate the Under Secretary of such military department to have the primary management responsibility for business operations, to be known in the performance of such duties as the Chief Management Officer.

(3) The Secretary shall assign such duties and authorities to the Chief Management Officer as are necessary for that official to effectively and efficiently organize the business operations of the military department concerned.

(4) The Chief Management Officer of each military department shall promptly provide such information relating to the business operations of such department to the Chief Management Officer and Deputy Chief Management Officer of the Department of Defense as is necessary to assist those officials in the performance of their duties.

(c) MANAGEMENT OF DEFENSE BUSINESS TRANSFORMATION AGENCY.—Section 192(e)(2) of title 10, United States Code, is amended by striking "that the Agency" and all that follows and inserting "that the Director of the Agency shall report directly

to the Deputy Chief Management Officer of the Department of Defense.".

(d) STRATEGIC MANAGEMENT PLAN REQUIRED.— 10 USC note prec. 2201.

(1) REQUIREMENT.—The Secretary of Defense, acting through the Chief Management Officer of the Department of Defense, shall develop a strategic management plan for the Department of Defense.

(2) MATTERS COVERED.—Such plan shall include, at a minimum, detailed descriptions of—

(A) performance goals and measures for improving and evaluating the overall efficiency and effectiveness of the business operations of the Department of Defense and achieving an integrated management system for business support areas within the Department of Defense;

(B) key initiatives to be undertaken by the Department of Defense to achieve the performance goals under subparagraph (A), together with related resource needs;

(C) procedures to monitor the progress of the Department of Defense in meeting performance goals and measures under subparagraph (A);

(D) procedures to review and approve plans and budgets for changes in business operations, including any proposed changes to policies, procedures, processes, and systems, to ensure the compatibility of such plans and budgets with the strategic management plan of the Department of Defense; and

(E) procedures to oversee the development of, and review and approve, all budget requests for defense business systems.

(3) UPDATES.—The Secretary of Defense, acting through the Chief Management Officer, shall update the strategic management plan no later than July 1, 2009, and every two years thereafter and provide a copy to the Committees on Armed Services of the Senate and the House of Representatives. Deadlines. Records.

(e) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section and a copy of the strategic management plan required by subsection (d).

**SEC. 905. REVISION IN GUIDANCE RELATING TO COMBATANT COMMAND ACQUISITION AUTHORITY.**

Subparagraph (B) of section 905(b)(1) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2353) is amended by striking "and mutually supportive of". 10 USC 133 note.

**SEC. 906. DEPARTMENT OF DEFENSE BOARD OF ACTUARIES.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Chapter 7 of title 10, United States Code, is amended by inserting after section 182 the following new section:

### "§ 183. Department of Defense Board of Actuaries

"(a) IN GENERAL.—There shall be in the Department of Defense a Department of Defense Board of Actuaries (hereinafter in this section referred to as the 'Board').

"(b) MEMBERS.—(1) The Board shall consist of three members who shall be appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries.

"(2) The members of the Board shall serve for a term of 15 years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which the member's predecessor was appointed shall only serve until the end of such term. A member may serve after the end of the member's term until the member's successor takes office.

"(3) A member of the Board may be removed by the Secretary of Defense only for misconduct or failure to perform functions vested in the Board.

"(4) A member of the Board who is not an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5 for each day the member is engaged in the performance of the duties of the Board and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of that title in connection with such duties.

"(c) DUTIES.—The Board shall have the following duties:

Reports. Deadlines.

"(1) To review valuations of the Department of Defense Military Retirement Fund in accordance with section 1465(c) of this title and submit to the President and Congress, not less often than once every four years, a report on the status of that Fund, including such recommendations for modifications to the funding or amortization of that Fund as the Board considers appropriate and necessary to maintain that Fund on a sound actuarial basis.

"(2) To review valuations of the Department of Defense Education Benefits Fund in accordance with section 2006(e) of this title and make recommendations to the President and Congress on such modifications to the funding or amortization of that Fund as the Board considers appropriate to maintain that Fund on a sound actuarial basis.

"(3) To review valuations of such other funds as the Secretary of Defense shall specify for purposes of this section and make recommendations to the President and Congress on such modifications to the funding or amortization of such funds as the Board considers appropriate to maintain such funds on a sound actuarial basis.

"(d) RECORDS.—The Secretary of Defense shall ensure that the Board has access to such records regarding the funds referred to in subsection (c) as the Board shall require to determine the actuarial status of such funds.

"(e) REPORTS.—(1) The Board shall submit to the Secretary of Defense on an annual basis a report on the actuarial status of each of the following:

"(A) The Department of Defense Military Retirement Fund.

"(B) The Department of Defense Education Benefits Fund.

"(C) Each other fund specified by Secretary under subsection (c)(3).

"(2) The Board shall also furnish its advice and opinion on matters referred to it by the Secretary.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 182 the following new item:

"183. Department of Defense Board of Actuaries".

(3) INITIAL SERVICE AS BOARD MEMBERS.—Each member of the Department of Defense Retirement Board of Actuaries or the Department of Defense Education Benefits Board of Actuaries as of the date of the enactment of this Act shall serve as an initial member of the Department of Defense Board of Actuaries under section 183 of title 10, United States Code (as added by paragraph (1)), from that date until the date otherwise provided for the completion of such individual's term as a member of the Department of Defense Retirement Board of Actuaries or the Department of Defense Education Benefits Board of Actuaries, as the case may be, unless earlier removed by the Secretary of Defense. 10 USC 183 note.

(b) TERMINATION OF EXISTING BOARDS OF ACTUARIES.—

(1) DEPARTMENT OF DEFENSE RETIREMENT BOARD OF ACTUARIES.—(A) Section 1464 of title 10, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 74 of such title is amended by striking the item relating to section 1464.

(2) DEPARTMENT OF DEFENSE EDUCATION BENEFITS BOARD OF ACTUARIES.—Section 2006 of such title is amended—

(A) in subsection (c)(1), by striking "subsection (g)" and inserting "subsection (f)";

(B) by striking subsection (e);

(C) by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively;

(D) in subsection (e), as redesignated by subparagraph (C), by striking "subsection (g)" in paragraph (5) and inserting "subsection (f)"; and

(E) in subsection (f), as so redesignated—

(i) in paragraph (2)(A), by striking "subsection (f)(3)" and inserting "subsection (e)(3)"; and

(ii) in paragraph (2)(B), by striking "subsection (f)(4)" and inserting "subsection (e)(4)".

(c) CONFORMING AMENDMENTS.—

(1) Section 1175(h)(4) of title 10, United States Code, is amended by striking "Retirement" the first place it appears.

(2) Section 1460(b) of such title is amended by striking "Retirement".

(3) Section 1466(c)(3) of such title is amended by striking "Retirement".

(4) Section 12521(6) of such title is amended by striking "Department of Defense Education Benefits Board of Actuaries referred to in section 2006(e)(1) of this title" and inserting "Department of Defense Board of Actuaries under section 183 of this title".

**SEC. 907. MODIFICATION OF BACKGROUND REQUIREMENT OF INDIVIDUALS APPOINTED AS UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.**

Section 133(a) of title 10, United States Code, is amended by striking "in the private sector".

Establishment. Appointments.

**SEC. 908. ASSISTANT SECRETARIES OF THE MILITARY DEPARTMENTS FOR ACQUISITION MATTERS; PRINCIPAL MILITARY DEPUTIES.**

(a) DEPARTMENT OF THE ARMY.—Section 3016(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Acquisition, Technology, and Logistics. The principal duty of the Assistant Secretary shall be the overall supervision of acquisition, technology, and logistics matters of the Department of the Army.

"(B) The Assistant Secretary shall have a Principal Military Deputy, who shall be a lieutenant general of the Army on active duty. The Principal Military Deputy shall be appointed from among officers who have significant experience in the areas of acquisition and program management. The position of Principal Military Deputy shall be designated as a critical acquisition position under section 1733 of this title.".

(b) DEPARTMENT OF THE NAVY.—Section 5016(b) of such title is amended by adding at the end the following new paragraph:

"(4)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Research, Development, and Acquisition. The principal duty of the Assistant Secretary shall be the overall supervision of research, development, and acquisition matters of the Department of the Navy.

"(B) The Assistant Secretary shall have a Principal Military Deputy, who shall be a vice admiral of the Navy or a lieutenant general of the Marine Corps on active duty. The Principal Military Deputy shall be appointed from among officers who have significant experience in the areas of acquisition and program management. The position of Principal Military Deputy shall be designated as a critical acquisition position under section 1733 of this title.".

(c) DEPARTMENT OF THE AIR FORCE.—Section 8016(b) of such title is amended by adding at the end the following new paragraph:

"(4)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Acquisition. The principal duty of the Assistant Secretary shall be the overall supervision of acquisition matters of the Department of the Air Force.

"(B) The Assistant Secretary shall have a Principal Military Deputy, who shall be a lieutenant general of the Air Force on active duty. The Principal Military Deputy shall be appointed from among officers who have significant experience in the areas of acquisition and program management. The position of Principal Military Deputy shall be designated as a critical acquisition position under section 1733 of this title.".

10 USC 2430 note.

(d) DUTY OF PRINCIPAL MILITARY DEPUTIES TO INFORM SERVICE CHIEFS ON MAJOR DEFENSE ACQUISITION PROGRAMS.—Each Principal Military Deputy to a service acquisition executive shall be responsible for keeping the Chief of Staff of the Armed Forces concerned informed of the progress of major defense acquisition programs.

**SEC. 909. SENSE OF CONGRESS ON TERM OF OFFICE OF THE DIRECTOR OF OPERATIONAL TEST AND EVALUATION.**

It is the sense of Congress that the term of office of the Director of Operational Test and Evaluation of the Department of Defense should be not less than five years.

# Subtitle B—Space Activities

**SEC. 911. SPACE PROTECTION STRATEGY.**

10 USC 2271 note.

(a) SENSE OF CONGRESS.—It is the Sense of Congress that the United States should place greater priority on the protection of national security space systems.

(b) STRATEGY.—The Secretary of Defense, in conjunction with the Director of National Intelligence, shall develop a strategy, to be known as the Space Protection Strategy, for the development and fielding by the United States of the capabilities that are necessary to ensure freedom of action in space for the United States.

(c) MATTERS INCLUDED.—The strategy required by subsection (b) shall include each of the following:

(1) An identification of the threats to, and the vulnerabilities of, the national security space systems of the United States.

(2) A description of the capabilities currently contained in the program of record of the Department of Defense and the intelligence community that ensure freedom of action in space.

(3) For each period covered by the strategy, a description of the capabilities that are needed for the period, including—

(A) the hardware, software, and other materials or services to be developed or procured;

(B) the management and organizational changes to be achieved; and

(C) concepts of operations, tactics, techniques, and procedures to be employed.

(4) For each period covered by the strategy, an assessment of the gaps and shortfalls between the capabilities that are needed for the period and the capabilities currently contained in the program of record.

(5) For each period covered by the strategy, a comprehensive plan for investment in capabilities that identifies specific program and technology investments to be made in that period.

(6) A description of the current processes by which the systems protection requirements of the Department of Defense and the intelligence community are addressed in space acquisition programs and during key milestone decisions, an assessment of the adequacy of those processes, and an identification of the actions of the Department and the intelligence community for addressing any inadequacies in those processes.

(7) A description of the current processes by which the Department of Defense and the intelligence community program and budget for capabilities (including capabilities that are incorporated into single programs and capabilities that span multiple programs), an assessment of the adequacy of those processes, and an identification of the actions of the Department and the intelligence community for addressing any inadequacies in those processes.

(8) A description of the organizational and management structure of the Department of Defense and the intelligence community for addressing policy, planning, acquisition, and operations with respect to capabilities, a description of the

roles and responsibilities of each organization, and an identification of the actions of the Department and the intelligence community for addressing any inadequacies in that structure.

(d) PERIODS COVERED.—The strategy required by subsection (b) shall cover the following periods:

(1) Fiscal years 2008 through 2013.

(2) Fiscal years 2014 through 2019.

(3) Fiscal years 2020 through 2025.

(e) DEFINITIONS.—In this section—

(1) the term "capabilities" means space, airborne, and ground systems and capabilities for space situational awareness and for space systems protection; and

(2) the term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(f) REPORT; BIENNIAL UPDATE.—

(1) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense, in conjunction with the Director of National Intelligence, shall submit to Congress a report on the strategy required by subsection (b), including each of the matters required by subsection (c).

Deadline.

(2) BIENNIAL UPDATE.—Not later than March 15 of each even-numbered year after 2008, the Secretary of Defense, in conjunction with the Director of National Intelligence, shall submit to Congress an update to the report required by paragraph (1).

(3) CLASSIFICATION.—The report required by paragraph (1), and each update required by paragraph (2), shall be in unclassified form, but may include a classified annex.

(g) CONFORMING REPEAL.—Section 911 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3405; 10 U.S.C. 2271 note) is repealed.

**SEC. 912. BIENNIAL REPORT ON MANAGEMENT OF SPACE CADRE WITHIN THE DEPARTMENT OF DEFENSE.**

(a) IN GENERAL.—Chapter 23 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 490. Space cadre management: biennial report**

"(a) REQUIREMENT.—The Secretary of Defense and each Secretary of a military department shall develop metrics and use these metrics to identify, track, and manage space cadre personnel within the Department of Defense to ensure the Department has sufficient numbers of personnel with the expertise, training, and experience to meet current and future national security space needs.

"(b) BIENNIAL REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, and every even-numbered year thereafter, the Secretary of Defense shall submit to the congressional defense committees a report on the management of the space cadre.

"(2) MATTERS INCLUDED.—The report required by paragraph (1) shall include—

"(A) the number of active duty, reserve duty, and government civilian space-coded billets that—

"(i) are authorized or permitted to be maintained for each military department and defense agency;

"(ii) are needed or required for each military department and defense agency for the year in which the submission of the report is required; and

"(iii) are needed or required for each military department and defense agency for each of the five years following the date of the submission of the report;

"(B) the actual number of active duty, reserve duty, and government civilian personnel that are coded or classified as space cadre personnel within the Department of Defense, including the military departments and defense agencies;

"(C) the number of personnel recruited or hired as accessions to serve in billets coded or classified as space cadre personnel for each military department and defense agency;

"(D) the number of personnel serving in billets coded or classified as space cadre personnel that discontinued serving each military department and defense agency during the preceding calendar year;

"(E) for each of the reporting requirements in subparagraphs (A) through (D), further classification of the number of personnel by—

"(i) space operators, acquisition personnel, engineers, scientists, program managers, and other space-related areas identified by the Department;

"(ii) expertise or technical specialization area—

"(I) such as communications, missile warning, spacelift, and any other space-related specialties identified by the Department or classifications used by the Department; and

"(II) consistent with section 1721 of this title for acquisition personnel;

"(iii) rank for active duty and reserve duty personnel and grade for government civilian personnel;

"(iv) qualification, expertise, or proficiency level consistent with service and agency-defined qualification, expertise, or proficiency levels; and

"(v) any other such space-related classification categories used by the Department or military departments; and

"(F) any other metrics identified by the Department to improve the identification, tracking, training, and management of space cadre personnel.

"(3) ASSESSMENTS.—The report required by paragraph (1) shall also include the Secretary's assessment of the state of the Department's space cadre, the Secretary's assessment of the space cadres of the military departments, and a description of efforts to ensure the Department has a space cadre sufficient to meet current and future national security space needs.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"490. Space cadre management: biennial report.".

**SEC. 913. ADDITIONAL REPORT ON OVERSIGHT OF ACQUISITION FOR DEFENSE SPACE PROGRAMS.**

Section 911(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2621) is amended by inserting ", and March 15, 2008," after "March 15, 2003,".

## Subtitle C—Chemical Demilitarization Program

**SEC. 921. CHEMICAL DEMILITARIZATION CITIZENS ADVISORY COMMISSIONS.**

(a) FUNCTIONS.—Section 172 of the National Defense Authorization Act for Fiscal Year 1993 (50 U.S.C. 1521 note) is amended—

(1) in each of subsections (b) and (f), by striking "Assistant Secretary of the Army (Research, Development and Acquisition)" and inserting "Assistant Secretary of the Army (Acquisition, Logistics, and Technology)"; and

(2) in subsection (g), by striking "Assistant Secretary of the Army (Research, Development, and Acquisition)" and inserting "Assistant Secretary of the Army (Acquisition, Logistics, and Technology)".

(b) TERMINATION.—Such section is further amended in subsection (h) by striking "after the stockpile located in that commission's State has been destroyed" and inserting "after the closure activities required pursuant to regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) have been completed for the chemical agent destruction facility in the commission's State, or upon the request of the Governor of the commission's State, whichever occurs first".

50 USC 1521 note.

**SEC. 922. SENSE OF CONGRESS ON COMPLETION OF DESTRUCTION OF UNITED STATES CHEMICAL WEAPONS STOCKPILE.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, done at Paris on January 13, 1993 (commonly referred to as the "Chemical Weapons Convention"), requires that destruction of the entire United States chemical weapons stockpile be completed by not later than April 29, 2007.

(2) In 2006, under the terms of the Chemical Weapons Convention, the United States requested and received a one-time, 5-year extension of its chemical weapons destruction deadline to April 29, 2012.

(3) On April 10, 2006, the Secretary of Defense notified Congress that the United States would not meet even the extended deadline under the Chemical Weapons Convention for destruction of the United States chemical weapons stockpile, but would "continue working diligently to minimize the time to complete destruction without sacrificing safety and security" and would also "continue requesting resources needed to complete destruction as close to April 2012 as practicable".

(4) The United States chemical demilitarization program has met its one percent, 20 percent, and extended 45 percent destruction deadlines under the Chemical Weapons Convention.

(5) Destroying the remaining stockpile of United States chemical weapons is imperative for public safety and homeland security, and doing so by April 2012, in accordance with the current destruction deadline provided under the Chemical Weapons Convention, is required by United States law.

(6) The elimination of chemical weapons anywhere they exist in the world, and the prevention of their proliferation, is of utmost importance to the national security of the United States.

(7) Section 921(b)(3) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2359) contained a sense of Congress urging the Secretary of Defense to ensure the elimination of the United States chemical weapons stockpile in the shortest time possible, consistent with the requirement to protect public health, safety, and the environment.

(8) Section 921(b)(4) of that Act contained a sense of Congress urging the Secretary of Defense to propose a credible treatment and disposal process with the support of affected communities. In this regard, any such process should provide for sufficient communication and consultation between representatives of the Department of Defense and representatives of affected States and communities.

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

(1) the United States is, and must remain, committed to making every effort to safely dispose of its entire chemical weapons stockpile by April 2012, the current destruction deadline provided under the Chemical Weapons Convention, or as soon thereafter as possible, and must carry out all of its other obligations under the Convention; and

(2) the Secretary of Defense should make every effort to plan for, and to request in the annual budget of the President submitted to Congress adequate funding to complete, the elimination of the United States chemical weapons stockpile in accordance with United States obligations under the Chemical Weapons Convention and in a manner that will protect public health, safety, and the environment, as required by law.

(c) REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than March 15, 2008, and every 180 days thereafter until the year in which the United States completes the destruction of its entire stockpile of chemical weapons under the terms of the Chemical Weapons Convention, the Secretary of Defense shall submit to the members and committees of Congress referred to in paragraph (3) a report on the implementation by the United States of its chemical weapons destruction obligations under the Chemical Weapons Convention.

(2) ELEMENTS.—Each report under paragraph (1) shall include the following:

(A) The anticipated schedule at the time of such report for the completion of destruction of chemical agents, munitions, and materiel at each chemical weapons demilitarization facility in the United States.

(B) A description of the options and alternatives for accelerating the completion of chemical weapons destruction at each such facility, particularly in time to meet the destruction deadline of April 29, 2012, currently provided by the Chemical Weapons Convention, and by December 31, 2017.

(C) A description of the funding required to achieve each of the options for destruction described under subparagraph (B), and a detailed life-cycle cost estimate for each of the affected facilities included in each such funding profile.

(D) A description of all actions being taken by the United States to accelerate the destruction of its entire stockpile of chemical weapons, agents, and materiel in order to meet the current destruction deadline under the Chemical Weapons Convention of April 29, 2012, or as soon thereafter as possible.

(3) MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress referred to in this paragraph are—

(A) the majority leader of the Senate, the minority leader of the Senate, and the Committees on Armed Services and Appropriations of the Senate; and

(B) the Speaker of the House of Representatives, the majority leader of the House of Representatives, the minority leader of the House of Representatives, and the Committees on Armed Services and Appropriations of the House of Representatives.

**SEC. 923. REPEAL OF CERTAIN QUALIFICATIONS REQUIREMENT FOR DIRECTOR OF CHEMICAL DEMILITARIZATION MANAGEMENT ORGANIZATION.**

Section 1412(e)(3) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(e)(3)) is amended—

(1) in subparagraph (A), by adding "and" at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

**SEC. 924. MODIFICATION OF TERMINATION OF ASSISTANCE TO STATE AND LOCAL GOVERNMENTS AFTER COMPLETION OF THE DESTRUCTION OF THE UNITED STATES CHEMICAL WEAPONS STOCKPILE.**

Subparagraph (B) of section 1412(c)(5) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(c)(5)) is amended to read as follows:

"(B) Assistance may be provided under this paragraph for capabilities to respond to emergencies involving an installation or facility as described in subparagraph (A) until the earlier of the following:

"(i) The date of the completion of all grants and cooperative agreements with respect to the installation or facility for purposes of this paragraph between the Federal Emergency Management Agency and the State and local governments concerned.

"(ii) The date that is 180 days after the date of the completion of the destruction of lethal chemical agents and munitions at the installation or facility.".

# Subtitle D—Intelligence-Related Matters

**SEC. 931. TECHNICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE, ARISING FROM ENACTMENT OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.**

(a) REFERENCES TO HEAD OF INTELLIGENCE COMMUNITY.—Title 10, United States Code, is amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "Director of National Intelligence":

(1) Section 192(c)(2).
(2) Section 193(d)(2).
(3) Section 193(e).
(4) Section 201(a).
(5) Section 201(c)(1).
(6) Section 425(a).
(7) Section 426(a)(3).
(8) Section 426(b)(2).
(9) Section 441(c).
(10) Section 441(d).
(11) Section 443(d).
(12) Section 2273(b)(1).
(13) Section 2723(a).

(b) REFERENCES TO HEAD OF CENTRAL INTELLIGENCE AGENCY.—Such title is further amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "Director of the Central Intelligence Agency":

(1) Section 431(b)(1).
(2) Section 444.
(3) Section 1089(g).

(c) OTHER AMENDMENTS.—

(1) SUBSECTION HEADINGS.—

(A) SECTION 441(c).—The heading of subsection (c) of section 441 of such title is amended by striking "DIRECTOR OF CENTRAL INTELLIGENCE" and inserting "DIRECTOR OF NATIONAL INTELLIGENCE".

(B) SECTION 443(d).—The heading of subsection (d) of section 443 of such title is amended by striking "DIRECTOR OF CENTRAL INTELLIGENCE" and inserting "DIRECTOR OF NATIONAL INTELLIGENCE".

(2) SECTION 201.—Section 201 of such title is further amended—

(A) in subsection (b)(1), to read as follows:

"(1) In the event of a vacancy in a position referred to in paragraph (2), before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy, the Secretary of Defense shall obtain the concurrence of the Director of National Intelligence as provided in section 106(b) of the National Security Act of 1947 (50 U.S.C. 403–6(b)).''; and

(B) in subsection (c)(1), by striking "National Foreign Intelligence Program" and inserting "National Intelligence Program".

# Subtitle E—Roles and Missions Analysis

**SEC. 941. REQUIREMENT FOR QUADRENNIAL ROLES AND MISSIONS REVIEW.**

(a) REQUIREMENT FOR REVIEW.—

(1) IN GENERAL.—Chapter 2 of title 10, United States Code, is amended by inserting after section 118a the following new section:

**"§ 118b. Quadrennial roles and missions review**

"(a) REVIEW REQUIRED.—The Secretary of Defense shall every four years conduct a comprehensive assessment (to be known as the 'quadrennial roles and missions review') of the roles and missions of the armed forces and the core competencies and capabilities of the Department of Defense to perform and support such roles and missions.

"(b) INDEPENDENT MILITARY ASSESSMENT OF ROLES AND MISSIONS.—(1) In each year in which the Secretary of Defense is required to conduct a comprehensive assessment pursuant to subsection (a), the Chairman of the Joint Chiefs of Staff shall prepare and submit to the Secretary the Chairman's assessment of the roles and missions of the armed forces and the assignment of functions to the armed forces, together with any recommendations for changes in assignment that the Chairman considers necessary to achieve maximum efficiency and effectiveness of the armed forces.

"(2) The Chairman's assessment shall be conducted so as to—

"(A) organize the significant missions of the armed forces into core mission areas that cover broad areas of military activity;

"(B) ensure that core mission areas are defined and functions are assigned so as to avoid unnecessary duplication of effort among the armed forces; and

"(C) provide the Chairman's recommendations with regard to issues to be addressed by the Secretary of Defense under subsection (c).

"(c) IDENTIFICATION OF CORE MISSION AREAS AND CORE COMPETENCIES AND CAPABILITIES.—Upon receipt of the Chairman's assessment, and after giving appropriate consideration to the Chairman's recommendations, the Secretary of Defense shall identify—

"(1) the core mission areas of the armed forces;

"(2) the core competencies and capabilities that are associated with the performance or support of a core mission area identified pursuant to paragraph (1);

"(3) the elements of the Department of Defense (including any other office, agency, activity, or command described in section 111(b) of this title) that are responsible for providing the core competencies and capabilities required to effectively perform the core missions identified pursuant to paragraph (1);

"(4) any gaps in the ability of the elements (or other office, agency activity, or command) of the Department of Defense to provide core competencies and capabilities required to effectively perform the core missions identified pursuant to paragraph (1);

"(5) any unnecessary duplication of core competencies and capabilities between defense components; and

"(6) a plan for addressing any gaps or unnecessary duplication identified pursuant to paragraph (4) or paragraph (5).

"(d) REPORT.—The Secretary shall submit a report on the quadrennial roles and missions review to the Committees on Armed Services of the Senate and the House of Representatives. The report shall be submitted in the year following the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 118(e) of title 10, United States Code, is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

(c) TIMING OF QUADRENNIAL ROLES AND MISSIONS REVIEW.— 10 USC 118b note.

(1) FIRST REVIEW.—The first quadrennial roles and missions review under section 118b of title 10, United States Code, as added by subsection (a), shall be conducted during 2008.

(2) SUBSEQUENT REVIEWS.—Subsequent reviews shall be conducted every four years, beginning in 2011.

**SEC. 942. JOINT REQUIREMENTS OVERSIGHT COUNCIL ADDITIONAL DUTIES RELATING TO CORE MISSION AREAS.**

(a) REVISIONS IN MISSION.—Subsection (b) of section 181 of title 10, United States Code, is amended to read as follows:

"(b) MISSION.—In addition to other matters assigned to it by the President or Secretary of Defense, the Joint Requirements Oversight Council shall—

"(1) assist the Chairman of the Joint Chiefs of Staff—

"(A) in identifying, assessing, and approving joint military requirements (including existing systems and equipment) to meet the national military strategy; and

"(B) in identifying the core mission area associated with each such requirement;

"(2) assist the Chairman in establishing and assigning priority levels for joint military requirements;

"(3) assist the Chairman in reviewing the estimated level of resources required in the fulfillment of each joint military requirement and in ensuring that such resource level is consistent with the level of priority assigned to such requirement; and

"(4) assist acquisition officials in identifying alternatives to any acquisition program that meet joint military requirements for the purposes of section 2366a(a)(4), section 2366b(b), and section 2433(e)(2) of this title.".

(b) ADVISORS.—Section 181 of such title is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ADVISORS.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), and the Director of the Office of Program Analysis and Evaluation shall serve as advisors to the Council on matters within their authority and expertise.".

(c) ORGANIZATION.—Section 181 of such title is further amended by inserting after subsection (d) (as inserted by subsection (b)) the following new subsection (e):

"(e) ORGANIZATION.—The Joint Requirements Oversight Council shall conduct periodic reviews of joint military requirements within a core mission area of the Department of Defense. In any such review of a core mission area, the officer or official assigned to lead the review shall have a deputy from a different military department.".

(d) DEFINITIONS.—Section 181 of such title is further amended by adding at the end the following new subsection:

"(g) DEFINITIONS.—In this section:

"(1) The term 'joint military requirement' means a capability necessary to fulfill a gap in a core mission area of the Department of Defense.

"(2) The term 'core mission area' means a core mission area of the Department of Defense identified under the most recent quadrennial roles and missions review pursuant to section 118b of this title.".

(e) CONSULTATION.—Section 2433(e)(2) of such title is amended by inserting ", after consultation with the Joint Requirements Oversight Council regarding program requirements," after "Secretary of Defense" in the matter preceding subparagraph (A).

Effective date.
10 USC 181 note.

(f) DEADLINES.—Effective June 1, 2009, all joint military requirements documents of the Joint Requirements Oversight Council produced to carry out its mission under section 181(b)(1) of title 10, United States Code, shall reference the core mission areas organized and defined under section 118b of such title. Not later than October 1, 2009, all such documents produced before June 1, 2009, shall reference such structure.

**SEC. 943. REQUIREMENT FOR CERTIFICATION OF MAJOR SYSTEMS PRIOR TO TECHNOLOGY DEVELOPMENT.**

(a) REQUIREMENT FOR CERTIFICATION.—

(1) IN GENERAL.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2366a the following new section:

**"§ 2366b. Major defense acquisition programs: certification required before Milestone A or Key Decision Point A approval**

"(a) CERTIFICATION.—A major defense acquisition program may not receive Milestone A approval, or Key Decision Point A approval in the case of a space program, until the Milestone Decision Authority certifies, after consultation with the Joint Requirements Oversight Council on matters related to program requirements and military needs—

"(1) that the system fulfills an approved initial capabilities document;

"(2) that the system is being executed by an entity with a relevant core competency as identified by the Secretary of Defense under section 118b of this title;

"(3) if the system duplicates a capability already provided by an existing system, the duplication provided by such system is necessary and appropriate; and

"(4) that a cost estimate for the system has been submitted and that the level of resources required to develop and procure the system is consistent with the priority level assigned by the Joint Requirements Oversight Council.

"(b) NOTIFICATION.—With respect to a major system certified by the Milestone Decision Authority under subsection (a), if the projected cost of the system, at any time prior to Milestone B approval, exceeds the cost estimate for the system submitted at the time of the certification by at least 25 percent, the program manager for the system concerned shall notify the Milestone Decision Authority. The Milestone Decision Authority, in consultation with the Joint Requirements Oversight Council on matters related to program requirements and military needs, shall determine whether the level of resources required to develop and procure the system remains consistent with the priority level assigned by the Joint Requirements Oversight Council. The Milestone Decision Authority may withdraw the certification concerned or rescind Milestone A approval (or Key Decision Point A approval in the case of a space program) if the Milestone Decision Authority determines that such action is in the interest of national defense.

" (c)DEFINITIONS.—In this section:

"(1) The term 'major system' has the meaning provided in section 2302(5) of this title.

"(2) The term 'initial capabilities document' means any capabilities requirement document approved by the Joint Requirements Oversight Council that establishes the need for a materiel approach to resolve a capability gap.

"(3) The term 'technology development program' means a coordinated effort to assess technologies and refine user performance parameters to fulfill a capability gap identified in an initial capabilities document.

"(4) The term 'entity' means an entity listed in section 125a(a) of this title.

"(5) The term 'Milestone B approval' has the meaning provided that term in section 2366(e)(7) of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2366b. Major defense acquisition programs: certification required before Milestone A or Key Decision Point A approval.".

(b) REVIEW OF DEPARTMENT OF DEFENSE ACQUISITION DIRECTIVES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall review Department of Defense Directive 5000.1 and associated guidance, and the manner in which such directive and guidance have been implemented, and take appropriate steps to ensure that the Department does not commence a technology development program for a major weapon system without Milestone A approval (or Key Decision Point A approval in the case of a space program).

10 USC 2366b note.
Deadline.

(c) EFFECTIVE DATE.—Section 2366b of title 10, United States Code, as added by subsection (a), shall apply to major systems on and after March 1, 2008.

Applicability.
10 USC 2366b note.

**SEC. 944. PRESENTATION OF FUTURE-YEARS MISSION BUDGET BY CORE MISSION AREA.**

(a) TIME OF SUBMISSION OF FUTURE-YEARS MISSION BUDGET.—The second sentence of section 222(a) of title 10, United States Code, is amended to read as follows: "That budget shall be submitted for any fiscal year with the future-years defense program submitted under section 221 of this title.".

(b) ORGANIZATION OF FUTURE-YEARS MISSION BUDGET.—The second sentence of section 222(b) of such title is amended by striking "on the basis" and all that follows through the end of the sentence and inserting the following: "on the basis of both major force programs and the core mission areas identified under the most recent quadrennial roles and missions review pursuant to section 118b of this title.".

Applicability.
10 USC 222 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the future-years mission budget for fiscal year 2010 and each fiscal year thereafter.

# Subtitle F—Other Matters

### SEC. 951. DEPARTMENT OF DEFENSE CONSIDERATION OF EFFECT OF CLIMATE CHANGE ON DEPARTMENT FACILITIES, CAPABILITIES, AND MISSIONS.

(a) CONSIDERATION OF CLIMATE CHANGE EFFECT.—Section 118 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) CONSIDERATION OF EFFECT OF CLIMATE CHANGE ON DEPARTMENT FACILITIES, CAPABILITIES, AND MISSIONS.—(1) The first national security strategy and national defense strategy prepared after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008 shall include guidance for military planners—

"(A) to assess the risks of projected climate change to current and future missions of the armed forces;

"(B) to update defense plans based on these assessments, including working with allies and partners to incorporate climate mitigation strategies, capacity building, and relevant research and development; and

"(C) to develop the capabilities needed to reduce future impacts.

"(2) The first quadrennial defense review prepared after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008 shall also examine the capabilities of the armed forces to respond to the consequences of climate change, in particular, preparedness for natural disasters from extreme weather events and other missions the armed forces may be asked to support inside the United States and overseas.

"(3) For planning purposes to comply with the requirements of this subsection, the Secretary of Defense shall use—

"(A) the mid-range projections of the fourth assessment report of the Intergovernmental Panel on Climate Change;

"(B) subsequent mid-range consensus climate projections if more recent information is available when the next national security strategy, national defense strategy, or quadrennial defense review, as the case may be, is conducted; and

"(C) findings of appropriate and available estimations or studies of the anticipated strategic, social, political, and economic effects of global climate change and the implications of such effects on the national security of the United States.

"(4) In this subsection, the term 'national security strategy' means the annual national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a).".

(b) IMPLEMENTATION.—The Secretary of Defense shall ensure that subsection (g) of section 118 of title 10, United States Code, as added by subsection (a), is implemented in a manner that does not have a negative impact on the national security of the United States. 10 USC 118 note.

**SEC. 952. INTERAGENCY POLICY COORDINATION.** 10 USC 111 note.

(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall develop and submit to Congress a plan to improve and reform the Department of Defense's participation in and contribution to the interagency coordination process on national security issues. Deadline.

(b) ELEMENTS.—The elements of the plan shall include the following:

(1) Assigning either the Under Secretary of Defense for Policy or another official to be the lead policy official for improving and reforming the interagency coordination process on national security issues for the Department of Defense, with an explanation of any decision to name an official other than the Under Secretary and the relative advantages and disadvantages of such decision.

(2) Giving the official assigned under paragraph (1) the following responsibilities:

(A) To be the lead person at the Department of Defense for the development of policy affecting the national security interagency process.

(B) To serve, or designate a person to serve, as the representative of the Department of Defense in Federal Government forums established to address interagency policy, planning, or reforms.

(C) To advocate, on behalf of the Secretary, for greater interagency coordination and contributions in the execution of the National Security Strategy and particularly specific operational objectives undertaken pursuant to that strategy.

(D) To make recommendations to the Secretary of Defense on changes to existing Department of Defense regulations or laws to improve the interagency process.

(E) To serve as the coordinator for all planning and training assistance that is—

(i) designed to improve the interagency process or the capabilities of other agencies to work with the Department of Defense; and

(ii) provided by the Department of Defense at the request of other agencies.

(F) To serve as the lead official in Department of Defense for the development of deployable joint interagency task forces.

(c) FACTORS TO BE CONSIDERED.—In drafting the plan, the Secretary of Defense shall also consider the following factors:

(1) How the official assigned under subsection (b)(1) shall provide input to the Secretary of Defense on an ongoing basis on how to incorporate the need to coordinate with other agencies into the establishment and reform of combatant commands.

(2) How such official shall develop and make recommendations to the Secretary of Defense on a regular or an ongoing

basis on changes to military and civilian personnel to improve interagency coordination.

(3) How such official shall work with the combatant command that has the mission for joint warfighting experimentation and other interested agencies to develop exercises to test and validate interagency planning and capabilities.

(4) How such official shall lead, coordinate, or participate in after-action reviews of operations, tests, and exercises to capture lessons learned regarding the functioning of the interagency process and how those lessons learned will be disseminated.

(5) The role of such official in ensuring that future defense planning guidance takes into account the capabilities and needs of other agencies.

(d) RECOMMENDATION ON CHANGES IN LAW.—The Secretary of Defense may submit with the plan or with any future budget submissions recommendations for any changes to law that are required to enhance the ability of the official assigned under subsection (b)(1) in the Department of Defense to coordinate defense interagency efforts or to improve the ability of the Department of Defense to work with other agencies.

(e) ANNUAL REPORT.—If an official is named by the Secretary of Defense under subsection (b)(1), the official shall annually submit to Congress a report, beginning in the fiscal year following the naming of the official, on those actions taken by the Department of Defense to enhance national security interagency coordination, the views of the Department of Defense on efforts and challenges in improving the ability of agencies to work together, and suggestions on changes needed to laws or regulations that would enhance the coordination of efforts of agencies.

(f) DEFINITION.—In this section, the term "interagency coordination", within the context of Department of Defense involvement, means the coordination that occurs between elements of the Department of Defense and engaged Federal Government agencies for the purpose of achieving an objective.

(g) CONSTRUCTION.—Nothing in this provision shall be construed as preventing the Secretary of Defense from naming an official with the responsibilities listed in subsection (b) before the submission of the report required under this section.

**SEC. 953. EXPANSION OF EMPLOYMENT CREDITABLE UNDER SERVICE AGREEMENTS UNDER NATIONAL SECURITY EDUCATION PROGRAM.**

Paragraph (2) of subsection (b) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902), as most recently amended by section 945 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2367), is amended—

(1) in subparagraph (A)—

(A) in clause (i) by striking "or" at the end; and

(B) by adding at the end the following:

"(iii) for not less than one academic year in a position in the field of education in a discipline related to the study supported by the program if the recipient demonstrates to the Secretary of Defense that no position is available in the departments, agencies, and offices covered by clauses (i) and (ii); or"; and

(2) in subparagraph (B)—

(A) in clause (i) by striking "or" at the end;

(B) in clause (ii) by striking "and" at the end and inserting "or"; and

(C) by adding at the end the following:

"(iii) for not less than one academic year in a position in the field of education in a discipline related to the study supported by the program if the recipient demonstrates to the Secretary of Defense that no position is available in the departments, agencies, and offices covered by clauses (i) and (ii); and".

**SEC. 954. BOARD OF REGENTS FOR THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.**

(a) REORGANIZATION AND AMENDMENT OF BOARD OF REGENTS PROVISIONS.—

(1) IN GENERAL.—Chapter 104 of title 10, United States Code, is amended by inserting after section 2113 the following new section:

**"§ 2113a. Board of Regents**

"(a) IN GENERAL.—To assist the Secretary of Defense in an advisory capacity, there is a Board of Regents of the University.

"(b) MEMBERSHIP.—The Board shall consist of—

"(1) nine persons outstanding in the fields of health and health education who shall be appointed from civilian life by the Secretary of Defense;

"(2) the Secretary of Defense, or his designee, who shall be an ex officio member;

"(3) the surgeons general of the uniformed services, who shall be ex officio members; and

"(4) the President of the University, who shall be a nonvoting ex officio member.

"(c) TERM OF OFFICE.—The term of office of each member of the Board (other than ex officio members) shall be six years except that—

"(1) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) any member whose term of office has expired shall continue to serve until his successor is appointed.

"(d) CHAIRMAN.—One of the members of the Board (other than an ex officio member) shall be designated by the Secretary as Chairman. He shall be the presiding officer of the Board.

"(e) COMPENSATION.—Members of the Board (other than ex officio members) while attending conferences or meetings or while otherwise performing their duties as members shall be entitled to receive compensation at a rate to be fixed by the Secretary and shall also be entitled to receive an allowance for necessary travel expenses while so serving away from their place of residence.

"(f) MEETINGS.—The Board shall meet at least once a quarter.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2113a. Board of Regents.".

(3) CONFORMING AMENDMENTS.—

(A) Section 2113 of title 10, United States Code, is amended—

(i) in subsection (a), by striking "To assist" and all that follows through the end of paragraph (4);

(ii) by striking subsections (b), (c), and (e);

(iii) by redesignating subsections (d), (f), (g), (h), (i), and (j) as subsections (b), (c), (d), (e), (f), and (g), respectively; and

(iv) in subsection (b), as so redesignated, by striking "who shall also serve as a nonvoting ex officio member of the Board".

(B) Section 2114(h) of such title is amended by striking "2113(h)" and inserting "2113(e)".

(b) STATUTORY REDESIGNATION OF DEAN AS PRESIDENT.—

(1) Subsection 2113 of such title is further amended by striking "Dean" each place it appears in subsections (b) and (c)(1), as redesignated by subsection (a)(3), and inserting "President".

(2) Section 2114(e) of such title is amended by striking "Dean" each place it appears in paragraphs (3) and (5).

10 USC 2117 note.

**SEC. 955. ESTABLISHMENT OF DEPARTMENT OF DEFENSE SCHOOL OF NURSING.**

Deadline.

(a) ESTABLISHMENT PLAN REQUIRED.—Not later than February 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a plan to establish a School of Nursing within the Uniformed Services University of the Health Sciences. The Secretary shall develop the plan in consultation with the Board of Regents of the Uniformed Services University of the Health Sciences and submit the plan to the Board of Regents for review and to solicit the Board's recommendations.

(b) PROGRAMS OF INSTRUCTION.—In consultation with the Secretaries of the military departments, the Secretary of Defense shall include in the plan required by subsection (a) programs of instruction for the School of Nursing that would lead to the award of a bachelor of science in nursing and such other baccalaureate or graduate degrees in nursing as the Secretary considers appropriate. The plan shall also address the enrollment as students of enlisted members and officers of the Armed Forces and civilians for the purpose of commissioning them as military nursing officers upon graduation. The graduates of such a program of instruction shall be fully eligible to meet credentialing and licensing requirements of the military departments and at least one State in their program of study.

(c) CONSIDERATION OF CERTAIN PROGRAMS.—In developing the plan under subsection (a), the Secretary shall consider the inclusion of the following types of programs:

(1) A program to enroll students who already possess an associate degree in nursing so that they can earn a bachelor of science in nursing.

(2) A program to enroll students who already possess other associate degrees so that they can earn a bachelor of science in nursing.

(3) A program to enroll students who already possess an associate degree in nursing so that they can earn a master of science in nursing.

(4) A program to enroll students who already possess a bachelor of science in nursing so that they can earn a master of science in nursing.

(d) OTHER CONSIDERATIONS.—The plan required by subsection (a) shall also include the following:

(1) The results of a study of the nursing shortage in the Department of Defense and the reasons for such shortages.

(2) Details of the curriculum and degree requirements for each category of students at the School of Nursing, if established.

(3) An analysis of the contributions to overall medical readiness that will be made by the School of Nursing.

(4) Proposals for the development of the School of Nursing to be phased in over a period of time.

(5) Faculty requirements based on degree requirements and numbers of projected students, to include the source and number of faculty required.

(6) Projected number of graduates per year for each of the first 15 years of operation.

(7) Predicted accession sources, military career paths, and service commitments and retention rates of School of Nursing graduates, to include the retention of enlisted personnel accessed into the school.

(8) Administrative and instructional facilities required, and the likely initial and final location of clinical training institutions.

(9) Plan for accreditation by a nationally recognized nursing school accrediting body.

(10) Projected faculty, administration, instruction, and facilities costs for the School of Nursing beginning in fiscal year 2009 and continuing through fiscal year 2024, including the cost analysis of developing the School of Nursing and the cost of additional administrative support for the Uniformed Services University of the Health Sciences on account of the establishment of the school.

(e) EFFECT ON CURRENT PROGRAMS.—Notwithstanding the development of the plan under subsection (a), the Secretary shall ensure that graduate degree programs in nursing, including advanced practice nursing, continue.

(f) EFFECT ON OTHER RECRUITMENT EFFORTS.—Nothing in this section shall be construed as limiting or terminating any current or future program related to the recruitment, accession, training, or retention of military nurses.

(g) ESTABLISHMENT AUTHORITY.—

(1) ESTABLISHMENT.—Chapter 104 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2117. School of Nursing**

"(a) ESTABLISHMENT AUTHORIZED.—The Secretary of Defense may establish a School of Nursing within the University. The School of Nursing may include a program that awards a bachelor of science in nursing.

"(b) PHASED DEVELOPMENT.—The School of Nursing may be developed in phases as determined appropriate by the Secretary.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2117. School of Nursing.".

**SEC. 956. INCLUSION OF COMMANDERS OF WESTERN HEMISPHERE COMBATANT COMMANDS IN BOARD OF VISITORS OF WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION.**

Subparagraph (F) of section 2166(e)(1) of title 10, United States Code, is amended to read as follows:

"(F) The commanders of the combatant commands having geographic responsibility for the Western Hemisphere, or the designees of those officers.".

**SEC. 957. COMPTROLLER GENERAL ASSESSMENT OF REORGANIZATION OF THE OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR POLICY.**

Deadline. Reports.

(a) ASSESSMENT REQUIRED.—Not later than June 1, 2008, the Comptroller General of the United States shall submit to the congressional defense committees a report containing an assessment of the most recent reorganization of the office of the Under Secretary of Defense for Policy, including an assessment with respect to the matters set forth in subsection (b).

(b) MATTERS TO BE ASSESSED.—The matters to be included in the assessment required by subsection (a) are as follows:

(1) The manner in which the reorganization of the office furthers, or will further, its stated purposes in the short-term and long-term, including the manner in which the reorganization enhances, or will enhance, the ability of the Department of Defense—

(A) to address current security priorities, including on-going military operations in Iraq, Afghanistan, and elsewhere;

(B) to manage geopolitical defense relationships; and

(C) to anticipate future strategic shifts in those relationships.

(2) The manner in which and the extent to which the reorganization adheres to generally accepted principles of effective organization, such as establishing clear goals, identifying clear lines of authority and accountability, and developing an effective human capital strategy.

(3) The extent to which the Department has developed detailed implementation plans for the reorganization, and the current status of the implementation of all aspects of the reorganization.

(4) The extent to which the Department has worked to mitigate congressional concerns and address other challenges that have arisen since the reorganization was announced.

(5) The manner in which the Department plans to evaluate progress in achieving the stated goals of the reorganization and what measurements, if any, the Department has established to assess the results of the reorganization.

(6) The impact of the large increase in responsibilities for the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict and Interdependent Capabilities

under the reorganization on the ability of the Assistant Secretary to carry out the principal duties of the Assistant Secretary under law.

(7) The possible decrease in attention given to special operations issues resulting from the increase in responsibilities for the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict and Interdependent Capabilities, including responsibility under the reorganization for each of the following:

(A) Strategic capabilities.

(B) Forces transformation.

(C) Major budget programs.

(8) The possible diffusion of attention from counternarcotics, counterproliferation, and global threat issues resulting from the merging of those responsibilities under a single Deputy Assistant Secretary of Defense for Counternarcotics, Counterproliferation, and Global Threats.

(9) The impact of the reorganization on counternarcotics program execution.

(10) The unique placement under the reorganization of both functional and regional issue responsibilities under the Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs.

(11) The differentiation between the responsibilities of the Deputy Assistant Secretary of Defense for Partnership Strategy and the Deputy Assistant Secretary of Defense for Coalition Affairs and the relationship between such officials.

**SEC. 958. REPORT ON FOREIGN LANGUAGE PROFICIENCY.**

(a) IN GENERAL.—Not later than 240 days after the date of the enactment of this Act, and annually thereafter until the date referred to in subsection (d), the Secretary of Defense, in conjunction with the Secretary of each military department, shall submit to the congressional defense committees a report on the foreign language proficiency of the personnel of the Department of Defense.

(b) CONTENTS.—Each report submitted under subsection (a) shall include—

(1) the number of positions, identified by each foreign language and dialect, for each military department and Defense Agency concerned that—

(A) require proficiency in that foreign language or dialect for the year in which the submission of the report is required;

(B) are anticipated to require proficiency in that foreign language or dialect for each of the five years following the date of the submission of the report; and

(C) are authorized in the future-years defense plan to be maintained for proficiency in a foreign language or dialect;

(2) the number of personnel for each military department and Defense Agency, identified by each foreign language and dialect, that are serving in a position that requires proficiency in the foreign language or dialect—

(A) to perform the primary duty of the position; and

(B) that meet the required level of proficiency of the Interagency Language Roundtable;

(3) the number of personnel for each military department and Defense Agency, identified by each foreign language and dialect, that are recruited or hired as accessions to serve in a position that requires proficiency in the foreign language or dialect;

(4) the number of personnel for each military department and Defense Agency, identified by each foreign language and dialect, that served in a position that requires proficiency in the foreign language or dialect and discontinued service during the preceding calendar year;

(5) the number of positions that require proficiency in a foreign language or dialect that are fulfilled by contractors;

(6) the percentage of work requiring linguistic skills that is fulfilled by personnel of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))); and

(7) an assessment of the foreign language capacity and capabilities of each military department and Defense Agency and of the Department of Defense as a whole.

(c) NON-MILITARY PERSONNEL.—Except as provided in paragraphs (6) and (7) of subsection (b), a report submitted under subsection (a) shall cover only members of the Armed Forces on active duty and reserve duty assigned to the military departments concerned or to the Department of Defense.

(d) TERMINATION OF REQUIREMENT.—The duty to submit a report under subsection (a) shall terminate on December 31, 2013.

# TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. General transfer authority.
Sec. 1002. United States contribution to NATO common-funded budgets in fiscal year 2008.
Sec. 1003. Authorization of additional emergency supplemental appropriations for fiscal year 2007.
Sec. 1004. Modification of fiscal year 2007 general transfer authority.
Sec. 1005. Financial management transformation initiative for the Defense Agencies.
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Sec. 1011. Limitation on leasing of vessels.
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Subtitle C—Counter-Drug Activities

Sec. 1021. Extension of authority for joint task forces to provide support to law enforcement agencies conducting counter-terrorism activities.
Sec. 1022. Expansion of authority to provide additional support for counter-drug activities in certain foreign countries.
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Subtitle D—Miscellaneous Authorities and Limitations

Sec. 1031. Provision of Air Force support and services to foreign military and state aircraft.
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Sec. 1034. Support for non-Federal development and testing of material for chemical agent defense.

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Sec. 1045. Comptroller General report on Defense Finance and Accounting Service response to Butterbaugh v. Department of Justice.
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Sec. 1047. Report on feasibility of establishing a domestic military aviation national training center.
Sec. 1048. Limited field user evaluations for combat helmet pad suspension systems.
Sec. 1049. Study on national security interagency system.
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Subtitle F—Other Matters

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Sec. 1073. Improvements in the process for the issuance of security clearances.
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Sec. 1076. Sense of Congress on Small Business Innovation Research Program.
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Sec. 1080. Retention of reimbursement for provision of reciprocal fire protection services.
Sec. 1081. Pilot program on commercial fee-for-service air refueling support for the Air Force.
Sec. 1082. Advisory panel on Department of Defense capabilities for support of civil authorities after certain incidents.
Sec. 1083. Terrorism exception to immunity.

# Subtitle A—Financial Matters

**SEC. 1001. GENERAL TRANSFER AUTHORITY.**

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2008 between any such authorizations for that fiscal

year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION.—Except as provided in paragraph (3), the total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $5,000,000,000.

(3) EXCEPTION FOR TRANSFERS BETWEEN MILITARY PERSONNEL AUTHORIZATIONS.—A transfer of funds between military personnel authorizations under title IV shall not be counted toward the dollar limitation in paragraph (2).

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

**SEC. 1002. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2008.**

(a) FISCAL YEAR 2008 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2008 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2007, of funds appropriated for fiscal years before fiscal year 2008 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $1,031,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $362,159,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

**SEC. 1003. AUTHORIZATION OF ADDITIONAL EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2007.**

Amounts authorized to be appropriated to the Department of Defense for fiscal year 2007 in the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased by a supplemental appropriation or by a transfer of funds, or decreased by a rescission, or any thereof, pursuant to the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28).

**SEC. 1004. MODIFICATION OF FISCAL YEAR 2007 GENERAL TRANSFER AUTHORITY.**

Section 1001(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2371) is amended by adding at the end the following new paragraph:

"(3) EXCEPTION FOR CERTAIN TRANSFERS.—The following transfers of funds shall be not be counted toward the limitation in paragraph (2) on the amount that may be transferred under this section:

"(A) The transfer of funds to the Iraq Security Forces Fund under reprogramming FY07–07–R PA.

"(B) The transfer of funds to the Joint Improvised Explosive Device Defeat Fund under reprogramming FY07–11 PA.

"(C) The transfer of funds back from the accounts referred to in subparagraphs (A) and (B) to restore the sources used in the reprogrammings referred to in such subparagraphs.".

**SEC. 1005. FINANCIAL MANAGEMENT TRANSFORMATION INITIATIVE FOR THE DEFENSE AGENCIES.**

10 USC 2222 note.

(a) FINANCIAL MANAGEMENT TRANSFORMATION INITIATIVE.—

(1) IN GENERAL.—The Director of the Business Transformation Agency of the Department of Defense shall carry out an initiative for financial management transformation in the Defense Agencies. The initiative shall be known as the "Defense Agencies Initiative" (in this section referred to as the "Initiative").

(2) SCOPE OF AUTHORITY.—In carrying out the Initiative, the Director of the Business Transformation Agency may require the heads of the Defense Agencies to carry out actions that are within the purpose and scope of the Initiative.

(b) PURPOSES.—The purposes of Initiative shall be as follows:

(1) To eliminate or replace financial management systems of the Defense Agencies that are duplicative, redundant, or fail to comply with the standards set forth in subsection (d).

(2) To transform the budget, finance, and accounting operations of the Defense Agencies to enable the Defense Agencies to achieve accurate and reliable financial information needed to support financial accountability and effective and efficient management decisions.

(c) REQUIRED ELEMENTS.—The Initiative shall include, to the maximum extent practicable—

(1) the utilization of commercial, off-the-shelf technologies and web-based solutions;

(2) a standardized technical environment and an open and accessible architecture; and

(3) the implementation of common business processes, shared services, and common data structures.

(d) STANDARDS.—In carrying out the Initiative, the Director of the Business Transformation Agency shall ensure that the Initiative is consistent with—

(1) the requirements of the Business Enterprise Architecture and Transition Plan developed pursuant to section 2222 of title 10, United States Code;

(2) the Standard Financial Information Structure of the Department of Defense;

(3) the Federal Financial Management Improvement Act of 1996 (and the amendments made by that Act); and

(4) other applicable requirements of law and regulation.

(e) SCOPE.—The Initiative shall be designed to provide, at a minimum, capabilities in the major process areas for both general fund and working capital fund operations of the Defense Agencies as follows:

(1) Budget formulation.

(2) Budget to report, including general ledger and trial balance.

(3) Procure to pay, including commitments, obligations, and accounts payable.

(4) Order to fulfill, including billing and accounts receivable.

(5) Cost accounting.

(6) Acquire to retire (account management).

(7) Time and attendance and employee entitlement.

(8) Grants financial management.

(f) CONSULTATION.—In carrying out subsections (d) and (e), the Director of the Business Transformation Agency shall consult with the Comptroller of the Department of Defense to ensure that any financial management systems developed for the Defense Agencies, and any changes to the budget, finance, and accounting operations of the Defense Agencies, are consistent with the financial standards and requirements of the Department of Defense.

(g) PROGRAM CONTROL.—In carrying out the Initiative, the Director of the Business Transformation Agency shall establish—

Establishment.

(1) a board (to be known as the "Configuration Control Board") to manage scope and cost changes to the Initiative; and

(2) a program management office (to be known as the "Program Management Office") to control and enforce assumptions made in the acquisition plan, the cost estimate, and

the system integration contract for the Initiative, as directed by the Configuration Control Board.

(h) PLAN ON DEVELOPMENT AND IMPLEMENTATION OF INITIATIVE.—Not later than six months after the date of the enactment of this Act, the Director of the Business Transformation Agency shall submit to the congressional defense committees a plan for the development and implementation of the Initiative. The plan shall provide for the implementation of an initial capability under the Initiative as follows: Deadlines.

(1) In at least one Defense Agency by not later than eight months after the date of the enactment of this Act.

(2) In not less than five Defense Agencies by not later than 18 months after the date of the enactment of this Act.

**SEC. 1006. REPEAL OF REQUIREMENT FOR TWO-YEAR BUDGET CYCLE FOR THE DEPARTMENT OF DEFENSE.**

Section 1405 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 744; 31 U.S.C. 1105 note) is repealed.

# Subtitle B—Policy Relating to Vessels and Shipyards

**SEC. 1011. LIMITATION ON LEASING OF VESSELS.**

Section 2401 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) The Secretary of a military department may make a contract for the lease of a vessel or for the provision of a service through use by a contractor of a vessel, the term of which is for a period of greater than two years, but less than five years, only if—

"(1) the Secretary has notified the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives of the proposed contract and included in such notification— Notification.

"(A) a detailed description of the terms of the proposed contract and a justification for entering into the proposed contract rather than obtaining the capability provided for by the lease, charter, or services involved through purchase of the vessel;

"(B) a determination that entering into the proposed contract as a means of obtaining the vessel is the most cost-effective means of obtaining such vessel; and

"(C) a plan for meeting the requirement provided by the proposed contract upon completion of the term of the lease contract; and

"(2) a period of 30 days of continuous session of Congress has expired following the date on which notice was received by such committees.".

**SEC. 1012. POLICY RELATING TO MAJOR COMBATANT VESSELS OF THE STRIKE FORCES OF THE UNITED STATES NAVY.**

(a) INTEGRATED NUCLEAR POWER SYSTEMS.—It is the policy of the United States to construct the major combatant vessels

of the strike forces of the United States Navy, including all new classes of such vessels, with integrated nuclear power systems.

Notification.

(b) REQUIREMENT TO REQUEST NUCLEAR VESSELS.—If a request is submitted to Congress in the budget for a fiscal year for construction of a new class of major combatant vessel for the strike forces of the United States, the request shall be for such a vessel with an integrated nuclear power system, unless the Secretary of Defense submits with the request a notification to Congress that the inclusion of an integrated nuclear power system in such vessel is not in the national interest.

(c) DEFINITIONS.—In this section:

(1) MAJOR COMBATANT VESSELS OF THE STRIKE FORCES OF THE UNITED STATES NAVY.—The term "major combatant vessels of the strike forces of the United States Navy" means the following:

(A) Submarines.

(B) Aircraft carriers.

(C) Cruisers, battleships, or other large surface combatants whose primary mission includes protection of carrier strike groups, expeditionary strike groups, and vessels comprising a sea base.

(2) INTEGRATED NUCLEAR POWER SYSTEM.—The term "integrated nuclear power system" means a ship engineering system that uses a naval nuclear reactor as its energy source and generates sufficient electric energy to provide power to the ship's electrical loads, including its combat systems and propulsion motors.

(3) BUDGET.—The term "budget" means the budget that is submitted to Congress by the President under section 1105(a) of title 31, United States Code.

## Subtitle C—Counter-Drug Activities

### SEC. 1021. EXTENSION OF AUTHORITY FOR JOINT TASK FORCES TO PROVIDE SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES.

Section 1022(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 10 U.S.C. 371 note) is amended by striking "and 2007" and inserting "through 2008".

### SEC. 1022. EXPANSION OF AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES IN CERTAIN FOREIGN COUNTRIES.

Subsection (b) of section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881), as amended by section 1021(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136, 117 Stat. 1593) and section 1022(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2382), is further amended by adding at the end the following new paragraphs:

"(17) The Government of Mexico.

"(18) The Government of the Dominican Republic.".

**SEC. 1023. REPORT ON COUNTERNARCOTICS ASSISTANCE FOR THE GOVERNMENT OF HAITI.**

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress a report on counternarcotics assistance for the Government of Haiti. President.

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

(1) A description and assessment of the counternarcotics assistance provided to the Government of Haiti by the Department of Defense, the Department of State, the Department of Homeland Security, and the Department of Justice.

(2) A description and assessment of any impediments to increasing counternarcotics assistance to the Government of Haiti.

(3) An assessment of the potential for the provision of counternarcotics assistance for the Government of Haiti through the United Nations Stabilization Mission in Haiti.

(c) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

# Subtitle D—Miscellaneous Authorities and Limitations

**SEC. 1031. PROVISION OF AIR FORCE SUPPORT AND SERVICES TO FOREIGN MILITARY AND STATE AIRCRAFT.**

(a) PROVISION OF SUPPORT AND SERVICES.—

(1) IN GENERAL.—Section 9626 of title 10, United States Code, is amended to read as follows:

**"§ 9626. Aircraft supplies and services: foreign military or other state aircraft**

"(a) PROVISION OF SUPPLIES AND SERVICES ON REIMBURSABLE BASIS.—(1) The Secretary of the Air Force may, under such regulations as the Secretary may prescribe and when in the best interests of the United States, provide any of the supplies or services described in paragraph (2) to military and other state aircraft of a foreign country, on a reimbursable basis without an advance of funds, if similar supplies and services are furnished on a like basis to military aircraft and other state aircraft of the United States by the foreign country concerned.

"(2) The supplies and services described in this paragraph are supplies and services as follows:

"(A) Routine airport services, including landing and takeoff assistance, servicing aircraft with fuel, use of runways, parking and servicing, and loading and unloading of baggage and cargo.

"(B) Miscellaneous supplies, including Air Force-owned fuel, provisions, spare parts, and general stores, but not including ammunition.

"(b) PROVISION OF ROUTINE AIRPORT SERVICES ON NON-REIMBURSABLE BASIS.—(1) Routine airport services may be provided under this section at no cost to a foreign country—

"(A) if such services are provided by Air Force personnel and equipment without direct cost to the Air Force; or

"(B) if such services are provided under an agreement with the foreign country that provides for the reciprocal furnishing by the foreign country of routine airport services, as defined in that agreement, to military and other state aircraft of the United States without reimbursement.

"(2) If routine airport services are provided under this section by a working-capital fund activity of the Air Force under section 2208 of this title and such activity is not reimbursed directly for the costs incurred by the activity in providing such services by reason of paragraph (1)(B), the working-capital fund activity shall be reimbursed for such costs out of funds currently available to the Air Force for operation and maintenance.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 939 of such title is amended by striking the item relating to section 9626 and inserting the following new item:

"9626. Aircraft supplies and services: foreign military or other state aircraft.".

(b) CONFORMING AMENDMENT.—Section 9629(3) of such title is amended by striking "for aircraft of a foreign military or air attaché".

**SEC. 1032. DEPARTMENT OF DEFENSE PARTICIPATION IN STRATEGIC AIRLIFT CAPABILITY PARTNERSHIP.**

(a) AUTHORITY TO PARTICIPATE IN PARTNERSHIP.—

(1) MEMORANDUM OF UNDERSTANDING.—The Secretary of Defense may enter into a multilateral memorandum of understanding authorizing the Strategic Airlift Capability Partnership to conduct activities necessary to accomplish its purpose, including—

(A) the acquisition, equipping, ownership, and operation of strategic airlift aircraft; and

(B) the acquisition or transfer of airlift and airlift-related services and supplies among members of the Strategic Airlift Capability Partnership, or between the Partnership and non-member countries or international organizations, on a reimbursable basis or by replacement-in-kind or exchange of airlift or airlift-related services of an equal value.

(2) PAYMENTS.—From funds available to the Department of Defense for such purpose, the Secretary of Defense may pay the United States equitable share of the recurring and non-recurring costs of the activities and operations of the Strategic Airlift Capability Partnership, including costs associated with procurement of aircraft components and spare parts, maintenance, facilities, and training, and the costs of claims.

(b) AUTHORITIES UNDER PARTNERSHIP.—In carrying out the memorandum of understanding entered into under subsection (a), the Secretary of Defense may do the following:

(1) Waive reimbursement of the United States for the cost of the following functions performed by Department of Defense personnel with respect to the Strategic Airlift Capability Partnership:

(A) Auditing.
(B) Quality assurance.
(C) Inspection.
(D) Contract administration.

(E) Acceptance testing.

(F) Certification services.

(G) Planning, programming, and management services.

(2) Waive the imposition of any surcharge for administrative services provided by the United States that would otherwise be chargeable against the Strategic Airlift Capability Partnership.

(3) Pay the salaries, travel, lodging, and subsistence expenses of Department of Defense personnel assigned for duty to the Strategic Airlift Capability Partnership without seeking reimbursement or cost-sharing for such expenses.

(c) CREDITING OF RECEIPTS.—Any amount received by the United States in carrying out the memorandum of understanding entered into under subsection (a) shall be credited, as elected by the Secretary of Defense, to the following:

(1) The appropriation, fund, or account used in incurring the obligation for which such amount is received.

(2) An appropriation, fund, or account currently providing funds for the purposes for which such obligation was made.

(d) AUTHORITY TO TRANSFER AIRCRAFT.—

(1) TRANSFER AUTHORITY.—The Secretary of Defense may transfer one strategic airlift aircraft to the Strategic Airlift Capability Partnership in accordance with the terms and conditions of the memorandum of understanding entered into under subsection (a).

(2) REPORT.—Not later than 30 days before the date on which the Secretary transfers a strategic airlift aircraft under paragraph (1), the Secretary shall submit to the congressional defense committees a report on the strategic airlift aircraft to be transferred, including the type of strategic airlift aircraft to be transferred and the tail registration or serial number of such aircraft.

(e) STRATEGIC AIRLIFT CAPABILITY PARTNERSHIP DEFINED.—In this section the term "Strategic Airlift Capability Partnership" means the strategic airlift capability consortium established by the United States and other participating countries.

**SEC. 1033. IMPROVED AUTHORITY TO PROVIDE REWARDS FOR ASSISTANCE IN COMBATING TERRORISM.**

(a) INCREASED AMOUNTS.—Section 127b of title 10, United States Code, is amended—

(1) in subsection (b), by striking "$200,000" and inserting "$5,000,000";

(2) in subsection (c)(1)(B), by striking "$50,000" and inserting "$1,000,000"; and

(3) in subsection (d)(2), by striking "$100,000" and inserting "$2,000,000".

(b) INVOLVEMENT OF ALLIED FORCES.—Such section is further amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting after "United States Government personnel" the following: ", or government personnel of allied forces participating in a combined operation with the armed forces,";

(B) in paragraph (1), by inserting after "armed forces" the following: ", or of allied forces participating in a combined operation with the armed forces,"; and

(C) in paragraph (2), by inserting after "armed forces" the following: ", or of allied forces participating in a combined operation with the armed forces"; and

(2) in subsection (c), by adding at the end the following:

"(3)(A) Subject to subparagraphs (B) and (C), an official who has authority delegated under paragraph (1) or (2) may use that authority, acting through government personnel of allied forces, to offer and make rewards.

Procedures. Effective date.

"(B) The Secretary of Defense shall prescribe policies and procedures for making rewards in the manner described in subparagraph (A), which shall include guidance for the accountability of funds used for making rewards in that manner. The policies and procedures shall not take effect until 30 days after the date on which the Secretary submits the policies and procedures to the congressional defense committees. Rewards may not be made in the manner described in subparagraph (A) except under policies and procedures that have taken effect.

"(C) Rewards may not be made in the manner described in subparagraph (A) after September 30, 2009.

Deadline. Reports.

"(D) Not later than April 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of this paragraph. The report shall identify each reward made in the manner described in subparagraph (A) and, for each such reward—

"(i) identify the type, amount, and recipient of the reward;

"(ii) explain the reason for making the reward; and

"(iii) assess the success of the reward in advancing the effort to combat terrorism.".

(c) ANNUAL REPORT TO INCLUDE SPECIFIC INFORMATION ON ADDITIONAL AUTHORITY.—Section 127b of title 10, United States Code, is further amended in subsection (f)(2) by adding at the end the following new subparagraph:

"(D) Information on the implementation of paragraph (3) of subsection (c).".

**SEC. 1034. SUPPORT FOR NON-FEDERAL DEVELOPMENT AND TESTING OF MATERIAL FOR CHEMICAL AGENT DEFENSE.**

(a) AUTHORITY TO PROVIDE TOXIC CHEMICALS OR PRECURSORS.—

(1) IN GENERAL.—The Secretary of Defense, in coordination with the heads of other elements of the Federal Government, may make available, to a State, a unit of local government, or a private entity incorporated in the United States, small quantities of a toxic chemical or precursor for the development or testing, in the United States, of material that is designed to be used for protective purposes.

(2) TERMS AND CONDITIONS.—Any use of the authority under paragraph (1) shall be subject to such terms and conditions as the Secretary considers appropriate.

(b) PAYMENT OF COSTS AND DISPOSITION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall ensure, through the advance payment required by paragraph (2) and through any other payments that may be required, that a recipient of toxic chemicals or precursors under subsection (a) pays for all actual costs, including direct and indirect costs, associated with providing the toxic chemicals or precursors.

(2) ADVANCE PAYMENT.—In carrying out paragraph (1), the Secretary shall require each recipient to make an advance

payment in an amount that the Secretary determines will equal all such actual costs.

(3) CREDITS.—A payment received under this subsection shall be credited to the account that was used to cover the costs for which the payment was provided. Amounts so credited shall be merged with amounts in that account, and shall be available for the same purposes, and subject to the same conditions and limitations, as other amounts in that account.

(c) CHEMICAL WEAPONS CONVENTION.—The Secretary shall ensure that toxic chemicals and precursors are made available under this section for uses and in quantities that comply with the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, signed at Paris on January 13, 1993, and entered into force with respect to the United States on April 29, 1997.

(d) REPORT.—

(1) Not later than March 15, 2008, and each year thereafter, the Secretary shall submit to Congress a report on the use of the authority under subsection (a) during the previous calendar year. The report shall include a description of each use of the authority and specify what material was made available and to whom it was made available.

(2) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(e) DEFINITIONS.—In this section, the terms "precursor", "protective purposes", and "toxic chemical" have the meanings given those terms in the convention referred to in subsection (c), in paragraph 2, paragraph 9(b), and paragraph 1, respectively, of article II of that convention.

**SEC. 1035. PROHIBITION ON SALE OF F–14 FIGHTER AIRCRAFT AND RELATED PARTS.**

(a) PROHIBITION ON SALE BY DEPARTMENT OF DEFENSE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Department of Defense may not sell (whether directly or indirectly) any F–14 fighter aircraft, any parts unique to the F–14 fighter aircraft, or any tooling or dies used in the manufacture of such aircraft or parts, whether such sales occur through the Defense Reutilization and Marketing Service or through another agency or element of the Department.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to the sale of F–14 fighter aircraft or parts for F–14 fighter aircraft to a museum or similar organization located in the United States that is involved in the preservation of F–14 fighter aircraft for historical purposes.

(b) PROHIBITION ON EXPORT LICENSE.—No license for the export of any F-14 fighter aircraft, any parts unique to the F–14 fighter aircraft, or any tooling or dies used in the manufacture of such aircraft or parts may be issued by the United States Government to a non-United States person or entity.

# Subtitle E—Reports

**SEC. 1041. EXTENSION AND MODIFICATION OF REPORT RELATING TO HARDENED AND DEEPLY BURIED TARGETS.**

Section 1032 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2643; 10 U.S.C. 2358 note) is amended—

(1) in the heading, by striking "**ANNUAL REPORT ON WEAPONS**" and inserting "**REPORT ON WEAPONS AND CAPABILITIES**";

(2) in subsection (a)—

(A) in the heading, by striking "ANNUAL";

(B) by striking "April 1 of each year" and inserting "March 1, 2009, and every two years thereafter,";

(C) by striking "Director of Central Intelligence" and inserting "Director of National Intelligence";

(D) by striking "the preceding fiscal year" and inserting "the preceding two fiscal years and planned for the current fiscal year and the next fiscal year"; and

(E) by striking "to develop weapons" and inserting "to develop weapons and capabilities";

(3) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "The report for a fiscal year" and inserting "A report submitted";

(B) in paragraph (1), by striking "were undertaken during that fiscal year" and inserting "were or will be undertaken during the four-fiscal-year period covered by the report"; and

(C) in paragraph (2) in the matter preceding subparagraph (A), by striking "were undertaken during such fiscal year" and inserting "were or will be undertaken during the four-fiscal-year period covered by the report"; and

(4) in subsection (d), by striking "April 1, 2007" and inserting "March 1, 2013".

**SEC. 1042. REPORT ON JOINT MODELING AND SIMULATION ACTIVITIES.**

(a) REPORT REQUIRED.—Not later than December 31, 2008, the Secretary of Defense shall submit to the congressional defense committees a report that describes current and planned joint modeling and simulation activities within the Department of Defense.

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

(1) An identification and description of how joint modeling and simulation activities support the development of capabilities to meet joint and service-unique military requirements and needs, in areas including but not limited to joint training, experimentation, systems acquisition, test and evaluation, assessment, and planning.

(2) A description of how joint modeling and simulation activities are supportive of Department-level strategies and goals.

(3) For each appropriate element of the Department of Defense and each appropriate combatant command—

(A) An identification of modeling and simulation capabilities; and

(B) A description of plans and programs to continuously introduce new modeling and simulation technologies so as to enhance defense capabilities.

(4) A description of incentives and plans to reduce or divest duplicative or outdated capabilities as necessary.

(5) Plans or activities to allow non-defense users to access defense joint modeling and simulation activities, as appropriate.

(6) Budget and resource estimates, including government and contractor personnel requirements, for planned joint modeling and simulation activities.

(7) A description of the relationship and coordination between and among joint modeling and simulation activities and the modeling and simulation activities of elements of the Department of Defense, Federal agencies, State and local governments, academia, private industry, United States and international standards organizations, and international partners.

(8) Any other matters the Secretary considers appropriate.

(c) CONSULTATION.—The report under (a) shall be developed in consultation with appropriate military departments, Defense Agencies, combatant commands, and other defense activities.

**SEC. 1043. RENEWAL OF SUBMITTAL OF PLANS FOR PROMPT GLOBAL STRIKE CAPABILITY.**

Section 1032(b)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1605; 10 U.S.C. 113 note) is amended by inserting "and each of 2007, 2008, and 2009," after "2004, 2005, and 2006,".

**SEC. 1044. REPORT ON WORKFORCE REQUIRED TO SUPPORT THE NUCLEAR MISSIONS OF THE NAVY AND THE DEPARTMENT OF ENERGY.**

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Energy shall each submit to Congress a report on the requirements for a workforce to support the nuclear missions of the Navy and the Department of Energy during the 10-year period beginning on the date of the report.

(b) ELEMENTS.—Each report shall include—

(1) a description of the projected nuclear missions of the Navy and the Department of Energy during the 10-year period beginning on the date of the report;

(2) an assessment of existing knowledge retention programs within the Department of Defense, the Department of Energy, the national laboratories, and federally funded research facilities that support the nuclear missions of the Navy and the Department of Energy, and any planned changes in those programs; and

(3) a plan to address anticipated workforce attrition, retirement, and recruiting trends during that period and ensure an adequate workforce in support of the nuclear missions of the Navy and the Department of Energy.

**SEC. 1045. COMPTROLLER GENERAL REPORT ON DEFENSE FINANCE AND ACCOUNTING SERVICE RESPONSE TO BUTTERBAUGH V. DEPARTMENT OF JUSTICE.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth an assessment by the Comptroller General of the response of the Defense Finance and Accounting Service to the decision in Butterbaugh v. Department of Justice (336 F.3d 1332 (2003)).

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) An estimate of the number of members of the reserve components of the Armed Forces, both past and present, who are entitled to compensation under the decision in Butterbaugh v. Department of Justice.

(2) An assessment of the current policies, procedures, and timeliness of the Defense Finance and Accounting Service in implementing and resolving claims under the decision in Butterbaugh v. Department of Justice.

(3) An assessment whether or not the decisions made by the Defense Finance and Accounting Service in implementing the decision in Butterbaugh v. Department of Justice follow a consistent pattern of resolution.

(4) An assessment of whether or not the decisions made by the Defense Finance and Accounting Service in implementing the decision in Butterbaugh v. Department of Justice are resolving claims by providing more compensation than an individual has been able to prove, under the rule of construction that laws providing benefits to veterans are liberally construed in favor of the veteran.

(5) An estimate of the total amount of compensation payable to members of the reserve components of the Armed Forces, both past and present, as a result of the recent decision in Hernandez v. Department of the Air Force (No. 2006–3375, slip op.) that leave can be reimbursed for Reserve service before 1994, when Congress enacted chapter 43 of title 38, United States Code (commonly referred to as the "Uniformed Services Employment and Reemployment Rights Act").

(6) A comparative assessment of the handling of claims by the Defense Finance and Accounting Service under the decision in Butterbaugh v. Department of Justice with the handling of claims by other Federal agencies (selected by the Comptroller General for purposes of the comparative assessment) under that decision.

(7) A statement of the number of claims by members of the reserve components of the Armed Forces under the decision in Butterbaugh v. Department of Justice that have been adjudicated by the Defense Finance and Accounting Service.

(8) A statement of the number of claims by members of the reserve components of the Armed Forces under the decision in Butterbaugh v. Department of Justice that have been denied by the Defense Finance and Accounting Service.

(9) A comparative assessment of the average amount of time required for the Defense Finance and Accounting Service to resolve a claim under the decision in Butterbaugh v. Department of Justice with the average amount of time required

by other Federal agencies (as so selected) to resolve a claim under that decision.

(10) A comparative statement of the backlog of claims with the Defense Finance and Accounting Service under the decision in Butterbaugh v. Department of Justice with the backlog of claims of other Federal agencies (as so selected) under that decision.

(11) An estimate of the amount of time required for the Defense Finance and Accounting Service to resolve all outstanding claims under the decision in Butterbaugh v. Department of Justice.

(12) An assessment of the reasonableness of the requirement of the Defense Finance and Accounting Service for the submittal by members of the reserve components of the Armed Forces of supporting documentation for claims under the decision in Butterbaugh v. Department of Justice.

(13) A comparative assessment of the requirement of the Defense Finance and Accounting Service for the submittal by members of the reserve components of the Armed Forces of supporting documentation for claims under the decision in Butterbaugh v. Department of Justice with the requirement of other Federal agencies (as so selected) for the submittal by such members of supporting documentation for such claims.

(14) Such recommendations for legislative action as the Comptroller General considers appropriate in light of the decision in Butterbaugh v. Department of Justice and the decision in Hernandez v. Department of the Air Force.

**SEC. 1046. STUDY ON SIZE AND MIX OF AIRLIFT FORCE.**

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a requirements-based study on alternatives for the proper size and mix of fixed-wing intratheater and intertheater airlift assets to meet the National Military Strategy for each of the following timeframes: fiscal year 2012, 2018, and 2024. The study shall—

(1) focus on organic and commercially programmed airlift capabilities;

(2) analyze the full-spectrum lifecycle costs of the various alternatives for organic models of each of the following aircraft: C–5A/B/C/M, C–17A, KC–X, KC–10, KC–135R, C–130E/H/J, Joint Cargo Aircraft; and

(3) incorporate the augmentation capability, viability, and feasibility of the Civil Reserve Air Fleet during activation stages I, II, and III.

(b) USE OF FFRDC.—The Secretary shall select, to carry out the study required by subsection (a), a federally funded research and development center that has experience and expertise in conducting similar studies.

(c) STUDY PLAN.—The study required by subsection (a) shall be carried out under a study plan. The study plan shall be developed as follows: Deadlines.

(1) The center selected under subsection (b) shall develop the study plan and shall, not later than 60 days after the date of enactment of this Act, submit the study plan to the congressional defense committees, the Secretary, and the Comptroller General of the United States.

(2) The Comptroller General shall review the study plan to determine whether it is complete and objective, and whether

it has any flaws or weaknesses in scope or methodology, and shall, not later than 30 days after receiving the study plan, submit to the Secretary and the center a report that contains the results of that review and provides any recommendations that the Comptroller General considers appropriate for improvements to the study plan.

(3) The center shall modify the study plan to incorporate the recommendations under paragraph (2) and shall, not later than 45 days after receiving that report, submit to the Secretary and the congressional defense committees a report on those modifications. The report shall describe each modification and, if the modifications do not incorporate one or more of the recommendations, shall explain the reasons for not doing so.

(d) ELEMENTS OF STUDY PLAN.—The study plan required by subsection (c) shall address, at minimum, the following:

(1) A description of lift requirements and operating profiles for airlift aircraft required to meet the National Military Strategy, including assumptions regarding the following:

(A) Current and future military combat and support missions.

(B) The planned force structure growth of the military services.

(C) Potential changes in lift requirements, including the deployment of the Future Combat Systems by the Army.

(D) New capability in airlift to be provided by the KC(X) aircraft and the expected utilization of such capability, including its use in intratheater lift.

(E) The utilization of intertheater lift aircraft in intratheater combat mission support roles.

(F) The availability and application of Civil Reserve Air Fleet assets in future military scenarios.

(G) Air mobility requirements associated with the Global Rebasing Initiative of the Department of Defense.

(H) Air mobility requirements in support of worldwide peacekeeping and humanitarian missions.

(I) Air mobility requirements in support of homeland defense and national emergencies.

(J) The viability and capability of the Civil Reserve Air Fleet to augment organic forces in both friendly and hostile environments.

(K) An assessment of the Civil Reserve Air Fleet to adequately augment the organic fleet as it relates to commercial inventory management restructuring in response to future commercial markets, streamlining of operations, efficiency measures, or downsizing of the participant.

(2) An evaluation of the state of the current airlift fleet of the Air Force, including assessments of the following:

(A) The extent to which the increased use of airlift aircraft in on-going operations is affecting the programmed service life of the aircraft of that fleet.

(B) The adequacy of the current airlift force, including whether or not a minimum of 299 strategic airlift aircraft for the Air Force is sufficient to support future expeditionary combat and non-combat missions, as well as domestic and training mission demands consistent with

the requirements of meeting the National Military Strategy.

(C) The optimal mix of C–5 and C–17 aircraft for the strategic airlift fleet of the Air Force, to include the following:

(i) The cost-effectiveness of modernizing various iterations of the C–5A and C–5B/C aircraft fleet versus procuring additional C–17 aircraft.

(ii) The military capability, operational availability, usefulness, and service life of the C–5A/B/C/M aircraft and the C–17 aircraft. Such an assessment shall examine appropriate metrics, such as aircraft availability rates, departure rates, and mission capable rates, in each of the following cases:

(I) Completion of the Avionics Modernization Program and the Reliability Enhancement and Re-engining Program.

(II) Partial completion of the Avionics Modernization Program and the Reliability Enhancement and Re-engining Program, with partial completion of either such program being considered the point at which the continued execution of each program is no longer supported by the cost-effectiveness analysis.

(iii) At what specific fleet inventory for each organic aircraft, to include air refueling aircraft used in the airlift role, would it impede the ability of Civil Reserve Air Fleet participants to remain a viable augmentation option.

(D) An analysis and assessment of the lessons that may be learned from the experience of the Air Force in restarting the production line for the C–5 aircraft after having closed the line for several years, and recommendations for the actions that the Department of Defense should take to ensure that the production line for the C–17 aircraft could be restarted if necessary, including—

(i) an analysis of the methods that were used and costs that were incurred in closing and re-opening the production line for the C–5 aircraft;

(ii) an assessment of the methods and actions that should be employed and the expected costs and risks of closing and re-opening the production line for the C–17 aircraft in view of that experience.

Such analysis and assessment should deal with issues such as production work force, production facilities, tooling, industrial base suppliers, contractor logistics support versus organic maintenance, and diminished manufacturing sources.

(E) Assessing the military capability, operational availability, usefulness, service life and optimal mix of intra-theater airlift aircraft, to include—

(i) the cost-effectiveness of procuring the Joint Cargo Aircraft versus procuring additional C–130J or refurbishing C–130E/H platforms to meet intra-theater airlift requirements of the combatant commander and component commands; and

(ii) the cost-effectiveness of procuring additional C–17 aircraft versus procuring additional C–130J platforms or refurbishing C–130E/H platforms to meet intra-theater airlift requirements of the combatant commander and component commands.

(3) Each analysis required by paragraph (2) shall include—

(A) a description of the assumptions and sensitivity analysis utilized in the study regarding aircraft performances and cargo loading factors; and

(B) a comprehensive statement of the data and assumptions utilized in making the program life cycle cost estimates and a comparison of cost and risk associated with the optimally mixed fleet of airlift aircraft versus the program of record airlift aircraft fleet.

(e) UTILIZATION OF OTHER STUDIES.—The study required by subsection (a) shall build upon the results of the 2005 Mobility Capabilities Studies, the on-going Intra-theater Airlift Fleet Mix Analysis, the Intra-theater Lift Capabilities Study, the Joint Future Theater Airlift Capabilities Analysis, and other appropriate studies and analyses, such as Fleet Viability Board Reports or special aircraft assessments. The study shall also include any testing data collected on modernization, recapitalization, and upgrade efforts of current organic aircraft.

(f) COLLABORATION WITH UNITED STATES TRANSPORTATION COMMAND.—In conducting the study required by subsection (a) and preparing the report required by subsection (c)(3), the center shall collaborate with the commander of the United States Transportation Command.

(g) COLLABORATION WITH COST ANALYSIS IMPROVEMENT GROUP.—In conducting the study required by subsection (a) and constructing the analysis required by subsection (a)(2), the center shall collaborate with the Cost Analysis Improvement Group of the Department of Defense.

(h) REPORT.—Not later than January 10, 2009, the center selected under subsection (b) shall submit to the Secretary and the congressional defense committees a report on the study required by subsection (a). The report shall be submitted in unclassified form, but shall include a classified annex.

**SEC. 1047. REPORT ON FEASIBILITY OF ESTABLISHING A DOMESTIC MILITARY AVIATION NATIONAL TRAINING CENTER.**

(a) IN GENERAL.—Not later than June 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report to determine the feasibility of establishing a Border State Aviation Training Center (BSATC) to support the current and future requirements of the existing RC–26 training site for counterdrug activities, located at the Fixed Wing Army National Guard Aviation Training Site (FWAATS), including the domestic reconnaissance and surveillance missions of the National Guard in support of local, State, and Federal law enforcement agencies, provided that the activities to be conducted at the BSATC shall not duplicate or displace any activity or program at the RC–26 training site or the FWAATS.

(b) CONTENT.—The report required under subsection (a) shall—

(1) examine the current and past requirements of RC–26 aircraft in support of local, State, and Federal law enforcement and determine the number of additional aircraft required

to provide such support for each State that borders Canada, Mexico, or the Gulf of Mexico;

(2) determine the number of military and civilian personnel required to run a RC–26 domestic training center meeting the requirements identified under paragraph (1);

(3) determine the requirements and cost of locating such a training center at a military installation for the purpose of preempting and responding to security threats and responding to crises; and

(4) include a comprehensive review of the number and type of intelligence, reconnaissance, and surveillance platforms needed for the National Guard to effectively provide domestic operations and civil support (including homeland defense and counterdrug) to local, State, and Federal law enforcement and first responder entities and how those platforms would provide additional capabilities not currently available from the assets of other local, State, and Federal agencies.

(c) CONSULTATION.—In preparing the report required under subsection (a), the Secretary of Defense shall consult with the Adjutant General of each State that borders Canada, Mexico, or the Gulf of Mexico, the Adjutant General of the State of West Virginia, and the National Guard Bureau.

**SEC. 1048. LIMITED FIELD USER EVALUATIONS FOR COMBAT HELMET PAD SUSPENSION SYSTEMS.**

(a) IN GENERAL.—The Secretary of Defense shall carry out a limited field user evaluation and operational assessment of qualified combat helmet pad suspension systems. The evaluation and assessment shall be carried out using verified product representative samples from combat helmet pad suspension systems that are qualified as of the date of the enactment of this Act.

(b) REPORT.—Not later than September 30, 2008, the Secretary shall submit to the congressional defense committees a report on the results of the limited field user evaluation and operational assessment.

(c) FUNDING.—The limited field user evaluation and operational assessment required by subsection (a) shall be conducted using funds appropriated pursuant to an authorization of appropriations or otherwise made available for fiscal year 2008 for operation and maintenance, Army, for soldier protection and safety.

**SEC. 1049. STUDY ON NATIONAL SECURITY INTERAGENCY SYSTEM.**

(a) STUDY REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall enter into an agreement with an independent, non-profit, non-partisan organization to conduct a study on the national security interagency system. Deadline.

(b) REPORT.—The agreement entered into under subsection (a) shall require the organization to submit to Congress and the President a report containing the results of the study conducted pursuant to such agreement and any recommendations for changes to the national security interagency system (including legislative or regulatory changes) identified by the organization as a result of the study.

(c) SUBMITTAL DATE.—The agreement entered into under subsection (a) shall require the organization to submit the report required under subsection (a) not later than September 1, 2008.

(d) NATIONAL SECURITY INTERAGENCY SYSTEM DEFINED.—In this section, the term "national security interagency system" means the structures, mechanisms, and processes by which the departments, agencies, and elements of the Federal Government that have national security missions coordinate and integrate their policies, capabilities, expertise, and activities to accomplish such missions.

(e) FUNDING.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, not more than $3,000,000 may be available to carry out this section.

**SEC. 1050. REPORT ON SOLID ROCKET MOTOR INDUSTRIAL BASE.**

(a) REPORT.—Not later than 190 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the status, capability, viability, and capacity of the solid rocket motor industrial base in the United States.

(b) CONTENT.—The report required under subsection (a) shall include the following:

(1) An assessment of the ability to maintain the Minuteman III intercontinental ballistic missile through its planned operational life.

(2) An assessment of the ability to maintain the Trident II D–5 submarine launched ballistic missile through its planned operational life.

(3) An assessment of the ability to maintain all other space launch, missile defense, and other vehicles with solid rocket motors, through their planned operational lifetimes.

(4) An assessment of the ability to support projected future requirements for vehicles with solid rocket motors to support space launch, missile defense, or any range of ballistic missiles determined to be necessary to meet defense needs or other requirements of the United States Government.

(5) An assessment of the required materials, the supplier base, the production facilities, and the production workforce needed to ensure that current and future requirements could be met.

(6) An assessment of the adequacy of the current and projected industrial base support programs to support the full range of projected future requirements identified in paragraph (4).

**SEC. 1051. REPORTS ON ESTABLISHMENT OF A MEMORIAL FOR MEMBERS OF THE ARMED FORCES WHO DIED IN THE AIR CRASH IN BAKERS CREEK, AUSTRALIA, AND ESTABLISHMENT OF OTHER MEMORIALS IN ARLINGTON NATIONAL CEMETERY.**

(a) BAKERS CREEK MEMORIAL.—Not later than April 1, 2008, the Secretary of the Army shall submit to the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate a report containing a discussion of locations outside of Arlington National Cemetery that would serve as a suitable location for the establishment of a memorial to honor the memory of the 40 members of the Armed Forces of the United States who lost their lives in the air crash at Bakers Creek, Australia, on June 14, 1943.

(b) MEMORIALS IN ARLINGTON NATIONAL CEMETERY.—Not later than April 1, 2008, the Secretary of the Army shall submit to the congressional committees specified in subsection (a) a report containing—

(1) recommendations to implement the results of the study regarding proposals for the construction of new memorials in Arlington National Cemetery that was conducted pursuant to section 2897 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2157); and

(2) proposed legislation, if necessary, to implement the results of the study.

## Subtitle F—Other Matters

### SEC. 1061. REIMBURSEMENT FOR NATIONAL GUARD SUPPORT PROVIDED TO FEDERAL AGENCIES.

Section 377 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "To the extent" and inserting "Subject to subsection (c), to the extent"; and

(2) by striking subsection (b) and inserting the following new subsections:

"(b)(1) Subject to subsection (c), the Secretary of Defense shall require a Federal agency to which law enforcement support or support to a national special security event is provided by National Guard personnel performing duty under section 502(f) of title 32 to reimburse the Department of Defense for the costs of that support, notwithstanding any other provision of law. No other provision of this chapter shall apply to such support.

"(2) Any funds received by the Department of Defense under this subsection as reimbursement for support provided by personnel of the National Guard shall be credited, at the election of the Secretary of Defense, to the following:

"(A) The appropriation, fund, or account used to fund the support.

"(B) The appropriation, fund, or account currently available for reimbursement purposes.

"(c) An agency to which support is provided under this chapter or section 502(f) of title 32 is not required to reimburse the Department of Defense for such support if the Secretary of Defense waives reimbursement. The Secretary may waive the reimbursement requirement under this subsection if such support—

Waiver authority.

"(1) is provided in the normal course of military training or operations; or

"(2) results in a benefit to the element of the Department of Defense or personnel of the National Guard providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.".

### SEC. 1062. CONGRESSIONAL COMMISSION ON THE STRATEGIC POSTURE OF THE UNITED STATES.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Congressional Commission on the Strategic Posture of the United States". The purpose of the commission is to examine and make recommendations with respect to the long-term strategic posture of the United States.

(b) COMPOSITION.—

(1) MEMBERSHIP.—The commission shall be composed of 12 members appointed as follows:

(A) Three by the chairman of the Committee on Armed Services of the House of Representatives.

(B) Three by the ranking minority member of the Committee on Armed Services of the House of Representatives.

(C) Three by the chairman of the Committee on Armed Services of the Senate.

(D) Three by the ranking minority member of the Committee on Armed Services of the Senate.

(2) CHAIRMAN; VICE CHAIRMAN.—

(A) CHAIRMAN.—The chairman of the Committee on Armed Services of the House of Representatives and the chairman of the Committee on Armed Services of the Senate shall jointly designate one member of the commission to serve as chairman of the commission.

(B) VICE CHAIRMAN.—The ranking minority member of the Committee on Armed Services of the House of Representatives and the ranking minority member of the Committee on Armed Services of the Senate shall jointly designate one member of the commission to serve as vice chairman of the commission.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the commission. Any vacancy in the commission shall be filled in the same manner as the original appointment.

(c) DUTIES.—

(1) REVIEW.—The commission shall conduct a review of the strategic posture of the United States, including a strategic threat assessment and a detailed review of nuclear weapons policy, strategy, and force structure.

(2) ASSESSMENT AND RECOMMENDATIONS.—

(A) ASSESSMENT.—The commission shall assess the benefits and risks associated with the current strategic posture and nuclear weapons policies of the United States.

(B) RECOMMENDATIONS.—The commission shall make recommendations as to the most appropriate strategic posture and most effective nuclear weapons strategy.

(d) COOPERATION FROM GOVERNMENT.—

(1) COOPERATION.—In carrying out its duties, the commission shall receive the full and timely cooperation of the Secretary of Defense, the Secretary of Energy, the Secretary of State, the Director of National Intelligence, and any other United States Government official in providing the commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

(2) LIAISON.—The Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of National Intelligence shall each designate at least one officer or employee of the Department of Defense, the Department of Energy, the Department of State, and the intelligence community, respectively, to serve as a liaison officer between the department (or the intelligence community, as the case may be) and the commission.

(e) REPORT.—Not later than December 1, 2008, the commission shall submit to the President, the Secretary of Defense, the Secretary of Energy, the Secretary of State, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives a report on the commission's findings, conclusions, and recommendations. The report shall identify the strategic posture and nuclear weapons strategy recommended under subsection (c)(2)(B) and shall include—

(1) the military capabilities and force structure necessary to support the strategy, including both nuclear and non-nuclear capabilities that might support the strategy;

(2) the number of nuclear weapons required to support the strategy, including the number of replacement warheads required, if any;

(3) the appropriate qualitative analysis, including force-on-force exchange modeling, to calculate the effectiveness of the strategy under various scenarios;

(4) the nuclear infrastructure (that is, the size of the nuclear complex) required to support the strategy;

(5) an assessment of the role of missile defenses in the strategy;

(6) an assessment of the role of nonproliferation programs in the strategy;

(7) the political and military implications of the strategy for the United States and its allies; and

(8) any other information or recommendations relating to the strategy (or to the strategic posture) that the commission considers appropriate.

(f) FUNDING.—Of the amounts appropriated or otherwise made available pursuant to this Act to the Department of Defense, $5,000,000 is available to fund the activities of the commission.

(g) TERMINATION.—The commission shall terminate on June 1, 2009.

**SEC. 1063. TECHNICAL AND CLERICAL AMENDMENTS.**

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Chapter 3 is amended—

(A) by redesignating the section 127c added by section 1201(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2410) as section 127d and transferring that section so as to appear immediately after the section 127c added by section 1231(a) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3467); and

(B) by revising the table of sections at the beginning of such chapter to reflect the redesignation and transfer made by paragraph (1).

(2) Section 629(d)(1) is amended by inserting a comma after "(a)".

(3) Section 662(b) is amended by striking "paragraphs (1), (2), and (3) of subsection (a)" and inserting "paragraphs (1) and (2) of subsection (a)".

(4) Subsections (c) and (d) of section 948r are each amended by striking "Defense Treatment Act of 2005" each place it appears and inserting "Detainee Treatment Act of 2005".

(5) The table of sections at the beginning of subchapter VI of chapter 47A is amended by striking the item relating to section 950j and inserting the following:

"950j. Finality of proceedings, findings, and sentences.".

(6) Section 950f(b) is amended by striking "No person may be serve" and inserting "No person may serve".

(7) The heading for section 950j is amended by striking "**Finality or**" and inserting "**Finality of**".

(8) Section 1034(b)(2) is amended by inserting "unfavorable" before "action" the second place it appears.

(9) Section 1588(d)(1)(B) is amended by striking "the Act of March 9, 1920, commonly known as the 'Suits in Admiralty Act' (41 Stat. 525; 46 U.S.C. App. 741 et seq.) and the Act of March 3, 1925, commonly known as the 'Public Vessels Act' (43 Stat. 1112; 46 U.S.C. App. 781 et seq.)" and inserting "chapters 309 and 311 of title 46".

(10) The table of sections at the beginning of chapter 137 is amended by striking the item relating to section 2333 and inserting the following new item:

"2333. Joint policies on requirements definition, contingency program management, and contingency contracting.".

(11) The table of sections at the beginning of chapter 141 is amended by inserting a period at the end of the item relating to section 2410p.

(12) The table of sections at the beginning of chapter 152 is amended by inserting a period at the end of the item relating to section 2567.

(13) Section 2583(e) is amended by striking "DOGS" and inserting "ANIMALS".

(14) Section 2668(e) is amended by striking "and (d)" and inserting "and (e)".

(15) Section 12304(a) is amended by striking the second period at the end.

(16) Section 14310(d)(1) is amended by inserting a comma after "(a)".

(b) TITLE 37, UNITED STATES CODE.—Section 302c(d)(1) of title 37, United States Code, is amended by striking "Services Corps" and inserting "Service Corps".

Effective date.

(c) JOHN WARNER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007.—Effective as of October 17, 2006, and as if included therein as enacted, the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364) is amended as follows:

(1) Section 333(a) (120 Stat. 2151) is amended—

(A) by striking "Section 332(c)" and inserting "Section 332"; and

(B) in paragraph (1), by inserting "in subsection (c)," after "(1)".

(2) Section 348(2) (120 Stat. 2159) is amended by striking "60 days of" and inserting "60 days after".

(3) Section 511(a)(2)(D)(i) (120 Stat. 2182) is amended by inserting a comma after "title".

(4) Section 591(b)(1) (120 Stat. 2233) is amended by inserting a period after "this title".

(5) Section 606(b)(1)(A) (120 Stat. 2246) is amended by striking "in" and inserting "In".

(6) Section 670(b) (120 Stat. 2269) is amended by striking "such title" and inserting "such chapter".

(7) Section 673 (120 Stat. 2271) is amended—

(A) in subsection (a)(1), by inserting "the second place it appears" before "and inserting";

(B) in subsection (b)(1)—

(i) by striking "Section" and inserting "Subsection (a) of section"; and

(ii) by inserting "the second place it appears" before "and inserting"; and

(C) in subsection (c)(1), by inserting "the second place it appears" before "and inserting".

(8) Section 842(a)(2) (120 Stat. 2337) is amended by striking "adding at the end" and inserting "inserting after the item relating to section 2533a".

(9) Section 1017(b)(2) (120 Stat. 2379; 10 U.S.C. 2631 note) is amended by striking "section 27" and all that follows through the period at the end and inserting "sections 12112 and 50501 and chapter 551 of title 46, United States Code.".

(10) Section 1071(f) (120 Stat. 2402) is amended by striking "identical" both places it appears.

(11) Section 1231(d) (120 Stat. 2430; 22 U.S.C. 2776a(d)) is amended by striking "note".

(12) Section 2404(b)(2)(A)(ii) (120 Stat. 2459) is amended by striking "2906 of such Act" and inserting "2906A of such Act".

(13) Section 2831 (120 Stat. 2480) is amended—

(A) by striking "Section 2667(d)" and inserting "Section 2667(e)"; and

(B) by inserting "as redesignated by section 662(b)(1) of this Act," after "Code,".

(d) PUBLIC LAW 109–366.—Effective as of October 17, 2006, and as if included therein as enacted, Public Law 109–366 is amended as follows: Effective date.

(1) Section 8(a)(3) (120 Stat. 2636) is amended by inserting a semicolon after "subsection".

(2) Section 9(1) (120 Stat. 2636) is amended by striking "No. 1." and inserting "No. 1,".

(e) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006.—Effective as of January 6, 2006, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) is amended as follows: Effective date.

(1) Section 571 (119 Stat. 3270) is amended by striking "931 et seq.)" and inserting "921 et seq.)".

(2) Section 1052(j) (119 Stat. 3435) is amended by striking "Section 1049" and inserting "Section 1409".

(f) MILITARY COMMISSIONS ACT OF 2006.—Section 7 of the Military Commissions Act of 2006 (Public Law 109–366) is amended by striking "added by added by" and inserting "added by". 120 Stat. 2635.

(g) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004.—The National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136) is amended as follows:

(1) Section 706(a) (117 Stat. 1529; 10 U.S.C. 1076b note) is amended by striking "those program" and inserting "those programs".

(2) Section 1413(a) (117 Stat. 1665; 41 U.S.C. 433 note) is amended by striking "(A))" and inserting "(A)))".

(3) Section 1602(e)(3) (117 Stat. 1683; 10 U.S.C. 2302 note) is amended by inserting "Security" after "Health".

(h) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994.—Section 845(a) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended—

(1) in paragraph (2)(A), by inserting "Research" after "Defense Advanced"; and

(2) in paragraph (3), by inserting "Research" after "Defense Advanced".

(i) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—Section 722(a)(1) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1073 note) is amended by striking "155 Stat." and inserting "115 Stat.".

**SEC. 1064. REPEAL OF CERTIFICATION REQUIREMENT.**

Section 1063 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3445) is repealed.

**SEC. 1065. MAINTENANCE OF CAPABILITY FOR SPACE-BASED NUCLEAR DETECTION.**

The Secretary of Defense shall maintain the capability for space-based nuclear detection at a level that meets or exceeds the level of capability as of the date of the enactment of this Act.

**SEC. 1066. SENSE OF CONGRESS REGARDING DETAINEES AT NAVAL STATION, GUANTANAMO BAY, CUBA.**

It is the sense of Congress that—

(1) the Nation extends its gratitude to the military personnel who guard and interrogate some of the world's most dangerous men every day at Naval Station, Guantanamo Bay, Cuba;

(2) the United States Government should urge the international community, in general, and in particular, the home countries of the detainees who remain in detention despite having been ordered released by a Department of Defense administrative review board, to work with the Department of Defense to facilitate and expedite the repatriation of such detainees;

(3) detainees at Guantanamo Bay, to the maximum extent possible, should be charged and expeditiously prosecuted for crimes committed against the United States; and

(4) operations at Guantanamo Bay should be carried out in a way that upholds the national interest and core values of the American people.

**SEC. 1067. A REPORT ON TRANSFERRING INDIVIDUALS DETAINED AT NAVAL STATION, GUANTANAMO BAY, CUBA.**

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that contains the Secretary's plan for each individual presently detained at Naval Station, Guantanamo Bay, Cuba, under the control of the Joint Task Force Guantanamo, who is or has ever been classified as an "enemy combatant" (referred to in this section as a "detainee").

(b) CONTENTS OF REPORT.—The report required under subsection (a) shall include each of the following:

(1) An identification of the number of detainees who, as of December 31, 2007, the Department estimates—

(A) will have been or will be charged with one or more crimes and may, therefore, be tried before a military commission;

(B) will be subject of an order calling for the release or transfer of the detainee from the Guantanamo Bay facility; or

(C) will not have been charged with any crimes and will not be subject to an order calling for the release or transfer of the detainee from the Guantanamo Bay facility, but whom the Department wishes to continue to detain.

(2) A description of the actions required to be undertaken, by the Secretary of Defense, possibly the heads of other Federal agencies, and Congress, to ensure that detainees who are subject to an order calling for their release or transfer from the Guantanamo Bay facility have, in fact, been released.

(c) FORM.—The report required by subsection (a) shall be submitted in unclassified form but may contain a classified annex.

**SEC. 1068. REPEAL OF PROVISIONS IN SECTION 1076 OF PUBLIC LAW 109–364 RELATING TO USE OF ARMED FORCES IN MAJOR PUBLIC EMERGENCIES.**

(a) INTERFERENCE WITH STATE AND FEDERAL LAWS.—

(1) IN GENERAL.—Section 333 of title 10, United States Code, is amended to read as follows:

**"§ 333. Interference with State and Federal law**

President.

"The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

"(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

"(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.".

(2) PROCLAMATION TO DISPERSE.—Section 334 of such title is amended by striking "or those obstructing the enforcement of the laws" after "insurgents".

(3) HEADING AMENDMENT.—The heading of chapter 15 of such title is amended to read as follows:

**"CHAPTER 15—INSURRECTION".**

(4) CLERICAL AMENDMENTS.—

(A) The table of sections at the beginning of chapter 15 of such title is amended by striking the item relating to section 333 and inserting the following new item:

"333. Interference with State and Federal law.".

(B) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part I of such subtitle, are each amended by striking the item relating to chapter 15 and inserting the following new item:

"15. Insurrection ..... 331".

(b) REPEAL OF SECTION RELATING TO PROVISION OF SUPPLIES, SERVICES, AND EQUIPMENT.—

(1) IN GENERAL.—Section 2567 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 152 of such title is amended by striking the item relating to section 2567.

(c) CONFORMING AMENDMENT.—Section 12304(c) of such title is amended by striking "Except to perform" and all that follows through "this section" and inserting "No unit or member of a reserve component may be ordered to active duty under this section to perform any of the functions authorized by chapter 15 or section 12406 of this title or, except as provided in subsection (b),".

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

**SEC. 1069. STANDARDS REQUIRED FOR ENTRY TO MILITARY INSTALLATIONS IN UNITED STATES.**

(a) DEVELOPMENT OF STANDARDS.—

(1) ACCESS STANDARDS FOR VISITORS.—The Secretary of Defense shall develop access standards applicable to all military installations in the United States. The standards shall require screening standards appropriate to the type of installation involved, the security level, category of individuals authorized to visit the installation, and level of access to be granted, including—

(A) protocols to determine the fitness of the individual to enter an installation; and

(B) standards and methods for verifying the identity of the individual.

(2) ADDITIONAL CRITERIA.—The standards required under paragraph (1) may—

(A) provide for expedited access to a military installation for Department of Defense personnel and employees and family members of personnel who reside on the installation;

(B) provide for closer scrutiny of categories of individuals determined by the Secretary of Defense to pose a higher potential security risk; and

(C) in the case of an installation that the Secretary determines contains particularly sensitive facilities, provide additional screening requirements, as well as physical and other security measures for the installation.

(b) USE OF TECHNOLOGY.—The Secretary of Defense is encouraged to procure and field existing identification screening technology and to develop additional technology only to the extent necessary

to assist commanders of military installations in implementing the standards developed under this section at points of entry for such installations.

(c) DEADLINES.—

(1) DEVELOPMENT AND IMPLEMENTATION.—The Secretary of Defense shall develop the standards required under this section by not later than July 1, 2008, and implement such standards by not later than January 1, 2009.

(2) SUBMISSION TO CONGRESS.—Not later than August 1, 2009, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives the standards implemented pursuant to paragraph (1).

**SEC. 1070. REVISED NUCLEAR POSTURE REVIEW.**

(a) REQUIREMENT FOR COMPREHENSIVE REVIEW.—In order to clarify United States nuclear deterrence policy and strategy for the near term, the Secretary of Defense shall conduct a comprehensive review of the nuclear posture of the United States for the next 5 to 10 years. The Secretary shall conduct the review in consultation with the Secretary of Energy and the Secretary of State.

(b) ELEMENTS OF REVIEW.—The nuclear posture review shall include the following elements:

(1) The role of nuclear forces in United States military strategy, planning, and programming.

(2) The policy requirements and objectives for the United States to maintain a safe, reliable, and credible nuclear deterrence posture.

(3) The relationship among United States nuclear deterrence policy, targeting strategy, and arms control objectives.

(4) The role that missile defense capabilities and conventional strike forces play in determining the role and size of nuclear forces.

(5) The levels and composition of the nuclear delivery systems that will be required for implementing the United States national and military strategy, including any plans for replacing or modifying existing systems.

(6) The nuclear weapons complex that will be required for implementing the United States national and military strategy, including any plans to modernize or modify the complex.

(7) The active and inactive nuclear weapons stockpile that will be required for implementing the United States national and military strategy, including any plans for replacing or modifying warheads.

(c) REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress, in unclassified and classified forms as necessary, a report on the results of the nuclear posture review conducted under this section. The report shall be submitted concurrently with the quadrennial defense review required to be submitted under section 118 of title 10, United States Code, in 2009.

(d) SENSE OF CONGRESS.—It is the sense of Congress that the nuclear posture review conducted under this section should be used as a basis for establishing future United States arms control objectives and negotiating positions.

**SEC. 1071. TERMINATION OF COMMISSION ON THE IMPLEMENTATION OF THE NEW STRATEGIC POSTURE OF THE UNITED STATES.**

Section 1051 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3431) is repealed.

**SEC. 1072. SECURITY CLEARANCES; LIMITATIONS.**

(a) IN GENERAL.—Title III of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b) is amended by adding at the end the following new section:

**"SEC. 3002. SECURITY CLEARANCES; LIMITATIONS.**

"(a) DEFINITIONS.—In this section:

"(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"(2) COVERED PERSON.—The term 'covered person' means—

"(A) an officer or employee of a Federal agency;

"(B) a member of the Army, Navy, Air Force, or Marine Corps who is on active duty or is in an active status; and

"(C) an officer or employee of a contractor of a Federal agency.

"(3) RESTRICTED DATA.—The term 'Restricted Data' has the meaning given that term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

"(4) SPECIAL ACCESS PROGRAM.—The term 'special access program' has the meaning given that term in section 4.1 of Executive Order No. 12958 (60 Fed. Reg. 19825).

"(b) PROHIBITION.—After January 1, 2008, the head of a Federal agency may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict (as defined in section 102(1) of the Controlled Substances Act (21 U.S.C. 802)).

"(c) DISQUALIFICATION.—

"(1) IN GENERAL.—After January 1, 2008, absent an express written waiver granted in accordance with paragraph (2), the head of a Federal agency may not grant or renew a security clearance described in paragraph (3) for a covered person who—

"(A) has been convicted in any court of the United States of a crime, was sentenced to imprisonment for a term exceeding 1 year, and was incarcerated as a result of that sentence for not less than 1 year;

"(B) has been discharged or dismissed from the Armed Forces under dishonorable conditions; or

"(C) is mentally incompetent, as determined by an adjudicating authority, based on an evaluation by a duly qualified mental health professional employed by, or acceptable to and approved by, the United States Government and in accordance with the adjudicative guidelines required by subsection (d).

"(2) WAIVER AUTHORITY.—In a meritorious case, an exception to the disqualification in this subsection may be authorized if there are mitigating factors. Any such waiver may be authorized only in accordance with—

"(A) standards and procedures prescribed by, or under the authority of, an Executive order or other guidance issued by the President; or

"(B) the adjudicative guidelines required by subsection (d).

"(3) COVERED SECURITY CLEARANCES.—This subsection applies to security clearances that provide for access to— Applicability.

"(A) special access programs;

"(B) Restricted Data; or

"(C) any other information commonly referred to as 'sensitive compartmented information'.

"(4) ANNUAL REPORT.—

"(A) REQUIREMENT FOR REPORT.—Not later than February 1 of each year, the head of a Federal agency shall submit a report to the appropriate committees of Congress if such agency employs or employed a person for whom a waiver was granted in accordance with paragraph (2) during the preceding year. Such annual report shall not reveal the identity of such person, but shall include for each waiver issued the disqualifying factor under paragraph (1) and the reasons for the waiver of the disqualifying factor.

"(B) DEFINITIONS.—In this paragraph:

"(i) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means, with respect to a report submitted under subparagraph (A) by the head of a Federal agency—

"(I) the congressional defense committees;

"(II) the congressional intelligence committees;

"(III) the Committee on Homeland Security and Governmental Affairs of the Senate;

"(IV) the Committee on Oversight and Government Reform of the House of Representatives; and

"(V) each Committee of the Senate or the House of Representatives with oversight authority over such Federal agency.

"(ii) CONGRESSIONAL DEFENSE COMMITTEES.—The term 'congressional defense committees' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

"(iii) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

"(d) ADJUDICATIVE GUIDELINES.—

"(1) REQUIREMENT TO ESTABLISH.—The President shall establish adjudicative guidelines for determining eligibility for access to classified information. President.

"(2) REQUIREMENTS RELATED TO MENTAL HEALTH.—The guidelines required by paragraph (1) shall—

"(A) include procedures and standards under which a covered person is determined to be mentally incompetent and provide a means to appeal such a determination; and

"(B) require that no negative inference concerning the standards in the guidelines may be raised solely on the basis of seeking mental health counseling.".

(b) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 986 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 49 of such title is amended by striking the item relating to section 986.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2008.

Deadlines.

**SEC. 1073. IMPROVEMENTS IN THE PROCESS FOR THE ISSUANCE OF SECURITY CLEARANCES.**

(a) DEMONSTRATION PROJECT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense and the Director of National Intelligence shall implement a demonstration project that applies new and innovative approaches to improve the processing of requests for security clearances.

(b) EVALUATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Defense and the Director of National Intelligence shall carry out an evaluation of the process for issuing security clearances and develop a specific plan and schedule for replacing such process with an improved process.

(c) REPORT.—Not later than 30 days after the date of the completion of the evaluation required by subsection (b), the Secretary of Defense and the Director of National Intelligence shall submit to Congress a report on—

(1) the results of the demonstration project carried out pursuant to subsection (a);

(2) the results of the evaluation carried out under subsection (b); and

(3) the recommended specific plan and schedule for replacing the existing process for issuing security clearances with an improved process.

**SEC. 1074. PROTECTION OF CERTAIN INDIVIDUALS.**

Regulations.

(a) PROTECTION FOR DEPARTMENT LEADERSHIP.—The Secretary of Defense, under regulations prescribed by the Secretary and in accordance with guidelines approved by the Secretary and the Attorney General, may authorize qualified members of the Armed Forces and qualified civilian employees of the Department of Defense to provide physical protection and personal security within the United States to the following persons who, by nature of their positions, require continuous security and protection:

(1) Secretary of Defense.

(2) Deputy Secretary of Defense.

(3) Chairman of the Joint Chiefs of Staff.

(4) Vice Chairman of the Joint Chiefs of Staff.

(5) Secretaries of the military departments.

(6) Chiefs of the Services.

(7) Commanders of combatant commands.

(b) PROTECTION FOR ADDITIONAL PERSONNEL.—

Regulations.

(1) AUTHORITY TO PROVIDE.—The Secretary of Defense, under regulations prescribed by the Secretary and in accordance with guidelines approved by the Secretary and the Attorney General, may authorize qualified members of the Armed Forces and qualified civilian employees of the Department of Defense to provide physical protection and personal security within the United States to individuals other than individuals described in paragraphs (1) through (7) of subsection (a) if

the Secretary determines that such protection and security are necessary because—

(A) there is an imminent and credible threat to the safety of the individual for whom protection is to be provided; or

(B) compelling operational considerations make such protection essential to the conduct of official Department of Defense business.

(2) PERSONNEL.—Individuals authorized to receive physical protection and personal security under this subsection include the following:

(A) Any official, military member, or employee of the Department of Defense.

(B) A former or retired official who faces serious and credible threats arising from duties performed while employed by the Department for a period of up to two years beginning on the date on which the official separates from the Department.

(C) A head of a foreign state, an official representative of a foreign government, or any other distinguished foreign visitor to the United States who is primarily conducting official business with the Department of Defense.

(D) Any member of the immediate family of a person authorized to receive physical protection and personal security under this section.

(E) An individual who has been designated by the President, and who has received the advice and consent of the Senate, to serve as Secretary of Defense, but who has not yet been appointed as Secretary of Defense.

(3) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense to authorize the provision of physical protection and personal security under this subsection may be delegated only to the Deputy Secretary of Defense.

(4) REQUIREMENT FOR WRITTEN DETERMINATION.—A determination of the Secretary of Defense to provide physical protection and personal security under this subsection shall be in writing, shall be based on a threat assessment by an appropriate law enforcement, security, or intelligence organization, and shall include the name and title of the officer, employee, or other individual affected, the reason for such determination, the duration of the authorized protection and security for such officer, employee, or individual, and the nature of the arrangements for the protection and security.

(5) DURATION OF PROTECTION.—

(A) INITIAL PERIOD OF PROTECTION.—After making a written determination under paragraph (4), the Secretary of Defense may provide protection and security to an individual under this subsection for an initial period of not more than 90 calendar days.

(B) SUBSEQUENT PERIOD.—If, at the end of the period that protection and security is provided to an individual under subsection (A), the Secretary determines that a condition described in subparagraph (A) or (B) of paragraph (1) continues to exist with respect to the individual, the Secretary may extend the period that such protection and security is provided for additional 60-day periods. The Secretary shall review such a determination at the end of

each 60-day period to determine whether to continue to provide such protection and security.

(C) REQUIREMENT FOR COMPLIANCE WITH REGULATIONS.—Protection and personal security provided under subparagraph (B) shall be provided in accordance with the regulations and guidelines referred to in paragraph (1).

(6) SUBMISSION TO CONGRESS.—

Deadline.

(A) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees each determination made under paragraph (4) to provide protection and security to an individual and of each determination under paragraph (5)(B) to extend such protection and security, together with the justification for such determination, not later than 15 days after the date on which the determination is made.

(B) FORM OF REPORT.—A report submitted under subparagraph (A) may be made in classified form.

(C) REGULATIONS AND GUIDELINES.—The Secretary of Defense shall submit to the congressional defense committees the regulations and guidelines prescribed pursuant to paragraph (1) not less than 20 days before the date on which such regulations take effect.

(c) DEFINITIONS.—In this section:

(1) CONGRESSIONAL DEFENSE COMMITTEES.—The term "congressional defense committees" means the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives.

(2) QUALIFIED MEMBERS OF THE ARMED FORCES AND QUALIFIED CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.—The terms "qualified members of the Armed Forces" and "qualified civilian employees of the Department of Defense" refer collectively to members or employees who are assigned to investigative, law enforcement, or security duties of any of the following:

(A) The Army Criminal Investigation Command.

(B) The Naval Criminal Investigative Service.

(C) The Air Force Office of Special Investigations.

(D) The Defense Criminal Investigative Service.

(E) The Pentagon Force Protection Agency.

(d) CONSTRUCTION.—

(1) NO ADDITIONAL LAW ENFORCEMENT OR ARREST AUTHORITY.—Other than the authority to provide protection and security under this section, nothing in this section may be construed to bestow any additional law enforcement or arrest authority upon the qualified members of the Armed Forces and qualified civilian employees of the Department of Defense.

(2) POSSE COMITATUS.—Nothing in this section shall be construed to abridge section 1385 of title 18, United States Code.

(3) AUTHORITIES OF OTHER DEPARTMENTS.—Nothing in this section may be construed to preclude or limit, in any way, the express or implied powers of the Secretary of Defense or other Department of Defense officials, or the duties and authorities of the Secretary of State, the Director of the United

States Secret Service, the Director of the United States Marshals Service, or any other Federal law enforcement agency.

**SEC. 1075. MODIFICATION OF AUTHORITIES ON COMMISSION TO ASSESS THE THREAT TO THE UNITED STATES FROM ELECTROMAGNETIC PULSE ATTACK.**

(a) EXTENSION OF DATE OF SUBMITTAL OF FINAL REPORT.—Section 1403(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 50 U.S.C. 2301 note) is amended by striking "June 30, 2007" and inserting "November 30, 2008".

(b) COORDINATION OF WORK WITH DEPARTMENT OF HOMELAND SECURITY.—Section 1404 of such Act is amended by adding at the end the following new subsection:

"(c) COORDINATION WITH DEPARTMENT OF HOMELAND SECURITY.—The Commission and the Secretary of Homeland Security shall jointly ensure that the work of the Commission with respect to electromagnetic pulse attack on electricity infrastructure, and protection against such attack, is coordinated with Department of Homeland Security efforts on such matters.".

(c) LIMITATION ON DEPARTMENT OF DEFENSE FUNDING.—The aggregate amount of funds provided by the Department of Defense to the Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack for purposes of the preparation and submittal of the final report required by section 1403(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as amended by subsection (a)), whether by transfer or otherwise and including funds provided the Commission before the date of the enactment of this Act, shall not exceed $5,600,000.

**SEC. 1076. SENSE OF CONGRESS ON SMALL BUSINESS INNOVATION RESEARCH PROGRAM.**

It is the sense of Congress that—

(1) the Department of Defense's Small Business Innovation Research program has been effective in supporting the performance of the missions of the Department of Defense, by stimulating technological innovation through investments in small business research activities;

(2) the Department of Defense's Small Business Innovation Research program has transitioned a number of technologies and systems into operational use by warfighters; and

(3) the Department of Defense's Small Business Innovation Research program should be reauthorized so as to ensure that the program's activities can continue seamlessly, efficiently, and effectively.

**SEC. 1077. REVISION OF PROFICIENCY FLYING DEFINITION.**

Subsection (c) of section 2245 of title 10, United States Code, is amended to read as follows:

"(c) In this section, the term 'proficiency flying' means flying performed under competent orders by a rated or designated member of the armed forces while serving in a non-aviation assignment or in an assignment in which skills would normally not be maintained in the performance of assigned duties.".

**SEC. 1078. QUALIFICATIONS FOR PUBLIC AIRCRAFT STATUS OF AIRCRAFT UNDER CONTRACT WITH THE ARMED FORCES.**

(a) DEFINITION OF PUBLIC AIRCRAFT.—Section 40102(a)(41)(E) of title 49, United States Code, is amended—

(1) by inserting "or other commercial air service" after "transportation"; and

(2) by adding at the end the following: "In the preceding sentence, the term 'other commercial air service' means an aircraft operation that (i) is within the United States territorial airspace; (ii) the Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public, and (iii) must comply with all applicable civil aircraft rules under title 14, Code of Federal Regulations.".

(b) AIRCRAFT OPERATED BY THE ARMED FORCES.—Section 40125(c)(1)(C) of such title is amended by inserting "or other commercial air service" after "transportation".

(c) CONFORMING AMENDMENTS.—

(1) Section 40125(b) of such title is amended by striking "40102(a)(37)" and inserting "40102(a)(41)".

(2) Section 40125(c)(1) of such title is amended by striking "40102(a)(37)(E)" and inserting "40102(a)(41)(E)".

**SEC. 1079. COMMUNICATIONS WITH THE COMMITTEES ON ARMED SERVICES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.**

Deadline. Reports.

(a) REQUESTS OF COMMITTEES.—The Director of the National Counterterrorism Center, the Director of a national intelligence center, or the head of any element of the intelligence community shall, not later than 45 days after receiving a written request from the Chair or ranking minority member of the Committee on Armed Services of the Senate or the Committee on Armed Services of the House of Representatives for any existing intelligence assessment, report, estimate, or legal opinion relating to matters within the jurisdiction of such Committee, make available to such committee such assessment, report, estimate, or legal opinion, as the case may be.

President.

(b) ASSERTION OF PRIVILEGE.—

(1) IN GENERAL.—In response to a request covered by subsection (a), the Director of the National Counterterrorism Center, the Director of a national intelligence center, or the head of any element of the intelligence community shall provide to the Committee making such request the document or information covered by such request unless the President determines that such document or information shall not be provided because the President is asserting a privilege pursuant to the Constitution of the United States.

(2) SUBMISSION TO CONGRESS.—The White House Counsel shall submit to Congress in writing any assertion by the President under paragraph (1) of a privilege pursuant to the Constitution.

(c) DEFINITIONS.—In this section:

(1) INTELLIGENCE COMMUNITY.—The term "intelligence community" has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) INTELLIGENCE ASSESSMENT.—The term "intelligence assessment" means an intelligence-related analytical study of

a subject of policy significance and does not include building-block papers, research projects, and reference aids.

(3) INTELLIGENCE ESTIMATE.—The term "intelligence estimate" means an appraisal of available intelligence relating to a specific situation or condition with a view to determining the courses of action open to an enemy or potential enemy and the probable order of adoption of such courses of action.

**SEC. 1080. RETENTION OF REIMBURSEMENT FOR PROVISION OF RECIPROCAL FIRE PROTECTION SERVICES.**

Section 5 of the Act of May 27, 1955 (chapter 105; 69 Stat. 67; 42 U.S.C. 1856d) is amended—

(1) by striking "Funds" and inserting "(a) Funds"; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.".

**SEC. 1081. PILOT PROGRAM ON COMMERCIAL FEE-FOR-SERVICE AIR REFUELING SUPPORT FOR THE AIR FORCE.**

(a) PILOT PROGRAM REQUIRED.—The Secretary of the Air Force shall conduct, as soon as practicable after the date of the enactment of this Act, a pilot program to assess the feasibility and advisability of utilizing commercial fee-for-service air refueling tanker aircraft for Air Force operations. The duration of the pilot program shall be at least five years after commencement of the program.

(b) PURPOSE.—

(1) IN GENERAL.—The pilot program required by subsection (a) shall evaluate the feasibility of fee-for-service air refueling to support, augment, or enhance the air refueling mission of the Air Force by utilizing commercial air refueling providers on a fee-for-service basis.

(2) ELEMENTS.—In order to achieve the purpose of the pilot program, the Secretary of the Air Force shall—

(A) demonstrate and validate a comprehensive strategy for air refueling on a fee-for-service basis by evaluating all mission areas, including testing support, training support to receiving aircraft, homeland defense support, deployment support, air bridge support, aeromedical evacuation, and emergency air refueling; and

(B) integrate fee-for-service air refueling described in paragraph (1) into Air Mobility Command operations during the evaluation and execution phases of the pilot program.

(c) ANNUAL REPORT.—The Secretary of the Air Force shall provide to the congressional defense committees an annual report on the fee-for-service air refueling program, which includes—

(1) information with respect to—

(A) missions flown;

(B) mission areas supported;

(C) aircraft number, type, model series supported;

(D) fuel dispensed;

(E) departure reliability rates; and

(F) the annual and cumulative cost to the Government for the program, including a comparison of costs of the same service provided by the Air Force;

(2) an assessment of the impact of outsourcing air refueling on the Air Force's flying hour program and aircrew training; and

(3) any other data that the Secretary determines is appropriate for evaluating the performance of the commercial air refueling providers participating in the pilot program.

(d) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall submit to the congressional defense committees—

(1) an annual review of the conduct of the pilot program under this section and any recommendations of the Comptroller General for improving the program; and

Deadline. (2) not later than 90 days after the completion of the pilot program, a final assessment of the results of the pilot program and the recommendations of the Comptroller General for whether the Secretary of the Air Force should continue to utilize fee-for-service air refueling.

**SEC. 1082. ADVISORY PANEL ON DEPARTMENT OF DEFENSE CAPABILITIES FOR SUPPORT OF CIVIL AUTHORITIES AFTER CERTAIN INCIDENTS.**

(a) IN GENERAL.—The Secretary of Defense shall establish an advisory panel to carry out an assessment of the capabilities of the Department of Defense to provide support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive (CBRNE) incident.

(b) PANEL MATTERS.—

(1) IN GENERAL.—The advisory panel required by subsection (a) shall consist of individuals appointed by the Secretary of Defense (in consultation with the chairmen and ranking members of the Committees on Armed Services of the Senate and the House of Representatives) from among private citizens of the United States with expertise in the legal, operational, and organizational aspects of the management of the consequences of a chemical, biological, radiological, nuclear, or high-yield explosive incident.

(2) DEADLINE FOR APPOINTMENT.—All members of the advisory panel shall be appointed under this subsection not later than 30 days after the date on which the Secretary enters into the contract required by subsection (c).

Deadline. (3) INITIAL MEETING.—The advisory panel shall conduct its first meeting not later than 30 days after the date that all appointments to the panel have been made under this subsection.

(4) PROCEDURES.—The advisory panel shall carry out its duties under this section under procedures established under subsection (c) by the federally funded research and development center with which the Secretary contracts under that subsection. Such procedures shall include procedures for the selection of a chairman of the advisory panel from among its members.

(c) SUPPORT OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER.—

Contracts. (1) IN GENERAL.—The Secretary of Defense shall enter into a contract with a federally funded research and development

center for the provision of support and assistance to the advisory panel required by subsection (a) in carrying out its duties under this section. Such support and assistance shall include the establishment of the procedures of the advisory panel under subsection (b)(4).

(2) DEADLINE FOR CONTRACT.—The Secretary shall enter into the contract required by this subsection not later than 60 days after the date of the enactment of this Act.

(d) DUTIES OF PANEL.—The advisory panel required by subsection (a) shall—

(1) evaluate the authorities and capabilities of the Department of Defense to conduct operations in support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident, including the authorities and capabilities of the military departments, the Defense Agencies, the combatant commands, any supporting commands, and the reserve components of the Armed Forces (including the National Guard in a Federal and non-Federal status);

(2) assess the adequacy of existing plans and programs of the Department of Defense for training and equipping dedicated, special, and general purposes forces for conducting operations described in paragraph (1) across a broad spectrum of scenarios, including current National Planning Scenarios as applicable;

(3) assess policies, directives, and plans of the Department of Defense in support of civilian authorities in managing the consequences of a chemical, biological, radiological, nuclear, or high-yield explosive incident;

(4) assess the adequacy of policies and structures of the Department of Defense for coordination with other department and agencies of the Federal Government, especially the Department of Homeland Security, the Department of Energy, the Department of Justice, and the Department of Health and Human Services, in the provision of support described in paragraph (1);

(5) assess the adequacy and currency of information available to the Department of Defense, whether directly or through other departments and agencies of the Federal Government, from State and local governments in circumstances where the Department provides support described in paragraph (1) because State and local response capabilities are not fully adequate for a comprehensive response;

(6) assess the equipment capabilities and needs of the Department of Defense to provide support described in paragraph (1);

(7) develop recommendations for modifying the capabilities, plans, policies, equipment, and structures evaluated or assessed under this subsection in order to improve the provision by the Department of Defense of the support described in paragraph (1); and

(8) assess and make recommendations on—

(A) whether there should be any additional Weapons of Mass Destruction Civil Support Teams, beyond the 55 already authorized and, if so, how many additional Civil Support Teams, and where they should be located; and

(B) what criteria and considerations are appropriate to determine whether additional Civil Support Teams are needed and, if so, where they should be located.

(e) COOPERATION OF OTHER AGENCIES.—

(1) IN GENERAL.—The advisory panel required by subsection (a) may secure directly from the Department of Defense, the Department of Homeland Security, the Department of Energy, the Department of Justice, the Department of Health and Human Services, and any other department or agency of the Federal Government information that the panel considers necessary for the panel to carry out its duties.

(2) COOPERATION.—The Secretary of Defense, the Secretary of Homeland Secretary, the Secretary of Energy, the Attorney General, the Secretary of Health and Human Services, and any other official of the United States shall provide the advisory panel with full and timely cooperation in carrying out its duties under this section.

(f) REPORT.—Not later than 12 months after the date of the initial meeting of the advisory panel required by subsection (a), the advisory panel shall submit to the Secretary of Defense, and to the Committees on Armed Services of the Senate and the House of Representatives, a report on activities under this section. The report shall set forth—

(1) the findings, conclusions, and recommendations of the advisory panel for improving the capabilities of the Department of Defense to provide support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident; and

(2) such other findings, conclusions, and recommendations for improving the capabilities of the Department for homeland defense as the advisory panel considers appropriate.

**SEC. 1083. TERRORISM EXCEPTION TO IMMUNITY.**

(a) TERRORISM EXCEPTION TO IMMUNITY.—

(1) IN GENERAL.—Chapter 97 of title 28, United States Code, is amended by inserting after section 1605 the following:

**"§ 1605A. Terrorism exception to the jurisdictional immunity of a foreign state**

"(a) IN GENERAL.—

"(1) NO IMMUNITY.—A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case not otherwise covered by this chapter in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources for such an act if such act or provision of material support or resources is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency.

"(2) CLAIM HEARD.—The court shall hear a claim under this section if—

"(A)(i)(I) the foreign state was designated as a state sponsor of terrorism at the time the act described in paragraph (1) occurred, or was so designated as a result of such act, and, subject to subclause (II), either remains

so designated when the claim is filed under this section or was so designated within the 6-month period before the claim is filed under this section; or

"(II) in the case of an action that is refiled under this section by reason of section 1083(c)(2)(A) of the National Defense Authorization Act for Fiscal Year 2008 or is filed under this section by reason of section 1083(c)(3) of that Act, the foreign state was designated as a state sponsor of terrorism when the original action or the related action under section 1605(a)(7) (as in effect before the enactment of this section) or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of division A of Public Law 104–208) was filed;

"(ii) the claimant or the victim was, at the time the act described in paragraph (1) occurred—

"(I) a national of the United States;

"(II) a member of the armed forces; or

"(III) otherwise an employee of the Government of the United States, or of an individual performing a contract awarded by the United States Government, acting within the scope of the employee's employment; and

"(iii) in a case in which the act occurred in the foreign state against which the claim has been brought, the claimant has afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with the accepted international rules of arbitration; or

"(B) the act described in paragraph (1) is related to Case Number 1:00CV03110 (EGS) in the United States District Court for the District of Columbia.

"(b) LIMITATIONS.—An action may be brought or maintained under this section if the action is commenced, or a related action was commenced under section 1605(a)(7) (before the date of the enactment of this section) or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of division A of Public Law 104–208) not later than the latter of—

"(1) 10 years after April 24, 1996; or

"(2) 10 years after the date on which the cause of action arose.

"(c) PRIVATE RIGHT OF ACTION.—A foreign state that is or was a state sponsor of terrorism as described in subsection (a)(2)(A)(i), and any official, employee, or agent of that foreign state while acting within the scope of his or her office, employment, or agency, shall be liable to—

"(1) a national of the United States,

"(2) a member of the armed forces,

"(3) an employee of the Government of the United States, or of an individual performing a contract awarded by the United States Government, acting within the scope of the employee's employment, or

"(4) the legal representative of a person described in paragraph (1), (2), or (3),

for personal injury or death caused by acts described in subsection (a)(1) of that foreign state, or of an official, employee, or agent of that foreign state, for which the courts of the United States

may maintain jurisdiction under this section for money damages. In any such action, damages may include economic damages, solatium, pain and suffering, and punitive damages. In any such action, a foreign state shall be vicariously liable for the acts of its officials, employees, or agents.

"(d) ADDITIONAL DAMAGES.—After an action has been brought under subsection (c), actions may also be brought for reasonably foreseeable property loss, whether insured or uninsured, third party liability, and loss claims under life and property insurance policies, by reason of the same acts on which the action under subsection (c) is based.

"(e) SPECIAL MASTERS.—

"(1) IN GENERAL.—The courts of the United States may appoint special masters to hear damage claims brought under this section.

"(2) TRANSFER OF FUNDS.—The Attorney General shall transfer, from funds available for the program under section 1404C of the Victims of Crime Act of 1984 (42 U.S.C. 10603c), to the Administrator of the United States district court in which any case is pending which has been brought or maintained under this section such funds as may be required to cover the costs of special masters appointed under paragraph (1). Any amount paid in compensation to any such special master shall constitute an item of court costs.

"(f) APPEAL.—In an action brought under this section, appeals from orders not conclusively ending the litigation may only be taken pursuant to section 1292(b) of this title.

"(g) PROPERTY DISPOSITION.—

"(1) IN GENERAL.—In every action filed in a United States district court in which jurisdiction is alleged under this section, the filing of a notice of pending action pursuant to this section, to which is attached a copy of the complaint filed in the action, shall have the effect of establishing a lien of lis pendens upon any real property or tangible personal property that is—

"(A) subject to attachment in aid of execution, or execution, under section 1610;

"(B) located within that judicial district; and

"(C) titled in the name of any defendant, or titled in the name of any entity controlled by any defendant if such notice contains a statement listing such controlled entity.

"(2) NOTICE.—A notice of pending action pursuant to this section shall be filed by the clerk of the district court in the same manner as any pending action and shall be indexed by listing as defendants all named defendants and all entities listed as controlled by any defendant.

"(3) ENFORCEABILITY.—Liens established by reason of this subsection shall be enforceable as provided in chapter 111 of this title.

"(h) DEFINITIONS.—For purposes of this section—

"(1) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation;

"(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages;

"(3) the term 'material support or resources' has the meaning given that term in section 2339A of title 18;

"(4) the term 'armed forces' has the meaning given that term in section 101 of title 10;

"(5) the term 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(6) the term 'state sponsor of terrorism' means a country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 40 of the Arms Export Control Act (22 U.S.C. 2780), or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism; and

"(7) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note).".

(2) AMENDMENT TO CHAPTER ANALYSIS.—The table of sections at the beginning of chapter 97 of title 28, United States Code, is amended by inserting after the item relating to section 1605 the following:

"1605A. Terrorism exception to the jurisdictional immunity of a foreign state.".

(b) CONFORMING AMENDMENTS.—

(1) GENERAL EXCEPTION.—Section 1605 of title 28, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (5)(B), by inserting "or" after the semicolon;

(ii) in paragraph (6)(D), by striking "; or" and inserting a period; and

(iii) by striking paragraph (7);

(B) by repealing subsections (e) and (f); and

(C) in subsection (g)(1)(A), by striking "but for subsection (a)(7)" and inserting "but for section 1605A".

(2) COUNTERCLAIMS.—Section 1607(a) of title 28, United States Code, is amended by inserting "or 1605A" after "1605".

(3) PROPERTY.—Section 1610 of title 28, United States Code, is amended—

(A) in subsection (a)(7), by striking "1605(a)(7)" and inserting "1605A";

(B) in subsection (b)(2), by striking "(5), or (7), or 1605(b)" and inserting "or (5), 1605(b), or 1605A";

(C) in subsection (f), in paragraphs (1)(A) and (2)(A), by inserting "(as in effect before the enactment of section 1605A) or section 1605A" after "1605(a)(7)"; and

(D) by adding at the end the following:

"(g) PROPERTY IN CERTAIN ACTIONS.—

"(1) IN GENERAL.—Subject to paragraph (3), the property of a foreign state against which a judgment is entered under section 1605A, and the property of an agency or instrumentality of such a state, including property that is a separate juridical entity or is an interest held directly or indirectly in a separate juridical entity, is subject to attachment in aid of execution, and execution, upon that judgment as provided in this section, regardless of—

"(A) the level of economic control over the property by the government of the foreign state;

"(B) whether the profits of the property go to that government;

"(C) the degree to which officials of that government manage the property or otherwise control its daily affairs;

"(D) whether that government is the sole beneficiary in interest of the property; or

"(E) whether establishing the property as a separate entity would entitle the foreign state to benefits in United States courts while avoiding its obligations.

"(2) UNITED STATES SOVEREIGN IMMUNITY INAPPLICABLE.—Any property of a foreign state, or agency or instrumentality of a foreign state, to which paragraph (1) applies shall not be immune from attachment in aid of execution, or execution, upon a judgment entered under section 1605A because the property is regulated by the United States Government by reason of action taken against that foreign state under the Trading With the Enemy Act or the International Emergency Economic Powers Act.

"(3) THIRD-PARTY JOINT PROPERTY HOLDERS.—Nothing in this subsection shall be construed to supersede the authority of a court to prevent appropriately the impairment of an interest held by a person who is not liable in the action giving rise to a judgment in property subject to attachment in aid of execution, or execution, upon such judgment.".

(4) VICTIMS OF CRIME ACT.—Section 1404C(a)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603c(a)(3)) is amended by striking "December 21, 1988 with respect to which an investigation or" and inserting "October 23, 1983, with respect to which an investigation or civil or criminal".

(c) APPLICATION TO PENDING CASES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any claim arising under section 1605A of title 28, United States Code.

(2) PRIOR ACTIONS.—

(A) IN GENERAL.—With respect to any action that—

(i) was brought under section 1605(a)(7) of title 28, United States Code, or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of division A of Public Law 104–208), before the date of the enactment of this Act,

(ii) relied upon either such provision as creating a cause of action,

(iii) has been adversely affected on the grounds that either or both of these provisions fail to create a cause of action against the state, and

(iv) as of such date of enactment, is before the courts in any form, including on appeal or motion under rule 60(b) of the Federal Rules of Civil Procedure,

that action, and any judgment in the action shall, on motion made by plaintiffs to the United States district court where the action was initially brought, or judgment in the action was initially entered, be given effect as if the action had

originally been filed under section 1605A(c) of title 28, United States Code.

(B) DEFENSES WAIVED.—The defenses of res judicata, collateral estoppel, and limitation period are waived—

(i) in any action with respect to which a motion is made under subparagraph (A), or

(ii) in any action that was originally brought, before the date of the enactment of this Act, under section 1605(a)(7) of title 28, United States Code, or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of division A of Public Law 104–208), and is refiled under section 1605A(c) of title 28, United States Code,

to the extent such defenses are based on the claim in the action.

(C) TIME LIMITATIONS.—A motion may be made or an action may be refiled under subparagraph (A) only—

(i) if the original action was commenced not later than the latter of—

(I) 10 years after April 24, 1996; or

(II) 10 years after the cause of action arose; and

(ii) within the 60-day period beginning on the date of the enactment of this Act.

Deadline.

(3) RELATED ACTIONS.—If an action arising out of an act or incident has been timely commenced under section 1605(a)(7) of title 28, United States Code, or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of division A of Public Law 104–208), any other action arising out of the same act or incident may be brought under section 1605A of title 28, United States Code, if the action is commenced not later than the latter of 60 days after—

(A) the date of the entry of judgment in the original action; or

(B) the date of the enactment of this Act.

(4) PRESERVING THE JURISDICTION OF THE COURTS.—Nothing in section 1503 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11, 117 Stat. 579) has ever authorized, directly or indirectly, the making inapplicable of any provision of chapter 97 of title 28, United States Code, or the removal of the jurisdiction of any court of the United States.

(d) APPLICABILITY TO IRAQ.—

President.
Waiver authority.

(1) APPLICABILITY.—The President may waive any provision of this section with respect to Iraq, insofar as that provision may, in the President's determination, affect Iraq or any agency or instrumentality thereof, if the President determines that—

(A) the waiver is in the national security interest of the United States;

(B) the waiver will promote the reconstruction of, the consolidation of democracy in, and the relations of the United States with, Iraq; and

(C) Iraq continues to be a reliable ally of the United States and partner in combating acts of international terrorism.

Applicability.

(2) TEMPORAL SCOPE.—The authority under paragraph (1) shall apply—

(A) with respect to any conduct or event occurring before or on the date of the enactment of this Act;

(B) with respect to any conduct or event occurring before or on the date of the exercise of that authority; and

(C) regardless of whether, or the extent to which, the exercise of that authority affects any action filed before, on, or after the date of the exercise of that authority or of the enactment of this Act.

President.

(3) NOTIFICATION TO CONGRESS.—A waiver by the President under paragraph (1) shall cease to be effective 30 days after it is made unless the President has notified Congress in writing of the basis for the waiver as determined by the President under paragraph (1).

(4) SENSE OF CONGRESS.—It is the sense of the Congress that the President, acting through the Secretary of State, should work with the Government of Iraq on a state-to-state basis to ensure compensation for any meritorious claims based on terrorist acts committed by the Saddam Hussein regime against individuals who were United States nationals or members of the United States Armed Forces at the time of those terrorist acts and whose claims cannot be addressed in courts in the United States due to the exercise of the waiver authority under paragraph (1).

(e) SEVERABILITY.—If any provision of this section or the amendments made by this section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this section and such amendments, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

# TITLE XI—CIVILIAN PERSONNEL MATTERS

Sec. 1101. Extension of authority to waive annual limitation on total compensation paid to Federal civilian employees working overseas under areas of United States Central Command.
Sec. 1102. Continuation of life insurance coverage for Federal employees called to active duty.
Sec. 1103. Transportation of dependents, household effects, and personal property to former home following death of Federal employee where death resulted from disease or injury incurred in the Central Command area of responsibility.
Sec. 1104. Special benefits for civilian employees assigned on deployment temporary change of station.
Sec. 1105. Death gratuity authorized for Federal employees.
Sec. 1106. Modifications to the National Security Personnel System.
Sec. 1107. Requirement for full implementation of personnel demonstration project.
Sec. 1108. Authority for inclusion of certain Office of Defense Research and Engineering positions in experimental personnel program for scientific and technical personnel.
Sec. 1109. Pilot program for the temporary assignment of information technology personnel to private sector organizations.
Sec. 1110. Compensation for Federal wage system employees for certain travel hours.
Sec. 1111. Travel compensation for wage grade personnel.
Sec. 1112. Accumulation of annual leave by senior level employees.
Sec. 1113. Uniform allowances for civilian employees.

Sec. 1114. Flexibility in setting pay for employees who move from a Department of Defense or Coast Guard nonappropriated fund instrumentality position to a position in the General Schedule pay system.
Sec. 1115. Retirement service credit for service as cadet or midshipman at a military service academy.
Sec. 1116. Authorization for increased compensation for faculty and staff of the Uniformed Services University of the Health Sciences.
Sec. 1117. Report on establishment of a scholarship program for civilian mental health professionals.

**SEC. 1101. EXTENSION OF AUTHORITY TO WAIVE ANNUAL LIMITATION ON TOTAL COMPENSATION PAID TO FEDERAL CIVILIAN EMPLOYEES WORKING OVERSEAS UNDER AREAS OF UNITED STATES CENTRAL COMMAND.**

(a) EXTENSION.—Section 1105 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3450), as amended by section 1105 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2409), is amended—

(1) in subsection (a)—

(A) by striking "and 2007" and inserting ", 2007, and 2008"; and

(B) by striking "Code)." and inserting "Code) or, during 2008, a military operation (including a contingency operation, as so defined) or an operation in response to an emergency declared by the President."; and

(2) in subsection (b), by striking "2007." and inserting "2007 or 2008.".

(b) RETROACTIVE EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of December 31, 2007.

**SEC. 1102. CONTINUATION OF LIFE INSURANCE COVERAGE FOR FEDERAL EMPLOYEES CALLED TO ACTIVE DUTY.**

Section 8706 of title 5, United States Code, is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) by inserting after subsection (c) the following:

"(d)(1) An employee who enters on approved leave without pay in the circumstances described in paragraph (2) may elect to have such employee's life insurance continue (beyond the end of the 12 months of coverage provided for under subsection (a)) for an additional 12 months and arrange to pay currently into the Employees' Life Insurance Fund, through such employee's employing agency, both employee and agency contributions, from the beginning of that additional 12 months of coverage. The employing agency shall forward the premium payments to the Fund. If the employee does not so elect, such employee's insurance will continue during nonpay status and stop as provided by subsection (a). An individual making an election under this subsection may cancel that election at any time, in which case such employee's insurance will stop as provided by subsection (a) or upon receipt of notice of cancellation, whichever is later.

"(2) This subsection applies in the case of any employee who— Applicability.

"(A) is a member of a reserve component of the armed forces called or ordered to active duty under a call or order that does not specify a period of 30 days or less; and

"(B) enters on approved leave without pay to perform active duty pursuant to such call or order.".

**SEC. 1103. TRANSPORTATION OF DEPENDENTS, HOUSEHOLD EFFECTS, AND PERSONAL PROPERTY TO FORMER HOME FOLLOWING DEATH OF FEDERAL EMPLOYEE WHERE DEATH RESULTED FROM DISEASE OR INJURY INCURRED IN THE CENTRAL COMMAND AREA OF RESPONSIBILITY.**

(a) IN GENERAL.—Paragraph (2) of section 5742(b) of title 5, United States Code, is amended to read as follows:

"(2) the expense of transporting his dependents, including expenses of packing, crating, draying, and transporting household effects and other personal property to his former home or such other place as is determined by the head of the agency concerned, if—

"(A) the employee died while performing official duties outside the continental United States or in transit thereto or therefrom; or

"(B) in the case of an employee who was a party to a mandatory mobility agreement that was in effect when the employee died—

"(i) the employee died in the circumstances described in subparagraph (A); or

"(ii)(I) the employee died as a result of disease or injury incurred while performing official duties—

"(aa) in an overseas location that, at the time such employee was performing such official duties, was within the area of responsibility of the Commander of the United States Central Command; and

"(bb) in direct support of or directly related to a military operation, including a contingency operation (as defined in section 101(13) of title 10) or an operation in response to an emergency declared by the President; and

"(II) the employee's dependents were residing either outside the continental United States or within the continental United States when the employee died; and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

**SEC. 1104. SPECIAL BENEFITS FOR CIVILIAN EMPLOYEES ASSIGNED ON DEPLOYMENT TEMPORARY CHANGE OF STATION.**

(a) AUTHORITY.—Subchapter II of chapter 57 of title 5, United States Code, is amended by inserting after section 5737 the following:

**"§ 5737a. Employees temporarily deployed in contingency operations**

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'covered employee' means an individual who—

"(A) is an employee of an Executive agency or a military department, excluding a Government controlled corporation; and

"(B) is assigned on a temporary change of station in support of a contingency operation;

"(2) the term 'temporary change of station', as used with respect to an employee, means an assignment—

"(A) from the employee's official duty station to a temporary duty station; and

"(B) for which such employee is eligible for expenses under section 5737; and

"(3) the term 'contingency operation' has the meaning given such term by section 1482a(c) of title 10.

"(b) QUARTERS AND RATIONS.—The head of an agency may provide quarters and rations, without charge, to any covered employee of such agency during the period of such employee's temporary assignment (as described in subsection (a)(1)(B)).

"(c) STORAGE OF MOTOR VEHICLE.—The head of an agency may provide for the storage, without charge, or for the reimbursement of the cost of storage, of a motor vehicle that is owned or leased by a covered employee of such agency (or by a dependent of such an employee) and that is for the personal use of the covered employee. This subsection shall apply—

Applicability.

"(1) with respect to storage during the period of the employee's temporary assignment (as described in subsection (a)(1)(B)); and

"(2) in the case of a covered employee, with respect to not more than one motor vehicle as of any given time.

"(d) RELATIONSHIP TO OTHER BENEFITS.—Any benefits under this section shall be in addition to (and not in lieu of) any other benefits for which the covered employee is otherwise eligible.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 57 of such title is amended by inserting after the item relating to section 5737 the following:

"5737a. Employees temporarily deployed in contingency operations.".

**SEC. 1105. DEATH GRATUITY AUTHORIZED FOR FEDERAL EMPLOYEES.**

(a) DEATH GRATUITY AUTHORIZED.—Chapter 81 of title 5, United States Code, is amended by inserting after section 8102 the following:

### "§ 8102a. Death gratuity for injuries incurred in connection with employee's service with an Armed Force

"(a) DEATH GRATUITY AUTHORIZED.—The United States shall pay a death gratuity of up to $100,000 to or for the survivor prescribed by subsection (d) immediately upon receiving official notification of the death of an employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation.

"(b) RETROACTIVE PAYMENT IN CERTAIN CASES.—At the discretion of the Secretary concerned, subsection (a) may apply in the case of an employee who died, on or after October 7, 2001, and before the date of enactment of this section, as a result of injuries incurred in connection with the employee's service with an Armed Force in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom.

"(c) RELATIONSHIP TO OTHER BENEFITS.—The death gratuity payable under this section shall be reduced by the amount of any death gratuity provided under section 413 of the Foreign Service Act of 1980, section 1603 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, or any other law of the United States based on the same death.

"(d) ELIGIBLE SURVIVORS.—

"(1) Subject to paragraph (5), a death gratuity payable upon the death of a person covered by subsection (a) shall be paid to or for the living survivor highest on the following list:

"(A) The employee's surviving spouse.

"(B) The employee's children, as prescribed by paragraph (2), in equal shares.

"(C) If designated by the employee, any one or more of the following persons:

"(i) The employee's parents or persons in loco parentis, as prescribed by paragraph (3).

"(ii) The employee's brothers.

"(iii) The employee's sisters.

"(D) The employee's parents or persons in loco parentis, as prescribed by paragraph (3), in equal shares.

"(E) The employee's brothers and sisters in equal shares.

Subparagraphs (C) and (E) of this paragraph include brothers and sisters of the half blood and those through adoption.

"(2) Paragraph (1)(B) applies, without regard to age or marital status, to—

"(A) legitimate children;

"(B) adopted children;

"(C) stepchildren who were a part of the decedent's household at the time of death;

"(D) illegitimate children of a female decedent; and

"(E) illegitimate children of a male decedent—

"(i) who have been acknowledged in writing signed by the decedent;

"(ii) who have been judicially determined, before the decedent's death, to be his children;

"(iii) who have been otherwise proved, by evidence satisfactory to the employing agency, to be children of the decedent; or

"(iv) to whose support the decedent had been judicially ordered to contribute.

"(3) Subparagraphs (C) and (D) of paragraph (1), so far as they apply to parents and persons in loco parentis, include fathers and mothers through adoption, and persons who stood in loco parentis to the decedent for a period of not less than one year at any time before the decedent became an employee. However, only one father and one mother, or their counterparts in loco parentis, may be recognized in any case, and preference shall be given to those who exercised a parental relationship on the date, or most nearly before the date, on which the decedent became an employee.

Effective date.

"(4) Beginning on the date of the enactment of this paragraph, a person covered by this section may designate another person to receive not more than 50 percent of the amount payable under this section. The designation shall indicate the percentage of the amount, to be specified only in 10 percent increments up to the maximum of 50 percent, that the designated person may receive. The balance of the amount of the death gratuity shall be paid to or for the living survivors of the person concerned in accordance with subparagraphs (A) through (E) of paragraph (1).

"(5) If a person entitled to all or a portion of a death gratuity under paragraph (1) or (4) dies before the person receives the death gratuity, it shall be paid to the living survivor next in the order prescribed by paragraph (1).

"(e) DEFINITIONS.—(1) The term 'contingency operation' has the meaning given to that term in section 1482a(c) of title 10, United States Code.

"(2) The term 'employee' has the meaning provided in section 8101 of this title, but also includes a nonappropriated fund instrumentality employee, as defined in section 1587(a)(1) of title 10.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 of such title is amended by inserting after the item relating to section 8102 the following:

"8102a. Death gratuity for injuries incurred in connection with employee's service with an Armed Force.".

**SEC. 1106. MODIFICATIONS TO THE NATIONAL SECURITY PERSONNEL SYSTEM.**

(a) IN GENERAL.—Section 9902 of title 5, United States Code, is amended to read as follows:

**"§ 9902. Establishment of human resources management system**

"(a) IN GENERAL.—The Secretary may, in regulations prescribed jointly with the Director, establish, and from time to time adjust, a human resources management system for some or all of the organizational or functional units of the Department of Defense. The human resources management system established under authority of this section shall be referred to as the 'National Security Personnel System'.

"(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1), (8), and (9); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1), (8), and (9) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the public service;

"(D) any other provision of this part (as described in subsection (d)); or

"(E) any rule or regulation prescribed under any provision of law referred to in this paragraph;

"(4) not apply to any prevailing rate employees, as defined in section 5342(a)(2);

"(5) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established pursuant to law;

"(6) not be limited by any specific law or authority under this title, or by any rule or regulation prescribed under this title, that is waived in regulations prescribed under this chapter, subject to paragraph (3); and

"(7) include a performance management system that incorporates the following elements:

"(A) Adherence to merit principles set forth in section 2301.

"(B) A fair, credible, and transparent employee performance appraisal system.

"(C) A link between the performance management system and the agency's strategic plan.

"(D) A means for ensuring employee involvement in the design and implementation of the system.

"(E) Adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the performance management system.

"(F) A process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review.

"(G) Effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance.

"(H) A means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the performance management system.

"(I) A pay-for-performance evaluation system to better link individual pay to performance, and provide an equitable method for appraising and compensating employees.

"(c) PERSONNEL MANAGEMENT AT DEFENSE LABORATORIES.—

Applicability.

"(1) The National Security Personnel System shall not apply with respect to a laboratory under paragraph (2) before October 1, 2011, and shall apply on or after October 1, 2011, only to the extent that the Secretary determines that the flexibilities provided by the National Security Personnel System are greater than the flexibilities provided to those laboratories pursuant to section 342 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2721) and section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note), respectively.

"(2) The laboratories to which this subsection applies are—

"(A) the Aviation and Missile Research Development and Engineering Center;

"(B) the Army Research Laboratory;

"(C) the Medical Research and Materiel Command;

"(D) the Engineer Research and Development Command;

"(E) the Communications-Electronics Command;

"(F) the Soldier and Biological Chemical Command;
"(G) the Naval Sea Systems Command Centers;
"(H) the Naval Research Laboratory;
"(I) the Office of Naval Research; and
"(J) the Air Force Research Laboratory.

"(d) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part referred to in subsection (b)(3)(D) are—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55 (except subchapter V thereof, apart from section 5545b), 57, 59, 71, 72, 73, 75, 77, and 79, and this chapter.

"(e) LIMITATIONS RELATING TO PAY.—

"(1) Nothing in this section shall constitute authority to modify the pay of any employee who serves in an Executive Schedule position under subchapter II of chapter 53.

"(2) Except as provided for in paragraph (1), the total amount in a calendar year of allowances, differentials, bonuses, awards, or other similar cash payments paid under this title to any employee who is paid under section 5376 or 5383 or under title 10 or under other comparable pay authority established for payment of Department of Defense senior executive or equivalent employees may not exceed the total annual compensation payable to the Vice President under section 104 of title 3.

"(3) To the maximum extent practicable, the rates of compensation for civilian employees at the Department of Defense shall be adjusted at the same rate, and in the same proportion, as are rates of compensation for members of the uniformed services.

"(4) To the maximum extent practicable, for fiscal years 2004 through 2012, the overall amount allocated for compensation of the civilian employees of an organizational or functional unit of the Department of Defense that is included in the National Security Personnel System shall not be less than the amount that would have been allocated for compensation of such employees for such fiscal year if they had not been converted to the National Security Personnel System, based on, at a minimum—

"(A) the number and mix of employees in such organizational or functional unit prior to the conversion of such employees to the National Security Personnel System; and

"(B) adjusted for normal step increases and rates of promotion that would have been expected, had such employees remained in their previous pay schedule.

"(5) To the maximum extent practicable, the regulations implementing the National Security Personnel System shall provide a formula for calculating the overall amount to be allocated for fiscal years after fiscal year 2012 for compensation of the civilian employees of an organization or functional unit of the Department of Defense that is included in the National Security Personnel System. The formula shall ensure that in the aggregate, employees are not disadvantaged in terms of the overall amount of pay available as a result of conversion to the National Security Personnel System, while providing flexibility to accommodate changes in the function of the organization, changes in the mix of employees performing those

functions, and other changed circumstances that might impact pay levels.

"(6) Amounts allocated for compensation of civilian employees of the Department of Defense pursuant to paragraphs (4) and (5) shall be available only for the purpose of providing such compensation.

"(7) At the time of any annual adjustment to pay schedules pursuant to section 5303, the rate of basic pay for each employee of an organizational or functional unit of the Department of Defense that is included in the National Security Personnel System who receives a performance rating above unacceptable or who does not have a current rating of record for the most recently completed appraisal period shall be adjusted by no less than 60 percent of the amount of such adjustment. The balance of the amount that would have been available for an annual adjustment under section 5303 shall be allocated to pay pool funding, for the purpose of increasing rates of pay on the basis of employee performance.

"(8) Each employee of an organizational or functional unit of the Department of Defense that is included in the National Security Personnel System who receives a performance rating above unacceptable or who does not have a current rating of record for the most recently completed appraisal period shall receive—

"(A) locality-based comparability payments under section 5304 and section 5304a in the same manner and to the same extent as employees under the General Schedule; or

"(B) the full measure of any other local market supplement applicable to the employee if locality-based comparability payments referred to in subparagraph (A) are not generally applicable to the employee.

Nothing in this paragraph shall be construed to make locality-based comparability payments or other local market supplements payable to any category of employees or positions which were ineligible for such payments or supplements (as the case may be) as of the day before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004.

"(9) Any rate of pay established or adjusted in accordance with the requirements of this section shall be non-negotiable, but shall be subject to procedures and appropriate arrangements of paragraphs (2) and (3) of section 7106(b), except that nothing in this paragraph shall be construed to eliminate the bargaining rights of any category of employees who were authorized to negotiate rates of pay as of the day before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004.

"(f) PROVISIONS REGARDING NATIONAL LEVEL BARGAINING.—

"(1) The Secretary may bargain with a labor organization which has been accorded exclusive recognition under chapter 71 at an organizational level above the level of exclusive recognition. The decision to bargain above the level of exclusive recognition shall not be subject to review. The Secretary shall consult with the labor organization before determining the appropriate organizational level of bargaining.

"(2) Any such bargaining shall—

"(A) address issues that are—

"(i) subject to bargaining under chapter 71 and this chapter;

"(ii) applicable to multiple bargaining units; and

"(iii) raised by either party to the bargaining;

"(B) except as agreed by the parties or directed through an independent dispute resolution process agreed upon by the parties, be binding on all affected subordinate bargaining units of the labor organization at the level of recognition and their exclusive representatives, and the Department of Defense and its subcomponents, without regard to levels of recognition;

"(C) to the extent agreed by the parties or directed through an independent dispute resolution process agreed upon by the parties, supersede conflicting provisions of all other collective bargaining agreements of the labor organization, including collective bargaining agreements negotiated with an exclusive representative at the level of recognition; and

"(D) except as agreed by the parties or directed through an independent dispute resolution process agreed upon by the parties, not be subject to further negotiations for any purpose, including bargaining at the level of recognition.

"(3) Any independent dispute resolution process agreed to by the parties for the purposes of paragraph (2) shall have the authority to address all issues on which the parties are unable to reach agreement.

"(4) The National Guard Bureau and the Army and Air Force National Guard may be included in coverage under this subsection.

"(5) Any bargaining completed pursuant to this subsection with a labor organization not otherwise having national consultation rights with the Department of Defense or its subcomponents shall not create any obligation on the Department of Defense or its subcomponents to confer national consultation rights on such a labor organization.

"(g) PROVISIONS RELATED TO SEPARATION AND RETIREMENT INCENTIVES.—

"(1) The Secretary may establish a program within the Department of Defense under which employees may be eligible for early retirement, offered separation incentive pay to separate from service voluntarily, or both. This authority may be used to reduce the number of personnel employed by the Department of Defense or to restructure the workforce to meet mission objectives without reducing the overall number of personnel. This authority is in addition to, and notwithstanding, any other authorities established by law or regulation for such programs.

"(2)(A) The Secretary may not authorize the payment of voluntary separation incentive pay under paragraph (1) to more than 25,000 employees in any fiscal year, except that employees who receive voluntary separation incentive pay as a result of a closure or realignment of a military installation under the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) shall not be included in that number.

"(B) The Secretary shall prepare a report each fiscal year setting forth the number of employees who received such pay Reports.

as a result of a closure or realignment of a military base as described under subparagraph (A).

"(C) The Secretary shall submit the report under subparagraph (B) to the Committee on Armed Services and the Committee on Governmental Affairs of the Senate, and the Committee on Armed Services and the Committee on Government Reform of the House of Representatives.

"(3) For purposes of this section, the term 'employee' means an employee of the Department of Defense, serving under an appointment without time limitation, except that such term does not include—

"(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84, or another retirement system for employees of the Federal Government;

"(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A); or

"(C) for purposes of eligibility for separation incentives under this section, an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance.

"(4) An employee who is at least 50 years of age and has completed 20 years of service, or has at least 25 years of service, may, pursuant to regulations promulgated under this section, apply and be retired from the Department of Defense and receive benefits in accordance with chapter 83 or 84 if the employee has been employed continuously within the Department of Defense for more than 30 days before the date on which the determination to conduct a reduction or restructuring within 1 or more Department of Defense components is approved.

"(5)(A) Separation pay shall be paid in a lump sum or in installments and shall be equal to the lesser of —

"(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c), if the employee were entitled to payment under such section; or

"(ii) $25,000.

"(B) Separation pay shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit. Separation pay shall not be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595, based on any other separation.

"(C) Separation pay, if paid in installments, shall cease to be paid upon the recipient's acceptance of employment by the Federal Government, or commencement of work under a personal services contract as described in paragraph (6).

"(6)(A) An employee who receives separation pay under such program may not be reemployed by the Department of Defense for a 12-month period beginning on the effective date of the employee's separation, unless this prohibition is waived by the Secretary on a case-by-case basis.

"(B) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 111) and accepts

employment with the Government of the United States, or who commences work through a personal services contract with the United States within 5 years after the date of the separation on which payment of the separation pay is based, shall be required to repay the entire amount of the separation pay to the Department of Defense. If the employment is with an Executive agency (as defined by section 105) other than the Department of Defense, the Director may, at the request of the head of that agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is within the Department of Defense, the Secretary may waive the repayment if the individual involved is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(7) Under this program, early retirement and separation pay may be offered only pursuant to regulations established by the Secretary, subject to such limitations or conditions as the Secretary may require.

"(h) PROVISIONS RELATING TO REEMPLOYMENT.—

"(1) Except as provided under paragraph (2), if an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes employed in a position within the Department of Defense, his annuity shall continue. An annuitant so reemployed shall not be considered an employee for purposes of subchapter III of chapter 83 or chapter 84.

"(2)(A) An annuitant retired under section 8336(d)(1) or 8414(b)(1)(A) receiving an annuity from the Civil Service Retirement and Disability Fund, who becomes employed in a position within the Department of Defense after the date of enactment of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136), may elect to be subject to section 8344 or 8468 (as the case may be).

"(B) An election for coverage under this paragraph shall be filed not later than the later of 90 days after the date the Department of Defense— Deadline.

"(i) prescribes regulations to carry out this subsection; or

"(ii) takes reasonable actions to notify employees who may file an election. Notification.

"(C) If an employee files an election under this paragraph, coverage shall be effective beginning on the first day of the first applicable pay period beginning on or after the date of the filing of the election. Effective date.

"(D) Paragraph (1) shall apply to an individual who is eligible to file an election under subparagraph (A) and does not file a timely election under subparagraph (B). Applicability.

"(3) The Secretary shall prescribe regulations to carry out this subsection. Regulations.

"(i) ADDITIONAL PROVISIONS RELATING TO PERSONNEL MANAGEMENT.—

"(1) Subject to the requirements of chapter 71 and the limitations in subsection (b)(3), the Secretary of Defense, in establishing and implementing the National Security Personnel System under subsection (a), shall not be limited by any provision of this title or any rule or regulation prescribed under this title in establishing and implementing regulations relating to—

"(A) the methods of establishing qualification requirements for, recruitment for, and appointments to positions; and

"(B) the methods of assigning, reassigning, detailing, transferring, or promoting employees.

"(2) In implementing this subsection, the Secretary shall comply with the provisions of section 2302(b)(11), regarding veterans' preference requirements, as provided for in subsection (b)(3).

"(j) PHASE-IN.—The Secretary may not, in any calendar year, add any organizational or functional unit to the National Security Personnel System which would cause the total number of employees added to such System in such year to exceed 100,000.".

(b) IMPLEMENTATION.—

Regulations. Notification. Public comment.

(1) The requirements of section 9902 of title 5, United States Code, as amended by this section, may be implemented through rules promulgated jointly by the Secretary of Defense and the Director of the Office of Personnel Management after notice and opportunity for public comment or through Department of Defense rules or internal agency implementing issuances. Rules promulgated jointly by the Secretary and the Director under this paragraph shall be treated as major rules for the purposes of section 801 of title 5, United States Code.

(2) Both rules and implementing issuances shall be subject to collective bargaining consistent with the requirements of chapter 71 of title 5, United States Code. Rules promulgated jointly by the Secretary of Defense and the Director of the Office of Personnel Management after notice and opportunity for public comment and in accordance with the requirements of section 801 of such title 5 for a major rule shall be treated in the same manner as government-wide rules for the purpose of such collective bargaining, if such rules are uniformly applicable to all organizational or functional units included in the National Security Personnel System.

(3) Any rules and implementing issuances that were adopted prior to the date of the enactment of this Act—

(A) shall be invalid to the extent that they are inconsistent with the requirements of section 9902 of title 5, United States Code, as amended by this section;

(B) shall not supersede a collective bargaining agreement that was in place prior to the date on which the rule or implementing issuance was promulgated; and

(C) shall be subject to collective bargaining—

(i) in the case of rules which are uniformly applicable to all organizational or functional units included in the National Security Personnel System and issued jointly by the Secretary of Defense and the Director of the Office of Personnel Management

pursuant to subsection 9902(f)(1) of title 5, United States Code (as in effect prior to the enactment of this section), only as to impact and implementation, when applied to employees of the Department of Defense from any bargaining unit;

(ii) in the case of any other rules or implementing issuances, to the extent provided in chapter 71 of title 5, United States Code.

(4) The availability of judicial review of any rules or implementing issuances that were adopted prior to the date of the enactment of this Act shall not be affected by the enactment of this section.

(c) COMPTROLLER GENERAL REVIEWS.—

(1) The Comptroller General shall conduct annual reviews in calendar years 2008, 2009 and 2010 of—

(A) employee satisfaction with the National Security Personnel System established pursuant to section 9902 of title 5, United States Code, as amended by this section; and

(B) the extent to which the Department of Defense has effectively implemented accountability mechanisms, including those established in section 9902(b)(7) of title 5, United States Code, and internal safeguards for the National Security Personnel System.

(2) To the extent that the Department of Defense undertakes internal assessments or employee surveys to assess employee satisfaction with the National Security Personnel System in any such calendar year, the Comptroller General shall—

(A) determine whether such assessments or surveys are appropriately designed and statistically valid; and

(B) provide an independent evaluation of the results of such assessments or surveys.

(3) To the extent that the Department of Defense does not undertake appropriately designed and statistically valid employee surveys, the Comptroller General shall conduct such a survey and provide an independent evaluation of the results.

(4) The Comptroller General shall report the results of each annual review conducted under this subsection to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Government Reform of the House of Representatives. Reports.

**SEC. 1107. REQUIREMENT FOR FULL IMPLEMENTATION OF PERSONNEL DEMONSTRATION PROJECT.**

(a) REQUIREMENT.—The Secretary of Defense shall take all necessary actions to fully implement and use the authorities provided to the Secretary under section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2721), as amended by section 1114 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–315), to carry out personnel management demonstration projects at Department of Defense laboratories that are exempted by section 9902(c) of

title 5, United States Code, from inclusion in the Department of Defense National Security Personnel System.

Plan.

(b) PROCESS FOR FULL IMPLEMENTATION.—The Secretary of Defense shall also implement a process and implementation plan to fully utilize the authorities described in subsection (a) to enhance the performance of the missions of the laboratories.

(c) OTHER LABORATORIES.—Any flexibility available to any demonstration laboratory shall be available for use at any other laboratory as enumerated in section 9902(c)(2) of title 5, United States Code.

Deadline.

(d) SUBMISSION OF LIST AND DESCRIPTION.—Not later than March 1 of each year, beginning with March 1, 2008, the Secretary of Defense shall submit to Congress a list and description of the demonstration project notices, amendments, and changes requested by the laboratories during the preceding calendar year. The list shall include all approved and disapproved notices, amendments, and changes, and the reasons for disapproval or delay in approval.

**SEC. 1108. AUTHORITY FOR INCLUSION OF CERTAIN OFFICE OF DEFENSE RESEARCH AND ENGINEERING POSITIONS IN EXPERIMENTAL PERSONNEL PROGRAM FOR SCIENTIFIC AND TECHNICAL PERSONNEL.**

Section 1101(b)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note) is amended—

(1) in subparagraph (B), by striking "and" at the end;
(2) in subparagraph (C), by adding "and" at the end; and
(3) by adding after subparagraph (C) the following:

"(D) not more than a total of 10 scientific and engineering positions in the Office of the Director of Defense Research and Engineering;".

**SEC. 1109. PILOT PROGRAM FOR THE TEMPORARY ASSIGNMENT OF INFORMATION TECHNOLOGY PERSONNEL TO PRIVATE SECTOR ORGANIZATIONS.**

(a) ASSIGNMENT AUTHORITY.—The Secretary of Defense may, with the agreement of the private sector organization and the Department of Defense employee concerned, arrange for the temporary assignment of such employee to such private sector organization under this section. An employee shall be eligible for such an assignment only if—

(1) the employee—

(A) works in the field of information technology management;

(B) is considered to be an exceptional employee;

(C) is expected to assume increased information technology management responsibilities in the future;

(D) is compensated at not less than the GS–11 level (or the equivalent); and

(E) is serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service; and

(2) the proposed assignment meets applicable requirements of section 209(b) of the E-Government Act of 2002 (44 U.S.C. 3501 note).

(b) AGREEMENTS.—The Secretary of Defense shall provide for a written agreement between the Department of Defense and the

employee concerned regarding the terms and conditions of the employee's assignment under this section. The agreement—

(1) shall require that, upon completion of the assignment, the employee will serve in the civil service for a period equal to the length of the assignment; and

(2) shall provide that if the employee fails to carry out the agreement, such employee shall be liable to the United States for payment of all expenses of the assignment, unless that failure was for good and sufficient reason (as determined by the Secretary of Defense).

An amount for which an employee is liable under paragraph (2) shall be treated as a debt due the United States.

(c) TERMINATION.—An assignment under this section may, at any time and for any reason, be terminated by the Department of Defense or the private sector organization concerned.

(d) DURATION.—An assignment under this section shall be for a period of not less than 3 months and not more than 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year; however, no assignment under this section may commence after September 30, 2010.

(e) CONSIDERATIONS.—In carrying out this section, the Secretary of Defense—

(1) shall ensure that, of the assignments made under this section each year, at least 20 percent are to small business concerns (as defined by section 3703(e)(2)(A) of title 5, United States Code); and

(2) shall take into consideration the question of how assignments under this section might best be used to help meet the needs of the Department of Defense with respect to the training of employees in information technology management.

(f) NUMERICAL LIMITATION.—In no event may more than 10 employees be participating in assignments under this section as of any given time.

(g) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the potential benefits of a program under which employees specializing in information technology may be temporarily assigned from private sector organizations to the Department of Defense.

(2) CONTENTS.—The report shall include—

(A) a statement of findings and an explanation of the bases for those findings;

(B) an assessment of the laws, rules, and processes relating to the prevention of conflicts of interest and abuse which would apply to private sector employees during the period of their assignment to the Department of Defense, and whether they need to be strengthened or otherwise changed;

(C) mechanisms proposed for the governance and oversight of the program; and

(D) recommendations for any legislation which may be necessary.

**SEC. 1110. COMPENSATION FOR FEDERAL WAGE SYSTEM EMPLOYEES FOR CERTAIN TRAVEL HOURS.**

Section 5544(a) of title 5, United States Code, is amended in clause (iv) (in the third sentence following paragraph (3)), by striking "administratively." and inserting "administratively (including travel by the employee to such event and the return of the employee from such event to the employee's official duty station).".

**SEC. 1111. TRAVEL COMPENSATION FOR WAGE GRADE PERSONNEL.**

(a) ELIGIBILITY FOR COMPENSATORY TIME OFF FOR TRAVEL.—Section 5550b(a) of title 5, United States Code, is amended by striking "section 5542(b)(2)," and inserting "any provision of section 5542(b)(2) or 5544(a),".

(b) CONFORMING AMENDMENT.—Section 5541(2)(xi) of such title is amended by striking "section 5544" and inserting "section 5544 or 5550b".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) the effective date of any regulations prescribed to carry out such amendments; or

(2) the 90th day after the date of the enactment of this Act.

**SEC. 1112. ACCUMULATION OF ANNUAL LEAVE BY SENIOR LEVEL EMPLOYEES.**

Section 6304(f)(1) of title 5, United States Code, is amended—

(1) in the matter before subparagraph (A), by striking "in a position in—" and inserting "in—";

(2) in subparagraphs (A) through (E), by inserting "a position in" before "the";

(3) in subparagraph (D), by striking "or" at the end;

(4) in subparagraph (E), by striking the period and inserting a semicolon; and

(5) by adding after subparagraph (E) the following:

"(F) a position to which section 5376 applies; or

"(G) a position designated under section 1607(a) of title 10 as an Intelligence Senior Level position.".

**SEC. 1113. UNIFORM ALLOWANCES FOR CIVILIAN EMPLOYEES.**

Section 1593(b) of title 10, United States Code, is amended by striking "$400 per year." and inserting "$400 per year (or such higher maximum amount as the Secretary of Defense may by regulation prescribe).".

**SEC. 1114. FLEXIBILITY IN SETTING PAY FOR EMPLOYEES WHO MOVE FROM A DEPARTMENT OF DEFENSE OR COAST GUARD NONAPPROPRIATED FUND INSTRUMENTALITY POSITION TO A POSITION IN THE GENERAL SCHEDULE PAY SYSTEM.**

Section 5334(f) of title 5, United States Code, is amended—

(1) by striking "(f)" and inserting "(f)(1)";

(2) in the first sentence, by striking "does not exceed" and all that follows through "2105(c)." and inserting the following: "does not exceed—

"(A) if the highest previous rate of basic pay received by that employee during the employee's service described in section

2105(c) is equal to a rate of the appropriate grade, such rate of the appropriate grade;

"(B) if the employee's highest previous rate of basic pay (as described in subparagraph (A)) is between two rates of the appropriate grade, the higher of those two rates; or

"(C) if the employee's highest previous rate of basic pay (as described in subparagraph (A)) exceeds the maximum rate of the appropriate grade, the maximum rate of the appropriate grade."; and

(3) in the second sentence, by striking "In the case of" and inserting the following:

"(2) In the case of".

**SEC. 1115. RETIREMENT SERVICE CREDIT FOR SERVICE AS CADET OR MIDSHIPMAN AT A MILITARY SERVICE ACADEMY.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331(13) of title 5, United States Code, is amended by striking "but" and inserting "and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8401(31) of such title is amended by striking "but" and inserting "and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but".

(c) APPLICABILITY.—The amendments made by this section shall apply to—

(1) any annuity, eligibility for which is based upon a separation occurring before, on, or after the date of enactment of this Act; and

(2) any period of service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, occurring before, on, or after the date of enactment of this Act.

**SEC. 1116. AUTHORIZATION FOR INCREASED COMPENSATION FOR FACULTY AND STAFF OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.**

Section 2113(c) of title 10, United States Code, as redesignated by section 954(a)(3) of this Act, is amended—

(1) in paragraph (1)—

(A) by inserting "(after due consideration by the Secretary)" before "so as"; and

(B) by striking "within the vicinity of the District of Columbia" and inserting "identified by the Secretary for purposes of this paragraph"; and

(2) in paragraph (4)—

(A) by striking "section 5373" and inserting "sections 5307 and 5373"; and

(B) by adding at the end the following new sentence: "In no event may the total amount of compensation paid to an employee under paragraph (1) in any year (including salary, allowances, differentials, bonuses, awards, and other similar cash payments) exceed the total amount of

annual compensation (excluding expenses) specified in section 102 of title 3.".

**SEC. 1117. REPORT ON ESTABLISHMENT OF A SCHOLARSHIP PROGRAM FOR CIVILIAN MENTAL HEALTH PROFESSIONALS.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Assistant Secretary of Defense for Health Affairs and each of the Surgeons General of the Armed Forces, submit to Congress a report on the feasibility and advisability of establishing a scholarship program for civilian mental health professionals.

(b) ELEMENTS.—The report shall include the following:

(1) An assessment of a potential scholarship program that provides certain educational funding to students seeking a career in mental health services in exchange for service in the Department of Defense.

(2) An assessment of current scholarship programs which may be expanded to include mental health professionals.

(3) Recommendations regarding the establishment or expansion of scholarship programs for mental health professionals.

(4) A plan to implement, or reasons for not implementing, recommendations that will increase mental health staffing across the Department of Defense.

# TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

Subtitle A—Assistance and Training

Sec. 1201. Military-to-military contacts and comparable activities.
Sec. 1202. Authority for support of military operations to combat terrorism.
Sec. 1203. Medical care and temporary duty travel expenses for liaison officers of certain foreign nations.
Sec. 1204. Extension and expansion of Department of Defense authority to participate in multinational military centers of excellence.
Sec. 1205. Reauthorization of Commanders' Emergency Response Program.
Sec. 1206. Authority to build the capacity of the Pakistan Frontier Corps.
Sec. 1207. Authority to equip and train foreign personnel to assist in accounting for missing United States Government personnel.
Sec. 1208. Authority to provide automatic identification system data on maritime shipping to foreign countries and international organizations.
Sec. 1209. Report on foreign-assistance related programs carried out by the Department of Defense.
Sec. 1210. Extension and enhancement of authority for security and stabilization assistance.
Sec. 1211. Government Accountability Office report on Global Peace Operations Initiative.
Sec. 1212. Repeal of limitations on military assistance under the American Servicemembers' Protection Act of 2002.

Subtitle B—Matters Relating to Iraq and Afghanistan

Sec. 1221. Modification of authorities relating to the Office of the Special Inspector General for Iraq Reconstruction.
Sec. 1222. Limitation on availability of funds for certain purposes relating to Iraq.
Sec. 1223. Report on United States policy and military operations in Iraq.
Sec. 1224. Report on a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.
Sec. 1225. Report on support from Iran for attacks against coalition forces in Iraq.
Sec. 1226. Sense of Congress on the consequences of a failed state in Iraq.
Sec. 1227. Sense of Congress on federalism in Iraq.
Sec. 1228. Tracking and monitoring of defense articles provided to the Government of Iraq and other individuals and groups in Iraq.

Sec. 1229. Special Inspector General for Afghanistan Reconstruction.
Sec. 1230. Report on progress toward security and stability in Afghanistan.
Sec. 1231. United States plan for sustaining the Afghanistan National Security Forces.
Sec. 1232. Report on enhancing security and stability in the region along the border of Afghanistan and Pakistan.
Sec. 1233. Reimbursement of certain coalition nations for support provided to United States military operations.
Sec. 1234. Logistical support for coalition forces supporting operations in Iraq and Afghanistan.

Subtitle C—Iraq Refugee Crisis

Sec. 1241. Short title.
Sec. 1242. Processing mechanisms.
Sec. 1243. United States refugee program processing priorities.
Sec. 1244. Special immigrant status for certain Iraqis.
Sec. 1245. Senior Coordinator for Iraqi Refugees and Internally Displaced Persons.
Sec. 1246. Countries with significant populations of Iraqi refugees.
Sec. 1247. Motion to reopen denial or termination of asylum.
Sec. 1248. Reports.
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Subtitle D—Other Authorities and Limitations

Sec. 1251. Cooperative opportunities documents under cooperative research and development agreements with NATO organizations and other allied and friendly foreign countries.
Sec. 1252. Extension and expansion of temporary authority to use acquisition and cross-servicing agreements to lend military equipment for personnel protection and survivability.
Sec. 1253. Acceptance of funds from the Government of Palau for costs of United States military Civic Action Team in Palau.
Sec. 1254. Repeal of requirement relating to North Korea.
Sec. 1255. Justice for Osama bin Laden and other leaders of al Qaeda.
Sec. 1256. Extension of Counterproliferation Program Review Committee.
Sec. 1257. Sense of Congress on the Western Hemisphere Institute for Security Cooperation.
Sec. 1258. Sense of Congress on Iran.

Subtitle E—Reports

Sec. 1261. One-year extension of update on report on claims relating to the bombing of the Labelle Discotheque.
Sec. 1262. Report on United States policy toward Darfur, Sudan.
Sec. 1263. Inclusion of information on asymmetric capabilities in annual report on military power of the People's Republic of China.
Sec. 1264. Report on application of the Uniform Code of Military Justice to civilians accompanying the Armed Forces during a time of declared war or contingency operation.
Sec. 1265. Report on family reunions between United States citizens and their relatives in North Korea.
Sec. 1266. Reports on prevention of mass atrocities.
Sec. 1267. Report on threats to the United States from ungoverned areas.

# Subtitle A—Assistance and Training

**SEC. 1201. MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES.**

Section 168(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(9) The assignment of personnel described in paragraph (3) or (4) on a non-reciprocal basis if the Secretary of Defense determines that such an assignment, rather than an exchange of personnel, is in the interests of the United States.".

**SEC. 1202. AUTHORITY FOR SUPPORT OF MILITARY OPERATIONS TO COMBAT TERRORISM.**

(a) MODIFICATION OF REPORTING REQUIREMENT.—Subsection (f) of section 1208 of the Ronald W. Reagan National Defense

Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2086–2087) is amended to read as follows:

"(f) ANNUAL REPORT.—

"(1) REPORT REQUIRED.—Not later than 120 days after the close of each fiscal year during which subsection (a) is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on support provided under that subsection during that fiscal year.

"(2) MATTERS TO BE INCLUDED.—Each report required by paragraph (1) shall describe the support provided, including—

"(A) the country involved in the activity, the individual or force receiving the support, and, to the maximum extent practicable, the specific region of each country involved in the activity;

"(B) the respective dates and a summary of congressional notifications for each activity;

"(C) the unified commander for each activity, as well as the related objectives, as established by that commander;

"(D) the total amount obligated to provide the support;

"(E) for each activity that amounts to more than $500,000, specific budget details that explain the overall funding level for that activity; and

"(F) a statement providing a brief assessment of the outcome of the support, including specific indications of how the support furthered the mission objective of special operations forces and the types of follow-on support, if any, that may be necessary.".

(b) ANNUAL LIMITATION.—Subsection (g) of such section is amended—

(1) in the heading, by striking "FISCAL YEAR 2005" and inserting "ANNUAL"; and

(2) by striking "fiscal year 2005" and inserting "each fiscal year during which subsection (a) is in effect".

(c) EXTENSION OF PERIOD OF AUTHORITY.—Subsection (h) of such section is amended by striking "2007" and inserting "2010".

**SEC. 1203. MEDICAL CARE AND TEMPORARY DUTY TRAVEL EXPENSES FOR LIAISON OFFICERS OF CERTAIN FOREIGN NATIONS.**

(a) AUTHORITY.—Subsection (a) of section 1051a of title 10, United States Code, is amended—

(1) by striking "involved in a coalition" and inserting "involved in a military operation"; and

(2) by striking "coalition operation" and inserting "military operation".

(b) MEDICAL CARE AND TEMPORARY DUTY TRAVEL EXPENSES.—Subsection (b) of such section is amended—

(1) in the heading, by striking "AND SUBSISTENCE" inserting ", SUBSISTENCE, AND MEDICAL CARE";

(2) in paragraph (2), by adding at the end the following:

"(C) Expenses for medical care at a civilian medical facility if—

"(i) adequate medical care is not available to the liaison officer at a local military medical treatment facility;

"(ii) the Secretary determines that payment of such medical expenses is necessary and in the best interests of the United States; and

"(iii) medical care is not otherwise available to the liaison officer pursuant to any treaty or other international agreement."; and

(3) by adding at the end the following:

"(3) The Secretary may pay the mission-related travel expenses of a liaison officer described in subsection (a) if such travel is in support of the national interests of the United States and the commander of the headquarters to which the liaison officer is temporarily assigned directs round-trip travel from the assigned headquarters to one or more locations.".

(c) DEFINITION.—Subsection (d) of such section is amended—

(1) by striking "(d) DEFINITIONS.—" and all that follows through "(1) The term" and inserting "(d) DEFINITION.—In this section, the term"; and

(2) by striking paragraph (2).

(d) EXPIRATION OF AUTHORITY.—Such section is further amended by striking subsection (e).

(e) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading for such section is amended to read as follows:

**"§ 1051a. Liaison officers of certain foreign nations; administrative services and support; travel, subsistence, medical care, and other personal expenses".**

(2) The table of sections at the beginning of chapter 53 of title 10, United States Code, is amended by striking the item relating to section 1051a and inserting the following:

"1051a. Liaison officers of certain foreign nations; administrative services and support; travel, subsistence, medical care, and other personal expenses.".

**SEC. 1204. EXTENSION AND EXPANSION OF DEPARTMENT OF DEFENSE AUTHORITY TO PARTICIPATE IN MULTINATIONAL MILITARY CENTERS OF EXCELLENCE.**

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 1205 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 1202 Stat. 2416) is amended by striking "fiscal year 2007" and inserting "fiscal years 2007 and 2008".

(b) LIMITATION ON AMOUNTS AVAILABLE FOR PARTICIPATION.—Subsection (e) of such section is amended by striking paragraph (2) and inserting the following new paragraph:

"(2) LIMITATION ON AMOUNT.—The amount available under paragraph (1)(A) for the expenses referred to in that paragraph may not exceed—

"(A) in fiscal year 2007, $3,000,000; and

"(B) in fiscal year 2008, $5,000,000.".

(c) REPORTS.—Subsection (g) of such section is amended—

(1) in paragraph (1)—

(A) by inserting "and October 31, 2008," after "October 31, 2007,"; and

(B) by striking "fiscal year 2007" and inserting "fiscal years 2007 and 2008"; and

(2) in paragraph (2)(A), by striking "during fiscal year 2007" and inserting "during the preceding fiscal year".

**SEC. 1205. REAUTHORIZATION OF COMMANDERS' EMERGENCY RESPONSE PROGRAM.**

(a) AUTHORITY.—Subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3455–3456) is amended—

(1) in the heading, by striking "FISCAL YEARS 2006 AND 2007" and inserting "FISCAL YEARS 2008 AND 2009"; and

(2) in the matter preceding paragraph (1)—

(A) by striking "fiscal years 2006 and 2007" and inserting "fiscal years 2008 and 2009"; and

(B) by striking "$500,000,000" and inserting "$977,441,000".

(b) QUARTERLY REPORTS.—Subsection (b) of such section is amended by striking "fiscal years 2006 and 2007" and inserting "fiscal years 2008 and 2009".

**SEC. 1206. AUTHORITY TO BUILD THE CAPACITY OF THE PAKISTAN FRONTIER CORPS.**

(a) AUTHORITY.—The Secretary of Defense, with the concurrence of the Secretary of State, is authorized during fiscal year 2008 to provide assistance to enhance the ability of the Pakistan Frontier Corps to conduct counterterrorism operations along the border between Pakistan and Afghanistan.

(b) TYPES OF ASSISTANCE.—

(1) AUTHORIZED ELEMENTS.—Assistance under subsection (a) may include the provision of equipment, supplies, and training.

(2) REQUIRED ELEMENTS.—Assistance under subsection (a) shall be provided in a manner that promotes—

(A) observance of and respect for human rights and fundamental freedoms; and

(B) respect for legitimate civilian authority within Pakistan.

(c) LIMITATIONS.—

(1) FUNDING LIMITATION.—The Secretary of Defense may use up to $75,000,000 of funds available to the Department of Defense for operation and maintenance for fiscal year 2008 to provide the assistance under subsection (a).

(2) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—The Secretary of Defense may not use the authority in subsection (a) to provide any type of assistance described in subsection (b) that is otherwise prohibited by any provision of law.

(d) CONGRESSIONAL NOTIFICATION.—

Deadline.

(1) IN GENERAL.—Not less than 15 days before providing assistance under subsection (a), the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) a notice of the following:

(A) The budget, types of assistance, and completion date for providing the assistance under subsection (a).

(B) The source and planned expenditure of funds for the assistance under subsection (a).

(2) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees specified in this paragraph are the following:

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

(B) The Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

**SEC. 1207. AUTHORITY TO EQUIP AND TRAIN FOREIGN PERSONNEL TO ASSIST IN ACCOUNTING FOR MISSING UNITED STATES GOVERNMENT PERSONNEL.**

(a) IN GENERAL.—Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 408. Equipment and training of foreign personnel to assist in Department of Defense accounting for missing United States Government personnel**

"(a) IN GENERAL.—The Secretary of Defense may provide assistance to any foreign nation to assist the Department of Defense with recovery of and accounting for missing United States Government personnel.

"(b) TYPES OF ASSISTANCE.—The assistance provided under subsection (a) may include the following:

"(1) Equipment.

"(2) Supplies.

"(3) Services.

"(4) Training of personnel.

"(c) APPROVAL BY SECRETARY OF STATE.—Assistance may not be provided under this section to any foreign nation unless the Secretary of State specifically approves the provision of such assistance.

"(d) LIMITATION.—The amount of assistance provided under this section in any fiscal year may not exceed $1,000,000.

"(e) CONSTRUCTION WITH OTHER ASSISTANCE.—The authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations under law.

"(f) ANNUAL REPORTS.—(1) Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the assistance provided under this section during the fiscal year ending in such year.

"(2) Each report under paragraph (1) shall include, for the fiscal year covered by such report, the following:

"(A) A listing of each foreign nation provided assistance under this section.

"(B) For each nation so provided assistance, a description of the type and amount of such assistance.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 20 of such title is amended by adding at the end the following new item:

"408. Equipment and training of foreign personnel to assist in Department of Defense accounting for missing United States Government personnel.".

**SEC. 1208. AUTHORITY TO PROVIDE AUTOMATIC IDENTIFICATION SYSTEM DATA ON MARITIME SHIPPING TO FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.**

(a) AUTHORITY TO PROVIDE DATA.—The Secretary of Defense, with the concurrence of the Secretary of State, may authorize the Secretary of a military department or a commander of a combatant command to exchange or furnish automatic identification system data broadcast by merchant or private ships and collected by the United States to a foreign country or international organization

pursuant to an agreement for the exchange or production of such data. Such data may be transferred pursuant to this section without cost to the recipient country or international organization.

(b) DEFINITIONS.—In this section:

(1) AUTOMATIC IDENTIFICATION SYSTEM.—The term "automatic identification system" means a system that is used to satisfy the requirements of the Automatic Identification System under the International Convention for the Safety of Life at Sea, signed at London on November 1, 1974 (TIAS 9700).

(2) GEOGRAPHIC COMBATANT COMMANDER.—The term "commander of a combatant command" means a commander of a combatant command (as such term is defined in section 161(c) of title 10, United States Code) with a geographic area of responsibility.

**SEC. 1209. REPORT ON FOREIGN-ASSISTANCE RELATED PROGRAMS CARRIED OUT BY THE DEPARTMENT OF DEFENSE.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate congressional committees a report that specifies, on a country-by-country basis, each foreign-assistance related program carried out by the Department of Defense during the prior fiscal year under the authorities described in subsection (b).

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include—

(1) a description of the dollar amount, type of support, and purpose of each foreign–assistance related program carried out by the Department of Defense under—

(A) section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3456), relating to authority to build the capacity of foreign military forces;

(B) section 1207 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3458), relating to authority to provide security and stabilization assistance to foreign countries;

(C) section 1208 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3459), relating to authority to reimburse certain coalition nations for support provided to United States military operations;

(D) section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881), relating to authority to provide additional support for counter-drug activities of Peru and Colombia;

(E) section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note), relating to additional support for counter-drug activities;

(F) section 127d of title 10, United States Code, relating to authority to provide logistic support, supplies, and services to allied forces participating in a combined operation with the Armed Forces;

(G) section 2249c of title 10, United States Code, relating to authority to use appropriated funds for costs associated with education and training of foreign officials

under the Regional Defense Combating Terrorism Fellowship Program; and

(H) section 2561 of title 10, United States Code, relating to authority to provide humanitarian assistance; and

(2) a description of each foreign-assistance related program that the Department of Defense undertakes or implements on behalf of any other department or agency of the United States Government, including programs under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(c) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may contain a classified annex.

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

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

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

**SEC. 1210. EXTENSION AND ENHANCEMENT OF AUTHORITY FOR SECURITY AND STABILIZATION ASSISTANCE.**

(a) PROGRAM FOR ASSISTANCE.—Section 1207 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3458) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following:

"(d) FORMULATION AND IMPLEMENTATION OF PROGRAM FOR ASSISTANCE.—The Secretary of State shall coordinate with the Secretary of Defense in the formulation and implementation of a program of reconstruction, security, or stabilization assistance to a foreign country that involves the provision of services or transfer of defense articles or funds under subsection (a).".

(b) ONE-YEAR EXTENSION.—Subsection (g) of such section, as redesignated by subsection (a) of this section, is amended by striking "September 30, 2007" and inserting "September 30, 2008".

**SEC. 1211. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON GLOBAL PEACE OPERATIONS INITIATIVE.**

(a) REPORT REQUIRED.—Not later than June 1, 2008, the Comptroller General of the United States shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report assessing the Global Peace Operations Initiative.

(b) CONTENT.—The report required under subsection (a) shall include the following:

(1) An assessment of whether, and to what extent, the Global Peace Operations Initiative has met the goals set by the President at the inception of the program in 2004.

(2) Which goals, if any, remain unfulfilled.

(3) A description of activities conducted by each member state of the Group of Eight (G–8), including the approximate cost of the activities, and the approximate percentage of the

total monetary value of the activities conducted by each G–8 member, including the United States, as well as efforts by the President to seek contributions or participation by other G–8 members.

(4) A description of any activities conducted by non-G–8 members, or other organizations and institutions, as well as any efforts by the President to solicit contributions or participation.

(5) A description of the extent to which the Global Peace Operations Initiative has had global participation.

(6) A description of the administration of the program by the Department of State and Department of Defense, including—

(A) whether each Department should concentrate administration in one office or bureau, and if so, which one;

(B) the extent to which the two Departments coordinate and the quality of their coordination; and

(C) the extent to which contractors are used and an assessment of the quality and timeliness of the results achieved by the contractors, and whether the United States Government might have achieved similar or better results without contracting out functions.

(7) A description of the metrics, if any, that are used by the President and the G–8 to measure progress in implementation of the Global Peace Operations Initiative, including—

(A) assessments of the quality and sustainability of the training of individual soldiers and units;

(B) the extent to which the G–8 and participating countries maintain records or databases of trained individuals and units and conduct inspections to measure and monitor the continued readiness of such individuals and units;

(C) the extent to which the individuals and units are equipped and remain equipped to deploy in peace operations; and

(D) the extent to which, the timeline by which, and how individuals and units can be mobilized for peace operations.

(8) The extent to which, the timeline by which, and how individuals and units can be and are being deployed to peace operations.

(9) An assessment of whether individuals and units trained under the Global Peace Operations Initiative have been utilized in peace operations subsequent to receiving training under the Initiative, whether they will be deployed to upcoming operations in Africa and elsewhere, and the extent to which such individuals and units would be prepared to deploy and participate in such peace operations.

(10) Recommendations as to whether participation in the Global Peace Operations Initiative should require reciprocal participation by countries in peace operations.

(11) Any additional measures that could be taken to enhance the effectiveness of the Global Peace Operations Initiative in terms of—

(A) achieving its stated goals; and

(B) ensuring that individuals and units trained as part of the Initiative are regularly participating in peace operations.

(c) FORM.—To the maximum extent practicable, the report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex, if necessary.

**SEC. 1212. REPEAL OF LIMITATIONS ON MILITARY ASSISTANCE UNDER THE AMERICAN SERVICEMEMBERS' PROTECTION ACT OF 2002.**

(a) REPEAL OF LIMITATIONS.—Section 2007 of the American Servicemembers' Protection Act of 2002 (22 U.S.C. 7426) is repealed.

(b) CONFORMING AMENDMENTS.—Such Act is further amended—

(1) in section 2003 (22 U.S.C. 7422)—

(A) in subsection (a)—

(i) in the heading, by striking "SECTIONS 5 AND 7" and inserting "SECTION 2005"; and

(ii) by striking "sections 2005 and 2007" and inserting "section 2005";

(B) in subsection (b)—

(i) in the heading, by striking "SECTIONS 5 AND 7" and inserting "SECTION 2005"; and

(ii) by striking "sections 2005 and 2007" and inserting "section 2005";

(C) in subsection (c)(2)(A), by striking "sections 2005 and 2007" and inserting "section 2005";

(D) in subsection (d), by striking "sections 2005 and 2007" and inserting "section 2005"; and

(E) in subsection (e), by striking "2006, and 2007" and inserting "and 2006"; and

(2) in section 2013 (22 U.S.C. 7432), by striking paragraph (13).

# Subtitle B—Matters Relating to Iraq and Afghanistan

**SEC. 1221. MODIFICATION OF AUTHORITIES RELATING TO THE OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION.**

(a) PURPOSES.—Subsection (a)(1) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234–1238; 5 U.S.C. App., note to section 8G of Public Law 95–452) is amended by striking "to the Iraq Relief and Reconstruction Fund" and inserting "for the reconstruction of Iraq".

(b) ASSISTANT INSPECTORS GENERAL.—Subsection (d)(1) of such section is amended by striking "the Iraq Relief and Reconstruction Fund" and inserting "amounts appropriated or otherwise made available for the reconstruction of Iraq".

(c) SUPERVISION.—Subsection (e)(2) of such section is amended by striking "the Iraq Relief and Reconstruction Fund" and inserting "amounts appropriated or otherwise made available for the reconstruction of Iraq".

(d) DUTIES.—Subsection (f)(1) of such section is amended by striking "to the Iraq Relief and Reconstruction Fund" and inserting "for the reconstruction of Iraq".

(e) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—Subsection (h) of such section is amended—

(1) in paragraph (1), by inserting after "pay rates" the following: ", and may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of such section)"; and

(2) in paragraph (3), by striking "my enter" and inserting "may enter".

(f) REPORTS.—Subsection (i) of such section is amended by striking "to the Iraq Relief and Reconstruction Fund" each place it appears and inserting "for the reconstruction of Iraq".

(g) DEFINITIONS.—Subsection (m) of such section is amended—

(1) in the heading, by striking "APPROPRIATE COMMITTEES OF CONGRESS DEFINED" and inserting "DEFINITIONS";

(2) by striking "In this section, the term" and inserting the following: "In this section—

"(1) the term";

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(4) in paragraph (1)(B) (as redesignated by paragraph (3) of this subsection), by striking "and International Relations" and inserting "Foreign Affairs, and Oversight and Government Reform";

(5) by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(2) the term 'amounts appropriated or otherwise made available for the reconstruction of Iraq' means amounts appropriated or otherwise made available for any fiscal year—

"(A) to the Iraq Relief and Reconstruction Fund, the Iraq Security Forces Fund, and the Commanders' Emergency Response Program authorized under section 1202 of the National Defense Authorization for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3455–3456); or

"(B) for assistance for the reconstruction of Iraq under—

"(i) the Economic Support Fund authorized under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.);

"(ii) the International Narcotics Control and Law Enforcement account authorized under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291); or

"(iii) any other provision of law.".

(h) TERMINATION DATE.—Subsection (o) of such section is amended—

(1) in paragraph (1), to read as follows:

"(1) The Office of the Inspector General shall terminate 180 days after the date on which amounts appropriated or otherwise made available for the reconstruction of Iraq that are unexpended are less than $250,000,000."; and

(2) in paragraph (2)—

(A) by striking "funds deemed to be"; and

(B) by striking "to the Iraq Relief and Reconstruction Fund" and inserting "for the reconstruction of Iraq".

**SEC. 1222. LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN PURPOSES RELATING TO IRAQ.**

No funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control of the oil resources of Iraq.

**SEC. 1223. REPORT ON UNITED STATES POLICY AND MILITARY OPERATIONS IN IRAQ.**

(a) REPORT.—

(1) IN GENERAL.—Subsection (c) of section 1227 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3465; 50 U.S.C. 1541 note) is amended—

(A) in paragraph (2), by striking "Iraq." and inserting the following: "Iraq, including—

"(A) enacting a broadly-accepted hydrocarbon law that equitably shares revenue among all Iraqis;

"(B) adopting laws necessary for the conduct of provincial and local elections, taking steps to implement such laws, and setting a schedule to conduct provincial and local elections;

"(C) reforming current laws governing the de-Baathification process in a manner that encourages national reconciliation;

"(D) amending the Constitution of Iraq in a manner that encourages national reconciliation;

"(E) allocating and beginning expenditure of $10 billion in Iraqi revenues for reconstruction projects, including delivery of essential services, and implementing such reconstruction projects on an equitable basis; and

"(F) making significant efforts to plan and implement disarmament, demobilization, and reintegration programs relating to Iraqi militias.";

(B) by striking paragraph (3) and inserting the following:

"(3) A detailed description of the Joint Campaign Plan, or any subsequent revisions, updates, or documents that replace or supersede the Joint Campaign Plan, including goals, phases, or other milestones contained in the Joint Campaign Plan. Specifically, the description shall include the following:

"(A) An explanation of conditions required to move through phases of the Joint Campaign Plan, in particular those conditions that must be met in order to provide for the transition of additional security responsibility to the Iraqi Security Forces, and the measurements used to determine progress.

"(B) An assessment of which conditions in the Joint Campaign Plan have been achieved and which conditions have not been achieved. The assessment of those conditions

that have not been achieved shall include a discussion of the factors that have precluded progress.

"(C) A description of any companion or equivalent plan of the Government of Iraq used to measure progress for Iraqi Security Forces undertaking joint operations with Coalition Forces."; and

(C) by adding at the end the following:

"(7) An assessment of the levels of United States Armed Forces required in Iraq for the six-month period following the date of the report, the missions to be undertaken by the Armed Forces in Iraq for such period, and the incremental costs or savings of any proposed changes to such levels or missions.

"(8) A description of the range of conditions that could prompt changes to the levels of United States Armed Forces required in Iraq for the six-month period following the date of the report or the missions to be undertaken by the Armed Forces in Iraq for such period, including the status of planning for such changes to the levels or missions of the Armed Forces in Iraq.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to each report required to be submitted to Congress under section 1227(c) of the National Defense Authorization Act for Fiscal Year 2006 on or after the date of the enactment of this Act.

(b) CONGRESSIONAL BRIEFINGS REQUIRED.—Such section is further amended by adding at the end the following:

Deadlines.

"(d) CONGRESSIONAL BRIEFINGS REQUIRED.—Not later than 30 days after the submission of the first report under subsection (c) on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall meet with the congressional defense committees to brief such committees on the matters described in paragraphs (7) and (8) of subsection (c) contained in the report. Not later than 30 days after the submission of each subsequent report under subsection (c), appropriate senior officials of the Department of Defense shall meet with the congressional defense committees to brief such committees on the matters described in paragraphs (7) and (8) of subsection (c) contained in the report.".

**SEC. 1224. REPORT ON A COMPREHENSIVE SET OF PERFORMANCE INDICATORS AND MEASURES FOR PROGRESS TOWARD MILITARY AND POLITICAL STABILITY IN IRAQ.**

(a) REPORT.—Section 9010(c) of the Department of Defense Appropriations Act, 2007 (division A of Public Law 109–289; 120 Stat. 1307) is amended—

(1) in paragraph (1)(B)—

(A) by striking "and trends" and inserting "trends"; and

(B) by adding at the end before the period the following: ", and progress made in the transition of responsibility for the security of Iraqi provinces to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process"; and

(2) in paragraph (2)—

(A) in subparagraph (C)(i), by adding at the end before the semicolon the following: ", without any support from Coalition Forces";

(B) by redesignating subparagraphs (D) through (J) as subparagraphs (F) through (L), respectively;

(C) by inserting after subparagraph (C) the following:

"(D) The amount and type of support provided by Coalition Forces to the Iraqi Security Forces at each level of operational readiness.

"(E) The number of Iraqi battalions in the Iraqi Army currently conducting operations and the type of operations being conducted.";

(D) by redesignating subparagraphs (H) through (L) (as redesignated by subparagraph (B) of this paragraph) as subparagraphs (I) through (M), respectively;

(E) by inserting after subparagraph (G) (as redesignated by subparagraph (B) of this paragraph) the following:

"(H) The level and effectiveness of the Iraqi Security Forces under the Ministry of Defense in provinces where the United States has formally transferred responsibility for the security of the province to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process."; and

(F) in subparagraph (I) (as redesignated by subparagraphs (B) and (D) of this paragraph)—

(i) in clause (iv), by striking "and" at the end;

(ii) in clause (v), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(vi) the level and effectiveness of the Iraqi Police and other Ministry of Interior Forces in provinces where the United States has formally transferred responsibility for the security of the province to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to each report required to be submitted to Congress under section 9010 of the Department of Defense Appropriations Act, 2007 on or after the date of the enactment of this Act. Applicability.

**SEC. 1225. REPORT ON SUPPORT FROM IRAN FOR ATTACKS AGAINST COALITION FORCES IN IRAQ.**

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, and every 180 days thereafter, the Secretary of Defense, in coordination with the Director of National Intelligence, shall submit to the congressional defense committees a report describing and assessing in detail—

(1) any support or direction provided to anti-coalition forces in Iraq by the Government of Iran or its agents;

(2) the strategy and ambitions in Iraq of the Government of Iran; and

(3) any strategy or efforts by the United States Government to counter the activities of agents of the Government of Iran in Iraq.

(b) FORM.—Each report required under subsection (a) shall be submitted in unclassified form, to the maximum extent practicable, but may contain a classified annex, if necessary.

(c) TERMINATION.—The requirement to submit reports under subsection (a) shall terminate on the date on which the Secretary of Defense, in coordination with the Director of National Intelligence, submits to the congressional defense committees a certification in writing that the Government of Iran has ceased to provide military support to anti-coalition forces that conduct attacks against coalition forces in Iraq.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize or otherwise speak to the use of the Armed Forces against Iran.

**SEC. 1226. SENSE OF CONGRESS ON THE CONSEQUENCES OF A FAILED STATE IN IRAQ.**

It is the sense of Congress that—

(1) a failed state in Iraq will have a negative impact on the Middle East and United States interests in the region; and

(2) the United States should pursue strategies to prevent a failed state in Iraq or to contain the negative effects of a failed state in Iraq.

**SEC. 1227. SENSE OF CONGRESS ON FEDERALISM IN IRAQ.**

It is the sense of Congress that—

(1) policies supported by the United States in the pursuit of a political settlement in Iraq should be consistent with the wishes of the Iraqi people and should not violate the sovereignty of the nation of Iraq;

(2) if the Iraqi people support a political settlement in Iraq based on the final provisions of the Constitution of Iraq that create a federal system of government and allow for the creation of federal regions, consistent with the wishes of the Iraqi people and their elected leaders, the United States should actively support such a political settlement in Iraq;

(3) the active support referred to in paragraph (2) should include—

(A) calling on the international community, including countries with troops in Iraq, the permanent 5 members of the United Nations Security Council, members of the Gulf Cooperation Council, and Iraq's neighbors—

(i) to support an Iraqi political settlement based on federalism;

(ii) to acknowledge the sovereignty and territorial integrity of Iraq; and

(iii) to fulfill commitments for the urgent delivery of significant assistance and debt relief to Iraq, especially those made by the member states of the Gulf Cooperation Council; and

(B) convening a conference for Iraqis to reach an agreement on a comprehensive political settlement based on the federalism law approved by the Iraqi Parliament on October 11, 2006;

(4) the United States should urge the Government of Iraq to quickly agree upon and implement a law providing for the equitable distribution of oil revenues, which is a critical component of a comprehensive political settlement in Iraq, including a potential settlement based upon federalism;

(5) the steps described in paragraphs (2), (3), and (4) could lead to an Iraq that is stable, not a haven for terrorists, and not a threat to its neighbors;

(6) in pursuit of a political settlement in Iraq, whether based on federalism or not, the United States should call on Iraq's neighbors to pledge not to militarily intervene in or destabilize Iraq; and

(7) nothing in this Act should be construed in any way to infringe on the sovereign rights of the nation of Iraq or to imply that the United States wishes to impose a political settlement in Iraq based on federalism if such a political settlement is contrary to the wishes of the Iraqi people.

**SEC. 1228. TRACKING AND MONITORING OF DEFENSE ARTICLES PROVIDED TO THE GOVERNMENT OF IRAQ AND OTHER INDIVIDUALS AND GROUPS IN IRAQ.**

President.

(a) EXPORT AND TRANSFER CONTROL POLICY.—The President shall implement a policy to control the export and transfer of defense articles into Iraq, including implementation of the registration and monitoring system under subsection (c).

(b) REQUIREMENT TO IMPLEMENT CONTROL SYSTEM.—No defense articles may be provided to the Government of Iraq or any other group, organization, citizen, or resident of Iraq until the President certifies to the specified congressional committees that a registration and monitoring system meeting the requirements set forth in subsection (c) has been established.

Certification.

(c) REGISTRATION AND MONITORING SYSTEM.—The registration and monitoring system required under this subsection shall include—

(1) the registration of the serial numbers of all small arms to be provided to the Government of Iraq or to other groups, organizations, citizens, or residents of Iraq;

(2) a program of end-use monitoring of all lethal defense articles provided to such entities or individuals; and

(3) a detailed record of the origin, shipping, and distribution of all defense articles transferred under the Iraq Security Forces Fund or any other security assistance program to such entities or individuals.

(d) REVIEW; EXEMPTION.—

(1) REVIEW.—The President shall periodically review the items subject to the registration and monitoring requirements under subsection (c) to determine what items, if any, should no longer be subject to such registration and monitoring requirements. The President shall transmit to the specified congressional committees the results of each review conducted under this paragraph.

(2) EXEMPTION.—The President may exempt an item from the registration and monitoring requirements under subsection (c) beginning on the date that is 30 days after the date on which the President provides notice of the proposed exemption to the specified congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1(a)). Such notice shall describe any controls to be imposed on such item under any other provision of law.

Notification.

(e) DEFINITIONS.—In this section:

(1) DEFENSE ARTICLE.—The term "defense article" has the meaning given the term in section 644(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(d)).

(2) SMALL ARMS.—The term "small arms" means—

(A) handguns;

(B) shoulder-fired weapons;

(C) light automatic weapons up to and including .50 caliber machine guns;

(D) recoilless rifles up to and including 106mm;

(E) mortars up to and including 81mm;

(F) rocket launchers, man-portable;

(G) grenade launchers, rifle and shoulder fired; and

(H) individually-operated weapons which are portable or can be fired without special mounts or firing devices and which have potential use in civil disturbances and are vulnerable to theft.

(3) SPECIFIED CONGRESSIONAL COMMITTEES.—The term "specified congressional committees" means—

(A) the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives; and

(B) the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect 180 days after the date of the enactment of this Act.

President. Certification.

(2) EXCEPTION.—The President may delay the effective date of this section by an additional period of up to 90 days if the President certifies in writing to the specified congressional committees for such additional period that it is in the vital interest of the United States to do so and includes in the certification a description of such vital interest.

**SEC. 1229. SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION.**

(a) PURPOSES.—The purposes of this section are as follows:

(1) To provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Afghanistan.

(2) To provide for the independent and objective leadership and coordination of, and recommendations on, policies designed to—

(A) promote economy efficiency, and effectiveness in the administration of the programs and operations described in paragraph (1); and

(B) prevent and detect waste, fraud, and abuse in such programs and operations.

(3) To provide for an independent and objective means of keeping the Secretary of State and the Secretary of Defense fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress on corrective action.

(b) OFFICE OF INSPECTOR GENERAL.—There is hereby established the Office of the Special Inspector General for Afghanistan Reconstruction to carry out the purposes of subsection (a). Establishment.

(c) APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.—

(1) APPOINTMENT.—The head of the Office of the Special Inspector General for Afghanistan Reconstruction is the Special Inspector General for Afghanistan Reconstruction (in this section referred to as the "Inspector General"), who shall be appointed by the President. The President may appoint the Special Inspector General for Iraq Reconstruction to serve as the Special Inspector General for Afghanistan Reconstruction, in which case the Special Inspector General for Iraq Reconstruction shall have all of the duties, responsibilities, and authorities set forth under this section with respect to such appointed position for the purpose of carrying out this section. President.

(2) QUALIFICATIONS.—The appointment of the Inspector General shall be made solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(3) DEADLINE FOR APPOINTMENT.—The appointment of an individual as Inspector General shall be made not later than 30 days after the date of the enactment of this Act.

(4) COMPENSATION.—The annual rate of basic pay of the Inspector General shall be the annual rate of basic pay provided for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) PROHIBITION ON POLITICAL ACTIVITIES.—For purposes of section 7324 of title 5, United States Code, the Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(6) REMOVAL.—The Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

(d) ASSISTANT INSPECTORS GENERAL.—The Inspector General shall, in accordance with applicable laws and regulations governing the civil service— Appointments.

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations supported by amounts appropriated or otherwise made available for the reconstruction of Afghanistan; and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

(e) SUPERVISION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Inspector General shall report directly to, and be under the general supervision of, the Secretary of State and the Secretary of Defense.

(2) INDEPENDENCE TO CONDUCT INVESTIGATIONS AND AUDITS.—No officer of the Department of Defense, the Department of State, or the United States Agency for International Development shall prevent or prohibit the Inspector General

from initiating, carrying out, or completing any audit or investigation related to amounts appropriated or otherwise made available for the reconstruction of Afghanistan or from issuing any subpoena during the course of any such audit or investigation.

(f) DUTIES.—

(1) OVERSIGHT OF AFGHANISTAN RECONSTRUCTION.—It shall be the duty of the Inspector General to conduct, supervise, and coordinate audits and investigations of the treatment, handling, and expenditure of amounts appropriated or otherwise made available for the reconstruction of Afghanistan, and of the programs, operations, and contracts carried out utilizing such funds, including—

(A) the oversight and accounting of the obligation and expenditure of such funds;

(B) the monitoring and review of reconstruction activities funded by such funds;

(C) the monitoring and review of contracts funded by such funds;

(D) the monitoring and review of the transfer of such funds and associated information between and among departments, agencies, and entities of the United States and private and nongovernmental entities;

(E) the maintenance of records on the use of such funds to facilitate future audits and investigations of the use of such fund;

(F) the monitoring and review of the effectiveness of United States coordination with the Government of Afghanistan and other donor countries in the implementation of the Afghanistan Compact and the Afghanistan National Development Strategy; and

(G) the investigation of overpayments such as duplicate payments or duplicate billing and any potential unethical or illegal actions of Federal employees, contractors, or affiliated entities and the referral of such reports, as necessary, to the Department of Justice to ensure further investigations, prosecutions, recovery of further funds, or other remedies.

(2) OTHER DUTIES RELATED TO OVERSIGHT.—The Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Inspector General considers appropriate to discharge the duties under paragraph (1).

(3) DUTIES AND RESPONSIBILITIES UNDER INSPECTOR GENERAL ACT OF 1978.—In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978.

(4) COORDINATION OF EFFORTS.—In carrying out the duties, responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of each of the following:

(A) The Inspector General of the Department of Defense.

(B) The Inspector General of the Department of State.

(C) The Inspector General of the United States Agency for International Development.

(g) POWERS AND AUTHORITIES.—

(1) AUTHORITIES UNDER INSPECTOR GENERAL ACT OF 1978.—In carrying out the duties specified in subsection (f), the Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978, including the authorities under subsection (e) of such section.

(2) AUDIT STANDARDS.—The Inspector General shall carry out the duties specified in subsection (f)(1) in accordance with section 4(b)(1) of the Inspector General Act of 1978.

(h) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—

(1) PERSONNEL.—The Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(2) EMPLOYMENT OF EXPERTS AND CONSULTANTS.—The Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–15 of the General Schedule by section 5332 of such title.

(3) CONTRACTING AUTHORITY.—To the extent and in such amounts as may be provided in advance by appropriations Acts, the Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

(4) RESOURCES.—The Secretary of State or the Secretary of Defense, as appropriate, shall provide the Inspector General with appropriate and adequate office space at appropriate locations of the Department of State or the Department of Defense, as the case may be, in Afghanistan, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(5) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—Upon request of the Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Inspector General, or an authorized designee.

(B) REPORTING OF REFUSED ASSISTANCE.—Whenever information or assistance requested by the Inspector General is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary of State or the Secretary of Defense, as appropriate, and to the appropriate congressional committees without delay.

(6) USE OF PERSONNEL, FACILITIES, AND OTHER RESOURCES OF THE OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION.—Upon the request of the Inspector General, the Special Inspector General for Iraq Reconstruction—

(A) may detail, on a reimbursable basis, any of the personnel of the Office of the Special Inspector General for Iraq Reconstruction to the Office of the Inspector General for Afghanistan Reconstruction for the purpose of carrying out this section; and

(B) may provide, on a reimbursable basis, any of the facilities or other resources of the Office of the Special Inspector General for Iraq Reconstruction to the Office of the Inspector General for Afghanistan Reconstruction for the purpose of carrying out this section.

(i) REPORTS.—

(1) QUARTERLY REPORTS.—Not later than 30 days after the end of each fiscal-year quarter, the Inspector General shall submit to the appropriate congressional committees a report summarizing, for the period of that quarter and, to the extent possible, the period from the end of such quarter to the time of the submission of the report, the activities during such period of the Inspector General and the activities under programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Afghanistan. Each report shall include, for the period covered by such report, a detailed statement of all obligations, expenditures, and revenues associated with reconstruction and rehabilitation activities in Afghanistan, including the following:

(A) Obligations and expenditures of appropriated funds.

(B) A project-by-project and program-by-program accounting of the costs incurred to date for the reconstruction of Afghanistan, together with the estimate of the Department of Defense, the Department of State, and the United States Agency for International Development, as applicable, of the costs to complete each project and each program.

(C) Revenues attributable to or consisting of funds provided by foreign nations or international organizations to programs and projects funded by any department or agency of the United States Government, and any obligations or expenditures of such revenues.

(D) Revenues attributable to or consisting of foreign assets seized or frozen that contribute to programs and projects funded by any department or agency of the United States Government, and any obligations or expenditures of such revenues.

(E) Operating expenses of agencies or entities receiving amounts appropriated or otherwise made available for the reconstruction of Afghanistan.

(F) In the case of any contract, grant, agreement, or other funding mechanism described in paragraph (2)—

(i) the amount of the contract, grant, agreement, or other funding mechanism;

(ii) a brief discussion of the scope of the contract, grant, agreement, or other funding mechanism;

(iii) a discussion of how the department or agency of the United States Government involved in the contract, grant, agreement, or other funding mechanism

identified, and solicited offers from, potential individuals or entities to perform the contract, grant, agreement, or other funding mechanism, together with a list of the potential individuals or entities that were issued solicitations for the offers; and

(iv) the justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(2) COVERED CONTRACTS, GRANTS, AGREEMENTS, AND FUNDING MECHANISMS.—A contract, grant, agreement, or other funding mechanism described in this paragraph is any major contract, grant, agreement, or other funding mechanism that is entered into by any department or agency of the United States Government that involves the use of amounts appropriated or otherwise made available for the reconstruction of Afghanistan with any public or private sector entity for any of the following purposes:

(A) To build or rebuild physical infrastructure of Afghanistan.

(B) To establish or reestablish a political or societal institution of Afghanistan.

(C) To provide products or services to the people of Afghanistan.

(3) PUBLIC AVAILABILITY.—The Inspector General shall publish on a publically-available Internet website each report under paragraph (1) of this subsection in English and other languages that the Inspector General determines are widely used and understood in Afghanistan. Web site.

(4) FORM.—Each report required under this subsection shall be submitted in unclassified form, but may include a classified annex if the Inspector General considers it necessary.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the public disclosure of information that is—

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

(j) REPORT COORDINATION.—

(1) SUBMISSION TO SECRETARIES OF STATE AND DEFENSE.—The Inspector General shall also submit each report required under subsection (i) to the Secretary of State and the Secretary of Defense.

(2) SUBMISSION TO CONGRESS.—Not later than 30 days after receipt of a report under paragraph (1), the Secretary of State or the Secretary of Defense may submit to the appropriate congressional committees any comments on the matters covered by the report as the Secretary of State or the Secretary of Defense, as the case may be, considers appropriate. Any comments on the matters covered by the report shall be submitted in unclassified form, but may include a classified annex if the Secretary of State or the Secretary of Defense, as the case may be, considers it necessary.

(k) TRANSPARENCY.—

(1) REPORT.—Not later than 60 days after submission to the appropriate congressional committees of a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly make copies of the report available to the public upon request, and at a reasonable cost.

(2) COMMENTS ON MATTERS COVERED BY REPORT.—Not later than 60 days after submission to the appropriate congressional committees under subsection (j)(2) of comments on a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly make copies of the comments available to the public upon request, and at a reasonable cost.

President.

(l) WAIVER.—

(1) AUTHORITY.—The President may waive the requirement under paragraph (1) or (2) of subsection (k) with respect to availability to the public of any element in a report under subsection (i), or any comment under subsection (j)(2), if the President determines that the waiver is justified for national security reasons.

Federal Register, publication.

(2) NOTICE OF WAIVER.—The President shall publish a notice of each waiver made under this subsection in the Federal Register no later than the date on which a report required under subsection (i), or any comment under subsection (j)(2), is submitted to the appropriate congressional committees. The report and comments shall specify whether waivers under this subsection were made and with respect to which elements in the report or which comments, as appropriate.

(m) DEFINITIONS.—In this section:

(1) AMOUNTS APPROPRIATED OR OTHERWISE MADE AVAILABLE FOR THE RECONSTRUCTION OF AFGHANISTAN.—The term "amounts appropriated or otherwise made available for the reconstruction of Afghanistan" means—

(A) amounts appropriated or otherwise made available for any fiscal year—

(i) to the Afghanistan Security Forces Fund; or

(ii) to the program to assist the people of Afghanistan established under subsection (a)(2) of section 1202 of the National Defense Authorization for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3455–3456); and

(B) amounts appropriated or otherwise made available for any fiscal year for the reconstruction of Afghanistan under—

(i) the Economic Support Fund;

(ii) the International Narcotics Control and Law Enforcement account; or

(iii) any other provision of law.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(B) the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives.

(n) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $20,000,000 for fiscal year 2008 to carry out this section.

(2) OFFSET.—The amount authorized to be appropriated by section 1513 for the Afghanistan Security Forces Fund is hereby reduced by $20,000,000.

(o) TERMINATION.—

(1) IN GENERAL.—The Office of the Special Inspector General for Afghanistan Reconstruction shall terminate 180 days after the date on which amounts appropriated or otherwise made available for the reconstruction of Afghanistan that are unexpended are less than $250,000,000.

(2) FINAL REPORT.—The Inspector General shall, prior to the termination of the Office of the Special Inspector General for Afghanistan Reconstruction under paragraph (1), prepare and submit to the appropriate congressional committees a final forensic audit report on programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Afghanistan.

**SEC. 1230. REPORT ON PROGRESS TOWARD SECURITY AND STABILITY IN AFGHANISTAN.**

President.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter through the end of fiscal year 2010, the President, acting through the Secretary of Defense, shall submit to the appropriate congressional committees a report on progress toward security and stability in Afghanistan.

(b) COORDINATION.—The report required under subsection (a) shall be prepared in coordination with the Secretary of State, the Director of National Intelligence, the Attorney General, the Administrator of the Drug Enforcement Administration, the Administrator of the United States Agency for International Development, the Secretary of Agriculture, and the head of any other department or agency of the Government of the United States involved with activities relating to security and stability in Afghanistan.

(c) MATTERS TO BE INCLUDED: STRATEGIC DIRECTION OF UNITED STATES ACTIVITIES RELATING TO SECURITY AND STABILITY IN AFGHANISTAN.—The report required under subsection (a) shall include a description of a comprehensive strategy of the United States for security and stability in Afghanistan. The description of such strategy shall consist of a general overview and a separate detailed section for each of the following:

(1) NORTH ATLANTIC TREATY ORGANIZATION INTERNATIONAL SECURITY ASSISTANCE FORCE.—A description of the following:

(A) Efforts of the United States to work with countries participating in the North Atlantic Treaty Organization (NATO) International Security Assistance Force (ISAF) in Afghanistan (hereafter in this section referred to as "NATO ISAF countries").

(B) Any actions by the United States to achieve the following goals relating to strengthening the NATO ISAF, and the results of such actions:

(i) Encourage NATO ISAF countries to fulfill commitments to the NATO ISAF mission in Afghanistan, and ensure adequate contributions to efforts to build the capacity of the Afghanistan National Security Forces (ANSF), counter-narcotics efforts, and

reconstruction and development activities in Afghanistan.

(ii) Remove national caveats on the use of forces deployed as part of the NATO ISAF.

(iii) Reduce the number of civilian casualties resulting from military operations of NATO ISAF countries and mitigate the impact of such casualties on the Afghan people.

(2) AFGHANISTAN NATIONAL SECURITY FORCES.—A description of the following:

(A) A comprehensive and effective long-term strategy and budget, with defined objectives, for activities relating to strengthening the resources, capabilities, and effectiveness of the Afghanistan National Army (ANA) and the Afghanistan National Police (ANP) of the ANSF, with the goal of ensuring that a strong and fully-capable ANSF is able to independently and effectively conduct operations and maintain security and stability in Afghanistan.

(B) Any actions by the United States to achieve the following goals relating to building the capacity of the ANSF, and the results of such actions:

(i) Improve coordination with all relevant departments and agencies of the Government of the United States, as well as NATO ISAF countries and other international partners.

(ii) Improve ANSF recruitment and retention, including through improved vetting and salaries for the ANSF.

(iii) Increase and improve ANSF training and mentoring.

(iv) Strengthen the partnership between the Government of the United States and the Government of Afghanistan.

(3) PROVINCIAL RECONSTRUCTION TEAMS AND OTHER RECONSTRUCTION AND DEVELOPMENT ACTIVITIES.—A description of the following:

(A) A comprehensive and effective long-term strategy and budget, with defined objectives, for reconstruction and development in Afghanistan, including a long-term strategy with a mission and objectives for each United States-led Provincial Reconstruction Team (PRT) in Afghanistan.

(B) Any actions by the United States to achieve the following goals with respect to reconstruction and development in Afghanistan, and the results of such actions:

(i) Improve coordination with all relevant departments and agencies of the Government of the United States, as well as NATO ISAF countries and other international partners.

(ii) Clarify the chain of command, and operations plans for United States-led PRTs that are appropriate to meet the needs of the relevant local communities.

(iii) Promote coordination among PRTs.

(iv) Ensure that each PRT is adequately staffed, particularly with civilian specialists, and that such staff receive appropriate training.

(v) Expand the ability of the Afghan people to assume greater responsibility for their own reconstruction and development projects.

(vi) Strengthen the partnership between the Government of the United States and the Government of Afghanistan.

(vii) Ensure proper reconstruction and development oversight activities, including implementation, where appropriate, of recommendations of any United States inspectors general, including the Special Inspector General for Afghanistan Reconstruction appointed pursuant to section 1229.

(4) COUNTER-NARCOTICS ACTIVITIES.—A description of the following:

(A) A comprehensive and effective long-term strategy and budget, with defined objectives, for the activities of the Department of Defense relating to counter-narcotics efforts in Afghanistan, including—

(i) roles and missions of the Department of Defense within the overall counter-narcotics strategy for Afghanistan of the Government of the United States, including a statement of priorities;

(ii) a detailed, comprehensive, and effective strategy with defined one-year, three-year, and five-year objectives and a description of the accompanying allocation of resources of the Department of Defense to accomplish such objectives;

(iii) in furtherance of the strategy described in clause (i), actions that the Department of Defense is taking and has planned to take to—

(I) improve coordination within the Department of Defense and with all relevant departments and agencies of the Government of the United States;

(II) strengthen significantly the Afghanistan National Counter-narcotics Police;

(III) build the capacity of local and provincial governments of Afghanistan and the national Government of Afghanistan to assume greater responsibility for counter-narcotics-related activities, including interdiction; and

(IV) improve counter-narcotics-related intelligence capabilities and tactical use of such capabilities by the Department of Defense and other appropriate departments and agencies of the Government of the United States; and

(iv) the impact, if any, including the disadvantages and advantages, if any, on the primary counter-terrorism mission of the United States military of providing enhanced logistical support to departments and agencies of the Government of the United States and counter-narcotics partners of the United States in their interdiction efforts, including apprehending or eliminating major drug traffickers in Afghanistan.

(B) The counter-narcotics roles and missions assumed by the local and provincial governments of Afghanistan and the national Government of Afghanistan, appropriate

departments and agencies of the Government of the United States (other than the Department of Defense), the NATO ISAF, and the governments of other countries.

(C) The plan and efforts to coordinate the counter-narcotics strategy and activities of the Department of Defense with the counter-narcotics strategy and activities of the Government of Afghanistan, the NATO-led interdiction and security forces, other appropriate countries, and other counter-narcotics partners of the United States, and the results of such efforts.

(D) The progress made by the governments, organizations, and entities specified in subparagraph (B) in executing designated roles and missions, and in coordinating and implementing counternarcotics plans and activities, and based on the results of this progress whether, and to what extent, roles and missions for the Department of Defense should be altered in the future, or should remain unaltered.

(5) PUBLIC CORRUPTION AND RULE OF LAW.—A description of any actions, and the results of such actions, to help the Government of Afghanistan fight public corruption and strengthen governance and the rule of law at the local, provincial, and national levels.

(6) REGIONAL CONSIDERATIONS.—A description of any actions and the results of such actions to increase cooperation with countries geographically located around Afghanistan's border, with a particular focus on improving security and stability in the Afghanistan-Pakistan border areas.

(d) MATTERS TO BE INCLUDED: PERFORMANCE INDICATORS AND MEASURES OF PROGRESS TOWARD SUSTAINABLE LONG-TERM SECURITY AND STABILITY IN AFGHANISTAN.—

(1) IN GENERAL.—The report required under subsection (a) shall set forth a comprehensive set of performance indicators and measures of progress toward sustainable long-term security and stability in Afghanistan, as specified in paragraph (2), and shall include performance standards and progress goals, together with a notional timetable for achieving such goals.

(2) PERFORMANCE INDICATORS AND MEASURES OF PROGRESS SPECIFIED.—The performance indicators and measures of progress specified in this paragraph shall include, at a minimum, the following:

(A) With respect to the NATO ISAF, an assessment of unfulfilled NATO ISAF mission requirements and contributions from individual NATO ISAF countries, including levels of troops and equipment, the effect of contributions on operations, and unfulfilled commitments.

(B) An assessment of military operations of the NATO ISAF, including of NATO ISAF countries, and an assessment of separate military operations by United States forces. Such assessments shall include—

(i) indicators of a stable security environment in Afghanistan, such as number of engagements per day, and trends relating to the numbers and types of hostile encounters; and

(ii) the effects of national caveats that limit operations, geographic location of operations, and estimated number of civilian casualties.

(C) For the Afghanistan National Army (ANA), and separately for the Afghanistan National Police (ANP), of the Afghanistan National Security Forces (ANSF) an assessment of the following:

(i) Recruitment and retention numbers, rates of absenteeism, vetting procedures, and salary scale.

(ii) Numbers trained, numbers receiving mentoring, the type of training and mentoring, and number of trainers, mentors, and advisers needed to support the ANA and ANP and associated ministries.

(iii) Type of equipment used.

(iv) Operational readiness status of ANSF units, including the type, number, size, and organizational structure of ANA and ANP units that are—

(I) capable of conducting operations independently;

(II) capable of conducting operations with the support of the United States, NATO ISAF forces, or other coalition forces; or

(III) not ready to conduct operations.

(v) Effectiveness of ANA and ANP officers and the ANA and ANP chain of command.

(vi) Extent to which insurgents have infiltrated the ANA and ANP.

(vii) Estimated number and capability level of the ANA and ANP needed to perform duties now undertaken by NATO ISAF countries, separate United States forces and other coalition forces, including defending the borders of Afghanistan and providing adequate levels of law and order throughout Afghanistan.

(D) An assessment of the estimated strength of the insurgency in Afghanistan and the extent to which it is composed of non-Afghan fighters and utilizing weapons or weapons-related materials from countries other than Afghanistan.

(E) A description of all terrorist and insurgent groups operating in Afghanistan, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and any efforts to disarm or reintegrate each such group.

(F) An assessment of security and stability, including terrorist and insurgent activity, in Afghanistan-Pakistan border areas and in Pakistan's Federally Administered Tribal Areas.

(G) An assessment of United States military requirements, including planned force rotations, for the twelve-month period following the date of the report required under subsection (a).

(H) For reconstruction and development, an assessment of the following:

(i) The location, funding (including the sources of funding), staffing requirements, current staffing levels, and activities of each United States-led Provincial Reconstruction Team.

(ii) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Afghanistan, including—

(I) the indicators set forth in the Afghanistan Compact, which consist of roads, education, health, agriculture, and electricity; and

(II) unemployment and poverty levels.

(I) For counter-narcotics efforts, an assessment of the activities of the Department of Defense in Afghanistan, as described in subsection (c)(4), and the effectiveness of such activities.

(J) Key measures of political stability relating to both central and local Afghan governance.

(K) For public corruption and rule of law, an assessment of anti-corruption and law enforcement activities at the local, provincial, and national levels and the effectiveness of such activities.

(e) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex, if necessary.

(f) CONGRESSIONAL BRIEFINGS.—The Secretary of Defense shall supplement the report required under subsection (a) with regular briefings to the appropriate congressional committees on the subject matter of the report.

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

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

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

**SEC. 1231. UNITED STATES PLAN FOR SUSTAINING THE AFGHANISTAN NATIONAL SECURITY FORCES.**

(a) PLAN REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter through the end of fiscal year 2010, the Secretary of Defense shall submit to the appropriate congressional committees a report on a long-term detailed plan for sustaining the Afghanistan National Army (ANA) and the Afghanistan National Police (ANP) of the Afghanistan National Security Forces (ANSF), with the objective of ensuring that a strong and fully-capable ANSF will be able to independently and effectively conduct operations and maintain long-term security and stability in Afghanistan.

(b) COORDINATION.—The report required under subsection (a) shall be prepared in coordination with the Secretary of State.

(c) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include a description of the following matters relating to the plan for sustaining the ANSF:

(1) A comprehensive and effective long-term strategy and budget, with defined objectives.

(2) A mechanism for tracking funding, equipment, training, and services provided for the ANSF by the United States, countries participating in the North Atlantic Treaty Organization (NATO) International Security Assistance Force (ISAF) in Afghanistan (hereafter in this section referred to as "NATO ISAF countries"), and other coalition forces that are not part of the NATO ISAF.

(3) Any actions to assist the Government of Afghanistan achieve the following goals, and the results of such actions:

(A) Build and sustain effective Afghan security institutions with fully-capable leadership and staff, including a reformed Ministry of Interior, a fully-established Ministry of Defense, and logistics, intelligence, medical, and recruiting units (hereafter in this section referred to as "ANSF-sustaining institutions").

(B) Train and equip fully-capable ANSF that are capable of conducting operations independently and in sufficient numbers.

(C) Establish strong ANSF-readiness assessment tools and metrics.

(D) Build and sustain strong, professional ANSF officers at the junior-, mid-, and senior-levels.

(E) Develop strong ANSF communication and control between central command and regions, provinces, and districts.

(F) Establish a robust mentoring and advising program, and a strong professional military training and education program, for all ANSF officials.

(G) Establish effective merit-based salary, rank, promotion, and incentive structures for the ANSF.

(H) Develop mechanisms for incorporating lessons learned and best practices into ANSF operations.

(I) Establish an ANSF personnel accountability system with effective internal discipline procedures and mechanisms, and a system for addressing ANSF personnel complaints.

(J) Ensure effective ANSF oversight mechanisms, including a strong record-keeping system to track ANSF equipment and personnel.

(4) Coordination with all relevant departments and agencies of the Government of the United States, as well as NATO ISAF countries and other international partners, including on—

(A) funding;

(B) reform and establishment of ANSF-sustaining institutions; and

(C) efforts to ensure that progress on sustaining the ANSF is reinforced with progress in other pillars of the Afghan security sector, particularly progress on building an effective judiciary, curbing production and trafficking of illicit narcotics, and demobilizing, disarming, and reintegrating militia fighters.

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

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

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

**SEC. 1232. REPORT ON ENHANCING SECURITY AND STABILITY IN THE REGION ALONG THE BORDER OF AFGHANISTAN AND PAKISTAN.**

(a) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than March 31, 2008, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report on enhancing security and stability in the region along the border of Afghanistan and Pakistan.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include the following:

(A) A detailed description of the efforts by the Government of Pakistan to achieve the following objectives:

(i) Eliminate safe havens for Taliban, Al Qaeda, and other violent extremist forces on the national territory of Pakistan.

(ii) Prevent the movement of such forces across the border of Pakistan into Afghanistan to engage in insurgent or terrorist activities.

(B) An assessment of the Secretary of Defense as to whether Pakistan is making substantial and sustained efforts to achieve the objectives specified in subparagraph (A).

(3) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(4) LIMITATION.—

(A) IN GENERAL.—If the Secretary of Defense does not submit the report required under paragraph (1) by March 31, 2008, then after such date the Government of Pakistan may not be reimbursed under the authority of any provision of law described in subparagraph (B) for logistical, military, or other support provided by Pakistan to the United States until the Secretary submits to the appropriate congressional committees the report required by such paragraph.

(B) PROVISIONS OF LAW.—The provisions of law referred to in subparagraph (A) are the following:

(i) Section 1233.

(ii) Any other provision of law under which payments are authorized to reimburse key cooperating nations for logistical, military, or other support provided by that nation to or in connection with United States military operations.

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

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

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

(b) NOTIFICATION RELATING TO DEPARTMENT OF DEFENSE COALITION SUPPORT FUNDS FOR PAKISTAN.—

(1) NOTIFICATION.—

Deadline.

(A) IN GENERAL.—Not less than 15 days before making any reimbursement to the Government of Pakistan under

the authority of any provision of law described in subparagraph (B) for logistical, military, or other support provided by Pakistan to the United States, the Secretary of Defense shall submit to the congressional defense committees a written notification that contains a detailed description of such logistical, military, or other support.

(B) PROVISIONS OF LAW.—The provisions of law referred to in subparagraph (A) are the following:

(i) Section 1233.

(ii) Any other provision of law under which payments are authorized to reimburse key cooperating nations for logistical, military, or other support provided by that nation to or in connection with United States military operations.

(2) MATTERS TO BE INCLUDED.—Each notification required under paragraph (1) shall include an itemized description of the following support provided by Pakistan to the United States for which the United States will provide reimbursement:

(A) Logistic support, supplies, and services, as such term is defined in section 2350(1) of title 10, United States Code.

(B) Military support.

(C) Any other support or services.

(3) FORM.—Each notification required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(4) RELATIONSHIP TO OTHER NOTIFICATION REQUIREMENTS.—Each notification required under paragraph (1) shall be in addition to any notification requirements under any provision of law described in subparagraph (B) of such paragraph.

(5) EFFECTIVE DATE.—The requirement to submit notifications under paragraph (1) shall apply with respect to reimbursements to the Government of Pakistan for logistical, military, or other support provided by Pakistan to the United States during the period beginning on February 1, 2008, and ending on September 30, 2009. Applicability.

**SEC. 1233. REIMBURSEMENT OF CERTAIN COALITION NATIONS FOR SUPPORT PROVIDED TO UNITED STATES MILITARY OPERATIONS.**

(a) AUTHORITY.—From funds made available for the Department of Defense by section 1508 for operation and maintenance, Defense-wide activities, the Secretary of Defense may reimburse any key cooperating nation for logistical and military support provided by that nation to or in connection with United States military operations in Operation Iraqi Freedom or Operation Enduring Freedom.

(b) AMOUNTS OF REIMBURSEMENT.—

(1) IN GENERAL.—Reimbursement authorized by subsection (a) may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State and in consultation with the Director of the Office of Management and Budget, may determine, based on documentation determined by the Secretary of Defense to adequately account for the support provided.

(2) STANDARDS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall Deadline.

prescribe standards for determining the kinds of logistical and military support to the United States that shall be considered reimbursable under the authority in subsection (a). Such standards may not take effect until 15 days after the date on which the Secretary submits to the congressional defense committees a report setting forth such standards.

(c) LIMITATIONS.—

(1) LIMITATION ON AMOUNT.—The total amount of reimbursements made under the authority in subsection (a) during fiscal year 2008 may not exceed $1,200,000,000.

(2) PROHIBITION ON CONTRACTUAL OBLIGATIONS TO MAKE PAYMENTS.—The Secretary of Defense may not enter into any contractual obligation to make a reimbursement under the authority in subsection (a).

Deadline. Reports.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall—

(1) notify the congressional defense committees not less than 15 days before making any reimbursement under the authority in subsection (a); and

(2) submit to the congressional defense committees on a quarterly basis a report on any reimbursements made under the authority in subsection (a) during such quarter.

**SEC. 1234. LOGISTICAL SUPPORT FOR COALITION FORCES SUPPORTING OPERATIONS IN IRAQ AND AFGHANISTAN.**

(a) AVAILABILITY OF FUNDS FOR LOGISTICAL SUPPORT.—Subject to the provisions of this section, amounts available to the Department of Defense for fiscal year 2008 for operation and maintenance may be used to provide supplies, services, transportation (including airlift and sealift), and other logistical support to coalition forces supporting United States military and stabilization operations in Iraq and Afghanistan.

(b) REQUIRED DETERMINATION.—The Secretary may provide logistical support under the authority in subsection (a) only if the Secretary determines that the coalition forces to be provided the logistical support—

(1) are essential to the success of a United States military or stabilization operation; and

(2) would not be able to participate in such operation without the provision of the logistical support.

(c) COORDINATION WITH EXPORT CONTROL LAWS.—Logistical support may be provided under the authority in subsection (a) only in accordance with applicable provisions of the Arms Export Control Act and other export control laws of the United States.

(d) LIMITATION ON VALUE.—The total amount of logistical support provided under the authority in subsection (a) in fiscal year 2008 may not exceed $400,000,000.

(e) QUARTERLY REPORTS.—

(1) REPORTS REQUIRED.—Not later than 15 days after the end of each fiscal-year quarter of fiscal year 2008, the Secretary shall submit to the congressional defense committees a report on the provision of logistical support under the authority in subsection (a) during such fiscal-year quarter.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the fiscal-year quarter covered by such report, the following:

(A) Each nation provided logistical support under the authority in subsection (a).

(B) For each such nation, a description of the type and value of logistical support so provided.

## Subtitle C—Iraq Refugee Crisis

Refugee Crisis in Iraq Act of 2007.

**SEC. 1241. SHORT TITLE.**

This subtitle may be cited as the "Refugee Crisis in Iraq Act of 2007".

**SEC. 1242. PROCESSING MECHANISMS.**

(a) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall establish or use existing refugee processing mechanisms in Iraq and in countries, where appropriate, in the region in which—

(1) aliens described in section 1243 may apply and interview for admission to the United States as refugees; and

(2) aliens described in section 1244(b) may apply and interview for admission to United States as special immigrants.

(b) SUSPENSION.—If such is determined necessary, the Secretary of State, in consultation with the Secretary of Homeland Security, may suspend in-country processing under subsection (a) for a period not to exceed 90 days. Such suspension may be extended by the Secretary of State upon notification to the Committee on the Judiciary of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, the Committee on the Judiciary of the Senate, and the Committee on Foreign Relations of the Senate. The Secretary of State shall submit to such committees a report outlining the basis of any such suspension and any extensions thereof.

Notification.

Reports.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit to the committees specified in subsection (b) a report that—

(1) describes the Secretary of State's plans to establish the processing mechanisms required under subsection (a);

(2) contains an assessment of in-country processing that makes use of videoconferencing; and

(3) describes the Secretary of State's diplomatic efforts to improve issuance of exit permits to Iraqis who have been provided special immigrant status under section 1244 and Iraqi refugees under section 1243.

**SEC. 1243. UNITED STATES REFUGEE PROGRAM PROCESSING PRIORITIES.**

(a) IN GENERAL.—Refugees of special humanitarian concern eligible for Priority 2 processing under the refugee resettlement priority system who may apply directly to the United States Admission Program shall include—

(1) Iraqis who were or are employed by the United States Government, in Iraq;

(2) Iraqis who establish to the satisfaction of the Secretary of State that they are or were employed in Iraq by—

(A) a media or nongovernmental organization headquartered in the United States; or

(B) an organization or entity closely associated with the United States mission in Iraq that has received United

States Government funding through an official and documented contract, award, grant, or cooperative agreement; and

(3) spouses, children, and parents whether or not accompanying or following to join, and sons, daughters, and siblings of aliens described in paragraph (1), paragraph (2), or section 1244(b)(1); and

(4) Iraqis who are members of a religious or minority community, have been identified by the Secretary of State, or the designee of the Secretary, as a persecuted group, and have close family members (as described in section 201(b)(2)(A)(i) or 203(a) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i) and 1153(a))) in the United States.

(b) IDENTIFICATION OF OTHER PERSECUTED GROUPS.—The Secretary of State, or the designee of the Secretary, is authorized to identify other Priority 2 groups of Iraqis, including vulnerable populations.

(c) INELIGIBLE ORGANIZATIONS AND ENTITIES.—Organizations and entities described in subsection (a)(2) shall not include any that appear on the Department of the Treasury's list of Specially Designated Nationals or any entity specifically excluded by the Secretary of Homeland Security, after consultation with the Secretary of State and the heads of relevant elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(d) APPLICABILITY OF OTHER REQUIREMENTS.—Aliens under this section who qualify for Priority 2 processing under the refugee resettlement priority system shall satisfy the requirements of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) for admission to the United States.

President. (e) NUMERICAL LIMITATIONS.—In determining the number of Iraqi refugees who should be resettled in the United States under paragraphs (2), (3), and (4) of subsection (a) and subsection (b) of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), the President shall consult with the heads of nongovernmental organizations that have a presence in Iraq or experience in assessing the problems faced by Iraqi refugees.

(f) ELIGIBILITY FOR ADMISSION AS REFUGEE.—No alien shall be denied the opportunity to apply for admission under this section solely because such alien qualifies as an immediate relative or is eligible for any other immigrant classification.

**SEC. 1244. SPECIAL IMMIGRANT STATUS FOR CERTAIN IRAQIS.**

(a) IN GENERAL.—Subject to subsection (c), the Secretary of Homeland Security, or, notwithstanding any other provision of law, the Secretary of State in consultation with the Secretary of Homeland Security, may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), if the alien—

(1) or an agent acting on behalf of the alien, submits a petition for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4));

(2) is otherwise eligible to receive an immigrant visa;

(3) is otherwise admissible to the United States for permanent residence (excluding the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)); and

(4) cleared a background check and appropriate screening, as determined by the Secretary of Homeland Security.

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—An alien is described in this subsection if the alien—

(A) is a citizen or national of Iraq;

(B) was or is employed by or on behalf of the United States Government in Iraq, on or after March 20, 2003, for not less than one year;

(C) provided faithful and valuable service to the United States Government, which is documented in a positive recommendation or evaluation, subject to paragraph (4), from the employee's senior supervisor or the person currently occupying that position, or a more senior person, if the employee's senior supervisor has left the employer or has left Iraq; and

(D) has experienced or is experiencing an ongoing serious threat as a consequence of the alien's employment by the United States Government.

(2) SPOUSES AND CHILDREN.—An alien is described in this subsection if the alien—

(A) is the spouse or child of a principal alien described in paragraph (1); and

(B) is accompanying or following to join the principal alien in the United States.

(3) TREATMENT OF SURVIVING SPOUSE OR CHILD.—An alien is described in subsection (b) if the alien—

(A) was the spouse or child of a principal alien described in paragraph (1) who had a petition for classification approved pursuant to this section or section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 8 U.S.C. 1101 note), which included the alien as an accompanying spouse or child; and

(B) due to the death of the principal alien—

(i) such petition was revoked or terminated (or otherwise rendered null); and

(ii) such petition would have been approved if the principal alien had survived.

(4) APPROVAL BY CHIEF OF MISSION REQUIRED.—A recommendation or evaluation required under paragraph (1)(C) shall be accompanied by approval from the Chief of Mission, or the designee of the Chief of Mission, who shall conduct a risk assessment of the alien and an independent review of records maintained by the United States Government or hiring organization or entity to confirm employment and faithful and valuable service to the United States Government prior to approval of a petition under this section.

(c) NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—The total number of principal aliens who may be provided special immigrant status under this section may not exceed 5,000 per year for each of the five fiscal years beginning after the date of the enactment of this Act.

(2) EXCLUSION FROM NUMERICAL LIMITATIONS.—Aliens provided special immigrant status under this section shall not be counted against any numerical limitation under sections

201(d), 202(a), or 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4)).

(3) CARRY FORWARD.—

(A) FISCAL YEARS ONE THROUGH FOUR.—If the numerical limitation specified in paragraph (1) is not reached during a given fiscal year referred to in such paragraph (with respect to fiscal years one through four), the numerical limitation specified in such paragraph for the following fiscal year shall be increased by a number equal to the difference between—

(i) the numerical limitation specified in paragraph (1) for the given fiscal year; and

(ii) the number of principal aliens provided special immigrant status under this section during the given fiscal year.

(B) FISCAL YEARS FIVE AND SIX.—If the numerical limitation specified in paragraph (1) is not reached in the fifth fiscal year beginning after the date of the enactment of this Act, the total number of principal aliens who may be provided special immigrant status under this section for the sixth fiscal year beginning after such date shall be equal to the difference between—

(i) the numerical limitation specified in paragraph (1) for the fifth fiscal year; and

(ii) the number of principal aliens provided such status under this section during the fifth fiscal year.

(d) VISA AND PASSPORT ISSUANCE AND FEES.—Neither the Secretary of State nor the Secretary of Homeland Security may charge an alien described in subsection (b) any fee in connection with an application for, or issuance of, a special immigrant visa. The Secretary of State shall make a reasonable effort to ensure that aliens described in this section who are issued special immigrant visas are provided with the appropriate series Iraqi passport necessary to enter the United States.

(e) PROTECTION OF ALIENS.—The Secretary of State, in consultation with the heads of other relevant Federal agencies, shall make a reasonable effort to provide an alien described in this section who is applying for a special immigrant visa with protection or the immediate removal from Iraq, if possible, of such alien if the Secretary determines after consultation that such alien is in imminent danger.

(f) ELIGIBILITY FOR ADMISSION UNDER OTHER CLASSIFICATION.—No alien shall be denied the opportunity to apply for admission under this section solely because such alien qualifies as an immediate relative or is eligible for any other immigrant classification.

(g) RESETTLEMENT SUPPORT.—Iraqi aliens granted special immigrant status described in section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act (8 U.S.C. 1157) for a period not to exceed eight months.

(h) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect the authority of the Secretary of Homeland Security under section 1059 of the National Defense Authorization Act for Fiscal Year 2006.

**SEC. 1245. SENIOR COORDINATOR FOR IRAQI REFUGEES AND INTERNALLY DISPLACED PERSONS.**

(a) DESIGNATION IN IRAQ.—The Secretary of State shall designate in the embassy of the United States in Baghdad, Iraq, a Senior Coordinator for Iraqi Refugees and Internally Displaced Persons (referred to in this section as the "Senior Coordinator").

(b) RESPONSIBILITIES.—The Senior Coordinator shall be responsible for the oversight of processing for the resettlement in the United States of refugees of special humanitarian concern, special immigrant visa programs in Iraq, and the development and implementation of other appropriate policies and programs concerning Iraqi refugees and internally displaced persons. The Senior Coordinator shall have the authority to refer persons to the United States refugee resettlement program.

(c) DESIGNATION OF ADDITIONAL SENIOR COORDINATORS.—The Secretary of State shall designate in the embassies of the United States in Cairo, Egypt, Amman, Jordan, Damascus, Syria, and Beirut, Lebanon, a Senior Coordinator to oversee resettlement in the United States of refugees of special humanitarian concern in those countries to ensure their applications to the United States refugee resettlement program are processed in an orderly manner and without delay.

**SEC. 1246. COUNTRIES WITH SIGNIFICANT POPULATIONS OF IRAQI REFUGEES.**

With respect to each country with a significant population of Iraqi refugees, including Iraq, Jordan, Egypt, Syria, Turkey, and Lebanon, the Secretary of State shall—

(1) as appropriate, consult with the appropriate government officials of such countries and other countries and the United Nations High Commissioner for Refugees regarding resettlement of the most vulnerable members of such refugee populations; and

(2) as appropriate, except where otherwise prohibited by the laws of the United States, develop mechanisms in and provide assistance to countries with a significant population of Iraqi refugees to ensure the well-being and safety of such populations in their host environments.

**SEC. 1247. MOTION TO REOPEN DENIAL OR TERMINATION OF ASYLUM.**

An alien who applied for asylum or withholding of removal and whose claim was denied on or after March 1, 2003, by an asylum officer or an immigration judge solely, or in part, on the basis of changed country conditions may, notwithstanding any other provision of law, file a motion to reopen such claim in accordance with subparagraphs (A) and (B) of section 240(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(7)) not later than six months after the date of the enactment of the Refugee Crisis in Iraq Act if the alien—

(1) is a citizen or national of Iraq; and

(2) has remained in the United States since the date of such denial.

**SEC. 1248. REPORTS.**

(a) SECRETARY OF HOMELAND SECURITY.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on the

Judiciary of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, the Committee on the Judiciary of the Senate, and the Committee on Foreign Relations of the Senate a report containing plans to expedite the processing of Iraqi refugees for resettlement, including information relating to—

(1) expediting the processing of Iraqi refugees for resettlement, including through temporary expansion of the Refugee Corps of United States Citizenship and Immigration Services;

(2) increasing the number of personnel of the Department of Homeland Security devoted to refugee processing in Iraq, Jordan, Egypt, Syria, Turkey, and Lebanon;

(3) enhancing existing systems for conducting background and security checks of persons applying for special immigrant status and of persons considered Priority 2 refugees of special humanitarian concern under the refugee resettlement priority system, which enhancements shall support immigration security and provide for the orderly processing of such applications without delay; and

(4) the projections of the Secretary, per country and per month, for the number of refugee interviews that will be conducted in fiscal year 2008 and fiscal year 2009.

(b) PRESIDENT.—Not later than 120 days after the date of the enactment of this Act, and annually thereafter through 2013, the President shall submit to Congress an unclassified report, with a classified annex if necessary, which includes—

(1) an assessment of the financial, security, and personnel considerations and resources necessary to carry out the provisions of this subtitle;

(2) the number of aliens described in section 1243(a)(1);

(3) the number of such aliens who have applied for special immigrant visas;

(4) the date of such applications; and

(5) in the case of applications pending for longer than six months, the reasons that such visas have not been expeditiously processed.

(c) REPORT ON IRAQI CITIZENS AND NATIONALS EMPLOYED BY THE UNITED STATES GOVERNMENT OR FEDERAL CONTRACTORS IN IRAQ.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of State, the Administrator of the United States Agency for International Development, the Secretary of the Treasury, and the Secretary of Homeland Security shall—

(A) review internal records and databases of their respective agencies for information that can be used to verify employment of Iraqi nationals by the United States Government; and

(B) request from each prime contractor or grantee that has performed work in Iraq since March 20, 2003, under a contract, grant, or cooperative agreement with their respective agencies that is valued in excess of $25,000 information that can be used to verify the employment of Iraqi nationals by such contractor or grantee.

(2) INFORMATION REQUIRED.—To the extent data is available, the information referred to in paragraph (1) shall include the name and dates of employment of, biometric data for,

and other data that can be used to verify the employment of each Iraqi citizen or national who has performed work in Iraq since March 20, 2003, under a contract, grant, or cooperative agreement with an executive agency.

(3) EXECUTIVE AGENCY DEFINED.—In this subsection, the term "executive agency" has the meaning given the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(d) REPORT ON ESTABLISHMENT OF DATABASE.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, the Administrator of the United States Agency for International Development, the Secretary of the Treasury, and the Secretary of Homeland Security, shall submit to Congress a report examining the options for establishing a unified, classified database of information related to contracts, grants, or cooperative agreements entered into by executive agencies for the performance of work in Iraq since March 20, 2003, including the information described and collected under subsection (c), to be used by relevant Federal departments and agencies to adjudicate refugee, asylum, special immigrant visa, and other immigration claims and applications.

President. (e) NONCOMPLIANCE REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit a report to Congress that describes—

(1) the inability or unwillingness of any contractor or grantee to provide the information requested under subsection (c)(1)(B); and

(2) the reasons for failing to provide such information.

**SEC. 1249. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

## Subtitle D—Other Authorities and Limitations

**SEC. 1251. COOPERATIVE OPPORTUNITIES DOCUMENTS UNDER COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO ORGANIZATIONS AND OTHER ALLIED AND FRIENDLY FOREIGN COUNTRIES.**

Section 2350a(e) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "(A)";

(B) by striking "an arms cooperation opportunities document" and inserting "a cooperative opportunities document before the first milestone or decision point"; and

(C) by striking subparagraph (B); and

(2) in paragraph (2), by striking "An arms cooperation opportunities document" and inserting "A cooperative opportunities document".

**SEC. 1252. EXTENSION AND EXPANSION OF TEMPORARY AUTHORITY TO USE ACQUISITION AND CROSS-SERVICING AGREEMENTS TO LEND MILITARY EQUIPMENT FOR PERSONNEL PROTECTION AND SURVIVABILITY.**

(a) EXPANSION TO NATIONS ENGAGED IN CERTAIN PEACEKEEPING OPERATIONS.—Subsection (a) of section 1202 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2412) is amended—

(1) in paragraph (1), by inserting "or participating in combined operations with the United States as part of a peacekeeping operation under the Charter of the United Nations or another international agreement" after "Iraq or Afghanistan"; and

(2) in paragraph (3) by inserting ", or in a peacekeeping operation described in paragraph (1), as applicable," after "Iraq or Afghanistan".

(b) ONE-YEAR EXTENSION.—Subsection (e) of such section is amended by striking "September 30, 2008" and inserting "September 30, 2009".

(c) CONFORMING AMENDMENT.—The heading of such section is amended by striking "**FOREIGN FORCES IN IRAQ AND AFGHANISTAN**" and inserting "**CERTAIN FOREIGN FORCES**".

**SEC. 1253. ACCEPTANCE OF FUNDS FROM THE GOVERNMENT OF PALAU FOR COSTS OF UNITED STATES MILITARY CIVIC ACTION TEAM IN PALAU.**

Section 104(a) of Public Law 99–658 (48 U.S.C. 1933(a)) is amended—

(1) by striking "In recognition" and inserting "(1) In recognition"; and

(2) by adding at the end the following:

"(2) For expenditures that the Department of Defense makes pursuant to paragraph (1), the Secretary of Defense may accept up to the amount of $250,000 in annual funds from the Government of Palau as specified in paragraph (1). Funds accepted by the Secretary from the Government of Palau under this paragraph shall be credited to and merged with appropriations available to the Department of Defense and shall be used to defray expenditures attendant to the operation of the United States military Civic Action Team in Palau. Funds so credited and merged shall be available for the same time period as the appropriations to which the funds are credited and merged.".

**SEC. 1254. REPEAL OF REQUIREMENT RELATING TO NORTH KOREA.**

Section 1211 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2420) is amended by striking subsection (a).

**SEC. 1255. JUSTICE FOR OSAMA BIN LADEN AND OTHER LEADERS OF AL QAEDA.**

(a) ENHANCED REWARD FOR CAPTURE OF OSAMA BIN LADEN.—Section 36(e)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(e)(1)) is amended by adding at the end the following new sentence: "The Secretary shall authorize a reward of $50,000,000 for the capture or death or information leading to the capture or death of Osama bin Laden.".

(b) STATUS OF EFFORTS TO BRING OSAMA BIN LADEN AND OTHER LEADERS OF AL QAEDA TO JUSTICE.—

(1) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State and the Secretary of Defense shall, in coordination with the Director of National Intelligence, jointly submit to Congress a report on the progress made in bringing Osama bin Laden and other leaders of al Qaeda to justice.

(2) ELEMENTS.—The report required under paragraph (1) shall include the following:

(A) An assessment of the likely current location of terrorist leaders, including Osama bin Laden, Ayman al-Zawahiri, and other key leaders of al Qaeda.

(B) A description of ongoing efforts to bring to justice such terrorist leaders, particularly those who have been directly implicated in attacks in the United States and its embassies.

(C) An assessment of whether the government of each country assessed as a likely location of top leaders of al Qaeda has fully cooperated in efforts to bring those leaders to justice.

(D) A description of diplomatic efforts currently being made to improve the cooperation of the governments described in subparagraph (C).

(E) A description of the current status of the top leadership of al Qaeda and the strategy for locating them and bringing them to justice.

(F) An assessment of whether al Qaeda remains the terrorist organization that poses the greatest threat to United States interests, including the greatest threat to the territorial United States.

(3) UPDATE OF REPORT.—Not later than one year after the submission of the report required under paragraph (1), the Secretary of State and the Secretary of Defense shall, in coordination with the Director of National Intelligence, jointly submit to Congress an update of the report required under paragraph (1).

(4) FORM.—The report required under paragraph (1) and the update of the report required under paragraph (3) shall be submitted in unclassified form, but may contain a classified annex, if necessary.

**SEC. 1256. EXTENSION OF COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.**

(a) MEMBERS.—Section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended in subsection (a)(1)—

(1) in subparagraph (C) by striking "Director of Central Intelligence" and inserting "Director of National Intelligence"; and

(2) by adding at the end the following:

"(E) The Secretary of State.

"(F) The Secretary of Homeland Security.".

(b) ACCESS TO INFORMATION.—Subsection (d) of such section is amended by inserting after "Department of Energy," the following: "the Department of State, the Department of Homeland Security,".

(c) TERMINATION.—Subsection (f) of such section is amended by striking "2008" and inserting "2013".

(d) SUBMISSION OF REPORT.—Section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended—

(1) in subsection (a)—

(A) by striking "ANNUAL" and inserting "BIENNIAL"; and

(B) by striking "each year" and inserting "each odd-numbered year"; and

(2) in subsection (b)(5)—

(A) by striking "fiscal year preceding" and inserting "two fiscal years preceding"; and

(B) by striking "preceding fiscal year" and inserting "preceding fiscal years".

**SEC. 1257. SENSE OF CONGRESS ON THE WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION.**

It is the sense of Congress that—

(1) the education and training facility of the Department of Defense known as the Western Hemisphere Institute for Security Cooperation has the mission of providing professional education and training to eligible military personnel, law enforcement officials, and civilians of nations of the Western Hemisphere that support the democratic principles set forth in the Inter-American Democratic Charter of the Organization of American States, while fostering mutual knowledge, transparency, confidence, and cooperation among the participating nations and promoting democratic values and respect for human rights; and

(2) therefore, the Institute is an invaluable education and training facility which the Department of Defense should continue to utilize in order to help foster a spirit of partnership and interoperability among the United States military and the militaries of participating nations.

**SEC. 1258. SENSE OF CONGRESS ON IRAN.**

It is the sense of Congress that—

(1) the manner in which the United States transitions and structures its military presence in Iraq will have critical long-term consequences for the future of the Persian Gulf and the Middle East, in particular with regard to the ability of the Government of Iran to pose a threat to the security of the region, the prospects for democracy for the people of the region, and the health of the global economy;

(2) it is in the national interest of the United States that the Government of Iran should not use extremists in Iraq to subvert or co-opt the institutions of the legitimate Government of Iraq;

(3) the United States should designate Iran's Islamic Revolutionary Guards Corps as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) and place the Islamic Revolutionary Guards Corps on the list of Specially Designated Global Terrorists, as established under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and initiated under Executive Order 13224 (September 23, 2001); and

(4) the United States should act with all possible expediency to complete the listing of those entities targeted under United Nations Security Council Resolutions 1737 and 1747,

adopted unanimously on December 23, 2006, and March 24, 2007, respectively.

## Subtitle E—Reports

**SEC. 1261. ONE-YEAR EXTENSION OF UPDATE ON REPORT ON CLAIMS RELATING TO THE BOMBING OF THE LABELLE DISCOTHEQUE.**

Section 1225 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3465) is amended—

(1) in subsection (b)(2)—

(A) in the heading, by striking "UPDATE" and inserting "UPDATES"; and

(B) by inserting "and not later than two years after enactment of this Act," after "Not later than one year after enactment of this Act,"; and

(2) in subsection (c), by striking "Committee on International Relations" and inserting "Committee on Foreign Affairs".

**SEC. 1262. REPORT ON UNITED STATES POLICY TOWARD DARFUR, SUDAN.**

(a) REQUIREMENT FOR REPORT.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly submit to the appropriate congressional committees a report on the policy of the United States to address the crisis in the Darfur region of Sudan, eastern Chad, and north-eastern Central African Republic, and on the contributions of the Department of Defense and the Department of State to the North Atlantic Treaty Organization (NATO), the United Nations, and the African Union in support of the current African Union Mission in Sudan (AMIS) or any covered United Nations mission.

(2) UPDATE OF REPORT.—Not later than 180 days after the submission of the report required under paragraph (1), the Secretary of Defense and the Secretary of State shall jointly submit to the appropriate congressional committees an update of the report.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) An assessment of the extent to which the Government of Sudan is in compliance with its obligations under international law and as a member of the United Nations, including under United Nations Security Council Resolutions 1591 (2005), 1706 (2006), 1769 (2007), and 1784 (2007) and a description of any violations of such obligations, including violations relating to the denial of or delay in facilitating access by AMIS and United Nations peacekeeping forces to conflict areas, failure to implement responsibilities to demobilize and disarm the Janjaweed militias, obstruction of the voluntary safe return of internally displaced persons and refugees, and degradation of security of and access to humanitarian supply routes.

(2) An assessment of the role played by rebel forces in contributing to violence being carried out against civilians and humanitarian organizations and of the impact of such activities

on international efforts to create conditions of peace and security on the ground.

(3) A comprehensive explanation of the policy of the United States to address the crisis in the Darfur region, including the activities undertaken by the Department of Defense and the Department of State in support of that policy.

(4) A comprehensive assessment of the potential impact of a no-fly zone for the Darfur region, including an assessment of the impact of such a no-fly zone on humanitarian efforts in Darfur and the region and a plan to minimize any negative impact on such humanitarian efforts during the implementation of such a no-fly zone.

(5) A description of contributions made by the Department of Defense and the Department of State in support of NATO assistance to AMIS and any covered United Nations mission.

(6) An assessment of the extent to which additional United States Government resources are necessary to meet its obligations to AMIS and any covered United Nations mission.

(7) An assessment of the force size and composition of an international effort estimated to be necessary to provide protection to civilian populations currently displaced in the Darfur region, as well as the force size and composition of an international effort estimated to be necessary to provide broader stability within that region.

(8) An examination of the current capacity of the existing airfield in Abeche, Chad, including the scope of its current use by the international community in response to the crisis in the Darfur region.

(9) An analysis of the upgrades, and their associated costs, necessary to enable the airfield in Abeche, Chad, to be improved to be fully capable of accommodating a humanitarian, peacekeeping, or other force deployment of the size foreseen by United Nations Security Council Resolution 1769 calling for a United Nations deployment to Chad and a hybrid force of the United Nations and African Union operating under Chapter VII of the United Nations Charter for Sudan.

(c) FORM AND AVAILABILITY OF REPORTS.—

(1) FORM.—The report and update of the report required under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

Public information.

(2) AVAILABILITY.—The unclassified portion of the report and update of the report required under subsection (a) shall be made available to the public.

(d) REPEAL OF SUPERSEDED REPORT REQUIREMENT.—Section 1227 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2426) is repealed.

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

(2) COVERED UNITED NATIONS MISSION.—The term "covered United Nations mission" means any United Nations-African Union hybrid peacekeeping operation in the Darfur region of Sudan, and any United Nations peacekeeping operation in the

Darfur region, eastern Chad, or northern Central African Republic, that is deployed on or after the date of the enactment of this Act.

**SEC. 1263. INCLUSION OF INFORMATION ON ASYMMETRIC CAPABILITIES IN ANNUAL REPORT ON MILITARY POWER OF THE PEOPLE'S REPUBLIC OF CHINA.**

Section 1202(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 113 note) is amended by adding at the end the following new paragraph:

"(9) Developments in China's asymmetric capabilities, including efforts to acquire, develop, and deploy cyberwarfare capabilities.".

**SEC. 1264. REPORT ON APPLICATION OF THE UNIFORM CODE OF MILITARY JUSTICE TO CIVILIANS ACCOMPANYING THE ARMED FORCES DURING A TIME OF DECLARED WAR OR CONTINGENCY OPERATION.**

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the status of implementing paragraph (10) of section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), as amended by section 552 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364), related to the application of chapter 47 of such title (the Uniform Code of Military Justice) to persons serving with or accompanying an armed force in the field during a time of declared war or contingency operation.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall include each of the following:

(1) A discussion of how the Secretary has resolved issues related to establishing jurisdiction under such chapter over persons referred to in paragraph (10) of section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), specifically with respect to persons under contract with the Department of Defense or with other Federal agencies.

(2) An identification of any outstanding issues that remain to be resolved with respect to implementing such paragraph and a timetable for resolving such issues.

(3) A description of key implementing steps that have been taken or remain to be taken to assert jurisdiction under chapter 47 of such title over such persons.

(4) An explanation of the Secretary's approach to identifying factors that commanders should consider in determining whether to seek prosecution of such a person under such chapter or under chapter 212 of title 18, United States Code.

**SEC. 1265. REPORT ON FAMILY REUNIONS BETWEEN UNITED STATES CITIZENS AND THEIR RELATIVES IN NORTH KOREA.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress a report on family reunions between United States citizens and their relatives in the Democratic People's Republic of Korea. President.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description of the efforts, if any, of the United States Government to facilitate family reunions between United States citizens and their relatives in North Korea, including the following:

(A) Discussing with North Korea family reunions between United States citizens and their relatives in North Korea.

(B) Planning, in the event of a normalization of relations between the United States and North Korea, for the appropriate role of the United States embassy in Pyongyang, North Korea, in facilitating family reunions between United States citizens and their relatives in North Korea.

(2) A description of additional efforts, if any, of the United States Government to facilitate family reunions between United States citizens and their relatives in North Korea that the President considers to be desirable and feasible.

**SEC. 1266. REPORTS ON PREVENTION OF MASS ATROCITIES.**

(a) DEPARTMENT OF STATE REPORT.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report assessing the capability of the Department of State to provide training and guidance to the command of an international intervention force that seeks to prevent mass atrocities.

(2) CONTENT.—The report required under paragraph (1) shall include the following:

(A) An evaluation of any doctrine currently used by the Secretary of State to prepare for the training and guidance of the command of an international intervention force.

(B) An assessment of the role played by the United States in developing the "responsibility to protect" doctrine described in paragraphs 138 through 140 of the outcome document of the High-level Plenary Meeting of the General Assembly adopted by the United Nations in September 2005, and an update on actions taken by the United States Mission to the United Nations to discuss, promote, and implement such doctrine.

(C) An assessment of the potential capability of the Department of State and other Federal departments and agencies to support the development of new doctrines for the training and guidance of an international intervention force in keeping with the "responsibility to protect" doctrine.

(D) Recommendations as to the steps necessary to allow the Secretary of State to provide more effective training and guidance to an international intervention force.

(b) DEPARTMENT OF DEFENSE REPORT.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report

assessing the capability of the Department of Defense to provide training and guidance to the command of an international intervention force that seeks to prevent mass atrocities.

(2) CONTENT.—The report required under paragraph (1) shall include the following:

(A) An evaluation of any doctrine currently used by the Secretary of Defense to prepare for the training and guidance of the command of an international intervention force.

(B) An assessment of the potential capability of the Department of Defense and other Federal departments and agencies to support the development of new doctrines for the training and guidance of an international intervention force in keeping with the "responsibility to protect" doctrine.

(C) Recommendations as to the steps necessary to allow the Secretary of Defense to provide more effective training and guidance to an international intervention force.

(D) A summary of any assessments or studies of the Department of Defense or other Federal departments or agencies relating to "Operation Artemis", the 2004 French military deployment and intervention in the eastern region of the Democratic Republic of Congo to protect civilians from local warring factions.

(c) INTERNATIONAL INTERVENTION FORCE.—For the purposes of this section, "international intervention force" means a military force that—

(1) is authorized by the United Nations; and

(2) has a mission that is narrowly focused on the protection of civilian life and the prevention of mass atrocities such as genocide.

**SEC. 1267. REPORT ON THREATS TO THE UNITED STATES FROM UNGOVERNED AREAS.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State, in coordination with the Director of National Intelligence, shall jointly submit to the specified congressional committees a report on the threats posed to the United States from ungoverned areas, including the threats to the United States from terrorist groups and individuals located in such areas who direct their activities against the national security interests of the United States and its allies.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A description of those areas the United States Government considers ungoverned, including—

(A) a description of the geo-political and cultural influences exerted within such areas and by whom;

(B) a description of the economic conditions and prospects and the major social dynamics of such areas; and

(C) a description of the United States Government's relationships with entities located in such areas, including with relevant national or other governments and relevant tribal or other groups.

(2) A description of the capabilities required by the United States Government to support United States policy aimed at

managing the threats described in subsection (a), including, specifically, the technical, linguistic, and analytical capabilities required by the Department of Defense and the Department of State.

(3) An assessment of the extent to which the Department of Defense and the Department of State possess the capabilities described in paragraph (2) as well as the necessary resources and organization to support United States policy aimed at managing the threats described in subsection (a).

(4) A description of the extent to which the implementation of Department of Defense Directive 3000.05, entitled "Military Support for Stability, Security, Transition, and Reconstruction Operations", will support United States policy for managing such threats.

(5) A description of the actions, if any, to be taken to improve the capabilities of the Department of Defense and the Department of State described in paragraph (2), and the schedule for implementing any actions so described.

(c) FORM.—The report required under subsection (a) shall be submitted in unclassified form, to the maximum extent practicable, but may contain a classified annex, if necessary.

(d) DEFINITION.—In this section, the term "specified congressional committees" means—

(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

# TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Specification of Cooperative Threat Reduction programs in states outside the former Soviet Union.
Sec. 1304. Repeal of restrictions on assistance to states of the former Soviet Union for Cooperative Threat Reduction.
Sec. 1305. Modification of authority to use Cooperative Threat Reduction funds outside the former Soviet Union.
Sec. 1306. New initiatives for the Cooperative Threat Reduction Program.
Sec. 1307. Report relating to chemical weapons destruction at Shchuch'ye, Russia.
Sec. 1308. National Academy of Sciences study of prevention of proliferation of biological weapons.

## SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

22 USC 5852 note.

(a) SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (50 U.S.C. 2362 note), as amended by section 1303 of this Act.

(b) FISCAL YEAR 2008 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2008 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

**SEC. 1302. FUNDING ALLOCATIONS.**

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $428,048,000 authorized to be appropriated to the Department of Defense for fiscal year 2008 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $92,885,000.

(2) For nuclear weapons storage security in Russia, $47,640,000.

(3) For nuclear weapons transportation security in Russia, $37,700,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $47,986,000.

(5) For biological weapons proliferation prevention in the former Soviet Union, $158,489,000.

(6) For chemical weapons destruction, $6,000,000.

(7) For defense and military contacts, $8,000,000.

(8) For new Cooperative Threat Reduction initiatives that are outside the former Soviet Union, $10,000,000.

(9) For activities designated as Other Assessments/Administrative Support, $19,348,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2008 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (9) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2008 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2008 for a purpose listed in paragraphs (1) through (9) of subsection (a) in excess of the specific amount authorized for that purpose.

(2) NOTICE-AND-WAIT REQUIRED.—An obligation of funds for a purpose stated in paragraphs (1) through (9) of subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

**SEC. 1303. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS IN STATES OUTSIDE THE FORMER SOVIET UNION.**

Section 1501 of the National Defense Authorization Act for Fiscal Year 1997 (50 U.S.C. 2362 note) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following new subsection:

"(c) SPECIFIED PROGRAMS WITH RESPECT TO STATES OUTSIDE THE FORMER SOVIET UNION.—The programs referred to in subsection (a) are the following programs with respect to states that are not states of the former Soviet Union:

"(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of chemical or biological weapons, weapons components, weapons-related materials, and their delivery vehicles.

"(2) Programs to facilitate safe and secure transportation and storage of nuclear weapons, weapons components, and their delivery vehicles.

"(3) Programs to prevent the proliferation of nuclear and chemical weapons, weapons components, and weapons-related military technology and expertise.

"(4) Programs to prevent the proliferation of biological weapons, weapons components, and weapons-related military technology and expertise, which may include activities that facilitate detection and reporting of highly pathogenic diseases or other diseases that are associated with or that could be utilized as an early warning mechanism for disease outbreaks that could impact the Armed Forces of the United States or allies of the United States.

"(5) Programs to expand military-to-military and defense contacts.".

**SEC. 1304. REPEAL OF RESTRICTIONS ON ASSISTANCE TO STATES OF THE FORMER SOVIET UNION FOR COOPERATIVE THREAT REDUCTION.**

(a) IN GENERAL.—

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—The Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) is amended—

(A) by striking section 211; and

(B) in section 212, by striking ", consistent with the findings stated in section 211,".

(2) COOPERATIVE THREAT REDUCTION ACT OF 1993.—Section 1203 of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952) is amended by striking subsection (d).

(3) RUSSIAN CHEMICAL WEAPONS DESTRUCTION FACILITIES.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) is repealed.

(4) CONFORMING REPEAL.—Section 1303 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 22 U.S.C. 5952 note) is repealed.

(b) INAPPLICABILITY OF OTHER RESTRICTIONS.—Section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5852) shall not apply to any Cooperative Threat Reduction program. 22 USC 5852 note.

**SEC. 1305. MODIFICATION OF AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION.**

Section 1308 of the National Defense Authorization Act for Fiscal Year 2004 (22 U.S.C. 5963) is amended—

(1) in subsection (a), by striking "Subject to" and all that follows through "the following:" and inserting "Subject to the provisions of this section, the Secretary of Defense may obligate and expend Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a fiscal year before such fiscal year that remain available for obligation, for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the Secretary of Defense, with the concurrence of the Secretary of State, determines each of the following:";

(2) by striking subsection (c) and redesignating subsections (d) and (e) as (c) and (d), respectively; and

(3) by amending subsection (c) (as so redesignated) to read as follows:

"(c) LIMITATION ON AVAILABILITY OF FUNDS.—

"(1) The Secretary of Defense may not obligate funds for a project or activity under the authority in subsection (a) of this section until the Secretary of Defense, with the concurrence of the Secretary of State, makes each determination specified in that subsection with respect to such project or activity.

"(2) Not later than 10 days after obligating funds under the authority in subsection (a) of this section for a project or activity, the Secretary of Defense and the Secretary of State shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with— Deadline. Notification.

"(A) a justification for such determinations; and

"(B) a description of the scope and duration of such project or activity.".

**SEC. 1306. NEW INITIATIVES FOR THE COOPERATIVE THREAT REDUCTION PROGRAM.**

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

(1) the Department of Defense Cooperative Threat Reduction (CTR) Program should be strengthened and expanded, in part by developing new CTR initiatives;

(2) such new initiatives should—

(A) be well-coordinated with the Department of Energy, the Department of State, and any other relevant United States Government agency or department;

(B) include appropriate transparency and accountability mechanisms, and legal frameworks and agreements between the United States and CTR partner countries;

(C) reflect engagement with non-governmental experts on possible new options for the CTR Program;

(D) include work with the Russian Federation and other countries to establish strong CTR partnerships that, among other things—

(i) increase the role of scientists and government officials of CTR partner countries in designing CTR programs and projects; and

(ii) increase financial contributions and additional commitments to CTR programs and projects from Russia and other partner countries, as appropriate, as evidence that the programs and projects reflect national priorities and will be sustainable;

(E) include broader international cooperation and partnerships, and increased international contributions;

(F) incorporate a strong focus on national programs and sustainability, which includes actions to address concerns raised and recommendations made by the Government Accountability Office, in its report of February 2007 titled "Progress Made in Improving Security at Russian Nuclear Sites, but the Long-Term Sustainability of U.S. Funded Security Upgrades is Uncertain", which pertain to the Department of Defense;

(G) continue to focus on the development of CTR programs and projects that secure nuclear weapons; secure and eliminate chemical and biological weapons and weapons-related materials; and eliminate nuclear, chemical, and biological weapons-related delivery vehicles and infrastructure at the source; and

(H) include efforts to develop new CTR programs and projects in Russia and the former Soviet Union, and in countries and regions outside the former Soviet Union, as appropriate and in the interest of United States national security; and

(3) such new initiatives could include—

(A) programs and projects in Asia and the Middle East; and

(B) activities relating to the denuclearization of the Democratic People's Republic of Korea.

(b) NATIONAL ACADEMY OF SCIENCES STUDY.—

Deadline.

(1) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall enter into an arrangement with the National Academy of Sciences under which the Academy shall carry out a study to analyze options for strengthening and expanding the CTR Program.

(2) MATTERS TO BE INCLUDED IN STUDY.—The Secretary shall provide for the study under paragraph (1) to include—

(A) an assessment of new CTR initiatives described in subsection (a); and

(B) an identification of options and recommendations for strengthening and expanding the CTR Program.

(3) SUBMISSION OF NATIONAL ACADEMY OF SCIENCES REPORT.—The National Academy of Sciences shall submit to Congress a report on the study under this subsection at the same time that such report is submitted to the Secretary of Defense pursuant to subsection (c).

(c) SECRETARY OF DEFENSE REPORT.—

(1) IN GENERAL.—Not later than 90 days after receipt of the report under subsection (b), the Secretary of Defense shall

submit to Congress a report on new CTR initiatives. The report shall include—

(A) a summary of the results of the study carried out under subsection (b);

(B) an assessment by the Secretary of the study; and

(C) a statement of the actions, if any, to be undertaken by the Secretary to implement any recommendations in the study.

(2) FORM.—The report shall be in unclassified form but may include a classified annex if necessary.

(d) FUNDING.—Of the amounts appropriated pursuant to the authorization of appropriations in section 301(19) or otherwise made available for Cooperative Threat Reduction programs for fiscal year 2008, not more than $1,000,000 shall be obligated or expended to carry out this section.

**SEC. 1307. REPORT RELATING TO CHEMICAL WEAPONS DESTRUCTION AT SHCHUCH'YE, RUSSIA.**

(a) DEFINITION.—In this section, the terms "Shchuch'ye project" and "project" mean the Cooperative Threat Reduction Program chemical weapons destruction project located in the area of Shchuch'ye in the Russian Federation.

(b) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the Shchuch'ye project. The report shall include—

(1) a current and detailed cost estimate for completion of the project, to include costs that will be borne by the United States and Russia, respectively; and

(2) a specific strategic and operating plan for completion of the project, which includes—

(A) the Department's plans to ensure robust project management and oversight, including management and oversight with respect to the performance of any contractors;

(B) project quality assurance and sustainability measures;

(C) metrics for measuring project progress with a timetable for achieving goals, including initial systems integration and start-up testing; and

(D) a projected project completion date.

**SEC. 1308. NATIONAL ACADEMY OF SCIENCES STUDY OF PREVENTION OF PROLIFERATION OF BIOLOGICAL WEAPONS.**

(a) STUDY REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall enter into an arrangement with the National Academy of Sciences under which the Academy shall carry out a study to identify areas for cooperation with states other than states of the former Soviet Union under the Cooperative Threat Reduction Program of the Department of Defense in the prevention of proliferation of biological weapons. Deadline.

(b) MATTERS TO BE INCLUDED IN STUDY.—The Secretary shall provide for the study under subsection (a) to include the following:

(1) An assessment of the capabilities and capacity of governments of developing countries to control the containment and use of dual-use technologies of potential interest to terrorist organizations or individuals with hostile intentions.

(2) An assessment of the approaches to cooperative threat reduction used by the states of the former Soviet Union that are of special relevance in preventing the proliferation of biological weapons in other areas of the world.

(3) A brief review of programs of the United States Government and other governments, international organizations, foundations, and other private sector entities that may contribute to the prevention of the proliferation of biological weapons.

(4) Recommendations on steps for integrating activities of the Cooperative Threat Reduction Program relating to biological weapons proliferation prevention with activities of other departments and agencies of the United States, as appropriate, in states outside of the former Soviet Union.

(c) SUBMISSION OF NATIONAL ACADEMY OF SCIENCES REPORT.—The National Academy of Sciences shall submit to Congress a report on the study under subsection (a) at the same time that such report is submitted to the Secretary of Defense pursuant to subsection (d).

(d) SECRETARY OF DEFENSE REPORT.—

(1) IN GENERAL.—Not later than 90 days after receipt of the report required by subsection (a), the Secretary shall submit to the Congress a report on the study carried out under subsection (a).

(2) MATTERS TO BE INCLUDED.—The report under paragraph (1) shall include the following:

(A) A summary of the results of the study carried out under subsection (a).

(B) An assessment by the Secretary of the study.

(C) A statement of the actions, if any, to be undertaken by the Secretary to implement any recommendations in the study.

(3) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(e) FUNDING.—Of the amounts appropriated pursuant to the authorization of appropriations in section 301(19) or otherwise made available for Cooperative Threat Reduction programs for fiscal year 2008, not more than $1,000,000 may be obligated or expended to carry out this section.

# TITLE XIV—OTHER AUTHORIZATIONS

Subtitle A—Military Programs

Sec. 1401. Working capital funds.
Sec. 1402. National Defense Sealift Fund.
Sec. 1403. Defense Health Program.
Sec. 1404. Chemical agents and munitions destruction, Defense.
Sec. 1405. Drug Interdiction and Counter-Drug Activities, Defense-wide.
Sec. 1406. Defense Inspector General.

Subtitle B—National Defense Stockpile

Sec. 1411. Authorized uses of National Defense Stockpile funds.
Sec. 1412. Revisions to required receipt objectives for previously authorized disposals from the National Defense Stockpile.
Sec. 1413. Disposal of ferromanganese.
Sec. 1414. Disposal of chrome metal.

Subtitle C—Armed Forces Retirement Home

Sec. 1421. Authorization of appropriations for Armed Forces Retirement Home.
Sec. 1422. Administration and oversight of the Armed Forces Retirement Home.

# Subtitle A—Military Programs

**SEC. 1401. WORKING CAPITAL FUNDS.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $102,446,000.

(2) For the Defense Working Capital Fund, Defense Commissary, $1,250,300,000.

**SEC. 1402. NATIONAL DEFENSE SEALIFT FUND.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for the National Defense Sealift Fund in the amount of $1,349,094,000.

**SEC. 1403. DEFENSE HEALTH PROGRAM.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2008 for expenses, not otherwise provided for, for the Defense Health Program, in the amount of $23,080,384,000, of which—

(1) $22,583,641,000 is for Operation and Maintenance;

(2) $134,482,000 is for Research, Development, Test, and Evaluation; and

(3) $362,261,000 is for Procurement.

**SEC. 1404. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2008 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, in the amount of $1,512,724,000, of which—

(1) $1,181,500,000 is for Operation and Maintenance;

(2) $312,800,000 is for Research, Development, Test, and Evaluation; and

(3) $18,424,000 is for Procurement.

(b) USE.—Amounts authorized to be appropriated under subsection (a) are authorized for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

**SEC. 1405. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2008 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, in the amount of $938,022,000.

**SEC. 1406. DEFENSE INSPECTOR GENERAL.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2008 for expenses, not otherwise

provided for, for the Office of the Inspector General of the Department of Defense, in the amount of $225,995,000, of which—

(1) $224,995,000 is for Operation and Maintenance; and

(2) $1,000,000 is for Procurement.

# Subtitle B—National Defense Stockpile

**SEC. 1411. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2008, the National Defense Stockpile Manager may obligate up to $44,825,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

Notification.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

**SEC. 1412. REVISIONS TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM THE NATIONAL DEFENSE STOCKPILE.**

(a) FISCAL YEAR 2000 DISPOSAL AUTHORITY.—Section 3402(b) of the National Defense Authorization Act for Fiscal Year 2000 (50 U.S.C. 98d note), as amended by section 3302 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1788) and section 3302 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3545), is amended by striking "$600,000,000 before" in paragraph (5) and inserting "$710,000,000 by".

(b) FISCAL YEAR 1999 DISPOSAL AUTHORITY.—Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 98d note), as amended by section 3302 of the Ronald W. Reagan National Defense Authorization Act for Year 2005 (Public Law 108–375; 118 Stat. 2193), section 3302 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3545), and section 3302(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2513), is amended by striking "$1,016,000,000 by the end of fiscal year 2014" in paragraph (7) and inserting "$1,066,000,000 by the end of fiscal year 2015".

50 USC 98d note.

**SEC. 1413. DISPOSAL OF FERROMANGANESE.**

(a) DISPOSAL AUTHORIZED.—The Secretary of Defense may dispose of up to 50,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2008.

(b) CONTINGENT AUTHORITY FOR ADDITIONAL DISPOSAL.— Contracts. Deadline.

(1) IN GENERAL.—If the Secretary of Defense enters into a contract for the disposal of the total quantity of ferromanganese authorized for disposal by subsection (a) before September 30, 2008, the Secretary of Defense may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(2) ADDITIONAL AMOUNTS.—If the Secretary enters into a contract for the disposal of the total quantity of additional ferromanganese authorized for disposal by paragraph (1) before September 30, 2008, the Secretary may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(c) CERTIFICATION.—The Secretary of Defense may dispose of ferromanganese under the authority of paragraph (1) or (2) of subsection (b) only if the Secretary submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, written certification that—

(1) the disposal of the additional ferromanganese from the National Defense Stockpile under such paragraph is in the interest of national defense;

(2) the disposal of the additional ferromanganese under such paragraph will not cause disruption to the usual markets of producers and processors of ferromanganese in the United States; and

(3) the disposal of the additional ferromanganese under such paragraph is consistent with the requirements and purpose of the National Defense Stockpile.

(d) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

**SEC. 1414. DISPOSAL OF CHROME METAL.** 50 USC 98d note.

(a) DISPOSAL AUTHORIZED.—The Secretary of Defense may dispose of up to 500 short tons of chrome metal from the National Defense Stockpile during fiscal year 2008.

(b) CONTINGENT AUTHORITY FOR ADDITIONAL DISPOSAL.— Deadline.

(1) IN GENERAL.—If the Secretary of Defense completes the disposal of the total quantity of chrome metal authorized for disposal by subsection (a) before September 30, 2008, the Secretary of Defense may dispose of up to an additional 250 short tons of chrome metal from the National Defense Stockpile before that date.

(2) ADDITIONAL AMOUNTS.—If the Secretary completes the disposal of the total quantity of additional chrome metal authorized for disposal by paragraph (1) before September 30, 2008, the Secretary may dispose of up to an additional 250 short tons of chrome metal from the National Defense Stockpile before that date.

(c) CERTIFICATION.—The Secretary of Defense may dispose of chrome metal under the authority of paragraph (1) or (2) of subsection (b) only if the Secretary submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than 30 days before the commencement of disposal under the applicable paragraph, written certification that— Deadline.

(1) the disposal of the additional chrome metal from the National Defense Stockpile is in the interest of national defense;

(2) the disposal of the additional chrome metal will not cause disruption to the usual markets of producers and processors of chrome metal in the United States; and

(3) the disposal of the additional chrome metal is consistent with the requirements and purpose of the National Defense Stockpile.

(d) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

## Subtitle C—Armed Forces Retirement Home

### SEC. 1421. AUTHORIZATION OF APPROPRIATIONS FOR ARMED FORCES RETIREMENT HOME.

There is authorized to be appropriated for fiscal year 2008 from the Armed Forces Retirement Home Trust Fund the sum of $61,624,000 for the operation of the Armed Forces Retirement Home.

### SEC. 1422. ADMINISTRATION AND OVERSIGHT OF THE ARMED FORCES RETIREMENT HOME.

(a) ROLE OF SECRETARY OF DEFENSE.—Section 1511 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 411) is amended—

(1) in subsection (d), by adding at the end the following new paragraph:

"(3) The administration of the Retirement Home (including administration for the provision of health care and medical care for residents) shall remain under the direct authority, control, and administration of the Secretary of Defense."; and

(2) in subsection (h), by adding at the end the following new sentence: "The annual report shall include an assessment of all aspects of each facility of the Retirement Home, including the quality of care at the facility.".

(b) ACCREDITATION.—Subsection (g) of section 1511 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 411) is amended to read as follows:

"(g) ACCREDITATION.—The Chief Operating Officer shall secure and maintain accreditation by a nationally recognized civilian accrediting organization for each aspect of each facility of the Retirement Home, including medical and dental care, pharmacy, independent living, and assisted living and nursing care.".

(c) SPECTRUM OF CARE.—Section 1513(b) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 413(b)) is amended by inserting after the first sentence the following new sentence: "The services provided residents of the Retirement Home shall include appropriate nonacute medical and dental services, pharmaceutical services, and transportation of residents, which shall be provided at no cost to residents.".

(d) SENIOR MEDICAL ADVISOR FOR RETIREMENT HOME.—

(1) DESIGNATION AND DUTIES OF SENIOR MEDICAL ADVISOR.—The Armed Forces Retirement Home Act of 1991

is amended by inserting after section 1513 (24 U.S.C. 413) the following new section:

**"SEC. 1513A. IMPROVED HEALTH CARE OVERSIGHT OF RETIREMENT HOME.** 24 USC 413a.

"(a) DESIGNATION OF SENIOR MEDICAL ADVISOR.—(1) The Secretary of Defense shall designate the Deputy Director of the TRICARE Management Activity to serve as the Senior Medical Advisor for the Retirement Home.

"(2) The Deputy Director of the TRICARE Management Activity shall serve as Senior Medical Advisor for the Retirement Home in addition to performing all other duties and responsibilities assigned to the Deputy Director of the TRICARE Management Activity at the time of the designation under paragraph (1) or afterward.

"(b) RESPONSIBILITIES.—(1) The Senior Medical Advisor shall provide advice to the Secretary of Defense, the Under Secretary of Defense for Personnel and Readiness, and the Chief Operating Officer regarding the direction and oversight of the provision of medical, preventive mental health, and dental care services at each facility of the Retirement Home.

"(2) The Senior Medical Advisor shall also provide advice to the Local Board for a facility of the Retirement Home regarding all medical and medical administrative matters of the facility.

"(c) DUTIES.—In carrying out the responsibilities set forth in subsection (b), the Senior Medical Advisor shall perform the following duties:

"(1) Ensure the timely availability to residents of the Retirement Home, at locations other than the Retirement Home, of such acute medical, mental health, and dental care as such resident may require that is not available at the applicable facility of the Retirement Home.

"(2) Ensure compliance by the facilities of the Retirement Home with accreditation standards, applicable health care standards of the Department of Veterans Affairs, or any other applicable health care standards and requirements (including requirements identified in applicable reports of the Inspector General of the Department of Defense).

"(3) Periodically visit and inspect the medical facilities and medical operations of each facility of the Retirement Home.

"(4) Periodically examine and audit the medical records and administration of the Retirement Home.

"(5) Consult with the Local Board for each facility of the Retirement Home not less frequently than once each year.

"(d) ADVISORY BODIES.—In carrying out the responsibilities set forth in subsection (b) and the duties set forth in subsection (c), the Senior Medical Advisor may establish and seek the advice of such advisory bodies as the Senior Medical Advisor considers appropriate.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1501(b) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 401 note) is amended by inserting after the item relating to section 1513 the following new item:

"1513A. Improved health care oversight of Retirement Home.".

(e) LOCAL BOARDS OF TRUSTEES.—

(1) DUTIES.—Subsection (b) of section 1516 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 416) is amended to read as follows:

"(b) DUTIES.—(1) The Local Board for a facility shall serve in an advisory capacity to the Director of the facility and to the Chief Operating Officer.

"(2) The Local Board for a facility shall provide to the Chief Operating Officer and the Director of the facility such guidance and recommendations on the administration of the facility as the Local Board considers appropriate.

"(3) Not less often than annually, the Local Board for a facility shall provide to the Under Secretary of Defense for Personnel and Readiness an assessment of all aspects of the facility, including the quality of care at the facility.".

(2) COMPOSITION.—Subparagraph (K) of subsection (c) of such section is amended to read as follows:

"(K) One senior representative of one of the chief personnel officers of the Armed Forces, who shall be a commissioned officer of the Armed Forces serving on active duty in the grade of brigadier general, or in the case of the Navy or Coast Guard, rear admiral (lower half).".

(f) INSPECTION OF RETIREMENT HOME.—Section 1518 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 418) is amended to read as follows:

**"SEC. 1518. INSPECTION OF RETIREMENT HOME.**

"(a) DUTY OF INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.—The Inspector General of the Department of Defense shall have the duty to inspect the Retirement Home.

"(b) INSPECTIONS BY INSPECTOR GENERAL.—(1) In any year in which a facility of the Retirement Home is not inspected by a nationally recognized civilian accrediting organization, the Inspector General of the Department of Defense shall perform a comprehensive inspection of all aspects of that facility, including independent living, assisted living, medical and dental care, pharmacy, financial and contracting records, and any aspect of either facility on which the Local Board for the facility or the resident advisory committee or council of the facility recommends inspection.

"(2) The Inspector General shall be assisted in inspections under this subsection by a medical inspector general of a military department designated for purposes of this subsection by the Secretary of Defense.

"(3) In conducting the inspection of a facility of the Retirement Home under this subsection, the Inspector General shall solicit concerns, observations, and recommendations from the Local Board for the facility, the resident advisory committee or council of the facility, and the residents of the facility. Any concerns, observations, and recommendations solicited from residents shall be solicited on a not-for-attribution basis.

"(4) The Chief Operating Officer and the Director of each facility of the Retirement Home shall make all staff, other personnel, and records of each facility available to the Inspector General in a timely manner for purposes of inspections under this subsection.

"(c) REPORTS ON INSPECTIONS BY INSPECTOR GENERAL.—(1) The Inspector General shall prepare a report describing the results of each inspection conducted of a facility of the Retirement Home

under subsection (b), and include in the report such recommendations as the Inspector General considers appropriate in light of the inspection. Not later than 45 days after completing the inspection of the facility, the Inspector General shall submit the report to Congress and the Secretary of Defense, the Under Secretary of Defense for Personnel and Readiness, the Chief Operating Officer, the Director of the facility, the Senior Medical Advisor, and the Local Board for the facility.

"(2) Not later than 45 days after receiving a report of the Inspector General under paragraph (1), the Director of the facility concerned shall submit to the Secretary of Defense, the Under Secretary of Defense for Personnel and Readiness, the Chief Operating Officer, and the Local Board for the facility, and to Congress, a plan to address the recommendations and other matters set forth in the report.

"(d) ADDITIONAL INSPECTIONS.—(1) The Chief Operating Officer shall request the inspection of each facility of the Retirement Home by a nationally recognized civilian accrediting organization in accordance with section 1511(g).

"(2) The Chief Operating Officer and the Director of a facility being inspected under this subsection shall make all staff, other personnel, and records of the facility available to the civilian accrediting organization in a timely manner for purposes of inspections under this subsection.

"(e) REPORTS ON ADDITIONAL INSPECTIONS.—(1) Not later than 45 days after receiving a report of an inspection from the civilian accrediting organization under subsection (d), the Director of the facility concerned shall submit to the Under Secretary of Defense for Personnel and Readiness, the Chief Operating Officer, and the Local Board for the facility a report containing—

"(A) the results of the inspection; and

"(B) a plan to address any recommendations and other matters set forth in the report.

"(2) Not later than 45 days after receiving a report and plan under paragraph (1), the Secretary of Defense shall submit the report and plan to Congress.".

(g) ARMED FORCES RETIREMENT HOME TRUST FUND.—Section 1519 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 419) is amended by adding at the end the following new subsection:

"(d) REPORTING REQUIREMENTS.—The Chief Financial Officer of the Armed Forces Retirement Home shall comply with the reporting requirements of subchapter II of chapter 35 of title 31, United States Code.".

# TITLE XV—AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Sec. 1501. Purpose.
Sec. 1502. Army procurement.
Sec. 1503. Navy and Marine Corps procurement.
Sec. 1504. Air Force procurement.
Sec. 1505. Joint Improvised Explosive Device Defeat Fund.
Sec. 1506. Defense-wide activities procurement.
Sec. 1507. Research, development, test, and evaluation.

Sec. 1508. Operation and maintenance.
Sec. 1509. Working capital funds.
Sec. 1510. Other Department of Defense programs.
Sec. 1511. Iraq Freedom Fund.
Sec. 1512. Iraq Security Forces Fund.
Sec. 1513. Afghanistan Security Forces Fund.
Sec. 1514. Military personnel.
Sec. 1515. Strategic Readiness Fund.
Sec. 1516. Treatment as additional authorizations.
Sec. 1517. Special transfer authority.

**SEC. 1501. PURPOSE.**

The purpose of this title is to authorize appropriations for the Department of Defense for fiscal year 2008 to provide additional funds for Operation Iraqi Freedom and Operation Enduring Freedom.

**SEC. 1502. ARMY PROCUREMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for procurement accounts for the Army in amounts as follows:

(1) For aircraft procurement, $2,086,864,000.

(2) For ammunition procurement, $513,600,000.

(3) For weapons and tracked combat vehicles procurement, $7,289,697,000.

(4) For missile procurement, $641,764,000.

(5) For other procurement, $32,478,568,000.

**SEC. 1503. NAVY AND MARINE CORPS PROCUREMENT.**

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2008 for procurement accounts for the Navy in amounts as follows:

(1) For aircraft procurement, $3,908,458,000.

(2) For weapons procurement, $318,281,000.

(3) For other procurement, $1,870,597,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2008 for the procurement account for the Marine Corps in the amount of $5,519,740,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2008 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $609,890,000.

**SEC. 1504. AIR FORCE PROCUREMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for procurement accounts for the Air Force in amounts as follows:

(1) For aircraft procurement, $5,828,239,000.

(2) For ammunition procurement, $104,405,000.

(3) For missile procurement, $1,800,000.

(4) For other procurement, $4,528,126,000.

**SEC. 1505. JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized for fiscal year 2008 for the Joint Improvised Explosive Device Defeat Fund in the amount of $4,541,000,000.

(b) USE AND TRANSFER OF FUNDS.—Subsections (b) and (c) of section 1514 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2439) shall apply to the funds appropriated pursuant to the authorization of appropriations in subsection (a).

(c) REVISION OF MANAGEMENT PLAN.—The Secretary of Defense shall revise the management plan required by section 1514(d) of the John Warner National Defense Authorization Act for Fiscal Year 2007 to identify projected transfers and obligations through September 30, 2008.

(d) DURATION OF AUTHORITY.—Section 1514(f) of the John Warner National Defense Authorization Act for Fiscal Year 2007 is amended by striking "September 30, 2009" and inserting "September 30, 2010". 120 Stat. 2439.

**SEC. 1506. DEFENSE-WIDE ACTIVITIES PROCUREMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for the procurement account for Defense-wide activities in the amount of $768,157,000.

**SEC. 1507. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $183,299,000.
(2) For the Navy, $695,996,000.
(3) For the Air Force, $1,457,710,000.
(4) For Defense-wide activities, $1,320,088,000.

**SEC. 1508. OPERATION AND MAINTENANCE.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $54,929,551,000.
(2) For the Navy, $6,249,793,000.
(3) For the Marine Corps, $4,674,688,000.
(4) For the Air Force, $10,798,473,000.
(5) For Defense-wide activities, $6,424,085,000.
(6) For the Army Reserve, $196,694,000.
(7) For the Navy Reserve, $83,407,000.
(8) For the Marine Corps Reserve, $68,193,000.
(9) For the Army National Guard, $757,008,000.
(10) For the Air Force Reserve, $24,266,000.
(11) For the Air National Guard, $103,267,000.

**SEC. 1509. WORKING CAPITAL FUNDS.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $1,957,675,000.
(2) For the National Defense Sealift Fund, $5,110,000.

**SEC. 1510. OTHER DEPARTMENT OF DEFENSE PROGRAMS.**

(a) DEFENSE HEALTH PROGRAM.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2008 for expenses, not otherwise provided for, for the Defense Health Program in the amount of $1,137,442,000 for operation and maintenance.

(b) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2008 for expenses,

not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide in the amount of $257,618,000.

(c) DEFENSE INSPECTOR GENERAL.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2008 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense in the amount of $4,394,000 for operation and maintenance.

**SEC. 1511. IRAQ FREEDOM FUND.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2008 for the Iraq Freedom Fund in the amount of $207,500,000.

(b) TRANSFER.—

(1) TRANSFER AUTHORIZED.—Subject to paragraph (2), amounts authorized to be appropriated by subsection (a) may be transferred from the Iraq Freedom Fund to any accounts as follows:

(A) Operation and maintenance accounts of the Armed Forces.

(B) Military personnel accounts.

(C) Research, development, test, and evaluation accounts of the Department of Defense.

(D) Procurement accounts of the Department of Defense.

(E) Accounts providing funding for classified programs.

(F) The operating expenses account of the Coast Guard.

Deadline.

(2) NOTICE TO CONGRESS.—A transfer may not be made under the authority in paragraph (1) until five days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the transfer.

(3) TREATMENT OF TRANSFERRED FUNDS.—Amounts transferred to an account under the authority in paragraph (1) shall be merged with amounts in such account and shall be made available for the same purposes, and subject to the same conditions and limitations, as amounts in such account.

(4) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount transferred.

**SEC. 1512. IRAQ SECURITY FORCES FUND.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 2008 for the Iraq Security Forces Fund in the amount of $3,000,000,000.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds appropriated pursuant to subsection (a) shall be available to the Secretary of Defense for the purpose of allowing the Commander, Multi-National Security Transition Command–Iraq, to provide assistance to the security forces of Iraq.

(2) TYPES OF ASSISTANCE AUTHORIZED.—Assistance provided under this section may include the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, construction, and funding.

(3) SECRETARY OF STATE CONCURRENCE.—Assistance may be provided under this section only with the concurrence of the Secretary of State.

(c) AUTHORITY IN ADDITION TO OTHER AUTHORITIES.—The authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations.

(d) TRANSFER AUTHORITY.—

(1) TRANSFERS AUTHORIZED.—Subject to paragraph (2), amounts authorized to be appropriated by subsection (a) may be transferred from the Iraq Security Forces Fund to any of the following accounts and funds of the Department of Defense to accomplish the purposes provided in subsection (b):

(A) Military personnel accounts.

(B) Operation and maintenance accounts.

(C) Procurement accounts.

(D) Research, development, test, and evaluation accounts.

(E) Defense working capital funds.

(F) Overseas Humanitarian, Disaster, and Civic Aid account.

(2) ADDITIONAL AUTHORITY.—The transfer authority provided by paragraph (1) is in addition to any other transfer authority available to the Department of Defense.

(3) TRANSFERS BACK TO THE FUND.—Upon determination that all or part of the funds transferred from the Iraq Security Forces Fund under paragraph (1) are not necessary for the purpose provided, such funds may be transferred back to the Iraq Security Forces Fund.

(4) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount transferred.

(e) NOTICE TO CONGRESS.—Funds may not be obligated from the Iraq Security Forces Fund, or transferred under the authority provided in subsection (d)(1), until five days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the details of the proposed obligation or transfer. Deadline.

(f) CONTRIBUTIONS.—

(1) AUTHORITY TO ACCEPT CONTRIBUTIONS.—Subject to paragraph (2), the Secretary of Defense may accept contributions of amounts to the Iraq Security Forces Fund for the purposes provided in subsection (b) from any person, foreign government, or international organization. Any amounts so accepted shall be credited to the Iraq Security Forces Fund.

(2) LIMITATION.—The Secretary may not accept a contribution under this subsection if the acceptance of the contribution would compromise or appear to compromise the integrity of any program of the Department of Defense.

(3) USE.—Amounts accepted under this subsection shall be available for assistance authorized by subsection (b), including transfer under subsection (d) for that purpose.

(4) NOTIFICATION.—The Secretary shall notify the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives, in writing, upon the acceptance, and upon the transfer under subsection (d), of any contribution under this subsection. Such notice shall specify the source and amount of any amount so accepted and the use of any amount so accepted.

(g) QUARTERLY REPORTS.—Not later than 30 days after the end of each fiscal-year quarter, the Secretary of Defense shall submit to the congressional defense committees a report summarizing the details of any obligation or transfer of funds from the Iraq Security Forces Fund during such fiscal-year quarter.

Termination date.

(h) DURATION OF AUTHORITY.—Amounts authorized to be appropriated or contributed to the Iraq Security Forces Fund during fiscal year 2008 are available for obligation or transfer from the Iraq Security Forces Fund in accordance with this section until September 30, 2009.

**SEC. 1513. AFGHANISTAN SECURITY FORCES FUND.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 2008 for the Afghanistan Security Forces Fund in the amount of $2,700,000,000.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds authorized to be appropriated by subsection (a) shall be available to the Secretary of Defense to provide assistance to the security forces of Afghanistan.

(2) TYPES OF ASSISTANCE AUTHORIZED.—Assistance provided under this section may include the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, construction, and funds.

(3) SECRETARY OF STATE CONCURRENCE.—Assistance may be provided under this section only with the concurrence of the Secretary of State.

(c) AUTHORITY IN ADDITION TO OTHER AUTHORITIES.—The authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations.

(d) TRANSFER AUTHORITY.—

(1) TRANSFERS AUTHORIZED.—Subject to paragraph (2), amounts authorized to be appropriated by subsection (a) may be transferred from the Afghanistan Security Forces Fund to any of the following accounts and funds of the Department of Defense to accomplish the purposes provided in subsection (b):

(A) Military personnel accounts.

(B) Operation and maintenance accounts.

(C) Procurement accounts.

(D) Research, development, test, and evaluation accounts.

(E) Defense working capital funds.

(F) Overseas Humanitarian, Disaster, and Civic Aid.

(2) ADDITIONAL AUTHORITY.—The transfer authority provided by paragraph (1) is in addition to any other transfer authority available to the Department of Defense.

(3) TRANSFERS BACK TO FUND.—Upon a determination that all or part of the funds transferred from the Afghanistan Security Forces Fund under paragraph (1) are not necessary for the purpose for which transferred, such funds may be transferred back to the Afghanistan Security Forces Fund.

(4) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount transferred.

(e) PRIOR NOTICE TO CONGRESS OF OBLIGATION OR TRANSFER.—Funds may not be obligated from the Afghanistan Security Forces

Fund, or transferred under subsection (d)(1), until five days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the details of the proposed obligation or transfer.

(f) CONTRIBUTIONS.—

(1) AUTHORITY TO ACCEPT CONTRIBUTIONS.—Subject to paragraph (2), the Secretary of Defense may accept contributions of amounts to the Afghanistan Security Forces Fund for the purposes provided in subsection (b) from any person, foreign government, or international organization. Any amounts so accepted shall be credited to the Afghanistan Security Forces Fund.

(2) LIMITATION.—The Secretary may not accept a contribution under this subsection if the acceptance of the contribution would compromise or appear to compromise the integrity of any program of the Department of Defense.

(3) USE.—Amounts accepted under this subsection shall be available for assistance authorized by subsection (b), including transfer under subsection (d) for that purpose.

(4) NOTIFICATION.—The Secretary shall notify the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives, in writing, upon the acceptance, and upon the transfer under subsection (d), of any contribution under this subsection. Such notice shall specify the source and amount of any amount so accepted and the use of any amount so accepted.

(g) QUARTERLY REPORTS.—Not later than 30 days after the end of each fiscal-year quarter, the Secretary of Defense shall submit to the congressional defense committees a report summarizing the details of any obligation or transfer of funds from the Afghanistan Security Forces Fund during such fiscal-year quarter.

(h) DURATION OF AUTHORITY.—Amounts authorized to be appropriated or contributed to the Afghanistan Security Forces Fund during fiscal year 2008 are available for obligation or transfer from the Afghanistan Security Forces Fund in accordance with this section until September 30, 2009.

Termination date.

**SEC. 1514. MILITARY PERSONNEL.**

There is hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2008 a total of $17,912,510,000.

**SEC. 1515. STRATEGIC READINESS FUND.**

There is authorized to be appropriated $1,000,000,000 to the Strategic Readiness Fund.

**SEC. 1516. TREATMENT AS ADDITIONAL AUTHORIZATIONS.**

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

**SEC. 1517. SPECIAL TRANSFER AUTHORITY.**

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal

year 2008 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $3,500,000,000.

(b) TERMS AND CONDITIONS.—Transfers under this section shall be subject to the same terms and conditions as transfers under section 1001.

(c) ADDITIONAL AUTHORITY.—The transfer authority provided by this section is in addition to the transfer authority provided under section 1001.

Wounded Warrior Act.

# TITLE XVI—WOUNDED WARRIOR MATTERS

Sec. 1601. Short title.
Sec. 1602. General definitions.
Sec. 1603. Consideration of gender-specific needs of recovering service members and veterans.

Subtitle A—Policy on Improvements to Care, Management, and Transition of Recovering Service Members

Sec. 1611. Comprehensive policy on improvements to care, management, and transition of recovering service members.
Sec. 1612. Medical evaluations and physical disability evaluations of recovering service members.
Sec. 1613. Return of recovering service members to active duty in the Armed Forces.
Sec. 1614. Transition of recovering service members from care and treatment through the Department of Defense to care, treatment, and rehabilitation through the Department of Veterans Affairs.
Sec. 1615. Reports.
Sec. 1616. Establishment of a wounded warrior resource center.
Sec. 1617. Notification to Congress of hospitalization of combat wounded service members.
Sec. 1618. Comprehensive plan on prevention, diagnosis, mitigation, treatment, and rehabilitation of, and research on, traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces.

Subtitle B—Centers of Excellence in the Prevention, Diagnosis, Mitigation, Treatment, and Rehabilitation of Traumatic Brain Injury, Post-Traumatic Stress Disorder, and Eye Injuries

Sec. 1621. Center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of traumatic brain injury.
Sec. 1622. Center of excellence in prevention, diagnosis, mitigation, treatment, and rehabilitation of post-traumatic stress disorder and other mental health conditions.
Sec. 1623. Center of excellence in prevention, diagnosis, mitigation, treatment, and rehabilitation of military eye injuries.
Sec. 1624. Report on establishment of centers of excellence.

Subtitle C—Health Care Matters

Sec. 1631. Medical care and other benefits for members and former members of the Armed Forces with severe injuries or illnesses.
Sec. 1632. Reimbursement of travel expenses of retired members with combat-related disabilities for follow-on specialty care, services, and supplies.
Sec. 1633. Respite care and other extended care benefits for members of the uniformed services who incur a serious injury or illness on active duty.
Sec. 1634. Reports.
Sec. 1635. Fully interoperable electronic personal health information for the Department of Defense and Department of Veterans Affairs.

Sec. 1636. Enhanced personnel authorities for the Department of Defense for health care professionals for care and treatment of wounded and injured members of the Armed Forces.
Sec. 1637. Continuation of transitional health benefits for members of the Armed Forces pending resolution of service-related medical conditions.

Subtitle D—Disability Matters

Sec. 1641. Utilization of veterans' presumption of sound condition in establishing eligibility of members of the Armed Forces for retirement for disability.
Sec. 1642. Requirements and limitations on Department of Defense determinations of disability with respect to members of the Armed Forces.
Sec. 1643. Review of separation of members of the Armed Forces separated from service with a disability rating of 20 percent disabled or less.
Sec. 1644. Authorization of pilot programs to improve the disability evaluation system for members of the Armed Forces.
Sec. 1645. Reports on Army action plan in response to deficiencies in the Army physical disability evaluation system.
Sec. 1646. Enhancement of disability severance pay for members of the Armed Forces.
Sec. 1647. Assessments of continuing utility and future role of temporary disability retired list.
Sec. 1648. Standards for military medical treatment facilities, specialty medical care facilities, and military quarters housing patients and annual report on such facilities.
Sec. 1649. Reports on Army Medical Action Plan in response to deficiencies identified at Walter Reed Army Medical Center, District of Columbia.
Sec. 1650. Required certifications in connection with closure of Walter Reed Army Medical Center, District of Columbia.
Sec. 1651. Handbook for members of the Armed Forces on compensation and benefits available for serious injuries and illnesses.

Subtitle E—Studies and Reports

Sec. 1661. Study on physical and mental health and other readjustment needs of members and former members of the Armed Forces who deployed in Operation Iraqi Freedom and Operation Enduring Freedom and their families.
Sec. 1662. Access of recovering service members to adequate outpatient residential facilities.
Sec. 1663. Study and report on support services for families of recovering service members.
Sec. 1664. Report on traumatic brain injury classifications.
Sec. 1665. Evaluation of the Polytrauma Liaison Officer/Non-Commissioned Officer program.

Subtitle F—Other Matters

Sec. 1671. Prohibition on transfer of resources from medical care.
Sec. 1672. Medical care for families of members of the Armed Forces recovering from serious injuries or illnesses.
Sec. 1673. Improvement of medical tracking system for members of the Armed Forces deployed overseas.
Sec. 1674. Guaranteed funding for Walter Reed Army Medical Center, District of Columbia.
Sec. 1675. Use of leave transfer program by wounded veterans who are Federal employees.
Sec. 1676. Moratorium on conversion to contractor performance of Department of Defense functions at military medical facilities.

**SEC. 1601. SHORT TITLE.** 10 USC 1071 note.

This title may be cited as the "Wounded Warrior Act".

**SEC. 1602. GENERAL DEFINITIONS.** 10 USC 1071 note.

In this title:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means—

(A) the Committees on Armed Services, Veterans' Affairs, and Appropriations of the Senate; and

(B) the Committees on Armed Services, Veterans' Affairs, and Appropriations of the House of Representatives.

(2) BENEFITS DELIVERY AT DISCHARGE PROGRAM.—The term "Benefits Delivery at Discharge Program" means a program administered jointly by the Secretary of Defense and the Secretary of Veterans Affairs to provide information and assistance on available benefits and other transition assistance to members of the Armed Forces who are separating from the Armed Forces, including assistance to obtain any disability benefits for which such members may be eligible.

(3) DISABILITY EVALUATION SYSTEM.—The term "Disability Evaluation System" means the following:

(A) A system or process of the Department of Defense for evaluating the nature and extent of disabilities affecting members of the Armed Forces that is operated by the Secretaries of the military departments and is comprised of medical evaluation boards, physical evaluation boards, counseling of members, and mechanisms for the final disposition of disability evaluations by appropriate personnel.

(B) A system or process of the Coast Guard for evaluating the nature and extent of disabilities affecting members of the Coast Guard that is operated by the Secretary of Homeland Security and is similar to the system or process of the Department of Defense described in subparagraph (A).

(4) ELIGIBLE FAMILY MEMBER.—The term "eligible family member", with respect to a recovering service member, means a family member (as defined in section 411 h(b) of title 37, United States Code) who is on invitational travel orders or serving as a non-medical attendee while caring for the recovering service member for more than 45 days during a one-year period.

(5) MEDICAL CARE.—The term "medical care" includes mental health care.

(6) OUTPATIENT STATUS.—The term "outpatient status", with respect to a recovering service member, means the status of a recovering service member assigned to—

(A) a military medical treatment facility as an outpatient; or

(B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

(7) RECOVERING SERVICE MEMBER.—The term "recovering service member" means a member of the Armed Forces, including a member of the National Guard or a Reserve, who is undergoing medical treatment, recuperation, or therapy and is in an outpatient status while recovering from a serious injury or illness related to the member's military service.

(8) SERIOUS INJURY OR ILLNESS.—The term "serious injury or illness", in the case of a member of the Armed Forces, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

(9) TRICARE PROGRAM.—The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

**SEC. 1603. CONSIDERATION OF GENDER-SPECIFIC NEEDS OF RECOVERING SERVICE MEMBERS AND VETERANS.**

(a) IN GENERAL.—In developing and implementing the policy required by section 1611(a), and in otherwise carrying out any other provision of this title or any amendment made by this title, the Secretary of Defense and the Secretary of Veterans Affairs shall take into account and fully address any unique gender-specific needs of recovering service members and veterans under such policy or other provision.

(b) REPORTS.—In submitting any report required by this title or an amendment made by this title, the Secretary of Defense and the Secretary of Veterans Affairs shall, to the extent applicable, include a description of the manner in which the matters covered by such report address the unique gender-specific needs of recovering service members and veterans.

# Subtitle A—Policy on Improvements to Care, Management, and Transition of Recovering Service Members

**SEC. 1611. COMPREHENSIVE POLICY ON IMPROVEMENTS TO CARE, MANAGEMENT, AND TRANSITION OF RECOVERING SERVICE MEMBERS.**

10 USC 1071 note.

(a) COMPREHENSIVE POLICY REQUIRED.—

(1) IN GENERAL.—Not later than July 1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall, to the extent feasible, jointly develop and implement a comprehensive policy on improvements to the care, management, and transition of recovering service members. Deadline.

(2) SCOPE OF POLICY.—The policy shall cover each of the following:

(A) The care and management of recovering service members.

(B) The medical evaluation and disability evaluation of recovering service members.

(C) The return of service members who have recovered to active duty when appropriate.

(D) The transition of recovering service members from receipt of care and services through the Department of Defense to receipt of care and services through the Department of Veterans Affairs.

(3) CONSULTATION.—The Secretary of Defense and the Secretary of Veterans Affairs shall develop the policy in consultation with the heads of other appropriate departments and agencies of the Federal Government and with appropriate nongovernmental organizations having an expertise in matters relating to the policy.

(4) UPDATE.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly update the policy on a periodic basis, but not less often than annually, in order to incorporate in the policy, as appropriate, the following: Deadline.

(A) The results of the reviews required under subsections (b) and (c).

(B) Best practices identified through pilot programs carried out under this title.

(C) Improvements to matters under the policy otherwise identified and agreed upon by the Secretary of Defense and the Secretary of Veterans Affairs.

(b) REVIEW OF CURRENT POLICIES AND PROCEDURES.—

(1) REVIEW REQUIRED.—In developing the policy required by subsection (a), the Secretary of Defense and the Secretary of Veterans Affairs shall, to the extent necessary, jointly and separately conduct a review of all policies and procedures of the Department of Defense and the Department of Veterans Affairs that apply to, or shall be covered by, the policy.

(2) PURPOSE.—The purpose of the review shall be to identify the most effective and patient-oriented approaches to care and management of recovering service members for purposes of—

(A) incorporating such approaches into the policy; and

(B) extending such approaches, where applicable, to the care and management of other injured or ill members of the Armed Forces and veterans.

(3) ELEMENTS.—In conducting the review, the Secretary of Defense and the Secretary of Veterans Affairs shall—

(A) identify among the policies and procedures described in paragraph (1) best practices in approaches to the care and management of recovering service members;

(B) identify among such policies and procedures existing and potential shortfalls in the care and management of recovering service members (including care and management of recovering service members on the temporary disability retired list), and determine means of addressing any shortfalls so identified;

(C) determine potential modifications of such policies and procedures in order to ensure consistency and uniformity, where appropriate, in the application of such policies and procedures—

(i) among the military departments;

(ii) among the Veterans Integrated Services Networks (VISNs) of the Department of Veterans Affairs; and

(iii) between the military departments and the Veterans Integrated Services Networks; and

Recommendations.

(D) develop recommendations for legislative and administrative action necessary to implement the results of the review.

(4) DEADLINE FOR COMPLETION.—The review shall be completed not later than 90 days after the date of the enactment of this Act.

(c) CONSIDERATION OF EXISTING FINDINGS, RECOMMENDATIONS, AND PRACTICES.—In developing the policy required by subsection (a), the Secretary of Defense and the Secretary of Veterans Affairs shall take into account the following:

(1) The findings and recommendations of applicable studies, reviews, reports, and evaluations that address matters relating to the policy, including, but not limited, to the following:

(A) The Independent Review Group on Rehabilitative Care and Administrative Processes at Walter Reed Army Medical Center and National Naval Medical Center, appointed by the Secretary of Defense.

(B) The Secretary of Veterans Affairs Task Force on Returning Global War on Terror Heroes, appointed by the President.

(C) The President's Commission on Care for America's Returning Wounded Warriors.

(D) The Veterans' Disability Benefits Commission established by title XV of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1676; 38 U.S.C. 1101 note).

(E) The President's Task Force to Improve Health Care Delivery for Our Nation's Veterans, of March 2003.

(F) The Report of the Congressional Commission on Servicemembers and Veterans Transition Assistance, of 1999, chaired by Anthony J. Principi.

(G) The President's Commission on Veterans' Pensions, of 1956, chaired by General Omar N. Bradley.

(2) The experience and best practices of the Department of Defense and the military departments on matters relating to the policy.

(3) The experience and best practices of the Department of Veterans Affairs on matters relating to the policy.

(4) Such other matters as the Secretary of Defense and the Secretary of Veterans Affairs consider appropriate.

(d) TRAINING AND SKILLS OF HEALTH CARE PROFESSIONALS, RECOVERY CARE COORDINATORS, MEDICAL CARE CASE MANAGERS, AND NON-MEDICAL CARE MANAGERS FOR RECOVERING SERVICE MEMBERS.—

(1) IN GENERAL.—The policy required by subsection (a) shall provide for uniform standards among the military departments for the training and skills of health care professionals, recovery care coordinators, medical care case managers, and non-medical care managers for recovering service members under subsection (e) in order to ensure that such personnel are able to— Standards.

(A) detect early warning signs of post-traumatic stress disorder (PTSD), suicidal or homicidal thoughts or behaviors, and other behavioral health concerns among recovering service members; and

(B) promptly notify appropriate health care professionals following detection of such signs.

(2) TRACKING OF NOTIFICATIONS.—In providing for uniform standards under paragraph (1), the policy shall include a mechanism or system to track the number of notifications made by recovery care coordinators, medical care case managers, and non-medical care managers to health care professionals under paragraph (1)(A) regarding early warning signs of post-traumatic stress disorder and suicide in recovering service members.

(e) SERVICES FOR RECOVERING SERVICE MEMBERS.—The policy required by subsection (a) shall provide for improvements as follows with respect to the care, management, and transition of recovering service members:

(1) COMPREHENSIVE RECOVERY PLAN FOR RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform standards and procedures for the development of a comprehensive recovery plan for each recovering service member that covers Standards. Procedures.

the full spectrum of care, management, transition, and rehabilitation of the service member during recovery.

(2) RECOVERY CARE COORDINATORS FOR RECOVERING SERVICE MEMBERS.—

(A) IN GENERAL.—The policy shall provide for a uniform program for the assignment to recovering service members of recovery care coordinators having the duties specified in subparagraph (B).

(B) DUTIES.—The duties under the program of a recovery care coordinator for a recovering service member shall include, but not be limited to, overseeing and assisting the service member in the service member's course through the entire spectrum of care, management, transition, and rehabilitation services available from the Federal Government, including services provided by the Department of Defense, the Department of Veterans Affairs, the Department of Labor, and the Social Security Administration.

Waiver authority.

(C) LIMITATION ON NUMBER OF SERVICE MEMBERS MANAGED BY COORDINATORS.—The maximum number of recovering service members whose cases may be assigned to a recovery care coordinator under the program at any one time shall be such number as the policy shall specify, except that the Secretary of the military department concerned may waive such limitation with respect to a given coordinator for not more than 120 days in the event of unforeseen circumstances (as specified in the policy).

(D) TRAINING.—The policy shall specify standard training requirements and curricula for recovery care coordinators under the program, including a requirement for successful completion of the training program before a person may assume the duties of such a coordinator.

(E) RESOURCES.—The policy shall include mechanisms to ensure that recovery care coordinators under the program have the resources necessary to expeditiously carry out the duties of such coordinators under the program.

Requirements.

(F) SUPERVISION.—The policy shall specify requirements for the appropriate rank or grade, and appropriate occupation, for persons appointed to head and supervise recovery care coordinators.

(3) MEDICAL CARE CASE MANAGERS FOR RECOVERING SERVICE MEMBERS.—

(A) IN GENERAL.—The policy shall provide for a uniform program among the military departments for the assignment to recovering service members of medical care case managers having the duties specified in subparagraph (B).

(B) DUTIES.—The duties under the program of a medical care case manager for a recovering service member (or the service member's immediate family or other designee if the service member is incapable of making judgments about personal medical care) shall include, at a minimum, the following:

(i) Assisting in understanding the service member's medical status during the care, recovery, and transition of the service member.

(ii) Assisting in the receipt by the service member of prescribed medical care during the care, recovery, and transition of the service member.

(iii) Conducting a periodic review of the medical status of the service member, which review shall be conducted, to the extent practicable, in person with the service member, or, whenever the conduct of the review in person is not practicable, with the medical care case manager submitting to the manager's supervisor a written explanation why the review in person was not practicable (if the Secretary of the military department concerned elects to require such written explanations for purposes of the program).

(C) LIMITATION ON NUMBER OF SERVICE MEMBERS MANAGED BY MANAGERS.—The maximum number of recovering service members whose cases may be assigned to a medical care case manager under the program at any one time shall be such number as the policy shall specify, except that the Secretary of the military department concerned may waive such limitation with respect to a given manager for not more than 120 days in the event of unforeseen circumstances (as specified in the policy). Waiver authority.

(D) TRAINING.—The policy shall specify standard training requirements and curricula for medical care case managers under the program, including a requirement for successful completion of the training program before a person may assume the duties of such a manager.

(E) RESOURCES.—The policy shall include mechanisms to ensure that medical care case managers under the program have the resources necessary to expeditiously carry out the duties of such managers under the program.

(F) SUPERVISION AT ARMED FORCES MEDICAL FACILITIES.—The policy shall specify requirements for the appropriate rank or grade, and appropriate occupation, for persons appointed to head and supervise the medical care case managers at each medical facility of the Armed Forces. Persons so appointed may be appointed from the Army Medical Corps, Army Medical Service Corps, Army Nurse Corps, Navy Medical Corps, Navy Medical Service Corps, Navy Nurse Corps, Air Force Medical Service, or other corps or civilian health care professional, as applicable, at the discretion of the Secretary of Defense. Requirements.

(4) NON-MEDICAL CARE MANAGERS FOR RECOVERING SERVICE MEMBERS.—

(A) IN GENERAL.—The policy shall provide for a uniform program among the military departments for the assignment to recovering service members of non-medical care managers having the duties specified in subparagraph (B).

(B) DUTIES.—The duties under the program of a non-medical care manager for a recovering service member shall include, at a minimum, the following:

(i) Communicating with the service member and with the service member's family or other individuals designated by the service member regarding non-medical matters that arise during the care, recovery, and transition of the service member.

(ii) Assisting with oversight of the service member's welfare and quality of life.

(iii) Assisting the service member in resolving problems involving financial, administrative, personnel, transitional, and other matters that arise during the care, recovery, and transition of the service member.

(C) DURATION OF DUTIES.—The policy shall provide that a non-medical care manager shall perform duties under the program for a recovering service member until the service member is returned to active duty or retired or separated from the Armed Forces.

Waiver authority.

(D) LIMITATION ON NUMBER OF SERVICE MEMBERS MANAGED BY MANAGERS.—The maximum number of recovering service members whose cases may be assigned to a non-medical care manager under the program at any one time shall be such number as the policy shall specify, except that the Secretary of the military department concerned may waive such limitation with respect to a given manager for not more than 120 days in the event of unforeseen circumstances (as specified in the policy).

Requirements.

(E) TRAINING.—The policy shall specify standard training requirements and curricula among the military departments for non-medical care managers under the program, including a requirement for successful completion of the training program before a person may assume the duties of such a manager.

(F) RESOURCES.—The policy shall include mechanisms to ensure that non-medical care managers under the program have the resources necessary to expeditiously carry out the duties of such managers under the program.

Requirements.

(G) SUPERVISION AT ARMED FORCES MEDICAL FACILITIES.—The policy shall specify requirements for the appropriate rank and occupational speciality for persons appointed to head and supervise the non-medical care managers at each medical facility of the Armed Forces.

(5) ACCESS OF RECOVERING SERVICE MEMBERS TO NON-URGENT HEALTH CARE FROM THE DEPARTMENT OF DEFENSE OR OTHER PROVIDERS UNDER TRICARE.—

Standards.

(A) IN GENERAL.—The policy shall provide for appropriate minimum standards for access of recovering service members to non-urgent medical care and other health care services as follows:

(i) In medical facilities of the Department of Defense.

(ii) Through the TRICARE program.

(B) MAXIMUM WAITING TIMES FOR CERTAIN CARE.—The standards for access under subparagraph (A) shall include such standards on maximum waiting times of recovering service members as the policy shall specify for care that includes, but is not limited to, the following:

(i) Follow-up care.

(ii) Specialty care.

(iii) Diagnostic referrals and studies.

(iv) Surgery based on a physician's determination of medical necessity.

(C) WAIVER BY RECOVERING SERVICE MEMBERS.—The policy shall permit any recovering service member to waive

a standard for access under this paragraph under such circumstances and conditions as the policy shall specify.

(6) ASSIGNMENT OF RECOVERING SERVICE MEMBERS TO LOCATIONS OF CARE.—

(A) IN GENERAL.—The policy shall provide for uniform guidelines among the military departments for the assignment of recovering service members to a location of care, including guidelines that provide for the assignment of recovering service members, when medically appropriate, to care and residential facilities closest to their duty station or home of record or the location of their designated care giver at the earliest possible time. Guidelines.

(B) REASSIGNMENT FROM DEFICIENT FACILITIES.—The policy shall provide for uniform guidelines and procedures among the military departments for the reassignment of recovering service members from a medical or medical-related support facility determined by the Secretary of Defense to violate the standards required by section 1648 to another appropriate medical or medical-related support facility until the correction of violations of such standards at the medical or medical-related support facility from which such service members are reassigned. Guidelines. Procedures.

(7) TRANSPORTATION AND SUBSISTENCE FOR RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform standards among the military departments on the availability of appropriate transportation and subsistence for recovering service members to facilitate their obtaining needed medical care and services. Standards.

(8) WORK AND DUTY ASSIGNMENTS FOR RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform criteria among the military departments for the assignment of recovering service members to work and duty assignments that are compatible with their medical conditions. Criteria.

(9) ACCESS OF RECOVERING SERVICE MEMBERS TO EDUCATIONAL AND VOCATIONAL TRAINING AND REHABILITATION.—The policy shall provide for uniform standards among the military departments on the provision of educational and vocational training and rehabilitation opportunities for recovering service members at the earliest possible point in their recovery. Standards.

(10) TRACKING OF RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform procedures among the military departments on tracking recovering service members to facilitate— Procedures.

(A) locating each recovering service member; and

(B) tracking medical care appointments of recovering service members to ensure timeliness and compliance of recovering service members with appointments, and other physical and evaluation timelines, and to provide any other information needed to conduct oversight of the care, management, and transition of recovering service members.

(11) REFERRALS OF RECOVERING SERVICE MEMBERS TO OTHER CARE AND SERVICES PROVIDERS.—The policy shall provide for uniform policies, procedures, and criteria among the military departments on the referral of recovering service members to the Department of Veterans Affairs and other private and Policies. Procedures. Criteria.

public entities (including universities and rehabilitation hospitals, centers, and clinics) in order to secure the most appropriate care for recovering service members, which policies, procedures, and criteria shall take into account, but not be limited to, the medical needs of recovering service members and the geographic location of available necessary recovery care services.

(f) SERVICES FOR FAMILIES OF RECOVERING SERVICE MEMBERS.—The policy required by subsection (a) shall provide for improvements as follows with respect to services for families of recovering service members:

Guidelines.

(1) SUPPORT FOR FAMILY MEMBERS OF RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform guidelines among the military departments on the provision by the military departments of support for family members of recovering service members who are not otherwise eligible for care under section 1672 in caring for such service members during their recovery.

Requirements. Standards.

(2) ADVICE AND TRAINING FOR FAMILY MEMBERS OF RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform requirements and standards among the military departments on the provision by the military departments of advice and training, as appropriate, to family members of recovering service members with respect to care for such service members during their recovery.

Procedures.

(3) MEASUREMENT OF SATISFACTION OF FAMILY MEMBERS OF RECOVERING SERVICE MEMBERS WITH QUALITY OF HEALTH CARE SERVICES.—The policy shall provide for uniform procedures among the military departments on the measurement of the satisfaction of family members of recovering service members with the quality of health care services provided to such service members during their recovery.

Procedures.

(4) JOB PLACEMENT SERVICES FOR FAMILY MEMBERS OF RECOVERING SERVICE MEMBERS.—The policy shall provide for procedures for application by eligible family members during a one-year period for job placement services otherwise offered by the Department of Defense.

Procedures.

(g) OUTREACH TO RECOVERING SERVICE MEMBERS AND THEIR FAMILIES ON COMPREHENSIVE POLICY.—The policy required by subsection (a) shall include procedures and mechanisms to ensure that recovering service members and their families are fully informed of the policies required by this section, including policies on medical care for recovering service members, on the management and transition of recovering service members, and on the responsibilities of recovering service members and their family members throughout the continuum of care and services for recovering service members under this section.

Regulations.

(h) APPLICABILITY OF COMPREHENSIVE POLICY TO RECOVERING SERVICE MEMBERS ON TEMPORARY DISABILITY RETIRED LIST.—Appropriate elements of the policy required by this section shall apply to recovering service members whose names are placed on the temporary disability retired list in such manner, and subject to such terms and conditions, as the Secretary of Defense shall prescribe in regulations for purposes of this subsection.

**SEC. 1612. MEDICAL EVALUATIONS AND PHYSICAL DISABILITY EVALUATIONS OF RECOVERING SERVICE MEMBERS.**

10 USC 1071 note.

(a) MEDICAL EVALUATIONS OF RECOVERING SERVICE MEMBERS.—

(1) IN GENERAL.—Not later than July 1, 2008, the Secretary of Defense shall develop a policy on improvements to the processes, procedures, and standards for the conduct by the military departments of medical evaluations of recovering service members.

Deadline. Policy.

(2) ELEMENTS.—The policy on improvements to processes, procedures, and standards required under this subsection shall include and address the following:

(A) Processes for medical evaluations of recovering service members that—

(i) apply uniformly throughout the military departments; and

(ii) apply uniformly with respect to recovering service members who are members of the regular components of the Armed Forces and recovering service members who are members of the National Guard and Reserve.

(B) Standard criteria and definitions for determining the achievement for recovering service members of the maximum medical benefit from treatment and rehabilitation.

(C) Standard timelines for each of the following:

(i) Determinations of fitness for duty of recovering service members.

(ii) Specialty care consultations for recovering service members.

(iii) Preparation of medical documents for recovering service members.

(iv) Appeals by recovering service members of medical evaluation determinations, including determinations of fitness for duty.

(D) Procedures for ensuring that—

(i) upon request of a recovering service member being considered by a medical evaluation board, a physician or other appropriate health care professional who is independent of the medical evaluation board is assigned to the service member; and

(ii) the physician or other health care professional assigned to a recovering service member under clause (i)—

(I) serves as an independent source for review of the findings and recommendations of the medical evaluation board;

(II) provides the service member with advice and counsel regarding the findings and recommendations of the medical evaluation board; and

(III) advises the service member on whether the findings of the medical evaluation board adequately reflect the complete spectrum of injuries and illness of the service member.

(E) Standards for qualifications and training of medical evaluation board personnel, including physicians, case

workers, and physical disability evaluation board liaison officers, in conducting medical evaluations of recovering service members.

(F) Standards for the maximum number of medical evaluation cases of recovering service members that are pending before a medical evaluation board at any one time, and requirements for the establishment of additional medical evaluation boards in the event such number is exceeded.

(G) Standards for information for recovering service members, and their families, on the medical evaluation board process and the rights and responsibilities of recovering service members under that process, including a standard handbook on such information (which handbook shall also be available electronically).

(b) PHYSICAL DISABILITY EVALUATIONS OF RECOVERING SERVICE MEMBERS.—

Deadline. Policy.

(1) IN GENERAL.—Not later than July 1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall develop a policy on improvements to the processes, procedures, and standards for the conduct of physical disability evaluations of recovering service members by the military departments and by the Department of Veterans Affairs.

(2) ELEMENTS.—The policy on improvements to processes, procedures, and standards required under this subsection shall include and address the following:

(A) A clearly-defined process of the Department of Defense and the Department of Veterans Affairs for disability determinations of recovering service members.

(B) To the extent feasible, procedures to eliminate unacceptable discrepancies and improve consistency among disability ratings assigned by the military departments and the Department of Veterans Affairs, particularly in the disability evaluation of recovering service members, which procedures shall be subject to the following requirements and limitations:

(i) Such procedures shall apply uniformly with respect to recovering service members who are members of the regular components of the Armed Forces and recovering service members who are members of the National Guard and Reserve.

(ii) Under such procedures, each Secretary of a military department shall, to the extent feasible, utilize the standard schedule for rating disabilities in use by the Department of Veterans Affairs, including any applicable interpretation of such schedule by the United States Court of Appeals for Veterans Claims, in making any determination of disability of a recovering service member, except as otherwise authorized by section 1216a of title 10, United States Code (as added by section 1642 of this Act).

(C) Uniform timelines among the military departments for appeals of determinations of disability of recovering service members, including timelines for presentation, consideration, and disposition of appeals.

(D) Uniform standards among the military departments for qualifications and training of physical disability

evaluation board personnel, including physical evaluation board liaison personnel, in conducting physical disability evaluations of recovering service members.

(E) Uniform standards among the military departments for the maximum number of physical disability evaluation cases of recovering service members that are pending before a physical disability evaluation board at any one time, and requirements for the establishment of additional physical disability evaluation boards in the event such number is exceeded.

(F) Uniform standards and procedures among the military departments for the provision of legal counsel to recovering service members while undergoing evaluation by a physical disability evaluation board.

(G) Uniform standards among the military departments on the roles and responsibilities of non-medical care managers under section 1611(e)(4) and judge advocates assigned to recovering service members undergoing evaluation by a physical disability board, and uniform standards on the maximum number of cases involving such service members that are to be assigned to judge advocates at any one time.

(c) ASSESSMENT OF CONSOLIDATION OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS DISABILITY EVALUATION SYSTEMS.—

(1) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the feasability and advisability of consolidating the disability evaluation systems of the military departments and the disability evaluation system of the Department of Veterans Affairs into a single disability evaluation system. The report shall be submitted together with the report required by section 1611(a). Reports.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) An assessment of the feasability and advisability of consolidating the disability evaluation systems described in paragraph (1) as specified in that paragraph.

(B) If the consolidation of the systems is considered feasible and advisable—

(i) recommendations for various options for consolidating the systems as specified in paragraph (1); and

(ii) recommendations for mechanisms to evaluate and assess any progress made in consolidating the systems as specified in that paragraph.

**SEC. 1613. RETURN OF RECOVERING SERVICE MEMBERS TO ACTIVE DUTY IN THE ARMED FORCES.** 10 USC 1071 note.

The Secretary of Defense shall establish standards for determinations by the military departments on the return of recovering service members to active duty in the Armed Forces. Standards.

**SEC. 1614. TRANSITION OF RECOVERING SERVICE MEMBERS FROM CARE AND TREATMENT THROUGH THE DEPARTMENT OF DEFENSE TO CARE, TREATMENT, AND REHABILITATION THROUGH THE DEPARTMENT OF VETERANS AFFAIRS.** Processes. Procedures. Standards. 10 USC 1071 note.

(a) IN GENERAL.—Not later than July 1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly Deadline.

develop and implement processes, procedures, and standards for the transition of recovering service members from care and treatment through the Department of Defense to care, treatment, and rehabilitation through the Department of Veterans Affairs.

(b) ELEMENTS.—The processes, procedures, and standards required under this section shall include the following:

(1) Uniform, patient-focused procedures to ensure that the transition described in subsection (a) occurs without gaps in medical care and in the quality of medical care, benefits, and services.

(2) Procedures for the identification and tracking of recovering service members during the transition, and for the coordination of care and treatment of recovering service members during the transition, including a system of cooperative case management of recovering service members by the Department of Defense and the Department of Veterans Affairs during the transition.

(3) Procedures for the notification of Department of Veterans Affairs liaison personnel of the commencement by recovering service members of the medical evaluation process and the physical disability evaluation process.

(4) Procedures and timelines for the enrollment of recovering service members in applicable enrollment or application systems of the Department of Veterans Affairs with respect to health care, disability, education, vocational rehabilitation, or other benefits.

(5) Procedures to ensure the access of recovering service members during the transition to vocational, educational, and rehabilitation benefits available through the Department of Veterans Affairs.

(6) Standards for the optimal location of Department of Defense and Department of Veterans Affairs liaison and case management personnel at military medical treatment facilities, medical centers, and other medical facilities of the Department of Defense.

(7) Standards and procedures for integrated medical care and management of recovering service members during the transition, including procedures for the assignment of medical personnel of the Department of Veterans Affairs to Department of Defense facilities to participate in the needs assessments of recovering service members before, during, and after their separation from military service.

(8) Standards for the preparation of detailed plans for the transition of recovering service members from care and treatment by the Department of Defense to care, treatment, and rehabilitation by the Department of Veterans Affairs, which plans shall—

(A) be based on standardized elements with respect to care and treatment requirements and other applicable requirements; and

(B) take into account the comprehensive recovery plan for the recovering service member concerned as developed under section 1611(e)(1).

(9) Procedures to ensure that each recovering service member who is being retired or separated under chapter 61 of title 10, United States Code, receives a written transition plan, prior to the time of retirement or separation, that—

(A) specifies the recommended schedule and milestones for the transition of the service member from military service;

(B) provides for a coordinated transition of the service member from the Department of Defense disability evaluation system to the Department of Veterans Affairs disability system; and

(C) includes information and guidance designed to assist the service member in understanding and meeting the schedule and milestones specified under subparagraph (A) for the service member's transition.

(10) Procedures for the transmittal from the Department of Defense to the Department of Veterans Affairs of records and any other required information on each recovering service member described in paragraph (9), which procedures shall provide for the transmission from the Department of Defense to the Department of Veterans Affairs of records and information on the service member as follows:

(A) The address and contact information of the service member.

(B) The DD–214 discharge form of the service member, which shall be transmitted under such procedures electronically.

(C) A copy of the military service record of the service member, including medical records and any results of a physical evaluation board.

(D) Information on whether the service member is entitled to transitional health care, a conversion health policy, or other health benefits through the Department of Defense under section 1145 of title 10, United States Code.

(E) A copy of any request of the service member for assistance in enrolling in, or completed applications for enrollment in, the health care system of the Department of Veterans Affairs for health care benefits for which the service member may be eligible under laws administered by the Secretary of Veterans Affairs.

(F) A copy of any request by the service member for assistance in applying for, or completed applications for, compensation and vocational rehabilitation benefits to which the service member may be entitled under laws administered by the Secretary of Veterans Affairs.

(11) A process to ensure that, before transmittal of medical records of a recovering service member to the Department of Veterans Affairs, the Secretary of Defense ensures that the service member (or an individual legally recognized to make medical decisions on behalf of the service member) authorizes the transfer of the medical records of the service member from the Department of Defense to the Department of Veterans Affairs pursuant to the Health Insurance Portability and Accountability Act of 1996.

(12) Procedures to ensure that, with the consent of the recovering service member concerned, the address and contact information of the service member is transmitted to the department or agency for veterans affairs of the State in which the service member intends to reside after the retirement or separation of the service member from the Armed Forces.

(13) Procedures to ensure that, before the transmittal of records and other information with respect to a recovering service member under this section, a meeting regarding the transmittal of such records and other information occurs among the service member, appropriate family members of the service member, representatives of the Secretary of the military department concerned, and representatives of the Secretary of Veterans Affairs, with at least 30 days advance notice of the meeting being given to the service member unless the service member waives the advance notice requirement in order to accelerate transmission of the service member's records and other information to the Department of Veterans Affairs.

(14) Procedures to ensure that the Secretary of Veterans Affairs gives appropriate consideration to a written statement submitted to the Secretary by a recovering service member regarding the transition.

(15) Procedures to provide access for the Department of Veterans Affairs to the military health records of recovering service members who are receiving care and treatment, or are anticipating receipt of care and treatment, in Department of Veterans Affairs health care facilities, which procedures shall be consistent with the procedures and requirements in paragraphs (11) and (13).

(16) A process for the utilization of a joint separation and evaluation physical examination that meets the requirements of both the Department of Defense and the Department of Veterans Affairs in connection with the medical separation or retirement of a recovering service member from military service and for use by the Department of Veterans Affairs in disability evaluations.

(17) Procedures for surveys and other mechanisms to measure patient and family satisfaction with the provision by the Department of Defense and the Department of Veterans Affairs of care and services for recovering service members, and to facilitate appropriate oversight by supervisory personnel of the provision of such care and services.

(18) Procedures to ensure the participation of recovering service members who are members of the National Guard or Reserve in the Benefits Delivery at Discharge Program, including procedures to ensure that, to the maximum extent feasible, services under the Benefits Delivery at Discharge Program are provided to recovering service members at—

(A) appropriate military installations;

(B) appropriate armories and military family support centers of the National Guard;

(C) appropriate military medical care facilities at which members of the Armed Forces are separated or discharged from the Armed Forces; and

(D) in the case of a member on the temporary disability retired list under section 1202 or 1205 of title 10, United States Code, who is being retired under another provision of such title or is being discharged, at a location reasonably convenient to the member.

**SEC. 1615. REPORTS.**

(a) REPORT ON POLICY.—Upon the development of the policy required by subsection (a) of section 1611 but not later than July

1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the policy, including a comprehensive and detailed description of the policy and of the manner in which the policy addresses the detailed elements of the policy specified in subsections (d) through (h) of section 1611, and the findings and recommendations of the reviews under subsections (b) and (c) of section 1611.

(b) INTERIM REPORT ON POLICY.—Not later than February 1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress an interim report on the policy, which shall include a comprehensive and detailed description of the matters specified in subsection (a) current as of the date of such interim report.

(c) REPORT ON UPDATE OF POLICY.—Upon updating the policy under section 1611(a)(4), the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the update of the policy, including a comprehensive and detailed description of such update and of the reasons for such update.

(d) COMPTROLLER GENERAL ASSESSMENT OF IMPLEMENTATION OF POLICY.—

(1) IN GENERAL.—Not later than six months after the date of the enactment of this Act and every year thereafter through 2010, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report setting forth the assessment of the Comptroller General of the progress of the Secretary of Defense and the Secretary of Veterans Affairs in developing and implementing the policy required by section 1611(a). Each report shall include a certification by the Comptroller General as to whether the Comptroller General has had timely access to sufficient information to enable the Comptroller General to make informed judgments on the matters covered by the report. Deadline. Reports. Certification.

(2) ACCESS INFORMATION.—The Secretary of Defense and the Secretary of Veterans Affairs shall facilitate the ability of the Comptroller General to conduct any review required for a report under this subsection within the time period required for such report, including prompt and complete access to such information as the Comptroller General considers necessary to perform such review.

(e) REPORT ON REDUCTION IN DISABILITY RATINGS BY THE DEPARTMENT OF DEFENSE.—Not later than February 1, 2009, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the number of instances during the period beginning on October 7, 2001, and ending on September 30, 2006, in which a disability rating assigned to a member of the Armed Forces by an informal physical evaluation board of the Department of Defense was reduced upon appeal, and the reasons for such reduction.

**SEC. 1616. ESTABLISHMENT OF A WOUNDED WARRIOR RESOURCE CENTER.** 10 USC 1071 note.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a wounded warrior resource center (in this section referred to as the "center") to provide wounded warriors, their families, and their primary caregivers with a single point of contact for assistance with reporting deficiencies in covered military facilities, obtaining

health care services, receiving benefits information, and any other difficulties encountered while supporting wounded warriors. The Secretary shall widely disseminate information regarding the existence and availability of the center, including contact information, to members of the Armed Forces and their dependents. In carrying out this subsection, the Secretary may use existing infrastructure and organizations but shall ensure that the center has the ability to separately keep track of calls from wounded warriors.

Web site. Communications and telecommunications.

(b) ACCESS.—The center shall provide multiple methods of access, including at a minimum an Internet website and a toll-free telephone number (commonly referred to as a "hot line") at which personnel are accessible at all times to receive reports of deficiencies or provide information about covered military facilities, health care services, or military benefits.

(c) CONFIDENTIALITY.—

(1) NOTIFICATION.—Individuals who seek to provide information through the center under subsection (a) shall be notified, immediately before they provide such information, of their option to elect, at their discretion, to have their identity remain confidential.

(2) PROHIBITION ON FURTHER DISCLOSURE.—In the case of information provided through use of the toll-free telephone number by an individual who elects to maintain the confidentiality of his or her identity, any individual who, by necessity, has had access to such information for purposes of investigating or responding to the call as required under subsection (d) may not disclose the identity of the individual who provided the information.

(d) FUNCTIONS.—The center shall perform the following functions:

(1) CALL TRACKING.—The center shall be responsible for documenting receipt of a call, referring the call to the appropriate office within a military department for answer or investigation, and tracking the formulation and notification of the response to the call.

Deadline.

(2) INVESTIGATION AND RESPONSE.—The center shall be responsible for ensuring that, not later than 96 hours after a call—

(A) if a report of deficiencies is received in a call—

(i) any deficiencies referred to in the call are investigated;

(ii) if substantiated, a plan of action for remediation of the deficiencies is developed and implemented; and

(iii) if requested, the individual who made the report is notified of the current status of the report; or

(B) if a request for information is received in a call—

(i) the information requested by the caller is provided by the center;

(ii) all requests for information from the call are referred to the appropriate office or offices of a military department for response; and

(iii) the individual who made the report is notified, at a minimum, of the current status of the query.

(3) FINAL NOTIFICATION.—The center shall be responsible for ensuring that, if requested, the caller is notified when

the deficiency has been corrected or when the request for information has been fulfilled to the maximum extent practicable, as determined by the Secretary.

(e) DEFINITIONS.—In this section:

(1) COVERED MILITARY FACILITY.—The term "covered military facility" has the meaning provided in section 1648(b) of this Act.

(2) CALL.—The term "call" means any query or report that is received by the center by means of the toll-free telephone number or other source.

(f) EFFECTIVE DATES.—

(1) TOLL-FREE TELEPHONE NUMBER.—The toll-free telephone number required to be established by subsection (a), shall be fully operational not later than April 1, 2008.

(2) INTERNET WEBSITE.—The Internet website required to be established by subsection (a), shall be fully operational not later than July 1, 2008.

**SEC. 1617. NOTIFICATION TO CONGRESS OF HOSPITALIZATION OF COMBAT WOUNDED SERVICE MEMBERS.**

(a) NOTIFICATION REQUIRED.—

(1) IN GENERAL.—Chapter 55 of title 10, United States Code, is further amended by inserting after section 1074k the following new section:

**"§ 1074l. Notification to Congress of hospitalization of combat wounded members**

"(a) NOTIFICATION REQUIRED.—The Secretary concerned shall provide notification of the hospitalization of any member of the armed forces evacuated from a theater of combat and admitted to a military treatment facility within the United States to the appropriate Members of Congress.

"(b) APPROPRIATE MEMBERS.—In this section, the term 'appropriate Members of Congress', with respect to the member of the armed forces about whom notification is being made, means the Senators representing the State, and the Member, Delegate, or Resident Commissioner of the House of Representatives representing the district, that includes the member's home of record or a different location as provided by the member.

"(c) CONSENT OF MEMBER REQUIRED.—The notification under subsection (a) may be provided only with the consent of the member of the armed forces about whom notification is to be made. In the case of a member who is unable to provide consent, information and consent may be provided by next of kin.".

(2) EFFECTIVE DATE.—The notification requirement under section 1074l(a) of title 10, United States Code, as added by paragraph (1), shall apply beginning 60 days after the date of the enactment of this Act. 10 USC 1074*l* note.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1074l. Notification to Congress of hospitalization of combat wounded members.".

10 USC 1071 note.

**SEC. 1618. COMPREHENSIVE PLAN ON PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF, AND RESEARCH ON, TRAUMATIC BRAIN INJURY, POST-TRAUMATIC STRESS DISORDER, AND OTHER MENTAL HEALTH CONDITIONS IN MEMBERS OF THE ARMED FORCES.**

(a) COMPREHENSIVE STATEMENT OF POLICY.—The Secretary of Defense and the Secretary of Veterans Affairs shall direct joint planning among the Department of Defense, the military departments, and the Department of Veterans Affairs for the prevention, diagnosis, mitigation, treatment, and rehabilitation of, and research on, traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, including planning for the seamless transition of such members from care through the Department of Defense to care through the Department of Veterans Affairs.

Deadline.

(b) COMPREHENSIVE PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, submit to the congressional defense committees a comprehensive plan for programs and activities of the Department of Defense to prevent, diagnose, mitigate, treat, research, and otherwise respond to traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, including—

(1) an assessment of the current capabilities of the Department for the prevention, diagnosis, mitigation, treatment, and rehabilitation of, and research on, traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces;

(2) the identification of gaps in current capabilities of the Department for the prevention, diagnosis, mitigation, treatment, and rehabilitation of, and research on, traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces; and

(3) the identification of the resources required for the Department in fiscal years 2009 through 2013 to address the gaps in capabilities identified under paragraph (2).

(c) PROGRAM REQUIRED.—One of the programs contained in the comprehensive plan submitted under subsection (b) shall be a Department of Defense program, developed in collaboration with the Department of Veterans Affairs, under which each member of the Armed Forces who incurs a traumatic brain injury or post-traumatic stress disorder during service in the Armed Forces—

(1) is enrolled in the program; and

(2) receives treatment and rehabilitation meeting a standard of care such that each individual who qualifies for care under the program shall—

(A) be provided the highest quality, evidence-based care in facilities that most appropriately meet the specific needs of the individual; and

(B) be rehabilitated to the fullest extent possible using up-to-date evidence-based medical technology, and physical and medical rehabilitation practices and expertise.

(d) PROVISION OF INFORMATION REQUIRED.—The comprehensive plan submitted under subsection (b) shall require the provision of information by the Secretary of Defense to members of the Armed Forces with traumatic brain injury, post-traumatic stress

disorder, or other mental health conditions and their families about their options with respect to the following:

(1) The receipt of medical and mental health care from the Department of Defense and the Department of Veterans Affairs.

(2) Additional options available to such members for treatment and rehabilitation of traumatic brain injury, post-traumatic stress disorder, and other mental health conditions.

(3) The options available, including obtaining a second opinion, to such members for a referral to an authorized provider under chapter 55 of title 10, United States Code, as determined under regulations prescribed by the Secretary of Defense.

(e) ADDITIONAL ELEMENTS OF PLAN.—The comprehensive plan submitted under subsection (b) shall include comprehensive proposals of the Department on the following:

(1) LEAD AGENT.—The designation by the Secretary of Defense of a lead agent or executive agent for the Department to coordinate development and implementation of the plan.

(2) DETECTION AND TREATMENT.—The improvement of methods and mechanisms for the detection and treatment of traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces in the field.

(3) REDUCTION OF PTSD.—The development of a plan for reducing post traumatic-stress disorder, incorporating evidence-based preventive and early-intervention measures, practices, or procedures that reduce the likelihood that personnel in combat will develop post-traumatic stress disorder or other stress-related conditions (including substance abuse conditions) into—

(A) basic and pre-deployment training for enlisted members of the Armed Forces, noncommissioned officers, and officers;

(B) combat theater operations; and

(C) post-deployment service.

(4) RESEARCH.—Requirements for research on traumatic brain injury, post-traumatic stress disorder, and other mental health conditions including (in particular) research on pharmacological and other approaches to treatment for traumatic brain injury, post-traumatic stress disorder, or other mental health conditions, as applicable, and the allocation of priorities among such research.

(5) DIAGNOSTIC CRITERIA.—The development, adoption, and deployment of joint Department of Defense-Department of Veterans Affairs evidence-based diagnostic criteria for the detection and evaluation of the range of traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, which criteria shall be employed uniformly across the military departments in all applicable circumstances, including provision of clinical care and assessment of future deployability of members of the Armed Forces.

(6) ASSESSMENT.—The development and deployment of evidence-based means of assessing traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, including a system of pre-

deployment and post-deployment screenings of cognitive ability in members for the detection of cognitive impairment.

(7) MANAGING AND MONITORING.—The development and deployment of effective means of managing and monitoring members of the Armed Forces with traumatic brain injury, post-traumatic stress disorder, or other mental health conditions in the receipt of care for traumatic brain injury, post-traumatic stress disorder, or other mental health conditions, as applicable, including the monitoring and assessment of treatment and outcomes.

(8) EDUCATION AND AWARENESS.—The development and deployment of an education and awareness training initiative designed to reduce the negative stigma associated with traumatic brain injury, post-traumatic stress disorder, and other mental health conditions, and mental health treatment.

(9) EDUCATION AND OUTREACH.—The provision of education and outreach to families of members of the Armed Forces with traumatic brain injury, post-traumatic stress disorder, or other mental health conditions on a range of matters relating to traumatic brain injury, post-traumatic stress disorder, or other mental health conditions, as applicable, including detection, mitigation, and treatment.

(10) RECORDING OF BLASTS.—A requirement that exposure to a blast or blasts be recorded in the records of members of the Armed Forces.

(11) GUIDELINES FOR BLAST INJURIES.—The development of clinical practice guidelines for the diagnosis and treatment of blast injuries in members of the Armed Forces, including, but not limited to, traumatic brain injury.

(12) GENDER- AND ETHNIC GROUP-SPECIFIC SERVICES AND TREATMENT.—The development of requirements, as appropriate, for gender- and ethnic group-specific medical care services and treatment for members of the Armed Forces who experience mental health problems and conditions, including post-traumatic stress disorder, with specific regard to the availability of, access to, and research and development requirements of such needs.

(f) COORDINATION IN DEVELOPMENT.—The comprehensive plan submitted under subsection (b) shall be developed in coordination with the Secretary of the Army (who was designated by the Secretary of Defense as executive agent for the prevention, mitigation, and treatment of blast injuries under section 256 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3181; 10 U.S.C. 1071 note)).

# Subtitle B—Centers of Excellence in the Prevention, Diagnosis, Mitigation, Treatment, and Rehabilitation of Traumatic Brain Injury, Post-Traumatic Stress Disorder, and Eye Injuries

**SEC. 1621. CENTER OF EXCELLENCE IN THE PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF TRAUMATIC BRAIN INJURY.**

10 USC 1071 note.

(a) IN GENERAL.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of traumatic brain injury, including mild, moderate, and severe traumatic brain injury, to carry out the responsibilities specified in subsection (c). Establishment.

(b) PARTNERSHIPS.—The Secretary shall ensure that the Center collaborates to the maximum extent practicable with the Department of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

(c) RESPONSIBILITIES.—The Center shall have responsibilities as follows:

(1) To implement the comprehensive plan and strategy for the Department of Defense, required by section 1618 of this Act, for the prevention, diagnosis, mitigation, treatment, and rehabilitation of traumatic brain injury, including research on gender and ethnic group-specific health needs related to traumatic brain injury.

(2) To provide for the development, testing, and dissemination within the Department of best practices for the treatment of traumatic brain injury.

(3) To provide guidance for the mental health system of the Department in determining the mental health and neurological health personnel required to provide quality mental health care for members of the Armed Forces with traumatic brain injury.

(4) To establish, implement, and oversee a comprehensive program to train mental health and neurological health professionals of the Department in the treatment of traumatic brain injury.

(5) To facilitate advancements in the study of the short-term and long-term psychological effects of traumatic brain injury.

(6) To disseminate within the military medical treatment facilities of the Department best practices for training mental health professionals, including neurological health professionals, with respect to traumatic brain injury.

(7) To conduct basic science and translational research on traumatic brain injury for the purposes of understanding the etiology of traumatic brain injury and developing preventive interventions and new treatments.

(8) To develop programs and outreach strategies for families of members of the Armed Forces with traumatic brain injury

in order to mitigate the negative impacts of traumatic brain injury on such family members and to support the recovery of such members from traumatic brain injury.

(9) To conduct research on the mental health needs of families of members of the Armed Forces with traumatic brain injury and develop protocols to address any needs identified through such research.

(10) To conduct longitudinal studies (using imaging technology and other proven research methods) on members of the Armed Forces with traumatic brain injury to identify early signs of Alzheimer's disease, Parkinson's disease, or other manifestations of neurodegeneration, as well as epilepsy, in such members, in coordination with the studies authorized by section 721 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2294) and other studies of the Department of Defense and the Department of Veterans Affairs that address the connection between exposure to combat and the development of Alzheimer's disease, Parkinson's disease, and other neurodegenerative disorders, as well as epilepsy.

(11) To develop and oversee a long-term plan to increase the number of mental health and neurological health professionals within the Department in order to facilitate the meeting by the Department of the needs of members of the Armed Forces with traumatic brain injury until their transition to care and treatment from the Department of Veterans Affairs.

(12) To develop a program on comprehensive pain management, including management of acute and chronic pain, to utilize current and develop new treatments for pain, and to identify and disseminate best practices on pain management related to traumatic brain injury.

(13) Such other responsibilities as the Secretary shall specify.

10 USC 1071 note.

**SEC. 1622. CENTER OF EXCELLENCE IN PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF POST-TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.**

Establishment.

(a) IN GENERAL.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of post-traumatic stress disorder (PTSD) and other mental health conditions, including mild, moderate, and severe post-traumatic stress disorder and other mental health conditions, to carry out the responsibilities specified in subsection (c).

(b) PARTNERSHIPS.—The Secretary shall ensure that the center collaborates to the maximum extent practicable with the National Center on Post-Traumatic Stress Disorder of the Department of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

(c) RESPONSIBILITIES.—The center shall have responsibilities as follows:

(1) To implement the comprehensive plan and strategy for the Department of Defense, required by section 1618 of this Act, for the prevention, diagnosis, mitigation, treatment, and rehabilitation of post-traumatic stress disorder and other

mental health conditions, including research on gender- and ethnic group-specific health needs related to post-traumatic stress disorder and other mental health conditions.

(2) To provide for the development, testing, and dissemination within the Department of best practices for the treatment of post-traumatic stress disorder.

(3) To provide guidance for the mental health system of the Department in determining the mental health and neurological health personnel required to provide quality mental health care for members of the Armed Forces with post-traumatic stress disorder and other mental health conditions.

(4) To establish, implement, and oversee a comprehensive program to train mental health and neurological health professionals of the Department in the treatment of post-traumatic stress disorder and other mental health conditions.

(5) To facilitate advancements in the study of the short-term and long-term psychological effects of post-traumatic stress disorder and other mental health conditions.

(6) To disseminate within the military medical treatment facilities of the Department best practices for training mental health professionals, including neurological health professionals, with respect to post-traumatic stress disorder and other mental health conditions.

(7) To conduct basic science and translational research on post-traumatic stress disorder for the purposes of understanding the etiology of post-traumatic stress disorder and developing preventive interventions and new treatments.

(8) To develop programs and outreach strategies for families of members of the Armed Forces with post-traumatic stress disorder and other mental health conditions in order to mitigate the negative impacts of post-traumatic stress disorder and other mental health conditions on such family members and to support the recovery of such members from post-traumatic stress disorder and other mental health conditions.

(9) To conduct research on the mental health needs of families of members of the Armed Forces with post-traumatic stress disorder and other mental health conditions and develop protocols to address any needs identified through such research.

(10) To develop and oversee a long-term plan to increase the number of mental health and neurological health professionals within the Department in order to facilitate the meeting by the Department of the needs of members of the Armed Forces with post-traumatic stress disorder and other mental health conditions until their transition to care and treatment from the Department of Veterans Affairs.

**SEC. 1623. CENTER OF EXCELLENCE IN PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF MILITARY EYE INJURIES.**

10 USC 1071 note.

(a) IN GENERAL.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of military eye injuries to carry out the responsibilities specified in subsection (c).

Establishment.

(b) PARTNERSHIPS.—The Secretary shall ensure that the center collaborates to the maximum extent practicable with the Secretary of Veterans Affairs, institutions of higher education, and other

appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

(c) RESPONSIBILITIES.—

(1) IN GENERAL.—The center shall—

(A) implement a comprehensive plan and strategy for the Department of Defense, as developed by the Secretary of Defense, for a registry of information for the tracking of the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of significant eye injury incurred by a member of the Armed Forces while serving on active duty;

(B) ensure the electronic exchange with the Secretary of Veterans Affairs of information obtained through tracking under subparagraph (A); and

(C) enable the Secretary of Veterans Affairs to access the registry and add information pertaining to additional treatments or surgical procedures and eventual visual outcomes for veterans who were entered into the registry and subsequently received treatment through the Veterans Health Administration.

(2) DESIGNATION OF REGISTRY.—The registry under this subsection shall be known as the "Military Eye Injury Registry" (hereinafter referred to as the "Registry").

(3) CONSULTATION IN DEVELOPMENT.—The center shall develop the Registry in consultation with the ophthalmological specialist personnel and optometric specialist personnel of the Department of Defense and the ophthalmological specialist personnel and optometric specialist personnel of the Department of Veterans Affairs. The mechanisms and procedures of the Registry shall reflect applicable expert research on military and other eye injuries.

Deadlines.

(4) MECHANISMS.—The mechanisms of the Registry for tracking under paragraph (1)(A) shall ensure that each military medical treatment facility or other medical facility shall submit to the center for inclusion in the Registry information on the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of eye injury described in that paragraph as follows (to the extent applicable):

(A) Not later than 30 days after surgery or other operative intervention, including a surgery or other operative intervention carried out as a result of a follow-up examination.

(B) Not later than 180 days after the significant eye injury is reported or recorded in the medical record.

Notification.

(5) COORDINATION OF CARE AND BENEFITS.—(A) The center shall provide notice to the Blind Rehabilitation Service of the Department of Veterans Affairs and to the eye care services of the Veterans Health Administration on each member of the Armed Forces described in subparagraph (B) for purposes of ensuring the coordination of the provision of ongoing eye care and visual rehabilitation benefits and services by the Department of Veterans Affairs after the separation or release of such member from the Armed Forces.

(B) A member of the Armed Forces described in this subparagraph is a member of the Armed Forces as follows:

(i) A member with a significant eye injury incurred while serving on active duty, including a member with visual dysfunction related to traumatic brain injury.

(ii) A member with an eye injury incurred while serving on active duty who has a visual acuity of 20/200 or less in the injured eye.

(iii) A member with an eye injury incurred while serving on active duty who has a loss of peripheral vision resulting in 20 degrees or less of visual field in the injured eye.

(d) UTILIZATION OF REGISTRY INFORMATION.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly ensure that information in the Registry is available to appropriate ophthalmological and optometric personnel of the Department of Defense and the Department of Veterans Affairs for purposes of encouraging and facilitating the conduct of research, and the development of best practices and clinical education, on eye injuries incurred by members of the Armed Forces in combat.

(e) INCLUSION OF RECORDS OF OIF/OEF VETERANS.—The Secretary of Defense shall take appropriate actions to include in the Registry such records of members of the Armed Forces who incurred an eye injury while serving on active duty on or after September 11, 2001, but before the establishment of the Registry, as the Secretary considers appropriate for purposes of the Registry.

(f) TRAUMATIC BRAIN INJURY POST TRAUMATIC VISUAL SYNDROME.—In carrying out the program at Walter Reed Army Medical Center, District of Columbia, on traumatic brain injury post traumatic visual syndrome, the Secretary of Defense and the Department of Veterans Affairs shall jointly provide for the conduct of a cooperative program for members of the Armed Forces and veterans with traumatic brain injury by military medical treatment facilities of the Department of Defense and medical centers of the Department of Veterans Affairs selected for purposes of this subsection for purposes of vision screening, diagnosis, rehabilitative management, and vision research, including research on prevention, on visual dysfunction related to traumatic brain injury.

**SEC. 1624. REPORT ON ESTABLISHMENT OF CENTERS OF EXCELLENCE.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on—

(1) the establishment of the center of excellence in prevention, diagnosis, mitigation, treatment, and rehabilitation of traumatic brain injury under section 1621;

(2) the establishment of the center of excellence in prevention, diagnosis, mitigation, treatment, and rehabilitation of post-traumatic stress disorder and other mental health conditions under section 1622; and

(3) the establishment of the center of excellence in prevention, diagnosis, mitigation, treatment, and rehabilitation of military eye injuries under section 1623.

(b) MATTERS COVERED.—The report shall, for each such center—

(1) describe in detail the activities and proposed activities of such center; and

(2) assess the progress of such center in discharging the responsibilities of such center.

# Subtitle C—Health Care Matters

Effective dates. 10 USC 1071 note.

**SEC. 1631. MEDICAL CARE AND OTHER BENEFITS FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES WITH SEVERE INJURIES OR ILLNESSES.**

(a) MEDICAL AND DENTAL CARE FOR FORMER MEMBERS.—

(1) IN GENERAL.—Effective as of the date of the enactment of this Act and subject to regulations prescribed by the Secretary of Defense, the Secretary may authorize that any former member of the Armed Forces with a serious injury or illness may receive the same medical and dental care as a member of the Armed Forces on active duty for medical and dental care not reasonably available to such former member in the Department of Veterans Affairs.

(2) SUNSET.—The Secretary of Defense may not provide medical or dental care to a former member of the Armed Forces under this subsection after December 31, 2012, if the Secretary has not provided medical or dental care to the former member under this subsection before that date.

(b) REHABILITATION AND VOCATIONAL BENEFITS.—

(1) IN GENERAL.—Effective as of the date of the enactment of this Act, a member of the Armed Forces with a severe injury or illness is entitled to such benefits (including rehabilitation and vocational benefits, but not including compensation) from the Secretary of Veterans Affairs to facilitate the recovery and rehabilitation of such member as the Secretary otherwise provides to veterans of the Armed Forces receiving medical care in medical facilities of the Department of Veterans Affairs facilities in order to facilitate the recovery and rehabilitation of such members.

(2) SUNSET.—The Secretary of Veterans Affairs may not provide benefits to a member of the Armed Forces under this subsection after December 31, 2012, if the Secretary has not provided benefits to the member under this subsection before that date.

**SEC. 1632. REIMBURSEMENT OF TRAVEL EXPENSES OF RETIRED MEMBERS WITH COMBAT-RELATED DISABILITIES FOR FOLLOW-ON SPECIALTY CARE, SERVICES, AND SUPPLIES.**

(a) TRAVEL.—Section 1074i of title 10, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) OUTREACH PROGRAM AND TRAVEL REIMBURSEMENT FOR FOLLOW-ON SPECIALTY CARE AND RELATED SERVICES.—The Secretary concerned shall ensure that an outreach program is implemented for each member of the uniformed services who incurred a combat-related disability and is entitled to retired or retainer pay, or equivalent pay, so that—

"(1) the progress of the member is closely monitored; and

"(2) the member receives the travel reimbursement authorized by subsection (a) whenever the member requires follow-on specialty care, services, or supplies.".

(b) COMBAT-RELATED DISABILITY DEFINED.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'combat-related disability' has the meaning given that term in section 1413a of this title.".

(c) EFFECTIVE DATE.—Subsection (b) of section 1074i of title 10, United States Code, as added by subsection (a)(2), shall apply with respect to travel described in subsection (a) of such section that occurs on or after January 1, 2008, for follow-on specialty care, services, or supplies.

Applicability. 10 USC 1074i note.

**SEC. 1633. RESPITE CARE AND OTHER EXTENDED CARE BENEFITS FOR MEMBERS OF THE UNIFORMED SERVICES WHO INCUR A SERIOUS INJURY OR ILLNESS ON ACTIVE DUTY.**

(a) IN GENERAL.—Section 1074(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) Subject to such terms and conditions as the Secretary of Defense considers appropriate, coverage comparable to that provided by the Secretary under subsections (d) and (e) of section 1079 of this title shall be provided under this subsection to members of the uniformed services who incur a serious injury or illness on active duty as defined by regulations prescribed by the Secretary.

"(B) The Secretary of Defense shall prescribe in regulations— Regulations.

"(i) the individuals who shall be treated as the primary caregivers of a member of the uniformed services for purposes of this paragraph; and

"(ii) the definition of serious injury or illness for the purposes of this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2008. 10 USC 1074 note.

**SEC. 1634. REPORTS.**

(a) REPORTS ON IMPLEMENTATION OF CERTAIN REQUIREMENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing the progress in implementing the requirements as follows:

(1) The requirements of section 721 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2294), relating to a longitudinal study on traumatic brain injury incurred by members of the Armed Forces in Operation Iraqi Freedom and Operation Enduring Freedom.

(2) The requirements of section 741 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (120 Stat. 2304), relating to pilot projects on early diagnosis and treatment of post-traumatic stress disorder and other mental health conditions.

(b) ANNUAL REPORTS ON EXPENDITURES FOR ACTIVITIES ON TBI AND PTSD.—

(1) REPORTS REQUIRED.—Not later than March 1, 2008, and each year thereafter through 2013, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the amounts expended by the Department of Defense during the preceding calendar year on activities described in paragraph (2), including the amount allocated during such calendar year to the Defense and Veterans Brain Injury Center of the Department.

(2) COVERED ACTIVITIES.—The activities described in this paragraph are activities as follows:

(A) Activities relating to the improved diagnosis, treatment, and rehabilitation of members of the Armed Forces with traumatic brain injury (TBI).

(B) Activities relating to the improved diagnosis, treatment, and rehabilitation of members of the Armed Forces with post-traumatic stress disorder (PTSD).

(3) ELEMENTS.—Each report under paragraph (1) shall include—

(A) a description of the amounts expended as described in that paragraph, including a description of the activities for which expended;

(B) a description and assessment of the outcome of such activities;

(C) a statement of priorities of the Department in activities relating to the prevention, diagnosis, research, treatment, and rehabilitation of traumatic brain injury in members of the Armed Forces during the year in which such report is submitted and in future calendar years;

(D) a statement of priorities of the Department in activities relating to the prevention, diagnosis, research, treatment, and rehabilitation of post-traumatic stress disorder and other mental health conditions in members of the Armed Forces during the year in which such report is submitted and in future calendar years; and

(E) an assessment of the progress made toward achieving the priorities stated in subparagraphs (C) and (D) in the report under paragraph (1) in the previous year, and a description of any actions planned during the year in which such report is submitted to achieve any unfulfilled priorities during such year.

10 USC 1071 note.

**SEC. 1635. FULLY INTEROPERABLE ELECTRONIC PERSONAL HEALTH INFORMATION FOR THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS.**

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly—

Records.

(1) develop and implement electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs; and

(2) accelerate the exchange of health care information between the Department of Defense and the Department of Veterans Affairs in order to support the delivery of health care by both Departments.

Establishment.

(b) DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS INTERAGENCY PROGRAM OFFICE.—

(1) IN GENERAL.—There is hereby established an interagency program office of the Department of Defense and the Department of Veterans Affairs (in this section referred to as the "Office") for the purposes described in paragraph (2).

(2) PURPOSES.—The purposes of the Office shall be as follows:

(A) To act as a single point of accountability for the Department of Defense and the Department of Veterans Affairs in the rapid development and implementation of

electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs.

(B) To accelerate the exchange of health care information between the Department of Defense and the Department of Veterans Affairs in order to support the delivery of health care by both Departments.

(c) LEADERSHIP.—

(1) DIRECTOR.—The Director of the Office shall be the head of the Office.

(2) DEPUTY DIRECTOR.—The Deputy Director of the Office shall be the deputy head of the Office and shall assist the Director in carrying out the duties of the Director.

(3) APPOINTMENTS.—(A) The Director shall be appointed by the Secretary of Defense, with the concurrence of the Secretary of Veterans Affairs, from among persons who are qualified to direct the development, acquisition, and integration of major information technology capabilities.

(B) The Deputy Director shall be appointed by the Secretary of Veterans Affairs, with the concurrence of the Secretary of Defense, from among employees of the Department of Defense and the Department of Veterans Affairs in the Senior Executive Service who are qualified to direct the development, acquisition, and integration of major information technology capabilities.

(4) ADDITIONAL GUIDANCE.—In addition to the direction, supervision, and control provided by the Secretary of Defense and the Secretary of Veterans Affairs, the Office shall also receive guidance from the Department of Veterans Affairs-Department of Defense Joint Executive Committee under section 320 of title 38, United States Code, in the discharge of the functions of the Office under this section.

(5) TESTIMONY.—Upon request by any of the appropriate committees of Congress, the Director and the Deputy Director shall testify before such committee regarding the discharge of the functions of the Office under this section.

(d) FUNCTION.—The function of the Office shall be to implement, by not later than September 30, 2009, electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs, which health records shall comply with applicable interoperability standards, implementation specifications, and certification criteria (including for the reporting of quality measures) of the Federal Government. Records. Deadline.

(e) SCHEDULES AND BENCHMARKS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly establish a schedule and benchmarks for the discharge by the Office of its function under this section, including each of the following: Deadline.

(1) A schedule for the establishment of the Office.

(2) A schedule and deadline for the establishment of the requirements for electronic health record systems or capabilities described in subsection (d), including coordination with the Office of the National Coordinator for Health Information Technology in the development of a nationwide interoperable health information technology infrastructure.

(3) A schedule and associated deadlines for any acquisition and testing required in the implementation of electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs.

(4) A schedule and associated deadlines and requirements for the implementation of electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs.

(f) PILOT PROJECTS.—

(1) AUTHORITY.—In order to assist the Office in the discharge of its function under this section, the Secretary of Defense and the Secretary of Veterans Affairs may, acting jointly, carry out one or more pilot projects to assess the feasibility and advisability of various technological approaches to the achievement of the electronic health record systems or capabilities described in subsection (d).

(2) SHARING OF PROTECTED HEALTH INFORMATION.—For purposes of each pilot project carried out under this subsection, the Secretary of Defense and the Secretary of Veterans Affairs shall, for purposes of the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), ensure the effective sharing of protected health information between the health care system of the Department of Defense and the health care system of the Department of Veterans Affairs as needed to provide all health care services and other benefits allowed by law.

(g) STAFF AND OTHER RESOURCES.—

(1) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall assign to the Office such personnel and other resources of the Department of Defense and the Department of Veterans Affairs as are required for the discharge of its function under this section.

(2) ADDITIONAL SERVICES.—Subject to the approval of the Secretary of Defense and the Secretary of Veterans Affairs, the Director may utilize the services of private individuals and entities as consultants to the Office in the discharge of its function under this section. Amounts available to the Office shall be available for payment for such services.

(h) ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than January 1, 2009, and each year thereafter through 2014, the Director shall submit to the Secretary of Defense and the Secretary of Veterans Affairs, and to the appropriate committees of Congress, a report on the activities of the Office during the preceding calendar year. Each report shall include, for the year covered by such report, the following:

(A) A detailed description of the activities of the Office, including a detailed description of the amounts expended and the purposes for which expended.

(B) An assessment of the progress made by the Department of Defense and the Department of Veterans Affairs in the full implementation of electronic health record systems or capabilities described in subsection (d).

(2) AVAILABILITY TO PUBLIC.—The Secretary of Defense and the Secretary of Veterans Affairs shall make available to the public each report submitted under paragraph (1), including by posting such report on the Internet website of the Department of Defense and the Department of Veterans Affairs, respectively, that is available to the public.

(i) COMPTROLLER GENERAL ASSESSMENT OF IMPLEMENTATION.— Not later than six months after the date of the enactment of this Act and every six months thereafter until the completion of the implementation of electronic health record systems or capabilities described in subsection (d), the Comptroller General of the United States shall submit to the appropriate committees of Congress a report setting forth the assessment of the Comptroller General of the progress of the Department of Defense and the Department of Veterans Affairs in implementing electronic health record systems or capabilities described in subsection (d). Deadlines. Reports.

**SEC. 1636. ENHANCED PERSONNEL AUTHORITIES FOR THE DEPARTMENT OF DEFENSE FOR HEALTH CARE PROFESSIONALS FOR CARE AND TREATMENT OF WOUNDED AND INJURED MEMBERS OF THE ARMED FORCES.**

(a) IN GENERAL.—Section 1599c of title 10, United States Code, is amended to read as follows:

**"§ 1599c. Health care professionals: enhanced appointment and compensation authority for personnel for care and treatment of wounded and injured members of the armed forces**

"(a) IN GENERAL.—The Secretary of Defense may, at the discretion of the Secretary, exercise any authority for the appointment and pay of health care personnel under chapter 74 of title 38 for purposes of the recruitment, employment, and retention of civilian health care professionals for the Department of Defense if the Secretary determines that the exercise of such authority is necessary in order to provide or enhance the capacity of the Department to provide care and treatment for members of the armed forces who are wounded or injured on active duty in the armed forces and to support the ongoing patient care and medical readiness, education, and training requirements of the Department of Defense.

"(b) RECRUITMENT OF PERSONNEL.—(1) The Secretaries of the military departments shall each develop and implement a strategy to disseminate among appropriate personnel of the military departments authorities and best practices for the recruitment of medical and health professionals, including the authorities under subsection (a).

"(2) Each strategy under paragraph (1) shall—

"(A) assess current recruitment policies, procedures, and practices of the military department concerned to assure that such strategy facilitates the implementation of efficiencies which reduce the time required to fill vacant positions for medical and health professionals; and

"(B) clearly identify processes and actions that will be used to inform and educate military and civilian personnel responsible for the recruitment of medical and health professionals.

"(c) TERMINATION OF AUTHORITY.—The authority of the Secretary of Defense to exercise authorities available under chapter 74 of title 38 for purposes of the recruitment, employment, and retention of civilian health care professionals for the Department of Defense expires September 30, 2010.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 of such title is amended by striking the item relating to section 1599c and inserting the following new item:

"1599c. Health care professionals: enhanced appointment and compensation authority for personnel for care and treatment of wounded and injured members of the armed forces.".

(c) REPORTS ON STRATEGIES ON RECRUITMENT OF MEDICAL AND HEALTH PROFESSIONALS.—Not later than six months after the date of the enactment of this Act, each Secretary of a military department shall submit to the congressional defense committees a report setting forth the strategy developed by such Secretary under section 1599c(b) of title 10, United States Code, as added by subsection (a).

**SEC. 1637. CONTINUATION OF TRANSITIONAL HEALTH BENEFITS FOR MEMBERS OF THE ARMED FORCES PENDING RESOLUTION OF SERVICE-RELATED MEDICAL CONDITIONS.**

Section 1145(a) of title 10, United States Code, is amended—

(1) in paragraph (3), by striking "Transitional health care" and inserting "Except as provided in paragraph (6), transitional health care"; and

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

"(6)(A) A member who has a medical condition relating to service on active duty that warrants further medical care that has been identified during the member's 180-day transition period, which condition can be resolved within 180 days as determined by a Department of Defense physician, shall be entitled to receive medical and dental care for that medical condition, and that medical condition only, as if the member were a member of the armed forces on active duty for 180 days following the diagnosis of the condition.

"(B) The Secretary concerned shall ensure that the Defense Enrollment and Eligibility Reporting System (DEERS) is continually updated in order to reflect the continuing entitlement of members covered by subparagraph (A) to the medical and dental care referred to in that subparagraph.".

# Subtitle D—Disability Matters

**SEC. 1641. UTILIZATION OF VETERANS' PRESUMPTION OF SOUND CONDITION IN ESTABLISHING ELIGIBILITY OF MEMBERS OF THE ARMED FORCES FOR RETIREMENT FOR DISABILITY.**

(a) RETIREMENT OF REGULARS AND MEMBERS ON ACTIVE DUTY FOR MORE THAN 30 DAYS.—Clause (i) of section 1201(b)(3)(B) of title 10, United States Code, is amended to read as follows:

"(i) the member has six months or more of active military service and the disability was not noted at the time of the member's entrance on active duty (unless compelling evidence or medical judgment is

such to warrant a finding that the disability existed before the member's entrance on active duty);".

(b) SEPARATION OF REGULARS AND MEMBERS ON ACTIVE DUTY FOR MORE THAN 30 DAYS.—Section 1203(b)(4)(B) of such title is amended by striking "and the member has at least eight years of service computed under section 1208 of this title" and inserting ", the member has six months or more of active military service, and the disability was not noted at the time of the member's entrance on active duty (unless evidence or medical judgment is such to warrant a finding that the disability existed before the member's entrance on active duty)".

**SEC. 1642. REQUIREMENTS AND LIMITATIONS ON DEPARTMENT OF DEFENSE DETERMINATIONS OF DISABILITY WITH RESPECT TO MEMBERS OF THE ARMED FORCES.**

(a) IN GENERAL.—Chapter 61 of title 10, United States Code, is amended by inserting after section 1216 the following new section:

**"§ 1216a. Determinations of disability: requirements and limitations on determinations**

"(a) UTILIZATION OF VA SCHEDULE FOR RATING DISABILITIES IN DETERMINATIONS OF DISABILITY.—(1) In making a determination of disability of a member of the armed forces for purposes of this chapter, the Secretary concerned—

"(A) shall, to the extent feasible, utilize the schedule for rating disabilities in use by the Department of Veterans Affairs, including any applicable interpretation of the schedule by the United States Court of Appeals for Veterans Claims; and

"(B) except as provided in paragraph (2), may not deviate from the schedule or any such interpretation of the schedule.

"(2) In making a determination described in paragraph (1), the Secretary concerned may utilize in lieu of the schedule described in that paragraph such criteria as the Secretary of Defense and the Secretary of Veterans Affairs may jointly prescribe for purposes of this subsection if the utilization of such criteria will result in a determination of a greater percentage of disability than would be otherwise determined through the utilization of the schedule.

"(b) CONSIDERATION OF ALL MEDICAL CONDITIONS.—In making a determination of the rating of disability of a member of the armed forces for purposes of this chapter, the Secretary concerned shall take into account all medical conditions, whether individually or collectively, that render the member unfit to perform the duties of the member's office, grade, rank, or rating.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 61 of such title is amended by inserting after the item relating to section 1216 the following new item:

"1216a. Determinations of disability: requirements and limitations on determinations.".

**SEC. 1643. REVIEW OF SEPARATION OF MEMBERS OF THE ARMED FORCES SEPARATED FROM SERVICE WITH A DISABILITY RATING OF 20 PERCENT DISABLED OR LESS.**

(a) BOARD REQUIRED.—

(1) IN GENERAL.—Chapter 79 of title 10, United States Code, is amended by inserting after section 1554 the following new section:

**"§ 1554a. Review of separation with disability rating of 20 percent disabled or less**

Establishment.

"(a) IN GENERAL.—(1) The Secretary of Defense shall establish within the Office of the Secretary of Defense a board of review to review the disability determinations of covered individuals by Physical Evaluation Boards. The board shall be known as the 'Physical Disability Board of Review'.

"(2) The Physical Disability Board of Review shall consist of not less than three members appointed by the Secretary.

"(b) COVERED INDIVIDUALS.—For purposes of this section, covered individuals are members and former members of the armed forces who, during the period beginning on September 11, 2001, and ending on December 31, 2009—

"(1) are separated from the armed forces due to unfitness for duty due to a medical condition with a disability rating of 20 percent disabled or less; and

"(2) are found to be not eligible for retirement.

"(c) REVIEW.—(1) Upon the request of a covered individual, or a surviving spouse, next of kin, or legal representative of a covered individual, the Physical Disability Board of Review shall review the findings and decisions of the Physical Evaluation Board with respect to such covered individual. Subject to paragraph (3), upon its own motion, the Physical Disability Board of Review may review the findings and decisions of the Physical Evaluation Board with respect to a covered individual.

"(2) The review by the Physical Disability Board of Review under paragraph (1) shall be based on the records of the armed force concerned and such other evidence as may be presented to the Physical Disability Board of Review. A witness may present evidence to the Board by affidavit or by any other means considered acceptable by the Secretary of Defense.

Notification.

"(3) If the Physical Disability Board of Review proposes to review, upon its own motion, the findings and decisions of the Physical Evaluation Board with respect to a covered individual, the Physical Disability Board of Review shall notify the covered individual, or a surviving spouse, next of kin, or legal representative of the covered individual, of the proposed review and obtain the consent of the covered individual or a surviving spouse, next of kin, or legal representative of the covered individual before proceeding with the review.

Notification.

"(4) With respect to any review by the Physical Disability Board of Review of the findings and decisions of the Physical Evaluation Board with respect to a covered individual, whether initiated at the request of the covered individual or a surviving spouse, next of kin, or legal representative of the covered individual or initiated by the Physical Disability Board of Review, the Physical Disability Board of Review shall notify the covered individual or a surviving spouse, next of kin, or legal representative of the covered individual that, as a result of the request or consent, the covered individual or a surviving spouse, next of kin, or legal representative of the covered individual may not seek relief from the Board for Correction of Military Records operated by the Secretary concerned.

"(d) AUTHORIZED RECOMMENDATIONS.—The Physical Disability Board of Review may, as a result of its findings under a review under subsection (c), recommend to the Secretary concerned the following (as applicable) with respect to a covered individual:

"(1) No recharacterization of the separation of such individual or modification of the disability rating previously assigned such individual.

"(2) The recharacterization of the separation of such individual to retirement for disability.

"(3) The modification of the disability rating previously assigned such individual by the Physical Evaluation Board concerned, which modified disability rating may not be a reduction of the disability rating previously assigned such individual by that Physical Evaluation Board.

"(4) The issuance of a new disability rating for such individual.

"(e) CORRECTION OF MILITARY RECORDS.—(1) The Secretary concerned may correct the military records of a covered individual in accordance with a recommendation made by the Physical Disability Board of Review under subsection (d). Any such correction may be made effective as of the effective date of the action taken on the report of the Physical Evaluation Board to which such recommendation relates.

"(2) In the case of a member previously separated pursuant to the findings and decision of a Physical Evaluation Board together with a lump-sum or other payment of back pay and allowances at separation, the amount of pay or other monetary benefits to which such member would be entitled based on the member's military record as corrected shall be reduced to take into account receipt of such lump-sum or other payment in such manner as the Secretary of Defense considers appropriate.

"(3) If the Physical Disability Board of Review makes a recommendation not to correct the military records of a covered individual, the action taken on the report of the Physical Evaluation Board to which such recommendation relates shall be treated as final as of the date of such action.

"(f) REGULATIONS.—(1) This section shall be carried out in accordance with regulations prescribed by the Secretary of Defense.

"(2) The regulations under paragraph (1) shall specify reasonable deadlines for the performance of reviews required by this section.

"(3) The regulations under paragraph (1) shall specify the effect of a determination or pending determination of a Physical Evaluation Board on considerations by boards for correction of military records under section 1552 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 79 of such title is amended by inserting after the item relating to section 1554 the following new item:

"1554a. Review of separation with disability rating of 20 percent disabled or less.".

(b) IMPLEMENTATION.—The Secretary of Defense shall establish the board of review required by section 1554a of title 10, United States Code (as added by subsection (a)), and prescribe the regulations required by such section, not later than 90 days after the date of the enactment of this Act.

Deadline.
10 USC 1554a note.

**SEC. 1644. AUTHORIZATION OF PILOT PROGRAMS TO IMPROVE THE DISABILITY EVALUATION SYSTEM FOR MEMBERS OF THE ARMED FORCES.**

10 USC 1071 note.

(a) PILOT PROGRAMS.—

(1) PROGRAMS AUTHORIZED.—For the purposes set forth in subsection (c), the Secretary of Defense may establish and conduct pilot programs with respect to the system of the Department of Defense for the evaluation of the disabilities of members of the Armed Forces who are being separated or retired from the Armed Forces for disability under chapter 61 of title 10, United States Code (in this section referred to as the "disability evaluation system").

(2) TYPES OF PILOT PROGRAMS.—In carrying out this section, the Secretary of Defense may conduct one or more of the pilot programs described in paragraphs (1) through (3) of subsection (b) or such other pilot programs as the Secretary of Defense considers appropriate.

(3) CONSULTATION.—In establishing and conducting any pilot program under this section, the Secretary of Defense shall consult with the Secretary of Veterans Affairs.

(b) SCOPE OF PILOT PROGRAMS.—

(1) DISABILITY DETERMINATIONS BY DOD UTILIZING VA ASSIGNED DISABILITY RATING.—Under one of the pilot programs authorized by subsection (a), for purposes of making a determination of disability of a member of the Armed Forces under section 1201(b) of title 10, United States Code, for the retirement, separation, or placement of the member on the temporary disability retired list under chapter 61 of such title, upon a determination by the Secretary of the military department concerned that the member is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability as described in section 1201(a) of such title—

(A) the Secretary of Veterans Affairs may—

(i) conduct an evaluation of the member for physical disability; and

(ii) assign the member a rating of disability in accordance with the schedule for rating disabilities utilized by the Secretary of Veterans Affairs based on all medical conditions (whether individually or collectively) that render the member unfit for duty; and

(B) the Secretary of the military department concerned may make the determination of disability regarding the member utilizing the rating of disability assigned under subparagraph (A)(ii).

(2) DISABILITY DETERMINATIONS UTILIZING JOINT DOD/VA ASSIGNED DISABILITY RATING.—Under one of the pilot programs authorized by subsection (a), in making a determination of disability of a member of the Armed Forces under section 1201(b) of title 10, United States Code, for the retirement, separation, or placement of the member on the temporary disability retired list under chapter 61 of such title, the Secretary of the military department concerned may, upon determining that the member is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability as described in section 1201(a) of such title—

(A) provide for the joint evaluation of the member for disability by the Secretary of the military department concerned and the Secretary of Veterans Affairs, including the assignment of a rating of disability for the member

in accordance with the schedule for rating disabilities utilized by the Secretary of Veterans Affairs based on all medical conditions (whether individually or collectively) that render the member unfit for duty; and

(B) make the determination of disability regarding the member utilizing the rating of disability assigned under subparagraph (A).

(3) ELECTRONIC CLEARING HOUSE.—Under one of the pilot programs authorized by subsection (a), the Secretary of Defense may establish and operate a single Internet website for the disability evaluation system of the Department of Defense that enables participating members of the Armed Forces to fully utilize such system through the Internet, with such Internet website to include the following:

(A) The availability of any forms required for the utilization of the disability evaluation system by members of the Armed Forces under the system.

(B) Secure mechanisms for the submission of such forms by members of the Armed Forces under the system, and for the tracking of the acceptance and review of any forms so submitted.

(C) Secure mechanisms for advising members of the Armed Forces under the system of any additional information, forms, or other items that are required for the acceptance and review of any forms so submitted.

(D) The continuous availability of assistance to members of the Armed Forces under the system (including assistance through the caseworkers assigned to such members of the Armed Forces) in submitting and tracking such forms, including assistance in obtaining information, forms, or other items described by subparagraph (C).

(E) Secure mechanisms to request and receive personnel files or other personnel records of members of the Armed Forces under the system that are required for submission under the disability evaluation system, including the capability to track requests for such files or records and to determine the status of such requests and of responses to such requests.

(4) OTHER PILOT PROGRAMS.—The pilot programs authorized by subsection (a) may also provide for the development, evaluation, and identification of such practices and procedures under the disability evaluation system as the Secretary considers appropriate for purposes set forth in subsection (c).

(c) PURPOSES.—A pilot program established under subsection (a) may have one or more of the following purposes:

(1) To provide for the development, evaluation, and identification of revised and improved practices and procedures under the disability evaluation system in order to—

(A) reduce the processing time under the disability evaluation system of members of the Armed Forces who are likely to be retired or separated for disability, and who have not requested continuation on active duty, including, in particular, members who are severely wounded;

(B) identify and implement or seek the modification of statutory or administrative policies and requirements applicable to the disability evaluation system that—

(i) are unnecessary or contrary to applicable best practices of civilian employers and civilian healthcare systems; or

(ii) otherwise result in hardship, arbitrary, or inconsistent outcomes for members of the Armed Forces, or unwarranted inefficiencies and delays;

(C) eliminate material variations in policies, interpretations, and overall performance standards among the military departments under the disability evaluation system; and

(D) determine whether it enhances the capability of the Department of Veterans Affairs to receive and determine claims from members of the Armed Forces for compensation, pension, hospitalization, or other veterans benefits.

(2) In conjunction with the findings and recommendations of applicable Presidential and Department of Defense study groups, to provide for the eventual development of revised and improved practices and procedures for the disability evaluation system in order to achieve the objectives set forth in paragraph (1).

(d) UTILIZATION OF RESULTS IN UPDATES OF COMPREHENSIVE POLICY ON CARE, MANAGEMENT, AND TRANSITION OF RECOVERING SERVICE MEMBERS.—The Secretary of Defense and the Secretary of Veterans Affairs, acting jointly, may incorporate responses to any findings and recommendations arising under the pilot programs conducted under subsection (a) in updating the comprehensive policy on the care and management of covered service members under section 1611(a)(4).

(e) CONSTRUCTION WITH OTHER AUTHORITIES.—

(1) IN GENERAL.—Subject to paragraph (2), in carrying out a pilot program under subsection (a)—

(A) the rules and regulations of the Department of Defense and the Department of Veterans Affairs relating to methods of determining fitness or unfitness for duty and disability ratings for members of the Armed Forces shall apply to the pilot program only to the extent provided in the report on the pilot program under subsection (g)(1); and

(B) the Secretary of Defense and the Secretary of Veterans Affairs may waive any provision of title 10, 37, or 38, United States Code, relating to methods of determining fitness or unfitness for duty and disability ratings for members of the Armed Forces if the Secretaries determine in writing that the application of such provision would be inconsistent with the purpose of the pilot program.

(2) LIMITATION.—Nothing in paragraph (1) shall be construed to authorize the waiver of any provision of section 1216a of title 10, United States Code, as added by section 1642 of this Act.

(f) DURATION.—Each pilot program conducted under subsection (a) shall be completed not later than one year after the date of the commencement of such pilot program under that subsection.

(g) REPORTS.—

(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report

on each pilot program that has been commenced as of that date under subsection (a). The report shall include—

(A) a description of the scope and objectives of the pilot program;

(B) a description of the methodology to be used under the pilot program to ensure rapid identification under such pilot program of revised or improved practices under the disability evaluation system in order to achieve the objectives set forth in subsection (c)(1); and

(C) a statement of any provision described in subsection (e)(1)(B) that will not apply to the pilot program by reason of a waiver under that subsection.

(2) INTERIM REPORT.—Not later than 180 days after the date of the submittal of the report required by paragraph (1) with respect to a pilot program, the Secretary shall submit to the appropriate committees of Congress a report describing the current status of the pilot program.

(3) FINAL REPORT.—Not later than 90 days after the completion of all of the pilot programs conducted under subsection (a), the Secretary shall submit to the appropriate committees of Congress a report setting forth a final evaluation and assessment of the pilot programs. The report shall include such recommendations for legislative or administrative action as the Secretary considers appropriate in light of such pilot programs.

**SEC. 1645. REPORTS ON ARMY ACTION PLAN IN RESPONSE TO DEFICIENCIES IN THE ARMY PHYSICAL DISABILITY EVALUATION SYSTEM.**

(a) REPORTS REQUIRED.—Not later than June 1, 2008, and June 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of corrective measures by the Department of Defense with respect to the Physical Disability Evaluation System (PDES) in response to the following:

(1) The report of the Inspector General of the Army on that system of March 6, 2007.

(2) The report of the Independent Review Group on Rehabilitation Care and Administrative Processes at Walter Reed Army Medical Center and National Naval Medical Center.

(3) The report of the Department of Veterans Affairs Task Force on Returning Global War on Terror Heroes.

(b) ELEMENTS OF REPORT.—Each report under subsection (a) shall include current information on the following:

(1) The total number of cases, and the number of cases involving combat disabled service members, pending resolution before the Medical and Physical Disability Evaluation Boards of the Army, including information on the number of members of the Army who have been in a medical hold or holdover status for more than each of 100, 200, and 300 days.

(2) The status of the implementation of modifications to disability evaluation processes of the Department of Defense in response to the following:

(A) The report of the Inspector General on such processes dated March 6, 2007.

(B) The report of the Independent Review Group on Rehabilitation Care and Administrative Processes at

Walter Reed Army Medical Center and National Naval Medical Center.

(C) The report of the Department of Veterans Affairs Task Force on Returning Global War on Terror Heroes.

Deadline. Report. Public information.

(c) POSTING ON INTERNET.—Not later than 24 hours after submitting a report under subsection (a), the Secretary shall post such report on the Internet website of the Department of Defense that is available to the public.

**SEC. 1646. ENHANCEMENT OF DISABILITY SEVERANCE PAY FOR MEMBERS OF THE ARMED FORCES.**

(a) IN GENERAL.—Section 1212 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking "his years of service, but not more than 12, computed under section 1208 of this title" in the matter preceding subparagraph (A) and inserting "the member's years of service computed under section 1208 of this title (subject to the minimum and maximum years of service provided for in subsection (c))";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

"(c)(1) The minimum years of service of a member for purposes of subsection (a)(1) shall be as follows:

"(A) Six years in the case of a member separated from the armed forces for a disability incurred in line of duty in a combat zone (as designated by the Secretary of Defense for purposes of this subsection) or incurred during the performance of duty in combat-related operations as designated by the Secretary of Defense.

"(B) Three years in the case of any other member.

"(2) The maximum years of service of a member for purposes of subsection (a)(1) shall be 19 years.".

(b) NO DEDUCTION FROM COMPENSATION OF SEVERANCE PAY FOR DISABILITIES INCURRED IN COMBAT ZONES.—Subsection (d) of such section, as redesignated by subsection (a)(2) of this section, is further amended—

(1) by inserting "(1)" after "(d)";

(2) by striking the second sentence; and

(3) by adding at the end the following new paragraphs:

"(2) No deduction may be made under paragraph (1) in the case of disability severance pay received by a member for a disability incurred in line of duty in a combat zone or incurred during performance of duty in combat-related operations as designated by the Secretary of Defense.

"(3) No deduction may be made under paragraph (1) from any death compensation to which a member's dependents become entitled after the member's death.".

10 USC 1212 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to members of the Armed Forces separated from the Armed Forces under chapter 61 of title 10, United States Code, on or after that date.

**SEC. 1647. ASSESSMENTS OF CONTINUING UTILITY AND FUTURE ROLE OF TEMPORARY DISABILITY RETIRED LIST.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report containing—

(1) a statistical history since January 1, 2000, of the numbers of members of the Armed Forces who are returned to duty or separated following a tenure on the temporary disability retired list and, in the case of members who were separated, how many of the members were granted disability separation or retirement and what were their disability ratings;

(2) the results of the assessments required by subsection (b); and

(3) such recommendations for the modification or improvement of the temporary disability retired list as the Secretary considers appropriate in response to the assessments.

(b) REQUIRED ASSESSMENTS.—The assessments required to be conducted as part of the report under subsection (a) are the following:

(1) An assessment of the continuing utility of the temporary disability retired list in satisfying the purposes for which the temporary disability retired list was established.

(2) An assessment of the need to require that the condition of a member be permanent and stable before the member is separated with less than a 30 percent disability rating prior to exceeding the maximum tenure allowed on the temporary disability retired list.

(3) An assessment of the future role of the temporary disability retired list in the Disability Evaluation System of the Department of Defense and the changes in policy and law required to fulfill the future role of the temporary disability retire list.

**SEC. 1648. STANDARDS FOR MILITARY MEDICAL TREATMENT FACILITIES, SPECIALTY MEDICAL CARE FACILITIES, AND MILITARY QUARTERS HOUSING PATIENTS AND ANNUAL REPORT ON SUCH FACILITIES.**

10 USC 1071 note.

(a) ESTABLISHMENT OF STANDARDS.—The Secretary of Defense shall establish for the military facilities of the Department of Defense and the military departments referred to in subsection (b) standards with respect to the matters set forth in subsection (c). To the maximum extent practicable, the standards shall—

(1) be uniform and consistent for all such facilities; and

(2) be uniform and consistent throughout the Department of Defense and the military departments.

(b) COVERED MILITARY FACILITIES.—The military facilities covered by this section are the following:

(1) Military medical treatment facilities.

(2) Specialty medical care facilities.

(3) Military quarters or leased housing for patients.

(c) SCOPE OF STANDARDS.—The standards required by subsection (a) shall include the following:

(1) Generally accepted standards for the accreditation of medical facilities, or for facilities used to quarter individuals that may require medical supervision, as applicable, in the United States.

(2) To the extent not inconsistent with the standards described in paragraph (1), minimally acceptable conditions for the following:

(A) Appearance and maintenance of facilities generally, including the structure and roofs of facilities.

(B) Size, appearance, and maintenance of rooms housing or utilized by patients, including furniture and amenities in such rooms.

(C) Operation and maintenance of primary and back-up facility utility systems and other systems required for patient care, including electrical systems, plumbing systems, heating, ventilation, and air conditioning systems, communications systems, fire protection systems, energy management systems, and other systems required for patient care.

(D) Compliance of facilities, rooms, and grounds, to the maximum extent practicable, with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(E) Such other matters relating to the appearance, size, operation, and maintenance of facilities and rooms as the Secretary considers appropriate.

(d) COMPLIANCE WITH STANDARDS.—

(1) DEADLINE.—In establishing standards under subsection (a), the Secretary shall specify a deadline for compliance with such standards by each facility referred to in subsection (b). The deadline shall be at the earliest date practicable after the date of the enactment of this Act, and shall, to the maximum extent practicable, be uniform across the facilities referred to in subsection (b).

Guidelines.

(2) INVESTMENT.—In carrying out this section, the Secretary shall also establish guidelines for investment to be utilized by the Department of Defense and the military departments in determining the allocation of financial resources to facilities referred to in subsection (b) in order to meet the deadline specified under paragraph (1).

(e) REPORT ON DEVELOPMENT AND IMPLEMENTATION OF STANDARDS.—

(1) IN GENERAL.—Not later than March 1, 2008, the Secretary shall submit to the congressional defense committees a report on the actions taken to carry out subsection (a).

(2) ELEMENTS.—The report under paragraph (1) shall include the following:

(A) The standards established under subsection (a).

(B) An assessment of the appearance, condition, and maintenance of each facility referred to in subsection (b), including—

(i) an assessment of the compliance of the facility with the standards established under subsection (a); and

(ii) a description of any deficiency or noncompliance in each facility with the standards.

(C) A description of the investment to be allocated to address each deficiency or noncompliance identified under subparagraph (B)(ii).

(f) ANNUAL REPORT.—Not later than the date on which the President submits the budget for a fiscal year to Congress pursuant to section 1105 of title 31, United States Code, the Secretary shall

submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the adequacy, suitability, and quality of each facility referred to in subsection (b). The Secretary shall include in each report information regarding—

(1) any deficiencies in the adequacy, quality, or state of repair of medical-related support facilities raised as a result of information received during the period covered by the report through the toll-free hot line required by section 1616; and

(2) the investigations conducted and plans of action prepared under such section to respond to such deficiencies.

**SEC. 1649. REPORTS ON ARMY MEDICAL ACTION PLAN IN RESPONSE TO DEFICIENCIES IDENTIFIED AT WALTER REED ARMY MEDICAL CENTER, DISTRICT OF COLUMBIA.**

Not later than 30 days after the date of the enactment of this Act, and every 180 days thereafter until March 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of the Army Medical Action Plan to correct deficiencies identified in the condition of facilities and patient administration.

**SEC. 1650. REQUIRED CERTIFICATIONS IN CONNECTION WITH CLOSURE OF WALTER REED ARMY MEDICAL CENTER, DISTRICT OF COLUMBIA.**

(a) CERTIFICATIONS.—In implementing the decision to close Walter Reed Army Medical Center, District of Columbia, required as a result of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; U.S.C. 2687 note), the Secretary of Defense shall submit to the congressional defense committees a certification of each of the following:

(1) That a transition plan has been developed, and resources have been committed, to ensure that patient care services, medical operations, and facilities are sustained at the highest possible level at Walter Reed Army Medical Center until facilities to replace Walter Reed Army Medical Center are staffed and ready to assume at least the same level of care previously provided at Walter Reed Army Medical Center.

(2) That the closure of Walter Reed Army Medical Center will not result in a net loss of capacity in the major medical centers in the National Capitol Region in terms of total bed capacity or staffed bed capacity.

(3) That the capacity of medical hold and out-patient lodging facilities operating at Walter Reed Army Medical Center as of the date of the certification will be available in sufficient quantities at the facilities designated to replace Walter Reed Army Medical Center by the date of the closure of Walter Reed Army Medical Center.

(b) TIME FOR SUBMITTAL.—The Secretary shall submit the certifications required by subsection (a) not later than 90 days after the date of the enactment of this Act. If the Secretary is unable to make one or more of the certifications by the end of the 90-day period, the Secretary shall notify the congressional defense committees of the delay and the reasons for the delay.

Notification.

10 USC 1071 note.

**SEC. 1651. HANDBOOK FOR MEMBERS OF THE ARMED FORCES ON COMPENSATION AND BENEFITS AVAILABLE FOR SERIOUS INJURIES AND ILLNESSES.**

Deadline.

(a) INFORMATION ON AVAILABLE COMPENSATION AND BENEFITS.—Not later than October 1, 2008, the Secretary of Defense shall develop and maintain, in handbook and electronic form, a comprehensive description of the compensation and other benefits to which a member of the Armed Forces, and the family of such member, would be entitled upon the separation or retirement of the member from the Armed Forces as a result of a serious injury or illness. The handbook shall set forth the range of such compensation and benefits based on grade, length of service, degree of disability at separation or retirement, and such other factors affecting such compensation and benefits as the Secretary considers appropriate.

(b) CONSULTATION.—The Secretary of Defense shall develop and maintain the comprehensive description required by subsection (a), including the handbook and electronic form of the description, in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, and the Commissioner of Social Security.

(c) UPDATE.—The Secretary of Defense shall update the comprehensive description required by subsection (a), including the handbook and electronic form of the description, on a periodic basis, but not less often than annually.

(d) PROVISION TO MEMBERS.—The Secretary of the military department concerned shall provide the descriptive handbook under subsection (a) to each member of the Armed Forces described in that subsection as soon as practicable following the injury or illness qualifying the member for coverage under such subsection.

(e) PROVISION TO REPRESENTATIVES.—If a member is incapacitated or otherwise unable to receive the descriptive handbook to be provided under subsection (a), the handbook shall be provided to the next of kin or a legal representative of the member, as determined in accordance with regulations prescribed by the Secretary of the military department concerned for purposes of this section.

# Subtitle E—Studies and Reports

**SEC. 1661. STUDY ON PHYSICAL AND MENTAL HEALTH AND OTHER READJUSTMENT NEEDS OF MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES WHO DEPLOYED IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM AND THEIR FAMILIES.**

Contracts.

(a) STUDY REQUIRED.—The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, enter into an agreement with the National Academy of Sciences for a study on the physical and mental health and other readjustment needs of members and former members of the Armed Forces who deployed in Operation Iraqi Freedom or Operation Enduring Freedom and their families as a result of such deployment.

(b) PHASES.—The study required under subsection (a) shall consist of two phases:

(1) A preliminary phase, to be completed not later than one year after the date of the enactment of this Act—

(A) to identify preliminary findings on the physical and mental health and other readjustment needs described in subsection (a) and on gaps in care for the members, former members, and families described in that subsection; and

(B) to determine the parameters of the second phase of the study under paragraph (2).

(2) A second phase, to be completed not later than three years after the date of the enactment of this Act, to carry out a comprehensive assessment, in accordance with the parameters identified under the preliminary report required by paragraph (1), of the physical and mental health and other readjustment needs of members and former members of the Armed Forces who deployed in Operation Iraqi Freedom or Operation Enduring Freedom and their families as a result of such deployment, including, at a minimum—

(A) an assessment of the psychological, social, and economic impacts of such deployment on such members and former members and their families;

(B) an assessment of the particular impacts of multiple deployments in Operation Iraqi Freedom or Operation Enduring Freedom on such members and former members and their families;

(C) an assessment of the full scope of the neurological, psychiatric, and psychological effects of traumatic brain injury on members and former members of the Armed Forces, including the effects of such effects on the family members of such members and former members, and an assessment of the efficacy of current treatment approaches for traumatic brain injury in the United States and the efficacy of screenings and treatment approaches for traumatic brain injury within the Department of Defense and the Department of Veterans Affairs;

(D) an assessment of the effects of undiagnosed injuries such as post-traumatic stress disorder and traumatic brain injury, an estimate of the long-term costs associated with such injuries, and an assessment of the efficacy of screenings and treatment approaches for post-traumatic stress disorder and other mental health conditions within the Department of Defense and Department of Veterans Affairs;

(E) an assessment of the gender- and ethnic group-specific needs and concerns of members of the Armed Forces and veterans;

(F) an assessment of the particular needs and concerns of children of members of the Armed Forces, taking into account differing age groups, impacts on development and education, and the mental and emotional well being of children;

(G) an assessment of the particular educational and vocational needs of such members and former members and their families, and an assessment of the efficacy of existing educational and vocational programs to address such needs;

(H) an assessment of the impacts on communities with high populations of military families, including military

housing communities and townships with deployed members of the National Guard and Reserve, of deployments associated with Operation Iraqi Freedom and Operation Enduring Freedom, and an assessment of the efficacy of programs that address community outreach and education concerning military deployments of community residents;

(I) an assessment of the impacts of increasing numbers of older and married members of the Armed Forces on readjustment requirements;

(J) the development, based on such assessments, of recommendations for programs, treatments, or policy remedies targeted at preventing, minimizing, or addressing the impacts, gaps, and needs identified; and

(K) the development, based on such assessments, of recommendations for additional research on such needs.

(c) POPULATIONS TO BE STUDIED.—The study required under subsection (a) shall consider the readjustment needs of each population of individuals as follows:

(1) Members of the regular components of the Armed Forces who are returning, or have returned, to the United States from deployment in Operation Iraqi Freedom or Operation Enduring Freedom.

(2) Members of the National Guard and Reserve who are returning, or have returned, to the United States from deployment in Operation Iraqi Freedom or Operation Enduring Freedom.

(3) Veterans of Operation Iraqi Freedom or Operation Enduring Freedom.

(4) Family members of the members and veterans described in paragraphs (1) through (3).

(d) ACCESS TO INFORMATION.—The National Academy of Sciences shall have access to such personnel, information, records, and systems of the Department of Defense and the Department of Veterans Affairs as the National Academy of Sciences requires in order to carry out the study required under subsection (a).

(e) PRIVACY OF INFORMATION.—The National Academy of Sciences shall maintain any personally identifiable information accessed by the Academy in carrying out the study required under subsection (a) in accordance with all applicable laws, protections, and best practices regarding the privacy of such information, and may not permit access to such information by any persons or entities not engaged in work under the study.

(f) REPORTS BY NATIONAL ACADEMY OF SCIENCES.—Upon the completion of each phase of the study required under subsection (a), the National Academy of Sciences shall submit to the Secretary of Defense, the Secretary of Veterans Affairs, and the congressional defense committees a report on such phase of the study.

(g) DOD AND VA RESPONSE TO NAS REPORTS.—Not later than 90 days after the receipt of a report under subsection (f) on each phase of the study required under subsection (a), the Secretary of Defense and the Secretary of Veterans Affairs shall develop a final joint Department of Defense-Department of Veterans Affairs response to the findings and recommendations of the National Academy of Sciences contained in such report.

**SEC. 1662. ACCESS OF RECOVERING SERVICE MEMBERS TO ADEQUATE OUTPATIENT RESIDENTIAL FACILITIES.**

10 USC 1071 note.

(a) REQUIRED INSPECTIONS OF FACILITIES.—All quarters of the United States and housing facilities under the jurisdiction of the Armed Forces that are occupied by recovering service members shall be inspected on a semiannual basis for the first two years after the enactment of this Act and annually thereafter by the inspectors general of the regional medical commands.

(b) INSPECTOR GENERAL REPORTS.—The inspector general for each regional medical command shall—

(1) submit a report on each inspection of a facility conducted under subsection (a) to the post commander at such facility, the commanding officer of the hospital affiliated with such facility, the surgeon general of the military department that operates such hospital, the Secretary of the military department concerned, the Assistant Secretary of Defense for Health Affairs, and the congressional defense committees; and

(2) post each such report on the Internet website of such regional medical command.

Web site.

**SEC. 1663. STUDY AND REPORT ON SUPPORT SERVICES FOR FAMILIES OF RECOVERING SERVICE MEMBERS.**

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study of the provision of support services for families of recovering service members.

(b) MATTERS COVERED.—The study under subsection (a) shall include the following:

(1) A determination of the types of support services, including job placement services, that are currently provided by the Department of Defense to eligible family members, and the cost of providing such services.

(2) A determination of additional types of support services that would be feasible for the Department to provide to such family members, and the costs of providing such services, including the following types of services:

(A) The provision of medical care at military medical treatment facilities.

(B) The provision of additional employment services, and the need for employment protection, of such family members who are placed on leave from employment or otherwise displaced from employment while caring for a recovering service member for more than 45 days during a one-year period.

(C) The provision of meals without charge at military medical treatment facilities.

(3) A survey of military medical treatment facilities to estimate the number of family members to whom the support services would be provided.

(4) A determination of any discrimination in employment that such family members experience, including denial of retention in employment, promotion, or any benefit of employment by an employer on the basis of the person's absence from employment, and a determination, in consultation with the Secretary of Labor, of the options available for such family members.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to

the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study, with such findings and recommendations as the Secretary considers appropriate.

**SEC. 1664. REPORT ON TRAUMATIC BRAIN INJURY CLASSIFICATIONS.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs jointly shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the changes undertaken within the Department of Defense and the Department of Veterans Affairs to ensure that traumatic brain injury victims receive a medical designation concomitant with their injury rather than a medical designation that assigns a generic classification (such as "organic psychiatric disorder").

**SEC. 1665. EVALUATION OF THE POLYTRAUMA LIAISON OFFICER/NON-COMMISSIONED OFFICER PROGRAM.**

(a) EVALUATION REQUIRED.—The Secretary of Defense shall conduct an evaluation of the Polytrauma Liaison Officer/Non-Commissioned Officer program, which is the program operated by each of the military departments and the Department of Veterans Affairs for the purpose of—

(1) assisting in the seamless transition of members of the Armed Forces from the Department of Defense health care system to the Department of Veterans Affairs system; and

(2) expediting the flow of information and communication between military treatment facilities and the Veterans Affairs Polytrauma Centers.

(b) MATTERS COVERED.—The evaluation of the Polytrauma Liaison Officer/Non-Commissioned Officer program shall include an evaluation of the following:

(1) The program's effectiveness in the following areas:

(A) Handling of military patient transfers.

(B) Ability to access military records in a timely manner.

(C) Collaboration with Polytrauma Center treatment teams.

(D) Collaboration with veteran service organizations.

(E) Functioning as the Polytrauma Center's subject-matter expert on military issues.

(F) Supporting and assisting family members.

(G) Providing education, information, and referrals to members of the Armed Forces and their family members.

(H) Functioning as uniformed advocates for members of the Armed Forces and their family members.

(I) Inclusion in Polytrauma Center meetings.

(J) Completion of required administrative reporting.

(K) Ability to provide necessary administrative support to all members of the Armed Forces.

(2) Manpower requirements to effectively carry out all required functions of the Polytrauma Liaison Officer/Non-Commissioned Officer program given current and expected case loads.

(3) Expansion of the program to incorporate Navy and Marine Corps officers and senior enlisted personnel.

(c) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing—

(1) the results of the evaluation; and

(2) recommendations for any improvements in the program.

# Subtitle F—Other Matters

**SEC. 1671. PROHIBITION ON TRANSFER OF RESOURCES FROM MEDICAL CARE.**

10 USC 1071 note.

Neither the Secretary of Defense nor the Secretaries of the military departments may transfer funds or personnel from medical care functions to administrative functions within the Department of Defense in order to comply with the new administrative requirements imposed by this title or the amendments made by this title.

**SEC. 1672. MEDICAL CARE FOR FAMILIES OF MEMBERS OF THE ARMED FORCES RECOVERING FROM SERIOUS INJURIES OR ILLNESSES.**

10 USC 1071 note.

(a) MEDICAL CARE AT MILITARY MEDICAL FACILITIES.—

(1) MEDICAL CARE.—A family member of a recovering service member who is not otherwise eligible for medical care at a military medical treatment facility may be eligible for such care at such facilities, on a space-available basis, if the family member is—

(A) on invitational orders while caring for the service member;

(B) a non-medical attendee caring for the service member; or

(C) receiving per diem payments from the Department of Defense while caring for the service member.

(2) SPECIFICATION OF FAMILY MEMBERS.—The Secretary of Defense may prescribe in regulations the family members of recovering service members who shall be considered to be a family member of a service member for purposes of this subsection.

(3) SPECIFICATION OF CARE.—The Secretary of Defense shall prescribe in regulations the medical care that may be available to family members under this subsection at military medical treatment facilities.

Regulations.

(4) RECOVERY OF COSTS.—The United States may recover the costs of the provision of medical care under this subsection as follows (as applicable):

(A) From third-party payers, in the same manner as the United States may collect costs of the charges of health care provided to covered beneficiaries from third-party payers under section 1095 of title 10, United States Code.

(B) As if such care was provided under the authority of section 1784 of title 38, United States Code.

(b) MEDICAL CARE AT DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITIES.—

(1) MEDICAL CARE.—When a recovering service member is receiving hospital care and medical services at a medical facility of the Department of Veterans Affairs, the Secretary of Veterans Affairs may provide medical care for eligible family

members under this section when that care is readily available at that Department facility and on a space-available basis.

(2) REGULATIONS.—The Secretary of Veterans Affairs shall prescribe in regulations the medical care that may be available to family members under this subsection at medical facilities of the Department of Veterans Affairs.

**SEC. 1673. IMPROVEMENT OF MEDICAL TRACKING SYSTEM FOR MEMBERS OF THE ARMED FORCES DEPLOYED OVERSEAS.**

(a) PROTOCOL FOR ASSESSMENT OF COGNITIVE FUNCTIONING.—

(1) PROTOCOL REQUIRED.—Subsection (b) of section 1074f of title 10, United States Code, is amended—

(A) in paragraph (2), by adding at the end the following new subparagraph:

"(C) An assessment of post-traumatic stress disorder."; and

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

Protocols.

"(3)(A) The Secretary shall establish for purposes of subparagraphs (B) and (C) of paragraph (2) a protocol for the predeployment assessment and documentation of the cognitive (including memory) functioning of a member who is deployed outside the United States in order to facilitate the assessment of the postdeployment cognitive (including memory) functioning of the member.

"(B) The protocol under subparagraph (A) shall include appropriate mechanisms to permit the differential diagnosis of traumatic brain injury in members returning from deployment in a combat zone.".

10 USC 1074f note.

(2) PILOT PROJECTS.—(A) In developing the protocol required by paragraph (3) of section 1074f(b) of title 10, United States Code (as amended by paragraph (1) of this subsection), for purposes of assessments for traumatic brain injury, the Secretary of Defense shall conduct up to three pilot projects to evaluate various mechanisms for use in the protocol for such purposes. One of the mechanisms to be so evaluated shall be a computer-based assessment tool which shall, at a minimum, include the following:

(i) Administration of computer-based neurocognitive assessment.

(ii) Pre-deployment assessments to establish a neurocognitive baseline for members of the Armed Forces for future treatment.

Deadline. Reports.

(B) Not later than 60 days after the completion of the pilot projects conducted under this paragraph, the Secretary shall submit to the appropriate committees of Congress a report on the pilot projects. The report shall include—

(i) a description of the pilot projects so conducted;

(ii) an assessment of the results of each such pilot project; and

(iii) a description of any mechanisms evaluated under each such pilot project that will be incorporated into the protocol.

Deadline.

(C) Not later than 180 days after completion of the pilot projects conducted under this paragraph, the Secretary shall establish a means for implementing any mechanism evaluated under such a pilot project that is selected for incorporation in the protocol.

(b) QUALITY ASSURANCE.—Subsection (d)(2) of section 1074f of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(F) The diagnosis and treatment of traumatic brain injury and post-traumatic stress disorder.".

(c) STANDARDS FOR DEPLOYMENT.—Subsection (f) of such section is amended—

(1) in the subsection heading, by striking "MENTAL HEALTH"; and

(2) in paragraph (2)(B), by striking "or" and inserting ", traumatic brain injury, or".

**SEC. 1674. GUARANTEED FUNDING FOR WALTER REED ARMY MEDICAL CENTER, DISTRICT OF COLUMBIA.**

(a) MINIMUM FUNDING.—The amount of funds available for the commander of Walter Reed Army Medical Center, District of Columbia, for a fiscal year shall be not less than the amount expended by the commander of Walter Reed Army Medical Center in fiscal year 2006 until the first fiscal year beginning after the date on which the Secretary of Defense submits to the congressional defense committees a plan for the provision of health care for military beneficiaries and their dependents in the National Capital Region. Plan.

(b) MATTERS COVERED.—The plan under subsection (a) shall at a minimum include—

(1) the manner in which patients, staff, bed capacity, and functions will move from the Walter Reed Army Medical Center to expanded facilities;

(2) a timeline, including milestones, for such moves;

(3) projected budgets, including planned budget transfers, for military treatment facilities within the region;

(4) the management or disposition of real property of military treatment facilities within the region; and

(5) staffing projections for the region.

(c) CERTIFICATION.—After submission of the plan under subsection (a) to the congressional defense committees, the Secretary shall certify to such committees on a quarterly basis that patients, staff, bed capacity, functions, or parts of functions at Walter Reed Army Medical Center have not been moved or disestablished until the expanded facilities at the National Naval Medical Center, Bethesda, Maryland, and DeWitt Army Community Hospital, Fort Belvoir, Virginia, are completed, equipped, and staffed with sufficient capacity to accept and provide, at a minimum, the same level of and access to care as patients received at Walter Reed Army Medical Center during fiscal year 2006.

(d) DEFINITIONS.—In this section:

(1) The term "expanded facilities" means the other two military hospitals/medical centers within the National Capital Region, namely—

(A) the National Naval Medical Center, Bethesda, Maryland (or its successor resulting from implementation of the recommendations of the 2005 Defense Base Closure and Realignment Commission); and

(B) the DeWitt Army Community Hospital, Fort Belvoir, Virginia.

(2) The term "National Capital Region" has the meaning given that term in section 2674(f) of title 10, United States Code.

**SEC. 1675. USE OF LEAVE TRANSFER PROGRAM BY WOUNDED VETERANS WHO ARE FEDERAL EMPLOYEES.**

(a) IN GENERAL.—Section 6333(b) of title 5, United States Code, is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

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

"(2)(A) The requirement under paragraph (1) relating to exhaustion of annual and sick leave shall not apply in the case of a leave recipient who—

"(i) sustains a combat-related disability while a member of the armed forces, including a reserve component of the armed forces; and

"(ii) is undergoing medical treatment for that disability.

"(B) Subparagraph (A) shall apply to a member described in such subparagraph only so long as the member continues to undergo medical treatment for the disability, but in no event for longer than 5 years from the start of such treatment.

"(C) For purposes of this paragraph—

"(i) the term 'combat-related disability' has the meaning given such term by section 1413a(e) of title 10; and

"(ii) the term 'medical treatment' has such meaning as the Office of Personnel Management shall by regulation prescribe.".

Applicability.
5 USC 6333 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, except that, in the case of a leave recipient who is undergoing medical treatment on such date of enactment, section 6333(b)(2)(B) of title 5, United States Code (as amended by this section) shall be applied as if it had been amended by inserting "or the date of the enactment of this subsection, whichever is later" after "the start of such treatment".

10 USC 1071 note.

**SEC. 1676. MORATORIUM ON CONVERSION TO CONTRACTOR PERFORMANCE OF DEPARTMENT OF DEFENSE FUNCTIONS AT MILITARY MEDICAL FACILITIES.**

(a) MORATORIUM.—No study or competition may be begun or announced pursuant to section 2461 of title 10, United States Code, or otherwise pursuant to Office of Management and Budget circular A-76, relating to the possible conversion to performance by a contractor of any Department of Defense function carried out at a military medical facility until the Secretary of Defense—

Certification.

(1) submits the certification required by subsection (b) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives together with a description of the steps taken by the Secretary in accordance with the certification; and

Reports.

(2) submits the report required by subsection (c).

(b) CERTIFICATION.—The certification referred to in paragraph (a)(1) is a certification that the Secretary has taken appropriate steps to ensure that neither the quality of military medical care nor the availability of qualified personnel to carry out Department of Defense functions related to military medical care will be adversely affected by either—

(1) the process of considering a Department of Defense function carried out at a military medical facility for possible conversion to performance by a contractor; or

(2) the conversion of such a function to performance by a contractor.

(c) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the public-private competitions being conducted for Department of Defense functions carried out at military medical facilities as of the date of the enactment of this Act by each military department and defense agency. Such report shall include—

(1) for each such competition—

(A) the cost of conducting the public-private competition;

(B) the number of military personnel and civilian employees of the Department of Defense affected;

(C) the estimated savings identified and the savings actually achieved;

(D) an evaluation whether the anticipated and budgeted savings can be achieved through a public-private competition; and

(E) the effect of converting the performance of the function to performance by a contractor on the quality of the performance of the function; and

(2) an assessment of whether any method of business reform or reengineering other than a public-private competition could, if implemented in the future, achieve any anticipated or budgeted savings.

# TITLE XVII—VETERANS MATTERS

Sec. 1701. Sense of Congress on Department of Veterans Affairs efforts in the rehabilitation and reintegration of veterans with traumatic brain injury.
Sec. 1702. Individual rehabilitation and community reintegration plans for veterans and others with traumatic brain injury.
Sec. 1703. Use of non-Department of Veterans Affairs facilities for implementation of rehabilitation and community reintegration plans for traumatic brain injury.
Sec. 1704. Research, education, and clinical care program on traumatic brain injury.
Sec. 1705. Pilot program on assisted living services for veterans with traumatic brain injury.
Sec. 1706. Provision of age-appropriate nursing home care.
Sec. 1707. Extension of period of eligibility for health care for veterans of combat service during certain periods of hostilities and war.
Sec. 1708. Service-connection and assessments for mental health conditions in veterans.
Sec. 1709. Modification of requirements for furnishing outpatient dental services to veterans with service-connected dental conditions or disabilities.
Sec. 1710. Clarification of purpose of outreach services program of Department of Veterans Affairs.
Sec. 1711. Designation of fiduciary or trustee for purposes of Traumatic Servicemembers' Group Life Insurance.

## SEC. 1701. SENSE OF CONGRESS ON DEPARTMENT OF VETERANS AFFAIRS EFFORTS IN THE REHABILITATION AND REINTEGRATION OF VETERANS WITH TRAUMATIC BRAIN INJURY.

It is the sense of Congress that—

(1) the Department of Veterans Affairs is a leader in the field of traumatic brain injury care and coordination of such care;

(2) the Department of Veterans Affairs should have the capacity and expertise to provide veterans who have a traumatic brain injury with patient-centered health care, rehabilitation, and community integration services that are comparable to or exceed similar care and services available to persons with such injuries in the academic and private sector;

(3) rehabilitation for veterans who have a traumatic brain injury should be individualized, comprehensive, and interdisciplinary with the goals of optimizing the independence of such veterans and reintegrating them into their communities;

(4) family support is integral to the rehabilitation and community reintegration of veterans who have sustained a traumatic brain injury, and the Department should provide the families of such veterans with education and support;

(5) the Department of Defense and the Department of Veterans Affairs have made efforts to provide a smooth transition of medical care and rehabilitative services to individuals as they transition from the health care system of the Department of Defense to that of the Department of Veterans Affairs, but more can be done to assist veterans and their families in the continuum of the rehabilitation, recovery, and reintegration of wounded or injured veterans into their communities;

(6) in planning for rehabilitation and community reintegration of veterans who have a traumatic brain injury, it is necessary for the Department of Veterans Affairs to provide a system for life-long case management for such veterans; and

(7) in such system for life-long case management, it is necessary to conduct outreach and to tailor specialized traumatic brain injury case management and outreach to the unique needs of veterans with traumatic brain injury who reside in urban and non-urban settings.

**SEC. 1702. INDIVIDUAL REHABILITATION AND COMMUNITY REINTEGRATION PLANS FOR VETERANS AND OTHERS WITH TRAUMATIC BRAIN INJURY.**

(a) IN GENERAL.—Subchapter II of chapter 17 of title 38, United States Code, is amended by inserting after section 1710B the following new sections:

**"§ 1710C. Traumatic brain injury: plans for rehabilitation and reintegration into the community**

"(a) PLAN REQUIRED.—The Secretary shall, for each individual who is a veteran or member of the Armed Forces who receives inpatient or outpatient rehabilitative hospital care or medical services provided by the Department for a traumatic brain injury—

"(1) develop an individualized plan for the rehabilitation and reintegration of the individual into the community; and

"(2) provide such plan in writing to the individual—

"(A) in the case of an individual receiving inpatient care, before the individual is discharged from inpatient care or after the individual's transition from serving on active duty as a member of the Armed Forces to receiving outpatient care provided by the Department; or

"(B) as soon as practicable following a diagnosis of traumatic brain injury by a Department health care provider.

"(b) CONTENTS OF PLAN.—Each plan developed under subsection (a) shall include, for the individual covered by such plan, the following:

"(1) Rehabilitation objectives for improving the physical, cognitive, and vocational functioning of the individual with the goal of maximizing the independence and reintegration of such individual into the community.

"(2) Access, as warranted, to all appropriate rehabilitative components of the traumatic brain injury continuum of care, and where appropriate, to long-term care services.

"(3) A description of specific rehabilitative treatments and other services to achieve the objectives described in paragraph (1), which shall set forth the type, frequency, duration, and location of such treatments and services.

"(4) The name of the case manager designated in accordance with subsection (d) to be responsible for the implementation of such plan.

"(5) Dates on which the effectiveness of such plan will be reviewed in accordance with subsection (f).

"(c) COMPREHENSIVE ASSESSMENT.—(1) Each plan developed under subsection (a) shall be based on a comprehensive assessment, developed in accordance with paragraph (2), of—

"(A) the physical, cognitive, vocational, and neuropsychological and social impairments of the individual; and

"(B) the family education and family support needs of the individual after the individual is discharged from inpatient care or at the commencement of and during the receipt of outpatient care and services.

"(2) The comprehensive assessment required under paragraph (1) with respect to an individual is a comprehensive assessment of the matters set forth in that paragraph by a team, composed by the Secretary for purposes of the assessment, of individuals with expertise in traumatic brain injury, including any of the following:

"(A) A neurologist.
"(B) A rehabilitation physician.
"(C) A social worker.
"(D) A neuropsychologist.
"(E) A physical therapist.
"(F) A vocational rehabilitation specialist.
"(G) An occupational therapist.
"(H) A speech language pathologist.
"(I) A rehabilitation nurse.
"(J) An educational therapist.
"(K) An audiologist.
"(L) A blind rehabilitation specialist.
"(M) A recreational therapist.
"(N) A low vision optometrist.
"(O) An orthotist or prosthetist.
"(P) An assistive technologist or rehabilitation engineer.
"(Q) An otolaryngology physician.
"(R) A dietician.
"(S) An opthamologist.
"(T) A psychiatrist.

"(d) CASE MANAGER.—(1) The Secretary shall designate a case manager for each individual described in subsection (a) to be responsible for the implementation of the plan developed for that individual under that subsection and the coordination of the individual's medical care.

"(2) The Secretary shall ensure that each case manager has specific expertise in the care required by the individual for whom the case manager is designated, regardless of whether the case manager obtains such expertise through experience, education, or training.

"(e) PARTICIPATION AND COLLABORATION IN DEVELOPMENT OF PLANS.—(1) The Secretary shall involve each individual described in subsection (a), and the family or legal guardian of such individual, in the development of the plan for such individual under that subsection to the maximum extent practicable.

"(2) The Secretary shall collaborate in the development of a plan for an individual under subsection (a) with a State protection and advocacy system if—

"(A) the individual covered by the plan requests such collaboration; or

"(B) in the case of such an individual who is incapacitated, the family or guardian of the individual requests such collaboration.

"(3) In the case of a plan required by subsection (a) for a member of the Armed Forces who is serving on active duty, the Secretary shall collaborate with the Secretary of Defense in the development of such plan.

"(4) In developing vocational rehabilitation objectives required under subsection (b)(1) and in conducting the assessment required under subsection (c), the Secretary shall act through the Under Secretary for Health in coordination with the Vocational Rehabilitation and Employment Service of the Department of Veterans Affairs.

"(f) EVALUATION.—

"(1) PERIODIC REVIEW BY SECRETARY.—The Secretary shall periodically review the effectiveness of each plan developed under subsection (a). The Secretary shall refine each such plan as the Secretary considers appropriate in light of such review.

"(2) REQUEST FOR REVIEW BY VETERANS.—In addition to the periodic review required by paragraph (1), the Secretary shall conduct a review of the plan for an individual under paragraph (1) at the request of the individual, or in the case of an individual who is incapacitated, at the request of the guardian or designee of the individual.

"(g) STATE DESIGNATED PROTECTION AND ADVOCACY SYSTEM DEFINED.—In this section, the term 'State protection and advocacy system' means a system established in a State under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.) to protect and advocate for the rights of persons with development disabilities.

**"§ 1710D. Traumatic brain injury: comprehensive program for long-term rehabilitation**

"(a) COMPREHENSIVE PROGRAM.—In developing plans for the rehabilitation and reintegration of individuals with traumatic brain injury under section 1710C of this title, the Secretary shall develop and carry out a comprehensive program of long-term care for post-acute traumatic brain injury rehabilitation that includes residential,

community, and home-based components utilizing interdisciplinary treatment teams.

"(b) LOCATION OF PROGRAM.—The Secretary shall carry out the program developed under subsection (a) in each Department polytrauma rehabilitation center designated by the Secretary.

"(c) ELIGIBILITY.—A veteran is eligible for care under the program developed under subsection (a) if the veteran is otherwise eligible to receive hospital care and medical services under section 1710 of this title and—

"(1) served on active duty in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) during a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities (as defined in section 1712A(a)(2)(B) of this title) after November 11, 1998;

"(2) is diagnosed as suffering from moderate to severe traumatic brain injury; and

"(3) is unable to manage routine activities of daily living without supervision or assistance, as determined by the Secretary.

"(d) REPORT.—Not later than one year after the date of the enactment of this section, and annually thereafter, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the following information:

"(1) A description of the operation of the program.

"(2) The number of veterans provided care under the program during the year preceding such report.

"(3) The cost of operating the program during the year preceding such report.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1710B the following new items:

"1710C. Traumatic brain injury: plans for rehabilitation and reintegration into the community.
"1710D. Traumatic brain injury: comprehensive plan for long-term rehabilitation.".

**SEC. 1703. USE OF NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR IMPLEMENTATION OF REHABILITATION AND COMMUNITY REINTEGRATION PLANS FOR TRAUMATIC BRAIN INJURY.**

(a) IN GENERAL.—Subchapter II of chapter 17 of title 38, United States Code, is amended by inserting after section 1710D, as added by section 1702, the following new section:

**"§ 1710E. Traumatic brain injury: use of non-Department facilities for rehabilitation**

"(a) COOPERATIVE AGREEMENTS.—The Secretary, in implementing and carrying out a plan developed under section 1710C of this title, may provide hospital care and medical services through cooperative agreements with appropriate public or private entities that have established long-term neurobehavioral rehabilitation and recovery programs.

"(b) AUTHORITIES OF STATE PROTECTION AND ADVOCACY SYSTEMS.—Nothing in subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 shall be construed as preventing a State protection and advocacy system (as defined

in section 1710C(g) of this title) from exercising the authorities described in such subtitle with respect to individuals provided rehabilitative treatment or services under section 1710C of this title in a non-Department facility.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1710D, as added by section 1702, the following new item:

"1710E. Traumatic brain injury: use of non-Departmental facilities for rehabilitation.".

38 USC 1710C note.

**SEC. 1704. RESEARCH, EDUCATION, AND CLINICAL CARE PROGRAM ON TRAUMATIC BRAIN INJURY.**

(a) IN GENERAL.—To improve the provision of health care by the Department of Veterans Affairs to veterans with traumatic brain injuries, the Secretary of Veterans Affairs shall—

(1) conduct research, including—

(A) research on the sequelae of mild to severe forms of traumatic brain injury;

(B) research on visually-related neurological conditions;

(C) research on seizure disorders;

(D) research on means of improving the diagnosis, rehabilitative treatment, and prevention of such sequelae;

(E) research to determine the most effective cognitive and physical therapies for such sequelae;

(F) research on dual diagnosis of post-traumatic stress disorder and traumatic brain injury;

(G) research on improving facilities of the Department concentrating on traumatic brain injury care; and

(H) research on improving the delivery of traumatic brain injury care by the Department;

(2) educate and train health care personnel of the Department in recognizing and treating traumatic brain injury; and

(3) develop improved models and systems for the furnishing of traumatic brain injury care by the Department.

(b) COLLABORATION.—In carrying out research under subsection (a), the Secretary of Veterans Affairs shall collaborate with—

(1) facilities that conduct research on rehabilitation for individuals with traumatic brain injury;

(2) facilities that receive grants for such research from the National Institute on Disability and Rehabilitation Research of the Department of Education; and

(3) the Defense and Veterans Brain Injury Center of the Department of Defense and other relevant programs of the Federal Government (including Centers of Excellence).

(c) DISSEMINATION OF USEFUL INFORMATION.—The Under Secretary of Veterans Affairs for Health shall ensure that information produced by the research, education and training, and clinical activities conducted under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Veterans Health Administration.

(d) TRAUMATIC BRAIN INJURY REGISTRY.—

Establishment.

(1) IN GENERAL.—The Secretary of Veterans Affairs shall establish and maintain a registry to be known as the "Traumatic Brain Injury Veterans Health Registry" (in this section referred to as the "Registry").

(2) DESCRIPTION.—The Registry shall include the following information:

(A) A list containing the name of each individual who served as a member of the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom who exhibits symptoms associated with traumatic brain injury, as determined by the Secretary of Veterans Affairs, and who—

(i) applies for care and services furnished by the Department of Veterans Affairs under chapter 17 of title 38, United States Code; or

(ii) files a claim for compensation under chapter 11 of such title on the basis of any disability which may be associated with such service.

(B) Any relevant medical data relating to the health status of an individual described in subparagraph (A) and any other information the Secretary considers relevant and appropriate with respect to such an individual if the individual—

(i) grants permission to the Secretary to include such information in the Registry; or

(ii) is deceased at the time such individual is listed in the Registry.

(3) NOTIFICATION.—When possible, the Secretary shall notify each individual listed in the Registry of significant developments in research on the health consequences of military service in the Operation Enduring Freedom and Operation Iraqi Freedom theaters of operations.

**SEC. 1705. PILOT PROGRAM ON ASSISTED LIVING SERVICES FOR VETERANS WITH TRAUMATIC BRAIN INJURY.**

38 USC 1710C note.

(a) PILOT PROGRAM.—Beginning not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs, in collaboration with the Defense and Veterans Brain Injury Center of the Department of Defense, shall carry out a five-year pilot program to assess the effectiveness of providing assisted living services to eligible veterans to enhance the rehabilitation, quality of life, and community integration of such veterans.

Deadline.

(b) PROGRAM LOCATIONS.—

(1) IN GENERAL.—The pilot program shall be carried out at locations selected by the Secretary for purposes of the pilot program. Of the locations so selected—

(A) at least one location shall be in each health care region of the Veterans Health Administration of the Department of Veterans Affairs that contains a polytrauma center of the Department of Veterans Affairs; and

(B) any location other than a location described in subparagraph (A) shall be in an area that contains a high concentration of veterans with traumatic brain injuries, as determined by the Secretary.

(2) SPECIAL CONSIDERATION FOR VETERANS IN RURAL AREAS.—The Secretary shall give special consideration to providing veterans in rural areas with an opportunity to participate in the pilot program.

(c) PROVISION OF ASSISTED LIVING SERVICES.—

(1) AGREEMENTS.—In carrying out the pilot program, the Secretary may enter into agreements for the provision of

assisted living services on behalf of eligible veterans with a provider participating under a State plan or waiver under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(2) STANDARDS.—The Secretary may not place, transfer, or admit a veteran to any facility for assisted living services under the pilot program unless the Secretary determines that the facility meets such standards as the Secretary may prescribe for purposes of the pilot program. Such standards shall, to the extent practicable, be consistent with the standards of Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such facilities.

(d) CONTINUATION OF CASE MANAGEMENT AND REHABILITATION SERVICES.—In carrying out the pilot program, the Secretary shall—

(1) continue to provide each veteran who is receiving assisted living services under the pilot program with rehabilitative services; and

(2) designate employees of the Veterans Health Administration of the Department of Veterans Affairs to furnish case management services for veterans participating in the pilot program.

(e) REPORT.—

(1) IN GENERAL.—Not later than 60 days after the completion of the pilot program, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pilot program.

(2) CONTENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the pilot program.

(B) An assessment of the utility of the activities under the pilot program in enhancing the rehabilitation, quality of life, and community reintegration of veterans with traumatic brain injury.

(C) Such recommendations as the Secretary considers appropriate regarding the extension or expansion of the pilot program.

(f) DEFINITIONS.—In this section:

(1) The term "assisted living services" means services of a facility in providing room, board, and personal care for and supervision of residents for their health, safety, and welfare.

(2) The term "case management services" includes the coordination and facilitation of all services furnished to a veteran by the Department of Veterans Affairs, either directly or through a contract, including assessment of needs, planning, referral (including referral for services to be furnished by the Department, either directly or through a contract, or by an entity other than the Department), monitoring, reassessment, and followup.

(3) The term "eligible veteran" means a veteran who—

(A) is enrolled in the patient enrollment system of the Department of Veterans Affairs under section 1705 of title 38, United States Code;

(B) has received hospital care or medical services provided by the Department of Veterans Affairs for a traumatic brain injury;

(C) is unable to manage routine activities of daily living without supervision and assistance, as determined by the Secretary; and

(D) could reasonably be expected to receive ongoing services after the end of the pilot program under this section under another program of the Federal Government or through other means, as determined by the Secretary.

**SEC. 1706. PROVISION OF AGE-APPROPRIATE NURSING HOME CARE.**

38 USC 1710A note.

(a) FINDING.—Congress finds that young veterans who are injured or disabled through military service and require long-term care should have access to age-appropriate nursing home care.

(b) REQUIREMENT TO PROVIDE AGE-APPROPRIATE NURSING HOME CARE.—Section 1710A of title 38, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) The Secretary shall ensure that nursing home care provided under subsection (a) is provided in an age-appropriate manner.".

**SEC. 1707. EXTENSION OF PERIOD OF ELIGIBILITY FOR HEALTH CARE FOR VETERANS OF COMBAT SERVICE DURING CERTAIN PERIODS OF HOSTILITIES AND WAR.**

Subparagraph (C) of section 1710(e)(3) of title 38, United States Code, is amended to read as follows:

"(C) in the case of care for a veteran described in paragraph (1)(D) who—

"(i) is discharged or released from the active military, naval, or air service after the date that is five years before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008, after a period of five years beginning on the date of such discharge or release; or

"(ii) is so discharged or released more than five years before the date of the enactment of that Act and who did not enroll in the patient enrollment system under section 1705 of this title before such date, after a period of three years beginning on the date of the enactment of that Act; and".

**SEC. 1708. SERVICE-CONNECTION AND ASSESSMENTS FOR MENTAL HEALTH CONDITIONS IN VETERANS.**

(a) PRESUMPTION OF SERVICE-CONNECTION FOR MENTAL ILLNESS IN PERSIAN GULF WAR VETERANS.—

(1) IN GENERAL.—Section 1702 of title 38, United States Code, is amended—

(A) by inserting "(a) PSYCHOSIS.—" before "For the purposes"; and

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

"(b) MENTAL ILLNESS.—For purposes of this chapter, any veteran of the Persian Gulf War who develops an active mental illness (other than psychosis) shall be deemed to have incurred such disability in the active military, naval, or air service if such veteran develops such disability—

"(1) within two years after discharge or release from the active military, naval, or air service; and

"(2) before the end of the two-year period beginning on the last day of the Persian Gulf War.".

(2) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

**"§ 1702. Presumptions: psychosis after service in World War II and following periods of war; mental illness after service in the Persian Gulf War".**

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by striking the item relating to section 1702 and inserting the following new item:

"1702. Presumptions: psychosis after service in World War II and following periods of war; mental illness following service in the Persian Gulf War.".

(b) PROVISION OF MENTAL HEALTH ASSESSMENTS FOR CERTAIN VETERANS.—Section 1712A(a) of such title is amended—

(1) in paragraph (1)(B), by adding at the end the following new clause:

"(iii) Any veteran who served on active duty—

"(I) in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) during a period of war after the Persian Gulf War; or

"(II) in combat against a hostile force during a period of hostilities (as defined in paragraph (2)(B)) after November 11, 1998."; and

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

Deadline.

"(3) Upon request of a veteran described in paragraph (1)(B)(iii), the Secretary shall provide the veteran a preliminary general mental health assessment as soon as practicable after receiving the request, but not later than 30 days after receiving the request.".

**SEC. 1709. MODIFICATION OF REQUIREMENTS FOR FURNISHING OUTPATIENT DENTAL SERVICES TO VETERANS WITH SERVICE-CONNECTED DENTAL CONDITIONS OR DISABILITIES.**

Section 1712(a)(1)(B)(iii) of title 38, United States Code, is amended—

(1) by striking "90 days after such discharge" and inserting "180 days after such discharge";

(2) by striking "90 days from the date of such veteran's subsequent discharge" and inserting "180 days from the date of such veteran's subsequent discharge"; and

(3) by striking "90 days after the date of correction" and inserting "180 days after the date of correction".

**SEC. 1710. CLARIFICATION OF PURPOSE OF OUTREACH SERVICES PROGRAM OF DEPARTMENT OF VETERANS AFFAIRS.**

(a) CLARIFICATION OF INCLUSION OF MEMBERS OF THE NATIONAL GUARD AND RESERVE IN PROGRAM.—Subsection (a)(1) of section 6301 of title 38, United States Code, is amended by inserting ", or from a reserve component," after "active military, naval, or air service".

(b) DEFINITION OF OUTREACH.—Subsection (b) of such section is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2) the following new paragraph (1):

"(1) the term 'outreach' means the act or process of reaching out in a systematic manner to proactively provide information, services, and benefits counseling to veterans, and to the spouses, children, and parents of veterans who may be eligible to receive benefits under the laws administered by the Secretary, to ensure that such individuals are fully informed about, and receive assistance in applying for, such benefits;".

**SEC. 1711. DESIGNATION OF FIDUCIARY OR TRUSTEE FOR PURPOSES OF TRAUMATIC SERVICEMEMBERS' GROUP LIFE INSURANCE.**

Section 1980A of title 38, United States Code, is amended by adding at the end the following new subsection:

"(k) DESIGNATION OF FIDUCIARY OR TRUSTEE.—(1) The Secretary concerned, in consultation with the Secretary, shall develop a process for the designation of a fiduciary or trustee of a member of the uniformed services who is insured against traumatic injury under this section. The fiduciary or trustee so designated would receive a payment for a qualifying loss under this section if the member is medically incapacitated (as determined pursuant to regulations prescribed by the Secretary concerned in consultation with the Secretary) or experiencing an extended loss of consciousness.

"(2) The process under paragraph (1) may require each member of the uniformed services who is insured under this section to—

"(A) designate an individual as the member's fiduciary or trustee for purposes of subsection (a); or

"(B) elect that a court of proper jurisdiction designate an individual as the member's fiduciary or trustee for purposes of subsection (a) in the event that the member becomes medically incapacitated or experiences an extended loss of consciousness.".

# TITLE XVIII—NATIONAL GUARD BUREAU MATTERS AND RELATED MATTERS

National Guard Empowerment Act of 2007.

Sec. 1801. Short title.

Subtitle A—National Guard Bureau

Sec. 1811. Appointment, grade, duties, and retirement of the Chief of the National Guard Bureau.
Sec. 1812. Establishment of National Guard Bureau as joint activity of the Department of Defense.
Sec. 1813. Enhancement of functions of the National Guard Bureau.
Sec. 1814. Requirement for Secretary of Defense to prepare plan for response to natural disasters and terrorist events.
Sec. 1815. Determination of Department of Defense civil support requirements.

Subtitle B—Additional Reserve Component Enhancement

Sec. 1821. United States Northern Command.
Sec. 1822. Council of Governors.
Sec. 1823. Plan for Reserve Forces Policy Board.
Sec. 1824. High-level positions authorized or required to be held by reserve component general or flag officers.
Sec. 1825. Retirement age and years of service limitations on certain reserve general and flag officers.
Sec. 1826. Additional reporting requirements relating to National Guard equipment.

10 USC 101 note.

**SEC. 1801. SHORT TITLE.**

This title may be cited as the "National Guard Empowerment Act of 2007".

# Subtitle A—National Guard Bureau

**SEC. 1811. APPOINTMENT, GRADE, DUTIES, AND RETIREMENT OF THE CHIEF OF THE NATIONAL GUARD BUREAU.**

(a) APPOINTMENT.—Subsection (a) of section 10502 of title 10, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following new paragraphs:

"(1) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

"(2) are recommended for such appointment by the Secretary of the Army or the Secretary of the Air Force;

"(3) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard;

"(4) are in a grade above the grade of brigadier general;

"(5) are determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience;

"(6) are determined by the Secretary of Defense to have successfully completed such other assignments and experiences so as to possess a detailed understanding of the status and capabilities of National Guard forces and the missions of the National Guard Bureau as set forth in section 10503 of this title;

"(7) have a level of operational experience in a position of significant responsibility, professional military education, and demonstrated expertise in national defense and homeland defense matters that are commensurate with the advisory role of the Chief of the National Guard Bureau; and

"(8) possess such other qualifications as the Secretary of Defense shall prescribe for purposes of this section.".

(b) GRADE.—Subsection (d) of such section is amended by striking "lieutenant general" and inserting "general".

(c) REPEAL OF AGE 64 LIMITATION ON SERVICE.—Subsection (b) of such section is amended by striking "An officer may not hold that office after becoming 64 years of age.".

(d) ADVISORY DUTIES.—Subsection (c) of such section is amended to read as follows:

"(c) ADVISOR ON NATIONAL GUARD MATTERS.—The Chief of the National Guard Bureau is—

"(1) a principal advisor to the Secretary of Defense, through the Chairman of the Joint Chiefs of Staff, on matters involving non-federalized National Guard forces and on other matters as determined by the Secretary of Defense; and

"(2) the principal adviser to the Secretary of the Army and the Chief of Staff of the Army, and to the Secretary of the Air Force and the Chief of Staff of the Air Force, on matters relating to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.".

**SEC. 1812. ESTABLISHMENT OF NATIONAL GUARD BUREAU AS JOINT ACTIVITY OF THE DEPARTMENT OF DEFENSE.**

(a) JOINT ACTIVITY OF THE DEPARTMENT OF DEFENSE.—Subsection (a) of section 10501 of title 10, United States Code, is amended by striking "joint bureau of the Department of the Army and the Department of the Air Force" and inserting "joint activity of the Department of Defense".

(b) JOINT MANPOWER REQUIREMENTS.—

(1) IN GENERAL.—Chapter 1011 of such title is amended by adding at the end the following new section:

**"§ 10508. National Guard Bureau: general provisions**

Regulations.

"The manpower requirements of the National Guard Bureau as a joint activity of the Department of Defense shall be determined in accordance with regulations prescribed by the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"10508. National Guard Bureau: general provisions.".

**SEC. 1813. ENHANCEMENT OF FUNCTIONS OF THE NATIONAL GUARD BUREAU.**

(a) ADDITIONAL GENERAL FUNCTIONS.—Section 10503 of title 10, United States Code, is amended—

(1) by redesignating paragraph (12) as paragraph (14) and inserting before such paragraph (14) the following new paragraph (13):

"(13)(A) Assisting the Secretary of Defense in facilitating and coordinating with the entities listed in subparagraph (B) the use of National Guard personnel and resources for operations conducted under title 32, or in support of State missions.

"(B) The entities listed in this subparagraph for purposes of subparagraph (A) are the following:

"(i) Other Federal agencies.

"(ii) The Adjutants General of the States.

"(iii) The United States Joint Forces Command.

"(iv) The combatant command the geographic area of responsibility of which includes the United States.";

(2) by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively; and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The role of the National Guard Bureau in support of the Secretary of the Army and the Secretary of the Air Force.".

(b) CHARTER DEVELOPED AND PRESCRIBED BY SECRETARY OF DEFENSE.—Section 10503 of such title is further amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "The Secretary of the Army and the Secretary of the Air Force shall jointly develop" and inserting "The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, the Secretary of the Army, and the Secretary of the Air Force, shall develop"; and

(B) by striking "cover" in the second sentence and inserting "reflect the full scope of the duties and activities of the Bureau, including"; and

(2) in paragraph (14), as redesignated by subsection (a)(1), by striking "the Secretaries" and inserting "the Secretary of Defense".

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENT.—The heading of section 10503 of such title is amended to read as follows:

**"§ 10503. Functions of National Guard Bureau: charter".**

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1011 of such title is amended by striking the item relating to section 10503 and inserting the following new item:

"10503. Functions of National Guard Bureau: charter.".

10 USC 113 note.

**SEC. 1814. REQUIREMENT FOR SECRETARY OF DEFENSE TO PREPARE PLAN FOR RESPONSE TO NATURAL DISASTERS AND TERRORIST EVENTS.**

Deadline.

(a) REQUIREMENT FOR PLAN.—

(1) IN GENERAL.—Not later than June 1, 2008, the Secretary of Defense, in consultation with the Secretary of Homeland Security, the Chairman of the Joint Chiefs of Staff, the commander of the United States Northern Command, and the Chief of the National Guard Bureau, shall prepare and submit to Congress a plan for coordinating the use of the National Guard and members of the Armed Forces on active duty when responding to natural disasters, acts of terrorism, and other man-made disasters as identified in the national planning scenarios described in subsection (e).

(2) UPDATE.—Not later than June 1, 2010, the Secretary, in consultation with the persons consulted under paragraph (1), shall submit to Congress an update of the plan required under paragraph (1).

(b) INFORMATION TO BE PROVIDED TO SECRETARY.—To assist the Secretary of Defense in preparing the plan, the National Guard Bureau, pursuant to its purpose as channel of communications as set forth in section 10501(b) of title 10, United States Code, shall provide to the Secretary information gathered from Governors, adjutants general of States, and other State civil authorities responsible for homeland preparation and response to natural and man-made disasters.

(c) TWO VERSIONS.—The plan shall set forth two versions of response, one using only members of the National Guard, and one using both members of the National Guard and members of the regular components of the Armed Forces.

(d) MATTERS COVERED.—The plan shall cover, at a minimum, the following:

(1) Protocols for the Department of Defense, the National Guard Bureau, and the Governors of the several States to carry out operations in coordination with each other and to ensure that Governors and local communities are properly informed and remain in control in their respective States and communities.

(2) An identification of operational procedures, command structures, and lines of communication to ensure a coordinated, efficient response to contingencies.

(3) An identification of the training and equipment needed for both National Guard personnel and members of the Armed Forces on active duty to provide military assistance to civil authorities and for other domestic operations to respond to hazards identified in the national planning scenarios.

(e) NATIONAL PLANNING SCENARIOS.—The plan shall provide for response to the following hazards:

(1) Nuclear detonation, biological attack, biological disease outbreak/pandemic flu, the plague, chemical attack-blister agent, chemical attack-toxic industrial chemicals, chemical attack-nerve agent, chemical attack-chlorine tank explosion, major hurricane, major earthquake, radiological attack-radiological dispersal device, explosives attack-bombing using improvised explosive device, biological attack-food contamination, biological attack-foreign animal disease and cyber attack.

(2) Any other hazards identified in a national planning scenario developed by the Homeland Security Council.

**SEC. 1815. DETERMINATION OF DEPARTMENT OF DEFENSE CIVIL SUPPORT REQUIREMENTS.** 10 USC 113 note.

(a) DETERMINATION OF REQUIREMENTS.—The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall determine the military-unique capabilities needed to be provided by the Department of Defense to support civil authorities in an incident of national significance or a catastrophic incident.

(b) PLAN FOR FUNDING CAPABILITIES.—

(1) PLAN.—The Secretary of Defense shall develop and implement a plan, in coordination with the Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff, for providing the funds and resources necessary to develop and maintain the following:

(A) The military-unique capabilities determined under subsection (a).

(B) Any additional capabilities determined by the Secretary to be necessary to support the use of the active components and the reserve components of the Armed Forces for homeland defense missions, domestic emergency responses, and providing military support to civil authorities.

(2) TERM OF PLAN.—The plan required under paragraph (1) shall cover at least five years.

(c) BUDGET.—The Secretary of Defense shall include in the materials accompanying the budget submitted for each fiscal year a request for funds necessary to carry out the plan required under subsection (b) during the fiscal year covered by the budget. The defense budget materials shall delineate and explain the budget treatment of the plan for each component of each military department, each combatant command, and each affected Defense Agency.

(d) DEFINITIONS.—In this section:

(1) The term "military-unique capabilities" means those capabilities that, in the view of the Secretary of Defense—

(A) cannot be provided by other Federal, State, or local civilian agencies; and

(B) are essential to provide support to civil authorities in an incident of national significance or a catastrophic incident.

(2) The term "defense budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(e) STRATEGIC PLANNING GUIDANCE.—Section 113(g)(2) of title 10, United States Code, is amended by striking "contingency plans" at the end of the first sentence and inserting the following: "contingency plans, including plans for providing support to civil authorities in an incident of national significance or a catastrophic incident, for homeland defense, and for military support to civil authorities".

# Subtitle B—Additional Reserve Component Enhancement

**SEC. 1821. UNITED STATES NORTHERN COMMAND.**

Deadlines.

(a) MANPOWER REVIEW.—

(1) REVIEW BY CHAIRMAN OF THE JOINT CHIEFS OF STAFF.—Not later than one year after the date of the enactment of this Act, the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense a review of the civilian and military positions, job descriptions, and assignments within the United States Northern Command with the goal of determining the feasibility of significantly increasing the number of members of a reserve component assigned to, and civilians employed by, the United States Northern Command who have experience in the planning, training, and employment of forces for homeland defense missions, domestic emergency response, and providing military support to civil authorities.

(2) SUBMISSION OF RESULTS OF REVIEW.—Not later than 90 days after the date on which the Secretary of Defense receives the results of the review under paragraph (1), the Secretary shall submit to Congress a copy of the results of the review, together with such recommendations as the Secretary considers appropriate to achieve the objectives of the review.

(b) DEFINITION.—In this section, the term "United States Northern Command" means the combatant command the geographic area of responsibility of which includes the United States.

President. Establishment. 32 USC 104 note.

**SEC. 1822. COUNCIL OF GOVERNORS.**

The President shall establish a bipartisan Council of Governors to advise the Secretary of Defense, the Secretary of Homeland Security, and the White House Homeland Security Council on matters related to the National Guard and civil support missions.

**SEC. 1823. PLAN FOR RESERVE FORCES POLICY BOARD.**

(a) PLAN.—The Secretary of Defense shall develop a plan to implement revisions that the Secretary determines necessary in the designation, organization, membership, functions, procedures, and legislative framework of the Reserve Forces Policy Board. The plan—

(1) shall be consistent with the findings, conclusions, and recommendations included in Part III E of the Report of the

Commission on the National Guard and Reserves of March 1, 2007; and

(2) to the extent possible, shall take into account the views and recommendations of civilian and military leaders, past chairmen of the Reserve Forces Policy Board, private organizations with expertise and interest in Department of Defense organization, and other individuals or groups in the discretion of the Secretary.

(b) REPORT.—Not later than July 1, 2008, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the plan developed under subsection (a), including such recommendations for legislation as the Secretary considers necessary.

**SEC. 1824. HIGH-LEVEL POSITIONS AUTHORIZED OR REQUIRED TO BE HELD BY RESERVE COMPONENT GENERAL OR FLAG OFFICERS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that, whenever officers of the Armed Forces are considered for promotion to the grade of lieutenant general, or vice admiral in the case of the Navy, on the active duty list, officers in the reserve components of the Armed Forces who are eligible for promotion to such grade should be considered for promotion to such grade. 10 USC 164 note.

(b) NATIONAL GUARD OFFICER AS DEPUTY COMMANDER OF UNITED STATES NORTHERN COMMAND.—Section 164(e) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) At least one deputy commander of the combatant command the geographic area of responsibility of which includes the United States shall be a qualified officer of the National Guard who is eligible for promotion to the grade of O–9, unless a National Guard officer is serving as commander of that combatant command.".

(c) INCREASE IN NUMBER OF UNIFIED AND SPECIFIED COMBATANT COMMAND POSITIONS FOR RESERVE COMPONENT OFFICERS.—Section 526(b)(2)(A) of such title is amended by striking "10 general and flag officer positions on the staffs of the commanders of" and inserting "15 general and flag officer positions in".

**SEC. 1825. RETIREMENT AGE AND YEARS OF SERVICE LIMITATIONS ON CERTAIN RESERVE GENERAL AND FLAG OFFICERS.**

(a) RETIREMENT FOR AGE.—

(1) INCLUSION OF RESERVE GENERALS AND ADMIRALS.—Section 14511 of title 10, United States Code, is amended to read as follows:

**"§ 14511. Separation at age 64: officers in grade of major general or rear admiral and above**

"(a) SEPARATION REQUIRED.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general or above and each reserve officer of the Navy in the grade of rear admiral or above shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 64 years of age.

"(b) EXCEPTION FOR OFFICERS SERVING IN O–9 AND O–10 POSITIONS.—The retirement of a reserve officer of the Army, Air Force, or Marine Corps in the grade of lieutenant general or general,

or a reserve officer of the Navy in the grade of vice admiral or admiral, under subsection (a) may be deferred—

"(1) by the President, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age; or

"(2) by the Secretary of Defense, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age.

"(c) EXCEPTION FOR OFFICERS HOLDING CERTAIN OFFICES.—This section does not apply to an officer covered by section 14512 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1407 of such title is amended by striking the item relating to section 14511 and inserting the following new item:

"14511. Separation at age 64: officers in grade of major general or rear admiral and above.".

(b) CONFORMING AMENDMENTS AND RESERVE OFFICERS HOLDING CERTAIN OTHER OFFICES.—Section 14512 of such title is amended—

(1) in subsection (a)(2)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively; and

(2) in subsection (b)—

(A) by inserting "(1)" before "The Secretary"; and

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

"(2) The Secretary of Defense may defer the retirement of a reserve officer serving in the position of Chief of the Navy Reserve or Commander of the Marine Forces Reserve, but such deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age. A deferment under this paragraph shall not count toward the limitation on the total number of officers whose retirement may be deferred at any one time under paragraph (1).".

(c) IMPOSITION OF YEARS OF SERVICE LIMITATION.—

(1) IMPOSITION OF LIMITATION.—Section 14508 of such title is amended by inserting after subsection (c), as added by section 513, the following new subsection:

"(d) FORTY YEARS OF SERVICE FOR GENERALS AND ADMIRALS.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of general and each reserve officer of the Navy in the grade of admiral shall be separated in accordance with section 14514 of this title on the first day of the first month beginning after the date of the fifth anniversary of the officer's appointment to that grade or 30 days after the date on which the officer completes 40 years of commissioned service, whichever is later.".

(2) CONFORMING AMENDMENTS.—Subsection (b) of section 10502 of such title, as amended by section 1811, is further amended—

(A) by inserting "(1)" before the first sentence; and

(B) by striking "While holding that office" and inserting the following:

"(2) Except as provided in section 14508(d) of this title, while holding the office of Chief of the National Guard Bureau".

**SEC. 1826. ADDITIONAL REPORTING REQUIREMENTS RELATING TO NATIONAL GUARD EQUIPMENT.**

Section 10541 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) Each report under this section concerning equipment of the National Guard shall also include the following:

"(1) A statement of the accuracy of the projections required by subsection (b)(5)(D) contained in earlier reports under this section, and an explanation, if the projection was not met, of why the projection was not met.

Certification.

"(2) A certification from the Chief of the National Guard Bureau setting forth an inventory for the preceding fiscal year of each item of equipment—

"(A) for which funds were appropriated;

"(B) which was due to be procured for the National Guard during that fiscal year; and

"(C) which has not been received by a National Guard unit as of the close of that fiscal year.".

# DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Military Construction Authorization Act for Fiscal Year 2008.

**SEC. 2001. SHORT TITLE.**

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2008".

**SEC. 2002. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.**

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVII and in title XXIX for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2010; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2011.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2010; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2011 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment Program.

# TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Termination of authority to carry out fiscal year 2007 Army projects for which funds were not appropriated.
Sec. 2106. Technical amendments to Military Construction Authorization Act for Fiscal Year 2007.
Sec. 2107. Modification of authority to carry out certain fiscal year 2006 project.
Sec. 2108. Extension of authorization of certain fiscal year 2005 project.
Sec. 2109. Ground lease, SOUTHCOM headquarters facility, Miami-Doral, Florida.

## SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Army: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Alabama | Anniston Army Depot | $26,000,000 |
| | Redstone Arsenal | $22,000,000 |
| Alaska | Fort Richardson | $92,800,000 |
| | Fort Wainwright | $114,500,000 |
| Arizona | Fort Huachuca | $129,600,000 |
| California | Fort Irwin | $24,000,000 |
| | Presidio, Monterey | $28,000,000 |
| Colorado | Fort Carson | $156,200,000 |
| Delaware | Dover Air Force Base | $17,500,000 |
| Florida | Miami Doral | $237,000,000 |
| Georgia | Fort Benning | $189,500,000 |
| | Fort Stewart/Hunter Army Air Field | $123,500,000 |
| Hawaii | Fort Shafter | $31,000,000 |
| | Kahuku Training Area | $10,200,000 |
| | Schofield Barracks | $88,000,000 |
| | Wheeler Army Air Field | $51,000,000 |
| Illinois | Rock Island Arsenal | $3,350,000 |
| Kansas | Fort Leavenworth | $102,400,000 |
| | Fort Riley | $140,200,000 |
| Kentucky | Fort Campbell | $113,600,000 |
| | Fort Knox | $6,700,000 |
| Louisiana | Fort Polk | $15,900,000 |
| Maryland | Aberdeen Proving Ground | $12,200,000 |
| Michigan | Detroit Arsenal | $18,500,000 |
| Missouri | Fort Leonard Wood | $136,050,000 |
| Nevada | Hawthorne Army Ammunition Plant | $11,800,000 |
| New Jersey | Picatinny Arsenal | $9,900,000 |
| New Mexico | White Sands Missile Range | $71,000,000 |
| New York | Fort Drum | $311,200,000 |
| North Carolina | Fort Bragg | $287,200,000 |
| Oklahoma | Fort Sill | $7,500,000 |
| South Carolina | Fort Jackson | $85,000,000 |
| Texas | Camp Bullis | $1,600,000 |

**Army: Inside the United States**—Continued

| State | Installation or Location | Amount |
|---|---|---|
| | Corpus Christi | $11,200,000 |
| | Fort Bliss | $118,400,000 |
| | Fort Hood | $163,400,000 |
| | Fort Sam Houston | $19,150,000 |
| | Red River Army Depot | $9,200,000 |
| Virginia | Fort Belvoir | $13,000,000 |
| | Fort Eustis | $75,000,000 |
| | Fort Lee | $22,600,000 |
| | Fort Myer | $20,800,000 |
| Washington | Fort Lewis | $178,500,000 |
| | Yakima Training Center | $29,000,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Army: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Afghanistan | Afghanistan | $13,800,000 |
| Bulgaria | Nevo Selo FOS | $61,000,000 |
| Germany | Grafenwoehr | $62,000,000 |
| Honduras | Various locations | $2,550,000 |
| Italy | Aviano | $12,100,000 |
| | Vicenza | $160,900,000 |
| Korea | Camp Humphreys | $57,000,000 |
| Romania | Mihail Kogalniceanu FOS | $12,600,000 |

**SEC. 2102. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

**Army: Family Housing**

| State or Country | Installation or Location | Units | Amount |
|---|---|---|---|
| Utah | Dugway Proving Ground | 28 | $5,000,000 |
| Germany | Ansbach | 138 | $52,000,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $2,000,000.

**SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $365,400,000.

**SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $5,106,703,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $3,198,150,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $254,950,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $25,900,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $321,983,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $424,400,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $731,920,000.

(6) For the construction of increment 2 of a barracks complex at Fort Lewis, Washington, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2445), as amended by section 20814 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289), as added by section 2 of the Revised Continuing Appropriations Resolution, 2007 (Public Law 110–5; 121 Stat. 41), $102,000,000.

(7) For the construction of increment 3 of a barracks complex at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3485), $47,400,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $137,000,000 (the balance of the amount authorized under section 2101(a) for construction of the United States Southern Command Headquarters, Miami, Florida).

(3) $63,500,000 (the balance of the amount authorized under section 2101(b) for construction of a brigade complex operations support facility at Vicenza, Italy).

(4) $63,500,000 (the balance of the amount authorized under section 2101(b) for construction of a brigade complex barracks and community support facility at Vicenza, Italy).

**SEC. 2105. TERMINATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 2007 ARMY PROJECTS FOR WHICH FUNDS WERE NOT APPROPRIATED.**

(a) TERMINATION OF INSIDE THE UNITED STATES PROJECTS.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2445), as amended by section 20814 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289), as added by section 2 of the Revised Continuing Appropriations Resolution, 2007 (Public Law 110–5), is further amended—

(1) by striking the item relating to Redstone Arsenal, Alabama;

(2) by striking the item relating to Fort Wainwright, Alaska;

(3) in the item relating to Fort Irwin, California, by striking "$18,200,000" in the amount column and inserting "$10,000,000";

(4) in the item relating to Fort Carson, Colorado, by striking "$30,800,000" in the amount column and inserting "$24,000,000";

(5) in the item relating to Fort Leavenworth, Kansas, by striking "$23,200,000" in the amount column and inserting "$15,000,000";

(6) in the item relating to Fort Riley, Kansas, by striking "$47,400,000" in the amount column and inserting "$37,200,000";

(7) in the item relating to Fort Campbell, Kentucky, by striking "$135,300,000" in the amount column and inserting "$115,400,000";

(8) by striking the item relating to Fort Polk, Louisiana;

(9) by striking the item relating to Aberdeen Proving Ground, Maryland;

(10) by striking the item relating to Fort Detrick, Maryland;

(11) by striking the item relating to Detroit Arsenal, Michigan;

(12) in the item relating to Fort Leonard Wood, Missouri, by striking "$34,500,000" in the amount column and inserting "$17,000,000";

(13) by striking the item relating to Picatinny Arsenal, New Jersey;

(14) in the item relating to Fort Drum, New York, by striking "$218,600,000" in the amount column and inserting "$209,200,000";

(15) in the item relating to Fort Bragg, North Carolina, by striking "$96,900,000" in the amount column and inserting "$89,000,000";

(16) by striking the item relating to Letterkenny Depot, Pennsylvania;

(17) by striking the item relating to Corpus Christi Army Depot, Texas;

(18) by striking the item relating to Fort Bliss, Texas;

(19) in the item relating to Fort Hood, Texas, by striking "$93,000,000" in the amount column and inserting "$75,000,000";

(20) by striking the item relating to Red River Depot, Texas; and

(21) by striking the item relating to Fort Lee, Virginia.

(b) CONFORMING AMENDMENTS.—Section 2104(a) of such Act (120 Stat. 2447) is amended—

(1) in the matter preceding paragraph (1), by striking "$3,518,450,000" and inserting "$3,275,700,000"; and

(2) in paragraph (1), by striking "$1,362,200,000" and inserting "$1,119,450,000".

**SEC. 2106. TECHNICAL AMENDMENTS TO MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 2007.**

(a) LOCATION OF PROJECT IN ROMANIA.—The table in section 2101(b) of the Military Construction Authorization Act for 2007 (division B of Public Law 109–364; 120 Stat. 2446) is amended by striking "Babadag Range" and inserting "Mihail Kogalniceanu Air Base".

(b) SPELLING ERROR RELATING TO ARMY FAMILY HOUSING.—The table in section 2102(a) of the Military Construction Authorization Act for 2007 (division B of Public Law 109–364; 120 Stat. 2446) is amended by striking "Fort McCoyine" and inserting "Fort McCoy".

**SEC. 2107. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2006 PROJECT.**

(a) MODIFICATION.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3485) is amended in the item relating to Fort Bragg, North Carolina, by striking "$301,250,000" in the amount column and inserting "$308,250,000".

(b) CONFORMING AMENDMENTS.—Section 2104(b)(5) of that Act (119 Stat. 3488) is amended by striking "$77,400,000" and inserting "$84,400,000".

**SEC. 2108. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 2005 PROJECT.**

(a) EXTENSION AND RENEWAL.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2116), the authorization set forth in the table in subsection (b), as provided in section 2101 of that Act (118 Stat. 2101), shall remain in effect until October 1, 2008, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2009, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Army: Extension of 2005 Project Authorization**

| Installation or Location | Project | Amount |
|---|---|---|
| Schofield Barracks, Hawaii ..... | Training facility ..... | $35,542,000 |

**SEC. 2109. GROUND LEASE, SOUTHCOM HEADQUARTERS FACILITY, MIAMI-DORAL, FLORIDA.**

(a) GROUND LEASE AUTHORIZED.—The Secretary of the Army may utilize the State of Florida property as described in sublease number 4489–01, entered into between the State of Florida and the United States (in this section referred to as the "ground lease"), for the purpose of constructing a consolidated headquarters facility for the United States Southern Command (SOUTHCOM).

(b) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may carry out the project to construct a new headquarters on property leased from the State of Florida when the following conditions have been met regarding the lease for the property:

(1) The United States Government shall have the right to use the property without interruption until at least December 31, 2055.

(2) The United States Government shall have the right to use the property for general administrative purposes in the event the United States Southern Command relocates or vacates the property.

(c) AUTHORITY TO OBTAIN GROUND LEASE OF ADJACENT PROPERTY.—The Secretary may obtain the ground lease of additional real property owned by the State of Florida that is adjacent to the real property leased under the ground lease for purposes of completing the construction of the SOUTHCOM headquarters facility, as long as the additional terms of the ground lease required by subsection (b) apply to such adjacent property.

(d) LIMITATION.—The Secretary may not obligate or expend funds appropriated pursuant to the authorization of appropriations in section 2104(a)(1) for the construction of the SOUTHCOM headquarters facility authorized under section 2101(a) until the Secretary transmits to the congressional defense committees a modification to the ground lease signed by the United States Government and the State of Florida in accordance with subsection (b).

# TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Termination of authority to carry out fiscal year 2007 Navy projects for which funds were not appropriated.
Sec. 2206. Modification of authority to carry out certain fiscal year 2005 project.
Sec. 2207. Repeal of authorization for construction of Navy Outlying Landing Field, Washington County, North Carolina.

**SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Navy: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Alabama | Outlying Field Evergreen | $9,560,000 |
| Arizona | Marine Corps Air Station, Yuma | $33,720,000 |
| California | Marine Corps Air Station, Miramar | $26,760,000 |
| | Marine Corps Base, Camp Pendleton | $264,360,000 |
| | Marine Corps Base, Twentynine Palms | $142,619,000 |
| | Naval Station, San Diego | $3,000,000 |
| | Naval Support Activity, Monterey | $9,780,000 |
| | Submarine Base, San Diego | $23,630,000 |
| Connecticut | Submarine Base, New London | $21,160,000 |
| Florida | Marine Corps Logistics Base, Blount Island | $10,240,000 |
| | Naval Support Activity, Cape Canaveral | $9,900,000 |
| | Naval Surface Warfare Center, Panama City. | $13,870,000 |
| | Naval Training Center, Corry Field | $3,140,000 |
| Georgia | Marine Corps Logistics Base | $9,980,000 |
| Hawaii | Marine Corps Air Station, Kaneohe | $37,961,000 |
| | Naval Base, Pearl Harbor | $99,860,000 |
| | Naval Station Pearl Harbor, Wahiawa | $65,410,000 |
| | Pearl Harbor Naval Shipyard | $30,200,000 |
| Illinois | Naval Training Center, Great Lakes | $10,221,000 |
| Indiana | Naval Support Activity, Crane | $23,800,000 |
| Maine | Portsmouth Naval Shipyard | $9,700,000 |
| Maryland | Naval Air Warfare Center, Patuxent River | $38,360,000 |
| | Naval Surface Warfare Center, Indian Head. | $9,450,000 |
| Mississippi | Naval Air Station, Meridian | $6,770,000 |
| Nevada | Naval Air Station, Fallon | $11,460,000 |
| New Jersey | Naval Air Warfare Center, Lakehurst | $4,100,000 |
| North Carolina | Marine Corps Air Station, Cherry Point | $28,610,000 |
| | Marine Corps Air Station, New River | $58,700,000 |
| | Marine Corps Base, Camp Lejeune | $248,930,000 |
| Rhode Island | Naval Station, Newport | $13,760,000 |
| South Carolina | Marine Corps Air Station, Beaufort | $10,300,000 |
| | Marine Corps Recruit Depot, Parris Island | $55,282,000 |
| Texas | Naval Air Station, Corpus Christi | $14,290,000 |
| Virginia | Marine Corps Base, Quantico | $50,519,000 |
| | Naval Station, Norfolk | $79,560,000 |
| | Naval Support Activity, Chesapeake | $8,450,000 |
| | Naval Surface Warfare Center, Dahlgren | $10,000,000 |
| Washington | Naval Air Station, Whidbey Island | $34,520,000 |
| | Naval Station, Bremerton | $190,960,000 |
| | Naval Station, Everett | $10,940,000 |
| | Naval Station, Kitsap | $6,130,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Navy: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Bahrain | Southwest Asia | $35,500,000 |
| Diego Garcia | Naval Support Facility, Diego Garcia | $7,150,000 |
| Djibouti | Camp Lemonier | $22,390,000 |

**Navy: Outside the United States**—Continued

| Country | Installation or Location | Amount |
|---|---|---|
| Guam | Naval Activities, Guam | $278,818,000 |

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(3), the Secretary of the Navy may acquire real property and carry out military construction projects for unspecified installations or locations in the amount set forth in the following table:

**Navy: Unspecified Worldwide**

| Location | Installation or Location | Amount |
|---|---|---|
| Worldwide Unspecified | Wharf Utilities Upgrade | $8,900,000 |

**SEC. 2202. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, in the number of units, and in the amounts set forth in the following table:

**Navy: Family Housing**

| Location | Installation | Units | Amount |
|---|---|---|---|
| California | Twentynine Palms | N/A | $4,800,000 |
| Mariana Islands | Naval Activities, Guam | 73 | $57,167,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $3,172,000.

**SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $237,990,000.

**SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,885,317,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,628,762,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $292,946,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2201(c), $11,600,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $10,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $113,017,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $293,129,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $371,404,000.

(7) For the construction of increment 2 of the construction of an addition to the National Maritime Intelligence Center, Suitland, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2448), $52,069,000.

(8) For the construction of increment 3 of recruit training barracks infrastructure upgrade at Recruit Training Command, Great Lakes, Illinois, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $16,650,000.

(9) For the construction of increment 3 of wharf upgrades at Yokosuka, Japan, authorized by section 2201(b) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $8,750,000.

(10) For the construction of increment 2 of the Bachelor Enlisted Quarters Homeport Ashore Program at Bremerton, Washington (formerly referred to as a project at Naval Station, Everett), authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $47,240,000.

(11) For the construction of increment 4 of the limited area production and storage complex at Naval Submarine Base, Kitsap, Bangor, Washington (formerly referred to as a project at the Strategic Weapons Facility Pacific, Bangor), authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3493), $39,750,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) $50,000,000 (the balance of the amount authorized under section 2201(a) for a submarine drive-in magnetic silencing facility in Pearl Harbor, Hawaii).

(3) $50,912,000 (the balance of the amount authorized under section 2201(b) for construction of a wharf extension in Apra Harbor, Guam).

(4) $71,200,000 (the balance of the amount authorized under section 2201(a) for a nuclear aircraft carrier maintenance pier at Naval Station Bremerton, Washington).

**SEC. 2205. TERMINATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 2007 NAVY PROJECTS FOR WHICH FUNDS WERE NOT APPROPRIATED.**

(a) TERMINATION OF INSIDE THE UNITED STATES PROJECTS.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2449) is amended—

(1) in the item relating to Marine Corps Base, Twentynine Palms, California, by striking "$27,217,000" in the amount column and inserting "$8,217,000";

(2) by striking the item relating to Naval Support Activity, Monterey, California;

(3) by striking the item relating to Naval Submarine Base, New London, Connecticut;

(4) by striking the item relating to Cape Canaveral, Florida;

(5) in the item relating to Marine Corps Logistics Base, Albany, Georgia, by striking "$70,540,000" in the amount column and inserting "$62,000,000";

(6) by striking the item relating to Naval Magazine, Pearl Harbor, Hawaii;

(7) by striking the item relating to Naval Shipyard, Pearl Harbor, Hawaii;

(8) by striking the item relating to Naval Support Activity, Crane, Indiana;

(9) by striking the item relating to Portsmouth Naval Shipyard, Maine;

(10) by striking the item relating to Naval Air Station, Meridian, Mississippi;

(11) by striking the item relating to Naval Air Station, Fallon, Nevada;

(12) by striking the item relating to Marine Corps Air Station, Cherry Point, North Carolina;

(13) by striking the item relating to Naval Station, Newport, Rhode Island;

(14) in the item relating to Marine Corps Air Station, Beaufort, South Carolina, by striking "$25,575,000" in the amount column and inserting "$22,225,000";

(15) by striking the item relating to Naval Special Weapons Center, Dahlgren, Virginia;

(16) in the item relating to Naval Support Activity, Norfolk, Virginia, by striking "$41,712,000" in the amount column and inserting "$28,462,000";

(17) in the item relating to Naval Air Station, Whidbey Island, Washington, by striking "$67,303,000" in the amount column and inserting "$57,653,000"; and

(18) in the item relating to Naval Base, Kitsap, Washington, by striking "$17,617,000" in the amount column and inserting "$13,507,000".

(b) TERMINATION OF MILITARY FAMILY HOUSING PROJECTS.—Section 2204(a)(6)(A) of such Act (120 Stat. 2450) is amended by striking "$308,956,000" and inserting "$305,256,000".

(c) CONFORMING AMENDMENTS.—Section 2204(a) of such Act (120 Stat. 2450) is amended—

(1) in the matter preceding paragraph (1), by striking "$2,109,367,000" and inserting "$1,946,867,000"; and

(2) in paragraph (1), by striking "$832,982,000" and inserting "$674,182,000".

**SEC. 2206. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2005 PROJECT.**

(a) MODIFICATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3493) and section 2205 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2452), is amended—

(1) in the item relating to Strategic Weapons Facility Pacific, Bangor, Washington, by striking "$147,760,000" in the amount column and inserting "$295,000,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$972,719,000".

(b) CONFORMING AMENDMENT.—Section 2204 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2107), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3493) and section 2205 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2453), is amended in subsection (b)(6), by striking "$95,320,000" and inserting "$259,320,000".

**SEC. 2207. REPEAL OF AUTHORIZATION FOR CONSTRUCTION OF NAVY OUTLYING LANDING FIELD, WASHINGTON COUNTY, NORTH CAROLINA.**

(a) REPEAL OF AUTHORIZATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704) is amended by striking the item relating to Navy Outlying Landing Field, Washington County, North Carolina, as added by section 2205(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2452).

(b) REPEAL OF INCREMENTAL FUNDING AUTHORITY.—Section 2204(b) of that Act (117 Stat. 1706) is amended by striking paragraph (6).

(c) EFFECT OF REPEAL.—The amendments made by this section do not affect the expenditure of funds obligated, before the effective date of this title, for the construction of the Navy Outlying Landing Field, Washington County, North Carolina, or the acquisition of real property to facilitate such construction.

# TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.
Sec. 2305. Termination of authority to carry out fiscal year 2007 Air Force projects for which funds were not appropriated.
Sec. 2306. Modification of authority to carry out certain fiscal year 2006 projects.

Sec. 2307. Extension of authorizations of certain fiscal year 2005 projects.
Sec. 2308. Extension of authorizations of certain fiscal year 2004 projects.

**SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Air Force: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Alaska | Elmendorf Air Force Base | $83,180,000 |
| Arizona | Davis-Monthan Air Force Base | $11,200,000 |
| | Luke Air Force Base | $5,500,000 |
| Arkansas | Little Rock Air Force Base | $19,600,000 |
| California | Travis Air Force Base | $37,400,000 |
| Colorado | Fort Carson | $13,500,000 |
| | Schriever Air Force Base | $24,500,000 |
| | United States Air Force Academy | $15,000,000 |
| District of Columbia | Bolling Air Force Base | $2,500,000 |
| Florida | Eglin Air Force Base | $158,300,000 |
| | MacDill Air Force Base | $60,500,000 |
| | Patrick Air Force Base | $11,854,000 |
| | Tyndall Air Force Base | $52,514,000 |
| Georgia | Moody Air Force Base | $7,500,000 |
| | Robins Air Force Base | $19,700,000 |
| Hawaii | Hickam Air Force Base | $31,971,000 |
| Illinois | Scott Air Force Base | $24,900,000 |
| Kansas | Fort Riley | $12,515,000 |
| | McConnell Air Force Base | $6,300,000 |
| Massachusetts | Hanscom Air Force Base | $12,800,000 |
| Mississippi | Columbus Air Force Base | $9,800,000 |
| Missouri | Whiteman Air Force Base | $11,400,000 |
| Montana | Malmstrom Air Force Base | $7,000,000 |
| Nebraska | Offutt Air Force Base | $16,952,000 |
| Nevada | Nellis Air Force Base | $4,950,000 |
| New Mexico | Cannon Air Force Base | $1,688,000 |
| | Kirtland Air Force Base | $15,100,000 |
| North Dakota | Grand Forks Air Force Base | $13,000,000 |
| | Minot Air Force Base | $18,200,000 |
| Oklahoma | Altus Air Force Base | $2,000,000 |
| | Tinker Air Force Base | $34,600,000 |
| | Vance Air Force Base | $7,700,000 |
| South Carolina | Charleston Air Force Base | $11,000,000 |
| | Shaw Air Force Base | $9,300,000 |
| South Dakota | Ellsworth Air Force Base | $16,600,000 |
| Texas | Goodfellow Air Force Base | $5,800,000 |
| | Lackland Air Force Base | $14,000,000 |
| | Laughlin Air Force Base | $5,200,000 |
| | Randolph Air Force Base | $2,950,000 |
| | Shepard Air Force Base | $7,000,000 |
| Utah | Hill Air Force Base | $25,999,000 |
| Washington | Fairchild Air Force Base | $6,200,000 |
| Wyoming | Francis E. Warren Air Force Base | $14,600,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(2),

the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Air Force: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Germany | Ramstein Air Base | $48,209,000 |
| Guam | Andersen Air Force Base | $15,816,000 |
| Qatar | Al Udeid Air Base | $22,300,000 |
| Spain | Moron Air Base | $1,800,000 |
| United Kingdom | Royal Air Force Lakenheath | $17,300,000 |
| | Royal Air Force Menwith Hill Station | $41,000,000 |

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for unspecified installations or locations in the amount set forth in the following table:

**Air Force: Unspecified Worldwide**

| Location | Installation or Location | Amount |
|---|---|---|
| Worldwide Classified | Classified Project | $1,500,000 |
| | Classified-Special Evaluation Program. | $12,328,000 |

**SEC. 2302. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

**Air Force: Family Housing**

| State or Country | Installation or Location | Units | Amount |
|---|---|---|---|
| Germany | Ramstein Air Base | 117 | $56,275,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $12,210,000.

**SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $259,262,000.

**SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,175,829,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $872,273,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $146,425,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2301(c), $13,828,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $15,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $43,721,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $327,747,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $688,335,000.

(7) For the construction of increments 3 and 4 of the main base runway at Edwards Air Force Base, California, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3494), $43,500,000.

(8) For the construction of increment 3 of the CENTCOM Joint Intelligence Center at MacDill Air Force Base, Florida, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3494), as amended by section 2305 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2456), $25,000,000.

**SEC. 2305. TERMINATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 2007 AIR FORCE PROJECTS FOR WHICH FUNDS WERE NOT APPROPRIATED.**

(a) TERMINATION OF INSIDE THE UNITED STATES PROJECTS.—The table in section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2453) is amended—

(1) in the item relating to Elmendorf, Alaska, by striking "$68,100,000" in the amount column and inserting "$56,100,000";

(2) in the item relating to Davis-Monthan Air Force Base, Arizona, by striking "$11,800,000" in the amount column and inserting "$4,600,000";

(3) by striking the item relating to Little Rock Air Force Base, Arkansas;

(4) in the item relating to Travis Air Force Base, California, by striking "$85,800,000" in the amount column and inserting "$73,900,000";

(5) by striking the item relating to Peterson Air Force Base, Colorado;

(6) in the item relating to Dover Air Force, Delaware, by striking "$30,400,000" in the amount column and inserting "$26,400,000";

(7) in the item relating to Eglin Air Force Base, Florida, by striking "$30,350,000" in the amount column and inserting "$19,350,000";

(8) in the item relating to Tyndall Air Force Base, Florida, by striking "$8,200,000" in the amount column and inserting "$1,800,000";

(9) in the item relating to Robins Air Force Base, Georgia, by striking "$59,600,000" in the amount column and inserting "$38,600,000";

(10) in the item relating to Scott Air Force Base, Illinois, by striking "$28,200,000" in the amount column and inserting "$20,000,000";

(11) by striking the item relating to McConnell Air Force Base, Kansas;

(12) by striking the item relating to Hanscom Air Force Base, Massachusetts;

(13) by striking the item relating to Whiteman Air Force Base, Missouri;

(14) by striking the item relating to Malmstrom Air Force Base, Montana;

(15) in the item relating to McGuire Air Force Base, New Jersey, by striking "$28,500,000" in the amount column and inserting "$15,500,000";

(16) by striking the item relating to Kirtland Air Force Base, New Mexico;

(17) by striking the item relating to Minot Air Force Base, North Dakota;

(18) in the item relating to Altus Air Force Base, Oklahoma, by striking "$9,500,000" in the amount column and inserting "$1,500,000";

(19) by striking the item relating to Tinker Air Force Base, Oklahoma;

(20) by striking the item relating to Charleston Air Force Base, South Carolina;

(21) in the item relating to Shaw Air Force Base, South Carolina, by striking "$31,500,000" in the amount column and inserting "$22,200,000";

(22) by striking the item relating to Ellsworth Air Force Base, South Dakota;

(23) by striking the item relating to Laughlin Air Force Base, Texas;

(24) by striking the item relating to Sheppard Air Force Base, Texas;

(25) in the item relating to Hill Air Force Base, Utah, by striking "$63,400,000" in the amount column and inserting "$53,400,000"; and

(26) by striking the item relating to Fairchild Air Force Base, Washington.

(b) CONFORMING AMENDMENTS.—Section 2304(a) of such Act (120 Stat. 2455) is amended—

(1) in the matter preceding paragraph (1), by striking "$3,231,442,000" and inserting "$3,005,817,000"; and

(2) in paragraph (1), by striking "$962,286,000" and inserting "$736,661,000".

(c) EXCEPTION.—The termination of the authorization of a military construction project or land acquisition as a result of the amendment made by subsection (a) shall not apply with respect to a military construction project or land acquisition—

(1) that was authorized by section 2301(a) of such Act; and

(2) for which a contract for the construction or acquisition was entered into before October 1, 2007.

**SEC. 2306. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2006 PROJECTS.**

(a) FURTHER MODIFICATION OF INSIDE THE UNITED STATES PROJECT.—The table in section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3494), as amended by section 2305(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2456), is further amended—

(1) in the item relating to Edwards Air Force Base, California, by striking "$103,000,000" in the amount column and inserting "$111,500,000"; and

(2) in the item relating to MacDill Air Force Base, Florida, by striking "$101,500,000" in the amount column and inserting "$126,500,000".

(b) CONFORMING AMENDMENTS.—Section 2304(b) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3496), as amended by section 2305(b) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2456), is further amended—

(1) in paragraph (3), by striking "$66,000,000" and inserting "$74,500,000"; and

(2) in paragraph (4), by striking "$23,300,000" and inserting "$48,300,000".

**SEC. 2307. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2005 PROJECTS.**

(a) EXTENSION AND RENEWAL.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2116), the authorizations set forth in the table in subsection (b), as provided in section 2302 of that Act (118 Stat. 2110), shall remain in effect until October 1, 2008, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2009, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Air Force: Extension of 2005 Project Authorizations**

| Installation or Location | Project | Amount |
|---|---|---|
| Davis-Monthan Air Force Base, Arizona. | Family housing (250 units) | $48,500,000 |
| Vandenberg Air Force Base, California. | Family housing (120 units) | $30,906,000 |
| MacDill Air Force Base, Florida .... | Family housing (61 units) ... | $21,723,000 |

**Air Force: Extension of 2005 Project Authorizations**—Continued

| Installation or Location | Project | Amount |
|---|---|---|
| | Housing maintenance facility. | $1,250,000 |
| Columbus Air Force Base, Mississippi. | Housing management facility. | $711,000 |
| Whiteman Air Force Base, Missouri. | Family housing (160 units) | $37,087,000 |
| Seymour Johnson Air Force Base, North Carolina. | Family housing (167 units) | $32,693,000 |
| Goodfellow Air Force Base, Texas | Family housing (127 units) | $20,604,000 |
| Ramstein Air Base, Germany ..... | USAFE Theater Aerospace Operations Support Center. | $24,024,000 |

**SEC. 2308. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2004 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1716), authorizations set forth in the table in subsection (b), as provided in section 2302 of that Act (117 Stat. 1710) and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2464), shall remain in effect until October 1, 2008, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2009, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Air Force: Extension of 2004 Project Authorizations**

| Installation or Location | Project | Amount |
|---|---|---|
| Travis Air Force Base, California .. | Family housing (56 units) ... | $12,723,000 |
| Eglin Air Force Base, Florida ..... | Family housing (279 units) | $32,166,000 |

# TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Energy conservation projects.
Sec. 2403. Authorization of appropriations, Defense Agencies.
Sec. 2404. Termination or modification of authority to carry out certain fiscal year 2007 Defense Agencies projects.
Sec. 2405. Munitions demilitarization facilities, Blue Grass Army Depot, Kentucky, and Pueblo Chemical Activity, Colorado.
Sec. 2406. Extension of authorizations of certain fiscal year 2005 projects.

**SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following tables:

**Defense Education Activity**

| State | Installation or Location | Amount |
|---|---|---|
| North Carolina | Marine Corps Base, Camp Lejeune | $2,014,000 |

**Defense Intelligence Agency**

| State | Installation or Location | Amount |
|---|---|---|
| District of Columbia | Bolling Air Force Base | $1,012,000 |

**Defense Logistics Agency**

| State | Installation or Location | Amount |
|---|---|---|
| California | Port Loma Annex | $140,000,000 |
| Florida | Naval Air Station, Key West | $1,874,000 |
| Hawaii | Hickam Air Force Base | $11,900,000 |
| New Mexico | Kirtland Air Force Base | $1,800,000 |
| Ohio | Defense Supply Center, Columbus | $4,000,000 |
| Pennsylvania | Defense Distribution Depot, New Cumberland | $21,000,000 |
| Virginia | Fort Belvoir | $5,000,000 |

**National Security Agency**

| State | Installation or Location | Amount |
|---|---|---|
| Maryland | Fort Meade | $11,901,000 |

**Special Operations Command**

| State | Installation or Location | Amount |
|---|---|---|
| California | Marine Corps Base, Camp Pendleton | $20,030,000 |
| | Naval Amphibious Base, Coronodo | $12,000,000 |
| Florida | Hurlburt Field | $29,111,000 |
| | MacDill Air Force Base | $47,700,000 |
| Georgia | Fort Benning | $35,000,000 |
| | Hunter Army Air Field | $13,800,000 |
| Kentucky | Fort Campbell | $53,500,000 |
| Mississippi | Stennis Space Center | $10,200,000 |
| New Mexico | Cannon Air Force Base | $7,500,000 |
| North Carolina | Fort Bragg | $47,250,000 |
| | Marine Corps Base, Camp Lejeune | $28,210,000 |
| Virginia | Dam Neck | $113,800,000 |
| | Naval Amphibious Base, Little Creek | $48,000,000 |
| Washington | Fort Lewis | $77,000,000 |

**TRICARE Management Activity**

| State | Installation or Location | Amount |
|---|---|---|
| Florida | MacDill Air Force Base | $5,000,000 |
| Illinois | Naval Hospital, Great Lakes | $99,000,000 |
| New York | Fort Drum | $41,000,000 |
| Texas | Camp Bullis | $7,400,000 |

**TRICARE Management Activity**—Continued

| State | Installation or Location | Amount |
|---|---|---|
| Virginia | Naval Station, Norfolk | $6,450,000 |
| Washington | Fort Lewis | $21,000,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following tables:

**Defense Education Activity**

| Country | Installation or Location | Amount |
|---|---|---|
| Belgium | Sterrebeek | $5,992,000 |
| Germany | Ramstein Air Base | $5,393,000 |
| | Wiesbaden Air Base | $20,472,000 |

**Special Operations Command**

| Country | Installation or Location | Amount |
|---|---|---|
| Bahrain | Southwest Asia | $19,000,000 |
| Qatar | Al Udeid AB | $52,852,000 |

**TRICARE Management Activity**

| Country | Installation or Location | Amount |
|---|---|---|
| Germany | Spangdahlem Air Base | $30,100,000 |

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(3), the Secretary of Defense may acquire real property and carry out military construction projects for unspecified installations or locations in the amount set forth in the following table:

**Defense Agencies: Unspecified Worldwide**

| Location | Installation or Location | Amount |
|---|---|---|
| Worldwide Classified | Classified Project | $1,887,000 |

**SEC. 2402. ENERGY CONSERVATION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(7), the Secretary of Defense may carry out energy conservation projects under chapter 173 of title 10, United States Code, in the amount of $70,000,000.

**SEC. 2403. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for

military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $1,763,120,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $791,902,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $133,809,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2301(c), $1,887,000.

(4) For unspecified minor military construction projects under section 2805 of title 10, United States Code, $23,711,000.

(5) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $5,000,000.

(6) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $155,569,000.

(7) For energy conservation projects authorized by section 2402 of this Act, $70,000,000.

(8) For military family housing functions:

(A) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $48,848,000.

(B) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $500,000.

(9) For the construction of increment 3 of the regional security operations center at Kunia, Hawaii, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3497), as amended by section 7017 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 485), $136,318,000.

(10) For the construction of increment 3 of the regional security operations center at Augusta, Georgia, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3497), as amended by section 7016 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 485), $100,000,000.

(11) For the construction of increment 2 of the health clinic replacement at MacDill Air Force Base, Florida, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2457), $41,400,000.

(12) For the construction of increment 2 of the replacement of the Army Medical Research Institute of Infectious Diseases at Fort Detrick, Maryland, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2457), $150,000,000.

(13) For the construction of increment 9 of a munitions demilitarization facility at Pueblo Chemical Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public

Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $35,159,000.

(14) For the construction of increment 8 of a munitions demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $69,017,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) $84,300,000 (the balance of the amount authorized for the Defense Logistics Agency under section 2401(a) for the replacement of fuel storage facilities, Point Loma Annex, California).

(3) $47,250,000 (the balance of the amount authorized for the Special Operations Command under section 2401(a) for a special operations forces operations facility at Dam Neck, Virginia).

**SEC. 2404. TERMINATION OR MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2007 DEFENSE AGENCIES PROJECTS.**

(a) TERMINATION OF PROJECTS FOR WHICH FUNDS WERE NOT APPROPRIATED.—The table relating to Special Operations Command in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2457) is amended—

(1) by striking the item relating to Stennis Space Center, Mississippi; and

(2) in the item relating to Fort Bragg, North Carolina, by striking "$51,768,000" in the amount column and inserting "$44,868,000".

(b) MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN BASE CLOSURE AND REALIGNMENT ACTIVITIES.—Section 2405(a)(7) of that Act (120 Stat. 2460) is amended by striking "$191,220,000" and inserting "$252,279,000".

(c) MODIFICATION OF MUNITIONS DEMILITARIZATION FACILITY PROJECT.—Section 2405(a)(15) of that Act (120 Stat. 2461) is amended by striking "$99,157,000" and inserting "$89,157,000".

(d) CONFORMING AMENDMENTS.—Section 2405(a) of that Act (120 Stat. 2460) is amended—

(1) in the matter preceding paragraph (1), by striking "$7,163,431,000" and inserting "$7,197,390,000"; and

(2) in paragraph (1), by striking "$533,099,000" and inserting "$515,999,000".

**SEC. 2405. MUNITIONS DEMILITARIZATION FACILITIES, BLUE GRASS ARMY DEPOT, KENTUCKY, AND PUEBLO CHEMICAL ACTIVITY, COLORADO.**

(a) MUNITIONS DEMILITARIZATION FACILITY, BLUE GRASS ARMY DEPOT.—

(1) AUTHORITY TO INCREASE AMOUNT FOR CONSTRUCTION.—Consistent with the total project amount authorized for the construction a munitions demilitarization facility at Blue Grass Army Depot, Kentucky, by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 836), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), the Secretary of Defense may transfer amounts of authorizations made available by section 2403(a)(1) of this Act to increase amounts available for the construction of increment 8 of such munitions demilitarization facility.

(2) AGGREGATE LIMIT.—The aggregate amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $17,300,000.

(b) MUNITIONS DEMILITARIZATION FACILITY, PUEBLO CHEMICAL ACTIVITY.—

(1) AUTHORITY TO INCREASE AMOUNT FOR CONSTRUCTION.—Consistent with the total project amount authorized for the construction a munitions demilitarization facility at Pueblo Chemical Activity, Colorado, by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), the Secretary of Defense may transfer amounts of authorizations made available by section 2403(a)(1) of this Act to increase amounts available for the construction of increment 9 of such munitions demilitarization facility.

(2) AGGREGATE LIMIT.—The aggregate amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $32,000,000.

(c) CERTIFICATION REQUIREMENT.—Before exercising the authority provided in subsection (a) or (b), the Secretary of Defense shall provide to the congressional defense committees—

(1) a certification that the transfer under such subsection of amounts authorized to be appropriated is in the best interest of national security; and

(2) a statement that the increased amount authorized to be appropriated will be used to carry out authorized military construction activities.

**SEC. 2406. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2005 PROJECTS.**

(a) EXTENSION AND RENEWAL.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2005

(division B of Public Law 108–375; 118 Stat. 2116), the authorizations set forth in the table in subsection (b), as provided in section 2401 of that Act (118 Stat. 2112), shall remain in effect until October 1, 2008, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2009, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Defense Agencies: Extension of 2005 Project Authorizations**

| Installation or Location | Agency and Project | Amount |
|---|---|---|
| Naval Air Station, Oceana, Virginia .. | DLA bulk fuel storage tank. | $3,589,000 |
| Naval Air Station, Jacksonville, Florida. | TMA hospital project ..... | $28,438,000 |

# TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

**SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

**SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment Program authorized by section 2501, in the amount of $201,400,000.

# TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Army National Guard construction and land acquisition projects.
Sec. 2602. Authorized Army Reserve construction and land acquisition projects.
Sec. 2603. Authorized Navy Reserve and Marine Corps Reserve construction and land acquisition projects.
Sec. 2604. Authorized Air National Guard construction and land acquisition projects.
Sec. 2605. Authorized Air Force Reserve construction and land acquisition projects.
Sec. 2606. Authorization of appropriations, National Guard and Reserve.
Sec. 2607. Termination of authority to carry out fiscal year 2007 Guard and Reserve projects for which funds were not appropriated.
Sec. 2608. Modification of authority to carry out fiscal year 2006 Air Force Reserve construction and acquisition projects.

Sec. 2609. Extension of authorizations of certain fiscal year 2005 projects.
Sec. 2610. Extension of authorizations of certain Fiscal Year 2004 projects.

**SEC. 2601. AUTHORIZED ARMY NATIONAL GUARD CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(1)(A), the Secretary of the Army may acquire real property and carry out military construction projects for the Army National Guard locations, and in the amounts, set forth in the following table:

**Army National Guard**

| State | Location | Amount |
|---|---|---|
| Alabama | Springville | $3,300,000 |
| Arizona | Florence | $10,870,000 |
| Arkansas | Camp Robinson | $25,823,000 |
| California | Camp Roberts | $2,850,000 |
| | Sacramento Army Depot | $21,000,000 |
| Connecticut | Niantic | $13,600,000 |
| Florida | Camp Blanding | $15,524,000 |
| | Jacksonville | $12,200,000 |
| Idaho | Gowen Field | $7,615,000 |
| | Orchard Training Area | $1,700,000 |
| Illinois | St. Clair County | $8,100,000 |
| Indiana | Muscatatuck | $4,996,000 |
| Iowa | Iowa City | $13,186,000 |
| Kentucky | London | $2,427,000 |
| Michigan | Camp Grayling | $2,450,000 |
| | Lansing | $4,239,000 |
| Minnesota | Camp Ripley | $17,450,000 |
| Mississippi | Camp Shelby | $4,000,000 |
| Missouri | Whiteman Air Force Base | $30,000,000 |
| North Carolina | Asheville | $3,733,000 |
| North Dakota | Camp Grafton | $33,416,000 |
| Oregon | Ontario | $11,000,000 |
| Pennsylvania | Carlisle | $7,800,000 |
| | East Fallowfield Township | $8,300,000 |
| | Fort Indiantown Gap | $9,500,000 |
| | Gettysburg | $6,300,000 |
| | Graterford | $7,300,000 |
| | Hanover | $5,500,000 |
| | Hazelton | $5,600,000 |
| | Holidaysburg | $9,400,000 |
| | Huntingdon | $7,500,000 |
| | Kutztown | $6,800,000 |
| | Lebanon | $7,800,000 |
| | Philadelphia | $13,650,000 |
| | Waynesburg | $9,000,000 |
| Rhode Island | East Greenwich | $8,200,000 |
| | North Kingstown | $33,000,000 |
| Texas | Camp Bowie | $1,500,000 |
| | Fort Wolters | $2,100,000 |
| Utah | North Salt Lake | $12,200,000 |
| Vermont | Ethan Allen Range | $1,996,000 |
| Virginia | Fort Pickett | $26,211,000 |
| | Winchester | $3,113,000 |
| West Virginia | Camp Dawson | $9,400,000 |
| Wyoming | Camp Guernsey | $2,650,000 |

**SEC. 2602. AUTHORIZED ARMY RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(1)(B), the Secretary of the Army may acquire real property and carry out military construction projects for the Army Reserve locations, and in the amounts, set forth in the following table:

**Army Reserve**

| State | Location | Amount |
|---|---|---|
| California | BT Collins | $6,874,000 |
| | Fort Hunter Liggett | $7,035,000 |
| | Garden Grove | $25,440,000 |
| Montana | Butte | $7,629,000 |
| New Jersey | Fort Dix | $22,900,000 |
| New York | Fort Drum | $15,923,000 |
| Texas | Ellington Field | $15,000,000 |
| | Fort Worth | $15,076,000 |
| Wisconsin | Ellsworth | $9,100,000 |
| | Fort McCoy | $8,523,000 |

**SEC. 2603. AUTHORIZED NAVY RESERVE AND MARINE CORPS RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the Navy Reserve and Marine Corps Reserve locations, and in the amounts, set forth in the following table:

**Navy Reserve and Marine Corps Reserve**

| State | Location | Amount |
|---|---|---|
| California | Miramar | $5,580,000 |
| Michigan | Selfridge | $4,030,000 |
| Ohio | Wright-Patterson Air Force Base | $10,277,000 |
| Oregon | Portland | $1,900,000 |
| South Dakota | Sioux Falls | $3,730,000 |
| Texas | Austin | $6,490,000 |
| | Fort Worth | $27,484,000 |
| Virginia | Quantico | $2,410,000 |

**SEC. 2604. AUTHORIZED AIR NATIONAL GUARD CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(3)(A), the Secretary of the Air Force may acquire real property and carry out military construction projects for the Air National Guard locations, and in the amounts, set forth in the following table:

**Air National Guard**

| State | Location | Amount |
|---|---|---|
| Colorado | Buckley Air National Guard Base | $7,300,000 |
| Delaware | New Castle | $10,800,000 |

**Air National Guard**—Continued

| State | Location | Amount |
|---|---|---|
| Florida | Jacksonville International Airport | $6,000,000 |
| Georgia | Savannah International Airport | $9,000,000 |
| Indiana | Hulman Regional Airport | $7,700,000 |
| Kansas | Smoky Hill Air National Guard Range | $9,000,000 |
| Louisiana | Camp Beauregard | $1,800,000 |
| Massachusetts | Otis Air National Guard Base | $1,800,000 |
| | Barnes Air National Guard Base | $7,300,000 |
| Mississippi | Key Field | $6,100,000 |
| Nebraska | Lincoln | $8,900,000 |
| Nevada | Reno-Tahoe International Airport | $5,200,000 |
| New Hampshire | Pease Air National Guard Base | $8,900,000 |
| New Jersey | Atlantic City | $9,800,000 |
| New York | Gabreski Airport | $8,400,000 |
| | Griffiss | $6,600,000 |
| | Hancock Field | $5,100,000 |
| North Carolina | Charlotte | $4,000,000 |
| Ohio | Rickenbacker Air National Guard Base | $7,600,000 |
| Pennsylvania | Fort Indiantown Gap | $12,700,000 |
| | Harrisburg | $1,000,000 |
| Rhode Island | Quonset State Airport | $5,000,000 |
| South Dakota | Joe Foss Field | $7,900,000 |
| Tennessee | Lovell Field | $8,200,000 |
| | McGhee-Tyson Airport | $3,200,000 |
| | Memphis International Airport | $11,376,000 |
| Texas | Ellington Field | $7,200,000 |
| Vermont | Burlington | $6,600,000 |
| West Virginia | Eastern WV Regional Airport | $50,776,000 |
| | Yeager | $17,300,000 |
| Wisconsin | Truax Field | $7,000,000 |

**SEC. 2605. AUTHORIZED AIR FORCE RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(3)(B), the Secretary of the Air Force may acquire real property and carry out military construction projects for the Air Force Reserve locations, and in the amounts, set forth in the following table:

**Air Force Reserve**

| State | Location | Amount |
|---|---|---|
| Alaska | Elmendorf Air Force Base | $14,950,000 |
| Utah | Hill Air Force Base | $3,200,000 |

**SEC. 2606. AUTHORIZATION OF APPROPRIATIONS, NATIONAL GUARD AND RESERVE.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), in the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $536,656,000; and

(B) for the Army Reserve, $148,133,000.

(2) For the Department of the Navy, for the Navy and Marine Corps Reserve, $64,430,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $287,537,000; and

(B) for the Air Force Reserve, $28,359,000.

**SEC. 2607. TERMINATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 2007 GUARD AND RESERVE PROJECTS FOR WHICH FUNDS WERE NOT APPROPRIATED.**

Section 2601 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2463) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "$561,375,000" and inserting "$476,697,000"; and

(B) in subparagraph (B), by striking "$190,617,000" and inserting "$167,987,000";

(2) in paragraph (2), by striking "49,998,000" and inserting "$43,498,000"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "$294,283,000" and inserting "$133,983,000"; and

(B) in subparagraph (B), by striking "$56,836,000" and inserting "$47,436,000".

**SEC. 2608. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 2006 AIR FORCE RESERVE CONSTRUCTION AND ACQUISITION PROJECTS.**

Section 2601(3)(B) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3501) is amended by striking "$105,883,000" and inserting "$102,783,000".

**SEC. 2609. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2005 PROJECTS.**

(a) EXTENSION AND RENEWAL.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2116), the authorizations set forth in the tables in subsection (b), as provided in section 2601 of that Act (118 Stat. 2115), shall remain in effect until October 1, 2008, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2009, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

**Army National Guard: Extension of 2005 Project Authorizations**

| Installation or Location | Project | Amount |
|---|---|---|
| Dublin, California | Readiness center | $11,318,000 |
| Gary, Indiana | Reserve center | $9,380,000 |

**Army Reserve: Extension of 2005 Project Authorization**

| Installation or Location | Project | Amount |
|---|---|---|
| Corpus Christi (Robstown), Texas ..... | Storage facility ..... | $9,038,000 |

**SEC. 2610. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2004 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1716), the authorizations set forth in the table in subsection (b), as provided in section 2601 of that Act (117 Stat. 1715) and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2464), shall remain in effect until October 1, 2008, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2009, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Army National Guard: Extension of 2004 Project Authorizations**

| Installation or Location | Project | Amount |
|---|---|---|
| Albuquerque, New Mexico ..... | Readiness center ..... | $2,533,000 |
| Fort Indiantown Gap, Pennsylvania. | Multi-purpose training range. | $15,338,000 |

# TITLE XXVII—BASE CLOSURE AND REALIGNMENT ACTIVITIES

Sec. 2701. Authorization of appropriations for base closure and realignment activities funded through Department of Defense Base Closure Account 1990.
Sec. 2702. Authorized base closure and realignment activities funded through Department of Defense Base Closure Account 2005.
Sec. 2703. Authorization of appropriations for base closure and realignment activities funded through Department of Defense Base Closure Account 2005.
Sec. 2704. Authorized cost and scope of work variations for military construction and military family housing projects related to base closures and realignments.
Sec. 2705. Transfer of funds from Department of Defense Base Closure Account 2005 to Department of Defense Housing Funds.
Sec. 2706. Comprehensive accounting of funding required to ensure timely implementation of 2005 Defense Base Closure and Realignment Commission recommendations.
Sec. 2707. Relocation of units from Roberts United States Army Reserve Center and Navy-Marine Corps Reserve Center, Baton Rouge, Louisiana.
Sec. 2708. Acquisition of real property, Fort Belvoir, Virginia, as part of the realignment of the installation.
Sec. 2709. Report on availability of traffic infrastructure and facilities to support base realignment.

**SEC. 2701. AUTHORIZATION OF APPROPRIATIONS FOR BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for base closure and realignment activities, including real property acquisition and military

construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 1990 established by section 2906 of such Act, in the total amount of $295,689,000, as follows:

(1) For the Department of the Army, $98,716,000.
(2) For the Department of the Navy, $50,000,000.
(3) For the Department of the Air Force, $143,260,000.
(4) For the Defense Agencies, $3,713,000.

**SEC. 2702. AUTHORIZED BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2703, the Secretary of Defense may carry out base closure and realignment activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, in the amount of $8,718,988,000.

**SEC. 2703. AUTHORIZATION OF APPROPRIATIONS FOR BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for base closure and realignment activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, in the total amount of $8,040,401,000, as follows:

(1) For the Department of the Army, $4,015,746,000.
(2) For the Department of the Navy, $733,695,000.
(3) For the Department of the Air Force, $1,183,812,000.
(4) For the Defense Agencies, $2,241,062,000.

(b) GENERAL REDUCTION.—The amount otherwise authorized to be appropriated by subsection (a) is reduced by $133,914,000.

**SEC. 2704. AUTHORIZED COST AND SCOPE OF WORK VARIATIONS FOR MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING PROJECTS RELATED TO BASE CLOSURES AND REALIGNMENTS.**

(a) VARIATIONS AUTHORIZED.—Section 2905A of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(f) AUTHORIZED COST AND SCOPE OF WORK VARIATIONS.—(1) Subject to paragraphs (2) and (3), the cost authorized for a military construction project or military family housing project to be carried out using funds in the Account may not be increased or reduced by more than 20 percent or $2,000,000, whichever is greater, of the amount specified for the project in the conference report to accompany the Military Construction Authorization Act authorizing

the project. The scope of work for such a project may not be reduced by more than 25 percent from the scope specified in the most recent budget documents for the projects listed in such conference report.

"(2) Paragraph (1) shall not apply to a military construction project or military family housing project to be carried out using funds in the Account with an estimated cost of less than $5,000,000, unless the project has not been previously identified in any budget submission for the Account and exceeds the applicable minor construction threshold under section 2805 of title 10, United States Code.

"(3) The limitation on cost or scope variation in paragraph (1) shall not apply if the Secretary of Defense makes a determination that an increase or reduction in cost or a reduction in the scope of work for a military construction project or military family housing project to be carried out using funds in the Account needs to be made for the sole purpose of meeting unusual variations in cost or scope. If the Secretary makes such a determination, the Secretary shall notify the congressional defense committees of the variation in cost or scope not later than 21 days before the date on which the variation is made in connection with the project or, if the notification is provided in an electronic medium pursuant to section 480 of title 10, United States Code, not later than 14 days before the date on which the variation is made. The Secretary shall include the reasons for the variation in the notification.".

Notification. Deadlines.

(b) REPORT ON EXISTING PROJECTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report specifying all military construction projects and military family housing projects carried out using funds in the Department of Defense Base Closure Account 2005 for which a cost or scope of work variation was made before that date that would have been subject to subsection (f) of section 2905A of the Defense Base Closure and Realignment Act of 1990, as added by this section, if such subsection had been in effect when the cost or scope of work variation was made. The Secretary shall include a description of each variation covered by the report and the reasons for the variation.

**SEC. 2705. TRANSFER OF FUNDS FROM DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005 TO DEPARTMENT OF DEFENSE HOUSING FUNDS.**

(a) TRANSFER AUTHORITY.—Subsection (c) of section 2883 of title 10, United States Code, is amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

"(G) Subject to subsection (f), any amounts that the Secretary of Defense transfers to that Fund from amounts in the Department of Defense Base Closure Account 2005."; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

"(G) Subject to subsection (f), any amounts that the Secretary of Defense transfers to that Fund from amounts in the Department of Defense Base Closure Account 2005.".

(b) NOTIFICATION AND JUSTIFICATION FOR TRANSFER.—Subsection (f) of such section is amended—

(1) by striking "paragraph (1)(B) or (2)(B)" and inserting "subparagraph (B) or (G) of paragraph (1) or subparagraph (B) or (G) of paragraph (2)"; and

(2) by adding at the end the following new sentence: "In addition, the notice required in connection with a transfer under subparagraph (G) of paragraph (1) or subparagraph (G) of paragraph (2) shall include a certification that the amounts to be transferred from the Department of Defense Base Closure Account 2005 were specified in the conference report to accompany the most recent Military Construction Authorization Act.".

**SEC. 2706. COMPREHENSIVE ACCOUNTING OF FUNDING REQUIRED TO ENSURE TIMELY IMPLEMENTATION OF 2005 DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION RECOMMENDATIONS.**

The Secretary of Defense shall submit to Congress with the budget materials for fiscal year 2009 a comprehensive accounting of the funding required to ensure that the plan for implementing the final recommendations of the 2005 Defense Base Closure and Realignment Commission remains on schedule for completion by September 15, 2011, as required by section 2904(c)(5) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

**SEC. 2707. RELOCATION OF UNITS FROM ROBERTS UNITED STATES ARMY RESERVE CENTER AND NAVY-MARINE CORPS RESERVE CENTER, BATON ROUGE, LOUISIANA.**

The Secretary of the Army may use funds appropriated pursuant to the authorization of appropriations in paragraphs (1) and (2) of section 2703 for the purpose of siting an Army Reserve Center and Navy and Marine Corps Reserve Center on land under the control of the State of Louisiana adjacent to, or in the vicinity of, the Baton Rouge Metropolitan Airport in Baton Rouge, Louisiana, at a location determined by the Secretary to be in the best interest of national security and in the public interest.

**SEC. 2708. ACQUISITION OF REAL PROPERTY, FORT BELVOIR, VIRGINIA, AS PART OF THE REALIGNMENT OF THE INSTALLATION.**

(a) ACQUISITION AUTHORITY.—Pursuant to section 2905(a)(1)(A) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), the relocation of members of the Armed Forces and civilian employees of the Department of Defense who are scheduled to be relocated to Fort Belvoir, Virginia, shall be limited to the following locations:

(1) Fort Belvoir.

(2) A parcel of real property consisting of approximately 69.5 acres, under the administrative jurisdiction of the Administrator of General Services (in this section referred to as the "Administrator") and containing warehouse facilities in Springfield, Virginia (in this section referred to as the "GSA Property").

(3) Any other parcels of land (using including any improvement thereon) that are acquired, using competitive procedures, in fee in the vicinity of Fort Belvoir.

(b) ACQUISITION SELECTION CRITERIA.—The Secretary of the Army shall select the site to be used under subsection (a) based

on the best value to the Government, and, in making that determination, the Secretary shall consider cost and schedule.

(c) GSA PROPERTY TRANSFER AUTHORIZED.—Pursuant to the relocation alternative authorized by subsection (a)(2), the Administrator may transfer the GSA Property to the administrative jurisdiction of the Secretary of the Army for the purpose of permitting the Secretary to construct facilities on the property to support administrative functions to be located at Fort Belvoir, Virginia.

(d) IMPLEMENTATION OF GSA PROPERTY TRANSFER.—

(1) CONSIDERATION.—As consideration for the transfer of the GSA Property under subsection (c), the Secretary of the Army shall—

(A) pay all reasonable costs to move personnel, furnishings, equipment, and other material related to the relocation of functions identified by the Administrator; and

(B) if determined to be necessary by the Administrator—

(i) transfer to the administrative jurisdiction of the Administrator a parcel of property in the National Capital Region under the jurisdiction of the Secretary and determined to be suitable by the Administrator;

(ii) design and construct storage facilities, utilities, security measures, and access to a road infrastructure on the parcel transferred under clause (i) to meet the requirements of the Administrator; and

(iii) enter into a memorandum of agreement with the Administrator for support services and security at the new facilities constructed pursuant to clause (ii).

(2) EQUAL VALUE TRANSFER.—As a condition of the transfer of the GSA Property under subsection (c), the transfer agreement shall provide that the fair market value of the GSA Property and the consideration provided under paragraph (1) shall be equal or, if not equal, shall be equalized through the use of a cash equalization payment.

(3) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the GSA Property shall be determined by surveys satisfactory to the Administrator and the Secretary of the Army.

(4) CONGRESSIONAL NOTICE.—Before undertaking an activity under subsection (c) that would require approval of a prospectus under section 3307 of title 40, United States Code, the Administrator shall provide to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the congressional defense committees a written notice containing a description of the activity to be undertaken.

(5) NO EFFECT ON COMPLIANCE WITH ENVIRONMENTAL LAWS.—Nothing in this section or subsection (c) may be construed to affect or limit the application of or obligation to comply with any environmental law, including section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(6) ADDITIONAL TERMS AND CONDITIONS.—The Administrator and the Secretary of the Army may require such additional terms and conditions in connection with the GSA Property transfer as the Administrator, in consultation with the

Secretary, determines appropriate to protect the interests of the United States and further the purposes of this section.

(e) ADMINISTRATION OF TRANSFERRED OR ACQUIRED PROPERTY.—Upon completion of any property transfer or acquisition authorized by subsection (a), the property shall be administered by the Secretary of the Army as a part of Fort Belvoir.

(f) STATUS REPORT.—Not later than March 1, 2008, the Secretary of the Army shall submit to the congressional defense committees a report on the status and estimated costs of implementing subsection (a).

**SEC. 2709. REPORT ON AVAILABILITY OF TRAFFIC INFRASTRUCTURE AND FACILITIES TO SUPPORT BASE REALIGNMENT.**

(a) SENSE OF CONGRESS.—

(1) DESIGNATION OF DEFENSE ACCESS ROADS.—It is the sense of Congress that roads leading onto Fort Belvoir, Virginia, and other military installations that will be significantly impacted by an increase in the number of members of the Armed Forces and civilian employees of the Department of Defense assigned to the installation as a result of the 2005 round of defense base closures and realignments under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or any other significant impact resulting from a realignment of forces should be considered for designation as defense access roads for purposes of section 210 of title 23, United States Code.

(2) FACILITIES AND INFRASTRUCTURE.—It is the sense of Congress that the Secretary of Defense should seek to ensure that the permanent facilities and infrastructure necessary to support the mission of the Armed Forces and the quality of life needs of members of the Armed Forces, civilian employees, and their families are ready for use at receiving locations before units are transferred to such locations as a result of the 2005 round of defense base closures and realignments.

(b) STUDY OF MILITARY INFRASTRUCTURE AND SURFACE TRANSPORTATION INFRASTRUCTURE.—Not later than April 1, 2008, the Comptroller General shall submit to the congressional defense committees a report with regard to each military installation that will be significantly impacted by an increase in assigned forces or civilian personnel, as described in subsection (a), for the purpose of determining whether—

(1) military facility requirements (including quality of life projects) will be met before the arrival of assigned forces; and

(2) the Department of Defense has programmed sufficient funding to mitigate community traffic congestion in accordance with the defense access roads program under section 210 of title 23, United States Code.

# TITLE XXVIII—MILITARY CONSTRUCTION GENERAL PROVISIONS

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Sec. 2883. Naming of Navy and Marine Corps Reserve Center at Rock Island, Illinois, in honor of the Honorable Lane Evans, a former member of the United States House of Representatives.
Sec. 2884. Naming of research laboratory at Air Force Rome Research Site, Rome, New York, in honor of the Honorable Sherwood L. Boehlert, a former member of the United States House of Representatives.
Sec. 2885. Naming of administration building at Joint Systems Manufacturing Center, Lima, Ohio, in honor of the Honorable Michael G. Oxley, a former member of the United States House of Representatives.
Sec. 2886. Naming of Logistics Automation Training Facility, Army Quartermaster Center and School, Fort Lee, Virginia, in honor of General Richard H. Thompson.
Sec. 2887. Authority to relocate Joint Spectrum Center to Fort Meade, Maryland.

# Subtitle A—Military Construction Program and Military Family Housing Changes

### SEC. 2801. AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.

(a) ONE-YEAR EXTENSION OF AUTHORITY.—Subsection (a) of section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723), as amended by section 2810 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2128), section 2809 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3508), and section 2802 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2466), is further amended by striking "2007" and inserting "2008".

(b) PRENOTIFICATION REQUIREMENT.—Subsection (b) of such section is amended by striking the first sentence and inserting the following new sentences: "Before using appropriated funds available for operation and maintenance to carry out a construction project outside the United States that has an estimated cost in excess of the amounts authorized for unspecified minor military construction projects under section 2805(c) of title 10, United States Code, the Secretary of Defense shall submit to the congressional committees specified in subsection (f) a notice regarding the construction project. The project may be carried out only after the end of the 10-day period beginning on the date the notice is received by the committees or, if earlier, the end of the 7-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of title 10, United States Code.".

(c) ANNUAL LIMITATION ON USE OF AUTHORITY.—Subsection (c) of such section is amended to read as follows:

"(c) ANNUAL LIMITATION ON USE OF AUTHORITY.—The total cost of the construction projects carried out under the authority

of this section using, in whole or in part, appropriated funds available for operation and maintenance shall not exceed $200,000,000 in a fiscal year.".

(d) CONFORMING AMENDMENT.—Subsection (g) of such section is amended by striking "notice of the" and inserting "advance notice of the proposed".

(e) RATIFICATION OF PROPOSED CONSTRUCTION AND LAND ACQUISITION PROJECTS USING FISCAL YEAR 2007 OPERATION AND MAINTENANCE FUNDS.—The nine construction projects outside the United States proposed to be carried out using funds appropriated to the Department of Defense for operation and maintenance for fiscal year 2007, but for which the obligation or expenditure of funds was prohibited by subsection (g) of section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723), as added by section 2809 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3508), may be carried out using such funds after the date of the enactment of this Act notwithstanding such subsection (g).

**SEC. 2802. CLARIFICATION OF REQUIREMENT FOR AUTHORIZATION OF MILITARY CONSTRUCTION.**

(a) CLARIFICATION OF REQUIREMENT FOR AUTHORIZATION.—Section 2802(a) of title 10, United States Code, is amended by inserting after "military construction projects" the following: ", land acquisitions, and defense access road projects (as described under section 210 of title 23)".

(b) CLARIFICATION OF DEFINITION.—Section 2801(a) of such title is amended by inserting after "permanent requirements" the following: ", or any acquisition of land or construction of a defense access road (as described in section 210 of title 23)".

**SEC. 2803. INCREASE IN THRESHOLDS FOR UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.**

Section 2805(a)(1) of title 10, United States Code, is amended by striking "$1,500,000" and inserting "$2,000,000".

**SEC. 2804. TEMPORARY AUTHORITY TO SUPPORT REVITALIZATION OF DEPARTMENT OF DEFENSE LABORATORIES THROUGH UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.**

(a) LABORATORY REVITALIZATION.—Section 2805 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) LABORATORY REVITALIZATION.—(1) For the revitalization and recapitalization of laboratories owned by the United States and under the jurisdiction of the Secretary concerned, the Secretary concerned may obligate and expend—

"(A) from appropriations available to the Secretary concerned for operation and maintenance, amounts necessary to carry out an unspecified minor military construction project costing not more than $2,000,000; or

"(B) from appropriations available to the Secretary concerned for military construction not otherwise authorized by law, amounts necessary to carry out an unspecified minor military construction project costing not more than $4,000,000.

"(2) For an unspecified minor military construction project conducted pursuant to this subsection, $2,000,000 shall be deemed to be the amount specified in subsection (b)(1) regarding when advance approval of the project by the Secretary concerned and congressional notification is required. The Secretary of Defense shall establish procedures for the review and approval of requests from the Secretary of a military department to carry out a construction project under this subsection.

Procedures.

"(3) For purposes of this subsection, the total amount allowed to be applied in any one fiscal year to projects at any one laboratory shall be limited to the larger of the amounts applicable under paragraph (1).

Deadline. Reports.

"(4) Not later than February 1, 2010, the Secretary of Defense shall submit to the congressional defense committees a report on the use of the authority provided by this subsection. The report shall include a list and description of the construction projects carried out under this subsection, including the location and cost of each project.

"(5) In this subsection, the term 'laboratory' includes—

"(A) a research, engineering, and development center; and

"(B) a test and evaluation activity.

Expiration date.

"(6) The authority to carry out a project under this subsection expires on September 30, 2012.".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "AUTHORITY TO CARRY OUT UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—" after "(a)";

(2) in subsection (b), by inserting "APPROVAL AND CONGRESSIONAL NOTIFICATION.—" after "(b)";

(3) in subsection (c), by inserting "USE OF OPERATION AND MAINTENANCE FUNDS.—" after "(c)"; and

(4) in subsection (e), as redesignated by subsection (a)(1), by inserting "PROHIBITION ON USE FOR NEW HOUSING UNITS.—" after "(e)".

10 USC 18240 note.

**SEC. 2805. EXTENSION OF AUTHORITY TO ACCEPT EQUALIZATION PAYMENTS FOR FACILITY EXCHANGES.**

Section 2809(c)(5) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2127) is amended by striking "September 30, 2007" and inserting "September 30, 2010".

**SEC. 2806. MODIFICATIONS OF AUTHORITY TO LEASE MILITARY FAMILY HOUSING.**

(a) INCREASED MAXIMUM LEASE AMOUNT APPLICABLE TO CERTAIN DOMESTIC ARMY FAMILY HOUSING LEASES.—Subsection (b) of section 2828 of title 10, United States Code, is amended—

(1) in paragraph (2), by striking "paragraphs (3) and (4)" and inserting "paragraphs (3), (4), and (7)";

(2) in paragraph (5), by striking "paragraphs (2) and (3)" and inserting "paragraphs (2), (3), and (7)"; and

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

"(7)(A) Not more than 600 housing units may be leased by the Secretary of the Army under subsection (a) for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation) exceeds the maximum amount per unit per year in effect under paragraph (2) but does not exceed

$18,620 per unit per year, as adjusted from time to time under paragraph (5).

"(B) The maximum lease amount provided in subparagraph (A) shall apply only to Army family housing in areas designated by the Secretary of the Army. Applicability.

"(C) The term of a lease under subparagraph (A) may not exceed 2 years.".

(b) FOREIGN MILITARY FAMILY HOUSING LEASES.—Subsection (e)(2) of such section is amended by striking "the Secretary of the Navy may lease not more than 2,800 units of family housing in Italy, and the Secretary of the Army may lease not more than 500 units of family housing in Italy" and inserting "the Secretaries of the military departments may lease not more than 3,300 units of family housing in Italy".

(c) INCREASED THRESHOLD FOR CONGRESSIONAL NOTIFICATION FOR FOREIGN MILITARY FAMILY HOUSING LEASES.—Subsection (f) of such section is amended by striking "$500,000" and inserting "$1,000,000".

(d) REPORT REQUIRED.—Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the rental of family housing in foreign countries (including the costs of utilities, maintenance, and operations) that exceed $60,000 per unit per year. The report shall include a list and description of rental units (including total gross square feet and number of bedrooms), location, rental cost, the requirement for the rental, and the options that the Secretary has available to decrease the costs associated with the rentals.

**SEC. 2807. EXPANSION OF AUTHORITY TO EXCHANGE RESERVE COMPONENT FACILITIES.**

Section 18240(a) of title 10, United States Code, is amended by striking "with a State" in the first sentence and inserting "with an Executive agency (as defined in section 105 of title 5), the United States Postal Service, or a State".

**SEC. 2808. LIMITATION ON USE OF ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING FOR PRIVATIZATION OF TEMPORARY LODGING FACILITIES.**

(a) LIMITATION ON PRIVATIZATION OF TEMPORARY LODGING FACILITIES.—Notwithstanding any other provision of subchapter IV of chapter 169 of title 10, United States Code, the privatization of temporary lodging facilities under such subchapter is limited to the military installations authorized in subsection (b) until 120 days after the date on which the report described in subsection (d)(1) is submitted.

(b) AUTHORIZED INSTALLATIONS.—The military installations at which the privatization of temporary lodging facilities may proceed under subsection (a) are the following:

(1) Redstone Arsenal, Alabama.
(2) Fort Rucker, Alabama.
(3) Yuma Proving Ground, Arizona.
(4) Fort McNair, District of Columbia.
(5) Fort Shafter, Hawaii.
(6) Tripler Army Medical Center, Hawaii.
(7) Fort Leavenworth, Kansas.
(8) Fort Riley, Kansas.
(9) Fort Polk, Louisiana.

(10) Fort Sill, Oklahoma.
(11) Fort Hood, Texas.
(12) Fort Sam Houston, Texas.
(13) Fort Myer, Virginia.

(c) EFFECT OF LIMITATION.—The limitation imposed by subsection (a) prohibits the issuance of contract solicitations for the privatization of temporary lodging facilities at any military installation not specified in subsection (b).

(d) REPORTING REQUIREMENTS.—

(1) REPORT BY SECRETARY OF THE ARMY.—Not earlier than eight months after the date on which the notice of transfer associated with the military installations specified in subsection (b) is issued, the Secretary of the Army shall submit to the congressional defense committees and the Comptroller General a report that—

(A) describes the implementation of the privatization of temporary lodging facilities at the installations specified in subsection (b);

(B) evaluates the efficiency of the program; and

(C) contains such recommendations as the Secretary considers appropriate regarding expansion of the program.

(2) REPORT BY COMPTROLLER GENERAL.—Not later than 90 days after receiving the report under paragraph (1), the Comptroller General shall submit to the congressional defense committees a review of both the privatization of temporary lodging facilities and the report of the Secretary.

**SEC. 2809. TWO-YEAR EXTENSION OF TEMPORARY PROGRAM TO USE MINOR MILITARY CONSTRUCTION AUTHORITY FOR CONSTRUCTION OF CHILD DEVELOPMENT CENTERS.**

(a) EXTENSION.—Subsection (e) of section 2810 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3510) is amended by striking "September 30, 2007" and inserting "September 30, 2009".

(b) REPORT REQUIRED.—Subsection (d) of such section is amended by striking "March 1, 2007" and inserting "March 1, 2009".

**SEC. 2810. REPORT ON HOUSING PRIVATIZATION INITIATIVES.**

(a) REPORT REQUIRED.—Not later than March 31, 2008, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

(1) a list of all housing privatization transactions carried out by the Department of Defense that, as of such date, are behind schedule or in default; and

(2) recommendations regarding the opportunities for the Federal Government to ensure that all terms of each housing privatization transaction are completed according to the original schedule and budget.

(b) SPECIFIC INFORMATION REGARDING EACH TRANSACTION.—For each housing privatization transaction included in the report required by subsection (a), the report shall provide a description of the following:

(1) The reasons for schedule delays, cost overruns, or default.

(2) How solicitations and competitions were conducted for the project.

(3) How financing, partnerships, legal arrangements, leases, or contracts in relation to the project were structured.

(4) Which entities, including Federal entities, are bearing financial risk for the project, and to what extent.

(5) The remedies available to the Federal Government to restore the transaction to schedule or ensure completion of the terms of the transaction in question at the earliest possible time.

(6) The extent to which the Federal Government has the ability to affect the performance of various parties involved in the project.

(7) The remedies available to subcontractors to recoup liens in the case of default, non-payment by the developer or other party to the transaction or lease agreement, or re-structuring.

(8) The remedies available to the Federal Government to affect receivership actions or transfer of ownership of the project.

(9) The names of the developers for the project and any history of previous defaults or bankruptcies by these developers or their affiliates.

(c) HOUSING PRIVATIZATION TRANSACTION DEFINED.—In this section, the term "housing privatization transaction" means any contract or other transaction for the construction or acquisition of military family housing or military unaccompanied housing entered into under the authority of subchapter IV of chapter 169 of title 10, United States Code.

# Subtitle B—Real Property and Facilities Administration

**SEC. 2821. REQUIREMENT TO REPORT REAL PROPERTY TRANSACTIONS RESULTING IN ANNUAL COSTS OF MORE THAN $750,000.**

(a) INCLUSION OF TRANSACTIONS INVOLVING DEFENSE AGENCIES.—

(1) REQUIREMENT TO REPORT.—Subsection (a) of section 2662 of title 10, United States Code, is amended—

(A) in paragraph (1), by striking ", or his designee," and inserting "or, with respect to a Defense Agency, the Secretary of Defense"; and

(B) in paragraph (3), by inserting after "military department" the following: "or the Secretary of Defense".

(2) ANNUAL REPORT REGARDING MINOR TRANSACTIONS.—Subsection (b) of such section is amended by inserting after "military department" the following: "and, with respect to Defense Agencies, the Secretary of Defense".

(3) EXCEPTIONS.—Subsection (g) of such section is amended by adding at the end the following new paragraph:

"(4) In this subsection, the term 'Secretary concerned' includes, with respect to Defense Agencies, the Secretary of Defense.".

(b) INCLUSION OF ADDITIONAL TRANSACTION.—Subsection (a)(1) of such section is amended by adding at the end the following new subparagraph:

"(G) Any transaction or contract action that results in, or includes, the acquisition or use by, or the lease or license to, the United States of real property, if the estimated annual

rental or cost for the use of the real property is more than $750,000.".

**SEC. 2822. CONTINUED CONSOLIDATION OF REAL PROPERTY PROVISIONS WITHOUT SUBSTANTIVE CHANGE.**

(a) CONSOLIDATION.—Section 2663 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) LAND ACQUISITION OPTIONS IN ADVANCE OF MILITARY CONSTRUCTION PROJECTS.—(1) The Secretary of a military department may acquire an option on a parcel of real property before or after its acquisition is authorized by law, if the Secretary considers it suitable and likely to be needed for a military project of the military department under the jurisdiction of the Secretary.

"(2) As consideration for an option acquired under paragraph (1), the Secretary may pay, from funds available to the military department under the jurisdiction of the Secretary for real property activities, an amount that is not more than 12 percent of the appraised fair market value of the property.".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) REPEAL.—Section 2677 of such title is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 159 of such title is amended by striking the item relating to section 2677.

**SEC. 2823. MODIFICATION OF AUTHORITY TO LEASE NON-EXCESS PROPERTY OF THE MILITARY DEPARTMENTS.**

(a) ELIMINATION OF AUTHORITY TO ACCEPT FACILITIES OPERATION SUPPORT AS IN-KIND CONSIDERATION.—Subsection (c)(1) of section 2667 of title 10, United States Code, is amended—

(1) by redesignating subparagraph (E) as subparagraph (F); and

(2) by striking subparagraph (D) and inserting the following new subparagraphs:

"(D) Provision or payment of utility services for the Secretary concerned.

"(E) Provision of real property maintenance services for the Secretary concerned.".

(b) ELIMINATION OF AUTHORITY TO USE RENTAL AND CERTAIN OTHER PROCEEDS FOR FACILITIES OPERATION SUPPORT.—Subsection (e)(1)(C) of such section is amended—

(1) by adjusting the margins of clauses (ii) and (iii) to conform to the margin of clause (i); and

(2) by striking clause (iv) and inserting the following new clauses:

"(iv) Payment of utility services.

"(v) Real property maintenance services.".

(c) USE OF COMPETITIVE PROCEDURES FOR SELECTION OF CERTAIN LESSEES.—Subsection (h) of such section is amended—

(1) in paragraph (1), by striking "exceeds one year, and the fair market value of the lease" and inserting "exceeds one year, or the fair market value of the lease";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by striking paragraph (2) and inserting the following new paragraphs:

"(2) Paragraph (1) does not apply if the Secretary concerned determines that—

"(A) a public interest will be served as a result of the lease; and

"(B) the use of competitive procedures for the selection of certain lessees is unobtainable or not compatible with the public benefit served under subparagraph (A).

"(3) Not later than 45 days before entering into a lease described in paragraph (1), the Secretary concerned shall submit to Congress written notice describing the terms of the proposed lease and— Deadline. Notification.

"(A) the competitive procedures used to select the lessee; or

"(B) in the case of a lease involving the public benefit exception authorized by paragraph (2), a description of the public benefit to be served by the lease.".

(d) TECHNICAL AMENDMENTS RELATED TO PRIOR-YEAR AMENDMENT.—Subsection (e) of such section is amended—

(1) in paragraph (1)(B)(ii), by striking "paragraph (4), (5), or (6)" and inserting "paragraph (3), (4), or (5)"; and

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5).

**SEC. 2824. COOPERATIVE AGREEMENT AUTHORITY FOR MANAGEMENT OF CULTURAL RESOURCES ON CERTAIN SITES OUTSIDE MILITARY INSTALLATIONS.**

(a) EXPANDED AUTHORITY.—Section 2684 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "on military installations" and inserting "located on a site authorized by subsection (b)";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) AUTHORIZED CULTURAL RESOURCES SITES.—To be covered by a cooperative agreement under subsection (a), cultural resources must be located—

"(1) on a military installation; or

"(2) on a site outside of a military installation, but only if the cooperative agreement will directly relieve or eliminate current or anticipated restrictions that would or might restrict, impede, or otherwise interfere, whether directly or indirectly, with current or anticipated military training, testing, or operations on a military installation.".

(b) CULTURAL RESOURCE DEFINED.—Subsection (d) of such section, as redesignated by subsection (a)(2), is amended by adding at the end the following new paragraph:

"(5) An Indian sacred site, as defined in section 1(b)(iii) of Executive Order No. 13007.".

**SEC. 2825. AGREEMENTS TO LIMIT ENCROACHMENTS AND OTHER CONSTRAINTS ON MILITARY TRAINING, TESTING, AND OPERATIONS.**

(a) MANAGEMENT OF NATURAL RESOURCES OF ACQUIRED PROPERTY.—Subsection (d) of section 2684a of title 10, United States Code, is amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) An agreement with an eligible entity under this section may provide for the management of natural resources on real property in which the Secretary concerned acquires any right, title,

or interest in accordance with this subsection and for the payment by the United States of all or a portion of the costs of such natural resource management if the Secretary concerned determines that there is a demonstrated need to preserve or restore habitat for the purpose described in subsection (a)(2).".

(b) LIMITATION ON PORTION OF ACQUISITION COSTS BORNE BY UNITED STATES.—Paragraph (4) of such subsection, as redesignated by subsection (a)(1), is amended—

(1) by redesignating subparagraph (D) as subparagraph (E);

(2) in subparagraph (C), by striking "equal to the fair market value" and all that follows through the period at the end and inserting "equal to, at the discretion of the Secretary concerned—

"(i) the fair market value of any property or interest in property to be transferred to the United States upon the request of the Secretary concerned under paragraph (5); or

"(ii) the cumulative fair market value of all properties or interests to be transferred to the United States under paragraph (5) pursuant to an agreement under subsection (a)."; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) The portion of acquisition costs borne by the United States under subparagraph (A) may exceed the amount determined under subparagraph (C), but only if—

Notification.

"(i) the Secretary concerned provides written notice to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives containing—

Certification.

"(I) a certification by the Secretary that the military value to the United States of the property or interest to be acquired justifies a payment in excess of the fair market value of the property or interest; and

"(II) a description of the military value to be obtained; and

"(ii) the contribution toward the acquisition costs of the property or interest is not made until at least 14 days after the date on which the notice is submitted under clause (i) or, if earlier, at least 10 days after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title.".

**SEC. 2826. EXPANSION TO ALL MILITARY DEPARTMENTS OF ARMY PILOT PROGRAM FOR PURCHASE OF CERTAIN MUNICIPAL SERVICES FOR MILITARY INSTALLATIONS.**

(a) EXPANSION OF PILOT PROGRAM.—Section 325 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 2461 note) is amended—

(1) in the section heading, by striking "**ARMY**" and inserting "**MILITARY**";

(2) in subsection (a)—

(A) by striking "Secretary of the Army" and inserting "Secretary of a military department"; and

(B) by striking "an Army installation" and inserting "a military installation under the jurisdiction of the Secretary"; and

(3) in subsection (d), by striking "The Secretary" and inserting "The Secretary of a military department".

(b) PARTICIPATING INSTALLATIONS.—Subsection (c) of such section is amended by striking "two Army installations" and inserting "three military installations from each military service".

(c) EXTENSION OF DURATION OF PROGRAM.—Such section is further amended by striking subsections (e) and (f) and inserting the following new subsection:

"(e) TERMINATION OF PILOT PROGRAM.—The pilot program shall terminate on September 30, 2012. Any contract entered into under the pilot program shall terminate not later than that date.".

**SEC. 2827. PROHIBITION ON COMMERCIAL FLIGHTS INTO SELFRIDGE AIR NATIONAL GUARD BASE.**

The Secretary of Defense shall prohibit the use of Selfridge Air National Guard Base by commercial service aircraft.

**SEC. 2828. SENSE OF CONGRESS ON DEPARTMENT OF DEFENSE ACTIONS TO PROTECT INSTALLATIONS, RANGES, AND MILITARY AIRSPACE FROM ENCROACHMENT.**

(a) FINDINGS.—In light of the initial report of the Department of Defense submitted pursuant to section 2684a(g) of title 10, United States Code, and of the RAND Corporation report entitled "The Thin Green Line: An Assessment of DoD's Readiness and Environmental Protection Initiative to Buffer Installation Encroachment", Congress makes the following findings:

(1) Development and loss of habitat in the vicinity of, or in areas ecologically related to, military installations, ranges, and airspace pose a continuing and significant threat to the readiness of the Armed Forces.

(2) The Range Sustainability Program (RSP) of the Department of Defense, and in particular the Readiness and Environmental Protection Initiative (REPI) involving agreements pursuant to section 2684a of title 10, United States Code, have been effective in addressing this threat to readiness with regard to a number of important installations, ranges, and airspace.

(3) The opportunities to take effective action to protect installations, ranges, and airspace from encroachment is in many cases transient, and delay in taking action will result in either higher costs or permanent loss of the opportunity effectively to address encroachment.

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

(1) develop additional policy guidance on the further implementation of the Readiness and Environmental Protection Initiative (REPI), to include additional emphasis on protecting biodiversity and on further refining procedures;

(2) give greater emphasis to effective cooperation and collaboration on matters of mutual concern with other Federal agencies charged with managing Federal land; and

(3) ensure that each military department takes full advantage of the authorities provided by section 2684a of title 10, United States Code, in addressing encroachment adversely affecting, or threatening to adversely affect, the installations, ranges, and military airspace of the department.

(c) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense

shall review Chapter 6 of the initial report submitted to Congress under section 2684a(g) of title 10, United States Code, and report to the congressional defense committees on the specific steps, if any, that the Secretary plans to take, or recommends that Congress take, to address the issues raised in such chapter.

**SEC. 2829. REPORTS ON ARMY AND MARINE CORPS OPERATIONAL RANGES.**

(a) REPORT ON UTILIZATION AND POTENTIAL EXPANSION OF ARMY OPERATIONAL RANGES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report containing an assessment of the Army operational ranges used to support training and range activities of the Army. The report shall include the following information:

(1) The size, description, and mission-essential tasks supported by each Army operational range during fiscal year 2003.

(2) A description of the projected changes in Army operational range requirements, including the size, characteristics, and attributes for mission-essential activities at each Army operational range and the extent to which any changes in requirements are a result of—

(A) decisions made as part of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note);

(B) the conversion of Army brigades to a modular format;

(C) the Integrated Global Presence and Basing Strategy;

(D) the proposal contained in the budget justification materials submitted in support of the Department of Defense budget for fiscal year 2008 to increase the size of the active component of the Army to 547,400 personnel by the end of fiscal year 2012 and any modification or acceleration contemplated in the budget submission for fiscal year 2009; or

(E) high operational tempos or surge requirements.

(3) The projected deficit or surplus of land at each Army operational range, and a description of the Army's plan to address that projected deficit or surplus of land as well as the upgrade of range attributes at each existing Army operational range.

(4) A description of the Army's prioritization process and investment strategy to address the potential expansion or upgrade of Army operational ranges.

(5) An analysis of alternatives to the expansion of Army operational ranges, including an assessment of the joint use of operational ranges under the jurisdiction, custody, or control of the Secretary of another military department.

(6) An analysis of the cost of, potential military value of, and potential legal or practical impediments to, the expansion of the Joint Readiness Training Center at Fort Polk, Louisiana, through the acquisition of additional land adjacent to or in the vicinity of the installation.

(7) An analysis of the impact of the proposal described in paragraph (2)(D) on the plan developed prior to such proposal

to relocate forces from Germany to the United States and vacate installations in Germany as part of the Integrated Global Presence and Basing Strategy, including a comparative analysis of—

(A) the projected utilization of the three combat training centers of the Army if all of the six light infantry brigades proposed to be added to the active component of the Army would be based in the United States; and

(B) the projected utilization of such ranges if at least one of those brigades would be based in Germany or if one of the brigades proposed to be relocated pursuant to the plan in paragraph (a)(2)(C) is retained in Germany.

(8) If the analysis required by paragraph (7) indicates that the Joint Multi-National Readiness Center in Hohenfels, Germany, or the Army's training complex at Grafenwoehr, Germany, would not be fully utilized under the basing scenarios analyzed, an estimate of the cost to replicate the training capability at that center in another location.

(b) REPORT ON POTENTIAL EXPANSION OF MARINE CORPS OPERATIONAL RANGES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to the congressional defense committees a report containing an assessment of Marine Corps operational ranges used to support training and range activities of the Marine Corps. The report required shall include the following information:

(1) The size, description, and mission-essential tasks supported by each major Marine Corps operational range during fiscal year 2003.

(2) A description of the projected changes in Marine Corps operational range requirements, including the size, characteristics, and attributes for mission-essential activities at each range and the extent to which any changes in requirements are a result of the proposal contained in the fiscal year 2008 budget request to increase the size of the active component of the Marine Corps to 202,000 personnel by the end of fiscal year 2012 and any modification or acceleration contemplated in the budget submission for fiscal year 2009.

(3) The projected deficit or surplus of land at each major Marine Corps operational range, and a description of the Secretary's plan to address that projected deficit or surplus of land as well as the upgrade of range attributes at each existing Marine Corps operational range.

(4) A description of the Secretary's prioritization process and investment strategy to address the potential expansion or upgrade of Marine Corps operational ranges.

(5) An analysis of alternatives to the expansion of Marine Corps operational ranges, including an assessment of the joint use of operational ranges under the jurisdiction, custody, or control of the Secretary of another military department.

(6) An analysis of the cost of, potential military value of, and potential legal or practical impediments to, the expansion of Marine Corps Base, Twentynine Palms, California, through the acquisition of additional land adjacent to or in the vicinity of that installation that is under the control of the Bureau of Land Management.

(c) SUPPLEMENTAL REPORT.—Not later than 90 days after the date on which the second of the two reports required by subsections

(a) and (b) is submitted, the Secretary of Defense shall submit to the congressional defense committees a report containing the following information:

(1) A description of initiatives by the Secretary of Defense to coordinate the range expansion activities of the Army and Marine Corps in order to gain efficiencies in investment and resource allocation.

(2) An analysis of training requirements for the Army and the Marine Corps that could be accomplished through joint use of existing ranges.

(3) An analysis of the responses provided by the Secretary of the Army under subsection (a)(5) and the Secretary of the Navy subsection (b)(5).

(4) Any other matter that the Secretary of Defense considers to be of importance to ensure the effective and timely expansion of ranges to meet Army and Marine Corps training requirements.

(d) DEFINITIONS.—In this section:

(1) The term "Army operational range" has the meaning given the term "operational range" in section 101(e)(3) of title 10, United States Code, except that the term is limited to operational ranges under the jurisdiction, custody, or control of the Secretary of the Army.

(2) The term "Marine Corps operational range" has the meaning given the term "operational range" in section 101(e)(3) of such title, except that the term is limited to operational ranges under the jurisdiction, custody, or control of the Secretary of the Navy that are used by or available for use by the Marine Corps.

(3) The term "range activities" has the meaning given that term in section 101(e)(2) of such title.

**SEC. 2830. NIAGARA AIR RESERVE BASE, NEW YORK, BASING REPORT.**

Not later than March 1, 2008, the Secretary of the Air Force shall submit to the congressional defense committees a report containing a detailed plan of the current and future aviation assets that the Secretary expects will be based at Niagara Air Reserve Base, New York. The report shall include a description of all of the aviation assets that will be impacted by the series of relocations to be made to or from Niagara Air Reserve Base and the timeline for such relocations.

**SEC. 2831. REPORT ON THE PINON CANYON MANEUVER SITE, COLORADO.**

(a) REPORT ON THE PINON CANYON MANEUVER SITE.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report on the Pinon Canyon Maneuver Site (referred to in this section as "the Site").

(2) CONTENT.—The report required under paragraph (1) shall include the following:

(A) An analysis of whether existing training facilities at Fort Carson, Colorado, and the Site are sufficient to support the training needs of units stationed or planned to be stationed at Fort Carson, including the following:

(i) A description of any new training requirements or significant developments affecting training requirements for units stationed or planned to be stationed at Fort Carson since the 2005 Defense Base Closure and Realignment Commission found that the base has "sufficient capacity" to support four brigade combat teams and associated support units at Fort Carson.

(ii) A study of alternatives for enhancing training facilities at Fort Carson and the Site within their current geographic footprint, including whether these additional investments or measures could support additional training activities. Study.

(iii) A description of the current training calendar and training load at the Site, including—

(I) the number of brigade-sized and battalion-sized military exercises held at the Site since its establishment;

(II) an analysis of the maximum annual training load at the Site, without expanding the Site; and

(III) an analysis of the training load and projected training calendar at the Site when all brigades stationed or planned to be stationed at Fort Carson are at home station.

(B) A report of need for any proposed addition of training land to support units stationed or planned to be stationed at Fort Carson, including the following:

(i) A description of additional training activities, and their benefits to operational readiness, which would be conducted by units stationed at Fort Carson if, through leases or acquisition from consenting landowners, the Site were expanded to include—

(I) the parcel of land identified as "Area A" in the Potential PCMS Land expansion map;

(II) the parcel of land identified as "Area B" in the Potential PCMS Land expansion map;

(III) the parcels of land identified as "Area A" and "Area B" in the Potential PCMS Land expansion map;

(IV) acreage sufficient to allow simultaneous exercises of a light infantry brigade and a heavy infantry brigade at the Site;

(V) acreage sufficient to allow simultaneous exercises of two heavy infantry brigades at the Site;

(VI) acreage sufficient to allow simultaneous exercises of a light infantry brigade and a battalion at the Site; and

(VII) acreage sufficient to allow simultaneous exercises of a heavy infantry brigade and a battalion at the Site.

(ii) An analysis of alternatives for acquiring or utilizing training land at other installations in the United States to support training activities of units stationed at Fort Carson.

(iii) An analysis of alternatives for utilizing other federally owned land to support training activities of units stationed at Fort Carson.

(C) An analysis of alternatives for enhancing economic development opportunities in southeastern Colorado at the current Site or through any proposed expansion, including the consideration of the following alternatives:

(i) The leasing of land on the Site or any expansion of the Site to ranchers for grazing.

(ii) The leasing of land from private landowners for training.

(iii) The procurement of additional services and goods, including biofuels and beef, from local businesses.

(iv) The creation of an economic development fund to benefit communities, local governments, and businesses in southeastern Colorado.

(v) The establishment of an outreach office to provide technical assistance to local businesses that wish to bid on Department of Defense contracts.

(vi) The establishment of partnerships with local governments and organizations to expand regional tourism through expanded access to sites of historic, cultural, and environmental interest on the Site.

(vii) An acquisition policy that allows willing sellers to minimize the tax impact of a sale.

(viii) Additional investments in Army missions and personnel, such as stationing an active duty unit at the Site, including—

(I) an analysis of anticipated operational benefits; and

(II) an analysis of economic impacts to surrounding communities.

(3) POTENTIAL PCMS LAND EXPANSION MAP DEFINED.—In this subsection, the term "Potential PCMS Land expansion map" means the June 2007 map entitled "Potential PCMS Land expansion".

(b) COMPTROLLER GENERAL REVIEW OF REPORT.—Not later than 180 days after the Secretary of Defense submits the report required under subsection (a), the Comptroller General of the United States shall submit to Congress a review of the report and of the justification of the Army for expansion at the Site.

Deadline. Summary.

(c) PUBLIC COMMENT.—After the report required under subsection (b) is submitted to Congress, the Army shall solicit public comment on the report for a period of not less than 90 days. Not later than 30 days after the public comment period has closed, the Secretary shall submit to Congress a written summary of comments received.

# Subtitle C—Land Conveyances

### SEC. 2841. MODIFICATION OF CONVEYANCE AUTHORITY, MARINE CORPS BASE, CAMP PENDLETON, CALIFORNIA.

Section 2851(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2219) is amended by striking ", notwithstanding any provision

of State law to the contrary,", as added by section 2867 of Public Law 107–107 (115 Stat. 1334).

**SEC. 2842. GRANT OF EASEMENT, EGLIN AIR FORCE BASE, FLORIDA.**

(a) GRANT AUTHORIZED.—Secretary of the Air Force may use the authority provided by section 2668 of title 10, United States Code, to grant to the Mid Bay Bridge Authority an easement for a roadway right-of-way over such land at Eglin Air Force Base, Florida, as the Secretary determines necessary to facilitate the construction of a road connecting the northern landfall of the Mid Bay Bridge to Florida State Highway 85.

(b) CONSIDERATION.—As consideration for the grant of the easement under subsection (a), the Mid Bay Bridge Authority shall pay to the Secretary an amount equal to the fair-market-value of the easement, as determined by the Secretary.

(c) COSTS OF PROJECT.—As a condition of the grant of the easement under subsection (a), the Mid Bay Bridge Authority shall be responsible for all costs associated with the highway project described in such subsection, including all costs the Secretary determines to be necessary to address any impacts that the project may have on the defense missions at Eglin Air Force Base.

**SEC. 2843. LAND CONVEYANCE, LYNN HAVEN FUEL DEPOT, LYNN HAVEN, FLORIDA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to Florida State University (in this section referred to as the "University") all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 40 acres located at the Lynn Haven Fuel Depot in Lynn Haven, Florida, as a public benefit conveyance for the purpose of permitting the University to develop the property as a new satellite campus.

(b) CONSIDERATION.—

(1) IN GENERAL.—For the conveyance of the property under subsection (a), the University shall provide the United States with consideration in an amount that is acceptable to the Secretary, whether in the form of cash payment, in-kind consideration, or a combination thereof.

(2) REDUCED TUITION RATES.—The Secretary may accept as in-kind consideration under paragraph (1) reduced tuition rates or scholarships for military personnel at the University.

(c) PAYMENT OF COSTS OF CONVEYANCES.—

(1) PAYMENT REQUIRED.—The Secretary shall require the University to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, appraisal costs, and other costs related to the conveyance. If amounts are collected from the University in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the University.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received under paragraph (1) as reimbursement for costs incurred by the Secretary to carry out the conveyance under subsection (a) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with

amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) USE OF PROPERTY FOR OTHER THAN INTENDED PURPOSES.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purposes of the conveyance specified in such subsection, the University shall pay to the United States an amount equal to the fair market value of the property, as of the time of such determination. The fair market value of the property, excluding the value of any improvements made to the property by the University, shall be determined by the Secretary in accordance with Federal appraisal standards and procedures.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2844. MODIFICATION OF LEASE OF PROPERTY, NATIONAL FLIGHT ACADEMY AT THE NATIONAL MUSEUM OF NAVAL AVIATION, NAVAL AIR STATION, PENSACOLA, FLORIDA.**

Section 2850(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–428)) is amended—

(1) by striking "naval aviation and" and inserting "naval aviation,"; and

(2) by inserting before the period at the end the following: ", and, as of January 1, 2008, to teach the science, technology, engineering, and mathematics disciplines that have an impact on and relate to aviation".

**SEC. 2845. LAND EXCHANGE, DETROIT, MICHIGAN.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(2) CITY.—The term "City" means the City of Detroit, Michigan.

(3) CITY LAND.—The term "City land" means the approximately 0.741 acres of real property, including any improvement thereon, as depicted on the exchange maps, that is commonly identified as 110 Mount Elliott Street, Detroit, Michigan.

(4) COMMANDANT.—The term "Commandant" means the Commandant of the United States Coast Guard.

(5) EDC.—The term "EDC" means the Economic Development Corporation of the City of Detroit.

(6) EXCHANGE MAPS.—The term "exchange maps" means the maps entitled "Atwater Street Land Exchange Maps" prepared pursuant to subsection (f).

(7) FEDERAL LAND.—The term "Federal land" means approximately 1.26 acres of real property, including any improvements thereon, as depicted on the exchange maps, that is commonly identified as 2660 Atwater Street, Detroit, Michigan, and under the administrative control of the United States Coast Guard.

(8) SECTOR DETROIT.—The term "Sector Detroit" means Coast Guard Sector Detroit of the Ninth Coast Guard District.

(b) CONVEYANCE AUTHORIZED.—The Commandant of the Coast Guard, in coordination with the Administrator, may convey to the EDC all right, title, and interest of the United States in and to the Federal land.

(c) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (b)—

(A) the City shall convey to the United States all right, title, and interest in and to the City land; and

(B) the EDC shall construct a facility and parking lot acceptable to the Commandant of the Coast Guard.

(2) EQUALIZATION PAYMENT OPTION.—

(A) IN GENERAL.—The Commandant may, upon the agreement of the City and the EDC, waive the requirement to construct a facility and parking lot under paragraph (1)(B) and accept in lieu thereof an equalization payment from the City equal to the difference between the value, as determined by the Administrator at the time of transfer, of the Federal land and the City land.

(B) AVAILABILITY OF FUNDS.—Any amounts received pursuant to subparagraph (A) shall be available to the Commandant, without further appropriation and until expended, to construct, expand, or improve facilities related to Sector Detroit's aids to navigation or vessel maintenance.

(d) CONDITIONS OF EXCHANGE.—

(1) COVENANTS.—All conditions placed within the deeds of title shall be construed as covenants running with the land.

(2) AUTHORITY TO ACCEPT QUITCLAIM DEED.—The Commandant may accept a quitclaim deed for the City land and may convey the Federal land by quitclaim deed.

(3) ENVIRONMENTAL REMEDIATION.—Prior to the time of the exchange, the Coast Guard and the EDC shall remediate any and all contaminants existing on their respective properties to levels required by applicable State and Federal law. The Commandant and, as a condition of the exchange, the EDC shall make available for review and inspection any record relating to hazardous materials on the land to be exchanged under this section. The costs of remedial actions relating to hazardous materials on exchanged land shall be paid by those entities responsible for costs under applicable law.

(e) AUTHORITY TO ENTER INTO LICENSE OR LEASE.—The Commandant may enter into a license or lease agreement with the Detroit Riverfront Conservancy for the use of a portion of the Federal land for the Detroit Riverfront Walk. Such license or lease shall be at no cost to the City and upon such other terms that are acceptable to the Commandant, and shall terminate upon the completion of the exchange authorized by this section, or the date specified in subsection (h), whichever occurs earlier.

(f) MAP AND LEGAL DESCRIPTIONS OF LAND.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Commandant shall file with the Committee on Commerce, Science and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the maps, entitled

"Atwater Street Land Exchange Maps", which depict the Federal land and the City lands and provide a legal description of each property to be exchanged.

(2) FORCE OF LAW.—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Commandant may correct typographical errors in the maps and each legal description.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Coast Guard and the City.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Commandant may require such additional terms and conditions in connection with the exchange under this section as the Commandant considers appropriate to protect the interests of the United States.

(h) EXPIRATION OF AUTHORITY TO CONVEY.—The authority to enter into the exchange authorized by this section shall expire three years after the date of enactment of this Act.

**SEC. 2846. TRANSFER OF JURISDICTION, FORMER NIKE MISSILE SITE, GROSSE ILE, MICHIGAN.**

(a) TRANSFER.—Administrative jurisdiction over the property described in subsection (b) is hereby transferred from the Administrator of the Environmental Protection Agency to the Secretary of the Interior.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is the former Nike missile site located at the southern end of Grosse Ile, Michigan, as depicted on the map entitled "07–CE" on file with the Environmental Protection Agency and dated May 16, 1984.

(c) ADMINISTRATION OF PROPERTY.—Subject to subsection (d), the Secretary of the Interior shall administer the property described in subsection (b)—

(1) acting through the United States Fish and Wildlife Service;

(2) as part of the Detroit River International Wildlife Refuge; and

(3) for use as a habitat for fish and wildlife and as a recreational property for outdoor education and environmental appreciation.

(d) MANAGEMENT OF REMEDIATION.—The Secretary of Defense, acting through the Army Corps of Engineers, shall manage and carry out environmental remediation activities with respect to the property described in subsection (b) that, at a minimum, achieve the standard sufficient to allow the property to be used as provided in subsection (c)(3). Such remediation activities, with the exception of long-term monitoring, shall be completed to achieve that standard not later than two years after the date of the enactment of this Act. The Secretary of Defense may use amounts made available from the account established by section 2703(a)(5) of title 10, United States Code, to carry out such remediation.

Deadline.

(e) SAVINGS PROVISION.—Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

**SEC. 2847. MODIFICATION TO LAND CONVEYANCE AUTHORITY, FORT BRAGG, NORTH CAROLINA.**

(a) REQUIREMENT TO CONVEY TRACT NO. 404–1 PROPERTY WITHOUT CONSIDERATION.—Section 2836 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 2005) is amended—

(1) in subsection (a)(3), by striking "at fair market value" and inserting "without consideration";

(2) in subsection (b), by striking paragraph (2) and inserting the following new paragraph:

"(2) The conveyances under paragraphs (2) and (3) of subsection (a) shall be subject to the condition that the County develop and use the conveyed properties for educational purposes and the construction of public school structures."; and

(3) in subsection (c), by striking paragraph (2) and inserting the following new paragraph:

"(2) If the Secretary determines at any time that the real property conveyed under paragraph (2) or paragraph (3) of subsection (a) is not being used in accordance with subsection (b)(2), all right, title, and interest in and to the property conveyed under such paragraph, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry thereon.".

(b) PAYMENT OF COSTS OF CONVEYANCE.—Such section is further amended by adding at the end the following new subsection:

"(f) PAYMENT OF COSTS OF CONVEYANCE OF TRACT NO. 404–1 PROPERTY.—

"(1) PAYMENT REQUIRED.—The Secretary shall require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a)(3), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the County in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the County.

"(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.".

**SEC. 2848. LAND CONVEYANCE, LEWIS AND CLARK UNITED STATES ARMY RESERVE CENTER, BISMARCK, NORTH DAKOTA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the United Tribes Technical College all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 2 acres located at the Lewis and Clark United States Army Reserve Center, 3319 University Drive, Bismarck, North Dakota, for the purpose of supporting education at the United Tribes Technical College.

(b) REVERSIONARY INTEREST.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purposes of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(2) EXPIRATION.—The reversionary interest under paragraph (1) shall expire upon satisfaction of the following conditions:

(A) The real property conveyed under subsection (a) is used in accordance with the purposes of the conveyance specified in such subsection for a period of not less than 30 years following the date of the conveyance.

(B) After the end of period specified in subparagraph (A), the United Tribes Technical College applies to the Secretary for the release of the reversionary interest.

Certification.

(C) The Secretary certifies, in a manner that can be filed with the appropriate land recordation office, that the condition under subparagraph (A) has been satisfied.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the United Tribes Technical College to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the United Tribes Technical College in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the United Tribes Technical College.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2849. LAND EXCHANGE, FORT HOOD, TEXAS.**

(a) EXCHANGE AUTHORIZED.—The Secretary of the Army may convey to the City of Copperas Cove, Texas (in this section referred to as the "City"), all right, title, and interest of the United States

in and to a parcel of real property, including any improvements thereon, consisting of approximately 200 acres at Fort Hood, Texas, for the purpose of permitting the City to improve arterial transportation routes in the community.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall convey to the Secretary all right, title, and interest of the City in and to one or more parcels of real property that are acceptable to the Secretary. The fair market value of the real property acquired by the Secretary under this subsection shall be at least equal to the fair market value of the real property conveyed under subsection (a), as determined by appraisals acceptable to the Secretary.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be exchanged under this section shall be determined by surveys satisfactory to the Secretary.

(d) PAYMENT OF COSTS OF CONVEYANCES.—

(1) PAYMENT REQUIRED.—The Secretary shall require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under this section, including survey costs related to the conveyances. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyances, the Secretary shall refund the excess amount to the City.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received under paragraph (1) as reimbursement for costs incurred by the Secretary to carry out the conveyances under this section shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) ADDITIONAL TERM AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

## Subtitle D—Energy Security

### SEC. 2861. REPEAL OF CONGRESSIONAL NOTIFICATION REQUIREMENT REGARDING CANCELLATION CEILING FOR DEPARTMENT OF DEFENSE ENERGY SAVINGS PERFORMANCE CONTRACTS.

Section 2913 of title 10, United States Code, is amended by striking subsection (e).

### SEC. 2862. DEFINITION OF ALTERNATIVE FUELED VEHICLE.

Section 301(3) of the Energy Policy Act of 1992 (42 U.S.C. 13211(3)) is amended—

(1) by striking "(3) the term" and inserting the following:
"(3) ALTERNATIVE FUELED VEHICLE.—
"(A) IN GENERAL.—The term"; and

(2) by adding at the end the following:

"(B) INCLUSIONS.—The term 'alternative fueled vehicle' includes—

"(i) a new qualified fuel cell motor vehicle (as defined in section 30B(b)(3) of the Internal Revenue Code of 1986);

"(ii) a new advanced lean burn technology motor vehicle (as defined in section 30B(c)(3) of that Code);

"(iii) a new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of that Code); and

"(iv) any other type of vehicle that the Administrator demonstrates to the Secretary would achieve a significant reduction in petroleum consumption.".

10 USC 2911 note.

**SEC. 2863. USE OF ENERGY EFFICIENT LIGHTING FIXTURES AND BULBS IN DEPARTMENT OF DEFENSE FACILITIES.**

(a) CONSTRUCTION AND ALTERATION OF BUILDINGS.—Each building constructed or significantly altered by the Secretary of Defense or the Secretary of a military department shall be equipped, to the maximum extent feasible as determined by the Secretary concerned, with lighting fixtures and bulbs that are energy efficient.

(b) MAINTENANCE OF BUILDINGS.—Each lighting fixture or bulb that is replaced in the normal course of maintenance of buildings under the jurisdiction of the Secretary of Defense or the Secretary of a military department shall be replaced, to the maximum extent feasible as determined by the Secretary concerned, with a lighting fixture or bulb that is energy efficient.

(c) CONSIDERATIONS.—In making a determination under this section concerning the feasibility of installing a lighting fixture or bulb that is energy efficient, the Secretary of Defense or the Secretary of a military department shall consider—

(1) the life cycle cost effectiveness of the fixture or bulb;

(2) the compatibility of the fixture or bulb with existing equipment;

(3) whether use of the fixture or bulb could result in interference with productivity;

(4) the aesthetics relating to use of the fixture or bulb; and

(5) such other factors as the Secretary concerned determines appropriate.

(d) ENERGY STAR.—A lighting fixture or bulb shall be treated as being energy efficient for purposes of this section if—

(1) the fixture or bulb is certified under the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a); or

(2) the Secretary of Defense or the Secretary of a military department has otherwise determined that the fixture or bulb is energy efficient.

(e) SIGNIFICANT ALTERATIONS.—A building shall be treated as being significantly altered for purposes of subsection (a) if the alteration is subject to congressional authorization under section 2802 of title 10, United States Code.

(f) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirements of this section if the Secretary determines that such a waiver is necessary to protect the national security interests of the United States.

(g) EFFECTIVE DATE.—The requirements of subsections (a) and (b) shall take effect one year after the date of the enactment of this Act.

**SEC. 2864. REPORTING REQUIREMENTS RELATING TO RENEWABLE ENERGY USE BY DEPARTMENT OF DEFENSE TO MEET DEPARTMENT ELECTRICITY NEEDS.**

10 USC 2911 note.

(a) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report containing the following information:

(1) The extent to which energy from renewable energy sources is used to meet the electricity needs of the Department of Defense, to be stated as a percentage of total facility electricity use for the previous fiscal year.

(2) The extent to which energy from renewable energy sources was procured through alternative financing methods, to be stated as a percentage of total renewable energy procurement and as a dollar amount for the previous fiscal year.

(3) The extent to which energy from renewable energy sources was procured through the use of appropriated funds, to be stated as a percentage of total renewable energy procurement and as a dollar amount for the previous fiscal year.

(4) A graphical illustration of energy use from renewable energy sources by the Department as a percentage of total facility electricity use over time, starting no later than fiscal year 2000 and running through fiscal year 2025, including projected future trends in renewable energy consumption through fiscal year 2025 in order to meet the goals for renewable energy set forth in section 2911(e) of title 10, United States Code, or other goals, as appropriate.

(b) SUBSEQUENT REPORTS.—For fiscal year 2008 and each fiscal year thereafter, the information required by paragraphs (1) through (4) of subsection (a) shall be included in the Annual Energy Management Report prepared by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(c) RENEWABLE ENERGY SOURCES DEFINED.—In this section, the term "renewable energy sources" has the meaning given that term in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)).

# Subtitle E—Other Matters

**SEC. 2871. REVISED DEADLINE FOR TRANSFER OF ARLINGTON NAVAL ANNEX TO ARLINGTON NATIONAL CEMETERY.**

Subsection (h) of section 2881 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 879), as amended by section 2863 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1330), section 2851 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2726), and section 2881 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 115 Stat. 2153), is further amended

by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) January 1, 2011;

"(2) the date on which the Navy Annex property is no longer required (as determined by the Secretary of Defense) for use as temporary office space; or

Notification.

"(3) one year after the date on which the Secretary of the Army notifies the Secretary of Defense that the Navy Annex property is needed for the expansion of Arlington National Cemetery.".

**SEC. 2872. TRANSFER OF JURISDICTION OVER AIR FORCE MEMORIAL TO DEPARTMENT OF THE AIR FORCE.**

(a) TRANSFER OF JURISDICTION.—Notwithstanding section 2881 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 879) and section 2863 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1330; 40 U.S.C. 1003 note), the Secretary of the Army may transfer administrative jurisdiction, custody, and control of the parcel of Federal land described in subsection (b)(1) of such section 2863 to the Secretary of the Air Force.

(b) LIMITATION ON PAYMENT OF EXPENSES.—If the Air Force Memorial is transferred to the Secretary of the Air Force as authorized by subsection (a), the United States shall not pay any costs incurred for the maintenance and repair of the Air Force Memorial.

**SEC. 2873. REPORT ON PLANS TO REPLACE THE MONUMENT AT THE TOMB OF THE UNKNOWNS AT ARLINGTON NATIONAL CEMETERY, VIRGINIA.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army and the Secretary of Veterans Affairs shall jointly submit to Congress a report setting forth the following:

(1) The current plans of the Secretaries with respect to—

(A) replacing the monument at the Tomb of the Unknowns at Arlington National Cemetery, Virginia; and

(B) disposing of the current monument at the Tomb of the Unknowns, if it were removed and replaced.

(2) An assessment of the feasibility and advisability of repairing the monument at the Tomb of the Unknowns rather than replacing it.

(3) A description of the current efforts of the Secretaries to maintain and preserve the monument at the Tomb of the Unknowns.

(4) An explanation of why no attempt has been made since 1989 to repair the monument at the Tomb of the Unknowns.

(5) A comprehensive estimate of the cost of replacement of the monument at the Tomb of the Unknowns and the cost of repairing such monument.

(6) An assessment of the structural integrity of the monument at the Tomb of the Unknowns.

(b) LIMITATION ON ACTION.—The Secretary of the Army and the Secretary of Veterans Affairs may not take any action to replace the monument at the Tomb of the Unknowns at Arlington National Cemetery, Virginia, until 180 days after the date of the receipt by Congress of the report required by subsection (a).

(c) EXCEPTION.—The limitation in subsection (b) shall not prevent the Secretary of the Army or the Secretary of Veterans Affairs from repairing the current monument at the Tomb of the Unknowns or from acquiring any blocks of marble for uses related to such monument, subject to the availability of appropriations for those purposes.

**SEC. 2874. INCREASED AUTHORITY FOR REPAIR, RESTORATION, AND PRESERVATION OF LAFAYETTE ESCADRILLE MEMORIAL, MARNES-LA-COQUETTE, FRANCE.**

Section 1065 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1233) is amended—

(1) in subsection (a)(2), by striking "$2,000,000" and inserting "$2,500,000"; and

(2) in subsection (e), by striking "under section 301(a)(4)".

**SEC. 2875. ADDITION OF WOONSOCKET LOCAL PROTECTION PROJECT.**

Section 2866 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2499) is amended by adding at the end the following new subsection:

"(d) WOONSOCKET LOCAL PROTECTION PROJECT.—

"(1) ASSUMPTION OF RESPONSIBILITY.—The Secretary of the Army, acting through the Chief of Engineers, shall assume responsibility for the annual operation and maintenance of the Woonsocket local protection project authorized by section 10 of the Act of December 22, 1944 (commonly known as the Flood Control Act of 1944; 58 Stat. 892, chapter 665), including by acquiring, in accordance with paragraph (2), any interest of the city of Woonsocket, Rhode Island, in and to land and structures required for the continued operation and maintenance, repair, replacement, rehabilitation, and structural integrity of the project, as identified by the city, in coordination with the Secretary.

"(2) ACQUISITION.—As a condition on the Secretary's assumption of responsibility for the Woonsocket local protection project under paragraph (1), the city of Woonsocket shall convey, not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008, to the Secretary of the Army, by quitclaim deed and without consideration, all right, title, and interest of the city in and to the Woonsocket local protection project, including any interest of the city in and to land and structures required for the continued operation and maintenance, repair, replacement, rehabilitation, and structural integrity of the project, as identified by the city.". Deadline.

**SEC. 2876. REPEAL OF MORATORIUM ON IMPROVEMENTS AT FORT BUCHANAN, PUERTO RICO.**

Section 1507 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–355) is repealed.

**SEC. 2877. ESTABLISHMENT OF NATIONAL MILITARY WORKING DOG TEAMS MONUMENT ON SUITABLE MILITARY INSTALLATION.** 16 USC 431 note.

(a) AUTHORITY TO ESTABLISH MONUMENT.—The Secretary of Defense may permit the National War Dogs Monument, Inc., to

establish and maintain, at a suitable location at Fort Belvoir, Virginia, or another military installation in the United States, a national monument to honor the sacrifice and service of United States Armed Forces working dog teams that have participated in the military operations of the United States.

(b) LOCATION AND DESIGN OF MONUMENT.—The actual location and final design of the monument authorized by subsection (a) shall be subject to the approval of the Secretary. In selecting the military installation and site on such installation to serve as the location for the monument, the Secretary shall seek to maximize access to the resulting monument for both visitors and their dogs.

(c) MAINTENANCE.—The maintenance of the monument authorized by subsection (a) by the National War Dogs Monument, Inc., shall be subject to such conditions regarding access to the monument, and such other conditions, as the Secretary considers appropriate to protect the interests of the United States.

(d) LIMITATION ON PAYMENT OF EXPENSES.—The United States Government shall not pay any expense for the establishment or maintenance of the monument authorized by subsection (a).

**SEC. 2878. REPORT REQUIRED PRIOR TO REMOVAL OF MISSILES FROM 564TH MISSILE SQUADRON.**

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to the congressional defense committees a report on the feasibility of establishing an association between the 120th Fighter Wing of the Montana Air National Guard and active duty personnel stationed at Malmstrom Air Force Base, Montana. In preparing the report, the Secretary shall include the following evaluations:

(1) An evaluation of the requirement of the Air Force for additional F–15 aircraft active or reserve component force structure.

(2) An evaluation of the airspace training opportunities in the immediate airspace around Great Falls International Airport Air Guard Station.

(3) An evaluation of the impact of civilian operations on military operations at Great Falls International Airport.

(4) An evaluation of the level of civilian encroachment on the facilities and airspace of the 120th Fighter Wing.

(5) An evaluation of the support structure available, including active military bases nearby.

(6) An evaluation of opportunities for additional association between the Montana National Guard and the 341st Space Wing.

(b) LIMITATION ON REMOVAL PENDING REPORT.—Not more than 40 missiles may be removed from the 564th Missile Squadron until 15 days after the report required in subsection (a) has been submitted.

20 USC 921 note.

**SEC. 2879. REPORT ON CONDITION OF SCHOOLS UNDER JURISDICTION OF DEPARTMENT OF DEFENSE EDUCATION ACTIVITY.**

(a) REPORT REQUIRED.—Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the conditions of schools under the jurisdiction of the Department of Defense Education Activity.

(b) CONTENT.—The report required under subsection (a) shall include the following:

(1) A description of each school under the control of the Secretary, including the location, year constructed, grades of

attending children, maximum capacity, and current capacity of the school.

(2) A description of the standards and processes used by the Secretary to assess the adequacy of the size of school facilities, the ability of facilities to support school programs, and the current condition of facilities.

(3) A description of the conditions of the facility or facilities at each school, including the level of compliance with the standards described in paragraph (2), any existing or projected facility deficiencies or inadequate conditions at each facility, and whether any of the facilities listed are temporary structures.

(4) An investment strategy planned for each school to correct deficiencies identified in paragraph (3), including a description of each project to correct such deficiencies, cost estimates, and timelines to complete each project.

(5) A description of requirements for new schools to be constructed over the next 10 years as a result of changes to the population of military personnel.

(c) USE OF REPORT AS MASTER PLAN FOR REPAIR, UPGRADE, AND CONSTRUCTION OF SCHOOLS.—The Secretary shall use the report required under subsection (a) as a master plan for the repair, upgrade, and construction of schools in the Department of Defense system that support dependents of members of the Armed Forces and civilian employees of the Department of Defense.

**SEC. 2880. REPORT ON FACILITIES AND OPERATIONS OF DARNALL ARMY MEDICAL CENTER, FORT HOOD MILITARY RESERVATION, TEXAS.**

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report assessing the facilities and operations of the Darnall Army Medical Center at Fort Hood Military Reservation, Texas.

(b) CONTENT.—The report required under subsection (a) shall include the following:

(1) A specific determination of whether the facilities currently housing Darnall Army Medical Center meet Department of Defense standards for Army medical centers.

(2) A specific determination of whether the existing facilities adequately support the operations of Darnall Army Medical Center, including the missions of medical treatment, medical hold, medical holdover, and Warriors in Transition.

(3) A specific determination of whether the existing facilities provide adequate physical space for the number of personnel that would be required for Darnall Army Medical Center to function as a full-sized Army medical center.

(4) A specific determination of whether the current levels of medical and medical-related personnel at Darnall Army Medical Center are adequate to support the operations of a full-sized Army medical center.

(5) A specific determination of whether the current levels of graduate medical education and medical residency programs currently in place at Darnall Army Medical Center are adequate to support the operations of a full-sized Army medical center.

(6) A description of any and all deficiencies identified by the Secretary.

(7) A proposed investment plan and timeline to correct such deficiencies.

**SEC. 2881. REPORT ON FEASIBILITY OF ESTABLISHING A REGIONAL DISASTER RESPONSE CENTER AT KELLY AIR FIELD, SAN ANTONIO, TEXAS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Federal response to Hurricane Katrina demonstrated the need for greater coordination and planning capability at the Federal, State, and local levels of government.

(2) Coordination of State and local assets can be more effectively accomplished if such assets are organized on a regional basis similar to the manner in which the Federal Emergency Management Agency organizes its efforts.

(3) Despite the obvious need for experienced and routinely exercised operational headquarters skilled in disaster response, no such headquarters have been established.

(4) Such a headquarters would be appropriately located on available Federal property in Region VI of the Federal Emergency Management Agency, which includes Texas, Louisiana, Oklahoma, Arkansas, and New Mexico, and is a region subject to forest fires, floods, hurricanes, and tornadoes.

(b) REPORT REQUIRED.—Not later than March 31, 2008, the Secretary of Defense, in coordination with the Secretary of Homeland Security, shall submit to Congress a report on the feasibility of establishing at Kelly Air Field in San Antonio, Texas, a permanent, regionally oriented disaster response center responsible for planning, coordinating, and directing the Federal, State, and local response to man-made and natural disasters that occur in Region VI of the Federal Emergency Management Agency.

(c) CONTENT.—The report required under subsection (b) shall include the following:

(1) A determination of how the regional disaster response center, if established at Kelly Air Field, would organize and leverage capabilities of the following currently co-located organizations, facilities, and forces located in San Antonio, Texas:

(A) Lackland Air Force Base.

(B) Fort Sam Houston.

(C) Brooke Army Medical Center.

(D) Wilford Hall Medical Center.

(E) City of San Antonio/Bexar County Emergency Operations Center.

(F) Audie Murphy Veterans Administration Medical Center.

(G) 433rd Airlift Wing C–5 Heavy Lift Aircraft.

(H) 149 Fighter Wing and Texas Air National Guard F–16 fighter aircraft.

(I) Army Northern Command.

(J) The three level 1 trauma centers of the National Trauma Institute.

(K) Texas Medical Rangers.

(L) San Antonio Metro Health Department.

(M) The University of Texas Health Science Center at San Antonio.

(N) The Air Intelligence Surveillance and Reconnaissance Agency at Lackland Air Force Base.

(O) The United States Air Force Security Police Training Department at Lackland Air Force Base.

(P) The large manpower pools and blood donor pools from the more than 6,000 trainees at Lackland Air Force Base.

(2) A determination of the number of military and civilian personnel who would have to be mobilized to run the logistics, planning, and maintenance of the regional disaster response center, if established at Kelly Air Field, during a time of disaster recovery.

(3) A determination of the number of military and civilian personnel who would be required to run the logistics, planning, and maintenance of the regional disaster response center during a time when no disaster is occurring.

(4) A determination of the cost of improving the current infrastructure at Kelly Air Field to meet the needs of displaced victims of a disaster equivalent to that of Hurricanes Katrina and Rita or a natural or man-made disaster of similar scope, including adequate beds, food stores, and decontamination stations to triage radiation or other chemical or biological agent contamination victims.

(5) An evaluation of the current capability of the Department of Defense and the Department of Homeland Security to respond to these mission requirements and an assessment of any additional capabilities that are required.

(6) An assessment of the costs and benefits of adding such capabilities at Kelly Air Field to the costs and benefits of other locations.

**SEC. 2882. NAMING OF HOUSING FACILITY AT FORT CARSON, COLORADO, IN HONOR OF THE HONORABLE JOEL HEFLEY, A FORMER MEMBER OF THE UNITED STATES HOUSE OF REPRESENTATIVES.**

(a) FINDINGS.—Congress makes the following findings:

(1) Representative Joel Hefley was elected to represent Colorado's 5th Congressional district in 1986 and served in the House of Representatives until the end of the 109th Congress in 2007 with distinction, class, integrity, and honor.

(2) Representative Hefley served on the Committee on Armed Services of the House of Representatives for 18 years, including service as Chairman of the Subcommittee on Military Installations and Facilities from 1995 through 2000 and, from 2001 until 2007, as Chairman of the Subcommittee on Readiness.

(3) Representative Hefley was a fair and effective lawmaker who worked for the national interest while never forgetting his Western roots.

(4) Representative Hefley's efforts on the Committee on Armed Services were instrumental to the military value of, and quality of life at, installations in the State of Colorado, including Fort Carson, Cheyenne Mountain, Peterson Air Force Base, Schriever Air Force Base, Buckley Air Force Base, and the United States Air Force Academy.

(5) Representative Hefley was a leader in efforts to retain and expand Fort Carson as an essential part of the national defense system during the Defense Base Closure and Realignment process.

(6) Representative Hefley consistently advocated for providing members of the Armed Forces and their families with quality, safe, and affordable housing and supportive communities.

(7) Representative Hefley spearheaded the Military Housing Privatization Initiative to eliminate inadequate housing on military installations, with the first pilot program located at Fort Carson.

(8) Representative Hefley's leadership on the Military Housing Privatization Initiative allowed for the privatization of more than 121,000 units of military family housing, which brought meaningful improvements to living conditions for thousands of members of the Armed Forces and their spouses and children at installations throughout the United States.

(9) It is fitting and proper that an appropriate military family housing area or structure at Fort Carson be designated in honor of Representative Hefley.

(b) DESIGNATION.—Notwithstanding Army Regulation AR 1–33, the Secretary of the Army shall designate one of the military family housing areas or facilities constructed for Fort Carson, Colorado, using the authority provided by subchapter IV of chapter 169 of title 10, United States Code, as the "Joel Hefley Village".

**SEC. 2883. NAMING OF NAVY AND MARINE CORPS RESERVE CENTER AT ROCK ISLAND, ILLINOIS, IN HONOR OF THE HONORABLE LANE EVANS, A FORMER MEMBER OF THE UNITED STATES HOUSE OF REPRESENTATIVES.**

(a) FINDINGS.—Congress makes the following findings:

(1) Representative Lane Evans was elected to the House of Representatives in 1982 and served in the House of Representatives until the end of the 109th Congress in 2007 representing the people of Illinois' 17th Congressional district.

(2) As a member of the Committee on Armed Services of the House of Representatives, Representative Evans worked to bring common sense priorities to defense spending and strengthen the military's conventional readiness.

(3) Representative Evans was a tireless advocate for military veterans, ensuring that veterans receive the medical care they need and advocating for individuals suffering from post-traumatic stress disorder and Gulf War Syndrome.

(4) Representative Evans' efforts to improve the transition of individuals from military service to the care of the Department of Veterans Affairs will continue to benefit generations of veterans long into the future.

(5) Representative Evans was credited with bringing new services to veterans living in his Congressional district, including outpatient clinics in the Quad Cities and Quincy and the Quad-Cities Vet Center.

(6) Representative Evans worked with local leaders to promote the Rock Island Arsenal, and it earned new jobs and missions through his support.

(7) In honor of his service in the Marine Corps and to his district and the United States, it is fitting and proper that the Navy and Marine Corps Reserve Center at Rock Island Arsenal be named in honor of Representative Evans.

(b) DESIGNATION.—The Navy and Marine Corps Reserve Center at Rock Island Arsenal, Illinois, shall be known and designated

as the "Lane Evans Navy and Marine Corps Reserve Center". Any reference in a law, map, regulation, document, paper, or other record of the United States to the Navy and Marine Corps Reserve Center at Rock Island Arsenal shall be deemed to be a reference to the Lane Evans Navy and Marine Corps Reserve Center.

**SEC. 2884. NAMING OF RESEARCH LABORATORY AT AIR FORCE ROME RESEARCH SITE, ROME, NEW YORK, IN HONOR OF THE HONORABLE SHERWOOD L. BOEHLERT, A FORMER MEMBER OF THE UNITED STATES HOUSE OF REPRESENTATIVES.**

The new laboratory building at the Air Force Rome Research Site, Rome, New York, shall be known and designated as the "Sherwood Boehlert Center of Excellence for Information Science and Technology". Any reference in a law, map, regulation, document, paper, or other record of the United States to such laboratory facility shall be deemed to be a reference to the Sherwood Boehlert Center of Excellence for Information Science and Technology.

**SEC. 2885. NAMING OF ADMINISTRATION BUILDING AT JOINT SYSTEMS MANUFACTURING CENTER, LIMA, OHIO, IN HONOR OF THE HONORABLE MICHAEL G. OXLEY, A FORMER MEMBER OF THE UNITED STATES HOUSE OF REPRESENTATIVES.**

The administration building under construction at the Joint Systems Manufacturing Center in Lima, Ohio, shall be known and designated as the "Michael G. Oxley Administration and Technology Center". Any reference in a law, map, regulation, document, paper, or other record of the United States to such building shall be deemed to be a reference to the Michael G. Oxley Administration and Technology Center.

**SEC. 2886. NAMING OF LOGISTICS AUTOMATION TRAINING FACILITY, ARMY QUARTERMASTER CENTER AND SCHOOL, FORT LEE, VIRGINIA, IN HONOR OF GENERAL RICHARD H. THOMPSON.**

Notwithstanding Army Regulation AR 1–33, the Logistics Automation Training Facility of the Army Quartermaster Center and School at Fort Lee, Virginia, shall be known and designated as the "General Richard H. Thompson Logistics Automation Training Facility" in honor of General Richard H. Thompson, the only quartermaster to have risen from private to full general. Any reference in a law, map, regulation, document, paper, or other record of the United States to such facility shall be deemed to be a reference to the General Richard H. Thompson Logistics Automation Training Facility.

**SEC. 2887. AUTHORITY TO RELOCATE JOINT SPECTRUM CENTER TO FORT MEADE, MARYLAND.**

(a) AUTHORITY TO CARRY OUT RELOCATION AGREEMENT.—The Secretary of Defense may carry out an agreement to relocate the Joint Spectrum Center, a geographically separated unit of the Defense Information Systems Agency, from Annapolis, Maryland, to Fort Meade, Maryland, or another military installation if—

(1) the Secretary determines that the relocation of the Joint Spectrum Center is in the best interest of national security and the physical protection of personnel and missions of the Department of Defense; and

(2) the agreement between the lease holder and the Department of Defense provides equitable and appropriate terms to facilitate the relocation.

(b) AUTHORIZATION.—Any facility, road, or infrastructure constructed or altered on a military installation as a result of the agreement referred to in subsection (a) is deemed to be authorized in accordance with section 2802 of title 10, United States Code.

(c) TERMINATION OF EXISTING LEASE.—Upon completion of the relocation of the Joint Spectrum Center, all right, title, and interest of the United States in and to the existing lease for the Joint Spectrum Center shall be terminated, as contemplated under Condition 29.B of the lease.

# TITLE XXIX—WAR-RELATED AND EMERGENCY MILITARY CONSTRUCTION AUTHORIZATIONS

Sec. 2901. Authorized Army construction and land acquisition projects.
Sec. 2902. Authorized Navy construction and land acquisition projects.
Sec. 2903. Authorized Air Force construction and land acquisition projects.
Sec. 2904. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2905. Authorized base closure and realignment activities funded through Department of Defense Base Closure Account 2005 and related authorization of appropriations.

## SEC. 2901. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Army: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Colorado | Fort Carson | $8,100,000 |
| Georgia | Fort Stewart | $6,000,000 |
| Kansas | Fort Riley | $50,000,000 |
| Kentucky | Fort Campbell | $7,400,000 |
| Louisiana | Fort Polk | $4,900,000 |
| New York | Fort Drum | $38,000,000 |
| Texas | Fort Hood | $9,100,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Army: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Afghanistan | Bagram Air Base | $249,600,000 |

**Army: Outside the United States**—Continued

| Country | Installation or Location | Amount |
|---|---|---|
| | Ghazni | $5,000,000 |
| | Kabul | $36,000,000 |
| Iraq | Camp Adder | $80,650,000 |
| | Al Asad | $92,600,000 |
| | Camp Anaconda | $53,500,000 |
| | Camp Constitution | $11,700,000 |
| | Camp Cropper | $9,500,000 |
| | Fallujah | $880,000 |
| | Camp Marez | $880,000 |
| | Mosul | $43,000,000 |
| | Q-West | $26,000,000 |
| | Camp Ramadi | $880,000 |
| | Scania | $14,200,000 |
| | Camp Speicher | $83,900,000 |
| | Camp Taqqadum | $880,000 |
| | Tikrit | $43,000,000 |
| | Camp Victory | $65,400,000 |
| | Camp Warrior | $880,000 |
| | Various Locations | $207,000,000 |
| Kuwait | Camp Arifjan | $30,000,000 |

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,257,750,000 as follows:

(1) For military construction projects inside the United States authorized by subsection (a), $123,500,000.

(2) For military construction projects outside the United States authorized by subsection (b), $1,055,450,000.

(3) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $78,800,000.

(d) REPORT REQUIRED BEFORE COMMENCING CERTAIN PROJECTS.—Funds may not be obligated for the projects authorized by subsection (b) for Camp Arifjan, Kuwait, or Camp Cropper, Iraq, until 14 days after the date on which the Secretary of Defense submits to the congressional defense committees a report, in either unclassified or classified form, containing a detailed justification for the project, including the overall intent of the requested construction, host-nation views, longevity of the site selected, and timelines for completion. The Secretary shall submit the report not later than January 15, 2008.

**SEC. 2902. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (d)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Navy: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| California | Camp Pendleton | $102,034,000 |
| | Twentynine Palms | $4,440,000 |
| North Carolina | Camp Lejeune | $43,340,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (d)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Navy: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Djibouti | Camp Lemonier | $25,410,000 |

(c) FAMILY HOUSING.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (d)(4), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, and in the amounts, set forth in the following table:

**Navy: Family Housing**

| State | Installation or Location | Amount |
|---|---|---|
| California | Camp Pendleton | $10,692,000 |
| | Twentynine Palms | $1,074,000 |

(d) AUTHORIZATION OF APPROPRIATIONS.—Subject to section 2825 of title 10, United States Code, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $198,781,000, as follows:

(1) For military construction projects inside the United States authorized by subsection (a), $149,814,000.

(2) For military construction projects outside the United States authorized by subsection (a), $25,410,000.

(3) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $11,791,000.

(4) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $11,766,000.

**SEC. 2903. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (b)(1), the Secretary of the Air Force may acquire real property and

carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Air Force: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Afghanistan | Bagram Air Base | $108,800,000 |
| | Kandahar | $26,300,000 |
| Iraq | Balad Air Base | $58,300,000 |
| Kyrgyzstan | Manas Air Base | $30,300,000 |

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $258,700,000, as follows:

(1) For military construction projects outside the United States authorized by subsection (a), $223,700,000.

(2) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $35,000,000.

**SEC. 2904. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Defense Agencies: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Texas | Fort Sam Houston | $21,000,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Defense Agencies: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Qatar | Al Udeid | $6,600,000 |

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $27,600,000 as follows:

(1) For military construction projects inside the United States authorized by subsection (a), $21,000,000.

(2) For military construction projects outside the United States authorized by subsection (a), $6,600,000.

**SEC. 2905. AUTHORIZED BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005 AND RELATED AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZED BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.—Using amounts authorized appropriated pursuant to the authorization of appropriations in subsection (b), the Secretary of Defense may carry out base closure and realignment activities otherwise authorized by section 2702 of this Act, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, in the amount of $423,650,000. Such amount is in addition to the amount specified for such base closure and realignment activities in section 2702 of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for base closure and realignment activities authorized by subsection (a) and funded through the Department of Defense Base Closure Account 2005 in the total amount of $415,910,000.

# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

# TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Defense environmental cleanup.
Sec. 3103. Other defense activities.
Sec. 3104. Defense nuclear waste disposal.
Sec. 3105. Energy security and assurance.

Subtitle B—Program Authorizations, Restrictions, and Limitations

Sec. 3111. Reliable Replacement Warhead program.
Sec. 3112. Nuclear test readiness.
Sec. 3113. Modification of reporting requirement.
Sec. 3114. Limitation on availability of funds for Fissile Materials Disposition program.
Sec. 3115. Modification of limitations on availability of funds for Waste Treatment and Immobilization Plant.
Sec. 3116. Modification of sunset date of the Office of the Ombudsman of the Energy Employees Occupational Illness Compensation Program.
Sec. 3117. Technical amendments.

Subtitle C—Other Matters

Sec. 3121. Study on using existing pits for the Reliable Replacement Warhead program.

Sec. 3122. Report on retirement and dismantlement of nuclear warheads.
Sec. 3123. Plan for addressing security risks posed to nuclear weapons complex.
Sec. 3124. Department of Energy protective forces.
Sec. 3125. Evaluation of National Nuclear Security Administration strategic plan for advanced computing.
Sec. 3126. Sense of Congress on the nuclear nonproliferation policy of the United States and the Reliable Replacement Warhead program.
Sec. 3127. Department of Energy report on plan to strengthen and expand International Radiological Threat Reduction program.
Sec. 3128. Department of Energy report on plan to strengthen and expand Materials Protection, Control, and Accounting program.
Sec. 3129. Agreements and reports on nuclear forensics capabilities.
Sec. 3130. Report on status of environmental management initiatives to accelerate the reduction of environmental risks and challenges posed by the legacy of the Cold War.

Subtitle D—Nuclear Terrorism Prevention

Sec. 3131. Definitions.
Sec. 3132. Sense of Congress on the prevention of nuclear terrorism.
Sec. 3133. Minimum security standard for nuclear weapons and formula quantities of strategic special nuclear material.
Sec. 3134. Annual report.

# Subtitle A—National Security Programs Authorizations

**SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2008 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $9,576,095,000, to be allocated as follows:

(1) For weapons activities, $6,465,574,000.

(2) For defense nuclear nonproliferation activities, $1,902,646,000.

(3) For naval reactors, $808,219,000.

(4) For the Office of the Administrator for Nuclear Security, $399,656,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for the National Nuclear Security Administration as follows:

(1) For readiness in technical base and facilities, the following new plant projects:

Project 08–D–801, High pressure fire loop, Pantex Plant, Amarillo, Texas, $7,000,000.

Project 08–D–802, High explosive pressing facility, Pantex Plant, Amarillo, Texas, $25,300,000.

Project 08–D–804, Technical Area 55 reinvestment project, Los Alamos National Laboratory, Los Alamos, New Mexico, $6,000,000.

(2) For facilities and infrastructure recapitalization, the following new plant projects:

Project 08–D–601, Mercury highway, Nevada Test Site, Nevada, $7,800,000.

Project 08–D–602, Potable water system upgrades, Y–12 Plant, Oak Ridge, Tennessee, $22,500,000.

(3) For safeguards and security, the following new plant project:

Project 08–D–701, Nuclear materials safeguards and security upgrade, Los Alamos National Laboratory, Los Alamos, New Mexico, $49,496,000.

(4) For naval reactors, the following new plant projects:

Project 08–D–901, Shipping and receiving and warehouse complex, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $9,000,000.

Project 08–D–190, Project engineering and design, Expended Core Facility M–290 Recovering Discharge Station, Naval Reactors Facility, Idaho Falls, Idaho, $550,000.

**SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2008 for defense environmental cleanup activities in carrying out programs necessary for national security in the amount of $5,367,905,000.

(b) AUTHORIZATION FOR NEW PLANT PROJECT.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out, for defense environmental cleanup activities, the following new plant project:

Project 08–D–414, Project engineering and design, Plutonium Vitrification Facility, various locations, $9,000,000.

**SEC. 3103. OTHER DEFENSE ACTIVITIES.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2008 for other defense activities in carrying out programs necessary for national security in the amount of $763,974,000.

**SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2008 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $292,046,000.

**SEC. 3105. ENERGY SECURITY AND ASSURANCE.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2008 for energy security and assurance programs necessary for national security in the amount of $5,860,000.

## Subtitle B—Program Authorizations, Restrictions, and Limitations

**SEC. 3111. RELIABLE REPLACEMENT WARHEAD PROGRAM.**

No funds appropriated pursuant to the authorization of appropriations in section 3101(a)(1) or otherwise made available for weapons activities of the National Nuclear Security Administration for fiscal year 2008 may be obligated or expended for activities under the Reliable Replacement Warhead program under section 4204a of the Atomic Energy Defense Act (50 U.S.C. 2524a) beyond phase 2A activities.

**SEC. 3112. NUCLEAR TEST READINESS.**

(a) REPEAL OF REQUIREMENTS ON READINESS POSTURE.—Section 3113 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1743; 50 U.S.C. 2528a) is repealed.

(b) REPORTS ON NUCLEAR TEST READINESS POSTURES.—

(1) IN GENERAL.—Section 4208 of the Atomic Energy Defense Act (50 U.S.C. 2528) is amended to read as follows:

**"SEC. 4208. REPORTS ON NUCLEAR TEST READINESS.** 50 USC 2528.

"(a) IN GENERAL.—Not later than March 1, 2009, and every odd-numbered year thereafter, the Secretary of Energy shall submit to the congressional defense committees a report on the nuclear test readiness of the United States.

"(b) ELEMENTS.—Each report under subsection (a) shall include, current as of the date of such report, the following:

"(1) An estimate of the period of time that would be necessary for the Secretary of Energy to conduct an underground test of a nuclear weapon once directed by the President to conduct such a test.

"(2) A description of the level of test readiness that the Secretary of Energy, in consultation with the Secretary of Defense, determines to be appropriate.

"(3) A list and description of the workforce skills and capabilities that are essential to carrying out an underground nuclear test at the Nevada Test Site.

"(4) A list and description of the infrastructure and physical plant that are essential to carrying out an underground nuclear test at the Nevada Test Site.

"(5) An assessment of the readiness status of the skills and capabilities described in paragraph (3) and the infrastructure and physical plant described in paragraph (4).

"(c) FORM.—Each report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.".

(2) CLERICAL AMENDMENT.—The item relating to section 4208 in the table of contents for such Act is amended to read as follows:

"Sec. 4208. Reports on nuclear test readiness.".

**SEC. 3113. MODIFICATION OF REPORTING REQUIREMENT.**

Section 3111 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3539) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e), respectively;

(2) by inserting after subsection (b) the following:

"(c) FORM.—The report required by subsection (b) shall be submitted in classified form, and shall include a detailed unclassified summary."; and

(3) in subsection (e), as so redesignated, by striking "(c)" and inserting "(d)".

**SEC. 3114. LIMITATION ON AVAILABILITY OF FUNDS FOR FISSILE MATERIALS DISPOSITION PROGRAM.**

(a) LIMITATION PENDING REPORT ON USE OF PRIOR FISCAL YEAR FUNDS.—No more than 75 percent of the fiscal year 2008 Fissile Materials Disposition program funds may be obligated for the Fissile Materials Disposition program until the Secretary of Energy, in consultation with the Administrator for Nuclear Security, submits

to the congressional defense committees a report setting forth a plan for obligating and expending funds made available for that program in fiscal years before fiscal year 2008 that remain available for obligation or expenditure as of January 1, 2005, and for fiscal year 2008.

(b) AVAILABILITY OF UNUTILIZED FUNDS UNDER CERTIFICATION OF PARTIAL USE.—Any funds identified in the plan required in subsection (a) that are not planned to be obligated by the end of fiscal year 2009 shall also be available for any defense nuclear nonproliferation activities (other than the Fissile Materials Disposition program) for which amounts are authorized to be appropriated by section 3101(a)(2).

(c) FISCAL YEAR 2008 FISSILE MATERIALS DISPOSITION PROGRAM FUNDS DEFINED.—In this section, the term "fiscal year 2008 Fissile Materials Disposition program funds" means amounts authorized to be appropriated by section 3101(a)(2) and available for the Fissile Materials Disposition program.

**SEC. 3115. MODIFICATION OF LIMITATIONS ON AVAILABILITY OF FUNDS FOR WASTE TREATMENT AND IMMOBILIZATION PLANT.**

Paragraph (2) of section 3120(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2510) is amended—

(1) by striking "the Defense Contract Management Agency has recommended for acceptance" and inserting "an independent entity has reviewed"; and

(2) by inserting "and that the system has been certified by the Secretary for use by a construction contractor at the Waste Treatment and Immobilization Plant" after "Waste Treatment and Immobilization Plant".

**SEC. 3116. MODIFICATION OF SUNSET DATE OF THE OFFICE OF THE OMBUDSMAN OF THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.**

Section 3686(g) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385s–15(g)) is amended by striking "on the date that is 3 years after the date of the enactment of this section" and inserting "October 28, 2012".

**SEC. 3117. TECHNICAL AMENDMENTS.**

The Atomic Energy Defense Act (50 U.S.C. 2521 et seq.) is amended as follows:

(1) The heading of section 4204a (50 U.S.C. 2524a) is amended to read as follows:

**"SEC. 4204A. RELIABLE REPLACEMENT WARHEAD PROGRAM.".**

(2) The table of contents for that Act is amended by inserting after the item relating to section 4204 the following new item:

"Sec. 4204A. Reliable Replacement Warhead program.".

## Subtitle C—Other Matters

**SEC. 3121. STUDY ON USING EXISTING PITS FOR THE RELIABLE REPLACEMENT WARHEAD PROGRAM.**

(a) STUDY REQUIRED.—The Administrator for Nuclear Security, in consultation with the Nuclear Weapons Council, shall carry out a study analyzing the feasibility of using existing pits in the Reliable Replacement Warhead program.

(b) REPORT.—

(1) IN GENERAL.—Not later six months after the date of the enactment of this Act, the Administrator shall submit to the congressional defense committees a report on the results of the study. The report shall be in unclassified form, but may include a classified annex.

(2) MATTERS INCLUDED.—The report shall contain the assessment of the Administrator of the results of the study, including—

(A) an assessment of—

(i) whether using existing pits in the program is technically feasible;

(ii) whether using existing pits in the program is more advantageous than using newly manufactured pits in the program;

(iii) the number of existing pits suitable for such use;

(iv) whether proceeding to use existing pits in the program before using newly manufactured pits in the program is desirable; and

(v) the extent to which using existing pits, as compared to using newly manufactured pits, in the program would reduce future requirements for new pit production, and how such use of existing pits would affect the schedule and scope for new pit production; and

(B) a comparison of the requirements for certifying—

(i) reliable replacement warheads using existing pits;

(ii) reliable replacement warheads using newly manufactured pits; and

(iii) warheads maintained by the Stockpile Life Extension Program.

(c) FUNDING.—Of the amounts made available pursuant to the authorization of appropriations in section 3101(a)(1), such funds as may be necessary shall be available to carry out this section.

**SEC. 3122. REPORT ON RETIREMENT AND DISMANTLEMENT OF NUCLEAR WARHEADS.**

Not later than March 1, 2008, the Administrator for Nuclear Security, in consultation with the Nuclear Weapons Council, shall submit to the congressional defense committees a report on the retirement and dismantlement of the nuclear warheads that will not be part of the enduring stockpile as of December 31, 2012, but that have not yet been retired or dismantled. The report shall include—

(1) the existing plan and schedule for retiring and dismantling those warheads;

(2) an assessment of the capacity of the nuclear weapons complex to accommodate an accelerated schedule for retiring and dismantling those warheads, taking into account the full range of capabilities in the complex; and

(3) an identification of the resources needed to accommodate such an accelerated schedule for retiring and dismantling those warheads.

**SEC. 3123. PLAN FOR ADDRESSING SECURITY RISKS POSED TO NUCLEAR WEAPONS COMPLEX.**

Section 3253(b) of the National Nuclear Security Administration Act (50 U.S.C. 2453(b)) is amended by adding at the end the following:

"(6) A plan, developed in consultation with the Director of the Office of Health, Safety, and Security of the Department of Energy, for the research and development, deployment, and lifecycle sustainment of the technologies employed within the nuclear weapons complex to address physical and cyber security threats during the applicable five-fiscal year period, together with—

"(A) for each site in the nuclear weapons complex, a description of the technologies deployed to address the physical and cyber security threats posed to that site;

"(B) for each site and for the nuclear weapons complex, the methods used by the National Nuclear Security Administration to establish priorities among investments in physical and cyber security technologies; and

"(C) a detailed description of how the funds identified for each program element specified pursuant to paragraph (1) in the budget for the Administration for each fiscal year during that five-fiscal year period will help carry out that plan.".

**SEC. 3124. DEPARTMENT OF ENERGY PROTECTIVE FORCES.**

(a) COMPTROLLER GENERAL REPORT ON DEPARTMENT OF ENERGY PROTECTIVE FORCE MANAGEMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the management of the protective forces of the Department of Energy.

(2) CONTENTS.—The report shall include the following:

(A) An identification of each Department of Energy site with Category I nuclear materials.

(B) For each site identified under subparagraph (A)—

(i) a description of the management and contractual structure for protective forces at the site;

(ii) a statement of the number and category of protective force members at the site;

(iii) a description of the manner in which the site is moving to a tactical response force as required by the policy of the Department of Energy and an assessment of the issues or problems, if any, involved in moving to such a force;

(iv) a description of the extent to which the protective force at the site has been assigned or is responsible

for law enforcement or law-enforcement related activities;

(v) an assessment of the ability of the protective force at the site to fulfill any such law enforcement or law enforcement-related responsibilities; and

(vi) an assessment of whether the protective force at the site is adequately staffed, trained, and equipped to comply with the requirements of the Design Basis Threat issued by the Department of Energy in November 2005 and, if not, when it is projected to be.

(C) An analysis comparing the management, training, pay, benefits, duties, responsibilities, and assignments of the protective force at each site identified under subparagraph (A) with the management, training, pay, benefits, duties, responsibilities, and assignments of the Federal transportation security force of the Department of Energy.

(D) A statement of options for managing the protective force at sites identified under subparagraph (A) in a more uniform manner, an analysis of the advantages and disadvantages of each option, and an assessment of the approximate cost of each option when compared with the costs associated with the existing management of the protective force at such sites.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

(b) DEPARTMENT OF ENERGY ANALYSIS OF ALTERNATIVES FOR MANAGING AND DEPLOYING PROTECTIVE FORCES.—

(1) IN GENERAL.—Not later than 90 days after the date on which the report is submitted under subsection (a), the Secretary of Energy, in conjunction with the Administrator for Nuclear Security and the Assistant Secretary for Environmental Management, shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the management of the protective forces of the Department of Energy. Deadline. Reports.

(2) CONTENTS.—The report shall include the following:

(A) Each of the matters specified in subparagraphs (A), (B), and (C) of subsection (a)(2).

(B) Each of the matters specified in subparagraph (D) of subsection (a)(2), except that—

(i) the options analyzed shall include each of the options included in the report submitted under subsection (a), as well as any other options identified by the Secretary; and

(ii) the analysis and assessment shall also include an analysis of the role played by incentives inherent in the use of private contractors to provide protective forces in the performance of those protective forces.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

**SEC. 3125. EVALUATION OF NATIONAL NUCLEAR SECURITY ADMINISTRATION STRATEGIC PLAN FOR ADVANCED COMPUTING.**

(a) IN GENERAL.—The Secretary of Energy shall—

(1) enter into an agreement with an independent entity to conduct an evaluation of the strategic plan for advanced Contracts.

computing of the National Nuclear Security Administration; and

Deadline. Reports.

(2) not later than one year after the date of the enactment of this Act, submit to the congressional defense committees a report containing the results of the evaluation described in paragraph (1).

(b) ELEMENTS.—The evaluation described in subsection (a)(1) shall include the following:

(1) An assessment of—

(A) the adequacy of the strategic plan in supporting the Stockpile Stewardship Program;

(B) the role of research into, and development of, high-performance computing supported by the National Nuclear Security Administration in fulfilling the mission of the National Nuclear Security Administration and in maintaining the leadership of the United States in high-performance computing; and

(C) the impacts of changes in investment levels or research and development strategies on fulfilling the missions of the National Nuclear Security Administration.

(2) An assessment of the efforts of the Department of Energy to—

(A) coordinate high-performance computing work within the Department, in particular between the National Nuclear Security Administration and the Office of Science;

(B) develop joint strategies with other Federal agencies and private industry groups for the development of high-performance computing; and

(C) share high-performance computing developments with private industry and capitalize on innovations in private industry in high-performance computing.

**SEC. 3126. SENSE OF CONGRESS ON THE NUCLEAR NON-PROLIFERATION POLICY OF THE UNITED STATES AND THE RELIABLE REPLACEMENT WARHEAD PROGRAM.**

It is the sense of Congress that—

(1) the United States should maintain its commitment to Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (in this section referred to as the "Nuclear Non-Proliferation Treaty");

(2) the United States should initiate talks with Russia to reduce the number of nonstrategic nuclear weapons and further reduce the number of strategic nuclear weapons in the respective nuclear weapons stockpiles of the United States and Russia in a transparent and verifiable fashion and in a manner consistent with the security of the United States;

(3) the United States and other declared nuclear weapons state parties to the Nuclear Non-Proliferation Treaty, together with weapons states that are not parties to the Treaty, should work to reduce the total number of nuclear weapons in the respective stockpiles and related delivery systems of such states;

(4) the United States, Russia, and other states should work to negotiate, and then sign and ratify, a treaty setting forth a date for the cessation of the production of fissile material;

(5) the United States should sustain the science-based stockpile stewardship program, which provides the basis for certifying the United States nuclear deterrent and maintaining the moratorium on underground nuclear weapons testing;

(6) the United States should commit to dismantle as soon as possible all retired warheads or warheads that are planned to be retired from the United States nuclear weapons stockpile;

(7) the United States, along with the other declared nuclear weapons state parties to the Nuclear Non-Proliferation Treaty, should participate in transparent discussions regarding their nuclear weapons programs and plans, including plans for any new weapons or warheads, and how such programs and plans relate to their obligations as nuclear weapons state parties under the Treaty;

(8) the United States and the declared nuclear weapons state parties to the Nuclear Non-Proliferation Treaty should work to decrease reliance on, and the importance of, nuclear weapons; and

(9) the United States should formulate any decision on whether to manufacture or deploy a reliable replacement warhead within the broader context of the progress made by the United States toward achieving each of the goals described in paragraphs (1) through (8).

**SEC. 3127. DEPARTMENT OF ENERGY REPORT ON PLAN TO STRENGTHEN AND EXPAND INTERNATIONAL RADIOLOGICAL THREAT REDUCTION PROGRAM.**

Not later than 120 days after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report that sets forth a specific plan for strengthening and expanding the Department of Energy International Radiological Threat Reduction (IRTR) program within the Global Threat Reduction Initiative. The plan shall address concerns raised and recommendations made by the Government Accountability Office in its report of March 13, 2007, titled "Focusing on the Highest Priority Radiological Sources Could Improve DOE's Efforts to Secure Sources in Foreign Countries", and shall specifically include actions to—

(1) improve the Department's coordination with the Department of State and the Nuclear Regulatory Commission;

(2) improve information-sharing between the Department and the International Atomic Energy Agency;

(3) with respect to hospitals and clinics containing radiological sources that receive security upgrades, give high priority to those determined to be the highest risk;

(4) accelerate efforts to remove as many radioisotope thermoelectric generators (RTGs) in the Russian Federation as practicable;

(5) develop a long-term sustainability plan for security upgrades that includes, among other things, future resources required to implement such a plan; and

(6) develop a long-term operational plan that ensures sufficient funding for the IRTR program and ensures sufficient funding to identify, recover, and secure all vulnerable high-risk radiological sources worldwide as quickly and effectively as possible.

**SEC. 3128. DEPARTMENT OF ENERGY REPORT ON PLAN TO STRENGTHEN AND EXPAND MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM.**

Not later than 120 days after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a specific plan for strengthening and expanding the Department of Energy Materials Protection, Control, and Accounting (MPC&A) program. The plan shall address concerns raised and recommendations made by the Government Accountability Office in its report of February 2007, titled "Progress Made in Improving Security at Russian Nuclear Sites, but the Long-Term Sustainability of U.S. Funded Security Upgrades is Uncertain", and shall specifically include actions to—

(1) strengthen program management and the effectiveness of the Department's efforts to improve security at weapons-usable nuclear material and warhead sites in the Russian Federation and other countries by—

(A) revising the metrics used to measure MPC&A program progress to better reflect the level of security upgrade completion at buildings reported as "secure";

(B) actively working with other countries, in coordination with the Secretary of State, to develop an appropriate access plan for each country; and

(C) developing a management information system to track the Department's progress in providing Russia with a sustainable MPC&A system by 2013; and

Operational plan.

(2) develop a long-term operational plan that ensures sufficient funding for the MPC&A program, including for National Programs and Sustainability, and ensures sufficient funding to secure all weapons-usable nuclear material and warhead sites as quickly and effectively as possible.

**SEC. 3129. AGREEMENTS AND REPORTS ON NUCLEAR FORENSICS CAPABILITIES.**

(a) INTERNATIONAL AGREEMENTS.—

(1) IN GENERAL.—Title XLIII of the Atomic Energy Defense Act (50 U.S.C. 2561 et seq.) is amended by adding at the end the following:

50 USC 2572.

**"SEC. 4307. INTERNATIONAL AGREEMENTS ON NUCLEAR WEAPONS DATA.**

"The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations to conduct data collection and analysis to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon.

50 USC 2573.

**"SEC. 4308. INTERNATIONAL AGREEMENTS ON INFORMATION ON RADIOACTIVE MATERIALS.**

"The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations—

"(1) to acquire for the materials information program of the Department of Energy validated information on the physical characteristics of radioactive material produced, used, or stored at various locations, in order to facilitate the ability to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon; and

"(2) to obtain access to information described in paragraph (1) in the event of—

"(A) a nuclear detonation; or

"(B) the interdiction or discovery of a nuclear device or weapon or nuclear material.".

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of such Act is amended by inserting after the item relating to section 4306A the following:

"Sec. 4307. International agreements on nuclear weapons data.
"Sec. 4308. International agreements on information on radioactive materials.".

(b) REPORT ON AGREEMENTS.—Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall, in coordination with the Secretary of State, submit to Congress a report identifying—

(1) the countries or international organizations with which the Secretary has sought to make agreements pursuant to sections 4307 and 4308 of the Atomic Energy Defense Act, as added by subsection (a);

(2) any countries or international organizations with which such agreements have been finalized and the measures included in such agreements; and

(3) any major obstacles to completing such agreements with other countries and international organizations.

(c) REPORT ON STANDARDS AND CAPABILITIES.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report— President.

(1) setting forth standards and procedures to be used in determining accurately and in a timely manner any country or group that knowingly or negligently provides to another country or group—

(A) a nuclear device or weapon;

(B) a major component of a nuclear device or weapon; or

(C) fissile material that could be used in a nuclear device or weapon;

(2) assessing the capability of the United States to collect and analyze nuclear material or debris in a manner consistent with the standards and procedures described in paragraph (1); and

(3) including a plan and proposed funding for rectifying any shortfalls in the nuclear forensics capabilities of the United States by September 30, 2010. Plan.

**SEC. 3130. REPORT ON STATUS OF ENVIRONMENTAL MANAGEMENT INITIATIVES TO ACCELERATE THE REDUCTION OF ENVIRONMENTAL RISKS AND CHALLENGES POSED BY THE LEGACY OF THE COLD WAR.**

(a) IN GENERAL.—Not later than September 30, 2008, the Secretary of Energy shall submit to the congressional defense committees and the Comptroller General of the United States a report

on the status of the environmental management initiatives undertaken to accelerate the reduction of the environmental risks and challenges that, as a result of the legacy of the Cold War, are faced by the Department of Energy, contractors of the Department, and applicable Federal and State agencies with regulatory jurisdiction.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A discussion and assessment of the progress made in reducing the environmental risks and challenges described in subsection (a) in each of the following areas:

(A) Acquisition strategy and contract management.

(B) Regulatory agreements.

(C) Interim storage and final disposal of high-level waste, spent nuclear fuel, transuranic waste, and low-level waste.

(D) Closure and transfer of environmental remediation sites.

(E) Achievements in innovation by contractors of the Department with respect to accelerated risk reduction and cleanup.

(F) Consolidation of special nuclear materials and improvements in safeguards and security.

(2) An assessment of whether legislative changes or clarifications would improve or accelerate environmental management activities.

(3) A listing of the major mandatory milestones and commitments by site, by type of agreement, and by year to the extent that they are currently defined, together with a summary of the major mandatory milestones by site that are projected to be missed or are in jeopardy of being missed, with categories to explain the reason for non-compliance.

(4) An estimate of the life cycle cost of the current scope of the environmental management program as of October 1, 2007, by project baseline summary and summarized by site, including assumptions impacting cost projections and descriptions of the work to be done at each site.

(5) For environmental cleanup liabilities and excess facilities projected to be transferred to the environmental management program, a description of the process for nomination and acceptance of new work scope into the program, a listing of pending nominations, and life cycle cost estimates and schedules to address them.

(c) REVIEW BY COMPTROLLER GENERAL.—Not later than March 30, 2009, the Comptroller General shall submit to the congressional defense committees a report containing a review of the report required by subsection (a).

# Subtitle D—Nuclear Terrorism Prevention

22 USC 3244 note.

**SEC. 3131. DEFINITIONS.**

In this subtitle:

(1) The term "Convention on the Physical Protection of Nuclear Material" means the Convention on the Physical Protection of Nuclear Material, signed at New York and Vienna March 3, 1980.

(2) The term "formula quantities of strategic special nuclear material" means uranium–235 (contained in uranium enriched to 20 percent or more in the U–235 isotope), uranium–233, or plutonium in any combination in a total quantity of 5,000 grams or more computed by the formula, grams = (grams contained U–235) + 2.5 (grams U–233 + grams plutonium), as set forth in the definitions of "formula quantity" and "strategic special nuclear material" in section 73.2 of title 10, Code of Federal Regulations.

(3) The term "Nuclear Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(4) The term "nuclear weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for the development of, a weapon, a weapon prototype, or a weapon test device.

**SEC. 3132. SENSE OF CONGRESS ON THE PREVENTION OF NUCLEAR TERRORISM.**

22 USC 3244 note.

It is the sense of Congress that—

(1) the President should make the prevention of a nuclear terrorist attack on the United States a high priority;

(2) the President should accelerate programs, requesting additional funding as appropriate, to prevent nuclear terrorism, including combating nuclear smuggling, securing and accounting for nuclear weapons, and eliminating, removing, or securing and accounting for formula quantities of strategic special nuclear material wherever such quantities may be;

(3) the United States, together with the international community, should take a comprehensive approach to reducing the danger of nuclear terrorism, including by making additional efforts to identify and eliminate terrorist groups that aim to acquire nuclear weapons, to ensure that nuclear weapons worldwide are secure and accounted for and that formula quantities of strategic special nuclear material worldwide are eliminated, removed, or secure and accounted for to a degree sufficient to defeat the threat that terrorists and criminals have shown they can pose, and to increase the ability to find and stop terrorist efforts to manufacture nuclear explosives or to transport nuclear explosives and materials anywhere in the world;

(4) within such a comprehensive approach, a high priority must be placed on ensuring that all nuclear weapons worldwide are secure and accounted for and that all formula quantities of strategic special nuclear material worldwide are eliminated, removed, or secure and accounted for; and

(5) the International Atomic Energy Agency should be funded appropriately to fulfill its role in coordinating international efforts to protect nuclear material and to combat nuclear smuggling.

**SEC. 3133. MINIMUM SECURITY STANDARD FOR NUCLEAR WEAPONS AND FORMULA QUANTITIES OF STRATEGIC SPECIAL NUCLEAR MATERIAL.**

22 USC 3244 note.

(a) POLICY.—It is the policy of the United States to work with the international community to take all possible steps to

ensure that all nuclear weapons around the world are secure and accounted for and that all formula quantities of strategic special nuclear material are eliminated, removed, or secure and accounted for to a level sufficient to defeat the threats posed by terrorists and criminals.

(b) INTERNATIONAL NUCLEAR SECURITY STANDARD.—It is the sense of Congress that, in furtherance of the policy described in subsection (a), and consistent with the requirement for "appropriate effective" physical protection contained in United Nations Security Council Resolution 1540 (2004), as well as the Nuclear Non-Proliferation Treaty and the Convention on the Physical Protection of Nuclear Material, the President, in consultation with relevant Federal departments and agencies, should seek the broadest possible international agreement on a global standard for nuclear security that—

(1) ensures that nuclear weapons and formula quantities of strategic special nuclear material are secure and accounted for to a sufficient level to defeat the threats posed by terrorists and criminals;

(2) takes into account the limitations of equipment and human performance; and

(3) includes steps to provide confidence that the needed measures have in fact been implemented.

(c) INTERNATIONAL EFFORTS.—It is the sense of Congress that, in furtherance of the policy described in subsection (a), the President, in consultation with relevant Federal departments and agencies, should—

(1) work with other countries and the International Atomic Energy Agency to assist as appropriate, and if necessary work to convince, the governments of any and all countries in possession of nuclear weapons or formula quantities of strategic special nuclear material to ensure that security is upgraded to meet the standard described in subsection (b) as rapidly as possible and in a manner that—

(A) accounts for the nature of the terrorist and criminal threat in each such country; and

(B) ensures that any measures to which the United States and any such country agree are sustained after United States and other international assistance ends;

(2) ensure that United States financial and technical assistance is available, as appropriate, to countries for which the provision of such assistance would accelerate the implementation of, or improve the effectiveness of, such security upgrades; and

(3) work with the governments of other countries to ensure that effective nuclear security rules, accompanied by effective regulation and enforcement, are put in place to govern all nuclear weapons and formula quantities of strategic special nuclear material around the world.

22 USC 3244 note. President.

**SEC. 3134. ANNUAL REPORT.**

(a) IN GENERAL.—Not later than September 1 of each year through 2012, the President, in consultation with relevant Federal departments and agencies, shall submit to Congress a report on the security of nuclear weapons and related equipment and formula quantities of strategic special nuclear material outside of the United States.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A section on the programs for the security and accounting of nuclear weapons and the elimination, removal, and security and accounting of formula quantities of strategic special nuclear material, established under section 3132(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (50 U.S.C. 2569(b)), which shall include the following:

(A) A survey of the facilities and sites worldwide that contain nuclear weapons or related equipment, or formula quantities of strategic special nuclear material.

(B) A list of such facilities and sites determined to be of the highest priority for security and accounting of nuclear weapons and related equipment, or the elimination, removal, or security and accounting of formula quantities of strategic special nuclear material, taking into account risk of theft from such facilities and sites, and organized by level of priority.

(C) A prioritized plan, including measurable milestones, metrics, estimated timetables, and estimated costs of implementation, on the following: Plan.

(i) The security and accounting of nuclear weapons and related equipment and the elimination, removal, or security and accounting of formula quantities of strategic special nuclear material at such facilities and sites worldwide.

(ii) Ensuring that security upgrades and accounting reforms implemented at such facilities and sites worldwide, using the financial and technical assistance of the United States, are effectively sustained after such assistance ends.

(iii) The role that international agencies and the international community have committed to play, together with a plan for securing international contributions.

(D) An assessment of the progress made in implementing the plan described in subparagraph (C), including a description of the efforts of foreign governments to secure and account for nuclear weapons and related equipment and to eliminate, remove, or secure and account for formula quantities of strategic special nuclear material.

(2) A section on efforts to establish and implement the international nuclear security standard described in section 3133(b) and related policies.

(c) FORM.—The report may be submitted in classified form but shall include a detailed unclassified summary.

# TITLE XXXII—WAR-RELATED NATIONAL NUCLEAR SECURITY ADMINISTRATION AUTHORIZATIONS

Sec. 3201. Additional war-related authorization of appropriations for National Nuclear Security Administration.

**SEC. 3201. ADDITIONAL WAR-RELATED AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2008 to the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation in the amount of $50,000,000, of which $30,000,000 is for the International Nuclear Materials Protection and Cooperation program and $20,000,000 is for the Global Threat Reduction Initiative.

(b) TREATMENT AS ADDITIONAL AUTHORIZATION.—The amounts authorized to be appropriated by this section are in addition to amounts otherwise authorized to be appropriated by this Act.

# TITLE XXXIII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3301. Authorization.

**SEC. 3301. AUTHORIZATION.**

There are authorized to be appropriated for fiscal year 2008, $22,499,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

# TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.
Sec. 3402. Remedial action at Moab uranium milling site.

**SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.**

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy $17,301,000 for fiscal year 2008 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

Utah.

**SEC. 3402. REMEDIAL ACTION AT MOAB URANIUM MILLING SITE.**

Section 3405(i) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 10 U.S.C. 7420 note) is amended by adding at the end the following new paragraph:

Deadline.

"(6)(A) Not later than October 1, 2019, the Secretary of Energy shall complete remediation at the Moab site and removal of the tailings to the Crescent Junction site in Utah.

"(B) In the event the Secretary of Energy is unable to complete remediation at the Moab Site by October 1, 2019, the Secretary shall submit to Congress a plan setting forth the projected completion date and the estimated funding to meet the revised date. The Secretary shall submit the plan, if required, to Congress not later than October 2, 2019.". Plan. Deadline.

# TITLE XXXV—MARITIME ADMINISTRATION

Subtitle A—Maritime Administration Reauthorization

Sec. 3501. Authorization of appropriations for fiscal year 2008.
Sec. 3502. Temporary authority to transfer obsolete combatant vessels to Navy for disposal.
Sec. 3503. Vessel disposal program.

Subtitle B—Programs

Sec. 3511. Commercial vessel chartering authority.
Sec. 3512. Maritime Administration vessel chartering authority.
Sec. 3513. Chartering to State and local governmental instrumentalities.
Sec. 3514. Disposal of obsolete Government vessels.
Sec. 3515. Vessel transfer authority.
Sec. 3516. Sea trials for Ready Reserve Force.
Sec. 3517. Review of applications for loans and guarantees.

Subtitle C—Technical Corrections

Sec. 3521. Personal injury to or death of seamen.
Sec. 3522. Amendments to Chapter 537 based on Public Law 109–163.
Sec. 3523. Additional amendments based on Public Law 109–163.
Sec. 3524. Amendments based on Public Law 109–171.
Sec. 3525. Amendments based on Public Law 109–241.
Sec. 3526. Amendments based on Public Law 109–364.
Sec. 3527. Miscellaneous amendments.
Sec. 3528. Application of sunset provision to codified provision.
Sec. 3529. Additional technical corrections.

## Subtitle A—Maritime Administration Reauthorization

### SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2008.

Funds are hereby authorized to be appropriated for fiscal year 2008, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $124,303,000, of which—

(A) $63,958,000 shall remain available until expended for expenses and capital improvements at the United States Merchant Marine Academy; and

(B) $11,500,000 which shall remain available until expended for maintenance and repair of school ships at the State Maritime Academies.

(2) For expenses to maintain and preserve a United States-flag merchant fleet to serve the national security needs of the United States under chapter 531 of title 46, United States Code, $156,000,000.

(3) For paying reimbursement under section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note), $19,500,000.

(4) For assistance to small shipyards and maritime communities under section 54101 of title 46, United States Code, $25,000,000.

(5) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, including provision of assistance under section 7 of Public Law 92–402, $20,000,000.

(6) For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C 661a(5)) of loan guarantees under the program authorized by chapter 537 of title 46, United States Code, $30,000,000.

(7) For administrative expenses related to the implementation of the loan guarantee program under chapter 537 of title 46, United States Code, administrative expenses related to implementation of the reimbursement program under section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note), and administrative expenses related to the implementation of the small shipyards and maritime communities assistance program under section 54101 of title 46, United States Code, $6,000,000.

**SEC. 3502. TEMPORARY AUTHORITY TO TRANSFER OBSOLETE COMBATANT VESSELS TO NAVY FOR DISPOSAL.**

The Secretary of Transportation shall, subject to the availability of appropriations and consistent with section 1535 of title 31, United States Code, popularly known as the Economy Act, transfer to the Secretary of the Navy during fiscal year 2008 for disposal by the Navy, no fewer than 3 combatant vessels in the nonretention fleet of the Maritime Administration that are acceptable to the Secretary of the Navy.

46 USC 57102 note.

**SEC. 3503. VESSEL DISPOSAL PROGRAM.**

Deadline. Establishment.

(a) IN GENERAL.—Within 30 days after the date of the enactment of this Act, the Secretary of Transportation shall convene a working group to review and make recommendations on best practices for the storage and disposal of obsolete vessels owned or operated by the Federal Government. The Secretary shall invite senior representatives from the Maritime Administration, the Coast Guard, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the United States Navy to participate in the working group. The Secretary may request the participation of senior representatives of any other Federal department or agency, as appropriate, and may also request participation from concerned State environmental agencies.

(b) SCOPE.—Among the vessels to be considered by the working group are Federally owned or operated vessels that are—

(1) to be scrapped or recycled;

(2) to be used as artificial reefs; or

(3) to be used for the Navy's SINKEX program.

(c) PURPOSE.—The working group shall—

(1) examine current storage and disposal policies, procedures, and practices for obsolete vessels owned or operated by Federal agencies;

(2) examine Federal and State laws and regulations governing such policies, procedures, and practices and any applicable environmental laws; and

Deadline. Plan.

(3) within 90 days after the date of enactment of the Act, submit a plan to the Committee on Armed Services and the Committee on Commerce, Science and Transportation of

the Senate and the Committee on Armed Services of the House of Representatives to improve and harmonize practices for storage and disposal of such vessels, including the interim transportation of such vessels.

(d) CONTENTS OF PLAN.—The working group shall include in the plan submitted under subsection (c)(3)—

(1) a description of existing measures for the storage, disposal, and interim transportation of obsolete vessels owned or operated by Federal agencies in compliance with Federal and State environmental laws in a manner that protects the environment;

(2) a description of Federal and State laws and regulations governing the current policies, procedures, and practices for the storage, disposal, and interim transportation of such vessels;

(3) recommendations for environmental best practices that meet or exceed, and harmonize, the requirements of Federal environmental laws and regulations applicable to the storage, disposal, and interim transportation of such vessels;

(4) recommendations for environmental best practices that meet or exceed the requirements of State laws and regulations applicable to the storage, disposal, and interim transportation of such vessels;

(5) procedures for the identification and remediation of any environmental impacts caused by the storage, disposal, and interim transportation of such vessels; and

(6) recommendations for necessary steps, including regulations if appropriate, to ensure that best environmental practices apply to all such vessels.

(e) IMPLEMENTATION OF PLAN.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of the Act, the head of each Federal department or agency participating in the working group, in consultation with the other Federal departments and agencies participating in the working group, shall take such action as may be necessary, including the promulgation of regulations, under existing authorities to ensure that the implementation of the plan provides for compliance with all Federal and State laws and for the protection of the environment in the storage, interim transportation, and disposal of obsolete vessels owned or operated by Federal agencies.

(2) ARMED SERVICES VESSELS.—The Secretary and the Secretary of Defense, in consultation with the Administrator of the Environmental Protection Agency, shall each ensure that environmental best practices are observed with respect to the storage, disposal, and interim transportation of obsolete vessels owned or operated by the Department of Defense.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede, limit, modify, or otherwise affect any other provision of law, including environmental law.

## Subtitle B—Programs

**SEC. 3511. COMMERCIAL VESSEL CHARTERING AUTHORITY.**

(a) IN GENERAL.—Subchapter III of chapter 575 of title 46, United States Code, is amended by adding at the end the following:

**"§ 57533. Vessel chartering authority**

"The Secretary of Transportation may enter into contracts or other agreements on behalf of the United States to purchase, charter, operate, or otherwise acquire the use of any vessels documented under chapter 121 of this title and any other related real or personal property. The Secretary is authorized to use this authority as the Secretary deems appropriate.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 575 of such title is amended by adding at the end the following:

"57533. Vessel chartering authority".

**SEC. 3512. MARITIME ADMINISTRATION VESSEL CHARTERING AUTHORITY.**

Section 50303 of title 46, United States Code, is amended by—

(1) inserting "vessels," after "piers,"; and

(2) by striking "control;" in subsection (a)(1) and inserting "control, except that the prior consent of the Secretary of Defense for such use shall be required with respect to any vessel in the Ready Reserve Force or in the National Defense Reserve Fleet which is maintained in a retention status for the Department of Defense;".

**SEC. 3513. CHARTERING TO STATE AND LOCAL GOVERNMENTAL INSTRUMENTALITIES.**

Section 11(b) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744(b)), is amended—

(1) by striking "or" after the semicolon in paragraph (3);

(2) by striking "Defense." in paragraph (4) and inserting "Defense; or"; and

(3) by adding at the end thereof the following:

"(5) on a reimbursable basis, for charter to the government of any State, locality, or Territory of the United States, except that the prior consent of the Secretary of Defense for such use shall be required with respect to any vessel in the Ready Reserve Force or in the National Defense Reserve Fleet which is maintained in a retention status for the Department of Defense.".

**SEC. 3514. DISPOSAL OF OBSOLETE GOVERNMENT VESSELS.**

Section 6(c)(1) of the National Maritime Heritage Act of 1994 (16 U.S.C. 5405(c)(1)) is amended—

(1) by inserting "(either by sale or purchase of disposal services)" after "shall dispose"; and

(2) by striking subparagraph (A) of paragraph (1) and inserting the following:

"(A) in accordance with a priority system for disposing of vessels, as determined by the Secretary, which shall include provisions requiring the Maritime Administration to—

Deadline.

"(i) dispose of all deteriorated high priority ships that are available for disposal, within 12 months of their designation as such; and

"(ii) give priority to the disposition of those vessels that pose the most significant danger to the environment or cost the most to maintain;".

**SEC. 3515. VESSEL TRANSFER AUTHORITY.**

Section 50304 of title 46, United States Code, is amended by adding at the end thereof the following:

"(d) VESSEL CHARTERS TO OTHER DEPARTMENTS.—On a reimbursable or nonreimbursable basis, as determined by the Secretary of Transportation, the Secretary may charter or otherwise make available a vessel under the jurisdiction of the Secretary to any other department, upon the request by the Secretary of the Department that receives the vessel. The prior consent of the Secretary of Defense for such use shall be required with respect to any vessel in the Ready Reserve Force or in the National Defense Reserve Fleet which is maintained in a retention status for the Department of Defense.".

**SEC. 3516. SEA TRIALS FOR READY RESERVE FORCE.**

Section 11(c)(1)(B) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744(c)(1)(B)) is amended to read as follows:

"(B) activate and conduct sea trials on each vessel at least once every 30 months;". Deadline.

**SEC. 3517. REVIEW OF APPLICATIONS FOR LOANS AND GUARANTEES.** 46 USC 53703 note.

(a) FINDINGS.—The Congress makes the following findings:

(1) The maritime loan guarantee program was established by the Congress through the Merchant Marine Act, 1936 to encourage domestic shipbuilding by making available federally backed loan guarantees for new construction to ship owners and operators.

(2) The maritime loan guarantee program has a long and successful history of ship construction with a low historical default rate.

(3) The current process for review of applications for maritime loans in the Department of Transportation has effectively discontinued the program as envisioned by the Congress.

(4) The President has requested no funding for the loan guarantee program despite the stated national policy to foster the development and encourage the maintenance of a merchant marine in section 50101 of title 46, United States Code.

(5) United States commercial shipyards were placed at a competitive disadvantage in the world shipbuilding market by government subsidized foreign commercial shipyards.

(6) The maritime loan guarantee program has the potential to modernize shipyards and the ships of the United States coastwise trade and restore a competitive position in the world shipbuilding market for United States shipyards.

(7) The maritime loan guarantee program is a useful tool to encourage domestic shipbuilding, preserving a vital industrial capacity critical to the security of the United States.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Administrator of the Maritime Administration shall develop and implement a comprehensive plan for the review of applications for loan guarantees under chapter 537 of title 46, United States Code. Deadline. Plan.

(2) DEADLINE FOR ACTION ON APPLICATION.—

(A) TRADITIONAL APPLICATIONS.—In the comprehensive plan the Administrator will ensure that within the 90-day period following receipt of all pertinent documentation

required for review of a traditional loan application, the application shall be either accepted or rejected.

(B) NONTRADITIONAL APPLICATIONS.—In the comprehensive plan the Administrator will ensure that within the 180-day period following receipt of all pertinent documentation required for review of a nontraditional loan application, the application shall be either accepted or rejected.

Deadline. Records.

(c) SUBMISSION TO CONGRESS.—The Administrator shall submit a copy of the comprehensive plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives within 180 days after the date of enactment of this Act.

(d) DEFINITIONS.—In this section:

(1) TRADITIONAL APPLICATION.—The term "traditional application" means an application for a loan, guarantee, or commitment to guarantee submitted pursuant to chapter 537 of title 46, United States Code, that involves a market, technology, and financial structure of a type that has proven successful in previous applications and does not present an unreasonable risk to the United States, as determined by the Administrator of the Maritime Administration.

(2) NONTRADITIONAL APPLICATION.—The term "nontraditional application" means an application for a loan, guarantee, or commitment to guarantee submitted pursuant to chapter 537 of title 46, United States Code, that is not a traditional application, as determined by the Administrator of the Maritime Administration.

# Subtitle C—Technical Corrections

**SEC. 3521. PERSONAL INJURY TO OR DEATH OF SEAMEN.**

(a) AMENDMENT.—Section 30104 of title 46, United States Code, is amended—

(1) by striking "(a) CAUSE OF ACTION.—"; and

(2) by repealing subsection (b).

46 USC 30104 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of Public Law 109–304.

**SEC. 3522. AMENDMENTS TO CHAPTER 537 BASED ON PUBLIC LAW 109–163.**

(a) AMENDMENTS.—Title 46, United States Code, is amended as follows:

(1) Section 53701 is amended by—

(A) redesignating paragraphs (2) through (13) as paragraphs (3) through (14), respectively;

(B) inserting after paragraph (1) the following:

"(2) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Maritime Administration."; and

(C) striking paragraph (13) (as redesignated) and inserting the following:

"(13) SECRETARY.—The term 'Secretary' means the Secretary of Commerce with respect to fishing vessels and fishery facilities.".

(2) Section 53706(c) is amended to read as follows:

"(c) PRIORITIES FOR CERTAIN VESSELS.—

"(1) VESSELS.—In guaranteeing or making a commitment to guarantee an obligation under this chapter, the Administrator shall give priority to—

"(A) a vessel that is otherwise eligible for a guarantee and is constructed with assistance under subtitle D of the Maritime Security Act of 2003 (46 U.S.C. 53101 note); and

"(B) after applying subparagraph (A), a vessel that is otherwise eligible for a guarantee and that the Secretary of Defense determines—

"(i) is suitable for service as a naval auxiliary in time of war or national emergency; and

"(ii) meets a shortfall in sealift capacity or capability.

"(2) TIME FOR DETERMINATION.—The Secretary of Defense shall determine whether a vessel satisfies paragraph (1)(B) not later than 30 days after receipt of a request from the Administrator for such a determination.".

(3) Section 53707 is amended—

(A) by inserting "or Administrator" in subsections (a) and (d) after "Secretary" each place it appears;

(B) by striking "Secretary of Transportation" in subsection (b) and inserting "Administrator";

(C) by striking "of Commerce" in subsection (c); and

(D) in subsection (d)(2), by—

(i) inserting "if the Secretary or Administrator considers necessary," before "the waiver"; and

(ii) striking "the increased" and inserting "any significant increase in".

(4) Section 53708 is amended—

(A) by striking "SECRETARY OF TRANSPORTATION" in the heading of subsection (a) and inserting "ADMINISTRATOR";

(B) by striking "Secretary" and "Secretary of Transportation" each place they appear in subsection (a) and inserting "Administrator";

(C) by striking "OF COMMERCE" in the heading of subsection (b);

(D) by striking "of Commerce" in subsections (b) and (c);

(E) in subsection (d), by—

(i) inserting "or Administrator" after "Secretary" the first place it appears; and

(ii) striking "financial structures, or other risk factors identified by the Secretary. Any independent analysis conducted under this subsection shall be performed by a party chosen by the Secretary." and inserting "or financial structures. A third party independent analysis conducted under this subsection shall be performed by a private sector expert in assessing such risk factors who is selected by the Secretary or Administrator."; and

(F) in subsection (e), by—

(i) inserting "or Administrator" after "Secretary" the first place it appears; and

(ii) striking "financial structures, or other risk factors identified by the Secretary" and inserting "or financial structures".

(5) Section 53710(b)(1) is amended by striking "Secretary's" and inserting "Administrator's".

(6) Section 53712(b) is amended by striking the last sentence and inserting "If the Secretary or Administrator has waived a requirement under section 53707(d) of this title, the loan agreement shall include requirements for additional payments, collateral, or equity contributions to meet the waived requirement upon the occurrence of verifiable conditions indicating that the obligor's financial condition enables the obligor to meet the waived requirement.".

(7) Subsections (c) and (d) of section 53717 are each amended—

(A) by striking "OF COMMERCE" in the subsection heading; and

(B) by striking "of Commerce" each place it appears.

(8) Section 53732(e)(2) is amended by inserting "of Defense" after "Secretary" the second place it appears.

(9) The following provisions are amended by striking "Secretary" and "Secretary of Transportation" and inserting "Administrator":

(A) Section 53710(b)(2)(A)(i).

(B) Section 53717(b) each place it appears in a heading and in text.

(C) Section 53718.

(D) Section 53731 each place it appears, except where "Secretary" is followed by "of Energy".

(E) Section 53732 (as amended by paragraph (8)) each place it appears, except where "Secretary" is followed by "of the Treasury", "of State", or "of Defense".

(F) Section 53733 each place it appears.

(10) The following provisions are amended by inserting "or Administrator" after "Secretary" each place it appears in headings and text, except where "Secretary" is followed by "of Transportation" or "of the Treasury":

(A) The items relating to sections 53722 and 53723 in the chapter analysis for chapter 537.

(B) Sections 53701(1), (4), and (9) (as redesignated by paragraph (1)(A)), 53702(a), 53703, 53704, 53706(a)(3)(B)(iii), 53709(a)(1), (b)(1) and (2)(A), and (d), 53710(a) and (c), 53711, 53712 (except in the last sentence of subsection (b) as amended by paragraph (6)), 53713 to 53716, 53721 to 53725, and 53734.

(11) Sections 53715(d)(1), 53716(d)(3), 53721(c), 53722(a)(1) and (b)(1)(B), and 53724(b) are amended by inserting "or Administrator's" after "Secretary's".

(b) REPEAL OF SUPERSEDED AMENDMENTS.—Section 3507 (except subsection (c)(4)) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) is repealed.

46 USC 53701 *et seq.*

**SEC. 3523. ADDITIONAL AMENDMENTS BASED ON PUBLIC LAW 109–163.**

(a) AMENDMENTS.—Title 46, United States Code, is amended as follows:

(1) Chapters 513 and 515 are amended by striking "Naval Reserve" each place it appears in analyses, headings, and text and inserting "Navy Reserve". 46 USC 51306, 51311, 51509, 51511.

(2) Section 51504(f) is amended to read as follows:

"(f) FUEL COSTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall pay to each State maritime academy the costs of fuel used by a vessel provided under this section while used for training.

"(2) MAXIMUM AMOUNTS.—The amount of the payment to a State maritime academy under paragraph (1) may not exceed—

"(A) $100,000 for fiscal year 2006;

"(B) $200,000 for fiscal year 2007; and

"(C) $300,000 for fiscal year 2008 and each fiscal year thereafter.".

(3) Section 51505(b)(2)(B) is amended by striking "$200,000" and inserting "$300,000 for fiscal year 2006, $400,000 for fiscal year 2007, and $500,000 for fiscal year 2008 and each fiscal year thereafter".

(4) Section 51701(a) is amended by striking "of the United States." and inserting "of the United States and to perform functions to assist the United States merchant marine, as determined necessary by the Secretary.".

(5)(A) Section 51907 is amended to read as follows:

**"§ 51907. Provision of decorations, medals, and replacements**

"The Secretary of Transportation may provide—

"(1) the decorations and medals authorized by this chapter and replacements for those decorations and medals; and

"(2) replacements for decorations and medals issued under a prior law.".

(B) The item relating to section 51907 in the chapter analysis for chapter 519 is amended to read as follows:

"51907. Provision of decorations, medals, and replacements".

(6)(A) The following new chapter is inserted after chapter 539:

**"CHAPTER 541—MISCELLANEOUS**

"Sec

"54101. Assistance for small shipyards and maritime communities".

(B) Section 3506 of the National Defense Authorization Act for Fiscal Year 2006 (46 U.S.C. 53101 note) is transferred to and redesignated as section 54101 of title 46, United States Code, to appear at the end of chapter 541 of title 46, as inserted by subparagraph (A).

(C) The heading of such section, as transferred by subparagraph (B), is amended to read as follows:

**"§ 54101. Assistance for small shipyards and maritime communities".**

(D) Paragraph (1) of subsection (h) of such section, as transferred by subparagraph (B), is amended by striking "(15 U.S.C. 632);" and inserting "(15 U.S.C. 632));".

(E) The table of chapters at the beginning of subtitle V is amended by inserting after the item relating to chapter 539 the following new item:

"541. Miscellaneous ..... 54101".

(b) REPEAL OF SUPERSEDED AMENDMENTS.—Sections 515(g)(2), 3502, 3509, and 3510 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) are repealed.

46 USC 51306, 51311, 51504, 51505, 51509, 51511, 51701, 51907.

**SEC. 3524. AMENDMENTS BASED ON PUBLIC LAW 109–171.**

(a) AMENDMENTS.—Section 60301 of title 46, United States Code, is amended—

(1) by striking "2 cents per ton (but not more than a total of 10 cents per ton per year)" in subsection (a) and inserting "4.5 cents per ton, not to exceed a total of 22.5 cents per ton per year, for fiscal years 2006 through 2010, and 2 cents per ton, not to exceed a total of 10 cents per ton per year, for each fiscal year thereafter,"; and

(2) by striking "6 cents per ton (but not more than a total of 30 cents per ton per year)" in subsection (b) and inserting "13.5 cents per ton, not to exceed a total of 67.5 cents per ton per year, for fiscal years 2006 through 2010, and 6 cents per ton, not to exceed a total of 30 cents per ton per year, for each fiscal year thereafter,".

(b) REPEAL OF SUPERSEDED AMENDMENTS.—Section 4001 of the Deficit Reduction Act of 2005 (Public Law 109–171) is repealed.

46 USC 60301.

**SEC. 3525. AMENDMENTS BASED ON PUBLIC LAW 109–241.**

(a) AMENDMENTS.—Title 46, United States Code, is amended as follows:

(1) Section 12111 is amended by adding at the end the following:

"(d) ACTIVITIES INVOLVING MOBILE OFFSHORE DRILLING UNITS.—

"(1) IN GENERAL.—Only a vessel for which a certificate of documentation with a registry endorsement is issued may engage in—

"(A) the setting, relocation, or recovery of the anchors or other mooring equipment of a mobile offshore drilling unit that is located over the outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))); or

"(B) the transportation of merchandise or personnel to or from a point in the United States from or to a mobile offshore drilling unit located over the outer Continental Shelf that is not attached to the seabed.

"(2) COASTWISE TRADE NOT AUTHORIZED.—Nothing in paragraph (1) authorizes the employment in the coastwise trade of a vessel that does not meet the requirements of section 12112 of this title.".

(2) Section 12139(a) is amended by striking "and charterers" and inserting "charterers, and mortgagees".

(3) Section 51307 is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking "organizations." in paragraph (3) and inserting "organizations; and"; and

(C) by adding at the end the following:

"(4) on any other vessel considered by the Secretary to be necessary or appropriate or in the national interest.".

(4) Section 55105(b)(3) is amended by striking "Secretary of the department in which the Coast Guard is operating" and inserting "Secretary of Homeland Security".

(5) Section 70306(a) is amended by striking "Not later than February 28 of each year, the Secretary shall submit a report" and inserting "The Secretary shall submit an annual report".

(6) Section 70502(d)(2) is amended to read as follows:

"(2) RESPONSE TO CLAIM OF REGISTRY.—The response of a foreign nation to a claim of registry under paragraph (1)(A) or (C) may be made by radio, telephone, or similar oral or electronic means, and is proved conclusively by certification of the Secretary of State or the Secretary's designee.". Certification.

(b) REPEAL OF SUPERSEDED AMENDMENTS.—Sections 303, 307, 308, 310, 901(q), and 902(o) of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241) are repealed. 46 USC 12111, 12139, 51307, 55105, 70306, 70502.

**SEC. 3526. AMENDMENTS BASED ON PUBLIC LAW 109–364.**

(a) UPDATING OF CROSS REFERENCES.—Section 1017(b)(2) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364, 10 U.S.C. 2631 note) is amended by striking "section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), section 12106 of title 46, United States Code, and section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)" and inserting "sections 12112, 50501, and 55102 of title 46, United States Code".

(b) SECTION 51306(e).—

(1) IN GENERAL.—Section 51306 of title 46, United States Code, is amended by adding at the end the following:

"(e) ALTERNATIVE SERVICE.—

"(1) SERVICE AS COMMISSIONED OFFICER.—An individual who, for the 5-year period following graduation from the Academy, serves as a commissioned officer on active duty in an armed force of the United States or as a commissioned officer of the National Oceanic and Atmospheric Administration or the Public Health Service shall be excused from the requirements of paragraphs (3) through (5) of subsection (a).

"(2) MODIFICATION OR WAIVER.—The Secretary may modify or waive any of the terms and conditions set forth in subsection (a) through the imposition of alternative service requirements.".

(2) APPLICATION.—Section 51306(e) of title 46, United States Code, as added by paragraph (1), applies only to an individual who enrolls as a cadet at the United States Merchant Marine Academy, and signs an agreement under section 51306(a) of title 46, after October 17, 2006. 46 USC 51306 note.

(c) SECTION 51306(f).—

(1) IN GENERAL.—Section 51306 of title 46, United States Code, is further amended by adding at the end the following:

"(f) SERVICE OBLIGATION PERFORMANCE REPORTING REQUIREMENT.—

"(1) IN GENERAL.—Subject to any otherwise applicable restrictions on disclosure in section 552a of title 5, the Secretary of Defense, the Secretary of the department in which the Coast Guard is operating, the Administrator of the National Oceanic

and Atmospheric Administration, and the Surgeon General of the Public Health Service—

Reports.

"(A) shall report the status of obligated service of an individual graduate of the Academy upon request of the Secretary; and

"(B) may, in their discretion, notify the Secretary of any failure of the graduate to perform the graduate's duties, either on active duty or in the Ready Reserve component of their respective service, or as a commissioned officer of the National Oceanic and Atmospheric Administration or the Public Health Service, respectively.

"(2) INFORMATION TO BE PROVIDED.—A report or notice under paragraph (1) shall identify any graduate determined to have failed to comply with service obligation requirements and provide all required information as to why such graduate failed to comply.

"(3) CONSIDERED AS IN DEFAULT.—Upon receipt of such a report or notice, such graduate may be considered to be in default of the graduate's service obligations by the Secretary, and subject to all remedies the Secretary may have with respect to such a default.".

46 USC 57306 note.

(2) APPLICATION.—Section 51306(f) of title 46, United States Code, as added by paragraph (1), does not apply with respect to an agreement entered into under section 51306(a) of title 46, United States Code, before October 17, 2006.

(d) SECTION 51509(c).—Section 51509(c) of title 46, United States Code, is amended—

(1) by striking "MIDSHIPMAN AND" in the subsection heading and "midshipman and" in the text; and

(2) inserting "or the Coast Guard Reserve" after "Reserve)".

(e) SECTION 51908(a).—Section 51908(a) of title 46, United States Code, is amended by striking "under this chapter" and inserting "by this chapter or the Secretary of Transportation".

(f) SECTION 53105(e)(2).—Section 53105(e)(2) of title 46, United States Code, is amended by striking "section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)," and inserting "section 50501 of this title".

(g) REPEAL OF SUPERSEDED AMENDMENTS.—Sections 3505, 3506, 3508, and 3510(a) and (b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364) are repealed.

46 USC 51306 and note, 51509, 51908, 53909 and note.

**SEC. 3527. MISCELLANEOUS AMENDMENTS.**

(a) DELETION OF OBSOLETE REFERENCE TO CANTON ISLAND.—Section 55101(b) of title 46, United States Code, is amended—

(1) by inserting "or" after the semicolon at the end of paragraph (2);

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) IMPROVEMENT OF HEADING.—Title 46, United States Code, is amended as follows:

(1) The heading of section 55110 is amended by inserting "**valueless material or**" before "**dredged material**".

(2) The item for section 55110 in the analysis for chapter 551 is amended by inserting "valueless material or" before "dredged material".

**SEC. 3528. APPLICATION OF SUNSET PROVISION TO CODIFIED PROVISION.**

46 USC 53511 note.

For purposes of section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Public Law 108–27, 26 U.S.C. 1 note), the amendment made by section 301(a)(2)(E) of that Act shall be deemed to have been made to section 53511(f)(2) of title 46, United States Code.

**SEC. 3529. ADDITIONAL TECHNICAL CORRECTIONS.**

(a) AMENDMENTS TO TITLE 46.—Title 46, United States Code, is amended as follows:

(1) The analysis for chapter 21 is amended by striking the item relating to section 2108.

(2) Section 12113(g) is amended by inserting "and" after "Conservation".

(3) Section 12131 is amended by striking "commmand" and inserting "command".

(b) AMENDMENTS TO PUBLIC LAW 109–304.—

(1) AMENDMENTS.—Public Law 109–304 is amended as follows:

(A) Section 15(10) is amended by striking "46 App. U.S.C." and inserting "46 U.S.C. App.". 46 USC 3205.

(B) Section 15(30) is amended by striking "Shipping Act, 1936" and inserting "Shipping Act, 1916". 46 USC 31325.

(C) The schedule of Statutes at Large repealed in section 19, as it relates to the Act of June 29, 1936, is amended by— 46 USC note prec. 101.

(i) striking the second section "1111" (relating to 46 U.S.C. App. 1279f) and inserting section "1113"; and

(ii) striking the second section "1112" (relating to 46 U.S.C. App. 1279g) and inserting section "1114".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective as if included in the enactment of Public Law 109–304. 46 USC 3205 note.

(c) REPEAL OF DUPLICATIVE OR UNEXECUTABLE AMENDMENTS.—

(1) REPEAL.—Sections 9(a), 15(21) and (33)(A) through (D)(i), and 16(c)(2) of Public Law 109–304 are repealed. 26 USC 9504; 46 USC 6101, 70117, 7011B, 70120, 70121.

(2) INTENDED EFFECT.—The provisions repealed by paragraph (1) shall be treated as if never enacted. 26 USC 9504 note.

(d) LARGE PASSENGER VESSEL CREW REQUIREMENTS.—Section 8103(k)(3)(C)(iv) of title 46, United States Code, is amended by inserting "and section 252 of the Immigration and Nationality Act (8 U.S.C. 1282)" after "of such section".

Approved January 28, 2008.

LEGISLATIVE HISTORY—H.R. 4986:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Jan. 16, considered and passed House.
Jan. 22, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
Jan. 28, Presidential statement.

Public Law 110–182
110th Congress

# An Act

To extend the Protect America Act of 2007 for 15 days.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Jan. 31, 2008
[H.R. 5104]

**SECTION 1. 15-DAY EXTENSION OF THE PROTECT AMERICA ACT OF 2007.**

Section 6(c) of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 557; 50 U.S.C. 1803 note) is amended by striking "180 days" and inserting "195 days".

Approved January 31, 2008.

LEGISLATIVE HISTORY—H.R. 5104 (S. 2556):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Jan. 29, considered and passed House and Senate.

# Public Law 110–183
# 110th Congress

## An Act

Feb. 5, 2008
[H.R. 3432]

To establish the Commission on the Abolition of the Transatlantic Slave Trade.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Commission on the Abolition of the Transatlantic Slave Trade Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Commission on the Abolition of the Transatlantic Slave Trade Act".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds the following:

(1) On March 2, 1807, President Thomas Jefferson signed into law a bill approved by the Congress "An Act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States" (hereinafter in this Act referred to as the "1808 Transatlantic Slave Trade Act") and made it unlawful "to import or bring into the United States or territories thereof from any foreign kingdom, place or country, any negro, mulatto, or person of colour, with intent to hold, sell, or dispose of such. . .as a slave, or to be held to service or labour".

(2) Article I, Section 9 of the United States Constitution clearly spelled out that the international slave trade could not be banned before 1808, and it is only on January 1, 1808, that the 1808 Transatlantic Slave Trade Act went into effect.

(3) An Act entitled "An Act to continue in force 'An act to protect the commerce of the United States, and punish the crime of piracy,' and also to make further provisions for punishing the crime of piracy", enacted May 15, 1820, made it unlawful for any citizen of the United States to engage "in the slave trade, or. . ., being of the crew or ship's company of any foreign ship. . ., seize any negro or mulatto. . .with the intent to make. . .a slave. . .or forcibly bring . . .on board any such ship....".

(4) The transatlantic slave trade entailed the kidnapping, purchase, and commercial export of Africans, mostly from West and Central Africa, to the European colonies and new nations in the Americas, including the United States, where they were enslaved in forced labor between the 15th and mid-19th centuries.

(5) The term "Middle Passage" refers to the horrific part of the transatlantic slave trade when millions of Africans were chained together and stowed by the hundreds in overcrowded ships where they were forced into small spaces for months

without relief as they were transported across the Atlantic Ocean to the Americas.

(6) During the Middle Passage, enslaved Africans resisted their enslavement through non-violent and violent means, including hunger strikes, suicide, and shipboard revolts, the most historically-recognized events taking place on board the Don Carlos in 1732 and on board the Amistad in 1839.

(7) Scholars estimate that, at a minimum, between 10,000,000 and 15,000,000 Africans survived the Middle Passage, were imported as chattel through customs houses and ports across the Americas, and were sold into slavery.

(8) The thirteenth amendment to the Constitution of the United States recognizes that "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.".

(9) The slave trade and the legacy of slavery continue to have a profound impact on social and economic disparity, hatred, bias, racism, and discrimination, and continue to affect people in the Americas, particularly those of African descent.

(10) In 2007, the British Parliament marked the 200th anniversary of the abolition of the slave trade in the former British Empire with plans launched by the Department for Education and Skills which provided joint funding of £910,000 ($1,800,000) for the Understanding Slavery Initiative, and the Heritage Lottery Fund announced awards of over £20,000,000 ($40,000,000) for projects to commemorate the anniversary.

(b) PURPOSE.—The purpose of this Act is to establish the Commission on the Abolition of the Transatlantic Slave Trade to—

(1) ensure a suitable national observance of the bicentennial anniversary of the abolition of the transatlantic slave trade by sponsoring and supporting commemorative programs;

(2) cooperate with and assist programs and activities throughout the United States in observance of the bicentennial anniversary of the abolition of the transatlantic slave trade;

(3) assist in ensuring that the observations of the bicentennial anniversary of the abolition of the transatlantic slave trade are inclusive and appropriately recognize the experiences of all people during this period in history;

(4) support and facilitate international involvement in observances of the bicentennial anniversary of the abolition of the transatlantic slave trade; and

(5) study the impact of the transatlantic slave trade on the United States and the Americas.

**SEC. 3. ESTABLISHMENT OF COMMISSION.**

There is established a commission to be known as the "Commission on the Abolition of the Transatlantic Slave Trade" (referred to in this Act as the "Commission").

**SEC. 4. MEMBERSHIP, DUTIES, AND RELATED MATTERS.**

(a) MEMBERSHIP.—

(1) IN GENERAL.—

(A) The Commission shall be composed of nine members, of whom—

(i) three shall be appointed by the Speaker of the House of Representatives;

(ii) two shall be appointed by the majority leader of the Senate;

(iii) two shall be appointed by the minority leader of the House of Representatives; and

(iv) two shall be appointed by the minority leader of the Senate.

Deadline.

(B) Each appointing authority described in subparagraph (A) shall appoint the initial members of the Commission not later than 30 days after the date of the enactment of this Act.

(2) QUALIFICATIONS.—Members of the Commission shall be individuals with demonstrated expertise or experience in the study and program facilitation on the transatlantic slave trade and the institution of slavery as it relates to the United States and the Americas.

(3) TERM; VACANCIES.—

(A) TERM.—A member of the Commission shall be appointed for the life of the Commission.

(B) VACANCIES.—

(i) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(ii) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(4) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet—

(i) as many times as necessary; or

(ii) at the call of the Chairperson or the majority of the members of the Commission.

Deadline.

(B) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its initial meeting.

(C) NOTICE OF MEETINGS.—All Commission members shall be given reasonable advance notice of all Commission meetings.

Deadline.

(D) APPOINTMENT OF CHAIRPERSON AND EXECUTIVE DIRECTOR.—Not later than 60 days after the date on which all members of the Commission have been appointed, the Commission shall—

(i) designate one of the members as Chairperson; and

(ii) select an executive director as described under subsection (d)(2).

(5) VOTING.—

(A) IN GENERAL.—The Commission shall act only on an affirmative vote of a majority of the members of the Commission.

(B) QUORUM.—A majority of the members of the Commission, which includes at least one member appointed pursuant to clause (iii) or (iv) of paragraph (1)(A), shall constitute a quorum for conducting business but fewer members may meet or hold hearings.

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) plan, develop, and execute programs and activities appropriate to commemorate the bicentennial anniversary of the abolition of the transatlantic slave trade;

(B) facilitate commemoration-related activities throughout the United States;

(C) encourage civic, historical, educational, religious, economic, and other organizations, as well as State and local governments, throughout the United States to organize and participate in anniversary activities to expand the understanding and appreciation of the significance of the transatlantic slave trade and the institution of slavery, particularly as it relates to the United States;

(D) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of, the transatlantic slave trade and the institution of slavery, particularly as it relates to the United States;

(E) assist in the development of appropriate programs and facilities to ensure that the bicentennial anniversary of the abolition of the transatlantic slave trade provides a lasting legacy and long-term public benefit;

(F) support and facilitate marketing efforts for the issuance of a commemorative coin, postage stamp, and related activities for observances;

(G) facilitate the convening of a joint meeting or joint session of the Congress for ceremonies and activities relating to the transatlantic slave trade and the institution of slavery, particularly as it relates to the United States;

(H) promote the sponsorship of conferences, exhibitions, or public meetings concerning the transatlantic slave trade and the institution of slavery, particularly as it relates to the United States;

(I) coordinate and facilitate the sponsorship of high school and collegiate essay contests concerning the transatlantic slave trade and the institution of slavery, particularly as it relates to the United States; and

(J) examine reports of modern-day slavery and human trafficking to raise the public's awareness of these matters and ensure such atrocities do not go unnoticed by the people of the United States.

(2) INITIAL REPORT.—Not later than March 31, 2009, the Commission shall submit to the Congress a report containing a summary of the activities of the Commission for 2008.

(c) POWERS OF THE COMMISSION.—The Commission may—

(1) accept donations and gift items related to the transatlantic slave trade, the institution of slavery, and the significance of slavery to the history of the United States;

(2) appoint such advisory committees as the Commission determines necessary to carry out this Act;

(3) authorize any member or employee of the Commission to take any action that the Commission is authorized to take under this Act;

(4) procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, to carry out this Act (except that any contracts, leases, or other legal agreements made or entered into by the Commission shall not extend beyond the date of the termination of the Commission); and

(5) use the United States mails in the same manner and under the same conditions as other Federal agencies.

(d) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS OF THE COMMISSION.—

(A) BASIC PAY.—Members of the Commission shall not receive compensation for the performance of their duties on behalf of the Commission.

(B) TRAVEL EXPENSES.—Upon approval of the Chairperson, a member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular place of business in the performance of their duties on behalf of the Commission.

(2) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission shall, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform its duties.

(B) EXECUTIVE DIRECTOR.—

(i) QUALIFICATIONS.—The person appointed executive director shall have demonstrated expertise or experience in the study and program facilitation on the transatlantic slave trade and the institution of slavery, particularly as it relates to the United States.

(ii) CONFIRMATION.—The employment of an executive director shall be subject to confirmation by the members of the Commission.

(C) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(D) VOLUNTEER AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(f) NON-APPLICABILITY OF FACA.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

**SEC. 5. TERMINATION.**

(a) DATE OF TERMINATION.—The Commission shall terminate on December 31, 2009.

(b) FINAL REPORT.—Upon termination, the Commission shall submit to the Congress a report containing—

(1) a detailed statement of the activities of the Commission; and

(2) a final accounting of the funds received and expended by the Commission.

Approved February 5, 2008.

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LEGISLATIVE HISTORY—H.R. 3432:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Oct. 2, considered and passed House.
Dec. 19, considered and passed Senate, amended.
Vol. 154 (2008): Jan. 22, House concurred in Senate amendment.

# Public Law 110–184
# 110th Congress

## An Act

Feb. 6, 2008
[S. 2110]

To designate the facility of the United States Postal Service located at 427 North Street in Taft, California, as the "Larry S. Pierce Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LARRY S. PIERCE POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 427 North Street in Taft, California, shall be known and designated as the "Larry S. Pierce Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Larry S. Pierce Post Office".

Approved February 6, 2008.

LEGISLATIVE HISTORY—S. 2110:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Nov. 16, considered and passed Senate.
Vol. 154 (2008): Jan. 28, considered and passed House.

Public Law 110–185
110th Congress

An Act

To provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits.

Feb. 13, 2008
[H.R. 5140]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Economic Stimulus Act of 2008.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

26 USC 1 note.

(a) SHORT TITLE.—This Act may be cited as the "Economic Stimulus Act of 2008".

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

Sec. 1. Short title; table of contents.

TITLE I—RECOVERY REBATES AND INCENTIVES FOR BUSINESS INVESTMENT

Sec. 101. 2008 recovery rebates for individuals.
Sec. 102. Temporary increase in limitations on expensing of certain depreciable business assets.
Sec. 103. Special allowance for certain property acquired during 2008.

TITLE II—HOUSING GSE AND FHA LOAN LIMITS

Sec. 201. Temporary conforming loan limit increase for Fannie Mae and Freddie Mac.
Sec. 202. Temporary loan limit increase for FHA.

TITLE III—EMERGENCY DESIGNATION

Sec. 301. Emergency designation.

# TITLE I—RECOVERY REBATES AND INCENTIVES FOR BUSINESS INVESTMENT

**SEC. 101. 2008 RECOVERY REBATES FOR INDIVIDUALS.**

(a) IN GENERAL.—Section 6428 of the Internal Revenue Code of 1986 is amended to read as follows:

26 USC 6428.

**"SEC. 6428. 2008 RECOVERY REBATES FOR INDIVIDUALS.**

"(a) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by subtitle A for the first taxable year beginning in 2008 an amount equal to the lesser of—

"(1) net income tax liability, or

"(2) $600 ($1,200 in the case of a joint return).

"(b) SPECIAL RULES.—

"(1) IN GENERAL.—In the case of a taxpayer described in paragraph (2)—

"(A) the amount determined under subsection (a) shall not be less than $300 ($600 in the case of a joint return), and

"(B) the amount determined under subsection (a) (after the application of subparagraph (A)) shall be increased by the product of $300 multiplied by the number of qualifying children (within the meaning of section 24(c)) of the taxpayer.

"(2) TAXPAYER DESCRIBED.—A taxpayer is described in this paragraph if the taxpayer—

"(A) has qualifying income of at least $3,000, or

"(B) has—

"(i) net income tax liability which is greater than zero, and

"(ii) gross income which is greater than the sum of the basic standard deduction plus the exemption amount (twice the exemption amount in the case of a joint return).

"(c) TREATMENT OF CREDIT.—The credit allowed by subsection (a) shall be treated as allowed by subpart C of part IV of subchapter A of chapter 1.

"(d) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The amount of the credit allowed by subsection (a) (determined without regard to this subsection and subsection (f)) shall be reduced (but not below zero) by 5 percent of so much of the taxpayer's adjusted gross income as exceeds $75,000 ($150,000 in the case of a joint return).

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

"(1) QUALIFYING INCOME.—The term 'qualifying income' means—

"(A) earned income,

"(B) social security benefits (within the meaning of section 86(d)), and

"(C) any compensation or pension received under chapter 11, chapter 13, or chapter 15 of title 38, United States Code.

"(2) NET INCOME TAX LIABILITY.—The term 'net income tax liability' means the excess of—

"(A) the sum of the taxpayer's regular tax liability (within the meaning of section 26(b)) and the tax imposed by section 55 for the taxable year, over

"(B) the credits allowed by part IV (other than section 24 and subpart C thereof) of subchapter A of chapter 1.

"(3) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means any individual other than—

"(A) any nonresident alien individual,

"(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, and

"(C) an estate or trust.

"(4) EARNED INCOME.—The term 'earned income' has the meaning set forth in section 32(c)(2) except that—

"(A) subclause (II) of subparagraph (B)(vi) thereof shall be applied by substituting 'January 1, 2009' for 'January 1, 2008', and

"(B) such term shall not include net earnings from self-employment which are not taken into account in computing taxable income.

"(5) BASIC STANDARD DEDUCTION; EXEMPTION AMOUNT.—The terms 'basic standard deduction' and 'exemption amount' shall have the same respective meanings as when used in section 6012(a).

"(f) COORDINATION WITH ADVANCE REFUNDS OF CREDIT.—

"(1) IN GENERAL.—The amount of credit which would (but for this paragraph) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (g). Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

"(2) JOINT RETURNS.—In the case of a refund or credit made or allowed under subsection (g) with respect to a joint return, half of such refund or credit shall be treated as having been made or allowed to each individual filing such return.

"(g) ADVANCE REFUNDS AND CREDITS.—

"(1) IN GENERAL.—Each individual who was an eligible individual for such individual's first taxable year beginning in 2007 shall be treated as having made a payment against the tax imposed by chapter 1 for such first taxable year in an amount equal to the advance refund amount for such taxable year.

"(2) ADVANCE REFUND AMOUNT.—For purposes of paragraph (1), the advance refund amount is the amount that would have been allowed as a credit under this section for such first taxable year if this section (other than subsection (f) and this subsection) had applied to such taxable year.

"(3) TIMING OF PAYMENTS.—The Secretary shall, subject to the provisions of this title, refund or credit any overpayment attributable to this section as rapidly as possible. No refund or credit shall be made or allowed under this subsection after December 31, 2008. Deadline.

"(4) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.

"(h) IDENTIFICATION NUMBER REQUIREMENT.—

"(1) IN GENERAL.—No credit shall be allowed under subsection (a) to an eligible individual who does not include on the return of tax for the taxable year—

"(A) such individual's valid identification number,

"(B) in the case of a joint return, the valid identification number of such individual's spouse, and

"(C) in the case of any qualifying child taken into account under subsection (b)(1)(B), the valid identification number of such qualifying child.

"(2) VALID IDENTIFICATION NUMBER.—For purposes of paragraph (1), the term 'valid identification number' means a social security number issued to an individual by the Social Security Administration. Such term shall not include a TIN issued by the Internal Revenue Service.".

(b) ADMINISTRATIVE AMENDMENTS.—

(1) DEFINITION OF DEFICIENCY.—Section 6211(b)(4)(A) of the Internal Revenue Code of 1986 is amended by striking "and 53(e)" and inserting "53(e), and 6428". 26 USC 6211.

26 USC 6213.

(2) MATHEMATICAL OR CLERICAL ERROR AUTHORITY.—Section 6213(g)(2)(L) of such Code is amended by striking "or 32" and inserting "32, or 6428".

26 USC 6428 note.

(c) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

(A) MIRROR CODE POSSESSION.—The Secretary of the Treasury shall make a payment to each possession of the United States with a mirror code tax system in an amount equal to the loss to that possession by reason of the amendments made by this section. Such amount shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall make a payment to each possession of the United States which does not have a mirror code tax system in an amount estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the amendments made by this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payment to the residents of such possession.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed against United States income taxes under section 6428 of the Internal Revenue Code of 1986 (as amended by this section) to any person—

(A) to whom a credit is allowed against taxes imposed by the possession by reason of the amendments made by this section, or

(B) who is eligible for a payment under a plan described in paragraph (1)(B).

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term "possession of the United States" includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term "mirror code tax system" means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under section 6428 of the Internal Revenue Code of 1986 (as amended by this section).

26 USC 6428 note.

(d) REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Any credit or refund allowed or made to any individual by reason of section

6428 of the Internal Revenue Code of 1986 (as amended by this section) or by reason of subsection (c) of this section shall not be taken into account as income and shall not be taken into account as resources for the month of receipt and the following 2 months, for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(e) APPROPRIATIONS TO CARRY OUT REBATES.—

(1) IN GENERAL.—Immediately upon the enactment of this Act, the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008:

(A) DEPARTMENT OF THE TREASURY.—

(i) For an additional amount for "Department of the Treasury—Financial Management Service—Salaries and Expenses", $64,175,000, to remain available until September 30, 2009.

(ii) For an additional amount for "Department of the Treasury—Internal Revenue Service—Taxpayer Services", $50,720,000, to remain available until September 30, 2009.

(iii) For an additional amount for "Department of the Treasury—Internal Revenue Service—Operations Support", $151,415,000, to remain available until September 30, 2009.

(B) SOCIAL SECURITY ADMINISTRATION.—For an additional amount for "Social Security Administration—Limitation on Administrative Expenses", $31,000,000, to remain available until September 30, 2008.

(2) REPORTS.—No later than 15 days after enactment of this Act, the Secretary of the Treasury shall submit a plan to the Committees on Appropriations of the House of Representatives and the Senate detailing the expected use of the funds provided by paragraph (1)(A). Beginning 90 days after enactment of this Act, the Secretary of the Treasury shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the actual expenditure of funds provided by paragraph (1)(A) and the expected expenditure of such funds in the subsequent quarter.

(f) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting "or 6428" after "section 35".

(2) Paragraph (1) of section 1(i) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D). 26 USC 1.

(3) The item relating to section 6428 in the table of sections for subchapter B of chapter 65 of such Code is amended to read as follows:

"Sec. 6428. 2008 recovery rebates for individuals.".

**SEC. 102. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.**

26 USC 179.

(a) IN GENERAL.—Subsection (b) of section 179 of the Internal Revenue Code of 1986 (relating to limitations) is amended by adding at the end the following new paragraph:

"(7) INCREASE IN LIMITATIONS FOR 2008.—In the case of any taxable year beginning in 2008—

"(A) the dollar limitation under paragraph (1) shall be $250,000,

"(B) the dollar limitation under paragraph (2) shall be $800,000, and

"(C) the amounts described in subparagraphs (A) and (B) shall not be adjusted under paragraph (5).".

26 USC 179 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 103. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2008.**

(a) IN GENERAL.—Subsection (k) of section 168 of the Internal Revenue Code of 1986 (relating to special allowance for certain property acquired after September 10, 2001, and before January 1, 2005) is amended—

(1) by striking "September 10, 2001" each place it appears and inserting "December 31, 2007",

(2) by striking "September 11, 2001" each place it appears and inserting "January 1, 2008",

(3) by striking "January 1, 2005" each place it appears and inserting "January 1, 2009", and

(4) by striking "January 1, 2006" each place it appears and inserting "January 1, 2010".

(b) 50 PERCENT ALLOWANCE.—Subparagraph (A) of section 168(k)(1) of such Code is amended by striking "30 percent" and inserting "50 percent".

(c) CONFORMING AMENDMENTS.—

(1) Subclause (I) of section 168(k)(2)(B)(i) of such Code is amended by striking "and (iii)" and inserting "(iii), and (iv)".

(2) Subclause (IV) of section 168(k)(2)(B)(i) of such Code is amended by striking "clauses (ii) and (iii)" and inserting "clause (iii)".

(3) Clause (i) of section 168(k)(2)(C) of such Code is amended by striking "and (iii)" and inserting ", (iii), and (iv)".

(4) Clause (i) of section 168(k)(2)(F) of such Code is amended by striking "$4,600" and inserting "$8,000".

(5)(A) Subsection (k) of section 168 of such Code is amended by striking paragraph (4).

(B) Clause (iii) of section 168(k)(2)(D) of such Code is amended by striking the last sentence.

(6) Paragraph (4) of section 168(l) of such Code is amended by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D) and inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) BONUS DEPRECIATION PROPERTY UNDER SUBSECTION (k).—Such term shall not include any property to which section 168(k) applies.".

(7) Paragraph (5) of section 168(l) of such Code is amended—

(A) by striking "September 10, 2001" in subparagraph (A) and inserting "December 31, 2007", and

(B) by striking "January 1, 2005" in subparagraph (B) and inserting "January 1, 2009".

(8) Subparagraph (D) of section 1400L(b)(2) of such Code is amended by striking "January 1, 2005" and inserting "January 1, 2010". 26 USC 1400L.

(9) Paragraph (3) of section 1400N(d) of such Code is amended—

(A) by striking "September 10, 2001" in subparagraph (A) and inserting "December 31, 2007", and

(B) by striking "January 1, 2005" in subparagraph (B) and inserting "January 1, 2009".

(10) Paragraph (6) of section 1400N(d) of such Code is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR BONUS DEPRECIATION PROPERTY UNDER SECTION 168(k).—The term 'specified Gulf Opportunity Zone extension property' shall not include any property to which section 168(k) applies.".

(11) The heading for subsection (k) of section 168 of such Code is amended—

(A) by striking "SEPTEMBER 10, 2001" and inserting "DECEMBER 31, 2007", and

(B) by striking "JANUARY 1, 2005" and inserting "JANUARY 1, 2009".

(12) The heading for clause (ii) of section 168(k)(2)(B) of such Code is amended by striking "PRE-JANUARY 1, 2005" and inserting "PRE-JANUARY 1, 2009".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2007, in taxable years ending after such date. 26 USC 168 note.

# TITLE II—HOUSING GSE AND FHA LOAN LIMITS

### SEC. 201. TEMPORARY CONFORMING LOAN LIMIT INCREASE FOR FANNIE MAE AND FREDDIE MAC.

(a) INCREASE OF HIGH COST AREAS LIMITS FOR HOUSING GSES.—For mortgages originated during the period beginning on July 1, 2007, and ending at the end of December 31, 2008:

(1) FANNIE MAE.—With respect to the Federal National Mortgage Association, notwithstanding section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), the limitation on the maximum original principal obligation of a mortgage that may be purchased by the Association shall be the higher of—

(A) the limitation for 2008 determined under such section 302(b)(2) for a residence of the applicable size; or

(B) 125 percent of the area median price for a residence of the applicable size, but in no case to exceed 175 percent of the limitation for 2008 determined under such section 302(b)(2) for a residence of the applicable size.

(2) FREDDIE MAC.—With respect to the Federal Home Loan Mortgage Corporation, notwithstanding section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)), the limitation on the maximum original principal

obligation of a mortgage that may be purchased by the Corporation shall be the higher of—

(A) the limitation determined for 2008 under such section 305(a)(2) for a residence of the applicable size; or

(B) 125 percent of the area median price for a residence of the applicable size, but in no case to exceed 175 percent of the limitation determined for 2008 under such section 305(a)(2) for a residence of the applicable size.

(b) DETERMINATION OF LIMITS.—The areas and area median prices used for purposes of the determinations under subsection (a) shall be the areas and area median prices used by the Secretary of Housing and Urban Development in determining the applicable limits under section 202 of this title.

(c) RULE OF CONSTRUCTION.—A mortgage originated during the period referred to in subsection (a) that is eligible for purchase by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation pursuant to this section shall be eligible for such purchase for the duration of the term of the mortgage, notwithstanding that such purchase occurs after the expiration of such period.

(d) EFFECT ON HOUSING GOALS.—Notwithstanding any other provision of law, mortgages purchased in accordance with the increased maximum original principal obligation limitations determined pursuant to this section shall not be considered in determining performance with respect to any of the housing goals established under section 1332, 1333, or 1334 of the Housing and Community Development Act of 1992 (12 U.S.C. 4562–4), and shall not be considered in determining compliance with such goals pursuant to section 1336 of such Act (12 U.S.C. 4566) and regulations, orders, or guidelines issued thereunder.

(e) SENSE OF CONGRESS.—It is the sense of the Congress that the securitization of mortgages by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation plays an important role in providing liquidity to the United States housing markets. Therefore, the Congress encourages the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to securitize mortgages acquired under the increased conforming loan limits established in this section, to the extent that such securitizations can be effected in a timely and efficient manner that does not impose additional costs for mortgages originated, purchased, or securitized under the existing limits or interfere with the goal of adding liquidity to the market.

**SEC. 202. TEMPORARY LOAN LIMIT INCREASE FOR FHA.**

Deadline.

(a) INCREASE OF HIGH-COST AREA LIMIT.—For mortgages for which the mortgagee has issued credit approval for the borrower on or before December 31, 2008, subparagraph (A) of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) shall be considered (except for purposes of section 255(g) of such Act (12 U.S.C. 1715z–20(g))) to require that a mortgage shall involve a principal obligation in an amount that does not exceed the lesser of—

(1) in the case of a 1-family residence, 125 percent of the median 1-family house price in the area, as determined by the Secretary; and in the case of a 2-, 3-, or 4-family residence, the percentage of such median price that bears the same ratio to such median price as the dollar amount limitation

determined for 2008 under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a 2-, 3-, or 4-family residence, respectively, bears to the dollar amount limitation determined for 2008 under such section for a 1-family residence; or

(2) 175 percent of the dollar amount limitation determined for 2008 under such section 305(a)(2) for a residence of the applicable size (without regard to any authority to increase such limitation with respect to properties located in Alaska, Guam, Hawaii, or the Virgin Islands);

except that the dollar amount limitation in effect under this subsection for any size residence for any area shall not be less than the greater of: (A) the dollar amount limitation in effect under such section 203(b)(2) for the area on October 21, 1998; or (B) 65 percent of the dollar amount limitation determined for 2008 under such section 305(a)(2) for a residence of the applicable size. Any reference in this subsection to dollar amount limitations in effect under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act means such limitations as in effect without regard to any increase in such limitation pursuant to section 201 of this title.

(b) DISCRETIONARY AUTHORITY.—If the Secretary of Housing and Urban Development determines that market conditions warrant such an increase, the Secretary may, for the period that begins upon the date of the enactment of this Act and ends at the end of the date specified in subsection (a), increase the maximum dollar amount limitation determined pursuant to subsection (a) with respect to any particular size or sizes of residences, or with respect to residences located in any particular area or areas, to an amount that does not exceed the maximum dollar amount then otherwise in effect pursuant to subsection (a) for such size residence, or for such area (if applicable), by not more than $100,000.

(c) PUBLICATION OF AREA MEDIAN PRICES AND LOAN LIMITS.—The Secretary of Housing and Urban Development shall publish the median house prices and mortgage principal obligation limits, as revised pursuant to this section, for all areas as soon as practicable, but in no case more than 30 days after the date of the enactment of this Act. With respect to existing areas for which the Secretary has not established area median prices before such date of enactment, the Secretary may rely on existing commercial data in determining area median prices and calculating such revised principal obligation limits. Deadline.

# TITLE III—EMERGENCY DESIGNATION

**SEC. 301. EMERGENCY DESIGNATION.**

For purposes of Senate enforcement, all provisions of this Act are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

Approved February 13, 2008.

LEGISLATIVE HISTORY—H.R. 5140:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Jan. 29, considered and passed House.
Feb. 5, 6, considered and passed Senate, amended.
Feb. 7, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
Feb. 13, Presidential remarks.

# Public Law 110–186
# 110th Congress

## An Act

To improve and expand small business assistance programs for veterans of the armed forces and military reservists, and for other purposes.

Feb. 14, 2008
[H.R. 4253]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008.
15 USC 631 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—VETERANS BUSINESS DEVELOPMENT

Sec. 101. Increased funding for the Office of Veterans Business Development.
Sec. 102. Interagency task force.
Sec. 103. Permanent extension of SBA Advisory Committee on Veterans Business Affairs.
Sec. 104. Office of Veterans Business Development.
Sec. 105. Increasing the number of outreach centers.
Sec. 106. Independent study on gaps in availability of outreach centers.
Sec. 107. Veterans assistance and services program.

TITLE II—RESERVIST PROGRAMS

Sec. 201. Reservist programs.
Sec. 202. Reservist loans.
Sec. 203. Noncollateralized loans.
Sec. 204. Loan priority.
Sec. 205. Relief from time limitations for veteran-owned small businesses.
Sec. 206. Service-disabled veterans.
Sec. 207. Study on options for promoting positive working relations between employers and their Reserve Component employees.
Sec. 208. Increased Veteran Participation Program.

**SEC. 3. DEFINITIONS.**

15 USC 636 note.

In this Act—

(1) the term "activated" means receiving an order placing a Reservist on active duty;

(2) the term "active duty" has the meaning given that term in section 101 of title 10, United States Code;

(3) the terms "Administration" and "Administrator" mean the Small Business Administration and the Administrator thereof, respectively;

(4) the term "Reservist" means a member of a reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code;

(5) the term "Service Corps of Retired Executives" means the Service Corps of Retired Executives authorized by section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1));

(6) the terms "service-disabled veteran" and "small business concern" have the meaning as in section 3 of the Small Business Act (15 U.S.C. 632);

(7) the term "small business development center" means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648); and

(8) the term "women's business center" means a women's business center described in section 29 of the Small Business Act (15 U.S.C. 656).

# TITLE I—VETERANS BUSINESS DEVELOPMENT

### SEC. 101. INCREASED FUNDING FOR THE OFFICE OF VETERANS BUSINESS DEVELOPMENT.

Appropriation authorization.

(a) IN GENERAL.—There are authorized to be appropriated to the Office of Veterans Business Development of the Administration, to remain available until expended—

(1) $2,100,000 for fiscal year 2008; and

(2) $2,300,000 for fiscal year 2009.

(b) FUNDING OFFSET.—Amounts necessary to carry out subsection (a) shall be offset and made available through the reduction of the authorization of funding under section 20(e)(1)(B)(iv) of the Small Business Act (15 U.S.C. 631 note).

(c) SENSE OF CONGRESS.—It is the sense of Congress that any amounts provided pursuant to this section that are in excess of amounts provided to the Administration for the Office of Veterans Business Development in fiscal year 2007, should be used to support Veterans Business Outreach Centers.

### SEC. 102. INTERAGENCY TASK FORCE.

Section 32 of the Small Business Act (15 U.S.C. 657b) is amended—

(1) by redesignating subsection (c) as (f); and

(2) by inserting after subsection (b) the following:

"(c) INTERAGENCY TASK FORCE.—

Deadline. President.

"(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this subsection, the President shall establish an interagency task force to coordinate the efforts of Federal agencies necessary to improve capital and business development opportunities for, and ensure achievement of the preestablished Federal contracting goals for, small business concerns owned and controlled by service-disabled veterans and small business concerns owned and controlled by veterans (in this section referred to as the 'task force').

"(2) MEMBERSHIP.—The members of the task force shall include—

"(A) the Administrator, who shall serve as chairperson of the task force; and

"(B) a senior level representative from—

"(i) the Department of Veterans Affairs;

"(ii) the Department of Defense;

"(iii) the Administration (in addition to the Administrator);

"(iv) the Department of Labor;

"(v) the Department of the Treasury;

"(vi) the General Services Administration;

"(vii) the Office of Management and Budget; and

"(viii) 4 representatives from a veterans service organization or military organization or association, selected by the President.

"(3) DUTIES.—The task force shall—

"(A) consult regularly with veterans service organizations and military organizations in performing the duties of the task force; and

"(B) coordinate administrative and regulatory activities and develop proposals relating to—

"(i) improving capital access and capacity of small business concerns owned and controlled by service-disabled veterans and small business concerns owned and controlled by veterans through loans, surety bonding, and franchising;

"(ii) ensuring achievement of the pre-established Federal contracting goals for small business concerns owned and controlled by service-disabled veterans and small business concerns owned and controlled by veterans through expanded mentor-protégé assistance and matching such small business concerns with contracting opportunities;

"(iii) increasing the integrity of certifications of status as a small business concern owned and controlled by service-disabled veterans or a small business concern owned and controlled by veterans;

"(iv) reducing paperwork and administrative burdens on veterans in accessing business development and entrepreneurship opportunities;

"(v) increasing and improving training and counseling services provided to small business concerns owned and controlled by veterans; and

"(vi) making other improvements relating to the support for veterans business development by the Federal Government.".

**SEC. 103. PERMANENT EXTENSION OF SBA ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS.**

(a) ASSUMPTION OF DUTIES.—Section 33 of the Small Business Act (15 U.S.C. 657c) is amended—

(1) by striking subsection (h); and

(2) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively.

(b) PERMANENT EXTENSION OF AUTHORITY.—Section 203 of the Veterans Entrepreneurship and Small Business Development Act of 1999 (15 U.S.C. 657b note) is amended by striking subsection (h).

**SEC. 104. OFFICE OF VETERANS BUSINESS DEVELOPMENT.**

Section 32 of the Small Business Act (15 U.S.C. 657b) is amended by inserting after subsection (c) (as added by section 102) the following:

"(d) PARTICIPATION IN TAP WORKSHOPS.—

"(1) IN GENERAL.—The Associate Administrator shall increase veteran outreach by ensuring that Veteran Business Outreach Centers regularly participate, on a nationwide basis, in the workshops of the Transition Assistance Program of the Department of Labor.

"(2) PRESENTATIONS.—In carrying out paragraph (1), a Veteran Business Outreach Center may provide grants to entities located in Transition Assistance Program locations to make presentations on the opportunities available from the Administration for recently separating or separated veterans. Each presentation under this paragraph shall include, at a minimum, a description of the entrepreneurial and business training resources available from the Administration.

"(3) WRITTEN MATERIALS.—The Associate Administrator shall—

"(A) create written materials that provide comprehensive information on self-employment and veterans entrepreneurship, including information on resources available from the Administration on such topics; and

"(B) make the materials created under subparagraph (A) available to the Secretary of Labor for inclusion in the Transition Assistance Program manual.

"(4) REPORTS.—The Associate Administrator shall submit to Congress progress reports on the implementation of this subsection.

Records. "(e) WOMEN VETERANS BUSINESS TRAINING.—The Associate Administrator shall—

"(1) compile information on existing resources available to women veterans for business training, including resources for—

"(A) vocational and technical education;

"(B) general business skills, such as marketing and accounting; and

"(C) business assistance programs targeted to women veterans; and

"(2) disseminate the information compiled under paragraph (1) through Veteran Business Outreach Centers and women's business centers.".

15 USC 637 note. **SEC. 105. INCREASING THE NUMBER OF OUTREACH CENTERS.**

(a) IN GENERAL.—The Administrator shall use the authority in section 8(b)(17) of the Small Business Act (15 U.S.C. 637(b)(17)) to ensure that the number of Veterans Business Outreach Centers throughout the United States increases—

(1) subject to subsection (b), by at least 2, for each of fiscal years 2008 and 2009; and

(2) by the number that the Administrator considers appropriate, based on need, for each fiscal year thereafter.

Applicability. (b) LIMITATION.—Subsection (a)(1) shall apply in a fiscal year if, for that fiscal year, the amount made available for the Office of Veterans Business Development is more than the amount made available for the Office of Veterans Business Development for fiscal year 2007.

**SEC. 106. INDEPENDENT STUDY ON GAPS IN AVAILABILITY OF OUTREACH CENTERS.**

The Administrator shall sponsor an independent study on gaps in the availability of Veterans Business Outreach Centers across

the United States, to inform decisions on funding and on the allocation and coordination of resources. Not later than 6 months after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the study.

Deadline.
Reports.

**SEC. 107. VETERANS ASSISTANCE AND SERVICES PROGRAM.**

Section 21 of the Small Business Act (15 U.S.C. 648) is amended by adding at the end the following:

"(n) VETERANS ASSISTANCE AND SERVICES PROGRAM.—

"(1) IN GENERAL.—A small business development center may apply for a grant under this subsection to carry out a veterans assistance and services program.

"(2) ELEMENTS OF PROGRAM.—Under a program carried out with a grant under this subsection, a small business development center shall—

"(A) create a marketing campaign to promote awareness and education of the services of the center that are available to veterans, and to target the campaign toward veterans, service-disabled veterans, military units, Federal agencies, and veterans organizations;

"(B) use technology-assisted online counseling and distance learning technology to overcome the impediments to entrepreneurship faced by veterans and members of the Armed Forces; and

"(C) increase coordination among organizations that assist veterans, including by establishing virtual integration of service providers and offerings for a one-stop point of contact for veterans who are entrepreneurs or owners of small business concerns.

"(3) AMOUNT OF GRANTS.—A grant under this subsection shall be for not less than $75,000 and not more than $250,000.

"(4) FUNDING.—Subject to amounts approved in advance in appropriations Acts, the Administration may make grants or enter into cooperative agreements to carry out the provisions of this subsection.".

# TITLE II—RESERVIST PROGRAMS

**SEC. 201. RESERVIST PROGRAMS.**

(a) APPLICATION PERIOD.—Section 7(b)(3)(C) of the Small Business Act (15 U.S.C. 636(b)(3)(C)) is amended—

(1) by striking "90 days" and inserting "1 year"; and

(2) by adding at the end the following: "The Administrator may, when appropriate (as determined by the Administrator), extend the ending date specified in the preceding sentence by not more than 1 year.".

(b) PRE-CONSIDERATION PROCESS.— 15 USC 636 note.

(1) DEFINITION.—In this subsection, the term "eligible Reservist" means a Reservist who—

(A) has not been ordered to active duty;

(B) expects to be ordered to active duty during a period of military conflict; and

(C) can reasonably demonstrate that the small business concern for which that Reservist is a key employee will suffer economic injury in the absence of that Reservist.

Deadline.
Loans.

(2) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this Act, the Administrator shall establish a pre-consideration process, under which the Administrator—

(A) may collect all relevant materials necessary for processing a loan to a small business concern under section 7(b)(3) of the Small Business Act (15 U.S.C. 636(b)(3)) before an eligible Reservist employed by that small business concern is activated; and

(B) shall distribute funds for any loan approved under subparagraph (A) if that eligible Reservist is activated.

(c) OUTREACH AND TECHNICAL ASSISTANCE PROGRAM.—

Deadline.
Loans.

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Veterans Affairs and the Secretary of Defense, may develop a comprehensive outreach and technical assistance program (in this subsection referred to as the "program") to—

(A) market the loans available under section 7(b)(3) of the Small Business Act (15 U.S.C. 636(b)(3)) to Reservists, and family members of Reservists, that are on active duty and that are not on active duty; and

(B) provide technical assistance to a small business concern applying for a loan under that section.

(2) COMPONENTS.—The program shall—

(A) incorporate appropriate websites maintained by the Administration, the Department of Veterans Affairs, and the Department of Defense; and

(B) require that information on the program is made available to small business concerns directly through—

(i) the district offices and resource partners of the Administration, including small business development centers, women's business centers, and the Service Corps of Retired Executives; and

(ii) other Federal agencies, including the Department of Veterans Affairs and the Department of Defense.

(3) REPORT.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter until the date that is 30 months after such date of enactment, the Administrator shall submit to Congress a report on the status of the program.

(B) CONTENTS.—Each report submitted under subparagraph (A) shall include—

(i) for the 6-month period ending on the date of that report—

(I) the number of loans approved under section 7(b)(3) of the Small Business Act (15 U.S.C. 636(b)(3));

(II) the number of loans disbursed under that section; and

(III) the total amount disbursed under that section; and

(ii) recommendations, if any, to make the program more effective in serving small business concerns that employ Reservists.

**SEC. 202. RESERVIST LOANS.**

15 USC 636 note.

(a) IN GENERAL.—The Administrator and the Secretary of Defense shall develop a joint website and printed materials providing information regarding any program for small business concerns that is available to veterans or Reservists.

Web site.

(b) MARKETING.—The Administrator is authorized—

(1) to advertise and promote the program under section 7(b)(3) of the Small Business Act jointly with the Secretary of Defense and veterans' service organizations; and

(2) to advertise and promote participation by lenders in such program jointly with trade associations for banks or other lending institutions.

**SEC. 203. NONCOLLATERALIZED LOANS.**

Section 7(b)(3) of the Small Business Act (15 U.S.C. 636(b)(3)) is amended by adding at the end the following:

"(G)(i) Notwithstanding any other provision of law, the Administrator may make a loan under this paragraph of not more than $50,000 without collateral.

"(ii) The Administrator may defer payment of principal and interest on a loan described in clause (i) during the longer of—

"(I) the 1-year period beginning on the date of the initial disbursement of the loan; and

"(II) the period during which the relevant essential employee is on active duty.".

**SEC. 204. LOAN PRIORITY.**

Section 7(b)(3) of the Small Business Act (15 U.S.C. 636(b)(3)), as amended by this Act, is amended by adding at the end the following:

"(H) The Administrator shall give priority to any application for a loan under this paragraph and shall process and make a determination regarding such applications prior to processing or making a determination on other loan applications under this subsection, on a rolling basis.".

**SEC. 205. RELIEF FROM TIME LIMITATIONS FOR VETERAN-OWNED SMALL BUSINESSES.**

Section 3(q) of the Small Business Act (15 U.S.C. 632(q)) is amended by adding at the end the following:

"(5) RELIEF FROM TIME LIMITATIONS.—

"(A) IN GENERAL.—Any time limitation on any qualification, certification, or period of participation imposed under this Act on any program that is available to small business concerns shall be extended for a small business concern that—

"(i) is owned and controlled by—

"(I) a veteran who was called or ordered to active duty under a provision of law specified in section 101(a)(13)(B) of title 10, United States Code, on or after September 11, 2001; or

"(II) a service-disabled veteran who became such a veteran due to an injury or illness incurred or aggravated in the active military, naval, or air service during a period of active duty pursuant to a call or order to active duty under a provision

of law referred to in subclause (I) on or after September 11, 2001; and

"(ii) was subject to the time limitation during such period of active duty.

"(B) DURATION.—Upon submission of proper documentation to the Administrator, the extension of a time limitation under subparagraph (A) shall be equal to the period of time that such veteran who owned or controlled such a concern was on active duty as described in that subparagraph.

"(C) EXCEPTION FOR PROGRAMS SUBJECT TO FEDERAL CREDIT REFORM ACT OF 1990.—The provisions of subparagraphs (A) and (B) shall not apply to any programs subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).".

Deadline. Reports.

**SEC. 206. SERVICE-DISABLED VETERANS.**

Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report describing—

(1) the types of assistance needed by service-disabled veterans who wish to become entrepreneurs; and

(2) any resources that would assist such service-disabled veterans.

**SEC. 207. STUDY ON OPTIONS FOR PROMOTING POSITIVE WORKING RELATIONS BETWEEN EMPLOYERS AND THEIR RESERVE COMPONENT EMPLOYEES.**

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study on options for promoting positive working relations between employers and Reserve component employees of such employers, including assessing options for improving the time in which employers of Reservists are notified of the call or order of such members to active duty other than for training.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the study conducted under subsection (a).

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) provide a quantitative and qualitative assessment of—

(i) what measures, if any, are being taken to inform Reservists of the obligations and responsibilities of such members to their employers;

(ii) how effective such measures have been; and

(iii) whether there are additional measures that could be taken to promote positive working relations between Reservists and their employers, including any steps that could be taken to ensure that employers are timely notified of a call to active duty; and

(B) assess whether there has been a reduction in the hiring of Reservists by business concerns because of—

(i) any increase in the use of Reservists after September 11, 2001; or

(ii) any change in any policy of the Department of Defense relating to Reservists after September 11, 2001.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate; and

(2) the Committee on Armed Services and the Committee on Small Business of the House of Representatives.

**SEC. 208. INCREASED VETERAN PARTICIPATION PROGRAM.**

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

"(32) INCREASED VETERAN PARTICIPATION PROGRAM.—

"(A) DEFINITIONS.—In this paragraph—

"(i) the term 'cost' has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a);

"(ii) the term 'pilot program' means the pilot program established under subparagraph (B); and

"(iii) the term 'veteran participation loan' means a loan made under this subsection to a small business concern owned and controlled by veterans of the Armed Forces or members of the reserve components of the Armed Forces.

"(B) ESTABLISHMENT.—The Administrator shall establish and carry out a pilot program under which the Administrator shall reduce the fees for veteran participation loans.

"(C) DURATION.—The pilot program shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the pilot program.

"(D) MAXIMUM PARTICIPATION.—A veteran participation loan shall include the maximum participation levels by the Administrator permitted for loans made under this subsection.

"(E) FEES.—

"(i) IN GENERAL.—The fee on a veteran participation loan shall be equal to 50 percent of the fee otherwise applicable to that loan under paragraph (18).

"(ii) WAIVER.—The Administrator may waive clause (i) for a fiscal year if—

"(I) for the fiscal year before that fiscal year, the annual estimated rate of default of veteran participation loans exceeds that of loans made under this subsection that are not veteran participation loans;

"(II) the cost to the Administration of making loans under this subsection is greater than zero and such cost is directly attributable to the cost of making veteran participation loans; and

"(III) no additional sources of revenue authority are available to reduce the cost of making loans under this subsection to zero.

"(iii) EFFECT OF WAIVER.—If the Administrator waives the reduction of fees under clause (ii), the Administrator—

"(I) shall not assess or collect fees in an amount greater than necessary to ensure that the cost of the program under this subsection is not greater than zero; and

"(II) shall reinstate the fee reductions under clause (i) when the conditions in clause (ii) no longer apply.

"(iv) NO INCREASE OF FEES.—The Administrator shall not increase the fees under paragraph (18) on loans made under this subsection that are not veteran participation loans as a direct result of the pilot program.

"(F) GAO REPORT.—

"(i) IN GENERAL.—Not later than 1 year after the date that the pilot program terminates, the Comptroller General of the United States shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the pilot program.

"(ii) CONTENTS.—The report submitted under clause (i) shall include—

"(I) the number of veteran participation loans for which fees were reduced under the pilot program;

"(II) a description of the impact of the pilot program on the program under this subsection;

"(III) an evaluation of the efficacy and potential fraud and abuse of the pilot program; and

"(IV) recommendations for improving the pilot program.".

Approved February 14, 2008.

LEGISLATIVE HISTORY—H.R. 4253 (S. 1784):

CONGRESSIONAL RECORD:

Vol. 153 (2007): Dec. 5, 6, considered and passed House.
Dec. 19, considered and passed Senate, amended, in lieu of S. 1784.

Vol. 154 (2008): Jan. 16, House concurred in Senate amendment with an amendment pursuant to H. Res. 921.
Jan. 31, Senate concurred in House amendment.

Public Law 110–187
110th Congress

# An Act

To amend the Do-not-call Implementation Act to eliminate the automatic removal of telephone numbers registered on the Federal "do-not-call" registry.

Feb. 15, 2008
[H.R. 3541]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Do-Not-Call Improvement Act of 2007. 15 USC 6151 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Do-Not-Call Improvement Act of 2007".

**SEC. 2. PROHIBITION OF EXPIRATION DATE FOR REGISTERED NUMBERS.**

The Do-Not-Call Implementation Act (15 U.S.C. 6101 note) is amended by adding at the end the following:

**"SEC. 5. PROHIBITION OF EXPIRATION DATE.**

"(a) NO AUTOMATIC REMOVAL OF NUMBERS.—Telephone numbers registered on the national 'do-not-call' registry of the Telemarketing Sales Rule (16 CFR 310.4(b)(1)(iii)) since the establishment of the registry and telephone numbers registered on such registry after the date of enactment of this Act, shall not be removed from such registry except as provided for in subsection (b) or upon the request of the individual to whom the telephone number is assigned.

"(b) REMOVAL OF INVALID, DISCONNECTED, AND REASSIGNED TELEPHONE NUMBERS.—The Federal Trade Commission shall periodically check telephone numbers registered on the national 'do-not-call' registry against national or other appropriate databases and shall remove from such registry those telephone numbers that have been disconnected and reassigned. Nothing in this section prohibits the Federal Trade Commission from removing invalid telephone numbers from the registry at any time.".

**SEC. 3. REPORT ON ACCURACY.**

Not later than 9 months after the enactment of this Act, the Federal Trade Commission shall report to Congress on efforts taken

by the Commission, after the date of enactment of this Act, to improve the accuracy of the "do-not-call" registry.

Approved February 15, 2008.

LEGISLATIVE HISTORY—H.R. 3541 (S. 2096):

HOUSE REPORTS: No. 110–486 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 110–246 accompanying S. 2096 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 11, considered and passed House.
Vol. 154 (2008): Feb. 6, considered and passed Senate.

Public Law 110–188
110th Congress

# An Act

To extend the authority of the Federal Trade Commission to collect Do-Not-Call Registry fees to fiscal years after fiscal year 2007.

Feb. 15, 2008
[S. 781]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Do-Not-Call Registry Fee Extension Act of 2007.
15 USC 6151 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Do-Not-Call Registry Fee Extension Act of 2007".

**SEC. 2. FEES FOR ACCESS TO REGISTRY.**

Section 2, of the Do-Not-Call Implementation Act (15 U.S.C. 6101 note) is amended to read as follows:

**"SEC. 2. TELEMARKETING SALES RULE; DO-NOT-CALL REGISTRY FEES.**

"(a) IN GENERAL.—The Federal Trade Commission shall assess and collect an annual fee pursuant to this section in order to implement and enforce the 'do-not-call' registry as provided for in section 310.4(b)(1)(iii) of title 16, Code of Federal Regulations, or any other regulation issued by the Commission under section 3 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6102).

"(b) ANNUAL FEES.—

"(1) IN GENERAL.—The Commission shall charge each person who accesses the 'do-not-call' registry an annual fee that is equal to the lesser of—

"(A) $54 for each area code of data accessed from the registry; or

"(B) $14,850 for access to every area code of data contained in the registry.

"(2) EXCEPTION.—The Commission shall not charge a fee to any person—

"(A) for accessing the first 5 area codes of data; or

"(B) for accessing area codes of data in the registry if the person is permitted to access, but is not required to access, the 'do-not-call' registry under section 310 of title 16, Code of Federal Regulations, section 64.1200 of title 47, Code of Federal Regulations, or any other Federal regulation or law.

"(3) DURATION OF ACCESS.—

"(A) IN GENERAL.—The Commission shall allow each person who pays the annual fee described in paragraph (1), each person excepted under paragraph (2) from paying the annual fee, and each person excepted from paying an annual fee under section 310.4(b)(1)(iii)(B) of title 16,

Code of Federal Regulations, to access the area codes of data in the 'do-not-call' registry for which the person has paid during that person's annual period.

"(B) ANNUAL PERIOD.—In this paragraph, the term 'annual period' means the 12-month period beginning on the first day of the month in which a person pays the fee described in paragraph (1).

"(c) ADDITIONAL FEES.—

"(1) IN GENERAL.—The Commission shall charge a person required to pay an annual fee under subsection (b) an additional fee for each additional area code of data the person wishes to access during that person's annual period.

"(2) RATES.—For each additional area code of data to be accessed during the person's annual period, the Commission shall charge—

"(A) $54 for access to such data if access to the area code of data is first requested during the first 6 months of the person's annual period; or

"(B) $27 for access to such data if access to the area code of data is first requested after the first 6 months of the person's annual period.

"(d) ADJUSTMENT OF FEES.—

"(1) IN GENERAL.—

"(A) FISCAL YEAR 2009.—The dollar amount described in subsection (b) or (c) is the amount to be charged for fiscal year 2009.

"(B) FISCAL YEARS AFTER 2009.—For each fiscal year beginning after fiscal year 2009, each dollar amount in subsection (b)(1) and (c)(2) shall be increased by an amount equal to—

"(i) the dollar amount in paragraph (b)(1) or (c)(2), whichever is applicable, multiplied by

"(ii) the percentage (if any) by which the CPI for the most recently ended 12-month period ending on June 30 exceeds the baseline CPI.

"(2) ROUNDING.—Any increase under subparagraph (B) shall be rounded to the nearest dollar.

"(3) CHANGES LESS THAN 1 PERCENT.—The Commission shall not adjust the fees under this section if the change in the CPI is less than 1 percent.

Deadline. Federal Register, publication.

"(4) PUBLICATION.—Not later than September 1 of each year the Commission shall publish in the Federal Register the adjustments to the applicable fees, if any, made under this subsection.

"(5) DEFINITIONS.—In this subsection:

"(A) CPI.—The term 'CPI' means the average of the monthly consumer price index (for all urban consumers published by the Department of Labor).

"(B) BASELINE CPI.—The term 'baseline CPI' means the CPI for the 12-month period ending June 30, 2008.

"(e) PROHIBITION AGAINST FEE SHARING.—No person may enter into or participate in an arrangement (as such term is used in section 310.8(c) of the Commission's regulations (16 C.F.R. 310.8(c))) to share any fee required by subsection (b) or (c), including any arrangement to divide the costs to access the registry among various clients of a telemarketer or service provider.

"(f) HANDLING OF FEES.—

"(1) IN GENERAL.—The Commission shall deposit and credit as offsetting collections any fee collected under this section in the account 'Federal Trade Commission—Salaries and Expenses', and such sums shall remain available until expended.

"(2) LIMITATION.—No amount shall be collected as a fee under this section for any fiscal year except to the extent provided in advance by appropriations Acts.".

**SEC. 3. REPORT.**

Section 4 of the Do-Not-Call Implementation Act (15 U.S.C. 6101 note) is amended to read as follows:

**"SEC. 4. REPORTING REQUIREMENTS.**

"(a) BIENNIAL REPORTS.—Not later than December 31, 2009, and biennially thereafter, the Federal Trade Commission, in consultation with the Federal Communications Commission, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce that includes—

"(1) the number of consumers who have placed their telephone numbers on the registry;

"(2) the number of persons paying fees for access to the registry and the amount of such fees;

"(3) the impact on the 'do-not-call' registry of—

"(A) the 5-year reregistration requirement;

"(B) new telecommunications technology; and

"(C) number portability and abandoned telephone numbers; and

"(4) the impact of the established business relationship exception on businesses and consumers.

"(b) ADDITIONAL REPORT.—Not later than December 31, 2009, the Federal Trade Commission, in consultation with the Federal Communications Commission, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce that includes—

"(1) the effectiveness of do-not-call outreach and enforcement efforts with regard to senior citizens and immigrant communities;

"(2) the impact of the exceptions to the do-not-call registry on businesses and consumers, including an analysis of the effectiveness of the registry and consumer perceptions of the registry's effectiveness; and

"(3) the impact of abandoned calls made by predictive dialing devices on do-not-call enforcement.".

**SEC. 4. RULEMAKING.**

15 USC 6152 note.

The Federal Trade Commission may issue rules, in accordance with section 553 of title 5, United States Code, as necessary and

appropriate to carry out the amendments to the Do-Not-Call Implementation Act (15 U.S.C. 6101 note) made by this Act.

Approved February 15, 2008.

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LEGISLATIVE HISTORY—S. 781 (H.R. 2601):

HOUSE REPORTS: No. 110–485 accompanying H.R. 2601 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 110–244 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 153 (2007): Dec. 17, considered and passed Senate.

Vol. 154 (2008): Feb. 6, considered and passed House.

# Public Law 110–189
# 110th Congress

## An Act

To direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of light motor vehicles, and for other purposes.

Feb. 28, 2008
[H.R. 1216]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Cameron Gulbransen Kids Transportation Safety Act of 2007.
49 USC 30111 note.

This Act may be cited as the "Cameron Gulbransen Kids Transportation Safety Act of 2007" or the "K.T. Safety Act of 2007".

**SEC. 2. RULEMAKING REGARDING CHILD SAFETY.**

49 USC 30111 note.

(a) POWER WINDOW SAFETY.—

(1) CONSIDERATION OF RULE.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation (referred to in this Act as the "Secretary") shall initiate a rulemaking to consider prescribing or amending Federal motor vehicle safety standards to require power windows and panels on motor vehicles to automatically reverse direction when such power windows and panels detect an obstruction to prevent children and others from being trapped, injured, or killed.

Deadline.

(2) DEADLINE FOR DECISION.—If the Secretary determines such safety standards are reasonable, practicable, and appropriate, the Secretary shall prescribe, under section 30111 of title 49, United States Code, the safety standards described in paragraph (1) not later than 30 months after the date of enactment of this Act. If the Secretary determines that no additional safety standards are reasonable, practicable, and appropriate, the Secretary shall—

Reports.

(A) not later than 30 months after the date of enactment of this Act, transmit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the reasons such standards were not prescribed; and

Public information.
Web site.

(B) publish and otherwise make available to the public through the Internet and other means (such as the "Buying a Safer Car" brochure) information regarding which vehicles are or are not equipped with power windows and panels that automatically reverse direction when an obstruction is detected.

Deadlines.

(b) REARWARD VISIBILITY.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall initiate a rulemaking to revise Federal Motor Vehicle Safety Standard

111 (FMVSS 111) to expand the required field of view to enable the driver of a motor vehicle to detect areas behind the motor vehicle to reduce death and injury resulting from backing incidents, particularly incidents involving small children and disabled persons. The Secretary may prescribe different requirements for different types of motor vehicles to expand the required field of view to enable the driver of a motor vehicle to detect areas behind the motor vehicle to reduce death and injury resulting from backing incidents, particularly incidents involving small children and disabled persons. Such standard may be met by the provision of additional mirrors, sensors, cameras, or other technology to expand the driver's field of view. The Secretary shall prescribe final standards pursuant to this subsection not later than 36 months after the date of enactment of this Act.

(c) PHASE-IN PERIOD.—

Deadline.

(1) PHASE-IN PERIOD REQUIRED.—The safety standards prescribed pursuant to subsections (a) and (b) shall establish a phase-in period for compliance, as determined by the Secretary, and require full compliance with the safety standards not later than 48 months after the date on which the final rule is issued.

(2) PHASE-IN PRIORITIES.—In establishing the phase-in period of the rearward visibility safety standards required under subsection (b), the Secretary shall consider whether to require the phase-in according to different types of motor vehicles based on data demonstrating the frequency by which various types of motor vehicles have been involved in backing incidents resulting in injury or death. If the Secretary determines that any type of motor vehicle should be given priority, the Secretary shall issue regulations that specify—

(A) which type or types of motor vehicles shall be phased-in first; and

(B) the percentages by which such motor vehicles shall be phased-in.

(d) PREVENTING MOTOR VEHICLES FROM ROLLING AWAY.—

(1) REQUIREMENT.—Each motor vehicle with an automatic transmission that includes a "park" position manufactured for sale after September 1, 2010, shall be equipped with a system that requires the service brake to be depressed before the transmission can be shifted out of "park". This system shall function in any starting system key position in which the transmission can be shifted out of "park".

(2) TREATMENT AS MOTOR VEHICLE SAFETY STANDARD.—A violation of paragraph (1) shall be treated as a violation of a motor vehicle safety standard prescribed under section 30111 of title 49, United States Code, and shall be subject to enforcement by the Secretary under chapter 301 of such title.

(3) PUBLICATION OF NONCOMPLIANT VEHICLES.—

Deadline.

(A) INFORMATION SUBMISSION.—Not later than 60 days after the date of the enactment of this Act, for the current model year and annually thereafter through 2010, each motor vehicle manufacturer shall transmit to the Secretary the make and model of motor vehicles with automatic transmissions that include a "park" position that do not comply with the requirements of paragraph (1).

(B) PUBLICATION.—Not later than 30 days after receiving the information submitted under subparagraph (A), the Secretary shall publish and otherwise make available to the public through the Internet and other means the make and model of the applicable motor vehicles that do not comply with the requirements of paragraph (1). Any motor vehicle not included in the publication under this subparagraph shall be presumed to comply with such requirements. Deadline. Public information. Web site.

(e) DEFINITION OF MOTOR VEHICLE.—As used in this Act and for purposes of the motor vehicle safety standards described in subsections (a) and (b), the term "motor vehicle" has the meaning given such term in section 30102(a)(6) of title 49, United States Code, except that such term shall not include—

(1) a motorcycle or trailer (as such terms are defined in section 571.3 of title 49, Code of Federal Regulations); or

(2) any motor vehicle that is rated at more than 10,000 pounds gross vehicular weight.

(f) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall establish and maintain a database of injuries and deaths in nontraffic, noncrash events involving motor vehicles. Deadline.

(2) CONTENTS.—The database established pursuant to paragraph (1) shall include information regarding—

(A) the number, types, and causes of injuries and deaths resulting from the events described in paragraph (1);

(B) the make, model, and model year of motor vehicles involved in such events, when practicable; and

(C) other variables that the Secretary determines will enhance the value of the database.

(3) AVAILABILITY.—The Secretary shall make the information contained in the database established pursuant to paragraph (1) available to the public through the Internet and other means. Public information. Web site.

**SEC. 3. CHILD SAFETY INFORMATION PROGRAM.** 49 USC 30111 note.

(a) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall provide information about hazards to children in nontraffic, noncrash incident situations by— Deadline.

(1) supplementing an existing consumer information program relating to child safety; or

(2) creating a new consumer information program relating to child safety.

(b) PROGRAM REQUIREMENTS.—In carrying out the program under subsection (a), the Secretary shall—

(1) utilize information collected pursuant to section 2(f) regarding nontraffic, noncrash injuries, and other relevant data the Secretary considers appropriate, to establish priorities for the program;

(2) address ways in which parents and caregivers can reduce risks to small children arising from back over incidents, hyperthermia in closed motor vehicles, accidental actuation

of power windows, and any other risks the Secretary determines should be addressed; and

Public information. Web site.

(3) make information related to the program available to the public through the Internet and other means.

49 USC 30111 note.

**SEC. 4. DEADLINES.**

If the Secretary determines that the deadlines applicable under this Act cannot be met, the Secretary shall—

(1) establish new deadlines; and

Notification.

(2) notify the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the new deadlines and describing the reasons the deadlines specified under this Act could not be met.

Approved February 28, 2008.

LEGISLATIVE HISTORY—H.R. 1216:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 19, considered and passed House.
Vol. 154 (2008): Feb. 14, considered and passed Senate.

Public Law 110–190
110th Congress

# An Act

To amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes.

Feb. 28, 2008
[H.R. 5270]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Airport and Airway Extension Act of 2008.
26 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Airport and Airway Extension Act of 2008".

**SEC. 2. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.**

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) of the Internal Revenue Code of 1986 is amended by striking "February 29, 2008" and inserting "June 30, 2008". 26 USC 4081.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) of such Code is amended by striking "February 29, 2008" and inserting "June 30, 2008".

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) of such Code is amended by striking "February 29, 2008" and inserting "June 30, 2008".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on March 1, 2008. 26 USC 9502 note.

**SEC. 3. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.**

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 is amended—

(1) by striking "March 1, 2008" and inserting "July 1, 2008", and

(2) by inserting "or the Airport and Airway Extension Act of 2008" before the semicolon at the end of subparagraph (A).

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(f) of such Code is amended by striking "March 1, 2008" and inserting "July 1, 2008".

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

**SEC. 4. EXTENSION OF AIRPORT IMPROVEMENT PROGRAM AND OTHER AUTHORITIES.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 48103 of title 49, United States Code, is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by inserting after paragraph (4) the following:

"(5) $2,756,250,000 for the 9-month period beginning October 1, 2007.".

(2) OBLIGATION OF AMOUNTS.—Sums made available pursuant to the amendment made by paragraph (1) may be obligated at any time through September 30, 2008, and shall remain available until expended.

(3) PROGRAM IMPLEMENTATION.—For purposes of calculating funding apportionments and meeting other requirements under sections 47114, 47115, 47116, and 47117 of title 49, United States Code, for the 9-month period beginning October 1, 2007, the Administrator of the Federal Aviation Administration shall—

(A) first calculate such funding apportionments on an annualized basis as if the total amount available under section 48103 of such title for fiscal year 2008 were $3,675,000,000; and

(B) then reduce by 25 percent—

(i) all funding apportionments calculated under subparagraph (A); and

(ii) amounts available pursuant to sections 47117(b) and 47117(f)(2) of such title.

49 USC 47104.

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) of such title is amended by striking "September 30, 2007," and inserting "June 30, 2008,".

(c) GOVERNMENT SHARE OF CERTAIN AIP COSTS.—Section 161 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 47109 note) is amended by striking "in each of fiscal years 2004 through 2007" and inserting "in fiscal year 2008 before July 1, 2008,".

(d) ADJUSTMENT AUTHORITY.—

49 USC 41731 note.

(1) IN GENERAL.—Section 409(d) of such Act (49 U.S.C. 40101 note) is amended by striking "2007." and inserting "2008.".

Applicability. 49 USC 41731 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on September 29, 2007, and shall apply with respect to any final order issued under section 409(c) of such Act that was in effect on such date.

(e) AIRPORT ELIGIBILITY.—The first sentence of section 186(d) of such Act (117 Stat. 2518) is amended by inserting "and for

the portion of fiscal year 2008 ending before July 1, 2008," after "2007,".

Approved February 28, 2008.

LEGISLATIVE HISTORY—H.R. 5270:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 12, considered and passed House.
Feb. 13, considered and passed Senate.

Public Law 110–191
110th Congress

# An Act

Feb. 29, 2008
[H.R. 5264]

To extend the Andean Trade Preference Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Andean Trade Preference Extension Act of 2008.
19 USC 3201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Andean Trade Preference Extension Act of 2008".

**SEC. 2. ANDEAN TRADE PREFERENCE ACT.**

(a) EXTENSION.—Section 208 of the Andean Trade Preference Act (19 U.S.C. 3206) is amended by striking "February 29, 2008" and inserting "December 31, 2008".

(b) TREATMENT OF CERTAIN APPAREL ARTICLES.—Section 204(b)(3) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)) is amended—

(1) in subparagraph (B)—

(A) in clause (iii)—

(i) in subclause (II), by striking "5 succeeding 1-year periods" and inserting "6 succeeding 1-year periods"; and

(ii) in subclause (III)(bb), by inserting "and for the succeeding 1-year period," after "for the 1-year period beginning October 1, 2007,"; and

(B) in clause (v)(II), by striking "4 succeeding 1-year periods" and inserting "5 succeeding 1-year periods"; and

(2) in subparagraph (E)(ii)(II), by striking "December 31, 2006" and inserting "December 31, 2008".

**SEC. 3. CUSTOMS USER FEES.**

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking "December 13, 2014" and inserting "December 27, 2014"; and

(2) in subparagraph (B)(i), by striking "December 13, 2014" and inserting "December 27, 2014".

**SEC. 4. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

26 USC 6655 note.

The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 0.25 percentage points.

Approved February 29, 2008.

LEGISLATIVE HISTORY—H.R. 5264:

HOUSE REPORTS: No. 110–529 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 27, considered and passed House.
Feb. 28, considered and passed Senate.

# Public Law 110–192
# 110th Congress

## An Act

Feb. 29, 2008
[H.R. 5478]

To provide for the continued minting and issuance of certain $1 coins in 2008.

31 USC 5112 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That clause (i) of section 5112(n)(1)(B) of title 31, United States Code (as in effect on the day before the date of the enactment of Public Law 110–82) shall continue in effect, notwithstanding the amendment made by section 3 of Public Law 110–82, until the effective date of the amendment made by section 2 of such Public Law.

Approved February 29, 2008.

LEGISLATIVE HISTORY—H.R. 5478:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 25, considered and passed House.
Feb. 28, considered and passed Senate.

Public Law 110–193
110th Congress

# An Act

To make technical corrections to the Federal Insecticide, Fungicide, and Rodenticide Act.

Mar. 6, 2008
[S. 2571]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TECHNICAL CORRECTIONS TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.**

(a) PESTICIDE REGISTRATION SERVICE FEES.—Section 33 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8) is amended—

(1) in subsection (b)(7)—

(A) in subparagraph (D)—

(i) by striking clause (i) and inserting the following:

"(i) IN GENERAL.—The Administrator may exempt from, or waive a portion of, the registration service fee for an application for minor uses for a pesticide."; and

(ii) in clause (ii), by inserting "or exemption" after "waiver"; and

(B) in subparagraph (E)—

(i) in the paragraph heading, by striking "WAIVER" and inserting "EXEMPTION";

(ii) by striking "waive the registration service fee for an application" and inserting "exempt an application from the registration service fee"; and

(iii) in clause (ii), by striking "waiver" and inserting "exemption"; and

(2) in subsection (m)(2), by striking "2008" each place it appears and inserting "2012".

7 USC 136w–8 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2007.

Approved March 6, 2008.

LEGISLATIVE HISTORY—S. 2571:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Jan. 29, considered and passed Senate.
Feb. 13, 14, considered and passed House.

Public Law 110–194
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 59 Colby Corner in East Hampstead, New Hampshire, as the "Captain Jonathan D. Grassbaugh Post Office".

Mar. 11, 2008
[S. 2478]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CAPTAIN JONATHAN D. GRASSBAUGH POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 59 Colby Corner in East Hampstead, New Hampshire, shall be known and designated as the "Captain Jonathan D. Grassbaugh Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Captain Jonathan D. Grassbaugh Post Office".

Approved March 11, 2008.

LEGISLATIVE HISTORY—S. 2478:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 19, considered and passed Senate.
Vol. 154 (2008): Feb. 28, considered and passed House.

# Public Law 110–195
# 110th Congress

## An Act

Mar. 12, 2008
[S. 2272]

To designate the facility of the United States Postal Service known as the Southpark Station in Alexandria, Louisiana, as the John "Marty" Thiels Southpark Station, in honor and memory of Thiels, a Louisiana postal worker who was killed in the line of duty on October 4, 2007.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JOHN "MARTY" THIELS SOUTHPARK STATION.**

(a) DESIGNATION.—The facility of the United States Postal Service known as the Southpark Station in Alexandria, Louisiana, shall be known and designated as the "John 'Marty' Thiels Southpark Station".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "John 'Marty' Thiels Southpark Station".

Approved March 12, 2008.

LEGISLATIVE HISTORY—S. 2272:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Nov. 16, considered and passed Senate.
Vol. 154 (2008): Feb. 28, considered and passed House.

Public Law 110–196
110th Congress

# An Act

To extend agricultural programs beyond March 15, 2008, to suspend permanent price support authorities beyond that date, and for other purposes.

Mar. 14, 2008
[S. 2745]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF AGRICULTURAL PROGRAMS.**

(a) EXTENSION.—Except as otherwise provided in this section and notwithstanding any other provision of law, the authorities provided under the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 7 U.S.C. 7901 et seq.) and each amendment made by that Act (and for mandatory programs at such funding levels), as in effect on September 30, 2007, shall continue, and the Secretary of Agriculture shall carry out the authorities, until April 18, 2008.

(b) CONSERVATION PROGRAMS.—

(1) FARMLAND PROTECTION PROGRAM.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this subsection as the "Secretary") shall continue the farmland protection program established under subchapter B of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838h et seq.) at a funding level of $97,000,000 per year.

(2) GROUND AND SURFACE WATER CONSERVATION.—Notwithstanding any other provision of law, the Secretary shall continue the ground and surface water conservation program established under section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9) at a funding level of $60,000,000 per year.

(3) WILDLIFE HABITAT INCENTIVES PROGRAM.—Notwithstanding any other provision of law, the Secretary shall continue the wildlife habitat incentive program established under section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) at a funding level of $85,000,000 per year.

(c) EXCEPTIONS.—This section does not apply with respect to the following provisions of law:

(1) Section 1307(a)(6) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7957(a)(6)).

(2) Section 524(b) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)).

(3) Section 25 of the Food Stamp Act of 1977 (7 U.S.C. 2034).

(4) Section 601(j)(1) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(j)(1)).

(5) Section 231(b)(4) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224).

(6) Section 9002(k)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102(k)(2)).

(7) Section 9004(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8104(d)).

(8) Section 9006(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106(f)).

(9) Subtitles A through C of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911 et seq.), with respect to the 2008 crops (other than the 2008 crop of a loan commodity described in paragraph (11), (12), (13), or (14) of section 1202(b) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7932(b))).

(d) SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITIES.—The provisions of law specified in subsections (a) through (c) of section 1602 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7992) shall be suspended through April 18, 2008.

(e) RELATION TO CONSOLIDATED APPROPRIATIONS ACT, 2008.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section does not apply to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2008 (division A of Public Law 110–161; 121 Stat. 1846).

(2) REPEAL OF SUPERSEDED EXTENSION.—Section 751 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2008 (division A of Public Law 110–161; 121 Stat. 1883) is repealed.

(f) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect on March 15, 2008.

Approved March 14, 2008.

LEGISLATIVE HISTORY—S. 2745:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Mar. 12, considered and passed Senate and House.

Public Law 110–197
110th Congress

# Joint Resolution

Providing for the appointment of John W. McCarter as a citizen regent of the Board of Regents of the Smithsonian Institution.

Mar. 14, 2008
[S.J. Res. 25]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in accordance with section 5581 of the Revised Statutes (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring because of the expiration of the term of Walter E. Massey of Georgia, is filled by the appointment of John W. McCarter of Illinois, for a term of 6 years, effective on the date of the enactment of this resolution.

Effective date.

Approved March 14, 2008.

LEGISLATIVE HISTORY—S.J. Res. 25:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 4, considered and passed Senate.
Mar. 5, considered and passed House.

# Public Law 110–198
# 110th Congress

## An Act

Mar. 24, 2008
[S. 2733]

To temporarily extend the programs under the Higher Education Act of 1965.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Higher Education Extension Act of 2008.
20 USC 1001 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Higher Education Extension Act of 2008".

**SEC. 2. EXTENSION OF PROGRAMS.**

Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking "March 31, 2008" and inserting "April 30, 2008".

20 USC 1001 note.

**SEC. 3. RULE OF CONSTRUCTION.**

Nothing in this Act, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) or by the College Cost Reduction and Access Act (Public Law 110–84) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

Approved March 24, 2008.

LEGISLATIVE HISTORY—S. 2733:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Mar. 7, considered and passed Senate.
Mar. 11, 12, considered and passed House.

# Public Law 110–199
# 110th Congress

## An Act

To reauthorize the grant program for reentry of offenders into the community in the Omnibus Crime Control and Safe Streets Act of 1968, to improve reentry planning and implementation, and for other purposes.

Apr. 9, 2008
[H.R. 1593]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Second Chance Act of 2007: Community Safety Through Recidivism Prevention. 42 USC 17501 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Second Chance Act of 2007: Community Safety Through Recidivism Prevention" or the "Second Chance Act of 2007".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Purposes; findings.
Sec. 4. Definition of Indian tribe.
Sec. 5. Submission of reports to Congress.
Sec. 6. Rule of construction.

TITLE I—AMENDMENTS RELATED TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

Subtitle A—Improvements to Existing Programs

Sec. 101. Reauthorization of adult and juvenile offender State and local reentry demonstration projects.
Sec. 102. Improvement of the residential substance abuse treatment for State offenders program.
Sec. 103 Definition of violent offender for drug court grant program.
Sec. 104. Use of violent offender truth-in-sentencing grant funding for demonstration project activities.

Subtitle B—New and Innovative Programs To Improve Offender Reentry Services

Sec. 111. State, tribal, and local reentry courts.
Sec. 112. Prosecution drug treatment alternative to prison programs.
Sec. 113. Grants for family-based substance abuse treatment.
Sec. 114. Grant to evaluate and improve education at prisons, jails, and juvenile facilities.
Sec. 115. Technology Careers Training Demonstration Grants.

TITLE II—ENHANCED DRUG TREATMENT AND MENTORING GRANT PROGRAMS

Subtitle A—Drug Treatment

Sec. 201. Offender reentry substance abuse and criminal justice collaboration program.

Subtitle B—Mentoring

Sec. 211. Mentoring grants to nonprofit organizations.
Sec. 212. Responsible reintegration of offenders.

Sec. 213. Bureau of prisons policy on mentoring contacts.
Sec. 214. Bureau of prisons policy on chapel library materials.

Subtitle C—Administration of Justice Reforms

CHAPTER 1—IMPROVING FEDERAL OFFENDER REENTRY

Sec. 231. Federal prisoner reentry initiative.
Sec. 232. Bureau of prisons policy on restraining of female prisoners.

CHAPTER 2—REENTRY RESEARCH

Sec. 241. Offender reentry research.
Sec. 242. Grants to study parole or post-incarceration supervision violations and revocations.
Sec. 243. Addressing the needs of children of incarcerated parents.
Sec. 244. Study of effectiveness of depot naltrexone for heroin addiction.
Sec. 245. Authorization of appropriations for research.

CHAPTER 3—CORRECTIONAL REFORMS TO EXISTING LAW

Sec. 251. Clarification of authority to place prisoner in community corrections.
Sec. 252. Residential drug abuse program in Federal prisons.
Sec. 253. Contracting for services for post-conviction supervision offenders.

CHAPTER 4—MISCELLANEOUS PROVISIONS

Sec. 261. Extension of national prison rape elimination commission.

42 USC 17501.

**SEC. 3. PURPOSES; FINDINGS.**

(a) PURPOSES.—The purposes of the Act are—

(1) to break the cycle of criminal recidivism, increase public safety, and help States, local units of government, and Indian Tribes, better address the growing population of criminal offenders who return to their communities and commit new crimes;

(2) to rebuild ties between offenders and their families, while the offenders are incarcerated and after reentry into the community, to promote stable families and communities;

(3) to encourage the development and support of, and to expand the availability of, evidence-based programs that enhance public safety and reduce recidivism, such as substance abuse treatment, alternatives to incarceration, and comprehensive reentry services;

(4) to protect the public and promote law-abiding conduct by providing necessary services to offenders, while the offenders are incarcerated and after reentry into the community, in a manner that does not confer luxuries or privileges upon such offenders;

(5) to assist offenders reentering the community from incarceration to establish a self-sustaining and law-abiding life by providing sufficient transitional services for as short of a period as practicable, not to exceed one year, unless a longer period is specifically determined to be necessary by a medical or other appropriate treatment professional; and

(6) to provide offenders in prisons, jails or juvenile facilities with educational, literacy, vocational, and job placement services to facilitate re-entry into the community.

(b) FINDINGS.—Congress finds the following:

(1) In 2002, over 7,000,000 people were incarcerated in Federal or State prisons or in local jails. Nearly 650,000 people are released from Federal and State incarceration into communities nationwide each year.

(2) There are over 3,200 jails throughout the United States, the vast majority of which are operated by county governments. Each year, these jails will release more than 10,000,000 people back into the community.

(3) Recent studies indicate that over ⅔ of released State prisoners are expected to be rearrested for a felony or serious misdemeanor within 3 years after release.

(4) According to the Bureau of Justice Statistics, expenditures on corrections alone increased from $9,000,000,000 in 1982, to $59,600,000,000 in 2002. These figures do not include the cost of arrest and prosecution, nor do they take into account the cost to victims.

(5) The Serious and Violent Offender Reentry Initiative (SVORI) provided $139,000,000 in funding for State governments to develop and implement education, job training, mental health treatment, and substance abuse treatment for serious and violent offenders. This Act seeks to build upon the innovative and successful State reentry programs developed under the SVORI, which terminated after fiscal year 2005.

(6) Between 1991 and 1999, the number of children with a parent in a Federal or State correctional facility increased by more than 100 percent, from approximately 900,000 to approximately 2,000,000. According to the Bureau of Prisons, there is evidence to suggest that inmates who are connected to their children and families are more likely to avoid negative incidents and have reduced sentences.

(7) Released prisoners cite family support as the most important factor in helping them stay out of prison. Research suggests that families are an often underutilized resource in the reentry process.

(8) Approximately 100,000 juveniles (ages 17 years and under) leave juvenile correctional facilities, State prison, or Federal prison each year. Juveniles released from secure confinement still have their likely prime crime years ahead of them. Juveniles released from secure confinement have a recidivism rate ranging from 55 to 75 percent. The chances that young people will successfully transition into society improve with effective reentry and aftercare programs.

(9) Studies have shown that between 15 percent and 27 percent of prisoners expect to go to homeless shelters upon release from prison.

(10) Fifty-seven percent of Federal and 70 percent of State inmates used drugs regularly before going to prison, and the Bureau of Justice statistics report titled "Trends in State Parole, 1990–2000" estimates the use of drugs or alcohol around the time of the offense that resulted in the incarceration of the inmate at as high as 84 percent.

(11) Family-based treatment programs have proven results for serving the special populations of female offenders and substance abusers with children. An evaluation by the Substance Abuse and Mental Health Services Administration of family-based treatment for substance-abusing mothers and children found that 6 months after such treatment, 60 percent of the mothers remained alcohol and drug free, and drug-related offenses declined from 28 percent to 7 percent. Additionally, a 2003 evaluation of residential family-based treatment programs revealed that 60 percent of mothers remained clean and sober 6 months after treatment, criminal arrests declined by 43 percent, and 88 percent of the children treated in the program with their mothers remained stabilized.

(12) A Bureau of Justice Statistics analysis indicated that only 33 percent of Federal inmates and 36 percent of State inmates had participated in residential in-patient treatment programs for alcohol and drug abuse 12 months before their release. Further, over one-third of all jail inmates have some physical or mental disability and 25 percent of jail inmates have been treated at some time for a mental or emotional problem.

(13) State Substance Abuse Agency Directors, also known as Single State Authorities, manage the publicly funded substance abuse prevention and treatment system of the Nation. Single State Authorities are responsible for planning and implementing statewide systems of care that provide clinically appropriate substance abuse services. Given the high rate of substance use disorders among offenders reentering our communities, successful reentry programs require close interaction and collaboration with each Single State Authority as the program is planned, implemented, and evaluated.

(14) According to the National Institute of Literacy, 70 percent of all prisoners function at the lowest literacy levels.

(15) Less than 32 percent of State prison inmates have a high school diploma or a higher level of education, compared to 82 percent of the general population.

(16) Approximately 38 percent of inmates who completed 11 years or less of school were not working before entry into prison.

(17) The percentage of State prisoners participating in educational programs decreased by more than 8 percent between 1991 and 1997, despite growing evidence of how educational programming while incarcerated reduces recidivism.

(18) The National Institute of Justice has found that 1 year after release, up to 60 percent of former inmates are not employed.

(19) Transitional jobs programs have proven to help people with criminal records to successfully return to the workplace and to the community, and therefore can reduce recidivism.

42 USC 17502.

**SEC. 4. DEFINITION OF INDIAN TRIBE.**

In this Act, the term "Indian Tribe" has the meaning given that term in section 901 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791).

42 USC 17503.

**SEC. 5. SUBMISSION OF REPORTS TO CONGRESS.**

Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives each report required by the Attorney General under this Act or an amendment made by this Act during the preceding year.

42 USC 17504.

**SEC. 6. RULE OF CONSTRUCTION.**

Nothing in this Act or an amendment made by this Act shall be construed as creating a right or entitlement to assistance or services for any individual, program, or grant recipient. Each grant made under this Act or an amendment made by this Act shall—

(1) be made as competitive grants to eligible entities for a 12-month period, except that grants awarded under section 113, 201, 211, and 212 may be made for a 24-month period; and

(2) require that services for participants, when necessary and appropriate, be transferred from programs funded under this Act or the amendment made by this Act, respectively, to State and community-based programs not funded under this Act or the amendment made by this Act, respectively, before the expiration of the grant.

# TITLE I—AMENDMENTS RELATED TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

## Subtitle A—Improvements to Existing Programs

### SEC. 101. REAUTHORIZATION OF ADULT AND JUVENILE OFFENDER STATE AND LOCAL REENTRY DEMONSTRATION PROJECTS.

(a) ADULT AND JUVENILE OFFENDER DEMONSTRATION PROJECTS AUTHORIZED.—Section 2976(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w(b)) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) providing offenders in prisons, jails, or juvenile facilities with educational, literacy, vocational, and job placement services to facilitate re-entry into the community;

"(2) providing substance abuse treatment and services (including providing a full continuum of substance abuse treatment services that encompasses outpatient and comprehensive residential services and recovery);

"(3) providing coordinated supervision and comprehensive services for offenders upon release from prison, jail, or a juvenile facility, including housing and mental and physical health care to facilitate re-entry into the community, and which, to the extent applicable, are provided by community-based entities (including coordinated reentry veteran-specific services for eligible veterans);

"(4) providing programs that—

"(A) encourage offenders to develop safe, healthy, and responsible family relationships and parent-child relationships; and

"(B) involve the entire family unit in comprehensive reentry services (as appropriate to the safety, security, and well-being of the family and child);

"(5) encouraging the involvement of prison, jail, or juvenile facility mentors in the reentry process and enabling those mentors to remain in contact with offenders while in custody and after reentry into the community;

"(6) providing victim-appropriate services, encouraging the timely and complete payment of restitution and fines by offenders to victims, and providing services such as security and counseling to victims upon release of offenders; and

"(7) protecting communities against dangerous offenders by using validated assessment tools to assess the risk factors of returning inmates and developing or adopting procedures to ensure that dangerous felons are not released from prison prematurely.".

(b) JUVENILE OFFENDER DEMONSTRATION PROJECTS REAUTHORIZED.—Section 2976(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w(c)) is amended by striking "may be expended for" and all that follows through the period at the end and inserting "may be expended for any activity described in subsection (b).".

(c) APPLICATIONS; REQUIREMENTS; PRIORITIES; PERFORMANCE MEASUREMENTS.—Section 2976 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w) is amended—

(1) by redesignating subsection (h) as subsection (o); and

(2) by striking subsections (d) through (g) and inserting the following:

"(d) APPLICATIONS.—A State, unit of local government, territory, or Indian Tribe, or combination thereof, desiring a grant under this section shall submit an application to the Attorney General that—

"(1) contains a reentry strategic plan, as described in subsection (h), which describes the long-term strategy and incorporates a detailed implementation schedule, including the plans of the applicant to pay for the program after the Federal funding is discontinued;

Certification.

"(2) identifies the local government role and the role of governmental agencies and nonprofit organizations that will be coordinated by, and that will collaborate on, the offender reentry strategy of the applicant, and certifies the involvement of such agencies and organizations;

"(3) describes the evidence-based methodology and outcome measures that will be used to evaluate the program funded with a grant under this section, and specifically explains how such measurements will provide valid measures of the impact of that program; and

"(4) describes how the project could be broadly replicated if demonstrated to be effective.

"(e) REQUIREMENTS.—The Attorney General may make a grant to an applicant under this section only if the application—

"(1) reflects explicit support of the chief executive officer of the State, unit of local government, territory, or Indian Tribe applying for a grant under this section;

"(2) provides extensive discussion of the role of State corrections departments, community corrections agencies, juvenile justice systems, or local jail systems in ensuring successful reentry of offenders into their communities;

"(3) provides extensive evidence of collaboration with State and local government agencies overseeing health, housing, child welfare, education, substance abuse, victims services, and employment services, and with local law enforcement agencies;

"(4) provides a plan for analysis of the statutory, regulatory, rules-based, and practice-based hurdles to reintegration of offenders into the community; and

"(5) includes the use of a State, local, territorial, or Tribal task force, described in subsection (i), to carry out the activities funded under the grant.

"(f) PRIORITY CONSIDERATIONS.—The Attorney General shall give priority to grant applications under this section that best—

"(1) focus initiative on geographic areas with a disproportionate population of offenders released from prisons, jails, and juvenile facilities;

"(2) include—

"(A) input from nonprofit organizations, in any case where relevant input is available and appropriate to the grant application;

"(B) consultation with crime victims and offenders who are released from prisons, jails, and juvenile facilities; and

"(C) coordination with families of offenders;

"(3) demonstrate effective case assessment and management abilities in order to provide comprehensive and continuous reentry, including—

"(A) planning while offenders are in prison, jail, or a juvenile facility, prerelease transition housing, and community release;

"(B) establishing prerelease planning procedures to ensure that the eligibility of an offender for Federal or State benefits upon release is established prior to release, subject to any limitations in law, and to ensure that offenders obtain all necessary referrals for reentry services; and

"(C) delivery of continuous and appropriate drug treatment, medical care, job training and placement, educational services, or any other service or support needed for reentry;

"(4) review the process by which the applicant adjudicates violations of parole, probation, or supervision following release from prison, jail, or a juvenile facility, taking into account public safety and the use of graduated, community-based sanctions for minor and technical violations of parole, probation, or supervision (specifically those violations that are not otherwise, and independently, a violation of law);

"(5) provide for an independent evaluation of reentry programs that include, to the maximum extent possible, random assignment and controlled studies to determine the effectiveness of such programs; and

"(6) target high-risk offenders for reentry programs through validated assessment tools.

"(g) USES OF GRANT FUNDS.—

"(1) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of a grant received under this section may not exceed 50 percent of the project funded under such grant.

"(B) IN-KIND CONTRIBUTIONS.—

"(i) IN GENERAL.—Subject to clause (ii), the recipient of a grant under this section may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly related to the purpose for which such grant was awarded.

"(ii) MAXIMUM PERCENTAGE.—Not more than 50 percent of the amount provided by a recipient of a grant under this section to meet the matching requirement under subparagraph (A) may be provided through in-kind contributions under clause (i).

"(2) SUPPLEMENT NOT SUPPLANT.—Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for the activities funded under this section.

"(h) REENTRY STRATEGIC PLAN.—

"(1) IN GENERAL.—As a condition of receiving financial assistance under this section, each applicant shall develop a comprehensive strategic reentry plan that contains measurable annual and 5-year performance outcomes, and that uses, to the maximum extent possible, random assigned and controlled studies to determine the effectiveness of the program funded with a grant under this section. One goal of that plan shall be to reduce the rate of recidivism (as defined by the Attorney General, consistent with the research on offender reentry undertaken by the Bureau of Justice Statistics) by 50 percent over a 5-year period for offenders released from prison, jail, or a juvenile facility who are served with funds made available under this section.

"(2) COORDINATION.—In developing a reentry plan under this subsection, an applicant shall coordinate with communities and stakeholders, including persons in the fields of public safety, juvenile and adult corrections, housing, health, education, substance abuse, children and families, victims services, employment, and business and members of nonprofit organizations that can provide reentry services.

"(3) MEASUREMENTS OF PROGRESS.—Each reentry plan developed under this subsection shall measure the progress of the applicant toward increasing public safety by reducing rates of recidivism and enabling released offenders to transition successfully back into their communities.

"(i) REENTRY TASK FORCE.—

Establishment.

"(1) IN GENERAL.—As a condition of receiving financial assistance under this section, each applicant shall establish or empower a Reentry Task Force, or other relevant convening authority, to—

"(A) examine ways to pool resources and funding streams to promote lower recidivism rates for returning offenders and minimize the harmful effects of offenders' time in prison, jail, or a juvenile facility on families and communities of offenders by collecting data and best practices in offender reentry from demonstration grantees and other agencies and organizations; and

"(B) provide the analysis described in subsection (e)(4).

"(2) MEMBERSHIP.—The task force or other authority under this subsection shall be comprised of—

"(A) relevant State, Tribal, territorial, or local leaders; and

"(B) representatives of relevant—

"(i) agencies;

"(ii) service providers;

"(iii) nonprofit organizations; and

"(iv) stakeholders.

"(j) STRATEGIC PERFORMANCE OUTCOMES.—

"(1) IN GENERAL.—Each applicant shall identify in the reentry strategic plan developed under subsection (h), specific performance outcomes relating to the long-term goals of increasing public safety and reducing recidivism.

"(2) PERFORMANCE OUTCOMES.—The performance outcomes identified under paragraph (1) shall include, with respect to offenders released back into the community—

"(A) reduction in recidivism rates, which shall be reported in accordance with the measure selected by the

Director of the Bureau of Justice Statistics under section 234(c)(2) of the Second Chance Act of 2007;

"(B) reduction in crime;

"(C) increased employment and education opportunities;

"(D) reduction in violations of conditions of supervised release;

"(E) increased payment of child support;

"(F) increased housing opportunities;

"(G) reduction in drug and alcohol abuse; and

"(H) increased participation in substance abuse and mental health services.

"(3) OTHER OUTCOMES.—A grantee under this section may include in the reentry strategic plan developed under subsection (h) other performance outcomes that increase the success rates of offenders who transition from prison, jails, or juvenile facilities.

"(4) COORDINATION.—A grantee under this section shall coordinate with communities and stakeholders about the selection of performance outcomes identified by the applicant, and shall consult with the Attorney General for assistance with data collection and measurement activities as provided for in the grant application materials.

"(5) REPORT.—Each grantee under this section shall submit to the Attorney General an annual report that—

"(A) identifies the progress of the grantee toward achieving its strategic performance outcomes; and

"(B) describes other activities conducted by the grantee to increase the success rates of the reentry population, such as programs that foster effective risk management and treatment programming, offender accountability, and community and victim participation.

"(k) PERFORMANCE MEASUREMENT.—

"(1) IN GENERAL.—The Attorney General, in consultation with grantees under this section, shall—

"(A) identify primary and secondary sources of information to support the measurement of the performance indicators identified under this section;

"(B) identify sources and methods of data collection in support of performance measurement required under this section;

"(C) provide to all grantees technical assistance and training on performance measures and data collection for purposes of this section; and

"(D) consult with the Substance Abuse and Mental Health Services Administration and the National Institute on Drug Abuse on strategic performance outcome measures and data collection for purposes of this section relating to substance abuse and mental health.

"(2) COORDINATION.—The Attorney General shall coordinate with other Federal agencies to identify national and other sources of information to support performance measurement of grantees.

"(3) STANDARDS FOR ANALYSIS.—Any statistical analysis of population data conducted pursuant to this section shall be conducted in accordance with the Federal Register Notice dated October 30, 1997, relating to classification standards.

"(l) FUTURE ELIGIBILITY.—To be eligible to receive a grant under this section in any fiscal year after the fiscal year in which a grantee receives a grant under this section, a grantee shall submit to the Attorney General such information as is necessary to demonstrate that—

"(1) the grantee has adopted a reentry plan that reflects input from nonprofit organizations, in any case where relevant input is available and appropriate to the grant application;

"(2) the reentry plan of the grantee includes performance measures to assess progress of the grantee toward a 10 percent reduction in the rate of recidivism over a 2-year period;

"(3) the grantee will coordinate with the Attorney General, nonprofit organizations (if relevant input from nonprofit organizations is available and appropriate), and other experts regarding the selection and implementation of the performance measures described in subsection (k); and

"(4) the grantee has made adequate progress, as determined by the Attorney General, toward reducing the rate of recidivism by 10 percent over a 2-year period.

"(m) NATIONAL ADULT AND JUVENILE OFFENDER REENTRY RESOURCE CENTER.—

"(1) AUTHORITY.—The Attorney General may, using amounts made available to carry out this subsection, make a grant to an eligible organization to provide for the establishment of a National Adult and Juvenile Offender Reentry Resource Center.

"(2) ELIGIBLE ORGANIZATION.—An organization eligible for the grant under paragraph (1) is any national nonprofit organization approved by the Interagency Task Force on Federal Programs and Activities Relating to the Reentry of Offenders Into the Community, that provides technical assistance and training to, and has special expertise and broad, national-level experience in, offender reentry programs, training, and research.

Establishment.

"(3) USE OF FUNDS.—The organization receiving a grant under paragraph (1) shall establish a National Adult and Juvenile Offender Reentry Resource Center to—

"(A) provide education, training, and technical assistance for States, tribes, territories, local governments, service providers, nonprofit organizations, and corrections institutions;

"(B) collect data and best practices in offender reentry from demonstration grantees and others agencies and organizations;

"(C) develop and disseminate evaluation tools, mechanisms, and measures to better assess and document coalition performance measures and outcomes;

"(D) disseminate information to States and other relevant entities about best practices, policy standards, and research findings;

"(E) develop and implement procedures to assist relevant authorities in determining when release is appropriate and in the use of data to inform the release decision;

"(F) develop and implement procedures to identify efficiently and effectively those violators of probation, parole, or supervision following release from prison, jail, or a juvenile facility who should be returned to prisons, jails, or

juvenile facilities and those who should receive other penalties based on defined, graduated sanctions;

"(G) collaborate with the Interagency Task Force on Federal Programs and Activities Relating to the Reentry of Offenders Into the Community, and the Federal Resource Center for Children of Prisoners;

"(H) develop a national reentry research agenda; and

"(I) establish a database to enhance the availability of information that will assist offenders in areas including housing, employment, counseling, mentoring, medical and mental health services, substance abuse treatment, transportation, and daily living skills.

"(4) LIMIT.—Of amounts made available to carry out this section, not more than 4 percent of the authorized level shall be available to carry out this subsection.

"(n) ADMINISTRATION.—Of amounts made available to carry out this section—

"(1) not more than 2 percent of the authorized level shall be available for administrative expenses in carrying out this section; and

"(2) not more than 2 percent of the authorized level shall be made available to the National Institute of Justice to evaluate the effectiveness of the demonstration projects funded under this section, using a methodology that—

"(A) includes, to the maximum extent feasible, random assignment of offenders (or entities working with such persons) to program delivery and control groups; and

"(B) generates evidence on which reentry approaches and strategies are most effective.".

(d) GRANT AUTHORIZATION.—Section 2976(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w(a)) is amended by striking "States, Territories" and all that follows through the period at the end and inserting the following: "States, local governments, territories, or Indian Tribes, or any combination thereof, in partnership with stakeholders, service providers, and nonprofit organizations.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 2976(o) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w), as so redesignated by subsection (c) of this section, is amended—

(1) in paragraph (1), by striking "$15,000,000 for fiscal year 2003" and all that follows and inserting "$55,000,000 for each of fiscal years 2009 and 2010."; and

(2) by amending paragraph (2) to read as follows:

"(2) LIMITATION; EQUITABLE DISTRIBUTION.—

"(A) LIMITATION.—Of the amount made available to carry out this section for any fiscal year, not more than 3 percent or less than 2 percent may be used for technical assistance and training.

"(B) EQUITABLE DISTRIBUTION.—The Attorney General shall ensure that grants awarded under this section are equitably distributed among the geographical regions and between urban and rural populations, including Indian Tribes, consistent with the objective of reducing recidivism among criminal offenders.".

**SEC. 102. IMPROVEMENT OF THE RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE OFFENDERS PROGRAM.**

(a) REQUIREMENT FOR AFTERCARE COMPONENT.—Section 1902(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff–1(c)), is amended—

(1) by striking the subsection heading and inserting "REQUIREMENT FOR AFTERCARE COMPONENT"; and

(2) by amending paragraph (1) to read as follows:

"(1) To be eligible for funding under this part, a State shall ensure that individuals who participate in the substance abuse treatment program established or implemented with assistance provided under this part will be provided with aftercare services, which may include case management services and a full continuum of support services that ensure providers furnishing services under that program are approved by the appropriate State or local agency, and licensed, if necessary, to provide medical treatment or other health services.".

(b) DEFINITION.—Section 1904(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff–3(d)) is amended to read as follows:

"(d) RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM DEFINED.—In this part, the term 'residential substance abuse treatment program' means a course of comprehensive individual and group substance abuse treatment services, lasting a period of at least 6 months, in residential treatment facilities set apart from the general population of a prison or jail (which may include the use of pharmacological treatment, where appropriate, that may extend beyond such period).".

(c) REQUIREMENT FOR STUDY AND REPORT ON AFTERCARE SERVICES.—The Attorney General, through the National Institute of Justice, and in consultation with the National Institute on Drug Abuse, shall conduct a study on the use and effectiveness of funds used by the Department of Justice for aftercare services under section 1902(c) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by subsection (a) of this section, for offenders who reenter the community after completing a substance abuse program in prison or jail.

Deadlines.

**SEC. 103 DEFINITION OF VIOLENT OFFENDER FOR DRUG COURT GRANT PROGRAM.**

(a) DEFINITION.—Section 2953(a)(1) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u–2(a)(1)) is amended by inserting "that is punishable by a term of imprisonment exceeding one year" after "convicted of an offense".

42 USC 3797u–2 note.

(b) PERIOD FOR COMPLIANCE.—Notwithstanding section 2952(2) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u–1(2)), each grantee under part EE of such Act shall have not more than 3 years from the date of the enactment of this Act to adopt the definition of "violent offender" under such part, as amended by subsection (a) of this section.

42 USC 3797u–1 note.

(c) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall revise any regulations or guidelines described in section 2952 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u–1) in accordance with the amendments made by subsection (a). Such regulations shall specify that grant amounts under part EE of such Act shall be reduced for any drug court that does not adopt the definition

of "violent offender" under such part, as amended by subsection (a) of this section, within 3 years after such date of enactment.

**SEC. 104. USE OF VIOLENT OFFENDER TRUTH-IN-SENTENCING GRANT FUNDING FOR DEMONSTRATION PROJECT ACTIVITIES.**

(a) PERMISSIBLE USES.—Section 20102(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13702(a)) is amended—

(1) in paragraph (2) by striking "and" at the end;

(2) in paragraph (3) by striking the period at the end and inserting "; and"; and

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

"(4) to carry out any activity referred to in section 2976(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w(b)).".

(b) USE OF FUNDS APPROPRIATED.—Section 20108(b)(4) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13708(b)(4)) is amended by adding at the end the following: "Funds obligated, but subsequently unspent and deobligated, may remain available, to the extent as may provided in appropriations Acts, for the purpose described in section 20102(a)(4) for any subsequent fiscal year. The further obligation of such funds by an official for such purpose shall not be delayed, directly or indirectly, in any manner by any officer or employee in the executive branch.".

# Subtitle B—New and Innovative Programs To Improve Offender Reentry Services

**SEC. 111. STATE, TRIBAL, AND LOCAL REENTRY COURTS.**

Part FF of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w et seq.) is amended by adding at the end the following:

**"SEC. 2978. STATE, TRIBAL, AND LOCAL REENTRY COURTS.** 42 USC 3797w–2.

"(a) GRANTS AUTHORIZED.—The Attorney General may award grants, in accordance with this section, of not more than $500,000 to—

"(1) State, Tribal, and local courts; and

"(2) State agencies, municipalities, public agencies, nonprofit organizations, territories, and Indian Tribes that have agreements with courts to take the lead in establishing a reentry court (as described in section 2976(b)(19)).

"(b) USE OF GRANT FUNDS.—Grant funds awarded under this section shall be administered in accordance with such guidelines, regulations, and procedures as promulgated by the Attorney General, and may be used to—

"(1) monitor juvenile and adult offenders reentering the community;

"(2) provide juvenile and adult offenders reentering the community with coordinated and comprehensive reentry services and programs such as—

"(A) drug and alcohol testing and assessment for treatment;

"(B) assessment for substance abuse from a substance abuse professional who is approved by the State or Indian

Tribe and licensed by the appropriate entity to provide alcohol and drug addiction treatment, as appropriate;

"(C) substance abuse treatment from a provider that is approved by the State or Indian Tribe, and licensed, if necessary, to provide medical and other health services;

"(D) health (including mental health) services and assessment;

"(E) aftercare and case management services that—

"(i) facilitate access to clinical care and related health services; and

"(ii) coordinate with such clinical care and related health services; and

"(F) any other services needed for reentry;

"(3) convene community impact panels, victim impact panels, or victim impact educational classes;

"(4) provide and coordinate the delivery of community services to juvenile and adult offenders, including—

"(A) housing assistance;

"(B) education;

"(C) job training;

"(D) conflict resolution skills training;

"(E) batterer intervention programs; and

"(F) other appropriate social services; and

"(5) establish and implement graduated sanctions and incentives.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as preventing a grantee that operates a drug court under part EE at the time a grant is awarded under this section from using funds from such grant to supplement such drug court in accordance with paragraphs (1) through (5) of subsection (b).

"(d) APPLICATION.—To be eligible for a grant under this section, an entity described in subsection (a) shall, in addition to any other requirements required by the Attorney General, submit to the Attorney General an application that—

"(1) describes the program to be assisted under this section and the need for such program;

"(2) describes a long-term strategy and detailed implementation plan for such program, including how the entity plans to pay for the program after the Federal funding is discontinued;

"(3) identifies the governmental and community agencies that will be coordinated by the project;

Certification.

"(4) certifies that—

"(A) all agencies affected by the program, including community corrections and parole entities, have been appropriately consulted in the development of the program;

"(B) there will be appropriate coordination with all such agencies in the implementation of the program; and

"(C) there will be appropriate coordination and consultation with the Single State Authority for Substance Abuse (as that term is defined in section 201(e) of the Second Chance Act of 2007) of the State; and

"(5) describes the methodology and outcome measures that will be used to evaluate the program.

"(e) FEDERAL SHARE.—

"(1) MATCHING REQUIREMENT.—The Federal share of a grant under this section may not exceed 50 percent of the program funded under such grant.

"(2) IN-KIND CONTRIBUTIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the recipient of a grant under this section may meet the matching requirement under paragraph (1) by making in-kind contributions of goods or services that are directly related to the purpose for which such grant was awarded.

"(B) MAXIMUM PERCENTAGE.—Not more than 50 percent of the amount provided by a recipient of a grant under this section to meet the matching requirement under paragraph (1) may be provided through in-kind contributions under subparagraph (A).

"(3) SUPPLEMENT NOT SUPPLANT.—Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for the activities funded under this section.

"(f) ANNUAL REPORT.—Each entity receiving a grant under this section shall submit to the Attorney General, for each fiscal year in which funds from the grant are expended, a report, at such time and in such manner as the Attorney General may reasonably require, that contains—

"(1) a summary of the activities carried out under the program assisted by the grant;

"(2) an assessment of whether the activities are meeting the need for the program identified in the application submitted under subsection (d); and

"(3) such other information as the Attorney General may require.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2009 and 2010 to carry out this section.

"(2) LIMITATIONS; EQUITABLE DISTRIBUTION.—

"(A) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

"(i) not more than 2 percent may be used by the Attorney General for salaries and administrative expenses; and

"(ii) not more than 5 percent nor less than 2 percent may be used for technical assistance and training.

"(B) EQUITABLE DISTRIBUTION.—The Attorney General shall ensure that grants awarded under this section are equitably distributed among the geographical regions and between urban and rural populations, including Indian Tribes, consistent with the objective of reducing recidivism among criminal offenders.".

**SEC. 112. PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS.**

(a) AUTHORIZATION.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part BB the following:

## "PART CC—PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAM

42 USC 3797q.

**"SEC. 2901. GRANT AUTHORITY.**

"(a) IN GENERAL.—The Attorney General may make grants to State, Tribal, and local prosecutors to develop, implement, or expand qualified drug treatment programs that are alternatives to imprisonment, in accordance with this part.

"(b) QUALIFIED DRUG TREATMENT PROGRAMS DESCRIBED.—For purposes of this part, a qualified drug treatment program is a program—

"(1) that is administered by a State, Tribal, or local prosecutor;

"(2) that requires an eligible offender who is sentenced to participate in the program (instead of incarceration) to participate in a comprehensive substance abuse treatment program that is approved by the State or Indian Tribe and licensed, if necessary, to provide medical and other health services;

"(3) that requires an eligible offender to receive the consent of the State, Tribal, or local prosecutor involved to participate in such program;

"(4) that, in the case of an eligible offender who is sentenced to participate in the program, requires the offender to serve a sentence of imprisonment with respect to the crime involved if the prosecutor, in conjunction with the treatment provider, determines that the offender has not successfully completed the relevant substance abuse treatment program described in paragraph (2);

"(5) that provides for the dismissal of the criminal charges involved in an eligible offender's participation in the program if the offender is determined to have successfully completed the program;

"(6) that requires each substance abuse provider treating an eligible offender under the program to—

"(A) make periodic reports of the progress of the treatment of that offender to the State, Tribal, or local prosecutor involved and to the appropriate court in which the eligible offender was convicted; and

Notification.

"(B) notify such prosecutor and such court if the eligible offender absconds from the facility of the treatment provider or otherwise violates the terms and conditions of the program, consistent with Federal and State confidentiality requirements; and

"(7) that has an enforcement unit comprised of law enforcement officers under the supervision of the State, Tribal, or local prosecutor involved, the duties of which shall include verifying an eligible offender's addresses and other contacts, and, if necessary, locating, apprehending, and arresting an eligible offender who has absconded from the facility of a substance abuse treatment provider or otherwise violated the terms and conditions of the program, consistent with Federal and State confidentiality requirements, and returning such eligible offender to court for sentencing for the crime involved.

42 USC 3797q–1.

**"SEC. 2902. USE OF GRANT FUNDS.**

"(a) IN GENERAL.—A State, Tribal, or local prosecutor that receives a grant under this part shall use such grant for expenses

of a qualified drug treatment program, including for the following expenses:

"(1) Salaries, personnel costs, equipment costs, and other costs directly related to the operation of the program, including the enforcement unit.

"(2) Payments for substance abuse treatment providers that are approved by the State or Indian Tribe and licensed, if necessary, to provide alcohol and drug addiction treatment to eligible offenders participating in the program, including aftercare supervision, vocational training, education, and job placement.

"(3) Payments to public and nonprofit private entities that are approved by the State or Indian Tribe and licensed, if necessary, to provide alcohol and drug addiction treatment to offenders participating in the program.

"(b) SUPPLEMENT AND NOT SUPPLANT.—Grants made under this part shall be used to supplement, and not supplant, non-Federal funds that would otherwise be available for programs described in this part.

**"SEC. 2903. APPLICATIONS.** 42 USC 3797q–2.

"To request a grant under this part, a State, Tribal, or local prosecutor shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require. Each such application shall contain the certification by the State, Tribal, or local prosecutor that the program for which the grant is requested is a qualified drug treatment program, in accordance with this part. Certification.

**"SEC. 2904. FEDERAL SHARE.** 42 USC 3797q–3.

"(a) MATCHING REQUIREMENT.—The Federal share of a grant under this part may not exceed 50 percent of the total costs of the qualified drug treatment program funded under such grant.

"(b) IN-KIND CONTRIBUTIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the recipient of a grant under this part may meet the matching requirement under subsection (a) by making in-kind contributions of goods or services that are directly related to the purpose for which such grant was awarded.

"(2) MAXIMUM PERCENTAGE.—Not more than 50 percent of the amount provided by a recipient of a grant under this part to meet the matching requirement under subsection (a) may be provided through in-kind contributions under paragraph (1).

**"SEC. 2905. GEOGRAPHIC DISTRIBUTION.** 42 USC 3797q–4.

"The Attorney General shall ensure that, to the extent practicable, the distribution of grants under this part is equitable and includes State, Tribal, or local prosecutors—

"(1) in each State; and

"(2) in rural, suburban, Tribal, and urban jurisdictions.

**"SEC. 2906. REPORTS AND EVALUATIONS.** 42 USC 3797q–5.

"For each fiscal year, each recipient of a grant under this part during that fiscal year shall submit to the Attorney General a report with respect to the effectiveness of activities carried out using that grant. Each report shall include an evaluation in such form and containing such information as the Attorney General

may reasonably require. The Attorney General shall specify the dates on which such reports shall be submitted.

42 USC 3797q–6.

**"SEC. 2907. DEFINITIONS.**

"In this part:

"(1) STATE OR LOCAL PROSECUTOR.—The term 'State, Tribal, or local prosecutor' means any district attorney, State attorney general, county attorney, tribal attorney, or corporation counsel who has authority to prosecute criminal offenses under State, Tribal, or local law.

"(2) ELIGIBLE OFFENDER.—The term 'eligible offender' means an individual who—

"(A) has been convicted, pled guilty, or admitted guilt with respect to a crime for which a sentence of imprisonment is required and has not completed such sentence;

"(B) has never been charged with or convicted of an offense, during the course of which—

"(i) the individual carried, possessed, or used a firearm or dangerous weapon; or

"(ii) there occurred the use of force against the person of another, without regard to whether any of the behavior described in clause (i) is an element of the offense or for which the person is charged or convicted;

"(C) does not have 1 or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm; and

"(D)(i) has received an assessment for alcohol or drug addiction from a substance abuse professional who is approved by the State or Indian Tribe and licensed by the appropriate entity to provide alcohol and drug addiction treatment, as appropriate; and

"(ii) has been found to be in need of substance abuse treatment because that individual has a history of substance abuse that is a significant contributing factor to the criminal conduct of that individual.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following new paragraph:

"(26) There are authorized to be appropriated to carry out part CC $10,000,000 for each of fiscal years 2009 and 2010.".

**SEC. 113. GRANTS FOR FAMILY-BASED SUBSTANCE ABUSE TREATMENT.**

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part CC, as added by this Act, the following:

## "PART DD—GRANTS FOR FAMILY-BASED SUBSTANCE ABUSE TREATMENT

42 USC 3797s.

**"SEC. 2921. GRANTS AUTHORIZED.**

"The Attorney General may make grants to States, units of local government, territories, and Indian Tribes to—

"(1) develop, implement, and expand comprehensive and clinically-appropriate family-based substance abuse treatment programs as alternatives to incarceration for nonviolent parent drug offenders; and

"(2) to provide prison-based family treatment programs for incarcerated parents of minor children.

**"SEC. 2922. USE OF GRANT FUNDS.** 42 USC 3797s–1.

"Grants made to an entity under section 2921 for a program described in such section may be used for—

"(1) the development, implementation, and expansion of prison-based family treatment programs in correctional facilities for incarcerated parents with minor children (except for any such parent who there is reasonable evidence to believe engaged in domestic violence or child abuse);

"(2) the development, implementation, and expansion of residential substance abuse treatment;

"(3) coordination between appropriate correctional facility representatives and the appropriate governmental agencies;

"(4) payments to public and nonprofit private entities to provide substance abuse treatment to nonviolent parent drug offenders participating in that program; and

"(5) salaries, personnel costs, facility costs, and other costs directly related to the operation of that program.

**"SEC. 2923. PROGRAM REQUIREMENTS.** 42 USC 3797s–2.

"(a) IN GENERAL.—A program for which a grant is made under section 2921(1) shall comply with the following requirements:

"(1) The program shall ensure that all providers of substance abuse treatment are approved by the State or Indian Tribe and are licensed, if necessary, to provide medical and other health services.

"(2) The program shall ensure appropriate coordination and consultation with the Single State Authority for Substance Abuse of the State (as that term is defined in section 201(e) of the Second Chance Act of 2007).

"(3) The program shall consist of clinically-appropriate, comprehensive, and long-term family treatment, including the treatment of the nonviolent parent drug offender, the child of such offender, and any other appropriate member of the family of the offender.

"(4) The program shall be provided in a residential setting that is not a hospital setting or an intensive outpatient setting.

"(5) The program shall provide that if a nonviolent parent drug offender who participates in that program does not successfully complete the program the offender shall serve an appropriate sentence of imprisonment with respect to the underlying crime involved.

"(6) The program shall ensure that a determination is made as to whether a nonviolent drug offender has completed the substance abuse treatment program.

"(7) The program shall include the implementation of a system of graduated sanctions (including incentives) that are applied based on the accountability of the nonviolent parent drug offender involved throughout the course of that program to encourage compliance with that program.

"(8) The program shall develop and implement a reentry plan for each participant.

"(b) PRISON-BASED PROGRAMS.—A program for which a grant is made under section 2921(2) shall comply with the following requirements:

"(1) The program shall integrate techniques to assess the strengths and needs of immediate and extended family of the incarcerated parent to support a treatment plan of the incarcerated parent.

"(2) The program shall ensure that each participant in that program has access to consistent and uninterrupted care if transferred to a different correctional facility within the State or other relevant entity.

"(3) The program shall be located in an area separate from the general population of the prison.

42 USC 3797s–3.

**"SEC. 2924. APPLICATIONS.**

"(a) IN GENERAL.—An entity described in section 2921 desiring a grant under this part shall submit to the Attorney General an application in such form and manner and at such time as the Attorney General requires.

"(b) CONTENTS.—An application under subsection (a) shall include a description of the methods and measurements the applicant will use for purposes of evaluating the program involved.

42 USC 3797s–4.

**"SEC. 2925. REPORTS.**

"An entity that receives a grant under this part during a fiscal year shall submit to the Attorney General, not later than a date specified by the Attorney General, a report that describes and evaluates the effectiveness of that program during such fiscal year that—

"(1) is based on evidence-based data; and

"(2) uses the methods and measurements described in the application of that entity for purposes of evaluating that program.

42 USC 3797s–5.

**"SEC. 2926. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part $10,000,000 for each of fiscal years 2009 and 2010.

"(b) USE OF AMOUNTS.—Of the amount made available to carry out this part in any fiscal year, not less than 5 percent shall be used for grants to Indian Tribes.

42 USC 3797s–6.

**"SEC. 2927. DEFINITIONS.**

"In this part:

"(1) NONVIOLENT PARENT DRUG OFFENDER.—The term 'nonviolent parent drug offender' means an offender who is—

"(A) a parent of an individual under 18 years of age; and

"(B) convicted of a drug (or drug-related) felony that is a nonviolent offense.

"(2) NONVIOLENT OFFENSE.—The term 'nonviolent offense' has the meaning given that term in section 2991(a).

"(3) PRISON-BASED FAMILY TREATMENT PROGRAM.—The term 'prison-based family treatment program' means a program for incarcerated parents in a correctional facility that provides a comprehensive response to offender needs, including substance abuse treatment, child early intervention services, family counseling, legal services, medical care, mental health services,

nursery and preschool, parenting skills training, pediatric care, physical therapy, prenatal care, sexual abuse therapy, relapse prevention, transportation, and vocational or GED training.".

**SEC. 114. GRANT TO EVALUATE AND IMPROVE EDUCATION AT PRISONS, JAILS, AND JUVENILE FACILITIES.**

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is further amended—

(1) by redesignating part X as part KK; and

(2) by inserting after part II the following: 42 USC prec. 3797ee.

# "PART JJ—GRANT PROGRAM TO EVALUATE AND IMPROVE EDUCATIONAL METHODS AT PRISONS, JAILS, AND JUVENILE FACILITIES

**"SEC. 3001. GRANT PROGRAM TO EVALUATE AND IMPROVE EDUCATIONAL METHODS AT PRISONS, JAILS, AND JUVENILE FACILITIES.** 42 USC 3797dd.

"(a) GRANT PROGRAM AUTHORIZED.—The Attorney General may carry out a grant program under which the Attorney General may make grants to States, units of local government, territories, Indian Tribes, and other public and private entities to—

"(1) evaluate methods to improve academic and vocational education for offenders in prisons, jails, and juvenile facilities;

"(2) identify, and make recommendations to the Attorney General regarding, best practices relating to academic and vocational education for offenders in prisons, jails, and juvenile facilities, based on the evaluation under paragraph (1); and

"(3) improve the academic and vocational education programs (including technology career training) available to offenders in prisons, jails, and juvenile facilities.

"(b) APPLICATION.—To be eligible for a grant under this part, a State or other entity described in subsection (a) shall submit to the Attorney General an application in such form and manner, at such time, and accompanied by such information as the Attorney General specifies.

"(c) REPORT.—Not later than 90 days after the last day of the final fiscal year of a grant under this part, each entity described in subsection (a) receiving such a grant shall submit to the Attorney General a detailed report of the progress made by the entity using such grant, to permit the Attorney General to evaluate and improve academic and vocational education methods carried out with grants under this part.

**"SEC. 3002. AUTHORIZATION OF APPROPRIATIONS.** 42 USC 3797dd–1.

"There are authorized to be appropriated $5,000,000 to carry out this part for each of fiscal years 2009 and 2010.".

**SEC. 115. TECHNOLOGY CAREERS TRAINING DEMONSTRATION GRANTS.** 42 USC 17511.

(a) AUTHORITY TO MAKE GRANTS.—From amounts made available to carry out this section, the Attorney General shall make grants to States, units of local government, territories, and Indian Tribes to provide technology career training to prisoners.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for establishing a technology careers training program to train prisoners for technology-based jobs and careers during

the 3-year period before release from prison, jail, or a juvenile facility.

(c) CONTROL OF INTERNET ACCESS.—An entity that receives a grant under subsection (a) shall restrict access to the Internet by prisoners, as appropriate, to ensure public safety.

(d) REPORTS.—Not later than the last day of each fiscal year, an entity that receives a grant under subsection (a) during the preceding fiscal year shall submit to the Attorney General a report that describes and assesses the uses of such grant during the preceding fiscal year.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2009 and 2010.

# TITLE II—ENHANCED DRUG TREATMENT AND MENTORING GRANT PROGRAMS

## Subtitle A—Drug Treatment

42 USC 17521.

### SEC. 201. OFFENDER REENTRY SUBSTANCE ABUSE AND CRIMINAL JUSTICE COLLABORATION PROGRAM.

(a) GRANT PROGRAM AUTHORIZED.—The Attorney General may make competitive grants to States, units of local government, territories, and Indian Tribes, in accordance with this section, for the purposes of—

(1) improving the provision of drug treatment to offenders in prisons, jails, and juvenile facilities; and

(2) reducing the use of alcohol and other drugs by long-term substance abusers during the period in which each such long-term substance abuser is in prison, jail, or a juvenile facility, and through the completion of parole or court supervision of such long-term substance abuser.

(b) USE OF GRANT FUNDS.—A grant made under subsection (a) may be used—

(1) for continuing and improving drug treatment programs provided at a prison, jail, or juvenile facility;

(2) to develop and implement programs for supervised long-term substance abusers that include alcohol and drug abuse assessments, coordinated and continuous delivery of drug treatment, and case management services;

(3) to strengthen rehabilitation efforts for offenders by providing addiction recovery support services; and

(4) to establish pharmacological drug treatment services as part of any drug treatment program offered by a grantee to offenders who are in a prison or jail.

(c) APPLICATION.—

(1) IN GENERAL.—An entity described in subsection (a) desiring a grant under that subsection shall submit to the Attorney General an application in such form and manner and at such time as the Attorney General requires.

(2) CONTENTS.—An application for a grant under subsection (a) shall—

(A) identify any agency, organization, or researcher that will be involved in administering a drug treatment program carried out with a grant under subsection (a);

(B) certify that such drug treatment program has been developed in consultation with the Single State Authority for Substance Abuse; Certification.

(C) certify that such drug treatment program shall— Certification.

(i) be clinically-appropriate; and

(ii) provide comprehensive treatment;

(D) describe how evidence-based strategies have been incorporated into such drug treatment program; and

(E) describe how data will be collected and analyzed to determine the effectiveness of such drug treatment program and describe how randomized trials will be used where practicable.

(d) REPORTS TO CONGRESS.—

(1) INTERIM REPORT.—Not later than September 30, 2009, the Attorney General shall submit to Congress a report that identifies the best practices relating to—

(A) substance abuse treatment in prisons, jails, and juvenile facilities; and

(B) the comprehensive and coordinated treatment of long-term substance abusers, including the best practices identified through the activities funded under subsection (b)(3).

(2) FINAL REPORT.—Not later than September 30, 2010, the Attorney General shall submit to Congress a report on the drug treatment programs funded under this section, including on the matters specified in paragraph (1).

(e) DEFINITION OF SINGLE STATE AUTHORITY FOR SUBSTANCE ABUSE.—The term "Single State Authority for Substance Abuse" means an entity designated by the Governor or chief executive officer of a State as the single State administrative authority responsible for the planning, development, implementation, monitoring, regulation, and evaluation of substance abuse services.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2009 and 2010.

(2) EQUITABLE DISTRIBUTION OF GRANT AMOUNTS.—Of the amount made available to carry out this section in any fiscal year, the Attorney General shall ensure that grants awarded under this section are equitably distributed among geographical regions and between urban and rural populations, including Indian Tribes, consistent with the objective of reducing recidivism among criminal offenders.

# Subtitle B—Mentoring

**SEC. 211. MENTORING GRANTS TO NONPROFIT ORGANIZATIONS.** 42 USC 17531.

(a) AUTHORITY TO MAKE GRANTS.—From amounts made available to carry out this section, the Attorney General shall make grants to nonprofit organizations and Indian Tribes for the purpose of providing mentoring and other transitional services essential to reintegrating offenders into the community.

(b) USE OF FUNDS.—A grant awarded under subsection (a) may be used for—

(1) mentoring adult and juvenile offenders during incarceration, through transition back to the community, and post-release;

(2) transitional services to assist in the reintegration of offenders into the community; and

(3) training regarding offender and victims issues.

(c) APPLICATION; PRIORITY CONSIDERATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a nonprofit organization or Indian Tribe shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require.

(2) PRIORITY CONSIDERATION.—Priority consideration shall be given to any application under this section that—

(A) includes a plan to implement activities that have been demonstrated effective in facilitating the successful reentry of offenders; and

(B) provides for an independent evaluation that includes, to the maximum extent feasible, random assignment of offenders to program delivery and control groups.

(d) STRATEGIC PERFORMANCE OUTCOMES.—The Attorney General shall require each applicant under this section to identify specific performance outcomes related to the long-term goal of stabilizing communities by reducing recidivism (using a measure that is consistent with the research undertaken by the Bureau of Justice Statistics under section 241(b)(6)), and reintegrating offenders into the community.

(e) REPORTS.—An entity that receives a grant under subsection (a) during a fiscal year shall, not later than the last day of the following fiscal year, submit to the Attorney General a report that describes and assesses the uses of that grant during that fiscal year and that identifies the progress of the grantee toward achieving its strategic performance outcomes.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section $15,000,000 for each of fiscal years 2009 and 2010.

42 USC 17532.

**SEC. 212. RESPONSIBLE REINTEGRATION OF OFFENDERS.**

(a) ELIGIBLE OFFENDERS.—

(1) IN GENERAL.—In this section, the term "eligible offender" means an individual who—

(A) is 18 years of age or older;

(B) has been convicted as an adult and imprisoned under Federal or State law;

(C) has never been convicted of a violent or sex-related offense; and

(D) except as provided in paragraph (2), has been released from a prison or jail for not more than 180 days before the date on which the individual begins participating in a grant program carried out under this section.

(2) EXCEPTION.—Each grantee under this section may permit not more than 10 percent of the individuals served with a grant under this section to be individuals who—

(A) meet the conditions of subparagraphs (A) through (C) of paragraph (1); and

(B) have been released from a prison or jail for more than 180 days before the date on which the individuals begin participating in the grant program carried out under this section.

(3) PRIORITY OF SERVICE.—Grantees shall provide a priority of service in projects funded under this section to individuals meeting the requirements of paragraph (1) who have been released from State correctional facilities.

(b) AUTHORITY TO MAKE GRANTS.—The Secretary of Labor may make grants to nonprofit organizations for the purpose of providing mentoring, job training and job placement services, and other comprehensive transitional services to assist eligible offenders in obtaining and retaining employment.

(c) USE OF FUNDS.—

(1) IN GENERAL.—A grant awarded under this section may be used for—

(A) mentoring eligible offenders, including the provision of support, guidance, and assistance in the community and the workplace to address the challenges faced by such offenders;

(B) providing job training and job placement services to eligible offenders, including work readiness activities, job referrals, basic skills remediation, educational services, occupational skills training, on-the-job training, work experience, and post-placement support, in coordination with the one-stop partners and one-stop operators (as such terms are defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) that provide services at any center operated under a one-stop delivery system established under section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)), businesses, and educational institutions; and

(C) providing outreach, orientation, intake, assessments, counseling, case management, and other transitional services to eligible offenders, including prerelease outreach and orientation.

(2) LIMITATIONS.—

(A) CERTAIN SERVICES EXCLUDED.—A grant under this section may not be used to provide substance abuse treatment services, mental health treatment services, or housing services, except that such a grant may be used to coordinate with other programs and entities to arrange for such programs and entities to provide substance abuse treatment services, mental health treatment services, or housing services to eligible offenders.

(B) ADMINISTRATIVE COST LIMIT.—Not more than 15 percent of the amounts awarded to a grantee under this section may be used for the costs of administration, as determined by the Secretary of Labor.

(d) APPLICATION.—

(1) IN GENERAL.—

(A) APPLICATION REQUIRED.—A nonprofit organization desiring a grant under this section shall submit an application to the Secretary of Labor at such time, in such manner, and accompanied by such information as the Secretary of Labor may require.

(B) CONTENTS.—At a minimum, an application for a grant under this section shall include—

(i) the identification of the eligible area that is to be served and a description of the need for support in such area;

(ii) a description of the mentoring, job training and job placement, and other services to be provided;

(iii) a description of partnerships that have been established with the criminal justice system (including coordination with demonstration projects carried out under section 2976 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, where applicable), the local workforce investment boards established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832)), and housing authorities that will be used to assist in carrying out grant activities under this section; and

(iv) a description of how other Federal, State, local, or private funding will be leveraged to provide support services that are not directly funded under this section, such as mental health and substance abuse treatment and housing.

(2) ELIGIBLE AREA.—In this subsection, the term "eligible area" means an area that—

(A) is located within an urbanized area or urban cluster, as determined by the Bureau of the Census in the most recently available census;

(B) has a large number of prisoners returning to the area each year; and

(C) has a high rate of recidivism among prisoners returning to the area.

Reports.

(e) PERFORMANCE OUTCOMES.—

(1) CORE INDICATORS.—Each nonprofit organization receiving a grant under this section shall report to the Secretary of Labor on the results of services provided to eligible offenders with that grant with respect to the following indicators of performance:

(A) Rates of recidivism.

(B) Entry into employment.

(C) Retention in employment.

(D) Average earnings.

(2) ADDITIONAL INDICATORS.—In addition to the indicators described in paragraph (1), the Secretary of Labor may require a nonprofit organization receiving a grant under this section to report on additional indicators of performance.

(f) REPORTS.—Each nonprofit organization receiving a grant under this section shall maintain such records and submit such reports, in such form and containing such information, as the Secretary of Labor may require regarding the activities carried out under this section.

(g) TECHNICAL ASSISTANCE.—The Secretary of Labor may reserve not more than 4 percent of the amounts appropriated to carry out this section to provide technical assistance and for management information systems to assist grantees under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Labor to carry out this section $20,000,000 for each of fiscal years 2009 and 2010.

**SEC. 213. BUREAU OF PRISONS POLICY ON MENTORING CONTACTS.**

Deadlines. 42 USC 17533.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of the Bureau of Prisons shall, in order to promote stability and continued assistance to offenders after release from prison, adopt and implement a policy to ensure that any person who provides mentoring services to an incarcerated offender is permitted to continue such services after that offender is released from prison. That policy shall permit the continuation of mentoring services unless the Director demonstrates that such services would be a significant security risk to the released offender, incarcerated offenders, persons who provide such services, or any other person.

(b) REPORT.—Not later than September 30, 2009, the Director of the Bureau of Prisons shall submit to Congress a report on the extent to which the policy described in subsection (a) has been implemented and followed.

**SEC. 214. BUREAU OF PRISONS POLICY ON CHAPEL LIBRARY MATERIALS.**

42 USC 17534.

Deadline.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Director of the Bureau of Prisons shall discontinue the Standardized Chapel Library project, or any other project by whatever designation that seeks to compile, list, or otherwise restrict prisoners' access to reading materials, audiotapes, videotapes, or any other materials made available in a chapel library, except that the Bureau of Prisons may restrict access to—

(1) any materials in a chapel library that seek to incite, promote, or otherwise suggest the commission of violence or criminal activity; and

(2) any other materials prohibited by any other law or regulation.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to impact policies of the Bureau of Prisons related to access by specific prisoners to materials for security, safety, sanitation, or disciplinary reasons.

# Subtitle C—Administration of Justice Reforms

## CHAPTER 1—IMPROVING FEDERAL OFFENDER REENTRY

**SEC. 231. FEDERAL PRISONER REENTRY INITIATIVE.**

42 USC 17541.

(a) IN GENERAL.—The Attorney General, in coordination with the Director of the Bureau of Prisons, shall, subject to the availability of appropriations, conduct the following activities to establish a Federal prisoner reentry initiative:

(1) The establishment of a Federal prisoner reentry strategy to help prepare prisoners for release and successful reintegration into the community, including, at a minimum, that the Bureau of Prisons—

(A) assess each prisoner's skill level (including academic, vocational, health, cognitive, interpersonal, daily living, and related reentry skills) at the beginning of the term of imprisonment of that prisoner to identify any areas in need of improvement prior to reentry;

(B) generate a skills development plan for each prisoner to monitor skills enhancement and reentry readiness throughout incarceration;

(C) determine program assignments for prisoners based on the areas of need identified through the assessment described in subparagraph (A);

(D) ensure that priority is given to the reentry needs of high-risk populations, such as sex offenders, career criminals, and prisoners with mental health problems;

(E) coordinate and collaborate with other Federal agencies and with State, Tribal, and local criminal justice agencies, community-based organizations, and faith-based organizations to help effectuate a seamless reintegration of prisoners into communities;

(F) collect information about a prisoner's family relationships, parental responsibilities, and contacts with children to help prisoners maintain important familial relationships and support systems during incarceration and after release from custody; and

(G) provide incentives for prisoner participation in skills development programs.

(2) Incentives for a prisoner who participates in reentry and skills development programs which may, at the discretion of the Director, include—

(A) the maximum allowable period in a community confinement facility; and

(B) such other incentives as the Director considers appropriate (not including a reduction of the term of imprisonment).

(b) IDENTIFICATION AND RELEASE ASSISTANCE FOR FEDERAL PRISONERS.—

(1) OBTAINING IDENTIFICATION.—The Director shall assist prisoners in obtaining identification (including a social security card, driver's license or other official photo identification, or birth certificate) prior to release.

(2) ASSISTANCE DEVELOPING RELEASE PLAN.—At the request of a direct-release prisoner, a representative of the United States Probation System shall, prior to the release of that prisoner, help that prisoner develop a release plan.

(3) DIRECT-RELEASE PRISONER DEFINED.—In this section, the term "direct-release prisoner" means a prisoner who is scheduled for release and will not be placed in prerelease custody.

(c) IMPROVED REENTRY PROCEDURES FOR FEDERAL PRISONERS.—The Attorney General shall take such steps as are necessary to modify the procedures and policies of the Department of Justice with respect to the transition of offenders from the custody of the Bureau of Prisons to the community—

(1) to enhance case planning and implementation of reentry programs, policies, and guidelines;

(2) to improve such transition to the community, including placement of such individuals in community corrections facilities; and

(3) to foster the development of collaborative partnerships with stakeholders at the national, State, and local levels to facilitate the exchange of information and the development of resources to enhance opportunities for successful offender reentry.

(d) DUTIES OF THE BUREAU OF PRISONS.—

(1) DUTIES OF THE BUREAU OF PRISONS EXPANDED.—Section 4042(a) of title 18, United States Code, is amended—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(D) establish prerelease planning procedures that help prisoners—

"(i) apply for Federal and State benefits upon release (including Social Security Cards, Social Security benefits, and veterans' benefits); and

"(ii) secure such identification and benefits prior to release, subject to any limitations in law; and

"(E) establish reentry planning procedures that include providing Federal prisoners with information in the following areas:

"(i) Health and nutrition.

"(ii) Employment.

"(iii) Literacy and education.

"(iv) Personal finance and consumer skills.

"(v) Community resources.

"(vi) Personal growth and development.

"(vii) Release requirements and procedures.".

(2) MEASURING THE REMOVAL OF OBSTACLES TO REENTRY.—

(A) CODING REQUIRED.—The Director shall ensure that each institution within the Bureau of Prisons codes the reentry needs and deficits of prisoners, as identified by an assessment tool that is used to produce an individualized skills development plan for each inmate.

(B) TRACKING.—In carrying out this paragraph, the Director shall quantitatively track the progress in responding to the reentry needs and deficits of individual inmates.

(C) ANNUAL REPORT.—On an annual basis, the Director shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that documents the progress of the Bureau of Prisons in responding to the reentry needs and deficits of inmates.

(D) EVALUATION.—The Director shall ensure that—

(i) the performance of each institution within the Bureau of Prisons in enhancing skills and resources to assist in reentry is measured and evaluated using recognized measurements; and

(ii) plans for corrective action are developed and implemented as necessary.

(3) MEASURING AND IMPROVING RECIDIVISM OUTCOMES.—

(A) ANNUAL REPORT REQUIRED.—

(i) IN GENERAL.—At the end of each fiscal year, the Director shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report containing statistics demonstrating the relative reduction in recidivism for inmates released by the Bureau of Prisons within that fiscal year and the 2 prior fiscal years, comparing inmates who participated in major inmate programs (including residential drug treatment, vocational training, and prison industries) with inmates who did not participate in such programs. Such statistics shall be compiled separately for each such fiscal year.

(ii) SCOPE.—A report under this paragraph is not required to include statistics for a fiscal year that begins before the date of the enactment of this Act.

(B) MEASURE USED.—In preparing the reports required by subparagraph (A), the Director shall, in consultation with the Director of the Bureau of Justice Statistics, select a measure for recidivism (such as rearrest, reincarceration, or any other valid, evidence-based measure) that the Director considers appropriate and that is consistent with the research undertaken by the Bureau of Justice Statistics under section 241(b)(6).

(C) GOALS.—

(i) IN GENERAL.—After the Director submits the first report required by subparagraph (A), the Director shall establish goals for reductions in recidivism rates and shall work to attain those goals.

(ii) CONTENTS.—The goals established under clause (i) shall use the relative reductions in recidivism measured for the fiscal year covered by the first report required by subparagraph (A) as a baseline rate, and shall include—

(I) a 5-year goal to increase, at a minimum, the baseline relative reduction rate of recidivism by 2 percent; and

(II) a 10-year goal to increase, at a minimum, the baseline relative reduction rate of recidivism by 5 percent within 10 fiscal years.

(4) FORMAT.—Any written information that the Bureau of Prisons provides to inmates for reentry planning purposes shall use common terminology and language.

(5) MEDICAL CARE.—The Bureau of Prisons shall provide the United States Probation and Pretrial Services System with relevant information on the medical care needs and the mental health treatment needs of inmates scheduled for release from custody. The United States Probation and Pretrial Services System shall take this information into account when developing supervision plans in an effort to address the medical care and mental health care needs of such individuals. The Bureau of Prisons shall provide inmates with a sufficient amount of all necessary medications (which will normally consist of, at a minimum, a 2-week supply of such medications) upon release from custody.

(e) ENCOURAGEMENT OF EMPLOYMENT OF FORMER PRISONERS.—The Attorney General, in consultation with the Secretary of Labor,

shall take such steps as are necessary to educate employers and the one-stop partners and one-stop operators (as such terms are defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) that provide services at any center operated under a one-stop delivery system established under section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)) regarding incentives (including the Federal bonding program of the Department of Labor and tax credits) for hiring former Federal, State, or local prisoners.

(f) MEDICAL CARE FOR PRISONERS.—Section 3621 of title 18, United States Code, is further amended by adding at the end the following new subsection:

"(g) CONTINUED ACCESS TO MEDICAL CARE.—

"(1) IN GENERAL.—In order to ensure a minimum standard of health and habitability, the Bureau of Prisons should ensure that each prisoner in a community confinement facility has access to necessary medical care, mental health care, and medicine through partnerships with local health service providers and transition planning.

"(2) DEFINITION.—In this subsection, the term 'community confinement' has the meaning given that term in the application notes under section 5F1.1 of the Federal Sentencing Guidelines Manual, as in effect on the date of the enactment of the Second Chance Act of 2007.".

(g) ELDERLY AND FAMILY REUNIFICATION FOR CERTAIN NONVIOLENT OFFENDERS PILOT PROGRAM.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Attorney General shall conduct a pilot program to determine the effectiveness of removing eligible elderly offenders from a Bureau of Prisons facility and placing such offenders on home detention until the expiration of the prison term to which the offender was sentenced.

(B) PLACEMENT IN HOME DETENTION.—In carrying out a pilot program as described in subparagraph (A), the Attorney General may release some or all eligible elderly offenders from the Bureau of Prisons facility to home detention.

(C) WAIVER.—The Attorney General is authorized to waive the requirements of section 3624 of title 18, United States Code, as necessary to provide for the release of some or all eligible elderly offenders from the Bureau of Prisons facility to home detention for the purposes of the pilot program under this subsection.

(2) VIOLATION OF TERMS OF HOME DETENTION.—A violation by an eligible elderly offender of the terms of home detention (including the commission of another Federal, State, or local crime) shall result in the removal of that offender from home detention and the return of that offender to the designated Bureau of Prisons institution in which that offender was imprisoned immediately before placement on home detention under paragraph (1), or to another appropriate Bureau of Prisons institution, as determined by the Bureau of Prisons.

(3) SCOPE OF PILOT PROGRAM.—A pilot program under paragraph (1) shall be conducted through at least one Bureau of

Prisons facility designated by the Attorney General as appropriate for the pilot program and shall be carried out during fiscal years 2009 and 2010.

Reports.

(4) IMPLEMENTATION AND EVALUATION.—The Attorney General shall monitor and evaluate each eligible elderly offender placed on home detention under this section, and shall report to Congress concerning the experience with the program at the end of the period described in paragraph (3). The Administrative Office of the United States Courts and the United States probation offices shall provide such assistance and carry out such functions as the Attorney General may request in monitoring, supervising, providing services to, and evaluating eligible elderly offenders released to home detention under this section.

(5) DEFINITIONS.—In this section:

(A) ELIGIBLE ELDERLY OFFENDER.—The term "eligible elderly offender" means an offender in the custody of the Bureau of Prisons—

(i) who is not less than 65 years of age;

(ii) who is serving a term of imprisonment that is not life imprisonment based on conviction for an offense or offenses that do not include any crime of violence (as defined in section 16 of title 18, United States Code), sex offense (as defined in section 111(5) of the Sex Offender Registration and Notification Act), offense described in section 2332b(g)(5)(B) of title 18, United States Code, or offense under chapter 37 of title 18, United States Code, and has served the greater of 10 years or 75 percent of the term of imprisonment to which the offender was sentenced;

(iii) who has not been convicted in the past of any Federal or State crime of violence, sex offense, or other offense described in clause (ii);

(iv) who has not been determined by the Bureau of Prisons, on the basis of information the Bureau uses to make custody classifications, and in the sole discretion of the Bureau, to have a history of violence, or of engaging in conduct constituting a sex offense or other offense described in clause (ii);

(v) who has not escaped, or attempted to escape, from a Bureau of Prisons institution;

(vi) with respect to whom the Bureau of Prisons has determined that release to home detention under this section will result in a substantial net reduction of costs to the Federal Government; and

(vii) who has been determined by the Bureau of Prisons to be at no substantial risk of engaging in criminal conduct or of endangering any person or the public if released to home detention.

(B) HOME DETENTION.—The term "home detention" has the same meaning given the term in the Federal Sentencing Guidelines as of the date of the enactment of this Act, and includes detention in a nursing home or other residential long-term care facility.

(C) TERM OF IMPRISONMENT.—The term "term of imprisonment" includes multiple terms of imprisonment ordered to run consecutively or concurrently, which shall

be treated as a single, aggregate term of imprisonment for purposes of this section.

(h) FEDERAL REMOTE SATELLITE TRACKING AND REENTRY TRAINING PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General, may establish the Federal Remote Satellite Tracking and Reentry Training (ReStart) program to promote the effective reentry into the community of high risk individuals.

(2) HIGH RISK INDIVIDUALS.—For purposes of this section, the term "high risk individual" means—

(A) an individual who is under supervised release, with respect to a Federal offense, and who has previously violated the terms of a release granted such individual following a term of imprisonment; or

(B) an individual convicted of a Federal offense who is at a high risk for recidivism, as determined by the Director of the Bureau of Prisons, and who is eligible for early release pursuant to voluntary participation in a program of residential substance abuse treatment under section 3621(e) of title 18, United States Code, or a program described in this section.

(3) PROGRAM ELEMENTS.—The program authorized under paragraph (1) shall include, with respect to high risk individuals participating in such program, the following core elements:

(A) A system of graduated levels of supervision, that uses, as appropriate and indicated—

(i) satellite tracking, global positioning, remote satellite, and other tracking or monitoring technologies to monitor and supervise such individuals in the community; and

(ii) community corrections facilities and home confinement.

(B) Substance abuse treatment and aftercare related to such treatment, mental and medical health treatment and aftercare related to such treatment, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, and other programs to promote effective reentry into the community as appropriate.

(C) Involvement of the family of such an individual, a victim advocate, and the victim of the offense committed by such an individual, if such involvement is safe for such victim (especially in a domestic violence case).

(D) A methodology, including outcome measures, to evaluate the program.

(E) Notification to the victim of the offense committed by such an individual of the status and nature of such an individual's reentry plan. Notification.

(i) AUTHORIZATION FOR APPROPRIATIONS FOR BUREAU OF PRISONS.—There are authorized to be appropriated to the Attorney General to carry out this section, $5,000,000 for each of fiscal years 2009 and 2010.

Deadline.
Reports.

**SEC. 232. BUREAU OF PRISONS POLICY ON RESTRAINING OF FEMALE PRISONERS.**

Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the practices and policies of agencies within the Department of Justice relating to the use of physical restraints on pregnant female prisoners during pregnancy, labor, delivery of a child, or post-delivery recuperation, including the number of instances occurring after the date of enactment of this Act in which physical restraints are used on such prisoners, the reasons for the use of the physical restraints, the length of time that the physical restraints were used, and the security concerns that justified the use of the physical restraints.

## CHAPTER 2—REENTRY RESEARCH

42 USC 17551.

**SEC. 241. OFFENDER REENTRY RESEARCH.**

(a) NATIONAL INSTITUTE OF JUSTICE.—The National Institute of Justice may conduct research on juvenile and adult offender reentry, including—

(1) a study identifying the number and characteristics of minor children who have had a parent incarcerated, and the likelihood of such minor children becoming adversely involved in the criminal justice system some time in their lifetime;

(2) a study identifying a mechanism to compare rates of recidivism (including rearrest, violations of parole, probation, post-incarceration supervision, and reincarceration) among States; and

(3) a study on the population of offenders released from custody who do not engage in recidivism and the characteristics (housing, employment, treatment, family connection) of that population.

(b) BUREAU OF JUSTICE STATISTICS.—The Bureau of Justice Statistics may conduct research on offender reentry, including—

(1) an analysis of special populations (including prisoners with mental illness or substance abuse disorders, female offenders, juvenile offenders, offenders with limited English proficiency, and the elderly) that present unique reentry challenges;

(2) studies to determine which offenders are returning to prison, jail, or a juvenile facility and which of those returning offenders represent the greatest risk to victims and community safety;

(3) annual reports on the demographic characteristics of the population reentering society from prisons, jails, and juvenile facilities;

(4) a national recidivism study every 3 years;

(5) a study of parole, probation, or post-incarceration supervision violations and revocations; and

(6) a study concerning the most appropriate measure to be used when reporting recidivism rates (whether rearrest, reincarceration, or any other valid, evidence-based measure).

42 USC 17552.

**SEC. 242. GRANTS TO STUDY PAROLE OR POST-INCARCERATION SUPERVISION VIOLATIONS AND REVOCATIONS.**

(a) GRANTS AUTHORIZED.—From amounts made available to carry out this section, the Attorney General may make grants

to States to study and to improve the collection of data with respect to individuals whose parole or post-incarceration supervision is revoked, and which such individuals represent the greatest risk to victims and community safety.

(b) APPLICATION.—As a condition of receiving a grant under this section, a State shall—

Certification.

(1) certify that the State has, or intends to establish, a program that collects comprehensive and reliable data with respect to individuals described in subsection (a), including data on—

(A) the number and type of parole or post-incarceration supervision violations that occur with the State;

(B) the reasons for parole or post-incarceration supervision revocation;

(C) the underlying behavior that led to the revocation; and

(D) the term of imprisonment or other penalty that is imposed for the violation; and

(2) provide the data described in paragraph (1) to the Bureau of Justice Statistics, in a form prescribed by the Bureau.

(c) ANALYSIS.—Any statistical analysis of population data under this section shall be conducted in accordance with the Federal Register Notice dated October 30, 1997, relating to classification standards.

**SEC. 243. ADDRESSING THE NEEDS OF CHILDREN OF INCARCERATED PARENTS.**

42 USC 17553.

(a) BEST PRACTICES.—

(1) IN GENERAL.—From amounts made available to carry out this section, the Attorney General may collect data and develop best practices of State corrections departments and child protection agencies relating to the communication and coordination between such State departments and agencies to ensure the safety and support of children of incarcerated parents (including those in foster care and kinship care), and the support of parent-child relationships between incarcerated (and formerly incarcerated) parents and their children, as appropriate to the health and well-being of the children.

(2) CONTENTS.—The best practices developed under paragraph (1) shall include information related to policies, procedures, and programs that may be used by States to address—

(A) maintenance of the parent-child bond during incarceration;

(B) parental self-improvement; and

(C) parental involvement in planning for the future and well-being of their children.

Deadline.

(b) DISSEMINATION TO STATES.—Not later than 1 year after the development of best practices described in subsection (a), the Attorney General shall disseminate to States and other relevant entities such best practices.

(c) SENSE OF CONGRESS.—It is the sense of Congress that States and other relevant entities should use the best practices developed and disseminated in accordance with this section to evaluate and improve the communication and coordination between State corrections departments and child protection agencies to ensure the safety and support of children of incarcerated parents (including those in foster care and kinship care), and the support

of parent-child relationships between incarcerated (and formerly incarcerated) parents and their children, as appropriate to the health and well-being of the children.

42 USC 17554.

**SEC. 244. STUDY OF EFFECTIVENESS OF DEPOT NALTREXONE FOR HEROIN ADDICTION.**

(a) GRANT PROGRAM AUTHORIZED.—From amounts made available to carry out this section, the Attorney General, through the National Institute of Justice, and in consultation with the National Institute on Drug Abuse, may make grants to public and private research entities (including consortia, single private research entities, and individual institutions of higher education) to evaluate the effectiveness of depot naltrexone for the treatment of heroin addiction.

(b) EVALUATION PROGRAM.—An entity described in subsection (a) desiring a grant under this section shall submit to the Attorney General an application that—

(1) contains such information as the Attorney General specifies, including information that demonstrates that—

(A) the applicant conducts research at a private or public institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1101);

(B) the applicant has a plan to work with parole officers or probation officers for offenders who are under court supervision; and

(C) the evaluation described in subsection (a) will measure the effectiveness of such treatments using randomized trials; and

(2) is in such form and manner and at such time as the Attorney General specifies.

(c) REPORTS.—An entity that receives a grant under subsection (a) during a fiscal year shall, not later than the last day of the following fiscal year, submit to the Attorney General a report that describes and assesses the uses of that grant.

42 USC 17555.

**SEC. 245. AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH.**

There are authorized to be appropriated to the Attorney General to carry out sections 241, 242, 243, and 244 of this chapter, $10,000,000 for each of the fiscal years 2009 and 2010.

## CHAPTER 3—CORRECTIONAL REFORMS TO EXISTING LAW

**SEC. 251. CLARIFICATION OF AUTHORITY TO PLACE PRISONER IN COMMUNITY CORRECTIONS.**

(a) PRERELEASE CUSTODY.—Section 3624(c) of title 18, United States Code, is amended to read as follows:

"(c) PRERELEASE CUSTODY.—

"(1) IN GENERAL.—The Director of the Bureau of Prisons shall, to the extent practicable, ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term (not to exceed 12 months), under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for the reentry of that prisoner into the community. Such conditions may include a community correctional facility.

"(2) HOME CONFINEMENT AUTHORITY.—The authority under this subsection may be used to place a prisoner in home confinement for the shorter of 10 percent of the term of imprisonment of that prisoner or 6 months.

"(3) ASSISTANCE.—The United States Probation System shall, to the extent practicable, offer assistance to a prisoner during prerelease custody under this subsection.

"(4) NO LIMITATIONS.—Nothing in this subsection shall be construed to limit or restrict the authority of the Director of the Bureau of Prisons under section 3621.

"(5) REPORTING.—Not later than 1 year after the date of the enactment of the Second Chance Act of 2007 (and every year thereafter), the Director of the Bureau of Prisons shall transmit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report describing the Bureau's utilization of community corrections facilities. Each report under this paragraph shall set forth the number and percentage of Federal prisoners placed in community corrections facilities during the preceding year, the average length of such placements, trends in such utilization, the reasons some prisoners are not placed in community corrections facilities, and any other information that may be useful to the committees in determining if the Bureau is utilizing community corrections facilities in an effective manner.

"(6) ISSUANCE OF REGULATIONS.—The Director of the Bureau of Prisons shall issue regulations pursuant to this subsection not later than 90 days after the date of the enactment of the Second Chance Act of 2007, which shall ensure that placement in a community correctional facility by the Bureau of Prisons is— Deadline.

"(A) conducted in a manner consistent with section 3621(b) of this title;

"(B) determined on an individual basis; and

"(C) of sufficient duration to provide the greatest likelihood of successful reintegration into the community.".

(b) COURTS MAY NOT REQUIRE A SENTENCE OF IMPRISONMENT TO BE SERVED IN A COMMUNITY CORRECTIONS FACILITY.—Section 3621(b) of title 18, United States Code, is amended by adding at the end the following: "Any order, recommendation, or request by a sentencing court that a convicted person serve a term of imprisonment in a community corrections facility shall have no binding effect on the authority of the Bureau under this section to determine or change the place of imprisonment of that person.".

**SEC. 252. RESIDENTIAL DRUG ABUSE PROGRAM IN FEDERAL PRISONS.**

Section 3621(e)(5)(A) of title 18, United States Code, is amended by striking "means a course of" and all that follows and inserting the following: "means a course of individual and group activities and treatment, lasting at least 6 months, in residential treatment facilities set apart from the general prison population (which may include the use of pharmocotherapies, where appropriate, that may extend beyond the 6-month period);".

**SEC. 253. CONTRACTING FOR SERVICES FOR POST-CONVICTION SUPERVISION OFFENDERS.**

Section 3672 of title 18, United States Code, is amended by inserting after the third sentence in the seventh undesignated

paragraph the following: "He also shall have the authority to contract with any appropriate public or private agency or person to monitor and provide services to any offender in the community authorized by this Act, including treatment, equipment and emergency housing, corrective and preventative guidance and training, and other rehabilitative services designed to protect the public and promote the successful reentry of the offender into the community.".

## CHAPTER 4—MISCELLANEOUS PROVISIONS

### SEC. 261. EXTENSION OF NATIONAL PRISON RAPE ELIMINATION COMMISSION.

Section 7(d)(3)(A) of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15606(d)(3)(A)) is amended by striking "3 years" and inserting "5 years".

Approved April 9, 2008.

LEGISLATIVE HISTORY—H.R. 1593:

HOUSE REPORTS: No. 110–140 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Nov. 13, considered and passed House.
Vol. 154 (2008): Mar. 11, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
Apr. 9, Presidential remarks.

Public Law 110–200
110th Congress

# An Act

To amend Public Law 110–196 to provide for a temporary extension of programs authorized by the Farm Security and Rural Investment Act of 2002 beyond April 18, 2008.

Apr. 18, 2008
[H.R. 5813]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AGRICULTURAL PROGRAMS AND SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITIES.**

Effective as of April 18, 2008, section 1 of Public Law 110–196 (122 Stat. 653) is amended— Effective date.

(1) in subsection (a), by striking "the Secretary of Agriculture shall carry out the authorities, until April 18, 2008" and inserting "the authorities shall be carried out, until April 25, 2008"; and

(2) in subsection (d), by striking "April 18, 2008" and inserting "April 25, 2008".

Approved April 18, 2008.

LEGISLATIVE HISTORY—H.R. 5813:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 16, considered and passed House.
Apr. 17, considered and passed Senate.

# Public Law 110–201
# 110th Congress

## An Act

Apr. 18, 2008
[S. 550]

To preserve existing judgeships on the Superior Court of the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COMPOSITION OF SUPERIOR COURT.**

Section 903 of title 11 of the District of Columbia Code is amended by striking "fifty-eight" and inserting "61".

Approved April 18, 2008.

LEGISLATIVE HISTORY—S. 550:

SENATE REPORTS: No. 110–256 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 4, considered and passed Senate.
Apr. 1, considered and passed House.

Public Law 110–202
110th Congress

# An Act

To direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls.

Apr. 23, 2008
[S. 845]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Safety of Seniors Act of 2007.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Safety of Seniors Act of 2007".

**SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.**

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended—

(1) by redesignating section 393B (as added by section 1401 of Public Law 106–386) as section 393C and transferring such section so that it appears after section 393B (as added by section 1301 of Public Law 106–310); and 42 USC 280b–1c.

(2) by inserting after section 393C (as redesignated by paragraph (1)) the following:

**"SEC. 393D. PREVENTION OF FALLS AMONG OLDER ADULTS.** 42 USC 280b–1f.

"(a) PUBLIC EDUCATION.—The Secretary may—

"(1) oversee and support a national education campaign to be carried out by a nonprofit organization with experience in designing and implementing national injury prevention programs, that is directed principally to older adults, their families, and health care providers, and that focuses on reducing falls among older adults and preventing repeat falls; and

"(2) award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, for the purpose of organizing State-level coalitions of appropriate State and local agencies, safety, health, senior citizen, and other organizations to design and carry out local education campaigns, focusing on reducing falls among older adults and preventing repeat falls.

"(b) RESEARCH.—

"(1) IN GENERAL.—The Secretary may—

"(A) conduct and support research to—

"(i) improve the identification of older adults who have a high risk of falling;

"(ii) improve data collection and analysis to identify fall risk and protective factors;

"(iii) design, implement, and evaluate the most effective fall prevention interventions;

"(iv) improve strategies that are proven to be effective in reducing falls by tailoring these strategies to specific populations of older adults;

"(v) conduct research in order to maximize the dissemination of proven, effective fall prevention interventions;

"(vi) intensify proven interventions to prevent falls among older adults;

"(vii) improve the diagnosis, treatment, and rehabilitation of elderly fall victims and older adults at high risk for falls; and

"(viii) assess the risk of falls occurring in various settings;

"(B) conduct research concerning barriers to the adoption of proven interventions with respect to the prevention of falls among older adults;

"(C) conduct research to develop, implement, and evaluate the most effective approaches to reducing falls among high-risk older adults living in communities and long-term care and assisted living facilities; and

"(D) evaluate the effectiveness of community programs designed to prevent falls among older adults.

"(2) EDUCATIONAL SUPPORT.—The Secretary, either directly or through awarding grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, may provide professional education for physicians and allied health professionals, and aging service providers in fall prevention, evaluation, and management.

"(c) DEMONSTRATION PROJECTS.—The Secretary may carry out the following:

"(1) Oversee and support demonstration and research projects to be carried out by qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, in the following areas:

"(A) A multistate demonstration project assessing the utility of targeted fall risk screening and referral programs.

"(B) Programs designed for community-dwelling older adults that utilize multicomponent fall intervention approaches, including physical activity, medication assessment and reduction when possible, vision enhancement, and home modification strategies.

"(C) Programs that are targeted to new fall victims who are at a high risk for second falls and which are designed to maximize independence and quality of life for older adults, particularly those older adults with functional limitations.

"(D) Private sector and public-private partnerships to develop technologies to prevent falls among older adults and prevent or reduce injuries if falls occur.

"(2)(A) Award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, to design, implement,

and evaluate fall prevention programs using proven intervention strategies in residential and institutional settings.

"(B) Award 1 or more grants, contracts, or cooperative agreements to 1 or more qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, in order to carry out a multistate demonstration project to implement and evaluate fall prevention programs using proven intervention strategies designed for single and multifamily residential settings with high concentrations of older adults, including—

"(i) identifying high-risk populations;

"(ii) evaluating residential facilities;

"(iii) conducting screening to identify high-risk individuals;

"(iv) providing fall assessment and risk reduction interventions and counseling;

"(v) coordinating services with health care and social service providers; and

"(vi) coordinating post-fall treatment and rehabilitation.

"(3) Award 1 or more grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, to conduct evaluations of the effectiveness of the demonstration projects described in this subsection.

"(d) PRIORITY.—In awarding grants, contracts, or cooperative agreements under this section, the Secretary may give priority to entities that explore the use of cost-sharing with respect to activities funded under the grant, contract, or agreement to ensure the institutional commitment of the recipients of such assistance to the projects funded under the grant, contract, or agreement. Such non-Federal cost sharing contributions may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

"(e) STUDY OF EFFECTS OF FALLS ON HEALTH CARE COSTS.—

"(1) IN GENERAL.—The Secretary may conduct a review of the effects of falls on health care costs, the potential for reducing falls, and the most effective strategies for reducing health care costs associated with falls.

"(2) REPORT.—If the Secretary conducts the review under paragraph (1), the Secretary shall, not later than 36 months after the date of enactment of the Safety of Seniors Act of

2007, submit to Congress a report describing the findings of the Secretary in conducting such review.".

Approved April 23, 2008.

LEGISLATIVE HISTORY—S. 845 (H.R. 3701):

HOUSE REPORTS: No. 110–569 accompanying H.R. 3701 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 110–110 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD:

Vol. 153 (2007): Aug. 1, considered and passed Senate.

Vol. 154 (2008): Apr. 8, considered and passed House.

# Public Law 110–203
# 110th Congress

## Joint Resolution

Congratulating the Army Reserve on its centennial, which will be formally celebrated on April 23, 2008, and commemorating the historic contributions of its veterans and continuing contributions of its soldiers to the vital national security interests and homeland defense missions of the United States.

Apr. 23, 2008
[H.J. Res. 70]

Whereas on January 9, 1905, the 26th President of the United States, Theodore Roosevelt, dispatched a "special message" to the Senate and the House of Representatives that "earnestly recommended passage" of legislation to establish a Federal reserve force of skilled and trained personnel to bring "our Army * * * to the highest point of efficiency";

Whereas on December 14, 1905, the then-Secretary of War and later 27th President of the United States, William Howard Taft, transmitted to the Senate and the House of Representatives a draft bill and letter authored by Major General Leonard Wood, "strongly commending * * * proposed legislation" to "increase the efficiency of the Medical Corps of the Army" by establishing a Federal reserve force comprised of specially trained personnel;

Whereas in response to the recommendations of President Theodore Roosevelt and senior military and civilian leaders, the 60th Congress enacted Public Law 101, entitled "An Act to increase the efficiency of the Medical Department of the United States Army", ch. 150, 35 Stat. 66, which was signed into law on April 23, 1908, by President Theodore Roosevelt;

Whereas Public Law 101 authorized the establishment of the first Federal reserve force and the first reservoir of trained officers in a reserve status for a United States military service;

Whereas Congress subsequently adapted, expanded, and amended the reserve organization of the Army to include additional military occupational specialties and capabilities and established the organization today known as the Army Reserve;

Whereas the Army Reserve has played a major role in the defense of our Nation and in furtherance of United States interests for 100 years;

Whereas many distinguished Americans have served honorably and with distinction in the Army Reserve, including Presidents Harry S Truman and Ronald W. Reagan, the former Chairman of the Joint Chiefs of Staff, General Henry H. Shelton, Brigadier General Theodore Roosevelt, Jr., Major General William J. Donovan (Director of the Office of Strategic Services during World War II), Drs. Charles H. Mayo and William J. Mayo, and Captain Eddie Rickenbacker;

Whereas the Army Reserve contributed 169,500 soldiers to the Army during World War I;

Whereas the Army Reserve contributed 200,000 soldiers and 29 percent of the Army's officers during World War II and was recognized by General George C. Marshall for its unique and invaluable contributions to the national defense;

Whereas 240,500 soldiers of the Army Reserve were called to active duty during the Korean War;

Whereas more than 60,000 Army Reserve soldiers were called to active duty during the Berlin Crisis;

Whereas 35 Army Reserve units were activated and deployed in support of operations in Vietnam, where they served with distinction and honor;

Whereas the Army Reserve contributed more than 94,000 soldiers in support of Operations Desert Storm and Desert Shield in 1990 and 1991;

Whereas the Army Reserve contributed more than 48 percent of the reserve component soldiers mobilized in support of Operation Joint Endeavor and Operation Joint Guard in Bosnia;

Whereas since September 11, 2001, the Army Reserve has provided indispensable and sustained support for Operations Enduring Freedom, Noble Eagle, and Iraqi Freedom, with 98 percent of units either deployed or providing mobilized soldiers, and more than 147,000 individual soldiers being mobilized (of which more than 110,000 individual soldiers have deployed) in support of the Global War on Terrorism;

Whereas more than 39,000 individual soldiers of the Army Reserve have served multiple deployments since September 11, 2001;

Whereas 13,003 Army Reserve soldiers were forward-deployed in the Central Command Area of Responsibility on October 31, 2007, and 102 soldiers of the Army Reserve had borne the ultimate sacrifice in support of Operations Enduring Freedom and Iraqi Freedom through October 31, 2007;

Whereas the Army Reserve is organized into 3 components, the Ready Reserve, the Standby Reserve, and the Retired Reserve, which together contain more than 601,000 soldiers;

Whereas the Army cannot go to war or sustain a military operation without the highly skilled and trained personnel of the Army Reserve;

Whereas the Army Reserve provides more than 37 percent of the mission essential combat support and combat service support forces of the Army;

Whereas 100 percent of the Army's Internment Settlement Brigades, Judge Advocate General Units (Legal Support Organizations), Medical Groups, Railway Units, and Training and Exercise Divisions are in the Army Reserve;

Whereas more than 66 percent of the Army's Civil Affairs Units, Psychological Operations Units, Theater Signal Commands, Expeditionary Sustainment Commands, and Medical Capabilities are in the Army Reserve;

Whereas the Army Reserve is no longer a force held in strategic reserve but today functions as an integral and essential operational reserve in support of the missions of the active Army;

Whereas the Army cannot go to war or sustain a military operation without the skilled and trained Ready Reserve and Retired Reserve soldiers of the Army Reserve;

Whereas the Selected Reserve component of the Army Reserve is comprised of more than 30,000 officers and 150,000 enlisted soldiers who have volunteered their personal service in defense of the Constitution and their fellow citizens;

Whereas the Army and the Army Reserve are recognized as institutions that have played historic and decisive roles in promoting the cause of individual dignity and the value of integration;

Whereas nearly one in four Selected Reserve soldiers and more than one in five Individual Ready Reserve soldiers are women whose contributions are consistently characterized by a high degree of commitment, professionalism, and military bearing;

Whereas the ability of individual soldiers and the Army Reserve to perform their wartime missions is contingent on the active engagement and support of their families, employers, and local communities;

Whereas the Army Reserve is a community-based force with an active presence in 1,100 communities and 975 Army Reserve centers in operation throughout the United States;

Whereas Sir Winston Churchill once remarked that "Reservists are twice the citizen", a sentiment that applies especially to the soldiers of the Army Reserve; and

Whereas the Army Reserve makes these contributions to the security of our Nation in return for less than 5 percent of the Army's total budget: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress—

(1) congratulates the Army Reserve on the occasion of the 100th anniversary of the enactment of its original authorizing law;

(2) recognizes and commends the Army Reserve for the selfless and dedicated service of its past and present citizen-soldiers whose personal courage, contributions, and sacrifices have helped preserve the freedom and advance the national security and homeland defense of the United States; and

(3) extends its gratitude to the veterans, soldiers, families, and employers whose essential and constant support have enabled the Army Reserve to accomplish its vital missions and renews our Nation's commitment in support of their noble efforts.

Approved April 23, 2008.

LEGISLATIVE HISTORY—H.J. Res. 70:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 8, considered and passed House.
Apr. 14, considered and passed Senate.

Public Law 110–204
110th Congress

# An Act

To amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, to reauthorize programs under part A of title XI of such Act, and for other purposes.

Apr. 24, 2008
[S. 1858]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Newborn Screening Saves Lives Act of 2007. 42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Newborn Screening Saves Lives Act of 2007".

**SEC. 2. IMPROVED NEWBORN AND CHILD SCREENING FOR HERITABLE DISORDER.**

Section 1109 of the Public Health Service Act (42 U.S.C. 300b–8) is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

"(a) AUTHORIZATION OF GRANT PROGRAM.—From amounts appropriated under subsection (j), the Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this section as the 'Administrator') and in consultation with the Advisory Committee on Heritable Disorders in Newborns and Children (referred to in this section as the 'Advisory Committee'), shall award grants to eligible entities to enable such entities—

"(1) to enhance, improve or expand the ability of State and local public health agencies to provide screening, counseling, or health care services to newborns and children having or at risk for heritable disorders;

"(2) to assist in providing health care professionals and newborn screening laboratory personnel with education in newborn screening and training in relevant and new technologies in newborn screening and congenital, genetic, and metabolic disorders;

"(3) to develop and deliver educational programs (at appropriate literacy levels) about newborn screening counseling, testing, follow-up, treatment, and specialty services to parents, families, and patient advocacy and support groups; and

"(4) to establish, maintain, and operate a system to assess and coordinate treatment relating to congenital, genetic, and metabolic disorders.

"(b) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) a State or a political subdivision of a State;

"(2) a consortium of 2 or more States or political subdivisions of States;

"(3) a territory;

"(4) a health facility or program operated by or pursuant to a contract with or grant from the Indian Health Service; or

"(5) any other entity with appropriate expertise in newborn screening, as determined by the Secretary.

"(c) APPROVAL FACTORS.—An application submitted for a grant under subsection (a)(1) shall not be approved by the Secretary unless the application contains assurances that the eligible entity has adopted and implemented, is in the process of adopting and implementing, or will use amounts received under such grant to adopt and implement the guidelines and recommendations of the Advisory Committee that are adopted by the Secretary and in effect at the time the grant is awarded or renewed under this section, which shall include the screening of each newborn for the heritable disorders recommended by the Advisory Committee and adopted by the Secretary.";

(2) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively;

(3) by inserting after subsection (c), the following:

"(d) COORDINATION.—The Secretary shall take all necessary steps to coordinate programs funded with grants received under this section and to coordinate with existing newborn screening activities."; and

(4) by striking subsection (j) (as so redesignated) and inserting the following:

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

"(1) to provide grants for the purpose of carrying activities under section (a)(1), $15,000,000 for fiscal year 2008; $15,187,500 for fiscal year 2009, $15,375,000 for fiscal year 2010, $15,562,500 for fiscal year 2011, and $15,750,000 for fiscal year 2012; and

"(2) to provide grant for the purpose of carrying out activities under paragraphs (2), (3), and (4) of subsection (a), $15,000,000 for fiscal year 2008, $15,187,500 for fiscal year 2009, $15,375,000 for fiscal year 2010, $15,562,500 for fiscal year 2011, and $15,750,000 for fiscal year 2012.".

**SEC. 3. EVALUATING THE EFFECTIVENESS OF NEWBORN AND CHILD SCREENING PROGRAMS.**

Section 1110 of the Public Health Service Act (42 U.S.C. 300b–9) is amended by adding at the end the following:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2008, $5,062,500 for fiscal year 2009, $5,125,000 for fiscal year 2010, $5,187,500 for fiscal year 2011, and $5,250,000 for fiscal year 2012.".

**SEC. 4. ADVISORY COMMITTEE ON HERITABLE DISORDERS IN NEWBORNS AND CHILDREN.**

Section 1111 of the Public Health Service Act (42 U.S.C. 300b–10) is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (6);

(B) in paragraph (2), by striking "and" after the semicolon;

(C) by inserting after paragraph (2) the following:

"(3) make systematic evidence-based and peer-reviewed recommendations that include the heritable disorders that have the potential to significantly impact public health for which all newborns should be screened, including secondary conditions that may be identified as a result of the laboratory methods used for screening;

"(4) develop a model decision-matrix for newborn screening expansion, including an evaluation of the potential public health impact of such expansion, and periodically update the recommended uniform screening panel, as appropriate, based on such decision-matrix;

"(5) consider ways to ensure that all States attain the capacity to screen for the conditions described in paragraph (3), and include in such consideration the results of grant funding under section 1109; and";

(D) in paragraph (6) (as so redesignated by subparagraph (A)), by striking the period at the end and inserting ", which may include recommendations, advice, or information dealing with—

"(A) follow-up activities, including those necessary to achieve rapid diagnosis in the short-term, and those that ascertain long-term case management outcomes and appropriate access to related services;

"(B) implementation, monitoring, and evaluation of newborn screening activities, including diagnosis, screening, follow-up, and treatment activities;

"(C) diagnostic and other technology used in screening;

"(D) the availability and reporting of testing for conditions for which there is no existing treatment;

"(E) conditions not included in the recommended uniform screening panel that are treatable with Food and Drug Administration-approved products or other safe and effective treatments, as determined by scientific evidence and peer review;

"(F) minimum standards and related policies and procedures used by State newborn screening programs, such as language and terminology used by State newborn screening programs to include standardization of case definitions and names of disorders for which newborn screening tests are performed;

"(G) quality assurance, oversight, and evaluation of State newborn screening programs, including ensuring that tests and technologies used by each State meet established standards for detecting and reporting positive screening results;

"(H) public and provider awareness and education;

"(I) the cost and effectiveness of newborn screening and medical evaluation systems and intervention programs conducted by State-based programs;

"(J) identification of the causes of, public health impacts of, and risk factors for heritable disorders; and

"(K) coordination of surveillance activities, including standardized data collection and reporting, harmonization of laboratory definitions for heritable disorders and testing

results, and confirmatory testing and verification of positive results, in order to assess and enhance monitoring of newborn diseases."; and

(2) in subsection (c)(2)—

(A) by redesignating subparagraphs (E), (F) and (G) as subparagraphs (F), (H), and (I);

(B) by inserting after subparagraph (D) the following:

"(E) the Commissioner of the Food and Drug Administration;"; and

(C) by inserting after subparagraph (F), as so redesignated, the following:

"(G) individuals with expertise in ethics and infectious diseases who have worked and published material in the area of newborn screening;"; and

(3) by adding at the end the following:

Deadlines.

"(d) DECISION ON RECOMMENDATIONS.—

"(1) IN GENERAL.—Not later than 180 days after the Advisory Committee issues a recommendation pursuant to this section, the Secretary shall adopt or reject such recommendation.

"(2) PENDING RECOMMENDATIONS.—The Secretary shall adopt or reject any recommendation issued by the Advisory Committee that is pending on the date of enactment of the Newborn Screening Saves Lives Act of 2007 by not later than 180 days after the date of enactment of such Act.

"(3) DETERMINATIONS TO BE MADE PUBLIC.—The Secretary shall publicize any determination on adopting or rejecting a recommendation of the Advisory Committee pursuant to this subsection, including the justification for the determination.

"(e) ANNUAL REPORT.—Not later than 3 years after the date of enactment of the Newborn Screening Saves Lives Act of 2007, and each fiscal year thereafter, the Advisory Committee shall—

"(1) publish a report on peer-reviewed newborn screening guidelines, including follow-up and treatment, in the United States;

"(2) submit such report to the appropriate committees of Congress, the Secretary, the Interagency Coordinating Committee established under Section 1114, and the State departments of health; and

Web site.

"(3) disseminate such report on as wide a basis as practicable, including through posting on the internet clearinghouse established under section 1112.

"(f) CONTINUATION OF OPERATION OF COMMITTEE.—Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall continue to operate during the 5-year period beginning on the date of enactment of the Newborn Screening Saves Lives Act of 2007.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000 for fiscal year 2008, $1,012,500 for fiscal year 2009, $1,025,000 for fiscal year 2010, $1,037,500 for fiscal year 2011, and $1,050,000 for fiscal year 2012.".

**SEC. 5. INFORMATION CLEARINGHOUSE.**

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.) is amended by adding at the end the following:

**"SEC. 1112. CLEARINGHOUSE OF NEWBORN SCREENING INFORMATION.**

Establishment.
42 USC 300b–11.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this part as the 'Administrator'), in consultation with the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health, shall establish and maintain a central clearinghouse of current educational and family support and services information, materials, resources, research, and data on newborn screening to—

"(1) enable parents and family members of newborns, health professionals, industry representatives, and other members of the public to increase their awareness, knowledge, and understanding of newborn screening;

"(2) increase awareness, knowledge, and understanding of newborn diseases and screening services for expectant individuals and families; and

"(3) maintain current data on quality indicators to measure performance of newborn screening, such as false-positive rates and other quality indicators as determined by the Advisory Committee under section 1111.

"(b) INTERNET AVAILABILITY.—The Secretary, acting through the Administrator, shall ensure that the clearinghouse described under subsection (a)—

"(1) is available on the Internet;

"(2) includes an interactive forum;

"(3) is updated on a regular basis, but not less than quarterly; and

"(4) provides—

"(A) links to Government-sponsored, non-profit, and other Internet websites of laboratories that have demonstrated expertise in newborn screening that supply research-based information on newborn screening tests currently available throughout the United States;

"(B) information about newborn conditions and screening services available in each State from laboratories certified under subpart 2 of part F of title III, including information about supplemental screening that is available but not required, in the State where the infant is born;

"(C) current research on both treatable and not-yet treatable conditions for which newborn screening tests are available;

"(D) the availability of Federal funding for newborn and child screening for heritable disorders including grants authorized under the Newborn Screening Saves Lives Act of 2007; and

"(E) other relevant information as determined appropriate by the Secretary.

"(c) NONDUPLICATION.—In developing the clearinghouse under this section, the Secretary shall ensure that such clearinghouse minimizes duplication and supplements, not supplants, existing information sharing efforts.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,500,000 for fiscal year 2008, $2,531,250 for fiscal year 2009, $2,562,500 for fiscal year 2010, $2,593,750 for fiscal year 2011, and $2,625,000 for fiscal year 2012.".

**SEC. 6. LABORATORY QUALITY AND SURVEILLANCE.**

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.), as amended by section 5, is further amended by adding at the end the following:

42 USC 300b–12.

**"SEC. 1113. LABORATORY QUALITY.**

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Advisory Committee on Heritable Disorders in Newborns and Children established under section 1111, shall provide for—

"(1) quality assurance for laboratories involved in screening newborns and children for heritable disorders, including quality assurance for newborn-screening tests, performance evaluation services, and technical assistance and technology transfer to newborn screening laboratories to ensure analytic validity and utility of screening tests; and

"(2) appropriate quality control and other performance test materials to evaluate the performance of new screening tools.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 2008, $5,062,500 for fiscal year 2009, $5,125,000 for fiscal year 2010, $5,187,500 for fiscal year 2011, and $5,250,000 for fiscal year 2012.

42 USC 300b–13.

**"SEC. 1114. INTERAGENCY COORDINATING COMMITTEE ON NEWBORN AND CHILD SCREENING.**

"(a) PURPOSE.—It is the purpose of this section to—

"(1) assess existing activities and infrastructure, including activities on birth defects and developmental disabilities authorized under section 317C, in order to make recommendations for programs to collect, analyze, and make available data on the heritable disorders recommended by the Advisory Committee on Heritable Disorders in Newborns and Children under section 1111, including data on the incidence and prevalence of, as well as poor health outcomes resulting from, such disorders; and

"(2) make recommendations for the establishment of regional centers for the conduct of applied epidemiological research on effective interventions to promote the prevention of poor health outcomes resulting from such disorders as well as providing information and education to the public on such effective interventions.

"(b) ESTABLISHMENT.—The Secretary shall establish an Interagency Coordinating Committee on Newborn and Child Screening (referred to in this section as the 'Interagency Coordinating Committee') to carry out the purpose of this section.

"(c) COMPOSITION.—The Interagency Coordinating Committee shall be composed of the Director of the Centers for Disease Control and Prevention, the Administrator, the Director of the Agency for Healthcare Research and Quality, and the Director of the National Institutes of Health, or their designees.

"(d) ACTIVITIES.—The Interagency Coordinating Committee shall—

Reports.

"(1) report to the Secretary and the appropriate committees of Congress on its recommendations related to the purpose described in subsection (a); and

"(2) carry out other activities determined appropriate by the Secretary.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $1,000,000 for fiscal year 2008, $1,012,500 for fiscal year 2009, $1,025,000 for fiscal year 2010, $1,037,500 for fiscal year 2011, and $1,050,000 for fiscal year 2012.".

**SEC. 7. CONTINGENCY PLANNING.**

Part A of title XI of the Public Health Service Act (42 U.S.C. 300b–1 et seq.), as amended by section 6, is further amended by adding at the end the following:

**"SEC. 1115. NATIONAL CONTINGENCY PLAN FOR NEWBORN SCREENING.** 42 USC 300b–14.

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator and State departments of health (or related agencies), shall develop a national contingency plan for newborn screening for use by a State, region, or consortia of States in the event of a public health emergency. Deadline.

"(b) CONTENTS.—The contingency plan developed under subsection (a) shall include a plan for—

"(1) the collection and transport of specimens;

"(2) the shipment of specimens to State newborn screening laboratories;

"(3) the processing of specimens;

"(4) the reporting of screening results to physicians and families;

"(5) the diagnostic confirmation of positive screening results;

"(6) ensuring the availability of treatment and management resources;

"(7) educating families about newborn screening; and

"(8) carrying out other activities determined appropriate by the Secretary.

**"SEC. 1116. HUNTER KELLY RESEARCH PROGRAM.** 42 USC 300b–15.

"(a) NEWBORN SCREENING ACTIVITIES.—

"(1) IN GENERAL.—The Secretary, in conjunction with the Director of the National Institutes of Health and taking into consideration the recommendations of the Advisory Committee, may continue carrying out, coordinating, and expanding research in newborn screening (to be known as 'Hunter Kelly Newborn Screening Research Program') including—

"(A) identifying, developing, and testing the most promising new screening technologies, in order to improve already existing screening tests, increase the specificity of newborn screening, and expand the number of conditions for which screening tests are available;

"(B) experimental treatments and disease management strategies for additional newborn conditions, and other genetic, metabolic, hormonal and or functional conditions that can be detected through newborn screening for which treatment is not yet available; and

"(C) other activities that would improve newborn screening, as identified by the Director.

"(2) ADDITIONAL NEWBORN CONDITION.—For purposes of this subsection, the term 'additional newborn condition' means any condition that is not one of the core conditions recommended by the Advisory Committee and adopted by the Secretary.

"(b) FUNDING.—In carrying out the research program under this section, the Secretary and the Director shall ensure that entities receiving funding through the program will provide assurances, as practicable, that such entities will work in consultation with the appropriate State departments of health, and, as practicable, focus their research on screening technology not currently performed in the States in which the entities are located, and the conditions on the uniform screening panel (or the standard test existing on the uniform screening panel).

"(c) REPORTS.—The Director is encouraged to include information about the activities carried out under this section in the biennial report required under section 403 of the National Institutes of Health Reform Act of 2006. If such information is included, the Director shall make such information available to be included on the Internet Clearinghouse established under section 1112.

Web site.

"(d) NONDUPLICATION.—In carrying out programs under this section, the Secretary shall minimize duplication and supplement, not supplant, existing efforts of the type carried out under this section.

"(e) PEER REVIEW.—Nothing in this section shall be construed to interfere with the scientific peer-review process at the National Institutes of Health.".

Approved April 24, 2008.

LEGISLATIVE HISTORY—S. 1858 (H.R. 3825):

HOUSE REPORTS: No. 110–570 accompanying H.R. 3825 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 110–280 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD:

Vol. 153 (2007): Dec. 13, considered and passed Senate.

Vol. 154 (2008): Apr. 8, considered and passed House.

Public Law 110–205
110th Congress

# An Act

To amend Public Law 110–196 to provide for a temporary extension of programs authorized by the Farm Security and Rural Investment Act of 2002 beyond April 25, 2008.

Apr. 25, 2008
[S. 2903]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AGRICULTURAL PROGRAMS AND SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITIES.**

Effective April 25, 2008, section 1 of Public Law 110–196 (122 Stat. 653) (as amended by Public Law 110–200 (122 Stat. 695)) is amended— Effective date.

(1) in subsection (a), by striking "April 25, 2008" and inserting "May 2, 2008"; and

(2) in subsection (d), by striking "April 25, 2008" and inserting "May 2, 2008".

Approved April 25, 2008.

LEGISLATIVE HISTORY—S. 2903:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 24, considered and passed House and Senate.

# Public Law 110–206
# 110th Congress

## An Act

Apr. 28, 2008
[S. 793]

To provide for the expansion and improvement of traumatic brain injury programs.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Traumatic Brain Injury Act of 2008.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Traumatic Brain Injury Act of 2008".

**SEC. 2. CONFORMING AMENDMENTS RELATING TO RESTRUCTURING.**

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended—

42 USC 280b–1b.
(1) by redesignating the section 393B (42 U.S.C. 280b–1c) relating to the use of allotments for rape prevention education, as section 393A and moving such section so that it follows section 393;

42 USC 280b–1c.
(2) by redesignating existing section 393A (42 U.S.C. 280b–1b) relating to prevention of traumatic brain injury, as section 393B; and

(3) by redesignating the section 393B (42 U.S.C. 280b–1d) relating to traumatic brain injury registries, as section 393C.

**SEC. 3. TRAUMATIC BRAIN INJURY PROGRAMS OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.**

(a) PREVENTION OF TRAUMATIC BRAIN INJURY.—Clause (ii) of section 393B(b)(3)(A) of the Public Health Service Act, as so redesignated, (42 U.S.C. 280b–1b) is amended by striking "from hospitals and trauma centers" and inserting "from hospitals and emergency departments".
42 USC 280b–1c.

(b) NATIONAL PROGRAM FOR TRAUMATIC BRAIN INJURY SURVEILLANCE AND REGISTRIES.—Section 393C of the Public Health Service Act, as so redesignated, (42 U.S.C. 280b et seq.) is amended—
42 USC 280b–1d.

(1) in the section heading, by inserting "SURVEILLANCE AND" after "NATIONAL PROGRAM FOR TRAUMATIC BRAIN INJURY"; and

(2) in subsection (a), in the matter preceding paragraph (1), by striking "may make grants" and all that follows through "to collect data concerning—" and inserting "may make grants to States or their designees to develop or operate the State's traumatic brain injury surveillance system or registry to determine the incidence and prevalence of traumatic brain injury and related disability, to ensure the uniformity of reporting under such system or registry, to link individuals with traumatic brain injury to services and supports, and to link such

individuals with academic institutions to conduct applied research that will support the development of such surveillance systems and registries as may be necessary. A surveillance system or registry under this section shall provide for the collection of data concerning—".

(c) REPORT.—Section 393C of the Public Health Service Act (as so redesignated) is amended by adding at the end the following: 42 USC 280b–1d.

"(b) Not later than 18 months after the date of enactment of the Traumatic Brain Injury Act of 2008, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health and in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, shall submit to the relevant committees of Congress a report that contains the findings derived from an evaluation concerning activities and procedures that can be implemented by the Centers for Disease Control and Prevention to improve the collection and dissemination of compatible epidemiological studies on the incidence and prevalence of traumatic brain injury in individuals who were formerly in the military. The report shall include recommendations on the manner in which such agencies can further collaborate on the development and improvement of traumatic brain injury diagnostic tools and treatments.".

**SEC. 4. STUDY ON TRAUMATIC BRAIN INJURY.**

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended by inserting after section 393C, as so redesignated, the following:

**"SEC. 393C–1. STUDY ON TRAUMATIC BRAIN INJURY.** 42 USC 280b–1e.

"(a) STUDY.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention with respect to paragraph (1) and in consultation with the Director of the National Institutes of Health and other appropriate entities with respect to paragraphs (2), (3), and (4), may conduct a study with respect to traumatic brain injury for the purpose of carrying out the following:

"(1) In collaboration with appropriate State and local health-related agencies—

"(A) determining the incidence of traumatic brain injury and prevalence of traumatic brain injury related disability and the clinical aspects of the disability in all age groups and racial and ethnic minority groups in the general population of the United States, including institutional settings, such as nursing homes, correctional facilities, psychiatric hospitals, child care facilities, and residential institutes for people with developmental disabilities; and

"(B) reporting national trends in traumatic brain injury.

"(2) Identifying common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and, subject to the availability of information, including an analysis of—

"(A) the effectiveness of each such intervention in improving the functioning, including return to work or school and community participation, of individuals with brain injuries;

"(B) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

"(C) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

"(3) Identifying interventions and therapies that can prevent or remediate the development of secondary neurologic conditions related to traumatic brain injury.

"(4) Developing practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

"(b) DATES CERTAIN FOR REPORTS.—If the study is conducted under subsection (a), the Secretary shall, not later than 3 years after the date of the enactment of the Traumatic Brain Injury Act of 2008, submit to Congress a report describing findings made as a result of carrying out such subsection (a).

"(c) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to trauma including near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

**SEC. 5. TRAUMATIC BRAIN INJURY PROGRAMS OF THE NATIONAL INSTITUTES OF HEALTH.**

Section 1261 of the Public Health Service Act (42 U.S.C. 300d–61) is amended—

(1) in subsection (b)(2), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions";

(2) in subparagraph (D) of subsection (d)(4), by striking "head brain injury" and inserting "brain injury"; and

(3) in subsection (i), by inserting ", and such sums as may be necessary for each of the fiscal years 2009 through 2012" before the period at the end.

**SEC. 6. TRAUMATIC BRAIN INJURY PROGRAMS OF THE HEALTH RESOURCES AND SERVICES ADMINISTRATION.**

(a) STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.—Section 1252 of the Public Health Service Act (42 U.S.C. 300d–52) is amended—

(1) in subsection (a)—

(A) by striking "may make grants to States" and inserting "may make grants to States and American Indian consortia"; and

(B) by striking "health and other services" and inserting "rehabilitation and other services";

(2) in subsection (b)—

(A) in paragraphs (1), (3)(A)(i), (3)(A)(iii), and (3)(A)(iv), by striking the term "State" each place such term appears and inserting the term "State or American Indian consortium"; and

(B) in paragraph (2), by striking "recommendations to the State" and inserting "recommendations to the State or American Indian consortium";

(3) in subsection (c)(1), by striking the term "State" each place such term appears and inserting "State or American Indian consortium";

(4) in subsection (e), by striking "A State that received" and all that follows through the period and inserting "A State or American Indian consortium that received a grant under this section prior to the date of the enactment of the Traumatic Brain Injury Act of 2008 may complete the activities funded by the grant.";

(5) in subsection (f)—

(A) in the subsection heading, by inserting "AND AMERICAN INDIAN CONSORTIUM" after "STATE";

(B) in paragraph (1) in the matter preceding subparagraph (A), paragraph (1)(E), paragraph (2)(A), paragraph (2)(B), paragraph (3) in the matter preceding subparagraph (A), paragraph (3)(E), and paragraph (3)(F), by striking the term "State" each place such term appears and inserting "State or American Indian consortium"; and

(C) in clause (ii) of paragraph (1)(A), by striking "children and other individuals" and inserting "children, youth, and adults";

(6) in subsection (h)—

(A) by striking "Not later than 2 years after the date of the enactment of this section, the Secretary" and inserting "Not less than biennially, the Secretary";

(B) by striking "Commerce of the House of Representatives, and to the Committee on Labor and Human Resources" and inserting "Energy and Commerce of the House of Representatives, and to the Committee on Health, Education, Labor, and Pensions"; and

(C) by inserting "and section 1253" after "programs established under this section,";

(7) by amending subsection (i) to read as follows:

"(i) DEFINITIONS.—For purposes of this section:

"(1) The terms 'American Indian consortium' and 'State' have the meanings given to those terms in section 1253.

"(2) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to trauma. The Secretary may revise the definition of such term as the Secretary determines necessary, after consultation with States and other appropriate public or nonprofit private entities."; and

(8) in subsection (j), by inserting ", and such sums as may be necessary for each of the fiscal years 2009 through 2012" before the period.

(b) STATE GRANTS FOR PROTECTION AND ADVOCACY SERVICES.—Section 1253 of the Public Health Service Act (42 U.S.C. 300d–53) is amended—

(1) in subsections (d) and (e), by striking the term "subsection (i)" each place such term appears and inserting "subsection (l)";

(2) in subsection (g), by inserting "each fiscal year not later than October 1," before "the Administrator shall pay";

(3) by redesignating subsections (i) and (j) as subsections (l) and (m), respectively;

(4) by inserting after subsection (h) the following:

Contracts.

"(i) DATA COLLECTION.—The Administrator of the Health Resources and Services Administration and the Commissioner of the Administration on Developmental Disabilities shall enter into an agreement to coordinate the collection of data by the Administrator and the Commissioner regarding protection and advocacy services.

"(j) TRAINING AND TECHNICAL ASSISTANCE.—

"(1) GRANTS.—For any fiscal year for which the amount appropriated to carry out this section is $6,000,000 or greater, the Administrator shall use 2 percent of such amount to make a grant to an eligible national association for providing for training and technical assistance to protection and advocacy systems.

"(2) DEFINITION.—In this subsection, the term 'eligible national association' means a national association with demonstrated experience in providing training and technical assistance to protection and advocacy systems.

Records.

"(k) SYSTEM AUTHORITY.—In providing services under this section, a protection and advocacy system shall have the same authorities, including access to records, as such system would have for purposes of providing services under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000."; and

(5) in subsection (l) (as redesignated by this subsection) by striking "2002 through 2005" and inserting "2009 through 2012".

Approved April 28, 2008.

LEGISLATIVE HISTORY—S. 793 (H.R. 1418):

HOUSE REPORTS: No. 110–567 accompanying H.R. 1418 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 110–140 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD:

Vol. 153 (2007): Dec. 11, considered and passed Senate.

Vol. 154 (2008): Apr. 8, considered and passed House, amended.
Apr. 10, Senate concurred in House amendment.

Public Law 110–207
110th Congress

# An Act

To amend title 36, United States Code, to revise the congressional charter of the Military Order of the Purple Heart of the United States of America, Incorporated, to authorize associate membership in the corporation for the spouse and siblings of a recipient of the Purple Heart medal.

Apr. 30, 2008
[H.R. 1119]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Purple Heart Family Equity Act of 2007.
36 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Purple Heart Family Equity Act of 2007".

**SEC. 2. ASSOCIATE MEMBERSHIP IN THE MILITARY ORDER OF THE PURPLE HEART OF THE UNITED STATES OF AMERICA, INCORPORATED.**

Section 140503(b) of title 36, United States Code, is amended by striking "parents and lineal descendants" and inserting "the parents, spouse, siblings, and lineal descendants".

Approved April 30, 2008.

LEGISLATIVE HISTORY—H.R. 1119:

HOUSE REPORTS: No. 110–428 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Nov. 6, considered and passed House.
Vol. 154 (2008): Apr. 14, considered and passed Senate.

# Public Law 110–208
# 110th Congress

## An Act

May 2, 2008
[S. 2954]

To amend Public Law 110–196 to provide for a temporary extension of programs authorized by the Farm Security and Rural Investment Act of 2002 beyond May 2, 2008.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AGRICULTURAL PROGRAMS AND SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITIES.**

Effective date.

Effective April 25, 2008, section 1 of Public Law 110–196 (122 Stat. 653) (as amended by Public Law 110–200 (122 Stat. 695) and Public Law 110–205 (122 Stat. 713)) is amended—

(1) in subsection (a), by striking "May 2, 2008" and inserting "May 16, 2008"; and

(2) in subsection (d), by striking "May 2, 2008" and inserting "May 16, 2008".

Approved May 2, 2008.

LEGISLATIVE HISTORY—S. 2954:

CONGRESSIONAL RECORD, Vol. 154 (2008):
May 1, considered and passed House and Senate.

Public Law 110–209
110th Congress

# An Act

To award a congressional gold medal to Daw Aung San Suu Kyi in recognition of her courageous and unwavering commitment to peace, nonviolence, human rights, and democracy in Burma.

May 6, 2008
[H.R. 4286]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

31 USC 5111 note.

**SECTION 1. FINDINGS.**

The Congress finds as follows:

(1) Aung San Suu Kyi was born on June 19, 1945, in Rangoon, Burma, to Aung San, commander of the Burma Independence Army, and Ma Khin Kyi.

(2) On August 15, 1988, Ms. Suu Kyi, in her first political action, sent an open letter to the military controlled government asking for free, open, and multi-party elections.

(3) On September 24, 1988, the National League for Democracy (NLD) was formed, with Ms. Suu Kyi as the general-secretary, and it was, and remains, dedicated to a policy of non-violence and civil disobedience.

(4) Ms. Suu Kyi was subsequently placed under house arrest, where she remained for the next 6 years—without being charged or put on trial—and has been imprisoned twice more; she currently remains under house arrest.

(5) Despite her detention, the National League for Democracy won an open election with an overwhelming 82 percent of the vote—which the military junta nullified.

(6) While under house arrest, she has bravely refused offers to leave the country to continue to promote freedom and democracy in Burma.

(7) For her efforts on behalf of the Burmese people, she has been awarded the Sakharov Prize for Freedom of Thought in 1990, the Presidential Medal of Freedom in 2000, and the Nobel Peace Prize in 1991.

(8) Ms. Suu Kyi continues to fight on behalf of the Burmese people, even donating her $1.3 million from her Nobel Prize to establish a health and education fund for Burma.

(9) She is the world's only imprisoned Nobel Peace Prize recipient, spending more than 12 of the past 17 years under house arrest.

(10) Despite an assassination attempt against her life, her prolonged illegal imprisonment, the constant public vilification of her character, and her inability to see her children or to see her husband before his death, Ms. Suu Kyi remains committed to peaceful dialogue with her captors, Burma's military

regime, and Burma's ethnic nationalities towards bringing democracy, human rights, and national reconciliation to Burma.

**SEC. 2. CONGRESSIONAL GOLD MEDAL.**

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design, to Daw Aung San Suu Kyi in recognition of her courageous and unwavering commitment to peace, nonviolence, human rights, and democracy in Burma.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

**SEC. 3. DUPLICATE MEDALS.**

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

**SEC. 4. STATUS OF MEDALS.**

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

**SEC. 5. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.**

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 3 shall be deposited into the United States Mint Public Enterprise Fund.

Approved May 6, 2008.

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LEGISLATIVE HISTORY—H.R. 4286:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 17, considered and passed House.
Vol. 154 (2008): Apr. 24, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
May 6, Presidential remarks.

Public Law 110–210
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 20 Sussex Street in Port Jervis, New York, as the "E. Arthur Gray Post Office Building".

May 7, 2008
[H.R. 3196]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. E. ARTHUR GRAY POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 20 Sussex Street in Port Jervis, New York, shall be known and designated as the "E. Arthur Gray Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "E. Arthur Gray Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 3196:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Mar. 10, considered and passed House.
Apr. 22, considered and passed Senate.

# Public Law 110–211
# 110th Congress

## An Act

May 7, 2008
[H.R. 3468]

To designate the facility of the United States Postal Service located at 1704 Weeksville Road in Elizabeth City, North Carolina, as the "Dr. Clifford Bell Jones, Sr. Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DR. CLIFFORD BELL JONES, SR. POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1704 Weeksville Road in Elizabeth City, North Carolina, shall be known and designated as the "Dr. Clifford Bell Jones, Sr. Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Dr. Clifford Bell Jones, Sr. Post Office".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 3468:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 12, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 110–212
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 5815 McLeod Street in Lula, Georgia, as the "Private Johnathon Millican Lula Post Office".

May 7, 2008
[H.R. 3532]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PRIVATE JOHNATHON MILLICAN LULA POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 5815 McLeod Street in Lula, Georgia, shall be known and designated as the "Private Johnathon Millican Lula Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Private Johnathon Millican Lula Post Office".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 3532:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 12, considered and passed House.
Apr. 22, considered and passed Senate.

# Public Law 110–213
# 110th Congress

## An Act

May 7, 2008
[H.R. 3720]

To designate the facility of the United States Postal Service located at 424 Clay Avenue in Waco, Texas, as the "Army PFC Juan Alonso Covarrubias Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ARMY PFC JUAN ALONSO COVARRUBIAS POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 424 Clay Avenue in Waco, Texas, shall be known and designated as the "Army PFC Juan Alonso Covarrubias Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Army PFC Juan Alonso Covarrubias Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 3720:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Jan. 22, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 110–214
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 3100 Cashwell Drive in Goldsboro, North Carolina, as the "John Henry Wooten, Sr. Post Office Building".

May 7, 2008
[H.R. 3803]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JOHN HENRY WOOTEN, SR. POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 3100 Cashwell Drive in Goldsboro, North Carolina, shall be known and designated as the "John Henry Wooten, Sr. Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "John Henry Wooten, Sr. Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 3803:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 28, considered and passed House.
Apr. 22, considered and passed Senate.

# Public Law 110–215
# 110th Congress

## An Act

May 7, 2008
[H.R. 3936]

To designate the facility of the United States Postal Service located at 116 Helen Highway in Cleveland, Georgia, as the "Sgt. Jason Harkins Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SGT. JASON HARKINS POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 116 Helen Highway in Cleveland, Georgia, shall be known and designated as the "Sgt. Jason Harkins Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Sgt. Jason Harkins Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 3936:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 28, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 110–216
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 3701 Altamesa Boulevard in Fort Worth, Texas, as the "Master Sergeant Kenneth N. Mack Post Office Building".

May 7, 2008
[H.R. 3988]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MASTER SERGEANT KENNETH N. MACK POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 3701 Altamesa Boulevard in Fort Worth, Texas, shall be known and designated as the "Master Sergeant Kenneth N. Mack Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Master Sergeant Kenneth N. Mack Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 3988:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Jan. 22, considered and passed House.
Apr. 22, considered and passed Senate.

# Public Law 110–217
# 110th Congress

## An Act

May 7, 2008
[H.R. 4166]

To designate the facility of the United States Postal Service located at 701 East Copeland Drive in Lebanon, Missouri, as the "Steve W. Allee Carrier Annex".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. STEVE W. ALLEE CARRIER ANNEX.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 701 East Copeland Drive in Lebanon, Missouri, shall be known and designated as the "Steve W. Allee Carrier Annex".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Steve W. Allee Carrier Annex".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 4166:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Mar. 10, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 110–218
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 3035 Stone Mountain Street in Lithonia, Georgia, as the "Specialist Jamaal RaShard Addison Post Office Building".

May 7, 2008
[H.R. 4203]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SPECIALIST JAMAAL RASHARD ADDISON POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 3035 Stone Mountain Street in Lithonia, Georgia, shall be known and designated as the "Specialist Jamaal RaShard Addison Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Specialist Jamaal RaShard Addison Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 4203:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 12, considered and passed House.
Apr. 22, considered and passed Senate.

# Public Law 110–219
# 110th Congress

## An Act

May 7, 2008
[H.R. 4211]

To designate the facility of the United States Postal Service located at 725 Roanoke Avenue in Roanoke Rapids, North Carolina, as the "Judge Richard B. Allsbrook Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JUDGE RICHARD B. ALLSBROOK POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 725 Roanoke Avenue in Roanoke Rapids, North Carolina, shall be known and designated as the "Judge Richard B. Allsbrook Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Judge Richard B. Allsbrook Post Office".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 4211:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Jan. 22, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 110–220
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 10799 West Alameda Avenue in Lakewood, Colorado, as the "Felix Sparks Post Office Building".

May 7, 2008
[H.R. 4240]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FELIX SPARKS POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 10799 West Alameda Avenue in Lakewood, Colorado, shall be known and designated as the "Felix Sparks Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Felix Sparks Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 4240 (S. 2673):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Jan. 28, considered and passed House.
Apr. 22, considered and passed Senate.

# Public Law 110–221
# 110th Congress

## An Act

May 7, 2008
[H.R. 4454]

To designate the facility of the United States Postal Service located at 3050 Hunsinger Lane in Louisville, Kentucky, as the "Iraq and Afghanistan Fallen Military Heroes of Louisville Memorial Post Office Building", in honor of the servicemen and women from Louisville, Kentucky, who died in service during Operation Enduring Freedom and Operation Iraqi Freedom.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. IRAQ AND AFGHANISTAN FALLEN MILITARY HEROES OF LOUISVILLE MEMORIAL POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 3050 Hunsinger Lane in Louisville, Kentucky, shall be known and designated as the "Iraq and Afghanistan Fallen Military Heroes of Louisville Memorial Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Iraq and Afghanistan Fallen Military Heroes of Louisville Memorial Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 4454:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 28, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 110–222
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 201 West Greenway Street in Derby, Kansas, as the "Sergeant Jamie O. Maugans Post Office Building".

May 7, 2008
[H.R. 5135]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SERGEANT JAMIE O. MAUGANS POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 201 West Greenway Street in Derby, Kansas, shall be known and designated as the "Sergeant Jamie O. Maugans Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Sergeant Jamie O. Maugans Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 5135 (S. 2675):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 12, considered and passed House.
Apr. 22, considered and passed Senate.

# Public Law 110–223
# 110th Congress

## An Act

May 7, 2008
[H.R. 5220]

To designate the facility of the United States Postal Service located at 3800 SW. 185th Avenue in Beaverton, Oregon, as the "Major Arthur Chin Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MAJOR ARTHUR CHIN POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 3800 SW. 185th Avenue in Beaverton, Oregon, shall be known and designated as the "Major Arthur Chin Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Major Arthur Chin Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 5220:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Mar. 5, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 110–224
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 160 East Washington Street in Chagrin Falls, Ohio, as the "Sgt. Michael M. Kashkoush Post Office Building".

May 7, 2008
[H.R. 5400]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SGT. MICHAEL M. KASHKOUSH POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 160 East Washington Street in Chagrin Falls, Ohio, shall be known and designated as the "Sgt. Michael M. Kashkoush Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Sgt. Michael M. Kashkoush Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 5400 (S. 2626):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Mar. 5, considered and passed House.
Apr. 22, considered and passed Senate.

# Public Law 110–225
# 110th Congress

## An Act

May 7, 2008
[H.R. 5472]

To designate the facility of the United States Postal Service located at 2650 Dr. Martin Luther King Jr. Street, Indianapolis, Indiana, as the "Julia M. Carson Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JULIA M. CARSON POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 2650 Dr. Martin Luther King Jr. Street, Indianapolis, Indiana, shall be known and designated as the "Julia M. Carson Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Julia M. Carson Post Office Building".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 5472 (S. 2534):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 9, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 110–226
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 6892 Main Street in Gloucester, Virginia, as the "Congresswoman Jo Ann S. Davis Post Office".

May 7, 2008
[H.R. 5489]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONGRESSWOMAN JO ANN S. DAVIS POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 6892 Main Street in Gloucester, Virginia, shall be known and designated as the "Congresswoman Jo Ann S. Davis Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Congresswoman Jo Ann S. Davis Post Office".

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 5489 (S. 2725):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 9, considered and passed House.
Apr. 22, considered and passed Senate.

# Public Law 110–227
# 110th Congress

## An Act

May 7, 2008
[H.R. 5715]

To ensure continued availability of access to the Federal student loan program for students and families.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Ensuring Continued Access to Student Loans Act of 2008.
20 USC 1001 note.

**SECTION 1. SHORT TITLE.**

This title may be cited as the "Ensuring Continued Access to Student Loans Act of 2008".

**SEC. 2. INCREASING UNSUBSIDIZED STAFFORD LOAN LIMITS FOR UNDERGRADUATE STUDENTS.**

(a) AMENDMENTS.—Subsection (d) of section 428H of the Higher Education Act of 1965 (20 U.S.C. 1078–8(d)) is amended to read as follows:

"(d) LOAN LIMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), the annual and aggregate limits for loans under this section shall be the same as those established under section 428(b)(1), less any amount received by such student pursuant to the subsidized loan program established under section 428.

"(2) LIMITS FOR GRADUATE AND PROFESSIONAL STUDENTS.—

"(A) ANNUAL LIMITS.—The maximum annual amount of loans under this section a graduate or professional student may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the amount determined under paragraph (1), plus—

"(i) in the case of such a student who is a graduate or professional student attending an eligible institution, $12,000; and

"(ii) in the case of a graduate student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B), $7,000;

except in cases where the Secretary determines that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

"(B) AGGREGATE LIMIT.—The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be the amount described in paragraph (1), adjusted to reflect the increased

annual limits described in subparagraph (A), as prescribed by the Secretary by regulation.

"(3) LIMITS FOR UNDERGRADUATE DEPENDENT STUDENTS.—

"(A) ANNUAL LIMITS.—The maximum annual amount of loans under this section an undergraduate dependent student (except an undergraduate dependent student whose parents are unable to borrow under section 428B or the Federal Direct PLUS Loan Program) may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the sum of the amount determined under paragraph (1), plus $2,000.

"(B) AGGREGATE LIMITS.—The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be $31,000.

"(4) LIMITS FOR UNDERGRADUATE INDEPENDENT STUDENTS.—

"(A) ANNUAL LIMITS.—The maximum annual amount of loans under this section an undergraduate independent student, or an undergraduate dependent student whose parents are unable to borrow under section 428B or the Federal Direct PLUS Loan Program, may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the sum of the amount determined under paragraph (1), plus—

"(i) in the case of such a student attending an eligible institution who has not completed such student's first 2 years of undergraduate study—

"(I) $6,000, if such student is enrolled in a program whose length is at least one academic year in length; or

"(II) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;

"(ii) in the case of such a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

"(I) $7,000; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year; and

"(iii) in the case of such a student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B), $6,000 for coursework necessary for

enrollment in an undergraduate degree or certificate program.

"(B) AGGREGATE LIMITS.—The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be $57,500.

"(5) CAPITALIZED INTEREST.—Interest capitalized shall not be deemed to exceed a maximum aggregate amount determined under subparagraph (B) of paragraph (2), (3), or (4).".

20 USC 1078–8 note.

(b) STUDENT ELIGIBILITY.—Loan limit increases authorized by the amendments made by this section shall be available only to students who meet the requirements of section 484(a) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)).

20 USC 1078–8 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans first disbursed on or after July 1, 2008.

**SEC. 3. GRACE PERIOD FOR PARENT PLUS LOANS.**

(a) AMENDMENT.—Section 428B(d) of the Higher Education Act of 1965 (20 U.S.C. 1078–2(d)) is amended by amending paragraphs (1) and (2) to read as follows:

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall—

"(A) commence not later than—

"(i) 60 days after the date such loan is disbursed by the lender, except as provided in clause (ii); and

"(ii) if agreed upon by a parent borrower, the day after 6 months after the date the student for whom the loan is borrowed ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); and

"(B) be subject to deferral during any period during which the graduate or professional student or the parent meets the conditions required for a deferral under section 427(a)(2)(C) or 428(b)(1)(M).

"(2) CAPITALIZATION OF INTEREST.—

"(A) IN GENERAL.—Interest on loans made under this section—

"(i) which accrues prior to the beginning of repayment under paragraph (1)(A)(i), shall be added to the principal amount of the loan; and

"(ii) which accrues prior to the beginning of repayment under paragraph (1)(A)(ii) or during a period in which payments of principal are deferred pursuant to paragraph (1)(B) shall, if agreed upon by the borrower and the lender—

"(I) be paid monthly or quarterly; or

"(II) be added to the principal amount of the loan not more frequently than quarterly by the lender.

"(B) INSURABLE LIMITS.—Capitalization of interest under this paragraph shall not be deemed to exceed the annual insurable limit on account of the borrower.".

(b) CONFORMING AMENDMENT.—Section 428(b)(7)(C) of such Act (20 U.S.C. 1078(b)(7)(C)) is amended by striking ", 428B,".

20 USC 1078 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans first disbursed on or after July 1, 2008.

**SEC. 4. SPECIAL RULES FOR PLUS LOANS.**

Section 428B(a)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078–2(a)(3)) is amended to read as follows:

"(3) SPECIAL RULES.—

"(A) PARENT BORROWERS.—Whenever necessary to carry out the provisions of this section, the terms 'student' and 'borrower' as used in this part shall include a parent borrower under this section.

"(B)(i) EXTENUATING CIRCUMSTANCES.—An eligible lender may determine that extenuating circumstances exist under the regulations promulgated pursuant to paragraph (1)(A) if, during the period beginning January 1, 2007, and ending December 31, 2009, an applicant for a loan under this section—

"(I) is or has been delinquent for 180 days or fewer on mortgage loan payments or on medical bill payments during such period; and

"(II) is not and has not been more than 89 days delinquent on the repayment of any other debt during such period.

"(ii) DEFINITION OF MORTGAGE LOAN.—In this subparagraph, the term 'mortgage loan' means an extension of credit to a borrower that is secured by the primary residence of the borrower.

"(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to limit an eligible lender's authority under the regulations promulgated pursuant to paragraph (1)(A) to determine that extenuating circumstances exist.".

**SEC. 5. LENDER-OF-LAST-RESORT.**

(a) IN GENERAL.—Section 428(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(j)) is amended—

(1) in the first sentence of paragraph (1), by striking "students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part" and inserting "eligible students and parents who are otherwise unable to obtain loans under this part (except for consolidation loans under section 428C) or who attend an institution of higher education in the State that is designated under paragraph (4)";

(1) in paragraph (1), by inserting after the second sentence the following: "No loan under section 428, 428B, or 428H that is made pursuant to this subsection shall be made with interest rates, origination or default fees, or other terms and conditions that are more favorable to the borrower than the maximum interest rates, origination or default fees, or other terms and conditions applicable to that type of loan under this part.";

(2) in paragraph (2)(B), by inserting ", in the case of students and parents applying for loans under this subsection because of an inability to otherwise obtain loans under this part (except for consolidation loans under section 428C)," after "lender, nor";

(3) in paragraph (3)(C)—

(A) in the first sentence, by inserting "or designates an institution of higher education for participation in the

program under this subsection under paragraph (4)" after "under this part"; and

(B) in the third sentence, by inserting "or to eligible borrowers who attend an institution in the State that is designated under paragraph (4)" after "problems"; and

(4) by adding at the end the following:

Designation.

"(4) INSTITUTION-WIDE STUDENT QUALIFICATION.—Upon the request of an institution of higher education and pursuant to standards developed by the Secretary, the Secretary shall designate such institution for participation in the lender-of-last-resort program under this paragraph. If the Secretary designates an institution under this paragraph, the guaranty agency designated for the State in which the institution is located shall make loans, in the same manner as such loans are made under paragraph (1), to students and parent borrowers of the designated institution, regardless of whether the students or parent borrowers are otherwise unable to obtain loans under this part (other than a consolidation loan under section 428C).

"(5) STANDARDS DEVELOPED BY THE SECRETARY.—In developing standards with respect to paragraph (4), the Secretary may require—

"(A) an institution of higher education to demonstrate that, despite due diligence on the part of the institution, the institution has been unable to secure the commitment of eligible lenders willing to make loans under this part to a significant number of students attending the institution;

"(B) that, prior to making a request under such paragraph for designation for participation in the lender-of-last-resort program, an institution of higher education shall demonstrate that the institution has met a minimum threshold, as determined by the Secretary, for the number or percentage of students at such institution who have received rejections from eligible lenders for loans under this part; and

"(C) any other standards and guidelines the Secretary determines to be appropriate.

"(6) EXPIRATION OF AUTHORITY.—The Secretary's authority under paragraph (4) to designate institutions of higher education for participation in the program under this subsection shall expire on June 30, 2009.

"(7) EXPIRATION OF DESIGNATION.—The eligibility of an institution of higher education, or borrowers from such institution, to participate in the program under this subsection pursuant to a designation of the institution by the Secretary under paragraph (4) shall expire on June 30, 2009. After such date, borrowers from an institution designated under paragraph (4) shall be eligible to participate in the program under this subsection as such program existed on the day before the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008.

"(8) PROHIBITION ON INDUCEMENTS AND MARKETING.—Each guaranty agency or eligible lender that serves as a lender-of-last-resort under this subsection—

"(A) shall be subject to the prohibitions on inducements contained in subsection (b)(3) and the requirements of section 435(d)(5); and

"(B) shall not advertise, market, or otherwise promote loans under this subsection, except that nothing in this paragraph shall prohibit a guaranty agency from fulfilling its responsibilities under paragraph (2)(C).

"(9) DISSEMINATION AND REPORTING.—

"(A) IN GENERAL.—The Secretary shall— Public information.

"(i) broadly disseminate information regarding the availability of loans made under this subsection;

"(ii) during the period beginning July 1, 2008 and ending June 30, 2010, provide to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives and make available to the public—

"(I) copies of any new or revised plans or agreements made by guaranty agencies or the Department related to the authorities under this subsection;

"(II) quarterly reports on—

"(aa) the number and amounts of loans originated or approved pursuant to this subsection by each guaranty agency and eligible lender; and

"(bb) any related payments by the Department, a guaranty agency, or an eligible lender; and

"(III) a budget estimate of the costs to the Federal Government (including subsidy and administrative costs) for each 100 dollars loaned, of loans made pursuant to this subsection between the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008 and June 30, 2009, disaggregated by type of loan, compared to such costs to the Federal Government during such time period of comparable loans under this part and part D, disaggregated by part and by type of loan; and

"(iii) beginning July 1, 2010, provide to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives and make available to the public— Effective date.

"(I) copies of any new or revised plans or agreements made by guaranty agencies or the Department related to the authorities under this subsection; and

"(II) annual reports on—

"(aa) the number and amounts of loans originated or approved pursuant to this subsection by each guaranty agency and eligible lender; and

"(bb) any related payments by the Department, a guaranty agency, or an eligible lender.

"(B) SEPARATE REPORTING.—The information required to be reported under subparagraph (A)(ii)(II) shall be reported separately for loans originated or approved pursuant to paragraph (4), or payments related to such loans, for the time period in which the Secretary is authorized to make designations under paragraph (4).".

20 USC 1078 note.

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

Deadlines. Regulations. 20 USC 1078 note.

(c) REVIEW OF INDUCEMENTS LIMITATIONS.—Within 90 days after the date of enactment of this Act, the Secretary of Education shall review, and as necessary revise, the Department of Education's regulations concerning prohibited guaranty agency inducements to eligible lenders (34 CFR 682.401(e)) to ensure that such agencies do not engage in improper inducements in the expansion of operations of the lender-of-last-resort program as authorized by the amendments made by this section. The Secretary shall submit a report on the review and revision required by this subsection to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 180 days after such date of enactment.

Reports.

**SEC. 6. MANDATORY ADVANCES.**

(a) IN GENERAL.—Section 421(b) of the Higher Education Act of 1965 (20 U.S.C. 1071(b)) is amended—

(1) in paragraph (4), by striking "programs, and" and inserting "programs,";

(2) in paragraph (5), by striking "agencies." and inserting "agencies, and"; and

(3) by inserting before the matter following paragraph (5) the following:

"(6) there is authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the purpose of carrying out section 422(c)(7).".

Appropriation authorization.

20 USC 1071 note.

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

**SEC. 7. TEMPORARY AUTHORITY TO PURCHASE STUDENT LOANS.**

(a) SPENDING AUTHORITY.—

(1) AUTHORITY GRANTED.—The first sentence of section 451(a) of the Higher Education Act of 1965 (20 U.S.C. 1087a(a)) is amended—

(A) by inserting "(1)" after "as may be necessary"; and

(B) by inserting before the period at the end of such sentence the following: "; and (2) for purchasing loans under section 459A".

(2) CONFORMING AMENDMENT.—Section 451(a) of such Act (20 U.S.C. 1087a(a)) is further amended by striking "Such loans shall" and inserting "Loans made under this part shall".

(b) TEMPORARY AUTHORITY.—Part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) is amended by inserting after section 459 the following new section:

20 USC 1087i–1.

**"SEC. 459A. TEMPORARY AUTHORITY TO PURCHASE STUDENT LOANS.**

"(a) AUTHORITY TO PURCHASE.—

"(1) AUTHORITY; DETERMINATION REQUIRED.—Upon a determination by the Secretary that there is an inadequate availability of loan capital to meet the demand for loans under sections 428, 428B, or 428H, whether as a result of inadequate liquidity for such loans or for other reasons, the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase, or enter into forward commitments to purchase, from any eligible lender, as defined by section 435(d)(1), loans first disbursed under sections 428, 428B, or 428H on or after October 1, 2003, and before July 1, 2009, on such terms as the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States, except that any purchase under this section shall not result in any net cost to the Federal Government (including the cost of servicing the loans purchased), as determined jointly by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

"(2) FEDERAL REGISTER NOTICE.—The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall jointly publish a notice in the Federal Register prior to any purchase of loans under this section that—

"(A) establishes the terms and conditions governing the purchases authorized by paragraph (1);

"(B) includes an outline of the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, will jointly consider in evaluating the price at which to purchase loans made under section 428, 428B, or 428H; and

"(C) describes how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government (including the cost of servicing the loans purchased).

"(b) PROCEEDS.—The Secretary shall require, as a condition of any purchase under subsection (a), that the funds paid by the Secretary to any eligible lender under this section shall be used: (1) to ensure continued participation of such lender in the Federal student loan programs authorized under part B of this title; and (2) to originate new Federal loans to students, as authorized under part B of this title.

"(c) MAINTAINING SERVICING ARRANGEMENTS.—The Secretary may, if agreed upon by an eligible lender selling loans under this section, contract with such lender for the servicing of the loans purchased, provided that—

"(1) the cost of such servicing arrangement does not exceed the cost the Federal Government would otherwise incur for the servicing of loans purchased, as determined under subsection (a); and

"(2) such servicing arrangement is in the best interest of the borrowers whose loans are purchased.

"(d) EXPIRATION OF AUTHORITY.—The Secretary's authority to purchase loans under this section shall expire on July 1, 2009.".

(c) CONTRACTING AUTHORITY.—Section 456(b) of the Higher Education Act of 1965 (20 U.S.C. 1087f(b)) is amended by inserting

"or purchased" after "loans made" each place it appears in paragraphs (2) and (3).

**SEC. 8. SENSE OF CONGRESS.**

It is a sense of Congress that, at a time when our economy is fragile and higher education and retraining opportunities are more important than ever—

(1) the Federal financial institutions, such as the Federal Financing Bank and Federal Reserve, and federally chartered private entities such as the Federal Home Loan Banks and others, should consider, in consultation with the Secretary of Treasury and the Secretary of Education, using available authorities in a timely manner, if needed, to assist in ensuring that students and families can access Federal student loans for academic year 2008–2009, and if needed in the subsequent academic year, in a manner that results in no increased costs to taxpayers; and

(2) any action taken as a result of such consideration should in no way limit or delay the Secretary of Education's authority to operate the lender-of-last-resort provisions of section 428(j) of the Higher Education Act of 1965 (as amended by this Act), nor the authority to purchase Federal Family Education Loan Program loans, as authorized by section 459A of such Act (as added by this Act).

**SEC. 9. GAO STUDY ON IMPACT OF INCREASED LOAN LIMITS.**

(a) STUDY REQUIRED.—The Comptroller General shall conduct a study to evaluate the impact of the increase in Federal loan limits provided for in section 2 of this Act and section 8005 of the Deficit Reduction Act of 2005 with respect to the impact on—

(1) tuition, fees, and room and board at institutions of higher education; and

(2) private loan borrowing by students and parents for attendance at institutions of higher education.

(b) STUDY COMPONENTS.—The study required under subsection (a) shall be conducted for each major sector of institutions of higher education over a 5-year time period. The report shall specifically analyze the following:

(1) Whether, on average, tuition, fees, and room and board increase, decrease, or remain unchanged in each such sector after the increases in Federal loan limits take effect.

(2) Whether the amount of private educational loans taken out by students (and their parents) at institutions in each such sector to pay tuition, fees, and room and board increase, decrease, or remain unchanged.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall provide an interim report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate including the initial results of the study conducted under this section. The Comptroller General shall follow up with such Committees after the third year and the fifth year after such date of enactment.

**SEC. 10. ACADEMIC COMPETITIVENESS GRANTS.**

(a) AMENDMENTS.—Section 401A of the Higher Education Act of 1965 (20 U.S.C. 1070a–1) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ACADEMIC COMPETITIVENESS GRANT PROGRAM AUTHORIZED.—The Secretary shall award grants, in the amounts specified in subsection (d)(1), to eligible students to assist the eligible students in paying their college education expenses.";

(2) in subsection (b)—

(A) by striking "academic year" each place it appears and inserting "year"; and

(B) in paragraph (2), by striking "third or fourth" and inserting "third, fourth, or fifth";

(3) in subsection (c)—

(A) in the matter preceding paragraph (1)—

(i) by striking "full–time";

(ii) by striking "academic" and inserting "award"; and

(iii) by striking "is made" and inserting "is made for a grant under this section";

(B) by striking paragraphs (1) and (2) and inserting the following:

"(1) is eligible for a Federal Pell Grant;

"(2) is enrolled or accepted for enrollment in an institution of higher education on not less than a half-time basis; and"; and

(C) in paragraph (3)—

(i) by striking "academic" each place the term appears;

(ii) in subparagraph (A)—

(I) by striking the matter preceding clause (i) and inserting the following:

"(A) the first year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than one year for which the institution awards a certificate)—";

(II) by striking clause (i) and inserting the following:

"(i) has successfully completed, after January 1, 2006, a rigorous secondary school program of study that prepares students for college and is recognized as such by the State official designated for such recognition, or with respect to any private or home school, the school official designated for such recognition for such school, consistent with State law, which recognized program shall be reported to the Secretary; and"; and

(III) in clause (ii), by inserting ", except as part of a secondary school program of study" before the semicolon;

(iii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking "year of" and all that follows through "higher education" and inserting "year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than two years for which the institution awards a certificate)"; and

(II) in clause (ii), by striking "or" after the semicolon at the end;

(iv) in subparagraph (C)—

(I) in the matter preceding subclause (I) of clause (i), by inserting "certified by the institution to be" after "is";

(II) by striking clause (i)(II) and inserting the following:

"(II) a critical foreign language; and"; and

(III) in clause (ii), by striking the period at the end and inserting a semicolon; and

(v) by adding at the end the following:

"(D) the third or fourth year of a program of undergraduate education at an institution of higher education (as defined in section 101(a)), is attending an institution that demonstrates, to the satisfaction of the Secretary, that the institution—

"(i) offers a single liberal arts curriculum leading to a baccalaureate degree, under which students are not permitted by the institution to declare a major in a particular subject area, and the student—

"(I)(aa) studies, in such years, a subject described in subparagraph (C)(i) that is at least equal to the requirements for an academic major at an institution of higher education that offers a baccalaureate degree in such subject, as certified by an appropriate official from the institution; and

"(bb) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the relevant coursework; or

"(II) is required, as part of the student's degree program, to undertake a rigorous course of study in mathematics, biology, chemistry, and physics, which consists of at least—

"(aa) 4 years of study in mathematics; and

"(bb) 3 years of study in the sciences, with a laboratory component in each of those years; and

"(ii) offered such curriculum prior to February 8, 2006; or

"(E) the fifth year of a program of undergraduate education that requires 5 full years of coursework, as certified by the appropriate official of the degree-granting institution of higher education, for which a baccalaureate degree is awarded by a degree-granting institution of higher education—

"(i) is certified by the institution of higher education to be pursuing a major in—

"(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

"(II) a critical foreign language; and

"(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent, as determined under

regulations prescribed by the Secretary) in the coursework required for the major described in clause (i).";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking "The" and inserting "IN GENERAL.—The";

(II) in clause (ii), by striking "or" after the semicolon at the end;

(III) in clause (iii), by striking "subsection (c)(3)(C)." and inserting "subparagraph (C) or (D) of subsection (c)(3), for each of the two years described in such subparagraphs; or"; and

(IV) by adding at the end the following:

"(iv) $4,000 for an eligible student under subsection (c)(3)(E)."; and

(ii) in subparagraph (B)—

(I) by striking "Notwithstanding" and inserting "LIMITATION; RATABLE REDUCTION.—Notwithstanding";

(II) by redesignating clauses (i), (ii), and (iii), as clauses (ii), (iii), and (iv), respectively; and

(III) by inserting before clause (ii), as redesignated under subclause (II), the following:

"(i) in any case in which a student attends an institution of higher education on less than a full-time basis, the amount of the grant that such student may receive shall be reduced in the same manner as a Federal Pell Grant is reduced under section 401(b)(2)(B);";

(B) by striking paragraph (2) and inserting the following:

"(2) LIMITATIONS.—

"(A) NO GRANTS FOR PREVIOUS CREDIT.—The Secretary may not award a grant under this section to any student for any year of a program of undergraduate education for which the student received credit before the date of enactment of the Higher Education Reconciliation Act of 2005.

"(B) NUMBER OF GRANTS.—The Secretary may not award more than one grant to a student described in subsection (c)(3) for each year of study described in such subsection."; and

(C) by adding at the end the following: and

"(3) CALCULATION OF GRANT PAYMENTS.—An institution of higher education shall make payments of a grant awarded under this section in the same manner, using the same payment periods, as such institution makes payments for Federal Pell Grants under section 401.";

(5) by striking subsection (e)(2) and inserting the following:

"(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) for a fiscal year shall remain available for the succeeding fiscal year.";

(6) in subsection (f)—

(A) by striking "at least one" and inserting "not less than one"; and

(B) by striking "subsection (c)(3)(A) and (B)" and inserting "subparagraphs (A) and (B) of subsection (c)(3)"; and

(7) in subsection (g), by striking "academic" and inserting "award".

20 USC 1070a–1 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2009.

20 USC 1089 note.

**SEC. 11. INAPPLICABILITY OF MASTER CALENDAR AND NEGOTIATED RULEMAKING REQUIREMENTS.**

Sections 482 and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089, 1098a) shall not apply to amendments made by sections 2 through 9 of this Act, or to any regulations promulgated under such amendments.

Approved May 7, 2008.

LEGISLATIVE HISTORY—H.R. 5715:

HOUSE REPORTS: No. 110–583 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 16, 17, considered and passed House.
Apr. 30, considered and passed Senate, amended.
May 1, House concurred in Senate amendments.

Public Law 110–228
110th Congress

# An Act

To provide for extensions of leases of certain land by Mashantucket Pequot (Western) Tribe.

May 8, 2008
[S. 2457]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSIONS OF LEASES OF CERTAIN LAND BY MASHANTUCKET PEQUOT (WESTERN) TRIBE.**

25 USC 1757a.

(a) IN GENERAL.—Any lease of restricted land of the Mashantucket Pequot (Western) Tribe (referred to in this section as the "Tribe") entered into on behalf of the Tribe by the tribal corporation of the Tribe chartered pursuant to section 17 of the Act of June 18, 1934 (25 U.S.C. 477), may include an option to renew the lease for not more than 2 additional terms, each of which shall not exceed 25 years, subject only to the approval of the tribal council of the Tribe.

(b) LIABILITY OF UNITED STATES.—The United States shall not be liable to any party for any loss resulting from a renewal of a lease entered into pursuant to subsection (a).

(c) PROHIBITION ON GAMING ACTIVITIES.—No entity may conduct any gaming activity (within the meaning of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) pursuant to a claim of inherent authority or any Federal law (including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) and any regulations promulgated by the Secretary of the Interior or the National Indian Gaming Commission pursuant to that Act) on any land that is leased with an option to renew the lease in accordance with this section.

Approved May 8, 2008.

LEGISLATIVE HISTORY—S. 2457:

HOUSE REPORTS: No. 110–611 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 5, considered and passed Senate.
Apr. 29, considered and passed House.

# Public Law 110–229
# 110th Congress

## An Act

To authorize certain programs and activities in the Department of the Interior, the Forest Service, and the Department of Energy, to implement further the Act approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, to amend the Compact of Free Association Amendments Act of 2003, and for other purposes.

May 8, 2008
[S. 2739]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Consolidated Natural Resources Act of 2008.
16 USC 1 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Consolidated Natural Resources Act of 2008".

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

Sec. 1. Short title; table of contents.

TITLE I—FOREST SERVICE AUTHORIZATIONS

Sec. 101. Wild Sky Wilderness.
Sec. 102. Designation of national recreational trail, Willamette National Forest, Oregon, in honor of Jim Weaver, a former Member of the House of Representatives.

TITLE II—BUREAU OF LAND MANAGEMENT AUTHORIZATIONS

Sec. 201. Piedras Blancas Historic Light Station.
Sec. 202. Jupiter Inlet Lighthouse Outstanding Natural Area.
Sec. 203. Nevada National Guard land conveyance, Clark County, Nevada.

TITLE III—NATIONAL PARK SERVICE AUTHORIZATIONS

Subtitle A—Cooperative Agreements

Sec. 301. Cooperative agreements for national park natural resource protection.

Subtitle B—Boundary Adjustments and Authorizations

Sec. 311. Carl Sandburg Home National Historic Site boundary adjustment.
Sec. 312. Lowell National Historical Park boundary adjustment.
Sec. 313. Minidoka National Historic Site.
Sec. 314. Acadia National Park improvement.

Subtitle C—Studies

Sec. 321. National Park System special resource study, Newtonia Civil War Battlefields, Missouri.
Sec. 322. National Park Service study regarding the Soldiers' Memorial Military Museum.
Sec. 323. Wolf House study.
Sec. 324. Space Shuttle Columbia study.
Sec. 325. César E. Chávez study.
Sec. 326. Taunton, Massachusetts, special resource study.
Sec. 327. Rim of the Valley Corridor study.

Subtitle D—Memorials, Commissions, and Museums

Sec. 331. Commemorative work to honor Brigadier General Francis Marion and his family.

Sec. 332. Dwight D. Eisenhower Memorial Commission.
Sec. 333. Commission to Study the Potential Creation of a National Museum of the American Latino.
Sec. 334. Hudson-Fulton-Champlain Quadricentennial Commemoration Commission.
Sec. 335. Sense of Congress regarding the designation of the Museum of the American Quilter's Society of the United States.
Sec. 336. Sense of Congress regarding the designation of the National Museum of Wildlife Art of the United States.
Sec. 337. Redesignation of Ellis Island Library.

Subtitle E—Trails and Rivers

Sec. 341. Authorization and administration of Star-Spangled Banner National Historic Trail.
Sec. 342. Land conveyance, Lewis and Clark National Historic Trail, Nebraska.
Sec. 343. Lewis and Clark National Historic Trail extension.
Sec. 344. Wild and scenic River designation, Eightmile River, Connecticut.

Subtitle F—Denali National Park and Alaska Railroad Exchange

Sec. 351. Denali National Park and Alaska Railroad Corporation exchange.

Subtitle G—National Underground Railroad Network to Freedom Amendments

Sec. 361. Authorizing appropriations for specific purposes.

Subtitle H—Grand Canyon Subcontractors

Sec. 371. Definitions.
Sec. 372. Authorization.

TITLE IV—NATIONAL HERITAGE AREAS

Subtitle A—Journey Through Hallowed Ground National Heritage Area

Sec. 401. Purposes.
Sec. 402. Definitions.
Sec. 403. Designation of the Journey Through Hallowed Ground National Heritage Area.
Sec. 404. Management plan.
Sec. 405. Evaluation; report.
Sec. 406. Local coordinating entity.
Sec. 407. Relationship to other Federal agencies.
Sec. 408. Private property and regulatory protections.
Sec. 409. Authorization of appropriations.
Sec. 410. Use of Federal funds from other sources.
Sec. 411. Sunset for grants and other assistance.

Subtitle B—Niagara Falls National Heritage Area

Sec. 421. Purposes.
Sec. 422. Definitions.
Sec. 423. Designation of the Niagara Falls National Heritage Area.
Sec. 424. Management plan.
Sec. 425. Evaluation; report.
Sec. 426. Local coordinating entity.
Sec. 427. Niagara Falls Heritage Area Commission.
Sec. 428. Relationship to other Federal agencies.
Sec. 429. Private property and regulatory protections.
Sec. 430. Authorization of appropriations.
Sec. 431. Use of Federal funds from other sources.
Sec. 432. Sunset for grants and other assistance.

Subtitle C—Abraham Lincoln National Heritage Area

Sec. 441. Purposes.
Sec. 442. Definitions.
Sec. 443. Designation of Abraham Lincoln National Heritage Area.
Sec. 444. Management plan.
Sec. 445. Evaluation; report.
Sec. 446. Local coordinating entity.
Sec. 447. Relationship to other Federal agencies.
Sec. 448. Private property and regulatory protections.
Sec. 449. Authorization of appropriations.
Sec. 450. Use of Federal funds from other sources.
Sec. 451. Sunset for grants and other assistance.

Subtitle D—Authorization Extensions and Viability Studies

Sec. 461. Extensions of authorized appropriations.
Sec. 462. Evaluation and report.

Subtitle E—Technical Corrections and Additions

Sec. 471. National Coal Heritage Area technical corrections.
Sec. 472. Rivers of steel national heritage area addition.
Sec. 473. South Carolina National Heritage Corridor addition.
Sec. 474. Ohio and Erie Canal National Heritage Corridor technical corrections.
Sec. 475. New Jersey Coastal Heritage trail route extension of authorization.

Subtitle F—Studies

Sec. 481. Columbia-Pacific National Heritage Area study.
Sec. 482. Study of sites relating to Abraham Lincoln in Kentucky.

TITLE V—BUREAU OF RECLAMATION AND UNITED STATES GEOLOGICAL SURVEY AUTHORIZATIONS

Sec. 501. Alaska water resources study.
Sec. 502. Renegotiation of payment schedule, Redwood Valley County Water District.
Sec. 503. American River Pump Station Project transfer.
Sec. 504. Arthur V. Watkins Dam enlargement.
Sec. 505. New Mexico water planning assistance.
Sec. 506. Conveyance of certain buildings and lands of the Yakima Project, Washington.
Sec. 507. Conjunctive use of surface and groundwater in Juab County, Utah.
Sec. 508. Early repayment of A & B Irrigation District construction costs.
Sec. 509. Oregon water resources.
Sec. 510. Republican River Basin feasibility study.
Sec. 511. Eastern Municipal Water District.
Sec. 512. Bay Area regional water recycling program.
Sec. 513. Bureau of Reclamation site security.
Sec. 514. More water, more energy, and less waste.
Sec. 515. Platte River Recovery Implementation Program and Pathfinder Modification Project authorization.
Sec. 516. Central Oklahoma Master Conservatory District feasibility study.

TITLE VI—DEPARTMENT OF ENERGY AUTHORIZATIONS

Sec. 601. Energy technology transfer.
Sec. 602. Amendments to the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988.

TITLE VII—NORTHERN MARIANA ISLANDS

Subtitle A—Immigration, Security, and Labor

Sec. 701. Statement of congressional intent.
Sec. 702. Immigration reform for the Commonwealth.
Sec. 703. Further amendments to Public Law 94–241.
Sec. 704. Authorization of appropriations.
Sec. 705. Effective date.

Subtitle B—Northern Mariana Islands Delegate

Sec. 711. Delegate to House of Representatives from Commonwealth of the Northern Mariana Islands.
Sec. 712. Election of Delegate.
Sec. 713. Qualifications for Office of Delegate.
Sec. 714. Determination of election procedure.
Sec. 715. Compensation, privileges, and immunities.
Sec. 716. Lack of effect on covenant.
Sec. 717. Definition.
Sec. 718. Conforming amendments regarding appointments to military service academies by Delegate from the Commonwealth of the Northern Mariana Islands.

TITLE VIII—COMPACTS OF FREE ASSOCIATION AMENDMENTS

Sec. 801. Approval of Agreements.
Sec. 802. Funds to facilitate Federal activities.
Sec. 803. Conforming amendment.
Sec. 804. Clarifications regarding Palau.

Sec. 805. Availability of legal services.
Sec. 806. Technical amendments.
Sec. 807. Transmission of videotape programming.
Sec. 808. Palau road maintenance.
Sec. 809. Clarification of tax-free status of trust funds.
Sec. 810. Transfer of naval vessels to certain foreign recipients.

# TITLE I—FOREST SERVICE AUTHORIZATIONS

**SEC. 101. WILD SKY WILDERNESS.**

Washington.

16 USC 1132 note.

(a) ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM.—

(1) ADDITIONS.—The following Federal lands in the State of Washington are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System: certain lands which comprise approximately 106,000 acres, as generally depicted on a map entitled "Wild Sky Wilderness Proposal" and dated February 6, 2007, which shall be known as the "Wild Sky Wilderness".

(2) MAP AND LEGAL DESCRIPTIONS.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file a map and a legal description for the wilderness area designated under this section with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives. The map and description shall have the same force and effect as if included in this section, except that the Secretary of Agriculture may correct clerical and typographical errors in the legal description and map. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(b) ADMINISTRATION PROVISIONS.—

(1) IN GENERAL.—

(A) Subject to valid existing rights, lands designated as wilderness by this section shall be managed by the Secretary of Agriculture in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this section, except that, with respect to any wilderness areas designated by this section, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(B) To fulfill the purposes of this section and the Wilderness Act and to achieve administrative efficiencies, the Secretary of Agriculture may manage the area designated by this section as a comprehensive part of the larger complex of adjacent and nearby wilderness areas.

(2) NEW TRAILS.—

Plan.

(A) The Secretary of Agriculture shall consult with interested parties and shall establish a trail plan for Forest Service lands in order to develop—

(i) a system of hiking and equestrian trails within the wilderness designated by this section in a manner consistent with the Wilderness Act (16 U.S.C. 1131 et seq.); and

(ii) a system of trails adjacent to or to provide access to the wilderness designated by this section.

Deadline.
Reports.

(B) Within 2 years after the date of enactment of this Act, the Secretary of Agriculture shall complete a report on the implementation of the trail plan required under this section. This report shall include the identification of priority trails for development.

Communications and telecommunications.

(3) REPEATER SITE.—Within the Wild Sky Wilderness, the Secretary of Agriculture is authorized to use helicopter access to construct and maintain a joint Forest Service and Snohomish County telecommunications repeater site, in compliance with a Forest Service approved communications site plan, for the purposes of improving communications for safety, health, and emergency services.

(4) FLOAT PLANE ACCESS.—As provided by section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), the use of floatplanes on Lake Isabel, where such use has already become established, shall be permitted to continue subject to such reasonable restrictions as the Secretary of Agriculture determines to be desirable.

(5) EVERGREEN MOUNTAIN LOOKOUT.—The designation under this section shall not preclude the operation and maintenance of the existing Evergreen Mountain Lookout in the same manner and degree in which the operation and maintenance of such lookout was occurring as of the date of enactment of this Act.

(c) AUTHORIZATION FOR LAND ACQUISITION.—

(1) IN GENERAL.—The Secretary of Agriculture is authorized to acquire lands and interests therein, by purchase, donation, or exchange, and shall give priority consideration to those lands identified as "Priority Acquisition Lands" on the map described in subsection (a)(1). The boundaries of the Mt. Baker-Snoqualmie National Forest and the Wild Sky Wilderness shall be adjusted to encompass any lands acquired pursuant to this section.

(2) ACCESS.—Consistent with section 5(a) of the Wilderness Act (16 U.S.C. 1134(a)), the Secretary of Agriculture shall ensure adequate access to private inholdings within the Wild Sky Wilderness.

(3) APPRAISAL.—Valuation of private lands shall be determined without reference to any restrictions on access or use which arise out of designation as a wilderness area as a result of this section.

(d) LAND EXCHANGES.—The Secretary of Agriculture shall exchange lands and interests in lands, as generally depicted on a map entitled "Chelan County Public Utility District Exchange" and dated May 22, 2002, with the Chelan County Public Utility District in accordance with the following provisions:

Deadline.

(1) If the Chelan County Public Utility District, within 90 days after the date of enactment of this Act, offers to the Secretary of Agriculture approximately 371.8 acres within the Mt. Baker-Snoqualmie National Forest in the State of Washington, the Secretary shall accept such lands.

(2) Upon acceptance of title by the Secretary of Agriculture to such lands and interests therein, the Secretary of Agriculture shall convey to the Chelan County Public Utility District a permanent easement, including helicopter access, consistent with such levels as used as of the date of enactment of this Act, to maintain an existing telemetry site to monitor snow

pack on 1.82 acres on the Wenatchee National Forest in the State of Washington.

(3) The exchange directed by this section shall be consummated if Chelan County Public Utility District conveys title acceptable to the Secretary and provided there is no hazardous material on the site, which is objectionable to the Secretary.

Notification.

(4) In the event Chelan County Public Utility District determines there is no longer a need to maintain a telemetry site to monitor the snow pack for calculating expected runoff into the Lake Chelan hydroelectric project and the hydroelectric projects in the Columbia River Basin, the Secretary shall be notified in writing and the easement shall be extinguished and all rights conveyed by this exchange shall revert to the United States.

**SEC. 102. DESIGNATION OF NATIONAL RECREATIONAL TRAIL, WILLAMETTE NATIONAL FOREST, OREGON, IN HONOR OF JIM WEAVER, A FORMER MEMBER OF THE HOUSE OF REPRESENTATIVES.**

(a) DESIGNATION.—Forest Service trail number 3590 in the Willamette National Forest in Lane County, Oregon, which is a 19.6 mile trail that begins and ends at North Waldo Campground and circumnavigates Waldo Lake, is hereby designated as a national recreation trail under section 4 of the National Trails System Act (16 U.S.C. 1243) and shall be known as the "Jim Weaver Loop Trail".

(b) INTERPRETIVE SIGN.—Using funds available for the Forest Service, the Secretary of Agriculture shall prepare, install, and maintain an appropriate sign at the trailhead of the Jim Weaver Loop Trail to indicate the name of the trail and to provide information regarding the life and career of Congressman Jim Weaver.

# TITLE II—BUREAU OF LAND MANAGEMENT AUTHORIZATIONS

**SEC. 201. PIEDRAS BLANCAS HISTORIC LIGHT STATION.**

California.
43 USC 1786.

(a) DEFINITIONS.—In this section:

(1) LIGHT STATION.—The term "Light Station" means Piedras Blancas Light Station.

(2) OUTSTANDING NATURAL AREA.—The term "Outstanding Natural Area" means the Piedras Blancas Historic Light Station Outstanding Natural Area established pursuant to subsection (c).

(3) PUBLIC LANDS.—The term "public lands" has the meaning stated in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1703(e)).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) FINDINGS.—Congress finds as follows:

(1) The publicly owned Piedras Blancas Light Station has nationally recognized historical structures that should be preserved for present and future generations.

(2) The coastline adjacent to the Light Station is internationally recognized as having significant wildlife and marine

habitat that provides critical information to research institutions throughout the world.

(3) The Light Station tells an important story about California's coastal prehistory and history in the context of the surrounding region and communities.

(4) The coastal area surrounding the Light Station was traditionally used by Indian people, including the Chumash and Salinan Indian tribes.

(5) The Light Station is historically associated with the nearby world-famous Hearst Castle (Hearst San Simeon State Historical Monument), now administered by the State of California.

(6) The Light Station represents a model partnership where future management can be successfully accomplished among the Federal Government, the State of California, San Luis Obispo County, local communities, and private groups.

(7) Piedras Blancas Historic Light Station Outstanding Natural Area would make a significant addition to the National Landscape Conservation System administered by the Department of the Interior's Bureau of Land Management.

(8) Statutory protection is needed for the Light Station and its surrounding Federal lands to ensure that it remains a part of our historic, cultural, and natural heritage and to be a source of inspiration for the people of the United States.

(c) DESIGNATION OF THE PIEDRAS BLANCAS HISTORIC LIGHT STATION OUTSTANDING NATURAL AREA.—

(1) IN GENERAL.—In order to protect, conserve, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important historical, natural, cultural, scientific, educational, scenic, and recreational values of certain lands in and around the Piedras Blancas Light Station, in San Luis Obispo County, California, while allowing certain recreational and research activities to continue, there is established, subject to valid existing rights, the Piedras Blancas Historic Light Station Outstanding Natural Area.

(2) MAPS AND LEGAL DESCRIPTIONS.—The boundaries of the Outstanding Natural Area as those shown on the map entitled "Piedras Blancas Historic Light Station: Outstanding Natural Area", dated May 5, 2004, which shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and the State office of the Bureau of Land Management in the State of California.

(3) BASIS OF MANAGEMENT.—The Secretary shall manage the Outstanding Natural Area as part of the National Landscape Conservation System to protect the resources of the area, and shall allow only those uses that further the purposes for the establishment of the Outstanding Natural Area, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable laws.

(4) WITHDRAWAL.—Subject to valid existing rights, and in accordance with the existing withdrawal as set forth in Public Land Order 7501 (Oct. 12, 2001, Vol. 66, No. 198, Federal Register 52149), the Federal lands and interests in lands included within the Outstanding Natural Area are hereby withdrawn from—

(A) all forms of entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the public land mining laws; and

(C) operation of the mineral leasing and geothermal leasing laws and the mineral materials laws.

(d) MANAGEMENT OF THE PIEDRAS BLANCAS HISTORIC LIGHT STATION OUTSTANDING NATURAL AREA.—

(1) IN GENERAL.—The Secretary shall manage the Outstanding Natural Area in a manner that conserves, protects, and enhances the unique and nationally important historical, natural, cultural, scientific, educational, scenic, and recreational values of that area, including an emphasis on preserving and restoring the Light Station facilities, consistent with the requirements of subsection (c)(3).

(2) USES.—Subject to valid existing rights, the Secretary shall only allow such uses of the Outstanding Natural Area as the Secretary finds are likely to further the purposes for which the Outstanding Natural Area is established as set forth in subsection (c)(1).

(3) MANAGEMENT PLAN.—Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a comprehensive management plan consistent with the requirements of section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) to provide long-term management guidance for the public lands within the Outstanding Natural Area and fulfill the purposes for which it is established, as set forth in subsection (c)(1). The management plan shall be developed in consultation with appropriate Federal, State, and local government agencies, with full public participation, and the contents shall include— Deadline.

(A) provisions designed to ensure the protection of the resources and values described in subsection (c)(1);

(B) objectives to restore the historic Light Station and ancillary buildings;

(C) an implementation plan for a continuing program of interpretation and public education about the Light Station and its importance to the surrounding community;

(D) a proposal for minimal administrative and public facilities to be developed or improved at a level compatible with achieving the resources objectives for the Outstanding Natural Area as described in paragraph (1) and with other proposed management activities to accommodate visitors and researchers to the Outstanding Natural Area; and

(E) cultural resources management strategies for the Outstanding Natural Area, prepared in consultation with appropriate departments of the State of California, with emphasis on the preservation of the resources of the Outstanding Natural Area and the interpretive, education, and long-term scientific uses of the resources, giving priority to the enforcement of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the Outstanding Natural Area.

(4) COOPERATIVE AGREEMENTS.—In order to better implement the management plan and to continue the successful partnerships with the local communities and the Hearst San

Simeon State Historical Monument, administered by the California Department of Parks and Recreation, the Secretary may enter into cooperative agreements with the appropriate Federal, State, and local agencies pursuant to section 307(b) of the Federal Land Management Policy and Management Act of 1976 (43 U.S.C. 1737(b)).

(5) RESEARCH ACTIVITIES.—In order to continue the successful partnership with research organizations and agencies and to assist in the development and implementation of the management plan, the Secretary may authorize within the Outstanding Natural Area appropriate research activities for the purposes identified in subsection (c)(1) and pursuant to section 307(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737(a)).

(6) ACQUISITION.—State and privately held lands or interests in lands adjacent to the Outstanding Natural Area and identified as appropriate for acquisition in the management plan may be acquired by the Secretary as part of the Outstanding Natural Area only by—

(A) donation;

(B) exchange with a willing party; or

(C) purchase from a willing seller.

(7) ADDITIONS TO THE OUTSTANDING NATURAL AREA.—Any lands or interest in lands adjacent to the Outstanding Natural Area acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the Outstanding Natural Area.

(8) OVERFLIGHTS.—Nothing in this section or the management plan shall be construed to—

(A) restrict or preclude overflights, including low level overflights, military, commercial, and general aviation overflights that can be seen or heard within the Outstanding Natural Area;

(B) restrict or preclude the designation or creation of new units of special use airspace or the establishment of military flight training routes over the Outstanding Natural Area; or

(C) modify regulations governing low-level overflights above the adjacent Monterey Bay National Marine Sanctuary.

(9) LAW ENFORCEMENT ACTIVITIES.—Nothing in this section shall be construed to preclude or otherwise affect coastal border security operations or other law enforcement activities by the Coast Guard or other agencies within the Department of Homeland Security, the Department of Justice, or any other Federal, State, and local law enforcement agencies within the Outstanding Natural Area.

(10) NATIVE AMERICAN USES AND INTERESTS.—In recognition of the past use of the Outstanding Natural Area by Indians and Indian tribes for traditional cultural and religious purposes, the Secretary shall ensure access to the Outstanding Natural Area by Indians and Indian tribes for such traditional cultural and religious purposes. In implementing this subsection, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of the Outstanding Natural Area in order to protect the privacy of traditional cultural

and religious activities in such areas by the Indian tribe or Indian religious community. Any such closure shall be made to affect the smallest practicable area for the minimum period necessary for such purposes. Such access shall be consistent with the purpose and intent of Public Law 95–341 (42 U.S.C. 1996 et seq.; commonly referred to as the "American Indian Religious Freedom Act").

(11) NO BUFFER ZONES.—The designation of the Outstanding Natural Area is not intended to lead to the creation of protective perimeters or buffer zones around area. The fact that activities outside the Outstanding Natural Area and not consistent with the purposes of this section can be seen or heard within the Outstanding Natural Area shall not, of itself, preclude such activities or uses up to the boundary of the Outstanding Natural Area.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

**SEC. 202. JUPITER INLET LIGHTHOUSE OUTSTANDING NATURAL AREA.**

Florida.
43 USC 1787.

(a) DEFINITIONS.—In this section:

(1) COMMANDANT.—The term "Commandant" means the Commandant of the Coast Guard.

(2) LIGHTHOUSE.—The term "Lighthouse" means the Jupiter Inlet Lighthouse located in Palm Beach County, Florida.

(3) LOCAL PARTNERS.—The term "Local Partners" includes—

(A) Palm Beach County, Florida;

(B) the Town of Jupiter, Florida;

(C) the Village of Tequesta, Florida; and

(D) the Loxahatchee River Historical Society.

(4) MANAGEMENT PLAN.—The term "management plan" means the management plan developed under subsection (c)(1).

(5) MAP.—The term "map" means the map entitled "Jupiter Inlet Lighthouse Outstanding Natural Area" and dated October 29, 2007.

(6) OUTSTANDING NATURAL AREA.—The term "Outstanding Natural Area" means the Jupiter Inlet Lighthouse Outstanding Natural Area established by subsection (b)(1).

(7) PUBLIC LAND.—The term "public land" has the meaning given the term "public lands" in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(8) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(9) STATE.—The term "State" means the State of Florida.

(b) ESTABLISHMENT OF THE JUPITER INLET LIGHTHOUSE OUTSTANDING NATURAL AREA.—

(1) ESTABLISHMENT.—Subject to valid existing rights, there is established for the purposes described in paragraph (2) the Jupiter Inlet Lighthouse Outstanding Natural Area, the boundaries of which are depicted on the map.

(2) PURPOSES.—The purposes of the Outstanding Natural Area are to protect, conserve, and enhance the unique and nationally important historic, natural, cultural, scientific, educational, scenic, and recreational values of the Federal land

surrounding the Lighthouse for the benefit of present generations and future generations of people in the United States, while—

(A) allowing certain recreational and research activities to continue in the Outstanding Natural Area; and

(B) ensuring that Coast Guard operations and activities are unimpeded within the boundaries of the Outstanding Natural Area.

(3) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in appropriate offices of the Bureau of Land Management.

(4) WITHDRAWAL.—

(A) IN GENERAL.—Subject to valid existing rights, subsection (e), and any existing withdrawals under the Executive orders and public land order described in subparagraph (B), the Federal land and any interests in the Federal land included in the Outstanding Natural Area are withdrawn from—

(i) all forms of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) operation of the mineral leasing and geothermal leasing laws and the mineral materials laws.

(B) DESCRIPTION OF EXECUTIVE ORDERS.—The Executive orders and public land order described in subparagraph (A) are—

(i) the Executive Order dated October 22, 1854;

(ii) Executive Order No. 4254 (June 12, 1925); and

(iii) Public Land Order No. 7202 (61 Fed. Reg. 29758).

(c) MANAGEMENT PLAN.—

Deadline.

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with the Commandant, shall develop a comprehensive management plan in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) to—

(A) provide long-term management guidance for the public land in the Outstanding Natural Area; and

(B) ensure that the Outstanding Natural Area fulfills the purposes for which the Outstanding Natural Area is established.

(2) CONSULTATION; PUBLIC PARTICIPATION.—The management plan shall be developed—

(A) in consultation with appropriate Federal, State, county, and local government agencies, the Commandant, the Local Partners, and other partners; and

(B) in a manner that ensures full public participation.

(3) EXISTING PLANS.—The management plan shall, to the maximum extent practicable, be consistent with existing resource plans, policies, and programs.

(4) INCLUSIONS.—The management plan shall include—

(A) objectives and provisions to ensure—

(i) the protection and conservation of the resource values of the Outstanding Natural Area; and

(ii) the restoration of native plant communities and estuaries in the Outstanding Natural Area, with an emphasis on the conservation and enhancement of healthy, functioning ecological systems in perpetuity;

(B) objectives and provisions to maintain or recreate historic structures;

(C) an implementation plan for a program of interpretation and public education about the natural and cultural resources of the Lighthouse, the public land surrounding the Lighthouse, and associated structures;

(D) a proposal for administrative and public facilities to be developed or improved that—

(i) are compatible with achieving the resource objectives for the Outstanding Natural Area described in subsection (d)(1)(A)(ii); and

(ii) would accommodate visitors to the Outstanding Natural Area;

(E) natural and cultural resource management strategies for the Outstanding Natural Area, to be developed in consultation with appropriate departments of the State, the Local Partners, and the Commandant, with an emphasis on resource conservation in the Outstanding Natural Area and the interpretive, educational, and long-term scientific uses of the resources; and

(F) recreational use strategies for the Outstanding Natural Area, to be prepared in consultation with the Local Partners, appropriate departments of the State, and the Coast Guard, with an emphasis on passive recreation.

(5) INTERIM PLAN.—Until a management plan is adopted for the Outstanding Natural Area, the Jupiter Inlet Coordinated Resource Management Plan (including any updates or amendments to the Jupiter Inlet Coordinated Resource Management Plan) shall be in effect.

(d) MANAGEMENT OF THE JUPITER INLET LIGHTHOUSE OUTSTANDING NATURAL AREA.—

(1) MANAGEMENT.—

(A) IN GENERAL.—The Secretary, in consultation with the Local Partners and the Commandant, shall manage the Outstanding Natural Area—

(i) as part of the National Landscape Conservation System;

(ii) in a manner that conserves, protects, and enhances the unique and nationally important historical, natural, cultural, scientific, educational, scenic, and recreational values of the Outstanding Natural Area, including an emphasis on the restoration of native ecological systems; and

(iii) in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable laws.

(B) LIMITATION.—In managing the Outstanding Natural Area, the Secretary shall not take any action that precludes, prohibits, or otherwise affects the conduct of ongoing or future Coast Guard operations or activities on lots 16 and 18, as depicted on the map.

(2) USES.—Subject to valid existing rights and subsection (e), the Secretary shall only allow uses of the Outstanding

Natural Area that the Secretary, in consultation with the Commandant and Local Partners, determines would likely further the purposes for which the Outstanding Natural Area is established.

(3) COOPERATIVE AGREEMENTS.—To facilitate implementation of the management plan and to continue the successful partnerships with local communities and other partners, the Secretary may, in accordance with section 307(b) of the Federal Land Management Policy and Management Act of 1976 (43 U.S.C. 1737(b)), enter into cooperative agreements with the appropriate Federal, State, county, other local government agencies, and other partners (including the Loxahatchee River Historical Society) for the long-term management of the Outstanding Natural Area.

(4) RESEARCH ACTIVITIES.—To continue successful research partnerships, pursue future research partnerships, and assist in the development and implementation of the management plan, the Secretary may, in accordance with section 307(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737(a)), authorize the conduct of appropriate research activities in the Outstanding Natural Area for the purposes described in subsection (b)(2).

(5) ACQUISITION OF LAND.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may acquire for inclusion in the Outstanding Natural Area any State or private land or any interest in State or private land that is—

(i) adjacent to the Outstanding Natural Area; and

(ii) identified in the management plan as appropriate for acquisition.

(B) MEANS OF ACQUISITION.—Land or an interest in land may be acquired under subparagraph (A) only by donation, exchange, or purchase from a willing seller with donated or appropriated funds.

(C) ADDITIONS TO THE OUTSTANDING NATURAL AREA.—Any land or interest in land adjacent to the Outstanding Natural Area acquired by the United States after the date of enactment of this Act under subparagraph (A) shall be added to, and administered as part of, the Outstanding Natural Area.

(6) LAW ENFORCEMENT ACTIVITIES.—Nothing in this section, the management plan, or the Jupiter Inlet Coordinated Resource Management Plan (including any updates or amendments to the Jupiter Inlet Coordinated Resource Management Plan) precludes, prohibits, or otherwise affects—

(A) any maritime security, maritime safety, or environmental protection mission or activity of the Coast Guard;

(B) any border security operation or law enforcement activity by the Department of Homeland Security or the Department of Justice; or

(C) any law enforcement activity of any Federal, State, or local law enforcement agency in the Outstanding Natural Area.

(7) FUTURE DISPOSITION OF COAST GUARD FACILITIES.—If the Commandant determines, after the date of enactment of this Act, that Coast Guard facilities within the Outstanding

Natural Area exceed the needs of the Coast Guard, the Commandant may relinquish the facilities to the Secretary without removal, subject only to any environmental remediation that may be required by law.

(e) EFFECT ON ONGOING AND FUTURE COAST GUARD OPERATIONS.—Nothing in this section, the management plan, or the Jupiter Inlet Coordinated Resource Management Plan (including updates or amendments to the Jupiter Inlet Coordinated Resource Management Plan) precludes, prohibits, or otherwise affects ongoing or future Coast Guard operations or activities in the Outstanding Natural Area, including—

(1) the continued and future operation of, access to, maintenance of, and, as may be necessitated for Coast Guard missions, the expansion, enhancement, or replacement of, the Coast Guard High Frequency antenna site on lot 16;

(2) the continued and future operation of, access to, maintenance of, and, as may be necessitated for Coast Guard missions, the expansion, enhancement, or replacement of, the military family housing area on lot 18;

(3) the continued and future use of, access to, maintenance of, and, as may be necessitated for Coast Guard missions, the expansion, enhancement, or replacement of, the pier on lot 18;

(4) the existing lease of the Jupiter Inlet Lighthouse on lot 18 from the Coast Guard to the Loxahatchee River Historical Society; or

(5) any easements or other less-than-fee interests in property appurtenant to existing Coast Guard facilities on lots 16 and 18.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

**SEC. 203. NEVADA NATIONAL GUARD LAND CONVEYANCE, CLARK COUNTY, NEVADA.**

(a) IN GENERAL.—Notwithstanding any other provision of law, Clark County, Nevada, may convey, without consideration, to the Nevada Division of State Lands for use by the Nevada National Guard approximately 51 acres of land in Clark County, Nevada, as generally depicted on the map entitled "Southern Nevada Readiness Center Act" and dated October 4, 2005.

(b) LIMITATION.—If the land described in subsection (a) ceases to be used by the Nevada National Guard, the land shall revert to Clark County, Nevada, for management in accordance with the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2343).

# TITLE III—NATIONAL PARK SERVICE AUTHORIZATIONS

## Subtitle A—Cooperative Agreements

16 USC 1j.

### SEC. 301. COOPERATIVE AGREEMENTS FOR NATIONAL PARK NATURAL RESOURCE PROTECTION.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this section as the "Secretary") may enter into cooperative agreements with State, local, or tribal governments, other Federal agencies, other public entities, educational institutions, private nonprofit organizations, or participating private landowners for the purpose of protecting natural resources of units of the National Park System through collaborative efforts on land inside and outside of National Park System units.

(b) TERMS AND CONDITIONS.—A cooperative agreement entered into under subsection (a) shall provide clear and direct benefits to park natural resources and—

(1) provide for—

(A) the preservation, conservation, and restoration of coastal and riparian systems, watersheds, and wetlands;

(B) preventing, controlling, or eradicating invasive exotic species that are within a unit of the National Park System or adjacent to a unit of the National Park System; or

(C) restoration of natural resources, including native wildlife habitat or ecosystems;

(2) include a statement of purpose demonstrating how the agreement will—

(A) enhance science-based natural resource stewardship at the unit of the National Park System; and

(B) benefit the parties to the agreement;

(3) specify any staff required and technical assistance to be provided by the Secretary or other parties to the agreement in support of activities inside and outside the unit of the National Park System that will—

(A) protect natural resources of the unit of the National Park System; and

(B) benefit the parties to the agreement;

(4) identify any materials, supplies, or equipment and any other resources that will be contributed by the parties to the agreement or by other Federal agencies;

(5) describe any financial assistance to be provided by the Secretary or the partners to implement the agreement;

(6) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to support the purposes of natural resource stewardship at a unit of the National Park System; and

(7) include such other terms and conditions as are agreed to by the Secretary and the other parties to the agreement.

(c) LIMITATIONS.—The Secretary shall not use any funds associated with an agreement entered into under subsection (a) for the purposes of land acquisition, regulatory activity, or the development, maintenance, or operation of infrastructure, except for ancillary support facilities that the Secretary determines to be necessary

for the completion of projects or activities identified in the agreement.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

# Subtitle B—Boundary Adjustments and Authorizations

**SEC. 311. CARL SANDBURG HOME NATIONAL HISTORIC SITE BOUNDARY ADJUSTMENT.** 16 USC 461 note.

(a) DEFINITIONS.—In this section:

(1) HISTORIC SITE.—The term "Historic Site" means Carl Sandburg Home National Historic Site.

(2) MAP.—The term "map" means the map entitled "Sandburg Center Alternative" numbered 445/80,017 and dated April 2007.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) ACQUISITION AUTHORITY.—The Secretary may acquire from willing sellers by donation, purchase with donated or appropriated funds, or exchange not more than 110 acres of land, water, or interests in land and water, within the area depicted on the map, to be added to the Historic Site.

(c) VISITOR CENTER.—To preserve the historic character and landscape of the site, the Secretary may also acquire up to five acres for the development of a visitor center and visitor parking area adjacent to or in the general vicinity of the Historic Site.

(d) BOUNDARY REVISION.—Upon acquisition of any land or interest in land under this section, the Secretary shall revise the boundary of the Historic Site to reflect the acquisition.

(e) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(f) ADMINISTRATION.—Land added to the Historic Site by this section shall be administered as part of the Historic Site in accordance with applicable laws and regulations.

**SEC. 312. LOWELL NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.** Massachusetts.

The Act entitled "An Act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes" approved June 5, 1978 (Public Law 95–290; 92 Stat. 290; 16 U.S.C. 410cc et seq.) is amended as follows:

(1) In section 101(a), by adding a new paragraph after paragraph (2) as follows: 16 USC 410cc–11.

"(3) The boundaries of the park are modified to include five parcels of land identified on the map entitled 'Boundary Adjustment, Lowell National Historical Park,' numbered 475/81,424B and dated September 2004, and as delineated in section 202(a)(2)(G).".

(2) In section 202(a)(2), by adding at the end the following new subparagraph: 16 USC 410cc–22.

"(G) The properties shown on the map identified in subsection (101)(a)(3) as follows:

"(i) 91 Pevey Street.
"(ii) The portion of 607 Middlesex Place.
"(iii) Eagle Court.
"(iv) The portion of 50 Payne Street.
"(v) 726 Broadway.".

Idaho.
Washington.
16 USC 431 note, 461 note.

**SEC. 313. MINIDOKA NATIONAL HISTORIC SITE.**

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STATE.—The term "State" means the State of Idaho.

(b) BAINBRIDGE ISLAND JAPANESE AMERICAN MEMORIAL.—

(1) BOUNDARY ADJUSTMENT.—

(A) IN GENERAL.—The boundary of the Minidoka Internment National Monument, located in the State and established by Presidential Proclamation 7395 of January 17, 2001, is adjusted to include the Nidoto Nai Yoni ("Let it not happen again") memorial (referred to in this subsection as the "memorial"), which—

(i) commemorates the Japanese Americans of Bainbridge Island, Washington, who were the first to be forcibly removed from their homes and relocated to internment camps during World War II under Executive Order No. 9066; and

(ii) consists of approximately 8 acres of land owned by the City of Bainbridge Island, Washington, as depicted on the map entitled "Bainbridge Island Japanese American Memorial", numbered 194/80,003, and dated September, 2006.

(B) MAP.—The map referred to in subparagraph (A) shall be kept on file and made available for public inspection in the appropriate offices of the National Park Service.

(2) ADMINISTRATION OF MEMORIAL.—

(A) IN GENERAL.—The memorial shall be administered as part of the Minidoka Internment National Monument.

(B) AGREEMENTS.—To carry out this subsection, the Secretary may enter into agreements with—

(i) the City of Bainbridge Island, Washington;

(ii) the Bainbridge Island Metropolitan Park and Recreational District;

(iii) the Bainbridge Island Japanese American Community Memorial Committee;

(iv) the Bainbridge Island Historical Society; and

(v) other appropriate individuals or entities.

(C) IMPLEMENTATION.—To implement an agreement entered into under this paragraph, the Secretary may—

(i) enter into a cooperative management agreement relating to the operation and maintenance of the memorial with the City of Bainbridge Island, Washington, in accordance with section 3(l) of Public law 91–383 (16 U.S.C. 1a–2(l)); and

(ii) enter into cooperative agreements with, or make grants to, the City of Bainbridge Island, Washington, and other non-Federal entities for the development of facilities, infrastructure, and interpretive media at the memorial, if any Federal funds provided

by a grant or through a cooperative agreement are matched with non-Federal funds.

(D) ADMINISTRATION AND VISITOR USE SITE.—The Secretary may operate and maintain a site in the State of Washington for administrative and visitor use purposes associated with the Minidoka Internment National Monument.

(c) ESTABLISHMENT OF MINIDOKA NATIONAL HISTORIC SITE.—

(1) DEFINITIONS.—In this section:

(A) HISTORIC SITE.—The term "Historic Site" means the Minidoka National Historic Site established by paragraph (2)(A).

(B) MINIDOKA MAP.—The term "Minidoka Map" means the map entitled "Minidoka National Historic Site, Proposed Boundary Map", numbered 194/80,004, and dated December 2006.

(2) ESTABLISHMENT.—

(A) NATIONAL HISTORIC SITE.—In order to protect, preserve, and interpret the resources associated with the former Minidoka Relocation Center where Japanese Americans were incarcerated during World War II, there is established the Minidoka National Historic Site.

(B) MINIDOKA INTERNMENT NATIONAL MONUMENT.—

(i) IN GENERAL.—The Minidoka Internment National Monument (referred to in this subsection as the "Monument"), as described in Presidential Proclamation 7395 of January 17, 2001, is abolished. Abolished.

(ii) INCORPORATION.—The land and any interests in the land at the Monument are incorporated within, and made part of, the Historic Site.

(iii) FUNDS.—Any funds available for purposes of the Monument shall be available for the Historic Site.

(C) REFERENCES.—Any reference in a law (other than in this title), map, regulation, document, record, or other paper of the United States to the "Minidoka Internment National Monument" shall be considered to be a reference to the "Minidoka National Historic Site".

(3) BOUNDARY OF HISTORIC SITE.—

(A) BOUNDARY.—The boundary of the Historic Site shall include—

(i) approximately 292 acres of land, as depicted on the Minidoka Map; and

(ii) approximately 8 acres of land, as described in subsection (b)(1)(A)(ii).

(B) AVAILABILITY OF MAP.—The Minidoka Map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(4) LAND TRANSFERS AND ACQUISITION.—

(A) TRANSFER FROM BUREAU OF RECLAMATION.—Administrative jurisdiction over the land identified on the Minidoka Map as "BOR parcel 1" and "BOR parcel 2", including any improvements on, and appurtenances to, the parcels, is transferred from the Bureau of Reclamation to the National Park Service for inclusion in the Historic Site.

(B) TRANSFER FROM BUREAU OF LAND MANAGEMENT.—Administrative jurisdiction over the land identified on the

Minidoka Map as "Public Domain Lands" is transferred from the Bureau of Land Management to the National Park Service for inclusion in the Historic Site, and the portions of any prior Secretarial orders withdrawing the land are revoked.

(C) ACQUISITION AUTHORITY.—The Secretary may acquire any land or interest in land located within the boundary of the Historic Site, as depicted on the Minidoka Map, by—

(i) donation;

(ii) purchase with donated or appropriated funds from a willing seller; or

(iii) exchange.

(5) ADMINISTRATION.—

(A) IN GENERAL.—The Historic Site shall be administered in accordance with—

(i) this Act; and

(ii) laws (including regulations) generally applicable to units of the National Park System, including—

(I) the National Park Service Organic Act (16 U.S.C. 1 et seq.); and

(II) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(B) INTERPRETATION AND EDUCATION.—

(i) IN GENERAL.—The Secretary shall interpret—

(I) the story of the relocation of Japanese Americans during World War II to the Minidoka Relocation Center and other centers across the United States;

(II) the living conditions of the relocation centers;

(III) the work performed by the internees at the relocation centers; and

(IV) the contributions to the United States military made by Japanese Americans who had been interned.

(ii) ORAL HISTORIES.—To the extent feasible, the collection of oral histories and testimonials from Japanese Americans who were confined shall be a part of the interpretive program at the Historic Site.

(iii) COORDINATION.—The Secretary shall coordinate the development of interpretive and educational materials and programs for the Historic Site with the Manzanar National Historic Site in the State of California.

(C) BAINBRIDGE ISLAND JAPANESE AMERICAN MEMORIAL.—The Bainbridge Island Japanese American Memorial shall be administered in accordance with subsection (b)(2).

(D) CONTINUED AGRICULTURAL USE.—In keeping with the historical use of the land following the decommission of the Minidoka Relocation Center, the Secretary may issue a special use permit or enter into a lease to allow agricultural uses within the Historic Site under appropriate terms and conditions, as determined by the Secretary.

(6) DISCLAIMER OF INTEREST IN LAND.—

(A) IN GENERAL.—The Secretary may issue to Jerome County, Idaho, a document of disclaimer of interest in land for the parcel identified as "Tract No. 2"—

(i) in the final order of condemnation, for the case numbered 2479, filed on January 31, 1947, in the District Court of the United States, in and for the District of Idaho, Southern Division; and

(ii) on the Minidoka Map.

(B) PROCESS.—The Secretary shall issue the document of disclaimer of interest in land under subsection (a) in accordance with section 315(b) of Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745(b)).

(C) EFFECT.—The issuance by the Secretary of the document of disclaimer of interest in land under subsection (a) shall have the same effect as a quit-claim deed issued by the United States.

(d) CONVEYANCE OF AMERICAN FALLS RESERVOIR DISTRICT NUMBER 2.—

(1) DEFINITIONS.—In this subsection:

(A) AGREEMENT.—The term "Agreement" means Agreement No. 5–07–10–L1688 between the United States and the District, entitled "Agreement Between the United States and the American Falls Reservoir District No. 2 to Transfer Title to the Federally Owned Milner-Gooding Canal and Certain Property Rights, Title and Interest to the American Falls Reservoir District No. 2".

(B) DISTRICT.—The term "District" means the American Falls Reservoir District No. 2, located in Jerome, Lincoln, and Gooding Counties, of the State.

(2) AUTHORITY TO CONVEY TITLE.—

(A) IN GENERAL.—In accordance with all applicable law and the terms and conditions set forth in the Agreement, the Secretary may convey—

(i) to the District all right, title, and interest in and to the land and improvements described in Appendix A of the Agreement, subject to valid existing rights;

(ii) to the city of Gooding, located in Gooding County, of the State, all right, title, and interest in and to the 5.0 acres of land and improvements described in Appendix D of the Agreement; and

(iii) to the Idaho Department of Fish and Game all right, title, and interest in and to the 39.72 acres of land and improvements described in Appendix D of the Agreement.

(B) COMPLIANCE WITH AGREEMENT.—All parties to the conveyance under subparagraph (A) shall comply with the terms and conditions of the Agreement, to the extent consistent with this section.

(3) COMPLIANCE WITH OTHER LAWS.—

(A) IN GENERAL.—On conveyance of the land and improvements under paragraph (2)(A)(i), the District shall comply with all applicable Federal, State, and local laws (including regulations) in the operation of each facility transferred.

(B) APPLICABLE AUTHORITY.—Nothing in this subsection modifies or otherwise affects the applicability of

Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)) to project water provided to the District.

(4) REVOCATION OF WITHDRAWALS.—

(A) IN GENERAL.—The portions of the Secretarial Orders dated March 18, 1908, October 7, 1908, September 29, 1919, October 22, 1925, March 29, 1927, July 23, 1927, and May 7, 1963, withdrawing the approximately 6,900 acres described in Appendix E of the Agreement for the purpose of the Gooding Division of the Minidoka Project, are revoked.

(B) MANAGEMENT OF WITHDRAWN LAND.—The Secretary, acting through the Director of the Bureau of Land Management, shall manage the withdrawn land described in subparagraph (A) subject to valid existing rights.

(5) LIABILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), upon completion of a conveyance under paragraph (2), the United States shall not be liable for damages of any kind for any injury arising out of an act, omission, or occurrence relating to the land (including any improvements to the land) conveyed under the conveyance.

(B) EXCEPTION.—Subparagraph (A) shall not apply to liability for damages resulting from an injury caused by any act of negligence committed by the United States (or by any officer, employee, or agent of the United States) before the date of completion of the conveyance.

(C) FEDERAL TORT CLAIMS ACT.—Nothing in this paragraph increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code.

(6) FUTURE BENEFITS.—

(A) RESPONSIBILITY OF THE DISTRICT.—After completion of the conveyance of land and improvements to the District under paragraph (2)(A)(i), and consistent with the Agreement, the District shall assume responsibility for all duties and costs associated with the operation, replacement, maintenance, enhancement, and betterment of the transferred land (including any improvements to the land).

(B) ELIGIBILITY FOR FEDERAL FUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), the District shall not be eligible to receive Federal funding to assist in any activity described in subparagraph (A) relating to land and improvements transferred under paragraph (2)(A)(i).

(ii) EXCEPTION.—Clause (i) shall not apply to any funding that would be available to a similarly situated nonreclamation district, as determined by the Secretary.

(7) NATIONAL ENVIRONMENTAL POLICY ACT.—Before completing any conveyance under this subsection, the Secretary shall complete all actions required under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(C) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(D) all other applicable laws (including regulations).

(8) PAYMENT.—

(A) FAIR MARKET VALUE REQUIREMENT.—As a condition of the conveyance under paragraph (2)(A)(i), the District shall pay the fair market value for the withdrawn lands to be acquired by the District, in accordance with the terms of the Agreement.

(B) GRANT FOR BUILDING REPLACEMENT.—As soon as practicable after the date of enactment of this Act, and in full satisfaction of the Federal obligation to the District for the replacement of the structure in existence on that date of enactment that is to be transferred to the National Park Service for inclusion in the Minidoka National Historic Site, the Secretary, acting through the Commissioner of Reclamation, shall provide to the District a grant in the amount of $52,996, in accordance with the terms of the Agreement.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

**SEC. 314. ACADIA NATIONAL PARK IMPROVEMENT.**

(a) EXTENSION OF LAND CONVEYANCE AUTHORITY.—Section 102(d) of Public Law 99–420 (16 U.S.C. 341 note) is amended by striking paragraph (2) and inserting the following:

"(2) Federally owned property under jurisdiction of the Secretary referred to in paragraph (1) of this subsection shall be conveyed to the towns in which the property is located without encumbrance and without monetary consideration, except that no town shall be eligible to receive such lands unless lands within the Park boundary and owned by the town have been conveyed to the Secretary.".

(b) EXTENSION OF ACADIA NATIONAL PARK ADVISORY COMMISSION.—

(1) IN GENERAL.—Section 103(f) of Public Law 99–420 (16 U.S.C. 341 note) is amended by striking "20" and inserting "40".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on September 25, 2006. 16 USC 341 note.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 106 of Public Law 99–420 (16 U.S.C. 341 note) is amended by adding the following:

"(c) ADDITIONAL FUNDING.—In addition to such sums as have been heretofore appropriated, there is hereby authorized $10,000,000 for acquisition of lands and interests therein.".

(d) INTERMODAL TRANSPORTATION CENTER.—Title I of Public Law 99–420 (16 U.S.C. 341 note) is amended by adding at the end the following new section:

**"SEC. 108. INTERMODAL TRANSPORTATION CENTER.**

"(a) IN GENERAL.—The Secretary may provide assistance in the planning, construction, and operation of an intermodal transportation center located outside of the boundary of the Park in the town of Trenton, Maine to improve the management, interpretation, and visitor enjoyment of the Park.

"(b) AGREEMENTS.—To carry out subsection (a), in administering the intermodal transportation center, the Secretary may enter into interagency agreements with other Federal agencies, and, notwithstanding chapter 63 of title 31, United States Code, cooperative agreements, under appropriate terms and conditions, with State and local agencies, and nonprofit organizations—

"(1) to provide exhibits, interpretive services (including employing individuals to provide such services), and technical assistance;

"(2) to conduct activities that facilitate the dissemination of information relating to the Park and the Island Explorer transit system or any successor transit system;

"(3) to provide financial assistance for the construction of the intermodal transportation center in exchange for space in the center that is sufficient to interpret the Park; and

"(4) to assist with the operation and maintenance of the intermodal transportation center.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Secretary not more than 40 percent of the total cost necessary to carry out this section (including planning, design and construction of the intermodal transportation center).

"(2) OPERATIONS AND MAINTENANCE.—There are authorized to be appropriated to the Secretary not more than 85 percent of the total cost necessary to maintain and operate the intermodal transportation center.".

## Subtitle C—Studies

### SEC. 321. NATIONAL PARK SYSTEM SPECIAL RESOURCE STUDY, NEWTONIA CIVIL WAR BATTLEFIELDS, MISSOURI.

(a) SPECIAL RESOURCE STUDY.—The Secretary of the Interior shall conduct a special resource study relating to the First Battle of Newtonia in Newton County, Missouri, which occurred on September 30, 1862, and the Second Battle of Newtonia, which occurred on October 28, 1864, during the Missouri Expedition of Confederate General Sterling Price in September and October 1864.

(b) CONTENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the national significance of the Newtonia battlefields and their related sites;

(2) consider the findings and recommendations contained in the document entitled "Vision Plan for Newtonia Battlefield Preservation" and dated June 2004, which was prepared by the Newtonia Battlefields Protection Association;

(3) evaluate the suitability and feasibility of adding the battlefields and related sites as part of Wilson's Creek National Battlefield or designating the battlefields and related sites as a unit of the National Park System;

(4) analyze the potential impact that the inclusion of the battlefields and related sites as part of Wilson's Creek National Battlefield or their designation as a unit of the National Park System is likely to have on land within or bordering the battlefields and related sites that is privately owned at the time of the study is conducted;

(5) consider alternatives for preservation, protection, and interpretation of the battlefields and related sites by the National Park Service, other Federal, State, or local governmental entities, or private and nonprofit organizations; and

(6) identify cost estimates for any necessary acquisition, development, interpretation, operation, and maintenance associated with the alternatives referred to in paragraph (5).

(c) CRITERIA.—The criteria for the study of areas for potential inclusion in the National Park System contained in section 8 of Public Law 91–383 (16 U.S.C. 1a–5) shall apply to the study under subsection (a).

(d) TRANSMISSION TO CONGRESS.—Not later than three years after the date on which funds are first made available for the study under subsection (a), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing— Deadline. Reports.

(1) the results of the study; and

(2) any conclusions and recommendations of the Secretary.

**SEC. 322. NATIONAL PARK SERVICE STUDY REGARDING THE SOLDIERS' MEMORIAL MILITARY MUSEUM.** Missouri. Illinois.

(a) FINDINGS.—Congress finds as follows:

(1) The Soldiers' Memorial is a tribute to all veterans located in the greater St. Louis area, including Southern Illinois.

(2) The current annual budget for the memorial is $185,000 and is paid for exclusively by the City of St. Louis.

(3) In 1923, the City of St. Louis voted to spend $6,000,000 to purchase a memorial plaza and building dedicated to citizens of St. Louis who lost their lives in World War I.

(4) The purchase of the 7 block site exhausted the funds and no money remained to construct a monument.

(5) In 1933, Mayor Bernard F. Dickmann appealed to citizens and the city government to raise $1,000,000 to construct a memorial building and general improvement of the plaza area and the construction of Soldiers' Memorial began on October 21, 1935.

(6) On October 14, 1936, President Franklin D. Roosevelt officially dedicated the site.

(7) On Memorial Day in 1938, Mayor Dickmann opened the building to the public.

(b) STUDY.—The Secretary of the Interior shall carry out a study to determine the suitability and feasibility of designating the Soldiers' Memorial Military Museum, located at 1315 Chestnut, St. Louis, Missouri, as a unit of the National Park System.

(c) STUDY PROCESS AND COMPLETION.—Section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)) shall apply to the conduct and completion of the study required by this section. Applicability.

(d) REPORT.—The Secretary shall submit a report describing the results the study required by this section to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

**SEC. 323. WOLF HOUSE STUDY.** Arkansas.

(a) IN GENERAL.—The Secretary shall complete a special resource study of the Wolf House located on Highway 5 in Norfork, Arkansas, to determine—

(1) the suitability and feasibility of designating the Wolf House as a unit of the National Park System; and

(2) the methods and means for the protection and interpretation of the Wolf House by the National Park Service, other Federal, State, or local government entities or private or non-profit organizations.

(b) STUDY REQUIREMENTS.—The Secretary shall conduct the study in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5).

(c) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study; and

(2) any recommendations of the Secretary.

Texas.

**SEC. 324. SPACE SHUTTLE COLUMBIA STUDY.**

(a) DEFINITIONS.—In this section:

(1) MEMORIAL.—The term "memorial" means a memorial to the Space Shuttle Columbia that is subject to the study in subsection (b).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

(b) STUDY OF SUITABILITY AND FEASIBILITY OF ESTABLISHING MEMORIALS TO THE SPACE SHUTTLE COLUMBIA.—

Deadline.

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available, the Secretary shall conduct a special resource study to determine the feasibility and suitability of establishing a memorial as a unit or units of the National Park System to the Space Shuttle Columbia on land in the State of Texas described in paragraph (2) on which large debris from the Shuttle was recovered.

(2) DESCRIPTION OF LAND.—The parcels of land referred to in paragraph (1) are—

(A) the parcel of land owned by the Fredonia Corporation, located at the southeast corner of the intersection of East Hospital Street and North Fredonia Street, Nacogdoches, Texas;

(B) the parcel of land owned by Temple Inland Inc., 10 acres of a 61-acre tract bounded by State Highway 83 and Bayou Bend Road, Hemphill, Texas;

(C) the parcel of land owned by the city of Lufkin, Texas, located at City Hall Park, 301 Charlton Street, Lufkin, Texas; and

(D) the parcel of land owned by San Augustine County, Texas, located at 1109 Oaklawn Street, San Augustine, Texas.

(3) ADDITIONAL SITES.—The Secretary may recommend to Congress additional sites in the State of Texas relating to the Space Shuttle Columbia for establishment as memorials to the Space Shuttle Columbia.

Arizona.
California.
Deadline.

**SEC. 325. CÉSAR E. CHÁVEZ STUDY.**

(a) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary of the Interior (referred to in this section as the "Secretary")

shall complete a special resource study of sites in the State of Arizona, the State of California, and other States that are significant to the life of César E. Chávez and the farm labor movement in the western United States to determine—

(1) appropriate methods for preserving and interpreting the sites; and

(2) whether any of the sites meets the criteria for listing on the National Register of Historic Places or designation as a national historic landmark under—

(A) the Act of August 21, 1935 (16 U.S.C. 461 et seq.); or

(B) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) REQUIREMENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) consider the criteria for the study of areas for potential inclusion in the National Park System under section 8(b)(2) of Public Law 91–383 (16 U.S.C. 1a–5(b)(2)); and

(2) consult with—

(A) the César E. Chávez Foundation;

(B) the United Farm Workers Union; and

(C) State and local historical associations and societies, including any State historic preservation offices in the State in which the site is located.

(c) REPORT.—On completion of the study, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(1) the findings of the study; and

(2) any recommendations of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

**SEC. 326. TAUNTON, MASSACHUSETTS, SPECIAL RESOURCE STUDY.**

(a) IN GENERAL.—The Secretary of the Interior (referred to in this section as the "Secretary"), in consultation with the appropriate State historic preservation officers, State historical societies, the city of Taunton, Massachusetts, and other appropriate organizations, shall conduct a special resources study regarding the suitability and feasibility of designating certain historic buildings and areas in Taunton, Massachusetts, as a unit of the National Park System. The study shall be conducted and completed in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)) and shall include analysis, documentation, and determinations regarding whether the historic areas in Taunton—

(1) can be managed, curated, interpreted, restored, preserved, and presented as an organic whole under management by the National Park Service or under an alternative management structure;

(2) have an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use;

(3) reflect traditions, customs, beliefs, and historical events that are valuable parts of the national story;

(4) provide outstanding opportunities to conserve natural, historic, cultural, architectural, or scenic features;

(5) provide outstanding recreational and educational opportunities; and

(6) can be managed by the National Park Service in partnership with residents, business interests, nonprofit organizations, and State and local governments to develop a unit of the National Park System consistent with State and local economic activity.

(b) REPORT.—Not later than 3 fiscal years after the date on which funds are first made available for this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study required under subsection (a).

(c) PRIVATE PROPERTY.—The recommendations in the report submitted pursuant to subsection (b) shall include discussion and consideration of the concerns expressed by private landowners with respect to designating certain structures referred to in this section as a unit of the National Park System.

California.

**SEC. 327. RIM OF THE VALLEY CORRIDOR STUDY.**

(a) IN GENERAL.—The Secretary of the Interior (referred to in this section as the "Secretary") shall complete a special resource study of the area known as the Rim of the Valley Corridor, generally including the mountains encircling the San Fernando, La Crescenta, Santa Clarita, Simi, and Conejo Valleys in California, to determine—

(1) the suitability and feasibility of designating all or a portion of the corridor as a unit of the Santa Monica Mountains National Recreation Area; and

(2) the methods and means for the protection and interpretation of this corridor by the National Park Service, other Federal, State, or local government entities or private or non-profit organizations.

(b) DOCUMENTATION.—In conducting the study authorized under subsection (a), the Secretary shall document—

(1) the process used to develop the existing Santa Monica Mountains National Recreation Area Fire Management Plan and Environmental Impact Statement (September 2005); and

(2) all activity conducted pursuant to the plan referred to in paragraph (1) designed to protect lives and property from wildfire.

(c) STUDY REQUIREMENTS.—The Secretary shall conduct the study in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5).

(d) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this title, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study; and

(2) any recommendations of the Secretary.

# Subtitle D—Memorials, Commissions, and Museums

**SEC. 331. COMMEMORATIVE WORK TO HONOR BRIGADIER GENERAL FRANCIS MARION AND HIS FAMILY.**

District of Columbia. 40 USC 8903 note.

(a) FINDINGS.—The Congress finds the following:

(1) Francis Marion was born in 1732 in St. John's Parish, Berkeley County, South Carolina. He married Mary Esther Videau on April 20th, 1786. Francis and Mary Esther Marion had no children, but raised a son of a relative as their own, and gave the child Francis Marion's name.

(2) Brigadier General Marion commanded the Williamsburg Militia Revolutionary force in South Carolina and was instrumental in delaying the advance of British forces by leading his troops in disrupting supply lines.

(3) Brigadier General Marion's tactics, which were unheard of in rules of warfare at the time, included lightning raids on British convoys, after which he and his forces would retreat into the swamps to avoid capture. British Lieutenant Colonel Tarleton stated that "as for this damned old swamp fox, the devil himself could not catch him". Thus, the legend of the "Swamp Fox" was born.

(4) His victory at the Battle of Eutaw Springs in September of 1781 was officially recognized by Congress.

(5) Brigadier General Marion's troops are believed to be the first racially integrated force fighting for the United States, as his band was a mix of Whites, Blacks, both free and slave, and Native Americans.

(6) As a statesman, he represented his parish in the South Carolina senate as well as his State at the Constitutional Convention.

(7) Although the Congress has authorized the establishment of commemorative works on Federal lands in the District of Columbia honoring such celebrated Americans as George Washington, Thomas Jefferson, and Abraham Lincoln, the National Capital has no comparable memorial to Brigadier General Francis Marion for his bravery and leadership during the Revolutionary War, without which the United States would not exist.

(8) Brigadier General Marion's legacy must live on. Since 1878, United States Reservation 18 has been officially referred to as Marion Park. Located between 4th and 6th Streets, S.E., at the intersection of E Street and South Carolina Avenue, S.E., in Washington, DC, the park lacks a formal commemoration to this South Carolina hero who was important to the initiation of the Nation's heritage.

(9) The time has come to correct this oversight so that future generations of Americans will know and understand the preeminent historical and lasting significance to the Nation of Brigadier General Marion's contributions. Such a South Carolina hero deserves to be given the proper recognition.

(b) AUTHORITY TO ESTABLISH COMMEMORATIVE WORK.—The Marion Park Project, a committee of the Palmetto Conservation Foundation, may establish a commemorative work on Federal land in the District of Columbia and its environs to honor Brigadier General Francis Marion and his service.

(c) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The commemorative work authorized by subsection (b) shall be established in accordance with chapter 89 of title 40, United States Code (commonly known as the "Commemorative Works Act").

(d) USE OF FEDERAL FUNDS PROHIBITED.—Federal funds may not be used to pay any expense of the establishment of the commemorative work authorized by subsection (b). The Marion Park Project, a committee of the Palmetto Conservation Foundation, shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of that commemorative work.

(e) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the commemorative work authorized by subsection (b) (including the maintenance and preservation amount provided for in section 8906(b) of title 40, United States Code), or upon expiration of the authority for the commemorative work under chapter 89 of title 40, United States Code, there remains a balance of funds received for the establishment of that commemorative work, the Marion Park Project, a committee of the Palmetto Conservation Foundation, shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8906(b)(1) of such title.

(f) DEFINITIONS.—For the purposes of this section, the terms "commemorative work" and "the District of Columbia and its environs" have the meanings given to such terms in section 8902(a) of title 40, United States Code.

40 USC 8903 note.

**SEC. 332. DWIGHT D. EISENHOWER MEMORIAL COMMISSION.**

16 USC 431 note.

Section 8162 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 113 Stat. 1274) is amended—

(1) by striking subsection (j) and inserting the following:

"(j) POWERS OF THE COMMISSION.—

"(1) IN GENERAL.—

"(A) POWERS.—The Commission may—

"(i) make such expenditures for services and materials for the purpose of carrying out this section as the Commission considers advisable from funds appropriated or received as gifts for that purpose;

"(ii) solicit and accept contributions to be used in carrying out this section or to be used in connection with the construction or other expenses of the memorial;

"(iii) hold hearings and enter into contracts;

"(iv) enter into contracts for specialized or professional services as necessary to carry out this section; and

"(v) take such actions as are necessary to carry out this section.

"(B) SPECIALIZED OR PROFESSIONAL SERVICES.—Services under subparagraph (A)(iv) may be—

"(i) obtained without regard to the provisions of title 5, United States Code, including section 3109 of that title; and

"(ii) may be paid without regard to the provisions of title 5, United States Code, including chapter 51 and subchapter III of chapter 53 of that title.

"(2) GIFTS OF PROPERTY.—The Commission may accept gifts of real or personal property to be used in carrying out this section, including to be used in connection with the construction or other expenses of the memorial.

"(3) FEDERAL COOPERATION.—At the request of the Commission, a Federal department or agency may provide any information or other assistance to the Commission that the head of the Federal department or agency determines to be appropriate.

"(4) POWERS OF MEMBERS AND AGENTS.—

"(A) IN GENERAL.—If authorized by the Commission, any member or agent of the Commission may take any action that the Commission is authorized to take under this section.

"(B) ARCHITECT.—The Commission may appoint an architect as an agent of the Commission to—

"(i) represent the Commission on various governmental source selection and planning boards on the selection of the firms that will design and construct the memorial; and

"(ii) perform other duties as designated by the Chairperson of the Commission.

"(C) TREATMENT.—An authorized member or agent of the Commission (including an individual appointed under subparagraph (B)) providing services to the Commission shall be considered an employee of the Federal Government in the performance of those services for the purposes of chapter 171 of title 28, United States Code, relating to tort claims.

"(5) TRAVEL.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.";

(2) by redesignating subsection (o) as subsection (q); and

(3) by adding after subsection (n) the following:

"(o) STAFF AND SUPPORT SERVICES.—

"(1) EXECUTIVE DIRECTOR.—There shall be an Executive Director appointed by the Commission to be paid at a rate not to exceed the maximum rate of basic pay for level IV of the Executive Schedule. Appointment.

"(2) STAFF.—

"(A) IN GENERAL.—The staff of the Commission may be appointed and terminated without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title, relating to classification and General Schedule pay rates, except that an individual appointed under this paragraph may not receive pay in excess of the maximum rate of basic pay for GS–15 of the General Schedule.

"(B) SENIOR STAFF.—Notwithstanding subparagraph (A), not more than 3 staff employees of the Commission (in addition to the Executive Director) may be paid at a rate not to exceed the maximum rate of basic pay for level IV of the Executive Schedule.

"(3) STAFF OF FEDERAL AGENCIES.—On request of the Commission, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission to carry out its duties under this section.

"(4) FEDERAL SUPPORT.—The Commission shall obtain administrative and support services from the General Services Administration on a reimbursable basis. The Commission may use all contracts, schedules, and acquisition vehicles allowed to external clients through the General Services Administration.

"(5) COOPERATIVE AGREEMENTS.—The Commission may enter into cooperative agreements with Federal agencies, State, local, tribal and international governments, and private interests and organizations which will further the goals and purposes of this section.

"(6) TEMPORARY, INTERMITTENT, AND PART-TIME SERVICES.—

"(A) IN GENERAL.—The Commission may obtain temporary, intermittent, and part-time services under section 3109 of title 5, United States Code, at rates not to exceed the maximum annual rate of basic pay payable under section 5376 of that title.

"(B) NON-APPLICABILITY TO CERTAIN SERVICES.—This paragraph shall not apply to services under subsection (j)(1)(A)(iv).

"(7) VOLUNTEER SERVICES.—

"(A) IN GENERAL.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and utilize the services of volunteers serving without compensation.

"(B) REIMBURSEMENT.—The Commission may reimburse such volunteers for local travel and office supplies, and for other travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

"(C) LIABILITY.—

"(i) IN GENERAL.—Subject to clause (ii), a volunteer described in subparagraph (A) shall be considered to be a volunteer for purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.).

"(ii) EXCEPTION.—Section 4(d) of the Volunteer Protection Act of 1997 (42 U.S.C. 14503(d)) shall not apply for purposes of a claim against a volunteer described in subparagraph (A).

"(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.".

**SEC. 333. COMMISSION TO STUDY THE POTENTIAL CREATION OF A NATIONAL MUSEUM OF THE AMERICAN LATINO.**

(a) ESTABLISHMENT OF COMMISSION.—

(1) IN GENERAL.—There is established the Commission to Study the Potential Creation of a National Museum of the American Latino (hereafter in this section referred to as the "Commission").

(2) MEMBERSHIP.—The Commission shall consist of 23 members appointed not later than 6 months after the date of enactment of this Act as follows: Deadline.

(A) The President shall appoint 7 voting members. President.

(B) The Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate shall each appoint 3 voting members.

(C) In addition to the members appointed under subparagraph (B), the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate shall each appoint 1 nonvoting member.

(3) QUALIFICATIONS.—Members of the Commission shall be chosen from among individuals, or representatives of institutions or entities, who possess either—

(A) a demonstrated commitment to the research, study, or promotion of American Latino life, art, history, political or economic status, or culture, together with—

(i) expertise in museum administration;

(ii) expertise in fundraising for nonprofit or cultural institutions;

(iii) experience in the study and teaching of Latino culture and history at the post-secondary level;

(iv) experience in studying the issue of the Smithsonian Institution's representation of American Latino art, life, history, and culture; or

(v) extensive experience in public or elected service; or

(B) experience in the administration of, or the planning for the establishment of, museums devoted to the study and promotion of the role of ethnic, racial, or cultural groups in American history.

(b) FUNCTIONS OF THE COMMISSION.—

(1) PLAN OF ACTION FOR ESTABLISHMENT AND MAINTENANCE OF MUSEUM.—The Commission shall submit a report to the President and the Congress containing its recommendations with respect to a plan of action for the establishment and maintenance of a National Museum of the American Latino in Washington, DC (hereafter in this section referred to as the "Museum"). Reports.

(2) FUNDRAISING PLAN.—The Commission shall develop a fundraising plan for supporting the creation and maintenance of the Museum through contributions by the American people, and a separate plan on fundraising by the American Latino community.

(3) REPORT ON ISSUES.—The Commission shall examine (in consultation with the Secretary of the Smithsonian Institution), and submit a report to the President and the Congress on, the following issues:

(A) The availability and cost of collections to be acquired and housed in the Museum.

(B) The impact of the Museum on regional Hispanic- and Latino-related museums.

(C) Possible locations for the Museum in Washington, DC and its environs, to be considered in consultation with the National Capital Planning Commission and the

Commission of Fine Arts, the Department of the Interior and Smithsonian Institution.

(D) Whether the Museum should be located within the Smithsonian Institution.

(E) The governance and organizational structure from which the Museum should operate.

(F) How to engage the American Latino community in the development and design of the Museum.

(G) The cost of constructing, operating, and maintaining the Museum.

Recommendations.

(4) LEGISLATION TO CARRY OUT PLAN OF ACTION.—Based on the recommendations contained in the report submitted under paragraph (1) and the report submitted under paragraph (3), the Commission shall submit for consideration to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, the Committee on Natural Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate recommendations for a legislative plan of action to create and construct the Museum.

Deadline.

(5) NATIONAL CONFERENCE.—In carrying out its functions under this section, the Commission may convene a national conference on the Museum, comprised of individuals committed to the advancement of American Latino life, art, history, and culture, not later than 18 months after the commission members are selected.

(c) ADMINISTRATIVE PROVISIONS.—

(1) FACILITIES AND SUPPORT OF DEPARTMENT OF THE INTERIOR.—The Department of the Interior shall provide from funds appropriated for this purpose administrative services, facilities, and funds necessary for the performance of the Commission's functions. These funds shall be made available prior to any meetings of the Commission.

(2) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government may receive compensation for each day on which the member is engaged in the work of the Commission, at a daily rate to be determined by the Secretary of the Interior.

(3) TRAVEL EXPENSES.—Each member shall be entitled to travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

Applicability.

(4) FEDERAL ADVISORY COMMITTEE ACT.—The Commission is not subject to the provisions of the Federal Advisory Committee Act.

(d) DEADLINE FOR SUBMISSION OF REPORTS; TERMINATION.—

(1) DEADLINE.—The Commission shall submit final versions of the reports and plans required under subsection (b) not later than 24 months after the date of the Commission's first meeting.

(2) TERMINATION.—The Commission shall terminate not later than 30 days after submitting the final versions of reports and plans pursuant to paragraph (1).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out the activities of the Commission $2,100,000 for the first fiscal year beginning after the date of enactment of this Act and $1,100,000 for the second fiscal year beginning after the date of enactment of this Act.

**SEC. 334. HUDSON-FULTON-CHAMPLAIN QUADRICENTENNIAL COMMEMORATION COMMISSION.**

(a) COORDINATION.—Each commission established under this section shall coordinate with the other respective commission established under this section to ensure that commemorations of Henry Hudson, Robert Fulton, and Samuel de Champlain are—

(1) consistent with the plans and programs of the commemorative commissions established by the States of New York and Vermont; and

(2) well-organized and successful.

(b) DEFINITIONS.—In this section:

(1) CHAMPLAIN COMMEMORATION.—The term "Champlain commemoration" means the commemoration of the 400th anniversary of the voyage of Samuel de Champlain.

(2) CHAMPLAIN COMMISSION.—The term "Champlain Commission" means the Champlain Quadricentennial Commemoration Commission established by subsection (c)(1).

(3) COMMISSION.—The term "Commission" means each of the Champlain Commission and the Hudson-Fulton Commission.

(4) HUDSON-FULTON COMMEMORATION.—The term "Hudson-Fulton commemoration" means the commemoration of—

(A) the 200th anniversary of the voyage of Robert Fulton in the Clermont; and

(B) the 400th anniversary of the voyage of Henry Hudson in the Half Moon.

(5) HUDSON-FULTON COMMISSION.—The term "Hudson-Fulton Commission" means the Hudson-Fulton 400th Commemoration Commission established by subsection (d)(1).

(6) LAKE CHAMPLAIN BASIN PROGRAM.—The term "Lake Champlain Basin Program" means the partnership established by section 120 of the Federal Water Pollution Control Act (33 U.S.C. 1270) between the States of New York and Vermont and Federal agencies to carry out the Lake Champlain management plan entitled, "Opportunities for Action: An Evolving Plan for the Lake Champlain Basin".

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(c) ESTABLISHMENT OF CHAMPLAIN COMMISSION.—

(1) IN GENERAL.—There is established a commission to be known as the "Champlain Quadricentennial Commemoration Commission".

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Champlain Commission shall be composed of 10 members, of whom—

(i) 1 member shall be the Director of the National Park Service (or a designee);

(ii) 4 members shall be appointed by the Secretary from among individuals who, on the date of enactment of this Act, are—

(I) serving as members of the Hudson-Fulton-Champlain Quadricentennial Commission of the State of New York; and

(II) residents of Champlain Valley, New York;

(iii) 4 members shall be appointed by the Secretary from among individuals who, on the date of enactment of this Act, are—

(I) serving as members of the Lake Champlain Quadricentennial Commission of the State of Vermont; and

(II) residents of the State of Vermont; and

(iv) 1 member shall be appointed by the Secretary, and shall be an individual who has—

(I) an interest in, support for, and expertise appropriate with respect to, the Champlain commemoration; and

(II) knowledge relating to the history of the Champlain Valley.

(B) TERM; VACANCIES.—

(i) TERM.—A member of the Champlain Commission shall be appointed for the life of the Champlain Commission.

(ii) VACANCIES.—A vacancy on the Champlain Commission shall be filled in the same manner in which the original appointment was made.

(3) DUTIES.—The Champlain Commission shall—

(A) plan, develop, and execute programs and activities appropriate to commemorate the 400th anniversary of the voyage of Samuel de Champlain, the first European to discover and explore Lake Champlain;

(B) facilitate activities relating to the Champlain Quadricentennial throughout the United States;

(C) coordinate the activities of the Champlain Commission with—

(i) State commemoration commissions;

(ii) appropriate Federal agencies;

(iii) the Lake Champlain Basin Program;

(iv) the National Endowment for the Arts; and

(v) the Smithsonian Institution;

(D) encourage civic, patriotic, historical, educational, artistic, religious, economic, and other organizations throughout the United States to organize and participate in anniversary activities to expand the understanding and appreciation of the significance of the voyage of Samuel de Champlain;

(E) provide technical assistance to States, localities, and nonprofit organizations to further the Champlain commemoration;

(F) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of, the voyage of Samuel de Champlain;

(G) ensure that the Champlain 2009 anniversary provides a lasting legacy and a long-term public benefit by assisting in the development of appropriate programs and facilities;

(H) help ensure that the observances of the voyage of Samuel de Champlain are inclusive and appropriately

recognize the experiences and heritage of all people present when Samuel de Champlain arrived in the Champlain Valley; and

(I) consult and coordinate with the Lake Champlain Basin Program and other relevant organizations to plan and develop programs and activities to commemorate the voyage of Samuel de Champlain.

(d) ESTABLISHMENT OF HUDSON-FULTON COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the "Hudson-Fulton 400th Commemoration Commission".

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Hudson-Fulton Commission shall be composed of 15 members, of whom—

(i) 1 member shall be the Director of the National Park Service (or a designee);

(ii) 1 member shall be appointed by the Secretary, after considering the recommendation of the Governor of the State of New York;

(iii) 6 members shall be appointed by the Secretary, after considering the recommendations of the Members of the House of Representatives whose districts encompass the Hudson River Valley;

(iv) 2 members shall be appointed by the Secretary, after considering the recommendations of the Members of the Senate from the State of New York;

(v) 2 members shall be—

(I) appointed by the Secretary; and

(II) individuals who have an interest in, support for, and expertise appropriate with respect to, the Hudson-Fulton commemoration, of whom—

(aa) 1 member shall be an individual with expertise in the Hudson River Valley National Heritage Area; and

(bb) 1 member shall be an individual with expertise in the State of New York, as it relates to the Hudson-Fulton commemoration;

(vi) 1 member shall be the Chairperson of a commemorative commission formed by the State of New York (or the designee of the Chairperson); and

(vii) 2 members shall be appointed by the Secretary, after—

(I) considering the recommendation of the Mayor of the city of New York; and

(II) consulting the Members of the House of Representatives whose districts encompass the city of New York.

(B) TERM; VACANCIES.—

(i) TERM.—A member of the Hudson-Fulton Commission shall be appointed for the life of the Hudson-Fulton Commission.

(ii) VACANCIES.—A vacancy on the Hudson-Fulton Commission shall be filled in the same manner in which the original appointment was made.

(3) DUTIES.—The Hudson-Fulton Commission shall—

(A) plan, develop, and execute programs and activities appropriate to commemorate—

(i) the 400th anniversary of the voyage of Henry Hudson, the first European to sail up the Hudson River; and

(ii) the 200th anniversary of the voyage of Robert Fulton, the first person to use steam navigation on a commercial basis;

(B) facilitate activities relating to the Hudson-Fulton-Champlain Quadricentennial throughout the United States;

(C) coordinate the activities of the Hudson-Fulton Commission with—

(i) State commemoration commissions;

(ii) appropriate Federal agencies;

(iii) the National Park Service, with respect to the Hudson River Valley National Heritage Area;

(iv) the American Heritage Rivers Initiative Interagency Committee established by Executive Order 13061, dated September 11, 1997;

(v) the National Endowment for the Humanities;

(vi) the National Endowment for the Arts; and

(vii) the Smithsonian Institution;

(D) encourage civic, patriotic, historical, educational, artistic, religious, economic, and other organizations throughout the United States to organize and participate in anniversary activities to expand the understanding and appreciation of the significance of the voyages of Henry Hudson and Robert Fulton;

(E) provide technical assistance to States, localities, and nonprofit organizations to further the Hudson-Fulton commemoration;

(F) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of, the voyages of Henry Hudson and Robert Fulton;

(G) ensure that the Hudson-Fulton 2009 commemorations provide a lasting legacy and long-term public benefit by assisting in the development of appropriate programs and facilities; and

(H) help ensure that the observances of Henry Hudson are inclusive and appropriately recognize the experiences and heritage of all people present when Henry Hudson sailed the Hudson River.

(e) COMMISSION MEETINGS.—

Deadline.

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of a commission established under this section have been appointed, the applicable Commission shall hold an initial meeting.

(2) MEETINGS.—A commission established under this section shall meet—

(A) at least twice each year; or

(B) at the call of the Chairperson or the majority of the members of the Commission.

(3) QUORUM.—A majority of voting members shall constitute a quorum, but a lesser number may hold meetings.

(4) CHAIRPERSON AND VICE CHAIRPERSON.—

(A) ELECTION.—The Commission shall elect the Chairperson and the Vice Chairperson of the Commission on an annual basis.

(B) ABSENCE OF THE CHAIRPERSON.—The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson.

(5) VOTING.—A commission established under this section shall act only on an affirmative vote of a majority of the voting members of the applicable Commission.

(f) COMMISSION POWERS.—

(1) GIFTS.—The Commission may solicit, accept, use, and dispose of gifts, bequests, or devises of money or other property for aiding or facilitating the work of the Commission.

(2) APPOINTMENT OF ADVISORY COMMITTEES.—The Commission may appoint such advisory committees as the Commission determines to be necessary to carry out this section.

(3) AUTHORIZATION OF ACTION.—The Commission may authorize any member or employee of the Commission to take any action that the Commission is authorized to take under this section.

(4) PROCUREMENT.—

(A) IN GENERAL.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, to carry out this section (except that a contract, lease, or other legal agreement made or entered into by the Commission shall not extend beyond the date of termination of the Commission).

(B) LIMITATION.—The Commission may not purchase real property.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(6) GRANTS.—

(A) CHAMPLAIN COMMISSION.—The Champlain Commission may make grants in amounts not to exceed $20,000—

(i) to communities, nonprofit organizations, and State commemorative commissions to develop programs to assist in the Champlain commemoration; and

(ii) to research and scholarly organizations to research, publish, or distribute information relating to the early history of the voyage of Samuel de Champlain.

(B) HUDSON-FULTON COMMISSION.—The Hudson-Fulton Commission may make grants in amounts not to exceed $20,000—

(i) to communities, nonprofit organizations, and State commemorative commissions to develop programs to assist in the Hudson-Fulton commemoration; and

(ii) to research and scholarly organizations to research, publish, or distribute information relating to the early history of the voyages of Henry Hudson and Robert Fulton.

(7) TECHNICAL ASSISTANCE.—The Commission shall provide technical assistance to States, localities, and nonprofit organizations to further the Champlain commemoration and Hudson-Fulton commemoration, as applicable.

(8) COORDINATION AND CONSULTATION WITH LAKE CHAMPLAIN BASIN PROGRAM.—The Champlain Commission shall

coordinate and consult with the Lake Champlain Basin Program to provide grants and technical assistance under paragraphs (6)(A) and (7) for the development of activities commemorating the voyage of Samuel de Champlain.

(g) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a member of the Commission shall serve without compensation.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(3) STAFF.—The Commission may, without regard to the civil service laws (including regulations), appoint and terminate an Executive Director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(4) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission may fix the compensation of the Executive Director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the Executive Director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(5) DETAIL OF GOVERNMENT EMPLOYEES.—

(A) FEDERAL EMPLOYEES.—

(i) IN GENERAL.—At the request of the Commission, the head of any Federal agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(ii) CIVIL SERVICE STATUS.—The detail of an employee under clause (i) shall be without interruption or loss of civil service status or privilege.

(B) STATE EMPLOYEES.—The Commission may—

(i) accept the services of personnel detailed from the State of New York or the State of Vermont, as appropriate (including subdivisions of the States); and

(ii) reimburse the State of New York or the State of Vermont for services of detailed personnel.

(C) LAKE CHAMPLAIN BASIN PROGRAM EMPLOYEES.—The Champlain Commission may—

(i) accept the services of personnel detailed from the Lake Champlain Basin Program; and

(ii) reimburse the Lake Champlain Basin Program for services of detailed personnel.

(D) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(6) VOLUNTEER AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(7) SUPPORT SERVICES.—The Secretary shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(8) FACA NONAPPLICABILITY.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(h) REPORTS.—Not later than September 30, 2010, the Commission shall submit to the Secretary a report that contains—

(1) a summary of the activities of the Commission;

(2) a final accounting of funds received and expended by the Commission; and

(3) the findings and recommendations of the Commission.

(i) TERMINATION OF COMMISSIONS.—

(1) DATE OF TERMINATION.—The Commission shall terminate on December 31, 2010.

(2) TRANSFER OF DOCUMENTS AND MATERIALS.—Before the date of termination specified in paragraph (1), the Commission shall transfer all of its documents and materials of the Commission to the National Archives or another appropriate Federal entity.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section for each of fiscal years 2008 through 2011—

(A) $500,000 to the Champlain Commission; and

(B) $500,000 to the Hudson-Fulton Commission.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

**SEC. 335. SENSE OF CONGRESS REGARDING THE DESIGNATION OF THE MUSEUM OF THE AMERICAN QUILTER'S SOCIETY OF THE UNITED STATES.**

(a) FINDINGS.—Congress finds that—

(1) the Museum of the American Quilter's Society is the largest quilt museum in the world, with a total of 13,400 square feet of exhibition space and more than 150 quilts exhibited year-round in its 3 galleries;

(2) the mission of the Museum is to educate the local, national, and international public about the art, history, and heritage of quiltmaking;

(3) quilts in the Museum's permanent collection are made by quilters from 44 of the 50 States and many foreign countries;

(4) the Museum, centrally located in Paducah, Kentucky, and open to the public year-round, averages 40,000 visitors per year;

(5) individuals from all 50 States and from more than 25 foreign countries have visited the Museum;

(6) the Museum's Friends, an organization dedicated to supporting and sustaining the Museum, also has members in all 50 States, with 84 percent of members living more than 60 miles from the Museum;

(7) many members of the Museum's Friends have supported the Museum annually since the Museum began in 1991;

(8) quilts exhibited in the Museum are representative of the Nation and its cultures thanks to the wide diversity of themes and topics, quilts, and quiltmakers; and

(9) the Museum of the American Quilter's Society has national significance and support.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Museum of the American Quilter's Society, located at 215 Jefferson Street, Paducah, Kentucky, should be designated as the "National Quilt Museum of the United States".

**SEC. 336. SENSE OF CONGRESS REGARDING THE DESIGNATION OF THE NATIONAL MUSEUM OF WILDLIFE ART OF THE UNITED STATES.**

(a) FINDINGS.—Congress finds that—

(1) the National Museum of Wildlife Art in Jackson, Wyoming, is devoted to inspiring global recognition of fine art related to nature and wildlife;

(2) the National Museum of Wildlife Art is an excellent example of a thematic museum that strives to unify the humanities and sciences into a coherent body of knowledge through art;

(3) the National Museum of Wildlife Art, which was founded in 1987 with a private gift of a collection of art, has grown in stature and importance and is recognized today as the world's premier museum of wildlife art;

(4) the National Museum of Wildlife Art is the only public museum in the United States with the mission of enriching and inspiring public appreciation and knowledge of fine art, while exploring the relationship between humanity and nature by collecting fine art focused on wildlife;

(5) the National Museum of Wildlife Art is housed in an architecturally significant and award-winning 51,000-square foot facility that overlooks the 28,000-acre National Elk Refuge and is adjacent to the Grand Teton National Park;

(6) the National Museum of Wildlife Art is accredited with the American Association of Museums, continues to grow in national recognition and importance with members from every State, and has a Board of Trustees and a National Advisory Board composed of major benefactors and leaders in the arts and sciences from throughout the United States;

(7) the permanent collection of the National Museum of Wildlife Art has grown to more than 3,000 works by important historic American artists including Edward Hicks, Anna Hyatt Huntington, Charles M. Russell, William Merritt Chase, and Alexander Calder, and contemporary American artists,

including Steve Kestrel, Bart Walter, Nancy Howe, John Nieto, and Jamie Wyeth;

(8) the National Museum of Wildlife Art is a destination attraction in the Western United States with annual attendance of 92,000 visitors from all over the world and an award-winning website that receives more than 10,000 visits per week;

(9) the National Museum of Wildlife Art seeks to educate a diverse audience through collecting fine art focused on wildlife, presenting exceptional exhibitions, providing community, regional, national, and international outreach, and presenting extensive educational programming for adults and children; and

(10) a great opportunity exists to use the invaluable resources of the National Museum of Wildlife Art to teach the schoolchildren of the United States, through onsite visits, traveling exhibits, classroom curriculum, online distance learning, and other educational initiatives.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the National Museum of Wildlife Art, located at 2820 Rungius Road, Jackson, Wyoming, should be designated as the "National Museum of Wildlife Art of the United States".

**SEC. 337. REDESIGNATION OF ELLIS ISLAND LIBRARY.** New York.

(a) REDESIGNATION.—The Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, shall be known and redesignated as the "Bob Hope Memorial Library".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Ellis Island Library on the third floor of the Ellis Island Immigration Museum referred to in subsection (a) shall be deemed to be a reference to the "Bob Hope Memorial Library".

# Subtitle E—Trails and Rivers

**SEC. 341. AUTHORIZATION AND ADMINISTRATION OF STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL.** State listing.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

"(26) STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL.—

"(A) IN GENERAL.—The Star-Spangled Banner National Historic Trail, a trail consisting of water and overland routes totaling approximately 290 miles, extending from Tangier Island, Virginia, through southern Maryland, the District of Columbia, and northern Virginia, in the Chesapeake Bay, Patuxent River, Potomac River, and north to the Patapsco River, and Baltimore, Maryland, commemorating the Chesapeake Campaign of the War of 1812 (including the British invasion of Washington, District of Columbia, and its associated feints, and the Battle of Baltimore in summer 1814), as generally depicted on the map titled 'Star-Spangled Banner National Historic Trail', numbered T02/80,000, and dated June 2007.

"(B) MAP.—The map referred to in subparagraph (A) shall be maintained on file and available for public inspection in the appropriate offices of the National Park Service.

"(C) ADMINISTRATION.—Subject to subparagraph (E)(ii), the trail shall be administered by the Secretary of the Interior.

"(D) LAND ACQUISITION.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

"(E) PUBLIC PARTICIPATION.—The Secretary of the Interior shall—

"(i) encourage communities, owners of land along the trail, and volunteer trail groups to participate in the planning, development, and maintenance of the trail; and

"(ii) consult with other affected landowners and Federal, State, and local agencies in the administration of the trail.

"(F) INTERPRETATION AND ASSISTANCE.—Subject to the availability of appropriations, the Secretary of the Interior may provide, to State and local governments and nonprofit organizations, interpretive programs and services and technical assistance for use in—

"(i) carrying out preservation and development of the trail; and

"(ii) providing education relating to the War of 1812 along the trail.".

**SEC. 342. LAND CONVEYANCE, LEWIS AND CLARK NATIONAL HISTORIC TRAIL, NEBRASKA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Interior may convey, without consideration, to the Missouri River Basin Lewis and Clark Interpretive Trail and Visitor Center Foundation, Inc. (a 501(c)(3) not-for-profit organization with operational headquarters at 100 Valmont Drive, Nebraska City, Nebraska 68410), all right, title, and interest of the United States in and to the federally owned land under jurisdiction of the Secretary consisting of 2 parcels as generally depicted on the map titled "Lewis and Clark National Historic Trail", numbered 648/80,002, and dated March 2006.

(b) SURVEY; CONVEYANCE COST.—The exact acreage and legal description of the land to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey and all other costs incurred by the Secretary to convey the land shall be borne by the Missouri River Basin Lewis and Clark Interpretive Trail and Visitor Center Foundation, Inc.

(c) CONDITION OF CONVEYANCE, USE OF CONVEYED LAND.—The conveyance authorized under subsection (a) shall be subject to the condition that the Missouri River Basin Lewis and Clark Interpretive Trail and Visitor Center Foundation, Inc. use the conveyed land as an historic site and interpretive center for the Lewis and Clark National Historic Trail.

(d) DISCONTINUANCE OF USE.—If Missouri River Basin Lewis and Clark Interpretive Trail and Visitor Center Foundation, Inc. determines to discontinue use of the land conveyed under subsection (a) as an historic site and interpretive center for the Lewis and Clark National Historic Trail, the Missouri River Basin Lewis and

Clark Interpretive Trail and Visitor Center Foundation, Inc. shall convey lands back to the Secretary without consideration.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or the conveyance, if any, under subsection (d) as the Secretary considers appropriate to protect the interests of the United States. Through a written agreement with the Foundation, the National Park Service shall ensure that the operation of the land conveyed under subsection (a) is in accordance with National Park Service standards for preservation, maintenance, and interpretation. Contracts.

(f) AUTHORIZATION OF APPROPRIATIONS.—To assist with the operation of the historic site and interpretive center, there is authorized to be appropriated $150,000 per year for a period not to exceed 10 years.

**SEC. 343. LEWIS AND CLARK NATIONAL HISTORIC TRAIL EXTENSION.** State listing.

(a) DEFINITIONS.—In this section:

(1) EASTERN LEGACY SITES.—The term "Eastern Legacy sites" means the sites associated with the preparation or return phases of the Lewis and Clark expedition, commonly known as the "Eastern Legacy", including sites in Virginia, the District of Columbia, Maryland, Delaware, Pennsylvania, West Virginia, Ohio, Kentucky, Tennessee, Indiana, Missouri, and Illinois. This includes the routes followed by Meriwether Lewis and William Clark, whether independently or together.

(2) TRAIL.—The term "Trail" means the Lewis and Clark National Historic Trail designated by section 5(a)(6) of the National Trails System Act (16 U.S.C. 1244(a)(6)).

(b) SPECIAL RESOURCE STUDY.—

(1) IN GENERAL.—The Secretary shall complete a special resource study of the Eastern Legacy sites to determine—

(A) the suitability and feasibility of adding these sites to the Trail; and

(B) the methods and means for the protection and interpretation of these sites by the National Park Service, other Federal, State, or local government entities or private or non-profit organizations.

(2) STUDY REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall conduct the study in accordance with section 5(b) of the National Trails System Act (16 U.S.C. 1244(b)).

(B) IMPACT ON TOURISM.—In conducting the study, the Secretary shall analyze the potential impact that the inclusion of the Eastern Legacy sites is likely to have on tourist visitation to the western portion of the trail.

(c) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study; and

(2) any recommendations of the Secretary.

**SEC. 344. WILD AND SCENIC RIVER DESIGNATION, EIGHTMILE RIVER, CONNECTICUT.**

(a) FINDINGS.—Congress finds the following:

(1) The Eightmile River Wild and Scenic River Study Act of 2001 (Public Law 107–65; 115 Stat. 484) authorized the study of the Eightmile River in the State of Connecticut from its headwaters downstream to its confluence with the Connecticut River for potential inclusion in the National Wild and Scenic Rivers System.

(2) The segments of the Eightmile River covered by the study are in a free-flowing condition, and the outstanding resource values of the river segments include the cultural landscape, water quality, watershed hydrology, unique species and natural communities, geology, and watershed ecosystem.

(3) The Eightmile River Wild and Scenic Study Committee has determined that—

(A) the outstanding resource values of these river segments depend on sustaining the integrity and quality of the Eightmile River watershed;

(B) these resource values are manifest within the entire watershed; and

(C) the watershed as a whole, including its protection, is itself intrinsically important to this designation.

(4) The Eightmile River Wild and Scenic Study Committee took a watershed approach in studying and recommending management options for the river segments and the Eightmile River watershed as a whole.

(5) During the study, the Eightmile River Wild and Scenic Study Committee, with assistance from the National Park Service, prepared a comprehensive management plan for the Eightmile River watershed, dated December 8, 2005 (in this section referred to as the "Eightmile River Watershed Management Plan"), which establishes objectives, standards, and action programs that will ensure long-term protection of the outstanding values of the river and compatible management of the land and water resources of the Eightmile River and its watershed, without Federal management of affected lands not owned by the United States.

(6) The Eightmile River Wild and Scenic Study Committee voted in favor of inclusion of the Eightmile River in the National Wild and Scenic Rivers System and included this recommendation as an integral part of the Eightmile River Watershed Management Plan.

(7) The residents of the towns lying along the Eightmile River and comprising most of its watershed (Salem, East Haddam, and Lyme, Connecticut), as well as the Boards of Selectmen and Land Use Commissions of these towns, voted to endorse the Eightmile River Watershed Management Plan and to seek designation of the river as a component of the National Wild and Scenic Rivers System.

(8) The State of Connecticut General Assembly enacted Public Act 05–18 to endorse the Eightmile River Watershed Management Plan and to seek designation of the river as a component of the National Wild and Scenic Rivers System.

(b) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended—

(1) by redesignating paragraph (167) (relating to the Musconetcong River, New Jersey) as paragraph (169);

(2) by designating the undesignated paragraph relating to the White Salmon River, Washington, as paragraph (167);

(3) by designating the undesignated paragraph relating to the Black Butte River, California, as paragraph (168); and

(4) by adding at the end the following:

"(170) EIGHTMILE RIVER, CONNECTICUT.—Segments of the main stem and specified tributaries of the Eightmile River in the State of Connecticut, totaling approximately 25.3 miles, to be administered by the Secretary of the Interior as follows:

"(A) The entire 10.8-mile segment of the main stem, starting at its confluence with Lake Hayward Brook to its confluence with the Connecticut River at the mouth of Hamburg Cove, as a scenic river.

"(B) The 8.0-mile segment of the East Branch of the Eightmile River starting at Witch Meadow Road to its confluence with the main stem of the Eightmile River, as a scenic river.

"(C) The 3.9-mile segment of Harris Brook starting with the confluence of an unnamed stream lying 0.74 miles due east of the intersection of Hartford Road (State Route 85) and Round Hill Road to its confluence with the East Branch of the Eightmile River, as a scenic river.

"(D) The 1.9-mile segment of Beaver Brook starting at its confluence with Cedar Pond Brook to its confluence with the main stem of the Eightmile River, as a scenic river.

"(E) The 0.7-mile segment of Falls Brook from its confluence with Tisdale Brook to its confluence with the main stem of the Eightmile River at Hamburg Cove, as a scenic river.".

16 USC 1274 note.

(c) MANAGEMENT.—The segments of the main stem and certain tributaries of the Eightmile River in the State of Connecticut designated as components of the National Wild and Scenic Rivers System by the amendment made by subsection (b) (in this section referred to as the "Eightmile River") shall be managed in accordance with the Eightmile River Watershed Management Plan and such amendments to the plan as the Secretary of the Interior determines are consistent with this section. The Eightmile River Watershed Management Plan is deemed to satisfy the requirements for a comprehensive management plan required by section 3(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)).

16 USC 1274 note.

(d) COMMITTEE.—The Secretary of the Interior shall coordinate the management responsibilities of the Secretary with regard to the Eightmile River with the Eightmile River Coordinating Committee, as specified in the Eightmile River Watershed Management Plan.

16 USC 1274 note.

(e) COOPERATIVE AGREEMENTS.—In order to provide for the long-term protection, preservation, and enhancement of the Eightmile River, the Secretary of the Interior may enter into cooperative agreements pursuant to sections 10(e) and 11(b)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(e), 1282(b)(1)) with the State of Connecticut, the towns of Salem, Lyme, and East Haddam, Connecticut, and appropriate local planning and environmental organizations. All cooperative agreements authorized by this subsection shall be consistent with the Eightmile River Watershed Management Plan and may include provisions for financial or other assistance from the United States.

16 USC 1274 note.

(f) RELATION TO NATIONAL PARK SYSTEM.—Notwithstanding section 10(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(c)), the Eightmile River shall not be administered as part of the

National Park System or be subject to regulations which govern the National Park System.

16 USC 1274 note.

(g) LAND MANAGEMENT.—The zoning ordinances adopted by the towns of Salem, East Haddam, and Lyme, Connecticut, in effect as of December 8, 2005, including provisions for conservation of floodplains, wetlands, and watercourses associated with the segments, are deemed to satisfy the standards and requirements of section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277 (c)). For the purpose of section 6(c) of that Act, such towns shall be deemed "villages" and the provisions of that section, which prohibit Federal acquisition of lands by condemnation, shall apply to the segments designated by subsection (b). The authority of the Secretary to acquire lands for the purposes of this section shall be limited to acquisition by donation or acquisition with the consent of the owner thereof, and shall be subject to the additional criteria set forth in the Eightmile River Watershed Management Plan.

16 USC 1274 note.

(h) WATERSHED APPROACH.—

(1) IN GENERAL.—In furtherance of the watershed approach to resource preservation and enhancement articulated in the Eightmile River Watershed Management Plan, the tributaries of the Eightmile River watershed specified in paragraph (2) are recognized as integral to the protection and enhancement of the Eightmile River and its watershed.

(2) COVERED TRIBUTARIES.—Paragraph (1) applies with respect to Beaver Brook, Big Brook, Burnhams Brook, Cedar Pond Brook, Cranberry Meadow Brook, Early Brook, Falls Brook, Fraser Brook, Harris Brook, Hedge Brook, Lake Hayward Brook, Malt House Brook, Muddy Brook, Ransom Brook, Rattlesnake Ledge Brook, Shingle Mill Brook, Strongs Brook, Tisdale Brook, Witch Meadow Brook, and all other perennial streams within the Eightmile River watershed.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section and the amendment made by subsection (b).

# Subtitle F—Denali National Park and Alaska Railroad Exchange

16 USC 1132 note; 45 USC 1203 note.

**SEC. 351. DENALI NATIONAL PARK AND ALASKA RAILROAD CORPORATION EXCHANGE.**

(a) DEFINITIONS.—In this section:

(1) CORPORATION.—The term "Corporation" means the Alaska Railroad Corporation owned by the State of Alaska.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) EXCHANGE.—

(1) IN GENERAL.—

(A) EASEMENT EXPANDED.—The Secretary is authorized to grant to the Alaska Railroad Corporation an exclusive-use easement on land that is identified by the Secretary within Denali National Park for the purpose of providing a location to the Corporation for construction, maintenance, and on-going operation of track and associated support facilities for turning railroad trains around near Denali Park Station.

(B) EASEMENT RELINQUISHED.—In exchange for the easement granted in subparagraph (A), the Secretary shall require the relinquishment of certain portions of the Corporation's existing exclusive use easement within the boundary of Denali National Park.

(2) CONDITIONS OF THE EXCHANGE.—

(A) EQUAL EXCHANGE.—The exchange of easements under this section shall be on an approximately equal-acre basis.

(B) TOTAL ACRES.—The easement granted under paragraph (1)(A) shall not exceed 25 acres.

(C) INTERESTS CONVEYED.—The easement conveyed to the Alaska Railroad Corporation by the Secretary under this section shall be under the same terms as the exclusive use easement granted to the Railroad in Denali National Park in the Deed for Exclusive Use Easement and Railroad Related Improvements filed in Book 33, pages 985–994 of the Nenana Recording District, Alaska, pursuant to the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1201 et seq.). The easement relinquished by the Alaska Railroad Corporation to the United States under this section shall, with respect to the portion being exchanged, be the full title and interest received by the Alaska Railroad in the Deed for Exclusive Use Easement and Railroad Related Improvements filed in Book 33, pages 985–994 of the Nenana Recording District, Alaska, pursuant to the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1201 et seq.).

(D) COSTS.—The Alaska Railroad shall pay all costs associated with the exchange under this section, including the costs of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the costs of any surveys, and other reasonable costs.

(E) LAND TO BE PART OF WILDERNESS.—The land underlying any easement relinquished to the United States under this section that is adjacent to designated wilderness is hereby designated as wilderness and added to the Denali Wilderness, the boundaries of which are modified accordingly, and shall be managed in accordance with applicable provisions of the Wilderness Act (78 Stat. 892) and the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2371).

(F) OTHER TERMS AND CONDITIONS.—The Secretary shall require any additional terms and conditions under this section that the Secretary determines to be appropriate to protect the interests of the United States and of Denali National Park.

# Subtitle G—National Underground Railroad Network to Freedom Amendments

### SEC. 361. AUTHORIZING APPROPRIATIONS FOR SPECIFIC PURPOSES.

(a) IN GENERAL.—The National Underground Railroad Network to Freedom Act of 1998 (16 U.S.C. 469l et seq.) is amended—

(1) by striking section 3(d); 16 USC 469*l*–1.

(2) by striking section 4(d); and 16 USC 469*l*–2.

(3) by adding at the end the following:

16 USC 469*l*–3.

**"SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

"(a) AMOUNTS.—There are authorized to be appropriated to carry out this Act $2,500,000 for each fiscal year, to be allocated as follows:

"(1) $2,000,000 is to be used for the purposes of section 3.

"(2) $500,000 is to be used for the purposes of section 4.

"(b) RESTRICTIONS.—No amounts may be appropriated for the purposes of this Act except to the Secretary for carrying out the responsibilities of the Secretary as set forth in this Act.".

16 USC 469*l*–1 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the beginning of the fiscal year immediately following the date of the enactment of this Act.

## Subtitle H—Grand Canyon Subcontractors

**SEC. 371. DEFINITIONS.**

In this subtitle:

(1) IDIQ.—The term "IDIQ" means an Indefinite Deliver/Indefinite Quantity contract.

(2) PARK.—The term "park" means Grand Canyon National Park.

(3) PGI.—The term "PGI" means Pacific General, Inc.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

**SEC. 372. AUTHORIZATION.**

The Secretary is authorized, subject to the appropriation of such funds as may be necessary, to pay the amount owed to the subcontractors of PGI for work performed at the park under an IDIQ with PGI between fiscal years 2002 and 2003, provided that—

(1) the primary contract between PGI and the National Park Service is terminated;

(2) the amount owed to the subcontractors is verified;

(3) all reasonable legal avenues or recourse have been exhausted by the subcontractors to recoup amounts owed directly from PGI; and

(4) the subcontractors provide a written statement that payment of the amount verified in paragraph (2) represents payment in full by the United States for all work performed at the park under the IDIQ with PGI between fiscal years 2002 and 2003.

# TITLE IV—NATIONAL HERITAGE AREAS

State listing. 16 USC 461 note.

## Subtitle A—Journey Through Hallowed Ground National Heritage Area

**SEC. 401. PURPOSES.**

The purposes of this subtitle include—

(1) to recognize the national importance of the natural and cultural legacies of the area, as demonstrated in the study

entitled "The Journey Through Hallowed Ground National Heritage Area Feasibility Study" dated September 2006;

(2) to preserve, support, conserve, and interpret the legacy of the American history created along the National Heritage Area;

(3) to promote heritage, cultural and recreational tourism and to develop educational and cultural programs for visitors and the general public;

(4) to recognize and interpret important events and geographic locations representing key developments in the creation of America, including Native American, Colonial American, European American, and African American heritage;

(5) to recognize and interpret the effect of the Civil War on the civilian population of the National Heritage Area during the war and post-war reconstruction period;

(6) to enhance a cooperative management framework to assist the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the State of West Virginia, and their units of local government, the private sector, and citizens residing in the National Heritage Area in conserving, supporting, enhancing, and interpreting the significant historic, cultural and recreational sites in the National Heritage Area; and

(7) to provide appropriate linkages among units of the National Park System within and surrounding the National Heritage Area, to protect, enhance, and interpret resources outside of park boundaries.

**SEC. 402. DEFINITIONS.**

In this subtitle—

(1) NATIONAL HERITAGE AREA.—The term "National Heritage Area" means the Journey Through Hallowed Ground National Heritage Area established in this subtitle.

(2) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the Journey Through Hallowed Ground Partnership, a Virginia non-profit, which is hereby designated by Congress—

(A) to develop, in partnership with others, the management plan for the National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(3) MANAGEMENT PLAN.—The term "management plan" means the plan prepared by the local coordinating entity for the National Heritage Area that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with this subtitle.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 403. DESIGNATION OF THE JOURNEY THROUGH HALLOWED GROUND NATIONAL HERITAGE AREA.**

(a) ESTABLISHMENT.—There is hereby established the Journey Through Hallowed Ground National Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—The Heritage Area shall consist of the 175-mile region generally following the Route 15 corridor and

surrounding areas from Adams County, Pennsylvania, through Frederick County, Maryland, including the Heart of the Civil War Maryland State Heritage Area, looping through Brunswick, Maryland, to Harpers Ferry, West Virginia, back through Loudoun County, Virginia, to the Route 15 corridor and surrounding areas encompassing portions of Loudoun and Prince William Counties, Virginia, then Fauquier County, Virginia, portions of Spotsylvania and Madison Counties, Virginia, and Culpepper, Rappahannock, Orange, and Albemarle Counties, Virginia.

(2) MAP.—The boundaries of the National Heritage Area shall include all of those lands and interests as generally depicted on the map titled "Journey Through Hallowed Ground National Heritage Area", numbered P90/80,000, and dated October 2006. The map shall be on file and available to the public in the appropriate offices of the National Park Service and the local coordinating entity.

**SEC. 404. MANAGEMENT PLAN.**

(a) REQUIREMENTS.—The management plan for the National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that Federal, State, Tribal, and local governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

Recommendations.

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, Tribal, or local government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, Tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this subtitle; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this subtitle until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3). Deadline.

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including Federal, State, Tribal, and local governments, natural, and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and Federal, State, Tribal, and local governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and

develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State, Tribal, and local officials whose support is needed to ensure the effective implementation of the State, Tribal, and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, Tribal, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this subtitle to implement an amendment to the management plan until the Secretary approves the amendment.

(6) AUTHORITIES.—The Secretary may—

(A) provide technical assistance under the authority of this subtitle for the development and implementation of the management plan; and

(B) enter into cooperative agreements with interested parties to carry out this subtitle.

**SEC. 405. EVALUATION; REPORT.**

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the National Heritage Area under this subtitle, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

(2) analyze the Federal, State, Tribal, local, and private investments in the National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall submit a report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

**SEC. 406. LOCAL COORDINATING ENTITY.**

(a) DUTIES.—To further the purposes of the National Heritage Area, the Journey Through Hallowed Ground Partnership, as the local coordinating entity, shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with this subtitle; Plan.

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, specifying— Reports.

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this subtitle to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this subtitle to acquire any interest in real property.

**SEC. 407. RELATIONSHIP TO OTHER FEDERAL AGENCIES.**

(a) IN GENERAL.—Nothing in this subtitle affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this subtitle—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

**SEC. 408. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.**

Nothing in this subtitle—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, Tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, Tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority (such as the authority to make safety improvements or increase the capacity of existing roads or to construct new roads) of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including but not necessarily limited to development and management of energy or water or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

**SEC. 409. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to carry out this subtitle not more than $1,000,000 for any fiscal year. Funds so appropriated shall remain available until expended.

(b) LIMITATION ON TOTAL AMOUNTS APPROPRIATED.—Not more than $15,000,000 may be appropriated to carry out this subtitle.

(c) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this subtitle shall be not more than 50 percent; the non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

**SEC. 410. USE OF FEDERAL FUNDS FROM OTHER SOURCES.**

Nothing in this subtitle shall preclude the local coordinating entity from using Federal funds available under other laws for the purposes for which those funds were authorized.

**SEC. 411. SUNSET FOR GRANTS AND OTHER ASSISTANCE.**

The authority of the Secretary to provide financial assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this subtitle.

## Subtitle B—Niagara Falls National Heritage Area

New York.
16 USC 461 note.

**SEC. 421. PURPOSES.**

The purposes of this subtitle include—

(1) to recognize the national importance of the natural and cultural legacies of the area, as demonstrated in the National Park Service study report entitled "Niagara National Heritage Area Study" dated 2005;

(2) to preserve, support, conserve, and interpret the natural, scenic, cultural, and historic resources within the National Heritage Area;

(3) to promote heritage, cultural, and recreational tourism and to develop educational and cultural programs for visitors and the general public;

(4) to recognize and interpret important events and geographic locations representing key developments in American history and culture, including Native American, Colonial American, European American, and African American heritage;

(5) to enhance a cooperative management framework to assist State, local, and Tribal governments, the private sector, and citizens residing in the National Heritage Area in conserving, supporting, enhancing, and interpreting the significant historic, cultural, and recreational sites in the National Heritage Area;

(6) to conserve and interpret the history of the development of hydroelectric power in the United States and its role in developing the American economy; and

(7) to provide appropriate linkages among units of the National Park System within and surrounding the National

Heritage Area, to protect, enhance, and interpret resources outside of park boundaries.

**SEC. 422. DEFINITIONS.**

In this subtitle:

(1) COMMISSION.—The term "Commission" means the Niagara Falls National Heritage Area Commission established under this subtitle.

(2) GOVERNOR.—The term "Governor" means the Governor of the State of New York.

(3) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the local coordinating entity for the National Heritage Area designated pursuant to this subtitle.

(4) MANAGEMENT PLAN.—The term "management plan" means the plan prepared by the local coordinating entity for the National Heritage Area that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with this subtitle.

(5) NATIONAL HERITAGE AREA.—The term "National Heritage Area" means the Niagara Falls National Heritage Area established in this subtitle.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 423. DESIGNATION OF THE NIAGARA FALLS NATIONAL HERITAGE AREA.**

(a) ESTABLISHMENT.—There is hereby established the Niagara Falls National Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—The National Heritage Area shall consist of the area from the western boundary of the town of Wheatfield, New York, extending to the mouth of the Niagara River on Lake Ontario, including the city of Niagara Falls, New York, the villages of Youngstown and Lewiston, New York, land and water within the boundaries of the Heritage Area in Niagara County, New York, and any additional thematically related sites within Erie and Niagara Counties, New York, that are identified in the management plan developed under this subtitle.

(2) MAP.—The boundaries of the National Heritage Area shall be as generally depicted on the map titled "Niagara Falls National Heritage Area," and numbered P76/80,000 and dated July, 2006. The map shall be on file and available to the public in the appropriate offices of the National Park Service and the local coordinating entity.

**SEC. 424. MANAGEMENT PLAN.**

(a) REQUIREMENTS.—The management plan for the National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that Federal, State, Tribal, and local governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

Recommendations.

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, Tribal, or local government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, Tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this subtitle; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this subtitle until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

Deadline.

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including Federal, State, Tribal, and local governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and Federal, State, Tribal, and local governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State, Tribal, and local officials whose support is needed to ensure the effective implementation of the State, Tribal, and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, Tribal, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this subtitle to implement an amendment to the management plan until the Secretary approves the amendment.

(6) AUTHORITIES.—The Secretary may—

(A) provide technical assistance under the authority of this subtitle for the development and implementation of the management plan; and

(B) enter into cooperative agreements with interested parties to carry out this subtitle.

**SEC. 425. EVALUATION; REPORT.**

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the National Heritage Area under this subtitle the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

(2) analyze the Federal, State, Tribal, and local, and private investments in the National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall submit a report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

**SEC. 426. LOCAL COORDINATING ENTITY.**

(a) DESIGNATION.—The local coordinating entity for the Heritage Area shall be— Effective dates.

(1) for the 5-year period beginning on the date of enactment of this subtitle, the Commission; and

(2) on expiration of the 5-year period described in paragraph (1), a private nonprofit or governmental organization designated by the Commission.

(b) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity, shall—

Plan.

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with this subtitle;

Reports.

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, all information pertaining to the expenditure of the funds and any matching funds;

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area; and

(5) coordinate projects, activities, and programs with the Erie Canalway National Heritage Corridor.

(c) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this subtitle to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(d) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this subtitle to acquire any interest in real property.

**SEC. 427. NIAGARA FALLS HERITAGE AREA COMMISSION.**

(a) ESTABLISHMENT.—There is established within the Department of the Interior the Niagara Falls National Heritage Area Commission.

(b) MEMBERSHIP.—The Commission shall be composed of 17 members, of whom—

(1) 1 member shall be the Director of the National Park Service (or a designee);

(2) 5 members shall be appointed by the Secretary, after consideration of the recommendation of the Governor, from among individuals with knowledge and experience of—

(A) the New York State Office of Parks, Recreation and Historic Preservation, the Niagara River Greenway Commission, the New York Power Authority, the USA Niagara Development Corporation, and the Niagara Tourism and Convention Corporation; or

(B) any successors of the agencies described in subparagraph (A);

(3) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the mayor of Niagara Falls, New York;

(4) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the mayor of the village of Youngstown, New York;

(5) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the mayor of the village of Lewiston, New York;

(6) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the Tuscarora Nation;

(7) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the Seneca Nation of Indians; and

(8) 6 members shall be individuals who have an interest in, support for, and expertise appropriate to tourism, regional planning, history and historic preservation, cultural or natural resource management, conservation, recreation, and education, or museum services, of whom—

(A) 4 members shall be appointed by the Secretary, after consideration of the recommendation of the 2 members of the Senate from the State; and

(B) 2 members shall be appointed by the Secretary, after consideration of the recommendation of the Member of the House of Representatives whose district encompasses the National Heritage Area.

(c) TERMS; VACANCIES.—

(1) TERM.—A member of the Commission shall be appointed for a term not to exceed 5 years.

(2) VACANCIES.—

(A) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(B) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner as the original appointment was made.

(d) CHAIRPERSON AND VICE CHAIRPERSON.—

(1) SELECTION.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(2) VICE CHAIRPERSON.—The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson.

(e) QUORUM.—

(1) IN GENERAL.—A majority of the members of the Commission shall constitute a quorum.

(2) TRANSACTION.—For the transaction of any business or the exercise of any power of the Commission, the Commission shall have the power to act by a majority vote of the members present at any meeting at which a quorum is in attendance.

(f) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at least quarterly at the call of—

(A) the Chairperson; or

(B) a majority of the members of the Commission.

(2) NOTICE.—Notice of Commission meetings and agendas for the meetings shall be published in local newspapers that are distributed throughout the National Heritage Area.

(3) APPLICABLE LAW.—Meetings of the Commission shall be subject to section 552b of title 5, United States Code.

(g) AUTHORITIES OF THE COMMISSION.—In addition to the authorities otherwise granted in this subtitle, the Commission may—

(1) request and accept from the head of any Federal agency, on a reimbursable or non-reimbursable basis, any personnel of the Federal agency to the Commission to assist in carrying out the duties of the Commission;

(2) request and accept from the head of any State agency or any agency of a political subdivision of the State, on a reimbursable or nonreimbursable basis, any personnel of the agency to the Commission to assist in carrying out the duties of the Commission;

(3) seek, accept, and dispose of gifts, bequests, grants, or donations of money, personal property, or services; and

(4) use the United States mails in the same manner as other agencies of the Federal Government.

(h) DUTIES OF THE COMMISSION.—To further the purposes of the National Heritage Area, in addition to the duties otherwise listed in this subtitle, the Commission shall assist in the transition of the management of the National Heritage Area from the Commission to the local coordinating entity designated under this subtitle.

(i) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—A member of the Commission shall serve without compensation.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(j) GIFTS.—For purposes of section 170(c) of the Internal Revenue Code of 1986, any gift or charitable contribution to the Commission shall be considered to be a charitable contribution or gift to the United States.

(k) USE OF FEDERAL FUNDS.—Except as provided for the leasing of administrative facilities under subsection (g)(1), the Commission may not use Federal funds made available to the Commission under this subtitle to acquire any real property or interest in real property.

**SEC. 428. RELATIONSHIP TO OTHER FEDERAL AGENCIES.**

(a) IN GENERAL.—Nothing in this subtitle affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this subtitle—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

**SEC. 429. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.**

Nothing in this subtitle—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, Tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, Tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including but not necessarily limited to development and management of energy, water, or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

**SEC. 430. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to carry out this subtitle not more than $1,000,000 for any fiscal year. Funds so appropriated shall remain available until expended.

(b) LIMITATION ON TOTAL AMOUNTS APPROPRIATED.—Not more than $15,000,000 may be appropriated to carry out this subtitle.

(c) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this subtitle shall be not more than 50 percent; the non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

**SEC. 431. USE OF FEDERAL FUNDS FROM OTHER SOURCES.**

Nothing in this subtitle shall preclude the local coordinating entity from using Federal funds available under other laws for the purposes for which those funds were authorized.

**SEC. 432. SUNSET FOR GRANTS AND OTHER ASSISTANCE.**

The authority of the Secretary to provide financial assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Illinois.
16 USC 461 note.

## Subtitle C—Abraham Lincoln National Heritage Area

**SEC. 441. PURPOSES.**

The purposes of this subtitle include—

(1) to recognize the significant natural and cultural legacies of the area, as demonstrated in the study entitled "Feasibility Study of the Proposed Abraham Lincoln National Heritage Area" prepared for the Looking for Lincoln Heritage Coalition in 2002 and revised in 2007;

(2) to promote heritage, cultural and recreational tourism and to develop educational and cultural programs for visitors and the general public;

(3) to recognize and interpret important events and geographic locations representing key periods in the growth of America, including Native American, Colonial American, European American, and African American heritage;

(4) to recognize and interpret the distinctive role the region played in shaping the man who would become the 16th President of the United States, and how Abraham Lincoln's life left its traces in the stories, folklore, buildings, streetscapes, and landscapes of the region;

(5) to provide a cooperative management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the region in identifying, preserving, interpreting, and developing the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations; and

(6) to provide appropriate linkages between units of the National Park System and communities, governments, and organizations within the Heritage Area.

**SEC. 442. DEFINITIONS.**

In this subtitle:

(1) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the Looking for Lincoln Heritage Coalition, which is hereby designated by Congress—

(A) to develop, in partnership with others, the management plan for the National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(2) MANAGEMENT PLAN.—The term "management plan" means the plan prepared by the local coordinating entity for the National Heritage Area that specifies actions, policies,

strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with this subtitle.

(3) NATIONAL HERITAGE AREA.—The term "National Heritage Area" means the Abraham Lincoln National Heritage Area established in this subtitle.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 443. DESIGNATION OF ABRAHAM LINCOLN NATIONAL HERITAGE AREA.**

(a) ESTABLISHMENT.—There is hereby established the Abraham Lincoln National Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—The National Heritage Area shall consist of sites as designated by the management plan within a core area located in Central Illinois, consisting of Adams, Brown, Calhoun, Cass, Champaign, Christian, Clark, Coles, Cumberland, Dewitt, Douglas, Edgar, Fayette, Fulton, Greene, Hancock, Henderson, Jersey, Knox, LaSalle, Logan, Macon, Macoupin, Madison, Mason, McDonough, McLean, Menard, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, Sangamon, Schuyler, Scott, Shelby, Tazewell, Vermillion, Warren and Woodford counties.

(2) MAP.—The boundaries of the National Heritage Area shall be as generally depicted on the map titled "Proposed Abraham Lincoln National Heritage Area", and numbered 338/80,000, and dated July 2007. The map shall be on file and available to the public in the appropriate offices of the National Park Service and the local coordinating entity.

**SEC. 444. MANAGEMENT PLAN.**

(a) REQUIREMENTS.—The management plan for the National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that Federal, State, Tribal, and local governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, Recommendations.

manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, Tribal, or local government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, Tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this subtitle; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this subtitle until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

Deadline.

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including Federal, State, Tribal, and local governments, natural, and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and Federal, State, Tribal, and local governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State, Tribal, and local officials whose support is needed to ensure the effective implementation of the State, Tribal, and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, Tribal, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this subtitle to implement an amendment to the management plan until the Secretary approves the amendment.

(6) AUTHORITIES.—The Secretary may—

(A) provide technical assistance under the authority of this subtitle for the development and implementation of the management plan; and

(B) enter into cooperative agreements with interested parties to carry out this subtitle.

**SEC. 445. EVALUATION; REPORT.**

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the National Heritage Area under this subtitle, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

(2) analyze the Federal, State, Tribal, and local, and private investments in the National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall submit a report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

**SEC. 446. LOCAL COORDINATING ENTITY.**

(a) DUTIES.—To further the purposes of the National Heritage Area, the Looking for Lincoln Heritage Coalition, as the local coordinating entity, shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with this subtitle;

(2) submit an annual report to the secretary for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage

Area, the local coordinating entity may use Federal funds made available under this subtitle to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this subtitle to acquire any interest in real property.

**SEC. 447. RELATIONSHIP TO OTHER FEDERAL AGENCIES.**

(a) IN GENERAL.—Nothing in this subtitle affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this subtitle—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

**SEC. 448. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.**

Nothing in this subtitle—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, Tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, Tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity,

including but not necessarily limited to development and management of energy, water, or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

**SEC. 449. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to carry out this subtitle not more than $1,000,000 for any fiscal year. Funds so appropriated shall remain available until expended.

(b) LIMITATION ON TOTAL AMOUNTS APPROPRIATED.—Not more than $15,000,000 may be appropriated to carry out this subtitle.

(c) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this subtitle shall be not more than 50 percent; the non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

**SEC. 450. USE OF FEDERAL FUNDS FROM OTHER SOURCES.**

Nothing in this subtitle shall preclude the local coordinating entity from using Federal funds available under other laws for the purposes for which those funds were authorized.

**SEC. 451. SUNSET FOR GRANTS AND OTHER ASSISTANCE.**

The authority of the Secretary to provide financial assistance under this subtitle terminates on the date that is 15 years after the date of the enactment of this subtitle.

## Subtitle D—Authorization Extensions and Viability Studies

16 USC 461 note.

**SEC. 461. EXTENSIONS OF AUTHORIZED APPROPRIATIONS.**

Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 16 U.S.C. 461 note) is amended in each of sections 108(a), 209(a), 311(a), 409(a), 508(a), 608(a), 708(a), 810(a) (as redesignated by section 474(9)), and 909(c), by striking "$10,000,000" and inserting "$15,000,000".

**SEC. 462. EVALUATION AND REPORT.**

(a) IN GENERAL.—For the nine National Heritage Areas authorized in Division II of the Omnibus Parks and Public Lands Management Act of 1996, not later than 3 years before the date on which authority for Federal funding terminates for each National Heritage Area, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local management entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

(2) analyze the investments of Federal, State, Tribal, and local government and private entities in each National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall submit a report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

# Subtitle E—Technical Corrections and Additions

**SEC. 471. NATIONAL COAL HERITAGE AREA TECHNICAL CORRECTIONS.** 16 USC 461 note.

Title I of Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333 as amended by Public Law 106–176 and Public Law 109–338) is amended—

(1) by striking section 103(b) and inserting the following:

"(b) BOUNDARIES.—The National Coal Heritage Area shall be comprised of Lincoln County, West Virginia, and Paint Creek and Cabin Creek within Kanawah County, West Virginia, and the counties that are the subject of the study by the National Park Service, dated 1993, entitled 'A Coal Mining Heritage Study: Southern West Virginia' conducted pursuant to title VI of Public Law 100–699.";

(2) by striking section 105 and inserting the following:

**"SEC. 105. ELIGIBLE RESOURCES.**

"(a) IN GENERAL.—The resources eligible for the assistance under section 104 shall include—

"(1) resources in Lincoln County, West Virginia, and Paint Creek and Cabin Creek in Kanawah County, West Virginia, as determined to be appropriate by the National Coal Heritage Area Authority; and

"(2) the resources set forth in appendix D of the study by the National Park Service, dated 1993, entitled 'A Coal Mining Heritage Study: Southern West Virginia' conducted pursuant to title VI of Public Law 100–699.

"(b) PRIORITY.—Priority consideration shall be given to those sites listed as 'Conservation Priorities' and 'Important Historic Resources' as depicted on the map entitled 'Study Area: Historic Resources' in such study.";

(3) in section 106(a)—

(A) by striking "Governor" and all that follows through "Parks," and inserting "National Coal Heritage Area Authority"; and

(B) in paragraph (3), by striking "State of West Virginia" and all that follows through "entities, or" and inserting "National Coal Heritage Area Authority or"; and (4) in section 106(b), by inserting "not" before "meet".

**SEC. 472. RIVERS OF STEEL NATIONAL HERITAGE AREA ADDITION.**

16 USC 461 note.

Section 403(b) of title IV of Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333) is amended by inserting "Butler," after "Beaver,".

**SEC. 473. SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR ADDITION.**

16 USC 461 note.

Section 604(b)(2) of title VI of Division II of the Omnibus Parks and Public Lands Management Act of 1996 is amended by adding at the end the following new subparagraphs:

"(O) Berkeley County.

"(P) Saluda County.

"(Q) The portion of Georgetown County that is not part of the Gullah/Geechee Cultural Heritage Corridor.".

16 USC 461 note.

**SEC. 474. OHIO AND ERIE CANAL NATIONAL HERITAGE CORRIDOR TECHNICAL CORRECTIONS.**

Title VIII of Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333) is amended—

(1) by striking "Canal National Heritage Corridor" each place it appears and inserting "National Heritage Canalway";

(2) by striking "corridor" each place it appears and inserting "canalway", except in references to the feasibility study and management plan;

(3) in the heading of section 808(a)(3), by striking "CORRIDOR" and inserting "CANALWAY";

(4) in the title heading, by striking "**CANAL NATIONAL HERITAGE CORRIDOR**" and inserting "**NATIONAL HERITAGE CANALWAY**";

(5) in section 803—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B)), by striking "808" and inserting "806"; and

(D) in paragraph (6) (as redesignated by subparagraph (B)), by striking "807(a)" and inserting "805(a)";

(6) in the heading of section 804, by striking "**CANAL NATIONAL HERITAGE CORRIDOR**" and inserting "**NATIONAL HERITAGE CANALWAY**";

(7) in the second sentence of section 804(b)(1), by striking "808" and inserting "806";

(8) by striking sections 805 and 806;

(9) by redesignating sections 807, 808, 809, 810, 811, and 812 as sections 805, 806, 807, 808, 809, and 810, respectively;

(10) in section 805(c)(2) (as redesignated by paragraph (9)), by striking "808" and inserting "806";

(11) in section 806 (as redesignated by paragraph (9))—

(A) in subsection (a)(1), by striking "Committee" and inserting "Secretary";

(B) in the heading of subsection (a)(1), by striking "COMMITTEE" and inserting "SECRETARY";

(C) in subsection (a)(3), in the first sentence of subparagraph (B), by striking "Committee" and inserting "management entity";

(D) in subsection (e), by striking "807(d)(1)" and inserting "805(d)(1)"; and

(E) in subsection (f), by striking "807(d)(1)" and inserting "805(d)(1)";

(12) in section 807 (as redesignated by paragraph (9)), in subsection (c) by striking "Cayohoga Valley National Recreation Area" and inserting "Cayohoga Valley National Park";

(13) in section 808 (as redesignated by paragraph (9))—

(A) in subsection (b), by striking "Committee or"; and

(B) in subsection (c), in the matter before paragraph (1), by striking "Committee" and inserting "management entity"; and

(14) in section 809 (as redesignated by paragraph (9)), by striking "assistance" and inserting "financial assistance".

**SEC. 475. NEW JERSEY COASTAL HERITAGE TRAIL ROUTE EXTENSION OF AUTHORIZATION.**

Section 6 of Public Law 100–515 (16 U.S.C. 1244 note) is amended as follows:

(1) Strike paragraph (1) of subsection (b) and insert the following new paragraph:

"(1) IN GENERAL.—Amounts made available under subsection (a) shall be used only for—

"(A) technical assistance;

"(B) the design and fabrication of interpretive materials, devices, and signs; and

"(C) the preparation of the strategic plan.".

(2) Paragraph (3) of subsection (b) is amended by inserting after subparagraph (B) a new subparagraph as follows:

"(C) Notwithstanding paragraph (3)(A), funds made available under subsection (a) for the preparation of the strategic plan shall not require a non-Federal match.".

(3) Subsection (c) is amended by striking "2007" and inserting "2011".

# Subtitle F—Studies

**SEC. 481. COLUMBIA-PACIFIC NATIONAL HERITAGE AREA STUDY.**

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STUDY AREA.—The term "study area" means—

(A) the coastal areas of Clatsop and Pacific Counties (also known as the North Beach Peninsula); and

(B) areas relating to Native American history, local history, Euro-American settlement culture, and related economic activities of the Columbia River within a corridor along the Columbia River eastward in Clatsop, Pacific, Columbia, and Wahkiakum Counties.

(b) COLUMBIA-PACIFIC NATIONAL HERITAGE AREA STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the managers of any Federal land within the study area, appropriate State and local governmental agencies, tribal governments, and any interested organizations, shall conduct a study to determine the feasibility of designating the study area as the Columbia-Pacific National Heritage Area.

(2) REQUIREMENTS.—The study shall include analysis, documentation, and determinations on whether the study area—

(A) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(B) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(C) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(D) provides outstanding recreational and educational opportunities;

(E) contains resources important to the identified theme or themes of the study area that retain a degree of integrity capable of supporting interpretation;

(F) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles for all participants, including the Federal Government, and have demonstrated support for the concept of a national heritage area;

(G) has a potential local coordinating entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity; and

(H) has a conceptual boundary map that is supported by the public.

(3) PRIVATE PROPERTY.—In conducting the study required by this subsection, the Secretary shall analyze the potential impact that designation of the area as a national heritage area is likely to have on land within the proposed area or bordering the proposed area that is privately owned at the time that the study is conducted.

(c) REPORT.—Not later than 3 fiscal years after the date on which funds are made available to carry out the study, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the findings, conclusions, and recommendations of the Secretary with respect to the study.

**SEC. 482. STUDY OF SITES RELATING TO ABRAHAM LINCOLN IN KENTUCKY.**

(a) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term "Heritage Area" means a National Heritage Area in the State to honor Abraham Lincoln.

(2) STATE.—The term "State" means the Commonwealth of Kentucky.

(3) STUDY AREA.—The term "study area" means the study area described in subsection (b)(2).

(b) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Kentucky Historical Society, other State historical societies, the State Historic Preservation Officer, State tourism offices, and other appropriate organizations and agencies, shall conduct a study to assess the suitability and feasibility of designating the study area as a National Heritage Area in the State to honor Abraham Lincoln.

(2) DESCRIPTION OF STUDY AREA.—The study area shall include—

(A) Boyle, Breckinridge, Fayette, Franklin, Hardin, Jefferson, Jessamine, Larue, Madison, Mercer, and Washington Counties in the State; and

(B) the following sites in the State:

(i) The Abraham Lincoln Birthplace National Historic Site.

(ii) The Abraham Lincoln Boyhood Home Unit.

(iii) Downtown Hodgenville, Kentucky, including the Lincoln Museum and Adolph A. Weinman statue.

(iv) Lincoln Homestead State Park and Mordecai Lincoln House.

(v) Camp Nelson Heritage Park.

(vi) Farmington Historic Home.

(vii) The Mary Todd Lincoln House.

(viii) Ashland, which is the Henry Clay Estate.

(ix) The Old State Capitol.

(x) The Kentucky Military History Museum.

(xi) The Thomas D. Clark Center for Kentucky History.

(xii) The New State Capitol.

(xiii) Whitehall.

(xiv) Perryville Battlefield State Historic Site.

(xv) The Joseph Holt House.

(xvi) Elizabethtown, Kentucky, including the Lincoln Heritage House.

(xvii) Lincoln Marriage Temple at Fort Harrod.

(3) REQUIREMENTS.—The study shall include analysis, documentation, and determinations on whether the study area—

(A) has an assemblage of natural, historic, and cultural resources that—

(i) interpret—

(I) the life of Abraham Lincoln; and

(II) the contributions of Abraham Lincoln to the United States;

(ii) represent distinctive aspects of the heritage of the United States;

(iii) are worthy of recognition, conservation, interpretation, and continuing use; and

(iv) would be best managed—

(I) through partnerships among public and private entities; and

(II) by linking diverse and sometimes noncontiguous resources and active communities;

(B) reflects traditions, customs, beliefs, and historical events that are a valuable part of the story of the United States;

(C) provides—

(i) outstanding opportunities to conserve natural, historic, cultural, or scenic features; and

(ii) outstanding educational opportunities;

(D) contains resources that—

(i) are important to any identified themes of the study area; and

(ii) retain a degree of integrity capable of supporting interpretation;

(E) includes residents, business interests, nonprofit organizations, and State and local governments that—

(i) are involved in the planning of the Heritage Area;

(ii) have developed a conceptual financial plan that outlines the roles of all participants in the Heritage Area, including the Federal Government; and

(iii) have demonstrated support for designation of the Heritage Area;

(F) has a potential management entity to work in partnership with the individuals and entities described in subparagraph (E) to develop the Heritage Area while encouraging State and local economic activity; and

(G) has a conceptual boundary map that is supported by the public.

(c) REPORT.—Not later than the third fiscal year after the date on which funds are first made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(1) the findings of the study; and

(2) any conclusions and recommendations of the Secretary.

# TITLE V—BUREAU OF RECLAMATION AND UNITED STATES GEOLOGICAL SURVEY AUTHORIZATIONS

**SEC. 501. ALASKA WATER RESOURCES STUDY.**

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STATE.—The term "State" means the State of Alaska.

(b) ALASKA WATER RESOURCES STUDY.—

(1) STUDY.—The Secretary, acting through the Commissioner of Reclamation and the Director of the United States Geological Survey, where appropriate, and in accordance with this section and other applicable provisions of law, shall conduct a study that includes—

(A) a survey of accessible water supplies, including aquifers, on the Kenai Peninsula and in the Municipality of Anchorage, the Matanuska-Susitna Borough, the city of Fairbanks, and the Fairbanks Northstar Borough;

(B) a survey of water treatment needs and technologies, including desalination, applicable to the water resources of the State; and

(C) a review of the need for enhancement of the streamflow information collected by the United States Geological Survey in the State relating to critical water needs in areas such as—

(i) infrastructure risks to State transportation;

(ii) flood forecasting;

(iii) resource extraction; and

(iv) fire management.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study required by paragraph (1).

(c) SUNSET.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

**SEC. 502. RENEGOTIATION OF PAYMENT SCHEDULE, REDWOOD VALLEY COUNTY WATER DISTRICT.**

Section 15 of Public Law 100–516 (102 Stat. 2573) is amended—

(1) by amending paragraph (2) of subsection (a) to read as follows:

"(2) If, as of January 1, 2006, the Secretary of the Interior and the Redwood Valley County Water District have not renegotiated the schedule of payment, the District may enter into such additional non-Federal obligations as are necessary to finance procurement of dedicated water rights and improvements necessary to store and convey those rights to provide for the District's water needs. The Secretary shall reschedule the payments due under loans numbered 14–06–200–8423A and 14–06–200–8423A Amendatory and said payments shall commence when such additional obligations have been financially satisfied by the District. The date of the initial payment owed by the District to the United States shall be regarded as the start of the District's repayment period and the time upon which any interest shall first be computed and assessed under section 5 of the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).''; and

(2) by striking subsection (c).

**SEC. 503. AMERICAN RIVER PUMP STATION PROJECT TRANSFER.** California.

(a) AUTHORITY TO TRANSFER.—The Secretary of the Interior (hereafter in this section referred to as the "Secretary") shall transfer ownership of the American River Pump Station Project located at Auburn, California, which includes the Pumping Plant, associated facilities, and easements necessary for permanent operation of the facilities, to the Placer County Water Agency, in accordance with the terms of Contract No. 02–LC–20–7790 between the United States and Placer County Water Agency and the terms and conditions established in this section.

(b) FEDERAL COSTS NONREIMBURSABLE.—Federal costs associated with construction of the American River Pump Station Project located at Auburn, California, are nonreimbursable.

(c) GRANT OF REAL PROPERTY INTEREST.—The Secretary is authorized to grant title to Placer County Water Agency as provided in subsection (a) in full satisfaction of the United States' obligations under Land Purchase Contract 14–06–859–308 to provide a water supply to the Placer County Water Agency.

(d) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

(1) IN GENERAL.—Before conveying land and facilities pursuant to this section, the Secretary shall comply with all applicable requirements under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) any other law applicable to the land and facilities.

(2) EFFECT.—Nothing in this section modifies or alters any obligations under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(e) RELEASE FROM LIABILITY.—Effective on the date of transfer to the Placer County Water Agency of any land or facility under this section, the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the land and facilities, consistent with Article 9 of Contract No. 02–LC–20–7790 between the United States and Placer County Water Agency.

**SEC. 504. ARTHUR V. WATKINS DAM ENLARGEMENT.**

(a) FINDINGS.—Congress finds the following:

(1) Arthur V. Watkins Dam is a feature of the Weber Basin Project, which was authorized by law on August 29, 1949.

(2) Increasing the height of Arthur V. Watkins Dam and construction of pertinent facilities may provide additional storage capacity for the development of additional water supply for the Weber Basin Project for uses of municipal and industrial water supply, flood control, fish and wildlife, and recreation.

(b) AUTHORIZATION OF FEASIBILITY STUDY.—The Secretary of the Interior, acting through the Bureau of Reclamation, is authorized to conduct a feasibility study on raising the height of Arthur V. Watkins Dam for the development of additional storage to meet water supply needs within the Weber Basin Project area and the Wasatch Front. The feasibility study shall include such environmental evaluation as required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and a cost allocation as required under the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.).

(c) COST SHARES.—

(1) FEDERAL SHARE.—The Federal share of the costs of the study authorized in subsection (b) shall not exceed 50 percent of the total cost of the study.

(2) IN-KIND CONTRIBUTIONS.—The Secretary shall accept, as appropriate, in-kind contributions of goods or services from

the Weber Basin Water Conservancy District. Such goods and services accepted under this subsection shall be counted as part of the non-Federal cost share for the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $1,000,000 for the Federal cost share of the study authorized in subsection (b).

(e) SUNSET.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of enactment of this Act.

**SEC. 505. NEW MEXICO WATER PLANNING ASSISTANCE.**

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey.

(2) STATE.—The term "State" means the State of New Mexico.

(b) COMPREHENSIVE WATER PLAN ASSISTANCE.—

(1) IN GENERAL.—Upon the request of the Governor of the State and subject to paragraphs (2) through (6), the Secretary shall—

(A) provide to the State technical assistance and grants for the development of comprehensive State water plans;

(B) conduct water resources mapping in the State; and

(C) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) in the State to assess the quantity, quality, and interaction of groundwater and surface water resources.

(2) TECHNICAL ASSISTANCE.—Technical assistance provided under paragraph (1) may include—

(A) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

(B) expansion of climate, surface water, and groundwater monitoring networks;

(C) assessment of existing water resources, surface water storage, and groundwater storage potential;

(D) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

(E) participation in State planning forums and planning groups;

(F) coordination of Federal water management planning efforts;

(G) technical review of data, models, planning scenarios, and water plans developed by the State; and

(H) provision of scientific and technical specialists to support State and local activities.

(3) ALLOCATION.—In providing grants under paragraph (1), the Secretary shall, subject to the availability of appropriations, allocate—

(A) $5,000,000 to develop hydrologic models and acquire associated equipment for the New Mexico Rio Grande main stem sections and Rios Pueblo de Taos and

Hondo, Rios Nambe, Pojoaque and Teseque, Rio Chama, and Lower Rio Grande tributaries;

(B) $1,500,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for the San Juan River and tributaries;

(C) $1,000,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for Southwest New Mexico, including the Animas Basin, the Gila River, and tributaries;

(D) $4,500,000 for statewide digital orthophotography mapping; and

(E) such sums as are necessary to carry out additional projects consistent with paragraph (2).

(4) COST-SHARING REQUIREMENT.—

(A) IN GENERAL.—The non-Federal share of the total cost of any activity carried out using a grant provided under paragraph (1) shall be 50 percent.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share under subparagraph (A) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the activity assisted.

(5) NONREIMBURSABLE BASIS.—Any assistance or grants provided to the State under this section shall be made on a non-reimbursable basis.

(6) AUTHORIZED TRANSFERS.—On request of the State, the Secretary shall directly transfer to 1 or more Federal agencies any amounts made available to the State to carry out this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2008 through 2012.

(d) SUNSET OF AUTHORITY.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of enactment of this Act.

**SEC. 506. CONVEYANCE OF CERTAIN BUILDINGS AND LANDS OF THE YAKIMA PROJECT, WASHINGTON.**

(a) CONVEYANCE REQUIRED.—The Secretary of the Interior shall convey to the Yakima-Tieton Irrigation District, located in Yakima County, Washington, all right, title, and interest of the United States in and to the buildings and lands of the Yakima Project, Washington, in accordance with the terms and conditions set forth in the agreement titled "Agreement Between the United States and the Yakima-Tieton Irrigation District to Transfer Title to Certain Federally Owned Buildings and Lands, With Certain Property Rights, Title, and Interest, to the Yakima-Tieton Irrigation District" (Contract No. 5–07–10–L1658).

Effective date.

(b) LIABILITY.—Effective upon the date of conveyance under this section, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed buildings and lands, except for damages caused by acts of negligence committed by the United States or by its employees or agents before the date of conveyance. Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States

Code (popularly known as the Federal Tort Claims Act), on the date of enactment of this Act.

(c) BENEFITS.—After conveyance of the buildings and lands to the Yakima-Tieton Irrigation District under this section—

(1) such buildings and lands shall not be considered to be a part of a Federal reclamation project; and

(2) such irrigation district shall not be eligible to receive any benefits with respect to any buildings and lands conveyed, except benefits that would be available to a similarly situated person with respect to such buildings and lands that are not part of a Federal reclamation project.

(d) REPORT.—If the Secretary of the Interior has not completed the conveyance required under subsection (a) within 12 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that explains the reason such conveyance has not been completed and stating the date by which the conveyance will be completed.

**SEC. 507. CONJUNCTIVE USE OF SURFACE AND GROUNDWATER IN JUAB COUNTY, UTAH.**

Section 202(a)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575) is amended by inserting "Juab," after "Davis,". 106 Stat. 4608.

**SEC. 508. EARLY REPAYMENT OF A & B IRRIGATION DISTRICT CONSTRUCTION COSTS.** Idaho.

(a) IN GENERAL.—Notwithstanding section 213 of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm), any landowner within the A & B Irrigation District in the State (referred to in this section as the "District") may repay, at any time, the construction costs of District project facilities that are allocated to land of the landowner within the District.

(b) APPLICABILITY OF FULL-COST PRICING LIMITATIONS.—On discharge, in full, of the obligation for repayment of all construction costs described in subsection (a) that are allocated to all land the landowner owns in the District in question, the parcels of land shall not be subject to the ownership and full-cost pricing limitations under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.), including the Reclamation Reform Act of 1982 (13 U.S.C. 390aa et seq.).

(c) CERTIFICATION.—On request of a landowner that has repaid, in full, the construction costs described in subsection (a), the Secretary of the Interior shall provide to the landowner a certificate described in section 213(b)(1) of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm(b)(1)).

(d) EFFECT.—Nothing in this section—

(1) modifies any contractual rights under, or amends or reopens, the reclamation contract between the District and the United States; or

(2) modifies any rights, obligations, or relationships between the District and landowners in the District under Idaho State law.

**SEC. 509. OREGON WATER RESOURCES.**

(a) EXTENSION OF PARTICIPATION OF BUREAU OF RECLAMATION IN DESCHUTES RIVER CONSERVANCY.—Section 301 of the Oregon

Resource Conservation Act of 1996 (division B of Public Law 104–208; 110 Stat. 3009–534) is amended—

(1) in subsection (a)(1), by striking "Deschutes River Basin Working Group" and inserting "Deschutes River Conservancy Working Group";

(2) by amending the text of subsection (a)(1)(B) to read as follows: "4 representatives of private interests including two from irrigated agriculture who actively farm more than 100 acres of irrigated land and are not irrigation district managers and two from the environmental community;";

(3) in subsection (b)(3), by inserting before the final period the following: ", and up to a total amount of $2,000,000 during each of fiscal years 2007 through 2016"; and

(4) in subsection (h), by inserting before the period at the end the following: ", and $2,000,000 for each of fiscal years 2007 through 2016".

(b) WALLOWA LAKE DAM REHABILITATION ACT.—

(1) DEFINITIONS.—In this subsection:

(A) ASSOCIATED DITCH COMPANIES, INCORPORATED.—The term "Associated Ditch Companies, Incorporated" means the nonprofit corporation established under the laws of the State of Oregon that operates Wallowa Lake Dam.

(B) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(C) WALLOWA LAKE DAM REHABILITATION PROGRAM.—The term "Wallowa Lake Dam Rehabilitation Program" means the program for the rehabilitation of the Wallowa Lake Dam in Oregon, as contained in the engineering document titled, "Phase I Dam Assessment and Preliminary Engineering Design", dated December 2002, and on file with the Bureau of Reclamation.

(2) AUTHORIZATION TO PARTICIPATE IN PROGRAM.—

(A) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants to, or enter into cooperative or other agreements with, tribal, State, and local governmental entities and the Associated Ditch Companies, Incorporated, to plan, design, and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program.

(B) CONDITIONS.—As a condition of providing funds under subparagraph (A), the Secretary shall ensure that—

(i) the Wallowa Lake Dam Rehabilitation Program and activities under this section meet the standards of the dam safety program of the State of Oregon;

(ii) the Associated Ditch Companies, Incorporated, agrees to assume liability for any work performed, or supervised, with Federal funds provided to it under this subsection; and

(iii) the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed with Federal funds provided under this subsection, both while and after activities are conducted using Federal funds provided under this subsection.

(C) COST SHARING.—

(i) IN GENERAL.—The Federal share of the costs of activities authorized under this subsection shall not exceed 50 percent.

(ii) EXCLUSIONS FROM FEDERAL SHARE.—There shall not be credited against the Federal share of such costs—

(I) any expenditure by the Bonneville Power Administration in the Wallowa River watershed; and

(II) expenditures made by individual agricultural producers in any Federal commodity or conservation program.

(D) COMPLIANCE WITH STATE LAW.—The Secretary, in carrying out this subsection, shall comply with applicable Oregon State water law.

(E) PROHIBITION ON HOLDING TITLE.—The Federal Government shall not hold title to any facility rehabilitated or constructed under this subsection.

(F) PROHIBITION ON OPERATION AND MAINTENANCE.—The Federal Government shall not be responsible for the operation and maintenance of any facility constructed or rehabilitated under this subsection.

(3) RELATIONSHIP TO OTHER LAW.—Activities funded under this subsection shall not be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to pay the Federal share of the costs of activities authorized under this subsection $6,000,000.

(5) SUNSET.—The authority of the Secretary to carry out any provisions of this subsection shall terminate 10 years after the date of the enactment of this subsection.

(c) LITTLE BUTTE/BEAR CREEK SUBBASINS, OREGON, WATER RESOURCE STUDY.—

(1) AUTHORIZATION.—The Secretary of the Interior, acting through the Bureau of Reclamation, may participate in the Water for Irrigation, Streams and the Economy Project water management feasibility study and environmental impact statement in accordance with the "Memorandum of Agreement Between City of Medford and Bureau of Reclamation for the Water for Irrigation, Streams, and the Economy Project", dated July 2, 2004.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated to the Bureau of Reclamation $500,000 to carry out activities under this subsection.

(B) NON-FEDERAL SHARE.—

(i) IN GENERAL.—The non-Federal share shall be 50 percent of the total costs of the Bureau of Reclamation in carrying out paragraph (1).

(ii) FORM.—The non-Federal share required under clause (i) may be in the form of any in-kind services that the Secretary of the Interior determines would contribute substantially toward the conduct and

completion of the study and environmental impact statement required under paragraph (1).

(3) SUNSET.—The authority of the Secretary to carry out any provisions of this subsection shall terminate 10 years after the date of the enactment of this section.

(d) NORTH UNIT IRRIGATION DISTRICT.—The Act of August 10, 1954 (68 Stat. 679, chapter 663), is amended—

(1) in the first section—

(A) by inserting "(referred to in this Act as the 'District')" after "irrigation district"; and

(B) by inserting "(referred to in this Act as the 'Contract')" after "1953"; and

(2) by adding at the end the following:

**"SEC. 3. ADDITIONAL TERMS.**

"On approval of the District directors and notwithstanding project authorizing legislation to the contrary, the Contract is modified, without further action by the Secretary of the Interior, to include the following modifications:

"(1) In Article 8(a) of the Contract, by deleting 'a maximum of 50,000' and inserting 'approximately 59,000' after 'irrigation service to'.

"(2) In Article 11(a) of the Contract, by deleting 'The classified irrigable lands within the project comprise 49,817.75 irrigable acres, of which 35,773.75 acres are in Class A and 14,044.40 in Class B. These lands and the standards upon which the classification was made are described in the document entitled "Land Classification, North Unit, Deschutes Project, 1953" which is on file in the office of the Regional Director, Bureau of Reclamation, Boise, Idaho, and in the office of the District' and inserting 'The classified irrigable land within the project comprises 58,902.8 irrigable acres, all of which are authorized to receive irrigation water pursuant to water rights issued by the State of Oregon and have in the past received water pursuant to such State water rights.'.

"(3) In Article 11(c) of the Contract, by deleting ', with the approval of the Secretary,' after 'District may', by deleting 'the 49,817.75 acre maximum limit on the irrigable area is not exceeded' and inserting 'irrigation service is provided to no more than approximately 59,000 acres and no amendment to the District boundary is required' after 'time so long as'.

"(4) In Article 11(d) of the Contract, by inserting ', and may further be used for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law' after 'herein provided'.

"(5) By adding at the end of Article 12(d) the following: '(e) Notwithstanding the above subsections of this Article or Article 13 below, beginning with the irrigation season immediately following the date of enactment of the National Forests, Parks, Public Land, and Reclamation Projects Authorization Act of 2007, the annual installment for each year, for the District, under the Contract, on account of the District's construction charge obligation, shall be a fixed and equal annual amount payable on June 30 the year following the year for which it is applicable, such that the District's total

construction charge obligation shall be completely paid by June 30, 2044.'.

"(6) In Article 14(a) of the Contract, by inserting 'and for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law,' after 'and incidental stock and domestic uses', by inserting 'and for instream purposes as described above,' after 'irrigation, stock and domestic uses', and by inserting ', including natural flow rights out of the Crooked River held by the District' after 'irrigation system'.

"(7) In Article 29(a) of the Contract, by inserting 'and for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law' after 'provided in article 11'.

"(8) In Article 34 of the Contract, by deleting 'The District, after the election and upon the execution of this contract, shall promptly secure final decree of the proper State court approving and confirming this contract and decreeing and adjudging it to be a lawful, valid, and binding general obligation of the District. The District shall furnish to the United States certified copies of such decrees and of all pertinent supporting records.' after 'for that purpose.'.

**"SEC. 4. FUTURE AUTHORITY TO RENEGOTIATE.**

"The Secretary of the Interior (acting through the Commissioner of Reclamation) may in the future renegotiate with the District such terms of the Contract as the District directors determine to be necessary, only upon the written request of the District directors and the consent of the Commissioner of Reclamation.".

**SEC. 510. REPUBLICAN RIVER BASIN FEASIBILITY STUDY.**

(a) AUTHORIZATION OF STUDY.—Pursuant to reclamation laws, the Secretary of the Interior, acting through the Bureau of Reclamation and in consultation and cooperation with the States of Nebraska, Kansas, and Colorado, may conduct a study to—

(1) determine the feasibility of implementing a water supply and conservation project that will—

(A) improve water supply reliability in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas, including areas in the counties of Harlan, Franklin, Webster, and Nuckolls in Nebraska and Jewel, Republic, Cloud, Washington, and Clay in Kansas (in this section referred to as the "Republican River Basin");

(B) increase the capacity of water storage through modifications of existing projects or through new projects that serve areas in the Republican River Basin; and

(C) improve water management efficiency in the Republican River Basin through conservation and other available means and, where appropriate, evaluate integrated water resource management and supply needs in the Republican River Basin; and

(2) consider appropriate cost-sharing options for implementation of the project.

(b) COST SHARING.—The Federal share of the cost of the study shall not exceed 50 percent of the total cost of the study, and shall be nonreimbursable.

(c) COOPERATIVE AGREEMENTS.—The Secretary shall undertake the study through cooperative agreements with the State of Kansas or Nebraska and other appropriate entities determined by the Secretary.

(d) COMPLETION AND REPORT.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 3 years after the date of the enactment of this Act, the Secretary of the Interior shall complete the study and transmit to the Congress a report containing the results of the study.

(2) EXTENSION.—If the Secretary determines that the study cannot be completed within the 3-year period beginning on the date of the enactment of this Act, the Secretary—

(A) shall, at the time of that determination, report to the Congress on the status of the study, including an estimate of the date of completion; and

(B) complete the study and transmit to the Congress a report containing the results of the study by not later than that date.

(e) SUNSET OF AUTHORITY.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this Act.

**SEC. 511. EASTERN MUNICIPAL WATER DISTRICT.**

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

43 USC 390h–24.

**"SEC. 1639. EASTERN MUNICIPAL WATER DISTRICT RECYCLED WATER SYSTEM PRESSURIZATION AND EXPANSION PROJECT, CALIFORNIA.**

"(a) AUTHORIZATION.—The Secretary, in cooperation with the Eastern Municipal Water District, California, may participate in the design, planning, and construction of permanent facilities needed to establish operational pressure zones that will be used to provide recycled water in the district.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $12,000,000.

"(e) SUNSET OF AUTHORITY.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of enactment of this section.".

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act

of 1992 (43 U.S.C. prec. 371) is amended by inserting after the item relating to section 1638 the following:

"Sec. 1639. Eastern Municipal Water District Recycled Water System Pressurization and Expansion Project, California.".

**SEC. 512. BAY AREA REGIONAL WATER RECYCLING PROGRAM.** California.

(a) PROJECT AUTHORIZATIONS.—

(1) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) (as amended by section 512(a)) is amended by adding at the end the following:

**"SEC. 1642. MOUNTAIN VIEW, MOFFETT AREA RECLAIMED WATER PIPELINE PROJECT.** 43 USC 390h–25.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Palo Alto, California, and the City of Mountain View, California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

**"SEC. 1643. PITTSBURG RECYCLED WATER PROJECT.** 43 USC 390h–26.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Pittsburg, California, and the Delta Diablo Sanitation District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,750,000.

**"SEC. 1644. ANTIOCH RECYCLED WATER PROJECT.** 43 USC 390h–27.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Antioch, California, and the Delta Diablo Sanitation District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,250,000.

43 USC 390h–28.

**"SEC. 1645. NORTH COAST COUNTY WATER DISTRICT RECYCLED WATER PROJECT.**

"(a) AUTHORIZATION.—The Secretary, in cooperation with the North Coast County Water District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000.

43 USC 390h–29.

**"SEC. 1646. REDWOOD CITY RECYCLED WATER PROJECT.**

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Redwood City, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,100,000.

43 USC 390h–30.

**"SEC. 1647. SOUTH SANTA CLARA COUNTY RECYCLED WATER PROJECT.**

"(a) AUTHORIZATION.—The Secretary, in cooperation with the South County Regional Wastewater Authority and the Santa Clara Valley Water District, is authorized to participate in the design, planning, and construction of recycled water system distribution facilities.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000.

43 USC 390h–31.

**"SEC. 1648. SOUTH BAY ADVANCED RECYCLED WATER TREATMENT FACILITY.**

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of San Jose, California, and the Santa Clara Valley Water District, is authorized to participate in the design, planning, and construction of recycled water treatment facilities.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,250,000.".

(2) CONFORMING AMENDMENTS.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) (as amended by section 512(b)) is amended by inserting after the item relating to section 1641 the following:

"Sec. 1642. Mountain View, Moffett Area Reclaimed Water Pipeline Project.
"Sec. 1643. Pittsburg Recycled Water Project.
"Sec. 1644. Antioch Recycled Water Project.
"Sec. 1645. North Coast County Water District Recycled Water Project.
"Sec. 1646. Redwood City Recycled Water Project.
"Sec. 1647. South Santa Clara County Recycled Water Project.
"Sec. 1648. South Bay Advanced Recycled Water Treatment Facility.".

(b) SAN JOSE AREA WATER RECLAMATION AND REUSE PROJECT.—It is the intent of Congress that a comprehensive water recycling program for the San Francisco Bay Area include the San Jose Area water reclamation and reuse program authorized by section 1607 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h–5).

**SEC. 513. BUREAU OF RECLAMATION SITE SECURITY.** 43 USC 373e.

(a) TREATMENT OF CAPITAL COSTS.—Costs incurred by the Secretary of the Interior for the physical fortification of Bureau of Reclamation facilities to satisfy increased post-September 11, 2001, security needs, including the construction, modification, upgrade, or replacement of such facility fortifications, shall be nonreimbursable.

(b) TREATMENT OF SECURITY-RELATED OPERATION AND MAINTENANCE COSTS.—

(1) REIMBURSABLE COSTS.—The Secretary of the Interior shall include no more than $18,900,000 per fiscal year, indexed each fiscal year after fiscal year 2008 according to the preceding year's Consumer Price Index, of those costs incurred for increased levels of guards and patrols, training, patrols by local and tribal law enforcement entities, operation, maintenance, and replacement of guard and response force equipment, and operation and maintenance of facility fortifications at Bureau of Reclamation facilities after the events of September 11, 2001, as reimbursable operation and maintenance costs under Reclamation law.

(2) COSTS COLLECTED THROUGH WATER RATES.—In the case of the Central Valley Project of California, site security costs allocated to irrigation and municipal and industrial water service in accordance with this section shall be collected by the Secretary exclusively through inclusion of these costs in the operation and maintenance water rates.

(c) TRANSPARENCY AND REPORT TO CONGRESS.—

(1) POLICIES AND PROCEDURES.—The Secretary is authorized to develop policies and procedures with project beneficiaries, consistent with the requirements of paragraphs (2) and (3), to provide for the payment of the reimbursable costs described in subsection (b).

(2) NOTICE.—On identifying a Bureau of Reclamation facility for a site security measure, the Secretary shall provide to the project beneficiaries written notice—

(A) describing the need for the site security measure and the process for identifying and implementing the site security measure; and

(B) summarizing the administrative and legal requirements relating to the site security measure.

(3) CONSULTATION.—The Secretary shall—

(A) provide project beneficiaries an opportunity to consult with the Bureau of Reclamation on the planning, design, and construction of the site security measure; and

(B) in consultation with project beneficiaries, develop and provide timeframes for the consultation described in subparagraph (A).

(4) RESPONSE; NOTICE.—Before incurring costs pursuant to activities described in subsection (b), the Secretary shall consider cost containment measures recommended by a project beneficiary that has elected to consult with the Bureau of Reclamation on such activities. The Secretary shall provide to the project beneficiary—

(A) a timely written response describing proposed actions, if any, to address the recommendation; and

(B) notice regarding the costs and status of such activities on a periodic basis.

(5) REPORT.—The Secretary shall report annually to the Natural Resources Committee of the House of Representatives and the Energy and Natural Resources Committee of the Senate on site security actions and activities undertaken pursuant to this Act for each fiscal year. The report shall include a summary of Federal and non-Federal expenditures for the fiscal year and information relating to a 5-year planning horizon for the program, detailed to show pre-September 11, 2001, and post-September 11, 2001, costs for the site security activities.

(d) PRE-SEPTEMBER 11, 2001 SECURITY COST LEVELS.—Reclamation project security costs at the levels of activity that existed prior to September 11, 2001, shall remain reimbursable.

42 USC 10301 note.

**SEC. 514. MORE WATER, MORE ENERGY, AND LESS WASTE.**

(a) FINDINGS.—The Congress finds that—

(1) development of energy resources, including oil, natural gas, coalbed methane, and geothermal resources, frequently results in bringing to the surface water extracted from underground sources;

(2) some of that produced water is used for irrigation or other purposes, but most of the water is returned to the subsurface or otherwise disposed of as waste;

(3) reducing the quantity of produced water returned to the subsurface and increasing the quantity of produced water that is made available for irrigation and other uses—

(A) would augment water supplies;

(B) could reduce the costs to energy developers for disposing of the water; and

(C) in some cases, could increase the efficiency of energy development activities; and

(4) it is in the national interest—

(A) to limit the quantity of produced water disposed of as waste;

(B) to optimize the production of energy resources; and

(C) to remove or reduce obstacles to use of produced water for irrigation or other purposes in ways that will not adversely affect water quality or the environment.

(b) PURPOSES.—The purposes of this section are—

(1) to optimize the production of energy resources—

(A) by minimizing the quantity of produced water; and

(B) by facilitating the use of produced water for irrigation and other purposes without adversely affecting water quality or the environment; and

(2) to demonstrate means of accomplishing those results.

(c) DEFINITIONS.—In this section:

(1) LOWER BASIN STATE.—The term "Lower Basin State" means any of the States of—

(A) Arizona;

(B) California; and

(C) Nevada.

(2) PRODUCED WATER.—The term "produced water" means water from an underground source that is brought to the surface as part of the process of exploration for, or development of—

(A) oil;

(B) natural gas;

(C) coalbed methane; or

(D) any other substance to be used as an energy source.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) UPPER BASIN STATE.—The term "Upper Basin State" means any of the States of—

(A) Colorado;

(B) New Mexico;

(C) Utah; and

(D) Wyoming.

(d) IDENTIFICATION OF PROBLEMS AND SOLUTIONS.—

(1) STUDY.—The Secretary shall conduct a study to identify—

(A) the technical, economic, environmental, and other obstacles to reducing the quantity of produced water;

(B) the technical, economic, environmental, legal, and other obstacles to increasing the extent to which produced water can be used for irrigation and other purposes without adversely affecting water quality, public health, or the environment;

(C) the legislative, administrative, and other actions that could reduce or eliminate the obstacles identified in subparagraphs (A) and (B); and

(D) the costs and benefits associated with reducing or eliminating the obstacles identified in subparagraphs (A) and (B).

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study under paragraph (1).

(e) IMPLEMENTATION.—

(1) GRANTS.—Subject to the availability of appropriations, the Secretary shall provide financial assistance for the development of facilities, technologies, and processes to demonstrate the feasibility, effectiveness, and safety of—

(A) optimizing energy resource production by reducing the quantity of produced water generated; or

(B) increasing the extent to which produced water may be recovered and made suitable for use for irrigation, municipal, or industrial uses, or other purposes without adversely affecting water quality or the environment.

(2) LIMITATIONS.—Assistance under this subsection—

(A) shall be provided for—

(i) at least 1 project in each of the Upper Basin States; and

(ii) at least 1 project in at least 1 of the Lower Basin States;

(B) shall not exceed $1,000,000 for any project;

(C) shall be used to pay not more than 50 percent of the total cost of a project;

(D) shall not be used for the operation or maintenance of any facility; and

(E) may be in addition to assistance provided by the Federal Government pursuant to other provisions of law.

(f) CONSULTATION, ADVICE, AND COMMENTS.—In carrying out this section, including in preparing the report under subsection (d)(2) and establishing criteria to be used in connection with an award of financial assistance under subsection (e), the Secretary shall—

(1) consult with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and appropriate Governors and local officials;

(2)(A) review any relevant information developed in connection with research carried out by others, including research carried out pursuant to subtitle J of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16371 et seq.); and

(B) to the extent the Secretary determines to be advisable, include that information in the report under subsection (d)(2);

(3) seek the advice of—

(A) individuals with relevant professional or academic expertise; and

(B) individuals or representatives of entities with industrial experience, particularly experience relating to production of oil, natural gas, coalbed methane, or other energy resources (including geothermal resources); and

(4) solicit comments and suggestions from the public.

(g) RELATION TO OTHER LAWS.—Nothing in this section supersedes, modifies, abrogates, or limits—

(1) the effect of any State law or any interstate authority or compact relating to—

(A) any use of water; or

(B) the regulation of water quantity or quality; or

(2) the applicability or effect of any Federal law (including regulations).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $1,000,000 to carry out subsection (d); and

(2) $7,500,000 to carry out subsection (e).

**SEC. 515. PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM AND PATHFINDER MODIFICATION PROJECT AUTHORIZATION.** State listing.

(a) PURPOSES.—The purposes of this section are to authorize—

(1) the Secretary of the Interior, acting through the Commissioner of Reclamation and in partnership with the States, other Federal agencies, and other non-Federal entities, to continue the cooperative effort among the Federal and non-Federal entities through the implementation of the Platte River Recovery Implementation Program for threatened and endangered species in the Central and Lower Platte River Basin without creating Federal water rights or requiring the grant of water rights to Federal entities; and

(2) the modification of the Pathfinder Dam and Reservoir, in accordance with the requirements described in subsection (c).

(b) PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) AGREEMENT.—The term "Agreement" means the Platte River Recovery Implementation Program Cooperative Agreement entered into by the Governors of the States and the Secretary.

(B) FIRST INCREMENT.—The term "First Increment" means the first 13 years of the Program.

(C) GOVERNANCE COMMITTEE.—The term "Governance Committee" means the governance committee established under the Agreement and composed of members from the States, the Federal Government, environmental interests, and water users.

(D) INTEREST IN LAND OR WATER.—The term "interest in land or water" includes a fee title, short- or long-term easement, lease, or other contractual arrangement that is determined to be necessary by the Secretary to implement the land and water components of the Program.

(E) PROGRAM.—The term "Program" means the Platte River Recovery Implementation Program established under the Agreement.

(F) PROJECT OR ACTIVITY.—The term "project or activity" means—

(i) the planning, design, permitting or other compliance activity, preconstruction activity, construction, construction management, operation, maintenance, and replacement of a facility;

(ii) the acquisition of an interest in land or water;

(iii) habitat restoration;

(iv) research and monitoring;

(v) program administration; and

(vi) any other activity that is determined to be necessary by the Secretary to carry out the Program.

(G) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(H) STATES.—The term "States" means the States of Nebraska, Wyoming, and Colorado.

(2) IMPLEMENTATION OF PROGRAM.—

(A) IN GENERAL.—The Secretary, in cooperation with the Governance Committee, may—

(i) participate in the Program; and

(ii) carry out any projects and activities that are designated for implementation during the First Increment.

(B) AUTHORITY OF SECRETARY.—For purposes of carrying out this section, the Secretary, in cooperation with the Governance Committee, may—

(i) enter into agreements and contracts with Federal and non-Federal entities;

(ii) acquire interests in land, water, and facilities from willing sellers without the use of eminent domain;

(iii) subsequently transfer any interests acquired under clause (ii); and

(iv) accept or provide grants.

(3) COST-SHARING CONTRIBUTIONS.—

(A) IN GENERAL.—As provided in the Agreement, the States shall contribute not less than 50 percent of the total contributions necessary to carry out the Program.

(B) NON-FEDERAL CONTRIBUTIONS.—The following contributions shall constitute the States' share of the Program:

(i) $30,000,000 in non-Federal funds, with the balance of funds remaining to be contributed to be adjusted for inflation on October 1 of the year after the date of enactment of this Act and each October 1 thereafter.

(ii) Credit for contributions of water or land for the purposes of implementing the Program, as determined to be appropriate by the Secretary.

(C) IN-KIND CONTRIBUTIONS.—The Secretary or the States may elect to provide a portion of the Federal share or non-Federal share, respectively, in the form of in-kind goods or services, if the contribution of goods or services is approved by the Governance Committee, as provided in Attachment 1 of the Agreement.

(4) AUTHORITY TO MODIFY PROGRAM.—The Program may be modified or amended before the completion of the First Increment if the Secretary and the States determine that the modifications are consistent with the purposes of the Program.

(5) EFFECT.—

(A) EFFECT ON RECLAMATION LAWS.—No action carried out under this subsection shall, with respect to the acreage limitation provisions of the reclamation laws—

(i) be considered in determining whether a district (as the term is defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb)) has discharged the obligation of the district to repay the construction cost of project facilities used to make irrigation water available for delivery to land in the district;

(ii) serve as the basis for reinstating acreage limitation provisions in a district that has completed payment of the construction obligations of the district; or

(iii) serve as the basis for increasing the construction repayment obligation of the district, which would extend the period during which the acreage limitation provisions would apply.

(B) EFFECT ON WATER RIGHTS.—Nothing in this section—

(i) creates Federal water rights; or

(ii) requires the grant of water rights to Federal entities.

(6) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated to carry out projects and activities under this subsection $157,140,000, as adjusted under subparagraph (C).

(B) NONREIMBURSABLE FEDERAL EXPENDITURES.—Any amounts expended under subparagraph (A) shall be considered to be nonreimbursable Federal expenditures.

(C) ADJUSTMENT.—The balance of funds remaining to be appropriated shall be adjusted for inflation on October 1 of the year after the date of enactment of this Act and each October 1 thereafter.

(D) AVAILABILITY OF FUNDS.—At the end of each fiscal year, any unexpended funds for projects and activities made available under subparagraph (A) shall be retained for use in future fiscal years to implement projects and activities under the Program.

(7) TERMINATION OF AUTHORITY.—The authority for the Secretary to implement the First Increment shall terminate on September 30, 2020.

(c) PATHFINDER MODIFICATION PROJECT.—

(1) AUTHORIZATION OF PROJECT.—

(A) IN GENERAL.—The Secretary of the Interior, acting through the Commissioner of Reclamation (referred to in this subsection as the "Secretary"), may—

(i) modify the Pathfinder Dam and Reservoir; and

(ii) enter into 1 or more agreements with the State of Wyoming to implement the Pathfinder Modification Project (referred to in this subsection as the "Project"), as described in Appendix F to the Final Settlement Stipulation in Nebraska v. Wyoming, 534 U.S. 40 (2001).

(B) FEDERAL APPROPRIATIONS.—No Federal appropriations are required to modify the Pathfinder Dam under this paragraph.

(2) AUTHORIZED USES OF PATHFINDER RESERVOIR.—Provided that all of the conditions described in paragraph (3) are first met, the approximately 54,000 acre-feet capacity of Pathfinder Reservoir, which has been lost to sediment but will be recaptured by the Project, may be used for municipal, environmental, and other purposes, as described in Appendix F to the Final Settlement Stipulation in Nebraska v. Wyoming, 534 U.S. 40 (2001).

(3) CONDITIONS PRECEDENT.—The actions and water uses authorized in paragraphs (1)(A)(i) and (2) shall not occur until each of the following actions have been completed:

(A) Final approval from the Wyoming legislature for the export of Project water to the State of Nebraska under the laws (including regulations) of the State of Wyoming.

(B) Final approval in a change of water use proceeding under the laws (including regulations) of the State of Wyoming for all new uses planned for Project water. Final

approval, as used in this subparagraph, includes exhaustion of any available review under State law of any administrative action authorizing the change of the Pathfinder Reservoir water right.

**SEC. 516. CENTRAL OKLAHOMA MASTER CONSERVATORY DISTRICT FEASIBILITY STUDY.**

(a) STUDY.—

Deadline.

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior, acting through the Commissioner of Reclamation (referred to in this section as the "Secretary"), shall—

(A) conduct a feasibility study of alternatives to augment the water supplies of—

(i) the Central Oklahoma Master Conservatory District (referred to in this section as the "District)"; and

(ii) cities served by the District;

(2) INCLUSIONS.—The study under paragraph (1) shall include recommendations of the Secretary, if any, relating to the alternatives studied.

(b) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—The Federal share of the total costs of the study under subsection (a) shall not exceed 50 percent.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share required under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to conduct the study under subsection (a) $900,000.

# TITLE VI—DEPARTMENT OF ENERGY AUTHORIZATIONS

**SEC. 601. ENERGY TECHNOLOGY TRANSFER.**

Section 917 of the Energy Policy Act of 2005 (42 U.S.C. 16197) is amended to read as follows:

Grants.

**"SEC. 917. ADVANCED ENERGY TECHNOLOGY TRANSFER CENTERS.**

Deadline.

"(a) GRANTS.—Not later than 18 months after the date of enactment of the National Forests, Parks, Public Land, and Reclamation Projects Authorization Act of 2008, the Secretary shall make grants to nonprofit institutions, State and local governments, cooperative extension services, or institutions of higher education (or consortia thereof), to establish a geographically dispersed network of Advanced Energy Technology Transfer Centers, to be located in areas the Secretary determines have the greatest need of the services of such Centers. In making awards under this section, the Secretary shall—

"(1) give priority to applicants already operating or partnered with an outreach program capable of transferring knowledge and information about advanced energy efficiency methods and technologies;

"(2) ensure that, to the extent practicable, the program enables the transfer of knowledge and information—

"(A) about a variety of technologies; and

"(B) in a variety of geographic areas;

"(3) give preference to applicants that would significantly expand on or fill a gap in existing programs in a geographical region; and

"(4) consider the special needs and opportunities for increased energy efficiency for manufactured and site-built housing, including construction, renovation, and retrofit.

"(b) ACTIVITIES.—Each Center shall operate a program to encourage demonstration and commercial application of advanced energy methods and technologies through education and outreach to building and industrial professionals, and to other individuals and organizations with an interest in efficient energy use. Funds awarded under this section may be used for the following activities:

"(1) Developing and distributing informational materials on technologies that could use energy more efficiently.

"(2) Carrying out demonstrations of advanced energy methods and technologies.

"(3) Developing and conducting seminars, workshops, long-distance learning sessions, and other activities to aid in the dissemination of knowledge and information on technologies that could use energy more efficiently.

"(4) Providing or coordinating onsite energy evaluations, including instruction on the commissioning of building heating and cooling systems, for a wide range of energy end-users.

"(5) Examining the energy efficiency needs of energy end-users to develop recommended research projects for the Department.

"(6) Hiring experts in energy efficient technologies to carry out activities described in paragraphs (1) through (5).

"(c) APPLICATION.—A person seeking a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require. The Secretary may award a grant under this section to an entity already in existence if the entity is otherwise eligible under this section. The application shall include, at a minimum—

"(1) a description of the applicant's outreach program, and the geographic region it would serve, and of why the program would be capable of transferring knowledge and information about advanced energy technologies that increase efficiency of energy use;

"(2) a description of the activities the applicant would carry out, of the technologies that would be transferred, and of any other organizations that will help facilitate a regional approach to carrying out those activities;

"(3) a description of how the proposed activities would be appropriate to the specific energy needs of the geographic region to be served;

"(4) an estimate of the number and types of energy end-users expected to be reached through such activities; and

"(5) a description of how the applicant will assess the success of the program.

"(d) SELECTION CRITERIA.—The Secretary shall award grants under this section on the basis of the following criteria, at a minimum:

"(1) The ability of the applicant to carry out the proposed activities.

"(2) The extent to which the applicant will coordinate the activities of the Center with other entities as appropriate, such as State and local governments, utilities, institutions of higher education, and National Laboratories.

"(3) The appropriateness of the applicant's outreach program for carrying out the program described in this section.

"(4) The likelihood that proposed activities could be expanded or used as a model for other areas.

"(e) COST-SHARING.—In carrying out this section, the Secretary shall require cost-sharing in accordance with the requirements of section 988 for commercial application activities.

"(f) DURATION.—

"(1) INITIAL GRANT PERIOD.—A grant awarded under this section shall be for a period of 5 years.

Procedures.

"(2) INITIAL EVALUATION.—Each grantee under this section shall be evaluated during its third year of operation under procedures established by the Secretary to determine if the grantee is accomplishing the purposes of this section described in subsection (a). The Secretary shall terminate any grant that does not receive a positive evaluation. If an evaluation is positive, the Secretary may extend the grant for 3 additional years beyond the original term of the grant.

"(3) ADDITIONAL EXTENSION.—If a grantee receives an extension under paragraph (2), the grantee shall be evaluated again during the second year of the extension. The Secretary shall terminate any grant that does not receive a positive evaluation. If an evaluation is positive, the Secretary may extend the grant for a final additional period of 3 additional years beyond the original extension.

"(4) LIMITATION.—No grantee may receive more than 11 years of support under this section without reapplying for support and competing against all other applicants seeking a grant at that time.

"(g) PROHIBITION.—None of the funds awarded under this section may be used for the construction of facilities.

"(h) DEFINITIONS.—For purposes of this section:

"(1) ADVANCED ENERGY METHODS AND TECHNOLOGIES.—The term 'advanced energy methods and technologies' means all methods and technologies that promote energy efficiency and conservation, including distributed generation technologies, and life-cycle analysis of energy use.

"(2) CENTER.—The term 'Center' means an Advanced Energy Technology Transfer Center established pursuant to this section.

"(3) DISTRIBUTED GENERATION.—The term 'distributed generation' means an electric power generation technology, including photovoltaic, small wind, and micro-combined heat and power, that serves electric consumers at or near the site of production.

"(4) COOPERATIVE EXTENSION.—The term 'Cooperative Extension' means the extension services established at the land-grant colleges and universities under the Smith-Lever Act of May 8, 1914.

"(5) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term 'land-grant colleges and universities' means—

"(A) 1862 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601));

"(B) 1890 Institutions (as defined in section 2 of that Act); and

"(C) 1994 Institutions (as defined in section 2 of that Act).

"(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated in section 911, there are authorized to be appropriated for the program under this section such sums as may be appropriated.".

**SEC. 602. AMENDMENTS TO THE STEEL AND ALUMINUM ENERGY CONSERVATION AND TECHNOLOGY COMPETITIVENESS ACT OF 1988.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 9 of the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5108) is amended to read as follows:

**"SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to the Secretary to carry out this Act $12,000,000 for each of the fiscal years 2008 through 2012.".

(b) STEEL PROJECT PRIORITIES.—Section 4(c)(1) of the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5103(c)(1)) is amended—

(1) in subparagraph (H), by striking "coatings for sheet steels" and inserting "sheet and bar steels"; and

(2) by adding at the end the following new subparagraph:

"(K) The development of technologies which reduce greenhouse gas emissions.".

(c) CONFORMING AMENDMENTS.—The Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 is further amended—

(1) by striking section 7 (15 U.S.C. 5106); and

(2) in section 8 (15 U.S.C. 5107), by inserting ", beginning with fiscal year 2008," after "close of each fiscal year".

# TITLE VII—NORTHERN MARIANA ISLANDS

## Subtitle A—Immigration, Security, and Labor

**SEC. 701. STATEMENT OF CONGRESSIONAL INTENT.**

48 USC 1806 note.

(a) IMMIGRATION AND GROWTH.—In recognition of the need to ensure uniform adherence to long-standing fundamental immigration policies of the United States, it is the intention of the Congress in enacting this subtitle—

(1) to ensure that effective border control procedures are implemented and observed, and that national security and homeland security issues are properly addressed, by extending the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(17)), to apply to the Commonwealth of the Northern Mariana Islands

(referred to in this subtitle as the "Commonwealth"), with special provisions to allow for—

(A) the orderly phasing-out of the nonresident contract worker program of the Commonwealth; and

(B) the orderly phasing-in of Federal responsibilities over immigration in the Commonwealth; and

(2) to minimize, to the greatest extent practicable, potential adverse economic and fiscal effects of phasing-out the Commonwealth's nonresident contract worker program and to maximize the Commonwealth's potential for future economic and business growth by—

(A) encouraging diversification and growth of the economy of the Commonwealth in accordance with fundamental values underlying Federal immigration policy;

(B) recognizing local self-government, as provided for in the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America through consultation with the Governor of the Commonwealth;

(C) assisting the Commonwealth in achieving a progressively higher standard of living for citizens of the Commonwealth through the provision of technical and other assistance;

(D) providing opportunities for individuals authorized to work in the United States, including citizens of the freely associated states; and

(E) providing a mechanism for the continued use of alien workers, to the extent those workers continue to be necessary to supplement the Commonwealth's resident workforce, and to protect those workers from the potential for abuse and exploitation.

(b) AVOIDING ADVERSE EFFECTS.—In recognition of the Commonwealth's unique economic circumstances, history, and geographical location, it is the intent of the Congress that the Commonwealth be given as much flexibility as possible in maintaining existing businesses and other revenue sources, and developing new economic opportunities, consistent with the mandates of this subtitle. This subtitle, and the amendments made by this subtitle, should be implemented wherever possible to expand tourism and economic development in the Commonwealth, including aiding prospective tourists in gaining access to the Commonwealth's memorials, beaches, parks, dive sites, and other points of interest.

**SEC. 702. IMMIGRATION REFORM FOR THE COMMONWEALTH.**

(a) AMENDMENT TO JOINT RESOLUTION APPROVING COVENANT ESTABLISHING COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—The Joint Resolution entitled "A Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes", approved March 24, 1976 (Public Law 94–241; 90 Stat. 263), is amended by adding at the end the following new section:

48 USC 1806.

**"SEC. 6. IMMIGRATION AND TRANSITION.**

"(a) APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT AND ESTABLISHMENT OF A TRANSITION PROGRAM.—

Effective date.

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), effective on the first day of the first full month commencing 1

year after the date of enactment of the Consolidated Natural Resources Act of 2008 (hereafter referred to as the 'transition program effective date'), the provisions of the 'immigration laws' (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) shall apply to the Commonwealth of the Northern Mariana Islands (referred to in this section as the 'Commonwealth'), except as otherwise provided in this section.

"(2) TRANSITION PERIOD.—There shall be a transition period beginning on the transition program effective date and ending on December 31, 2014, except as provided in subsections (b) and (d), during which the Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of the Interior, shall establish, administer, and enforce a transition program to regulate immigration to the Commonwealth, as provided in this section (hereafter referred to as the 'transition program').

"(3) DELAY OF COMMENCEMENT OF TRANSITION PERIOD.—

"(A) IN GENERAL.—The Secretary of Homeland Security, in the Secretary's sole discretion, in consultation with the Secretary of the Interior, the Secretary of Labor, the Secretary of State, the Attorney General, and the Governor of the Commonwealth, may determine that the transition program effective date be delayed for a period not to exceed more than 180 days after such date.

"(B) CONGRESSIONAL NOTIFICATION.—The Secretary of Homeland Security shall notify the Congress of a determination under subparagraph (A) not later than 30 days prior to the transition program effective date. Deadline.

"(C) CONGRESSIONAL REVIEW.—A delay of the transition program effective date shall not take effect until 30 days after the date on which the notification under subparagraph (B) is made. Effective date.

"(4) REQUIREMENT FOR REGULATIONS.—The transition program shall be implemented pursuant to regulations to be promulgated, as appropriate, by the head of each agency or department of the United States having responsibilities under the transition program.

"(5) INTERAGENCY AGREEMENTS.—The Secretary of Homeland Security, the Secretary of State, the Secretary of Labor, and the Secretary of the Interior shall negotiate and implement agreements among their agencies to identify and assign their respective duties so as to ensure timely and proper implementation of the provisions of this section. The agreements should address, at a minimum, procedures to ensure that Commonwealth employers have access to adequate labor, and that tourists, students, retirees, and other visitors have access to the Commonwealth without unnecessary delay or impediment. The agreements may also allocate funding between the respective agencies tasked with various responsibilities under this section.

"(6) CERTAIN EDUCATION FUNDING.—In addition to fees charged pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) to recover the full costs of providing adjudication services, the Secretary of Homeland Security shall charge an annual supplemental fee of $150 per nonimmigrant worker to each prospective employer who is issued a permit under subsection (d) of this section during

the transition period. Such supplemental fee shall be paid into the Treasury of the Commonwealth government for the purpose of funding ongoing vocational educational curricula and program development by Commonwealth educational entities.

"(7) ASYLUM.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) shall not apply during the transition period to persons physically present in the Commonwealth or arriving in the Commonwealth (whether or not at a designated port of arrival), including persons brought to the Commonwealth after having been interdicted in international or United States waters.

"(b) NUMERICAL LIMITATIONS FOR NONIMMIGRANT WORKERS.—An alien, if otherwise qualified, may seek admission to Guam or to the Commonwealth during the transition program as a nonimmigrant worker under section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) without counting against the numerical limitations set forth in section 214(g) of such Act (8 U.S.C. 1184(g)). This subsection does not apply to any employment to be performed outside of Guam or the Commonwealth. Not later than 3 years following the transition program effective date, the Secretary of Homeland Security shall issue a report to the Committee on Energy and Natural Resources and the Committee on the Judiciary of the Senate and the Committee on Natural Resources and the Committee on the Judiciary of the House of Representatives projecting the number of asylum claims the Secretary anticipates following the termination of the transition period, the efforts the Secretary has made to ensure appropriate interdiction efforts, provide for appropriate treatment of asylum seekers, and prepare to accept and adjudicate asylum claims in the Commonwealth.

Deadline. Reports.

"(c) NONIMMIGRANT INVESTOR VISAS.—

"(1) IN GENERAL.—Notwithstanding the treaty requirements in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), during the transition period, the Secretary of Homeland Security may, upon the application of an alien, classify an alien as a CNMI-only nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii)) if the alien—

"(A) has been admitted to the Commonwealth in long-term investor status under the immigration laws of the Commonwealth before the transition program effective date;

"(B) has continuously maintained residence in the Commonwealth under long-term investor status;

"(C) is otherwise admissible; and

"(D) maintains the investment or investments that formed the basis for such long-term investor status.

Deadline. Federal Register, publication.

"(2) REQUIREMENT FOR REGULATIONS.—Not later than 60 days before the transition program effective date, the Secretary of Homeland Security shall publish regulations in the Federal Register to implement this subsection.

"(d) SPECIAL PROVISION TO ENSURE ADEQUATE EMPLOYMENT; COMMONWEALTH ONLY TRANSITIONAL WORKERS.—An alien who is seeking to enter the Commonwealth as a nonimmigrant worker may be admitted to perform work during the transition period subject to the following requirements:

"(1) Such an alien shall be treated as a nonimmigrant described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), including the ability to apply, if otherwise eligible, for a change of nonimmigrant classification under section 248 of such Act (8 U.S.C. 1258) or adjustment of status under this section and section 245 of such Act (8 U.S.C. 1255).

"(2) The Secretary of Homeland Security shall establish, administer, and enforce a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers for each such nonimmigrant worker described in this subsection who would not otherwise be eligible for admission under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.). In adopting and enforcing this system, the Secretary shall also consider, in good faith and not later than 30 days after receipt by the Secretary, any comments and advice submitted by the Governor of the Commonwealth. This system shall provide for a reduction in the allocation of permits for such workers on an annual basisto zero, during a period not to extend beyond December 31, 2014, unless extended pursuant to paragraph 5 of this subsection. In no event shall a permit be valid beyond the expiration of the transition period. This system may be based on any reasonable method and criteria determined by the Secretary of Homeland Security to promote the maximum use of, and to prevent adverse effects on wages and working conditions of, workers authorized to be employed in the United States, including lawfully admissible freely associated state citizen labor. No alien shall be granted nonimmigrant classification or a visa under this subsection unless the permit requirements established under this paragraph have been met.

Permits.

Deadline.

"(3) The Secretary of Homeland Security shall set the conditions for admission of such an alien under the transition program, and the Secretary of State shall authorize the issuance of nonimmigrant visas for such an alien. Such a visa shall not be valid for admission to the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)), except admission to the Commonwealth. An alien admitted to the Commonwealth on the basis of such a visa shall be permitted to engage in employment only as authorized pursuant to the transition program.

"(4) Such an alien shall be permitted to transfer between employers in the Commonwealth during the period of such alien's authorized stay therein, without permission of the employee's current or prior employer, within the alien's occupational category or another occupational category the Secretary of Homeland Security has found requires alien workers to supplement the resident workforce.

"(5)(A) Not later than 180 days prior to the expiration of the transition period, or any extension thereof, the Secretary of Labor, in consultation with the Secretary of Homeland Security, the Secretary of Defense, the Secretary of the Interior, and the Governor of the Commonwealth, shall ascertain the current and anticipated labor needs of the Commonwealth and determine whether an extension of up to 5 years of the provisions of this subsection is necessary to ensure an adequate number of workers will be available for legitimate businesses

Deadline.

in the Commonwealth. For the purpose of this subparagraph, a business shall not be considered legitimate if it engages directly or indirectly in prostitution, trafficking in minors, or any other activity that is illegal under Federal or local law. The determinations of whether a business is legitimate and to what extent, if any, it may require alien workers to supplement the resident workforce, shall be made by the Secretary of Homeland Security, in the Secretary's sole discretion.

Notice.
Federal Register, publication.

"(B) If the Secretary of Labor determines that such an extension is necessary to ensure an adequate number of workers for legitimate businesses in the Commonwealth, the Secretary of Labor may, through notice published in the Federal Register, provide for an additional extension period of up to 5 years.

"(C) In making the determination of whether alien workers are necessary to ensure an adequate number of workers for legitimate businesses in the Commonwealth, and if so, the number of such workers that are necessary, the Secretary of Labor may consider, among other relevant factors—

"(i) government, industry, or independent workforce studies reporting on the need, or lack thereof, for alien workers in the Commonwealth's businesses;

"(ii) the unemployment rate of United States citizen workers residing in the Commonwealth;

"(iii) the unemployment rate of aliens in the Commonwealth who have been lawfully admitted for permanent residence;

"(iv) the number of unemployed alien workers in the Commonwealth;

"(v) any good faith efforts to locate, educate, train, or otherwise prepare United States citizen residents, lawful permanent residents, and unemployed alien workers already within the Commonwealth, to assume those jobs;

"(vi) any available evidence tending to show that United States citizen residents, lawful permanent residents, and unemployed alien workers already in the Commonwealth are not willing to accept jobs of the type offered;

"(vii) the extent to which admittance of alien workers will affect the compensation, benefits, and living standards of existing workers within those industries and other industries authorized to employ alien workers; and

"(viii) the prior use, if any, of alien workers to fill those industry jobs, and whether the industry requires alien workers to fill those jobs.

"(6) The Secretary of Homeland Security may authorize the admission of a spouse or minor child accompanying or following to join a worker admitted pursuant to this subsection.

"(e) PERSONS LAWFULLY ADMITTED UNDER THE COMMONWEALTH IMMIGRATION LAW.—

"(1) PROHIBITION ON REMOVAL.—

"(A) IN GENERAL.—Subject to subparagraph (B), no alien who is lawfully present in the Commonwealth pursuant to the immigration laws of the Commonwealth on the transition program effective date shall be removed from the United States on the grounds that such alien's presence in the Commonwealth is in violation of section 212(a)(6)(A)

of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)), until the earlier of the date—

"(i) of the completion of the period of the alien's admission under the immigration laws of the Commonwealth; or

"(ii) that is 2 years after the transition program effective date.

"(B) LIMITATIONS.—Nothing in this subsection shall be construed to prevent or limit the removal under subparagraph 212(a)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)) of such an alien at any time, if the alien entered the Commonwealth after the date of enactment of the Consolidated Natural Resources Act of 2008, and the Secretary of Homeland Security has determined that the Government of the Commonwealth has violated section 702(i) of the Consolidated Natural Resources Act of 2008.

"(2) EMPLOYMENT AUTHORIZATION.—An alien who is lawfully present and authorized to be employed in the Commonwealth pursuant to the immigration laws of the Commonwealth on the transition program effective date shall be considered authorized by the Secretary of Homeland Security to be employed in the Commonwealth until the earlier of the date—

"(A) of expiration of the alien's employment authorization under the immigration laws of the Commonwealth; or

"(B) that is 2 years after the transition program effective date.

"(3) REGISTRATION.—The Secretary of Homeland Security may require any alien present in the Commonwealth on or after the transition period effective date to register with the Secretary in such a manner, and according to such schedule, as he may in his discretion require. Paragraphs (1) and (2) of this subsection shall not apply to any alien who fails to comply with such registration requirement. Notwithstanding any other law, the Government of the Commonwealth shall provide to the Secretary all Commonwealth immigration records or other information that the Secretary deems necessary to assist the implementation of this paragraph or other provisions of the Consolidated Natural Resources Act of 2008. Nothing in this paragraph shall modify or limit section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or other provision of the Immigration and Nationality Act relating to the registration of aliens. Records.

"(4) REMOVABLE ALIENS.—Except as specifically provided in paragraph (1)(A) of this subsection, nothing in this subsection shall prohibit or limit the removal of any alien who is removable under the Immigration and Nationality Act.

"(5) PRIOR ORDERS OF REMOVAL.—The Secretary of Homeland Security may execute any administratively final order of exclusion, deportation or removal issued under authority of the immigration laws of the United States before, on, or after the transition period effective date, or under authority of the immigration laws of the Commonwealth before the transition period effective date, upon any subject of such order found in the Commonwealth on or after the transition period effective date, regardless whether the alien has previously been removed

from the United States or the Commonwealth pursuant to such order.

"(f) EFFECT ON OTHER LAWS.—The provisions of this section and of the immigration laws, as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)), shall, on the transition program effective date, supersede and replace all laws, provisions, or programs of the Commonwealth relating to the admission of aliens and the removal of aliens from the Commonwealth.

"(g) ACCRUAL OF TIME FOR PURPOSES OF SECTION 212(A)(9)(B) OF THE IMMIGRATION AND NATIONALITY ACT.—No time that an alien is present in the Commonwealth in violation of the immigration laws of the Commonwealth shall be counted for purposes of inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)).

"(h) REPORT ON NONRESIDENT GUESTWORKER POPULATION.—The Secretary of the Interior, in consultation with the Secretary of Homeland Security, and the Governor of the Commonwealth, shall report to the Congress not later than 2 years after the date of enactment of the Consolidated Natural Resources Act of 2008. The report shall include—

"(1) the number of aliens residing in the Commonwealth;

"(2) a description of the legal status (under Federal law) of such aliens;

"(3) the number of years each alien has been residing in the Commonwealth;

"(4) the current and future requirements of the Commonwealth economy for an alien workforce; and

"(5) such recommendations to the Congress, as the Secretary may deem appropriate, related to whether or not the Congress should consider permitting lawfully admitted guest workers lawfully residing in the Commonwealth on such enactment date to apply for long-term status under the immigration and nationality laws of the United States.".

(b) WAIVER OF REQUIREMENTS FOR NONIMMIGRANT VISITORS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 214(a)(1) (8 U.S.C. 1184(a)(1))—

(A) by striking "Guam" each place such term appears and inserting "Guam or the Commonwealth of the Northern Mariana Islands"; and

(B) by striking "fifteen" and inserting "45";

(2) in section 212(a)(7)(B) (8 U.S.C. 1182(a)(7)(B)), by amending clause (iii) to read as follows:

"(iii) GUAM AND NORTHERN MARIANA ISLANDS VISA WAIVER.—For provision authorizing waiver of clause (i) in the case of visitors to Guam or the Commonwealth of the Northern Mariana Islands, see subsection (l).";

and

(3) by amending section 212(l) (8 U.S.C. 1182(l)) to read as follows:

"(l) GUAM AND NORTHERN MARIANA ISLANDS VISA WAIVER PROGRAM.—

"(1) IN GENERAL.—The requirement of subsection (a)(7)(B)(i) may be waived by the Secretary of Homeland Security, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and

stay in Guam or the Commonwealth of the Northern Mariana Islands for a period not to exceed 45 days, if the Secretary of Homeland Security, after consultation with the Secretary of the Interior, the Secretary of State, the Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands, determines that—

"(A) an adequate arrival and departure control system has been developed in Guam and the Commonwealth of the Northern Mariana Islands; and

"(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

"(2) ALIEN WAIVER OF RIGHTS.—An alien may not be provided a waiver under this subsection unless the alien has waived any right—

"(A) to review or appeal under this Act an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam or the Commonwealth of the Northern Mariana Islands; or

"(B) to contest, other than on the basis of an application for withholding of removal under section 241(b)(3) of this Act or under the Convention Against Torture, or an application for asylum if permitted under section 208, any action for removal of the alien.

"(3) REGULATIONS.—All necessary regulations to implement this subsection shall be promulgated by the Secretary of Homeland Security, in consultation with the Secretary of the Interior and the Secretary of State, on or before the 180th day after the date of enactment of the Consolidated Natural Resources Act of 2008. The promulgation of such regulations shall be considered a foreign affairs function for purposes of section 553(a) of title 5, United States Code. At a minimum, such regulations should include, but not necessarily be limited to— Deadline.

"(A) a listing of all countries whose nationals may obtain the waiver also provided by this subsection, except that such regulations shall provide for a listing of any country from which the Commonwealth has received a significant economic benefit from the number of visitors for pleasure within the one-year period preceding the date of enactment of the Consolidated Natural Resources Act of 2008, unless the Secretary of Homeland Security determines that such country's inclusion on such list would represent a threat to the welfare, safety, or security of the United States or its territories; and

"(B) any bonding requirements for nationals of some or all of those countries who may present an increased risk of overstays or other potential problems, if different from such requirements otherwise provided by law for nonimmigrant visitors.

"(4) FACTORS.—In determining whether to grant or continue providing the waiver under this subsection to nationals of any country, the Secretary of Homeland Security, in consultation with the Secretary of the Interior and the Secretary of State, shall consider all factors that the Secretary deems relevant, including electronic travel authorizations, procedures for reporting lost and stolen passports, repatriation of aliens, rates

of refusal for nonimmigrant visitor visas, overstays, exit systems, and information exchange.

"(5) SUSPENSION.—The Secretary of Homeland Security shall monitor the admission of nonimmigrant visitors to Guam and the Commonwealth of the Northern Mariana Islands under this subsection. If the Secretary determines that such admissions have resulted in an unacceptable number of visitors from a country remaining unlawfully in Guam or the Commonwealth of the Northern Mariana Islands, unlawfully obtaining entry to other parts of the United States, or seeking withholding of removal or asylum, or that visitors from a country pose a risk to law enforcement or security interests of Guam or the Commonwealth of the Northern Mariana Islands or of the United States (including the interest in the enforcement of the immigration laws of the United States), the Secretary shall suspend the admission of nationals of such country under this subsection. The Secretary of Homeland Security may in the Secretary's discretion suspend the Guam and Northern Mariana Islands visa waiver program at any time, on a country-by-country basis, for other good cause.

"(6) ADDITION OF COUNTRIES.—The Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands may request the Secretary of the Interior and the Secretary of Homeland Security to add a particular country to the list of countries whose nationals may obtain the waiver provided by this subsection, and the Secretary of Homeland Security may grant such request after consultation with the Secretary of the Interior and the Secretary of State, and may promulgate regulations with respect to the inclusion of that country and any special requirements the Secretary of Homeland Security, in the Secretary's sole discretion, may impose prior to allowing nationals of that country to obtain the waiver provided by this subsection.".

(c) SPECIAL NONIMMIGRANT CATEGORIES FOR GUAM AND THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—The Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands (referred to in this subsection as "CNMI") may request that the Secretary of Homeland Security study the feasibility of creating additional Guam or CNMI-only nonimmigrant visas to the extent that existing nonimmigrant visa categories under the Immigration and Nationality Act do not provide for the type of visitor, the duration of allowable visit, or other circumstance. The Secretary of Homeland Security may review such a request, and, after consultation with the Secretary of State and the Secretary of the Interior, shall issue a report to the Committee on Energy and Natural Resources and the Committee on the Judiciary of the Senate and the Committee on Natural Resources and the Committee on the Judiciary of the House of Representatives with respect to the feasibility of creating those additional Guam or CNMI-only visa categories. Consideration of such additional Guam or CNMI-only visa categories may include, but are not limited to, special nonimmigrant statuses for investors, students, and retirees, but shall not include nonimmigrant status for the purpose of employment in Guam or the CNMI.

(d) INSPECTION OF PERSONS ARRIVING FROM THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS; GUAM AND NORTHERN MARIANA ISLANDS-ONLY VISAS NOT VALID FOR ENTRY INTO OTHER

PARTS OF THE UNITED STATES.—Section 212(d)(7) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(7)) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Guam,".

(e) TECHNICAL ASSISTANCE PROGRAM.— 48 USC 1807.

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Governor of the Commonwealth, the Secretary of Labor, and the Secretary of Commerce, and as provided in the Interagency Agreements required to be negotiated under section 6(a)(4) of the Joint Resolution entitled "A Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes", approved March 24, 1976 (Public Law 94–241), as added by subsection (a), shall provide—

(A) technical assistance and other support to the Commonwealth to identify opportunities for, and encourage diversification and growth of, the economy of the Commonwealth;

(B) technical assistance, including assistance in recruiting, training, and hiring of workers, to assist employers in the Commonwealth in securing employees first from among United States citizens and nationals resident in the Commonwealth and if an adequate number of such workers are not available, from among legal permanent residents, including lawfully admissible citizens of the freely associated states; and

(C) technical assistance, including assistance to identify types of jobs needed, identify skills needed to fulfill such jobs, and assistance to Commonwealth educational entities to develop curricula for such job skills to include training teachers and students for such skills.

(2) CONSULTATION.—In providing such technical assistance under paragraph (1), the Secretaries shall—

(A) consult with the Government of the Commonwealth, local businesses, regional banks, educational institutions, and other experts in the economy of the Commonwealth; and

(B) assist in the development and implementation of a process to identify opportunities for and encourage diversification and growth of the economy of the Commonwealth and to identify and encourage opportunities to meet the labor needs of the Commonwealth.

(3) COST-SHARING.—For the provision of technical assistance or support under this paragraph (other than that required to pay the salaries and expenses of Federal personnel), the Secretary of the Interior shall require a non-Federal matching contribution of 10 percent.

(f) OPERATIONS.— 48 USC 1808.

(1) ESTABLISHMENT.—At any time on and after the date of enactment of this Act, the Attorney General, Secretary of Homeland Security, and the Secretary of Labor may establish and maintain offices and other operations in the Commonwealth for the purpose of carrying out duties under—

(A) the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) the transition program established under section 6 of the Joint Resolution entitled "A Joint Resolution to approve the 'Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes", approved March 24, 1976 (Public Law 94–241), as added by subsection (a).

(2) PERSONNEL.—To the maximum extent practicable and consistent with the satisfactory performance of assigned duties under applicable law, the Attorney General, Secretary of Homeland Security, and the Secretary of Labor shall recruit and hire personnel from among qualified United States citizens and national applicants residing in the Commonwealth to serve as staff in carrying out operations described in paragraph (1).

(g) CONFORMING AMENDMENTS TO PUBLIC LAW 94–241.—

48 USC 1801 note.

(1) AMENDMENTS.—Public Law 94–241 is amended as follows:

(A) In section 503 of the covenant set forth in section 1, by striking subsection (a) and redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(B) By striking section 506 of the covenant set forth in section 1.

(C) In section 703(b) of the covenant set forth in section 1, by striking "quarantine, passport, immigration and naturalization" and inserting "quarantine and passport".

48 USC 1801 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the transition program effective date described in section 6 of Public Law 94–241 (as added by subsection (a)).

(h) REPORTS TO CONGRESS.—

President. 48 USC 1806 note.

(1) IN GENERAL.—Not later than March 1 of the first year that is at least 2 full years after the date of enactment of this subtitle, and annually thereafter, the President shall submit to the Committee on Energy and Natural Resources and the Committee on the Judiciary of the Senate and the Committee on Natural Resources and the Committee on the Judiciary of the House of Representatives a report that evaluates the overall effect of the transition program established under section 6 of the Joint Resolution entitled "A Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes", approved March 24, 1976 (Public Law 94–241), as added by subsection (a), and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on the Commonwealth.

48 USC 1806 note.

(2) CONTENTS.—In addition to other topics otherwise required to be included under this subtitle or the amendments made by this subtitle, each report submitted under paragraph (1) shall include a description of the efforts that have been undertaken during the period covered by the report to diversify and strengthen the local economy of the Commonwealth, including efforts to promote the Commonwealth as a tourist destination. The report by the President shall include an estimate for the numbers of nonimmigrant workers described under section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) necessary to avoid adverse economic effects in Guam and the Commonwealth.

(3) GAO REPORT.—The Government Accountability Office shall submit a report to the Congress not later than 2 years after the date of enactment of this Act, to include, at a minimum, the following items:

(A) An assessment of the implementation of this subtitle and the amendments made by this subtitle, including an assessment of the performance of Federal agencies and the Government of the Commonwealth in meeting congressional intent.

(B) An assessment of the short-term and long-term impacts of implementation of this subtitle and the amendments made by this subtitle on the economy of the Commonwealth, including its ability to obtain workers to supplement its resident workforce and to maintain access to its tourists and customers, and any effect on compliance with United States treaty obligations mandating nonrefoulement for refugees.

(C) An assessment of the economic benefit of the investors "grandfathered" under subsection (c) of section 6 of the Joint Resolution entitled "A Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes", approved March 24, 1976 (Public Law 94–241), as added by subsection (a), and the Commonwealth's ability to attract new investors after the date of enactment of this Act.

(D) An assessment of the number of illegal aliens in the Commonwealth, including any Federal and Commonwealth efforts to locate and repatriate them.

48 USC 1806 note.

(4) REPORTS BY THE LOCAL GOVERNMENT.—The Governor of the Commonwealth may submit an annual report to the President on the implementation of this subtitle, and the amendments made by this subtitle, with recommendations for future changes. The President shall forward the Governor's report to the Congress with any Administration comment after an appropriate period of time for internal review, provided that nothing in this paragraph shall be construed to require the President to provide any legislative recommendation to the Congress.

President.

(5) REPORT ON FEDERAL PERSONNEL AND RESOURCE REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, after consulting with the Secretary of the Interior and other departments and agencies as may be deemed necessary, shall submit a report to the Committee on Natural Resources, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives, and to the Committee on Energy and Natural Resources, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate, on the current and planned levels of Transportation Security Administration, United States Customs and Border Protection, United States Immigration and Customs Enforcement, United States Citizenship and Immigration Services, and United States Coast Guard

personnel and resources necessary for fulfilling mission requirements on Guam and the Commonwealth in a manner comparable to the level provided at other similar ports of entry in the United States. In fulfilling this reporting requirement, the Secretary shall consider and anticipate the increased requirements due to the proposed realignment of military forces on Guam and in the Commonwealth and growth in the tourism sector.

48 USC 1806 note.

(i) REQUIRED ACTIONS PRIOR TO TRANSITION PROGRAM EFFECTIVE DATE.—During the period beginning on the date of enactment of this Act and ending on the transition program effective date described in section 6 of Public Law 94–241 (as added by subsection (a)), the Government of the Commonwealth shall—

(1) not permit an increase in the total number of alien workers who are present in the Commonwealth as of the date of enactment of this Act; and

(2) administer its nonrefoulement protection program—

(A) according to the terms and procedures set forth in the Memorandum of Agreement entered into between the Commonwealth of the Northern Mariana Islands and the United States Department of Interior, Office of Insular Affairs, executed on September 12, 2003 (which terms and procedures, including but not limited to funding by the Secretary of the Interior and performance by the Secretary of Homeland Security of the duties of "Protection Consultant" to the Commonwealth, shall have effect on and after the date of enactment of this Act), as well as CNMI Public Law 13–61 and the Immigration Regulations Establishing a Procedural Mechanism for Persons Requesting Protection from Refoulement; and

(B) so as not to remove or otherwise effect the involuntary return of any alien whom the Protection Consultant has determined to be eligible for protection from persecution or torture.

(j) CONFORMING AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

8 USC 1101.

(1) in section 101(a)(15)(D)(ii), by inserting "or the Commonwealth of the Northern Mariana Islands" after "Guam" each time such term appears;

(2) in section 101(a)(36), by striking "and the Virgin Islands of the United States" and inserting "the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands";

(3) in section 101(a)(38), by striking "and the Virgin Islands of the United States" and inserting "the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands";

8 USC 1158. Applicability.

(4) in section 208, by adding at the end the following: "(e) COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—The provisions of this section and section 209(b) shall apply to persons physically present in the Commonwealth of the Northern Mariana Islands or arriving in the Commonwealth (whether or not at a designated port of arrival and including persons who are brought to the Commonwealth after having been interdicted in international or United States waters) only on or after January 1, 2014."; and

(5) in section 235(b)(1), by adding at the end the following: 8 USC 1225.

"(G) COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—Nothing in this subsection shall be construed to authorize or require any person described in section 208(e) to be permitted to apply for asylum under section 208 at any time before January 1, 2014.".

(k) AVAILABILITY OF OTHER NONIMMIGRANT PROFESSIONALS.— 8 USC 1182 note.
The requirements of section 212(m)(6)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(m)(6)(B)) shall not apply to a facility in Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands.

**SEC. 703. FURTHER AMENDMENTS TO PUBLIC LAW 94–241.**

Public Law 94–241, as amended, is further amended in section 4(c)(3) by striking the colon after "Marshall Islands" and inserting the following: ", except that $200,000 in fiscal year 2009 and $225,000 annually for fiscal years 2010 through 2018 are hereby rescinded; Provided, That the amount rescinded shall be increased by the same percentage as that of the annual salary and benefit adjustments for Members of Congress". 48 USC 1804.

**SEC. 704. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

**SEC. 705. EFFECTIVE DATE.** 48 USC 1806 note.

(a) IN GENERAL.—Except as specifically provided in this section or otherwise in this subtitle, this subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—The amendments to the Immigration and Nationality Act made by this subtitle, and other provisions of this subtitle applying the immigration laws (as defined in section 101(a)(17) of Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) to the Commonwealth, shall take effect on the transition program effective date described in section 6 of Public Law 94–241 (as added by section 702(a)), unless specifically provided otherwise in this subtitle.

(c) CONSTRUCTION.—Nothing in this subtitle or the amendments made by this subtitle shall be construed to make any residence or presence in the Commonwealth before the transition program effective date described in section 6 of Public Law 94–241 (as added by section 702(a)) residence or presence in the United States, except that, for the purpose only of determining whether an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) has abandoned or lost such status by reason of absence from the United States, such alien's presence in the Commonwealth before, on, or after the date of enactment of this Act shall be considered to be presence in the United States.

# Subtitle B—Northern Mariana Islands Delegate

48 USC 1751.

**SEC. 711. DELEGATE TO HOUSE OF REPRESENTATIVES FROM COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.**

The Commonwealth of the Northern Mariana Islands shall be represented in the United States Congress by the Resident Representative to the United States authorized by section 901 of the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (approved by Public Law 94–241 (48 U.S.C. 1801 et seq.)). The Resident Representative shall be a nonvoting Delegate to the House of Representatives, elected as provided in this subtitle.

48 USC 1752.

**SEC. 712. ELECTION OF DELEGATE.**

(a) ELECTORS AND TIME OF ELECTION.—The Delegate shall be elected—

(1) by the people qualified to vote for the popularly elected officials of the Commonwealth of the Northern Mariana Islands; and

(2) at the Federal general election of 2008 and at such Federal general election every 2d year thereafter.

(b) MANNER OF ELECTION.—

(1) IN GENERAL.—The Delegate shall be elected at large and by a plurality of the votes cast for the office of Delegate.

(2) EFFECT OF ESTABLISHMENT OF PRIMARY ELECTIONS.—Notwithstanding paragraph (1), if the Government of the Commonwealth of the Northern Mariana Islands, acting pursuant to legislation enacted in accordance with the Constitution of the Commonwealth of the Northern Mariana Islands, provides for primary elections for the election of the Delegate, the Delegate shall be elected by a majority of the votes cast in any general election for the office of Delegate for which such primary elections were held.

(c) VACANCY.—In case of a permanent vacancy in the office of Delegate, the office of Delegate shall remain vacant until a successor is elected and qualified.

(d) COMMENCEMENT OF TERM.—The term of the Delegate shall commence on the 3d day of January following the date of the election.

48 USC 1753.

**SEC. 713. QUALIFICATIONS FOR OFFICE OF DELEGATE.**

To be eligible for the office of Delegate a candidate shall—

(1) be at least 25 years of age on the date of the election;

(2) have been a citizen of the United States for at least 7 years prior to the date of the election;

(3) be a resident and domiciliary of the Commonwealth of the Northern Mariana Islands for at least 7 years prior to the date of the election;

(4) be qualified to vote in the Commonwealth of the Northern Mariana Islands on the date of the election; and

(5) not be, on the date of the election, a candidate for any other office.

**SEC. 714. DETERMINATION OF ELECTION PROCEDURE.** 48 USC 1754.

Acting pursuant to legislation enacted in accordance with the Constitution of the Commonwealth of the Northern Mariana Islands, the Government of the Commonwealth of the Northern Mariana Islands may determine the order of names on the ballot for election of Delegate, the method by which a special election to fill a permanent vacancy in the office of Delegate shall be conducted, the method by which ties between candidates for the office of Delegate shall be resolved, and all other matters of local application pertaining to the election and the office of Delegate not otherwise expressly provided for in this subtitle.

**SEC. 715. COMPENSATION, PRIVILEGES, AND IMMUNITIES.** 48 USC 1755.

Until the Rules of the House of Representatives are amended to provide otherwise, the Delegate from the Commonwealth of the Northern Mariana Islands shall receive the same compensation, allowances, and benefits as a Member of the House of Representatives, and shall be entitled to whatever privileges and immunities are, or hereinafter may be, granted to any other nonvoting Delegate to the House of Representatives.

**SEC. 716. LACK OF EFFECT ON COVENANT.** 48 USC 1756.

No provision of this subtitle shall be construed to alter, amend, or abrogate any provision of the covenant referred to in section 711 except section 901 of the covenant.

**SEC. 717. DEFINITION.** 48 USC 1757.

For purposes of this subtitle, the term "Delegate" means the Resident Representative referred to in section 711.

**SEC. 718. CONFORMING AMENDMENTS REGARDING APPOINTMENTS TO MILITARY SERVICE ACADEMIES BY DELEGATE FROM THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.**

(a) UNITED STATES MILITARY ACADEMY.—Section 4342(a)(10) of title 10, United States Code, is amended by striking "resident representative" and inserting "Delegate in Congress".

(b) UNITED STATES NAVAL ACADEMY.—Section 6954(a)(10) of such title is amended by striking "resident representative" and inserting "Delegate in Congress".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9342(a)(10) of such title is amended by striking "resident representative" and inserting "Delegate in Congress".

# TITLE VIII—COMPACTS OF FREE ASSOCIATION AMENDMENTS

Micronesia.
Marshall Islands.
Palau.

**SEC. 801. APPROVAL OF AGREEMENTS.**

(a) IN GENERAL.—Section 101 of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921) is amended—

(1) in the first sentence of subsection (a), by inserting before the period at the end the following: ", including Article X of the Federal Programs and Services Agreement Between the Government of the United States and the Government of the Federated States of Micronesia, as amended under the Agreement to Amend Article X that was signed by those two

Governments on June 30, 2004, which shall serve as the authority to implement the provisions thereof"; and

(2) in the first sentence of subsection (b), by inserting before the period at the end the following: ", including Article X of the Federal Programs and Services Agreement Between the Government of the United States and the Government of the Republic of the Marshall Islands, as amended under the Agreement to Amend Article X that was signed by those two Governments on June 18, 2004, which shall serve as the authority to implement the provisions thereof".

48 USC 1921 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective as of the date that is 180 days after the date of enactment of this Act.

**SEC. 802. FUNDS TO FACILITATE FEDERAL ACTIVITIES.**

Unobligated amounts appropriated before the date of enactment of this Act pursuant to section 105(f)(1)(A)(ii) of the Compact of Free Association Amendments Act of 2003 shall be available to both the United States Agency for International Development and the Federal Emergency Management Agency to facilitate each agency's activities under the Federal Programs and Services Agreements.

**SEC. 803. CONFORMING AMENDMENT.**

(a) IN GENERAL.—Section 105(f)(1)(A) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(A)) is amended to read as follows:

"(A) EMERGENCY AND DISASTER ASSISTANCE.—

"(i) IN GENERAL.—Subject to clause (ii), section 221(a)(6) of the U.S.–FSM Compact and section 221(a)(5) of the U.S.–RMI Compact shall each be construed and applied in accordance with the two Agreements to Amend Article X of the Federal Programs and Service Agreements signed on June 30, 2004, and on June 18, 2004, respectively, provided that all activities carried out by the United States Agency for International Development and the Federal Emergency Management Agency under Article X of the Federal Programs and Services Agreements may be carried out notwithstanding any other provision of law. In the sections referred to in this clause, the term 'United States Agency for International Development, Office of Foreign Disaster Assistance' shall be construed to mean 'the United States Agency for International Development'.

"(ii) DEFINITION OF WILL PROVIDE FUNDING.—In the second sentence of paragraph 12 of each of the Agreements described in clause (i), the term 'will provide funding' means will provide funding through a transfer of funds using Standard Form 1151 or a similar document or through an interagency, reimbursable agreement.".

48 USC 1921d note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as of the date that is 180 days after the date of enactment of this Act.

**SEC. 804. CLARIFICATIONS REGARDING PALAU.**

Section 105(f)(1)(B) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)) is amended—

(1) in clause (ii)(II), by striking "and its territories" and inserting ", its territories, and the Republic of Palau";

(2) in clause (iii)(II), by striking ", or the Republic of the Marshall Islands" and inserting ", the Republic of the Marshall Islands, or the Republic of Palau"; and

(3) in clause (ix)—

(A) by striking "Republic" both places it appears and inserting "government, institutions, and people";

(B) by striking "2007" and inserting "2009"; and

(C) by striking "was" and inserting "were".

**SEC. 805. AVAILABILITY OF LEGAL SERVICES.**

Section 105(f)(1)(C) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(C)) is amended by inserting before the period at the end the following: ", which shall also continue to be available to the citizens of the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands who legally reside in the United States (including territories and possessions)".

**SEC. 806. TECHNICAL AMENDMENTS.**

(a) TITLE I.—

(1) SECTION 177 AGREEMENT.—Section 103(c)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921b(c)(1)) is amended by striking "section 177" and inserting "Section 177".

(2) INTERPRETATION AND UNITED STATES POLICY.—Section 104 of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921c) is amended—

(A) in subsection (b)(1), by inserting "the" before "U.S.–RMI Compact,";

(B) in subsection (e)—

(i) in the matter preceding subparagraph (A) of paragraph (8), by striking "to include" and inserting "and include";

(ii) in paragraph (9)(A), by inserting a comma after "may"; and

(iii) in paragraph (10), by striking "related to service" and inserting "related to such services"; and

(C) in the first sentence of subsection (j), by inserting "the" before "Interior".

(3) SUPPLEMENTAL PROVISIONS.—Section 105(b)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(b)(1)) is amended by striking "Trust Fund" and inserting "Trust Funds".

(b) TITLE II.—

(1) U.S.–FSM COMPACT.—The Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia (as provided in section 201(a) of the Compact of Free Association Amendments Act of 2003 (117 Stat. 2757)) is amended— 48 USC 1921 note.

(A) in section 174—

(i) in subsection (a), by striking "courts" and inserting "court"; and

(ii) in subsection (b)(2), by striking "the" before "November";

(B) in section 177(a), by striking ", or Palau" and inserting "(or Palau)";

(C) in section 179(b), by striking "amended Compact" and inserting "Compact, as amended,";

(D) in section 211—

(i) in the fourth sentence of subsection (a), by striking "Compact, as Amended, of Free Association" and inserting "Compact of Free Association, as amended";

(ii) in the fifth sentence of subsection (a), by striking "Trust Fund Agreement," and inserting "Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia Implementing Section 215 and Section 216 of the Compact, as Amended, Regarding a Trust Fund (Trust Fund Agreement),";

(iii) in subsection (b)—

(I) in the first sentence, by striking "Government of the" before "Federated"; and

(II) in the second sentence, by striking "Sections 321 and 323 of the Compact of Free Association, as Amended" and inserting "Sections 211(b), 321, and 323 of the Compact of Free Association, as amended,"; and

(iv) in the last sentence of subsection (d), by inserting before the period at the end the following: "and the Federal Programs and Services Agreement referred to in section 231";

(E) in the first sentence of section 215(b), by striking "subsection(a)" and inserting "subsection (a)";

(F) in section 221—

(i) in subsection (a)(6), by inserting "(Federal Emergency Management Agency)" after "Homeland Security"; and

(ii) in the first sentence of subsection (c), by striking "agreements" and inserting "agreement";

(G) in the second sentence of section 222, by inserting "in" after "referred to";

(H) in the second sentence of section 232, by striking "sections 102 (c)" and all that follows through "January 14, 1986)" and inserting "section 102(b) of Public Law 108–188, 117 Stat. 2726, December 17, 2003";

(I) in the second sentence of section 252, by inserting ", as amended," after "Compact";

(J) in the first sentence of the first undesignated paragraph of section 341, by striking "Section 141" and inserting "section 141";

(K) in section 342—

(i) in subsection (a), by striking "14 U.S.C. 195" and inserting "section 195 of title 14, United States Code"; and

(ii) in subsection (b)—

(I) by striking "46 U.S.C. 1295(b)(6)" and inserting "section 1303(b)(6) of the Merchant Marine Act, 1936 (46 U.S.C. 1295b(b)(6))"; and

(II) by striking "46 U.S.C. 1295b(b)(6)(C)" and inserting "section 1303(b)(6)(C) of that Act";

(L) in the third sentence of section 354(a), by striking "section 442 and 452" and inserting "sections 442 and 452";

(M) in section 461(h), by striking "Telecommunications" and inserting "Telecommunication";

(N) in section 462(b)(4), by striking "of Free Association" the second place it appears; and

(O) in section 463(b), by striking "Articles IV" and inserting "Article IV".

(2) U.S.–RMI COMPACT.—The Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands (as provided in section 201(b) of the Compact of Free Association Amendments Act of 2003 (117 Stat. 2795)) is amended— 48 USC 1921 note.

(A) in section 174(a), by striking "court" and inserting "courts";

(B) in section 177(a), by striking the comma before "(or Palau)";

(C) in section 179(b), by striking "amended Compact," and inserting "Compact, as amended,";

(D) in section 211—

(i) in the fourth sentence of subsection (a), by striking "Compact, as Amended, of Free Association" and inserting "Compact of Free Association, as amended";

(ii) in the first sentence of subsection (b), by striking "Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Miliary Use and Operating Rights" and inserting "Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Republic of the Marshall Islands concluded Pursuant to Sections 321 and 323 of the Compact of Free Association, as Amended (Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights)"; and

(iii) in the last sentence of subsection (e), by inserting before the period at the end the following: "and the Federal Programs and Services Agreement referred to in section 231";

(E) in section 221(a)—

(i) in the matter preceding paragraph (1), by striking "Section 231" and inserting "section 231"; and

(ii) in paragraph (5), by inserting "(Federal Emergency Management Agency)" after "Homeland Security";

(F) in the second sentence of section 232, by striking "sections 103(m)" and all that follows through "(January

14, 1986)" and inserting "section 103(k) of Public Law 108–188, 117 Stat. 2734, December 17, 2003";

(G) in the first sentence of section 341, by striking "Section 141" and inserting "section 141";

(H) in section 342—

(i) in subsection (a), by striking "14 U.S.C. 195" and inserting "section 195 of title 14, United States Code"; and

(ii) in subsection (b)—

(I) by striking "46 U.S.C. 1295(b)(6)" and inserting "section 1303(b)(6) of the Merchant Marine Act, 1936 (46 U.S.C. 1295b(b)(6))"; and

(II) by striking "46 U.S.C. 1295b(b)(6)(C)" and inserting "section 1303(b)(6)(C) of that Act";

(I) in the third sentence of section 354(a), by striking "section 442 and 452" and inserting "sections 442 and 452";

(J) in the first sentence of section 443, by inserting ", as amended." after "the Compact";

(K) in the matter preceding paragraph (1) of section 461(h)—

(i) by striking "1978" and inserting "1998"; and

(ii) by striking "Telecommunications" and inserting "Telecommunication Union"; and

(L) in section 463(b), by striking "Article" and inserting "Articles".

**SEC. 807. TRANSMISSION OF VIDEOTAPE PROGRAMMING.**

Section 111(e)(2) of title 17, United States Code, is amended by striking "or the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands".

48 USC 1960 note.

**SEC. 808. PALAU ROAD MAINTENANCE.**

The Government of the Republic of Palau may deposit the payment otherwise payable to the Government of the United States under section 111 of Public Law 101–219 (48 U.S.C. 1960) into a trust fund if—

(1) the earnings of the trust fund are expended solely for maintenance of the road system constructed pursuant to section 212 of the Compact of Free Association between the Government of the United States of America and the Government of Palau (48 U.S.C. 1931 note); and

(2) the trust fund is established and operated pursuant to an agreement entered into between the Government of the United States and the Government of the Republic of Palau.

48 USC 1921 note.

**SEC. 809. CLARIFICATION OF TAX-FREE STATUS OF TRUST FUNDS.**

In the U.S.–RMI Compact, the U.S.–FSM Compact, and their respective trust fund subsidiary agreements, for the purposes of taxation by the United States or its subsidiary jurisdictions, the term "State" means "State, territory, or the District of Columbia".

President.

**SEC. 810. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.**

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign countries on a grant basis under section

516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) TURKEY.—To the Government of Turkey—

(A) the OLIVER HAZARD PERRY class guided missile frigates GEORGE PHILIP (FFG–12) and SIDES (FFG–14); and

(B) the OSPREY class minehunter coastal ship BLACKHAWK (MHC–58).

(2) LITHUANIA.—To the Government of Lithuania, the OSPREY class minehunter coastal ships CORMORANT (MHC–57) and KINGFISHER (MHC–56).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign recipients on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761), as follows:

(1) TAIWAN.—To the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act (22 U.S.C. 3309(a))), the OSPREY class minehunter coastal ships ORIOLE (MHC–55) and FALCON (MHC–59).

(2) TURKEY.—To the Government of Turkey, the OSPREY class minehunter coastal ship SHRIKE (MHC–62).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to a recipient on a grant basis pursuant to authority provided by subsection (a) shall not be counted against the aggregate value of excess defense articles transferred in any fiscal year under section 516(g) of the Foreign Assistance Act of 1961.

(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient.

(e) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the recipient to which the vessel is transferred have such repair or refurbishment of the vessel as is needed before the vessel joins the naval forces of the recipient performed at a shipyard located in the United States, including a United States Navy shipyard.

(f) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of enactment of this Act.

Approved May 8, 2008.

LEGISLATIVE HISTORY—S. 2739:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 10, considered and passed Senate.
Apr. 29, considered and passed House.

Public Law 110–230
110th Congress

# An Act

To temporarily extend the programs under the Higher Education Act of 1965.

May 13, 2008
[S. 2929]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF HIGHER EDUCATION PROGRAMS.**

(a) EXTENSION OF PROGRAMS.—Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking "April 30, 2008" and inserting "May 31, 2008".

(b) RULE OF CONSTRUCTION.—Nothing in this section, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) or by the College Cost Reduction and Access Act (Public Law 110–84) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004. 20 USC 1001 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on April 30, 2008. 20 USC 1001 note.

Approved May 13, 2008.

LEGISLATIVE HISTORY—S. 2929:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 29, considered and passed Senate.
May 5, 6, considered and passed House, amended.
May 7, Senate concurred in House amendment.

# Public Law 110–231
# 110th Congress

## An Act

May 18, 2008
[H.R. 6051]

To amend Public Law 110–196 to provide for a temporary extension of programs authorized by the Farm Security and Rural Investment Act of 2002 beyond May 16, 2008.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AGRICULTURAL PROGRAMS AND SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITIES.**

Effective date.

Effective May 16, 2008, section 1 of Public Law 110–196 (122 Stat. 653) (as amended by Public Law 110–200 (122 Stat. 695), Public Law 110–205 (122 Stat. 713), and Public Law 110–208 (122 Stat. 720)) is amended—

(1) in subsection (a), by striking "May 16, 2008" and inserting "the earlier of May 23, 2008, or the date of the enactment of the Food, Conservation, and Energy Act of 2008"; and

(2) in subsection (d), by striking "May 16, 2008" and inserting "the earlier of May 23, 2008, or the date of the enactment of the Food, Conservation, and Energy Act of 2008".

Approved May 18, 2008.

LEGISLATIVE HISTORY—H.R. 6051:

CONGRESSIONAL RECORD, Vol. 154 (2008):
May 14, considered and passed House and Senate.

Public Law 110–232
110th Congress

# An Act

To suspend the acquisition of petroleum for the Strategic Petroleum Reserve, and for other purposes.

May 19, 2008
[H.R. 6022]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008".

**SEC. 2. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.**

Time period.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on December 31, 2008—

(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any acquisition method.

Deadline. President. Notification.

(b) RESUMPTION IN CALENDAR YEAR 2008.—During the period specified in subsection (a) but not earlier than 30 days after the date on which the President notifies Congress that the President has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is $75 or less per barrel—

(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any acquisition method.

(c) EXISTING CONTRACTS.—

(1) DEPARTMENT OF THE INTERIOR CONTRACTS.—In the case of any royalty-in-kind oil scheduled to be delivered to the Department of Energy for the Strategic Petroleum Reserve pursuant to a contract entered into by the Secretary of Interior prior to, and in effect on, the date of enactment of this Act, the Secretary of Energy shall accept delivery of such oil.

(2) DEPARTMENT OF ENERGY CONTRACTS.—In the case of any oil scheduled to be delivered to the Strategic Petroleum Reserve pursuant to a contract entered into by the Secretary of Energy prior to, and in effect on, the date of enactment

of this Act, the Secretary shall, to the maximum extent practicable, negotiate a deferral of the delivery of the oil in accordance with procedures of the Department of Energy in effect on the date of enactment of this Act for deferrals of oil.

Approved May 19, 2008.

LEGISLATIVE HISTORY—H.R. 6022:

CONGRESSIONAL RECORD, Vol. 154 (2008):
May 13, considered and passed House.
May 14, considered and passed Senate.

# Public Law 110–233
# 110th Congress

## An Act

To prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

May 21, 2008
[H.R. 493]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Genetic Information Nondiscrimination Act of 2008. 42 USC 2000ff note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Genetic Information Nondiscrimination Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

Sec. 101. Amendments to Employee Retirement Income Security Act of 1974.
Sec. 102. Amendments to the Public Health Service Act.
Sec. 103. Amendments to the Internal Revenue Code of 1986.
Sec. 104. Amendments to title XVIII of the Social Security Act relating to medigap.
Sec. 105. Privacy and confidentiality.
Sec. 106. Assuring coordination.

TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

Sec. 201. Definitions.
Sec. 202. Employer practices.
Sec. 203. Employment agency practices.
Sec. 204. Labor organization practices.
Sec. 205. Training programs.
Sec. 206. Confidentiality of genetic information.
Sec. 207. Remedies and enforcement.
Sec. 208. Disparate impact.
Sec. 209. Construction.
Sec. 210. Medical information that is not genetic information.
Sec. 211. Regulations.
Sec. 212. Authorization of appropriations.
Sec. 213. Effective date.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Severability.
Sec. 302. Child labor protections.

**SEC. 2. FINDINGS.**

42 USC 2000ff note.

Congress makes the following findings:

(1) Deciphering the sequence of the human genome and other advances in genetics open major new opportunities for medical progress. New knowledge about the genetic basis of illness will allow for earlier detection of illnesses, often before symptoms have begun. Genetic testing can allow individuals to take steps to reduce the likelihood that they will contract

a particular disorder. New knowledge about genetics may allow for the development of better therapies that are more effective against disease or have fewer side effects than current treatments. These advances give rise to the potential misuse of genetic information to discriminate in health insurance and employment.

(2) The early science of genetics became the basis of State laws that provided for the sterilization of persons having presumed genetic "defects" such as mental retardation, mental disease, epilepsy, blindness, and hearing loss, among other conditions. The first sterilization law was enacted in the State of Indiana in 1907. By 1981, a majority of States adopted sterilization laws to "correct" apparent genetic traits or tendencies. Many of these State laws have since been repealed, and many have been modified to include essential constitutional requirements of due process and equal protection. However, the current explosion in the science of genetics, and the history of sterilization laws by the States based on early genetic science, compels Congressional action in this area.

(3) Although genes are facially neutral markers, many genetic conditions and disorders are associated with particular racial and ethnic groups and gender. Because some genetic traits are most prevalent in particular groups, members of a particular group may be stigmatized or discriminated against as a result of that genetic information. This form of discrimination was evident in the 1970s, which saw the advent of programs to screen and identify carriers of sickle cell anemia, a disease which afflicts African-Americans. Once again, State legislatures began to enact discriminatory laws in the area, and in the early 1970s began mandating genetic screening of all African Americans for sickle cell anemia, leading to discrimination and unnecessary fear. To alleviate some of this stigma, Congress in 1972 passed the National Sickle Cell Anemia Control Act, which withholds Federal funding from States unless sickle cell testing is voluntary.

(4) Congress has been informed of examples of genetic discrimination in the workplace. These include the use of preemployment genetic screening at Lawrence Berkeley Laboratory, which led to a court decision in favor of the employees in that case Norman-Bloodsaw v. Lawrence Berkeley Laboratory (135 F.3d 1260, 1269 (9th Cir. 1998)). Congress clearly has a compelling public interest in relieving the fear of discrimination and in prohibiting its actual practice in employment and health insurance.

(5) Federal law addressing genetic discrimination in health insurance and employment is incomplete in both the scope and depth of its protections. Moreover, while many States have enacted some type of genetic non-discrimination law, these laws vary widely with respect to their approach, application, and level of protection. Congress has collected substantial evidence that the American public and the medical community find the existing patchwork of State and Federal laws to be confusing and inadequate to protect them from discrimination. Therefore Federal legislation establishing a national and uniform basic standard is necessary to fully protect the public from discrimination and allay their concerns about the potential

for discrimination, thereby allowing individuals to take advantage of genetic testing, technologies, research, and new therapies.

# TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

**SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**

(a) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended—

(1) in paragraph (2)(A), by inserting before the semicolon the following: "except as provided in paragraph (3)"; and

(2) by adding at the end the following:

"(3) NO GROUP-BASED DISCRIMINATION ON BASIS OF GENETIC INFORMATION.—

"(A) IN GENERAL.—For purposes of this section, a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not adjust premium or contribution amounts for the group covered under such plan on the basis of genetic information.

"(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or in paragraphs (1) and (2) of subsection (d) shall be construed to limit the ability of a health insurance issuer offering health insurance coverage in connection with a group health plan to increase the premium for an employer based on the manifestation of a disease or disorder of an individual who is enrolled in the plan. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer.".

(b) LIMITATIONS ON GENETIC TESTING; PROHIBITION ON COLLECTION OF GENETIC INFORMATION; APPLICATION TO ALL PLANS.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

"(c) GENETIC TESTING.—

"(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

"(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

"(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the

Secretary of Health and Human Services under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a).

"(B) LIMITATION.—For purposes of subparagraph (A), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, may request only the minimum amount of information necessary to accomplish the intended purpose.

"(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, may request, but not require, that a participant or beneficiary undergo a genetic test if each of the following conditions is met:

"(A) The request is made, in writing, pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

"(B) The plan or issuer clearly indicates to each participant or beneficiary, or in the case of a minor child, to the legal guardian of such beneficiary, to whom the request is made that—

"(i) compliance with the request is voluntary; and

"(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

"(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

Notification.

"(D) The plan or issuer notifies the Secretary in writing that the plan or issuer is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted.

"(E) The plan or issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

"(d) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 733).

"(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan or coverage in connection with such enrollment.

"(3) INCIDENTAL COLLECTION.—If a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation

of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

"(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), (c), and (d), and subsection (b)(1) and section 701 with respect to genetic information, shall apply to group health plans and health insurance issuers without regard to section 732(a).".

(c) APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.—Such section is further amended by adding at the end the following:

"(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this part to genetic information concerning an individual or family member of an individual shall—

"(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

"(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.".

(d) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

"(5) FAMILY MEMBER.—The term 'family member' means, with respect to an individual—

"(A) a dependent (as such term is used for purposes of section 701(f)(2)) of such individual, and

"(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

"(6) GENETIC INFORMATION.—

"(A) IN GENERAL.—The term 'genetic information' means, with respect to any individual, information about—

"(i) such individual's genetic tests,

"(ii) the genetic tests of family members of such individual, and

"(iii) the manifestation of a disease or disorder in family members of such individual.

"(B) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

"(C) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of any individual.

"(7) GENETIC TEST.—

"(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

"(B) EXCEPTIONS.—The term 'genetic test' does not mean—

"(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

"(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

"(8) GENETIC SERVICES.—The term 'genetic services' means—

"(A) a genetic test;

"(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

"(C) genetic education.

"(9) UNDERWRITING PURPOSES.—The term 'underwriting purposes' means, with respect to any group health plan, or health insurance coverage offered in connection with a group health plan—

"(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the plan or coverage;

"(B) the computation of premium or contribution amounts under the plan or coverage;

"(C) the application of any pre-existing condition exclusion under the plan or coverage; and

"(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.".

(e) ERISA ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6), by striking "(7), or (8)" and inserting "(7), (8), or (9)";

(2) in subsection (b)(3), by striking "The Secretary" and inserting "Except as provided in subsections (c)(9) and (a)(6) (with respect to collecting civil penalties under subsection (c)(9)), the Secretary"; and

(3) in subsection (c), by redesignating paragraph (9) as paragraph (10), and by inserting after paragraph (8) the following new paragraph:

"(9) SECRETARIAL ENFORCEMENT AUTHORITY RELATING TO USE OF GENETIC INFORMATION.—

"(A) GENERAL RULE.—The Secretary may impose a penalty against any plan sponsor of a group health plan, or any health insurance issuer offering health insurance coverage in connection with the plan, for any failure by such sponsor or issuer to meet the requirements of subsection (a)(1)(F), (b)(3), (c), or (d) of section 702 or section 701 or 702(b)(1) with respect to genetic information, in connection with the plan.

"(B) AMOUNT.—

"(i) IN GENERAL.—The amount of the penalty imposed by subparagraph (A) shall be $100 for each day in the noncompliance period with respect to each participant or beneficiary to whom such failure relates.

"(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

"(I) beginning on the date such failure first occurs; and

"(II) ending on the date the failure is corrected.

"(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

"(i) IN GENERAL.—In the case of 1 or more failures with respect to a participant or beneficiary—

"(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

"(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such participant or beneficiary shall not be less than $2,500.

"(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

"(D) LIMITATIONS.—

"(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

"(I) such failure was due to reasonable cause and not to willful neglect; and

"(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

"(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the aggregate amount paid or incurred by the plan sponsor (or predecessor plan sponsor) during the preceding taxable year for group health plans; or

"(II) $500,000.

"(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.

"(F) DEFINITIONS.—Terms used in this paragraph which are defined in section 733 shall have the meanings provided such terms in such section.".

29 USC 1132 note.

(f) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Secretary of Labor shall issue final regulations not later than 12 months after the date of enactment of this Act to carry out the amendments made by this section.

Applicability.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of enactment of this Act.

**SEC. 102. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.**

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: "except as provided in paragraph (3)"; and

(B) by adding at the end the following:

"(3) NO GROUP-BASED DISCRIMINATION ON BASIS OF GENETIC INFORMATION.—

"(A) IN GENERAL.—For purposes of this section, a group health plan, and health insurance issuer offering group health insurance coverage in connection with a group health plan, may not adjust premium or contribution amounts for the group covered under such plan on the basis of genetic information.

"(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or in paragraphs (1) and (2) of subsection (d) shall be construed to limit the ability of a health insurance issuer offering health insurance coverage in connection with a group health plan to increase the premium for an employer based on the manifestation of a disease or disorder of an individual who is enrolled in the plan. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer.".

(2) LIMITATIONS ON GENETIC TESTING; PROHIBITION ON COLLECTION OF GENETIC INFORMATION; APPLICATION TO ALL PLANS.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

"(c) GENETIC TESTING.—

"(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

"(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

"(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a).

"(B) LIMITATION.—For purposes of subparagraph (A), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, may request only the minimum amount of information necessary to accomplish the intended purpose.

"(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, may request, but not require, that a participant or beneficiary undergo a genetic test if each of the following conditions is met:

"(A) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

"(B) The plan or issuer clearly indicates to each participant or beneficiary, or in the case of a minor child, to the legal guardian of such beneficiary, to whom the request is made that—

"(i) compliance with the request is voluntary; and

"(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

"(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

"(D) The plan or issuer notifies the Secretary in writing that the plan or issuer is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted. Notification.

"(E) The plan or issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

"(d) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 2791).

"(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan or coverage in connection with such enrollment.

"(3) INCIDENTAL COLLECTION.—If a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

"(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), (c) , and (d) and subsection (b)(1) and section 2701 with respect to genetic information, shall apply to group health plans and health insurance issuers without regard to section 2721(a).".

(3) APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.—Such section is further amended by adding at the end the following:

"(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this part to genetic information concerning an individual or family member of an individual shall—

"(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

"(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.".

(4) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

"(15) FAMILY MEMBER.—The term 'family member' means, with respect to any individual—

"(A) a dependent (as such term is used for purposes of section 2701(f)(2)) of such individual; and

"(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

"(16) GENETIC INFORMATION.—

"(A) IN GENERAL.—The term 'genetic information' means, with respect to any individual, information about—

"(i) such individual's genetic tests,

"(ii) the genetic tests of family members of such individual, and

"(iii) the manifestation of a disease or disorder in family members of such individual.

"(B) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

"(C) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of any individual.

"(17) GENETIC TEST.—

"(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or

metabolites, that detects genotypes, mutations, or chromosomal changes.

"(B) EXCEPTIONS.—The term 'genetic test' does not mean—

"(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

"(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

"(18) GENETIC SERVICES.—The term 'genetic services' means—

"(A) a genetic test;

"(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

"(C) genetic education.

"(19) UNDERWRITING PURPOSES.—The term 'underwriting purposes' means, with respect to any group health plan, or health insurance coverage offered in connection with a group health plan—

"(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the plan or coverage;

"(B) the computation of premium or contribution amounts under the plan or coverage;

"(C) the application of any pre-existing condition exclusion under the plan or coverage; and

"(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.".

(5) REMEDIES AND ENFORCEMENT.—Section 2722(b) of the Public Health Service Act (42 U.S.C. 300gg–22(b)) is amended by adding at the end the following:

"(3) ENFORCEMENT AUTHORITY RELATING TO GENETIC DISCRIMINATION.—

"(A) GENERAL RULE.—In the cases described in paragraph (1), notwithstanding the provisions of paragraph (2)(C), the succeeding subparagraphs of this paragraph shall apply with respect to an action under this subsection by the Secretary with respect to any failure of a health insurance issuer in connection with a group health plan, to meet the requirements of subsection (a)(1)(F), (b)(3), (c), or (d) of section 2702 or section 2701 or 2702(b)(1) with respect to genetic information in connection with the plan.

"(B) AMOUNT.—

"(i) IN GENERAL.—The amount of the penalty imposed under this paragraph shall be $100 for each day in the noncompliance period with respect to each participant or beneficiary to whom such failure relates. Penalties.

"(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

"(I) beginning on the date such failure first occurs; and

"(II) ending on the date the failure is corrected.

"(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

"(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

"(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

"(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

"(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

"(D) LIMITATIONS.—

"(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

"(I) such failure was due to reasonable cause and not to willful neglect; and

"(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

"(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

"(II) $500,000.

"(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.".

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—

(1) IN GENERAL.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) is amended—

(A) by redesignating such subpart as subpart 2; and

(B) by adding at the end the following:

**"SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION.**

42 USC 300gg–53.

"(a) PROHIBITION ON GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—

"(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market may not establish rules for the eligibility (including continued eligibility) of any individual to enroll in individual health insurance coverage based on genetic information.

"(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or in paragraphs (1) and (2) of subsection (e) shall be construed to preclude a health insurance issuer from establishing rules for eligibility for an individual to enroll in individual health insurance coverage based on the manifestation of a disease or disorder in that individual, or in a family member of such individual where such family member is covered under the policy that covers such individual.

"(b) PROHIBITION ON GENETIC INFORMATION IN SETTING PREMIUM RATES.—

"(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or a family member of the individual.

"(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or in paragraphs (1) and (2) of subsection (e) shall be construed to preclude a health insurance issuer from adjusting premium or contribution amounts for an individual on the basis of a manifestation of a disease or disorder in that individual, or in a family member of such individual where such family member is covered under the policy that covers such individual. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other individuals covered under the policy issued to such individual and to further increase premiums or contribution amounts.

"(c) PROHIBITION ON GENETIC INFORMATION AS PREEXISTING CONDITION.—

"(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market may not, on the basis of genetic information, impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage.

"(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or in paragraphs (1) and (2) of subsection (e) shall be construed to preclude a health insurance issuer from imposing any preexisting condition exclusion for an individual with respect to health insurance coverage on the basis of a manifestation of a disease or disorder in that individual.

"(d) GENETIC TESTING.—

"(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

"(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

"(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a health insurance issuer offering health insurance coverage in the individual market from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a) and (c).

"(B) LIMITATION.—For purposes of subparagraph (A), a health insurance issuer offering health insurance coverage in the individual market may request only the minimum amount of information necessary to accomplish the intended purpose.

"(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a health insurance issuer offering health insurance coverage in the individual market may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

"(A) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

"(B) The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that—

"(i) compliance with the request is voluntary; and

"(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

"(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

Notification.

"(D) The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted.

"(E) The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

"(e) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

"(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 2791).

"(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A health insurance issuer offering

health insurance coverage in the individual market shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan in connection with such enrollment.

"(3) INCIDENTAL COLLECTION.—If a health insurance issuer offering health insurance coverage in the individual market obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

"(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this part to genetic information concerning an individual or family member of an individual shall—

"(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

"(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.".

(2) REMEDIES AND ENFORCEMENT.—Section 2761(b) of the Public Health Service Act (42 U.S.C. 300gg–61(b)) is amended to read as follows:

"(b) SECRETARIAL ENFORCEMENT AUTHORITY.—The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 2722(b)(2), and section 2722(b)(3) with respect to violations of genetic nondiscrimination provisions, in relation to the enforcement of the provisions of part A with respect to issuers of health insurance coverage in the small group market in the State.".

(c) ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.—Section 2721(b)(2) of the Public Health Service Act (42 U.S.C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking "If the plan sponsor" and inserting "Except as provided in subparagraph (D), if the plan sponsor"; and

(2) by adding at the end the following:

"(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F), (b)(3), (c), and (d) of section 2702 and the provisions of sections 2701 and 2702(b) to the extent that such provisions apply to genetic information.".

(d) REGULATIONS AND EFFECTIVE DATE.—

42 USC 300gg–1 note.

(1) REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to carry out the amendments made by this section.

Applicability.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply—

(A) with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is 1 year after the date of enactment of this Act; and

(B) with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after the date that is 1 year after the date of enactment of this Act.

**SEC. 103. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.**

(a) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Subsection (b) of section 9802 of the Internal Revenue Code of 1986 is amended— 26 USC 9802.

(1) in paragraph (2)(A), by inserting before the semicolon the following: "except as provided in paragraph (3)"; and

(2) by adding at the end the following:

"(3) NO GROUP-BASED DISCRIMINATION ON BASIS OF GENETIC INFORMATION.—

"(A) IN GENERAL.—For purposes of this section, a group health plan may not adjust premium or contribution amounts for the group covered under such plan on the basis of genetic information.

"(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or in paragraphs (1) and (2) of subsection (d) shall be construed to limit the ability of a group health plan to increase the premium for an employer based on the manifestation of a disease or disorder of an individual who is enrolled in the plan. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer.".

(b) LIMITATIONS ON GENETIC TESTING; PROHIBITION ON COLLECTION OF GENETIC INFORMATION; APPLICATION TO ALL PLANS.—Section 9802 of such Code is amended by redesignating subsection (c) as subsection (f) and by inserting after subsection (b) the following new subsections:

"(c) GENETIC TESTING.—

"(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan may not request or require an individual or a family member of such individual to undergo a genetic test.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

"(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

"(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a group health plan from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a).

"(B) LIMITATION.—For purposes of subparagraph (A), a group health plan may request only the minimum amount of information necessary to accomplish the intended purpose.

"(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a group health plan may request, but not require, that a participant or beneficiary undergo a genetic test if each of the following conditions is met:

"(A) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

"(B) The plan clearly indicates to each participant or beneficiary, or in the case of a minor child, to the legal guardian of such beneficiary, to whom the request is made that—

"(i) compliance with the request is voluntary; and

"(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

"(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

"(D) The plan notifies the Secretary in writing that the plan is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted. Notification.

"(E) The plan complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

"(d) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

"(1) IN GENERAL.—A group health plan shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 9832).

"(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan or in connection with such enrollment.

"(3) INCIDENTAL COLLECTION.—If a group health plan obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

"(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), (c), and (d) and subsection (b)(1) and section 9801 with respect to genetic information, shall apply to group health plans without regard to section 9831(a)(2).".

(c) APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.—Such section is further amended by adding at the end the following:

"(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this chapter to genetic information concerning an individual or family member of an individual shall—

"(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic

information of any fetus carried by such pregnant woman; and

"(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.".

26 USC 9832.

(d) DEFINITIONS.—Subsection (d) of section 9832 of such Code is amended by adding at the end the following:

"(6) FAMILY MEMBER.—The term 'family member' means, with respect to any individual—

"(A) a dependent (as such term is used for purposes of section 9801(f)(2)) of such individual, and

"(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

"(7) GENETIC INFORMATION.—

"(A) IN GENERAL.—The term 'genetic information' means, with respect to any individual, information about—

"(i) such individual's genetic tests,

"(ii) the genetic tests of family members of such individual, and

"(iii) the manifestation of a disease or disorder in family members of such individual.

"(B) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

"(C) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of any individual.

"(8) GENETIC TEST.—

"(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

"(B) EXCEPTIONS.—The term 'genetic test' does not mean—

"(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes, or

"(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

"(9) GENETIC SERVICES.—The term 'genetic services' means—

"(A) a genetic test;

"(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

"(C) genetic education.

"(10) UNDERWRITING PURPOSES.—The term 'underwriting purposes' means, with respect to any group health plan, or health insurance coverage offered in connection with a group health plan—

"(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the plan or coverage;

"(B) the computation of premium or contribution amounts under the plan or coverage;

"(C) the application of any pre-existing condition exclusion under the plan or coverage; and

"(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.".

(e) ENFORCEMENT.—

(1) IN GENERAL.—Subchapter C of chapter 100 of the Internal Revenue Code of 1986 (relating to general provisions) is amended by adding at the end the following new section:

**"SEC. 9834. ENFORCEMENT.**

"For the imposition of tax on any failure of a group health plan to meet the requirements of this chapter, see section 4980D.".

(2) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 100 of such Code is amended by adding at the end the following new item:

"Sec. 9834. Enforcement.".

(f) REGULATIONS AND EFFECTIVE DATE.— 26 USC 9802 note.

(1) REGULATIONS.—The Secretary of the Treasury shall issue final regulations or other guidance not later than 12 months after the date of the enactment of this Act to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of the enactment of this Act. Applicability.

**SEC. 104. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT RELATING TO MEDIGAP.**

(a) NONDISCRIMINATION.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

"(E) An issuer of a medicare supplemental policy shall not deny or condition the issuance or effectiveness of the policy (including the imposition of any exclusion of benefits under the policy based on a pre-existing condition) and shall not discriminate in the pricing of the policy (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual.

"(F) RULE OF CONSTRUCTION.—Nothing in subparagraph (E) or in subparagraphs (A) or (B) of subsection (x)(2) shall be construed to limit the ability of an issuer of a medicare supplemental policy from, to the extent otherwise permitted under this title—

"(i) denying or conditioning the issuance or effectiveness of the policy or increasing the premium for an employer based on the manifestation of a disease or disorder of an individual who is covered under the policy; or

"(ii) increasing the premium for any policy issued to an individual based on the manifestation of a disease

or disorder of an individual who is covered under the policy (in such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer).".

(b) LIMITATIONS ON GENETIC TESTING AND GENETIC INFORMATION.—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

"(x) LIMITATIONS ON GENETIC TESTING AND INFORMATION.—

"(1) GENETIC TESTING.—

"(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—An issuer of a medicare supplemental policy shall not request or require an individual or a family member of such individual to undergo a genetic test.

"(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

"(C) RULE OF CONSTRUCTION REGARDING PAYMENT.—

"(i) IN GENERAL.—Nothing in subparagraph (A) shall be construed to preclude an issuer of a medicare supplemental policy from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary under part C of title XI and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (s)(2)(E).

"(ii) LIMITATION.—For purposes of clause (i), an issuer of a medicare supplemental policy may request only the minimum amount of information necessary to accomplish the intended purpose.

"(D) RESEARCH EXCEPTION.—Notwithstanding subparagraph (A), an issuer of a medicare supplemental policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

"(i) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

"(ii) The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that—

"(I) compliance with the request is voluntary; and

"(II) non-compliance will have no effect on enrollment status or premium or contribution amounts.

"(iii) No genetic information collected or acquired under this subparagraph shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rating, or the creation, renewal, or replacement of a plan, contract, or coverage for health insurance or health benefits.

"(iv) The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this subparagraph, including a description of the activities conducted.

"(v) The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this subparagraph.

"(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

"(A) IN GENERAL.—An issuer of a medicare supplemental policy shall not request, require, or purchase genetic information for underwriting purposes (as defined in paragraph (3)).

"(B) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—An issuer of a medicare supplemental policy shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment.

"(C) INCIDENTAL COLLECTION.—If an issuer of a medicare supplemental policy obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of subparagraph (B) if such request, requirement, or purchase is not in violation of subparagraph (A).

"(3) DEFINITIONS.—In this subsection:

"(A) FAMILY MEMBER.—The term 'family member' means with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual.

"(B) GENETIC INFORMATION.—

"(i) IN GENERAL.—The term 'genetic information' means, with respect to any individual, information about—

"(I) such individual's genetic tests,

"(II) the genetic tests of family members of such individual, and

"(III) subject to clause (iv), the manifestation of a disease or disorder in family members of such individual.

"(ii) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

"(iii) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of any individual.

"(C) GENETIC TEST.—

"(i) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

"(ii) EXCEPTIONS.—The term 'genetic test' does not mean—

"(I) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

"(II) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

"(D) GENETIC SERVICES.—The term 'genetic services' means—

"(i) a genetic test;

"(ii) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

"(iii) genetic education.

"(E) UNDERWRITING PURPOSES.—The term 'underwriting purposes' means, with respect to a medicare supplemental policy—

"(i) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy;

"(ii) the computation of premium or contribution amounts under the policy;

"(iii) the application of any pre-existing condition exclusion under the policy; and

"(iv) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

"(F) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term 'issuer of a medicare supplemental policy' includes a third-party administrator or other person acting for or on behalf of such issuer.".

(2) APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.—Section 1882(x) of such Act, as added by paragraph (1), is further amended by adding at the end the following:

"(4) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this section to genetic information concerning an individual or family member of an individual shall—

"(A) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

"(B) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.".

(3) CONFORMING AMENDMENT.—Section 1882(o) of the Social Security Act (42 U.S.C. 1395ss(o)) is amended by adding at the end the following:

"(4) The issuer of the medicare supplemental policy complies with subsection (s)(2)(E) and subsection (x).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to an issuer of a medicare supplemental policy for policy years beginning on or after the date that is 1 year after the date of enactment of this Act. Applicability. 42 USC 1395ss note.

(d) TRANSITION PROVISIONS.— 42 USC 1395ss note.

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, not later than October 31, 2008, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section. Deadline.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than July 1, 2009, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section. Deadline.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) July 1, 2009.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2009 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2009. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

**SEC. 105. PRIVACY AND CONFIDENTIALITY.**

(a) IN GENERAL.—Part C of title XI of the Social Security Act is amended by adding at the end the following new section:

"APPLICATION OF HIPAA REGULATIONS TO GENETIC INFORMATION

42 USC 1320d–9.

"SEC. 1180. (a) IN GENERAL.—The Secretary shall revise the HIPAA privacy regulation (as defined in subsection (b)) so it is consistent with the following:

"(1) Genetic information shall be treated as health information described in section 1171(4)(B).

"(2) The use or disclosure by a covered entity that is a group health plan, health insurance issuer that issues health insurance coverage, or issuer of a medicare supplemental policy of protected health information that is genetic information about an individual for underwriting purposes under the group health plan, health insurance coverage, or medicare supplemental policy shall not be a permitted use or disclosure.

"(b) DEFINITIONS.—For purposes of this section:

"(1) GENETIC INFORMATION; GENETIC TEST; FAMILY MEMBER.—The terms 'genetic information', 'genetic test', and 'family member' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), as amended by the Genetic Information Nondiscrimination Act of 2007.

"(2) GROUP HEALTH PLAN; HEALTH INSURANCE COVERAGE; MEDICARE SUPPLEMENTAL POLICY.—The terms 'group health plan' and 'health insurance coverage' have the meanings given such terms under section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), and the term 'medicare supplemental policy' has the meaning given such term in section 1882(g).

"(3) HIPAA PRIVACY REGULATION.—The term 'HIPAA privacy regulation' means the regulations promulgated by the Secretary under this part and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

"(4) UNDERWRITING PURPOSES.—The term 'underwriting purposes' means, with respect to a group health plan, health insurance coverage, or a medicare supplemental policy—

"(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for, or determination of, benefits under the plan, coverage, or policy;

"(B) the computation of premium or contribution amounts under the plan, coverage, or policy;

"(C) the application of any pre-existing condition exclusion under the plan, coverage, or policy; and

"(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

Notice.
Federal Register, publication.
Deadline.
Effective date.

"(c) PROCEDURE.—The revisions under subsection (a) shall be made by notice in the Federal Register published not later than 60 days after the date of the enactment of this section and shall be effective upon publication, without opportunity for any prior public comment, but may be revised, consistent with this section, after opportunity for public comment.

"(d) ENFORCEMENT.—In addition to any other sanctions or remedies that may be available under law, a covered entity that is a group health plan, health insurance issuer, or issuer of a medicare supplemental policy and that violates the HIPAA privacy regulation (as revised under subsection (a) or otherwise) with respect to the use or disclosure of genetic information shall be subject to the

penalties described in sections 1176 and 1177 in the same manner and to the same extent that such penalties apply to violations of this part.".

(b) REGULATIONS; EFFECTIVE DATE.—

42 USC 1320d–9 note. Deadline.

(1) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to carry out the revision required by section 1180(a) of the Social Security Act, as added by subsection (a). The Secretary has the sole authority to promulgate such regulations, but shall promulgate such regulations in consultation with the Secretaries of Labor and the Treasury.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 1 year after the date of the enactment of this Act.

**SEC. 106. ASSURING COORDINATION.**

Memorandum. 42 USC 300gg–1 note.

Except as provided in section 105(b)(1), the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this title (and the amendments made by this title) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

# TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

**SEC. 201. DEFINITIONS.**

42 USC 2000ff.

In this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission as created by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).

(2) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.—

(A) IN GENERAL.—The term "employee" means—

(i) an employee (including an applicant), as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(ii) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(iii) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);

(iv) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code; or

(v) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(B) EMPLOYER.—The term "employer" means—

(i) an employer (as defined in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)));

(ii) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(iii) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(iv) an employing office, as defined in section 411(c) of title 3, United States Code; or

(v) an entity to which section 717(a) of the Civil Rights Act of 1964 applies.

(C) EMPLOYMENT AGENCY; LABOR ORGANIZATION.—The terms "employment agency" and "labor organization" have the meanings given the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(D) MEMBER.—The term "member", with respect to a labor organization, includes an applicant for membership in a labor organization.

(3) FAMILY MEMBER.—The term "family member" means, with respect to an individual—

(A) a dependent (as such term is used for purposes of section 701(f)(2) of the Employee Retirement Income Security Act of 1974) of such individual, and

(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

(4) GENETIC INFORMATION.—

(A) IN GENERAL.—The term "genetic information" means, with respect to any individual, information about—

(i) such individual's genetic tests,

(ii) the genetic tests of family members of such individual, and

(iii) the manifestation of a disease or disorder in family members of such individual.

(B) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

(C) EXCLUSIONS.—The term "genetic information" shall not include information about the sex or age of any individual.

(5) GENETIC MONITORING.—The term "genetic monitoring" means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace,

in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(6) GENETIC SERVICES.—The term "genetic services" means—

(A) a genetic test;

(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

(C) genetic education.

(7) GENETIC TEST.—

(A) IN GENERAL.—The term "genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

(B) EXCEPTIONS.—The term "genetic test" does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.

**SEC. 202. EMPLOYER PRACTICES.** 42 USC 2000ff–1.

(a) DISCRIMINATION BASED ON GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire, or to discharge, any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee; or

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee except—

(1) where an employer inadvertently requests or requires family medical history of the employee or family member of the employee;

(2) where—

(A) health or genetic services are offered by the employer, including such services offered as part of a wellness program;

(B) the employee provides prior, knowing, voluntary, and written authorization;

(C) only the employee (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees;

(3) where an employer requests or requires family medical history from the employee to comply with the certification

provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employer purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history;

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer provides written notice of the genetic monitoring to the employee;

(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the employee is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees; or

(6) where the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory or for purposes of human remains identification, and requests or requires genetic information of such employer's employees, but only to the extent that such genetic information is used for analysis of DNA identification markers for quality control to detect sample contamination.

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (6) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

42 USC 2000ff–2.

**SEC. 203. EMPLOYMENT AGENCY PRACTICES.**

(a) DISCRIMINATION BASED ON GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual;

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way

that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency to request, require, or purchase genetic information with respect to an individual or a family member of the individual except—

(1) where an employment agency inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employment agency, including such services offered as part of a wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employment agency except in aggregate terms that do not disclose the identity of specific individuals;

(3) where an employment agency requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employment agency purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employment agency provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C.

651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employment agency, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals.

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.

42 USC 2000ff–3.

**SEC. 204. LABOR ORGANIZATION PRACTICES.**

(a) DISCRIMINATION BASED ON GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any member because of genetic information with respect to the member;

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any member, in any way that would deprive or tend to deprive any member of employment opportunities, or otherwise adversely affect the status of the member as an employee, because of genetic information with respect to the member; or

(3) to cause or attempt to cause an employer to discriminate against a member in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization to request, require, or purchase genetic information with respect to a member or a family member of the member except—

(1) where a labor organization inadvertently requests or requires family medical history of the member or family member of the member;

(2) where—

(A) health or genetic services are offered by the labor organization, including such services offered as part of a wellness program;

(B) the member provides prior, knowing, voluntary, and written authorization;

(C) only the member (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed

to the labor organization except in aggregate terms that do not disclose the identity of specific members;

(3) where a labor organization requests or requires family medical history from the members to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where a labor organization purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the labor organization provides written notice of the genetic monitoring to the member;

(B)(i) the member provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the member is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the labor organization, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific members.

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.

**SEC. 205. TRAINING PROGRAMS.** 42 USC 2000ff–4.

(a) DISCRIMINATION BASED ON GENETIC INFORMATION.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of genetic information with respect to the individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual; or

(3) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a) to request, require, or purchase genetic information with respect to an individual or a family member of the individual except—

(1) where the employer, labor organization, or joint labor-management committee inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employer, labor organization, or joint labor-management committee, including such services offered as part of a wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer, labor organization, or joint labor-management committee except in aggregate terms that do not disclose the identity of specific individuals;

(3) where the employer, labor organization, or joint labor-management committee requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where the employer, labor organization, or joint labor-management committee purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history;

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

Notification.

(A) the employer, labor organization, or joint labor-management committee provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, labor organization, or joint labor-management committee, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals; or

(6) where the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory or for purposes of human remains identification, and requests or requires genetic information of such employer's apprentices or trainees, but only to the extent that such genetic information is used for analysis of DNA identification markers for quality control to detect sample contamination.

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (6) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.

**SEC. 206. CONFIDENTIALITY OF GENETIC INFORMATION.** 42 USC 2000ff–5.

(a) TREATMENT OF INFORMATION AS PART OF CONFIDENTIAL MEDICAL RECORD.—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member, such information shall be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member. An employer, employment agency, labor organization, or joint labor-management committee shall be considered to be in compliance with the maintenance of information requirements of this subsection with respect to genetic information subject to this subsection that is maintained with and treated as a confidential medical record under section 102(d)(3)(B) of the Americans With Disabilities Act (42 U.S.C. 12112(d)(3)(B)).

(b) LIMITATION ON DISCLOSURE.—An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member except—

(1) to the employee or member of a labor organization (or family member if the family member is receiving the genetic services) at the written request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that—

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-management committee shall inform the employee or member of the court order and any genetic information that was disclosed pursuant to such order;

(4) to government officials who are investigating compliance with this title if the information is relevant to the investigation;

(5) to the extent that such disclosure is made in connection with the employee's compliance with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws; or

(6) to a Federal, State, or local public health agency only with regard to information that is described in section 201(4)(A)(iii) and that concerns a contagious disease that presents an imminent hazard of death or life-threatening illness, and that the employee whose family member or family members is or are the subject of a disclosure under this paragraph is notified of such disclosure.

(c) RELATIONSHIP TO HIPAA REGULATIONS.—With respect to the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), this title does not prohibit a covered entity under such regulations from any use or disclosure of health information that is authorized for the covered entity under such regulations. The previous sentence does not affect the authority of such Secretary to modify such regulations.

42 USC 2000ff–6.

**SEC. 207. REMEDIES AND ENFORCEMENT.**

(a) EMPLOYEES COVERED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, procedures, and remedies provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4 et seq.) to the Commission, the Attorney General, or any person, alleging a violation of title VII of that Act (42 U.S.C. 2000e et seq.) shall be the powers, procedures, and remedies this title provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(i), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(b) EMPLOYEES COVERED BY GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b, 2000e–16c) to the Commission, or any person, alleging a violation of section 302(a)(1) of that Act (42 U.S.C. 2000e–16b(a)(1)) shall be the powers, remedies, and procedures this title provides to the Commission, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(ii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(c) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 201(a)(1) of that Act (42 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this title provides to that Board, or any person, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(4) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleging a practice described in paragraph (1), title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleging a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Commission, the Merit Systems Protection Board, or any person, alleging a violation of section 411(a)(1) of that title, shall be the powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iv), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(e) EMPLOYEES COVERED BY SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging a violation of that section shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee or applicant described in section 201(2)(A)(v), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides

to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(f) PROHIBITION AGAINST RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this title or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title. The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

(g) DEFINITION.—In this section, the term "Commission" means the Equal Employment Opportunity Commission.

**SEC. 208. DISPARATE IMPACT.**

42 USC 2000ff–7.

(a) GENERAL RULE.—Notwithstanding any other provision of this Act, "disparate impact", as that term is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(k)), on the basis of genetic information does not establish a cause of action under this Act.

Effective date. Establishment.

(b) COMMISSION.—On the date that is 6 years after the date of enactment of this Act, there shall be established a commission, to be known as the Genetic Nondiscrimination Study Commission (referred to in this section as the "Commission") to review the developing science of genetics and to make recommendations to Congress regarding whether to provide a disparate impact cause of action under this Act.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 8 members, of which—

(A) 1 member shall be appointed by the Majority Leader of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate;

(C) 1 member shall be appointed by the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;

(D) 1 member shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;

(E) 1 member shall be appointed by the Speaker of the House of Representatives;

(F) 1 member shall be appointed by the Minority Leader of the House of Representatives;

(G) 1 member shall be appointed by the Chairman of the Committee on Education and Labor of the House of Representatives; and

(H) 1 member shall be appointed by the ranking minority member of the Committee on Education and Labor of the House of Representatives.

(2) COMPENSATION AND EXPENSES.—The members of the Commission shall not receive compensation for the performance of services for the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(d) ADMINISTRATIVE PROVISIONS.—

(1) LOCATION.—The Commission shall be located in a facility maintained by the Equal Employment Opportunity Commission.

(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) REPORT.—Not later than 1 year after all of the members are appointed to the Commission under subsection (c)(1), the Commission shall submit to Congress a report that summarizes the findings of the Commission and makes such recommendations for legislation as are consistent with this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Equal Employment Opportunity Commission such sums as may be necessary to carry out this section.

42 USC 2000ff–8.

**SEC. 209. CONSTRUCTION.**

(a) IN GENERAL.—Nothing in this title shall be construed to—

(1) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title, including the protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) (including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112)), or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(2)(A) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title; or

(B) provide for enforcement of, or penalties for violation of, any requirement or prohibition applicable to any employer, employment agency, labor organization, or joint labor-management committee subject to enforcement for a violation under— Applicability.

(i) the amendments made by title I of this Act;

(ii)(I) subsection (a) of section 701 of the Employee Retirement Income Security Act of 1974 as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 702(a)(1)(F) of such Act; or

(III) section 702(b)(1) of such Act as such section applies with respect to genetic information as a health status-related factor;

(iii)(I) subsection (a) of section 2701 of the Public Health Service Act as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 2702(a)(1)(F) of such Act; or

(III) section 2702(b)(1) of such Act as such section applies with respect to genetic information as a health status-related factor; or

(iv)(I) subsection (a) of section 9801 of the Internal Revenue Code of 1986 as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 9802(a)(1)(F) of such Act; or

(III) section 9802(b)(1) of such Act as such section applies with respect to genetic information as a health status-related factor;

(3) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;

(4) limit or expand the protections, rights, or obligations of employees or employers under applicable workers' compensation laws;

(5) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulation or rule);

(6) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations; or

(7) require any specific benefit for an employee or member or a family member of an employee or member under any group health plan or health insurance issuer offering group health insurance coverage in connection with a group health plan.

(b) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this title to genetic information concerning an individual or family member of an individual shall—

(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.

(c) RELATION TO AUTHORITIES UNDER TITLE I.—With respect to a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, this title does not prohibit any activity of such plan or issuer that is authorized for the plan or issuer under any provision of law referred to in clauses (i) through (iv) of subsection (a)(2)(B).

42 USC 2000ff–9.

**SEC. 210. MEDICAL INFORMATION THAT IS NOT GENETIC INFORMATION.**

An employer, employment agency, labor organization, or joint labor-management committee shall not be considered to be in violation of this title based on the use, acquisition, or disclosure of medical information that is not genetic information about a manifested disease, disorder, or pathological condition of an employee or member, including a manifested disease, disorder, or pathological condition that has or may have a genetic basis.

Deadline.
42 USC 2000ff–10.

**SEC. 211. REGULATIONS.**

Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations to carry out this title.

42 USC 2000ff–11.

**SEC. 212. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this title (except for section 208).

42 USC 2000ff note.

**SEC. 213. EFFECTIVE DATE.**

This title takes effect on the date that is 18 months after the date of enactment of this Act.

# TITLE III—MISCELLANEOUS PROVISIONS

42 USC 2000ff note.

**SEC. 301. SEVERABILITY.**

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions to any person or circumstance shall not be affected thereby.

**SEC. 302. CHILD LABOR PROTECTIONS.**

(a) IN GENERAL.—Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended to read as follows:

Penalties.

"(e)(1)(A) Any person who violates the provisions of sections 12 or 13(c), relating to child labor, or any regulation issued pursuant to such sections, shall be subject to a civil penalty not to exceed—

"(i) $11,000 for each employee who was the subject of such a violation; or

"(ii) $50,000 with regard to each such violation that causes the death or serious injury of any employee under the age of 18 years, which penalty may be doubled where the violation is a repeated or willful violation.

"(B) For purposes of subparagraph (A), the term 'serious injury' means—

"(i) permanent loss or substantial impairment of one of the senses (sight, hearing, taste, smell, tactile sensation);

"(ii) permanent loss or substantial impairment of the function of a bodily member, organ, or mental faculty, including the loss of all or part of an arm, leg, foot, hand or other body part; or

"(iii) permanent paralysis or substantial impairment that causes loss of movement or mobility of an arm, leg, foot, hand or other body part.

"(2) Any person who repeatedly or willfully violates section 6 or 7, relating to wages, shall be subject to a civil penalty not to exceed $1,100 for each such violation.

"(3) In determining the amount of any penalty under this subsection, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of any penalty under this subsection, when finally determined, may be—

"(A) deducted from any sums owing by the United States to the person charged;

"(B) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"(C) ordered by the court, in an action brought for a violation of section 15(a)(4) or a repeated or willful violation of section 15(a)(2), to be paid to the Secretary.

"(4) Any administrative determination by the Secretary of the amount of any penalty under this subsection shall be final, unless within 15 days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary.

Deadline.
Notification.
Regulations.

"(5) Except for civil penalties collected for violations of section 12, sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provision of section 2 of the Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof and for other purposes' (29 U.S.C. 9a). Civil penalties collected for violations of section 12 shall be deposited in the general fund of the Treasury.".

29 USC 216 note.

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

Approved May 21, 2008.

LEGISLATIVE HISTORY—H.R. 493 (S. 358):

HOUSE REPORTS: No. 110–28, Pt. 1 (Comm. on Education and Labor), Pt. 2 (Comm. on Ways and Means), and Pts. 3 and 4 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 110–48 accompanying S. 358 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD:
Vol. 153 (2007): Apr. 25, considered and passed House.
Vol. 154 (2008): Apr. 24, considered and passed Senate, amended.
May 1, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
May 21, Presidential remarks.

# Public Law 110–234
# 110th Congress

## An Act

To provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

May 22, 2008
[H.R. 2419]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Food, Conservation, and Energy Act of 2008.
7 USC 8701 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Food, Conservation, and Energy Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—COMMODITY PROGRAMS

Sec. 1001. Definitions.

Subtitle A—Direct Payments and Counter-Cyclical Payments

Sec. 1102. Payment yields.
Sec. 1103. Availability of direct payments.
Sec. 1104. Availability of counter-cyclical payments.
Sec. 1105. Average crop revenue election program.
Sec. 1106. Producer agreement required as condition of provision of payments.
Sec. 1107. Planting flexibility.
Sec. 1108. Special rule for long grain and medium grain rice.
Sec. 1109. Period of effectiveness.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

Sec. 1201. Availability of nonrecourse marketing assistance loans for loan commodities.
Sec. 1202. Loan rates for nonrecourse marketing assistance loans.
Sec. 1203. Term of loans.
Sec. 1204. Repayment of loans.
Sec. 1205. Loan deficiency payments.
Sec. 1206. Payments in lieu of loan deficiency payments for grazed acreage.
Sec. 1207. Special marketing loan provisions for upland cotton.
Sec. 1208. Special competitive provisions for extra long staple cotton.
Sec. 1209. Availability of recourse loans for high moisture feed grains and seed cotton.
Sec. 1210. Adjustments of loans.

Subtitle C—Peanuts

Sec. 1301. Definitions.
Sec. 1302. Base acres for peanuts for a farm.
Sec. 1303. Availability of direct payments for peanuts.
Sec. 1304. Availability of counter-cyclical payments for peanuts.
Sec. 1305. Producer agreement required as condition on provision of payments.
Sec. 1306. Planting flexibility.
Sec. 1307. Marketing assistance loans and loan deficiency payments for peanuts.
Sec. 1308. Adjustments of loans.

Subtitle D—Sugar

Sec. 1401. Sugar program.

Sec. 1402. United States membership in the International Sugar Organization.
Sec. 1403. Flexible marketing allotments for sugar.
Sec. 1404. Storage facility loans.
Sec. 1405. Commodity Credit Corporation storage payments.

Subtitle E—Dairy

Sec. 1501. Dairy product price support program.
Sec. 1502. Dairy forward pricing program.
Sec. 1503. Dairy export incentive program.
Sec. 1504. Revision of Federal marketing order amendment procedures.
Sec. 1505. Dairy indemnity program.
Sec. 1506. Milk income loss contract program.
Sec. 1507. Dairy promotion and research program.
Sec. 1508. Report on Department of Agriculture reporting procedures for nonfat dry milk.
Sec. 1509. Federal Milk Marketing Order Review Commission.
Sec. 1510. Mandatory reporting of dairy commodities.

Subtitle F—Administration

Sec. 1601. Administration generally.
Sec. 1602. Suspension of permanent price support authority.
Sec. 1603. Payment limitations.
Sec. 1604. Adjusted gross income limitation.
Sec. 1605. Availability of quality incentive payments for covered oilseed producers.
Sec. 1606. Personal liability of producers for deficiencies.
Sec. 1607. Extension of existing administrative authority regarding loans.
Sec. 1608. Assignment of payments.
Sec. 1609. Tracking of benefits.
Sec. 1610. Government publication of cotton price forecasts.
Sec. 1611. Prevention of deceased individuals receiving payments under farm commodity programs.
Sec. 1612. Hard white wheat development program.
Sec. 1613. Durum wheat quality program.
Sec. 1614. Storage facility loans.
Sec. 1615. State, county, and area committees.
Sec. 1616. Prohibition on charging certain fees.
Sec. 1617. Signature authority.
Sec. 1618. Modernization of Farm Service Agency.
Sec. 1619. Information gathering.
Sec. 1620. Leasing of office space.
Sec. 1621. Geographically disadvantaged farmers and ranchers.
Sec. 1622. Implementation.
Sec. 1623. Repeals.

TITLE II—CONSERVATION

Subtitle A—Definitions and Highly Erodible Land and Wetland Conservation

Sec. 2001. Definitions relating to conservation title of Food Security Act of 1985.
Sec. 2002. Review of good faith determinations related to highly erodible land conservation.
Sec. 2003. Review of good faith determinations related to wetland conservation.

Subtitle B—Conservation Reserve Program

Sec. 2101. Extension of conservation reserve program.
Sec. 2102. Land eligible for enrollment in conservation reserve.
Sec. 2103. Maximum enrollment of acreage in conservation reserve.
Sec. 2104. Designation of conservation priority areas.
Sec. 2105. Treatment of multi-year grasses and legumes.
Sec. 2106. Revised pilot program for enrollment of wetland and buffer acreage in conservation reserve.
Sec. 2107. Additional duty of participants under conservation reserve contracts.
Sec. 2108. Managed haying, grazing, or other commercial use of forage on enrolled land and installation of wind turbines.
Sec. 2109. Cost sharing payments relating to trees, windbreaks, shelterbelts, and wildlife corridors.
Sec. 2110. Evaluation and acceptance of contract offers, annual rental payments, and payment limitations.
Sec. 2111. Conservation reserve program transition incentives for beginning farmers or ranchers and socially disadvantaged farmers or ranchers.

Subtitle C—Wetlands Reserve Program

Sec. 2201. Establishment and purpose of wetlands reserve program.

Sec. 2202. Maximum enrollment and enrollment methods.
Sec. 2203. Duration of wetlands reserve program and lands eligible for enrollment.
Sec. 2204. Terms of wetlands reserve program easements.
Sec. 2205. Compensation for easements under wetlands reserve program.
Sec. 2206. Wetlands reserve enhancement program and reserved rights pilot program.
Sec. 2207. Duties of Secretary of Agriculture under wetlands reserve program.
Sec. 2208. Payment limitations under wetlands reserve contracts and agreements.
Sec. 2209. Repeal of payment limitations exception for State agreements for wetlands reserve enhancement.
Sec. 2210. Report on implications of long-term nature of conservation easements.

Subtitle D—Conservation Stewardship Program

Sec. 2301. Conservation stewardship program.

Subtitle E—Farmland Protection and Grassland Reserve

Sec. 2401. Farmland protection program.
Sec. 2402. Farm viability program.
Sec. 2403. Grassland reserve program.

Subtitle F—Environmental Quality Incentives Program

Sec. 2501. Purposes of environmental quality incentives program.
Sec. 2502. Definitions.
Sec. 2503. Establishment and administration of environmental quality incentives program.
Sec. 2504. Evaluation of applications.
Sec. 2505. Duties of producers under environmental quality incentives program.
Sec. 2506. Environmental quality incentives program plan.
Sec. 2507. Duties of the Secretary.
Sec. 2508. Limitation on environmental quality incentives program payments.
Sec. 2509. Conservation innovation grants and payments.
Sec. 2510. Agricultural water enhancement program.

Subtitle G—Other Conservation Programs of the Food Security Act of 1985

Sec. 2601. Conservation of private grazing land.
Sec. 2602. Wildlife habitat incentive program.
Sec. 2603. Grassroots source water protection program.
Sec. 2604. Great Lakes Basin Program for soil erosion and sediment control.
Sec. 2605. Chesapeake Bay watershed program.
Sec. 2606. Voluntary public access and habitat incentive program.

Subtitle H—Funding and Administration of Conservation Programs

Sec. 2701. Funding of conservation programs under Food Security Act of 1985.
Sec. 2702. Authority to accept contributions to support conservation programs.
Sec. 2703. Regional equity and flexibility.
Sec. 2704. Assistance to certain farmers and ranchers to improve their access to conservation programs.
Sec. 2705. Report regarding enrollments and assistance under conservation programs.
Sec. 2706. Delivery of conservation technical assistance.
Sec. 2707. Cooperative conservation partnership initiative.
Sec. 2708. Administrative requirements for conservation programs.
Sec. 2709. Environmental services markets.
Sec. 2710. Agriculture conservation experienced services program.
Sec. 2711. Establishment of State technical committees and their responsibilities.

Subtitle I—Conservation Programs Under Other Laws

Sec. 2801. Agricultural management assistance program.
Sec. 2802. Technical assistance under Soil Conservation and Domestic Allotment Act.
Sec. 2803. Small watershed rehabilitation program.
Sec. 2804. Amendments to Soil and Water Resources Conservation Act of 1977.
Sec. 2805. Resource Conservation and Development Program.
Sec. 2806. Use of funds in Basin Funds for salinity control activities upstream of Imperial Dam.
Sec. 2807. Desert terminal lakes.

Subtitle J—Miscellaneous Conservation Provisions

Sec. 2901. High Plains water study.
Sec. 2902. Naming of National Plant Materials Center at Beltsville, Maryland, in honor of Norman A. Berg.

Sec. 2903. Transition.
Sec. 2904. Regulations.

TITLE III—TRADE

Subtitle A—Food for Peace Act

Sec. 3001. Short title.
Sec. 3002. United States policy.
Sec. 3003. Food aid to developing countries.
Sec. 3004. Trade and development assistance.
Sec. 3005. Agreements regarding eligible countries and private entities.
Sec. 3006. Use of local currency payments.
Sec. 3007. General authority.
Sec. 3008. Provision of agricultural commodities.
Sec. 3009. Generation and use of currencies by private voluntary organizations and cooperatives.
Sec. 3010. Levels of assistance.
Sec. 3011. Food Aid Consultative Group.
Sec. 3012. Administration.
Sec. 3013. Assistance for stockpiling and rapid transportation, delivery, and distribution of shelf-stable prepackaged foods.
Sec. 3014. General authorities and requirements.
Sec. 3015. Definitions.
Sec. 3016. Use of Commodity Credit Corporation.
Sec. 3017. Administrative provisions.
Sec. 3018. Consolidation and modification of annual reports regarding agricultural trade issues.
Sec. 3019. Expiration of assistance.
Sec. 3020. Authorization of appropriations.
Sec. 3021. Minimum level of nonemergency food assistance.
Sec. 3022. Coordination of foreign assistance programs.
Sec. 3023. Micronutrient fortification programs.
Sec. 3024. John Ogonowski and Doug Bereuter Farmer-to-Farmer Program.

Subtitle B—Agricultural Trade Act of 1978 and Related Statutes

Sec. 3101. Export credit guarantee program.
Sec. 3102. Market access program.
Sec. 3103. Export enhancement program.
Sec. 3104. Foreign market development cooperator program.
Sec. 3105. Food for Progress Act of 1985.
Sec. 3106. McGovern-Dole International Food for Education and Child Nutrition Program.

Subtitle C—Miscellaneous

Sec. 3201. Bill Emerson Humanitarian Trust.
Sec. 3202. Global Crop Diversity Trust.
Sec. 3203. Technical assistance for specialty crops.
Sec. 3204. Emerging markets and facility guarantee loan program.
Sec. 3205. Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products.
Sec. 3206. Local and regional food aid procurement projects.

Subtitle D—Softwood Lumber

Sec. 3301. Softwood lumber.

TITLE IV—NUTRITION

Subtitle A—Food Stamp Program

PART I—RENAMING OF FOOD STAMP ACT AND PROGRAM

Sec. 4001. Renaming of Food Stamp Act and program.
Sec. 4002. Conforming amendments.

PART II—BENEFIT IMPROVEMENTS

Sec. 4101. Exclusion of certain military payments from income.
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7 USC 8701.

**SEC. 2. DEFINITION OF SECRETARY.**

In this Act, the term "Secretary" means the Secretary of Agriculture.

# TITLE I—COMMODITY PROGRAMS

7 USC 8702.

**SEC. 1001. DEFINITIONS.**

In this title (other than subtitle C):

(1) AVERAGE CROP REVENUE ELECTION PAYMENT.—The term "average crop revenue election payment" means a payment made to producers on a farm under section 1105.

(2) BASE ACRES.—

(A) IN GENERAL.—The term "base acres", with respect to a covered commodity on a farm, means the number of acres established under section 1101 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911) as in effect on September 30, 2007, subject to any adjustment under section 1101 of this Act.

(B) PEANUTS.—The term "base acres for peanuts" has the meaning given the term in section 1301.

(3) COUNTER-CYCLICAL PAYMENT.—The term "counter-cyclical payment" means a payment made to producers on a farm under section 1104.

(4) COVERED COMMODITY.—The term "covered commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, long grain rice, medium grain rice, pulse crops, soybeans, and other oilseeds.

(5) DIRECT PAYMENT.—The term "direct payment" means a payment made to producers on a farm under section 1103.

(6) EFFECTIVE PRICE.—The term "effective price", with respect to a covered commodity for a crop year, means the price calculated by the Secretary under section 1104 to determine whether counter-cyclical payments are required to be made for that crop year.

(7) EXTRA LONG STAPLE COTTON.—The term "extra long staple cotton" means cotton that—

(A) is produced from pure strain varieties of the Barbadense species or any hybrid of the species, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(8) LOAN COMMODITY.—The term "loan commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, long grain rice, medium grain rice, soybeans, other oilseeds, graded wool, nongraded wool, mohair, honey, dry peas, lentils, small chickpeas, and large chickpeas.

(9) MEDIUM GRAIN RICE.—The term "medium grain rice" includes short grain rice.

(10) OTHER OILSEED.—The term "other oilseed" means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, or any oilseed designated by the Secretary.

(11) PAYMENT ACRES.—The term "payment acres" means, in the case of direct payments and counter-cyclical payments—

(A) except as provided in subparagraph (B), 85 percent of the base acres of a covered commodity on a farm on which direct payments or counter-cyclical payments are made; and

(B) in the case of direct payments for each of the 2009 through 2011 crop years, 83.3 percent of the base acres for the covered commodity on a farm on which direct payments are made.

(12) PAYMENT YIELD.—The term "payment yield" means the yield established for direct payments and the yield established for counter-cyclical payments under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912) as in effect on September 30, 2007, or under section 1102 of this Act, for a farm for a covered commodity.

(13) PRODUCER.—

(A) IN GENERAL.—The term "producer" means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

(B) HYBRID SEED.—In determining whether a grower of hybrid seed is a producer, the Secretary shall—

(i) not take into consideration the existence of a hybrid seed contract; and

(ii) ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this title.

(14) PULSE CROP.—The term "pulse crop" means dry peas, lentils, small chickpeas, and large chickpeas.

(15) STATE.—The term "State" means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(16) TARGET PRICE.—The term "target price" means the price per bushel, pound, or hundredweight (or other appropriate unit) of a covered commodity used to determine the payment rate for counter-cyclical payments.

(17) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

(18) UNITED STATES PREMIUM FACTOR.—The term "United States Premium Factor" means the percentage by which the difference in the United States loan schedule premiums for Strict Middling (SM) 1⅛-inch upland cotton and for Middling (M) 1$^{3}/_{32}$-inch upland cotton exceeds the difference in the applicable premiums for comparable international qualities.

# Subtitle A—Direct Payments and Counter-Cyclical Payments

7 USC 8711.

**SEC. 1101. BASE ACRES.**

(a) ADJUSTMENT OF BASE ACRES.—

(1) IN GENERAL.—The Secretary shall provide for an adjustment, as appropriate, in the base acres for covered commodities for a farm whenever any of the following circumstances occurs:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated, or was terminated or expired during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary, or was released during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(C) The producer has eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(D) The producer has eligible oilseed acreage as the result of the Secretary designating additional oilseeds, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(2) SPECIAL CONSERVATION RESERVE ACREAGE PAYMENT RULES.—For the crop year in which a base acres adjustment under subparagraph (A) or (B) of paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(b) PREVENTION OF EXCESS BASE ACRES.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for a farm, together with the acreage described in paragraph

(2) exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for 1 or more covered commodities for the farm or the base acres for peanuts for the farm so that the sum of the base acres and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for peanuts for the farm.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a Federal conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(D) Any eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(E) If the Secretary designates additional oilseeds, any eligible oilseed acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(3) SELECTION OF ACRES.—The Secretary shall give the owner of the farm the opportunity to select the base acres for a covered commodity or the base acres for peanuts for the farm against which the reduction required by paragraph (1) will be made.

(4) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1302(b) when applying the requirements of this subsection.

(c) REDUCTION IN BASE ACRES.—

(1) REDUCTION AT OPTION OF OWNER.—

(A) IN GENERAL.—The owner of a farm may reduce, at any time, the base acres for any covered commodity for the farm.

(B) EFFECT OF REDUCTION.—A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

(2) REQUIRED ACTION BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall proportionately reduce base acres on a farm for covered commodities for land that has been subdivided and developed for multiple residential units or other nonfarming uses if the size of the tracts and the density of the subdivision is such that the land is unlikely to return to the previous agricultural use, unless the producers on the farm demonstrate that the land—

(i) remains devoted to commercial agricultural production; or

(ii) is likely to be returned to the previous agricultural use.

Procedures.

(B) REQUIREMENT.—The Secretary shall establish procedures to identify land described in subparagraph (A).

(3) REVIEW AND REPORT.—Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall submit to Congress a report that describes the results of the actions taken under paragraph (2).

(d) TREATMENT OF FARMS WITH LIMITED BASE ACRES.—

(1) PROHIBITION ON PAYMENTS.—Except as provided in paragraph (2) and notwithstanding any other provision of this title, a producer on a farm may not receive direct payments, counter-cyclical payments, or average crop revenue election payments if the sum of the base acres of the farm is 10 acres or less, as determined by the Secretary.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to a farm owned by—

(A) a socially disadvantaged farmer or rancher (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)); or

(B) a limited resource farmer or rancher, as defined by the Secretary.

(3) DATA COLLECTION AND PUBLICATION.—The Secretary shall—

(A) collect and publish segregated data and survey information about the farm profiles, utilization of land, and crop production; and

(B) perform an evaluation on the supply and price of fruits and vegetables based on the effects of suspension of base acres under this section.

7 USC 8712.

**SEC. 1102. PAYMENT YIELDS.**

(a) ESTABLISHMENT AND PURPOSE.—For the purpose of making direct payments and counter-cyclical payments under this subtitle, the Secretary shall provide for the establishment of a yield for each farm for any designated oilseed or eligible pulse crop for which a payment yield was not established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912) in accordance with this section.

(b) PAYMENT YIELDS FOR DESIGNATED OILSEEDS AND ELIGIBLE PULSE CROPS.—

(1) DETERMINATION OF AVERAGE YIELD.—In the case of designated oilseeds and eligible pulse crops, the Secretary shall determine the average yield per planted acre for the designated oilseed or pulse crop on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the designated oilseed or pulse crop was zero.

(2) ADJUSTMENT FOR PAYMENT YIELD.—

(A) IN GENERAL.—The payment yield for a farm for a designated oilseed or eligible pulse crop shall be equal to the product of the following:

(i) The average yield for the designated oilseed or pulse crop determined under paragraph (1).

(ii) The ratio resulting from dividing the national average yield for the designated oilseed or pulse crop

for the 1981 through 1985 crops by the national average yield for the designated oilseed or pulse crop for the 1998 through 2001 crops.

(B) NO NATIONAL AVERAGE YIELD INFORMATION AVAILABLE.—To the extent that national average yield information for a designated oilseed or pulse crop is not available, the Secretary shall use such information as the Secretary determines to be fair and equitable to establish a national average yield under this section.

(3) USE OF PARTIAL COUNTY AVERAGE YIELD.—If the yield per planted acre for a crop of a designated oilseed or pulse crop for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that designated oilseed or pulse crop, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for the purpose of determining the average under paragraph (1).

(4) NO HISTORIC YIELD DATA AVAILABLE.—In the case of establishing yields for designated oilseeds and eligible pulse crops, if historic yield data is not available, the Secretary shall use the ratio for dry peas calculated under paragraph (2)(A)(ii) in determining the yields for designated oilseeds and eligible pulse crops, as determined to be fair and equitable by the Secretary.

**SEC. 1103. AVAILABILITY OF DIRECT PAYMENTS.** 7 USC 8713.

(a) PAYMENT REQUIRED.—For each of the 2008 through 2012 crop years of each covered commodity (other than pulse crops), the Secretary shall make direct payments to producers on farms for which base acres and payment yields are established.

(b) PAYMENT RATE.—Except as provided in section 1105, the payment rates used to make direct payments with respect to covered commodities for a crop year shall be as follows:

(1) Wheat, $0.52 per bushel.
(2) Corn, $0.28 per bushel.
(3) Grain sorghum, $0.35 per bushel.
(4) Barley, $0.24 per bushel.
(5) Oats, $0.024 per bushel.
(6) Upland cotton, $0.0667 per pound.
(7) Long grain rice, $2.35 per hundredweight.
(8) Medium grain rice, $2.35 per hundredweight.
(9) Soybeans, $0.44 per bushel.
(10) Other oilseeds, $0.80 per hundredweight.

(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the producers on a farm for a covered commodity for a crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres of the covered commodity on the farm.

(3) The payment yield for the covered commodity for the farm.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the case of each of the 2008 through 2012 crop years, the Secretary may not make direct payments before October 1 of the calendar year in which the crop of the covered commodity is harvested.

(2) ADVANCE PAYMENTS.—

(A) OPTION.—

(i) IN GENERAL.—At the option of the producers on a farm, the Secretary shall pay in advance up to 22 percent of the direct payment for a covered commodity for any of the 2008 through 2011 crop years to the producers on a farm.

(ii) 2008 CROP YEAR.—If the producers on a farm elect to receive advance direct payments under clause (i) for a covered commodity for the 2008 crop year, as soon as practicable after the election, the Secretary shall make the advance direct payment to the producers on the farm.

(B) MONTH.—

(i) SELECTION.—Subject to clauses (ii) and (iii), the producers on a farm shall select the month during which the advance payment for a crop year will be made.

(ii) OPTIONS.—The month selected may be any month during the period—

(I) beginning on December 1 of the calendar year before the calendar year in which the crop of the covered commodity is harvested; and

(II) ending during the month within which the direct payment would otherwise be made.

(iii) CHANGE.—The producers on a farm may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

7 USC 8714.

**SEC. 1104. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS.**

(a) PAYMENT REQUIRED.—Except as provided in section 1105, for each of the 2008 through 2012 crop years for each covered commodity, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres are established with respect to the covered commodity if the Secretary determines that the effective price for the covered commodity is less than the target price for the covered commodity.

(b) EFFECTIVE PRICE.—

(1) COVERED COMMODITIES OTHER THAN RICE.—Except as provided in paragraph (2), for purposes of subsection (a), the effective price for a covered commodity is equal to the sum of the following:

(A) The higher of the following:

(i) The national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary.

(ii) The national average loan rate for a marketing assistance loan for the covered commodity in effect for the applicable period under subtitle B.

(B) The payment rate in effect for the covered commodity under section 1103 for the purpose of making direct payments with respect to the covered commodity.

(2) RICE.—In the case of long grain rice and medium grain rice, for purposes of subsection (a), the effective price for each type or class of rice is equal to the sum of the following:

(A) The higher of the following:

(i) The national average market price received by producers during the 12-month marketing year for the type or class of rice, as determined by the Secretary.

(ii) The national average loan rate for a marketing assistance loan for the type or class of rice in effect for the applicable period under subtitle B.

(B) The payment rate in effect for the type or class of rice under section 1103 for the purpose of making direct payments with respect to the type or class of rice.

(c) TARGET PRICE.—

(1) 2008 CROP YEAR.—For purposes of the 2008 crop year, the target prices for covered commodities shall be as follows:

(A) Wheat, $3.92 per bushel.
(B) Corn, $2.63 per bushel.
(C) Grain sorghum, $2.57 per bushel.
(D) Barley, $2.24 per bushel.
(E) Oats, $1.44 per bushel.
(F) Upland cotton, $0.7125 per pound.
(G) Long grain rice, $10.50 per hundredweight.
(H) Medium grain rice, $10.50 per hundredweight.
(I) Soybeans, $5.80 per bushel.
(J) Other oilseeds, $10.10 per hundredweight.

(2) 2009 CROP YEAR.—For purposes of the 2009 crop year, the target prices for covered commodities shall be as follows:

(A) Wheat, $3.92 per bushel.
(B) Corn, $2.63 per bushel.
(C) Grain sorghum, $2.57 per bushel.
(D) Barley, $2.24 per bushel.
(E) Oats, $1.44 per bushel.
(F) Upland cotton, $0.7125 per pound.
(G) Long grain rice, $10.50 per hundredweight.
(H) Medium grain rice, $10.50 per hundredweight.
(I) Soybeans, $5.80 per bushel.
(J) Other oilseeds, $10.10 per hundredweight.
(K) Dry peas, $8.32 per hundredweight.
(L) Lentils, $12.81 per hundredweight.
(M) Small chickpeas, $10.36 per hundredweight.
(N) Large chickpeas, $12.81 per hundredweight.

(3) SUBSEQUENT CROP YEARS.—For purposes of each of the 2010 through 2012 crop years, the target prices for covered commodities shall be as follows:

(A) Wheat, $4.17 per bushel.
(B) Corn, $2.63 per bushel.
(C) Grain sorghum, $2.63 per bushel.
(D) Barley, $2.63 per bushel.
(E) Oats, $1.79 per bushel.
(F) Upland cotton, $0.7125 per pound.
(G) Long grain rice, $10.50 per hundredweight.
(H) Medium grain rice, $10.50 per hundredweight.
(I) Soybeans, $6.00 per bushel.

(J) Other oilseeds, $12.68 per hundredweight.
(K) Dry peas, $8.32 per hundredweight.
(L) Lentils, $12.81 per hundredweight.
(M) Small chickpeas, $10.36 per hundredweight.
(N) Large chickpeas, $12.81 per hundredweight.

(d) PAYMENT RATE.—The payment rate used to make counter-cyclical payments with respect to a covered commodity for a crop year shall be equal to the difference between—

(1) the target price for the covered commodity; and

(2) the effective price determined under subsection (b) for the covered commodity.

(e) PAYMENT AMOUNT.—If counter-cyclical payments are required to be paid under this section for any of the 2008 through 2012 crop years of a covered commodity, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres of the covered commodity on the farm.

(3) The payment yield for the covered commodity for the farm.

(f) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), if the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for the crop of a covered commodity, beginning October 1, or as soon as practicable thereafter, after the end of the marketing year for the covered commodity, the Secretary shall make the counter-cyclical payments for the crop.

(2) AVAILABILITY OF PARTIAL PAYMENTS.—

(A) IN GENERAL.—If, before the end of the 12-month marketing year for a covered commodity, the Secretary estimates that counter-cyclical payments will be required for the crop of the covered commodity, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for that crop of the covered commodity.

Deadlines.

(B) ELECTION.—

(i) IN GENERAL.—The Secretary shall allow producers on a farm to make an election to receive partial payments for a covered commodity under subparagraph (A) at any time but not later than 60 days prior to the end of the marketing year for that covered commodity.

(ii) DATE OF ISSUANCE.—The Secretary shall issue the partial payment after the date of an announcement by the Secretary but not later than 30 days prior to the end of the marketing year.

(3) TIME FOR PARTIAL PAYMENTS.—When the Secretary makes partial payments for a covered commodity for any of the 2008 through 2010 crop years—

(A) the first partial payment shall be made after completion of the first 180 days of the marketing year for the covered commodity; and

(B) the final partial payment shall be made beginning October 1, or as soon as practicable thereafter, after the

end of the applicable marketing year for the covered commodity.

(4) AMOUNT OF PARTIAL PAYMENT.—

(A) FIRST PARTIAL PAYMENT.—For each of the 2008 through 2010 crops of a covered commodity, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

(B) FINAL PAYMENT.—The final payment for a covered commodity for a crop year shall be equal to the difference between—

(i) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(ii) the amount of the partial payment made to the producers under subparagraph (A).

(5) REPAYMENT.—The producers on a farm that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for the covered commodity for that crop year.

**SEC. 1105. AVERAGE CROP REVENUE ELECTION PROGRAM.** 7 USC 8715.

(a) AVAILABILITY AND ELECTION OF ALTERNATIVE APPROACH.—

(1) AVAILABILITY OF AVERAGE CROP REVENUE ELECTION PAYMENTS.—As an alternative to receiving counter-cyclical payments under section 1104 or 1304 and in exchange for a 20-percent reduction in direct payments under section 1103 or 1303 and a 30-percent reduction in marketing assistance loan rates under section 1202 or 1307, with respect to all covered commodities and peanuts on a farm, during each of the 2009, 2010, 2011, and 2012 crop years, the Secretary shall give the producers on the farm an opportunity to make an irrevocable election to instead receive average crop revenue election (referred to in this section as "ACRE") payments under this section for the initial crop year for which the election is made through the 2012 crop year.

(2) LIMITATION.—

(A) IN GENERAL.—The total number of planted acres for which the producers on a farm may receive ACRE payments under this section may not exceed the total base acreage for all covered commodities and peanuts on the farm.

(B) ELECTION.—If the total number of planted acres to all covered commodities and peanuts of the producers on a farm exceeds the total base acreage of the farm, the producers on the farm may choose which planted acres to enroll in the program under this section.

(3) ELECTION; TIME FOR ELECTION.—

(A) IN GENERAL.—The Secretary shall provide notice to producers regarding the opportunity to make each of the elections described in paragraph (1). Notice.

(B) NOTICE REQUIREMENTS.—The notice shall include—

(i) notice of the opportunity of the producers on a farm to make the election; and

(ii) information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.

Notice.

(4) ELECTION DEADLINE.—Within the time period and in the manner prescribed pursuant to paragraph (3), all of the producers on a farm shall submit to the Secretary notice of an election made under paragraph (1).

(5) EFFECT OF FAILURE TO MAKE ELECTION.—If all of the producers on a farm fail to make an election under paragraph (1), make different elections under paragraph (1), or fail to timely notify the Secretary of the election made, as required by paragraph (4), all of the producers on the farm shall be deemed to have made the election to receive counter-cyclical payments under section 1104 or 1304 for all covered commodities and peanuts on the farm, and to otherwise not have made the election described in paragraph (1), for the applicable crop years.

(b) PAYMENTS REQUIRED.—

(1) IN GENERAL.—In the case of producers on a farm who make an election under subsection (a) to receive ACRE payments for any of the 2009 through 2012 crop years for all covered commodities and peanuts, the Secretary shall make ACRE payments available to the producers on a farm in accordance with this subsection.

(2) ACRE PAYMENT.—

(A) IN GENERAL.—Subject to paragraph (3), in the case of producers on a farm described in paragraph (1), the Secretary shall make ACRE payments available to the producers on a farm for each crop year if—

(i) the actual State revenue for the crop year for the covered commodity or peanuts in the State determined under subsection (c); is less than

(ii) the ACRE program guarantee for the crop year for the covered commodity or peanuts in the State determined under subsection (d).

(B) INDIVIDUAL LOSS.—The Secretary shall make ACRE payments available to the producers on a farm in a State for a crop year only if (as determined by the Secretary)—

(i) the actual farm revenue for the crop year for the covered commodity or peanuts, as determined under subsection (e); is less than

(ii) the farm ACRE benchmark revenue for the crop year for the covered commodity or peanuts, as determined under subsection (f).

(3) TIME FOR PAYMENTS.—In the case of each of the 2009 through 2012 crop years, the Secretary shall make ACRE payments beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the covered commodity or peanuts.

(c) ACTUAL STATE REVENUE.—

(1) IN GENERAL.—For purposes of subsection (b)(2)(A), the amount of the actual State revenue for a crop year of a covered commodity or peanuts shall equal the product obtained by multiplying—

(A) the actual State yield for each planted acre for the crop year for the covered commodity or peanuts determined under paragraph (2); and

(B) the national average market price for the crop year for the covered commodity or peanuts determined under paragraph (3).

(2) ACTUAL STATE YIELD.—For purposes of paragraph (1)(A), the actual State yield for each planted acre for a crop year for a covered commodity or peanuts in a State shall equal (as determined by the Secretary)—

(A) the quantity of the covered commodity or peanuts that is produced in the State during the crop year; divided by

(B) the number of acres that are planted to the covered commodity or peanuts in the State during the crop year.

(3) NATIONAL AVERAGE MARKET PRICE.—For purposes of paragraph (1)(B), the national average market price for a crop year for a covered commodity or peanuts in a State shall equal the greater of—

(A) the national average market price received by producers during the 12-month marketing year for the covered commodity or peanuts, as determined by the Secretary; or

(B) the marketing assistance loan rate for the covered commodity or peanuts under section 1202 or 1307, as reduced under subsection (a)(1).

(d) ACRE PROGRAM GUARANTEE.—

(1) AMOUNT.—

(A) IN GENERAL.—For purposes of subsection (b)(2)(A) and subject to subparagraph (B), the ACRE program guarantee for a crop year for a covered commodity or peanuts in a State shall equal 90 percent of the product obtained by multiplying—

(i) the benchmark State yield for each planted acre for the crop year for the covered commodity or peanuts in a State determined under paragraph (2); and

(ii) the ACRE program guarantee price for the crop year for the covered commodity or peanuts determined under paragraph (3).

(B) MINIMUM AND MAXIMUM GUARANTEE.—In the case of each of the 2010 through 2012 crop years, the ACRE program guarantee for a crop year for a covered commodity or peanuts under subparagraph (A) shall not decrease or increase more than 10 percent from the guarantee for the preceding crop year.

(2) BENCHMARK STATE YIELD.—

(A) IN GENERAL.—For purposes of paragraph (1)(A)(i), subject to subparagraph (B), the benchmark State yield for each planted acre for a crop year for a covered commodity or peanuts in a State shall equal the average yield per planted acre for the covered commodity or peanuts in the State for the most recent 5 crop year yields, excluding each of the crop years with the highest and lowest yields, using National Agricultural Statistics Service data.

(B) ASSIGNED YIELD.—If the Secretary cannot establish the benchmark State yield for each planted acre for a

crop year for a covered commodity or peanuts in a State in accordance with subparagraph (A) or if the yield determined under subparagraph (A) is an unrepresentative average yield for the State (as determined by the Secretary), the Secretary shall assign a benchmark State yield for each planted acre for the crop year for the covered commodity or peanuts in the State on the basis of—

(i) previous average yields for a period of 5 crop years, excluding each of the crop years with the highest and lowest yields; or

(ii) benchmark State yields for planted acres for the crop year for the covered commodity or peanuts in similar States.

(3) ACRE PROGRAM GUARANTEE PRICE.—For purposes of paragraph (1)(A)(ii), the ACRE program guarantee price for a crop year for a covered commodity or peanuts in a State shall be the simple average of the national average market price received by producers of the covered commodity or peanuts for the most recent 2 crop years, as determined by the Secretary.

(4) STATES WITH IRRIGATED AND NONIRRIGATED LAND.—In the case of a State in which at least 25 percent of the acreage planted to a covered commodity or peanuts in the State is irrigated and at least 25 percent of the acreage planted to the covered commodity or peanuts in the State is not irrigated, the Secretary shall calculate a separate ACRE program guarantee for the irrigated and nonirrigated areas of the State for the covered commodity or peanuts.

(e) ACTUAL FARM REVENUE.—For purposes of subsection (b)(2)(B)(i), the amount of the actual farm revenue for a crop year for a covered commodity or peanuts shall equal the amount determined by multiplying—

(1) the actual yield for the covered commodity or peanuts of the producers on the farm; and

(2) the national average market price for the crop year for the covered commodity or peanuts determined under subsection (c)(3).

(f) FARM ACRE BENCHMARK REVENUE.—For purposes of subsection (b)(2)(B)(ii), the farm ACRE benchmark revenue for the crop year for a covered commodity or peanuts shall equal the sum obtained by adding—

(1) the amount determined by multiplying—

(A) the average yield per planted acre for the covered commodity or peanuts of the producers on the farm for the most recent 5 crop years, excluding each of the crop years with the highest and lowest yields; and

(B) the ACRE program guarantee price for the applicable crop year for the covered commodity or peanuts in a State determined under subsection (d)(3); and

(2) the amount of the per acre crop insurance premium required to be paid by the producers on the farm for the applicable crop year for the covered commodity or peanuts on the farm.

(g) PAYMENT AMOUNT.—If ACRE payments are required to be paid for any of the 2009 through 2012 crop years of a covered commodity or peanuts under this section, the amount of the ACRE payment to be paid to the producers on the farm for the crop

year under this section shall be equal to the product obtained by multiplying—

(1) the lesser of—

(A) the difference between—

(i) the ACRE program guarantee for the crop year for the covered commodity or peanuts in the State determined under subsection (d); and

(ii) the actual State revenue from the crop year for the covered commodity or peanuts in the State determined under subsection (c); and

(B) 25 percent of the ACRE program guarantee for the crop year for the covered commodity or peanuts in the State determined under subsection (d);

(2)(A) for each of the 2009 through 2011 crop years, 83.3 percent of the acreage planted or considered planted to the covered commodity or peanuts for harvest on the farm in the crop year; and

(B) for the 2012 crop year, 85 percent of the acreage planted or considered planted to the covered commodity or peanuts for harvest on the farm in the crop year; and

(3) the quotient obtained by dividing—

(A) the average yield per planted acre for the covered commodity or peanuts of the producers on the farm for the most recent 5 crop years, excluding each of the crop years with the highest and lowest yields; by

(B) the benchmark State yield for the crop year, as determined under subsection (d)(2).

**SEC. 1106. PRODUCER AGREEMENT REQUIRED AS CONDITION OF PROVISION OF PAYMENTS.** 7 USC 8716.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments, counter-cyclical payments, or average crop revenue election payments with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1107;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for peanuts for the farm under subtitle C, for an agricultural or conserving use, and not for a non-agricultural commercial, industrial, or residential use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—

(A) IN GENERAL.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in base acres for which direct payments or counter-cyclical payments are made, or on which average crop revenue election payments are based, shall result in the termination of the direct payments, counter-cyclical payments, or average crop revenue election payments to the extent the payments are made or based on the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

(B) EFFECTIVE DATE.—The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment, counter-cyclical payment, or average crop revenue election payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) REPORTS.—

(1) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this subtitle or subtitle B, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(2) PRODUCTION REPORTS.—As a condition on the receipt of any benefits under this subtitle or subtitle B, the Secretary shall require producers on a farm that receive payments under section 1105 to submit to the Secretary annual production reports with respect to all covered commodities and peanuts produced on the farm.

(3) PENALTIES.—No penalty with respect to benefits under this subtitle or subtitle B shall be assessed against the producers on a farm for an inaccurate acreage or production report unless the producers on the farm knowingly and willfully falsified the acreage or production report.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments, counter-cyclical payments, or average crop revenue election payments among the producers on a farm on a fair and equitable basis.

7 USC 8717.

**SEC. 1107. PLANTING FLEXIBILITY.**

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on base acres on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (3) shall be prohibited on

base acres unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than mung beans and pulse crops).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of covered commodities with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on base acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

(d) PLANTING TRANSFERABILITY PILOT PROJECT.—

(1) PILOT PROJECT AUTHORIZED.—Notwithstanding paragraphs (1) and (2) of subsection (b) and in addition to the exceptions provided in subsection (c), the Secretary shall carry out a pilot project to permit the planting of cucumbers, green peas, lima beans, pumpkins, snap beans, sweet corn, and tomatoes grown for processing on base acres during each of the 2009 through 2012 crop years.

(2) PILOT PROJECT STATES AND ACRES.—The number of base acres eligible during each crop year for the pilot project under paragraph (1) shall be—

(A) 9,000 acres in the State of Illinois;

(B) 9,000 acres in the State of Indiana;

(C) 1,000 acres in the State of Iowa;

(D) 9,000 acres in the State of Michigan;

(E) 34,000 acres in the State of Minnesota;

(F) 4,000 acres in the State of Ohio; and

(G) 9,000 acres in the State of Wisconsin.

(3) CONTRACT AND MANAGEMENT REQUIREMENTS.—To be eligible for selection to participate in the pilot project, the producers on a farm shall—

(A) demonstrate to the Secretary that the producers on the farm have entered into a contract to produce a crop of a commodity specified in paragraph (1) for processing;

(B) agree to produce the crop as part of a program of crop rotation on the farm to achieve agronomic and pest and disease management benefits; and

(C) provide evidence of the disposition of the crop.

(4) TEMPORARY REDUCTION IN BASE ACRES.—The base acres on a farm for a crop year shall be reduced by an acre for each acre planted under the pilot program.

(5) DURATION OF REDUCTIONS.—The reduction in the base acres of a farm for a crop year under paragraph (4) shall expire at the end of the crop year.

(6) RECALCULATION OF BASE ACRES.—

(A) IN GENERAL.—If the Secretary recalculates base acres for a farm while the farm is included in the pilot project, the planting and production of a crop of a commodity specified in paragraph (1) on base acres for which a temporary reduction was made under this section shall be considered to be the same as the planting and production of a covered commodity.

(B) PROHIBITION.—Nothing in this paragraph provides authority for the Secretary to recalculate base acres for a farm.

(7) PILOT IMPACT EVALUATION.—

(A) IN GENERAL.—The Secretary shall periodically evaluate the pilot project conducted under this subsection to determine the effects of the pilot project on the supply and price of—

(i) fresh fruits and vegetables; and

(ii) fruits and vegetables for processing.

(B) DETERMINATION.—An evaluation under subparagraph (A) shall include a determination as to whether—

(i) producers of fresh fruits and vegetables are being negatively impacted; and

(ii) existing production capacities are being supplanted.

(C) REPORT.—As soon as practicable after conducting an evaluation under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation.

7 USC 8718.

**SEC. 1108. SPECIAL RULE FOR LONG GRAIN AND MEDIUM GRAIN RICE.**

(a) CALCULATION METHOD.—Subject to subsections (b) and (c), for the purposes of determining the amount of the counter-cyclical payments to be paid to the producers on a farm for long grain rice and medium grain rice under section 1104, the base acres of rice on the farm shall be apportioned using the 4-year average of the percentages of acreage planted in the applicable State to long grain rice and medium grain rice during the 2003 through 2006 crop years, as determined by the Secretary.

(b) PRODUCER ELECTION.—As an alternative to the calculation method described in subsection (a), the Secretary shall provide

producers on a farm the opportunity to elect to apportion rice base acres on the farm using the 4-year average of—

(1) the percentages of acreage planted on the farm to long grain rice and medium grain rice during the 2003 through 2006 crop years;

(2) the percentages of any acreage on the farm that the producers were prevented from planting to long grain rice and medium grain rice during the 2003 through 2006 crop years because of drought, flood, other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary; and

(3) in the case of a crop year for which a producer on a farm elected not to plant to long grain and medium grain rice during the 2003 through 2006 crop years, the percentages of acreage planted in the applicable State to long grain rice and medium grain rice, as determined by the Secretary.

(c) LIMITATION.—In carrying out this section, the Secretary shall use the same total base acres, payment acres, and payment yields established with respect to rice under sections 1101 and 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911, 7912), as in effect on September 30, 2007, subject to any adjustment under section 1101 of this Act.

**SEC. 1109. PERIOD OF EFFECTIVENESS.** 7 USC 8719.

This subtitle shall be effective beginning with the 2008 crop year of each covered commodity through the 2012 crop year.

# Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

**SEC. 1201. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR LOAN COMMODITIES.** 7 USC 8731.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2008 through 2012 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm.

(2) TERMS AND CONDITIONS.—The marketing assistance loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 1202 for the loan commodity.

(b) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under subsection (a) for any quantity of a loan commodity produced on the farm.

(c) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.) during the term of the loan.

7 USC 8732.

**SEC. 1202. LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE LOANS.**

(a) 2008 CROP YEAR.—For purposes of the 2008 crop year, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.75 per bushel.
(2) In the case of corn, $1.95 per bushel.
(3) In the case of grain sorghum, $1.95 per bushel.
(4) In the case of barley, $1.85 per bushel.
(5) In the case of oats, $1.33 per bushel.
(6) In the case of base quality of upland cotton, $0.52 per pound.
(7) In the case of extra long staple cotton, $0.7977 per pound.
(8) In the case of long grain rice, $6.50 per hundredweight.
(9) In the case of medium grain rice, $6.50 per hundredweight.
(10) In the case of soybeans, $5.00 per bushel.
(11) In the case of other oilseeds, $9.30 per hundredweight for each of the following kinds of oilseeds:
(A) Sunflower seed.
(B) Rapeseed.
(C) Canola.
(D) Safflower.
(E) Flaxseed.
(F) Mustard seed.
(G) Crambe.
(H) Sesame seed.
(I) Other oilseeds designated by the Secretary.
(12) In the case of dry peas, $6.22 per hundredweight.
(13) In the case of lentils, $11.72 per hundredweight.
(14) In the case of small chickpeas, $7.43 per hundredweight.
(15) In the case of graded wool, $1.00 per pound.
(16) In the case of nongraded wool, $0.40 per pound.
(17) In the case of mohair, $4.20 per pound.
(18) In the case of honey, $0.60 per pound.

(b) 2009 CROP YEAR.—Except as provided in section 1105, for purposes of the 2009 crop year, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.75 per bushel.
(2) In the case of corn, $1.95 per bushel.
(3) In the case of grain sorghum, $1.95 per bushel.
(4) In the case of barley, $1.85 per bushel.
(5) In the case of oats, $1.33 per bushel.
(6) In the case of base quality of upland cotton, $0.52 per pound.
(7) In the case of extra long staple cotton, $0.7977 per pound.
(8) In the case of long grain rice, $6.50 per hundredweight.
(9) In the case of medium grain rice, $6.50 per hundredweight.
(10) In the case of soybeans, $5.00 per bushel.
(11) In the case of other oilseeds, $9.30 per hundredweight for each of the following kinds of oilseeds:
(A) Sunflower seed.

(B) Rapeseed.
(C) Canola.
(D) Safflower.
(E) Flaxseed.
(F) Mustard seed.
(G) Crambe.
(H) Sesame seed.
(I) Other oilseeds designated by the Secretary.

(12) In the case of dry peas, $5.40 per hundredweight.

(13) In the case of lentils, $11.28 per hundredweight.

(14) In the case of small chickpeas, $7.43 per hundredweight.

(15) In the case of large chickpeas, $11.28 per hundredweight.

(16) In the case of graded wool, $1.00 per pound.

(17) In the case of nongraded wool, $0.40 per pound.

(18) In the case of mohair, $4.20 per pound.

(19) In the case of honey, $0.60 per pound.

(c) 2010 THROUGH 2012 CROP YEARS.—Except as provided in section 1105, for purposes of each of the 2010 through 2012 crop years, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.94 per bushel.

(2) In the case of corn, $1.95 per bushel.

(3) In the case of grain sorghum, $1.95 per bushel.

(4) In the case of barley, $1.95 per bushel.

(5) In the case of oats, $1.39 per bushel.

(6) In the case of base quality of upland cotton, $0.52 per pound.

(7) In the case of extra long staple cotton, $0.7977 per pound.

(8) In the case of long grain rice, $6.50 per hundredweight.

(9) In the case of medium grain rice, $6.50 per hundredweight.

(10) In the case of soybeans, $5.00 per bushel.

(11) In the case of other oilseeds, $10.09 per hundredweight for each of the following kinds of oilseeds:

(A) Sunflower seed.
(B) Rapeseed.
(C) Canola.
(D) Safflower.
(E) Flaxseed.
(F) Mustard seed.
(G) Crambe.
(H) Sesame seed.
(I) Other oilseeds designated by the Secretary.

(12) In the case of dry peas, $5.40 per hundredweight.

(13) In the case of lentils, $11.28 per hundredweight.

(14) In the case of small chickpeas, $7.43 per hundredweight.

(15) In the case of large chickpeas, $11.28 per hundredweight.

(16) In the case of graded wool, $1.15 per pound.

(17) In the case of nongraded wool, $0.40 per pound.

(18) In the case of mohair, $4.20 per pound.

(19) In the case of honey, $0.69 per pound.

(d) SINGLE COUNTY LOAN RATE FOR OTHER OILSEEDS.—The Secretary shall establish a single loan rate in each county for each kind of other oilseeds described in subsections (a)(11), (b)(11), and (c)(11).

7 USC 8733.

**SEC. 1203. TERM OF LOANS.**

(a) TERM OF LOAN.—In the case of each loan commodity, a marketing assistance loan under section 1201 shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

7 USC 8734.

**SEC. 1204. REPAYMENT OF LOANS.**

(a) GENERAL RULE.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for a loan commodity (other than upland cotton, long grain rice, medium grain rice, extra long staple cotton, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)) at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283));

(2) a rate (as determined by the Secretary) that—

(A) is calculated based on average market prices for the loan commodity during the preceding 30-day period; and

(B) will minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries; or

(3) a rate that the Secretary may develop using alternative methods for calculating a repayment rate for a loan commodity that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity;

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally; and

(E) minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.

(b) REPAYMENT RATES FOR UPLAND COTTON, LONG GRAIN RICE, AND MEDIUM GRAIN RICE.—The Secretary shall permit producers to repay a marketing assistance loan under section 1201 for upland cotton, long grain rice, and medium grain rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) the prevailing world market price for the commodity, as determined and adjusted by the Secretary in accordance with this section.

(c) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple

cotton shall be at the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).

(d) PREVAILING WORLD MARKET PRICE.—For purposes of this section and section 1207, the Secretary shall prescribe by regulation— Regulations.

(1) a formula to determine the prevailing world market price for each of upland cotton, long grain rice, and medium grain rice; and

(2) a mechanism by which the Secretary shall announce periodically those prevailing world market prices.

(e) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON, LONG GRAIN RICE, AND MEDIUM GRAIN RICE.—

(1) RICE.—The prevailing world market price for long grain rice and medium grain rice determined under subsection (d) shall be adjusted to United States quality and location.

(2) COTTON.—The prevailing world market price for upland cotton determined under subsection (d)—

(A) shall be adjusted to United States quality and location, with the adjustment to include—

(i) a reduction equal to any United States Premium Factor for upland cotton of a quality higher than Middling (M) 1$\frac{3}{32}$-inch; and

(ii) the average costs to market the commodity, including average transportation costs, as determined by the Secretary; and

(B) may be further adjusted, during the period beginning on the date of enactment of this Act and ending on July 31, 2013, if the Secretary determines the adjustment is necessary to—

(i) minimize potential loan forfeitures;

(ii) minimize the accumulation of stocks of upland cotton by the Federal Government;

(iii) ensure that upland cotton produced in the United States can be marketed freely and competitively, both domestically and internationally; and

(iv) ensure an appropriate transition between current-crop and forward-crop price quotations, except that the Secretary may use forward-crop price quotations prior to July 31 of a marketing year only if—

(I) there are insufficient current-crop price quotations; and

(II) the forward-crop price quotation is the lowest such quotation available.

(3) GUIDELINES FOR ADDITIONAL ADJUSTMENTS.—In making adjustments under this subsection, the Secretary shall establish a mechanism for determining and announcing the adjustments in order to avoid undue disruption in the United States market.

(f) REPAYMENT RATES FOR CONFECTIONERY AND OTHER KINDS OF SUNFLOWER SEEDS.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for confectionery and each other kind of sunflower seed (other than oil sunflower seed) at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section

163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) the repayment rate established for oil sunflower seed.

(g) PAYMENT OF COTTON STORAGE COSTS.—

(1) 2008 THROUGH 2011 CROP YEARS.—Effective for each of the 2008 through 2011 crop years, the Secretary shall provide cotton storage payments in the same manner, and at the same rates as the Secretary provided storage payments for the 2006 crop of cotton, except that the rates shall be reduced by 10 percent.

(2) SUBSEQUENT CROP YEARS.—Beginning with the 2012 crop year, the Secretary shall provide cotton storage payments in the same manner, and at the same rates as the Secretary provided storage payments for the 2006 crop of cotton, except that the rates shall be reduced by 20 percent.

(h) AUTHORITY TO TEMPORARILY ADJUST REPAYMENT RATES.—

(1) ADJUSTMENT AUTHORITY.—In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this section for marketing assistance loans under section 1201 for a loan commodity.

(2) DURATION.—Any adjustment made under paragraph (1) in the repayment rate for marketing assistance loans for a loan commodity shall be in effect on a short-term and temporary basis, as determined by the Secretary.

7 USC 8735.

**SEC. 1205. LOAN DEFICIENCY PAYMENTS.**

(a) AVAILABILITY OF LOAN DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan under section 1201 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for loan deficiency payments under this section.

(2) UNSHORN PELTS, HAY, AND SILAGE.—

(A) MARKETING ASSISTANCE LOANS.—Subject to subparagraph (B), nongraded wool in the form of unshorn pelts and hay and silage derived from a loan commodity are not eligible for a marketing assistance loan under section 1201.

(B) LOAN DEFICIENCY PAYMENT.—Effective for the 2008 through 2012 crop years, the Secretary may make loan deficiency payments available under this section to producers on a farm that produce unshorn pelts or hay and silage derived from a loan commodity.

(b) COMPUTATION.—A loan deficiency payment for a loan commodity or commodity referred to in subsection (a)(2) shall be computed by multiplying—

(1) the payment rate determined under subsection (c) for the commodity; by

(2) the quantity of the commodity produced by the eligible producers, excluding any quantity for which the producers obtain a marketing assistance loan under section 1201.

(c) PAYMENT RATE.—

(1) IN GENERAL.—In the case of a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for the loan commodity; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 1204.

(2) UNSHORN PELTS.—In the case of unshorn pelts, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for ungraded wool; exceeds

(B) the rate at which a marketing assistance loan for ungraded wool may be repaid under section 1204.

(3) HAY AND SILAGE.—In the case of hay or silage derived from a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for the loan commodity from which the hay or silage is derived; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 1204.

(d) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This section shall not apply with respect to extra long staple cotton.

(e) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—The Secretary shall determine the amount of the loan deficiency payment to be made under this section to the producers on a farm with respect to a quantity of a loan commodity or commodity referred to in subsection (a)(2) using the payment rate in effect under subsection (c) as of the date the producers request the payment.

**SEC. 1206. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.** 7 USC 8736.

(a) ELIGIBLE PRODUCERS.—

(1) IN GENERAL.—Effective for the 2008 through 2012 crop years, in the case of a producer that would be eligible for a loan deficiency payment under section 1205 for wheat, barley, or oats, but that elects to use acreage planted to the wheat, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of the wheat, barley, or oats on that acreage.

(2) GRAZING OF TRITICALE ACREAGE.—Effective for the 2008 through 2012 crop years, with respect to a producer on a farm that uses acreage planted to triticale for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of triticale on that acreage.

(b) PAYMENT AMOUNT.—

(1) IN GENERAL.—The amount of a payment made under this section to a producer on a farm described in subsection (a)(1) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of wheat, barley, or oats; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to that loan commodity on the farm or, in the case of a farm without a payment yield for that loan commodity, an appropriate yield established by the Secretary in a manner consistent with section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912).

(2) GRAZING OF TRITICALE ACREAGE.—The amount of a payment made under this section to a producer on a farm described in subsection (a)(2) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect for wheat, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of triticale; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to wheat on the farm or, in the case of a farm without a payment yield for wheat, an appropriate yield established by the Secretary in a manner consistent with section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912).

(c) TIME, MANNER, AND AVAILABILITY OF PAYMENT.—

(1) TIME AND MANNER.—A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 1205.

(2) AVAILABILITY.—

(A) IN GENERAL.—The Secretary shall establish an availability period for the payments authorized by this section.

(B) CERTAIN COMMODITIES.—In the case of wheat, barley, and oats, the availability period shall be consistent with the availability period for the commodity established by the Secretary for marketing assistance loans authorized by this subtitle.

(d) PROHIBITION ON CROP INSURANCE INDEMNITY OR NONINSURED CROP ASSISTANCE.—A 2008 through 2012 crop of wheat, barley, oats, or triticale planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for an indemnity under a policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

7 USC 8737.

**SEC. 1207. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.**

(a) SPECIAL IMPORT QUOTA.—

(1) DEFINITION OF SPECIAL IMPORT QUOTA.—In this subsection, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(2) ESTABLISHMENT.—

(A) IN GENERAL.—The President shall carry out an import quota program during the period beginning on the date of enactment of this Act through July 31, 2013, as provided in this subsection. President. Time period.

(B) PROGRAM REQUIREMENTS.—Whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1$\frac{3}{32}$-inch cotton, delivered to a definable and significant international market, as determined by the Secretary, exceeds the prevailing world market price, there shall immediately be in effect a special import quota.

(3) QUANTITY.—The quota shall be equal to 1 week's consumption of cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(4) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (2) and entered into the United States not later than 180 days after that date. Deadlines.

(5) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by paragraph (2), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (b).

(6) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(B) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(C) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(7) LIMITATION.—The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of 10 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

(b) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) DEFINITIONS.—In this subsection:

(A) SUPPLY.—The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(i) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(ii) production of the current crop; and

(iii) imports to the latest date available during the marketing year.

(B) DEMAND.—The term "demand" means—

(i) the average seasonally adjusted annual rate of domestic mill consumption of cotton during the most recent 3 months for which data are available; and

(ii) the larger of—

(I) average exports of upland cotton during the preceding 6 marketing years; or

(II) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(C) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

President. (2) PROGRAM.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of the quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available or as estimated by the Secretary.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(3) NO OVERLAP.—Notwithstanding paragraph (2), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (a).

(c) ECONOMIC ADJUSTMENT ASSISTANCE TO USERS OF UPLAND COTTON.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall, on a monthly basis, provide economic adjustment assistance to domestic users of upland cotton in the form of payments for all documented use of that upland cotton during the previous monthly period regardless of the origin of the upland cotton.

(2) VALUE OF ASSISTANCE.—

(A) BEGINNING PERIOD.—During the period beginning on August 1, 2008, and ending on July 31, 2012, the value of the assistance provided under paragraph (1) shall be 4 cents per pound.

(B) SUBSEQUENT PERIOD.—Effective beginning on August 1, 2012, the value of the assistance provided under paragraph (1) shall be 3 cents per pound. Effective date.

(3) ALLOWABLE PURPOSES.—Economic adjustment assistance under this subsection shall be made available only to domestic users of upland cotton that certify that the assistance shall be used only to acquire, construct, install, modernize, develop, convert, or expand land, plant, buildings, equipment, facilities, or machinery.

(4) REVIEW OR AUDIT.—The Secretary may conduct such review or audit of the records of a domestic user under this subsection as the Secretary determines necessary to carry out this subsection.

(5) IMPROPER USE OF ASSISTANCE.—If the Secretary determines, after a review or audit of the records of the domestic user, that economic adjustment assistance under this subsection was not used for the purposes specified in paragraph (3), the domestic user shall be—

(A) liable to repay the assistance to the Secretary, plus interest, as determined by the Secretary; and

(B) ineligible to receive assistance under this subsection for a period of 1 year following the determination of the Secretary.

**SEC. 1208. SPECIAL COMPETITIVE PROVISIONS FOR EXTRA LONG STAPLE COTTON.** 7 USC 8738.

(a) COMPETITIVENESS PROGRAM.—Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act through July 31, 2013, the Secretary shall carry out a program— Effective date. Termination date.

(1) to maintain and expand the domestic use of extra long staple cotton produced in the United States;

(2) to increase exports of extra long staple cotton produced in the United States; and

(3) to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

(b) PAYMENTS UNDER PROGRAM; TRIGGER.—Under the program, the Secretary shall make payments available under this section whenever—

(1) for a consecutive 4-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United

States price for a competing growth of extra long staple cotton; and

(2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

(c) ELIGIBLE RECIPIENTS.—The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States that enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

(d) PAYMENT AMOUNT.—Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) during the fourth week of the consecutive 4-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive 4-week period.

7 USC 8739.

**SEC. 1209. AVAILABILITY OF RECOURSE LOANS FOR HIGH MOISTURE FEED GRAINS AND SEED COTTON.**

(a) HIGH MOISTURE FEED GRAINS.—

(1) DEFINITION OF HIGH MOISTURE STATE.—In this subsection, the term "high moisture state" means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 1201.

(2) RECOURSE LOANS AVAILABLE.—For each of the 2008 through 2012 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm that—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

Certification.

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(3) ELIGIBILITY OF ACQUIRED FEED GRAINS.—A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield used to make counter-cyclical payments under subtitle A or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(b) RECOURSE LOANS AVAILABLE FOR SEED COTTON.—For each of the 2008 through 2012 crops of upland cotton and extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) REPAYMENT RATES.—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).

**SEC. 1210. ADJUSTMENTS OF LOANS.** 7 USC 8740.

(a) ADJUSTMENT AUTHORITY.—Subject to subsection (e), the Secretary may make appropriate adjustments in the loan rates for any loan commodity (other than cotton) for differences in grade, type, quality, location, and other factors.

(b) MANNER OF ADJUSTMENT.—The adjustments under subsection (a) shall, to the maximum extent practicable, be made in such a manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined in accordance with this subtitle and subtitles B through E.

(c) ADJUSTMENT ON COUNTY BASIS.—

(1) IN GENERAL.—The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest loan rate being 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays.

(2) PROHIBITION.—Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

(d) ADJUSTMENT IN LOAN RATE FOR COTTON.—

(1) IN GENERAL.—The Secretary may make appropriate adjustments in the loan rate for cotton for differences in quality factors.

(2) REVISIONS TO QUALITY ADJUSTMENTS FOR UPLAND COTTON.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall implement revisions in the administration of the marketing assistance loan program for upland cotton to more accurately and efficiently reflect market values for upland cotton. Deadline.

(B) MANDATORY REVISIONS.—Revisions under subparagraph (A) shall include—

(i) the elimination of warehouse location differentials;

(ii) the establishment of differentials for the various quality factors and staple lengths of cotton based on a 3-year, weighted moving average of the weighted designated spot market regions, as determined by regional production;

(iii) the elimination of any artificial split in the premium or discount between upland cotton with a 32 or 33 staple length due to micronaire; and

(iv) a mechanism to ensure that no premium or discount is established that exceeds the premium or discount associated with a leaf grade that is 1 better than the applicable color grade.

(C) DISCRETIONARY REVISIONS.—Revisions under subparagraph (A) may include—

(i) the use of non-spot market price data, in addition to spot market price data, that would enhance the accuracy of the price information used in determining quality adjustments under this subsection;

(ii) adjustments in the premiums or discounts associated with upland cotton with a staple length of 33 or above due to micronaire with the goal of eliminating any unnecessary artificial splits in the calculations of the premiums or discounts; and

(iii) such other adjustments as the Secretary determines appropriate, after consultations conducted in accordance with paragraph (3).

(3) CONSULTATION WITH PRIVATE SECTOR.—

(A) PRIOR TO REVISION.—In making adjustments to the loan rate for cotton (including any review of the adjustments) as provided in this subsection, the Secretary shall consult with representatives of the United States cotton industry.

(B) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations under this subsection.

(4) REVIEW OF ADJUSTMENTS.—The Secretary may review the operation of the upland cotton quality adjustments implemented pursuant to this subsection and may make further revisions to the administration of the loan program for upland cotton, by—

(A) revoking or revising any actions taken under paragraph (2)(B); or

(B) revoking or revising any actions taken or authorized to be taken under paragraph (2)(C).

(e) RICE.—The Secretary shall not make adjustments in the loan rates for long grain rice and medium grain rice, except for differences in grade and quality (including milling yields).

# Subtitle C—Peanuts

7 USC 8751.

**SEC. 1301. DEFINITIONS.**

In this subtitle:

(1) BASE ACRES FOR PEANUTS.—

(A) IN GENERAL.—The term "base acres for peanuts" means the number of acres assigned to a farm pursuant to section 1302 of the Farm Security and Rural Investment

Act of 2002 (7 U.S.C. 7952), as in effect on September 30, 2007, subject to any adjustment under section 1302 of this Act.

(B) COVERED COMMODITIES.—The term "base acres", with respect to a covered commodity, has the meaning given the term in section 1101.

(2) COUNTER-CYCLICAL PAYMENT.—The term "counter-cyclical payment" means a payment made to producers on a farm under section 1304.

(3) DIRECT PAYMENT.—The term "direct payment" means a direct payment made to producers on a farm under section 1303.

(4) EFFECTIVE PRICE.—The term "effective price" means the price calculated by the Secretary under section 1304 for peanuts to determine whether counter-cyclical payments are required to be made under that section for a crop year.

(5) PAYMENT ACRES.—The term "payment acres" means, in the case of direct payments and counter-cyclical payments—

(A) except as provided in subparagraph (B), 85 percent of the base acres of peanuts on a farm on which direct payments or counter-cyclical payments are made; and

(B) in the case of direct payments for each of the 2009 through 2011 crop years, 83.3 percent of the base acres for peanuts on a farm on which direct payments are made.

(6) PAYMENT YIELD.—The term "payment yield" means the yield established for direct payments and the yield established for counter-cyclical payments under section 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7952), as in effect on September 30, 2007, for a farm for peanuts.

(7) PRODUCER.—

(A) IN GENERAL.—The term "producer" means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop on a farm and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

(B) HYBRID SEED.—In determining whether a grower of hybrid seed is a producer, the Secretary shall—

(i) not take into consideration the existence of a hybrid seed contract; and

(ii) ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this subtitle.

(8) STATE.—The term "State" means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(9) TARGET PRICE.—The term "target price" means the price per ton of peanuts used to determine the payment rate for counter-cyclical payments.

(10) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

7 USC 8752.

**SEC. 1302. BASE ACRES FOR PEANUTS FOR A FARM.**

(a) ADJUSTMENT OF BASE ACREAGE FOR PEANUTS.—

(1) IN GENERAL.—The Secretary shall provide for an adjustment, as appropriate, in the base acres for peanuts for a farm whenever any of the following circumstances occur:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated, or was terminated or expired during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary, or was released during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(C) The producer has eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(D) The producer has eligible oilseed acreage as the result of the Secretary designating additional oilseeds, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(2) SPECIAL CONSERVATION RESERVE ACREAGE PAYMENT RULES.—For the crop year in which a base acres for peanuts adjustment under subparagraph (A) or (B) of paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(b) PREVENTION OF EXCESS BASE ACRES FOR PEANUTS.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for peanuts for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for peanuts for the farm or the base acres for 1 or more covered commodities for the farm so that the sum of the base acres for peanuts and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for the farm for a covered commodity.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a Federal conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(D) Any eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(E) If the Secretary designates additional oilseeds, any eligible oilseed acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(3) SELECTION OF ACRES.—The Secretary shall give the owner of the farm the opportunity to select the base acres for peanuts or the base acres for covered commodities against which the reduction required by paragraph (1) will be made.

(4) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1101(b) when applying the requirements of this subsection.

(c) REDUCTION IN BASE ACRES.—

(1) REDUCTION AT OPTION OF OWNER.—

(A) IN GENERAL.—The owner of a farm may reduce, at any time, the base acres for peanuts for the farm.

(B) EFFECT OF REDUCTION.—A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

(2) REQUIRED ACTION BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall proportionately reduce base acres on a farm for peanuts for land that has been subdivided and developed for multiple residential units or other nonfarming uses if the size of the tracts and the density of the subdivision is such that the land is unlikely to return to the previous agricultural use, unless the producers on the farm demonstrate that the land—

(i) remains devoted to commercial agricultural production; or

(ii) is likely to be returned to the previous agricultural use.

(B) REQUIREMENT.—The Secretary shall establish procedures to identify land described in subparagraph (A). Procedures.

(3) REVIEW AND REPORT.—Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall submit to Congress a report that describes the results of the actions taken under paragraph (2).

(d) TREATMENT OF FARMS WITH LIMITED BASE ACRES.—

(1) PROHIBITION ON PAYMENTS.—Except as provided in paragraph (2) and notwithstanding any other provision of this title, a producer on a farm may not receive direct payments, counter-cyclical payments, or average crop revenue election payments if the sum of the base acres of the farm is 10 acres or less, as determined by the Secretary.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to a farm owned by—

(A) a socially disadvantaged farmer or rancher (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)); or

(B) a limited resource farmer or rancher, as defined by the Secretary.

(3) DATA COLLECTION AND PUBLICATION.—The Secretary shall—

(A) collect and publish segregated data and survey information about the farm profiles, utilization of land, and crop production; and

(B) perform an evaluation on the supply and price of fruits and vegetables based on the effects of suspension of base acres under this section.

7 USC 8753.

**SEC. 1303. AVAILABILITY OF DIRECT PAYMENTS FOR PEANUTS.**

(a) PAYMENT REQUIRED.—For each of the 2008 through 2012 crop years for peanuts, the Secretary shall make direct payments to the producers on a farm for which a payment yield and base acres for peanuts are established.

(b) PAYMENT RATE.—Except as provided in section 1105, the payment rate used to make direct payments with respect to peanuts for a crop year shall be equal to $36 per ton.

(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the producers on a farm for peanuts for a crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the case of each of the 2008 through 2012 crop years, the Secretary may not make direct payments under this section before October 1 of the calendar year in which the crop is harvested.

(2) ADVANCE PAYMENTS.—

(A) OPTION.—

(i) IN GENERAL.—At the option of the producers on a farm, the Secretary shall pay in advance up to 22 percent of the direct payment for peanuts for any of the 2008 through 2011 crop years to the producers on a farm.

(ii) 2008 CROP YEAR.—If the producers on a farm elect to receive advance direct payments under clause (i) for peanuts for the 2008 crop year, as soon as practicable after the election, the Secretary shall make the advance direct payment to the producers on the farm.

(B) MONTH.—

(i) SELECTION.—Subject to clauses (ii) and (iii), the producers on a farm shall select the month during which the advance payment for a crop year will be made.

(ii) OPTIONS.—The month selected may be any month during the period—

(I) beginning on December 1 of the calendar year before the calendar year in which the crop of peanuts is harvested; and

(II) ending during the month within which the direct payment would otherwise be made.

(iii) CHANGE.—The producers on a farm may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer on a farm that receives an advance direct payment for a crop

year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

**SEC. 1304. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS FOR PEANUTS.** 7 USC 8754.

(a) PAYMENT REQUIRED.—Except as provided in section 1105, for each of the 2008 through 2012 crop years for peanuts, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres for peanuts are established if the Secretary determines that the effective price for peanuts is less than the target price for peanuts.

(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for peanuts is equal to the sum of the following:

(1) The higher of the following:

(A) The national average market price for peanuts received by producers during the 12-month marketing year for peanuts, as determined by the Secretary.

(B) The national average loan rate for a marketing assistance loan for peanuts in effect for the applicable period under this subtitle.

(2) The payment rate in effect for peanuts under section 1303 for the purpose of making direct payments.

(c) TARGET PRICE.—For purposes of subsection (a), the target price for peanuts shall be equal to $495 per ton.

(d) PAYMENT RATE.—The payment rate used to make counter-cyclical payments for a crop year shall be equal to the difference between—

(1) the target price for peanuts; and

(2) the effective price determined under subsection (b) for peanuts.

(e) PAYMENT AMOUNT.—If counter-cyclical payments are required to be paid for any of the 2008 through 2012 crops of peanuts, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(f) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), if the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for a crop of peanuts, beginning October 1, or as soon as practicable after the end of the marketing year, the Secretary shall make the counter-cyclical payments for the crop.

(2) AVAILABILITY OF PARTIAL PAYMENTS.—

(A) IN GENERAL.—If, before the end of the 12-month marketing year, the Secretary estimates that counter-cyclical payments will be required under this section for a crop year, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for the crop.

(B) ELECTION.— Deadline.

(i) IN GENERAL.—The Secretary shall allow producers on a farm to make an election to receive partial payments under subparagraph (A) at any time but not later than 60 days prior to the end of the marketing year for the crop.

(ii) DATE OF ISSUANCE.—The Secretary shall issue the partial payment after the date of an announcement by the Secretary but not later than 30 days prior to the end of the marketing year.

(3) TIME FOR PARTIAL PAYMENTS.—When the Secretary makes partial payments for any of the 2008 through 2010 crop years—

(A) the first partial payment shall be made after completion of the first 180 days of the marketing year for that crop; and

(B) the final partial payment shall be made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for that crop.

(4) AMOUNT OF PARTIAL PAYMENTS.—

(A) FIRST PARTIAL PAYMENT.—For each of the 2008 through 2010 crop years, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(B) FINAL PAYMENT.—The final payment for a crop year shall be equal to the difference between—

(i) the actual counter-cyclical payment to be made to the producers for that crop year; and

(ii) the amount of the partial payment made to the producers under subparagraph (A).

(5) REPAYMENT.—The producers on a farm that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for that crop year.

7 USC 8755.

**SEC. 1305. PRODUCER AGREEMENT REQUIRED AS CONDITION ON PROVISION OF PAYMENTS.**

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments or counter-cyclical payments under this subtitle, or average crop revenue election payments under section 1105, with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1306;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for peanuts and any base acres for the farm under subtitle A, for an agricultural

or conserving use, and not for a nonagricultural commercial, industrial, or residential use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—

(A) IN GENERAL.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in the base acres for peanuts for which direct payments or counter-cyclical payments are made, or on which average crop revenue election payments are based, shall result in the termination of the direct payments, counter-cyclical payments, or average crop revenue election payments to the extent the payments are made or based on the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

(B) EFFECTIVE DATE.—The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment, counter-cyclical payment, or average crop revenue election payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) ACREAGE REPORTS.—

(1) IN GENERAL.—As a condition on the receipt of any benefits under this subtitle, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(2) PENALTIES.—No penalty with respect to benefits under this subtitle shall be assessed against the producers on a farm for an inaccurate acreage report unless the producers on the farm knowingly and willfully falsified the acreage report.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments, counter-cyclical payments, or average crop revenue election payments under section 1105 among the producers on a farm on a fair and equitable basis.

**SEC. 1306. PLANTING FLEXIBILITY.** 7 USC 8756.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on the base acres for peanuts on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (3) shall be prohibited on base acres for peanuts unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres for peanuts.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than mung beans and pulse crops).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of peanuts with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on the base acres for peanuts, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

7 USC 8757.

**SEC. 1307. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.**

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2008 through 2012 crops of peanuts, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm.

(2) TERMS AND CONDITIONS.—The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

(3) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under this subsection for any quantity of peanuts produced on the farm.

(4) OPTIONS FOR OBTAINING LOAN.—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the producers on a farm through—

(A) a designated marketing association or marketing cooperative of producers that is approved by the Secretary; or

(B) the Farm Service Agency.

(5) STORAGE OF LOAN PEANUTS.—As a condition on the Secretary's approval of an individual or entity to provide storage for peanuts for which a marketing assistance loan is made under this section, the individual or entity shall agree—

(A) to provide such storage on a nondiscriminatory basis; and

(B) to comply with such additional requirements as the Secretary considers appropriate to accomplish the purposes of this section and promote fairness in the administration of the benefits of this section.

(6) STORAGE, HANDLING, AND ASSOCIATED COSTS.—

(A) IN GENERAL.—Beginning with the 2008 crop of peanuts, to ensure proper storage of peanuts for which a loan is made under this section, the Secretary shall pay handling and other associated costs (other than storage costs) incurred at the time at which the peanuts are placed under loan, as determined by the Secretary.

(B) REDEMPTION AND FORFEITURE.—The Secretary shall—

(i) require the repayment of handling and other associated costs paid under subparagraph (A) for all peanuts pledged as collateral for a loan that is redeemed under this section; and

(ii) pay storage, handling, and other associated costs for all peanuts pledged as collateral that are forfeited under this section.

(7) MARKETING.—A marketing association or cooperative may market peanuts for which a loan is made under this section in any manner that conforms to consumer needs, including the separation of peanuts by type and quality.

(b) LOAN RATE.—Except as provided in section 1105, the loan rate for a marketing assistance loan for peanuts under subsection (a) shall be equal to $355 per ton.

(c) TERM OF LOAN.—

(1) IN GENERAL.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(2) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

(d) REPAYMENT RATE.—

(1) IN GENERAL.—The Secretary shall permit producers on a farm to repay a marketing assistance loan for peanuts under subsection (a) at a rate that is the lesser of—

(A) the loan rate established for peanuts under subsection (b), plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(B) a rate that the Secretary determines will—

(i) minimize potential loan forfeitures;

(ii) minimize the accumulation of stocks of peanuts by the Federal Government;

(iii) minimize the cost incurred by the Federal Government in storing peanuts; and

(iv) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) AUTHORITY TO TEMPORARILY ADJUST REPAYMENT RATES.—

(A) ADJUSTMENT AUTHORITY.—In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this subsection for marketing assistance loans for peanuts under subsection (a).

(B) DURATION.—An adjustment made under subparagraph (A) in the repayment rate for marketing assistance loans for peanuts shall be in effect on a short-term and temporary basis, as determined by the Secretary.

(e) LOAN DEFICIENCY PAYMENTS.—

(1) AVAILABILITY.—The Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for loan deficiency payments under this subsection.

(2) COMPUTATION.—A loan deficiency payment under this subsection shall be computed by multiplying—

(A) the payment rate determined under paragraph (3) for peanuts; by

(B) the quantity of the peanuts produced by the producers, excluding any quantity for which the producers obtain a marketing assistance loan under subsection (a).

(3) PAYMENT RATE.—For purposes of this subsection, the payment rate shall be the amount by which—

(A) the loan rate established under subsection (b); exceeds

(B) the rate at which a loan may be repaid under subsection (d).

(4) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—The Secretary shall determine the amount of the loan deficiency payment to be made under this subsection to the producers on a farm with respect to a quantity of peanuts using the payment rate in effect under paragraph (3) as of the date the producers request the payment.

(f) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF ADMINISTRATIVE EXPENSES.—The Secretary may implement any reimbursable agreements or provide for the payment of administrative expenses under this subtitle only in a manner that is consistent with such activities in regard to other commodities.

**SEC. 1308. ADJUSTMENTS OF LOANS.** 7 USC 8758.

(a) ADJUSTMENT AUTHORITY.—The Secretary may make appropriate adjustments in the loan rates for peanuts for differences in grade, type, quality, location, and other factors.

(b) MANNER OF ADJUSTMENT.—The adjustments under subsection (a) shall, to the maximum extent practicable, be made in such a manner that the average loan level for peanuts will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined in accordance with this subtitle and subtitles B, D, and E.

(c) ADJUSTMENT ON COUNTY BASIS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may establish loan rates for a crop of peanuts for producers in individual counties in a manner that results in the lowest loan rate being 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays.

(2) PROHIBITION.—Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

# Subtitle D—Sugar

**SEC. 1401. SUGAR PROGRAM.**

(a) IN GENERAL.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended to read as follows:

**"SEC. 156. SUGAR PROGRAM.** Loans.

"(a) SUGARCANE.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to—

"(1) 18.00 cents per pound for raw cane sugar for the 2008 crop year;

"(2) 18.25 cents per pound for raw cane sugar for the 2009 crop year;

"(3) 18.50 cents per pound for raw cane sugar for the 2010 crop year;

"(4) 18.75 cents per pound for raw cane sugar for the 2011 crop year; and

"(5) 18.75 cents per pound for raw cane sugar for the 2012 crop year.

"(b) SUGAR BEETS.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to—

"(1) 22.9 cents per pound for refined beet sugar for the 2008 crop year; and

"(2) a rate that is equal to 128.5 percent of the loan rate per pound of raw cane sugar for the applicable crop year under subsection (a) for each of the 2009 through 2012 crop years.

"(c) TERM OF LOANS.—

"(1) IN GENERAL.—A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

"(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

"(B) the end of the fiscal year in which the loan is made.

"(2) SUPPLEMENTAL LOANS.—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

"(A) be made at the loan rate in effect at the time the first loan was made; and

"(B) mature in 9 months less the quantity of time that the first loan was in effect.

"(d) LOAN TYPE; PROCESSOR ASSURANCES.—

"(1) NONRECOURSE LOANS.—The Secretary shall carry out this section through the use of nonrecourse loans.

"(2) PROCESSOR ASSURANCES.—

"(A) IN GENERAL.—The Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for the sugar beets and sugarcane delivered by producers to the processor.

"(B) MINIMUM PAYMENTS.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may establish appropriate minimum payments for purposes of this paragraph.

"(ii) LIMITATION.—In the case of sugar beets, the minimum payment established under clause (i) shall not exceed the rate of payment provided for under the applicable contract between a sugar beet producer and a sugar beet processor.

"(3) ADMINISTRATION.—The Secretary may not impose or enforce any prenotification requirement, or similar administrative requirement not otherwise in effect on May 13, 2002, that has the effect of preventing a processor from electing to forfeit the loan collateral (of an acceptable grade and quality) on the maturity of the loan.

"(e) LOANS FOR IN-PROCESS SUGAR.—

"(1) DEFINITION OF IN-PROCESS SUGARS AND SYRUPS.—In this subsection, the term 'in-process sugars and syrups' does not include raw sugar, liquid sugar, invert sugar, invert syrup, or other finished product that is otherwise eligible for a loan under subsection (a) or (b).

"(2) AVAILABILITY.—The Secretary shall make nonrecourse loans available to processors of a crop of domestically grown sugarcane and sugar beets for in-process sugars and syrups derived from the crop.

"(3) LOAN RATE.—The loan rate shall be equal to 80 percent of the loan rate applicable to raw cane sugar or refined beet sugar, as determined by the Secretary on the basis of the source material for the in-process sugars and syrups.

"(4) FURTHER PROCESSING ON FORFEITURE.—

"(A) IN GENERAL.—As a condition of the forfeiture of in-process sugars and syrups serving as collateral for a loan under paragraph (2), the processor shall, within such reasonable time period as the Secretary may prescribe

and at no cost to the Commodity Credit Corporation, convert the in-process sugars and syrups into raw cane sugar or refined beet sugar of acceptable grade and quality for sugars eligible for loans under subsection (a) or (b).

"(B) TRANSFER TO CORPORATION.—Once the in-process sugars and syrups are fully processed into raw cane sugar or refined beet sugar, the processor shall transfer the sugar to the Commodity Credit Corporation.

"(C) PAYMENT TO PROCESSOR.—On transfer of the sugar, the Secretary shall make a payment to the processor in an amount equal to the amount obtained by multiplying—

"(i) the difference between—

"(I) the loan rate for raw cane sugar or refined beet sugar, as appropriate; and

"(II) the loan rate the processor received under paragraph (3); by

"(ii) the quantity of sugar transferred to the Secretary.

"(5) LOAN CONVERSION.—If the processor does not forfeit the collateral as described in paragraph (4), but instead further processes the in-process sugars and syrups into raw cane sugar or refined beet sugar and repays the loan on the in-process sugars and syrups, the processor may obtain a loan under subsection (a) or (b) for the raw cane sugar or refined beet sugar, as appropriate.

"(6) TERM OF LOAN.—The term of a loan made under this subsection for a quantity of in-process sugars and syrups, when combined with the term of a loan made with respect to the raw cane sugar or refined beet sugar derived from the in-process sugars and syrups, may not exceed 9 months, consistent with subsection (c).

"(f) AVOIDING FORFEITURES; CORPORATION INVENTORY DISPOSITION.—

"(1) IN GENERAL.—Subject to subsection (d)(3), to the maximum extent practicable, the Secretary shall operate the program established under this section at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation.

"(2) INVENTORY DISPOSITION.—

"(A) IN GENERAL.—To carry out paragraph (1), the Commodity Credit Corporation may accept bids to obtain raw cane sugar or refined beet sugar in the inventory of the Commodity Credit Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (acting in conjunction with the producers of the sugarcane or sugar beets processed by the processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate.

"(B) BIOENERGY FEEDSTOCK.—If a reduction in the quantity of production accepted under subparagraph (A) involves sugar beets or sugarcane that has already been planted, the sugar beets or sugarcane so planted may not be used for any commercial purpose other than as a bioenergy feedstock.

"(C) ADDITIONAL AUTHORITY.—The authority provided under this paragraph is in addition to any authority of the Commodity Credit Corporation under any other law.

"(g) INFORMATION REPORTING.—

"(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) DUTY OF PRODUCERS TO REPORT.—

"(A) PROPORTIONATE SHARE STATES.—As a condition of a loan made to a processor for the benefit of a producer, the Secretary shall require each producer of sugarcane located in a State (other than the Commonwealth of Puerto Rico) in which there are in excess of 250 producers of sugarcane to report, in the manner prescribed by the Secretary, the sugarcane yields and acres planted to sugarcane of the producer.

"(B) OTHER STATES.—The Secretary may require each producer of sugarcane or sugar beets not covered by subparagraph (A) to report, in a manner prescribed by the Secretary, the yields of, and acres planted to, sugarcane or sugar beets, respectively, of the producer.

"(3) DUTY OF IMPORTERS TO REPORT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall require an importer of sugars, syrups, or molasses to be used for human consumption or to be used for the extraction of sugar for human consumption to report, in the manner prescribed by the Secretary, the quantities of the products imported by the importer and the sugar content or equivalent of the products.

"(B) TARIFF-RATE QUOTAS.—Subparagraph (A) shall not apply to sugars, syrups, or molasses that are within the quantities of tariff-rate quotas that are subject to the lower rate of duties.

"(4) COLLECTION OF INFORMATION ON MEXICO.—

"(A) COLLECTION.—The Secretary shall collect—

"(i) information on the production, consumption, stocks, and trade of sugar in Mexico, including United States exports of sugar to Mexico; and

"(ii) publicly available information on Mexican production, consumption, and trade of high fructose corn syrups.

"(B) PUBLICATION.—The data collected under subparagraph (A) shall be published in each edition of the World Agricultural Supply and Demand Estimates.

"(5) PENALTY.—Any person willfully failing or refusing to furnish the information required to be reported by paragraph (1), (2), or (3), or furnishing willfully false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

Publication.

"(6) MONTHLY REPORTS.—Taking into consideration the information received under this subsection, the Secretary shall

publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

"(h) SUBSTITUTION OF REFINED SUGAR.—For purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Secretary, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar and sugar-containing products under those programs.

"(i) EFFECTIVE PERIOD.—This section shall be effective only for the 2008 through 2012 crops of sugar beets and sugarcane.".

(b) TRANSITION.—The Secretary shall make loans for raw cane sugar and refined beet sugar available for the 2007 crop year on the terms and conditions provided in section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272), as in effect on the day before the date of enactment of this Act. 7 USC 7272 note.

**SEC. 1402. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL SUGAR ORGANIZATION.** 7 USC 3602 note.

The Secretary shall work with the Secretary of State to restore United States membership in the International Sugar Organization not later than 1 year after the date of enactment of this Act. Deadline.

**SEC. 1403. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.**

(a) DEFINITIONS.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (4), (5), and (6), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

"(1) HUMAN CONSUMPTION.—The term 'human consumption', when used in the context of a reference to sugar (whether in the form of sugar, in-process sugar, syrup, molasses, or in some other form) for human consumption, includes sugar for use in human food, beverages, or similar products."; and

(3) by inserting after paragraph (2) (as so redesignated) the following:

"(3) MARKET.—

"(A) IN GENERAL.—The term 'market' means to sell or otherwise dispose of in commerce in the United States.

"(B) INCLUSIONS.—The term 'market' includes—

"(i) the forfeiture of sugar under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272);

"(ii) with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process; and

"(iii) the sale of sugar for the production of ethanol or other bioenergy product, if the disposition of the sugar is administered by the Secretary under section 9010 of the Farm Security and Rural Investment Act of 2002.

"(C) MARKETING YEAR.—Forfeited sugar described in subparagraph (B)(i) shall be considered to have been marketed during the crop year for which a loan is made under the loan program described in that subparagraph.".

(b) FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended to read as follows:

**"SEC. 359b. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.**

Deadlines.

"(a) SUGAR ESTIMATES.—

"(1) IN GENERAL.—Not later than August 1 before the beginning of each of the 2008 through 2012 crop years for sugarcane and sugar beets, the Secretary shall estimate—

"(A) the quantity of sugar that will be subject to human consumption in the United States during the crop year;

"(B) the quantity of sugar that would provide for reasonable carryover stocks;

"(C) the quantity of sugar that will be available from carry-in stocks for human consumption in the United States during the crop year;

"(D) the quantity of sugar that will be available from the domestic processing of sugarcane, sugar beets, and in-process beet sugar; and

"(E) the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether the articles are under a tariff-rate quota or are in excess or outside of a tariff-rate quota.

"(2) EXCLUSION.—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

"(3) REESTIMATES.—The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but not later than the beginning of each of the second through fourth quarters of the crop year.

"(b) SUGAR ALLOTMENTS.—

"(1) ESTABLISHMENT.—By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar cane or sugar beets or in-process beet sugar (whether the sugar beets or in-process beet sugar was produced domestically or imported) at a level that is—

"(A) sufficient to maintain raw and refined sugar prices above forfeiture levels so that there will be no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272); but

"(B) not less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

"(2) PRODUCTS.—The Secretary may include sugar products, the majority content of which is sucrose for human consumption, derived from sugar cane, sugar beets, molasses, or sugar in the allotments established under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.

"(c) COVERAGE OF ALLOTMENTS.—

"(1) IN GENERAL.—The marketing allotments under this part shall apply to the marketing by processors of sugar intended for domestic human consumption that has been processed from sugar cane, sugar beets, or in-process beet sugar, whether such sugar beets or in-process beet sugar was produced domestically or imported. Applicability.

"(2) EXCEPTIONS.—Consistent with the administration of marketing allotments for each of the 2002 through 2007 crop years, the marketing allotments shall not apply to sugar sold—

"(A) to facilitate the exportation of the sugar to a foreign country, except that the exports of sugar shall not be eligible to receive credits under reexport programs for refined sugar or sugar containing products administered by the Secretary;

"(B) to enable another processor to fulfill an allocation established for that processor; or

"(C) for uses other than domestic human consumption, except for the sale of sugar for the production of ethanol or other bioenergy if the disposition of the sugar is administered by the Secretary under section 9010 of the Farm Security and Rural Investment Act of 2002.

"(3) REQUIREMENT.—The sale of sugar described in paragraph (2)(B) shall be— Deadline. Reports.

"(A) made prior to May 1; and

"(B) reported to the Secretary.

"(d) PROHIBITIONS.—

"(1) IN GENERAL.—During all or part of any crop year for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market for domestic human consumption a quantity of sugar in excess of the allocation established for the processor, except—

"(A) to enable another processor to fulfill an allocation established for that other processor; or

"(B) to facilitate the exportation of the sugar.

"(2) CIVIL PENALTY.—Any processor who knowingly violates paragraph (1) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation.".

(c) ESTABLISHMENT OF FLEXIBLE MARKETING ALLOTMENTS.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) OVERALL ALLOTMENT QUANTITY.—

"(1) IN GENERAL.—The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (referred to in this part as the 'overall allotment quantity') at a level that is—

"(A) sufficient to maintain raw and refined sugar prices above forfeiture levels to avoid forfeiture of sugar to the Commodity Credit Corporation; but

"(B) not less than a quantity equal to 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

"(2) ADJUSTMENT.—Subject to paragraph (1), the Secretary shall adjust the overall allotment quantity to maintain—

"(A) raw and refined sugar prices above forfeiture levels to avoid the forfeiture of sugar to the Commodity Credit Corporation; and

"(B) adequate supplies of raw and refined sugar in the domestic market.";

(2) in subsection (d)(2), by inserting "or in-process beet sugar" before the period at the end;

(3) in subsection (g)(1)—

(A) by striking "(1) IN GENERAL.—The Secretary" and inserting the following:

"(1) ADJUSTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary"; and

(B) by adding at the end the following:

"(B) LIMITATION.—In carrying out subparagraph (A), the Secretary may not reduce the overall allotment quantity to a quantity of less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year."; and

(4) by striking subsection (h).

(d) ALLOCATION OF MARKETING ALLOTMENTS.—Section 359d(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd(b)) is amended—

(1) in paragraph (1)(F), by striking "Except as otherwise provided in section 359f(c)(8), if" and inserting "If"; and

(2) in paragraph (2), by striking subparagraphs (G), (H), and (I) and inserting the following:

"(G) SALE OF FACTORIES OF A PROCESSOR TO ANOTHER PROCESSOR.—

"(i) EFFECT OF SALE.—Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of the sold 1 or more factories to the total allocation of the seller, unless the buyer and the seller have agreed upon the transfer of a different portion of the allocation of the seller, in which case, the Secretary shall transfer that portion agreed upon by the buyer and seller.

"(ii) APPLICATION OF ALLOCATION.—The assignment of the allocation under clause (i) shall apply—

"(I) during the remainder of the crop year for which the sale described in clause (i) occurs; and

"(II) during each subsequent crop year.

"(iii) USE OF OTHER FACTORIES TO FILL ALLOCATION.—If the assignment of the allocation under clause (i) to the buyer for the 1 or more purchased factories cannot be filled by the production of the 1 or more purchased factories, the remainder of the allocation may be filled by beet sugar produced by the buyer from other factories of the buyer.

"(H) NEW ENTRANTS STARTING PRODUCTION, REOPENING, OR ACQUIRING AN EXISTING FACTORY WITH PRODUCTION HISTORY.—

"(i) DEFINITION OF NEW ENTRANT.—

"(I) IN GENERAL.—In this subparagraph, the term 'new entrant' means an individual, corporation, or other entity that—

"(aa) does not have an allocation of the beet sugar allotment under this part;

"(bb) is not affiliated with any other individual, corporation, or entity that has an allocation of beet sugar under this part (referred to in this clause as a 'third party'); and

"(cc) will process sugar beets produced by sugar beet growers under contract with the new entrant for the production of sugar at the new or re-opened factory that is the basis for the new entrant allocation.

"(II) AFFILIATION.—For purposes of subclause (I)(bb), a new entrant and a third party shall be considered to be affiliated if—

"(aa) the third party has an ownership interest in the new entrant;

"(bb) the new entrant and the third party have owners in common;

"(cc) the third party has the ability to exercise control over the new entrant by organizational rights, contractual rights, or any other means;

"(dd) the third party has a contractual relationship with the new entrant by which the new entrant will make use of the facilities or assets of the third party; or

"(ee) there are any other similar circumstances by which the Secretary determines that the new entrant and the third party are affiliated.

"(ii) ALLOCATION FOR A NEW ENTRANT THAT HAS CONSTRUCTED A NEW FACTORY OR REOPENED A FACTORY THAT WAS NOT OPERATED SINCE BEFORE 1998.—If a new entrant constructs a new sugar beet processing factory, or acquires and reopens a sugar beet processing factory that last processed sugar beets prior to the 1998 crop year and there is no allocation currently associated with the factory, the Secretary shall—

"(I) assign an allocation for beet sugar to the new entrant that provides a fair and equitable distribution of the allocations for beet sugar so as to enable the new entrant to achieve a factory utilization rate comparable to the factory utilization rates of other similarly-situated processors; and

"(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the allocation to the new entrant.

"(iii) ALLOCATION FOR A NEW ENTRANT THAT HAS ACQUIRED AN EXISTING FACTORY WITH A PRODUCTION HISTORY.—

"(I) IN GENERAL.—If a new entrant acquires an existing factory that has processed sugar beets from the 1998 or subsequent crop year and has a production history, on the mutual agreement of the new entrant and the company currently holding the allocation associated with the factory, the Secretary shall transfer to the new entrant a portion of the allocation of the current allocation holder to reflect the historical contribution of the production of the 1 or more sold factories to the total allocation of the current allocation holder, unless the new entrant and current allocation holder have agreed upon the transfer of a different portion of the allocation of the current allocation holder, in which case, the Secretary shall transfer that portion agreed upon by the new entrant and the current allocation holder.

"(II) PROHIBITION.—In the absence of a mutual agreement described in subclause (I), the new entrant shall be ineligible for a beet sugar allocation.

"(iv) APPEALS.—Any decision made under this subsection may be appealed to the Secretary in accordance with section 359i.".

(e) REASSIGNMENT OF DEFICITS.—Section 359e(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee(b)) is amended in paragraphs (1)(D) and (2)(C), by inserting "of raw cane sugar" after "imports" each place it appears.

(f) PROVISIONS APPLICABLE TO PRODUCERS.—Section 359f(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(c)) is amended—

(1) by striking paragraph (8);

(2) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively;

(3) by inserting before paragraph (2) (as so redesignated) the following:

"(1) DEFINITION OF SEED.—

"(A) IN GENERAL.—In this subsection, the term 'seed' means only those varieties of seed that are dedicated to the production of sugarcane from which is produced sugar for human consumption.

"(B) EXCLUSION.—The term 'seed' does not include seed of a high-fiber cane variety dedicated to other uses, as determined by the Secretary";

(4) in paragraph (3) (as so redesignated)—

(A) in the first sentence—

(i) by striking "paragraph (1)" and inserting "paragraph (2)"; and

(ii) by inserting "sugar produced from" after "quantity of"; and

(B) in the second sentence, by striking "paragraph (7)" and inserting "paragraph (8)";

(5) in the first sentence of paragraph (6)(C) (as so redesignated), by inserting "for sugar" before "in excess of the farm's proportionate share"; and

(6) in paragraph (8) (as so redesignated), by inserting "sugar from" after "the amount of".

(g) SPECIAL RULES.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) TRANSFER OF ACREAGE BASE HISTORY.—

"(1) TRANSFER AUTHORIZED.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f(c), the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(2) CONVERTED ACREAGE BASE.—

"(A) IN GENERAL.—Sugarcane acreage base established under section 359f(c) that has been or is converted to nonagricultural use on or after May 13, 2002, may be transferred to other land suitable for the production of sugarcane that can be delivered to a processor in a proportionate share State in accordance with this paragraph.

"(B) NOTIFICATION.—Not later than 90 days after the Secretary becomes aware of a conversion of any sugarcane acreage base to a nonagricultural use, the Secretary shall notify the 1 or more affected landowners of the transferability of the applicable sugarcane acreage base. Deadline.

"(C) INITIAL TRANSFER PERIOD.—The owner of the base attributable to the acreage at the time of the conversion shall be afforded 90 days from the date of the receipt of the notification under subparagraph (B) to transfer the base to 1 or more farms owned by the owner.

"(D) GROWER OF RECORD.—If a transfer under subparagraph (C) cannot be accomplished during the period specified in that subparagraph, the grower of record with regard to the acreage base on the date on which the acreage was converted to nonagricultural use shall— Notification. Time period.

"(i) be notified; and

"(ii) have 90 days from the date of the receipt of the notification to transfer the base to 1 or more farms operated by the grower.

"(E) POOL DISTRIBUTION.—

"(i) IN GENERAL.—If transfers under subparagraphs (B) and (C) cannot be accomplished during the periods specified in those subparagraphs, the county committee of the Farm Service Agency for the applicable county shall place the acreage base in a pool for possible assignment to other farms.

"(ii) ACCEPTANCE OF REQUESTS.—After providing reasonable notice to farm owners, operators, and growers of record in the county, the county committee shall accept requests from owners, operators, and growers of record in the county.

"(iii) ASSIGNMENT.—The county committee shall assign the acreage base to other farms in the county that are eligible and capable of accepting the acreage

base, based on a random drawing from among the requests received under clause (ii).

"(F) STATEWIDE REALLOCATION.—

"(i) IN GENERAL.—Any acreage base remaining unassigned after the transfers and processes described in subparagraphs (A) through (E) shall be made available to the State committee of the Farm Service Agency for allocation among the remaining county committees in the State representing counties with farms eligible for assignment of the base, based on a random drawing.

"(ii) ALLOCATION.—Any county committee receiving acreage base under this subparagraph shall allocate the acreage base to eligible farms using the process described in subparagraph (E).

"(G) STATUS OF REASSIGNED BASE.—After acreage base has been reassigned in accordance with this subparagraph, the acreage base shall—

"(i) remain on the farm; and

"(ii) be subject to the transfer provisions of paragraph (1)."; and

(2) in subsection (d)—

(A) in paragraph (1)—

(i) by inserting "affected" before "crop-share owners" each place it appears; and

(ii) by striking ", and from the processing company holding the applicable allocation for such shares,"; and

(B) in paragraph (2), by striking "based on" and all that follows through the end of subparagraph (B) and inserting "based on—

"(A) the number of acres of sugarcane base being transferred; and

"(B) the pro rata amount of allocation at the processing company holding the applicable allocation that equals the contribution of the grower to allocation of the processing company for the sugarcane acreage base being transferred.".

(h) APPEALS.—Section 359i of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii) is amended—

(1) in subsection (a), by inserting "or 359g(d)" after "359f"; and

(2) by striking subsection (c).

(i) REALLOCATING SUGAR QUOTA IMPORT SHORTFALLS.—Section 359k of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359kk) is repealed.

(j) ADMINISTRATION OF TARIFF RATE QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) (as amended by subsection (i)) is amended by adding at the end the following:

7 USC 1359kk.

**"SEC. 359k. ADMINISTRATION OF TARIFF RATE QUOTAS.**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, at the beginning of the quota year, the Secretary shall establish the tariff-rate quotas for raw cane sugar and refined sugars at the minimum level necessary to comply with obligations under

international trade agreements that have been approved by Congress.

"(2) EXCEPTION.—Paragraph (1) shall not apply to specialty sugar.

"(b) ADJUSTMENT.—

"(1) BEFORE APRIL 1.—Before April 1 of each fiscal year, if there is an emergency shortage of sugar in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event as determined by the Secretary— Deadline.

"(A) the Secretary shall take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

"(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, and domestic raw cane sugar refining capacity has been maximized, the Secretary may increase the tariff-rate quota for refined sugars sufficient to accommodate the supply increase, if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

"(2) ON OR AFTER APRIL 1.—On or after April 1 of each fiscal year— Deadline.

"(A) the Secretary may take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

"(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, the Secretary may increase the tariff-rate quota for raw cane sugar if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).".

(k) PERIOD OF EFFECTIVENESS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) (as amended by subsection (j)) is amended by adding at the end the following:

**"SEC. 359l. PERIOD OF EFFECTIVENESS.** 7 USC 1359*ll*.

"(a) IN GENERAL.—This part shall be effective only for the 2008 through 2012 crop years for sugar.

"(b) TRANSITION.—The Secretary shall administer flexible marketing allotments for sugar for the 2007 crop year for sugar on the terms and conditions provided in this part as in effect on the day before the date of enactment of this section.".

**SEC. 1404. STORAGE FACILITY LOANS.**

Section 1402(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7971(c)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

"(2) not include any penalty for prepayment; and"; and

(4) in paragraph (3) (as redesignated by paragraph (2)), by inserting "other" after "on such".

**SEC. 1405. COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.**

Subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:

7 USC 7287.

**"SEC. 167. COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.**

"(a) INITIAL CROP YEARS.—Notwithstanding any other provision of law, for each of the 2008 through 2011 crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in an amount that is not less than—

"(1) in the case of refined sugar, 15 cents per hundredweight of refined sugar per month; and

"(2) in the case of raw cane sugar, 10 cents per hundredweight of raw cane sugar per month.

"(b) SUBSEQUENT CROP YEARS.—For each of the 2012 and subsequent crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in the same manner as was used on the day before the date of enactment of this section.".

# Subtitle E—Dairy

7 USC 8771.

**SEC. 1501. DAIRY PRODUCT PRICE SUPPORT PROGRAM.**

(a) DEFINITION OF NET REMOVALS.—In this section, the term "net removals" means—

(1) the sum of—

(A) the quantity of a product described in subsection (b) purchased by the Commodity Credit Corporation under this section; and

(B) the quantity of the product exported under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14); less

(2) the quantity of the product sold for unrestricted use by the Commodity Credit Corporation.

Time period.

(b) SUPPORT ACTIVITIES.—During the period beginning on January 1, 2008, and ending December 31, 2012, the Secretary shall support the price of cheddar cheese, butter, and nonfat dry milk through the purchase of such products made from milk produced in the United States.

(c) PURCHASE PRICE.—To carry out subsection (b) during the period specified in that subsection, the Secretary shall purchase—

(1) cheddar cheese in blocks at not less than $1.13 per pound;

(2) cheddar cheese in barrels at not less than $1.10 per pound;

(3) butter at not less than $1.05 per pound; and

(4) nonfat dry milk at not less than $0.80 per pound.

(d) TEMPORARY PRICE ADJUSTMENT TO AVOID EXCESS INVENTORIES.—

(1) ADJUSTMENTS AUTHORIZED.—The Secretary may adjust the minimum purchase prices established under subsection (c) only as permitted under this subsection.

(2) CHEESE INVENTORIES IN EXCESS OF 200,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 200,000,000 pounds of cheese, but do not exceed 400,000,000

pounds, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (c) during the immediately following month by not more than 10 cents per pound.

(3) CHEESE INVENTORIES IN EXCESS OF 400,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 400,000,000 pounds of cheese, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (c) during the immediately following month by not more than 20 cents per pound.

(4) BUTTER INVENTORIES IN EXCESS OF 450,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 450,000,000 pounds of butter, but do not exceed 650,000,000 pounds, the Secretary may reduce the purchase price under subsection (c)(3) during the immediately following month by not more than 10 cents per pound.

(5) BUTTER INVENTORIES IN EXCESS OF 650,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 650,000,000 pounds of butter, the Secretary may reduce the purchase price under subsection (c)(3) during the immediately following month by not more than 20 cents per pound.

(6) NONFAT DRY MILK INVENTORIES IN EXCESS OF 600,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 600,000,000 pounds of nonfat dry milk, but do not exceed 800,000,000 pounds, the Secretary may reduce the purchase price under subsection (c)(4) during the immediately following month by not more than 5 cents per pound.

(7) NONFAT DRY MILK INVENTORIES IN EXCESS OF 800,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 800,000,000 pounds of nonfat dry milk, the Secretary may reduce the purchase price under subsection (c)(4) during the immediately following month by not more than 10 cents per pound.

(e) UNIFORM PURCHASE PRICE.—The prices that the Secretary pays for cheese, butter, or nonfat dry milk, respectively, under subsection (b) shall be uniform for all regions of the United States.

(f) SALES FROM INVENTORIES.—In the case of each commodity specified in subsection (c) that is available for unrestricted use in the inventory of the Commodity Credit Corporation, the Secretary may sell the commodity at the market prices prevailing for that commodity at the time of sale, except that the sale price may not be less than 110 percent of the minimum purchase price specified in subsection (c) for that commodity.

**SEC. 1502. DAIRY FORWARD PRICING PROGRAM.** 7 USC 8772.

(a) PROGRAM REQUIRED.—The Secretary shall establish a program under which milk producers and cooperative associations of producers are authorized to voluntarily enter into forward price contracts with milk handlers.

(b) MINIMUM MILK PRICE REQUIREMENTS.—Payments made by milk handlers to milk producers and cooperative associations of producers, and prices received by milk producers and cooperative associations, in accordance with the terms of a forward price contract authorized by subsection (a), shall be treated as satisfying—

(1) all uniform and minimum milk price requirements of subparagraphs (B) and (F) of paragraph (5) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted

with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) the total payment requirement of subparagraph (C) of that paragraph.

(c) MILK COVERED BY PROGRAM.—

Applicability.

(1) COVERED MILK.—The program shall apply only with respect to the marketing of federally regulated milk that—

(A) is not classified as Class I milk or otherwise intended for fluid use; and

(B) is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk.

(2) RELATION TO CLASS I MILK.—To assist milk handlers in complying with paragraph (1)(A) without having to segregate or otherwise individually track the source and disposition of milk, a milk handler may allocate milk receipts from producers, cooperatives, and other sources that are not subject to a forward contract to satisfy the obligations of the handler with regard to Class I milk usage.

(d) VOLUNTARY PROGRAM.—

(1) IN GENERAL.—A milk handler may not require participation in a forward pricing contract as a condition of the handler receiving milk from a producer or cooperative association of producers.

(2) PRICING.—A producer or cooperative association described in paragraph (1) may continue to have their milk priced in accordance with the minimum payment provisions of the Federal milk marketing order.

(3) COMPLAINTS.—

(A) IN GENERAL.—The Secretary shall investigate complaints made by producers or cooperative associations of coercion by handlers to enter into forward contracts.

(B) ACTION.—If the Secretary finds evidence of coercion, the Secretary shall take appropriate action.

(e) DURATION.—

Deadline.

(1) NEW CONTRACTS.—No forward price contract may be entered into under the program established under this section after September 30, 2012.

Termination date.

(2) APPLICATION.—No forward contract entered into under the program may extend beyond September 30, 2015.

**SEC. 1503. DAIRY EXPORT INCENTIVE PROGRAM.**

(a) EXTENSION.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14(a)) is amended by striking "2007" and inserting "2012".

(b) COMPLIANCE WITH TRADE AGREEMENTS.—Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended—

(1) in subsection (c), by striking paragraph (3) and inserting the following:

"(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511) is exported under the program each year (minus the volume sold under section 1163 of this Act during that year), except to the extent that the export of such a volume under the program

would, in the judgment of the Secretary, exceed the limitations on the value permitted under subsection (f); and"; and.

(2) in subsection (f), by striking paragraph (1) and inserting the following:

"(1) FUNDS AND COMMODITIES.—Except as provided in paragraph (2), the Commodity Credit Corporation shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511), minus the amount expended under section 1163 of this Act during that year.".

**SEC. 1504. REVISION OF FEDERAL MARKETING ORDER AMENDMENT PROCEDURES.**

Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking subsection (17) and inserting the following:

"(17) PROVISIONS APPLICABLE TO AMENDMENTS.—

"(A) APPLICABILITY TO AMENDMENTS.—The provisions of this section and section 8d applicable to orders shall be applicable to amendments to orders.

"(B) SUPPLEMENTAL RULES OF PRACTICE.—

"(i) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall issue, using informal rulemaking, supplemental rules of practice to define guidelines and timeframes for the rulemaking process relating to amendments to orders. Deadline.

"(ii) ISSUES.—At a minimum, the supplemental rules of practice shall establish—

"(I) proposal submission requirements;

"(II) pre-hearing information session specifications;

"(III) written testimony and data request requirements;

"(IV) public participation timeframes; and

"(V) electronic document submission standards.

"(iii) EFFECTIVE DATE.—The supplemental rules of practice shall take effect not later than 120 days after the date of enactment of this subparagraph, as determined by the Secretary.

"(C) HEARING TIMEFRAMES.— Deadlines.

"(i) IN GENERAL.—Not more than 30 days after the receipt of a proposal for an amendment hearing regarding a milk marketing order, the Secretary shall—

"(I) issue a notice providing an action plan and expected timeframes for completion of the hearing not more than 120 days after the date of the issuance of the notice; Notice.

"(II)(aa) issue a request for additional information to be used by the Secretary in making a determination regarding the proposal; and

"(bb) if the additional information is not provided to the Secretary within the timeframe requested by the Secretary, issue a denial of the request; or

"(III) issue a denial of the request.

"(ii) REQUIREMENT.—A post-hearing brief may be filed under this paragraph not later than 60 days after the date of an amendment hearing regarding a milk marketing order.

"(iii) RECOMMENDED DECISIONS.—A recommended decision on a proposed amendment to an order shall be issued not later than 90 days after the deadline for the submission of post-hearing briefs.

"(iv) FINAL DECISIONS.—A final decision on a proposed amendment to an order shall be issued not later than 60 days after the deadline for submission of comments and exceptions to the recommended decision issued under clause (iii).

"(D) INDUSTRY ASSESSMENTS.—If the Secretary determines it is necessary to improve or expedite rulemaking under this subsection, the Secretary may impose an assessment on the affected industry to supplement appropriated funds for the procurement of service providers, such as court reporters.

"(E) USE OF INFORMAL RULEMAKING.—The Secretary may use rulemaking under section 553 of title 5, United States Code, to amend orders, other than provisions of orders that directly affect milk prices.

"(F) AVOIDING DUPLICATION.—The Secretary shall not be required to hold a hearing on any amendment proposed to be made to a milk marketing order in response to an application for a hearing on the proposed amendment if—

Deadline.

"(i) the application requesting the hearing is received by the Secretary not later than 90 days after the date on which the Secretary has announced the decision on a previously proposed amendment to that order; and

"(ii) the 2 proposed amendments are essentially the same, as determined by the Secretary.

"(G) MONTHLY FEED AND FUEL COSTS FOR MAKE ALLOWANCES.—As part of any hearing to adjust make allowances under marketing orders commencing prior to September 30, 2012, the Secretary shall—

"(i) determine the average monthly prices of feed and fuel incurred by dairy producers in the relevant marketing area;

"(ii) consider the most recent monthly feed and fuel price data available; and

"(iii) consider those prices in determining whether or not to adjust make allowances.".

**SEC. 1505. DAIRY INDEMNITY PROGRAM.**

Section 3 of Public Law 90–484 (7 U.S.C. 450l) is amended by striking "2007" and inserting "2012".

7 USC 8773.

**SEC. 1506. MILK INCOME LOSS CONTRACT PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) CLASS I MILK.—The term "Class I milk" means milk (including milk components) classified as Class I milk under a Federal milk marketing order.

(2) ELIGIBLE PRODUCTION.—The term "eligible production" means milk produced by a producer in a participating State.

(3) FEDERAL MILK MARKETING ORDER.—The term "Federal milk marketing order" means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(4) PARTICIPATING STATE.—The term "participating State" means each State.

(5) PRODUCER.—The term "producer" means an individual or entity that directly or indirectly (as determined by the Secretary)—

(A) shares in the risk of producing milk; and

(B) makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.

(b) PAYMENTS.—The Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production. Contracts.

(c) AMOUNT.—Payments to a producer under this section shall be calculated by multiplying (as determined by the Secretary)—

(1) the payment quantity for the producer during the applicable month established under subsection (e);

(2) the amount equal to—

(A) $16.94 per hundredweight, as adjusted under subsection (d); less

(B) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by

(3)(A) for the period beginning October 1, 2007, and ending September 30, 2008, 34 percent;

(B) for the period beginning October 1, 2008, and ending August 31, 2012, 45 percent; and

(C) for the period beginning September 1, 2012, and thereafter, 34 percent.

(d) PAYMENT RATE ADJUSTMENT FOR FEED PRICES.—

(1) INITIAL ADJUSTMENT AUTHORITY.—During the period beginning on January 1, 2008, and ending on August 31, 2012, if the National Average Dairy Feed Ration Cost for a month during that period is greater than $7.35 per hundredweight, the amount specified in subsection (c)(2)(A) used to determine the payment rate for that month shall be increased by 45 percent of the percentage by which the National Average Dairy Feed Ration Cost exceeds $7.35 per hundredweight. Time period.

(2) SUBSEQUENT ADJUSTMENT AUTHORITY.—For any month beginning on or after September 1, 2012, if the National Average Dairy Feed Ration Cost for the month is greater than $9.50 per hundredweight, the amount specified in subsection (c)(2)(A) used to determine the payment rate for that month shall be increased by 45 percent of the percentage by which the National Average Dairy Feed Ration Cost exceeds $9.50 per hundredweight.

(3) NATIONAL AVERAGE DAIRY FEED RATION COST.—For each month, the Secretary shall calculate a National Average Dairy Feed Ration Cost per hundredweight using the same procedures (adjusted to a hundredweight basis) used to calculate the feed components of the estimated price of 16% Mixed Dairy Feed per pound noted on page 33 of the USDA March 2008 Agricultural Prices publication (including the data and factors noted in footnote 4).

(e) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity for a producer during the applicable month under this section shall be equal to the quantity of eligible production marketed by the producer during the month.

(2) LIMITATION.—

Time periods.

(A) IN GENERAL.—The payment quantity for all producers on a single dairy operation for which the producers receive payments under subsection (b) shall not exceed—

(i) for the period beginning October 1, 2007, and ending September 30, 2008, 2,400,000 pounds;

(ii) for the period beginning October 1, 2008, and ending August 31, 2012, 2,985,000 pounds for each fiscal year; and

Effective date.

(iii) effective beginning September 1, 2012, 2,400,000 pounds per fiscal year.

Applicability.

(B) STANDARDS.—For purposes of determining whether producers are producers on separate dairy operations or a single dairy operation, the Secretary shall apply the same standards as were applied in implementing the dairy program under section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–387; 114 Stat. 1549A–50).

(3) RECONSTITUTION.—The Secretary shall ensure that a producer does not reconstitute a dairy operation for the sole purpose of receiving additional payments under this section.

Deadline.

(f) PAYMENTS.—A payment under a contract under this section shall be made on a monthly basis not later than 60 days after the last day of the month for which the payment is made.

Contracts.
Time period.

(g) SIGNUP.—The Secretary shall offer to enter into contracts under this section during the period beginning on the date that is 90 days after the date of enactment of this Act and ending on September 30, 2012.

(h) DURATION OF CONTRACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), any contract entered into by producers on a dairy farm under this section shall cover eligible production marketed by the producers on the dairy farm during the period starting with the first day of month the producers on the dairy farm enter into the contract and ending on September 30, 2012.

(2) VIOLATIONS.—If a producer violates the contract, the Secretary may—

(A) terminate the contract and allow the producer to retain any payments received under the contract; or

(B) allow the contract to remain in effect and require the producer to repay a portion of the payments received under the contract based on the severity of the violation.

**SEC. 1507. DAIRY PROMOTION AND RESEARCH PROGRAM.**

(a) EXTENSION OF DAIRY PROMOTION AND RESEARCH AUTHORITY.—Section 113(e)(2) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)(2)) is amended by striking "2007" and inserting "2012".

(b) DEFINITION OF UNITED STATES FOR PROMOTION PROGRAM.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) by striking subsection (l) and inserting the following:

"(l) the term 'United States', when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico;"; and

(2) in subsection (m), by striking "(as defined in subsection (l))".

(c) DEFINITION OF UNITED STATES FOR RESEARCH PROGRAM.—Section 130 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4531)) is amended by striking paragraph (12) and inserting the following:

"(12) the term 'United States', when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico.".

(d) ASSESSMENT RATE FOR IMPORTED DAIRY PRODUCTS.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended by striking paragraph (3) and inserting the following:

"(3) RATE.—

"(A) IN GENERAL.—The rate of assessment for milk produced in the United States prescribed by the order shall be 15 cents per hundredweight of milk for commercial use or the equivalent thereof, as determined by the Secretary.

"(B) IMPORTED DAIRY PRODUCTS.—The rate of assessment for imported dairy products prescribed by the order shall be 7.5 cents per hundredweight of milk for commercial use or the equivalent thereof, as determined by the Secretary.".

(e) TIME AND METHOD OF IMPORTER PAYMENTS.—Section 113(g)(6) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)(6)) is amended—

(1) by striking subparagraph (B); and

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

(f) REFUND OF ASSESSMENTS ON CERTAIN IMPORTED DAIRY PRODUCTS.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended by adding at the end the following:

"(7) REFUND OF ASSESSMENTS ON CERTAIN IMPORTED PRODUCTS.—

"(A) IN GENERAL.—An importer shall be entitled to a refund of any assessment paid under this subsection on imported dairy products imported under a contract entered into prior to the date of enactment of the Food, Conservation, and Energy Act of 2008.

"(B) EXPIRATION.—Refunds under subparagraph (A) shall expire 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008.".

**SEC. 1508. REPORT ON DEPARTMENT OF AGRICULTURE REPORTING PROCEDURES FOR NONFAT DRY MILK.**

Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding Department of Agriculture reporting procedures for nonfat dry milk and the impact of the procedures on Federal milk marketing order minimum prices during the period beginning on July 1, 2006, and ending on the date of enactment of this Act.

**SEC. 1509. FEDERAL MILK MARKETING ORDER REVIEW COMMISSION.**

(a) ESTABLISHMENT.—Subject to the availability of appropriations to carry out this section, the Secretary shall establish a commission to be known as the "Federal Milk Marketing Order Review Commission" (referred to in this section as the "commission"), which shall conduct a comprehensive review and evaluation of—

(1) the Federal milk marketing order system in effect on the date of establishment of the commission; and

(2) non-Federal milk marketing order systems.

(b) ELEMENTS OF REVIEW AND EVALUATION.—As part of the review and evaluation under subsection (a), the commission shall consider legislative and regulatory options for—

(1) ensuring that the competitiveness of dairy products with other competing products in the marketplace is preserved and enhanced;

(2) enhancing the competitiveness of American dairy producers in world markets;

(3) ensuring the competitiveness and transparency in dairy pricing;

(4) streamlining and expediting the process by which amendments to Federal milk market orders are adopted;

(5) simplifying the Federal milk marketing order system;

(6) evaluating whether the Federal milk marketing order system serves the interests of dairy producers, consumers, and dairy processors; and

(7) evaluating the nutritional composition of milk, including the potential benefits and costs of adjusting the milk content standards.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The commission shall consist of 14 members.

(2) MEMBERS.—As soon as practicable after the date on which funds are first made available to carry out this section, the Secretary shall appoint members to the commission according to the following requirements:

(A) At least 1 member shall represent a national consumer organization.

(B) At least 4 members shall represent land-grant universities or NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) with accredited dairy economic programs, with at least 2 of those members being experts in the field of economics.

(C) At least 1 member shall represent the food and beverage retail sector.

(D) 4 dairy producers and 4 dairy processors, appointed so as to balance geographical distribution of milk production and dairy processing, reflect all segments of dairy processing, and represent all regions of the United States equitably, including States that operate outside of a Federal milk marketing order.

(3) CHAIR.—The commission shall elect 1 of the appointed members of the commission to serve as chairperson for the duration of the proceedings of the commission.

(4) VACANCY.—Any vacancy occurring before the termination of the commission shall be filled in the same manner as the original appointment.

(5) COMPENSATION.—Members of the commission shall serve without compensation, but shall be reimbursed by the Secretary from existing budget authority for necessary and reasonable expenses incurred in the performance of the duties of the commission.

(d) REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of the first meeting of the commission, the commission shall submit to Congress and the Secretary a report describing the results of the review and evaluation conducted under this section, including such recommendations regarding the legislative and regulatory options considered under subsection (b) as the commission considers to be appropriate.

(2) OPINIONS.—The report findings shall reflect, to the maximum extent practicable, a consensus opinion of the commission members, but the report may include majority and minority findings regarding those matters for which consensus was not reached.

(e) ADVISORY NATURE.—The commission is wholly advisory in nature, and the recommendations of the commission are nonbinding.

(f) NO EFFECT ON EXISTING PROGRAMS.—The Secretary shall not allow the existence of the commission to impede, delay, or otherwise affect any decisionmaking process of the Department of Agriculture, including any rulemaking procedures planned, proposed, or near completion.

(g) ADMINISTRATIVE ASSISTANCE.—The Secretary shall provide administrative support to the commission, and expend to carry out this section such funds as necessary from budget authority available to the Secretary.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(i) TERMINATION.—The commission shall terminate effective on the date of the submission of the report under subsection (d).

**SEC. 1510. MANDATORY REPORTING OF DAIRY COMMODITIES.**

(a) ELECTRONIC REPORTING.—Section 273 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) ELECTRONIC REPORTING.—

"(1) IN GENERAL.—Subject to the availability of funds under paragraph (3), the Secretary shall establish an electronic reporting system to carry out this section.

"(2) FREQUENCY OF REPORTS.—After the establishment of the electronic reporting system in accordance with paragraph (1), the Secretary shall increase the frequency of the reports required under this section.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.".

(b) QUARTERLY AUDITS.—Section 273(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b(c)) is amended by striking paragraph (3) and inserting the following:

"(3) VERIFICATION.—

"(A) IN GENERAL.—The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under this subtitle.

"(B) QUARTERLY AUDITS.—The Secretary shall quarterly conduct an audit of information submitted or reported under this subtitle and compare such information with other related dairy market statistics.".

# Subtitle F—Administration

7 USC 8781.

**SEC. 1601. ADMINISTRATION GENERALLY.**

(a) USE OF COMMODITY CREDIT CORPORATION.—Except as otherwise provided in this title, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

(b) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.

(c) REGULATIONS.—

Deadline.

(1) IN GENERAL.—Except as otherwise provided in this subsection, not later than 90 days after the date of enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title and the amendments made by this title.

(2) PROCEDURE.—The promulgation of the regulations and administration of this title and the amendments made by this title shall be made without regard to—

(A) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act");

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) the notice and comment provisions of section 553 of title 5, United States Code.

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(4) INTERIM REGULATIONS.—Notwithstanding paragraphs (1) and (2), the Secretary shall implement the amendments made by sections 1603 and 1604 for the 2009 crop, fiscal, or program year, as appropriate, through the promulgation of an interim rule.

(d) ADJUSTMENT AUTHORITY RELATED TO TRADE AGREEMENTS COMPLIANCE.—

(1) REQUIRED DETERMINATION; ADJUSTMENT.—If the Secretary determines that expenditures under this title that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)) will exceed such allowable levels for any applicable reporting period, the Secretary shall, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed such allowable levels.

(2) CONGRESSIONAL NOTIFICATION.—Before making any adjustment under paragraph (1), the Secretary shall submit to the Committee on Agriculture of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the determination made under that paragraph and the extent of the adjustment to be made. Reports.

(e) TREATMENT OF ADVANCE PAYMENT OPTION.—Section 1601(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7991(d)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) the advance payment of direct payments and countercyclical payments under title I of the Food, Conservation, and Energy Act of 2008.".

**SEC. 1602. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.** Time period. 7 USC 8782.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 2008 through 2012 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act through December 31, 2012:

(1) Parts II through V of subtitle B of title III (7 U.S.C. 1326 et seq.).

(2) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(3) Subtitle D of title III (7 U.S.C. 1379a et seq.).

(4) Title IV (7 U.S.C. 1401 et seq.).

(b) AGRICULTURAL ACT OF 1949.—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 2008 through 2012 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act and through December 31, 2012:

(1) Section 101 (7 U.S.C. 1441).
(2) Section 103(a) (7 U.S.C. 1444(a)).
(3) Section 105 (7 U.S.C. 1444b).
(4) Section 107 (7 U.S.C. 1445a).
(5) Section 110 (7 U.S.C. 1445e).
(6) Section 112 (7 U.S.C. 1445g).
(7) Section 115 (7 U.S.C. 1445k).
(8) Section 201 (7 U.S.C. 1446).
(9) Title III (7 U.S.C. 1447 et seq.).

(10) Title IV (7 U.S.C. 1421 et seq.), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).

(11) Title V (7 U.S.C. 1461 et seq.).

(12) Title VI (7 U.S.C. 1471 et seq.).

(c) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 2008 through 2012.

**SEC. 1603. PAYMENT LIMITATIONS.**

(a) EXTENSION OF LIMITATIONS.—Sections 1001 and 1001C(a) of the Food Security Act of 1985 (7 U.S.C. 1308, 1308–3(a)) are amended by striking "Farm Security and Rural Investment Act of 2002" each place it appears and inserting "Food, Conservation, and Energy Act of 2008".

(b) REVISION OF LIMITATIONS.—

(1) DEFINITIONS.—Section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)) is amended—

(A) in the matter preceding paragraph (1), by inserting "through section 1001F"after "section";

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (5); and

(C) by inserting after paragraph (1) the following:

"(2) FAMILY MEMBER.—The term 'family member' means a person to whom a member in the farming operation is related as lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

"(3) LEGAL ENTITY.—The term 'legal entity' means an entity that is created under Federal or State law and that—

"(A) owns land or an agricultural commodity; or

"(B) produces an agricultural commodity.

"(4) PERSON.—The term 'person' means a natural person, and does not include a legal entity.".

(2) LIMITATION ON DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking subsections (b), (c), and (d) and inserting the following:

"(b) LIMITATION ON DIRECT PAYMENTS, COUNTER-CYCLICAL PAYMENTS, AND ACRE PAYMENTS FOR COVERED COMMODITIES (OTHER THAN PEANUTS).—

"(1) DIRECT PAYMENTS.—The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under subtitle A of title I of the Food, Conservation, and Energy Act of 2008 for 1 or more covered commodities (except for peanuts) may not exceed—

"(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act, $40,000; or

"(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—

"(i) the payment limit specified in subparagraph (A); less

"(ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.

"(2) COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle A of title I of that Act for 1 or more covered commodities (except for peanuts) may not exceed $65,000.

"(3) ACRE AND COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments and counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year for 1 or more covered commodities (except for peanuts) may not exceed the sum of—

"(A) $65,000; and

"(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).

"(c) LIMITATION ON DIRECT PAYMENTS, COUNTER-CYCLICAL PAYMENTS, AND ACRE PAYMENTS FOR PEANUTS.—

"(1) DIRECT PAYMENTS.—The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under subtitle C of title I of the Food, Conservation, and Energy Act of 2008 for peanuts may not exceed—

"(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act, $40,000; or

"(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—

"(i) the payment limit specified in subparagraph (A); less

"(ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.

"(2) COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle C of title I of that Act for peanuts may not exceed $65,000.

"(3) ACRE AND COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments received, directly or indirectly, by the person or legal entity for any crop year for peanuts may not exceed the sum of—

"(A) $65,000; and

"(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).

"(d) LIMITATION ON APPLICABILITY.—Nothing in this section authorizes any limitation on any benefit associated with the marketing assistance loan program or the loan deficiency payment program under title I of the Food, Conservation, and Energy Act of 2008.".

(3) DIRECT ATTRIBUTION.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(A) by striking subsections (e) and (f) and redesignating subsection (g) as subsection (h); and

(B) by inserting after subsection (d) the following:

"(e) ATTRIBUTION OF PAYMENTS.—

Regulations.

"(1) IN GENERAL.—In implementing subsections (b) and (c) and a program described in paragraphs (1)(C) and (2)(B) of section 1001D(b), the Secretary shall issue such regulations as are necessary to ensure that the total amount of payments are attributed to a person by taking into account the direct and indirect ownership interests of the person in a legal entity that is eligible to receive the payments.

"(2) PAYMENTS TO A PERSON.—Each payment made directly to a person shall be combined with the pro rata interest of the person in payments received by a legal entity in which the person has a direct or indirect ownership interest unless the payments of the legal entity have been reduced by the pro rata share of the person.

"(3) PAYMENTS TO A LEGAL ENTITY.—

"(A) IN GENERAL.—Each payment made to a legal entity shall be attributed to those persons who have a direct or indirect ownership interest in the legal entity unless the payment to the legal entity has been reduced by the pro rata share of the person.

"(B) ATTRIBUTION OF PAYMENTS.—

"(i) PAYMENT LIMITS.—Except as provided in clause (ii), payments made to a legal entity shall not exceed the amounts specified in subsections (b) and (c).

"(ii) EXCEPTION FOR JOINT VENTURES AND GENERAL PARTNERSHIPS.—Payments made to a joint venture or a general partnership shall not exceed, for each payment specified in subsections (b) and (c), the amount determined by multiplying the maximum payment amount specified in subsections (b) and (c) by the number of persons and legal entities (other than joint ventures and general partnerships) that comprise the ownership of the joint venture or general partnership.

"(iii) REDUCTION.—Payments made to a legal entity shall be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise exceeded the applicable maximum payment limitation.

"(4) 4 LEVELS OF ATTRIBUTION FOR EMBEDDED LEGAL ENTITIES.—

"(A) IN GENERAL.—Attribution of payments made to legal entities shall be traced through 4 levels of ownership in legal entities.

"(B) FIRST LEVEL.—Any payments made to a legal entity (a first-tier legal entity) that is owned in whole

or in part by a person shall be attributed to the person in an amount that represents the direct ownership in the first-tier legal entity by the person.

"(C) SECOND LEVEL.—

"(i) IN GENERAL.—Any payments made to a first-tier legal entity that is owned (in whole or in part) by another legal entity (a second-tier legal entity) shall be attributed to the second-tier legal entity in proportion to the ownership of the second-tier legal entity in the first-tier legal entity.

"(ii) OWNERSHIP BY A PERSON.—If the second-tier legal entity is owned (in whole or in part) by a person, the amount of the payment made to the first-tier legal entity shall be attributed to the person in the amount that represents the indirect ownership in the first-tier legal entity by the person.

"(D) THIRD AND FOURTH LEVELS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall attribute payments at the third and fourth tiers of ownership in the same manner as specified in subparagraph (C).

"(ii) FOURTH-TIER OWNERSHIP.—If the fourth-tier of ownership is that of a fourth-tier legal entity and not that of a person, the Secretary shall reduce the amount of the payment to be made to the first-tier legal entity in the amount that represents the indirect ownership in the first-tier legal entity by the fourth-tier legal entity.

"(f) SPECIAL RULES.—

"(1) MINOR CHILDREN.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), payments received by a child under the age of 18 shall be attributed to the parents of the child.

"(B) REGULATIONS.—The Secretary shall issue regulations specifying the conditions under which payments received by a child under the age of 18 will not be attributed to the parents of the child.

"(2) MARKETING COOPERATIVES.—Subsections (b) and (c) shall not apply to a cooperative association of producers with respect to commodities produced by the members of the association that are marketed by the association on behalf of the members of the association but shall apply to the producers as persons. Applicability.

"(3) TRUSTS AND ESTATES.—

"(A) IN GENERAL.—With respect to irrevocable trusts and estates, the Secretary shall administer this section through section 1001F in such manner as the Secretary determines will ensure the fair and equitable treatment of the beneficiaries of the trusts and estates.

"(B) IRREVOCABLE TRUST.—

"(i) IN GENERAL.—In order for a trust to be considered an irrevocable trust, the terms of the trust agreement shall not—

"(I) allow for modification or termination of the trust by the grantor;

"(II) allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust; or

"(III) except as provided in clause (ii), provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years beginning on the date the trust is established.

"(ii) EXCEPTION.—Clause (i)(III) shall not apply in a case in which the transfer is—

"(I) contingent on the remainder beneficiary achieving at least the age of majority; or

"(II) contingent on the death of the grantor or income beneficiary.

"(C) REVOCABLE TRUST.—For the purposes of this section through section 1001F, a revocable trust shall be considered to be the same person as the grantor of the trust.

"(4) CASH RENT TENANTS.—

"(A) DEFINITION.—In this paragraph, the term 'cash rent tenant' means a person or legal entity that rents land—

"(i) for cash; or

"(ii) for a crop share guaranteed as to the amount of the commodity to be paid in rent.

"(B) RESTRICTION.—A cash rent tenant who makes a significant contribution of active personal management, but not of personal labor, with respect to a farming operation shall be eligible to receive a payment described in subsection (b) or (c) only if the tenant makes a significant contribution of equipment to the farming operation.

"(5) FEDERAL AGENCIES.—

"(A) IN GENERAL.—Notwithstanding subsection (d), a Federal agency shall not be eligible to receive any payment, benefit, or loan under title I of the Food, Conservation, and Energy Act of 2008 or title XII of this Act.

"(B) LAND RENTAL.—A lessee of land owned by a Federal agency may receive a payment described in subsection (b), (c), or (d) if the lessee otherwise meets all applicable criteria.

"(6) STATE AND LOCAL GOVERNMENTS.—

"(A) IN GENERAL.—Notwithstanding subsection (d), except as provided in subsection (g), a State or local government, or political subdivision or agency of the government, shall not be eligible to receive any payment, benefit, or loan under title I of the Food, Conservation, and Energy Act of 2008 or title XII of this Act.

"(B) TENANTS.—A lessee of land owned by a State or local government, or political subdivision or agency of the government, may receive payments described in subsections (b), (c), and (d) if the lessee otherwise meets all applicable criteria.

"(7) CHANGES IN FARMING OPERATIONS.—

"(A) IN GENERAL.—In the administration of this section through section 1001F, the Secretary may not approve any change in a farming operation that otherwise will increase the number of persons to which the limitations

under this section are applied unless the Secretary determines that the change is bona fide and substantive.

"(B) FAMILY MEMBERS.—The addition of a family member to a farming operation under the criteria set out in section 1001A shall be considered a bona fide and substantive change in the farming operation.

"(8) DEATH OF OWNER.—

"(A) IN GENERAL.—If any ownership interest in land or a commodity is transferred as the result of the death of a program participant, the new owner of the land or commodity may, if the person is otherwise eligible to participate in the applicable program, succeed to the contract of the prior owner and receive payments subject to this section without regard to the amount of payments received by the new owner.

"(B) LIMITATIONS ON PRIOR OWNER.—Payments made under this paragraph shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.

"(g) PUBLIC SCHOOLS.—

"(1) IN GENERAL.—Notwithstanding subsection (f)(6)(A), a State or local government, or political subdivision or agency of the government, shall be eligible, subject to the limitation in paragraph (2), to receive a payment described in subsection (b) or (c) for land owned by the State or local government, or political subdivision or agency of the government, that is used to maintain a public school.

"(2) LIMITATION.—

"(A) IN GENERAL.—For each State, the total amount of payments described in subsections (b) and (c) that are received collectively by the State and local government and all political subdivisions or agencies of those governments shall not exceed $500,000.

"(B) EXCEPTION.—The limitation in subparagraph (A) shall not apply to States with a population of less than 1,500,000.".

(c) REPEAL OF 3-ENTITY RULE.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended—

(1) in the section heading, by striking "**PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS**" and inserting "**NOTIFICATION OF INTERESTS**"; and

(2) by striking subsection (a) and inserting the following:

"(a) NOTIFICATION OF INTERESTS.—To facilitate administration of section 1001 and this section, each person or legal entity receiving payments described in subsections (b) and (c) of section 1001 as a separate person or legal entity shall separately provide to the Secretary, at such times and in such manner as prescribed by the Secretary—

"(1) the name and social security number of each person, or the name and taxpayer identification number of each legal entity, that holds or acquires an ownership interest in the separate person or legal entity; and

"(2) the name and taxpayer identification number of each legal entity in which the person or legal entity holds an ownership interest.".

(d) AMENDMENT FOR CONSISTENCY.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended by striking subsection (b) and inserting the following:

"(b) ACTIVELY ENGAGED.—

"(1) IN GENERAL.—To be eligible to receive a payment described in subsection (b) or (c) of section 1001, a person or legal entity shall be actively engaged in farming with respect to a farming operation as provided in this subsection or subsection (c).

"(2) CLASSES ACTIVELY ENGAGED.—Except as provided in subsections (c) and (d)—

"(A) a person (including a person participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity, as determined by the Secretary) shall be considered to be actively engaged in farming with respect to a farming operation if—

"(i) the person makes a significant contribution (based on the total value of the farming operation) to the farming operation of—

"(I) capital, equipment, or land; and

"(II) personal labor or active personal management;

"(ii) the person's share of the profits or losses from the farming operation is commensurate with the contributions of the person to the farming operation; and

"(iii) the contributions of the person are at risk;

"(B) a legal entity that is a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity determined by the Secretary (including any such legal entity participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar legal entity as determined by the Secretary) shall be considered as actively engaged in farming with respect to a farming operation if—

"(i) the legal entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

"(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and

"(iii) the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity;

"(C) if a legal entity that is a general partnership, joint venture, or similar entity, as determined by the Secretary, separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered

to be actively engaged in farming with respect to the farming operation involved; and

"(D) in making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

"(c) SPECIAL CLASSES ACTIVELY ENGAGED.—

"(1) LANDOWNER.—A person or legal entity that is a landowner contributing the owned land to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if—

"(A) the landowner receives rent or income for the use of the land based on the production on the land or the operating results of the operation; and

"(B) the person or legal entity meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

"(2) ADULT FAMILY MEMBER.—If a majority of the participants in a farming operation are family members, an adult family member shall be considered to be actively engaged in farming with respect to the farming operation if the person—

"(A) makes a significant contribution, based on the total value of the farming operation, of active personal management or personal labor; and

"(B) with respect to such contribution, meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

"(3) SHARECROPPER.—A sharecropper who makes a significant contribution of personal labor to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if the contribution meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

"(4) GROWERS OF HYBRID SEED.—In determining whether a person or legal entity growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

"(5) CUSTOM FARMING SERVICES.—

"(A) IN GENERAL.—A person or legal entity receiving custom farming services shall be considered separately eligible for payment limitation purposes if the person or legal entity is actively engaged in farming based on subsection (b)(2) or paragraphs (1) through (4) of this subsection.

"(B) PROHIBITION.—No other rules with respect to custom farming shall apply.

"(6) SPOUSE.—If 1 spouse (or estate of a deceased spouse) is determined to be actively engaged, the other spouse shall be determined to have met the requirements of subsection (b)(2)(A)(i)(II).

"(d) CLASSES NOT ACTIVELY ENGAGED.—

"(1) CASH RENT LANDLORD.—A landlord contributing land to a farming operation shall not be considered to be actively engaged in farming with respect to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.

"(2) OTHER PERSONS AND LEGAL ENTITIES.—Any other person or legal entity that the Secretary determines does not meet the standards described in subsections (b)(2) and (c) shall not be considered to be actively engaged in farming with respect to a farming operation.".

(e) DENIAL OF PROGRAM BENEFITS.—Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2) is amended to read as follows:

**"SEC. 1001B. DENIAL OF PROGRAM BENEFITS.**

"(a) 2-YEAR DENIAL OF PROGRAM BENEFITS.—A person or legal entity shall be ineligible to receive payments specified in subsections (b) and (c) of section 1001 for the crop year, and the succeeding crop year, in which the Secretary determines that the person or legal entity—

"(1) failed to comply with section 1001A(b) and adopted or participated in adopting a scheme or device to evade the application of section 1001, 1001A, or 1001C; or

"(2) intentionally concealed the interest of the person or legal entity in any farm or legal entity engaged in farming.

Fraud.
Regulations.

"(b) EXTENDED INELIGIBILITY.—If the Secretary determines that a person or legal entity, for the benefit of the person or legal entity or the benefit of any other person or legal entity, has knowingly engaged in, or aided in the creation of a fraudulent document, failed to disclose material information relevant to the administration of sections 1001 through 1001F, or committed other equally serious actions (as identified in regulations issued by the Secretary), the Secretary may for a period not to exceed 5 crop years deny the issuance of payments to the person or legal entity.

"(c) PRO RATA DENIAL.—

"(1) IN GENERAL.—Payments otherwise owed to a person or legal entity described in subsections (a) or (b) shall be denied in a pro rata manner based on the ownership interest of the person or legal entity in a farm.

"(2) CASH RENT TENANT.—Payments otherwise payable to a person or legal entity shall be denied in a pro rata manner if the person or legal entity is a cash rent tenant on a farm owned or under the control of a person or legal entity with respect to which a determination has been made under subsection (a) or (b).

"(d) JOINT AND SEVERAL LIABILITY.—Any legal entity (including partnerships and joint ventures) and any member of any legal entity determined to have knowingly participated in a scheme or device to evade, or that has the purpose of evading, sections 1001, 1001A, or 1001C shall be jointly and severally liable for any amounts that are payable to the Secretary as the result of the scheme or device (including amounts necessary to recover those amounts).

"(e) RELEASE.—The Secretary may partially or fully release from liability any person or legal entity who cooperates with the Secretary in enforcing sections 1001, 1001A, and 1001C, and this section.".

(f) CONFORMING AMENDMENT TO APPLY DIRECT ATTRIBUTION TO NAP.—

(1) IN GENERAL.—Section 196(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(i)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) DEFINITIONS.—In this subsection, the terms 'legal entity' and 'person' have the meanings given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)).

"(2) PAYMENT LIMITATION.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) for any crop year may not exceed $100,000.";

(B) by striking paragraph (4) and inserting the following:

"(4) ADJUSTED GROSS INCOME LIMITATION.—A person or legal entity that has an average adjusted gross income in excess of the average adjusted gross income limitation applicable under section 1001D(b)(1)(A) of the Food Security Act of 1985 (7 U.S.C. 1308–3a(b)(1)(A)), or a successor provision, shall not be eligible to receive noninsured crop disaster assistance under this section."; and

(C) in paragraph (5)—

(i) by striking "necessary to ensure" and inserting "necessary—

"(A) to ensure"; and

(ii) by striking "this subsection." and inserting the following: "this subsection; and

"(B) to ensure that payments under this section are attributed to a person or legal entity (excluding a joint venture or general partnership) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.), as determined by the Secretary.".

(2) TRANSITION.—Section 196(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(i)), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crops of any eligible crop. 7 USC 7333 note.

(g) CONFORMING AMENDMENTS.—

(1) Section 1009(e) of the Food Security Act of 1985 (7 U.S.C. 1308a(e)) is amended in the second sentence by striking "of $50,000".

(2) Section 609(b)(1) of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471g(b)(1)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1985".

(3) Section 524(b)(3) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(3)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1308(5)))".

(4) Section 10204(c)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8204(c)(1)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1308)".

(5) Section 1271(c)(3)(A) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(A)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1308)".

(6) Section 291(2) of the Trade Act of 1974 (19 U.S.C. 2401(2)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" before the period at the end.

Applicability.
7 USC 1308 note.

(h) TRANSITION.—Section 1001, 1001A, and 1001B of the Food Security Act of 1985 (7 U.S.C. 1308, 1308–1, 1308–2), as in effect on September 30, 2007, shall continue to apply with respect to the 2007 and 2008 crops of any covered commodity or peanuts.

**SEC. 1604. ADJUSTED GROSS INCOME LIMITATION.**

(a) IN GENERAL.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a(e)) is amended to read as follows:

**"SEC. 1001D. ADJUSTED GROSS INCOME LIMITATION.**

"(a) DEFINITIONS.—

"(1) IN GENERAL.—In this section:

"(A) AVERAGE ADJUSTED GROSS INCOME.—The term 'average adjusted gross income', with respect to a person or legal entity, means the average of the adjusted gross income or comparable measure of the person or legal entity over the 3 taxable years preceding the most immediately preceding complete taxable year, as determined by the Secretary.

"(B) AVERAGE ADJUSTED GROSS FARM INCOME.—The term 'average adjusted gross farm income', with respect to a person or legal entity, means the average of the portion of adjusted gross income of the person or legal entity that is attributable to activities related to farming, ranching, or forestry for the 3 taxable years described in subparagraph (A), as determined by the Secretary in accordance with subsection (c).

"(C) AVERAGE ADJUSTED GROSS NONFARM INCOME.—The term 'average adjusted gross nonfarm income', with respect to a person or legal entity, means the difference between—

"(i) the average adjusted gross income of the person or legal entity; and

"(ii) the average adjusted gross farm income of the person or legal entity.

"(2) SPECIAL RULES FOR CERTAIN PERSONS AND LEGAL ENTITIES.—In the case of a legal entity that is not required to file a Federal income tax return or a person or legal entity that did not have taxable income in 1 or more of the taxable years used to determine the average under subparagraph (A) or (B) of paragraph (1), the Secretary shall provide, by regulation, a method for determining the average adjusted gross income, the average adjusted gross farm income, and the average adjusted gross nonfarm income of the person or legal entity for purposes of this section.

"(3) ALLOCATION OF INCOME.—On the request of any person filing a joint tax return, the Secretary shall provide for the allocation of average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income among the persons filing the return if—

"(A) the person provides a certified statement by a certified public accountant or attorney that specifies the method by which the average adjusted gross income, average adjusted gross farm income, and average adjusted gross

nonfarm income would have been declared and reported had the persons filed 2 separate returns; and

"(B) the Secretary determines that the method described in the statement is consistent with the information supporting the filed joint tax return.

"(b) LIMITATIONS.—

"(1) COMMODITY PROGRAMS.—

"(A) NONFARM LIMITATION.—Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive any benefit described in subparagraph (C) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds $500,000.

"(B) FARM LIMITATION.—Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive a direct payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 during a crop year, if the average adjusted gross farm income of the person or legal entity exceeds $750,000.

"(C) COVERED BENEFITS.—Subparagraph (A) applies with respect to the following: Applicability.

"(i) A direct payment or counter-cyclical payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 or an average crop revenue election payment under subtitle A of title I of that Act.

"(ii) A marketing loan gain or loan deficiency payment under subtitle B or C of title I of the Food, Conservation, and Energy Act of 2008.

"(iii) A payment or benefit under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(iv) A payment or benefit under section 1506 of the Food, Conservation, and Energy Act of 2008.

"(v) A payment or benefit under title IX of the Trade Act of 1974 or subtitle B of the Federal Crop Insurance Act.

"(2) CONSERVATION PROGRAMS.—

"(A) LIMITS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, except as provided in clause (ii), a person or legal entity shall not be eligible to receive any benefit described in subparagraph (B) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds $1,000,000, unless not less than 66.66 percent of the average adjusted gross income of the person or legal entity is average adjusted gross farm income.

"(ii) EXCEPTION.—The Secretary may waive the limitation established under clause (i) on a case-by-case basis if the Secretary determines that environmentally sensitive land of special significance would be protected. Waiver authority.

"(B) COVERED BENEFITS.—Subparagraph (A) applies with respect to the following: Applicability.

"(i) A payment or benefit under title XII of this Act.

"(ii) A payment or benefit under title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 223) or title II of the Food, Conservation, and Energy Act of 2008.

"(iii) A payment or benefit under section 524(b) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)).

"(c) INCOME DETERMINATION.—

"(1) IN GENERAL.—In determining the average adjusted gross farm income of a person or legal entity, the Secretary shall include income or benefits derived from or related to—

"(A) the production of crops, including specialty crops (as defined in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465)) and unfinished raw forestry products;

"(B) the production of livestock (including cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry, fish, and other aquacultural products used for food, honeybees, and other animals designated by the Secretary) and products produced by, or derived from, livestock;

"(C) the production of farm-based renewable energy (as defined in section 9001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101));

"(D) the sale, including the sale of easements and development rights, of farm, ranch, or forestry land, water or hunting rights, or environmental benefits;

"(E) the rental or lease of land or equipment used for farming, ranching, or forestry operations, including water or hunting rights;

"(F) the processing (including packing), storing (including shedding), and transporting of farm, ranch, and forestry commodities, including renewable energy;

"(G) the feeding, rearing, or finishing of livestock;

"(H) the sale of land that has been used for agriculture;

"(I) payments or other benefits received under any program authorized under title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.) or title I of the Food, Conservation, and Energy Act of 2008;

"(J) payments or other benefits received under any program authorized under title XII of this Act, title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 223), or title II of the Food, Conservation, and Energy Act of 2008;

"(K) payments or other benefits received under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333);

"(L) payments or other benefits received under title IX of the Trade Act of 1974 or subtitle B of the Federal Crop Insurance Act;

"(M) risk management practices, including benefits received under a program authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (including a catastrophic risk protection plan offered under section 508(b) of that Act (7 U.S.C. 1508(b))); and

"(N) any other activity related to farming, ranching, or forestry, as determined by the Secretary.

"(2) INCOME DERIVED FROM FARMING, RANCHING, OR FORESTRY.—In determining the average adjusted gross farm income of a person or legal entity, in addition to the inclusions described in paragraph (1), the Secretary shall include any income reported on the Schedule F or other schedule used by the person or legal entity to report income from farming, ranching, or forestry operations to the Internal Revenue Service, to the extent such income is not already included under paragraph (1).

"(3) SPECIAL RULE.—If not less than 66.66 percent of the average adjusted gross income of a person or legal entity is derived from farming, ranching, or forestry operations described in paragraphs (1) and (2), in determining the average adjusted gross farm income of the person or legal entity, the Secretary shall also include—

"(A) the sale of equipment to conduct farm, ranch, or forestry operations; and

"(B) the provision of production inputs and services to farmers, ranchers, foresters, and farm operations.

"(d) ENFORCEMENT.—

"(1) IN GENERAL.—To comply with subsection (b), at least once every 3 years a person or legal entity shall provide to the Secretary— Deadline.

"(A) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity does not exceed the applicable limitation specified in that subsection; or Certification.

"(B) information and documentation regarding the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity through other procedures established by the Secretary.

"(2) DENIAL OF PROGRAM BENEFITS.—If the Secretary determines that a person or legal entity has failed to comply with this section, the Secretary shall deny the issuance of applicable payments and benefits specified in paragraphs (1)(C) and (2)(B) of subsection (b) to the person or legal entity, under similar terms and conditions as described in section 1001B.

"(3) AUDIT.—The Secretary shall establish statistically valid procedures under which the Secretary shall conduct targeted audits of such persons or legal entities as the Secretary determines are most likely to exceed the limitations under subsection (b). Procedures.

"(e) COMMENSURATE REDUCTION.—In the case of a payment or benefit described in paragraphs (1)(C) and (2)(B) of subsection (b) made in a crop, program, or fiscal year, as appropriate, to an entity, general partnership, or joint venture, the amount of the payment or benefit shall be reduced by an amount that is commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each person who has an average adjusted gross income, average adjusted gross farm income, or average adjusted gross nonfarm income in excess of the applicable limitation specified in subsection (b).

"(f) EFFECTIVE PERIOD.—This section shall apply only during the 2009 through 2012 crop, program, or fiscal years, as appropriate.".

Applicability.
7 USC 1308–3a note.

(b) TRANSITION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crop, fiscal, or program year, as appropriate, for each program described in paragraphs (1)(C) and (2)(B) of subsection (b) of that section (as amended by subsection (a)).

**SEC. 1605. AVAILABILITY OF QUALITY INCENTIVE PAYMENTS FOR COVERED OILSEED PRODUCERS.**

(a) INCENTIVE PAYMENTS REQUIRED.—Subject to subsection (b) and the availability of appropriations under subsection (h), the Secretary shall use funds made available under subsection (h) to provide quality incentive payments for the production of oilseeds with specialized traits that enhance human health, as determined by the Secretary.

(b) COVERED OILSEEDS.—The Secretary shall make payments under this section only for the production of an oilseed variety that has, as determined by the Secretary—

(1) been demonstrated to improve the health profile of the oilseed for use in human consumption by—

(A) reducing or eliminating the need to partially hydrogenate the oil derived from the oilseed for use in human consumption; or

(B) adopting new technology traits; and

(2) 1 or more impediments to commercialization.

(c) REQUEST FOR PROPOSALS.—

(1) ISSUANCE.—If funds are made available to carry out this section for a crop year, the Secretary shall issue a request for proposals for payments under this section.

(2) MULTIYEAR PROPOSALS.—A proponent may submit a multiyear proposal for payments under this section.

(3) CONTENT OF PROPOSALS.—A proposal for payments under this section shall include a description of—

(A) how use of the oilseed enhances human health;

(B) the impediments to commercial use of the oilseed;

(C) each oilseed variety described in subsection (b) and the value of the oilseed variety as a matter of public policy;

(D) a range for the base price and premiums per bushel or hundredweight to be paid to producers;

(E) a per bushel or hundredweight amount of incentive payments requested for each year under this section that does not exceed ⅓ of the total premium offered for any year;

(F) the period of time, not to exceed 4 years, during which incentive payments are to be provided to producers; and

(G) the targeted total quantity of production and estimated acres needed to produce the targeted quantity for each year under this section.

(d) CONTRACTS FOR PRODUCTION.—

(1) IN GENERAL.—The Secretary shall approve successful proposals submitted under subsection (c) on a timely basis.

(2) TIMING OF PAYMENTS.—The Secretary shall make payments to producers under this section after the Secretary receives documentation that the premium required under a contract has been paid to covered producers.

(e) ADMINISTRATION.—

(1) IN GENERAL.—If funding provided for a crop year is not fully allocated under the initial request for proposals under subsection (c), the Secretary shall issue additional requests for proposals for subsequent crop years under this section.

(2) PRORATED PAYMENTS.—If funding provided for a crop year is less than the amount otherwise approved by the Secretary or for which approval is sought, the Secretary shall prorate the payments or approvals in a manner determined by the Secretary so that the total payments do not exceed the funding level.

(f) PROPRIETARY INFORMATION.—The Secretary shall protect proprietary information provided to the Secretary for the purpose of administering this section.

(g) PROGRAM COMPLIANCE AND PENALTIES.—

(1) GUARANTEE.—The proponent, if approved, shall be required to guarantee that the oilseed on which a payment is made by the Secretary under this section is used for human consumption as described in the proposal, as approved by the Secretary.

(2) NONCOMPLIANCE.—If oilseeds on which a payment is made by the Secretary under this section are not actually used for the purpose the payment is made, the proponent shall be required to pay to the Secretary an amount equal to, as determined by the Secretary—

(A) in the case of an inadvertent failure, twice the amount of the payment made by the Secretary under this section to the producer of the oilseeds; and

(B) in any other case, up to twice the full value of the oilseeds involved.

(3) DOCUMENTATION.—The Secretary may require such assurances and documentation as may be needed to enforce the guarantee.

(4) ADDITIONAL PENALTIES.—

(A) IN GENERAL.—In addition to payments required under paragraph (2), the Secretary may impose penalties on additional persons that use oilseeds the use of which is restricted under this section for a purpose other than the intended use.

(B) AMOUNT.—The amount of a penalty under this paragraph shall—

(i) be in an amount determined appropriated by the Secretary; but

(ii) not to exceed twice the full value of the oilseeds.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2012.

**SEC. 1606. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.**

Section 164 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7284) is amended by striking "and title I of the Farm Security and Rural Investment Act of 2002" each place it appears and inserting "title I of the Farm Security

and Rural Investment Act of 2002, and title I of the Food, Conservation, and Energy Act of 2008".

**SEC. 1607. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.**

Section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286) is amended—

(1) by striking "and subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002" each place it appears and inserting ", title I of the Farm Security and Rural Investment Act of 2002, and title I of the Food, Conservation, and Energy Act of 2008"; and

(2) in subsection (c), by adding at the end the following:

"(3) TERMINATION OF AUTHORITY.—The authority to carry out paragraph (1) terminates effective ending with the 2009 crop year.".

7 USC 8784.

**SEC. 1608. ASSIGNMENT OF PAYMENTS.**

Applicability.

(a) IN GENERAL.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to payments made under this title.

(b) NOTICE.—The producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this section.

7 USC 8785.

**SEC. 1609. TRACKING OF BENEFITS.**

As soon as practicable after the date of enactment of this Act, the Secretary may track the benefits provided, directly or indirectly, to individuals and entities under titles I and II and the amendments made by those titles.

**SEC. 1610. GOVERNMENT PUBLICATION OF COTTON PRICE FORECASTS.**

Section 15 of the Agricultural Marketing Act (12 U.S.C. 1141j) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) through (g) as subsections (d) through (f), respectively.

7 USC 8786.

**SEC. 1611. PREVENTION OF DECEASED INDIVIDUALS RECEIVING PAYMENTS UNDER FARM COMMODITY PROGRAMS.**

Deadline.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that—

(1) describe the circumstances under which, in order to allow for the settlement of estates and for related purposes, payments may be issued in the name of a deceased individual; and

(2) preclude the issuance of payments to, and on behalf of, deceased individuals that were not eligible for the payments.

(b) COORDINATION.—At least twice each year, the Secretary shall reconcile the social security numbers of all individuals who receive payments under this title, whether directly or indirectly, with the Social Security Administration to determine if the individuals are alive.

**SEC. 1612. HARD WHITE WHEAT DEVELOPMENT PROGRAM.** 7 USC 8787.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE HARD WHITE WHEAT SEED.—The term "eligible hard white wheat seed" means hard white wheat seed that, as determined by the Secretary, is—

(A) certified;

(B) of a variety that is suitable for the State in which the seed will be planted;

(C) rated at least superior with respect to quality; and

(D) specifically approved under a seed establishment program established by the State Department of Agriculture and the State Wheat Commission of the 1 or more States in which the seed will be planted.

(2) PROGRAM.—The term "program" means the hard white wheat development program established under subsection (b)(1).

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, in consultation with the State Departments of Agriculture and the State Wheat Commissions of the States in regions in which hard white wheat is produced, as determined by the Secretary.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a hard white wheat development program in accordance with paragraph (2) to promote the establishment of hard white wheat as a viable market class of wheat in the United States by encouraging production of at least 240,000,000 bushels of hard white wheat by 2012.

(2) PAYMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and subsection (c), if funds are made available for any of the 2009 through 2012 crops of hard white wheat, the Secretary shall make available incentive payments to producers of those crops.

(B) ACREAGE LIMITATION.—The Secretary shall carry out subparagraph (A) subject to a regional limitation determined by the Secretary on the number of acres for which payments may be received that takes into account planting history and potential planting, but does not exceed a total of 2,900,000 acres or the equivalent volume of production based on a yield of 50 bushels per acre.

(C) PAYMENT LIMITATIONS.—Payments to producers on a farm described in subparagraph (A) shall be—

(i) in an amount that is not less than $0.20 per bushel; and

(ii) in an amount that is not less than $2.00 per acre for planting eligible hard white wheat seed.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for the period of fiscal years 2009 through 2012.

**SEC. 1613. DURUM WHEAT QUALITY PROGRAM.** 7 USC 8788.

(a) IN GENERAL.—Subject to the availability of funds under subsection (c), the Secretary shall provide compensation to producers of durum wheat in an amount not to exceed 50 percent of the actual cost of fungicides applied to a crop of durum wheat

of the producers to control Fusarium head blight (wheat scab) on acres certified to have been planted to Durum wheat in a crop year.

(b) INSUFFICIENT FUNDS.—If the total amount of funds appropriated for a fiscal year under subsection (c) are insufficient to fulfill all eligible requests for compensation under this section, the Secretary shall prorate the compensation payments in a manner determined by the Secretary to be equitable.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2009 through 2012.

7 USC 8789.

**SEC. 1614. STORAGE FACILITY LOANS.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall establish a storage facility loan program to provide funds for producers of grains, oilseeds, pulse crops, hay, renewable biomass, and other storable commodities (other than sugar), as determined by the Secretary, to construct or upgrade storage and handling facilities for the commodities.

(b) ELIGIBLE PRODUCERS.—A storage facility loan under this section shall be made available to any producer described in subsection (a) that, as determined by the Secretary—

(1) has a satisfactory credit history;

(2) has a need for increased storage capacity; and

(3) demonstrates an ability to repay the loan.

(c) TERM OF LOANS.—A storage facility loan under this section shall have a maximum term of 12 years.

(d) LOAN AMOUNT.—The maximum principal amount of a storage facility loan under this section shall be $500,000.

(e) LOAN DISBURSEMENTS.—The Secretary shall provide for 1 partial disbursement of loan principal and 1 final disbursement of loan principal, as determined to be appropriate and subject to acceptable documentation, to facilitate the purchase and construction of eligible facilities.

(f) LOAN SECURITY.—Approval of a storage facility loan under this section shall—

(1) require the borrower to provide loan security to the Secretary, in the form of—

(A) a lien on the real estate parcel on which the storage facility is located; or

(B) such other security as is acceptable to the Secretary;

(2) under such rules and regulations as the Secretary may prescribe, not require a severance agreement from the holder of any prior lien on the real estate parcel on which the storage facility is located, if the borrower—

(A) agrees to increase the down payment on the storage facility by an amount determined appropriate by the Secretary; or

(B) provides other security acceptable to the Secretary; and

(3) allow a borrower, upon the approval of the Secretary, to define a subparcel of real estate as security for the storage facility loan if the subparcel is—

(A) of adequate size and value to adequately secure the loan; and

(B) not subject to any other liens or mortgages that are superior to the lien interest of the Commodity Credit Corporation.

**SEC. 1615. STATE, COUNTY, AND AREA COMMITTEES.**

Section 8(b)(5)(B)(ii) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)(B)(ii)) is amended—

(1) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively, and indenting appropriately;

(2) in the matter preceding item (aa) (as redesignated by paragraph (1)), by striking "A committee established" and inserting the following:

"(I) IN GENERAL.—Except as provided in subclause (II), a committee established"; and

(3) by adding at the end the following:

"(II) COMBINATION OR CONSOLIDATION OF AREAS.—A committee established by combining or consolidating 2 or more county or area committees shall consist of not fewer than 3 nor more than 11 members that—

"(aa) are fairly representative of the agricultural producers within the area covered by the county, area, or local committee; and

"(bb) are elected by the agricultural producers that participate or cooperate in programs administered within the area under the jurisdiction of the county, area, or local committee.

"(III) REPRESENTATION OF SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.—The Secretary shall develop procedures to maintain representation of socially disadvantaged farmers and ranchers on combined or consolidated committees. Procedures.

"(IV) ELIGIBILITY FOR MEMBERSHIP.—Notwithstanding any other producer eligibility requirements for service on county or area committees, if a county or area is consolidated or combined, a producer shall be eligible to serve only as a member of the county or area committee that the producer elects to administer the farm records of the producer.".

**SEC. 1616. PROHIBITION ON CHARGING CERTAIN FEES.**

Public Law 108–470 (7 U.S.C. 7416a) is amended—

(1) in subsection (a), by striking "may" and inserting "shall"; and

(2) by adding at the end the following:

"(c) PROHIBITION ON CHARGING CERTAIN FEES.—The Secretary may not charge any fees or related costs for the collection of commodity assessments pursuant to this Act.".

**SEC. 1617. SIGNATURE AUTHORITY.** 7 USC 8790.

(a) IN GENERAL.—In carrying out this title and title II and amendments made by those titles, if the Secretary approves a document, the Secretary shall not subsequently determine the document is inadequate or invalid because of the lack of authority of any person signing the document on behalf of the applicant or any other individual, entity, general partnership, or joint venture,

or the documents relied upon were determined inadequate or invalid, unless the person signing the program document knowingly and willfully falsified the evidence of signature authority or a signature.

(b) AFFIRMATION.—

(1) IN GENERAL.—Nothing in this section prohibits the Secretary from asking a proper party to affirm any document that otherwise would be considered approved under subsection (a).

(2) NO RETROACTIVE EFFECT.—A denial of benefits based on a lack of affirmation under paragraph (1) shall not be retroactive with respect to third-party producers who were not the subject of the erroneous representation of authority, if the third-party producers—

(A) relied on the prior approval by the Secretary of the documents in good faith; and

(B) substantively complied with all program requirements

**SEC. 1618. MODERNIZATION OF FARM SERVICE AGENCY.**

Deadline. Reports.

Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate a report prepared by a third party that describes—

(1) the data processing and information technology challenges experienced in local offices of the Farm Service Agency;

(2) the impact of those challenges on service to producers, on efficiency of personnel, and on implementation of this Act;

(3) the need for information technology system upgrades of the Farm Service Agency relative to other agencies of the Department of Agriculture;

(4) the detailed plan needed to fulfill the needs of the Department that are identified in paragraph (3), including hardware, software, and infrastructure requirements;

(5) the estimated cost and timeframe for long-term modernization and stabilization of Farm Service Agency information technology systems;

(6) the benefits associated with such modernization and stabilization; and

(7) an evaluation of the existence of appropriate oversight within the Department to ensure that funds needed for systems upgrades can be appropriately managed.

7 USC 8791.

**SEC. 1619. INFORMATION GATHERING.**

(a) GEOSPATIAL SYSTEMS.—The Secretary shall ensure that all the geospatial data of the agencies of the Department of Agriculture are portable and standardized.

(b) LIMITATION ON DISCLOSURES.—

(1) DEFINITION OF AGRICULTURAL OPERATION.—In this subsection, the term "agricultural operation" includes the production and marketing of agricultural commodities and livestock.

(2) PROHIBITION.—Except as provided in paragraphs (3) and (4), the Secretary, any officer or employee of the Department of Agriculture, or any contractor or cooperator of the Department, shall not disclose—

(A) information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department; or

(B) geospatial information otherwise maintained by the Secretary about agricultural land or operations for which information described in subparagraph (A) is provided.

(3) AUTHORIZED DISCLOSURES.—

(A) LIMITED RELEASE OF INFORMATION.—If the Secretary determines that the information described in paragraph (2) will not be subsequently disclosed except in accordance with paragraph (4), the Secretary may release or disclose the information to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in any Department program—

(i) when providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practices; or

(ii) when responding to a disease or pest threat to agricultural operations, if the Secretary determines that a threat to agricultural operations exists and the disclosure of information to a person or cooperating government entity is necessary to assist the Secretary in responding to the disease or pest threat as authorized by law.

(4) EXCEPTIONS.—Nothing in this subsection affects—

(A) the disclosure of payment information (including payment information and the names and addresses of recipients of payments) under any Department program that is otherwise authorized by law;

(B) the disclosure of information described in paragraph (2) if the information has been transformed into a statistical or aggregate form without naming any—

(i) individual owner, operator, or producer; or

(ii) specific data gathering site; or

(C) the disclosure of information described in paragraph (2) pursuant to the consent of the agricultural producer or owner of agricultural land.

(5) CONDITION OF OTHER PROGRAMS.—The participation of the agricultural producer or owner of agricultural land in, or receipt of any benefit under, any program administered by the Secretary may not be conditioned on the consent of the agricultural producer or owner of agricultural land under paragraph (4)(C).

(6) WAIVER OF PRIVILEGE OR PROTECTION.—The disclosure of information under paragraph (2) shall not constitute a waiver of any applicable privilege or protection under Federal law, including trade secret protection.

**SEC. 1620. LEASING OF OFFICE SPACE.**

Deadline. Reports.

Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate a report that describes—

(1) the costs and time associated with complying with leasing procedures of the General Services Administration relative to the previous independent leasing procedures of the Department of Agriculture;

(2) the additional staffing needs associated with complying with those procedures; and

(3) the value added to the leasing process and the ability of the Department to secure best-value leases by complying with the General Services Administration leasing procedures.

7 USC 8792.

**SEC. 1621. GEOGRAPHICALLY DISADVANTAGED FARMERS AND RANCHERS.**

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL COMMODITY.—The term "agricultural commodity" has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) GEOGRAPHICALLY DISADVANTAGED FARMER OR RANCHER.—The term "geographically disadvantaged farmer or rancher" has the meaning given the term in section 10906(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2204 note; Public Law 107–171).

(b) AUTHORIZATION.—Subject to the availability of funds under subsection (d), the Secretary may provide geographically disadvantaged farmers or ranchers direct reimbursement payments for activities described in subsection (c).

(c) TRANSPORTATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may provide direct reimbursement payments to a geographically disadvantaged farmer or rancher to transport an agricultural commodity, or inputs used to produce an agricultural commodity, during a fiscal year.

(2) PROOF OF ELIGIBILITY.—To be eligible to receive assistance under paragraph (1), a geographically disadvantaged farmer or rancher shall demonstrate to the Secretary that transportation of the agricultural commodity or inputs occurred over a distance of more than 30 miles, as determined by the Secretary.

(3) AMOUNT.—

(A) IN GENERAL.—Subject to paragraph (2), the amount of direct reimbursement payments made to a geographically disadvantaged farmer or rancher under this section for a fiscal year shall equal the product obtained by multiplying—

(i) the amount of costs incurred by the geographically disadvantaged farmer or rancher for transportation of the agricultural commodity or inputs during the fiscal year; and

(ii)(I) the percentage of the allowance for that fiscal year under section 5941 of title 5, United States Code, for Federal employees stationed in Alaska and Hawaii; or

(II) in the case of an insular area (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)), a comparable percentage of the allowance for the fiscal year, as determined by the Secretary.

(B) LIMITATION.—The total amount of direct reimbursement payments provided by the Secretary under this section shall not exceed $15,000,000 for a fiscal year.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2012.

**SEC. 1622. IMPLEMENTATION.**

7 USC 8793.

The Secretary shall make available to the Farm Service Agency to carry out this title $50,000,000.

**SEC. 1623. REPEALS.**

(a) COMMISSION ON APPLICATION OF PAYMENT LIMITATIONS.—Section 1605 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7993) is repealed.

(b) RENEWED AVAILABILITY OF MARKET LOSS ASSISTANCE AND CERTAIN EMERGENCY ASSISTANCE TO PERSONS THAT FAILED TO RECEIVE ASSISTANCE UNDER EARLIER AUTHORITIES.—Section 1617 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8000) is repealed.

# TITLE II—CONSERVATION

## Subtitle A—Definitions and Highly Erodible Land and Wetland Conservation

**SEC. 2001. DEFINITIONS RELATING TO CONSERVATION TITLE OF FOOD SECURITY ACT OF 1985.**

(a) BEGINNING FARMER OR RANCHER.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

(1) by redesignating paragraphs (2) through (6), (7) through (11), (12), (13) through (15), (16), (17), and (18) as paragraphs (3) through (7), (9) through (13), (15), (20) through (22), (24), (26), and (27), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a)(8) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(8)).".

(b) FARM.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (7), as redesignated by subsection (a)(1), the following new paragraph:

"(8) FARM.—The term 'farm' means a farm that—

"(A) is under the general control of one operator;

"(B) has one or more owners;

"(C) consists of one or more tracts of land, whether or not contiguous;

"(D) is located within a county or region, as determined by the Secretary; and

"(E) may contain lands that are incidental to the production of perennial crops, including conserving uses, forestry, and livestock, as determined by the Secretary.".

(c) INDIAN TRIBE.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph

(13), as redesignated by subsection (a)(1), the following new paragraph:

"(14) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).".

(d) INTEGRATED PEST MANAGEMENT; LIVESTOCK; NONINDUSTRIAL PRIVATE FOREST LAND; PERSON AND LEGAL ENTITY.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (15), as redesignated by subsection (a)(1), the following new paragraphs:

"(16) INTEGRATED PEST MANAGEMENT.—The term 'integrated pest management' means a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.

"(17) LIVESTOCK.—The term 'livestock' means all animals raised on farms, as determined by the Secretary.

"(18) NONINDUSTRIAL PRIVATE FOREST LAND.—The term 'nonindustrial private forest land' means rural land, as determined by the Secretary, that—

"(A) has existing tree cover or is suitable for growing trees; and

"(B) is owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity that has definitive decisionmaking authority over the land.

"(19) PERSON AND LEGAL ENTITY.—For purposes of applying payment limitations under subtitle D, the terms 'person' and 'legal entity' have the meanings given those terms in section 1001(a) of this Act (7 U.S.C. 1308(a)).".

(e) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (22), as redesignated by subsection (a)(1), the following new paragraph:

"(23) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(2)).".

(f) TECHNICAL ASSISTANCE.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (24), as redesignated by subsection (a)(1), the following new paragraph:

"(25) TECHNICAL ASSISTANCE.—The term 'technical assistance' means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. The term includes the following:

"(A) Technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices.

"(B) Technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards,

resource inventories, training, data, technology, monitoring, and effects analyses.".

**SEC. 2002. REVIEW OF GOOD FAITH DETERMINATIONS RELATED TO HIGHLY ERODIBLE LAND CONSERVATION.**

Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended by striking subsection (f) and inserting the following new subsection:

"(f) GRADUATED PENALTIES.—

"(1) INELIGIBILITY.—No person shall become ineligible under section 1211 for program loans, payments, and benefits as a result of the failure of the person to actively apply a conservation plan, if the Secretary determines that the person has acted in good faith and without an intent to violate this subtitle.

"(2) ELIGIBLE REVIEWERS.—A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—

"(A) State Executive Director, with the technical concurrence of the State Conservationist; or

"(B) district director, with the technical concurrence of the area conservationist.

"(3) PERIOD FOR IMPLEMENTATION.—A person who meets the requirements of paragraph (1) shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the conservation plan of the person.

"(4) PENALTIES.—

"(A) APPLICATION.—This paragraph applies if the Secretary determines that—

"(i) a person has failed to comply with section 1211 with respect to highly erodible cropland, and has acted in good faith and without an intent to violate section 1211; or

"(ii) the violation—

"(I) is technical and minor in nature; and

"(II) has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which the violation has occurred.

"(B) REDUCTION.—If this paragraph applies under subparagraph (A), the Secretary shall, in lieu of applying the ineligibility provisions of section 1211, reduce program benefits described in section 1211 that the producer would otherwise be eligible to receive in a crop year by an amount commensurate with the seriousness of the violation, as determined by the Secretary.

"(5) SUBSEQUENT CROP YEARS.—Any person whose benefits are reduced for any crop year under this subsection shall continue to be eligible for all of the benefits described in section 1211 for any subsequent crop year if, prior to the beginning of the subsequent crop year, the Secretary determines that the person is actively applying a conservation plan according to the schedule specified in the plan.".

**SEC. 2003. REVIEW OF GOOD FAITH DETERMINATIONS RELATED TO WETLAND CONSERVATION.**

Section 1222(h) of the Food Security Act of 1985 (16 U.S.C. 3822(h)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) ELIGIBLE REVIEWERS.—A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—

"(A) State Executive Director, with the technical concurrence of the State Conservationist; or

"(B) district director, with the technical concurrence of the area conservationist."; and

(3) in paragraph (3) (as redesignated by paragraph (1)), by inserting "be" before "actively".

# Subtitle B—Conservation Reserve Program

**SEC. 2101. EXTENSION OF CONSERVATION RESERVE PROGRAM.**

Section 1231(a) of the Food Security Act of 1985 (16 U.S.C. 3831(a)) is amended—

(1) by striking "2007 calendar year" and inserting "2012 fiscal year"; and

(2) by inserting before the period the following: "and to address issues raised by State, regional, and national conservation initiatives"; and

**SEC. 2102. LAND ELIGIBLE FOR ENROLLMENT IN CONSERVATION RESERVE.**

Section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) is amended—

(1) in paragraph (1)(B)—

(A) by striking "Farm Security and Rural Investment Act of 2002" and inserting "Food, Conservation, and Energy Act of 2008"; and

(B) by striking the period at the end and inserting a semicolon; and

(2) in paragraph (4)—

(A) in subparagraph (C), by striking "; or" and inserting a semicolon;

(B) in subparagraph (D), by striking "and" at the end and inserting "or"; and

(C) in subparagraph (E), by inserting "or" after the semicolon at the end.

**SEC. 2103. MAXIMUM ENROLLMENT OF ACREAGE IN CONSERVATION RESERVE.**

Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended—

(1) by striking "2007 calendar years" and inserting "2009 fiscal years";

(2) by striking "( 16 U.S.C." and inserting "(16 U.S.C."; and

(3) by adding at the end the following new sentence: "During fiscal years 2010, 2011, and 2012, the Secretary may

maintain up to 32,000,000 acres in the conservation reserve at any 1 time.".

**SEC. 2104. DESIGNATION OF CONSERVATION PRIORITY AREAS.**

Section 1231(f) of the Food Security Act of 1985 (16 U.S.C. 3831(f)) is amended by striking "the Chesapeake Bay Region (Pennsylvania, Maryland, and Virginia)" and inserting "the Chesapeake Bay Region".

**SEC. 2105. TREATMENT OF MULTI-YEAR GRASSES AND LEGUMES.**

Subsection (g) of section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended to read as follows:

"(g) MULTI-YEAR GRASSES AND LEGUMES.—

"(1) IN GENERAL.—For purposes of this subchapter, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.

"(2) CROPPING HISTORY.—Alfalfa, when grown as part of a rotation practice, as determined by the Secretary, is an agricultural commodity subject to the cropping history criteria under subsection (b)(1)(B) for the purpose of determining whether highly erodible cropland has been planted or considered planted for 4 of the 6 years referred to in such subsection.".

**SEC. 2106. REVISED PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.**

(a) REVISED PROGRAM.—

(1) IN GENERAL.—Title XII of the Food Security Act of 1985 is amended by inserting after section 1231 (16 U.S.C. 3831) the following new section:

**"SEC. 1231B. PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.** 16 USC 3831b.

"(a) PROGRAM REQUIRED.—

"(1) IN GENERAL.—During the 2008 through 2012 fiscal years, the Secretary shall carry out a program in each State under which the Secretary shall enroll eligible acreage described in subsection (b).

"(2) PARTICIPATION AMONG STATES.—The Secretary shall ensure, to the maximum extent practicable, that owners and operators in each State have an equitable opportunity to participate in the program established under this section.

"(b) ELIGIBLE ACREAGE.—

"(1) WETLAND AND RELATED LAND.—Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, land—

"(A) that is wetland (including a converted wetland described in section 1222(b)(1)(A)) that had a cropping history during at least 3 of the immediately preceding 10 crop years;

"(B) on which a constructed wetland is to be developed that will receive flow from a row crop agriculture drainage system and is designed to provide nitrogen removal in addition to other wetland functions;

"(C) that was devoted to commercial pond-raised aquaculture in any year during the period of calendar years 2002 through 2007; or

"(D) that, after January 1, 1990, and before December 31, 2002, was—

"(i) cropped during at least 3 of 10 crop years; and

"(ii) subject to the natural overflow of a prairie wetland.

"(2) BUFFER ACREAGE.—Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, buffer acreage that—

"(A) with respect to land described in subparagraph (A), (B), or (C) of paragraph (1)—

"(i) is contiguous to such land

"(ii) is used to protect such land; and

"(iii) is of such width as the Secretary determines is necessary to protect such land, taking into consideration and accommodating the farming practices (including the straightening of boundaries to accommodate machinery) used with respect to the cropland that surrounds such land; and

"(B) with respect to land described in subparagraph (D) of paragraph (1), enhances a wildlife benefit to the extent practicable in terms of upland to wetland ratios, as determined by the Secretary.

"(c) PROGRAM LIMITATIONS.—

"(1) ACREAGE LIMITATION.—The Secretary may enroll in the conservation reserve, pursuant to the program established under this section, not more than—

"(A) 100,000 acres in any State; and

"(B) a total of 1,000,000 acres.

"(2) RELATIONSHIP TO MAXIMUM ENROLLMENT.—Subject to paragraph (3), any acreage enrolled in the conservation reserve under this section shall be considered acres maintained in the conservation reserve.

"(3) RELATIONSHIP TO OTHER ENROLLED ACREAGE.—Acreage enrolled in the conservation reserve under this section shall not affect for any fiscal year the quantity of—

"(A) acreage enrolled to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109); or

"(B) acreage enrolled into the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965).

"(4) REVIEW; POTENTIAL INCREASE IN ENROLLMENT ACREAGE.—The Secretary shall conduct a review of the program established under this section with respect to each State that has enrolled land in the conservation reserve pursuant to the program. As a result of the review, the Secretary may increase the number of acres that may be enrolled in a State under the program to not more than 200,000 acres, notwithstanding paragraph (1)(A).

"(d) OWNER OR OPERATOR ENROLLMENT LIMITATIONS.—

"(1) WETLAND AND RELATED LAND.—

"(A) WETLANDS AND CONSTRUCTED WETLANDS.—The maximum size of any land described in subparagraph (A) or (B) of subsection (b)(1) that an owner or operator may

enroll in the conservation reserve, pursuant to the program established under this section, shall be 40 contiguous acres.

"(B) FLOODED FARMLAND.—The maximum size of any land described in subparagraph (D) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 20 contiguous acres.

"(C) COVERAGE.—All acres described in subparagraph (A) or (B), including acres that are ineligible for payment, shall be covered by the conservation contract.

"(2) BUFFER ACREAGE.—The maximum size of any buffer acreage described in subsection (b)(2) that an owner or operator may enroll in the conservation reserve under this section shall be determined by the Secretary in consultation with the State Technical Committee.

"(3) TRACTS.—Except for land described in subsection (b)(1)(C) and buffer acreage related to such land, the maximum size of any eligible acreage described in subsection (b)(1) in a tract of an owner or operator enrolled in the conservation reserve under this section shall be 40 acres.

"(e) DUTIES OF OWNERS AND OPERATORS.—During the term of a contract entered into under the program established under this section, an owner or operator shall agree—

"(1) to restore the hydrology of the wetland within the eligible acreage to the maximum extent practicable, as determined by the Secretary;

"(2) to establish vegetative cover (which may include emerging vegetation in water and bottomland hardwoods, cypress, and other appropriate tree species) on the eligible acreage, as determined by the Secretary;

"(3) to a general prohibition of commercial use of the enrolled land; and

"(4) to carry out other duties described in section 1232.

"(f) DUTIES OF THE SECRETARY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), in return for a contract entered into under this section, the Secretary shall—

"(A) make payments to the owner or operator based on rental rates for cropland; and

"(B) provide assistance to the owner or operator in accordance with sections 1233 and 1234.

"(2) CONTRACT OFFERS AND PAYMENTS.—The Secretary shall use the method of determination described in section 1234(c)(2)(B) to determine the acceptability of contract offers and the amount of rental payments under this section.

"(3) INCENTIVES.—The amounts payable to owners and operators in the form of rental payments under contracts entered into under this section shall reflect incentives that are provided to owners and operators to enroll filterstrips in the conservation reserve under section 1234.".

(2) REPEAL OF SUPERCEDED PROGRAM.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(b) CONFORMING CHANGES TO EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—Subsection (k) of section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) by striking "(k) EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—" and inserting the following:

16 USC 3831a.

**"SEC. 1231A. EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.";**

(2) by striking "subsection" each place it appears (other than paragraph (3)(C)(ii)) and inserting "section";

(3) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c), respectively;

(4) in subsection (a), as so redesignated, by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(5) in subsection (c), as so redesignated—

(A) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9), respectively;

(B) in paragraph (1), as so redesignated, by striking "subparagraph (B)" and "subparagraph (G)" and inserting "paragraph (2)" and "paragraph (7)", respectively;

(C) in paragraph (3), as so redesignated—

(i) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(ii) by striking "subsection (d)" and inserting "section 1231(d)";

(D) in paragraph (4), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(E) in paragraph (5), as so redesignated—

(i) by redesignating clauses (i) through (v) as subparagraphs (A) through (E), respectively, and subclauses (I) and (II) as clauses (i) and (ii), respectively;

(ii) in subparagraph (B), as so redesignated, by striking "clause (i)(I)" and inserting "subparagraph (A)(i)"; and

(iii) in subparagraph (C), as so redesignated, by striking "clause (i)(II)" and inserting "subparagraph (A)(ii)"; and

(F) in paragraph (9), as so redesignated, by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively, and subclauses (I) through (III) as clauses (i) through (iii), respectively.

**SEC. 2107. ADDITIONAL DUTY OF PARTICIPANTS UNDER CONSERVATION RESERVE CONTRACTS.**

Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended—

(1) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) to undertake management on the land as needed throughout the term of the contract to implement the conservation plan;".

**SEC. 2108. MANAGED HAYING, GRAZING, OR OTHER COMMERCIAL USE OF FORAGE ON ENROLLED LAND AND INSTALLATION OF WIND TURBINES.**

(a) GENERAL PROHIBITION; EXCEPTIONS.—Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended by striking paragraph (8), as redesignated by section 2107, and inserting the following new paragraph:

"(8) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that the Secretary may permit, consistent with the conservation of soil, water quality, and wildlife habitat (including habitat during nesting seasons for birds in the area)—

"(A) managed harvesting (including the managed harvesting of biomass), except that in permitting managed harvesting, the Secretary, in coordination with the State technical committee—

"(i) shall develop appropriate vegetation management requirements; and

"(ii) shall identify periods during which managed harvesting may be conducted;

"(B) harvesting and grazing or other commercial use of the forage on the land that is subject to the contract in response to a drought or other emergency;

"(C) routine grazing or prescribed grazing for the control of invasive species, except that in permitting such routine grazing or prescribed grazing, the Secretary, in coordination with the State technical committee—

"(i) shall develop appropriate vegetation management requirements and stocking rates for the land that are suitable for continued routine grazing; and

"(ii) shall establish the frequency during which routine grazing may be conducted, taking into consideration regional differences such as—

"(I) climate, soil type, and natural resources;

"(II) the number of years that should be required between routine grazing activities; and

"(III) how often during a year in which routine grazing is permitted that routine grazing should be allowed to occur; and

"(D) the installation of wind turbines, except that in permitting the installation of wind turbines, the Secretary shall determine the number and location of wind turbines that may be installed, taking into account—

"(i) the location, size, and other physical characteristics of the land;

"(ii) the extent to which the land contains wildlife and wildlife habitat; and

"(iii) the purposes of the conservation reserve program under this subchapter;".

(b) RENTAL PAYMENT REDUCTION.—Section 1232 of the Food Security Act of 1985 (16 U.S.C. 3832) is amended by adding at the end the following new subsection:

"(d) RENTAL PAYMENT REDUCTION FOR CERTAIN AUTHORIZED USES OF ENROLLED LAND.—In the case of an authorized activity

under subsection (a)(8) on land that is subject to a contract under this subchapter, the Secretary shall reduce the rental payment otherwise payable under the contract by an amount commensurate with the economic value of the authorized activity.".

**SEC. 2109. COST SHARING PAYMENTS RELATING TO TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.**

Section 1234(b) of the Food Security Act of 1985 (16 U.S.C. 3834(b)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3) TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.—

"(A) APPLICABILITY.—This paragraph applies to—

"(i) land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract entered into under this subchapter after November 28, 1990;

"(ii) land converted to such production under section 1235A; and

"(iii) land on which an owner or operator agrees to conduct thinning authorized by section 1232(a)(9), if the thinning is necessary to improve the condition of resources on the land.

"(B) PAYMENTS.—

"(i) PERCENTAGE.—In making cost share payments to an owner or operator of land described in subparagraph (A), the Secretary shall pay 50 percent of the reasonable and necessary costs incurred by the owner or operator for maintaining trees or shrubs, including the cost of replanting (if the trees or shrubs were lost due to conditions beyond the control of the owner or operator) or thinning.

"(ii) DURATION.—The Secretary shall make payments as described in clause (i) for a period of not less than 2 years, but not more than 4 years, beginning on the date of—

"(I) the planting of the trees or shrubs; or

"(II) the thinning of existing stands to improve the condition of resources on the land.".

**SEC. 2110. EVALUATION AND ACCEPTANCE OF CONTRACT OFFERS, ANNUAL RENTAL PAYMENTS, AND PAYMENT LIMITATIONS.**

(a) EVALUATION AND ACCEPTANCE OF CONTRACT OFFERS.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3) ACCEPTANCE OF CONTRACT OFFERS.—

"(A) EVALUATION OF OFFERS.—In determining the acceptability of contract offers, the Secretary may take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, or wildlife habitat or provide other environmental benefits.

"(B) ESTABLISHMENT OF DIFFERENT CRITERIA IN VARIOUS STATES AND REGIONS.—The Secretary may establish

different criteria for determining the acceptability of contract offers in various States and regions of the United States based on the extent to which water quality or wildlife habitat may be improved or erosion may be abated.

"(C) LOCAL PREFERENCE.—In determining the acceptability of contract offers for new enrollments, the Secretary shall accept, to the maximum extent practicable, an offer from an owner or operator that is a resident of the county in which the land is located or of a contiguous county if, as determined by the Secretary, the land would provide at least equivalent conservation benefits to land under competing offers.".

(b) ANNUAL SURVEY OF DRYLAND AND IRRIGATED CASH RENTAL RATES.—

(1) ANNUAL ESTIMATES REQUIRED.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended by adding at the end the following new paragraph:

"(5) RENTAL RATES.—

"(A) ANNUAL ESTIMATES.—The Secretary (acting through the National Agricultural Statistics Service) shall conduct an annual survey of per acre estimates of county average market dryland and irrigated cash rental rates for cropland and pastureland in all counties or equivalent subdivisions within each State that have 20,000 acres or more of cropland and pastureland.

"(B) PUBLIC AVAILABILITY OF ESTIMATES.—The estimates derived from the annual survey conducted under subparagraph (A) shall be maintained on a website of the Department of Agriculture for use by the general public.". Web site.

(2) FIRST SURVEY.—The first survey required by paragraph (5) of section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)), as added by subsection (a), shall be conducted not later than 1 year after the date of enactment of this Act. Deadline. 16 USC 3834 note.

(c) PAYMENT LIMITATIONS.—Section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended—

(1) in paragraph (1), by striking "made to a person" and inserting "received by a person or legal entity, directly or indirectly,";

(2) by striking paragraph (2); and

(3) in paragraph (4), by striking "any person" and inserting "any person or legal entity".

**SEC. 2111. CONSERVATION RESERVE PROGRAM TRANSITION INCENTIVES FOR BEGINNING FARMERS OR RANCHERS AND SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.**

(a) CONTRACT MODIFICATION AUTHORITY.—Section 1235(c)(1)(B) of the Food Security Act of 1985 (16 U.S.C. 3835(c)(1)(B)) is amended—

(1) in clause (ii), by striking "or" at the end;

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

"(iii) to facilitate a transition of land subject to the contract from a retired or retiring owner or operator to a beginning farmer or rancher or socially disadvantaged farmer or rancher for the purpose of returning some or all of the land into production using sustainable grazing or crop production methods; or".

(b) TRANSITION OPTION.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended by adding at the end the following new subsection:

"(f) TRANSITION OPTION FOR CERTAIN FARMERS OR RANCHERS.—

Contracts.

"(1) DUTIES OF THE SECRETARY.—In the case of a contract modification approved in order to facilitate the transfer, as described in subsection (c)(1)(B)(iii), of land to a beginning farmer or rancher or socially disadvantaged farmer or rancher (in this subsection referred to as a 'covered farmer or rancher'), the Secretary shall—

Effective date.

"(A) beginning on the date that is 1 year before the date of termination of the contract—

"(i) allow the covered farmer or rancher, in conjunction with the retired or retiring owner or operator, to make conservation and land improvements; and

"(ii) allow the covered farmer or rancher to begin the certification process under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.);

"(B) beginning on the date of termination of the contract, require the retired or retiring owner or operator to sell or lease (under a long-term lease or a lease with an option to purchase) to the covered farmer or rancher the land subject to the contract for production purposes;

"(C) require the covered farmer or rancher to develop and implement a conservation plan;

"(D) provide to the covered farmer or rancher an opportunity to enroll in the conservation stewardship program or the environmental quality incentives program by not later than the date on which the farmer or rancher takes possession of the land through ownership or lease; and

"(E) continue to make annual payments to the retired or retiring owner or operator for not more than an additional 2 years after the date of termination of the contract, if the retired or retiring owner or operator is not a family member (as defined in section 1001A(b)(3)(B) of this Act) of the covered farmer or rancher.

"(2) REENROLLMENT.—The Secretary shall provide a covered farmer or rancher with the option to reenroll any applicable partial field conservation practice that—

"(A) is eligible for enrollment under the continuous signup requirement of section 1231(h)(4)(B); and

"(B) is part of an approved conservation plan.".

# Subtitle C—Wetlands Reserve Program

### SEC. 2201. ESTABLISHMENT AND PURPOSE OF WETLANDS RESERVE PROGRAM.

Subsection (a) of section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended to read as follows:

"(a) ESTABLISHMENT AND PURPOSES.—

"(1) ESTABLISHMENT.—The Secretary shall establish a wetlands reserve program to assist owners of eligible lands in restoring and protecting wetlands.

"(2) PURPOSES.—The purposes of the wetlands reserve program are to restore, protect, or enhance wetlands on private or tribal lands that are eligible under subsections (c) and (d).".

**SEC. 2202. MAXIMUM ENROLLMENT AND ENROLLMENT METHODS.**

Section 1237(b) of the Food Security Act of 1985 (16 U.S.C. 3837(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 3,041,200 acres.";

(2) in paragraph (2), by striking "The Secretary" and inserting "Subject to paragraph (3), the Secretary"; and

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

"(3) ACREAGE OWNED BY INDIAN TRIBES.—In the case of acreage owned by an Indian tribe, the Secretary shall enroll acreage into the wetlands reserve program through the use of— Contracts.

"(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);

"(B) restoration cost-share agreements; or

"(C) any combination of the options described in subparagraphs (A) and (B).".

**SEC. 2203. DURATION OF WETLANDS RESERVE PROGRAM AND LANDS ELIGIBLE FOR ENROLLMENT.**

(a) IN GENERAL.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "2007 calendar" and inserting "2012 fiscal"; and

(B) by inserting "private or tribal" before "land" the second place it appears;

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) such land is—

"(A) farmed wetland or converted wetland, together with the adjacent land that is functionally dependent on the wetlands, except that converted wetland with respect to which the conversion was not commenced prior to December 23, 1985, shall not be eligible to be enrolled in the program under this section; or

"(B) cropland or grassland that was used for agricultural production prior to flooding from the natural overflow of a closed basin lake or pothole, as determined by the Secretary, together (where practicable) with the adjacent land that is functionally dependent on the cropland or grassland; and".

(b) CHANGE OF OWNERSHIP.—Section 1237E(a) of the Food Security Act of 1985 (16 U.S.C. 3837e(a)) is amended by striking "in the preceding 12 months" and inserting "during the preceding 7-year period".

(c) ANNUAL SURVEY AND REALLOCATION.—Section 1237F of the Food Security Act of 1985 (16 U.S.C. 3837f) is amended by adding at the end the following new subsection:

"(c) PRAIRIE POTHOLE REGION SURVEY AND REALLOCATION.—

"(1) SURVEY.—The Secretary shall conduct a survey during fiscal year 2008 and each subsequent fiscal year for the purpose of determining interest and allocations for the Prairie Pothole Region to enroll eligible land described in section 1237(c)(2)(B).

"(2) ANNUAL ADJUSTMENT.—The Secretary shall make an adjustment to the allocation for an interested State for a fiscal year, based on the results of the survey conducted under paragraph (1) for the State during the previous fiscal year.".

**SEC. 2204. TERMS OF WETLANDS RESERVE PROGRAM EASEMENTS.**

Section 1237A(b)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3837a(b)(2)(B)) is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking "; and" and inserting "; or"; and

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

"(iii) to meet habitat needs of specific wildlife species; and".

**SEC. 2205. COMPENSATION FOR EASEMENTS UNDER WETLANDS RESERVE PROGRAM.**

Subsection (f) of section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended to read as follows:

"(f) COMPENSATION.—

Effective date.

"(1) DETERMINATION.—Effective on the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall pay as compensation for a conservation easement acquired under this subchapter the lowest of—

"(A) the fair market value of the land, as determined by the Secretary, using the Uniform Standards of Professional Appraisal Practices or an area-wide market analysis or survey;

"(B) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or

"(C) the offer made by the landowner.

"(2) FORM OF PAYMENT.—Compensation for an easement shall be provided by the Secretary in the form of a cash payment, in an amount determined under paragraph (1) and specified in the easement agreement.

"(3) PAYMENT SCHEDULE FOR EASEMENTS.—

"(A) EASEMENTS VALUED AT $500,000 OR LESS.—For easements valued at $500,000 or less, the Secretary may provide easement payments in not more than 30 annual payments.

"(B) EASEMENTS IN EXCESS OF $500,000.—For easements valued at more than $500,000, the Secretary may provide easement payments in at least 5, but not more than 30 annual payments, except that, if the Secretary determines it would further the purposes of the program, the Secretary may make a lump sum payment for such an easement.

"(4) RESTORATION AGREEMENT PAYMENT LIMITATION.—Payments made to a person or legal entity, directly or indirectly, pursuant to a restoration cost-share agreement under this subchapter may not exceed, in the aggregate, $50,000 per year.

"(5) ENROLLMENT PROCEDURE.—Lands may be enrolled under this subchapter through the submission of bids under a procedure established by the Secretary.".

**SEC. 2206. WETLANDS RESERVE ENHANCEMENT PROGRAM AND RESERVED RIGHTS PILOT PROGRAM.**

Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended by adding at the end the following new subsection:

"(h) WETLANDS RESERVE ENHANCEMENT PROGRAM.—

"(1) PROGRAM AUTHORIZED.—The Secretary may enter into 1 or more agreements with a State (including a political subdivision or agency of a State), nongovernmental organization, or Indian tribe to carry out a special wetlands reserve enhancement program that the Secretary determines would advance the purposes of this subchapter.

"(2) RESERVED RIGHTS PILOT PROGRAM.—

"(A) RESERVATION OF GRAZING RIGHTS.—As part of the wetlands reserve enhancement program, the Secretary shall carry out a pilot program for land in which a landowner may reserve grazing rights in the warranty easement deed restriction if the Secretary determines that the reservation and use of the grazing rights—

"(i) is compatible with the land subject to the easement;

"(ii) is consistent with the long-term wetland protection and enhancement goals for which the easement was established; and

"(iii) complies with a conservation plan.

"(B) DURATION.—The pilot program established under this paragraph shall terminate on September 30, 2012.".

**SEC. 2207. DUTIES OF SECRETARY OF AGRICULTURE UNDER WETLANDS RESERVE PROGRAM.**

Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended—

(1) in subsection (a)(1), by inserting "including necessary maintenance activities," after "values,"; and

(2) by striking subsection (c) and inserting the following new subsection:

"(c) RANKING OF OFFERS.—

"(1) CONSERVATION BENEFITS AND FUNDING CONSIDERATIONS.—When evaluating offers from landowners, the Secretary may consider—

"(A) the conservation benefits of obtaining an easement or other interest in the land;

"(B) the cost-effectiveness of each easement or other interest in eligible land, so as to maximize the environmental benefits per dollar expended; and

"(C) whether the landowner or another person is offering to contribute financially to the cost of the easement or other interest in the land to leverage Federal funds.

"(2) ADDITIONAL CONSIDERATIONS.—In determining the acceptability of easement offers, the Secretary may take into consideration—

"(A) the extent to which the purposes of the easement program would be achieved on the land;

"(B) the productivity of the land; and

"(C) the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities.".

**SEC. 2208. PAYMENT LIMITATIONS UNDER WETLANDS RESERVE CONTRACTS AND AGREEMENTS.**

Section 1237D(c)(1) of the Food Security Act of 1985 (16 U.S.C. 3837d(c)(1)) is amended—

(1) by striking "The total amount of easement payments made to a person" and inserting "The total amount of payments that a person or legal entity may receive, directly or indirectly,"; and

(2) by inserting "or under 30-year contracts" before the period at the end.

**SEC. 2209. REPEAL OF PAYMENT LIMITATIONS EXCEPTION FOR STATE AGREEMENTS FOR WETLANDS RESERVE ENHANCEMENT.**

Section 1237D(c) of the Food Security Act of 1985 (16 U.S.C. 3837d(c)) is amended by striking paragraph (4).

**SEC. 2210. REPORT ON IMPLICATIONS OF LONG-TERM NATURE OF CONSERVATION EASEMENTS.**

(a) REPORT REQUIRED.—Not later than January 1, 2010, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the implications of the long-term nature of conservation easements granted under section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) on resources of the Department of Agriculture.

(b) INCLUSIONS.—The report required by subsection (a) shall include the following:

(1) Data relating to the number and location of conservation easements granted under that section that the Secretary holds or has a significant role in monitoring or managing.

(2) An assessment of the extent to which the oversight of the conservation easement agreements impacts the availability of resources, including technical assistance.

(3) An assessment of the uses and value of agreements with partner organizations.

(4) Any other relevant information relating to costs or other effects that would be helpful to the Committees referred to in subsection (a).

# Subtitle D—Conservation Stewardship Program

**SEC. 2301. CONSERVATION STEWARDSHIP PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 is amended—

16 USC 3838h *et seq.*, 3838n *et seq.*

(1) by redesignating subchapters B (farmland protection program) and C (grassland reserve program) as subchapters C and D, respectively; and

(2) by inserting after subchapter A the following new subchapter:

## "Subchapter B—Conservation Stewardship Program

16 USC 3838d.

**"SEC. 1238D. DEFINITIONS.**

"In this subchapter:

"(1) CONSERVATION ACTIVITIES.—

"(A) IN GENERAL.—The term 'conservation activities' means conservation systems, practices, or management measures that are designed to address a resource concern.

"(B) INCLUSIONS.—The term 'conservation activities' includes—

"(i) structural measures, vegetative measures, and land management measures, including agriculture drainage management systems, as determined by the Secretary; and

"(ii) planning needed to address a resource concern.

"(2) CONSERVATION MEASUREMENT TOOLS.—The term 'conservation measurement tools' means procedures to estimate the level of environmental benefit to be achieved by a producer in implementing conservation activities, including indices or other measures developed by the Secretary.

"(3) CONSERVATION STEWARDSHIP PLAN.—The term 'conservation stewardship plan' means a plan that—

"(A) identifies and inventories resource concerns;

"(B) establishes benchmark data and conservation objectives;

"(C) describes conservation activities to be implemented, managed, or improved; and

"(D) includes a schedule and evaluation plan for the planning, installation, and management of the new and existing conservation activities.

"(4) PRIORITY RESOURCE CONCERN.—The term 'priority resource concern' means a resource concern that is identified at the State level, in consultation with the State Technical Committee, as a priority for a particular watershed or area of the State.

"(5) PROGRAM.—The term 'program' means the conservation stewardship program established by this subchapter.

"(6) RESOURCE CONCERN.—The term 'resource concern' means a specific natural resource impairment or problem, as determined by the Secretary, that—

"(A) represents a significant concern in a State or region; and

"(B) is likely to be addressed successfully through the implementation of conservation activities by producers on land eligible for enrollment in the program.

"(7) STEWARDSHIP THRESHOLD.—The term 'stewardship threshold' means the level of natural resource conservation and environmental management required, as determined by the Secretary using conservation measurement tools, to improve and conserve the quality and condition of a resource concern.

**"SEC. 1238E. CONSERVATION STEWARDSHIP PROGRAM.** 16 USC 3838e.

"(a) ESTABLISHMENT AND PURPOSE.—During each of fiscal years 2009 through 2012, the Secretary shall carry out a conservation stewardship program to encourage producers to address resource concerns in a comprehensive manner—

"(1) by undertaking additional conservation activities; and

"(2) by improving, maintaining and managing existing conservation activities.

"(b) ELIGIBLE LAND.—

"(1) IN GENERAL.—Except as provided in subsection (c), the following land is eligible for enrollment in the program:

"(A) Private agricultural land (including cropland, grassland, prairie land, improved pastureland, rangeland, and land used for agro-forestry).

"(B) Agricultural land under the jurisdiction of an Indian tribe.

"(C) Forested land that is an incidental part of an agricultural operation.

"(D) Other private agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed by enrolling the land in the program, as determined by the Secretary.

"(2) SPECIAL RULE FOR NONINDUSTRIAL PRIVATE FOREST LAND.—Nonindustrial private forest land is eligible for enrollment in the program, except that not more than 10 percent of the annual acres enrolled nationally in any fiscal year may be nonindustrial private forest land.

"(3) AGRICULTURAL OPERATION.—Eligible land shall include all acres of an agricultural operation of a producer, whether or not contiguous, that are under the effective control of the producer at the time the producer enters into a stewardship contract, and is operated by the producer with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations, as determined by the Secretary.

"(c) EXCLUSIONS.—

"(1) LAND ENROLLED IN OTHER CONSERVATION PROGRAMS.—Subject to paragraph (2), the following land is not be eligible for enrollment in the program:

"(A) Land enrolled in the conservation reserve program.

"(B) Land enrolled in the wetlands reserve program.

"(C) Land enrolled in the grassland reserve program.

"(2) CONVERSION TO CROPLAND.—Land used for crop production after the date of enactment of the Food, Conservation, and Energy Act of 2008 that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date shall not be the basis for any payment under the program, unless the land does not meet the requirement because—

"(A) the land had previously been enrolled in the conservation reserve program;

"(B) the land has been maintained using long-term crop rotation practices, as determined by the Secretary; or

"(C) the land is incidental land needed for efficient operation of the farm or ranch, as determined by the Secretary.

16 USC 3838f.

**"SEC. 1238F. STEWARDSHIP CONTRACTS.**

"(a) SUBMISSION OF CONTRACT OFFERS.—To be eligible to participate in the conservation stewardship program, a producer shall submit to the Secretary for approval a contract offer that—

"(1) demonstrates to the satisfaction of the Secretary that the producer, at the time of the contract offer, is meeting

the stewardship threshold for at least one resource concern; and

"(2) would, at a minimum, meet or exceed the stewardship threshold for at least 1 priority resource concern by the end of the stewardship contract by—

"(A) installing and adopting additional conservation activities; and

"(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

"(b) EVALUATION OF CONTRACT OFFERS.—

"(1) RANKING OF APPLICATIONS.—In evaluating contract offers made by producers to enter into contracts under the program, the Secretary shall rank applications based on—

"(A) the level of conservation treatment on all applicable priority resource concerns at the time of application, based to the maximum extent practicable on conservation measurement tools;

"(B) the degree to which the proposed conservation treatment on applicable priority resource concerns effectively increases conservation performance, based to the maximum extent possible on conservation measurement tools;

"(C) the number of applicable priority resource concerns proposed to be treated to meet or exceed the stewardship threshold by the end of the contract;

"(D) the extent to which other resource concerns, in addition to priority resource concerns, will be addressed to meet or exceed the stewardship threshold by the end of the contract period; and

"(E) the extent to which the actual and anticipated environmental benefits from the contract are provided at the least cost relative to other similarly beneficial contract offers.

"(2) PROHIBITION.—The Secretary may not assign a higher priority to any application because the applicant is willing to accept a lower payment than the applicant would otherwise be eligible to receive.

"(3) ADDITIONAL CRITERIA.—The Secretary may develop and use such additional criteria for evaluating applications to enroll in the program that the Secretary determines are necessary to ensure that national, State, and local conservation priorities are effectively addressed.

"(c) ENTERING INTO CONTRACTS.—After a determination that a producer is eligible for the program under subsection (a), and a determination that the contract offer ranks sufficiently high under the evaluation criteria under subsection (b), the Secretary shall enter into a conservation stewardship contract with the producer to enroll the land to be covered by the contract.

"(d) CONTRACT PROVISIONS.—

"(1) TERM.—A conservation stewardship contract shall be for a term of 5 years.

"(2) PROVISIONS.—The conservation stewardship contract of a producer shall—

"(A) state the amount of the payment the Secretary agrees to make to the producer for each year of the conservation stewardship contract under section 1238G(e);

"(B) require the producer—

"(i) to implement during the term of the conservation stewardship contract the conservation stewardship plan approved by the Secretary;

"(ii) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation stewardship contract; and

"(iii) not to engage in any activity during the term of the conservation stewardship contract on the eligible land covered by the contract that would interfere with the purposes of the conservation stewardship contract;

"(C) permit all economic uses of the land that—

"(i) maintain the agricultural nature of the land; and

"(ii) are consistent with the conservation purposes of the conservation stewardship contract;

"(D) include a provision to ensure that a producer shall not be considered in violation of the contract for failure to comply with the contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary; and

"(E) include such other provisions as the Secretary determines necessary to ensure the purposes of the program are achieved.

"(e) CONTRACT RENEWAL.—At the end of an initial conservation stewardship contract of a producer, the Secretary may allow the producer to renew the contract for one additional five-year period if the producer—

"(1) demonstrates compliance with the terms of the existing contract; and

"(2) agrees to adopt new conservation activities, as determined by the Secretary.

"(f) MODIFICATION.—The Secretary may allow a producer to modify a stewardship contract if the Secretary determines that the modification is consistent with achieving the purposes of the program.

"(g) CONTRACT TERMINATION.—

"(1) VOLUNTARY TERMINATION.—A producer may terminate a conservation stewardship contract if the Secretary determines that termination would not defeat the purposes of the program.

"(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this subchapter if the Secretary determines that the producer violated the contract.

"(3) REPAYMENT.—If a contract is terminated, the Secretary may, consistent with the purposes of the program—

"(A) allow the producer to retain payments already received under the contract; or

"(B) require repayment, in whole or in part, of payments already received and assess liquidated damages.

"(4) CHANGE OF INTEREST IN LAND SUBJECT TO A CONTRACT.—

"(A) IN GENERAL.—Except as provided in paragraph (B), a change in the interest of a producer in land covered by a contract under this chapter shall result in the termination of the contract with regard to that land.

"(B) TRANSFER OF DUTIES AND RIGHTS.—Subparagraph (A) shall not apply if—

"(i) within a reasonable period of time (as determined by the Secretary) after the date of the change in the interest in land covered by a contract under the program, the transferee of the land provides written notice to the Secretary that all duties and rights under the contract have been transferred to, and assumed by, the transferee; and

"(ii) the transferee meets the eligibility requirements of the program.

"(h) COORDINATION WITH ORGANIC CERTIFICATION.—The Secretary shall establish a transparent means by which producers may initiate organic certification under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et. seq.) while participating in a contract under this subchapter.

"(i) ON-FARM RESEARCH AND DEMONSTRATION OR PILOT TESTING.—The Secretary may approve a contract offer under this subchapter that includes—

"(1) on-farm conservation research and demonstration activities; and

"(2) pilot testing of new technologies or innovative conservation practices.

**"SEC. 1238G. DUTIES OF THE SECRETARY.**

16 USC 3838g.

"(a) IN GENERAL.—To achieve the conservation goals of a contract under the conservation stewardship program, the Secretary shall—

"(1) make the program available to eligible producers on a continuous enrollment basis with 1 or more ranking periods, one of which shall occur in the first quarter of each fiscal year;

"(2) identify not less than 3 nor more than 5 priority resource concerns in a particular watershed or other appropriate region or area within a State; and

"(3) develop reliable conservation measurement tools for purposes of carrying out the program.

"(b) ALLOCATION TO STATES.—The Secretary shall allocate acres to States for enrollment, based—

"(1) primarily on each State's proportion of eligible acres under section 1238E(b)(1) to the total number of eligible acres in all States; and

"(2) also on consideration of—

"(A) the extent and magnitude of the conservation needs associated with agricultural production in each State;

"(B) the degree to which implementation of the program in the State is, or will be, effective in helping producers address those needs; and

"(C) other considerations to achieve equitable geographic distribution of funds, as determined by the Secretary.

"(c) SPECIALTY CROP AND ORGANIC PRODUCERS.—The Secretary shall ensure that outreach and technical assistance are available, and program specifications are appropriate to enable specialty crop and organic producers to participate in the program.

Time period.

"(d) ACREAGE ENROLLMENT LIMITATION.—During the period beginning on October 1, 2008, and ending on September 30, 2017, the Secretary shall, to the maximum extent practicable—

"(1) enroll in the program an additional 12,769,000 acres for each fiscal year; and

"(2) manage the program to achieve a national average rate of $18 per acre, which shall include the costs of all financial assistance, technical assistance, and any other expenses associated with enrollment or participation in the program.

"(e) CONSERVATION STEWARDSHIP PAYMENTS.—

"(1) AVAILABILITY OF PAYMENTS.—The Secretary shall provide a payment under the program to compensate the producer for—

"(A) installing and adopting additional conservation activities; and

"(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

"(2) PAYMENT AMOUNT.—The amount of the conservation stewardship payment shall be determined by the Secretary and based, to the maximum extent practicable, on the following factors:

"(A) Costs incurred by the producer associated with planning, design, materials, installation, labor, management, maintenance, or training.

"(B) Income forgone by the producer.

"(C) Expected environmental benefits as determined by conservation measurement tools.

"(3) EXCLUSIONS.—A payment to a producer under this subsection shall not be provided for—

"(A) the design, construction, or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

"(B) conservation activities for which there is no cost incurred or income forgone to the producer.

"(4) TIMING OF PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make payments as soon as practicable after October 1 of each fiscal year for activities carried out in the previous fiscal year.

"(B) ADDITIONAL ACTIVITIES.—The Secretary shall make payments to compensate producers for installation of additional practices at the time at which the practices are installed and adopted.

"(f) SUPPLEMENTAL PAYMENTS FOR RESOURCE-CONSERVING CROP ROTATIONS.—

"(1) AVAILABILITY OF PAYMENTS.—The Secretary shall provide additional payments to producers that, in participating in the program, agree to adopt resource-conserving crop rotations to achieve beneficial crop rotations as appropriate for the land of the producers.

"(2) BENEFICIAL CROP ROTATIONS.—The Secretary shall determine whether a resource-conserving crop rotation is a beneficial crop rotation eligible for additional payments under paragraph (1), based on whether the resource-conserving crop rotation is designed to provide natural resource conservation and production benefits.

"(3) ELIGIBILITY.—To be eligible to receive a payment described in paragraph (1), a producer shall agree to adopt and maintain beneficial resource-conserving crop rotations for the term of the contract.

"(4) RESOURCE-CONSERVING CROP ROTATION.—In this subsection, the term 'resource-conserving crop rotation' means a crop rotation that—

"(A) includes at least 1 resource conserving crop (as defined by the Secretary);

"(B) reduces erosion;

"(C) improves soil fertility and tilth;

"(D) interrupts pest cycles; and

"(E) in applicable areas, reduces depletion of soil moisture or otherwise reduces the need for irrigation.

"(g) PAYMENT LIMITATIONS.—A person or legal entity may not receive, directly or indirectly, payments under this subchapter that, in the aggregate, exceed $200,000 for all contracts entered into during any 5-year period, excluding funding arrangements with federally recognized Indian tribes or Alaska Native corporations, regardless of the number of contracts entered into under the program by the person or entity.

"(h) REGULATIONS.—The Secretary shall promulgate regulations that—

"(1) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (g); and

"(2) otherwise enable the Secretary to carry out the program.

"(i) DATA.—The Secretary shall maintain detailed and segmented data on contracts and payments under the program to allow for quantification of the amount of payments made for— Contracts.

"(1) the installation and adoption of additional conservation activities and improvements to conservation activities in place on the operation of a producer at the time the conservation stewardship offer is accepted by the Secretary;

"(2) participation in research, demonstration, and pilot projects; and

"(3) the development and periodic assessment and evaluation of conservation plans developed under this subchapter.".

(b) TERMINATION OF CONSERVATION SECURITY PROGRAM AUTHORITY; EFFECT ON EXISTING CONTRACTS.—Section 1238A of the Food Security Act of 1985 (16 U.S.C. 3838a) is amended by adding at the end the following new subsection:

"(g) PROHIBITION ON CONSERVATION SECURITY PROGRAM CONTRACTS; EFFECT ON EXISTING CONTRACTS.—

"(1) PROHIBITION.—A conservation security contract may not be entered into or renewed under this subchapter after September 30, 2008.

"(2) EXCEPTION.—This subchapter, and the terms and conditions of the conservation security program, shall continue to apply to—

"(A) conservation security contracts entered into on or before September 30, 2008; and

"(B) any conservation security contract entered into after that date, but for which the application for the contract was received during the 2008 sign-up period.

"(3) EFFECT ON PAYMENTS.—The Secretary shall make payments under this subchapter with respect to conservation security contracts described in paragraph (2) during the remaining term of the contracts.

"(4) REGULATIONS.—A contract described in paragraph (2) may not be administered under the regulations issued to carry out the conservation stewardship program.".

(c) REFERENCE TO REDESIGNATED SUBCHAPTER.—Section 1238A(b)(3)(C) of title XII of the Food Security Act of 1985 (16 U.S.C. 3838a(b)(3)(C)) is amended by striking "subchapter C" and inserting "subchapter D".

# Subtitle E—Farmland Protection and Grassland Reserve

**SEC. 2401. FARMLAND PROTECTION PROGRAM.**

(a) DEFINITIONS.—Section 1238H of the Food Security Act of 1985 (16 U.S.C. 3838h) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) any agency of any State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

"(B) any organization that—

"(i) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

"(ii) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; and

"(iii) is—

"(I) described in paragraph (1) or (2) of section 509(a) of that Code; or

"(II) described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code."; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "that—" and inserting "that is subject to a pending offer for purchase from an eligible entity and—"; and

(ii) by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) has prime, unique, or other productive soil;

"(ii) contains historical or archaeological resources; or

"(iii) the protection of which will further a State or local policy consistent with the purposes of the program."; and

(B) in subparagraph (B)—

(i) in clause (iv), by striking "and" at the end; and

(ii) by striking clause (v) and inserting the following new clauses:

"(v) forest land that—

"(I) contributes to the economic viability of an agricultural operation; or

"(II) serves as a buffer to protect an agricultural operation from development; and

"(vi) land that is incidental to land described in clauses (i) through (v), if such land is necessary for the efficient administration of a conservation easement, as determined by the Secretary.".

(b) FARMLAND PROTECTION.—Section 1238I of the Food Security Act of 1985 (16 U.S.C. 3838i) is amended to read as follows:

**"SEC. 1238I. FARMLAND PROTECTION PROGRAM.**

"(a) ESTABLISHMENT.—The Secretary shall establish and carry out a farmland protection program under which the Secretary shall facilitate and provide funding for the purchase of conservation easements or other interests in eligible land.

"(b) PURPOSE.—The purpose of the program is to protect the agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land.

"(c) COST-SHARE ASSISTANCE.—

"(1) PROVISION OF ASSISTANCE.—The Secretary shall provide cost-share assistance to eligible entities for purchasing a conservation easement or other interest in eligible land.

"(2) FEDERAL SHARE.—The share of the cost provided by the Secretary for purchasing a conservation easement or other interest in eligible land shall not exceed 50 percent of the appraised fair market value of the conservation easement or other interest in eligible land.

"(3) NON-FEDERAL SHARE.—

"(A) SHARE PROVIDED BY ELIGIBLE ENTITY.—The eligible entity shall provide a share of the cost of purchasing a conservation easement or other interest in eligible land in an amount that is not less than 25 percent of the acquisition purchase price.

"(B) LANDOWNER CONTRIBUTION.—As part of the non-Federal share of the cost of purchasing a conservation easement or other interest in eligible land, an eligible entity may include a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the private landowner from which the conservation easement or other interest in land will be purchased.

"(d) DETERMINATION OF FAIR MARKET VALUE.—Effective on the date of enactment of the Food, Conservation, and Energy Act of 2008, the fair market value of the conservation easement or other interest in eligible land shall be determined on the basis of an appraisal using an industry approved method, selected by the eligible entity and approved by the Secretary. Effective date.

"(e) BIDDING DOWN PROHIBITED.—If the Secretary determines that 2 or more applications for cost-share assistance are comparable in achieving the purpose of the program, the Secretary shall not assign a higher priority to any 1 of those applications solely on the basis of lesser cost to the program.

"(f) CONDITION ON ASSISTANCE.—

"(1) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased using cost-share assistance provided under the program shall be subject to a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

"(2) CONTINGENT RIGHT OF ENFORCEMENT.—The Secretary shall require the inclusion of a contingent right of enforcement for the Secretary in the terms of a conservation easement or other interest in eligible land that is purchased using cost-share assistance provided under the program.

"(g) AGREEMENTS WITH ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with eligible entities to stipulate the terms and conditions under which the eligible entity is permitted to use cost-share assistance provided under subsection (c).

"(2) LENGTH OF AGREEMENTS.—An agreement under this subsection shall be for a term that is—

"(A) in the case of an eligible entity certified under the process described in subsection (h), a minimum of five years; and

"(B) for all other eligible entities, at least three, but not more than five years.

"(3) SUBSTITUTION OF QUALIFIED PROJECTS.—An agreement shall allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of the proposed substitution.

"(4) MINIMUM REQUIREMENTS.—An eligible entity shall be authorized to use its own terms and conditions, as approved by the Secretary, for conservation easements and other purchases of interests in land, so long as such terms and conditions—

"(A) are consistent with the purposes of the program;

"(B) permit effective enforcement of the conservation purposes of such easements or other interests; and

"(C) include a limit on the impervious surfaces to be allowed that is consistent with the agricultural activities to be conducted.

"(5) EFFECT OF VIOLATION.—If a violation occurs of a term or condition of an agreement entered into under this subsection—

"(A) the agreement shall remain in force; and

"(B) the Secretary may require the eligible entity to refund all or part of any payments received by the entity under the program, with interest on the payments as determined appropriate by the Secretary.

"(h) CERTIFICATION OF ELIGIBLE ENTITIES.—

"(1) CERTIFICATION PROCESS.—The Secretary shall establish a process under which the Secretary may—

"(A) directly certify eligible entities that meet established criteria;

"(B) enter into long-term agreements with certified entities, as authorized by subsection (g)(2)(A); and

"(C) accept proposals for cost-share assistance to certified entities for the purchase of conservation easements or other interests in eligible land throughout the duration of such agreements.

"(2) CERTIFICATION CRITERIA.—In order to be certified, an eligible entity shall demonstrate to the Secretary that the entity will maintain, at a minimum, for the duration of the agreement—

"(A) a plan for administering easements that is consistent with the purpose of this subchapter;

"(B) the capacity and resources to monitor and enforce conservation easements or other interests in land; and

"(C) policies and procedures to ensure—

"(i) the long-term integrity of conservation easements or other interests in eligible land;

"(ii) timely completion of acquisitions of easements or other interests in eligible land; and

"(iii) timely and complete evaluation and reporting to the Secretary on the use of funds provided by the Secretary under the program.

"(3) REVIEW AND REVISION.—

"(A) REVIEW.—The Secretary shall conduct a review of eligible entities certified under paragraph (1) every three years to ensure that such entities are meeting the criteria established under paragraph (2).

"(B) REVOCATION.—If the Secretary finds that the certified entity no longer meets the criteria established under paragraph (2), the Secretary may—

"(i) allow the certified entity a specified period of time, at a minimum 180 days, in which to take such actions as may be necessary to meet the criteria; and

"(ii) revoke the certification of the entity, if after the specified period of time, the certified entity does not meet the criteria established in paragraph (2).".

**SEC. 2402. FARM VIABILITY PROGRAM.**

Section 1238J(b) of the Food Security Act of 1985 (16 U.S.C. 3838j(b)) is amended by striking "2007" and inserting "2012".

**SEC. 2403. GRASSLAND RESERVE PROGRAM.**

Subchapter D of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838n et seq.), as redesignated by section 2301(a)(1), is amended to read as follows:

## "Subchapter D—Grassland Reserve Program

**"SEC. 1238N. GRASSLAND RESERVE PROGRAM.** 16 USC 3838n.

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a grassland reserve program (referred to in this subchapter as the 'program') for the purpose of assisting owners and operators in protecting grazing uses and related conservation values by restoring and conserving eligible land through rental contracts, easements, and restoration agreements.

"(b) ENROLLMENT OF ACREAGE.—

"(1) ACREAGE ENROLLED.—The Secretary shall enroll an additional 1,220,000 acres of eligible land in the program during fiscal years 2009 through 2012.

"(2) METHODS OF ENROLLMENT.—The Secretary shall enroll eligible land in the program through the use of;

"(A) a 10-year, 15-year, or 20-year rental contract;

"(B) a permanent easement; or

"(C) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under the law of that State.

"(3) LIMITATION.—Of the total amount of funds expended under the program to acquire rental contracts and easements described in paragraph (2), the Secretary shall use, to the extent practicable—

"(A) 40 percent for rental contacts; and

"(B) 60 percent for easements.

"(4) ENROLLMENT OF CONSERVATION RESERVE LAND.—

"(A) PRIORITY.—Upon expiration of a contract under subchapter B of chapter 1 of this subtitle, the Secretary shall give priority for enrollment in the program to land previously enrolled in the conservation reserve program if—

"(i) the land is eligible land, as defined in subsection (c); and

"(ii) the Secretary determines that the land is of high ecological value and under significant threat of conversion to uses other than grazing.

"(B) MAXIMUM ENROLLMENT.—The number of acres of land enrolled under the priority described in subparagraph (A) in a calendar year shall not exceed 10 percent of the total number of acres enrolled in the program in that calendar year.

"(c) ELIGIBLE LAND DEFINED.—For purposes of the program, the term 'eligible land' means private or tribal land that—

"(1) is grassland, land that contains forbs, or shrubland (including improved rangeland and pastureland) for which grazing is the predominant use;

"(2) is located in an area that has been historically dominated by grassland, forbs, or shrubland, and the land—

"(A) could provide habitat for animal or plant populations of significant ecological value if the land—

"(i) is retained in its current use; or

"(ii) is restored to a natural condition;

"(B) contains historical or archaeological resources; or

"(C) would address issues raised by State, regional, and national conservation priorities; or

"(3) is incidental to land described in paragraph (1) or (2), if the incidental land is determined by the Secretary to be necessary for the efficient administration of a rental contract or easement under the program.

16 USC 3838o.

**"SEC. 1238O. DUTIES OF OWNERS AND OPERATORS.**

"(a) RENTAL CONTRACTS.—To be eligible to enroll eligible land in the program under a rental contract, the owner or operator of the land shall agree—

"(1) to comply with the terms of the contract and, when applicable, a restoration agreement;

"(2) to suspend any existing cropland base and allotment history for the land under another program administered by the Secretary; and

"(3) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties.

"(b) EASEMENTS.—To be eligible to enroll eligible land in the program through an easement, the owner of the land shall agree—

"(1) to grant an easement to the Secretary or to an eligible entity described in section 1238Q;

"(2) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement;

"(3) to provide a written statement of consent to the easement signed by persons holding a security interest or any vested interest in the land;

"(4) to provide proof of unencumbered title to the underlying fee interest in the land that is the subject of the easement;

"(5) to comply with the terms of the easement and, when applicable, a restoration agreement;

"(6) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties; and

"(7) to eliminate any existing cropland base and allotment history for the land under another program administered by the Secretary.

"(c) RESTORATION AGREEMENTS.—

"(1) WHEN APPLICABLE.—To be eligible for cost-share assistance to restore eligible land subject to a rental contract or an easement under the program, the owner or operator of the land shall agree to comply with the terms of a restoration agreement.

"(2) TERMS AND CONDITIONS.—The Secretary shall prescribe the terms and conditions of a restoration agreement by which eligible land that is subject to a rental contract or easement under the program shall be restored.

"(3) DUTIES.—The restoration agreement shall describe the respective duties of the owner or operator and the Secretary, including the Federal share of restoration payments and technical assistance.

"(d) TERMS AND CONDITIONS APPLICABLE TO RENTAL CONTRACTS AND EASEMENTS.—

"(1) PERMISSIBLE ACTIVITIES.—The terms and conditions of a rental contract or easement under the program shall permit—

"(A) common grazing practices, including maintenance and necessary cultural practices, on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species appropriate to that locality;

"(B) haying, mowing, or harvesting for seed production, subject to appropriate restrictions during the nesting season for birds in the local area that are in significant decline or are conserved in accordance with Federal or State law, as determined by the State Conservationist;

"(C) fire presuppression, rehabilitation, and construction of fire breaks; and

"(D) grazing related activities, such as fencing and livestock watering.

"(2) PROHIBITIONS.—The terms and conditions of a rental contract or easement under the program shall prohibit—

"(A) the production of crops (other than hay), fruit trees, vineyards, or any other agricultural commodity that is inconsistent with maintaining grazing land; and

"(B) except as permitted under a restoration plan, the conduct of any other activity that would be inconsistent with maintaining grazing land enrolled in the program.

"(3) ADDITIONAL TERMS AND CONDITIONS.—A rental contract or easement under the program shall include such additional provisions as the Secretary determines are appropriate to carry out or facilitate the purposes and administration of the program.

"(e) VIOLATIONS.—On a violation of the terms or conditions of a rental contract, easement, or restoration agreement entered into under this section—

"(1) the contract or easement shall remain in force; and

"(2) the Secretary may require the owner or operator to refund all or part of any payments received under the program, with interest on the payments as determined appropriate by the Secretary.

16 USC 3838p.

**"SEC. 1238P. DUTIES OF SECRETARY.**

"(a) EVALUATION AND RANKING OF APPLICATIONS.—

"(1) CRITERIA.—The Secretary shall establish criteria to evaluate and rank applications for rental contracts and easements under the program .

"(2) CONSIDERATIONS.—In establishing the criteria, the Secretary shall emphasize support for—

"(A) grazing operations;

"(B) plant and animal biodiversity; and

"(C) grassland, land that contains forbs, and shrubland under the greatest threat of conversion to uses other than grazing.

"(b) PAYMENTS.—

"(1) IN GENERAL.—In return for the execution of a rental contract or the granting of an easement by an owner or operator under the program, the Secretary shall—

"(A) make rental contract or easement payments to the owner or operator in accordance with paragraphs (2) and (3); and

"(B) make payments to the owner or operator under a restoration agreement for the Federal share of the cost of restoration in accordance with paragraph (4).

"(2) RENTAL CONTRACT PAYMENTS.—

"(A) PERCENTAGE OF GRAZING VALUE OF LAND.—In return for the execution of a rental contract by an owner or operator under the program, the Secretary shall make annual payments during the term of the contract in an amount, subject to subparagraph (B), that is not more than 75 percent of the grazing value of the land covered by the contract.

"(B) PAYMENT LIMITATION.—Payments made under 1 or more rental contracts to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $50,000 per year.

"(3) EASEMENT PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), in return for the granting of an easement by an owner under the program, the Secretary shall make easement payments in an amount not to exceed the fair market value of the

land less the grazing value of the land encumbered by the easement.

"(B) METHOD FOR DETERMINATION OF COMPENSATION.—In making a determination under subparagraph (A), the Secretary shall pay as compensation for a easement acquired under the program the lowest of—

"(i) the fair market value of the land encumbered by the easement, as determined by the Secretary, using—

"(I) the Uniform Standards of Professional Appraisal Practices; or

"(II) an area-wide market analysis or survey;

"(ii) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or

"(iii) the offer made by the landowner.

"(C) SCHEDULE.—Easement payments may be provided in up to 10 annual payments of equal or unequal amount, as agreed to by the Secretary and the owner.

"(4) RESTORATION AGREEMENT PAYMENTS.—

"(A) FEDERAL SHARE OF RESTORATION.—The Secretary shall make payments to an owner or operator under a restoration agreement of not more than 50 percent of the costs of carrying out measures and practices necessary to restore functions and values of that land.

"(B) PAYMENT LIMITATION.—Payments made under 1 or more restoration agreements to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $50,000 per year.

"(5) PAYMENTS TO OTHERS.—If an owner or operator who is entitled to a payment under the program dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all the circumstances.

**"SEC. 1238Q. DELEGATION OF DUTY.** 16 USC 3838q.

"(a) AUTHORITY TO DELEGATE.—The Secretary may delegate a duty under the program—

"(1) by transferring title of ownership to an easement to an eligible entity to hold and enforce; or

"(2) by entering into a cooperative agreement with an eligible entity for the eligible entity to own, write, and enforce an easement.

"(b) ELIGIBLE ENTITY DEFINED.—In this section, the term 'eligible entity' means—

"(1) an agency of State or local government or an Indian tribe; or

"(2) an organization that—

"(A) is organized for, and at all times since the formation of the organization has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

"(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; and

"(C) is described in—

"(i) paragraph (1) or (2) of section 509(a) of that Code; or

"(ii) in section 509(a)(3) of that Code, and is controlled by an organization described in section 509(a)(2) of that Code.

"(c) TRANSFER OF TITLE OF OWNERSHIP.—

"(1) TRANSFER.—The Secretary may transfer title of ownership to an easement to an eligible entity to hold and enforce, in lieu of the Secretary, subject to the right of the Secretary to conduct periodic inspections and enforce the easement, if—

"(A) the Secretary determines that the transfer will promote protection of grassland, land that contains forbs, or shrubland;

"(B) the owner authorizes the eligible entity to hold or enforce the easement; and

"(C) the eligible entity agrees to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity.

"(2) APPLICATION.—An eligible entity that seeks to hold and enforce an easement shall apply to the Secretary for approval.

"(3) APPROVAL BY SECRETARY.—The Secretary may approve an application described in paragraph (2) if the eligible entity—

"(A) has the relevant experience necessary, as appropriate for the application, to administer an easement on grassland, land that contains forbs, or shrubland;

"(B) has a charter that describes a commitment to conserving ranchland, agricultural land, or grassland for grazing and conservation purposes; and

"(C) has the resources necessary to effectuate the purposes of the charter.

"(d) COOPERATIVE AGREEMENTS.—

"(1) AUTHORIZED; TERMS AND CONDITIONS.—The Secretary shall establish the terms and conditions of a cooperative agreement under which an eligible entity shall use funds provided by the Secretary to own, write, and enforce an easement, in lieu of the Secretary.

"(2) MINIMUM REQUIREMENTS.—At a minimum, the cooperative agreement shall—

"(A) specify the qualification of the eligible entity to carry out the entity's responsibilities under the program, including acquisition, monitoring, enforcement, and implementation of management policies and procedures that ensure the long-term integrity of the easement protections;

"(B) require the eligible entity to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity;

"(C) specify the right of the Secretary to conduct periodic inspections to verify the eligible entity's enforcement of the easement;

"(D) subject to subparagraph (E), identify a specific project or a range of projects to be funded under the agreement;

"(E) allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of substitution;

"(F) specify the manner in which the eligible entity will evaluate and report the use of funds to the Secretary;

"(G) allow the eligible entity flexibility to develop and use terms and conditions for easements, if the Secretary finds the terms and conditions consistent with the purposes of the program and adequate to enable effective enforcement of the easements;

"(H) if applicable, allow an eligible entity to include a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the landowner from which the easement will be purchased as part of the entity's share of the cost to purchase an easement; and

"(I) provide for a schedule of payments to an eligible entity, as agreed to by the Secretary and the eligible entity.

"(3) COST SHARING.—

"(A) IN GENERAL.—As part of a cooperative agreement with an eligible entity under this subsection, the Secretary may provide a share of the purchase price of an easement under the program.

"(B) MINIMUM SHARE BY ELIGIBLE ENTITY.—The eligible entity shall be required to provide a share of the purchase price at least equivalent to that provided by the Secretary.

"(C) PRIORITY.—The Secretary may accord a higher priority to proposals from eligible entities that leverage a greater share of the purchase price of the easement.

"(4) VIOLATION.—If an eligible entity violates the terms or conditions of a cooperative agreement entered into under this subsection—

"(A) the cooperative agreement shall remain in force; and

"(B) the Secretary may require the eligible entity to refund all or part of any payments received by the eligible entity under the program, with interest on the payments as determined appropriate by the Secretary.

"(e) PROTECTION OF FEDERAL INVESTMENT.—When delegating a duty under this section, the Secretary shall ensure that the terms of an easement include a contingent right of enforcement for the Department.".

# Subtitle F—Environmental Quality Incentives Program

### SEC. 2501. PURPOSES OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) REVISED PURPOSES.—Section 1240 of the Food Security Act of 1985 (16 U.S.C. 3839aa) is amended—

(1) in the matter preceding paragraph (1), by inserting ", forest management," after "agricultural production"; and

(2) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) providing flexible assistance to producers to install and maintain conservation practices that sustain food and fiber production while—

"(A) enhancing soil, water, and related natural resources, including grazing land, forestland, wetland, and wildlife; and

"(B) conserving energy;

"(4) assisting producers to make beneficial, cost effective changes to production systems (including conservation practices related to organic production), grazing management, fuels management, forest management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural and forested land; and".

(b) TECHNICAL CORRECTION.—The Food Security Act of 1985 is amended by inserting immediately before section 1240 (16 U.S.C. 3839aa) the following:

**"CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM".**

**SEC. 2502. DEFINITIONS.**

Section 1240A of the Food Security Act of 1985 (16 U.S.C. 3839aa–1) is amended to read as follows:

**"SEC. 1240A. DEFINITIONS.**

"In this chapter:

"(1) ELIGIBLE LAND.—

"(A) IN GENERAL.—The term 'eligible land' means land on which agricultural commodities, livestock, or forest-related products are produced.

"(B) INCLUSIONS.—The term 'eligible land' includes the following:

"(i) Cropland.

"(ii) Grassland.

"(iii) Rangeland.

"(iv) Pasture land.

"(v) Nonindustrial private forest land.

"(vi) Other agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed through a contract under the program, as determined by the Secretary.

"(2) NATIONAL ORGANIC PROGRAM.—The term 'national organic program' means the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et. seq.).

"(3) ORGANIC SYSTEM PLAN.—The term 'organic system plan' means an organic plan approved under the national organic program.

"(4) PAYMENT.—The term 'payment' means financial assistance provided to a producer for performing practices under this chapter, including compensation for—

"(A) incurred costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

"(B) income forgone by the producer.

"(5) PRACTICE.—The term 'practice' means 1 or more improvements and conservation activities that are consistent with the purposes of the program under this chapter, as determined by the Secretary, including—

"(A) improvements to eligible land of the producer, including—

"(i) structural practices;

"(ii) land management practices;

"(iii) vegetative practices;

"(iv) forest management; and

"(v) other practices that the Secretary determines would further the purposes of the program; and

"(B) conservation activities involving the development of plans appropriate for the eligible land of the producer, including—

"(i) comprehensive nutrient management planning; and

"(ii) other plans that the Secretary determines would further the purposes of the program under this chapter.

"(6) PROGRAM.—The term 'program' means the environmental quality incentives program established by this chapter.".

**SEC. 2503. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

Section 1240B of the Food Security Act of 1985 (16 U.S.C. 3839aa–2) is amended to read as follows:

**"SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION.**

"(a) ESTABLISHMENT.—During each of the 2002 through 2012 fiscal years, the Secretary shall provide payments to producers that enter into contracts with the Secretary under the program.

"(b) PRACTICES AND TERM.—

"(1) PRACTICES.—A contract under the program may apply to the performance of one or more practices.

"(2) TERM.—A contract under the program shall have a term that—

"(A) at a minimum, is equal to the period beginning on the date on which the contract is entered into and ending on the date that is one year after the date on which all practices under the contract have been implemented; but

"(B) not to exceed 10 years.

"(c) BIDDING DOWN.—If the Secretary determines that the environmental values of two or more applications for payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program.

"(d) PAYMENTS.—

"(1) AVAILABILITY OF PAYMENTS.—Payments are provided to a producer to implement one or more practices under the program.

"(2) LIMITATION ON PAYMENT AMOUNTS.—A payment to a producer for performing a practice may not exceed, as determined by the Secretary—

"(A) 75 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training;

"(B) 100 percent of income foregone by the producer; or

"(C) in the case of a practice consisting of elements covered under subparagraphs (A) and (B)—

"(i) 75 percent of the costs incurred for those elements covered under subparagraph (A); and

"(ii) 100 percent of income foregone for those elements covered under subparagraph (B).

"(3) SPECIAL RULE INVOLVING PAYMENTS FOR FOREGONE INCOME.—In determining the amount and rate of payments under paragraph (2)(B), the Secretary may accord great significance to a practice that, as determined by the Secretary, promotes—

"(A) residue management;

"(B) nutrient management;

"(C) air quality management;

"(D) invasive species management;

"(E) pollinator habitat;

"(F) animal carcass management technology; or

"(G) pest management.

"(4) INCREASED PAYMENTS FOR CERTAIN PRODUCERS.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of a producer that is a limited resource, socially disadvantaged farmer or rancher or a beginning farmer or rancher, the Secretary shall increase the amount that would otherwise be provided to a producer under this subsection—

"(i) to not more than 90 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

"(ii) to not less than 25 percent above the otherwise applicable rate.

"(B) ADVANCE PAYMENTS.—Not more than 30 percent of the amount determined under subparagraph (A) may be provided in advance for the purpose of purchasing materials or contracting.

"(5) FINANCIAL ASSISTANCE FROM OTHER SOURCES.—Except as provided in paragraph (6), any payments received by a producer from a State or private organization or person for the implementation of one or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under this subsection.

"(6) OTHER PAYMENTS.—A producer shall not be eligible for payments for practices on eligible land under the program if the producer receives payments or other benefits for the same practice on the same land under another program under this subtitle.

"(e) MODIFICATION OR TERMINATION OF CONTRACTS.—

"(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under the program if—

"(A) the producer agrees to the modification or termination; and

"(B) the Secretary determines that the modification or termination is in the public interest.

"(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under the program if the Secretary determines that the producer violated the contract.

"(f) ALLOCATION OF FUNDING.—For each of fiscal years 2002 through 2012, 60 percent of the funds made available for payments under the program shall be targeted at practices relating to livestock production.

"(g) FUNDING FOR FEDERALLY RECOGNIZED NATIVE AMERICAN INDIAN TRIBES AND ALASKA NATIVE CORPORATIONS.—The Secretary may enter into alternative funding arrangements with federally recognized Native American Indian Tribes and Alaska Native Corporations (including their affiliated membership organizations) if the Secretary determines that the goals and objectives of the program will be met by such arrangements, and that statutory limitations regarding contracts with individual producers will not be exceeded by any Tribal or Native Corporation member.

"(h) WATER CONSERVATION OR IRRIGATION EFFICIENCY PRACTICE.—

"(1) AVAILABILITY OF PAYMENTS.—The Secretary may provide payments under this subsection to a producer for a water conservation or irrigation practice.

"(2) PRIORITY.—In providing payments to a producer for a water conservation or irrigation practice, the Secretary shall give priority to applications in which—

"(A) consistent with the law of the State in which the eligible land of the producer is located, there is a reduction in water use in the operation of the producer; or

"(B) the producer agrees not to use any associated water savings to bring new land, other than incidental land needed for efficient operations, under irrigated production, unless the producer is participating in a watershed-wide project that will effectively conserve water, as determined by the Secretary.

"(i) PAYMENTS FOR CONSERVATION PRACTICES RELATED TO ORGANIC PRODUCTION.—

"(1) PAYMENTS AUTHORIZED.—The Secretary shall provide payments under this subsection for conservation practices, on some or all of the operations of a producer, related—

"(A) to organic production; and

"(B) to the transition to organic production.

"(2) ELIGIBILITY REQUIREMENTS.—As a condition for receiving payments under this subsection, a producer shall agree—

"(A) to develop and carry out an organic system plan; or

"(B) to develop and implement conservation practices for certified organic production that are consistent with an organic system plan and the purposes of this chapter.

"(3) PAYMENT LIMITATIONS.—Payments under this subsection to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $20,000 per year or $80,000 during any 6-year period. In applying these limitations, the Secretary shall not take into account payments received for technical assistance.

"(4) EXCLUSION OF CERTAIN ORGANIC CERTIFICATION COSTS.—Payments may not be made under this subsection to cover the costs associated with organic certification that are eligible for cost-share payments under section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523).

"(5) TERMINATION OF CONTRACTS.—The Secretary may cancel or otherwise nullify a contract to provide payments under this subsection if the Secretary determines that the producer—

"(A) is not pursuing organic certification; or

"(B) is not in compliance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq).".

**SEC. 2504. EVALUATION OF APPLICATIONS.**

Section 1240C of the Food Security Act of 1985 (16 U.S.C. 3839aa–3) is amended to read as follows:

**"SEC. 1240C. EVALUATION OF APPLICATIONS.**

"(a) EVALUATION CRITERIA.—The Secretary shall develop criteria for evaluating applications that will ensure that national, State, and local conservation priorities are effectively addressed.

"(b) PRIORITIZATION OF APPLICATIONS.—In evaluating applications under this chapter, the Secretary shall prioritize applications—

"(1) based on their overall level of cost-effectiveness to ensure that the conservation practices and approaches proposed are the most efficient means of achieving the anticipated environmental benefits of the project;

"(2) based on how effectively and comprehensively the project addresses the designated resource concern or resource concerns;

"(3) that best fulfill the purpose of the environmental quality incentives program specified in section 1240(1); and

"(4) that improve conservation practices or systems in place on the operation at the time the contract offer is accepted or that will complete a conservation system.

"(c) GROUPING OF APPLICATIONS.—To the greatest extent practicable, the Secretary shall group applications of similar crop or livestock operations for evaluation purposes or otherwise evaluate applications relative to other applications for similar farming operations.".

**SEC. 2505. DUTIES OF PRODUCERS UNDER ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

Section 1240D of the Food Security Act of 1985 (16 U.S.C. 3839aa–4) is amended—

(1) in the matter preceding paragraph (1), by striking "technical assistance, cost-share payments, or incentive";

(2) in paragraph (2), by striking "farm or ranch" and inserting "farm, ranch, or forest land"; and

(3) in paragraph (4), by striking "cost-share payments and incentive".

**SEC. 2506. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.**

(a) PLAN OF OPERATIONS.—Section 1240E(a) of the Food Security Act of 1985 (16 U.S.C. 3839aa–5(a)) is amended—

(1) in the subsection heading, by striking "IN GENERAL" and inserting "PLAN OF OPERATIONS";

(2) in matter preceding paragraph (1), by striking "cost-share payments or incentive";

(3) in paragraph (2), by striking "and" after the semicolon at the end;

(4) in paragraph (3), by striking the period at the end and inserting "; and"; and

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

"(4) in the case of forest land, is consistent with the provisions of a forest management plan that is approved by the Secretary, which may include—

"(A) a forest stewardship plan described in section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a);

"(B) another practice plan approved by the State forester; or

"(C) another plan determined appropriate by the Secretary.".

(b) AVOIDANCE OF DUPLICATION.—Subsection (b) of section 1240E of the Food Security Act of 1985 (16 U.S.C. 3839aa–5) is amended to read as follows:

"(b) AVOIDANCE OF DUPLICATION.—The Secretary shall—

"(1) consider a plan developed in order to acquire a permit under a water or air quality regulatory program as the equivalent of a plan of operations under subsection (a), if the plan contains elements equivalent to those elements required by a plan of operations; and

"(2) to the maximum extent practicable, eliminate duplication of planning activities under the program under this chapter and comparable conservation programs.".

**SEC. 2507. DUTIES OF THE SECRETARY.**

Section 1240F(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa–6(1)) is amended by striking "cost-share payments or incentive".

**SEC. 2508. LIMITATION ON ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PAYMENTS.**

Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is amended—

(1) by striking "An individual or entity" and inserting "(a) **LIMITATION**.—Subject to subsection (b), a person or legal entity";

(2) by striking "$450,000" and inserting "$300,000";

(3) by striking "the individual" both places it appears and inserting "the person"; and

(4) by adding at the end the following new subsection:

"(b) WAIVER AUTHORITY.—In the case of contracts under this chapter for projects of special environmental significance (including projects involving methane digesters), as determined by the Secretary, the Secretary may—

"(1) waive the limitation otherwise applicable under subsection (a); and

"(2) raise the limitation to not more than $450,000 during any six-year period.".

**SEC. 2509. CONSERVATION INNOVATION GRANTS AND PAYMENTS.**

Section 1240H of the Food Security Act of 1985 (16 U.S.C. 3839aa–8) is amended to read as follows:

**"SEC. 1240H. CONSERVATION INNOVATION GRANTS AND PAYMENTS.**

"(a) COMPETITIVE GRANTS FOR INNOVATIVE CONSERVATION APPROACHES.—

"(1) GRANTS.—Out of the funds made available to carry out this chapter, the Secretary may pay the cost of competitive grants that are intended to stimulate innovative approaches to leveraging the Federal investment in environmental enhancement and protection, in conjunction with agricultural production or forest resource management, through the program.

"(2) USE.—The Secretary may provide grants under this subsection to governmental and non-governmental organizations and persons, on a competitive basis, to carry out projects that—

"(A) involve producers who are eligible for payments or technical assistance under the program;

"(B) leverage Federal funds made available to carry out the program under this chapter with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production;

"(C) ensure efficient and effective transfer of innovative technologies and approaches demonstrated through projects that receive funding under this section, such as market systems for pollution reduction and practices for the storage of carbon in soil; and

"(D) provide environmental and resource conservation benefits through increased participation by producers of specialty crops.

"(b) AIR QUALITY CONCERNS FROM AGRICULTURAL OPERATIONS.—

"(1) IMPLEMENTATION ASSISTANCE.—The Secretary shall provide payments under this subsection to producers to implement practices to address air quality concerns from agricultural operations and to meet Federal, State, and local regulatory requirements. The funds shall be made available on the basis of air quality concerns in a State and shall be used to provide payments to producers that are cost effective and reflect innovative technologies.

"(2) FUNDING.—Of the funds made available to carry out this chapter, the Secretary shall carry out this subsection using $37,500,000 for each of fiscal years 2009 through 2012.".

**SEC. 2510. AGRICULTURAL WATER ENHANCEMENT PROGRAM.**

Section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9) is amended to read as follows:

**"SEC. 1240I. AGRICULTURAL WATER ENHANCEMENT PROGRAM.**

"(a) DEFINITIONS.—In this section:

"(1) AGRICULTURAL WATER ENHANCEMENT ACTIVITY.—The term 'agricultural water enhancement activity' includes the following activities carried out with respect to agricultural land:

"(A) Water quality or water conservation plan development, including resource condition assessment and modeling.

"(B) Water conservation restoration or enhancement projects, including conversion to the production of less water-intensive agricultural commodities or dryland farming.

"(C) Water quality or quantity restoration or enhancement projects.

"(D) Irrigation system improvement and irrigation efficiency enhancement.

"(E) Activities designed to mitigate the effects of drought.

"(F) Related activities that the Secretary determines will help achieve water quality or water conservation benefits on agricultural land.

"(2) PARTNER.—The term 'partner' means an entity that enters into a partnership agreement with the Secretary to carry out agricultural water enhancement activities on a regional basis, including—

"(A) an agricultural or silvicultural producer association or other group of such producers;

"(B) a State or unit of local government; or

"(C) a federally recognized Indian tribe.

"(3) PARTNERSHIP AGREEMENT.—The term 'partnership agreement' means an agreement between the Secretary and a partner.

"(4) PROGRAM.—The term 'program' means the agricultural water enhancement program established under subsection (b).

"(b) ESTABLISHMENT OF PROGRAM.—Beginning in fiscal year 2009, the Secretary shall carry out, in accordance with this section and using such procedures as the Secretary determines to be appropriate, an agricultural water enhancement program as part of the environmental quality incentives program to promote ground and surface water conservation and improve water quality on agricultural lands—

Effective date.
Procedures.
Contracts.

"(1) by entering into contracts with, and making payments to, producers to carry out agricultural water enhancement activities; or

"(2) by entering into partnership agreements with partners, in accordance with subsection (c), on a regional level to benefit working agricultural land.

"(c) PARTNERSHIP AGREEMENTS.—

"(1) AGREEMENTS AUTHORIZED.—The Secretary may enter into partnership agreements to meet the objectives of the program described in subsection (b).

"(2) APPLICATIONS.—An application to the Secretary to enter into a partnership agreement under paragraph (1) shall include the following:

"(A) A description of the geographical area to be covered by the partnership agreement.

"(B) A description of the agricultural water quality or water conservation issues to be addressed by the partnership agreement.

"(C) A description of the agricultural water enhancement objectives to be achieved through the partnership.

"(D) A description of the partners collaborating to achieve the project objectives and the roles, responsibilities, and capabilities of each partner.

"(E) A description of the program resources, including payments the Secretary is requested to make.

"(F) Such other such elements as the Secretary considers necessary to adequately evaluate and competitively select applications for partnership agreements.

Reports.

"(3) DUTIES OF PARTNERS.—A partner under a partnership agreement shall—

"(A) identify producers participating in the project and act on their behalf in applying for the program;

"(B) leverage funds provided by the Secretary with additional funds to help achieve project objectives;

"(C) conduct monitoring and evaluation of project effects; and

"(D) at the conclusion of the project, report to the Secretary on project results.

"(d) AGRICULTURAL WATER ENHANCEMENT ACTIVITIES BY PRODUCERS.—The Secretary shall select agricultural water enhancement activities proposed by producers according to applicable requirements under the environmental quality incentives program.

"(e) AGRICULTURAL WATER ENHANCEMENT ACTIVITIES BY PARTNERS.—

"(1) COMPETITIVE PROCESS.—The Secretary shall conduct a competitive process to select partners. In carrying out the process, the Secretary shall make public the criteria used in evaluating applications.

Public information.

"(2) AUTHORITY TO GIVE PRIORITY TO CERTAIN PROPOSALS.—The Secretary may give a higher priority to proposals from partners that—

"(A) include high percentages of agricultural land and producers in a region or other appropriate area;

"(B) result in high levels of applied agricultural water quality and water conservation activities;

"(C) significantly enhance agricultural activity;

"(D) allow for monitoring and evaluation; and

"(E) assist producers in meeting a regulatory requirement that reduces the economic scope of the producer's operation.

"(3) PRIORITY TO PROPOSALS FROM STATES WITH WATER QUANTITY CONCERNS.—The Secretary shall give a higher priority to proposals from partners that—

"(A) include the conversion of agricultural land from irrigated farming to dryland farming;

"(B) leverage Federal funds provided under the program with funds provided by partners; and

"(C) assist producers in States with water quantity concerns, as determined by the Secretary.

"(4) ADMINISTRATION.—In carrying out this subsection, the Secretary shall—

"(A) accept qualified applications—

"(i) directly from partners applying on behalf of producers; or

"(ii) from producers applying through a partner as part of a regional agricultural water enhancement project; and

"(B) ensure that resources made available for regional agricultural water enhancement activities are delivered in accordance with applicable program rules.

"(f) AREAS EXPERIENCING EXCEPTIONAL DROUGHT.—Notwithstanding the purposes described in section 1240, the Secretary shall consider as an eligible agricultural water enhancement activity the use of a water impoundment to capture surface water runoff on agricultural land if the agricultural water enhancement activity—

"(1) is located in an area that is experiencing or has experienced exceptional drought conditions during the previous two calendar years; and

"(2) will capture surface water runoff through the construction, improvement, or maintenance of irrigation ponds or small, on-farm reservoirs.

"(g) WAIVER AUTHORITY.—To assist in the implementation of agricultural water enhancement activities under the program, the Secretary shall waive the applicability of the limitation in section 1001D(b)(2)(B) of this Act for participating producers if the Secretary determines that the waiver is necessary to fulfill the objectives of the program.

"(h) PAYMENTS UNDER PROGRAM.—

"(1) IN GENERAL.—The Secretary shall provide appropriate payments to producers participating in agricultural water enhancement activities in an amount determined by the secretary to be necessary to achieve the purposes of the program described in subsection (b).

"(2) PAYMENTS TO PRODUCERS IN STATES WITH WATER QUANTITY CONCERNS.—The Secretary shall provide payments for a period of five years to producers participating in agricultural water enhancement activities under proposals described in subsection (e)(3) in an amount sufficient to encourage producers to convert from irrigated farming to dryland farming.

"(i) CONSISTENCY WITH STATE LAW.—Any agricultural water enhancement activity conducted under the program shall be conducted in a manner consistent with State water law.

"(j) FUNDING.—

"(1) AVAILABILITY OF FUNDS.—In addition to funds made available to carry out this chapter under section 1241(a), the Secretary shall carry out the program using, of the funds of the Commodity Credit Corporation—

"(A) $73,000,000 for each of fiscal years 2009 and 2010;

"(B) $74,000,000 for fiscal year 2011; and

"(C) $60,000,000 for fiscal year 2012 and each fiscal year thereafter.

"(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—None of the funds made available for regional agricultural water conservation activities under the program may be used to pay for the administrative expenses of partners.".

# Subtitle G—Other Conservation Programs of the Food Security Act of 1985

**SEC. 2601. CONSERVATION OF PRIVATE GRAZING LAND.**

Section 1240M(e) of the Food Security Act of 1985 (16 U.S.C. 3839bb(e)) is amended by striking "2007" and inserting "2012".

**SEC. 2602. WILDLIFE HABITAT INCENTIVE PROGRAM.**

(a) ELIGIBILITY.—Section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) is amended—

(1) in subsection (a), by inserting before the period at the end the following: "for the development of wildlife habitat on private agricultural land, nonindustrial private forest land, and tribal lands".

(2) in subsection (b)(1), by striking "landowners" and inserting "owners of lands referred to in subsection (a)".

(b) INCLUSION OF PIVOT CORNERS AND IRREGULAR AREAS.—Section 1240N(b)(1)(E) of the Food Security Act of 1985 (16 U.S.C. 3839bb–1(b)(1)(E)) is amended by inserting before the period at the end the following: ", including habitat developed on pivot corners and irregular areas".

(c) COST SHARE FOR LONG-TERM AGREEMENTS.—Section 1240N(b)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3839bb–1(b)(2)(B)) is amended by striking "15 percent" and inserting "25 percent".

(d) PRIORITY FOR CERTAIN CONSERVATION INITIATIVES; PAYMENT LIMITATION.—Section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) is amended by adding at the end the following new subsections:

"(d) PRIORITY FOR CERTAIN CONSERVATION INITIATIVES.—In carrying out this section, the Secretary may give priority to projects that would address issues raised by State, regional, and national conservation initiatives.

"(e) PAYMENT LIMITATION.—Payments made to a person or legal entity, directly or indirectly, under the program may not exceed, in the aggregate, $50,000 per year.".

**SEC. 2603. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.**

Section 1240O(b) of the Food Security Act of 1985 (16 U.S.C. 3839bb–2(b)) is amended by striking "$5,000,000 for each of fiscal years 2002 through 2007" and inserting "$20,000,000 for each of fiscal years 2008 through 2012".

**SEC. 2604. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.**

Section 1240P of the Food Security Act of 1985 (16 U.S.C. 3839bb–3) is amended to read as follows:

**"SEC. 1240P. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.**

"(a) PROGRAM AUTHORIZED.—The Secretary may carry out the Great Lakes basin program for soil erosion and sediment control (referred to in this section as the 'program'), including providing assistance to implement the recommendations of the Great Lakes Regional Collaboration Strategy to Restore and Protect the Great Lakes.

"(b) CONSULTATION AND COOPERATION.—The Secretary shall carry out the program in consultation with the Great Lakes Commission created by Article IV of the Great Lakes Basin Compact (82 Stat. 415) and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army.

"(c) ASSISTANCE.—In carrying out the program, the Secretary may—

"(1) provide project demonstration grants, provide technical assistance, and carry out information and educational programs to improve water quality in the Great Lakes basin by reducing soil erosion and improving sediment control; and

"(2) establish a priority for projects and activities that—

"(A) directly reduce soil erosion or improve sediment control;

"(B) reduce soil loss in degraded rural watersheds; or

"(C) improve water quality for downstream watersheds.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the program $5,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 2605. CHESAPEAKE BAY WATERSHED PROGRAM.**

Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 is amended by inserting after section 1240P (16 U.S.C. 3839bb–3) the following new section:

**"SEC. 1240Q. CHESAPEAKE BAY WATERSHED.**

16 USC 3839bb–4.

"(a) CHESAPEAKE BAY WATERSHED DEFINED.—In this section, the term 'Chesapeake Bay watershed' means all tributaries, backwaters, and side channels, including their watersheds, draining into the Chesapeake Bay.

"(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall assist producers in implementing conservation activities on agricultural lands in the Chesapeake Bay watershed for the purposes of—

"(1) improving water quality and quantity in the Chesapeake Bay watershed; and

"(2) restoring, enhancing, and preserving soil, air, and related resources in the Chesapeake Bay watershed.

"(c) CONSERVATION ACTIVITIES.—The Secretary shall deliver the funds made available to carry out this section through applicable programs under this subtitle to assist producers in enhancing land and water resources—

"(1) by controlling erosion and reducing sediment and nutrient levels in ground and surface water; and

"(2) by planning, designing, implementing, and evaluating habitat conservation, restoration, and enhancement measures where there is significant ecological value if the lands are—

"(A) retained in their current use; or

"(B) restored to their natural condition.

"(d) AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) enter into agreements with producers to carry out the purposes of this section; and

"(B) use the funds made available to carry out this section to cover the costs of the program involved with each agreement.

"(2) SPECIAL CONSIDERATIONS.—In entering into agreements under this subsection, the Secretary shall give special

consideration to, and begin evaluating, applications with producers in the following river basins:

"(A) The Susquehanna River.

"(B) The Shenandoah River.

"(C) The Potomac River (including North and South Potomac).

"(D) The Patuxent River.

"(e) DUTIES OF THE SECRETARY.—In carrying out the purposes in this section, the Secretary shall—

"(1) where available, use existing plans, models, and assessments to assist producers in implementing conservation activities; and

"(2) proceed expeditiously with the implementation of any agreement with a producer that is consistent with State strategies for the restoration of the Chesapeake Bay watershed.

"(f) CONSULTATION.—The Secretary, in consultation with appropriate Federal agencies, shall ensure conservation activities carried out under this section complement Federal and State programs, including programs that address water quality, in the Chesapeake Bay watershed.

"(g) SENSE OF CONGRESS REGARDING CHESAPEAKE BAY EXECUTIVE COUNCIL.—It is the sense of Congress that the Secretary should be a member of the Chesapeake Bay Executive Council, and is authorized to do so under section 1(3) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a(3)).

"(h) FUNDING.—

"(1) AVAILABILITY.—Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable—

"(A) $23,000,000 for fiscal year 2009;

"(B) $43,000,000 for fiscal year 2010;

"(C) $72,000,000 for fiscal year 2011; and

"(D) $50,000,000 for fiscal year 2012.

"(2) DURATION OF AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended."

**SEC. 2606. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.**

Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839bb et seq.) is amended by inserting after section 1240Q, as added by section 2605, the following new section:

16 USC 3839bb–5.

**"SEC. 1240R. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.**

"(a) ESTABLISHMENT.—The Secretary shall establish a voluntary public access program under which States and tribal governments may apply for grants to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting or fishing under programs administered by the States and tribal governments.

"(b) APPLICATIONS.—In submitting applications for a grant under the program, a State or tribal government shall describe—

"(1) the benefits that the State or tribal government intends to achieve by encouraging public access to private farm and ranch land for—

"(A) hunting and fishing; and

"(B) to the maximum extent practicable, other recreational purposes; and

"(2) the methods that will be used to achieve those benefits.

"(c) PRIORITY.—In approving applications and awarding grants under the program, the Secretary shall give priority to States and tribal governments that propose—

"(1) to maximize participation by offering a program the terms of which are likely to meet with widespread acceptance among landowners;

"(2) to ensure that land enrolled under the State or tribal government program has appropriate wildlife habitat;

"(3) to strengthen wildlife habitat improvement efforts on land enrolled in a special conservation reserve enhancement program described in section 1234(f)(4) by providing incentives to increase public hunting and other recreational access on that land;

"(4) to use additional Federal, State, tribal government, or private resources in carrying out the program; and

"(5) to make available to the public the location of land enrolled.

"(d) RELATIONSHIP TO OTHER LAWS.—

"(1) NO PREEMPTION.—Nothing in this section preempts a State or tribal government law, including any State or tribal government liability law.

"(2) EFFECT OF INCONSISTENT OPENING DATES FOR MIGRATORY BIRD HUNTING.—The Secretary shall reduce by 25 percent the amount of a grant otherwise determined for a State under the program if the opening dates for migratory bird hunting in the State are not consistent for residents and non-residents.

"(e) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

"(f) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable, $50,000,000 for the period of fiscal years 2009 through 2012.".

# Subtitle H—Funding and Administration of Conservation Programs

### SEC. 2701. FUNDING OF CONSERVATION PROGRAMS UNDER FOOD SECURITY ACT OF 1985.

(a) IN GENERAL.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended in the matter preceding paragraph (1), by striking "2007" and inserting "2012".

(b) CONSERVATION RESERVE PROGRAM.—Paragraph (1) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by striking the period at the end and inserting the following: ", including to the maximum extent practicable—

"(A) $100,000,000 for the period of fiscal years 2009 through 2012 to provide cost share payments under paragraph (3) of section 1234(b) in connection with thinning activities conducted on land described in subparagraph (A)(iii) of such paragraph; and

"(B) $25,000,000 for the period of fiscal years 2009 through 2012 to carry out section 1235(f) to facilitate the transfer of land subject to contracts from retired or retiring

owners and operators to beginning farmers or ranchers and socially disadvantaged farmers or ranchers.".

(c) CONSERVATION SECURITY AND CONSERVATION STEWARDSHIP PROGRAMS.—Paragraph (3) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(3)(A) CONSERVATION SECURITY PROGRAM.—The conservation security program under subchapter A of chapter 2, using such sums as are necessary to administer contracts entered into before September 30, 2008.

"(B) CONSERVATION STEWARDSHIP PROGRAM.—The conservation stewardship program under subchapter B of chapter 2.".

(d) FARMLAND PROTECTION PROGRAM.—Paragraph (4) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(4) The farmland protection program under subchapter C of chapter 2, using, to the maximum extent practicable—

"(A) $97,000,000 in fiscal year 2008;
"(B) $121,000,000 in fiscal year 2009;
"(C) $150,000,000 in fiscal year 2010;
"(D) $175,000,000 in fiscal year 2011; and
"(E) $200,000,000 in fiscal year 2012.".

(e) GRASSLAND RESERVE PROGRAM.—Paragraph (5) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(5) The grassland reserve program under subchapter D of chapter 2.".

(f) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—Paragraph (6) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(6) The environmental quality incentives program under chapter 4, using, to the maximum extent practicable—

"(A) $1,200,000,000 in fiscal year 2008;
"(B) $1,337,000,000 in fiscal year 2009;
"(C) $1,450,000,000 in fiscal year 2010;
"(D) $1,588,000,000 in fiscal year 2011; and
"(E) $1,750,000,000 in fiscal year 2012.".

(g) WILDLIFE HABITAT INCENTIVES PROGRAM.—Paragraph (7)(D) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by striking "2007" and inserting "2012".

**SEC. 2702. AUTHORITY TO ACCEPT CONTRIBUTIONS TO SUPPORT CONSERVATION PROGRAMS.**

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by adding at the end the following new subsection:

"(e) ACCEPTANCE AND USE OF CONTRIBUTIONS.—

"(1) AUTHORITY TO ESTABLISH CONTRIBUTION ACCOUNTS.—Subject to paragraph (2), the Secretary may establish a sub-account for each conservation program administered by the Secretary under subtitle D to accept contributions of non-Federal funds to support the purposes of the program.

"(2) DEPOSIT AND USE OF CONTRIBUTIONS.—Contributions of non-Federal funds received for a conservation program administered by the Secretary under subtitle D shall be deposited into the sub-account established under this subsection for the program and shall be available to the Secretary, without further appropriation and until expended, to carry out the program.".

**SEC. 2703. REGIONAL EQUITY AND FLEXIBILITY.**

(a) REGIONAL EQUITY AND FLEXIBILITY.—Section 1241(d) of the Food Security Act of 1985 (16 U.S.C. 3841(d)) is amended—

(1) by striking "Before April 1" and inserting the following:

"(1) PRIORITY FUNDING TO PROMOTE EQUITY.—Before April 1";

(2) by striking "$12,000,000" and inserting "$15,000,000"; and

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

"(2) SPECIFIC FUNDING ALLOCATIONS.—In determining the specific funding allocations for States under paragraph (1), the Secretary shall consider the respective demand in each State for each program covered by such paragraph.".

(b) ALLOCATIONS REVIEW AND UPDATE.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (e), as added by section 2702, the following new subsection:

"(f) ALLOCATIONS REVIEW AND UPDATE.—

"(1) REVIEW.—Not later than January 1, 2012, the Secretary shall conduct a review of conservation programs and authorities under this title that utilize allocation formulas to determine the sufficiency of the formulas in accounting for State-level economic factors, level of agricultural infrastructure, or related factors that affect conservation program costs. Deadline.

"(2) UPDATE.—The Secretary shall improve conservation program allocation formulas as necessary to ensure that the formulas adequately reflect the costs of carrying out the conservation programs.".

**SEC. 2704. ASSISTANCE TO CERTAIN FARMERS AND RANCHERS TO IMPROVE THEIR ACCESS TO CONSERVATION PROGRAMS.**

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (f), as added by section 2703(b), the following new subsection:

"(g) ASSISTANCE TO CERTAIN FARMERS OR RANCHERS FOR CONSERVATION ACCESS.—

"(1) ASSISTANCE.—Of the funds made available for each of fiscal years 2009 through 2012 to carry out the environmental quality incentives program and the acres made available for each of such fiscal years to carry out the conservation stewardship program, the Secretary shall use, to the maximum extent practicable—

"(A) 5 percent to assist beginning farmers or ranchers; and

"(B) 5 percent to assist socially disadvantaged farmers or ranchers.

"(2) REPOOLING OF FUNDS.—In any fiscal year, amounts not obligated under paragraph (1) by a date determined by the Secretary shall be available for payments and technical assistance to all persons eligible for payments or technical assistance in that fiscal year under the environmental quality incentives program.

"(3) REPOOLING OF ACRES.—In any fiscal year, acres not obligated under paragraph (1) by a date determined by the Secretary shall be available for use in that fiscal year under the conservation stewardship program.".

**SEC. 2705. REPORT REGARDING ENROLLMENTS AND ASSISTANCE UNDER CONSERVATION PROGRAMS.**

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (g), as added by section 2704, the following new subsection:

"(h) REPORT ON PROGRAM ENROLLMENTS AND ASSISTANCE.—Beginning in calendar year 2009, and each year thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a semiannual report containing statistics by State related to enrollments in conservation programs under this subtitle, as follows:

"(1) Payments made under the wetlands reserve program for easements valued at $250,000 or greater.

"(2) Payments made under the farmland protection program for easements in which the Federal share is $250,000 or greater.

"(3) Payments made under the grassland reserve program valued at $250,000 or greater.

"(4) Payments made under the environmental quality incentives program for land determined to have special environmental significance pursuant to section 1240G(b).

"(5) Payments made under the agricultural water enhancement program subject to the waiver of adjusted gross income limitations pursuant to section 1240I(g).

"(6) Waivers granted by the Secretary under section 1001D(b)(2) of this Act in order to protect environmentally sensitive land of special significance.".

**SEC. 2706. DELIVERY OF CONSERVATION TECHNICAL ASSISTANCE.**

Section 1242 of the Food Security Act of 1985 (16 U.S.C. 3842) is amended to read as follows:

**"SEC. 1242. DELIVERY OF TECHNICAL ASSISTANCE.**

"(a) DEFINITION OF ELIGIBLE PARTICIPANT.—In this section, the term 'eligible participant' means a producer, landowner, or entity that is participating in, or seeking to participate in, programs for which the producer, landowner, or entity is otherwise eligible to participate in under this title or the agricultural management assistance program under section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524).

"(b) PURPOSE OF TECHNICAL ASSISTANCE.—The purpose of technical assistance authorized by this section is to provide eligible participants with consistent, science-based, site-specific practices designed to achieve conservation objectives on land active in agricultural, forestry, or related uses.

"(c) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance under this title to an eligible participant—

"(1) directly;

"(2) through an agreement with a third-party provider; or

"(3) at the option of the eligible participant, through a payment, as determined by the Secretary, to the eligible participant for an approved third-party provider, if available.

"(d) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of, and enter into cooperative agreements or contracts

with, other agencies within the Department or non-Federal entities to assist the Secretary in providing technical assistance necessary to assist in implementing conservation programs under this title.

"(e) CERTIFICATION OF THIRD-PARTY PROVIDERS.—

"(1) PURPOSE.—The purpose of the third-party provider program is to increase the availability and range of technical expertise available to eligible participants to plan and implement conservation measures.

"(2) REGULATIONS.—Not later than 180 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall promulgate such regulations as are necessary to carry out this section. Deadline.

"(3) EXPERTISE.—In promulgating such regulations, the Secretary, to the maximum extent practicable, shall—

"(A) ensure that persons with expertise in the technical aspects of conservation planning, watershed planning, and environmental engineering, including commercial entities, nonprofit entities, State or local governments or agencies, and other Federal agencies, are eligible to become approved providers of the technical assistance;

"(B) provide national criteria for the certification of third party providers; and Criteria.

"(C) approve any unique certification standards established at the State level.

"(f) ADMINISTRATION.—

"(1) FUNDING.—Effective for fiscal year 2008 and each subsequent fiscal year, funds of the Commodity Credit Corporation made available to carry out technical assistance for each of the programs specified in section 1241 shall be available for the provision of technical assistance from third-party providers under this section. Effective date.

"(2) TERM OF AGREEMENT.—An agreement with a third-party provider under this section shall have a term that—

"(A) at a minimum, is equal to the period beginning on the date on which the agreement is entered into and ending on the date that is 1 year after the date on which all activities performed pursuant to the agreement have been completed;

"(B) does not exceed 3 years; and

"(C) can be renewed, as determined by the Secretary.

"(3) REVIEW OF CERTIFICATION REQUIREMENTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall— Deadline.

"(A) review certification requirements for third-party providers; and

"(B) make any adjustments considered necessary by the Secretary to improve participation.

"(4) ELIGIBLE ACTIVITIES.—

"(A) INCLUSION OF ACTIVITIES.—The Secretary may include as activities eligible for payments to a third party provider—

"(i) technical services provided directly to eligible participants, such as conservation planning, education and outreach, and assistance with design and implementation of conservation practices; and

"(ii) related technical assistance services that accelerate conservation program delivery.

"(B) EXCLUSIONS.—The Secretary shall not designate as an activity eligible for payments to a third party provider any service that is provided by a business, or equivalent, in connection with conducting business and that is customarily provided at no cost.

"(5) PAYMENT AMOUNTS.—The Secretary shall establish fair and reasonable amounts of payments for technical services provided by third-party providers.

"(g) AVAILABILITY OF TECHNICAL SERVICES.—

"(1) IN GENERAL.—In carrying out the programs under this title and the agricultural management assistance program under section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524), the Secretary shall make technical services available to all eligible participants who are installing an eligible practice.

"(2) TECHNICAL SERVICE CONTRACTS.—In any case in which financial assistance is not provided under a program referred to in paragraph (1), the Secretary may enter into a technical service contract with the eligible participant for the purposes of assisting in the planning, design, or installation of an eligible practice.

"(h) REVIEW OF CONSERVATION PRACTICE STANDARDS.—

"(1) REVIEW REQUIRED.—The Secretary shall—

"(A) review conservation practice standards, including engineering design specifications, in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008;

"(B) ensure, to the maximum extent practicable, the completeness and relevance of the standards to local agricultural, forestry, and natural resource needs, including specialty crops, native and managed pollinators, bioenergy crop production, forestry, and such other needs as are determined by the Secretary; and

"(C) ensure that the standards provide for the optimal balance between meeting site-specific conservation needs and minimizing risks of design failure and associated costs of construction and installation.

"(2) CONSULTATION.—In conducting the review under paragraph (1), the Secretary shall consult with eligible participants, crop consultants, cooperative extension and land grant universities, nongovernmental organizations, and other qualified entities.

"(3) EXPEDITED REVISION OF STANDARDS.—If the Secretary determines under paragraph (1) that revisions to the conservation practice standards, including engineering design specifications, are necessary, the Secretary shall establish an administrative process for expediting the revisions.

"(i) ADDRESSING CONCERNS OF SPECIALITY CROP, ORGANIC, AND PRECISION AGRICULTURE PRODUCERS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) to the maximum extent practicable, fully incorporate specialty crop production, organic crop production, and precision agriculture into the conservation practice standards; and

"(B) provide for the appropriate range of conservation practices and resource mitigation measures available to producers involved with organic or specialty crop production or precision agriculture.

"(2) AVAILABILITY OF ADEQUATE TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—The Secretary shall ensure that adequate technical assistance is available for the implementation of conservation practices by producers involved with organic, specialty crop production, or precision agriculture through Federal conservation programs.

"(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall develop—

"(i) programs that meet specific needs of producers involved with organic, specialty crop production or precision agriculture through cooperative agreements with other agencies and nongovernmental organizations; and

"(ii) program specifications that allow for innovative approaches to engage local resources in providing technical assistance for planning and implementation of conservation practices.".

**SEC. 2707. COOPERATIVE CONSERVATION PARTNERSHIP INITIATIVE.**

(a) TRANSFER OF EXISTING PROVISIONS.—Subsections (a), (c), and (d) of section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) are—

(1) redesignated as subsections (c), (d), and (e), respectively; and

(2) transferred to appear at the end of section 1244 of such Act (16 U.S.C. 3844).

(b) ESTABLISHMENT OF PARTNERSHIP INITIATIVE.—Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843), as amended by subsection (a), is amended to read as follows:

**"SEC. 1243. COOPERATIVE CONSERVATION PARTNERSHIP INITIATIVE.**

"(a) ESTABLISHMENT OF INITIATIVE.—The Secretary shall establish a cooperative conservation partnership initiative (in this section referred to as the 'Initiative') to work with eligible partners to provide assistance to producers enrolled in a program described in subsection (c)(1) that will enhance conservation outcomes on agricultural and nonindustrial private forest land.

"(b) PURPOSES.—The purposes of a partnership entered into under the Initiative shall be—

"(1) to address conservation priorities involving agriculture and nonindustrial private forest land on a local, State, multi-State, or regional level;

"(2) to encourage producers to cooperate in meeting applicable Federal, State, and local regulatory requirements related to production involving agriculture and nonindustrial private forest land;

"(3) to encourage producers to cooperate in the installation and maintenance of conservation practices that affect multiple agricultural or nonindustrial private forest operations; or

"(4) to promote the development and demonstration of innovative conservation practices and delivery methods, including those for specialty crop and organic production and precision agriculture producers.

"(c) INITIATIVE PROGRAMS.—

"(1) COVERED PROGRAMS.—Except as provided in paragraph (2), the Initiative applies to all conservation programs under subtitle D.

"(2) EXCLUDED PROGRAMS.—The Initiative shall not include the following programs:

"(A) Conservation reserve program.

"(B) Wetlands reserve program.

"(C) Farmland protection program

"(D) Grassland reserve program.

"(d) ELIGIBLE PARTNERS.—The Secretary may enter into a partnership under the Initiative with one or more of the following:

"(1) States and local governments.

"(2) Indian tribes.

"(3) Producer associations.

"(4) Farmer cooperatives.

"(5) Institutions of higher education.

"(6) Nongovernmental organizations with a history of working cooperatively with producers to effectively address conservation priorities related to agricultural production and nonindustrial private forest land.

"(e) IMPLEMENTATION AGREEMENTS.—The Secretary shall carry out the Initiative—

"(1) by selecting, through a competitive process, eligible partners from among applications submitted under subsection (f); and

"(2) by entering into multi-year agreements with eligible partners so selected for a period not to exceed 5 years.

"(f) APPLICATIONS.—

"(1) REQUIRED INFORMATION.—An application to enter into a partnership agreement under the Initiative shall include the following:

"(A) A description of the area covered by the agreement, conservation priorities in the area, conservation objectives to be achieved, and the expected level of participation by agricultural producers and nonindustrial private forest landowners.

"(B) A description of the partner, or partners, collaborating to achieve the objectives of the agreement, and the roles, responsibilities, and capabilities of the partner.

"(C) A description of the resources that are requested from the Secretary, and the non-Federal resources that will be leveraged by the Federal contribution.

"(D) A description of the plan for monitoring, evaluating, and reporting on progress made towards achieving the objectives of the agreement.

"(E) Such other information that may be required by the Secretary.

"(2) PRIORITIES.—The Secretary shall give priority to applications for agreements that—

"(A) have a high percentage of producers involved and working agricultural or nonindustrial private forest land included in the area covered by the agreement;

"(B) significantly leverage non-Federal financial and technical resources and coordinate with other local, State, or Federal efforts;

"(C) deliver high percentages of applied conservation to address water quality, water conservation, or State, regional, or national conservation initiatives;

"(D) provide innovation in conservation methods and delivery, including outcome-based performance measures and methods; or

"(E) meet other factors, as determined by the Secretary.

"(g) RELATIONSHIP TO COVERED PROGRAMS.—

"(1) COMPLIANCE WITH PROGRAM RULES.—Except as provided in paragraph (2), the Secretary shall ensure that resources made available under the Initiative are delivered in accordance with the applicable rules of programs specified in subsection (c)(1) through normal program mechanisms relating to program functions, including rules governing appeals, payment limitations, and conservation compliance.

"(2) ADJUSTMENT.—The Secretary may adjust the elements of any program specified in subsection (c)(1)—

"(A) to better reflect unique local circumstances and purposes if the Secretary determines such adjustments are necessary to achieve the purposes of the Initiative; and

"(B) to provide preferential enrollment to producers who are eligible for the applicable program and to participate in the Initiative.

"(h) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary shall provide appropriate technical and financial assistance to producers participating in the Initiative in an amount determined to be necessary to achieve the purposes of the Initiative.

"(i) FUNDING.—

"(1) RESERVATION.—Of the funds and acres made available for each of fiscal years 2009 through 2012 to implement the programs described in subsection (c)(1), the Secretary shall reserve 6 percent of the funds and acres to ensure an adequate source of funds and acres for the Initiative.

"(2) ALLOCATION REQUIREMENTS.—Of the funds and acres reserved for the Initiative for a fiscal year, the Secretary shall allocate—

"(A) 90 percent of the funds and acres to projects based on the direction of State conservationists, with the advice of State technical committees; and

"(B) 10 percent of the funds and acres to projects based on a national competitive process established by the Secretary.

"(3) UNUSED FUNDING.—Any funds and acres reserved for a fiscal year under paragraph (1) that are not obligated by April 1 of that fiscal year may be used to carry out other activities under the program that is the source of the funds or acres during the remainder of that fiscal year.

"(4) ADMINISTRATIVE COSTS OF PARTNERS.—Overhead or administrative costs of partners may not be covered by funds provided through the Initiative.".

**SEC. 2708. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.**

Section 1244 of the Food Security Act of 1985 (16 U.S.C. 3844), as amended by section 2707, is further amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) INCENTIVES FOR CERTAIN FARMERS AND RANCHERS AND INDIAN TRIBES.—

"(1) INCENTIVES AUTHORIZED.—In carrying out any conservation program administered by the Secretary, the Secretary may provide to a person or entity specified in paragraph (2) incentives to participate in the conservation program—

"(A) to foster new farming and ranching opportunities; and

"(B) to enhance long-term environmental goals.

"(2) COVERED PERSONS.—Incentives authorized by paragraph (1) may be provided to the following:

"(A) Beginning farmers or ranchers.

"(B) Socially disadvantaged farmers or ranchers.

"(C) Limited resource farmers or ranchers.

"(D) Indian tribes."; and

(2) by adding at the end the following new subsections:

"(f) ACREAGE LIMITATIONS.—

"(1) LIMITATIONS.—

"(A) ENROLLMENTS.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under subchapters B and C of chapter 1 of subtitle D.

"(B) EASEMENTS.—Not more than 10 percent of the cropland in a country may be subject to an easement acquired under subchapter C of chapter 1 of subtitle D.

"(2) EXCEPTIONS.—The Secretary may exceed the limitation in paragraph (1)(A), if the Secretary determines that—

"(A) the action would not adversely affect the local economy of a county; and

"(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

"(3) WAIVER TO EXCLUDE CERTAIN ACREAGE.—The Secretary may grant a waiver to exclude acreage enrolled under subsection (c)(2)(B) or (f)(4) of section 1234 from the limitations in paragraph (1)(A) with the concurrence of the county government of the county involved.

"(4) SHELTERBELTS AND WINDBREAKS.—The limitations established under paragraph (1) shall not apply to cropland that is subject to an easement under subchapter C of chapter 1 that is used for the establishment of shelterbelts and windbreaks.

Procedures.

"(g) COMPLIANCE AND PERFORMANCE.—For each conservation program under subtitle D, the Secretary shall develop procedures—

"(1) to monitor compliance with program requirements;

"(2) to measure program performance;

"(3) to demonstrate whether the long-term conservation benefits of the program are being achieved;

"(4) to track participation by crop and livestock types; and

"(5) to coordinate activities described in this subsection with the national conservation program authorized under section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004).

"(h) ENCOURAGEMENT OF POLLINATOR HABITAT DEVELOPMENT AND PROTECTION.—In carrying out any conservation program administered by the Secretary, the Secretary may, as appropriate, encourage—

"(1) the development of habitat for native and managed pollinators; and

"(2) the use of conservation practices that benefit native and managed pollinators.

"(i) STREAMLINED APPLICATION PROCESS.—

"(1) IN GENERAL.—In carrying out each conservation program under this title, the Secretary shall ensure that the application process used by producers and landowners is streamlined to minimize complexity and eliminate redundancy.

"(2) REVIEW AND STREAMLINING.—

"(A) REVIEW.—The Secretary shall carry out a review of the application forms and processes for each conservation program covered by this subsection.

"(B) STREAMLINING.—On completion of the review the Secretary shall revise application forms and processes, as necessary, to ensure that—

"(i) all required application information is essential for the efficient, effective, and accountable implementation of conservation programs;

"(ii) conservation program applicants are not required to provide information that is readily available to the Secretary through existing information systems of the Department of Agriculture;

"(iii) information provided by the applicant is managed and delivered efficiently for use in all stages of the application process, or for multiple applications; and

"(iv) information technology is used effectively to minimize data and information input requirements.

"(3) IMPLEMENTATION AND NOTIFICATION.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to Congress a written notification of completion of the requirements of this subsection.". Deadline.

**SEC. 2709. ENVIRONMENTAL SERVICES MARKETS.**

Subtitle E of title XII of the Food Security Act of 1985 is amended by inserting after section 1244 (16 U.S.C. 3844) the following new section:

**"SEC. 1245. ENVIRONMENTAL SERVICES MARKETS.** 16 USC 3845.

"(a) TECHNICAL GUIDELINES REQUIRED.—The Secretary shall establish technical guidelines that outline science-based methods to measure the environmental services benefits from conservation and land management activities in order to facilitate the participation of farmers, ranchers, and forest landowners in emerging environmental services markets. The Secretary shall give priority to the establishment of guidelines related to farmer, rancher, and forest landowner participation in carbon markets.

"(b) ESTABLISHMENT.—The Secretary shall establish guidelines under subsection (a) for use in developing the following:

"(1) A procedure to measure environmental services benefits.

"(2) A protocol to report environmental services benefits.

"(3) A registry to collect, record and maintain the benefits measured.

"(c) VERIFICATION REQUIREMENTS.—

"(1) VERIFICATION OF REPORTS.—The Secretary shall establish guidelines for a process to verify that a farmer, rancher, or forest landowner who reports an environmental services

benefit pursuant to the protocol required by paragraph (2) of subsection (b) for inclusion in the registry required by paragraph (3) of such subsection has implemented the conservation or land management activity covered by the report.

"(2) ROLE OF THIRD PARTIES.—In establishing the verification guidelines required by paragraph (1), the Secretary shall consider the role of third-parties in conducting independent verification of benefits produced for environmental services markets and other functions, as determined by the Secretary.

"(d) USE OF EXISTING INFORMATION.—In carrying out subsection (b), the Secretary shall build on activities or information in existence on the date of the enactment of the Food, Conservation, and Energy Act of 2008 regarding environmental services markets.

"(e) CONSULTATION.—In carrying out this section, the Secretary shall consult with the following:

"(1) Federal and State government agencies.

"(2) Nongovernmental interests including—

"(A) farm, ranch, and forestry producers;

"(B) financial institutions involved in environmental services trading;

"(C) institutions of higher education with relevant expertise or experience;

"(D) nongovernmental organizations with relevant expertise or experience; and

"(E) private sector representatives with relevant expertise or experience.

"(3) Other interested persons, as determined by the Secretary.".

**SEC. 2710. AGRICULTURE CONSERVATION EXPERIENCED SERVICES PROGRAM.**

Subtitle F of title XII of the Food Security Act of 1985 is amended by inserting after section 1251 (16 U.S.C. 2005a) the following new section:

16 USC 3851.

**"SEC. 1252. AGRICULTURE CONSERVATION EXPERIENCED SERVICES PROGRAM.**

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a conservation experienced services program (in this section referred to as the 'ACES Program') for the purpose of utilizing the talents of individuals who are age 55 or older, but who are not employees of the Department of Agriculture or a State agriculture department, to provide technical services in support of the conservation-related programs and authorities carried out by the Secretary. Such technical services may include conservation planning assistance, technical consultation, and assistance with design and implementation of conservation practices.

"(b) PROGRAM AGREEMENTS.—

"(1) RELATION TO OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.—Notwithstanding any other provision of law relating to Federal grants, cooperative agreements, or contracts, to carry out the ACES program during a fiscal year, the Secretary may enter into agreements with nonprofit private agencies and organizations eligible to receive grants for that fiscal year under the Community Service Senior Opportunities Act (42 U.S.C. 3056 et seq.) to secure participants for the

ACES program who will provide technical services under the ACES program.

"(2) REQUIRED DETERMINATION.—Before entering into an agreement under paragraph (1), the Secretary shall ensure that the agreement would not—

"(A) result in the displacement of individuals employed by the Department, including partial displacement through reduction of non-overtime hours, wages, or employment benefits;

"(B) result in the use of an individual under the ACES program for a job or function in a case in which a Federal employee is in a layoff status from the same or a substantially-equivalent job or function with the Department; or

"(C) affect existing contracts for services.

"(c) FUNDING SOURCE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may carry out the ACES program using funds made available to carry out each program under this title.

"(2) EXCLUSIONS.—Funds made available to carry out the following programs may not be used to carry out the ACES program:

"(A) The conservation reserve program.

"(B) The wetlands reserve program.

"(C) The grassland reserve program.

"(D) The conservation stewardship program.

"(d) LIABILITY.—An individual providing technical services under the ACES program is deemed to be an employee of the United States Government for purposes of chapter 171 of title 28, United States Code, if the individual—

"(1) is providing technical services pursuant to an agreement entered into under subsection (b); and

"(2) is acting within the scope of the agreement.".

**SEC. 2711. ESTABLISHMENT OF STATE TECHNICAL COMMITTEES AND THEIR RESPONSIBILITIES.**

Subtitle G of title XII of the Farm Security Act of 1985 (16 U.S.C. 3861, 3862) is amended to read as follows:

# "Subtitle G—State Technical Committees

**"SEC. 1261. ESTABLISHMENT OF STATE TECHNICAL COMMITTEES.** 16 USC 3861.

"(a) ESTABLISHMENT.—The Secretary shall establish a technical committee in each State to assist the Secretary in the considerations relating to implementation and technical aspects of the conservation programs under this title.

"(b) STANDARDS.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall develop— Deadline.

"(1) standard operating procedures to standardize the operations of State technical committees; and

"(2) standards to be used by State technical committees in the development of technical guidelines under section 1262(b) for the implementation of the conservation provisions of this title.

"(c) COMPOSITION.—Each State technical committee shall be composed of agricultural producers and other professionals that

represent a variety of disciplines in the soil, water, wetland, and wildlife sciences. The technical committee for a State shall include representatives from among the following:

"(1) The Natural Resources Conservation Service.

"(2) The Farm Service Agency.

"(3) The Forest Service.

"(4) The National Institute of Food and Agriculture.

"(5) The State fish and wildlife agency.

"(6) The State forester or equivalent State official.

"(7) The State water resources agency.

"(8) The State department of agriculture.

"(9) The State association of soil and water conservation districts.

"(10) Agricultural producers representing the variety of crops and livestock or poultry raised within the State.

"(11) Owners of nonindustrial private forest land.

"(12) Nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986 with demonstrable conservation expertise and experience working with agriculture producers in the State.

"(13) Agribusiness.

16 USC 3862.

**"SEC. 1262. RESPONSIBILITIES.**

"(a) IN GENERAL.—Each State technical committee established under section 1261 shall meet regularly to provide information, analysis, and recommendations to appropriate officials of the Department of Agriculture who are charged with implementing the conservation provisions of this title.

"(b) PUBLIC NOTICE AND ATTENDANCE.—Each State technical committee shall provide public notice of, and permit public attendance at, meetings considering issues of concern related to carrying out this title.

"(c) ROLE.—

"(1) IN GENERAL.—The role of State technical committees is advisory in nature, and such committees shall have no implementation or enforcement authority. However, the Secretary shall give strong consideration to the recommendations of such committees in administering the programs under this title.

"(2) ADVISORY ROLE IN ESTABLISHING PROGRAM PRIORITIES AND CRITERIA.—Each State technical committee shall advise the Secretary in establishing priorities and criteria for the programs in this title, including the review of whether local working groups are addressing those priorities.

"(d) FACA REQUIREMENTS.—

"(1) EXEMPTION.—Each State technical committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

"(2) LOCAL WORKING GROUPS.—For purposes of the Federal Advisory Committee Act (5 U.S.C. App.), any local working group established under this subtitle shall be considered to be a subcommittee of the applicable State technical committee.".

# Subtitle I—Conservation Programs Under Other Laws

**SEC. 2801. AGRICULTURAL MANAGEMENT ASSISTANCE PROGRAM.**

(a) ELIGIBLE STATES.—Section 524(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(1)) is amended by inserting "Hawaii," after "Delaware,".

(b) FUNDING.—Section 524(b)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(4)(B)) is amended—

(1) in clause (i), by striking "Except as provided in clauses (ii) and (iii)" and inserting "Except as provided in clause (ii)"; and

(2) by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) EXCEPTION FOR FISCAL YEARS 2008 THROUGH 2012.—For each of fiscal years 2008 through 2012, the Commodity Credit Corporation shall make available to carry out this subsection $15,000,000.".

(c) CERTAIN USES.—Section 524(b)(4) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(4)) is amended by adding at the end the following new subparagraph:

"(C) CERTAIN USES.—Of the amounts made available to carry out this subsection for a fiscal year, the Commodity Credit Corporation shall use not less than—

"(i) 50 percent to carry out subparagraphs (A), (B), and (C) of paragraph (2) through the Natural Resources Conservation Service;

"(ii) 10 percent to provide organic certification cost share assistance through the Agricultural Marketing Service; and

"(iii) 40 percent to conduct activities to carry out subparagraph (F) of paragraph (2) through the Risk Management Agency.".

**SEC. 2802. TECHNICAL ASSISTANCE UNDER SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.**

(a) PREVENTION OF SOIL EROSION.—

(1) IN GENERAL.—The first section of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a) is amended—

(A) by striking "That it" and inserting the following:

**"SECTION 1. PURPOSE.**

"It"; and

(B) in the matter preceding paragraph (1), by striking "and thereby to preserve natural resources," and inserting "to preserve soil, water, and related resources, promote soil and water quality,".

(2) POLICIES AND PURPOSES.—Section 7(a)(1) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g(a)(1)) is amended by striking "fertility" and inserting "and water quality and related resources".

(b) DEFINITIONS.—Section 10 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590j) is amended to read as follows:

**"SEC. 10. DEFINITIONS.**

"In this Act:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means—

"(A) an agricultural commodity; and

"(B) any regional or market classification, type, or grade of an agricultural commodity.

"(2) TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—The term 'technical assistance' means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses.

"(B) INCLUSIONS.—The term 'technical assistance' includes—

"(i) technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices; and

"(ii) technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.".

**SEC. 2803. SMALL WATERSHED REHABILITATION PROGRAM.**

(a) AVAILABILITY OF FUNDS.—Section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)) is amended by adding at the end the following new subparagraph:

"(G) $100,000,000 for fiscal year 2009, to be available until expended.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 14(h)(2)(E) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(2)(E)) is amended by striking "fiscal year 2007" and inserting "each of fiscal years 2008 through 2012".

**SEC. 2804. AMENDMENTS TO SOIL AND WATER RESOURCES CONSERVATION ACT OF 1977.**

(a) CONGRESSIONAL FINDINGS.—Section 2 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—

(1) in paragraph (2), by striking "base, of the" and inserting "base of the"; and

(2) in paragraph (3), by striking "(3)" and all that follows through "Since individual" and inserting the following:

"(3) Appraisal and inventory of resources, assessment and inventory of conservation needs, evaluation of the effects of conservation practices, and analyses of alternative approaches to existing conservation programs are basic to effective soil, water, and related natural resource conservation.

"(4) Since individual".

(b) CONTINUING APPRAISAL OF SOIL, WATER, AND RELATED RESOURCES.—Section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

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

"(7) data on conservation plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters under conservation programs administered by the Secretary.";

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following new subsection:

"(d) EVALUATION OF APPRAISAL.—In conducting the appraisal described in subsection (a), the Secretary shall concurrently solicit and evaluate recommendations for improving the appraisal, including the content, scope, process, participation in, and other elements of the appraisal, as determined by the Secretary."; and

(4) in subsection (e), as redesignated by paragraph (2), by striking the first sentence and inserting the following: "The Secretary shall conduct comprehensive appraisals under this section, to be completed by December 31, 2010, and December 31, 2015.".

(c) SOIL AND WATER CONSERVATION PROGRAM.—Section 6 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2005) is amended—

(1) by redesignating subsection (b) as subsection (d);

(2) by inserting after subsection (a) the following new subsections:

"(b) EVALUATION OF EXISTING CONSERVATION PROGRAMS.—In evaluating existing conservation programs, the Secretary shall emphasize demonstration, innovation, and monitoring of specific program components in order to encourage further development and adoption of practices and performance-based standards.

"(c) IMPROVEMENT TO PROGRAM.—In developing a national soil and water conservation program under subsection (a), the Secretary shall solicit and evaluate recommendations for improving the program, including the content, scope, process, participation in, and other elements of the program, as determined by the Secretary."; and

(3) in subsection (d), as redesignated by paragraph (1), by striking "December 31, 1979" and all that follows through "December 31, 2007" and inserting "December 31, 2011, and December 31, 2016".

(d) REPORTS TO CONGRESS.—Section 7 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2006) is amended to read as follows:

**"SEC. 7. REPORTS TO CONGRESS.**

President.

"(a) APPRAISAL.—Not later than the date on which Congress convenes in 2011 and 2016, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the appraisal developed under section 5 and completed before the end of the previous year.

"(b) PROGRAM AND STATEMENT OF POLICY.—Not later than the date on which Congress convenes in 2012 and 2017, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

"(1) the initial program or updated program developed under section 6 and completed before the end of the previous year;

"(2) a detailed statement of policy regarding soil and water conservation activities of the Department of Agriculture; and

"(3) a special evaluation of the status, conditions, and trends of soil quality on cropland in the United States that addresses the challenges and opportunities for reducing soil erosion to tolerance levels.

"(c) IMPROVEMENTS TO APPRAISAL AND PROGRAM.—Not later than the date on which Congress convenes in 2012, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the plans of the Department of Agriculture for improving the resource appraisal and national conservation program required under this Act, based on the recommendations received under sections 5(d) and 6(c).".

(e) TERMINATION OF PROGRAM.—Section 10 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2009) is amended by striking "2008" and inserting "2018".

**SEC. 2805. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.**

(a) LOCALLY LED PLANNING PROCESS.—Section 1528 of the Agriculture and Food Act of 1981 (16 U.S.C. 3451) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "planning process" and inserting "locally led planning process";

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (8), respectively, and moving those paragraphs so as to appear in numerical order;

(3) in paragraph (8) (as so redesignated)—

(A) by striking "**PLANNING PROCESS**" and inserting "LOCALLY LED PLANNING PROCESS"; and

(B) by striking "council" and inserting "locally led council".

(b) AUTHORIZED TECHNICAL ASSISTANCE.—Section 1528(13) of the Agriculture and Food Act of 1981 (16 U.S.C. 3451(13)) is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) providing assistance for the implementation of area plans and projects; and

"(D) providing services that involve the resources of Department of Agriculture programs in a local community, as defined in the locally led planning process.".

(c) IMPROVED PROVISION OF TECHNICAL ASSISTANCE.—Section 1531 of the Agriculture and Food Act of 1981 (16 U.S.C. 3454) is amended—

(1) by inserting "(a) IN GENERAL.—" before "In carrying"; and

(2) by adding at the end the following new subsection: "(b) COORDINATOR.—

"(1) IN GENERAL.—To improve the provision of technical assistance to councils under this subtitle, the Secretary shall designate for each council an individual to be the coordinator for the council.

"(2) RESPONSIBILITY.—A coordinator for a council shall be directly responsible for the provision of technical assistance to the council.".

(d) PROGRAM EVALUATION.—Section 1534 of the Agriculture and Food Act of 1981 (16 U.S.C. 3457) is repealed.

**SEC. 2806. USE OF FUNDS IN BASIN FUNDS FOR SALINITY CONTROL ACTIVITIES UPSTREAM OF IMPERIAL DAM.**

(a) IN GENERAL.—Section 202(a) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(a)) is amended by adding at the end the following new paragraph:

"(7) BASIN STATES PROGRAM.—

"(A) IN GENERAL.—A Basin States Program that the Secretary, acting through the Bureau of Reclamation, shall implement to carry out salinity control activities in the Colorado River Basin using funds made available under section 205(f).

"(B) ASSISTANCE.—The Secretary, in consultation with the Colorado River Basin Salinity Control Advisory Council, shall carry out this paragraph using funds described in subparagraph (A) directly or by providing grants, grant commitments, or advance funds to Federal or non-Federal entities under such terms and conditions as the Secretary may require.

"(C) ACTIVITIES.—Funds described in subparagraph (A) shall be used to carry out, as determined by the Secretary—

"(i) cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources;

"(ii) operation and maintenance of salinity control features constructed under the Colorado River Basin salinity control program; and

"(iii) studies, planning, and administration of salinity control activities.

"(D) REPORT.—

"(i) IN GENERAL.—Not later than 30 days before implementing the program established under this paragraph, the Secretary shall submit to the appropriate committees of Congress a planning report that describes the proposed implementation of the program.

"(ii) IMPLEMENTATION.—The Secretary may not expend funds to implement the program established under this paragraph before the expiration of the 30-day period beginning on the date on which the Secretary submits the report, or any revision to the report, under clause (i).".

(b) CONFORMING AMENDMENTS.—

(1) Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "program" and inserting "programs"; and

(B) in subsection (b)(4)—

(i) by striking "program" and inserting "programs"; and

(ii) by striking "and (6)" and inserting "(6), and (7)".

(2) Section 205 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595) is amended by striking subsection (f) and inserting the following new subsection:

"(f) UP-FRONT COST SHARE.—

Effective date.

"(1) IN GENERAL.—Effective beginning on the date of enactment of this paragraph, subject to paragraph (3), the cost share obligations required by this section shall be met through an up-front cost share from the Basin Funds, in the same proportions as the cost allocations required under subsection (a), as provided in paragraph (2).

"(2) BASIN STATES PROGRAM.—The Secretary shall expend the required cost share funds described in paragraph (1) through the Basin States Program for salinity control activities established under section 202(a)(7).

"(3) EXISTING SALINITY CONTROL ACTIVITIES.—The cost share contribution required by this section shall continue to be met through repayment in a manner consistent with this section for all salinity control activities for which repayment was commenced prior to the date of enactment of this paragraph.".

**SEC. 2807. DESERT TERMINAL LAKES.**

Section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) is amended—

(1) in subsection (a)—

(A) by striking "(a)" and all that follows through "$200,000,000" and inserting "(a) TRANSFER.—Subject to subsection (b) and paragraph (1) of section 207(a) of Public Law 108–7 (117 Stat. 146), notwithstanding paragraph (3) of that section, on the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary of Agriculture shall transfer $175,000,000"; and

(B) by striking the quotation marks at the beginning of paragraphs (1) and (2); and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) PERMITTED USES.—In any case in which there are willing sellers, the funds described in subsection (a) may be used—

"(1) to lease water; or

"(2) to purchase land, water appurtenant to the land, and related interests in the Walker River Basin in accordance with section 208(a)(1)(A) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2268).".

# Subtitle J—Miscellaneous Conservation Provisions

Texas.

**SEC. 2901. HIGH PLAINS WATER STUDY.**

Notwithstanding any other provision of this Act, no person shall become ineligible for any program benefits under this Act or an amendment made by this Act solely as a result of participating in a 1-time study of recharge potential for the Ogallala Aquifer in the High Plains of the State of Texas.

**SEC. 2902. NAMING OF NATIONAL PLANT MATERIALS CENTER AT BELTSVILLE, MARYLAND, IN HONOR OF NORMAN A. BERG.**

The National Plant Materials Center at Beltsville, Maryland, referenced in section 613.5(a) of title 7, Code of Federal Regulations, shall be known and designated as the "Norman A. Berg National Plant Materials Center". Any reference in a law, map, regulation, document, paper, or other record of the United States to such National Plant Materials Center shall be deemed to be a reference to the Norman A. Berg National Plant Materials Center.

**SEC. 2903. TRANSITION.**

16 USC 3801 note.

(a) CONTINUATION OF PROGRAMS IN FISCAL YEAR 2008.—Except as otherwise provided by an amendment made by this title, the Secretary of Agriculture shall continue to carry out any program or activity covered by title XII of the Food Security Act (16 U.S.C. 3801 et seq.) until September 30, 2008, using the provisions of law applicable to the program or activity as they existed on the day before the date of the enactment of this Act and using funds made available under such title for fiscal year 2008 for the program or activity.

Time period. 16 USC 3839aa–9 note.

(b) GROUND AND SURFACE WATER CONSERVATION PROGRAM.—During the period beginning on the date of the enactment of this Act and ending on September 30, 2008, the Secretary of Agriculture shall continue to carry out the ground and surface water conservation program under section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9), as in effect before the amendment made by section 2510, using the terms, conditions, and funds available to the Secretary to carry out such program on the day before the date of the enactment of this Act.

**SEC. 2904. REGULATIONS.**

Deadline.

(a) ISSUANCE.—Except as otherwise provided in this title or an amendment made by this title, not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the Commodity Credit Corporation, shall promulgate such regulations as are necessary to implement this title.

(b) APPLICABLE AUTHORITY.—The promulgation of regulations under subsection (a) and administration of this title—

(1) shall be carried out without regard to—

(A) chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act); and

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(2) may—

(A) be promulgated with an opportunity for notice and comment; or

(B) if determined to be appropriate by the Secretary of Agriculture or the Commodity Credit Corporation, as an interim rule effective on publication with an opportunity for notice and comment.

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808(2) of title 5, United States Code.

# TITLE IV—NUTRITION

## Subtitle A—Food Stamp Program

### PART I—RENAMING OF FOOD STAMP ACT AND PROGRAM

**SEC. 4001. RENAMING OF FOOD STAMP ACT AND PROGRAM.**

(a) SHORT TITLE.—The first section of the Food Stamp Act of 1977 (7 U.S.C. 2011 note; Public Law 88–525) is amended by striking "Food Stamp Act of 1977" and inserting "Food and Nutrition Act of 2008".

(b) PROGRAM.—The Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (as amended by subsection (a)) is amended by striking "food stamp program" each place it appears and inserting "supplemental nutrition assistance program".

**SEC. 4002. CONFORMING AMENDMENTS.**

(a) IN GENERAL.—

(1) Section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013) is amended in the section heading by striking "**FOOD STAMP PROGRAM**" and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**".

(2) Section 5(h)(2)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(h)(2)(A)) is amended by striking "Food Stamp Disaster Task Force" and inserting "Disaster Task Force".

(3) Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended—

(A) in subsection (d)(3), by striking "for food stamps";

(B) in subsection (j), in the subsection heading, by striking "FOOD STAMP"; and

(C) in subsection (o)—

(i) in paragraph (2), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(ii) in paragraph (6)—

(I) in subparagraph (A)—

(aa) in clause (i), by striking "food stamps" and inserting "supplemental nutrition assistance program benefits"; and

(bb) in clause (ii)—

(AA) in the matter preceding subclause (I), by striking "a food stamp recipient" and inserting "a member of a household that receives supplemental nutrition assistance program benefits"; and

(BB) by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits"; and

(II) in subparagraphs (D) and (E), by striking "food stamp recipients" each place it appears and inserting "members of households that receive

supplemental nutrition assistance program benefits".

(4) Section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016) is amended—

(A) in subsection (i)—

(i) in paragraph (3)(B)(ii), by striking "food stamp households" and inserting "households receiving supplemental nutrition assistance program benefits"; and

(ii) in paragraph (7), by striking "food stamp issuance" and inserting "supplemental nutrition assistance issuance"; and

(B) in subsection (k)—

(i) in paragraph (2), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(ii) in paragraph (3), by striking "food stamp retail" and inserting "retail".

(5) Section 9(b)(1) of that Food and Nutrition Act of 2008 (7 U.S.C. 2018(b)(1)) is amended by striking "food stamp households" and inserting "households that receive supplemental nutrition assistance program benefits".

(6) Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended—

(A) in subsection (e)—

(i) by striking "food stamps" each place it appears and inserting "supplemental nutrition assistance program benefits";

(ii) by striking "food stamp offices" each place it appears and inserting "supplemental nutrition assistance program offices";

(iii) by striking "food stamp office" each place it appears and inserting "supplemental nutrition assistance program office"; and

(iv) in paragraph (25)—

(I) in the matter preceding subparagraph (A), by striking "Simplified Food Stamp Program" and inserting "Simplified Supplemental Nutrition Assistance Program"; and

(II) in subparagraph (A), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(B) in subsection (k), by striking "may issue, upon request by the State agency, food stamps" and inserting "may provide, on request by the State agency, supplemental nutrition assistance program benefits";

(C) in subsection (l), by striking "food stamp participation" and inserting "supplemental nutrition assistance program participation";

(D) in subsections (q) and (r), in the subsection headings, by striking "FOOD STAMPS" each place it appears and inserting "BENEFITS";

(E) in subsection (s), by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits"; and

(F) in subsection (t)(1)—

(i) in subparagraph (A), by striking "food stamp application" and inserting "supplemental nutrition assistance program application"; and

(ii) in subparagraph (B), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits".

(7) Section 14(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2023(b)) is amended by striking "food stamp".

(8) Section 16 of the Food and Nutrition Act of 2008 (7 U.S.C. 2025) is amended—

(A) in subsection (a)(4), by striking "food stamp informational activities" and inserting "informational activities relating to the supplemental nutrition assistance program";

(B) in subsection (c)(9)(C), by striking "food stamp caseload" and inserting "the caseload under the supplemental nutrition assistance program"; and

(C) in subsection (h)(1)(E)(i), by striking "food stamp recipients" and inserting "members of households receiving supplemental nutrition assistance program benefits".

(9) Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended—

(A) in subsection (a)(2), by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits";

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(II) in subparagraph (B)—

(aa) in clause (ii)(II), by striking "food stamp recipients" and inserting "supplemental nutrition assistance program recipients";

(bb) in clause (iii)(I), by striking "the State's food stamp households" and inserting "the number of households in the State receiving supplemental nutrition assistance program benefits"; and

(cc) in clause (iv)(IV)(bb), by striking "food stamp deductions" and inserting "supplemental nutrition assistance program deductions";

(ii) in paragraph (2), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(iii) in paragraph (3)—

(I) in subparagraph (A), by striking "food stamp employment" and inserting "supplemental nutrition assistance program employment";

(II) in subparagraph (B), by striking "food stamp recipients" and inserting "supplemental nutrition assistance program recipients";

(III) in subparagraph (C), by striking "food stamps" and inserting "supplemental nutrition assistance program benefits"; and

(IV) in subparagraph (D), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(C) in subsection (c), by striking "food stamps" and inserting "supplemental nutrition assistance";

(D) in subsection (d)—

(i) in paragraph (1)(B), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking "food stamp allotments" each place it appears and inserting "allotments"; and

(II) in subparagraph (C)(ii), by striking "food stamp benefit" and inserting "supplemental nutrition assistance program benefits"; and

(iii) in paragraph (3)(E), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(E) in subsections (e) and (f), by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits";

(F) in subsection (g), in the first sentence, by striking "receipt of food stamp" and inserting "receipt of supplemental nutrition assistance program"; and

(G) in subsection (j), by striking "food stamp agencies" and inserting "supplemental nutrition assistance program agencies".

(10) Section 18(a)(3)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(3)(A)(ii)) is amended by striking "food stamps" and inserting "supplemental nutrition assistance program benefits".

(11) Section 22 of the Food and Nutrition Act of 2008 (7 U.S.C. 2031) is amended—

(A) in the section heading, by striking "**FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN**" and inserting "**MINNESOTA FAMILY INVESTMENT PROJECT**";

(B) in subsections (b)(12) and (d)(3), by striking "the Food Stamp Act, as amended," each place it appears and inserting "this Act"; and

(C) in subsection (g)(1), by striking "the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.)" and inserting "this Act".

(12) Section 26 of the Food and Nutrition Act of 2008 (7 U.S.C. 2035) is amended—

(A) in the section heading, by striking "**SIMPLIFIED FOOD STAMP PROGRAM**" and inserting "**SIMPLIFIED SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**"; and

(B) in subsection (b), by striking "simplified food stamp program" and inserting "simplified supplemental nutrition assistance program".

(b) CONFORMING CROSS-REFERENCES.—

(1) IN GENERAL.—Each provision of law described in paragraph (2) is amended (as applicable)—

(A) by striking "food stamp program" each place it appears and inserting "supplemental nutrition assistance program";

(B) by striking "Food Stamp Act of 1977" each place it appears and inserting "Food and Nutrition Act of 2008";

(C) by striking "Food Stamp Act" each place it appears and inserting "Food and Nutrition Act of 2008";

(D) by striking "food stamp" each place it appears and inserting "supplemental nutrition assistance program benefits";

(E) by striking "food stamps" each place it appears and inserting "supplemental nutrition assistance program benefits";

(F) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking "**FOOD STAMP ACT**" each place it appears and inserting "**FOOD AND NUTRITION ACT OF 2008**";

(G) in each applicable subsection and appropriations heading, by striking "FOOD STAMP ACT" each place it appears and inserting "FOOD AND NUTRITION ACT OF 2008";

(H) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking "**FOOD STAMP ACT**" each place it appears and inserting "**FOOD AND NUTRITION ACT OF 2008**";

(I) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking "**FOOD STAMP PROGRAM**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**";

(J) in each applicable subsection and appropriations heading, by striking "FOOD STAMP PROGRAM" each place it appears and inserting "SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM";

(K) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking "**FOOD STAMP PROGRAM**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**";

(L) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking "**FOOD STAMPS**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS**";

(M) in each applicable subsection and appropriations heading, by striking "FOOD STAMPS" each place it appears and inserting "SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS"; and

(N) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking "**FOOD STAMPS**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS**".

(2) PROVISIONS OF LAW.—The provisions of law referred to in paragraph (1) are the following:

7 USC 2012 note. (A) The Hunger Prevention Act of 1988 (Public Law 100–435; 102 Stat. 1645).

7 USC 2012 note. (B) The Food Stamp Program Improvements Act of 1994 (Public Law 103–225; 108 Stat. 106).

7 USC 2016 *et seq*. (C) Title IV of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 305).

(D) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note).

(E) Section 807(b) of the Stewart B. McKinney Homeless Assistance Act (7 U.S.C. 2014 note; Public Law 100–77).

(F) The Electronic Benefit Transfer Interoperability and Portability Act of 2000 (Public Law 106–171; 114 Stat. 3). 7 USC 2016 note.

(G) Section 502(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 2025 note; Public Law 105–185).

(H) The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.). 7 USC 3315.

(I) The Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.). 7 USC 7509.

(J) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.). 8 USC 1255a.

(K) Section 8119 of the Department of Defense Appropriations Act, 1999 (10 U.S.C. 113 note; Public Law 105–262).

(L) The Armored Car Industry Reciprocity Act of 1993 (15 U.S.C. 5901 et seq.). 15 USC 5901, 5904.

(M) Title 18, United States Code. 18 USC 506, 1956.

(N) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.). 20 USC 1087ss.

(O) The Internal Revenue Code of 1986. 26 USC 32 *et seq*.

(P) Section 650 of the Treasury and General Government Appropriations Act, 2000 (26 U.S.C. 7801 note; Public Law 106–58).

(Q) The Wagner-Peysner Act (29 U.S.C. 49 et seq.). 29 USC 49b.

(R) The Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.). 20 USC 2971 *et seq*.

(S) Title 31, United States Code. 31 USC 3803.

(T) Title 37, United States Code. 37 USC 402a.

(U) The Public Health Service Act (42 U.S.C. 201 et seq.). 42 USC 290cc–22.

(V) Titles II through XIX of the Social Security Act (42 U.S.C. 401 et seq.). 42 USC 405 *et seq*.

(W) Section 406 of the Family Support Act of 1988 (Public Law 100–485; 102 Stat. 2400).

(X) Section 232 of the Social Security Act Amendments of 1994 (42 U.S.C. 1314a).

(Y) The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.). 42 USC 1437f.

(Z) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.). 42 USC 1758, 1766.

(AA) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.). 42 USC 1786.

(BB) The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.). 42 USC 3012 *et seq*.

(CC) Section 208 of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728).

(DD) The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). 42 USC 5179.

(EE) The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.). 42 USC 8622, 8624.

(FF) Section 658K of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858i).

43 USC 1626. (GG) The Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

48 USC 1841. (HH) Public Law 95–348 (92 Stat. 487).

7 USC 2270, 4004a. (II) The Agriculture and Food Act of 1981 (Public Law 97–98; 95 Stat. 1213).

7 USC 2014 note, 2017 note. (JJ) The Disaster Assistance Act of 1988 (Public Law 100–387; 102 Stat. 924).

7 USC 2011 *et seq*. (KK) The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).

42 USC 8011. (LL) The Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4079).

7 USC 1421 note. (MM) Section 388 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 98).

7 USC 1421 note, 2026 note. (NN) The Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1818).

7 USC 2014 note. (OO) The Act of March 26, 1992 (Public Law 102–265; 106 Stat. 90).

7 USC 2011 note, 2020 note. (PP) Public Law 105–379 (112 Stat. 3399).

(QQ) Section 101(c) of the Emergency Supplemental Act, 2000 (Public Law 106–246; 114 Stat. 528).

7 USC 2012 note. (c) REFERENCES.—Any reference in any Federal, State, tribal, or local law (including regulations) to the "food stamp program" established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) shall be considered to be a reference to the "supplemental nutrition assistance program" established under that Act.

## PART II—BENEFIT IMPROVEMENTS

### SEC. 4101. EXCLUSION OF CERTAIN MILITARY PAYMENTS FROM INCOME.

Section 5(d) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(d)) is amended—

(1) by striking "(d) Household" and inserting "(d) EXCLUSIONS FROM INCOME.—Household";

(2) by striking "only (1) any" and inserting "only—

"(1) any";

(3) by indenting each of paragraphs (2) through (18) so as to align with the margin of paragraph (1) (as amended by paragraph (2));

(4) by striking the comma at the end of each of paragraphs (1) through (16) and inserting a semicolon;

(5) in paragraph (3)—

(A) by striking "like (A) awarded" and inserting "like—

"(A) awarded";

(B) by striking "thereof, (B) to" and inserting "thereof;

"(B) to"; and

(C) by striking "program, and (C) to" and inserting "program; and

"(C) to";

(6) in paragraph (11), by striking ")), or (B) a" and inserting ")); or

"(B) a";

(7) in paragraph (17), by striking ", and" at the end and inserting a semicolon;

(8) in paragraph (18), by striking the period at the end and inserting "; and"; and

(9) by adding at the end the following:

"(19) any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

"(A) is the result of deployment to or service in a combat zone; and

"(B) was not received immediately prior to serving in a combat zone.".

**SEC. 4102. STRENGTHENING THE FOOD PURCHASING POWER OF LOW-INCOME AMERICANS.**

Section 5(e)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(e)(1)) is amended—

(1) in subparagraph (A)(ii), by striking "not less than $134" and all that follows through the end of the clause and inserting the following: "not less than—

"(I) for fiscal year 2009, $144, $246, $203, and $127, respectively; and

"(II) for fiscal year 2010 and each fiscal year thereafter, an amount that is equal to the amount from the previous fiscal year adjusted to the nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.";

(2) in subparagraph (B)(ii), by striking "not less than $269" and all that follows through the end of the clause and inserting the following: "not less than—

"(I) for fiscal year 2009, $289; and

"(II) for fiscal year 2010 and each fiscal year thereafter, an amount that is equal to the amount from the previous fiscal year adjusted to the nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food."; and

(3) by adding at the end the following:

"(C) REQUIREMENT.—Each adjustment under subparagraphs (A)(ii)(II) and (B)(ii)(II) shall be based on the unrounded amount for the prior 12-month period.".

**SEC. 4103. SUPPORTING WORKING FAMILIES WITH CHILD CARE EXPENSES.**

Section 5(e)(3)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(e)(3)(A)) is amended by striking ", the maximum allowable level of which shall be $200 per month for each dependent

child under 2 years of age and $175 per month for each other dependent,".

**SEC. 4104. ASSET INDEXATION, EDUCATION, AND RETIREMENT ACCOUNTS.**

(a) ADJUSTING COUNTABLE RESOURCES FOR INFLATION.—Section (5)(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) is amended—

(1) by striking "(g)(1) The Secretary" and inserting the following:

"(g) ALLOWABLE FINANCIAL RESOURCES.—

"(1) TOTAL AMOUNT.—

"(A) IN GENERAL.—The Secretary".

(2) in subparagraph (A) (as so designated by paragraph (1))—

(A) by inserting "(as adjusted in accordance with subparagraph (B))" after "$2,000"; and

(B) by inserting "(as adjusted in accordance with subparagraph (B))" after "$3,000"; and

(3) by adding at the end the following:

"(B) ADJUSTMENT FOR INFLATION.—

Effective date.

"(i) IN GENERAL.—Beginning on October 1, 2008, and each October 1 thereafter, the amounts specified in subparagraph (A) shall be adjusted and rounded down to the nearest $250 increment to reflect changes for the 12-month period ending the preceding June in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(ii) REQUIREMENT.—Each adjustment under clause (i) shall be based on the unrounded amount for the prior 12-month period.".

(b) EXCLUSION OF RETIREMENT ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—

(1) IN GENERAL.—Section 5(g)(2)(B)(v) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)(2)(B)(v)) is amended by striking "or retirement account (including an individual account)" and inserting "account".

(2) MANDATORY AND DISCRETIONARY EXCLUSIONS.—Section 5(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

"(7) EXCLUSION OF RETIREMENT ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—

"(A) MANDATORY EXCLUSIONS.—The Secretary shall exclude from financial resources under this subsection the value of—

"(i) any funds in a plan, contract, or account, described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986 and the value of funds in a Federal Thrift Savings Plan account as provided in section 8439 of title 5, United States Code; and

"(ii) any retirement program or account included in any successor or similar provision that may be enacted and determined to be exempt from tax under the Internal Revenue Code of 1986.

"(B) DISCRETIONARY EXCLUSIONS.—The Secretary may exclude from financial resources under this subsection the value of any other retirement plans, contracts, or accounts (as determined by the Secretary).".

(c) EXCLUSION OF EDUCATION ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—Section 5(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) (as amended by subsection (b)) is amended by adding at the end the following:

"(8) EXCLUSION OF EDUCATION ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—

"(A) MANDATORY EXCLUSIONS.—The Secretary shall exclude from financial resources under this subsection the value of any funds in a qualified tuition program described in section 529 of the Internal Revenue Code of 1986 or in a Coverdell education savings account under section 530 of that Code.

"(B) DISCRETIONARY EXCLUSIONS.—The Secretary may exclude from financial resources under this subsection the value of any other education programs, contracts, or accounts (as determined by the Secretary).".

**SEC. 4105. FACILITATING SIMPLIFIED REPORTING.**

Section 6(c)(1)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(c)(1)(A)) is amended—

(1) by striking "reporting by" and inserting "reporting";

(2) in clause (i), by inserting "for periods shorter than 4 months by" before "migrant";

(3) in clause (ii), by inserting "for periods shorter than 4 months by" before "households"; and

(4) in clause (iii), by inserting "for periods shorter than 1 year by" before "households".

**SEC. 4106. TRANSITIONAL BENEFITS OPTION.**

Section 11(s)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(s)(1)) is amended—

(1) by striking "benefits to a household"; and inserting "benefits—

"(A) to a household";

(2) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(B) at the option of the State, to a household with children that ceases to receive cash assistance under a State-funded public assistance program.".

**SEC. 4107. INCREASING THE MINIMUM BENEFIT.**

Section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) is amended by striking "$10 per month" and inserting "8 percent of the cost of the thrifty food plan for a household containing 1 member, as determined by the Secretary under section 3, rounded to the nearest whole dollar increment".

**SEC. 4108. EMPLOYMENT, TRAINING, AND JOB RETENTION.**

Section 6(d)(4) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(d)(4)) is amended—

(1) in subparagraph (B)—

(A) by redesignating clause (vii) as clause (viii); and

(B) by inserting after clause (vi) the following:

"(vii) Programs intended to ensure job retention by providing job retention services, if the job retention services are provided for a period of not more than 90 days after an individual who received employment and training services under this paragraph gains employment."; and

(2) in subparagraph (F), by adding at the end the following:

"(iii) Any individual voluntarily electing to participate in a program under this paragraph shall not be subject to the limitations described in clauses (i) and (ii).".

## PART III—PROGRAM OPERATIONS

**SEC. 4111. NUTRITION EDUCATION.**

(a) AUTHORITY TO PROVIDE NUTRITION EDUCATION.—Section 4(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(a)) is amended in the first sentence by inserting "and, through an approved State plan, nutrition education" after "an allotment".

(b) IMPLEMENTATION.—Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking subsection (f) and inserting the following:

"(f) NUTRITION EDUCATION.—

"(1) IN GENERAL.—State agencies may implement a nutrition education program for individuals eligible for program benefits that promotes healthy food choices consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).

"(2) DELIVERY OF NUTRITION EDUCATION.—State agencies may deliver nutrition education directly to eligible persons or through agreements with the National Institute of Food and Agriculture, including through the expanded food and nutrition education program under section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), and other State and community health and nutrition providers and organizations.

"(3) NUTRITION EDUCATION STATE PLANS.—

"(A) IN GENERAL.—A State agency that elects to provide nutrition education under this subsection shall submit a nutrition education State plan to the Secretary for approval.

"(B) REQUIREMENTS.—The plan shall—

"(i) identify the uses of the funding for local projects; and

"(ii) conform to standards established by the Secretary through regulations or guidance.

"(C) REIMBURSEMENT.—State costs for providing nutrition education under this subsection shall be reimbursed pursuant to section 16(a).

"(4) NOTIFICATION.—To the maximum extent practicable, State agencies shall notify applicants, participants, and eligible program participants of the availability of nutrition education under this subsection.".

**SEC. 4112. TECHNICAL CLARIFICATION REGARDING ELIGIBILITY.**

Section 6(k) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking "No member" and inserting the following:

"(1) IN GENERAL.—No member"; and

(3) by adding at the end the following:

"(2) PROCEDURES.—The Secretary shall—

"(A) define the terms 'fleeing' and 'actively seeking' for purposes of this subsection; and

"(B) ensure that State agencies use consistent procedures established by the Secretary that disqualify individuals whom law enforcement authorities are actively seeking for the purpose of holding criminal proceedings against the individual.".

**SEC. 4113. CLARIFICATION OF SPLIT ISSUANCE.**

Section 7(h) of the Food and Nutrition Act of 2008 (7 U.S.C. 2016(h)) is amended by striking paragraph (2) and inserting the following:

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Any procedure established under paragraph (1) shall—

"(i) not reduce the allotment of any household for any period; and

"(ii) ensure that no household experiences an interval between issuances of more than 40 days.

"(B) MULTIPLE ISSUANCES.—The procedure may include issuing benefits to a household in more than 1 issuance during a month only when a benefit correction is necessary.".

**SEC. 4114. ACCRUAL OF BENEFITS.**

Section 7(i) of the Food and Nutrition Act of 2008 (7 U.S.C. 2016(i)) is amended by adding at the end the following:

"(12) RECOVERING ELECTRONIC BENEFITS.—

"(A) IN GENERAL.—A State agency shall establish a procedure for recovering electronic benefits from the account of a household due to inactivity. Procedures.

"(B) BENEFIT STORAGE.—A State agency may store recovered electronic benefits off-line in accordance with subparagraph (D), if the household has not accessed the account after 6 months.

"(C) BENEFIT EXPUNGING.—A State agency shall expunge benefits that have not been accessed by a household after a period of 12 months. Deadline.

"(D) NOTICE.—A State agency shall—

"(i) send notice to a household the benefits of which are stored under subparagraph (B); and

"(ii) not later than 48 hours after request by the household, make the stored benefits available to the household.".

**SEC. 4115. ISSUANCE AND USE OF PROGRAM BENEFITS.**

(a) IN GENERAL.—Section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016) is amended—

(1) by striking the section designation and heading and all that follows through "subsection (j)) shall be" and inserting the following:

**"SEC. 7. ISSUANCE AND USE OF PROGRAM BENEFITS.**

"(a) IN GENERAL.—Except as provided in subsection (i), EBT cards shall be";

(2) in subsection (b)—

(A) by striking "(b) Coupons" and inserting the following:

"(b) USE.—Benefits"; and

(B) by striking the second proviso;

(3) in subsection (c)—

(A) by striking "(c) Coupons" and inserting the following:

"(c) DESIGN.—

"(1) IN GENERAL.—EBT cards";

(B) in the first sentence, by striking "and define their denomination"; and

(C) by striking the second sentence and inserting the following:

"(2) PROHIBITION.—The name of any public official shall not appear on any EBT card.";

(4) by striking subsection (d);

(5) in subsection (e)—

(A) by striking "coupons" each place it appears and inserting "benefits"; and

(B) by striking "coupon issuers" each place it appears and inserting "benefit issuers";

(6) in subsection (f)—

(A) by striking "coupons" each place it appears and inserting "benefits";

(B) by striking "coupon issuer" and inserting "benefit issuers";

(C) by striking "including any losses" and all that follows through "section 11(e)(20),"; and

(D) by striking "and allotments";

(7) by striking subsection (g) and inserting the following:

"(g) ALTERNATIVE BENEFIT DELIVERY.—

"(1) IN GENERAL.—If the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that it would improve the integrity of the supplemental nutrition assistance program, the Secretary shall require a State agency to issue or deliver benefits using alternative methods.

"(2) NO IMPOSITION OF COSTS.—The cost of documents or systems that may be required by this subsection may not be imposed upon a retail food store participating in the supplemental nutrition assistance program.

Effective dates.

"(3) DEVALUATION AND TERMINATION OF ISSUANCE OF PAPER COUPONS.—

"(A) COUPON ISSUANCE.—Effective on the date of enactment of the Food, Conservation, and Energy Act of 2008, no State shall issue any coupon, stamp, certificate, or authorization card to a household that receives supplemental nutrition assistance under this Act.

"(B) EBT CARDS.—Effective beginning on the date that is 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, only an EBT card issued under subsection (i) shall be eligible for exchange at any retail food store.

"(C) DE-OBLIGATION OF COUPONS.—Coupons not redeemed during the 1-year period beginning on the date of enactment of the Food, Conservation, and Energy Act of 2008 shall—

"(i) no longer be an obligation of the Federal Government; and

"(ii) not be redeemable.";

(8) in subsection (h)(1), by striking "coupons" and inserting "benefits";

(9) in subsection (i), by adding at the end the following:

"(12) INTERCHANGE FEES.—No interchange fees shall apply to electronic benefit transfer transactions under this subsection.";

(10) in subsection (j)—

(A) in paragraph (2)(A)(ii), by striking "printing, shipping, and redeeming coupons" and inserting "issuing and redeeming benefits"; and

(B) in paragraph (5), by striking "coupon" and inserting "benefit";

(11) in subsection (k)—

(A) by striking "coupons in the form of" each place it appears and inserting "program benefits in the form of";

(B) by striking "a coupon issued in the form of" each place it appears and inserting "program benefits in the form of"; and

(C) in subparagraph (A), by striking "subsection (i)(11)(A)" and inserting "subsection (h)(11)(A)"; and

(12) by redesignating subsections (e) through (k) as subsections (d) through (j), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012) is amended—

(A) in subsection (a), by striking "coupons" and inserting "benefits";

(B) by striking subsection (b) and inserting the following:

"(b) BENEFIT.—The term 'benefit' means the value of supplemental nutrition assistance provided to a household by means of—

"(1) an electronic benefit transfer under section 7(i); or

"(2) other means of providing assistance, as determined by the Secretary.";

(C) in subsection (c), in the first sentence, by striking "authorization cards" and inserting "benefits";

(D) in subsection (d), by striking "or access device" and all that follows through the end of the subsection and inserting a period;

(E) in subsection (e)—

(i) by striking "(e) 'Coupon issuer' means" and inserting the following:

"(e) BENEFIT ISSUER.—The term 'benefit issuer' means"; and

(ii) by striking "coupons" and inserting "benefits";

(F) in subsection (g)(7), by striking "subsection (r)" and inserting "subsection (j)";

(G) in subsection (i)(5)—

(i) in subparagraph (B), by striking "subsection (r)" and inserting "subsection (j)"; and

(ii) in subparagraph (D), by striking "coupons" and inserting "benefits";

(H) in subsection (j), by striking "(as that term is defined in subsection (p))";

(I) in subsection (k)—

(i) in paragraph (1)(A), by striking "subsection (u)(1)" and inserting "subsection (r)(1)";

(ii) in paragraph (2), by striking "subsections (g)(3), (4), (5), (7), (8), and (9) of this section" and inserting "paragraphs (3), (4), (5), (7), (8), and (9) of subsection (k)"; and

(iii) in paragraph (3), by striking "subsection (g)(6) of this section" and inserting "subsection (k)(6)";

(J) in subsection (t), by inserting ", including point of sale devices," after "other means of access";

(K) in subsection (u), by striking "(as defined in subsection (g))";

(L) by adding at the end the following:

"(v) EBT CARD.—The term 'EBT card' means an electronic benefit transfer card issued under section 7(i)."; and

(M) by redesignating subsections (a) through (v) as subsections (b), (d), (f), (g), (e), (h), (k), (l), (n), (o), (p), (q), (s), (t), (u), (v), (c), (j), (m), (a), (r), and (i), respectively, and moving the subsections so as to appear in alphabetical order.

(2) Section 4(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(a)) is amended—

(A) by striking "coupons" each place it appears and inserting "benefits"; and

(B) by striking "Coupons issued" and inserting "benefits issued".

(3) Section 5 of the Food and Nutrition Act of 2008 (7 U.S.C. 2014) is amended—

(A) in subsection (a), by striking "section 3(i)(4)" and inserting "section 3(n)(4)";

(B) in subsection (h)(3)(B), in the second sentence, by striking "section 7(i)" and inserting "section 7(h)"; and

(C) in subsection (i)(2)(E), by striking ", as defined in section 3(i) of this Act,".

(4) Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended—

(A) in subsection (b)(1)—

(i) in subparagraph (B), by striking "coupons or authorization cards" and inserting "program benefits"; and

(ii) by striking "coupons" each place it appears and inserting "benefits"; and

(B) in subsection (d)(4)(L), by striking "section 11(e)(22)" and inserting "section 11(e)(19)".

(5) Section 8 of the Food and Nutrition Act of 2008 (7 U.S.C. 2017) is amended—

(A) in subsection (b), by striking ", whether through coupons, access devices, or otherwise"; and

(B) in subsections (e)(1) and (f), by striking "section 3(i)(5)" each place it appears and inserting "section 3(n)(5)".

(6) Section 9 of the Food and Nutrition Act of 2008 (7 U.S.C. 2018) is amended—

(A) by striking "coupons" each place it appears and inserting "benefits";

(B) in subsection (a)—

(i) in paragraph (1), by striking "coupon business" and inserting "benefit transactions"; and

(ii) by striking paragraph (3) and inserting the following:

"(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem benefits shall be valid under the supplemental nutrition assistance program."; and

(C) in subsection (g), by striking "section 3(g)(9)" and inserting "section 3(k)(9)".

(7) Section 10 of the Food and Nutrition Act of 2008 (7 U.S.C. 2019) is amended—

(A) by striking the section designation and heading and all that follows through "Regulations" and inserting the following:

**"SEC. 10. REDEMPTION OF PROGRAM BENEFITS.**

"Regulations";

(B) by striking "section 3(k)(4) of this Act" and inserting "section 3(p)(4)";

(C) by striking "section 7(i)" and inserting "section 7(h)"; and

(D) by striking "coupons" each place it appears and inserting "benefits".

(8) Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended—

(A) in subsection (d)—

(i) by striking "section 3(n)(1) of this Act" each place it appears and inserting "section 3(t)(1)"; and

(ii) by striking "section 3(n)(2) of this Act" each place it appears and inserting "section 3(t)(2)";

(B) in subsection (e)—

(i) in paragraph (8)(E), by striking "paragraph (16) or (20)(B)" and inserting "paragraph (15) or (18)(B)";

(ii) by striking paragraphs (15) and (19);

(iii) by redesignating paragraphs (16) through (18) and (20) through (25) as paragraphs (15) through (17) and (18) through (23), respectively; and

(iv) in paragraph (17) (as so redesignated), by striking "(described in section 3(n)(1) of this Act)" and inserting "described in section 3(t)(1)";

(C) in subsection (h), by striking "coupon or coupons" and inserting "benefits";

(D) by striking "coupon" each place it appears and inserting "benefit";

(E) by striking "coupons" each place it appears and inserting "benefits"; and

(F) in subsection (q), by striking "section 11(e)(20)(B)" and inserting "subsection (e)(18)(B)".

(9) Section 13 of the Food and Nutrition Act of 2008 (7 U.S.C. 2022) is amended by striking "coupons" each place it appears and inserting "benefits".

(10) Section 15 of the Food and Nutrition Act of 2008 (7 U.S.C. 2024) is amended—

(A) in subsection (a), by striking "coupons" and inserting "benefits";

(B) in subsection (b)(1)—

(i) by striking "coupons, authorization cards, or access devices" each place it appears and inserting "benefits";

(ii) by striking "coupons or authorization cards" and inserting "benefits"; and

(iii) by striking "access device" each place it appears and inserting "benefit";

(C) in subsection (c), by striking "coupons" each place it appears and inserting "benefits";

(D) in subsection (d), by striking "Coupons" and inserting "Benefits";

(E) by striking subsections (e) and (f);

(F) by redesignating subsections (g) and (h) as subsections (e) and (f), respectively; and

(G) in subsection (e) (as so redesignated), by striking "coupon, authorization cards or access devices" and inserting "benefits".

(11) Section 16(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(a)) is amended by striking "coupons" each place it appears and inserting "benefits".

(12) Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended—

(A) in subsection (a)(2), by striking "coupon" and inserting "benefit";

(B) in subsection (b)(1)—

(i) in subparagraph (B)—

(I) in clause (iv)—

(aa) in subclause (I), inserting "or otherwise providing benefits in a form not restricted to the purchase of food" after "of cash";

(bb) in subclause (III)(aa), by striking "section 3(i)" and inserting "section 3(n)"; and

(cc) in subclause (VII), by striking "section 7(j)" and inserting "section 7(i)"; and

(II) in clause (v)—

(aa) by striking "countersigned food coupons or similar"; and

(bb) by striking "food coupons" and inserting "EBT cards"; and

(ii) in subparagraph (C)(i)(I), by striking "coupons" and inserting "EBT cards";

(C) in subsection (f), by striking "section 7(g)(2)" and inserting "section 7(f)(2)"; and

(D) in subsection (j), by striking "coupon" and inserting "benefit".

(13) Section 19(a)(2)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2028(a)(2)(A)(ii)) is amended by striking "section 3(o)(4)" and inserting "section 3(u)(4)".

(14) Section 21 of the Food and Nutrition Act of 2008 (7 U.S.C. 2030) is repealed.

(15) Section 22 of the Food and Nutrition Act of 2008 (7 U.S.C. 2031) is amended—

(A) by striking "food coupons" each place it appears and inserting "benefits";

(B) by striking "coupons" each place it appears and inserting "benefits"; and

(C) in subsection (g)(1)(A), by striking "coupon" and inserting "benefits".

(16) Section 26(f)(3) of the Food and Nutrition Act of 2008 (7 U.S.C. 2035(f)(3)) is amended—

(A) in subparagraph (A), by striking "subsections (a) through (g)" and inserting "subsections (a) through (f)"; and

(B) in subparagraph (E), by striking "(16), (18), (20), (24), and (25)" and inserting "(15), (17), (18), (22), and (23)".

(c) CONFORMING CROSS-REFERENCES.—

(1) IN GENERAL.—

(A) USE OF TERMS.—Each provision of law described in subparagraph (B) is amended (as applicable)—

(i) by striking "coupons" each place it appears and inserting "benefits";

(ii) by striking "coupon" each place it appears and inserting "benefit";

(iii) by striking "food coupons" each place it appears and inserting "benefits";

(iv) in each section heading, by striking "**FOOD COUPONS**" each place it appears and inserting "**BENEFITS**";

(v) by striking "food stamp coupon" each place it appears and inserting "benefit"; and

(vi) by striking "food stamps" each place it appears and inserting "benefits".

(B) PROVISIONS OF LAW.—The provisions of law referred to in subparagraph (A) are the following:

(i) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note; 107 Stat. 2418).

(ii) Section 1956(c)(7)(D) of title 18, United States Code.

(iii) Titles II through XIX of the Social Security Act (42 U.S.C. 401 et seq.). 42 USC 411, 503.

(iv) Section 401(b)(3) of the Social Security Amendments of 1972 (42 U.S.C. 1382e note; Public Law 92–603).

(v) The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). 42 USC 5179.

(vi) Section 802(d)(2)(A)(i)(II) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(2)(A)(i)(II)).

(2) DEFINITION REFERENCES.—

(A) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note; 107 Stat. 2418) is amended by striking "section 3(k)(1)" and inserting "section 3(p)(1)".

(B) Section 205 of the Food Stamp Program Improvements Act of 1994 (7 U.S.C. 2012 note; Public Law 103–225) is amended by striking "section 3(k) of such Act (as amended by section 201)" and inserting "section 3(p) of that Act".

(C) Section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (21 U.S.C. 862a) is amended—

(i) by striking "section 3(h)" each place it appears and inserting "section 3(l)"; and

(ii) in subsection (e)(2), by striking "section 3(m)" and inserting "section 3(s)".

(D) Section 402(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)) is amended—

(i) in paragraph (2)(F)(ii), by striking "section 3(r)" and inserting "section 3(j)"; and

(ii) in paragraph (3)(B), by striking "section 3(h)" and inserting "section 3(l)".

(E) Section 3803(c)(2)(C)(vii) of title 31, United States Code, is amended by striking "section 3(h)" and inserting "section 3(l)".

(F) Section 303(d)(4) of the Social Security Act (42 U.S.C. 503(d)(4)) is amended by striking "section 3(n)(1)" and inserting "section 3(t)(1)".

(G) Section 404 of the Social Security Act (42 U.S.C. 604) is amended by striking "section 3(h)" each place it appears and inserting "section 3(l)".

(H) Section 531 of the Social Security Act (42 U.S.C. 654) is amended by striking "section 3(h)" each place it appears and inserting "section 3(l)".

(I) Section 802(d)(2)(A)(i)(II) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(2)(A)(i)(II)) is amended by striking "(as defined in section 3(e) of such Act)".

7 USC 2012 note.

(d) REFERENCES.—Any reference in any Federal, State, tribal, or local law (including regulations) to a "coupon", "authorization card", or other access device provided under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) shall be considered to be a reference to a "benefit" provided under that Act.

**SEC. 4116. REVIEW OF MAJOR CHANGES IN PROGRAM DESIGN.**

Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking the section enumerator and heading and subsection (a) and inserting the following:

**"SEC. 11. ADMINISTRATION.**

"(a) STATE RESPONSIBILITY.—

"(1) IN GENERAL.—The State agency of each participating State shall have responsibility for certifying applicant households and issuing EBT cards.

"(2) LOCAL ADMINISTRATION.—The responsibility of the agency of the State government shall not be affected by whether the program is operated on a State-administered or county-administered basis, as provided under section 3(t)(1).

"(3) RECORDS.—

"(A) IN GENERAL.—Each State agency shall keep such records as may be necessary to determine whether the program is being conducted in compliance with this Act (including regulations issued under this Act).

"(B) INSPECTION AND AUDIT.—Records described in subparagraph (A) shall—

"(i) be available for inspection and audit at any reasonable time;

"(ii) subject to subsection (e)(8), be available for review in any action filed by a household to enforce

any provision of this Act (including regulations issued under this Act); and

"(iii) be preserved for such period of not less than 3 years as may be specified in regulations.

"(4) REVIEW OF MAJOR CHANGES IN PROGRAM DESIGN.—

"(A) IN GENERAL.—The Secretary shall develop standards for identifying major changes in the operations of a State agency, including—

"(i) large or substantially-increased numbers of low-income households that do not live in reasonable proximity to an office performing the major functions described in subsection (e);

"(ii) substantial increases in reliance on automated systems for the performance of responsibilities previously performed by personnel described in subsection (e)(6)(B);

"(iii) changes that potentially increase the difficulty of reporting information under subsection (e) or section 6(c); and

"(iv) changes that may disproportionately increase the burdens on any of the types of households described in subsection (e)(2)(A).

"(B) NOTIFICATION.—If a State agency implements a major change in operations, the State agency shall—

"(i) notify the Secretary; and

"(ii) collect such information as the Secretary shall require to identify and correct any adverse effects on program integrity or access, including access by any of the types of households described in subsection (e)(2)(A).".

**SEC. 4117. CIVIL RIGHTS COMPLIANCE.**

Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking subsection (c) and inserting the following:

"(c) CIVIL RIGHTS COMPLIANCE.—

"(1) IN GENERAL.—In the certification of applicant households for the supplemental nutrition assistance program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political affiliation.

"(2) RELATION TO OTHER LAWS.—The administration of the program by a State agency shall be consistent with the rights of households under the following laws (including implementing regulations):

"(A) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

"(B) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(C) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(D) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).".

**SEC. 4118. CODIFICATION OF ACCESS RULES.**

Section 11(e)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(1)) is amended—

(1) by striking "shall (A) at" and inserting "shall—

"(A) at"; and

(2) by striking "and (B) use" and inserting "and

"(B) comply with regulations of the Secretary requiring the use of".

**SEC. 4119. STATE OPTION FOR TELEPHONIC SIGNATURE.**

Section 11(e)(2)(C) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(2)(C)) is amended—

(1) by striking "(C) Nothing in this Act" and inserting the following:

"(C) ELECTRONIC AND AUTOMATED SYSTEMS.—

"(i) IN GENERAL.—Nothing in this Act"; and

(2) by adding at the end the following:

"(ii) STATE OPTION FOR TELEPHONIC SIGNATURE.—A State agency may establish a system by which an applicant household may sign an application through a recorded verbal assent over the telephone.

"(iii) REQUIREMENTS.—A system established under clause (ii) shall—

"(I) record for future reference the verbal assent of the household member and the information to which assent was given;

"(II) include effective safeguards against impersonation, identity theft, and invasions of privacy;

"(III) not deny or interfere with the right of the household to apply in writing;

"(IV) promptly provide to the household member a written copy of the completed application, with instructions for a simple procedure for correcting any errors or omissions;

"(V) comply with paragraph (1)(B);

"(VI) satisfy all requirements for a signature on an application under this Act and other laws applicable to the supplemental nutrition assistance program, with the date on which the household member provides verbal assent considered as the date of application for all purposes; and

"(VII) comply with such other standards as the Secretary may establish.".

**SEC. 4120. PRIVACY PROTECTIONS.**

Section 11(e)(8) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(8)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "limit" and inserting "prohibit"; and

(B) by striking "to persons" and all that follows through "State programs";

(2) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively;

(3) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) the safeguards shall permit—

"(i) the disclosure of such information to persons directly connected with the administration or enforcement of the provisions of this Act, regulations issued pursuant to this Act, Federal assistance programs, or federally-assisted State programs; and

"(ii) the subsequent use of the information by persons described in clause (i) only for such administration or enforcement;"; and

(4) in subparagraph (F) (as so redesignated) by inserting "or subsection (u)" before the semicolon at the end.

**SEC. 4121. PRESERVATION OF ACCESS AND PAYMENT ACCURACY.**

Section 16 of the Food and Nutrition Act of 2008 (7 U.S.C. 2025) is amended by striking subsection (g) and inserting the following:

"(g) COST SHARING FOR COMPUTERIZATION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary is authorized to pay to each State agency the amount provided under subsection (a)(6) for the costs incurred by the State agency in the planning, design, development, or installation of 1 or more automatic data processing and information retrieval systems that the Secretary determines—

"(A) would assist in meeting the requirements of this Act;

"(B) meet such conditions as the Secretary prescribes;

"(C) are likely to provide more efficient and effective administration of the supplemental nutrition assistance program;

"(D) would be compatible with other systems used in the administration of State programs, including the program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(E) would be tested adequately before and after implementation, including through pilot projects in limited areas for major systems changes as determined under rules promulgated by the Secretary, data from which shall be thoroughly evaluated before the Secretary approves the system to be implemented more broadly; and

"(F) would be operated in accordance with an adequate plan for—

"(i) continuous updating to reflect changed policy and circumstances; and

"(ii) testing the effect of the system on access for eligible households and on payment accuracy.

"(2) LIMITATION.—The Secretary shall not make payments to a State agency under paragraph (1) to the extent that the State agency—

"(A) is reimbursed for the costs under any other Federal program; or

"(B) uses the systems for purposes not connected with the supplemental nutrition assistance program.".

**SEC. 4122. FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.**

Section 16(h)(1)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(h)(1)(A)) is amended in subparagraph (A), by striking "to remain available until expended" and inserting "to remain available for 15 months".

## PART IV—PROGRAM INTEGRITY

Regulations.

**SEC. 4131. ELIGIBILITY DISQUALIFICATION.**

Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended by adding at the end the following:

"(p) DISQUALIFICATION FOR OBTAINING CASH BY DESTROYING FOOD AND COLLECTING DEPOSITS.—Subject to any requirements established by the Secretary, any person who has been found by a State or Federal court or administrative agency in a hearing under subsection (b) to have intentionally obtained cash by purchasing products with supplemental nutrition assistance program benefits that have containers that require return deposits, discarding the product, and returning the container for the deposit amount shall be ineligible for benefits under this Act for such period of time as the Secretary shall prescribe by regulation.

"(q) DISQUALIFICATION FOR SALE OF FOOD PURCHASED WITH SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS.—Subject to any requirements established by the Secretary, any person who has been found by a State or Federal court or administrative agency in a hearing under subsection (b) to have intentionally sold any food that was purchased using supplemental nutrition assistance program benefits shall be ineligible for benefits under this Act for such period of time as the Secretary shall prescribe by regulation.".

**SEC. 4132. CIVIL PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.**

Section 12 of the Food and Nutrition Act of 2008 (7 U.S.C. 2021) is amended—

(1) by striking the section designation and heading and all that follows through the end of subsection (a) and inserting the following:

**"SEC. 12. CIVIL PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.**

"(a) DISQUALIFICATION.—

"(1) IN GENERAL.—An approved retail food store or wholesale food concern that violates a provision of this Act or a regulation under this Act may be—

"(A) disqualified for a specified period of time from further participation in the supplemental nutrition assistance program;

"(B) assessed a civil penalty of up to $100,000 for each violation; or

"(C) both.

"(2) REGULATIONS.—Regulations promulgated under this Act shall provide criteria for the finding of a violation of, the suspension or disqualification of and the assessment of a civil penalty against a retail food store or wholesale food concern on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system.";

(2) in subsection (b)—

(A) by striking "(b) Disqualification" and inserting the following:

"(b) PERIOD OF DISQUALIFICATION.—Subject to subsection (c), a disqualification";

(B) in paragraph (1), by striking "of no less than six months nor more than five years" and inserting "not to exceed 5 years";

(C) in paragraph (2), by striking "of no less than twelve months nor more than ten years" and inserting "not to exceed 10 years";

(D) in paragraph (3)(B)—

(i) by inserting "or a finding of the unauthorized redemption, use, transfer, acquisition, alteration, or possession of EBT cards" after "concern" the first place it appears; and

(ii) by striking "civil money penalties" and inserting "civil penalties"; and

(E) by striking "civil money penalty" each place it appears and inserting "civil penalty";

(3) in subsection (c)—

(A) by striking "(c) The action" and inserting the following:

"(c) CIVIL PENALTY AND REVIEW OF DISQUALIFICATION AND PENALTY DETERMINATIONS.—

"(1) CIVIL PENALTY.—In addition to a disqualification under this section, the Secretary may assess a civil penalty in an amount not to exceed $100,000 for each violation.

"(2) REVIEW.—The action"; and

(B) in paragraph (2) (as designated by subparagraph (A)), by striking "civil money penalty" and inserting "civil penalty";

(4) in subsection (d)—

(A) by striking "(d)" and all that follows through ". The Secretary shall" and inserting the following:

"(d) CONDITIONS OF AUTHORIZATION.—

"(1) IN GENERAL.—As a condition of authorization to accept and redeem benefits, the Secretary may require a retail food store or wholesale food concern that, pursuant to subsection (a), has been disqualified for more than 180 days, or has been subjected to a civil penalty in lieu of a disqualification period of more than 180 days, to furnish a collateral bond or irrevocable letter of credit for a period of not more than 5 years to cover the value of benefits that the store or concern may in the future accept and redeem in violation of this Act.

"(2) COLLATERAL.—The Secretary also may require a retail food store or wholesale food concern that has been sanctioned for a violation and incurs a subsequent sanction regardless of the length of the disqualification period to submit a collateral bond or irrevocable letter of credit.

"(3) BOND REQUIREMENTS.—The Secretary shall";

(B) by striking "If the Secretary finds" and inserting the following

"(4) FORFEITURE.—If the Secretary finds"; and

(C) by striking "Such store or concern" and inserting the following:

"(5) HEARING.—A store or concern described in paragraph (4)";

(5) in subsection (e), by striking "civil money penalty" each place it appears and inserting "civil penalty"; and

(6) by adding at the end the following:

"(h) FLAGRANT VIOLATIONS.—

Procedures.

"(1) IN GENERAL.—The Secretary, in consultation with the Inspector General of the Department of Agriculture, shall establish procedures under which the processing of program benefit redemptions for a retail food store or wholesale food concern may be immediately suspended pending administrative action to disqualify the retail food store or wholesale food concern.

"(2) REQUIREMENTS.—Under the procedures described in paragraph (1), if the Secretary, in consultation with the Inspector General, determines that a retail food store or wholesale food concern is engaged in flagrant violations of this Act (including regulations promulgated under this Act), unsettled program benefits that have been redeemed by the retail food store or wholesale food concern—

"(A) may be suspended; and

"(B)(i) if the program disqualification is upheld, may be subject to forfeiture pursuant to section 15(g); or

"(ii) if the program disqualification is not upheld, shall be released to the retail food store or wholesale food concern.

"(3) NO LIABILITY FOR INTEREST.—The Secretary shall not be liable for the value of any interest on funds suspended under this subsection.".

**SEC. 4133. MAJOR SYSTEMS FAILURES.**

Section 13(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2022(b)) is amended by adding at the end the following:

"(5) OVERISSUANCES CAUSED BY SYSTEMIC STATE ERRORS.—

"(A) IN GENERAL.—If the Secretary determines that a State agency overissued benefits to a substantial number of households in a fiscal year as a result of a major systemic error by the State agency, as defined by the Secretary, the Secretary may prohibit the State agency from collecting these overissuances from some or all households.

"(B) PROCEDURES.—

"(i) INFORMATION REPORTING BY STATES.—Every State agency shall provide to the Secretary all information requested by the Secretary concerning the issuance of benefits to households by the State agency in the applicable fiscal year.

"(ii) FINAL DETERMINATION.—After reviewing relevant information provided by a State agency, the Secretary shall make a final determination—

"(I) whether the State agency overissued benefits to a substantial number of households as a result of a systemic error in the applicable fiscal year; and

"(II) as to the amount of the overissuance in the applicable fiscal year for which the State agency is liable.

"(iii) ESTABLISHING A CLAIM.—Upon determining under clause (ii) that a State agency has overissued benefits to households due to a major systemic error determined under subparagraph (A), the Secretary shall establish a claim against the State agency equal

to the value of the overissuance caused by the systemic error.

"(iv) ADMINISTRATIVE AND JUDICIAL REVIEW.— Applicability.
Administrative and judicial review, as provided in section 14, shall apply to the final determinations by the Secretary under clause (ii).

"(v) REMISSION TO THE SECRETARY.—

"(I) DETERMINATION NOT APPEALED.—If the determination of the Secretary under clause (ii) is not appealed, the State agency shall, as soon as practicable, remit to the Secretary the dollar amount specified in the claim under clause (iii).

"(II) DETERMINATION APPEALED.—If the determination of the Secretary under clause (ii) is appealed, upon completion of administrative and judicial review under clause (iv), and a finding of liability on the part of the State, the appealing State agency shall, as soon as practicable, remit to the Secretary a dollar amount subject to the finding made in the administrative and judicial review.

"(vi) ALTERNATIVE METHOD OF COLLECTION.—

"(I) IN GENERAL.—If a State agency fails to make a payment under clause (v) within a reasonable period of time, as determined by the Secretary, the Secretary may reduce any amount due to the State agency under any other provision of this Act by the amount due.

"(II) ACCRUAL OF INTEREST.—During the period of time determined by the Secretary to be reasonable under subclause (I), interest in the amount owed shall not accrue.

"(vii) LIMITATION.—Any liability amount established under section 16(c)(1)(C) shall be reduced by the amount of the claim established under this subparagraph.".

## PART V—MISCELLANEOUS

### SEC. 4141. PILOT PROJECTS TO EVALUATE HEALTH AND NUTRITION PROMOTION IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended by adding at the end the following:

"(k) PILOT PROJECTS TO EVALUATE HEALTH AND NUTRITION PROMOTION IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out, under such terms and conditions as the Secretary considers to be appropriate, pilot projects to develop and test methods—

"(A) of using the supplemental nutrition assistance program to improve the dietary and health status of households eligible for or participating in the supplemental nutrition assistance program; and

"(B) to reduce overweight, obesity (including childhood obesity), and associated co-morbidities in the United States.

"(2) GRANTS.—

"(A) IN GENERAL.—In carrying out this subsection, the Secretary may enter into competitively awarded contracts or cooperative agreements with, or provide grants to, public or private organizations or agencies (as defined by the Secretary), for use in accordance with projects that meet the strategy goals of this subsection.

"(B) APPLICATION.—To be eligible to receive a contract, cooperative agreement, or grant under this paragraph, an organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(C) SELECTION CRITERIA.—Pilot projects shall be evaluated against publicly disseminated criteria that may include—

"(i) identification of a low-income target audience that corresponds to individuals living in households with incomes at or below 185 percent of the poverty level;

"(ii) incorporation of a scientifically based strategy that is designed to improve diet quality through more healthful food purchases, preparation, or consumption;

"(iii) a commitment to a pilot project that allows for a rigorous outcome evaluation, including data collection;

"(iv) strategies to improve the nutritional value of food served during school hours and during after-school hours;

"(v) innovative ways to provide significant improvement to the health and wellness of children;

"(vi) other criteria, as determined by the Secretary.

"(D) USE OF FUNDS.—Funds provided under this paragraph shall not be used for any project that limits the use of benefits under this Act.

"(3) PROJECTS.—Pilot projects carried out under paragraph (1) may include projects to determine whether healthier food purchases by and healthier diets among households participating in the supplemental nutrition assistance program result from projects that—

"(A) increase the supplemental nutrition assistance purchasing power of the participating households by providing increased supplemental nutrition assistance program benefit allotments to the participating households;

"(B) increase access to farmers markets by participating households through the electronic redemption of supplemental nutrition assistance program benefits at farmers' markets;

"(C) provide incentives to authorized supplemental nutrition assistance program retailers to increase the availability of healthy foods to participating households;

"(D) subject authorized supplemental nutrition assistance program retailers to stricter retailer requirements with respect to carrying and stocking healthful foods;

"(E) provide incentives at the point of purchase to encourage households participating in the supplemental nutrition assistance program to purchase fruits, vegetables, or other healthful foods; or

"(F) provide to participating households integrated communication and education programs, including the provision of funding for a portion of a school-based nutrition coordinator to implement a broad nutrition action plan and parent nutrition education programs in elementary schools, separately or in combination with pilot projects carried out under subparagraphs (A) through (E).

"(4) EVALUATION AND REPORTING.—

"(A) EVALUATION.—

"(i) INDEPENDENT EVALUATION.—

"(I) IN GENERAL.—The Secretary shall provide for an independent evaluation of projects selected under this subsection that measures the impact of the pilot program on health and nutrition as described in paragraph (1).

"(II) REQUIREMENT.—The independent evaluation under subclause (I) shall use rigorous methodologies, particularly random assignment or other methods that are capable of producing scientifically valid information regarding which activities are effective.

"(ii) COSTS.—The Secretary may use funds provided to carry out this section to pay costs associated with monitoring and evaluating each pilot project.

"(B) REPORTING.—Not later than 90 days after the last day of fiscal year 2009 and each fiscal year thereafter until the completion of the last evaluation under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

"(i) the status of each pilot project;

"(ii) the results of the evaluation completed during the previous fiscal year; and

"(iii) to the maximum extent practicable—

"(I) the impact of the pilot project on appropriate health, nutrition, and associated behavioral outcomes among households participating in the pilot project;

"(II) baseline information relevant to the stated goals and desired outcomes of the pilot project; and

"(III) equivalent information about similar or identical measures among control or comparison groups that did not participate in the pilot project.

"(C) PUBLIC DISSEMINATION.—In addition to the reporting requirements under subparagraph (B), evaluation results shall be shared broadly to inform policy makers, service providers, other partners, and the public in order to promote wide use of successful strategies.

"(5) FUNDING.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

"(B) MANDATORY FUNDING.—Out of any funds made available under section 18, on October 1, 2008, the Secretary shall make available $20,000,000 to carry out a project described in paragraph (3)(E), to remain available until expended.".

**SEC. 4142. STUDY ON COMPARABLE ACCESS TO SUPPLEMENTAL NUTRITION ASSISTANCE FOR PUERTO RICO.**

(a) IN GENERAL.—The Secretary shall carry out a study of the feasibility and effects of including the Commonwealth of Puerto Rico in the definition of the term "State" under section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), in lieu of providing block grants under section 19 of that Act (7 U.S.C. 2028).

(b) INCLUSIONS.—The study shall include—

(1) an assessment of the administrative, financial management, and other changes that would be necessary for the Commonwealth to establish a comparable supplemental nutrition assistance program, including compliance with appropriate program rules under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), such as—

(A) benefit levels under section 3(u) of that Act (7 U.S.C. 2012(u));

(B) income eligibility standards under sections 5(c) and 6 of that Act (7 U.S.C. 2014(c), 2015); and

(C) deduction levels under section 5(e) of that Act (7 U.S.C. 2014(e));

(2) an estimate of the impact on Federal and Commonwealth benefit and administrative costs;

(3) an assessment of the impact of the program on low-income Puerto Ricans, as compared to the program under section 19 of that Act (7 U.S.C. 2028); and

(4) such other matters as the Secretary considers to be appropriate.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under this section.

(d) FUNDING.—

Transfer date.

(1) IN GENERAL.—On October 1, 2008, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $1,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

# Subtitle B—Food Distribution Programs

## PART I—EMERGENCY FOOD ASSISTANCE PROGRAM

**SEC. 4201. EMERGENCY FOOD ASSISTANCE.**

(a) PURCHASE OF COMMODITIES.—Section 27(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)) is amended by –

(1) by striking "(A) PURCHASE OF COMMODITIES" and all that follows through "$140,000,000 of" and inserting the following:

"(a) PURCHASE OF COMMODITIES.—

"(1) IN GENERAL.—From amounts made available to carry out this Act, for each of the fiscal years 2008 through 2012, the Secretary shall purchase a dollar amount described in paragraph (2) of"; and

(2) by adding at the end the following:

"(2) AMOUNTS.—The Secretary shall use to carry out paragraph (1)—

"(A) for fiscal year 2008, $190,000,000;

"(B) for fiscal year 2009, $250,000,000; and

"(C) for each of fiscal years 2010 through 2012, the dollar amount of commodities specified in subparagraph (B) adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(u)(4) between June 30, 2008, and June 30 of the immediately preceding fiscal year.".

(b) STATE PLANS.—Section 202A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7503) is amended by striking subsection (a) and inserting the following:

"(a) PLANS.—

"(1) IN GENERAL.—To receive commodities under this Act, a State shall submit to the Secretary an operation and administration plan for the provision of benefits under this Act.

"(2) UPDATES.—A State shall submit to the Secretary for approval any amendment to a plan submitted under paragraph (1) in any case in which the State proposes to make a change to the operation or administration of a program described in the plan.".

(c) AUTHORIZATION AND APPROPRIATIONS.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence—

(1) by striking "$60,000,000" and inserting "$100,000,000"; and

(2) by inserting "and donated wild game" before the period at the end.

**SEC. 4202. EMERGENCY FOOD PROGRAM INFRASTRUCTURE GRANTS.**

The Emergency Food Assistance Act of 1983 is amended by inserting after section 208 (7 U.S.C. 7511) the following:

**"SEC. 209. EMERGENCY FOOD PROGRAM INFRASTRUCTURE GRANTS.** 7 USC 7511a.

"(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means an emergency feeding organization.

"(b) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall use funds made available under subsection (d) to make grants to eligible entities to pay the costs of an activity described in subsection (c).

"(2) RURAL PREFERENCE.—The Secretary shall use not less than 50 percent of the funds described in paragraph (1) for a fiscal year to make grants to eligible entities that serve predominantly rural communities for the purposes of—

"(A) expanding the capacity and infrastructure of food banks, State-wide food bank associations, and food bank collaboratives that operate in rural areas; and

"(B) improving the capacity of the food banks to procure, receive, store, distribute, track, and deliver time-sensitive or perishable food products.

"(c) USE OF FUNDS.—An eligible entity shall use a grant received under this section for any fiscal year to carry out activities of the eligible entity, including—

"(1) the development and maintenance of a computerized system for the tracking of time-sensitive food products;

"(2) capital, infrastructure, and operating costs associated with the collection, storage, distribution, and transportation of time-sensitive and perishable food products;

"(3) improving the security and diversity of the emergency food distribution and recovery systems of the United States through the support of small or mid-size farms and ranches, fisheries, and aquaculture, and donations from local food producers and manufacturers to persons in need;

"(4) providing recovered foods to food banks and similar nonprofit emergency food providers to reduce hunger in the United States;

"(5) improving the identification of—

"(A) potential providers of donated foods;

"(B) potential nonprofit emergency food providers; and

"(C) persons in need of emergency food assistance in rural areas; and

"(6) constructing, expanding, or repairing a facility or equipment to support hunger relief agencies in the community.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2008 through 2012.".

## PART II—FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS

### SEC. 4211. ASSESSING THE NUTRITIONAL VALUE OF THE FDPIR FOOD PACKAGE.

(a) IN GENERAL.—Section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013) is amended by striking subsection (b) and inserting the following:

"(b) FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.—

"(1) IN GENERAL.—Distribution of commodities, with or without the supplemental nutrition assistance program, shall be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization.

"(2) ADMINISTRATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the event of distribution on all or part of an Indian reservation, the appropriate agency of the State government in the area involved shall be responsible for the distribution.

"(B) ADMINISTRATION BY TRIBAL ORGANIZATION.—If the Secretary determines that a tribal organization is capable of effectively and efficiently administering a distribution described in paragraph (1), then the tribal organization shall administer the distribution.

"(C) PROHIBITION.—The Secretary shall not approve any plan for a distribution described in paragraph (1) that

permits any household on any Indian reservation to participate simultaneously in the supplemental nutrition assistance program and the program established under this subsection.

"(3) DISQUALIFIED PARTICIPANTS.—An individual who is disqualified from participation in the food distribution program on Indian reservations under this subsection is not eligible to participate in the supplemental nutrition assistance program under this Act for a period of time to be determined by the Secretary.

"(4) ADMINISTRATIVE COSTS.—The Secretary is authorized to pay such amounts for administrative costs and distribution costs on Indian reservations as the Secretary finds necessary for effective administration of such distribution by a State agency or tribal organization.

"(5) BISON MEAT.—Subject to the availability of appropriations to carry out this paragraph, the Secretary may purchase bison meat for recipients of food distributed under this subsection, including bison meat from—

"(A) Native American bison producers; and

"(B) producer–owned cooperatives of bison ranchers.

"(6) TRADITIONAL AND LOCALLY-GROWN FOOD FUND.—

"(A) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a fund for use in purchasing traditional and locally-grown foods for recipients of food distributed under this subsection.

"(B) NATIVE AMERICAN PRODUCERS.—Where practicable, of the food provided under subparagraph (A), at least 50 percent shall be produced by Native American farmers, ranchers, and producers.

"(C) DEFINITION OF TRADITIONAL AND LOCALLY GROWN.—The Secretary shall determine the definition of the term 'traditional and locally-grown' with respect to food distributed under this paragraph.

"(D) SURVEY.—In carrying out this paragraph, the Secretary shall—

"(i) survey participants of the food distribution program on Indian reservations established under this subsection to determine which traditional foods are most desired by those participants; and

"(ii) purchase or offer to purchase those traditional foods that may be procured cost-effectively.

"(E) REPORT.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the activities carried out under this paragraph during the preceding calendar year.

"(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this paragraph $5,000,000 for each of fiscal years 2008 through 2012.".

(b) FDPIR FOOD PACKAGE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives

Deadline.
Reports.

and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—

(1) how the Secretary derives the process for determining the food package under the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)) (referred to in this subsection as the "food package");

(2) the extent to which the food package—

(A) addresses the nutritional needs of low-income Native Americans compared to the supplemental nutrition assistance program, particularly for very low-income households;

(B) conforms (or fails to conform) to the 2005 Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341);

(C) addresses (or fails to address) the nutritional and health challenges that are specific to Native Americans; and

(D) is limited by distribution costs or challenges in infrastructure; and

(3)(A) any plans of the Secretary to revise and update the food package to conform with the most recent Dietary Guidelines for Americans, including any costs associated with the planned changes; or

(B) if the Secretary does not plan changes to the food package, the rationale of the Secretary for retaining the food package.

## PART III—COMMODITY SUPPLEMENTAL FOOD PROGRAM

### SEC. 4221. COMMODITY SUPPLEMENTAL FOOD PROGRAM.

Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended by striking subsection (g) and inserting the following:

"(g) PROHIBITION.—Notwithstanding any other provision of law (including regulations), the Secretary may not require a State or local agency to prioritize assistance to a particular group of individuals that are—

"(1) low-income persons aged 60 and older; or

"(2) women, infants, and children.".

## PART IV—SENIOR FARMERS' MARKET NUTRITION PROGRAM

### SEC. 4231. SENIORS FARMERS' MARKET NUTRITION PROGRAM.

Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended—

(1) in subsection (b)(1), by inserting "honey," after "vegetables,";

(2) by striking subsection (c) and inserting the following:

"(c) EXCLUSION OF BENEFITS IN DETERMINING ELIGIBILITY FOR OTHER PROGRAMS.—The value of any benefit provided to any eligible seniors farmers' market nutrition program recipient under this

section shall not be considered to be income or resources for any purposes under any Federal, State, or local law."; and

(3) by adding at the end the following:

"(d) PROHIBITION ON COLLECTION OF SALES TAX.—Each State shall ensure that no State or local tax is collected within the State on a purchase of food with a benefit distributed under the seniors farmers' market nutrition program.

"(e) REGULATIONS.—The Secretary may promulgate such regulations as the Secretary considers to be necessary to carry out the seniors farmers' market nutrition program.".

# Subtitle C—Child Nutrition and Related Programs

**SEC. 4301. STATE PERFORMANCE ON ENROLLING CHILDREN RECEIVING PROGRAM BENEFITS FOR FREE SCHOOL MEALS.**

42 USC 1758a.

(a) IN GENERAL.—Not later than December 31, 2008 and June 30 of each year thereafter, the Secretary shall submit to the Committees on Agriculture and Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that assesses the effectiveness of each State in enrolling school-aged children in households receiving program benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (referred to in this section as "program benefits") for free school meals using direct certification.

Deadline. Reports.

(b) SPECIFIC MEASURES.—The assessment of the Secretary of the performance of each State shall include—

(1) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year;

(2) an estimate of the number of school-aged children, by State, who were directly certified as eligible for free lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), based on receipt of program benefits, as of October 1 of the prior year; and

(3) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year who were not candidates for direct certification because on October 1 of the prior year the children attended a school operating under the special assistance provisions of section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) that is not operating in a base year.

(c) PERFORMANCE INNOVATIONS.—The report of the Secretary shall describe best practices from States with the best performance or the most improved performance from the previous year.

**SEC. 4302. PURCHASES OF LOCALLY PRODUCED FOODS.**

Section 9(j) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(j)) is amended to read as follows:

"(j) PURCHASES OF LOCALLY PRODUCED FOODS.—The Secretary shall—

"(1) encourage institutions receiving funds under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to purchase unprocessed agricultural products, both locally grown and locally raised, to the maximum extent practicable and appropriate;

Web site.

"(2) advise institutions participating in a program described in paragraph (1) of the policy described in that paragraph and paragraph (3) and post information concerning the policy on the website maintained by the Secretary; and

"(3) allow institutions receiving funds under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), including the Department of Defense Fresh Fruit and Vegetable Program, to use a geographic preference for the procurement of unprocessed agricultural products, both locally grown and locally raised.".

**SEC. 4303. HEALTHY FOOD EDUCATION AND PROGRAM REPLICABILITY.**

Section 18(h) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(h)) is amended—

(1) in paragraph (1)(C), by inserting "promotes healthy food education in the school curriculum and" before "incorporates";

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following:

"(2) ADMINISTRATION.—In providing grants under paragraph (1), the Secretary shall give priority to projects that can be replicated in schools.

"(3) PILOT PROGRAM FOR HIGH-POVERTY SCHOOLS.—

"(A) DEFINITIONS.—In this paragraph:

"(i) ELIGIBLE PROGRAM.—The term 'eligible program' means—

"(I) a school-based program with hands-on vegetable gardening and nutrition education that is incorporated into the curriculum for 1 or more grades at 2 or more eligible schools; or

"(II) a community-based summer program with hands-on vegetable gardening and nutrition education that is part of, or coordinated with, a summer enrichment program at 2 or more eligible schools.

"(ii) ELIGIBLE SCHOOL.—The term 'eligible school' means a public school, at least 50 percent of the students of which are eligible for free or reduced price meals under this Act.

"(B) ESTABLISHMENT.—The Secretary shall carry out a pilot program under which the Secretary shall provide to nonprofit organizations or public entities in not more than 5 States grants to develop and run, through eligible programs, community gardens at eligible schools in the States that would—

"(i) be planted, cared for, and harvested by students at the eligible schools; and

"(ii) teach the students participating in the community gardens about agriculture production practices and diet.

"(C) PRIORITY STATES.—Of the States in which grantees under this paragraph are located—

"(i) at least 1 State shall be among the 15 largest States, as determined by the Secretary;

"(ii) at least 1 State shall be among the 16th to 30th largest States, as determined by the Secretary; and

"(iii) at least 1 State shall be a State that is not described in clause (i) or (ii).

"(D) USE OF PRODUCE.—Produce from a community garden provided a grant under this paragraph may be—

"(i) used to supplement food provided at the eligible school;

"(ii) distributed to students to bring home to the families of the students; or

"(iii) donated to a local food bank or senior center nutrition program.

"(E) NO COST-SHARING REQUIREMENT.—A nonprofit organization or public entity that receives a grant under this paragraph shall not be required to share the cost of carrying out the activities assisted under this paragraph.

"(F) EVALUATION.—A nonprofit organization or public entity that receives a grant under this paragraph shall be required to cooperate in an evaluation in accordance with paragraph (1)(H).".

**SEC. 4304. FRESH FRUIT AND VEGETABLE PROGRAM.**

(a) PROGRAM.—

(1) IN GENERAL.—The Richard B. Russell National School Lunch Act is amended by inserting after section 18 (42 U.S.C. 1769) the following:

**"SEC. 19. FRESH FRUIT AND VEGETABLE PROGRAM.**

42 USC 1769a.

Grants.

"(a) IN GENERAL.—For the school year beginning July 2008 and each subsequent school year, the Secretary shall provide grants to States to carry out a program to make free fresh fruits and vegetables available in elementary schools (referred to in this section as the 'program').

"(b) PROGRAM.—A school participating in the program shall make free fresh fruits and vegetables available to students throughout the school day (or at such other times as are considered appropriate by the Secretary) in 1 or more areas designated by the school.

"(c) FUNDING TO STATES.—

"(1) MINIMUM GRANT.—Except as provided in subsection (i)(2), the Secretary shall provide to each of the 50 States and the District of Columbia an annual grant in an amount equal to 1 percent of the funds made available for a year to carry out the program.

"(2) ADDITIONAL FUNDING.—Of the funds remaining after grants are made under paragraph (1), the Secretary shall allocate additional funds to each State that is operating a school lunch program under section 4 based on the proportion that—

"(A) the population of the State; bears to

"(B) the population of the United States.

"(d) SELECTION OF SCHOOLS.—

"(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and section 4304(a)(2) of the Food, Conservation, and Energy Act of 2008, each year, in selecting schools to participate in the program, each State shall—

"(A) ensure that each school chosen to participate in the program is a school—

"(i) in which not less than 50 percent of the students are eligible for free or reduced price meals under this Act; and

"(ii) that submits an application in accordance with subparagraph (D);

"(B) to the maximum extent practicable, give the highest priority to schools with the highest proportion of children who are eligible for free or reduced price meals under this Act;

"(C) ensure that each school selected is an elementary school (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801));

"(D) solicit applications from interested schools that include—

"(i) information pertaining to the percentage of students enrolled in the school submitting the application who are eligible for free or reduced price school lunches under this Act;

"(ii) a certification of support for participation in the program signed by the school food manager, the school principal, and the district superintendent (or equivalent positions, as determined by the school);

"(iii) a plan for implementation of the program, including efforts to integrate activities carried out under this section with other efforts to promote sound health and nutrition, reduce overweight and obesity, or promote physical activity; and

"(iv) such other information as may be requested by the Secretary; and

"(E) encourage applicants to submit a plan for implementation of the program that includes a partnership with 1 or more entities that will provide non-Federal resources (including entities representing the fruit and vegetable industry).

"(2) EXCEPTION.—Clause (i) of paragraph (1)(A) shall not apply to a State if all schools that meet the requirements of that clause have been selected and the State does not have a sufficient number of additional schools that meet the requirement of that clause.

"(3) OUTREACH TO LOW-INCOME SCHOOLS.—

"(A) IN GENERAL.—Prior to making decisions regarding school participation in the program, a State agency shall inform the schools within the State with the highest proportion of free and reduced price meal eligibility, including Native American schools, of the eligibility of the schools for the program with respect to priority granted to schools with the highest proportion of free and reduced price eligibility under paragraph (1)(B).

"(B) REQUIREMENT.—In providing information to schools in accordance with subparagraph (A), a State

agency shall inform the schools that would likely be chosen to participate in the program under paragraph (1)(B).

"(e) NOTICE OF AVAILABILITY.—If selected to participate in the program, a school shall widely publicize within the school the availability of free fresh fruits and vegetables under the program.

"(f) PER-STUDENT GRANT.—The per-student grant provided to a school under this section shall be—

"(1) determined by a State agency; and

"(2) not less than $50, nor more than $75.

"(g) LIMITATION.—To the maximum extent practicable, each State agency shall ensure that in making the fruits and vegetables provided under this section available to students, schools offer the fruits and vegetables separately from meals otherwise provided at the school under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(h) EVALUATION AND REPORTS.—

"(1) IN GENERAL.—The Secretary shall conduct an evaluation of the program, including a determination as to whether children experienced, as a result of participating in the program—

"(A) increased consumption of fruits and vegetables;

"(B) other dietary changes, such as decreased consumption of less nutritious foods; and

"(C) such other outcomes as are considered appropriate by the Secretary.

"(2) REPORT.—Not later than September 30, 2011, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation under paragraph (1).

"(i) FUNDING.—

"(1) IN GENERAL.—Out of the funds made available under subsection (b)(2)(A) of section 14222 of the Food, Conservation, and Energy Act of 2008, the Secretary shall use the following amounts to carry out this section:

"(A) On October 1, 2008, $40,000,000.

"(B) On July 1, 2009, $65,000,000.

"(C) On July 1, 2010, $101,000,000.

"(D) On July 1, 2011, $150,000,000.

"(E) On July 1, 2012, and each July 1 thereafter, the amount made available for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending the preceding April 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.

"(2) MAINTENANCE OF EXISTING FUNDING.—In allocating funding made available under paragraph (1) among the States in accordance with subsection (c), the Secretary shall ensure that each State that received funding under section 18(f) on the day before the date of enactment of the Food, Conservation, and Energy Act of 2008 shall continue to receive sufficient funding under this section to maintain the caseload level of the State under that section as in effect on that date.

"(3) EVALUATION FUNDING.—On October 1, 2008, out of any funds made available under subsection (b)(2)(A) of section 14222 of the Food, Conservation, and Energy Act of 2008, Effective date.

the Secretary shall use to carry out the evaluation required under subsection (h), $3,000,000, to remain available for obligation until September 30, 2010.

"(4) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section any funds transferred for that purpose, without further appropriation.

"(5) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts made available to carry out this section, there are authorized to be appropriated such sums as are necessary to expand the program established under this section.

"(6) ADMINISTRATIVE COSTS.—

"(A) IN GENERAL.—Of funds made available to carry out this section for a fiscal year, the Secretary may use not more than $500,000 for the administrative costs of carrying out the program.

"(B) RESERVATION OF FUNDS.—The Secretary shall allow each State to reserve such funding as the Secretary determines to be necessary to administer the program in the State (with adjustments for the size of the State and the grant amount), but not to exceed the amount required to pay the costs of 1 full-time coordinator for the program in the State.

"(7) REALLOCATION.—

"(A) AMONG STATES.—The Secretary may reallocate any amounts made available to carry out this section that are not obligated or expended by a date determined by the Secretary.

"(B) WITHIN STATES.—A State that receives a grant under this section may reallocate any amounts made available under the grant that are not obligated or expended by a date determined by the Secretary.".

42 USC 1769a note.
Waiver authority.

(2) TRANSITION OF EXISTING SCHOOLS.—

(A) EXISTING SECONDARY SCHOOLS.—Section 19(d)(1)(C) of the Richard B. Russell National School Lunch Act (as amended by paragraph (1)) may be waived by a State until July 1, 2010, for each secondary school in the State that has been awarded funding under section 18(f) of that Act (42 U.S.C. 1769(f)) for the school year beginning July 1, 2008.

(B) SCHOOL YEAR BEGINNING JULY 1, 2008.—To facilitate transition from the program authorized under section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) (as in effect on the day before the date of enactment of this Act) to the program established under section 19 of that Act (as amended by paragraph (1))—

(i) for the school year beginning July 1, 2008, the Secretary may permit any school selected for participation under section 18(f) of that Act (42 U.S.C. 1769(f)) for that school year to continue to participate under section 19 of that Act until the end of that school year; and

(ii) funds made available under that Act for fiscal year 2009 may be used to support the participation of any schools selected to participate in the program authorized under section 18(f) of that Act (42 U.S.C.

1769(f)) (as in effect on the day before the date of enactment of this Act).

(b) CONFORMING AMENDMENTS.—Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) through (j) as subsections (f) through (i), respectively.

**SEC. 4305. WHOLE GRAIN PRODUCTS.** 42 USC 1755a.

(a) PURPOSE.—The purpose of this section is to encourage greater awareness and interest in the number and variety of whole grain products available to schoolchildren, as recommended by the 2005 Dietary Guidelines for Americans.

(b) DEFINITION OF ELIGIBLE WHOLE GRAINS AND WHOLE GRAIN PRODUCTS.—In this section, the terms "whole grains" and "whole grain products" have the meaning given the terms by the Food and Nutrition Service in the HealthierUS School Challenge.

(c) PURCHASE OF WHOLE GRAINS AND WHOLE GRAIN PRODUCTS.—In addition to the commodities delivered under section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755), the Secretary shall purchase whole grains and whole grain products for use in—

(1) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(2) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(d) EVALUATION.—Not later than September 30, 2011, the Secretary shall conduct an evaluation of the activities conducted under subsection (c) that includes— Deadline.

(1) an evaluation of whether children participating in the school lunch and breakfast programs increased their consumption of whole grains;

(2) an evaluation of which whole grains and whole grain products are most acceptable for use in the school lunch and breakfast programs;

(3) any recommendations of the Secretary regarding the integration of whole grain products in the school lunch and breakfast programs; and

(4) an evaluation of any other outcomes determined to be appropriate by the Secretary.

(e) REPORT.—As soon as practicable after the completion of the evaluation under subsection (d), the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and Labor of the House of Representative a report describing the results of the evaluation.

**SEC. 4306. BUY AMERICAN REQUIREMENTS.** 7 USC 2208 note.

(a) FINDINGS.—The Congress finds the following:

(1) Federal law requires that commodities and products purchased with Federal funds be, to the extent practicable, of domestic origin.

(2) Federal Buy American statutory requirements seek to ensure that purchases made with Federal funds benefit domestic producers.

(3) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) requires the use of domestic food

products for all meals served under the program, including food products purchased with local funds.

(b) BUY AMERICAN STATUTORY REQUIREMENTS.—The Department of Agriculture should undertake training, guidance, and enforcement of the various current Buy American statutory requirements and regulations, including those of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

**SEC. 4307. SURVEY OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.**

(a) IN GENERAL.—For fiscal year 2009, the Secretary shall carry out a nationally representative survey of the foods purchased during the most recent school year for which data is available by school authorities participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(b) REPORT.—

(1) IN GENERAL.—On completion of the survey, the Secretary shall submit to the Committees on Agriculture and Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the survey.

(2) INTERIM REQUIREMENT.—If the initial report required under paragraph (1) is not submitted to the Committees referred to in that paragraph by June 30, 2009, the Secretary shall submit to the Committees an interim report that describes the relevant survey data, or a sample of such data, available to the Secretary as of that date.

(c) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section not more than $3,000,000.

# Subtitle D—Miscellaneous

**SEC. 4401. BILL EMERSON NATIONAL HUNGER FELLOWS AND MICKEY LELAND INTERNATIONAL HUNGER FELLOWS.**

Section 4404 of the Farm Security and Rural Investment Act of 2002 (2 U.S.C. 1161) is amended to read as follows:

Bill Emerson National Hunger Fellows and Mickey Leland International Hunger Fellows Program Act of 2008.

**"SEC. 4404. BILL EMERSON NATIONAL HUNGER FELLOWS AND MICKEY LELAND INTERNATIONAL HUNGER FELLOWS.**

"(a) SHORT TITLE.—This section may be cited as the 'Bill Emerson National Hunger Fellows and Mickey Leland International Hunger Fellows Program Act of 2008'.

"(b) DEFINITIONS.—In this subsection:

"(1) DIRECTOR.—The term 'Director' means the head of the Congressional Hunger Center.

"(2) FELLOW.—The term 'fellow' means—

"(A) a Bill Emerson Hunger Fellow; or

"(B) Mickey Leland Hunger Fellow.

"(3) FELLOWSHIP PROGRAMS.—The term 'Fellowship Programs' means the Bill Emerson National Hunger Fellowship Program and the Mickey Leland International Hunger Fellowship Program established under subsection (c)(1).

"(c) FELLOWSHIP PROGRAMS.—

"(1) IN GENERAL.—There is established the Bill Emerson National Hunger Fellowship Program and the Mickey Leland International Hunger Fellowship Program.

"(2) PURPOSES.—

"(A) IN GENERAL.—The purposes of the Fellowship Programs are—

"(i) to encourage future leaders of the United States—

"(I) to pursue careers in humanitarian and public service;

"(II) to recognize the needs of low-income people and hungry people;

"(III) to provide assistance to people in need; and

"(IV) to seek public policy solutions to the challenges of hunger and poverty;

"(ii) to provide training and development opportunities for such leaders through placement in programs operated by appropriate organizations or entities; and

"(iii) to increase awareness of the importance of public service.

"(B) BILL EMERSON HUNGER FELLOWSHIP PROGRAM.—The purpose of the Bill Emerson Hunger Fellowship Program is to address hunger and poverty in the United States.

"(C) MICKEY LELAND HUNGER FELLOWSHIP PROGRAM.—The purpose of the Mickey Leland Hunger Fellowship Program is to address international hunger and other humanitarian needs.

"(3) ADMINISTRATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall offer to provide a grant to the Congressional Hunger Center to administer the Fellowship Programs. Grants.

"(B) TERMS OF GRANT.—The terms of the grant provided under subparagraph (A), including the length of the grant and provisions for the alteration or termination of the grant, shall be determined by the Secretary in accordance with this section.

"(d) FELLOWSHIPS.—

"(1) IN GENERAL.—The Director shall make available Bill Emerson Hunger Fellowships and Mickey Leland Hunger Fellowships in accordance with this subsection.

"(2) CURRICULUM.—

"(A) IN GENERAL.—The Fellowship Programs shall provide experience and training to develop the skills necessary to train fellows to carry out the purposes described in subsection (c)(2), including—

"(i) training in direct service programs for the hungry and other anti-hunger programs in conjunction with community-based organizations through a program of field placement; and

"(ii) providing experience in policy development through placement in a governmental entity or nongovernmental, nonprofit, or private sector organization.

"(B) WORK PLAN.—To carry out subparagraph (A) and assist in the evaluation of the fellowships under paragraph (6), the Director shall, for each fellow, approve a work

plan that identifies the target objectives for the fellow in the fellowship, including specific duties and responsibilities relating to those objectives.

"(3) PERIOD OF FELLOWSHIP.—

"(A) BILL EMERSON HUNGER FELLOW.—A Bill Emerson Hunger Fellowship awarded under this section shall be for not more than 15 months.

"(B) MICKEY LELAND HUNGER FELLOW.—A Mickey Leland Hunger Fellowship awarded under this section shall be for not more than 2 years.

"(4) SELECTION OF FELLOWS.—

"(A) IN GENERAL.—Fellowships shall be awarded pursuant to a nationwide competition established by the Director.

"(B) QUALIFICATIONS.—A successful program applicant shall be an individual who has demonstrated—

"(i) an intent to pursue a career in humanitarian services and outstanding potential for such a career;

"(ii) leadership potential or actual leadership experience;

"(iii) diverse life experience;

"(iv) proficient writing and speaking skills;

"(v) an ability to live in poor or diverse communities; and

"(vi) such other attributes as are considered to be appropriate by the Director.

"(5) AMOUNT OF AWARD.—

"(A) IN GENERAL.—A fellow shall receive—

"(i) a living allowance during the term of the Fellowship; and

"(ii) subject to subparagraph (B), an end-of-service award.

"(B) REQUIREMENT FOR SUCCESSFUL COMPLETION OF FELLOWSHIP.—Each fellow shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service completed, as determined by the Director.

"(C) TERMS OF FELLOWSHIP.—A fellow shall not be considered an employee of—

"(i) the Department of Agriculture;

"(ii) the Congressional Hunger Center; or

"(iii) a host agency in the field or policy placement of the fellow.

"(D) RECOGNITION OF FELLOWSHIP AWARD.—

"(i) EMERSON FELLOW.—An individual awarded a fellowship from the Bill Emerson Hunger Fellowship shall be known as an 'Emerson Fellow'.

"(ii) LELAND FELLOW.—An individual awarded a fellowship from the Mickey Leland Hunger Fellowship shall be known as a 'Leland Fellow'.

"(6) EVALUATIONS AND AUDITS.—Under terms stipulated in the contract entered into under subsection (c)(3), the Director shall—

"(A) conduct periodic evaluations of the Fellowship Programs; and

"(B) arrange for annual independent financial audits of expenditures under the Fellowship Programs.

"(e) AUTHORITY.—

"(1) IN GENERAL.—Subject to paragraph (2), in carrying out this section, the Director may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of facilitating the work of the Fellowship Programs.

"(2) LIMITATION.—Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be used exclusively for the purposes of the Fellowship Programs.

"(f) REPORT.—The Director shall annually submit to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

"(1) describes the activities and expenditures of the Fellowship Programs during the preceding fiscal year, including expenditures made from funds made available under subsection (g); and

"(2) includes the results of evaluations and audits required by subsection (d).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section, to remain available until expended.".

**SEC. 4402. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.**

Section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) DEFINITIONS.—In this section:

"(1) COMMUNITY FOOD PROJECT.—In this section, the term 'community food project' means a community-based project that—

"(A) requires a 1-time contribution of Federal assistance to become self-sustaining; and

"(B) is designed—

"(i)(I) to meet the food needs of low-income individuals;

"(II) to increase the self-reliance of communities in providing for the food needs of the communities; and

"(III) to promote comprehensive responses to local food, farm, and nutrition issues; or

"(ii) to meet specific State, local, or neighborhood food and agricultural needs, including needs relating to—

"(I) infrastructure improvement and development;

"(II) planning for long-term solutions; or

"(III) the creation of innovative marketing activities that mutually benefit agricultural producers and low-income consumers.

"(2) CENTER.—The term 'Center' means the healthy urban food enterprise development center established under subsection (h).

"(3) UNDERSERVED COMMUNITY.—The term 'underserved community' means a community (including an urban or rural community or an Indian tribe) that, as determined by the Secretary, has—

"(A) limited access to affordable, healthy foods, including fresh fruits and vegetables;

"(B) a high incidence of a diet-related disease (including obesity) as compared to the national average;

"(C) a high rate of hunger or food insecurity; or

"(D) severe or persistent poverty.";

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following:

"(h) HEALTHY URBAN FOOD ENTERPRISE DEVELOPMENT CENTER.—

"(1) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

"(A) a nonprofit organization;

"(B) a cooperative;

"(C) a commercial entity;

"(D) an agricultural producer;

"(E) an academic institution;

"(F) an individual; and

"(G) such other entities as the Secretary may designate.

"(2) ESTABLISHMENT.—The Secretary shall offer to provide a grant to a nonprofit organization to establish and support a healthy urban food enterprise development center to carry out the purpose described in paragraph (3).

"(3) PURPOSE.—The purpose of the Center is to increase access to healthy affordable foods, including locally produced agricultural products, to underserved communities.

"(4) ACTIVITIES.—

"(A) TECHNICAL ASSISTANCE AND INFORMATION.—The Center shall collect, develop, and provide technical assistance and information to small and medium-sized agricultural producers, food wholesalers and retailers, schools, and other individuals and entities regarding best practices and the availability of assistance for aggregating, storing, processing, and marketing locally produced agricultural products and increasing the availability of such products in underserved communities.

"(B) AUTHORITY TO SUBGRANT.—The Center may provide subgrants to eligible entities—

"(i) to carry out feasibility studies to establish businesses for the purpose described in paragraph (3); and

"(ii) to establish and otherwise assist enterprises that process, distribute, aggregate, store, and market healthy affordable foods.

"(5) PRIORITY.—In providing technical assistance and grants under paragraph (4), the Center shall give priority to applications that include projects—

"(A) to benefit underserved communities; and

"(B) to develop market opportunities for small and mid-sized farm and ranch operations.

"(6) REPORT.—For each fiscal year for which the nonprofit organization described in paragraph (2) receives funds, the organization shall submit to the Secretary a report describing the activities carried out in the preceding fiscal year, including—

"(A) a description of technical assistance provided by the Center;

"(B) the total number and a description of the subgrants provided under paragraph (4)(B);

"(C) a complete listing of cases in which the activities of the Center have resulted in increased access to healthy, affordable foods, such as fresh fruit and vegetables, particularly for school-aged children and individuals in low-income communities; and

"(D) a determination of whether the activities identified in subparagraph (C) are sustained during the years following the initial provision of technical assistance and subgrants under this section.

"(7) COMPETITIVE AWARD PROCESS.—The Secretary shall use a competitive process to award funds to establish the Center.

"(8) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the total amount allocated for this subsection in a given fiscal year may be used for administrative expenses.

"(9) FUNDING.—

"(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $1,000,000 for each of fiscal years 2009 through 2011.

"(B) ADDITIONAL FUNDING.—There is authorized to be appropriated $2,000,000 to carry out this subsection for fiscal year 2012.".

**SEC. 4403. JOINT NUTRITION MONITORING AND RELATED RESEARCH ACTIVITIES.** 7 USC 5311a.

The Secretary and the Secretary of Health and Human Services shall continue to provide jointly for national nutrition monitoring and related research activities carried out as of the date of enactment of this Act—

(1) to collect continuous dietary, health, physical activity, and diet and health knowledge data on a nationally representative sample;

(2) to periodically collect data on special at-risk populations, as identified by the Secretaries;

(3) to distribute information on health, nutrition, the environment, and physical activity to the public in a timely fashion;

(4) to analyze new data that becomes available;

(5) to continuously update food composition tables; and

(6) to research and develop data collection methods and standards.

**SEC. 4404. SECTION 32 FUNDS FOR PURCHASE OF FRUITS, VEGETABLES, AND NUTS TO SUPPORT DOMESTIC NUTRITION ASSISTANCE PROGRAMS.** 7 USC 612c–5.

(a) FUNDING FOR ADDITIONAL PURCHASES OF FRUITS, VEGETABLES, AND NUTS.—In addition to the purchases of fruits, vegetables, and nuts required by section 10603 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 612c–4), the Secretary of Agriculture shall purchase fruits, vegetables, and nuts for the purpose of providing nutritious foods for use in domestic nutrition assistance programs, using, of the funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), the following amounts:

(1) $190,000,000 for fiscal year 2008.

(2) $193,000,000 for fiscal year 2009.
(3) $199,000,000 for fiscal year 2010.
(4) $203,000,000 for fiscal year 2011.
(5) $206,000,000 for fiscal year 2012 and each fiscal year thereafter.

(b) FORM OF PURCHASES.—Fruits, vegetables, and nuts may be purchased under this section in the form of frozen, canned, dried, or fresh fruits, vegetables, and nuts.

(c) PURCHASE OF FRESH FRUITS AND VEGETABLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITUTIONS.—Section 10603 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 612c–4) is amended by striking subsection (b) and inserting the following:

7 USC 612c–4.

"(b) PURCHASE OF FRESH FRUITS AND VEGETABLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITUTIONS.—The Secretary of Agriculture shall purchase fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) using, of the amount specified in subsection (a), not less than $50,000,000 for each of fiscal years 2008 through 2012.".

7 USC 7517.

**SEC. 4405. HUNGER-FREE COMMUNITIES.**

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means a public food program service provider or nonprofit organization, including an emergency feeding organization, that has collaborated, or will collaborate, with 1 or more local partner organizations to achieve at least 1 hunger-free communities goal.

(2) EMERGENCY FEEDING ORGANIZATION.—The term "emergency feeding organization" has the meaning given the term in section 201A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501).

(3) HUNGER-FREE COMMUNITIES GOAL.—The term "hunger-free communities goal" means any of the 14 goals described in the H. Con. Res. 302 (102nd Congress).

(b) HUNGER-FREE COMMUNITIES COLLABORATIVE GRANTS.—

(1) PROGRAM.—

(A) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made available under subsection (e) to make grants to eligible entities to pay the Federal share of the costs of an activity described in paragraph (2).

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this subsection shall not exceed 80 percent.

(C) NON-FEDERAL SHARE.—

(i) CALCULATION.—The non-Federal share of the cost of an activity under this subsection may be provided in cash or fairly evaluated in-kind contributions, including facilities, equipment, or services.

(ii) SOURCES.—Any entity may provide the non-Federal share of the cost of an activity under this subsection through a State government, a local government, or a private source.

(2) USE OF FUNDS.—An eligible entity in a community shall use a grant received under this subsection for any fiscal year for hunger relief activities, including—

(A) meeting the immediate needs of people who experience hunger in the community served by the eligible entity by—

(i) distributing food;

(ii) providing community outreach to assist in participation in federally assisted nutrition programs, including—

(I) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(II) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(III) the summer food service program for children established under section 13 of that Act; and

(IV) other Federal programs that provide food for children in child care facilities and homeless and older individuals; or

(iii) improving access to food as part of a comprehensive service; and

(B) developing new resources and strategies to help reduce hunger in the community and prevent hunger in the future by—

(i) developing creative food resources, such as community gardens, buying clubs, food cooperatives, community-owned and operated grocery stores, and farmers' markets;

(ii) coordinating food services with park and recreation programs and other community-based outlets to reduce barriers to access; or

(iii) creating nutrition education programs for at-risk populations to enhance food-purchasing and food-preparation skills and to heighten awareness of the connection between diet and health.

(c) HUNGER-FREE COMMUNITIES INFRASTRUCTURE GRANTS.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made available for a fiscal year under subsection (e) to make grants to eligible entities to pay the Federal share of the costs of an activity described in paragraph (2).

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this subsection shall not exceed 80 percent.

(2) APPLICATION.—

(A) IN GENERAL.—To receive a grant under this subsection, an eligible entity shall submit an application at such time, in such form, and containing such information as the Secretary may prescribe.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

(i) identify any activity described in paragraph (3) that the grant will be used to fund; and

(ii) describe the means by which an activity identified under clause (i) will reduce hunger in the community of the eligible entity.

(C) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to eligible entities that demonstrate 2 or more of the following:

(i) The eligible entity serves a community in which the rates of food insecurity, hunger, poverty, or unemployment are demonstrably higher than national average rates.

(ii) The eligible entity serves a community that has successfully carried out long-term efforts to reduce hunger in the community.

(iii) The eligible entity serves a community that provides public support for the efforts of the eligible entity.

(iv) The eligible entity is committed to achieving more than 1 hunger-free communities goal.

(3) USE OF FUNDS.—An eligible entity shall use a grant received under this subsection to construct, expand, or repair a facility or equipment to support hunger relief efforts in the community.

(d) REPORT.—If funds are made available under subsection (e) to carry out this section, not later than September 30, 2012, the Secretary shall submit to Congress a report that describes—

(1) each grant made under this section, including—

(A) a description of any activity funded; and

(B) the degree of success of each activity funded in achieving hunger free-communities goals; and

(2) the degree of success of all activities funded under this section in achieving domestic hunger goals.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

**SEC. 4406. REAUTHORIZATION OF FEDERAL FOOD ASSISTANCE PROGRAMS.**

(a) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(1)) is amended in the first sentence by striking "for each of the fiscal years 2003 through 2007" and inserting "for each of fiscal years 2008 through 2012".

(2) GRANTS FOR SIMPLE APPLICATION AND ELIGIBILITY DETERMINATION SYSTEMS AND IMPROVED ACCESS TO BENEFITS.—Section 11(t)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(t)(1)) is amended by striking "For each of fiscal years 2003 through 2007" and inserting "Subject to the availability of appropriations under section 18(a), for each fiscal year".

(3) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—Section 16(h)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(h)(1)) is amended—

(A) in subparagraph (A), by striking "the amount of—" and all that follows through the end of the subparagraph and inserting ", $90,000,000 for each fiscal year."; and

(B) in subparagraph (E)(i), by striking "for each of fiscal years 2002 through 2007" and inserting "for each fiscal year".

(4) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—Section 16(k)(3) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(k)(3)) is amended—

(A) in the first sentence of subparagraph (A), by striking "effective for each of fiscal years 1999 through 2007,"; and

(B) in subparagraph (B)(ii), by striking "through fiscal year 2007".

(5) CASH PAYMENT PILOT PROJECTS.—Section 17(b)(1)(B)(vi) of the Food and Nutrition Act of 2008 (7 U.S.C. 2026(b)(1)(B)(vi)) is amended—

(A) by striking "Any pilot" and inserting "Subject to the availability of appropriations under section 18(a), any pilot"; and

(B) by striking "through October 1, 2007,".

(6) CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.—Section 19(a)(2)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2028(a)(2)(A)(ii)) is amended by striking "for each of fiscal years 2004 through 2007" and inserting "subject to the availability of appropriations under section 18(a), for each fiscal year thereafter".

(7) ASSISTANCE FOR COMMUNITY FOOD PROJECTS.—Section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034) is amended—

(A) in subsection (b)(2)(B), by striking "for each of fiscal years 1997 through 2007" and inserting "for fiscal year 2008 and each fiscal year thereafter"; and

(B) in subsection (i)(4) (as redesignated by section 4402), by striking "of fiscal years 2003 through 2007" and inserting "fiscal year thereafter".

(b) COMMODITY DISTRIBUTION.—

(1) EMERGENCY FOOD ASSISTANCE.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence by striking "for each of the fiscal years 2003 through 2007" and inserting "for fiscal year 2008 and each fiscal year thereafter".

(2) COMMODITY DISTRIBUTION PROGRAM.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended in the first sentence by striking "years 1991 through 2007" and inserting "years 2008 through 2012".

(3) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "each of fiscal years 2003 through 2007" and inserting "each of fiscal years 2008 through 2012"; and

(ii) in paragraph (2)(B), by striking the subparagraph designation and heading and all that follows through "2007" and inserting the following:

"(B) SUBSEQUENT FISCAL YEARS.—For each of fiscal years 2004 through 2012"; and

(B) in subsection (d)(2), by striking "each of the fiscal years 1991 through 2007" and inserting "each of fiscal years 2008 through 2012".

(4) DISTRIBUTION OF SURPLUS COMMODITIES TO SPECIAL NUTRITION PROJECTS.—Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended in the first sentence by striking "Effective through September 30, 2007" and inserting "For each of fiscal years 2008 through 2012".

(c) FARM SECURITY AND RURAL INVESTMENT.—

(1) SENIORS FARMERS' MARKET NUTRITION PROGRAM.—Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended by striking by striking subsection (a) and inserting the following:

"(a) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use to carry out and expand the seniors farmers' market nutrition program $20,600,000 for each of fiscal years 2008 through 2012.".

(2) NUTRITION INFORMATION AND AWARENESS PILOT PROGRAM.—Section 4403(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3171 note; Public Law 107–171) is amended by striking "2007" and inserting "2012".

2 USC 1161 note.

**SEC. 4407. EFFECTIVE AND IMPLEMENTATION DATES.**

Except as otherwise provided in this title, this title and the amendments made by this title take effect on October 1, 2008.

# TITLE V—CREDIT

## Subtitle A—Farm Ownership Loans

**SEC. 5001. DIRECT LOANS.**

Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended—

(1) by striking the section designation and heading and all that follows through "(a) The Secretary is authorized to" and inserting the following:

**"SEC. 302. PERSONS ELIGIBLE FOR REAL ESTATE LOANS.**

"(a) IN GENERAL.—The Secretary may"; and

(2) in subsection (a)(2), by inserting ", taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences" after "farming operations".

**SEC. 5002. CONSERVATION LOAN AND LOAN GUARANTEE PROGRAM.**

Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended to read as follows:

**"SEC. 304. CONSERVATION LOAN AND LOAN GUARANTEE PROGRAM.**

"(a) IN GENERAL.—The Secretary may make or guarantee qualified conservation loans to eligible borrowers under this section.

"(b) DEFINITIONS.—In this section:

"(1) QUALIFIED CONSERVATION LOAN.—The term 'qualified conservation loan' means a loan, the proceeds of which are used to cover the costs to the borrower of carrying out a qualified conservation project.

"(2) QUALIFIED CONSERVATION PROJECT.—The term 'qualified conservation project' means conservation measures that address provisions of a conservation plan of the eligible borrower.

"(3) CONSERVATION PLAN.—The term 'conservation plan' means a plan, approved by the Secretary, that, for a farming or ranching operation, identifies the conservation activities that will be addressed with loan funds provided under this section, including—

"(A) the installation of conservation structures to address soil, water, and related resources;

"(B) the establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes;

"(C) the installation of water conservation measures;

"(D) the installation of waste management systems;

"(E) the establishment or improvement of permanent pasture;

"(F) compliance with section 1212 of the Food Security Act of 1985; and

"(G) other purposes consistent with the plan, including the adoption of any other emerging or existing conservation practices, techniques, or technologies approved by the Secretary.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—The Secretary may make or guarantee loans to farmers or ranchers in the United States, farm cooperatives, private domestic corporations, partnerships, joint operations, trusts, or limited liability companies that are controlled by farmers or ranchers and engaged primarily and directly in agricultural production in the United States.

"(2) REQUIREMENTS.—To be eligible for a loan under this section, applicants shall meet the requirements in paragraphs (1) and (2) of section 302(a).

"(d) PRIORITY.—In making or guaranteeing loans under this section, the Secretary shall give priority to—

"(1) qualified beginning farmers or ranchers and socially disadvantaged farmers or ranchers;

"(2) owners or tenants who use the loans to convert to sustainable or organic agricultural production systems; and

"(3) producers who use the loans to build conservation structures or establish conservation practices to comply with section 1212 of the Food Security Act of 1985.

"(e) LIMITATIONS APPLICABLE TO LOAN GUARANTEES.—The portion of a loan that the Secretary may guarantee under this section shall be 75 percent of the principal amount of the loan.

"(f) ADMINISTRATIVE PROVISIONS.—The Secretary shall ensure, to the maximum extent practicable, that loans made or guaranteed under this section are distributed across diverse geographic regions.

"(g) CREDIT ELIGIBILITY.—The provisions of paragraphs (1) and (3) of section 333 shall not apply to loans made or guaranteed under this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2008 through 2012, there are authorized to be appropriated to the Secretary such funds as are necessary to carry out this section.".

**SEC. 5003. LIMITATIONS ON AMOUNT OF FARM OWNERSHIP LOANS.**

Section 305(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925(a)(2)) is amended by striking "$200,000" and inserting "$300,000".

**SEC. 5004. DOWN PAYMENT LOAN PROGRAM.**

Section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935) is amended—

(1) in subsection (a)(1), by striking "and ranchers" and inserting "or ranchers and socially disadvantaged farmers or ranchers";

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following;

"(1) PRINCIPAL.—Each loan made under this section shall be in an amount that does not exceed 45 percent of the least of—

"(A) the purchase price of the farm or ranch to be acquired;

"(B) the appraised value of the farm or ranch to be acquired; or

"(C) $500,000.

"(2) INTEREST RATE.—The interest rate on any loan made by the Secretary under this section shall be a rate equal to the greater of—

"(A) the difference obtained by subtracting 4 percent from the interest rate for farm ownership loans under this subtitle; or

"(B) 1.5 percent."; and

(B) in paragraph (3), by striking "15" and inserting "20";

(3) in subsection (c)—

(A) in paragraph (1), by striking "10" and inserting "5";

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2)(B) (as so redesignated), by striking "15-year" and inserting "20-year";

(4) in subsection (d)—

(A) in paragraph (3)—

(i) by inserting "and socially disadvantaged farmers or ranchers" after "ranchers"; and

(ii) by striking "and" at the end;

(B) in paragraph (4), by striking "and ranchers." and inserting " or ranchers or socially disadvantaged farmers or ranchers; and"; and

(C) by adding at the end the following:

"(5) establish annual performance goals to promote the use of the down payment loan program and other joint financing arrangements as the preferred choice for direct real estate loans made by any lender to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher."; and

(5) by adding at the end the following:

"(e) SOCIALLY DISADVANTAGED FARMER OR RANCHER DEFINED.—In this section, the term 'socially disadvantaged farmer or rancher' has the meaning given that term in section 355(e)(2).".

**SEC. 5005. BEGINNING FARMER OR RANCHER AND SOCIALLY DISADVANTAGED FARMER OR RANCHER CONTRACT LAND SALES PROGRAM.**

Section 310F of the Consolidated Farm and Rural Development Act (7 U.S.C. 1936) is amended to read as follows:

**"SEC. 310F. BEGINNING FARMER OR RANCHER AND SOCIALLY DISADVANTAGED FARMER OR RANCHER CONTRACT LAND SALES PROGRAM.**

"(a) IN GENERAL.—The Secretary shall, in accordance with this section, guarantee a loan made by a private seller of a farm or ranch to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher (as defined in section 355(e)(2)) on a contract land sales basis.

"(b) ELIGIBILITY.—In order to be eligible for a loan guarantee under subsection (a)—

"(1) the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher shall—

"(A) on the date the contract land sale that is subject of the loan is complete, own and operate the farm or ranch that is the subject of the contract land sale;

"(B) have a credit history that—

"(i) includes a record of satisfactory debt repayment, as determined by the Secretary; and

"(ii) is acceptable to the Secretary; and

"(C) demonstrate to the Secretary that the farmer or rancher, as the case may be, is unable to obtain sufficient credit without a guarantee to finance any actual need of the farmer or rancher, as the case may be, at a reasonable rate or term; and

"(2) the loan shall meet applicable underwriting criteria, as determined by the Secretary.

"(c) LIMITATIONS.—

"(1) DOWN PAYMENT.—The Secretary shall not provide a loan guarantee under subsection (a) if the contribution of the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher to the down payment for the farm or ranch that is the subject of the contract land sale would be less than 5 percent of the purchase price of the farm or ranch.

"(2) MAXIMUM PURCHASE PRICE.—The Secretary shall not provide a loan guarantee under subsection (a) if the purchase price or the appraisal value of the farm or ranch that is the subject of the contract land sale is greater than $500,000.

"(d) PERIOD OF GUARANTEE.—The period during which a loan guarantee under this section is in effect shall be the 10-year period beginning with the date the guarantee is provided.

"(e) GUARANTEE PLAN.—

"(1) SELECTION OF PLAN.—A private seller of a farm or ranch who makes a loan that is guaranteed by the Secretary under subsection (a) may select—

"(A) a prompt payment guarantee plan, which shall cover—

"(i) 3 amortized annual installments; or

"(ii) an amount equal to 3 annual installments (including an amount equal to the total cost of any tax and insurance incurred during the period covered by the annual installments); or

"(B) a standard guarantee plan, which shall cover an amount equal to 90 percent of the outstanding principal of the loan.

"(2) ELIGIBLITY FOR STANDARD GUARANTEE PLAN.—In order for a private seller to be eligible for a standard guarantee plan referred to in paragraph (1)(B), the private seller shall—

"(A) secure a commercial lending institution or similar entity, as determined by the Secretary, to serve as an escrow agent; or

"(B) in cooperation with the farmer or rancher, use an appropriate alternate arrangement, as determined by the Secretary.

"(f) TRANSITION FROM PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary may phase-in the implementation of the changes to the Beginning Farmer and Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program provided for in this section.

"(2) LIMITATION.—All changes to the Beginning Farmer and Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program must be implemented for the 2011 Fiscal Year.".

# Subtitle B—Operating Loans

**SEC. 5101. FARMING EXPERIENCE AS ELIGIBILITY REQUIREMENT.**

Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) is amended—

(1) by striking the section designation and all that follows through "(a) The Secretary is authorized to" and inserting the following:

**"SEC. 311. PERSONS ELIGIBLE FOR LOANS.**

"(a) IN GENERAL.—The Secretary may";

(2) in subsection (a)(2), by inserting ", taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences" after "farming operations".

**SEC. 5102. LIMITATIONS ON AMOUNT OF OPERATING LOANS.**

Section 313(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943(a)(1)) is amended by striking "$200,000" and inserting "$300,000".

**SEC. 5103. SUSPENSION OF LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.**

Section 5102 of the Farm Security And Rural Investment Act of 2002 (7 U.S.C. 1949 note; Public Law 107–171) is amended by striking "September 30, 2007" and inserting "December 31, 2010".

# Subtitle C—Emergency Loans

**SEC. 5201. ELIGIBILITY OF EQUINE FARMERS AND RANCHERS FOR EMERGENCY LOANS.**

Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in paragraph (1), by striking "farmers, ranchers" and inserting "farmers or ranchers (including equine farmers or ranchers)"; and

(2) in paragraph (2)(A), by striking "farming, ranching," and inserting "farming or ranching (including equine farming or ranching)".

# Subtitle D—Administrative Provisions

**SEC. 5301. BEGINNING FARMER AND RANCHER INDIVIDUAL DEVELOPMENT ACCOUNTS PILOT PROGRAM.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is amended by inserting after section 333A the following:

**"SEC. 333B. BEGINNING FARMER AND RANCHER INDIVIDUAL DEVELOPMENT ACCOUNTS PILOT PROGRAM.** 7 USC 1983b.

"(a) DEFINITIONS.—In this section:

"(1) DEMONSTRATION PROGRAM.—The term 'demonstration program' means a demonstration program carried out by a qualified entity under the pilot program established in subsection (b)(1).

"(2) ELIGIBLE PARTICIPANT.—The term 'eligible participant' means a qualified beginning farmer or rancher that—

"(A) lacks significant financial resources or assets; and

"(B) has an income that is less than—

"(i) 80 percent of the median income of the State in which the farmer or rancher resides; or

"(ii) 200 percent of the most recent annual Federal Poverty Income Guidelines published by the Department of Health and Human Services for the State.

"(3) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term 'individual development account' means a savings account described in subsection (b)(4)(A).

"(4) QUALIFIED ENTITY.—

"(A) IN GENERAL.—The term 'qualified entity' means—

"(i) 1 or more organizations—

"(I) described in section 501(c)(3) of the Internal Revenue Code of 1986; and

"(II) exempt from taxation under section 501(a) of such Code; or

"(ii) a State, local, or tribal government submitting an application jointly with an organization described in clause (i).

"(B) NO PROHIBITION ON COLLABORATION.—An organization described in subparagraph (A)(i) may collaborate with a financial institution or for-profit community development corporation to carry out the purposes of this section.

"(b) PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a pilot program to be known as the 'New Farmer Individual Development Accounts Pilot Program' under which the Secretary shall work through qualified entities to establish demonstration programs—

"(A) of at least 5 years in duration; and

"(B) in at least 15 States.

"(2) COORDINATION.—The Secretary shall operate the pilot program through, and in coordination with the farm loan programs of, the Farm Service Agency.

"(3) RESERVE FUNDS.—

"(A) IN GENERAL.—A qualified entity carrying out a demonstration program under this section shall establish a reserve fund consisting of a non-Federal match of 50 percent of the total amount of the grant awarded to the demonstration program under this section.

"(B) FEDERAL FUNDS.—After the qualified entity has deposited the non-Federal matching funds described in subparagraph (A) in the reserve fund, the Secretary shall provide the total amount of the grant awarded under this section to the demonstration program for deposit in the reserve fund.

"(C) USE OF FUNDS.—Of the funds deposited under subparagraph (B) in the reserve fund established for a demonstration program, the qualified entity carrying out the demonstration program—

"(i) may use up to 10 percent for administrative expenses; and

"(ii) shall use the remainder in making matching awards described in paragraph (4)(B)(ii)(I).

"(D) INTEREST.—Any interest earned on amounts in a reserve fund established under subparagraph (A) may be used by the qualified entity as additional matching funds for, or to administer, the demonstration program.

"(E) GUIDANCE.—The Secretary shall issue guidance regarding the investment requirements of reserve funds established under this paragraph.

"(F) REVERSION.—On the date on which all funds remaining in any individual development account established by a qualified entity have reverted under paragraph (5)(B)(ii) to the reserve fund established by the qualified entity, there shall revert to the Treasury of the United States a percentage of the amount (if any) in the reserve fund equal to—

"(i) the amount of Federal funds deposited in the reserve fund under subparagraph (B) that were not used for administrative expenses; divided by

"(ii) the total amount of funds deposited in the reserve fund.

"(4) INDIVIDUAL DEVELOPMENT ACCOUNTS.—

"(A) IN GENERAL.—A qualified entity receiving a grant under this section shall establish and administer individual development accounts for eligible participants.

"(B) CONTRACT REQUIREMENTS.—To be eligible to receive funds under this section from a qualified entity, an eligible participant shall enter into a contract with only 1 qualified entity under which—

"(i) the eligible participant agrees—

"(I) to deposit a certain amount of funds of the eligible participant in a personal savings account, as prescribed by the contractual agreement between the eligible participant and the qualified entity;

"(II) to use the funds described in subclause (I) only for 1 or more eligible expenditures described in paragraph (5)(A); and

"(III) to complete financial training; and

"(ii) the qualified entity agrees—

"(I) to deposit, not later than 1 month after an amount is deposited pursuant to clause (i)(I), at least a 100-percent, and up to a 200-percent, match of that amount into the individual development account established for the eligible participant; and

"(II) with uses of funds proposed by the eligible participant.

"(C) LIMITATION.—

"(i) IN GENERAL.—A qualified entity administering a demonstration program under this section may provide not more than $6,000 for each fiscal year in matching funds to the individual development account established by the qualified entity for an eligible participant.

"(ii) TREATMENT OF AMOUNT.—An amount provided under clause (i) shall not be considered to be a gift or loan for mortgage purposes.

"(5) ELIGIBLE EXPENDITURES.—

"(A) IN GENERAL.—An eligible expenditure described in this subparagraph is an expenditure—

"(i) to purchase farmland or make a down payment on an accepted purchase offer for farmland;

"(ii) to make mortgage payments on farmland purchased pursuant to clause (i), for up to 180 days after the date of the purchase;

"(iii) to purchase breeding stock, fruit or nut trees, or trees to harvest for timber; and

"(iv) for other similar expenditures, as determined by the Secretary.

"(B) TIMING.—

"(i) IN GENERAL.—An eligible participant may make an eligible expenditure at any time during the 2-year period beginning on the date on which the last matching funds are provided under paragraph (4)(B)(ii)(I) to the individual development account established for the eligible participant.

"(ii) UNEXPENDED FUNDS.—At the end of the period described in clause (i), any funds remaining in an individual development account established for an eligible participant shall revert to the reserve fund of the demonstration program under which the account was established.

"(c) APPLICATIONS.—

"(1) IN GENERAL.—A qualified entity that seeks to carry out a demonstration program under this section may submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may prescribe.

"(2) CRITERIA.—In considering whether to approve an application to carry out a demonstration program under this section, the Secretary shall assess—

"(A) the degree to which the demonstration program described in the application is likely to aid eligible participants in successfully pursuing new farming opportunities;

"(B) the experience and ability of the qualified entity to responsibly administer the demonstration program;

"(C) the experience and ability of the qualified entity in recruiting, educating, and assisting eligible participants to increase economic independence and pursue or advance farming opportunities;

"(D) the aggregate amount of direct funds from non-Federal public sector and private sources that are formally committed to the demonstration program as matching contributions;

"(E) the adequacy of the plan of the qualified entity to provide information relevant to an evaluation of the demonstration program; and

"(F) such other factors as the Secretary considers to be appropriate.

"(3) PREFERENCES.—In considering an application to conduct a demonstration program under this section, the Secretary shall give preference to an application from a qualified entity that demonstrates—

"(A) a track record of serving clients targeted by the program, including, as appropriate, socially disadvantaged farmers or ranchers (as defined in section 355(e)(2)); and

"(B) expertise in dealing with financial management aspects of farming.

Deadline.

"(4) APPROVAL.—Not later than 1 year after the date of enactment of this section, in accordance with this section, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration programs as the Secretary considers appropriate.

"(5) TERM OF AUTHORITY.—If the Secretary approves an application to carry out a demonstration program, the Secretary shall authorize the applicant to carry out the project for a period of 5 years, plus an additional 2 years to make eligible expenditures in accordance with subsection (b)(5)(B).

"(d) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make a grant to a qualified entity authorized to carry out a demonstration program under this section.

"(2) MAXIMUM AMOUNT OF GRANTS.—The aggregate amount of grant funds provided to a demonstration program carried out under this section shall not exceed $250,000.

"(3) TIMING OF GRANT PAYMENTS.—The Secretary shall pay the amounts awarded under a grant made under this section—

"(A) on the awarding of the grant; or

"(B) pursuant to such payment plan as the qualified entity may specify.

"(e) REPORTS.—

"(1) ANNUAL PROGRESS REPORTS.—

"(A) IN GENERAL.—Not later than 60 days after the end of the calendar year in which the Secretary authorizes a qualified entity to carry out a demonstration program under this section, and annually thereafter until the conclusion of the demonstration program, the qualified entity

shall prepare an annual report that includes, for the period covered by the report—

"(i) an evaluation of the progress of the demonstration program;

"(ii) information about the demonstration program, including the eligible participants and the individual development accounts that have been established; and

"(iii) such other information as the Secretary may require.

"(B) SUBMISSION OF REPORTS.—A qualified entity shall submit each report required under subparagraph (A) to the Secretary.

"(2) REPORTS BY THE SECRETARY.—Not later than 1 year after the date on which all demonstration programs under this section are concluded, the Secretary shall submit to Congress a final report that describes the results and findings of all reports and evaluations carried out under this section.

"(f) ANNUAL REVIEW.—The Secretary may conduct an annual review of the financial records of a qualified entity—

"(1) to assess the financial soundness of the qualified entity; and

"(2) to determine the use of grant funds made available to the qualified entity under this section.

"(g) REGULATIONS.—In carrying out this section, the Secretary may promulgate regulations to ensure that the program includes provisions for—

"(1) the termination of demonstration programs;

"(2) control of the reserve funds in the case of such a termination;

"(3) transfer of demonstration programs to other qualified entities; and

"(4) remissions from a reserve fund to the Secretary in a case in which a demonstration program is terminated without transfer to a new qualified entity.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 5302. INVENTORY SALES PREFERENCES; LOAN FUND SET-ASIDES.**

(a) INVENTORY SALES PREFERENCES.—Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) in the subparagraph heading, by inserting "; SOCIALLY DISADVANTAGED FARMER OR RANCHER" after "OR RANCHER";

(ii) in clause (i), by inserting " or a socially disadvantaged farmer or rancher" after "or rancher";

(iii) in clause (ii), by inserting "or socially disadvantaged farmer or rancher" after "or rancher";

(iv) in clause (iii), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher"; and

(v) in clause (iv), by striking "and ranchers" and inserting "or ranchers and socially disadvantaged farmers or ranchers"; and

(B) in subparagraph (C), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher";

(2) in paragraph (5)(B)—

(A) in clause (i)—

(i) in the clause heading, by inserting "; SOCIALLY DISADVANTAGED FARMER OR RANCHER" after "OR RANCHER";

(ii) by inserting "or a socially disadvantaged farmer or rancher" after "a beginning farmer or rancher"; and

(iii) by inserting "or the socially disadvantaged farmer or rancher" after "the beginning farmer or rancher"; and

(B) in clause (ii)—

(i) in the matter preceding subclause (I), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher"; and

(ii) in subclause (II), by inserting "or the socially disadvantaged farmer or rancher" after "or rancher"; and

(3) in paragraph (6)—

(A) in subparagraph (A), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher"; and

(B) in subparagraph (C)—

(i) in clause (i)(I), by striking "and ranchers" and inserting "or ranchers and socially disadvantaged farmers or ranchers"; and

(ii) in clause (ii), by inserting "or socially disadvantaged farmers or ranchers" after "or ranchers".

(b) LOAN FUND SET-ASIDES.—Section 346(b)(2) of such Act (7 U.S.C. 1994(b)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (i)—

(i) in subclause (I), by striking "70 percent" and inserting "an amount that is not less than 75 percent of the total amount"; and

(ii) in subclause (II)—

(I) in the subclause heading, by inserting "; JOINT FINANCING ARRANGEMENTS" after "PAYMENT LOANS";

(II) by striking "60 percent" and inserting "an amount not less than ⅔ of the amount"; and

(III) by inserting "and joint financing arrangements under section 307(a)(3)(D)" after "section 310E"; and

(B) in clause (ii)(III), by striking "2003 through 2007, 35 percent" and inserting "2008 through 2012, an amount that is not less than 50 percent of the total amount"; and

(2) in subparagraph (B)(i), by striking "25 percent" and inserting "an amount that is not less than 40 percent of the total amount".

**SEC. 5303. LOAN AUTHORIZATION LEVELS.**

Section 346(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "$3,796,000,000 for each of fiscal years 2003 through 2007"

and inserting "$4,226,000,000 for each of fiscal years 2008 through 2012"; and

(2) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "$770,000,000" and inserting "$1,200,000,000";

(B) in clause (i), by striking "$205,000,000" and inserting "$350,000,000"; and

(C) in clause (ii), by striking "$565,000,000" and inserting "$850,000,000".

**SEC. 5304. TRANSITION TO PRIVATE COMMERCIAL OR OTHER SOURCES OF CREDIT.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is amended by inserting after section 344 the following:

**"SEC. 345. TRANSITION TO PRIVATE COMMERCIAL OR OTHER SOURCES OF CREDIT.** 7 USC 1993.

"(a) IN GENERAL.—In making or insuring a farm loan under subtitle A or B, the Secretary shall establish a plan and promulgate regulations (including performance criteria) that promote the goal of transitioning borrowers to private commercial credit and other sources of credit in the shortest period of time practicable. Plan. Regulations. Criteria.

"(b) COORDINATION.—In carrying out this section, the Secretary shall integrate and coordinate the transition policy described in subsection (a) with—

"(1) the borrower training program established by section 359;

"(2) the loan assessment process established by section 360;

"(3) the supervised credit requirement established by section 361;

"(4) the market placement program established by section 362; and

"(5) other appropriate programs and authorities, as determined by the Secretary.".

**SEC. 5305. EXTENSION OF THE RIGHT OF FIRST REFUSAL TO REACQUIRE HOMESTEAD PROPERTY TO IMMEDIATE FAMILY MEMBERS OF BORROWER-OWNER.**

Section 352(c)(4)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(c)(4)(B)) is amended—

(1) in the 1st sentence, by striking ", the borrower-owner" inserting "of a borrower-owner who is a socially disadvantaged farmer or rancher (as defined in section 355(e)(2)), the borrower-owner or a member of the immediate family of the borrower-owner"; and

(2) in the 2nd sentence, by inserting "or immediate family member, as the case may be," before "from".

**SEC. 5306. RURAL DEVELOPMENT AND FARM LOAN PROGRAM ACTIVITIES.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is amended by inserting after section 364 the following:

7 USC 2008.

**"SEC. 365. RURAL DEVELOPMENT AND FARM LOAN PROGRAM ACTIVITIES.**

"The Secretary may not complete a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs.".

# Subtitle E—Farm Credit

**SEC. 5401. FARM CREDIT SYSTEM INSURANCE CORPORATION.**

(a) IN GENERAL.—Section 1.12(b) of the Farm Credit Act of 1971 (12 U.S.C. 2020(b)) is amended—

(1) in the first sentence, by striking "Each Farm" and inserting the following;

"(1) IN GENERAL.—Each Farm"; and

(2) by striking the second sentence and inserting the following:

"(2) COMPUTATION.—The assessment on any association or other financing institution described in paragraph (1) for any period shall be computed in an equitable manner, as determined by the Corporation.".

(b) RULES AND REGULATIONS.—Section 5.58(10) of such Act (12 U.S.C. 2277a-7(10)) is amended by inserting "and section 1.12(b)" after "part".

**SEC. 5402. TECHNICAL CORRECTION.**

Section 3.3(b) of the Farm Credit Act of 1971 (12 U.S.C. 2124(b)) is amended in the first sentence by striking "per" and inserting "par".

**SEC. 5403. BANK FOR COOPERATIVES VOTING STOCK.**

(a) IN GENERAL.—Section 3.3(c) of the Farm Credit Act of 1971 (12 U.S.C. 2124(c)) is amended by striking "and (ii)" and inserting "(ii) other categories of persons and entities described in sections 3.7 and 3.8 eligible to borrow from the bank, as determined by the bank's board of directors; and (iii)".

(b) CONFORMING AMENDMENTS.—Section 4.3A(c)(1)(D) of such Act (12 U.S.C. 2154a(c)(1)(D)) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and inserting after clause (i) the following:

"(ii) persons and entities eligible to borrow from the banks for cooperatives, as described in section 3.3(c)(ii);".

**SEC. 5404. PREMIUMS.**

(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.—Section 5.55(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "paragraph (2)" and inserting "paragraph (3)"; and

(ii) by striking "annual" ; and

(B) by striking subparagraphs (A) through (D) and inserting the following:

"(A) the average outstanding insured obligations issued by the bank for the calendar year, after deducting from the obligations the percentages of the guaranteed portions of loans and investments described in paragraph (2), multiplied by 0.0020; and

"(B) the product obtained by multiplying—

"(i) the sum of—

"(I) the average principal outstanding for the calendar year on loans made by the bank that are in nonaccrual status; and

"(II) the average amount outstanding for the calendar year of other-than-temporarily impaired investments made by the bank; by

"(ii) 0.0010.";

(2) by striking paragraph (4);

(3) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(4) by inserting after paragraph (1) the following:

"(2) DEDUCTIONS FROM AVERAGE OUTSTANDING INSURED OBLIGATIONS.—The average outstanding insured obligations issued by the bank for the calendar year referred to in paragraph (1)(A) shall be reduced by deducting from the obligations the sum of (as determined by the Corporation)—

"(A) 90 percent of each of—

"(i) the average principal outstanding for the calendar year on the guaranteed portions of Federal government-guaranteed loans made by the bank that are in accrual status; and

"(ii) the average amount outstanding for the calendar year of the guaranteed portions of Federal government-guaranteed investments made by the bank that are not permanently impaired; and

"(B) 80 percent of each of—

"(i) the average principal outstanding for the calendar year on the guaranteed portions of State government-guaranteed loans made by the bank that are in accrual status; and

"(ii) the average amount outstanding for the calendar year of the guaranteed portions of State government-guaranteed investments made by the bank that are not permanently impaired.";

(5) in paragraph (3) (as so redesignated by paragraph (3) of this subsection), by striking "annual"; and

(6) in paragraph (4) (as so redesignated by paragraph (3) of this subsection)—

(A) in the paragraph heading, by inserting "OR INVESTMENTS" after "LOANS" ; and

(B) in the matter preceding subparagraph (A), by striking "As used" and all that follows through "guaranteed—" and inserting "In this section, the term 'government-guaranteed', when applied to a loan or an investment, means a loan, credit, or investment, or portion of a loan, credit, or investment, that is guaranteed—".

(b) AMOUNT IN FUND EXCEEDING SECURE BASE AMOUNT.—Section 5.55(b) of such Act (12 U.S.C. 2277a-4(b)) is amended by striking "annual".

(c) SECURE BASE AMOUNT.—Section 5.55(c) of such Act (12 U.S.C. 2277a-4(c)) is amended—

(1) by striking "For purposes" and inserting the following: "(1) IN GENERAL.—For purposes";

(2) by striking "(adjusted downward" and all that follows through "by the Corporation)" and inserting "(as adjusted under paragraph (2))"; and

(3) by adding at the end the following:

"(2) ADJUSTMENT.—The aggregate outstanding insured obligations of all insured System banks under paragraph (1) shall be adjusted downward to exclude an amount equal to the sum of (as determined by the corporation)—

"(A) 90 percent of each of—

"(i) the guaranteed portions of principal outstanding on Federal government-guaranteed loans in accrual status made by the banks; and

"(ii) the guaranteed portions of the amount of Federal government-guaranteed investments made by the banks that are not permanently impaired; and

"(B) 80 percent of each of—

"(i) the guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by the banks; and

"(ii) the guaranteed portions of the amount of State government-guaranteed investments made by the banks that are not permanently impaired.".

(d) DETERMINATION OF LOAN AND INVESTMENT AMOUNTS.—Section 5.55(d) of such Act (12 U.S.C. 2277a-4(d)) is amended—

(1) in the subsection heading, by striking "PRINCIPAL OUTSTANDING" and inserting "LOAN AND INVESTMENT AMOUNTS";

(2) in the matter preceding paragraph (1), by striking "For the purpose" and all that follows through "made—" and inserting "For the purpose of subsections (a) and (c), the principal outstanding on all loans made by an insured System bank, and the amount outstanding on all investments made by an insured System bank, shall be determined based on—";

(3) in each of paragraphs (1), (2), and (3), by inserting "all loans or investments made" before "by" the first place it appears; and

(4) in each of paragraphs (1) and (2), by inserting "or investments" after "that is able to make such loans" each place it appears.

(e) ALLOCATION TO SYSTEM INSTITUTIONS OF EXCESS RESERVES.—Section 5.55(e) of such Act (12 U.S.C. 2277a-4(e)) is amended—

(1) in paragraph (3), by striking "the average secure base amount for the calendar year (as calculated on an average daily balance basis)" and inserting "the secure base amount";

(2) in paragraph (4), by striking subparagraph (B) and inserting the following:

"(B) there shall be credited to the allocated insurance reserves account of each insured system bank an amount that bears the same ratio to the total amount (less any amount credited under subparagraph (A)) as—

"(i) the average principal outstanding for the calendar year on insured obligations issued by the bank

(after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)); bears to

"(ii) the average principal outstanding for the calendar year on insured obligations issued by all insured System banks (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)).''; and

(3) in paragraph (6)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "beginning more" and all that follows through "January 1, 2005";

(ii) by striking clause (i) and inserting the following:

"(i) subject to subparagraph (D), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the balance in the Allocated Insurance Reserves Account of the System bank; and''; and

(iii) in clause (ii)—

(I) by striking "subparagraphs (C), (E), and (F)" and inserting "subparagraphs (C) and (E)"; and

(II) by striking ", of the lesser of—" and all that follows through the end of subclause (II) and inserting "at the time of the termination of the Financial Assistance Corporation, of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B).'';

(B) in subparagraph (C)—

(i) in clause (i), by striking "(in addition to the amounts described in subparagraph (F)(ii))"; and

(ii) by striking clause (ii) and inserting the following:

"(ii) TERMINATION OF ACCOUNT.—On disbursement of an amount equal to $56,000,000, the Corporation shall—

"(I) close the account established under paragraph (1)(B); and

"(II) transfer any remaining funds in the Account to the remaining Allocated Insurance Reserves Accounts in accordance with paragraph (4)(B) for the calendar year in which the transfer occurs.''; and

(C) by striking subparagraph (F).

**SEC. 5405. CERTIFICATION OF PREMIUMS.**

(a) FILING CERTIFIED STATEMENT.—Section 5.56 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–5) is amended by striking subsection (a) and inserting the following:

"(a) FILING CERTIFIED STATEMENT.—On a date to be determined in the sole discretion of the Board of Directors of the Corporation, each insured System bank that became insured before the beginning of the period for which premiums are being assessed (referred to in this section as the 'period') shall file with the Corporation a certified statement showing—

"(1) the average outstanding insured obligations for the period issued by the bank;

"(2)(A) the average principal outstanding for the period on the guaranteed portion of Federal government-guaranteed loans that are in accrual status; and

"(B) the average amount outstanding for the period of Federal government-guaranteed investments that are not permanently impaired (as defined in section 5.55(a)(4));

"(3)(A) the average principal outstanding for the period on State government-guaranteed loans that are in accrual status; and

"(B) the average amount outstanding for the period of State government-guaranteed investments that are not permanently impaired (as defined in section 5.55(a)(4));

"(4)(A) the average principal outstanding for the period on loans that are in nonaccrual status; and

"(B) the average amount outstanding for the period of other-than-temporarily impaired investments; and

"(5) the amount of the premium due the Corporation from the bank for the period.".

(b) PREMIUM PAYMENTS.—Section 5.56 of such Act (12 U.S.C. 2277a–5) is amended by striking subsection (c) and inserting the following:

"(c) PREMIUM PAYMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each insured System bank shall pay to the Corporation the premium payments required under subsection (a), not more frequently than once in each calendar quarter, in such manner and at such 1 or more times as the Board of Directors shall prescribe.

Deadline.

"(2) PREMIUM AMOUNT.—The amount of the premium shall be established not later than 60 days after filing the certified statement specifying the amount of the premium.".

(c) SUBSEQUENT PREMIUM PAYMENTS.—Section 5.56 of such Act (12 U.S.C. 2277a–5) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

**SEC. 5406. RURAL UTILITY LOANS.**

(a) DEFINITION OF QUALIFIED LOAN.—Section 8.0(9) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(9)) is amended—

(1) in subparagraph (A)(iii), by striking "or" at the end;

(2) in subparagraph (B)(ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) that is a loan, or an interest in a loan, for an electric or telephone facility by a cooperative lender to a borrower that has received, or is eligible to receive, a loan under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).".

(b) GUARANTEE OF QUALIFIED LOANS.—Section 8.6(a)(1) of such Act (12 U.S.C. 2279aa–6(a)(1)) is amended by inserting "applicable" before "standards" each place it appears in subparagraphs (A) and (B)(i).

(c) STANDARDS FOR QUALIFIED LOANS.—Section 8.8 of such Act (12 U.S.C. 2279aa–8) is amended—

(1) in subsection (a)—

(A) by striking the first sentence and inserting the following:

"(1) IN GENERAL.—The Corporation shall establish underwriting, security appraisal, and repayment standards for qualified loans taking into account the nature, risk profile, and other differences between different categories of qualified loans.

"(2) SUPERVISION, EXAMINATION, AND REPORT OF CONDITION.—The standards shall be subject to the authorities of the Farm Credit Administration under section 8.11."; and

(B) in the last sentence, by striking "In establishing" and inserting the following:

"(3) MORTGAGE LOANS.—In establishing";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting "with respect to loans secured by agricultural real estate" after "subsection (a)"; and

(B) in paragraph (5)—

(i) by striking "borrower" the first place it appears and inserting "farmer or rancher"; and

(ii) by striking "site" and inserting "farm or ranch";

(3) in subsection (c)(1), by inserting "secured by agricultural real estate" after "A loan";

(4) by striking subsection (d); and

(5) by redesignating subsection (e) as subsection (d).

(d) RISK-BASED CAPITAL LEVELS.—Section 8.32(a)(1) of such Act (12 U.S.C. 2279bb–1(a)(1)) is amended—

(1) by striking "With respect" and inserting the following:

"(A) IN GENERAL.—With respect"; and

(2) by adding at the end the following:

"(B) RURAL UTILITY LOANS.—With respect to securities representing an interest in, or obligation backed by, a pool of qualified loans described in section 8.0(9)(C) owned or guaranteed by the Corporation, losses occur at a rate of default and severity reasonably related to risks in electric and telephone facility loans (as applicable), as determined by the Director.".

**SEC. 5407. EQUALIZATION OF LOAN-MAKING POWERS OF CERTAIN DISTRICT ASSOCIATIONS.**

(a) IN GENERAL.—The Farm Credit Act of 1971 is amended by inserting after section 7.6 (12 U.S.C. 2279b) the following:

**"SEC. 7.7. EQUALIZATION OF LOAN-MAKING POWERS OF CERTAIN DISTRICT ASSOCIATIONS.** 12 USC 2279c.

"(a) EQUALIZATION OF LOAN-MAKING POWERS.—

"(1) IN GENERAL.—

"(A) FEDERAL LAND BANK ASSOCIATIONS.—Subject to paragraph (2), any association that owns a Federal land bank association authorized as of January 1, 2007, to make long-term loans under title I in its chartered territory within the geographic area described in subsection (b) may make short- and intermediate-term loans and otherwise operate as a production credit association under title II within that same chartered territory.

"(B) PRODUCTION CREDIT ASSOCIATIONS.—Subject to paragraph (2), any association that under its charter has title I lending authority and that owns a production credit association authorized as of January 1, 2007, to make

short- and intermediate-term loans under title II in the geographic area described in subsection (b) may make long-term loans and otherwise operate, directly or through a subsidiary association, as a Federal land bank association or Federal land credit association under title I in the geographic area.

"(C) FARM CREDIT BANK.—Notwithstanding section 5.17(a), the Farm Credit Bank with which any association had a written financing agreement as of January 1, 2007, may make loans and extend other comparable financial assistance with respect to, and may purchase, any loans made under the new authority provided under subparagraph (A) or (B) by an association exercising such authority.

"(2) REQUIRED APPROVALS.—An association may exercise the additional authority provided for in paragraph (1) only after the exercise of the authority is approved by—

"(A) the board of directors of the association; and

"(B) a majority of the voting stockholders of the association (or, if the association is a subsidiary of another association, the voting stockholders of the parent association) voting, in person or by proxy, at a duly authorized meeting of stockholders in accordance with the process described in section 7.11.

"(b) APPLICABILITY.—This section applies only to associations the chartered territory of which was within the geographic area served by the Federal intermediate credit bank immediately prior to its merger with a Farm Credit Bank under section 410(e)(1) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note; Public Law 100–233).".

(b) CHARTER AMENDMENTS.—Section 5.17(a) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)) is amended by adding at the end the following:

"(15)(A) Approve amendments to the charters of institutions of the Farm Credit System to implement the equalization of loan-making powers of a Farm Credit System association under section 7.7.

"(B) Amendments described in subparagraph (A) to the charters of an association and the related Farm Credit Bank shall be approved by the Farm Credit Administration, subject to any conditions of approval imposed, by not later than 30 days after the date on which the Farm Credit Administration receives all approvals required by section 7.7(a)(2).".

(c) CONFORMING AMENDMENTS.—

(1) Section 5.17(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(2)) is amended—

(A) by striking "(2)(A)" and inserting "(2)"; and

(B) by striking subparagraphs (B) and (C).

(2) SECTION 410 OF THE 1987 ACT.—Section 410(e)(1)(A)(iii) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note; Public Law 100–233) is amended by inserting "(except section 7.7 of that Act)" after "(12 U.S.C. 2001 et seq.)".

(3) SECTION 401 OF THE 1992 ACT.—Section 401(b) of the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (12 U.S.C. 2011 note; Public Law 102–552) is amended—

(A) by inserting "(except section 7.7 of the Farm Credit Act of 1971)" after "provision of law"; and

(B) by striking ", subject to such limitations" and all that follows through the end of the paragraph and inserting a period.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2010. 12 USC 2252 note.

## Subtitle F—Miscellaneous

**SEC. 5501. LOANS TO PURCHASERS OF HIGHLY FRACTIONED LAND.**

The first section of Public Law 91–229 (25 U.S.C. 488) is amended—

(1) by striking "That the Secretary" and inserting the following:

**"SECTION 1. LOANS TO PURCHASERS OF HIGHLY FRACTIONED LAND.**

"(a) IN GENERAL.—The Secretary"; and

(2) by adding at the end the following:

"(b) HIGHLY FRACTIONATED LAND.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture may make and insure loans in accordance with section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) to eligible purchasers of highly fractionated land pursuant to section 205(c) of the Indian Land Consolidation Act (25 U.S.C. 2204(c)).

"(2) EXCLUSION.—Section 4 shall not apply to trust land, restricted tribal land, or tribal corporation land that is mortgaged in accordance with paragraph (1).".

# TITLE VI—RURAL DEVELOPMENT

## Subtitle A—Consolidated Farm and Rural Development Act

**SEC. 6001. WATER, WASTE DISPOSAL, AND WASTEWATER FACILITY GRANTS.**

Section 306(a)(2)(B)(vii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)(B)(vii)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

**SEC. 6002. SEARCH GRANTS.**

(a) IN GENERAL.—Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended by adding at the end the following:

"(C) SPECIAL EVALUATION ASSISTANCE FOR RURAL COMMUNITIES AND HOUSEHOLDS PROGRAM.—

"(i) IN GENERAL.—The Secretary may establish the Special Evaluation Assistance for Rural Communities and Households (SEARCH) program, to make predevelopment planning grants for feasibility studies, design assistance, and technical assistance, to financially distressed communities in rural areas with populations of 2,500 or fewer inhabitants for water and waste disposal projects described in paragraph (1), this paragraph, and paragraph (24).

"(ii) TERMS.—

"(I) DOCUMENTATION.—With respect to grants made under this subparagraph, the Secretary shall require the lowest amount of documentation practicable.

"(II) MATCHING.—Notwithstanding any other provisions in this subsection, the Secretary may fund up to 100 percent of the eligible costs of grants provided under this subparagraph, as determined by the Secretary.

"(iii) FUNDING.—The Secretary may use not more than 4 percent of the total amount of funds made available for a fiscal year for water, waste disposal, and essential community facility activities under this title to carry out this subparagraph.

"(iv) RELATIONSHIP TO OTHER AUTHORITY.—The funds and authorities provided under this subparagraph are in addition to any other funds or authorities the Secretary may have to carry out activities described in clause (i).".

(b) CONFORMING AMENDMENT.—Subtitle D of title VI of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2009ee et seq.) is repealed.

7 USC 2009ee—2009ee–3.

**SEC. 6003. RURAL BUSINESS OPPORTUNITY GRANTS.**

Section 306(a)(11)(D) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(D)) is amended by striking "1996 through 2007" and inserting "2008 through 2012".

**SEC. 6004. CHILD DAY CARE FACILITY GRANTS, LOANS, AND LOAN GUARANTEES.**

Section 306(a)(19)(C)(ii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(19)(C)(ii)) is amended by striking "April" and inserting "June".

**SEC. 6005. COMMUNITY FACILITY GRANTS TO ADVANCE BROADBAND.**

Section 306(a)(20)(E) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(20)(E)) is amended—

(1) by striking "state" and inserting "State"; and

(2) by striking "dial-up Internet access or".

**SEC. 6006. RURAL WATER AND WASTEWATER CIRCUIT RIDER PROGRAM.**

Section 306(a)(22)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(22)(C)) is amended by striking "$15,000,000 for fiscal year 2003" and inserting "$25,000,000 for fiscal year 2008".

**SEC. 6007. TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL COMMUNITY FACILITIES.**

Section 306(a)(25) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(25)) is amended—

(1) in subparagraph (A)—

(A) by striking "tribal colleges and universities" and inserting "an entity that is a Tribal College or University"; and

(B) by striking "tribal college or university" and inserting "Tribal College or University";

(2) by striking subparagraph (B) and inserting the following:

"(B) FEDERAL SHARE.—The Secretary shall establish the maximum percentage of the cost of the facility that may be covered by a grant under this paragraph, except that the Secretary may not require non-Federal financial support in an amount that is greater than 5 percent of the total cost of the facility."; and

(3) in subparagraph (C), by striking "2003 through 2007" and inserting "2008 through 2012".

**SEC. 6008. EMERGENCY AND IMMINENT COMMUNITY WATER ASSISTANCE GRANT PROGRAM.**

Section 306A(i)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a(i)(2)) is amended by striking "2003 through 2007" and inserting "2008 through 2012".

**SEC. 6009. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.**

(a) IN GENERAL.—Section 306D(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d(d)(1)) is amended by striking "2001 through 2007" and inserting "2008 through 2012".

(b) RURAL COMMUNITIES ASSISTANCE.—Section 4009 of the Solid Waste Disposal Act (42 U.S.C. 6949) is amended by adding at the end the following:

"(e) ADDITIONAL APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section for the Denali Commission to provide assistance to municipalities in the State of Alaska $1,500,000 for each of fiscal years 2008 through 2012.

"(2) ADMINISTRATION.—For the purpose of carrying out this subsection, the Denali Commission shall—

"(A) be considered a State; and

"(B) comply with all other requirements and limitations of this section.".

**SEC. 6010. GRANTS TO NONPROFIT ORGANIZATIONS TO FINANCE THE CONSTRUCTION, REFURBISHING, AND SERVICING OF INDIVIDUALLY-OWNED HOUSEHOLD WATER WELL SYSTEMS IN RURAL AREAS FOR INDIVIDUALS WITH LOW OR MODERATE INCOMES.**

Section 306E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926e) is amended—

(1) in subsection (b)(2)(C), by striking "$8,000" and inserting "$11,000"; and

(2) in subsection (d), by striking "2003 through 2007" and inserting "2008 through 2012".

**SEC. 6011. INTEREST RATES FOR WATER AND WASTE DISPOSAL FACILITIES LOANS.**

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended by adding at the end the following:

"(E) INTEREST RATES FOR WATER AND WASTE DISPOSAL FACILITIES LOANS.—

"(i) IN GENERAL.—Except as provided in clause (ii) and notwithstanding subparagraph (A), in the case of a direct loan for a water or waste disposal facility—

"(I) in the case of a loan that would be subject to the 5 percent interest rate limitation under subparagraph (A), the Secretary shall establish the interest rate at a rate that is equal to 60 percent of the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity of the loan, adjusted to the nearest ⅛ of 1 percent; and

"(II) in the case of a loan that would be subject to the 7 percent limitation under subparagraph (A), the Secretary shall establish the interest rate at a rate that is equal to 80 percent of the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity of the loan, adjusted to the nearest ⅛ of 1 percent.

"(ii) EXCEPTION.—Clause (i) does not apply to a loan for a specific project that is the subject of a loan that has been approved, but not closed, as of the date of enactment of this subparagraph.".

**SEC. 6012. COOPERATIVE EQUITY SECURITY GUARANTEE.**

(a) IN GENERAL.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended—

(1) by striking "SEC. 310B. (a)" and inserting the following:

**"SEC. 310B. ASSISTANCE FOR RURAL ENTITIES.**

"(a) LOANS TO PRIVATE BUSINESS ENTERPRISES.—

"(1) DEFINITIONS.—In this subsection:";

(2) in subsection (a)—

(A) by moving the second and fourth sentences so as to appear as the second and first sentences, respectively;

(B) in the sentence beginning "As used in this subsection, the" (as moved by subparagraph (A)), by striking "As used in this subsection, the" and inserting the following:

"(A) AQUACULTURE.—The";

(C) in the sentence beginning "For the purposes of this subsection, the", by striking "For the purposes of this subsection, the" and inserting the following:

"(B) SOLAR ENERGY.—The";

(D) in the sentence beginning "The Secretary may also"—

(i) by striking "The Secretary may also" and inserting the following:

"(2) LOAN PURPOSES.—The Secretary may";

(ii) by inserting "and private investment funds that invest primarily in cooperative organizations" after "or nonprofit";

(iii) by striking "of (1) improving" and inserting "of—

"(A) improving";

(iv) by striking "control, (2) the" and inserting "control;

"(B) the";

(v) by striking "areas, (3) reducing" and inserting "areas;

"(C) reducing";

(vi) by striking "areas, and (4) to" and inserting "areas; and

"(D) to";

(E) in the sentence beginning "Such loans,", by striking "Such loans," and inserting the following:

"(3) LOAN GUARANTEES.—Loans described in paragraph (2),"; and

(F) in the last sentence, by striking "No loan" and inserting the following:

"(4) MAXIMUM AMOUNT OF PRINCIPAL.—No loan"; and

(3) in subsection (g)—

(A) in paragraph (1), by inserting ", including guarantees described in paragraph (3)(A)(ii)" before the period at the end;

(B) in paragraph (3)(A)—

(i) by striking "(A) IN GENERAL.—The Secretary" and inserting the following:

"(A) ELIGIBILITY.—

"(i) IN GENERAL.—The Secretary"; and

(ii) by adding at the end the following:

"(ii) EQUITY.—The Secretary may guarantee a loan made for the purchase of preferred stock or similar equity issued by a cooperative organization or a fund that invests primarily in cooperative organizations, if the guarantee significantly benefits 1 or more entities eligible for assistance for the purposes described in subsection (a)(1), as determined by the Secretary."; and

(C) in paragraph (8)(A)(ii), by striking "a project—" and all that follows through the end of subclause (II) and inserting "a project that—

"(I)(aa) is in a rural area; and

"(bb) provides for the value-added processing of agricultural commodities; or

"(II) significantly benefits 1 or more entities eligible for assistance for the purposes described in subsection (a)(1), as determined by the Secretary.".

(b) CONFORMING AMENDMENTS.—

(1) Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) is amended by striking clause (ii) and inserting the following:

"(ii) section 310B(a)(2)(A); and".

(2) Section 310B(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)) is amended by striking "subsection (a)(1)" each place it appears in paragraphs (1), (6)(A)(iii), and (8)(C) and inserting "subsection (a)(2)(A)".

(3) Section 333A(g)(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(g)(1)(B)) is amended by striking "section 310B(a)(1)" and inserting "section 310B(a)(2)(A)".

(4) Section 381E(d)(3)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009d(d)(3)(B)) is amended by striking "section 310B(a)(1)" and inserting "section 310B(a)(2)(A)".

**SEC. 6013. RURAL COOPERATIVE DEVELOPMENT GRANTS.**

(a) ELIGIBILITY.—Section 310B(e)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)(5)) is amended—

(1) in subparagraph (A), by striking "administering a nationally coordinated, regionally or State-wide operated project" and inserting "carrying out activities to promote and assist the development of cooperatively and mutually owned businesses";

(2) in subparagraph (B), by inserting "to promote and assist the development of cooperatively and mutually owned businesses" before the semicolon;

(3) by striking subparagraph (D);

(4) by redesignating subparagraph (E) as subparagraph (D);

(5) in subparagraph (D) (as so redesignated), by striking "and" at the end;

(6) by inserting after subparagraph (D) (as so redesignated) the following:

"(E) demonstrate a commitment to—

"(i) networking with and sharing the results of the efforts of the center with other cooperative development centers and other organizations involved in rural economic development efforts; and

"(ii) developing multiorganization and multistate approaches to addressing the economic development and cooperative needs of rural areas; and"; and

(7) in subparagraph (F), by striking "providing greater than" and inserting "providing".

(b) AUTHORITY TO AWARD MULTIYEAR GRANTS.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by striking paragraph (6) and inserting the following:

"(6) GRANT PERIOD.—

"(A) IN GENERAL.—A grant awarded to a center that has received no prior funding under this subsection shall be made for a period of 1 year.

"(B) MULTIYEAR GRANTS.—If the Secretary determines it to be in the best interest of the program, the Secretary shall award grants for a period of more than 1 year, but not more than 3 years, to a center that has successfully met the parameters described in paragraph (5), as determined by the Secretary.".

(c) AUTHORITY TO EXTEND GRANT PERIOD.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (12), respectively; and

(2) by inserting after paragraph (6) the following:

"(7) AUTHORITY TO EXTEND GRANT PERIOD.—The Secretary may extend for 1 additional 12-month period the period in which a grantee may use a grant made under this subsection.".

(d) COOPERATIVE RESEARCH PROGRAM.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by inserting after paragraph (9) (as redesignated by subsection (c)(1)) the following:

Contracts.

"(10) COOPERATIVE RESEARCH PROGRAM.—The Secretary shall enter into a cooperative research agreement with 1 or

more qualified academic institutions in each fiscal year to conduct research on the effects of all types of cooperatives on the national economy.".

(e) ADDRESSING NEEDS OF MINORITY COMMUNITIES.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by inserting after paragraph (10) (as added by subsection (d)) the following:

"(11) ADDRESSING NEEDS OF MINORITY COMMUNITIES.—

"(A) DEFINITION OF SOCIALLY DISADVANTAGED GROUP.—In this paragraph, the term 'socially disadvantaged group' has the meaning given the term in section 355(e).

"(B) RESERVATION OF FUNDS.—

"(i) IN GENERAL.—If the total amount appropriated under paragraph (12) for a fiscal year exceeds $7,500,000, the Secretary shall reserve an amount equal to 20 percent of the total amount appropriated for grants for cooperative development centers, individual cooperatives, or groups of cooperatives—

"(I) that serve socially disadvantaged groups; and

"(II) a majority of the boards of directors or governing boards of which are comprised of individuals who are members of socially disadvantaged groups.

"(ii) INSUFFICIENT APPLICATIONS.—To the extent there are insufficient applications to carry out clause (i), the Secretary shall use the funds as otherwise authorized by this subsection.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Paragraph (12) of section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) (as redesignated by subsection (c)(1)) is amended by striking "1996 through 2007" and inserting "2008 through 2012".

**SEC. 6014. GRANTS TO BROADCASTING SYSTEMS.**

Section 310B(f)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)(3)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

**SEC. 6015. LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCTS.**

Section 310B(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)) is amended by adding at the end the following:

"(9) LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCTS.—

"(A) DEFINITIONS.—In this paragraph:

"(i) LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCT.—The term 'locally or regionally produced agricultural food product' means any agricultural food product that is raised, produced, and distributed in—

"(I) the locality or region in which the final product is marketed, so that the total distance that the product is transported is less than 400 miles from the origin of the product; or

"(II) the State in which the product is produced.

"(ii) UNDERSERVED COMMUNITY.—The term 'underserved community' means a community (including an urban or rural community and an Indian tribal community) that has, as determined by the Secretary—

"(I) limited access to affordable, healthy foods, including fresh fruits and vegetables, in grocery retail stores or farmer-to-consumer direct markets; and

"(II) a high rate of hunger or food insecurity or a high poverty rate.

"(B) LOAN AND LOAN GUARANTEE PROGRAM.—

"(i) IN GENERAL.—The Secretary shall make or guarantee loans to individuals, cooperatives, cooperative organizations, businesses, and other entities to establish and facilitate enterprises that process, distribute, aggregate, store, and market locally or regionally produced agricultural food products to support community development and farm and ranch income.

"(ii) REQUIREMENT.—The recipient of a loan or loan guarantee under clause (i) shall include in an appropriate agreement with retail and institutional facilities to which the recipient sells locally or regionally produced agricultural food products a requirement to inform consumers of the retail or institutional facilities that the consumers are purchasing or consuming locally or regionally produced agricultural food products.

"(iii) PRIORITY.—In making or guaranteeing a loan under clause (i), the Secretary shall give priority to projects that have components benefitting underserved communities.

"(iv) REPORTS.—Not later than 2 years after the date of enactment of this paragraph and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes projects carried out using loans or loan guarantees made under clause (i), including—

"(I) the characteristics of the communities served; and

"(II) resulting benefits.

"(v) RESERVATION OF FUNDS.—

"(I) IN GENERAL.—For each of fiscal years 2008 through 2012, the Secretary shall reserve not less than 5 percent of the funds made available to carry out this subsection to carry out this subparagraph.

"(II) AVAILABILITY OF FUNDS.—Funds reserved under subclause (I) for a fiscal year shall be reserved until April 1 of the fiscal year.".

**SEC. 6016. APPROPRIATE TECHNOLOGY TRANSFER FOR RURAL AREAS.**

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end the following:

"(i) APPROPRIATE TECHNOLOGY TRANSFER FOR RURAL AREAS PROGRAM.—

"(1) DEFINITION OF NATIONAL NONPROFIT AGRICULTURAL ASSISTANCE INSTITUTION.—In this subsection, the term 'national nonprofit agricultural assistance institution' means an organization that—

"(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code;

"(B) has staff and offices in multiple regions of the United States;

"(C) has experience and expertise in operating national agriculture technical assistance programs;

"(D) expands markets for the agricultural commodities produced by producers through the use of practices that enhance the environment, natural resource base, and quality of life; and

"(E) improves the economic viability of agricultural operations.

"(2) ESTABLISHMENT.—The Secretary shall establish a national appropriate technology transfer for rural areas program to assist agricultural producers that are seeking information to—

"(A) reduce input costs;

"(B) conserve energy resources;

"(C) diversify operations through new energy crops and energy generation facilities; and

"(D) expand markets for agricultural commodities produced by the producers by using practices that enhance the environment, natural resource base, and quality of life.

"(3) IMPLEMENTATION.—

"(A) IN GENERAL.—The Secretary shall carry out the program under this subsection by making a grant to, or offering to enter into a cooperative agreement with, a national nonprofit agricultural assistance institution.

"(B) GRANT AMOUNT.—A grant made, or cooperative agreement entered into, under subparagraph (A) shall provide 100 percent of the cost of providing information described in paragraph (2).

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 6017. RURAL ECONOMIC AREA PARTNERSHIP ZONES.**

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) (as amended by section 6016) is amended by adding at the end the following:

"(j) RURAL ECONOMIC AREA PARTNERSHIP ZONES.—Effective beginning on the date of enactment of this subsection through September 30, 2012, the Secretary shall carry out those rural economic area partnership zones administratively in effect on the date of enactment of this subsection in accordance with the terms and conditions contained in the memorandums of agreement entered into by the Secretary for the rural economic area partnership zones, except as otherwise provided in this subsection.".

Effective date. Termination date.

**SEC. 6018. DEFINITIONS.**

(a) RURAL AREA.—Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended by striking paragraph (13) and inserting the following:

"(13) RURAL AND RURAL AREA.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (G), the terms 'rural' and 'rural area' mean any area other than—

"(i) a city or town that has a population of greater than 50,000 inhabitants; and

"(ii) any urbanized area contiguous and adjacent to a city or town described in clause (i).

"(B) WATER AND WASTE DISPOSAL GRANTS AND DIRECT AND GUARANTEED LOANS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1), (2), and (24) of section 306(a), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.

"(C) COMMUNITY FACILITY LOANS AND GRANTS.—For the purpose of community facility direct and guaranteed loans and grants under paragraphs (1), (19), (20), (21), and (24) of section 306(a), the terms 'rural' and 'rural area' mean any area other than a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants.

"(D) AREAS RURAL IN CHARACTER.—

"(i) APPLICATION.—This subparagraph applies to—

"(I) an urbanized area described in subparagraphs (A)(ii) and (F) that—

"(aa) has 2 points on its boundary that are at least 40 miles apart; and

"(bb) is not contiguous or adjacent to a city or town that has a population of greater than 150,000 inhabitants or an urbanized area of such city or town; and

"(II) an area within an urbanized area described in subparagraphs (A)(ii) and (F) that is within ¼-mile of a rural area described in subparagraph (A).

"(ii) DETERMINATION.—Notwithstanding any other provision of this paragraph, on the petition of a unit of local government in an area described in clause (i) or on the initiative of the Under Secretary for Rural Development, the Under Secretary may determine that a part of an area described in clause (i) is a rural area for the purposes of this paragraph, if the Under Secretary finds that the part is rural in character, as determined by the Under Secretary.

"(iii) ADMINISTRATION.—In carrying out this subparagraph, the Under Secretary for Rural Development shall—

"(I) not delegate the authority to carry out this subparagraph;

"(II) consult with the applicable rural development State or regional director of the Department of Agriculture and the governor of the respective State;

"(III) provide to the petitioner an opportunity to appeal to the Under Secretary a determination made under this subparagraph;

"(IV) release to the public notice of a petition filed or initiative of the Under Secretary under this subparagraph not later than 30 days after receipt of the petition or the commencement of the initiative, as appropriate; Public information. Notice. Deadline.

"(V) make a determination under this subparagraph not less than 15 days, and not more than 60 days, after the release of the notice under subclause (IV); Time period.

"(VI) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on actions taken to carry out this subparagraph; and Reports.

"(VII) terminate a determination under this subparagraph that part of an area is a rural area on the date that data is available for the next decennial census conducted under section 141(a) of title 13, United States Code. Termination date.

"(E) EXCLUSIONS.—Notwithstanding any other provision of this paragraph, in determining which census blocks in an urbanized area are not in a rural area (as defined in this paragraph), the Secretary shall exclude any cluster of census blocks that would otherwise be considered not in a rural area only because the cluster is adjacent to not more than 2 census blocks that are otherwise considered not in a rural area under this paragraph.

"(F) URBAN AREA GROWTH.—

"(i) APPLICATION.—This subparagraph applies to—

"(I) any area that—

"(aa) is a collection of census blocks that are contiguous to each other;

"(bb) has a housing density that the Secretary estimates is greater than 200 housing units per square mile; and

"(cc) is contiguous or adjacent to an existing boundary of a rural area; and

"(II) any urbanized area contiguous and adjacent to a city or town described in subparagraph (A)(i).

"(ii) ADJUSTMENTS.—The Secretary may, by regulation only, consider—

"(I) an area described in clause (i)(I) not to be a rural area for purposes of subparagraphs (A) and (C); and

"(II) an area described in clause (i)(II) not to be a rural area for purposes of subparagraph (C).

"(iii) APPEALS.—A program applicant may appeal an estimate made under clause (i)(I) based on appropriate data for an area, as determined by the Secretary.

"(G) HAWAII AND PUERTO RICO.—Notwithstanding any other provision of this paragraph, within the areas of the County of Honolulu, Hawaii, and the Commonwealth of

Puerto Rico, the Secretary may designate any part of the areas as a rural area if the Secretary determines that the part is not urban in character, other than any area included in the Honolulu Census Designated Place or the San Juan Census Designated Place.".

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) assesses the various definitions of the term "rural" and "rural area" that are used with respect to programs administered by the Secretary;

(2) describes the effects that the variations in those definitions have on those programs;

(3) make recommendations for ways to better target funds provided through rural development programs; and

(4) determines the effect of the amendment made by subsection (a) on the level of rural development funding and participation in those programs in each State.

**SEC. 6019. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.**

Section 378 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008m) is amended—

(1) in subsection (g)(1), by striking "2003 through 2007" and inserting "2008 through 2012"; and

(2) in subsection (h), by striking "the date that is 5 years after the date of enactment of this section" and inserting "September 30, 2012".

**SEC. 6020. HISTORIC BARN PRESERVATION.**

(a) GRANT PRIORITY.—Section 379A(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o(c)) is amended—

(1) in paragraph (2)—

(A) in subparagraphs (A) and (B), by striking "a historic barn" each place it appears and inserting "historic barns"; and

(B) in subparagraph (C), by striking "on a historic barn" and inserting "on historic barns (including surveys)";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) PRIORITY.—In making grants under this subsection, the Secretary shall give the highest priority to funding projects described in paragraph (2)(C).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 379A(c)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o(c)(5)) (as redesignated by subsection (a)(2)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

**SEC. 6021. GRANTS FOR NOAA WEATHER RADIO TRANSMITTERS.**

Section 379B(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008p(d)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

**SEC. 6022. RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding at the end the following:

**"SEC. 379E. RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.** 7 USC 2008s.

"(a) DEFINITIONS.—In this section:

"(1) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(2) MICROENTREPRENEUR.—The term 'microentrepreneur' means an owner and operator, or prospective owner and operator, of a rural microenterprise who is unable to obtain sufficient training, technical assistance, or credit other than under this section, as determined by the Secretary.

"(3) MICROENTERPRISE DEVELOPMENT ORGANIZATION.—The term 'microenterprise development organization' means an organization that—

"(A) is—

"(i) a nonprofit entity;

"(ii) an Indian tribe, the tribal government of which certifies to the Secretary that—

"(I) no microenterprise development organization serves the Indian tribe; and

"(II) no rural microentrepreneur assistance program exists under the jurisdiction of the Indian tribe; or

"(iii) a public institution of higher education;

"(B) provides training and technical assistance to rural microentrepreneurs;

"(C) facilitates access to capital or another service described in subsection (b) for rural microenterprises; and

"(D) has a demonstrated record of delivering services to rural microentrepreneurs, or an effective plan to develop a program to deliver services to rural microentrepreneurs, as determined by the Secretary.

"(4) MICROLOAN.—The term 'microloan' means a business loan of not more than $50,000 that is provided to a rural microenterprise.

"(5) PROGRAM.—The term 'program' means the rural microentrepreneur assistance program established under subsection (b).

"(6) RURAL MICROENTERPRISE.—The term 'rural microenterprise' means—

"(A) a sole proprietorship located in a rural area; or

"(B) a business entity with not more than 10 full-time-equivalent employees located in a rural area.

"(b) RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a rural microentrepreneur assistance program to provide loans and grants to support microentrepreneurs in the development and ongoing success of rural microenterprises.

"(2) PURPOSE.—The purpose of the program is to provide microentrepreneurs with—

"(A) the skills necessary to establish new rural microenterprises; and

"(B) continuing technical and financial assistance related to the successful operation of rural microenterprises.

"(3) LOANS.—

"(A) IN GENERAL.—The Secretary shall make loans to microenterprise development organizations for the purpose of providing fixed interest rate microloans to microentrepreneurs for startup and growing rural microenterprises.

"(B) LOAN TERMS.—A loan made by the Secretary to a microenterprise development organization under this paragraph shall—

"(i) be for a term not to exceed 20 years; and

"(ii) bear an annual interest rate of at least 1 percent.

"(C) LOAN LOSS RESERVE FUND.—The Secretary shall require each microenterprise development organization that receives a loan under this paragraph to—

"(i) establish a loan loss reserve fund; and

"(ii) maintain the reserve fund in an amount equal to at least 5 percent of the outstanding balance of such loans owed by the microenterprise development organization, until all obligations owed to the Secretary under this paragraph are repaid.

"(D) DEFERRAL OF INTEREST AND PRINCIPAL.—The Secretary may permit the deferral of payments on principal and interest due on a loan to a microenterprise development organization made under this paragraph for a 2-year period beginning on the date the loan is made.

"(4) GRANTS.—

"(A) GRANTS TO SUPPORT RURAL MICROENTERPRISE DEVELOPMENT.—

"(i) IN GENERAL.—The Secretary shall make grants to microenterprise development organizations to—

"(I) provide training, operational support, business planning, and market development assistance, and other related services to rural microentrepreneurs; and

"(II) carry out such other projects and activities as the Secretary determines appropriate to further the purposes of the program.

"(ii) SELECTION.—In making grants under clause (i), the Secretary shall—

"(I) place an emphasis on microenterprise development organizations that serve microentrepreneurs that are located in rural areas that have suffered significant outward migration, as determined by the Secretary; and

"(II) ensure, to the maximum extent practicable, that grant recipients include microenterprise development organizations—

"(aa) of varying sizes; and

"(bb) that serve racially and ethnically diverse populations.

"(B) GRANTS TO ASSIST MICROENTREPRENEURS.—

"(i) IN GENERAL.—The Secretary shall make grants to microenterprise development organizations to provide marketing, management, and other technical assistance to microentrepreneurs that—

"(I) received a loan from the microenterprise development organization under paragraph (3); or

"(II) are seeking a loan from the microenterprise development organization under paragraph (3).

"(ii) MAXIMUM AMOUNT OF GRANT.—A microenterprise development organization shall be eligible to receive an annual grant under this subparagraph in an amount equal to not more than 25 percent of the total outstanding balance of microloans made by the microenterprise development organization under paragraph (3), as of the date the grant is awarded.

"(C) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of a grant received by a microenterprise development organization for a fiscal year under this paragraph may be used to pay administrative expenses.

"(c) ADMINISTRATION.—

"(1) COST SHARE.—

"(A) FEDERAL SHARE.—Subject to subparagraph (B), the Federal share of the cost of a project funded under this section shall not exceed 75 percent.

"(B) MATCHING REQUIREMENT.—As a condition of any grant made under this subparagraph, the Secretary shall require the microenterprise development organization to match not less than 15 percent of the total amount of the grant in the form of matching funds, indirect costs, or in-kind goods or services.

"(C) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the cost of a project funded under this section may be provided—

"(i) in cash (including through fees, grants (including community development block grants), and gifts); or

"(ii) in the form of in-kind contributions.

"(2) OVERSIGHT.—At a minimum, not later than December 1 of each fiscal year, a microenterprise development organization that receives a loan or grant under this section shall provide to the Secretary such information as the Secretary may require to ensure that assistance provided under this section is used for the purposes for which the loan or grant was made. Deadline.

"(d) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

"(A) $4,000,000 for each of fiscal years 2009 through 2011; and

"(B) $3,000,000 for fiscal year 2012.

"(2) DISCRETIONARY FUNDING.—In addition to amounts made available under paragraph (1), there are authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2009 through 2012.".

**SEC. 6023. GRANTS FOR EXPANSION OF EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES IN RURAL AREAS.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6022) is amended by adding at the end the following:

7 USC 2000t.

**"SEC. 379F. GRANTS FOR EXPANSION OF EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES IN RURAL AREAS.**

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

"(2) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

"(b) GRANTS.—The Secretary shall make grants to nonprofit organizations, or to a consortium of nonprofit organizations, to expand and enhance employment opportunities for individuals with disabilities in rural areas.

"(c) ELIGIBILITY.—To be eligible to receive a grant under this section, a nonprofit organization or consortium of nonprofit organizations shall have—

"(1) a significant focus on serving the needs of individuals with disabilities;

"(2) demonstrated knowledge and expertise in—

"(A) employment of individuals with disabilities; and

"(B) advising private entities on accessibility issues involving individuals with disabilities;

"(3) expertise in removing barriers to employment for individuals with disabilities, including access to transportation, assistive technology, and other accommodations; and

"(4) existing relationships with national organizations focused primarily on the needs of rural areas.

"(d) USES.—A grant received under this section may be used only to expand or enhance—

"(1) employment opportunities for individuals with disabilities in rural areas by developing national technical assistance and education resources to assist small businesses in a rural area to recruit, hire, accommodate, and employ individuals with disabilities; and

"(2) self-employment and entrepreneurship opportunities for individuals with disabilities in a rural area.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 6024. HEALTH CARE SERVICES.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6023) is amended by adding at the end the following:

**"SEC. 379G. HEALTH CARE SERVICES.** 7 USC 2008u.

"(a) PURPOSE.—The purpose of this section is to address the continued unmet health needs in the Delta region through cooperation among health care professionals, institutions of higher education, research institutions, and other individuals and entities in the region.

"(b) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a consortium of regional institutions of higher education, academic health and research institutes, and economic development entities located in the Delta region that have experience in addressing the health care issues in the region.

"(c) GRANTS.—To carry out the purpose described in subsection (a), the Secretary may award a grant to an eligible entity for –

"(1) the development of –

"(A) health care services;

"(B) health education programs; and

"(C) health care job training programs; and

"(2) the development and expansion of public health-related facilities in the Delta region to address longstanding and unmet health needs of the region.

"(d) USE.—As a condition of the receipt of the grant, the eligible entity shall use the grant to fund projects and activities described in subsection (c), based on input solicited from local governments, public health care providers, and other entities in the Delta region.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section, $3,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 6025. DELTA REGIONAL AUTHORITY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 382M(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–12(a)) is amended by striking "2001 through 2007" and inserting "2008 through 2012".

(b) TERMINATION OF AUTHORITY.—Section 382N of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–13) is amended by striking "2007" and inserting "2012".

(c) EXPANSION.—Section 4(2) of the Delta Development Act (42 U.S.C. 3121 note; Public Law 100–460) is amended—

(1) in subparagraph (D), by inserting "Beauregard, Bienville, Cameron, Claiborne, DeSoto, Jefferson Davis, Red River, St. Mary, Vermillion, Webster," after "St. James,"; and

(2) in subparagraph (E)—

(A) by inserting "Jasper," after "Copiah,"; and

(B) by inserting "Smith," after "Simpson,".

**SEC. 6026. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.**

(a) DEFINITION OF REGION.—Section 383A(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb(4)) is amended by inserting "Missouri (other than counties included in the Delta Regional Authority)," after "Minnesota,".

(b) ESTABLISHMENT.—Section 383B of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb–1) is amended—

(1) in subsection (a), by adding at the end the following:

"(4) FAILURE TO CONFIRM.—

"(A) FEDERAL MEMBER.—Notwithstanding any other provision of this section, if a Federal member described Deadline.

in paragraph (2)(A) has not been confirmed by the Senate by not later than 180 days after the date of enactment of this paragraph, the Authority may organize and operate without the Federal member.

"(B) INDIAN CHAIRPERSON.—In the case of the Indian Chairperson, if no Indian Chairperson is confirmed by the Senate, the regional authority shall consult and coordinate with the leaders of Indian tribes in the region concerning the activities of the Authority, as appropriate.";

(2) in subsection (d)—

(A) in paragraph (1), by striking "to establish priorities and" and inserting "for multistate cooperation to advance the economic and social well-being of the region and to";

(B) in paragraph (3), by striking "local development districts," and inserting "regional and local development districts or organizations, regional boards established under subtitle I,";

(C) in paragraph (4), by striking "cooperation;" and inserting "cooperation for—

"(i) renewable energy development and transmission;

"(ii) transportation planning and economic development;

"(iii) information technology;

"(iv) movement of freight and individuals within the region;

"(v) federally-funded research at institutions of higher education; and

"(vi) conservation land management;";

(D) by striking paragraph (6) and inserting the following:

"(6) enhance the capacity of, and provide support for, multistate development and research organizations, local development organizations and districts, and resource conservation districts in the region;"; and

(E) in paragraph (7), by inserting "renewable energy," after "commercial,".

(3) in subsection (f)(2), by striking "the Federal cochairperson" and inserting "a cochairperson";

(4) in subsection (g)(1), by striking subparagraphs (A) through (C) and inserting the following:

"(A) for each of fiscal years 2008 and 2009, 100 percent;

"(B) for fiscal year 2010, 75 percent; and

"(C) for fiscal year 2011 and each fiscal year thereafter, 50 percent.".

(c) INTERSTATE COOPERATION FOR ECONOMIC OPPORTUNITY AND EFFICIENCY.—

(1) IN GENERAL.—Subtitle G of the Consolidated Farm and Rural Development Act is amended—

(A) by redesignating sections 383C through 383N (7 U.S.C. 2009bb–2 through 2009bb–13) as sections 383D through 383O, respectively; and

(B) by inserting after section 383B (7 U.S.C. 2009bb–1) the following:

**"SEC. 383C. INTERSTATE COOPERATION FOR ECONOMIC OPPORTUNITY AND EFFICIENCY.** 7 USC 2009bb–1a.

"(a) IN GENERAL.—The Authority shall provide assistance to States in developing regional plans to address multistate economic issues, including plans— Plans.

"(1) to develop a regional transmission system for movement of renewable energy to markets outside the region;

"(2) to address regional transportation concerns, including the establishment of a Northern Great Plains Regional Transportation Working Group;

"(3) to encourage and support interstate collaboration on federally-funded research that is in the national interest; and

"(4) to establish a Regional Working Group on Agriculture Development and Transportation.

"(b) ECONOMIC ISSUES.—The multistate economic issues referred to in subsection (a) shall include—

"(1) renewable energy development and transmission;

"(2) transportation planning and economic development;

"(3) information technology;

"(4) movement of freight and individuals within the region;

"(5) federally-funded research at institutions of higher education; and

"(6) conservation land management.".

(2) CONFORMING AMENDMENTS.—

(A) Section 383B(c)(3)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb–1(c)(3)(B)) is amended by striking "383I" and inserting "383J".

(B) Section 383D(a) of the Consolidated Farm and Rural Development Act (as redesignated by paragraph (1)(A)) is amended by striking "383I" and inserting "383J". 7 USC 2009bb–2.

(C) Section 383E of the Consolidated Farm and Rural Development Act (as so redesignated) is amended— 7 USC 2009bb–3.

(i) in subsection (b)(1), by striking "383F(b)" and inserting "383G(b)"; and

(ii) in subsection (c)(2)(A), by striking "383I" and inserting "383J".

(D) Section 383G of the Consolidated Farm and Rural Development Act (as so redesignated) is amended— 7 USC 2009bb–5.

(i) in subsection (b)—

(I) in paragraph (1), by striking "383M" and inserting "383N"; and

(II) in paragraph (2), by striking "383D(b)" and inserting "383E(b)";

(ii) in subsection (c)(2)(A), by striking "383E(b)" and inserting "383F(b)"; and

(iii) in subsection (d)—

(I) by striking "383M" and inserting "383N"; and

(II) by striking "383C(a)" and inserting "383D(a)".

(E) Section 383J(c)(2) of the Consolidated Farm and Rural Development Act (as so redesignated) is amended by striking "383H" and inserting "383I". 7 USC 2009bb–8.

(d) ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS.—Section 383D of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended— 7 USC 2009bb–2.

(1) in subsection (a)—

(A) in paragraph (1), by striking "transportation and telecommunication" and inserting "transportation, renewable energy transmission, and telecommunication"; and

(B) by redesignating paragraphs (1) and (2) as paragraphs (2) and (1), respectively, and moving those paragraphs so as to appear in numerical order; and

(2) in subsection (b)(2), by striking "the activities in the following order or priority" and inserting "the following activities".

(e) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 383E(a) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by striking ", including local development districts,".

7 USC 2009bb–3.

(f) MULTISTATE AND LOCAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS AND NORTHERN GREAT PLAINS INC.—Section 383F of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended—

7 USC 2009bb–4.

(1) by striking the section heading and inserting "**MULTISTATE AND LOCAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS AND NORTHERN GREAT PLAINS INC.**"; and

(2) by striking subsections (a) through (c) and inserting the following:

"(a) DEFINITION OF MULTISTATE AND LOCAL DEVELOPMENT DISTRICT OR ORGANIZATION.—In this section, the term 'multistate and local development district or organization' means an entity—

"(1) that—

"(A) is a planning district in existence on the date of enactment of this subtitle that is recognized by the Economic Development Administration of the Department of Commerce; or

"(B) is—

"(i) organized and operated in a manner that ensures broad-based community participation and an effective opportunity for other nonprofit groups to contribute to the development and implementation of programs in the region;

"(ii) a nonprofit incorporated body organized or chartered under the law of the State in which the entity is located;

"(iii) a nonprofit agency or instrumentality of a State or local government;

"(iv) a public organization established before the date of enactment of this subtitle under State law for creation of multijurisdictional, area-wide planning organizations;

"(v) a nonprofit agency or instrumentality of a State that was established for the purpose of assisting with multistate cooperation; or

"(vi) a nonprofit association or combination of bodies, agencies, and instrumentalities described in clauses (ii) through (v); and

"(2) that has not, as certified by the Authority (in consultation with the Federal cochairperson or Secretary, as appropriate)—

"(A) inappropriately used Federal grant funds from any Federal source; or

"(B) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

"(b) GRANTS TO MULTISTATE, LOCAL, OR REGIONAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS.—

"(1) IN GENERAL.—The Authority may make grants for administrative expenses under this section to multistate, local, and regional development districts and organizations.

"(2) CONDITIONS FOR GRANTS.—

"(A) MAXIMUM AMOUNT.—The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the multistate, local, or regional development district or organization receiving the grant.

"(B) MAXIMUM PERIOD.—No grant described in paragraph (1) shall be awarded for a period greater than 3 years.

"(3) LOCAL SHARE.—The contributions of a multistate, local, or regional development district or organization for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

"(c) DUTIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a local development district shall operate as a lead organization serving multicounty areas in the region at the local level.

"(2) DESIGNATION.—The Federal cochairperson may designate an Indian tribe or multijurisdictional organization to serve as a lead organization in such cases as the Federal cochairperson or Secretary, as appropriate, determines appropriate.".

(g) DISTRESSED COUNTIES AND AREAS AND NONDISTRESSED COUNTIES.—Section 383G of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended— 7 USC 2009bb–5.

(1) in subsection (b)(1), by striking "75" and inserting "50";

(2) by striking subsection (c);

(3) by redesignating subsection (d) as subsection (c); and

(4) in subsection (c) (as so redesignated)—

(A) in the subsection heading, by inserting "RENEWABLE ENERGY," after"TELECOMMUNICATION"; and

(B) by inserting ", renewable energy," after "telecommunication,".

(h) DEVELOPMENT PLANNING PROCESS.—Section 383H of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended— 7 USC 2009bb–6.

(1) in subsection (c)(1), by striking subparagraph (A) and inserting the following:

"(A) multistate, regional, and local development districts and organizations; and"; and

(2) in subsection (d)(1), by striking "State and local development districts" and inserting "multistate, regional, and local development districts and organizations".

(i) PROGRAM DEVELOPMENT CRITERIA.—Section 383I(a)(1) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by inserting "multistate or" before "regional". 7 USC 2009bb–7.

(j) AUTHORIZATION OF APPROPRIATIONS.—Section 383N(a) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

7 USC 2009bb–12.

(k) TERMINATION OF AUTHORITY.—Section 383O of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by striking "2007" and inserting "2012".

7 USC 2009bb–13.

**SEC. 6027. RURAL BUSINESS INVESTMENT PROGRAM.**

(a) ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.—Section 384F(b)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–5(b)(3)(A)) is amended by striking "In the event" and inserting the following:

"(i) AUTHORITY TO PREPAY.—A debenture may be prepaid at any time without penalty.

"(ii) REDUCTION OF GUARANTEE.—Subject to clause (i), if".

(b) FEES.—Section 384G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–6) is amended—

(1) in subsection (a), by striking "such fees as the Secretary considers appropriate" and inserting "a fee that does not exceed $500";

(2) in subsection (b), by striking "approved by the Secretary" and inserting "that does not exceed $500"; and

(3) in subsection (c)—

(A) in paragraph (1), by striking "The" and inserting "Except as provided in paragraph (3), the";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(C) shall not exceed $500 for any fee collected under this subsection."; and

(C) by adding at the end the following:

"(3) PROHIBITION ON COLLECTION OF CERTAIN FEES.—In the case of a license described in paragraph (1) that was approved before July 1, 2007, the Secretary shall not collect any fees due on or after the date of enactment of this paragraph.".

(c) RURAL BUSINESS INVESTMENT COMPANIES.—Section 384I(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–8(c)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) TIME FRAME.—Each rural business investment company shall have a period of 2 years to meet the capital requirements of this subsection.".

(d) FINANCIAL INSTITUTION INVESTMENTS.—Section 384J of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–9) is amended—

(1) in subsection (a)(1), by inserting ", including an investment pool created entirely by such bank or savings association" before the period at the end; and

(2) in subsection (c), by striking "15" and inserting "25".

(e) CONTRACTING OF FUNCTIONS.—Section 384Q of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–16) is repealed.

(f) FUNDING.—The Consolidated Farm and Rural Development Act is amended by striking section 384S (7 U.S.C. 2009cc–18) and inserting the following:

**"SEC. 384S. AUTHORIZATION OF APPROPRIATIONS.**

7 USC 2009cc–18.

"There is authorized to be appropriated to carry out this subtitle $50,000,000 for the period of fiscal years 2008 through 2012.".

**SEC. 6028. RURAL COLLABORATIVE INVESTMENT PROGRAM.**

Subtitle I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd et seq.) is amended to read as follows:

# "Subtitle I—Rural Collaborative Investment Program

**"SEC. 385A. PURPOSE.**

7 USC 2009dd.

"The purpose of this subtitle is to establish a regional rural collaborative investment program—

"(1) to provide rural regions with a flexible investment vehicle, allowing for local control with Federal oversight, assistance, and accountability;

"(2) to provide rural regions with incentives and resources to develop and implement comprehensive strategies for achieving regional competitiveness, innovation, and prosperity;

"(3) to foster multisector community and economic development collaborations that will optimize the asset-based competitive advantages of rural regions with particular emphasis on innovation, entrepreneurship, and the creation of quality jobs;

"(4) to foster collaborations necessary to provide the professional technical expertise, institutional capacity, and economies of scale that are essential for the long-term competitiveness of rural regions; and

"(5) to better use Department of Agriculture and other Federal, State, and local governmental resources, and to leverage those resources with private, nonprofit, and philanthropic investments, in order to achieve measurable community and economic prosperity, growth, and sustainability.

**"SEC. 385B. DEFINITIONS.**

7 USC 2009dd–1.

"In this subtitle:

"(1) BENCHMARK.—The term 'benchmark' means an annual set of goals and performance measures established for the purpose of assessing performance in meeting a regional investment strategy of a Regional Board.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(3) NATIONAL BOARD.—The term 'National Board' means the National Rural Investment Board established under section 385C(c).

"(4) NATIONAL INSTITUTE.—The term 'National Institute' means the National Institute on Regional Rural Competitiveness and Entrepreneurship established under section 385C(b)(2).

"(5) REGIONAL BOARD.—The term 'Regional Board' means a Regional Rural Investment Board described in section 385D(a).

"(6) REGIONAL INNOVATION GRANT.—The term 'regional innovation grant' means a grant made by the Secretary to a certified Regional Board under section 385F.

"(7) REGIONAL INVESTMENT STRATEGY GRANT.—The term 'regional investment strategy grant' means a grant made by the Secretary to a certified Regional Board under section 385E.

"(8) RURAL HERITAGE.—

"(A) IN GENERAL.—The term 'rural heritage' means historic sites, structures, and districts.

"(B) INCLUSIONS.—The term 'rural heritage' includes historic rural downtown areas and main streets, neighborhoods, farmsteads, scenic and historic trails, heritage areas, and historic landscapes.

7 USC 2009dd–2.

**"SEC. 385C. ESTABLISHMENT AND ADMINISTRATION OF RURAL COLLABORATIVE INVESTMENT PROGRAM.**

"(a) ESTABLISHMENT.—The Secretary shall establish a Rural Collaborative Investment Program to support comprehensive regional investment strategies for achieving rural competitiveness.

"(b) DUTIES OF SECRETARY.—In carrying out this subtitle, the Secretary shall—

"(1) appoint and provide administrative and program support to the National Board;

Establishment.

"(2) establish a national institute, to be known as the 'National Institute on Regional Rural Competitiveness and Entrepreneurship', to provide technical assistance to the Secretary and the National Board regarding regional competitiveness and rural entrepreneurship, including technical assistance for—

"(A) the development of rigorous analytic programs to assist Regional Boards in determining the challenges and opportunities that need to be addressed to receive the greatest regional competitive advantage;

"(B) the provision of support for best practices developed by the Regional Boards;

"(C) the establishment of programs to support the development of appropriate governance and leadership skills in the applicable regions; and

"(D) the evaluation of the progress and performance of the Regional Boards in achieving benchmarks established in a regional investment strategy;

"(3) work with the National Board to develop a national rural investment plan that shall—

"(A) create a framework to encourage and support a more collaborative and targeted rural investment portfolio in the United States;

"(B) establish a Rural Philanthropic Initiative, to work with rural communities to create and enhance the pool of permanent philanthropic resources committed to rural community and economic development;

"(C) cooperate with the Regional Boards and State and local governments, organizations, and entities to ensure investment strategies are developed that take into consideration existing rural assets; and

"(D) encourage the organization of Regional Boards;

"(4) certify the eligibility of Regional Boards to receive regional investment strategy grants and regional innovation grants; Certification.

"(5) provide grants for Regional Boards to develop and implement regional investment strategies; Grants.

"(6) provide technical assistance to Regional Boards on issues, best practices, and emerging trends relating to rural development, in cooperation with the National Rural Investment Board; and

"(7) provide analytic and programmatic support for regional rural competitiveness through the National Institute, including—

"(A) programs to assist Regional Boards in determining the challenges and opportunities that must be addressed to receive the greatest regional competitive advantage;

"(B) support for best practices development by the regional investment boards;

"(C) programs to support the development of appropriate governance and leadership skills in the region; and

"(D) a review and evaluation of the performance of the Regional Boards (including progress in achieving benchmarks established in a regional investment strategy) in an annual report submitted to— Reports.

"(i) the Committee on Agriculture of the House of Representatives; and

"(ii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(c) NATIONAL RURAL INVESTMENT BOARD.—The Secretary shall establish within the Department of Agriculture a board to be known as the 'National Rural Investment Board'. Establishment.

"(d) DUTIES OF NATIONAL BOARD.—The National Board shall—

"(1) not later than 180 days after the date of establishment of the National Board, develop rules relating to the operation of the National Board; and Deadline. Regulations.

"(2) provide advice to—

"(A) the Secretary and subsequently review the design, development, and execution of the National Rural Investment Plan;

"(B) Regional Boards on issues, best practices, and emerging trends relating to rural development; and

"(C) the Secretary and the National Institute on the development and execution of the program under this subtitle.

"(e) MEMBERSHIP.—

"(1) IN GENERAL.—The National Board shall consist of 14 members appointed by the Secretary not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008. Deadline.

"(2) SUPERVISION.—The National Board shall be subject to the general supervision and direction of the Secretary.

"(3) SECTORS REPRESENTED.—The National Board shall consist of representatives from each of—

"(A) nationally recognized entrepreneurship organizations;

"(B) regional strategy and development organizations;

"(C) community-based organizations;

"(D) elected members of local governments;

"(E) members of State legislatures;

"(F) primary, secondary, and higher education, job skills training, and workforce development institutions;

"(G) the rural philanthropic community;

"(H) financial, lending, venture capital, entrepreneurship, and other related institutions;

"(I) private sector business organizations, including chambers of commerce and other for-profit business interests;

"(J) Indian tribes; and

"(K) cooperative organizations.

"(4) SELECTION OF MEMBERS.—

"(A) IN GENERAL.—In selecting members of the National Board, the Secretary shall consider recommendations made by—

"(i) the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate;

"(ii) the Majority Leader and Minority Leader of the Senate; and

"(iii) the Speaker and Minority Leader of the House of Representatives.

"(B) EX-OFFICIO MEMBERS.—In consultation with the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary may appoint not more than 3 other officers or employees of the Executive Branch to serve as ex-officio, nonvoting members of the National Board.

"(5) TERM OF OFFICE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term of office of a member of the National Board appointed under paragraph (1)(A) shall be for a period of not more than 4 years.

"(B) STAGGERED TERMS.—The members of the National Board shall be appointed to serve staggered terms.

Deadline.

"(6) INITIAL APPOINTMENTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall appoint the initial members of the National Board.

"(7) VACANCIES.—A vacancy on the National Board shall be filled in the same manner as the original appointment.

"(8) COMPENSATION.—A member of the National Board shall receive no compensation for service on the National Board, but shall be reimbursed for related travel and other expenses incurred in carrying out the duties of the member of the National Board in accordance with section 5702 and 5703 of title 5, United States Code.

"(9) CHAIRPERSON.—The National Board shall select a chairperson from among the members of the National Board.

"(10) FEDERAL STATUS.—For purposes of Federal law, a member of the National Board shall be considered a special Government employee (as defined in section 202(a) of title 18, United States Code).

"(f) ADMINISTRATIVE SUPPORT.—The Secretary, on a reimbursable basis from funds made available under section 385H, may provide such administrative support to the National Board as the Secretary determines is necessary.

**"SEC. 385D. REGIONAL RURAL INVESTMENT BOARDS.** 7 USC 2009dd–3.

"(a) IN GENERAL.—A Regional Rural Investment Board shall be a multijurisdictional and multisectoral group that—

"(1) represents the long-term economic, community, and cultural interests of a region;

"(2) is certified by the Secretary to establish a rural investment strategy and compete for regional innovation grants; Certification.

"(3) is composed of residents of a region that are broadly representative of diverse public, nonprofit, and private sector interests in investment in the region, including (to the maximum extent practicable) representatives of—

"(A) units of local, multijurisdictional, or State government, including not more than 1 representative from each State in the region;

"(B) nonprofit community-based development organizations, including community development financial institutions and community development corporations;

"(C) agricultural, natural resource, and other asset-based related industries;

"(D) in the case of regions with federally recognized Indian tribes, Indian tribes;

"(E) regional development organizations;

"(F) private business organizations, including chambers of commerce;

"(G)(i) institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)));

"(ii) tribally controlled colleges or universities (as defined in section 2(a) of Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a))); and

"(iii) tribal technical institutions;

"(H) workforce and job training organizations;

"(I) other entities and organizations, as determined by the Regional Board;

"(J) cooperatives; and

"(K) consortia of entities and organizations described in subparagraphs (A) through (J);

"(4) represents a region inhabited by—

"(A) more than 25,000 individuals, as determined in the latest available decennial census conducted under section 141(a) of title 13, United States Code; or

"(B) in the case of a region with a population density of less than 2 individuals per square mile, at least 10,000 individuals, as determined in that latest available decennial census;

"(5) has a membership of which not less than 25 percent, nor more than 40 percent, represents—

"(A) units of local government and Indian tribes described in subparagraphs (A) and (D) of paragraph (3);

"(B) nonprofit community and economic development organizations and institutions of higher education described in subparagraphs (B) and (G) of paragraph (3); or

"(C) private business (including chambers of commerce and cooperatives) and agricultural, natural resource, and other asset-based related industries described in subparagraphs (C) and (F) of paragraph (3);

"(6) has a membership that may include an officer or employee of a Federal agency, serving as an ex-officio, nonvoting member of the Regional Board to represent the agency; and

"(7) has organizational documents that demonstrate that the Regional Board will—

"(A) create a collaborative public-private strategy process;

"(B) develop, and submit to the Secretary for approval, a regional investment strategy that meets the requirements of section 385E, with benchmarks—

"(i) to promote investment in rural areas through the use of grants made available under this subtitle; and

"(ii) to provide financial and technical assistance to promote a broad-based regional development program aimed at increasing and diversifying economic growth, improved community facilities, and improved quality of life;

"(C) implement the approved regional investment strategy;

"(D) provide annual reports to the Secretary and the National Board on progress made in achieving the benchmarks of the regional investment strategy, including an annual financial statement; and

"(E) select a non-Federal organization (such as a regional development organization) in the local area served by the Regional Board that has previous experience in the management of Federal funds to serve as fiscal manager of any funds of the Regional Board.

"(b) URBAN AREAS.—A resident of an urban area may serve as an ex-officio member of a Regional Board.

"(c) DUTIES.—A Regional Board shall—

"(1) create a collaborative planning process for public-private investment within a region;

"(2) develop, and submit to the Secretary for approval, a regional investment strategy;

"(3) develop approaches that will create permanent resources for philanthropic giving in the region, to the maximum extent practicable;

"(4) implement an approved strategy; and

Reports.

"(5) provide annual reports to the Secretary and the National Board on progress made in achieving the strategy, including an annual financial statement.

**"SEC. 385E. REGIONAL INVESTMENT STRATEGY GRANTS.** 7 USC 2009dd–4.

"(a) IN GENERAL.—The Secretary shall make regional investment strategy grants available to Regional Boards for use in developing, implementing, and maintaining regional investment strategies.

"(b) REGIONAL INVESTMENT STRATEGY.—A regional investment strategy shall provide—

"(1) an assessment of the competitive advantage of a region, including—

"(A) an analysis of the economic conditions of the region;

"(B) an assessment of the current economic performance of the region;

"(C) an overview of the population, geography, workforce, transportation system, resources, environment, and infrastructure needs of the region; and

"(D) such other pertinent information as the Secretary may request;

"(2) an analysis of regional economic and community development challenges and opportunities, including—

"(A) incorporation of relevant material from other government-sponsored or supported plans and consistency with applicable State, regional, and local workforce investment strategies or comprehensive economic development plans; and

"(B) an identification of past, present, and projected Federal and State economic and community development investments in the region;

"(3) a section describing goals and objectives necessary to solve regional competitiveness challenges and meet the potential of the region;

"(4) an overview of resources available in the region for use in—

"(A) establishing regional goals and objectives;

"(B) developing and implementing a regional action strategy;

"(C) identifying investment priorities and funding sources; and

"(D) identifying lead organizations to execute portions of the strategy;

"(5) an analysis of the current state of collaborative public, private, and nonprofit participation and investment, and of the strategic roles of public, private, and nonprofit entities in the development and implementation of the regional investment strategy;

"(6) a section identifying and prioritizing vital projects, programs, and activities for consideration by the Secretary, including—

"(A) other potential funding sources; and

"(B) recommendations for leveraging past and potential investments;

"(7) a plan of action to implement the goals and objectives of the regional investment strategy;

"(8) a list of performance measures to be used to evaluate implementation of the regional investment strategy, including—

"(A) the number and quality of jobs, including self-employment, created during implementation of the regional rural investment strategy;

"(B) the number and types of investments made in the region;

"(C) the growth in public, private, and nonprofit investment in the human, community, and economic assets of the region;

"(D) changes in per capita income and the rate of unemployment; and

"(E) other changes in the economic environment of the region;

"(9) a section outlining the methodology for use in integrating the regional investment strategy with the economic priorities of the State; and

"(10) such other information as the Secretary determines to be appropriate.

"(c) MAXIMUM AMOUNT OF GRANT.—A regional investment strategy grant shall not exceed $150,000.

"(d) COST SHARING.—

"(1) IN GENERAL.—Subject to paragraph (2), of the share of the costs of developing, maintaining, evaluating, implementing, and reporting with respect to a regional investment strategy funded by a grant under this section—

"(A) not more than 40 percent may be paid using funds from the grant; and

"(B) the remaining share shall be provided by the applicable Regional Board or other eligible grantee.

"(2) FORM.—A Regional Board or other eligible grantee shall pay the share described in paragraph (1)(B) in the form of cash, services, materials, or other in-kind contributions, on the condition that not more than 50 percent of that share is provided in the form of services, materials, and other in-kind contributions.

7 USC 2009dd–5.

**"SEC. 385F. REGIONAL INNOVATION GRANTS PROGRAM.**

"(a) GRANTS.—

"(1) IN GENERAL.—The Secretary shall provide, on a competitive basis, regional innovation grants to Regional Boards for use in implementing projects and initiatives that are identified in a regional rural investment strategy approved under section 385E.

"(2) TIMING.—After October 1, 2008, the Secretary shall provide awards under this section on a quarterly funding cycle.

"(b) ELIGIBILITY.—To be eligible to receive a regional innovation grant, a Regional Board shall demonstrate to the Secretary that—

"(1) the regional rural investment strategy of a Regional Board has been reviewed by the National Board prior to approval by the Secretary;

"(2) the management and organizational structure of the Regional Board is sufficient to oversee grant projects, including management of Federal funds; and

"(3) the Regional Board has a plan to achieve, to the maximum extent practicable, the performance-based benchmarks of the project in the regional rural investment strategy.

"(c) LIMITATIONS.—

"(1) AMOUNT RECEIVED.—A Regional Board may not receive more than $6,000,000 in regional innovation grants under this section during any 5-year period.

"(2) DETERMINATION OF AMOUNT.—The Secretary shall determine the amount of a regional innovation grant based on—

"(A) the needs of the region being addressed by the applicable regional rural investment strategy consistent with the purposes described in subsection (f)(2); and

"(B) the size of the geographical area of the region.

"(3) GEOGRAPHIC DIVERSITY.—The Secretary shall ensure that not more than 10 percent of funding made available under this section is provided to Regional Boards in any State.

"(d) COST-SHARING.—

"(1) LIMITATION.—Subject to paragraph (2), the amount of a grant made under this section shall not exceed 50 percent of the cost of the project.

"(2) WAIVER OF GRANTEE SHARE.—The Secretary may waive the limitation in paragraph (1) under special circumstances, as determined by the Secretary, including—

"(A) a sudden or severe economic dislocation;

"(B) significant chronic unemployment or poverty;

"(C) a natural disaster; or

"(D) other severe economic, social, or cultural duress.

"(3) OTHER FEDERAL ASSISTANCE.—For the purpose of determining cost-share limitations for any other Federal program, funds provided under this section shall be considered to be non-Federal funds.

"(e) PREFERENCES.—In providing regional innovation grants under this section, the Secretary shall give—

"(1) a high priority to strategies that demonstrate significant leverage of capital and quality job creation; and

"(2) a preference to an application proposing projects and initiatives that would—

"(A) advance the overall regional competitiveness of a region;

"(B) address the priorities of a regional rural investment strategy, including priorities that—

"(i) promote cross-sector collaboration, public-private partnerships, or the provision of interim financing or seed capital for program implementation;

"(ii) exhibit collaborative innovation and entrepreneurship, particularly within a public-private partnership; and

"(iii) represent a broad coalition of interests described in section 385D(a);

"(C) include a strategy to leverage public non-Federal and private funds and existing assets, including agricultural, natural resource, and public infrastructure assets, with substantial emphasis placed on the existence of real financial commitments to leverage available funds;

"(D) create quality jobs;

"(E) enhance the role, relevance, and leveraging potential of community and regional foundations in support of regional investment strategies;

"(F) demonstrate a history, or involve organizations with a history, of successful leveraging of capital for economic development and public purposes;

"(G) address gaps in existing basic services, including technology, within a region;

"(H) address economic diversification, including agricultural and non-agriculturally based economies, within a regional framework;

"(I) improve the overall quality of life in the region;

"(J) enhance the potential to expand economic development successes across diverse stakeholder groups within the region;

"(K) include an effective working relationship with 1 or more institutions of higher education, tribally controlled colleges or universities, or tribal technical institutions;

"(L) help to meet the other regional competitiveness needs identified by a Regional Board; or

"(M) protect and promote rural heritage.

"(f) USES.—

"(1) LEVERAGE.—A Regional Board shall prioritize projects and initiatives carried out using funds from a regional innovation grant provided under this section, based in part on the degree to which members of the Regional Board are able to leverage additional funds for the implementation of the projects.

"(2) PURPOSES.—A Regional Board may use a regional innovation grant—

"(A) to support the development of critical infrastructure (including technology deployment and services) necessary to facilitate the competitiveness of a region;

"(B) to provide assistance to entities within the region that provide essential public and community services;

"(C) to enhance the value-added production, marketing, and use of agricultural and natural resources within the region, including activities relating to renewable and alternative energy production and usage;

"(D) to assist with entrepreneurship, job training, workforce development, housing, educational, or other quality of life services or needs, relating to the development and maintenance of strong local and regional economies;

"(E) to assist in the development of unique new collaborations that link public, private, and philanthropic resources, including community foundations;

"(F) to provide support for business and entrepreneurial investment, strategy, expansion, and development, including feasibility strategies, technical assistance, peer networks, business development funds, and other activities to strengthen the economic competitiveness of the region;

"(G) to provide matching funds to enable community foundations located within the region to build endowments which provide permanent philanthropic resources to implement a regional investment strategy; and

"(H) to preserve and promote rural heritage.

"(3) AVAILABILITY OF FUNDS.—The funds made available to a Regional Board or any other eligible grantee through a regional innovation grant shall remain available for the 7-year period beginning on the date on which the award is provided, on the condition that the Regional Board or other

grantee continues to be certified by the Secretary as making adequate progress toward achieving established benchmarks.

"(g) COST SHARING.—

"(1) WAIVER OF GRANTEE SHARE.—The Secretary may waive the share of a grantee of the costs of a project funded by a regional innovation grant under this section if the Secretary determines that such a waiver is appropriate, including with respect to special circumstances within tribal regions, in the event an area experiences—

"(A) a sudden or severe economic dislocation;

"(B) significant chronic unemployment or poverty;

"(C) a natural disaster; or

"(D) other severe economic, social, or cultural duress.

"(2) OTHER FEDERAL PROGRAMS.—For the purpose of determining cost-sharing requirements for any other Federal program, funds provided as a regional innovation grant under this section shall be considered to be non-Federal funds.

"(h) NONCOMPLIANCE.—If a Regional Board or other eligible grantee fails to comply with any requirement relating to the use of funds provided under this section, the Secretary may—

"(1) take such actions as are necessary to obtain reimbursement of unused grant funds; and

"(2) reprogram the recaptured funds for purposes relating to implementation of this subtitle.

"(i) PRIORITY TO AREAS WITH AWARDS AND APPROVED STRATEGIES.—

"(1) IN GENERAL.—Subject to paragraph (3), in providing rural development assistance under other programs, the Secretary shall give a high priority to areas that receive innovation grants under this section.

"(2) CONSULTATION.—The Secretary shall consult with the heads of other Federal agencies to promote the development of priorities similar to those described in paragraph (1).

"(3) EXCLUSION OF CERTAIN PROGRAMS.—Paragraph (1) shall not apply to the provision of rural development assistance under any program relating to basic health, safety, or infrastructure, including broadband deployment or minimum environmental needs.

**"SEC. 385G. RURAL ENDOWMENT LOANS PROGRAM.** 7 USC 2009dd–6.

"(a) IN GENERAL.—The Secretary may provide long-term loans to eligible community foundations to assist in the implementation of regional investment strategies.

"(b) ELIGIBLE COMMUNITY FOUNDATIONS.—To be eligible to receive a loan under this section, a community foundation shall—

"(1) be located in an area that is covered by a regional investment strategy;

"(2) match the amount of the loan with an amount that is at least 250 percent of the amount of the loan; and

"(3) use the loan and the matching amount to carry out the regional investment strategy in a manner that is targeted to community and economic development, including through the development of community foundation endowments.

"(c) TERMS.—A loan made under this section shall—

"(1) have a term of not less than 10, nor more than 20, years;

"(2) bear an interest rate of 1 percent per annum; and

"(3) be subject to such other terms and conditions as are determined appropriate by the Secretary.

7 USC 2009dd–7.

**"SEC. 385H. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this subtitle $135,000,000 for the period of fiscal years 2009 through 2012.".

**SEC. 6029. FUNDING OF PENDING RURAL DEVELOPMENT LOAN AND GRANT APPLICATIONS.**

(a) DEFINITION OF APPLICATION.—In this section, the term "application" does not include an application for a loan or grant that, as of the date of enactment of this Act, is in the preapplication phase of consideration under regulations of the Secretary in effect on the date of enactment of this Act.

(b) USE OF FUNDS.—Subject to subsection (c), the Secretary shall use funds made available under subsection (d) to provide funds for applications that are pending on the date of enactment of this Act for—

(1) water or waste disposal grants or direct loans under paragraph (1) or (2) of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)); and

(2) emergency community water assistance grants under section 306A of that Act (7 U.S.C. 1926a).

(c) LIMITATIONS.—

(1) APPROPRIATED AMOUNTS.—Funds made available under this section shall be available to the Secretary to provide funds for applications for loans and grants described in subsection (b) that are pending on the date of enactment of this Act only to the extent that funds for the loans and grants appropriated in the annual appropriations Act for fiscal year 2007 have been exhausted.

(2) PROGRAM REQUIREMENTS.—The Secretary may use funds made available under this section to provide funds for a pending application for a loan or grant described in subsection (b) only if the Secretary processes, reviews, and approves the application in accordance with regulations in effect on the date of enactment of this Act.

(3) PRIORITY.—In providing funding under this section for pending applications for loans or grants described in subsection (b), the Secretary shall provide funding in the following order of priority (until funds made available under this section are exhausted):

(A) Pending applications for water systems.

(B) Pending applications for waste disposal systems.

(d) FUNDING.—Notwithstanding any other provision of law, of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $120,000,000, to remain available until expended.

# Subtitle B—Rural Electrification Act of 1936

**SEC. 6101. ENERGY EFFICIENCY PROGRAMS.**

Sections 2(a) and 4 of the Rural Electrification Act of 1936 (7 U.S.C. 902(a), 904) are amended by inserting "efficiency and" before "conservation" each place it appears.

**SEC. 6102. REINSTATEMENT OF RURAL UTILITY SERVICES DIRECT LENDING.**

(a) IN GENERAL.—Section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904) is amended—

(1) by designating the first, second, and third sentences as subsections (a), (b), and (d), respectively; and

(2) by inserting after subsection (b) (as so designated) the following:

"(c) DIRECT LOANS.—

"(1) DIRECT HARDSHIP LOANS.—Direct hardship loans under this section shall be for the same purposes and on the same terms and conditions as hardship loans made under section 305(c)(1).

"(2) OTHER DIRECT LOANS.—All other direct loans under this section shall bear interest at a rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, plus ⅛ of 1 percent.".

(b) ELIMINATION OF FEDERAL FINANCING BANK GUARANTEED LOANS.—Section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) is amended—

(1) in the third sentence, by striking "guarantee, accommodation, or subordination" and inserting "accommodation or subordination"; and

(2) by striking the fourth sentence.

**SEC. 6103. DEFERMENT OF PAYMENTS TO ALLOWS LOANS FOR IMPROVED ENERGY EFFICIENCY AND DEMAND REDUCTION AND FOR ENERGY EFFICIENCY AND USE AUDITS.**

Section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) is amended by adding at the end the following:

"(c) DEFERMENT OF PAYMENTS ON LOANS.—

"(1) IN GENERAL.—The Secretary shall allow borrowers to defer payment of principal and interest on any direct loan made under this Act to enable the borrower to make loans to residential, commercial, and industrial consumers—

"(A) to conduct energy efficiency and use audits; and

"(B) to install energy efficient measures or devices that reduce the demand on electric systems.

"(2) AMOUNT.—The total amount of a deferment under this subsection shall not exceed the sum of the principal and interest on the loans made to a customer of the borrower, as determined by the Secretary.

"(3) TERM.—The term of a deferment under this subsection shall not exceed 60 months.".

**SEC. 6104. RURAL ELECTRIFICATION ASSISTANCE.**

Section 13 of the Rural Electrification Act of 1936 (7 U.S.C. 913) is amended to read as follows:

**"SEC. 13. DEFINITIONS.**

"In this Act:

"(1) FARM.—The term 'farm' means a farm, as defined by the Bureau of the Census.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(3) RURAL AREA.—Except as provided otherwise in this Act, the term 'rural area' means the farm and nonfarm population of—

"(A) any area described in section 343(a)(13)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(C)); and

"(B) any area within a service area of a borrower for which a borrower has an outstanding loan made under titles I through V as of the date of enactment of this paragraph.

"(4) TERRITORY.—The term 'territory' includes any insular possession of the United States.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.".

7 USC 936f.

**SEC. 6105. SUBSTANTIALLY UNDERSERVED TRUST AREAS.**

The Rural Electrification Act of 1936 is amended by inserting after section 306E (7 U.S.C. 936e) the following:

**"SEC. 306F. SUBSTANTIALLY UNDERSERVED TRUST AREAS.**

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROGRAM.—The term 'eligible program' means a program administered by the Rural Utilities Service and authorized in—

"(A) this Act; or

"(B) paragraph (1), (2), (14), (22), or (24) of section 306(a) or section 306A, 306C, 306D, or 306E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a), 1926a, 1926c, 1926d, 1926e).

"(2) SUBSTANTIALLY UNDERSERVED TRUST AREA.—The term 'substantially underserved trust area' means a community in 'trust land' (as defined in section 3765 of title 38, United States Code) with respect to which the Secretary determines has a high need for the benefits of an eligible program.

"(b) INITIATIVE.—The Secretary, in consultation with local governments and Federal agencies, may implement an initiative to identify and improve the availability of eligible programs in communities in substantially underserved trust areas.

"(c) AUTHORITY OF SECRETARY.—In carrying out subsection (b), the Secretary—

"(1) may make available from loan or loan guarantee programs administered by the Rural Utilities Service to qualified utilities or applicants financing with an interest rate as low as 2 percent, and with extended repayment terms;

Waiver authority.

"(2) may waive nonduplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program administered by the Rural Utilities Service to facilitate the construction, acquisition, or improvement of infrastructure;

"(3) may give the highest funding priority to designated projects in substantially underserved trust areas; and

"(4) shall only make loans or loan guarantees that are found to be financially feasible and that provide eligible program benefits to substantially underserved trust areas.

"(d) REPORT.—Not later than 1 year after the date of enactment of this section and annually thereafter, the Secretary shall submit to Congress a report that describes—

"(1) the progress of the initiative implemented under subsection (b); and

"(2) recommendations for any regulatory or legislative changes that would be appropriate to improve services to substantially underserved trust areas.". Recommendations.

**SEC. 6106. GUARANTEES FOR BONDS AND NOTES ISSUED FOR ELECTRIFICATION OR TELEPHONE PURPOSES.**

(a) IN GENERAL.—Section 313A of the Rural Electrification Act of 1936 (7 U.S.C. 940c–1) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "for electrification" and all that follows through the end and inserting "for eligible electrification or telephone purposes consistent with this Act."; and

(B) by striking paragraph (4) and inserting the following:

"(4) ANNUAL AMOUNT.—The total amount of guarantees provided by the Secretary under this section during a fiscal year shall not exceed $1,000,000,000, subject to the availability of funds under subsection (e).";

(2) in subsection (c), by striking paragraphs (2) and (3) and inserting the following:

"(2) AMOUNT.—

"(A) IN GENERAL.—The amount of the annual fee paid for the guarantee of a bond or note under this section shall be equal to 30 basis points of the amount of the unpaid principal of the bond or note guaranteed under this section.

"(B) PROHIBITION.—Except as otherwise provided in this subsection and subsection (e)(2), no other fees shall be assessed.

"(3) PAYMENT.—

"(A) IN GENERAL.—A lender shall pay the fees required under this subsection on a semiannual basis.

"(B) STRUCTURED SCHEDULE.—The Secretary shall, with the consent of the lender, structure the schedule for payment of the fee to ensure that sufficient funds are available to pay the subsidy costs for note or bond guarantees as provided for in subsection (e)(2).";

(3) in subsection (f), by striking "2007" and inserting "2012".

(b) ADMINISTRATION.—The Secretary shall continue to carry out section 313A of the Rural Electrification Act of 1936 (7 U.S.C. 940c–1) in the same manner as on the day before the date of enactment of this Act, except without regard to the limitations prescribed in subsection (b)(1) of that section, until such time as any regulations necessary to carry out the amendments made by this section are fully implemented. 7 USC 940c–1 note.

**SEC. 6107. EXPANSION OF 911 ACCESS.**

Section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e) is amended to read as follows:

**"SEC. 315. EXPANSION OF 911 ACCESS.**

"(a) IN GENERAL.—Subject to subsection (c) and such terms and conditions as the Secretary may prescribe, the Secretary may make loans under this title to entities eligible to borrow from the Rural Utilities Service, State or local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or other public entities for facilities and equipment to expand or improve in rural areas—

"(1) 911 access;

"(2) integrated interoperable emergency communications, including multiuse networks that provide commercial or transportation information services in addition to emergency communications services;

"(3) homeland security communications;

"(4) transportation safety communications; or

"(5) location technologies used outside an urbanized area.

"(b) LOAN SECURITY.—Government-imposed fees related to emergency communications (including State or local 911 fees) may be considered to be security for a loan under this section.

"(c) EMERGENCY COMMUNICATIONS EQUIPMENT PROVIDERS.—The Secretary may make a loan under this section to an emergency communication equipment provider to expand or improve 911 access or other communications or technologies described in subsection (a) if the local government that has jurisdiction over the project is not allowed to acquire the debt resulting from the loan.

"(d) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall use to make loans under this section any funds otherwise made available for telephone loans for each of fiscal years 2008 through 2012.".

**SEC. 6108. ELECTRIC LOANS FOR RENEWABLE ENERGY.**

Title III of the Rural Electrification Act of 1936 is amended by inserting after section 316 (7 U.S.C. 940f) the following:

7 USC 940g.

**"SEC. 317. ELECTRIC LOANS FOR RENEWABLE ENERGY.**

"(a) DEFINITION OF RENEWABLE ENERGY SOURCE.—In this section, the term 'renewable energy source' means an energy conversion system fueled from a solar, wind, hydropower, biomass, or geothermal source of energy.

"(b) LOANS.—In addition to any other funds or authorities otherwise made available under this Act, the Secretary may make electric loans under this title for electric generation from renewable energy resources for resale to rural and nonrural residents.

"(c) RATE.—The rate of a loan under this section shall be equal to the average tax-exempt municipal bond rate of similar maturities.".

**SEC. 6109. BONDING REQUIREMENTS.**

Title III of the Rural Electrification Act of 1936 is amended by inserting after section 317 (as added by section 6108) the following:

**"SEC. 318. BONDING REQUIREMENTS.** 7 USC 940h.

"The Secretary shall review the bonding requirements for all programs administered by the Rural Utilities Service under this Act to ensure that bonds are not required if— Review.

"(1) the interests of the Secretary are adequately protected by product warranties; or

"(2) the costs or conditions associated with a bond exceed the benefit of the bond.".

**SEC. 6110. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.**

(a) IN GENERAL.—Section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) is amended to read as follows:

**"SEC. 601. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.** Loans.

"(a) PURPOSE.—The purpose of this section is to provide loans and loan guarantees to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in rural areas.

"(b) DEFINITIONS.—In this section:

"(1) BROADBAND SERVICE.—The term 'broadband service' means any technology identified by the Secretary as having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics, and video.

"(2) INCUMBENT SERVICE PROVIDER.—The term 'incumbent service provider', with respect to an application submitted under this section, means an entity that, as of the date of submission of the application, is providing broadband service to not less than 5 percent of the households in the service territory proposed in the application.

"(3) RURAL AREA.—

"(A) IN GENERAL.—The term 'rural area' means any area other than—

"(i) an area described in clause (i) or (ii) of section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A)); and

"(ii) a city, town, or incorporated area that has a population of greater than 20,000 inhabitants.

"(B) URBAN AREA GROWTH.—The Secretary may, by regulation only, consider an area described in section 343(a)(13)(F)(i)(I) of that Act to not be a rural area for purposes of this section.

"(c) LOANS AND LOAN GUARANTEES.—

"(1) IN GENERAL.—The Secretary shall make or guarantee loans to eligible entities described in subsection (d) to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.

"(2) PRIORITY.—In making or guaranteeing loans under paragraph (1), the Secretary shall give the highest priority to applicants that offer to provide broadband service to the greatest proportion of households that, prior to the provision of the broadband service, had no incumbent service provider.

"(d) ELIGIBILITY.—

"(1) ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—To be eligible to obtain a loan or loan guarantee under this section, an entity shall—

"(i) demonstrate the ability to furnish, improve, or extend a broadband service to a rural area;

"(ii) submit to the Secretary a loan application at such time, in such manner, and containing such information as the Secretary may require; and

Deadline.

"(iii) agree to complete buildout of the broadband service described in the loan application by not later than 3 years after the initial date on which proceeds from the loan made or guaranteed under this section are made available.

"(B) LIMITATION.—An eligible entity that provides telecommunications or broadband service to at least 20 percent of the households in the United States may not receive an amount of funds under this section for a fiscal year in excess of 15 percent of the funds authorized and appropriated under subsection (k) for the fiscal year.

"(2) ELIGIBLE PROJECTS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the proceeds of a loan made or guaranteed under this section may be used to carry out a project in a proposed service territory only if, as of the date on which the application for the loan or loan guarantee is submitted—

"(i) not less than 25 percent of the households in the proposed service territory is offered broadband service by not more than 1 incumbent service provider; and

"(ii) broadband service is not provided in any part of the proposed service territory by 3 or more incumbent service providers.

"(B) EXCEPTION TO 25 PERCENT REQUIREMENT.—Subparagraph (A)(i) shall not apply to the proposed service territory of a project if a loan or loan guarantee has been made under this section to the applicant to provide broadband service in the proposed service territory.

"(C) EXCEPTION TO 3 OR MORE INCUMBENT SERVICE PROVIDER REQUIREMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), subparagraph (A)(ii) shall not apply to an incumbent service provider that is upgrading broadband service to the existing territory of the incumbent service provider.

"(ii) EXCEPTION.—Clause (i) shall not apply if the applicant is eligible for funding under another title of this Act.

"(3) EQUITY AND MARKET SURVEY REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may require an entity to provide a cost share in an amount not to exceed 10 percent of the amount of the loan or loan guarantee requested in the application of the entity, unless the Secretary determines that a higher percentage is required for financial feasibility.

"(B) MARKET SURVEY.—

"(i) IN GENERAL.—The Secretary may require an entity that proposes to have a subscriber projection

of more than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.

"(ii) LESS THAN 20 PERCENT.—The Secretary may not require an entity that proposes to have a subscriber projection of less than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.

"(4) STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBES.—Subject to paragraph (1), a State or local government (including any agency, subdivision, or instrumentality thereof (including consortia thereof)) and an Indian tribe shall be eligible for a loan or loan guarantee under this section to provide broadband services to a rural area.

"(5) NOTICE REQUIREMENT.—The Secretary shall publish a notice of each application for a loan or loan guarantee under this section describing the application, including— Publication.

"(A) the identity of the applicant;

"(B) each area proposed to be served by the applicant; and

"(C) the estimated number of households without terrestrial-based broadband service in those areas.

"(6) PAPERWORK REDUCTION.—The Secretary shall take steps to reduce, to the maximum extent practicable, the cost and paperwork associated with applying for a loan or loan guarantee under this section by first-time applicants (particularly first-time applicants who are small and start-up broadband service providers), including by providing for a new application that maintains the ability of the Secretary to make an analysis of the risk associated with the loan involved.

"(7) PREAPPLICATION PROCESS.—The Secretary shall establish a process under which a prospective applicant may seek a determination of area eligibility prior to preparing a loan application under this section.

"(e) BROADBAND SERVICE.—

"(1) IN GENERAL.—The Secretary shall, from time to time as advances in technology warrant, review and recommend modifications of rate-of-data transmission criteria for purposes of the identification of broadband service technologies under subsection (b)(1).

"(2) PROHIBITION.—The Secretary shall not establish requirements for bandwidth or speed that have the effect of precluding the use of evolving technologies appropriate for rural areas.

"(f) TECHNOLOGICAL NEUTRALITY.—For purposes of determining whether to make a loan or loan guarantee for a project under this section, the Secretary shall use criteria that are technologically neutral.

"(g) TERMS AND CONDITIONS FOR LOANS AND LOAN GUARANTEES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a loan or loan guarantee under this section shall—

"(A) bear interest at an annual rate of, as determined by the Secretary—

"(i) in the case of a direct loan, a rate equivalent to—

"(I) the cost of borrowing to the Department of the Treasury for obligations of comparable maturity; or

"(II) 4 percent; and

"(ii) in the case of a guaranteed loan, the current applicable market rate for a loan of comparable maturity; and

"(B) have a term of such length, not exceeding 35 years, as the borrower may request, if the Secretary determines that the loan is adequately secured.

"(2) TERM.—In determining the term of a loan or loan guarantee, the Secretary shall consider whether the recipient is or would be serving an area that is not receiving broadband services.

"(3) RECURRING REVENUE.—The Secretary shall consider the existing recurring revenues of the entity at the time of application in determining an adequate level of credit support.

"(h) ADEQUACY OF SECURITY.—

"(1) IN GENERAL.—The Secretary shall ensure that the type and amount of, and method of security used to secure, any loan or loan guarantee under this section is commensurate to the risk involved with the loan or loan guarantee, particularly in any case in which the loan or loan guarantee is issued to a financially strong and stable entity, as determined by the Secretary.

"(2) DETERMINATION OF AMOUNT AND METHOD OF SECURITY.—In determining the amount of, and method of security used to secure, a loan or loan guarantee under this section, the Secretary shall consider reducing the security in a rural area that does not have broadband service.

"(i) USE OF LOAN PROCEEDS TO REFINANCE LOANS FOR DEPLOYMENT OF BROADBAND SERVICE.—Notwithstanding any other provision of this Act, the proceeds of any loan made or guaranteed by the Secretary under this Act may be used by the recipient of the loan for the purpose of refinancing an outstanding obligation of the recipient on another telecommunications loan made under this Act if the use of the proceeds for that purpose will support the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.

"(j) REPORTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, and annually thereafter, the Administrator shall submit to Congress a report that describes the extent of participation in the loan and loan guarantee program under this section for the preceding fiscal year, including a description of —

"(1) the number of loans applied for and provided under this section;

"(2)(A) the communities proposed to be served in each loan application submitted for the fiscal year; and

"(B) the communities served by projects funded by loans and loan guarantees provided under this section;

"(3) the period of time required to approve each loan application under this section;

"(4) any outreach activities carried out by the Secretary to encourage entities in rural areas without broadband service to submit applications under this section;

"(5) the method by which the Secretary determines that a service enables a subscriber to originate and receive high-quality voice, data, graphics, and video for purposes of subsection (b)(1); and

"(6) each broadband service, including the type and speed of broadband service, for which assistance was sought, and each broadband service for which assistance was provided, under this section.

"(k) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $25,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

"(2) ALLOCATION OF FUNDS.—

"(A) IN GENERAL.—From amounts made available for each fiscal year under this subsection, the Secretary shall—

"(i) establish a national reserve for loans and loan guarantees to eligible entities in States under this section; and

"(ii) allocate amounts in the reserve to each State for each fiscal year for loans and loan guarantees to eligible entities in the State.

"(B) AMOUNT.—The amount of an allocation made to a State for a fiscal year under subparagraph (A) shall bear the same ratio to the amount of allocations made for all States for the fiscal year as—

"(i) the number of communities with a population of 2,500 inhabitants or less in the State; bears to

"(ii) the number of communities with a population of 2,500 inhabitants or less in all States.

"(C) UNOBLIGATED AMOUNTS.—Any amounts in the reserve established for a State for a fiscal year under subparagraph (B) that are not obligated by April 1 of the fiscal year shall be available to the Secretary to make loans and loan guarantees under this section to eligible entities in any State, as determined by the Secretary.

"(l) TERMINATION OF AUTHORITY.—No loan or loan guarantee may be made under this section after September 30, 2012.".

(b) REGULATIONS.—The Secretary may implement the amendment made by subsection (a) through the promulgation of an interim regulation. 7 USC 950bb note.

(c) APPLICATION.—The amendment made by subsection (a) shall not apply to— 7 USC 950bb note.

(1) an application submitted under section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) (as it existed before the amendment made by subsection (a)) that—

(A) was pending on the date that is 45 days prior to the date of enactment of this Act; and

(B) is pending on the date of enactment of this Act; or

(2) a petition for reconsideration of a decision on an application described in paragraph (1).

**SEC. 6111. NATIONAL CENTER FOR RURAL TELECOMMUNICATIONS ASSESSMENT.**

Title VI of the Rural Electrification Act of 1936 (7 U.S.C. 950bb et seq.) is amended by adding at the end the following:

7 USC 950bb–1.

**"SEC. 602. NATIONAL CENTER FOR RURAL TELECOMMUNICATIONS ASSESSMENT.**

"(a) DESIGNATION OF CENTER.—The Secretary shall designate an entity to serve as the National Center for Rural Telecommunications Assessment (referred to in this section as the 'Center').

"(b) CRITERIA.—In designating the Center under subsection (a), the Secretary shall take into consideration the following criteria:

"(1) The Center shall be an entity that demonstrates to the Secretary—

"(A) a focus on rural policy research; and

"(B) a minimum of 5 years of experience relating to rural telecommunications research and assessment.

"(2) The Center shall be capable of assessing broadband services in rural areas.

"(3) The Center shall have significant experience involving other rural economic development centers and organizations with respect to the assessment of rural policies and the formulation of policy solutions at the Federal, State, and local levels.

"(c) BOARD OF DIRECTORS.—The Center shall be managed by a board of directors, which shall be responsible for the duties of the Center described in subsection (d).

"(d) DUTIES.—The Center shall—

"(1) assess the effectiveness of programs carried out under this title in increasing broadband penetration and purchase in rural areas, especially in rural communities identified by the Secretary as having no broadband service before the provision of a loan or loan guarantee under this title;

"(2) work with existing rural development centers selected by the Center to identify policies and initiatives at the Federal, State, and local levels that have increased broadband penetration and purchase in rural areas and provide recommendations to Federal, State, and local policymakers on effective strategies to bring affordable broadband services to residents of rural areas, particularly residents located outside of the municipal boundaries of a rural city or town; and

Publication. Reports.

"(3) develop and publish reports describing the activities carried out by the Center under this section.

"(e) REPORTING REQUIREMENTS.—Not later than December 1 of each applicable fiscal year, the board of directors of the Center shall submit to Congress and the Secretary a report describing the activities carried out by the Center during the preceding fiscal year and the results of any research conducted by the Center during that fiscal year, including—

"(1) an assessment of each program carried out under this title; and

"(2) an assessment of the effects of the policy initiatives identified under subsection (d)(2).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 6112. COMPREHENSIVE RURAL BROADBAND STRATEGY.**

Deadline. Reports.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Chairman of the Federal Communications Commission, in coordination with the Secretary, shall submit to Congress a report describing a comprehensive rural broadband strategy that includes—

(1) recommendations—

(A) to promote interagency coordination of Federal agencies in regards to policies, procedures, and targeted resources, and to streamline or otherwise improve and streamline the policies, programs, and services;

(B) to coordinate existing Federal rural broadband or rural initiatives;

(C) to address both short- and long-term needs assessments and solutions for a rapid build-out of rural broadband solutions and application of the recommendations for Federal, State, regional, and local government policymakers; and

(D) to identify how specific Federal agency programs and resources can best respond to rural broadband requirements and overcome obstacles that currently impede rural broadband deployment; and

(2) a description of goals and timeframes to achieve the purposes of the report.

(b) UPDATES.—The Chairman of the Federal Communications Commission, in coordination with the Secretary, shall update and evaluate the report described in subsection (a) during the third year after the date of enactment of this Act. Deadline.

**SEC. 6113. STUDY ON RURAL ELECTRIC POWER GENERATION.**

(a) IN GENERAL.—The Secretary shall conduct a study on the electric power generation needs in rural areas of the United States.

(b) COMPONENTS.—The study shall include an examination of—

(1) generation in various areas in rural areas of the United States, particularly by rural electric cooperatives;;

(2) financing available for capacity, including financing available through programs authorized under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.);

(3) the impact of electricity costs on consumers and local economic development;

(4) the ability of fuel feedstock technology to meet regulatory requirements, such as carbon capture and sequestration; and

(5) any other factors that the Secretary considers appropriate.

(c) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the findings of the study under this section.

## Subtitle C—Miscellaneous

**SEC. 6201. DISTANCE LEARNING AND TELEMEDICINE.**

(a) IN GENERAL.—Section 2333(c)(1) of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. Sec. 950aaa–2(a)(1)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(C) libraries.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 2335A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa–5) is amended by striking "2007" and inserting "2012".

(c) CONFORMING AMENDMENT.—Section 1(b) of Public Law 102–551 (7 U.S.C. 950aaa note; Public Law 102–551) is amended by striking "2007" and inserting "2012".

**SEC. 6202. VALUE-ADDED AGRICULTURAL MARKET DEVELOPMENT PROGRAM GRANTS.**

(a) DEFINITIONS.—Section 231 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) is amended by striking subsection (a) and inserting the following:

"(a) DEFINITIONS.—In this section:

"(1) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

"(2) FAMILY FARM.—The term 'family farm' has the meaning given the term in section 761.2 of title 7, Code of Federal Regulations (as in effect on December 30, 2007).

"(3) MID-TIER VALUE CHAIN.—The term 'mid-tier value chain' means local and regional supply networks that link independent producers with businesses and cooperatives that market value-added agricultural products in a manner that—

"(A) targets and strengthens the profitability and competitiveness of small and medium-sized farms and ranches that are structured as a family farm; and

"(B) obtains agreement from an eligible agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture that is engaged in the value chain on a marketing strategy.

"(4) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)).

"(5) VALUE-ADDED AGRICULTURAL PRODUCT.—The term 'value-added agricultural product' means any agricultural commodity or product that—

"(A)(i) has undergone a change in physical state;

"(ii) was produced in a manner that enhances the value of the agricultural commodity or product, as demonstrated through a business plan that shows the enhanced value, as determined by the Secretary;

"(iii) is physically segregated in a manner that results in the enhancement of the value of the agricultural commodity or product;

"(iv) is a source of farm- or ranch-based renewable energy, including E–85 fuel; or

"(v) is aggregated and marketed as a locally-produced agricultural food product; and

"(B) as a result of the change in physical state or the manner in which the agricultural commodity or product was produced, marketed, or segregated—

"(i) the customer base for the agricultural commodity or product is expanded; and

"(ii) a greater portion of the revenue derived from the marketing, processing, or physical segregation of the

agricultural commodity or product is available to the producer of the commodity or product.".

(b) GRANT PROGRAM.—Section 231(b) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) is amended—

(1) in paragraph (1), by striking "paragraph (4)" and inserting "paragraph (7)"; and

(2) by striking paragraph (4) and inserting the following:

"(4) TERM.—A grant under this subsection shall have a term that does not exceed 3 years.

"(5) SIMPLIFIED APPLICATION.—The Secretary shall offer a simplified application form and process for project proposals requesting less than $50,000.

"(6) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to projects that contribute to increasing opportunities for—

"(A) beginning farmers or ranchers;

"(B) socially disadvantaged farmers or ranchers; and

"(C) operators of small- and medium-sized farms and ranches that are structured as a family farm.

"(7) FUNDING.—

"(A) MANDATORY FUNDING.—On October 1, 2008, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection $15,000,000, to remain available until expended.

"(B) DISCRETIONARY FUNDING.—There is authorized to be appropriated to carry out this subsection $40,000,000 for each of fiscal years 2008 through 2012.

"(C) RESERVATION OF FUNDS FOR PROJECTS TO BENEFIT BEGINNING FARMERS OR RANCHERS, SOCIALLY DISADVANTAGED FARMERS OR RANCHERS, AND MID-TIER VALUE CHAINS.—

"(i) IN GENERAL.—The Secretary shall reserve 10 percent of the amounts made available for each fiscal year under this paragraph to fund projects that benefit beginning farmers or ranchers or socially disadvantaged farmers or ranchers.

"(ii) MID-TIER VALUE CHAINS.—The Secretary shall reserve 10 percent of the amounts made available for each fiscal year under this paragraph to fund applications of eligible entities described in paragraph (1) that propose to develop mid-tier value chains.

"(iii) UNOBLIGATED AMOUNTS.—Any amounts in the reserves for a fiscal year established under clauses (i) and (ii) that are not obligated by June 30 of the fiscal year shall be available to the Secretary to make grants under this subsection to eligible entities in any State, as determined by the Secretary.".

**SEC. 6203. AGRICULTURE INNOVATION CENTER DEMONSTRATION PROGRAM.**

Section 6402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1621 note; Public Law 107–171) is amended by striking subsection (i) and inserting the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $6,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 6204. RURAL FIREFIGHTERS AND EMERGENCY MEDICAL SERVICE ASSISTANCE PROGRAM.**

Section 6405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2655) is amended to read as follows:

**"SEC. 6405. RURAL FIREFIGHTERS AND EMERGENCY MEDICAL SERVICE ASSISTANCE PROGRAM.**

"(a) DEFINITION OF EMERGENCY MEDICAL SERVICES.—In this section:

"(1) IN GENERAL.—The term 'emergency medical services' means resources used by a public or nonprofit entity to deliver medical care outside of a medical facility under emergency conditions that occur as a result of—

"(A) the condition of a patient; or

"(B) a natural disaster or related condition.

"(2) INCLUSION.—The term 'emergency medical services' includes services (whether compensated or volunteer) delivered by an emergency medical services provider or other provider recognized by the State involved that is licensed or certified by the State as—

"(A) an emergency medical technician or the equivalent (as determined by the State);

"(B) a registered nurse;

"(C) a physician assistant; or

"(D) a physician that provides services similar to services provided by such an emergency medical services provider.

"(b) GRANTS.—The Secretary shall award grants to eligible entities—

"(1) to enable the entities to provide for improved emergency medical services in rural areas; and

"(2) to pay the cost of training firefighters and emergency medical personnel in firefighting, emergency medical practices, and responding to hazardous materials and bioagents in rural areas.

"(c) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be—

"(A) a State emergency medical services office;

"(B) a State emergency medical services association;

"(C) a State office of rural health or an equivalent agency;

"(D) a local government entity;

"(E) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

"(F) a State or local ambulance provider; or

"(G) any other public or nonprofit entity determined appropriate by the Secretary; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, that includes—

"(A) a description of the activities to be carried out under the grant; and

"(B) an assurance that the applicant will comply with the matching requirement of subsection (f).

"(d) USE OF FUNDS.—An entity shall use amounts received under a grant made under subsection (b) only in a rural area—

"(1) to hire or recruit emergency medical service personnel;

"(2) to recruit or retain volunteer emergency medical service personnel;

"(3) to train emergency medical service personnel in emergency response, injury prevention, safety awareness, or other topics relevant to the delivery of emergency medical services;

"(4) to fund training to meet State or Federal certification requirements;

"(5) to provide training for firefighters or emergency medical personnel for improvements to the training facility, equipment, curricula, or personnel;

"(6) to develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods (such as distance learning);

"(7) to acquire emergency medical services vehicles, including ambulances;

"(8) to acquire emergency medical services equipment, including cardiac defibrillators;

"(9) to acquire personal protective equipment for emergency medical services personnel as required by the Occupational Safety and Health Administration; or

"(10) to educate the public concerning cardiopulmonary resuscitation (CPR), first aid, injury prevention, safety awareness, illness prevention, or other related emergency preparedness topics.

"(e) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to—

"(1) applications that reflect a collaborative effort by 2 or more of the entities described in subparagraphs (A) through (G) of subsection (c)(1); and

"(2) applications submitted by entities that intend to use amounts provided under the grant to fund activities described in any of paragraphs (1) through (5) of subsection (d).

"(f) MATCHING REQUIREMENT.—The Secretary may not make a grant under this section to an entity unless the entity makes available (directly or through contributions from other public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to at least 5 percent of the amount received under the grant.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this section not more than $30,000,000 for each of fiscal years 2008 through 2012.

"(2) ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount appropriated under paragraph (1) for a fiscal year may be used for administrative expenses incurred in carrying out this section.".

**SEC. 6205. INSURANCE OF LOANS FOR HOUSING AND RELATED FACILITIES FOR DOMESTIC FARM LABOR.**

Section 514(f)(3) of the Housing Act of 1949 (42 U.S.C. 1484(f)(3)) is amended by striking "or the handling of such commodities in the unprocessed stage" and inserting ", the handling of agricultural or aquacultural commodities in the unprocessed stage, or the processing of agricultural or aquacultural commodities".

**SEC. 6206. STUDY OF RURAL TRANSPORTATION ISSUES.**

(a) IN GENERAL.—The Secretary of Agriculture and the Secretary of Transportation shall jointly conduct a study of transportation issues regarding the movement of agricultural products, domestically produced renewable fuels, and domestically produced resources for the production of electricity for rural areas of the United States, and economic development in those areas.

(b) INCLUSIONS.—The study shall include an examination of—

(1) the importance of freight transportation, including rail, truck, and barge, to—

(A) the delivery of equipment, seed, fertilizer, and other such products important to the development of agricultural commodities and products;

(B) the movement of agricultural commodities and products to market;

(C) the delivery of ethanol and other renewable fuels;

(D) the delivery of domestically produced resources for use in the generation of electricity for rural areas;

(E) the location of grain elevators, ethanol plants, and other facilities;

(F) the development of manufacturing facilities in rural areas; and

(G) the vitality and economic development of rural communities;

(2) the sufficiency in rural areas of transportation capacity, the sufficiency of competition in the transportation system, the reliability of transportation services, and the reasonableness of transportation rates;

(3) the sufficiency of facility investment in rural areas necessary for efficient and cost-effective transportation; and

(4) the accessibility to shippers in rural areas of Federal processes for the resolution of grievances arising within various transportation modes.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall submit to Congress a report that contains the results of the study required by subsection (a).

# Subtitle D—Housing Assistance Council

Housing Assistance Council Authorization Act of 2008. 42 USC 1490e note.

**SEC. 6301. SHORT TITLE.**

This subtitle may be cited as the "Housing Assistance Council Authorization Act of 2008".

42 USC 1490e note.

**SEC. 6302. ASSISTANCE TO HOUSING ASSISTANCE COUNCIL.**

(a) USE.—The Secretary of Housing and Urban Development may provide financial assistance to the Housing Assistance Council for use by the Council to develop the ability and capacity of community-based housing development organizations to undertake community development and affordable housing projects and programs in rural areas. Assistance provided by the Secretary under this section may be used by the Housing Assistance Council for—

(1) technical assistance, training, support, research, and advice to develop the business and administrative capabilities of rural community-based housing development organizations;

(2) loans, grants, or other financial assistance to rural community-based housing development organizations to carry out community development and affordable housing activities for low- and moderate-income families; and

(3) such other activities as may be determined by the Secretary of Housing and Urban Development and the Housing Assistance Council.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for financial assistance under this section for the Housing Assistance Council $10,000,000 for each of fiscal years 2009 through 2011.

**SEC. 6303. AUDITS AND REPORTS.**

42 USC 1490e note.

(a) AUDIT.—

(1) IN GENERAL.—The financial transactions and activities of the Housing Assistance Council shall be audited annually by an independent certified public accountant or an independent licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(2) REQUIREMENTS OF AUDITS.—The Comptroller General of the United States may rely on any audit completed under paragraph (1), if the audit complies with—

(A) the annual programmatic and financial examination requirements established in OMB Circular A-133; and

(B) generally accepted government auditing standards.

(3) REPORT TO CONGRESS.—The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative a report detailing each audit completed under paragraph (1).

(b) GAO REPORT.—The Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative on the use of any funds appropriated to the Housing Assistance Council over the past 7 years.

**SEC. 6304. PERSONS NOT LAWFULLY PRESENT IN THE UNITED STATES.**

42 USC 1490e note.

Aliens who are not lawfully present in the United States shall be ineligible for financial assistance under this subtitle, as provided and defined by section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a). Nothing in this subtitle shall be construed to alter the restrictions or definitions in such section 214.

**SEC. 6305. LIMITATION ON USE OF AUTHORIZED AMOUNTS.**

42 USC 1490e note.

None of the amounts authorized by this subtitle may be used to lobby or retain a lobbyist for the purpose of influencing a Federal, State, or local governmental entity or officer.

# TITLE VII—RESEARCH AND RELATED MATTERS

## Subtitle A—National Agricultural Research, Extension, and Teaching Policy Act of 1977

**SEC. 7101. DEFINITIONS.**

(a) IN GENERAL.—Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively;

(B) by striking "(4) The terms" and inserting the following:

"(4) COLLEGE AND UNIVERSITY.—

"(A) IN GENERAL.—The terms"; and

(C) by adding at the end the following:

"(B) INCLUSIONS.—The terms 'college' and 'university' include a research foundation maintained by a college or university described in subparagraph (A).";

(2) by redesignating paragraphs (5) through (8), (9) through (11), (12) through (14), (15), (16), (17), and (18) as paragraphs (6) through (9), (11) through (13), (15) through (17), (20), (5), (18), and (19), respectively, and moving the paragraphs so as to appear in alphabetical and numerical order;

(3) in paragraph (9) (as redesignated by paragraph (2))—

(A) by striking "renewable natural resources" and inserting "renewable energy and natural resources"; and

(B) by striking subparagraph (F) and inserting the following:

"(F) Soil, water, and related resource conservation and improvement.";

(4) by inserting after paragraph (9) (as so redesignated) the following:

"(10) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—

"(A) IN GENERAL.—The term 'Hispanic-serving agricultural colleges and universities' means colleges or universities that—

"(i) qualify as Hispanic-serving institutions; and

"(ii) offer associate, bachelors, or other accredited degree programs in agriculture-related fields.

"(B) EXCEPTION.—The term 'Hispanic-serving agricultural colleges and universities' does not include 1862 institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)).";

(5) by striking paragraph (11) (as so redesignated) and inserting the following:

"(11) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given the term in section

502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).''; and

(6) by inserting after paragraph (13) (as so redesignated) the following:

''(14) NLGCA INSTITUTION; NON-LAND-GRANT COLLEGE OF AGRICULTURE.—

''(A) IN GENERAL.—The terms 'NLGCA Institution' and 'non-land-grant college of agriculture' mean a public college or university offering a baccalaureate or higher degree in the study of agriculture or forestry.

''(B) EXCLUSIONS.—The terms 'NLGCA Institution' and 'non-land-grant college of agriculture' do not include—

''(i) Hispanic-serving agricultural colleges and universities; or

''(ii) any institution designated under—

''(I) the Act of July 2, 1862 (commonly known as the 'First Morrill Act'; 7 U.S.C. 301 et seq.);

''(II) the Act of August 30, 1890 (commonly known as the 'Second Morrill Act') (7 U.S.C. 321 et seq.);

''(III) the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note); or

''(IV) Public Law 87–788 (commonly known as the 'McIntire-Stennis Cooperative Forestry Act') (16 U.S.C. 582a et seq.).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(3) of the Research Facilities Act (7 U.S.C. 390(3)) is amended by striking ''section 1404(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(8))'' and inserting ''section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)''.

(2) Section 2(k) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(k)) is amended in the second sentence by striking ''section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17))'' and inserting ''section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)''.

(3) Section 18(a)(3)(B) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(3)(B)) is amended by striking ''section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5)))'' and inserting ''section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103))''.

(4) Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319) is amended in the first sentence by striking ''section 1404(16) of this title'' and inserting ''section 1404(18)''.

(5) Section 1619(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801(b)) is amended—

(A) in paragraph (1), by striking ''section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17))'' and inserting ''section 1404 of the National Agricultural

Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)";

(B) in paragraph (5), by striking "section 1404(7) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(7))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)"; and

(C) in paragraph (8), by striking "section 1404(13) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(13))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)".

(6) Section 125(c)(1)(C) of Public Law 100–238 (5 U.S.C. 8432 note) is amended by striking "section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)".

**SEC. 7102. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.**

(a) IN GENERAL.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "31" and inserting "25"; and

(B) by striking paragraph (3) and inserting the following:

"(3) MEMBERSHIP CATEGORIES.—The Advisory Board shall consist of members from each of the following categories:

"(A) 1 member representing a national farm organization.

"(B) 1 member representing farm cooperatives.

"(C) 1 member actively engaged in the production of a food animal commodity, recommended by a coalition of national livestock organizations.

"(D) 1 member actively engaged in the production of a plant commodity, recommended by a coalition of national crop organizations.

"(E) 1 member actively engaged in aquaculture, recommended by a coalition of national aquacultural organizations.

"(F) 1 member representing a national food animal science society.

"(G) 1 member representing a national crop, soil, agronomy, horticulture, plant pathology, or weed science society.

"(H) 1 member representing a national food science organization.

"(I) 1 member representing a national human health association.

"(J) 1 member representing a national nutritional science society.

"(K) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.).

"(L) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

"(M) 1 member representing the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)).

"(N) 1 member representing NLGCA Institutions.

"(O) 1 member representing Hispanic-serving institutions.

"(P) 1 member representing the American Colleges of Veterinary Medicine.

"(Q) 1 member engaged in the transportation of food and agricultural products to domestic and foreign markets.

"(R) 1 member representing food retailing and marketing interests.

"(S) 1 member representing food and fiber processors.

"(T) 1 member actively engaged in rural economic development.

"(U) 1 member representing a national consumer interest group.

"(V) 1 member representing a national forestry group.

"(W) 1 member representing a national conservation or natural resource group.

"(X) 1 member representing private sector organizations involved in international development.

"(Y) 1 member representing a national social science association.";

(2) in subsection (g)(1), by striking "$350,000" and inserting "$500,000"; and

(3) in subsection (h), by striking "2007" and inserting "2012".

(b) NO EFFECT ON TERMS.—Nothing in this section or any amendment made by this section affects the term of any member of the National Agricultural Research, Extension, Education, and Economics Advisory Board serving as of the date of enactment of this Act. 7 USC 3123 note.

**SEC. 7103. SPECIALTY CROP COMMITTEE REPORT.**

Section 1408A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123a(c)) is amended by adding at the end the following:

"(4) Analyses of changes in macroeconomic conditions, technologies, and policies on specialty crop production and consumption, with particular focus on the effect of those changes on the financial stability of producers.

"(5) Development of data that provide applied information useful to specialty crop growers, their associations, and other interested beneficiaries in evaluating that industry from a regional and national perspective.".

**SEC. 7104. RENEWABLE ENERGY COMMITTEE.**

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1408A (7 U.S.C. 3123a) the following:

7 USC 3123b.

**"SEC. 1408B. RENEWABLE ENERGY COMMITTEE.**

Deadline. Establishment.

"(a) INITIAL MEMBERS.—Not later than 90 days after the date of enactment of this section, the executive committee of the Advisory Board shall establish and appoint the initial members of a permanent renewable energy committee.

"(b) DUTIES.—The permanent renewable energy committee shall study the scope and effectiveness of research, extension, and economics programs affecting the renewable energy industry.

"(c) NONADVISORY BOARD MEMBERS.—

"(1) IN GENERAL.—An individual who is not a member of the Advisory Board may be appointed as a member of the renewable energy committee.

"(2) SERVICE.—A member of the renewable energy committee shall serve at the discretion of the executive committee.

"(d) REPORT BY RENEWABLE ENERGY COMMITTEE.—Not later than 180 days after the date of establishment of the renewable energy committee, and annually thereafter, the renewable energy committee shall submit to the Advisory Board a report that contains the findings and any recommendations of the renewable energy committee with respect to the study conducted under subsection (b).

"(e) CONSULTATION.—In carrying out the duties described in subsection (b), the renewable energy committee shall consult with the Biomass Research and Development Technical Advisory Committee established under section 9008(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8605).

"(f) MATTERS TO BE CONSIDERED IN BUDGET RECOMMENDATION.—In preparing the annual budget recommendations for the Department, the Secretary shall take into consideration those findings and recommendations contained in the most recent report of the renewable energy committee under subsection (d) that are developed by the Advisory Committee.

"(g) REPORT BY THE SECRETARY.—In the budget material submitted to Congress by the Secretary in connection with the budget submitted pursuant to section 1105 of title 31, United States Code, for a fiscal year, the Secretary shall include a report that describes the ways in which the Secretary addressed each recommendation of the renewable energy committee described in subsection (f).".

**SEC. 7105. VETERINARY MEDICINE LOAN REPAYMENT.**

(a) IN GENERAL.—Section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151a) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) DETERMINATION OF VETERINARIAN SHORTAGE SITUATIONS.—In determining 'veterinarian shortage situations', the Secretary may consider—

"(1) geographical areas that the Secretary determines have a shortage of veterinarians; and

"(2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety.";

(2) in subsection (c), by adding at the end the following:

"(8) PRIORITY.—In administering the program, the Secretary shall give priority to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.";

(3) by redesignating subsection (d) as subsection (f); and

(4) by inserting after subsection (c) the following:

"(d) USE OF FUNDS.—None of the funds appropriated to the Secretary under subsection (f) may be used to carry out section 5379 of title 5, United States Code.

"(e) REGULATIONS.—Notwithstanding subchapter II of chapter 5 of title 5, United States Code, not later than 270 days after the date of enactment of this subsection, the Secretary shall promulgate regulations to carry out this section.". Deadline.

(b) DISAPPROVAL OF TRANSFER OF FUNDS.—Congress disapproves the transfer of funds from the Cooperative State Research, Education, and Extension Service to the Food Safety and Inspection Service described in the notice of use of funds for implementation of the veterinary medicine loan repayment program authorized by the National Veterinary Medical Service Act (72 Fed. Reg. 48609 (August 24, 2007)), and such funds shall be rescinded on the date of enactment of this Act and made available to the Secretary, without further appropriation or fiscal year limitation, for use only in accordance with section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151a) (as amended by subsection (a)).

**SEC. 7106. ELIGIBILITY OF UNIVERSITY OF THE DISTRICT OF COLUMBIA FOR GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.**

Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by inserting "(including the University of the District of Columbia)" after "land-grant colleges and universities"; and

(2) in subsection (d)(2), by inserting "(including the University of the District of Columbia)" after "universities".

**SEC. 7107. GRANTS TO 1890 SCHOOLS TO EXPAND EXTENSION CAPACITY.**

Section 1417(b)(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)(4)) is amended by striking "teaching and research" and inserting "teaching, research, and extension".

**SEC. 7108. EXPANSION OF FOOD AND AGRICULTURAL SCIENCES AWARDS.**

Section 1417(i) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(i)) is amended—

(1) in the subsection heading, by striking "Teaching Awards" and inserting "Teaching, Extension, and Research Awards"; and

(2) by striking paragraph (1) and inserting the following:

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish a National Food and Agricultural Sciences Teaching, Extension, and Research Awards program to recognize and promote excellence in teaching, extension, and research in the food and agricultural sciences at a college or university.

"(B) MINIMUM REQUIREMENT.—The Secretary shall make at least 1 cash award in each fiscal year to a nominee selected by the Secretary for excellence in each of the areas of teaching, extension, and research of food and agricultural science at a college or university.".

**SEC. 7109. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.**

(a) EDUCATION TEACHING PROGRAMS.—Section 1417(j) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)) is amended—

(1) in the subsection heading, by striking "SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS" and inserting "SECONDARY EDUCATION, 2-YEAR POSTSECONDARY EDUCATION, AND AGRICULTURE IN THE K–12 CLASSROOM"; and

(2) in paragraph (3)—

(A) by striking "secondary schools, and institutions of higher education that award an associate's degree" and inserting "secondary schools, institutions of higher education that award an associate's degree, other institutions of higher education, and nonprofit organizations";

(B) in subparagraph (E), by striking "and" at the end;

(C) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(G) to support current agriculture in the classroom programs for grades K–12.".

(b) REPORT.—Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following:

"(l) REPORT.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a biennial report detailing the distribution of funds used to implement the teaching programs under subsection (j).".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1417(m) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (as redesignated by subsection (b)(1)) is amended by striking "2007" and inserting "2012".

7 USC 3152 note.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2008.

**SEC. 7110. GRANTS FOR RESEARCH ON PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.**

(a) IN GENERAL.—Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is repealed.

(b) CONFORMING AMENDMENT.—Section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by striking "1419,".

**SEC. 7111. POLICY RESEARCH CENTERS.**

Section 1419A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155) is amended—

(1) in subsection (a)(1), by inserting "(including commodities, livestock, dairy, and specialty crops)" after "agricultural sectors";

(2) in subsection (b), by inserting "(including the Food Agricultural Policy Research Institute, the Agricultural and Food Policy Center, the Rural Policy Research Institute, and the National Drought Mitigation Center)" after "research institutions and organizations"; and

(3) in subsection (d), by striking "2007" and inserting "2012".

**SEC. 7112. EDUCATION GRANTS TO ALASKA NATIVE-SERVING INSTITUTIONS AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.**

Section 759 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 3242)—

(1) is amended—

(A) in subsection (a)(3), by striking "2006" and inserting "2012"; and

(B) in subsection (b)—

(i) in paragraph (2)(A), by inserting before the semicolon at the end the following: ", including permitting consortia to designate fiscal agents for the members of the consortia and to allocate among the members funds made available under this section"; and

(ii) in paragraph (3), by striking "2006" and inserting "2012";

(2) is redesignated as section 1419B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977; and

(3) is moved so as to appear after section 1419A of that Act (7 U.S.C. 3155). 7 USC 3156.

**SEC. 7113. EMPHASIS OF HUMAN NUTRITION INITIATIVE.**

Section 1424(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(b)) is amended—

(1) in paragraph (1), by striking "and,";

(2) in paragraph (2), by striking the comma at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) proposals that examine the efficacy of current agriculture policies in promoting the health and welfare of economically disadvantaged populations;".

**SEC. 7114. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.**

Section 1424(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(d)) is amended by striking "2007" and inserting "2012".

**SEC. 7115. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH.**

Section 1424A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174a(d)) is amended by striking "2007" and inserting "2012".

**SEC. 7116. NUTRITION EDUCATION PROGRAM.**

(a) IN GENERAL.—Section 1425 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175) is amended—

(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(2) by striking the section heading and designation and inserting the following:

**"SEC. 1425. NUTRITION EDUCATION PROGRAM.**

"(a) DEFINITION OF 1862 INSTITUTION AND 1890 INSTITUTION.—In this section, the terms '1862 Institution' and '1890 Institution' have the meaning given those terms in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).";

(3) in subsection (b) (as redesignated by paragraph (1)), by striking "(b) The Secretary" and inserting the following: "(b) ESTABLISHMENT.—The Secretary";

(4) in subsection (c) (as so redesignated), by striking "(c) In order to enable" and inserting the following:
"(c) EMPLOYMENT AND TRAINING.—To enable";

(5) in subsection (d) (as redesignated by paragraph (1))—

(A) by striking "(d) Beginning" and inserting the following:
"(d) ALLOCATION OF FUNDING.—Beginning";

(B) in paragraph (2), by striking subparagraph (B) and inserting the following:

"(B) Notwithstanding section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), the remainder shall be allocated among the States as follows:

"(i) $100,000 shall be distributed to each 1862 Institution and 1890 Institution.

"(ii) Subject to clause (iii), the remainder shall be allocated to each State in an amount that bears the same ratio to the total amount to be allocated under this clause as—

"(I) the population living at or below 125 percent of the income poverty guidelines (as prescribed by the Office of Management and Budget and as adjusted pursuant to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) in the State; bears to

"(II) the total population living at or below 125 percent of those income poverty guidelines in all States;

as determined by the most recent decennial census at the time at which each such additional amount is first appropriated.

"(iii)(I) Before any allocation of funds under clause (ii), for any fiscal year for which the amount of funds appropriated for the conduct of the expanded food and

nutrition education program exceeds the amount of funds appropriated for the program for fiscal year 2007, the following percentage of such excess funds for the fiscal year shall be allocated to the 1890 Institutions in accordance with subclause (II):

"(aa) 10 percent for fiscal year 2009.

"(bb) 11 percent for fiscal year 2010.

"(cc) 12 percent for fiscal year 2011.

"(dd) 13 percent for fiscal year 2012.

"(ee) 14 percent for fiscal year 2013.

"(ff) 15 percent for fiscal year 2014 and for each fiscal year thereafter.

"(II) Funds made available under subclause (I) shall be allocated to each 1890 Institution in an amount that bears the same ratio to the total amount to be allocated under this clause as—

"(aa) the population living at or below 125 percent of the income poverty guidelines (as prescribed by the Office of Management and Budget and as adjusted pursuant to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) in the State in which the 1890 Institution is located; bears to

"(bb) the total population living at or below 125 percent of those income poverty guidelines in all States in which 1890 Institutions are located; as determined by the most recent decennial census at the time at which each such additional amount is first appropriated.

"(iv) Nothing in this subparagraph precludes the Secretary from developing educational materials and programs for persons in income ranges above the level designated in this subparagraph."; and

(C) by striking paragraph (3); and

(6) by adding at the end the following:

"(e) COMPLEMENTARY ADMINISTRATION.—The Secretary shall ensure the complementary administration of the expanded food and nutrition education program by 1862 Institutions and 1890 Institutions in a State.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the expanded food and nutrition education program established under section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), and this section $90,000,000 for each of fiscal years 2009 through 2012.".

(b) CONFORMING AMENDMENT.—Section 1588(b) of the Food Security Act of 1985 (7 U.S.C. 3175e(b)) is amended by striking "section 1425(c)(2)" and inserting "section 1425(d)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2008. 7 USC 3175 note.

**SEC. 7117. CONTINUING ANIMAL HEALTH AND DISEASE RESEARCH PROGRAMS.**

Section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195(a)) is amended in the first sentence by striking "2007" and inserting "2012".

**SEC. 7118. COOPERATION AMONG ELIGIBLE INSTITUTIONS.**

Section 1433 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195) is amended by adding at the end the following:

"(g) COOPERATION AMONG ELIGIBLE INSTITUTIONS.—The Secretary, to the maximum extent practicable, shall encourage eligible institutions to cooperate in setting research priorities under this section through the conduct of regular regional and national meetings.".

**SEC. 7119. APPROPRIATIONS FOR RESEARCH ON NATIONAL OR REGIONAL PROBLEMS.**

Section 1434(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7120. ANIMAL HEALTH AND DISEASE RESEARCH PROGRAM.**

Section 1434(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(b)) is amended by inserting after "universities" the following: "(including 1890 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)))".

**SEC. 7121. AUTHORIZATION LEVEL FOR EXTENSION AT 1890 LAND-GRANT COLLEGES.**

Section 1444(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)(2)) is amended by striking "15 percent" and inserting "20 percent".

**SEC. 7122. AUTHORIZATION LEVEL FOR AGRICULTURAL RESEARCH AT 1890 LAND-GRANT COLLEGES.**

Section 1445(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(a)(2)) is amended by striking "25 percent" and inserting "30 percent".

**SEC. 7123. GRANTS TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.**

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking "2007" and inserting "2012".

**SEC. 7124. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AT THE DISTRICT OF COLUMBIA LAND-GRANT UNIVERSITY.**

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1447 (7 U.S.C. 3222b) the following:

7 USC 3222b–1.

**"SEC. 1447A. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AT THE DISTRICT OF COLUMBIA LAND-GRANT UNIVERSITY.**

"(a) PURPOSE.—It is the intent of Congress to assist the land-grant university in the District of Columbia established under section 208 of the District of Columbia Public Postsecondary Education Reorganization Act (Public Law 93–471; 88 Stat. 1428) in efforts to acquire, alter, or repair facilities or relevant equipment necessary for conducting agricultural research.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000 for each of fiscal years 2008 through 2012.".

**SEC. 7125. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AND EQUIPMENT AT INSULAR AREA LAND-GRANT INSTITUTIONS.**

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by inserting after section 1447A (as added by section 7124) the following:

**"SEC. 1447B. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AND EQUIPMENT AT INSULAR AREA LAND-GRANT INSTITUTIONS.** 7 USC 3222b–2.

"(a) PURPOSE.—It is the intent of Congress to assist the land-grant institutions in the insular areas in efforts to acquire, alter, or repair facilities or relevant equipment necessary for conducting agricultural research.

"(b) METHOD OF AWARDING GRANTS.—Grants awarded pursuant to this section shall be made in such amounts and under such terms and conditions as the Secretary determines necessary to carry out the purposes of this section.

"(c) REGULATIONS.—The Secretary may promulgate such rules and regulations as the Secretary considers to be necessary to carry out this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 7126. NATIONAL RESEARCH AND TRAINING VIRTUAL CENTERS.**

Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended by striking "2007" each place it appears in subsections (a)(1) and (f) and inserting "2012".

**SEC. 7127. MATCHING FUNDS REQUIREMENT FOR RESEARCH AND EXTENSION ACTIVITIES OF 1890 INSTITUTIONS.**

Section 1449(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d(c)) is amended—

(1) in the first sentence—

(A) by striking "for each of fiscal years 2003 through 2007,"; and

(B) by inserting "equal" before "matching"; and

(2) by striking the second sentence and all that follows through paragraph (5).

**SEC. 7128. HISPANIC-SERVING INSTITUTIONS.**

Section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241) is amended—

(1) in subsection (a) by striking "(or grants without regard to any requirement for competition)";

(2) in subsection (b)(1), by striking "of consortia"; and

(3) in subsection (c)—

(A) by striking "$20,000,000" and inserting "$40,000,000"; and

(B) by striking "2007" and inserting "2012".

**SEC. 7129. HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.**

(a) IN GENERAL.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1455 (7 U.S.C. 3241) the following:

7 USC 3243.

**"SEC. 1456. HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.**

"(a) DEFINITION OF ENDOWMENT FUND.—In this section, the term 'endowment fund' means the Hispanic-Serving Agricultural Colleges and Universities Fund established under subsection (b).

"(b) ENDOWMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall establish in accordance with this subsection a Hispanic-Serving Agricultural Colleges and Universities Fund.

"(2) AGREEMENTS.—The Secretary of the Treasury may enter into such agreements as are necessary to carry out this subsection.

"(3) DEPOSIT TO THE ENDOWMENT FUND.—The Secretary of the Treasury shall deposit in the endowment fund any—

"(A) amounts made available through Acts of appropriations, which shall be the endowment fund corpus; and

"(B) interest earned on the endowment fund corpus.

"(4) INVESTMENTS.—The Secretary of the Treasury shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

"(5) WITHDRAWALS AND EXPENDITURES.—

"(A) CORPUS.—The Secretary of the Treasury may not make a withdrawal or expenditure from the endowment fund corpus.

"(B) WITHDRAWALS.—On September 30, 2008, and each September 30 thereafter, the Secretary of the Treasury shall withdraw the amount of the income from the endowment fund for the fiscal year and warrant the funds to the Secretary of Agriculture who, after making adjustments for the cost of administering the endowment fund, shall distribute the adjusted income as follows:

"(i) 60 percent shall be distributed among the Hispanic-serving agricultural colleges and universities on a pro rata basis based on the Hispanic enrollment count of each institution.

"(ii) 40 percent shall be distributed in equal shares to the Hispanic-serving agricultural colleges and universities.

"(6) ENDOWMENTS.—Amounts made available under this subsection shall be held and considered to be granted to Hispanic-serving agricultural colleges and universities to establish an endowment in accordance with this subsection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.

"(c) AUTHORIZATION FOR ANNUAL PAYMENTS.—

"(1) IN GENERAL.—For fiscal year 2008 and each fiscal year thereafter, there are authorized to be appropriated to the Department of Agriculture to carry out this subsection an amount equal to the product obtained by multiplying—

"(A) $80,000; by

"(B) the number of Hispanic-serving agricultural colleges and universities.

"(2) PAYMENTS.—For fiscal year 2008 and each fiscal year thereafter, the Secretary of the Treasury shall pay to the treasurer of each Hispanic-serving agricultural college and university an amount equal to—

"(A) the total amount made available by appropriations under paragraph (1); divided by

"(B) the number of Hispanic-serving agricultural colleges and universities.

"(3) USE OF FUNDS.—

"(A) IN GENERAL.—Amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (commonly known as the 'Second Morrill Act') (7 U.S.C. 321 et seq.).

"(B) RELATIONSHIP TO OTHER LAW.—Except as otherwise provided in this subsection, the requirements of that Act shall apply to Hispanic-serving agricultural colleges and universities under this section. Applicability.

"(d) INSTITUTIONAL CAPACITY-BUILDING GRANTS.—

"(1) IN GENERAL.—For fiscal year 2008 and each fiscal year thereafter, the Secretary shall make grants to assist Hispanic-serving agricultural colleges and universities in institutional capacity building (not including alteration, repair, renovation, or construction of buildings).

"(2) CRITERIA FOR INSTITUTIONAL CAPACITY-BUILDING GRANTS.—

"(A) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this subsection on the basis of a competitive application process under which Hispanic-serving agricultural colleges and universities may submit applications to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) DEMONSTRATION OF NEED.—

"(i) IN GENERAL.—As part of an application for a grant under this subsection, the Secretary shall require the applicant to demonstrate need for the grant, as determined by the Secretary.

"(ii) OTHER SOURCES OF FUNDING.—The Secretary may award a grant under this subsection only to an applicant that demonstrates a failure to obtain funding for a project after making a reasonable effort to otherwise obtain the funding.

"(C) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made only if the recipient of the grant pays a non-Federal share in an amount that is specified by the Secretary and based on assessed institutional needs.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.

"(e) COMPETITIVE GRANTS PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a competitive grants program to fund fundamental and applied research at Hispanic-serving agricultural colleges and universities in agriculture, human nutrition, food science, bioenergy, and environmental science.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.".

(b) EXTENSION.—Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended—

(1) in subsection (b), by adding at the end the following:

"(4) ANNUAL APPROPRIATION FOR HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for payments to Hispanic-serving agricultural colleges and universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) such sums as are necessary to carry out this paragraph for fiscal year 2008 and each fiscal year thereafter, to remain available until expended.

"(B) ADDITIONAL AMOUNT.—Amounts made available under this paragraph shall be in addition to any other amounts made available under this section to States, the Commonwealth of Puerto Rico, Guam, or the United States Virgin Islands.

"(C) ADMINISTRATION.—Amounts made available under this paragraph shall be—

"(i) distributed on the basis of a competitive application process to be developed and implemented by the Secretary;

"(ii) paid by the Secretary to the State institutions established in accordance with the Act of July 2, 1862 (commonly known as the 'First Morrill Act') (7 U.S.C. 301 et seq.); and

"(iii) administered by State institutions through cooperative agreements with the Hispanic-serving agricultural colleges and universities in the State in accordance with regulations promulgated by the Secretary."; and

(2) in subsection (f)—

(A) in the subsection heading, by inserting "AND HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES" after "1994 INSTITUTIONS"; and

(B) by striking "pursuant to subsection (b)(3)" and inserting "or Hispanic-serving agricultural colleges and universities in accordance with paragraphs (3) and (4) of subsection (b)".

(c) CONFORMING AMENDMENTS.—

(1) Section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601) is amended—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

"(6) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—The term 'Hispanic-serving agricultural colleges

and universities' has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).".

(2) Section 102(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7612(c)) is amended—

(A) in the subsection heading, by inserting "AND HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES" after "INSTITUTIONS"; and

(B) in paragraph (1), by striking " and 1994 Institution" and inserting "1994 Institution, and Hispanic-serving agricultural college and university".

(3) Section 103(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(e)) is amended by adding at the end the following:

"(3) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—To be eligible to obtain agricultural extension funds from the Secretary for an activity, each Hispanic-serving agricultural college and university shall—

"(A) establish a process for merit review of the activity; and

"(B) review the activity in accordance with such process.".

(4) Section 406(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(b)) is amended by striking "and 1994 Institutions" and inserting ", 1994 Institutions, and Hispanic-serving agricultural colleges and universities".

**SEC. 7130. INTERNATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.**

Section 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by adding "and" at the end; and

(C) by adding at the end the following:

"(C) giving priority to those institutions with existing memoranda of understanding, agreements, or other formal ties to United States institutions, or Federal or State agencies;";

(2) by striking paragraph (3) and inserting the following:

"(3) enter into agreements with land-grant colleges and universities, Hispanic-serving agricultural colleges and universities, the Agency for International Development, and international organizations (such as the United Nations, the World Bank, regional development banks, international agricultural research centers), or other organizations, institutions, or individuals with comparable goals, to promote and support—

"(A) the development of a viable and sustainable global agricultural system;

"(B) antihunger and improved international nutrition efforts; and

"(C) increased quantity, quality, and availability of food;";

(3) in paragraph (7)(A), by striking "and land-grant colleges and universities" and inserting ", land-grant colleges and universities, and Hispanic-serving agricultural colleges and universities";

(4) in paragraph (9)—

(A) in subparagraph (A), by striking "or other colleges and universities" and inserting ", Hispanic-serving agricultural colleges and universities, or other colleges and universities"; and

(B) in subparagraph (D), by striking "and" at the end;

(5) in paragraph (10), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(11) establish a program for the purpose of providing fellowships to United States or foreign students to study at foreign agricultural colleges and universities working under agreements provided for under paragraph (3).".

**SEC. 7131. COMPETITIVE GRANTS FOR INTERNATIONAL AGRICULTURAL SCIENCE AND EDUCATION PROGRAMS.**

Section 1459A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b(c)) is amended by striking "2007" and inserting "2012".

**SEC. 7132. ADMINISTRATION.**

(a) LIMITATION ON INDIRECT COSTS FOR AGRICULTURAL RESEARCH, EDUCATION, AND EXTENSION PROGRAMS.—Section 1462(a) of the National Agriculture Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310(a)) is amended—

(1) by striking "a competitive" and inserting "any"; and

(2) by striking "19 percent" and inserting "22 percent".

(b) AUDITING, REPORTING, BOOKKEEPING, AND ADMINISTRATIVE REQUIREMENTS.—Section 1469(a)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3315(a)(3)) is amended by striking "appropriated" and inserting "made available".

**SEC. 7133. RESEARCH EQUIPMENT GRANTS.**

Section 1462A(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310a(e)) is amended by striking "2007" and inserting "2012".

**SEC. 7134. UNIVERSITY RESEARCH.**

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended by striking "2007" each place it appears in subsections (a) and (b) and inserting "2012".

**SEC. 7135. EXTENSION SERVICE.**

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking "2007" and inserting "2012".

**SEC. 7136. SUPPLEMENTAL AND ALTERNATIVE CROPS.**

Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7137. NEW ERA RURAL TECHNOLOGY PROGRAM.**

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) is amended by adding at the end the following:

**"SEC. 1473E. NEW ERA RURAL TECHNOLOGY PROGRAM.** 7 USC 3319e.

"(a) DEFINITION OF COMMUNITY COLLEGE.—In this section, the term 'community college' means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001))—

"(1) that admits as regular students individuals who—

"(A) are beyond the age of compulsory school attendance in the State in which the institution is located; and

"(B) have the ability to benefit from the training offered by the institution;

"(2) that does not provide an educational program for which the institution awards a bachelor's degree or an equivalent degree; and

"(3) that—

"(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree; or

"(B) offers a 2-year program in engineering, technology, mathematics, or the physical, chemical, or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"(b) FUNCTIONS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish a program to be known as the 'New Era Rural Technology Program', to make grants available for technology development, applied research, and training to aid in the development of an agriculture-based renewable energy workforce. Grants.

"(B) SUPPORT.—The initiative under this section shall support the fields of—

"(i) bioenergy;

"(ii) pulp and paper manufacturing; and

"(iii) agriculture-based renewable energy resources.

"(2) REQUIREMENTS FOR FUNDING.—To receive funding under this section, an entity shall—

"(A) be a community college or advanced technological center, located in a rural area and in existence on the date of the enactment of this section, that participates in agricultural or bioenergy research and applied research;

"(B) have a proven record of development and implementation of programs to meet the needs of students, educators, and business and industry to supply the agriculture-based, renewable energy or pulp and paper manufacturing fields with certified technicians, as determined by the Secretary; and

"(C) have the ability to leverage existing partnerships and occupational outreach and training programs for secondary schools, 4-year institutions, and relevant nonprofit organizations.

"(c) GRANT PRIORITY.—In providing grants under this section, the Secretary shall give preference to eligible entities working in partnership—

"(1) to improve information-sharing capacity; and

"(2) to maximize the ability to meet the requirements of this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.".

**SEC. 7138. CAPACITY BUILDING GRANTS FOR NLGCA INSTITUTIONS.**

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) (as amended by section 7137) is amended by adding at the end the following:

7 USC 3319c.

**"SEC. 1473F. CAPACITY BUILDING GRANTS FOR NLGCA INSTITUTIONS.**

"(a) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall make competitive grants to NLGCA Institutions to assist the NLGCA Institutions in maintaining and expanding the capacity of the NLGCA Institutions to conduct education, research, and outreach activities relating to—

"(A) agriculture;

"(B) renewable resources; and

"(C) other similar disciplines.

"(2) USE OF FUNDS.—An NLGCA Institution that receives a grant under paragraph (1) may use the funds made available through the grant to maintain and expand the capacity of the NLGCA Institution—

"(A) to successfully compete for funds from Federal grants and other sources to carry out educational, research, and outreach activities that address priority concerns of national, regional, State, and local interest;

"(B) to disseminate information relating to priority concerns to—

"(i) interested members of the agriculture, renewable resources, and other relevant communities;

"(ii) the public; and

"(iii) any other interested entity;

"(C) to encourage members of the agriculture, renewable resources, and other relevant communities to participate in priority education, research, and outreach activities by providing matching funding to leverage grant funds; and

"(D) through—

"(i) the purchase or other acquisition of equipment and other infrastructure (not including alteration, repair, renovation, or construction of buildings);

"(ii) the professional growth and development of the faculty of the NLGCA Institution; and

"(iii) the development of graduate assistantships.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.".

**SEC. 7139. BORLAUG INTERNATIONAL AGRICULTURAL SCIENCE AND TECHNOLOGY FELLOWSHIP PROGRAM.**

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) (as amended by section 7138) is amended by adding at the end the following:

**"SEC. 1473G. BORLAUG INTERNATIONAL AGRICULTURAL SCIENCE AND TECHNOLOGY FELLOWSHIP PROGRAM.** 7 USC 3319j.

"(a) FELLOWSHIP PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a fellowship program, to be known as the 'Borlaug International Agricultural Science and Technology Fellowship Program,' to provide fellowships for scientific training and study in the United States to individuals from eligible countries (as described in subsection (b)) who specialize in agricultural education, research, and extension.

"(2) PROGRAMS.—The Secretary shall carry out the fellowship program by implementing 3 programs designed to assist individual fellowship recipients, including—

"(A) a graduate studies program in agriculture to assist individuals who participate in graduate agricultural degree training at a United States institution;

"(B) an individual career improvement program to assist agricultural scientists from developing countries in upgrading skills and understanding in agricultural science and technology; and

"(C) a Borlaug agricultural policy executive leadership course to assist senior agricultural policy makers from eligible countries, with an initial focus on individuals from sub-Saharan Africa and the independent states of the former Soviet Union.

"(b) ELIGIBLE COUNTRIES.—An eligible country is a developing country, as determined by the Secretary using a gross national income per capita test selected by the Secretary.

"(c) PURPOSE OF FELLOWSHIPS.—A fellowship provided under this section shall—

"(1) promote food security and economic growth in eligible countries by—

"(A) educating a new generation of agricultural scientists;

"(B) increasing scientific knowledge and collaborative research to improve agricultural productivity; and

"(C) extending that knowledge to users and intermediaries in the marketplace; and

"(2) shall support—

"(A) training and collaborative research opportunities through exchanges for entry level international agricultural research scientists, faculty, and policymakers from eligible countries;

"(B) collaborative research to improve agricultural productivity;

"(C) the transfer of new science and agricultural technologies to strengthen agricultural practice; and

"(D) the reduction of barriers to technology adoption.

"(d) FELLOWSHIP RECIPIENTS.—

"(1) ELIGIBLE CANDIDATES.—The Secretary may provide fellowships under this section to individuals from eligible countries who specialize or have experience in agricultural education, research, extension, or related fields, including—

"(A) individuals from the public and private sectors; and

"(B) private agricultural producers.

"(2) CANDIDATE IDENTIFICATION.—The Secretary shall use the expertise of United States land-grant colleges and universities and similar universities, international organizations working in agricultural research and outreach, and national agricultural research organizations to help identify program candidates for fellowships under this section from the public and private sectors of eligible countries.

"(e) USE OF FELLOWSHIPS.—A fellowship provided under this section shall be used—

"(1) to promote collaborative programs among agricultural professionals of eligible countries, agricultural professionals of the United States, the international agricultural research system, and, as appropriate, United States entities conducting research; and

"(2) to support fellowship recipients through programs described in subsection (a)(2).

"(f) PROGRAM IMPLEMENTATION.—The Secretary shall provide for the management, coordination, evaluation, and monitoring of the Borlaug International Agricultural Science and Technology Fellowship Program and for the individual programs described in subsection (a)(2), except that the Secretary may contract out to 1 or more collaborating universities the management of 1 or more of the fellowship programs.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.".

**SEC. 7140. AQUACULTURE ASSISTANCE PROGRAMS.**

Section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended by striking "2007" and inserting "2012".

**SEC. 7141. RANGELAND RESEARCH GRANTS.**

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7142. SPECIAL AUTHORIZATION FOR BIOSECURITY PLANNING AND RESPONSE.**

Section 1484(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3351(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7143. RESIDENT INSTRUCTION AND DISTANCE EDUCATION GRANTS PROGRAM FOR INSULAR AREA INSTITUTIONS OF HIGHER EDUCATION.**

(a) DISTANCE EDUCATION GRANTS FOR INSULAR AREAS.—Section 1490(f) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3362(f)) is amended by striking "2007" and inserting "2012".

(b) RESIDENT INSTRUCTION GRANTS FOR INSULAR AREAS.—Section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363) is amended—

(1) by redesignating subsection (e) as subsection (c); and

(2) in subsection (c) (as so redesignated), by striking "2007" and inserting "2012".

# Subtitle B—Food, Agriculture, Conservation, and Trade Act of 1990

**SEC. 7201. NATIONAL GENETICS RESOURCES PROGRAM.**

Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking "2007" and inserting "2012".

**SEC. 7202. NATIONAL AGRICULTURAL WEATHER INFORMATION SYSTEM.**

Section 1641(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(c)) is amended by striking "1991 through 1997" and inserting "2008 through 2012".

**SEC. 7203. PARTNERSHIPS.**

Section 1672(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925(d)) is amended by striking "may" and inserting "shall".

**SEC. 7204. HIGH-PRIORITY RESEARCH AND EXTENSION AREAS.**

(a) IN GENERAL.—Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in subsection (e)—

(A) in paragraph (3), by striking "and controlling aflatoxin in the food and feed chains." and inserting ", improving, and eventually commercializing, alfatoxin controls in corn and other affected agricultural products and crops.";

(B) by striking paragraphs (1), (4), (7), (8), (15), (17), (21), (23), (26), (27), (32), (34), (41), (42), (43), and (45);

(C) by redesignating paragraphs (2), (3), (5), (6), (9) through (14), (16), (18) through (20), (22), (24), (25), (28) through (31), (33), (35) through (40), and (44) as paragraphs (1) through (29), respectively; and

(D) by adding at the end the following:

"(30) AIR EMISSIONS FROM LIVESTOCK OPERATIONS.—Research and extension grants may be made under this section for the purpose of conducting field verification tests and developing mitigation options for air emissions from animal feeding operations.

"(31) SWINE GENOME PROJECT.—Research grants may be made under this section to conduct swine genome research, including the mapping of the swine genome.

"(32) CATTLE FEVER TICK PROGRAM.—Research and extension grants may be made under this section to study cattle fever ticks to facilitate understanding of the role of wildlife in the persistence and spread of cattle fever ticks, to develop advanced methods for eradication of cattle fever ticks, and to improve management of diseases relating to cattle fever

ticks that are associated with wildlife, livestock, and human health.

"(33) SYNTHETIC GYPSUM.—Research and extension grants may be made under this section to study the uses of synthetic gypsum from electric power plants to remediate soil and nutrient losses.

"(34) CRANBERRY RESEARCH PROGRAM.—Research and extension grants may be made under this section to study new technologies to assist cranberry growers in complying with Federal and State environmental regulations, increase production, develop new growing techniques, establish more efficient growing methodologies, and educate cranberry producers about sustainable growth practices.

"(35) SORGHUM RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the use of sorghum as a bioenergy feedstock, promote diversification in, and the environmental benefits of sorghum production, and promote water conservation through the use of sorghum.

"(36) MARINE SHRIMP FARMING PROGRAM.—Research and extension grants may be made under this section to establish a research program to advance and maintain a domestic shrimp farming industry in the United States.

"(37) TURFGRASS RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the production of turfgrass (including the use of water, fertilizer, pesticides, fossil fuels, and machinery for turf establishment and maintenance) and environmental protection and enhancement relating to turfgrass production.

"(38) AGRICULTURAL WORKER SAFETY RESEARCH INITIATIVE.—Research and extension grants may be made under this section—

"(A) to study and demonstrate methods to minimize exposure of farm and ranch owners and operators, pesticide handlers, and agricultural workers to pesticides, including research addressing the unique concerns of farm workers resulting from long-term exposure to pesticides; and

"(B) to develop rapid tests for on-farm use to better inform and educate farmers, ranchers, and farm and ranch workers regarding safe field re-entry intervals.

"(39) HIGH PLAINS AQUIFER REGION.—Research and extension grants may be made under this section to carry out interdisciplinary research relating to diminishing water levels and increased demand for water in the High Plains aquifer region.

"(40) DEER INITIATIVE.—Research and extension grants may be made under this section to support collaborative research focusing on the development of viable strategies for the prevention, diagnosis, and treatment of infectious, parasitic, and toxic diseases of farmed deer and the mapping of the deer genome.

"(41) PASTURE-BASED BEEF SYSTEMS RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the development of forage sequences and combinations for cow-calf, heifer development, stocker, and finishing systems, to deliver optimal nutritive value for efficient production of cattle for pasture finishing, to optimize forage systems to improve marketability of pasture-finished beef, and to assess the effect of forage quality on reproductive fitness.

"(42) AGRICULTURAL PRACTICES RELATING TO CLIMATE CHANGE.—Research and extension grants may be made under this section for field and laboratory studies that examine the ecosystem from gross to minute scales and for projects that explore the relationship of agricultural practices to climate change.

"(43) BRUCELLOSIS CONTROL AND ERADICATION.—Research and extension grants may be made under this section to conduct research relating to the development of vaccines and vaccine delivery systems to effectively control and eliminate brucellosis in wildlife, and to assist with the controlling of the spread of brucellosis from wildlife to domestic animals.

"(44) BIGHORN AND DOMESTIC SHEEP DISEASE MECHANISMS.—Research and extension grants may be made under this section to conduct research relating to the health status of (including the presence of infectious diseases in) bighorn and domestic sheep under range conditions.

"(45) AGRICULTURAL DEVELOPMENT IN THE AMERICAN-PACIFIC REGION.—Research and extension grants may be made under this section to support food and agricultural science at a consortium of land-grant institutions in the American-Pacific region.

"(46) TROPICAL AND SUBTROPICAL AGRICULTURAL RESEARCH.—Research grants may be made under this section, in equal dollar amounts to the Caribbean and Pacific Basins, to support tropical and subtropical agricultural research, including pest and disease research, at the land-grant institutions in the Caribbean and Pacific regions.

"(47) VIRAL HEMORRHAGIC SEPTICEMIA.—Research and extension grants may be made under this section to study—

"(A) the effects of viral hemorrhagic septicemia (referred to in this paragraph as 'VHS') on freshwater fish throughout the natural and expanding range of VHS; and

"(B) methods for transmission and human-mediated transport of VHS among waterbodies.

"(48) FARM AND RANCH SAFETY.—Research and extension grants may be made under this section to carry out projects to decrease the incidence of injury and death on farms and ranches, including—

"(A) on-site farm or ranch safety reviews;

"(B) outreach and dissemination of farm safety research and interventions to agricultural employers, employees, youth, farm and ranch families, seasonal workers, or other individuals; and

"(C) agricultural safety education and training.

"(49) WOMEN AND MINORITIES IN STEM FIELDS.—Research and extension grants may be made under this section to increase participation by women and underrepresented minorities from rural areas in the fields of science, technology, engineering, and mathematics, with priority given to eligible institutions that carry out continuing programs funded by the Secretary.

"(50) ALFALFA AND FORAGE RESEARCH PROGRAM.—Research and extension grants may be made under this section for the purpose of studying improvements in alfalfa and forage yields, biomass and persistence, pest pressures, the bioenergy potential

of alfalfa and other forages, and systems to reduce losses during harvest and storage.

"(51) FOOD SYSTEMS VETERINARY MEDICINE.—Research grants may be made under this section to address health issues that affect food-producing animals, food safety, and the environment, and to improve information resources, curriculum, and clinical education of students with respect to food animal veterinary medicine and food safety.

"(52) BIOCHAR RESEARCH.—Grants may be made under this section for research, extension, and integrated activities relating to the study of biochar production and use, including considerations of agronomic and economic impacts, synergies of coproduction with bioenergy, and the value of soil enhancements and soil carbon sequestration.";

(2) by redesignating subsection (h) as subsection (j);

(3) by inserting after subsection (g) the following:

"(h) POLLINATOR PROTECTION.—

"(1) RESEARCH AND EXTENSION.—

"(A) GRANTS.—Research and extension grants may be made under this section—

"(i) to survey and collect data on bee colony production and health;

"(ii) to investigate pollinator biology, immunology, ecology, genomics, and bioinformatics;

"(iii) to conduct research on various factors that may be contributing to or associated with colony collapse disorder, and other serious threats to the health of honey bees and other pollinators, including—

"(I) parasites and pathogens of pollinators; and

"(II) the sublethal effects of insecticides, herbicides, and fungicides on honey bees and native and managed pollinators;

"(iv) to develop mitigative and preventative measures to improve native and managed pollinator health; and

"(v) to promote the health of honey bees and native pollinators through habitat conservation and best management practices.

"(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 2008 through 2012.

"(2) DEPARTMENT OF AGRICULTURE CAPACITY AND INFRASTRUCTURE.—

"(A) IN GENERAL.—The Secretary shall, to the maximum extent practicable, increase the capacity and infrastructure of the Department—

"(i) to address colony collapse disorder and other long-term threats to pollinator health, including the hiring of additional personnel; and

"(ii) to conduct research on colony collapse disorder and other pollinator issues at the facilities of the Department.

"(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $7,250,000 for each of fiscal years 2008 through 2012.

Appropriation authorization.

"(3) HONEY BEE PEST AND PATHOGEN SURVEILLANCE.—There is authorized to be appropriated to conduct a nationwide honey

bee pest and pathogen surveillance program $2,750,000 for each of fiscal years 2008 through 2012.

"(4) ANNUAL REPORT ON RESPONSE TO HONEY BEE COLONY COLLAPSE DISORDER.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report describing the progress made by the Department of Agriculture in—

"(A) investigating the cause or causes of honey bee colony collapse; and

"(B) finding appropriate strategies to reduce colony loss.

"(i) REGIONAL CENTERS OF EXCELLENCE.—

"(1) ESTABLISHMENT.—The Secretary shall prioritize regional centers of excellence established for specific agricultural commodities for the receipt of funding under this section.

"(2) COMPOSITION.—A regional center of excellence shall be composed of 1 or more colleges and universities (including land-grant institutions, schools of forestry, schools of veterinary medicine, or NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103))) that provide financial support to the regional center of excellence.

"(3) CRITERIA FOR REGIONAL CENTERS OF EXCELLENCE.—The criteria for consideration to be a regional center of excellence shall include efforts—

"(A) to ensure coordination and cost-effectiveness by reducing unnecessarily duplicative efforts regarding research, teaching, and extension;

"(B) to leverage available resources by using public/private partnerships among agricultural industry groups, institutions of higher education, and the Federal Government;

"(C) to implement teaching initiatives to increase awareness and effectively disseminate solutions to target audiences through extension activities;

"(D) to increase the economic returns to rural communities by identifying, attracting, and directing funds to high-priority agricultural issues; and

"(E) to improve teaching capacity and infrastructure at colleges and universities (including land-grant institutions, schools of forestry, and schools of veterinary medicine).''; and

(4) in subsection (j) (as redesignated by paragraph (2)), by striking "2007" and inserting "2012".

(b) CONFORMING AMENDMENTS.—Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in the first sentence of subsection (a), by striking "(e), (f), and (g)" and inserting "(e) through (i)"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "paragraphs (1), (6), (7), and (11)" and inserting "paragraphs (4), (7), (8), and (11)(B)"; and

(B) in paragraph (2), by striking "subsection (e)" and inserting "subsections (e) through (i)".

**SEC. 7205. NUTRIENT MANAGEMENT RESEARCH AND EXTENSION INITIATIVE.**

Section 1672A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925a) is amended—

(1) in subsection (b), by striking paragraph (1) and inserting the following:

Applicability.

"(1) IN GENERAL.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.";

(2) by striking subsection (d) and inserting the following:

"(d) PRIORITY.—Following the completion of a peer review process for grant proposals received under this section, the Secretary shall give priority to those grant proposals that involve—

"(1) the cooperation of multiple entities; and

"(2) States or regions with a high concentration of livestock, dairy, or poultry operations.";

(3) in subsection (e)—

(A) in paragraph (1)(B), by inserting "and dairy and beef cattle waste" after "swine waste"; and

(B) by striking paragraph (5) and inserting the following:

"(5) ALTERNATIVE USES AND RENEWABLE ENERGY.—Research and extension grants may be made under this section for the purpose of finding innovative methods and technologies to allow agricultural operators to make use of animal waste, such as use as fertilizer, methane digestion, composting, and other useful byproducts.";

(4) by redesignating subsection (g) as subsection (f); and

(5) in subsection (f) (as so redesignated), by striking "2007" and inserting "2012".

**SEC. 7206. ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.**

(a) IN GENERAL.—Section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b) (commonly known as the "Organic Agriculture Research and Extension Initiative") is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking "and" after the semicolon;

(B) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(7) examining optimal conservation and environmental outcomes relating to organically produced agricultural products; and

"(8) developing new and improved seed varieties that are particularly suited for organic agriculture."; and

(2) by adding at the end the following:

"(f) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(A) $18,000,000 for fiscal year 2009; and

"(B) $20,000,000 for each of fiscal years 2010 through 2012.

"(2) ADDITIONAL FUNDING.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.".

(b) COORDINATION.—In carrying out the amendment made by this section, the Secretary shall ensure that the Division Chief of the applicable Research, Education, and Extension Office established under section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) coordinates projects and activities under this section to ensure, to the maximum extent practicable, that unnecessary duplication of effort is eliminated or minimized. 7 USC 5925b note.

**SEC. 7207. AGRICULTURAL BIOENERGY FEEDSTOCK AND ENERGY EFFICIENCY RESEARCH AND EXTENSION INITIATIVE.**

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801 et seq.) is amended by inserting after section 1672B (7 U.S.C. 5925b) the following:

**"SEC. 1672C. AGRICULTURAL BIOENERGY FEEDSTOCK AND ENERGY EFFICIENCY RESEARCH AND EXTENSION INITIATIVE.** 7 USC 5925e.

"(a) ESTABLISHMENT AND PURPOSE.—There is established within the Department of Agriculture an agricultural bioenergy feedstock and energy efficiency research and extension initiative (referred to in this section as the 'Initiative') for the purpose of enhancing the production of biomass energy crops and the energy efficiency of agricultural operations.

"(b) COMPETITIVE RESEARCH AND EXTENSION GRANTS AUTHORIZED.—In carrying out this section, the Secretary shall make competitive grants to support research and extension activities specified in subsections (c) and (d).

"(c) AGRICULTURAL BIOENERGY FEEDSTOCK RESEARCH AND EXTENSION AREAS.—

"(1) IN GENERAL.—Agricultural bioenergy feedstock research and extension activities funded under the Initiative shall focus on improving agricultural biomass production, biomass conversion in biorefineries, and biomass use by—

"(A) supporting on-farm research on crop species, nutrient requirements, management practices, environmental impacts, and economics;

"(B) supporting the development and operation of on-farm, integrated biomass feedstock production systems;

"(C) leveraging the broad scientific capabilities of the Department of Agriculture and other entities in—

"(i) plant genetics and breeding;

"(ii) crop production;

"(iii) soil and water science;

"(iv) use of agricultural waste; and

"(v) carbohydrate, lipid, protein, and lignin chemistry, enzyme development, and biochemistry; and

"(D) supporting the dissemination of any of the research conducted under this subsection that will assist in achieving the goals of this section.

"(2) SELECTION CRITERIA.—In selecting grant recipients for projects under paragraph (1), the Secretary shall consider—

"(A) the capabilities and experiences of the applicant, including—

"(i) research in actual field conditions; and

"(ii) engineering and research knowledge relating to biofuels or the production of inputs for biofuel production;

"(B) the range of species types and cropping practices proposed for study (including species types and practices studied using side-by-side comparisons of those types and practices);

"(C) the need for regional diversity among feedstocks;

"(D) the importance of developing multiyear data relevant to the production of biomass feedstock crops;

"(E) the extent to which the project involves direct participation of agricultural producers;

"(F) the extent to which the project proposal includes a plan or commitment to use the biomass produced as part of the project in commercial channels; and

"(G) such other factors as the Secretary may determine.

"(d) ENERGY-EFFICIENCY RESEARCH AND EXTENSION AREAS.—On-farm energy-efficiency research and extension activities funded under the Initiative shall focus on developing and demonstrating technologies and production practices relating to—

"(1) improving on-farm renewable energy production;

"(2) encouraging efficient on-farm energy use;

"(3) promoting on-farm energy conservation;

"(4) making a farm or ranch energy-neutral; and

"(5) enhancing on-farm usage of advanced technologies to promote energy efficiency.

Public information.

"(e) BEST PRACTICES DATABASE.—The Secretary shall develop a best-practices database that includes information, to be available to the public, on—

"(1) the production potential of a variety of biomass crops; and

"(2) best practices for production, collection, harvesting, storage, and transportation of biomass crops to be used as a source of bioenergy.

"(f) ADMINISTRATION.—

Applicability.

"(1) IN GENERAL.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) shall apply with respect to making grants under this section.

"(2) CONSULTATION AND COORDINATION.—The Secretary shall—

Grants.

"(A) make the grants in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board; and

"(B) coordinate projects and activities carried out under the Initiative with projects and activities under section 9008 of the Farm Security and Rural Investment Act of 2002 to ensure, to the maximum extent practicable, that—

"(i) unnecessary duplication of effort is eliminated or minimized; and

"(ii) the respective strengths of the Department of Agriculture and the Department of Energy are appropriately used.

"(3) GRANT PRIORITY.—The Secretary shall give priority to grant applications that integrate research and extension activities established under subsections (c) and (d), respectively.

"(4) MATCHING FUNDS REQUIRED.—As a condition of receiving a grant under this section, the Secretary shall require the recipient of the grant to provide funds or in-kind support from non-Federal sources in an amount that is at least equal to the amount provided by the Federal Government.

"(5) PARTNERSHIPS ENCOURAGED.—Following the completion of a peer review process for grant proposals received under this section, the Secretary may provide a priority to those grant proposals found as a result of the peer review process—

"(A) to be scientifically meritorious; and

"(B) that involve cooperation—

"(i) among multiple entities; and

"(ii) with agricultural producers.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 7208. FARM BUSINESS MANAGEMENT AND BENCHMARKING.**

The Food, Agriculture, Conservation and Trade Act of 1990 is amended by inserting after section 1672C (as added by section 7207) the following:

**"SEC. 1672D. FARM BUSINESS MANAGEMENT.** 7 USC 5925f.

"(a) IN GENERAL.—The Secretary may make competitive research and extension grants for the purpose of—

"(1) improving the farm management knowledge and skills of agricultural producers; and

"(2) establishing and maintaining a national, publicly available farm financial management database to support improved farm management.

"(b) SELECTION CRITERIA.—In allocating funds made available to carry out this section, the Secretary may give priority to grants that—

"(1) demonstrate an ability to work directly with agricultural producers;

"(2) collaborate with farm management and producer associations;

"(3) address the farm management needs of a variety of crops and regions of the United States; and

"(4) use and support the national farm financial management database.

"(c) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) shall apply with respect to the making of grants under this section. Applicability.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

**SEC. 7209. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.**

Section 1673 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926) is repealed.

**SEC. 7210. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.**

Section 1680(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(c)(1)) is amended by striking "2007" and inserting "2012".

**SEC. 7211. RESEARCH ON HONEY BEE DISEASES.**

Section 1681 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5934) is repealed.

**SEC. 7212. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.**

Section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is amended by striking "2007" and inserting "2012".

## Subtitle C—Agricultural Research, Extension, and Education Reform Act of 1998

**SEC. 7301. PEER AND MERIT REVIEW.**

Section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)) is amended by adding at the end the following:

"(3) CONSIDERATION.—Peer and merit review procedures established under paragraphs (1) and (2) shall not take the offer or availability of matching funds into consideration.".

**SEC. 7302. PARTNERSHIPS FOR HIGH-VALUE AGRICULTURAL PRODUCT QUALITY RESEARCH.**

Section 402 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7622) is repealed.

**SEC. 7303. PRECISION AGRICULTURE.**

Section 403 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623) is repealed.

**SEC. 7304. BIOBASED PRODUCTS.**

(a) PILOT PROJECT.—Section 404(e)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(e)(2)) is amended by striking "2007" and inserting "2012".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 404(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(h)) is amended by striking "2007" and inserting "2012".

**SEC. 7305. THOMAS JEFFERSON INITIATIVE FOR CROP DIVERSIFICATION.**

Section 405 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625) is repealed.

**SEC. 7306. INTEGRATED RESEARCH, EDUCATION, AND EXTENSION COMPETITIVE GRANTS PROGRAM.**

Section 406(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(f)) is amended by striking "2007" and inserting "2012".

**SEC. 7307. FUSARIUM GRAMINEARUM GRANTS.**

Section 408 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628) is amended—

(1) in subsection (a), in the subsection heading, by striking "GRANT" and inserting "GRANTS"; and

(2) in subsection (e), by striking "2007" and inserting "2012".

**SEC. 7308. BOVINE JOHNE'S DISEASE CONTROL PROGRAM.**

Section 409(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7629(b)) is amended by striking "2007" and inserting "2012".

**SEC. 7309. GRANTS FOR YOUTH ORGANIZATIONS.**

Section 410 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7630) is amended by striking subsections (b) and (c) and inserting the following:

"(b) FLEXIBILITY.—The Secretary shall provide maximum flexibility in content delivery to each organization receiving funds under this section so as to ensure that the unique goals of each organization, as well as the local community needs, are fully met.

"(c) REDISTRIBUTION OF FUNDING WITHIN ORGANIZATIONS AUTHORIZED.—Recipients of funds under this section may redistribute all or part of the funds received to individual councils or local chapters within the councils without further need of approval from the Secretary.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.".

**SEC. 7310. AGRICULTURAL BIOTECHNOLOGY RESEARCH AND DEVELOPMENT FOR DEVELOPING COUNTRIES.**

Section 411(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7631(c)) is amended by striking "2007" and inserting "2012".

**SEC. 7311. SPECIALTY CROP RESEARCH INITIATIVE.**

(a) IN GENERAL.—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) is amended by adding at the end the following:

**"SEC. 412. SPECIALTY CROP RESEARCH INITIATIVE.** 7 USC 7632.

"(a) DEFINITIONS.—In this section:

"(1) INITIATIVE.—The term 'Initiative' means the specialty crop research and extension initiative established by subsection (b).

"(2) SPECIALTY CROP.—The term 'specialty crop' has the meaning given that term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

"(b) ESTABLISHMENT.—There is established within the Department a specialty crop research and extension initiative to address the critical needs of the specialty crop industry by developing and disseminating science-based tools to address needs of specific crops and their regions, including—

"(1) research in plant breeding, genetics, and genomics to improve crop characteristics, such as—

"(A) product, taste, quality, and appearance;

"(B) environmental responses and tolerances;

"(C) nutrient management, including plant nutrient uptake efficiency;

"(D) pest and disease management, including resistance to pests and diseases resulting in reduced application management strategies; and

"(E) enhanced phytonutrient content;

"(2) efforts to identify and address threats from pests and diseases, including threats to specialty crop pollinators;

"(3) efforts to improve production efficiency, productivity, and profitability over the long term (including specialty crop policy and marketing);

"(4) new innovations and technology, including improved mechanization and technologies that delay or inhibit ripening; and

"(5) methods to prevent, detect, monitor, control, and respond to potential food safety hazards in the production and processing of specialty crops, including fresh produce.

"(c) ELIGIBLE ENTITIES.—The Secretary may carry out the Initiative through—

"(1) Federal agencies;

"(2) national laboratories;

"(3) colleges and universities;

"(4) research institutions and organizations;

"(5) private organizations or corporations;

"(6) State agricultural experiment stations;

"(7) individuals; or

"(8) groups consisting of 2 or more entities described in paragraphs (1) through (7).

Grants.

"(d) RESEARCH PROJECTS.—In carrying out this section, the Secretary shall award grants on a competitive basis.

"(e) ADMINISTRATION.—

"(1) IN GENERAL.—With respect to grants awarded under subsection (d), the Secretary shall—

"(A) seek and accept proposals for grants;

"(B) determine the relevance and merit of proposals through a system of peer and merit review in accordance with section 103; and

Grants.

"(C) award grants on the basis of merit, quality, and relevance.

"(2) TERM.—The term of a grant under this section may not exceed 10 years.

"(3) MATCHING FUNDS REQUIRED.—The Secretary shall require the recipient of a grant under this section to provide funds or in-kind support from non-Federal sources in an amount that is at least equal to the amount provided by the Federal Government.

"(4) OTHER CONDITIONS.—The Secretary may set such other conditions on the award of a grant under this section as the Secretary determines to be appropriate.

"(f) PRIORITIES.—In making grants under this section, the Secretary shall provide a higher priority to projects that—

"(1) are multistate, multi-institutional, or multidisciplinary; and

"(2) include explicit mechanisms to communicate results to producers and the public.

"(g) BUILDINGS AND FACILITIES.—Funds made available under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement, and architect fees).

"(h) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out

this section $30,000,000 for fiscal year 2008 and $50,000,000 for each of fiscal years 2009 through 2012, from which activities under each of paragraphs (1) through (5) of subsection (b) shall be allocated not less than 10 percent.

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under paragraph (1), there is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2008 through 2012.

"(3) TRANSFER.—Of the funds made available to the Secretary under paragraph (1) for fiscal year 2008 and authorized for use for payment of administrative expenses under section 1469(a)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3315(a)(3)), the Secretary shall transfer, upon the date of enactment of this section, $200,000 to the Office of Prevention, Pesticides, and Toxic Substances of the Environmental Protection Agency for use in conducting a meta-analysis relating to methyl bromide.

"(4) AVAILABILITY.—Funds made available pursuant to this subsection for a fiscal year shall remain available until expended to pay for obligations incurred in that fiscal year.".

(b) COORDINATION.—In carrying out the amendment made by this section, the Secretary shall ensure that the Division Chief of the applicable Research, Education, and Extension Office established under section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) coordinates projects and activities under this section to ensure, to the maximum extent practicable, that unnecessary duplication of effort is eliminated or minimized. 7 USC 7632 note.

**SEC. 7312. FOOD ANIMAL RESIDUE AVOIDANCE DATABASE PROGRAM.**

Section 604 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7642) is amended by adding at the end the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds available to carry out subsection (c), there is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2008 through 2012.".

**SEC. 7313. OFFICE OF PEST MANAGEMENT POLICY.**

Section 614(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7653(f)) is amended by striking "2007" and inserting "2012".

## Subtitle D—Other Laws

**SEC. 7401. CRITICAL AGRICULTURAL MATERIALS ACT.**

Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7402. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.**

(a) DEFINITION OF 1994 INSTITUTIONS.—Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by adding at the end the following:

"(34) Ilisagvik College.".

(b) ENDOWMENT FOR 1994 INSTITUTIONS.—Section 533 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) in subsection (a)(3), in the matter preceding subparagraph (A), by inserting "this section and" before "sections 534,"; and

(2) in the first sentence of subsection (b), by striking "2007" and inserting "2012".

(c) REDISTRIBUTION.—Section 534(a)(3) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by striking "The amounts" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amounts"; and

(2) by adding at the end the following:

"(B) REDISTRIBUTION.—Funds that would be paid to a 1994 Institution under paragraph (2) shall be withheld from that 1994 Institution and redistributed among the other 1994 Institutions if that 1994 Institution—

"(i) declines to accept funds under paragraph (2); or

"(ii) fails to meet the accreditation requirements under section 533(a)(3).".

(d) INSTITUTIONAL CAPACITY BUILDING GRANTS.—Section 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking "2007" each place it appears and inserting "2012".

(e) RESEARCH GRANTS.—Section 536(c) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended in the first sentence by striking "2007" and inserting "2012".

7 USC 1301 note.

(f) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2008.

**SEC. 7403. SMITH-LEVER ACT.**

(a) PROGRAM.—Section 3(d) of the Smith-Lever Act (7 U.S.C. 343(d)) is amended in the second sentence by striking "apply for and receive" and all that follows through paragraph (2) and inserting "compete for and receive funds directly from the Secretary of Agriculture.".

(b) ELIMINATION OF THE GOVERNOR'S REPORT REQUIREMENT FOR EXTENSION ACTIVITIES.—Section 5 of the Smith-Lever Act (7 U.S.C. 345) is amended by striking the third sentence.

(c) CONFORMING AMENDMENT.—Section 1444(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)(2)) is amended by striking "after September 30, 1995, under section 3(d) of that Act (7 U.S.C. 343(d))" and all that follows through the end of the sentence and inserting "under section 3(d) of that Act (7 U.S.C. 343(d)).".

**SEC. 7404. HATCH ACT OF 1887.**

(a) DISTRICT OF COLUMBIA.—Section 3(d)(4) of the Hatch Act of 1887 (7 U.S.C. 361c(d)(4)) is amended—

(1) in the paragraph heading, by inserting "AND THE DISTRICT OF COLUMBIA" after "AREAS";

(2) in subparagraph (A)—

(A) by inserting "and the District of Columbia" after "United States"; and

(B) by inserting "and the District of Columbia" after "respectively,"; and

(3) in subparagraph (B), by inserting "or the District of Columbia" after "area".

(b) ELIMINATION OF PENALTY MAIL AUTHORITIES.—

(1) IN GENERAL.—Section 6 of the Hatch Act of 1887 (7 U.S.C. 361f) is amended in the first sentence by striking "under penalty indicia:" and all that follows through the end of the sentence and inserting a period.

(2) CONFORMING AMENDMENTS IN OTHER LAWS.—

(A) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—

(i) Section 1444(f) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(f)) is amended by striking "under penalty indicia:" and all that follows through the end of the sentence and inserting a period.

(ii) Section 1445(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(e)) is amended by striking "under penalty indicia:" and all that follows through the end of the sentence and inserting a period.

(B) OTHER PROVISIONS.—Section 3202(a) of title 39, United States Code, is amended—

(i) in paragraph (1)—

(I) in subparagraph (D), by adding "and" at the end;

(II) in subparagraph (E), by striking "sections; and" and inserting "sections."; and

(III) by striking subparagraph (F);

(ii) in paragraph (2), by adding "and" at the end;

(iii) in paragraph (3) by striking "thereof; and" and inserting "thereof."; and

(iv) by striking paragraph (4).

**SEC. 7405. AGRICULTURAL EXPERIMENT STATION RESEARCH FACILITIES ACT.**

Section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7406. AGRICULTURE AND FOOD RESEARCH INITIATIVE.**

(a) IN GENERAL.—Subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) is amended to read as follows:

"(b) AGRICULTURE AND FOOD RESEARCH INITIATIVE.—

"(1) ESTABLISHMENT.—There is established in the Department of Agriculture an Agriculture and Food Research Initiative under which the Secretary of Agriculture (referred to in this subsection as 'the Secretary') may make competitive grants for fundamental and applied research, extension, and education to address food and agricultural sciences (as defined under section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)).

"(2) PRIORITY AREAS.—The competitive grants program established under this subsection shall address the following areas:

"(A) PLANT HEALTH AND PRODUCTION AND PLANT PRODUCTS.—Plant systems, including—

"(i) plant genome structure and function;

"(ii) molecular and cellular genetics and plant biotechnology;

"(iii) conventional breeding, including cultivar and breed development, selection theory, applied quantitative genetics, breeding for improved food quality, breeding for improved local adaptation to biotic stress and abiotic stress, and participatory breeding;

"(iv) plant-pest interactions and biocontrol systems;

"(v) crop plant response to environmental stresses;

"(vi) unproved nutrient qualities of plant products; and

"(vii) new food and industrial uses of plant products.

"(B) ANIMAL HEALTH AND PRODUCTION AND ANIMAL PRODUCTS.—Animal systems, including—

"(i) aquaculture;

"(ii) cellular and molecular basis of animal reproduction, growth, disease, and health;

"(iii) animal biotechnology;

"(iv) conventional breeding, including breed development, selection theory, applied quantitative genetics, breeding for improved food quality, breeding for improved local adaptation to biotic stress and abiotic stress, and participatory breeding;

"(v) identification of genes responsible for improved production traits and resistance to disease;

"(vi) improved nutritional performance of animals;

"(vii) improved nutrient qualities of animal products and uses; and

"(viii) the development of new and improved animal husbandry and production systems that take into account production efficiency, animal well-being, and animal systems applicable to aquaculture.

"(C) FOOD SAFETY, NUTRITION, AND HEALTH.—Nutrition, food safety and quality, and health, including—

"(i) microbial contaminants and pesticides residue relating to human health;

"(ii) links between diet and health;

"(iii) bioavailability of nutrients;

"(iv) postharvest physiology and practices; and

"(v) improved processing technologies.

"(D) RENEWABLE ENERGY, NATURAL RESOURCES, AND ENVIRONMENT.—Natural resources and the environment, including—

"(i) fundamental structures and functions of ecosystems;

"(ii) biological and physical bases of sustainable production systems;

"(iii) minimizing soil and water losses and sustaining surface water and ground water quality;

"(iv) global climate effects on agriculture;

"(v) forestry; and

"(vi) biological diversity.

"(E) AGRICULTURE SYSTEMS AND TECHNOLOGY.—Engineering, products, and processes, including—

"(i) new uses and new products from traditional and nontraditional crops, animals, byproducts, and natural resources;

"(ii) robotics, energy efficiency, computing, and expert systems;

"(iii) new hazard and risk assessment and mitigation measures; and

"(iv) water quality and management.

"(F) AGRICULTURE ECONOMICS AND RURAL COMMUNITIES.—Markets, trade, and policy, including—

"(i) strategies for entering into and being competitive in domestic and overseas markets;

"(ii) farm efficiency and profitability, including the viability and competitiveness of small and medium-sized dairy, livestock, crop and other commodity operations;

"(iii) new decision tools for farm and market systems;

"(iv) choices and applications of technology;

"(v) technology assessment; and

"(vi) new approaches to rural development, including rural entrepreneurship.

"(3) TERM.—The term of a competitive grant made under this subsection may not exceed 10 years.

"(4) GENERAL ADMINISTRATION.—In making grants under this subsection, the Secretary shall— Grants.

"(A) seek and accept proposals for grants;

"(B) determine the relevance and merit of proposals through a system of peer and merit review in accordance with section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613);

"(C) award grants on the basis of merit, quality, and relevance;

"(D) solicit and consider input from persons who conduct or use agricultural research, extension, or education in accordance with section 102(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7612(b)); and

"(E) in seeking proposals for grants under this subsection and in performing peer review evaluations of such proposals, seek the widest participation of qualified individuals in the Federal Government, colleges and universities, State agricultural experiment stations, and the private sector.

"(5) ALLOCATION OF FUNDS.—In making grants under this subsection, the Secretary shall allocate funds to the Agriculture and Food Research Initiative to ensure that, of funds allocated for research activities—

"(A) not less than 60 percent is made available to make grants for fundamental research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971)), of which—

"(i) not less than 30 percent is made available to make grants for research to be conducted by multidisciplinary teams; and

"(ii) not more than 2 percent is used for equipment grants under paragraph (6)(A); and

"(B) not less than 40 percent is made available to make grants for applied research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971)).

"(6) SPECIAL CONSIDERATIONS.—In making grants under this subsection, the Secretary may assist in the development of capabilities in the agricultural, food, and environmental sciences by providing grants—

"(A) to an institution to allow for the improvement of the research, development, technology transfer, and education capacity of the institution through the acquisition of special research equipment and the improvement of agricultural education and teaching, except that the Secretary shall use not less than 25 percent of the funds made available for grants under this subparagraph to provide fellowships to outstanding pre- and post-doctoral students for research in the agricultural sciences;

"(B) to a single investigator or coinvestigators who are beginning research careers and do not have an extensive research publication record, except that, to be eligible for a grant under this subparagraph, an individual shall be within 5 years of the beginning of the initial career track position of the individual;

"(C) to ensure that the faculty of small, mid-sized, and minority-serving institutions who have not previously been successful in obtaining competitive grants under this subsection receive a portion of the grants; and

"(D) to improve research, extension, and education capabilities in States (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) in which institutions have been less successful in receiving funding under this subsection, based on a 3-year rolling average of funding levels.

"(7) ELIGIBLE ENTITIES.—The Secretary may make grants to carry out research, extension, and education under this subsection to—

"(A) State agricultural experiment stations;

"(B) colleges and universities;

"(C) university research foundations;

"(D) other research institutions and organizations;

"(E) Federal agencies;

"(F) national laboratories;

"(G) private organizations or corporations;

"(H) individuals; or

"(I) any group consisting of 2 or more of the entities described in subparagraphs (A) through (H).

"(8) CONSTRUCTION PROHIBITED.—Funds made available for grants under this subsection shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement, and architect fees).

"(9) MATCHING FUNDS.—

"(A) EQUIPMENT GRANTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), in the case of a grant made under paragraph (6)(A), the amount provided under this subsection may

not exceed 50 percent of the cost of the special research equipment or other equipment acquired using funds from the grant.

"(ii) WAIVER.—The Secretary may waive all or part of the matching requirement under clause (i) in the case of a college, university, or research foundation maintained by a college or university that ranks in the lowest ⅓ of such colleges, universities, and research foundations on the basis of Federal research funds received, if the equipment to be acquired using funds from the grant costs not more than $25,000 and has multiple uses within a single research project or is usable in more than 1 research project.

"(B) APPLIED RESEARCH.—As a condition of making a grant under paragraph (5)(B), the Secretary shall require the funding of the grant to be matched with equal matching funds from a non-Federal source if the grant is for applied research that is—

"(i) commodity-specific; and

"(ii) not of national scope.

"(10) PROGRAM ADMINISTRATION.—To the maximum extent practicable, the Director of the National Institute of Food and Agriculture, in coordination with the Under Secretary for Research, Education, and Economics, shall allocate grants under this subsection to high-priority research, taking into consideration, when available, the determinations made by the National Agricultural Research, Extension, Education, and Economics Advisory Board (as established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123)).

"(11) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection $700,000,000 for each of fiscal years 2008 through 2012, of which—

"(i) not less than 30 percent shall be made available for integrated research pursuant to section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626); and

"(ii) not more than 4 percent may be retained by the Secretary to pay administrative costs incurred by the Secretary in carrying out this subsection.

"(B) AVAILABILITY.—Funds made available under this paragraph shall—

"(i) be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are first made available; and

"(ii) remain available until expended to pay for obligations incurred during that 2-year period.".

(b) REPEALS.—

(1) Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is repealed.

(2) Subsection (d) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(d)) is repealed.

(c) EFFECT ON CURRENT SOLICITATIONS.—The amendments made by this section shall not apply to any solicitation for grant applications issued by the Cooperative State Research, Education, and Extension Service before the date of enactment of this Act. 7 USC 450i note.

(d) CONFORMING AMENDMENTS.—

(1) Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319) is amended in the first sentence by striking "and subsection (d)".

(2) Section 1671(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(d) is amended by striking "Paragraphs (1), (6), (7), and (11)" and inserting "Paragraphs (4), (7), (8), and (11)(B)".

(3) Section 1672B(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b(b)) is amended by striking "Paragraphs (1), (6), (7), and (11)" and inserting "Paragraphs (4), (7), (8), and (11)(B)".

**SEC. 7407. AGRICULTURAL RISK PROTECTION ACT OF 2000.**

Section 221 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 6711(g)) is amended by striking subsection (g) and inserting the following:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2007 through 2012.".

**SEC. 7408. EXCHANGE OR SALE AUTHORITY.**

Title III of the Department of Agriculture Reorganization Act of 1994 (Public Law 103–354; 108 Stat. 3238) is amended by adding at the end the following:

7 USC 2241a.

**"SEC. 307. EXCHANGE OR SALE AUTHORITY.**

"(a) DEFINITION OF QUALIFIED ITEM OF PERSONAL PROPERTY.—In this section, the term 'qualified item of personal property' means—

"(1) an animal;

"(2) an animal product;

"(3) a plant; or

"(4) a plant product.

"(b) GENERAL AUTHORITY.—Except as provided in subsection (c), notwithstanding chapter 5 of subtitle I of title 40, United States Code, the Secretary, acting through the Under Secretary for Research, Education, and Economics, in managing personal property for the purpose of carrying out the research functions of the Department, may exchange, sell, or otherwise dispose of any qualified item of personal property, including by way of public auction, and may retain and apply the sale or other proceeds, without further appropriation and without fiscal year limitation, in whole or in partial payment—

"(1) to acquire any qualified item of personal property; or

"(2) to offset costs related to the maintenance, care, or feeding of any qualified item of personal property.

"(c) EXCEPTION.—Subsection (b) does not apply to the free dissemination of new varieties of seeds and germplasm in accordance with section 520 of the Revised Statutes (commonly known as the 'Department of Agriculture Organic Act') (7 U.S.C. 2201).".

**SEC. 7409. ENHANCED USE LEASE AUTHORITY PILOT PROGRAM.**

Title III of the Department of Agriculture Reorganization Act of 1994 (Public Law 103–354; 108 Stat. 3238) (as amended by section 7408) is amended by adding at the end the following:

**"SEC. 308. ENHANCED USE LEASE AUTHORITY PILOT PROGRAM.**

7 USC 3125a note.

"(a) ESTABLISHMENT.—To enhance the use of real property administered by agencies of the Department, the Secretary may establish a pilot program, in accordance with this section, at the Beltsville Agricultural Research Center of the Agricultural Research Service and the National Agricultural Library to lease nonexcess property of the Center or the Library to any individual or entity, including agencies or instrumentalities of State or local governments.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding chapter 5 of subtitle I of title 40, United States Code, the Secretary may lease real property at the Beltsville Agricultural Research Center or the National Agricultural Library in accordance with such terms and conditions as the Secretary may prescribe, if the Secretary determines that the lease—

"(A) is consistent with, and will not adversely affect, the mission of the Department agency administering the property;

"(B) will enhance the use of the property;

"(C) will not permit any portion of Department agency property or any facility of the Department to be used for the public retail or wholesale sale of merchandise or residential development;

"(D) will not permit the construction or modification of facilities financed by non-Federal sources to be used by an agency, except for incidental use; and

"(E) will not include any property or facility required for any Department agency purpose without prior consideration of the needs of the agency.

"(2) TERM.—The term of a lease under this section shall not exceed 30 years.

"(3) CONSIDERATION.—

"(A) IN GENERAL.—Consideration provided for a lease under this section shall be—

"(i) in an amount equal to fair market value, as determined by the Secretary; and

"(ii) in the form of cash.

"(B) USE OF FUNDS.—

"(i) IN GENERAL.—Consideration provided for a lease under this section shall be—

"(I) deposited in a capital asset account to be established by the Secretary; and

"(II) available until expended, without further appropriation, for maintenance, capital revitalization, and improvements of the Department properties and facilities at the Beltsville Agricultural Research Center and National Agricultural Library.

"(ii) BUDGETARY TREATMENT.—For purposes of the budget, the amounts described in clause (i) shall not be treated as a receipt of any Department agency or any other agency leasing property under this section.

"(4) COSTS.—The lessee shall cover all costs associated with a lease under this section, including the cost of—

"(A) the project to be carried out on property or at a facility covered by the lease;

"(B) provision and administration of the lease;
"(C) construction of any needed facilities;
"(D) provision of applicable utilities; and
"(E) any other facility cost normally associated with the operation of a leased facility.

"(5) PROHIBITION OF USE OF APPROPRIATIONS.—The Secretary shall not use any funds made available to the Secretary in an appropriations Act for the construction or operating costs of any space covered by a lease under this section.

"(6) TERMINATION OF AUTHORITY.—This section and the authority provided by this section terminate—

"(A) on the date that is 5 years after the date of enactment of this section; or

"(B) with respect to any particular leased property, on the date of termination of the lease.

"(c) EFFECT OF OTHER LAWS.—

"(1) UTILIZATION.—Property that is leased pursuant to this section shall not be considered to be unutilized or underutilized for purposes of section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

Maryland.

"(2) DISPOSAL.—Property at the Beltsville Agricultural Research Center or the National Agricultural Library that is leased pursuant to this section shall not be considered to be disposed of by sale, lease, rental, excessing, or surplusing for purposes of section 523 of Public Law 100–202 (101 Stat. 1329-417).

"(d) ADMINISTRATION.—

Deadline. Reports.

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes detailed management objectives and performance measurements by which the Secretary intends to evaluate the success of the program under this section.

"(2) REPORTS.—Not later than 1, 3, and 5 years after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the implementation of the program under this section, including—

"(A) a copy of each lease entered into pursuant to this section; and

"(B) an assessment by the Secretary of the success of the program using the management objectives and performance measurements developed by the Secretary.".

**SEC. 7410. BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.**

(a) GRANTS.—Section 7405(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f(c)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) MAXIMUM TERM AND SIZE OF GRANT.—

"(A) IN GENERAL.—A grant under this subsection shall—

"(i) have a term that is not more than 3 years; and

"(ii) be in an amount that is not more than $250,000 for each year.

"(B) CONSECUTIVE GRANTS.—An eligible recipient may receive consecutive grants under this subsection.";

(2) by redesignating paragraphs (5) through (7) as paragraphs (8) through (10), respectively;

(3) by inserting after paragraph (4) the following:

"(5) EVALUATION CRITERIA.—In making grants under this subsection, the Secretary shall evaluate—

"(A) relevancy;

"(B) technical merit;

"(C) achievability;

"(D) the expertise and track record of 1 or more applicants;

"(E) the adequacy of plans for the participatory evaluation process, outcome-based reporting, and the communication of findings and results beyond the immediate target audience; and

"(F) other appropriate factors, as determined by the Secretary.

"(6) REGIONAL BALANCE.—In making grants under this subsection, the Secretary shall, to the maximum extent practicable, ensure geographical diversity.

"(7) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to partnerships and collaborations that are led by or include nongovernmental and community-based organizations with expertise in new agricultural producer training and outreach.".

(b) FUNDING.—Section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f) is amended by striking subsection (h) and inserting the following:

"(h) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(A) $18,000,000 for fiscal year 2009; and

"(B) $19,000,000 for each of fiscal years 2010 through 2012.

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds provided under paragraph (1), there is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 7411. PUBLIC EDUCATION REGARDING USE OF BIOTECHNOLOGY IN PRODUCING FOOD FOR HUMAN CONSUMPTION.**

Section 10802 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5921a) is repealed.

**SEC. 7412. MCINTIRE-STENNIS COOPERATIVE FORESTRY ACT.**

(a) IN GENERAL.—Section 2 of Public Law 87–788 (commonly known as the "McIntire-Stennis Cooperative Forestry Act") (16 U.S.C. 582a–1) is amended by inserting "and 1890 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601))," before "and (b)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2008. 16 USC 502a–1 note.

**SEC. 7413. RENEWABLE RESOURCES EXTENSION ACT OF 1978.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1675) is amended in the first sentence by striking "2007" and inserting "2012".

(b) TERMINATION DATE.—Section 8 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 note; Public Law 95–306) is amended by striking "2007" and inserting "2012".

**SEC. 7414. NATIONAL AQUACULTURE ACT OF 1980.**

Section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) is amended by striking "2007" each place it appears and inserting "2012".

**SEC. 7415. CONSTRUCTION OF CHINESE GARDEN AT THE NATIONAL ARBORETUM.**

The Act of March 4, 1927 (20 U.S.C. 191 et seq.), is amended by adding at the end the following:

20 USC 197.

**"SEC. 7. CONSTRUCTION OF CHINESE GARDEN AT THE NATIONAL ARBORETUM.**

"A Chinese Garden may be constructed at the National Arboretum established under this Act with—

"(1) funds accepted under section 5;

"(2) authorities provided to the Secretary of Agriculture under section 6; and

"(3) appropriations provided for this purpose.".

**SEC. 7416. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT AMENDMENTS OF 1985.**

Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended by striking "2007" and inserting "2012".

**SEC. 7417. ELIGIBILITY OF UNIVERSITY OF THE DISTRICT OF COLUMBIA FOR CERTAIN LAND-GRANT UNIVERSITY ASSISTANCE.**

(a) IN GENERAL.—Section 208 of the District of Columbia Public Postsecondary Education Reorganization Act (Public Law 93–471; 88 Stat. 1428) is amended—

(1) in subsection (b)(2), by striking ", except" and all that follows through the period and inserting a period; and

(2) in subsection (c)—

(A) by striking "section 3" each place it appears and inserting "section 3(c)"; and

(B) by striking "Such sums may be used to pay" and all that follows through "work.".

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

# Subtitle E—Miscellaneous

## PART I—GENERAL PROVISIONS

7 USC 7614.

**SEC. 7501. DEFINITIONS.**

Except as otherwise provided in this subtitle, in this subtitle:

(1) CAPACITY AND INFRASTRUCTURE PROGRAM.—The term "capacity and infrastructure program" has the meaning given the term in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).

(2) CAPACITY AND INFRASTRUCTURE PROGRAM CRITICAL BASE FUNDING.—The term "capacity and infrastructure program critical base funding" means the aggregate amount of Federal funds made available for capacity and infrastructure programs for fiscal year 2006, as appropriate.

(3) COMPETITIVE PROGRAM.—The term "competitive program" has the meaning given the term in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).

(4) COMPETITIVE PROGRAM CRITICAL BASE FUNDING.—The term "competitive program critical base funding" means the aggregate amount of Federal funds made available for competitive programs for fiscal year 2006, as appropriate.

(5) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—The term "Hispanic-serving agricultural colleges and universities" has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

(6) NLGCA INSTITUTION.—The term "NLGCA Institution" has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

(7) 1862 INSTITUTION; 1890 INSTITUTION; 1994 INSTITUTION.—The terms "1862 Institution", "1890 Institution", and "1994 Institution" have the meanings given the terms in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).

**SEC. 7502. GRAZINGLANDS RESEARCH LABORATORY.**

Oklahoma.

Except as otherwise specifically authorized by law and notwithstanding any other provision of law, the Federal land and facilities at El Reno, Oklahoma, administered by the Secretary (as of the date of enactment of this Act) as the Grazinglands Research Laboratory, shall not at any time, in whole or in part, be declared to be excess or surplus Federal property under chapter 5 of subtitle I of title 40, United States Code, or otherwise be conveyed or transferred in whole or in part, for the 5-year period beginning on the date of enactment of this Act.

**SEC. 7503. FORT RENO SCIENCE PARK RESEARCH FACILITY.**

Oklahoma.

The Secretary may lease land to the University of Oklahoma at the Grazinglands Research Laboratory at El Reno, Oklahoma, on such terms and conditions as the University and the Secretary may agree in furtherance of cooperative research and existing easement arrangements.

**SEC. 7504. ROADMAP.**

7 USC 7614a.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, acting through the Under Secretary of Research, Education, and Economics (referred to in this section as the "Under Secretary"), shall commence preparation of a roadmap for agricultural research, education, and extension that—

Deadline.

(1) identifies current trends and constraints;

(2) identifies major opportunities and gaps that no single entity within the Department of Agriculture would be able to address individually;

(3) involves—

(A) interested parties from the Federal Government and nongovernmental entities; and

(B) the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123);

(4) incorporates roadmaps for agricultural research, education, and extension made publicly available by other Federal entities, agencies, or offices; and

(5) describes recommended funding levels for areas of agricultural research, education, and extension, including—

(A) competitive programs;

(B) capacity and infrastructure programs, with attention to the future growth needs of—

(i) small 1862 Institutions, 1890 Institutions, and 1994 Institutions;

(ii) Hispanic-serving agricultural colleges and universities;

(iii) NLGCA Institutions; and

(iv) colleges of veterinary medicine; and

(C) intramural programs at agencies within the research, education, and economics mission area; and

(6) describes how organizational changes enacted by this Act have impacted agricultural research, extension, and education across the Department of Agriculture, including minimization of unnecessary programmatic and administrative duplication.

(b) REVIEWABILITY.—The roadmap described in this section shall not be subject to review by any officer or employee of the Federal Government other than the Secretary (or a designee of the Secretary).

(c) ROADMAP IMPLEMENTATION AND REPORT.—Not later than 1 year after the date on which the Secretary commences preparation of the roadmap under this section, the Secretary shall—

(1) implement and use the roadmap to set the research, education, and extension agenda of the Department of Agriculture; and

(2) make the roadmap available to the public.

7 USC 7614b.

**SEC. 7505. REVIEW OF PLAN OF WORK REQUIREMENTS.**

(a) REVIEW.—The Secretary shall work with university partners in extension and research to review and identify measures to streamline the submission, reporting under, and implementation of plan of work requirements, including those requirements under—

(1) sections 1444(d) and 1445(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(d) and 3222(c), respectively);

(2) section 7 of the Hatch Act of 1887 (7 U.S.C. 361g); and

(3) section 4 of the Smith-Lever Act (7 U.S.C. 344).

(b) CONSULTATION.—In carrying out the review and formulating and compiling the recommendations, the Secretary shall consult with the land-grant institutions.

**SEC. 7506. BUDGET SUBMISSION AND FUNDING.** 7 USC 7614c.

(a) DEFINITION OF COMPETITIVE PROGRAMS.—In this section, the term "competitive programs" includes only competitive programs for which annual appropriations are requested in the annual budget submission of the President.

(b) BUDGET REQUEST.—The President shall submit to Congress, together with the annual budget submission of the President, a single budget line item reflecting the total amount requested by the President for funding for research, education, and extension activities of the Research, Education, and Economics mission area of the Department for that fiscal year and for the preceding 5 fiscal years.

(c) CAPACITY AND INFRASTRUCTURE PROGRAM REQUEST.—Of the funds requested for capacity and infrastructure programs in excess of the capacity and infrastructure program critical base funding level, budgetary emphasis should be placed on enhancing funding for—

(1) 1890 Institutions;
(2) 1994 Institutions;
(3) NLGCA Institutions;
(4) Hispanic-serving agricultural colleges and universities; and
(5) small 1862 Institutions.

(d) COMPETITIVE PROGRAM REQUEST.—Of the funds requested for competitive programs in excess of the competitive program critical base funding level, budgetary emphasis should be placed on—

(1) enhancing funding for emerging problems; and
(2) finding solutions for those problems.

# PART II—RESEARCH, EDUCATION, AND ECONOMICS

**SEC. 7511. RESEARCH, EDUCATION, AND ECONOMICS.**

(a) IN GENERAL.—Section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) is amended—

(1) in subsection (a), by inserting "(referred to in this section as the 'Under Secretary')" before the period at the end;
(2) by striking subsections (b) through (d);
(3) by redesignating subsection (e) as subsection (g); and 5 USC 5314.
(4) by inserting after subsection (a) the following:

"(b) CONFIRMATION REQUIRED.—The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among distinguished scientists with specialized training or significant experience in agricultural research, education, and economics. President. Congress.

"(c) CHIEF SCIENTIST.—The Under Secretary shall—

"(1) hold the title of Chief Scientist of the Department; and

"(2) be responsible for the coordination of the research, education, and extension activities of the Department.

"(d) FUNCTIONS OF UNDER SECRETARY.—

"(1) PRINCIPAL FUNCTION.—The Secretary shall delegate to the Under Secretary those functions and duties under the

jurisdiction of the Department that relate to research, education, and economics.

"(2) SPECIFIC FUNCTIONS AND DUTIES.—The Under Secretary shall—

"(A) identify, address, and prioritize current and emerging agricultural research, education, and extension needs (including funding);

"(B) ensure that agricultural research, education, and extension programs are effectively coordinated and integrated—

"(i) across disciplines, agencies, and institutions; and

"(ii) among applicable participants, grantees, and beneficiaries;

"(C) promote the collaborative use of all agricultural research, education, and extension resources from the local, State, tribal, regional, national, and international levels to address priority needs; and

"(D) foster communication among agricultural research, education, and extension beneficiaries, including the public, to ensure the delivery of agricultural research, education, and extension knowledge.

"(3) ADDITIONAL FUNCTIONS.—The Under Secretary shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

"(e) RESEARCH, EDUCATION, AND EXTENSION OFFICE.—

"(1) ESTABLISHMENT.—The Under Secretary shall organize within the office of the Under Secretary 6 Divisions, to be known collectively as the 'Research, Education, and Extension Office', which shall coordinate the research programs and activities of the Department.

"(2) DIVISION DESIGNATIONS.—The Divisions within the Research, Education, and Extension Office shall be as follows:

"(A) Renewable energy, natural resources, and environment.

"(B) Food safety, nutrition, and health.

"(C) Plant health and production and plant products.

"(D) Animal health and production and animal products.

"(E) Agricultural systems and technology.

"(F) Agricultural economics and rural communities.

"(3) DIVISION CHIEFS.—

"(A) SELECTION.—The Under Secretary shall select a Division Chief for each Division using available personnel authority under title 5, United States Code, including—

"(i) by term, temporary, or other appointment, without regard to—

"(I) the provisions of title 5, United States Code, governing appointments in the competitive service;

"(II) the provisions of subchapter I of chapter 35 of title 5, United States Code, relating to retention preference; and

"(III) the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates;

"(ii) by detail, notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph, requiring reimbursement for those details unless the appropriation Act specifically refers to this subsection and specifically includes these details;

"(iii) by reassignment or transfer from any other civil service position; and

"(iv) by an assignment under subchapter VI of chapter 33 of title 5, United States Code.

"(B) SELECTION GUIDELINES.—To the maximum extent practicable, the Under Secretary shall select Division Chiefs under subparagraph (A) in a manner that—

"(i) promotes leadership and professional development;

"(ii) enables personnel to interact with other agencies of the Department; and

"(iii) maximizes the ability of the Under Secretary to allow for rotations of Department personnel into the position of Division Chief.

"(C) TERM OF SERVICE.—Notwithstanding title 5, United States Code, the maximum length of service for an individual selected as a Division Chief under subparagraph (A) shall not exceed 4 years.

"(D) QUALIFICATIONS.—To be eligible for selection as a Division Chief, an individual shall have—

"(i) conducted exemplary research, education, or extension in the field of agriculture or forestry; and

"(ii) earned an advanced degree at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

"(E) DUTIES OF DIVISION CHIEFS.—Except as otherwise provided in this Act, each Division Chief shall—

"(i) assist the Under Secretary in identifying and addressing emerging agricultural research, education, and extension needs;

"(ii) assist the Under Secretary in identifying and prioritizing Department-wide agricultural research, education, and extension needs, including funding;

"(iii) assess the strategic workforce needs of the research, education, and extension functions of the Department, and develop strategic workforce plans to ensure that existing and future workforce needs are met;

"(iv) communicate with research, education, and extension beneficiaries, including the public, and representatives of the research, education, and extension system, including the National Agricultural Research, Extension, Education, and Economics Advisory Board, to promote the benefits of agricultural research, education, and extension;

"(v) assist the Under Secretary in preparing and implementing the roadmap for agricultural research, education, and extension, as described in section 7504 of the Food, Conservation, and Energy Act of 2008; and

"(vi) perform such other duties as the Under Secretary may determine.

"(4) GENERAL ADMINISTRATION.—

"(A) FUNDING.—Notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph unless the appropriation Act specifically refers to this subsection and specifically includes the administration of funds under this section, the Secretary may transfer funds made available to an agency in the research, education, and economics mission area to fund the costs of Division personnel.

"(B) LIMITATION.—To the maximum extent practicable—

"(i) the Under Secretary shall minimize the number of full-time equivalent positions in the Divisions; and

"(ii) at no time shall the aggregate number of staff for all Divisions exceed 30 full-time equivalent positions.

"(C) ROTATION OF PERSONNEL.—To the maximum extent practicable, and using the authority described in paragraph (3)(A), the Under Secretary shall rotate personnel among the Divisions, and between the Divisions and agencies of the Department, in a manner that—

"(i) promotes leadership and professional development; and

"(ii) enables personnel to interact with other agencies of the Department.

"(5) ORGANIZATION.—The Under Secretary shall integrate leadership functions of the national program staff of the research agencies into the Research, Education and Extension Office in such form as is required to ensure that administrative duplication does not occur.

"(f) NATIONAL INSTITUTE OF FOOD AND AGRICULTURE.—

"(1) DEFINITIONS.—In this subsection:

"(A) ADVISORY BOARD.—The term 'Advisory Board' means the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123).

"(B) APPLIED RESEARCH.—The term 'applied research' means research that includes expansion of the findings of fundamental research to uncover practical ways in which new knowledge can be advanced to benefit individuals and society.

"(C) CAPACITY AND INFRASTRUCTURE PROGRAM.—The term 'capacity and infrastructure program' means each of the following agricultural research, extension, education, and related programs for which the Secretary has administrative or other authority as of the day before the date of enactment of the Food, Conservation, and Energy Act of 2008:

"(i) Each program providing funding to any of the 1994 Institutions under sections 533, 534(a), and 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382).

"(ii) The program established under section 536 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) providing research grants for 1994 Institutions.

"(iii) Each program established under subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343).

"(iv) Each program established under the Hatch Act of 1887 (7 U.S.C. 361a et seq.).

"(v) Each program established under section 1417(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)).

"(vi) The animal health and disease research program established under subtitle E of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191 et seq.).

"(vii) Each extension program available to 1890 Institutions established under section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221).

"(viii) The program established under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222).

"(ix) The program providing grants to upgrade agricultural and food sciences facilities at 1890 Institutions established under section 1447 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b).

"(x) The program providing distance education grants for insular areas established under section 1490 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3362).

"(xi) The program providing resident instruction grants for insular areas established under section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363).

"(xii) Each research and development and related program established under Public Law 87–788 (commonly known as the 'McIntire-Stennis Cooperative Forestry Act') (16 U.S.C. 582a et seq.).

"(xiii) Each program established under the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.).

"(xiv) Each program providing funding to Hispanic-serving agricultural colleges and universities under section 1456 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

"(xv) The program providing capacity grants to NLGCA Institutions under section 1473F of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

"(xvi) Other programs that are capacity and infrastructure programs, as determined by the Secretary.

"(D) COMPETITIVE PROGRAM.—The term 'competitive program' means each of the following agricultural research, extension, education, and related programs for which the

Secretary has administrative or other authority as of the day before the date of enactment of the Food, Conservation, and Energy Act of 2008:

"(i) The Agriculture and Food Research Initiative established under section 2(b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)).

"(ii) The program providing competitive grants for risk management education established under section 524(a)(3) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)(3)).

"(iii) The program providing community food project competitive grants established under section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034).

"(iv) The program providing grants for beginning farmer and rancher development established under section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f).

"(v) The program providing grants under section 1417(j) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)).

"(vi) The program providing grants for Hispanic-serving institutions established under section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241).

"(vii) The program providing competitive grants for international agricultural science and education programs under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b).

"(viii) The research and extension projects carried out under section 1621 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5811).

"(ix) The organic agriculture research and extension initiative established under section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b).

"(x) The specialty crop research initiative under section 412 of the Agricultural Research, Extension, and Education Reform Act of 1998.

"(xi) The administration and management of the Agricultural Bioenergy Feedstock and Energy Efficiency Research and Extension Initiative carried out under section 1672C of the Food, Agriculture, Conservation, and Trade Act of 1990.

"(xii) The research, extension, and education programs authorized by section 407 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627) relating to the competitiveness, viability and sustainability of small- and medium-sized dairy, livestock, and poultry operations.

"(xiii) Other programs that are competitive programs, as determined by the Secretary.

"(E) DIRECTOR.—The term 'Director' means the Director of the Institute.

"(F) FUNDAMENTAL RESEARCH.—The term 'fundamental research' means research that—

"(i) increases knowledge or understanding of the fundamental aspects of phenomena and has the potential for broad application; and

"(ii) has an effect on agriculture, food, nutrition, or the environment.

"(G) INSTITUTE.—The term 'Institute' means the National Institute of Food and Agriculture established by paragraph (2)(A).

"(2) ESTABLISHMENT OF NATIONAL INSTITUTE OF FOOD AND AGRICULTURE.—

"(A) ESTABLISHMENT.—The Secretary shall establish within the Department an agency to be known as the 'National Institute of Food and Agriculture'.

"(B) TRANSFER OF AUTHORITIES.—The Secretary shall transfer to the Institute, effective not later than October 1, 2009, the authorities (including all budget authorities, available appropriations, and personnel), duties, obligations, and related legal and administrative functions prescribed by law or otherwise granted to the Secretary, the Department, or any other agency or official of the Department under— Deadline.

"(i) the capacity and infrastructure programs;

"(ii) the competitive programs;

"(iii) the research, education, economic, cooperative State research programs, cooperative extension and education programs, international programs, and other functions and authorities delegated by the Under Secretary to the Administrator of the Cooperative State Research, Education, and Extension Service pursuant to section 2.66 of title 7, Code of Federal Regulations (or successor regulations); and

"(iv) any and all other authorities administered by the Administrator of the Cooperative State Research, Education, and Extension Service.

"(3) DIRECTOR.—

"(A) IN GENERAL.—The Institute shall be headed by a Director, who shall be an individual who is—

"(i) a distinguished scientist; and

"(ii) appointed by the President.

"(B) SUPERVISION.—The Director shall report directly to the Secretary, or the designee of the Secretary.

"(C) FUNCTIONS OF THE DIRECTOR.—The Director shall—

"(i) serve for a 6-year term, subject to reappointment for an additional 6-year term;

"(ii) periodically report to the Secretary, or the designee of the Secretary, with respect to activities carried out by the Institute; and

"(iii) consult regularly with the Secretary, or the designee of the Secretary, to ensure, to the maximum extent practicable, that—

"(I) research of the Institute is relevant to agriculture in the United States and otherwise serves the national interest; and

"(II) the research of the Institute supplements and enhances, and does not supplant, research conducted or funded by other Federal agencies.

"(D) COMPENSATION.—The Director shall receive basic pay at a rate not to exceed the maximum amount of compensation payable to a member of the Senior Executive Service under subsection (b) of section 5382 of title 5, United States Code, except that the certification requirement in that subsection shall not apply to the compensation of the Director.

"(E) AUTHORITY AND RESPONSIBILITIES OF DIRECTOR.—Except as otherwise specifically provided in this subsection, the Director shall—

"(i) exercise all of the authority provided to the Institute by this subsection;

"(ii) formulate and administer programs in accordance with policies adopted by the Institute, in coordination with the Under Secretary;

"(iii) establish offices within the Institute;

Procedures.

"(iv) establish procedures for the provision and administration of grants by the Institute; and

"(v) consult regularly with the Advisory Board.

"(4) REGULATIONS.—The Institute shall have such authority as is necessary to carry out this subsection, including the authority to promulgate such regulations as the Institute considers to be necessary for governance of operations, organization, and personnel.

"(5) ADMINISTRATION.—

"(A) IN GENERAL.—The Director shall organize offices and functions within the Institute to administer fundamental and applied research and extension and education programs.

"(B) RESEARCH PRIORITIES.—The Director shall ensure the research priorities established by the Under Secretary through the Research, Education and Extension Office are carried out by the offices and functions of the Institute, where applicable.

"(C) FUNDAMENTAL AND APPLIED RESEARCH.—The Director shall—

"(i) determine an appropriate balance between fundamental and applied research programs and functions to ensure future research needs are met; and

"(ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

"(D) COMPETITIVELY FUNDED AWARDS.—The Director shall—

"(i) promote the use and growth of grants awarded through a competitive process; and

"(ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

"(E) COORDINATION.—The Director shall ensure that the offices and functions established under subparagraph (A) are effectively coordinated for maximum efficiency.

"(6) FUNDING.—

"(A) IN GENERAL.—In addition to funds otherwise appropriated to carry out each program administered by the Institute, there are authorized to be appropriated such

sums as are necessary to carry out this subsection for each fiscal year.

"(B) ALLOCATION.—Funding made available under subparagraph (A) shall be allocated according to recommendations contained in the roadmap described in section 7504 of the Food, Conservation, and Energy Act of 2008.".

(b) FUNCTIONS.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)) is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(6) the authority of the Secretary to establish in the Department, under section 251—

"(A) the position of Under Secretary of Agriculture for Research, Education, and Economics;

"(B) the Research, Education, and Extension Office; and

"(C) the National Institute of Food and Agriculture.".

(c) CONFORMING AMENDMENTS.—The following conforming amendments shall take effect on October 1, 2009:

Effective date.
7 USC 1522 note.

(1) Section 522(d)(2) of the Federal Crop Insurance Act (7 U.S.C. 1522(d)(2)) is amended by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(2) Section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)) is amended in each of paragraphs (1)(B) and (3)(A) by striking "the Cooperative State Research, Education, and Extension Service" each place it appears and inserting "the National Institute of Food and Agriculture".

(3) Section 306(a)(11)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(C)) is amended by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(4) Section 5(b)(2)(E) of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1929 note; Public Law 102–554) is amended by striking "Cooperative Extension Service" and inserting "National Institute of Food and Agriculture".

(5) Section 11(f)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(f)(1)) is amended by striking "Cooperative Extension Service" and inserting "National Institute of Food and Agriculture".

(6) Section 502(h) of the Rural Development Act of 1972 (7 U.S.C. 2662(h)) is amended—

(A) in paragraph (1), by striking "Extension Service" and inserting "National Institute of Food and Agriculture"; and

(B) in paragraph (4), by striking "Extension Service staff" and inserting "National Institute of Food and Agriculture staff".

(7) Section 7404(b)(1)(B) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3101 note; Public Law 107–171) is amended by striking clause (vi) and inserting the following:

"(vi) the National Institute of Food and Agriculture.".

(8) Section 1408(b)(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(b)(4)) is amended by striking "the Administrator of the Cooperative State Research, Education, and Extension Service" and inserting "the Director of the National Institute of Food and Agriculture".

(9) Section 2381(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(10) The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended—

(A) in section 1424A(b) (7 U.S.C. 3174a(b)), by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture"; and

(B) in section 1458(a)(10) (7 U.S.C. 3291(a)(10)), by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(11) Section 1587(a) of the Food Security Act of 1985 (7 U.S.C. 3175d(a)) is amended by striking "Extension Service" each place it appears and inserting "National Institute of Food and Agriculture".

(12) Section 1444(b)(2)(A) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(b)(2)(A)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(13) Section 1473D(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(d)) is amended by striking "the Cooperative State Research Service, the Extension Service" and inserting "the National Institute of Food and Agriculture".

(14) Section 1499(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5506(c)) is amended by striking "the Cooperative State Research Service" and all that follows through "extension services;" and inserting "the National Institute of Food and Agriculture, in conjunction with the system of State agricultural experiment stations and State and county cooperative extension services; the Economic Research Service;".

(15) Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended—

(A) in subsection (a)(1), by striking "the Cooperative State Research Service in close cooperation with the Extension Service" and inserting "the National Institute of Food and Agriculture";

(B) in subsection (b)(1)—

(i) by striking subparagraphs (B) and (C) and inserting the following:

"(B) the National Institute of Food and Agriculture;"; and

(ii) by redesignating subparagraphs (D) through (L) as subparagraphs (C) through (K), respectively.

(16) Section 1627(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5821(d)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(17) Section 1629 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5832) is amended—

(A) in subsection (b), in the first sentence, by striking "the Extension Service" and inserting "the National Institute of Food and Agriculture"; and

(B) in subsection (h), by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(18) Section 1638(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5852(b)) is amended—

(A) in paragraph (3), by striking "Cooperative State Research Service" and inserting "National Institute of Food and Agriculture"; and

(B) in paragraph (5), by striking "Cooperative State Research Service" and inserting "National Institute of Food and Agriculture".

(19) Section 1640(a)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5854(a)(2)) is amended by striking "the Administrator of the Extension Service, the Administrator of the Cooperative State Research Service" and inserting "the Director of the National Institute of Food and Agriculture".

(20) Section 1641(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(a)) is amended—

(A) in paragraph (2), by striking "Cooperative State Research Service" and inserting "National Institute of Food and Agriculture"; and

(B) in paragraph (4,) by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(21) Section 1668(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921(b)) is amended by striking "Cooperative State Research, Education, and Extension Service" and inserting "National Institute of Food and Agriculture".

(22) Section 1670(a)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5923(a)(4)) is amended by striking "the Administrator of the Cooperative State Research, Education, and Extension Service" and inserting "the Director of the National Institute of Food and Agriculture".

(23) Section 1677(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5930(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(24) Section 2122(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6521(b)(1)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(25) Section 2371 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601) is amended—

(A) in subsection (a), by striking "Extension Service" and inserting "National Institute of Food and Agriculture"; and

(B) in subsection (c)(3), by striking "Service" and inserting "System".

(26) Section 2377(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6615(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(27) Section 212(a)(2)(A) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(a)(2)(A)) is amended by striking "251(d)," and inserting "251(f),".

(28) Section 537 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7446) is amended in each of subsections (a)(2) and (b)(3)(B)(i) by striking "Cooperative State Research, Education, and Extension Service" and inserting "cooperative extension".

(29) Section 101(b)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7611(b)(2)) is amended by striking "Cooperative State Research, Education, and Extension Service" and inserting "National Institute of Food and Agriculture".

(30) Section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)) is amended—

(A) in the subsection heading, by striking "Cooperative State Research, Education, and Extension Service" and inserting "National Institute of Food and Agriculture"; and

(B) in each of paragraphs (1) and (2)(A), by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(31) Section 407(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627(c)) is amended by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(32) Section 410(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7630(a)) is amended by striking "the Administrator of the Cooperative State Research, Education, and Extension Service" and inserting "the Director of the National Institute of Food and Agriculture".

(33) Section 307(g)(5) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 8606(g)(5)) is amended by striking "Administrator of the Cooperative State Research, Education, and Extension Service" and inserting "Director of the National Institute of Food and Agriculture".

(34) Section 5(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674a(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(35) Section 6(b) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103b(b)) is amended by striking "the Cooperative State Research, Education, and Extension Service, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or Cooperative Extension officials" and inserting "the National Institute of Food and Agriculture, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or cooperative extension officials".

(36) Section 9(g)(2)(A)(viii) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105(g)(2)(A)(viii)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(37) Section 19(b)(1)(B)(i) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113(b)(1)(B)(i)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(38) Section 1261(c)(4) of the Food Security Act of 1985 (16 U.S.C. 3861(c)(4)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(39) Section 105(a) of the Africa: Seeds of Hope Act of 1998 (22 U.S.C. 2293 note; Public Law 105–385) is amended by striking "the Cooperative State, Research, Education, and Extension Service (CSREES)" and inserting "the National Institute of Food and Agriculture".

(40) Section 307(a)(4) of the National Aeronautic and Space Administration Authorization Act of 2005 (42 U.S.C. 16657(a)(4)) is amended by striking subparagraph (B) and inserting the following:

"(B) the program and structure of, peer review process of, management of conflicts of interest by, compensation of reviewers of, and the effects of compensation on reviewer efficiency and quality within, the National Institute of Food and Agriculture of the Department of Agriculture;".

## PART III—NEW GRANT AND RESEARCH PROGRAMS

**SEC. 7521. RESEARCH AND EDUCATION GRANTS FOR THE STUDY OF ANTIBIOTIC-RESISTANT BACTERIA.** 7 USC 3202.

(a) IN GENERAL.—The Secretary shall provide research and education grants, on a competitive basis—

(1) to study the development of antibiotic-resistant bacteria, including—

(A) movement of antibiotic-resistant bacteria into groundwater and surface water; and

(B) the effect on antibiotic resistance from various drug use regimens; and

(2) to study and ensure the judicious use of antibiotics in veterinary and human medicine, including—

(A) methods and practices of animal husbandry;

(B) safe and effective alternatives to antibiotics;

(C) the development of better veterinary diagnostics to improve decisionmaking; and

(D) the identification of conditions or factors that affect antibiotic use on farms.

(b) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section. Applicability.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

7 USC 5936.

**SEC. 7522. FARM AND RANCH STRESS ASSISTANCE NETWORK.**

(a) IN GENERAL.—The Secretary, in coordination with the Secretary of Health and Human Services, shall make competitive grants to support cooperative programs between State cooperative extension services and nonprofit organizations to establish a Farm and Ranch Stress Assistance Network that provides stress assistance programs to individuals who are engaged in farming, ranching, and other agriculture-related occupations.

(b) ELIGIBLE PROGRAMS.—Grants awarded under subsection (a) may be used to initiate, expand, or sustain programs that provide professional agricultural behavioral health counseling and referral for other forms of assistance as necessary through—

(1) farm telephone helplines and websites;

(2) community education;

(3) support groups;

(4) outreach services and activities; and

(5) home delivery of assistance, in a case in which a farm resident is homebound.

(c) EXTENSION SERVICES.—Grants shall be awarded under this subsection directly to State cooperative extension services to enable the State cooperative extension services to enter into contracts, on a multiyear basis, with nonprofit, community-based, direct-service organizations to initiate, expand, or sustain cooperative programs described in subsections (a) and (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

7 USC 415–1.

**SEC. 7523. SEED DISTRIBUTION.**

(a) IN GENERAL.—The Secretary shall make competitive grants to eligible entities to carry out a seed distribution program to administer and maintain the distribution of vegetable seeds donated by commercial seed companies.

(b) PURPOSES.—The purposes of this program include—

(1) the distribution of seeds donated by commercial seed companies free-of-charge to appropriate—

(A) individuals;

(B) groups;

(C) institutions;

(D) governmental and nongovernmental organizations; and

(E) such other entities as the Secretary may designate;

(2) distribution of seeds to underserved communities, such as communities that experience—

(A) limited access to affordable fresh vegetables;

(B) a high rate of hunger or food insecurity; or

(C) severe or persistent poverty.

Applicability.

(c) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.

(d) SELECTION.—An eligible entity selected to receive a grant under subsection (a) shall have—

(1) expertise regarding the distribution of vegetable seeds donated by commercial seed companies; and

(2) the ability to achieve the purpose of the seed distribution program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

**SEC. 7524. LIVE VIRUS FOOT AND MOUTH DISEASE RESEARCH.**

21 USC 113a note. Permits.

(a) IN GENERAL.—The Secretary shall issue a permit required under section 12 of the Act of May 29, 1884 (21 U.S.C. 113a) to the Secretary of Homeland Security for work on the live virus of foot and mouth disease at any facility that is a successor to the Plum Island Animal Disease Center and charged with researching high-consequence biological threats involving zoonotic and foreign animal diseases (referred to in this section as the "successor facility").

(b) LIMITATION TO SINGLE FACILITY.—Not more than 1 facility shall be issued a permit under subsection (a).

(c) LIMITATION ON VALIDITY.—The permit issued under this section shall be valid unless the Secretary determines that the study of live foot and mouth disease virus at the successor facility is not being carried out in accordance with the regulations promulgated by the Secretary pursuant to the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).

(d) AUTHORITY.—The suspension, revocation, or other impairment of the permit issued under this section—

(1) shall be made by the Secretary; and

(2) is a nondelegable function.

**SEC. 7525. NATURAL PRODUCTS RESEARCH PROGRAM.**

7 USC 5937.

(a) IN GENERAL.—The Secretary shall establish within the Department a natural products research program.

(b) DUTIES.—In carrying out the program established under subsection (a), the Secretary shall coordinate research relating to natural products, including—

(1) research to improve human health and agricultural productivity through the discovery, development, and commercialization of products and agrichemicals from bioactive natural products, including products from plant, marine, and microbial sources;

(2) research to characterize the botanical sources, production, chemistry, and biological properties of plant-derived natural products; and

(3) other research priorities identified by the Secretary.

(c) PEER AND MERIT REVIEW.—The Secretary shall—

(1) determine the relevance and merit of research under this section through a system of peer review established by the Secretary pursuant to section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613); and

(2) approve funding for research on the basis of merit, quality, and relevance to advancing the purposes of this section.

(d) BUILDINGS AND FACILITIES.—Funds made available under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.

7 USC 8114.

**SEC. 7526. SUN GRANT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish and carry out a program to provide grants to the sun grant centers and subcenter specified in subsection (b)—

(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration among—

(A) the Department of Agriculture;

(B) the Department of Energy; and

(C) land-grant colleges and universities.

(b) GRANTS.—

State listing.

(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (g) to provide grants to each of the following:

(A) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

(B) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

(i) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

(ii) the Commonwealth of Puerto Rico; and

(iii) the United States Virgin Islands.

(C) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

(D) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

(i) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

(ii) insular areas (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103 (other than the insular areas referred to in clauses (ii) and (iii) of subparagraph (B))).

(E) NORTHEASTERN CENTER.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

(F) WESTERN INSULAR PACIFIC SUBCENTER.—A western insular Pacific sun grant subcenter at the University of Hawaii for the region of Alaska, Hawaii, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(2) MANNER OF DISTRIBUTION.—

(A) CENTERS.—In providing any funds made available under subsection (g), the Secretary shall distribute the grants in equal amounts to the sun grant centers described in subparagraphs (A) through (E) of paragraph (1).

(B) SUBCENTER.—The sun grant center described in paragraph (1)(D) shall allocate a portion of the funds received under paragraph (1) to the subcenter described in paragraph (1)(F) pursuant to guidance issued by the Secretary.

(3) FAILURE TO COMPLY WITH REQUIREMENTS.—If the Secretary finds on the basis of a review of the annual report required under subsection (f) or on the basis of an audit of a sun grant center or subcenter conducted by the Secretary that the center or subcenter has not complied with the requirements of this section, the sun grant center or subcenter shall be ineligible to receive further grants under this section for such period of time as may be prescribed by the Secretary.

(c) USE OF FUNDS.—

(1) COMPETITIVE GRANTS.—

(A) IN GENERAL.—A sun grant center or subcenter shall use 75 percent of the funds described in subsection (b) to provide competitive grants to entities that are—

(i) eligible to receive grants under subsection (b)(7) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(7)); and

(ii) located in the region covered by the sun grant center or subcenter.

(B) ACTIVITIES.—Grants described in subparagraph (A) shall be used by the grant recipient to conduct, in a manner consistent with the purposes described in subsection (a), multi-institutional and multistate—

(i) research, extension, and education programs on technology development; and

(ii) integrated research, extension, and education programs on technology implementation.

(C) FUNDING ALLOCATION.—Of the amount of funds that is used to provide grants under subparagraph (A), the sun grant center or subcenter shall use—

(i) not less than 30 percent of the funds to carry out the programs described in subparagraph (B)(i); and

(ii) not less than 30 percent of the funds to carry out the programs described in subparagraph (B)(ii).

(D) ADMINISTRATION.—

(i) PEER AND MERIT REVIEW.—In making grants under this paragraph, a sun grant center or subcenter shall—

(I) seek and accept proposals for grants;

(II) determine the relevance and merit of proposals through a system of peer review similar to that established by the Secretary pursuant to

section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613); and

(III) award grants on the basis of merit, quality, and relevance to advancing the purposes of this section.

(ii) PRIORITY.—A sun grant center or subcenter shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (d).

(iii) TERM.—A grant awarded by a sun grant center or subcenter shall have a term that does not exceed 5 years.

(iv) MATCHING FUNDS REQUIRED.—

(I) IN GENERAL.—Except as provided in subclauses (II) and (III), as a condition of receiving a grant under this paragraph, the sun grant center or subcenter shall require that not less than 20 percent of the cost of an activity described in subparagraph (B) be matched with funds, including in-kind contributions, from a non-Federal source.

(II) EXCLUSION.—Subclause (I) shall not apply to fundamental research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).

(III) REDUCTION.—The sun grant center or subcenter may reduce or eliminate the requirement for non-Federal funds under subclause (I) for applied research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)) if the sun grant center or subcenter determines that the reduction is necessary and appropriate pursuant to guidance issued by the Secretary.

(v) BUILDINGS AND FACILITIES.—Funds made available for grants shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

(vi) LIMITATION ON INDIRECT COSTS.—A sun grant center or subcenter may not recover the indirect costs of making grants under subparagraph (A).

(2) ADMINISTRATIVE EXPENSES.—A sun grant center or subcenter may use up to 4 percent of the funds described in subsection (b) to pay administrative expenses incurred in carrying out paragraph (1).

(3) RESEARCH, EXTENSION AND EDUCATIONAL ACTIVITIES.—The sun grant centers and subcenter shall use the remainder of the funds described in subsection (b) to conduct, in a manner consistent with the purposes described in subsection (a), multi-institutional and multistate—

(A) research, extension, and educational programs on technology development; and

(B) integrated research, extension, and educational programs on technology implementation.

(d) PLAN FOR RESEARCH ACTIVITIES TO BE FUNDED.—

(1) IN GENERAL.—Subject to the availability of funds under subsection (g), and in cooperation with land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers and subcenter shall jointly develop and submit to the Secretary for approval a plan for addressing the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy at the State and regional levels.

(2) GASIFICATION COORDINATION.—With respect to gasification research activity, the sun grant centers and subcenter shall coordinate planning with land-grant colleges and universities in their respective regions that have ongoing research activities in that area.

(3) FUNDING.—Funds described in subsection (c)(2) shall be available to carry out planning coordination under paragraph (1).

(4) USE OF PLAN.—The sun grant centers and subcenter shall use the plan described in paragraph (1) in making grants under subsection (c)(1).

(e) GRANT INFORMATION ANALYSIS CENTER.—The sun grant centers and subcenter shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (b)(1)(A) to provide the sun grant centers and subcenter with analysis and data management support.

(f) ANNUAL REPORTS.—Not later than 90 days after the end of each fiscal year, a sun grant center or subcenter receiving a grant under this section shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center or subcenter during the fiscal year, including—

(1) the results of all peer and merit review procedures conducted pursuant to subsection (c)(1)(D)(i); and

(2) a description of progress made in facilitating the priorities described in subsection (d)(1).

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2008 through 2012, of which not more than $4,000,000 for each fiscal year shall be made available to carry out subsection (e).

**SEC. 7527. STUDY AND REPORT ON FOOD DESERTS.**

(a) DEFINITION OF FOOD DESERT.—In this section, the term "food desert" means an area in the United States with limited access to affordable and nutritious food, particularly such an area composed of predominantly lower-income neighborhoods and communities.

(b) STUDY AND REPORT.—The Secretary shall carry out a study of, and prepare a report on, food deserts.

(c) CONTENTS.—The study and report shall—

(1) assess the incidence and prevalence of food deserts;

(2) identify—

(A) characteristics and factors causing and influencing food deserts; and

(B) the effect on local populations of limited access to affordable and nutritious food; and

(3) provide recommendations for addressing the causes and effects of food deserts through measures that include—

(A) community and economic development initiatives;

(B) incentives for retail food market development, including supermarkets, small grocery stores, and farmers' markets; and

(C) improvements to Federal food assistance and nutrition education programs.

(d) COORDINATION WITH OTHER AGENCIES AND ORGANIZATIONS.—The Secretary shall conduct the study under this section in coordination and consultation with—

(1) the Secretary of Health and Human Services;

(2) the Administrator of the Small Business Administration;

(3) the Institute of Medicine; and

(4) representatives of appropriate businesses, academic institutions, and nonprofit and faith-based organizations.

(e) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the report prepared under this section, including the findings and recommendations described in subsection (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000.

Effective date.

**SEC. 7528. DEMONSTRATION PROJECT AUTHORITY FOR TEMPORARY POSITIONS.**

Notwithstanding section 4703(d)(1) of title 5, United States Code, the amendment to the personnel management demonstration project established in the Department of Agriculture (67 Fed. Reg. 70776 (2002)), shall become effective upon the date of enactment of this Act and shall remain in effect unless modified by law.

7 USC 5938.

**SEC. 7529. AGRICULTURAL AND RURAL TRANSPORTATION RESEARCH AND EDUCATION.**

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, shall make competitive grants to institutions of higher education to carry out agricultural and rural transportation research and education activities.

(b) ACTIVITIES.—Research and education grants made under this section shall be used to address rural transportation and logistics needs of agricultural producers and related rural businesses, including—

(1) the transportation of biofuels; and

(2) the export of agricultural products.

(c) SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall award grants under this section on the basis of the transportation research, education, and outreach expertise of the applicant, as determined by the Secretary.

(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to institutions of higher education for use in coordinating research and education activities with other institutions of higher education with similar agricultural and rural transportation research and education programs.

(d) DIVERSIFICATION OF RESEARCH.—The Secretary shall award grants under this section in areas that are regionally diverse and broadly representative of the diversity of agricultural production and related transportation needs in the rural areas of the United States.

(e) MATCHING FUNDS REQUIREMENT.—The Secretary shall require each recipient of a grant under this section to provide, from non-Federal sources, in cash or in kind, 50 percent of the cost of carrying out activities under the grant.

(f) GRANT REVIEW.—A grant shall be awarded under this section on a competitive, peer- and merit-reviewed basis in accordance with section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)).

(g) NO DUPLICATION.—In awarding grants under this section, the Secretary shall ensure that activities funded under this section do not duplicate the efforts of the University Transportation Centers described in sections 5505 and 5506 of title 49, United States Code.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.

# TITLE VIII—FORESTRY

## Subtitle A—Amendments to Cooperative Forestry Assistance Act of 1978

### SEC. 8001. NATIONAL PRIORITIES FOR PRIVATE FOREST CONSERVATION.

Section 2 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101) is amended—

(1) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (b) the following new subsections:

"(c) PRIORITIES.—In allocating funds appropriated or otherwise made available under this Act, the Secretary shall focus on the following national private forest conservation priorities, notwithstanding other priorities specified elsewhere in this Act:

"(1) Conserving and managing working forest landscapes for multiple values and uses.

"(2) Protecting forests from threats, including catastrophic wildfires, hurricanes, tornados, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, or development, and restoring appropriate forest types in response to such threats.

"(3) Enhancing public benefits from private forests, including air and water quality, soil conservation, biological diversity, carbon storage, forest products, forestry-related jobs, production of renewable energy, wildlife, wildlife corridors and wildlife habitat, and recreation.

"(d) REPORTING REQUIREMENT.—Not later than September 30, 2011, the Secretary shall submit to Congress a report describing how funds were used under this Act, and through other programs administered by the Secretary, to address the national priorities

specified in subsection (c) and the outcomes achieved in meeting the national priorities.".

**SEC. 8002. LONG-TERM STATE-WIDE ASSESSMENTS AND STRATEGIES FOR FOREST RESOURCES.**

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 2 (16 U.S.C. 2101) the following new section:

16 USC 2101a.

**"SEC. 2A. STATE-WIDE ASSESSMENT AND STRATEGIES FOR FOREST RESOURCES.**

Deadline.

"(a) ASSESSMENT AND STRATEGIES FOR FOREST RESOURCES.—For a State to be eligible to receive funds under the authorities of this Act, the State forester of that State or equivalent State official shall develop and submit to the Secretary, not later than two years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the following:

"(1) A State-wide assessment of forest resource conditions, including—

"(A) the conditions and trends of forest resources in that State;

"(B) the threats to forest lands and resources in that State consistent with the national priorities specified in section 2(c);

"(C) any areas or regions of that State that are a priority; and

"(D) any multi-State areas that are a regional priority.

"(2) A long-term State-wide forest resource strategy, including—

"(A) strategies for addressing threats to forest resources in the State outlined in the assessment required by paragraph (1); and

"(B) a description of the resources necessary for the State forester or equivalent State official from all sources to address the State-wide strategy.

"(b) UPDATING.—At such times as the Secretary determines to be necessary, the State forester or equivalent State official shall update and resubmit to the Secretary the State-wide assessment and State-wide strategy required by subsection (a).

"(c) COORDINATION.—In developing or updating the State-wide assessment and State-wide strategy required by subsection (a), the State Forester or equivalent State official shall coordinate with—

"(1) the State Forest Stewardship Coordinating Committee established for the State under section 19(b);

"(2) the State wildlife agency, with respect to strategies contained in the State wildlife action plans;

"(3) the State Technical Committee;

"(4) applicable Federal land management agencies; and

"(5) for purposes of the Forest Legacy Program under section 7, the State lead agency designated by the Governor.

"(d) INCORPORATION OF OTHER PLANS.—In developing or updating the State-wide assessment and State-wide strategy required by subsection (a), the State forester or equivalent State official shall incorporate any forest management plan of the State, including community wildfire protection plans and State wildlife action plans.

"(e) SUFFICIENCY.—Once approved by the Secretary, a State-wide assessment and State-wide strategy developed under subsection (a) shall be deemed to be sufficient to satisfy all relevant State planning and assessment requirements under this Act.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section up to $10,000,000 for each of fiscal years 2008 through 2012.

"(2) ADDITIONAL FUNDING SOURCES.—In addition to the funds appropriated for a fiscal year pursuant to the authorization of appropriations in paragraph (1) to carry out this section, the Secretary may use any other funds made available for planning under this Act to carry out this section, except that the total amount of combined funding used to carry out this section may not exceed $10,000,000 in any fiscal year.

"(g) ANNUAL REPORT ON USE OF FUNDS.—The State forester or equivalent State official shall submit to the Secretary an annual report detailing how funds made available to the State under this Act are being used.".

**SEC. 8003. COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.**

16 USC 2103d note.

(a) FINDINGS.—Congress finds that—

(1) the Forest Service projects that, by calendar year 2030, approximately 44,000,000 acres of privately-owned forest land will be developed throughout the United States;

(2) public access to parcels of privately-owned forest land for outdoor recreational activities, including hunting, fishing, and trapping, has declined and, as a result, participation in those activities has also declined in cases in which public access is not secured;

(3) rising rates of obesity and other public health problems relating to the inactivity of the citizens of the United States have been shown to be ameliorated by improving public access to safe and attractive areas for outdoor recreation;

(4) in rapidly-growing communities of all sizes throughout the United States, remaining parcels of forest land play an essential role in protecting public water supplies;

(5) forest parcels owned by local governmental entities and nonprofit organizations are providing important demonstration sites for private landowners to learn forest management techniques;

(6) throughout the United States, communities of diverse types and sizes are deriving significant financial and community benefits from managing forest land owned by local governmental entities for timber and other forest products; and

(7) there is an urgent need for local governmental entities to be able to leverage financial resources in order to purchase important parcels of privately-owned forest land as the parcels are offered for sale.

(b) COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 7 (16 U.S.C. 2103c) the following new section:

**"SEC. 7A. COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.**

16 USC 2103d.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a local governmental entity, Indian tribe, or nonprofit organization that owns or acquires a parcel under the program.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(3) LOCAL GOVERNMENTAL ENTITY.—The term 'local governmental entity' includes any municipal government, county government, or other local government body with jurisdiction over local land use decisions.

"(4) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any organization that—

"(A) is described in section 170(h)(3) of the Internal Revenue Code of 1986; and

"(B) operates in accordance with 1 or more of the purposes specified in section 170(h)(4)(A) of that Code.

"(5) PROGRAM.—The term 'Program' means the community forest and open space conservation program established under subsection (b).

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

"(b) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the 'community forest and open space conservation program'.

"(c) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary may award grants to eligible entities to acquire private forest land, to be owned in fee simple, that—

"(A) are threatened by conversion to nonforest uses; and

"(B) provide public benefits to communities, including—

"(i) economic benefits through sustainable forest management;

"(ii) environmental benefits, including clean water and wildlife habitat;

"(iii) benefits from forest-based educational programs, including vocational education programs in forestry;

"(iv) benefits from serving as models of effective forest stewardship for private landowners; and

"(v) recreational benefits, including hunting and fishing.

"(2) FEDERAL COST SHARE.—An eligible entity may receive a grant under the Program in an amount equal to not more than 50 percent of the cost of acquiring 1 or more parcels, as determined by the Secretary.

"(3) NON-FEDERAL SHARE.—As a condition of receipt of the grant, an eligible entity that receives a grant under the Program shall provide, in cash, donation, or in kind, a non-Federal matching share in an amount that is at least equal to the amount of the grant received.

"(4) APPRAISAL OF PARCELS.—To determine the non-Federal share of the cost of a parcel of privately-owned forest land under paragraph (2), an eligible entity shall require appraisals of the land that comply with the Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference.

"(5) APPLICATION.—An eligible entity that seeks to receive a grant under the Program shall submit to the State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) an application that includes—

"(A) a description of the land to be acquired;

"(B) a forest plan that provides—

"(i) a description of community benefits to be achieved from the acquisition of the private forest land; and

"(ii) an explanation of the manner in which any private forest land to be acquired using funds from the grant will be managed; and

"(C) such other relevant information as the Secretary may require.

"(6) EFFECT ON TRUST LAND.—

"(A) INELIGIBILITY.—The Secretary shall not provide a grant under the Program for any project on land held in trust by the United States (including Indian reservations and allotment land).

"(B) ACQUIRED LAND.—No land acquired using a grant provided under the Program shall be converted to land held in trust by the United States on behalf of any Indian tribe.

"(7) APPLICATIONS TO SECRETARY.—The State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) shall submit to the Secretary a list that includes a description of each project submitted by an eligible entity at such times and in such form as the Secretary shall prescribe.

"(d) DUTIES OF ELIGIBLE ENTITY.—An eligible entity shall provide public access to, and manage, forest land acquired with a grant under this section in a manner that is consistent with the purposes for which the land was acquired under the Program.

"(e) PROHIBITED USES.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), an eligible entity that acquires a parcel under the Program shall not sell the parcel or convert the parcel to nonforest use.

"(2) REIMBURSEMENT OF FUNDS.—An eligible entity that sells or converts to nonforest use a parcel acquired under the Program shall pay to the Federal Government an amount equal to the greater of the current sale price, or current appraised value, of the parcel.

"(3) LOSS OF ELIGIBILITY.—An eligible entity that sells or converts a parcel acquired under the Program shall not be eligible for additional grants under the Program.

"(f) STATE ADMINISTRATION AND TECHNICAL ASSISTANCE.—The Secretary may allocate not more than 10 percent of all funds made available to carry out the Program for each fiscal year to State foresters or equivalent officials (including equivalent officials of Indian tribes) for Program administration and technical assistance.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

**SEC. 8004. ASSISTANCE TO THE FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF THE MARSHALL ISLANDS, AND THE REPUBLIC OF PALAU.**

Section 13(d)(1) of the Cooperative Forestry Act of 1978 (16 U.S.C. 2109(d)(1)) is amended by striking "the Trust Territory of the Pacific Islands," and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau,".

**SEC. 8005. CHANGES TO FOREST RESOURCE COORDINATING COMMITTEE.**

Section 19 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113) is amended by striking subsection (a) and inserting the following new subsection:

"(a) FOREST RESOURCE COORDINATING COMMITTEE.—

"(1) ESTABLISHMENT.—The Secretary shall establish a committee, to be known as the 'Forest Resource Coordinating Committee' (in this section referred to as the 'Coordinating Committee'), to coordinate nonindustrial private forestry activities within the Department of Agriculture and with the private sector.

"(2) COMPOSITION.—The Coordinating Committee shall be composed of the following:

"(A) The Chief of the Forest Service.

"(B) The Chief of the Natural Resources Conservation Service.

"(C) The Director of the Farm Service Agency.

"(D) The Director of the National Institute of Food and Agriculture.

"(E) Non-Federal representatives appointed by the Secretary to 3 year terms, although initial appointees shall have staggered terms, including the following persons:

"(i) At least three State foresters or equivalent State officials from geographically diverse regions of the United States.

"(ii) A representative of a State fish and wildlife agency.

"(iii) An owner of nonindustrial private forest land.

"(iv) A forest industry representative.

"(v) A conservation organization representative.

"(vi) A land-grant university or college representative.

"(vii) A private forestry consultant.

"(viii) A representative from a State Technical Committee established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861).

"(F) Such other persons as determined by the Secretary to be appropriate.

"(3) CHAIRPERSON.—The Chief of the Forest Service shall serve as chairperson of the Coordinating Committee.

"(4) DUTIES.—The Coordinating Committee shall—

"(A) provide direction and coordination of actions within the Department of Agriculture, and coordination with State agencies and the private sector, to effectively address the national priorities specified in section 2(c), with specific focus owners of nonindustrial private forest land;

"(B) clarify individual agency responsibilities of each agency represented on the Coordinating Committee concerning the national priorities specified in section 2(c), with specific focus on nonindustrial private forest land;

"(C) provide advice on the allocation of funds, including the competitive funds set-aside by sections 13A and 13B; and

"(D) assist the Secretary in developing and reviewing the report required by section 2(d).

"(5) MEETING.—The Coordinating Committee shall meet annually to discuss progress in addressing the national priorities specified in section 2(c) and issues regarding nonindustrial private forest land.

"(6) COMPENSATION.—

"(A) FEDERAL MEMBERS.—Members of the Coordinating Committee who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Coordinating Committee.

"(B) NON-FEDERAL MEMBERS.—Non-federal members of the Coordinating Committee shall serve without pay, but may be reimbursed for reasonable costs incurred while performing their duties on behalf of the Coordinating Committee.".

**SEC. 8006. CHANGES TO STATE FOREST STEWARDSHIP COORDINATING COMMITTEES.**

Section 19(b) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113(b)) is amended—

(1) in paragraph (1)(B)(ii)—

(A) by striking "and" at the end of subclause (VII); and

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

"(IX) the State Technical Committee.".

(2) in paragraph (2)(C), by striking "a Forest Stewardship Plan under paragraph (3)" and inserting "the State-wide assessment and strategy regarding forest resource conditions under section 2A";

(3) by striking paragraphs (3) and (4); and

(4) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

**SEC. 8007. COMPETITION IN PROGRAMS UNDER COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978.**

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 13 (16 U.S.C. 2109) the following new section:

**"SEC. 13A. COMPETITIVE ALLOCATION OF FUNDS TO STATE FORESTERS OR EQUIVALENT STATE OFFICIALS.** 16 USC 2109a.

"(a) COMPETITION.—Beginning not later than 3 years after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall competitively allocate a portion, to be determined by the Secretary, of the funds available under this Act to State foresters or equivalent State officials. Deadline.

"(b) DETERMINATION.—In determining the competitive allocation of funds under subsection (a), the Secretary shall consult

with the Forest Resource Coordinating Committee established by section 19(a).

"(c) PRIORITY.—The Secretary shall give priority for funding to States for which the long-term State-wide forest resource strategies submitted under section 2A(a)(2) will best promote the national priorities specified in section 2(c).".

**SEC. 8008. COMPETITIVE ALLOCATION OF FUNDS FOR COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.**

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 13A, as added by section 8006, the following new section:

16 USC 2109b.

**"SEC. 13B. COMPETITIVE ALLOCATION OF FUNDS FOR COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.**

"(a) COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.—The Secretary may competitively allocate not more than 5 percent of the funds made available under this Act to support innovative national, regional, or local education, outreach, or technology transfer projects that the Secretary determines would substantially increase the ability of the Department of Agriculture to address the national priorities specified in section 2(c).

"(b) ELIGIBILITY.—Notwithstanding the eligibility limitations contained in this Act, any State or local government, Indian tribe, land-grant college or university, or private entity shall be eligible to compete for funds to be competitively allocated under subsection (a).

"(c) COST-SHARE REQUIREMENT.—In carrying out subsection (a), the Secretary shall not cover more than 50 percent of the total cost of a project under such subsection. In calculating the total cost of a project and contributions made with regard to the project, the Secretary shall include in-kind contributions.".

Native Americans.

# Subtitle B—Cultural and Heritage Cooperation Authority

25 USC 3051.

**SEC. 8101. PURPOSES.**

The purposes of this subtitle are—

(1) to authorize the reburial of human remains and cultural items on National Forest System land, including human remains and cultural items repatriated under the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(2) to prevent the unauthorized disclosure of information regarding reburial sites, including the quantity and identity of human remains and cultural items on sites and the location of sites;

(3) to authorize the Secretary of Agriculture to ensure access to National Forest System land, to the maximum extent practicable, by Indians and Indian tribes for traditional and cultural purposes;

(4) to authorize the Secretary to provide forest products, without consideration, to Indian tribes for traditional and cultural purposes;

(5) to authorize the Secretary to protect the confidentiality of certain information, including information that is culturally sensitive to Indian tribes;

(6) to increase the availability of Forest Service programs and resources to Indian tribes in support of the policy of the United States to promote tribal sovereignty and self-determination; and

(7) to strengthen support for the policy of the United States of protecting and preserving the traditional, cultural, and ceremonial rites and practices of Indian tribes, in accordance with Public Law 95–341 (commonly known as the American Indian Religious Freedom Act; 42 U.S.C. 1996).

**SEC. 8102. DEFINITIONS.** 25 USC 3052.

In this subtitle:

(1) ADJACENT SITE.—The term "adjacent site" means a site that borders a boundary line of National Forest System land.

(2) CULTURAL ITEMS.—The term "cultural items" has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), except that the term does not include human remains.

(3) HUMAN REMAINS.—The term "human remains" means the physical remains of the body of a person of Indian ancestry.

(4) INDIAN.—The term "Indian" means an individual who is a member of an Indian tribe.

(5) INDIAN TRIBE.—The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community the name of which is included on a list published by the Secretary of the Interior pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

(6) LINEAL DESCENDANT.—The term "lineal descendant" means an individual that can trace, directly and without interruption, the ancestry of the individual through the traditional kinship system of an Indian tribe, or through the common law system of descent, to a known Indian, the human remains, funerary objects, or other sacred objects of whom are claimed by the individual.

(7) NATIONAL FOREST SYSTEM.—The term "National Forest System" has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(8) REBURIAL SITE.—The term "reburial site" means a specific physical location at which cultural items or human remains are reburied.

(9) TRADITIONAL AND CULTURAL PURPOSE.—The term "traditional and cultural purpose", with respect to a definable use, area, or practice, means that the use, area, or practice is identified by an Indian tribe as traditional or cultural because of the long-established significance or ceremonial nature of the use, area, or practice to the Indian tribe.

**SEC. 8103. REBURIAL OF HUMAN REMAINS AND CULTURAL ITEMS.** 25 USC 3053.

(a) REBURIAL SITES.—In consultation with an affected Indian tribe or lineal descendant, the Secretary may authorize the use of National Forest System land by the Indian tribe or lineal descendant for the reburial of human remains or cultural items in the

possession of the Indian tribe or lineal descendant that have been disinterred from National Forest System land or an adjacent site.

(b) REBURIAL.—With the consent of the affected Indian tribe or lineal descendent, the Secretary may recover and rebury, at Federal expense or using other available funds, human remains and cultural items described in subsection (a) at the National Forest System land identified under that subsection.

(c) AUTHORIZATION OF USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may authorize such uses of reburial sites on National Forest System land, or on the National Forest System land immediately surrounding a reburial site, as the Secretary determines to be necessary for management of the National Forest System.

(2) AVOIDANCE OF ADVERSE IMPACTS.—In carrying out paragraph (1), the Secretary shall avoid adverse impacts to cultural items and human remains, to the maximum extent practicable.

25 USC 3054.

**SEC. 8104. TEMPORARY CLOSURE FOR TRADITIONAL AND CULTURAL PURPOSES.**

(a) RECOGNITION OF HISTORIC USE.—To the maximum extent practicable, the Secretary shall ensure access to National Forest System land by Indians for traditional and cultural purposes, in accordance with subsection (b), in recognition of the historic use by Indians of National Forest System land.

(b) CLOSING LAND FROM PUBLIC ACCESS.—

(1) AUTHORITY TO CLOSE.—Upon the approval by the Secretary of a request from an Indian tribe, the Secretary may temporarily close from public access specifically identified National Forest System land to protect the privacy of tribal activities for traditional and cultural purposes.

(2) LIMITATION.—A closure of National Forest System land under paragraph (1) shall affect the smallest practicable area for the minimum period necessary for activities of the applicable Indian tribe.

(3) CONSISTENCY.—Access by Indian tribes to National Forest System land under this subsection shall be consistent with the purposes of Public Law 95–341 (commonly known as the American Indian Religious Freedom Act; 42 U.S.C. 1996).

25 USC 3055.

**SEC. 8105. FOREST PRODUCTS FOR TRADITIONAL AND CULTURAL PURPOSES.**

(a) IN GENERAL.—Notwithstanding section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Secretary may provide free of charge to Indian tribes any trees, portions of trees, or forest products from National Forest System land for traditional and cultural purposes.

(b) PROHIBITION.—Trees, portions of trees, or forest products provided under subsection (a) may not be used for commercial purposes.

25 USC 3056.

**SEC. 8106. PROHIBITION ON DISCLOSURE.**

(a) NONDISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—The Secretary shall not disclose under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), information relating to—

(A) subject to subsection (b)(l), human remains or cultural items reburied on National Forest System land under section 8103; or

(B) subject to subsection (b)(2), resources, cultural items, uses, or activities that—

(i) have a traditional and cultural purpose; and

(ii) are provided to the Secretary by an Indian or Indian tribe under an express expectation of confidentiality in the context of forest and rangeland research activities carried out under the authority of the Forest Service.

(2) LIMITATIONS ON DISCLOSURE.—Subject to subsection (b)(2), the Secretary shall not be required to disclose information under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), concerning the identity, use, or specific location in the National Forest System of—

(A) a site or resource used for traditional and cultural purposes by an Indian tribe; or

(B) any cultural items not covered under section 8103.

(b) LIMITED RELEASE OF INFORMATION.—

(1) REBURIAL.—The Secretary may disclose information described in subsection (a)(l)(A) if, before the disclosure, the Secretary—

(A) consults with an affected Indian tribe or lineal descendent;

(B) determines that disclosure of the information—

(i) would advance the purposes of this subtitle; and

(ii) is necessary to protect the human remains or cultural items from harm, theft, or destruction; and

(C) attempts to mitigate any adverse impacts identified by an Indian tribe or lineal descendant that reasonably could be expected to result from disclosure of the information.

(2) OTHER INFORMATION.—The Secretary, in consultation with appropriate Indian tribes, may disclose information described under paragraph (1)(B) or (2) of subsection (a) if the Secretary determines that disclosure of the information to the public—

(A) would advance the purposes of this subtitle;

(B) would not create an unreasonable risk of harm, theft, or destruction of the resource, site, or object, including individual organic or inorganic specimens; and

(C) would be consistent with other applicable laws.

**SEC. 8107. SEVERABILITY AND SAVINGS PROVISIONS.** 25 USC 3057.

(a) SEVERABILITY.—If any provision of this subtitle, or the application of any provision of this subtitle to any person or circumstance is held invalid, the application of such provision or circumstance and the remainder of this subtitle shall not be affected thereby.

(b) SAVINGS.—Nothing in this subtitle—

(1) diminishes or expands the trust responsibility of the United States to Indian tribes, or any legal obligation or remedy resulting from that responsibility;

(2) alters, abridges, repeals, or affects any valid agreement between the Forest Service and an Indian tribe;

(3) alters, abridges, diminishes, repeals, or affects any reserved or other right of an Indian tribe; or

(4) alters, abridges, diminishes, repeals, or affects any other valid existing right relating to National Forest System land or other public land.

# Subtitle C—Amendments to Other Forestry-Related Laws

**SEC. 8201. RURAL REVITALIZATION TECHNOLOGIES.**

Section 2371(d)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601(d)(2)) is amended by striking "2004 through 2008" and inserting "2008 through 2012".

**SEC. 8202. OFFICE OF INTERNATIONAL FORESTRY.**

Section 2405(d) of the Global Climate Change Prevention Act of 1990 (7 U.S.C. 6704(d)) is amended by striking "2007" and inserting "2012".

**SEC. 8203. EMERGENCY FOREST RESTORATION PROGRAM.**

(a) ESTABLISHMENT.—Title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.) is amended by adding at the end the following new section:

16 USC 2206.

**"SEC. 407. EMERGENCY FOREST RESTORATION PROGRAM.**

"(a) DEFINITIONS.—In this section:

"(1) EMERGENCY MEASURES.—The term 'emergency measures' means those measures that—

"(A) are necessary to address damage caused by a natural disaster to natural resources on nonindustrial private forest land, and the damage, if not treated—

"(i) would impair or endanger the natural resources on the land; and

"(ii) would materially affect future use of the land; and

"(B) would restore forest health and forest-related resources on the land.

"(2) NATURAL DISASTER.—The term 'natural disaster' includes wildfires, hurricanes or excessive winds, drought, ice storms or blizzards, floods, or other resource-impacting events, as determined by the Secretary.

"(3) NONINDUSTRIAL PRIVATE FOREST LAND.—The term 'nonindustrial private forest land' means rural land, as determined by the Secretary, that—

"(A) has existing tree cover (or had tree cover immediately before the natural disaster and is suitable for growing trees); and

"(B) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decision-making authority over the land.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(b) AVAILABILITY OF ASSISTANCE.—The Secretary may make payments to an owner of nonindustrial private forest land who carries out emergency measures to restore the land after the land is damaged by a natural disaster.

"(c) ELIGIBILITY.—To be eligible to receive a payment under subsection (b), an owner must demonstrate to the satisfaction of

the Secretary that the nonindustrial private forest land on which the emergency measures are carried out had tree cover immediately before the natural disaster.

"(d) COST SHARE REQUIREMENT.—Payments made under subsection (b) shall not exceed 75 percent of the total cost of the emergency measures carried out by an owner of nonindustrial private forest land.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such funds as may be necessary to carry out this section. Amounts so appropriated shall remain available until expended.".

(b) REGULATIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out section 407 of the Agricultural Credit Act of 1978, as added by subsection (a). Deadline. 16 USC 2206 note.

**SEC. 8204. PREVENTION OF ILLEGAL LOGGING PRACTICES.**

(a) DEFINITIONS.—

(1) PLANT.—Subsection (f) of section 2 of the Lacey Act Amendments of 1981 (16 U.S.C. 3371) is amended to read as follows:

"(f) PLANT.—

"(1) IN GENERAL.—The terms 'plant' and 'plants' mean any wild member of the plant kingdom, including roots, seeds, parts, or products thereof, and including trees from either natural or planted forest stands.

"(2) EXCLUSIONS.—The terms 'plant' and 'plants' exclude—

"(A) common cultivars, except trees, and common food crops (including roots, seeds, parts, or products thereof);

"(B) a scientific specimen of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that is to be used only for laboratory or field research; and

"(C) any plant that is to remain planted or to be planted or replanted.

"(3) EXCEPTIONS TO APPLICATION OF EXCLUSIONS.—The exclusions made by subparagraphs (B) and (C) of paragraph (2) do not apply if the plant is listed—

"(A) in an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

"(B) as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

"(C) pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.".

(2) INCLUSION OF SECRETARY OF AGRICULTURE.—Section 2(h) of the Lacey Act Amendments of 1981 (16 U.S.C. 3371(h)) is amended by striking "plants the term means" and inserting "plants, the term also means".

(3) TAKEN AND TAKING.—Subsection (j) of section 2 of the Lacey Act Amendments of 1981 (16 U.S.C. 3371) is amended to read as follows:

"(j) TAKEN AND TAKING.—

"(1) TAKEN.—The term 'taken' means captured, killed, or collected and, with respect to a plant, also means harvested, cut, logged, or removed.

"(2) TAKING.—The term 'taking' means the act by which fish, wildlife, or plants are taken.".

(b) PROHIBITED ACTS.—

(1) OFFENSES OTHER THAN MARKING.—Section 3(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3372(a)) is amended—

(A) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraph:

"(B) any plant—

"(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

"(I) the theft of plants;

"(II) the taking of plants from a park, forest reserve, or other officially protected area;

"(III) the taking of plants from an officially designated area; or

"(IV) the taking of plants without, or contrary to, required authorization;

"(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

"(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or"; and

(B) in paragraph (3), by striking subparagraph (B) and inserting the following subparagraph:

"(B) to possess any plant—

"(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

"(I) the theft of plants;

"(II) the taking of plants from a park, forest reserve, or other officially protected area;

"(III) the taking of plants from an officially designated area; or

"(IV) the taking of plants without, or contrary to, required authorization;

"(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

"(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or".

(2) PLANT DECLARATIONS.—Section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372) is amended by adding at the end the following new subsection:

"(f) PLANT DECLARATIONS.—

Effective date.

"(1) IMPORT DECLARATION.—Effective 180 days from the date of enactment of this subsection, and except as provided

in paragraph (3), it shall be unlawful for any person to import any plant unless the person files upon importation a declaration that contains—

"(A) the scientific name of any plant (including the genus and species of the plant) contained in the importation;

"(B) a description of—

"(i) the value of the importation; and

"(ii) the quantity, including the unit of measure, of the plant; and

"(C) the name of the country from which the plant was taken.

"(2) DECLARATION RELATING TO PLANT PRODUCTS.—Until the date on which the Secretary promulgates a regulation under paragraph (6), a declaration relating to a plant product shall—

"(A) in the case in which the species of plant used to produce the plant product that is the subject of the importation varies, and the species used to produce the plant product is unknown, contain the name of each species of plant that may have been used to produce the plant product;

"(B) in the case in which the species of plant used to produce the plant product that is the subject of the importation is commonly taken from more than one country, and the country from which the plant was taken and used to produce the plant product is unknown, contain the name of each country from which the plant may have been taken; and

"(C) in the case in which a paper or paperboard plant product includes recycled plant product, contain the average percent recycled content without regard for the species or country of origin of the recycled plant product, in addition to the information for the non-recycled plant content otherwise required by this subsection.

"(3) EXCLUSIONS.—Paragraphs (1) and (2) shall not apply to plants used exclusively as packaging material to support, protect, or carry another item, unless the packaging material itself is the item being imported.

"(4) REVIEW.—Not later than two years after the date of enactment of this subsection, the Secretary shall review the implementation of each requirement imposed by paragraphs (1) and (2) and the effect of the exclusion provided by paragraph (3). In conducting the review, the Secretary shall provide public notice and an opportunity for comment. Deadline.

"(5) REPORT.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (4), the Secretary shall submit to the appropriate committees of Congress a report containing—

"(A) an evaluation of—

"(i) the effectiveness of each type of information required under paragraphs (1) and (2) in assisting enforcement of this section; and

"(ii) the potential to harmonize each requirement imposed by paragraphs (1) and (2) with other applicable import regulations in existence as of the date of the report;

Recommendations.

"(B) recommendations for such legislation as the Secretary determines to be appropriate to assist in the identification of plants that are imported into the United States in violation of this section; and

"(C) an analysis of the effect of subsection (a) and this subsection on—

"(i) the cost of legal plant imports; and

"(ii) the extent and methodology of illegal logging practices and trafficking.

Deadline.

"(6) PROMULGATION OF REGULATIONS.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (4), the Secretary may promulgate regulations—

"(A) to limit the applicability of any requirement imposed by paragraph (2) to specific plant products;

"(B) to make any other necessary modification to any requirement imposed by paragraph (2), as determined by the Secretary based on the review; and

"(C) to limit the scope of the exclusion provided by paragraph (3), if the limitations in scope are warranted as a result of the review.".

(c) CROSS-REFERENCES TO NEW REQUIREMENT.—Section 4 of the Lacey Act Amendments of 1981 (16 U.S.C. 3373) is amended—

(1) by striking "subsections (b) and (d)" each place it appears and inserting "subsections (b), (d), and (f)";

(2) by striking "section 3(d)" each place it appears and inserting "subsection (d) or (f) of section 3"; and

(3) in subsection (a)(2), by striking "subsection 3(b)" and inserting "subsection (b) or (f) of section 3, except as provided in paragraph (1),".

(d) CIVIL FORFEITURES.—Section 5 of the Lacey Act Amendments of 1981 (16 U.S.C. 3374) is amended by adding at the end the following new subsection:

"(d) CIVIL FORFEITURES.—Civil forfeitures under this section shall be governed by the provisions of chapter 46 of title 18, United States Code.".

(e) ADMINISTRATION.—Section 7 of the Lacey Act Amendments of 1981 (16 U.S.C. 3376) is amended—

(1) in subsection (a)(1), by striking "section 4 and section" and inserting "sections 3(f), 4, and"; and

(2) by adding at the end the following new subsection:

Regulations.

"(c) CLARIFICATION OF EXCLUSIONS FROM DEFINITION OF PLANT.—The Secretary of Agriculture and the Secretary of the Interior, after consultation with the appropriate agencies, shall jointly promulgate regulations to define the terms used in section 2(f)(2)(A) for the purposes of enforcement under this Act.".

Effective date.
16 USC 3373 note.
16 USC 3373.

(f) TECHNICAL CORRECTION.—Effective as of November 14, 1988, and as if included therein as enacted, section 102(c) of Public Law 100–653 (102 Stat. 3825) is amended—

(1) by inserting "of the Lacey Act Amendments of 1981" after "Section 4"; and

(2) by striking "(other than section 3(b))" and inserting "(other than subsection 3(b))".

**SEC. 8205. HEALTHY FORESTS RESERVE PROGRAM.**

(a) ENROLLMENT.—Section 502 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6572(f)(1)) is amended—

(1) by striking subsections (e) and (f);

(2) by redesignating subsection (g) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection:

"(e) METHODS OF ENROLLMENT.—

"(1) AUTHORIZED METHODS.—Land may be enrolled in the healthy forests reserve program in accordance with—

"(A) a 10-year cost-share agreement;

"(B) a 30-year easement; or

"(C)(i) a permanent easement; or

"(ii) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under State law.

"(2) LIMITATION ON USE OF COST-SHARE AGREEMENTS AND EASEMENTS.—

"(A) IN GENERAL.—Of the total amount of funds expended under the program for a fiscal year to acquire easements and enter into cost-share agreements described in paragraph (1)—

"(i) not more than 40 percent shall be used for cost-share agreements described in paragraph (1)(A); and

"(ii) not more than 60 percent shall be used for easements described in subparagraphs (B) and (C) of paragraph (1).

"(B) REPOOLING.—The Secretary may use any funds allocated under clause (i) or (ii) of subparagraph (A) that are not obligated by April 1 of the fiscal year for which the funds are made available to carry out a different method of enrollment during that fiscal year.

"(3) ACREAGE OWNED BY INDIAN TRIBES.—In the case of acreage owned by an Indian tribe, the Secretary may enroll acreage into the healthy forests reserve program through the use of—

"(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);

"(B) a 10-year cost-share agreement; or

"(C) any combination of the options described in subparagraphs (A) and (B).".

(b) FINANCIAL ASSISTANCE.—Section 504(a) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6574(a)) is amended by striking "(a) EASEMENTS OF NOT MORE THAN 99 YEARS" and all that follows through "502(f)(1)(C)" and inserting the following:

"(a) PERMANENT EASEMENTS.—In the case of land enrolled in the healthy forests reserve program using a permanent easement (or an easement described in section 502(f)(1)(C)(ii))".

(c) FUNDING.—Section 508 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6578) is amended to read as follows:

**"SEC. 508. FUNDING.**

"(a) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available $9,750,000 for each of fiscal years 2009 through 2012 to carry out this title.

"(b) DURATION OF AVAILABILITY.—The funds made available under subsection (a) shall remain available until expended.".

# Subtitle D—Boundary Adjustments and Land Conveyance Provisions

**SEC. 8301. GREEN MOUNTAIN NATIONAL FOREST BOUNDARY ADJUSTMENT.**

(a) IN GENERAL.—The boundary of the Green Mountain National Forest is modified to include the 13 designated expansion units as generally depicted on the forest maps entitled "Green Mountain Expansion Area Map I" and "Green Mountain Expansion Area Map II" and dated February 20, 2002 (copies of which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia), and more particularly described according to the site specific maps and legal descriptions on file in the office of the Forest Supervisor, Green Mountain National Forest.

(b) MANAGEMENT.—Federally owned land delineated on the maps acquired for National Forest purposes shall continue to be managed in accordance with the laws (including regulations) applicable to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460 l–9), the boundaries of the Green Mountain National Forest, as adjusted by this section, shall be considered to be the boundaries of the national forest as of January 1, 1965.

**SEC. 8302. LAND CONVEYANCES, CHIHUAHUAN DESERT NATURE PARK, NEW MEXICO, AND GEORGE WASHINGTON NATIONAL FOREST, VIRGINIA.**

(a) CHIHUAHUAN DESERT NATURE PARK CONVEYANCE.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights and subsection (b), the Secretary of Agriculture shall convey to the Chihuahuan Desert Nature Park, Inc., a nonprofit corporation in the State of New Mexico (in this section referred to as the "Nature Park"), by quitclaim deed and for no consideration, all right, title, and interest of the United States in and to the land described in paragraph (2)

(2) DESCRIPTION OF LAND.—

(A) IN GENERAL.—The parcel of land referred to in paragraph (1) consists of the approximately 935.62 acres of land in Dona Ana County, New Mexico, which is more particularly described—

(i) as sections 17, 20, and 21 of T. 21 S., R. 2 E., N.M.P.M.; and

(ii) in an easement deed dated May 14, 1998, from the Department of Agriculture to the Nature Park.

(B) MODIFICATIONS.—The Secretary may modify the description of the land under subparagraph (A) to—

(i) correct errors in the description; or

(ii) facilitate management of the land.

(b) CONDITIONS.—The conveyance of land under subsection (a) shall be subject to—

(1) the reservation by the United States of all mineral and subsurface rights to the land, including any geothermal resources;

(2) the condition that the Chihuahuan Desert Nature Park Board pay any costs relating to the conveyance;

(3) any rights-of-way reserved by the Secretary;

(4) a covenant or restriction in the deed to the land requiring that—

(A) the land may be used only for educational or scientific purposes; and

(B) if the land is no longer used for the purposes described in subparagraph (A), the land may, at the discretion of the Secretary, revert to the United States in accordance with subsection (c); and

(5) any other terms and conditions that the Secretary determines to be appropriate.

(c) REVERSION.—If the land conveyed under subsection (a) is no longer used for the purposes described in subsection (b)(4)(A), the land may, at the discretion of the Secretary, revert to the United States. If the Secretary chooses to have the land revert to the United States, the Secretary shall—

(1) determine whether the land is environmentally contaminated, including contamination from hazardous wastes, hazardous substances, pollutants, contaminants, petroleum, or petroleum by-products; and

(2) if the Secretary determines that the land is environmentally contaminated, the Nature Park, the successor to the Nature Park, or any other person responsible for the contamination shall be required to remediate the contamination.

(d) WITHDRAWAL.—All federally owned mineral and subsurface rights to the land to be conveyed under subsection (a) are withdrawn from—

(1) location, entry, and patent under the mining laws; and

(2) the operation of the mineral leasing laws, including the geothermal leasing laws.

(e) WATER RIGHTS.—Nothing in subsection (a) authorizes the conveyance of water rights to the Nature Park.

(f) GEORGE WASHINGTON NATIONAL FOREST CONVEYANCE, VIRGINIA.—

(1) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the Central Advent Christian Church of Alleghany County, Virginia (in this subsection referred to as the "recipient"), all right, title, and interest of the United States in and to a parcel of real property in the George Washington National Forest, Alleghany County, Virginia, consisting of not more than 8 acres, including a cemetery encompassing approximately 6 acres designated as an area of special use for the recipient, and depicted on the Forest Service map showing tract G–2032c and dated August 20, 2002, and the Forest Service map showing the area of special use and dated March 14, 2001.

(2) CONDITION OF CONVEYANCE.—The conveyance under this subsection shall be subject to the condition that the recipient accept the real property described in paragraph (1) in its condition at the time of the conveyance, commonly known as conveyance "as is".

(3) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this subsection shall be determined by a survey satisfactory

to the Secretary. The cost of the survey shall be borne by the recipient.

(4) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this subsection as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 8303. SALE AND EXCHANGE OF NATIONAL FOREST SYSTEM LAND, VERMONT.**

(a) DEFINITIONS.—In this section:

(1) BROMLEY.—The term "Bromley" means Bromley Mountain Ski Resort, Inc.

(2) MAP.—The term "map" means the map entitled "Proposed Bromley Land Sale or Exchange" and dated April 7, 2004.

(3) STATE.—The term "State" means the State of Vermont.

(b) SALE OR EXCHANGE OF GREEN MOUNTAIN NATIONAL FOREST LAND.—

(1) IN GENERAL.—The Secretary of Agriculture may, under any terms and conditions that the Secretary may prescribe, sell or exchange any right, title, and interest of the United States in and to the parcels of National Forest System land described in paragraph (2).

(2) DESCRIPTION OF LAND.—The parcels of National Forest System land referred to in paragraph (1) are the 5 parcels of land in Bennington County in the State, as generally depicted on the map.

(3) MAP AND LEGAL DESCRIPTIONS.—

(A) IN GENERAL.—The map shall be on file and available for public inspection in—

(i) the office of the Chief of the Forest Service; and

(ii) the office of the Supervisor of the Green Mountain National Forest.

(B) MODIFICATIONS.—The Secretary may modify the map and legal descriptions to—

(i) correct technical errors; or

(ii) facilitate the conveyance under paragraph (1).

(4) CONSIDERATION.—Consideration for the sale or exchange of land described in paragraph (2)—

(A) shall be equal to an amount that is not less than the fair market value of the land sold or exchanged; and

(B) may be in the form of cash, land, or a combination of cash and land.

(5) APPRAISALS.—Any appraisal carried out to facilitate the sale or exchange of land under paragraph (1) shall conform with the Uniform Appraisal Standards for Federal Land Acquisitions.

(6) METHODS OF SALE.—

(A) CONVEYANCE TO BROMLEY.—

(i) IN GENERAL.—Before soliciting offers under subparagraph (B), the Secretary shall offer to convey to Bromley the land described in paragraph (2).

(ii) CONTRACT DEADLINE.—If Bromley accepts the offer under clause (i), the Secretary and Bromley shall have not more than 180 days after the date on which

any environmental analyses with respect to the land are completed to enter into a contract for the sale or exchange of the land.

(B) PUBLIC OR PRIVATE SALE.—If the Secretary and Bromley do not enter into a contract for the sale or exchange of the land by the date specified in subparagraph (A)(ii), the Secretary may sell or exchange the land at public or private sale (including auction), in accordance with such terms, conditions, and procedures as the Secretary determines to be in the public interest.

(C) REJECTION OF OFFERS.—The Secretary may reject any offer received under this paragraph if the Secretary determines that the offer is not adequate or is not in the public interest.

(D) BROKERS.—In any sale or exchange of land under this subsection, the Secretary may—

(i) use a real estate broker or other third party; and

(ii) pay the real estate broker or third party a commission in an amount comparable to the amounts of commission generally paid for real estate transactions in the area.

(7) CASH EQUALIZATION.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)), the Secretary may accept a cash equalization payment in excess of 25 percent of the value of any Federal land exchanged under this section.

(c) DISPOSITION OF PROCEEDS.—

(1) IN GENERAL.—The Secretary shall deposit the net proceeds from a sale or exchange under this section in the fund established under Public Law 90–171 (16 U.S.C. 484a) (commonly known as the "Sisk Act").

(2) USE.—Amounts deposited under paragraph (1) shall be available to the Secretary until expended, without further appropriation, for—

(A) the location and relocation of the Appalachian National Scenic Trail and the Long National Recreation Trail in the State;

(B) the acquisition of land and interests in land by the Secretary for National Forest System purposes within the boundary of the Green Mountain National Forest, including land for and adjacent to the Appalachian National Scenic Trail and the Long National Recreation Trail;

(C) the acquisition of wetland or an interest in wetland within the boundary of the Green Mountain National Forest to offset the loss of wetland from the parcels sold or exchanged; and

(D) the payment of direct administrative costs incurred in carrying out this section.

(3) LIMITATION.—Amounts deposited under paragraph (1) shall not—

(A) be paid or distributed to the State or counties or towns in the State under any provision of law; or

(B) be considered to be money received from units of the National Forest System for purposes of—

(i) the Act of May 23, 1908 (16 U.S.C. 500); or

(ii) the Act of March 4, 1913 (16 U.S.C. 501).

(4) PROHIBITION OF TRANSFER OR REPROGRAMMING.—Amounts deposited under paragraph (1) shall not be subject to transfer or reprogramming for wildfire management or any other emergency purposes.

(d) ACQUISITION OF LAND.—The Secretary may acquire, using funds made available under subsection (c) or otherwise made available for acquisition, land or an interest in land for National Forest System purposes within the boundary of the Green Mountain National Forest.

(e) EXEMPTION FROM CERTAIN LAWS.—Subtitle I of title 40, United States Code, shall not apply to any sale or exchange of National Forest System land under this section.

# Subtitle E—Miscellaneous Provisions

16 USC 472a note.

**SEC. 8401. QUALIFYING TIMBER CONTRACT OPTIONS.**

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED PRODUCER PRICE INDEX.—The term "authorized Producer Price Index" includes—

(A) the softwood commodity index (code number WPU 0811);

(B) the hardwood commodity index (code number WPU 0812);

(C) the wood chip index (code number PCU 3211133211135); and

(D) any other subsequent comparable index, as established by the Bureau of Labor Statistics of the Department of Labor and utilized by the Secretary of Agriculture.

(2) QUALIFYING CONTRACT.—The term "qualifying contract" means a contract for the sale of timber on National Forest System land—

(A) that was awarded during the period beginning on July 1, 2004, and ending on December 31, 2006;

(B) for which there is unharvested volume remaining;

(C) for which, not later than 90 days after the date of enactment of this Act, the timber purchaser makes a written request to the Secretary for one or more of the options described in subsection (b);

(D) that is not a salvage sale;

(E) for which the Secretary determines there is not an urgent need to harvest due to deteriorating timber conditions that developed after the award of the contract; and

(F) that is not in breach or in default.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(b) OPTIONS FOR QUALIFYING CONTRACTS.—

(1) CANCELLATION OR RATE REDETERMINATION.—Notwithstanding any other provision of law, if the rate at which a qualifying contract would be advertised as of the date of enactment of this Act is at least 50 percent less than the sum of the original bid rates for all of the species of timber that are the subject of the qualifying contract, the Secretary may, at the sole discretion of the Secretary—

(A) cancel the qualifying contract if the timber purchaser—

(i) pays 30 percent of the total value of the timber remaining in the qualifying contract based on bid rates;

(ii) completes each contractual obligation (including the removal of downed timber, the completion of road work, and the completion of erosion control work) of the timber purchaser with respect to each unit on which harvest has begun to a logical stopping point, as determined by the Secretary after consultation with the timber purchaser; and

(iii) terminates its rights under the qualifying contract; or

(B) modify the qualifying contract to redetermine the current contract rate of the qualifying contract to equal the sum obtained by adding—

(i) 25 percent of the bid premium on the qualifying contract; and

(ii) the rate at which the qualifying contract would be advertised as of the date of enactment of this Act.

(2) SUBSTITUTION OF INDEX.—

(A) SUBSTITUTION.—Notwithstanding any other provision of law, the Secretary may, at the sole discretion of the Secretary, substitute the Producer Price Index specified in the qualifying contract of a timber purchaser if the timber purchaser identifies—

(i) the products the timber purchaser intends to produce from the timber harvested under the qualifying contract; and

(ii) a substitute index from an authorized Producer Price Index that more accurately represents the predominant product identified in clause (i) for which there is an index.

(B) RATE REDETERMINATION FOLLOWING SUBSTITUTION OF INDEX.—If the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract to provide for—

(i) an emergency rate redetermination under the terms of the contract; or

(ii) a rate redetermination under paragraph (1)(B).

(C) LIMITATION ON MARKET-RELATED CONTRACT TERM ADDITION; PERIODIC PAYMENTS.—Notwithstanding any other provision of law, if the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract—

(i) to adjust the term in accordance with the market-related contract term addition provision in the qualifying contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the adjustment, but only if the drastic reduction criteria in such section are met for 2 or more consecutive calendar year quarters beginning with the calendar quarter in which the Secretary substitutes the Producer Price Index under subparagraph (A); and

(ii) to adjust the periodic payments required under the contract in accordance with applicable law and policies.

(3) CONTRACTS USING HARDWOOD LUMBER INDEX.—With respect to a qualifying contract using the hardwood commodity index referred to in subsection (a)(1)(B) for which the Secretary does not substitute the Producer Price Index under paragraph (2), the Secretary may, at the sole discretion of the Secretary—

(A) extend the contract term for a 1-year period beginning on the current contract termination date; and

(B) adjust the periodic payments required under the contract in accordance with applicable law and policies.

(c) EXTENSION OF MARKET-RELATED CONTRACT TERM ADDITION TIME LIMIT FOR CERTAIN CONTRACTS.—Notwithstanding any other provision of law, upon the written request of a timber purchaser, the Secretary may, at the sole discretion of the Secretary, modify a timber sale contract (including a qualifying contract) awarded to the purchaser before January 1, 2007, to adjust the term of the contract in accordance with the market-related contract term addition provision in the contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the modification, except that the Secretary may add no more than 4 years to the original contract length.

(d) EFFECT OF OPTIONS.—

(1) NO SURRENDER OF CLAIMS.—Operation of this section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose—

(A) under a qualifying contract before the date on which the Secretary cancels the contract or redetermines the rate under subsection (b)(1), substitutes a Producer Price Index under subsection (b)(2), or modifies the contract under subsection (b)(3); or

(B) under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (c).

(2) RELEASE OF LIABILITY.—In the written request for any option provided under subsections (b) and (c), a timber purchaser shall release the United States from all liability, including further consideration or compensation, resulting from—

(A) the cancellation of a qualifying contract of the purchaser or rate redetermination under subsection (b)(1), the substitution of a Producer Price Index under subsection (b)(2), the modification of the contract under subsection (b)(3) or a determination by the Secretary not to provide the cancellation, redetermination, substitution, or modification; or

(B) the modification of the term of a timber sale contract (including a qualifying contract) of the purchaser under subsection (c) or a determination by the Secretary not to provide the modification.

(3) LIMITATION.—Subject to subsection (b)(1)(A), the cancellation of a qualifying contract by the Secretary under subsection (b)(1) shall release the timber purchaser from further obligation under the canceled contract.

16 USC 1649a.

**SEC. 8402. HISPANIC-SERVING INSTITUTION AGRICULTURAL LAND NATIONAL RESOURCES LEADERSHIP PROGRAM.**

(a) DEFINITION OF HISPANIC-SERVING INSTITUTION.—In this section, the term "Hispanic-serving institution" has the meaning given

that term in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)).

(b) GRANT AUTHORITY.—The Secretary of Agriculture may make grants, on a competitive basis, to Hispanic-serving institutions for the purpose of establishing an undergraduate scholarship program to assist in the recruitment, retention, and training of Hispanics and other under-represented groups in forestry and related fields.

(c) USE OF GRANT FUNDS.—Grants made under this section shall be used to recruit, retain, train, and develop professionals to work in forestry and related fields with Federal agencies, such as the Forest Service, State agencies, and private-sector entities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2008 through 2012 such sums as may be necessary to carry out this section.

# TITLE IX—ENERGY

**SEC. 9001. ENERGY.**

(a) IN GENERAL.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended to read as follows:

# "TITLE IX—ENERGY

**"SEC. 9001. DEFINITIONS.** 7 USC 8101.

"Except as otherwise provided, in this title:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Biomass Research and Development Technical Advisory Committee established by section 9008(d)(1).

"(3) ADVANCED BIOFUEL.—

"(A) IN GENERAL.—The term 'advanced biofuel' means fuel derived from renewable biomass other than corn kernel starch.

"(B) INCLUSIONS.—Subject to subparagraph (A), the term 'advanced biofuel' includes—

"(i) biofuel derived from cellulose, hemicellulose, or lignin;

"(ii) biofuel derived from sugar and starch (other than ethanol derived from corn kernel starch);

"(iii) biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;

"(iv) diesel-equivalent fuel derived from renewable biomass, including vegetable oil and animal fat;

"(v) biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass;

"(vi) butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and

"(vii) other fuel derived from cellulosic biomass.

"(4) BIOBASED PRODUCT.—The term 'biobased product' means a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is—

"(A) composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials; or

"(B) an intermediate ingredient or feedstock.

"(5) BIOFUEL.—The term 'biofuel' means a fuel derived from renewable biomass.

"(6) BIOMASS CONVERSION FACILITY.—The term 'biomass conversion facility' means a facility that converts or proposes to convert renewable biomass into—

"(A) heat;

"(B) power;

"(C) biobased products; or

"(D) advanced biofuels.

"(7) BIOREFINERY.—The term 'biorefinery' means a facility (including equipment and processes) that—

"(A) converts renewable biomass into biofuels and biobased products; and

"(B) may produce electricity.

"(8) BOARD.—The term 'Board' means the Biomass Research and Development Board established by section 9008(c).

"(9) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(10) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)).

"(11) INTERMEDIATE INGREDIENT OR FEEDSTOCK.—The term 'intermediate ingredient or feedstock' means a material or compound made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials) or forestry materials, that are subsequently used to make a more complex compound or product.

"(12) RENEWABLE BIOMASS.—The term 'renewable biomass' means—

"(A) materials, pre-commercial thinnings, or invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) that—

"(i) are byproducts of preventive treatments that are removed—

"(I) to reduce hazardous fuels;

"(II) to reduce or contain disease or insect infestation; or

"(III) to restore ecosystem health;

"(ii) would not otherwise be used for higher-value products; and

"(iii) are harvested in accordance with—

"(I) applicable law and land management plans; and

"(II) the requirements for—

"(aa) old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); and

"(bb) large-tree retention of subsection (f) of that section; or

"(B) any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

"(i) renewable plant material, including—

"(I) feed grains;

"(II) other agricultural commodities;

"(III) other plants and trees; and

"(IV) algae; and

"(ii) waste material, including—

"(I) crop residue;

"(II) other vegetative waste material (including wood waste and wood residues);

"(III) animal waste and byproducts (including fats, oils, greases, and manure); and

"(IV) food waste and yard waste.

"(13) RENEWABLE ENERGY.—The term 'renewable energy' means energy derived from—

"(A) a wind, solar, renewable biomass, ocean (including tidal, wave, current, and thermal), geothermal, or hydroelectric source; or

"(B) hydrogen derived from renewable biomass or water using an energy source described in subparagraph (A).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

**"SEC. 9002. BIOBASED MARKETS PROGRAM.** 7 USC 8102.

"(a) FEDERAL PROCUREMENT OF BIOBASED PRODUCTS.—

"(1) DEFINITION OF PROCURING AGENCY.—In this subsection, the term 'procuring agency' means—

"(A) any Federal agency that is using Federal funds for procurement; or

"(B) a person that is a party to a contract with any Federal agency, with respect to work performed under such a contract.

"(2) PROCUREMENT PREFERENCE.—

"(A) IN GENERAL.—

"(i) PROCURING AGENCY DUTIES.—Except as provided in clause (ii) and subparagraph (B), after the date specified in applicable guidelines prepared pursuant to paragraph (3), each procuring agency shall—

"(I) establish a procurement program, develop procurement specifications, and procure biobased products identified under the guidelines described in paragraph (3) in accordance with this section; and

"(II) with respect to items described in the guidelines, give a procurement preference to those items that—

"(aa) are composed of the highest percentage of biobased products practicable; or

"(bb) comply with the regulations issued under section 103 of Public Law 100–556 (42 U.S.C. 6914b–1).

"(ii) EXCEPTION.—The requirements of clause (i)(I) to establish a procurement program and develop procurement specifications shall not apply to a person described in paragraph (1)(B).

"(B) FLEXIBILITY.—Notwithstanding subparagraph (A), a procuring agency may decide not to procure items described in that subparagraph if the procuring agency determines that the items—

"(i) are not reasonably available within a reasonable period of time;

"(ii) fail to meet—

"(I) the performance standards set forth in the applicable specifications; or

"(II) the reasonable performance standards of the procuring agencies; or

"(iii) are available only at an unreasonable price.

"(C) MINIMUM REQUIREMENTS.—Each procurement program required under this subsection shall, at a minimum—

"(i) be consistent with applicable provisions of Federal procurement law;

"(ii) ensure that items composed of biobased products will be purchased to the maximum extent practicable;

"(iii) include a component to promote the procurement program;

"(iv) provide for an annual review and monitoring of the effectiveness of the procurement program; and

"(v) adopt 1 of the 2 polices described in subparagraph (D) or (E), or a policy substantially equivalent to either of those policies.

"(D) CASE-BY-CASE POLICY.—

"(i) IN GENERAL.—Subject to subparagraph (B) and except as provided in clause (ii), a procuring agency adopting the case-by-case policy shall award a contract to the vendor offering an item composed of the highest percentage of biobased products practicable.

"(ii) EXCEPTION.—Subject to subparagraph (B), an agency adopting the policy described in clause (i) may make an award to a vendor offering items with less than the maximum biobased products content.

"(E) MINIMUM CONTENT STANDARDS.—Subject to subparagraph (B), a procuring agency adopting the minimum content standards policy shall establish minimum biobased products content specifications for awarding contracts in a manner that ensures that the biobased products content required is consistent with this subsection.

"(F) CERTIFICATION.—After the date specified in any applicable guidelines prepared pursuant to paragraph (3), contracting offices shall require that vendors certify that the biobased products to be used in the performance of the contract will comply with the applicable specifications or other contractual requirements.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary, after consultation with the Administrator, the Administrator of General Services, and the Secretary of Commerce (acting through the Director of the National Institute of Standards and Technology), shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this subsection.

"(B) REQUIREMENTS.—The guidelines under this paragraph shall—

"(i) designate those items (including finished products) that are or can be produced with biobased products (including biobased products for which there is only a single product or manufacturer in the category) that will be subject to the preference described in paragraph (2);

"(ii) designate those intermediate ingredients and feedstocks that are or can be used to produce items that will be subject to the preference described in paragraph (2);

"(iii) automatically designate items composed of intermediate ingredients and feedstocks designated under clause (ii), if the content of the designated intermediate ingredients and feedstocks exceeds 50 percent of the item (unless the Secretary determines a different composition percentage is appropriate);

"(iv) set forth recommended practices with respect to the procurement of biobased products and items containing such materials;

"(v) provide information as to the availability, relative price, performance, and environmental and public health benefits of such materials and items; and

"(vi) take effect on the date established in the guidelines, which may not exceed 1 year after publication. Effective date.

"(C) INFORMATION PROVIDED.—Information provided pursuant to subparagraph (B)(v) with respect to a material or item shall be considered to be provided for another item made with the same material or item.

"(D) PROHIBITION.—Guidelines issued under this paragraph may not require a manufacturer or vendor of biobased products, as a condition of the purchase of biobased products from the manufacturer or vendor, to provide to procuring agencies more data than would be required to be provided by other manufacturers or vendors offering products for sale to a procuring agency, other than data confirming the biobased content of a product.

"(E) QUALIFYING PURCHASES.—The guidelines shall apply with respect to any purchase or acquisition of a procurement item for which—

"(i) the purchase price of the item exceeds $10,000; or

"(ii) the quantity of the items or of functionally-equivalent items purchased or acquired during the preceding fiscal year was at least $10,000.

"(4) ADMINISTRATION.—

"(A) OFFICE OF FEDERAL PROCUREMENT POLICY.—The Office of Federal Procurement Policy, in cooperation with the Secretary, shall—

"(i) coordinate the implementation of this subsection with other policies for Federal procurement;

"(ii) annually collect the information required to be reported under subparagraph (B) and make the information publicly available;

"(iii) take a leading role in informing Federal agencies concerning, and promoting the adoption of and compliance with, procurement requirements for biobased products by Federal agencies; and

Deadline. Reports.

"(iv) not less than once every 2 years, submit to Congress a report that—

"(I) describes the progress made in carrying out this subsection; and

"(II) contains a summary of the information reported pursuant to subparagraph (B).

Reports.

"(B) OTHER AGENCIES.—To assist the Office of Federal Procurement Policy in carrying out subparagraph (A)—

"(i) each procuring agency shall submit each year to the Office of Federal Procurement Policy, to the maximum extent practicable, information concerning—

"(I) actions taken to implement paragraph (2);

"(II) the results of the annual review and monitoring program established under paragraph (2)(C)(iv);

"(III) the number and dollar value of contracts entered into during the year that include the direct procurement of biobased products;

"(IV) the number of service and construction (including renovations) contracts entered into during the year that include language on the use of biobased products; and

"(V) the types and dollar value of biobased products actually used by contractors in carrying out service and construction (including renovations) contracts during the previous year; and

"(ii) the General Services Administration and the Defense Logistics Agency shall submit each year to the Office of Federal Procurement Policy information concerning, to the maximum extent practicable, the types and dollar value of biobased products purchased by procuring agencies.

"(C) PROCUREMENT SUBJECT TO OTHER LAW.—Any procurement by any Federal agency that is subject to regulations of the Administrator under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) shall not be subject to the requirements of this section to the extent that the requirements are inconsistent with the regulations.

"(b) LABELING.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall establish a voluntary program under which the Secretary authorizes producers of biobased products to use the label 'USDA Certified Biobased Product'.

"(2) ELIGIBILITY CRITERIA.—

"(A) CRITERIA.—

"(i) IN GENERAL.—Not later than 90 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008 and except as provided in clause (ii), the Secretary, in consultation with the Administrator and representatives from small and large businesses, academia, other Federal agencies, and such other persons as the Secretary considers appropriate, shall issue criteria (as of the date of enactment of that Act) for determining which products may qualify to receive the label under paragraph (1). Deadline.

"(ii) EXCEPTION.—Clause (i) shall not apply to final criteria that have been issued (as of the date of enactment of that Act) by the Secretary.

"(B) REQUIREMENTS.—Criteria issued under subparagraph (A) shall—

"(i) encourage the purchase of products with the maximum biobased content;

"(ii) provide that the Secretary may designate as biobased for the purposes of the voluntary program established under this subsection finished products that contain significant portions of biobased materials or components; and

"(iii) to the maximum extent practicable, be consistent with the guidelines issued under subsection (a)(3).

"(3) USE OF LABEL.—The Secretary shall ensure that the label referred to in paragraph (1) is used only on products that meet the criteria issued pursuant to paragraph (2).

"(c) RECOGNITION.—The Secretary shall—

"(1) establish a program to recognize Federal agencies and private entities that use a substantial amount of biobased products; and

"(2) encourage Federal agencies to establish incentives programs to recognize Federal employees or contractors that make exceptional contributions to the expanded use of biobased products.

"(d) LIMITATION.—Nothing in this section shall apply to the procurement of motor vehicle fuels, heating oil, or electricity.

"(e) INCLUSION.—Effective beginning on the date that is 90 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Architect of the Capitol, the Sergeant at Arms of the Senate, and the Chief Administrative Officer of the House of Representatives shall consider the biobased product designations made under this section in making procurement decisions for the Capitol Complex. Effective date.

"(f) NATIONAL TESTING CENTER REGISTRY.—The Secretary shall establish a national registry of testing centers for biobased products that will serve biobased product manufacturers. Establishment.

"(g) REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008 and each year thereafter, the Secretary shall submit to Congress a report on the implementation of this section.

"(2) CONTENTS.—The report shall include—

"(A) a comprehensive management plan that establishes tasks, milestones, and timelines, organizational roles

and responsibilities, and funding allocations for fully implementing this section; and

"(B) information on the status of implementation of—

"(i) item designations (including designation of intermediate ingredients and feedstocks); and

"(ii) the voluntary labeling program established under subsection (b).

"(h) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to provide mandatory funding for biobased products testing and labeling as required to carry out this section—

"(A) $1,000,000 for fiscal year 2008; and

"(B) $2,000,000 for each of fiscal years 2009 through 2012.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2009 through 2012.

7 USC 8103.

**"SEC. 9003. BIOREFINERY ASSISTANCE.**

"(a) PURPOSE.—The purpose of this section is to assist in the development of new and emerging technologies for the development of advanced biofuels, so as to—

"(1) increase the energy independence of the United States;

"(2) promote resource conservation, public health, and the environment;

"(3) diversify markets for agricultural and forestry products and agriculture waste material; and

"(4) create jobs and enhance the economic development of the rural economy.

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means an individual, entity, Indian tribe, or unit of State or local government, including a corporation, farm cooperative, farmer cooperative organization, association of agricultural producers, National Laboratory, institution of higher education, rural electric cooperative, public power entity, or consortium of any of those entities.

"(2) ELIGIBLE TECHNOLOGY.—The term 'eligible technology' means, as determined by the Secretary—

"(A) a technology that is being adopted in a viable commercial-scale operation of a biorefinery that produces an advanced biofuel; and

"(B) a technology not described in subparagraph (A) that has been demonstrated to have technical and economic potential for commercial application in a biorefinery that produces an advanced biofuel.

"(c) ASSISTANCE.—The Secretary shall make available to eligible entities—

"(1) grants to assist in paying the costs of the development and construction of demonstration-scale biorefineries to demonstrate the commercial viability of 1 or more processes for converting renewable biomass to advanced biofuels; and

"(2) guarantees for loans made to fund the development, construction, and retrofitting of commercial-scale biorefineries using eligible technology.

"(d) GRANTS.—

"(1) COMPETITIVE BASIS.—The Secretary shall award grants under subsection (c)(1) on a competitive basis.

"(2) SELECTION CRITERIA.—

"(A) IN GENERAL.—In approving grant applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve applications that exceed a specified minimum, as determined by the Secretary.

"(B) FEASIBILITY.—In approving a grant application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.

"(C) SCORING SYSTEM.—In determining the priority scoring system, the Secretary shall consider—

"(i) the potential market for the advanced biofuel and the byproducts produced;

"(ii) the level of financial participation by the applicant, including support from non-Federal and private sources;

"(iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;

"(iv) whether the applicant is proposing to work with producer associations or cooperatives;

"(v) whether the applicant has established that the adoption of the process proposed in the application will have a positive impact on resource conservation, public health, and the environment;

"(vi) the potential for rural economic development;

"(vii) whether the area in which the applicant proposes to locate the biorefinery has other similar facilities;

"(viii) whether the project can be replicated; and

"(ix) scalability for commercial use.

"(3) COST SHARING.—

"(A) LIMITS.—The amount of a grant awarded for development and construction of a biorefinery under subsection (c)(1) shall not exceed an amount equal to 30 percent of the cost of the project.

"(B) FORM OF GRANTEE SHARE.—

"(i) IN GENERAL.—The grantee share of the cost of a project may be made in the form of cash or material.

"(ii) LIMITATION.—The amount of the grantee share that is made in the form of material shall not exceed 15 percent of the amount of the grantee share determined under subparagraph (A).

"(e) LOAN GUARANTEES.—

"(1) SELECTION CRITERIA.—

"(A) IN GENERAL.—In approving loan guarantee applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve applications that exceed a specified minimum, as determined by the Secretary.

"(B) FEASIBILITY.—In approving a loan guarantee application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.

"(C) SCORING SYSTEM.—In determining the priority scoring system for loan guarantees under subsection (c)(2), the Secretary shall consider—

"(i) whether the applicant has established a market for the advanced biofuel and the byproducts produced;

"(ii) whether the area in which the applicant proposes to place the biorefinery has other similar facilities;

"(iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;

"(iv) whether the applicant is proposing to work with producer associations or cooperatives;

"(v) the level of financial participation by the applicant, including support from non-Federal and private sources;

"(vi) whether the applicant has established that the adoption of the process proposed in the application will have a positive impact on resource conservation, public health, and the environment;

"(vii) whether the applicant can establish that if adopted, the biofuels production technology proposed in the application will not have any significant negative impacts on existing manufacturing plants or other facilities that use similar feedstocks;

"(viii) the potential for rural economic development;

"(ix) the level of local ownership proposed in the application; and

"(x) whether the project can be replicated.

"(2) LIMITATIONS.—

"(A) MAXIMUM AMOUNT OF LOAN GUARANTEED.—The principal amount of a loan guaranteed under subsection (c)(2) may not exceed $250,000,000.

"(B) MAXIMUM PERCENTAGE OF LOAN GUARANTEED.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, a loan guaranteed under subsection (c)(2) shall be in an amount not to exceed 80 percent of the project costs, as determined by the Secretary.

"(ii) OTHER DIRECT FEDERAL FUNDING.—The amount of a loan guaranteed for a project under subsection (c)(2) shall be reduced by the amount of other direct Federal funding that the eligible entity receives for the same project.

"(iii) AUTHORITY TO GUARANTEE THE LOAN.—The Secretary may guarantee up to 90 percent of the principal and interest due on a loan guaranteed under subsection (c)(2).

"(C) LOAN GUARANTEE FUND DISTRIBUTION.—Of the funds made available for loan guarantees for a fiscal year under subsection (h), 50 percent of the funds shall be

reserved for obligation during the second half of the fiscal year.

"(f) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

"(g) CONDITION ON PROVISION OF ASSISTANCE.—

"(1) IN GENERAL.—As a condition of receiving a grant or loan guarantee under this section, an eligible entity shall ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed, in whole or in part, with the grant or loan guarantee, as the case may be, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code.

"(2) AUTHORITY AND FUNCTIONS.—The Secretary of Labor shall have, with respect to the labor standards described in paragraph (1), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App) and section 3145 of title 40, United States Code.

"(h) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use for the cost of loan guarantees under this section, to remain available until expended—

"(A) $75,000,000 for fiscal year 2009; and

"(B) $245,000,000 for fiscal year 2010.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $150,000,000 for each of fiscal years 2009 through 2012.

**"SEC. 9004. REPOWERING ASSISTANCE.** 7 USC 8104.

"(a) IN GENERAL.—The Secretary shall carry out a program to encourage biorefineries in existence on the date of enactment of the Food, Conservation, and Energy Act of 2008 to replace fossil fuels used to produce heat or power to operate the biorefineries by making payments for—

"(1) the installation of new systems that use renewable biomass; or

"(2) the new production of energy from renewable biomass.

"(b) PAYMENTS.—

"(1) IN GENERAL.—The Secretary may make payments under this section to any biorefinery that meets the requirements of this section for a period determined by the Secretary.

"(2) AMOUNT.—The Secretary shall determine the amount of payments to be made under this section to a biorefinery after considering—

"(A) the quantity of fossil fuels a renewable biomass system is replacing;

"(B) the percentage reduction in fossil fuel used by the biorefinery that will result from the installation of the renewable biomass system; and

"(C) the cost and cost effectiveness of the renewable biomass system.

"(c) ELIGIBILITY.—To be eligible to receive a payment under this section, a biorefinery shall demonstrate to the Secretary that

the renewable biomass system of the biorefinery is feasible based on an independent feasibility study that takes into account the economic, technical and environmental aspects of the system.

"(d) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to make payments under this section $35,000,000 for fiscal year 2009, to remain available until expended.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2009 through 2012.

7 USC 8105.

**"SEC. 9005. BIOENERGY PROGRAM FOR ADVANCED BIOFUELS.**

"(a) DEFINITION OF ELIGIBLE PRODUCER.—In this section, the term 'eligible producer' means a producer of advanced biofuels.

"(b) PAYMENTS.—The Secretary shall make payments to eligible producers to support and ensure an expanding production of advanced biofuels.

"(c) CONTRACTS.—To receive a payment, an eligible producer shall—

"(1) enter into a contract with the Secretary for production of advanced biofuels; and

Records.

"(2) submit to the Secretary such records as the Secretary may require as evidence of the production of advanced biofuels.

"(d) BASIS FOR PAYMENTS.—The Secretary shall make payments under this section to eligible producers based on—

"(1) the quantity and duration of production by the eligible producer of an advanced biofuel;

"(2) the net nonrenewable energy content of the advanced biofuel, if sufficient data is available, as determined by the Secretary; and

"(3) other appropriate factors, as determined by the Secretary.

"(e) EQUITABLE DISTRIBUTION.—The Secretary may limit the amount of payments that may be received by a single eligible producer under this section in order to distribute the total amount of funding available in an equitable manner.

"(f) OTHER REQUIREMENTS.—To receive a payment under this section, an eligible producer shall meet any other requirements of Federal and State law (including regulations) applicable to the production of advanced biofuels.

"(g) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

"(A) $55,000,000 for fiscal year 2009;

"(B) $55,000,000 for fiscal year 2010;

"(C) $85,000,000 for fiscal year 2011; and

"(D) $105,000,000 for fiscal year 2012.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.

"(3) LIMITATION.—Of the funds provided for each fiscal year, not more than 5 percent of the funds shall be made

available to eligible producers for production at facilities with a total refining capacity exceeding 150,000,000 gallons per year.

**"SEC. 9006. BIODIESEL FUEL EDUCATION PROGRAM.** 7 USC 8106.

"(a) ESTABLISHMENT.—The Secretary shall, under such terms and conditions as the Secretary determines to be appropriate, make competitive grants to eligible entities to educate governmental and private entities that operate vehicle fleets, other interested entities (as determined by the Secretary), and the public about the benefits of biodiesel fuel use. Grants.

"(b) ELIGIBLE ENTITIES.—To receive a grant under subsection (b), an entity shall—

"(1) be a nonprofit organization or institution of higher education;

"(2) have demonstrated knowledge of biodiesel fuel production, use, or distribution; and

"(3) have demonstrated the ability to conduct educational and technical support programs.

"(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

"(d) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $1,000,000 for each of fiscal years 2008 through 2012.

**"SEC. 9007. RURAL ENERGY FOR AMERICA PROGRAM.** 7 USC 8107.

"(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Energy, shall establish a Rural Energy for America Program to promote energy efficiency and renewable energy development for agricultural producers and rural small businesses through—

"(1) grants for energy audits and renewable energy development assistance; and

"(2) financial assistance for energy efficiency improvements and renewable energy systems.

"(b) ENERGY AUDITS AND RENEWABLE ENERGY DEVELOPMENT ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make competitive grants to eligible entities to provide assistance to agricultural producers and rural small businesses— Grants.

"(A) to become more energy efficient; and

"(B) to use renewable energy technologies and resources.

"(2) ELIGIBLE ENTITIES.—An eligible entity under this subsection is—

"(A) a unit of State, tribal, or local government;

"(B) a land-grant college or university or other institution of higher education;

"(C) a rural electric cooperative or public power entity; and

"(D) any other similar entity, as determined by the Secretary.

"(3) SELECTION CRITERIA.—In reviewing applications of eligible entities to receive grants under paragraph (1), the Secretary shall consider—

"(A) the ability and expertise of the eligible entity in providing professional energy audits and renewable energy assessments;

"(B) the geographic scope of the program proposed by the eligible entity in relation to the identified need;

"(C) the number of agricultural producers and rural small businesses to be assisted by the program;

"(D) the potential of the proposed program to produce energy savings and environmental benefits;

"(E) the plan of the eligible entity for performing outreach and providing information and assistance to agricultural producers and rural small businesses on the benefits of energy efficiency and renewable energy development; and

"(F) the ability of the eligible entity to leverage other sources of funding.

"(4) USE OF GRANT FUNDS.—A recipient of a grant under paragraph (1) shall use the grant funds to assist agricultural producers and rural small businesses by—

"(A) conducting and promoting energy audits; and

"(B) providing recommendations and information on how—

"(i) to improve the energy efficiency of the operations of the agricultural producers and rural small businesses; and

"(ii) to use renewable energy technologies and resources in the operations.

"(5) LIMITATION.—Grant recipients may not use more than 5 percent of a grant for administrative expenses.

"(6) COST SHARING.—A recipient of a grant under paragraph (1) that conducts an energy audit for an agricultural producer or rural small business under paragraph (4) shall require that, as a condition of the energy audit, the agricultural producer or rural small business pay at least 25 percent of the cost of the energy audit, which shall be retained by the eligible entity for the cost of the energy audit.

"(c) FINANCIAL ASSISTANCE FOR ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY SYSTEMS.—

"(1) IN GENERAL.—In addition to any similar authority, the Secretary shall provide loan guarantees and grants to agricultural producers and rural small businesses—

"(A) to purchase renewable energy systems, including systems that may be used to produce and sell electricity; and

"(B) to make energy efficiency improvements.

"(2) AWARD CONSIDERATIONS.—In determining the amount of a loan guarantee or grant provided under this section, the Secretary shall take into consideration, as applicable—

"(A) the type of renewable energy system to be purchased;

"(B) the estimated quantity of energy to be generated by the renewable energy system;

"(C) the expected environmental benefits of the renewable energy system;

"(D) the quantity of energy savings expected to be derived from the activity, as demonstrated by an energy audit;

"(E) the estimated period of time for the energy savings generated by the activity to equal the cost of the activity;

"(F) the expected energy efficiency of the renewable energy system; and

"(G) other appropriate factors.

"(3) FEASIBILITY STUDIES.—

"(A) IN GENERAL.—The Secretary may provide assistance in the form of grants to an agricultural producer or rural small business to conduct a feasibility study for a project for which assistance may be provided under this subsection.

"(B) LIMITATION.—The Secretary shall use not more than 10 percent of the funds made available to carry out this subsection to provide assistance described in subparagraph (A).

"(C) AVOIDANCE OF DUPLICATIVE ASSISTANCE.—An entity shall be ineligible to receive assistance to carry out a feasibility study for a project under this paragraph if the entity has received other Federal or State assistance for a feasibility study for the project.

"(4) LIMITS.—

"(A) GRANTS.—The amount of a grant under this subsection shall not exceed 25 percent of the cost of the activity carried out using funds from the grant.

"(B) MAXIMUM AMOUNT OF LOAN GUARANTEES.—The amount of a loan guaranteed under this subsection shall not exceed $25,000,000.

"(C) MAXIMUM AMOUNT OF COMBINED GRANT AND LOAN GUARANTEE.—The combined amount of a grant and loan guaranteed under this subsection shall not exceed 75 percent of the cost of the activity funded under this subsection.

"(d) OUTREACH.—The Secretary shall ensure, to the maximum extent practicable, that adequate outreach relating to this section is being conducted at the State and local levels.

"(e) LOWER-COST ACTIVITIES.—

"(1) LIMITATION ON USE OF FUNDS.—Except as provided in paragraph (2), the Secretary shall use not less than 20 percent of the funds made available under subsection (g) to provide grants of $20,000 or less.

"(2) EXCEPTION.—Effective beginning on June 30 of each fiscal year, paragraph (1) shall not apply to funds made available under subsection (g) for the fiscal year. Effective date.

"(f) REPORT.—Not later than 4 years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to Congress a report on the implementation of this section, including the outcomes achieved by projects funded under this section.

"(g) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

"(A) $55,000,000 for fiscal year 2009;

"(B) $60,000,000 for fiscal year 2010;

"(C) $70,000,000 for fiscal year 2011; and

"(D) $70,000,000 for fiscal year 2012.

"(2) AUDIT AND TECHNICAL ASSISTANCE FUNDING.—

"(A) IN GENERAL.—Subject to subparagraph (B), of the funds made available for each fiscal year under paragraph

(1), 4 percent shall be available to carry out subsection (b).

Deadline.

"(B) OTHER USE.—Funds not obligated under subparagraph (A) by April 1 of each fiscal year to carry out subsection (b) shall become available to carry out subsection (c).

"(3) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.

7 USC 8108.

**"SEC. 9008. BIOMASS RESEARCH AND DEVELOPMENT.**

"(a) DEFINITIONS.—In this section:

"(1) BIOBASED PRODUCT.—The term 'biobased product' means—

"(A) an industrial product (including chemicals, materials, and polymers) produced from biomass; or

"(B) a commercial or industrial product (including animal feed and electric power) derived in connection with the conversion of biomass to fuel.

"(2) DEMONSTRATION.—The term 'demonstration' means demonstration of technology in a pilot plant or semi-works scale facility, including a plant or facility located on a farm.

"(3) INITIATIVE.—The term 'Initiative' means the Biomass Research and Development Initiative established under subsection (e).

"(b) COOPERATION AND COORDINATION IN BIOMASS RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy shall coordinate policies and procedures that promote research and development regarding the production of biofuels and biobased products.

"(2) POINTS OF CONTACT.—To coordinate research and development programs and activities relating to biofuels and biobased products that are carried out by their respective departments—

"(A) the Secretary of Agriculture shall designate, as the point of contact for the Department of Agriculture, an officer of the Department of Agriculture appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate; and

"(B) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate.

"(c) BIOMASS RESEARCH AND DEVELOPMENT BOARD.—

"(1) ESTABLISHMENT.—There is established the Biomass Research and Development Board to carry out the duties described in paragraph (3).

"(2) MEMBERSHIP.—The Board shall consist of—

"(A) the point of contacts of the Department of Energy and the Department of Agriculture, who shall serve as cochairpersons of the Board;

"(B) a senior officer of each of the Department of the Interior, the Environmental Protection Agency, the National Science Foundation, and the Office of Science and Technology Policy, each of whom shall have a rank that is equivalent to the rank of the points of contact; and

"(C) at the option of the Secretary of Agriculture and the Secretary of Energy, other members appointed by the Secretaries (after consultation with the Board).

"(3) DUTIES.—The Board shall—

"(A) coordinate research and development activities relating to biofuels and biobased products—

"(i) between the Department of Agriculture and the Department of Energy; and

"(ii) with other departments and agencies of the Federal Government;

"(B) provide recommendations to the points of contact concerning administration of this title;

"(C) ensure that—

"(i) solicitations are open and competitive with awards made annually; and

"(ii) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest; and

"(D) ensure that the panel of scientific and technical peers assembled under subsection (e) to review proposals is composed predominantly of independent experts selected from outside the Departments of Agriculture and Energy.

"(4) FUNDING.—Each agency represented on the Board is encouraged to provide funds for any purpose under this section.

"(5) MEETINGS.—The Board shall meet at least quarterly.

"(d) BIOMASS RESEARCH AND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—There is established the Biomass Research and Development Technical Advisory Committee to carry out the duties described in paragraph (3).

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The Advisory Committee shall consist of—

"(i) an individual affiliated with the biofuels industry;

"(ii) an individual affiliated with the biobased industrial and commercial products industry;

"(iii) an individual affiliated with an institution of higher education who has expertise in biofuels and biobased products;

"(iv) 2 prominent engineers or scientists from government or academia who have expertise in biofuels and biobased products;

"(v) an individual affiliated with a commodity trade association;

"(vi) 2 individuals affiliated with environmental or conservation organizations;

"(vii) an individual associated with State government who has expertise in biofuels and biobased products;

"(viii) an individual with expertise in energy and environmental analysis;

"(ix) an individual with expertise in the economics of biofuels and biobased products;

"(x) an individual with expertise in agricultural economics;

"(xi) an individual with expertise in plant biology and biomass feedstock development;

"(xii) an individual with expertise in agronomy, crop science, or soil science; and

"(xiii) at the option of the points of contact, other members.

"(B) APPOINTMENT.—The members of the Advisory Committee shall be appointed by the points of contact.

"(3) DUTIES.—The Advisory Committee shall—

"(A) advise the points of contact with respect to the Initiative; and

"(B) evaluate and make recommendations in writing to the Board regarding whether—

"(i) funds authorized for the Initiative are distributed and used in a manner that is consistent with the objectives, purposes, and considerations of the Initiative;

"(ii) solicitations are open and competitive with awards made annually;

"(iii) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest;

"(iv) the points of contact are funding proposals under this title that are selected on the basis of merit, as determined by an independent panel of scientific and technical peers predominantly from outside the Departments of Agriculture and Energy; and

"(v) activities under this title are carried out in accordance with this title.

"(4) COORDINATION.—To avoid duplication of effort, the Advisory Committee shall coordinate its activities with those of other Federal advisory committees working in related areas.

"(5) MEETINGS.—The Advisory Committee shall meet at least quarterly.

"(6) TERMS.—Members of the Advisory Committee shall be appointed for a term of 3 years.

"(e) BIOMASS RESEARCH AND DEVELOPMENT INITIATIVE.—

Establishment.

"(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy, acting through their respective points of contact and in consultation with the Board, shall establish and carry out a Biomass Research and Development Initiative under which competitively awarded grants, contracts, and financial assistance are provided to, or entered into with, eligible entities to carry out research on and development and demonstration of—

"(A) biofuels and biobased products; and

"(B) the methods, practices, and technologies, for the production of biofuels and biobased products.

"(2) OBJECTIVES.—The objectives of the Initiative are to develop—

"(A) technologies and processes necessary for abundant commercial production of biofuels at prices competitive with fossil fuels;

"(B) high-value biobased products—

"(i) to enhance the economic viability of biofuels and power;

"(ii) to serve as substitutes for petroleum-based feedstocks and products; and

"(iii) to enhance the value of coproducts produced using the technologies and processes; and

"(C) a diversity of economically and environmentally sustainable domestic sources of renewable biomass for conversion to biofuels, bioenergy, and biobased products.

"(3) TECHNICAL AREAS.—The Secretary of Agriculture and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and heads of other appropriate departments and agencies (referred to in this subsection as the 'Secretaries'), shall direct the Initiative in the 3 following areas:

"(A) FEEDSTOCKS DEVELOPMENT.—Research, development, and demonstration activities regarding feedstocks and feedstock logistics (including the harvest, handling, transport, preprocessing, and storage) relevant to production of raw materials for conversion to biofuels and biobased products.

"(B) BIOFUELS AND BIOBASED PRODUCTS DEVELOPMENT.—Research, development, and demonstration activities to support—

"(i) the development of diverse cost-effective technologies for the use of cellulosic biomass in the production of biofuels and biobased products; and

"(ii) product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and cogenerated power) that potentially can increase the feasibility of fuel production in a biorefinery.

"(C) BIOFUELS DEVELOPMENT ANALYSIS.—

"(i) STRATEGIC GUIDANCE.—The development of analysis that provides strategic guidance for the application of renewable biomass technologies to improve sustainability and environmental quality, cost effectiveness, security, and rural economic development.

"(ii) ENERGY AND ENVIRONMENTAL IMPACT.—Development of systematic evaluations of the impact of expanded biofuel production on the environment (including forest land) and on the food supply for humans and animals, including the improvement and development of tools for life cycle analysis of current and potential biofuels.

"(iii) ASSESSMENT OF FEDERAL LAND.—Assessments of the potential of Federal land resources to increase the production of feedstocks for biofuels and biobased products, consistent with the integrity of soil and water resources and with other environmental considerations.

"(4) ADDITIONAL CONSIDERATIONS.—Within the technical areas described in paragraph (3), the Secretaries shall support research and development—

"(A) to create continuously expanding opportunities for participants in existing biofuels production by seeking synergies and continuity with current technologies and practices;

"(B) to maximize the environmental, economic, and social benefits of production of biofuels and derived biobased products on a large scale; and

"(C) to facilitate small-scale production and local and on-farm use of biofuels, including the development of small-scale gasification technologies for production of biofuel from cellulosic feedstocks.

"(5) ELIGIBILITY.—To be eligible for a grant, contract, or assistance under this section, an applicant shall be—

"(A) an institution of higher education;

"(B) a National Laboratory;

"(C) a Federal research agency;

"(D) a State research agency;

"(E) a private sector entity;

"(F) a nonprofit organization; or

"(G) a consortium of 2 or more entities described in subparagraphs (A) through (F).

"(6) ADMINISTRATION.—

"(A) IN GENERAL.—After consultation with the Board, the points of contact shall—

Publication.

"(i) publish annually 1 or more joint requests for proposals for grants, contracts, and assistance under this subsection;

"(ii) require that grants, contracts, and assistance under this section be awarded based on a scientific peer review by an independent panel of scientific and technical peers;

"(iii) give special consideration to applications that—

"(I) involve a consortia of experts from multiple institutions;

"(II) encourage the integration of disciplines and application of the best technical resources; and

"(III) increase the geographic diversity of demonstration projects; and

"(iv) require that the technical areas described in each of subparagraphs (A), (B), and (C) of paragraph (3) receive not less than 15 percent of funds made available to carry out this section.

"(B) COST SHARE.—

"(i) RESEARCH AND DEVELOPMENT PROJECTS.—

"(I) IN GENERAL.—Except as provided in subclause (II), the non-Federal share of the cost of a research or development project under this section shall be not less than 20 percent.

"(II) REDUCTION.—The Secretary of Agriculture or the Secretary of Energy, as appropriate, may reduce the non-Federal share required under

subclause (I) if the appropriate Secretary determines the reduction to be necessary and appropriate.

"(ii) DEMONSTRATION AND COMMERCIAL PROJECTS.—The non-Federal share of the cost of a demonstration or commercial project under this section shall be not less than 50 percent.

"(C) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary of Agriculture and the Secretary of Energy shall ensure that applicable research results and technologies from the Initiative are—

"(i) adapted, made available, and disseminated, as appropriate; and

"(ii) included in the best practices database established under section 1672C(e) of the Food, Agriculture, Conservation, and Trade Act of 1990.

"(f) ADMINISTRATIVE SUPPORT AND FUNDS.—

"(1) IN GENERAL.—The Secretary of Energy and the Secretary of Agriculture may provide such administrative support and funds of the Department of Energy and the Department of Agriculture to the Board and the Advisory Committee as are necessary to enable the Board and the Advisory Committee to carry out their duties under this section.

"(2) OTHER AGENCIES.—The heads of the agencies referred to in subsection (c)(2)(B), and the other members of the Board appointed under subsection (c)(2)(C), are encouraged to provide administrative support and funds of their respective agencies to the Board and the Advisory Committee.

"(3) LIMITATION.—Not more than 4 percent of the amount made available for each fiscal year under subsection (h) may be used to pay the administrative costs of carrying out this section.

"(g) REPORTS.—For each fiscal year for which funds are made available to carry out this section, the Secretary of Energy and the Secretary of Agriculture shall jointly submit to Congress a detailed report on—

"(1) the status and progress of the Initiative, including a report from the Advisory Committee on whether funds appropriated for the Initiative have been distributed and used in a manner that is consistent with the objectives and requirements of this section;

"(2) the general status of cooperation and research and development efforts carried out at each agency with respect to biofuels and biobased products; and

"(3) the plans of the Secretary of Energy and the Secretary of Agriculture for addressing concerns raised in the report, including concerns raised by the Advisory Committee.

"(h) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use to carry out this section, to remain available until expended—

"(A) $20,000,000 for fiscal year 2009;

"(B) $28,000,000 for fiscal year 2010;

"(C) $30,000,000 for fiscal year 2011; and

"(D) $40,000,000 for fiscal year 2012.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 2009 through 2012.

7 USC 8109.

**"SEC. 9009. RURAL ENERGY SELF-SUFFICIENCY INITIATIVE.**

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means a community located in a rural area (as defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A))).

"(2) INITIATIVE.—The term 'Initiative' means the Rural Energy Self-Sufficiency Initiative established under this section.

"(3) INTEGRATED RENEWABLE ENERGY SYSTEM.—The term 'integrated renewable energy system' means a community-wide energy system that—

"(A) reduces conventional energy use; and

"(B) increases the use of energy from renewable sources.

"(b) ESTABLISHMENT.—The Secretary shall establish a Rural Energy Self-Sufficiency Initiative to provide financial assistance for the purpose of enabling eligible rural communities to substantially increase the energy self-sufficiency of the eligible rural communities.

"(c) GRANT ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make grants available under the Initiative to eligible rural communities to carry out an activity described in paragraph (2).

"(2) USE OF GRANT FUNDS.—An eligible rural community may use a grant—

"(A) to conduct an energy assessment that assesses the total energy use of all energy users in the eligible rural community;

"(B) to formulate and analyze ideas for reducing energy usage by the eligible rural community from conventional sources; and

"(C) to develop and install an integrated renewable energy system.

"(3) GRANT SELECTION.—

"(A) APPLICATION.—To be considered for a grant, an eligible rural community shall submit an application to the Secretary that describes the ways in which the community would use the grant to carry out an activity described in paragraph (2).

"(B) PREFERENCE.—The Secretary shall give preference to those applications that propose to carry out an activity in coordination with—

"(i) institutions of higher education or nonprofit foundations of institutions of higher education;

"(ii) Federal, State, or local government agencies;

"(iii) public or private power generation entities; or

"(iv) government entities with responsibility for water or natural resources.

"(4) REPORT.—An eligible rural community receiving a grant under the Initiative shall submit to the Secretary a report on the project of the eligible rural community.

"(5) COST-SHARING.—The amount of a grant under the Initiative shall not exceed 50 percent of the cost of the activities described in the application.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2009 through 2012.

**"SEC. 9010. FEEDSTOCK FLEXIBILITY PROGRAM FOR BIOENERGY PRODUCERS.** 7 USC 8110.

"(a) DEFINITIONS.—In this section:

"(1) BIOENERGY.—The term 'bioenergy' means fuel grade ethanol and other biofuel.

"(2) BIOENERGY PRODUCER.—The term 'bioenergy producer' means a producer of bioenergy that uses an eligible commodity to produce bioenergy under this section.

"(3) ELIGIBLE COMMODITY.—The term 'eligible commodity' means a form of raw or refined sugar or in-process sugar that is eligible to be marketed in the United States for human consumption or to be used for the extraction of sugar for human consumption.

"(4) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity located in the United States that markets an eligible commodity in the United States.

"(b) FEEDSTOCK FLEXIBILITY PROGRAM.—

"(1) IN GENERAL.—

"(A) PURCHASES AND SALES.—For each of the 2008 through 2012 crops, the Secretary shall purchase eligible commodities from eligible entities and sell such commodities to bioenergy producers for the purpose of producing bioenergy in a manner that ensures that section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

"(B) COMPETITIVE PROCEDURES.—In carrying out the purchases and sales required under subparagraph (A), the Secretary shall, to the maximum extent practicable, use competitive procedures, including the receiving, offering, and accepting of bids, when entering into contracts with eligible entities and bioenergy producers, provided that such procedures are consistent with the purposes of subparagraph (A).

"(C) LIMITATION.—The purchase and sale of eligible commodities under subparagraph (A) shall only be made in crop years in which such purchases and sales are necessary to ensure that the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

"(2) NOTICE.—

"(A) IN GENERAL.—As soon as practicable after the date of enactment of the Food, Conservation, and Energy Act of 2008 and each September 1 thereafter through September 1, 2012, the Secretary shall provide notice to eligible entities and bioenergy producers of the quantity of eligible commodities that shall be made available for purchase Deadlines.

and sale for the crop year following the date of the notice under this section.

Deadlines.

"(B) REESTIMATES.—Not later than the January 1, April 1, and July 1 of the calendar year following the date of a notice under subparagraph (A), the Secretary shall reestimate the quantity of eligible commodities determined under subparagraph (A), and provide notice and make purchases and sales based on such reestimates.

"(3) COMMODITY CREDIT CORPORATION INVENTORY.—

"(A) DISPOSITIONS.—

"(i) BIOENERGY AND GENERALLY.—Except as provided in clause (ii), to the extent that an eligible commodity is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)), the Secretary shall—

"(I) sell the eligible commodity to bioenergy producers under this section consistent with paragraph (1)(C);

"(II) dispose of the eligible commodity in accordance with section 156(f)(2) of that Act; or

"(III) otherwise dispose of the eligible commodity through the buyback of certificates of quota entry.

"(ii) PRESERVATION OF OTHER AUTHORITIES.—Nothing in this section limits the use of other authorities for the disposition of an eligible commodity held in the inventory of the Commodity Credit Corporation for nonfood use or otherwise in a manner that does not increase the net quantity of sugar available for human consumption in the United States market, consistent with section 156(f)(1) of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272(f)(1)).

"(B) EMERGENCY SHORTAGES.—Notwithstanding subparagraph (A), if there is an emergency shortage of sugar for human consumption in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event, the Secretary may dispose of an eligible commodity that is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)) through disposition as authorized under section 156(f) of that Act or through the use of any other authority of the Commodity Credit Corporation.

"(4) TRANSFER RULE; STORAGE FEES.—

Deadline.

"(A) GENERAL TRANSFER RULE.—Except with regard to emergency dispositions under paragraph (3)(B) and as provided in subparagraph (C), the Secretary shall ensure that bioenergy producers that purchase eligible commodities pursuant to this section take possession of the eligible commodities within 30 calendar days of the date of such purchase from the Commodity Credit Corporation.

"(B) PAYMENT OF STORAGE FEES PROHIBITED.—

"(i) IN GENERAL.—The Secretary shall, to the maximum extent practicable, carry out this section in a

manner that ensures no storage fees are paid by the Commodity Credit Corporation in the administration of this section.

"(ii) EXCEPTION.—Clause (i) shall not apply with respect to any commodities owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)).

"(C) OPTION TO PREVENT STORAGE FEES.—

"(i) IN GENERAL.—The Secretary may enter into contracts with bioenergy producers to sell eligible commodities to such producers prior in time to entering into contracts with eligible entities to purchase the eligible commodities to be used to satisfy the contracts entered into with the bioenergy producers.

"(ii) SPECIAL TRANSFER RULE.—If the Secretary makes a sale and purchase referred to in clause (i), the Secretary shall ensure that the bioenergy producer that purchased eligible commodities takes possession of such commodities within 30 calendar days of the date the Commodity Credit Corporation purchases the eligible commodities. Deadline.

"(5) RELATION TO OTHER LAWS.—If sugar that is subject to a marketing allotment under part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is the subject of a payment under this section, the sugar shall be considered marketed and shall count against a processor's allocation of an allotment under such part, as applicable. Sugar.

"(6) FUNDING.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation, including the use of such sums as are necessary, to carry out this section.

**"SEC. 9011. BIOMASS CROP ASSISTANCE PROGRAM.** 7 USC 8111.

"(a) DEFINITIONS.—In this section:

"(1) BCAP.—The term 'BCAP' means the Biomass Crop Assistance Program established under this section.

"(2) BCAP PROJECT AREA.—The term 'BCAP project area' means an area that—

"(A) has specified boundaries that are submitted to the Secretary by the project sponsor and subsequently approved by the Secretary;

"(B) includes producers with contract acreage that will supply a portion of the renewable biomass needed by a biomass conversion facility; and

"(C) is physically located within an economically practicable distance from the biomass conversion facility.

"(3) CONTRACT ACREAGE.—The term 'contract acreage' means eligible land that is covered by a BCAP contract entered into with the Secretary.

"(4) ELIGIBLE CROP.—

"(A) IN GENERAL.—The term 'eligible crop' means a crop of renewable biomass.

"(B) EXCLUSIONS.—The term 'eligible crop' does not include—

"(i) any crop that is eligible to receive payments under title I of the Food, Conservation, and Energy Act of 2008 or an amendment made by that title; or

"(ii) any plant that is invasive or noxious or has the potential to become invasive or noxious, as determined by the Secretary, in consultation with other appropriate Federal or State departments and agencies.

"(5) ELIGIBLE LAND.—

"(A) IN GENERAL.—The term 'eligible land' includes agricultural and nonindustrial private forest lands (as defined in section 5(c) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a(c))).

"(B) EXCLUSIONS.—The term 'eligible land' does not include—

"(i) Federal- or State-owned land;

"(ii) land that is native sod, as of the date of enactment of the Food, Conservation, and Energy Act of 2008;

"(iii) land enrolled in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

"(iv) land enrolled in the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of that Act (16 U.S.C. 3837 et seq.); or

"(v) land enrolled in the grassland reserve program established under subchapter D of chapter 2 of subtitle D of title XII of that Act (16 U.S.C. 3838n et seq.).

"(6) ELIGIBLE MATERIAL.—

"(A) IN GENERAL.—The term 'eligible material' means renewable biomass.

"(B) EXCLUSIONS.—The term 'eligible material' does not include—

"(i) any crop that is eligible to receive payments under title I of the Food, Conservation, and Energy Act of 2008 or an amendment made by that title;

"(ii) animal waste and byproducts (including fats, oils, greases, and manure);

"(iii) food waste and yard waste; or

"(iv) algae.

"(7) PRODUCER.—The term 'producer' means an owner or operator of contract acreage that is physically located within a BCAP project area.

"(8) PROJECT SPONSOR.—The term 'project sponsor' means—

"(A) a group of producers; or

"(B) a biomass conversion facility.

"(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and administer a Biomass Crop Assistance Program to—

"(1) support the establishment and production of eligible crops for conversion to bioenergy in selected BCAP project areas; and

"(2) assist agricultural and forest land owners and operators with collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.

"(c) BCAP PROJECT AREA.—

"(1) IN GENERAL.—The Secretary shall provide financial assistance to producers of eligible crops in a BCAP project area.

"(2) SELECTION OF PROJECT AREAS.—

"(A) IN GENERAL.—To be considered for selection as a BCAP project area, a project sponsor shall submit to the Secretary a proposal that includes, at a minimum—

"(i) a description of the eligible land and eligible crops of each producer that will participate in the proposed BCAP project area;

"(ii) a letter of commitment from a biomass conversion facility that the facility will use the eligible crops intended to be produced in the proposed BCAP project area;

"(iii) evidence that the biomass conversion facility has sufficient equity available, as determined by the Secretary, if the biomass conversion facility is not operational at the time the proposal is submitted to the Secretary; and

"(iv) any other appropriate information about the biomass conversion facility or proposed biomass conversion facility that gives the Secretary a reasonable assurance that the plant will be in operation by the time that the eligible crops are ready for harvest.

"(B) BCAP PROJECT AREA SELECTION CRITERIA.—In selecting BCAP project areas, the Secretary shall consider—

"(i) the volume of the eligible crops proposed to be produced in the proposed BCAP project area and the probability that such crops will be used for the purposes of the BCAP;

"(ii) the volume of renewable biomass projected to be available from sources other than the eligible crops grown on contract acres;

"(iii) the anticipated economic impact in the proposed BCAP project area;

"(iv) the opportunity for producers and local investors to participate in the ownership of the biomass conversion facility in the proposed BCAP project area;

"(v) the participation rate by—

"(I) beginning farmers or ranchers (as defined in accordance with section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a))); or

"(II) socially disadvantaged farmers or ranchers (as defined in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)));

"(vi) the impact on soil, water, and related resources;

"(vii) the variety in biomass production approaches within a project area, including (as appropriate)—

"(I) agronomic conditions;

"(II) harvest and postharvest practices; and

"(III) monoculture and polyculture crop mixes;

"(viii) the range of eligible crops among project areas; and

"(ix) any additional information, as determined by the Secretary.

"(3) CONTRACT.—

"(A) IN GENERAL.—On approval of a BCAP project area by the Secretary, each producer in the BCAP project area shall enter into a contract directly with the Secretary.

"(B) MINIMUM TERMS.—At a minimum, contracts shall include terms that cover—

"(i) an agreement to make available to the Secretary, or to an institution of higher education or other entity designated by the Secretary, such information as the Secretary considers to be appropriate to promote the production of eligible crops and the development of biomass conversion technology;

"(ii) compliance with the highly erodible land conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and the wetland conservation requirements of subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

"(iii) the implementation of (as determined by the Secretary)—

"(I) a conservation plan; or

"(II) a forest stewardship plan or an equivalent plan; and

"(iv) any additional requirements the Secretary considers appropriate.

"(C) DURATION.—A contract under this subsection shall have a term of up to—

"(i) 5 years for annual and perennial crops; or

"(ii) 15 years for woody biomass.

"(4) RELATIONSHIP TO OTHER PROGRAMS.—In carrying out this subsection, the Secretary shall provide for the preservation of cropland base and yield history applicable to the land enrolled in a BCAP contract.

"(5) PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make establishment and annual payments directly to producers to support the establishment and production of eligible crops on contract acreage.

"(B) AMOUNT OF ESTABLISHMENT PAYMENTS.—The amount of an establishment payment under this subsection shall be up to 75 percent of the costs of establishing an eligible perennial crop covered by the contract, including—

"(i) the cost of seeds and stock for perennials;

"(ii) the cost of planting the perennial crop, as determined by the Secretary; and

"(iii) in the case of nonindustrial private forestland, the costs of site preparation and tree planting.

"(C) AMOUNT OF ANNUAL PAYMENTS.—

"(i) IN GENERAL.—Subject to clause (ii), the amount of an annual payment under this subsection shall be determined by the Secretary.

"(ii) REDUCTION.—The Secretary shall reduce an annual payment by an amount determined to be appropriate by the Secretary, if—

"(I) an eligible crop is used for purposes other than the production of energy at the biomass conversion facility;

"(II) an eligible crop is delivered to the biomass conversion facility;

"(III) the producer receives a payment under subsection (d);

"(IV) the producer violates a term of the contract; or

"(V) there are such other circumstances, as determined by the Secretary to be necessary to carry out this section.

"(d) ASSISTANCE WITH COLLECTION, HARVEST, STORAGE, AND TRANSPORTATION.—

"(1) IN GENERAL.—The Secretary shall make a payment for the delivery of eligible material to a biomass conversion facility to—

"(A) a producer of an eligible crop that is produced on BCAP contract acreage; or

"(B) a person with the right to collect or harvest eligible material.

"(2) PAYMENTS.—

"(A) COSTS COVERED.—A payment under this subsection shall be in an amount described in subparagraph (B) for—

"(i) collection;

"(ii) harvest;

"(iii) storage; and

"(iv) transportation to a biomass conversion facility.

"(B) AMOUNT.—Subject to paragraph (3), the Secretary may provide matching payments at a rate of $1 for each $1 per ton provided by the biomass conversion facility, in an amount equal to not more than $45 per ton for a period of 2 years.

"(3) LIMITATION ON ASSISTANCE FOR BCAP CONTRACT ACREAGE.—As a condition of the receipt of annual payment under subsection (c), a producer receiving a payment under this subsection for collection, harvest, storage or transportation of an eligible crop produced on BCAP acreage shall agree to a reduction in the annual payment.

"(e) REPORT.—Not later than 4 years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the dissemination by the Secretary of the best practice data and information gathered from participants receiving assistance under this section.

"(f) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.

**"SEC. 9012. FOREST BIOMASS FOR ENERGY.**

7 USC 8112.

"(a) IN GENERAL.—The Secretary, acting through the Forest Service, shall conduct a competitive research and development program to encourage use of forest biomass for energy.

"(b) ELIGIBLE ENTITIES.—Entities eligible to compete under the program under this section include—

"(1) the Forest Service (acting through Research and Development);

"(2) other Federal agencies;

"(3) State and local governments;

"(4) Indian tribes;

"(5) land-grant colleges and universities; and

"(6) private entities.

"(c) PRIORITY FOR PROJECT SELECTION.—In carrying out this section, the Secretary shall give priority to projects that—

"(1) develop technology and techniques to use low-value forest biomass, such as byproducts of forest health treatments and hazardous fuels reduction, for the production of energy;

"(2) develop processes that integrate production of energy from forest biomass into biorefineries or other existing manufacturing streams;

"(3) develop new transportation fuels from forest biomass; and

"(4) improve the growth and yield of trees intended for renewable energy production.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2009 through 2012.

7 USC 8113.

**"SEC. 9013. COMMUNITY WOOD ENERGY PROGRAM.**

"(a) DEFINITIONS.—In this section:

"(1) COMMUNITY WOOD ENERGY PLAN.—The term 'community wood energy plan' means an assessment of—

"(A) available feedstocks necessary to supply a community wood energy system; and

"(B) the long-term feasibility of supplying and operating a community wood energy system.

"(2) COMMUNITY WOOD ENERGY SYSTEM.—

"(A) IN GENERAL.—The term 'community wood energy system' means an energy system that—

"(i) primarily services public facilities owned or operated by State or local governments, including schools, town halls, libraries, and other public buildings; and

"(ii) uses woody biomass as the primary fuel.

"(B) INCLUSIONS.—The term 'community wood energy system' includes single facility central heating, district heating, combined heat and energy systems, and other related biomass energy systems.

"(b) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall establish a program to be known as the 'Community Wood Energy Program' to provide—

"(A) grants of up to $50,000 to State and local governments (or designees) to develop community wood energy plans; and

"(B) competitive grants to State and local governments to acquire or upgrade community wood energy systems.

"(2) CONSIDERATIONS.—In selecting applicants for grants under paragraph (1)(B), the Secretary shall consider—

"(A) the energy efficiency of the proposed system;

"(B) the cost effectiveness of the proposed system; and

"(C) other conservation and environmental criteria that the Secretary considers appropriate.

"(3) USE OF PLAN.—A State or local government applying to receive a competitive grant described in paragraph (1)(B) shall submit to the Secretary as part of the grant application the applicable community wood energy plan.

"(c) LIMITATION.—A community wood energy system acquired with grant funds provided under subsection (b)(1)(B) shall not exceed an output of—

"(1) 50,000,000 Btu per hour for heating; and

"(2) 2 megawatts for electric power production.

"(d) MATCHING FUNDS.—A State or local government that receives a grant under subsection (b) shall contribute an amount of non-Federal funds towards the development of the community wood energy plan, or acquisition of the community wood energy systems that is at least equal to the amount of grant funds received by the State or local government under that subsection.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2009 through 2012.".

(b) CONFORMING AMENDMENT.—The Biomass Research and Development Act of 2000 (7 U.S.C. 8601 et seq.) is repealed.

**SEC. 9002. BIOFUELS INFRASTRUCTURE STUDY.**

(a) IN GENERAL.—The Secretary of Agriculture, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation (referred to in this section as the "Secretaries"), shall jointly conduct a study that includes—

(1) an assessment of the infrastructure needs for expanding the domestic production, transport, and distribution of biofuels given current and likely future market trends;

(2) recommendations for infrastructure needs and development approaches, taking into account cost and other associated factors; and

(3) a report that includes— Reports.

(A) a summary of infrastructure needs;

(B) an analysis of alternative development approaches to meeting the needs described in subparagraph (A), including cost, siting, and other regulatory issues; and

(C) recommendations for specific infrastructure development actions to be taken.

(b) SCOPE OF STUDY.—

(1) IN GENERAL.—In conducting the study described in subsection (a), the Secretaries shall address—

(A) current and likely future market trends for biofuels through calendar year 2025;

(B) current and future availability of feedstocks;

(C) water resource needs, including water requirements for biorefineries;

(D) shipping and storage needs for biomass feedstock and biofuels, including the adequacy of rural roads; and

(E) modes of transportation and delivery for biofuels (including shipment by rail, truck, pipeline or barge) and associated infrastructure issues.

(2) CONSIDERATIONS.—In addressing the issues described in paragraph (1), the Secretaries shall consider—

(A) the effects of increased tank truck, rail, and barge transport on existing infrastructure and safety;

(B) the feasibility of shipping biofuels through pipelines in existence as the date of enactment of this Act;

(C) the development of new biofuels pipelines, including siting, financing, timing, and other economic issues;

(D) the implications of various biofuel blend levels on infrastructure needs;

(E) the implications of various approaches to infrastructure development on resource use and conservation;

(F) regional differences in biofuels infrastructure needs; and

(G) other infrastructure issues, as determined by the Secretaries.

(c) IMPLEMENTATION.—In carrying out this section, the Secretaries —

(1) shall—

(A) consult with individuals and entities with interest or expertise in the areas described in subsection (b);

(B) to the extent available, use the information developed and results of the related studies authorized under sections 243 and 245 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1540, 1546)); and

(C) submit to Congress the report required under subsection (a)(3), including—

(i) in the Senate—

(I) the Committee on Agriculture, Nutrition, and Forestry ;

(II) the Committee on Commerce, Science, and Transportation;

(III) the Committee on Energy and Natural Resources; and

(IV) the Committee on Environment and Public Works; and

(ii) in the House of Representatives—

(I) the Committee on Agriculture;

(II) the Committee on Energy and Commerce;

(III) the Committee on Transportation and Infrastructure; and

(IV) the Committee on Science and Technology; and

(2) may issue a solicitation for a competition to select a contractor to support the Secretaries.

**SEC. 9003. RENEWABLE FERTILIZER STUDY.**

Deadline.

(a) IN GENERAL.—Not later than 1 year after the date of receipt of appropriations to carry out this section, the Secretary shall—

(1) conduct a study to assess the current state of knowledge regarding the potential for the production of fertilizer from renewable energy sources in rural areas, including—

(A) identification of the critical challenges to commercialization of rural production of nitrogen and phosphorus-based fertilizer from renewables;

(B) the most promising processes and technologies for renewable fertilizer production;

(C) the potential cost-competitiveness of renewable fertilizer; and

(D) the potential impacts of renewable fertilizer on fossil fuel use and the environment; and

(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study. Reports.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal year 2009.

# TITLE X—HORTICULTURE AND ORGANIC AGRICULTURE

**SEC. 10001. DEFINITIONS.** 7 USC 1622b note.

In this title:

(1) SPECIALTY CROP.—The term "specialty crop" has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

(2) STATE DEPARTMENT OF AGRICULTURE.—The term "State department of agriculture" means the agency, commission, or department of a State government responsible for protecting and promoting agriculture in the State.

## Subtitle A—Horticulture Marketing and Information

**SEC. 10101. INDEPENDENT EVALUATION OF DEPARTMENT OF AGRICULTURE COMMODITY PURCHASE PROCESS.**

(a) EVALUATION REQUIRED.—The Secretary shall arrange to have performed an independent evaluation of the purchasing processes (including the budgetary, statutory, and regulatory authority underlying the processes) used by the Department of Agriculture to implement the requirement that funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be principally devoted to perishable agricultural commodities.

(b) SUBMISSION OF RESULTS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the evaluation. Deadline.

**SEC. 10102. QUALITY REQUIREMENTS FOR CLEMENTINES.**

Section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e–1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the matter preceding the first proviso in the first sentence by inserting "clementines," after "nectarines,".

**SEC. 10103. INCLUSION OF SPECIALTY CROPS IN CENSUS OF AGRICULTURE.**

Section 2(a) of the Census of Agriculture Act of 1997 (7 U.S.C. 2204g(a)) is amended—

(1) by striking "In 1998" and inserting the following:

"(1) IN GENERAL.—In 1998"; and

(2) by adding at the end the following:

"(2) INCLUSION OF SPECIALTY CROPS.—Effective beginning with the census of agriculture required to be conducted in 2008, the Secretary shall conduct as part of each census of agriculture a census of specialty crops (as that term is defined in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108-465)).".

**SEC. 10104. MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION.**

(a) REGIONS AND MEMBERS.—Section 1925(b)(2) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(b)(2)) is amended—

(1) in subparagraph (B), by striking "4 regions" and inserting "3 regions";

(2) in subparagraph (D), by striking "35,000,000 pounds" and inserting "50,000,000 pounds"; and

(3) by striking subparagraph (E) and inserting the following:

"(E) ADDITIONAL MEMBERS.—In addition to the members appointed pursuant to paragraph (1), and subject to the 9-member limit of members on the Council provided in that paragraph, the Secretary shall appoint additional members to the council from a region that attains additional pounds of production as follows:

"(i) If the annual production of a region is greater than 110,000,000 pounds, but less than or equal to 180,000,000 pounds, the region shall be represented by 1 additional member.

"(ii) If the annual production of a region is greater than 180,000,000 pounds, but less than or equal to 260,000,000 pounds, the region shall be represented by 2 additional members.

"(iii) If the annual production of a region is greater than 260,000,000 pounds, the region shall be represented by 3 additional members.".

(b) POWERS AND DUTIES OF COUNCIL.—Section 1925(c) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(c)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms;".

7 USC 7655a.

**SEC. 10105. FOOD SAFETY EDUCATION INITIATIVES.**

(a) INITIATIVE AUTHORIZED.—The Secretary may carry out a food safety education program to educate the public and persons in the fresh produce industry about—

(1) scientifically proven practices for reducing microbial pathogens on fresh produce; and

(2) methods of reducing the threat of cross-contamination of fresh produce through sanitary handling practices.

(b) COOPERATION.—The Secretary may carry out the education program in cooperation with public and private partners.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

**SEC. 10106. FARMERS' MARKET PROMOTION PROGRAM.**

Section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) is amended—

(1) in subsection (a), by inserting "and to promote direct producer-to-consumer marketing" before the period at the end;

(2) in subsection (b)(1)—

(A) in subparagraph (A), by inserting "agri-tourism activities," after "programs,"; and

(B) in subparagraph (B)—

(i) by inserting "agri-tourism activities," after "programs," and

(ii) by striking "infrastructure" and inserting "marketing opportunities";

(3) in subsection (c)(1), by inserting "or a producer network or association" after "cooperative"; and

(4) by striking subsection (e) and inserting the following:

"(e) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

"(A) $3,000,000 for fiscal year 2008;

"(B) $5,000,000 for each of fiscal years 2009 through 2010; and

"(C) $10,000,000 for each of fiscal years 2011 and 2012.

"(2) USE OF FUNDS.—Not less than 10 percent of the funds used to carry out this section in a fiscal year under paragraph (1) shall be used to support the use of electronic benefits transfers for Federal nutrition programs at farmers' markets.

"(3) INTERDEPARTMENTAL COORDINATION.—In carrying out this subsection, the Secretary shall ensure coordination between the various agencies to the maximum extent practicable.

"(4) LIMITATION.—Funds described in paragraph (2)—

"(A) may not be used for the ongoing cost of carrying out any project; and

"(B) shall only be provided to eligible entities that demonstrate a plan to continue to provide EBT card access at 1 or more farmers' markets following the receipt of the grant.".

**SEC. 10107. SPECIALTY CROPS MARKET NEWS ALLOCATION.** 7 USC 1622b.

(a) IN GENERAL.—The Secretary shall—

(1) carry out market news activities to provide timely price and shipment information of specialty crops in the United States; and

(2) use funds made available under subsection (b) to increase the reporting levels for specialty crops in effect on the date of enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available through annual appropriations for market news services, there is authorized to be appropriated to carry out this section $9,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

7 USC 608c note.

**SEC. 10108. EXPEDITED MARKETING ORDER FOR HASS AVOCADOS FOR GRADES AND STANDARDS AND OTHER PURPOSES.**

Procedures.

(a) IN GENERAL.—The Secretary shall initiate procedures under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to determine whether it would be appropriate to establish a Federal marketing order for Hass avocados relating to grades and standards and for other purposes under that Act.

(b) EXPEDITED PROCEDURES.—

(1) PROPOSAL FOR AN ORDER.—An organization of domestic avocado producers in existence on the date of enactment of this Act may request the issuance of, and submit to the Secretary a proposal for, an order described in subsection (a).

Deadline.

(2) PUBLICATION OF PROPOSAL.—Not later than 60 days after the date on which the Secretary receives a proposed order under paragraph (1), the Secretary shall initiate procedures described in subsection (a) to determine whether the proposed order should proceed.

(c) EFFECTIVE DATE.—Any order issued under this section shall become effective not later than 15 months after the date on which the Secretary initiates procedures under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

**SEC. 10109. SPECIALTY CROP BLOCK GRANTS.**

(a) DEFINITION OF SPECIALTY CROP.—Section 3(1) of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended by inserting "horticulture and" before "nursery".

(b) DEFINITION OF STATE.—Section 3(2) of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended by striking "and the Commonwealth of Puerto Rico" and inserting "the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands".

(c) SPECIALTY CROP BLOCK GRANTS.—Section 101 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended—

(1) in subsection (a)—

(A) by striking "Subject to the appropriation of funds to carry out this section" and inserting "Using the funds made available under subsection (j)"; and

(B) by striking "2009" and inserting "2012";

(2) in subsection (b), by striking "appropriated pursuant to the authorization of appropriations in subsection (i)" and inserting "made available under subsection (j)";

(3) by striking subsection (c) and inserting the following:

"(c) MINIMUM GRANT AMOUNT.—Notwithstanding subsection (b), each State shall receive a grant under this section for each fiscal year in an amount that is at least equal to the higher of—

"(1) $100,000; or

"(2) ⅓ of 1 percent of the total amount of funding made available to carry out this section for the fiscal year."; and

(4) by striking subsection (i) and inserting the following:

"(i) REALLOCATION.—

"(1) IN GENERAL.—The Secretary shall reallocate to other States in accordance with paragraph (2) any amounts made available for a fiscal year under this section that are not obligated or expended by a date during that fiscal year determined by the Secretary.

"(2) PRO RATA ALLOCATION.—The Secretary shall allocate funds described in paragraph (1) pro rata to the remaining States that applied during the specified grant application period.

"(3) USE OF REALLOCATED FUNDS.—Funds allocated to a State under this subsection shall be used by the State only to carry out projects that were previously approved in the State plan of the State.

"(j) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make grants under this section, using—

"(1) $10,000,000 for fiscal year 2008;

"(2) $49,000,000 for fiscal year 2009; and

"(3) $55,000,000 for each of fiscal years 2010 through 2012.".

# Subtitle B—Pest and Disease Management

### SEC. 10201. PLANT PEST AND DISEASE MANAGEMENT AND DISASTER PREVENTION.

(a) IN GENERAL.—Subtitle A of the Plant Protection Act (7 U.S.C. 7711 et seq.) is amended by adding at the end the following:

### "SEC. 420. PLANT PEST AND DISEASE MANAGEMENT AND DISASTER PREVENTION.

7 USC 7721.

"(a) DEFINITIONS.—In this section:

"(1) EARLY PLANT PEST DETECTION AND SURVEILLANCE.—The term 'early plant pest detection and surveillance' means the full range of activities undertaken to find newly introduced plant pests, whether the plant pests are new to the United States or new to certain areas of the United States, before—

"(A) the plant pests become established; or

"(B) the plant pest infestations become too large and costly to eradicate or control.

"(2) SPECIALTY CROP.—The term 'specialty crop' has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

"(3) STATE DEPARTMENT OF AGRICULTURE.—The term 'State department of agriculture' means an agency of a State that has a legal responsibility to perform early plant pest detection and surveillance activities.

"(b) EARLY PLANT PEST DETECTION AND SURVEILLANCE IMPROVEMENT PROGRAM.—

"(1) COOPERATIVE AGREEMENTS.—The Secretary shall enter into a cooperative agreement with each State department of

agriculture that agrees to conduct early plant pest detection and surveillance activities.

"(2) CONSULTATION.—In carrying out this subsection, the Secretary shall consult with—

"(A) the National Plant Board; and

"(B) other interested parties.

"(3) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations under this subsection.

"(4) APPLICATION.—

"(A) IN GENERAL.—A State department of agriculture seeking to enter into a cooperative agreement under this subsection shall submit to the Secretary an application containing such information as the Secretary may require.

"(B) NOTIFICATION.—The Secretary shall notify applicants of—

"(i) the requirements to be imposed on a State department of agriculture for auditing of, and reporting on, the use of any funds provided by the Secretary under the cooperative agreement;

"(ii) the criteria to be used to ensure that early pest detection and surveillance activities supported under the cooperative agreement are based on sound scientific data or thorough risk assessments; and

"(iii) the means of identifying pathways of pest introductions.

"(5) USE OF FUNDS.—

"(A) PLANT PEST DETECTION AND SURVEILLANCE ACTIVITIES.—A State department of agriculture that receives funds under this subsection shall use the funds to carry out early plant pest detection and surveillance activities approved by the Secretary to prevent the introduction or spread of a plant pest.

"(B) SUBAGREEMENTS.—Nothing in this subsection prevents a State department of agriculture from using funds received under paragraph (4) to enter into subagreements with political subdivisions of the State that have legal responsibilities relating to agricultural plant pest and disease surveillance.

"(C) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out a cooperative agreement under this section may be provided in-kind, including through provision of such indirect costs of the cooperative agreement as the Secretary considers to be appropriate.

"(D) ABILITY TO PROVIDE FUNDS.—The Secretary shall not take the ability to provide non-Federal costs to carry out a cooperative agreement entered into under subparagraph (A) into consideration when deciding whether to enter into a cooperative agreement with a State department of agriculture.

"(6) SPECIAL FUNDING CONSIDERATIONS.—The Secretary shall provide funds to a State department of agriculture if the Secretary determines that—

"(A) the State department of agriculture is in a State that has a high risk of being affected by 1 or more plant pests or diseases, taking into consideration—

"(i) the number of international ports of entry in the State;

"(ii) the volume of international passenger and cargo entry into the State;

"(iii) the geographic location of the State and if the location or types of agricultural commodities produced in the State are conducive to agricultural pest and disease establishment due to the climate, crop diversity, or natural resources (including unique plant species) of the State; and

"(iv) whether the Secretary has determined that an agricultural pest or disease in the State is a Federal concern ; and

"(B) the early plant pest detection and surveillance activities supported with the funds will likely—

"(i) prevent the introduction and establishment of plant pests; and

"(ii) provide a comprehensive approach to compliment Federal detection efforts.

"(7) REPORTING REQUIREMENT.—Not later than 90 days after the date of completion of an early plant pest detection and surveillance activity conducted by a State department of agriculture using funds provided under this section, the State department of agriculture shall submit to the Secretary a report that describes the purposes and results of the activities.

"(c) THREAT IDENTIFICATION AND MITIGATION PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a threat identification and mitigation program to determine and address threats to the domestic production of crops.

"(2) REQUIREMENTS.—In conducting the program established under paragraph (1), the Secretary shall—

"(A) develop risk assessments of the potential threat to the agricultural industry of the United States from foreign sources;

"(B) collaborate with the National Plant Board; and

"(C) implement action plans for high consequence plant pest and diseases to assist in preventing the introduction and widespread dissemination of new plant pest and disease threats in the United States.

"(3) REPORTS.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the action plans described in paragraph (2), including an accounting of funds expended on the action plans.

"(d) SPECIALTY CROP CERTIFICATION AND RISK MANAGEMENT SYSTEMS.—The Secretary shall provide funds and technical assistance to specialty crop growers, organizations representing specialty crop growers, and State and local agencies working with specialty crop growers and organizations for the development and implementation of—

"(1) audit-based certification systems, such as best management practices—

"(A) to address plant pests; and

"(B) to mitigate the risk of plant pests in the movement of plants and plant products; and

"(2) nursery plant pest risk management systems, in collaboration with the nursery industry, research institutions, and other appropriate entities—

"(A) to enable growers to identify and prioritize nursery plant pests and diseases of regulatory significance;

"(B) to prevent the introduction, establishment, and spread of those plant pests and diseases; and

"(C) to reduce the risk of and mitigate those plant pests and diseases.

"(e) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(1) $12,000,000 for fiscal year 2009;

"(2) $45,000,000 for fiscal year 2010;

"(3) $50,000,000 for fiscal year 2011; and

"(4) $50,000,000 for fiscal year 2012 and each fiscal year thereafter.".

(b) CONGRESSIONAL DISAPPROVAL.—Congress disapproves the rule submitted by the Secretary of Agriculture relating to cost-sharing for animal and plant health emergency programs (68 Fed. Reg. 40541 (2003)), and such rule shall have no force or effect.

7 USC 7761.

**SEC. 10202. NATIONAL CLEAN PLANT NETWORK.**

(a) IN GENERAL.—The Secretary shall establish a program to be known as the "National Clean Plant Network" (referred to in this section as the "Program").

(b) REQUIREMENTS.—Under the Program, the Secretary shall establish a network of clean plant centers for diagnostic and pathogen elimination services to—

(1) produce clean propagative plant material; and

(2) maintain blocks of pathogen-tested plant material in sites located throughout the United States.

(c) AVAILABILITY OF CLEAN PLANT SOURCE MATERIAL.—Clean plant source material may be made available to—

(1) a State for a certified plant program of the State; and

(2) private nurseries and producers.

(d) CONSULTATION AND COLLABORATION.—In carrying out the Program, the Secretary shall—

(1) consult with State departments of agriculture, land grant universities, and NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)); and

(2) to the extent practicable and with input from the appropriate State officials and industry representatives, use existing Federal or State facilities to serve as clean plant centers.

(e) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out the Program $5,000,000 for each of fiscal years 2009 through 2012, to remain available until expended.

**SEC. 10203. PLANT PROTECTION.**

(a) REVIEW OF PAYMENT OF COMPENSATION.—Section 415(e) of the Plant Protection Act (7 U.S.C. 7715(e)) is amended in the second sentence by striking "of longer than 60 days".

(b) SECRETARIAL DISCRETION.—Section 442(c) of the Plant Protection Act (7 U.S.C. 7772(c)) is amended by striking "of longer than 60 days".

(c) SUBPOENA AUTHORITY.—Section 423 of the Plant Protection Act (7 U.S.C. 7733) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) AUTHORITY TO ISSUE.—The Secretary shall have the power to subpoena the attendance and testimony of any witness, the production of all evidence (including books, papers, documents, electronically stored information, and other tangible things that constitute or contain evidence), or to require the person to whom the subpoena is directed to permit the inspection of premises relating to the administration or enforcement of this title or any matter under investigation in connection with this title.";

(2) in subsection (b), by striking "documentary"; and

(3) in subsection (c)—

(A) in the first sentence, by striking "testimony of any witness and the production of documentary evidence" and inserting "testimony of any witness, the production of evidence, or the inspection of premises"; and

(B) in the second sentence, by striking "question or to produce documentary evidence" and inserting "question, produce evidence, or permit the inspection of premises".

(d) WILLFUL VIOLATIONS.—Section 424(b)(1)(A) of the Plant Protection Act (7 U.S.C. 7734(b)(1)(A)) is amended by striking "and $500,000 for all violations adjudicated in a single proceeding" and inserting "$500,000 for all violations adjudicated in a single proceeding if the violations do not include a willful violation, and $1,000,000 for all violations adjudicated in a single proceeding if the violations include a willful violation".

**SEC. 10204. REGULATIONS TO IMPROVE MANAGEMENT AND OVERSIGHT OF CERTAIN REGULATED ARTICLES.**

7 USC 7701 note.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall— Deadlines.

(1) take action on each issue identified in the document entitled "Lessons Learned and Revisions under Consideration for APHIS' Biotechnology Framework", dated October 4, 2007; and

(2) as the Secretary considers appropriate, promulgate regulations to improve the management and oversight of articles regulated under the Plant Protection Act (7 U.S.C. 7701 et seq.).

(b) INCLUSIONS.—In carrying out subsection (a), the Secretary shall take actions that are designed to enhance—

(1) the quality and completeness of records;

(2) the availability of representative samples;

(3) the maintenance of identity and control in the event of an unauthorized release;

(4) corrective actions in the event of an unauthorized release;

(5) protocols for conducting molecular forensics;

(6) clarity in contractual agreements;

(7) the use of the latest scientific techniques for isolation and confinement distances;

(8) standards for quality management systems and effective research; and

(9) the design of electronic permits to store documents and other information relating to the permit and notification processes.

(c) CONSIDERATION.—In carrying out subsection (a), the Secretary shall consider—

(1) establishing—

(A) a system of risk-based categories to classify each regulated article;

(B) a means to identify regulated articles (including the retention of seed samples); and

(C) standards for isolation and containment distances; and

(2) requiring permit holders—

(A) to maintain a positive chain of custody;

(B) to provide for the maintenance of records;

(C) to provide for the accounting of material;

(D) to conduct periodic audits;

(E) to establish an appropriate training program;

(F) to provide contingency and corrective action plans; and

(G) to submit reports as the Secretary considers to be appropriate.

16 USC 2104a.

**SEC. 10205. PEST AND DISEASE REVOLVING LOAN FUND.**

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED EQUIPMENT.—

(A) IN GENERAL.—The term "authorized equipment" means any equipment necessary for the management of forest land.

(B) INCLUSIONS.—The term "authorized equipment" includes—

(i) cherry pickers;

(ii) equipment necessary for—

(I) the construction of staging and marshalling areas;

(II) the planting of trees; and

(III) the surveying of forest land;

(iii) vehicles capable of transporting harvested trees;

(iv) wood chippers; and

(v) any other appropriate equipment, as determined by the Secretary.

(2) FUND.—The term "Fund" means the Pest and Disease Revolving Loan Fund established by subsection (b).

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Deputy Chief of the State and Private Forestry organization.

(b) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a revolving fund, to be known as the "Pest and Disease Revolving Loan Fund", consisting of such amounts as are appropriated to the Fund under subsection (f).

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under subsection (e).

(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Fund shall be available

for each fiscal year to pay the administrative expenses necessary to carry out this section.

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) USES OF FUND.—

(1) LOANS.—

(A) IN GENERAL.—The Secretary shall use amounts in the Fund to provide loans to eligible units of local government to finance purchases of authorized equipment to monitor, remove, dispose of, and replace infested trees that are located—

(i) on land under the jurisdiction of the eligible units of local government; and

(ii) within the borders of quarantine areas infested by plant pests.

(B) MAXIMUM AMOUNT.—The maximum amount of a loan that may be provided by the Secretary to an eligible unit of local government under this subsection shall be the lesser of—

(i) the amount that the eligible unit of local government has appropriated to finance purchases of authorized equipment in accordance with subparagraph (A); or

(ii) $5,000,000.

(C) INTEREST RATE.—The interest rate on any loan made by the Secretary under this paragraph shall be a rate equal to 2 percent.

(D) REPORT.—Not later than 180 days after the date on which an eligible unit of local government receives a loan provided by the Secretary under subparagraph (A), the eligible unit of local government shall submit to the Secretary a report that describes each purchase made by the eligible unit of local government using assistance provided through the loan.

(2) LOAN REPAYMENT SCHEDULE.—

(A) IN GENERAL.—To be eligible to receive a loan from the Secretary under paragraph (1), in accordance with each requirement described in subparagraph (B), an eligible unit of local government shall enter into an agreement with the Secretary to establish a loan repayment schedule relating to the repayment of the loan.

(B) REQUIREMENTS RELATING TO LOAN REPAYMENT SCHEDULE.—A loan repayment schedule established under subparagraph (A) shall require the eligible unit of local government—

(i) to repay to the Secretary of the Treasury, not later than 1 year after the date on which the eligible unit of local government receives a loan under paragraph (1), and semiannually thereafter, an amount equal to the quotient obtained by dividing— Deadline.

(I) the principal amount of the loan (including interest); by

(II) the total quantity of payments that the eligible unit of local government is required to make during the repayment period of the loan; and

Deadline.

(ii) not later than 20 years after the date on which the eligible unit of local government receives a loan under paragraph (1), to complete repayment to the Secretary of the Treasury of the loan made under this section (including interest).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

**SEC. 10206. COOPERATIVE AGREEMENTS RELATING TO PLANT PEST AND DISEASE PREVENTION ACTIVITIES.**

Section 431 of the Plant Protection Act (7 U.S.C. 7751) is amended by adding at the end the following:

"(f) TRANSFER OF COOPERATIVE AGREEMENT FUND.—

"(1) IN GENERAL.—A State may provide to a unit of local government in the State described in paragraph (2) any cost-sharing assistance or financing mechanism provided to the State under a cooperative agreement entered into under this Act between the Secretary and the State relating to the eradication, prevention, control, or suppression of plant pests.

"(2) REQUIREMENTS.—To be eligible for assistance or financing under paragraph (1), a unit of local government shall be—

"(A) engaged in any activity relating to the eradication, prevention, control, or suppression of the plant pest infestation covered under the cooperative agreement between the Secretary and the State; and

"(B) capable of documenting each plant pest infestation eradication, prevention, control, or suppression activity generally carried out by—

"(i) the Department of Agriculture; or

"(ii) the State department of agriculture that has jurisdiction over the unit of local government.".

# Subtitle C—Organic Agriculture

**SEC. 10301. NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM.**

Section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523) is amended—

(1) in subsection (a), by striking "$5,000,000 for fiscal year 2002" and inserting "$22,000,000 for fiscal year 2008";

(2) in subsection (b)(2), by striking "$500" and inserting "$750"; and

(3) by adding at the end the following:

"(c) REPORTING.—Not later than March 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the requests by, disbursements to, and expenditures for each State under the

program during the current and previous fiscal year, including the number of producers and handlers served by the program in the previous fiscal year.".

**SEC. 10302. ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.**

Section 7407 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5925c) is amended to read as follows:

**"SEC. 7407. ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.**

"(a) IN GENERAL.—The Secretary shall collect and report data on the production and marketing of organic agricultural products.

"(b) REQUIREMENTS.—In carrying out subsection (a), the Secretary shall, at a minimum—

"(1) collect and distribute comprehensive reporting of prices relating to organically produced agricultural products;

"(2) conduct surveys and analysis and publish reports relating to organic production, handling, distribution, retail, and trend studies (including consumer purchasing patterns); and

"(3) develop surveys and report statistical analysis on organically produced agricultural products.

"(c) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

"(1) describes the progress that has been made in implementing this section; and

"(2) identifies any additional production and marketing data needs.

"(d) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $5,000,000, to remain available until expended.

"(2) ADDITIONAL FUNDING.—In addition to funds made available under paragraph (1), there are authorized to be appropriated to carry out this section not more than $5,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.".

**SEC. 10303. NATIONAL ORGANIC PROGRAM.**

Section 2123 of the Organic Foods Production Act of 1990 (7 U.S.C. 6522) is amended—

(1) by striking "There are" and inserting the following: "(a) IN GENERAL.—There are"; and

(2) by adding at the end the following:

"(b) NATIONAL ORGANIC PROGRAM.—Notwithstanding any other provision of law, in order to carry out activities under the national organic program established under this title, there are authorized to be appropriated—

"(1) $5,000,000 for fiscal year 2008;

"(2) $6,500,000 for fiscal year 2009;

"(3) $8,000,000 for fiscal year 2010;

"(4) $9,500,000 for fiscal year 2011;

"(5) $11,000,000 for fiscal year 2012; and

"(6) in addition to those amounts, such additional sums as are necessary for fiscal year 2009 and each fiscal year thereafter.".

# Subtitle D—Miscellaneous

**SEC. 10401. NATIONAL HONEY BOARD.**

Section 7(c) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(c)) is amended by adding at the end the following:

"(12) REFERENDUM REQUIREMENT.—

"(A) DEFINITION OF EXISTING HONEY BOARD.—The term 'existing Honey Board' means the Honey Board in effect on the date of enactment of this paragraph.

Deadline.

"(B) CONDUCT OF REFERENDA.—Notwithstanding any other provision of law, subject to subparagraph (C), the order providing for the establishment and operation of the existing Honey Board shall continue in force, until the Secretary first conducts, at the earliest practicable date, but not later than 180 days after the date of enactment of this paragraph, referenda on orders to establish a honey packer-importer board or a United States honey producer board.

"(C) REQUIREMENTS.—In conducting referenda under subparagraph (B), and in exercising fiduciary responsibilities in any transition to any 1 or more successor boards, the Secretary shall—

"(i) conduct a referendum of eligible United States honey producers for the establishment of a marketing board solely for United States honey producers;

"(ii) conduct a referendum of eligible packers, importers, and handlers of honey for the establishment of a marketing board for packers, importers, and handlers of honey;

"(iii) notwithstanding the timing of the referenda required under clauses (i) and (ii) or of the establishment of any 1 or more successor boards pursuant to those referenda, ensure that the rights and interests of honey producers, importers, packers, and handlers of honey are equitably protected in any disposition of the assets, facilities, intellectual property, and programs of the existing Honey Board and in the transition to any 1 or more new successor marketing boards;

"(iv) ensure that the existing Honey Board continues in operation until such time as the Secretary determines that—

"(I) any 1 or more successor boards, if approved, are operational; and

"(II) the interests of producers, importers, packers, and handlers of honey can be equitably protected during any remaining period in which a referendum on a successor board or the establishment of such a board is pending; and

"(v) discontinue collection of assessments under the order establishing the existing Honey Board on the date the Secretary requires that collections commence pursuant to an order approved in a referendum by eligible producers or processors and importers of honey.

"(D) HONEY BOARD REFERENDUM.—If 1 or more orders are approved pursuant to paragraph (C)—

"(i) the Secretary shall not be required to conduct a continuation referendum on the order in existence on the date of enactment of this paragraph; and

"(ii) that order shall be terminated pursuant to the provisions of the order.".

**SEC. 10402. IDENTIFICATION OF HONEY.**

(a) IN GENERAL.—Section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended—

(1) by designating the first through sixth sentences as paragraphs (1), (2)(A), (2)(B), (3), (4), and (5), respectively; and

(2) by adding at the end the following:

"(6) IDENTIFICATION OF HONEY.—

"(A) IN GENERAL.—The use of a label or advertising material on, or in conjunction with, packaged honey that bears any official certificate of quality, grade mark or statement, continuous inspection mark or statement, sampling mark or statement, or any combination of the certificates, marks, or statements of the Department of Agriculture is hereby prohibited under this Act unless there appears legibly and permanently in close proximity (such as on the same side(s) or surface(s)) to the certificate, mark, or statement, and in at least a comparable size, the 1 or more names of the 1 or more countries of origin of the lot or container of honey, preceded by the words 'Product of' or other words of similar meaning.

"(B) VIOLATION.—A violation of the requirements of subparagraph (A) may be deemed by the Secretary to be sufficient cause for debarment from the benefits of this Act only with respect to honey.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date that is 1 year after the date of enactment of this Act. 7 USC 1622 note.

**SEC. 10403. GRANT PROGRAM TO IMPROVE MOVEMENT OF SPECIALTY CROPS.** 7 USC 1622c.

(a) GRANTS AUTHORIZED.—The Secretary may make grants under this section to an eligible entity described in subsection (b)—

(1) to improve the cost-effective movement of specialty crops to local, regional, national, and international markets; and

(2) to address regional intermodal transportation deficiencies that adversely affect the movement of specialty crops to markets inside or outside the United States.

(b) ELIGIBLE GRANT RECIPIENTS.—Grants may be made under this section to any of, or any combination of:

(1) State and local governments.

(2) Grower cooperatives.

(3) National, State, or regional organizations of producers, shippers, or carriers.

(4) Other entities as determined to be appropriate by the Secretary.

(c) MATCHING FUNDS.—The recipient of a grant under this section shall contribute an amount of non-Federal funds toward the project for which the grant is provided that is at least equal

to the amount of grant funds received by the recipient under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.

**SEC. 10404. MARKET LOSS ASSISTANCE FOR ASPARAGUS PRODUCERS.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall make payments to producers of the 2007 crop of asparagus for market loss resulting from imports during the 2004 through 2007 crop years.

(b) PAYMENT RATE.—The payment rate for a payment under this section shall be based on the reduction in revenue received by asparagus producers associated with imports during the 2004 through 2007 crop years.

(c) PAYMENT QUANTITY.—The payment quantity for asparagus for which the producers on a farm are eligible for payments under this section shall be equal to the average quantity of the 2003 crop of asparagus produced by producers on the farm.

(d) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make available $15,000,000 of the funds of the Commodity Credit Corporation to carry out a program to provide market loss payments to producers of asparagus under this section.

(2) ALLOCATION.—Of the amount made available under paragraph (1), the Secretary shall use—

(A) $7,500,000 to make payments to producers of asparagus for the fresh market; and

(B) $7,500,000 to make payments to producers of asparagus for the processed or frozen market.

# TITLE XI—LIVESTOCK

**SEC. 11001. LIVESTOCK MANDATORY REPORTING.**

(a) WEB SITE IMPROVEMENTS AND USER EDUCATION.—

(1) IN GENERAL.—Section 251(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636(g)) is amended to read as follows:

"(g) ELECTRONIC REPORTING AND PUBLISHING.—

"(1) IN GENERAL.—The Secretary shall, to the maximum extent practicable, provide for the reporting and publishing of the information required under this subtitle by electronic means.

"(2) IMPROVEMENTS AND EDUCATION.—

"(A) ENHANCED ELECTRONIC PUBLISHING.—The Secretary shall develop and implement an enhanced system of electronic publishing to disseminate information collected pursuant to this subtitle. Such system shall—

"(i) present information in a format that can be readily understood by producers, packers, and other market participants;

"(ii) adhere to the publication deadlines in this subtitle;

"(iii) present information in charts and graphs, as appropriate;

"(iv) present comparative information for prior reporting periods, as the Secretary considers appropriate; and

"(v) be updated as soon as practicable after information is reported to the Secretary.

"(B) EDUCATION.—The Secretary shall carry out a market news education program to educate the public and persons in the livestock and meat industries about—

"(i) usage of the system developed under subparagraph (A); and

"(ii) interpreting and understanding information collected and disseminated through such system.".

(2) APPLICABILITY.— 7 USC 1636 note.

(A) ENHANCED REPORTING.—The Secretary of Agriculture shall develop and implement the system required under paragraph (2)(A) of section 251(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636(g)), as amended by paragraph (1), not later than one year after the date on which the Secretary determines sufficient funds have been appropriated pursuant to subsection (c).

(B) CURRENT SYSTEM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall continue to use the information format for disseminating information under subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) in effect on the date of the enactment of this Act at least until the date that is two years after the date on which the Secretary makes the determination referred to in subparagraph (A).

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary shall conduct a study on the effects of requiring packer processing plants to report to the Secretary information on wholesale pork cuts (including price and volume information), including—

(A) the positive or negative economic effects on producers and consumers; and

(B) the effects of a confidentiality requirement on mandatory reporting.

(2) INFORMATION.—During the period preceding the submission of the report under paragraph (3), the Secretary may collect, and each packer processing plant shall provide, such information as is necessary to enable the Secretary to conduct the study required under paragraph (1).

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the study conducted under paragraph (1).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 11002. COUNTRY OF ORIGIN LABELING.**

Subtitle D of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638 et seq.) is amended—

(1) in section 281(2)(A)— 7 USC 1638.

(A) in clause (v), by striking "and";

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) meat produced from goats;

"(viii) chicken, in whole and in part;

"(ix) ginseng;

"(x) pecans; and

"(xi) macadamia nuts.";

7 USC 1638a.

(2) in section 282—

(A) in subsection (a), by striking paragraphs (2) and (3) and inserting the following:

"(2) DESIGNATION OF COUNTRY OF ORIGIN FOR BEEF, LAMB, PORK, CHICKEN, AND GOAT MEAT.—

"(A) UNITED STATES COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat may designate the covered commodity as exclusively having a United States country of origin only if the covered commodity is derived from an animal that was—

"(i) exclusively born, raised, and slaughtered in the United States;

"(ii) born and raised in Alaska or Hawaii and transported for a period of not more than 60 days through Canada to the United States and slaughtered in the United States; or

"(iii) present in the United States on or before July 15, 2008, and once present in the United States, remained continuously in the United States.

"(B) MULTIPLE COUNTRIES OF ORIGIN.—

"(i) IN GENERAL.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is—

"(I) not exclusively born, raised, and slaughtered in the United States,

"(II) born, raised, or slaughtered in the United States, and

"(III) not imported into the United States for immediate slaughter,

may designate the country of origin of such covered commodity as all of the countries in which the animal may have been born, raised, or slaughtered.

"(ii) RELATION TO GENERAL REQUIREMENT.—Nothing in this subparagraph alters the mandatory requirement to inform consumers of the country of origin of covered commodities under paragraph (1).

"(C) IMPORTED FOR IMMEDIATE SLAUGHTER.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is imported into the United States for immediate slaughter shall designate the origin of such covered commodity as—

"(i) the country from which the animal was imported; and

"(ii) the United States.

"(D) FOREIGN COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is not born, raised, or slaughtered in the United States shall

designate a country other than the United States as the country of origin of such commodity.

"(E) GROUND BEEF, PORK, LAMB, CHICKEN, AND GOAT.—The notice of country of origin for ground beef, ground pork, ground lamb, ground chicken, or ground goat shall include—

"(i) a list of all countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat; or

"(ii) a list of all reasonably possible countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat.

"(3) DESIGNATION OF COUNTRY OF ORIGIN FOR FISH.—

"(A) IN GENERAL.—A retailer of a covered commodity that is farm-raised fish or wild fish may designate the covered commodity as having a United States country of origin only if the covered commodity—

"(i) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States; and

"(ii) in the case of wild fish, is—

"(I) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and

"(II) processed in the United States, a territory of the United States, or a State, including the waters thereof, or aboard a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States.

"(B) DESIGNATION OF WILD FISH AND FARM-RAISED FISH.—The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.

"(4) DESIGNATION OF COUNTRY OF ORIGIN FOR PERISHABLE AGRICULTURAL COMMODITIES, GINSENG, PEANUTS, PECANS, AND MACADAMIA NUTS.—

"(A) IN GENERAL.—A retailer of a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut may designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively produced in the United States.

"(B) STATE, REGION, LOCALITY OF THE UNITED STATES.—With respect to a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut produced exclusively in the United States, designation by a retailer of the State, region, or locality of the United States where such commodity was produced shall be sufficient to identify the United States as the country of origin."; and

(B) by striking subsection (d) and inserting the following:

"(d) AUDIT VERIFICATION SYSTEM.—

"(1) IN GENERAL.—The Secretary may conduct an audit of any person that prepares, stores, handles, or distributes

a covered commodity for retail sale to verify compliance with this subtitle (including the regulations promulgated under section 284(b)).

"(2) RECORD REQUIREMENTS.—

"(A) IN GENERAL.—A person subject to an audit under paragraph (1) shall provide the Secretary with verification of the country of origin of covered commodities. Records maintained in the course of the normal conduct of the business of such person, including animal health papers, import or customs documents, or producer affidavits, may serve as such verification.

"(B) PROHIBITION ON REQUIREMENT OF ADDITIONAL RECORDS.—The Secretary may not require a person that prepares, stores, handles, or distributes a covered commodity to maintain a record of the country of origin of a covered commodity other than those maintained in the course of the normal conduct of the business of such person."; and

(3) in section 283—

(A) by striking subsections (a) and (c);

(B) by redesignating subsection (b) as subsection (a);

(C) in subsection (a) (as so redesignated), by striking "retailer" and inserting "retailer or person engaged in the business of supplying a covered commodity to a retailer"; and

(D) by adding at the end the following new subsection:

"(b) FINES.—If, on completion of the 30-day period described in subsection (a)(2), the Secretary determines that the retailer or person engaged in the business of supplying a covered commodity to a retailer has—

"(1) not made a good faith effort to comply with section 282, and

"(2) continues to willfully violate section 282 with respect to the violation about which the retailer or person received notification under subsection (a)(1),

after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer or person in an amount of not more than $1,000 for each violation.".

**SEC. 11003. AGRICULTURAL FAIR PRACTICES ACT OF 1967 DEFINITIONS.**

Section 3 of the Agricultural Fair Practices Act of 1967 (7 U.S.C. 2302) is amended—

(1) by striking "When used in this Act—" and inserting "In this Act:";

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (4) as clauses (i) through (iv), respectively; and

(B) in clause (iv) (as so redesignated), by striking "clause (1), (2), or (3) of this paragraph" and inserting "clause (i), (ii), or (iii)";

(3) by striking subsection (d);

(4) by redesignating subsections (a), (b), (c), and (e) as paragraphs (3), (4), (2), (1), respectively, indenting appropriately, and moving those paragraphs so as to appear in numerical order;

(5) in each paragraph (as so redesignated) that does not have a heading, by inserting a heading, in the same style as the heading in the amendment made by paragraph (6), the text of which is comprised of the term defined in the paragraph;

(6) in paragraph (2) (as so redesignated)—

(A) by striking "The term 'association of producers' means" and inserting the following:

"(2) ASSOCIATION OF PRODUCERS.—

"(A) IN GENERAL.—The term 'association of producers' means"; and

(B) by adding at the end the following:

"(B) INCLUSION.—The term 'association of producers' includes an organization whose membership is exclusively limited to agricultural producers and dedicated to promoting the common interest and general welfare of producers of agricultural products."; and

(7) in paragraph (3) (as so redesignated)—

(A) by striking "The term" and inserting the following:

"(3) HANDLER.—

"(A) IN GENERAL.—The term"; and

(B) by inserting after clause (iv) of subparagraph (A) (as redesignated by subparagraph (A) and paragraph (2)) the following:

"(B) EXCLUSION.—The term 'handler' does not include a person, other than a packer (as defined in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191)), that provides custom feeding services for a producer.".

**SEC. 11004. ANNUAL REPORT.**

(a) IN GENERAL.—The Packers and Stockyards Act, 1921, is amended—

(1) by redesignating section 416 (7 U.S.C. 229) as section 417; and

(2) by inserting after section 415 (7 U.S.C. 228d) the following:

**"SEC. 416. ANNUAL REPORT.** 7 USC 229.

"(a) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit to Congress and make publicly available a report that—

"(1) states, for the preceding year, separately for livestock and poultry and separately by enforcement area category (financial, trade practice, or competitive acts and practices), with respect to investigations into possible violations of this Act—

"(A) the number of investigations opened;

"(B) the number of investigations that were closed or settled without a referral to the General Counsel of the Department of Agriculture;

"(C) for investigations described in subparagraph (B), the length of time from initiation of the investigation to when the investigation was closed or settled without the filing of an enforcement complaint;

"(D) the number of investigations that resulted in referral to the General Counsel of the Department of Agriculture for further action, the number of such referrals resolved without administrative enforcement action, and

the number of enforcement actions filed by the General Counsel;

"(E) for referrals to the General Counsel that resulted in an administrative enforcement action being filed, the length of time from the referral to the filing of the administrative action;

"(F) for referrals to the General Counsel that resulted in an administrative enforcement action being filed, the length of time from filing to resolution of the administrative enforcement action;

"(G) the number of investigations that resulted in referral to the Department of Justice for further action, and the number of civil enforcement actions filed by the Department of Justice on behalf of the Secretary pursuant to such a referral;

"(H) for referrals that resulted in a civil enforcement action being filed by the Department of Justice, the length of time from the referral to the filing of the enforcement action;

"(I) for referrals that resulted in a civil enforcement action being filed by the Department of Justice, the length of time from the filing of the enforcement action to resolution; and

"(J) the average civil penalty imposed in administrative or civil enforcement actions for violations of this Act, and the total amount of civil penalties imposed in all such enforcement actions; and

"(2) includes any other additional information the Secretary considers important to include in the annual report.

"(b) FORMAT OF INFORMATION PROVIDED.—For subparagraphs (C), (E), (F), and (H) of subsection (a)(1), the Secretary may, if appropriate due to the number of complaints for a given category, provide summary statistics (including range, maximum, minimum, mean, and average times) and graphical representations.".

7 USC 729 note.

(b) SUNSET.—Effective September 30, 2012, section 416 of the Packers and Stockyards Act, 1921, as added by subsection (a)(2), is repealed.

**SEC. 11005. PRODUCTION CONTRACTS.**

Title II of the Packers and Stockyards Act, 1921 (7 U.S.C. 198 et seq.) is amended by adding at the end the following:

7 USC 197a.

**"SEC. 208. PRODUCTION CONTRACTS.**

"(a) RIGHT OF CONTRACT PRODUCERS TO CANCEL PRODUCTION CONTRACTS.—

"(1) IN GENERAL.—A poultry grower or swine production contract grower may cancel a poultry growing arrangement or swine production contract by mailing a cancellation notice to the live poultry dealer or swine contractor not later than the later of—

"(A) the date that is 3 business days after the date on which the poultry growing arrangement or swine production contract is executed; or

"(B) any cancellation date specified in the poultry growing arrangement or swine production contract.

"(2) DISCLOSURE.—A poultry growing arrangement or swine production contract shall clearly disclose—

"(A) the right of the poultry grower or swine production contract grower to cancel the poultry growing arrangement or swine production contract;

"(B) the method by which the poultry grower or swine production contract grower may cancel the poultry growing arrangement or swine production contract; and

"(C) the deadline for canceling the poultry growing arrangement or swine production contract.

"(b) REQUIRED DISCLOSURE OF ADDITIONAL CAPITAL INVESTMENTS IN PRODUCTION CONTRACTS.—

"(1) IN GENERAL.—A poultry growing arrangement or swine production contract shall contain on the first page a statement identified as 'Additional Capital Investments Disclosure Statement', which shall conspicuously state that additional large capital investments may be required of the poultry grower or swine production contract grower during the term of the poultry growing arrangement or swine production contract.

"(2) APPLICATION.—Paragraph (1) shall apply to any poultry growing arrangement or swine production contract entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this section.

**"SEC. 209. CHOICE OF LAW AND VENUE.** 7 USC 197b.

"(a) LOCATION OF FORUM.—The forum for resolving any dispute among the parties to a poultry growing arrangement or swine production or marketing contract that arises out of the arrangement or contract shall be located in the Federal judicial district in which the principle part of the performance takes place under the arrangement or contract.

"(b) CHOICE OF LAW.—A poultry growing arrangement or swine production or marketing contract may specify which State's law is to apply to issues governed by State law in any dispute arising out of the arrangement or contract, except to the extent that doing so is prohibited by the law of the State in which the principal part of the performance takes place under the arrangement or contract.

**"SEC. 210. ARBITRATION.** 7 USC 197c.

"(a) IN GENERAL.—Any livestock or poultry contract that contains a provision requiring the use of arbitration to resolve any controversy that may arise under the contract shall contain a provision that allows a producer or grower, prior to entering the contract to decline to be bound by the arbitration provision.

"(b) DISCLOSURE.—Any livestock or poultry contract that contains a provision requiring the use of arbitration shall contain terms that conspicuously disclose the right of the contract producer or grower, prior to entering the contract, to decline the requirement to use arbitration to resolve any controversy that may arise under the livestock or poultry contract.

"(c) DISPUTE RESOLUTION.—Any contract producer or grower that declines a requirement of arbitration pursuant to subsection (b) has the right, to nonetheless seek to resolve any controversy that may arise under the livestock or poultry contract, if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy.

"(d) APPLICATION.—Subsections (a) (b) and (c) shall apply to any contract entered into, amended, altered, modified, renewed,

or extended after the date of the enactment of the Food, Conservation, and Energy Act of 2008 .

"(e) UNLAWFUL PRACTICE.—Any action by or on behalf of a packer, swine contractor, or live poultry dealer that violates this section (including any action that has the intent or effect of limiting the ability of a producer or grower to freely make a choice described in subsection (b)) is an unlawful practice under this Act.

"(f) REGULATIONS.—The Secretary shall promulgate regulations to—

"(1) carry out this section; and

"(2) establish criteria that the Secretary will consider in determining whether the arbitration process provided in a contract provides a meaningful opportunity for the grower or producer to participate fully in the arbitration process.".

7 USC 228 note.

**SEC. 11006. REGULATIONS.**

Deadline.

As soon as practicable, but not later than 2 years after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations with respect to the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) to establish criteria that the Secretary will consider in determining—

(1) whether an undue or unreasonable preference or advantage has occurred in violation of such Act;

(2) whether a live poultry dealer has provided reasonable notice to poultry growers of any suspension of the delivery of birds under a poultry growing arrangement;

(3) when a requirement of additional capital investments over the life of a poultry growing arrangement or swine production contract constitutes a violation of such Act; and

(4) if a live poultry dealer or swine contractor has provided a reasonable period of time for a poultry grower or a swine production contract grower to remedy a breach of contract that could lead to termination of the poultry growing arrangement or swine production contract.

**SEC. 11007. SENSE OF CONGRESS REGARDING PSEUDORABIES ERADICATION PROGRAM.**

It is the sense of Congress that—

(1) the Secretary of Agriculture should recognize the threat feral swine pose to the domestic swine population and the entire livestock industry;

(2) keeping the United States commercial swine herd free of pseudorabies is essential to maintaining and growing pork export markets;

(3) the establishment and continued support of a swine surveillance system will assist the swine industry in the monitoring, surveillance, and eradication of pseudorabies; and

(4) pseudorabies eradication is a high priority that the Secretary should carry out under the authorities of the Animal Health Protection Act.

**SEC. 11008. SENSE OF CONGRESS REGARDING THE CATTLE FEVER TICK ERADICATION PROGRAM.**

It is the sense of Congress that—

(1) the cattle fever tick and the southern cattle tick are vectors of the causal agent of babesiosis, a severe and often fatal disease of cattle; and

(2) implementing a national strategic plan for the cattle fever tick eradication program is a high priority that the Secretary of Agriculture should carry out in order to—

(A) prevent the entry of cattle fever ticks into the United States;

(B) enhance and maintain an effective surveillance program to rapidly detect any cattle fever tick incursions; and

(C) research, identify, and procure the tools and knowledge necessary to prevent and eradicate cattle fever ticks in the United States.

**SEC. 11009. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.**

(a) FUNDING.—Section 375(e)(6) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $1,000,000 for fiscal year 2008, to remain available until expended.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2008 through 2012.".

(b) REPEAL OF REQUIREMENT TO PRIVATIZE REVOLVING FUND.—

(1) IN GENERAL.—Section 375 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j) is amended by striking subsection (j).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on May 1, 2007. 7 USC 2008j note.

**SEC. 11010. TRICHINAE CERTIFICATION PROGRAM.**

(a) VOLUNTARY TRICHINAE CERTIFICATION.— Deadlines. 7 USC 8304 note.

(1) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall establish a voluntary trichinae certification program. Such program shall include the facilitation of the export of pork products and certification services related to such products.

(2) REGULATIONS.—The Secretary shall issue final regulations to implement the program under paragraph (1) not later than 90 days after the date of the enactment of this Act.

(3) REPORT.—If final regulations are not published in accordance with paragraph (2) within 90 days of the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing—

(A) an explanation of why the final regulations have not been issued in accordance with paragraph (2); and

(B) the date on which the Secretary expects to issue such final regulations.

(b) FUNDING.—Subject to the availability of appropriations under subsection (d)(1)(A) of section 10405 of the Animal Health Protection Act (7 U.S.C. 8304), as added by subsection (c), the Secretary shall use not less than $6,200,000 of the funds made available under such subsection to carry out subsection (a). 7 USC 8304 note.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 10405 of the Animal Health Protection Act (7 U.S.C. 8304) is amended by adding at the end the following new subsection:

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated—

"(A) $1,500,000 for each of fiscal years 2008 through 2012 to carry out section 11010 of the Food, Conservation, and Energy Act of 2008; and

"(B) such sums as may be necessary for each of fiscal years 2008 through 2012 to carry out this section.

"(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.".

**SEC. 11011. LOW PATHOGENIC DISEASES.**

The Animal Health Protection Act (7 U.S.C. 8301 et seq.) is amended—

(1) in section 10407(d)(2)(C) (7 U.S.C. 8306(d)(2)(C)), by striking "of longer than 60 days";

(2) in section 10409(b) (7 U.S.C. 8308(b))—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following new paragraph:

"(2) SPECIFIC COOPERATIVE PROGRAMS.—The Secretary shall compensate industry participants and State agencies that cooperate with the Secretary in carrying out operations and measures under subsection (a) for 100 percent of eligible costs relating to cooperative programs involving Federal, State, and industry participants to control diseases of low pathogenicity in accordance with regulations issued by the Secretary."; and

(C) in paragraph (3) (as so redesignated), by striking "of longer than 60 days"; and

(3) in section 10417(b)(3) (7 U.S.C. 8316(b)(3)), by striking "of longer than 60 days".

**SEC. 11012. ANIMAL PROTECTION.**

(a) WILLFUL VIOLATIONS.—Section 10414(b)(1)(A) of the Animal Health Protection Act (7 U.S.C. 8316(b)(1)(A)) is amended by striking clause (iii) and inserting the following: 7 USC 8313.

"(iii) for all violations adjudicated in a single proceeding—

"(I) $500,000 if the violations do not include a willful violation; or

"(II) $1,000,000 if the violations include 1 or more willful violations.".

(b) SUBPOENA AUTHORITY.—Section 10415(a)(2) of the Animal Health Protection Act (7 U.S.C. 8314) is amended

(1) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—The Secretary shall have the power to subpoena the attendance and testimony of any witness, the production of all evidence (including books, papers, documents, electronically stored information, and other tangible things that constitute or contain evidence), or to require the person to whom the subpoena is directed to permit the inspection of premises relating to the administration or enforcement of this title or any matter under investigation in connection with this title.";

(2) in subparagraph (B), by striking "documentary"; and

(3) in subparagraph (C)—

(A) in clause (i), by striking "testimony of any witness and the production of documentary evidence" and inserting "testimony of any witness, the production of evidence, or the inspection of premises"; and

(B) in clause (ii), by striking "question or to produce documentary evidence" and inserting "question, produce evidence, or permit the inspection of premises".

**SEC. 11013. NATIONAL AQUATIC ANIMAL HEALTH PLAN.** 7 USC 8322.

(a) IN GENERAL.—The Secretary of Agriculture may enter into a cooperative agreement with an eligible entity to carry out a project under a national aquatic animal health plan under the authority of the Secretary under section 10411 of the Animal Health Protection Act (7 U.S.C. 8310) for the purpose of detecting, controlling, or eradicating diseases of aquaculture species and promoting species-specific best management practices.

(b) COOPERATIVE AGREEMENTS BETWEEN ELIGIBLE ENTITIES AND THE SECRETARY.—

(1) DUTIES.—As a condition of entering into a cooperative agreement with the Secretary under this section, an eligible entity shall agree to—

(A) assume responsibility for the non-Federal share of the cost of carrying out the project under the national aquatic health plan, as determined by the Secretary in accordance with paragraph (2); and

(B) act in accordance with applicable disease and species specific best management practices relating to activities to be carried out under such project.

(2) NON-FEDERAL SHARE.—The Secretary shall determine the non-Federal share of the cost of carrying out a project under the national aquatic health plan on a case-by-case basis for each such project. Such non-Federal share may be provided in cash or in-kind.

(c) APPLICABILITY OF OTHER LAWS.—In carrying out this section, the Secretary may make use of the authorities under the Animal Health Protection Act (7 U.S.C. 8301 et seq.), including the authority to carry out operations and measures to detect, control, and eradicate pests and diseases and the authority to pay claims arising out of the destruction of any animal, article, or means of conveyance.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2008 through 2012.

(e) ELIGIBLE ENTITY DEFINED.—In this section, the term "eligible entity" means a State, a political subdivision of a State, Indian tribe, or other appropriate entity, as determined by the Secretary of Agriculture.

**SEC. 11014. STUDY ON BIOENERGY OPERATIONS.**

(a) STUDY.—The Secretary of Agriculture shall conduct a study to evaluate the role of animal manure as a source of fertilizer and its potential additional uses. Such study shall include—

(1) a determination of the extent to which animal manure is utilized as fertilizer in agricultural operations by type (including species and agronomic practices employed) and size;

(2) an evaluation of the potential impact on consumers and on agricultural operations (by size) resulting from limitations being placed on the utilization of animal manure as fertilizer; and

(3) an evaluation of the effects on agriculture production contributable to the increased competition for animal manure use due to bioenergy production, including as a feedstock or a replacement for fossil fuels.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the results of the study conducted under subsection (a).

**SEC. 11015. INTERSTATE SHIPMENT OF MEAT AND POULTRY INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.**

(a) MEAT AND MEAT PRODUCTS.—The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended by adding at the end the following:

# "TITLE V—INSPECTIONS BY FEDERAL AND STATE AGENCIES

21 USC 683.

**"SEC. 501. INTERSTATE SHIPMENT OF MEAT INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.**

"(a) DEFINITIONS.—

"(1) APPROPRIATE STATE AGENCY.—The term 'appropriate State agency' means a State agency described in section 301(b).

"(2) DESIGNATED PERSONNEL.—The term 'designated personnel' means inspection personnel of a State agency that have undergone all necessary inspection training and certification to assist the Secretary in the administration and enforcement of this Act, including rules and regulations issued under this Act.

"(3) ELIGIBLE ESTABLISHMENT.—The term 'eligible establishment' means an establishment that is in compliance with—

"(A) the State inspection program of the State in which the establishment is located; and

"(B) this Act, including rules and regulations issued under this Act.

"(4) MEAT ITEM.—The term 'meat item' means—

"(A) a portion of meat; and

"(B) a meat food product.

"(5) SELECTED ESTABLISHMENT.—The term 'selected establishment' means an eligible establishment that is selected by the Secretary, in coordination with the appropriate State agency of the State in which the eligible establishment is located, under subsection (b) to ship carcasses, portions of carcasses, and meat items in interstate commerce.

"(b) AUTHORITY OF SECRETARY TO ALLOW SHIPMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary, in coordination with the appropriate State agency of the State

in which an establishment is located, may select the establishment to ship carcasses, portions of carcasses, and meat items in interstate commerce, and place on each carcass, portion of a carcass, and meat item shipped in interstate commerce a Federal mark, stamp, tag, or label of inspection, if—

"(A) the carcass, portion of carcass, or meat item qualifies for the mark, stamp, tag, or label of inspection under the requirements of this Act;

"(B) the establishment is an eligible establishment; and

"(C) inspection services for the establishment are provided by designated personnel.

"(2) PROHIBITED ESTABLISHMENTS.—In carrying out paragraph (1), the Secretary, in coordination with an appropriate State agency, shall not select an establishment that—

"(A) on average, employs more than 25 employees (including supervisory and nonsupervisory employees), as defined by the Secretary;

"(B) as of the date of the enactment of this section, ships in interstate commerce carcasses, portions of carcasses, or meat items that are inspected by the Secretary in accordance with this Act;

"(C)(i) is a Federal establishment;

"(ii) was a Federal establishment that was reorganized on a later date under the same name or a different name or person by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section; or

"(iii) was a State establishment as of the date of the enactment of this section that—

"(I) as of the date of the enactment of this section, employed more than 25 employees; and

"(II) was reorganized on a later date by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section;

"(D) is in violation of this Act;

"(E) is located in a State that does not have a State inspection program; or

"(F) is the subject of a transition carried out in accordance with a procedure developed by the Secretary under paragraph (3)(A).

"(3) ESTABLISHMENTS THAT EMPLOY MORE THAN 25 EMPLOYEES.—

"(A) DEVELOPMENT OF PROCEDURE.—The Secretary may develop a procedure to transition to a Federal establishment any establishment under this section that, on average, consistently employs more than 25 employees.

"(B) ELIGIBILITY OF CERTAIN ESTABLISHMENTS.—

"(i) IN GENERAL.—A State establishment that employs more than 25 employees but less than 35 employees as of the date of the enactment of this section may be selected as a selected establishment under this subsection.

"(ii) PROCEDURES.—A State establishment shall be subject to the procedures established under subparagraph (A) beginning on the date that is 3 years after the effective date described in subsection (j).

"(c) REIMBURSEMENT OF STATE COSTS.—The Secretary shall reimburse a State for costs related to the inspection of selected establishments in the State in accordance with Federal requirements in an amount of not less than 60 percent of eligible State costs.

"(d) COORDINATION BETWEEN FEDERAL AND STATE AGENCIES.—

"(1) IN GENERAL.—The Secretary shall designate an employee of the Federal Government as State coordinator for each appropriate State agency—

"(A) to provide oversight and enforcement of this title; and

"(B) to oversee the training and inspection activities of designated personnel of the State agency.

"(2) SUPERVISION.—A State coordinator shall be under the direct supervision of the Secretary.

"(3) DUTIES OF STATE COORDINATOR.—

"(A) IN GENERAL.—A State coordinator shall visit selected establishments with a frequency that is appropriate to ensure that selected establishments are operating in a manner that is consistent with this Act (including regulations and policies under this Act).

"(B) QUARTERLY REPORTS.—A State coordinator shall, on a quarterly basis, submit to the Secretary a report that describes the status of each selected establishment that is under the jurisdiction of the State coordinator with respect to the level of compliance of each selected establishment with the requirements of this Act.

"(C) IMMEDIATE NOTIFICATION REQUIREMENT.—If a State coordinator determines that any selected establishment that is under the jurisdiction of the State coordinator is in violation of any requirement of this Act, the State coordinator shall—

"(i) immediately notify the Secretary of the violation; and

"(ii) deselect the selected establishment or suspend inspection at the selected establishment.

"(4) PERFORMANCE EVALUATIONS.—Performance evaluations of State coordinators designated under this subsection shall be conducted by the Secretary as part of the Federal agency management control system.

Deadlines.

"(e) AUDITS.—

"(1) PERIODIC AUDITS CONDUCTED BY INSPECTOR GENERAL OF THE DEPARTMENT OF AGRICULTURE.—Not later than 2 years after the effective date described in subsection (j), and not less often than every 3 years thereafter, the Inspector General of the Department of Agriculture shall conduct an audit of each activity taken by the Secretary under this section for the period covered by the audit to determine compliance with this section.

"(2) AUDIT CONDUCTED BY COMPTROLLER GENERAL OF THE UNITED STATES.—Not earlier than 3 years, nor later than 5 years, after the date of the enactment of this section, the Comptroller General of the United States shall conduct an audit of the implementation of this section to determine—

"(A) the effectiveness of the implementation of this section; and

"(B) the number of selected establishments selected by the Secretary to ship carcasses, portions of carcasses, or meat items under this section.

"(f) TECHNICAL ASSISTANCE DIVISION.—

"(1) ESTABLISHMENT.—Not later than 180 days after the effective date described in subsection (j), the Secretary shall establish in the Food Safety and Inspection Service of the Department of Agriculture a technical assistance division to coordinate the initiatives of any other appropriate agency of the Department of Agriculture to provide— Deadline.

"(A) outreach, education, and training to very small or certain small establishments (as defined by the Secretary); and

"(B) grants to appropriate State agencies to provide outreach, technical assistance, education, and training to very small or certain small establishments (as defined by the Secretary).

"(2) PERSONNEL.—The technical assistance division shall be comprised of individuals that, as determined by the Secretary—

"(A) are of a quantity sufficient to carry out the duties of the technical assistance division; and

"(B) possess appropriate qualifications and expertise relating to the duties of the technical assistance division.

"(g) TRANSITION GRANTS.—The Secretary may provide grants to appropriate State agencies to assist the appropriate State agencies in helping establishments covered by title III to transition to selected establishments.

"(h) VIOLATIONS.—Any selected establishment that the Secretary determines to be in violation of any requirement of this Act shall be transitioned to a Federal establishment in accordance with a procedure developed by the Secretary under subsection (b)(3)(A).

"(i) EFFECT.—Nothing in this section limits the jurisdiction of the Secretary with respect to the regulation of meat and meat products under this Act.

"(j) EFFECTIVE DATE.—

"(1) IN GENERAL.—This section takes effect on the date on which the Secretary, after providing a period of public comment (including through the conduct of public meetings or hearings), promulgates final regulations to carry out this section.

"(2) REQUIREMENT.—Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate final regulations in accordance with paragraph (1).". Deadline.

(b) POULTRY AND POULTRY PRODUCTS.—The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended by adding at the end the following:

**"SEC. 31. INTERSTATE SHIPMENT OF POULTRY INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.** 21 USC 472.

"(a) DEFINITIONS.—

"(1) APPROPRIATE STATE AGENCY.—The term 'appropriate State agency' means a State agency described in section 5(a)(1).

"(2) DESIGNATED PERSONNEL.—The term 'designated personnel' means inspection personnel of a State agency that have

undergone all necessary inspection training and certification to assist the Secretary in the administration and enforcement of this Act, including rules and regulations issued under this Act.

"(3) ELIGIBLE ESTABLISHMENT.—The term 'eligible establishment' means an establishment that is in compliance with—

"(A) the State inspection program of the State in which the establishment is located; and

"(B) this Act, including rules and regulations issued under this Act.

"(4) POULTRY ITEM.—The term 'poultry item' means—

"(A) a portion of poultry; and

"(B) a poultry product.

"(5) SELECTED ESTABLISHMENT.—The term 'selected establishment' means an eligible establishment that is selected by the Secretary, in coordination with the appropriate State agency of the State in which the eligible establishment is located, under subsection (b) to ship poultry items in interstate commerce.

"(b) AUTHORITY OF SECRETARY TO ALLOW SHIPMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary, in coordination with the appropriate State agency of the State in which an establishment is located, may select the establishment to ship poultry items in interstate commerce, and place on each poultry item shipped in interstate commerce a Federal mark, stamp, tag, or label of inspection, if—

"(A) the poultry item qualifies for the Federal mark, stamp, tag, or label of inspection under the requirements of this Act;

"(B) the establishment is an eligible establishment; and

"(C) inspection services for the establishment are provided by designated personnel.

"(2) PROHIBITED ESTABLISHMENTS.—In carrying out paragraph (1), the Secretary, in coordination with an appropriate State agency, shall not select an establishment that—

"(A) on average, employs more than 25 employees (including supervisory and nonsupervisory employees), as defined by the Secretary;

"(B) as of the date of the enactment of this section, ships in interstate commerce carcasses, portions of carcasses, or poultry items that are inspected by the Secretary in accordance with this Act;

"(C)(i) is a Federal establishment;

"(ii) was a Federal establishment as of the date of the enactment of this section, and was reorganized on a later date under the same name or a different name or person by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section; or

"(iii) was a State establishment as of the date of the enactment of this section that—

"(I) as of the date of the enactment of this section, employed more than 25 employees; and

"(II) was reorganized on a later date by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section;

"(D) is in violation of this Act;

"(E) is located in a State that does not have a State inspection program; or

"(F) is the subject of a transition carried out in accordance with a procedure developed by the Secretary under paragraph (3)(A).

"(3) ESTABLISHMENTS THAT EMPLOY MORE THAN 25 EMPLOYEES.—

"(A) DEVELOPMENT OF PROCEDURE.—The Secretary may develop a procedure to transition to a Federal establishment any establishment under this section that, on average, consistently employs more than 25 employees.

"(B) ELIGIBILITY OF CERTAIN ESTABLISHMENTS.—

"(i) IN GENERAL.—A State establishment that employs more than 25 employees but less than 35 employees as of the date of the enactment of this section may be selected as a selected establishment under this subsection.

"(ii) PROCEDURES.—A State establishment shall be subject to the procedures established under subparagraph (A) beginning on the date that is 3 years after the effective date described in subsection (i).

"(c) REIMBURSEMENT OF STATE COSTS.—The Secretary shall reimburse a State for costs related to the inspection of selected establishments in the State in accordance with Federal requirements in an amount of not less than 60 percent of eligible State costs.

"(d) COORDINATION BETWEEN FEDERAL AND STATE AGENCIES.—

"(1) IN GENERAL.—The Secretary shall designate an employee of the Federal Government as State coordinator for each appropriate State agency—

"(A) to provide oversight and enforcement of this section; and

"(B) to oversee the training and inspection activities of designated personnel of the State agency.

"(2) SUPERVISION.—A State coordinator shall be under the direct supervision of the Secretary.

"(3) DUTIES OF STATE COORDINATOR.—

"(A) IN GENERAL.—A State coordinator shall visit selected establishments with a frequency that is appropriate to ensure that selected establishments are operating in a manner that is consistent with this Act (including regulations and policies under this Act).

"(B) QUARTERLY REPORTS.—A State coordinator shall, on a quarterly basis, submit to the Secretary a report that describes the status of each selected establishment that is under the jurisdiction of the State coordinator with respect to the level of compliance of each selected establishment with the requirements of this Act.

"(C) IMMEDIATE NOTIFICATION REQUIREMENT.—If a State coordinator determines that any selected establishment that is under the jurisdiction of the State coordinator is in violation of any requirement of this Act, the State coordinator shall—

"(i) immediately notify the Secretary of the violation; and

"(ii) deselect the selected establishment or suspend inspection at the selected establishment.

"(4) PERFORMANCE EVALUATIONS.—Performance evaluations of State coordinators designated under this subsection shall be conducted by the Secretary as part of the Federal agency management control system.

Deadlines.

"(e) AUDITS.—

"(1) PERIODIC AUDITS CONDUCTED BY INSPECTOR GENERAL OF THE DEPARTMENT OF AGRICULTURE.—Not later than 2 years after the effective date described in subsection (i), and not less often than every 3 years thereafter, the Inspector General of the Department of Agriculture shall conduct an audit of each activity taken by the Secretary under this section for the period covered by the audit to determine compliance with this section.

"(2) AUDIT CONDUCTED BY COMPTROLLER GENERAL OF THE UNITED STATES.—Not earlier than 3 years, nor later than 5 years, after the date of the enactment of this section, the Comptroller General of the United States shall conduct an audit of the implementation of this section to determine—

"(A) the effectiveness of the implementation of this section; and

"(B) the number of selected establishments selected by the Secretary to ship poultry items under this section.

"(f) TRANSITION GRANTS.—The Secretary may provide grants to appropriate State agencies to assist the appropriate State agencies in helping establishments covered by this Act to transition to selected establishments.

"(g) VIOLATIONS.—Any selected establishment that the Secretary determines to be in violation of any requirement of this Act shall be transitioned to a Federal establishment in accordance with a procedure developed by the Secretary under subsection (b)(3)(A).

"(h) EFFECT.—Nothing in this section limits the jurisdiction of the Secretary with respect to the regulation of poultry and poultry products under this Act.

"(i) EFFECTIVE DATE.—

"(1) IN GENERAL.—This section takes effect on the date on which the Secretary, after providing a period of public comment (including through the conduct of public meetings or hearings), promulgates final regulations to carry out this section.

Deadline. Regulations.

"(2) REQUIREMENT.—Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate final regulations in accordance with paragraph (1).".

**SEC. 11016. INSPECTION AND GRADING.**

(a) GRADING.—Section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622) is amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m) the following new subsection:

"(n) GRADING PROGRAM.—To establish within the Department of Agriculture a voluntary fee based grading program for—

"(1) catfish (as defined by the Secretary under paragraph (2) of section 1(w) of the Federal Meat Inspection Act (21 U.S.C. 601(w))); and

"(2) any additional species of farm-raised fish or farm-raised shellfish—

"(A) for which the Secretary receives a petition requesting such voluntary fee based grading; and

"(B) that the Secretary considers appropriate.".

(b) INSPECTION.—

(1) IN GENERAL.—The Federal Meat Inspection Act is amended—

(A) in section 1(w) (21 U.S.C. 601(w)) —

(i) by striking "and" at the end of paragraph (1);

(ii) by redesignating paragraph (2) as paragraph (3); and

(iii) by inserting after paragraph (1) the following new paragraph:

"(2) catfish, as defined by the Secretary; and";

(B) by striking section 6 (21 U.S.C. 606) and inserting the following new section:

"SEC. 6. (a) IN GENERAL.—For the purposes hereinbefore set forth the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, and for the purposes of any examination and inspection and inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of said establishment; and said inspectors shall mark, stamp, tag, or label as 'Inspected and passed' all such products found to be not adulterated; and said inspectors shall label, mark, stamp, or tag as 'Inspected and condemned' all such products found adulterated, and all such condemned meat food products shall be destroyed for food purposes, as hereinbefore provided, and the Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products: *Provided*, That subject to the rules and regulations of the Secretary the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact sold or offered for sale for domestic use or consumption then this proviso shall not exempt said article from the operation of all the other provisions of this chapter. 21 USC 606.

"(b) CATFISH.—In the case of an examination and inspection under subsection (a) of a meat food product derived from catfish, the Secretary shall take into account the conditions under which the catfish is raised and transported to a processing establishment."; and

(C) by adding at the end of title I the following new section:

"SEC. 25. Notwithstanding any other provision of this Act, the requirements of sections 3, 4, 5, 10(b), and 23 shall not apply to catfish.". 21 USC 625.

(2) EFFECTIVE DATE.— 21 USC 601 note.

(A) IN GENERAL.—The amendments made by paragraph (1) shall not apply until the date on which the Secretary of Agriculture issues final regulations (after providing a period of public comment, including through the conduct of public meetings or hearings, in accordance with chapter 5 of title 5, United States Code) to carry out such amendments.

Deadline.

(B) REGULATIONS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Agriculture, in consultation with the Commissioner of Food and Drugs, shall issue final regulations to carry out the amendments made by paragraph (1).

Deadline.

(3) BUDGET REQUEST.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit to Congress an estimate of the costs of implementing the amendments made by paragraph (1), including the estimated—

(A) staff years;

(B) number of establishments;

(C) volume expected to be produced at such establishments; and

(D) any other information used in estimating the costs of implementing such amendments.

**SEC. 11017. FOOD SAFETY IMPROVEMENT.**

(a) FEDERAL MEAT INSPECTION ACT.—Title I of the Federal Meat Inspection Act is further amended by inserting after section 11 (21 U.S.C. 611) the following:

21 USC 612.

**"SEC. 12. NOTIFICATION.**

"Any establishment subject to inspection under this Act that believes, or has reason to believe, that an adulterated or misbranded meat or meat food product received by or originating from the establishment has entered into commerce shall promptly notify the Secretary with regard to the type, amount, origin, and destination of the meat or meat food product.

21 USC 613.

**"SEC. 13. PLANS AND REASSESSMENTS.**

"The Secretary shall require that each establishment subject to inspection under this Act shall, at a minimum—

"(1) prepare and maintain current procedures for the recall of all meat or meat food products produced and shipped by the establishment;

"(2) document each reassessment of the process control plans of the establishment; and

"(3) upon request, make the procedures and reassessed process control plans available to inspectors appointed by the Secretary for review and copying.".

(b) POULTRY PRODUCTS INSPECTION ACT.—Section 10 of the Poultry Products Inspection Act (21 U.S.C. 459) is amended—

(1) by striking the section heading and all that follows through "**SEC. 10**. No establishment" and inserting the following:

**"SEC. 10. COMPLIANCE BY ALL ESTABLISHMENTS.**

"(a) IN GENERAL.—No establishment"; and

(2) by adding at the end the following:

"(b) NOTIFICATION.—Any establishment subject to inspection under this Act that believes, or has reason to believe, that an

adulterated or misbranded poultry or poultry product received by or originating from the establishment has entered into commerce shall promptly notify the Secretary with regard to the type, amount, origin, and destination of the poultry or poultry product.

"(c) PLANS AND REASSESSMENTS.—The Secretary shall require that each establishment subject to inspection under this Act shall, at a minimum—

"(1) prepare and maintain current procedures for the recall of all poultry or poultry products produced and shipped by the establishment;

"(2) document each reassessment of the process control plans of the establishment; and

"(3) upon request, make the procedures and reassessed process control plans available to inspectors appointed by the Secretary for review and copying.".

# TITLE XII—CROP INSURANCE AND DISASTER ASSISTANCE PROGRAMS

## Subtitle A—Crop Insurance and Agricultural Disaster Assistance

**SEC. 12001. DEFINITION OF ORGANIC CROP.**

Section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following:

"(7) ORGANIC CROP.—The term 'organic crop' means an agricultural commodity that is organically produced consistent with section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502).".

**SEC. 12002. GENERAL POWERS.**

(a) IN GENERAL.—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended—

(1) in the first sentence of subsection (d), by striking "The Corporation" and inserting "Subject to section 508(j)(2)(A), the Corporation"; and

(2) by striking subsection (n).

(b) CONFORMING AMENDMENTS.—

(1) Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended by redesignating subsections (o), (p), and (q) as subsections (n), (o), and (p), respectively.

(2) Section 521 of the Federal Crop Insurance Act (7 U.S.C. 1521) is amended by striking the last sentence.

**SEC. 12003. REDUCTION IN LOSS RATIO.**

(a) PROJECTED LOSS RATIO.—Subsection (n)(2) of section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) (as redesignated by section 12002(b)(1)) is amended—

(1) in the paragraph heading, by striking "AS OF OCTOBER 1, 1998";

(2) by striking ", on and after October 1, 1998,"; and

(3) by striking "1.075" and inserting "1.0".

(b) PREMIUMS REQUIRED.—Section 508(d)(1) of the Federal Crop Insurance Act (7 U.S.C. 1508(d)(1)) is amended by striking "not greater than 1.1" and all that follows and inserting "not greater than—

"(A) 1.1 through September 30, 1998;

"(B) 1.075 for the period beginning October 1, 1998, and ending on the day before the date of enactment of the Food, Conservation, and Energy Act of 2008; and

"(C) 1.0 on and after the date of enactment of that Act.".

**SEC. 12004. PREMIUMS ADJUSTMENTS.**

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by adding at the end the following:

"(9) PREMIUM ADJUSTMENTS.—

"(A) PROHIBITION.—Except as provided in subparagraph (B), no person shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, either as an inducement to procure insurance or after insurance has been procured, any rebate, discount, abatement, credit, or reduction of the premium named in an insurance policy or any other valuable consideration or inducement not specified in the policy.

"(B) EXCEPTIONS.—Subparagraph (A) does not apply with respect to—

"(i) a payment authorized under subsection (b)(5)(B);

"(ii) a performance-based discount authorized under subsection (d)(3); or

"(iii) a patronage dividend, or similar payment, that is paid—

"(I) by an entity that was approved by the Corporation to make such payments for the 2005, 2006, or 2007 reinsurance year, in accordance with subsection (b)(5)(B) as in effect on the day before the date of enactment of this paragraph; and

"(II) in a manner consistent with the payment plan approved in accordance with that subsection for the entity by the Corporation for the applicable reinsurance year.".

**SEC. 12005. CONTROLLED BUSINESS INSURANCE.**

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 12004) is amended by adding at the end the following:

"(10) COMMISSIONS.—

"(A) DEFINITION OF IMMEDIATE FAMILY.—In this paragraph, the term 'immediate family' means an individual's father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, the spouse of the foregoing, and the individual's spouse.

"(B) PROHIBITION.—No individual (including a subagent) may receive directly, or indirectly through an entity, any compensation (including any commission, profit sharing, bonus, or any other direct or indirect benefit)

for the sale or service of a policy or plan of insurance offered under this title if—

"(i) the individual has a substantial beneficial interest, or a member of the individual's immediate family has a substantial beneficial interest, in the policy or plan of insurance; and

"(ii) the total compensation to be paid to the individual with respect to the sale or service of the policies or plans of insurance that meet the condition described in clause (i) exceeds 30 percent or the percentage specified in State law, whichever is less, of the total of all compensation received directly or indirectly by the individual for the sale or service of all policies and plans of insurance offered under this title for the reinsurance year.

"(C) REPORTING.—Not later than 90 days after the annual settlement date of the reinsurance year, any individual that received directly or indirectly any compensation for the service or sale of any policy or plan of insurance offered under this title in the prior reinsurance year shall certify to applicable approved insurance providers that the compensation that the individual received was in compliance with this paragraph.

"(D) SANCTIONS.—The procedural requirements and sanctions prescribed in section 515(h) shall apply to the prosecution of a violation of this paragraph.

"(E) APPLICABILITY.—

"(i) IN GENERAL.—Sanctions for violations under this paragraph shall only apply to the individuals or entities directly responsible for the certification required under subparagraph (C) or the failure to comply with the requirements of this paragraph.

"(ii) PROHIBITION.—No sanctions shall apply with respect to the policy or plans of insurance upon which compensation is received, including the reinsurance for those policies or plans.".

**SEC. 12006. ADMINISTRATIVE FEE.**

(a) IN GENERAL.—Section 508(b)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) BASIC FEE.—Each producer shall pay an administrative fee for catastrophic risk protection in the amount of $300 per crop per county."; and

(2) in subparagraph (B)—

(A) by striking "**PAYMENT ON BEHALF OF PRODUCERS**" and inserting "**PAYMENT OF CATASTROPHIC RISK PROTECTION FEE ON BEHALF OF PRODUCERS**";

(B) in clause (i)—

(i) by striking "or other payment"; and

(ii) by striking "with catastrophic risk protection or additional coverage" and inserting "through the payment of catastrophic risk protection administrative fees";

(C) by striking clauses (ii) and (vi);

(D) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively;

(E) in clause (iii) (as so redesignated), by striking "A policy or plan of insurance" and inserting "Catastrophic risk protection coverage"; and

(F) in clause (iv) (as so redesignated)—

(i) by striking "or other arrangement under this subparagraph"; and

(ii) by striking "additional".

(b) REPEAL.—Section 748 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1508 note; Public Law 105–277) is repealed.

**SEC. 12007. TIME FOR PAYMENT.**

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) in subsection (b)(5)(C), by striking "the date that premium" and inserting "the same date on which the premium";

(2) in subsection (c)(10), by adding at the end the following:

"(C) TIME FOR PAYMENT.—Subsection (b)(5)(C) shall apply with respect to the collection date for the administrative fee."; and

(3) in subsection (d), by adding at the end the following:

"(4) BILLING DATE FOR PREMIUMS.—Effective beginning with the 2012 reinsurance year, the Corporation shall establish August 15 as the billing date for premiums.".

**SEC. 12008. CATASTROPHIC COVERAGE REIMBURSEMENT RATE.**

Section 508(b)(11) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(11)) is amended by striking "8 percent" and inserting "6 percent".

**SEC. 12009. GRAIN SORGHUM PRICE ELECTION.**

Section 508(c)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)(5)) is amended by adding at the end the following:

Deadlines.

"(D) GRAIN SORGHUM PRICE ELECTION.—

"(i) IN GENERAL.—The Corporation, in conjunction with the Secretary (referred to in this subparagraph as the 'Corporation'), shall—

"(I) not later than 60 days after the date of enactment of this subparagraph, make available all methods and data, including data from the Economic Research Service, used by the Corporation to develop the expected market prices for grain sorghum under the production and revenue-based plans of insurance of the Corporation; and

"(II) request applicable data from the grain sorghum industry.

"(ii) EXPERT REVIEWERS.—

Contracts.

"(I) IN GENERAL.—Not later than 120 days after the date of enactment of this subparagraph, the Corporation shall contract individually with 5 expert reviewers described in subclause (II) to develop and recommend a methodology for determining an expected market price for sorghum for both the production and revenue-based plans of

insurance to more accurately reflect the actual price at harvest.

"(II) REQUIREMENTS.—The expert reviewers under subclause (I) shall be comprised of agricultural economists with experience in grain sorghum and corn markets, of whom—

"(aa) 2 shall be agricultural economists of institutions of higher education;

"(bb) 2 shall be economists from within the Department; and

"(cc) 1 shall be an economist nominated by the grain sorghum industry.

"(iii) RECOMMENDATIONS.—

"(I) IN GENERAL.—Not later than 90 days after the date of contracting with the expert reviewers under clause (ii), the expert reviewers shall submit, and the Corporation shall make available to the public, the recommendations of the expert reviewers.

"(II) CONSIDERATION.—The Corporation shall consider the recommendations under subclause (I) when determining the appropriate pricing methodology to determine the expected market price for grain sorghum under both the production and revenue-based plans of insurance.

"(III) PUBLICATION.—Not later than 60 days after the date on which the Corporation receives the recommendations of the expert reviewers, the Corporation shall publish the proposed pricing methodology for both the production and revenue-based plans of insurance for notice and comment and, during the comment period, conduct at least 1 public meeting to discuss the proposed pricing methodologies.

"(iv) APPROPRIATE PRICING METHODOLOGY.—

"(I) IN GENERAL.—Not later than 180 days after the close of the comment period in clause (iii)(III), but effective not later than the 2010 crop year, the Corporation shall implement a pricing methodology for grain sorghum under the production and revenue-based plans of insurance that is transparent and replicable.

"(II) INTERIM METHODOLOGY.—Until the date on which the new pricing methodology is implemented, the Corporation may continue to use the pricing methodology that the Corporation determines best establishes the expected market price.

"(III) AVAILABILITY.—On an annual basis, the Corporation shall make available the pricing methodology and data used to determine the expected market prices for grain sorghum under the production and revenue-based plans of insurance, including any changes to the methodology used to determine the expected market prices for grain sorghum from the previous year.".

**SEC. 12010. PREMIUM REDUCTION AUTHORITY.**

Subsection 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) is amended—

(1) in paragraph (2), by striking "paragraph (4)" and inserting "paragraph (3)";

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

**SEC. 12011. ENTERPRISE AND WHOLE FARM UNITS.**

Section 508(e) of Federal Crop Insurance Act (7 U.S.C. 1508(e)) (as amended by section 12010) is amended by adding at the end the following:

"(5) ENTERPRISE AND WHOLE FARM UNITS.—

"(A) IN GENERAL.—The Corporation may carry out a pilot program under which the Corporation pays a portion of the premiums for plans or policies of insurance for which the insurable unit is defined on a whole farm or enterprise unit basis that is higher than would otherwise be paid in accordance with paragraph (2).

"(B) AMOUNT.—The percentage of the premium paid by the Corporation to a policyholder for a policy with an enterprise or whole farm unit under this paragraph shall, to the maximum extent practicable, provide the same dollar amount of premium subsidy per acre that would otherwise have been paid by the Corporation under paragraph (2) if the policyholder had purchased a basic or optional unit for the crop for the crop year.

"(C) LIMITATION.—The amount of the premium paid by the Corporation under this paragraph may not exceed 80 percent of the total premium for the enterprise or whole farm unit policy.".

**SEC. 12012. PAYMENT OF PORTION OF PREMIUM FOR AREA REVENUE PLANS.**

Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) (as amended by section 12011) is amended—

(1) in paragraph (2), in the matter preceding subparagraph (A), by striking "paragraph (4)" and inserting "paragraphs (4), (6), and (7)"; and

(2) by adding at the end the following:

"(6) PREMIUM SUBSIDY FOR AREA REVENUE PLANS.—Subject to paragraph (4), in the case of a policy or plan of insurance that covers losses due to a reduction in revenue in an area, the amount of the premium paid by the Corporation shall be as follows:

"(A) In the case of additional area coverage equal to or greater than 70 percent, but less than 75 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(B) In the case of additional area coverage equal to or greater than 75 percent, but less than 85 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(C) In the case of additional area coverage equal to or greater than 85 percent, but less than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 49 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(D) In the case of additional area coverage equal to or greater than 90 percent of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 44 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(7) PREMIUM SUBSIDY FOR AREA YIELD PLANS.—Subject to paragraph (4), in the case of a policy or plan of insurance that covers losses due to a loss of yield or prevented planting in an area, the amount of the premium paid by the Corporation shall be as follows:

"(A) In the case of additional area coverage equal to or greater than 70 percent, but less than 80 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(B) In the case of additional area coverage equal to or greater than 80 percent, but less than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(C) In the case of additional area coverage equal to or greater than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 51 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.".

**SEC. 12013. DENIAL OF CLAIMS.**

Section 508(j)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)(2)(A)) is amended by inserting "on behalf of the Corporation" after "approved provider".

**SEC. 12014. SETTLEMENT OF CROP INSURANCE CLAIMS ON FARM-STORED PRODUCTION.**

(a) IN GENERAL.—Section 508(j) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)) is amended by adding at the end the following:

"(5) SETTLEMENT OF CLAIMS ON FARM-STORED PRODUCTION.—A producer with farm-stored production may, at the option of the producer, delay settlement of a crop insurance claim relating to the farm-stored production for up to 4 months after the last date on which claims may be submitted under the policy of insurance.".

(b) STUDY ON THE EFFICACY OF PACK FACTORS.—

(1) IN GENERAL.—The Secretary shall conduct a study of the efficacy and accuracy of the application of pack factors regarding the measurement of farm-stored production for purposes of providing policies or plans of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(2) CONSIDERATIONS.—The study shall consider—

(A) structural shape and size;

(B) time in storage;

(C) the impact of facility aeration systems; and

(D) any other factors the Secretary considers appropriate.

(3) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes the findings of the study and any related policy recommendations.

**SEC. 12015. TIME FOR REIMBURSEMENT.**

Section 508(k)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(4)) is amended by adding at the end the following:

"(D) TIME FOR REIMBURSEMENT.—Effective beginning with the 2012 reinsurance year, the Corporation shall reimburse approved insurance providers and agents for the allowable administrative and operating costs of the providers and agents as soon as practicable after October 1 (but not later than October 31) after the reinsurance year for which reimbursements are earned.".

**SEC. 12016. REIMBURSEMENT RATE.**

Section 508(k)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(4)) (as amended by section 12015) is amended—

(1) in subparagraph (A), by striking "Except as provided in subparagraph (B)" and inserting "Except as otherwise provided in this paragraph"; and

(2) by adding at the end the following:

"(E) REIMBURSEMENT RATE REDUCTION.—In the case of a policy of additional coverage that received a rate of reimbursement for administrative and operating costs for the 2008 reinsurance year, for each of the 2009 and subsequent reinsurance years, the reimbursement rate for administrative and operating costs shall be 2.3 percentage points below the rates in effect as of the date of enactment of the Food, Conservation, and Energy Act of 2008 for all crop insurance policies used to define loss ratio, except that only ½ of the reduction shall apply in a reinsurance year to the total premium written in a State in which the State loss ratio is greater than 1.2.

"(F) REIMBURSEMENT RATE FOR AREA POLICIES AND PLANS OF INSURANCE.—Notwithstanding subparagraphs (A) through (E), for each of the 2009 and subsequent reinsurance years, the reimbursement rate for area policies and plans of insurance widely available as of the date of enactment of this subparagraph shall be 12 percent of the premium used to define loss ratio for that reinsurance year.".

**SEC. 12017. RENEGOTIATION OF STANDARD REINSURANCE AGREEMENT.**

Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) is amended by adding at the end the following:

"(8) RENEGOTIATION OF STANDARD REINSURANCE AGREEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), notwithstanding section 536 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 1506 note; Public Law 105–185) and section 148 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1506 note; Public Law 106–224), the Corporation may renegotiate the financial terms and conditions of each Standard Reinsurance Agreement—

"(i) to be effective for the 2011 reinsurance year beginning July 1, 2010; and Effective date.

"(ii) once during each period of 5 reinsurance years thereafter. Time period.

"(B) EXCEPTIONS.—

"(i) ADVERSE CIRCUMSTANCES.—Subject to clause (ii), subparagraph (A) shall not apply in any case in which the approved insurance providers, as a whole, experience unexpected adverse circumstances, as determined by the Secretary.

"(ii) EFFECT OF FEDERAL LAW CHANGES.—If Federal law is enacted after the date of enactment of this paragraph that requires revisions in the financial terms of the Standard Reinsurance Agreement, and changes in the Agreement are made on a mandatory basis by the Corporation, the changes shall not be

considered to be a renegotiation of the Agreement for purposes of subparagraph (A).

"(C) NOTIFICATION REQUIREMENT.—If the Corporation renegotiates a Standard Reinsurance Agreement under subparagraph (A)(iii), the Corporation shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the renegotiation.

"(D) CONSULTATION.—The approved insurance providers may confer with each other and collectively with the Corporation during any renegotiation under subparagraph (A).

"(E) 2011 REINSURANCE YEAR.—

"(i) IN GENERAL.—As part of the Standard Reinsurance Agreement renegotiation authorized under subparagraph (A)(i), the Corporation shall consider alternative methods to determine reimbursement rates for administrative and operating costs.

"(ii) ALTERNATIVE METHODS.—Alternatives considered under clause (i) shall include—

"(I) methods that—

"(aa) are graduated and base reimbursement rates in a State on changes in premiums in that State;

"(bb) are graduated and base reimbursement rates in a State on the loss ratio for crop insurance for that State; and

"(cc) are graduated and base reimbursement rates on individual policies on the level of total premium for each policy; and

"(II) any other method that takes into account current financial conditions of the program and ensures continued availability of the program to producers on a nationwide basis.".

**SEC. 12018. CHANGE IN DUE DATE FOR CORPORATION PAYMENTS FOR UNDERWRITING GAINS.**

Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) (as amended by section 12017) is amended by adding at the end the following:

"(9) DUE DATE FOR PAYMENT OF UNDERWRITING GAINS.—Effective beginning with the 2011 reinsurance year, the Corporation shall make payments for underwriting gains under this title on—

"(A) for the 2011 reinsurance year, October 1, 2012; and

"(B) for each reinsurance year thereafter, October 1 of the following calendar year.".

**SEC. 12019. MALTING BARLEY.**

Section 508(m) of the Federal Crop Insurance Act (7 U.S.C. 1508(m)) is amended by adding at the end the following:

"(5) SPECIAL PROVISIONS FOR MALTING BARLEY.—The Corporation shall promulgate special provisions under this subsection specific to malting barley, taking into consideration any changes in quality factors, as required by applicable market conditions.".

**SEC. 12020. CROP PRODUCTION ON NATIVE SOD.**

(a) FEDERAL CROP INSURANCE.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended by adding at the end the following:

"(o) CROP PRODUCTION ON NATIVE SOD.—

"(1) DEFINITION OF NATIVE SOD.—In this subsection, the term 'native sod' means land—

"(A) on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and

"(B) that has never been tilled for the production of an annual crop as of the date of enactment of this subsection.

"(2) INELIGIBILITY FOR BENEFITS.—

"(A) IN GENERAL.—Subject to subparagraph (B) and paragraph (3), native sod acreage that has been tilled for the production of an annual crop after the date of enactment of this subsection shall be ineligible during the first 5 crop years of planting, as determined by the Secretary, for benefits under—

"(i) this title; and

"(ii) section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(B) DE MINIMIS ACREAGE EXEMPTION.—The Secretary shall exempt areas of 5 acres or less from subparagraph (A).

"(3) APPLICATION.—Paragraph (2) may apply to native sod acreage in the Prairie Pothole National Priority Area at the election of the Governor of the respective State.".

(b) NONINSURED CROP DISASTER ASSISTANCE.—Section 196(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(a)) is amended by adding at the end the following:

"(4) PROGRAM INELIGIBILITY RELATING TO CROP PRODUCTION ON NATIVE SOD.—

"(A) DEFINITION OF NATIVE SOD.—In this paragraph, the term 'native sod' means land—

"(i) on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and

"(ii) that has never been tilled for the production of an annual crop as of the date of enactment of this paragraph.

"(B) INELIGIBILITY FOR BENEFITS.—

"(i) IN GENERAL.—Subject to clause (ii) and subparagraph (C), native sod acreage that has been tilled for the production of an annual crop after the date of enactment of this paragraph shall be ineligible during the first 5 crop years of planting, as determined by the Secretary, for benefits under—

"(I) this section; and

"(II) the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(ii) DE MINIMIS ACREAGE EXEMPTION.—The Secretary shall exempt areas of 5 acres or less from clause (i).

"(C) APPLICATION.—Subparagraph (B) may apply to native sod acreage in the Prairie Pothole National Priority

Area at the election of the Governor of the respective State.".

**SEC. 12021. INFORMATION MANAGEMENT.**

Section 515 of the Federal Crop Insurance Act (7 U.S.C. 1515) is amended—

(a) in subsection (j)(3), by adding before the period at the end the following: ", which shall be subject to competition on a periodic basis, as determined by the Secretary"; and

(b) by striking subsection (k) and inserting the following:

"(k) FUNDING.—

"(1) INFORMATION TECHNOLOGY.—To carry out subsection (j)(1), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than $15,000,000 for each of fiscal years 2008 through 2011.

"(2) DATA MINING.—To carry out subsection (j)(2), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than $4,000,000 for fiscal year 2009 and each subsequent fiscal year.".

**SEC. 12022. RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—Section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) RESEARCH AND DEVELOPMENT PAYMENT.—

"(A) IN GENERAL.—The Corporation shall provide a payment to an applicant for research and development costs in accordance with this subsection.

"(B) REIMBURSEMENT.—An applicant who submits a policy under section 508(h) shall be eligible for the reimbursement of reasonable research and development costs directly related to the policy if the policy is approved by the Board for sale to producers.

"(2) ADVANCE PAYMENTS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Board may approve the request of an applicant for advance payment of a portion of reasonable research and development costs prior to submission and approval of the policy by the Board under section 508(h).

"(B) PROCEDURES.—The Board shall establish procedures for approving advance payment of reasonable research and development costs to applicants.

"(C) CONCEPT PROPOSAL.—As a condition of eligibility for advance payments, an applicant shall submit a concept proposal for the policy that the applicant plans to submit to the Board under section 508(h), consistent with procedures established by the Board for submissions under subparagraph (B), including—

"(i) a summary of the qualifications of the applicant, including any prior concept proposals and submissions to the Board under section 508(h) and, if applicable, any work conducted under this section;

"(ii) a projection of total research and development costs that the applicant expects to incur;

"(iii) a description of the need for the policy, the marketability of and expected demand for the policy

among affected producers, and the potential impact of the policy on producers and the crop insurance delivery system;

"(iv) a summary of data sources available to demonstrate that the policy can reasonably be developed and actuarially appropriate rates established; and

"(v) an identification of the risks the proposed policy will cover and an explanation of how the identified risks are insurable under this title.

"(D) REVIEW.—

"(i) EXPERTS.—If the requirements of subparagraph (B) and (C) are met, the Board may submit a concept proposal described in subparagraph (C) to not less than 2 independent expert reviewers, whose services are appropriate for the type of concept proposal submitted, to assess the likelihood that the proposed policy being developed will result in a viable and marketable policy, as determined by the Board.

"(ii) TIMING.—The time frames described in subparagraphs (C) and (D) of section 508(h)(4) shall apply to the review of concept proposals under this subparagraph.

"(E) APPROVAL.—The Board may approve up to 50 percent of the projected total research and development costs to be paid in advance to an applicant, in accordance with the procedures developed by the Board for the making of such payments, if, after consideration of the reviewer reports described in subparagraph (D) and such other information as the Board determines appropriate, the Board determines that—

"(i) the concept, in good faith, will likely result in a viable and marketable policy consistent with section 508(h);

"(ii) in the sole opinion of the Board, the concept, if developed into a policy and approved by the Board, would provide crop insurance coverage—

"(I) in a significantly improved form;

"(II) to a crop or region not traditionally served by the Federal crop insurance program; or

"(III) in a form that addresses a recognized flaw or problem in the program;

"(iii) the applicant agrees to provide such reports as the Corporation determines are necessary to monitor the development effort;

"(iv) the proposed budget and timetable are reasonable; and

"(v) the concept proposal meets any other requirements that the Board determines appropriate.

"(F) SUBMISSION OF POLICY.—If the Board approves an advanced payment under subparagraph (E), the Board shall establish a date by which the applicant shall present a submission in compliance with section 508(h) (including the procedures implemented under that section) to the Board for approval.

"(G) FINAL PAYMENT.—

"(i) APPROVED POLICIES.—If a policy is submitted under subparagraph (F) and approved by the Board

under section 508(h) and the procedures established by the Board (including procedures established under subparagraph (B)), the applicant shall be eligible for a payment of reasonable research and development costs in the same manner as policies reimbursed under paragraph (1)(B), less any payments made pursuant to subparagraph (E).

"(ii) POLICIES NOT APPROVED.—If a policy is submitted under subparagraph (F) and is not approved by the Board under section 508(h), the Corporation shall—

"(I) not seek a refund of any payments made in accordance with this paragraph; and

"(II) not make any further research and development cost payments associated with the submission of the policy under this paragraph.

"(H) POLICY NOT SUBMITTED.—If an applicant receives an advance payment and fails to fulfill the obligation of the applicant to the Board by not submitting a completed submission without just cause and in accordance with the procedures established under subparagraph (B)), including notice and reasonable opportunity to respond, as determined by the Board, the applicant shall return to the Board the amount of the advance plus interest.

"(I) REPEATED SUBMISSIONS.—The Board may prohibit advance payments to applicants who have submitted—

"(i) a concept proposal or submission that did not result in a marketable product; or

"(ii) a concept proposal or submission of poor quality.

"(J) CONTINUED ELIGIBILITY.—A determination that an applicant is not eligible for advance payments under this paragraph shall not prevent an applicant from reimbursement under paragraph (1)(B).".

(b) CONFORMING AMENDMENTS.—Section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)) is amended—

(1) in paragraph (3), by striking "or (2)"; and

(2) in paragraph (4)(A), by striking "and (2)"."

**SEC. 12023. CONTRACTS FOR ADDITIONAL POLICIES AND STUDIES.**

Section 522(c) of the Federal Crop Insurance Act (7 U.S.C. 1522) is amended—

(1) by redesignating paragraph (10) as paragraph (17); and

(2) by inserting after paragraph (9) the following:

"(10) CONTRACTS FOR ORGANIC PRODUCTION COVERAGE IMPROVEMENTS.—

Deadline.

"(A) CONTRACTS REQUIRED.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Corporation shall enter into 1 or more contracts for the development of improvements in Federal crop insurance policies covering crops produced in compliance with standards issued by the Department of Agriculture under the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

"(B) REVIEW OF UNDERWRITING RISK AND LOSS EXPERIENCE.—

"(i) REVIEW REQUIRED.—

"(I) IN GENERAL.—A contract under subparagraph (A) shall include a review of the underwriting, risk, and loss experience of organic crops covered by the Corporation, as compared with the same crops produced in the same counties and during the same crop years using nonorganic methods.

"(II) REQUIREMENTS.—The review shall—

"(aa) to the maximum extent practicable, be designed to allow the Corporation to determine whether significant, consistent, or systemic variations in loss history exist between organic and nonorganic production;

"(bb) include the widest available range of data collected by the Secretary and other outside sources of information; and

"(cc) not be limited to loss history under existing crop insurance policies.

"(ii) EFFECT ON PREMIUM SURCHARGE.—Unless the review under this subparagraph documents the existence of significant, consistent, and systemic variations in loss history between organic and nonorganic crops, either collectively or on an individual crop basis, the Corporation shall eliminate or reduce the premium surcharge that the Corporation charges for coverage for organic crops, as determined in accordance with the results.

"(iii) ANNUAL UPDATES.—Beginning with the 2009 crop year, the review under this subparagraph shall be updated on an annual basis as data is accumulated by the Secretary and other sources, so that the Corporation may make determinations regarding adjustments to the surcharge in a timely manner as quickly as evolving practices and data trends allow.

"(C) ADDITIONAL PRICE ELECTION.—

"(i) IN GENERAL.—A contract under subparagraph (A) shall include the development of a procedure, including any associated changes in policy terms or materials required for implementation of the procedure, to offer producers of organic crops an additional price election that reflects actual prices received by organic producers for crops from the field (including appropriate retail and wholesale prices), as established using data collected and maintained by the Secretary or from other sources. Procedures.

"(ii) TIMING.—The development of the procedure shall be completed in a timely manner to allow the Corporation to begin offering the additional price election for organic crops with sufficient data for the 2010 crop year.

"(iii) EXPANSION.—The procedure shall be expanded as quickly as practicable as additional data on prices of organic crops collected by the Secretary and other sources of information becomes available,

with a goal of applying this procedure to all organic crops not later than the fifth full crop year that begins after the date of enactment of Food, Conservation, and Energy Act of 2008.

"(D) REPORTING REQUIREMENTS.—

"(i) IN GENERAL.—The Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on progress made in developing and improving Federal crop insurance for organic crops, including—

"(I) the numbers and varieties of organic crops insured;

"(II) the development of new insurance approaches; and

"(III) the progress of implementing the initiatives required under this paragraph, including the rate at which additional price elections are adopted for organic crops.

"(ii) RECOMMENDATIONS.—The report shall include such recommendations as the Corporation considers appropriate to improve Federal crop insurance coverage for organic crops.

"(11) ENERGY CROP INSURANCE POLICY.—

"(A) DEFINITION OF DEDICATED ENERGY CROP.—In this subsection, the term 'dedicated energy crop' means an annual or perennial crop that—

"(i) is grown expressly for the purpose of producing a feedstock for renewable biofuel, renewable electricity, or biobased products; and

"(ii) is not typically used for food, feed, or fiber.

"(B) AUTHORITY.—The Corporation shall offer to enter into 1 or more contracts with qualified entities to carry out research and development regarding a policy to insure dedicated energy crops.

"(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of risk management tools for the production of dedicated energy crops, including policies and plans of insurance that—

"(i) are based on market prices and yields;

"(ii) to the extent that insufficient data exist to develop a policy based on market prices and yields, evaluate the policies and plans of insurance based on the use of weather or rainfall indices to protect the interests of crop producers; and

"(iii) provide protection for production or revenue losses, or both.

"(12) AQUACULTURE INSURANCE POLICY.—

"(A) DEFINITION OF AQUACULTURE.—In this subsection:

"(i) IN GENERAL.—The term 'aquaculture' means the propagation and rearing of aquatic species in controlled or selected environments, including shellfish cultivation on grants or leased bottom and ocean ranching.

"(ii) EXCLUSION.—The term 'aquaculture' does not include the private ocean ranching of Pacific salmon

for profit in any State in which private ocean ranching of Pacific salmon is prohibited by any law (including regulations).

"(B) AUTHORITY.—

"(i) IN GENERAL.—As soon as practicable after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Corporation shall offer to enter into 3 or more contracts with qualified entities to carry out research and development regarding a policy to insure the production of aquacultural species in aquaculture operations.

"(ii) BIVALVE SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of bivalve species, including—

"(I) American oysters (crassostrea virginica);

"(II) hard clams (mercenaria mercenaria);

"(III) Pacific oysters (crassostrea gigas);

"(IV) Manila clams (tapes phillipinnarium); or

"(V) blue mussels (mytilus edulis).

"(iii) FRESHWATER SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of freshwater species, including—

"(I) catfish (icataluridae);

"(II) rainbow trout (oncorhynchus mykiss);

"(III) largemouth bass (micropterus salmoides);

"(IV) striped bass (morone saxatilis);

"(V) bream (abramis brama);

"(VI) shrimp (penaeus); or

"(VII) tilapia (oreochromis niloticus).

"(iv) SALTWATER SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of saltwater species, including—

"(I) Atlantic salmon (salmo salar); or

"(II) shrimp (penaeus).

"(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of policies and plans of insurance for the production of aquacultural species in aquaculture operations, including policies and plans of insurance that—

"(i) are based on market prices and yields;

"(ii) to the extent that insufficient data exist to develop a policy based on market prices and yields, evaluate how best to incorporate insuring of production of aquacultural species in aquaculture operations into existing policies covering adjusted gross revenue; and

"(iii) provide protection for production or revenue losses, or both.

"(13) POULTRY INSURANCE POLICY.—

"(A) DEFINITION OF POULTRY.—In this paragraph, the term 'poultry' has the meaning given the term in section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)).

"(B) AUTHORITY.—The Corporation shall offer to enter into 1 or more contracts with qualified entities to carry out research and development regarding a policy to insure commercial poultry production.

"(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of risk management tools for the production of poultry, including policies and plans of insurance that provide protection for production or revenue losses, or both, while the poultry is in production.

"(14) APIARY POLICIES.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research and development regarding insurance policies that cover loss of bees.

"(15) ADJUSTED GROSS REVENUE POLICIES FOR BEGINNING PRODUCERS.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research and development into needed modifications of adjusted gross revenue insurance policies, consistent with principles of actuarial sufficiency, to permit coverage for beginning producers with no previous production history, including permitting those producers to have production and premium rates based on information with similar farming operations.

"(16) SKIPROW CROPPING PRACTICES.—

"(A) IN GENERAL.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research into needed modifications of policies to insure corn and sorghum produced in the Central Great Plains (as determined by the Agricultural Research Service) through use of skiprow cropping practices.

"(B) RESEARCH.—Research described in subparagraph (A) shall—

"(i) review existing research on skiprow cropping practices and actual production history of producers using skiprow cropping practices; and

"(ii) evaluate the effectiveness of risk management tools for producers using skiprow cropping practices, including—

"(I) the appropriateness of rules in existence as of the date of enactment of this paragraph relating to the determination of acreage planted in skiprow patterns; and

"(II) whether policies for crops produced through skiprow cropping practices reflect actual production capabilities.".

**SEC. 12024. FUNDING FROM INSURANCE FUND.**

Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) is amended—

(1) in paragraph (1), by striking "$10,000,000" and all that follows through the end of the paragraph and inserting "$7,500,000 for fiscal year 2008 and each subsequent fiscal year";

(2) in paragraph (2)(A), by striking "$20,000,000 for" and all that follows through "year 2004" and inserting "$12,500,000 for fiscal year 2008"; and

(3) in paragraph (3), by striking "the Corporation may use" and all that follows through the end of the paragraph and inserting "the Corporation may use—

"(A) not more than $5,000,000 for each fiscal year to improve program integrity, including by—

"(i) increasing compliance-related training;

"(ii) improving analysis tools and technology regarding compliance;

"(iii) use of information technology, as determined by the Corporation; and

"(iv) identifying and using innovative compliance strategies; and

"(B) any excess amounts to carry out other activities authorized under this section.".

**SEC. 12025. PILOT PROGRAMS.**

(a) IN GENERAL.—Section 523 of the Federal Crop Insurance Act (7 U.S.C. 1523) is amended by adding at the end the following:

"(f) CAMELINA PILOT PROGRAM.—

"(1) IN GENERAL.—The Corporation shall establish a pilot program under which producers or processors of camelina may propose for approval by the Board policies or plans of insurance for camelina, in accordance with section 508(h).

"(2) DETERMINATION BY BOARD.—The Board shall approve a policy or plan of insurance proposed under paragraph (1) if, as determined by the Board, the policy or plan of insurance—

"(A) protects the interests of producers;

"(B) is actuarially sound; and

"(C) meets the requirements of this title.

"(3) TIMEFRAME.—The Corporation shall commence the camelina insurance pilot program as soon as practicable after the date of enactment of this subsection.

"(g) SESAME INSURANCE PILOT PROGRAM.—

"(1) IN GENERAL.—In addition to any other authority of the Corporation, the Corporation shall establish and carry out a pilot program under which a producer of nondehiscent sesame under contract may elect to obtain multiperil crop insurance, as determined by the Corporation.

"(2) TERMS AND CONDITIONS.—The multiperil crop insurance offered under the sesame insurance pilot program shall—

"(A) be offered through reinsurance arrangements with private insurance companies;

"(B) be actuarially sound; and

"(C) require the payment of premiums and administrative fees by a producer obtaining the insurance.

"(3) LOCATION.—The sesame insurance pilot program shall be carried out only in the State of Texas. Texas.

"(4) DURATION.—The Corporation shall commence the sesame insurance pilot program as soon as practicable after the date of the enactment of this subsection.

"(h) GRASS SEED INSURANCE PILOT PROGRAM.—

"(1) IN GENERAL.—In addition to any other authority of the Corporation, the Corporation shall establish and carry out a grass seed pilot program under which a producer of Kentucky bluegrass or perennial rye grass under contract may elect to obtain multiperil crop insurance, as determined by the Corporation.

"(2) TERMS AND CONDITIONS.—The multiperil crop insurance offered under the grass seed insurance pilot program shall—

"(A) be offered through reinsurance arrangements with private insurance companies;

"(B) be actuarially sound; and

"(C) require the payment of premiums and administrative fees by a producer obtaining the insurance.

Minnesota. North Dakota.

"(3) LOCATION.—The grass seed insurance pilot program shall be carried out only in each of the States of Minnesota and North Dakota.

"(4) DURATION.—The Corporation shall commence the grass seed insurance pilot program as soon as practicable after the date of the enactment of this subsection.".

(b) CONFORMING AMENDMENT.—Section 196(a)(2)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(a)(2)(B)) is amended by adding "camelina," after "sea oats,".

**SEC. 12026. RISK MANAGEMENT EDUCATION FOR BEGINNING FARMERS OR RANCHERS.**

Section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)) is amended—

(1) in paragraph (1), by striking "paragraph (4)" and inserting "paragraph (5)";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

"(4) REQUIREMENTS.—In carrying out the programs established under paragraphs (2) and (3), the Secretary shall place special emphasis on risk management strategies, education, and outreach specifically targeted at—

"(A) beginning farmers or ranchers;

"(B) legal immigrant farmers or ranchers that are attempting to become established producers in the United States;

"(C) socially disadvantaged farmers or ranchers;

"(D) farmers or ranchers that—

"(i) are preparing to retire; and

"(ii) are using transition strategies to help new farmers or ranchers get started; and

"(E) new or established farmers or ranchers that are converting production and marketing systems to pursue new markets.".

**SEC. 12027. COVERAGE FOR AQUACULTURE UNDER NONINSURED CROP ASSISTANCE PROGRAM.**

Section 196(c)(2) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(c)(2)) is amended—

(1) by striking "On making" and inserting the following:

"(A) IN GENERAL.—On making"; and

(2) by adding at the end the following:

"(B) AQUACULTURE PRODUCERS.—On making a determination described in subsection (a)(3) for aquaculture producers, the Secretary shall provide assistance under this section to aquaculture producers from all losses related to drought.".

**SEC. 12028. INCREASE IN SERVICE FEES FOR NONINSURED CROP ASSISTANCE PROGRAM.**

Section 196(k)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(k)(1)) is amended—

(1) in subparagraph (A), by striking "$100" and inserting "$250"; and

(2) in subparagraph (B)—

(A) by striking "$300" and inserting "$750"; and
(B) by striking "$900" and inserting "$1,875".

**SEC. 12029. DETERMINATION OF CERTAIN SWEET POTATO PRODUCTION.**

Section 9001(d) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 211) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and
(2) by inserting after paragraph (7) the following:
"(8) SWEET POTATOES.—
"(A) DATA.—In the case of sweet potatoes, any data obtained under a pilot program carried out by the Risk Management Agency shall not be considered for the purpose of determining the quantity of production under the crop disaster assistance program established under this section.
"(B) EXTENSION OF DEADLINE.—If this paragraph is not implemented before the sign-up deadline for the crop disaster assistance program established under this section, the Secretary shall extend the deadline for producers of sweet potatoes to permit sign-up for the program in accordance with this paragraph.".

**SEC. 12030. DECLINING YIELD REPORT.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing details about activities and administrative options of the Federal Crop Insurance Corporation and Risk Management Agency that address issues relating to—

(1) declining yields on the actual production histories of producers; and
(2) declining and variable yields for perennial crops, including pecans.

**SEC. 12031. DEFINITION OF BASIC UNIT.**

The Secretary shall not modify the definition of "basic unit" in accordance with the proposed regulations entitled "Common Crop Insurance Regulations" (72 Fed. Reg. 28895; relating to common crop insurance regulations) or any successor regulation.

**SEC. 12032. CROP INSURANCE MEDIATION.**

Section 275 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6995) is amended—

(1) by striking "If an officer" and inserting the following:
"(a) IN GENERAL.—If an officer";
(2) by striking "With respect to" and inserting the following:
"(b) FARM SERVICE AGENCY.—With respect to";
(3) by striking "If a mediation"; and inserting the following:
"(c) MEDIATION.—If a mediation"; and
(4) in subsection (c) (as so designated)—
(A) by striking "participant shall be offered" and inserting "participant shall—
"(1) be offered"; and
(B) by striking the period at the end and inserting the following: "; and

"(2) to the maximum extent practicable, be allowed to use both informal agency review and mediation to resolve disputes under that title.".

**SEC. 12033. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

(a) IN GENERAL.—The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended by adding at the end the following:

# "Subtitle B—Supplemental Agricultural Disaster Assistance

7 USC 1531.

**"SEC. 531. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

"(a) DEFINITIONS.—In this section:

"(1) ACTUAL PRODUCTION HISTORY YIELD.—The term 'actual production history yield' means the weighted average of the actual production history for each insurable commodity or noninsurable commodity, as calculated under subtitle A or the noninsured crop disaster assistance program, respectively.

"(2) ADJUSTED ACTUAL PRODUCTION HISTORY YIELD.—The term 'adjusted actual production history yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of actual production history yields for an insurable commodity that are established other than pursuant to section 508(g)(4)(B), the actual production history for the eligible producer without regard to any yields established under that section;

"(B) in the case of an eligible producer on a farm that has less than 4 years of actual production history yields for an insurable commodity, of which 1 or more were established pursuant to section 508(g)(4)(B), the actual production history for the eligible producer as calculated without including the lowest of the yields established pursuant to section 508(g)(4)(B); and

"(C) in all other cases, the actual production history of the eligible producer on a farm.

"(3) ADJUSTED NONINSURED CROP DISASTER ASSISTANCE PROGRAM YIELD.—The term 'adjusted noninsured crop disaster assistance program yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield without regard to any replacement yields;

"(B) in the case of an eligible producer on a farm that less than 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield as calculated without including the lowest of the replacement yields; and

"(C) in all other cases, the production history of the eligible producer on the farm under the noninsured crop disaster assistance program.

"(4) COUNTER-CYCLICAL PROGRAM PAYMENT YIELD.—The term 'counter-cyclical program payment yield' means the weighted average payment yield established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7

U.S.C. 7912), section 1102 of the Food, Conservation, and Energy Act of 2008, or a successor section.

"(5) DISASTER COUNTY.—

"(A) IN GENERAL.—The term 'disaster county' means a county included in the geographic area covered by a qualifying natural disaster declaration.

"(B) INCLUSION.—The term 'disaster county' includes—

"(i) a county contiguous to a county described in subparagraph (A); and

"(ii) any farm in which, during a calendar year, the total loss of production of the farm relating to weather is greater than 50 percent of the normal production of the farm, as determined by the Secretary.

"(6) ELIGIBLE PRODUCER ON A FARM.—

"(A) IN GENERAL.—The term 'eligible producer on a farm' means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

"(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—

"(i) a citizen of the United States;

"(ii) a resident alien;

"(iii) a partnership of citizens of the United States; or

"(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

"(7) FARM.—

"(A) IN GENERAL.—The term 'farm' means, in relation to an eligible producer on a farm, the sum of all crop acreage in all counties that is planted or intended to be planted for harvest by the eligible producer.

"(B) AQUACULTURE.—In the case of aquaculture, the term 'farm' means, in relation to an eligible producer on a farm, all fish being produced in all counties that are intended to be harvested for sale by the eligible producer.

"(C) HONEY.—In the case of honey, the term 'farm' means, in relation to an eligible producer on a farm, all bees and beehives in all counties that are intended to be harvested for a honey crop by the eligible producer.

"(8) FARM-RAISED FISH.—The term 'farm-raised fish' means any aquatic species that is propagated and reared in a controlled environment.

"(9) INSURABLE COMMODITY.—The term 'insurable commodity' means an agricultural commodity (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under subtitle A.

"(10) LIVESTOCK.—The term 'livestock' includes—

"(A) cattle (including dairy cattle);

"(B) bison;

"(C) poultry;

"(D) sheep;

"(E) swine;

"(F) horses; and

"(G) other livestock, as determined by the Secretary.

"(11) NONINSURABLE COMMODITY.—The term 'noninsurable commodity' means a crop for which the eligible producers on a farm are eligible to obtain assistance under the noninsured crop assistance program.

"(12) NONINSURED CROP ASSISTANCE PROGRAM.—The term 'noninsured crop assistance program' means the program carried out under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(13) QUALIFYING NATURAL DISASTER DECLARATION.—The term 'qualifying natural disaster declaration' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(15) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

"(16) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(17) TRUST FUND.—The term 'Trust Fund' means the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974.

"(18) UNITED STATES.—The term 'United States' when used in a geographical sense, means all of the States.

"(b) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall use such sums as are necessary from the Trust Fund to make crop disaster assistance payments to eligible producers on farms in disaster counties that have incurred crop production losses or crop quality losses, or both, during the crop year.

"(2) AMOUNT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide crop disaster assistance payments under this section to an eligible producer on a farm in an amount equal to 60 percent of the difference between—

"(i) the disaster assistance program guarantee, as described in paragraph (3); and

"(ii) the total farm revenue for a farm, as described in paragraph (4).

"(B) LIMITATION.—The disaster assistance program guarantee for a crop used to calculate the payments for a farm under subparagraph (A)(i) may not be greater than 90 percent of the sum of the expected revenue, as described in paragraph (5) for each of the crops on a farm, as determined by the Secretary.

"(3) SUPPLEMENTAL REVENUE ASSISTANCE PROGRAM GUARANTEE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the supplemental assistance program guarantee shall be the sum obtained by adding—

"(i) for each insurable commodity on the farm, 115 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to the price election for the commodity elected by the eligible producer;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity;

"(III) the payment yield for the commodity that is equal to the percentage of the crop insurance yield elected by the producer of the higher of—

"(aa) the adjusted actual production history yield; or

"(bb) the counter-cyclical program payment yield for each crop; and

"(ii) for each noninsurable commodity on a farm, 120 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to 100 percent of the noninsured crop assistance program established price for the commodity;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity; and

"(III) the payment yield for the commodity that is equal to the higher of—

"(aa) the adjusted noninsured crop assistance program yield guarantee; or

"(bb) the counter-cyclical program payment yield for each crop.

"(B) ADJUSTMENT INSURANCE GUARANTEE.—Notwithstanding subparagraph (A), in the case of an insurable commodity for which a plan of insurance provides for an adjustment in the guarantee, such as in the case of prevented planting, the adjusted insurance guarantee shall be the basis for determining the disaster assistance program guarantee for the insurable commodity.

"(C) ADJUSTED ASSISTANCE LEVEL.—Notwithstanding subparagraph (A), in the case of a noninsurable commodity for which the noninsured crop assistance program provides for an adjustment in the level of assistance, such as in the case of unharvested crops, the adjusted assistance level shall be the basis for determining the disaster assistance program guarantee for the noninsurable commodity.

"(D) EQUITABLE TREATMENT FOR NON-YIELD BASED POLICIES.—The Secretary shall establish equitable treatment for non-yield based policies and plans of insurance, such as the Adjusted Gross Revenue Lite insurance program.

"(4) FARM REVENUE.—

"(A) IN GENERAL.—For purposes of this subsection, the total farm revenue for a farm, shall equal the sum obtained by adding—

"(i) the estimated actual value for each crop produced on a farm by using the product obtained by multiplying—

"(I) the actual crop acreage harvested by an eligible producer on a farm;

"(II) the estimated actual yield of the crop production; and

"(III) subject to subparagraphs (B) and (C), to the extent practicable, the national average market price received for the marketing year, as determined by the Secretary;

"(ii) 15 percent of amount of any direct payments made to the producer under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 or successor sections;

"(iii) the total amount of any counter-cyclical payments made to the producer under sections 1104 and 1304 of the Food, Conservation, and Energy Act of 2008 or successor sections or of any average crop revenue election payments made to the producer under section 1105 of that Act;

"(iv) the total amount of any loan deficiency payments, marketing loan gains, and marketing certificate gains made to the producer under subtitles B and C of the Food, Conservation, and Energy Act of 2008 or successor subtitles;

"(v) the amount of payments for prevented planting on a farm;

"(vi) the amount of crop insurance indemnities received by an eligible producer on a farm for each crop on a farm;

"(vii) the amount of payments an eligible producer on a farm received under the noninsured crop assistance program for each crop on a farm; and

"(viii) the value of any other natural disaster assistance payments provided by the Federal Government to an eligible producer on a farm for each crop on a farm for the same loss for which the eligible producer is seeking assistance.

"(B) ADJUSTMENT.—The Secretary shall adjust the average market price received by the eligible producer on a farm—

"(i) to reflect the average quality discounts applied to the local or regional market price of a crop or mechanically harvested forage due to a reduction in the intrinsic characteristics of the production resulting from adverse weather, as determined annually by the State office of the Farm Service Agency; and

"(ii) to account for a crop the value of which is reduced due to excess moisture resulting from a disaster-related condition.

"(C) MAXIMUM AMOUNT FOR CERTAIN CROPS.—With respect to a crop for which an eligible producer on a farm receives assistance under the noninsured crop assistance program, the national average market price received during the marketing year shall be an amount not more than 100 percent of the price of the crop established under the noninsured crop assistance program.

"(5) EXPECTED REVENUE.—The expected revenue for each crop on a farm shall equal the sum obtained by adding—

"(A) the product obtained by multiplying—

"(i) the greatest of—

"(I) the adjusted actual production history yield of the eligible producer on a farm; and

"(II) the counter-cyclical program payment yield;

"(ii) the acreage planted or prevented from being planted for each crop; and

"(iii) 100 percent of the insurance price guarantee; and

"(B) the product obtained by multiplying—

"(i) 100 percent of the adjusted noninsured crop assistance program yield; and

"(ii) 100 percent of the noninsured crop assistance program price for each of the crops on a farm.

"(c) LIVESTOCK INDEMNITY PAYMENTS.—

"(1) PAYMENTS.—The Secretary shall use such sums as are necessary from the Trust Fund to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality due to adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

"(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

"(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED LIVESTOCK.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'covered livestock' means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

"(I) owned;

"(II) leased;

"(III) purchased;

"(IV) entered into a contract to purchase;

"(V) is a contract grower; or

"(VI) sold or otherwise disposed of due to qualifying drought conditions during—

"(aa) the current production year; or

"(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

"(ii) EXCLUSION.—The term 'covered livestock' does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

"(B) DROUGHT MONITOR.—The term 'drought monitor' means a system for classifying drought severity according

to a range of abnormally dry to exceptional drought, as defined by the Secretary.

"(C) ELIGIBLE LIVESTOCK PRODUCER.—

"(i) IN GENERAL.—The term 'eligible livestock producer' means an eligible producer on a farm that—

"(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

"(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

"(III) certifies grazing loss; and

"(IV) meets all other eligibility requirements established under this subsection.

"(ii) EXCLUSION.—The term 'eligible livestock producer' does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.

"(D) NORMAL CARRYING CAPACITY.—The term 'normal carrying capacity', with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

"(E) NORMAL GRAZING PERIOD.—The term 'normal grazing period', with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

"(2) PROGRAM.—The Secretary shall use such sums as are necessary from the Trust Fund to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

"(A) a drought condition, as described in paragraph (3); or

"(B) fire, as described in paragraph (4).

"(3) ASSISTANCE FOR LOSSES DUE TO DROUGHT CONDITIONS.—

"(A) ELIGIBLE LOSSES.—

"(i) IN GENERAL.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

"(I) is native or improved pastureland with permanent vegetative cover; or

"(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

"(ii) EXCLUSIONS.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle

D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

"(B) MONTHLY PAYMENT RATE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

"(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

"(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

"(ii) PARTIAL COMPENSATION.—In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

"(C) MONTHLY FEED COST.—

"(i) IN GENERAL.—The monthly feed cost shall equal the product obtained by multiplying—

"(I) 30 days;

"(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

"(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

"(ii) FEED GRAIN EQUIVALENT.—For purposes of clause (i)(I), the feed grain equivalent shall equal—

"(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

"(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

"(iii) CORN PRICE PER POUND.—For purposes of clause (i)(II), the corn price per pound shall equal the quotient obtained by dividing—

"(I) the higher of—

"(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

"(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

"(II) 56.

"(D) NORMAL GRAZING PERIOD AND DROUGHT MONITOR INTENSITY.—

"(i) FSA COUNTY COMMITTEE DETERMINATIONS.—

"(I) IN GENERAL.—The Secretary shall determine the normal carrying capacity and normal

grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

"(II) CHANGES.—No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

"(ii) DROUGHT INTENSITY.—

"(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

"(II) D3.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

"(aa) in an amount equal to 2 monthly payments using the monthly payment rate determined under subparagraph (B); or

"(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B).

"(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON PUBLIC MANAGED LAND.—

"(A) IN GENERAL.—An eligible livestock producer may receive assistance under this paragraph only if—

"(i) the grazing losses occur on rangeland that is managed by a Federal agency; and

"(ii) the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

"(B) PAYMENT RATE.—The payment rate for assistance under this paragraph shall be equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease of the eligible livestock producer, as determined under paragraph (3)(C).

"(C) PAYMENT DURATION.—

"(i) IN GENERAL.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

"(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

"(II) ending on the last day of the Federal lease of the eligible livestock producer.

"(ii) LIMITATION.—An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

"(5) MINIMUM RISK MANAGEMENT PURCHASE REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a livestock producer shall only be eligible for assistance under this subsection if the livestock producer—

"(i) obtained a policy or plan of insurance under subtitle A for the grazing land incurring the losses for which assistance is being requested; or

"(ii) filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the grazing land incurring the losses for which assistance is being requested.

"(B) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—In the case of an eligible livestock producer that is a socially disadvantaged farmer or rancher or limited resource or beginning farmer or rancher, as determined by the Secretary, the Secretary may—

"(i) waive subparagraph (A); and

"(ii) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(C) WAIVER FOR 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year but does not meet the requirements of subparagraph (A), the Secretary shall waive subparagraph (A) if the eligible livestock producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under subparagraph (A) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(D) EQUITABLE RELIEF.—

"(i) IN GENERAL.—The Secretary may provide equitable relief to an eligible livestock producer that is otherwise ineligible or unintentionally fails to meet the requirements of subparagraph (A) for the grazing land incurring the loss on a case-by-case basis, as determined by the Secretary.

"(ii) 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on

grazing land during the 2008 calendar year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible livestock producer failed to meet the requirements of subparagraph (A) due to the enactment of this subtitle after the closing date of sales periods for crop insurance under subtitle A and the noninsured crop assistance program.

"(6) NO DUPLICATIVE PAYMENTS.—

"(A) IN GENERAL.—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

"(B) RELATIONSHIP TO SUPPLEMENTAL REVENUE ASSISTANCE.—An eligible livestock producer that receives assistance under this subsection may not also receive assistance for losses to crops on the same land with the same intended use under subsection (b).

"(e) EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY BEES, AND FARM-RAISED FISH.—

"(1) IN GENERAL.—The Secretary shall use up to $50,000,000 per year from the Trust Fund to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b), (c), or (d).

"(2) USE OF FUNDS.—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

"(3) AVAILABILITY OF FUNDS.—Any funds made available under this subsection shall remain available until expended.

"(f) TREE ASSISTANCE PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ORCHARDIST.—The term 'eligible orchardist' means a person that produces annual crops from trees for commercial purposes.

"(B) NATURAL DISASTER.—The term 'natural disaster' means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

"(C) NURSERY TREE GROWER.—The term 'nursery tree grower' means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

"(D) TREE.—The term 'tree' includes a tree, bush, and vine.

"(2) ELIGIBILITY.—

"(A) LOSS.—Subject to subparagraph (B), the Secretary shall provide assistance—

"(i) under paragraph (3) to eligible orchardists and nursery tree growers that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary; and

"(ii) under paragraph (3)(B) to eligible orchardists and nursery tree growers that have a production history for commercial purposes on planted or existing trees but lost the trees as a result of a natural disaster, as determined by the Secretary.

"(B) LIMITATION.—An eligible orchardist or nursery tree grower shall qualify for assistance under subparagraph (A) only if the tree mortality of the eligible orchardist or nursery tree grower, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

"(3) ASSISTANCE.—Subject to paragraph (4), the assistance provided by the Secretary to eligible orchardists and nursery tree growers for losses described in paragraph (2) shall consist of—

"(A)(i) reimbursement of 70 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

"(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

"(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

"(4) LIMITATIONS ON ASSISTANCE.—

"(A) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this paragraph, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(B) AMOUNT.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed $100,000 for any crop year, or an equivalent value in tree seedlings.

"(C) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

"(g) RISK MANAGEMENT PURCHASE REQUIREMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the eligible producers on a farm shall not be eligible for assistance under this section (other than subsection (c)) if the eligible producers on the farm—

"(A) in the case of each insurable commodity of the eligible producers on the farm, did not obtain a policy or plan of insurance under subtitle A (excluding a crop insurance pilot program under that subtitle); or

"(B) in the case of each noninsurable commodity of the eligible producers on the farm, did not file the required paperwork, and pay the administrative fee by the

applicable State filing deadline, for the noninsured crop assistance program.

"(2) MINIMUM.—To be considered to have obtained insurance under paragraph (1)(A), an eligible producer on a farm shall have obtained a policy or plan of insurance with not less than 50 percent yield coverage at 55 percent of the insurable price for each crop grazed, planted, or intended to be planted for harvest on a whole farm.

"(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—With respect to eligible producers that are socially disadvantaged farmers or ranchers or limited resource or beginning farmers or ranchers, as determined by the Secretary, the Secretary may—

"(A) waive paragraph (1); and

"(B) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(4) WAIVER FOR 2008 CROP YEAR.—In the case of an eligible producer that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year but does not meet the requirements of paragraph (1), the Secretary shall waive paragraph (1) if the eligible producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(5) EQUITABLE RELIEF.—

"(A) IN GENERAL.—The Secretary may provide equitable relief to eligible producers on a farm that are otherwise ineligible or unintentionally fail to meet the requirements of paragraph (1) for 1 or more crops on a farm on a case-by-case basis, as determined by the Secretary.

"(B) 2008 CROP YEAR.—In the case of eligible producers on a farm that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible producers failed to meet the requirements of paragraph (1) due to the enactment of this subtitle after the closing date of sales periods for crop insurance under subtitle A and the noninsured crop assistance program.

"(h) PAYMENT LIMITATIONS.—

"(1) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this subsection, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (f)) may not exceed $100,000 for any crop year.

Applicability.

"(3) AGI LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) or any successor provision shall apply with respect to assistance provided under this section.

"(4) DIRECT ATTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct attribution shall apply with respect to assistance provided under this section. Applicability.

"(i) PERIOD OF EFFECTIVENESS.—This section shall be effective only for losses that are incurred as the result of a disaster, adverse weather, or other environmental condition that occurs on or before September 30, 2011, as determined by the Secretary.

"(j) NO DUPLICATIVE PAYMENTS.—In implementing any other program which makes disaster assistance payments (except for indemnities made under subtitle A and section 196 of the Federal Agriculture Improvement and Reform Act of 1996), the Secretary shall prevent duplicative payments with respect to the same loss for which a person receives a payment under subsections (b), (c), (d), (e), or (f).

"(k) APPLICATION.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any provision of subtitle A, subtitle A shall not apply to this subtitle.

"(2) CROSS REFERENCES.—Paragraph (1) shall not apply to a specific reference in this subtitle to a provision of subtitle A.".

(b) TRANSITION.—For purposes of the 2008 crop year, the Secretary shall carry out subsections (f)(4) and (h) of section 531 of the Federal Crop Insurance Act (as added by subsection (a)) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (16 U.S.C. 1308 et seq.), as in effect on September 30, 2007.

(c) CONFORMING AMENDMENTS.—

(1) Section 501 of the Federal Crop Insurance Act (7 U.S.C. 1501) is amended by striking the section heading and enumerator and inserting the following:

## "Subtitle A—Federal Crop Insurance Act

**"SEC. 501. SHORT TITLE AND APPLICATION OF OTHER PROVISIONS.".**

(2) Subtitle A of the Federal Crop Insurance Act (as designated under paragraph (1)) is amended—

(A) by striking "This title" each place it appears and inserting "This subtitle"; and 7 USC 1501, 1515.

(B) by striking "this title" each place it appears and inserting "this subtitle". 7 USC 1501–1503, 1505–1510, 1514, 1515, 1517, 1518, 1520–1523.

**SEC. 12034. FISHERIES DISASTER ASSISTANCE.** State listing.

Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall transfer to the Secretary of Commerce $170,000,000 for fiscal year 2008 for the National Marine Fisheries Service to distribute to commercial and recreational members of the fishing communities affected by the salmon fishery failure in the States of California, Oregon, and Washington designated under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) on May 1, 2008, in accordance with that section.

Small Business Disaster Response and Loan Improvements Act of 2008.
15 USC 631 note.

# Subtitle B—Small Business Disaster Loan Program

**SEC. 12051. SHORT TITLE.**

This subtitle may be cited as the "Small Business Disaster Response and Loan Improvements Act of 2008".

15 USC 636e.

**SEC. 12052. DEFINITIONS.**

In this subtitle—

(1) the terms "Administration" and "Administrator" mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term "disaster area" means an area affected by a natural or other disaster, as determined for purposes of paragraph (1) or (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), during the period of such declaration;

(3) the term "disaster loan program of the Administration" means assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;

(4) the term "disaster update period" means the period beginning on the date on which the President declares a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act) and ending on the date on which such declaration terminates;

(5) the term "major disaster" has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122);

(6) the term "small business concern" has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632); and

(7) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

## PART I—DISASTER PLANNING AND RESPONSE

**SEC. 12061. ECONOMIC INJURY DISASTER LOANS TO NONPROFITS.**

(a) IN GENERAL.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by inserting after "small business concern" the following: ", private nonprofit organization,"; and

(B) by inserting after "the concern" the following: ", the organization,"; and

(2) in subparagraph (D) by inserting after "small business concerns" the following: ", private nonprofit organizations,".

(b) CONFORMING AMENDMENT.—Section 7(c)(5)(C) of the Small Business Act (15 U.S.C. 636(c)(5)(C)) is amended by inserting after "business" the following: ", private nonprofit organization,".

**SEC. 12062. COORDINATION OF DISASTER ASSISTANCE PROGRAMS WITH FEMA.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended— 15 USC 631 note.
(1) by redesignating section 37 as section 44; and
(2) by inserting after section 36 the following:

**"SEC. 37. COORDINATION OF DISASTER ASSISTANCE PROGRAMS WITH FEMA.** 15 USC 657i.

"(a) COORDINATION REQUIRED.—The Administrator shall ensure that the disaster assistance programs of the Administration are coordinated, to the maximum extent practicable, with the disaster assistance programs of the Federal Emergency Management Agency.

"(b) REGULATIONS REQUIRED.—The Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall establish regulations to ensure that each application for disaster assistance is submitted as quickly as practicable to the Administration or directed to the appropriate agency under the circumstances.

"(c) COMPLETION; REVISION.—The initial regulations shall be completed not later than 270 days after the date of the enactment of the Small Business Disaster Response and Loan Improvements Act of 2008. Thereafter, the regulations shall be revised on an annual basis. Deadline.

"(d) REPORT.—The Administrator shall include a report on the regulations whenever the Administration submits the report required by section 43.".

**SEC. 12063. PUBLIC AWARENESS OF DISASTER DECLARATION AND APPLICATION PERIODS.**

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (3), the following:

"(4) COORDINATION WITH FEMA.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, for any disaster declared under this subsection or major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall ensure, to the maximum extent practicable, that all application periods for disaster relief under this Act correspond with application deadlines established under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or as extended by the President.

"(B) DEADLINES.—Notwithstanding any other provision of law, not later than 10 days before the closing date of an application period for a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes— Reports.

"(i) the deadline for submitting applications for assistance under this Act relating to that major disaster;

"(ii) information regarding the number of loan applications and disbursements processed by the Administrator relating to that major disaster for each day during the period beginning on the date on which that major disaster was declared and ending on the date of that report; and

"(iii) an estimate of the number of potential applicants that have not submitted an application relating to that major disaster.

"(5) PUBLIC AWARENESS OF DISASTERS.—If a disaster is declared under this subsection or the Administrator declares eligibility for additional disaster assistance under paragraph (9), the Administrator shall make every effort to communicate through radio, television, print, and web-based outlets, all relevant information needed by disaster loan applicants, including—

"(A) the date of such declaration;

"(B) cities and towns within the area of such declaration;

"(C) loan application deadlines related to such disaster;

"(D) all relevant contact information for victim services available through the Administration (including links to small business development center websites);

"(E) links to relevant Federal and State disaster assistance websites, including links to websites providing information regarding assistance available from the Federal Emergency Management Agency;

"(F) information on eligibility criteria for Administration loan programs, including where such applications can be found; and

"(G) application materials that clearly state the function of the Administration as the Federal source of disaster loans for homeowners and renters.".

Deadline.
Plan.
15 USC 636 note.

(b) MARKETING AND OUTREACH.—Not later than 90 days after the date of enactment of this Act, the Administrator shall create a marketing and outreach plan that—

(1) encourages a proactive approach to the disaster relief efforts of the Administration;

(2) makes clear the services provided by the Administration, including contact information, application information, and timelines for submitting applications, the review of applications, and the disbursement of funds;

(3) describes the different disaster loan programs of the Administration, including how they are made available and the eligibility requirements for each loan program;

(4) provides for regional marketing, focusing on disasters occurring in each region before the date of enactment of this Act, and likely scenarios for disasters in each such region; and

(5) ensures that the marketing plan is made available at small business development centers and on the website of the Administration.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(s) MAJOR DISASTER.—In this Act, the term 'major disaster' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).".

(2) TECHNICAL CORRECTION.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)".

**SEC. 12064. CONSISTENCY BETWEEN ADMINISTRATION REGULATIONS AND STANDARD OPERATING PROCEDURES.**

(a) IN GENERAL.—The Administrator shall, promptly following the date of enactment of this Act, conduct a study of whether the standard operating procedures of the Administration for loans offered under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) are consistent with the regulations of the Administration for administering the disaster loan program.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report containing all findings and recommendations of the study conducted under subsection (a).

**SEC. 12065. INCREASING COLLATERAL REQUIREMENTS.**

Section 7(c)(6) of the Small Business Act (15 U.S.C. 636(c)(6)) is amended by striking "$10,000 or less" and inserting "$14,000 or less (or such higher amount as the Administrator determines appropriate in the event of a major disaster)".

**SEC. 12066. PROCESSING DISASTER LOANS.**

(a) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS TO PROCESS DISASTER LOANS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (5), as added by this Act, the following:

"(6) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS.—

"(A) DISASTER LOAN PROCESSING.—The Administrator may enter into an agreement with a qualified private contractor, as determined by the Administrator, to process loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the contractor a fee for each loan processed.

"(B) LOAN LOSS VERIFICATION SERVICES.—The Administrator may enter into an agreement with a qualified lender or loss verification professional, as determined by the Administrator, to verify losses for loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the lender or verification professional a fee for each loan for which such lender or verification professional verifies losses.".

15 USC 636f.

(b) COORDINATION OF EFFORTS BETWEEN THE ADMINISTRATOR AND THE INTERNAL REVENUE SERVICE TO EXPEDITE LOAN PROCESSING.—The Administrator and the Commissioner of Internal Revenue shall, to the maximum extent practicable, ensure that all relevant and allowable tax records for loan approval are shared with loan processors in an expedited manner, upon request by the Administrator.

**SEC. 12067. INFORMATION TRACKING AND FOLLOW-UP SYSTEM.**

The Small Business Act is amended by inserting after section 37, as added by this Act, the following:

15 USC 657j.

**"SEC. 38. INFORMATION TRACKING AND FOLLOW-UP SYSTEM FOR DISASTER ASSISTANCE.**

"(a) SYSTEM REQUIRED.—The Administrator shall develop, implement, or maintain a centralized information system to track communications between personnel of the Administration and applicants for disaster assistance. The system shall ensure that whenever an applicant for disaster assistance communicates with such personnel on a matter relating to the application, the following information is recorded:

"(1) The method of communication.

"(2) The date of communication.

"(3) The identity of the personnel.

"(4) A summary of the subject matter of the communication.

"(b) FOLLOW-UP REQUIRED.—The Administrator shall ensure that an applicant for disaster assistance receives, by telephone, mail, or electronic mail, follow-up communications from the Administration at all critical stages of the application process, including the following:

"(1) When the Administration determines that additional information or documentation is required to process the application.

"(2) When the Administration determines whether to approve or deny the loan.

"(3) When the primary contact person managing the loan application has changed.".

**SEC. 12068. INCREASED DEFERMENT PERIOD.**

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (e), as so redesignated, the following:

"(f) ADDITIONAL REQUIREMENTS FOR 7(b) LOANS.—

"(1) INCREASED DEFERMENT AUTHORIZED.—

"(A) IN GENERAL.—In making loans under subsection (b), the Administrator may provide, to the person receiving the loan, an option to defer repayment on the loan.

"(B) PERIOD.—The period of a deferment under subparagraph (A) may not exceed 4 years.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

15 USC 633.

(1) in section 4(c)—

(A) in paragraph (1), by striking "7(c)(2)" and inserting "7(d)(2)"; and

(B) in paragraph (2)—

(i) by striking "7(c)(2)" and inserting "7(d)(2)"; and
(ii) by striking "7(e),"; and

(2) in section 7(b), in the undesignated matter following paragraph (3)— 15 USC 636.

(A) by striking "That the provisions of paragraph (1) of subsection (c)" and inserting "That the provisions of paragraph (1) of subsection (d)"; and

(B) by striking "Notwithstanding the provisions of any other law the interest rate on the Administration's share of any loan made under subsection (b) except as provided in subsection (c)," and inserting "Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration's share of any loan made under subsection (b)".

**SEC. 12069. DISASTER PROCESSING REDUNDANCY.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 38, as added by this Act, the following:

**"SEC. 39. DISASTER PROCESSING REDUNDANCY.** 15 USC 657k.

"(a) IN GENERAL.—The Administrator shall ensure that the Administration has in place a facility for disaster loan processing that, whenever the Administration's primary facility for disaster loan processing becomes unavailable, is able to take over all disaster loan processing from that primary facility within 2 days.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

**SEC. 12070. NET EARNINGS CLAUSES PROHIBITED.**

Section 7 of the Small Business Act (15 U.S.C. 636) is amended by inserting after subsection (f), as added by this Act, the following:

"(g) NET EARNINGS CLAUSES PROHIBITED FOR 7(b) LOANS.—In making loans under subsection (b), the Administrator shall not require the borrower to pay any non-amortized amount for the first five years after repayment begins.".

**SEC. 12071. ECONOMIC INJURY DISASTER LOANS IN CASES OF ICE STORMS AND BLIZZARDS.**

Section 3(k)(2) of the Small Business Act (15 U.S.C. 632(k)(2)) is amended—

(1) in subparagraph (A) by striking "and";

(2) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(C) ice storms and blizzards.".

**SEC. 12072. DEVELOPMENT AND IMPLEMENTATION OF MAJOR DISASTER RESPONSE PLAN.** 15 USC 636g.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Administrator shall— Deadline.

(1) by rule, amend the 2006 Atlantic hurricane season disaster response plan of the Administration (in this section referred to as the "disaster response plan") to apply to major disasters; and Regulations.

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Reports.

Small Business of the House of Representatives detailing the amendments to the disaster response plan.

(b) CONTENTS.—The report required under subsection (a)(2) shall include—

(1) any updates or modifications made to the disaster response plan since the report regarding the disaster response plan submitted to Congress on July 14, 2006;

(2) a description of how the Administrator plans to use and integrate District Office personnel of the Administration in the response to a major disaster, including information on the use of personnel for loan processing and loan disbursement;

(3) a description of the disaster scalability model of the Administration and on what basis or function the plan is scaled;

(4) a description of how the agency-wide Disaster Oversight Council is structured, which offices comprise its membership, and whether the Associate Deputy Administrator for Entrepreneurial Development of the Administration is a member;

(5) a description of how the Administrator plans to coordinate the disaster efforts of the Administration with State and local government officials, including recommendations on how to better incorporate State initiatives or programs, such as State-administered bridge loan programs, into the disaster response of the Administration;

(6) recommendations, if any, on how the Administration can better coordinate its disaster response operations with the operations of other Federal, State, and local entities;

(7) any surge plan for the disaster loan program of the Administration in effect on or after August 29, 2005 (including surge plans for loss verification, loan processing, mailroom, customer service or call center operations, and a continuity of operations plan);

(8) the number of full-time equivalent employees and job descriptions for the planning and disaster response staff of the Administration;

(9) the in-service and preservice training procedures for disaster response staff of the Administration;

(10) information on the logistical support plans of the Administration (including equipment and staffing needs, and detailed information on how such plans will be scalable depending on the size and scope of the major disaster;

(11) a description of the findings and recommendations of the Administrator, if any, based on a review of the response of the Administration to Hurricane Katrina of 2005, Hurricane Rita of 2005, and Hurricane Wilma of 2005; and

(12) a plan for how the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, will coordinate the provision of accommodations and necessary resources for disaster assistance personnel to effectively perform their responsibilities in the aftermath of a major disaster.

(c) BIENNIAL DISASTER SIMULATION EXERCISE.—

(1) EXERCISE REQUIRED.—The Administrator shall conduct a disaster simulation exercise at least once every 2 fiscal years. The exercise shall include the participation of, at a minimum, not less than 50 percent of the individuals in the disaster reserve corps and shall test, at maximum capacity, all of the information technology and telecommunications systems of the

Administration that are vital to the activities of the Administration during such a disaster.

(2) REPORT.—The Administrator shall include a report on the disaster simulation exercises conducted under paragraph (1) each time the Administration submits a report required under section 43 of the Small Business Act, as added by this Act.

**SEC. 12073. DISASTER PLANNING RESPONSIBILITIES.** 15 USC 1636h.

(a) ASSIGNMENT OF SMALL BUSINESS ADMINISTRATION DISASTER PLANNING RESPONSIBILITIES.—The disaster planning function of the Administration shall be assigned to an individual appointed by the Administrator who—

(1) is not an employee of the Office of Disaster Assistance of the Administration;

(2) has proven management ability;

(3) has substantial knowledge in the field of disaster readiness and emergency response; and

(4) has demonstrated significant experience in the area of disaster planning.

(b) RESPONSIBILITIES.—The individual assigned the disaster planning function of the Administration shall report directly and solely to the Administrator and shall be responsible for—

(1) creating, maintaining, and implementing the comprehensive disaster response plan of the Administration described in section 12072;

(2) ensuring there are in-service and pre-service training procedures for the disaster response staff of the Administration;

(3) coordinating and directing the training exercises of the Administration relating to disasters, including disaster simulation exercises and disaster exercises coordinated with other government departments and agencies; and

(4) other responsibilities relevant to disaster planning and readiness, as determined by the Administrator.

(c) COORDINATION.—In carrying out the responsibilities described in subsection (b), the individual assigned the disaster planning function of the Administration shall coordinate with—

(1) the Office of Disaster Assistance of the Administration;

(2) the Administrator of the Federal Emergency Management Agency; and

(3) other Federal, State, and local disaster planning offices, as necessary.

(d) RESOURCES.—The Administrator shall ensure that the individual assigned the disaster planning function of the Administration has adequate resources to carry out the duties under this section.

(e) REPORT.—Not later than 30 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing—

(1) a description of the actions of the Administrator to assign an individual the disaster planning function of the Administration;

(2) information detailing the background and expertise of the individual assigned; and

(3) information on the status of the implementation of the responsibilities described in subsection (b).

**SEC. 12074. ASSIGNMENT OF EMPLOYEES OF THE OFFICE OF DISASTER ASSISTANCE AND DISASTER CADRE.**

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (6), as added by this Act, the following:

"(7) DISASTER ASSISTANCE EMPLOYEES.—

"(A) IN GENERAL.—In carrying out this section, the Administrator may, where practicable, ensure that the number of full-time equivalent employees—

"(i) in the Office of the Disaster Assistance is not fewer than 800; and

"(ii) in the Disaster Cadre of the Administration is not fewer than 1,000.

"(B) REPORT.—In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is below the level described in subparagraph (A) for that office, not later than 21 days after the date on which that staffing level decreased below the level described in subparagraph (A), the Administrator shall submit to the Committee on Appropriations and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Appropriations and Committee on Small Business of the House of Representatives, a report—

"(i) detailing staffing levels on that date;

"(ii) requesting, if practicable and determined appropriate by the Administrator, additional funds for additional employees; and

"(iii) containing such additional information, as determined appropriate by the Administrator.".

**SEC. 12075. COMPREHENSIVE DISASTER RESPONSE PLAN.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended inserting after section 39, as added by this Act, the following:

15 USC 657*l*.

**"SEC. 40. COMPREHENSIVE DISASTER RESPONSE PLAN.**

"(a) PLAN REQUIRED.—The Administrator shall develop, implement, or maintain a comprehensive written disaster response plan. The plan shall include the following:

"(1) For each region of the Administration, a description of the disasters most likely to occur in that region.

"(2) For each disaster described under paragraph (1)—

"(A) an assessment of the disaster;

"(B) an assessment of the demand for Administration assistance most likely to occur in response to the disaster;

"(C) an assessment of the needs of the Administration, with respect to such resources as information technology, telecommunications, human resources, and office space, to meet the demand referred to in subparagraph (B); and

"(D) guidelines pursuant to which the Administration will coordinate with other Federal agencies and with State and local authorities to best respond to the demand referred to in subparagraph (B) and to best use the resources referred to in that subparagraph.

Deadline.

"(b) COMPLETION; REVISION.—The first plan required by subsection (a) shall be completed not later than 180 days after the date of the enactment of this section. Thereafter, the Administrator

shall update the plan on an annual basis and following any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under section 7(b)(9).

"(c) KNOWLEDGE REQUIRED.—The Administrator shall carry out subsections (a) and (b) through an individual with substantial knowledge in the field of disaster readiness and emergency response.

"(d) REPORT.—The Administrator shall include a report on the plan whenever the Administration submits the report required by section 43.".

**SEC. 12076. PLANS TO SECURE SUFFICIENT OFFICE SPACE.**

The Small Business Act is amended by inserting after section 40, as added by this Act, the following:

**"SEC. 41. PLANS TO SECURE SUFFICIENT OFFICE SPACE.** 15 USC 657m.

"(a) PLANS REQUIRED.—The Administrator shall develop long-term plans to secure sufficient office space to accommodate an expanded workforce in times of disaster.

"(b) REPORT.—The Administrator shall include a report on the plans developed under subsection (a) each time the Administration submits a report required under section 43.".

**SEC. 12077. APPLICANTS THAT HAVE BECOME A MAJOR SOURCE OF EMPLOYMENT DUE TO CHANGED ECONOMIC CIRCUMSTANCES.**

Section 7(b)(3)(E) of the Small Business Act (15 U.S.C. 636(b)(3)(E)) is amended by inserting after "constitutes" the following: ", or have become due to changed economic circumstances,".

**SEC. 12078. DISASTER LOAN AMOUNTS.**

(a) INCREASED LOAN CAPS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (7), as added by this Act, the following:

"(8) INCREASED LOAN CAPS.—

"(A) AGGREGATE LOAN AMOUNTS.—Except as provided in subparagraph (B), and notwithstanding any other provision of law, the aggregate loan amount outstanding and committed to a borrower under this subsection may not exceed $2,000,000.

"(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, increase the aggregate loan amount under subparagraph (A) for loans relating to a disaster to a level established by the Administrator, based on appropriate economic indicators for the region in which that disaster occurred.".

(b) DISASTER MITIGATION.—

(1) IN GENERAL.—Section 7(b)(1)(A) of the Small Business Act (15 U.S.C. 636(b)(1)(A)) is amended by inserting "of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise)" after "20 per centum".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a loan or guarantee made after the date of enactment of this Act. 15 USC 636 note.

(c) TECHNICAL AMENDMENTS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended—

(1) in the matter preceding paragraph (1), by striking "the, Administration" and inserting "the Administration"; and

(2) in the undesignated matter at the end—

(A) by striking ", (2), and (4)" and inserting "and (2)"; and

(B) by striking ", (2), or (4)" and inserting "(2)".

15 USC 636i.

**SEC. 12079. SMALL BUSINESS BONDING THRESHOLD.**

(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, for any procurement related to a major disaster, the Administrator may, upon such terms and conditions as the Administrator may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by a principal on any total work order or contract amount at the time of bond execution that does not exceed $5,000,000.

(b) INCREASE OF AMOUNT.—Upon request of the head of any Federal agency other than the Administration involved in reconstruction efforts in response to a major disaster, the Administrator may guarantee and enter into a commitment to guarantee any security against loss under subsection (a) on any total work order or contract amount at the time of bond execution that does not exceed $10,000,000.

(c) LIMITATION ON USE OF OTHER FUNDS.—The Administrator may carry out this section only with amounts appropriated in advance specifically to carry out this section.

## PART II—DISASTER LENDING

**SEC. 12081. ELIGIBILITY FOR ADDITIONAL DISASTER ASSISTANCE.**

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (8), as added by this Act, the following:

"(9) DECLARATION OF ELIGIBILITY FOR ADDITIONAL DISASTER ASSISTANCE.—

"(A) IN GENERAL.—If the President declares a major disaster, the Administrator may declare eligibility for additional disaster assistance in accordance with this paragraph.

"(B) THRESHOLD.—A major disaster for which the Administrator declares eligibility for additional disaster assistance under this paragraph shall—

"(i) have resulted in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

"(ii) be comparable to the description of a catastrophic incident in the National Response Plan of the Administration, or any successor thereto, unless there is no successor to such plan, in which case this clause shall have no force or effect; and

"(iii) be of such size and scope that—

"(I) the disaster assistance programs under the other paragraphs under this subsection are

incapable of providing adequate and timely assistance to individuals or business concerns located within the disaster area; or

"(II) a significant number of business concerns outside the disaster area have suffered disaster-related substantial economic injury as a result of the incident.".

**SEC. 12082. ADDITIONAL ECONOMIC INJURY DISASTER LOAN ASSISTANCE.**

Paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by section 12081, is amended by adding at the end the following:

"(C) ADDITIONAL ECONOMIC INJURY DISASTER LOAN ASSISTANCE.—

"(i) IN GENERAL.—If the Administrator declares eligibility for additional disaster assistance under this paragraph, the Administrator may make such loans under this subparagraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to eligible small business concerns located anywhere in the United States.

"(ii) PROCESSING TIME.—

"(I) IN GENERAL.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 15 days, the Administrator shall give priority to the processing of such applications submitted by eligible small business concerns located inside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

"(II) SUSPENSION OF APPLICATIONS FROM OUTSIDE DISASTER AREA.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 30 days, the Administrator shall suspend the processing of such applications submitted by eligible small business concerns located outside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

"(iii) LOAN TERMS.—A loan under this subparagraph shall be made on the same terms as a loan under paragraph (2).

"(D) DEFINITIONS.—In this paragraph—

"(i) the term 'disaster area' means the area for which the applicable major disaster was declared;

"(ii) the term 'disaster-related substantial economic injury' means economic harm to a business concern that results in the inability of the business concern to—

"(I) meet its obligations as it matures;

"(II) meet its ordinary and necessary operating expenses; or

"(III) market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern because the business concern relies on materials from the disaster area or sells or markets in the disaster area; and

"(iii) the term 'eligible small business concern' means a small business concern—

"(I) that has suffered disaster-related substantial economic injury as a result of the applicable major disaster; and

"(II)(aa) for which not less than 25 percent of the market share of that small business concern is from business transacted in the disaster area;

"(bb) for which not less than 25 percent of an input into a production process of that small business concern is from the disaster area; or

"(cc) that relies on a provider located in the disaster area for a service that is not readily available elsewhere.".

**SEC. 12083. PRIVATE DISASTER LOANS.**

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by inserting after subsection (b) the following:

"(c) PRIVATE DISASTER LOANS.—

"(1) DEFINITIONS.—In this subsection—

"(A) the term 'disaster area' means any area for which the President declared a major disaster relating to which the Administrator declares eligibility for additional disaster assistance under subsection (b)(9), during the period of that major disaster declaration;

"(B) the term 'eligible individual' means an individual who is eligible for disaster assistance under subsection (b)(1) relating to a major disaster relating to which the Administrator declares eligibility for additional disaster assistance under subsection (b)(9);

"(C) the term 'eligible small business concern' means a business concern that is—

"(i) a small business concern, as defined under this Act; or

"(ii) a small business concern, as defined in section 103 of the Small Business Investment Act of 1958;

"(D) the term 'preferred lender' means a lender participating in the Preferred Lender Program;

"(E) the term 'Preferred Lender Program' has the meaning given that term in subsection (a)(2)(C)(ii); and

"(F) the term 'qualified private lender' means any privately-owned bank or other lending institution that—

"(i) is not a preferred lender; and

"(ii) the Administrator determines meets the criteria established under paragraph (10).

"(2) PROGRAM REQUIRED.—The Administrator shall carry out a program, to be known as the Private Disaster Assistance program, under which the Administration may guarantee timely payment of principal and interest, as scheduled, on

any loan made to an eligible small business concern located in a disaster area and to an eligible individual.

"(3) USE OF LOANS.—A loan guaranteed by the Administrator under this subsection may be used for any purpose authorized under subsection (b).

"(4) ONLINE APPLICATIONS.—

"(A) ESTABLISHMENT.—The Administrator may establish, directly or through an agreement with another entity, an online application process for loans guaranteed under this subsection.

"(B) OTHER FEDERAL ASSISTANCE.—The Administrator may coordinate with the head of any other appropriate Federal agency so that any application submitted through an online application process established under this paragraph may be considered for any other Federal assistance program for disaster relief.

"(C) CONSULTATION.—In establishing an online application process under this paragraph, the Administrator shall consult with appropriate persons from the public and private sectors, including private lenders.

"(5) MAXIMUM AMOUNTS.—

"(A) GUARANTEE PERCENTAGE.—The Administrator may guarantee not more than 85 percent of a loan under this subsection.

"(B) LOAN AMOUNT.—The maximum amount of a loan guaranteed under this subsection shall be $2,000,000.

"(6) TERMS AND CONDITIONS.—A loan guaranteed under this subsection shall be made under the same terms and conditions as a loan under subsection (b).

"(7) LENDERS.—

"(A) IN GENERAL.—A loan guaranteed under this subsection made to—

"(i) a qualified individual may be made by a preferred lender; and

"(ii) a qualified small business concern may be made by a qualified private lender or by a preferred lender that also makes loans to qualified individuals.

"(B) COMPLIANCE.—If the Administrator determines that a preferred lender knowingly failed to comply with the underwriting standards for loans guaranteed under this subsection or violated the terms of the standard operating procedure agreement between that preferred lender and the Administration, the Administrator shall do 1 or more of the following:

"(i) Exclude the preferred lender from participating in the program under this subsection.

"(ii) Exclude the preferred lender from participating in the Preferred Lender Program for a period of not more than 5 years.

"(8) FEES.—

"(A) IN GENERAL.—The Administrator may not collect a guarantee fee under this subsection.

"(B) ORIGINATION FEE.—The Administrator may pay a qualified private lender or preferred lender an origination fee for a loan guaranteed under this subsection in an amount agreed upon in advance between the qualified private lender or preferred lender and the Administrator.

"(9) DOCUMENTATION.—A qualified private lender or preferred lender may use its own loan documentation for a loan guaranteed by the Administrator under this subsection, to the extent authorized by the Administrator. The ability of a lender to use its own loan documentation for a loan guaranteed under this subsection shall not be considered part of the criteria for becoming a qualified private lender under the regulations promulgated under paragraph (10).

"(10) IMPLEMENTATION REGULATIONS.—

Deadline.

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall issue final regulations establishing permanent criteria for qualified private lenders.

"(B) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall submit a report on the progress of the regulations required by subparagraph (A) to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

"(11) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—Amounts necessary to carry out this subsection shall be made available from amounts appropriated to the Administration to carry out subsection (b).

"(B) AUTHORITY TO REDUCE INTEREST RATES AND OTHER TERMS AND CONDITIONS.—Funds appropriated to the Administration to carry out this subsection, may be used by the Administrator to meet the loan terms and conditions specified in paragraph (6).

"(12) PURCHASE OF LOANS.—The Administrator may enter into an agreement with a qualified private lender or preferred lender to purchase any loan guaranteed under this subsection.".

15 USC 636 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any major disaster declared on or after the date of enactment of this Act.

**SEC. 12084. IMMEDIATE DISASTER ASSISTANCE PROGRAM.**

The Small Business Act is amended by inserting after section 41, as added by this Act, the following:

15 USC 657n.

**"SEC. 42. IMMEDIATE DISASTER ASSISTANCE PROGRAM.**

"(a) PROGRAM REQUIRED.—The Administrator shall carry out a program, to be known as the Immediate Disaster Assistance program, under which the Administration participates on a deferred (guaranteed) basis in 85 percent of the balance of the financing outstanding at the time of disbursement of the loan if such balance is less than or equal to $25,000 for businesses affected by a disaster.

"(b) ELIGIBILITY REQUIREMENT.—To receive a loan guaranteed under subsection (a), the applicant shall also apply for, and meet basic eligibility standards for, a loan under subsection (b) or (c) of section 7.

"(c) USE OF PROCEEDS.—A person who receives a loan under subsection (b) or (c) of section 7 shall use the proceeds of that loan to repay all loans guaranteed under subsection (a), if any, before using the proceeds for any other purpose.

"(d) LOAN TERMS.—

"(1) NO PREPAYMENT PENALTY.—There shall be no prepayment penalty on a loan guaranteed under subsection (a).

"(2) REPAYMENT.—A person who receives a loan guaranteed under subsection (a) and who is disapproved for a loan under subsection (b) or (c) of section 7, as the case may be, shall repay the loan guaranteed under subsection (a) not later than the date established by the Administrator, which may not be earlier than 10 years after the date on which the loan guaranteed under subsection is disbursed.

"(e) APPROVAL OR DISAPPROVAL.—The Administrator shall ensure that each applicant for a loan under the program receives a decision approving or disapproving of the application within 36 hours after the Administration receives the application.". Deadline.

**SEC. 12085. EXPEDITED DISASTER ASSISTANCE LOAN PROGRAM.** 15 USC 636j.

(a) DEFINITION.—In this section, the term "program" means the expedited disaster assistance business loan program established under subsection (b).

(b) CREATION OF PROGRAM.—The Administrator shall take such administrative action as is necessary to establish and implement an expedited disaster assistance business loan program under which the Administration may, on an expedited basis, guarantee timely payment of principal and interest, as scheduled on any loan made to an eligible small business concern under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act.

(c) CONSULTATION REQUIRED.—In establishing the program, the Administrator shall consult with—

(1) appropriate personnel of the Administration (including District Office personnel of the Administration);

(2) appropriate technical assistance providers (including small business development centers);

(3) appropriate lenders and credit unions;

(4) the Committee on Small Business and Entrepreneurship of the Senate; and

(5) the Committee on Small Business of the House of Representatives.

(d) RULES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall issue rules in final form establishing and implementing the program in accordance with this section. Such rules shall apply as provided for in this section, beginning 90 days after their issuance in final form. Deadline. Applicability. Effective date.

(2) CONTENTS.—The rules promulgated under paragraph (1) shall—

(A) identify whether appropriate uses of funds under the program may include—

(i) paying employees;

(ii) paying bills and other financial obligations;

(iii) making repairs;

(iv) purchasing inventory;

(v) restarting or operating a small business concern in the community in which it was conducting operations prior to the applicable major disaster, or to a neighboring area, county, or parish in the disaster area; or

(vi) covering additional costs until the small business concern is able to obtain funding through insurance claims, Federal assistance programs, or other sources; and

(B) set the terms and conditions of any loan made under the program, subject to paragraph (3).

(3) TERMS AND CONDITIONS.—A loan guaranteed by the Administration under this section—

(A) shall be for not more than $150,000;

(B) shall be a short-term loan, not to exceed 180 days, except that the Administrator may extend such term as the Administrator determines necessary or appropriate on a case-by-case basis;

(C) shall have an interest rate not to exceed 300 basis points above the interest rate established by the Board of Governors of the Federal Reserve System that 1 bank charges another for reserves that are lent on an overnight basis on the date the loan is made;

(D) shall have no prepayment penalty;

(E) may only be made to a borrower that meets the requirements for a loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;

(F) may be refinanced as part of any subsequent disaster assistance provided under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;

(G) may receive expedited loss verification and loan processing, if the applicant is—

(i) a major source of employment in the disaster area (which shall be determined in the same manner as under section 7(b)(3)(B) of the Small Business Act (15 U.S.C. 636(b)(3)(B))); or

(ii) vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials); and

(H) shall be subject to such additional terms as the Administrator determines necessary or appropriate.

(e) REPORT TO CONGRESS.—Not later than 5 months after the date of enactment of this Act, the Administrator shall report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the progress of the Administrator in establishing the program.

(f) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section.

**SEC. 12086. GULF COAST DISASTER LOAN REFINANCING PROGRAM.**

(a) IN GENERAL.—The Administrator may carry out a program to refinance Gulf Coast disaster loans (in this section referred to as the "program").

(b) TERMS.—The terms of a Gulf Coast disaster loan refinanced under the program shall be identical to the terms of the original loan, except that the Administrator may provide an option to defer repayment on the loan. A deferment under the program shall end not later than 4 years after the date on which the initial disbursement under the original loan was made.

Deadline.

(c) AMOUNT.—The amount of a Gulf Coast disaster loan refinanced under the program shall not exceed the amount of the original loan.

(d) DISCLOSURE OF ACCRUED INTEREST.—If the Administrator provides an option to defer repayment under the program, the Administrator shall disclose the accrued interest that must be paid under the option.

(e) DEFINITION.—In this section, the term "Gulf Coast disaster loan" means a loan—

(1) made under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(2) in response to Hurricane Katrina of 2005, Hurricane Rita of 2005, or Hurricane Wilma of 2005; and

(3) to a small business concern located in a county or parish designated by the Administrator as a disaster area by reason of a hurricane described in paragraph (2) under disaster declaration 10176, 10177, 10178, 10179, 10180, 10181, 10203, 10204, 10205, 10206, 10222, or 10223.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

## PART III—MISCELLANEOUS

**SEC. 12091. REPORTS ON DISASTER ASSISTANCE.** 15 USC 636k.

(a) MONTHLY ACCOUNTING REPORT TO CONGRESS.—

(1) REPORTING REQUIREMENTS.—Not later than the fifth business day of each month during the applicable period for a major disaster, the Administrator shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Appropriations of the Senate and to the Committee on Small Business and the Committee on Appropriations of the House of Representatives a report on the operation of the disaster loan program authorized under section 7 of the Small Business Act (15 U.S.C. 636) for that major disaster during the preceding month.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the daily average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(B) the weekly average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(C) the amount of funding spent over the month for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(D) the amount of funding available for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding;

(E) an estimate of how long the available funding for such loans will last, based on the spending rate;

(F) the amount of funding spent over the month for staff, along with the number of staff, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(G) the amount of funding spent over the month for administrative costs, and the percent by which such spending has increased or decreased since the previous report under paragraph (1);

(H) the amount of funding available for salaries and expenses combined, and the percent by which such funding has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding; and

(I) an estimate of how long the available funding for salaries and expenses will last, based on the spending rate.

(b) WEEKLY DISASTER UPDATES TO CONGRESS FOR PRESIDENTIALLY DECLARED DISASTERS.—

(1) IN GENERAL.—Each week during a disaster update period, the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the operation of the disaster loan program of the Administration for the area in which the President declared a major disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the number of Administration staff performing loan processing, field inspection, and other duties for the declared disaster, and the allocations of such staff in the disaster field offices, disaster recovery centers, workshops, and other Administration offices nationwide;

(B) the daily number of applications received from applicants in the relevant area, as well as a breakdown of such figures by State;

(C) the daily number of applications pending application entry from applicants in the relevant area, as well as a breakdown of such figures by State;

(D) the daily number of applications withdrawn by applicants in the relevant area, as well as a breakdown of such figures by State;

(E) the daily number of applications summarily declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(F) the daily number of applications declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(G) the daily number of applications in process from applicants in the relevant area, as well as a breakdown of such figures by State;

(H) the daily number of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(I) the daily dollar amount of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(J) the daily amount of loans dispersed, both partially and fully, by the Administration to applicants in the relevant area, as well as a breakdown of such figures by State;

(K) the daily dollar amount of loans disbursed, both partially and fully, from the relevant area, as well as a breakdown of such figures by State;

(L) the number of applications approved, including dollar amount approved, as well as applications partially and fully disbursed, including dollar amounts, since the last report under paragraph (1); and

(M) the declaration date, physical damage closing date, economic injury closing date, and number of counties included in the declaration of a major disaster.

(c) PERIODS WHEN ADDITIONAL DISASTER ASSISTANCE IS MADE AVAILABLE.—

(1) IN GENERAL.—During any period for which the Administrator declares eligibility for additional disaster assistance under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 632(b)), as amended by this Act, the Administrator shall, on a monthly basis, submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the disaster assistance operations of the Administration with respect to the applicable major disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall specify—

(A) the number of applications for disaster assistance distributed;

(B) the number of applications for disaster assistance received;

(C) the average time for the Administration to approve or disapprove an application for disaster assistance;

(D) the amount of disaster loans approved;

(E) the average time for initial disbursement of disaster loan proceeds; and

(F) the amount of disaster loan proceeds disbursed.

(d) NOTICE OF THE NEED FOR SUPPLEMENTAL FUNDS.—On the same date that the Administrator notifies any committee of the Senate or the House of Representatives that supplemental funding is necessary for the disaster loan program of the Administration in any fiscal year, the Administrator shall notify in writing the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the need for supplemental funds for that loan program.

(e) REPORT ON CONTRACTING.—

(1) IN GENERAL.—Not later than 6 months after the date on which the President declares a major disaster, and every 6 months thereafter until the date that is 18 months after the date on which the major disaster was declared, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regarding Federal contracts awarded as a result of that major disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the total number of contracts awarded as a result of that major disaster;

(B) the total number of contracts awarded to small business concerns as a result of that major disaster;

(C) the total number of contracts awarded to women and minority-owned businesses as a result of that major disaster; and

(D) the total number of contracts awarded to local businesses as a result of that major disaster.

(f) REPORT ON LOAN APPROVAL RATE.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing how the Administration can improve the processing of applications under the disaster loan program of the Administration.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) recommendations, if any, regarding—

(i) staffing levels during a major disaster;

(ii) how to improve the process for processing, approving, and disbursing loans under the disaster loan program of the Administration, to ensure that the maximum assistance is provided to victims in a timely manner;

(iii) the viability of using alternative methods for assessing the ability of an applicant to repay a loan, including the credit score of the applicant on the day before the date on which the disaster for which the applicant is seeking assistance was declared;

(iv) methods, if any, for the Administration to expedite loss verification and loan processing of disaster loans during a major disaster for businesses affected by, and located in the area for which the President declared, the major disaster that are a major source of employment in the area or are vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials);

(v) legislative changes, if any, needed to implement findings from the Accelerated Disaster Response Initiative of the Administration; and

(vi) a description of how the Administration plans to integrate and coordinate the response to a major disaster with the technical assistance programs of the Administration; and

(B) the plans of the Administrator for implementing any recommendation made under subparagraph (A).

(g) REPORTS ON DISASTER ASSISTANCE.—The Small Business Act is amended by inserting after section 42, as added by this Act, the following:

15 USC 657o.

**"SEC. 43. ANNUAL REPORTS ON DISASTER ASSISTANCE.**

"Not later than 45 days after the end of a fiscal year, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small

Business of the House of Representatives a report on the disaster assistance operations of the Administration for that fiscal year. The report shall—

"(1) specify the number of Administration personnel involved in such operations;

"(2) describe any material changes to those operations, such as changes to technologies used or to personnel responsibilities;

"(3) describe and assess the effectiveness of the Administration in responding to disasters during that fiscal year, including a description of the number and amounts of loans made for damage and for economic injury; and

"(4) describe the plans of the Administration for preparing to respond to disasters during the next fiscal year.".

# TITLE XIII—COMMODITY FUTURES

CFTC Reauthorization Act of 2008.
7 USC 1 note.

**SEC. 13001. SHORT TITLE.**

This title may be cited as the "CFTC Reauthorization Act of 2008".

## Subtitle A—General Provisions

**SEC. 13101. COMMISSION AUTHORITY OVER AGREEMENTS, CONTRACTS OR TRANSACTIONS IN FOREIGN CURRENCY.**

(a) IN GENERAL.—Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) AGREEMENTS, CONTRACTS, AND TRANSACTIONS IN RETAIL FOREIGN CURRENCY.—

"(i) This Act applies to, and the Commission shall have jurisdiction over, an agreement, contract, or transaction in foreign currency that— Applicability.

"(I) is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a))); and

"(II) is offered to, or entered into with, a person that is not an eligible contract participant, unless the counterparty, or the person offering to be the counterparty, of the person is—

"(aa) a financial institution;

"(bb)(AA) a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o–5); or

"(BB) an associated person of a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o–5) concerning the financial or securities activities of which the broker or dealer makes and keeps records under section 15C(b) or

17(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(b), 78q(h));

"(cc)(AA) a futures commission merchant that is primarily or substantially engaged in the business activities described in section 1a(20) of this Act, is registered under this Act, is not a person described in item (bb) of this subclause, and maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph; or

"(BB) an affiliated person of a futures commission merchant that is primarily or substantially engaged in the business activities described in section 1a(20) of this Act, is registered under this Act, and is not a person described in item (bb) of this subclause, if the affiliated person maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph and is not a person described in such item (bb), and the futures commission merchant makes and keeps records under section 4f(c)(2)(B) of this Act concerning the futures and other financial activities of the affiliated person;

"(dd) an insurance company described in section 1a(12)(A)(ii) of this Act, or a regulated subsidiary or affiliate of such an insurance company;

"(ee) a financial holding company (as defined in section 2 of the Bank Holding Company Act of 1956);

"(ff) an investment bank holding company (as defined in section 17(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(i))); or

"(gg) a retail foreign exchange dealer that maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph and is registered in such capacity with the Commission, subject to such terms and conditions as the Commission shall prescribe, and is a member of a futures association registered under section 17.

Applicability.
Effective dates.

"(ii) The dollar amount that applies for purposes of this clause is—

"(I) $10,000,000, beginning 120 days after the date of the enactment of this clause;

"(II) $15,000,000, beginning 240 days after such date of enactment; and

"(III) $20,000,000, beginning 360 days after such date of enactment.

"(iii) Notwithstanding items (cc) and (gg) of clause (i)(II) of this subparagraph, agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this

section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b) if the agreements, contracts, or transactions are offered, or entered into, by a person that is registered as a futures commission merchant or retail foreign exchange dealer, or an affiliated person of a futures commission merchant registered under this Act that is not also a person described in any of item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II) of this subparagraph.

"(iv)(I) Notwithstanding items (cc) and (gg) of clause (i)(II), a person, unless registered in such capacity as the Commission by rule, regulation, or order shall determine and a member of a futures association registered under section 17, shall not—

"(aa) solicit or accept orders from any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II);

"(bb) exercise discretionary trading authority or obtain written authorization to exercise discretionary trading authority over any account for or on behalf of any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II); or

"(cc) operate or solicit funds, securities, or property for any pooled investment vehicle that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II).

"(II) Subclause (I) of this clause shall not apply to—

"(aa) any person described in any of item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

"(III) Notwithstanding items (cc) and (gg) of clause (i)(II), the Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any

of the purposes of, this Act in connection with the activities of persons subject to subclause (I).

"(IV) Subclause (III) of this clause shall not apply to—

"(aa) any person described in any of item (aa) through (ff) of clause (i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

"(v) Notwithstanding items (cc) and (gg) of clause (i)(II), the Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any of the purposes of, this Act in connection with agreements, contracts, or transactions described in clause (i) which are offered, or entered into, by a person described in item (cc) or (gg) of clause (i)(II).

Applicability.

"(C)(i)(I) This subparagraph shall apply to any agreement, contract, or transaction in foreign currency that is—

"(aa) offered to, or entered into with, a person that is not an eligible contract participant (except that this subparagraph shall not apply if the counterparty, or the person offering to be the counterparty, of the person that is not an eligible contract participant is a person described in any of item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II)); and

"(bb) offered, or entered into, on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.

"(II) Subclause (I) of this clause shall not apply to—

"(aa) a security that is not a security futures product; or

"(bb) a contract of sale that—

"(AA) results in actual delivery within 2 days; or

"(BB) creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business.

"(ii)(I) Agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b).

"(II) Subclause (I) of this clause shall not apply to—

"(aa) any person described in any of item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

"(bb) any such person's associated persons.

"(III) The Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of or to accomplish any of the purposes of this Act in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph if the agreements, contracts, or transactions are offered, or entered into, by a person that is not described in item (aa) through (ff) of subparagraph (B)(i)(II).

"(iii)(I) A person, unless registered in such capacity as the Commission by rule, regulation, or order shall determine and a member of a futures association registered under section 17, shall not—

"(aa) solicit or accept orders from any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II);

"(bb) exercise discretionary trading authority or obtain written authorization to exercise written trading authority over any account for or on behalf of any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

"(cc) operate or solicit funds, securities, or property for any pooled investment vehicle that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II).

"(II) Subclause (I) of this clause shall not apply to—

"(aa) any person described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

"(III) The Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any of the purposes of, this Act in connection with the activities of persons subject to subclause (I).

"(IV) Subclause (III) of this clause shall not apply to—

"(aa) any person described in item (aa) through (ff) of subparagraph (B)(i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

Applicability.

"(iv) Sections 4(b) and 4b shall apply to any agreement, contract, or transaction described in clause (i) of this subparagraph as if the agreement, contract, or transaction were a contract of sale of a commodity for future delivery.

"(v) This subparagraph shall not be construed to limit any jurisdiction that the Commission may otherwise have under any other provision of this Act over an agreement, contract, or transaction that is a contract of sale of a commodity for future delivery.

"(vi) This subparagraph shall not be construed to limit any jurisdiction that the Commission or the Securities and Exchange Commission may otherwise have under any other provision of this Act with respect to security futures products and persons effecting transactions in security futures products.".

7 USC 2 note.

(b) EFFECTIVE DATE.—The following provisions of the Commodity Exchange Act, as amended by subsection (a) of this section, shall be effective 120 days after the date of the enactment of this Act or at such other time as the Commodity Futures Trading Commission shall determine:

(1) Subparagraphs (B)(i)(II)(gg), (B)(iv), and (C)(iii) of section 2(c)(2).

(2) The provisions of section 2(c)(2)(B)(i)(II)(cc) that set forth adjusted net capital requirements, and the provisions of such section that require a futures commission merchant to be primarily or substantially engaged in certain business activities.

**SEC. 13102. ANTI-FRAUD AUTHORITY OVER PRINCIPAL-TO-PRINCIPAL TRANSACTIONS.**

Section 4b of the Commodity Exchange Act (7 U.S.C. Section 6b) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking all through the end of subsection (a) and inserting the following:

**"SEC. 4b. CONTRACTS DESIGNED TO DEFRAUD OR MISLEAD.**

"(a) UNLAWFUL ACTIONS.—It shall be unlawful—

"(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

"(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

"(A) to cheat or defraud or attempt to cheat or defraud the other person;

"(B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;

"(C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person; or

"(D)(i) to bucket an order if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market; or

"(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of the other person to become the buyer in respect to any selling order of the other person, or become the seller in respect to any buying order of the other person, if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market unless the order is executed in accordance with the rules of the designated contract market.

"(b) CLARIFICATION.—Subsection (a)(2) of this section shall not obligate any person, in or in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g), with another person, to disclose to the other person nonpublic information that may be material to the market price, rate, or level of the commodity or transaction, except as necessary to make any statement made to the other person in or in connection with the transaction not misleading in any material respect.".

**SEC. 13103. CRIMINAL AND CIVIL PENALTIES.**

(a) ENFORCEMENT POWERS OF THE COMMISSION.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in clause (3) of the 10th sentence—

(1) by inserting "(A)" after "assess such person"; and

(2) by inserting after "each such violation" the following: ", or (B) in any case of manipulation or attempted manipulation in violation of this subsection, subsection (d) of this section, or section 9(a)(2), a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to the person for each such violation,".

(b) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b of such Act (7 U.S.C. 13a) is amended—

(1) in the first sentence, by inserting before the period at the end the following: ", or, in any case of manipulation or attempted manipulation in violation of section 6(c), 6(d), or 9(a)(2), a civil penalty of not more than $1,000,000 for each such violation"; and

(2) in the second sentence, by inserting before the period at the end the following: ", except that if the failure or refusal to obey or comply with the order involved any offense under section 9(a)(2), the registered entity, director, officer, agent,

or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(a)(2)".

(c) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—Section 6c(d) of such Act (7 U.S.C. 13a–1(d)) is amended by striking all that precedes paragraph (2) and inserting the following:

"(d) CIVIL PENALTIES.—

"(1) IN GENERAL.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

"(A) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

"(B) in any case of manipulation or attempted manipulation in violation of section 6(c), 6(d), or 9(a)(2), a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.".

(d) VIOLATIONS GENERALLY.—Section 9(a) of such Act (7 U.S.C. 13(a)) is amended in the matter preceding paragraph (1)—

(1) by striking "(or $500,000 in the case of a person who is an individual)"; and

(2) by striking "five years" and inserting "10 years".

**SEC. 13104. AUTHORIZATION OF APPROPRIATIONS.**

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated such sums as are necessary to carry out this Act for each of the fiscal years 2008 through 2013.".

**SEC. 13105. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) Section 4a(e) of the Commodity Exchange Act (7 U.S.C. 6a(e)) is amended—

(1) by inserting "or certified by a registered entity pursuant to section 5c(c)(1)" after "approved by the Commission" ; and

(2) by striking "section 9(c)" and inserting "section 9(a)(5)".

(b) Section 4f(c)(4)(B)(i) of such Act (7 U.S.C. 6f(c)(4)(B)(i)) is amended by striking "compiled" and inserting "complied".

(c) Section 4k of such Act (7 U.S.C. 6k) is amended by redesignating the second paragraph (5) as paragraph (6).

(d) The Commodity Exchange Act is amended—

(1) by redesignating the first section 4p (7 U.S.C. 6o–1), as added by section 121 of the Commodity Futures Modernization Act of 2000, as section 4q; and

7 USC 6q.

(2) by moving such section to after the second section 4p, as added by section 206 of Public Law 93–446.

(e) Subsections (a)(1) and (d)(1) of section 5c of such Act (7 U.S.C. 7a–2(a)(1), (d)(1)) are each amended by striking "5b(d)(2)" and inserting "5b(c)(2)".

(f) Sections 5c(f) and 17(r) of such Act (7 U.S.C. 7a–2(f), 21(r)) are each amended by striking "4d(3)" and inserting "4d(c)".

(g) Section 8(a)(1) of such Act (7 U.S.C. 12(a)(1)) is amended in the matter following subparagraph (B)—

(1) by striking "commenced" in the 2nd place it appears; and

(2) by inserting "commenced" after "in a judicial proceeding".

(h) Section 9 of such Act (7 U.S.C. 13) is amended—

(1) in subsection (f)(1), by striking the period and inserting "; or"; and

(2) by redesignating subsection (f) as subsection (e).

(i) Section 22(a)(2) of such Act (7 U.S.C. 25(a)(2)) is amended by striking "5b(b)(1)(E)" and inserting "5b(c)(2)(H)".

(j) Section 1a(33)(A) of such Act (7 U.S.C. 1a(33)(A)) is amended by striking "transactions" and all that follows and inserting "transactions—

"(i) by accepting bids or offers made by other participants that are open to multiple partipants in the facility or system; or

"(ii) through the interaction of multiple bids or multiple offers within a system with a pre-determined non-discretionary automated trade matching and execution algorithm.".

(k) Section 14(d) of such Act (7 U.S.C. 18(d)) is amended—

(1) by inserting "(1)" before "If"; and

(2) by adding after and below the end the following:

"(2) A reparation award shall be directly enforceable in district court as if it were a judgment pursuant to section 1963 of title 28, United States Code. This paragraph shall operate retroactively from the effective date of its enactment, and shall apply to all reparation awards for which a proceeding described in paragraph (1) is commenced within 3 years of the date of the Commission's order.". Reparations. Applicability. Deadline.

**SEC. 13106. PORTFOLIO MARGINING AND SECURITY INDEX ISSUES.** 7 USC 2 note.

(a) The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission shall work to ensure that the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), or both, as appropriate, have taken the actions required under subsection (b).

(b) The SEC, the CFTC, or both, as appropriate, shall take action under their existing authorities to permit— Deadlines.

(1) by September 30, 2009, risk-based portfolio margining for security options and security futures products (as defined in section 1a(32) of the Commodity Exchange Act); and

(2) by June 30, 2009, the trading of futures on certain security indexes by resolving issues related to foreign security indexes.

# Subtitle B—Significant Price Discovery Contracts on Exempt Commercial Markets

**SEC. 13201. SIGNIFICANT PRICE DISCOVERY CONTRACTS.**

(a) DEFINITIONS.—Section la of the Commodity Exchange Act (7 U.S.C. la) is amended—

(1) by redesignating paragraph (33) as paragraph (34); and

(2) by inserting after paragraph (32) the following:

"(33) SIGNIFICANT PRICE DISCOVERY CONTRACT.—The term 'significant price discovery contract' means an agreement, contract, or transaction subject to section 2(h)(7).".

(b) STANDARDS APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—Section 2(h) of such Act (7 U.S.C. 2(h)) is amended by adding at the end the following:

"(7) SIGNIFICANT PRICE DISCOVERY CONTRACTS.—

"(A) IN GENERAL.—An agreement, contract, or transaction conducted in reliance on the exemption in paragraph (3) shall be subject to the provisions of subparagraphs (B) through (D), under such rules and regulations as the Commission shall promulgate, provided that the Commission determines, in its discretion, that the agreement, contract, or transaction performs a significant price discovery function as described in subparagraph (B).

"(B) SIGNIFICANT PRICE DISCOVERY DETERMINATION.—In making a determination whether an agreement, contract, or transaction performs a significant price discovery function, the Commission shall consider, as appropriate:

"(i) PRICE LINKAGE.—The extent to which the agreement, contract, or transaction uses or otherwise relies on a daily or final settlement price, or other major price parameter, of a contract or contracts listed for trading on or subject to the rules of a designated contract market or a derivatives transaction execution facility, or a significant price discovery contract traded on an electronic trading facility, to value a position, transfer or convert a position, cash or financially settle a position, or close out a position.

"(ii) ARBITRAGE.—The extent to which the price for the agreement, contract, or transaction is sufficiently related to the price of a contract or contracts listed for trading on or subject to the rules of a designated contract market or derivatives transaction execution facility, or a significant price discovery contract or contracts trading on or subject to the rules of an electronic trading facility, so as to permit market participants to effectively arbitrage between the markets by simultaneously maintaining positions or executing trades in the contracts on a frequent and recurring basis.

"(iii) MATERIAL PRICE REFERENCE.—The extent to which, on a frequent and recurring basis, bids, offers, or transactions in a commodity are directly based on, or are determined by referencing, the prices generated by agreements, contracts, or transactions being traded or executed on the electronic trading facility.

"(iv) MATERIAL LIQUIDITY.—The extent to which the volume of agreements, contracts, or transactions in the commodity being traded on the electronic trading facility is sufficient to have a material effect on other agreements, contracts, or transactions listed for trading on or subject to the rules of a designated contract market, a derivatives transaction execution facility, or an electronic trading facility operating in reliance on the exemption in paragraph (3).

"(v) OTHER MATERIAL FACTORS.—Such other material factors as the Commission specifies by rule as relevant to determine whether an agreement, contract,

or transaction serves a significant price discovery function.

"(C) CORE PRINCIPLES APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—

"(i) IN GENERAL.—An electronic trading facility on which significant price discovery contracts are traded or executed shall, with respect to those contracts, comply with the core principles specified in this subparagraph.

"(ii) CORE PRINCIPLES.—The electronic trading facility shall have reasonable discretion (including discretion to account for differences between cleared and uncleared significant price discovery contracts) in establishing the manner in which it complies with the following core principles:

"(I) CONTRACTS NOT READILY SUSCEPTIBLE TO MANIPULATION.—The electronic trading facility shall list only significant price discovery contracts that are not readily susceptible to manipulation.

"(II) MONITORING OF TRADING.—The electronic trading facility shall monitor trading in significant price discovery contracts to prevent market manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

"(III) ABILITY TO OBTAIN INFORMATION.—The electronic trading facility shall—

Regulations.

"(aa) establish and enforce rules that will allow the electronic trading facility to obtain any necessary information to perform any of the functions described in this subparagraph;

"(bb) provide the information to the Commission upon request; and

"(cc) have the capacity to carry out such international information-sharing agreements as the Commission may require.

"(IV) POSITION LIMITATIONS OR ACCOUNTABILITY.—The electronic trading facility shall adopt, where necessary and appropriate, position limitations or position accountability for speculators in significant price discovery contracts, taking into account positions in other agreements, contracts, and transactions that are treated by a derivatives clearing organization, whether registered or not registered, as fungible with such significant price discovery contracts to reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month.

Regulations.

"(V) EMERGENCY AUTHORITY.—The electronic trading facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, where

necessary and appropriate, including the authority—

"(aa) to liquidate open positions in a significant price discovery contract; and

"(bb) to suspend or curtail trading in a significant price discovery contract.

"(VI) DAILY PUBLICATION OF TRADING INFORMATION.—The electronic trading facility shall make public daily information on price, trading volume, and other trading data to the extent appropriate for significant price discovery contracts

"(VII) COMPLIANCE WITH RULES.—The electronic trading facility shall monitor and enforce compliance with any rules of the electronic trading facility applicable to significant price discovery contracts, including the terms and conditions of the contracts and any limitations on access to the electronic trading facility with respect to the contracts.

"(VIII) CONFLICT OF INTEREST.—The electronic trading facility, with respect to significant price discovery contracts, shall—

Regulations.

"(aa) establish and enforce rules to minimize conflicts of interest in its decision-making process; and

Procedures.

"(bb) establish a process for resolving the conflicts of interest.

"(IX) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the electronic trading facility, with respect to significant price discovery contracts, shall endeavor to avoid—

"(aa) adopting any rules or taking any actions that result in any unreasonable restraints of trade; or

"(bb) imposing any material anticompetitive burden on trading on the electronic trading facility.

"(D) IMPLEMENTATION.—

"(i) CLEARING.—The Commission shall take into consideration differences between cleared and uncleared significant price discovery contracts when reviewing the implementation of the core principles by an electronic trading facility.

"(ii) REVIEW.—As part of the Commission's continual monitoring and surveillance activities, the Commission shall, not less frequently than annually, evaluate, as appropriate, all the agreements, contracts, or transactions conducted on an electronic trading facility in reliance on the exemption provided in paragraph (3) to determine whether they serve a significant price discovery function as described in subparagraph (B) of this paragraph.".

**SEC. 13202. LARGE TRADER REPORTING.**

(a) REPORTING AND RECORDKEEPING.—Section 4g(a) of the Commodity Exchange Act (7 U.S.C. 6g(a)) is amended by inserting

", and in any significant price discovery contract traded or executed on an electronic trading facility or any agreement, contract, or transaction that is treated by a derivatives clearing organization, whether registered or not registered, as fungible with a significant price discovery contract" after "elsewhere".

(b) REPORTS OF POSITIONS EQUAL TO OR IN EXCESS OF TRADING LIMITS.—Section 4i of such Act (7 U.S.C. 6i) is amended—

(1) by inserting ", or any significant price discovery contract traded or executed on an electronic trading facility or any agreement, contract, or transaction that is treated by a derivatives clearing organization, whether registered or not registered, as fungible with a significant price discovery contract" after "subject to the rules of any contract market or derivatives transaction execution facility"; and

(2) in the matter following paragraph (2), by inserting "or electronic trading facility" after "subject to the rules of any other board of trade".

**SEC. 13203. CONFORMING AMENDMENTS.**

(a) Section 1a(12)(A)(x) of the Commodity Exchange Act (7 U.S.C. 1a(12)(A)(x)) is amended by inserting "(other than an electronic trading facility with respect to a significant price discovery contract)" after "registered entity".

(b) Section 1a(29) of such Act (7 U.S.C. 1a(29)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(E) with respect to a contract that the Commission determines is a significant price discovery contract, any electronic trading facility on which the contract is executed or traded.".

(c) Section 2(a)(1)(A) of such Act (7 U.S.C. 2(a)(1)(A)) is amended by inserting after "future delivery" the following: "(including significant price discovery contracts)".

(d) Section 2(h)(3) of such Act (7 U.S.C. 2(h)(3)) is amended by striking "paragraph (4)" and inserting "paragraphs (4) and (7)".

(e) Section 2(h)(4) of such Act (7 U.S.C. 2(h)(4)) is amended—

(1) in subparagraph (B), by inserting "and, for a significant price discovery contract, requiring large trader reporting," after "proscribing fraud";

(2) by striking "and" at the end of subparagraph (C); and

(3) by striking subparagraph (D) and inserting the following:

"(D) such rules, regulations, and orders as the Commission may issue to ensure timely compliance with any of the provisions of this Act applicable to a significant price discovery contract traded on or executed on any electronic trading facility; and

"(E) such other provisions of this Act as are applicable by their terms to significant price discovery contracts or to registered entities or electronic trading facilities with respect to significant price discovery contracts.".

(f) Section 2(h)(5)(B)(iii)(I) of such Act (7 U.S.C. 2(h)(5)(B)(iii)(I)) is amended by inserting "or to make the determination described in subparagraph (B) of paragraph (7)" after "paragraph (4)".

(g) Section 4a of such Act (7 U.S.C. 6a) is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting ", or on electronic trading facilities with respect to a significant price discovery contract" after "derivatives transaction execution facilities"; and

(B) in the second sentence, by inserting ", or on an electronic trading facility with respect to a significant price discovery contract," after "derivatives transaction execution facility"; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or electronic trading facility with respect to a significant price discovery contract" after "facility or facilities"; and

(B) in paragraph (2), by inserting "or electronic trading facility with respect to a significant price discovery contract" after "derivatives transaction execution facility"; and

(3) in subsection (e)—

(A) in the first sentence—

(i) by inserting "or by any electronic trading facility" after "registered by the Commission";

(ii) by inserting "or on an electronic trading facility" after "derivatives transaction execution facility" the second place it appears; and

(iii) by inserting "or electronic trading facility" before "or such board of trade" each place it appears; and

(B) in the second sentence, by inserting "or electronic trading facility with respect to a significant price discovery contract" after "registered by the Commission".

(h) Section 5a(d) of such Act (7 U.S.C. 7a(d)(1)) is amended—

(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10); and

(2) by inserting after paragraph (3) the following:

"(4) POSITION LIMITATIONS OR ACCOUNTABILITY.—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the derivatives transaction execution facility shall adopt position limits or position accountability for speculators, where necessary and appropriate for a contract, agreement or transaction with an underlying commodity that has a physically deliverable supply.".

(i) Section 5c(a) of such Act (7 U.S.C. 7a–2(a)) is amended in paragraph (1) by inserting ", and section 2(h)(7) with respect to significant price discovery contracts," after ", and 5b(d)(2)".

(j) Section 5c(b) of such Act (7 U.S.C. 7a–2(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—A contract market, derivatives transaction execution facility, or electronic trading facility with respect to a significant price discovery contract may comply with any applicable core principle through delegation of any relevant function to a registered futures association or a registered entity that is not an electronic trading facility.";

(2) in paragraph (2), by striking "contract market or derivatives transaction execution facility" and inserting "contract market, derivatives transaction execution facility, or electronic trading facility"; and

(3) in paragraph (3), by striking "contract market or derivatives transaction execution facility" each place it appears and

inserting "contract market, derivatives transaction execution facility, or electronic trading facility".

(k) Section 5c(d)(1) of such Act (7 U.S.C. 7a–2(d)(1)) is amended by inserting "or 2(h)(7)(C) with respect to a significant price discovery contract traded or executed on an electronic trading facility," after "5b(d)(2)".

(l) Section 5e of such Act (7 U.S.C. 7b) is amended by inserting ", or revocation of the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract," after "revocation of designation as a registered entity".

(m) Section 6(b) of the Commodity Exchange Act (7 U.S.C. 8(b)) is amended by striking the first sentence and all that follows through "hearing on the record: Provided," and inserting the following:

"The Commission is authorized to suspend for a period not to exceed 6 months or to revoke the designation or registration of any contract market or derivatives transaction execution facility, or to revoke the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract, on a showing that the contract market or derivatives transaction execution facility is not enforcing or has not enforced its rules of government, made a condition of its designation or registration as set forth in sections 5 through 5b or section 5f, or that the contract market or derivatives transaction execution facility or electronic trading facility, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this Act or any of the rules, regulations, or orders of the Commission thereunder. Such suspension or revocation shall only be made after a notice to the officers of the contract market or derivatives transaction execution facility or electronic trading facility affected and upon a hearing on the record: Provided,". Contracts. Notice.

(n) Section 22(b)(1) of such Act (7 U.S.C. 25(b)(1)) is amended by inserting "section 2(h)(7) or" before "sections 5".

**SEC. 13204. EFFECTIVE DATE.** 7 USC 2 note.

(a) IN GENERAL.—Except as provided in this section, this subtitle shall become effective on the date of enactment of this Act.

(b) SIGNIFICANT PRICE DISCOVERY STANDARDS RULEMAKING.—

(1) The Commodity Futures Trading Commission shall— Deadlines.

(A) not later than 180 days after the date of the enactment of this Act, issue a proposed rule regarding the implementation of section 2(h)(7) of the Commodity Exchange Act; and

(B) not later than 270 days after the date of enactment of this Act, issue a final rule regarding the implementation.

(2) In its rulemaking pursuant to paragraph (1) of this subsection, the Commission shall include the standards, terms, and conditions under which an electronic trading facility will have the responsibility to notify the Commission that an agreement, contract, or transaction conducted in reliance on the exemption provided in section 2(h)(3) of the Commodity Exchange Act may perform a price discovery function.

(c) SIGNIFICANT PRICE DISCOVERY DETERMINATIONS.—With respect to any electronic trading facility operating on the effective date of the final rule issued pursuant to subsection (b)(1), the Review. Deadline.

Commission shall complete a review of the agreements, contracts, and transactions of the facility not later than 180 days after that effective date to determine whether any such agreement, contract, or transaction performs a significant price discovery function.

# TITLE XIV—MISCELLANEOUS

## Subtitle A—Socially Disadvantaged Producers and Limited Resource Producers

### SEC. 14001. IMPROVED PROGRAM DELIVERY BY DEPARTMENT OF AGRICULTURE ON INDIAN RESERVATIONS.

Section 2501(g)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(g)(1)) is amended—

(1) in the first sentence—

(A) by striking "Agricultural Stabilization and Conservation Service, Soil Conservation Service, and Farmers Home Administration offices" and inserting "Farm Service Agency and Natural Resources Conservation Service"; and

(B) by inserting "where there has been a need demonstrated" after "include"; and

(2) by striking the second sentence.

### SEC. 14002. FORECLOSURE.

(a) IN GENERAL.—Section 331A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981a) is amended:

(1) by inserting "(a)" after "SEC. 331A."; and

(2) by adding at the end the following:

"(b) MORATORIUM.—

Effective date.

"(1) IN GENERAL.—Subject to the other provisions of this subsection, effective beginning on the date of the enactment of this subsection, there shall be in effect a moratorium, with respect to farmer program loans made under subtitle A, B, or C, on all acceleration and foreclosure proceedings instituted by the Department of Agriculture against any farmer or rancher who—

"(A) has pending against the Department a claim of program discrimination that is accepted by the Department as valid; or

"(B) files a claim of program discrimination that is accepted by the Department as valid.

"(2) WAIVER OF INTEREST AND OFFSETS.—During the period of the moratorium, the Secretary shall waive the accrual of interest and offsets on all farmer program loans made under subtitle A, B, or C for which loan acceleration or foreclosure proceedings have been suspended under paragraph (1).

"(3) TERMINATION OF MORATORIUM.—The moratorium shall terminate with respect to a claim of discrimination by a farmer or rancher on the earlier of—

"(A) the date the Secretary resolves the claim; or

"(B) if the farmer or rancher appeals the decision of the Secretary on the claim to a court of competent jurisdiction, the date that the court renders a final decision on the claim.

"(4) FAILURE TO PREVAIL.—If a farmer or rancher does not prevail on a claim of discrimination described in paragraph (1), the farmer or rancher shall be liable for any interest and offsets that accrued during the period that loan acceleration or foreclosure proceedings have been suspended under paragraph (1).".

(b) FORECLOSURE REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Agriculture (referred to in this subsection as the "Inspector General") shall determine whether decisions of the Department to implement foreclosure proceedings with respect to farmer program loans made under subtitle A, B, or C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et seq.) to socially disadvantaged farmers or ranchers during the 5-year period preceding the date of the enactment of this Act were consistent and in conformity with the applicable laws (including regulations) governing loan foreclosures.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspector General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the determination of the Inspector General under paragraph (1).

**SEC. 14003. RECEIPT FOR SERVICE OR DENIAL OF SERVICE FROM CERTAIN DEPARTMENT OF AGRICULTURE AGENCIES.**

Section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1) is amended by adding at the end the following new subsection:

"(e) RECEIPT FOR SERVICE OR DENIAL OF SERVICE.—In any case in which a current or prospective producer or landowner, in person or in writing, requests from the Farm Service Agency, the Natural Resources Conservation Service, or an agency of the Rural Development Mission Area any benefit or service offered by the Department to agricultural producers or landowners and, at the time of the request, also requests a receipt, the Secretary shall issue, on the date of the request, a receipt to the producer or landowner that contains—

"(1) the date, place, and subject of the request; and

"(2) the action taken, not taken, or recommended to the producer or landowner.".

**SEC. 14004. OUTREACH AND TECHNICAL ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.**

(a) OUTREACH AND TECHNICAL ASSISTANCE PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Paragraph (2) of section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)) is amended to read as follows:

"(2) REQUIREMENTS.—The outreach and technical assistance program under paragraph (1) shall be used exclusively—

"(A) to enhance coordination of the outreach, technical assistance, and education efforts authorized under agriculture programs; and

"(B) to assist the Secretary in—

"(i) reaching current and prospective socially disadvantaged farmers or ranchers in a linguistically appropriate manner; and

"(ii) improving the participation of those farmers and ranchers in Department programs, as reported under section 2501A.".

(2) GRANTS AND CONTRACTS UNDER PROGRAM.—Section 2501(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(3)) is amended—

(A) in subparagraph (A), by striking "entity to provide information" and inserting "entity that has demonstrated an ability to carry out the requirements described in paragraph (2) to provide outreach"; and

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

Public information.

"(D) REPORT.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and make publicly available, an annual report that includes a list of the following:

"(i) The recipients of funds made available under the program.

"(ii) The activities undertaken and services provided.

"(iii) The number of current and prospective socially disadvantaged farmers or ranchers served and outcomes of such service.

"(iv) The problems and barriers identified by entities in trying to increase participation by current and prospective socially disadvantaged farmers or ranchers.".

(3) FUNDING AND LIMITATION ON USE OF FUNDS.—Section 2501(a)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(4)) is amended—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(i) $15,000,000 for fiscal year 2009; and

"(ii) $20,000,000 for each of fiscal years 2010 through 2012.".

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

"(C) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amounts made available under subparagraph (A) for a fiscal year may be used for expenses related to administering the program under this section.".

(b) ELIGIBLE ENTITY DEFINED.—Section 2501(e)(5)(A)(ii) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(5)(A)(ii)) is amended by striking "work with socially disadvantaged farmers or ranchers during the 2-year period" and inserting "work with, and on behalf of, socially disadvantaged farmers or ranchers during the 3-year period".

**SEC. 14005. ACCURATE DOCUMENTATION IN THE CENSUS OF AGRICULTURE AND CERTAIN STUDIES.**

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended by adding at the end the following:

"(h) ACCURATE DOCUMENTATION.—The Secretary shall ensure, to the maximum extent practicable, that the Census of Agriculture and studies carried out by the Economic Research Service accurately document the number, location, and economic contributions of socially disadvantaged farmers or ranchers in agricultural production.".

**SEC. 14006. TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.**

Section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1) is amended by striking subsection (c) and inserting the following new subsections:

"(c) COMPILATION OF PROGRAM PARTICIPATION DATA.—

"(1) ANNUAL REQUIREMENT.—For each county and State in the United States, the Secretary of Agriculture (referred to in this section as the 'Secretary') shall annually compile program application and participation rate data regarding socially disadvantaged farmers or ranchers by computing for each program of the Department of Agriculture that serves agricultural producers and landowners—

"(A) raw numbers of applicants and participants by race, ethnicity, and gender, subject to appropriate privacy protections, as determined by the Secretary; and

"(B) the application and participation rate, by race, ethnicity, and gender, as a percentage of the total participation rate of all agricultural producers and landowners.

"(2) AUTHORITY TO COLLECT DATA.—The heads of the agencies of the Department of Agriculture shall collect and transmit to the Secretary any data, including data on race, gender, and ethnicity, that the Secretary determines to be necessary to carry out paragraph (1).

"(3) REPORT.—Using the technologies and systems of the National Agricultural Statistics Service, the Secretary shall compile and present the data compiled under paragraph (1) for each program described in that paragraph in a manner that includes the raw numbers and participation rates for—

"(A) the entire United States;

"(B) each State; and

"(C) each county in each State.

"(4) PUBLIC AVAILABILITY OF REPORT.—The Secretary shall maintain and make readily available to the public, via website and otherwise in electronic and paper form, the report described in paragraph (3). Web site.

"(d) LIMITATIONS ON USE OF DATA.—

"(1) PRIVACY PROTECTIONS.—In carrying out this section, the Secretary shall not disclose the names or individual data of any program participant.

"(2) AUTHORIZED USES.—The data under this section shall be used exclusively for the purposes described in subsection (a).

"(3) LIMITATION.—Except as otherwise provided, the data under this section shall not be used for the evaluation of individual applications for assistance.".

7 USC 2279–1 note.

**SEC. 14007. OVERSIGHT AND COMPLIANCE.**

The Secretary, acting through the Assistant Secretary for Civil Rights of the Department of Agriculture, shall use the reports described in subsection (c) of section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1), as amended by section 14006, in the conduct of oversight and evaluation of civil rights compliance.

7 USC 2279 note.

**SEC. 14008. MINORITY FARMER ADVISORY COMMITTEE.**

Deadline.

(a) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Agriculture shall establish an advisory committee, to be known as the "Advisory Committee on Minority Farmers" (in this section referred to as the "Committee").

(b) DUTIES.—The Committee shall provide advice to the Secretary on—

(1) the implementation of section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279);

(2) methods of maximizing the participation of minority farmers and ranchers in Department of Agriculture programs; and

(3) civil rights activities within the Department as such activities relate to participants in such programs.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall be composed of not more than 15 members, who shall be appointed by the Secretary, and shall include—

(A) not less than four socially disadvantaged farmers or ranchers (as defined in section 2501(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(2)));

(B) not less than two representatives of nonprofit organizations with a history of working with minority farmers and ranchers;

(C) not less than two civil rights professionals;

(D) not less than two representatives of institutions of higher education with demonstrated experience working with minority farmers and ranchers; and

(E) such other persons as the Secretary considers appropriate.

(2) EX-OFFICIO MEMBERS.—The Secretary may appoint such employees of the Department of Agriculture as the Secretary considers appropriate to serve as ex-officio members of the Committee.

**SEC. 14009. NATIONAL APPEALS DIVISION.**

Section 280 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7000) is amended—

(1) by striking "On the return" and inserting the following:

"(a) IN GENERAL.—On the return"; and

(2) by adding at the end the following:

"(b) REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, and every 180 days thereafter, the head of each agency shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and publish on the website of the Department, a report that includes— Web site.

"(A) a description of all cases returned to the agency during the period covered by the report pursuant to a final determination of the Division;

"(B) the status of implementation of each final determination; and

"(C) if the final determination has not been implemented—

"(i) the reason that the final determination has not been implemented; and

"(ii) the projected date of implementation of the final determination.

"(2) UPDATES.—Each month, the head of each agency shall publish on the website of the Department any updates to the reports submitted under paragraph (1).". Web site.

**SEC. 14010. REPORT OF CIVIL RIGHTS COMPLAINTS, RESOLUTIONS, AND ACTIONS.** 7 USC 2279–2.

Each year, the Secretary shall—

(1) prepare a report that describes, for each agency of the Department of Agriculture—

(A) the number of civil rights complaints filed that relate to the agency, including whether a complaint is a program complaint or an employment complaint;

(B) the length of time the agency took to process each civil rights complaint;

(C) the number of proceedings brought against the agency, including the number of complaints described in paragraph (1) that were resolved with a finding of discrimination; and

(D) the number and type of personnel actions taken by the agency following resolution of civil rights complaints;

(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the report; and

(3) make the report available to the public by posting the report on the website of the Department. Public information. Web site.

**SEC. 14011. SENSE OF CONGRESS RELATING TO CLAIMS BROUGHT BY SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.**

It is the sense of Congress that all pending claims and class actions brought against the Department of Agriculture by socially disadvantaged farmers or ranchers (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)), including Native American, Hispanic, and female farmers or ranchers, based on racial, ethnic, or gender discrimination in farm program participation should be resolved in an expeditious and just manner.

**SEC. 14012. DETERMINATION ON MERITS OF PIGFORD CLAIMS.**

(a) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term "consent decree" means the consent decree in the case of Pigford v. Glickman, approved by the United States District Court for the District of Columbia on April 14, 1999.

(2) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(3) PIGFORD CLAIM.—The term "Pigford claim" means a discrimination complaint, as defined by section 1(h) of the consent decree and documented under section 5(b) of the consent decree.

(4) PIGFORD CLAIMANT.—The term "Pigford claimant" means an individual who previously submitted a late-filing request under section 5(g) of the consent decree.

(b) DETERMINATION ON MERITS.—Any Pigford claimant who has not previously obtained a determination on the merits of a Pigford claim may, in a civil action brought in the United States District Court for the District of Columbia, obtain that determination.

(c) LIMITATION.—

(1) IN GENERAL.—Subject to paragraph (2), all payments or debt relief (including any limitation on foreclosure under subsection (h)) shall be made exclusively from funds made available under subsection (i).

(2) MAXIMUM AMOUNT.—The total amount of payments and debt relief pursuant to actions commenced under subsection (b) shall not exceed $100,000,000.

(d) INTENT OF CONGRESS AS TO REMEDIAL NATURE OF SECTION.—It is the intent of Congress that this section be liberally construed so as to effectuate its remedial purpose of giving a full determination on the merits for each Pigford claim previously denied that determination.

(e) LOAN DATA.—

(1) REPORT TO PERSON SUBMITTING PETITION.—

(A) IN GENERAL.—Not later than 120 days after the Secretary receives notice of a complaint filed by a claimant under subsection (b), the Secretary shall provide to the claimant a report on farm credit loans and noncredit benefits, as appropriate, made within the claimant's county (or if no documents are found, within an adjacent county as determined by the claimant), by the Department during the period beginning on January 1 of the year preceding the period covered by the complaint and ending on December 31 of the year following the period.

(B) REQUIREMENTS.—A report under subparagraph (A) shall contain information on all persons whose application for a loan or benefit was accepted, including—

(i) the race of the applicant;

(ii) the date of application;

(iii) the date of the loan or benefit decision, as appropriate;

(iv) the location of the office making the loan or benefit decision, as appropriate;

(v) all data relevant to the decisionmaking process for the loan or benefit, as appropriate; and

(vi) all data relevant to the servicing of the loan or benefit, as appropriate.

(2) NO PERSONALLY IDENTIFIABLE INFORMATION.—The reports provided pursuant to paragraph (1) shall not contain any information that would identify any person who applied for a loan from the Department.

(3) REPORTING DEADLINE.—

(A) IN GENERAL.—The Secretary shall—

(i) provide to claimants the reports required under paragraph (1) as quickly as practicable after the Secretary receives notice of a complaint filed by a claimant under subsection (b); and

(ii) devote such resources of the Department as are necessary to make providing the reports expeditiously a high priority of the Department.

(B) EXTENSION.—A court may extend the deadline for providing the report required in a particular case under paragraph (1) if the Secretary establishes that meeting the deadline is not feasible and demonstrates a continuing effort and commitment to provide the required report expeditiously.

(f) EXPEDITED RESOLUTIONS AUTHORIZED.—

(1) IN GENERAL.—Any person filing a complaint under this section for discrimination in the application for, or making or servicing of, a farm loan, at the discretion of the person, may seek liquidated damages of $50,000, discharge of the debt that was incurred under, or affected by, the 1 or more programs that were the subject of the 1 or more discrimination claims that are the subject of the person's complaint, and a tax payment in the amount equal to 25 percent of the liquidated damages and loan principal discharged, in which case—

(A) if only such damages, debt discharge, and tax payment are sought, the complainant shall be able to prove the case of the complainant by substantial evidence (as defined in section 1(l) of the consent decree); and

(B) the court shall decide the case based on a review of documents submitted by the complainant and defendant relevant to the issues of liability and damages.

(2) NONCREDIT CLAIMS.—

(A) STANDARD.—In any case in which a claimant asserts a noncredit claim under a benefit program of the Department, the court shall determine the merits of the claim in accordance with section 9(b)(i) of the consent decree.

(B) RELIEF.—A claimant who prevails on a claim of discrimination involving a noncredit benefit program of the Department shall be entitled to a payment by the Department in a total amount of $3,000, without regard to the number of such claims on which the claimant prevails.

(g) ACTUAL DAMAGES.—A claimant who files a claim under this section for discrimination under subsection (b) but not under subsection (f) and who prevails on the claim shall be entitled to actual damages sustained by the claimant.

(h) LIMITATION ON FORECLOSURES.—Notwithstanding any other provision of law, during the pendency of a Pigford claim, the Secretary may not begin acceleration on or foreclosure of a loan if—

(1) the borrower is a Pigford claimant; and

(2) makes a prima facie case in an appropriate administrative proceeding that the acceleration or foreclosure is related to a Pigford claim.

(i) FUNDING.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available for payments and debt relief in satisfaction of claims against the United States under subsection (b) and for any actions under subsection (g) $100,000,000 for fiscal year 2008, to remain available until expended.

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under paragraph (1), there are authorized to be appropriated such sums as are necessary to carry out this section.

(j) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and every 180 days thereafter until the funds made available under subsection (i) are depleted, the Secretary shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that describes the status of available funds under subsection (i) and the number of pending claims under subsection (f).

(2) DEPLETION OF FUNDS REPORT.—In addition to the reports required under paragraph (1), the Secretary shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that notifies the Committees when 75 percent of the funds made available under subsection (i)(1) have been depleted.

(k) TERMINATION OF AUTHORITY.—The authority to file a claim under this section terminates 2 years after the date of the enactment of this Act.

**SEC. 14013. OFFICE OF ADVOCACY AND OUTREACH.**

(a) IN GENERAL.—The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 226A (7 U.S.C. 6933) the following:

7 USC 6934.

**"SEC. 226B. OFFICE OF ADVOCACY AND OUTREACH.**

"(a) DEFINITIONS.—In this section:

"(1) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

"(2) OFFICE.—The term 'Office' means the Office of Advocacy and Outreach established under this section.

"(3) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

"(b) ESTABLISHMENT AND PURPOSE.—

"(1) IN GENERAL.—The Secretary shall establish within the executive operations of the Department an office to be known as the 'Office of Advocacy and Outreach'—

"(A) to improve access to programs of the Department; and

"(B) to improve the viability and profitability of—

"(i) small farms and ranches;

"(ii) beginning farmers or ranchers; and

"(iii) socially disadvantaged farmers or ranchers.

"(2) DIRECTOR.—The Office shall be headed by a Director, to be appointed by the Secretary from among the competitive service.

"(c) DUTIES.—The duties of the Office shall be to ensure small farms and ranches, beginning farmers or ranchers, and socially disadvantaged farmers or ranchers access to, and equitable participation in, programs and services of the Department by—

"(1) establishing and monitoring the goals and objectives of the Department to increase participation in programs of the Department by small, beginning, or socially disadvantaged farmers or ranchers;

"(2) assessing the effectiveness of Department outreach programs;

"(3) developing and implementing a plan to coordinate outreach activities and services provided by the Department;

"(4) providing input to the agencies and offices on programmatic and policy decisions;

"(5) measuring outcomes of the programs and activities of the Department on small farms and ranches, beginning farmers or ranchers, and socially disadvantaged farmers or ranchers programs;

"(6) recommending new initiatives and programs to the Secretary; and

"(7) carrying out any other related duties that the Secretary determines to be appropriate.

"(d) SOCIALLY DISADVANTAGED FARMERS GROUP.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Office the Socially Disadvantaged Farmers Group.

"(2) OUTREACH AND ASSISTANCE.—The Socially Disadvantaged Farmers Group—

"(A) shall carry out section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279); and

"(B) in the case of activities described in section 2501(a) of that Act, may conduct such activities through other agencies and offices of the Department.

"(3) SOCIALLY DISADVANTAGED FARMERS AND FARMWORKERS.—The Socially Disadvantaged Farmers Group shall oversee the operations of—

"(A) the Advisory Committee on Minority Farmers established under section 14009 of the Food, Conservation, and Energy Act of 2008; and

"(B) the position of Farmworker Coordinator established under subsection (f).

"(4) OTHER DUTIES.—

"(A) IN GENERAL.—The Socially Disadvantaged Farmers Group may carry out other duties to improve access to, and participation in, programs of the Department by socially disadvantaged farmers or ranchers, as determined by the Secretary.

"(B) OFFICE OF OUTREACH AND DIVERSITY.—The Office of Advocacy and Outreach shall carry out the functions and duties of the Office of Outreach and Diversity carried out by the Assistant Secretary for Civil Rights as such

functions and duties existed immediately before the date of the enactment of this section.

"(e) SMALL FARMS AND BEGINNING FARMERS AND RANCHERS GROUP.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Office the Small Farms and Beginning Farmers and Ranchers Group.

"(2) DUTIES.—

"(A) OVERSEE OFFICES.—The Small Farms and Beginning Farmers and Ranchers Group shall oversee the operations of the Office of Small Farms Coordination established by Departmental Regulation 9700-1 (August 3, 2006).

"(B) BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.—The Small Farms and Beginning Farmers and Ranchers Group shall consult with the National Institute for Food and Agriculture on the administration of the beginning farmer and rancher development program established under section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f).

"(C) ADVISORY COMMITTEE FOR BEGINNING FARMERS AND RANCHERS.—The Small Farms and Beginning Farmers and Ranchers Group shall coordinate the activities of the Group with the Advisory Committee for Beginning Farmers and Ranchers established under section 5(b) of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1621 note; Public Law 102–554).

"(D) OTHER DUTIES.—The Small Farms and Beginning Farmers and Ranchers Group may carry out other duties to improve access to, and participation in, programs of the Department by small farms and ranches and beginning farmers or ranchers, as determined by the Secretary.

"(f) FARMWORKER COORDINATOR.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Office the position of Farmworker Coordinator (referred to in this subsection as the 'Coordinator').

"(2) DUTIES.—The Secretary shall delegate to the Coordinator responsibility for the following:

"(A) Assisting in administering the program established by section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a).

"(B) Serving as a liaison to community-based nonprofit organizations that represent and have demonstrated experience serving low-income migrant and seasonal farmworkers.

"(C) Coordinating with the Department, other Federal agencies, and State and local governments to ensure that farmworker needs are assessed and met during declared disasters and other emergencies.

"(D) Consulting within the Office and with other entities to better integrate farmworker perspectives, concerns, and interests into the ongoing programs of the Department.

"(E) Consulting with appropriate institutions on research, program improvements, or agricultural education opportunities that assist low-income and migrant seasonal farmworkers.

"(F) Assisting farmworkers in becoming agricultural producers or landowners.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2012.".

(b) CONFORMING AMENDMENT.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)), as amended by section 7511(b), is further amended—

(1) in paragraph (5), by striking "; or" and inserting ";";

(2) in paragraph (6), by striking the period and inserting "; or"; and

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

"(7) the authority of the Secretary to establish in the Department the Office of Advocacy and Outreach in accordance with section 226B.".

# Subtitle B—Agricultural Security

Agricultural Security Improvement Act of 2008.
7 USC 8901 note.

**SEC. 14101. SHORT TITLE.**

This subtitle may be cited as the "Agricultural Security Improvement Act of 2008".

**SEC. 14102. DEFINITIONS.**

7 USC 8901.

In this subtitle:

(1) AGENT.—The term "agent" means a nuclear, biological, chemical, or radiological substance that causes agricultural disease or the adulteration of products regulated by the Secretary of Agriculture under any provision of law.

(2) AGRICULTURAL BIOSECURITY.—The term "agricultural biosecurity" means protection from an agent that poses a threat to—

(A) plant or animal health;

(B) public health as it relates to the adulteration of products regulated by the Secretary of Agriculture under any provision of law that is caused by exposure to an agent; or

(C) the environment as it relates to agriculture facilities, farmland, and air and water within the immediate vicinity of an area associated with an agricultural disease or outbreak.

(3) AGRICULTURAL COUNTERMEASURE.—The term "agricultural countermeasure"—

(A) means a product, practice, or technology that is intended to enhance or maintain the agricultural biosecurity of the United States; and

(B) does not include a product, practice, or technology used solely in response to a human medical incident or public health emergency not related to agriculture.

(4) AGRICULTURAL DISEASE.—The term "agricultural disease" has the meaning given the term by the Secretary.

(5) AGRICULTURAL DISEASE EMERGENCY.—The term "agricultural disease emergency" means an incident of agricultural disease that requires prompt action to prevent significant damage to people, plants, or animals.

(6) AGROTERRORIST ACT.—The term "agroterrorist act" means an act that—

(A) causes or attempts to cause—

(i) damage to agriculture; or

(ii) injury to a person associated with agriculture; and

(B) is committed or appears to be committed with the intent to—

(i) intimidate or coerce a civilian population; or

(ii) disrupt the agricultural industry in order to influence the policy of a government by intimidation or coercion.

(7) ANIMAL.—The term "animal" has the meaning given the term in section 10403 of the Animal Health Protection Act of 2002 (7 U.S.C. 8302).

(8) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(9) DEVELOPMENT.—The term "development" means—

(A) research leading to the identification of products or technologies intended for use as agricultural countermeasures to protect animal health;

(B) the formulation, production, and subsequent modification of those products or technologies;

(C) the conduct of in vitro and in vivo studies;

(D) the conduct of field, efficacy, and safety studies;

(E) the preparation of an application for marketing approval for submission to an applicable agency; or

(F) other actions taken by an applicable agency in a case in which an agricultural countermeasure is procured or used prior to issuance of a license or other form of Federal Government approval.

(10) PLANT.—The term "plant" has the meaning given the term in section 411 of the Plant Protection Act of 2000 (7 U.S.C. 7702).

(11) QUALIFIED AGRICULTURAL COUNTERMEASURE.—The term "qualified agricultural countermeasure" means an agricultural countermeasure that the Secretary, in consultation with the Secretary of Homeland Security, determines to be a priority in order to address an agricultural biosecurity threat.

## CHAPTER 1—AGRICULTURAL SECURITY

7 USC 8911.

**SEC. 14111. OFFICE OF HOMELAND SECURITY.**

(a) ESTABLISHMENT.—There is established within the Department the Office of Homeland Security (in this section referred to as the "Office").

(b) DIRECTOR.—The Office shall be headed by a Director of Homeland Security, who shall be appointed by the Secretary.

(c) RESPONSIBILITIES.—The Director of Homeland Security shall—

(1) coordinate all homeland security activities of the Department, including integration and coordination of interagency emergency response plans for—

(A) agricultural disease emergencies;

(B) agroterrorist acts; and

(C) other threats to agricultural biosecurity;

(2) act as the primary liaison on behalf of the Department with other Federal departments and agencies on the coordination of efforts and interagency activities pertaining to agricultural biosecurity; and

(3) advise the Secretary on policies, regulations, processes, budget, and actions pertaining to homeland security.

**SEC. 14112. AGRICULTURAL BIOSECURITY COMMUNICATION CENTER.** 7 USC 8912.

(a) ESTABLISHMENT.—The Secretary shall establish a communication center within the Department to—

(1) collect and disseminate information and prepare for an agricultural disease emergency, agroterrorist act, or other threat to agricultural biosecurity; and

(2) coordinate activities described in paragraph (1) among agencies and offices within the Department.

(b) RELATION TO EXISTING DHS COMMUNICATION SYSTEMS.—

(1) CONSISTENCY AND COORDINATION.—The communication center established under subsection (a) shall, to the maximum extent practicable, share and coordinate the dissemination of timely information with the Department of Homeland Security and other communication systems of appropriate Federal departments and agencies.

(2) AVOIDING REDUNDANCIES.—Paragraph (1) shall not be construed to impede, conflict with, or duplicate the communications activities performed by the Secretary of Homeland Security under any provision of law.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2008 through 2012.

**SEC. 14113. ASSISTANCE TO BUILD LOCAL CAPACITY IN AGRICULTURAL BIOSECURITY PLANNING, PREPAREDNESS, AND RESPONSE.** 7 USC 8913.

(a) ADVANCED TRAINING PROGRAMS.—

(1) GRANT ASSISTANCE.—The Secretary shall establish a competitive grant program to support the development and expansion of advanced training programs in agricultural biosecurity planning and response for food science professionals and veterinarians.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subsection for each of fiscal years 2008 through 2012.

(b) ASSESSMENT OF RESPONSE CAPABILITY.—

(1) GRANT AND LOAN ASSISTANCE.—The Secretary shall establish a competitive grant and low-interest loan assistance program to assist States in assessing agricultural disease response capability.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2008 through 2012.

## CHAPTER 2—OTHER PROVISIONS

**SEC. 14121. RESEARCH AND DEVELOPMENT OF AGRICULTURAL COUNTERMEASURES.** 7 USC 8921.

(a) GRANT PROGRAM.—

(1) COMPETITIVE GRANT PROGRAM.—The Secretary shall establish a competitive grant program to encourage basic and applied research and the development of qualified agricultural countermeasures.

(2) WAIVER IN EMERGENCIES.—The Secretary may waive the requirement under paragraph (1) that a grant be provided on a competitive basis if—

(A) the Secretary has declared a plant or animal disease emergency under the Plant Protection Act (7 U.S.C. 7701 et seq.) or the Animal Health Protection Act (7 U.S.C. 8301 et seq.); and

(B) waiving the requirement would lead to the rapid development of a qualified agricultural countermeasure, as determined by the Secretary.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2008 through 2012.

7 USC 8922.

**SEC. 14122. AGRICULTURAL BIOSECURITY GRANT PROGRAM.**

(a) COMPETITIVE GRANT PROGRAM.—The Secretary shall establish a competitive grant program to promote the development of teaching programs in agriculture, veterinary medicine, and disciplines closely allied to the food and agriculture system to increase the number of trained individuals with an expertise in agricultural biosecurity.

(b) ELIGIBILITY.—The Secretary may award a grant under this section only to an entity that is—

(1) an accredited school of veterinary medicine; or

(2) a department of an institution of higher education with a primary focus on—

(A) comparative medicine;

(B) veterinary science; or

(C) agricultural biosecurity.

(c) PREFERENCE.—The Secretary shall give preference in awarding grants based on the ability of an applicant—

(1) to increase the number of veterinarians or individuals with advanced degrees in food and agriculture disciplines who are trained in agricultural biosecurity practice areas;

(2) to increase research capacity in areas of agricultural biosecurity; or

(3) to fill critical agricultural biosecurity shortage situations outside of the Federal Government.

(d) USE OF FUNDS..—

(1) IN GENERAL.—Amounts received under this section shall be used by a grantee to pay—

(A) costs associated with the acquisition of equipment and other capital costs relating to the expansion of food, agriculture, and veterinary medicine teaching programs in agricultural biosecurity;

(B) capital costs associated with the expansion of academic programs that offer postgraduate training for veterinarians or concurrent training for veterinary students in specific areas of specialization; or

(C) other capacity and infrastructure program costs that the Secretary considers appropriate.

(2) LIMITATION.—Funds received under this section may not be used for the construction, renovation, or rehabilitation of a building or facility.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated sums as are necessary to carry out this section

for each of fiscal years 2008 through 2012, to remain available until expended.

## Subtitle C—Other Miscellaneous Provisions

**SEC. 14201. COTTON CLASSIFICATION SERVICES.**

Section 3a of the Act of March 3, 1927 (7 U.S.C. 473a), is amended to read as follows:

**"SEC. 3a. COTTON CLASSIFICATION SERVICES.**

"(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the 'Secretary') shall—

"(1) make cotton classification services available to producers of cotton; and

"(2) provide for the collection of classification fees from participating producers or agents that voluntarily agree to collect and remit the fees on behalf of producers.

"(b) FEES.—

"(1) USE OF FEES.—Classification fees collected under subsection (a)(2) and the proceeds from the sales of samples submitted under this section shall, to the maximum extent practicable, be used to pay the cost of the services provided under this section, including administrative and supervisory costs.

"(2) ANNOUNCEMENT OF FEES.—The Secretary shall announce a uniform classification fee and any applicable surcharge for classification services not later than June 1 of the year in which the fee applies. Deadline.

"(c) CONSULTATION.—

"(1) IN GENERAL.—In establishing the amount of fees under this section, the Secretary shall consult with representatives of the United States cotton industry.

"(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations with representatives of the United States cotton industry under this section.

"(d) CREDITING OF FEES.—Any fees collected under this section and under section 3d, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall—

"(1) be credited to the current appropriation account that incurs the cost of services provided under this section and section 3d; and

"(2) remain available without fiscal year limitation to pay the expenses of the Secretary in providing those services.

"(e) INVESTMENT OF FUNDS.—Funds described in subsection (d) may be invested—

"(1) by the Secretary in insured or fully collateralized, interest-bearing accounts; or

"(2) at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

"(f) LEASE AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may enter into long-term lease agreements that exceed 5 years or may take title to property (including through purchase agreements) for the purpose of obtaining offices to be used for the classification of cotton in accordance with this Act,

if the Secretary determines that action would best effectuate the purposes of this Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent that financing is not available from fees and the proceeds from the sales of samples, there are authorized to be appropriated such sums as are necessary to carry out this section.".

**SEC. 14202. DESIGNATION OF STATES FOR COTTON RESEARCH AND PROMOTION.**

Section 17(f) of the Cotton Research and Promotion Act (7 U.S.C. 2116(f)) is amended—

(1) by striking "(f) The term" and inserting the following: "(f) COTTON-PRODUCING STATE.—

"(1) IN GENERAL.—The term";

(2) by striking "more, and the term" and all that follows through the end of the subsection and inserting the following: "more.

"(2) INCLUSIONS.—The term 'cotton-producing State' includes—

"(A) any combination of States described in paragraph (1); and

"(B) effective beginning with the 2008 crop of cotton, the States of Kansas, Virginia, and Florida.".

21 USC 864a.

**SEC. 14203. GRANTS TO REDUCE PRODUCTION OF METHAMPHETAMINES FROM ANHYDROUS AMMONIA.**

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a producer of agricultural commodities;

(B) a cooperative association, a majority of the members of which produce or process agricultural commodities; or

(C) a person in the trade or business of—

(i) selling an agricultural product (including an agricultural chemical) at retail, predominantly to farmers and ranchers; or

(ii) aerial and ground application of an agricultural chemical.

(2) NURSE TANK.—The term "nurse tank" shall be considered to be a cargo tank (within the meaning of section 173.315(m) of title 49, Code of Federal Regulations, as in effect as of the date of the enactment of this Act).

(b) GRANT AUTHORITY.—The Secretary may make a grant to an eligible entity to enable the eligible entity to obtain and add to an anhydrous ammonia fertilizer nurse tank a physical lock or a substance to reduce the amount of methamphetamine that can be produced from any anhydrous ammonia removed from the nurse tank.

(c) GRANT AMOUNT.—The amount of a grant made under this section to an eligible entity shall be the product obtained by multiplying—

(1) an amount not less than $40 and not more than $60, as determined by the Secretary; and

(2) the number of fertilizer nurse tanks of the eligible entity.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to make grants under this

section $15,000,000 for the period of fiscal years 2008 through 2012.

**SEC. 14204. GRANTS TO IMPROVE SUPPLY, STABILITY, SAFETY, AND TRAINING OF AGRICULTURAL LABOR FORCE.**

7 USC 2008q–1.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means an entity described in section 379C(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008q(a)).

(b) GRANTS.—

(1) IN GENERAL.—To assist agricultural employers and farmworkers by improving the supply, stability, safety, and training of the agricultural labor force, the Secretary may provide grants to eligible entities for use in providing services to assist farmworkers who are citizens or otherwise legally present in the United States in securing, retaining, upgrading, or returning from agricultural jobs.

(2) ELIGIBLE SERVICES.—The services referred to in paragraph (1) include—

(A) agricultural labor skills development;

(B) the provision of agricultural labor market information;

(C) transportation;

(D) short-term housing while in transit to an agricultural worksite;

(E) workplace literacy and assistance with English as a second language;

(F) health and safety instruction, including ways of safeguarding the food supply of the United States; and

(G) such other services as the Secretary determines to be appropriate.

(c) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 15 percent of the funds made available to carry out this section for a fiscal year may be used to pay for administrative expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

**SEC. 14205. AMENDMENT TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.**

Section 1113(k) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(k)) is amended—

(1) by striking the subsection heading and inserting the following:

"(k) DISCLOSURE NECESSARY FOR PROPER ADMINISTRATION OF PROGRAMS OF CERTAIN GOVERNMENT AUTHORITIES.—"; and

(2) by striking paragraph (2) and inserting the following:

"(2) Nothing in this title shall apply to the disclosure by the financial institution of information contained in the financial records of any customer to any Government authority that certifies, disburses, or collects payments, where the disclosure of such information is necessary to, and such information is used solely for the purpose of—

"(A) verification of the identity of any person or proper routing and delivery of funds in connection with the issuance of a Federal payment or collection of funds by a Government authority; or

"(B) the investigation or recovery of an improper Federal payment or collection of funds or an improperly negotiated Treasury check.

"(3) Notwithstanding any other provision of law, a request authorized by paragraph (1) or (2) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing information contained in the financial records of the customer to the Government authority requesting the information, and the financial institution and its agents shall be barred from redisclosure of such information. Any Government authority receiving information pursuant to paragraph (1) or (2) may not disclose or use the information, except for the purposes set forth in such paragraph.".

**SEC. 14206. REPORT ON STORED QUANTITIES OF PROPANE.**

(a) REPORT.—

(1) IN GENERAL.—Not later than 240 days after the date of the enactment of this Act, the Secretary of Homeland Security (referred to in this section as the "Secretary") shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report describing the effect of interim or final regulations issued by the Secretary pursuant to section 550(a) of the Department of Homeland Security Appropriations Act, 2007 (6 U.S.C. 121 note; Public Law 109–295), with respect to possession of quantities of propane that meet or exceed the screening threshold quantity for propane established in the final rule under that section.

(2) INCLUSIONS.—The report under paragraph (1) shall include a description of—

(A) the number of facilities that completed a top screen consequence assessment due to possession of quantities of propane that meet or exceed the listed screening threshold quantity for propane;

(B) the number of agricultural facilities that completed the top screen consequence assessment due to possession of quantities of propane that meet or exceed the listed screening threshold quantity for propane;

(C) the number of propane facilities initially determined to be high risk by the Secretary;

(D) the number of propane facilities—

(i) required to complete a security vulnerability assessment or a site security plan; or

(ii) that submit to the Secretary an alternative security program;

(E) the number of propane facilities that file an appeal of a finding under the final rule described in paragraph (1); and

(F) to the extent available, the average cost of—

(i) completing a top screen consequence assessment requirement;

(ii) completing a security vulnerability assessment; and

(iii) completing and implementing a site security plan; and

(3) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(b) EDUCATIONAL OUTREACH.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall conduct educational outreach activities for rural facilities that may be required to complete a top screen consequence assessment due to possession of propane in a quantity that meets or exceeds the listed screening threshold quantity for propane. Deadline.

**SEC. 14207. PROHIBITIONS ON DOG FIGHTING VENTURES.**

(a) IN GENERAL.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ", if any animal in the venture was moved in interstate or foreign commerce"; and

(B) in the heading of paragraph (2), by striking "STATE" and inserting "STATE";

(2) in subsection (b)—

(A) by striking "(b) It shall be" and inserting the following:

"(b) BUYING, SELLING, DELIVERING, POSSESSING, TRAINING, OR TRANSPORTING ANIMALS FOR PARTICIPATION IN ANIMAL FIGHTING VENTURE.—It shall be"; and

(B) by striking "transport, deliver" and all that follows through "participate" and inserting "possess, train, transport, deliver, or receive any animal for purposes of having the animal participate";

(3) in subsection (c)—

(A) by striking "(c) It shall be" and inserting the following:

"(c) USE OF POSTAL SERVICE OR OTHER INTERSTATE INSTRUMENTALITY FOR PROMOTING OR FURTHERING ANIMAL FIGHTING VENTURE.—It shall be"; and

(B) by inserting "advertising an animal, or an instrument described in subsection (e), for use in an animal fighting venture," after "for purposes of";

(4) in subsection (d), by striking "(d) Notwithstanding" and inserting the following:

"(d) VIOLATION OF STATE LAW.—Notwithstanding";

(5) in subsection (e), by striking "(e) It shall be" and inserting the following:

"(e) BUYING, SELLING, DELIVERING, OR TRANSPORTING SHARP INSTRUMENTS FOR USE IN ANIMAL FIGHTING VENTURE.—It shall be";

(6) in subsection (f)—

(A) by striking "(f) The Secretary" and inserting the following:

"(f) INVESTIGATION OF VIOLATIONS BY SECRETARY; ASSISTANCE BY OTHER FEDERAL AGENCIES; ISSUANCE OF SEARCH WARRANT; FORFEITURE; COSTS RECOVERABLE IN FORFEITURE OR CIVIL ACTION.—The Secretary"; and

(B) in the last sentence—

(i) by striking "by the United States";

(ii) by inserting "(1)" after "owner of the animals"; and

(iii) by striking "proceeding or in" and inserting "proceeding, or (2) in";

(7) in subsection (g)—

(A) by striking "(g) For purposes of" and inserting the following:

"(g) DEFINITIONS.—In";

(B) in paragraph (1), by striking "any event" and all that follows through "entertainment" and inserting "any event, in or affecting interstate or foreign commerce, that involves a fight conducted or to be conducted between at least 2 animals for purposes of sport, wagering, or entertainment,";

(C) by striking paragraph (2);

(D) in paragraph (5)—

(i) by striking "dog or other"; and

(ii) by striking "; and" and inserting a period; and

(E) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

39 USC 3001.

(8) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively;

(9) in subsection (i) (as so redesignated), by striking "(i)(1) The provisions" and inserting the following:

"(i) CONFLICT WITH STATE LAW.—

"(1) IN GENERAL.—The provisions";

(10) in subsection (j) (as so redesignated), by striking "(j) The criminal" and inserting the following:

"(j) CRIMINAL PENALTIES.—The criminal"; and

(11) in subsection (g)(6), by striking "(6) the conduct" and inserting the following:

"(h) RELATIONSHIP TO OTHER PROVISIONS.—The conduct".

(b) ENFORCEMENT OF ANIMAL FIGHTING PROHIBITIONS.—Section 49 of title 18, United States Code, is amended by striking "3 years" and inserting "5 years".

7 USC 2255b.

**SEC. 14208. DEPARTMENT OF AGRICULTURE CONFERENCE TRANSPARENCY.**

(a) REPORT.—

(1) REQUIREMENT.—Not later than September 30 of each year, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on conferences sponsored or held by the Department of Agriculture or attended by employees of the Department of Agriculture.

(2) CONTENTS.—Each report under paragraph (1) shall contain—

(A) for each conference sponsored or held by the Department or attended by employees of the Department—

(i) the name of the conference;

(ii) the location of the conference;

(iii) the number of Department of Agriculture employees attending the conference; and

(iv) the costs (including travel expenses) relating to such conference; and

(B) for each conference sponsored or held by the Department of Agriculture for which the Department

awarded a procurement contract, a description of the contracting procedures related to such conference.

(3) EXCLUSIONS.—The requirement in paragraph (1) shall not apply to any conference—

(A) for which the cost to the Federal Government was less than $10,000; or

(B) outside of the United States that is attended by the Secretary or the Secretary's designee as an official representative of the United States government.

(b) AVAILABILITY OF REPORT.—Each report submitted in accordance with subsection (a) shall be posted in a searchable format on a Department of Agriculture website that is available to the public. Web site.

(c) DEFINITION OF CONFERENCE.—In this section, the term "conference"—

(1) means a meeting that—

(A) is held for consultation, education, awareness, or discussion;

(B) includes participants from at least one agency of the Department of Agriculture;

(C) is held in whole or in part at a facility outside of an agency of the Department of Agriculture; and

(D) involves costs associated with travel and lodging for some participants; and

(2) does not include any training program that is continuing education or a curriculum-based educational program, provided that such training program is held independent of a conference of a non-governmental organization.

**SEC. 14209. FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS.**

(a) PAYMENT OF EXPENSES.—Section 17(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136o(d)) is amended—

(1) by striking "The Administrator" and inserting the following:

"(1) IN GENERAL.—The Administrator"; and

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

"(2) DEPARTMENT OF STATE EXPENSES.—Any expenses incurred by an employee of the Environmental Protection Agency who participates in any international technical, economic, or policy review board, committee, or other official body that is meeting in relation to an international treaty shall be paid by the Department of State.".

(b) CONTAINER RECYCLING.—Section 19(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136q(a)) is amended by adding at the end the following new paragraph:

"(4) CONTAINER RECYCLING.—The Secretary may promulgate a regulation for the return and recycling of disposable pesticide containers used for the distribution or sale of registered pesticide products in interstate commerce. Any such regulation requiring recycling of disposable pesticide containers shall not apply to antimicrobial pesticides (as defined in section 2) or other pesticide products intended for non-agricultural uses.".

**SEC. 14210. IMPORTATION OF LIVE DOGS.**

(a) IN GENERAL.—The Animal Welfare Act is amended by adding after section 17 (7 U.S.C. 2147) the following:

7 USC 2148.

**"SEC. 18. IMPORTATION OF LIVE DOGS.**

"(a) DEFINITIONS.—In this section:

"(1) IMPORTER.—The term 'importer' means any person who, for purposes of resale, transports into the United States puppies from a foreign country.

"(2) RESALE.—The term 'resale' includes any transfer of ownership or control of an imported dog of less than 6 months of age to another person, for more than de minimis consideration.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no person shall import a dog into the United States for purposes of resale unless, as determined by the Secretary, the dog—

"(A) is in good health;

"(B) has received all necessary vaccinations; and

"(C) is at least 6 months of age, if imported for resale.

"(2) EXCEPTION.—

"(A) IN GENERAL.—The Secretary, by regulation, shall provide an exception to any requirement under paragraph (1) in any case in which a dog is imported for—

"(i) research purposes; or

"(ii) veterinary treatment.

"(B) LAWFUL IMPORTATION INTO HAWAII.—Paragraph (1)(C) shall not apply to the lawful importation of a dog into the State of Hawaii from the British Isles, Australia, Guam, or New Zealand in compliance with the applicable regulations of the State of Hawaii and the other requirements of this section, if the dog is not transported out of the State of Hawaii for purposes of resale at less than 6 months of age.

"(c) IMPLEMENTATION AND REGULATIONS.—The Secretary, the Secretary of Health and Human Services, the Secretary of Commerce, and the Secretary of Homeland Security shall promulgate such regulations as the Secretaries determine to be necessary to implement and enforce this section.

"(d) ENFORCEMENT.—An importer that fails to comply with this section shall—

"(1) be subject to penalties under section 19; and

"(2) provide for the care (including appropriate veterinary care), forfeiture, and adoption of each applicable dog, at the expense of the importer.".

7 USC 2148 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of the enactment of this Act.

7 USC 2209j.

**SEC. 14211. PERMANENT DEBARMENT FROM PARTICIPATION IN DEPARTMENT OF AGRICULTURE PROGRAMS FOR FRAUD.**

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Agriculture shall permanently debar an individual, organization, corporation, or other entity convicted of a felony for knowingly defrauding the United States in connection with any program administered by the Department of Agriculture from any subsequent participation in Department of Agriculture programs.

(b) EXCEPTIONS.—

(1) SECRETARY DETERMINATION.—The Secretary may reduce a debarment under subsection (a) to a period of not less than 10 years if the Secretary considers it appropriate.

(2) FOOD ASSISTANCE.—A debarment under subsection (a) shall not apply with respect to participation in domestic food assistance programs (as defined by the Secretary).

**SEC. 14212. PROHIBITION ON CLOSURE OR RELOCATION OF COUNTY OFFICES FOR THE FARM SERVICE AGENCY.**

7 USC 6932a.

(a) TEMPORARY PROHIBITION.—

(1) IN GENERAL.—Subject to paragraph (2), until the date that is two years after the date of the enactment of this Act, the Secretary of Agriculture may not close or relocate a county or field office of the Farm Service Agency.

(2) EXCEPTION.—Paragraph (1) shall not apply to—

(A) an office that is located not more than 20 miles from another office of the Farm Service Agency; or

(B) the relocation of an office within the same county in the course of routine leasing operations.

(b) LIMITATION ON CLOSURE; NOTICE.—

(1) LIMITATION.—After the period referred to in subsection (a)(1), the Secretary shall, before closing any office of the Farm Service Agency that is located more than 20 miles from another office of the Farm Service Agency, to the maximum extent practicable, first close any offices of the Farm Service Agency that—

(A) are located less than 20 miles from another office of the Farm Service Agency; and

(B) have two or fewer permanent full-time employees.

(2) NOTICE.—After the period referred to in subsection (a)(1), the Secretary of Agriculture may not close a county or field office of the Farm Service Agency unless—

Deadlines.

(A) not later than 30 days after the Secretary proposes to close such office, the Secretary holds a public meeting regarding the proposed closure in the county in which such office is located; and

(B) after the public meeting referred to in subparagraph (A), but not less than 90 days before the date on which the Secretary approves the closure of such office, the Secretary notifies the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, each Senator representing the State in which the office proposed to be closed is located, and the member of the House of Representatives who represents the Congressional district in which the office proposed to be closed is located of the proposed closure of such office.

**SEC. 14213. USDA GRADUATE SCHOOL.**

(a) IN GENERAL.—Section 921 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2279b) is amended—

(1) in the heading, to read as follows:

**"SEC. 921. DEPARTMENT OF AGRICULTURE EDUCATIONAL, TRAINING, AND PROFESSIONAL DEVELOPMENT ACTIVITIES."; and**

(2) by striking subsection (b) and inserting the following new subsection:

"(b) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—

Deadline.

"(1) CEASE OPERATIONS.—Not later than October 1, 2009, the Secretary of Agriculture shall cease to maintain or operate a nonappropriated fund instrumentality of the United States to develop, administer, or provide educational training and professional development activities, including educational activities for Federal agencies, Federal employees, non-profit organizations, other entities, and members of the general public.

"(2) TRANSITION.—

"(A) IN GENERAL.—The Secretary of Agriculture is authorized to use funds available to the Department of Agriculture and such resources of the Department as the Secretary considers appropriate (including the assignment of such employees of the Department as the Secretary considers appropriate) to assist the General Administrative Board of the Graduate School in the conversion of the Graduate School to an entity that is non-governmental and not a nonappropriated fund instrumentality of the United States, including such privatization activities not otherwise inconsistent with law or regulation.

"(B) TERMINATION OF AUTHORITY.—The authority under paragraph (1) shall terminate on the earlier of—

"(i) the completion of the transition of the Graduate School to an entity that is non-governmental and not a nonappropriated fund instrumentality of the United States, as determined by the Secretary; or

"(ii) September 30, 2009.".

Effective date. 7 USC 2279b note.

(b) PROCUREMENT PROCEDURES.—Notwithstanding the amendments made by subsection (a), effective on the date of the enactment of this Act, the Graduate School of the Department of Agriculture shall be subject to Federal procurement laws and regulations in the same manner and subject to the same requirements as a private entity providing services to the Federal Government.

**SEC. 14214. FINES FOR VIOLATIONS OF THE ANIMAL WELFARE ACT.**

Section 19(b) of the Animal Welfare Act (7 U.S.C. 2149(b)) is amended in the first sentence by striking "not more than $2,500 for each such violation" and inserting "not more than $10,000 for each such violation".

**SEC. 14215. DEFINITION OF CENTRAL FILING SYSTEM.**

Section 1324(c)(2) of the Food Security Act of 1985 (7 U.S.C. 1631(c)(2)) is amended—

(1) in subparagraph (C)(ii)(II), by inserting after "such debtors" the following: ", except that the numerical list containing social security or taxpayer identification numbers may be encrypted for security purposes if the Secretary of State provides a method by which an effective search of the encrypted numbers may be conducted to determine whether the farm product at issue is subject to 1 or more liens"; and

(2) in subparagraph (E)—

(A) by striking "paragraph (C)" and inserting "subparagraph (C)"; and

(B) by inserting before the semicolon at the end the following: "except that—

"(i) the distribution of the portion of the master list may be in electronic, written, or printed form; and

"(ii) if social security or taxpayer identification numbers on the master list are encrypted, the Secretary of State may distribute the master list only—

"(I) by compact disc or other electronic media that contains—

"(aa) the recorded list of debtor names; and

"(bb) an encryption program that enables the buyer, commission merchant, and selling agent to enter a social security number for matching against the recorded list of encrypted social security or taxpayer identification numbers; and

"(II) on the written request of the buyer, commission merchant, or selling agent, by paper copy of the list to the requestor".

**SEC. 14216. CONSIDERATION OF PROPOSED RECOMMENDATIONS OF STUDY ON USE OF CATS AND DOGS IN FEDERAL RESEARCH.**

(a) IN GENERAL.—The Secretary of Agriculture shall—

(1) review—

(A) any independent reviews conducted by a nationally recognized panel of experts of the use of Class B dogs and cats in federally supported research to determine how frequently such dogs and cats are used in research by the National Institutes of Health; and

(B) any recommendations proposed by such panel outlining the parameters of such use; and

(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on how recommendations referred to in paragraph (1)(B) can be applied within the Department of Agriculture to ensure such dogs and cats are treated in accordance with regulations of the Department of Agriculture. Reports.

(b) CLASS B DOGS AND CATS DEFINED.—In this section, the term "Class B dogs and cats" means dogs and cats obtained from a Class "B" licensee, as such term is defined in section 1.1 of title 9, Code of Federal Regulations.

**SEC. 14217. REGIONAL ECONOMIC AND INFRASTRUCTURE DEVELOPMENT.**

(a) IN GENERAL.—Title 40, United States Code, is amended—

(1) by redesignating subtitle V as subtitle VI; and

(2) by inserting after subtitle IV the following:

# "Subtitle V—Regional Economic and Infrastructure Development

"Chapter ....
"151. GENERAL PROVISIONS .... 15101
"153. REGIONAL COMMISSIONS .... 15301
"155. FINANCIAL ASSISTANCE .... 15501
"157. ADMINISTRATIVE PROVISIONS .... 15701

## "CHAPTER 1—GENERAL PROVISIONS

"Sec.
"15101. Definitions.

### "§ 15101. Definitions

"In this subtitle, the following definitions apply:

"(1) COMMISSION.—The term 'Commission' means a Commission established under section 15301.

"(2) LOCAL DEVELOPMENT DISTRICT.—The term 'local development district' means an entity that—

"(A)(i) is an economic development district that is—

"(I) in existence on the date of the enactment of this chapter; and

"(II) located in the region; or

"(ii) if an entity described in clause (i) does not exist—

"(I) is organized and operated in a manner that ensures broad-based community participation and an effective opportunity for local officials, community leaders, and the public to contribute to the development and implementation of programs in the region;

"(II) is governed by a policy board with at least a simple majority of members consisting of—

"(aa) elected officials; or

"(bb) designees or employees of a general purpose unit of local government that have been appointed to represent the unit of local government; and

"(III) is certified by the Governor or appropriate State officer as having a charter or authority that includes the economic development of counties, portions of counties, or other political subdivisions within the region; and

"(B) has not, as certified by the Federal Cochairperson—

"(i) inappropriately used Federal grant funds from any Federal source; or

"(ii) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

"(3) FEDERAL GRANT PROGRAM.—The term 'Federal grant program' means a Federal grant program to provide assistance in carrying out economic and community development activities.

"(4) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(5) NONPROFIT ENTITY.—The term 'nonprofit entity' means any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code that has been formed for the purpose of economic development.

"(6) REGION.—The term 'region' means the area covered by a Commission as described in subchapter II of chapter 157.

## "CHAPTER 2—REGIONAL COMMISSIONS

"Sec.
"15301. Establishment, membership, and employees.
"15302. Decisions.
"15303. Functions.
"15304. Administrative powers and expenses.
"15305. Meetings.
"15306. Personal financial interests.
"15307. Tribal participation.
"15308. Annual report.

### "§ 15301. Establishment, membership, and employees

"(a) ESTABLISHMENT.—There are established the following regional Commissions:

"(1) The Southeast Crescent Regional Commission.

"(2) The Southwest Border Regional Commission.

"(3) The Northern Border Regional Commission.

"(b) MEMBERSHIP.—

"(1) FEDERAL AND STATE MEMBERS.—Each Commission shall be composed of the following members:

"(A) A Federal Cochairperson, to be appointed by the President, by and with the advice and consent of the Senate.

"(B) The Governor of each participating State in the region of the Commission.

"(2) ALTERNATE MEMBERS.—

"(A) ALTERNATE FEDERAL COCHAIRPERSON.—The President shall appoint an alternate Federal Cochairperson for each Commission. The alternate Federal Cochairperson, when not actively serving as an alternate for the Federal Cochairperson, shall perform such functions and duties as are delegated by the Federal Cochairperson. President.

"(B) STATE ALTERNATES.—The State member of a participating State may have a single alternate, who shall be appointed by the Governor of the State from among the members of the Governor's cabinet or personal staff.

"(C) VOTING.—An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal or State member for which the alternate member is an alternate.

"(3) COCHAIRPERSONS.—A Commission shall be headed by—

"(A) the Federal Cochairperson, who shall serve as a liaison between the Federal Government and the Commission; and

"(B) a State Cochairperson, who shall be a Governor of a participating State in the region and shall be elected by the State members for a term of not less than 1 year.

"(4) CONSECUTIVE TERMS.—A State member may not be elected to serve as State Cochairperson for more than 2 consecutive terms.

"(c) COMPENSATION.—

"(1) FEDERAL COCHAIRPERSONS.—Each Federal Cochairperson shall be compensated by the Federal Government at level III of the Executive Schedule as set out in section 5314 of title 5.

"(2) ALTERNATE FEDERAL COCHAIRPERSONS.—Each Federal Cochairperson's alternate shall be compensated by the Federal Government at level V of the Executive Schedule as set out in section 5316 of title 5.

"(3) STATE MEMBERS AND ALTERNATES.—Each State member and alternate shall be compensated by the State that they represent at the rate established by the laws of that State.

"(d) EXECUTIVE DIRECTOR AND STAFF.—

"(1) IN GENERAL.—A Commission shall appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Commission to carry out its duties. Compensation under this paragraph may not exceed the maximum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

"(2) EXECUTIVE DIRECTOR.—The executive director shall be responsible for carrying out the administrative duties of the Commission, directing the Commission staff, and such other duties as the Commission may assign.

"(e) NO FEDERAL EMPLOYEE STATUS.—No member, alternate, officer, or employee of a Commission (other than the Federal Cochairperson, the alternate Federal Cochairperson, staff of the Federal Cochairperson, and any Federal employee detailed to the Commission) shall be considered to be a Federal employee for any purpose.

**"§ 15302. Decisions**

"(a) REQUIREMENTS FOR APPROVAL.—Except as provided in section 15304(c)(3), decisions by the Commission shall require the affirmative vote of the Federal Cochairperson and a majority of the State members (exclusive of members representing States delinquent under section 15304(c)(3)(C)).

"(b) CONSULTATION.—In matters coming before the Commission, the Federal Cochairperson shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter.

"(c) QUORUMS.—A Commission shall determine what constitutes a quorum for Commission meetings; except that—

"(1) any quorum shall include the Federal Cochairperson or the alternate Federal Cochairperson; and

"(2) a State alternate member shall not be counted toward the establishment of a quorum.

"(d) PROJECTS AND GRANT PROPOSALS.—The approval of project and grant proposals shall be a responsibility of each Commission and shall be carried out in accordance with section 15503.

**"§ 15303. Functions**

"A Commission shall—

"(1) assess the needs and assets of its region based on available research, demonstration projects, investigations,

assessments, and evaluations of the region prepared by Federal, State, and local agencies, universities, local development districts, and other nonprofit groups;

"(2) develop, on a continuing basis, comprehensive and coordinated economic and infrastructure development strategies to establish priorities and approve grants for the economic development of its region, giving due consideration to other Federal, State, and local planning and development activities in the region;

"(3) not later than one year after the date of the enactment of this section, and after taking into account State plans developed under section 15502, establish priorities in an economic and infrastructure development plan for its region, including 5-year regional outcome targets; Deadline. Plans.

"(4)(A) enhance the capacity of, and provide support for, local development districts in its region; or

"(B) if no local development district exists in an area in a participating State in the region, foster the creation of a local development district;

"(5) encourage private investment in industrial, commercial, and other economic development projects in its region;

"(6) cooperate with and assist State governments with the preparation of economic and infrastructure development plans and programs for participating States;

"(7) formulate and recommend to the Governors and legislatures of States that participate in the Commission forms of interstate cooperation and, where appropriate, international cooperation; and

"(8) work with State and local agencies in developing appropriate model legislation to enhance local and regional economic development.

**"§ 15304. Administrative powers and expenses**

"(a) POWERS.—In carrying out its duties under this subtitle, a Commission may—

"(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Commission as the Commission considers appropriate;

"(2) authorize, through the Federal or State Cochairperson or any other member of the Commission designated by the Commission, the administration of oaths if the Commission determines that testimony should be taken or evidence received under oath;

"(3) request from any Federal, State, or local agency such information as may be available to or procurable by the agency that may be of use to the Commission in carrying out the duties of the Commission;

"(4) adopt, amend, and repeal bylaws and rules governing the conduct of business and the performance of duties by the Commission;

"(5) request the head of any Federal agency, State agency, or local government to detail to the Commission such personnel as the Commission requires to carry out its duties, each such detail to be without loss of seniority, pay, or other employee status;

"(6) provide for coverage of Commission employees in a suitable retirement and employee benefit system by making arrangements or entering into contracts with any participating State government or otherwise providing retirement and other employee coverage;

"(7) accept, use, and dispose of gifts or donations or services or real, personal, tangible, or intangible property;

"(8) enter into and perform such contracts, cooperative agreements, or other transactions as are necessary to carry out Commission duties, including any contracts or cooperative agreements with a department, agency, or instrumentality of the United States, a State (including a political subdivision, agency, or instrumentality of the State), or a person, firm, association, or corporation; and

"(9) maintain a government relations office in the District of Columbia and establish and maintain a central office at such location in its region as the Commission may select.

"(b) FEDERAL AGENCY COOPERATION.—A Federal agency shall—

"(1) cooperate with a Commission; and

"(2) provide, to the extent practicable, on request of the Federal Cochairperson, appropriate assistance in carrying out this subtitle, in accordance with applicable Federal laws (including regulations).

"(c) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Subject to paragraph (2), the administrative expenses of a Commission shall be paid—

"(A) by the Federal Government, in an amount equal to 50 percent of the administrative expenses of the Commission; and

"(B) by the States participating in the Commission, in an amount equal to 50 percent of the administrative expenses.

"(2) EXPENSES OF THE FEDERAL COCHAIRPERSON.—All expenses of the Federal Cochairperson, including expenses of the alternate and staff of the Federal Cochairperson, shall be paid by the Federal Government.

"(3) STATE SHARE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the share of administrative expenses of a Commission to be paid by each State of the Commission shall be determined by a unanimous vote of the State members of the Commission.

"(B) NO FEDERAL PARTICIPATION.—The Federal Cochairperson shall not participate or vote in any decision under subparagraph (A).

"(C) DELINQUENT STATES.—During any period in which a State is more than 1 year delinquent in payment of the State's share of administrative expenses of the Commission under this subsection—

"(i) no assistance under this subtitle shall be provided to the State (including assistance to a political subdivision or a resident of the State) for any project not approved as of the date of the commencement of the delinquency; and

"(ii) no member of the Commission from the State shall participate or vote in any action by the Commission.

"(4) EFFECT ON ASSISTANCE.—A State's share of administrative expenses of a Commission under this subsection shall not be taken into consideration when determining the amount of assistance provided to the State under this subtitle.

**"§ 15305. Meetings**

"(a) INITIAL MEETING.—Each Commission shall hold an initial meeting not later than 180 days after the date of the enactment of this section. Deadline.

"(b) ANNUAL MEETING.—Each Commission shall conduct at least 1 meeting each year with the Federal Cochairperson and at least a majority of the State members present.

"(c) ADDITIONAL MEETINGS.—Each Commission shall conduct additional meetings at such times as it determines and may conduct such meetings by electronic means.

**"§ 15306. Personal financial interests**

"(a) CONFLICTS OF INTEREST.—

"(1) NO ROLE ALLOWED.—Except as permitted by paragraph (2), an individual who is a State member or alternate, or an officer or employee of a Commission, shall not participate personally and substantially as a member, alternate, officer, or employee of the Commission, through decision, approval, disapproval, recommendation, request for a ruling, or other determination, contract, claim, controversy, or other matter in which, to the individual's knowledge, any of the following has a financial interest:

"(A) The individual.

"(B) The individual's spouse, minor child, or partner.

"(C) An organization (except a State or political subdivision of a State) in which the individual is serving as an officer, director, trustee, partner, or employee.

"(D) Any person or organization with whom the individual is negotiating or has any arrangement concerning prospective employment.

"(2) EXCEPTION.—Paragraph (1) shall not apply if the individual, in advance of the proceeding, application, request for a ruling or other determination, contract, claim controversy, or other particular matter presenting a potential conflict of interest—

"(A) advises the Commission of the nature and circumstances of the matter presenting the conflict of interest;

"(B) makes full disclosure of the financial interest; and

"(C) receives a written decision of the Commission that the interest is not so substantial as to be considered likely to affect the integrity of the services that the Commission may expect from the individual.

"(3) VIOLATION.—An individual violating this subsection shall be fined under title 18, imprisoned for not more than 1 year, or both.

"(b) STATE MEMBER OR ALTERNATE.—A State member or alternate member may not receive any salary, or any contribution to, or supplementation of, salary, for services on a Commission from a source other than the State of the member or alternate.

"(c) DETAILED EMPLOYEES.—

"(1) IN GENERAL.—No person detailed to serve a Commission shall receive any salary, or any contribution to, or supplementation of, salary, for services provided to the Commission from any source other than the State, local, or intergovernmental department or agency from which the person was detailed to the Commission.

"(2) VIOLATION.—Any person that violates this subsection shall be fined under title 18, imprisoned not more than 1 year, or both.

"(d) FEDERAL COCHAIRMAN, ALTERNATE TO FEDERAL COCHAIRMAN, AND FEDERAL OFFICERS AND EMPLOYEES.—The Federal Cochairman, the alternate to the Federal Cochairman, and any Federal officer or employee detailed to duty with the Commission are not subject to this section but remain subject to sections 202 through 209 of title 18.

"(e) RESCISSION.—A Commission may declare void any contract, loan, or grant of or by the Commission in relation to which the Commission determines that there has been a violation of any provision under subsection (a)(1), (b), or (c), or any of the provisions of sections 202 through 209 of title 18.

**"§ 15307. Tribal participation**

"Governments of Indian tribes in the region of the Southwest Border Regional Commission shall be allowed to participate in matters before that Commission in the same manner and to the same extent as State agencies and instrumentalities in the region.

**"§ 15308. Annual report**

"(a) IN GENERAL.—Not later than 90 days after the last day of each fiscal year, each Commission shall submit to the President and Congress a report on the activities carried out by the Commission under this subtitle in the fiscal year.

"(b) CONTENTS.—The report shall include—

"(1) a description of the criteria used by the Commission to designate counties under section 15702 and a list of the counties designated in each category;

"(2) an evaluation of the progress of the Commission in meeting the goals identified in the Commission's economic and infrastructure development plan under section 15303 and State economic and infrastructure development plans under section 15502; and

"(3) any policy recommendations approved by the Commission.

**"CHAPTER 3—FINANCIAL ASSISTANCE**

"Sec.
"15501. Economic and infrastructure development grants.
"15502. Comprehensive economic and infrastructure development plans.
"15503. Approval of applications for assistance.
"15504. Program development criteria.
"15505. Local development districts and organizations.
"15506. Supplements to Federal grant programs.

**"§ 15501. Economic and infrastructure development grants**

"(a) IN GENERAL.—A Commission may make grants to States and local governments, Indian tribes, and public and nonprofit organizations for projects, approved in accordance with section 15503—

"(1) to develop the transportation infrastructure of its region;

"(2) to develop the basic public infrastructure of its region;

"(3) to develop the telecommunications infrastructure of its region;

"(4) to assist its region in obtaining job skills training, skills development and employment-related education, entrepreneurship, technology, and business development;

"(5) to provide assistance to severely economically distressed and underdeveloped areas of its region that lack financial resources for improving basic health care and other public services;

"(6) to promote resource conservation, tourism, recreation, and preservation of open space in a manner consistent with economic development goals;

"(7) to promote the development of renewable and alternative energy sources; and

"(8) to otherwise achieve the purposes of this subtitle.

"(b) ALLOCATION OF FUNDS.—A Commission shall allocate at least 40 percent of any grant amounts provided by the Commission in a fiscal year for projects described in paragraphs (1) through (3) of subsection (a).

"(c) SOURCES OF GRANTS.—Grant amounts may be provided entirely from appropriations to carry out this subtitle, in combination with amounts available under other Federal grant programs, or from any other source.

"(d) MAXIMUM COMMISSION CONTRIBUTIONS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Commission may contribute not more than 50 percent of a project or activity cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.

"(2) DISTRESSED COUNTIES.—The maximum Commission contribution for a project or activity to be carried out in a county for which a distressed county designation is in effect under section 15702 may be increased to 80 percent.

"(3) SPECIAL RULE FOR REGIONAL PROJECTS.—A Commission may increase to 60 percent under paragraph (1) and 90 percent under paragraph (2) the maximum Commission contribution for a project or activity if—

"(A) the project or activity involves 3 or more counties or more than one State; and

"(B) the Commission determines in accordance with section 15302(a) that the project or activity will bring significant interstate or multicounty benefits to a region.

"(e) MAINTENANCE OF EFFORT.—Funds may be provided by a Commission for a program or project in a State under this section only if the Commission determines that the level of Federal or State financial assistance provided under a law other than this subtitle, for the same type of program or project in the same area of the State within region, will not be reduced as a result of funds made available by this subtitle.

"(f) NO RELOCATION ASSISTANCE.—Financial assistance authorized by this section may not be used to assist a person or entity in relocating from one area to another.

**"§ 15502. Comprehensive economic and infrastructure development plans**

"(a) STATE PLANS.—In accordance with policies established by a Commission, each State member of the Commission shall submit a comprehensive economic and infrastructure development plan for the area of the region represented by the State member.

"(b) CONTENT OF PLAN.—A State economic and infrastructure development plan shall reflect the goals, objectives, and priorities identified in any applicable economic and infrastructure development plan developed by a Commission under section 15303.

"(c) CONSULTATION WITH INTERESTED LOCAL PARTIES.—In carrying out the development planning process (including the selection of programs and projects for assistance), a State shall—

"(1) consult with local development districts, local units of government, and local colleges and universities; and

"(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1).

"(d) PUBLIC PARTICIPATION.—

"(1) IN GENERAL.—A Commission and applicable State and local development districts shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this subtitle.

"(2) GUIDELINES.—A Commission shall develop guidelines for providing public participation, including public hearings.

**"§ 15503. Approval of applications for assistance**

"(a) EVALUATION BY STATE MEMBER.—An application to a Commission for a grant or any other assistance for a project under this subtitle shall be made through, and evaluated for approval by, the State member of the Commission representing the applicant.

"(b) CERTIFICATION.—An application to a Commission for a grant or other assistance for a project under this subtitle shall be eligible for assistance only on certification by the State member of the Commission representing the applicant that the application for the project—

"(1) describes ways in which the project complies with any applicable State economic and infrastructure development plan;

"(2) meets applicable criteria under section 15504;

"(3) adequately ensures that the project will be properly administered, operated, and maintained; and

"(4) otherwise meets the requirements for assistance under this subtitle.

"(c) VOTES FOR DECISIONS.—On certification by a State member of a Commission of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Commission under section 15302 shall be required for approval of the application.

**"§ 15504. Program development criteria**

"In considering programs and projects to be provided assistance by a Commission under this subtitle, and in establishing a priority ranking of the requests for assistance provided to the Commission, the Commission shall follow procedures that ensure, to the maximum extent practicable, consideration of—

"(1) the relationship of the project or class of projects to overall regional development;

"(2) the per capita income and poverty and unemployment and outmigration rates in an area;

"(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;

"(4) the importance of the project or class of projects in relation to the other projects or classes of projects that may be in competition for the same funds;

"(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area to be served by the project; and

"(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

**"§ 15505. Local development districts and organizations**

"(a) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—Subject to the requirements of this section, a Commission may make grants to a local development district to assist in the payment of development planning and administrative expenses.

"(b) CONDITIONS FOR GRANTS.—

"(1) MAXIMUM AMOUNT.—The amount of a grant awarded under this section may not exceed 80 percent of the administrative and planning expenses of the local development district receiving the grant.

"(2) MAXIMUM PERIOD FOR STATE AGENCIES.—In the case of a State agency certified as a local development district, a grant may not be awarded to the agency under this section for more than 3 fiscal years.

"(3) LOCAL SHARE.—The contributions of a local development district for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

"(c) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—A local development district shall—

"(1) operate as a lead organization serving multicounty areas in the region at the local level;

"(2) assist the Commission in carrying out outreach activities for local governments, community development groups, the business community, and the public;

"(3) serve as a liaison between State and local governments, nonprofit organizations (including community-based groups and educational institutions), the business community, and citizens; and

"(4) assist the individuals and entities described in paragraph (3) in identifying, assessing, and facilitating projects and programs to promote the economic development of the region.

**"§ 15506. Supplements to Federal grant programs**

"(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts,

may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

"(1) they lack the economic resources to provide the required matching share; or

"(2) there are insufficient funds available under the applicable Federal law with respect to a project to be carried out in the region.

"(b) FEDERAL GRANT PROGRAM FUNDING.—A Commission, with the approval of the Federal Cochairperson, may use amounts made available to carry out this subtitle—

"(1) for any part of the basic Federal contribution to projects or activities under the Federal grant programs authorized by Federal laws; and

"(2) to increase the Federal contribution to projects and activities under the programs above the fixed maximum part of the cost of the projects or activities otherwise authorized by the applicable law.

"(c) CERTIFICATION REQUIRED.—For a program, project, or activity for which any part of the basic Federal contribution to the project or activity under a Federal grant program is proposed to be made under subsection (b), the Federal contribution shall not be made until the responsible Federal official administering the Federal law authorizing the Federal contribution certifies that the program, project, or activity meets the applicable requirements of the Federal law and could be approved for Federal contribution under that law if amounts were available under the law for the program, project, or activity.

"(d) LIMITATIONS IN OTHER LAWS INAPPLICABLE.—Amounts provided pursuant to this subtitle are available without regard to any limitations on areas eligible for assistance or authorizations for appropriation in any other law.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project or activity receiving assistance under this section shall not exceed 80 percent.

Applicability.

"(f) MAXIMUM COMMISSION CONTRIBUTION.—Section 15501(d), relating to limitations on Commission contributions, shall apply to a program, project, or activity receiving assistance under this section.

## "CHAPTER 4—ADMINISTRATIVE PROVISIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec. 15701. Consent of States.
"Sec. 15702. Distressed counties and areas.
"Sec. 15703. Counties eligible for assistance in more than one region.
"Sec. 15704. Inspector General; records.
"Sec. 15705. Biannual meetings of representatives of all Commissions.

"SUBCHAPTER II—DESIGNATION OF REGIONS

"Sec. 15731. Southeast Crescent Regional Commission.
"Sec. 15732. Southwest Border Regional Commission.
"Sec. 15733. Northern Border Regional Commission.

"SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

"Sec. 15751. Authorization of appropriations.

"SUBCHAPTER I—GENERAL PROVISIONS

**"§ 15701. Consent of States**

"This subtitle does not require a State to engage in or accept a program under this subtitle without its consent.

**"§ 15702. Distressed counties and areas**

"(a) DESIGNATIONS.—Not later than 90 days after the date of the enactment of this section, and annually thereafter, each Commission shall make the following designations: Deadlines.

"(1) DISTRESSED COUNTIES.—The Commission shall designate as distressed counties those counties in its region that are the most severely and persistently economically distressed and underdeveloped and have high rates of poverty, unemployment, or outmigration.

"(2) TRANSITIONAL COUNTIES.—The Commission shall designate as transitional counties those counties in its region that are economically distressed and underdeveloped or have recently suffered high rates of poverty, unemployment, or outmigration.

"(3) ATTAINMENT COUNTIES.—The Commission shall designate as attainment counties, those counties in its region that are not designated as distressed or transitional counties under this subsection.

"(4) ISOLATED AREAS OF DISTRESS.—The Commission shall designate as isolated areas of distress, areas located in counties designated as attainment counties under paragraph (3) that have high rates of poverty, unemployment, or outmigration.

"(b) ALLOCATION.—A Commission shall allocate at least 50 percent of the appropriations made available to the Commission to carry out this subtitle for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

"(c) ATTAINMENT COUNTIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds may not be provided under this subtitle for a project located in a county designated as an attainment county under subsection (a).

"(2) EXCEPTIONS.—

"(A) ADMINISTRATIVE EXPENSES OF LOCAL DEVELOPMENT DISTRICTS.—The funding prohibition under paragraph (1) shall not apply to grants to fund the administrative expenses of local development districts under section 15505.

"(B) MULTICOUNTY AND OTHER PROJECTS.—A Commission may waive the application of the funding prohibition under paragraph (1) with respect to—

"(i) a multicounty project that includes participation by an attainment county; and

"(ii) any other type of project, if a Commission determines that the project could bring significant benefits to areas of the region outside an attainment county.

"(3) ISOLATED AREAS OF DISTRESS.—For a designation of an isolated area of distress to be effective, the designation shall be supported—

"(A) by the most recent Federal data available; or

"(B) if no recent Federal data are available, by the most recent data available through the government of the State in which the isolated area of distress is located.

**"§ 15703. Counties eligible for assistance in more than one region**

"(a) LIMITATION.—A political subdivision of a State may not receive assistance under this subtitle in a fiscal year from more than one Commission.

"(b) SELECTION OF COMMISSION.—A political subdivision included in the region of more than one Commission shall select the Commission with which it will participate by notifying, in writing, the Federal Cochairperson and the appropriate State member of that Commission.

Applicability.

"(c) CHANGES IN SELECTIONS.—The selection of a Commission by a political subdivision shall apply in the fiscal year in which the selection is made, and shall apply in each subsequent fiscal year unless the political subdivision, at least 90 days before the first day of the fiscal year, notifies the Cochairpersons of another Commission in writing that the political subdivision will participate in that Commission and also transmits a copy of such notification to the Cochairpersons of the Commission in which the political subdivision is currently participating.

"(d) INCLUSION OF APPALACHIAN REGIONAL COMMISSION.—In this section, the term 'Commission' includes the Appalachian Regional Commission established under chapter 143.

**"§ 15704. Inspector General; records**

"(a) APPOINTMENT OF INSPECTOR GENERAL.—There shall be an Inspector General for the Commissions appointed in accordance with section 3(a) of the Inspector General Act of 1978 (5 U.S.C. App.). All of the Commissions shall be subject to a single Inspector General.

"(b) RECORDS OF A COMMISSION.—

"(1) IN GENERAL.—A Commission shall maintain accurate and complete records of all its transactions and activities.

"(2) AVAILABILITY.—All records of a Commission shall be available for audit and examination by the Inspector General (including authorized representatives of the Inspector General).

"(c) RECORDS OF RECIPIENTS OF COMMISSION ASSISTANCE.—

"(1) IN GENERAL.—A recipient of funds from a Commission under this subtitle shall maintain accurate and complete records of transactions and activities financed with the funds and report to the Commission on the transactions and activities.

"(2) AVAILABILITY.—All records required under paragraph (1) shall be available for audit by the Commission and the Inspector General (including authorized representatives of the Commission and the Inspector General).

"(d) ANNUAL AUDIT.—The Inspector General shall audit the activities, transactions, and records of each Commission on an annual basis.

**"§ 15705. Biannual meetings of representatives of all Commissions**

"(a) IN GENERAL.—Representatives of each Commission, the Appalachian Regional Commission, and the Denali Commission shall meet biannually to discuss issues confronting regions suffering

from chronic and contiguous distress and successful strategies for promoting regional development.

"(b) CHAIR OF MEETINGS.—The chair of each meeting shall rotate among the Commissions, with the Appalachian Regional Commission to host the first meeting.

"SUBCHAPTER II—DESIGNATION OF REGIONS

**"§ 15731. Southeast Crescent Regional Commission**

State listing.

"The region of the Southeast Crescent Regional Commission shall consist of all counties of the States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida not already served by the Appalachian Regional Commission or the Delta Regional Authority.

**"§ 15732. Southwest Border Regional Commission**

"The region of the Southwest Border Regional Commission shall consist of the following political subdivisions:

"(1) ARIZONA.—The counties of Cochise, Gila, Graham, Greenlee, La Paz, Maricopa, Pima, Pinal, Santa Cruz, and Yuma in the State of Arizona.

"(2) CALIFORNIA.—The counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura in the State of California.

"(3) NEW MEXICO.—The counties of Catron, Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lincoln, Luna, Otero, Sierra, and Socorro in the State of New Mexico.

"(4) TEXAS.—The counties of Atascosa, Bandera, Bee, Bexar, Brewster, Brooks, Cameron, Coke, Concho, Crane, Crockett, Culberson, Dimmit, Duval, Ector, Edwards, El Paso, Frio, Gillespie, Glasscock, Hidalgo, Hudspeth, Irion, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Loving, Mason, Maverick, McMullen, Medina, Menard, Midland, Nueces, Pecos, Presidio, Reagan, Real, Reeves, San Patricio, Shleicher, Sutton, Starr, Sterling, Terrell, Tom Green Upton, Uvalde, Val Verde, Ward, Webb, Willacy, Wilson, Winkler, Zapata, and Zavala in the State of Texas.

**"§ 15733. Northern Border Regional Commission**

"The region of the Northern Border Regional Commission shall include the following counties:

"(1) MAINE.—The counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Oxford, Penobscot, Piscataquis, Somerset, Waldo, and Washington in the State of Maine.

"(2) NEW HAMPSHIRE.—The counties of Carroll, Coos, Grafton, and Sullivan in the State of New Hampshire.

"(3) NEW YORK.—The counties of Cayuga, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida, Oswego, Seneca, and St. Lawrence in the State of New York.

"(4) VERMONT.—The counties of Caledonia, Essex, Franklin, Grand Isle, Lamoille, and Orleans in the State of Vermont.

"SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

**"§ 15751. Authorization of appropriations**

"(a) IN GENERAL.—There is authorized to be appropriated to each Commission to carry out this subtitle $30,000,000 for each of fiscal years 2008 through 2012.

"(b) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the funds made available to a Commission in a fiscal year under this section may be used for administrative expenses.".

(b) CLERICAL AMENDMENT TO TABLE OF SUBTITLES.—The table of subtitles for chapter 40, United States Code, is amended by striking the item relating to subtitle V and inserting the following:

"V. REGIONAL ECONOMIC AND INFRASTRUCTURE DEVELOPMENT ....15101
"VI. MISCELLANEOUS .....17101".

(c) CONFORMING AMENDMENTS TO INSPECTOR GENERAL ACT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking "or the President of the Export-Import Bank;" and inserting "the President of the Export-Import Bank; or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code;"; and

(2) in paragraph (2), by striking "or the Export-Import Bank," and inserting "the Export-Import Bank, or the Commissions established under section 15301 of title 40, United States Code,".

40 USC 15101 note.

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

7 USC 6941a.

**SEC. 14218. COORDINATOR FOR CHRONICALLY UNDERSERVED RURAL AREAS.**

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a Coordinator for Chronically Underserved Rural Areas (in this section referred to as the "Coordinator"), to be located in the Rural Development Mission Area.

(b) MISSION.—The mission of the Coordinator shall be to direct Department of Agriculture resources to high need, high poverty rural areas.

(c) DUTIES.—The Coordinator shall consult with other offices in directing technical assistance, strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as necessary to carry out this section for fiscal years 2008 through 2012.

**SEC. 14219. ELIMINATION OF STATUTE OF LIMITATIONS APPLICABLE TO COLLECTION OF DEBT BY ADMINISTRATIVE OFFSET.**

(a) ELIMINATION.—Section 3716(e) of title 31, United States Code, is amended to read as follows:

"(e)(1) Notwithstanding any other provision of law, regulation, or administrative limitation, no limitation on the period within which an offset may be initiated or taken pursuant to this section shall be effective.

"(2) This section does not apply when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to any debt outstanding on or after the date of the enactment of this Act. 31 USC 3716 note.

**SEC. 14220. AVAILABILITY OF EXCESS AND SURPLUS COMPUTERS IN RURAL AREAS.** 7 USC 2206b.

In addition to any other authority, the Secretary of Agriculture may make available to an organization excess or surplus computers or other technical equipment of the Department of Agriculture for the purposes of distribution to a city, town, or local government entity in a rural area (as defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act).

**SEC. 14221. REPEAL OF SECTION 3068 OF THE WATER RESOURCES DEVELOPMENT ACT OF 2007.** 7 USC 612c–5.

Effective upon the date of enactment of this Act, section 3068 of the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1123), and the item relating to section 3068 in the table of contents of that Act, are repealed.

**SEC. 14222. DOMESTIC FOOD ASSISTANCE PROGRAMS.**

(a) DEFINITION OF SECTION 32.—In this section, the term "section 32" means section 32 of the Act of August 24, 1935 (7 U.S.C. 612c).

(b) TRANSFER TO FOOD AND NUTRITION SERVICE.—

(1) IN GENERAL.—Amounts made available for a fiscal year to carry out section 32 in excess of the maximum amount calculated under paragraph (2) shall be transferred to the Secretary, acting through the Administrator of the Food and Nutrition Service, to be used to carry out the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(2) MAXIMUM AMOUNT.—The maximum amount calculated under this paragraph for a fiscal year is the sum of—

(A)(i) in the case of fiscal year 2009, $1,173,000,000;
(ii) in the case of fiscal year 2010, $1,199,000,000;
(iii) in the case of fiscal year 2011, $1,215,000,000;
(iv) in the case of fiscal year 2012, $1,231,000,000;
(v) in the case of fiscal year 2013, $1,248,000,000;
(vi) in the case of fiscal year 2014, $1,266,000,000;
(vii) in the case of fiscal year 2015, $1,284,000,000;
(viii) in the case of fiscal year 2016, $1,303,000,000;
(ix) in the case of fiscal year 2017, $1,322,000,000; and

(x) for fiscal year 2018 and each fiscal year thereafter, the amount made available for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending on the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor; and

(B) any transfers for the fiscal year from section 32 to the Department of Commerce under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).

(c) FRESH FRUIT AND VEGETABLE PROGRAM.—Of amounts made available to carry out section 32 under subsection (b)(2)(A), the

Secretary shall transfer for use to carry out the fresh fruit and vegetable program under section 19 of the Richard B. Russell National School Lunch Act the amounts specified in subsection (i) of that section.

(d) WHOLE GRAIN PRODUCTS.—Of amounts made available to carry out section 32 under subsection (b)(2)(A), the Secretary shall use to carry out section 4305 $4,000,000 for fiscal year 2009.

(e) MAINTENANCE OF FUNDING.—The funding provided under subsections (c) and (d) shall supplement (and not supplant) other Federal funding (including section 32 funding) for programs carried out under—

(1) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), except for section 19 of that Act;

(2) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.); and

(3) section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036).

**SEC. 14223. TECHNICAL CORRECTION.**

Section 923(1)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2206a(1)(B)) is amended by striking "as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))" and inserting "as defined in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5))".

# TITLE XV—TRADE AND TAX PROVISIONS

Heartland, Habitat, Harvest, and Horticulture Act of 2008.

26 USC 1 note.

**SEC. 15001. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This title may be cited as the "Heartland, Habitat, Harvest, and Horticulture Act of 2008".

(b) AMENDMENTS TO 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

## Subtitle A—Supplemental Agricultural Disaster Assistance From the Agricultural Disaster Relief Trust Fund

**SEC. 15101. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

(a) IN GENERAL.—The Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by adding at the end the following:

# "TITLE IX—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE

19 USC 2497.

**"SEC. 901. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

"(a) DEFINITIONS.—In this section:

"(1) ACTUAL PRODUCTION HISTORY YIELD.—The term 'actual production history yield' means the weighted average of the actual production history for each insurable commodity or noninsurable commodity, as calculated under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or the noninsured crop disaster assistance program, respectively.

"(2) ADJUSTED ACTUAL PRODUCTION HISTORY YIELD.—The term 'adjusted actual production history yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of actual production history yields for an insurable commodity that are established other than pursuant to section 508(g)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(4)(B)), the actual production history for the eligible producer without regard to any yields established under that section;

"(B) in the case of an eligible producer on a farm that has less than 4 years of actual production history yields for an insurable commodity, of which 1 or more were established pursuant to section 508(g)(4)(B) of that Act, the actual production history for the eligible producer as calculated without including the lowest of the yields established pursuant to section 508(g)(4)(B) of that Act; and

"(C) in all other cases, the actual production history of the eligible producer on a farm.

"(3) ADJUSTED NONINSURED CROP DISASTER ASSISTANCE PROGRAM YIELD.—The term 'adjusted noninsured crop disaster assistance program yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield without regard to any replacement yields;

"(B) in the case of an eligible producer on a farm that less than 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield as calculated without including the lowest of the replacement yields; and

"(C) in all other cases, the production history of the eligible producer on the farm under the noninsured crop disaster assistance program.

"(4) COUNTER-CYCLICAL PROGRAM PAYMENT YIELD.—The term 'counter-cyclical program payment yield' means the weighted average payment yield established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912), section 1102 of the Food, Conservation, and Energy Act of 2008, or a successor section.

"(5) DISASTER COUNTY.—

"(A) IN GENERAL.—The term 'disaster county' means a county included in the geographic area covered by a qualifying natural disaster declaration.

"(B) INCLUSION.—The term 'disaster county' includes—

"(i) a county contiguous to a county described in subparagraph (A); and

"(ii) any farm in which, during a calendar year, the total loss of production of the farm relating to

weather is greater than 50 percent of the normal production of the farm, as determined by the Secretary.

"(6) ELIGIBLE PRODUCER ON A FARM.—

"(A) IN GENERAL.—The term 'eligible producer on a farm' means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

"(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—

"(i) a citizen of the United States;

"(ii) a resident alien;

"(iii) a partnership of citizens of the United States; or

"(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

"(7) FARM.—

"(A) IN GENERAL.—The term 'farm' means, in relation to an eligible producer on a farm, the sum of all crop acreage in all counties that is planted or intended to be planted for harvest by the eligible producer.

"(B) AQUACULTURE.—In the case of aquaculture, the term 'farm' means, in relation to an eligible producer on a farm, all fish being produced in all counties that are intended to be harvested for sale by the eligible producer.

"(C) HONEY.—In the case of honey, the term 'farm' means, in relation to an eligible producer on a farm, all bees and beehives in all counties that are intended to be harvested for a honey crop by the eligible producer.

"(8) FARM-RAISED FISH.—The term 'farm-raised fish' means any aquatic species that is propagated and reared in a controlled environment.

"(9) INSURABLE COMMODITY.—The term 'insurable commodity' means an agricultural commodity (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(10) LIVESTOCK.—The term 'livestock' includes—

"(A) cattle (including dairy cattle);

"(B) bison;

"(C) poultry;

"(D) sheep;

"(E) swine;

"(F) horses; and

"(G) other livestock, as determined by the Secretary.

"(11) NONINSURABLE COMMODITY.—The term 'noninsurable commodity' means a crop for which the eligible producers on a farm are eligible to obtain assistance under the noninsured crop assistance program.

"(12) NONINSURED CROP ASSISTANCE PROGRAM.—The term 'noninsured crop assistance program' means the program carried out under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(13) QUALIFYING NATURAL DISASTER DECLARATION.—The term 'qualifying natural disaster declaration' means a natural disaster declared by the Secretary for production losses under

section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(15) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

"(16) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(17) TRUST FUND.—The term 'Trust Fund' means the Agricultural Disaster Relief Trust Fund established under section 902.

"(18) UNITED STATES.—The term 'United States' when used in a geographical sense, means all of the States.

"(b) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall use such sums as are necessary from the Trust Fund to make crop disaster assistance payments to eligible producers on farms in disaster counties that have incurred crop production losses or crop quality losses, or both, during the crop year.

"(2) AMOUNT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide crop disaster assistance payments under this section to an eligible producer on a farm in an amount equal to 60 percent of the difference between—

"(i) the disaster assistance program guarantee, as described in paragraph (3); and

"(ii) the total farm revenue for a farm, as described in paragraph (4).

"(B) LIMITATION.—The disaster assistance program guarantee for a crop used to calculate the payments for a farm under subparagraph (A)(i) may not be greater than 90 percent of the sum of the expected revenue, as described in paragraph (5) for each of the crops on a farm, as determined by the Secretary.

"(3) SUPPLEMENTAL REVENUE ASSISTANCE PROGRAM GUARANTEE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the supplemental assistance program guarantee shall be the sum obtained by adding—

"(i) for each insurable commodity on the farm, 115 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to the price election for the commodity elected by the eligible producer;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity;

"(III) the payment yield for the commodity that is equal to the percentage of the crop insurance yield elected by the producer of the higher of—

"(aa) the adjusted actual production history yield; or

"(bb) the counter-cyclical program payment yield for each crop; and

"(ii) for each noninsurable commodity on a farm, 120 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to 100 percent of the noninsured crop assistance program established price for the commodity;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity; and

"(III) the payment yield for the commodity that is equal to the higher of—

"(aa) the adjusted noninsured crop assistance program yield guarantee; or

"(bb) the counter-cyclical program payment yield for each crop.

"(B) ADJUSTMENT INSURANCE GUARANTEE.—Notwithstanding subparagraph (A), in the case of an insurable commodity for which a plan of insurance provides for an adjustment in the guarantee, such as in the case of prevented planting, the adjusted insurance guarantee shall be the basis for determining the disaster assistance program guarantee for the insurable commodity.

"(C) ADJUSTED ASSISTANCE LEVEL.—Notwithstanding subparagraph (A), in the case of a noninsurable commodity for which the noninsured crop assistance program provides for an adjustment in the level of assistance, such as in the case of unharvested crops, the adjusted assistance level shall be the basis for determining the disaster assistance program guarantee for the noninsurable commodity.

"(D) EQUITABLE TREATMENT FOR NON-YIELD BASED POLICIES.—The Secretary shall establish equitable treatment for non-yield based policies and plans of insurance, such as the Adjusted Gross Revenue Lite insurance program.

"(4) FARM REVENUE.—

"(A) IN GENERAL.—For purposes of this subsection, the total farm revenue for a farm, shall equal the sum obtained by adding—

"(i) the estimated actual value for each crop produced on a farm by using the product obtained by multiplying—

"(I) the actual crop acreage harvested by an eligible producer on a farm;

"(II) the estimated actual yield of the crop production; and

"(III) subject to subparagraphs (B) and (C), to the extent practicable, the national average market price received for the marketing year, as determined by the Secretary;

"(ii) 15 percent of amount of any direct payments made to the producer under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 or successor sections;

"(iii) the total amount of any counter-cyclical payments made to the producer under sections 1104 and 1304 of the Food, Conservation, and Energy Act of 2008 or successor sections or of any average crop revenue election payments made to the producer under section 1105 of that Act;

"(iv) the total amount of any loan deficiency payments, marketing loan gains, and marketing certificate gains made to the producer under subtitles B and C of the Food, Conservation, and Energy Act of 2008 or successor subtitles;

"(v) the amount of payments for prevented planting on a farm;

"(vi) the amount of crop insurance indemnities received by an eligible producer on a farm for each crop on a farm;

"(vii) the amount of payments an eligible producer on a farm received under the noninsured crop assistance program for each crop on a farm; and

"(viii) the value of any other natural disaster assistance payments provided by the Federal Government to an eligible producer on a farm for each crop on a farm for the same loss for which the eligible producer is seeking assistance.

"(B) ADJUSTMENT.—The Secretary shall adjust the average market price received by the eligible producer on a farm—

"(i) to reflect the average quality discounts applied to the local or regional market price of a crop or mechanically harvested forage due to a reduction in the intrinsic characteristics of the production resulting from adverse weather, as determined annually by the State office of the Farm Service Agency; and

"(ii) to account for a crop the value of which is reduced due to excess moisture resulting from a disaster-related condition.

"(C) MAXIMUM AMOUNT FOR CERTAIN CROPS.—With respect to a crop for which an eligible producer on a farm receives assistance under the noninsured crop assistance program, the national average market price received during the marketing year shall be an amount not more than 100 percent of the price of the crop established under the noninsured crop assistance program.

"(5) EXPECTED REVENUE.—The expected revenue for each crop on a farm shall equal the sum obtained by adding—

"(A) the product obtained by multiplying—

"(i) the greatest of—

"(I) the adjusted actual production history yield of the eligible producer on a farm; and

"(II) the counter-cyclical program payment yield;

"(ii) the acreage planted or prevented from being planted for each crop; and

"(iii) 100 percent of the insurance price guarantee; and

"(B) the product obtained by multiplying—

"(i) 100 percent of the adjusted noninsured crop assistance program yield; and

"(ii) 100 percent of the noninsured crop assistance program price for each of the crops on a farm.

"(c) LIVESTOCK INDEMNITY PAYMENTS.—

"(1) PAYMENTS.—The Secretary shall use such sums as are necessary from the Trust Fund to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality due to adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

"(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

"(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED LIVESTOCK.—

"(i) IN GENERAL.—The term 'covered livestock' means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

"(I) owned;

"(II) leased;

"(III) purchased;

"(IV) entered into a contract to purchase;

"(V) is a contract grower; or

"(VI) sold or otherwise disposed of due to qualifying drought conditions during—

"(aa) the current production year; or

"(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

"(ii) EXCLUSION.—The term 'covered livestock' does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

"(B) DROUGHT MONITOR.—The term 'drought monitor' means a system for classifying drought severity according to a range of abnormally dry to exceptional drought, as defined by the Secretary.

"(C) ELIGIBLE LIVESTOCK PRODUCER.—

"(i) IN GENERAL.—The term 'eligible livestock producer' means an eligible producer on a farm that—

"(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

"(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

"(III) certifies grazing loss; and

"(IV) meets all other eligibility requirements established under this subsection.

"(ii) EXCLUSION.—The term 'eligible livestock producer' does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.

"(D) NORMAL CARRYING CAPACITY.—The term 'normal carrying capacity', with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

"(E) NORMAL GRAZING PERIOD.—The term 'normal grazing period', with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

"(2) PROGRAM.—The Secretary shall use such sums as are necessary from the Trust Fund to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

"(A) a drought condition, as described in paragraph (3); or

"(B) fire, as described in paragraph (4).

"(3) ASSISTANCE FOR LOSSES DUE TO DROUGHT CONDITIONS.—

"(A) ELIGIBLE LOSSES.—

"(i) IN GENERAL.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

"(I) is native or improved pastureland with permanent vegetative cover; or

"(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

"(ii) EXCLUSIONS.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

"(B) MONTHLY PAYMENT RATE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

"(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

"(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

"(ii) PARTIAL COMPENSATION.—In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

"(C) MONTHLY FEED COST.—

"(i) IN GENERAL.—The monthly feed cost shall equal the product obtained by multiplying—

"(I) 30 days;

"(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

"(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

"(ii) FEED GRAIN EQUIVALENT.—For purposes of clause (i)(I), the feed grain equivalent shall equal—

"(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

"(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

"(iii) CORN PRICE PER POUND.—For purposes of clause (i)(II), the corn price per pound shall equal the quotient obtained by dividing—

"(I) the higher of—

"(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

"(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

"(II) 56.

"(D) NORMAL GRAZING PERIOD AND DROUGHT MONITOR INTENSITY.—

"(i) FSA COUNTY COMMITTEE DETERMINATIONS.—

"(I) IN GENERAL.—The Secretary shall determine the normal carrying capacity and normal grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

"(II) CHANGES.—No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

"(ii) DROUGHT INTENSITY.—

"(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that

is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

"(II) D3.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

"(aa) in an amount equal to 2 monthly payments using the monthly payment rate determined under subparagraph (B); or

"(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B).

"(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON PUBLIC MANAGED LAND.—

"(A) IN GENERAL.—An eligible livestock producer may receive assistance under this paragraph only if—

"(i) the grazing losses occur on rangeland that is managed by a Federal agency; and

"(ii) the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

"(B) PAYMENT RATE.—The payment rate for assistance under this paragraph shall be equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease of the eligible livestock producer, as determined under paragraph (3)(C).

"(C) PAYMENT DURATION.—

"(i) IN GENERAL.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

"(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

"(II) ending on the last day of the Federal lease of the eligible livestock producer.

"(ii) LIMITATION.—An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

"(5) MINIMUM RISK MANAGEMENT PURCHASE REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a livestock producer shall only be eligible for assistance under this subsection if the livestock producer—

"(i) obtained a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the grazing land incurring the losses for which assistance is being requested; or

"(ii) filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the grazing land incurring the losses for which assistance is being requested.

"(B) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—In the case of an eligible livestock producer that is a socially disadvantaged farmer or rancher or limited resource or beginning farmer or rancher, as determined by the Secretary, the Secretary may—

"(i) waive subparagraph (A); and

"(ii) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(C) WAIVER FOR 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year but does not meet the requirements of subparagraph (A), the Secretary shall waive subparagraph (A) if the eligible livestock producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under subparagraph (A) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(D) EQUITABLE RELIEF.—

"(i) IN GENERAL.—The Secretary may provide equitable relief to an eligible livestock producer that is otherwise ineligible or unintentionally fails to meet the requirements of subparagraph (A) for the grazing land incurring the loss on a case-by-case basis, as determined by the Secretary.

"(ii) 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible livestock producer failed to meet the requirements of subparagraph (A) due to the enactment of this title after the closing date of sales periods for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and the noninsured crop assistance program.

"(6) NO DUPLICATIVE PAYMENTS.—

"(A) IN GENERAL.—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

"(B) RELATIONSHIP TO SUPPLEMENTAL REVENUE ASSISTANCE.—An eligible livestock producer that receives assistance under this subsection may not also receive assistance for losses to crops on the same land with the same intended use under subsection (b).

"(e) EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY BEES, AND FARM-RAISED FISH.—

"(1) IN GENERAL.—The Secretary shall use up to $50,000,000 per year from the Trust Fund to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b), (c), or (d).

"(2) USE OF FUNDS.—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

"(3) AVAILABILITY OF FUNDS.—Any funds made available under this subsection shall remain available until expended.

"(f) TREE ASSISTANCE PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ORCHARDIST.—The term 'eligible orchardist' means a person that produces annual crops from trees for commercial purposes.

"(B) NATURAL DISASTER.—The term 'natural disaster' means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

"(C) NURSERY TREE GROWER.—The term 'nursery tree grower' means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

"(D) TREE.—The term 'tree' includes a tree, bush, and vine.

"(2) ELIGIBILITY.—

"(A) LOSS.—Subject to subparagraph (B), the Secretary shall provide assistance—

"(i) under paragraph (3) to eligible orchardists and nursery tree growers that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary; and

"(ii) under paragraph (3)(B) to eligible orchardists and nursery tree growers that have a production history for commercial purposes on planted or existing trees but lost the trees as a result of a natural disaster, as determined by the Secretary.

"(B) LIMITATION.—An eligible orchardist or nursery tree grower shall qualify for assistance under subparagraph (A) only if the tree mortality of the eligible orchardist or nursery tree grower, as a result of damaging weather

or related condition, exceeds 15 percent (adjusted for normal mortality).

"(3) ASSISTANCE.—Subject to paragraph (4), the assistance provided by the Secretary to eligible orchardists and nursery tree growers for losses described in paragraph (2) shall consist of—

"(A)(i) reimbursement of 70 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

"(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

"(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

"(4) LIMITATIONS ON ASSISTANCE.—

"(A) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this paragraph, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(B) AMOUNT.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed $100,000 for any crop year, or an equivalent value in tree seedlings.

"(C) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

"(g) RISK MANAGEMENT PURCHASE REQUIREMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the eligible producers on a farm shall not be eligible for assistance under this section (other than subsection (c)) if the eligible producers on the farm—

"(A) in the case of each insurable commodity of the eligible producers on the farm, did not obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (excluding a crop insurance pilot program under that Act); or

"(B) in the case of each noninsurable commodity of the eligible producers on the farm, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program.

"(2) MINIMUM.—To be considered to have obtained insurance under paragraph (1)(A), an eligible producer on a farm shall have obtained a policy or plan of insurance with not less than 50 percent yield coverage at 55 percent of the insurable price for each crop grazed, planted, or intended to be planted for harvest on a whole farm.

"(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—With respect to eligible producers that are socially disadvantaged farmers or ranchers or limited resource or beginning farmers or ranchers, as determined by the Secretary, the Secretary may—

"(A) waive paragraph (1); and

"(B) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(4) WAIVER FOR 2008 CROP YEAR.—In the case of an eligible producer that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year but does not meet the requirements of paragraph (1), the Secretary shall waive paragraph (1) if the eligible producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(5) EQUITABLE RELIEF.—

"(A) IN GENERAL.—The Secretary may provide equitable relief to eligible producers on a farm that are otherwise ineligible or unintentionally fail to meet the requirements of paragraph (1) for 1 or more crops on a farm on a case-by-case basis, as determined by the Secretary.

"(B) 2008 CROP YEAR.—In the case of eligible producers on a farm that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible producers failed to meet the requirements of paragraph (1) due to the enactment of this title after the closing date of sales periods for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and the noninsured crop assistance program.

"(h) PAYMENT LIMITATIONS.—

"(1) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this subsection, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (f)) may not exceed $100,000 for any crop year.

"(3) AGI LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) or any successor provision shall apply with respect to assistance provided under this section. Applicability.

"(4) DIRECT ATTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct attribution shall apply with respect to assistance provided under this section. Applicability.

"(i) PERIOD OF EFFECTIVENESS.—This section shall be effective only for losses that are incurred as the result of a disaster, adverse weather, or other environmental condition that occurs on or before September 30, 2011, as determined by the Secretary.

"(j) NO DUPLICATIVE PAYMENTS.—In implementing any other program which makes disaster assistance payments (except for indemnities made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.)) and section 196 of the Federal Agriculture Improvement and Reform Act of 1996), the Secretary shall prevent duplicative payments with respect to the same loss for which a person receives a payment under subsections (b), (c), (d), (e), or (f).

19 USC 2497a.

**"SEC. 902. AGRICULTURAL DISASTER RELIEF TRUST FUND.**

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Agricultural Disaster Relief Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section.

"(b) TRANSFER TO TRUST FUND.—

"(1) IN GENERAL.—There are appropriated to the Agricultural Disaster Relief Trust Fund amounts equivalent to 3.08 percent of the amounts received in the general fund of the Treasury of the United States during fiscal years 2008 through 2011 attributable to the duties collected on articles entered, or withdrawn from warehouse, for consumption under the Harmonized Tariff Schedule of the United States.

"(2) AMOUNTS BASED ON ESTIMATES.—The amounts appropriated under this section shall be transferred at least monthly from the general fund of the Treasury of the United States to the Agricultural Disaster Relief Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(3) LIMITATION ON TRANSFERS TO AGRICULTURAL DISASTER RELIEF TRUST FUND.—No amount may be appropriated to the Agricultural Disaster Relief Trust Fund on and after the date of any expenditure from the Agricultural Disaster Relief Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

"(c) ADMINISTRATION.—

"(1) REPORTS.—The Secretary of the Treasury shall be the trustee of the Agricultural Disaster Relief Trust Fund and shall submit an annual report to Congress each year on the financial condition and the results of the operations of such Trust Fund during the preceding fiscal year and on its expected condition and operations during the 4 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of Congress to which the report is made.

"(2) INVESTMENT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Agricultural Disaster Relief Trust Fund as is not in his judgment required to meet current withdrawals. Such investments may be made only in

interest bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(i) on original issue at the issue price, or

"(ii) by purchase of outstanding obligations at the market price.

"(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Agricultural Disaster Relief Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Agricultural Disaster Relief Trust Fund shall be credited to and form a part of such Trust Fund.

"(d) EXPENDITURES FROM TRUST FUND.—Amounts in the Agricultural Disaster Relief Trust Fund shall be available for the purposes of making expenditures to meet those obligations of the United States incurred under section 901 or section 531 of the Federal Crop Insurance Act (as such sections are in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008).

"(e) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated, and are appropriated, to the Agricultural Disaster Relief Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made to the Agricultural Disaster Relief Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in such Trust Fund.

"(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be—

"(i) at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding, and

"(ii) compounded annually.

**"SEC. 903. JURISDICTION.** 19 USC 2497b.

"Legislation in the Senate of the United States amending section 901 or 902 shall be referred to the Committee on Finance of the Senate.".

(b) TRANSITION.—For purposes of the 2008 crop year, the Secretary shall carry out subsections (f)(4) and (h) of section 901 of the Trade Act of 1974 (as added by subsection (a)) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (16 U.S.C. 1308 et seq.), as in effect on September 30, 2007. 19 USC 2497 note.

(c) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by adding at the end the following:

"TITLE IX—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE

"Sec. 901. Supplemental agricultural disaster assistance.
"Sec. 902. Agricultural Disaster Relief Trust Fund.
"Sec. 903. Jurisdiction.".

# Subtitle B—Revenue Provisions for Agriculture Programs

**SEC. 15201. CUSTOMS USER FEES.**

(a) IN GENERAL.—Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A)) is amended by striking "December 27, 2014" and inserting "November 14, 2017".

(b) OTHER FEES.—Section 13031(j)(3)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(B)(i)) is amended by striking "December 27, 2014" and inserting "September 30, 2017".

19 USC 58c note.

(c) TIME FOR REMITTING CERTAIN COBRA FEES.—Notwithstanding any other provision of law, any fees authorized under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (1) through (8)) with respect to customs services provided on or after July 1, 2017, and before September 20, 2017, shall be paid not later than September 25, 2017.

(d) TIME FOR REMITTING CERTAIN MERCHANDISE PROCESSING FEES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any fees authorized under paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (9) and (10)) with respect to processing merchandise entered on or after October 1, 2017, and before November 15, 2017, shall be paid not later than September 25, 2017, in an amount equivalent to the amount of such fees paid by the person responsible for such fees with respect to merchandise entered on or after October 1, 2016, and before November 15, 2016, as determined by the Secretary of the Treasury.

(2) RECONCILIATION OF MERCHANDISE PROCESSING FEES.—Not later than December 15, 2017, the Secretary of the Treasury shall reconcile the fees paid pursuant to paragraph (1) with the fees for services actually provided on or after October 1, 2017, and before November 15, 2017, and shall refund with interest any overpayment of such fees and make proper adjustments with respect to any underpayment of such fees. No interest may be assessed with respect to any such underpayment that was based on the amount of fees paid for merchandise entered on or after October 1, 2016, and before November 15, 2016.

26 USC 6655 note.

**SEC. 15202. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 7.75 percentage points.

# Subtitle C—Tax Provisions

## PART I—CONSERVATION

### Subpart A—Land and Species Preservation Provisions

**SEC. 15301. EXCLUSION OF CONSERVATION RESERVE PROGRAM PAYMENTS FROM SECA TAX FOR CERTAIN INDIVIDUALS.**

(a) INTERNAL REVENUE CODE.—Section 1402(a)(1) (defining net earnings from self-employment) is amended by inserting ", and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2)) to individuals receiving benefits under section 202 or 223 of the Social Security Act" after "crop shares". 26 USC 1402.

(b) SOCIAL SECURITY ACT.—Section 211(a)(1) of the Social Security Act is amended by inserting ", and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2)) to individuals receiving benefits under section 202 or 223" after "crop shares". 42 USC 411.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 2007. 26 USC 1402 note.

**SEC. 15302. TWO-YEAR EXTENSION OF SPECIAL RULE ENCOURAGING CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY FOR CONSERVATION PURPOSES.**

(a) IN GENERAL.—

(1) INDIVIDUALS.—Section 170(b)(1)(E)(vi) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(2) CORPORATIONS.—Section 170(b)(2)(B)(iii) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

**SEC. 15303. DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.**

(a) DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (1) of section 175(c) (relating to definitions) is amended by inserting after the first sentence the following new sentence: "Such term shall include expenditures paid or incurred for the purpose of achieving site-specific management actions recommended in recovery plans approved pursuant to the Endangered Species Act of 1973.".

(2) CONFORMING AMENDMENTS.—

(A) Section 175 is amended by inserting ", or for endangered species recovery" after "prevention of erosion of land used in farming" each place it appears in subsections (a) and (c).

(B) The heading of section 175 is amended by inserting "**; ENDANGERED SPECIES RECOVERY EXPENDITURES**" before the period.

(C) The item relating to section 175 in the table of sections for part VI of subchapter B of chapter 1 is amended

by inserting "; endangered species recovery expenditures" before the period.

26 USC 175. (b) LIMITATIONS.—Paragraph (3) of section 175(c) (relating to additional limitations) is amended—

(1) in the heading of subparagraph (A), by inserting "OR ENDANGERED SPECIES RECOVERY PLAN" after "CONSERVATION PLAN", and

(2) in subparagraph (A)(i), by inserting "or the recovery plan approved pursuant to the Endangered Species Act of 1973" after "Department of Agriculture".

26 USC 175 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2008.

## Subpart B—Timber Provisions

### SEC. 15311. TEMPORARY REDUCTION IN RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.

(a) IN GENERAL.—Section 1201 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c) and by adding after subsection (a) the following new subsection:

"(b) SPECIAL RATE FOR QUALIFIED TIMBER GAINS.—

"(1) IN GENERAL.—If, for any taxable year ending after the date of the enactment of the Food, Conservation, and Energy Act of 2008 and beginning on or before the date which is 1 year after such date, a corporation has both a net capital gain and qualified timber gain—

Applicability. "(A) subsection (a) shall apply to such corporation for the taxable year without regard to whether the applicable tax rate exceeds 35 percent, and

"(B) the tax computed under subsection (a)(2) shall be equal to the sum of—

"(i) 15 percent of the least of—

"(I) qualified timber gain,

"(II) net capital gain, or

"(III) taxable income, plus

"(ii) 35 percent of the excess (if any) of taxable income over the sum of the amounts for which a tax was determined under subsection (a)(1) and clause (i).

"(2) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means, with respect to any taxpayer for any taxable year, the excess (if any) of—

"(A) the sum of the taxpayer's gains described in subsections (a) and (b) of section 631 for such year, over

"(B) the sum of the taxpayer's losses described in such subsections for such year.

For purposes of subparagraphs (A) and (B), only timber held more than 15 years shall be taken into account.

"(3) COMPUTATION FOR TAXABLE YEARS IN WHICH RATE FIRST APPLIES OR ENDS.—In the case of any taxable year which includes either of the dates set forth in paragraph (1), the qualified timber gain for such year shall not exceed the qualified timber gain properly taken into account for—

"(A) in the case of the taxable year including the date of the enactment of the Food, Conservation, and Energy Act of 2008, the portion of the year after such date, and

"(B) in the case of the taxable year including the date which is 1 year after such date of enactment, the portion of the year on or before such later date.".

(b) MINIMUM TAX.—Subsection (b) of section 55 is amended by adding at the end the following paragraph: 26 USC 55.

"(4) MAXIMUM RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.—In the case of any taxable year to which section 1201(b) applies, the amount determined under clause (i) of subparagraph (B) shall not exceed the sum of—

"(A) 20 percent of so much of the taxable excess (if any) as exceeds the qualified timber gain (or, if less, the net capital gain), plus

"(B) 15 percent of the taxable excess in excess of the amount on which a tax is determined under subparagraph (A).

Any term used in this paragraph which is also used in section 1201 shall have the meaning given such term by such section, except to the extent such term is subject to adjustment under this part.".

(c) CONFORMING AMENDMENT.—Section 857(b)(3)(A)(ii) is amended by striking "rate" and inserting "rates".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment. 26 USC 55 note.

**SEC. 15312. TIMBER REIT MODERNIZATION.**

(a) IN GENERAL.—Section 856(c)(5) is amended by adding after subparagraph (G) the following new subparagraph:

"(H) TREATMENT OF TIMBER GAINS.—

"(i) IN GENERAL.—Gain from the sale of real property described in paragraph (2)(D) and (3)(C) shall include gain which is—

"(I) recognized by an election under section 631(a) from timber owned by the real estate investment trust, the cutting of which is provided by a taxable REIT subsidiary of the real estate investment trust;

"(II) recognized under section 631(b); or

"(III) income which would constitute gain under subclause (I) or (II) but for the failure to meet the 1-year holding period requirement.

"(ii) SPECIAL RULES.—

"(I) For purposes of this subtitle, cut timber, the gain from which is recognized by a real estate investment trust pursuant to an election under section 631(a) described in clause (i)(I) or so much of clause (i)(III) as relates to clause (i)(I), shall be deemed to be sold to the taxable REIT subsidiary of the real estate investment trust on the first day of the taxable year.

"(II) For purposes of this subtitle, income described in this subparagraph shall not be treated as gain from the sale of property described in section 1221(a)(1).

"(iii) TERMINATION.—This subparagraph shall not apply to dispositions after the termination date.".

(b) TERMINATION DATE.—Subsection (c) of section 856 is amended by adding at the end the following new paragraph:

"(8) TERMINATION DATE.—For purposes of this subsection, the term 'termination date' means, with respect to any taxpayer, the last day of the taxpayer's first taxable year beginning after the date of the enactment of this paragraph and before the date that is 1 year after such date of enactment.".

26 USC 856 note. (c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.

**SEC. 15313. MINERAL ROYALTY INCOME QUALIFYING INCOME FOR TIMBER REITS.**

26 USC 856. (a) IN GENERAL.—Section 856(c)(2) is amended by striking "and" at the end of subparagraph (G), by inserting "and" at the end of subparagraph (H), and by adding after subparagraph (H) the following new subparagraph:

"(I) mineral royalty income earned in the first taxable year beginning after the date of the enactment of this subparagraph from real property owned by a timber real estate investment trust and held, or once held, in connection with the trade or business of producing timber by such real estate investment trust;".

(b) TIMBER REAL ESTATE INVESTMENT TRUST.—Section 856(c)(5), as amended by this Act, is amended by adding after subparagraph (H) the following new subparagraph:

"(I) TIMBER REAL ESTATE INVESTMENT TRUST.—The term 'timber real estate investment trust' means a real estate investment trust in which more than 50 percent in value of its total assets consists of real property held in connection with the trade or business of producing timber.".

26 USC 856 note. (c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 15314. MODIFICATION OF TAXABLE REIT SUBSIDIARY ASSET TEST FOR TIMBER REITS.**

(a) IN GENERAL.—Section 856(c)(4)(B)(ii) is amended by inserting "(in the case of a quarter which closes on or before the termination date, 25 percent in the case of a timber real estate investment trust)" after "REIT subsidiaries".

26 USC 856 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 15315. SAFE HARBOR FOR TIMBER PROPERTY.**

(a) IN GENERAL.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by adding at the end the following new subparagraph:

"(G) SPECIAL RULES FOR SALES TO QUALIFIED ORGANIZATIONS.—

"(i) IN GENERAL.—In the case of the sale of a real estate asset (as defined in section 856(c)(5)(B)) to a qualified organization (as defined in section 170(h)(3)) exclusively for conservation purposes (within the meaning of section 170(h)(1)(C)), subparagraph (D) shall be applied—

"(I) by substituting '2 years' for '4 years' in clause (i), and

"(II) by substituting '2-year period' for '4-year period' in clauses (ii) and (iii).

"(ii) TERMINATION.—This subparagraph shall not apply to sales after the termination date.".

(b) PROHIBITED TRANSACTIONS.—Section 857(b)(6)(D)(v) is amended by inserting ", or, in the case of a sale on or before the termination date, a taxable REIT subsidiary" after "any income". 26 USC 857.

(c) SALES THAT ARE NOT PROHIBITED TRANSACTIONS.—Section 857(b)(6), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(H) SALES OF PROPERTY THAT ARE NOT A PROHIBITED TRANSACTION.—In the case of a sale on or before the termination date, the sale of property which is not a prohibited transaction through the application of subparagraph (D) shall be considered property held for investment or for use in a trade or business and not property described in section 1221(a)(1) for all purposes of this subtitle.".

(d) TERMINATION DATE.—Section 857(b)(6), as amended by subsections (a) and (c), is amended by adding at the end the following new subparagraph:

"(I) TERMINATION DATE.—For purposes of this paragraph, the term 'termination date' has the meaning given such term by section 856(c)(8).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions in taxable years beginning after the date of the enactment of this Act. 26 USC 857 note.

**SEC. 15316. QUALIFIED FORESTRY CONSERVATION BONDS.**

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

## "Subpart I—Qualified Tax Credit Bonds

"Sec. 54A. Credit to holders of qualified tax credit bonds.
"Sec. 54B. Qualified forestry conservation bonds.

**"SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CREDIT BONDS.**

"(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax credit bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tax credit bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable

credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

"(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

Applicability.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

"(d) QUALIFIED TAX CREDIT BOND.—For purposes of this section—

"(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means a qualified forestry conservation bond which is part of an issue that meets the requirements of paragraphs (2), (3), (4), (5), and (6).

"(2) SPECIAL RULES RELATING TO EXPENDITURES.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects—

"(i) 100 percent or more of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and

"(ii) a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.

"(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 3 YEARS.—

"(i) IN GENERAL.—To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

"(ii) EXPENDITURE PERIOD.—For purposes of this subpart, the term 'expenditure period' means, with respect to any issue, the 3-year period beginning on

the date of issuance. Such term shall include any extension of such period under clause (iii).

"(iii) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

"(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means a purpose specified in section 54B(e).

"(D) REIMBURSEMENT.—For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—

"(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,

"(ii) not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

"(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

"(3) REPORTING.—An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).

"(4) SPECIAL RULES RELATING TO ARBITRAGE.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.

"(B) SPECIAL RULE FOR INVESTMENTS DURING EXPENDITURE PERIOD.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

"(C) SPECIAL RULE FOR RESERVE FUNDS.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—

"(i) such fund is funded at a rate not more rapid than equal annual installments,

"(ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and

"(iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

"(5) MATURITY LIMITATION.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue does not exceed the maximum term determined by the Secretary under subparagraph (B).

"(B) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

Certification.

"(6) PROHIBITION ON FINANCIAL CONFLICTS OF INTEREST.—An issue shall be treated as meeting the requirements of this paragraph if the issuer certifies that—

"(A) applicable State and local law requirements governing conflicts of interest are satisfied with respect to such issue, and

"(B) if the Secretary prescribes additional conflicts of interest rules governing the appropriate Members of Congress, Federal, State, and local officials, and their spouses, such additional rules are satisfied with respect to such issue.

"(e) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

"(4) AVAILABLE PROJECT PROCEEDS.—The term 'available project proceeds' means—

"(A) the excess of—

"(i) the proceeds from the sale of an issue, over

"(ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and

"(B) the proceeds from any investment of the excess described in subparagraph (A).

"(f) CREDIT TREATED AS INTEREST.—For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

"(g) S CORPORATIONS AND PARTNERSHIPS.—In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.

"(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If any qualified tax credit bond is held by a regulated investment company or a real estate investment trust, the credit determined under subsection (a) shall be allowed to shareholders of such company or beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be treated as distributed to such shareholders or beneficiaries) under procedures prescribed by the Secretary.

"(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary— Regulations.

"(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified tax credit bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tax credit bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

**"SEC. 54B. QUALIFIED FORESTRY CONSERVATION BONDS.**

"(a) QUALIFIED FORESTRY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified forestry conservation bond' means any bond issued as part of an issue if—

"(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified forestry conservation purposes,

"(2) the bond is issued by a qualified issuer, and

"(3) the issuer designates such bond for purposes of this section.

"(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (d).

"(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified forestry conservation bond limitation of $500,000,000.

"(d) ALLOCATIONS.—

"(1) IN GENERAL.—The Secretary shall make allocations of the amount of the national qualified forestry conservation bond limitation described in subsection (c) among qualified forestry conservation purposes in such manner as the Secretary determines appropriate so as to ensure that all of such limitation is allocated before the date which is 24 months after the date of the enactment of this section.

"(2) SOLICITATION OF APPLICATIONS.—The Secretary shall solicit applications for allocations of the national qualified forestry conservation bond limitation described in subsection (c) Deadline.

not later than 90 days after the date of the enactment of this section.

"(e) QUALIFIED FORESTRY CONSERVATION PURPOSE.—For purposes of this section, the term 'qualified forestry conservation purpose' means the acquisition by a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)) from an unrelated person of forest and forest land that meets the following qualifications:

"(1) Some portion of the land acquired must be adjacent to United States Forest Service Land.

"(2) At least half of the land acquired must be transferred to the United States Forest Service at no net cost to the United States and not more than half of the land acquired may either remain with or be conveyed to a State.

"(3) All of the land must be subject to a native fish habitat conservation plan approved by the United States Fish and Wildlife Service.

"(4) The amount of acreage acquired must be at least 40,000 acres.

"(f) QUALIFIED ISSUER.—For purposes of this section, the term 'qualified issuer' means a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)).

"(g) SPECIAL ARBITRAGE RULE.—In the case of any qualified forestry conservation bond issued as part of an issue, section 54A(d)(4)(C) shall be applied to such issue without regard to clause (i).

"(h) ELECTION TO TREAT 50 PERCENT OF BOND ALLOCATION AS PAYMENT OF TAX.—

"(1) IN GENERAL.—If—

"(A) a qualified issuer receives an allocation of any portion of the national qualified forestry conservation bond limitation described in subsection (c), and

"(B) the qualified issuer elects the application of this subsection with respect to such allocation,

then the qualified issuer (without regard to whether the issuer is subject to tax under this chapter) shall be treated as having made a payment against the tax imposed by this chapter, for the taxable year preceding the taxable year in which the allocation is received, in an amount equal to 50 percent of the amount of such allocation.

"(2) TREATMENT OF DEEMED PAYMENT.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall not use the payment of tax described in paragraph (1) as an offset or credit against any tax liability of the qualified issuer but shall refund such payment to such issuer.

"(B) NO INTEREST.—Except as provided in paragraph (3)(A), the payment described in paragraph (1) shall not be taken into account in determining any amount of interest under this title.

"(3) REQUIREMENT FOR, AND EFFECT OF, ELECTION.—

"(A) REQUIREMENT.—No election under this subsection shall take effect unless the qualified issuer certifies to the Secretary that any payment of tax refunded to the issuer under this subsection will be used exclusively for 1 or more qualified forestry conservation purposes. If the

qualified issuer fails to use any portion of such payment for such purpose, the issuer shall be liable to the United States in an amount equal to such portion, plus interest at the overpayment rate under section 6621 for the period from the date such portion was refunded to the date such amount is paid. Any such amount shall be assessed and collected in the same manner as tax imposed by this chapter, except that subchapter B of chapter 63 (relating to deficiency procedures) shall not apply in respect of such assessment or collection.

"(B) EFFECT OF ELECTION ON ALLOCATION.—If a qualified issuer makes the election under this subsection with respect to any allocation—

"(i) the issuer may issue no bonds pursuant to the allocation, and

"(ii) the Secretary may not reallocate such allocation for any other purpose.".

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph: 26 USC 6049.

"(9) REPORTING OF CREDIT ON QUALIFIED TAX CREDIT BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(e)(1)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(c) CONFORMING AMENDMENTS.—

(1) Sections 54(c)(2) and 1400N(l)(3)(B) are each amended by striking "subpart C" and inserting "subparts C and I".

(2) Section 1397E(c)(2) is amended by striking "subpart H" and inserting "subparts H and I".

(3) Section 6401(b)(1) is amended by striking "and H" and inserting "H, and I".

(4) The heading of subpart H of part IV of subchapter A of chapter 1 is amended by striking "**Certain Bonds**" and inserting "**Clean Renewable Energy Bonds**".

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart H and inserting the following new items:

"SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

"SUBPART I. QUALIFIED TAX CREDIT BONDS.".

(6) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by striking "or 6428 or 53(e)" and inserting ", 53(e), 54B(h), or 6428".

26 USC 54 note.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

# PART II—ENERGY PROVISIONS

## Subpart A—Cellulosic Biofuel

### SEC. 15321. CREDIT FOR PRODUCTION OF CELLULOSIC BIOFUEL.

26 USC 40.

(a) IN GENERAL.—Subsection (a) of section 40 (relating to alcohol used as fuel) is amended by striking "plus" at the end of paragraph (1), by striking "plus" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", plus", and by adding at the end the following new paragraph:

"(4) the cellulosic biofuel producer credit.".

(b) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 40 is amended by adding at the end the following new paragraph:

"(6) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

"(A) IN GENERAL.—The cellulosic biofuel producer credit of any taxpayer is an amount equal to the applicable amount for each gallon of qualified cellulosic biofuel production.

"(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount means $1.01, except that such amount shall, in the case of cellulosic biofuel which is alcohol, be reduced by the sum of—

"(i) the amount of the credit in effect for such alcohol under subsection (b)(1) (without regard to subsection (b)(3)) at the time of the qualified cellulosic biofuel production, plus

"(ii) in the case of ethanol, the amount of the credit in effect under subsection (b)(4) at the time of such production.

"(C) QUALIFIED CELLULOSIC BIOFUEL PRODUCTION.—For purposes of this section, the term 'qualified cellulosic biofuel production' means any cellulosic biofuel which is produced by the taxpayer, and which during the taxable year—

"(i) is sold by the taxpayer to another person—

"(I) for use by such other person in the production of a qualified cellulosic biofuel mixture in such other person's trade or business (other than casual off-farm production),

"(II) for use by such other person as a fuel in a trade or business, or

"(III) who sells such cellulosic biofuel at retail to another person and places such cellulosic biofuel in the fuel tank of such other person, or

"(ii) is used or sold by the taxpayer for any purpose described in clause (i).

The qualified cellulosic biofuel production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.

"(D) QUALIFIED CELLULOSIC BIOFUEL MIXTURE.—For purposes of this paragraph, the term 'qualified cellulosic

biofuel mixture' means a mixture of cellulosic biofuel and gasoline or of cellulosic biofuel and a special fuel which—

"(i) is sold by the person producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the person producing such mixture.

"(E) CELLULOSIC BIOFUEL.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'cellulosic biofuel' means any liquid fuel which—

"(I) is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and

"(II) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

"(ii) EXCLUSION OF LOW-PROOF ALCOHOL.—Such term shall not include any alcohol with a proof of less than 150. The determination of the proof of any alcohol shall be made without regard to any added denaturants.

"(F) ALLOCATION OF CELLULOSIC BIOFUEL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—Rules similar to the rules under subsection (g)(6) shall apply for purposes of this paragraph. Applicability.

"(G) REGISTRATION REQUIREMENT.—No credit shall be determined under this paragraph with respect to any taxpayer unless such taxpayer is registered with the Secretary as a producer of cellulosic biofuel under section 4101.

"(H) APPLICATION OF PARAGRAPH.—This paragraph shall apply with respect to qualified cellulosic biofuel production after December 31, 2008, and before January 1, 2013.". Time period.

(2) TERMINATION DATE NOT TO APPLY.—Subsection (e) of section 40 (relating to termination) is amended—

(A) by inserting "or subsection (b)(6)(H)" after "by reason of paragraph (1)" in paragraph (2), and

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

"(3) EXCEPTION FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.—Paragraph (1) shall not apply to the portion of the credit allowed under this section by reason of subsection (a)(4).".

(3) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4101(a) is amended— 26 USC 4101.

(i) by striking "and every person" and inserting ", every person", and

(ii) by inserting ", and every person producing cellulosic biofuel (as defined in section 40(b)(6)(E))" after "section 6426(b)(4)(A))".

(B) The heading of section 40, and the item relating to such section in the table of sections for subpart D of part IV of subchapter A of chapter 1, are each amended by inserting ", etc.," after "Alcohol".

(c) BIOFUEL NOT USED AS A FUEL, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 40(d) is amended by redesignating subparagraph (D) as subparagraph (E) and

by inserting after subparagraph (C) the following new subparagraph:

"(D) CELLULOSIC BIOFUEL PRODUCER CREDIT.—If—

"(i) any credit is allowed under subsection (a)(4), and

"(ii) any person does not use such fuel for a purpose described in subsection (b)(6)(C),

then there is hereby imposed on such person a tax equal to the applicable amount (as defined in subsection (b)(6)(B)) for each gallon of such cellulosic biofuel.".

(2) CONFORMING AMENDMENTS.—

26 USC 40.

(A) Subparagraph (C) of section 40(d)(3) is amended by striking "PRODUCER" in the heading and inserting "SMALL ETHANOL PRODUCER".

(B) Subparagraph (E) of section 40(d)(3), as redesignated by paragraph (1), is amended by striking "or (C)" and inserting "(C), or (D)".

(d) BIOFUEL PRODUCED IN THE UNITED STATES.—Section 40(d) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULE FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.—No cellulosic biofuel producer credit shall be determined under subsection (a) with respect to any cellulosic biofuel unless such cellulosic biofuel is produced in the United States and used as a fuel in the United States. For purposes of this subsection, the term 'United States' includes any possession of the United States.".

(e) WAIVER OF CREDIT LIMIT FOR CELLULOSIC BIOFUEL PRODUCTION BY SMALL ETHANOL PRODUCERS.—Section 40(b)(4)(C) is amended by inserting "(determined without regard to any qualified cellulosic biofuel production)" after "15,000,000 gallons".

(f) DENIAL OF DOUBLE BENEFIT.—

(1) BIODIESEL.—Paragraph (1) of section 40A(d) is amended by adding at the end the following new flush sentence:

"Such term shall not include any liquid with respect to which a credit may be determined under section 40.".

(2) RENEWABLE DIESEL.—Paragraph (3) of section 40A(f) is amended by adding at the end the following new flush sentence:

"Such term shall not include any liquid with respect to which a credit may be determined under section 40.".

26 USC 40 note.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced after December 31, 2008.

**SEC. 15322. COMPREHENSIVE STUDY OF BIOFUELS.**

Contracts.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Agriculture, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, shall enter into an agreement with the National Academy of Sciences to produce an analysis of current scientific findings to determine—

(1) current biofuels production, as well as projections for future production,

(2) the maximum amount of biofuels production capable in United States forests and farmlands, including the current quantities and character of the feedstocks and including such information as regional forest inventories that are commercially available, used in the production of biofuels,

(3) the domestic effects of an increase in biofuels production levels, including the effects of such levels on—

(A) the price of fuel,

(B) the price of land in rural and suburban communities,

(C) crop acreage, forest acreage, and other land use,

(D) the environment, due to changes in crop acreage, fertilizer use, runoff, water use, emissions from vehicles utilizing biofuels, and other factors,

(E) the price of feed,

(F) the selling price of grain crops and forest products,

(G) exports and imports of grains and forest products,

(H) taxpayers, through cost or savings to commodity crop payments, and

(I) the expansion of refinery capacity,

(4) the ability to convert corn ethanol plants for other uses, such as cellulosic ethanol or biodiesel,

(5) a comparative analysis of corn ethanol versus other biofuels and renewable energy sources, considering cost, energy output, and ease of implementation,

(6) the impact of the tax credit established by this subpart on the regional agricultural and silvicultural capabilities of commercially available forest inventories, and

(7) the need for additional scientific inquiry, and specific areas of interest for future research.

(b) REPORT.—The Secretary of the Treasury shall submit an initial report of the findings of the study required under subsection (a) to Congress not later than 6 months after the date of the enactment of this Act (36 months after such date in the case of the information required by subsection (a)(6)), and a final report not later than 12 months after such date (42 months after such date in the case of the information required by subsection (a)(6)).

## Subpart B—Revenue Provisions

**SEC. 15331. MODIFICATION OF ALCOHOL CREDIT.**

(a) INCOME TAX CREDIT.—

(1) IN GENERAL.—The table in paragraph (2) of section 40(h) is amended—

(A) by striking "through 2010" in the first column and inserting ", 2006, 2007, or 2008",

(B) by striking the period at the end of the third row, and

(C) by adding at the end the following new row:

"2009 through 2010 45 cents ..... 33.33 cents.".

(2) EXCEPTION.—Section 40(h) is amended by adding at the end the following new paragraph: 26 USC 40.

"(3) REDUCTION DELAYED UNTIL ANNUAL PRODUCTION OR IMPORTATION OF 7,500,000,000 GALLONS.—

"(A) IN GENERAL.—In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in subparagraph (B) with respect to all preceding calendar years beginning after 2007, the last row in the table in paragraph (2) shall be applied by substituting '51 cents' for '45 cents'. Applicability.

"(B) DETERMINATION.—A determination described in this subparagraph with respect to any calendar year is a determination, in consultation with the Administrator of the Environmental Protection Agency, that an amount less than 7,500,000,000 gallons of ethanol (including cellulosic ethanol) has been produced in or imported into the United States in such year.".

(b) EXCISE TAX CREDIT.—

26 USC 6426.

(1) IN GENERAL.—Subparagraph (A) of section 6426(b)(2) (relating to alcohol fuel mixture credit) is amended by striking "the applicable amount is 51 cents" and inserting "the applicable amount is—

"(i) in the case of calendar years beginning before 2009, 51 cents, and

"(ii) in the case of calendar years beginning after 2008, 45 cents.".

(2) EXCEPTION.—Paragraph (2) of section 6426(b) is amended by adding at the end the following new subparagraph:

Applicability.

"(C) REDUCTION DELAYED UNTIL ANNUAL PRODUCTION OR IMPORTATION OF 7,500,000,000 GALLONS.—In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in section 40(h)(3)(B) with respect to all preceding calendar years beginning after 2007, subparagraph (A)(ii) shall be applied by substituting '51 cents' for '45 cents'."

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 6426(b)(2) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

26 USC 40 note.

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

**SEC. 15332. CALCULATION OF VOLUME OF ALCOHOL FOR FUEL CREDITS.**

(a) IN GENERAL.—Paragraph (4) of section 40(d) (relating to volume of alcohol) is amended by striking "5 percent" and inserting "2 percent".

(b) CONFORMING AMENDMENT FOR EXCISE TAX CREDIT.—Section 6426(b) (relating to alcohol fuel mixture credit) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 2 percent of the volume of such alcohol (including denaturants).".

26 USC 40 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2008.

**SEC. 15333. ETHANOL TARIFF EXTENSION.**

Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States are each amended in the effective period column by striking "1/1/2009" and inserting "1/1/2011".

**SEC. 15334. LIMITATIONS ON DUTY DRAWBACK ON CERTAIN IMPORTED ETHANOL.**

(a) IN GENERAL.—Section 313(p) of the Tariff Act of 1930 (19 U.S.C. 1313(p)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES FOR ETHYL ALCOHOL.—For purposes of this subsection, any duty paid under subheading 9901.00.50 of the Harmonized Tariff Schedule of the United States on imports of ethyl alcohol or a mixture of ethyl alcohol may not be refunded if the exported article upon which a drawback claim is based does not contain ethyl alcohol or a mixture of ethyl alcohol.".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to— Applicability. 19 USC 1313 note.

(1) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, on or after October 1, 2008; and

(2) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, before October 1, 2008, if a duty drawback claim is filed with respect to such imports on or after October 1, 2010.

## PART III—AGRICULTURAL PROVISIONS

**SEC. 15341. INCREASE IN LOAN LIMITS ON AGRICULTURAL BONDS.**

(a) IN GENERAL.—Subparagraph (A) of section 147(c)(2) (relating to exception for first-time farmers) is amended by striking "$250,000" and inserting "$450,000". 26 USC 147.

(b) INFLATION ADJUSTMENT.—Section 147(c)(2) is amended by adding at the end the following new subparagraph:

"(H) ADJUSTMENTS FOR INFLATION.—In the case of any calendar year after 2008, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.".

(c) MODIFICATION OF SUBSTANTIAL FARMLAND DEFINITION.—Section 147(c)(2)(E) (defining substantial farmland) is amended by striking "unless" and all that follows through the period and inserting "unless such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located.".

(d) CONFORMING AMENDMENT.—Section 147(c)(2)(C)(i)(II) is amended by striking "$250,000" and inserting "the amount in effect under subparagraph (A)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act. 26 USC 147 note.

**SEC. 15342. ALLOWANCE OF SECTION 1031 TREATMENT FOR EXCHANGES INVOLVING CERTAIN MUTUAL DITCH, RESERVOIR, OR IRRIGATION COMPANY STOCK.**

26 USC 1031.

(a) IN GENERAL.—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR MUTUAL DITCH, RESERVOIR, OR IRRIGATION COMPANY STOCK.—For purposes of subsection (a)(2)(B), the term 'stocks' shall not include shares in a mutual ditch, reservoir, or irrigation company if at the time of the exchange—

"(1) the mutual ditch, reservoir, or irrigation company is an organization described in section 501(c)(12)(A) (determined without regard to the percentage of its income that is collected from its members for the purpose of meeting losses and expenses), and

"(2) the shares in such company have been recognized by the highest court of the State in which such company was organized or by applicable State statute as constituting or representing real property or an interest in real property.".

26 USC 1031 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to exchanges completed after the date of the enactment of this Act.

**SEC. 15343. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

**"SEC. 45O. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible agricultural business, the agricultural chemicals security credit determined under this section for the taxable year is 30 percent of the qualified security expenditures for the taxable year.

"(b) FACILITY LIMITATION.—The amount of the credit determined under subsection (a) with respect to any facility for any taxable year shall not exceed—

"(1) $100,000, reduced by

"(2) the aggregate amount of credits determined under subsection (a) with respect to such facility for the 5 prior taxable years.

"(c) ANNUAL LIMITATION.—The amount of the credit determined under subsection (a) with respect to any taxpayer for any taxable year shall not exceed $2,000,000.

"(d) QUALIFIED CHEMICAL SECURITY EXPENDITURE.—For purposes of this section, the term 'qualified chemical security expenditure' means, with respect to any eligible agricultural business for any taxable year, any amount paid or incurred by such business during such taxable year for—

"(1) employee security training and background checks,

"(2) limitation and prevention of access to controls of specified agricultural chemicals stored at the facility,

"(3) tagging, locking tank valves, and chemical additives to prevent the theft of specified agricultural chemicals or to render such chemicals unfit for illegal use,

"(4) protection of the perimeter of specified agricultural chemicals,

"(5) installation of security lighting, cameras, recording equipment, and intrusion detection sensors,

"(6) implementation of measures to increase computer or computer network security,

"(7) conducting a security vulnerability assessment,

"(8) implementing a site security plan, and

"(9) such other measures for the protection of specified agricultural chemicals as the Secretary may identify in regulation.

Amounts described in the preceding sentence shall be taken into account only to the extent that such amounts are paid or incurred for the purpose of protecting specified agricultural chemicals.

"(e) ELIGIBLE AGRICULTURAL BUSINESS.—For purposes of this section, the term 'eligible agricultural business' means any person in the trade or business of—

"(1) selling agricultural products, including specified agricultural chemicals, at retail predominantly to farmers and ranchers, or

"(2) manufacturing, formulating, distributing, or aerially applying specified agricultural chemicals.

"(f) SPECIFIED AGRICULTURAL CHEMICAL.—For purposes of this section, the term 'specified agricultural chemical' means—

"(1) any fertilizer commonly used in agricultural operations which is listed under—

"(A) section 302(a)(2) of the Emergency Planning and Community Right-to-Know Act of 1986,

"(B) section 101 of part 172 of title 49, Code of Federal Regulations, or

"(C) part 126, 127, or 154 of title 33, Code of Federal Regulations, and

"(2) any pesticide (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act), including all active and inert ingredients thereof, which is customarily used on crops grown for food, feed, or fiber.

"(g) CONTROLLED GROUPS.—Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for purposes of this section. Applicability.

"(h) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations which—

"(1) provide for the proper treatment of amounts which are paid or incurred for purpose of protecting any specified agricultural chemical and for other purposes, and

"(2) provide for the treatment of related properties as one facility for purposes of subsection (b).

"(i) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 2012.".

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking "plus" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", plus", and by adding at the end the following new paragraph: 26 USC 38.

"(32) in the case of an eligible agricultural business (as defined in section 45O(e)), the agricultural chemicals security credit determined under section 45O(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection: 26 USC 280C.

"(f) CREDIT FOR SECURITY OF AGRICULTURAL CHEMICALS.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction taken into account in determining the credit under section 45O for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45O(a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45O. Agricultural chemicals security credit.".

26 USC 38 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

**SEC. 15344. 3-YEAR DEPRECIATION FOR RACE HORSES THAT ARE 2-YEARS OLD OR YOUNGER.**

26 USC 168.

(a) IN GENERAL.—Clause (i) of section 168(e)(3)(A) (relating to 3-year property) is amended to read as follows:

"(i) any race horse—

"(I) which is placed in service before January 1, 2014, and

"(II) which is placed in service after December 31, 2013, and which is more than 2 years old at the time such horse is placed in service by such purchaser,".

26 USC 168 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2008.

**SEC. 15345. TEMPORARY TAX RELIEF FOR KIOWA COUNTY, KANSAS AND SURROUNDING AREA.**

Applicability.

(a) IN GENERAL.—Subject to the modifications described in this section, the following provisions of or relating to the Internal Revenue Code of 1986 shall apply to the Kansas disaster area in addition to the areas to which such provisions otherwise apply:

(1) Section 1400N(d) of such Code (relating to special allowance for certain property).

(2) Section 1400N(e) of such Code (relating to increase in expensing under section 179).

(3) Section 1400N(f) of such Code (relating to expensing for certain demolition and clean-up costs).

(4) Section 1400N(k) of such Code (relating to treatment of net operating losses attributable to storm losses).

(5) Section 1400N(n) of such Code (relating to treatment of representations regarding income eligibility for purposes of qualified rental project requirements).

(6) Section 1400N(o) of such Code (relating to treatment of public utility property disaster losses).

(7) Section 1400Q of such Code (relating to special rules for use of retirement funds).

(8) Section 1400R(a) of such Code (relating to employee retention credit for employers).

(9) Section 1400S(b) of such Code (relating to suspension of certain limitations on personal casualty losses).

(10) Section 405 of the Katrina Emergency Tax Relief Act of 2005 (relating to extension of replacement period for non-recognition of gain).

(b) KANSAS DISASTER AREA.—For purposes of this section, the term "Kansas disaster area" means an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA–1699–DR, as in effect on the date of the enactment of this Act) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to such storms and tornados.

(c) REFERENCES TO AREA OR LOSS.—

(1) AREA.—Any reference in such provisions to the Katrina disaster area or the Gulf Opportunity Zone shall be treated as a reference to the Kansas disaster area.

(2) LOSS.—Any reference in such provisions to any loss or damage attributable to Hurricane Katrina shall be treated as a reference to any loss or damage attributable to the May 4, 2007, storms and tornados.

(d) REFERENCES TO DATES, ETC.—

(1) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER MAY 5, 2007.—Section 1400N(d) of such Code— 26 USC 1400N.

(A) by substituting "qualified Recovery Assistance property" for "qualified Gulf Opportunity Zone property" each place it appears,

(B) by substituting "May 5, 2007" for "August 28, 2005" each place it appears,

(C) by substituting "December 31, 2008" for "December 31, 2007" in paragraph (2)(A)(v),

(D) by substituting "December 31, 2009" for "December 31, 2008" in paragraph (2)(A)(v),

(E) by substituting "May 4, 2007" for "August 27, 2005" in paragraph (3)(A),

(F) by substituting "January 1, 2009" for "January 1, 2008" in paragraph (3)(B), and

(G) determined without regard to paragraph (6) thereof.

(2) INCREASE IN EXPENSING UNDER SECTION 179.—Section 1400N(e) of such Code, by substituting "qualified section 179 Recovery Assistance property" for "qualified section 179 Gulf Opportunity Zone property" each place it appears.

(3) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f) of such Code—

(A) by substituting "qualified Recovery Assistance clean-up cost" for "qualified Gulf Opportunity Zone clean-up cost" each place it appears, and

(B) by substituting "beginning on May 4, 2007, and ending on December 31, 2009" for "beginning on August 28, 2005, and ending on December 31, 2007" in paragraph (2) thereof.

(4) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO STORM LOSSES.—Section 1400N(k) of such Code—

(A) by substituting "qualified Recovery Assistance loss" for "qualified Gulf Opportunity Zone loss" each place it appears,

(B) by substituting "after May 3, 2007, and before on January 1, 2010" for "after August 27, 2005, and before January 1, 2008" each place it appears,

(C) by substituting "May 4, 2007" for "August 28, 2005" in paragraph (2)(B)(ii)(I) thereof,

(D) by substituting "qualified Recovery Assistance property" for "qualified Gulf Opportunity Zone property" in paragraph (2)(B)(iv) thereof, and

(E) by substituting "qualified Recovery Assistance casualty loss" for "qualified Gulf Opportunity Zone casualty loss" each place it appears.

(5) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q of such Code— 26 USC 1400Q.

(A) by substituting "qualified Recovery Assistance distribution" for "qualified hurricane distribution" each place it appears,

(B) by substituting "on or after May 4, 2007, and before January 1, 2009" for "on or after August 25, 2005, and before January 1, 2007" in subsection (a)(4)(A)(i),

(C) by substituting "May 4, 2007" for "August 28, 2005" in subsections (a)(4)(A)(i) and (c)(3)(B),

(D) disregarding clauses (ii) and (iii) of subsection (a)(4)(A),

(E) by substituting "qualified storm distribution" for "qualified Katrina distribution" each place it appears,

(F) by substituting "after November 4, 2006, and before May 5, 2007" for "after February 28, 2005, and before August 29, 2005" in subsection (b)(2)(B)(ii),

(G) by substituting "the Kansas disaster area (as defined in section 15345(b) of the Food, Conservation, and Energy Act of 2008) but which was not so purchased or constructed on account of the May 4, 2007, storms and tornados" for "the Hurricane Katrina disaster area, but not so purchased or constructed on account of Hurricane Katrina" in subsection (b)(2)(B)(iii),

(H) by substituting "beginning on May 4, 2007, and ending on the date which is 5 months after the date of the enactment of the Heartland, Habitat, Harvest, and Horticulture Act of 2008" for "beginning on August 25, 2005, and ending on February 28, 2006" in subsection (b)(3)(A),

(I) by substituting "qualified storm individual" for "qualified Hurricane Katrina individual" each place it appears,

(J) by substituting "December 31, 2008" for "December 31, 2006" in subsection (c)(2)(A),

(K) by substituting "beginning on the date of the enactment of the Food, Conservation, and Energy Act of 2008 and ending on December 31, 2008" for "beginning on September 24, 2005, and ending on December 31, 2006" in subsection (c)(4)(A)(i),

(L) by substituting "May 4, 2007" for "August 25, 2005" in subsection (c)(4)(A)(ii), and

(M) by substituting "January 1, 2009" for "January 1, 2007" in subsection (d)(2)(A)(ii).

(6) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY MAY 4 STORMS AND TORNADOS.—Section 1400R(a) of the Internal Revenue Code of 1986—

(A) by substituting "May 4, 2007" for "August 28, 2005" each place it appears,

(B) by substituting "January 1, 2008" for "January 1, 2006" both places it appears, and

(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before May 4, 2007.

(7) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1) of the Internal Revenue Code of 1986, by substituting "May 4, 2007" for "August 25, 2005". 26 USC 1400.

(8) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Section 405 of the Katrina Emergency Tax Relief Act of 2005, by substituting "on or after May 4, 2007" for "on or after August 25, 2005". 119 Stat. 2028.

**SEC. 15346. COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.**

(a) IN GENERAL.—Section 48A (relating to qualifying advanced coal project credit) is amended by adding at the end the following new subsection:

"(h) COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.—In implementing this section or section 48B, the Secretary is directed to modify the terms of any competitive certification award and any associated closing agreement where such modification—

"(1) is consistent with the objectives of such section,

"(2) is requested by the recipient of the competitive certification award, and

"(3) involves moving the project site to improve the potential to capture and sequester carbon dioxide emissions, reduce costs of transporting feedstock, and serve a broader customer base,

unless the Secretary determines that the dollar amount of tax credits available to the taxpayer under such section would increase as a result of the modification or such modification would result in such project not being originally certified. In considering any such modification, the Secretary shall consult with other relevant Federal agencies, including the Department of Energy.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and is applicable to all competitive certification awards entered into under section 48A or 48B of the Internal Revenue Code of 1986, whether such awards were issued before, on, or after such date of enactment. Applicability. 26 USC 48A note.

## PART IV—OTHER REVENUE PROVISIONS

**SEC. 15351. LIMITATION ON EXCESS FARM LOSSES OF CERTAIN TAXPAYERS.**

(a) IN GENERAL.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end the following new subsection:

"(j) LIMITATION ON EXCESS FARM LOSSES OF CERTAIN TAXPAYERS.—

"(1) LIMITATION.—If a taxpayer other than a C corporation receives any applicable subsidy for any taxable year, any excess farm loss of the taxpayer for the taxable year shall not be allowed.

"(2) DISALLOWED LOSS CARRIED TO NEXT TAXABLE YEAR.—Any loss which is disallowed under paragraph (1) shall be treated as a deduction of the taxpayer attributable to farming businesses in the next taxable year.

"(3) APPLICABLE SUBSIDY.—For purposes of this subsection, the term 'applicable subsidy' means—

"(A) any direct or counter-cyclical payment under title I of the Food, Conservation, and Energy Act of 2008, or any payment elected to be received in lieu of any such payment, or

"(B) any Commodity Credit Corporation loan.

"(4) EXCESS FARM LOSS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'excess farm loss' means the excess of—

"(i) the aggregate deductions of the taxpayer for the taxable year which are attributable to farming businesses of such taxpayer (determined without regard to whether or not such deductions are disallowed for such taxable year under paragraph (1)), over

"(ii) the sum of—

"(I) the aggregate gross income or gain of such taxpayer for the taxable year which is attributable to such farming businesses, plus

"(II) the threshold amount for the taxable year.

"(B) THRESHOLD AMOUNT.—

"(i) IN GENERAL.—The term 'threshold amount' means, with respect to any taxable year, the greater of—

"(I) $300,000 ($150,000 in the case of married individuals filing separately), or

"(II) the excess (if any) of the aggregate amounts described in subparagraph (A)(ii)(I) for the 5-consecutive taxable year period preceding the taxable year over the aggregate amounts described in subparagraph (A)(i) for such period.

"(ii) SPECIAL RULES FOR DETERMINING AGGREGATE AMOUNTS.—For purposes of clause (i)(II)—

"(I) notwithstanding the disregard in subparagraph (A)(i) of any disallowance under paragraph (1), in the case of any loss which is carried forward under paragraph (2) from any taxable year, such loss (or any portion thereof) shall be taken into account for the first taxable year in which a deduction for such loss (or portion) is not disallowed by reason of this subsection, and

"(II) the Secretary shall prescribe rules for the computation of the aggregate amounts described in such clause in cases where the filing status of the taxpayer is not the same for the taxable year and each of the taxable years in the period described in such clause.

"(C) FARMING BUSINESS.—

"(i) IN GENERAL.—The term 'farming business' has the meaning given such term in section 263A(e)(4).

"(ii) CERTAIN TRADES AND BUSINESSES INCLUDED.—If, without regard to this clause, a taxpayer is engaged

in a farming business with respect to any agricultural or horticultural commodity—

"(I) the term 'farming business' shall include any trade or business of the taxpayer of the processing of such commodity (without regard to whether the processing is incidental to the growing, raising, or harvesting of such commodity), and

"(II) if the taxpayer is a member of a cooperative to which subchapter T applies, any trade or business of the cooperative described in subclause (I) shall be treated as the trade or business of the taxpayer.

"(D) CERTAIN LOSSES DISREGARDED.—For purposes of subparagraph (A)(i), there shall not be taken into account any deduction for any loss arising by reason of fire, storm, or other casualty, or by reason of disease or drought, involving any farming business.

"(5) APPLICATION OF SUBSECTION IN CASE OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation—

"(A) this subsection shall be applied at the partner or shareholder level, and

"(B) each partner's or shareholder's proportionate share of the items of income, gain, or deduction of the partnership or S corporation for any taxable year from farming businesses attributable to the partnership or S corporation, and of any applicable subsidies received by the partnership or S corporation during the taxable year, shall be taken into account by the partner or shareholder in applying this subsection to the taxable year of such partner or shareholder with or within which the taxable year of the partnership or S corporation ends.

The Secretary may provide rules for the application of this paragraph to any other pass-thru entity to the extent necessary to carry out the provisions of this subsection.

"(6) ADDITIONAL REPORTING.—The Secretary may prescribe such additional reporting requirements as the Secretary determines appropriate to carry out the purposes of this subsection.

"(7) COORDINATION WITH SECTION 469.—This subsection shall be applied before the application of section 469.". Applicability.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009. 26 USC 461 note.

**SEC. 15352. MODIFICATION TO OPTIONAL METHOD OF COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.**

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—The matter following paragraph (17) of section 1402(a) is amended— 26 USC 1402.

(A) by striking "$2,400" each place it appears and inserting "the upper limit", and

(B) by striking "$1,600" each place it appears and inserting "the lower limit".

(2) DEFINITIONS.—Section 1402 is amended by adding at the end the following new subsection:

"(l) UPPER AND LOWER LIMITS.—For purposes of subsection (a)—

"(1) LOWER LIMIT.—The lower limit for any taxable year is the sum of the amounts required under section 213(d) of the Social Security Act for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

"(2) UPPER LIMIT.—The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) IN GENERAL.—The matter following paragraph (16) of section 211(a) of the Social Security Act is amended— 42 USC 411.

(A) by striking "$2,400" each place it appears and inserting "the upper limit", and

(B) by striking "$1,600" each place it appears and inserting "the lower limit".

(2) DEFINITIONS.—Section 211 of such Act is amended by adding at the end the following new subsection:

"(k) UPPER AND LOWER LIMITS.—For purposes of subsection (a)—

"(1) The lower limit for any taxable year is the sum of the amounts required under section 213(d) for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

"(2) The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.".

42 USC 412. (3) CONFORMING AMENDMENT.—Section 212 of such Act is amended—

(A) in subsection (b), by striking "For" and inserting "Except as provided in subsection (c), for"; and

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

"(c) For the purpose of determining average indexed monthly earnings, average monthly wage, and quarters of coverage in the case of any individual who elects the option described in clause (ii) or (iv) in the matter following section 211(a)(16) for any taxable year that does not begin with or during a particular calendar year and end with or during such year, the self-employment income of such individual deemed to be derived during such taxable year shall be allocated to the two calendar years, portions of which are included within such taxable year, in the same proportion to the total of such deemed self-employment income as the sum of the amounts applicable under section 213(d) for the calendar quarters ending with or within each such calendar year bears to the lower limit for such taxable year specified in section 211(k)(1).".

26 USC 1402 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 15353. INFORMATION REPORTING FOR COMMODITY CREDIT CORPORATION TRANSACTIONS.**

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039I the following new section:

**"SEC. 6039J. INFORMATION REPORTING WITH RESPECT TO COMMODITY CREDIT CORPORATION TRANSACTIONS.**

Regulations. "(a) REQUIREMENT OF REPORTING.—The Commodity Credit Corporation, through the Secretary of Agriculture, shall make a return,

according to the forms and regulations prescribed by the Secretary of the Treasury, setting forth any market gain realized by a taxpayer during the taxable year in relation to the repayment of a loan issued by the Commodity Credit Corporation, without regard to the manner in which such loan was repaid.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—The Secretary of Agriculture shall furnish to each person whose name is required to be set forth in a return required under subsection (a) a written statement showing the amount of market gain reported in such return.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039I the following new item:

"Sec. 6039J. Information reporting with respect to Commodity Credit Corporation transactions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans repaid on or after January 1, 2007. 26 USC 6039J note.

## PART V—PROTECTION OF SOCIAL SECURITY

**SEC. 15361. PROTECTION OF SOCIAL SECURITY.** 42 USC 401 note.

To ensure that the assets of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401) are not reduced as a result of the enactment of this Act, the Secretary of the Treasury shall transfer annually from the general revenues of the Federal Government to those trust funds the following amounts:

(1) For fiscal year 2009, $5,000,000.
(2) For fiscal year 2010, $9,000,000.
(3) For fiscal year 2011, $8,000,000.
(4) For fiscal year 2012, $7,000,000.
(5) For fiscal year 2013, $8,000,000.
(6) For fiscal year 2014, $8,000,000.
(7) For fiscal year 2015, $8,000,000.
(8) For fiscal year 2016, $6,000,000.
(9) For fiscal year 2017, $7,000,000.

# Subtitle D—Trade Provisions

## PART I—EXTENSION OF CERTAIN TRADE BENEFITS

Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008. 19 USC 2701 note.

**SEC. 15401. SHORT TITLE.**

This part may be cited as the "Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008" or the "HOPE II Act".

**SEC. 15402. BENEFITS FOR APPAREL AND OTHER TEXTILE ARTICLES.**

(a) VALUE-ADDED RULE.—Section 213A(b) of the Carribean Basin Economic Recovery Act (19 U.S.C. 2703a(b)) is amended as follows:

(1) The subsection heading is amended to read as follows: "APPAREL AND OTHER TEXTILE ARTICLES".

(2) Paragraph (1) is amended to read as follows:

"(1) VALUE-ADDED RULE FOR APPAREL ARTICLES.—

"(A) IN GENERAL.—Apparel articles described in subparagraph (B) of a producer or entity controlling production that are imported directly from Haiti or the Dominican Republic shall enter the United States free of duty during an applicable 1-year period, subject to the limitations set forth in subparagraphs (B) and (C), and subject to subparagraph (D).".

(3) Paragraph (2) is amended—

(A) in subparagraph (A)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i), by striking "subparagraph (C)" and inserting "clause (iii)";

(iii) in clause (ii), by striking "subparagraph (C)" and inserting "clause (iii)";

(iv) in the matter following clause (ii), by striking "subparagraph (E)(I)" and inserting "clause (v)(I)";

(v) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(vi) by redesignating subparagraph (A) as clause (i);

(B) in subparagraph (B)—

(i) by moving such subparagraph 2 ems to the right;

(ii) by striking "subparagraph (A)(i)" each place it appears and inserting "clause (i)(I)";

(iii) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(iv) by redesignating subparagraph (B) as clause (ii);

(C) in subparagraph (C)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in the matter preceding clause (i), by striking "subparagraph (A)" and inserting "clause (i)";

(iii) in clause (ii), by striking "that enters into force" and all that follows through "et seq.)" and inserting "that enters into force thereafter";

(iv) by redesignating clauses (i) through (v) as subclauses (I) through (V), respectively; and

(v) by redesignating subparagraph (C) as clause (iii);

(D) in subparagraph (D)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A)" and inserting "clause (i)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(V) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A)" and inserting "clause (i)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(V) by redesignating clause (ii) as subclause (II);

(iv) in clause (iii)—

(I) by striking "clause (i)(I) or (ii)(I)" each place it appears and inserting "subclause (I)(aa) or (II)(aa)";

(II) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(III) by redesignating clause (iii) as subclause (III);

(v) by amending clause (iv) to read as follows:

"(IV) INCLUSION IN CALCULATION OF OTHER ARTICLES RECEIVING PREFERENTIAL TREATMENT.—Entries of apparel articles that receive preferential treatment under any provision of law other than this subparagraph or are subject to the 'General' column 1 rate of duty under the HTS are not included in the annual aggregation under subclause (I) or (II) unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation."; and

(vi) by redesignating subparagraph (D) as clause (iv);

(E) in subparagraph (E)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) by redesignating subclauses (I) through (III) as items (aa) through (cc), respectively; and

(II) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) by striking "subparagraph (C)" and inserting "clause (iii)"; and

(II) by redesignating clause (ii) as subclause (II); and

(iv) by redesignating subparagraph (E) as clause (v);

(F) in subparagraph (F)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) by striking "The Bureau of Customs and Border Protection" and inserting "U.S. Customs and Border Protection";

(II) by striking "subparagraphs (A) and (D)" and inserting "clauses (i) and (iv)"; and

(III) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in the matter preceding subclause (I)—

(aa) by striking "the Bureau of Customs and Border Protection" and inserting "U.S. Customs and Border Protection";

(bb) by striking "subparagraph (A)" each place it appears and inserting "clause (i)"; and

(cc) by striking "subparagraph (D)" and inserting "clause (iv)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) in the matter following subclause (II), by striking "subparagraph (E)(i)" and inserting "clause (v)(I)";

(V) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(VI) by redesignating clause (ii) as subclause (II);

(iv) in clause (iii)—

(I) in subclause (I)—

(aa) by striking "paragraph (1)" and inserting "subparagraph (A)"; and

(bb) by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)";

(II) in subclause (II), by striking "clause (ii) of this subparagraph" and inserting "subclause (II) of this clause";

(III) in the matter following subclause (II)—

(aa) by striking "the Bureau of Customs and Border Protection" each place it appears and inserting "U.S. Customs and Border Protection"; and

(bb) by striking "subclause (II)" and inserting "item (bb)"; and

(IV) in item (bb)—

(aa) by striking "paragraph (1)" and inserting "subparagraph (A)"; and

(bb) by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)"; and

(V) in the matter following item (bb), by striking "paragraph (1)" and inserting "subparagraph (A)";

(VI) by redesignating items (aa) and (bb) as subitems (AA) and (BB), respectively;

(VII) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(VIII) by redesignating clause (iii) as subclause (III); and

(v) by redesignating subparagraph (F) as clause (vi);

(G) in subparagraph (G)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)";

(II) in subclause (II)—

(aa) in item (dd), by striking "under the Bipartisan Trade Promotion Authority Act of 2002" and inserting "with respect to the United States"; and

(bb) by redesignating items (aa) through (dd) as subitems (AA) through (DD), respectively;

(III) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(IV) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in subclause (I), by striking "clause (i)(I)" and inserting "subclause (I)(aa)";

(II) in subclause (II), by striking "clause (i)(II)" and inserting "subclause (I)(bb)";

(III) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(IV) by redesignating clause (ii) as subclause (II); and

(iv) by redesignating subparagraph (G) as clause (vii); and

(H) by striking "(2) APPAREL ARTICLES DESCRIBED.— " and inserting the following:

"(B) APPAREL ARTICLES DESCRIBED.—".

(4) Paragraph (3) is amended—

(A) by redesignating such paragraph as subparagraph (C) and moving it 2 ems to the right;

(B) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)"; and

(C) in the table—

(i) by striking "1.5 percent" and inserting "1.25 percent";

(ii) by striking "1.75 percent" and inserting "1.25 percent"; and

(iii) by striking "2 percent" and inserting "1.25 percent".

(5) The following is added after subparagraph (C), as redesignated by paragraph (4)(A) of this subsection:

"(D) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATIONS.—Any apparel article that qualifies for preferential treatment under paragraph (2), (3), (4), or (5) or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitations under subparagraph (C).".

(b) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—Section 213A(b) of the Carribean Basin Economic Recovery Act is amended by striking paragraph (4) and inserting the following:

19 USC 2703a.

"(2) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—

"(A) SPECIAL RULE FOR ARTICLES OF CHAPTER 62 OF THE HTS.—

"(i) GENERAL RULE.—Any apparel article classifiable under chapter 62 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii) and (iii), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

Extension.
Effective date.

"(ii) LIMITATION.—The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

"(iii) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (B) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (ii).

"(B) SPECIAL RULE FOR CERTAIN ARTICLES OF CHAPTER 61 OF THE HTS.—

"(i) GENERAL RULE.—Any apparel article classifiable under chapter 61 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii), (iii), and (iv), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(ii) EXCLUSIONS.—The preferential treatment described in clause (i) shall not apply to the following:

"(I) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6109.10.00 of the HTS:

"(aa) All white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the center of the V, and without pockets, trim, or embroidery.

"(bb) All white singlets, without pockets, trim, or embroidery.

"(cc) Other T-shirts, but not including thermal undershirts.

"(II) T-shirts for men or boys that are classifiable under subheading 6109.90.10.

"(III) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6110.20.20 of the HTS:

"(aa) Sweatshirts.

"(bb) Pullovers, other than sweaters, vests, or garments imported as part of playsuits.

"(IV) Sweatshirts for men or boys, of man-made fibers and containing less than 65 percent by weight of man-made fibers, that are classifiable under subheading 6110.30.30 of the HTS.

"(iii) LIMITATION.—The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause. Extension. Effective date.

"(iv) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (A) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (iii).".

(c) SINGLE TRANSFORMATION RULES NOT SUBJECT TO QUANTITATIVE LIMITATIONS.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by striking paragraph (5) and inserting the following: 19 USC 2703a.

"(3) APPAREL AND OTHER ARTICLES SUBJECT TO CERTAIN ASSEMBLY RULES.—

"(A) BRASSIERES.—Any apparel article classifiable under subheading 6212.10 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(B) OTHER APPAREL ARTICLES.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

"(i) Any apparel article that is of a type listed in chapter rule 3, 4, or 5 for chapter 61 of the HTS (as such chapter rules are contained in section A of the Annex to Proclamation 8213 of the President of December 20, 2007) as being excluded from the scope of such chapter rule, when such chapter rule is applied to determine whether an apparel article is an originating good for purposes of general note 29(n) to the HTS, except that, for purposes of this clause, reference

in such chapter rules to '6104.12.00' shall be deemed to be a reference to '6104.19.60'.

"(ii)(I) Subject to subclause (II), any apparel article that is of a type listed in chapter rule 3(a), 4(a), or 5(a) for chapter 62 of the HTS, as such chapter rules are contained in paragraph 9 of section A of the Annex to Proclamation 8213 of the President of December 20, 2007.

"(II) Subclause (I) shall not include any apparel article to which subparagraph (A) of this paragraph applies.

"(C) LUGGAGE AND SIMILAR ITEMS.—Any article classifiable under subheading 4202.12, 4202.22, 4202.32 or 4202.92 of the HTS that is wholly assembled in Haiti and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, components, or materials from which the article is made.

"(D) HEADGEAR.—Any article classifiable under heading 6501, 6502, or 6504 of the HTS, or under subheading 6505.90 of the HTS, that is wholly assembled, knit-to-shape, or formed in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(E) CERTAIN SLEEPWEAR.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

"(i) Pajama bottoms and other sleepwear for women and girls, of cotton, that are classifiable under subheading 6208.91.30, or of man-made fibers, that are classifiable under subheading 6208.92.00.

"(ii) Pajama bottoms and other sleepwear for girls, of other textile materials, that are classifiable under subheading 6208.99.20.".

(d) EARNED IMPORT ALLOWANCE RULES.—Section 231A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following new paragraph:

19 USC 2703a.

"(4) EARNED IMPORT ALLOWANCE RULE.—

"(A) IN GENERAL.—Apparel articles wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate that reflects the amount of credits equal to the total square meter equivalents of such

apparel articles, in accordance with the program established under subparagraph (B). For purposes of determining the quantity of square meter equivalents under this subparagraph, the conversion factors listed in 'Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America, 2008', or its successor publications, of the United States Department of Commerce, shall apply.

"(B) EARNED IMPORT ALLOWANCE PROGRAM.—

"(i) ESTABLISHMENT.—The Secretary of Commerce shall establish a program to provide earned import allowance certificates to any producer or entity controlling production for purposes of subparagraph (A), based on the elements described in clause (ii).

"(ii) ELEMENTS.—The elements referred to in clause (i) are the following:

"(I) One credit shall be issued to a producer or an entity controlling production for every three square meter equivalents of qualifying woven fabric or qualifying knit fabric that the producer or entity controlling production can demonstrate that it purchased for the manufacture in Haiti of articles like or similar to any article eligible for preferential treatment under subparagraph (A). The Secretary of Commerce shall, if requested by a producer or entity controlling production, create and maintain an account for such producer or entity controlling production, into which such credits shall be deposited.

"(II) Such producer or entity controlling production may redeem credits issued under subclause (I) for earned import allowance certificates reflecting such number of earned credits as the producer or entity may request and has available.

"(III) The Secretary of Commerce may require any textile mill or other entity located in the United States that exports to Haiti qualifying woven fabric or qualifying knit fabric to submit, upon such export or upon request, documentation, such as a Shipper's Export Declaration, to the Secretary of Commerce—

"(aa) verifying that the qualifying woven fabric or qualifying knit fabric was exported to a producer in Haiti or to an entity controlling production; and

"(bb) identifying such producer or entity controlling production, and the quantity and description of qualifying woven fabric or qualifying knit fabric exported to such producer or entity controlling production.

"(IV) The Secretary of Commerce may require that a producer or entity controlling production submit documentation to verify purchases of qualifying woven fabric or qualifying knit fabric.

"(V) The Secretary of Commerce may make available to each person or entity identified in documentation submitted under subclause (III) or

(IV) information contained in such documentation that relates to the purchase of qualifying woven fabric or qualifying knit fabric involving such person or entity.

"(VI) The program under this subparagraph shall be established so as to allow, to the extent feasible, the submission, storage, retrieval, and disclosure of information in electronic format, including information with respect to the earned import allowance certificates required under subparagraph (A)(i).

"(VII) The Secretary of Commerce may reconcile discrepancies in information provided under subclause (III) or (IV) and verify the accuracy of such information.

Procedures.

"(VIII) The Secretary of Commerce shall establish procedures to carry out the program under this subparagraph and may establish additional requirements to carry out this subparagraph. Such additional requirements may include—

"(aa) submissions by textile mills or other entities in the United States documenting exports of yarns wholly formed in the United States to countries described in paragraph (1)(B)(iii) for the manufacture of qualifying knit fabric; and

"(bb) procedures imposed on producers or entities controlling production to allow the Secretary of Commerce to obtain and verify information relating to the production of qualifying knit fabric.

"(iii) QUALIFYING WOVEN FABRIC DEFINED.—For purposes of this subparagraph, the term 'qualifying woven fabric' means fabric wholly formed in the United States from yarns wholly formed in the United States, except that—

"(I) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying woven fabric because the fabric contains nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;

"(II) fabric that would otherwise be ineligible as qualifying woven fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying woven fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric; and

"(III) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying fabric because the fabric contains yarns covered by clause (i) or (ii) of paragraph (5)(A).

"(iv) QUALIFYING KNIT FABRIC DEFINED.—For purposes of this subparagraph, the term 'qualifying knit fabric' means fabric or knit-to-shape components wholly formed or knit-to-shape in any country or any combination of countries described in paragraph

(1)(B)(iii), from yarns wholly formed in the United States, except that—

"(I) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;

"(II) fabric or knit-to-shape components that would otherwise be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns not wholly formed in the United States shall not be ineligible as qualifying knit fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric or knit-to-shape components; and

"(III) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns covered by clause (i) or (ii) of paragraph (5)(A).

"(C) REVIEW BY UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE.—The United States Government Accountability Office shall review the program established under subparagraph (B) annually for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.

"(D) ENFORCEMENT PROVISIONS.—

"(i) FRAUDULENT CLAIMS OF PREFERENCE.—Any person who makes a false claim for preference under the program established under subparagraph (B) shall be subject to any applicable civil or criminal penalty that may be imposed under the customs laws of the United States or under title 18, United States Code. Penalty.

"(ii) PENALTIES FOR OTHER FRAUDULENT INFORMATION.—The Secretary of Commerce may establish and impose penalties for the submission to the Secretary of Commerce of fraudulent information under the program established under subparagraph (B), other than a claim described in clause (i).".

(e) SHORT SUPPLY RULES .—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following: 19 USC 2703a.

"(5) SHORT SUPPLY PROVISION.—

"(A) IN GENERAL.—Any apparel article that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabrics, fabric components, components knit-to-shape, or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape, or yarns comprising the component that determines the tariff classification of the article are of any of the following:

"(i) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for

preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.

"(ii) Fabrics or yarns, to the extent that such fabrics or yarns are designated as not being available in commercial quantities for purposes of—

"(I) section 213(b)(2)(A)(v) of this Act;

"(II) section 112(b)(5) of the African Growth and Opportunity Act;

"(III) clause (i)(III) or (ii) of section 204(b)(3)(B) of the Andean Trade Preference Act; or

"(IV) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement entered into by the United States that is in effect at the time the claim for preferential treatment is made.

President. "(B) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that—

"(i) any fabric or yarn described in clause (i) of subparagraph (A) was determined to be eligible for preferential treatment, or

"(ii) any fabric or yarn described in clause (ii) of subparagraph (A) was designated as not being available in commercial quantities,

on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.".

(f) MISCELLANEOUS PROVISIONS.—

(1) RELATIONSHIP TO OTHER PREFERENTIAL PROGRAMS.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following:

19 USC 2703a.

"(6) OTHER PREFERENTIAL TREATMENT NOT AFFECTED.—The duty-free treatment provided under this subsection is in addition to any other preferential treatment under this title.".

(2) DEFINITIONS.—Section 213A(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(a)) is amended by adding at the end the following:

"(3) IMPORTED DIRECTLY FROM HAITI OR THE DOMINICAN REPUBLIC.—Articles are 'imported directly from Haiti or the Dominican Republic' if—

"(A) the articles are shipped directly from Haiti or the Dominican Republic into the United States without passing through the territory of any intermediate country; or

"(B) the articles are shipped from Haiti or the Dominican Republic into the United States through the territory of an intermediate country, and—

"(i) the articles in the shipment do not enter into the commerce of any intermediate country, and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

"(ii) the invoices and other documents do not specify the United States as the final destination, but the articles in the shipment—

"(I) remain under the control of the customs authority in the intermediate country;

"(II) do not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail; and

"(III) have not been subjected to operations in the intermediate country other than loading, unloading, or other activities necessary to preserve the articles in good condition.

"(4) KNIT-TO-SHAPE.—A good is 'knit-to-shape' if 50 percent or more of the exterior surface area of the good is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pockets, appliqués, or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether a good is 'knit-to-shape.'

"(5) WHOLLY ASSEMBLED.—A good is 'wholly assembled' in Haiti if all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti. Minor attachments and minor embellishments (for example, appliqués, beads, spangles, embroidery, and buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, and pockets), shall not affect the determination of whether a good is 'wholly assembled' in Haiti.".

(g) TERMINATION.—Section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a) is amended by adding at the end the following new subsection:

"(g) TERMINATION.—Except as provided in subsection (b)(1), the duty-free treatment provided under this section shall remain in effect until September 30, 2018.".

(h) CONFORMING AMENDMENTS.—Subsection (e)(1) of section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(e)(1)) is amended by striking "the Bureau of Customs and Border Protection" each place it appears and inserting "U.S. Customs and Border Protection".

**SEC. 15403. LABOR OMBUDSMAN AND TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.**

Section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a), as amended by section 15402 of this Act, is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (5) as paragraph (8):

(B) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6), respectively;

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—. The term "appropriate congressional committees" means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

"(3) CORE LABOR STANDARDS.—The term "core labor standards" means—

"(A) freedom of association;

"(B) the effective recognition of the right to bargain collectively;

"(C) the elimination of all forms of compulsory or forced labor;

"(D) the effective abolition of child labor and a prohibition on the worst forms of child labor; and

"(E) the elimination of discrimination in respect of employment and occupation."; and

(D) by inserting after paragraph (6) (as redesignated) the following new paragraph:

"(7) TAICNAR PROGRAM.—The term 'TAICNAR Program' means the Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program established pursuant to subsection (e).";

(2) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(3) by inserting after subsection (d) the following new subsection:

"(e) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

"(1) CONTINUED ELIGIBILITY FOR PREFERENCES.—

"(A) PRESIDENTIAL CERTIFICATION OF COMPLIANCE BY HAITI WITH REQUIREMENTS.—Upon the expiration of the 16-month period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, Haiti shall continue to be eligible for the preferential treatment provided under subsection (b) only if the President determines and certifies to the Congress that— Effective date.

"(i) Haiti has implemented the requirements set forth in paragraphs (2) and (3); and

"(ii) Haiti has agreed to require producers of articles for which duty-free treatment may be requested under subsection (b) to participate in the TAICNAR Program described in paragraph (3) and has developed a system to ensure participation in such program by such producers, including by developing and maintaining the registry described in paragraph (2)(B)(i).

"(B) EXTENSION.—The President may extend the period for compliance by Haiti under subparagraph (A) if the President—

"(i) determines that Haiti has made a good faith effort toward such compliance and has agreed to take additional steps to come into full compliance that are satisfactory to the President; and

"(ii) provides to the appropriate congressional committees, not later than 6 months after the last day of the 16-month period specified in subparagraph (A), and every 6 months thereafter, a report identifying the steps that Haiti has agreed to take to come into full compliance and the progress made over the preceding 6-month period in implementing such steps. Deadlines. Reports.

"(C) CONTINUING COMPLIANCE.—

"(i) TERMINATION OF PREFERENTIAL TREATMENT.—If, after making a certification under subparagraph (A), the President determines that Haiti is no longer

meeting the requirements set forth in subparagraph (A), the President shall terminate the preferential treatment provided under subsection (b), unless the President determines, after consulting with the appropriate congressional committees, that meeting such requirements is not practicable because of extraordinary circumstances existing in Haiti when the determination is made.

"(ii) SUBSEQUENT COMPLIANCE.—If the President, after terminating preferential treatment under clause (i), determines that Haiti is meeting the requirements set forth in subparagraph (A), the President shall reinstate the application of preferential treatment under subsection (b).

"(2) LABOR OMBUDSMAN.—

"(A) IN GENERAL.—The requirement under this paragraph is that Haiti has established an independent Labor Ombudsman's Office within the national government that—

"(i) reports directly to the President of Haiti;

"(ii) is headed by a Labor Ombudsman chosen by the President of Haiti, in consultation with Haitian labor unions and industry associations; and

"(iii) is vested with the authority to perform the functions described in subparagraph (B).

"(B) FUNCTIONS.—The functions of the Labor Ombudsman's Office shall include—

"(i) developing and maintaining a registry of producers of articles for which duty-free treatment may be requested under subsection (b), and developing, in consultation and coordination with any other appropriate officials of the Government of Haiti, a system to ensure participation by such producers in the TAICNAR Program described in paragraph (3);

"(ii) overseeing the implementation of the TAICNAR Program described in paragraph (3);

"(iii) receiving and investigating comments from any interested party regarding the conditions described in paragraph (3)(B) in facilities of producers listed in the registry described in clause (i) and, where appropriate, referring such comments or the result of such investigations to the appropriate Haitian authorities, or to the entity operating the TAICNAR Program described in paragraph (3);

"(iv) assisting, in consultation and coordination with any other appropriate Haitian authorities, producers listed in the registry described in clause (i) in meeting the conditions set forth in paragraph (3)(B); and

"(v) coordinating, with the assistance of the entity operating the TAICNAR Program described in paragraph (3), a tripartite committee comprised of appropriate representatives of government agencies, employers, and workers, as well as other relevant interested parties, for the purposes of evaluating progress in implementing the TAICNAR Program described in paragraph (3), and consulting on improving core labor standards and working conditions

in the textile and apparel sector in Haiti, and on other matters of common concern relating to such core labor standards and working conditions.

"(3) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

"(A) IN GENERAL.—The requirement under this paragraph is that Haiti, in cooperation with the International Labor Organization, has established a Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program meeting the requirements under subparagraph (C)—

"(i) to assess compliance by producers listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and to assist such producers in meeting such conditions; and

"(ii) to provide assistance to improve the capacity of the Government of Haiti—

"(I) to inspect facilities of producers listed in the registry described in paragraph (2)(B)(i); and

"(II) to enforce national labor laws and resolve labor disputes, including through measures described in subparagraph (E).

"(B) CONDITIONS DESCRIBED.—The conditions referred to in subparagraph (A) are—

"(i) compliance with core labor standards; and

"(ii) compliance with the labor laws of Haiti that relate directly to core labor standards and to ensuring acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety.

"(C) REQUIREMENTS.—The requirements for the TAICNAR Program are that the program—

"(i) be operated by the International Labor Organization (or any subdivision, instrumentality, or designee thereof), which prepares the biannual reports described in subparagraph (D);

"(ii) be developed through a participatory process that includes the Labor Ombudsman described in paragraph (2) and appropriate representatives of government agencies, employers, and workers;

"(iii) assess compliance by each producer listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and identify any deficiencies by such producer with respect to meeting such conditions, including by—

"(I) conducting unannounced site visits to manufacturing facilities of the producer;

"(II) conducting confidential interviews separately with workers and management of the facilities of the producer;

"(III) providing to management and workers, and where applicable, worker organizations in the facilities of the producer, on a confidential basis—

"(aa) the results of the assessment carried out under this clause; and

"(bb) specific suggestions for remediating any such deficiencies;

"(iv) assist the producer in remediating any deficiencies identified under clause (iii);

"(v) conduct prompt follow-up site visits to the facilities of the producer to assess progress on remediation of any deficiencies identified under clause (iii); and

"(vi) provide training to workers and management of the producer, and where appropriate, to other persons or entities, to promote compliance with subparagraph (B).

"(D) BIANNUAL REPORT.—The biannual reports referred to in subparagraph (C)(i) are a report, by the entity operating the TAICNAR Program, that is published (and available to the public in a readily accessible manner) on a biannual basis, beginning 6 months after Haiti implements the TAICNAR Program under this paragraph, covering the preceding 6-month period, and that includes the following: Public information.

"(i) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having met the conditions under subparagraph (B).

"(ii) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having deficiencies with respect to the conditions under subparagraph (B), and has failed to remedy such deficiencies.

"(iii) For each producer listed under clause (ii)—

"(I) a description of the deficiencies found to exist and the specific suggestions for remediating such deficiencies made by the entity operating the TAICNAR Program;

"(II) a description of the efforts by the producer to remediate the deficiencies, including a description of assistance provided by any entity to assist in such remediation; and

"(III) with respect to deficiencies that have not been remediated, the amount of time that has elapsed since the deficiencies were first identified in a report under this subparagraph.

"(iv) For each producer identified as having deficiencies with respect to the conditions described under subparagraph (B) in a prior report under this subparagraph, a description of the progress made in remediating such deficiencies since the submission of the prior report, and an assessment of whether any aspect of such deficiencies persists.

"(E) CAPACITY BUILDING.—The assistance to the Government of Haiti referred to in subparagraph (A)(ii) shall include programs—

"(i) to review the labor laws and regulations of Haiti and to develop and implement strategies for bringing the laws and regulations into conformity with core labor standards;

"(ii) to develop additional strategies for facilitating protection of core labor standards and providing acceptable conditions of work with respect to minimum

wages, hours of work, and occupational safety and health, including through legal, regulatory, and institutional reform;

"(iii) to increase awareness of worker rights, including under core labor standards and national labor laws;

"(iv) to promote consultation and cooperation between government representatives, employers, worker representatives, and United States importers on matters relating to core labor standards and national labor laws;

"(v) to assist the Labor Ombudsman appointed pursuant to paragraph (2) in establishing and coordinating operation of the committee described in paragraph (2)(B)(v);

"(vi) to assist worker representatives in more fully and effectively advocating on behalf of their members; and

"(vii) to provide on-the-job training and technical assistance to labor inspectors, judicial officers, and other relevant personnel to build their capacity to enforce national labor laws and resolve labor disputes.

President. "(4) COMPLIANCE WITH ELIGIBILITY CRITERIA.—

"(A) COUNTRY COMPLIANCE WITH WORKER RIGHTS ELIGIBILITY CRITERIA.—In making a determination of whether Haiti is meeting the requirement set forth in subsection (d)(1)(A)(vi) relating to internationally recognized worker rights, the President shall consider the reports produced under paragraph (3)(D).

"(B) PRODUCER ELIGIBILITY.—

"(i) IDENTIFICATION OF PRODUCERS.—Beginning in the second calendar year after the President makes the certification under paragraph (1)(A), the President shall identify on a biennial basis whether a producer listed in the registry described in paragraph (2)(B)(i) has failed to comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.

"(ii) ASSISTANCE TO PRODUCERS; WITHDRAWAL, ETC., OF PREFERENTIAL TREATMENT.—For each producer that the President identifies under clause (i), the President shall seek to assist such producer in coming into compliance with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards. If such efforts fail, the President shall withdraw, suspend, or limit the application of preferential treatment under subsection (b) to articles of such producer.

"(iii) REINSTATING PREFERENTIAL TREATMENT.—If the President, after withdrawing, suspending, or limiting the application of preferential treatment under clause (ii) to articles of a producer, determines that such producer is complying with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards, the President shall reinstate the application of preferential

treatment under subsection (b) to the articles of the producer.

"(iv) CONSIDERATION OF REPORTS.—In making the identification under clause (i) and the determination under clause (iii), the President shall consider the reports made available under paragraph (3)(D).

"(5) REPORTS BY THE PRESIDENT.—

"(A) IN GENERAL.—Not later than one year after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, and annually thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this subsection during the preceding 1-year period.

"(B) MATTERS TO BE INCLUDED.—Each report required by subparagraph (A) shall include the following:

"(i) An explanation of the efforts of Haiti, the President, and the International Labor Organization to carry out this subsection.

"(ii) A summary of each report produced under paragraph (3)(D) during the preceding 1-year period and a summary of the findings contained in such report.

"(iii) Identifications made under paragraph (4)(B)(i) and determinations made under paragraph (4)(B)(iii).

"(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection the sum of $10,000,000 for the period beginning on October 1, 2008, and ending on September 30, 2013.". Time period.

**SEC. 15404. PETITION PROCESS.**

Section 213A(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703A(d)) is amended by adding at the end the following new paragraph:

"(4) PETITION PROCESS.—Any interested party may file a request to have the status of Haiti reviewed with respect to the eligibility requirements listed in paragraph (1), and the President shall provide for this purpose the same procedures as those that are provided for reviewing the status of eligible beneficiary developing countries with respect to the designation criteria listed in subsections (b) and (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2642 (b) and (c)).". President.

**SEC. 15405. CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.**

Section 213A(f) of the Caribbean Basin Economic Recovery Act, as redesignated by section 15403(2) of this Act, is amended by adding at the end the following new paragraph:

"(3) LIMITATION ON GOODS SHIPPED FROM THE DOMINICAN REPUBLIC.—

"(A) LIMITATION.—Notwithstanding subsection (a)(5), relating to the definition of 'imported directly from Haiti or the Dominican Republic', articles described in subsection (b) that are shipped from the Dominican Republic, directly or through the territory of an intermediate country, whether or not such articles undergo processing in the Dominican Republic, shall not be considered to be 'imported President. Certification.

directly from Haiti or the Dominican Republic' until the President certifies to the Congress that Haiti and the Dominican Republic have developed procedures to prevent unlawful transshipment of the articles and the use of counterfeit documents related to the importation of the articles into the United States.

"(B) TECHNICAL AND OTHER ASSISTANCE.—The Commissioner responsible for U.S. Customs and Border Protection shall provide technical and other assistance to Haiti and the Dominican Republic to develop expeditiously the procedures described in subparagraph (A).".

19 USC 2703a note.

**SEC. 15406. PRESIDENTIAL PROCLAMATION AUTHORITY.**

The President may exercise the authority under section 604 of the Trade Act of 1974 to proclaim such modifications to the Harmonized Tariff Schedule of the United States as may be necessary to carry out this part and the amendments made by this part.

President. Deadlines. 19 USC 2703a note.

**SEC. 15407. REGULATIONS AND PROCEDURES.**

The President shall issue such regulations as may be necessary to carry out the amendments made by sections 15402, 15403, and 15404. Regulations to carry out the amendments made by section 15402 shall be issued not later than September 30, 2008. The Secretary of Commerce shall issue such procedures as may be necessary to carry out the amendment made by section 15402(d) not later than September 30, 2008.

**SEC. 15408. EXTENSION OF CBTPA.**

Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (iii)—

(i) in subclause (II)(cc), by striking "2008" and inserting "2010"; and

(ii) in subclause (IV)(dd), by striking "2008" and inserting "2010"; and

(B) in clause (iv)(II), by striking "6" and inserting "8"; and

(2) in paragraph (5)(D)—

(A) in clause (i), by striking "2008" and inserting "2010"; and

(B) in clause (ii), by striking "108(b)(5)" and inserting "section 108(b)(5)".

**SEC. 15409. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS FOR HAITI.**

It is the sense of the Congress that the executive branch, particularly the Committee for the Implementation of Textile Agreements (CITA), U.S. Customs and Border Protection of the Department of Homeland Security, and the Department of Commerce, should interpret, implement, and enforce the provisions of section 213A(b) of the Caribbean Basin Economic Recovery Act, as amended by section 15402 of this Act, relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of articles eligible for preferential treatment under such section 213A(b).

**SEC. 15410. SENSE OF CONGRESS ON TRADE MISSION TO HAITI.**

It is the sense of the Congress that the Secretary of Commerce, in coordination with the United States Trade Representative, the Secretary of State, and the Commissioner responsible for U.S. Customs and Border Protection of the Department of Homeland Security, should lead a trade mission to Haiti, within 6 months after the date of the enactment of this Act, to promote trade between the United States and Haiti, to promote new economic opportunities afforded under the amendments made by section 15402 of this Act, and to help educate United States and Haitian business concerns about such opportunities.

**SEC. 15411. SENSE OF CONGRESS ON VISA SYSTEMS.**

It is the sense of the Congress that Haiti, and other countries that receive preferences under trade preference programs of the United States that require effective visa systems to prevent transshipment, should ensure that monetary compensation for such visas is not required beyond the costs of processing the visa, including ensuring that such monetary compensation does not violate an applicable system to combat corruption and bribery.

**SEC. 15412. EFFECTIVE DATE.** 19 USC 2703a note.

(a) IN GENERAL.—Except as provided in subsection (b), this part and the amendments made by this part shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 15402 shall take effect on October 1, 2008, and shall apply to articles entered, or withdrawn from warehouse for consumption, on or after that date.

## PART II—MISCELLANEOUS TRADE PROVISIONS

**SEC. 15421. UNUSED MERCHANDISE DRAWBACK.**

(a) IN GENERAL.—Section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)) is amended by adding at the end the following: "For purposes of subparagraph (A) of this paragraph, wine of the same color having a price variation not to exceed 50 percent between the imported wine and the exported wine shall be deemed to be commercially interchangeable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to claims filed for drawback under section 313(j)(2) of the Tariff Act of 1930 on or after the date of the enactment of this Act. 19 USC 1313 note.

**SEC. 15422. REQUIREMENTS RELATING TO DETERMINATION OF TRANSACTION VALUE OF IMPORTED MERCHANDISE.** 19 USC 1484 note.

(a) REQUIREMENT ON IMPORTERS.—

(1) IN GENERAL.—Pursuant to sections 484 and 485 of the Tariff Act of 1930 (19 U.S.C. 1484 and 1485), the Commissioner responsible for U.S. Customs and Border Protection shall require each importer of merchandise to provide to U.S. Customs and Border Protection at the time of entry of the merchandise the information described in paragraph (2).

(2) INFORMATION REQUIRED.—The information referred to in paragraph (1) is a declaration as to whether the transaction value of the imported merchandise is determined on the basis

of the price paid by the buyer in the first or earlier sale occurring prior to introduction of the merchandise into the United States.

(3) EFFECTIVE DATE.—The requirement to provide information under this subsection shall be effective for the 1-year period beginning 90 days after the date of the enactment of this Act.

(b) REPORT TO INTERNATIONAL TRADE COMMISSION.—

(1) IN GENERAL.—The Commissioner responsible for U.S. Customs and Border Protection shall submit to the United States International Trade Commission on a monthly basis for the 1-year period specified in subsection (a)(3) a report on the information provided by importers under subsection (a)(2) during the preceding month. The report required under this paragraph shall be submitted in a form agreed upon between U.S. Customs and Border Protection and the United States International Trade Commission.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

(A) the number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2);

(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States; and

(C) the transaction value of such imported merchandise.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after the submission of the final report under subsection (b), the United States International Trade Commission shall submit to the appropriate congressional committees a report on the information contained in all reports submitted under subsection (b).

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

(A) the aggregate number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2), including a description of the frequency of the use of such method;

(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States on an aggregate basis, including an analysis of the tariff classification of such imported merchandise on a sectoral basis;

(C) the aggregate transaction value of such imported merchandise, including an analysis of the transaction value of such imported merchandise on a sectoral basis; and

(D) the aggregate transaction value of all merchandise imported into the United States during the 1-year period specified in subsection (a)(3).

(d) SENSE OF CONGRESS REGARDING PROHIBITION ON PROPOSED INTERPRETATION OF THE TERM "SOLD FOR EXPORTATION TO THE UNITED STATES".—

(1) IN GENERAL.—It is the sense of Congress that the Commissioner responsible for U.S. Customs and Border Protection should not implement a change to U.S. Customs and Border

Protection's interpretation (as such interpretation is in effect on the date of the enactment of this Act) of the term "sold for exportation to the United States", as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, before January 1, 2011.

Notice. Deadlines.

(2) EXCEPTION.—It is the sense of Congress that beginning on January 1, 2011, the Commissioner responsible for U.S. Customs and Border Protection may propose to change or change U.S. Customs and Border Protection's interpretation of the term "sold for exportation to the United States", as described in paragraph (1), only if U.S. Customs and Border Protection—

(A) consults with, and provides notice to, the appropriate congressional committees—

(i) not less than 180 days prior to proposing a change; and

(ii) not less than 90 days prior to publishing a change;

(B) consults with, provides notice to, and takes into consideration views expressed by, the Commercial Operations Advisory Committee—

(i) not less than 120 days prior to proposing a change; and

(ii) not less than 60 days prior to publishing a change; and

(C) receives the explicit approval of the Secretary of the Treasury prior to publishing a change.

(3) CONSIDERATION OF INTERNATIONAL TRADE COMMISSION REPORT.—It is the sense of Congress that prior to publishing a change to U.S. Customs and Border Protection's interpretation (as such interpretation is in effect on the date of the enactment of this Act) of the term "sold for exportation to the United States", as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, the Commissioner responsible for U.S. Customs and Border Protection should take into consideration the matters included in the report prepared by the United States International Trade Commission under subsection (c).

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) COMMERCIAL OPERATIONS ADVISORY COMMITTEE.—The term "Commercial Operations Advisory Committee" means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.

(3) IMPORTER.—The term "importer" means one of the parties qualifying as an "importer of record" under section 484(a)(2)(B) in the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)(B)).

(4) TRANSACTION VALUE OF THE IMPORTED MERCHANDISE.—The term "transaction value of the imported merchandise" has the meaning described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)).

Nancy Pelosi
*Speaker of the House of Representatives.*

Jon Tester
*Acting President of the Senate pro tempore.*

IN THE HOUSE OF REPRESENTATIVES, U.S.

*May 21, 2008.*

The House of Representatives having proceeded to reconsider the bill (H.R. 2419) entitled "An Act to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

*Resolved,* That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Lorraine C. Miller
*Clerk.*

I certify that this Act originated in the House of Representatives.

Lorraine C. Miller
*Clerk.*

IN THE SENATE OF THE UNITED STATES,

*May 22, 2008.*

The Senate having proceeded to reconsider the bill (H.R. 2419) entitled "An Act to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

*Resolved,* That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Nancy Erickson

*Secretary.*

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LEGISLATIVE HISTORY—H.R. 2419 (S. 2302):

HOUSE REPORTS: Nos. 110–256, Pt. 1 (Comm. on Agriculture) and 110–627 (Comm. of Conference).

SENATE REPORTS: No. 110–220 accompanying S. 2302 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD:

Vol. 153 (2007): July 26, 27, considered and passed House.
Nov. 5, 6, 8, 13–16, Dec. 5, 7, 10–14, considered and passed Senate, amended.

Vol. 154 (2008): May 14, House agreed to conference report. Senate considered conference report.
May 15, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):

May 21, Presidential veto message.

CONGRESSIONAL RECORD, Vol. 154 (2008):

May 21, House overrode veto.
May 22, Senate overrode veto.

# Public Law 110–235
# 110th Congress

## An Act

May 23, 2008
[S. 3029]

To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958.**

(a) IN GENERAL.—Section 1 of the Act entitled "An Act to extend temporarily certain authorities of the Small Business Administration", approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742), as most recently amended by section 1 of Public Law 110–136 (121 Stat. 1453), is amended by striking "May 23, 2008" each place it appears and inserting "March 20, 2009".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on May 22, 2008.

Approved May 23, 2008.

LEGISLATIVE HISTORY—S. 3029:

CONGRESSIONAL RECORD, Vol. 154 (2008):
May 15, considered and passed Senate.
May 20, considered and passed House.

Public Law 110–236
110th Congress

# An Act

To ratify a conveyance of a portion of the Jicarilla Apache Reservation to Rio Arriba County, State of New Mexico, pursuant to the settlement of litigation between the Jicarilla Apache Nation and Rio Arriba County, State of New Mexico, to authorize issuance of a patent for said lands, and to change the exterior boundary of the Jicarilla Apache Reservation accordingly, and for other purposes.

May 27, 2008
[H.R. 3522]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DEFINITIONS.**

For the purposes of this act, the following definitions apply:

(1) JICARILLA APACHE NATION.—The term "Jicarilla Apache Nation" means the Jicarilla Apache Nation, a tribe of American Indians recognized by the United States and organized under section 16 of the Act of June 18, 1934 (25 U.S.C. 476; popularly known as the Indian Reorganization Act).

(2) 1988 RESERVATION ADDITION.—The term "1988 Reservation Addition" means those lands, known locally as the Theis Ranch, that are described in the Federal Register published on September 26, 1988 at 53 F.R. 37355–56 and were added to the Jicarilla Apache Reservation in New Mexico in 1988.

(3) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the agreement executed by the President of the Jicarilla Apache Nation on May 6, 2003 and executed by the Chairman of the Rio Arriba Board of County Commissioners on May 15, 2003 and approved by the Department of the Interior on June 18, 2003 to settle the Lawsuit.

(4) LAWSUIT.—The term "Lawsuit" means the case identified as Jicarilla Apache Tribe v. Board of County Commissioners, County of Rio Arriba, No. RA 87–2225(C), State of New Mexico District Court, First Judicial District, filed in October 1987.

(5) RIO ARRIBA COUNTY.—The term "Rio Arriba County" means the political subdivision of the state of New Mexico described in Section 4–21–1 and Section 4–21–2, New Mexico Statutes Annotated 1978 (Original Pamphlet).

(6) SETTLEMENT LANDS.—The term "Settlement Lands" means Tract A and Tract B as described in the plat of the "Dependent Resurvey and Survey of Tract within Theis Ranch" within the Tierra Amarilla Grant, New Mexico prepared by Leo P. Kelley, Cadastral Surveyor, United States Department of the Interior, Bureau of Land Management, dated January 7, 2004, and recorded in the office of the Rio Arriba County Clerk on March 8, 2004, in Cabinet C–1, Page 199, Document No. 242411, consisting of 70.75 acres more or less. Title to

the Settlement Lands is held by the United States in trust for the Jicarilla Apache Nation.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) DISPUTED COUNTY ROAD.—The term "Disputed County Road" means the county road passing through the 1988 Reservation Addition along the course identified in the judgment entered by the New Mexico District Court in the Lawsuit on December 10, 2001 and the decision entered on December 11, 2001, which judgment and decision have been appealed to the New Mexico Court of Appeals.

**SEC. 2. CONGRESSIONAL FINDINGS.**

Congress finds the following:

(1) The Lawsuit is now pending before the Court of Appeals of the State of New Mexico and involves a claim that a county road passing through the 1988 Reservation Addition had been established by prescription prior to acquisition of the land by the Jicarilla Apache Nation in 1985.

(2) The parties to that lawsuit, the Jicarilla Apache Nation and the County of Rio Arriba, have executed a Settlement Agreement, approved by the Secretary of the Interior, to resolve all claims relating to the disputed county road, which agreement requires ratifying legislation by the Congress of the United States.

(3) The parties to the Settlement Agreement desire to settle the claims relating to the disputed county road on the terms agreed to by the parties, and it is in the best interests of the parties to resolve the claims through the Settlement Agreement and this implementing legislation.

**SEC. 3. CONDITION ON EFFECT OF SECTION.**

(a) IN GENERAL.—Section 4 of this Act shall not take effect until the Secretary finds the following events have occurred:

(1) The Board of Commissioners of Rio Arriba County has enacted a resolution permanently abandoning the disputed county road and has submitted a copy of that resolution to the Secretary.

(2) The Jicarilla Apache Nation has executed a quitclaim deed to Rio Arriba County for the Settlement Lands subject to the exceptions identified in the Settlement Agreement and has submitted a copy of the quitclaim deed to the Secretary.

Federal Register, publication.

(b) PUBLICATION OF FINDINGS.—If the Secretary finds that the conditions set forth in subsection (a) have occurred, the Secretary shall publish such findings in the Federal Register.

**SEC. 4. RATIFICATION OF CONVEYANCE; ISSUANCE OF PATENT.**

Effective date.

(a) CONDITIONAL RATIFICATION AND APPROVAL.—This Act ratifies and approves the Jicarilla Apache Nation's quitclaim deed for the Settlement Lands to Rio Arriba County, but such ratification and approval shall be effective only upon satisfaction of all conditions in section 3, and only as of the date that the Secretary's findings are published in the Federal Register pursuant to section 3.

(b) PATENT.—Following publication of the notice described in section 3, the Secretary shall issue to Rio Arriba County a patent for the Settlement Lands, subject to the exceptions and restrictive covenants described subsection (c).

(c) CONDITIONS OF PATENT.—The patent to be issued by the Secretary under subsection (b) shall be subject to all valid existing rights of third parties, including but not limited to easements of record, and shall include the following perpetual restrictive covenant running with the Settlement Lands for the benefit of the lands comprising the Jicarilla Apache Reservation adjacent to the Settlement Lands: "Tract A shall be used only for governmental purposes and shall not be used for a prison, jail or other facility for incarcerating persons accused or convicted of a crime. For purposes of this restrictive covenant," governmental purposes "shall include the provision of governmental services to the public by Rio Arriba County and the development and operation of private businesses to the extent permitted by applicable State law.".

**SEC. 5. BOUNDARY CHANGE.**

Upon issuance of the patent authorized by section 4, the lands conveyed to Rio Arriba County in the patent shall cease to be a part of the Jicarilla Apache Reservation and the exterior boundary of the Jicarilla Apache Reservation shall be deemed relocated accordingly.

Approved May 27, 2008.

LEGISLATIVE HISTORY—H.R. 3522:

HOUSE REPORTS: No. 110–610 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 29, considered and passed House.
May 1, considered and passed Senate.

# Public Law 110–237
# 110th Congress

## An Act

May 27, 2008
[H.R. 5919]

To make technical corrections regarding the Newborn Screening Saves Lives Act of 2007.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TECHNICAL CORRECTION TO NEWBORN SCREENING SAVES LIVES ACT.**

(a) AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.—

(1) IMPROVED SCREENING.—Section 1109 of the Public Health Service Act (42 U.S.C. 300b–8(j)), as added by section 2 of the Newborn Screening Saves Lives Act of 2007, is amended by striking subsection (j) and inserting the following:

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to provide grants for the purpose of carrying out activities under subsection (a)(1), $15,000,000 for fiscal year 2009; $15,187,500 for fiscal year 2010, $15,375,000 for fiscal year 2011, $15,562,500 for fiscal year 2012, and $15,750,000 for fiscal year 2013; and

"(2) to provide grants for the purpose of carrying out activities under paragraphs (2), (3), and (4) of subsection (a), $15,000,000 for fiscal year 2009, $15,187,500 for fiscal year 2010, $15,375,000 for fiscal year 2011, $15,562,500 for fiscal year 2012, and $15,750,000 for fiscal year 2013.".

(2) EVALUATING THE EFFECTIVENESS.—Section 1110(d) of the Public Health Service Act (42 U.S.C. 300b–9(d)), as added by section 3 of the Newborn Screening Saves Lives Act of 2007, is amended by striking "2008" and all that follows and inserting "2009, $5,062,500 for fiscal year 2010, $5,125,000 for fiscal year 2011, $5,187,500 for fiscal year 2012, and $5,250,000 for fiscal year 2013.".

42 USC 300b–10.

(3) ADVISORY COMMITTEE.—Section 1111 of the Public Health Service Act (42 U.S.C. 300b–11), as amended by section 4 of the Newborn Screening Saves Lives Act of 2007, is amended—

(A) in subsection (d)(2), by striking "2007" and inserting "2008";

(B) in subsection (e), by striking "2007" and inserting "2008";

(C) in subsection (f), by striking "2007" and inserting "2008"; and

(D) in subsection (g), by striking "2008" and all that follows and inserting "2009, $1,012,500 for fiscal year 2010,

$1,025,000 for fiscal year 2011, $1,037,500 for fiscal year 2012, and $1,050,000 for fiscal year 2013.".

(4) CLEARINGHOUSE.—Section 1112 of the Public Health Service Act (as added by section 5 of the Newborn Screening Saves Lives Act of 2007) is amended— *Ante*, p. 708.

(A) in subsection (b)(4)(D), by striking "2007" and inserting "2008"; and

(B) in subsection (d), by striking "2008" and all that follows and inserting "2009, $2,531,250 for fiscal year 2010, $2,562,500 for fiscal year 2011, $2,593,750 for fiscal year 2012, and $2,625,000 for fiscal year 2013.".

(5) LABORATORY QUALITY.—Section 1113(b) of the Public Health Service Act (as added by section 6 of the Newborn Screening Saves Lives Act of 2007) is amended by striking *Ante*, p. 710. "2008" and all that follows and inserting "2009, $5,062,500 for fiscal year 2010, $5,125,000 for fiscal year 2011, $5,187,500 for fiscal year 2012, and $5,250,000 for fiscal year 2013.".

(6) INTERAGENCY COORDINATING COMMITTEE.—Section 1114(e) of the Public Health Service Act (as added by section 6 of the Newborn Screening Saves Lives Act of 2007) is amended *Ante*, p. 710. by striking "2008" and all that follows and inserting "2009, $1,012,500 for fiscal year 2010, $1,025,000 for fiscal year 2011, $1,037,500 for fiscal year 2012, and $1,050,000 for fiscal year 2013.".

(7) HUNTER KELLY RESEARCH PROGRAM.—Section 1116(a)(1)(B) of the Public Health Service Act (as added by section 7 of the Newborn Screening Saves Lives Act of 2007) *Ante*, p. 711. is amended by striking "and or" and inserting ", or".

(b) OTHER TECHNICAL AMENDMENTS.—The Newborn Screening Saves Lives Act of 2007 is amended—

(1) in section 1, by striking "2007" and inserting "2008"; *Ante*, p. 705. and

(2) in section 4(2)(A), by inserting ", respectively" before *Ante*, p. 706. the semicolon.

Approved May 27, 2008.

LEGISLATIVE HISTORY—H.R. 5919:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 30, considered and passed House.
May 2, considered and passed Senate.

# Public Law 110–238
# 110th Congress

## An Act

May 30, 2008
[S. 3035]

To temporarily extend the programs under the Higher Education Act of 1965.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF HIGHER EDUCATION PROGRAMS.**

(a) EXTENSION OF PROGRAMS.—Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking "May 31, 2008" and inserting "June 30, 2008".

20 USC 1001 note.

(b) RULE OF CONSTRUCTION.—Nothing in this section, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171), by the College Cost Reduction and Access Act (Public Law 110–84), or by the Ensuring Continued Access to Student Loans Act of 2008 (Public Law 110–227) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

Approved May 30, 2008.

LEGISLATIVE HISTORY—S. 3035:

CONGRESSIONAL RECORD, Vol. 154 (2008):
May 20, considered and passed Senate and House.

Public Law 110–239
110th Congress

# An Act

To amend title 4, United States Code, to encourage the display of the flag of the United States on Father's Day.

June 3, 2008
[H.R. 2356]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ADDITIONAL OCCASION FOR DISPLAY OF THE FLAG OF THE UNITED STATES.**

Section 6(d) of title 4, United States Code, is amended by inserting after "Flag Day, June 14;" the following: "Father's Day, third Sunday in June;".

Approved June 3, 2008.

LEGISLATIVE HISTORY—H.R. 2356:

CONGRESSIONAL RECORD:
Vol. 153 (2007): June 11, considered and passed House.
Vol. 154 (2008): May 15, considered and passed Senate.

# Public Law 110–240
# 110th Congress

## An Act

June 3, 2008
[H.R. 2517]

To amend the Missing Children's Assistance Act to authorize appropriations; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Protecting Our Children Comes First Act of 2007. 42 USC 5601 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Protecting Our Children Comes First Act of 2007".

**SEC. 2. FINDINGS.**

Section 402 of the Missing Children's Assistance Act (42 U.S.C. 5771) is amended to read as follows:

**"SEC. 402. FINDINGS.**

"The Congress finds that—

"(1) each year thousands of children are abducted or removed from the control of a parent having legal custody without such parent's consent, under circumstances which immediately place the child in grave danger;

"(2) many missing children are at great risk of both physical harm and sexual exploitation;

"(3) in many cases, parents and local law enforcement officials have neither the resources nor the expertise to mount expanded search efforts;

"(4) abducted children are frequently moved from one locality to another, requiring the cooperation and coordination of local, State, and Federal law enforcement efforts;

"(5) growing numbers of children are the victims of child sexual exploitation, increasingly involving the use of new technology to access the Internet;

"(6) children may be separated from their parents or legal guardians as a result of national disasters such as hurricanes and floods;

"(7) sex offenders pose a threat to children;

"(8) the Office of Juvenile Justice and Delinquency Prevention administers programs under this Act through the Child Protection Division, including programs which prevent or address offenses committed against vulnerable children and which support missing children's organizations; and

"(9) a key component of such programs is the National Center for Missing and Exploited Children, which—

"(A) serves as a national resource center and clearinghouse;

"(B) works in partnership with the Department of Justice, the Federal Bureau of Investigation, the United States Marshals Service, the Department of the Treasury, the Department of State, the Bureau of Immigration and Customs Enforcement, the United States Secret Service, the United States Postal Inspection Service, and many other agencies in the effort to find missing children and prevent child victimization; and

"(C) operates a national network, linking the Center online with each of the missing children clearinghouses operated by the 50 States, the District of Columbia, and Puerto Rico, as well as with international organizations, including Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others, which enable the Center to transmit images and information regarding missing and exploited children to law enforcement across the United States and around the world instantly.".

**SEC. 3. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.**

Section 404(b) of the Missing Children's Assistance Act (42 U.S.C. 5773(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Administrator shall annually make a grant to the Center, which shall be used to— Grants.

"(A)(i) operate a national 24-hour toll-free telephone line by which individuals may report information regarding the location of any missing child, and request information pertaining to procedures necessary to reunite such child with such child's legal custodian; and

"(ii) coordinate the operation of such telephone line with the operation of the national communications system referred to in part C of the Runaway and Homeless Youth Act (42 U.S.C. 5714–11);

"(B) operate the official national resource center and information clearinghouse for missing and exploited children;

"(C) provide to State and local governments, and public and private nonprofit agencies, and individuals, information regarding—

"(i) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing and exploited children and their families; and

"(ii) the existence and nature of programs being carried out by Federal agencies to assist missing and exploited children and their families;

"(D) coordinate public and private programs that locate, recover, or reunite missing children with their families;

"(E) disseminate, on a national basis, information relating to innovative and model programs, services, and legislation that benefit missing and exploited children;

"(F) based solely on reports received by the National Center for Missing and Exploited Children (NCMEC), and not involving any data collection by NCMEC other than

the receipt of those reports, annually provide to the Department of Justice's Office of Juvenile Justice and Delinquency Prevention—

"(i) the number of children nationwide who are reported to NCMEC as missing;

"(ii) the number of children nationwide who are reported to NCMEC as victims of non-family abductions;

"(iii) the number of children nationwide who are reported to NCMEC as victims of parental kidnappings; and

"(iv) the number of children recovered nationwide whose recovery was reported to NCMEC;

"(G) provide, at the request of State and local governments, and public and private nonprofit agencies, guidance on how to facilitate the lawful use of school records and birth certificates to identify and locate missing children;

"(H) provide technical assistance and training to law enforcement agencies, State and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children;

"(I) provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and, in cooperation with the Department of State, internationally;

"(J) provide analytical support and technical assistance to law enforcement agencies through searching public records databases in locating and recovering missing and exploited children and helping to locate and identify abductors;

"(K) provide direct on-site technical assistance and consultation to law enforcement agencies in child abduction and exploitation cases;

"(L) provide forensic technical assistance and consultation to law enforcement and other agencies in the identification of unidentified deceased children through facial reconstruction of skeletal remains and similar techniques;

"(M) track the incidence of attempted child abductions in order to identify links and patterns, and provide such information to law enforcement agencies;

"(N) provide training and assistance to law enforcement agencies in identifying and locating non-compliant sex offenders;

"(O) facilitate the deployment of the National Emergency Child Locator Center to assist in reuniting missing children with their families during periods of national disasters;

"(P) operate a cyber tipline to provide online users and electronic service providers an effective means of reporting Internet-related child sexual exploitation in the areas of—

"(i) possession, manufacture, and distribution of child pornography;

"(ii) online enticement of children for sexual acts;

"(iii) child prostitution;

"(iv) sex tourism involving children;
"(v) extrafamilial child sexual molestation;
"(vi) unsolicited obscene material sent to a child;
"(vii) misleading domain names; and
"(viii) misleading words or digital images on the Internet,

and subsequently to transmit such reports, including relevant images and information, to the appropriate international, Federal, State or local law enforcement agency for investigation;

"(Q) work with law enforcement, Internet service providers, electronic payment service providers, and others on methods to reduce the distribution on the Internet of images and videos of sexually exploited children;

"(R) operate a child victim identification program in order to assist the efforts of law enforcement agencies in identifying victims of child pornography and other sexual crimes; and

"(S) develop and disseminate programs and information to the general public, schools, public officials, youth-serving organizations, and nonprofit organizations, directly or through grants or contracts with public agencies and public and private nonprofit organizations, on—

"(i) the prevention of child abduction and sexual exploitation; and
"(ii) internet safety."; and

(2) in paragraph (2) by striking "$20,000,000" and all that follows through "2008", and inserting "$40,000,000 for fiscal year 2008 and such sums as may be necessary for fiscal years 2009 through 2013".

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

Section 408(a) of the Missing Children's Assistance Act (42 U.S.C. 5777(a)) is amended by striking "2007 through 2008" and inserting "2008 through 2013".

**SEC. 5. REPEALER.**

The Missing Children's Assistance Act (42 U.S.C. 5771 et seq.) is amended—

42 USC 5776a. (1) by striking section 407; and

42 USC 5777. (2) by redesignating section 408 as section 407.

Approved June 3, 2008.

LEGISLATIVE HISTORY—H.R. 2517 (S. 1829):

CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 5, considered and passed House.
Vol. 154 (2008): May 20, considered and passed Senate.

Public Law 110–241
110th Congress

# An Act

To amend the Fair Credit Reporting Act to make technical corrections to the definition of willful noncompliance with respect to violations involving the printing of an expiration date on certain credit and debit card receipts before the date of the enactment of this Act.

June 3, 2008
[H.R. 4008]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Credit and Debit Card Receipt Clarification Act of 2007.
15 USC 1601 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Credit and Debit Card Receipt Clarification Act of 2007".

15 USC 1681n note.

**SEC. 2. FINDINGS; PURPOSE.**

(a) FINDINGS.—The Congress finds as follows:

(1) The Fair and Accurate Credit Transactions Act (commonly referred to as "FACTA" ) was enacted into law in 2003 and 1 of the purposes of such Act is to prevent criminals from obtaining access to consumers' private financial and credit information in order to reduce identity theft and credit card fraud.

(2) As part of that law, the Congress enacted a requirement, through an amendment to the Fair Credit Reporting Act, that no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card number or the expiration date upon any receipt provided to the card holder at the point of the sale or transaction.

(3) Many merchants understood that this requirement would be satisfied by truncating the account number down to the last 5 digits based in part on the language of the provision as well as the publicity in the aftermath of the passage of the law.

(4) Almost immediately after the deadline for compliance passed, hundreds of lawsuits were filed alleging that the failure to remove the expiration date was a willful violation of the Fair Credit Reporting Act even where the account number was properly truncated.

(5) None of these lawsuits contained an allegation of harm to any consumer's identity.

(6) Experts in the field agree that proper truncation of the card number, by itself as required by the amendment made by the Fair and Accurate Credit Transactions Act, regardless of the inclusion of the expiration date, prevents a potential fraudster from perpetrating identity theft or credit card fraud.

(7) Despite repeatedly being denied class certification, the continued appealing and filing of these lawsuits represents

a significant burden on the hundreds of companies that have been sued and could well raise prices to consumers without corresponding consumer protection benefit.

(b) PURPOSE.—The purpose of this Act is to ensure that consumers suffering from any actual harm to their credit or identity are protected while simultaneously limiting abusive lawsuits that do not protect consumers but only result in increased cost to business and potentially increased prices to consumers.

**SEC. 3. CLARIFICATION OF WILLFUL NONCOMPLIANCE FOR ACTIONS BEFORE THE DATE OF THE ENACTMENT OF THIS ACT.**

(a) IN GENERAL.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following new subsection:

"(d) CLARIFICATION OF WILLFUL NONCOMPLIANCE.—For the purposes of this section, any person who printed an expiration date on any receipt provided to a consumer cardholder at a point of sale or transaction between December 4, 2004, and the date of the enactment of this subsection but otherwise complied with the requirements of section 605(g) for such receipt shall not be in willful noncompliance with section 605(g) by reason of printing such expiration date on the receipt.".

15 USC 1681n note.

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a) shall apply to any action, other than an action which has become final, that is brought for a violation of 605(g) of the Fair Credit Reporting Act to which such amendment applies without regard to whether such action is brought before or after the date of the enactment of this Act.

Approved June 3, 2008.

LEGISLATIVE HISTORY—H.R. 4008:

CONGRESSIONAL RECORD, Vol. 154 (2008):
May 13, considered and passed House.
May 20, considered and passed Senate.

# Public Law 110–242
# 110th Congress

## An Act

To make technical corrections to section 1244 of the National Defense Authorization Act for Fiscal Year 2008, which provides special immigrant status for certain Iraqis, and for other purposes.

June 3, 2008
[S. 2829]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TECHNICAL CORRECTIONS TO PROVISION GRANTING SPECIAL IMMIGRANT STATUS FOR CERTAIN IRAQIS.**

8 USC 1157 note.

Section 1244(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) is amended—

*Ante,* p. 397.

(1) in paragraph (1), by striking "each of the five years beginning after the date of the enactment of this Act" and inserting "fiscal years 2008 through 2012"; and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the subparagraph heading, by striking "ONE THROUGH FOUR" and inserting "2008 THROUGH 2011"; and

(ii) by striking "one through four" and inserting "2008 through 2011"; and

(B) in subparagraph (B)—

(i) in the matter preceding clause (i)—

(I) in the subparagraph heading, by striking "FIVE AND SIX" and inserting "2012 AND 2013";

(II) by striking "the fifth fiscal year beginning after the date of the enactment of this Act" and inserting "fiscal year 2012"; and

(III) by striking "the sixth fiscal year beginning after such date" and inserting "fiscal year 2013"; and

(ii) in each of clauses (i) and (ii), by striking "the fifth fiscal year" and inserting "fiscal year 2012".

**SEC. 2. AUTHORITY TO CONVERT PETITIONS DURING TRANSITION PERIOD.**

8 USC 1101 note.

(a) IN GENERAL.—The Secretary of Homeland Security or the Secretary of State may convert an approved petition for special immigrant status under section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note) with respect to which a visa under such section 1059 is not immediately available to an approved petition for special immigrant status under section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) notwithstanding any requirement of subsection (a) or (b) of such section 1244 but subject to the

numerical limitations applicable under subsection (c) of such section 1244, as amended by this Act.

(b) DURATION.—The authority under subsection (a) shall be available only with respect to petitions filed before October 1, 2008.

Approved June 3, 2008.

LEGISLATIVE HISTORY—S. 2829:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 28, considered and passed Senate.
May 19, 21, considered and passed House.

# Public Law 110–243
# 110th Congress

## Joint Resolution

Directing the United States to initiate international discussions and take necessary steps with other Nations to negotiate an agreement for managing migratory and transboundary fish stocks in the Arctic Ocean.

June 3, 2008
[S.J. Res. 17]

Whereas the decline of several commercially valuable fish stocks throughout the world's oceans highlights the need for fishing nations to conserve fish stocks and develop management systems that promote fisheries sustainability;

Whereas fish stocks are migratory throughout their habitats, and changing ocean conditions can restructure marine habitats and redistribute the species dependent on those habitats;

Whereas changing global climate regimes may increase ocean water temperature, creating suitable new habitats in areas previously too cold to support certain fish stocks, such as the Arctic Ocean;

Whereas habitat expansion and migration of fish stocks into the Arctic Ocean and the potential for vessel docking and navigation in the Arctic Ocean could create conditions favorable for establishing and expanding commercial fisheries in the future;

Whereas commercial fishing has occurred in several regions of the Arctic Ocean, including the Barents Sea, Kara Sea, Beaufort Sea, Chukchi Sea, and Greenland Sea, although fisheries scientists have only limited data on current and projected future fish stock abundance and distribution patterns throughout the Arctic Ocean;

Whereas remote indigenous communities in all nations that border the Arctic Ocean engage in limited, small scale subsistence fishing and must maintain access to and sustainability of this fishing in order to survive;

Whereas many of these communities depend on a variety of other marine life for social, cultural and subsistence purposes, including marine mammals and seabirds that may be adversely affected by climate change, and emerging fisheries in the Arctic should take into account the social, economic, cultural and subsistence needs of these small coastal communities;

Whereas managing for fisheries sustainability requires that all commercial fishing be conducted in accordance with science-based limits on harvest, timely and accurate reporting of catch data, equitable allocation and access systems, and effective monitoring and enforcement systems;

Whereas migratory fish stocks traverse international boundaries between the exclusive economic zones of fishing nations and the high seas, and ensuring sustainability of fisheries targeting these stocks requires management systems based on international coordination and cooperation;

Whereas international fishing treaties and agreements provide a framework for establishing rules to guide sustainable fishing activities among those nations that are parties to the agreement, and regional fisheries management organizations provide international fora for implementing these agreements and facilitating international cooperation and collaboration;

Whereas under its authorities in the Magnuson-Stevens Fishery Conservation and Management Act, the North Pacific Fishery Management Council has proposed that the United States close all Federal waters in the Chukchi and Beaufort Seas to commercial fishing until a fisheries management plan is fully developed; and

Whereas future commercial fishing and fisheries management activities in the Arctic Ocean should be developed through a coordinated international framework, as provided by international treaties or regional fisheries management organizations, and this framework should be implemented before significant commercial fishing activity expands to the high seas: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That

(1) the United States should initiate international discussions and take necessary steps with other Arctic nations to negotiate an agreement or agreements for managing migratory, transboundary, and straddling fish stocks in the Arctic Ocean and establishing a new international fisheries management organization or organizations for the region;

(2) the agreement or agreements negotiated pursuant to paragraph (1) should conform to the requirements of the United Nations Fish Stocks Agreement and contain mechanisms, inter alia, for establishing catch and bycatch limits, harvest allocations, observers, monitoring, data collection and reporting, enforcement, and other elements necessary for sustaining future Arctic fish stocks;

(3) as international fisheries agreements are negotiated and implemented, the United States should consult with the North Pacific Regional Fishery Management Council and Alaska Native subsistence communities of the Arctic; and

(4) until the agreement or agreements negotiated pursuant to paragraph (1) come into force and measures consistent with the United Nations Fish Stocks Agreement are in effect, the United States should support international efforts to halt the

expansion of commercial fishing activities in the high seas of the Arctic Ocean.

Approved June 3, 2008.

LEGISLATIVE HISTORY—S.J. Res. 17:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Oct. 4, considered and passed Senate.
Vol. 154 (2008): May 19, 21, considered and passed House.

# Public Law 110–244
# 110th Congress

## An Act

June 6, 2008
[H.R. 1195]

To amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SAFETEA–LU Technical Corrections Act of 2008.
23 USC 101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "SAFETEA–LU Technical Corrections Act of 2008".

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

Sec. 1. Short title; table of contents.

TITLE I—HIGHWAY PROVISIONS

Sec. 101. Surface transportation technical corrections.
Sec. 102. MAGLEV.
Sec. 103. Projects of national and regional significance and national corridor infrastructure improvement projects.
Sec. 104. Idling reduction facilities.
Sec. 105. Project authorizations.
Sec. 106. Nonmotorized transportation pilot program.
Sec. 107. Correction of Interstate and National Highway System designations.
Sec. 108. Budget justification; buy America.
Sec. 109. Transportation improvements.
Sec. 110. I–95/Contee Road interchange design.
Sec. 111. Highway research funding.
Sec. 112. Rescission.
Sec. 113. TEA–21 technical corrections.
Sec. 114. High priority corridor and innovative project technical corrections.
Sec. 115. Definition of repeat intoxicated driver law.
Sec. 116. Research technical correction.
Sec. 117. Buy America waiver notification and annual reports.
Sec. 118. Efficient use of existing highway capacity.
Sec. 119. Future interstate designation.
Sec. 120. Project flexibility.
Sec. 121. Effective date.

TITLE II—TRANSIT PROVISIONS

Sec. 201. Transit technical corrections.

TITLE III—OTHER SURFACE TRANSPORTATION PROVISIONS

Sec. 301. Technical amendments relating to motor carrier safety.
Sec. 302. Technical amendments relating to hazardous materials transportation.
Sec. 303. Highway safety.
Sec. 304. Correction of study requirement regarding on-scene motor vehicle collision causation.
Sec. 305. Motor carrier transportation registration.
Sec. 306. Applicability of Fair Labor Standards Act requirements and limitation on liability.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Conveyance of GSA Fleet Management Center to Alaska Railroad Corporation.

Sec. 402. Conveyance of retained interest in St. Joseph Memorial Hall.

TITLE V—OTHER PROVISIONS

Sec. 501. De Soto County, Mississippi.
Sec. 502. Department of Justice review.

# TITLE I—HIGHWAY PROVISIONS

**SEC. 101. SURFACE TRANSPORTATION TECHNICAL CORRECTIONS.**

(a) CORRECTION OF INTERNAL REFERENCES IN DISADVANTAGED BUSINESS ENTERPRISES.—Paragraphs (3)(A) and (5) of section 1101(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1156) are amended by striking "paragraph (1)" each place it appears and inserting "paragraph (2)". 23 USC 101 note.

(b) CORRECTION OF DISTRIBUTION OF OBLIGATION AUTHORITY.—Section 1102(c)(5) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1158) is amended by striking "among the States". 23 USC 104 note.

(c) CORRECTION OF FEDERAL LANDS HIGHWAYS.—Section 1119 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1190) is amended by striking subsection (m) and inserting the following:

"(m) FOREST HIGHWAYS.—Of the amounts made available for public lands highways under section 1101—

"(1) not more than $20,000,000 for each fiscal year may be used for the maintenance of forest highways;

"(2) not more than $1,000,000 for each fiscal year may be used for signage identifying public hunting and fishing access; and

"(3) not more than $10,000,000 for each fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath forest roads (as defined in section 101(a) of title 23, United States Code), including the costs of constructing, maintaining, replacing, and removing culverts and bridges, as appropriate.".

(d) CORRECTION OF DESCRIPTION OF NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROJECT.—Item number 1 of the table contained in section 1302(e) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1205) is amended in the State column by inserting "LA," after "TX,". 23 USC 101 note.

(e) CORRECTION OF HIGH PRIORITY DESIGNATIONS.—

(1) KENTUCKY HIGH PRIORITY CORRIDOR DESIGNATION.—Section 1105(c)(18)(E) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 112 Stat. 189; 115 Stat. 872) is amended by inserting before the period at the end the following: ", follow Interstate Route 24 to the Wendell H. Ford Western Kentucky Parkway, then utilize the existing Wendell H. Ford Western Kentucky Parkway and Edward T. Breathitt (Pennyrile) Parkway to Henderson".

(2) INTERSTATE ROUTE 376 HIGH PRIORITY DESIGNATION.—

(A) IN GENERAL.—Section 1105(c)(79) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 119 Stat. 1213) is amended by striking "and on United States Route 422".

(B) CONFORMING AMENDMENT.—Section 1105(e)(5)(B)(i)(I) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2033; 119 Stat. 1213) is amended by striking "and United States Route 422".

(f) CORRECTION OF INFRASTRUCTURE FINANCE SECTION.—Section 1602(d)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1247) is amended by striking "through 189 as sections 601 through 609, respectively" and inserting "through 190 as sections 601 through 610, respectively".

23 USC 190, 610.

(g) CORRECTION OF PROJECT FEDERAL SHARE.—Section 1964(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1519) is amended—

(1) by striking "only for the States of Alaska, Montana, Nevada, North Dakota, Oregon, and South Dakota,"; and

(2) by striking "section 120(b)" and inserting "section 120".

(h) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS DEFINED.—Section 101(a) of title 23, United States Code, is amended by adding at the end the following:

"(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

"(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

"(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

"(ii) improvements to the transportation system, such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.".

23 USC 104 note. Effective date.

(i) CORRECTION OF REFERENCE IN APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Effective October 1, 2007, section 104(b)(5)(A)(iii) of title 23, United States Code, is amended by striking "the Federal-aid system" each place it appears and inserting "Federal-aid highways".

(j) CORRECTION OF AMENDMENT TO ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended by redesignating subsection (d) as subsection (c).

(k) CORRECTION OF HIGH PRIORITY PROJECTS.—Section 117 of title 23, United States Code, is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively;

(2) by redesignating the second subsection (c) (relating to Federal share) as subsection (d);

(3) in subsection (a)(2)(A) by inserting "(112 Stat. 257)" after "21st Century"; and

(4) in subsection (a)(2)(B)—

(A) by striking "subsection (b)" and inserting "subsection (c)"; and

(B) by striking "SAFETEA–LU" and inserting "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1256)".

(l) CORRECTION OF TRANSFER OF UNUSED PROTECTIVE-DEVICE FUNDS TO OTHER HIGHWAY SAFETY IMPROVEMENT PROGRAM PROJECTS.—Section 130(e)(2) of title 23, United States Code, is amended by striking "purposes under this subsection" and inserting "highway safety improvement program purposes".

(m) CORRECTION OF HIGHWAY BRIDGE PROGRAM.—

(1) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(A) in the section heading by striking "**replacement and rehabilitation**";

(B) in subsections (b), (c)(1), and (e) by striking "Federal-aid system" each place it appears and inserting "Federal-aid highway";

(C) in subsections (c)(2) and (o) by striking "the Federal-aid system" each place it appears and inserting "Federal-aid highways";

(D) in the heading to paragraph (4) of subsection (d) by inserting "SYSTEMATIC" before "PREVENTIVE";

(E) in subsection (e) by striking "off-system bridges" each place it appears and inserting "bridges not on Federal-aid highways";

(F) by striking subsection (f);

(G) by redesignating subsections (g) through (s) as subsections (f) through (r), respectively;

(H) in paragraph (1)(A)(vi) of subsection (f) (as redesignated by subparagraph (G) of this paragraph) by inserting "and the removal of the Missisquoi Bay causeway" after "Bridge";

(I) in paragraph (2) of subsection (f) (as redesignated by subparagraph (G) of this paragraph) by striking the paragraph heading and inserting "BRIDGES NOT ON FEDERAL-AID HIGHWAYS";

(J) in subsection (m) (as redesignated by subparagraph (G) of this paragraph) by striking the subsection heading and inserting "PROGRAM FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS"; and

(K) in subsection (n)(4)(B) (as redesignated by subparagraph (G) of this paragraph) by striking "State highway agency" and inserting "State transportation department".

(2) SPECIAL CONDITIONS.—Section 1114 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1172) is amended by adding at the end the following:

"(h) SPECIAL CONDITIONS.—Any unobligated or unexpended funds remaining on completion of the project carried out under section 144(f)(1)(A)(vi) of title 23, United States Code, shall be made available to carry out the project described in section 144(f)(1)(A)(vii) of that title after the date on which the Vermont

Agency of Transportation certifies to the Federal Highway Administration the final determination of the agency regarding the removal of the Missisquoi Bay causeway.".

(3) CONFORMING AMENDMENTS.—

(A) METROPOLITAN PLANNING.—Section 104(f)(1) of title 23, United States Code, is amended by striking "replacement and rehabilitation".

(B) EQUITY BONUS PROGRAM.—Subsections (a)(2)(C) and (b)(2)(C) of section 105 of such title are amended by striking "replacement and rehabilitation" each place it appears.

(C) ANALYSIS.—The analysis for chapter 1 of such title is amended in the item relating to section 144 by striking "replacement and rehabilitation".

(n) METROPOLITAN TRANSPORTATION PLANNING.—Section 134 of title 23, United States Code, is amended—

(1) in subsection (f)(3)(C)(ii) by striking subclause (II) and inserting the following:

"(II) FUNDING.—For fiscal year 2008 and each fiscal year thereafter, in addition to other funds made available to the metropolitan planning organization for the Lake Tahoe region under this title and chapter 53 of title 49, prior to any allocation under section 202 of this title and notwithstanding the allocation provisions of section 202, the Secretary shall set aside ½ of 1 percent of all funds authorized to be appropriated for such fiscal year to carry out section 204 and shall make such funds available to the metropolitan planning organization for the Lake Tahoe region to carry out the transportation planning process, environmental reviews, preliminary engineering, and design to complete environmental documentation for transportation projects for the Lake Tahoe region under the Tahoe Regional Planning Compact as consented to in Public Law 96–551 (94 Stat. 3233) and this paragraph.";

(2) in subsection (j)(3)(D) by inserting "or the identified phase" after "the project" each place it appears; and

(3) in subsection (k)(2) by striking "a metropolitan planning area serving".

(o) CORRECTION OF NATIONAL SCENIC BYWAYS PROGRAM COVERAGE.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)(3)(B) by striking "a National Scenic Byway under subparagraph (A)" and inserting "a National Scenic Byway, an All-American Road, or one of America's Byways under paragraph (1)"; and

(2) in subsection (c)(3) by striking "or All-American Road" each place it appears and inserting "All-American Road, or one of America's Byways".

(p) CORRECTION OF REFERENCE IN TOLL PROVISION.—Section 166(b)(5)(C) of title 23, United States Code, is amended by striking "paragraph (3)" and inserting "paragraph (4)".

(q) CORRECTION OF RECREATIONAL TRAILS PROGRAM APPORTIONMENT EXCEPTIONS.—Section 206(d)(3)(A) of title 23, United States Code, is amended by striking "(B), (C), and (D)" and inserting "(B) and (C)".

(r) CORRECTION OF INFRASTRUCTURE FINANCE.—Section 601(a)(3) of title 23, United States Code, is amended by inserting "bbb minus, BBB (low)," after "Baa3,".

(s) CORRECTION OF MISCELLANEOUS TYPOGRAPHICAL ERRORS.—

(1) Section 1401 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1226) is amended by redesignating subsections (d) and (e) as subsections (c) and (d), respectively. 23 USC 130, 148 note.

(2) Section 1404(e) of such Act (119 Stat. 1229) is amended by inserting "tribal," after "local,". 23 USC 402 note.

(3) Section 10211(b)(2) of such Act (119 Stat. 1937) is amended by striking "plan administer" and inserting "plan and administer".

(4) Section 10212(a) of such Act (119 Stat. 1937) is amended—

(A) by inserting "equity bonus," after "minimum guarantee,";

(B) by striking "freight intermodal connectors" and inserting "railway-highway crossings";

(C) by striking "high risk rural road,"; and

(D) by inserting after "highway safety improvement programs" the following: "(and separately the set aside for the high risk rural road program)".

**SEC. 102. MAGLEV.**

(a) FUNDING.—Section 1101(a)(18) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1155) is amended by striking "Act—" and all that follows through the end of the paragraph and inserting "Act, $45,000,000 for each of fiscal years 2008 and 2009.".

(b) CONTRACT AUTHORITY.—Section 1307 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1217) is amended by adding at the end the following: 23 USC 322 note.

"(e) CONTRACT AUTHORITY.—Funds authorized under section 1101(a)(18) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project to be carried out with such funds shall be 80 percent.".

(c) ALLOCATION.—Section 1307 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1217) is amended by striking subsection (d) and inserting the following: 23 USC 322 note.

"(d) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, the Secretary shall allocate—

"(1) 50 percent to the Nevada department of transportation who shall cooperate with the California-Nevada Super Speed Train Commission for the MAGLEV project between Las Vegas and Primm, Nevada, as a segment of the high-speed MAGLEV system between Las Vegas, Nevada, and Anaheim, California; and

"(2) 50 percent for existing MAGLEV projects located east of the Mississippi River using such criteria as the Secretary deems appropriate.".

(d) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2007.

**SEC. 103. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE AND NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROJECTS.**

(a) PROJECT OF NATIONAL AND REGIONAL SIGNIFICANCE.—The table contained in section 1301(m) of the Safe, Accountable, Flexible, Efficient Transportation Equity: A Legacy for Users (119 Stat. 1203) is amended—

23 USC 101 note.

(1) in item number 4 by striking the project description and inserting "$7,400,000 for planning, design, and construction of a new American border plaza at the Blue Water Bridge in or near Port Huron; $12,600,000 for integrated highway realignment and grade separations at Port Huron to eliminate road blockages from NAFTA rail traffic";

(2) in item number 19 by striking the project description and inserting "For purposes of construction and other related transportation improvements associated with the rail yard relocation in the vicinity of Santa Teresa"; and

(3) in item number 22 by striking the project description and inserting "Redesign and reconstruction of interchanges 298 and 299 of I–80 and accompanying improvements to any other public roads in the vicinity, Monroe County".

(b) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROJECT.—The table contained in section 1302(e) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1205) is amended in item number 23 by striking the project description and inserting "Improvements to State Road 312, Hammond".

23 USC 101 note.

**SEC. 104. IDLING REDUCTION FACILITIES.**

Section 111(d) of title 23, United States Code, is repealed.

**SEC. 105. PROJECT AUTHORIZATIONS.**

(a) PROJECT MODIFICATIONS.—The table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1256) is amended—

(1) in item number 34 by striking the project description and inserting "Removal and Reconfiguration of Interstate ramps, I–40, Memphis";

(2) by striking item number 61;

(3) in item number 87 by striking the project description and inserting "M–291 highway outer road improvement project";

(4) in item number 128 by striking "$2,400,000" and inserting "$4,800,000";

(5) in item number 154 by striking "Virginia" and inserting "Eveleth";

(6) in item number 193 by striking the project description and inserting "Improvements to or access to Route 108 to enhance access to the business park near Rumford";

(7) in item number 240 by striking "$800,000" and inserting "$2,400,000";

(8) by striking item number 248;

(9) in item number 274 by striking the project description and inserting "Intersection improvements at Belleville and

Ecorse Roads and approach roadways, and widen Belleville Road from Ecorse to Tyler, Van Buren Township, Michigan";

(10) in item number 277 by striking the project description and inserting "Construct connector road from Rushing Drive North to Grand Ave., Williamson County";

(11) in item number 395 by striking the project description and inserting "Plan and construct interchange at I–65, from existing SR–109 to I–65";

(12) in item number 463 by striking "Cookeville" and inserting "Putnam County";

(13) in item number 576 by striking the project description and inserting "Design, right-of-way acquisition, and construction of Nebraska Highway 35 between Norfolk and South Sioux City, including an interchange at Milepost 1 on I–129";

(14) in item number 595 by striking "Street Closure at" and inserting "Transportation improvement project near";

(15) in item number 649 by striking the project description and inserting "Construction and enhancement of the Fillmore Avenue Corridor, Buffalo";

(16) in item number 655 by inserting ", safety improvement construction," after "Environmental studies";

(17) in item number 676 by striking the project description and inserting "St. Croix River crossing project, Wisconsin State Highway 64, St. Croix County, Wisconsin, to Minnesota State Highway 36, Washington County";

(18) in item number 770 by striking the project description and inserting "Improve existing Horns Hill Road in North Newark, Ohio, from Waterworks Road to Licking Springs Road";

(19) in item number 777 by striking the project description and inserting "Akutan Airport access";

(20) in item number 829 by striking the project description and inserting "$400,000 to conduct New Bedford/Fairhaven Bridge modernization study; $1,000,000 to design and build New Bedford Business Park access road";

(21) in item number 881 by striking the project description and inserting "Pedestrian safety improvements near North Atlantic Boulevard, Monterey Park";

(22) in item number 923 by striking the project description and inserting "Improve safety of a horizontal curve on Clarksville St. 0.25 miles north of 275th Rd. in Grandview Township, Edgar County";

(23) in item number 947 by striking the project description and inserting "Third East/West River Crossing, St. Lucie River";

(24) in item numbers 959 and 3327 by striking "Northern Section," each place it appears;

(25) in item number 963 by striking the project description and inserting "For engineering, right-of-way acquisition, and reconstruction of 2 existing lanes on Manhattan Road from Baseline Road to Route 53";

(26) in item number 983 by striking the project description and inserting "Land acquisition for highway mitigation in Cecil, Kent, Queen Annes, and Worcester Counties";

(27) in item number 1039 by striking the project description and inserting "Widen State Route 98, including storm drain developments, from D. Navarro Avenue to State Route 111";

(28) in item number 1047 by striking the project description and inserting "Bridge and road work at Little Susitna River Access road in Matanuska-Susitna Borough";

(29) in item number 1124 by striking "bridge over Stillwater River, Orono" and inserting "routes";

(30) in item number 1206 by striking "Pleasantville" and inserting "Briarcliff Manor";

(31) in item number 1281 by striking the project description and inserting "Upgrade roads in Attala County District 4 (Roads 4211 and 4204), Kosciusko, Ward 2, and Ethel, Attala County";

(32) in item number 1487 by striking "$800,000" and inserting "$1,600,000";

(33) in item number 1575 by striking the project description and inserting "Highway and road signage, and traffic signal synchronization and upgrades, in Shippensburg Boro, Shippensburg Township, and surrounding municipalities";

(34) in item number 1661 by striking the project description and inserting "Sheldon West Extension in Matanuska-Susitna Borough";

(35) in item number 1810 by striking the project description and inserting "Design, engineering, ROW acquisition, construction, and construction engineering for the reconstruction of TH 95, from 12th Avenue to CSAH 13, including bridge and approaches, ramps, intersecting roadways, signals, turn lanes, and multiuse trail, North Branch";

(36) in item number 1852 by striking "Milepost 9.3" and inserting "Milepost 24.3";

(37) in item numbers 1926 and 2893 by striking the project descriptions and inserting "Grading, paving roads, and the transfer of rail-to-truck for the intermodal facility at Rickenbacker Airport, Columbus, Ohio";

(38) in item number 1933 by striking the project description and inserting "Enhance Byzantine Latino Quarter transit plazas at Normandie and Pico, and Hoover and Pico, Los Angeles, by improving streetscapes, including expanding concrete and paving";

(39) in item number 1975 by striking the project description and inserting "Point MacKenzie Access Road improvements in Matanuska-Susitna Borough";

(40) in item number 2015 by striking the project description and amount and inserting "Heidelberg Borough/Scott Township/Carnegie Borough for design, engineering, acquisition, and construction of streetscaping enhancements, paving, lighting and safety upgrades, and parking improvements" and "$2,000,000", respectively;

(41) in item number 2087 by striking the project description and inserting "Railroad crossing improvement on Illinois Route 82 in Geneseo";

(42) in item number 2211 by striking the project description and inserting "Construct road projects and transportation enhancements as part of or connected to RiverScape Phase III, Montgomery County, Ohio";

(43) in item number 2234 by striking the project description and amount and inserting "North Atherton Signal Coordination Project in Centre County" and "$400,000", respectively;

(44) in item number 2316 by striking the project description and inserting "Construct a new bridge at Indian Street, Martin County";

(45) in item number 2420 by striking the project description and inserting "Preconstruction and construction activities of U.S. 51 between the Assumption Bypass and Vandalia";

(46) in item number 2482 by striking "Country" and inserting "County";

(47) in item number 2663 by striking the project description and inserting "Rosemead Boulevard safety enhancement and beautification, Temple City";

(48) in item number 2671 by striking "from 2 to 5 lanes and improve alignment within rights-of-way in St. George" and inserting ", St. George";

(49) in item number 2743 by striking the project description and inserting "Improve safety of culvert replacement on 250th Rd. between 460th St. and Cty Hwy 20 in Grandview Township, Edgar County";

(50) by striking item number 2800;

(51) in item number 2826 by striking "State Street and Cajon Boulevard" and inserting "Palm Avenue";

(52) in item number 2931 by striking "Frazho Road" and inserting "Martin Road";

(53) in item number 3047 by inserting "and roadway improvements" after "safety project";

(54) in item number 3078 by striking the project description and inserting "U.S. 2/Sultan Basin Road improvements in Sultan";

(55) in item number 3174 by striking the project description and inserting "Improving Outer Harbor access through planning, design, construction, and relocations of Southtowns Connector–NY Route 5, Fuhrmann Boulevard, and a bridge connecting the Outer Harbor to downtown Buffalo at the Inner Harbor";

(56) in item number 3219 by striking "Forest" and inserting "Warren";

(57) in item number 3254 by striking the project description and inserting "Reconstruct PA Route 274/34 Corridor, Perry County";

(58) in item number 3260 by striking "Lake Shore Drive" and inserting "Lakeshore Drive and parking facility/entrance improvements serving the Museum of Science and Industry";

(59) in item number 3368 by striking the project description and inserting "Plan, design, and engineering, Ludlam Trail, Miami";

(60) in item number 3410 by striking the project description and inserting "Design, purchase land, and construct sound walls along the west side of I–65 from approximately 950 feet south of the Harding Place interchange south to Hogan Road";

(61) in item number 3537 by inserting "and the study of alternatives along the North South Corridor," after "Valley";

(62) in item number 3582 by striking the project description and inserting "Improving Outer Harbor access through planning, design, construction, and relocations of Southtowns Connector–NY Route 5, Fuhrmann Boulevard, and a bridge connecting the Outer Harbor to downtown Buffalo at the Inner Harbor";

(63) in item number 3604 by inserting "/Kane Creek Boulevard" after "500 West";

(64) in item number 3632 by striking the State, project description, and amount and inserting "FL", "Pine Island Road pedestrian overpass, city of Tamarac", and "$610,000", respectively;

(65) in item number 3634 by striking the matters in the State, project description, and amount columns and inserting "FL", "West Avenue Bridge, city of Miami Beach", and "$620,000", respectively;

(66) in item number 3673 by striking the project description and inserting "Improve marine dry-dock and facilities in Ketchikan";

(67) in item number 2942 by striking the project description and inserting "Redesigning the intersection of Business U.S. 322/High Street and Rosedale Avenue and constructing a new East Campus Drive between High Street (U.S. 322) and Matlock Street at West Chester University, West Chester, Pennsylvania";

(68) in item number 2781 by striking the project description and inserting "Highway and road signage, road construction, and other transportation improvement and enhancement projects on or near Highway 26, in Riverton and surrounding areas";

(69) in item number 2430 by striking "200 South Interchange" and inserting "400 South Interchange";

(70) by striking item number 20;

(71) in item number 424 by striking "$264,000" and inserting "$644,000";

(72) in item number 1210 by striking the project description and inserting "Town of New Windsor—Riley Road, Shore Drive, and area road improvements";

(73) by striking item numbers 68, 905, and 1742;

(74) in item number 1059 by striking "$240,000" and inserting "$420,000";

(75) in item number 2974 by striking "$120,000" and inserting "$220,000";

(76) by striking item numbers 841, 960, and 2030;

(77) in item number 1278 by striking "$740,000" and inserting "$989,600";

(78) in item number 207 by striking "$13,600,000" and inserting "$13,200,000";

(79) in item number 2656 by striking "$12,228,000" and inserting "$8,970,000";

(80) in item number 1983 by striking "$1,600,000" and inserting "$1,000,000";

(81) in item number 753 by striking "$2,700,000" and inserting "$3,200,000";

(82) in item number 64 by striking "$6,560,000" and inserting "$8,480,000";

(83) in item number 2338 by striking "$1,600,000" and inserting "$1,800,000";

(84) in item number 1533 by striking "$392,000" and inserting "$490,000";

(85) in item number 1354 by striking "$40,000" and inserting "$50,000";

(86) in item number 3106 by striking "$400,000" and inserting "$500,000";

(87) in item number 799 by striking "$1,600,000" and inserting "$2,000,000";

(88) in item number 159—

(A) by striking "Construct interchange for 146th St. and I–69" and inserting "Upgrade 146th St. to I–69 Access"; and

(B) by striking "$2,400,000" and inserting "$3,200,000";

(89) by striking item number 2936;

(90) in item number 3138 by striking the project description and inserting "Elimination of highway-railway crossing along the KO railroad from Salina to Osborne to increase safety and reduce congestion";

(91) in item number 2274 by striking "between Farmington and Merriman" and inserting "between Hines Drive and Inkster, Flamingo Street between Ann Arbor Trail and Joy Road, and the intersection of Warren Road and Newburgh Road";

(92) in item number 52 by striking the project description and inserting "Pontiac Trail between E. Liberty and McHattie Street";

(93) in item number 1544 by striking "connector";

(94) in item number 2573 by striking the project description and inserting "Rehabilitation of Sugar Hill Road in North Salem, NY";

(95) in item number 1450 by striking "III–VI" and inserting "III–VII";

(96) in item number 2637 by striking the project description and inserting "Construction, road and safety improvements in Geauga County, OH";

(97) in item number 2342 by striking the project description and inserting "Streetscaping, bicycle trails, and related improvements to the I–90/SR–615 interchange and adjacent area and Heisley Road in Mentor, including acquisition of necessary right-of-way within the Newell Creek development to build future bicycle trails and bicycle staging areas that will connect into the existing bicycle trail system at I–90/SR–615, widening the Garfield Road Bridge over I–90 to provide connectivity to the existing bicycle trail system between the I–90/SR–615 interchange and Lakeland Community College, and acquisition of additional land needed for the preservation of the Lake Metroparks Greenspace Corridor with the Newell Creek development adjacent to the I–90/SR–615 interchange";

(98) in item number 161 by striking the project description and inserting "Construct False Pass causeway and road to the terminus of the south arm breakwater project";

(99) in item number 2002 by striking the project description and inserting "Dowling Road extension/reconstruction west from Minnesota Drive to Old Seward Highway, Anchorage";

(100) in item number 2023 by striking the project description and inserting "Biking and pedestrian trail construction, Kentland";

(101) in item number 2035 by striking "Replace" and inserting "Repair";

(102) in item number 2511 by striking "Replace" and inserting "Rehabilitate";

(103) in item number 2981 by striking the project description and inserting "Roadway improvements on Highway 262 on the Navajo Nation in Aneth";

(104) in item number 2068 by inserting "and approaches" after "capacity";

(105) in item number 98 by striking the project description and inserting "Right-of-way acquisition and construction for the 77th Street reconstruction project, including the Lyndale Avenue Bridge over I–494, Richfield";

(106) in item number 1783 by striking the project description and inserting "Clark Road access improvements, Jacksonville";

(107) in item number 2711 by striking the project description and inserting "Main Street Road Improvements through Springfield, Jacksonville";

(108) in item number 3485 by striking the project description and inserting "Improve SR 105 (Hecksher Drive) from Drummond Point to August Road, including bridges across the Broward River and Dunns Creek, Jacksonville";

(109) in item number 3486 by striking the project description and inserting "Construct improvements to NE 19th Street/NE 19th Terrace from NE 3rd Avenue to NE 8th Avenue, Gainesville";

(110) in item number 3487 by striking the project description and inserting "Construct improvements to NE 25th Street from SR 26 (University Blvd.) to NE 8th Avenue, Gainesville";

(111) in item number 803 by striking "St. Clair County" and inserting "city of Madison";

(112) in item number 615 by striking the project description and inserting "Roadway improvements to Jackson Avenue between Jericho Turnpike and Teibrook Avenue";

(113) by striking item number 889;

(114) in item number 324 by striking the project description and inserting "Alger County, to reconstruct, pave, and realign a portion of H–58 from 2,600 feet south of Little Beaver Lake Road to 4,600 feet east of Hurricane River";

(115) in item number 301 by striking the project description and inserting "Improvements for St. Georges Avenue between East Baltimore Avenue on the southwest and Chandler Avenue on the northeast";

(116) in item number 1519 by inserting "at the intersection of Quincy/West Drinker/Electric Streets near the Dunmore School complex" after "roadway redesign";

(117) in item number 2604 by inserting "on Coolidge, Bridge (from Main to Monroe), Skytop (from Gedding to Skytop), Atwell (from Bear Creek Rd. to Pittston Township), Wood (to Bear Creek Rd.), Pine, Oak (from Penn Avenue to Lackawanna Avenue), McLean, Second, and Lolli Lane" after "roadway redesign";

(118) in item number 1157 by inserting "on Mill Street from Prince Street to Roberts Street, John Street from Roberts Street to end, Thomas Street from Roberts Street to end, Williams Street from Roberts Street to end, Charles Street from Roberts Street to end, Fair Street from Roberts Street to end, Newport Avenue from East Kirmar Avenue to end" after "roadway redesign";

(119) in item number 805 by inserting "on Oak Street from Stark Street to the township line at Mayock Street and on East Mountain Boulevard" after "roadway redesign";

(120) in item number 2704 by inserting "on West Cemetery Street and Frederick Courts" after "roadway redesign";

(121) in item number 4599 by striking the project description and inserting "Pedestrian paths, stairs, seating, landscaping, lighting, and other transportation enhancement activities along Riverside Boulevard and at Riverside Park South";

(122) in item number 1363 by striking the project description and inserting "Design, engineering, right-of-way acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, handicap access ramps, parking, and roadway redesign on Bilbow Street from Church Street to Pugh Street, on Pugh Street from Swallow Street to Main Street, Jones Lane from Main Street to Hoblak Street, Cherry Street from Green Street to Church Street, Main Street from Jackson Street to end, Short Street from Cherry Street to Main Street, and Hillside Avenue in Edwardsville Borough, Luzerne County";

(123) in item number 883 by striking the project description and inserting "Design, engineering, right-of-way acquisition, and construction of streetscaping enhancements, paving, lighting, parking, roadway redesign, and safety improvements (including curbing, stop signs, crosswalks, and pedestrian sidewalks) at and around the 3-way intersection involving Susquehanna Avenue, Erie Street, and Second Street in West Pittston, Luzerne County";

(124) in item number 625 by striking the project description and inserting "Design, engineering, right-of-way acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, and roadway redesign on Sampson Street, Dunn Avenue, Powell Street, Josephine Street, Pittston Avenue, Railroad Street, McClure Avenue, and Baker Street in Old Forge Borough, Lackawanna County";

(125) in item number 372 by inserting ", replacement of the Nesbitt Street Bridge, and placement of a guard rail adjacent to St. Vladimir's Cemetery on Mountain Road (S.R. 1007)" after "roadway redesign";

(126) in item number 2308 by striking the project description and inserting "Design, engineering, right-of-way acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, and roadway redesign, including a project to establish emergency access to Catherino Drive from South Valley Avenue in Throop Borough, Lackawanna County";

(127) in item number 967 by striking the project description and inserting "Design, engineering, right-of-way acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, roadway redesign, and catch basin restoration and replacement on Cherry Street, Willow Street, Eno Street, Flat Road, Krispin Street, Parrish Street, Carver Street, Church Street, Franklin Street, Carolina Street, East Main Street, and Rear Shawnee Avenue in Plymouth Borough, Luzerne County";

(128) in item number 989 by inserting "on Old Ashley Road, Ashley Street, Phillips Street, First Street, Ferry Road, and Division Street" after "roadway redesign";

(129) in item number 342 by striking the project description and inserting "Design, engineering, right-of-way acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, roadway redesign, and cross pipe and catch basin restoration and replacement on Northgate, Mandy Court, Vine Street, and 36th Street in Milnesville West, and on Hillside Drive (including the widening of the bridge on Hillside Drive), Club 40 Road, Sunburst and Venisa Drives, and Stockton #7 Road in Hazle Township, Luzerne County";

(130) in item number 2332 by striking "Monroe County" and inserting "Carbon, Monroe, Pike, and Wayne Counties";

(131) in item number 4914 by striking the project description and inserting "Roadway improvements on I–90 loop in Mitchell along Haven Street from near Burr Street to near Ohlman Street";

(132) by striking item number 2723;

(133) in item number 61 by striking the matters in the State, project description, and amount columns and inserting "AL", "Grade crossing improvements along Wiregrass Central RR at Boll Weevil Bypass in Enterprise, AL", and "$250,000", respectively;

(134) in item number 314 by striking the project description and amount and inserting "Streetscape enhancements to the transit and pedestrian corridor, Fort Lauderdale, Downtown Development Authority" and "$610,000", respectively;

(135) in item number 1639 by striking the project description and inserting "Operational and highway safety improvements on Hwy 94 between the 20 mile marker post in Jamul and Hwy 188 in Tecate";

(136) in item number 2860 by striking the project description and inserting "Roadway improvements from Halchita to Mexican Hat on the Navajo Nation";

(137) in item number 2549 by striking "on Navy Pier";

(138) in item number 2804 by striking "on Navy Pier";

(139) in item number 1328 by striking the project description and inserting "Construct public access roadways and pedestrian safety improvements in and around Montclair State University in Clifton";

(140) in item number 2559 by striking the project description and inserting "Construct sound walls on Route 164 at and near the Maersk interchange";

(141) in item number 1849 by striking the project description and inserting "Highway, traffic-flow, pedestrian facility, and streetscape improvements, Pittsburgh";

(142) in item number 697 by striking the project description and inserting "Highway, traffic-flow, pedestrian facility, and streetscape improvements, Pittsburgh";

(143) in item number 3597 by striking the project description and inserting "Road Alignment from IL Route 159 to Sullivan Drive, Swansea";

(144) in item number 2352 by striking the project description and inserting "Streetscaping and transportation enhancements on 7th Street in Calexico, traffic signalization on Highway 78, construction of the Renewable Energy and Transportation Learning Center, improve and enlarge parking lot, and create bus stop, Brawley";

(145) in item number 3482 by striking the project description and inserting "Conduct a study to examine multi-modal improvements to the I–5 corridor between the Main Street Interchange and State Route 54";

(146) in item number 1275 by striking the project description and inserting "Scoping, permitting, engineering, construction management, and construction of Riverbank Park Bike Trail, Kearny";

(147) in item number 726 by striking the project description and inserting "Grade Separation at Vanowen and Clybourn, Burbank";

(148) in item number 1579 by striking the project description and inserting "San Gabriel Blvd. rehabilitation project, Mission Road to Broadway, San Gabriel";

(149) in item number 2690 by striking the project description and inserting "San Gabriel Blvd. rehabilitation project, Mission Road to Broadway, San Gabriel";

(150) in item number 2811 by striking the project description and inserting "San Gabriel Blvd. rehabilitation project, Mission Road to Broadway, San Gabriel";

(151) in item number 259 by striking the project description and inserting "Design and construction of the Clair Nelson Intermodal Center in Finland, Lake County";

(152) in item number 3456 by striking the project description and inserting "Completion of Phase II/Part I of a project on Elizabeth Avenue in Coleraine to west of Itasca County State Aid Highway 15 in Itasca County";

(153) in item number 2329 by striking the project description and inserting "Upgrade streets, undertake streetscaping, and implement traffic and pedestrian safety signalization improvements and highway-rail crossing safety improvements, Oak Lawn";

(154) in item number 766 by striking the project description and inserting "Design and construction of the walking path at Ellis Pond, Norwood";

(155) in item number 3474 by striking the project description and inserting "Yellow River Trail, Newton County";

(156) in item number 3291 by striking the amount and inserting "$200,000";

(157) in item number 3635 by striking the matters in the State, project description, and amount columns and inserting "GA", "Access Road in Montezuma", and "$200,000", respectively;

(158) in item number 716 by striking the project description and inserting "Conduct a project study report for new Highway 99 Interchange between SR 165 and Bradbury Road, and safety improvements/realignment of SR 165, serving Turlock/Hilmar region";

(159) in item number 1386 by striking the project description and amount and inserting "Pedestrian and bicycle facilities,

and street lighting in Haddon Heights" and "$300,000", respectively;

(160) in item number 2720 by striking the project description and amount and inserting "Pedestrian and bicycle facilities and street lighting in Barrington and streetscape improvements to Clements Bridge Road from the circle at the White Horse Pike to NJ Turnpike overpass in Barrington" and "$700,000", respectively;

(161) in item number 2523 by striking the project description and inserting "Penobscot Riverfront Development for bicycle trails, amenities, traffic circulation improvements, and waterfront access or stabilization, Bangor and Brewer";

(162) in item number 545 by striking the project description and inserting "Planning, design, and construction of improvements to the highway systems connecting to Lewistown and Auburn downtowns";

(163) by striking item number 2168;

(164) by striking item number 170;

(165) in item number 2366 by striking the project description and inserting "Design, engineering, right-of-way acquisition, and paving of the parking lot at the Casey Plaza in Wilkes-Barre Township";

(166) in item number 826 by striking "and Interstate 81" and inserting "and exit 168 on Interstate 81 or the intersection of the connector road with Northampton St.";

(167) in item number 2144 by striking the project description and inserting "Design, engineering, right-of-way acquisition and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, and roadway redesign on Third Street from Pittston Avenue to Packer Street; Swift Street from Packer Street to Railroad Street; Clark Street from Main Street to South Street; School Street from Main Street to South Street; Plane Street from Grove Street to William Street; John Street from 4 John Street to William Street; Grove Street from Plane Street to Duryea Borough line; Wood Street from Cherry Street to Hawthorne Street in Avoca Borough, Luzerne County";

(168) in item number 1765 by striking the project description and amount and inserting "Design, engineering, right-of-way acquisition, and construction of street improvements, streetscaping enhancements, paving, lighting, safety improvements, parking, roadway redesign in Pittston, including right-of-way acquisition, structure demolition, and intersection safety improvements in the vicinity of and including Main, William, and Parsonage Streets in Pittston" and "$1,600,000", respectively;

(169) in item number 2957 by striking the project description and amount and inserting "Design, engineering, land acquisition, right-of-way acquisition, and construction of a parking garage, streetscaping enhancements, paving, lighting, safety improvements, parking, and roadway redesign in the city of Wilkes-Barre" and "$2,800,000", respectively;

(170) in item number 3283 by striking the project description and amount and inserting "Pedestrian access improvements, including installation of infrastructure and equipment for security and surveillance purposes at subway stations in Astoria, New York" and "$1,300,000", respectively;

(171) in item number 3556 by striking the project description and amount and inserting "Design and rehabilitate staircases used as streets due to the steep grade of terrain in Bronx County" and "$1,100,000", respectively;

(172) by striking item number 203;

(173) by striking item number 552;

(174) by striking item number 590;

(175) by striking item number 759;

(176) by striking item number 879;

(177) by striking item number 1071;

(178) by striking item number 1382;

(179) by striking item number 1897;

(180) by striking item number 2553;

(181) in item number 3014 by striking the project description and amount and inserting "Design and Construct school safety projects in New York City" and "$2,500,000", respectively;

(182) in item number 2375 by striking the project description and amount and inserting "Subsurface environmental study to measure presence of methane and benzene gasses in vicinity of Greenpoint, Brooklyn, and the Kosciusko Bridge, resulting from the Newtown Creek oil spill" and "$100,000";

(183) in item number 221 by striking the project description and inserting "Study and Implement transportation improvements on Flatbush Ave. between Avenue U and the Marine Park Bridge in front of Gateway National Park in Kings County, New York";

(184) in item number 2732 striking the project description and inserting "Pedestrian safety improvements in the vicinity of LIRR stations";

(185) by striking item number 99;

(186) in item number 398 by striking the project description and inserting "Construct a new 2-lane road extending north from University Park Drive and improvements to University Park Drive";

(187) in item number 446 by striking the project description and inserting "Transportation improvements for development of the Williamsport-Pile Bay Road corridor";

(188) in item number 671 by striking "and Pedestrian Trail Expansion" and inserting ", including parking facilities and Pedestrian Trail Expansion";

(189) in item number 674 by striking the matters in the State, project description, and amount columns and inserting "AL", "Grade crossing improvements along Conecuh Valley RR at Henderson Highway (CR–21) in Troy, AL", and "$300,000", respectively;

(190) in item number 739 by striking the matters in the State, project description, and amount columns and inserting "AL", "Grade crossing improvements along Luxapalila Valley RR in Lamar and Fayette Counties, AL (Crossings at CR–6, CR–20, SH–7, James Street, and College Drive)", and "$300,000", respectively;

(191) in item number 746 by striking "Planning and construction of a bicycle trail adjacent to the I–90 and SR 615 Interchange in" and inserting "Planning, construction, and extension of bicycle trails adjacent to the I–90 and SR 615 Interchange, along the Greenway Corridor and throughout";

(192) in item number 749 by striking the matters in the State, project description, and amount columns and inserting "PA", "UPMC Heliport in Bedford", and "$750,000", respectively;

(193) in item number 813 by striking the project description and inserting "Preliminary design and study of long-term roadway approach alternatives to TH 36/SH 64 St. Croix River Crossing Project";

(194) in item number 816 by striking "$800,000" and inserting "$880,000";

(195) in item number 852 by striking "Acquire Right-of-Way for Ludlam Trail, Miami, Florida" and inserting "Planning, design, and engineering, Ludlam Trail, Miami";

(196) in item number 994 by striking the matters in the State, project description, and amount columns and inserting "PA", "Construct 2 flyover ramps and S. Linden Street exit for access to industrial sites in the cities of McKeesport and Duquesne", and "$500,000", respectively;

(197) in item number 1015 by striking the project description and inserting "Mississippi River Crossing connecting I–94 and US 10 between US 160 and TH 101, MN";

(198) in item number 1101 by striking the project description and inserting "I–285 underpass/tunnel assessment and engineering and interchange improvements in Sandy Springs";

(199) in item number 1211 by striking the matters in the State, project description, and amount columns and inserting "PA", "Road improvements and upgrades related to the Pennsylvania State Baseball Stadium", and "$500,000", respectively;

(200) in item number 1345 by striking "to Stony Creek Park, 25 Mile Road in Shelby Township" and inserting "south to the city of Utica";

(201) in item number 1501 by striking the project description and inserting "Construction and right-of-way acquisition of TH 241, CSAH 35 and associated streets in the city of St. Michael";

(202) in item number 1525 by striking "north of CSX RR Bridge" and inserting "US Highway 90";

(203) in item number 1847 by striking the project description and inserting "Improve roads, sidewalks, and road drainage, City of Seward";

(204) in item number 2031 by striking the project description and inserting "Construct and improve Westside Parkway in Fulton County";

(205) in item number 2103 by striking "$2,000,000" and inserting "$3,000,000";

(206) in item number 2219 by striking "SR 91 in City of Twinsburg, OH" and inserting "Center Valley Parkway in Twinsburg, OH";

(207) in item number 2302 by inserting "and other road improvements to Safford Street" after "crossings";

(208) in item number 2560 by striking the project description and inserting "I–285 underpass/tunnel assessment and engineering and interchange improvements in Sandy Springs";

(209) in item number 2563 by striking the project description and amount and inserting "Construct hike and bike path

as part of Bridgeview Bridge replacement in Macomb County" and "$486,400", respectively;

(210) in item number 2698 by striking the project description and inserting "Interchanges at I–95/Ellis Road and between Grant Road and Micco Road, Brevard County";

(211) in item number 3141 by striking "$2,800,000" and inserting "$1,800,000";

(212) by striking item number 3160;

(213) in item number 3353 by inserting "and construction" after "mitigation";

(214) in item number 996 by striking "$2,000,000" and inserting "$687,000";

(215) in item number 2166 by striking the project description and inserting "Design, right-of-way acquisition, and construction for I–35 and CSAH2 interchange and CSAH2 corridor to TH61 in Forest Lake";

(216) in item number 3251 by striking the project description and inserting "I–94 and Radio Drive Interchange and frontage road project, design, right-of-way acquisition, and construction, Woodbury";

(217) in item number 1488 by striking the project description and inserting "Construct a 4-lane highway between Maverick Junction and the Nebraska border";

(218) in item number 3240 by striking the project description and inserting "Railroad-highway crossings in Pierre";

(219) in item number 1738 by striking "Paving" and inserting "Planning, design, and construction";

(220) in item number 3672 by striking the project description and inserting "Pave remaining stretch of BIA Route 4 from the junction of the BIA Route 4 and N8031 in Pinon, AZ, to the Navajo and Hopi border";

(221) in item number 2424 by striking "Construction" and inserting "preconstruction (including survey and archeological clearances) and construction";

(222) in item number 1216 by striking the matters in the State, project description, and amount columns and inserting "PA", "For roadway construction improvements to Route 222 relocation, Lehigh County", and "$1,313,000", respectively;

(223) in item number 2956 by striking "$1,360,000" and inserting "$2,080,000";

(224) in item number 1256 by striking the matters in the State, project description, and amount columns and inserting "PA", "Construction of a bridge over Brandywine Creek as part of the Boot Road extension project, Downingtown Borough", and "$700,000", respectively;

(225) in item number 1291 by striking the matters in the State, project description, and amount columns and inserting "PA", "Enhance parking facilities in Chester Springs, Historic Yellow Springs", and "$20,000", respectively;

(226) in item number 1304 by striking the matters in the State, project description, and amount columns and inserting "PA", "Improve the intersection at SR 100/SR 4003 (Kernsville Road), Lehigh County", and "$250,000", respectively;

(227) in item number 1357 by striking the matters in the State, project description, and amount columns and

inserting "PA", "Intersection signalization at SR 3020 (Newburg Road)/Country Club Road, Northampton County", and "$250,000", respectively;

(228) in item number 1395 by striking the matters in the State, project description, and amount columns and inserting "PA", "Improve the intersection at SR 100/SR 29, Lehigh County", and "$220,000", respectively;

(229) in item number 80 by striking "$4,544,000" and inserting "$4,731,200";

(230) in item number 2096 by striking "$4,800,000" and inserting "$5,217,600";

(231) in item number 1496 by striking the matters in the State, project description, and amount columns and inserting "PA", "Study future needs of East-West road infrastructure in Adams County", and "$115,200", respectively;

(232) in item number 2193 by striking the project description and inserting "710 Freeway Study to comprehensively evaluate the technical feasibility of a tunnel alternative to close the 710 Freeway gap, considering all practicable routes, in addition to any potential route previously considered, and with no funds to be used for preliminary engineering or environmental review except to the extent necessary to determine feasibility";

(233) in item number 2445 by striking the project description and inserting "$600,000 for road and pedestrian safety improvements on Main Street in the Village of Patchogue; $900,000 for road and pedestrian safety improvements on Montauk Highway, between NYS Route 112 and Suffolk County Road 101 in Suffolk County";

(234) in item number 346 by striking the project description and inserting "Hansen Dam Recreation Area access improvements, including hillside stabilization and parking lot rehabilitation along Osborne Street between Glenoaks Boulevard and Dronfield Avenue";

(235) by striking item number 449;

(236) in item number 3688 by striking "road" and inserting "trail";

(237) in item number 3695 by striking "in Soldotna" and inserting "in the Kenai River corridor";

(238) in item number 3699 by striking "to improve fish habitat";

(239) in item number 3700 by inserting "and ferry facilities" after "a ferry";

(240) in item number 3703 by inserting "or other roads" after "Cape Blossom Road";

(241) in item number 3704 by striking "Fairbanks" and inserting "Alaska Highway";

(242) in item number 3705 by striking "in Cook Inlet for the Westside development/Williamsport-Pile Bay Road" and inserting "for development of the Williamsport-Pile Bay Road corridor";

(243) in item number 3829 by striking the amount and inserting "$3,050,000";

(244) by inserting after item number 3829 the following:

| | | | |
|---|---|---|---|
| "3829A | CO | U.S. 550, New Mexico State line to Durango | $950,000"; |

(245) in item number 4788 by striking the project description and inserting "Heidelberg Borough/Scott Township/Carnegie Borough for design, engineering, acquisition, and construction of streetscaping enhancements, paving, lighting and safety upgrades, and parking improvements";

(246) in item number 3861 by striking the project description and inserting "Creation of a greenway path along the Naugatuck River in Waterbury";

(247) in item number 3883 by striking the project description and inserting "Wilmington Riverfront Access and Street Grid Redesign";

(248) in item number 3892 by striking "$5,000,000" and inserting "$8,800,000";

(249) in item number 3894 by striking "$5,000,000" and inserting "$1,200,000";

(250) in item number 3909 by striking the project description and inserting "S.R. 281, the Avalon Boulevard Expansion Project from Interstate 10 to U.S. Highway 91";

(251) in item number 3911 by striking the project description and inserting "Construct a new bridge at Indian Street, Martin County";

(252) in item number 3916 by striking the project description and inserting "City of Hollywood for U.S. 1/Federal Highway, north of Young Circle";

(253) in item number 3937 by striking the project description and inserting "Kingsland bypass from CR 61 to I–95, Camden County";

(254) in item number 3945 by striking "CR 293 to CS 5231" and inserting "SR 371 to SR 400";

(255) in item number 3965 by striking "transportation projects" and inserting "and air quality projects";

(256) in item number 3986 by striking the project description and inserting "Extension of Sugarloaf Parkway, Gwinnett County";

(257) in item number 3999 by striking "Bridges" and inserting "Bridge and Corridor";

(258) in item number 4003 by striking the project description and inserting "City of Council Bluffs and Pottawattamie County East Beltway Roadway and Connectors Project";

(259) in item number 4043 by striking "MP 9.3, Segment I, II, and III" and inserting "Milepost 24.3";

(260) in item number 4050 by striking the project description and inserting "Preconstruction and construction activities of U.S. 51 between the Assumption Bypass and Vandalia";

(261) in item number 4058 by striking the project description and inserting "For improvements to the road between Brighton and Bunker Hill in Macoupin County";

(262) in each of item numbers 4062 and 4084 by striking the project description and inserting "Preconstruction, construction, and related research and studies of I–290 Cap the Ike project in the village of Oak Park";

(263) in item number 4089 by inserting "and parking facility/entrance improvements serving the Museum of Science and Industry" after "Lakeshore Drive";

(264) in item number 4103 by inserting "and adjacent to the" before "Shawnee";

(265) in item number 4110 by striking the project description and inserting "For improvements to the road between Brighton and Bunker Hill in Macoupin County";

(266) in item number 4120 by striking the matters in the project description and amount columns and inserting "Upgrade 146th Street to Improve I–69 Access" and "$800,000", respectively;

(267) in item number 4125 by striking "$250,000" and inserting "$1,650,000";

(268) by striking item number 4170;

(269) by striking item number 4179;

(270) in item number 4185 by striking the project description and inserting "Replace the Clinton Street Bridge spanning St. Mary's River in downtown Fort Wayne";

(271) in item number 4299 by striking the project description and inserting "Improve U.S. 40, MD 715 interchange and other roadways in the vicinity of Aberdeen Proving Ground to support BRAC-related growth";

(272) in item number 4313 by striking "Maryland Avenue" and all that follows through "Rd. corridor" and inserting "intermodal access, streetscape, and pedestrian safety improvements";

(273) in item number 4315 by striking "stormwater mitigation project" and inserting "environmental preservation project";

(274) in item number 4318 by striking the project description and inserting "Planning, design, and construction of improvements to the highway systems connecting to Lewiston and Auburn downtowns";

(275) in item number 4323 by striking the project description and inserting "MaineDOT Acadia intermodal passenger and maintenance facility";

(276) in item number 4338 by striking the project description and inserting "Construct 1 or more grade-separated crossings of I–75, and make associated improvements to improve local and regional east-west mobility between Mileposts 279 and 282";

(277) in item number 4355 by striking the project description and inserting "Design, engineering, ROW acquisition, construction, and construction engineering for the reconstruction of TH 95, from 12th Avenue to CSAH 13, including bridge and approaches, ramps, intersecting roadways, signals, turn lanes, and multiuse trail, North Branch";

(278) in item number 4357 by striking the project description and inserting "Design, construct, ROW, and expand TH 241 and CSAH 35 and associated streets in the city of St. Michael";

(279) in item number 4360 by striking the project description and inserting "Planning, design, and construction for Twin Cities Bioscience Corridor in St. Paul";

(280) in item number 4362 by striking the project description and inserting "I–494/U.S. 169 interchange reconstruction

including U.S. 169/Valley View Road interchange, Twin Cities Metropolitan Area";

(281) in item number 4365 by striking the project description and inserting "34th Street realignment and 34th Street and I–94 interchange, including retention and reconstruction of the SE Main Avenue/CSAH 52 interchange ramps at I–94, and other transportation improvements for the city of Moorhead, including the SE Main Avenue GSI and Moorhead Comprehensive Rail Safety Program";

(282) in item number 4369 by striking the project description and inserting "Construction of 8th Street North, Stearns C.R. 120 to TH 15 in St. Cloud";

(283) in item number 4371 by striking the project description and inserting "Construction and ROW of TH 241, CSAH 35 and associated streets in the city of St. Michael";

(284) in item number 4411 by striking "Southaven" and inserting "DeSoto County";

(285) in item number 4424 by striking the project description and inserting "U.S. 93 Evaro to Polson transportation improvement projects";

(286) in item number 4428 by striking the project description and inserting "US 76 improvements";

(287) in item number 4457 by striking the project description and inserting "Construct an interchange at an existing grade separation at SR 1602 (Old Stantonsburg Rd.) and U.S. 264 Bypass in Wilson County";

(288) in item number 4461 by striking the project description and inserting "Transportation and related improvements at Queens University of Charlotte, including the Queens Science Center and the Marion Diehl Center, Charlotte";

(289) in item number 4507 by striking the project description and inserting "Design, right-of-way acquisition, and construction of Highway 35 between Norfolk and South Sioux City, including an interchange at milepost 1 on U.S. I–129";

(290) in item number 4555 by inserting "Canal Street and" after "Reconstruction of";

(291) in item number 4565 by striking the project description and inserting "Railroad Construction and Acquisition, Ely and White Pine County";

(292) in item number 4588 by inserting "Private Parking and" before "Transportation";

(293) in item number 4596 by striking the project description and inserting "Centerway Bridge and Bike Trail Project, Corning";

(294) in item number 4610 by striking the project description and inserting "Preparation, demolition, disposal, and site restoration of Alert Facility on Access Road to Plattsburgh International Airport";

(295) in item number 4649 by striking the project description and inserting "Fairfield County, OH U.S. 33 and old U.S. 33 safety improvements and related construction, city of Lancaster and surrounding areas";

(296) in item number 4651 by striking "for the transfer of rail to truck for the intermodal" and inserting ", and construction of an intermodal freight";

(297) in item number 4691 by striking the project description and inserting "Transportation improvements to Idabel Industrial Park Rail Spur, Idabel";

(298) in item number 4722 by striking the project description and inserting "Highway, traffic, pedestrian, and riverfront improvements, Pittsburgh";

(299) in item number 4749 by striking "study" and inserting "improvements";

(300) in item number 4821 by striking "highway grade crossing project, Clearfield and Clinton Counties" and inserting "Project for highway grade crossings and other purposes relating to the Project in Cambria, Centre, Clearfield, Clinton, Indiana, and Jefferson Counties";

(301) in item number 4838 by striking "study" and inserting "improvements";

(302) in item number 4839 by striking "fuel-celled" and inserting "fueled";

(303) in item number 4866 by striking "$11,000,000" and inserting "$9,400,000";

(304) by inserting after item number 4866 the following:

| | | | |
|---|---|---|---|
| "4866A | RI | Repair and restore railroad bridge in Westerly | $1,600,000"; |

(305) in item number 4892 by striking the project description and inserting "Construct a 4-lane highway between maverick Junction and the Nebraska border";

(306) in item number 4916 by striking "$1,000,000" and inserting "$328,000";

(307) in item number 4924 by striking "$3,450,000" and inserting "$4,122,000";

(308) in item number 4960 by inserting "of which $50,000 shall be used for a street paving project, Calhoun" after "County";

(309) in item number 4974 by striking ", Sevier County";

(310) in item number 5008 by inserting "/Kane Creek Boulevard" after "500 West";

(311) in each of item numbers 5011 and 5033 by striking "200 South Interchange" and inserting "400 South Interchange";

(312) in item number 5021 by striking "Pine View Dam,";

(313) in item number 5026 by striking the project description and inserting "Roadway improvements on Washington Fields Road/300 East, Washington";

(314) in item number 5027 by inserting "and roadway improvements" after "safety project";

(315) in item number 5028 by inserting "and roadway improvements" after "lighting";

(316) in item number 5029 by inserting "and roadway improvements" after "lights";

(317) in number 5032 by striking the project description and inserting "Expand Redhills Parkway, St. George";

(318) in item number 5132 by striking the project description and inserting "St. Croix River crossing project, Wisconsin

State Highway 64, St. Croix County, Wisconsin, to Minnesota State Highway 36, Washington County";

(319) in item number 5161 by striking the project description and inserting "Raleigh Street Extension Project in Martinsburg";

(320) in item number 1824 by striking the project description and inserting "U.S. Route 10 expansion in Wadena and Ottertail Counties";

(321) in item number 1194 by striking the project description and inserting "Roadway and pedestrian design and improvements for Pennsylvania Avenue, Brooklyn";

(322) in item number 2286 by striking the project description and inserting "Road improvements for Church Street between NY State Route 25A and Hilden Street in Kings Park";

(323) in item number 1724 by striking the project description and amount and inserting "For road resurfacing and upgrades to Old Nichols Road and road repairs in the Nissequogue River watershed in Smithtown" and "$1,500,000", respectively;

(324) in item number 3636 by striking the matters in the State, project description, and amount columns and inserting "NY", "Road repair and maintenance in the Town of Southampton", and "$500,000", respectively;

(325) in item number 3638 by striking the matters in the State, project description, and amount columns and inserting "NY", "Improve NY State Route 112 from Old Town Road to NY State Route 347", and "$6,000,000", respectively;

(326) in item number 3479 by striking the project description and inserting "Road improvements and utility relocations within the city of Jackson";

(327) in item number 141 by striking "construction of pedestrian and bicycle improvements" and inserting "transportation enhancement activities";

(328) in item number 1204 by striking "at SR 283";

(329) in item number 2896 by striking the project description and inserting "Improve streetscape and signage and pave roads in McMinn County, including $50,000 that may be used for paving local roads in the city of Calhoun";

(330) in item number 3017 by striking ", Pine View Dam";

(331) in item number 3188 insert after "Reconstruction" the following: "including U.S. 169/Valley View Road Interchange,";

(332) in item number 1772 by striking the project description and inserting "Reconstruction of Historic Eastern Parkway";

(333) in item number 2610 by striking the project description and inserting "Reconstruction of Times and Duffy Squares in New York City";

(334) in item number 2462—

(A) by striking "of the New Jersey Turnpike, Carteret" and inserting "and the Tremley Point Connector Road of the New Jersey Turnpike"; and

(B) by striking "$1,200,000" and inserting "$450,000";

(335) in item number 2871 by striking the amount and inserting "$2,430,000";

(336) in item number 3381 by striking the project description and inserting "Determine scope, design, engineering, and

construction of Western Boulevard Extension from Northern Boulevard to Route 9 in Ocean County, New Jersey";

(337) in item number 2703 by striking the project description and inserting "Upgrading existing railroad crossings with installation of active signals and gates and to study the feasibility and necessity of rail grade separation";

(338) in item number 1004 by inserting "SR 71 near" after "turn lane on";

(339) in item number 2824 by striking the project description and inserting the following: "Sevier County, TN, SR 35 near SR 449 intersection";

(340) in item number 373 by striking the project description and inserting "Widening existing Highway 226, including a bypass of Cash and a new connection to Highway 49";

(341) in item number 1486, by striking the project description and inserting "Bridge reconstruction and road widening on Route 252 and Route 30 in Tredyffrin Township, PA, in conjunction with the Paoli Transportation Center Project";

(342) in item number 4541 by striking "of the New Jersey Turnpike, Carteret" and inserting "and the Tremley Point Connector Road of the New Jersey Turnpike";

(343) in item number 4006 by striking the project description and inserting "Improvement to Alice's Road/105th Street Corridor including bridge, interchange, roadway, right-of-way, and enhancements";

(344) in item number 2901 by striking the project description and inserting "Purchase of land and conservation easements within U.S. 24 study area in Lucas, Henry, and Fulton Counties, Ohio";

(345) in item number 2619 by striking the project description and inserting "Improve access to I–55 between Bayless Avenue and Loughborough Avenue, including bridge 230.06";

(346) in item number 1687 by striking the project description and inserting "Construct an interchange at I–675 and Warren Avenue near downtown Saginaw";

(347) by striking item number 206;

(348) by striking item number 821;

(349) by striking item number 906;

(350) by striking item number 1144;

(351) in item number 1693 by striking the project description and amount and inserting "Plan and implement truck route improvements in the Maspeth neighborhood of Queens County" and "$500,000", respectively;

(352) in item number 3039 by striking the project description and inserting "Pittsfield greenways construction to connect Pittsfield to the Ann Arbor greenway system, Pittsfield Township";

(353) in item number 2922 by striking the project description and amount and inserting "Detroit River International Wildlife Refuge for land acquisition adjacent to I–75 in Monroe County for wetland mitigation and habitat restoration, Fish and Wildlife Service" and "$1,800,000", respectively;

(354) in item number 3641 by striking the matters in the State, project description, and amount columns and inserting "MI", "River Raisin Battlefield for acquisition of historic battlefield land in Monroe County, Port of Monroe", and "$1,200,000"; respectively;

(355) in item number 3643 by striking the matters in the State, project description, and amount columns and inserting "MI", "Phase 1 of Monroe County greenway system construction, Monroe County", and "$940,000", respectively;

(356) in item number 3645 by striking the matters in the State, project description, and amount columns and inserting "MI", "East County fueling operations consolidation at the Monroe County Road Commission and enhancement of facilities to accommodate biodiesel fuel pumps, Monroe County", and "$1,000,000", respectively;

(357) in item number 3646 by striking the matters in the State, project description, and amount columns and inserting "MI", "Greenway trail construction from City of Monroe to Sterling State Park, City of Monroe", and "$100,000"; respectively;

(358) in item number 1883 by striking the project description and inserting "Planning for the Orangeline High Speed MAGLEV from Los Angeles County to Orange County";

(359) in item number 3757 by inserting ", including Van Asche Drive" after "Corridor";

(360) in item number 4347 by striking the project description and inserting "Alger County, to reconstruct, pave, and realign a portion of H–58 from 2,600 feet south of Little Beaver Lake Road to 4,600 feet east of Hurricane River";

(361) in item number 4335 by striking the project description and inserting "Construct an interchange at I–675 and Warren Avenue near downtown Saginaw";

(362) in item number 4891 by striking the project description and inserting "Widening U.S. 17 in Charleston County from the Isle of Palms Connector to a point at or near Darrell Creek Trail";

(363) in item number 3647 by striking the matters in the State, project description, and amount columns and inserting "AL", "Drainage and infrastructure improvements on U.S. 11 in front of Springville Middle School in Springville", and "$1,000,000", respectively;

(364) in item number 3648 by striking the matters in the State, project description, and amount columns and inserting "AL", "Transportation enhancement projects for sidewalks and streetscaping along Cahaba Road between the Botanical Gardens and the Birmingham Zoo in the City of Birmingham", and "$1,075,000", respectively;

(365) in item number 3651 by striking the matters in the State, project description, and amount columns and inserting "AL", "Engineering and right-of-way acquisition for the McWrights Ferry Road extension between Rice Mine Road and New Watermelon Road in Tuscaloosa County", and "$1,075,000", respectively;

(366) in item number 562 by striking "a designated truck route through" and inserting "roadway and sidewalk improvements in";

(367) in item number 2836 by striking the project description and inserting "Traffic calming and safety improvements to Lido Boulevard, Town of Hampstead, Nassau County";

(368) in item number 1353 by striking the project description and inserting "Improve the flow of truck traffic in Orrville";

(369) in item number 1975 by striking the project description and inserting "Hatcher Pass Ski Development Road in Matanuska-Susitna Borough";

(370) in item number 1661 by striking the project description and inserting "Hatcher Pass Ski Development Road in Matanuska-Susitna Borough";

(371) in item number 1574 by striking the project description and inserting "Construct commuter parking structure in the central business district in the vicinity of La Grange Road, and for projects identified by the Village of La Grange as its highest priorities";

(372) in item number 3461 by striking the project description and inserting "Construct Leon Pass overpass, and for projects identified by the Village of Hodgkins as its highest priorities";

(373) in item numbers 1310 and 2265 by striking the project descriptions and inserting "To construct up to 2 interchanges on U.S. Alternate Highway 72/Alabama Highway 20 from Interstate 65 to U.S. Highway 31 in Decatur, Alabama, with additional lanes as necessary";

(374) in item number 4934 by striking "connection with Hermitage Avenue" and inserting "Hermitage Avenue and pedestrian connection";

(375) in item number 1227 by striking the project description and inserting "Construct road improvements near industrial park near SR 209 and CR 345 that improve access to the industrial park";

(376) in item number 2507 by striking the project description and inserting "Texas Department of Transportation: for those projects the Department has identified as its highest priorities";

(377) in item number 3903 by striking the project description and inserting "Planning, design, and engineering study to widen (4 lanes) SR 87 from the intersection of US 90 and SR 87 South to the Alabama State line";

(378) in item number 56 by striking the project description and inserting "Bicycle and pedestrian improvements, Oregon";

(379) in item number 604 by striking the amount and inserting "$11,800,000";

(380) in item number 1299 by striking the amount and inserting "$9,800,000";

(381) in item number 1506 by striking the amount and inserting "$5,100,000";

(382) in item number 1904 by striking the project description and inserting "Study and construct access to intermodal facility in Azusa";

(383) in item number 3653 by striking the matters in the State, project description, and amount columns and inserting "MI", "Bicycle and pedestrian trails in Harrison Township", and "$2,900,000", respectively;

(384) in item number 3447 by striking the project description and inserting "Carlton, 4th Street Railroad Crossing Improvement Project: Construct a safe, at grade crossing of the railroad and necessary bridge, connecting the community's educational and athletic facilities";

(385) in item number 2321 by striking the project description and inserting "Design and construct roadway and traffic

signal improvements on Stella Street and Front Street, Wormleysburg, PA"; and

(386) in item number 370 by striking the project description and inserting "Pedestrian paths, stairs, seating, landscaping, lighting, and other transportation enhancement activities along Riverside Boulevard and at Riverside Park South".

(b) UNUSED OBLIGATION AUTHORITY.—Notwithstanding any other provision of law, unused obligation authority made available for an item in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1256) that is repealed, or authorized funding for such an item that is reduced, by this section shall be made available—

(1) for an item in section 1702 of that Act that is added or increased by this section and that is in the same State as the item for which obligation authority or funding is repealed or reduced;

(2) in an amount proportional to the amount of obligation authority or funding that is so repealed or reduced; and

(3) individually for projects numbered 1 through 3676 pursuant to section 1102(c)(4)(A) of that Act (119 Stat. 1158).

(c) TRANSFER OF PROJECT FUNDS.—The Secretary of Transportation shall transfer to the Commandant of the Coast Guard amounts made available to carry out the project described in item number 4985 of the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1447) to carry out that project, in accordance with the Act of June 21, 1940, commonly known as the "Truman-Hobbs Act", (33 U.S.C. 511 et seq.).

(d) ADDITIONAL DISCRETIONARY USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—Of the funds apportioned to each State under section 104(b)(3) of title 23, United States Code, a State may expend for each of fiscal years 2008 and 2009 not more than $1,000,000 for the following activities:

(1) Participation in the Joint Operation Center for Fuel Compliance established under section 143(b)(4)(H) of title 23, United States Code, within the Department of the Treasury, including the funding of additional positions for motor fuel tax enforcement officers and other staff dedicated on a full-time basis to participation in the activities of the Center.

(2) Development, operation, and maintenance of electronic filing systems to coordinate data exchange with the Internal Revenue Service by States that impose a tax on the removal of taxable fuel from any refinery and on the removal of taxable fuel from any terminal.

(3) Development, operation, and maintenance of electronic single point of filing in conjunction with the Internal Revenue Service by States that impose a tax on the removal of taxable fuel from any refinery and on the removal of taxable fuel from any terminal.

(4) Development, operation, and maintenance of a certification system by a State of any fuel sold to a State or local government (as defined in section 4221(d)(4) of the Internal Revenue Code of 1986) for the exclusive use of the State or local government or sold to a qualified volunteer fire department (as defined in section 150(e)(2) of such Code) for its exclusive use.

(5) Development, operation, and maintenance of a certification system by a State of any fuel sold to a nonprofit educational organization (as defined in section 4221(d)(5) of such Code) that includes verification of the good standing of the organization in the State in which the organization is providing educational services.

(e) PROJECT FEDERAL SHARE.—Section 1964 of the Safe, Accountable, Flexible, Efficient Transportation Equity: A Legacy for Users (119 Stat. 1519) is amended by adding at the end the following:

"(c) SPECIAL RULE.—Notwithstanding any other provision of law, the Federal share of the cost of the projects described in item numbers 1284 and 3093 in the table contained in section 1702 of this Act shall be 100 percent.".

**SEC. 106. NONMOTORIZED TRANSPORTATION PILOT PROGRAM.**

23 USC 217 note.

Section 1807(a)(3) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1460) is amended by striking "Minneapolis-St. Paul, Minnesota" and inserting "Minneapolis, Minnesota".

**SEC. 107. CORRECTION OF INTERSTATE AND NATIONAL HIGHWAY SYSTEM DESIGNATIONS.**

(a) TREATMENT.—Section 1908(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1469) is amended by striking paragraph (3).

(b) NATIONAL HIGHWAY SYSTEM.—Section 1908(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1470) is amended by striking "from the Arkansas State line" and inserting "from Interstate Route 540".

**SEC. 108. BUDGET JUSTIFICATION; BUY AMERICA.**

49 USC 301 note.

(a) BUDGET JUSTIFICATION.—Section 1926 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1483) is amended by striking "The Department" and inserting "Notwithstanding any other provision of law, the Department".

(b) BUY AMERICA.—Section 1928 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1484) is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) the current application by the Federal Highway Administration of the Buy America test, that is only applied to components or parts of a bridge project and not the entire bridge project, is inconsistent with this sense of Congress;".

**SEC. 109. TRANSPORTATION IMPROVEMENTS.**

The table contained in section 1934(c) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1486) is amended—

(1) in item number 436 by inserting ", Saole," after "Sua";

(2) in item number 448 by inserting "by removing asphalt and concrete and reinstalling blue cobblestones" after "streets";

(3) by striking item number 451;

(4) in item number 452 by striking "$2,000,000" and inserting "$3,000,000";

(5) in item number 12 by striking "Yukon River" and inserting "Kuskokwim River";

(6) in item number 18 by striking "Engineering and Construction in Merced County" and inserting "and safety improvements/realignment of SR 165 project study report and environmental studies in Merced and Stanislaus Counties";

(7) in item number 38 by striking the project description and inserting "Relocation of the Newark Train Station";

(8) in item number 57 by striking the project description and inserting "Kingsland bypass from CR 61 to I–95, Camden County";

(9) in item number 114 by striking "IA–32" and inserting "SW" after "Construct";

(10) in item number 122 by striking the project description and inserting "Design, right-of-way acquisition, and construction of the SW Arterial and connections to U.S. 20, Dubuque County";

(11) in item number 130 by striking the project description and inserting "Improvements and rehabilitation to rail and bridges on the Appanoose County Community Railroad";

(12) in item number 133 by striking "IA–32";

(13) in item number 138 by striking the project description and inserting "West Spencer Beltway Project";

(14) in item number 142 by striking "MP 9.3, Segment I, II, and III" and inserting "Milepost 24.3";

(15) in item number 161 by striking "Bridge replacement on Johnson Drive and Nall Ave." and inserting "Construction improvements";

(16) in item number 182 by striking the project description and inserting "Improve U.S. 40, M.D. 715 interchange, and other roadways in the vicinity of Aberdeen Proving Ground to support BRAC-related growth";

(17) in item number 198 by striking the project description and inserting "Construct 1 or more grade separated crossings of I–75 and make associated improvements to improve local and regional east-west mobility between Mileposts 279 and 282";

(18) in item number 201 by striking the project description and inserting "Alger County, to reconstruct, pave, and realign a portion of H–58 from 2,600 feet south of Little Beaver Lake Road to 4,600 feet east of Hurricane River";

(19) in item number 238 by striking the project description and inserting "Develop and construct the St. Mary water project road and bridge infrastructure, including a new bridge and approaches across St. Mary River, stabilization and improvements to United States Route 89, and road/canal from Siphon Bridge to Spider Lake, on the condition that $2,500,000 of the amount made available to carry out this item may be made available to the Bureau of Reclamation for use for the Swift Current Creek and Boulder Creek bank and bed stabilization project in the Lower St. Mary Lake drainage";

(20) in item number 329 by inserting ", Tulsa" after "technology";

(21) in item number 358 by striking "fuel-celled" and inserting "fueled";

(22) in item number 374 by striking the project description and inserting "Construct a 4-lane highway between Maverick Junction and the Nebraska border";

(23) in item number 402 by striking "from 2 to 5 lanes and improve alignment within rights-of-way in St. George" and inserting ", St. George";

(24) in item number 309 by striking the project description and inserting "Streetscape, roadway, pedestrian, and parking improvements at the intersection of Meadow Lane, Chestnut Lane, Willow Drive, and Liberty Avenue for the College of New Rochelle campus in New Rochelle"; and

(25) in item number 462 by striking the project description and inserting "I–75 widening and improvements in Collier and Lee Counties, Florida".

Maryland.

**SEC. 110. I–95/CONTEE ROAD INTERCHANGE DESIGN.**

Section 1961 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1518) is amended—

(1) in the section heading by striking "**STUDY**" and inserting "**DESIGN**";

(2) by striking subsections (a), (b), and (c) and inserting the following:

"(a) DESIGN.—The Secretary shall make available the funds authorized to be appropriated by this section for the design of the I–95/Contee Road interchange in Prince George's County, Maryland."; and

(3) by redesignating subsection (d) as subsection (b).

**SEC. 111. HIGHWAY RESEARCH FUNDING.**

(a) F–SHRP FUNDING.—Notwithstanding any other provision of law, for each of fiscal years 2008 and 2009, at any time at which an apportionment is made of the sums authorized to be appropriated for the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the Interstate maintenance program, the bridge program, or the highway safety improvement program, the Secretary of Transportation shall—

(1) deduct from each apportionment an amount not to exceed 0.205 percent of the apportionment; and

(2) transfer or otherwise make that amount available to carry out section 510 of title 23, United States Code.

(b) CONFORMING AMENDMENTS.—

(1) FUNDING.—Section 5101 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1779) is amended—

(A) in subsection (a)(1) by striking "509, and 510" and inserting "and 509";

(B) in subsection (a)(4) by striking "$69,700,000" and all that follows through "2009" and inserting "$40,400,000 for fiscal year 2005, $69,700,000 for fiscal year 2006, $76,400,000 for each of fiscal years 2007 and 2008, and $78,900,000 for fiscal year 2009"; and

(C) in subsection (b) by inserting after "50 percent" the following "or, in the case of funds appropriated by subsection (a) to carry out section 5201, 5202, or 5203 of this Act, 80 percent".

(2) FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.—Section 5210 of such Act (119 Stat. 1804) is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(c) CONTRACT AUTHORITY.—Funds made available under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be determined under section 510(f) of that title.

(d) APPLICABILITY OF OBLIGATION LIMITATION.—Funds made available under this section shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs under section 1102 the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (23 U.S.C. 104 note; 119 Stat. 1157) or any other Act.

(e) EQUITY BONUS FORMULA.—Notwithstanding any other provision of law, in allocating funds for the equity bonus program under section 105 of title 23, United States Code, for each of fiscal years 2008 and 2009, the Secretary of Transportation shall make the required calculations under that section as if this section had not been enacted.

(f) FUNDING FOR RESEARCH ACTIVITIES.—Of the amount made available by section 5101(a)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1779)—

(1) at least $1,000,000 shall be made available for each of fiscal years 2008 and 2009 to carry out section 502(h) of title 23, United States Code; and

(2) at least $4,900,000 shall be made available for each of fiscal years 2008 and 2009 to carry out section 502(i) of that title.

(g) TECHNICAL AMENDMENTS.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 502 of title 23, United States Code, is amended by striking the first subsection (h), relating to infrastructure investment needs reports beginning with the report for January 31, 1999.

(2) ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.—Section 5512(a)(2) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1829) is amended by striking "PROGRAM APPRECIATION.—" and inserting "PROGRAM APPLICATION.—". 23 USC 135 note.

(3) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5506 of title 49, United States Code, is amended—

(A) in subsection (c)(2)(B) by striking "tier" and inserting "Tier";

(B) in subsection (i)—

(i) by striking "In order to" and inserting the following:

"(1) IN GENERAL.—In order to"; and

(ii) by adding at the end the following:

"(2) SPECIAL RULE.—Nothing in paragraph (1) requires a nonprofit institution of higher learning designated as a Tier II university transportation center to maintain total expenditures as described in paragraph (1) in excess of the amount of the grant awarded to the institution."; and

(C) in subsection (k)(3) by striking "The Secretary" and all that follows through "to carry out this section"

and inserting "For each of fiscal years 2008 and 2009, the Secretary shall expend not more than 1.5 percent of amounts made available to carry out this section".

**SEC. 112. RESCISSION.**

Section 10212 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (as amended by section 1302 of the Pension Protection Act of 2006 (Public Law 109–280)) (119 Stat. 1937; 120 Stat. 780) is amended by striking "$8,593,000,000" each place it appears and inserting "$8,708,000,000".

**SEC. 113. TEA–21 TECHNICAL CORRECTIONS.**

(a) SURFACE TRANSPORTATION PROGRAM.—Section 1108(f)(1) of the Transportation Equity Act for the 21st Century (23 U.S.C. 133 note; 112 Stat. 141) is amended by striking "2003" and inserting "2009".

(b) PROJECT AUTHORIZATIONS.—The table contained in section 1602 of such Act (112 Stat. 257) is amended—

(1) in item number 1096 (as amended by section 1703(a)(11) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1454)) by inserting ", and planning and construction to Heisley Road," before "in Mentor, Ohio";

(2) in item number 1646 by striking "and construction" and inserting "construction, reconstruction, resurfacing, restoration, rehabilitation, and repaving"; and

(3) in item number 614 by inserting "and for NJ Carteret, NJ Ferry Service Terminal" after "east".

**SEC. 114. HIGH PRIORITY CORRIDOR AND INNOVATIVE PROJECT TECHNICAL CORRECTIONS.**

(a) HIGH PRIORITY CORRIDORS.—Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 119 Stat. 1212) is amended—

(1) in paragraph (63) by striking "and United States Routes 1, 3, 9, 17, and 46," and inserting "United States Routes 1, 9, and 46, and State Routes 3 and 17,"; and

(2) in paragraph (64)—

(A) by striking "United States Route 42" and inserting "State Route 42"; and

(B) by striking "Interstate Route 676" and inserting "Interstate Routes 76 and 676".

(b) INNOVATIVE PROJECTS.—Item number 89 of the table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2052) is amended in the matter under the column with the heading "INNOVATIVE PROJECTS" by inserting "and contiguous counties" after "Michigan".

**SEC. 115. DEFINITION OF REPEAT INTOXICATED DRIVER LAW.**

Section 164(a)(5) of title 23, United States Code, is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) receive—

"(i) a driver's license suspension for not less than 1 year; or

"(ii) a combination of suspension of all driving privileges for the first 45 days of the suspension period

followed by a reinstatement of limited driving privileges for the purpose of getting to and from work, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual;

"(B) be subject to the impoundment or immobilization of, or the installation of an ignition interlock system on, each motor vehicle owned or operated, or both, by the individual;".

**SEC. 116. RESEARCH TECHNICAL CORRECTION.**

Section 5506(e)(5)(C) of title 49, United States Code, is amended by striking "$2,225,000"and inserting "$2,250,000".

**SEC. 117. BUY AMERICA WAIVER NOTIFICATION AND ANNUAL REPORTS.** 23 USC 313 note.

(a) WAIVER NOTIFICATION.—

(1) IN GENERAL.—If the Secretary of Transportation makes a finding under section 313(b) of title 23, United States Code, with respect to a project, the Secretary shall—

(A) publish in the Federal Register, before the date on which such finding takes effect, a detailed written justification as to the reasons that such finding is needed; and Federal Register, publication.

(B) provide notice of such finding and an opportunity for public comment on such finding for a period of not to exceed 60 days.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in paragraph (1) shall be construed to require the effective date of a finding referred to in paragraph (1) to be delayed until after the close of the public comment period referred to in paragraph (1)(B).

(b) ANNUAL REPORTS.—Not later than February 1 of each year beginning after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the projects for which the Secretary made findings under section 313(b) of title 23, United States Code, during the preceding calendar year and the justifications for such findings.

**SEC. 118. EFFICIENT USE OF EXISTING HIGHWAY CAPACITY.**

(a) STUDY.—The Secretary of Transportation shall conduct a study on the impacts of converting left and right highway safety shoulders to travel lanes.

(b) CONTENTS.—In conducting the study, the Secretary shall—

(1) analyze instances in which safety shoulders are used for general purpose vehicle traffic, high occupancy vehicles, and public transportation vehicles;

(2) analyze instances in which safety shoulders are not part of the roadway design;

(3) evaluate whether or not conversion of safety shoulders or the lack of a safety shoulder in the original roadway design has a significant impact on the number of accidents or has any other impact on highway safety; and

(4) compile relevant statistics.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

**SEC. 119. FUTURE INTERSTATE DESIGNATION.**

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Transportation shall designate, as a future Interstate Route 69 Spur, the Audubon Parkway and, as a future Interstate Route 66 Spur, the Natcher Parkway in Owensboro, Kentucky. Any segment of such routes shall become part of the Interstate System (as defined in section 101 of title 23, United States Code) at such time as the Secretary determines that the segment—

(1) meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code; and

(2) connects to an existing Interstate System segment.

Applicability.

(b) SIGNS.—Section 103(c)(4)(B)(iv) of title 23, United States Code, shall apply to the designations under subsection (a); except that a State may install signs on the 2 parkways that are to be designated under subsection (a) indicating the approximate location of each of the future Interstate System highways.

(c) REMOVAL OF DESIGNATION.—The Secretary shall remove designation of a highway referred to in subsection (a) as a future Interstate System route if the Secretary, as of the last day of the 25-year period beginning on the date of enactment of this Act, has not made the determinations under paragraphs (1) and (2) of subsection (a) with respect to such highway.

**SEC. 120. PROJECT FLEXIBILITY.**

Section 1935(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1510) is amended by inserting "the project numbered 1322 and" before "the projects".

23 USC 101 note.

**SEC. 121. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as otherwise provided in this Act (including subsection (b)), this Act and the amendments made by this Act take effect on the date of enactment of this Act.

(b) EXCEPTION.—

(1) IN GENERAL.—The amendments made by this Act (other than the amendments made by sections 101(g), 101(m)(1)(H), 103, 105, 109, and 201(o)) to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) shall—

(A) take effect as of the date of enactment of that Act; and

(B) be treated as being included in that Act as of that date.

(2) EFFECT OF AMENDMENTS.—Each provision of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) (including the amendments made by that Act) (as in effect on the day before the date of enactment of this Act) that is amended by this Act (other than sections 101(g), 101(m)(1)(H), 103, 105, 109, and 201(o)) shall be treated as not being enacted.

(c) CONFORMING AMENDMENT TO HIGHWAY TRUST FUND.—Subsections (c)(1) and (e)(3) of section 9503 of the Internal Revenue Code of 1986 are each amended by striking "Safe, Accountable,

26 USC 9503.

Flexible, Efficient Transportation Equity Act: A Legacy for Users" and inserting "SAFETEA–LU Technical Corrections Act of 2008".

# TITLE II—TRANSIT PROVISIONS

**SEC. 201. TRANSIT TECHNICAL CORRECTIONS.**

(a) SECTION 5302.—Section 5302(a)(10) of title 49, United States Code, is amended by striking "charter," and inserting "charter, sightseeing,".

(b) SECTION 5303.—

(1) Section 5303(f)(3)(C)(ii) of such title is amended by striking subclause (II) and inserting the following:

"(II) FUNDING.—For fiscal year 2008 and each fiscal year thereafter, in addition to other funds made available to the metropolitan planning organization for the Lake Tahoe region under this chapter and title 23, prior to any allocation under section 202 of title 23, and notwithstanding the allocation provisions of section 202, the Secretary shall set aside ½ of 1 percent of all funds authorized to be appropriated for such fiscal year to carry out section 204 of title 23, and shall make such funds available to the metropolitan planning organization for the Lake Tahoe region to carry out the transportation planning process, environmental reviews, preliminary engineering, and design to complete environmental documentation for transportation projects for the Lake Tahoe region under the Tahoe Regional Planning Compact as consented to in Public Law 96–551 (94 Stat. 3233) and this paragraph.".

(2) Section 5303(j)(3)(D) of such title is amended—

(A) by inserting "or the identified phase" before "within the time"; and

(B) by inserting "or the identified phase" before the period at the end.

(3) Section 5303(k)(2) of such title is amended by striking "a metropolitan planning area serving".

(c) SECTION 5307.—Section 5307(b) of such title is amended—

(1) in the heading for paragraph (2) by striking "2007" and inserting "2009";

(2) in paragraph (2)(A)—

(A) by striking "2007" and inserting "2009"; and

(B) by striking "mass" and inserting "public";

(3) by adding at the end of paragraph (2) the following:

"(E) MAXIMUM AMOUNTS IN FISCAL YEARS 2008 AND 2009.—In fiscal years 2008 and 2009—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than

50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 50 percent of the amount the portion of the area received under section 5311 in fiscal year 2002."; and

(4) in paragraph (3) by striking "section 5305(a)" and inserting "section 5303(k)".

49 USC 5309.

(d) SECTION 5309.—Section 5309 of such title is amended—

(1) in subsection (d)(5)(B) by striking "regulation." and inserting "this subsection and shall give comparable, but not necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating.";

(2) in subsection (e)(6)(B) by striking "subsection." and inserting "subsection and shall give comparable, but not necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating.";

(3) in the heading for paragraph (2)(A) of subsection (m) by striking "MAJOR CAPITAL" and inserting "CAPITAL"; and

(4) in subsection (m)(7)(B) by striking "section 3039" and inserting "section 3045".

(e) SECTION 5311.—Section 5311 of such title is amended—

(1) in subsection (g)(1)(A) by striking "for any purpose other than operating assistance" and inserting "for a capital project or project administrative expenses";

(2) in subsections (g)(1)(A) and (g)(1)(B) by striking "capital" after "net"; and

(3) in subsection (i)(1) by striking "Sections 5323(a)(1)(D) and 5333(b) of this title apply" and inserting "Section 5333(b) applies".

(f) SECTION 5312.—The heading for section 5312(c) of such title is amended by striking "MASS TRANSPORTATION" and inserting "PUBLIC TRANSPORTATION".

(g) SECTION 5314.—Section 5314(a)(3) is amended by striking "section 5323(a)(1)(D)" and inserting "section 5333(b)".

(h) SECTION 5319.—Section 5319 of such title is amended by striking "section 5307(k)" and inserting "section 5307(d)(1)(K)".

(i) SECTION 5320.—Section 5320 of such title is amended—

(1) in subsection (a)(1)(A) by striking "intra—agency" and inserting "intraagency";

(2) in subsection (b)(5)(A) by striking "5302(a)(1)(A)" and inserting "5302(a)(1)";

(3) in subsection (d)(1) by inserting "to administer this section and" after "5338(b)(2)(J)";

(4) by adding at the end of subsection (d) the following:

"(4) TRANSFERS TO LAND MANAGEMENT AGENCIES.—The Secretary may transfer amounts available under paragraph (1) to the appropriate Federal land management agency to pay necessary costs of the agency for such activities described in paragraph (1) in connection with activities being carried out under this section.";

(5) in subsection (k)(3) by striking "subsection (d)(1)" and inserting "subsection (e)(1)";

(6) by redesignating subsections (a) through (m) as subsections (b) through (n), respectively; and

(7) by inserting before subsection (b) (as so redesignated) the following:

"(a) PROGRAM NAME.—The program authorized by this section shall be known as the Paul S. Sarbanes Transit in Parks Program.".

(j) SECTION 5323.—Section 5323(n) of such title is amended by striking "section 5336(e)(2)" and inserting "section 5336(d)(2)". 49 USC 5323.

(k) SECTION 5325.—Section 5325(b) of such title is amended—

(1) in paragraph (1) by inserting before the period at the end "adopted before August 10, 2005";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(l) SECTION 5336.—

(1) APPORTIONMENTS OF FORMULA GRANTS.—Section 5336 of such title is amended—

(A) in subsection (a) by striking "Of the amount" and all that follows before paragraph (1) and inserting "Of the amount apportioned under subsection (i)(2) to carry out section 5307—";

(B) in subsection (d)(1) by striking "subsections (a) and (h)(2) of section 5338" and inserting "subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338"; and

(C) by redesignating subsection (c), as added by section 3034(c) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1628), as subsection (k).

(2) TECHNICAL AMENDMENTS.—Section 3034(d)(2) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1629), is amended by striking "paragraph (2)" and inserting "subsection (a)(2)". 49 USC 5336.

(m) SECTION 5337.—Section 5337(a) of title 49, United States Code, is amended by striking "for each of fiscal years 1998 through 2003" and inserting "for each of fiscal years 2005 through 2009".

(n) SECTION 5338.—Section 5338(d)(1)(B) of such title is amended by striking "section 5315(a)(16)" and inserting "section 5315(b)(2)(P)".

(o) SAFETEA–LU.—

(1) SECTION 3011.—Section 3011(f) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1589) is amended by adding to the end the following:

"(5) Central Florida Commuter Rail Transit Project.".

(2) SECTION 3037.—Section 3037(c) of such Act (119 Stat. 1636) is amended—

(A) in paragraph (3) by striking "Phase II"; and

(B) by striking paragraph (10).

(3) SECTION 3040.—Section 3040(4) of such Act (119 Stat. 1639) is amended by striking "$7,871,895,000" and inserting "$7,872,893,000".

(4) SECTION 3043.—

(A) PORTLAND, OREGON.—Section 3043(b)(27) of such Act (119 Stat. 1642) is amended by inserting "/Milwaukie" after "Mall".

(B) LOS ANGELES.—

(i) PHASE 1.—Section 3043(b)(13) of such Act (119 Stat. 1642) is amended to read as follows:

"(13) Los Angeles—Exposition LRT (Phase 1).".

(ii) PHASE 2.—Section 3043(c) of such Act (119 Stat. 1645) is amended by inserting after paragraph (104) the following:

"(104A) Los Angeles—Exposition LRT (Phase 2).".

(C) SAN DIEGO.—Section 3043(c)(105) of such Act (119 Stat. 1645) is amended by striking "LOSSAN Del Mar-San Diego—Rail Corridor Improvements" and inserting "LOSSAN Rail Corridor Improvements".

(D) SAN DIEGO.—Section 3043(c)(217) of such Act (119 Stat. 1648) is amended by striking "San Diego" and inserting "San Diego Transit".

(E) SACRAMENTO.—Section 3043(c)(204) of such Act (119 Stat. 647) is amended by striking "Downtown".

(F) BOSTON.—Section 3043(d)(6) of such Act (119 Stat. 1649) is amended to read as follows:

"(6) Boston-Silver Line Phase III, $20,000,000.".

(G) PROJECT CONSTRUCTION GRANTS.—Section 3043(e) of such Act (119 Stat. 1651) is amended by adding at the end the following:

"(4) PROJECT CONSTRUCTION GRANTS.—Projects recommended by the Secretary for a project construction grant agreement under section 5309(e) of title 49, United States Code, or for funding under section 5309(m)(2)(A)(i) of such title during fiscal year 2008 and fiscal year 2009 are authorized for preliminary engineering, final design, and construction for fiscal years 2007 through 2009 upon the completion of the notification process for each such project under section 5309(g)(5).".

(H) LOS ANGELES AND SAN GABRIEL VALLEY.—Section 3043 of such Act (119 Stat. 1640) is amended by adding at the end the following:

"(k) LOS ANGELES EXTENSION.—In evaluating the local share of the project authorized by subsection (c)(104A) in the new starts rating process, the Secretary shall give consideration to project elements of the project authorized by subsection (b)(13) advanced with 100 percent non-Federal funds.

"(l) SAN GABRIEL VALLEY—GOLD LINE FOOTHILL EXTENSION PHASE II.—In evaluating the local share of the San Gabriel Valley––Gold Line Foothill Extension Phase II project authorized by subsection (b)(33) in the new starts rating process, the Secretary shall give consideration to project elements of the San Gabriel Valley––Gold Line Foothill Extension Phase I project advanced with 100 percent non-Federal funds.".

(5) SECTION 3044.—

(A) PROJECTS.—The table contained in section 3044(a) of such Act (119 Stat. 1652) is amended—

(i) in item 25—

(I) by striking "$217,360" and inserting "$167,360"; and

(II) by striking "$225,720" and inserting "$175,720";

(ii) in item number 36 by striking the project description and inserting "Los Angeles County Metropolitan Transportation Authority (LACMTA) for bus and bus-related facilities in the LACMTA's service area";

(iii) in item number 71 by inserting "Metropolitan Bus Authority" after "Puerto Rico";

(iv) in item number 84 by striking the project description and inserting "Improvements to the existing Sacramento Intermodal Facility (Sacramento Valley Station)";

(v) in item number 94 by striking the project description and inserting "Pacific Transit, WA Vehicle Replacement";

(vi) in item number 120 by striking "Dayton Airport Intermodal Rail Feasibility Study" and inserting "Greater Dayton Regional Transit Authority buses and bus facilities";

(vii) in item number 152 by inserting "Metropolitan Bus Authority" after "Puerto Rico";

(viii) in item number 416 by striking "Improve marine intermodal" and inserting "Improve marine dry-dock and";

(ix) in item number 457—

(I) by striking "$65,000" and inserting "$0"; and

(II) by striking "$67,500" and inserting "$0"; and

(x) in item number 458—

(I) by striking "$65,000" and inserting "$130,000";

(II) by striking "$67,500" and inserting "$135,000"; and

(xi) in item number 57 by striking the project description and inserting "Wilmington, NC, maintenance and operations facilities and administration and transfer facilities";

(xii) in item number 460 by striking the matters in the project description, FY08 column, and FY09 column and inserting "460. Mid-Region Council of Governments, New Mexico, public transportation buses, bus-related equipment and facilities, and intermodal terminals in Albuquerque and Santa Fe", "$500,000", and "$500,000", respectively.

(xiii) in item number 138 by striking "Design" and inserting "Determine scope, engineering, design,";

(xiv) in item number 23 by striking "Construct" and inserting "Design, engineering, right-of-way acquisition, and construction";

(xv) in item number 439 by inserting before "Central" the following: "Design, engineering, right-of-way acquisition, and construction";

(xvi) in item number 453 by inserting before "Central" the following: "Design, engineering, right-of-way acquisition, and construction";

(xvii) in item number 371 by striking the project description and inserting "Regional Transportation Commission of Southern Nevada, Sunset Bus Maintenance Facility";

(xviii) in item number 487 by striking "Central Arkansas Transit Authority Facility Upgrades" and

inserting "Central Arkansas Transit Authority Bus Acquisition";

(xix) in item number 491 by striking the project description and inserting "Pace, IL, Cermak Road, Bus Rapid Transit, and related bus projects, and alternatives analysis";

(xx) in item number 512 by striking "Corning, NY, Phase II Corning Preserve Transportation Enhancement Project" and inserting "Transportation Center Enhancements, Corning, NY";

(xxi) in item number 534 by striking "Community Buses" and inserting "Bus and Bus Facilities";

(xxii) in item number 570 by striking "Maine Department of Transportation-Acadia Intermodal Facility" and inserting "MaineDOT Acadia Intermodal Passenger and Maintenance Facility";

(xxiii) in item number 80 by striking the project description and amounts and inserting "Flagler County, Florida–buses and bus facility", "$57,684", "$60,192", "$65,208", and "$67,716" respectively;

(xxiv) in item number 135 by striking the project description and inserting "Pace Suburban Bus, IL–Purchase Vehicles";

(xxv) in item number 276 by striking the project description and amounts and inserting "Long Beach Transit, Long Beach, California, for the purchase of transit vehicles and enhancement of para-transit and senior transportation services", "$128,180", "$133,760", "$144,906", and "$150,480", respectively; and

(xxvi) by adding at the end—

(I)(aa) in the project description column "666. New York City, NY, rehabilitation of subway stations to include passenger access improvements including escalators or installation of infrastructure for security and surveillance purposes"; and

(bb) in the FY08 column and the FY09 column "$50,000";

(II)(aa) in the project description column "667. St. Johns County Council on Aging buses and bus facilities, Florida"; and

(bb) in the FY06, FY07, FY08, and FY09 columns "$57,684", "$60,192", "$65,208", and "$67,716", respectively;

(III)(aa) in the project description column "668. The City of Compton, California, for the replacement of buses and paratransit vehicles"; and

(bb) in the FY06, FY07, FY08, and FY09 columns "$128,180", "$133,760", "$144,906", and "$150,480", respectively; and

(IV)(aa) in the project description column "669. City of Los Angeles, California, for the purchase of transit vehicles in Watts and enhancement of paratransit and senior transportation services"; and

(bb) in the FY06, FY07, FY08, and FY09 columns "$128,200", "$133,760", "$144,908", and "$150,480", respectively.

(B) SPECIAL RULE.—Section 3044(c) of such Act (119 Stat. 1705) is amended—

(i) by inserting ", or other entity," after "State or local governmental authority"; and

(ii) by striking "projects numbered 258 and 347" and inserting "projects numbered 258, 347, and 411"; and

(iii) by striking the period at the end and inserting: ", and funds made available for fiscal year 2006 for the bus and bus-related facilities projects numbered 176 and 652 under subsection (a) shall remain available until September 30, 2009.".

(6) SECTION 3046.—Section 3046(a)(7) of such Act (119 Stat. 1708) is amended— 49 USC 5338 note.

(A) by striking "hydrogen fuel cell vehicles" and inserting "hydrogen fueled vehicles";

(B) by striking "hydrogen fuel cell employee shuttle vans" and inserting "hydrogen fueled employee shuttle vans"; and

(C) by striking "in Allentown, Pennsylvania" and inserting "to the DaVinci Center in Allentown, Pennsylvania".

(7) SECTION 3050.—Section 3050(b) of such Act (119 Stat. 1713) is amended by inserting "by negotiating the extension of the existing agreement between mile post 191.13 and mile post 185.1 to mile post 165.9 in Rhode Island" before the period at the end.

(p) TRANSIT TUNNELS.—In carrying out section 5309(d)(3)(D) of title 49, United States Code, the Secretary of Transportation shall specifically analyze, evaluate, and consider— 49 USC 5309 note.

(1) the congestion relief, improved mobility, and other benefits of transit tunnels in those projects which include a transit tunnel; and

(2) the associated ancillary and mitigation costs necessary to relieve congestion, improve mobility, and decrease air and noise pollution in those projects which do not include a transit tunnel, but where a transit tunnel was one of the alternatives analyzed.

(q) KNOXVILLE, TENNESSEE, PROPERTY ACQUISITION.—The acquisition of property for the city of Knoxville, Tennessee, for the Knoxville, Tennessee, Central Station project shall be deemed to qualify as an acquisition of land for protective purposes pursuant to section 622.101 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act. The Secretary of Transportation may allow the costs of such acquisition to be credited toward the non-Federal share for the project.

(r) CALIFORNIA TRANSIT SERVICES.—The Secretary of Transportation shall use not more than $3,000,000 of the funds made available for use at the discretion of the Secretary for fiscal year 2007 for Federal Transit Administration Discretionary Programs, Bus and Bus Facilities to reimburse the California State department of transportation for actual and necessary costs of maintenance and operation, less the amount of fares earned, for additional public transportation services that were provided by the department of transportation as a temporary substitute for highway traffic service following the freeway collapse at the interchange connecting Interstate Routes 80, 580, and 880 near the San Francisco-Oakland

Bay Bridge, on April 29, 2007, until the reopening of that facility on June 29, 2007. The Federal share of the cost of activities reimbursed under this subsection shall be 100 percent.

# TITLE III—OTHER SURFACE TRANSPORTATION PROVISIONS

**SEC. 301. TECHNICAL AMENDMENTS RELATING TO MOTOR CARRIER SAFETY.**

(a) CONFORMING AMENDMENT RELATING TO HIGH-PRIORITY ACTIVITIES.—Section 31104(f) of title 49, United States Code, is amended by striking the designation and heading for paragraph (1) and by striking paragraph (2).

(b) NEW ENTRANT AUDITS.—

(1) CORRECTIONS OF REFERENCES.—Section 4107(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1720) is amended— 49 USC 31144.

(A) by striking "Section 31104" and inserting "Section 31144"; and

(B) in paragraph (1) by inserting "(c)" after "the second subsection".

(2) CONFORMING AMENDMENT.—Section 7112 of such Act (119 Stat. 1899) is amended by striking subsection (c). 49 USC 31144.

(c) PROHIBITED TRANSPORTATION.—Section 4114(c)(1) of the such Act (119 Stat. 1726) is amended by striking "the second subsection (c)" and inserting "(f)". 49 USC 31144.

(d) EFFECTIVE DATE RELATING TO MEDICAL EXAMINERS.—Section 4116(f) of such Act (119 Stat. 1728) is amended by striking "amendment made by subsection (a)" and inserting "amendments made by subsections (a) and (b)". 49 USC 31149 note.

(e) ROADABILITY TECHNICAL CORRECTION.—Section 31151(a)(3)(E)(ii) of title 49, United States Code, is amended by striking "Act" and inserting "section".

(f) CORRECTION OF SUBSECTION REFERENCE.—Section 4121 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1734) is amended by striking "31139(f)(5)" and inserting "31139(g)(5)". 49 USC 31139.

(g) CDL LEARNER'S PERMIT PROGRAM TECHNICAL CORRECTION.—Section 4122(2)(A) of such Act (119 Stat. 1734) is amended by striking "license" and inserting "licenses". 49 USC 31308.

(h) CDL INFORMATION SYSTEM FUNDING REFERENCE.—Section 31309(f) of title 49, United States Code, is amended by striking "31318" and inserting "31313".

(i) CLARIFICATION OF REFERENCE.—Section 229(a)(1) of the Federal Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31136 note; 119 Stat. 1743) is amended by inserting "of title 49, United States Code," after "31502".

(j) REDESIGNATION OF SECTION.—The second section 39 of chapter 2 of title 18, United States Code, relating to commercial motor vehicles required to stop for inspections, and the item relating to such section in the analysis for such chapter, are redesignated as section 40.

(k) OFFICE OF INTERMODALISM.—Section 5503 of title 49, United States Code, is amended—

(1) in subsection (f)(2) by striking "Surface Transportation Safety Improvement Act of 2005", and inserting "Motor Carrier Safety Reauthorization Act of 2005"; and

(2) by redesignating the first subsection (h), relating to authorization of appropriations, as subsection (i) and moving it after the second subsection (h).

(l) USE OF FEES FOR UNIFIED CARRIER REGISTRATION SYSTEM.—Section 13908 of title 49, United States Code, is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following:

"(e) USE OF FEES FOR UNIFIED CARRIER REGISTRATION SYSTEM.—Fees collected under this section may be credited to the Department of Transportation appropriations account for purposes for which such fees are collected and shall be available for expenditure for such purposes until expended.".

(m) COMMERCIAL MOTOR VEHICLE DEFINITION.—Section 14504a(a)(1)(B) of title 49, United States Code, is amended by striking "a motor carrier required to make any filing or pay any fee to a State with respect to the motor carrier's authority or insurance related to operation within such State, the motor carrier" and inserting "determining the size of a motor carrier or motor private carrier's fleet in calculating the fee to be paid by a motor carrier or motor private carrier pursuant to subsection (f)(1), the motor carrier or motor private carrier".

(n) CLARIFICATION OF UNREASONABLE BURDEN.—Section 14504a(c)(2) of title 49, United States Code, is amended by striking "interstate" the last place it appears and inserting "intrastate".

(o) CONTENTS OF AGREEMENT TYPO.—Section 14504a(f)(1)(A)(ii) of title 49, United States Code, is amended by striking "or" the last place it appears.

(p) OTHER UNIFIED CARRIER REGISTRATION SYSTEM TECHNICAL CORRECTIONS.—Section 14504a of title 49, United States Code, is amended—

(1) in subsection (c)(1)(B) by striking "the a" and inserting "a";

(2) in subsection (f)(1)(A)(i) by striking "in connection with the filing of proof of financial responsibility"; and

(3) in subsection (f)(1)(A)(ii) by striking "in connection with such a filing" and inserting "under the UCR agreement".

(q) IDENTIFICATION OF VEHICLES.—Section 14506(b)(2) of title 49, United States Code, is amended by inserting before the semicolon at the end the following: "or under an applicable State law if, on October 1, 2006, the State has a form of highway use taxation not subject to collection through the International Fuel Tax Agreement".

(r) DRIVEAWAY SADDLEMOUNT VEHICLE.—

(1) DEFINITION.—Section 31111(a)(4) of title 49, United States Code, is amended—

(A) in the paragraph heading by striking "DRIVE-AWAY SADDLEMOUNT WITH FULLMOUNT" and inserting "DRIVEAWAY SADDLEMOUNT";

(B) by striking "drive-away saddlemount with fullmount" and inserting "driveaway saddlemount"; and

(C) by inserting "Such combination may include one fullmount." after the period at the end.

(2) IN GENERAL.—Section 31111(b)(1)(D) of such title is amended by striking "a driveaway saddlemount with fullmount" and inserting "all driveaway saddlemount".

**SEC. 302. TECHNICAL AMENDMENTS RELATING TO HAZARDOUS MATERIALS TRANSPORTATION.**

(a) DEFINITION OF HAZMAT EMPLOYEES.—Section 7102(2) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1892) is amended— 49 USC 5102.

(1) by striking "(3)(A)" and inserting "(3)";

(2) in subparagraph (A) by striking "clause (i)" and inserting "clause (i) of subparagraph (A)"; and

(3) in subparagraph (B) by striking "clause (ii)" and inserting "subparagraph (A)(ii)".

(b) TECHNICAL CORRECTION.—Section 5103a(g)(1)(B)(ii) of title 49, United States Code, is amended by striking "Act" and inserting "subsection".

(c) PREEMPTION CORRECTION.—Section 5125 of title 49, United States Code, is amended—

(1) in subsection (d)(1) by striking "5119(e)" and inserting "5119(f)";

(2) in each of subsections (e) and (g) by striking "5119(b)" and inserting "5119(f)"; and

(3) in subsection (g) by striking "(b), (c)(1), or (d)" and inserting "(a), (b)(1), or (c)".

(d) RELATIONSHIP TO OTHER LAWS.—Section 7124(3) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1908) is amended by inserting "the first place it appears" before "and inserting". 49 USC 5126.

(e) REPORT.—Section 5121(h) of title 49, United States Code, is amended—

(1) in paragraph (2) by striking "exemptions" and inserting "special permits"; and

(2) in paragraph (3) by striking "exemption" and inserting "special permit".

(f) SECTION HEADING.—Section 5128 of title 49, United States Code, is amended by striking the section designation and heading and inserting the following:

**"§ 5128. Authorization of appropriations".**

(g) CHAPTER ANALYSIS.—The analysis for chapter 57 of title 49, United States Code, is amended in the item relating to section 5701 by striking "Transportation" and inserting "transportation".

(h) NORMAN Y. MINETA RESEARCH AND SPECIAL PROGRAMS IMPROVEMENT ACT.—Section 5(b) of the Norman Y. Mineta Research and Special Programs Improvement Act (49 U.S.C. 108 note; 118 Stat. 2427) is amended by inserting "(including delegations by the Secretary of Transportation)" after "All orders".

(i) SHIPPING PAPERS.—Section 5110(d)(1) of title 49, United States Code, is amended—

(1) in the subsection heading by striking "SHIPPERS" and inserting "OFFERORS"; and

(2) by striking "shipper's" and inserting "offeror's".

(j) NTSB RECOMMENDATIONS.—Section 19(1) of the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (49 U.S.C. 60102 note; 120 Stat. 3498) is amended by striking "165" and inserting "1165".

**SEC. 303. HIGHWAY SAFETY.**

Effective dates.

(a) STATE MINIMUM APPORTIONMENTS FOR HIGHWAY SAFETY PROGRAMS.—Effective October 1, 2007, section 402(c) of the title 23, United States Code, is amended by striking "The annual apportionment to each State shall not be less than one-half of 1 per centum" and inserting "The annual apportionment to each State shall not be less than three-quarters of 1 percent". 23 USC 402 note.

(b) CONSOLIDATION OF GRANT APPLICATIONS.—Section 402(m) of title 23, United States Code, is amended in the first sentence—

(1) by striking "through" and inserting "for which"; and

(2) by inserting "is appropriate" before the period at the end.

(c) TECHNICAL CORRECTIONS.—

(1) Section 2002(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1521) is amended— 23 USC 402.

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as (2) and (3), respectively.

(2) Section 2007(b)(1) of such Act (119 Stat. 1529) is amended— 23 USC 410.

(A) by inserting "and" after the semicolon at the end of subparagraph (A);

(B) by striking "and" at the end of subparagraph (B); and

(C) by striking subparagraph (C).

(3) Effective August 10, 2005, section 410(c)(7)(B) of title 23, United States Code, is amended by striking "clause (i)" and inserting "clauses (i) and (ii)". 23 USC 410 note.

(4) Section 411 of title 23, United States Code, is amended by redesignating the second subsection (c), relating to administration expenses, and subsection (d) as subsections (d) and (e), respectively.

**SEC. 304. CORRECTION OF STUDY REQUIREMENT REGARDING ON-SCENE MOTOR VEHICLE COLLISION CAUSATION.**

Section 2003(c)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1522) is amended in the second sentence by striking "shall" and inserting "may".

**SEC. 305. MOTOR CARRIER TRANSPORTATION REGISTRATION.**

(a) GENERAL REQUIREMENTS.—Section 31138 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL REQUIREMENT.— Regulations.

"(1) TRANSPORTATION OF PASSENGERS FOR COMPENSATION.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for compensation by motor vehicle in the United States between a place in a State and—

"(A) a place in another State;

"(B) another place in the same State through a place outside of that State; or

"(C) a place outside the United States.

"(2) TRANSPORTATION OF PASSENGERS NOT FOR COMPENSATION.—The Secretary may prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for commercial purposes, but not for compensation, by motor vehicle in the United States between a place in a State and—

"(A) a place in another State;

"(B) another place in the same State through a place outside of that State; or

"(C) a place outside the United States."; and

(2) by striking "commercial" each place it appears in subsection (c)(4).

(b) TRANSPORTATION OF PROPERTY.—Section 31139 of such title is amended—

(1) by striking "commercial motor vehicle" in subsection (b)(1) and inserting "motor carrier or motor private carrier (as such terms are defined in section 13102 of this title)"; and

(2) by striking "commercial" in subsection (c).

(c) DEFINITIONS RELATING TO MOTOR CARRIERS.—Paragraphs (6)(B), (7)(B), (14), and (15) of section 13102 of such title are each amended by striking "commercial motor vehicle (as defined in section 31132)" and inserting "motor vehicle".

(d) FREIGHT FORWARDERS.—Section 13903(a) of such title is amended to read as follows:

"(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Board.".

(e) BROKERS.—Section 13904(a) of such title is amended to read as follows:

"(a) IN GENERAL.—The Secretary shall register, subject to section 13906(b), a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.".

29 USC 207 note.

**SEC. 306. APPLICABILITY OF FAIR LABOR STANDARDS ACT REQUIREMENTS AND LIMITATION ON LIABILITY.**

Effective date.

(a) APPLICABILITY FOLLOWING THIS ACT.—Beginning on the date of enactment of this Act, section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) shall apply to a covered employee notwithstanding section 13(b)(1) of that Act (29 U.S.C. 213(b)(1)).

(b) LIABILITY LIMITATION FOLLOWING SAFETEA–LU.—

(1) LIMITATION ON LIABILITY.—An employer shall not be liable for a violation of section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) with respect to a covered employee if—

(A) the violation occurred in the 1-year period beginning on August 10, 2005; and

(B) as of the date of the violation, the employer did not have actual knowledge that the employer was subject

to the requirements of such section with respect to the covered employee.

(2) ACTIONS TO RECOVER AMOUNTS PREVIOUSLY PAID.—Nothing in paragraph (1) shall be construed to establish a cause of action for an employer to recover amounts paid before the date of enactment of this Act in settlement of, in compromise of, or pursuant to a judgment rendered regarding a claim or potential claim based on an alleged or proven violation of section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) occurring in the 1-year period referred to in paragraph (1)(A) with respect to a covered employee.

(c) COVERED EMPLOYEE DEFINED.—In this section, the term "covered employee" means an individual—

(1) who is employed by a motor carrier or motor private carrier (as such terms are defined by section 13102 of title 49, United States Code, as amended by section 305);

(2) whose work, in whole or in part, is defined—

(A) as that of a driver, driver's helper, loader, or mechanic; and

(B) as affecting the safety of operation of motor vehicles weighing 10,000 pounds or less in transportation on public highways in interstate or foreign commerce, except vehicles—

(i) designed or used to transport more than 8 passengers (including the driver) for compensation;

(ii) designed or used to transport more than 15 passengers (including the driver) and not used to transport passengers for compensation; or

(iii) used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of title 49, United States Code, and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103 of title 49, United States Code; and

(3) who performs duties on motor vehicles weighing 10,000 pounds or less.

# TITLE IV—MISCELLANEOUS PROVISIONS

**SEC. 401. CONVEYANCE OF GSA FLEET MANAGEMENT CENTER TO ALASKA RAILROAD CORPORATION.** Real property.

(a) IN GENERAL.—Subject to the requirements of this section, the Administrator of General Services shall convey, not later than 2 years after the date of enactment of this Act, by quitclaim deed, to the Alaska Railroad Corporation, an entity of the State of Alaska (in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to the parcel of real property described in subsection (b), known as the GSA Fleet Management Center. Deadline.

(b) GSA FLEET MANAGEMENT CENTER.—The parcel to be conveyed under subsection (a) is the parcel located at the intersection of 2nd Avenue and Christensen Avenue in Anchorage, Alaska, consisting of approximately 78,000 square feet of land and the improvements thereon.

(c) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the parcel to be conveyed under subsection (a), the Administrator shall require the Corporation to—

(A) convey replacement property in accordance with paragraph (2); or

(B) pay the purchase price for the parcel in accordance with paragraph (3).

(2) REPLACEMENT PROPERTY.—If the Administrator requires the Corporation to provide consideration under paragraph (1)(A), the Corporation shall—

(A) convey, and pay the cost of conveying, to the United States, acting by and through the Administrator, fee simple title to real property, including a building, that the Administrator determines to be suitable as a replacement facility for the parcel to be conveyed under subsection (a); and

(B) provide such other consideration as the Administrator and the Corporation may agree, including payment of the costs of relocating the occupants vacating the parcel to be conveyed under subsection (a).

(3) PURCHASE PRICE.—If the Administrator requires the Corporation to provide consideration under paragraph (1)(B), the Corporation shall pay to the Administrator the fair market value of the parcel to be conveyed under subsection (a) based on its highest and best use as determined by an independent appraisal commissioned by the Administrator and paid for by the Corporation.

(d) APPRAISAL.—In the case of an appraisal under subsection (c)(3)—

(1) the appraisal shall be performed by an appraiser mutually acceptable to the Administrator and the Corporation; and

(2) the assumptions, scope of work, and other terms and conditions related to the appraisal assignment shall be mutually acceptable to the Administrator and the Corporation.

(e) PROCEEDS.—

(1) DEPOSIT.—Any proceeds received under subsection (c) shall be paid into the Federal Buildings Fund established under section 592 of title 40, United States Code.

Notification.

(2) EXPENDITURE.—Funds paid into the Federal Buildings Fund under paragraph (1) shall be available to the Administrator, in amounts specified in appropriations Acts, for expenditure for any lawful purpose consistent with existing authorities granted to the Administrator; except that the Administrator shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate 30 days advance written notice of any expenditure of the proceeds.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions to the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

(g) DESCRIPTION OF PROPERTY AND SURVEY.—The exact acreage and legal description of the parcels to be conveyed under subsections (a) and (c)(2) shall be determined by surveys satisfactory to the Administrator and the Corporation.

**SEC. 402. CONVEYANCE OF RETAINED INTEREST IN ST. JOSEPH MEMORIAL HALL.**

Michigan.
Real property.

(a) IN GENERAL.—Subject to the terms and conditions of subsection (c), the Administrator of General Services shall convey to the city of St. Joseph, Michigan, by quitclaim deed, any interest retained by the United States in St. Joseph Memorial Hall.

(b) ST. JOSEPH MEMORIAL HALL DEFINED.—In this section, the term "St. Joseph Memorial Hall" means the property subject to a conveyance from the Secretary of Commerce to the city of St. Joseph, Michigan, by quitclaim deed dated May 9, 1936, recorded in Liber 310, at page 404, in the Register of Deeds for Berrien County, Michigan.

(c) TERMS AND CONDITIONS.—The conveyance under subsection (a) shall be subject to the following terms and conditions:

(1) CONSIDERATION.—As consideration for the conveyance under subsection (a), the city of St. Joseph, Michigan, shall pay $10,000 to the United States.

(2) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions for the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

# TITLE V—OTHER PROVISIONS

**SEC. 501. DE SOTO COUNTY, MISSISSIPPI.**

Section 219(f)(30) of the Water Resources Development Act of 1992 (106 Stat. 4835; 110 Stat. 3757; 113 Stat. 334; 114 Stat. 2763A–220; 119 Stat. 282; 119 Stat. 2257) is amended by striking "$55,000,000" and inserting "$75,000,000".

**SEC. 502. DEPARTMENT OF JUSTICE REVIEW.**

Consistent with applicable standards and procedures, the Department of Justice shall review allegations of impropriety regarding item 462 in section 1934(c) of Public Law 109–59 to ascertain if a violation of Federal criminal law has occurred.

Approved June 6, 2008.

LEGISLATIVE HISTORY—H.R. 1195 (S. 1611):

HOUSE REPORTS: No. 110–62 (Comm. on Transportation and Infrastructure).
SENATE REPORTS: No. 110–81 accompanying S. 1611 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
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# Public Law 110–245
# 110th Congress

## An Act

June 17, 2008
[H.R. 6081]

To amend the Internal Revenue Code of 1986 to provide benefits for military personnel, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Heroes Earnings Assistance and Relief Tax Act of 2008.
26 USC 1 note.

**SECTION 1. SHORT TITLE, ETC.**

(a) SHORT TITLE.—This Act may be cited as the "Heroes Earnings Assistance and Relief Tax Act of 2008".

26 USC 1 et seq.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title, etc.

TITLE I—BENEFITS FOR MILITARY

Sec. 101. Recovery rebate provided to military families.
Sec. 102. Election to include combat pay as earned income for purposes of earned income tax credit.
Sec. 103. Modification of mortgage revenue bonds for veterans.
Sec. 104. Survivor and disability payments with respect to qualified military service.
Sec. 105. Treatment of differential military pay as wages.
Sec. 106. Special period of limitation when uniformed services retired pay is reduced as a result of award of disability compensation.
Sec. 107. Distributions from retirement plans to individuals called to active duty.
Sec. 108. Authority to disclose return information for certain veterans programs made permanent.
Sec. 109. Contributions of military death gratuities to Roth IRAs and Education Savings Accounts.
Sec. 110. Suspension of 5-year period during service with the Peace Corps.
Sec. 111. Credit for employer differential wage payments to employees who are active duty members of the uniformed services.
Sec. 112. State payments to service members treated as qualified military benefits.
Sec. 113. Permanent exclusion of gain from sale of a principal residence by certain employees of the intelligence community.
Sec. 114. Special disposition rules for unused benefits in health flexible spending arrangements of individuals called to active duty.
Sec. 115. Technical correction related to exclusion of certain property tax rebates and other benefits provided to volunteer firefighters and emergency medical responders.

TITLE II—IMPROVEMENTS IN SUPPLEMENTAL SECURITY INCOME

Sec. 201. Treatment of uniformed service cash remuneration as earned income.
Sec. 202. State annuities for certain veterans to be disregarded in determining supplemental security income benefits.
Sec. 203. Exclusion of AmeriCorps benefits for purposes of determining supplemental security income eligibility and benefit amounts.

Sec. 204. Effective date.

TITLE III—REVENUE PROVISIONS

Sec. 301. Revision of tax rules on expatriation.
Sec. 302. Certain domestically controlled foreign persons performing services under contract with United States Government treated as American employers.
Sec. 303. Increase in minimum penalty on failure to file a return of tax.

TITLE IV—PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS

Sec. 401. Parity in the application of certain limits to mental health benefits.

# TITLE I—BENEFITS FOR MILITARY

### SEC. 101. RECOVERY REBATE PROVIDED TO MILITARY FAMILIES.

(a) IN GENERAL.—Subsection (h) of section 6428 (relating to identification number requirement) is amended by adding at the end the following new paragraph: 26 USC 6428.

"(3) SPECIAL RULE FOR MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply to a joint return where at least 1 spouse was a member of the Armed Forces of the United States at any time during the taxable year.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 101 of the Economic Stimulus Act of 2008. 26 USC 6428 note.

### SEC. 102. ELECTION TO INCLUDE COMBAT PAY AS EARNED INCOME FOR PURPOSES OF EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Clause (vi) of section 32(c)(2)(B) (defining earned income) is amended to read as follows:

"(vi) a taxpayer may elect to treat amounts excluded from gross income by reason of section 112 as earned income.".

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6428(e) is amended by striking "except that—" and all that follows through "(B) such term shall" and inserting "except that such term shall".

(c) SUNSET NOT APPLICABLE.—Section 105 of the Working Families Tax Relief Act of 2004 (relating to application of EGTRRA sunset to this title) shall not apply to section 104(b) of such Act. 26 USC 32 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2007. 26 USC 32 note.

### SEC. 103. MODIFICATION OF MORTGAGE REVENUE BONDS FOR VETERANS.

(a) QUALIFIED MORTGAGE BONDS USED TO FINANCE RESIDENCES FOR VETERANS WITHOUT REGARD TO FIRST-TIME HOMEBUYER REQUIREMENT.—Subparagraph (D) of section 143(d)(2) (relating to exceptions) is amended by striking "and before January 1, 2008".

(b) INCREASE IN BOND LIMITATION FOR ALASKA, OREGON, AND WISCONSIN.—Clause (ii) of section 143(l)(3)(B) (relating to State veterans limit) is amended by striking "$25,000,000" each place it appears and inserting "$100,000,000".

(c) DEFINITION OF QUALIFIED VETERAN.—Paragraph (4) of section 143(l) (defining qualified veteran) is amended to read as follows:

"(4) QUALIFIED VETERAN.—For purposes of this subsection, the term 'qualified veteran' means any veteran who—

"(A) served on active duty, and

"(B) applied for the financing before the date 25 years after the last date on which such veteran left active service.".

26 USC 143 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2007.

Applicability.
26 USC 143 note.

(e) TRANSITION RULE.—In the case of any bond issued after December 31, 2007, and before the date of the enactment of this Act, subparagraph (B) of section 143(l)(4) of the Internal Revenue Code of 1986, as amended by this section, shall be applied by substituting "30 years" for "25 years".

**SEC. 104. SURVIVOR AND DISABILITY PAYMENTS WITH RESPECT TO QUALIFIED MILITARY SERVICE.**

(a) PLAN QUALIFICATION REQUIREMENT FOR DEATH BENEFITS UNDER USERRA-QUALIFIED ACTIVE MILITARY SERVICE.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (36) the following new paragraph:

26 USC 401.

"(37) DEATH BENEFITS UNDER USERRA-QUALIFIED ACTIVE MILITARY SERVICE.—A trust shall not constitute a qualified trust unless the plan provides that, in the case of a participant who dies while performing qualified military service (as defined in section 414(u)), the survivors of the participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan had the participant resumed and then terminated employment on account of death.".

(b) TREATMENT IN THE CASE OF DEATH OR DISABILITY RESULTING FROM ACTIVE MILITARY SERVICE FOR BENEFIT ACCRUAL PURPOSES.—Subsection (u) of section 414 (relating to special rules relating to veterans' reemployment rights under USERRA) is amended by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively, and by inserting after paragraph (8) the following new paragraph:

"(9) TREATMENT IN THE CASE OF DEATH OR DISABILITY RESULTING FROM ACTIVE MILITARY SERVICE.—

"(A) IN GENERAL.—For benefit accrual purposes, an employer sponsoring a retirement plan may treat an individual who dies or becomes disabled (as defined under the terms of the plan) while performing qualified military service with respect to the employer maintaining the plan as if the individual has resumed employment in accordance with the individual's reemployment rights under chapter 43 of title 38, United States Code, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability. In the case of any such treatment, and subject to subparagraphs (B) and (C), any full or partial compliance by such plan with respect to the benefit accrual requirements of paragraph (8) with respect to such individual shall be treated for purposes of paragraph (1) as if such compliance were required under such chapter 43.

Applicability.

"(B) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A) shall apply only if all individuals performing qualified military service with respect to the employer maintaining the plan (as determined under subsections (b), (c), (m), and (o)) who die or became disabled as a

result of performing qualified military service prior to reemployment by the employer are credited with service and benefits on reasonably equivalent terms.

"(C) DETERMINATION OF BENEFITS.—The amount of employee contributions and the amount of elective deferrals of an individual treated as reemployed under subparagraph (A) for purposes of applying paragraph (8)(C) shall be determined on the basis of the individual's average actual employee contributions or elective deferrals for the lesser of—

"(i) the 12-month period of service with the employer immediately prior to qualified military service, or

"(ii) if service with the employer is less than such 12-month period, the actual length of continuous service with the employer.".

(c) CONFORMING AMENDMENTS.—

(1) Section 404(a)(2) is amended by striking "and (31)" and inserting "(31), and (37)". 26 USC 404.

(2) Section 403(b) is amended by adding at the end the following new paragraph:

"(14) DEATH BENEFITS UNDER USERRA-QUALIFIED ACTIVE MILITARY SERVICE.—This subsection shall not apply to an annuity contract unless such contract meets the requirements of section 401(a)(37).".

(3) Section 457(g) is amended by adding at the end the following new paragraph:

"(4) DEATH BENEFITS UNDER USERRA-QUALIFIED ACTIVE MILITARY SERVICE.—A plan described in paragraph (1) shall not be treated as an eligible deferred compensation plan unless such plan meets the requirements of section 401(a)(37).".

(d) EFFECTIVE DATE.— 26 USC 401 note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to deaths and disabilities occurring on or after January 1, 2007.

(2) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(A) IN GENERAL.—If this subparagraph applies to any plan or contract amendment, such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subparagraph (B)(iii).

(B) AMENDMENTS TO WHICH SUBPARAGRAPH (A) APPLIES.—

(i) IN GENERAL.—Subparagraph (A) shall apply to any amendment to any plan or annuity contract which is made—

(I) pursuant to the amendments made by subsection (a) or pursuant to any regulation issued by the Secretary of the Treasury under subsection (a), and

(II) on or before the last day of the first plan year beginning on or after January 1, 2010.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this clause shall be applied by substituting "2012" for "2010" in subclause (II).

(ii) CONDITIONS.—This paragraph shall not apply to any amendment unless—

(I) the plan or contract is operated as if such plan or contract amendment were in effect for the period described in clause (iii), and

(II) such plan or contract amendment applies retroactively for such period.

(iii) PERIOD DESCRIBED.—The period described in this clause is the period—

(I) beginning on the effective date specified by the plan, and

(II) ending on the date described in clause (i)(II) (or, if earlier, the date the plan or contract amendment is adopted).

**SEC. 105. TREATMENT OF DIFFERENTIAL MILITARY PAY AS WAGES.**

(a) INCOME TAX WITHHOLDING ON DIFFERENTIAL WAGE PAYMENTS.—

26 USC 3401.

(1) IN GENERAL.—Section 3401 (relating to definitions) is amended by adding at the end the following new subsection:

"(h) DIFFERENTIAL WAGE PAYMENTS TO ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.—

"(1) IN GENERAL.—For purposes of subsection (a), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

"(2) DIFFERENTIAL WAGE PAYMENT.—For purposes of paragraph (1), the term 'differential wage payment' means any payment which—

"(A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) while on active duty for a period of more than 30 days, and

"(B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.".

26 USC 3401 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to remuneration paid after December 31, 2008.

(b) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.—

(1) PENSION PLANS.—

(A) IN GENERAL.—Section 414(u) (relating to special rules relating to veterans' reemployment rights under USERRA), as amended by section 103(b), is amended by adding at the end the following new paragraph:

"(12) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS.—

"(A) IN GENERAL.—Except as provided in this paragraph, for purposes of applying this title to a retirement plan to which this subsection applies—

"(i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment,

"(ii) the differential wage payment shall be treated as compensation, and

"(iii) the plan shall not be treated as failing to meet the requirements of any provision described in

paragraph (1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

"(B) SPECIAL RULE FOR DISTRIBUTIONS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), for purposes of section 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in section 3401(h)(2)(A).

"(ii) LIMITATION.—If an individual elects to receive a distribution by reason of clause (i), the plan shall provide that the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

"(C) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A)(iii) shall apply only if all employees of an employer (as determined under subsections (b), (c), (m), and (o)) performing service in the uniformed services described in section 3401(h)(2)(A) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments on reasonably equivalent terms. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5) of section 410(b) shall apply. Applicability.

"(D) DIFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term 'differential wage payment' has the meaning given such term by section 3401(h)(2).".

(B) CONFORMING AMENDMENT.—The heading for section 414(u) is amended by inserting "AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY" after "USERRA". 26 USC 414.

(2) DIFFERENTIAL WAGE PAYMENTS TREATED AS COMPENSATION FOR INDIVIDUAL RETIREMENT PLANS.—Section 219(f)(1) (defining compensation) is amended by adding at the end the following new sentence: "The term compensation includes any differential wage payment (as defined in section 3401(h)(2)).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2008. 26 USC 219 note.

(c) PROVISIONS RELATING TO PLAN AMENDMENTS.— 26 USC 414 note.

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment, such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i).

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by subsection (b)(1), and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2010.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this subparagraph shall be applied by substituting "2012" for "2010" in clause (ii).

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect, and

(ii) such plan or contract amendment applies retroactively for such period.

**SEC. 106. SPECIAL PERIOD OF LIMITATION WHEN UNIFORMED SERVICES RETIRED PAY IS REDUCED AS A RESULT OF AWARD OF DISABILITY COMPENSATION.**

26 USC 6511.

(a) IN GENERAL.—Subsection (d) of section 6511 (relating to special rules applicable to income taxes) is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES WHEN UNIFORMED SERVICES RETIRED PAY IS REDUCED AS A RESULT OF AWARD OF DISABILITY COMPENSATION.—

"(A) PERIOD OF LIMITATION ON FILING CLAIM.—If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of—

"(i) the reduction of uniformed services retired pay computed under section 1406 or 1407 of title 10, United States Code, or

"(ii) the waiver of such pay under section 5305 of title 38 of such Code,

as a result of an award of compensation under title 38 of such Code pursuant to a determination by the Secretary of Veterans Affairs, the 3-year period of limitation prescribed in subsection (a) shall be extended, for purposes of permitting a credit or refund based upon the amount of such reduction or waiver, until the end of the 1-year period beginning on the date of such determination.

"(B) LIMITATION TO 5 TAXABLE YEARS.—Subparagraph (A) shall not apply with respect to any taxable year which began more than 5 years before the date of such determination.".

26 USC 6511 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims for credit or refund filed after the date of the enactment of this Act note.

Applicability. 26 USC 6511 note.

(c) TRANSITION RULES.—In the case of a determination described in paragraph (8) of section 6511(d) of the Internal Revenue Code of 1986 (as added by this section) which is made by the Secretary of Veterans Affairs after December 31, 2000, and before the date of the enactment of this Act, such paragraph—

(1) shall not apply with respect to any taxable year which began before January 1, 2001, and

(2) shall be applied by substituting for "the date of such determination" in subparagraph (A) thereof.

**SEC. 107. DISTRIBUTIONS FROM RETIREMENT PLANS TO INDIVIDUALS CALLED TO ACTIVE DUTY.**

(a) IN GENERAL.—Clause (iv) of section 72(t)(2)(G) is amended by striking ", and before December 31, 2007". 26 USC 72.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals ordered or called to active duty on or after December 31, 2007. 26 USC 72 note.

**SEC. 108. AUTHORITY TO DISCLOSE RETURN INFORMATION FOR CERTAIN VETERANS PROGRAMS MADE PERMANENT.**

(a) IN GENERAL.—Paragraph (7) of section 6103(l) is amended by striking the last sentence thereof.

(b) CONFORMING AMENDMENT.—Section 6103(l)(7)(D)(viii)(III) is amended by striking "sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)" and inserting "sections 1710(a)(2)(G), 1710(a)(3), and 1710(b)".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests made after September 30, 2008. 26 USC 6103 note.

**SEC. 109. CONTRIBUTIONS OF MILITARY DEATH GRATUITIES TO ROTH IRAS AND EDUCATION SAVINGS ACCOUNTS.**

(a) PROVISION IN EFFECT BEFORE PENSION PROTECTION ACT.—Subsection (e) of section 408A (relating to qualified rollover contribution), as in effect before the amendments made by section 824 of the Pension Protection Act of 2006, is amended to read as follows:

"(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified rollover contribution' means a rollover contribution to a Roth IRA from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). Such term includes a rollover contribution described in section 402A(c)(3)(A). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.

"(2) MILITARY DEATH GRATUITY.—

"(A) IN GENERAL.—The term 'qualified rollover contribution' includes a contribution to a Roth IRA maintained for the benefit of an individual made before the end of the 1-year period beginning on the date on which such individual receives an amount under section 1477 of title 10, United States Code, or section 1967 of title 38 of such Code, with respect to a person, to the extent that such contribution does not exceed—

"(i) the sum of the amounts received during such period by such individual under such sections with respect to such person, reduced by

"(ii) the amounts so received which were contributed to a Coverdell education savings account under section 530(d)(9).

"(B) ANNUAL LIMIT ON NUMBER OF ROLLOVERS NOT TO APPLY.—Section 408(d)(3)(B) shall not apply with respect to amounts treated as a rollover by subparagraph (A).

"(C) APPLICATION OF SECTION 72.—For purposes of applying section 72 in the case of a distribution which

is not a qualified distribution, the amount treated as a rollover by reason of subparagraph (A) shall be treated as investment in the contract.".

(b) PROVISION IN EFFECT AFTER PENSION PROTECTION ACT.—Subsection (e) of section 408A, as in effect after the amendments made by section 824 of the Pension Protection Act of 2006, is amended to read as follows:

26 USC 408.

"(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified rollover contribution' means a rollover contribution—

"(A) to a Roth IRA from another such account,

"(B) from an eligible retirement plan, but only if—

"(i) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

"(ii) in the case of any eligible retirement plan (as defined in section 402(c)(8)(B) other than clauses (i) and (ii) thereof), such rollover contribution meets the requirements of section 402(c), 403(b)(8), or 457(e)(16), as applicable.

For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.

"(2) MILITARY DEATH GRATUITY.—

"(A) IN GENERAL.—The term 'qualified rollover contribution' includes a contribution to a Roth IRA maintained for the benefit of an individual made before the end of the 1-year period beginning on the date on which such individual receives an amount under section 1477 of title 10, United States Code, or section 1967 of title 38 of such Code, with respect to a person, to the extent that such contribution does not exceed—

"(i) the sum of the amounts received during such period by such individual under such sections with respect to such person, reduced by

"(ii) the amounts so received which were contributed to a Coverdell education savings account under section 530(d)(9).

"(B) ANNUAL LIMIT ON NUMBER OF ROLLOVERS NOT TO APPLY.—Section 408(d)(3)(B) shall not apply with respect to amounts treated as a rollover by the subparagraph (A).

"(C) APPLICATION OF SECTION 72.—For purposes of applying section 72 in the case of a distribution which is not a qualified distribution, the amount treated as a rollover by reason of subparagraph (A) shall be treated as investment in the contract.".

(c) EDUCATION SAVINGS ACCOUNTS.—Subsection (d) of section 530 is amended by adding at the end the following new paragraph:

"(9) MILITARY DEATH GRATUITY.—

"(A) IN GENERAL.—For purposes of this section, the term 'rollover contribution' includes a contribution to a Coverdell education savings account made before the end of the 1-year period beginning on the date on which the contributor receives an amount under section 1477 of title 10, United States Code, or section 1967 of title 38 of such

Code, with respect to a person, to the extent that such contribution does not exceed—

"(i) the sum of the amounts received during such period by such contributor under such sections with respect to such person, reduced by

"(ii) the amounts so received which were contributed to a Roth IRA under section 408A(e)(2) or to another Coverdell education savings account.

"(B) ANNUAL LIMIT ON NUMBER OF ROLLOVERS NOT TO APPLY.—The last sentence of paragraph (5) shall not apply with respect to amounts treated as a rollover by the subparagraph (A).

"(C) APPLICATION OF SECTION 72.—For purposes of applying section 72 in the case of a distribution which is includible in gross income under paragraph (1), the amount treated as a rollover by reason of subparagraph (A) shall be treated as investment in the contract.".

(d) EFFECTIVE DATES.— 26 USC 408A note.

(1) IN GENERAL.—Except as provided by paragraphs (2) and (3), the amendments made by this section shall apply with respect to deaths from injuries occurring on or after the date of the enactment of this Act.

(2) APPLICATION OF AMENDMENTS TO DEATHS FROM INJURIES OCCURRING ON OR AFTER OCTOBER 7, 2001, AND BEFORE ENACTMENT.—The amendments made by this section shall apply to any contribution made pursuant to section 408A(e)(2) or 530(d)(5) of the Internal Revenue Code of 1986, as amended by this Act, with respect to amounts received under section 1477 of title 10, United States Code, or under section 1967 of title 38 of such Code, for deaths from injuries occurring on or after October 7, 2001, and before the date of the enactment of this Act if such contribution is made not later than 1 year after the date of the enactment of this Act.

(3) PENSION PROTECTION ACT CHANGES.—Section 408A(e)(1) of the Internal Revenue Code of 1986 (as in effect after the amendments made by subsection (b)) shall apply to taxable years beginning after December 31, 2007. Applicability.

**SEC. 110. SUSPENSION OF 5-YEAR PERIOD DURING SERVICE WITH THE PEACE CORPS.**

(a) IN GENERAL.—Subsection (d) of section 121 (relating to special rules) is amended by adding at the end the following new paragraph: 26 USC 121.

"(12) PEACE CORPS.—

"(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving outside the United States—

"(i) on qualified official extended duty (as defined in paragraph (9)(C)) as an employee of the Peace Corps, or

"(ii) as an enrolled volunteer or volunteer leader under section 5 or 6 (as the case may be) of the Peace Corps Act (22 U.S.C. 2504, 2505).

"(B) APPLICABLE RULES.—For purposes of subparagraph (A), rules similar to the rules of subparagraphs (B) and (D) shall apply.".

26 USC 121 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2007.

**SEC. 111. CREDIT FOR EMPLOYER DIFFERENTIAL WAGE PAYMENTS TO EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits) is amended by adding at the end the following new section:

**"SEC. 45P. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.**

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible small business employer, the differential wage payment credit for any taxable year is an amount equal to 20 percent of the sum of the eligible differential wage payments for each of the qualified employees of the taxpayer during such taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE DIFFERENTIAL WAGE PAYMENTS.—The term 'eligible differential wage payments' means, with respect to each qualified employee, so much of the differential wage payments (as defined in section 3401(h)(2)) paid to such employee for the taxable year as does not exceed $20,000.

"(2) QUALIFIED EMPLOYEE.—The term 'qualified employee' means a person who has been an employee of the taxpayer for the 91-day period immediately preceding the period for which any differential wage payment is made.

"(3) ELIGIBLE SMALL BUSINESS EMPLOYER.—

"(A) IN GENERAL.—The term 'eligible small business employer' means, with respect to any taxable year, any employer which—

"(i) employed an average of less than 50 employees on business days during such taxable year, and

"(ii) under a written plan of the employer, provides eligible differential wage payments to every qualified employee of the employer.

"(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

"(c) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under this chapter with respect to compensation paid to any employee shall be reduced by the credit determined under this section with respect to such employee.

"(d) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

"(1) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

"(2) the 2 succeeding taxable years.

"(e) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

"(f) TERMINATION.—This section shall not apply to any payments made after December 31, 2009.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to general business credit) is amended by striking "plus" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ", plus", and by adding at the end of following new paragraph: 26 USC 38.

"(33) the differential wage payment credit determined under section 45P(a).".

(c) NO DEDUCTION FOR COMPENSATION TAKEN INTO ACCOUNT FOR CREDIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting "45P(a)," after "45A(a),".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45P. Employer wage credit for employees who are active duty members of the uniformed services.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after the date of the enactment of this Act. 26 USC 38 note.

**SEC. 112. STATE PAYMENTS TO SERVICE MEMBERS TREATED AS QUALIFIED MILITARY BENEFITS.**

(a) IN GENERAL.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

"(6) CERTAIN STATE PAYMENTS.—The term 'qualified military benefit' includes any bonus payment by a State or political subdivision thereof to any member or former member of the uniformed services of the United States or any dependent of such member only by reason of such member's service in an combat zone (as defined in section 112(c)(2), determined without regard to the parenthetical).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made before, on, or after the date of the enactment of this Act. 26 USC 134 note.

**SEC. 113. PERMANENT EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.**

(a) IN GENERAL.—Paragraph (9) of section 121(d) is amended by striking subparagraph (E).

(b) DUTY STATION MAY BE INSIDE UNITED STATES.—Section 121(d)(9)(C) (defining qualified official extended duty) is amended by striking clause (vi).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act. 26 USC 121 note.

**SEC. 114. SPECIAL DISPOSITION RULES FOR UNUSED BENEFITS IN HEALTH FLEXIBLE SPENDING ARRANGEMENTS OF INDIVIDUALS CALLED TO ACTIVE DUTY.**

26 USC 125.

(a) IN GENERAL.—Section 125 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsection (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULE FOR UNUSED BENEFITS IN HEALTH FLEXIBLE SPENDING ARRANGEMENTS OF INDIVIDUALS CALLED TO ACTIVE DUTY.—

"(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan or health flexible spending arrangement merely because such arrangement provides for qualified reservist distributions.

"(2) QUALIFIED RESERVIST DISTRIBUTION.—For purposes of this subsection, the term 'qualified reservist distribution' means, any distribution to an individual of all or a portion of the balance in the employee's account under such arrangement if—

"(A) such individual was (by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code)) ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and

"(B) such distribution is made during the period beginning on the date of such order or call and ending on the last date that reimbursements could otherwise be made under such arrangement for the plan year which includes the date of such order or call.".

26 USC 125 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after the date of the enactment of this Act.

**SEC. 115. TECHNICAL CORRECTION RELATED TO EXCLUSION OF CERTAIN PROPERTY TAX REBATES AND OTHER BENEFITS PROVIDED TO VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL RESPONDERS.**

(a) SOCIAL SECURITY TAXES.—

(1) Section 3121(a) (relating to definition of wages) is amended by striking "or" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting "; or", and by inserting after paragraph (22) the following new paragraph:

"(23) any benefit or payment which is excludable from the gross income of the employee under section 139B(b).".

42 USC 409.

(2) Section 209(a) of the Social Security Act is amended by striking "or" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting "; or", and by inserting after paragraph (19) the following new paragraph:

"(20) Any benefit or payment which is excludable from the gross income of the employee under section 139B(b) of the Internal Revenue Code of 1986).".

26 USC 3306.

(b) UNEMPLOYMENT TAXES.—Section 3306(b) (relating to definition of wages) is amended by striking "or" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting "; or", and by inserting after paragraph (19) the following new paragraph:

"(20) any benefit or payment which is excludable from the gross income of the employee under section 139B(b).".

(c) WAGE WITHHOLDING.—Section 3401(a) (defining wages) is amended by striking "or" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting "; or", and by inserting after paragraph (22) the following new paragraph: 26 USC 3401.

"(23) for any benefit or payment which is excludable from the gross income of the employee under section 139B(b).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 5 of the Mortgage Forgiveness Debt Relief Act of 2007. 26 USC 3121 note.

# TITLE II—IMPROVEMENTS IN SUPPLEMENTAL SECURITY INCOME

### SEC. 201. TREATMENT OF UNIFORMED SERVICE CASH REMUNERATION AS EARNED INCOME.

(a) IN GENERAL.—Section 1612(a)(1)(A) of the Social Security Act (42 U.S.C. 1382a(a)(1)(A)) is amended by inserting "(and, in the case of cash remuneration paid for service as a member of a uniformed service (other than payments described in paragraph (2)(H) of this subsection or subsection (b)(20)), without regard to the limitations contained in section 209(d))" before the semicolon.

(b) CERTAIN HOUSING PAYMENTS TREATED AS IN-KIND SUPPORT AND MAINTENANCE.—Section 1612(a)(2) of such Act (42 U.S.C. 1382a(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting "; and"; and

(3) by adding at the end the following:

"(H) payments to or on behalf of a member of a uniformed service for housing of the member (and his or her dependents, if any) on a facility of a uniformed service, including payments provided under section 403 of title 37, United States Code, for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10 of such Code, or any related provision of law, and any such payments shall be treated as support and maintenance in kind subject to subparagraph (A) of this paragraph.".

### SEC. 202. STATE ANNUITIES FOR CERTAIN VETERANS TO BE DISREGARDED IN DETERMINING SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) INCOME DISREGARD.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

(3) by adding at the end the following:

"(24) any annuity paid by a State to the individual (or such spouse) on the basis of the individual's being a veteran (as defined in section 101 of title 38, United States Code), and blind, disabled, or aged.".

(b) RESOURCE DISREGARD.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting "; and"; and

(3) by inserting after paragraph (15) the following:

"(16) for the month of receipt and every month thereafter, any annuity paid by a State to the individual (or such spouse) on the basis of the individual's being a veteran (as defined in section 101 of title 38, United States Code), and blind, disabled, or aged.".

**SEC. 203. EXCLUSION OF AMERICORPS BENEFITS FOR PURPOSES OF DETERMINING SUPPLEMENTAL SECURITY INCOME ELIGIBILITY AND BENEFIT AMOUNTS.**

Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)), as amended by section 202(a) of this Act, is amended—

(1) in paragraph (23), by striking "and" at the end;

(2) in paragraph (24), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(25) any benefit (whether cash or in-kind) conferred upon (or paid on behalf of) a participant in an AmeriCorps position approved by the Corporation for National and Community Service under section 123 of the National and Community Service Act of 1990 (42 U.S.C. 12573).".

42 USC 1382a note.

**SEC. 204. EFFECTIVE DATE.**

The amendments made by this title shall be effective with respect to benefits payable for months beginning after 60 days after the date of the enactment of this Act.

# TITLE III—REVENUE PROVISIONS

**SEC. 301. REVISION OF TAX RULES ON EXPATRIATION.**

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

**"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—All property of a covered expatriate shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence, determined without regard to paragraph (3).

"(3) EXCLUSION FOR CERTAIN GAIN.—

"(A) IN GENERAL.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of paragraph (1) shall be reduced (but not below zero) by $600,000.

"(B) ADJUSTMENT FOR INFLATION.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2008, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the time for payment of the additional tax attributable to such property shall be extended until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) TERMINATION OF EXTENSION.—The due date for payment of tax may not be extended under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond which is furnished to, and accepted by, the Secretary, which is conditioned on the payment of tax (and interest thereon), and which meets the requirements of section 6325, or

"(ii) it is another form of security for such payment (including letters of credit) that meets such requirements as the Secretary may prescribe.

"(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer makes an irrevocable waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

Applicability.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable.

"(7) INTEREST.—For purposes of section 6601, the last date for the payment of tax shall be determined without regard to the election under this subsection.

"(c) EXCEPTION FOR CERTAIN PROPERTY.—Subsection (a) shall not apply to—

"(1) any deferred compensation item (as defined in subsection (d)(4)),

"(2) any specified tax deferred account (as defined in subsection (e)(2)), and

"(3) any interest in a nongrantor trust (as defined in subsection (f)(3)).

"(d) TREATMENT OF DEFERRED COMPENSATION ITEMS.—

"(1) WITHHOLDING ON ELIGIBLE DEFERRED COMPENSATION ITEMS.—

"(A) IN GENERAL.—In the case of any eligible deferred compensation item, the payor shall deduct and withhold from any taxable payment to a covered expatriate with respect to such item a tax equal to 30 percent thereof.

"(B) TAXABLE PAYMENT.—For purposes of subparagraph (A), the term 'taxable payment' means with respect to a covered expatriate any payment to the extent it would be includible in the gross income of the covered expatriate if such expatriate continued to be subject to tax as a citizen or resident of the United States. A deferred compensation item shall be taken into account as a payment under the preceding sentence when such item would be so includible.

"(2) OTHER DEFERRED COMPENSATION ITEMS.—In the case of any deferred compensation item which is not an eligible deferred compensation item—

"(A)(i) with respect to any deferred compensation item to which clause (ii) does not apply, an amount equal to the present value of the covered expatriate's accrued benefit shall be treated as having been received by such individual on the day before the expatriation date as a distribution under the plan, and

"(ii) with respect to any deferred compensation item referred to in paragraph (4)(D), the rights of the covered expatriate to such item shall be treated as becoming transferable and not subject to a substantial risk of forfeiture on the day before the expatriation date,

"(B) no early distribution tax shall apply by reason of such treatment, and

"(C) appropriate adjustments shall be made to subsequent distributions from the plan to reflect such treatment.

"(3) ELIGIBLE DEFERRED COMPENSATION ITEMS.—For purposes of this subsection, the term 'eligible deferred compensation item' means any deferred compensation item with respect to which—

"(A) the payor of such item is—

"(i) a United States person, or

"(ii) a person who is not a United States person but who elects to be treated as a United States person for purposes of paragraph (1) and meets such requirements as the Secretary may provide to ensure that the payor will meet the requirements of paragraph (1), and

"(B) the covered expatriate—

"(i) notifies the payor of his status as a covered expatriate, and

"(ii) makes an irrevocable waiver of any right to claim any reduction under any treaty with the United States in withholding on such item.

"(4) DEFERRED COMPENSATION ITEM.—For purposes of this subsection, the term 'deferred compensation item' means—

"(A) any interest in a plan or arrangement described in section 219(g)(5),

"(B) any interest in a foreign pension plan or similar retirement arrangement or program,

"(C) any item of deferred compensation, and

"(D) any property, or right to property, which the individual is entitled to receive in connection with the performance of services to the extent not previously taken into account under section 83 or in accordance with section 83.

"(5) EXCEPTION.—Paragraphs (1) and (2) shall not apply to any deferred compensation item to the extent attributable to services performed outside the United States while the covered expatriate was not a citizen or resident of the United States.

"(6) SPECIAL RULES.—

"(A) APPLICATION OF WITHHOLDING RULES.—Rules similar to the rules of subchapter B of chapter 3 shall apply for purposes of this subsection.

"(B) APPLICATION OF TAX.—Any item subject to the withholding tax imposed under paragraph (1) shall be subject to tax under section 871.

"(C) COORDINATION WITH OTHER WITHHOLDING REQUIREMENTS.—Any item subject to withholding under paragraph (1) shall not be subject to withholding under section 1441 or chapter 24.

"(e) TREATMENT OF SPECIFIED TAX DEFERRED ACCOUNTS.—

"(1) ACCOUNT TREATED AS DISTRIBUTED.—In the case of any interest in a specified tax deferred account held by a covered expatriate on the day before the expatriation date—

"(A) the covered expatriate shall be treated as receiving a distribution of his entire interest in such account on the day before the expatriation date,

"(B) no early distribution tax shall apply by reason of such treatment, and

"(C) appropriate adjustments shall be made to subsequent distributions from the account to reflect such treatment.

"(2) SPECIFIED TAX DEFERRED ACCOUNT.—For purposes of paragraph (1), the term 'specified tax deferred account' means an individual retirement plan (as defined in section 7701(a)(37))

other than any arrangement described in subsection (k) or (p) of section 408, a qualified tuition program (as defined in section 529), a Coverdell education savings account (as defined in section 530), a health savings account (as defined in section 223), and an Archer MSA (as defined in section 220).

"(f) SPECIAL RULES FOR NONGRANTOR TRUSTS.—

"(1) IN GENERAL.—In the case of a distribution (directly or indirectly) of any property from a nongrantor trust to a covered expatriate—

"(A) the trustee shall deduct and withhold from such distribution an amount equal to 30 percent of the taxable portion of the distribution, and

"(B) if the fair market value of such property exceeds its adjusted basis in the hands of the trust, gain shall be recognized to the trust as if such property were sold to the expatriate at its fair market value.

"(2) TAXABLE PORTION.—For purposes of this subsection, the term 'taxable portion' means, with respect to any distribution, that portion of the distribution which would be includible in the gross income of the covered expatriate if such expatriate continued to be subject to tax as a citizen or resident of the United States.

"(3) NONGRANTOR TRUST.—For purposes of this subsection, the term 'nongrantor trust' means the portion of any trust that the individual is not considered the owner of under subpart E of part I of subchapter J. The determination under the preceding sentence shall be made immediately before the expatriation date.

Applicability.

"(4) SPECIAL RULES RELATING TO WITHHOLDING.—For purposes of this subsection—

"(A) rules similar to the rules of subsection (d)(6) shall apply, and

"(B) the covered expatriate shall be treated as having waived any right to claim any reduction under any treaty with the United States in withholding on any distribution to which paragraph (1)(A) applies unless the covered expatriate agrees to such other treatment as the Secretary determines appropriate.

"(5) APPLICATION.—This subsection shall apply to a nongrantor trust only if the covered expatriate was a beneficiary of the trust on the day before the expatriation date.

"(g) DEFINITIONS AND SPECIAL RULES RELATING TO EXPATRIATION.—For purposes of this section—

"(1) COVERED EXPATRIATE.—

"(A) IN GENERAL.—The term 'covered expatriate' means an expatriate who meets the requirements of subparagraph (A), (B), or (C) of section 877(a)(2).

"(B) EXCEPTIONS.—An individual shall not be treated as meeting the requirements of subparagraph (A) or (B) of section 877(a)(2) if—

"(i) the individual—

"(I) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(II) has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for not more than 10 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(ii)(I) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(II) the individual has been a resident of the United States (as so defined) for not more than 10 taxable years before the date of relinquishment.

"(C) COVERED EXPATRIATES ALSO SUBJECT TO TAX AS CITIZENS OR RESIDENTS.—In the case of any covered expatriate who is subject to tax as a citizen or resident of the United States for any period beginning after the expatriation date, such individual shall not be treated as a covered expatriate during such period for purposes of subsections (d)(1) and (f) and section 2801.

"(2) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, and

"(B) any long-term resident of the United States who ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)).

"(3) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date on which the individual ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)).

"(4) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(5) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(6) EARLY DISTRIBUTION TAX.—The term 'early distribution tax' means any increase in tax imposed under section 72(t), 220(e)(4), 223(f)(4), 409A(a)(1)(B), 529(c)(6), or 530(d)(4).

"(h) OTHER RULES.—

"(1) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(A) any time period for acquiring property which would result in the reduction in the amount of gain recognized with respect to property disposed of by the taxpayer shall terminate on the day before the expatriation date, and

"(B) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(2) STEP-UP IN BASIS.—Solely for purposes of determining any tax imposed by reason of subsection (a), property which was held by an individual on the date the individual first became a resident of the United States (within the meaning of section 7701(b)) shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

Applicability.

"(3) COORDINATION WITH SECTION 684.—If the expatriation of any individual would result in the recognition of gain under section 684, this section shall be applied after the application of section 684.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) TAX ON GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—

(1) IN GENERAL.—Subtitle B (relating to estate and gift taxes) is amended by inserting after chapter 14 the following new chapter:

## "CHAPTER 15—GIFTS AND BEQUESTS FROM EXPATRIATES

"Sec. 2801. Imposition of tax.

### "SEC. 2801. IMPOSITION OF TAX.

"(a) IN GENERAL.—If, during any calendar year, any United States citizen or resident receives any covered gift or bequest, there is hereby imposed a tax equal to the product of—

"(1) the highest rate of tax specified in the table contained in section 2001(c) as in effect on the date of such receipt (or, if greater, the highest rate of tax specified in the table applicable under section 2502(a) as in effect on the date), and

"(2) the value of such covered gift or bequest.

"(b) TAX TO BE PAID BY RECIPIENT.—The tax imposed by subsection (a) on any covered gift or bequest shall be paid by the person receiving such gift or bequest.

"(c) EXCEPTION FOR CERTAIN GIFTS.—Subsection (a) shall apply only to the extent that the value of covered gifts and bequests received by any person during the calendar year exceeds the dollar amount in effect under section 2503(b) for such calendar year. Applicability.

"(d) TAX REDUCED BY FOREIGN GIFT OR ESTATE TAX.—The tax imposed by subsection (a) on any covered gift or bequest shall be reduced by the amount of any gift or estate tax paid to a foreign country with respect to such covered gift or bequest.

"(e) COVERED GIFT OR BEQUEST.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'covered gift or bequest' means—

"(A) any property acquired by gift directly or indirectly from an individual who, at the time of such acquisition, is a covered expatriate, and

"(B) any property acquired directly or indirectly by reason of the death of an individual who, immediately before such death, was a covered expatriate.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Such term shall not include—

"(A) any property shown on a timely filed return of tax imposed by chapter 12 which is a taxable gift by the covered expatriate, and

"(B) any property included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate.

"(3) EXCEPTIONS FOR TRANSFERS TO SPOUSE OR CHARITY.—Such term shall not include any property with respect to which a deduction would be allowed under section 2055, 2056, 2522, or 2523, whichever is appropriate, if the decedent or donor were a United States person.

"(4) TRANSFERS IN TRUST.—

"(A) DOMESTIC TRUSTS.—In the case of a covered gift or bequest made to a domestic trust—

"(i) subsection (a) shall apply in the same manner as if such trust were a United States citizen, and Applicability.

"(ii) the tax imposed by subsection (a) on such gift or bequest shall be paid by such trust.

"(B) FOREIGN TRUSTS.—

"(i) IN GENERAL.—In the case of a covered gift or bequest made to a foreign trust, subsection (a) shall apply to any distribution attributable to such gift or bequest from such trust (whether from income or corpus) to a United States citizen or resident in the same manner as if such distribution were a covered gift or bequest. Applicability.

"(ii) DEDUCTION FOR TAX PAID BY RECIPIENT.—There shall be allowed as a deduction under section 164 the amount of tax imposed by this section which is paid or accrued by a United States citizen or resident by reason of a distribution from a foreign trust, but only to the extent such tax is imposed on the portion of such distribution which is included in the gross income of such citizen or resident.

"(iii) ELECTION TO BE TREATED AS DOMESTIC TRUST.—Solely for purposes of this section, a foreign trust may elect to be treated as a domestic trust.

Such an election may be revoked with the consent of the Secretary.

"(f) COVERED EXPATRIATE.—For purposes of this section, the term 'covered expatriate' has the meaning given to such term by section 877A(g)(1).".

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle B is amended by inserting after the item relating to chapter 14 the following new item:

"CHAPTER 15. GIFTS AND BEQUESTS FROM EXPATRIATES.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—

26 USC 7701.

(1) IN GENERAL.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(50) TERMINATION OF UNITED STATES CITIZENSHIP.—

"(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(g)(4).

Regulations.

"(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 877(e) is amended to read as follows:

"(1) IN GENERAL.—Any long-term resident of the United States who ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) shall be treated for purposes of this section and sections 2107, 2501, and 6039G in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.".

(B) Paragraph (6) of section 7701(b) is amended by adding at the end the following flush sentence:

"An individual shall cease to be treated as a lawful permanent resident of the United States if such individual commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country, does not waive the benefits of such treaty applicable to residents of the foreign country, and notifies the Secretary of the commencement of such treatment.".

(C) Section 7701 is amended by striking subsection (n) and by redesignating subsections (o) and (p) as subsections (n) and (o), respectively.

(d) TERMINATION OF SECTION 877.—Section 877 is amended by adding at the end the following new subsection:

"(h) TERMINATION.—This section shall not apply to any individual whose expatriation date (as defined in section 877A(g)(3)) is on or after the date of the enactment of this subsection.".

(e) INFORMATION RETURNS.—Section 6039G is amended—

(1) by inserting "or 877A" after "section 877(b)" in subsection (a), and

(2) by inserting "or 877A" after "section 877(a)" in subsection (d).

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) EFFECTIVE DATE.— 26 USC 2801 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to any individual whose expatriation date (as so defined) is on or after the date of the enactment of this Act.

(2) GIFTS AND BEQUESTS.—Chapter 15 of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to covered gifts and bequests (as defined in section 2801 of such Code, as so added) received on or after the date of the enactment of this Act from transferors (or from the estates of transferors) whose expatriation date is on or after such date of enactment. Applicability.

**SEC. 302. CERTAIN DOMESTICALLY CONTROLLED FOREIGN PERSONS PERFORMING SERVICES UNDER CONTRACT WITH UNITED STATES GOVERNMENT TREATED AS AMERICAN EMPLOYERS.**

(a) FICA TAXES.—Section 3121 (relating to definitions) is amended by adding at the end the following new subsection: 26 USC 3121.

"(z) TREATMENT OF CERTAIN FOREIGN PERSONS AS AMERICAN EMPLOYERS.—

"(1) IN GENERAL.—If any employee of a foreign person is performing services in connection with a contract between the United States Government (or any instrumentality thereof) and any member of any domestically controlled group of entities which includes such foreign person, such foreign person shall be treated for purposes of this chapter as an American employer with respect to such services performed by such employee.

"(2) DOMESTICALLY CONTROLLED GROUP OF ENTITIES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'domestically controlled group of entities' means a controlled group of entities the common parent of which is a domestic corporation.

"(B) CONTROLLED GROUP OF ENTITIES.—The term 'controlled group of entities' means a controlled group of corporations as defined in section 1563(a)(1), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears therein, and

"(ii) the determination shall be made without regard to subsections (a)(4) and (b)(2) of section 1563.

A partnership or any other entity (other than a corporation) shall be treated as a member of a controlled group of entities if such entity is controlled (within the meaning of section 954(d)(3)) by members of such group (including any entity treated as a member of such group by reason of this sentence).

"(3) LIABILITY OF COMMON PARENT.—In the case of a foreign person who is a member of any domestically controlled group of entities, the common parent of such group shall be jointly and severally liable for any tax under this chapter for which such foreign person is liable by reason of this subsection, and

for any penalty imposed on such person by this title with respect to any failure to pay such tax or to file any return or statement with respect to such tax or wages subject to such tax. No deduction shall be allowed under this title for any liability imposed by the preceding sentence.

"(4) PROVISIONS PREVENTING DOUBLE TAXATION.—

"(A) AGREEMENTS.—Paragraph (1) shall not apply to any services which are covered by an agreement under subsection (l).

"(B) EQUIVALENT FOREIGN TAXATION.—Paragraph (1) shall not apply to any services if the employer establishes to the satisfaction of the Secretary that the remuneration paid by such employer for such services is subject to a tax imposed by a foreign country which is substantially equivalent to the taxes imposed by this chapter.

"(5) CROSS REFERENCE.—For relief from taxes in cases covered by certain international agreements, see sections 3101(c) and 3111(c).".

(b) SOCIAL SECURITY BENEFITS.—Subsection (e) of section 210 of the Social Security Act (42 U.S.C. 410(e)) is amended—

(1) by striking "(e) The term" and inserting "(e)(1) The term",

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively, and

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

"(2)(A) If any employee of a foreign person is performing services in connection with a contract between the United States Government (or any instrumentality thereof) and any member of any domestically controlled group of entities which includes such foreign person, such foreign person shall be treated as an American employer with respect to such services performed by such employee.

"(B) For purposes of this paragraph—

"(i) The term 'domestically controlled group of entities' means a controlled group of entities the common parent of which is a domestic corporation.

"(ii) The term 'controlled group of entities' means a controlled group of corporations as defined in section 1563(a)(1) of the Internal Revenue Code of 1986, except that—

"(I) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears therein, and

"(II) the determination shall be made without regard to subsections (a)(4) and (b)(2) of section 1563 of such Code.

A partnership or any other entity (other than a corporation) shall be treated as a member of a controlled group of entities if such entity is controlled (within the meaning of section 954(d)(3) of such Code) by members of such group (including any entity treated as a member of such group by reason of this sentence).

"(C) Subparagraph (A) shall not apply to any services to which paragraph (1) of section 3121(z) of the Internal Revenue Code of 1986 does not apply by reason of paragraph (4) of such section.".

26 USC 3121 note.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to services performed in calendar months beginning more than 30 days after the date of the enactment of this Act.

**SEC. 303. INCREASE IN MINIMUM PENALTY ON FAILURE TO FILE A RETURN OF TAX.**

(a) IN GENERAL.—Subsection (a) of section 6651 is amended by striking "$100" in the last sentence and inserting "$135". 26 USC 6651.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns required to be filed after December 31, 2008. 26 USC 6651 note.

# TITLE IV—PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS

**SEC. 401. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.**

(a) INTERNAL REVENUE CODE OF 1986.—Subsection (f) of section 9812 is amended—

(1) by striking "and" at the end of paragraph (2), and

(2) by striking paragraph (3) and inserting the following new paragraphs:

"(3) on or after January 1, 2008, and before the date of the enactment of the Heroes Earnings Assistance and Relief Tax Act of 2008, and

"(4) after December 31, 2008.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subsection (f) of section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking "services furnished after December 31, 2007" and inserting "services furnished—

"(1) on or after January 1, 2008, and before the date of the enactment of the Heroes Earnings Assistance and Relief Tax Act of 2008, and

"(2) after December 31, 2008.".

(c) PUBLIC HEALTH SERVICE ACT.—Subsection (f) of section 2705 of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking "services furnished after December 31, 2007" and inserting "services furnished—

"(1) on or after January 1, 2008, and before the date of the enactment of the Heroes Earnings Assistance and Relief Tax Act of 2008, and

"(2) after December 31, 2008.".

Approved June 17, 2008.

LEGISLATIVE HISTORY—H.R. 6081:

CONGRESSIONAL RECORD, Vol. 154 (2008):
May 20, considered and passed House.
May 22, considered and passed Senate.

# Public Law 110–246
# 110th Congress

## An Act

To provide for the continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2012, and for other purposes.

June 18, 2008
[H.R. 6124]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Food, Conservation, and Energy Act of 2008.
7 USC 8701 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Food, Conservation, and Energy Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.
Sec. 3. Explanatory Statement.
Sec. 4. Repeal of duplicative enactment.

TITLE I—COMMODITY PROGRAMS

Sec. 1001. Definitions.

Subtitle A—Direct Payments and Counter-Cyclical Payments

Sec. 1101. Base acres.
Sec. 1102. Payment yields.
Sec. 1103. Availability of direct payments.
Sec. 1104. Availability of counter-cyclical payments.
Sec. 1105. Average crop revenue election program.
Sec. 1106. Producer agreement required as condition of provision of payments.
Sec. 1107. Planting flexibility.
Sec. 1108. Special rule for long grain and medium grain rice.
Sec. 1109. Period of effectiveness.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

Sec. 1201. Availability of nonrecourse marketing assistance loans for loan commodities.
Sec. 1202. Loan rates for nonrecourse marketing assistance loans.
Sec. 1203. Term of loans.
Sec. 1204. Repayment of loans.
Sec. 1205. Loan deficiency payments.
Sec. 1206. Payments in lieu of loan deficiency payments for grazed acreage.
Sec. 1207. Special marketing loan provisions for upland cotton.
Sec. 1208. Special competitive provisions for extra long staple cotton.
Sec. 1209. Availability of recourse loans for high moisture feed grains and seed cotton.
Sec. 1210. Adjustments of loans.

Subtitle C—Peanuts

Sec. 1301. Definitions.
Sec. 1302. Base acres for peanuts for a farm.
Sec. 1303. Availability of direct payments for peanuts.
Sec. 1304. Availability of counter-cyclical payments for peanuts.
Sec. 1305. Producer agreement required as condition on provision of payments.
Sec. 1306. Planting flexibility.
Sec. 1307. Marketing assistance loans and loan deficiency payments for peanuts.

Sec. 1308. Adjustments of loans.

Subtitle D—Sugar

Sec. 1401. Sugar program.
Sec. 1402. United States membership in the International Sugar Organization.
Sec. 1403. Flexible marketing allotments for sugar.
Sec. 1404. Storage facility loans.
Sec. 1405. Commodity Credit Corporation storage payments.

Subtitle E—Dairy

Sec. 1501. Dairy product price support program.
Sec. 1502. Dairy forward pricing program.
Sec. 1503. Dairy export incentive program.
Sec. 1504. Revision of Federal marketing order amendment procedures.
Sec. 1505. Dairy indemnity program.
Sec. 1506. Milk income loss contract program.
Sec. 1507. Dairy promotion and research program.
Sec. 1508. Report on Department of Agriculture reporting procedures for nonfat dry milk.
Sec. 1509. Federal Milk Marketing Order Review Commission.
Sec. 1510. Mandatory reporting of dairy commodities.

Subtitle F—Administration

Sec. 1601. Administration generally.
Sec. 1602. Suspension of permanent price support authority.
Sec. 1603. Payment limitations.
Sec. 1604. Adjusted gross income limitation.
Sec. 1605. Availability of quality incentive payments for covered oilseed producers.
Sec. 1606. Personal liability of producers for deficiencies.
Sec. 1607. Extension of existing administrative authority regarding loans.
Sec. 1608. Assignment of payments.
Sec. 1609. Tracking of benefits.
Sec. 1610. Government publication of cotton price forecasts.
Sec. 1611. Prevention of deceased individuals receiving payments under farm commodity programs.
Sec. 1612. Hard white wheat development program.
Sec. 1613. Durum wheat quality program.
Sec. 1614. Storage facility loans.
Sec. 1615. State, county, and area committees.
Sec. 1616. Prohibition on charging certain fees.
Sec. 1617. Signature authority.
Sec. 1618. Modernization of Farm Service Agency.
Sec. 1619. Information gathering.
Sec. 1620. Leasing of office space.
Sec. 1621. Geographically disadvantaged farmers and ranchers.
Sec. 1622. Implementation.
Sec. 1623. Repeals.

TITLE II—CONSERVATION

Subtitle A—Definitions and Highly Erodible Land and Wetland Conservation

Sec. 2001. Definitions relating to conservation title of Food Security Act of 1985.
Sec. 2002. Review of good faith determinations related to highly erodible land conservation.
Sec. 2003. Review of good faith determinations related to wetland conservation.

Subtitle B—Conservation Reserve Program

Sec. 2101. Extension of conservation reserve program.
Sec. 2102. Land eligible for enrollment in conservation reserve.
Sec. 2103. Maximum enrollment of acreage in conservation reserve.
Sec. 2104. Designation of conservation priority areas.
Sec. 2105. Treatment of multi-year grasses and legumes.
Sec. 2106. Revised pilot program for enrollment of wetland and buffer acreage in conservation reserve.
Sec. 2107. Additional duty of participants under conservation reserve contracts.
Sec. 2108. Managed haying, grazing, or other commercial use of forage on enrolled land and installation of wind turbines.
Sec. 2109. Cost sharing payments relating to trees, windbreaks, shelterbelts, and wildlife corridors.
Sec. 2110. Evaluation and acceptance of contract offers, annual rental payments, and payment limitations.

Sec. 2111. Conservation reserve program transition incentives for beginning farmers or ranchers and socially disadvantaged farmers or ranchers.

Subtitle C—Wetlands Reserve Program

Sec. 2201. Establishment and purpose of wetlands reserve program.
Sec. 2202. Maximum enrollment and enrollment methods.
Sec. 2203. Duration of wetlands reserve program and lands eligible for enrollment.
Sec. 2204. Terms of wetlands reserve program easements.
Sec. 2205. Compensation for easements under wetlands reserve program.
Sec. 2206. Wetlands reserve enhancement program and reserved rights pilot program.
Sec. 2207. Duties of Secretary of Agriculture under wetlands reserve program.
Sec. 2208. Payment limitations under wetlands reserve contracts and agreements.
Sec. 2209. Repeal of payment limitations exception for State agreements for wetlands reserve enhancement.
Sec. 2210. Report on implications of long-term nature of conservation easements.

Subtitle D—Conservation Stewardship Program

Sec. 2301. Conservation stewardship program.

Subtitle E—Farmland Protection and Grassland Reserve

Sec. 2401. Farmland protection program.
Sec. 2402. Farm viability program.
Sec. 2403. Grassland reserve program.

Subtitle F—Environmental Quality Incentives Program

Sec. 2501. Purposes of environmental quality incentives program.
Sec. 2502. Definitions.
Sec. 2503. Establishment and administration of environmental quality incentives program.
Sec. 2504. Evaluation of applications.
Sec. 2505. Duties of producers under environmental quality incentives program.
Sec. 2506. Environmental quality incentives program plan.
Sec. 2507. Duties of the Secretary.
Sec. 2508. Limitation on environmental quality incentives program payments.
Sec. 2509. Conservation innovation grants and payments.
Sec. 2510. Agricultural water enhancement program.

Subtitle G—Other Conservation Programs of the Food Security Act of 1985

Sec. 2601. Conservation of private grazing land.
Sec. 2602. Wildlife habitat incentive program.
Sec. 2603. Grassroots source water protection program.
Sec. 2604. Great Lakes Basin Program for soil erosion and sediment control.
Sec. 2605. Chesapeake Bay watershed program.
Sec. 2606. Voluntary public access and habitat incentive program.

Subtitle H—Funding and Administration of Conservation Programs

Sec. 2701. Funding of conservation programs under Food Security Act of 1985.
Sec. 2702. Authority to accept contributions to support conservation programs.
Sec. 2703. Regional equity and flexibility.
Sec. 2704. Assistance to certain farmers and ranchers to improve their access to conservation programs.
Sec. 2705. Report regarding enrollments and assistance under conservation programs.
Sec. 2706. Delivery of conservation technical assistance.
Sec. 2707. Cooperative conservation partnership initiative.
Sec. 2708. Administrative requirements for conservation programs.
Sec. 2709. Environmental services markets.
Sec. 2710. Agriculture conservation experienced services program.
Sec. 2711. Establishment of State technical committees and their responsibilities.

Subtitle I—Conservation Programs Under Other Laws

Sec. 2801. Agricultural management assistance program.
Sec. 2802. Technical assistance under Soil Conservation and Domestic Allotment Act.
Sec. 2803. Small watershed rehabilitation program.
Sec. 2804. Amendments to Soil and Water Resources Conservation Act of 1977.
Sec. 2805. Resource Conservation and Development Program.
Sec. 2806. Use of funds in Basin Funds for salinity control activities upstream of Imperial Dam.

Sec. 2807. Desert terminal lakes.

Subtitle J—Miscellaneous Conservation Provisions

Sec. 2901. High Plains water study.
Sec. 2902. Naming of National Plant Materials Center at Beltsville, Maryland, in honor of Norman A. Berg.
Sec. 2903. Transition.
Sec. 2904. Regulations.

TITLE III—TRADE

Subtitle A—Food for Peace Act

Sec. 3001. Short title.
Sec. 3002. United States policy.
Sec. 3003. Food aid to developing countries.
Sec. 3004. Trade and development assistance.
Sec. 3005. Agreements regarding eligible countries and private entities.
Sec. 3006. Use of local currency payments.
Sec. 3007. General authority.
Sec. 3008. Provision of agricultural commodities.
Sec. 3009. Generation and use of currencies by private voluntary organizations and cooperatives.
Sec. 3010. Levels of assistance.
Sec. 3011. Food Aid Consultative Group.
Sec. 3012. Administration.
Sec. 3013. Assistance for stockpiling and rapid transportation, delivery, and distribution of shelf-stable prepackaged foods.
Sec. 3014. General authorities and requirements.
Sec. 3015. Definitions.
Sec. 3016. Use of Commodity Credit Corporation.
Sec. 3017. Administrative provisions.
Sec. 3018. Consolidation and modification of annual reports regarding agricultural trade issues.
Sec. 3019. Expiration of assistance.
Sec. 3020. Authorization of appropriations.
Sec. 3021. Minimum level of nonemergency food assistance.
Sec. 3022. Coordination of foreign assistance programs.
Sec. 3023. Micronutrient fortification programs.
Sec. 3024. John Ogonowski and Doug Bereuter Farmer-to-Farmer Program.

Subtitle B—Agricultural Trade Act of 1978 and Related Statutes

Sec. 3101. Export credit guarantee program.
Sec. 3102. Market access program.
Sec. 3103. Export enhancement program.
Sec. 3104. Foreign market development cooperator program.
Sec. 3105. Food for Progress Act of 1985.
Sec. 3106. McGovern-Dole International Food for Education and Child Nutrition Program.

Subtitle C—Miscellaneous

Sec. 3201. Bill Emerson Humanitarian Trust.
Sec. 3202. Global Crop Diversity Trust.
Sec. 3203. Technical assistance for specialty crops.
Sec. 3204. Emerging markets and facility guarantee loan program.
Sec. 3205. Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products.
Sec. 3206. Local and regional food aid procurement projects.

Subtitle D—Softwood Lumber

Sec. 3301. Softwood lumber.

TITLE IV—NUTRITION

Subtitle A—Food Stamp Program

PART I—RENAMING OF FOOD STAMP ACT AND PROGRAM

Sec. 4001. Renaming of Food Stamp Act and program.
Sec. 4002. Conforming amendments.

PART II—BENEFIT IMPROVEMENTS

Sec. 4101. Exclusion of certain military payments from income.

Sec. 4102. Strengthening the food purchasing power of low-income Americans.
Sec. 4103. Supporting working families with child care expenses.
Sec. 4104. Asset indexation, education, and retirement accounts.
Sec. 4105. Facilitating simplified reporting.
Sec. 4106. Transitional benefits option.
Sec. 4107. Increasing the minimum benefit.
Sec. 4108. Employment, training, and job retention.

PART III—PROGRAM OPERATIONS

Sec. 4111. Nutrition education.
Sec. 4112. Technical clarification regarding eligibility.
Sec. 4113. Clarification of split issuance.
Sec. 4114. Accrual of benefits.
Sec. 4115. Issuance and use of program benefits.
Sec. 4116. Review of major changes in program design.
Sec. 4117. Civil rights compliance.
Sec. 4118. Codification of access rules.
Sec. 4119. State option for telephonic signature.
Sec. 4120. Privacy protections.
Sec. 4121. Preservation of access and payment accuracy.
Sec. 4122. Funding of employment and training programs.

PART IV—PROGRAM INTEGRITY

Sec. 4131. Eligibility disqualification.
Sec. 4132. Civil penalties and disqualification of retail food stores and wholesale food concerns.
Sec. 4133. Major systems failures.

PART V—MISCELLANEOUS

Sec. 4141. Pilot projects to evaluate health and nutrition promotion in the supplemental nutrition assistance program.
Sec. 4142. Study on comparable access to supplemental nutrition assistance for Puerto Rico.

Subtitle B—Food Distribution Programs

PART I—EMERGENCY FOOD ASSISTANCE PROGRAM

Sec. 4201. Emergency food assistance.
Sec. 4202. Emergency food program infrastructure grants.

PART II—FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS

Sec. 4211. Assessing the nutritional value of the FDPIR food package.

PART III—COMMODITY SUPPLEMENTAL FOOD PROGRAM

Sec. 4221. Commodity supplemental food program.

PART IV—SENIOR FARMERS' MARKET NUTRITION PROGRAM

Sec. 4231. Seniors farmers' market nutrition program.

Subtitle C—Child Nutrition and Related Programs

Sec. 4301. State performance on enrolling children receiving program benefits for free school meals.
Sec. 4302. Purchases of locally produced foods.
Sec. 4303. Healthy food education and program replicability.
Sec. 4304. Fresh fruit and vegetable program.
Sec. 4305. Whole grain products.
Sec. 4306. Buy American requirements.
Sec. 4307. Survey of foods purchased by school food authorities.

Subtitle D—Miscellaneous

Sec. 4401. Bill Emerson National Hunger Fellows and Mickey Leland International Hunger Fellows.
Sec. 4402. Assistance for community food projects.
Sec. 4403. Joint nutrition monitoring and related research activities.
Sec. 4404. Section 32 funds for purchase of fruits, vegetables, and nuts to support domestic nutrition assistance programs.
Sec. 4405. Hunger-free communities.
Sec. 4406. Reauthorization of Federal food assistance programs.
Sec. 4407. Effective and implementation dates.

TITLE V—CREDIT

Subtitle A—Farm Ownership Loans

Sec. 5001. Direct loans.

Sec. 5002. Conservation loan and loan guarantee program.
Sec. 5003. Limitations on amount of farm ownership loans.
Sec. 5004. Down payment loan program.
Sec. 5005. Beginning farmer or rancher and socially disadvantaged farmer or rancher contract land sales program.

Subtitle B—Operating Loans

Sec. 5101. Farming experience as eligibility requirement.
Sec. 5102. Limitations on amount of operating loans.
Sec. 5103. Suspension of limitation on period for which borrowers are eligible for guaranteed assistance.

Subtitle C—Emergency Loans

Sec. 5201. Eligibility of equine farmers and ranchers for emergency loans.

Subtitle D—Administrative Provisions

Sec. 5301. Beginning farmer and rancher individual development accounts pilot program.
Sec. 5302. Inventory sales preferences; loan fund set-asides.
Sec. 5303. Loan authorization levels.
Sec. 5304. Transition to private commercial or other sources of credit.
Sec. 5305. Extension of the right of first refusal to reacquire homestead property to immediate family members of borrower-owner.
Sec. 5306. Rural development and farm loan program activities.

Subtitle E—Farm Credit

Sec. 5401. Farm Credit System Insurance Corporation.
Sec. 5402. Technical correction.
Sec. 5403. Bank for cooperatives voting stock.
Sec. 5404. Premiums.
Sec. 5405. Certification of premiums.
Sec. 5406. Rural utility loans.
Sec. 5407. Equalization of loan-making powers of certain district associations.

Subtitle F—Miscellaneous

Sec. 5501. Loans to purchasers of highly fractioned land.

TITLE VI—RURAL DEVELOPMENT

Subtitle A—Consolidated Farm and Rural Development Act

Sec. 6001. Water, waste disposal, and wastewater facility grants.
Sec. 6002. SEARCH grants.
Sec. 6003. Rural business opportunity grants.
Sec. 6004. Child day care facility grants, loans, and loan guarantees.
Sec. 6005. Community facility grants to advance broadband.
Sec. 6006. Rural water and wastewater circuit rider program.
Sec. 6007. Tribal College and University essential community facilities.
Sec. 6008. Emergency and imminent community water assistance grant program.
Sec. 6009. Water systems for rural and native villages in Alaska.
Sec. 6010. Grants to nonprofit organizations to finance the construction, refurbishing, and servicing of individually-owned household water well systems in rural areas for individuals with low or moderate incomes.
Sec. 6011. Interest rates for water and waste disposal facilities loans.
Sec. 6012. Cooperative equity security guarantee.
Sec. 6013. Rural cooperative development grants.
Sec. 6014. Grants to broadcasting systems.
Sec. 6015. Locally or regionally produced agricultural food products.
Sec. 6016. Appropriate technology transfer for rural areas.
Sec. 6017. Rural economic area partnership zones.
Sec. 6018. Definitions.
Sec. 6019. National rural development partnership.
Sec. 6020. Historic barn preservation.
Sec. 6021. Grants for NOAA weather radio transmitters.
Sec. 6022. Rural microentrepreneur assistance program.
Sec. 6023. Grants for expansion of employment opportunities for individuals with disabilities in rural areas.
Sec. 6024. Health care services.
Sec. 6025. Delta Regional Authority.
Sec. 6026. Northern Great Plains Regional Authority.
Sec. 6027. Rural Business Investment Program.

Sec. 6028. Rural Collaborative Investment Program.
Sec. 6029. Funding of pending rural development loan and grant applications.

Subtitle B—Rural Electrification Act of 1936

Sec. 6101. Energy efficiency programs.
Sec. 6102. Reinstatement of Rural Utility Services direct lending.
Sec. 6103. Deferment of payments to allows loans for improved energy efficiency and demand reduction and for energy efficiency and use audits.
Sec. 6104. Rural electrification assistance.
Sec. 6105. Substantially underserved trust areas.
Sec. 6106. Guarantees for bonds and notes issued for electrification or telephone purposes.
Sec. 6107. Expansion of 911 access.
Sec. 6108. Electric loans for renewable energy.
Sec. 6109. Bonding requirements.
Sec. 6110. Access to broadband telecommunications services in rural areas.
Sec. 6111. National Center for Rural Telecommunications Assessment.
Sec. 6112. Comprehensive rural broadband strategy.
Sec. 6113. Study on rural electric power generation.

Subtitle C—Miscellaneous

Sec. 6201. Distance learning and telemedicine.
Sec. 6202. Value-added agricultural market development program grants.
Sec. 6203. Agriculture innovation center demonstration program.
Sec. 6204. Rural firefighters and emergency medical service assistance program.
Sec. 6205. Insurance of loans for housing and related facilities for domestic farm labor.
Sec. 6206. Study of rural transportation issues.

Subtitle D—Housing Assistance Council

Sec. 6301. Short title.
Sec. 6302. Assistance to Housing Assistance Council.
Sec. 6303. Audits and reports.
Sec. 6304. Persons not lawfully present in the United States.
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TITLE VII—RESEARCH AND RELATED MATTERS

Subtitle A—National Agricultural Research, Extension, and Teaching Policy Act of 1977

Sec. 7101. Definitions.
Sec. 7102. National Agricultural Research, Extension, Education, and Economics Advisory Board.
Sec. 7103. Specialty crop committee report.
Sec. 7104. Renewable energy committee.
Sec. 7105. Veterinary medicine loan repayment.
Sec. 7106. Eligibility of University of the District of Columbia for grants and fellowships for food and agricultural sciences education.
Sec. 7107. Grants to 1890 schools to expand extension capacity.
Sec. 7108. Expansion of food and agricultural sciences awards.
Sec. 7109. Grants and fellowships for food and agricultural sciences education.
Sec. 7110. Grants for research on production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products.
Sec. 7111. Policy research centers.
Sec. 7112. Education grants to Alaska Native-serving institutions and Native Hawaiian-serving institutions.
Sec. 7113. Emphasis of human nutrition initiative.
Sec. 7114. Human nutrition intervention and health promotion research program.
Sec. 7115. Pilot research program to combine medical and agricultural research.
Sec. 7116. Nutrition education program.
Sec. 7117. Continuing animal health and disease research programs.
Sec. 7118. Cooperation among eligible institutions.
Sec. 7119. Appropriations for research on national or regional problems.
Sec. 7120. Animal health and disease research program.
Sec. 7121. Authorization level for extension at 1890 land-grant colleges.
Sec. 7122. Authorization level for agricultural research at 1890 land-grant colleges.
Sec. 7123. Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University.
Sec. 7124. Grants to upgrade agriculture and food sciences facilities at the District of Columbia land-grant university.
Sec. 7125. Grants to upgrade agriculture and food sciences facilities and equipment at insular area land-grant institutions.

Sec. 7126. National research and training virtual centers.
Sec. 7127. Matching funds requirement for research and extension activities of 1890 institutions.
Sec. 7128. Hispanic-serving institutions.
Sec. 7129. Hispanic-serving agricultural colleges and universities.
Sec. 7130. International agricultural research, extension, and education.
Sec. 7131. Competitive grants for international agricultural science and education programs.
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Sec. 7137. New Era Rural Technology Program.
Sec. 7138. Capacity building grants for NLGCA Institutions.
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Sec. 7142. Special authorization for biosecurity planning and response.
Sec. 7143. Resident instruction and distance education grants program for insular area institutions of higher education.

Subtitle B—Food, Agriculture, Conservation, and Trade Act of 1990

Sec. 7201. National genetics resources program.
Sec. 7202. National Agricultural Weather Information System.
Sec. 7203. Partnerships.
Sec. 7204. High-priority research and extension areas.
Sec. 7205. Nutrient management research and extension initiative.
Sec. 7206. Organic Agriculture Research and Extension Initiative.
Sec. 7207. Agricultural bioenergy feedstock and energy efficiency research and extension initiative.
Sec. 7208. Farm business management and benchmarking.
Sec. 7209. Agricultural telecommunications program.
Sec. 7210. Assistive technology program for farmers with disabilities.
Sec. 7211. Research on honey bee diseases.
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**SEC. 2. DEFINITION OF SECRETARY.**

In this Act, the term "Secretary" means the Secretary of Agriculture.

7 USC 8701 note.

**SEC. 3. EXPLANATORY STATEMENT.**

The Joint Explanatory Statement submitted by the Committee of Conference for the conference report to accompany H.R. 2419 of the 110th Congress (House Report 110-627) shall be deemed to be part of the legislative history of this Act and shall have the same effect with respect to the implementation of this Act as it would have had with respect to the implementation of H.R. 2419.

7 USC 8701 note.

**SEC. 4. REPEAL OF DUPLICATIVE ENACTMENT.**

(a) IN GENERAL.—The Act entitled "An Act to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes" (H.R. 2419 of the 110th Congress), and the amendments made by that Act, are repealed, effective on the date of enactment of that Act.

(b) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the earlier of—

(1) the date of enactment of this Act; or

(2) the date of the enactment of the Act entitled "An Act to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes" (H.R. 2419 of the 110th Congress).

# TITLE I—COMMODITY PROGRAMS

**SEC. 1001. DEFINITIONS.**

In this title (other than subtitle C):

(1) AVERAGE CROP REVENUE ELECTION PAYMENT.—The term "average crop revenue election payment" means a payment made to producers on a farm under section 1105.

(2) BASE ACRES.—

(A) IN GENERAL.—The term "base acres", with respect to a covered commodity on a farm, means the number of acres established under section 1101 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911) as in effect on September 30, 2007, subject to any adjustment under section 1101 of this Act.

(B) PEANUTS.—The term "base acres for peanuts" has the meaning given the term in section 1301.

(3) COUNTER-CYCLICAL PAYMENT.—The term "counter-cyclical payment" means a payment made to producers on a farm under section 1104.

(4) COVERED COMMODITY.—The term "covered commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, long grain rice, medium grain rice, pulse crops, soybeans, and other oilseeds.

(5) DIRECT PAYMENT.—The term "direct payment" means a payment made to producers on a farm under section 1103.

(6) EFFECTIVE PRICE.—The term "effective price", with respect to a covered commodity for a crop year, means the price calculated by the Secretary under section 1104 to determine whether counter-cyclical payments are required to be made for that crop year.

(7) EXTRA LONG STAPLE COTTON.—The term "extra long staple cotton" means cotton that—

(A) is produced from pure strain varieties of the Barbadense species or any hybrid of the species, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(8) LOAN COMMODITY.—The term "loan commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, long grain rice, medium grain rice, soybeans, other oilseeds, graded wool, nongraded wool, mohair, honey, dry peas, lentils, small chickpeas, and large chickpeas.

(9) MEDIUM GRAIN RICE.—The term "medium grain rice" includes short grain rice.

(10) OTHER OILSEED.—The term "other oilseed" means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, or any oilseed designated by the Secretary.

(11) PAYMENT ACRES.—The term "payment acres" means, in the case of direct payments and counter-cyclical payments—

(A) except as provided in subparagraph (B), 85 percent of the base acres of a covered commodity on a farm on which direct payments or counter-cyclical payments are made; and

(B) in the case of direct payments for each of the 2009 through 2011 crop years, 83.3 percent of the base acres for the covered commodity on a farm on which direct payments are made.

(12) PAYMENT YIELD.—The term "payment yield" means the yield established for direct payments and the yield established for counter-cyclical payments under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912) as in effect on September 30, 2007, or under section 1102 of this Act, for a farm for a covered commodity.

(13) PRODUCER.—

(A) IN GENERAL.—The term "producer" means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

(B) HYBRID SEED.—In determining whether a grower of hybrid seed is a producer, the Secretary shall—

(i) not take into consideration the existence of a hybrid seed contract; and

(ii) ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this title.

(14) PULSE CROP.—The term "pulse crop" means dry peas, lentils, small chickpeas, and large chickpeas.

(15) STATE.—The term "State" means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(16) TARGET PRICE.—The term "target price" means the price per bushel, pound, or hundredweight (or other appropriate unit) of a covered commodity used to determine the payment rate for counter-cyclical payments.

(17) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

(18) UNITED STATES PREMIUM FACTOR.—The term "United States Premium Factor" means the percentage by which the difference in the United States loan schedule premiums for Strict Middling (SM) 1⅛-inch upland cotton and for Middling (M) 1$^{3}/_{32}$-inch upland cotton exceeds the difference in the applicable premiums for comparable international qualities.

# Subtitle A—Direct Payments and Counter-Cyclical Payments

7 USC 8711.

**SEC. 1101. BASE ACRES.**

(a) ADJUSTMENT OF BASE ACRES.—

(1) IN GENERAL.—The Secretary shall provide for an adjustment, as appropriate, in the base acres for covered commodities for a farm whenever any of the following circumstances occurs:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated, or was terminated or expired during the period

beginning on October 1, 2007, and ending on the date of enactment of this Act.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary, or was released during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(C) The producer has eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(D) The producer has eligible oilseed acreage as the result of the Secretary designating additional oilseeds, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(2) SPECIAL CONSERVATION RESERVE ACREAGE PAYMENT RULES.—For the crop year in which a base acres adjustment under subparagraph (A) or (B) of paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(b) PREVENTION OF EXCESS BASE ACRES.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for a farm, together with the acreage described in paragraph (2) exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for 1 or more covered commodities for the farm or the base acres for peanuts for the farm so that the sum of the base acres and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for peanuts for the farm.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a Federal conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(D) Any eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(E) If the Secretary designates additional oilseeds, any eligible oilseed acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(3) SELECTION OF ACRES.—The Secretary shall give the owner of the farm the opportunity to select the base acres for a covered commodity or the base acres for peanuts for the farm against which the reduction required by paragraph (1) will be made.

(4) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1302(b) when applying the requirements of this subsection.

(c) REDUCTION IN BASE ACRES.—

(1) REDUCTION AT OPTION OF OWNER.—

(A) IN GENERAL.—The owner of a farm may reduce, at any time, the base acres for any covered commodity for the farm.

(B) EFFECT OF REDUCTION.—A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

(2) REQUIRED ACTION BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall proportionately reduce base acres on a farm for covered commodities for land that has been subdivided and developed for multiple residential units or other nonfarming uses if the size of the tracts and the density of the subdivision is such that the land is unlikely to return to the previous agricultural use, unless the producers on the farm demonstrate that the land—

(i) remains devoted to commercial agricultural production; or

(ii) is likely to be returned to the previous agricultural use.

Procedures.

(B) REQUIREMENT.—The Secretary shall establish procedures to identify land described in subparagraph (A).

(3) REVIEW AND REPORT.—Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall submit to Congress a report that describes the results of the actions taken under paragraph (2).

(d) TREATMENT OF FARMS WITH LIMITED BASE ACRES.—

(1) PROHIBITION ON PAYMENTS.—Except as provided in paragraph (2) and notwithstanding any other provision of this title, a producer on a farm may not receive direct payments, counter-cyclical payments, or average crop revenue election payments if the sum of the base acres of the farm is 10 acres or less, as determined by the Secretary.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to a farm owned by—

(A) a socially disadvantaged farmer or rancher (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)); or

(B) a limited resource farmer or rancher, as defined by the Secretary.

(3) DATA COLLECTION AND PUBLICATION.—The Secretary shall—

(A) collect and publish segregated data and survey information about the farm profiles, utilization of land, and crop production; and

(B) perform an evaluation on the supply and price of fruits and vegetables based on the effects of suspension of base acres under this section.

**SEC. 1102. PAYMENT YIELDS.** 7 USC 8712.

(a) ESTABLISHMENT AND PURPOSE.—For the purpose of making direct payments and counter-cyclical payments under this subtitle, the Secretary shall provide for the establishment of a yield for each farm for any designated oilseed or eligible pulse crop for which a payment yield was not established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912) in accordance with this section.

(b) PAYMENT YIELDS FOR DESIGNATED OILSEEDS AND ELIGIBLE PULSE CROPS.—

(1) DETERMINATION OF AVERAGE YIELD.—In the case of designated oilseeds and eligible pulse crops, the Secretary shall determine the average yield per planted acre for the designated oilseed or pulse crop on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the designated oilseed or pulse crop was zero.

(2) ADJUSTMENT FOR PAYMENT YIELD.—

(A) IN GENERAL.—The payment yield for a farm for a designated oilseed or eligible pulse crop shall be equal to the product of the following:

(i) The average yield for the designated oilseed or pulse crop determined under paragraph (1).

(ii) The ratio resulting from dividing the national average yield for the designated oilseed or pulse crop for the 1981 through 1985 crops by the national average yield for the designated oilseed or pulse crop for the 1998 through 2001 crops.

(B) NO NATIONAL AVERAGE YIELD INFORMATION AVAILABLE.—To the extent that national average yield information for a designated oilseed or pulse crop is not available, the Secretary shall use such information as the Secretary determines to be fair and equitable to establish a national average yield under this section.

(3) USE OF PARTIAL COUNTY AVERAGE YIELD.—If the yield per planted acre for a crop of a designated oilseed or pulse crop for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that designated oilseed or pulse crop, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for the purpose of determining the average under paragraph (1).

(4) NO HISTORIC YIELD DATA AVAILABLE.—In the case of establishing yields for designated oilseeds and eligible pulse crops, if historic yield data is not available, the Secretary shall use the ratio for dry peas calculated under paragraph (2)(A)(ii) in determining the yields for designated oilseeds and eligible pulse crops, as determined to be fair and equitable by the Secretary.

**SEC. 1103. AVAILABILITY OF DIRECT PAYMENTS.** 7 USC 8713.

(a) PAYMENT REQUIRED.—For each of the 2008 through 2012 crop years of each covered commodity (other than pulse crops), the Secretary shall make direct payments to producers on farms for which base acres and payment yields are established.

(b) PAYMENT RATE.—Except as provided in section 1105, the payment rates used to make direct payments with respect to covered commodities for a crop year shall be as follows:

(1) Wheat, $0.52 per bushel.

(2) Corn, $0.28 per bushel.
(3) Grain sorghum, $0.35 per bushel.
(4) Barley, $0.24 per bushel.
(5) Oats, $0.024 per bushel.
(6) Upland cotton, $0.0667 per pound.
(7) Long grain rice, $2.35 per hundredweight.
(8) Medium grain rice, $2.35 per hundredweight.
(9) Soybeans, $0.44 per bushel.
(10) Other oilseeds, $0.80 per hundredweight.

(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the producers on a farm for a covered commodity for a crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres of the covered commodity on the farm.

(3) The payment yield for the covered commodity for the farm.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the case of each of the 2008 through 2012 crop years, the Secretary may not make direct payments before October 1 of the calendar year in which the crop of the covered commodity is harvested.

(2) ADVANCE PAYMENTS.—

(A) OPTION.—

(i) IN GENERAL.—At the option of the producers on a farm, the Secretary shall pay in advance up to 22 percent of the direct payment for a covered commodity for any of the 2008 through 2011 crop years to the producers on a farm.

(ii) 2008 CROP YEAR.—If the producers on a farm elect to receive advance direct payments under clause (i) for a covered commodity for the 2008 crop year, as soon as practicable after the election, the Secretary shall make the advance direct payment to the producers on the farm.

(B) MONTH.—

(i) SELECTION.—Subject to clauses (ii) and (iii), the producers on a farm shall select the month during which the advance payment for a crop year will be made.

(ii) OPTIONS.—The month selected may be any month during the period—

(I) beginning on December 1 of the calendar year before the calendar year in which the crop of the covered commodity is harvested; and

(II) ending during the month within which the direct payment would otherwise be made.

(iii) CHANGE.—The producers on a farm may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the

Secretary the applicable amount of the advance payment, as determined by the Secretary.

**SEC. 1104. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS.** 7 USC 8714.

(a) PAYMENT REQUIRED.—Except as provided in section 1105, for each of the 2008 through 2012 crop years for each covered commodity, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres are established with respect to the covered commodity if the Secretary determines that the effective price for the covered commodity is less than the target price for the covered commodity.

(b) EFFECTIVE PRICE.—

(1) COVERED COMMODITIES OTHER THAN RICE.—Except as provided in paragraph (2), for purposes of subsection (a), the effective price for a covered commodity is equal to the sum of the following:

(A) The higher of the following:

(i) The national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary.

(ii) The national average loan rate for a marketing assistance loan for the covered commodity in effect for the applicable period under subtitle B.

(B) The payment rate in effect for the covered commodity under section 1103 for the purpose of making direct payments with respect to the covered commodity.

(2) RICE.—In the case of long grain rice and medium grain rice, for purposes of subsection (a), the effective price for each type or class of rice is equal to the sum of the following:

(A) The higher of the following:

(i) The national average market price received by producers during the 12-month marketing year for the type or class of rice, as determined by the Secretary.

(ii) The national average loan rate for a marketing assistance loan for the type or class of rice in effect for the applicable period under subtitle B.

(B) The payment rate in effect for the type or class of rice under section 1103 for the purpose of making direct payments with respect to the type or class of rice.

(c) TARGET PRICE.—

(1) 2008 CROP YEAR.—For purposes of the 2008 crop year, the target prices for covered commodities shall be as follows:

(A) Wheat, $3.92 per bushel.

(B) Corn, $2.63 per bushel.

(C) Grain sorghum, $2.57 per bushel.

(D) Barley, $2.24 per bushel.

(E) Oats, $1.44 per bushel.

(F) Upland cotton, $0.7125 per pound.

(G) Long grain rice, $10.50 per hundredweight.

(H) Medium grain rice, $10.50 per hundredweight.

(I) Soybeans, $5.80 per bushel.

(J) Other oilseeds, $10.10 per hundredweight.

(2) 2009 CROP YEAR.—For purposes of the 2009 crop year, the target prices for covered commodities shall be as follows:

(A) Wheat, $3.92 per bushel.

(B) Corn, $2.63 per bushel.

(C) Grain sorghum, $2.57 per bushel.

(D) Barley, $2.24 per bushel.
(E) Oats, $1.44 per bushel.
(F) Upland cotton, $0.7125 per pound.
(G) Long grain rice, $10.50 per hundredweight.
(H) Medium grain rice, $10.50 per hundredweight.
(I) Soybeans, $5.80 per bushel.
(J) Other oilseeds, $10.10 per hundredweight.
(K) Dry peas, $8.32 per hundredweight.
(L) Lentils, $12.81 per hundredweight.
(M) Small chickpeas, $10.36 per hundredweight.
(N) Large chickpeas, $12.81 per hundredweight.

(3) SUBSEQUENT CROP YEARS.—For purposes of each of the 2010 through 2012 crop years, the target prices for covered commodities shall be as follows:

(A) Wheat, $4.17 per bushel.
(B) Corn, $2.63 per bushel.
(C) Grain sorghum, $2.63 per bushel.
(D) Barley, $2.63 per bushel.
(E) Oats, $1.79 per bushel.
(F) Upland cotton, $0.7125 per pound.
(G) Long grain rice, $10.50 per hundredweight.
(H) Medium grain rice, $10.50 per hundredweight.
(I) Soybeans, $6.00 per bushel.
(J) Other oilseeds, $12.68 per hundredweight.
(K) Dry peas, $8.32 per hundredweight.
(L) Lentils, $12.81 per hundredweight.
(M) Small chickpeas, $10.36 per hundredweight.
(N) Large chickpeas, $12.81 per hundredweight.

(d) PAYMENT RATE.—The payment rate used to make counter-cyclical payments with respect to a covered commodity for a crop year shall be equal to the difference between—

(1) the target price for the covered commodity; and

(2) the effective price determined under subsection (b) for the covered commodity.

(e) PAYMENT AMOUNT.—If counter-cyclical payments are required to be paid under this section for any of the 2008 through 2012 crop years of a covered commodity, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres of the covered commodity on the farm.

(3) The payment yield for the covered commodity for the farm.

(f) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), if the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for the crop of a covered commodity, beginning October 1, or as soon as practicable thereafter, after the end of the marketing year for the covered commodity, the Secretary shall make the counter-cyclical payments for the crop.

(2) AVAILABILITY OF PARTIAL PAYMENTS.—

(A) IN GENERAL.—If, before the end of the 12-month marketing year for a covered commodity, the Secretary estimates that counter-cyclical payments will be required for the crop of the covered commodity, the Secretary shall

give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for that crop of the covered commodity.

(B) ELECTION.— Deadlines.

(i) IN GENERAL.—The Secretary shall allow producers on a farm to make an election to receive partial payments for a covered commodity under subparagraph (A) at any time but not later than 60 days prior to the end of the marketing year for that covered commodity.

(ii) DATE OF ISSUANCE.—The Secretary shall issue the partial payment after the date of an announcement by the Secretary but not later than 30 days prior to the end of the marketing year.

(3) TIME FOR PARTIAL PAYMENTS.—When the Secretary makes partial payments for a covered commodity for any of the 2008 through 2010 crop years—

(A) the first partial payment shall be made after completion of the first 180 days of the marketing year for the covered commodity; and

(B) the final partial payment shall be made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the covered commodity.

(4) AMOUNT OF PARTIAL PAYMENT.—

(A) FIRST PARTIAL PAYMENT.—For each of the 2008 through 2010 crops of a covered commodity, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

(B) FINAL PAYMENT.—The final payment for a covered commodity for a crop year shall be equal to the difference between—

(i) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(ii) the amount of the partial payment made to the producers under subparagraph (A).

(5) REPAYMENT.—The producers on a farm that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for the covered commodity for that crop year.

**SEC. 1105. AVERAGE CROP REVENUE ELECTION PROGRAM.** 7 USC 8715.

(a) AVAILABILITY AND ELECTION OF ALTERNATIVE APPROACH.—

(1) AVAILABILITY OF AVERAGE CROP REVENUE ELECTION PAYMENTS.—As an alternative to receiving counter-cyclical payments under section 1104 or 1304 and in exchange for a 20-percent reduction in direct payments under section 1103 or 1303 and a 30-percent reduction in marketing assistance loan rates under section 1202 or 1307, with respect to all covered commodities and peanuts on a farm, during each of the 2009, 2010, 2011, and 2012 crop years, the Secretary shall give the producers on the farm an opportunity to make an irrevocable

election to instead receive average crop revenue election (referred to in this section as "ACRE") payments under this section for the initial crop year for which the election is made through the 2012 crop year.

(2) LIMITATION.—

(A) IN GENERAL.—The total number of planted acres for which the producers on a farm may receive ACRE payments under this section may not exceed the total base acreage for all covered commodities and peanuts on the farm.

(B) ELECTION.—If the total number of planted acres to all covered commodities and peanuts of the producers on a farm exceeds the total base acreage of the farm, the producers on the farm may choose which planted acres to enroll in the program under this section.

(3) ELECTION; TIME FOR ELECTION.—

Notice.

(A) IN GENERAL.—The Secretary shall provide notice to producers regarding the opportunity to make each of the elections described in paragraph (1).

(B) NOTICE REQUIREMENTS.—The notice shall include—

(i) notice of the opportunity of the producers on a farm to make the election; and

(ii) information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.

Notice.

(4) ELECTION DEADLINE.—Within the time period and in the manner prescribed pursuant to paragraph (3), all of the producers on a farm shall submit to the Secretary notice of an election made under paragraph (1).

(5) EFFECT OF FAILURE TO MAKE ELECTION.—If all of the producers on a farm fail to make an election under paragraph (1), make different elections under paragraph (1), or fail to timely notify the Secretary of the election made, as required by paragraph (4), all of the producers on the farm shall be deemed to have made the election to receive counter-cyclical payments under section 1104 or 1304 for all covered commodities and peanuts on the farm, and to otherwise not have made the election described in paragraph (1), for the applicable crop years.

(b) PAYMENTS REQUIRED.—

(1) IN GENERAL.—In the case of producers on a farm who make an election under subsection (a) to receive ACRE payments for any of the 2009 through 2012 crop years for all covered commodities and peanuts, the Secretary shall make ACRE payments available to the producers on a farm in accordance with this subsection.

(2) ACRE PAYMENT.—

(A) IN GENERAL.—Subject to paragraph (3), in the case of producers on a farm described in paragraph (1), the Secretary shall make ACRE payments available to the producers on a farm for each crop year if—

(i) the actual State revenue for the crop year for the covered commodity or peanuts in the State determined under subsection (c); is less than

(ii) the ACRE program guarantee for the crop year for the covered commodity or peanuts in the State determined under subsection (d).

(B) INDIVIDUAL LOSS.—The Secretary shall make ACRE payments available to the producers on a farm in a State for a crop year only if (as determined by the Secretary)—

(i) the actual farm revenue for the crop year for the covered commodity or peanuts, as determined under subsection (e); is less than

(ii) the farm ACRE benchmark revenue for the crop year for the covered commodity or peanuts, as determined under subsection (f).

(3) TIME FOR PAYMENTS.—In the case of each of the 2009 through 2012 crop years, the Secretary shall make ACRE payments beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the covered commodity or peanuts.

(c) ACTUAL STATE REVENUE.—

(1) IN GENERAL.—For purposes of subsection (b)(2)(A), the amount of the actual State revenue for a crop year of a covered commodity or peanuts shall equal the product obtained by multiplying—

(A) the actual State yield for each planted acre for the crop year for the covered commodity or peanuts determined under paragraph (2); and

(B) the national average market price for the crop year for the covered commodity or peanuts determined under paragraph (3).

(2) ACTUAL STATE YIELD.—For purposes of paragraph (1)(A), the actual State yield for each planted acre for a crop year for a covered commodity or peanuts in a State shall equal (as determined by the Secretary)—

(A) the quantity of the covered commodity or peanuts that is produced in the State during the crop year; divided by

(B) the number of acres that are planted to the covered commodity or peanuts in the State during the crop year.

(3) NATIONAL AVERAGE MARKET PRICE.—For purposes of paragraph (1)(B), the national average market price for a crop year for a covered commodity or peanuts in a State shall equal the greater of—

(A) the national average market price received by producers during the 12-month marketing year for the covered commodity or peanuts, as determined by the Secretary; or

(B) the marketing assistance loan rate for the covered commodity or peanuts under section 1202 or 1307, as reduced under subsection (a)(1).

(d) ACRE PROGRAM GUARANTEE.—

(1) AMOUNT.—

(A) IN GENERAL.—For purposes of subsection (b)(2)(A) and subject to subparagraph (B), the ACRE program guarantee for a crop year for a covered commodity or peanuts in a State shall equal 90 percent of the product obtained by multiplying—

(i) the benchmark State yield for each planted acre for the crop year for the covered commodity or

peanuts in a State determined under paragraph (2); and

(ii) the ACRE program guarantee price for the crop year for the covered commodity or peanuts determined under paragraph (3).

(B) MINIMUM AND MAXIMUM GUARANTEE.—In the case of each of the 2010 through 2012 crop years, the ACRE program guarantee for a crop year for a covered commodity or peanuts under subparagraph (A) shall not decrease or increase more than 10 percent from the guarantee for the preceding crop year.

(2) BENCHMARK STATE YIELD.—

(A) IN GENERAL.—For purposes of paragraph (1)(A)(i), subject to subparagraph (B), the benchmark State yield for each planted acre for a crop year for a covered commodity or peanuts in a State shall equal the average yield per planted acre for the covered commodity or peanuts in the State for the most recent 5 crop year yields, excluding each of the crop years with the highest and lowest yields, using National Agricultural Statistics Service data.

(B) ASSIGNED YIELD.—If the Secretary cannot establish the benchmark State yield for each planted acre for a crop year for a covered commodity or peanuts in a State in accordance with subparagraph (A) or if the yield determined under subparagraph (A) is an unrepresentative average yield for the State (as determined by the Secretary), the Secretary shall assign a benchmark State yield for each planted acre for the crop year for the covered commodity or peanuts in the State on the basis of—

(i) previous average yields for a period of 5 crop years, excluding each of the crop years with the highest and lowest yields; or

(ii) benchmark State yields for planted acres for the crop year for the covered commodity or peanuts in similar States.

(3) ACRE PROGRAM GUARANTEE PRICE.—For purposes of paragraph (1)(A)(ii), the ACRE program guarantee price for a crop year for a covered commodity or peanuts in a State shall be the simple average of the national average market price received by producers of the covered commodity or peanuts for the most recent 2 crop years, as determined by the Secretary.

(4) STATES WITH IRRIGATED AND NONIRRIGATED LAND.—In the case of a State in which at least 25 percent of the acreage planted to a covered commodity or peanuts in the State is irrigated and at least 25 percent of the acreage planted to the covered commodity or peanuts in the State is not irrigated, the Secretary shall calculate a separate ACRE program guarantee for the irrigated and nonirrigated areas of the State for the covered commodity or peanuts.

(e) ACTUAL FARM REVENUE.—For purposes of subsection (b)(2)(B)(i), the amount of the actual farm revenue for a crop year for a covered commodity or peanuts shall equal the amount determined by multiplying—

(1) the actual yield for the covered commodity or peanuts of the producers on the farm; and

(2) the national average market price for the crop year for the covered commodity or peanuts determined under subsection (c)(3).

(f) FARM ACRE BENCHMARK REVENUE.—For purposes of subsection (b)(2)(B)(ii), the farm ACRE benchmark revenue for the crop year for a covered commodity or peanuts shall equal the sum obtained by adding—

(1) the amount determined by multiplying—

(A) the average yield per planted acre for the covered commodity or peanuts of the producers on the farm for the most recent 5 crop years, excluding each of the crop years with the highest and lowest yields; and

(B) the ACRE program guarantee price for the applicable crop year for the covered commodity or peanuts in a State determined under subsection (d)(3); and

(2) the amount of the per acre crop insurance premium required to be paid by the producers on the farm for the applicable crop year for the covered commodity or peanuts on the farm.

(g) PAYMENT AMOUNT.—If ACRE payments are required to be paid for any of the 2009 through 2012 crop years of a covered commodity or peanuts under this section, the amount of the ACRE payment to be paid to the producers on the farm for the crop year under this section shall be equal to the product obtained by multiplying—

(1) the lesser of—

(A) the difference between—

(i) the ACRE program guarantee for the crop year for the covered commodity or peanuts in the State determined under subsection (d); and

(ii) the actual State revenue from the crop year for the covered commodity or peanuts in the State determined under subsection (c); and

(B) 25 percent of the ACRE program guarantee for the crop year for the covered commodity or peanuts in the State determined under subsection (d);

(2)(A) for each of the 2009 through 2011 crop years, 83.3 percent of the acreage planted or considered planted to the covered commodity or peanuts for harvest on the farm in the crop year; and

(B) for the 2012 crop year, 85 percent of the acreage planted or considered planted to the covered commodity or peanuts for harvest on the farm in the crop year; and

(3) the quotient obtained by dividing—

(A) the average yield per planted acre for the covered commodity or peanuts of the producers on the farm for the most recent 5 crop years, excluding each of the crop years with the highest and lowest yields; by

(B) the benchmark State yield for the crop year, as determined under subsection (d)(2).

**SEC. 1106. PRODUCER AGREEMENT REQUIRED AS CONDITION OF PROVISION OF PAYMENTS.**

7 USC 8716.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments, counter-cyclical payments, or average crop revenue election payments with respect to the farm, the

producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1107;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for peanuts for the farm under subtitle C, for an agricultural or conserving use, and not for a nonagricultural commercial, industrial, or residential use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—

(A) IN GENERAL.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in base acres for which direct payments or counter-cyclical payments are made, or on which average crop revenue election payments are based, shall result in the termination of the direct payments, counter-cyclical payments, or average crop revenue election payments to the extent the payments are made or based on the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

(B) EFFECTIVE DATE.—The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment, counter-cyclical payment, or average crop revenue election payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) REPORTS.—

(1) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this subtitle or subtitle B, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(2) PRODUCTION REPORTS.—As a condition on the receipt of any benefits under this subtitle or subtitle B, the Secretary shall require producers on a farm that receive payments under section 1105 to submit to the Secretary annual production

reports with respect to all covered commodities and peanuts produced on the farm.

(3) PENALTIES.—No penalty with respect to benefits under this subtitle or subtitle B shall be assessed against the producers on a farm for an inaccurate acreage or production report unless the producers on the farm knowingly and willfully falsified the acreage or production report.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments, counter-cyclical payments, or average crop revenue election payments among the producers on a farm on a fair and equitable basis.

**SEC. 1107. PLANTING FLEXIBILITY.** 7 USC 8717.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on base acres on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (3) shall be prohibited on base acres unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than mung beans and pulse crops).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of covered commodities with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on base acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

(d) PLANTING TRANSFERABILITY PILOT PROJECT.—

(1) PILOT PROJECT AUTHORIZED.—Notwithstanding paragraphs (1) and (2) of subsection (b) and in addition to the exceptions provided in subsection (c), the Secretary shall carry out a pilot project to permit the planting of cucumbers, green peas, lima beans, pumpkins, snap beans, sweet corn, and tomatoes grown for processing on base acres during each of the 2009 through 2012 crop years.

(2) PILOT PROJECT STATES AND ACRES.—The number of base acres eligible during each crop year for the pilot project under paragraph (1) shall be—

(A) 9,000 acres in the State of Illinois;
(B) 9,000 acres in the State of Indiana;
(C) 1,000 acres in the State of Iowa;
(D) 9,000 acres in the State of Michigan;
(E) 34,000 acres in the State of Minnesota;
(F) 4,000 acres in the State of Ohio; and
(G) 9,000 acres in the State of Wisconsin.

(3) CONTRACT AND MANAGEMENT REQUIREMENTS.—To be eligible for selection to participate in the pilot project, the producers on a farm shall—

(A) demonstrate to the Secretary that the producers on the farm have entered into a contract to produce a crop of a commodity specified in paragraph (1) for processing;

(B) agree to produce the crop as part of a program of crop rotation on the farm to achieve agronomic and pest and disease management benefits; and

(C) provide evidence of the disposition of the crop.

(4) TEMPORARY REDUCTION IN BASE ACRES.—The base acres on a farm for a crop year shall be reduced by an acre for each acre planted under the pilot program.

(5) DURATION OF REDUCTIONS.—The reduction in the base acres of a farm for a crop year under paragraph (4) shall expire at the end of the crop year.

(6) RECALCULATION OF BASE ACRES.—

(A) IN GENERAL.—If the Secretary recalculates base acres for a farm while the farm is included in the pilot project, the planting and production of a crop of a commodity specified in paragraph (1) on base acres for which a temporary reduction was made under this section shall be considered to be the same as the planting and production of a covered commodity.

(B) PROHIBITION.—Nothing in this paragraph provides authority for the Secretary to recalculate base acres for a farm.

(7) PILOT IMPACT EVALUATION.—

(A) IN GENERAL.—The Secretary shall periodically evaluate the pilot project conducted under this subsection to determine the effects of the pilot project on the supply and price of—

(i) fresh fruits and vegetables; and
(ii) fruits and vegetables for processing.

(B) DETERMINATION.—An evaluation under subparagraph (A) shall include a determination as to whether—

(i) producers of fresh fruits and vegetables are being negatively impacted; and

(ii) existing production capacities are being supplanted.

(C) REPORT.—As soon as practicable after conducting an evaluation under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation.

**SEC. 1108. SPECIAL RULE FOR LONG GRAIN AND MEDIUM GRAIN RICE.** 7 USC 8718.

(a) CALCULATION METHOD.—Subject to subsections (b) and (c), for the purposes of determining the amount of the counter-cyclical payments to be paid to the producers on a farm for long grain rice and medium grain rice under section 1104, the base acres of rice on the farm shall be apportioned using the 4-year average of the percentages of acreage planted in the applicable State to long grain rice and medium grain rice during the 2003 through 2006 crop years, as determined by the Secretary.

(b) PRODUCER ELECTION.—As an alternative to the calculation method described in subsection (a), the Secretary shall provide producers on a farm the opportunity to elect to apportion rice base acres on the farm using the 4-year average of—

(1) the percentages of acreage planted on the farm to long grain rice and medium grain rice during the 2003 through 2006 crop years;

(2) the percentages of any acreage on the farm that the producers were prevented from planting to long grain rice and medium grain rice during the 2003 through 2006 crop years because of drought, flood, other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary; and

(3) in the case of a crop year for which a producer on a farm elected not to plant to long grain and medium grain rice during the 2003 through 2006 crop years, the percentages of acreage planted in the applicable State to long grain rice and medium grain rice, as determined by the Secretary.

(c) LIMITATION.—In carrying out this section, the Secretary shall use the same total base acres, payment acres, and payment yields established with respect to rice under sections 1101 and 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911, 7912), as in effect on September 30, 2007, subject to any adjustment under section 1101 of this Act.

**SEC. 1109. PERIOD OF EFFECTIVENESS.** 7 USC 8719.

This subtitle shall be effective beginning with the 2008 crop year of each covered commodity through the 2012 crop year.

# Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

**SEC. 1201. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR LOAN COMMODITIES.** 7 USC 8731.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2008 through 2012 crops of each loan commodity, the Secretary shall make available

to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm.

(2) TERMS AND CONDITIONS.—The marketing assistance loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 1202 for the loan commodity.

(b) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under subsection (a) for any quantity of a loan commodity produced on the farm.

(c) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.) during the term of the loan.

7 USC 8732.

**SEC. 1202. LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE LOANS.**

(a) 2008 CROP YEAR.—For purposes of the 2008 crop year, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.75 per bushel.

(2) In the case of corn, $1.95 per bushel.

(3) In the case of grain sorghum, $1.95 per bushel.

(4) In the case of barley, $1.85 per bushel.

(5) In the case of oats, $1.33 per bushel.

(6) In the case of base quality of upland cotton, $0.52 per pound.

(7) In the case of extra long staple cotton, $0.7977 per pound.

(8) In the case of long grain rice, $6.50 per hundredweight.

(9) In the case of medium grain rice, $6.50 per hundredweight.

(10) In the case of soybeans, $5.00 per bushel.

(11) In the case of other oilseeds, $9.30 per hundredweight for each of the following kinds of oilseeds:

(A) Sunflower seed.

(B) Rapeseed.

(C) Canola.

(D) Safflower.

(E) Flaxseed.

(F) Mustard seed.

(G) Crambe.

(H) Sesame seed.

(I) Other oilseeds designated by the Secretary.

(12) In the case of dry peas, $6.22 per hundredweight.

(13) In the case of lentils, $11.72 per hundredweight.

(14) In the case of small chickpeas, $7.43 per hundredweight.

(15) In the case of graded wool, $1.00 per pound.

(16) In the case of nongraded wool, $0.40 per pound.

(17) In the case of mohair, $4.20 per pound.

(18) In the case of honey, $0.60 per pound.

(b) 2009 CROP YEAR.—Except as provided in section 1105, for purposes of the 2009 crop year, the loan rate for a marketing

assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.75 per bushel.
(2) In the case of corn, $1.95 per bushel.
(3) In the case of grain sorghum, $1.95 per bushel.
(4) In the case of barley, $1.85 per bushel.
(5) In the case of oats, $1.33 per bushel.
(6) In the case of base quality of upland cotton, $0.52 per pound.
(7) In the case of extra long staple cotton, $0.7977 per pound.
(8) In the case of long grain rice, $6.50 per hundredweight.
(9) In the case of medium grain rice, $6.50 per hundredweight.
(10) In the case of soybeans, $5.00 per bushel.
(11) In the case of other oilseeds, $9.30 per hundredweight for each of the following kinds of oilseeds:
(A) Sunflower seed.
(B) Rapeseed.
(C) Canola.
(D) Safflower.
(E) Flaxseed.
(F) Mustard seed.
(G) Crambe.
(H) Sesame seed.
(I) Other oilseeds designated by the Secretary.
(12) In the case of dry peas, $5.40 per hundredweight.
(13) In the case of lentils, $11.28 per hundredweight.
(14) In the case of small chickpeas, $7.43 per hundredweight.
(15) In the case of large chickpeas, $11.28 per hundredweight.
(16) In the case of graded wool, $1.00 per pound.
(17) In the case of nongraded wool, $0.40 per pound.
(18) In the case of mohair, $4.20 per pound.
(19) In the case of honey, $0.60 per pound.

(c) 2010 THROUGH 2012 CROP YEARS.—Except as provided in section 1105, for purposes of each of the 2010 through 2012 crop years, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.94 per bushel.
(2) In the case of corn, $1.95 per bushel.
(3) In the case of grain sorghum, $1.95 per bushel.
(4) In the case of barley, $1.95 per bushel.
(5) In the case of oats, $1.39 per bushel.
(6) In the case of base quality of upland cotton, $0.52 per pound.
(7) In the case of extra long staple cotton, $0.7977 per pound.
(8) In the case of long grain rice, $6.50 per hundredweight.
(9) In the case of medium grain rice, $6.50 per hundredweight.
(10) In the case of soybeans, $5.00 per bushel.
(11) In the case of other oilseeds, $10.09 per hundredweight for each of the following kinds of oilseeds:
(A) Sunflower seed.
(B) Rapeseed.

(C) Canola.
(D) Safflower.
(E) Flaxseed.
(F) Mustard seed.
(G) Crambe.
(H) Sesame seed.
(I) Other oilseeds designated by the Secretary.

(12) In the case of dry peas, $5.40 per hundredweight.

(13) In the case of lentils, $11.28 per hundredweight.

(14) In the case of small chickpeas, $7.43 per hundredweight.

(15) In the case of large chickpeas, $11.28 per hundredweight.

(16) In the case of graded wool, $1.15 per pound.

(17) In the case of nongraded wool, $0.40 per pound.

(18) In the case of mohair, $4.20 per pound.

(19) In the case of honey, $0.69 per pound.

(d) SINGLE COUNTY LOAN RATE FOR OTHER OILSEEDS.—The Secretary shall establish a single loan rate in each county for each kind of other oilseeds described in subsections (a)(11), (b)(11), and (c)(11).

7 USC 8733.

**SEC. 1203. TERM OF LOANS.**

(a) TERM OF LOAN.—In the case of each loan commodity, a marketing assistance loan under section 1201 shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

7 USC 8734.

**SEC. 1204. REPAYMENT OF LOANS.**

(a) GENERAL RULE.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for a loan commodity (other than upland cotton, long grain rice, medium grain rice, extra long staple cotton, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)) at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283));

(2) a rate (as determined by the Secretary) that—

(A) is calculated based on average market prices for the loan commodity during the preceding 30-day period; and

(B) will minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries; or

(3) a rate that the Secretary may develop using alternative methods for calculating a repayment rate for a loan commodity that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity;

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally; and

(E) minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.

(b) REPAYMENT RATES FOR UPLAND COTTON, LONG GRAIN RICE, AND MEDIUM GRAIN RICE.—The Secretary shall permit producers to repay a marketing assistance loan under section 1201 for upland cotton, long grain rice, and medium grain rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) the prevailing world market price for the commodity, as determined and adjusted by the Secretary in accordance with this section.

(c) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).

(d) PREVAILING WORLD MARKET PRICE.—For purposes of this section and section 1207, the Secretary shall prescribe by regulation— Regulations.

(1) a formula to determine the prevailing world market price for each of upland cotton, long grain rice, and medium grain rice; and

(2) a mechanism by which the Secretary shall announce periodically those prevailing world market prices.

(e) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON, LONG GRAIN RICE, AND MEDIUM GRAIN RICE.—

(1) RICE.—The prevailing world market price for long grain rice and medium grain rice determined under subsection (d) shall be adjusted to United States quality and location.

(2) COTTON.—The prevailing world market price for upland cotton determined under subsection (d)—

(A) shall be adjusted to United States quality and location, with the adjustment to include—

(i) a reduction equal to any United States Premium Factor for upland cotton of a quality higher than Middling (M) 1$\frac{3}{32}$-inch; and

(ii) the average costs to market the commodity, including average transportation costs, as determined by the Secretary; and

(B) may be further adjusted, during the period beginning on the date of enactment of this Act and ending on July 31, 2013, if the Secretary determines the adjustment is necessary to—

(i) minimize potential loan forfeitures;

(ii) minimize the accumulation of stocks of upland cotton by the Federal Government;

(iii) ensure that upland cotton produced in the United States can be marketed freely and competitively, both domestically and internationally; and

(iv) ensure an appropriate transition between current-crop and forward-crop price quotations, except that the Secretary may use forward-crop price quotations prior to July 31 of a marketing year only if—

(I) there are insufficient current-crop price quotations; and

(II) the forward-crop price quotation is the lowest such quotation available.

(3) GUIDELINES FOR ADDITIONAL ADJUSTMENTS.—In making adjustments under this subsection, the Secretary shall establish a mechanism for determining and announcing the adjustments in order to avoid undue disruption in the United States market.

(f) REPAYMENT RATES FOR CONFECTIONERY AND OTHER KINDS OF SUNFLOWER SEEDS.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for confectionery and each other kind of sunflower seed (other than oil sunflower seed) at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) the repayment rate established for oil sunflower seed.

(g) PAYMENT OF COTTON STORAGE COSTS.—

(1) 2008 THROUGH 2011 CROP YEARS.—Effective for each of the 2008 through 2011 crop years, the Secretary shall provide cotton storage payments in the same manner, and at the same rates as the Secretary provided storage payments for the 2006 crop of cotton, except that the rates shall be reduced by 10 percent.

(2) SUBSEQUENT CROP YEARS.—Beginning with the 2012 crop year, the Secretary shall provide cotton storage payments in the same manner, and at the same rates as the Secretary provided storage payments for the 2006 crop of cotton, except that the rates shall be reduced by 20 percent.

(h) AUTHORITY TO TEMPORARILY ADJUST REPAYMENT RATES.—

(1) ADJUSTMENT AUTHORITY.—In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this section for marketing assistance loans under section 1201 for a loan commodity.

(2) DURATION.—Any adjustment made under paragraph (1) in the repayment rate for marketing assistance loans for a loan commodity shall be in effect on a short-term and temporary basis, as determined by the Secretary.

7 USC 8735.

**SEC. 1205. LOAN DEFICIENCY PAYMENTS.**

(a) AVAILABILITY OF LOAN DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan under section 1201 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for loan deficiency payments under this section.

(2) UNSHORN PELTS, HAY, AND SILAGE.—

(A) MARKETING ASSISTANCE LOANS.—Subject to subparagraph (B), nongraded wool in the form of unshorn

pelts and hay and silage derived from a loan commodity are not eligible for a marketing assistance loan under section 1201.

(B) LOAN DEFICIENCY PAYMENT.—Effective for the 2008 through 2012 crop years, the Secretary may make loan deficiency payments available under this section to producers on a farm that produce unshorn pelts or hay and silage derived from a loan commodity.

(b) COMPUTATION.—A loan deficiency payment for a loan commodity or commodity referred to in subsection (a)(2) shall be computed by multiplying—

(1) the payment rate determined under subsection (c) for the commodity; by

(2) the quantity of the commodity produced by the eligible producers, excluding any quantity for which the producers obtain a marketing assistance loan under section 1201.

(c) PAYMENT RATE.—

(1) IN GENERAL.—In the case of a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for the loan commodity; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 1204.

(2) UNSHORN PELTS.—In the case of unshorn pelts, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for ungraded wool; exceeds

(B) the rate at which a marketing assistance loan for ungraded wool may be repaid under section 1204.

(3) HAY AND SILAGE.—In the case of hay or silage derived from a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for the loan commodity from which the hay or silage is derived; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 1204.

(d) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This section shall not apply with respect to extra long staple cotton.

(e) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—The Secretary shall determine the amount of the loan deficiency payment to be made under this section to the producers on a farm with respect to a quantity of a loan commodity or commodity referred to in subsection (a)(2) using the payment rate in effect under subsection (c) as of the date the producers request the payment.

**SEC. 1206. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.** 7 USC 8736.

(a) ELIGIBLE PRODUCERS.—

(1) IN GENERAL.—Effective for the 2008 through 2012 crop years, in the case of a producer that would be eligible for a loan deficiency payment under section 1205 for wheat, barley, or oats, but that elects to use acreage planted to the wheat, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo

any other harvesting of the wheat, barley, or oats on that acreage.

(2) GRAZING OF TRITICALE ACREAGE.—Effective for the 2008 through 2012 crop years, with respect to a producer on a farm that uses acreage planted to triticale for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of triticale on that acreage.

(b) PAYMENT AMOUNT.—

(1) IN GENERAL.—The amount of a payment made under this section to a producer on a farm described in subsection (a)(1) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of wheat, barley, or oats; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to that loan commodity on the farm or, in the case of a farm without a payment yield for that loan commodity, an appropriate yield established by the Secretary in a manner consistent with section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912).

(2) GRAZING OF TRITICALE ACREAGE.—The amount of a payment made under this section to a producer on a farm described in subsection (a)(2) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect for wheat, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of triticale; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to wheat on the farm or, in the case of a farm without a payment yield for wheat, an appropriate yield established by the Secretary in a manner consistent with section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912).

(c) TIME, MANNER, AND AVAILABILITY OF PAYMENT.—

(1) TIME AND MANNER.—A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 1205.

(2) AVAILABILITY.—

(A) IN GENERAL.—The Secretary shall establish an availability period for the payments authorized by this section.

(B) CERTAIN COMMODITIES.—In the case of wheat, barley, and oats, the availability period shall be consistent

with the availability period for the commodity established by the Secretary for marketing assistance loans authorized by this subtitle.

(d) PROHIBITION ON CROP INSURANCE INDEMNITY OR NONINSURED CROP ASSISTANCE.—A 2008 through 2012 crop of wheat, barley, oats, or triticale planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for an indemnity under a policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

**SEC. 1207. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.** 7 USC 8737.

(a) SPECIAL IMPORT QUOTA.—

(1) DEFINITION OF SPECIAL IMPORT QUOTA.—In this subsection, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(2) ESTABLISHMENT.—

(A) IN GENERAL.—The President shall carry out an import quota program during the period beginning on the date of enactment of this Act through July 31, 2013, as provided in this subsection. President. Time period.

(B) PROGRAM REQUIREMENTS.—Whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered to a definable and significant international market, as determined by the Secretary, exceeds the prevailing world market price, there shall immediately be in effect a special import quota.

(3) QUANTITY.—The quota shall be equal to 1 week's consumption of cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(4) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (2) and entered into the United States not later than 180 days after that date. Deadlines.

(5) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by paragraph (2), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (b).

(6) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(B) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(C) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(7) LIMITATION.—The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of 10 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

(b) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) DEFINITIONS.—In this subsection:

(A) SUPPLY.—The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(i) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(ii) production of the current crop; and

(iii) imports to the latest date available during the marketing year.

(B) DEMAND.—The term "demand" means—

(i) the average seasonally adjusted annual rate of domestic mill consumption of cotton during the most recent 3 months for which data are available; and

(ii) the larger of—

(I) average exports of upland cotton during the preceding 6 marketing years; or

(II) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(C) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

President.

(2) PROGRAM.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of the quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available or as estimated by the Secretary.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(3) NO OVERLAP.—Notwithstanding paragraph (2), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (a).

(c) ECONOMIC ADJUSTMENT ASSISTANCE TO USERS OF UPLAND COTTON.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall, on a monthly basis, provide economic adjustment assistance to domestic users of upland cotton in the form of payments for all documented use of that upland cotton during the previous monthly period regardless of the origin of the upland cotton.

(2) VALUE OF ASSISTANCE.—

(A) BEGINNING PERIOD.—During the period beginning on August 1, 2008, and ending on July 31, 2012, the value of the assistance provided under paragraph (1) shall be 4 cents per pound.

(B) SUBSEQUENT PERIOD.—Effective beginning on August 1, 2012, the value of the assistance provided under paragraph (1) shall be 3 cents per pound. Effective date.

(3) ALLOWABLE PURPOSES.—Economic adjustment assistance under this subsection shall be made available only to domestic users of upland cotton that certify that the assistance shall be used only to acquire, construct, install, modernize, develop, convert, or expand land, plant, buildings, equipment, facilities, or machinery.

(4) REVIEW OR AUDIT.—The Secretary may conduct such review or audit of the records of a domestic user under this subsection as the Secretary determines necessary to carry out this subsection.

(5) IMPROPER USE OF ASSISTANCE.—If the Secretary determines, after a review or audit of the records of the domestic user, that economic adjustment assistance under this subsection was not used for the purposes specified in paragraph (3), the domestic user shall be—

(A) liable to repay the assistance to the Secretary, plus interest, as determined by the Secretary; and

(B) ineligible to receive assistance under this subsection for a period of 1 year following the determination of the Secretary.

7 USC 8738.

**SEC. 1208. SPECIAL COMPETITIVE PROVISIONS FOR EXTRA LONG STAPLE COTTON.**

Effective date. Termination date.

(a) COMPETITIVENESS PROGRAM.—Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act through July 31, 2013, the Secretary shall carry out a program—

(1) to maintain and expand the domestic use of extra long staple cotton produced in the United States;

(2) to increase exports of extra long staple cotton produced in the United States; and

(3) to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

(b) PAYMENTS UNDER PROGRAM; TRIGGER.—Under the program, the Secretary shall make payments available under this section whenever—

(1) for a consecutive 4-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United States price for a competing growth of extra long staple cotton; and

(2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

(c) ELIGIBLE RECIPIENTS.—The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States that enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

(d) PAYMENT AMOUNT.—Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) during the fourth week of the consecutive 4-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive 4-week period.

7 USC 8739.

**SEC. 1209. AVAILABILITY OF RECOURSE LOANS FOR HIGH MOISTURE FEED GRAINS AND SEED COTTON.**

(a) HIGH MOISTURE FEED GRAINS.—

(1) DEFINITION OF HIGH MOISTURE STATE.—In this subsection, the term "high moisture state" means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 1201.

(2) RECOURSE LOANS AVAILABLE.—For each of the 2008 through 2012 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm that—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse,

feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

Certification.

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(3) ELIGIBILITY OF ACQUIRED FEED GRAINS.—A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield used to make counter-cyclical payments under subtitle A or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(b) RECOURSE LOANS AVAILABLE FOR SEED COTTON.—For each of the 2008 through 2012 crops of upland cotton and extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) REPAYMENT RATES.—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).

**SEC. 1210. ADJUSTMENTS OF LOANS.**

7 USC 8740.

(a) ADJUSTMENT AUTHORITY.—Subject to subsection (e), the Secretary may make appropriate adjustments in the loan rates for any loan commodity (other than cotton) for differences in grade, type, quality, location, and other factors.

(b) MANNER OF ADJUSTMENT.—The adjustments under subsection (a) shall, to the maximum extent practicable, be made in such a manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined in accordance with this subtitle and subtitles B through E.

(c) ADJUSTMENT ON COUNTY BASIS.—

(1) IN GENERAL.—The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest loan rate being 95 percent of the

national average loan rate, if those loan rates do not result in an increase in outlays.

(2) PROHIBITION.—Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

(d) ADJUSTMENT IN LOAN RATE FOR COTTON.—

(1) IN GENERAL.—The Secretary may make appropriate adjustments in the loan rate for cotton for differences in quality factors.

(2) REVISIONS TO QUALITY ADJUSTMENTS FOR UPLAND COTTON.—

Deadline.

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall implement revisions in the administration of the marketing assistance loan program for upland cotton to more accurately and efficiently reflect market values for upland cotton.

(B) MANDATORY REVISIONS.—Revisions under subparagraph (A) shall include—

(i) the elimination of warehouse location differentials;

(ii) the establishment of differentials for the various quality factors and staple lengths of cotton based on a 3-year, weighted moving average of the weighted designated spot market regions, as determined by regional production;

(iii) the elimination of any artificial split in the premium or discount between upland cotton with a 32 or 33 staple length due to micronaire; and

(iv) a mechanism to ensure that no premium or discount is established that exceeds the premium or discount associated with a leaf grade that is 1 better than the applicable color grade.

(C) DISCRETIONARY REVISIONS.—Revisions under subparagraph (A) may include—

(i) the use of non-spot market price data, in addition to spot market price data, that would enhance the accuracy of the price information used in determining quality adjustments under this subsection;

(ii) adjustments in the premiums or discounts associated with upland cotton with a staple length of 33 or above due to micronaire with the goal of eliminating any unnecessary artificial splits in the calculations of the premiums or discounts; and

(iii) such other adjustments as the Secretary determines appropriate, after consultations conducted in accordance with paragraph (3).

(3) CONSULTATION WITH PRIVATE SECTOR.—

(A) PRIOR TO REVISION.—In making adjustments to the loan rate for cotton (including any review of the adjustments) as provided in this subsection, the Secretary shall consult with representatives of the United States cotton industry.

(B) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations under this subsection.

(4) REVIEW OF ADJUSTMENTS.—The Secretary may review the operation of the upland cotton quality adjustments implemented pursuant to this subsection and may make further revisions to the administration of the loan program for upland cotton, by—

(A) revoking or revising any actions taken under paragraph (2)(B); or

(B) revoking or revising any actions taken or authorized to be taken under paragraph (2)(C).

(e) RICE.—The Secretary shall not make adjustments in the loan rates for long grain rice and medium grain rice, except for differences in grade and quality (including milling yields).

# Subtitle C—Peanuts

**SEC. 1301. DEFINITIONS.** 7 USC 8751.

In this subtitle:

(1) BASE ACRES FOR PEANUTS.—

(A) IN GENERAL.—The term "base acres for peanuts" means the number of acres assigned to a farm pursuant to section 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7952), as in effect on September 30, 2007, subject to any adjustment under section 1302 of this Act.

(B) COVERED COMMODITIES.—The term "base acres", with respect to a covered commodity, has the meaning given the term in section 1101.

(2) COUNTER-CYCLICAL PAYMENT.—The term "counter-cyclical payment" means a payment made to producers on a farm under section 1304.

(3) DIRECT PAYMENT.—The term "direct payment" means a direct payment made to producers on a farm under section 1303.

(4) EFFECTIVE PRICE.—The term "effective price" means the price calculated by the Secretary under section 1304 for peanuts to determine whether counter-cyclical payments are required to be made under that section for a crop year.

(5) PAYMENT ACRES.—The term "payment acres" means, in the case of direct payments and counter-cyclical payments—

(A) except as provided in subparagraph (B), 85 percent of the base acres of peanuts on a farm on which direct payments or counter-cyclical payments are made; and

(B) in the case of direct payments for each of the 2009 through 2011 crop years, 83.3 percent of the base acres for peanuts on a farm on which direct payments are made.

(6) PAYMENT YIELD.—The term "payment yield" means the yield established for direct payments and the yield established for counter-cyclical payments under section 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7952), as in effect on September 30, 2007, for a farm for peanuts.

(7) PRODUCER.—

(A) IN GENERAL.—The term "producer" means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop on a farm and is entitled to share in the crop available for marketing

from the farm, or would have shared had the crop been produced.

(B) HYBRID SEED.—In determining whether a grower of hybrid seed is a producer, the Secretary shall—

(i) not take into consideration the existence of a hybrid seed contract; and

(ii) ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this subtitle.

(8) STATE.—The term "State" means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(9) TARGET PRICE.—The term "target price" means the price per ton of peanuts used to determine the payment rate for counter-cyclical payments.

(10) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

7 USC 8752.

**SEC. 1302. BASE ACRES FOR PEANUTS FOR A FARM.**

(a) ADJUSTMENT OF BASE ACREAGE FOR PEANUTS.—

(1) IN GENERAL.—The Secretary shall provide for an adjustment, as appropriate, in the base acres for peanuts for a farm whenever any of the following circumstances occur:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated, or was terminated or expired during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary, or was released during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(C) The producer has eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(D) The producer has eligible oilseed acreage as the result of the Secretary designating additional oilseeds, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(2) SPECIAL CONSERVATION RESERVE ACREAGE PAYMENT RULES.—For the crop year in which a base acres for peanuts adjustment under subparagraph (A) or (B) of paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(b) PREVENTION OF EXCESS BASE ACRES FOR PEANUTS.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for peanuts for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the

farm, the Secretary shall reduce the base acres for peanuts for the farm or the base acres for 1 or more covered commodities for the farm so that the sum of the base acres for peanuts and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for the farm for a covered commodity.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a Federal conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(D) Any eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(E) If the Secretary designates additional oilseeds, any eligible oilseed acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(3) SELECTION OF ACRES.—The Secretary shall give the owner of the farm the opportunity to select the base acres for peanuts or the base acres for covered commodities against which the reduction required by paragraph (1) will be made.

(4) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1101(b) when applying the requirements of this subsection.

(c) REDUCTION IN BASE ACRES.—

(1) REDUCTION AT OPTION OF OWNER.—

(A) IN GENERAL.—The owner of a farm may reduce, at any time, the base acres for peanuts for the farm.

(B) EFFECT OF REDUCTION.—A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

(2) REQUIRED ACTION BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall proportionately reduce base acres on a farm for peanuts for land that has been subdivided and developed for multiple residential units or other nonfarming uses if the size of the tracts and the density of the subdivision is such that the land is unlikely to return to the previous agricultural use, unless the producers on the farm demonstrate that the land—

(i) remains devoted to commercial agricultural production; or

(ii) is likely to be returned to the previous agricultural use.

(B) REQUIREMENT.—The Secretary shall establish procedures to identify land described in subparagraph (A). Procedures.

(3) REVIEW AND REPORT.—Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall submit to Congress a report that describes the results of the actions taken under paragraph (2).

(d) TREATMENT OF FARMS WITH LIMITED BASE ACRES.—

(1) PROHIBITION ON PAYMENTS.—Except as provided in paragraph (2) and notwithstanding any other provision of this title, a producer on a farm may not receive direct payments, counter-cyclical payments, or average crop revenue election payments if the sum of the base acres of the farm is 10 acres or less, as determined by the Secretary.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to a farm owned by—

(A) a socially disadvantaged farmer or rancher (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)); or

(B) a limited resource farmer or rancher, as defined by the Secretary.

(3) DATA COLLECTION AND PUBLICATION.—The Secretary shall—

(A) collect and publish segregated data and survey information about the farm profiles, utilization of land, and crop production; and

(B) perform an evaluation on the supply and price of fruits and vegetables based on the effects of suspension of base acres under this section.

7 USC 8753.

**SEC. 1303. AVAILABILITY OF DIRECT PAYMENTS FOR PEANUTS.**

(a) PAYMENT REQUIRED.—For each of the 2008 through 2012 crop years for peanuts, the Secretary shall make direct payments to the producers on a farm for which a payment yield and base acres for peanuts are established.

(b) PAYMENT RATE.—Except as provided in section 1105, the payment rate used to make direct payments with respect to peanuts for a crop year shall be equal to $36 per ton.

(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the producers on a farm for peanuts for a crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the case of each of the 2008 through 2012 crop years, the Secretary may not make direct payments under this section before October 1 of the calendar year in which the crop is harvested.

(2) ADVANCE PAYMENTS.—

(A) OPTION.—

(i) IN GENERAL.—At the option of the producers on a farm, the Secretary shall pay in advance up to 22 percent of the direct payment for peanuts for any of the 2008 through 2011 crop years to the producers on a farm.

(ii) 2008 CROP YEAR.—If the producers on a farm elect to receive advance direct payments under clause

(i) for peanuts for the 2008 crop year, as soon as practicable after the election, the Secretary shall make the advance direct payment to the producers on the farm.

(B) MONTH.—

(i) SELECTION.—Subject to clauses (ii) and (iii), the producers on a farm shall select the month during which the advance payment for a crop year will be made.

(ii) OPTIONS.—The month selected may be any month during the period—

(I) beginning on December 1 of the calendar year before the calendar year in which the crop of peanuts is harvested; and

(II) ending during the month within which the direct payment would otherwise be made.

(iii) CHANGE.—The producers on a farm may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

**SEC. 1304. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS FOR PEANUTS.** 7 USC 8754.

(a) PAYMENT REQUIRED.—Except as provided in section 1105, for each of the 2008 through 2012 crop years for peanuts, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres for peanuts are established if the Secretary determines that the effective price for peanuts is less than the target price for peanuts.

(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for peanuts is equal to the sum of the following:

(1) The higher of the following:

(A) The national average market price for peanuts received by producers during the 12-month marketing year for peanuts, as determined by the Secretary.

(B) The national average loan rate for a marketing assistance loan for peanuts in effect for the applicable period under this subtitle.

(2) The payment rate in effect for peanuts under section 1303 for the purpose of making direct payments.

(c) TARGET PRICE.—For purposes of subsection (a), the target price for peanuts shall be equal to $495 per ton.

(d) PAYMENT RATE.—The payment rate used to make counter-cyclical payments for a crop year shall be equal to the difference between—

(1) the target price for peanuts; and

(2) the effective price determined under subsection (b) for peanuts.

(e) PAYMENT AMOUNT.—If counter-cyclical payments are required to be paid for any of the 2008 through 2012 crops of

peanuts, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(f) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), if the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for a crop of peanuts, beginning October 1, or as soon as practicable after the end of the marketing year, the Secretary shall make the counter-cyclical payments for the crop.

(2) AVAILABILITY OF PARTIAL PAYMENTS.—

(A) IN GENERAL.—If, before the end of the 12-month marketing year, the Secretary estimates that counter-cyclical payments will be required under this section for a crop year, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for the crop.

Deadline.

(B) ELECTION.—

(i) IN GENERAL.—The Secretary shall allow producers on a farm to make an election to receive partial payments under subparagraph (A) at any time but not later than 60 days prior to the end of the marketing year for the crop.

(ii) DATE OF ISSUANCE.—The Secretary shall issue the partial payment after the date of an announcement by the Secretary but not later than 30 days prior to the end of the marketing year.

(3) TIME FOR PARTIAL PAYMENTS.—When the Secretary makes partial payments for any of the 2008 through 2010 crop years—

(A) the first partial payment shall be made after completion of the first 180 days of the marketing year for that crop; and

(B) the final partial payment shall be made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for that crop.

(4) AMOUNT OF PARTIAL PAYMENTS.—

(A) FIRST PARTIAL PAYMENT.—For each of the 2008 through 2010 crop years, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(B) FINAL PAYMENT.—The final payment for a crop year shall be equal to the difference between—

(i) the actual counter-cyclical payment to be made to the producers for that crop year; and

(ii) the amount of the partial payment made to the producers under subparagraph (A).

(5) REPAYMENT.—The producers on a farm that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for that crop year.

**SEC. 1305. PRODUCER AGREEMENT REQUIRED AS CONDITION ON PROVISION OF PAYMENTS.** 7 USC 8755.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments or counter-cyclical payments under this subtitle, or average crop revenue election payments under section 1105, with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1306;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for peanuts and any base acres for the farm under subtitle A, for an agricultural or conserving use, and not for a nonagricultural commercial, industrial, or residential use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—

(A) IN GENERAL.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in the base acres for peanuts for which direct payments or counter-cyclical payments are made, or on which average crop revenue election payments are based, shall result in the termination of the direct payments, counter-cyclical payments, or average crop revenue election payments to the extent the payments are made or based on the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

(B) EFFECTIVE DATE.—The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment, counter-cyclical payment, or average crop revenue election payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) ACREAGE REPORTS.—

(1) IN GENERAL.—As a condition on the receipt of any benefits under this subtitle, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(2) PENALTIES.—No penalty with respect to benefits under this subtitle shall be assessed against the producers on a farm for an inaccurate acreage report unless the producers on the farm knowingly and willfully falsified the acreage report.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments, counter-cyclical payments, or average crop revenue election payments under section 1105 among the producers on a farm on a fair and equitable basis.

7 USC 8756.

**SEC. 1306. PLANTING FLEXIBILITY.**

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on the base acres for peanuts on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (3) shall be prohibited on base acres for peanuts unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres for peanuts.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than mung beans and pulse crops).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of peanuts with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on the base acres for peanuts, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

**SEC. 1307. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.** 7 USC 8757.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2008 through 2012 crops of peanuts, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm.

(2) TERMS AND CONDITIONS.—The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

(3) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under this subsection for any quantity of peanuts produced on the farm.

(4) OPTIONS FOR OBTAINING LOAN.—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the producers on a farm through—

(A) a designated marketing association or marketing cooperative of producers that is approved by the Secretary; or

(B) the Farm Service Agency.

(5) STORAGE OF LOAN PEANUTS.—As a condition on the Secretary's approval of an individual or entity to provide storage for peanuts for which a marketing assistance loan is made under this section, the individual or entity shall agree—

(A) to provide such storage on a nondiscriminatory basis; and

(B) to comply with such additional requirements as the Secretary considers appropriate to accomplish the purposes of this section and promote fairness in the administration of the benefits of this section.

(6) STORAGE, HANDLING, AND ASSOCIATED COSTS.—

(A) IN GENERAL.—Beginning with the 2008 crop of peanuts, to ensure proper storage of peanuts for which a loan is made under this section, the Secretary shall pay handling and other associated costs (other than storage costs) incurred at the time at which the peanuts are placed under loan, as determined by the Secretary.

(B) REDEMPTION AND FORFEITURE.—The Secretary shall—

(i) require the repayment of handling and other associated costs paid under subparagraph (A) for all peanuts pledged as collateral for a loan that is redeemed under this section; and

(ii) pay storage, handling, and other associated costs for all peanuts pledged as collateral that are forfeited under this section.

(7) MARKETING.—A marketing association or cooperative may market peanuts for which a loan is made under this section in any manner that conforms to consumer needs, including the separation of peanuts by type and quality.

(b) LOAN RATE.—Except as provided in section 1105, the loan rate for a marketing assistance loan for peanuts under subsection (a) shall be equal to $355 per ton.

(c) TERM OF LOAN.—

(1) IN GENERAL.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(2) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

(d) REPAYMENT RATE.—

(1) IN GENERAL.—The Secretary shall permit producers on a farm to repay a marketing assistance loan for peanuts under subsection (a) at a rate that is the lesser of—

(A) the loan rate established for peanuts under subsection (b), plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(B) a rate that the Secretary determines will—

(i) minimize potential loan forfeitures;

(ii) minimize the accumulation of stocks of peanuts by the Federal Government;

(iii) minimize the cost incurred by the Federal Government in storing peanuts; and

(iv) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) AUTHORITY TO TEMPORARILY ADJUST REPAYMENT RATES.—

(A) ADJUSTMENT AUTHORITY.—In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this subsection for marketing assistance loans for peanuts under subsection (a).

(B) DURATION.—An adjustment made under subparagraph (A) in the repayment rate for marketing assistance loans for peanuts shall be in effect on a short-term and temporary basis, as determined by the Secretary.

(e) LOAN DEFICIENCY PAYMENTS.—

(1) AVAILABILITY.—The Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for loan deficiency payments under this subsection.

(2) COMPUTATION.—A loan deficiency payment under this subsection shall be computed by multiplying—

(A) the payment rate determined under paragraph (3) for peanuts; by

(B) the quantity of the peanuts produced by the producers, excluding any quantity for which the producers obtain a marketing assistance loan under subsection (a).

(3) PAYMENT RATE.—For purposes of this subsection, the payment rate shall be the amount by which—

(A) the loan rate established under subsection (b); exceeds

(B) the rate at which a loan may be repaid under subsection (d).

(4) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—The Secretary shall determine the amount of the loan deficiency payment to be made under this subsection to the producers on a farm with respect to a quantity of peanuts using the payment rate in effect under paragraph (3) as of the date the producers request the payment.

(f) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF ADMINISTRATIVE EXPENSES.—The Secretary may implement any reimbursable agreements or provide for the payment of administrative expenses under this subtitle only in a manner that is consistent with such activities in regard to other commodities.

**SEC. 1308. ADJUSTMENTS OF LOANS.** 7 USC 8758.

(a) ADJUSTMENT AUTHORITY.—The Secretary may make appropriate adjustments in the loan rates for peanuts for differences in grade, type, quality, location, and other factors.

(b) MANNER OF ADJUSTMENT.—The adjustments under subsection (a) shall, to the maximum extent practicable, be made in such a manner that the average loan level for peanuts will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined in accordance with this subtitle and subtitles B, D, and E.

(c) ADJUSTMENT ON COUNTY BASIS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may establish loan rates for a crop of peanuts for producers in individual counties in a manner that results in the lowest loan rate being 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays.

(2) PROHIBITION.—Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

# Subtitle D—Sugar

**SEC. 1401. SUGAR PROGRAM.** Loans.

(a) IN GENERAL.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended to read as follows:

**"SEC. 156. SUGAR PROGRAM.**

"(a) SUGARCANE.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to—

"(1) 18.00 cents per pound for raw cane sugar for the 2008 crop year;

"(2) 18.25 cents per pound for raw cane sugar for the 2009 crop year;

"(3) 18.50 cents per pound for raw cane sugar for the 2010 crop year;

"(4) 18.75 cents per pound for raw cane sugar for the 2011 crop year; and

"(5) 18.75 cents per pound for raw cane sugar for the 2012 crop year.

"(b) SUGAR BEETS.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to—

"(1) 22.9 cents per pound for refined beet sugar for the 2008 crop year; and

"(2) a rate that is equal to 128.5 percent of the loan rate per pound of raw cane sugar for the applicable crop year under subsection (a) for each of the 2009 through 2012 crop years.

"(c) TERM OF LOANS.—

"(1) IN GENERAL.—A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

"(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

"(B) the end of the fiscal year in which the loan is made.

"(2) SUPPLEMENTAL LOANS.—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

"(A) be made at the loan rate in effect at the time the first loan was made; and

"(B) mature in 9 months less the quantity of time that the first loan was in effect.

"(d) LOAN TYPE; PROCESSOR ASSURANCES.—

"(1) NONRECOURSE LOANS.—The Secretary shall carry out this section through the use of nonrecourse loans.

"(2) PROCESSOR ASSURANCES.—

"(A) IN GENERAL.—The Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for the sugar beets and sugarcane delivered by producers to the processor.

"(B) MINIMUM PAYMENTS.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may establish appropriate minimum payments for purposes of this paragraph.

"(ii) LIMITATION.—In the case of sugar beets, the minimum payment established under clause (i) shall not exceed the rate of payment provided for under the applicable contract between a sugar beet producer and a sugar beet processor.

"(3) ADMINISTRATION.—The Secretary may not impose or enforce any prenotification requirement, or similar administrative requirement not otherwise in effect on May 13, 2002, that has the effect of preventing a processor from electing to forfeit the loan collateral (of an acceptable grade and quality) on the maturity of the loan.

"(e) LOANS FOR IN-PROCESS SUGAR.—

"(1) DEFINITION OF IN-PROCESS SUGARS AND SYRUPS.—In this subsection, the term 'in-process sugars and syrups' does not include raw sugar, liquid sugar, invert sugar, invert syrup, or other finished product that is otherwise eligible for a loan under subsection (a) or (b).

"(2) AVAILABILITY.—The Secretary shall make nonrecourse loans available to processors of a crop of domestically grown sugarcane and sugar beets for in-process sugars and syrups derived from the crop.

"(3) LOAN RATE.—The loan rate shall be equal to 80 percent of the loan rate applicable to raw cane sugar or refined beet sugar, as determined by the Secretary on the basis of the source material for the in-process sugars and syrups.

"(4) FURTHER PROCESSING ON FORFEITURE.—

"(A) IN GENERAL.—As a condition of the forfeiture of in-process sugars and syrups serving as collateral for a loan under paragraph (2), the processor shall, within such reasonable time period as the Secretary may prescribe and at no cost to the Commodity Credit Corporation, convert the in-process sugars and syrups into raw cane sugar or refined beet sugar of acceptable grade and quality for sugars eligible for loans under subsection (a) or (b).

"(B) TRANSFER TO CORPORATION.—Once the in-process sugars and syrups are fully processed into raw cane sugar or refined beet sugar, the processor shall transfer the sugar to the Commodity Credit Corporation.

"(C) PAYMENT TO PROCESSOR.—On transfer of the sugar, the Secretary shall make a payment to the processor in an amount equal to the amount obtained by multiplying—

"(i) the difference between—

"(I) the loan rate for raw cane sugar or refined beet sugar, as appropriate; and

"(II) the loan rate the processor received under paragraph (3); by

"(ii) the quantity of sugar transferred to the Secretary.

"(5) LOAN CONVERSION.—If the processor does not forfeit the collateral as described in paragraph (4), but instead further processes the in-process sugars and syrups into raw cane sugar or refined beet sugar and repays the loan on the in-process sugars and syrups, the processor may obtain a loan under subsection (a) or (b) for the raw cane sugar or refined beet sugar, as appropriate.

"(6) TERM OF LOAN.—The term of a loan made under this subsection for a quantity of in-process sugars and syrups, when combined with the term of a loan made with respect to the raw cane sugar or refined beet sugar derived from the in-process sugars and syrups, may not exceed 9 months, consistent with subsection (c).

"(f) AVOIDING FORFEITURES; CORPORATION INVENTORY DISPOSITION.—

"(1) IN GENERAL.—Subject to subsection (d)(3), to the maximum extent practicable, the Secretary shall operate the program established under this section at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation.

"(2) INVENTORY DISPOSITION.—

"(A) IN GENERAL.—To carry out paragraph (1), the Commodity Credit Corporation may accept bids to obtain raw cane sugar or refined beet sugar in the inventory of the Commodity Credit Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (acting in conjunction with the producers of the sugarcane or sugar beets processed by the processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate.

"(B) BIOENERGY FEEDSTOCK.—If a reduction in the quantity of production accepted under subparagraph (A) involves sugar beets or sugarcane that has already been planted, the sugar beets or sugarcane so planted may not be used for any commercial purpose other than as a bioenergy feedstock.

"(C) ADDITIONAL AUTHORITY.—The authority provided under this paragraph is in addition to any authority of the Commodity Credit Corporation under any other law.

"(g) INFORMATION REPORTING.—

"(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) DUTY OF PRODUCERS TO REPORT.—

"(A) PROPORTIONATE SHARE STATES.—As a condition of a loan made to a processor for the benefit of a producer, the Secretary shall require each producer of sugarcane located in a State (other than the Commonwealth of Puerto Rico) in which there are in excess of 250 producers of sugarcane to report, in the manner prescribed by the Secretary, the sugarcane yields and acres planted to sugarcane of the producer.

"(B) OTHER STATES.—The Secretary may require each producer of sugarcane or sugar beets not covered by subparagraph (A) to report, in a manner prescribed by the Secretary, the yields of, and acres planted to, sugarcane or sugar beets, respectively, of the producer.

"(3) DUTY OF IMPORTERS TO REPORT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall require an importer of sugars, syrups, or molasses to be used for human consumption or to be used for the extraction of sugar for human consumption to report, in the manner prescribed by the Secretary, the quantities of the products imported by the importer and the sugar content or equivalent of the products.

"(B) TARIFF-RATE QUOTAS.—Subparagraph (A) shall not apply to sugars, syrups, or molasses that are within the quantities of tariff-rate quotas that are subject to the lower rate of duties.

"(4) COLLECTION OF INFORMATION ON MEXICO.—

"(A) COLLECTION.—The Secretary shall collect—

"(i) information on the production, consumption, stocks, and trade of sugar in Mexico, including United States exports of sugar to Mexico; and

"(ii) publicly available information on Mexican production, consumption, and trade of high fructose corn syrups.

"(B) PUBLICATION.—The data collected under subparagraph (A) shall be published in each edition of the World Agricultural Supply and Demand Estimates.

"(5) PENALTY.—Any person willfully failing or refusing to furnish the information required to be reported by paragraph (1), (2), or (3), or furnishing willfully false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(6) MONTHLY REPORTS.—Taking into consideration the information received under this subsection, the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar. Publication.

"(h) SUBSTITUTION OF REFINED SUGAR.—For purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Secretary, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar and sugar-containing products under those programs.

"(i) EFFECTIVE PERIOD.—This section shall be effective only for the 2008 through 2012 crops of sugar beets and sugarcane.".

(b) TRANSITION.—The Secretary shall make loans for raw cane sugar and refined beet sugar available for the 2007 crop year on the terms and conditions provided in section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272), as in effect on the day before the date of enactment of this Act. 7 USC 7272 note.

**SEC. 1402. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL SUGAR ORGANIZATION.** Deadline. 7 USC 3602 note.

The Secretary shall work with the Secretary of State to restore United States membership in the International Sugar Organization not later than 1 year after the date of enactment of this Act.

**SEC. 1403. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.**

(a) DEFINITIONS.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (4), (5), and (6), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

"(1) HUMAN CONSUMPTION.—The term 'human consumption', when used in the context of a reference to sugar (whether in the form of sugar, in-process sugar, syrup, molasses, or in some other form) for human consumption, includes sugar for use in human food, beverages, or similar products."; and

(3) by inserting after paragraph (2) (as so redesignated) the following:

"(3) MARKET.—

"(A) IN GENERAL.—The term 'market' means to sell or otherwise dispose of in commerce in the United States.

"(B) INCLUSIONS.—The term 'market' includes—

"(i) the forfeiture of sugar under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272);

"(ii) with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process; and

"(iii) the sale of sugar for the production of ethanol or other bioenergy product, if the disposition of the sugar is administered by the Secretary under section 9010 of the Farm Security and Rural Investment Act of 2002.

"(C) MARKETING YEAR.—Forfeited sugar described in subparagraph (B)(i) shall be considered to have been marketed during the crop year for which a loan is made under the loan program described in that subparagraph.".

(b) FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended to read as follows:

**"SEC. 359b. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.**

"(a) SUGAR ESTIMATES.—

Deadlines.

"(1) IN GENERAL.—Not later than August 1 before the beginning of each of the 2008 through 2012 crop years for sugarcane and sugar beets, the Secretary shall estimate—

"(A) the quantity of sugar that will be subject to human consumption in the United States during the crop year;

"(B) the quantity of sugar that would provide for reasonable carryover stocks;

"(C) the quantity of sugar that will be available from carry-in stocks for human consumption in the United States during the crop year;

"(D) the quantity of sugar that will be available from the domestic processing of sugarcane, sugar beets, and in-process beet sugar; and

"(E) the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether the articles are under a tariff-rate quota or are in excess or outside of a tariff-rate quota.

"(2) EXCLUSION.—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

"(3) REESTIMATES.—The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but not later than the beginning of each of the second through fourth quarters of the crop year.

"(b) SUGAR ALLOTMENTS.—

"(1) ESTABLISHMENT.—By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar cane or sugar beets or in-process beet sugar (whether the sugar beets or in-process beet sugar was produced domestically or imported) at a level that is—

"(A) sufficient to maintain raw and refined sugar prices above forfeiture levels so that there will be no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272); but

"(B) not less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

"(2) PRODUCTS.—The Secretary may include sugar products, the majority content of which is sucrose for human consumption, derived from sugar cane, sugar beets, molasses, or sugar in the allotments established under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.

"(c) COVERAGE OF ALLOTMENTS.—

"(1) IN GENERAL.—The marketing allotments under this part shall apply to the marketing by processors of sugar intended for domestic human consumption that has been processed from sugar cane, sugar beets, or in-process beet sugar, whether such sugar beets or in-process beet sugar was produced domestically or imported. Applicability.

"(2) EXCEPTIONS.—Consistent with the administration of marketing allotments for each of the 2002 through 2007 crop years, the marketing allotments shall not apply to sugar sold—

"(A) to facilitate the exportation of the sugar to a foreign country, except that the exports of sugar shall not be eligible to receive credits under reexport programs for refined sugar or sugar containing products administered by the Secretary;

"(B) to enable another processor to fulfill an allocation established for that processor; or

"(C) for uses other than domestic human consumption, except for the sale of sugar for the production of ethanol or other bioenergy if the disposition of the sugar is administered by the Secretary under section 9010 of the Farm Security and Rural Investment Act of 2002.

"(3) REQUIREMENT.—The sale of sugar described in paragraph (2)(B) shall be— Deadline. Reports.

"(A) made prior to May 1; and

"(B) reported to the Secretary.

"(d) PROHIBITIONS.—

"(1) IN GENERAL.—During all or part of any crop year for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market for domestic human consumption a quantity of sugar in excess of the allocation established for the processor, except—

"(A) to enable another processor to fulfill an allocation established for that other processor; or

"(B) to facilitate the exportation of the sugar.

"(2) CIVIL PENALTY.—Any processor who knowingly violates paragraph (1) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation.".

(c) ESTABLISHMENT OF FLEXIBLE MARKETING ALLOTMENTS.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) OVERALL ALLOTMENT QUANTITY.—

"(1) IN GENERAL.—The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (referred to in this part as the 'overall allotment quantity') at a level that is—

"(A) sufficient to maintain raw and refined sugar prices above forfeiture levels to avoid forfeiture of sugar to the Commodity Credit Corporation; but

"(B) not less than a quantity equal to 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

"(2) ADJUSTMENT.—Subject to paragraph (1), the Secretary shall adjust the overall allotment quantity to maintain—

"(A) raw and refined sugar prices above forfeiture levels to avoid the forfeiture of sugar to the Commodity Credit Corporation; and

"(B) adequate supplies of raw and refined sugar in the domestic market.";

(2) in subsection (d)(2), by inserting "or in-process beet sugar" before the period at the end;

(3) in subsection (g)(1)—

(A) by striking "(1) IN GENERAL.—The Secretary" and inserting the following:

"(1) ADJUSTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary"; and

(B) by adding at the end the following:

"(B) LIMITATION.—In carrying out subparagraph (A), the Secretary may not reduce the overall allotment quantity to a quantity of less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year."; and

(4) by striking subsection (h).

(d) ALLOCATION OF MARKETING ALLOTMENTS.—Section 359d(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd(b)) is amended—

(1) in paragraph (1)(F), by striking "Except as otherwise provided in section 359f(c)(8), if" and inserting "If"; and

(2) in paragraph (2), by striking subparagraphs (G), (H), and (I) and inserting the following:

"(G) SALE OF FACTORIES OF A PROCESSOR TO ANOTHER PROCESSOR.—

"(i) EFFECT OF SALE.—Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of the sold 1 or more factories to the total allocation of the seller, unless the buyer and the seller have agreed upon the transfer of a different portion of the allocation of the seller, in which case,

the Secretary shall transfer that portion agreed upon by the buyer and seller.

"(ii) APPLICATION OF ALLOCATION.—The assignment of the allocation under clause (i) shall apply—

"(I) during the remainder of the crop year for which the sale described in clause (i) occurs; and

"(II) during each subsequent crop year.

"(iii) USE OF OTHER FACTORIES TO FILL ALLOCATION.—If the assignment of the allocation under clause (i) to the buyer for the 1 or more purchased factories cannot be filled by the production of the 1 or more purchased factories, the remainder of the allocation may be filled by beet sugar produced by the buyer from other factories of the buyer.

"(H) NEW ENTRANTS STARTING PRODUCTION, REOPENING, OR ACQUIRING AN EXISTING FACTORY WITH PRODUCTION HISTORY.—

"(i) DEFINITION OF NEW ENTRANT.—

"(I) IN GENERAL.—In this subparagraph, the term 'new entrant' means an individual, corporation, or other entity that—

"(aa) does not have an allocation of the beet sugar allotment under this part;

"(bb) is not affiliated with any other individual, corporation, or entity that has an allocation of beet sugar under this part (referred to in this clause as a 'third party'); and

"(cc) will process sugar beets produced by sugar beet growers under contract with the new entrant for the production of sugar at the new or re-opened factory that is the basis for the new entrant allocation.

"(II) AFFILIATION.—For purposes of subclause (I)(bb), a new entrant and a third party shall be considered to be affiliated if—

"(aa) the third party has an ownership interest in the new entrant;

"(bb) the new entrant and the third party have owners in common;

"(cc) the third party has the ability to exercise control over the new entrant by organizational rights, contractual rights, or any other means;

"(dd) the third party has a contractual relationship with the new entrant by which the new entrant will make use of the facilities or assets of the third party; or

"(ee) there are any other similar circumstances by which the Secretary determines that the new entrant and the third party are affiliated.

"(ii) ALLOCATION FOR A NEW ENTRANT THAT HAS CONSTRUCTED A NEW FACTORY OR REOPENED A FACTORY THAT WAS NOT OPERATED SINCE BEFORE 1998.—If a new entrant constructs a new sugar beet processing factory,

or acquires and reopens a sugar beet processing factory that last processed sugar beets prior to the 1998 crop year and there is no allocation currently associated with the factory, the Secretary shall—

"(I) assign an allocation for beet sugar to the new entrant that provides a fair and equitable distribution of the allocations for beet sugar so as to enable the new entrant to achieve a factory utilization rate comparable to the factory utilization rates of other similarly-situated processors; and

"(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the allocation to the new entrant.

"(iii) ALLOCATION FOR A NEW ENTRANT THAT HAS ACQUIRED AN EXISTING FACTORY WITH A PRODUCTION HISTORY.—

"(I) IN GENERAL.—If a new entrant acquires an existing factory that has processed sugar beets from the 1998 or subsequent crop year and has a production history, on the mutual agreement of the new entrant and the company currently holding the allocation associated with the factory, the Secretary shall transfer to the new entrant a portion of the allocation of the current allocation holder to reflect the historical contribution of the production of the 1 or more sold factories to the total allocation of the current allocation holder, unless the new entrant and current allocation holder have agreed upon the transfer of a different portion of the allocation of the current allocation holder, in which case, the Secretary shall transfer that portion agreed upon by the new entrant and the current allocation holder.

"(II) PROHIBITION.—In the absence of a mutual agreement described in subclause (I), the new entrant shall be ineligible for a beet sugar allocation.

"(iv) APPEALS.—Any decision made under this subsection may be appealed to the Secretary in accordance with section 359i.".

(e) REASSIGNMENT OF DEFICITS.—Section 359e(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee(b)) is amended in paragraphs (1)(D) and (2)(C), by inserting "of raw cane sugar" after "imports" each place it appears.

(f) PROVISIONS APPLICABLE TO PRODUCERS.—Section 359f(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(c)) is amended—

(1) by striking paragraph (8);

(2) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively;

(3) by inserting before paragraph (2) (as so redesignated) the following:

"(1) DEFINITION OF SEED.—

"(A) IN GENERAL.—In this subsection, the term 'seed' means only those varieties of seed that are dedicated to

the production of sugarcane from which is produced sugar for human consumption.

"(B) EXCLUSION.—The term 'seed' does not include seed of a high-fiber cane variety dedicated to other uses, as determined by the Secretary";

(4) in paragraph (3) (as so redesignated)—

(A) in the first sentence—

(i) by striking "paragraph (1)" and inserting "paragraph (2)"; and

(ii) by inserting "sugar produced from" after "quantity of"; and

(B) in the second sentence, by striking "paragraph (7)" and inserting "paragraph (8)";

(5) in the first sentence of paragraph (6)(C) (as so redesignated), by inserting "for sugar" before "in excess of the farm's proportionate share"; and

(6) in paragraph (8) (as so redesignated), by inserting "sugar from" after "the amount of".

(g) SPECIAL RULES.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) TRANSFER OF ACREAGE BASE HISTORY.—

"(1) TRANSFER AUTHORIZED.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f(c), the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(2) CONVERTED ACREAGE BASE.—

"(A) IN GENERAL.—Sugarcane acreage base established under section 359f(c) that has been or is converted to nonagricultural use on or after May 13, 2002, may be transferred to other land suitable for the production of sugarcane that can be delivered to a processor in a proportionate share State in accordance with this paragraph.

"(B) NOTIFICATION.—Not later than 90 days after the Secretary becomes aware of a conversion of any sugarcane acreage base to a nonagricultural use, the Secretary shall notify the 1 or more affected landowners of the transferability of the applicable sugarcane acreage base. Deadline.

"(C) INITIAL TRANSFER PERIOD.—The owner of the base attributable to the acreage at the time of the conversion shall be afforded 90 days from the date of the receipt of the notification under subparagraph (B) to transfer the base to 1 or more farms owned by the owner.

"(D) GROWER OF RECORD.—If a transfer under subparagraph (C) cannot be accomplished during the period specified in that subparagraph, the grower of record with regard to the acreage base on the date on which the acreage was converted to nonagricultural use shall— Notification. Time period.

"(i) be notified; and

"(ii) have 90 days from the date of the receipt of the notification to transfer the base to 1 or more farms operated by the grower.

"(E) POOL DISTRIBUTION.—

"(i) IN GENERAL.—If transfers under subparagraphs (B) and (C) cannot be accomplished during the

periods specified in those subparagraphs, the county committee of the Farm Service Agency for the applicable county shall place the acreage base in a pool for possible assignment to other farms.

"(ii) ACCEPTANCE OF REQUESTS.—After providing reasonable notice to farm owners, operators, and growers of record in the county, the county committee shall accept requests from owners, operators, and growers of record in the county.

"(iii) ASSIGNMENT.—The county committee shall assign the acreage base to other farms in the county that are eligible and capable of accepting the acreage base, based on a random drawing from among the requests received under clause (ii).

"(F) STATEWIDE REALLOCATION.—

"(i) IN GENERAL.—Any acreage base remaining unassigned after the transfers and processes described in subparagraphs (A) through (E) shall be made available to the State committee of the Farm Service Agency for allocation among the remaining county committees in the State representing counties with farms eligible for assignment of the base, based on a random drawing.

"(ii) ALLOCATION.—Any county committee receiving acreage base under this subparagraph shall allocate the acreage base to eligible farms using the process described in subparagraph (E).

"(G) STATUS OF REASSIGNED BASE.—After acreage base has been reassigned in accordance with this subparagraph, the acreage base shall—

"(i) remain on the farm; and

"(ii) be subject to the transfer provisions of paragraph (1)."; and

(2) in subsection (d)—

(A) in paragraph (1)—

(i) by inserting "affected" before "crop-share owners" each place it appears; and

(ii) by striking ", and from the processing company holding the applicable allocation for such shares,"; and

(B) in paragraph (2), by striking "based on" and all that follows through the end of subparagraph (B) and inserting "based on—

"(A) the number of acres of sugarcane base being transferred; and

"(B) the pro rata amount of allocation at the processing company holding the applicable allocation that equals the contribution of the grower to allocation of the processing company for the sugarcane acreage base being transferred.".

(h) APPEALS.—Section 359i of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii) is amended—

(1) in subsection (a), by inserting "or 359g(d)" after "359f"; and

(2) by striking subsection (c).

(i) REALLOCATING SUGAR QUOTA IMPORT SHORTFALLS.—Section 359k of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359kk) is repealed.

(j) ADMINISTRATION OF TARIFF RATE QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) (as amended by subsection (i)) is amended by adding at the end the following:

**"SEC. 359k. ADMINISTRATION OF TARIFF RATE QUOTAS.** 7 USC 1359kk.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, at the beginning of the quota year, the Secretary shall establish the tariff-rate quotas for raw cane sugar and refined sugars at the minimum level necessary to comply with obligations under international trade agreements that have been approved by Congress.

"(2) EXCEPTION.—Paragraph (1) shall not apply to specialty sugar.

"(b) ADJUSTMENT.— Deadlines.

"(1) BEFORE APRIL 1.—Before April 1 of each fiscal year, if there is an emergency shortage of sugar in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event as determined by the Secretary—

"(A) the Secretary shall take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

"(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, and domestic raw cane sugar refining capacity has been maximized, the Secretary may increase the tariff-rate quota for refined sugars sufficient to accommodate the supply increase, if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

"(2) ON OR AFTER APRIL 1.—On or after April 1 of each fiscal year—

"(A) the Secretary may take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

"(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, the Secretary may increase the tariff-rate quota for raw cane sugar if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).".

(k) PERIOD OF EFFECTIVENESS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) (as amended by subsection (j)) is amended by adding at the end the following:

**"SEC. 359l. PERIOD OF EFFECTIVENESS.** 7 USC 1359*ll*.

"(a) IN GENERAL.—This part shall be effective only for the 2008 through 2012 crop years for sugar.

"(b) TRANSITION.—The Secretary shall administer flexible marketing allotments for sugar for the 2007 crop year for sugar on the terms and conditions provided in this part as in effect on the day before the date of enactment of this section.".

**SEC. 1404. STORAGE FACILITY LOANS.**

Section 1402(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7971(c)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

"(2) not include any penalty for prepayment; and"; and

(4) in paragraph (3) (as redesignated by paragraph (2)), by inserting "other" after "on such".

**SEC. 1405. COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.**

Subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:

7 USC 7287.

**"SEC. 167. COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.**

"(a) INITIAL CROP YEARS.—Notwithstanding any other provision of law, for each of the 2008 through 2011 crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in an amount that is not less than—

"(1) in the case of refined sugar, 15 cents per hundredweight of refined sugar per month; and

"(2) in the case of raw cane sugar, 10 cents per hundredweight of raw cane sugar per month.

"(b) SUBSEQUENT CROP YEARS.—For each of the 2012 and subsequent crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in the same manner as was used on the day before the date of enactment of this section.".

# Subtitle E—Dairy

7 USC 8771.

**SEC. 1501. DAIRY PRODUCT PRICE SUPPORT PROGRAM.**

(a) DEFINITION OF NET REMOVALS.—In this section, the term "net removals" means—

(1) the sum of—

(A) the quantity of a product described in subsection (b) purchased by the Commodity Credit Corporation under this section; and

(B) the quantity of the product exported under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14); less

(2) the quantity of the product sold for unrestricted use by the Commodity Credit Corporation.

Time period.

(b) SUPPORT ACTIVITIES.—During the period beginning on January 1, 2008, and ending December 31, 2012, the Secretary shall support the price of cheddar cheese, butter, and nonfat dry milk through the purchase of such products made from milk produced in the United States.

(c) PURCHASE PRICE.—To carry out subsection (b) during the period specified in that subsection, the Secretary shall purchase—

(1) cheddar cheese in blocks at not less than $1.13 per pound;

(2) cheddar cheese in barrels at not less than $1.10 per pound;

(3) butter at not less than $1.05 per pound; and

(4) nonfat dry milk at not less than $0.80 per pound.

(d) TEMPORARY PRICE ADJUSTMENT TO AVOID EXCESS INVENTORIES.—

(1) ADJUSTMENTS AUTHORIZED.—The Secretary may adjust the minimum purchase prices established under subsection (c) only as permitted under this subsection.

(2) CHEESE INVENTORIES IN EXCESS OF 200,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 200,000,000 pounds of cheese, but do not exceed 400,000,000 pounds, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (c) during the immediately following month by not more than 10 cents per pound.

(3) CHEESE INVENTORIES IN EXCESS OF 400,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 400,000,000 pounds of cheese, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (c) during the immediately following month by not more than 20 cents per pound.

(4) BUTTER INVENTORIES IN EXCESS OF 450,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 450,000,000 pounds of butter, but do not exceed 650,000,000 pounds, the Secretary may reduce the purchase price under subsection (c)(3) during the immediately following month by not more than 10 cents per pound.

(5) BUTTER INVENTORIES IN EXCESS OF 650,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 650,000,000 pounds of butter, the Secretary may reduce the purchase price under subsection (c)(3) during the immediately following month by not more than 20 cents per pound.

(6) NONFAT DRY MILK INVENTORIES IN EXCESS OF 600,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 600,000,000 pounds of nonfat dry milk, but do not exceed 800,000,000 pounds, the Secretary may reduce the purchase price under subsection (c)(4) during the immediately following month by not more than 5 cents per pound.

(7) NONFAT DRY MILK INVENTORIES IN EXCESS OF 800,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 800,000,000 pounds of nonfat dry milk, the Secretary may reduce the purchase price under subsection (c)(4) during the immediately following month by not more than 10 cents per pound.

(e) UNIFORM PURCHASE PRICE.—The prices that the Secretary pays for cheese, butter, or nonfat dry milk, respectively, under subsection (b) shall be uniform for all regions of the United States.

(f) SALES FROM INVENTORIES.—In the case of each commodity specified in subsection (c) that is available for unrestricted use in the inventory of the Commodity Credit Corporation, the Secretary may sell the commodity at the market prices prevailing for that commodity at the time of sale, except that the sale price may not be less than 110 percent of the minimum purchase price specified in subsection (c) for that commodity.

7 USC 8772.

**SEC. 1502. DAIRY FORWARD PRICING PROGRAM.**

(a) PROGRAM REQUIRED.—The Secretary shall establish a program under which milk producers and cooperative associations of producers are authorized to voluntarily enter into forward price contracts with milk handlers.

(b) MINIMUM MILK PRICE REQUIREMENTS.—Payments made by milk handlers to milk producers and cooperative associations of producers, and prices received by milk producers and cooperative associations, in accordance with the terms of a forward price contract authorized by subsection (a), shall be treated as satisfying—

(1) all uniform and minimum milk price requirements of subparagraphs (B) and (F) of paragraph (5) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) the total payment requirement of subparagraph (C) of that paragraph.

(c) MILK COVERED BY PROGRAM.—

Applicability.

(1) COVERED MILK.—The program shall apply only with respect to the marketing of federally regulated milk that—

(A) is not classified as Class I milk or otherwise intended for fluid use; and

(B) is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk.

(2) RELATION TO CLASS I MILK.—To assist milk handlers in complying with paragraph (1)(A) without having to segregate or otherwise individually track the source and disposition of milk, a milk handler may allocate milk receipts from producers, cooperatives, and other sources that are not subject to a forward contract to satisfy the obligations of the handler with regard to Class I milk usage.

(d) VOLUNTARY PROGRAM.—

(1) IN GENERAL.—A milk handler may not require participation in a forward pricing contract as a condition of the handler receiving milk from a producer or cooperative association of producers.

(2) PRICING.—A producer or cooperative association described in paragraph (1) may continue to have their milk priced in accordance with the minimum payment provisions of the Federal milk marketing order.

(3) COMPLAINTS.—

(A) IN GENERAL.—The Secretary shall investigate complaints made by producers or cooperative associations of coercion by handlers to enter into forward contracts.

(B) ACTION.—If the Secretary finds evidence of coercion, the Secretary shall take appropriate action.

(e) DURATION.—

Deadline.

(1) NEW CONTRACTS.—No forward price contract may be entered into under the program established under this section after September 30, 2012.

Termination date.

(2) APPLICATION.—No forward contract entered into under the program may extend beyond September 30, 2015.

**SEC. 1503. DAIRY EXPORT INCENTIVE PROGRAM.**

(a) EXTENSION.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14(a)) is amended by striking "2007" and inserting "2012".

(b) COMPLIANCE WITH TRADE AGREEMENTS.—Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended—

(1) in subsection (c), by striking paragraph (3) and inserting the following:

"(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511) is exported under the program each year (minus the volume sold under section 1163 of this Act during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value permitted under subsection (f); and"; and.

(2) in subsection (f), by striking paragraph (1) and inserting the following:

"(1) FUNDS AND COMMODITIES.—Except as provided in paragraph (2), the Commodity Credit Corporation shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511), minus the amount expended under section 1163 of this Act during that year.".

**SEC. 1504. REVISION OF FEDERAL MARKETING ORDER AMENDMENT PROCEDURES.**

Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking subsection (17) and inserting the following:

"(17) PROVISIONS APPLICABLE TO AMENDMENTS.—

"(A) APPLICABILITY TO AMENDMENTS.—The provisions of this section and section 8d applicable to orders shall be applicable to amendments to orders.

"(B) SUPPLEMENTAL RULES OF PRACTICE.—

"(i) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall issue, using informal rulemaking, supplemental rules of practice to define guidelines and timeframes for the rulemaking process relating to amendments to orders. Deadline.

"(ii) ISSUES.—At a minimum, the supplemental rules of practice shall establish—

"(I) proposal submission requirements;

"(II) pre-hearing information session specifications;

"(III) written testimony and data request requirements;

"(IV) public participation timeframes; and

"(V) electronic document submission standards.

"(iii) EFFECTIVE DATE.—The supplemental rules of practice shall take effect not later than 120 days after

the date of enactment of this subparagraph, as determined by the Secretary.

Deadlines.

"(C) HEARING TIMEFRAMES.—

"(i) IN GENERAL.—Not more than 30 days after the receipt of a proposal for an amendment hearing regarding a milk marketing order, the Secretary shall—

Notice.

"(I) issue a notice providing an action plan and expected timeframes for completion of the hearing not more than 120 days after the date of the issuance of the notice;

"(II)(aa) issue a request for additional information to be used by the Secretary in making a determination regarding the proposal; and

"(bb) if the additional information is not provided to the Secretary within the timeframe requested by the Secretary, issue a denial of the request; or

"(III) issue a denial of the request.

"(ii) REQUIREMENT.—A post-hearing brief may be filed under this paragraph not later than 60 days after the date of an amendment hearing regarding a milk marketing order.

"(iii) RECOMMENDED DECISIONS.—A recommended decision on a proposed amendment to an order shall be issued not later than 90 days after the deadline for the submission of post-hearing briefs.

"(iv) FINAL DECISIONS.—A final decision on a proposed amendment to an order shall be issued not later than 60 days after the deadline for submission of comments and exceptions to the recommended decision issued under clause (iii).

"(D) INDUSTRY ASSESSMENTS.—If the Secretary determines it is necessary to improve or expedite rulemaking under this subsection, the Secretary may impose an assessment on the affected industry to supplement appropriated funds for the procurement of service providers, such as court reporters.

"(E) USE OF INFORMAL RULEMAKING.—The Secretary may use rulemaking under section 553 of title 5, United States Code, to amend orders, other than provisions of orders that directly affect milk prices.

"(F) AVOIDING DUPLICATION.—The Secretary shall not be required to hold a hearing on any amendment proposed to be made to a milk marketing order in response to an application for a hearing on the proposed amendment if—

Deadline.

"(i) the application requesting the hearing is received by the Secretary not later than 90 days after the date on which the Secretary has announced the decision on a previously proposed amendment to that order; and

"(ii) the 2 proposed amendments are essentially the same, as determined by the Secretary.

"(G) MONTHLY FEED AND FUEL COSTS FOR MAKE ALLOWANCES.—As part of any hearing to adjust make allowances under marketing orders commencing prior to September 30, 2012, the Secretary shall—

"(i) determine the average monthly prices of feed and fuel incurred by dairy producers in the relevant marketing area;

"(ii) consider the most recent monthly feed and fuel price data available; and

"(iii) consider those prices in determining whether or not to adjust make allowances.".

**SEC. 1505. DAIRY INDEMNITY PROGRAM.**

Section 3 of Public Law 90–484 (7 U.S.C. 450l) is amended by striking "2007" and inserting "2012".

**SEC. 1506. MILK INCOME LOSS CONTRACT PROGRAM.** 7 USC 8773.

(a) DEFINITIONS.—In this section:

(1) CLASS I MILK.—The term "Class I milk" means milk (including milk components) classified as Class I milk under a Federal milk marketing order.

(2) ELIGIBLE PRODUCTION.—The term "eligible production" means milk produced by a producer in a participating State.

(3) FEDERAL MILK MARKETING ORDER.—The term "Federal milk marketing order" means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(4) PARTICIPATING STATE.—The term "participating State" means each State.

(5) PRODUCER.—The term "producer" means an individual or entity that directly or indirectly (as determined by the Secretary)—

(A) shares in the risk of producing milk; and

(B) makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.

(b) PAYMENTS.—The Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production. Contracts.

(c) AMOUNT.—Payments to a producer under this section shall be calculated by multiplying (as determined by the Secretary)—

(1) the payment quantity for the producer during the applicable month established under subsection (e);

(2) the amount equal to—

(A) $16.94 per hundredweight, as adjusted under subsection (d); less

(B) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by

(3)(A) for the period beginning October 1, 2007, and ending September 30, 2008, 34 percent;

(B) for the period beginning October 1, 2008, and ending August 31, 2012, 45 percent; and

(C) for the period beginning September 1, 2012, and thereafter, 34 percent.

(d) PAYMENT RATE ADJUSTMENT FOR FEED PRICES.—

(1) INITIAL ADJUSTMENT AUTHORITY.—During the period beginning on January 1, 2008, and ending on August 31, 2012, if the National Average Dairy Feed Ration Cost for a month during that period is greater than $7.35 per hundredweight, Time period.

the amount specified in subsection (c)(2)(A) used to determine the payment rate for that month shall be increased by 45 percent of the percentage by which the National Average Dairy Feed Ration Cost exceeds $7.35 per hundredweight.

(2) SUBSEQUENT ADJUSTMENT AUTHORITY.—For any month beginning on or after September 1, 2012, if the National Average Dairy Feed Ration Cost for the month is greater than $9.50 per hundredweight, the amount specified in subsection (c)(2)(A) used to determine the payment rate for that month shall be increased by 45 percent of the percentage by which the National Average Dairy Feed Ration Cost exceeds $9.50 per hundredweight.

(3) NATIONAL AVERAGE DAIRY FEED RATION COST.—For each month, the Secretary shall calculate a National Average Dairy Feed Ration Cost per hundredweight using the same procedures (adjusted to a hundredweight basis) used to calculate the feed components of the estimated price of 16% Mixed Dairy Feed per pound noted on page 33 of the USDA March 2008 Agricultural Prices publication (including the data and factors noted in footnote 4).

(e) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity for a producer during the applicable month under this section shall be equal to the quantity of eligible production marketed by the producer during the month.

(2) LIMITATION.—

Time periods.

(A) IN GENERAL.—The payment quantity for all producers on a single dairy operation for which the producers receive payments under subsection (b) shall not exceed—

(i) for the period beginning October 1, 2007, and ending September 30, 2008, 2,400,000 pounds;

(ii) for the period beginning October 1, 2008, and ending August 31, 2012, 2,985,000 pounds for each fiscal year; and

Effective date.

(iii) effective beginning September 1, 2012, 2,400,000 pounds per fiscal year.

Applicability.

(B) STANDARDS.—For purposes of determining whether producers are producers on separate dairy operations or a single dairy operation, the Secretary shall apply the same standards as were applied in implementing the dairy program under section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–387; 114 Stat. 1549A–50).

(3) RECONSTITUTION.—The Secretary shall ensure that a producer does not reconstitute a dairy operation for the sole purpose of receiving additional payments under this section.

Deadline.

(f) PAYMENTS.—A payment under a contract under this section shall be made on a monthly basis not later than 60 days after the last day of the month for which the payment is made.

Contracts.
Time period.

(g) SIGNUP.—The Secretary shall offer to enter into contracts under this section during the period beginning on the date that is 90 days after the date of enactment of this Act and ending on September 30, 2012.

(h) DURATION OF CONTRACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), any contract entered into by producers on a dairy farm under this

section shall cover eligible production marketed by the producers on the dairy farm during the period starting with the first day of month the producers on the dairy farm enter into the contract and ending on September 30, 2012.

(2) VIOLATIONS.—If a producer violates the contract, the Secretary may—

(A) terminate the contract and allow the producer to retain any payments received under the contract; or

(B) allow the contract to remain in effect and require the producer to repay a portion of the payments received under the contract based on the severity of the violation.

**SEC. 1507. DAIRY PROMOTION AND RESEARCH PROGRAM.**

(a) EXTENSION OF DAIRY PROMOTION AND RESEARCH AUTHORITY.—Section 113(e)(2) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)(2)) is amended by striking "2007" and inserting "2012".

(b) DEFINITION OF UNITED STATES FOR PROMOTION PROGRAM.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) by striking subsection (l) and inserting the following:

"(l) the term 'United States', when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico;"; and

(2) in subsection (m), by striking "(as defined in subsection (l))".

(c) DEFINITION OF UNITED STATES FOR RESEARCH PROGRAM.—Section 130 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4531)) is amended by striking paragraph (12) and inserting the following:

"(12) the term 'United States', when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico.".

(d) ASSESSMENT RATE FOR IMPORTED DAIRY PRODUCTS.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended by striking paragraph (3) and inserting the following:

"(3) RATE.—

"(A) IN GENERAL.—The rate of assessment for milk produced in the United States prescribed by the order shall be 15 cents per hundredweight of milk for commercial use or the equivalent thereof, as determined by the Secretary.

"(B) IMPORTED DAIRY PRODUCTS.—The rate of assessment for imported dairy products prescribed by the order shall be 7.5 cents per hundredweight of milk for commercial use or the equivalent thereof, as determined by the Secretary.".

(e) TIME AND METHOD OF IMPORTER PAYMENTS.—Section 113(g)(6) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)(6)) is amended—

(1) by striking subparagraph (B); and

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

(f) REFUND OF ASSESSMENTS ON CERTAIN IMPORTED DAIRY PRODUCTS.—Section 113(g) of the Dairy Production Stabilization

Act of 1983 (7 U.S.C. 4504(g)) is amended by adding at the end the following:

"(7) REFUND OF ASSESSMENTS ON CERTAIN IMPORTED PRODUCTS.—

"(A) IN GENERAL.—An importer shall be entitled to a refund of any assessment paid under this subsection on imported dairy products imported under a contract entered into prior to the date of enactment of the Food, Conservation, and Energy Act of 2008.

"(B) EXPIRATION.—Refunds under subparagraph (A) shall expire 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008.".

**SEC. 1508. REPORT ON DEPARTMENT OF AGRICULTURE REPORTING PROCEDURES FOR NONFAT DRY MILK.**

Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding Department of Agriculture reporting procedures for nonfat dry milk and the impact of the procedures on Federal milk marketing order minimum prices during the period beginning on July 1, 2006, and ending on the date of enactment of this Act.

**SEC. 1509. FEDERAL MILK MARKETING ORDER REVIEW COMMISSION.**

(a) ESTABLISHMENT.—Subject to the availability of appropriations to carry out this section, the Secretary shall establish a commission to be known as the "Federal Milk Marketing Order Review Commission" (referred to in this section as the "commission"), which shall conduct a comprehensive review and evaluation of—

(1) the Federal milk marketing order system in effect on the date of establishment of the commission; and

(2) non-Federal milk marketing order systems.

(b) ELEMENTS OF REVIEW AND EVALUATION.—As part of the review and evaluation under subsection (a), the commission shall consider legislative and regulatory options for—

(1) ensuring that the competitiveness of dairy products with other competing products in the marketplace is preserved and enhanced;

(2) enhancing the competitiveness of American dairy producers in world markets;

(3) ensuring the competitiveness and transparency in dairy pricing;

(4) streamlining and expediting the process by which amendments to Federal milk market orders are adopted;

(5) simplifying the Federal milk marketing order system;

(6) evaluating whether the Federal milk marketing order system serves the interests of dairy producers, consumers, and dairy processors; and

(7) evaluating the nutritional composition of milk, including the potential benefits and costs of adjusting the milk content standards.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The commission shall consist of 14 members.

(2) MEMBERS.—As soon as practicable after the date on which funds are first made available to carry out this section,

the Secretary shall appoint members to the commission according to the following requirements:

(A) At least 1 member shall represent a national consumer organization.

(B) At least 4 members shall represent land-grant universities or NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) with accredited dairy economic programs, with at least 2 of those members being experts in the field of economics.

(C) At least 1 member shall represent the food and beverage retail sector.

(D) 4 dairy producers and 4 dairy processors, appointed so as to balance geographical distribution of milk production and dairy processing, reflect all segments of dairy processing, and represent all regions of the United States equitably, including States that operate outside of a Federal milk marketing order.

(3) CHAIR.—The commission shall elect 1 of the appointed members of the commission to serve as chairperson for the duration of the proceedings of the commission.

(4) VACANCY.—Any vacancy occurring before the termination of the commission shall be filled in the same manner as the original appointment.

(5) COMPENSATION.—Members of the commission shall serve without compensation, but shall be reimbursed by the Secretary from existing budget authority for necessary and reasonable expenses incurred in the performance of the duties of the commission.

(d) REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of the first meeting of the commission, the commission shall submit to Congress and the Secretary a report describing the results of the review and evaluation conducted under this section, including such recommendations regarding the legislative and regulatory options considered under subsection (b) as the commission considers to be appropriate.

(2) OPINIONS.—The report findings shall reflect, to the maximum extent practicable, a consensus opinion of the commission members, but the report may include majority and minority findings regarding those matters for which consensus was not reached.

(e) ADVISORY NATURE.—The commission is wholly advisory in nature, and the recommendations of the commission are nonbinding.

(f) NO EFFECT ON EXISTING PROGRAMS.—The Secretary shall not allow the existence of the commission to impede, delay, or otherwise affect any decisionmaking process of the Department of Agriculture, including any rulemaking procedures planned, proposed, or near completion.

(g) ADMINISTRATIVE ASSISTANCE.—The Secretary shall provide administrative support to the commission, and expend to carry out this section such funds as necessary from budget authority available to the Secretary.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(i) TERMINATION.—The commission shall terminate effective on the date of the submission of the report under subsection (d).

**SEC. 1510. MANDATORY REPORTING OF DAIRY COMMODITIES.**

(a) ELECTRONIC REPORTING.—Section 273 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) ELECTRONIC REPORTING.—

"(1) IN GENERAL.—Subject to the availability of funds under paragraph (3), the Secretary shall establish an electronic reporting system to carry out this section.

"(2) FREQUENCY OF REPORTS.—After the establishment of the electronic reporting system in accordance with paragraph (1), the Secretary shall increase the frequency of the reports required under this section.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.".

(b) QUARTERLY AUDITS.—Section 273(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b(c)) is amended by striking paragraph (3) and inserting the following:

"(3) VERIFICATION.—

"(A) IN GENERAL.—The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under this subtitle.

"(B) QUARTERLY AUDITS.—The Secretary shall quarterly conduct an audit of information submitted or reported under this subtitle and compare such information with other related dairy market statistics.".

# Subtitle F—Administration

7 USC 8781.

**SEC. 1601. ADMINISTRATION GENERALLY.**

(a) USE OF COMMODITY CREDIT CORPORATION.—Except as otherwise provided in this title, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

(b) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.

(c) REGULATIONS.—

Deadline.

(1) IN GENERAL.—Except as otherwise provided in this subsection, not later than 90 days after the date of enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title and the amendments made by this title.

(2) PROCEDURE.—The promulgation of the regulations and administration of this title and the amendments made by this title shall be made without regard to—

(A) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act");

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804),

relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) the notice and comment provisions of section 553 of title 5, United States Code.

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(4) INTERIM REGULATIONS.—Notwithstanding paragraphs (1) and (2), the Secretary shall implement the amendments made by sections 1603 and 1604 for the 2009 crop, fiscal, or program year, as appropriate, through the promulgation of an interim rule.

(d) ADJUSTMENT AUTHORITY RELATED TO TRADE AGREEMENTS COMPLIANCE.—

(1) REQUIRED DETERMINATION; ADJUSTMENT.—If the Secretary determines that expenditures under this title that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)) will exceed such allowable levels for any applicable reporting period, the Secretary shall, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed such allowable levels.

(2) CONGRESSIONAL NOTIFICATION.—Before making any adjustment under paragraph (1), the Secretary shall submit to the Committee on Agriculture of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the determination made under that paragraph and the extent of the adjustment to be made. Reports.

(e) TREATMENT OF ADVANCE PAYMENT OPTION.—Section 1601(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7991(d)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) the advance payment of direct payments and countercyclical payments under title I of the Food, Conservation, and Energy Act of 2008.".

**SEC. 1602. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.** Time period. 7 USC 8782.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 2008 through 2012 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act through December 31, 2012:

(1) Parts II through V of subtitle B of title III (7 U.S.C. 1326 et seq.).

(2) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(3) Subtitle D of title III (7 U.S.C. 1379a et seq.).

(4) Title IV (7 U.S.C. 1401 et seq.).

(b) AGRICULTURAL ACT OF 1949.—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 2008

through 2012 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act and through December 31, 2012:

(1) Section 101 (7 U.S.C. 1441).
(2) Section 103(a) (7 U.S.C. 1444(a)).
(3) Section 105 (7 U.S.C. 1444b).
(4) Section 107 (7 U.S.C. 1445a).
(5) Section 110 (7 U.S.C. 1445e).
(6) Section 112 (7 U.S.C. 1445g).
(7) Section 115 (7 U.S.C. 1445k).
(8) Section 201 (7 U.S.C. 1446).
(9) Title III (7 U.S.C. 1447 et seq.).
(10) Title IV (7 U.S.C. 1421 et seq.), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).
(11) Title V (7 U.S.C. 1461 et seq.).
(12) Title VI (7 U.S.C. 1471 et seq.).

(c) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 2008 through 2012.

**SEC. 1603. PAYMENT LIMITATIONS.**

(a) EXTENSION OF LIMITATIONS.—Sections 1001 and 1001C(a) of the Food Security Act of 1985 (7 U.S.C. 1308, 1308–3(a)) are amended by striking "Farm Security and Rural Investment Act of 2002" each place it appears and inserting "Food, Conservation, and Energy Act of 2008".

(b) REVISION OF LIMITATIONS.—

(1) DEFINITIONS.—Section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)) is amended—

(A) in the matter preceding paragraph (1), by inserting "through section 1001F"after "section";

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (5); and

(C) by inserting after paragraph (1) the following:

"(2) FAMILY MEMBER.—The term 'family member' means a person to whom a member in the farming operation is related as lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

"(3) LEGAL ENTITY.—The term 'legal entity' means an entity that is created under Federal or State law and that—

"(A) owns land or an agricultural commodity; or

"(B) produces an agricultural commodity.

"(4) PERSON.—The term 'person' means a natural person, and does not include a legal entity.".

(2) LIMITATION ON DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking subsections (b), (c), and (d) and inserting the following:

"(b) LIMITATION ON DIRECT PAYMENTS, COUNTER-CYCLICAL PAYMENTS, AND ACRE PAYMENTS FOR COVERED COMMODITIES (OTHER THAN PEANUTS).—

"(1) DIRECT PAYMENTS.—The total amount of direct payments received, directly or indirectly, by a person or legal

entity (except a joint venture or a general partnership) for any crop year under subtitle A of title I of the Food, Conservation, and Energy Act of 2008 for 1 or more covered commodities (except for peanuts) may not exceed—

"(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act, $40,000; or

"(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—

"(i) the payment limit specified in subparagraph (A); less

"(ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.

"(2) COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle A of title I of that Act for 1 or more covered commodities (except for peanuts) may not exceed $65,000.

"(3) ACRE AND COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments and counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year for 1 or more covered commodities (except for peanuts) may not exceed the sum of—

"(A) $65,000; and

"(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).

"(c) LIMITATION ON DIRECT PAYMENTS, COUNTER-CYCLICAL PAYMENTS, AND ACRE PAYMENTS FOR PEANUTS.—

"(1) DIRECT PAYMENTS.—The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under subtitle C of title I of the Food, Conservation, and Energy Act of 2008 for peanuts may not exceed—

"(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act, $40,000; or

"(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—

"(i) the payment limit specified in subparagraph (A); less

"(ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.

"(2) COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and

Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle C of title I of that Act for peanuts may not exceed $65,000.

"(3) ACRE AND COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments received, directly or indirectly, by the person or legal entity for any crop year for peanuts may not exceed the sum of—

"(A) $65,000; and

"(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).

"(d) LIMITATION ON APPLICABILITY.—Nothing in this section authorizes any limitation on any benefit associated with the marketing assistance loan program or the loan deficiency payment program under title I of the Food, Conservation, and Energy Act of 2008.".

(3) DIRECT ATTRIBUTION.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(A) by striking subsections (e) and (f) and redesignating subsection (g) as subsection (h); and

(B) by inserting after subsection (d) the following:

"(e) ATTRIBUTION OF PAYMENTS.—

"(1) IN GENERAL.—In implementing subsections (b) and (c) and a program described in paragraphs (1)(C) and (2)(B) of section 1001D(b), the Secretary shall issue such regulations as are necessary to ensure that the total amount of payments are attributed to a person by taking into account the direct and indirect ownership interests of the person in a legal entity that is eligible to receive the payments.

"(2) PAYMENTS TO A PERSON.—Each payment made directly to a person shall be combined with the pro rata interest of the person in payments received by a legal entity in which the person has a direct or indirect ownership interest unless the payments of the legal entity have been reduced by the pro rata share of the person.

"(3) PAYMENTS TO A LEGAL ENTITY.—

Regulations.

"(A) IN GENERAL.—Each payment made to a legal entity shall be attributed to those persons who have a direct or indirect ownership interest in the legal entity unless the payment to the legal entity has been reduced by the pro rata share of the person.

"(B) ATTRIBUTION OF PAYMENTS.—

"(i) PAYMENT LIMITS.—Except as provided in clause (ii), payments made to a legal entity shall not exceed the amounts specified in subsections (b) and (c).

"(ii) EXCEPTION FOR JOINT VENTURES AND GENERAL PARTNERSHIPS.—Payments made to a joint venture or a general partnership shall not exceed, for each payment specified in subsections (b) and (c), the amount determined by multiplying the maximum payment amount specified in subsections (b) and (c) by the number of persons and legal entities (other than joint

ventures and general partnerships) that comprise the ownership of the joint venture or general partnership.

"(iii) REDUCTION.—Payments made to a legal entity shall be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise exceeded the applicable maximum payment limitation.

"(4) 4 LEVELS OF ATTRIBUTION FOR EMBEDDED LEGAL ENTITIES.—

"(A) IN GENERAL.—Attribution of payments made to legal entities shall be traced through 4 levels of ownership in legal entities.

"(B) FIRST LEVEL.—Any payments made to a legal entity (a first-tier legal entity) that is owned in whole or in part by a person shall be attributed to the person in an amount that represents the direct ownership in the first-tier legal entity by the person.

"(C) SECOND LEVEL.—

"(i) IN GENERAL.—Any payments made to a first-tier legal entity that is owned (in whole or in part) by another legal entity (a second-tier legal entity) shall be attributed to the second-tier legal entity in proportion to the ownership of the second-tier legal entity in the first-tier legal entity.

"(ii) OWNERSHIP BY A PERSON.—If the second-tier legal entity is owned (in whole or in part) by a person, the amount of the payment made to the first-tier legal entity shall be attributed to the person in the amount that represents the indirect ownership in the first-tier legal entity by the person.

"(D) THIRD AND FOURTH LEVELS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall attribute payments at the third and fourth tiers of ownership in the same manner as specified in subparagraph (C).

"(ii) FOURTH-TIER OWNERSHIP.—If the fourth-tier of ownership is that of a fourth-tier legal entity and not that of a person, the Secretary shall reduce the amount of the payment to be made to the first-tier legal entity in the amount that represents the indirect ownership in the first-tier legal entity by the fourth-tier legal entity.

"(f) SPECIAL RULES.—

"(1) MINOR CHILDREN.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), payments received by a child under the age of 18 shall be attributed to the parents of the child.

"(B) REGULATIONS.—The Secretary shall issue regulations specifying the conditions under which payments received by a child under the age of 18 will not be attributed to the parents of the child.

"(2) MARKETING COOPERATIVES.—Subsections (b) and (c) shall not apply to a cooperative association of producers with respect to commodities produced by the members of the association that are marketed by the association on behalf of the members of the association but shall apply to the producers as persons. Applicability.

"(3) TRUSTS AND ESTATES.—

"(A) IN GENERAL.—With respect to irrevocable trusts and estates, the Secretary shall administer this section through section 1001F in such manner as the Secretary determines will ensure the fair and equitable treatment of the beneficiaries of the trusts and estates.

"(B) IRREVOCABLE TRUST.—

"(i) IN GENERAL.—In order for a trust to be considered an irrevocable trust, the terms of the trust agreement shall not—

"(I) allow for modification or termination of the trust by the grantor;

"(II) allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust; or

"(III) except as provided in clause (ii), provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years beginning on the date the trust is established.

"(ii) EXCEPTION.—Clause (i)(III) shall not apply in a case in which the transfer is—

"(I) contingent on the remainder beneficiary achieving at least the age of majority; or

"(II) contingent on the death of the grantor or income beneficiary.

"(C) REVOCABLE TRUST.—For the purposes of this section through section 1001F, a revocable trust shall be considered to be the same person as the grantor of the trust.

"(4) CASH RENT TENANTS.—

"(A) DEFINITION.—In this paragraph, the term 'cash rent tenant' means a person or legal entity that rents land—

"(i) for cash; or

"(ii) for a crop share guaranteed as to the amount of the commodity to be paid in rent.

"(B) RESTRICTION.—A cash rent tenant who makes a significant contribution of active personal management, but not of personal labor, with respect to a farming operation shall be eligible to receive a payment described in subsection (b) or (c) only if the tenant makes a significant contribution of equipment to the farming operation.

"(5) FEDERAL AGENCIES.—

"(A) IN GENERAL.—Notwithstanding subsection (d), a Federal agency shall not be eligible to receive any payment, benefit, or loan under title I of the Food, Conservation, and Energy Act of 2008 or title XII of this Act.

"(B) LAND RENTAL.—A lessee of land owned by a Federal agency may receive a payment described in subsection (b), (c), or (d) if the lessee otherwise meets all applicable criteria.

"(6) STATE AND LOCAL GOVERNMENTS.—

"(A) IN GENERAL.—Notwithstanding subsection (d), except as provided in subsection (g), a State or local government, or political subdivision or agency of the government, shall not be eligible to receive any payment, benefit, or

loan under title I of the Food, Conservation, and Energy Act of 2008 or title XII of this Act.

"(B) TENANTS.—A lessee of land owned by a State or local government, or political subdivision or agency of the government, may receive payments described in subsections (b), (c), and (d) if the lessee otherwise meets all applicable criteria.

"(7) CHANGES IN FARMING OPERATIONS.—

"(A) IN GENERAL.—In the administration of this section through section 1001F, the Secretary may not approve any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

"(B) FAMILY MEMBERS.—The addition of a family member to a farming operation under the criteria set out in section 1001A shall be considered a bona fide and substantive change in the farming operation.

"(8) DEATH OF OWNER.—

"(A) IN GENERAL.—If any ownership interest in land or a commodity is transferred as the result of the death of a program participant, the new owner of the land or commodity may, if the person is otherwise eligible to participate in the applicable program, succeed to the contract of the prior owner and receive payments subject to this section without regard to the amount of payments received by the new owner.

"(B) LIMITATIONS ON PRIOR OWNER.—Payments made under this paragraph shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.

"(g) PUBLIC SCHOOLS.—

"(1) IN GENERAL.—Notwithstanding subsection (f)(6)(A), a State or local government, or political subdivision or agency of the government, shall be eligible, subject to the limitation in paragraph (2), to receive a payment described in subsection (b) or (c) for land owned by the State or local government, or political subdivision or agency of the government, that is used to maintain a public school.

"(2) LIMITATION.—

"(A) IN GENERAL.—For each State, the total amount of payments described in subsections (b) and (c) that are received collectively by the State and local government and all political subdivisions or agencies of those governments shall not exceed $500,000.

"(B) EXCEPTION.—The limitation in subparagraph (A) shall not apply to States with a population of less than 1,500,000.".

(c) REPEAL OF 3-ENTITY RULE.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended—

(1) in the section heading, by striking "**PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS**" and inserting "**NOTIFICATION OF INTERESTS**"; and

(2) by striking subsection (a) and inserting the following:

"(a) NOTIFICATION OF INTERESTS.—To facilitate administration of section 1001 and this section, each person or legal entity receiving payments described in subsections (b) and (c) of section 1001 as

a separate person or legal entity shall separately provide to the Secretary, at such times and in such manner as prescribed by the Secretary—

"(1) the name and social security number of each person, or the name and taxpayer identification number of each legal entity, that holds or acquires an ownership interest in the separate person or legal entity; and

"(2) the name and taxpayer identification number of each legal entity in which the person or legal entity holds an ownership interest.".

(d) AMENDMENT FOR CONSISTENCY.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended by striking subsection (b) and inserting the following:

"(b) ACTIVELY ENGAGED.—

"(1) IN GENERAL.—To be eligible to receive a payment described in subsection (b) or (c) of section 1001, a person or legal entity shall be actively engaged in farming with respect to a farming operation as provided in this subsection or subsection (c).

"(2) CLASSES ACTIVELY ENGAGED.—Except as provided in subsections (c) and (d)—

"(A) a person (including a person participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity, as determined by the Secretary) shall be considered to be actively engaged in farming with respect to a farming operation if—

"(i) the person makes a significant contribution (based on the total value of the farming operation) to the farming operation of—

"(I) capital, equipment, or land; and

"(II) personal labor or active personal management;

"(ii) the person's share of the profits or losses from the farming operation is commensurate with the contributions of the person to the farming operation; and

"(iii) the contributions of the person are at risk;

"(B) a legal entity that is a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity determined by the Secretary (including any such legal entity participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar legal entity as determined by the Secretary) shall be considered as actively engaged in farming with respect to a farming operation if—

"(i) the legal entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

"(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and

"(iii) the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity;

"(C) if a legal entity that is a general partnership, joint venture, or similar entity, as determined by the Secretary, separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved; and

"(D) in making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

"(c) SPECIAL CLASSES ACTIVELY ENGAGED.—

"(1) LANDOWNER.—A person or legal entity that is a landowner contributing the owned land to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if—

"(A) the landowner receives rent or income for the use of the land based on the production on the land or the operating results of the operation; and

"(B) the person or legal entity meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

"(2) ADULT FAMILY MEMBER.—If a majority of the participants in a farming operation are family members, an adult family member shall be considered to be actively engaged in farming with respect to the farming operation if the person—

"(A) makes a significant contribution, based on the total value of the farming operation, of active personal management or personal labor; and

"(B) with respect to such contribution, meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

"(3) SHARECROPPER.—A sharecropper who makes a significant contribution of personal labor to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if the contribution meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

"(4) GROWERS OF HYBRID SEED.—In determining whether a person or legal entity growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

"(5) CUSTOM FARMING SERVICES.—

"(A) IN GENERAL.—A person or legal entity receiving custom farming services shall be considered separately eligible for payment limitation purposes if the person or legal entity is actively engaged in farming based on subsection (b)(2) or paragraphs (1) through (4) of this subsection.

"(B) PROHIBITION.—No other rules with respect to custom farming shall apply.

"(6) SPOUSE.—If 1 spouse (or estate of a deceased spouse) is determined to be actively engaged, the other spouse shall

be determined to have met the requirements of subsection (b)(2)(A)(i)(II).

"(d) CLASSES NOT ACTIVELY ENGAGED.—

"(1) CASH RENT LANDLORD.—A landlord contributing land to a farming operation shall not be considered to be actively engaged in farming with respect to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.

"(2) OTHER PERSONS AND LEGAL ENTITIES.—Any other person or legal entity that the Secretary determines does not meet the standards described in subsections (b)(2) and (c) shall not be considered to be actively engaged in farming with respect to a farming operation.".

(e) DENIAL OF PROGRAM BENEFITS.—Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2) is amended to read as follows:

**"SEC. 1001B. DENIAL OF PROGRAM BENEFITS.**

"(a) 2-YEAR DENIAL OF PROGRAM BENEFITS.—A person or legal entity shall be ineligible to receive payments specified in subsections (b) and (c) of section 1001 for the crop year, and the succeeding crop year, in which the Secretary determines that the person or legal entity—

"(1) failed to comply with section 1001A(b) and adopted or participated in adopting a scheme or device to evade the application of section 1001, 1001A, or 1001C; or

"(2) intentionally concealed the interest of the person or legal entity in any farm or legal entity engaged in farming.

Fraud.
Regulations.

"(b) EXTENDED INELIGIBILITY.—If the Secretary determines that a person or legal entity, for the benefit of the person or legal entity or the benefit of any other person or legal entity, has knowingly engaged in, or aided in the creation of a fraudulent document, failed to disclose material information relevant to the administration of sections 1001 through 1001F, or committed other equally serious actions (as identified in regulations issued by the Secretary), the Secretary may for a period not to exceed 5 crop years deny the issuance of payments to the person or legal entity.

"(c) PRO RATA DENIAL.—

"(1) IN GENERAL.—Payments otherwise owed to a person or legal entity described in subsections (a) or (b) shall be denied in a pro rata manner based on the ownership interest of the person or legal entity in a farm.

"(2) CASH RENT TENANT.—Payments otherwise payable to a person or legal entity shall be denied in a pro rata manner if the person or legal entity is a cash rent tenant on a farm owned or under the control of a person or legal entity with respect to which a determination has been made under subsection (a) or (b).

"(d) JOINT AND SEVERAL LIABILITY.—Any legal entity (including partnerships and joint ventures) and any member of any legal entity determined to have knowingly participated in a scheme or device to evade, or that has the purpose of evading, sections 1001, 1001A, or 1001C shall be jointly and severally liable for any amounts that are payable to the Secretary as the result of the scheme or device (including amounts necessary to recover those amounts).

"(e) RELEASE.—The Secretary may partially or fully release from liability any person or legal entity who cooperates with the Secretary in enforcing sections 1001, 1001A, and 1001C, and this section.".

(f) CONFORMING AMENDMENT TO APPLY DIRECT ATTRIBUTION TO NAP.—

(1) IN GENERAL.—Section 196(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(i)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) DEFINITIONS.—In this subsection, the terms 'legal entity' and 'person' have the meanings given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)).

"(2) PAYMENT LIMITATION.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) for any crop year may not exceed $100,000.";

(B) by striking paragraph (4) and inserting the following:

"(4) ADJUSTED GROSS INCOME LIMITATION.—A person or legal entity that has an average adjusted gross income in excess of the average adjusted gross income limitation applicable under section 1001D(b)(1)(A) of the Food Security Act of 1985 (7 U.S.C. 1308–3a(b)(1)(A)), or a successor provision, shall not be eligible to receive noninsured crop disaster assistance under this section."; and

(C) in paragraph (5)—

(i) by striking "necessary to ensure" and inserting "necessary—

"(A) to ensure"; and

(ii) by striking "this subsection." and inserting the following: "this subsection; and

"(B) to ensure that payments under this section are attributed to a person or legal entity (excluding a joint venture or general partnership) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.), as determined by the Secretary.".

(2) TRANSITION.—Section 196(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(i)), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crops of any eligible crop. 7 USC 7333 note.

(g) CONFORMING AMENDMENTS.—

(1) Section 1009(e) of the Food Security Act of 1985 (7 U.S.C. 1308a(e)) is amended in the second sentence by striking "of $50,000".

(2) Section 609(b)(1) of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471g(b)(1)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1985".

(3) Section 524(b)(3) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(3)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1308(5)))".

(4) Section 10204(c)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8204(c)(1)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1308)".

(5) Section 1271(c)(3)(A) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(A)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1308)".

(6) Section 291(2) of the Trade Act of 1974 (19 U.S.C. 2401(2)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" before the period at the end.

Applicability.
7 USC 1308 note.

(h) TRANSITION.—Section 1001, 1001A, and 1001B of the Food Security Act of 1985 (7 U.S.C. 1308, 1308–1, 1308–2), as in effect on September 30, 2007, shall continue to apply with respect to the 2007 and 2008 crops of any covered commodity or peanuts.

**SEC. 1604. ADJUSTED GROSS INCOME LIMITATION.**

(a) IN GENERAL.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a(e)) is amended to read as follows:

**"SEC. 1001D. ADJUSTED GROSS INCOME LIMITATION.**

"(a) DEFINITIONS.—

"(1) IN GENERAL.—In this section:

"(A) AVERAGE ADJUSTED GROSS INCOME.—The term 'average adjusted gross income', with respect to a person or legal entity, means the average of the adjusted gross income or comparable measure of the person or legal entity over the 3 taxable years preceding the most immediately preceding complete taxable year, as determined by the Secretary.

"(B) AVERAGE ADJUSTED GROSS FARM INCOME.—The term 'average adjusted gross farm income', with respect to a person or legal entity, means the average of the portion of adjusted gross income of the person or legal entity that is attributable to activities related to farming, ranching, or forestry for the 3 taxable years described in subparagraph (A), as determined by the Secretary in accordance with subsection (c).

"(C) AVERAGE ADJUSTED GROSS NONFARM INCOME.—The term 'average adjusted gross nonfarm income', with respect to a person or legal entity, means the difference between—

"(i) the average adjusted gross income of the person or legal entity; and

"(ii) the average adjusted gross farm income of the person or legal entity.

"(2) SPECIAL RULES FOR CERTAIN PERSONS AND LEGAL ENTITIES.—In the case of a legal entity that is not required to file a Federal income tax return or a person or legal entity that did not have taxable income in 1 or more of the taxable years used to determine the average under subparagraph (A) or (B) of paragraph (1), the Secretary shall provide, by regulation, a method for determining the average adjusted gross income, the average adjusted gross farm income, and the average adjusted gross nonfarm income of the person or legal entity for purposes of this section.

"(3) ALLOCATION OF INCOME.—On the request of any person filing a joint tax return, the Secretary shall provide for the allocation of average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income among the persons filing the return if—

"(A) the person provides a certified statement by a certified public accountant or attorney that specifies the method by which the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income would have been declared and reported had the persons filed 2 separate returns; and

"(B) the Secretary determines that the method described in the statement is consistent with the information supporting the filed joint tax return.

"(b) LIMITATIONS.—

"(1) COMMODITY PROGRAMS.—

"(A) NONFARM LIMITATION.—Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive any benefit described in subparagraph (C) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds $500,000.

"(B) FARM LIMITATION.—Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive a direct payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 during a crop year, if the average adjusted gross farm income of the person or legal entity exceeds $750,000.

"(C) COVERED BENEFITS.—Subparagraph (A) applies with respect to the following: Applicability.

"(i) A direct payment or counter-cyclical payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 or an average crop revenue election payment under subtitle A of title I of that Act.

"(ii) A marketing loan gain or loan deficiency payment under subtitle B or C of title I of the Food, Conservation, and Energy Act of 2008.

"(iii) A payment or benefit under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(iv) A payment or benefit under section 1506 of the Food, Conservation, and Energy Act of 2008.

"(v) A payment or benefit under title IX of the Trade Act of 1974 or subtitle B of the Federal Crop Insurance Act.

"(2) CONSERVATION PROGRAMS.—

"(A) LIMITS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, except as provided in clause (ii), a person or legal entity shall not be eligible to receive any benefit described in subparagraph (B) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds $1,000,000, unless not less than 66.66 percent of the average adjusted gross income

of the person or legal entity is average adjusted gross farm income.

Waiver authority.

"(ii) EXCEPTION.—The Secretary may waive the limitation established under clause (i) on a case-by-case basis if the Secretary determines that environmentally sensitive land of special significance would be protected.

Applicability.

"(B) COVERED BENEFITS.—Subparagraph (A) applies with respect to the following:

"(i) A payment or benefit under title XII of this Act.

"(ii) A payment or benefit under title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 223) or title II of the Food, Conservation, and Energy Act of 2008.

"(iii) A payment or benefit under section 524(b) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)).

"(c) INCOME DETERMINATION.—

"(1) IN GENERAL.—In determining the average adjusted gross farm income of a person or legal entity, the Secretary shall include income or benefits derived from or related to—

"(A) the production of crops, including specialty crops (as defined in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465)) and unfinished raw forestry products;

"(B) the production of livestock (including cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry, fish, and other aquacultural products used for food, honeybees, and other animals designated by the Secretary) and products produced by, or derived from, livestock;

"(C) the production of farm-based renewable energy (as defined in section 9001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101));

"(D) the sale, including the sale of easements and development rights, of farm, ranch, or forestry land, water or hunting rights, or environmental benefits;

"(E) the rental or lease of land or equipment used for farming, ranching, or forestry operations, including water or hunting rights;

"(F) the processing (including packing), storing (including shedding), and transporting of farm, ranch, and forestry commodities, including renewable energy;

"(G) the feeding, rearing, or finishing of livestock;

"(H) the sale of land that has been used for agriculture;

"(I) payments or other benefits received under any program authorized under title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.) or title I of the Food, Conservation, and Energy Act of 2008;

"(J) payments or other benefits received under any program authorized under title XII of this Act, title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 223), or title II of the Food, Conservation, and Energy Act of 2008;

"(K) payments or other benefits received under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333);

"(L) payments or other benefits received under title IX of the Trade Act of 1974 or subtitle B of the Federal Crop Insurance Act;

"(M) risk management practices, including benefits received under a program authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (including a catastrophic risk protection plan offered under section 508(b) of that Act (7 U.S.C. 1508(b))); and

"(N) any other activity related to farming, ranching, or forestry, as determined by the Secretary.

"(2) INCOME DERIVED FROM FARMING, RANCHING, OR FORESTRY.—In determining the average adjusted gross farm income of a person or legal entity, in addition to the inclusions described in paragraph (1), the Secretary shall include any income reported on the Schedule F or other schedule used by the person or legal entity to report income from farming, ranching, or forestry operations to the Internal Revenue Service, to the extent such income is not already included under paragraph (1).

"(3) SPECIAL RULE.—If not less than 66.66 percent of the average adjusted gross income of a person or legal entity is derived from farming, ranching, or forestry operations described in paragraphs (1) and (2), in determining the average adjusted gross farm income of the person or legal entity, the Secretary shall also include—

"(A) the sale of equipment to conduct farm, ranch, or forestry operations; and

"(B) the provision of production inputs and services to farmers, ranchers, foresters, and farm operations.

"(d) ENFORCEMENT.—

"(1) IN GENERAL.—To comply with subsection (b), at least once every 3 years a person or legal entity shall provide to the Secretary— Deadline.

"(A) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity does not exceed the applicable limitation specified in that subsection; or Certification.

"(B) information and documentation regarding the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity through other procedures established by the Secretary.

"(2) DENIAL OF PROGRAM BENEFITS.—If the Secretary determines that a person or legal entity has failed to comply with this section, the Secretary shall deny the issuance of applicable payments and benefits specified in paragraphs (1)(C) and (2)(B) of subsection (b) to the person or legal entity, under similar terms and conditions as described in section 1001B.

"(3) AUDIT.—The Secretary shall establish statistically valid procedures under which the Secretary shall conduct targeted audits of such persons or legal entities as the Secretary determines are most likely to exceed the limitations under subsection (b). Procedures.

"(e) COMMENSURATE REDUCTION.—In the case of a payment or benefit described in paragraphs (1)(C) and (2)(B) of subsection

(b) made in a crop, program, or fiscal year, as appropriate, to an entity, general partnership, or joint venture, the amount of the payment or benefit shall be reduced by an amount that is commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each person who has an average adjusted gross income, average adjusted gross farm income, or average adjusted gross nonfarm income in excess of the applicable limitation specified in subsection (b).

"(f) EFFECTIVE PERIOD.—This section shall apply only during the 2009 through 2012 crop, program, or fiscal years, as appropriate.".

Applicability.
7 USC 1308–3a note.

(b) TRANSITION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crop, fiscal, or program year, as appropriate, for each program described in paragraphs (1)(C) and (2)(B) of subsection (b) of that section (as amended by subsection (a)).

7 USC 8783.

**SEC. 1605. AVAILABILITY OF QUALITY INCENTIVE PAYMENTS FOR COVERED OILSEED PRODUCERS.**

(a) INCENTIVE PAYMENTS REQUIRED.—Subject to subsection (b) and the availability of appropriations under subsection (h), the Secretary shall use funds made available under subsection (h) to provide quality incentive payments for the production of oilseeds with specialized traits that enhance human health, as determined by the Secretary.

(b) COVERED OILSEEDS.—The Secretary shall make payments under this section only for the production of an oilseed variety that has, as determined by the Secretary—

(1) been demonstrated to improve the health profile of the oilseed for use in human consumption by—

(A) reducing or eliminating the need to partially hydrogenate the oil derived from the oilseed for use in human consumption; or

(B) adopting new technology traits; and

(2) 1 or more impediments to commercialization.

(c) REQUEST FOR PROPOSALS.—

(1) ISSUANCE.—If funds are made available to carry out this section for a crop year, the Secretary shall issue a request for proposals for payments under this section.

(2) MULTIYEAR PROPOSALS.—A proponent may submit a multiyear proposal for payments under this section.

(3) CONTENT OF PROPOSALS.—A proposal for payments under this section shall include a description of—

(A) how use of the oilseed enhances human health;

(B) the impediments to commercial use of the oilseed;

(C) each oilseed variety described in subsection (b) and the value of the oilseed variety as a matter of public policy;

(D) a range for the base price and premiums per bushel or hundredweight to be paid to producers;

(E) a per bushel or hundredweight amount of incentive payments requested for each year under this section that does not exceed ⅓ of the total premium offered for any year;

(F) the period of time, not to exceed 4 years, during which incentive payments are to be provided to producers; and

(G) the targeted total quantity of production and estimated acres needed to produce the targeted quantity for each year under this section.

(d) CONTRACTS FOR PRODUCTION.—

(1) IN GENERAL.—The Secretary shall approve successful proposals submitted under subsection (c) on a timely basis.

(2) TIMING OF PAYMENTS.—The Secretary shall make payments to producers under this section after the Secretary receives documentation that the premium required under a contract has been paid to covered producers.

(e) ADMINISTRATION.—

(1) IN GENERAL.—If funding provided for a crop year is not fully allocated under the initial request for proposals under subsection (c), the Secretary shall issue additional requests for proposals for subsequent crop years under this section.

(2) PRORATED PAYMENTS.—If funding provided for a crop year is less than the amount otherwise approved by the Secretary or for which approval is sought, the Secretary shall prorate the payments or approvals in a manner determined by the Secretary so that the total payments do not exceed the funding level.

(f) PROPRIETARY INFORMATION.—The Secretary shall protect proprietary information provided to the Secretary for the purpose of administering this section.

(g) PROGRAM COMPLIANCE AND PENALTIES.—

(1) GUARANTEE.—The proponent, if approved, shall be required to guarantee that the oilseed on which a payment is made by the Secretary under this section is used for human consumption as described in the proposal, as approved by the Secretary.

(2) NONCOMPLIANCE.—If oilseeds on which a payment is made by the Secretary under this section are not actually used for the purpose the payment is made, the proponent shall be required to pay to the Secretary an amount equal to, as determined by the Secretary—

(A) in the case of an inadvertent failure, twice the amount of the payment made by the Secretary under this section to the producer of the oilseeds; and

(B) in any other case, up to twice the full value of the oilseeds involved.

(3) DOCUMENTATION.—The Secretary may require such assurances and documentation as may be needed to enforce the guarantee.

(4) ADDITIONAL PENALTIES.—

(A) IN GENERAL.—In addition to payments required under paragraph (2), the Secretary may impose penalties on additional persons that use oilseeds the use of which is restricted under this section for a purpose other than the intended use.

(B) AMOUNT.—The amount of a penalty under this paragraph shall—

(i) be in an amount determined appropriated by the Secretary; but

(ii) not to exceed twice the full value of the oilseeds.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2012.

**SEC. 1606. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.**

Section 164 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7284) is amended by striking "and title I of the Farm Security and Rural Investment Act of 2002" each place it appears and inserting "title I of the Farm Security and Rural Investment Act of 2002, and title I of the Food, Conservation, and Energy Act of 2008".

**SEC. 1607. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.**

Section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286) is amended—

(1) by striking "and subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002" each place it appears and inserting ", title I of the Farm Security and Rural Investment Act of 2002, and title I of the Food, Conservation, and Energy Act of 2008"; and

(2) in subsection (c), by adding at the end the following:

"(3) TERMINATION OF AUTHORITY.—The authority to carry out paragraph (1) terminates effective ending with the 2009 crop year.".

7 USC 8784.

**SEC. 1608. ASSIGNMENT OF PAYMENTS.**

Applicability.

(a) IN GENERAL.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to payments made under this title.

(b) NOTICE.—The producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this section.

7 USC 8785.

**SEC. 1609. TRACKING OF BENEFITS.**

As soon as practicable after the date of enactment of this Act, the Secretary may track the benefits provided, directly or indirectly, to individuals and entities under titles I and II and the amendments made by those titles.

**SEC. 1610. GOVERNMENT PUBLICATION OF COTTON PRICE FORECASTS.**

Section 15 of the Agricultural Marketing Act (12 U.S.C. 1141j) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) through (g) as subsections (d) through (f), respectively.

7 USC 8786.

**SEC. 1611. PREVENTION OF DECEASED INDIVIDUALS RECEIVING PAYMENTS UNDER FARM COMMODITY PROGRAMS.**

Deadline.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that—

(1) describe the circumstances under which, in order to allow for the settlement of estates and for related purposes, payments may be issued in the name of a deceased individual; and

(2) preclude the issuance of payments to, and on behalf of, deceased individuals that were not eligible for the payments.

(b) COORDINATION.—At least twice each year, the Secretary shall reconcile the social security numbers of all individuals who receive payments under this title, whether directly or indirectly, with the Social Security Administration to determine if the individuals are alive.

**SEC. 1612. HARD WHITE WHEAT DEVELOPMENT PROGRAM.** 7 USC 8787.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE HARD WHITE WHEAT SEED.—The term "eligible hard white wheat seed" means hard white wheat seed that, as determined by the Secretary, is—

(A) certified;

(B) of a variety that is suitable for the State in which the seed will be planted;

(C) rated at least superior with respect to quality; and

(D) specifically approved under a seed establishment program established by the State Department of Agriculture and the State Wheat Commission of the 1 or more States in which the seed will be planted.

(2) PROGRAM.—The term "program" means the hard white wheat development program established under subsection (b)(1).

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, in consultation with the State Departments of Agriculture and the State Wheat Commissions of the States in regions in which hard white wheat is produced, as determined by the Secretary.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a hard white wheat development program in accordance with paragraph (2) to promote the establishment of hard white wheat as a viable market class of wheat in the United States by encouraging production of at least 240,000,000 bushels of hard white wheat by 2012.

(2) PAYMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and subsection (c), if funds are made available for any of the 2009 through 2012 crops of hard white wheat, the Secretary shall make available incentive payments to producers of those crops.

(B) ACREAGE LIMITATION.—The Secretary shall carry out subparagraph (A) subject to a regional limitation determined by the Secretary on the number of acres for which payments may be received that takes into account planting history and potential planting, but does not exceed a total of 2,900,000 acres or the equivalent volume of production based on a yield of 50 bushels per acre.

(C) PAYMENT LIMITATIONS.—Payments to producers on a farm described in subparagraph (A) shall be—

(i) in an amount that is not less than $0.20 per bushel; and

(ii) in an amount that is not less than $2.00 per acre for planting eligible hard white wheat seed.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for the period of fiscal years 2009 through 2012.

7 USC 8788.

**SEC. 1613. DURUM WHEAT QUALITY PROGRAM.**

(a) IN GENERAL.—Subject to the availability of funds under subsection (c), the Secretary shall provide compensation to producers of durum wheat in an amount not to exceed 50 percent of the actual cost of fungicides applied to a crop of durum wheat of the producers to control Fusarium head blight (wheat scab) on acres certified to have been planted to Durum wheat in a crop year.

(b) INSUFFICIENT FUNDS.—If the total amount of funds appropriated for a fiscal year under subsection (c) are insufficient to fulfill all eligible requests for compensation under this section, the Secretary shall prorate the compensation payments in a manner determined by the Secretary to be equitable.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2009 through 2012.

7 USC 8789.

**SEC. 1614. STORAGE FACILITY LOANS.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall establish a storage facility loan program to provide funds for producers of grains, oilseeds, pulse crops, hay, renewable biomass, and other storable commodities (other than sugar), as determined by the Secretary, to construct or upgrade storage and handling facilities for the commodities.

(b) ELIGIBLE PRODUCERS.—A storage facility loan under this section shall be made available to any producer described in subsection (a) that, as determined by the Secretary—

(1) has a satisfactory credit history;

(2) has a need for increased storage capacity; and

(3) demonstrates an ability to repay the loan.

(c) TERM OF LOANS.—A storage facility loan under this section shall have a maximum term of 12 years.

(d) LOAN AMOUNT.—The maximum principal amount of a storage facility loan under this section shall be $500,000.

(e) LOAN DISBURSEMENTS.—The Secretary shall provide for 1 partial disbursement of loan principal and 1 final disbursement of loan principal, as determined to be appropriate and subject to acceptable documentation, to facilitate the purchase and construction of eligible facilities.

(f) LOAN SECURITY.—Approval of a storage facility loan under this section shall—

(1) require the borrower to provide loan security to the Secretary, in the form of—

(A) a lien on the real estate parcel on which the storage facility is located; or

(B) such other security as is acceptable to the Secretary;

(2) under such rules and regulations as the Secretary may prescribe, not require a severance agreement from the holder of any prior lien on the real estate parcel on which the storage facility is located, if the borrower—

(A) agrees to increase the down payment on the storage facility by an amount determined appropriate by the Secretary; or

(B) provides other security acceptable to the Secretary; and

(3) allow a borrower, upon the approval of the Secretary, to define a subparcel of real estate as security for the storage facility loan if the subparcel is—

(A) of adequate size and value to adequately secure the loan; and

(B) not subject to any other liens or mortgages that are superior to the lien interest of the Commodity Credit Corporation.

**SEC. 1615. STATE, COUNTY, AND AREA COMMITTEES.**

Section 8(b)(5)(B)(ii) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)(B)(ii)) is amended—

(1) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively, and indenting appropriately;

(2) in the matter preceding item (aa) (as redesignated by paragraph (1)), by striking "A committee established" and inserting the following:

"(I) IN GENERAL.—Except as provided in subclause (II), a committee established"; and

(3) by adding at the end the following:

"(II) COMBINATION OR CONSOLIDATION OF AREAS.—A committee established by combining or consolidating 2 or more county or area committees shall consist of not fewer than 3 nor more than 11 members that—

"(aa) are fairly representative of the agricultural producers within the area covered by the county, area, or local committee; and

"(bb) are elected by the agricultural producers that participate or cooperate in programs administered within the area under the jurisdiction of the county, area, or local committee.

"(III) REPRESENTATION OF SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.—The Secretary shall develop procedures to maintain representation of socially disadvantaged farmers and ranchers on combined or consolidated committees. Procedures.

"(IV) ELIGIBILITY FOR MEMBERSHIP.—Notwithstanding any other producer eligibility requirements for service on county or area committees, if a county or area is consolidated or combined, a producer shall be eligible to serve only as a member of the county or area committee that the producer elects to administer the farm records of the producer.".

**SEC. 1616. PROHIBITION ON CHARGING CERTAIN FEES.**

Public Law 108–470 (7 U.S.C. 7416a) is amended—

(1) in subsection (a), by striking "may" and inserting "shall"; and

(2) by adding at the end the following:

"(c) PROHIBITION ON CHARGING CERTAIN FEES.—The Secretary may not charge any fees or related costs for the collection of commodity assessments pursuant to this Act.".

7 USC 8790.

**SEC. 1617. SIGNATURE AUTHORITY.**

(a) IN GENERAL.—In carrying out this title and title II and amendments made by those titles, if the Secretary approves a document, the Secretary shall not subsequently determine the document is inadequate or invalid because of the lack of authority of any person signing the document on behalf of the applicant or any other individual, entity, general partnership, or joint venture, or the documents relied upon were determined inadequate or invalid, unless the person signing the program document knowingly and willfully falsified the evidence of signature authority or a signature.

(b) AFFIRMATION.—

(1) IN GENERAL.—Nothing in this section prohibits the Secretary from asking a proper party to affirm any document that otherwise would be considered approved under subsection (a).

(2) NO RETROACTIVE EFFECT.—A denial of benefits based on a lack of affirmation under paragraph (1) shall not be retroactive with respect to third-party producers who were not the subject of the erroneous representation of authority, if the third-party producers—

(A) relied on the prior approval by the Secretary of the documents in good faith; and

(B) substantively complied with all program requirements

**SEC. 1618. MODERNIZATION OF FARM SERVICE AGENCY.**

Deadline. Reports.

Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate a report prepared by a third party that describes—

(1) the data processing and information technology challenges experienced in local offices of the Farm Service Agency;

(2) the impact of those challenges on service to producers, on efficiency of personnel, and on implementation of this Act;

(3) the need for information technology system upgrades of the Farm Service Agency relative to other agencies of the Department of Agriculture;

(4) the detailed plan needed to fulfill the needs of the Department that are identified in paragraph (3), including hardware, software, and infrastructure requirements;

(5) the estimated cost and timeframe for long-term modernization and stabilization of Farm Service Agency information technology systems;

(6) the benefits associated with such modernization and stabilization; and

(7) an evaluation of the existence of appropriate oversight within the Department to ensure that funds needed for systems upgrades can be appropriately managed.

7 USC 8791.

**SEC. 1619. INFORMATION GATHERING.**

(a) GEOSPATIAL SYSTEMS.—The Secretary shall ensure that all the geospatial data of the agencies of the Department of Agriculture are portable and standardized.

(b) LIMITATION ON DISCLOSURES.—

(1) DEFINITION OF AGRICULTURAL OPERATION.—In this subsection, the term "agricultural operation" includes the production and marketing of agricultural commodities and livestock.

(2) PROHIBITION.—Except as provided in paragraphs (3) and (4), the Secretary, any officer or employee of the Department of Agriculture, or any contractor or cooperator of the Department, shall not disclose—

(A) information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department; or

(B) geospatial information otherwise maintained by the Secretary about agricultural land or operations for which information described in subparagraph (A) is provided.

(3) AUTHORIZED DISCLOSURES.—

(A) LIMITED RELEASE OF INFORMATION.—If the Secretary determines that the information described in paragraph (2) will not be subsequently disclosed except in accordance with paragraph (4), the Secretary may release or disclose the information to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in any Department program—

(i) when providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practices; or

(ii) when responding to a disease or pest threat to agricultural operations, if the Secretary determines that a threat to agricultural operations exists and the disclosure of information to a person or cooperating government entity is necessary to assist the Secretary in responding to the disease or pest threat as authorized by law.

(4) EXCEPTIONS.—Nothing in this subsection affects—

(A) the disclosure of payment information (including payment information and the names and addresses of recipients of payments) under any Department program that is otherwise authorized by law;

(B) the disclosure of information described in paragraph (2) if the information has been transformed into a statistical or aggregate form without naming any—

(i) individual owner, operator, or producer; or

(ii) specific data gathering site; or

(C) the disclosure of information described in paragraph (2) pursuant to the consent of the agricultural producer or owner of agricultural land.

(5) CONDITION OF OTHER PROGRAMS.—The participation of the agricultural producer or owner of agricultural land in, or receipt of any benefit under, any program administered by the Secretary may not be conditioned on the consent of the agricultural producer or owner of agricultural land under paragraph (4)(C).

(6) WAIVER OF PRIVILEGE OR PROTECTION.—The disclosure of information under paragraph (2) shall not constitute a waiver of any applicable privilege or protection under Federal law, including trade secret protection.

**SEC. 1620. LEASING OF OFFICE SPACE.**

Deadline. Reports.

Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate a report that describes—

(1) the costs and time associated with complying with leasing procedures of the General Services Administration relative to the previous independent leasing procedures of the Department of Agriculture;

(2) the additional staffing needs associated with complying with those procedures; and

(3) the value added to the leasing process and the ability of the Department to secure best-value leases by complying with the General Services Administration leasing procedures.

7 USC 8792.

**SEC. 1621. GEOGRAPHICALLY DISADVANTAGED FARMERS AND RANCHERS.**

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL COMMODITY.—The term "agricultural commodity" has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) GEOGRAPHICALLY DISADVANTAGED FARMER OR RANCHER.—The term "geographically disadvantaged farmer or rancher" has the meaning given the term in section 10906(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2204 note; Public Law 107–171).

(b) AUTHORIZATION.—Subject to the availability of funds under subsection (d), the Secretary may provide geographically disadvantaged farmers or ranchers direct reimbursement payments for activities described in subsection (c).

(c) TRANSPORTATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may provide direct reimbursement payments to a geographically disadvantaged farmer or rancher to transport an agricultural commodity, or inputs used to produce an agricultural commodity, during a fiscal year.

(2) PROOF OF ELIGIBILITY.—To be eligible to receive assistance under paragraph (1), a geographically disadvantaged farmer or rancher shall demonstrate to the Secretary that transportation of the agricultural commodity or inputs occurred over a distance of more than 30 miles, as determined by the Secretary.

(3) AMOUNT.—

(A) IN GENERAL.—Subject to paragraph (2), the amount of direct reimbursement payments made to a geographically disadvantaged farmer or rancher under this section for a fiscal year shall equal the product obtained by multiplying—

(i) the amount of costs incurred by the geographically disadvantaged farmer or rancher for transportation of the agricultural commodity or inputs during the fiscal year; and

(ii)(I) the percentage of the allowance for that fiscal year under section 5941 of title 5, United States Code,

for Federal employees stationed in Alaska and Hawaii; or

(II) in the case of an insular area (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)), a comparable percentage of the allowance for the fiscal year, as determined by the Secretary.

(B) LIMITATION.—The total amount of direct reimbursement payments provided by the Secretary under this section shall not exceed $15,000,000 for a fiscal year.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2012.

**SEC. 1622. IMPLEMENTATION.**

7 USC 8793.

The Secretary shall make available to the Farm Service Agency to carry out this title $50,000,000.

**SEC. 1623. REPEALS.**

(a) COMMISSION ON APPLICATION OF PAYMENT LIMITATIONS.—Section 1605 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7993) is repealed.

(b) RENEWED AVAILABILITY OF MARKET LOSS ASSISTANCE AND CERTAIN EMERGENCY ASSISTANCE TO PERSONS THAT FAILED TO RECEIVE ASSISTANCE UNDER EARLIER AUTHORITIES.—Section 1617 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8000) is repealed.

# TITLE II—CONSERVATION

## Subtitle A—Definitions and Highly Erodible Land and Wetland Conservation

**SEC. 2001. DEFINITIONS RELATING TO CONSERVATION TITLE OF FOOD SECURITY ACT OF 1985.**

(a) BEGINNING FARMER OR RANCHER.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

(1) by redesignating paragraphs (2) through (6), (7) through (11), (12), (13) through (15), (16), (17), and (18) as paragraphs (3) through (7), (9) through (13), (15), (20) through (22), (24), (26), and (27), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a)(8) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(8)).".

(b) FARM.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (7), as redesignated by subsection (a)(1), the following new paragraph:

"(8) FARM.—The term 'farm' means a farm that—

"(A) is under the general control of one operator;

"(B) has one or more owners;

"(C) consists of one or more tracts of land, whether or not contiguous;

"(D) is located within a county or region, as determined by the Secretary; and

"(E) may contain lands that are incidental to the production of perennial crops, including conserving uses, forestry, and livestock, as determined by the Secretary.".

(c) INDIAN TRIBE.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (13), as redesignated by subsection (a)(1), the following new paragraph:

"(14) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).".

(d) INTEGRATED PEST MANAGEMENT; LIVESTOCK; NONINDUSTRIAL PRIVATE FOREST LAND; PERSON AND LEGAL ENTITY.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (15), as redesignated by subsection (a)(1), the following new paragraphs:

"(16) INTEGRATED PEST MANAGEMENT.—The term 'integrated pest management' means a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.

"(17) LIVESTOCK.—The term 'livestock' means all animals raised on farms, as determined by the Secretary.

"(18) NONINDUSTRIAL PRIVATE FOREST LAND.—The term 'nonindustrial private forest land' means rural land, as determined by the Secretary, that—

"(A) has existing tree cover or is suitable for growing trees; and

"(B) is owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity that has definitive decisionmaking authority over the land.

"(19) PERSON AND LEGAL ENTITY.—For purposes of applying payment limitations under subtitle D, the terms 'person' and 'legal entity' have the meanings given those terms in section 1001(a) of this Act (7 U.S.C. 1308(a)).".

(e) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (22), as redesignated by subsection (a)(1), the following new paragraph:

"(23) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(2)).".

(f) TECHNICAL ASSISTANCE.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (24), as redesignated by subsection (a)(1), the following new paragraph:

"(25) TECHNICAL ASSISTANCE.—The term 'technical assistance' means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. The term includes the following:

"(A) Technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices.

"(B) Technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.".

**SEC. 2002. REVIEW OF GOOD FAITH DETERMINATIONS RELATED TO HIGHLY ERODIBLE LAND CONSERVATION.**

Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended by striking subsection (f) and inserting the following new subsection:

"(f) GRADUATED PENALTIES.—

"(1) INELIGIBILITY.—No person shall become ineligible under section 1211 for program loans, payments, and benefits as a result of the failure of the person to actively apply a conservation plan, if the Secretary determines that the person has acted in good faith and without an intent to violate this subtitle.

"(2) ELIGIBLE REVIEWERS.—A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—

"(A) State Executive Director, with the technical concurrence of the State Conservationist; or

"(B) district director, with the technical concurrence of the area conservationist.

"(3) PERIOD FOR IMPLEMENTATION.—A person who meets the requirements of paragraph (1) shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the conservation plan of the person.

"(4) PENALTIES.—

"(A) APPLICATION.—This paragraph applies if the Secretary determines that—

"(i) a person has failed to comply with section 1211 with respect to highly erodible cropland, and has acted in good faith and without an intent to violate section 1211; or

"(ii) the violation—

"(I) is technical and minor in nature; and

"(II) has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which the violation has occurred.

"(B) REDUCTION.—If this paragraph applies under subparagraph (A), the Secretary shall, in lieu of applying the ineligibility provisions of section 1211, reduce program benefits described in section 1211 that the producer would otherwise be eligible to receive in a crop year by an amount commensurate with the seriousness of the violation, as determined by the Secretary.

"(5) SUBSEQUENT CROP YEARS.—Any person whose benefits are reduced for any crop year under this subsection shall continue to be eligible for all of the benefits described in section

1211 for any subsequent crop year if, prior to the beginning of the subsequent crop year, the Secretary determines that the person is actively applying a conservation plan according to the schedule specified in the plan.".

**SEC. 2003. REVIEW OF GOOD FAITH DETERMINATIONS RELATED TO WETLAND CONSERVATION.**

Section 1222(h) of the Food Security Act of 1985 (16 U.S.C. 3822(h)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) ELIGIBLE REVIEWERS.—A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—

"(A) State Executive Director, with the technical concurrence of the State Conservationist; or

"(B) district director, with the technical concurrence of the area conservationist."; and

(3) in paragraph (3) (as redesignated by paragraph (1)), by inserting "be" before "actively".

# Subtitle B—Conservation Reserve Program

**SEC. 2101. EXTENSION OF CONSERVATION RESERVE PROGRAM.**

Section 1231(a) of the Food Security Act of 1985 (16 U.S.C. 3831(a)) is amended—

(1) by striking "2007 calendar year" and inserting "2012 fiscal year"; and

(2) by inserting before the period the following: "and to address issues raised by State, regional, and national conservation initiatives"; and

**SEC. 2102. LAND ELIGIBLE FOR ENROLLMENT IN CONSERVATION RESERVE.**

Section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) is amended—

(1) in paragraph (1)(B)—

(A) by striking "Farm Security and Rural Investment Act of 2002" and inserting "Food, Conservation, and Energy Act of 2008"; and

(B) by striking the period at the end and inserting a semicolon; and

(2) in paragraph (4)—

(A) in subparagraph (C), by striking "; or" and inserting a semicolon;

(B) in subparagraph (D), by striking "and" at the end and inserting "or"; and

(C) in subparagraph (E), by inserting "or" after the semicolon at the end.

**SEC. 2103. MAXIMUM ENROLLMENT OF ACREAGE IN CONSERVATION RESERVE.**

Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended—

(1) by striking "2007 calendar years" and inserting "2009 fiscal years";

(2) by striking "( 16 U.S.C." and inserting "(16 U.S.C."; and

(3) by adding at the end the following new sentence: "During fiscal years 2010, 2011, and 2012, the Secretary may maintain up to 32,000,000 acres in the conservation reserve at any 1 time.".

**SEC. 2104. DESIGNATION OF CONSERVATION PRIORITY AREAS.**

Section 1231(f) of the Food Security Act of 1985 (16 U.S.C. 3831(f)) is amended by striking "the Chesapeake Bay Region (Pennsylvania, Maryland, and Virginia)" and inserting "the Chesapeake Bay Region".

**SEC. 2105. TREATMENT OF MULTI-YEAR GRASSES AND LEGUMES.**

Subsection (g) of section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended to read as follows:

"(g) MULTI-YEAR GRASSES AND LEGUMES.—

"(1) IN GENERAL.—For purposes of this subchapter, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.

"(2) CROPPING HISTORY.—Alfalfa, when grown as part of a rotation practice, as determined by the Secretary, is an agricultural commodity subject to the cropping history criteria under subsection (b)(1)(B) for the purpose of determining whether highly erodible cropland has been planted or considered planted for 4 of the 6 years referred to in such subsection.".

**SEC. 2106. REVISED PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.**

(a) REVISED PROGRAM.—

(1) IN GENERAL.—Title XII of the Food Security Act of 1985 is amended by inserting after section 1231 (16 U.S.C. 3831) the following new section:

**"SEC. 1231B. PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.** 16 USC 3831b.

"(a) PROGRAM REQUIRED.—

"(1) IN GENERAL.—During the 2008 through 2012 fiscal years, the Secretary shall carry out a program in each State under which the Secretary shall enroll eligible acreage described in subsection (b).

"(2) PARTICIPATION AMONG STATES.—The Secretary shall ensure, to the maximum extent practicable, that owners and operators in each State have an equitable opportunity to participate in the program established under this section.

"(b) ELIGIBLE ACREAGE.—

"(1) WETLAND AND RELATED LAND.—Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, land—

"(A) that is wetland (including a converted wetland described in section 1222(b)(1)(A)) that had a cropping history during at least 3 of the immediately preceding 10 crop years;

"(B) on which a constructed wetland is to be developed that will receive flow from a row crop agriculture drainage

system and is designed to provide nitrogen removal in addition to other wetland functions;

"(C) that was devoted to commercial pond-raised aquaculture in any year during the period of calendar years 2002 through 2007; or

"(D) that, after January 1, 1990, and before December 31, 2002, was—

"(i) cropped during at least 3 of 10 crop years; and

"(ii) subject to the natural overflow of a prairie wetland.

"(2) BUFFER ACREAGE.—Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, buffer acreage that—

"(A) with respect to land described in subparagraph (A), (B), or (C) of paragraph (1)—

"(i) is contiguous to such land

"(ii) is used to protect such land; and

"(iii) is of such width as the Secretary determines is necessary to protect such land, taking into consideration and accommodating the farming practices (including the straightening of boundaries to accommodate machinery) used with respect to the cropland that surrounds such land; and

"(B) with respect to land described in subparagraph (D) of paragraph (1), enhances a wildlife benefit to the extent practicable in terms of upland to wetland ratios, as determined by the Secretary.

"(c) PROGRAM LIMITATIONS.—

"(1) ACREAGE LIMITATION.—The Secretary may enroll in the conservation reserve, pursuant to the program established under this section, not more than—

"(A) 100,000 acres in any State; and

"(B) a total of 1,000,000 acres.

"(2) RELATIONSHIP TO MAXIMUM ENROLLMENT.—Subject to paragraph (3), any acreage enrolled in the conservation reserve under this section shall be considered acres maintained in the conservation reserve.

"(3) RELATIONSHIP TO OTHER ENROLLED ACREAGE.—Acreage enrolled in the conservation reserve under this section shall not affect for any fiscal year the quantity of—

"(A) acreage enrolled to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109); or

"(B) acreage enrolled into the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965).

"(4) REVIEW; POTENTIAL INCREASE IN ENROLLMENT ACREAGE.—The Secretary shall conduct a review of the program established under this section with respect to each State that has enrolled land in the conservation reserve pursuant to the program. As a result of the review, the Secretary may increase the number of acres that may be enrolled in a State under the program to not more than 200,000 acres, notwithstanding paragraph (1)(A).

"(d) OWNER OR OPERATOR ENROLLMENT LIMITATIONS.—

"(1) WETLAND AND RELATED LAND.—

"(A) WETLANDS AND CONSTRUCTED WETLANDS.—The maximum size of any land described in subparagraph (A) or (B) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 40 contiguous acres.

"(B) FLOODED FARMLAND.—The maximum size of any land described in subparagraph (D) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 20 contiguous acres.

"(C) COVERAGE.—All acres described in subparagraph (A) or (B), including acres that are ineligible for payment, shall be covered by the conservation contract.

"(2) BUFFER ACREAGE.—The maximum size of any buffer acreage described in subsection (b)(2) that an owner or operator may enroll in the conservation reserve under this section shall be determined by the Secretary in consultation with the State Technical Committee.

"(3) TRACTS.—Except for land described in subsection (b)(1)(C) and buffer acreage related to such land, the maximum size of any eligible acreage described in subsection (b)(1) in a tract of an owner or operator enrolled in the conservation reserve under this section shall be 40 acres.

"(e) DUTIES OF OWNERS AND OPERATORS.—During the term of a contract entered into under the program established under this section, an owner or operator shall agree—

"(1) to restore the hydrology of the wetland within the eligible acreage to the maximum extent practicable, as determined by the Secretary;

"(2) to establish vegetative cover (which may include emerging vegetation in water and bottomland hardwoods, cypress, and other appropriate tree species) on the eligible acreage, as determined by the Secretary;

"(3) to a general prohibition of commercial use of the enrolled land; and

"(4) to carry out other duties described in section 1232.

"(f) DUTIES OF THE SECRETARY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), in return for a contract entered into under this section, the Secretary shall—

"(A) make payments to the owner or operator based on rental rates for cropland; and

"(B) provide assistance to the owner or operator in accordance with sections 1233 and 1234.

"(2) CONTRACT OFFERS AND PAYMENTS.—The Secretary shall use the method of determination described in section 1234(c)(2)(B) to determine the acceptability of contract offers and the amount of rental payments under this section.

"(3) INCENTIVES.—The amounts payable to owners and operators in the form of rental payments under contracts entered into under this section shall reflect incentives that are provided to owners and operators to enroll filterstrips in the conservation reserve under section 1234.".

(2) REPEAL OF SUPERCEDED PROGRAM.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(b) CONFORMING CHANGES TO EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—Subsection (k) of section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) by striking "(k) EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—" and inserting the following:

16 USC 3831a.

**"SEC. 1231A. EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.";**

(2) by striking "subsection" each place it appears (other than paragraph (3)(C)(ii)) and inserting "section";

(3) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c), respectively;

(4) in subsection (a), as so redesignated, by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(5) in subsection (c), as so redesignated—

(A) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9), respectively;

(B) in paragraph (1), as so redesignated, by striking "subparagraph (B)" and "subparagraph (G)" and inserting "paragraph (2)" and "paragraph (7)", respectively;

(C) in paragraph (3), as so redesignated—

(i) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(ii) by striking "subsection (d)" and inserting "section 1231(d)";

(D) in paragraph (4), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(E) in paragraph (5), as so redesignated—

(i) by redesignating clauses (i) through (v) as subparagraphs (A) through (E), respectively, and subclauses (I) and (II) as clauses (i) and (ii), respectively;

(ii) in subparagraph (B), as so redesignated, by striking "clause (i)(I)" and inserting "subparagraph (A)(i)"; and

(iii) in subparagraph (C), as so redesignated, by striking "clause (i)(II)" and inserting "subparagraph (A)(ii)"; and

(F) in paragraph (9), as so redesignated, by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively, and subclauses (I) through (III) as clauses (i) through (iii), respectively.

**SEC. 2107. ADDITIONAL DUTY OF PARTICIPANTS UNDER CONSERVATION RESERVE CONTRACTS.**

Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended—

(1) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) to undertake management on the land as needed throughout the term of the contract to implement the conservation plan;".

**SEC. 2108. MANAGED HAYING, GRAZING, OR OTHER COMMERCIAL USE OF FORAGE ON ENROLLED LAND AND INSTALLATION OF WIND TURBINES.**

(a) GENERAL PROHIBITION; EXCEPTIONS.—Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended by striking paragraph (8), as redesignated by section 2107, and inserting the following new paragraph:

"(8) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that the Secretary may permit, consistent with the conservation of soil, water quality, and wildlife habitat (including habitat during nesting seasons for birds in the area)—

"(A) managed harvesting (including the managed harvesting of biomass), except that in permitting managed harvesting, the Secretary, in coordination with the State technical committee—

"(i) shall develop appropriate vegetation management requirements; and

"(ii) shall identify periods during which managed harvesting may be conducted;

"(B) harvesting and grazing or other commercial use of the forage on the land that is subject to the contract in response to a drought or other emergency;

"(C) routine grazing or prescribed grazing for the control of invasive species, except that in permitting such routine grazing or prescribed grazing, the Secretary, in coordination with the State technical committee—

"(i) shall develop appropriate vegetation management requirements and stocking rates for the land that are suitable for continued routine grazing; and

"(ii) shall establish the frequency during which routine grazing may be conducted, taking into consideration regional differences such as—

"(I) climate, soil type, and natural resources;

"(II) the number of years that should be required between routine grazing activities; and

"(III) how often during a year in which routine grazing is permitted that routine grazing should be allowed to occur; and

"(D) the installation of wind turbines, except that in permitting the installation of wind turbines, the Secretary shall determine the number and location of wind turbines that may be installed, taking into account—

"(i) the location, size, and other physical characteristics of the land;

"(ii) the extent to which the land contains wildlife and wildlife habitat; and

"(iii) the purposes of the conservation reserve program under this subchapter;".

(b) RENTAL PAYMENT REDUCTION.—Section 1232 of the Food Security Act of 1985 (16 U.S.C. 3832) is amended by adding at the end the following new subsection:

"(d) RENTAL PAYMENT REDUCTION FOR CERTAIN AUTHORIZED USES OF ENROLLED LAND.—In the case of an authorized activity

under subsection (a)(8) on land that is subject to a contract under this subchapter, the Secretary shall reduce the rental payment otherwise payable under the contract by an amount commensurate with the economic value of the authorized activity.".

**SEC. 2109. COST SHARING PAYMENTS RELATING TO TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.**

Section 1234(b) of the Food Security Act of 1985 (16 U.S.C. 3834(b)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3) TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.—

"(A) APPLICABILITY.—This paragraph applies to—

"(i) land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract entered into under this subchapter after November 28, 1990;

"(ii) land converted to such production under section 1235A; and

"(iii) land on which an owner or operator agrees to conduct thinning authorized by section 1232(a)(9), if the thinning is necessary to improve the condition of resources on the land.

"(B) PAYMENTS.—

"(i) PERCENTAGE.—In making cost share payments to an owner or operator of land described in subparagraph (A), the Secretary shall pay 50 percent of the reasonable and necessary costs incurred by the owner or operator for maintaining trees or shrubs, including the cost of replanting (if the trees or shrubs were lost due to conditions beyond the control of the owner or operator) or thinning.

"(ii) DURATION.—The Secretary shall make payments as described in clause (i) for a period of not less than 2 years, but not more than 4 years, beginning on the date of—

"(I) the planting of the trees or shrubs; or

"(II) the thinning of existing stands to improve the condition of resources on the land.".

**SEC. 2110. EVALUATION AND ACCEPTANCE OF CONTRACT OFFERS, ANNUAL RENTAL PAYMENTS, AND PAYMENT LIMITATIONS.**

(a) EVALUATION AND ACCEPTANCE OF CONTRACT OFFERS.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3) ACCEPTANCE OF CONTRACT OFFERS.—

"(A) EVALUATION OF OFFERS.—In determining the acceptability of contract offers, the Secretary may take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, or wildlife habitat or provide other environmental benefits.

"(B) ESTABLISHMENT OF DIFFERENT CRITERIA IN VARIOUS STATES AND REGIONS.—The Secretary may establish

different criteria for determining the acceptability of contract offers in various States and regions of the United States based on the extent to which water quality or wildlife habitat may be improved or erosion may be abated.

"(C) LOCAL PREFERENCE.—In determining the acceptability of contract offers for new enrollments, the Secretary shall accept, to the maximum extent practicable, an offer from an owner or operator that is a resident of the county in which the land is located or of a contiguous county if, as determined by the Secretary, the land would provide at least equivalent conservation benefits to land under competing offers.".

(b) ANNUAL SURVEY OF DRYLAND AND IRRIGATED CASH RENTAL RATES.—

(1) ANNUAL ESTIMATES REQUIRED.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended by adding at the end the following new paragraph:

"(5) RENTAL RATES.—

"(A) ANNUAL ESTIMATES.—The Secretary (acting through the National Agricultural Statistics Service) shall conduct an annual survey of per acre estimates of county average market dryland and irrigated cash rental rates for cropland and pastureland in all counties or equivalent subdivisions within each State that have 20,000 acres or more of cropland and pastureland.

"(B) PUBLIC AVAILABILITY OF ESTIMATES.—The estimates derived from the annual survey conducted under subparagraph (A) shall be maintained on a website of the Department of Agriculture for use by the general public.". Web site.

(2) FIRST SURVEY.—The first survey required by paragraph (5) of section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)), as added by subsection (a), shall be conducted not later than 1 year after the date of enactment of this Act. Deadline. 16 USC 3834 note.

(c) PAYMENT LIMITATIONS.—Section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended—

(1) in paragraph (1), by striking "made to a person" and inserting "received by a person or legal entity, directly or indirectly,";

(2) by striking paragraph (2); and

(3) in paragraph (4), by striking "any person" and inserting "any person or legal entity".

**SEC. 2111. CONSERVATION RESERVE PROGRAM TRANSITION INCENTIVES FOR BEGINNING FARMERS OR RANCHERS AND SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.**

(a) CONTRACT MODIFICATION AUTHORITY.—Section 1235(c)(1)(B) of the Food Security Act of 1985 (16 U.S.C. 3835(c)(1)(B)) is amended—

(1) in clause (ii), by striking "or" at the end;

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

"(iii) to facilitate a transition of land subject to the contract from a retired or retiring owner or operator to a beginning farmer or rancher or socially disadvantaged farmer or rancher for the purpose of returning some or all of the land into production using sustainable grazing or crop production methods; or".

(b) TRANSITION OPTION.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended by adding at the end the following new subsection:

"(f) TRANSITION OPTION FOR CERTAIN FARMERS OR RANCHERS.—

Contracts.

"(1) DUTIES OF THE SECRETARY.—In the case of a contract modification approved in order to facilitate the transfer, as described in subsection (c)(1)(B)(iii), of land to a beginning farmer or rancher or socially disadvantaged farmer or rancher (in this subsection referred to as a 'covered farmer or rancher'), the Secretary shall—

Effective date.

"(A) beginning on the date that is 1 year before the date of termination of the contract—

"(i) allow the covered farmer or rancher, in conjunction with the retired or retiring owner or operator, to make conservation and land improvements; and

"(ii) allow the covered farmer or rancher to begin the certification process under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.);

"(B) beginning on the date of termination of the contract, require the retired or retiring owner or operator to sell or lease (under a long-term lease or a lease with an option to purchase) to the covered farmer or rancher the land subject to the contract for production purposes;

"(C) require the covered farmer or rancher to develop and implement a conservation plan;

"(D) provide to the covered farmer or rancher an opportunity to enroll in the conservation stewardship program or the environmental quality incentives program by not later than the date on which the farmer or rancher takes possession of the land through ownership or lease; and

"(E) continue to make annual payments to the retired or retiring owner or operator for not more than an additional 2 years after the date of termination of the contract, if the retired or retiring owner or operator is not a family member (as defined in section 1001A(b)(3)(B) of this Act) of the covered farmer or rancher.

"(2) REENROLLMENT.—The Secretary shall provide a covered farmer or rancher with the option to reenroll any applicable partial field conservation practice that—

"(A) is eligible for enrollment under the continuous signup requirement of section 1231(h)(4)(B); and

"(B) is part of an approved conservation plan.".

# Subtitle C—Wetlands Reserve Program

### SEC. 2201. ESTABLISHMENT AND PURPOSE OF WETLANDS RESERVE PROGRAM.

Subsection (a) of section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended to read as follows:

"(a) ESTABLISHMENT AND PURPOSES.—

"(1) ESTABLISHMENT.—The Secretary shall establish a wetlands reserve program to assist owners of eligible lands in restoring and protecting wetlands.

"(2) PURPOSES.—The purposes of the wetlands reserve program are to restore, protect, or enhance wetlands on private or tribal lands that are eligible under subsections (c) and (d).".

**SEC. 2202. MAXIMUM ENROLLMENT AND ENROLLMENT METHODS.**

Section 1237(b) of the Food Security Act of 1985 (16 U.S.C. 3837(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 3,041,200 acres.";

(2) in paragraph (2), by striking "The Secretary" and inserting "Subject to paragraph (3), the Secretary"; and

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

"(3) ACREAGE OWNED BY INDIAN TRIBES.—In the case of acreage owned by an Indian tribe, the Secretary shall enroll acreage into the wetlands reserve program through the use of— Contracts.

"(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);

"(B) restoration cost-share agreements; or

"(C) any combination of the options described in subparagraphs (A) and (B).".

**SEC. 2203. DURATION OF WETLANDS RESERVE PROGRAM AND LANDS ELIGIBLE FOR ENROLLMENT.**

(a) IN GENERAL.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "2007 calendar" and inserting "2012 fiscal"; and

(B) by inserting "private or tribal" before "land" the second place it appears;

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) such land is—

"(A) farmed wetland or converted wetland, together with the adjacent land that is functionally dependent on the wetlands, except that converted wetland with respect to which the conversion was not commenced prior to December 23, 1985, shall not be eligible to be enrolled in the program under this section; or

"(B) cropland or grassland that was used for agricultural production prior to flooding from the natural overflow of a closed basin lake or pothole, as determined by the Secretary, together (where practicable) with the adjacent land that is functionally dependent on the cropland or grassland; and".

(b) CHANGE OF OWNERSHIP.—Section 1237E(a) of the Food Security Act of 1985 (16 U.S.C. 3837e(a)) is amended by striking "in the preceding 12 months" and inserting "during the preceding 7-year period".

(c) ANNUAL SURVEY AND REALLOCATION.—Section 1237F of the Food Security Act of 1985 (16 U.S.C. 3837f) is amended by adding at the end the following new subsection:

"(c) PRAIRIE POTHOLE REGION SURVEY AND REALLOCATION.—

"(1) SURVEY.—The Secretary shall conduct a survey during fiscal year 2008 and each subsequent fiscal year for the purpose of determining interest and allocations for the Prairie Pothole Region to enroll eligible land described in section 1237(c)(2)(B).

"(2) ANNUAL ADJUSTMENT.—The Secretary shall make an adjustment to the allocation for an interested State for a fiscal year, based on the results of the survey conducted under paragraph (1) for the State during the previous fiscal year.".

**SEC. 2204. TERMS OF WETLANDS RESERVE PROGRAM EASEMENTS.**

Section 1237A(b)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3837a(b)(2)(B)) is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking "; and" and inserting "; or"; and

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

"(iii) to meet habitat needs of specific wildlife species; and".

**SEC. 2205. COMPENSATION FOR EASEMENTS UNDER WETLANDS RESERVE PROGRAM.**

Subsection (f) of section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended to read as follows:

"(f) COMPENSATION.—

Effective date.

"(1) DETERMINATION.—Effective on the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall pay as compensation for a conservation easement acquired under this subchapter the lowest of—

"(A) the fair market value of the land, as determined by the Secretary, using the Uniform Standards of Professional Appraisal Practices or an area-wide market analysis or survey;

"(B) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or

"(C) the offer made by the landowner.

"(2) FORM OF PAYMENT.—Compensation for an easement shall be provided by the Secretary in the form of a cash payment, in an amount determined under paragraph (1) and specified in the easement agreement.

"(3) PAYMENT SCHEDULE FOR EASEMENTS.—

"(A) EASEMENTS VALUED AT $500,000 OR LESS.—For easements valued at $500,000 or less, the Secretary may provide easement payments in not more than 30 annual payments.

"(B) EASEMENTS IN EXCESS OF $500,000.—For easements valued at more than $500,000, the Secretary may provide easement payments in at least 5, but not more than 30 annual payments, except that, if the Secretary determines it would further the purposes of the program, the Secretary may make a lump sum payment for such an easement.

"(4) RESTORATION AGREEMENT PAYMENT LIMITATION.—Payments made to a person or legal entity, directly or indirectly, pursuant to a restoration cost-share agreement under this subchapter may not exceed, in the aggregate, $50,000 per year.

"(5) ENROLLMENT PROCEDURE.—Lands may be enrolled under this subchapter through the submission of bids under a procedure established by the Secretary.".

**SEC. 2206. WETLANDS RESERVE ENHANCEMENT PROGRAM AND RESERVED RIGHTS PILOT PROGRAM.**

Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended by adding at the end the following new subsection:

"(h) WETLANDS RESERVE ENHANCEMENT PROGRAM.—

"(1) PROGRAM AUTHORIZED.—The Secretary may enter into 1 or more agreements with a State (including a political subdivision or agency of a State), nongovernmental organization, or Indian tribe to carry out a special wetlands reserve enhancement program that the Secretary determines would advance the purposes of this subchapter.

"(2) RESERVED RIGHTS PILOT PROGRAM.—

"(A) RESERVATION OF GRAZING RIGHTS.—As part of the wetlands reserve enhancement program, the Secretary shall carry out a pilot program for land in which a landowner may reserve grazing rights in the warranty easement deed restriction if the Secretary determines that the reservation and use of the grazing rights—

"(i) is compatible with the land subject to the easement;

"(ii) is consistent with the long-term wetland protection and enhancement goals for which the easement was established; and

"(iii) complies with a conservation plan.

"(B) DURATION.—The pilot program established under this paragraph shall terminate on September 30, 2012.".

**SEC. 2207. DUTIES OF SECRETARY OF AGRICULTURE UNDER WETLANDS RESERVE PROGRAM.**

Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended—

(1) in subsection (a)(1), by inserting "including necessary maintenance activities," after "values,"; and

(2) by striking subsection (c) and inserting the following new subsection:

"(c) RANKING OF OFFERS.—

"(1) CONSERVATION BENEFITS AND FUNDING CONSIDERATIONS.—When evaluating offers from landowners, the Secretary may consider—

"(A) the conservation benefits of obtaining an easement or other interest in the land;

"(B) the cost-effectiveness of each easement or other interest in eligible land, so as to maximize the environmental benefits per dollar expended; and

"(C) whether the landowner or another person is offering to contribute financially to the cost of the easement or other interest in the land to leverage Federal funds.

"(2) ADDITIONAL CONSIDERATIONS.—In determining the acceptability of easement offers, the Secretary may take into consideration—

"(A) the extent to which the purposes of the easement program would be achieved on the land;

"(B) the productivity of the land; and

"(C) the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities.".

**SEC. 2208. PAYMENT LIMITATIONS UNDER WETLANDS RESERVE CONTRACTS AND AGREEMENTS.**

Section 1237D(c)(1) of the Food Security Act of 1985 (16 U.S.C. 3837d(c)(1)) is amended—

(1) by striking "The total amount of easement payments made to a person" and inserting "The total amount of payments that a person or legal entity may receive, directly or indirectly,"; and

(2) by inserting "or under 30-year contracts" before the period at the end.

**SEC. 2209. REPEAL OF PAYMENT LIMITATIONS EXCEPTION FOR STATE AGREEMENTS FOR WETLANDS RESERVE ENHANCEMENT.**

Section 1237D(c) of the Food Security Act of 1985 (16 U.S.C. 3837d(c)) is amended by striking paragraph (4).

**SEC. 2210. REPORT ON IMPLICATIONS OF LONG-TERM NATURE OF CONSERVATION EASEMENTS.**

(a) REPORT REQUIRED.—Not later than January 1, 2010, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the implications of the long-term nature of conservation easements granted under section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) on resources of the Department of Agriculture.

(b) INCLUSIONS.—The report required by subsection (a) shall include the following:

(1) Data relating to the number and location of conservation easements granted under that section that the Secretary holds or has a significant role in monitoring or managing.

(2) An assessment of the extent to which the oversight of the conservation easement agreements impacts the availability of resources, including technical assistance.

(3) An assessment of the uses and value of agreements with partner organizations.

(4) Any other relevant information relating to costs or other effects that would be helpful to the Committees referred to in subsection (a).

# Subtitle D—Conservation Stewardship Program

**SEC. 2301. CONSERVATION STEWARDSHIP PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 is amended—

(1) by redesignating subchapters B (farmland protection program) and C (grassland reserve program) as subchapters C and D, respectively; and

16 USC 3838h *et seq.*, 3838n *et seq.*

(2) by inserting after subchapter A the following new subchapter:

## "Subchapter B—Conservation Stewardship Program

16 USC 3838d.

**"SEC. 1238D. DEFINITIONS.**

"In this subchapter:

"(1) CONSERVATION ACTIVITIES.—

"(A) IN GENERAL.—The term 'conservation activities' means conservation systems, practices, or management measures that are designed to address a resource concern.

"(B) INCLUSIONS.—The term 'conservation activities' includes—

"(i) structural measures, vegetative measures, and land management measures, including agriculture drainage management systems, as determined by the Secretary; and

"(ii) planning needed to address a resource concern.

"(2) CONSERVATION MEASUREMENT TOOLS.—The term 'conservation measurement tools' means procedures to estimate the level of environmental benefit to be achieved by a producer in implementing conservation activities, including indices or other measures developed by the Secretary.

"(3) CONSERVATION STEWARDSHIP PLAN.—The term 'conservation stewardship plan' means a plan that—

"(A) identifies and inventories resource concerns;

"(B) establishes benchmark data and conservation objectives;

"(C) describes conservation activities to be implemented, managed, or improved; and

"(D) includes a schedule and evaluation plan for the planning, installation, and management of the new and existing conservation activities.

"(4) PRIORITY RESOURCE CONCERN.—The term 'priority resource concern' means a resource concern that is identified at the State level, in consultation with the State Technical Committee, as a priority for a particular watershed or area of the State.

"(5) PROGRAM.—The term 'program' means the conservation stewardship program established by this subchapter.

"(6) RESOURCE CONCERN.—The term 'resource concern' means a specific natural resource impairment or problem, as determined by the Secretary, that—

"(A) represents a significant concern in a State or region; and

"(B) is likely to be addressed successfully through the implementation of conservation activities by producers on land eligible for enrollment in the program.

"(7) STEWARDSHIP THRESHOLD.—The term 'stewardship threshold' means the level of natural resource conservation and environmental management required, as determined by the Secretary using conservation measurement tools, to improve and conserve the quality and condition of a resource concern.

**"SEC. 1238E. CONSERVATION STEWARDSHIP PROGRAM.** 16 USC 3838e.

"(a) ESTABLISHMENT AND PURPOSE.—During each of fiscal years 2009 through 2012, the Secretary shall carry out a conservation stewardship program to encourage producers to address resource concerns in a comprehensive manner—

"(1) by undertaking additional conservation activities; and

"(2) by improving, maintaining and managing existing conservation activities.

"(b) ELIGIBLE LAND.—

"(1) IN GENERAL.—Except as provided in subsection (c), the following land is eligible for enrollment in the program:

"(A) Private agricultural land (including cropland, grassland, prairie land, improved pastureland, rangeland, and land used for agro-forestry).

"(B) Agricultural land under the jurisdiction of an Indian tribe.

"(C) Forested land that is an incidental part of an agricultural operation.

"(D) Other private agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed by enrolling the land in the program, as determined by the Secretary.

"(2) SPECIAL RULE FOR NONINDUSTRIAL PRIVATE FOREST LAND.—Nonindustrial private forest land is eligible for enrollment in the program, except that not more than 10 percent of the annual acres enrolled nationally in any fiscal year may be nonindustrial private forest land.

"(3) AGRICULTURAL OPERATION.—Eligible land shall include all acres of an agricultural operation of a producer, whether or not contiguous, that are under the effective control of the producer at the time the producer enters into a stewardship contract, and is operated by the producer with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations, as determined by the Secretary.

"(c) EXCLUSIONS.—

"(1) LAND ENROLLED IN OTHER CONSERVATION PROGRAMS.—Subject to paragraph (2), the following land is not be eligible for enrollment in the program:

"(A) Land enrolled in the conservation reserve program.

"(B) Land enrolled in the wetlands reserve program.

"(C) Land enrolled in the grassland reserve program.

"(2) CONVERSION TO CROPLAND.—Land used for crop production after the date of enactment of the Food, Conservation, and Energy Act of 2008 that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date shall not be the basis for any payment under the program, unless the land does not meet the requirement because—

"(A) the land had previously been enrolled in the conservation reserve program;

"(B) the land has been maintained using long-term crop rotation practices, as determined by the Secretary; or

"(C) the land is incidental land needed for efficient operation of the farm or ranch, as determined by the Secretary.

16 USC 3838f.

**"SEC. 1238F. STEWARDSHIP CONTRACTS.**

"(a) SUBMISSION OF CONTRACT OFFERS.—To be eligible to participate in the conservation stewardship program, a producer shall submit to the Secretary for approval a contract offer that—

"(1) demonstrates to the satisfaction of the Secretary that the producer, at the time of the contract offer, is meeting

the stewardship threshold for at least one resource concern; and

"(2) would, at a minimum, meet or exceed the stewardship threshold for at least 1 priority resource concern by the end of the stewardship contract by—

"(A) installing and adopting additional conservation activities; and

"(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

"(b) EVALUATION OF CONTRACT OFFERS.—

"(1) RANKING OF APPLICATIONS.—In evaluating contract offers made by producers to enter into contracts under the program, the Secretary shall rank applications based on—

"(A) the level of conservation treatment on all applicable priority resource concerns at the time of application, based to the maximum extent practicable on conservation measurement tools;

"(B) the degree to which the proposed conservation treatment on applicable priority resource concerns effectively increases conservation performance, based to the maximum extent possible on conservation measurement tools;

"(C) the number of applicable priority resource concerns proposed to be treated to meet or exceed the stewardship threshold by the end of the contract;

"(D) the extent to which other resource concerns, in addition to priority resource concerns, will be addressed to meet or exceed the stewardship threshold by the end of the contract period; and

"(E) the extent to which the actual and anticipated environmental benefits from the contract are provided at the least cost relative to other similarly beneficial contract offers.

"(2) PROHIBITION.—The Secretary may not assign a higher priority to any application because the applicant is willing to accept a lower payment than the applicant would otherwise be eligible to receive.

"(3) ADDITIONAL CRITERIA.—The Secretary may develop and use such additional criteria for evaluating applications to enroll in the program that the Secretary determines are necessary to ensure that national, State, and local conservation priorities are effectively addressed.

"(c) ENTERING INTO CONTRACTS.—After a determination that a producer is eligible for the program under subsection (a), and a determination that the contract offer ranks sufficiently high under the evaluation criteria under subsection (b), the Secretary shall enter into a conservation stewardship contract with the producer to enroll the land to be covered by the contract.

"(d) CONTRACT PROVISIONS.—

"(1) TERM.—A conservation stewardship contract shall be for a term of 5 years.

"(2) PROVISIONS.—The conservation stewardship contract of a producer shall—

"(A) state the amount of the payment the Secretary agrees to make to the producer for each year of the conservation stewardship contract under section 1238G(e);

"(B) require the producer—

"(i) to implement during the term of the conservation stewardship contract the conservation stewardship plan approved by the Secretary;

"(ii) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation stewardship contract; and

"(iii) not to engage in any activity during the term of the conservation stewardship contract on the eligible land covered by the contract that would interfere with the purposes of the conservation stewardship contract;

"(C) permit all economic uses of the land that—

"(i) maintain the agricultural nature of the land; and

"(ii) are consistent with the conservation purposes of the conservation stewardship contract;

"(D) include a provision to ensure that a producer shall not be considered in violation of the contract for failure to comply with the contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary; and

"(E) include such other provisions as the Secretary determines necessary to ensure the purposes of the program are achieved.

"(e) CONTRACT RENEWAL.—At the end of an initial conservation stewardship contract of a producer, the Secretary may allow the producer to renew the contract for one additional five-year period if the producer—

"(1) demonstrates compliance with the terms of the existing contract; and

"(2) agrees to adopt new conservation activities, as determined by the Secretary.

"(f) MODIFICATION.—The Secretary may allow a producer to modify a stewardship contract if the Secretary determines that the modification is consistent with achieving the purposes of the program.

"(g) CONTRACT TERMINATION.—

"(1) VOLUNTARY TERMINATION.—A producer may terminate a conservation stewardship contract if the Secretary determines that termination would not defeat the purposes of the program.

"(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this subchapter if the Secretary determines that the producer violated the contract.

"(3) REPAYMENT.—If a contract is terminated, the Secretary may, consistent with the purposes of the program—

"(A) allow the producer to retain payments already received under the contract; or

"(B) require repayment, in whole or in part, of payments already received and assess liquidated damages.

"(4) CHANGE OF INTEREST IN LAND SUBJECT TO A CONTRACT.—

"(A) IN GENERAL.—Except as provided in paragraph (B), a change in the interest of a producer in land covered by a contract under this chapter shall result in the termination of the contract with regard to that land.

"(B) TRANSFER OF DUTIES AND RIGHTS.—Subparagraph (A) shall not apply if—

"(i) within a reasonable period of time (as determined by the Secretary) after the date of the change in the interest in land covered by a contract under the program, the transferee of the land provides written notice to the Secretary that all duties and rights under the contract have been transferred to, and assumed by, the transferee; and

"(ii) the transferee meets the eligibility requirements of the program.

"(h) COORDINATION WITH ORGANIC CERTIFICATION.—The Secretary shall establish a transparent means by which producers may initiate organic certification under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et. seq.) while participating in a contract under this subchapter.

"(i) ON-FARM RESEARCH AND DEMONSTRATION OR PILOT TESTING.—The Secretary may approve a contract offer under this subchapter that includes—

"(1) on-farm conservation research and demonstration activities; and

"(2) pilot testing of new technologies or innovative conservation practices.

**"SEC. 1238G. DUTIES OF THE SECRETARY.**

16 USC 3838g.

"(a) IN GENERAL.—To achieve the conservation goals of a contract under the conservation stewardship program, the Secretary shall—

"(1) make the program available to eligible producers on a continuous enrollment basis with 1 or more ranking periods, one of which shall occur in the first quarter of each fiscal year;

"(2) identify not less than 3 nor more than 5 priority resource concerns in a particular watershed or other appropriate region or area within a State; and

"(3) develop reliable conservation measurement tools for purposes of carrying out the program.

"(b) ALLOCATION TO STATES.—The Secretary shall allocate acres to States for enrollment, based—

"(1) primarily on each State's proportion of eligible acres under section 1238E(b)(1) to the total number of eligible acres in all States; and

"(2) also on consideration of—

"(A) the extent and magnitude of the conservation needs associated with agricultural production in each State;

"(B) the degree to which implementation of the program in the State is, or will be, effective in helping producers address those needs; and

"(C) other considerations to achieve equitable geographic distribution of funds, as determined by the Secretary.

"(c) SPECIALTY CROP AND ORGANIC PRODUCERS.—The Secretary shall ensure that outreach and technical assistance are available, and program specifications are appropriate to enable specialty crop and organic producers to participate in the program.

Time period.

"(d) ACREAGE ENROLLMENT LIMITATION.—During the period beginning on October 1, 2008, and ending on September 30, 2017, the Secretary shall, to the maximum extent practicable—

"(1) enroll in the program an additional 12,769,000 acres for each fiscal year; and

"(2) manage the program to achieve a national average rate of $18 per acre, which shall include the costs of all financial assistance, technical assistance, and any other expenses associated with enrollment or participation in the program.

"(e) CONSERVATION STEWARDSHIP PAYMENTS.—

"(1) AVAILABILITY OF PAYMENTS.—The Secretary shall provide a payment under the program to compensate the producer for—

"(A) installing and adopting additional conservation activities; and

"(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

"(2) PAYMENT AMOUNT.—The amount of the conservation stewardship payment shall be determined by the Secretary and based, to the maximum extent practicable, on the following factors:

"(A) Costs incurred by the producer associated with planning, design, materials, installation, labor, management, maintenance, or training.

"(B) Income forgone by the producer.

"(C) Expected environmental benefits as determined by conservation measurement tools.

"(3) EXCLUSIONS.—A payment to a producer under this subsection shall not be provided for—

"(A) the design, construction, or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

"(B) conservation activities for which there is no cost incurred or income forgone to the producer.

"(4) TIMING OF PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make payments as soon as practicable after October 1 of each fiscal year for activities carried out in the previous fiscal year.

"(B) ADDITIONAL ACTIVITIES.—The Secretary shall make payments to compensate producers for installation of additional practices at the time at which the practices are installed and adopted.

"(f) SUPPLEMENTAL PAYMENTS FOR RESOURCE-CONSERVING CROP ROTATIONS.—

"(1) AVAILABILITY OF PAYMENTS.—The Secretary shall provide additional payments to producers that, in participating in the program, agree to adopt resource-conserving crop rotations to achieve beneficial crop rotations as appropriate for the land of the producers.

"(2) BENEFICIAL CROP ROTATIONS.—The Secretary shall determine whether a resource-conserving crop rotation is a beneficial crop rotation eligible for additional payments under paragraph (1), based on whether the resource-conserving crop rotation is designed to provide natural resource conservation and production benefits.

"(3) ELIGIBILITY.—To be eligible to receive a payment described in paragraph (1), a producer shall agree to adopt and maintain beneficial resource-conserving crop rotations for the term of the contract.

"(4) RESOURCE-CONSERVING CROP ROTATION.—In this subsection, the term 'resource-conserving crop rotation' means a crop rotation that—

"(A) includes at least 1 resource conserving crop (as defined by the Secretary);

"(B) reduces erosion;

"(C) improves soil fertility and tilth;

"(D) interrupts pest cycles; and

"(E) in applicable areas, reduces depletion of soil moisture or otherwise reduces the need for irrigation.

"(g) PAYMENT LIMITATIONS.—A person or legal entity may not receive, directly or indirectly, payments under this subchapter that, in the aggregate, exceed $200,000 for all contracts entered into during any 5-year period, excluding funding arrangements with federally recognized Indian tribes or Alaska Native corporations, regardless of the number of contracts entered into under the program by the person or entity.

"(h) REGULATIONS.—The Secretary shall promulgate regulations that—

"(1) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (g); and

"(2) otherwise enable the Secretary to carry out the program.

"(i) DATA.—The Secretary shall maintain detailed and segmented data on contracts and payments under the program to allow for quantification of the amount of payments made for— Contracts.

"(1) the installation and adoption of additional conservation activities and improvements to conservation activities in place on the operation of a producer at the time the conservation stewardship offer is accepted by the Secretary;

"(2) participation in research, demonstration, and pilot projects; and

"(3) the development and periodic assessment and evaluation of conservation plans developed under this subchapter.".

(b) TERMINATION OF CONSERVATION SECURITY PROGRAM AUTHORITY; EFFECT ON EXISTING CONTRACTS.—Section 1238A of the Food Security Act of 1985 (16 U.S.C. 3838a) is amended by adding at the end the following new subsection:

"(g) PROHIBITION ON CONSERVATION SECURITY PROGRAM CONTRACTS; EFFECT ON EXISTING CONTRACTS.—

"(1) PROHIBITION.—A conservation security contract may not be entered into or renewed under this subchapter after September 30, 2008.

"(2) EXCEPTION.—This subchapter, and the terms and conditions of the conservation security program, shall continue to apply to—

"(A) conservation security contracts entered into on or before September 30, 2008; and

"(B) any conservation security contract entered into after that date, but for which the application for the contract was received during the 2008 sign-up period.

"(3) EFFECT ON PAYMENTS.—The Secretary shall make payments under this subchapter with respect to conservation security contracts described in paragraph (2) during the remaining term of the contracts.

"(4) REGULATIONS.—A contract described in paragraph (2) may not be administered under the regulations issued to carry out the conservation stewardship program.".

(c) REFERENCE TO REDESIGNATED SUBCHAPTER.—Section 1238A(b)(3)(C) of title XII of the Food Security Act of 1985 (16 U.S.C. 3838a(b)(3)(C)) is amended by striking "subchapter C" and inserting "subchapter D".

# Subtitle E—Farmland Protection and Grassland Reserve

**SEC. 2401. FARMLAND PROTECTION PROGRAM.**

(a) DEFINITIONS.—Section 1238H of the Food Security Act of 1985 (16 U.S.C. 3838h) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) any agency of any State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

"(B) any organization that—

"(i) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

"(ii) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; and

"(iii) is—

"(I) described in paragraph (1) or (2) of section 509(a) of that Code; or

"(II) described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code."; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "that—" and inserting "that is subject to a pending offer for purchase from an eligible entity and—"; and

(ii) by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) has prime, unique, or other productive soil;

"(ii) contains historical or archaeological resources; or

"(iii) the protection of which will further a State or local policy consistent with the purposes of the program."; and

(B) in subparagraph (B)—

(i) in clause (iv), by striking "and" at the end; and

(ii) by striking clause (v) and inserting the following new clauses:

"(v) forest land that—

"(I) contributes to the economic viability of an agricultural operation; or

"(II) serves as a buffer to protect an agricultural operation from development; and

"(vi) land that is incidental to land described in clauses (i) through (v), if such land is necessary for the efficient administration of a conservation easement, as determined by the Secretary.".

(b) FARMLAND PROTECTION.—Section 1238I of the Food Security Act of 1985 (16 U.S.C. 3838i) is amended to read as follows:

**"SEC. 1238I. FARMLAND PROTECTION PROGRAM.**

"(a) ESTABLISHMENT.—The Secretary shall establish and carry out a farmland protection program under which the Secretary shall facilitate and provide funding for the purchase of conservation easements or other interests in eligible land.

"(b) PURPOSE.—The purpose of the program is to protect the agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land.

"(c) COST-SHARE ASSISTANCE.—

"(1) PROVISION OF ASSISTANCE.—The Secretary shall provide cost-share assistance to eligible entities for purchasing a conservation easement or other interest in eligible land.

"(2) FEDERAL SHARE.—The share of the cost provided by the Secretary for purchasing a conservation easement or other interest in eligible land shall not exceed 50 percent of the appraised fair market value of the conservation easement or other interest in eligible land.

"(3) NON-FEDERAL SHARE.—

"(A) SHARE PROVIDED BY ELIGIBLE ENTITY.—The eligible entity shall provide a share of the cost of purchasing a conservation easement or other interest in eligible land in an amount that is not less than 25 percent of the acquisition purchase price.

"(B) LANDOWNER CONTRIBUTION.—As part of the non-Federal share of the cost of purchasing a conservation easement or other interest in eligible land, an eligible entity may include a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the private landowner from which the conservation easement or other interest in land will be purchased.

"(d) DETERMINATION OF FAIR MARKET VALUE.—Effective on the date of enactment of the Food, Conservation, and Energy Act of 2008, the fair market value of the conservation easement or other interest in eligible land shall be determined on the basis of an appraisal using an industry approved method, selected by the eligible entity and approved by the Secretary. Effective date.

"(e) BIDDING DOWN PROHIBITED.—If the Secretary determines that 2 or more applications for cost-share assistance are comparable in achieving the purpose of the program, the Secretary shall not assign a higher priority to any 1 of those applications solely on the basis of lesser cost to the program.

"(f) CONDITION ON ASSISTANCE.—

"(1) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased using cost-share assistance provided under the program shall be subject to a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

"(2) CONTINGENT RIGHT OF ENFORCEMENT.—The Secretary shall require the inclusion of a contingent right of enforcement for the Secretary in the terms of a conservation easement or other interest in eligible land that is purchased using cost-share assistance provided under the program.

"(g) AGREEMENTS WITH ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with eligible entities to stipulate the terms and conditions under which the eligible entity is permitted to use cost-share assistance provided under subsection (c).

"(2) LENGTH OF AGREEMENTS.—An agreement under this subsection shall be for a term that is—

"(A) in the case of an eligible entity certified under the process described in subsection (h), a minimum of five years; and

"(B) for all other eligible entities, at least three, but not more than five years.

"(3) SUBSTITUTION OF QUALIFIED PROJECTS.—An agreement shall allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of the proposed substitution.

"(4) MINIMUM REQUIREMENTS.—An eligible entity shall be authorized to use its own terms and conditions, as approved by the Secretary, for conservation easements and other purchases of interests in land, so long as such terms and conditions—

"(A) are consistent with the purposes of the program;

"(B) permit effective enforcement of the conservation purposes of such easements or other interests; and

"(C) include a limit on the impervious surfaces to be allowed that is consistent with the agricultural activities to be conducted.

"(5) EFFECT OF VIOLATION.—If a violation occurs of a term or condition of an agreement entered into under this subsection—

"(A) the agreement shall remain in force; and

"(B) the Secretary may require the eligible entity to refund all or part of any payments received by the entity under the program, with interest on the payments as determined appropriate by the Secretary.

"(h) CERTIFICATION OF ELIGIBLE ENTITIES.—

"(1) CERTIFICATION PROCESS.—The Secretary shall establish a process under which the Secretary may—

"(A) directly certify eligible entities that meet established criteria;

"(B) enter into long-term agreements with certified entities, as authorized by subsection (g)(2)(A); and

"(C) accept proposals for cost-share assistance to certified entities for the purchase of conservation easements or other interests in eligible land throughout the duration of such agreements.

"(2) CERTIFICATION CRITERIA.—In order to be certified, an eligible entity shall demonstrate to the Secretary that the entity will maintain, at a minimum, for the duration of the agreement—

"(A) a plan for administering easements that is consistent with the purpose of this subchapter;

"(B) the capacity and resources to monitor and enforce conservation easements or other interests in land; and

"(C) policies and procedures to ensure—

"(i) the long-term integrity of conservation easements or other interests in eligible land;

"(ii) timely completion of acquisitions of easements or other interests in eligible land; and

"(iii) timely and complete evaluation and reporting to the Secretary on the use of funds provided by the Secretary under the program.

"(3) REVIEW AND REVISION.—

"(A) REVIEW.—The Secretary shall conduct a review of eligible entities certified under paragraph (1) every three years to ensure that such entities are meeting the criteria established under paragraph (2).

"(B) REVOCATION.—If the Secretary finds that the certified entity no longer meets the criteria established under paragraph (2), the Secretary may—

"(i) allow the certified entity a specified period of time, at a minimum 180 days, in which to take such actions as may be necessary to meet the criteria; and

"(ii) revoke the certification of the entity, if after the specified period of time, the certified entity does not meet the criteria established in paragraph (2).".

**SEC. 2402. FARM VIABILITY PROGRAM.**

Section 1238J(b) of the Food Security Act of 1985 (16 U.S.C. 3838j(b)) is amended by striking "2007" and inserting "2012".

**SEC. 2403. GRASSLAND RESERVE PROGRAM.**

Subchapter D of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838n et seq.), as redesignated by section 2301(a)(1), is amended to read as follows:

## "Subchapter D—Grassland Reserve Program

**"SEC. 1238N. GRASSLAND RESERVE PROGRAM.** 16 USC 3838n.

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a grassland reserve program (referred to in this subchapter as the 'program') for the purpose of assisting owners and operators in protecting grazing uses and related conservation values by restoring and conserving eligible land through rental contracts, easements, and restoration agreements.

"(b) ENROLLMENT OF ACREAGE.—

"(1) ACREAGE ENROLLED.—The Secretary shall enroll an additional 1,220,000 acres of eligible land in the program during fiscal years 2009 through 2012.

"(2) METHODS OF ENROLLMENT.—The Secretary shall enroll eligible land in the program through the use of;

"(A) a 10-year, 15-year, or 20-year rental contract;

"(B) a permanent easement; or

"(C) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under the law of that State.

"(3) LIMITATION.—Of the total amount of funds expended under the program to acquire rental contracts and easements described in paragraph (2), the Secretary shall use, to the extent practicable—

"(A) 40 percent for rental contacts; and

"(B) 60 percent for easements.

"(4) ENROLLMENT OF CONSERVATION RESERVE LAND.—

"(A) PRIORITY.—Upon expiration of a contract under subchapter B of chapter 1 of this subtitle, the Secretary shall give priority for enrollment in the program to land previously enrolled in the conservation reserve program if—

"(i) the land is eligible land, as defined in subsection (c); and

"(ii) the Secretary determines that the land is of high ecological value and under significant threat of conversion to uses other than grazing.

"(B) MAXIMUM ENROLLMENT.—The number of acres of land enrolled under the priority described in subparagraph (A) in a calendar year shall not exceed 10 percent of the total number of acres enrolled in the program in that calendar year.

"(c) ELIGIBLE LAND DEFINED.—For purposes of the program, the term 'eligible land' means private or tribal land that—

"(1) is grassland, land that contains forbs, or shrubland (including improved rangeland and pastureland) for which grazing is the predominant use;

"(2) is located in an area that has been historically dominated by grassland, forbs, or shrubland, and the land—

"(A) could provide habitat for animal or plant populations of significant ecological value if the land—

"(i) is retained in its current use; or

"(ii) is restored to a natural condition;

"(B) contains historical or archaeological resources; or

"(C) would address issues raised by State, regional, and national conservation priorities; or

"(3) is incidental to land described in paragraph (1) or (2), if the incidental land is determined by the Secretary to be necessary for the efficient administration of a rental contract or easement under the program.

16 USC 3838o.

**"SEC. 1238O. DUTIES OF OWNERS AND OPERATORS.**

"(a) RENTAL CONTRACTS.—To be eligible to enroll eligible land in the program under a rental contract, the owner or operator of the land shall agree—

"(1) to comply with the terms of the contract and, when applicable, a restoration agreement;

"(2) to suspend any existing cropland base and allotment history for the land under another program administered by the Secretary; and

"(3) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties.

"(b) EASEMENTS.—To be eligible to enroll eligible land in the program through an easement, the owner of the land shall agree—

"(1) to grant an easement to the Secretary or to an eligible entity described in section 1238Q;

"(2) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement;

"(3) to provide a written statement of consent to the easement signed by persons holding a security interest or any vested interest in the land;

"(4) to provide proof of unencumbered title to the underlying fee interest in the land that is the subject of the easement;

"(5) to comply with the terms of the easement and, when applicable, a restoration agreement;

"(6) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties; and

"(7) to eliminate any existing cropland base and allotment history for the land under another program administered by the Secretary.

"(c) RESTORATION AGREEMENTS.—

"(1) WHEN APPLICABLE.—To be eligible for cost-share assistance to restore eligible land subject to a rental contract or an easement under the program, the owner or operator of the land shall agree to comply with the terms of a restoration agreement.

"(2) TERMS AND CONDITIONS.—The Secretary shall prescribe the terms and conditions of a restoration agreement by which eligible land that is subject to a rental contract or easement under the program shall be restored.

"(3) DUTIES.—The restoration agreement shall describe the respective duties of the owner or operator and the Secretary, including the Federal share of restoration payments and technical assistance.

"(d) TERMS AND CONDITIONS APPLICABLE TO RENTAL CONTRACTS AND EASEMENTS.—

"(1) PERMISSIBLE ACTIVITIES.—The terms and conditions of a rental contract or easement under the program shall permit—

"(A) common grazing practices, including maintenance and necessary cultural practices, on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species appropriate to that locality;

"(B) haying, mowing, or harvesting for seed production, subject to appropriate restrictions during the nesting season for birds in the local area that are in significant decline or are conserved in accordance with Federal or State law, as determined by the State Conservationist;

"(C) fire presuppression, rehabilitation, and construction of fire breaks; and

"(D) grazing related activities, such as fencing and livestock watering.

"(2) PROHIBITIONS.—The terms and conditions of a rental contract or easement under the program shall prohibit—

"(A) the production of crops (other than hay), fruit trees, vineyards, or any other agricultural commodity that is inconsistent with maintaining grazing land; and

"(B) except as permitted under a restoration plan, the conduct of any other activity that would be inconsistent with maintaining grazing land enrolled in the program.

"(3) ADDITIONAL TERMS AND CONDITIONS.—A rental contract or easement under the program shall include such additional provisions as the Secretary determines are appropriate to carry out or facilitate the purposes and administration of the program.

"(e) VIOLATIONS.—On a violation of the terms or conditions of a rental contract, easement, or restoration agreement entered into under this section—

"(1) the contract or easement shall remain in force; and

"(2) the Secretary may require the owner or operator to refund all or part of any payments received under the program, with interest on the payments as determined appropriate by the Secretary.

16 USC 3838p.

**"SEC. 1238P. DUTIES OF SECRETARY.**

"(a) EVALUATION AND RANKING OF APPLICATIONS.—

"(1) CRITERIA.—The Secretary shall establish criteria to evaluate and rank applications for rental contracts and easements under the program .

"(2) CONSIDERATIONS.—In establishing the criteria, the Secretary shall emphasize support for—

"(A) grazing operations;

"(B) plant and animal biodiversity; and

"(C) grassland, land that contains forbs, and shrubland under the greatest threat of conversion to uses other than grazing.

"(b) PAYMENTS.—

"(1) IN GENERAL.—In return for the execution of a rental contract or the granting of an easement by an owner or operator under the program, the Secretary shall—

"(A) make rental contract or easement payments to the owner or operator in accordance with paragraphs (2) and (3); and

"(B) make payments to the owner or operator under a restoration agreement for the Federal share of the cost of restoration in accordance with paragraph (4).

"(2) RENTAL CONTRACT PAYMENTS.—

"(A) PERCENTAGE OF GRAZING VALUE OF LAND.—In return for the execution of a rental contract by an owner or operator under the program, the Secretary shall make annual payments during the term of the contract in an amount, subject to subparagraph (B), that is not more than 75 percent of the grazing value of the land covered by the contract.

"(B) PAYMENT LIMITATION.—Payments made under 1 or more rental contracts to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $50,000 per year.

"(3) EASEMENT PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), in return for the granting of an easement by an owner under the program, the Secretary shall make easement payments in an amount not to exceed the fair market value of the

land less the grazing value of the land encumbered by the easement.

"(B) METHOD FOR DETERMINATION OF COMPENSATION.—In making a determination under subparagraph (A), the Secretary shall pay as compensation for a easement acquired under the program the lowest of—

"(i) the fair market value of the land encumbered by the easement, as determined by the Secretary, using—

"(I) the Uniform Standards of Professional Appraisal Practices; or

"(II) an area-wide market analysis or survey;

"(ii) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or

"(iii) the offer made by the landowner.

"(C) SCHEDULE.—Easement payments may be provided in up to 10 annual payments of equal or unequal amount, as agreed to by the Secretary and the owner.

"(4) RESTORATION AGREEMENT PAYMENTS.—

"(A) FEDERAL SHARE OF RESTORATION.—The Secretary shall make payments to an owner or operator under a restoration agreement of not more than 50 percent of the costs of carrying out measures and practices necessary to restore functions and values of that land.

"(B) PAYMENT LIMITATION.—Payments made under 1 or more restoration agreements to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $50,000 per year.

"(5) PAYMENTS TO OTHERS.—If an owner or operator who is entitled to a payment under the program dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all the circumstances.

**"SEC. 1238Q. DELEGATION OF DUTY.** 16 USC 3838q.

"(a) AUTHORITY TO DELEGATE.—The Secretary may delegate a duty under the program—

"(1) by transferring title of ownership to an easement to an eligible entity to hold and enforce; or

"(2) by entering into a cooperative agreement with an eligible entity for the eligible entity to own, write, and enforce an easement.

"(b) ELIGIBLE ENTITY DEFINED.—In this section, the term 'eligible entity' means—

"(1) an agency of State or local government or an Indian tribe; or

"(2) an organization that—

"(A) is organized for, and at all times since the formation of the organization has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

"(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; and

"(C) is described in—

"(i) paragraph (1) or (2) of section 509(a) of that Code; or

"(ii) in section 509(a)(3) of that Code, and is controlled by an organization described in section 509(a)(2) of that Code.

"(c) TRANSFER OF TITLE OF OWNERSHIP.—

"(1) TRANSFER.—The Secretary may transfer title of ownership to an easement to an eligible entity to hold and enforce, in lieu of the Secretary, subject to the right of the Secretary to conduct periodic inspections and enforce the easement, if—

"(A) the Secretary determines that the transfer will promote protection of grassland, land that contains forbs, or shrubland;

"(B) the owner authorizes the eligible entity to hold or enforce the easement; and

"(C) the eligible entity agrees to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity.

"(2) APPLICATION.—An eligible entity that seeks to hold and enforce an easement shall apply to the Secretary for approval.

"(3) APPROVAL BY SECRETARY.—The Secretary may approve an application described in paragraph (2) if the eligible entity—

"(A) has the relevant experience necessary, as appropriate for the application, to administer an easement on grassland, land that contains forbs, or shrubland;

"(B) has a charter that describes a commitment to conserving ranchland, agricultural land, or grassland for grazing and conservation purposes; and

"(C) has the resources necessary to effectuate the purposes of the charter.

"(d) COOPERATIVE AGREEMENTS.—

"(1) AUTHORIZED; TERMS AND CONDITIONS.—The Secretary shall establish the terms and conditions of a cooperative agreement under which an eligible entity shall use funds provided by the Secretary to own, write, and enforce an easement, in lieu of the Secretary.

"(2) MINIMUM REQUIREMENTS.—At a minimum, the cooperative agreement shall—

"(A) specify the qualification of the eligible entity to carry out the entity's responsibilities under the program, including acquisition, monitoring, enforcement, and implementation of management policies and procedures that ensure the long-term integrity of the easement protections;

"(B) require the eligible entity to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity;

"(C) specify the right of the Secretary to conduct periodic inspections to verify the eligible entity's enforcement of the easement;

"(D) subject to subparagraph (E), identify a specific project or a range of projects to be funded under the agreement;

"(E) allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of substitution;

"(F) specify the manner in which the eligible entity will evaluate and report the use of funds to the Secretary;

"(G) allow the eligible entity flexibility to develop and use terms and conditions for easements, if the Secretary finds the terms and conditions consistent with the purposes of the program and adequate to enable effective enforcement of the easements;

"(H) if applicable, allow an eligible entity to include a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the landowner from which the easement will be purchased as part of the entity's share of the cost to purchase an easement; and

"(I) provide for a schedule of payments to an eligible entity, as agreed to by the Secretary and the eligible entity.

"(3) COST SHARING.—

"(A) IN GENERAL.—As part of a cooperative agreement with an eligible entity under this subsection, the Secretary may provide a share of the purchase price of an easement under the program.

"(B) MINIMUM SHARE BY ELIGIBLE ENTITY.—The eligible entity shall be required to provide a share of the purchase price at least equivalent to that provided by the Secretary.

"(C) PRIORITY.—The Secretary may accord a higher priority to proposals from eligible entities that leverage a greater share of the purchase price of the easement.

"(4) VIOLATION.—If an eligible entity violates the terms or conditions of a cooperative agreement entered into under this subsection—

"(A) the cooperative agreement shall remain in force; and

"(B) the Secretary may require the eligible entity to refund all or part of any payments received by the eligible entity under the program, with interest on the payments as determined appropriate by the Secretary.

"(e) PROTECTION OF FEDERAL INVESTMENT.—When delegating a duty under this section, the Secretary shall ensure that the terms of an easement include a contingent right of enforcement for the Department.".

# Subtitle F—Environmental Quality Incentives Program

### SEC. 2501. PURPOSES OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) REVISED PURPOSES.—Section 1240 of the Food Security Act of 1985 (16 U.S.C. 3839aa) is amended—

(1) in the matter preceding paragraph (1), by inserting ", forest management," after "agricultural production"; and

(2) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) providing flexible assistance to producers to install and maintain conservation practices that sustain food and fiber production while—

"(A) enhancing soil, water, and related natural resources, including grazing land, forestland, wetland, and wildlife; and

"(B) conserving energy;

"(4) assisting producers to make beneficial, cost effective changes to production systems (including conservation practices related to organic production), grazing management, fuels management, forest management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural and forested land; and".

(b) TECHNICAL CORRECTION.—The Food Security Act of 1985 is amended by inserting immediately before section 1240 (16 U.S.C. 3839aa) the following:

**"CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM".**

**SEC. 2502. DEFINITIONS.**

Section 1240A of the Food Security Act of 1985 (16 U.S.C. 3839aa–1) is amended to read as follows:

**"SEC. 1240A. DEFINITIONS.**

"In this chapter:

"(1) ELIGIBLE LAND.—

"(A) IN GENERAL.—The term 'eligible land' means land on which agricultural commodities, livestock, or forest-related products are produced.

"(B) INCLUSIONS.—The term 'eligible land' includes the following:

"(i) Cropland.

"(ii) Grassland.

"(iii) Rangeland.

"(iv) Pasture land.

"(v) Nonindustrial private forest land.

"(vi) Other agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed through a contract under the program, as determined by the Secretary.

"(2) NATIONAL ORGANIC PROGRAM.—The term 'national organic program' means the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et. seq.).

"(3) ORGANIC SYSTEM PLAN.—The term 'organic system plan' means an organic plan approved under the national organic program.

"(4) PAYMENT.—The term 'payment' means financial assistance provided to a producer for performing practices under this chapter, including compensation for—

"(A) incurred costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

"(B) income forgone by the producer.

"(5) PRACTICE.—The term 'practice' means 1 or more improvements and conservation activities that are consistent with the purposes of the program under this chapter, as determined by the Secretary, including—

"(A) improvements to eligible land of the producer, including—

"(i) structural practices;

"(ii) land management practices;

"(iii) vegetative practices;

"(iv) forest management; and

"(v) other practices that the Secretary determines would further the purposes of the program; and

"(B) conservation activities involving the development of plans appropriate for the eligible land of the producer, including—

"(i) comprehensive nutrient management planning; and

"(ii) other plans that the Secretary determines would further the purposes of the program under this chapter.

"(6) PROGRAM.—The term 'program' means the environmental quality incentives program established by this chapter.".

**SEC. 2503. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

Section 1240B of the Food Security Act of 1985 (16 U.S.C. 3839aa–2) is amended to read as follows:

**"SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION.**

"(a) ESTABLISHMENT.—During each of the 2002 through 2012 fiscal years, the Secretary shall provide payments to producers that enter into contracts with the Secretary under the program.

"(b) PRACTICES AND TERM.—

"(1) PRACTICES.—A contract under the program may apply to the performance of one or more practices.

"(2) TERM.—A contract under the program shall have a term that—

"(A) at a minimum, is equal to the period beginning on the date on which the contract is entered into and ending on the date that is one year after the date on which all practices under the contract have been implemented; but

"(B) not to exceed 10 years.

"(c) BIDDING DOWN.—If the Secretary determines that the environmental values of two or more applications for payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program.

"(d) PAYMENTS.—

"(1) AVAILABILITY OF PAYMENTS.—Payments are provided to a producer to implement one or more practices under the program.

"(2) LIMITATION ON PAYMENT AMOUNTS.—A payment to a producer for performing a practice may not exceed, as determined by the Secretary—

"(A) 75 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training;

"(B) 100 percent of income foregone by the producer; or

"(C) in the case of a practice consisting of elements covered under subparagraphs (A) and (B)—

"(i) 75 percent of the costs incurred for those elements covered under subparagraph (A); and

"(ii) 100 percent of income foregone for those elements covered under subparagraph (B).

"(3) SPECIAL RULE INVOLVING PAYMENTS FOR FOREGONE INCOME.—In determining the amount and rate of payments under paragraph (2)(B), the Secretary may accord great significance to a practice that, as determined by the Secretary, promotes—

"(A) residue management;

"(B) nutrient management;

"(C) air quality management;

"(D) invasive species management;

"(E) pollinator habitat;

"(F) animal carcass management technology; or

"(G) pest management.

"(4) INCREASED PAYMENTS FOR CERTAIN PRODUCERS.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of a producer that is a limited resource, socially disadvantaged farmer or rancher or a beginning farmer or rancher, the Secretary shall increase the amount that would otherwise be provided to a producer under this subsection—

"(i) to not more than 90 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

"(ii) to not less than 25 percent above the otherwise applicable rate.

"(B) ADVANCE PAYMENTS.—Not more than 30 percent of the amount determined under subparagraph (A) may be provided in advance for the purpose of purchasing materials or contracting.

"(5) FINANCIAL ASSISTANCE FROM OTHER SOURCES.—Except as provided in paragraph (6), any payments received by a producer from a State or private organization or person for the implementation of one or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under this subsection.

"(6) OTHER PAYMENTS.—A producer shall not be eligible for payments for practices on eligible land under the program if the producer receives payments or other benefits for the same practice on the same land under another program under this subtitle.

"(e) MODIFICATION OR TERMINATION OF CONTRACTS.—

"(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under the program if—

"(A) the producer agrees to the modification or termination; and

"(B) the Secretary determines that the modification or termination is in the public interest.

"(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under the program if the Secretary determines that the producer violated the contract.

"(f) ALLOCATION OF FUNDING.—For each of fiscal years 2002 through 2012, 60 percent of the funds made available for payments under the program shall be targeted at practices relating to livestock production.

"(g) FUNDING FOR FEDERALLY RECOGNIZED NATIVE AMERICAN INDIAN TRIBES AND ALASKA NATIVE CORPORATIONS.—The Secretary may enter into alternative funding arrangements with federally recognized Native American Indian Tribes and Alaska Native Corporations (including their affiliated membership organizations) if the Secretary determines that the goals and objectives of the program will be met by such arrangements, and that statutory limitations regarding contracts with individual producers will not be exceeded by any Tribal or Native Corporation member.

"(h) WATER CONSERVATION OR IRRIGATION EFFICIENCY PRACTICE.—

"(1) AVAILABILITY OF PAYMENTS.—The Secretary may provide payments under this subsection to a producer for a water conservation or irrigation practice.

"(2) PRIORITY.—In providing payments to a producer for a water conservation or irrigation practice, the Secretary shall give priority to applications in which—

"(A) consistent with the law of the State in which the eligible land of the producer is located, there is a reduction in water use in the operation of the producer; or

"(B) the producer agrees not to use any associated water savings to bring new land, other than incidental land needed for efficient operations, under irrigated production, unless the producer is participating in a watershed-wide project that will effectively conserve water, as determined by the Secretary.

"(i) PAYMENTS FOR CONSERVATION PRACTICES RELATED TO ORGANIC PRODUCTION.—

"(1) PAYMENTS AUTHORIZED.—The Secretary shall provide payments under this subsection for conservation practices, on some or all of the operations of a producer, related—

"(A) to organic production; and

"(B) to the transition to organic production.

"(2) ELIGIBILITY REQUIREMENTS.—As a condition for receiving payments under this subsection, a producer shall agree—

"(A) to develop and carry out an organic system plan; or

"(B) to develop and implement conservation practices for certified organic production that are consistent with an organic system plan and the purposes of this chapter.

"(3) PAYMENT LIMITATIONS.—Payments under this subsection to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $20,000 per year or $80,000 during any 6-year period. In applying these limitations, the Secretary shall not take into account payments received for technical assistance.

"(4) EXCLUSION OF CERTAIN ORGANIC CERTIFICATION COSTS.—Payments may not be made under this subsection to cover the costs associated with organic certification that are eligible for cost-share payments under section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523).

"(5) TERMINATION OF CONTRACTS.—The Secretary may cancel or otherwise nullify a contract to provide payments under this subsection if the Secretary determines that the producer—

"(A) is not pursuing organic certification; or

"(B) is not in compliance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq).".

**SEC. 2504. EVALUATION OF APPLICATIONS.**

Section 1240C of the Food Security Act of 1985 (16 U.S.C. 3839aa–3) is amended to read as follows:

**"SEC. 1240C. EVALUATION OF APPLICATIONS.**

"(a) EVALUATION CRITERIA.—The Secretary shall develop criteria for evaluating applications that will ensure that national, State, and local conservation priorities are effectively addressed.

"(b) PRIORITIZATION OF APPLICATIONS.—In evaluating applications under this chapter, the Secretary shall prioritize applications—

"(1) based on their overall level of cost-effectiveness to ensure that the conservation practices and approaches proposed are the most efficient means of achieving the anticipated environmental benefits of the project;

"(2) based on how effectively and comprehensively the project addresses the designated resource concern or resource concerns;

"(3) that best fulfill the purpose of the environmental quality incentives program specified in section 1240(1); and

"(4) that improve conservation practices or systems in place on the operation at the time the contract offer is accepted or that will complete a conservation system.

"(c) GROUPING OF APPLICATIONS.—To the greatest extent practicable, the Secretary shall group applications of similar crop or livestock operations for evaluation purposes or otherwise evaluate applications relative to other applications for similar farming operations.".

**SEC. 2505. DUTIES OF PRODUCERS UNDER ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

Section 1240D of the Food Security Act of 1985 (16 U.S.C. 3839aa–4) is amended—

(1) in the matter preceding paragraph (1), by striking "technical assistance, cost-share payments, or incentive";

(2) in paragraph (2), by striking "farm or ranch" and inserting "farm, ranch, or forest land"; and

(3) in paragraph (4), by striking "cost-share payments and incentive".

**SEC. 2506. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.**

(a) PLAN OF OPERATIONS.—Section 1240E(a) of the Food Security Act of 1985 (16 U.S.C. 3839aa–5(a)) is amended—

(1) in the subsection heading, by striking "IN GENERAL" and inserting "PLAN OF OPERATIONS";

(2) in matter preceding paragraph (1), by striking "cost-share payments or incentive";

(3) in paragraph (2), by striking "and" after the semicolon at the end;

(4) in paragraph (3), by striking the period at the end and inserting "; and"; and

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

"(4) in the case of forest land, is consistent with the provisions of a forest management plan that is approved by the Secretary, which may include—

"(A) a forest stewardship plan described in section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a);

"(B) another practice plan approved by the State forester; or

"(C) another plan determined appropriate by the Secretary.".

(b) AVOIDANCE OF DUPLICATION.—Subsection (b) of section 1240E of the Food Security Act of 1985 (16 U.S.C. 3839aa–5) is amended to read as follows:

"(b) AVOIDANCE OF DUPLICATION.—The Secretary shall—

"(1) consider a plan developed in order to acquire a permit under a water or air quality regulatory program as the equivalent of a plan of operations under subsection (a), if the plan contains elements equivalent to those elements required by a plan of operations; and

"(2) to the maximum extent practicable, eliminate duplication of planning activities under the program under this chapter and comparable conservation programs.".

**SEC. 2507. DUTIES OF THE SECRETARY.**

Section 1240F(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa–6(1)) is amended by striking "cost-share payments or incentive".

**SEC. 2508. LIMITATION ON ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PAYMENTS.**

Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is amended—

(1) by striking "An individual or entity" and inserting "(a) **LIMITATION**.—Subject to subsection (b), a person or legal entity";

(2) by striking "$450,000" and inserting "$300,000";

(3) by striking "the individual" both places it appears and inserting "the person"; and

(4) by adding at the end the following new subsection:

"(b) WAIVER AUTHORITY.—In the case of contracts under this chapter for projects of special environmental significance (including projects involving methane digesters), as determined by the Secretary, the Secretary may—

"(1) waive the limitation otherwise applicable under subsection (a); and

"(2) raise the limitation to not more than $450,000 during any six-year period.".

**SEC. 2509. CONSERVATION INNOVATION GRANTS AND PAYMENTS.**

Section 1240H of the Food Security Act of 1985 (16 U.S.C. 3839aa–8) is amended to read as follows:

**"SEC. 1240H. CONSERVATION INNOVATION GRANTS AND PAYMENTS.**

"(a) COMPETITIVE GRANTS FOR INNOVATIVE CONSERVATION APPROACHES.—

"(1) GRANTS.—Out of the funds made available to carry out this chapter, the Secretary may pay the cost of competitive grants that are intended to stimulate innovative approaches to leveraging the Federal investment in environmental enhancement and protection, in conjunction with agricultural production or forest resource management, through the program.

"(2) USE.—The Secretary may provide grants under this subsection to governmental and non-governmental organizations and persons, on a competitive basis, to carry out projects that—

"(A) involve producers who are eligible for payments or technical assistance under the program;

"(B) leverage Federal funds made available to carry out the program under this chapter with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production;

"(C) ensure efficient and effective transfer of innovative technologies and approaches demonstrated through projects that receive funding under this section, such as market systems for pollution reduction and practices for the storage of carbon in soil; and

"(D) provide environmental and resource conservation benefits through increased participation by producers of specialty crops.

"(b) AIR QUALITY CONCERNS FROM AGRICULTURAL OPERATIONS.—

"(1) IMPLEMENTATION ASSISTANCE.—The Secretary shall provide payments under this subsection to producers to implement practices to address air quality concerns from agricultural operations and to meet Federal, State, and local regulatory requirements. The funds shall be made available on the basis of air quality concerns in a State and shall be used to provide payments to producers that are cost effective and reflect innovative technologies.

"(2) FUNDING.—Of the funds made available to carry out this chapter, the Secretary shall carry out this subsection using $37,500,000 for each of fiscal years 2009 through 2012.".

**SEC. 2510. AGRICULTURAL WATER ENHANCEMENT PROGRAM.**

Section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9) is amended to read as follows:

**"SEC. 1240I. AGRICULTURAL WATER ENHANCEMENT PROGRAM.**

"(a) DEFINITIONS.—In this section:

"(1) AGRICULTURAL WATER ENHANCEMENT ACTIVITY.—The term 'agricultural water enhancement activity' includes the following activities carried out with respect to agricultural land:

"(A) Water quality or water conservation plan development, including resource condition assessment and modeling.

"(B) Water conservation restoration or enhancement projects, including conversion to the production of less water-intensive agricultural commodities or dryland farming.

"(C) Water quality or quantity restoration or enhancement projects.

"(D) Irrigation system improvement and irrigation efficiency enhancement.

"(E) Activities designed to mitigate the effects of drought.

"(F) Related activities that the Secretary determines will help achieve water quality or water conservation benefits on agricultural land.

"(2) PARTNER.—The term 'partner' means an entity that enters into a partnership agreement with the Secretary to carry out agricultural water enhancement activities on a regional basis, including—

"(A) an agricultural or silvicultural producer association or other group of such producers;

"(B) a State or unit of local government; or

"(C) a federally recognized Indian tribe.

"(3) PARTNERSHIP AGREEMENT.—The term 'partnership agreement' means an agreement between the Secretary and a partner.

"(4) PROGRAM.—The term 'program' means the agricultural water enhancement program established under subsection (b).

"(b) ESTABLISHMENT OF PROGRAM.—Beginning in fiscal year 2009, the Secretary shall carry out, in accordance with this section and using such procedures as the Secretary determines to be appropriate, an agricultural water enhancement program as part of the environmental quality incentives program to promote ground and surface water conservation and improve water quality on agricultural lands—

Effective date.
Procedures.
Contracts.

"(1) by entering into contracts with, and making payments to, producers to carry out agricultural water enhancement activities; or

"(2) by entering into partnership agreements with partners, in accordance with subsection (c), on a regional level to benefit working agricultural land.

"(c) PARTNERSHIP AGREEMENTS.—

"(1) AGREEMENTS AUTHORIZED.—The Secretary may enter into partnership agreements to meet the objectives of the program described in subsection (b).

"(2) APPLICATIONS.—An application to the Secretary to enter into a partnership agreement under paragraph (1) shall include the following:

"(A) A description of the geographical area to be covered by the partnership agreement.

"(B) A description of the agricultural water quality or water conservation issues to be addressed by the partnership agreement.

"(C) A description of the agricultural water enhancement objectives to be achieved through the partnership.

"(D) A description of the partners collaborating to achieve the project objectives and the roles, responsibilities, and capabilities of each partner.

"(E) A description of the program resources, including payments the Secretary is requested to make.

"(F) Such other such elements as the Secretary considers necessary to adequately evaluate and competitively select applications for partnership agreements.

Reports.

"(3) DUTIES OF PARTNERS.—A partner under a partnership agreement shall—

"(A) identify producers participating in the project and act on their behalf in applying for the program;

"(B) leverage funds provided by the Secretary with additional funds to help achieve project objectives;

"(C) conduct monitoring and evaluation of project effects; and

"(D) at the conclusion of the project, report to the Secretary on project results.

"(d) AGRICULTURAL WATER ENHANCEMENT ACTIVITIES BY PRODUCERS.—The Secretary shall select agricultural water enhancement activities proposed by producers according to applicable requirements under the environmental quality incentives program.

"(e) AGRICULTURAL WATER ENHANCEMENT ACTIVITIES BY PARTNERS.—

"(1) COMPETITIVE PROCESS.—The Secretary shall conduct a competitive process to select partners. In carrying out the process, the Secretary shall make public the criteria used in evaluating applications.

Public information.

"(2) AUTHORITY TO GIVE PRIORITY TO CERTAIN PROPOSALS.—The Secretary may give a higher priority to proposals from partners that—

"(A) include high percentages of agricultural land and producers in a region or other appropriate area;

"(B) result in high levels of applied agricultural water quality and water conservation activities;

"(C) significantly enhance agricultural activity;

"(D) allow for monitoring and evaluation; and

"(E) assist producers in meeting a regulatory requirement that reduces the economic scope of the producer's operation.

"(3) PRIORITY TO PROPOSALS FROM STATES WITH WATER QUANTITY CONCERNS.—The Secretary shall give a higher priority to proposals from partners that—

"(A) include the conversion of agricultural land from irrigated farming to dryland farming;

"(B) leverage Federal funds provided under the program with funds provided by partners; and

"(C) assist producers in States with water quantity concerns, as determined by the Secretary.

"(4) ADMINISTRATION.—In carrying out this subsection, the Secretary shall—

"(A) accept qualified applications—

"(i) directly from partners applying on behalf of producers; or

"(ii) from producers applying through a partner as part of a regional agricultural water enhancement project; and

"(B) ensure that resources made available for regional agricultural water enhancement activities are delivered in accordance with applicable program rules.

"(f) AREAS EXPERIENCING EXCEPTIONAL DROUGHT.—Notwithstanding the purposes described in section 1240, the Secretary shall consider as an eligible agricultural water enhancement activity the use of a water impoundment to capture surface water runoff on agricultural land if the agricultural water enhancement activity—

"(1) is located in an area that is experiencing or has experienced exceptional drought conditions during the previous two calendar years; and

"(2) will capture surface water runoff through the construction, improvement, or maintenance of irrigation ponds or small, on-farm reservoirs.

"(g) WAIVER AUTHORITY.—To assist in the implementation of agricultural water enhancement activities under the program, the Secretary shall waive the applicability of the limitation in section 1001D(b)(2)(B) of this Act for participating producers if the Secretary determines that the waiver is necessary to fulfill the objectives of the program.

"(h) PAYMENTS UNDER PROGRAM.—

"(1) IN GENERAL.—The Secretary shall provide appropriate payments to producers participating in agricultural water enhancement activities in an amount determined by the secretary to be necessary to achieve the purposes of the program described in subsection (b).

"(2) PAYMENTS TO PRODUCERS IN STATES WITH WATER QUANTITY CONCERNS.—The Secretary shall provide payments for a period of five years to producers participating in agricultural water enhancement activities under proposals described in subsection (e)(3) in an amount sufficient to encourage producers to convert from irrigated farming to dryland farming.

"(i) CONSISTENCY WITH STATE LAW.—Any agricultural water enhancement activity conducted under the program shall be conducted in a manner consistent with State water law.

"(j) FUNDING.—

"(1) AVAILABILITY OF FUNDS.—In addition to funds made available to carry out this chapter under section 1241(a), the Secretary shall carry out the program using, of the funds of the Commodity Credit Corporation—

"(A) $73,000,000 for each of fiscal years 2009 and 2010;

"(B) $74,000,000 for fiscal year 2011; and

"(C) $60,000,000 for fiscal year 2012 and each fiscal year thereafter.

"(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—None of the funds made available for regional agricultural water conservation activities under the program may be used to pay for the administrative expenses of partners.".

# Subtitle G—Other Conservation Programs of the Food Security Act of 1985

**SEC. 2601. CONSERVATION OF PRIVATE GRAZING LAND.**

Section 1240M(e) of the Food Security Act of 1985 (16 U.S.C. 3839bb(e)) is amended by striking "2007" and inserting "2012".

**SEC. 2602. WILDLIFE HABITAT INCENTIVE PROGRAM.**

(a) ELIGIBILITY.—Section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) is amended—

(1) in subsection (a), by inserting before the period at the end the following: "for the development of wildlife habitat on private agricultural land, nonindustrial private forest land, and tribal lands".

(2) in subsection (b)(1), by striking "landowners" and inserting "owners of lands referred to in subsection (a)".

(b) INCLUSION OF PIVOT CORNERS AND IRREGULAR AREAS.—Section 1240N(b)(1)(E) of the Food Security Act of 1985 (16 U.S.C. 3839bb–1(b)(1)(E)) is amended by inserting before the period at the end the following: ", including habitat developed on pivot corners and irregular areas".

(c) COST SHARE FOR LONG-TERM AGREEMENTS.—Section 1240N(b)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3839bb–1(b)(2)(B)) is amended by striking "15 percent" and inserting "25 percent".

(d) PRIORITY FOR CERTAIN CONSERVATION INITIATIVES; PAYMENT LIMITATION.—Section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) is amended by adding at the end the following new subsections:

"(d) PRIORITY FOR CERTAIN CONSERVATION INITIATIVES.—In carrying out this section, the Secretary may give priority to projects that would address issues raised by State, regional, and national conservation initiatives.

"(e) PAYMENT LIMITATION.—Payments made to a person or legal entity, directly or indirectly, under the program may not exceed, in the aggregate, $50,000 per year.".

**SEC. 2603. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.**

Section 1240O(b) of the Food Security Act of 1985 (16 U.S.C. 3839bb–2(b)) is amended by striking "$5,000,000 for each of fiscal years 2002 through 2007" and inserting "$20,000,000 for each of fiscal years 2008 through 2012".

**SEC. 2604. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.**

Section 1240P of the Food Security Act of 1985 (16 U.S.C. 3839bb–3) is amended to read as follows:

**"SEC. 1240P. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.**

"(a) PROGRAM AUTHORIZED.—The Secretary may carry out the Great Lakes basin program for soil erosion and sediment control (referred to in this section as the 'program'), including providing assistance to implement the recommendations of the Great Lakes Regional Collaboration Strategy to Restore and Protect the Great Lakes.

"(b) CONSULTATION AND COOPERATION.—The Secretary shall carry out the program in consultation with the Great Lakes Commission created by Article IV of the Great Lakes Basin Compact (82 Stat. 415) and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army.

"(c) ASSISTANCE.—In carrying out the program, the Secretary may—

"(1) provide project demonstration grants, provide technical assistance, and carry out information and educational programs to improve water quality in the Great Lakes basin by reducing soil erosion and improving sediment control; and

"(2) establish a priority for projects and activities that—

"(A) directly reduce soil erosion or improve sediment control;

"(B) reduce soil loss in degraded rural watersheds; or

"(C) improve water quality for downstream watersheds.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the program $5,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 2605. CHESAPEAKE BAY WATERSHED PROGRAM.**

Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 is amended by inserting after section 1240P (16 U.S.C. 3839bb–3) the following new section:

**"SEC. 1240Q. CHESAPEAKE BAY WATERSHED.**

16 USC 3839bb–4.

"(a) CHESAPEAKE BAY WATERSHED DEFINED.—In this section, the term 'Chesapeake Bay watershed' means all tributaries, backwaters, and side channels, including their watersheds, draining into the Chesapeake Bay.

"(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall assist producers in implementing conservation activities on agricultural lands in the Chesapeake Bay watershed for the purposes of—

"(1) improving water quality and quantity in the Chesapeake Bay watershed; and

"(2) restoring, enhancing, and preserving soil, air, and related resources in the Chesapeake Bay watershed.

"(c) CONSERVATION ACTIVITIES.—The Secretary shall deliver the funds made available to carry out this section through applicable programs under this subtitle to assist producers in enhancing land and water resources—

"(1) by controlling erosion and reducing sediment and nutrient levels in ground and surface water; and

"(2) by planning, designing, implementing, and evaluating habitat conservation, restoration, and enhancement measures where there is significant ecological value if the lands are—

"(A) retained in their current use; or

"(B) restored to their natural condition.

"(d) AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) enter into agreements with producers to carry out the purposes of this section; and

"(B) use the funds made available to carry out this section to cover the costs of the program involved with each agreement.

"(2) SPECIAL CONSIDERATIONS.—In entering into agreements under this subsection, the Secretary shall give special

consideration to, and begin evaluating, applications with producers in the following river basins:

"(A) The Susquehanna River.

"(B) The Shenandoah River.

"(C) The Potomac River (including North and South Potomac).

"(D) The Patuxent River.

"(e) DUTIES OF THE SECRETARY.—In carrying out the purposes in this section, the Secretary shall—

"(1) where available, use existing plans, models, and assessments to assist producers in implementing conservation activities; and

"(2) proceed expeditiously with the implementation of any agreement with a producer that is consistent with State strategies for the restoration of the Chesapeake Bay watershed.

"(f) CONSULTATION.—The Secretary, in consultation with appropriate Federal agencies, shall ensure conservation activities carried out under this section complement Federal and State programs, including programs that address water quality, in the Chesapeake Bay watershed.

"(g) SENSE OF CONGRESS REGARDING CHESAPEAKE BAY EXECUTIVE COUNCIL.—It is the sense of Congress that the Secretary should be a member of the Chesapeake Bay Executive Council, and is authorized to do so under section 1(3) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a(3)).

"(h) FUNDING.—

"(1) AVAILABILITY.—Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable—

"(A) $23,000,000 for fiscal year 2009;

"(B) $43,000,000 for fiscal year 2010;

"(C) $72,000,000 for fiscal year 2011; and

"(D) $50,000,000 for fiscal year 2012.

"(2) DURATION OF AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended."

**SEC. 2606. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.**

Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839bb et seq.) is amended by inserting after section 1240Q, as added by section 2605, the following new section:

16 USC 3839bb–5.

**"SEC. 1240R. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.**

"(a) ESTABLISHMENT.—The Secretary shall establish a voluntary public access program under which States and tribal governments may apply for grants to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting or fishing under programs administered by the States and tribal governments.

"(b) APPLICATIONS.—In submitting applications for a grant under the program, a State or tribal government shall describe—

"(1) the benefits that the State or tribal government intends to achieve by encouraging public access to private farm and ranch land for—

"(A) hunting and fishing; and

"(B) to the maximum extent practicable, other recreational purposes; and

"(2) the methods that will be used to achieve those benefits.

"(c) PRIORITY.—In approving applications and awarding grants under the program, the Secretary shall give priority to States and tribal governments that propose—

"(1) to maximize participation by offering a program the terms of which are likely to meet with widespread acceptance among landowners;

"(2) to ensure that land enrolled under the State or tribal government program has appropriate wildlife habitat;

"(3) to strengthen wildlife habitat improvement efforts on land enrolled in a special conservation reserve enhancement program described in section 1234(f)(4) by providing incentives to increase public hunting and other recreational access on that land;

"(4) to use additional Federal, State, tribal government, or private resources in carrying out the program; and

"(5) to make available to the public the location of land enrolled.

"(d) RELATIONSHIP TO OTHER LAWS.—

"(1) NO PREEMPTION.—Nothing in this section preempts a State or tribal government law, including any State or tribal government liability law.

"(2) EFFECT OF INCONSISTENT OPENING DATES FOR MIGRATORY BIRD HUNTING.—The Secretary shall reduce by 25 percent the amount of a grant otherwise determined for a State under the program if the opening dates for migratory bird hunting in the State are not consistent for residents and non-residents.

"(e) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

"(f) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable, $50,000,000 for the period of fiscal years 2009 through 2012.".

# Subtitle H—Funding and Administration of Conservation Programs

### SEC. 2701. FUNDING OF CONSERVATION PROGRAMS UNDER FOOD SECURITY ACT OF 1985.

(a) IN GENERAL.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended in the matter preceding paragraph (1), by striking "2007" and inserting "2012".

(b) CONSERVATION RESERVE PROGRAM.—Paragraph (1) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by striking the period at the end and inserting the following: ", including to the maximum extent practicable—

"(A) $100,000,000 for the period of fiscal years 2009 through 2012 to provide cost share payments under paragraph (3) of section 1234(b) in connection with thinning activities conducted on land described in subparagraph (A)(iii) of such paragraph; and

"(B) $25,000,000 for the period of fiscal years 2009 through 2012 to carry out section 1235(f) to facilitate the transfer of land subject to contracts from retired or retiring

owners and operators to beginning farmers or ranchers and socially disadvantaged farmers or ranchers.".

(c) CONSERVATION SECURITY AND CONSERVATION STEWARDSHIP PROGRAMS.—Paragraph (3) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(3)(A) CONSERVATION SECURITY PROGRAM.—The conservation security program under subchapter A of chapter 2, using such sums as are necessary to administer contracts entered into before September 30, 2008.

"(B) CONSERVATION STEWARDSHIP PROGRAM.—The conservation stewardship program under subchapter B of chapter 2.".

(d) FARMLAND PROTECTION PROGRAM.—Paragraph (4) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(4) The farmland protection program under subchapter C of chapter 2, using, to the maximum extent practicable—

"(A) $97,000,000 in fiscal year 2008;
"(B) $121,000,000 in fiscal year 2009;
"(C) $150,000,000 in fiscal year 2010;
"(D) $175,000,000 in fiscal year 2011; and
"(E) $200,000,000 in fiscal year 2012.".

(e) GRASSLAND RESERVE PROGRAM.—Paragraph (5) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(5) The grassland reserve program under subchapter D of chapter 2.".

(f) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—Paragraph (6) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(6) The environmental quality incentives program under chapter 4, using, to the maximum extent practicable—

"(A) $1,200,000,000 in fiscal year 2008;
"(B) $1,337,000,000 in fiscal year 2009;
"(C) $1,450,000,000 in fiscal year 2010;
"(D) $1,588,000,000 in fiscal year 2011; and
"(E) $1,750,000,000 in fiscal year 2012.".

(g) WILDLIFE HABITAT INCENTIVES PROGRAM.—Paragraph (7)(D) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by striking "2007" and inserting "2012".

**SEC. 2702. AUTHORITY TO ACCEPT CONTRIBUTIONS TO SUPPORT CONSERVATION PROGRAMS.**

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by adding at the end the following new subsection:

"(e) ACCEPTANCE AND USE OF CONTRIBUTIONS.—

"(1) AUTHORITY TO ESTABLISH CONTRIBUTION ACCOUNTS.—Subject to paragraph (2), the Secretary may establish a sub-account for each conservation program administered by the Secretary under subtitle D to accept contributions of non-Federal funds to support the purposes of the program.

"(2) DEPOSIT AND USE OF CONTRIBUTIONS.—Contributions of non-Federal funds received for a conservation program administered by the Secretary under subtitle D shall be deposited into the sub-account established under this subsection for the program and shall be available to the Secretary, without further appropriation and until expended, to carry out the program.".

**SEC. 2703. REGIONAL EQUITY AND FLEXIBILITY.**

(a) REGIONAL EQUITY AND FLEXIBILITY.—Section 1241(d) of the Food Security Act of 1985 (16 U.S.C. 3841(d)) is amended—

(1) by striking "Before April 1" and inserting the following:

"(1) PRIORITY FUNDING TO PROMOTE EQUITY.—Before April 1";

(2) by striking "$12,000,000" and inserting "$15,000,000"; and

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

"(2) SPECIFIC FUNDING ALLOCATIONS.—In determining the specific funding allocations for States under paragraph (1), the Secretary shall consider the respective demand in each State for each program covered by such paragraph.".

(b) ALLOCATIONS REVIEW AND UPDATE.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (e), as added by section 2702, the following new subsection:

"(f) ALLOCATIONS REVIEW AND UPDATE.—

"(1) REVIEW.—Not later than January 1, 2012, the Secretary shall conduct a review of conservation programs and authorities under this title that utilize allocation formulas to determine the sufficiency of the formulas in accounting for State-level economic factors, level of agricultural infrastructure, or related factors that affect conservation program costs. Deadline.

"(2) UPDATE.—The Secretary shall improve conservation program allocation formulas as necessary to ensure that the formulas adequately reflect the costs of carrying out the conservation programs.".

**SEC. 2704. ASSISTANCE TO CERTAIN FARMERS AND RANCHERS TO IMPROVE THEIR ACCESS TO CONSERVATION PROGRAMS.**

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (f), as added by section 2703(b), the following new subsection:

"(g) ASSISTANCE TO CERTAIN FARMERS OR RANCHERS FOR CONSERVATION ACCESS.—

"(1) ASSISTANCE.—Of the funds made available for each of fiscal years 2009 through 2012 to carry out the environmental quality incentives program and the acres made available for each of such fiscal years to carry out the conservation stewardship program, the Secretary shall use, to the maximum extent practicable—

"(A) 5 percent to assist beginning farmers or ranchers; and

"(B) 5 percent to assist socially disadvantaged farmers or ranchers.

"(2) REPOOLING OF FUNDS.—In any fiscal year, amounts not obligated under paragraph (1) by a date determined by the Secretary shall be available for payments and technical assistance to all persons eligible for payments or technical assistance in that fiscal year under the environmental quality incentives program.

"(3) REPOOLING OF ACRES.—In any fiscal year, acres not obligated under paragraph (1) by a date determined by the Secretary shall be available for use in that fiscal year under the conservation stewardship program.".

**SEC. 2705. REPORT REGARDING ENROLLMENTS AND ASSISTANCE UNDER CONSERVATION PROGRAMS.**

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (g), as added by section 2704, the following new subsection:

"(h) REPORT ON PROGRAM ENROLLMENTS AND ASSISTANCE.—Beginning in calendar year 2009, and each year thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a semiannual report containing statistics by State related to enrollments in conservation programs under this subtitle, as follows:

"(1) Payments made under the wetlands reserve program for easements valued at $250,000 or greater.

"(2) Payments made under the farmland protection program for easements in which the Federal share is $250,000 or greater.

"(3) Payments made under the grassland reserve program valued at $250,000 or greater.

"(4) Payments made under the environmental quality incentives program for land determined to have special environmental significance pursuant to section 1240G(b).

"(5) Payments made under the agricultural water enhancement program subject to the waiver of adjusted gross income limitations pursuant to section 1240I(g).

"(6) Waivers granted by the Secretary under section 1001D(b)(2) of this Act in order to protect environmentally sensitive land of special significance.".

**SEC. 2706. DELIVERY OF CONSERVATION TECHNICAL ASSISTANCE.**

Section 1242 of the Food Security Act of 1985 (16 U.S.C. 3842) is amended to read as follows:

**"SEC. 1242. DELIVERY OF TECHNICAL ASSISTANCE.**

"(a) DEFINITION OF ELIGIBLE PARTICIPANT.—In this section, the term 'eligible participant' means a producer, landowner, or entity that is participating in, or seeking to participate in, programs for which the producer, landowner, or entity is otherwise eligible to participate in under this title or the agricultural management assistance program under section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524).

"(b) PURPOSE OF TECHNICAL ASSISTANCE.—The purpose of technical assistance authorized by this section is to provide eligible participants with consistent, science-based, site-specific practices designed to achieve conservation objectives on land active in agricultural, forestry, or related uses.

"(c) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance under this title to an eligible participant—

"(1) directly;

"(2) through an agreement with a third-party provider; or

"(3) at the option of the eligible participant, through a payment, as determined by the Secretary, to the eligible participant for an approved third-party provider, if available.

"(d) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of, and enter into cooperative agreements or contracts

with, other agencies within the Department or non-Federal entities to assist the Secretary in providing technical assistance necessary to assist in implementing conservation programs under this title.

"(e) CERTIFICATION OF THIRD-PARTY PROVIDERS.—

"(1) PURPOSE.—The purpose of the third-party provider program is to increase the availability and range of technical expertise available to eligible participants to plan and implement conservation measures.

"(2) REGULATIONS.—Not later than 180 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall promulgate such regulations as are necessary to carry out this section. Deadline.

"(3) EXPERTISE.—In promulgating such regulations, the Secretary, to the maximum extent practicable, shall—

"(A) ensure that persons with expertise in the technical aspects of conservation planning, watershed planning, and environmental engineering, including commercial entities, nonprofit entities, State or local governments or agencies, and other Federal agencies, are eligible to become approved providers of the technical assistance;

"(B) provide national criteria for the certification of third party providers; and Criteria.

"(C) approve any unique certification standards established at the State level.

"(f) ADMINISTRATION.—

"(1) FUNDING.—Effective for fiscal year 2008 and each subsequent fiscal year, funds of the Commodity Credit Corporation made available to carry out technical assistance for each of the programs specified in section 1241 shall be available for the provision of technical assistance from third-party providers under this section. Effective date.

"(2) TERM OF AGREEMENT.—An agreement with a third-party provider under this section shall have a term that—

"(A) at a minimum, is equal to the period beginning on the date on which the agreement is entered into and ending on the date that is 1 year after the date on which all activities performed pursuant to the agreement have been completed;

"(B) does not exceed 3 years; and

"(C) can be renewed, as determined by the Secretary.

"(3) REVIEW OF CERTIFICATION REQUIREMENTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall— Deadline.

"(A) review certification requirements for third-party providers; and

"(B) make any adjustments considered necessary by the Secretary to improve participation.

"(4) ELIGIBLE ACTIVITIES.—

"(A) INCLUSION OF ACTIVITIES.—The Secretary may include as activities eligible for payments to a third party provider—

"(i) technical services provided directly to eligible participants, such as conservation planning, education and outreach, and assistance with design and implementation of conservation practices; and

"(ii) related technical assistance services that accelerate conservation program delivery.

"(B) EXCLUSIONS.—The Secretary shall not designate as an activity eligible for payments to a third party provider any service that is provided by a business, or equivalent, in connection with conducting business and that is customarily provided at no cost.

"(5) PAYMENT AMOUNTS.—The Secretary shall establish fair and reasonable amounts of payments for technical services provided by third-party providers.

"(g) AVAILABILITY OF TECHNICAL SERVICES.—

"(1) IN GENERAL.—In carrying out the programs under this title and the agricultural management assistance program under section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524), the Secretary shall make technical services available to all eligible participants who are installing an eligible practice.

"(2) TECHNICAL SERVICE CONTRACTS.—In any case in which financial assistance is not provided under a program referred to in paragraph (1), the Secretary may enter into a technical service contract with the eligible participant for the purposes of assisting in the planning, design, or installation of an eligible practice.

"(h) REVIEW OF CONSERVATION PRACTICE STANDARDS.—

"(1) REVIEW REQUIRED.—The Secretary shall—

"(A) review conservation practice standards, including engineering design specifications, in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008;

"(B) ensure, to the maximum extent practicable, the completeness and relevance of the standards to local agricultural, forestry, and natural resource needs, including specialty crops, native and managed pollinators, bioenergy crop production, forestry, and such other needs as are determined by the Secretary; and

"(C) ensure that the standards provide for the optimal balance between meeting site-specific conservation needs and minimizing risks of design failure and associated costs of construction and installation.

"(2) CONSULTATION.—In conducting the review under paragraph (1), the Secretary shall consult with eligible participants, crop consultants, cooperative extension and land grant universities, nongovernmental organizations, and other qualified entities.

"(3) EXPEDITED REVISION OF STANDARDS.—If the Secretary determines under paragraph (1) that revisions to the conservation practice standards, including engineering design specifications, are necessary, the Secretary shall establish an administrative process for expediting the revisions.

"(i) ADDRESSING CONCERNS OF SPECIALITY CROP, ORGANIC, AND PRECISION AGRICULTURE PRODUCERS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) to the maximum extent practicable, fully incorporate specialty crop production, organic crop production, and precision agriculture into the conservation practice standards; and

"(B) provide for the appropriate range of conservation practices and resource mitigation measures available to producers involved with organic or specialty crop production or precision agriculture.

"(2) AVAILABILITY OF ADEQUATE TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—The Secretary shall ensure that adequate technical assistance is available for the implementation of conservation practices by producers involved with organic, specialty crop production, or precision agriculture through Federal conservation programs.

"(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall develop—

"(i) programs that meet specific needs of producers involved with organic, specialty crop production or precision agriculture through cooperative agreements with other agencies and nongovernmental organizations; and

"(ii) program specifications that allow for innovative approaches to engage local resources in providing technical assistance for planning and implementation of conservation practices.".

**SEC. 2707. COOPERATIVE CONSERVATION PARTNERSHIP INITIATIVE.**

(a) TRANSFER OF EXISTING PROVISIONS.—Subsections (a), (c), and (d) of section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) are—

(1) redesignated as subsections (c), (d), and (e), respectively; and

(2) transferred to appear at the end of section 1244 of such Act (16 U.S.C. 3844).

(b) ESTABLISHMENT OF PARTNERSHIP INITIATIVE.—Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843), as amended by subsection (a), is amended to read as follows:

**"SEC. 1243. COOPERATIVE CONSERVATION PARTNERSHIP INITIATIVE.**

"(a) ESTABLISHMENT OF INITIATIVE.—The Secretary shall establish a cooperative conservation partnership initiative (in this section referred to as the 'Initiative') to work with eligible partners to provide assistance to producers enrolled in a program described in subsection (c)(1) that will enhance conservation outcomes on agricultural and nonindustrial private forest land.

"(b) PURPOSES.—The purposes of a partnership entered into under the Initiative shall be—

"(1) to address conservation priorities involving agriculture and nonindustrial private forest land on a local, State, multi-State, or regional level;

"(2) to encourage producers to cooperate in meeting applicable Federal, State, and local regulatory requirements related to production involving agriculture and nonindustrial private forest land;

"(3) to encourage producers to cooperate in the installation and maintenance of conservation practices that affect multiple agricultural or nonindustrial private forest operations; or

"(4) to promote the development and demonstration of innovative conservation practices and delivery methods, including those for specialty crop and organic production and precision agriculture producers.

"(c) INITIATIVE PROGRAMS.—

"(1) COVERED PROGRAMS.—Except as provided in paragraph (2), the Initiative applies to all conservation programs under subtitle D.

"(2) EXCLUDED PROGRAMS.—The Initiative shall not include the following programs:

"(A) Conservation reserve program.

"(B) Wetlands reserve program.

"(C) Farmland protection program

"(D) Grassland reserve program.

"(d) ELIGIBLE PARTNERS.—The Secretary may enter into a partnership under the Initiative with one or more of the following:

"(1) States and local governments.

"(2) Indian tribes.

"(3) Producer associations.

"(4) Farmer cooperatives.

"(5) Institutions of higher education.

"(6) Nongovernmental organizations with a history of working cooperatively with producers to effectively address conservation priorities related to agricultural production and nonindustrial private forest land.

"(e) IMPLEMENTATION AGREEMENTS.—The Secretary shall carry out the Initiative—

"(1) by selecting, through a competitive process, eligible partners from among applications submitted under subsection (f); and

"(2) by entering into multi-year agreements with eligible partners so selected for a period not to exceed 5 years.

"(f) APPLICATIONS.—

"(1) REQUIRED INFORMATION.—An application to enter into a partnership agreement under the Initiative shall include the following:

"(A) A description of the area covered by the agreement, conservation priorities in the area, conservation objectives to be achieved, and the expected level of participation by agricultural producers and nonindustrial private forest landowners.

"(B) A description of the partner, or partners, collaborating to achieve the objectives of the agreement, and the roles, responsibilities, and capabilities of the partner.

"(C) A description of the resources that are requested from the Secretary, and the non-Federal resources that will be leveraged by the Federal contribution.

"(D) A description of the plan for monitoring, evaluating, and reporting on progress made towards achieving the objectives of the agreement.

"(E) Such other information that may be required by the Secretary.

"(2) PRIORITIES.—The Secretary shall give priority to applications for agreements that—

"(A) have a high percentage of producers involved and working agricultural or nonindustrial private forest land included in the area covered by the agreement;

"(B) significantly leverage non-Federal financial and technical resources and coordinate with other local, State, or Federal efforts;

"(C) deliver high percentages of applied conservation to address water quality, water conservation, or State, regional, or national conservation initiatives;

"(D) provide innovation in conservation methods and delivery, including outcome-based performance measures and methods; or

"(E) meet other factors, as determined by the Secretary.

"(g) RELATIONSHIP TO COVERED PROGRAMS.—

"(1) COMPLIANCE WITH PROGRAM RULES.—Except as provided in paragraph (2), the Secretary shall ensure that resources made available under the Initiative are delivered in accordance with the applicable rules of programs specified in subsection (c)(1) through normal program mechanisms relating to program functions, including rules governing appeals, payment limitations, and conservation compliance.

"(2) ADJUSTMENT.—The Secretary may adjust the elements of any program specified in subsection (c)(1)—

"(A) to better reflect unique local circumstances and purposes if the Secretary determines such adjustments are necessary to achieve the purposes of the Initiative; and

"(B) to provide preferential enrollment to producers who are eligible for the applicable program and to participate in the Initiative.

"(h) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary shall provide appropriate technical and financial assistance to producers participating in the Initiative in an amount determined to be necessary to achieve the purposes of the Initiative.

"(i) FUNDING.—

"(1) RESERVATION.—Of the funds and acres made available for each of fiscal years 2009 through 2012 to implement the programs described in subsection (c)(1), the Secretary shall reserve 6 percent of the funds and acres to ensure an adequate source of funds and acres for the Initiative.

"(2) ALLOCATION REQUIREMENTS.—Of the funds and acres reserved for the Initiative for a fiscal year, the Secretary shall allocate—

"(A) 90 percent of the funds and acres to projects based on the direction of State conservationists, with the advice of State technical committees; and

"(B) 10 percent of the funds and acres to projects based on a national competitive process established by the Secretary.

"(3) UNUSED FUNDING.—Any funds and acres reserved for a fiscal year under paragraph (1) that are not obligated by April 1 of that fiscal year may be used to carry out other activities under the program that is the source of the funds or acres during the remainder of that fiscal year.

"(4) ADMINISTRATIVE COSTS OF PARTNERS.—Overhead or administrative costs of partners may not be covered by funds provided through the Initiative.".

**SEC. 2708. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.**

Section 1244 of the Food Security Act of 1985 (16 U.S.C. 3844), as amended by section 2707, is further amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) INCENTIVES FOR CERTAIN FARMERS AND RANCHERS AND INDIAN TRIBES.—

"(1) INCENTIVES AUTHORIZED.—In carrying out any conservation program administered by the Secretary, the Secretary may provide to a person or entity specified in paragraph (2) incentives to participate in the conservation program—

"(A) to foster new farming and ranching opportunities; and

"(B) to enhance long-term environmental goals.

"(2) COVERED PERSONS.—Incentives authorized by paragraph (1) may be provided to the following:

"(A) Beginning farmers or ranchers.

"(B) Socially disadvantaged farmers or ranchers.

"(C) Limited resource farmers or ranchers.

"(D) Indian tribes."; and

(2) by adding at the end the following new subsections:

"(f) ACREAGE LIMITATIONS.—

"(1) LIMITATIONS.—

"(A) ENROLLMENTS.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under subchapters B and C of chapter 1 of subtitle D.

"(B) EASEMENTS.—Not more than 10 percent of the cropland in a country may be subject to an easement acquired under subchapter C of chapter 1 of subtitle D.

"(2) EXCEPTIONS.—The Secretary may exceed the limitation in paragraph (1)(A), if the Secretary determines that—

"(A) the action would not adversely affect the local economy of a county; and

"(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

"(3) WAIVER TO EXCLUDE CERTAIN ACREAGE.—The Secretary may grant a waiver to exclude acreage enrolled under subsection (c)(2)(B) or (f)(4) of section 1234 from the limitations in paragraph (1)(A) with the concurrence of the county government of the county involved.

"(4) SHELTERBELTS AND WINDBREAKS.—The limitations established under paragraph (1) shall not apply to cropland that is subject to an easement under subchapter C of chapter 1 that is used for the establishment of shelterbelts and windbreaks.

Procedures.

"(g) COMPLIANCE AND PERFORMANCE.—For each conservation program under subtitle D, the Secretary shall develop procedures—

"(1) to monitor compliance with program requirements;

"(2) to measure program performance;

"(3) to demonstrate whether the long-term conservation benefits of the program are being achieved;

"(4) to track participation by crop and livestock types; and

"(5) to coordinate activities described in this subsection with the national conservation program authorized under section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004).

"(h) ENCOURAGEMENT OF POLLINATOR HABITAT DEVELOPMENT AND PROTECTION.—In carrying out any conservation program administered by the Secretary, the Secretary may, as appropriate, encourage—

"(1) the development of habitat for native and managed pollinators; and

"(2) the use of conservation practices that benefit native and managed pollinators.

"(i) STREAMLINED APPLICATION PROCESS.—

"(1) IN GENERAL.—In carrying out each conservation program under this title, the Secretary shall ensure that the application process used by producers and landowners is streamlined to minimize complexity and eliminate redundancy.

"(2) REVIEW AND STREAMLINING.—

"(A) REVIEW.—The Secretary shall carry out a review of the application forms and processes for each conservation program covered by this subsection.

"(B) STREAMLINING.—On completion of the review the Secretary shall revise application forms and processes, as necessary, to ensure that—

"(i) all required application information is essential for the efficient, effective, and accountable implementation of conservation programs;

"(ii) conservation program applicants are not required to provide information that is readily available to the Secretary through existing information systems of the Department of Agriculture;

"(iii) information provided by the applicant is managed and delivered efficiently for use in all stages of the application process, or for multiple applications; and

"(iv) information technology is used effectively to minimize data and information input requirements.

"(3) IMPLEMENTATION AND NOTIFICATION.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to Congress a written notification of completion of the requirements of this subsection.".

**SEC. 2709. ENVIRONMENTAL SERVICES MARKETS.**

Subtitle E of title XII of the Food Security Act of 1985 is amended by inserting after section 1244 (16 U.S.C. 3844) the following new section:

**"SEC. 1245. ENVIRONMENTAL SERVICES MARKETS.** 16 USC 3845.

"(a) TECHNICAL GUIDELINES REQUIRED.—The Secretary shall establish technical guidelines that outline science-based methods to measure the environmental services benefits from conservation and land management activities in order to facilitate the participation of farmers, ranchers, and forest landowners in emerging environmental services markets. The Secretary shall give priority to the establishment of guidelines related to farmer, rancher, and forest landowner participation in carbon markets.

"(b) ESTABLISHMENT.—The Secretary shall establish guidelines under subsection (a) for use in developing the following:

"(1) A procedure to measure environmental services benefits.

"(2) A protocol to report environmental services benefits.

"(3) A registry to collect, record and maintain the benefits measured.

"(c) VERIFICATION REQUIREMENTS.—

"(1) VERIFICATION OF REPORTS.—The Secretary shall establish guidelines for a process to verify that a farmer, rancher, or forest landowner who reports an environmental services

benefit pursuant to the protocol required by paragraph (2) of subsection (b) for inclusion in the registry required by paragraph (3) of such subsection has implemented the conservation or land management activity covered by the report.

"(2) ROLE OF THIRD PARTIES.—In establishing the verification guidelines required by paragraph (1), the Secretary shall consider the role of third-parties in conducting independent verification of benefits produced for environmental services markets and other functions, as determined by the Secretary.

"(d) USE OF EXISTING INFORMATION.—In carrying out subsection (b), the Secretary shall build on activities or information in existence on the date of the enactment of the Food, Conservation, and Energy Act of 2008 regarding environmental services markets.

"(e) CONSULTATION.—In carrying out this section, the Secretary shall consult with the following:

"(1) Federal and State government agencies.

"(2) Nongovernmental interests including—

"(A) farm, ranch, and forestry producers;

"(B) financial institutions involved in environmental services trading;

"(C) institutions of higher education with relevant expertise or experience;

"(D) nongovernmental organizations with relevant expertise or experience; and

"(E) private sector representatives with relevant expertise or experience.

"(3) Other interested persons, as determined by the Secretary.".

**SEC. 2710. AGRICULTURE CONSERVATION EXPERIENCED SERVICES PROGRAM.**

Subtitle F of title XII of the Food Security Act of 1985 is amended by inserting after section 1251 (16 U.S.C. 2005a) the following new section:

16 USC 3851.

**"SEC. 1252. AGRICULTURE CONSERVATION EXPERIENCED SERVICES PROGRAM.**

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a conservation experienced services program (in this section referred to as the 'ACES Program') for the purpose of utilizing the talents of individuals who are age 55 or older, but who are not employees of the Department of Agriculture or a State agriculture department, to provide technical services in support of the conservation-related programs and authorities carried out by the Secretary. Such technical services may include conservation planning assistance, technical consultation, and assistance with design and implementation of conservation practices.

"(b) PROGRAM AGREEMENTS.—

"(1) RELATION TO OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.—Notwithstanding any other provision of law relating to Federal grants, cooperative agreements, or contracts, to carry out the ACES program during a fiscal year, the Secretary may enter into agreements with nonprofit private agencies and organizations eligible to receive grants for that fiscal year under the Community Service Senior Opportunities Act (42 U.S.C. 3056 et seq.) to secure participants for the

ACES program who will provide technical services under the ACES program.

"(2) REQUIRED DETERMINATION.—Before entering into an agreement under paragraph (1), the Secretary shall ensure that the agreement would not—

"(A) result in the displacement of individuals employed by the Department, including partial displacement through reduction of non-overtime hours, wages, or employment benefits;

"(B) result in the use of an individual under the ACES program for a job or function in a case in which a Federal employee is in a layoff status from the same or a substantially-equivalent job or function with the Department; or

"(C) affect existing contracts for services.

"(c) FUNDING SOURCE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may carry out the ACES program using funds made available to carry out each program under this title.

"(2) EXCLUSIONS.—Funds made available to carry out the following programs may not be used to carry out the ACES program:

"(A) The conservation reserve program.

"(B) The wetlands reserve program.

"(C) The grassland reserve program.

"(D) The conservation stewardship program.

"(d) LIABILITY.—An individual providing technical services under the ACES program is deemed to be an employee of the United States Government for purposes of chapter 171 of title 28, United States Code, if the individual—

"(1) is providing technical services pursuant to an agreement entered into under subsection (b); and

"(2) is acting within the scope of the agreement.".

**SEC. 2711. ESTABLISHMENT OF STATE TECHNICAL COMMITTEES AND THEIR RESPONSIBILITIES.**

Subtitle G of title XII of the Farm Security Act of 1985 (16 U.S.C. 3861, 3862) is amended to read as follows:

# "Subtitle G—State Technical Committees

**"SEC. 1261. ESTABLISHMENT OF STATE TECHNICAL COMMITTEES.** 16 USC 3861.

"(a) ESTABLISHMENT.—The Secretary shall establish a technical committee in each State to assist the Secretary in the considerations relating to implementation and technical aspects of the conservation programs under this title.

"(b) STANDARDS.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall develop— Deadline.

"(1) standard operating procedures to standardize the operations of State technical committees; and

"(2) standards to be used by State technical committees in the development of technical guidelines under section 1262(b) for the implementation of the conservation provisions of this title.

"(c) COMPOSITION.—Each State technical committee shall be composed of agricultural producers and other professionals that

represent a variety of disciplines in the soil, water, wetland, and wildlife sciences. The technical committee for a State shall include representatives from among the following:

"(1) The Natural Resources Conservation Service.

"(2) The Farm Service Agency.

"(3) The Forest Service.

"(4) The National Institute of Food and Agriculture.

"(5) The State fish and wildlife agency.

"(6) The State forester or equivalent State official.

"(7) The State water resources agency.

"(8) The State department of agriculture.

"(9) The State association of soil and water conservation districts.

"(10) Agricultural producers representing the variety of crops and livestock or poultry raised within the State.

"(11) Owners of nonindustrial private forest land.

"(12) Nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986 with demonstrable conservation expertise and experience working with agriculture producers in the State.

"(13) Agribusiness.

16 USC 3862.

**"SEC. 1262. RESPONSIBILITIES.**

"(a) IN GENERAL.—Each State technical committee established under section 1261 shall meet regularly to provide information, analysis, and recommendations to appropriate officials of the Department of Agriculture who are charged with implementing the conservation provisions of this title.

"(b) PUBLIC NOTICE AND ATTENDANCE.—Each State technical committee shall provide public notice of, and permit public attendance at, meetings considering issues of concern related to carrying out this title.

"(c) ROLE.—

"(1) IN GENERAL.—The role of State technical committees is advisory in nature, and such committees shall have no implementation or enforcement authority. However, the Secretary shall give strong consideration to the recommendations of such committees in administering the programs under this title.

"(2) ADVISORY ROLE IN ESTABLISHING PROGRAM PRIORITIES AND CRITERIA.—Each State technical committee shall advise the Secretary in establishing priorities and criteria for the programs in this title, including the review of whether local working groups are addressing those priorities.

"(d) FACA REQUIREMENTS.—

"(1) EXEMPTION.—Each State technical committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

"(2) LOCAL WORKING GROUPS.—For purposes of the Federal Advisory Committee Act (5 U.S.C. App.), any local working group established under this subtitle shall be considered to be a subcommittee of the applicable State technical committee.".

# Subtitle I—Conservation Programs Under Other Laws

**SEC. 2801. AGRICULTURAL MANAGEMENT ASSISTANCE PROGRAM.**

(a) ELIGIBLE STATES.—Section 524(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(1)) is amended by inserting "Hawaii," after "Delaware,".

(b) FUNDING.—Section 524(b)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(4)(B)) is amended—

(1) in clause (i), by striking "Except as provided in clauses (ii) and (iii)" and inserting "Except as provided in clause (ii)"; and

(2) by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) EXCEPTION FOR FISCAL YEARS 2008 THROUGH 2012.—For each of fiscal years 2008 through 2012, the Commodity Credit Corporation shall make available to carry out this subsection $15,000,000.".

(c) CERTAIN USES.—Section 524(b)(4) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(4)) is amended by adding at the end the following new subparagraph:

"(C) CERTAIN USES.—Of the amounts made available to carry out this subsection for a fiscal year, the Commodity Credit Corporation shall use not less than—

"(i) 50 percent to carry out subparagraphs (A), (B), and (C) of paragraph (2) through the Natural Resources Conservation Service;

"(ii) 10 percent to provide organic certification cost share assistance through the Agricultural Marketing Service; and

"(iii) 40 percent to conduct activities to carry out subparagraph (F) of paragraph (2) through the Risk Management Agency.".

**SEC. 2802. TECHNICAL ASSISTANCE UNDER SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.**

(a) PREVENTION OF SOIL EROSION.—

(1) IN GENERAL.—The first section of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a) is amended—

(A) by striking "That it" and inserting the following:

**"SECTION 1. PURPOSE.**

"It"; and

(B) in the matter preceding paragraph (1), by striking "and thereby to preserve natural resources," and inserting "to preserve soil, water, and related resources, promote soil and water quality,".

(2) POLICIES AND PURPOSES.—Section 7(a)(1) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g(a)(1)) is amended by striking "fertility" and inserting "and water quality and related resources".

(b) DEFINITIONS.—Section 10 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590j) is amended to read as follows:

**"SEC. 10. DEFINITIONS.**

"In this Act:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means—

"(A) an agricultural commodity; and

"(B) any regional or market classification, type, or grade of an agricultural commodity.

"(2) TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—The term 'technical assistance' means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses.

"(B) INCLUSIONS.—The term 'technical assistance' includes—

"(i) technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices; and

"(ii) technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.".

**SEC. 2803. SMALL WATERSHED REHABILITATION PROGRAM.**

(a) AVAILABILITY OF FUNDS.—Section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)) is amended by adding at the end the following new subparagraph:

"(G) $100,000,000 for fiscal year 2009, to be available until expended.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 14(h)(2)(E) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(2)(E)) is amended by striking "fiscal year 2007" and inserting "each of fiscal years 2008 through 2012".

**SEC. 2804. AMENDMENTS TO SOIL AND WATER RESOURCES CONSERVATION ACT OF 1977.**

(a) CONGRESSIONAL FINDINGS.—Section 2 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—

(1) in paragraph (2), by striking "base, of the" and inserting "base of the"; and

(2) in paragraph (3), by striking "(3)" and all that follows through "Since individual" and inserting the following:

"(3) Appraisal and inventory of resources, assessment and inventory of conservation needs, evaluation of the effects of conservation practices, and analyses of alternative approaches to existing conservation programs are basic to effective soil, water, and related natural resource conservation.

"(4) Since individual".

(b) CONTINUING APPRAISAL OF SOIL, WATER, AND RELATED RESOURCES.—Section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

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

"(7) data on conservation plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters under conservation programs administered by the Secretary.";

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following new subsection:

"(d) EVALUATION OF APPRAISAL.—In conducting the appraisal described in subsection (a), the Secretary shall concurrently solicit and evaluate recommendations for improving the appraisal, including the content, scope, process, participation in, and other elements of the appraisal, as determined by the Secretary."; and

(4) in subsection (e), as redesignated by paragraph (2), by striking the first sentence and inserting the following: "The Secretary shall conduct comprehensive appraisals under this section, to be completed by December 31, 2010, and December 31, 2015.".

(c) SOIL AND WATER CONSERVATION PROGRAM.—Section 6 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2005) is amended—

(1) by redesignating subsection (b) as subsection (d);

(2) by inserting after subsection (a) the following new subsections:

"(b) EVALUATION OF EXISTING CONSERVATION PROGRAMS.—In evaluating existing conservation programs, the Secretary shall emphasize demonstration, innovation, and monitoring of specific program components in order to encourage further development and adoption of practices and performance-based standards.

"(c) IMPROVEMENT TO PROGRAM.—In developing a national soil and water conservation program under subsection (a), the Secretary shall solicit and evaluate recommendations for improving the program, including the content, scope, process, participation in, and other elements of the program, as determined by the Secretary."; and

(3) in subsection (d), as redesignated by paragraph (1), by striking "December 31, 1979" and all that follows through "December 31, 2007" and inserting "December 31, 2011, and December 31, 2016".

(d) REPORTS TO CONGRESS.—Section 7 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2006) is amended to read as follows:

**"SEC. 7. REPORTS TO CONGRESS.**

President.

"(a) APPRAISAL.—Not later than the date on which Congress convenes in 2011 and 2016, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the appraisal developed under section 5 and completed before the end of the previous year.

"(b) PROGRAM AND STATEMENT OF POLICY.—Not later than the date on which Congress convenes in 2012 and 2017, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

"(1) the initial program or updated program developed under section 6 and completed before the end of the previous year;

"(2) a detailed statement of policy regarding soil and water conservation activities of the Department of Agriculture; and

"(3) a special evaluation of the status, conditions, and trends of soil quality on cropland in the United States that addresses the challenges and opportunities for reducing soil erosion to tolerance levels.

"(c) IMPROVEMENTS TO APPRAISAL AND PROGRAM.—Not later than the date on which Congress convenes in 2012, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the plans of the Department of Agriculture for improving the resource appraisal and national conservation program required under this Act, based on the recommendations received under sections 5(d) and 6(c).".

(e) TERMINATION OF PROGRAM.—Section 10 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2009) is amended by striking "2008" and inserting "2018".

**SEC. 2805. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.**

(a) LOCALLY LED PLANNING PROCESS.—Section 1528 of the Agriculture and Food Act of 1981 (16 U.S.C. 3451) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "planning process" and inserting "locally led planning process";

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (8), respectively, and moving those paragraphs so as to appear in numerical order;

(3) in paragraph (8) (as so redesignated)—

(A) by striking "**PLANNING PROCESS**" and inserting "LOCALLY LED PLANNING PROCESS"; and

(B) by striking "council" and inserting "locally led council".

(b) AUTHORIZED TECHNICAL ASSISTANCE.—Section 1528(13) of the Agriculture and Food Act of 1981 (16 U.S.C. 3451(13)) is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) providing assistance for the implementation of area plans and projects; and

"(D) providing services that involve the resources of Department of Agriculture programs in a local community, as defined in the locally led planning process.".

(c) IMPROVED PROVISION OF TECHNICAL ASSISTANCE.—Section 1531 of the Agriculture and Food Act of 1981 (16 U.S.C. 3454) is amended—

(1) by inserting "(a) IN GENERAL.—" before "In carrying"; and

(2) by adding at the end the following new subsection: "(b) COORDINATOR.—

"(1) IN GENERAL.—To improve the provision of technical assistance to councils under this subtitle, the Secretary shall designate for each council an individual to be the coordinator for the council.

"(2) RESPONSIBILITY.—A coordinator for a council shall be directly responsible for the provision of technical assistance to the council.".

(d) PROGRAM EVALUATION.—Section 1534 of the Agriculture and Food Act of 1981 (16 U.S.C. 3457) is repealed.

**SEC. 2806. USE OF FUNDS IN BASIN FUNDS FOR SALINITY CONTROL ACTIVITIES UPSTREAM OF IMPERIAL DAM.**

(a) IN GENERAL.—Section 202(a) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(a)) is amended by adding at the end the following new paragraph:

"(7) BASIN STATES PROGRAM.—

"(A) IN GENERAL.—A Basin States Program that the Secretary, acting through the Bureau of Reclamation, shall implement to carry out salinity control activities in the Colorado River Basin using funds made available under section 205(f).

"(B) ASSISTANCE.—The Secretary, in consultation with the Colorado River Basin Salinity Control Advisory Council, shall carry out this paragraph using funds described in subparagraph (A) directly or by providing grants, grant commitments, or advance funds to Federal or non-Federal entities under such terms and conditions as the Secretary may require.

"(C) ACTIVITIES.—Funds described in subparagraph (A) shall be used to carry out, as determined by the Secretary—

"(i) cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources;

"(ii) operation and maintenance of salinity control features constructed under the Colorado River Basin salinity control program; and

"(iii) studies, planning, and administration of salinity control activities.

"(D) REPORT.—

"(i) IN GENERAL.—Not later than 30 days before implementing the program established under this paragraph, the Secretary shall submit to the appropriate committees of Congress a planning report that describes the proposed implementation of the program.

"(ii) IMPLEMENTATION.—The Secretary may not expend funds to implement the program established under this paragraph before the expiration of the 30-day period beginning on the date on which the Secretary submits the report, or any revision to the report, under clause (i).".

(b) CONFORMING AMENDMENTS.—

(1) Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "program" and inserting "programs"; and

(B) in subsection (b)(4)—

(i) by striking "program" and inserting "programs"; and

(ii) by striking "and (6)" and inserting "(6), and (7)".

(2) Section 205 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595) is amended by striking subsection (f) and inserting the following new subsection:

"(f) UP-FRONT COST SHARE.—

Effective date.

"(1) IN GENERAL.—Effective beginning on the date of enactment of this paragraph, subject to paragraph (3), the cost share obligations required by this section shall be met through an up-front cost share from the Basin Funds, in the same proportions as the cost allocations required under subsection (a), as provided in paragraph (2).

"(2) BASIN STATES PROGRAM.—The Secretary shall expend the required cost share funds described in paragraph (1) through the Basin States Program for salinity control activities established under section 202(a)(7).

"(3) EXISTING SALINITY CONTROL ACTIVITIES.—The cost share contribution required by this section shall continue to be met through repayment in a manner consistent with this section for all salinity control activities for which repayment was commenced prior to the date of enactment of this paragraph.".

**SEC. 2807. DESERT TERMINAL LAKES.**

Section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) is amended—

(1) in subsection (a)—

(A) by striking "(a)" and all that follows through "$200,000,000" and inserting "(a) TRANSFER.—Subject to subsection (b) and paragraph (1) of section 207(a) of Public Law 108–7 (117 Stat. 146), notwithstanding paragraph (3) of that section, on the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary of Agriculture shall transfer $175,000,000"; and

(B) by striking the quotation marks at the beginning of paragraphs (1) and (2); and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) PERMITTED USES.—In any case in which there are willing sellers, the funds described in subsection (a) may be used—

"(1) to lease water; or

"(2) to purchase land, water appurtenant to the land, and related interests in the Walker River Basin in accordance with section 208(a)(1)(A) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2268).".

# Subtitle J—Miscellaneous Conservation Provisions

Texas.

**SEC. 2901. HIGH PLAINS WATER STUDY.**

Notwithstanding any other provision of this Act, no person shall become ineligible for any program benefits under this Act or an amendment made by this Act solely as a result of participating in a 1-time study of recharge potential for the Ogallala Aquifer in the High Plains of the State of Texas.

**SEC. 2902. NAMING OF NATIONAL PLANT MATERIALS CENTER AT BELTSVILLE, MARYLAND, IN HONOR OF NORMAN A. BERG.**

The National Plant Materials Center at Beltsville, Maryland, referenced in section 613.5(a) of title 7, Code of Federal Regulations, shall be known and designated as the "Norman A. Berg National Plant Materials Center". Any reference in a law, map, regulation, document, paper, or other record of the United States to such National Plant Materials Center shall be deemed to be a reference to the Norman A. Berg National Plant Materials Center.

**SEC. 2903. TRANSITION.**

16 USC 3801 note.

(a) CONTINUATION OF PROGRAMS IN FISCAL YEAR 2008.—Except as otherwise provided by an amendment made by this title, the Secretary of Agriculture shall continue to carry out any program or activity covered by title XII of the Food Security Act (16 U.S.C. 3801 et seq.) until September 30, 2008, using the provisions of law applicable to the program or activity as they existed on the day before the date of the enactment of this Act and using funds made available under such title for fiscal year 2008 for the program or activity.

Time period. 16 USC 3839aa–9 note.

(b) GROUND AND SURFACE WATER CONSERVATION PROGRAM.—During the period beginning on the date of the enactment of this Act and ending on September 30, 2008, the Secretary of Agriculture shall continue to carry out the ground and surface water conservation program under section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9), as in effect before the amendment made by section 2510, using the terms, conditions, and funds available to the Secretary to carry out such program on the day before the date of the enactment of this Act.

**SEC. 2904. REGULATIONS.**

16 USC 3801 note. Deadline.

(a) ISSUANCE.—Except as otherwise provided in this title or an amendment made by this title, not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the Commodity Credit Corporation, shall promulgate such regulations as are necessary to implement this title.

(b) APPLICABLE AUTHORITY.—The promulgation of regulations under subsection (a) and administration of this title—

(1) shall be carried out without regard to—

(A) chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act); and

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(2) may—

(A) be promulgated with an opportunity for notice and comment; or

(B) if determined to be appropriate by the Secretary of Agriculture or the Commodity Credit Corporation, as an interim rule effective on publication with an opportunity for notice and comment.

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808(2) of title 5, United States Code.

# TITLE III—TRADE

## Subtitle A—Food for Peace Act

**SEC. 3001. SHORT TITLE.**

(a) IN GENERAL.—Section 1 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 note; 104 Stat. 3633) is amended by striking "Agricultural Trade Development and Assistance Act of 1954" and inserting "Food for Peace Act".

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Each provision of law described in paragraph (2) is amended—

(A) by striking "Agricultural Trade Development and Assistance Act of 1954" each place it appears and inserting "Food for Peace Act"; and

22 USC 2431e.

(B) in each section heading, by striking "**AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954**" each place it appears and inserting "**FOOD FOR PEACE ACT**".

(2) PROVISIONS OF LAW.—The provisions of law referred to in paragraph (1) are the following:

7 USC 1446c–1.

(A) The Agriculture and Food Act of 1981 (Public Law 97–98; 95 Stat. 1213).

7 USC 1431.

(B) The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(C) Section 9(a) of the Military Construction Codification Act (7 U.S.C. 1704c).

(D) Section 201 of the Africa: Seeds of Hope Act of 1998 (7 U.S.C. 1721 note; Public Law 105–385).

(E) The Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1 et seq.).

(F) The Food for Progress Act of 1985 (7 U.S.C. 1736o).

(G) Section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1).

(H) Sections 605B and 606C of the Act of August 28, 1954 (commonly known as the "Agricultural Act of 1954") (7 U.S.C. 1765b, 1766b).

(I) Section 206 of the Agricultural Act of 1956 (7 U.S.C. 1856).

7 USC 1691 note, 5201.

(J) The Agricultural Competitiveness and Trade Act of 1988 (7 U.S.C. 5201 et seq.).

7 USC 5676, 5693, 5713.

(K) The Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.).

12 USC 635i–6.

(L) The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.).

(M) Section 301 of title 13, United States Code.

(N) Section 8 of the Endangered Species Act of 1973 (16 U.S.C. 1537).

(O) Section 604 of the Enterprise for the Americas Act of 1992 (22 U.S.C. 2077).

(P) Section 5 of the International Health Research Act of 1960 (22 U.S.C. 2103).

(Q) The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.).

(R) The Horn of Africa Recovery and Food Security Act (22 U.S.C. 2151 note; Public Law 102–274).

(S) Section 105 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455).

(T) Section 35 of the Foreign Military Sales Act (22 U.S.C. 2775).

(U) The Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.). 22 USC 5413, 5423, 5425.

(V) Section 1707 of the Cuban Democracy Act of 1992 (22 U.S.C. 6006).

(W) The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6021 et seq.). 22 USC 6041, 6062.

(X) Section 902 of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7201).

(Y) Chapter 553 of title 46, United State Code. 46 USC 55314, 55316.

(Z) Section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(AA) The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).

(BB) Section 738 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat 1549A–34). 7 USC 1765d–1.

(c) REFERENCES.—Any reference in any Federal, State, tribal, or local law (including regulations) to the "Agricultural Trade Development and Assistance Act of 1954" shall be considered to be a reference to the "Food for Peace Act". 7 USC 1691 note.

**SEC. 3002. UNITED STATES POLICY.**

Section 2 of the Food for Peace Act (7 U.S.C. 1691) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

**SEC. 3003. FOOD AID TO DEVELOPING COUNTRIES.**

Section 3(b) of the Food for Peace Act (7 U.S.C. 1691a(b)) is amended by striking "(b)" and all that follows through paragraph (1) and inserting the following:

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

"(1) in negotiations at the Food Aid Convention, the World Trade Organization, the United Nations Food and Agriculture Organization, and other appropriate venues, the President shall—

"(A) seek commitments of higher levels of food aid by donors in order to meet the legitimate needs of developing countries;

"(B) ensure, to the maximum extent practicable, that humanitarian nongovernmental organizations, recipient country governments, charitable bodies, and international organizations shall continue—

"(i) to be eligible to receive resources based on assessments of need conducted by those organizations and entities; and

"(ii) to implement food aid programs in agreements with donor countries; and

"(C) ensure, to the maximum extent practicable, that options for providing food aid for emergency and non-emergency needs shall not be subject to limitation, including in-kind commodities, provision of funds for agricultural commodity procurement, and monetization of

commodities, on the condition that the provision of those commodities or funds—

"(i) is based on assessments of need and intended to benefit the food security of, or otherwise assist, recipients, and

"(ii) is provided in a manner that avoids disincentives to local agricultural production and marketing and with minimal potential for disruption of commercial markets; and".

**SEC. 3004. TRADE AND DEVELOPMENT ASSISTANCE.**

(a) Title I of the Food for Peace Act (7 U.S.C. 1701 et seq.) is amended in the title heading, by striking "**TRADE AND DEVELOPMENT ASSISTANCE**" and inserting "**ECONOMIC ASSISTANCE AND FOOD SECURITY**".

(b) Section 101 of the Food for Peace Act (7 U.S.C. 1701) is amended in the section heading, by striking "**TRADE AND DEVELOPMENT ASSISTANCE**" and inserting "**ECONOMIC ASSISTANCE AND FOOD SECURITY**".

**SEC. 3005. AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.**

Section 102 of the Food for Peace Act (7 U.S.C. 1702) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(2) by striking subsection (c).

**SEC. 3006. USE OF LOCAL CURRENCY PAYMENTS.**

Section 104(c) of the Food for Peace Act (7 U.S.C. 1704(c)) is amended—

(1) in the matter preceding paragraph (1), by inserting ", through agreements with recipient governments, private voluntary organizations, and cooperatives," after "developing country";

(2) by striking paragraph (1);

(3) in paragraph (2)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(E) the improvement of the trade capacity of the recipient country.";

(4) in paragraph (3), by striking "agricultural business development and agricultural trade expansion" and inserting "development of agricultural businesses and agricultural trade capacity";

(5) in paragraph (4), by striking ", or otherwise" and all that follows through "United States";

(6) in paragraph (5), by inserting "to promote agricultural products produced in appropriate developing countries" after "trade fairs"; and

(7) by redesignating paragraphs (2) through (9) as paragraphs (1) through (8), respectively.

**SEC. 3007. GENERAL AUTHORITY.**

Section 201 of the Food for Peace Act (7 U.S.C. 1721) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) address famine and food crises, and respond to emergency food needs, arising from man-made and natural disasters;";

(2) in paragraph (5)—

(A) by inserting "food security and support" after "promote"; and

(B) by striking "; and" and inserting a semicolon;

(3) in paragraph (6), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(7) promote economic and nutritional security by increasing educational, training, and other productive activities.".

**SEC. 3008. PROVISION OF AGRICULTURAL COMMODITIES.**

Section 202 of the Food for Peace Act (7 U.S.C. 1722) is amended—

(1) in subsection (b)(2), by striking "may not deny a request for funds" and inserting "may not use as a sole rationale for denying a request for funds";

(2) in subsection (e)(1)—

(A) in the matter preceding subparagraph (A), by striking "not less than 5 percent nor more than 10 percent" and inserting "not less than 7.5 percent nor more than 13 percent";

(B) in subparagraph (A), by striking "; and" and inserting a semicolon;

(C) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(C) improving and implementing methodologies for food aid programs, including needs assessments (upon the request of the Administrator), monitoring, and evaluation."; and

(3) by striking subsection (h) and inserting the following:

"(h) FOOD AID QUALITY.—

"(1) IN GENERAL.—The Administrator shall use funds made available for fiscal year 2009 and subsequent fiscal years to carry out this title—

"(A) to assess the types and quality of agricultural commodities and products donated for food aid;

"(B) to adjust products and formulations (including the potential introduction of new fortificants and products) as necessary to cost-effectively meet nutrient needs of target populations; and

"(C) to test prototypes.

"(2) ADMINISTRATION.—The Administrator—

"(A) shall carry out this subsection in consultation with and through independent entities with proven expertise in food aid commodity quality enhancements;

"(B) may enter into contracts to obtain the services of such entities; and

"(C) shall consult with the Food Aid Consultative Group on how to carry out this subsection.

"(3) FUNDING LIMITATION.—Of the funds made available under section 207(f), for fiscal years 2009 through 2011, not more than $4,500,000 may be used to carry out this subsection.".

**SEC. 3009. GENERATION AND USE OF CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.**

Section 203(b) of the Food for Peace Act (7 U.S.C. 1723(b)) is amended by striking "1 or more recipient countries" and inserting "in 1 or more recipient countries".

**SEC. 3010. LEVELS OF ASSISTANCE.**

Section 204(a) of the Food for Peace Act (7 U.S.C. 1724(a)) is amended—

(1) in paragraph (1), by striking "2002 through 2007" and inserting "2008 through 2012"; and

(2) in paragraph (2), by striking "2002 through 2007" and inserting "2008 through 2012".

**SEC. 3011. FOOD AID CONSULTATIVE GROUP.**

Section 205 of the Food for Peace Act (7 U.S.C. 1725) is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period and inserting "; and"; and

(C) by inserting at the end the following:

"(7) representatives from the maritime transportation sector involved in transporting agricultural commodities overseas for programs under this Act."; and

(2) in subsection (f), by striking "2007" and inserting "2012".

**SEC. 3012. ADMINISTRATION.**

Section 207 of the Food for Peace Act (7 U.S.C. 1726a) is amended—

(1) in subsection (a)(3), by striking "and the conditions that must be met for the approval of such proposal";

(2) in subsection (c), by striking paragraph (3);

(3) by striking subsection (d) and inserting the following:

Procedures.

"(d) TIMELY PROVISION OF COMMODITIES.—The Administrator, in consultation with the Secretary, shall develop procedures that ensure expedited processing of commodity call forwards in order to provide commodities overseas in a timely manner and to the extent feasible, according to planned delivery schedules."; and

(4) by adding at the end the following:

"(f) PROGRAM OVERSIGHT, MONITORING, AND EVALUATION.—

"(1) DUTIES OF ADMINISTRATOR.—The Administrator, in consultation with the Secretary, shall establish systems and carry out activities—

"(A) to determine the need for assistance provided under this title; and

"(B) to improve, monitor, and evaluate the effectiveness and efficiency of the assistance provided under this title to maximize the impact of the assistance.

"(2) REQUIREMENTS OF SYSTEMS AND ACTIVITIES.—The systems and activities described in paragraph (1) shall include—

"(A) program monitors in countries that receive assistance under this title;

"(B) country and regional food aid impact evaluations;

"(C) the identification and implementation of best practices for food aid programs;

"(D) the evaluation of monetization programs;

"(E) early warning assessments and systems to help prevent famines; and

"(F) upgraded information technology systems.

"(3) IMPLEMENTATION REPORT.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Administrator shall submit to the appropriate committees of Congress a report on efforts undertaken by the Administrator to conduct oversight of nonemergency programs under this title.

"(4) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—Not later than 270 days after the date of submission of the report under paragraph (3), the Comptroller General of the United States shall submit to the appropriate committees of Congress a report that contains—

"(A) a review of, and comments addressing, the report described in paragraph (3); and

"(B) recommendations relating to any additional actions that the Comptroller General of the United States determines to be necessary to improve the monitoring and evaluation of assistance provided under this title.

"(5) CONTRACT AUTHORITY.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in carrying out administrative and management activities relating to each activity carried out by the Administrator under paragraph (1), the Administrator may enter into contracts with 1 or more individuals for personal service to be performed in recipient countries or neighboring countries.

"(B) PROHIBITION.—An individual who enters into a contract with the Administrator under subparagraph (A) shall not be considered to be an employee of the Federal Government for the purpose of any law (including regulations) administered by the Office of Personnel Management.

"(C) PERSONAL SERVICE.—Subparagraph (A) does not limit the ability of the Administrator to enter into a contract with any individual for personal service under section 202(a).

"(6) FUNDING.—

"(A) IN GENERAL.—Subject to section 202(h)(3), in addition to other funds made available to the Administrator to carry out the monitoring of emergency food assistance, the Administrator may implement this subsection using up to $22,000,000 of the funds made available under this title for each of fiscal years 2009 through 2012, except for paragraph (2)(F), for which only $2,500,000 shall be made available during fiscal year 2009.

"(B) LIMITATIONS.—

"(i) IN GENERAL.—Subject to clause (ii), of the funds made available under subparagraph (A), for each of fiscal years 2009 through 2012, not more than

$8,000,000 may be used by the Administrator to carry out paragraph (2)(E).

"(ii) CONDITION.—No funds shall be made available under subparagraph (A), in accordance with clause (i), unless not less than $8,000,000 is made available under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) for such purposes for such fiscal year.

"(g) PROJECT REPORTING.—

"(1) IN GENERAL.—In submitting project reports to the Administrator, a private voluntary organization or cooperative shall provide a copy of the report in such form as is necessary for the report to be displayed for public use on the website of the United States Agency for International Development.

"(2) CONFIDENTIAL INFORMATION.—An organization or cooperative described in paragraph (1) may omit any confidential information from the copy of the report submitted for public display under that paragraph.".

**SEC. 3013. ASSISTANCE FOR STOCKPILING AND RAPID TRANSPORTATION, DELIVERY, AND DISTRIBUTION OF SHELF-STABLE PREPACKAGED FOODS.**

Section 208(f) of the Food for Peace Act (7 U.S.C. 1726b(f)) is amended—

(1) by striking "$3,000,000" and inserting "$8,000,000"; and

(2) by striking "2007" and inserting "2012".

**SEC. 3014. GENERAL AUTHORITIES AND REQUIREMENTS.**

(a) IN GENERAL.—Section 401 of the Food for Peace Act (7 U.S.C. 1731) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b) (as so redesignated), by striking "(b)(1)" and inserting "(a)(1)".

(b) CONFORMING AMENDMENTS.—

(1) Section 406(a) of the Food for Peace Act (7 U.S.C. 1736(a)) is amended by striking "(that have been determined to be available under section 401(a))".

(2) Subsection (e)(1) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(e)(1)) is amended by striking "determined to be available under section 401 of the Food for Peace Act".

**SEC. 3015. DEFINITIONS.**

Section 402 of the Food for Peace Act (7 U.S.C. 1732) is amended—

(1) by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) APPROPRIATE COMMITTEE OF CONGRESS.—The term 'appropriate committee of Congress' means—

"(A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

"(B) the Committee on Agriculture of the House of Representatives; and

"(C) the Committee on Foreign Affairs of the House of Representatives.".

**SEC. 3016. USE OF COMMODITY CREDIT CORPORATION.**

Section 406(b)(2) of the Food for Peace Act (7 U.S.C. 1736(b)(2)) is amended by inserting ", including the costs of carrying out section 415" before the semicolon.

**SEC. 3017. ADMINISTRATIVE PROVISIONS.**

Section 407(c) of the Food for Peace Act (7 U.S.C. 1736a(c)) is amended—

(1) in paragraph (4)—

(A) by striking "Funds made" and inserting the following:

"(A) IN GENERAL.—Funds made";

(B) in subparagraph (A) (as so designated)—

(i) by striking "2007" and inserting "2012"; and

(ii) by striking "$2,000,000" and inserting "$10,000,000"; and

(C) by adding at the end the following:

"(B) ADDITIONAL PREPOSITIONING SITES.—

"(i) FEASIBILITY ASSESSMENTS.—The Administrator may carry out assessments for the establishment of not less than 2 sites to determine the feasibility of, and costs associated with, using the sites to store and handle agricultural commodities for prepositioning in foreign countries.

"(ii) ESTABLISHMENT OF SITES.—Based on the results of each assessment carried out under clause (i), the Administrator may establish additional sites for prepositioning in foreign countries."; and

(2) by adding at the end the following:

"(5) NONEMERGENCY OR MULTIYEAR AGREEMENTS.—Annual resource requests for ongoing nonemergency or ongoing multiyear agreements under title II shall be finalized not later than October 1 of the fiscal year in which the agricultural commodities will be shipped under the agreement.".

**SEC. 3018. CONSOLIDATION AND MODIFICATION OF ANNUAL REPORTS REGARDING AGRICULTURAL TRADE ISSUES.**

(a) ANNUAL REPORTS.—Section 407 of the Food for Peace Act (7 U.S.C. 1736a) is amended by striking subsection (f) and inserting the following:

"(f) ANNUAL REPORTS.—

"(1) ANNUAL REPORT REGARDING AGRICULTURAL TRADE PROGRAMS AND ACTIVITIES.—

"(A) ANNUAL REPORT.—Not later than April 1 of each fiscal year, the Administrator and the Secretary shall jointly prepare and submit to the appropriate committees of Congress a report regarding each program and activity carried out under this Act during the prior fiscal year.

"(B) CONTENTS.—An annual report described in subparagraph (A) shall include, with respect to the prior fiscal year—

"(i) a list that contains a description of each country and organization that receives food and other assistance under this Act (including the quantity of food and assistance provided to each country and organization);

"(ii) a general description of each project and activity implemented under this Act (including each activity funded through the use of local currencies);

"(iii) a statement describing the quantity of agricultural commodities made available to each country pursuant to—

"(I) section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)); and

"(II) the Food for Progress Act of 1985 (7 U.S.C. 1736o);

"(iv) an assessment of the progress made through programs under this Act towards reducing food insecurity in the populations receiving food assistance from the United States;

"(v) a description of efforts undertaken by the Food Aid Consultative Group under section 205 to achieve an integrated and effective food assistance program;

"(vi) an assessment of—

"(I) each program oversight, monitoring, and evaluation system implemented under section 207(f); and

"(II) the impact of each program oversight, monitoring, and evaluation system on the effectiveness and efficiency of assistance provided under this title; and

"(vii) an assessment of the progress made by the Administrator in addressing issues relating to quality with respect to the provision of food assistance.

"(2) ANNUAL REPORT REGARDING THE PROVISION OF AGRICULTURAL COMMODITIES TO FOREIGN COUNTRIES.—

"(A) ANNUAL REPORT.—Not later than February 1 of each fiscal year, the Administrator shall prepare and submit to the appropriate committees of Congress a report regarding the administration of food assistance programs under title II to benefit foreign countries during the prior fiscal year.

"(B) CONTENTS.—An annual report described in subparagraph (A) shall include, with respect to the prior fiscal year—

"(i) a list that contains a description of each program, country, and commodity approved for assistance under section 207; and

"(ii) a statement that contains a description of the total amount of funds approved for transportation and administrative costs under section 207.".

(b) CONFORMING AMENDMENT.—Section 207(e) of the Food for Peace Act (7 U.S.C. 1726a(e)) is amended—

(1) by striking "TIMELY APPROVAL." and all that follows through "The Administrator" and inserting "TIMELY APPROVAL.—The Administrator"; and

(2) by striking paragraph (2).

**SEC. 3019. EXPIRATION OF ASSISTANCE.**

Section 408 of the Food for Peace Act (7 U.S.C. 1736b) is amended by striking "2007" and inserting "2012".

**SEC. 3020. AUTHORIZATION OF APPROPRIATIONS.**

Section 412 of the Food for Peace Act (7 U.S.C. 1736f) is amended by striking subsection (a) and inserting the following:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) for fiscal year 2008 and each fiscal year thereafter, $2,500,000,000 to carry out the emergency and nonemergency food assistance programs under title II; and

"(2) such sums as are necessary—

"(A) to carry out the concessional credit sales program established under title I;

"(B) to carry out the grant program established under title III; and

"(C) to make payments to the Commodity Credit Corporation to the extent the Commodity Credit Corporation is not reimbursed under the programs under this Act for the actual costs incurred or to be incurred by the Commodity Credit Corporation in carrying out such programs.".

**SEC. 3021. MINIMUM LEVEL OF NONEMERGENCY FOOD ASSISTANCE.**

Section 412 of the Food for Peace Act (7 U.S.C. 1736f) is amended by adding at the end the following:

"(e) MINIMUM LEVEL OF NONEMERGENCY FOOD ASSISTANCE.—

"(1) FUNDS AND COMMODITIES.—Of the amounts made available to carry out emergency and nonemergency food assistance programs under title II, not less than $375,000,000 for fiscal year 2009, $400,000,000 for fiscal year 2010, $425,000,000 for fiscal year 2011, and $450,000,000 for fiscal year 2012 shall be expended for nonemergency food assistance programs under title II.

"(2) EXCEPTION.—The President may use less than the amount specified in paragraph (1) in a fiscal year for nonemergency food assistance programs under title II only if—

"(A) the President has made a determination that there is an urgent need for additional emergency food assistance;

"(B) the funds and commodities held in the Bill Emerson Humanitarian Trust have been exhausted; and

"(C) the President has submitted to Congress a supplemental appropriations request for a sum equal to the amount needed to reach the required spending level for nonemergency food assistance under paragraph (1) and the amount exhausted under paragraph (2)(B).

"(3) NOTIFICATION TO CONGRESS.—If the President makes the determination described in paragraph (2)(A), the President shall submit to Congress written notification that the determination has been made.". President.

**SEC. 3022. COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.**

Section 413 of the Food for Peace Act (7 U.S.C. 1736g) is amended—

(1) by striking "To the maximum" and inserting the following:

"(a) IN GENERAL.—To the maximum"; and

(2) by adding at the end the following:

"(b) REPORT REGARDING EFFORTS TO IMPROVE PROCUREMENT PLANNING.—

"(1) REPORT REQUIRED.—Not later than 90 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Administrator and the Secretary shall submit to each appropriate committee of Congress a report that contains a description of each effort taken by the Administrator and the Secretary to improve planning for food and transportation procurement (including efforts to eliminate bunching of food purchases).

"(2) CONTENTS.—A report required under paragraph (1) should include a description of each effort taken by the Administrator and the Secretary—

"(A) to improve the coordination of food purchases made by—

"(i) the United States Agency for International Development; and

"(ii) the Department of Agriculture;

"(B) to increase flexibility with respect to procurement schedules;

"(C) to increase the use of historical analyses and forecasting; and

"(D) to improve and streamline legal claims processes for resolving transportation disputes.".

**SEC. 3023. MICRONUTRIENT FORTIFICATION PROGRAMS.**

Section 415 of the Food for Peace Act (7 U.S.C. 1736g–2) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "Not later than September 30, 2003, the Administrator, in consultation with the Secretary" and inserting "Not later than September 30, 2008, the Administrator, in consultation with the Secretary"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by adding "and" after the semicolon at the end; and

(ii) by striking subparagraphs (B) and (C) and inserting the following:

"(B) assess and apply technologies and systems to improve and ensure the quality, shelf life, bioavailability, and safety of fortified food aid agricultural commodities, and products of those agricultural commodities, using recommendations included in the report entitled 'Micronutrient Compliance Review of Fortified Public Law 480 Commodities', published in October 2001, with implementation by independent entities with proven experience and expertise in food aid commodity quality enhancements.";

(2) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(3) in subsection (c) (as redesignated by paragraph (2)), by striking "2007" and inserting "2012".

**SEC. 3024. JOHN OGONOWSKI AND DOUG BEREUTER FARMER-TO-FARMER PROGRAM.**

(a) MINIMUM FUNDING.—Section 501(d) of the Food for Peace Act (7 U.S.C. 1737(d)) is amended in the matter preceding paragraph (1)—

(1) by striking "not less than" and inserting "not less than the greater of $10,000,000 or"; and

(2) by striking "2002 through 2007" and inserting "2008 through 2012".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 501(e) of the Food for Peace Act (7 U.S.C. 1737(e)) is amended by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—There are authorized to be appropriated for each of fiscal years 2008 through 2012 to carry out the programs under this section—

"(A) $10,000,000 for sub-Saharan African and Caribbean Basin countries; and

"(B) $5,000,000 for other developing or middle-income countries or emerging markets not described in subparagraph (A).".

# Subtitle B—Agricultural Trade Act of 1978 and Related Statutes

**SEC. 3101. EXPORT CREDIT GUARANTEE PROGRAM.**

(a) REPEAL OF SUPPLIER CREDIT GUARANTEE PROGRAM AND INTERMEDIATE EXPORT CREDIT GUARANTEE PROGRAM.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—

(1) in subsection (a)—

(A) by striking "GUARANTEES.—" and all that follows through "The Commodity" in paragraph (1) and inserting "GUARANTEES.—The Commodity"; and

(B) by striking paragraphs (2) and (3);

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) through (l) as subsections (b) through (j), respectively; and

(4) by adding at the end the following:

"(k) ADMINISTRATION.—

"(1) DEFINITION OF LONG TERM.—In this subsection, the term 'long term' means a period of 10 or more years.

"(2) GUARANTEES.—In administering the export credit guarantees authorized under this section, the Secretary shall—

"(A) maximize the export sales of agricultural commodities;

"(B) maximize the export credit guarantees that are made available and used during the course of a fiscal year;

"(C) develop an approach to risk evaluation that facilitates accurate country risk designations and timely adjustments to the designations (on an ongoing basis) in response to material changes in country risk conditions, with ongoing opportunity for input and evaluation from the private sector;

"(D) adjust risk-based guarantees as necessary to ensure program effectiveness and United States competitiveness; and

"(E) work with industry to ensure, to the maximum extent practicable, that risk-based fees associated with the guarantees cover, but do not exceed, the operating costs and losses over the long term.".

(b) FUNDING LEVELS.—Section 211 of the Agricultural Trade Act of 1978 (7 U.S.C. 5641) is amended by striking subsection (b) and inserting the following:

"(b) EXPORT CREDIT GUARANTEE PROGRAMS.—The Commodity Credit Corporation shall make available for each of fiscal years 1996 through 2012 credit guarantees under section 202(a) in an amount equal to but not more than the lesser of—

"(1) $5,500,000,000 in credit guarantees; or

"(2) the sum of—

"(A) the amount of credit guarantees that the Commodity Credit Corporation can make available using budget authority of $40,000,000 for each fiscal year for the costs of the credit guarantees; and

"(B) the amount of credit guarantees that the Commodity Credit Corporation can make available using unobligated budget authority for prior fiscal years.".

(c) CONFORMING AMENDMENTS.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—

(1) in subsection (b)(4) (as redesignated by subsection (a)(3)), by striking ", consistent with the provisions of subsection (c)";

(2) in subsection (d) (as redesignated by subsection (a)(3))—

(A) by striking "(1)" and all that follows through "The Commodity" and inserting "The Commodity"; and

(B) by striking paragraph (2); and

(3) in subsection (g)(2) (as redesignated by subsection (a)(3)), by striking "subsections (a) and (b)" and inserting "subsection (a)".

**SEC. 3102. MARKET ACCESS PROGRAM.**

(a) ORGANIC COMMODITIES.—Section 203(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(a)) is amended by inserting after "agricultural commodities" the following: "(including commodities that are organically produced (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502)))".

(b) FUNDING.—Section 211(c)(1)(A) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)(A)) is amended by striking "$200,000,000 for each of fiscal years 2006 and 2007" and inserting "$200,000,000 for each of fiscal years 2008 through 2012".

**SEC. 3103. EXPORT ENHANCEMENT PROGRAM.**

(a) IN GENERAL.—Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is repealed.

(b) CONFORMING AMENDMENTS.—The Agricultural Trade Act of 1978 is amended—

(1) in title III, by striking the title heading and inserting the following:

## "TITLE III—BARRIERS TO EXPORTS";

(2) by redesignating sections 302 and 303 (7 U.S.C. 5652 and 5653) as sections 301 and 302, respectively;

7 USC 5653.

(3) in section 302 (as redesignated by paragraph (2)), by striking ", such as that established under section 301,";

(4) in section 401 (7 U.S.C. 5661)—

(A) in subsection (a), by striking "section 201, 202, or 301" and inserting "section 201 or 202"; and

(B) in subsection (b), by striking "sections 201, 202, and 301" and inserting "sections 201 and 202"; and

(5) in section 402(a)(1) (7 U.S.C. 5662(a)(1)), by striking "sections 201, 202, 203, and 301" and inserting "sections 201, 202, and 203".

**SEC. 3104. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.**

(a) REPORT TO CONGRESS.—Section 702(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5722(c)) is amended by striking "Committee on International Relations" and inserting "Committee on Foreign Affairs".

(b) FUNDING.—Section 703(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5723(a)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

**SEC. 3105. FOOD FOR PROGRESS ACT OF 1985.**

(a) IN GENERAL.—The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended by striking "2007" each place it appears and inserting "2012".

(b) DESIGNATION OF PROJECT IN SUB-SAHARAN AFRICA.—The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended in subsection (f) by adding at the end the following:

"(6) PROJECT IN MALAWI.—

"(A) IN GENERAL.—In carrying out this section during fiscal year 2009, the President shall approve not less than 1 multiyear project for Malawi— President.

"(i) to promote sustainable agriculture; and

"(ii) to increase the number of women in leadership positions.

"(B) USE OF ELIGIBLE COMMODITIES.—Of the eligible commodities used to carry out this section during the period in which the project described in subparagraph (A) is carried out, the President shall carry out the project using eligible commodities with a total value of not less than $3,000,000 during the course of the project.".

**SEC. 3106. MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM.**

Section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1) is amended—

(1) in subsections (b), (c)(2)(B), (f)(1), (h), (i), and (l)(1), by striking "President" each place it appears and inserting "Secretary";

(2) in subsection (d), by striking "The President shall designate 1 or more Federal agencies" and inserting "The Secretary shall";

(3) in paragraph (f)(2), by striking "implementing agency" and inserting "Secretary"; and

(4) in subsection (l)—

(A) by striking paragraph (1) and inserting the following:

"(1) USE OF COMMODITY CREDIT CORPORATION FUNDS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $84,000,000 for fiscal year 2009, to remain available until expended.";

(B) in paragraph (2), by striking "2004 through 2007" and inserting "2008 through 2012"; and

(C) in paragraph (3), by striking "any Federal agency implementing or assisting" and inserting "the Department of Agriculture or any other Federal agency assisting".

## Subtitle C—Miscellaneous

**SEC. 3201. BILL EMERSON HUMANITARIAN TRUST.**

Section 302 of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1) is amended—

(1) in subsection (a)—

(A) by striking "establish a trust stock" and inserting "establish and maintain a trust"; and

(B) by striking "or any combination of the commodities, totaling not more than 4,000,000 metric tons" and inserting "any combination of the commodities, or funds";

(2) in subsection (b)—

(A) in paragraph (1), by striking subparagraph (D) and inserting the following:

"(D) funds made available—

"(i) under paragraph (2)(B);

"(ii) as a result of an exchange of any commodity held in the trust for an equivalent amount of funds from the market, if the Secretary determines that such a sale of the commodity on the market will not unduly disrupt domestic markets; or

"(iii) to maximize the value of the trust, in accordance with subsection (d)(3)."; and

(B) in paragraph (2)(B)—

(i) in clause (i)—

(I) by striking "2007" each place it appears and inserting "2012";

(II) by striking "(c)(2)" and inserting "(c)(1)"; and

(III) by striking "and" at the end;

(ii) in clause (ii), by striking the period at the end and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) from funds accrued through the management of the trust under subsection (d).";

(3) in subsection (c)—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) RELEASES FOR EMERGENCY ASSISTANCE.—

"(A) DEFINITION OF EMERGENCY.—

"(i) IN GENERAL.—In this paragraph, the term 'emergency' means an urgent situation—

"(I) in which there is clear evidence that an event or series of events described in clause (ii) has occurred—

"(aa) that causes human suffering; and

"(bb) for which a government concerned has not chosen, or has not the means, to remedy; or

"(II) created by a demonstrably abnormal event or series of events that produces dislocation in the lives of residents of a country or region of a country on an exceptional scale.

"(ii) EVENT OR SERIES OF EVENTS.—An event or series of events referred to in clause (i) includes 1 or more of—

"(I) a sudden calamity, such as an earthquake, flood, locust infestation, or similar unforeseen disaster;

"(II) a human-made emergency resulting in—

"(aa) a significant influx of refugees;

"(bb) the internal displacement of populations; or

"(cc) the suffering of otherwise affected populations;

"(III) food scarcity conditions caused by slow-onset events, such as drought, crop failure, pest infestation, and disease, that result in an erosion of the ability of communities and vulnerable populations to meet food needs; and

"(IV) severe food access or availability conditions resulting from sudden economic shocks, market failure, or economic collapse, that result in an erosion of the ability of communities and vulnerable populations to meet food needs.

"(B) RELEASES.—

"(i) IN GENERAL.—Any funds or commodities held in the trust may be released to provide food, and cover any associated costs, under title II of the Food for Peace Act (7 U.S.C. 1721 et seq.)—

"(I) to assist in averting an emergency, including during the period immediately preceding the emergency;

"(II) to respond to an emergency; or

"(III) for recovery and rehabilitation after an emergency.

"(ii) PROCEDURE.—A release under clause (i) shall be carried out in the same manner, and pursuant to the same authority as provided in title II of that Act.

"(C) INSUFFICIENCY OF OTHER FUNDS.—The funds and commodities held in the trust shall be made immediately available on a determination by the Administrator that funds available for emergency needs under title II of that Act (7 U.S.C. 1721 et seq.) for a fiscal year are insufficient to meet emergency needs during the fiscal year.

"(D) WAIVER RELATING TO MINIMUM TONNAGE REQUIREMENTS.—Nothing in this paragraph requires a waiver by the Administrator of the Agency for International Development under section 204(a)(3) of the Food for Peace Act (7 U.S.C. 1724(a)(3)) as a condition for a release of funds or commodities under subparagraph (B).''; and

(B) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(4) in subsection (d)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and indenting the subparagraphs appropriately;

(B) by striking the subsection designation and heading and all that follows through "provide—" and inserting the following:

"(d) MANAGEMENT OF TRUST.—

"(1) IN GENERAL.—The Secretary shall provide for the management of eligible commodities and funds held in the trust in a manner that is consistent with maximizing the value of the trust, as determined by the Secretary.

"(2) ELIGIBLE COMMODITIES.—The Secretary shall provide—

";

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in subparagraph (B) (as redesignated by subparagraph (A)), by striking "and" at the end; and

(ii) in subparagraph (C) (as redesignated by subparagraph (A)), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(3) FUNDS.—

"(A) EXCHANGES.—If any commodity held in the trust is exchanged for funds under subsection (b)(1)(D)(ii), the funds shall be held in the trust until the date on which the funds are released in the case of an emergency under subsection (c).

"(B) INVESTMENT.—The Secretary may invest funds held in the trust in any short-term obligation of the United States or any other low-risk short-term instrument or security insured by the Federal Government in which a regulated insurance company may invest under the laws of the District of Columbia."; and

(5) in subsection (h), in each of paragraphs (1) and (2), by striking "2007" each place it appears and inserting "2012".

22 USC 2220a note.

**SEC. 3202. GLOBAL CROP DIVERSITY TRUST.**

(a) CONTRIBUTION.—The Administrator of the United States Agency for International Development shall contribute funds to endow the Global Crop Diversity Trust (referred to in this section as the "Trust") to assist in the conservation of genetic diversity in food crops through the collection and storage of the germplasm of food crops in a manner that provides for—

(1) the maintenance and storage of seed collections;

(2) the documentation and cataloguing of the genetics and characteristics of conserved seeds to ensure efficient reference for researchers, plant breeders, and the public;

(3) building the capacity of seed collection in developing countries;

(4) making information regarding crop genetic data publicly available for researchers, plant breeders, and the public (including through the provision of an accessible Internet website);

(5) the operation and maintenance of a back-up facility in which are stored duplicate samples of seeds, in the case of natural or man-made disasters; and

(6) oversight designed to ensure international coordination of those actions and efficient, public accessibility to that diversity through a cost-effective system.

(b) UNITED STATES CONTRIBUTION LIMIT.—The aggregate contributions of funds of the Federal Government provided to the Trust shall not exceed 25 percent of the total amount of funds contributed to the Trust from all sources.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $60,000,000 for the period of fiscal years 2008 through 2012.

**SEC. 3203. TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.**

Section 3205 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5680) is amended by striking subsection (d) and inserting the following:

"(d) ANNUAL REPORT.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008 and annually thereafter, the Secretary shall submit to the appropriate committees of Congress a report that contains, for the period covered by the report, a description of each factor that affects the export of specialty crops, including each factor relating to any—

"(1) significant sanitary or phytosanitary issue; or

"(2) trade barrier.

"(e) FUNDING.—

"(1) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(2) FUNDING AMOUNTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

"(A) $4,000,000 for fiscal year 2008;

"(B) $7,000,000 for fiscal year 2009;

"(C) $8,000,000 for fiscal year 2010;

"(D) $9,000,000 for fiscal year 2011; and

"(E) $9,000,000 for fiscal year 2012.".

**SEC. 3204. EMERGING MARKETS AND FACILITY GUARANTEE LOAN PROGRAM.**

Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note; Public Law 101–624) is amended—

(1) in subsection (a), by striking "2007" and inserting "2012";

(2) in subsection (b)—

(A) in the first sentence, by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(B) by striking "A portion" and inserting the following:

"(1) IN GENERAL.—A portion";

(C) in the second sentence, by striking "The Commodity Credit Corporation" and inserting the following:

"(2) PRIORITY.—The Commodity Credit Corporation"; and

(D) by adding at the end the following:

"(3) CONSTRUCTION WAIVER.—The Secretary may waive any applicable requirements relating to the use of United States goods in the construction of a proposed facility, if the Secretary determines that—

"(A) goods from the United States are not available; or

"(B) the use of goods from the United States is not practicable.

"(4) TERM OF GUARANTEE.—A facility payment guarantee under this subsection shall be for a term that is not more than the lesser of—

"(A) the term of the depreciation schedule of the facility assisted; or

"(B) 20 years."; and

(3) in subsection (d)(1)(A)(i) by striking "2007" and inserting "2012".

22 USC 7112 note.

**SEC. 3205. CONSULTATIVE GROUP TO ELIMINATE THE USE OF CHILD LABOR AND FORCED LABOR IN IMPORTED AGRICULTURAL PRODUCTS.**

(a) DEFINITIONS.—In this section:

(1) CHILD LABOR.—The term "child labor" means the worst forms of child labor as defined in International Labor Convention 182, the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, done at Geneva on June 17, 1999.

(2) CONSULTATIVE GROUP.—The term "Consultative Group" means the Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products established under subsection (b).

(3) FORCED LABOR.—The term "forced labor" means all work or service—

(A) that is exacted from any individual under menace of any penalty for nonperformance of the work or service, and for which—

(i) the work or service is not offered voluntarily; or

(ii) the work or service is performed as a result of coercion, debt bondage, or involuntary servitude (as those terms are defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)); and

(B) by 1 or more individuals who, at the time of performing the work or service, were being subjected to a severe form of trafficking in persons (as that term is defined in that section).

(b) ESTABLISHMENT.—There is established a group to be known as the "Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products" to develop recommendations relating to guidelines to reduce the likelihood that agricultural products or commodities imported into the United States are produced with the use of forced labor and child labor.

Deadlines.

(c) DUTIES.—

Recommendations.

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and in accordance with section 105(d) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)), as applicable to the importation of agricultural products made with the use of child labor or forced labor, the Consultative Group shall develop, and submit to the Secretary, recommendations relating to a standard set of practices for independent, third-party monitoring and verification for the production, processing, and distribution of agricultural products or commodities to reduce the likelihood that agricultural products or commodities imported into the United States are produced with the use of forced labor or child labor.

(2) GUIDELINES.—

(A) IN GENERAL.—Not later than 1 year after the date on which the Secretary receives recommendations under paragraph (1), the Secretary shall release guidelines for a voluntary initiative to enable entities to address issues

raised by the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

(B) REQUIREMENTS.—Guidelines released under subparagraph (A) shall be published in the Federal Register and made available for public comment for a period of 90 days.

(d) MEMBERSHIP.—The Consultative Group shall be composed of not more than 13 individuals, of whom—

(1) 2 members shall represent the Department of Agriculture, as determined by the Secretary;

(2) 1 member shall be the Deputy Under Secretary for International Affairs of the Department of Labor;

(3) 1 member shall represent the Department of State, as determined by the Secretary of State;

(4) 3 members shall represent private agriculture-related enterprises, which may include retailers, food processors, importers, and producers, of whom at least 1 member shall be an importer, food processor, or retailer who utilizes independent, third-party supply chain monitoring for forced labor or child labor;

(5) 2 members shall represent institutions of higher education and research institutions, as determined appropriate by the Bureau of International Labor Affairs of the Department of Labor;

(6) 1 member shall represent an organization that provides independent, third-party certification services for labor standards for producers or importers of agricultural commodities or products; and

(7) 3 members shall represent organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 that have expertise on the issues of international child labor and do not possess a conflict of interest associated with establishment of the guidelines issued under subsection (c)(2), as determined by the Bureau of International Labor Affairs of the Department of Labor, including representatives from consumer organizations and trade unions, if appropriate.

(e) CHAIRPERSON.—A representative of the Department of Agriculture appointed under subsection (d)(1), as determined by the Secretary, shall serve as the chairperson of the Consultative Group.

(f) REQUIREMENTS.—Not less than 4 times per year, the Consultative Group shall meet at the call of the Chairperson, after reasonable notice to all members, to develop recommendations described in subsection (c)(1).

(g) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Consultative Group.

(h) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter through December 31, 2012, the Secretary shall submit to the Committees on Agriculture and Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the activities and recommendations of the Consultative Group.

(i) TERMINATION OF AUTHORITY.—The Consultative Group shall terminate on December 31, 2012.

7 USC 1726c.

**SEC. 3206. LOCAL AND REGIONAL FOOD AID PROCUREMENT PROJECTS.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Agency for International Development.

(2) APPROPRIATE COMMITTEE OF CONGRESS.—The term "appropriate committee of Congress" means—

(A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(B) the Committee on Agriculture of the House of Representatives; and

(C) the Committee on Foreign Affairs of the House of Representatives.

(3) ELIGIBLE COMMODITY.—The term "eligible commodity" means an agricultural commodity (or the product of an agricultural commodity) that—

(A) is produced in, and procured from, a developing country; and

(B) at a minimum, meets each nutritional, quality, and labeling standard of the country that receives the agricultural commodity, as determined by the Secretary.

(4) ELIGIBLE ORGANIZATION.—The term "eligible organization" means an organization that is—

(A) described in section 202(d) of the Food for Peace Act (7 U.S.C. 1722(d)); and

(B) with respect to nongovernmental organizations, subject to regulations promulgated or guidelines issued to carry out this section, including United States audit requirements that are applicable to nongovernmental organizations.

(b) STUDY; FIELD-BASED PROJECTS.—

(1) STUDY.—

Deadline.

(A) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall initiate a study of prior local and regional procurements for food aid programs conducted by—

(i) other donor countries;

(ii) private voluntary organizations; and

(iii) the World Food Program of the United Nations.

(B) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report containing the results of the study conducted under subparagraph (A).

(2) FIELD-BASED PROJECTS.—

(A) IN GENERAL.—In accordance with subparagraph (B), the Secretary shall provide grants to, or enter into cooperative agreements with, eligible organizations to carry out field-based projects that consist of local or regional procurements of eligible commodities to respond to food crises and disasters in accordance with this section.

(B) CONSULTATION WITH ADMINISTRATOR.—In carrying out the development and implementation of field-based projects under subparagraph (A), the Secretary shall consult with the Administrator.

(c) PROCUREMENT.—

(1) IN GENERAL.—Any eligible commodity that is procured for a field-based project carried out under subsection (b)(2) shall be procured through any approach or methodology that the Secretary considers to be an effective approach or methodology to provide adequate information regarding the manner by which to expedite, to the maximum extent practicable, the provision of food aid to affected populations without significantly increasing commodity costs for low-income consumers who procure commodities sourced from the same markets at which the eligible commodity is procured.

(2) REQUIREMENTS.—

(A) IMPACT ON LOCAL FARMERS AND COUNTRIES.—The Secretary shall ensure that the local or regional procurement of any eligible commodity under this section will not have a disruptive impact on farmers located in, or the economy of—

(i) the recipient country of the eligible commodity; or

(ii) any country in the region in which the eligible commodity may be procured.

(B) TRANSSHIPMENT.—The Secretary shall, in accordance with such terms and conditions as the Secretary considers to be appropriate, require from each eligible organization commitments designed to prevent or restrict—

(i) the resale or transshipment of any eligible commodity procured under this section to any country other than the recipient country; and

(ii) the use of the eligible commodity for any purpose other than food aid.

(C) WORLD PRICES.—

(i) IN GENERAL.—In carrying out this section, the Secretary shall take any precaution that the Secretary considers to be reasonable to ensure that the procurement of eligible commodities will not unduly disrupt—

(I) world prices for agricultural commodities; or

(II) normal patterns of commercial trade with foreign countries.

(ii) PROCUREMENT PRICE.—The procurement of any eligible commodity shall be made at a reasonable market price with respect to the economy of the country in which the eligible commodity is procured, as determined by the Secretary.

(d) REGULATIONS; GUIDELINES.—

(1) IN GENERAL.—In accordance with paragraph (2), not later than 180 days after the date of completion of the study under subsection (b)(1), the Secretary shall promulgate regulations or issue guidelines to carry out field-based projects under this section. Deadline.

(2) REQUIREMENTS.—

(A) USE OF STUDY.—In promulgating regulations or issuing guidelines under paragraph (1), the Secretary shall take into consideration the results of the study described in subsection (b)(1).

(B) PUBLIC REVIEW AND COMMENT.—In promulgating regulations or issuing guidelines under paragraph (1), the

Secretary shall provide an opportunity for public review and comment.

(3) AVAILABILITY.—The Secretary shall not approve the procurement of any eligible commodity under this section until the date on which the Secretary promulgates regulations or issues guidelines under paragraph (1).

(e) FIELD-BASED PROJECT GRANTS OR COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall award grants to, or enter into cooperative agreements with, eligible organizations to carry out field-based projects.

(2) REQUIREMENTS OF ELIGIBLE ORGANIZATIONS.—

(A) APPLICATION.—

(i) IN GENERAL.—To be eligible to receive a grant from, or enter into a cooperative agreement with, the Secretary under this subsection, an eligible organization shall submit to the Secretary an application by such date, in such manner, and containing such information as the Secretary may require.

(ii) OTHER APPLICABLE REQUIREMENTS.—Any other applicable requirement relating to the submission of proposals for consideration shall apply to the submission of an application required under clause (i), as determined by the Secretary.

(B) COMPLETION REQUIREMENT.—To be eligible to receive a grant from, or enter into a cooperative agreement with, the Secretary under this subsection, an eligible organization shall agree—

(i) to collect by September 30, 2011, data containing the information required under subsection (f)(1)(B) relating to the field-based project funded through the grant; and

(ii) to provide to the Secretary the data collected under clause (i).

(3) REQUIREMENTS OF SECRETARY.—

(A) PROJECT DIVERSITY.—

(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), in selecting proposals for field-based projects to fund under this section, the Secretary shall select a diversity of projects, including projects located in—

(I) food surplus regions;

(II) food deficit regions (that are carried out using regional procurement methods); and

(III) multiple geographical regions.

(ii) PRIORITY.—In selecting proposals for field-based projects under clause (i), the Secretary shall ensure that the majority of selected proposals are for field-based projects that—

(I) are located in Africa; and

(II) procure eligible commodities that are produced in Africa.

(B) DEVELOPMENT ASSISTANCE.—A portion of the funds provided under this subsection shall be made available for field-based projects that provide development assistance for a period of not less than 1 year.

(4) AVAILABILITY.—The Secretary shall not award a grant to any eligible organization under paragraph (1) until the date

on which the Secretary promulgates regulations or issues guidelines under subsection (d)(1).

(f) INDEPENDENT EVALUATIONS; REPORT.—

(1) INDEPENDENT EVALUATIONS.—

(A) IN GENERAL.—Not later than November 1, 2011, the Secretary shall ensure that an independent third party conducts an independent evaluation of all field-based projects that— Deadline.

(i) addresses each factor described in subparagraph (B); and

(ii) is conducted in accordance with this section.

(B) REQUIRED FACTORS.—The Secretary shall require the independent third party to develop—

(i) with respect to each relevant market in which an eligible commodity was procured under this section, a description of—

(I) the prevailing and historic supply, demand, and price movements of the market (including the extent of competition for procurement bids);

(II) the impact of the procurement of the eligible commodity on producer and consumer prices in the market;

(III) each government market interference or other activity of the donor country that might have significantly affected the supply or demand of the eligible commodity in the area at which the local or regional procurement occurred;

(IV) the quantities and types of eligible commodities procured in the market;

(V) the time frame for procurement of each eligible commodity; and

(VI) the total cost of the procurement of each eligible commodity (including storage, handling, transportation, and administrative costs);

(ii) an assessment regarding—

(I) whether the requirements of this section have been met;

(II) the impact of different methodologies and approaches on—

(aa) local and regional agricultural producers (including large and small agricultural producers);

(bb) markets;

(cc) low-income consumers; and

(dd) program recipients; and

(III) the length of the period beginning on the date on which the Secretary initiated the procurement process and ending on the date of delivery of eligible commodities;

(iii) a comparison of different methodologies used to carry out this section, with respect to—

(I) the benefits to local agriculture;

(II) the impact on markets and consumers;

(III) the period of time required for procurement and delivery;

(IV) quality and safety assurances; and

(V) implementation costs; and

(iv) to the extent adequate information is available (including the results of the report required under subsection (b)(1)(B)), a comparison of the different methodologies used by other donor countries to make local and regional procurements.

(C) INDEPENDENT THIRD PARTY ACCESS TO RECORDS AND REPORTS.—The Secretary shall provide to the independent third party access to each record and report that the independent third party determines to be necessary to complete the independent evaluation.

Deadline.

(D) PUBLIC ACCESS TO RECORDS AND REPORTS.—Not later than 180 days after the date described in paragraph (2), the Secretary shall provide public access to each record and report described in subparagraph (C).

(2) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that contains the analysis and findings of the independent evaluation conducted under paragraph (1)(A).

(g) FUNDING.—

(1) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(2) FUNDING AMOUNTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

(A) $5,000,000 for fiscal year 2009;
(B) $25,000,000 for fiscal year 2010;
(C) $25,000,000 for fiscal year 2011; and
(D) $5,000,000 for fiscal year 2012.

## Subtitle D—Softwood Lumber

**SEC. 3301. SOFTWOOD LUMBER.**

(a) IN GENERAL.—The Tariff Act of 1930 (19 U.S.C. 1202 et seq.) is amended by adding at the end the following new title:

Softwood Lumber Act of 2008.

# "TITLE VIII—SOFTWOOD LUMBER

**"SEC. 801. SHORT TITLE; TABLE OF CONTENTS.**

19 USC 1654 note.

"(a) SHORT TITLE.—This title may be cited as the 'Softwood Lumber Act of 2008'.

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

"TITLE VIII—SOFTWOOD LUMBER

"Sec. 801. Short title; table of contents.
"Sec. 802. Definitions.
"Sec. 803. Establishment of softwood lumber importer declaration program.
"Sec. 804. Scope of softwood lumber importer declaration program.
"Sec. 805. Export charge determination and publication.
"Sec. 806. Reconciliation.
"Sec. 807. Verification.
"Sec. 808. Penalties.
"Sec. 809. Reports.

19 USC 1683.

**"SEC. 802. DEFINITIONS.**

"In this title:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

"(2) COUNTRY OF EXPORT.—The term 'country of export' means the country (including any political subdivision of the country) from which softwood lumber or a softwood lumber product is exported before entering the United States.

"(3) CUSTOMS LAWS OF THE UNITED STATES.—The term 'customs laws of the United States' means any law or regulation enforced or administered by U.S. Customs and Border Protection.

"(4) EXPORT CHARGES.—The term 'export charges' means any tax, charge, or other fee collected by the country from which softwood lumber or a softwood lumber product, described in section 804(a), is exported pursuant to an international agreement entered into by that country and the United States.

"(5) EXPORT PRICE.—

"(A) IN GENERAL.—The term 'export price' means one of the following:

"(i) In the case of softwood lumber or a softwood lumber product that has undergone only primary processing, the value that would be determined F.O.B. at the facility where the product underwent the last primary processing before export.

"(ii)(I) In the case of softwood lumber or a softwood lumber product described in subclause (II), the value that would be determined F.O.B. at the facility where the lumber or product underwent the last primary processing.

"(II) Softwood lumber or a softwood lumber product described in this subclause is lumber or a product that underwent the last remanufacturing before export by a manufacturer who—

"(aa) does not hold tenure rights provided by the country of export;

"(bb) did not acquire standing timber directly from the country of export; and

"(cc) is not related to the person who holds tenure rights or acquired standing timber directly from the country of export.

"(iii)(I) In the case of softwood lumber or a softwood lumber product described in subclause (II), the value that would be determined F.O.B. at the facility where the product underwent the last processing before export.

"(II) Softwood lumber or a softwood lumber product described in this subclause is lumber or a product that undergoes the last remanufacturing before export by a manufacturer who—

"(aa) holds tenure rights provided by the country of export;

"(bb) acquired standing timber directly from the country of export; or

"(cc) is related to a person who holds tenure rights or acquired standing timber directly from the country of export.

"(B) RELATED PERSONS.—For purposes of this paragraph, a person is related to another person if—

"(i) the person bears a relationship to such other person described in section 152(a) of the Internal Revenue Code of 1986;

"(ii) the person bears a relationship to such other person described in section 267(b) of such Code, except that '5 percent' shall be substituted for '50 percent' each place it appears;

"(iii) the person and such other person are part of a controlled group of corporations, as that term is defined in section 1563(a) of such Code, except that '5 percent' shall be substituted for '80 percent' each place it appears;

"(iv) the person is an officer or director of such other person; or

"(v) the person is the employer of such other person.

"(C) TENURE RIGHTS.—For purposes of this paragraph, the term 'tenure rights' means rights to harvest timber from public land granted by the country of export.

"(D) EXPORT PRICE WHERE F.O.B. VALUE CANNOT BE DETERMINED.—

"(i) IN GENERAL.—In the case of softwood lumber or a softwood lumber product described in clause (i), (ii), or (iii) of subparagraph (A) for which an F.O.B. value cannot be determined, the export price shall be the market price for the identical lumber or product sold in an arm's-length transaction in the country of export at approximately the same time as the exported lumber or product. The market price shall be determined in the following order of preference:

"(I) The market price for the lumber or a product sold at substantially the same level of trade as the exported lumber or product but in different quantities.

"(II) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product but in similar quantities.

"(III) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product and in different quantities.

"(ii) LEVEL OF TRADE.—For purposes of clause (i), 'level of trade' shall be determined in the same manner as provided under section 351.412(c) of title 19, Code of Federal Regulations (as in effect on January 1, 2008).

"(6) F.O.B.—The term 'F.O.B.' means a value consisting of all charges payable by a purchaser, including those charges incurred in the placement of merchandise on board of a conveyance for shipment, but does not include the actual shipping charges or any applicable export charges.

"(7) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) (as in effect on January 1, 2008).

"(8) PERSON.—The term 'person' includes any individual, partnership, corporation, association, organization, business trust, government entity, or other entity subject to the jurisdiction of the United States.

"(9) UNITED STATES.—The term 'United States' means the customs territory of the United States, as defined in General Note 2 of the HTS.

**"SEC. 803. ESTABLISHMENT OF SOFTWOOD LUMBER IMPORTER DECLARATION PROGRAM.**

President.
19 USC 1683a.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The President shall establish and maintain an importer declaration program with respect to the importation of softwood lumber and softwood lumber products described in section 804(a). The importer declaration program shall require importers of softwood lumber and softwood lumber products described in section 804(a) to provide the information required under subsection (b) and declare the information required by subsection (c), and require that such information accompany the entry summary documentation.

"(2) ELECTRONIC RECORD.—The President shall establish an electronic record that includes the importer information required under subsection (b) and the declarations required under subsection (c).

"(b) REQUIRED INFORMATION.—The President shall require the following information to be submitted by any person seeking to import softwood lumber or softwood lumber products described in section 804(a):

"(1) The export price for each shipment of softwood lumber or softwood lumber products.

"(2) The estimated export charge, if any, applicable to each shipment of softwood lumber or softwood lumber products as calculated by applying the percentage determined and published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 805 to the export price provided in subsection (b)(1).

"(c) IMPORTER DECLARATIONS.—Pursuant to procedures prescribed by the President, any person seeking to import softwood lumber or softwood lumber products described in section 804(a) shall declare that—

Procedures.

"(1) the person has made appropriate inquiry, including seeking appropriate documentation from the exporter and consulting the determinations published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 805(b); and

"(2) to the best of the person's knowledge and belief—

"(A) the export price provided pursuant to subsection (b)(1) is determined in accordance with the definition provided in section 802(5);

"(B) the export price provided pursuant to subsection (b)(1) is consistent with the export price provided on the export permit, if any, granted by the country of export; and

"(C) the exporter has paid, or committed to pay, all export charges due—

"(i) in accordance with the volume, export price, and export charge rate or rates, if any, as calculated

under an international agreement entered into by the country of export and the United States; and

"(ii) consistent with the export charge determinations published by the Under Secretary for International Trade pursuant to section 805(b).

19 USC 1683b.

**"SEC. 804. SCOPE OF SOFTWOOD LUMBER IMPORTER DECLARATION PROGRAM.**

"(a) PRODUCTS INCLUDED IN PROGRAM.—The following products shall be subject to the importer declaration program established under section 803:

"(1) IN GENERAL.—All softwood lumber and softwood lumber products classified under subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 of the HTS, including the following softwood lumber, flooring, and siding:

"(A) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded, or finger-jointed, of a thickness exceeding 6 millimeters.

"(B) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed.

"(C) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded, or finger-jointed.

"(D) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed.

"(E) Coniferous drilled and notched lumber and angle cut lumber.

"(2) PRODUCTS CONTINUALLY SHAPED.—Any product classified under subheading 4409.10.05 of the HTS that is continually shaped along its end or side edges.

"(3) OTHER LUMBER PRODUCTS.—Except as otherwise provided in subsection (b) or (c), softwood lumber products that are stringers, radius-cut box-spring frame components, fence pickets, truss components, pallet components, and door and window frame parts classified under subheading 4418.90.46.95, 4421.90.70.40, or 4421.90.97.40 of the HTS.

"(b) PRODUCTS EXCLUDED FROM PROGRAM.—The following products shall be excluded from the importer declaration program established under section 803:

"(1) Trusses and truss kits, properly classified under subheading 4418.90 of the HTS.

"(2) I-joist beams.

"(3) Assembled box-spring frames.

"(4) Pallets and pallet kits, properly classified under subheading 4415.20 of HTS.

"(5) Garage doors.

"(6) Edge-glued wood, properly classified under subheading 4421.90.97.40 of the HTS.

"(7) Complete door frames.

"(8) Complete window frames.

"(9) Furniture.

"(10) Articles brought into the United States temporarily and for which an exemption from duty is claimed under subchapter XIII of chapter 98 of the HTS.

"(11) Household and personal effects.

"(c) EXCEPTIONS FOR CERTAIN PRODUCTS.—The following softwood lumber products shall not be subject to the importer declaration program established under section 803:

"(1) STRINGERS.—Stringers (pallet components used for runners), if the stringers—

"(A) have at least 2 notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades; and

"(B) are properly classified under subheading 4421.90.97.40 of the HTS.

"(2) BOX-SPRING FRAME KITS.—

"(A) IN GENERAL.—Box-spring frame kits, if—

"(i) the kits contain—

"(I) 2 wooden side rails;

"(II) 2 wooden end (or top) rails; and

"(III) varying numbers of wooden slats; and

"(ii) the side rails and the end rails are radius-cut at both ends.

"(B) PACKAGING.—Any kit described in subparagraph (A) shall be individually packaged, and contain the exact number of wooden components needed to make the box-spring frame described on the entry documents, with no further processing required. None of the components contained in the package may exceed 1 inch in actual thickness or 83 inches in length.

"(3) RADIUS-CUT BOX-SPRING FRAME COMPONENTS.—Radius-cut box-spring frame components, not exceeding 1 inch in actual thickness or 83 inches in length, ready for assembly without further processing, if radius cuts are present on both ends of the boards and are substantial cuts so as to completely round 1 corner.

"(4) FENCE PICKETS.—Fence pickets requiring no further processing and properly classified under subheading 4421.90.70 of the HTS, 1 inch or less in actual thickness, up to 8 inches wide, and 6 feet or less in length, and having finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards shall be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring ¾ of an inch or more.

"(5) UNITED STATES-ORIGIN LUMBER.—Lumber originating in the United States that is exported to another country for minor processing and imported into the United States if—

"(A) the processing occurring in another country is limited to kiln drying, planing to create smooth-to-size board, and sanding; and

"(B) the importer establishes to the satisfaction of U.S. Customs and Border Protection upon entry that the lumber originated in the United States.

"(6) SOFTWOOD LUMBER.—Any softwood lumber or softwood lumber product that originated in the United States, if the importer, exporter, foreign processor, or original United States producer establishes to the satisfaction of U.S. Customs and Border Protection upon entry that the softwood lumber entered and documented as originating in the United States was first produced in the United States.

"(7) HOME PACKAGES OR KITS.—

"(A) IN GENERAL.—Softwood lumber or softwood lumber products contained in a single family home package or kit, regardless of the classification under the HTS, if the importer declares that the following requirements have been met:

"(i) The package or kit constitutes a full package of the number of wooden pieces specified in the plan, design, or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design, or blueprint.

"(ii) The package or kit contains—

"(I) all necessary internal and external doors and windows, nails, screws, glue, subfloor, sheathing, beams, posts, and connectors; and

"(II) if included in the purchase contract, the decking, trim, drywall, and roof shingles specified in the plan, design, or blueprint.

"(iii) Prior to importation, the package or kit is sold to a United States retailer that sells complete home packages or kits pursuant to a valid purchase contract referencing the particular home design, plan, or blueprint, and the contract is signed by a customer not affiliated with the importer.

"(iv) Softwood lumber products entered as part of the package or kit, whether in a single entry or multiple entries on multiple days, are to be used solely for the construction of the single family home specified by the home design, plan, or blueprint matching the U.S. Customs and Border Protection import entry.

"(B) ADDITIONAL DOCUMENTATION REQUIRED FOR HOME PACKAGES AND KITS.—In the case of each entry of products described in clauses (i) through (iv) of subparagraph (A) the following documentation shall be retained by the importer and made available to U.S. Customs and Border Protection upon request:

"(i) A copy of the appropriate home design, plan, or blueprint matching the customs entry in the United States.

"(ii) A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer.

"(iii) A listing of all parts in the package or kit being entered into the United States that conforms to the home design, plan, or blueprint for which such parts are being imported.

"(iv) If a single contract involves multiple entries, an identification of all the items required to be listed under clause (iii) that are included in each individual shipment.

"(d) PRODUCTS COVERED.—For purposes of determining if a product is covered by the importer declaration program, the President shall be guided by the article descriptions provided in this section.

**"SEC. 805. EXPORT CHARGE DETERMINATION AND PUBLICATION.** 19 USC 1683c.

"(a) DETERMINATION.—The Under Secretary for International Trade of the Department of Commerce shall determine, on a monthly basis, any export charges (expressed as a percentage of export price) to be collected by a country of export from exporters of softwood lumber or softwood lumber products described in section 804(a) in order to ensure compliance with any international agreement entered into by that country and the United States.

"(b) PUBLICATION.—The Under Secretary for International Trade shall immediately publish any determination made under subsection (a) on the website of the International Trade Administration of the Department of Commerce, and in any other manner the Under Secretary considers appropriate. Web site.

**"SEC. 806. RECONCILIATION.** 19 USC 1683d.

"The Secretary of the Treasury shall conduct reconciliations to ensure the proper implementation and operation of international agreements entered into between a country of export of softwood lumber or softwood lumber products described in section 804(a) and the United States. The Secretary of Treasury shall reconcile the following:

"(1) The export price declared by a United States importer pursuant to section 803(b)(1) with the export price reported to the United States by the country of export, if any.

"(2) The export price declared by a United States importer pursuant to section 803(b)(1) with the revised export price reported to the United States by the country of export, if any.

**"SEC. 807. VERIFICATION.** 19 USC 1683e.

"(a) IN GENERAL.—The Secretary of Treasury shall periodically verify the declarations made by a United States importer pursuant to section 803(c), including by determining whether—

"(1) the export price declared by a United States importer pursuant to section 803(b)(1) is the same as the export price provided on the export permit, if any, issued by the country of export; and

"(2) the estimated export charge declared by a United States importer pursuant to section 803(b)(2) is consistent with the determination published by the Under Secretary for International Trade pursuant to section 805(b).

"(b) EXAMINATION OF BOOKS AND RECORDS.—

"(1) IN GENERAL.—Any record relating to the importer declaration program required under section 803 shall be treated as a record required to be maintained and produced under title V of this Act.

"(2) EXAMINATION OF RECORDS.—The Secretary of the Treasury is authorized to take such action, and examine such

records, under section 509 of this Act, as the Secretary determines necessary to verify the declarations made pursuant to section 803(c) are true and accurate.

19 USC 1683f.

**"SEC. 808. PENALTIES.**

"(a) IN GENERAL.—It shall be unlawful for any person to import into the United States softwood lumber or softwood lumber products in knowing violation of this title.

"(b) CIVIL PENALTIES.—Any person who commits an unlawful act as set forth in subsection (a) shall be liable for a civil penalty not to exceed $10,000 for each knowing violation.

"(c) OTHER PENALTIES.—In addition to the penalties provided for in subsection (b), any violation of this title that violates any other customs law of the United States shall be subject to any applicable civil and criminal penalty, including seizure and forfeiture, that may be imposed under such custom law or title 18, United States Code, with respect to the importation of softwood lumber and softwood lumber products described in section 804(a).

"(d) FACTORS TO CONSIDER IN ASSESSING PENALTIES.—In determining the amount of civil penalties to be assessed under this section, consideration shall be given to any history of prior violations of this title by the person, the ability of the person to pay the penalty, the seriousness of the violation, and such other matters as fairness may require.

"(e) NOTICE.—No penalty may be assessed under this section against a person for violating a provision of this title unless the person is given notice and opportunity to make statements, both oral and written, with respect to such violation.

"(f) EXCEPTION.—Notwithstanding any other provision of this title, and without limitation, an importer shall not be found to have violated subsection 803(c) if—

"(1) the importer made an appropriate inquiry in accordance with section 803(c)(1) with respect to the declaration;

"(2) the importer produces records maintained pursuant to section 807(b) that substantiate the declaration; and

"(3) there is not substantial evidence indicating that the importer knew that the fact to which the importer made the declaration was false.

19 USC 1683g.

**"SEC. 809. REPORTS.**

President.

"(a) SEMIANNUAL REPORTS.—Not later than 180 days after the effective date of this title, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report—

"(1) describing the reconciliations conducted under section 806, and the verifications conducted under section 807;

"(2) identifying the manner in which the United States importers subject to reconciliations conducted under section 806 and verifications conducted under section 807 were chosen;

"(3) identifying any penalties imposed under section 808;

"(4) identifying any patterns of noncompliance with this title; and

"(5) identifying any problems or obstacles encountered in the implementation and enforcement of this title.

"(b) SUBSIDIES REPORTS.—Not later than 180 days after the date of the enactment of this title, and every 180 days thereafter, the Secretary of Commerce shall provide to the appropriate congressional committees a report on any subsidies on softwood lumber

or softwood lumber products, including stumpage subsidies, provided by countries of export.

"(c) GAO REPORTS.—The Comptroller General of the United States shall submit the following reports to the appropriate congressional committees:

"(1) Not later than 18 months after the date of the enactment of this title, a report on the effectiveness of the reconciliations conducted under section 806, and verifications conducted under section 807.

"(2) Not later than 12 months after the date of the enactment of this title, a report on whether countries that export softwood lumber or softwood lumber products to the United States are complying with any international agreements entered into by those countries and the United States.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of the enactment of this Act. 19 USC 1683 note.

# TITLE IV—NUTRITION

## Subtitle A—Food Stamp Program

### PART I—RENAMING OF FOOD STAMP ACT AND PROGRAM

**SEC. 4001. RENAMING OF FOOD STAMP ACT AND PROGRAM.**

(a) SHORT TITLE.—The first section of the Food Stamp Act of 1977 (7 U.S.C. 2011 note; Public Law 88–525) is amended by striking "Food Stamp Act of 1977" and inserting "Food and Nutrition Act of 2008".

(b) PROGRAM.—The Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (as amended by subsection (a)) is amended by striking "food stamp program" each place it appears and inserting "supplemental nutrition assistance program".

**SEC. 4002. CONFORMING AMENDMENTS.**

(a) IN GENERAL.—

(1) Section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013) is amended in the section heading by striking "**FOOD STAMP PROGRAM**" and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**".

(2) Section 5(h)(2)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(h)(2)(A)) is amended by striking "Food Stamp Disaster Task Force" and inserting "Disaster Task Force".

(3) Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended—

(A) in subsection (d)(3), by striking "for food stamps";

(B) in subsection (j), in the subsection heading, by striking "FOOD STAMP"; and

(C) in subsection (o)—

(i) in paragraph (2), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(ii) in paragraph (6)—

(I) in subparagraph (A)—

(aa) in clause (i), by striking "food stamps" and inserting "supplemental nutrition assistance program benefits"; and

(bb) in clause (ii)—

(AA) in the matter preceding subclause (I), by striking "a food stamp recipient" and inserting "a member of a household that receives supplemental nutrition assistance program benefits"; and

(BB) by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits"; and

(II) in subparagraphs (D) and (E), by striking "food stamp recipients" each place it appears and inserting "members of households that receive supplemental nutrition assistance program benefits".

(4) Section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016) is amended—

(A) in subsection (i)—

(i) in paragraph (3)(B)(ii), by striking "food stamp households" and inserting "households receiving supplemental nutrition assistance program benefits"; and

(ii) in paragraph (7), by striking "food stamp issuance" and inserting "supplemental nutrition assistance issuance"; and

(B) in subsection (k)—

(i) in paragraph (2), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(ii) in paragraph (3), by striking "food stamp retail" and inserting "retail".

(5) Section 9(b)(1) of that Food and Nutrition Act of 2008 (7 U.S.C. 2018(b)(1)) is amended by striking "food stamp households" and inserting "households that receive supplemental nutrition assistance program benefits".

(6) Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended—

(A) in subsection (e)—

(i) by striking "food stamps" each place it appears and inserting "supplemental nutrition assistance program benefits";

(ii) by striking "food stamp offices" each place it appears and inserting "supplemental nutrition assistance program offices";

(iii) by striking "food stamp office" each place it appears and inserting "supplemental nutrition assistance program office"; and

(iv) in paragraph (25)—

(I) in the matter preceding subparagraph (A), by striking "Simplified Food Stamp Program" and inserting "Simplified Supplemental Nutrition Assistance Program"; and

(II) in subparagraph (A), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(B) in subsection (k), by striking "may issue, upon request by the State agency, food stamps" and inserting "may provide, on request by the State agency, supplemental nutrition assistance program benefits";

(C) in subsection (l), by striking "food stamp participation" and inserting "supplemental nutrition assistance program participation";

(D) in subsections (q) and (r), in the subsection headings, by striking "FOOD STAMPS" each place it appears and inserting "BENEFITS";

(E) in subsection (s), by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits"; and

(F) in subsection (t)(1)—

(i) in subparagraph (A), by striking "food stamp application" and inserting "supplemental nutrition assistance program application"; and

(ii) in subparagraph (B), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits".

(7) Section 14(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2023(b)) is amended by striking "food stamp".

(8) Section 16 of the Food and Nutrition Act of 2008 (7 U.S.C. 2025) is amended—

(A) in subsection (a)(4), by striking "food stamp informational activities" and inserting "informational activities relating to the supplemental nutrition assistance program";

(B) in subsection (c)(9)(C), by striking "food stamp caseload" and inserting "the caseload under the supplemental nutrition assistance program"; and

(C) in subsection (h)(1)(E)(i), by striking "food stamp recipients" and inserting "members of households receiving supplemental nutrition assistance program benefits".

(9) Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended—

(A) in subsection (a)(2), by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits";

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(II) in subparagraph (B)—

(aa) in clause (ii)(II), by striking "food stamp recipients" and inserting "supplemental nutrition assistance program recipients";

(bb) in clause (iii)(I), by striking "the State's food stamp households" and inserting "the number of households in the State receiving supplemental nutrition assistance program benefits"; and

(cc) in clause (iv)(IV)(bb), by striking "food stamp deductions" and inserting "supplemental nutrition assistance program deductions";

(ii) in paragraph (2), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(iii) in paragraph (3)—

(I) in subparagraph (A), by striking "food stamp employment" and inserting "supplemental nutrition assistance program employment";

(II) in subparagraph (B), by striking "food stamp recipients" and inserting "supplemental nutrition assistance program recipients";

(III) in subparagraph (C), by striking "food stamps" and inserting "supplemental nutrition assistance program benefits"; and

(IV) in subparagraph (D), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(C) in subsection (c), by striking "food stamps" and inserting "supplemental nutrition assistance";

(D) in subsection (d)—

(i) in paragraph (1)(B), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking "food stamp allotments" each place it appears and inserting "allotments"; and

(II) in subparagraph (C)(ii), by striking "food stamp benefit" and inserting "supplemental nutrition assistance program benefits"; and

(iii) in paragraph (3)(E), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(E) in subsections (e) and (f), by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits";

(F) in subsection (g), in the first sentence, by striking "receipt of food stamp" and inserting "receipt of supplemental nutrition assistance program"; and

(G) in subsection (j), by striking "food stamp agencies" and inserting "supplemental nutrition assistance program agencies".

(10) Section 18(a)(3)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(3)(A)(ii)) is amended by striking "food stamps" and inserting "supplemental nutrition assistance program benefits".

(11) Section 22 of the Food and Nutrition Act of 2008 (7 U.S.C. 2031) is amended—

(A) in the section heading, by striking "**FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN**" and inserting "**MINNESOTA FAMILY INVESTMENT PROJECT**";

(B) in subsections (b)(12) and (d)(3), by striking "the Food Stamp Act, as amended," each place it appears and inserting "this Act"; and

(C) in subsection (g)(1), by striking "the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.)" and inserting "this Act".

(12) Section 26 of the Food and Nutrition Act of 2008 (7 U.S.C. 2035) is amended—

(A) in the section heading, by striking "**SIMPLIFIED FOOD STAMP PROGRAM**" and inserting "**SIMPLIFIED SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**"; and

(B) in subsection (b), by striking "simplified food stamp program" and inserting "simplified supplemental nutrition assistance program".

(b) CONFORMING CROSS-REFERENCES.—

(1) IN GENERAL.—Each provision of law described in paragraph (2) is amended (as applicable)—

(A) by striking "food stamp program" each place it appears and inserting "supplemental nutrition assistance program";

(B) by striking "Food Stamp Act of 1977" each place it appears and inserting "Food and Nutrition Act of 2008";

(C) by striking "Food Stamp Act" each place it appears and inserting "Food and Nutrition Act of 2008";

(D) by striking "food stamp" each place it appears and inserting "supplemental nutrition assistance program benefits";

(E) by striking "food stamps" each place it appears and inserting "supplemental nutrition assistance program benefits";

(F) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking "**FOOD STAMP ACT**" each place it appears and inserting "**FOOD AND NUTRITION ACT OF 2008**";

(G) in each applicable subsection and appropriations heading, by striking "FOOD STAMP ACT" each place it appears and inserting "FOOD AND NUTRITION ACT OF 2008";

(H) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking "**FOOD STAMP ACT**" each place it appears and inserting "**FOOD AND NUTRITION ACT OF 2008**";

(I) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking "**FOOD STAMP PROGRAM**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**";

(J) in each applicable subsection and appropriations heading, by striking "FOOD STAMP PROGRAM" each place it appears and inserting "SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM"; 7 USC 1421 note; 42 USC 1786.

(K) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking "**FOOD STAMP PROGRAM**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**";

(L) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking "**FOOD STAMPS**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS**";

(M) in each applicable subsection and appropriations heading, by striking "FOOD STAMPS" each place it appears and inserting "SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS"; and

42 USC 1758, 8011.

(N) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking "**FOOD STAMPS**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS**".

(2) PROVISIONS OF LAW.—The provisions of law referred to in paragraph (1) are the following:

7 USC 2012 note.

(A) The Hunger Prevention Act of 1988 (Public Law 100–435; 102 Stat. 1645).

7 USC 2012 note.

(B) The Food Stamp Program Improvements Act of 1994 (Public Law 103–225; 108 Stat. 106).

7 USC 2016 *et seq*.

(C) Title IV of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 305).

(D) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note).

(E) Section 807(b) of the Stewart B. McKinney Homeless Assistance Act (7 U.S.C. 2014 note; Public Law 100–77).

7 USC 2016 note.

(F) The Electronic Benefit Transfer Interoperability and Portability Act of 2000 (Public Law 106–171; 114 Stat. 3).

(G) Section 502(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 2025 note; Public Law 105–185).

7 USC 3315.

(H) The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.).

7 USC 7509.

(I) The Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.).

8 USC 1255a.

(J) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(K) Section 8119 of the Department of Defense Appropriations Act, 1999 (10 U.S.C. 113 note; Public Law 105–262).

15 USC 5901, 5904.

(L) The Armored Car Industry Reciprocity Act of 1993 (15 U.S.C. 5901 et seq.).

18 USC 506, 1956.

(M) Title 18, United States Code.

20 USC 1087ss.

(N) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

26 USC 32 *et seq*.

(O) The Internal Revenue Code of 1986.

(P) Section 650 of the Treasury and General Government Appropriations Act, 2000 (26 U.S.C. 7801 note; Public Law 106–58).

29 USC 49b.

(Q) The Wagner-Peysner Act (29 U.S.C. 49 et seq.).

29 USC 2971 *et seq*.

(R) The Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

31 USC 3803.

(S) Title 31, United States Code.

37 USC 402a.

(T) Title 37, United States Code.

42 USC 290cc–22.

(U) The Public Health Service Act (42 U.S.C. 201 et seq.).

42 USC 405 *et seq*.

(V) Titles II through XIX of the Social Security Act (42 U.S.C. 401 et seq.).

(W) Section 406 of the Family Support Act of 1988 (Public Law 100–485; 102 Stat. 2400).

(X) Section 232 of the Social Security Act Amendments of 1994 (42 U.S.C. 1314a).

(Y) The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.). 42 USC 1437f.

(Z) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.). 42 USC 1758, 1766.

(AA) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.). 42 USC 1786.

(BB) The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.). 42 USC 3012 *et seq*.

(CC) Section 208 of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728).

(DD) The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). 42 USC 5179.

(EE) The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.). 42 USC 8622, 8624.

(FF) Section 658K of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858i).

(GG) The Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.). 43 USC 1626.

(HH) Public Law 95–348 (92 Stat. 487). 48 USC 1841.

(II) The Agriculture and Food Act of 1981 (Public Law 97–98; 95 Stat. 1213). 7 USC 2270, 4004a.

(JJ) The Disaster Assistance Act of 1988 (Public Law 100–387; 102 Stat. 924). 7 USC 2014 note, 2017 note.

(KK) The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359). 7 USC 2011 note.

(LL) The Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4079). 42 USC 8011.

(MM) Section 388 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 98). 7 USC 1421 note.

(NN) The Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1818). 7 USC 1421 note, 2026 note.

(OO) The Act of March 26, 1992 (Public Law 102–265; 106 Stat. 90).

(PP) Public Law 105–379 (112 Stat. 3399). 7 USC 2011 note, 2020 note.

(QQ) Section 101(c) of the Emergency Supplemental Act, 2000 (Public Law 106–246; 114 Stat. 528).

(c) REFERENCES.—Any reference in any Federal, State, tribal, or local law (including regulations) to the "food stamp program" established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) shall be considered to be a reference to the "supplemental nutrition assistance program" established under that Act. 7 USC 2012 note.

## PART II—BENEFIT IMPROVEMENTS

### SEC. 4101. EXCLUSION OF CERTAIN MILITARY PAYMENTS FROM INCOME.

Section 5(d) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(d)) is amended—

(1) by striking "(d) Household" and inserting "(d) EXCLUSIONS FROM INCOME.—Household";

(2) by striking "only (1) any" and inserting "only—

"(1) any";

(3) by indenting each of paragraphs (2) through (18) so as to align with the margin of paragraph (1) (as amended by paragraph (2));

(4) by striking the comma at the end of each of paragraphs (1) through (16) and inserting a semicolon;

(5) in paragraph (3)—

(A) by striking "like (A) awarded" and inserting "like—
"(A) awarded";

(B) by striking "thereof, (B) to" and inserting "thereof;
"(B) to"; and

(C) by striking "program, and (C) to" and inserting "program; and
"(C) to";

(6) in paragraph (11), by striking ")), or (B) a" and inserting ")); or
"(B) a";

(7) in paragraph (17), by striking ", and" at the end and inserting a semicolon;

(8) in paragraph (18), by striking the period at the end and inserting "; and"; and

(9) by adding at the end the following:

"(19) any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

"(A) is the result of deployment to or service in a combat zone; and

"(B) was not received immediately prior to serving in a combat zone.".

**SEC. 4102. STRENGTHENING THE FOOD PURCHASING POWER OF LOW-INCOME AMERICANS.**

Section 5(e)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(e)(1)) is amended—

(1) in subparagraph (A)(ii), by striking "not less than $134" and all that follows through the end of the clause and inserting the following: "not less than—

"(I) for fiscal year 2009, $144, $246, $203, and $127, respectively; and

"(II) for fiscal year 2010 and each fiscal year thereafter, an amount that is equal to the amount from the previous fiscal year adjusted to the nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.";

(2) in subparagraph (B)(ii), by striking "not less than $269" and all that follows through the end of the clause and inserting the following: "not less than—

"(I) for fiscal year 2009, $289; and

"(II) for fiscal year 2010 and each fiscal year thereafter, an amount that is equal to the amount from the previous fiscal year adjusted to the

nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food."; and

(3) by adding at the end the following:

"(C) REQUIREMENT.—Each adjustment under subparagraphs (A)(ii)(II) and (B)(ii)(II) shall be based on the unrounded amount for the prior 12-month period.".

**SEC. 4103. SUPPORTING WORKING FAMILIES WITH CHILD CARE EXPENSES.**

Section 5(e)(3)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(e)(3)(A)) is amended by striking ", the maximum allowable level of which shall be $200 per month for each dependent child under 2 years of age and $175 per month for each other dependent,".

**SEC. 4104. ASSET INDEXATION, EDUCATION, AND RETIREMENT ACCOUNTS.**

(a) ADJUSTING COUNTABLE RESOURCES FOR INFLATION.—Section (5)(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) is amended—

(1) by striking "(g)(1) The Secretary" and inserting the following:

"(g) ALLOWABLE FINANCIAL RESOURCES.—

"(1) TOTAL AMOUNT.—

"(A) IN GENERAL.—The Secretary".

(2) in subparagraph (A) (as so designated by paragraph (1))—

(A) by inserting "(as adjusted in accordance with subparagraph (B))" after "$2,000"; and

(B) by inserting "(as adjusted in accordance with subparagraph (B))" after "$3,000"; and

(3) by adding at the end the following:

"(B) ADJUSTMENT FOR INFLATION.—

"(i) IN GENERAL.—Beginning on October 1, 2008, and each October 1 thereafter, the amounts specified in subparagraph (A) shall be adjusted and rounded down to the nearest $250 increment to reflect changes for the 12-month period ending the preceding June in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Effective date.

"(ii) REQUIREMENT.—Each adjustment under clause (i) shall be based on the unrounded amount for the prior 12-month period.".

(b) EXCLUSION OF RETIREMENT ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—

(1) IN GENERAL.—Section 5(g)(2)(B)(v) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)(2)(B)(v)) is amended by striking "or retirement account (including an individual account)" and inserting "account".

(2) MANDATORY AND DISCRETIONARY EXCLUSIONS.—Section 5(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

"(7) EXCLUSION OF RETIREMENT ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—

"(A) MANDATORY EXCLUSIONS.—The Secretary shall exclude from financial resources under this subsection the value of—

"(i) any funds in a plan, contract, or account, described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986 and the value of funds in a Federal Thrift Savings Plan account as provided in section 8439 of title 5, United States Code; and

"(ii) any retirement program or account included in any successor or similar provision that may be enacted and determined to be exempt from tax under the Internal Revenue Code of 1986.

"(B) DISCRETIONARY EXCLUSIONS.—The Secretary may exclude from financial resources under this subsection the value of any other retirement plans, contracts, or accounts (as determined by the Secretary).".

(c) EXCLUSION OF EDUCATION ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—Section 5(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) (as amended by subsection (b)) is amended by adding at the end the following:

"(8) EXCLUSION OF EDUCATION ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—

"(A) MANDATORY EXCLUSIONS.—The Secretary shall exclude from financial resources under this subsection the value of any funds in a qualified tuition program described in section 529 of the Internal Revenue Code of 1986 or in a Coverdell education savings account under section 530 of that Code.

"(B) DISCRETIONARY EXCLUSIONS.—The Secretary may exclude from financial resources under this subsection the value of any other education programs, contracts, or accounts (as determined by the Secretary).".

**SEC. 4105. FACILITATING SIMPLIFIED REPORTING.**

Section 6(c)(1)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(c)(1)(A)) is amended—

(1) by striking "reporting by" and inserting "reporting";

(2) in clause (i), by inserting "for periods shorter than 4 months by" before "migrant";

(3) in clause (ii), by inserting "for periods shorter than 4 months by" before "households"; and

(4) in clause (iii), by inserting "for periods shorter than 1 year by" before "households".

**SEC. 4106. TRANSITIONAL BENEFITS OPTION.**

Section 11(s)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(s)(1)) is amended—

(1) by striking "benefits to a household"; and inserting "benefits—

"(A) to a household";

(2) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(B) at the option of the State, to a household with children that ceases to receive cash assistance under a State-funded public assistance program.".

**SEC. 4107. INCREASING THE MINIMUM BENEFIT.**

Section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) is amended by striking "$10 per month" and inserting "8 percent of the cost of the thrifty food plan for a household containing 1 member, as determined by the Secretary under section 3, rounded to the nearest whole dollar increment".

**SEC. 4108. EMPLOYMENT, TRAINING, AND JOB RETENTION.**

Section 6(d)(4) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(d)(4)) is amended—

(1) in subparagraph (B)—

(A) by redesignating clause (vii) as clause (viii); and

(B) by inserting after clause (vi) the following:

"(vii) Programs intended to ensure job retention by providing job retention services, if the job retention services are provided for a period of not more than 90 days after an individual who received employment and training services under this paragraph gains employment."; and

(2) in subparagraph (F), by adding at the end the following:

"(iii) Any individual voluntarily electing to participate in a program under this paragraph shall not be subject to the limitations described in clauses (i) and (ii).".

## PART III—PROGRAM OPERATIONS

**SEC. 4111. NUTRITION EDUCATION.**

(a) AUTHORITY TO PROVIDE NUTRITION EDUCATION.—Section 4(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(a)) is amended in the first sentence by inserting "and, through an approved State plan, nutrition education" after "an allotment".

(b) IMPLEMENTATION.—Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking subsection (f) and inserting the following:

"(f) NUTRITION EDUCATION.—

"(1) IN GENERAL.—State agencies may implement a nutrition education program for individuals eligible for program benefits that promotes healthy food choices consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).

"(2) DELIVERY OF NUTRITION EDUCATION.—State agencies may deliver nutrition education directly to eligible persons or through agreements with the National Institute of Food and Agriculture, including through the expanded food and nutrition education program under section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), and other State and community health and nutrition providers and organizations.

"(3) NUTRITION EDUCATION STATE PLANS.—

"(A) IN GENERAL.—A State agency that elects to provide nutrition education under this subsection shall submit a nutrition education State plan to the Secretary for approval.

"(B) REQUIREMENTS.—The plan shall—

"(i) identify the uses of the funding for local projects; and

"(ii) conform to standards established by the Secretary through regulations or guidance.

"(C) REIMBURSEMENT.—State costs for providing nutrition education under this subsection shall be reimbursed pursuant to section 16(a).

"(4) NOTIFICATION.—To the maximum extent practicable, State agencies shall notify applicants, participants, and eligible program participants of the availability of nutrition education under this subsection.".

**SEC. 4112. TECHNICAL CLARIFICATION REGARDING ELIGIBILITY.**

Section 6(k) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking "No member" and inserting the following:

"(1) IN GENERAL.—No member"; and

(3) by adding at the end the following:

"(2) PROCEDURES.—The Secretary shall—

"(A) define the terms 'fleeing' and 'actively seeking' for purposes of this subsection; and

"(B) ensure that State agencies use consistent procedures established by the Secretary that disqualify individuals whom law enforcement authorities are actively seeking for the purpose of holding criminal proceedings against the individual.".

**SEC. 4113. CLARIFICATION OF SPLIT ISSUANCE.**

Section 7(h) of the Food and Nutrition Act of 2008 (7 U.S.C. 2016(h)) is amended by striking paragraph (2) and inserting the following:

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Any procedure established under paragraph (1) shall—

"(i) not reduce the allotment of any household for any period; and

"(ii) ensure that no household experiences an interval between issuances of more than 40 days.

"(B) MULTIPLE ISSUANCES.—The procedure may include issuing benefits to a household in more than 1 issuance during a month only when a benefit correction is necessary.".

**SEC. 4114. ACCRUAL OF BENEFITS.**

Section 7(i) of the Food and Nutrition Act of 2008 (7 U.S.C. 2016(i)) is amended by adding at the end the following:

"(12) RECOVERING ELECTRONIC BENEFITS.—

Procedures.

"(A) IN GENERAL.—A State agency shall establish a procedure for recovering electronic benefits from the account of a household due to inactivity.

Deadline.

"(B) BENEFIT STORAGE.—A State agency may store recovered electronic benefits off-line in accordance with subparagraph (D), if the household has not accessed the account after 6 months.

"(C) BENEFIT EXPUNGING.—A State agency shall expunge benefits that have not been accessed by a household after a period of 12 months.

"(D) NOTICE.—A State agency shall—

"(i) send notice to a household the benefits of which are stored under subparagraph (B); and

"(ii) not later than 48 hours after request by the household, make the stored benefits available to the household.".

**SEC. 4115. ISSUANCE AND USE OF PROGRAM BENEFITS.**

(a) IN GENERAL.—Section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016) is amended—

(1) by striking the section designation and heading and all that follows through "subsection (j)) shall be" and inserting the following:

**"SEC. 7. ISSUANCE AND USE OF PROGRAM BENEFITS.**

"(a) IN GENERAL.—Except as provided in subsection (i), EBT cards shall be";

(2) in subsection (b)—

(A) by striking "(b) Coupons" and inserting the following:

"(b) USE.—Benefits"; and

(B) by striking the second proviso;

(3) in subsection (c)—

(A) by striking "(c) Coupons" and inserting the following:

"(c) DESIGN.—

"(1) IN GENERAL.—EBT cards";

(B) in the first sentence, by striking "and define their denomination"; and

(C) by striking the second sentence and inserting the following:

"(2) PROHIBITION.—The name of any public official shall not appear on any EBT card.";

(4) by striking subsection (d);

(5) in subsection (e)—

(A) by striking "coupons" each place it appears and inserting "benefits"; and

(B) by striking "coupon issuers" each place it appears and inserting "benefit issuers";

(6) in subsection (f)—

(A) by striking "coupons" each place it appears and inserting "benefits";

(B) by striking "coupon issuer" and inserting "benefit issuers";

(C) by striking "including any losses" and all that follows through "section 11(e)(20),"; and

(D) by striking "and allotments";

(7) by striking subsection (g) and inserting the following:

"(g) ALTERNATIVE BENEFIT DELIVERY.—

"(1) IN GENERAL.—If the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that it would improve the integrity of the supplemental nutrition assistance program, the Secretary shall require a State agency to issue or deliver benefits using alternative methods.

"(2) NO IMPOSITION OF COSTS.—The cost of documents or systems that may be required by this subsection may not be imposed upon a retail food store participating in the supplemental nutrition assistance program.

Effective dates.

"(3) DEVALUATION AND TERMINATION OF ISSUANCE OF PAPER COUPONS.—

"(A) COUPON ISSUANCE.—Effective on the date of enactment of the Food, Conservation, and Energy Act of 2008, no State shall issue any coupon, stamp, certificate, or authorization card to a household that receives supplemental nutrition assistance under this Act.

"(B) EBT CARDS.—Effective beginning on the date that is 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, only an EBT card issued under subsection (i) shall be eligible for exchange at any retail food store.

"(C) DE-OBLIGATION OF COUPONS.—Coupons not redeemed during the 1-year period beginning on the date of enactment of the Food, Conservation, and Energy Act of 2008 shall—

"(i) no longer be an obligation of the Federal Government; and

"(ii) not be redeemable.";

(8) in subsection (h)(1), by striking "coupons" and inserting "benefits";

(9) in subsection (i), by adding at the end the following:

"(12) INTERCHANGE FEES.—No interchange fees shall apply to electronic benefit transfer transactions under this subsection.";

(10) in subsection (j)—

(A) in paragraph (2)(A)(ii), by striking "printing, shipping, and redeeming coupons" and inserting "issuing and redeeming benefits"; and

(B) in paragraph (5), by striking "coupon" and inserting "benefit";

(11) in subsection (k)—

(A) by striking "coupons in the form of" each place it appears and inserting "program benefits in the form of";

(B) by striking "a coupon issued in the form of" each place it appears and inserting "program benefits in the form of"; and

(C) in subparagraph (A), by striking "subsection (i)(11)(A)" and inserting "subsection (h)(11)(A)"; and

(12) by redesignating subsections (e) through (k) as subsections (d) through (j), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012) is amended—

(A) in subsection (a), by striking "coupons" and inserting "benefits";

(B) by striking subsection (b) and inserting the following:

"(b) BENEFIT.—The term 'benefit' means the value of supplemental nutrition assistance provided to a household by means of—

"(1) an electronic benefit transfer under section 7(i); or

"(2) other means of providing assistance, as determined by the Secretary.";

(C) in subsection (c), in the first sentence, by striking "authorization cards" and inserting "benefits";

(D) in subsection (d), by striking "or access device" and all that follows through the end of the subsection and inserting a period;

(E) in subsection (e)—

(i) by striking "(e) 'Coupon issuer' means" and inserting the following:

"(e) BENEFIT ISSUER.—The term 'benefit issuer' means"; and

(ii) by striking "coupons" and inserting "benefits";

(F) in subsection (g)(7), by striking "subsection (r)" and inserting "subsection (j)";

(G) in subsection (i)(5)—

(i) in subparagraph (B), by striking "subsection (r)" and inserting "subsection (j)"; and

(ii) in subparagraph (D), by striking "coupons" and inserting "benefits";

(H) in subsection (j), by striking "(as that term is defined in subsection (p))";

(I) in subsection (k)—

(i) in paragraph (1)(A), by striking "subsection (u)(1)" and inserting "subsection (r)(1)";

(ii) in paragraph (2), by striking "subsections (g)(3), (4), (5), (7), (8), and (9) of this section" and inserting "paragraphs (3), (4), (5), (7), (8), and (9) of subsection (k)"; and

(iii) in paragraph (3), by striking "subsection (g)(6) of this section" and inserting "subsection (k)(6)";

(J) in subsection (t), by inserting ", including point of sale devices," after "other means of access";

(K) in subsection (u), by striking "(as defined in subsection (g))";

(L) by adding at the end the following:

"(v) EBT CARD.—The term 'EBT card' means an electronic benefit transfer card issued under section 7(i)."; and

(M) by redesignating subsections (a) through (v) as subsections (b), (d), (f), (g), (e), (h), (k), (l), (n), (o), (p), (q), (s), (t), (u), (v), (c), (j), (m), (a), (r), and (i), respectively, and moving the subsections so as to appear in alphabetical order.

(2) Section 4(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(a)) is amended—

(A) by striking "coupons" each place it appears and inserting "benefits"; and

(B) by striking "Coupons issued" and inserting "benefits issued".

(3) Section 5 of the Food and Nutrition Act of 2008 (7 U.S.C. 2014) is amended—

(A) in subsection (a), by striking "section 3(i)(4)" and inserting "section 3(n)(4)";

(B) in subsection (h)(3)(B), in the second sentence, by striking "section 7(i)" and inserting "section 7(h)"; and

(C) in subsection (i)(2)(E), by striking ", as defined in section 3(i) of this Act,".

(4) Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended—

(A) in subsection (b)(1)—

(i) in subparagraph (B), by striking "coupons or authorization cards" and inserting "program benefits"; and

(ii) by striking "coupons" each place it appears and inserting "benefits"; and

(B) in subsection (d)(4)(L), by striking "section 11(e)(22)" and inserting "section 11(e)(19)".

(5) Section 8 of the Food and Nutrition Act of 2008 (7 U.S.C. 2017) is amended—

(A) in subsection (b), by striking ", whether through coupons, access devices, or otherwise"; and

(B) in subsections (e)(1) and (f), by striking "section 3(i)(5)" each place it appears and inserting "section 3(n)(5)".

(6) Section 9 of the Food and Nutrition Act of 2008 (7 U.S.C. 2018) is amended—

(A) by striking "coupons" each place it appears and inserting "benefits";

(B) in subsection (a)—

(i) in paragraph (1), by striking "coupon business" and inserting "benefit transactions"; and

(ii) by striking paragraph (3) and inserting the following:

"(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem benefits shall be valid under the supplemental nutrition assistance program."; and

(C) in subsection (g), by striking "section 3(g)(9)" and inserting "section 3(k)(9)".

(7) Section 10 of the Food and Nutrition Act of 2008 (7 U.S.C. 2019) is amended—

(A) by striking the section designation and heading and all that follows through "Regulations" and inserting the following:

**"SEC. 10. REDEMPTION OF PROGRAM BENEFITS.**

"Regulations";

(B) by striking "section 3(k)(4) of this Act" and inserting "section 3(p)(4)";

(C) by striking "section 7(i)" and inserting "section 7(h)"; and

(D) by striking "coupons" each place it appears and inserting "benefits".

(8) Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended—

(A) in subsection (d)—

(i) by striking "section 3(n)(1) of this Act" each place it appears and inserting "section 3(t)(1)"; and

(ii) by striking "section 3(n)(2) of this Act" each place it appears and inserting "section 3(t)(2)";

(B) in subsection (e)—

(i) in paragraph (8)(E), by striking "paragraph (16) or (20)(B)" and inserting "paragraph (15) or (18)(B)";

(ii) by striking paragraphs (15) and (19);

(iii) by redesignating paragraphs (16) through (18) and (20) through (25) as paragraphs (15) through (17) and (18) through (23), respectively; and

(iv) in paragraph (17) (as so redesignated), by striking "(described in section 3(n)(1) of this Act)" and inserting "described in section 3(t)(1)";

(C) in subsection (h), by striking "coupon or coupons" and inserting "benefits";

(D) by striking "coupon" each place it appears and inserting "benefit";

(E) by striking "coupons" each place it appears and inserting "benefits"; and

(F) in subsection (q), by striking "section 11(e)(20)(B)" and inserting "subsection (e)(18)(B)".

(9) Section 13 of the Food and Nutrition Act of 2008 (7 U.S.C. 2022) is amended by striking "coupons" each place it appears and inserting "benefits".

(10) Section 15 of the Food and Nutrition Act of 2008 (7 U.S.C. 2024) is amended—

(A) in subsection (a), by striking "coupons" and inserting "benefits";

(B) in subsection (b)(1)—

(i) by striking "coupons, authorization cards, or access devices" each place it appears and inserting "benefits";

(ii) by striking "coupons or authorization cards" and inserting "benefits"; and

(iii) by striking "access device" each place it appears and inserting "benefit";

(C) in subsection (c), by striking "coupons" each place it appears and inserting "benefits";

(D) in subsection (d), by striking "Coupons" and inserting "Benefits";

(E) by striking subsections (e) and (f);

(F) by redesignating subsections (g) and (h) as subsections (e) and (f), respectively; and

(G) in subsection (e) (as so redesignated), by striking "coupon, authorization cards or access devices" and inserting "benefits".

(11) Section 16(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(a)) is amended by striking "coupons" each place it appears and inserting "benefits".

(12) Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended—

(A) in subsection (a)(2), by striking "coupon" and inserting "benefit";

(B) in subsection (b)(1)—

(i) in subparagraph (B)—

(I) in clause (iv)—

(aa) in subclause (I), inserting "or otherwise providing benefits in a form not restricted to the purchase of food" after "of cash";

(bb) in subclause (III)(aa), by striking "section 3(i)" and inserting "section 3(n)"; and

(cc) in subclause (VII), by striking "section 7(j)" and inserting "section 7(i)"; and

(II) in clause (v)—

(aa) by striking "countersigned food coupons or similar"; and

(bb) by striking "food coupons" and inserting "EBT cards"; and

(ii) in subparagraph (C)(i)(I), by striking "coupons" and inserting "EBT cards";

(C) in subsection (f), by striking "section 7(g)(2)" and inserting "section 7(f)(2)"; and

(D) in subsection (j), by striking "coupon" and inserting "benefit".

(13) Section 19(a)(2)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2028(a)(2)(A)(ii)) is amended by striking "section 3(o)(4)" and inserting "section 3(u)(4)".

(14) Section 21 of the Food and Nutrition Act of 2008 (7 U.S.C. 2030) is repealed.

(15) Section 22 of the Food and Nutrition Act of 2008 (7 U.S.C. 2031) is amended—

(A) by striking "food coupons" each place it appears and inserting "benefits";

(B) by striking "coupons" each place it appears and inserting "benefits"; and

(C) in subsection (g)(1)(A), by striking "coupon" and inserting "benefits".

(16) Section 26(f)(3) of the Food and Nutrition Act of 2008 (7 U.S.C. 2035(f)(3)) is amended—

(A) in subparagraph (A), by striking "subsections (a) through (g)" and inserting "subsections (a) through (f)"; and

(B) in subparagraph (E), by striking "(16), (18), (20), (24), and (25)" and inserting "(15), (17), (18), (22), and (23)".

(c) CONFORMING CROSS-REFERENCES.—

(1) IN GENERAL.—

(A) USE OF TERMS.—Each provision of law described in subparagraph (B) is amended (as applicable)—

7 USC 2012 note; 18 USC 1956; 42 USC 411, 503, 8011. 42 USC 1382e note, 5179.

(i) by striking "coupons" each place it appears and inserting "benefits";

(ii) by striking "coupon" each place it appears and inserting "benefit";

(iii) by striking "food coupons" each place it appears and inserting "benefits";

42 USC 5179.

(iv) in each section heading, by striking "**FOOD COUPONS**" each place it appears and inserting "**BENEFITS**";

(v) by striking "food stamp coupon" each place it appears and inserting "benefit"; and

42 USC 1382e note.

(vi) by striking "food stamps" each place it appears and inserting "benefits".

(B) PROVISIONS OF LAW.—The provisions of law referred to in subparagraph (A) are the following:

(i) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note; 107 Stat. 2418).

(ii) Section 1956(c)(7)(D) of title 18, United States Code.

42 USC 411, 503.

(iii) Titles II through XIX of the Social Security Act (42 U.S.C. 401 et seq.).

(iv) Section 401(b)(3) of the Social Security Amendments of 1972 (42 U.S.C. 1382e note; Public Law 92–603).

(v) The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). 42 USC 5179.

(vi) Section 802(d)(2)(A)(i)(II) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(2)(A)(i)(II)).

(2) DEFINITION REFERENCES.—

(A) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note; 107 Stat. 2418) is amended by striking "section 3(k)(1)" and inserting "section 3(p)(1)".

(B) Section 205 of the Food Stamp Program Improvements Act of 1994 (7 U.S.C. 2012 note; Public Law 103–225) is amended by striking "section 3(k) of such Act (as amended by section 201)" and inserting "section 3(p) of that Act".

(C) Section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (21 U.S.C. 862a) is amended—

(i) by striking "section 3(h)" each place it appears and inserting "section 3(l)"; and

(ii) in subsection (e)(2), by striking "section 3(m)" and inserting "section 3(s)".

(D) Section 402(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)) is amended—

(i) in paragraph (2)(F)(ii), by striking "section 3(r)" and inserting "section 3(j)"; and

(ii) in paragraph (3)(B), by striking "section 3(h)" and inserting "section 3(l)".

(E) Section 3803(c)(2)(C)(vii) of title 31, United States Code, is amended by striking "section 3(h)" and inserting "section 3(l)".

(F) Section 303(d)(4) of the Social Security Act (42 U.S.C. 503(d)(4)) is amended by striking "section 3(n)(1)" and inserting "section 3(t)(1)".

(G) Section 404 of the Social Security Act (42 U.S.C. 604) is amended by striking "section 3(h)" each place it appears and inserting "section 3(l)".

(H) Section 531 of the Social Security Act (42 U.S.C. 654) is amended by striking "section 3(h)" each place it appears and inserting "section 3(l)".

(I) Section 802(d)(2)(A)(i)(II) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(2)(A)(i)(II)) is amended by striking "(as defined in section 3(e) of such Act)".

(d) REFERENCES.—Any reference in any Federal, State, tribal, or local law (including regulations) to a "coupon", "authorization card", or other access device provided under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) shall be considered to be a reference to a "benefit" provided under that Act. 7 USC 2012 note.

**SEC. 4116. REVIEW OF MAJOR CHANGES IN PROGRAM DESIGN.**

Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking the section enumerator and heading and subsection (a) and inserting the following:

**"SEC. 11. ADMINISTRATION.**

"(a) STATE RESPONSIBILITY.—

"(1) IN GENERAL.—The State agency of each participating State shall have responsibility for certifying applicant households and issuing EBT cards.

"(2) LOCAL ADMINISTRATION.—The responsibility of the agency of the State government shall not be affected by whether the program is operated on a State-administered or county-administered basis, as provided under section 3(t)(1).

"(3) RECORDS.—

"(A) IN GENERAL.—Each State agency shall keep such records as may be necessary to determine whether the program is being conducted in compliance with this Act (including regulations issued under this Act).

"(B) INSPECTION AND AUDIT.—Records described in subparagraph (A) shall—

"(i) be available for inspection and audit at any reasonable time;

"(ii) subject to subsection (e)(8), be available for review in any action filed by a household to enforce any provision of this Act (including regulations issued under this Act); and

"(iii) be preserved for such period of not less than 3 years as may be specified in regulations.

"(4) REVIEW OF MAJOR CHANGES IN PROGRAM DESIGN.—

"(A) IN GENERAL.—The Secretary shall develop standards for identifying major changes in the operations of a State agency, including—

"(i) large or substantially-increased numbers of low-income households that do not live in reasonable proximity to an office performing the major functions described in subsection (e);

"(ii) substantial increases in reliance on automated systems for the performance of responsibilities previously performed by personnel described in subsection (e)(6)(B);

"(iii) changes that potentially increase the difficulty of reporting information under subsection (e) or section 6(c); and

"(iv) changes that may disproportionately increase the burdens on any of the types of households described in subsection (e)(2)(A).

"(B) NOTIFICATION.—If a State agency implements a major change in operations, the State agency shall—

"(i) notify the Secretary; and

"(ii) collect such information as the Secretary shall require to identify and correct any adverse effects on program integrity or access, including access by any of the types of households described in subsection (e)(2)(A).".

**SEC. 4117. CIVIL RIGHTS COMPLIANCE.**

Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking subsection (c) and inserting the following:

"(c) CIVIL RIGHTS COMPLIANCE.—

"(1) IN GENERAL.—In the certification of applicant households for the supplemental nutrition assistance program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political affiliation.

"(2) RELATION TO OTHER LAWS.—The administration of the program by a State agency shall be consistent with the rights of households under the following laws (including implementing regulations):

"(A) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

"(B) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(C) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(D) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).".

**SEC. 4118. CODIFICATION OF ACCESS RULES.**

Section 11(e)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(1)) is amended—

(1) by striking "shall (A) at" and inserting "shall—

"(A) at"; and

(2) by striking "and (B) use" and inserting "and

"(B) comply with regulations of the Secretary requiring the use of".

**SEC. 4119. STATE OPTION FOR TELEPHONIC SIGNATURE.**

Section 11(e)(2)(C) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(2)(C)) is amended—

(1) by striking "(C) Nothing in this Act" and inserting the following:

"(C) ELECTRONIC AND AUTOMATED SYSTEMS.—

"(i) IN GENERAL.—Nothing in this Act"; and

(2) by adding at the end the following:

"(ii) STATE OPTION FOR TELEPHONIC SIGNATURE.—A State agency may establish a system by which an applicant household may sign an application through a recorded verbal assent over the telephone.

"(iii) REQUIREMENTS.—A system established under clause (ii) shall—

"(I) record for future reference the verbal assent of the household member and the information to which assent was given;

"(II) include effective safeguards against impersonation, identity theft, and invasions of privacy;

"(III) not deny or interfere with the right of the household to apply in writing;

"(IV) promptly provide to the household member a written copy of the completed application, with instructions for a simple procedure for correcting any errors or omissions;

"(V) comply with paragraph (1)(B);

"(VI) satisfy all requirements for a signature on an application under this Act and other laws applicable to the supplemental nutrition assistance program, with the date on which the household

member provides verbal assent considered as the date of application for all purposes; and

"(VII) comply with such other standards as the Secretary may establish.".

**SEC. 4120. PRIVACY PROTECTIONS.**

Section 11(e)(8) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(8)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "limit" and inserting "prohibit"; and

(B) by striking "to persons" and all that follows through "State programs";

(2) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively;

(3) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) the safeguards shall permit—

"(i) the disclosure of such information to persons directly connected with the administration or enforcement of the provisions of this Act, regulations issued pursuant to this Act, Federal assistance programs, or federally-assisted State programs; and

"(ii) the subsequent use of the information by persons described in clause (i) only for such administration or enforcement;"; and

(4) in subparagraph (F) (as so redesignated) by inserting "or subsection (u)" before the semicolon at the end.

**SEC. 4121. PRESERVATION OF ACCESS AND PAYMENT ACCURACY.**

Section 16 of the Food and Nutrition Act of 2008 (7 U.S.C. 2025) is amended by striking subsection (g) and inserting the following:

"(g) COST SHARING FOR COMPUTERIZATION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary is authorized to pay to each State agency the amount provided under subsection (a)(6) for the costs incurred by the State agency in the planning, design, development, or installation of 1 or more automatic data processing and information retrieval systems that the Secretary determines—

"(A) would assist in meeting the requirements of this Act;

"(B) meet such conditions as the Secretary prescribes;

"(C) are likely to provide more efficient and effective administration of the supplemental nutrition assistance program;

"(D) would be compatible with other systems used in the administration of State programs, including the program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(E) would be tested adequately before and after implementation, including through pilot projects in limited areas for major systems changes as determined under rules promulgated by the Secretary, data from which shall be thoroughly evaluated before the Secretary approves the system to be implemented more broadly; and

"(F) would be operated in accordance with an adequate plan for—

"(i) continuous updating to reflect changed policy and circumstances; and

"(ii) testing the effect of the system on access for eligible households and on payment accuracy.

"(2) LIMITATION.—The Secretary shall not make payments to a State agency under paragraph (1) to the extent that the State agency—

"(A) is reimbursed for the costs under any other Federal program; or

"(B) uses the systems for purposes not connected with the supplemental nutrition assistance program.".

**SEC. 4122. FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.**

Section 16(h)(1)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(h)(1)(A)) is amended in subparagraph (A), by striking "to remain available until expended" and inserting "to remain available for 15 months".

## PART IV—PROGRAM INTEGRITY

**SEC. 4131. ELIGIBILITY DISQUALIFICATION.**

Regulations.

Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended by adding at the end the following:

"(p) DISQUALIFICATION FOR OBTAINING CASH BY DESTROYING FOOD AND COLLECTING DEPOSITS.—Subject to any requirements established by the Secretary, any person who has been found by a State or Federal court or administrative agency in a hearing under subsection (b) to have intentionally obtained cash by purchasing products with supplemental nutrition assistance program benefits that have containers that require return deposits, discarding the product, and returning the container for the deposit amount shall be ineligible for benefits under this Act for such period of time as the Secretary shall prescribe by regulation.

"(q) DISQUALIFICATION FOR SALE OF FOOD PURCHASED WITH SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS.—Subject to any requirements established by the Secretary, any person who has been found by a State or Federal court or administrative agency in a hearing under subsection (b) to have intentionally sold any food that was purchased using supplemental nutrition assistance program benefits shall be ineligible for benefits under this Act for such period of time as the Secretary shall prescribe by regulation.".

**SEC. 4132. CIVIL PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.**

Section 12 of the Food and Nutrition Act of 2008 (7 U.S.C. 2021) is amended—

(1) by striking the section designation and heading and all that follows through the end of subsection (a) and inserting the following:

**"SEC. 12. CIVIL PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.**

"(a) DISQUALIFICATION.—

"(1) IN GENERAL.—An approved retail food store or wholesale food concern that violates a provision of this Act or a regulation under this Act may be—

"(A) disqualified for a specified period of time from further participation in the supplemental nutrition assistance program;

"(B) assessed a civil penalty of up to $100,000 for each violation; or

"(C) both.

"(2) REGULATIONS.—Regulations promulgated under this Act shall provide criteria for the finding of a violation of, the suspension or disqualification of and the assessment of a civil penalty against a retail food store or wholesale food concern on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system.";

(2) in subsection (b)—

(A) by striking "(b) Disqualification" and inserting the following:

"(b) PERIOD OF DISQUALIFICATION.—Subject to subsection (c), a disqualification";

(B) in paragraph (1), by striking "of no less than six months nor more than five years" and inserting "not to exceed 5 years";

(C) in paragraph (2), by striking "of no less than twelve months nor more than ten years" and inserting "not to exceed 10 years";

(D) in paragraph (3)(B)—

(i) by inserting "or a finding of the unauthorized redemption, use, transfer, acquisition, alteration, or possession of EBT cards" after "concern" the first place it appears; and

(ii) by striking "civil money penalties" and inserting "civil penalties"; and

(E) by striking "civil money penalty" each place it appears and inserting "civil penalty";

(3) in subsection (c)—

(A) by striking "(c) The action" and inserting the following:

"(c) CIVIL PENALTY AND REVIEW OF DISQUALIFICATION AND PENALTY DETERMINATIONS.—

"(1) CIVIL PENALTY.—In addition to a disqualification under this section, the Secretary may assess a civil penalty in an amount not to exceed $100,000 for each violation.

"(2) REVIEW.—The action"; and

(B) in paragraph (2) (as designated by subparagraph (A)), by striking "civil money penalty" and inserting "civil penalty";

(4) in subsection (d)—

(A) by striking "(d)" and all that follows through ". The Secretary shall" and inserting the following:

"(d) CONDITIONS OF AUTHORIZATION.—

"(1) IN GENERAL.—As a condition of authorization to accept and redeem benefits, the Secretary may require a retail food store or wholesale food concern that, pursuant to subsection (a), has been disqualified for more than 180 days, or has been subjected to a civil penalty in lieu of a disqualification period of more than 180 days, to furnish a collateral bond or irrevocable letter of credit for a period of not more than 5 years

to cover the value of benefits that the store or concern may in the future accept and redeem in violation of this Act.

"(2) COLLATERAL.—The Secretary also may require a retail food store or wholesale food concern that has been sanctioned for a violation and incurs a subsequent sanction regardless of the length of the disqualification period to submit a collateral bond or irrevocable letter of credit.

"(3) BOND REQUIREMENTS.—The Secretary shall";

(B) by striking "If the Secretary finds" and inserting the following

"(4) FORFEITURE.—If the Secretary finds"; and

(C) by striking "Such store or concern" and inserting the following:

"(5) HEARING.—A store or concern described in paragraph (4)";

(5) in subsection (e), by striking "civil money penalty" each place it appears and inserting "civil penalty"; and

(6) by adding at the end the following:

"(h) FLAGRANT VIOLATIONS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Inspector General of the Department of Agriculture, shall establish procedures under which the processing of program benefit redemptions for a retail food store or wholesale food concern may be immediately suspended pending administrative action to disqualify the retail food store or wholesale food concern. Procedures.

"(2) REQUIREMENTS.—Under the procedures described in paragraph (1), if the Secretary, in consultation with the Inspector General, determines that a retail food store or wholesale food concern is engaged in flagrant violations of this Act (including regulations promulgated under this Act), unsettled program benefits that have been redeemed by the retail food store or wholesale food concern—

"(A) may be suspended; and

"(B)(i) if the program disqualification is upheld, may be subject to forfeiture pursuant to section 15(g); or

"(ii) if the program disqualification is not upheld, shall be released to the retail food store or wholesale food concern.

"(3) NO LIABILITY FOR INTEREST.—The Secretary shall not be liable for the value of any interest on funds suspended under this subsection.".

**SEC. 4133. MAJOR SYSTEMS FAILURES.**

Section 13(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2022(b)) is amended by adding at the end the following:

"(5) OVERISSUANCES CAUSED BY SYSTEMIC STATE ERRORS.—

"(A) IN GENERAL.—If the Secretary determines that a State agency overissued benefits to a substantial number of households in a fiscal year as a result of a major systemic error by the State agency, as defined by the Secretary, the Secretary may prohibit the State agency from collecting these overissuances from some or all households.

"(B) PROCEDURES.—

"(i) INFORMATION REPORTING BY STATES.—Every State agency shall provide to the Secretary all information requested by the Secretary concerning the issuance

of benefits to households by the State agency in the applicable fiscal year.

"(ii) FINAL DETERMINATION.—After reviewing relevant information provided by a State agency, the Secretary shall make a final determination—

"(I) whether the State agency overissued benefits to a substantial number of households as a result of a systemic error in the applicable fiscal year; and

"(II) as to the amount of the overissuance in the applicable fiscal year for which the State agency is liable.

"(iii) ESTABLISHING A CLAIM.—Upon determining under clause (ii) that a State agency has overissued benefits to households due to a major systemic error determined under subparagraph (A), the Secretary shall establish a claim against the State agency equal to the value of the overissuance caused by the systemic error.

Applicability.

"(iv) ADMINISTRATIVE AND JUDICIAL REVIEW.—Administrative and judicial review, as provided in section 14, shall apply to the final determinations by the Secretary under clause (ii).

"(v) REMISSION TO THE SECRETARY.—

"(I) DETERMINATION NOT APPEALED.—If the determination of the Secretary under clause (ii) is not appealed, the State agency shall, as soon as practicable, remit to the Secretary the dollar amount specified in the claim under clause (iii).

"(II) DETERMINATION APPEALED.—If the determination of the Secretary under clause (ii) is appealed, upon completion of administrative and judicial review under clause (iv), and a finding of liability on the part of the State, the appealing State agency shall, as soon as practicable, remit to the Secretary a dollar amount subject to the finding made in the administrative and judicial review.

"(vi) ALTERNATIVE METHOD OF COLLECTION.—

"(I) IN GENERAL.—If a State agency fails to make a payment under clause (v) within a reasonable period of time, as determined by the Secretary, the Secretary may reduce any amount due to the State agency under any other provision of this Act by the amount due.

"(II) ACCRUAL OF INTEREST.—During the period of time determined by the Secretary to be reasonable under subclause (I), interest in the amount owed shall not accrue.

"(vii) LIMITATION.—Any liability amount established under section 16(c)(1)(C) shall be reduced by the amount of the claim established under this subparagraph.".

## PART V—MISCELLANEOUS

**SEC. 4141. PILOT PROJECTS TO EVALUATE HEALTH AND NUTRITION PROMOTION IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.**

Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended by adding at the end the following:

"(k) PILOT PROJECTS TO EVALUATE HEALTH AND NUTRITION PROMOTION IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out, under such terms and conditions as the Secretary considers to be appropriate, pilot projects to develop and test methods—

"(A) of using the supplemental nutrition assistance program to improve the dietary and health status of households eligible for or participating in the supplemental nutrition assistance program; and

"(B) to reduce overweight, obesity (including childhood obesity), and associated co-morbidities in the United States.

"(2) GRANTS.—

"(A) IN GENERAL.—In carrying out this subsection, the Secretary may enter into competitively awarded contracts or cooperative agreements with, or provide grants to, public or private organizations or agencies (as defined by the Secretary), for use in accordance with projects that meet the strategy goals of this subsection.

"(B) APPLICATION.—To be eligible to receive a contract, cooperative agreement, or grant under this paragraph, an organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(C) SELECTION CRITERIA.—Pilot projects shall be evaluated against publicly disseminated criteria that may include—

"(i) identification of a low-income target audience that corresponds to individuals living in households with incomes at or below 185 percent of the poverty level;

"(ii) incorporation of a scientifically based strategy that is designed to improve diet quality through more healthful food purchases, preparation, or consumption;

"(iii) a commitment to a pilot project that allows for a rigorous outcome evaluation, including data collection;

"(iv) strategies to improve the nutritional value of food served during school hours and during after-school hours;

"(v) innovative ways to provide significant improvement to the health and wellness of children;

"(vi) other criteria, as determined by the Secretary.

"(D) USE OF FUNDS.—Funds provided under this paragraph shall not be used for any project that limits the use of benefits under this Act.

"(3) PROJECTS.—Pilot projects carried out under paragraph (1) may include projects to determine whether healthier food

purchases by and healthier diets among households participating in the supplemental nutrition assistance program result from projects that—

"(A) increase the supplemental nutrition assistance purchasing power of the participating households by providing increased supplemental nutrition assistance program benefit allotments to the participating households;

"(B) increase access to farmers markets by participating households through the electronic redemption of supplemental nutrition assistance program benefits at farmers' markets;

"(C) provide incentives to authorized supplemental nutrition assistance program retailers to increase the availability of healthy foods to participating households;

"(D) subject authorized supplemental nutrition assistance program retailers to stricter retailer requirements with respect to carrying and stocking healthful foods;

"(E) provide incentives at the point of purchase to encourage households participating in the supplemental nutrition assistance program to purchase fruits, vegetables, or other healthful foods; or

"(F) provide to participating households integrated communication and education programs, including the provision of funding for a portion of a school-based nutrition coordinator to implement a broad nutrition action plan and parent nutrition education programs in elementary schools, separately or in combination with pilot projects carried out under subparagraphs (A) through (E).

"(4) EVALUATION AND REPORTING.—

"(A) EVALUATION.—

"(i) INDEPENDENT EVALUATION.—

"(I) IN GENERAL.—The Secretary shall provide for an independent evaluation of projects selected under this subsection that measures the impact of the pilot program on health and nutrition as described in paragraph (1).

"(II) REQUIREMENT.—The independent evaluation under subclause (I) shall use rigorous methodologies, particularly random assignment or other methods that are capable of producing scientifically valid information regarding which activities are effective.

"(ii) COSTS.—The Secretary may use funds provided to carry out this section to pay costs associated with monitoring and evaluating each pilot project.

"(B) REPORTING.—Not later than 90 days after the last day of fiscal year 2009 and each fiscal year thereafter until the completion of the last evaluation under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

"(i) the status of each pilot project;

"(ii) the results of the evaluation completed during the previous fiscal year; and

"(iii) to the maximum extent practicable—

"(I) the impact of the pilot project on appropriate health, nutrition, and associated behavioral outcomes among households participating in the pilot project;

"(II) baseline information relevant to the stated goals and desired outcomes of the pilot project; and

"(III) equivalent information about similar or identical measures among control or comparison groups that did not participate in the pilot project.

"(C) PUBLIC DISSEMINATION.—In addition to the reporting requirements under subparagraph (B), evaluation results shall be shared broadly to inform policy makers, service providers, other partners, and the public in order to promote wide use of successful strategies.

"(5) FUNDING.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

"(B) MANDATORY FUNDING.—Out of any funds made available under section 18, on October 1, 2008, the Secretary shall make available $20,000,000 to carry out a project described in paragraph (3)(E), to remain available until expended.".

**SEC. 4142. STUDY ON COMPARABLE ACCESS TO SUPPLEMENTAL NUTRITION ASSISTANCE FOR PUERTO RICO.**

(a) IN GENERAL.—The Secretary shall carry out a study of the feasibility and effects of including the Commonwealth of Puerto Rico in the definition of the term "State" under section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), in lieu of providing block grants under section 19 of that Act (7 U.S.C. 2028).

(b) INCLUSIONS.—The study shall include—

(1) an assessment of the administrative, financial management, and other changes that would be necessary for the Commonwealth to establish a comparable supplemental nutrition assistance program, including compliance with appropriate program rules under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), such as—

(A) benefit levels under section 3(u) of that Act (7 U.S.C. 2012(u));

(B) income eligibility standards under sections 5(c) and 6 of that Act (7 U.S.C. 2014(c), 2015); and

(C) deduction levels under section 5(e) of that Act (7 U.S.C. 2014(e));

(2) an estimate of the impact on Federal and Commonwealth benefit and administrative costs;

(3) an assessment of the impact of the program on low-income Puerto Ricans, as compared to the program under section 19 of that Act (7 U.S.C. 2028); and

(4) such other matters as the Secretary considers to be appropriate.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on

Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under this section.

(d) FUNDING.—

Transfer date.

(1) IN GENERAL.—On October 1, 2008, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $1,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

# Subtitle B—Food Distribution Programs

## PART I—EMERGENCY FOOD ASSISTANCE PROGRAM

**SEC. 4201. EMERGENCY FOOD ASSISTANCE.**

(a) PURCHASE OF COMMODITIES.—Section 27(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)) is amended by –

(1) by striking "(A) PURCHASE OF COMMODITIES" and all that follows through "$140,000,000 of" and inserting the following:

"(a) PURCHASE OF COMMODITIES.—

"(1) IN GENERAL.—From amounts made available to carry out this Act, for each of the fiscal years 2008 through 2012, the Secretary shall purchase a dollar amount described in paragraph (2) of"; and

(2) by adding at the end the following:

"(2) AMOUNTS.—The Secretary shall use to carry out paragraph (1)—

"(A) for fiscal year 2008, $190,000,000;

"(B) for fiscal year 2009, $250,000,000; and

"(C) for each of fiscal years 2010 through 2012, the dollar amount of commodities specified in subparagraph (B) adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(u)(4) between June 30, 2008, and June 30 of the immediately preceding fiscal year.".

(b) STATE PLANS.—Section 202A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7503) is amended by striking subsection (a) and inserting the following:

"(a) PLANS.—

"(1) IN GENERAL.—To receive commodities under this Act, a State shall submit to the Secretary an operation and administration plan for the provision of benefits under this Act.

"(2) UPDATES.—A State shall submit to the Secretary for approval any amendment to a plan submitted under paragraph (1) in any case in which the State proposes to make a change to the operation or administration of a program described in the plan.".

(c) AUTHORIZATION AND APPROPRIATIONS.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence—

(1) by striking "$60,000,000" and inserting "$100,000,000"; and

(2) by inserting "and donated wild game" before the period at the end.

**SEC. 4202. EMERGENCY FOOD PROGRAM INFRASTRUCTURE GRANTS.**

The Emergency Food Assistance Act of 1983 is amended by inserting after section 208 (7 U.S.C. 7511) the following:

**"SEC. 209. EMERGENCY FOOD PROGRAM INFRASTRUCTURE GRANTS.** 7 USC 7511a.

"(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means an emergency feeding organization.

"(b) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall use funds made available under subsection (d) to make grants to eligible entities to pay the costs of an activity described in subsection (c).

"(2) RURAL PREFERENCE.—The Secretary shall use not less than 50 percent of the funds described in paragraph (1) for a fiscal year to make grants to eligible entities that serve predominantly rural communities for the purposes of—

"(A) expanding the capacity and infrastructure of food banks, State-wide food bank associations, and food bank collaboratives that operate in rural areas; and

"(B) improving the capacity of the food banks to procure, receive, store, distribute, track, and deliver time-sensitive or perishable food products.

"(c) USE OF FUNDS.—An eligible entity shall use a grant received under this section for any fiscal year to carry out activities of the eligible entity, including—

"(1) the development and maintenance of a computerized system for the tracking of time-sensitive food products;

"(2) capital, infrastructure, and operating costs associated with the collection, storage, distribution, and transportation of time-sensitive and perishable food products;

"(3) improving the security and diversity of the emergency food distribution and recovery systems of the United States through the support of small or mid-size farms and ranches, fisheries, and aquaculture, and donations from local food producers and manufacturers to persons in need;

"(4) providing recovered foods to food banks and similar nonprofit emergency food providers to reduce hunger in the United States;

"(5) improving the identification of—

"(A) potential providers of donated foods;

"(B) potential nonprofit emergency food providers; and

"(C) persons in need of emergency food assistance in rural areas; and

"(6) constructing, expanding, or repairing a facility or equipment to support hunger relief agencies in the community.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2008 through 2012.".

# PART II—FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS

**SEC. 4211. ASSESSING THE NUTRITIONAL VALUE OF THE FDPIR FOOD PACKAGE.**

(a) IN GENERAL.—Section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013) is amended by striking subsection (b) and inserting the following:

"(b) FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.—

"(1) IN GENERAL.—Distribution of commodities, with or without the supplemental nutrition assistance program, shall be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization.

"(2) ADMINISTRATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the event of distribution on all or part of an Indian reservation, the appropriate agency of the State government in the area involved shall be responsible for the distribution.

"(B) ADMINISTRATION BY TRIBAL ORGANIZATION.—If the Secretary determines that a tribal organization is capable of effectively and efficiently administering a distribution described in paragraph (1), then the tribal organization shall administer the distribution.

"(C) PROHIBITION.—The Secretary shall not approve any plan for a distribution described in paragraph (1) that permits any household on any Indian reservation to participate simultaneously in the supplemental nutrition assistance program and the program established under this subsection.

"(3) DISQUALIFIED PARTICIPANTS.—An individual who is disqualified from participation in the food distribution program on Indian reservations under this subsection is not eligible to participate in the supplemental nutrition assistance program under this Act for a period of time to be determined by the Secretary.

"(4) ADMINISTRATIVE COSTS.—The Secretary is authorized to pay such amounts for administrative costs and distribution costs on Indian reservations as the Secretary finds necessary for effective administration of such distribution by a State agency or tribal organization.

"(5) BISON MEAT.—Subject to the availability of appropriations to carry out this paragraph, the Secretary may purchase bison meat for recipients of food distributed under this subsection, including bison meat from—

"(A) Native American bison producers; and

"(B) producer–owned cooperatives of bison ranchers.

"(6) TRADITIONAL AND LOCALLY-GROWN FOOD FUND.—

"(A) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a fund for use in purchasing traditional and locally-grown foods for recipients of food distributed under this subsection.

"(B) NATIVE AMERICAN PRODUCERS.—Where practicable, of the food provided under subparagraph (A), at

least 50 percent shall be produced by Native American farmers, ranchers, and producers.

"(C) DEFINITION OF TRADITIONAL AND LOCALLY GROWN.—The Secretary shall determine the definition of the term 'traditional and locally-grown' with respect to food distributed under this paragraph.

"(D) SURVEY.—In carrying out this paragraph, the Secretary shall—

"(i) survey participants of the food distribution program on Indian reservations established under this subsection to determine which traditional foods are most desired by those participants; and

"(ii) purchase or offer to purchase those traditional foods that may be procured cost-effectively.

"(E) REPORT.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the activities carried out under this paragraph during the preceding calendar year.

"(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this paragraph $5,000,000 for each of fiscal years 2008 through 2012.".

Deadline. Reports.

(b) FDPIR FOOD PACKAGE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—

(1) how the Secretary derives the process for determining the food package under the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)) (referred to in this subsection as the "food package");

(2) the extent to which the food package—

(A) addresses the nutritional needs of low-income Native Americans compared to the supplemental nutrition assistance program, particularly for very low-income households;

(B) conforms (or fails to conform) to the 2005 Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341);

(C) addresses (or fails to address) the nutritional and health challenges that are specific to Native Americans; and

(D) is limited by distribution costs or challenges in infrastructure; and

(3)(A) any plans of the Secretary to revise and update the food package to conform with the most recent Dietary Guidelines for Americans, including any costs associated with the planned changes; or

(B) if the Secretary does not plan changes to the food package, the rationale of the Secretary for retaining the food package.

## PART III—COMMODITY SUPPLEMENTAL FOOD PROGRAM

**SEC. 4221. COMMODITY SUPPLEMENTAL FOOD PROGRAM.**

Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended by striking subsection (g) and inserting the following:

"(g) PROHIBITION.—Notwithstanding any other provision of law (including regulations), the Secretary may not require a State or local agency to prioritize assistance to a particular group of individuals that are—

"(1) low-income persons aged 60 and older; or

"(2) women, infants, and children.".

## PART IV—SENIOR FARMERS' MARKET NUTRITION PROGRAM

**SEC. 4231. SENIORS FARMERS' MARKET NUTRITION PROGRAM.**

Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended—

(1) in subsection (b)(1), by inserting "honey," after "vegetables,";

(2) by striking subsection (c) and inserting the following:

"(c) EXCLUSION OF BENEFITS IN DETERMINING ELIGIBILITY FOR OTHER PROGRAMS.—The value of any benefit provided to any eligible seniors farmers' market nutrition program recipient under this section shall not be considered to be income or resources for any purposes under any Federal, State, or local law."; and

(3) by adding at the end the following:

"(d) PROHIBITION ON COLLECTION OF SALES TAX.—Each State shall ensure that no State or local tax is collected within the State on a purchase of food with a benefit distributed under the seniors farmers' market nutrition program.

"(e) REGULATIONS.—The Secretary may promulgate such regulations as the Secretary considers to be necessary to carry out the seniors farmers' market nutrition program.".

# Subtitle C—Child Nutrition and Related Programs

42 USC 1758a.

**SEC. 4301. STATE PERFORMANCE ON ENROLLING CHILDREN RECEIVING PROGRAM BENEFITS FOR FREE SCHOOL MEALS.**

Deadline. Reports.

(a) IN GENERAL.—Not later than December 31, 2008 and June 30 of each year thereafter, the Secretary shall submit to the Committees on Agriculture and Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that assesses the effectiveness of each State in enrolling school-aged children in households receiving program benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (referred to in this section as "program benefits") for free school meals using direct certification.

(b) SPECIFIC MEASURES.—The assessment of the Secretary of the performance of each State shall include—

(1) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year;

(2) an estimate of the number of school-aged children, by State, who were directly certified as eligible for free lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), based on receipt of program benefits, as of October 1 of the prior year; and

(3) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year who were not candidates for direct certification because on October 1 of the prior year the children attended a school operating under the special assistance provisions of section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) that is not operating in a base year.

(c) PERFORMANCE INNOVATIONS.—The report of the Secretary shall describe best practices from States with the best performance or the most improved performance from the previous year.

**SEC. 4302. PURCHASES OF LOCALLY PRODUCED FOODS.**

Section 9(j) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(j)) is amended to read as follows:

"(j) PURCHASES OF LOCALLY PRODUCED FOODS.—The Secretary shall—

"(1) encourage institutions receiving funds under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to purchase unprocessed agricultural products, both locally grown and locally raised, to the maximum extent practicable and appropriate;

"(2) advise institutions participating in a program described in paragraph (1) of the policy described in that paragraph and paragraph (3) and post information concerning the policy on the website maintained by the Secretary; and Web site.

"(3) allow institutions receiving funds under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), including the Department of Defense Fresh Fruit and Vegetable Program, to use a geographic preference for the procurement of unprocessed agricultural products, both locally grown and locally raised.".

**SEC. 4303. HEALTHY FOOD EDUCATION AND PROGRAM REPLICABILITY.**

Section 18(h) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(h)) is amended—

(1) in paragraph (1)(C), by inserting "promotes healthy food education in the school curriculum and" before "incorporates";

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following:

"(2) ADMINISTRATION.—In providing grants under paragraph (1), the Secretary shall give priority to projects that can be replicated in schools.

"(3) PILOT PROGRAM FOR HIGH-POVERTY SCHOOLS.—

"(A) DEFINITIONS.—In this paragraph:

"(i) ELIGIBLE PROGRAM.—The term 'eligible program' means—

"(I) a school-based program with hands-on vegetable gardening and nutrition education that is incorporated into the curriculum for 1 or more grades at 2 or more eligible schools; or

"(II) a community-based summer program with hands-on vegetable gardening and nutrition education that is part of, or coordinated with, a summer enrichment program at 2 or more eligible schools.

"(ii) ELIGIBLE SCHOOL.—The term 'eligible school' means a public school, at least 50 percent of the students of which are eligible for free or reduced price meals under this Act.

"(B) ESTABLISHMENT.—The Secretary shall carry out a pilot program under which the Secretary shall provide to nonprofit organizations or public entities in not more than 5 States grants to develop and run, through eligible programs, community gardens at eligible schools in the States that would—

"(i) be planted, cared for, and harvested by students at the eligible schools; and

"(ii) teach the students participating in the community gardens about agriculture production practices and diet.

"(C) PRIORITY STATES.—Of the States in which grantees under this paragraph are located—

"(i) at least 1 State shall be among the 15 largest States, as determined by the Secretary;

"(ii) at least 1 State shall be among the 16th to 30th largest States, as determined by the Secretary; and

"(iii) at least 1 State shall be a State that is not described in clause (i) or (ii).

"(D) USE OF PRODUCE.—Produce from a community garden provided a grant under this paragraph may be—

"(i) used to supplement food provided at the eligible school;

"(ii) distributed to students to bring home to the families of the students; or

"(iii) donated to a local food bank or senior center nutrition program.

"(E) NO COST-SHARING REQUIREMENT.—A nonprofit organization or public entity that receives a grant under this paragraph shall not be required to share the cost of carrying out the activities assisted under this paragraph.

"(F) EVALUATION.—A nonprofit organization or public entity that receives a grant under this paragraph shall be required to cooperate in an evaluation in accordance with paragraph (1)(H).".

**SEC. 4304. FRESH FRUIT AND VEGETABLE PROGRAM.**

(a) PROGRAM.—

(1) IN GENERAL.—The Richard B. Russell National School Lunch Act is amended by inserting after section 18 (42 U.S.C. 1769) the following:

**"SEC. 19. FRESH FRUIT AND VEGETABLE PROGRAM.**

42 USC 1769a.

Grants.

"(a) IN GENERAL.—For the school year beginning July 2008 and each subsequent school year, the Secretary shall provide grants to States to carry out a program to make free fresh fruits and vegetables available in elementary schools (referred to in this section as the 'program').

"(b) PROGRAM.—A school participating in the program shall make free fresh fruits and vegetables available to students throughout the school day (or at such other times as are considered appropriate by the Secretary) in 1 or more areas designated by the school.

"(c) FUNDING TO STATES.—

"(1) MINIMUM GRANT.—Except as provided in subsection (i)(2), the Secretary shall provide to each of the 50 States and the District of Columbia an annual grant in an amount equal to 1 percent of the funds made available for a year to carry out the program.

"(2) ADDITIONAL FUNDING.—Of the funds remaining after grants are made under paragraph (1), the Secretary shall allocate additional funds to each State that is operating a school lunch program under section 4 based on the proportion that—

"(A) the population of the State; bears to

"(B) the population of the United States.

"(d) SELECTION OF SCHOOLS.—

"(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and section 4304(a)(2) of the Food, Conservation, and Energy Act of 2008, each year, in selecting schools to participate in the program, each State shall—

"(A) ensure that each school chosen to participate in the program is a school—

"(i) in which not less than 50 percent of the students are eligible for free or reduced price meals under this Act; and

"(ii) that submits an application in accordance with subparagraph (D);

"(B) to the maximum extent practicable, give the highest priority to schools with the highest proportion of children who are eligible for free or reduced price meals under this Act;

"(C) ensure that each school selected is an elementary school (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801));

"(D) solicit applications from interested schools that include—

"(i) information pertaining to the percentage of students enrolled in the school submitting the application who are eligible for free or reduced price school lunches under this Act;

"(ii) a certification of support for participation in the program signed by the school food manager, the school principal, and the district superintendent (or equivalent positions, as determined by the school);

"(iii) a plan for implementation of the program, including efforts to integrate activities carried out under this section with other efforts to promote sound health and nutrition, reduce overweight and obesity, or promote physical activity; and

"(iv) such other information as may be requested by the Secretary; and

"(E) encourage applicants to submit a plan for implementation of the program that includes a partnership with 1 or more entities that will provide non-Federal resources (including entities representing the fruit and vegetable industry).

"(2) EXCEPTION.—Clause (i) of paragraph (1)(A) shall not apply to a State if all schools that meet the requirements of that clause have been selected and the State does not have a sufficient number of additional schools that meet the requirement of that clause.

"(3) OUTREACH TO LOW-INCOME SCHOOLS.—

"(A) IN GENERAL.—Prior to making decisions regarding school participation in the program, a State agency shall inform the schools within the State with the highest proportion of free and reduced price meal eligibility, including Native American schools, of the eligibility of the schools for the program with respect to priority granted to schools with the highest proportion of free and reduced price eligibility under paragraph (1)(B).

"(B) REQUIREMENT.—In providing information to schools in accordance with subparagraph (A), a State agency shall inform the schools that would likely be chosen to participate in the program under paragraph (1)(B).

"(e) NOTICE OF AVAILABILITY.—If selected to participate in the program, a school shall widely publicize within the school the availability of free fresh fruits and vegetables under the program.

"(f) PER-STUDENT GRANT.—The per-student grant provided to a school under this section shall be—

"(1) determined by a State agency; and

"(2) not less than $50, nor more than $75.

"(g) LIMITATION.—To the maximum extent practicable, each State agency shall ensure that in making the fruits and vegetables provided under this section available to students, schools offer the fruits and vegetables separately from meals otherwise provided at the school under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(h) EVALUATION AND REPORTS.—

"(1) IN GENERAL.—The Secretary shall conduct an evaluation of the program, including a determination as to whether children experienced, as a result of participating in the program—

"(A) increased consumption of fruits and vegetables;

"(B) other dietary changes, such as decreased consumption of less nutritious foods; and

"(C) such other outcomes as are considered appropriate by the Secretary.

"(2) REPORT.—Not later than September 30, 2011, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation under paragraph (1).

"(i) FUNDING.—

"(1) IN GENERAL.—Out of the funds made available under subsection (b)(2)(A) of section 14222 of the Food, Conservation,

and Energy Act of 2008, the Secretary shall use the following amounts to carry out this section:

"(A) On October 1, 2008, $40,000,000.

"(B) On July 1, 2009, $65,000,000.

"(C) On July 1, 2010, $101,000,000.

"(D) On July 1, 2011, $150,000,000.

"(E) On July 1, 2012, and each July 1 thereafter, the amount made available for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending the preceding April 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.

"(2) MAINTENANCE OF EXISTING FUNDING.—In allocating funding made available under paragraph (1) among the States in accordance with subsection (c), the Secretary shall ensure that each State that received funding under section 18(f) on the day before the date of enactment of the Food, Conservation, and Energy Act of 2008 shall continue to receive sufficient funding under this section to maintain the caseload level of the State under that section as in effect on that date.

"(3) EVALUATION FUNDING.—On October 1, 2008, out of any funds made available under subsection (b)(2)(A) of section 14222 of the Food, Conservation, and Energy Act of 2008, the Secretary shall use to carry out the evaluation required under subsection (h), $3,000,000, to remain available for obligation until September 30, 2010. Effective date.

"(4) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section any funds transferred for that purpose, without further appropriation.

"(5) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts made available to carry out this section, there are authorized to be appropriated such sums as are necessary to expand the program established under this section.

"(6) ADMINISTRATIVE COSTS.—

"(A) IN GENERAL.—Of funds made available to carry out this section for a fiscal year, the Secretary may use not more than $500,000 for the administrative costs of carrying out the program.

"(B) RESERVATION OF FUNDS.—The Secretary shall allow each State to reserve such funding as the Secretary determines to be necessary to administer the program in the State (with adjustments for the size of the State and the grant amount), but not to exceed the amount required to pay the costs of 1 full-time coordinator for the program in the State.

"(7) REALLOCATION.—

"(A) AMONG STATES.—The Secretary may reallocate any amounts made available to carry out this section that are not obligated or expended by a date determined by the Secretary.

"(B) WITHIN STATES.—A State that receives a grant under this section may reallocate any amounts made available under the grant that are not obligated or expended by a date determined by the Secretary.".

(2) TRANSITION OF EXISTING SCHOOLS.— 42 USC 1769a note.

Waiver authority.

(A) EXISTING SECONDARY SCHOOLS.—Section 19(d)(1)(C) of the Richard B. Russell National School Lunch Act (as amended by paragraph (1)) may be waived by a State until July 1, 2010, for each secondary school in the State that has been awarded funding under section 18(f) of that Act (42 U.S.C. 1769(f)) for the school year beginning July 1, 2008.

(B) SCHOOL YEAR BEGINNING JULY 1, 2008.—To facilitate transition from the program authorized under section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) (as in effect on the day before the date of enactment of this Act) to the program established under section 19 of that Act (as amended by paragraph (1))—

(i) for the school year beginning July 1, 2008, the Secretary may permit any school selected for participation under section 18(f) of that Act (42 U.S.C. 1769(f)) for that school year to continue to participate under section 19 of that Act until the end of that school year; and

(ii) funds made available under that Act for fiscal year 2009 may be used to support the participation of any schools selected to participate in the program authorized under section 18(f) of that Act (42 U.S.C. 1769(f)) (as in effect on the day before the date of enactment of this Act).

(b) CONFORMING AMENDMENTS.—Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) through (j) as subsections (f) through (i), respectively.

42 USC 1755a.

**SEC. 4305. WHOLE GRAIN PRODUCTS.**

(a) PURPOSE.—The purpose of this section is to encourage greater awareness and interest in the number and variety of whole grain products available to schoolchildren, as recommended by the 2005 Dietary Guidelines for Americans.

(b) DEFINITION OF ELIGIBLE WHOLE GRAINS AND WHOLE GRAIN PRODUCTS.—In this section, the terms "whole grains" and "whole grain products" have the meaning given the terms by the Food and Nutrition Service in the HealthierUS School Challenge.

(c) PURCHASE OF WHOLE GRAINS AND WHOLE GRAIN PRODUCTS.—In addition to the commodities delivered under section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755), the Secretary shall purchase whole grains and whole grain products for use in—

(1) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(2) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

Deadline.

(d) EVALUATION.—Not later than September 30, 2011, the Secretary shall conduct an evaluation of the activities conducted under subsection (c) that includes—

(1) an evaluation of whether children participating in the school lunch and breakfast programs increased their consumption of whole grains;

(2) an evaluation of which whole grains and whole grain products are most acceptable for use in the school lunch and breakfast programs;

(3) any recommendations of the Secretary regarding the integration of whole grain products in the school lunch and breakfast programs; and

(4) an evaluation of any other outcomes determined to be appropriate by the Secretary.

(e) REPORT.—As soon as practicable after the completion of the evaluation under subsection (d), the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and Labor of the House of Representative a report describing the results of the evaluation.

**SEC. 4306. BUY AMERICAN REQUIREMENTS.**

7 USC 2208 note.

(a) FINDINGS.—The Congress finds the following:

(1) Federal law requires that commodities and products purchased with Federal funds be, to the extent practicable, of domestic origin.

(2) Federal Buy American statutory requirements seek to ensure that purchases made with Federal funds benefit domestic producers.

(3) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) requires the use of domestic food products for all meals served under the program, including food products purchased with local funds.

(b) BUY AMERICAN STATUTORY REQUIREMENTS.—The Department of Agriculture should undertake training, guidance, and enforcement of the various current Buy American statutory requirements and regulations, including those of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

**SEC. 4307. SURVEY OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.**

(a) IN GENERAL.—For fiscal year 2009, the Secretary shall carry out a nationally representative survey of the foods purchased during the most recent school year for which data is available by school authorities participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(b) REPORT.—

(1) IN GENERAL.—On completion of the survey, the Secretary shall submit to the Committees on Agriculture and Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the survey.

(2) INTERIM REQUIREMENT.—If the initial report required under paragraph (1) is not submitted to the Committees referred to in that paragraph by June 30, 2009, the Secretary shall submit to the Committees an interim report that describes the relevant survey data, or a sample of such data, available to the Secretary as of that date.

(c) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section not more than $3,000,000.

# Subtitle D—Miscellaneous

**SEC. 4401. BILL EMERSON NATIONAL HUNGER FELLOWS AND MICKEY LELAND INTERNATIONAL HUNGER FELLOWS.**

Section 4404 of the Farm Security and Rural Investment Act of 2002 (2 U.S.C. 1161) is amended to read as follows:

Bill Emerson National Hunger Fellows and Mickey Leland International Hunger Fellows Program Act of 2008.

**"SEC. 4404. BILL EMERSON NATIONAL HUNGER FELLOWS AND MICKEY LELAND INTERNATIONAL HUNGER FELLOWS.**

"(a) SHORT TITLE.—This section may be cited as the 'Bill Emerson National Hunger Fellows and Mickey Leland International Hunger Fellows Program Act of 2008'.

"(b) DEFINITIONS.—In this subsection:

"(1) DIRECTOR.—The term 'Director' means the head of the Congressional Hunger Center.

"(2) FELLOW.—The term 'fellow' means—

"(A) a Bill Emerson Hunger Fellow; or

"(B) Mickey Leland Hunger Fellow.

"(3) FELLOWSHIP PROGRAMS.—The term 'Fellowship Programs' means the Bill Emerson National Hunger Fellowship Program and the Mickey Leland International Hunger Fellowship Program established under subsection (c)(1).

"(c) FELLOWSHIP PROGRAMS.—

"(1) IN GENERAL.—There is established the Bill Emerson National Hunger Fellowship Program and the Mickey Leland International Hunger Fellowship Program.

"(2) PURPOSES.—

"(A) IN GENERAL.—The purposes of the Fellowship Programs are—

"(i) to encourage future leaders of the United States—

"(I) to pursue careers in humanitarian and public service;

"(II) to recognize the needs of low-income people and hungry people;

"(III) to provide assistance to people in need; and

"(IV) to seek public policy solutions to the challenges of hunger and poverty;

"(ii) to provide training and development opportunities for such leaders through placement in programs operated by appropriate organizations or entities; and

"(iii) to increase awareness of the importance of public service.

"(B) BILL EMERSON HUNGER FELLOWSHIP PROGRAM.—The purpose of the Bill Emerson Hunger Fellowship Program is to address hunger and poverty in the United States.

"(C) MICKEY LELAND HUNGER FELLOWSHIP PROGRAM.—The purpose of the Mickey Leland Hunger Fellowship Program is to address international hunger and other humanitarian needs.

"(3) ADMINISTRATION.—

Grants.

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall offer to provide a grant to the Congressional Hunger Center to administer the Fellowship Programs.

"(B) TERMS OF GRANT.—The terms of the grant provided under subparagraph (A), including the length of the grant and provisions for the alteration or termination of the grant, shall be determined by the Secretary in accordance with this section.

"(d) FELLOWSHIPS.—

"(1) IN GENERAL.—The Director shall make available Bill Emerson Hunger Fellowships and Mickey Leland Hunger Fellowships in accordance with this subsection.

"(2) CURRICULUM.—

"(A) IN GENERAL.—The Fellowship Programs shall provide experience and training to develop the skills necessary to train fellows to carry out the purposes described in subsection (c)(2), including—

"(i) training in direct service programs for the hungry and other anti-hunger programs in conjunction with community-based organizations through a program of field placement; and

"(ii) providing experience in policy development through placement in a governmental entity or nongovernmental, nonprofit, or private sector organization.

"(B) WORK PLAN.—To carry out subparagraph (A) and assist in the evaluation of the fellowships under paragraph (6), the Director shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including specific duties and responsibilities relating to those objectives.

"(3) PERIOD OF FELLOWSHIP.—

"(A) BILL EMERSON HUNGER FELLOW.—A Bill Emerson Hunger Fellowship awarded under this section shall be for not more than 15 months.

"(B) MICKEY LELAND HUNGER FELLOW.—A Mickey Leland Hunger Fellowship awarded under this section shall be for not more than 2 years.

"(4) SELECTION OF FELLOWS.—

"(A) IN GENERAL.—Fellowships shall be awarded pursuant to a nationwide competition established by the Director.

"(B) QUALIFICATIONS.—A successful program applicant shall be an individual who has demonstrated—

"(i) an intent to pursue a career in humanitarian services and outstanding potential for such a career;

"(ii) leadership potential or actual leadership experience;

"(iii) diverse life experience;

"(iv) proficient writing and speaking skills;

"(v) an ability to live in poor or diverse communities; and

"(vi) such other attributes as are considered to be appropriate by the Director.

"(5) AMOUNT OF AWARD.—

"(A) IN GENERAL.—A fellow shall receive—

"(i) a living allowance during the term of the Fellowship; and

"(ii) subject to subparagraph (B), an end-of-service award.

"(B) REQUIREMENT FOR SUCCESSFUL COMPLETION OF FELLOWSHIP.—Each fellow shall be entitled to receive an

end-of-service award at an appropriate rate for each month of satisfactory service completed, as determined by the Director.

"(C) TERMS OF FELLOWSHIP.—A fellow shall not be considered an employee of—

"(i) the Department of Agriculture;

"(ii) the Congressional Hunger Center; or

"(iii) a host agency in the field or policy placement of the fellow.

"(D) RECOGNITION OF FELLOWSHIP AWARD.—

"(i) EMERSON FELLOW.—An individual awarded a fellowship from the Bill Emerson Hunger Fellowship shall be known as an 'Emerson Fellow'.

"(ii) LELAND FELLOW.—An individual awarded a fellowship from the Mickey Leland Hunger Fellowship shall be known as a 'Leland Fellow'.

"(6) EVALUATIONS AND AUDITS.—Under terms stipulated in the contract entered into under subsection (c)(3), the Director shall—

"(A) conduct periodic evaluations of the Fellowship Programs; and

"(B) arrange for annual independent financial audits of expenditures under the Fellowship Programs.

"(e) AUTHORITY.—

"(1) IN GENERAL.—Subject to paragraph (2), in carrying out this section, the Director may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of facilitating the work of the Fellowship Programs.

"(2) LIMITATION.—Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be used exclusively for the purposes of the Fellowship Programs.

"(f) REPORT.—The Director shall annually submit to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

"(1) describes the activities and expenditures of the Fellowship Programs during the preceding fiscal year, including expenditures made from funds made available under subsection (g); and

"(2) includes the results of evaluations and audits required by subsection (d).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section, to remain available until expended.".

**SEC. 4402. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.**

Section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) DEFINITIONS.—In this section:

"(1) COMMUNITY FOOD PROJECT.—In this section, the term 'community food project' means a community-based project that—

"(A) requires a 1-time contribution of Federal assistance to become self-sustaining; and

"(B) is designed—

"(i)(I) to meet the food needs of low-income individuals;

"(II) to increase the self-reliance of communities in providing for the food needs of the communities; and

"(III) to promote comprehensive responses to local food, farm, and nutrition issues; or

"(ii) to meet specific State, local, or neighborhood food and agricultural needs, including needs relating to—

"(I) infrastructure improvement and development;

"(II) planning for long-term solutions; or

"(III) the creation of innovative marketing activities that mutually benefit agricultural producers and low-income consumers.

"(2) CENTER.—The term 'Center' means the healthy urban food enterprise development center established under subsection (h).

"(3) UNDERSERVED COMMUNITY.—The term 'underserved community' means a community (including an urban or rural community or an Indian tribe) that, as determined by the Secretary, has—

"(A) limited access to affordable, healthy foods, including fresh fruits and vegetables;

"(B) a high incidence of a diet-related disease (including obesity) as compared to the national average;

"(C) a high rate of hunger or food insecurity; or

"(D) severe or persistent poverty.";

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following:

"(h) HEALTHY URBAN FOOD ENTERPRISE DEVELOPMENT CENTER.—

"(1) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

"(A) a nonprofit organization;

"(B) a cooperative;

"(C) a commercial entity;

"(D) an agricultural producer;

"(E) an academic institution;

"(F) an individual; and

"(G) such other entities as the Secretary may designate.

"(2) ESTABLISHMENT.—The Secretary shall offer to provide a grant to a nonprofit organization to establish and support a healthy urban food enterprise development center to carry out the purpose described in paragraph (3).

"(3) PURPOSE.—The purpose of the Center is to increase access to healthy affordable foods, including locally produced agricultural products, to underserved communities.

"(4) ACTIVITIES.—

"(A) TECHNICAL ASSISTANCE AND INFORMATION.—The Center shall collect, develop, and provide technical assistance and information to small and medium-sized agricultural producers, food wholesalers and retailers, schools, and other individuals and entities regarding best practices and the availability of assistance for aggregating, storing,

processing, and marketing locally produced agricultural products and increasing the availability of such products in underserved communities.

"(B) AUTHORITY TO SUBGRANT.—The Center may provide subgrants to eligible entities—

"(i) to carry out feasibility studies to establish businesses for the purpose described in paragraph (3); and

"(ii) to establish and otherwise assist enterprises that process, distribute, aggregate, store, and market healthy affordable foods.

"(5) PRIORITY.—In providing technical assistance and grants under paragraph (4), the Center shall give priority to applications that include projects—

"(A) to benefit underserved communities; and

"(B) to develop market opportunities for small and mid-sized farm and ranch operations.

"(6) REPORT.—For each fiscal year for which the nonprofit organization described in paragraph (2) receives funds, the organization shall submit to the Secretary a report describing the activities carried out in the preceding fiscal year, including—

"(A) a description of technical assistance provided by the Center;

"(B) the total number and a description of the subgrants provided under paragraph (4)(B);

"(C) a complete listing of cases in which the activities of the Center have resulted in increased access to healthy, affordable foods, such as fresh fruit and vegetables, particularly for school-aged children and individuals in low-income communities; and

"(D) a determination of whether the activities identified in subparagraph (C) are sustained during the years following the initial provision of technical assistance and subgrants under this section.

"(7) COMPETITIVE AWARD PROCESS.—The Secretary shall use a competitive process to award funds to establish the Center.

"(8) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the total amount allocated for this subsection in a given fiscal year may be used for administrative expenses.

"(9) FUNDING.—

"(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $1,000,000 for each of fiscal years 2009 through 2011.

"(B) ADDITIONAL FUNDING.—There is authorized to be appropriated $2,000,000 to carry out this subsection for fiscal year 2012.".

7 USC 5311a.

**SEC. 4403. JOINT NUTRITION MONITORING AND RELATED RESEARCH ACTIVITIES.**

The Secretary and the Secretary of Health and Human Services shall continue to provide jointly for national nutrition monitoring and related research activities carried out as of the date of enactment of this Act—

(1) to collect continuous dietary, health, physical activity, and diet and health knowledge data on a nationally representative sample;

(2) to periodically collect data on special at-risk populations, as identified by the Secretaries;

(3) to distribute information on health, nutrition, the environment, and physical activity to the public in a timely fashion;

(4) to analyze new data that becomes available;

(5) to continuously update food composition tables; and

(6) to research and develop data collection methods and standards.

**SEC. 4404. SECTION 32 FUNDS FOR PURCHASE OF FRUITS, VEGETABLES, AND NUTS TO SUPPORT DOMESTIC NUTRITION ASSISTANCE PROGRAMS.** 7 USC 612c–5.

(a) FUNDING FOR ADDITIONAL PURCHASES OF FRUITS, VEGETABLES, AND NUTS.—In addition to the purchases of fruits, vegetables, and nuts required by section 10603 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 612c–4), the Secretary of Agriculture shall purchase fruits, vegetables, and nuts for the purpose of providing nutritious foods for use in domestic nutrition assistance programs, using, of the funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), the following amounts:

(1) $190,000,000 for fiscal year 2008.

(2) $193,000,000 for fiscal year 2009.

(3) $199,000,000 for fiscal year 2010.

(4) $203,000,000 for fiscal year 2011.

(5) $206,000,000 for fiscal year 2012 and each fiscal year thereafter.

(b) FORM OF PURCHASES.—Fruits, vegetables, and nuts may be purchased under this section in the form of frozen, canned, dried, or fresh fruits, vegetables, and nuts.

(c) PURCHASE OF FRESH FRUITS AND VEGETABLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITUTIONS.—Section 10603 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 612c–4) is amended by striking subsection (b) and inserting the following:

"(b) PURCHASE OF FRESH FRUITS AND VEGETABLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITUTIONS.—The Secretary of Agriculture shall purchase fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) using, of the amount specified in subsection (a), not less than $50,000,000 for each of fiscal years 2008 through 2012.". 7 USC 612c–4.

**SEC. 4405. HUNGER-FREE COMMUNITIES.** 7 USC 7517.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means a public food program service provider or nonprofit organization, including an emergency feeding organization, that has collaborated, or will collaborate, with 1 or more local partner organizations to achieve at least 1 hunger-free communities goal.

(2) EMERGENCY FEEDING ORGANIZATION.—The term "emergency feeding organization" has the meaning given the term

in section 201A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501).

(3) HUNGER-FREE COMMUNITIES GOAL.—The term "hunger-free communities goal" means any of the 14 goals described in the H. Con. Res. 302 (102nd Congress).

(b) HUNGER-FREE COMMUNITIES COLLABORATIVE GRANTS.—

(1) PROGRAM.—

(A) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made available under subsection (e) to make grants to eligible entities to pay the Federal share of the costs of an activity described in paragraph (2).

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this subsection shall not exceed 80 percent.

(C) NON-FEDERAL SHARE.—

(i) CALCULATION.—The non-Federal share of the cost of an activity under this subsection may be provided in cash or fairly evaluated in-kind contributions, including facilities, equipment, or services.

(ii) SOURCES.—Any entity may provide the non-Federal share of the cost of an activity under this subsection through a State government, a local government, or a private source.

(2) USE OF FUNDS.—An eligible entity in a community shall use a grant received under this subsection for any fiscal year for hunger relief activities, including—

(A) meeting the immediate needs of people who experience hunger in the community served by the eligible entity by—

(i) distributing food;

(ii) providing community outreach to assist in participation in federally assisted nutrition programs, including—

(I) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(II) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(III) the summer food service program for children established under section 13 of that Act; and

(IV) other Federal programs that provide food for children in child care facilities and homeless and older individuals; or

(iii) improving access to food as part of a comprehensive service; and

(B) developing new resources and strategies to help reduce hunger in the community and prevent hunger in the future by—

(i) developing creative food resources, such as community gardens, buying clubs, food cooperatives, community-owned and operated grocery stores, and farmers' markets;

(ii) coordinating food services with park and recreation programs and other community-based outlets to reduce barriers to access; or

(iii) creating nutrition education programs for at-risk populations to enhance food-purchasing and food-preparation skills and to heighten awareness of the connection between diet and health.

(c) HUNGER-FREE COMMUNITIES INFRASTRUCTURE GRANTS.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made available for a fiscal year under subsection (e) to make grants to eligible entities to pay the Federal share of the costs of an activity described in paragraph (2).

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this subsection shall not exceed 80 percent.

(2) APPLICATION.—

(A) IN GENERAL.—To receive a grant under this subsection, an eligible entity shall submit an application at such time, in such form, and containing such information as the Secretary may prescribe.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

(i) identify any activity described in paragraph (3) that the grant will be used to fund; and

(ii) describe the means by which an activity identified under clause (i) will reduce hunger in the community of the eligible entity.

(C) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to eligible entities that demonstrate 2 or more of the following:

(i) The eligible entity serves a community in which the rates of food insecurity, hunger, poverty, or unemployment are demonstrably higher than national average rates.

(ii) The eligible entity serves a community that has successfully carried out long-term efforts to reduce hunger in the community.

(iii) The eligible entity serves a community that provides public support for the efforts of the eligible entity.

(iv) The eligible entity is committed to achieving more than 1 hunger-free communities goal.

(3) USE OF FUNDS.—An eligible entity shall use a grant received under this subsection to construct, expand, or repair a facility or equipment to support hunger relief efforts in the community.

(d) REPORT.—If funds are made available under subsection (e) to carry out this section, not later than September 30, 2012, the Secretary shall submit to Congress a report that describes—

(1) each grant made under this section, including—

(A) a description of any activity funded; and

(B) the degree of success of each activity funded in achieving hunger free-communities goals; and

(2) the degree of success of all activities funded under this section in achieving domestic hunger goals.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

**SEC. 4406. REAUTHORIZATION OF FEDERAL FOOD ASSISTANCE PROGRAMS.**

(a) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(1)) is amended in the first sentence by striking "for each of the fiscal years 2003 through 2007" and inserting "for each of fiscal years 2008 through 2012".

(2) GRANTS FOR SIMPLE APPLICATION AND ELIGIBILITY DETERMINATION SYSTEMS AND IMPROVED ACCESS TO BENEFITS.—Section 11(t)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(t)(1)) is amended by striking "For each of fiscal years 2003 through 2007" and inserting "Subject to the availability of appropriations under section 18(a), for each fiscal year".

(3) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—Section 16(h)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(h)(1)) is amended—

(A) in subparagraph (A), by striking "the amount of—" and all that follows through the end of the subparagraph and inserting ", $90,000,000 for each fiscal year."; and

(B) in subparagraph (E)(i), by striking "for each of fiscal years 2002 through 2007" and inserting "for each fiscal year".

(4) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—Section 16(k)(3) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(k)(3)) is amended—

(A) in the first sentence of subparagraph (A), by striking "effective for each of fiscal years 1999 through 2007,"; and

(B) in subparagraph (B)(ii), by striking "through fiscal year 2007".

(5) CASH PAYMENT PILOT PROJECTS.—Section 17(b)(1)(B)(vi) of the Food and Nutrition Act of 2008 (7 U.S.C. 2026(b)(1)(B)(vi)) is amended—

(A) by striking "Any pilot" and inserting "Subject to the availability of appropriations under section 18(a), any pilot"; and

(B) by striking "through October 1, 2007,".

(6) CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.—Section 19(a)(2)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2028(a)(2)(A)(ii)) is amended by striking "for each of fiscal years 2004 through 2007" and inserting "subject to the availability of appropriations under section 18(a), for each fiscal year thereafter".

(7) ASSISTANCE FOR COMMUNITY FOOD PROJECTS.—Section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034) is amended—

(A) in subsection (b)(2)(B), by striking "for each of fiscal years 1997 through 2007" and inserting "for fiscal year 2008 and each fiscal year thereafter"; and

(B) in subsection (i)(4) (as redesignated by section 4402), by striking "of fiscal years 2003 through 2007" and inserting "fiscal year thereafter".

(b) COMMODITY DISTRIBUTION.—

(1) EMERGENCY FOOD ASSISTANCE.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence by striking "for each of the

fiscal years 2003 through 2007" and inserting "for fiscal year 2008 and each fiscal year thereafter".

(2) COMMODITY DISTRIBUTION PROGRAM.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended in the first sentence by striking "years 1991 through 2007" and inserting "years 2008 through 2012".

(3) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "each of fiscal years 2003 through 2007" and inserting "each of fiscal years 2008 through 2012"; and

(ii) in paragraph (2)(B), by striking the subparagraph designation and heading and all that follows through "2007" and inserting the following:

"(B) SUBSEQUENT FISCAL YEARS.—For each of fiscal years 2004 through 2012"; and

(B) in subsection (d)(2), by striking "each of the fiscal years 1991 through 2007" and inserting "each of fiscal years 2008 through 2012".

(4) DISTRIBUTION OF SURPLUS COMMODITIES TO SPECIAL NUTRITION PROJECTS.—Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended in the first sentence by striking "Effective through September 30, 2007" and inserting "For each of fiscal years 2008 through 2012".

(c) FARM SECURITY AND RURAL INVESTMENT.—

(1) SENIORS FARMERS' MARKET NUTRITION PROGRAM.—Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended by striking by striking subsection (a) and inserting the following:

"(a) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use to carry out and expand the seniors farmers' market nutrition program $20,600,000 for each of fiscal years 2008 through 2012.".

(2) NUTRITION INFORMATION AND AWARENESS PILOT PROGRAM.—Section 4403(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3171 note; Public Law 107–171) is amended by striking "2007" and inserting "2012".

**SEC. 4407. EFFECTIVE AND IMPLEMENTATION DATES.** 2 USC 1161 note.

Except as otherwise provided in this title, this title and the amendments made by this title take effect on October 1, 2008.

# TITLE V—CREDIT

## Subtitle A—Farm Ownership Loans

**SEC. 5001. DIRECT LOANS.**

Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended—

(1) by striking the section designation and heading and all that follows through "(a) The Secretary is authorized to" and inserting the following:

**"SEC. 302. PERSONS ELIGIBLE FOR REAL ESTATE LOANS.**

"(a) IN GENERAL.—The Secretary may"; and

(2) in subsection (a)(2), by inserting ", taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences" after "farming operations".

**SEC. 5002. CONSERVATION LOAN AND LOAN GUARANTEE PROGRAM.**

Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended to read as follows:

**"SEC. 304. CONSERVATION LOAN AND LOAN GUARANTEE PROGRAM.**

"(a) IN GENERAL.—The Secretary may make or guarantee qualified conservation loans to eligible borrowers under this section.

"(b) DEFINITIONS.—In this section:

"(1) QUALIFIED CONSERVATION LOAN.—The term 'qualified conservation loan' means a loan, the proceeds of which are used to cover the costs to the borrower of carrying out a qualified conservation project.

"(2) QUALIFIED CONSERVATION PROJECT.—The term 'qualified conservation project' means conservation measures that address provisions of a conservation plan of the eligible borrower.

"(3) CONSERVATION PLAN.—The term 'conservation plan' means a plan, approved by the Secretary, that, for a farming or ranching operation, identifies the conservation activities that will be addressed with loan funds provided under this section, including—

"(A) the installation of conservation structures to address soil, water, and related resources;

"(B) the establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes;

"(C) the installation of water conservation measures;

"(D) the installation of waste management systems;

"(E) the establishment or improvement of permanent pasture;

"(F) compliance with section 1212 of the Food Security Act of 1985; and

"(G) other purposes consistent with the plan, including the adoption of any other emerging or existing conservation practices, techniques, or technologies approved by the Secretary.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—The Secretary may make or guarantee loans to farmers or ranchers in the United States, farm cooperatives, private domestic corporations, partnerships, joint operations, trusts, or limited liability companies that are controlled by farmers or ranchers and engaged primarily and directly in agricultural production in the United States.

"(2) REQUIREMENTS.—To be eligible for a loan under this section, applicants shall meet the requirements in paragraphs (1) and (2) of section 302(a).

"(d) PRIORITY.—In making or guaranteeing loans under this section, the Secretary shall give priority to—

"(1) qualified beginning farmers or ranchers and socially disadvantaged farmers or ranchers;

"(2) owners or tenants who use the loans to convert to sustainable or organic agricultural production systems; and

"(3) producers who use the loans to build conservation structures or establish conservation practices to comply with section 1212 of the Food Security Act of 1985.

"(e) LIMITATIONS APPLICABLE TO LOAN GUARANTEES.—The portion of a loan that the Secretary may guarantee under this section shall be 75 percent of the principal amount of the loan.

"(f) ADMINISTRATIVE PROVISIONS.—The Secretary shall ensure, to the maximum extent practicable, that loans made or guaranteed under this section are distributed across diverse geographic regions.

"(g) CREDIT ELIGIBILITY.—The provisions of paragraphs (1) and (3) of section 333 shall not apply to loans made or guaranteed under this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2008 through 2012, there are authorized to be appropriated to the Secretary such funds as are necessary to carry out this section.".

**SEC. 5003. LIMITATIONS ON AMOUNT OF FARM OWNERSHIP LOANS.**

Section 305(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925(a)(2)) is amended by striking "$200,000" and inserting "$300,000".

**SEC. 5004. DOWN PAYMENT LOAN PROGRAM.**

Section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935) is amended—

(1) in subsection (a)(1), by striking "and ranchers" and inserting "or ranchers and socially disadvantaged farmers or ranchers";

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following;

"(1) PRINCIPAL.—Each loan made under this section shall be in an amount that does not exceed 45 percent of the least of—

"(A) the purchase price of the farm or ranch to be acquired;

"(B) the appraised value of the farm or ranch to be acquired; or

"(C) $500,000.

"(2) INTEREST RATE.—The interest rate on any loan made by the Secretary under this section shall be a rate equal to the greater of—

"(A) the difference obtained by subtracting 4 percent from the interest rate for farm ownership loans under this subtitle; or

"(B) 1.5 percent."; and

(B) in paragraph (3), by striking "15" and inserting "20";

(3) in subsection (c)—

(A) in paragraph (1), by striking "10" and inserting "5";

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2)(B) (as so redesignated), by striking "15-year" and inserting "20-year";

(4) in subsection (d)—

(A) in paragraph (3)—

(i) by inserting "and socially disadvantaged farmers or ranchers" after "ranchers"; and

(ii) by striking "and" at the end;

(B) in paragraph (4), by striking "and ranchers." and inserting " or ranchers or socially disadvantaged farmers or ranchers; and"; and

(C) by adding at the end the following:

"(5) establish annual performance goals to promote the use of the down payment loan program and other joint financing arrangements as the preferred choice for direct real estate loans made by any lender to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher."; and

(5) by adding at the end the following:

"(e) SOCIALLY DISADVANTAGED FARMER OR RANCHER DEFINED.—In this section, the term 'socially disadvantaged farmer or rancher' has the meaning given that term in section 355(e)(2).".

**SEC. 5005. BEGINNING FARMER OR RANCHER AND SOCIALLY DISADVANTAGED FARMER OR RANCHER CONTRACT LAND SALES PROGRAM.**

Section 310F of the Consolidated Farm and Rural Development Act (7 U.S.C. 1936) is amended to read as follows:

**"SEC. 310F. BEGINNING FARMER OR RANCHER AND SOCIALLY DISADVANTAGED FARMER OR RANCHER CONTRACT LAND SALES PROGRAM.**

"(a) IN GENERAL.—The Secretary shall, in accordance with this section, guarantee a loan made by a private seller of a farm or ranch to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher (as defined in section 355(e)(2)) on a contract land sales basis.

"(b) ELIGIBILITY.—In order to be eligible for a loan guarantee under subsection (a)—

"(1) the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher shall—

"(A) on the date the contract land sale that is subject of the loan is complete, own and operate the farm or ranch that is the subject of the contract land sale;

"(B) have a credit history that—

"(i) includes a record of satisfactory debt repayment, as determined by the Secretary; and

"(ii) is acceptable to the Secretary; and

"(C) demonstrate to the Secretary that the farmer or rancher, as the case may be, is unable to obtain sufficient credit without a guarantee to finance any actual need of the farmer or rancher, as the case may be, at a reasonable rate or term; and

"(2) the loan shall meet applicable underwriting criteria, as determined by the Secretary.

"(c) LIMITATIONS.—

"(1) DOWN PAYMENT.—The Secretary shall not provide a loan guarantee under subsection (a) if the contribution of the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher to the down payment for the farm or ranch that is the subject of the contract land sale would be less than 5 percent of the purchase price of the farm or ranch.

"(2) MAXIMUM PURCHASE PRICE.—The Secretary shall not provide a loan guarantee under subsection (a) if the purchase price or the appraisal value of the farm or ranch that is the subject of the contract land sale is greater than $500,000.

"(d) PERIOD OF GUARANTEE.—The period during which a loan guarantee under this section is in effect shall be the 10-year period beginning with the date the guarantee is provided.

"(e) GUARANTEE PLAN.—

"(1) SELECTION OF PLAN.—A private seller of a farm or ranch who makes a loan that is guaranteed by the Secretary under subsection (a) may select—

"(A) a prompt payment guarantee plan, which shall cover—

"(i) 3 amortized annual installments; or

"(ii) an amount equal to 3 annual installments (including an amount equal to the total cost of any tax and insurance incurred during the period covered by the annual installments); or

"(B) a standard guarantee plan, which shall cover an amount equal to 90 percent of the outstanding principal of the loan.

"(2) ELIGIBLITY FOR STANDARD GUARANTEE PLAN.—In order for a private seller to be eligible for a standard guarantee plan referred to in paragraph (1)(B), the private seller shall—

"(A) secure a commercial lending institution or similar entity, as determined by the Secretary, to serve as an escrow agent; or

"(B) in cooperation with the farmer or rancher, use an appropriate alternate arrangement, as determined by the Secretary.

"(f) TRANSITION FROM PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary may phase-in the implementation of the changes to the Beginning Farmer and Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program provided for in this section.

"(2) LIMITATION.—All changes to the Beginning Farmer and Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program must be implemented for the 2011 Fiscal Year.".

## Subtitle B—Operating Loans

### SEC. 5101. FARMING EXPERIENCE AS ELIGIBILITY REQUIREMENT.

Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) is amended—

(1) by striking the section designation and all that follows through "(a) The Secretary is authorized to" and inserting the following:

**"SEC. 311. PERSONS ELIGIBLE FOR LOANS.**

"(a) IN GENERAL.—The Secretary may";

(2) in subsection (a)(2), by inserting ", taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences" after "farming operations".

**SEC. 5102. LIMITATIONS ON AMOUNT OF OPERATING LOANS.**

Section 313(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943(a)(1)) is amended by striking "$200,000" and inserting "$300,000".

**SEC. 5103. SUSPENSION OF LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.**

Section 5102 of the Farm Security And Rural Investment Act of 2002 (7 U.S.C. 1949 note; Public Law 107–171) is amended by striking "September 30, 2007" and inserting "December 31, 2010".

## Subtitle C—Emergency Loans

**SEC. 5201. ELIGIBILITY OF EQUINE FARMERS AND RANCHERS FOR EMERGENCY LOANS.**

Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in paragraph (1), by striking "farmers, ranchers" and inserting "farmers or ranchers (including equine farmers or ranchers)"; and

(2) in paragraph (2)(A), by striking "farming, ranching," and inserting "farming or ranching (including equine farming or ranching)".

## Subtitle D—Administrative Provisions

**SEC. 5301. BEGINNING FARMER AND RANCHER INDIVIDUAL DEVELOPMENT ACCOUNTS PILOT PROGRAM.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is amended by inserting after section 333A the following:

7 USC 1983b.

**"SEC. 333B. BEGINNING FARMER AND RANCHER INDIVIDUAL DEVELOPMENT ACCOUNTS PILOT PROGRAM.**

"(a) DEFINITIONS.—In this section:

"(1) DEMONSTRATION PROGRAM.—The term 'demonstration program' means a demonstration program carried out by a qualified entity under the pilot program established in subsection (b)(1).

"(2) ELIGIBLE PARTICIPANT.—The term 'eligible participant' means a qualified beginning farmer or rancher that—

"(A) lacks significant financial resources or assets; and

"(B) has an income that is less than—

"(i) 80 percent of the median income of the State in which the farmer or rancher resides; or

"(ii) 200 percent of the most recent annual Federal Poverty Income Guidelines published by the Department of Health and Human Services for the State.

"(3) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term 'individual development account' means a savings account described in subsection (b)(4)(A).

"(4) QUALIFIED ENTITY.—

"(A) IN GENERAL.—The term 'qualified entity' means—

"(i) 1 or more organizations—

"(I) described in section 501(c)(3) of the Internal Revenue Code of 1986; and

"(II) exempt from taxation under section 501(a) of such Code; or

"(ii) a State, local, or tribal government submitting an application jointly with an organization described in clause (i).

"(B) NO PROHIBITION ON COLLABORATION.—An organization described in subparagraph (A)(i) may collaborate with a financial institution or for-profit community development corporation to carry out the purposes of this section.

"(b) PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a pilot program to be known as the 'New Farmer Individual Development Accounts Pilot Program' under which the Secretary shall work through qualified entities to establish demonstration programs—

"(A) of at least 5 years in duration; and

"(B) in at least 15 States.

"(2) COORDINATION.—The Secretary shall operate the pilot program through, and in coordination with the farm loan programs of, the Farm Service Agency.

"(3) RESERVE FUNDS.—

"(A) IN GENERAL.—A qualified entity carrying out a demonstration program under this section shall establish a reserve fund consisting of a non-Federal match of 50 percent of the total amount of the grant awarded to the demonstration program under this section.

"(B) FEDERAL FUNDS.—After the qualified entity has deposited the non-Federal matching funds described in subparagraph (A) in the reserve fund, the Secretary shall provide the total amount of the grant awarded under this section to the demonstration program for deposit in the reserve fund.

"(C) USE OF FUNDS.—Of the funds deposited under subparagraph (B) in the reserve fund established for a demonstration program, the qualified entity carrying out the demonstration program—

"(i) may use up to 10 percent for administrative expenses; and

"(ii) shall use the remainder in making matching awards described in paragraph (4)(B)(ii)(I).

"(D) INTEREST.—Any interest earned on amounts in a reserve fund established under subparagraph (A) may be used by the qualified entity as additional matching funds for, or to administer, the demonstration program.

"(E) GUIDANCE.—The Secretary shall issue guidance regarding the investment requirements of reserve funds established under this paragraph.

"(F) REVERSION.—On the date on which all funds remaining in any individual development account established by a qualified entity have reverted under paragraph (5)(B)(ii) to the reserve fund established by the qualified entity, there shall revert to the Treasury of the United States a percentage of the amount (if any) in the reserve fund equal to—

"(i) the amount of Federal funds deposited in the reserve fund under subparagraph (B) that were not used for administrative expenses; divided by

"(ii) the total amount of funds deposited in the reserve fund.

"(4) INDIVIDUAL DEVELOPMENT ACCOUNTS.—

"(A) IN GENERAL.—A qualified entity receiving a grant under this section shall establish and administer individual development accounts for eligible participants.

"(B) CONTRACT REQUIREMENTS.—To be eligible to receive funds under this section from a qualified entity, an eligible participant shall enter into a contract with only 1 qualified entity under which—

"(i) the eligible participant agrees—

"(I) to deposit a certain amount of funds of the eligible participant in a personal savings account, as prescribed by the contractual agreement between the eligible participant and the qualified entity;

"(II) to use the funds described in subclause (I) only for 1 or more eligible expenditures described in paragraph (5)(A); and

"(III) to complete financial training; and

"(ii) the qualified entity agrees—

"(I) to deposit, not later than 1 month after an amount is deposited pursuant to clause (i)(I), at least a 100-percent, and up to a 200-percent, match of that amount into the individual development account established for the eligible participant; and

"(II) with uses of funds proposed by the eligible participant.

"(C) LIMITATION.—

"(i) IN GENERAL.—A qualified entity administering a demonstration program under this section may provide not more than $6,000 for each fiscal year in matching funds to the individual development account established by the qualified entity for an eligible participant.

"(ii) TREATMENT OF AMOUNT.—An amount provided under clause (i) shall not be considered to be a gift or loan for mortgage purposes.

"(5) ELIGIBLE EXPENDITURES.—

"(A) IN GENERAL.—An eligible expenditure described in this subparagraph is an expenditure—

"(i) to purchase farmland or make a down payment on an accepted purchase offer for farmland;

"(ii) to make mortgage payments on farmland purchased pursuant to clause (i), for up to 180 days after the date of the purchase;

"(iii) to purchase breeding stock, fruit or nut trees, or trees to harvest for timber; and

"(iv) for other similar expenditures, as determined by the Secretary.

"(B) TIMING.—

"(i) IN GENERAL.—An eligible participant may make an eligible expenditure at any time during the

2-year period beginning on the date on which the last matching funds are provided under paragraph (4)(B)(ii)(I) to the individual development account established for the eligible participant.

"(ii) UNEXPENDED FUNDS.—At the end of the period described in clause (i), any funds remaining in an individual development account established for an eligible participant shall revert to the reserve fund of the demonstration program under which the account was established.

"(c) APPLICATIONS.—

"(1) IN GENERAL.—A qualified entity that seeks to carry out a demonstration program under this section may submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may prescribe.

"(2) CRITERIA.—In considering whether to approve an application to carry out a demonstration program under this section, the Secretary shall assess—

"(A) the degree to which the demonstration program described in the application is likely to aid eligible participants in successfully pursuing new farming opportunities;

"(B) the experience and ability of the qualified entity to responsibly administer the demonstration program;

"(C) the experience and ability of the qualified entity in recruiting, educating, and assisting eligible participants to increase economic independence and pursue or advance farming opportunities;

"(D) the aggregate amount of direct funds from non-Federal public sector and private sources that are formally committed to the demonstration program as matching contributions;

"(E) the adequacy of the plan of the qualified entity to provide information relevant to an evaluation of the demonstration program; and

"(F) such other factors as the Secretary considers to be appropriate.

"(3) PREFERENCES.—In considering an application to conduct a demonstration program under this section, the Secretary shall give preference to an application from a qualified entity that demonstrates—

"(A) a track record of serving clients targeted by the program, including, as appropriate, socially disadvantaged farmers or ranchers (as defined in section 355(e)(2)); and

"(B) expertise in dealing with financial management aspects of farming.

"(4) APPROVAL.—Not later than 1 year after the date of enactment of this section, in accordance with this section, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration programs as the Secretary considers appropriate. Deadline.

"(5) TERM OF AUTHORITY.—If the Secretary approves an application to carry out a demonstration program, the Secretary shall authorize the applicant to carry out the project for a period of 5 years, plus an additional 2 years to make eligible expenditures in accordance with subsection (b)(5)(B).

"(d) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make a grant to a qualified entity authorized to carry out a demonstration program under this section.

"(2) MAXIMUM AMOUNT OF GRANTS.—The aggregate amount of grant funds provided to a demonstration program carried out under this section shall not exceed $250,000.

"(3) TIMING OF GRANT PAYMENTS.—The Secretary shall pay the amounts awarded under a grant made under this section—

"(A) on the awarding of the grant; or

"(B) pursuant to such payment plan as the qualified entity may specify.

"(e) REPORTS.—

"(1) ANNUAL PROGRESS REPORTS.—

"(A) IN GENERAL.—Not later than 60 days after the end of the calendar year in which the Secretary authorizes a qualified entity to carry out a demonstration program under this section, and annually thereafter until the conclusion of the demonstration program, the qualified entity shall prepare an annual report that includes, for the period covered by the report—

"(i) an evaluation of the progress of the demonstration program;

"(ii) information about the demonstration program, including the eligible participants and the individual development accounts that have been established; and

"(iii) such other information as the Secretary may require.

"(B) SUBMISSION OF REPORTS.—A qualified entity shall submit each report required under subparagraph (A) to the Secretary.

"(2) REPORTS BY THE SECRETARY.—Not later than 1 year after the date on which all demonstration programs under this section are concluded, the Secretary shall submit to Congress a final report that describes the results and findings of all reports and evaluations carried out under this section.

"(f) ANNUAL REVIEW.—The Secretary may conduct an annual review of the financial records of a qualified entity—

"(1) to assess the financial soundness of the qualified entity; and

"(2) to determine the use of grant funds made available to the qualified entity under this section.

"(g) REGULATIONS.—In carrying out this section, the Secretary may promulgate regulations to ensure that the program includes provisions for—

"(1) the termination of demonstration programs;

"(2) control of the reserve funds in the case of such a termination;

"(3) transfer of demonstration programs to other qualified entities; and

"(4) remissions from a reserve fund to the Secretary in a case in which a demonstration program is terminated without transfer to a new qualified entity.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 5302. INVENTORY SALES PREFERENCES; LOAN FUND SET-ASIDES.**

(a) INVENTORY SALES PREFERENCES.—Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) in the subparagraph heading, by inserting "; SOCIALLY DISADVANTAGED FARMER OR RANCHER" after "OR RANCHER";

(ii) in clause (i), by inserting " or a socially disadvantaged farmer or rancher" after "or rancher";

(iii) in clause (ii), by inserting "or socially disadvantaged farmer or rancher" after "or rancher";

(iv) in clause (iii), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher"; and

(v) in clause (iv), by striking "and ranchers" and inserting "or ranchers and socially disadvantaged farmers or ranchers"; and

(B) in subparagraph (C), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher";

(2) in paragraph (5)(B)—

(A) in clause (i)—

(i) in the clause heading, by inserting "; SOCIALLY DISADVANTAGED FARMER OR RANCHER" after "OR RANCHER";

(ii) by inserting "or a socially disadvantaged farmer or rancher" after "a beginning farmer or rancher"; and

(iii) by inserting "or the socially disadvantaged farmer or rancher" after "the beginning farmer or rancher"; and

(B) in clause (ii)—

(i) in the matter preceding subclause (I), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher"; and

(ii) in subclause (II), by inserting "or the socially disadvantaged farmer or rancher" after "or rancher"; and

(3) in paragraph (6)—

(A) in subparagraph (A), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher"; and

(B) in subparagraph (C)—

(i) in clause (i)(I), by striking "and ranchers" and inserting "or ranchers and socially disadvantaged farmers or ranchers"; and

(ii) in clause (ii), by inserting "or socially disadvantaged farmers or ranchers" after "or ranchers".

(b) LOAN FUND SET-ASIDES.—Section 346(b)(2) of such Act (7 U.S.C. 1994(b)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (i)—

(i) in subclause (I), by striking "70 percent" and inserting "an amount that is not less than 75 percent of the total amount"; and

(ii) in subclause (II)—

(I) in the subclause heading, by inserting "; JOINT FINANCING ARRANGEMENTS" after "PAYMENT LOANS";

(II) by striking "60 percent" and inserting "an amount not less than ⅔ of the amount"; and

(III) by inserting "and joint financing arrangements under section 307(a)(3)(D)" after "section 310E"; and

(B) in clause (ii)(III), by striking "2003 through 2007, 35 percent" and inserting "2008 through 2012, an amount that is not less than 50 percent of the total amount"; and

(2) in subparagraph (B)(i), by striking "25 percent" and inserting "an amount that is not less than 40 percent of the total amount".

**SEC. 5303. LOAN AUTHORIZATION LEVELS.**

Section 346(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "$3,796,000,000 for each of fiscal years 2003 through 2007" and inserting "$4,226,000,000 for each of fiscal years 2008 through 2012"; and

(2) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "$770,000,000" and inserting "$1,200,000,000";

(B) in clause (i), by striking "$205,000,000" and inserting "$350,000,000"; and

(C) in clause (ii), by striking "$565,000,000" and inserting "$850,000,000".

**SEC. 5304. TRANSITION TO PRIVATE COMMERCIAL OR OTHER SOURCES OF CREDIT.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is amended by inserting after section 344 the following:

7 USC 1993.

**"SEC. 345. TRANSITION TO PRIVATE COMMERCIAL OR OTHER SOURCES OF CREDIT.**

Plan. Regulations. Criteria.

"(a) IN GENERAL.—In making or insuring a farm loan under subtitle A or B, the Secretary shall establish a plan and promulgate regulations (including performance criteria) that promote the goal of transitioning borrowers to private commercial credit and other sources of credit in the shortest period of time practicable.

"(b) COORDINATION.—In carrying out this section, the Secretary shall integrate and coordinate the transition policy described in subsection (a) with—

"(1) the borrower training program established by section 359;

"(2) the loan assessment process established by section 360;

"(3) the supervised credit requirement established by section 361;

"(4) the market placement program established by section 362; and

"(5) other appropriate programs and authorities, as determined by the Secretary.".

**SEC. 5305. EXTENSION OF THE RIGHT OF FIRST REFUSAL TO REACQUIRE HOMESTEAD PROPERTY TO IMMEDIATE FAMILY MEMBERS OF BORROWER-OWNER.**

Section 352(c)(4)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(c)(4)(B)) is amended—

(1) in the 1st sentence, by striking ", the borrower-owner" inserting "of a borrower-owner who is a socially disadvantaged farmer or rancher (as defined in section 355(e)(2)), the borrower-owner or a member of the immediate family of the borrower-owner"; and

(2) in the 2nd sentence, by inserting "or immediate family member, as the case may be," before "from".

**SEC. 5306. RURAL DEVELOPMENT AND FARM LOAN PROGRAM ACTIVITIES.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is amended by inserting after section 364 the following:

**"SEC. 365. RURAL DEVELOPMENT AND FARM LOAN PROGRAM ACTIVITIES.** 7 USC 2008.

"The Secretary may not complete a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs.".

# Subtitle E—Farm Credit

**SEC. 5401. FARM CREDIT SYSTEM INSURANCE CORPORATION.**

(a) IN GENERAL.—Section 1.12(b) of the Farm Credit Act of 1971 (12 U.S.C. 2020(b)) is amended—

(1) in the first sentence, by striking "Each Farm" and inserting the following;

"(1) IN GENERAL.—Each Farm"; and

(2) by striking the second sentence and inserting the following:

"(2) COMPUTATION.—The assessment on any association or other financing institution described in paragraph (1) for any period shall be computed in an equitable manner, as determined by the Corporation.".

(b) RULES AND REGULATIONS.—Section 5.58(10) of such Act (12 U.S.C. 2277a-7(10)) is amended by inserting "and section 1.12(b)" after "part".

**SEC. 5402. TECHNICAL CORRECTION.**

Section 3.3(b) of the Farm Credit Act of 1971 (12 U.S.C. 2124(b)) is amended in the first sentence by striking "per" and inserting "par".

**SEC. 5403. BANK FOR COOPERATIVES VOTING STOCK.**

(a) IN GENERAL.—Section 3.3(c) of the Farm Credit Act of 1971 (12 U.S.C. 2124(c)) is amended by striking "and (ii)" and inserting "(ii) other categories of persons and entities described in sections 3.7 and 3.8 eligible to borrow from the bank, as determined by the bank's board of directors; and (iii)".

(b) CONFORMING AMENDMENTS.—Section 4.3A(c)(1)(D) of such Act (12 U.S.C. 2154a(c)(1)(D)) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and inserting after clause (i) the following:

"(ii) persons and entities eligible to borrow from the banks for cooperatives, as described in section 3.3(c)(ii);".

**SEC. 5404. PREMIUMS.**

(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.—Section 5.55(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "paragraph (2)" and inserting "paragraph (3)"; and

(ii) by striking "annual" ; and

(B) by striking subparagraphs (A) through (D) and inserting the following:

"(A) the average outstanding insured obligations issued by the bank for the calendar year, after deducting from the obligations the percentages of the guaranteed portions of loans and investments described in paragraph (2), multiplied by 0.0020; and

"(B) the product obtained by multiplying—

"(i) the sum of—

"(I) the average principal outstanding for the calendar year on loans made by the bank that are in nonaccrual status; and

"(II) the average amount outstanding for the calendar year of other-than-temporarily impaired investments made by the bank; by

"(ii) 0.0010.";

(2) by striking paragraph (4);

(3) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(4) by inserting after paragraph (1) the following:

"(2) DEDUCTIONS FROM AVERAGE OUTSTANDING INSURED OBLIGATIONS.—The average outstanding insured obligations issued by the bank for the calendar year referred to in paragraph (1)(A) shall be reduced by deducting from the obligations the sum of (as determined by the Corporation)—

"(A) 90 percent of each of—

"(i) the average principal outstanding for the calendar year on the guaranteed portions of Federal government-guaranteed loans made by the bank that are in accrual status; and

"(ii) the average amount outstanding for the calendar year of the guaranteed portions of Federal government-guaranteed investments made by the bank that are not permanently impaired; and

"(B) 80 percent of each of—

"(i) the average principal outstanding for the calendar year on the guaranteed portions of State government-guaranteed loans made by the bank that are in accrual status; and

"(ii) the average amount outstanding for the calendar year of the guaranteed portions of State government-guaranteed investments made by the bank that are not permanently impaired.";

(5) in paragraph (3) (as so redesignated by paragraph (3) of this subsection), by striking "annual"; and

(6) in paragraph (4) (as so redesignated by paragraph (3) of this subsection)—

(A) in the paragraph heading, by inserting "OR INVESTMENTS" after "LOANS" ; and

(B) in the matter preceding subparagraph (A), by striking "As used" and all that follows through "guaranteed—" and inserting "In this section, the term 'government-guaranteed', when applied to a loan or an investment, means a loan, credit, or investment, or portion of a loan, credit, or investment, that is guaranteed—".

(b) AMOUNT IN FUND EXCEEDING SECURE BASE AMOUNT.—Section 5.55(b) of such Act (12 U.S.C. 2277a-4(b)) is amended by striking "annual".

(c) SECURE BASE AMOUNT.—Section 5.55(c) of such Act (12 U.S.C. 2277a-4(c)) is amended—

(1) by striking "For purposes" and inserting the following: "(1) IN GENERAL.—For purposes";

(2) by striking "(adjusted downward" and all that follows through "by the Corporation)" and inserting "(as adjusted under paragraph (2))"; and

(3) by adding at the end the following:

"(2) ADJUSTMENT.—The aggregate outstanding insured obligations of all insured System banks under paragraph (1) shall be adjusted downward to exclude an amount equal to the sum of (as determined by the corporation)—

"(A) 90 percent of each of—

"(i) the guaranteed portions of principal outstanding on Federal government-guaranteed loans in accrual status made by the banks; and

"(ii) the guaranteed portions of the amount of Federal government-guaranteed investments made by the banks that are not permanently impaired; and

"(B) 80 percent of each of—

"(i) the guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by the banks; and

"(ii) the guaranteed portions of the amount of State government-guaranteed investments made by the banks that are not permanently impaired.".

(d) DETERMINATION OF LOAN AND INVESTMENT AMOUNTS.—Section 5.55(d) of such Act (12 U.S.C. 2277a-4(d)) is amended—

(1) in the subsection heading, by striking "PRINCIPAL OUTSTANDING" and inserting "LOAN AND INVESTMENT AMOUNTS";

(2) in the matter preceding paragraph (1), by striking "For the purpose" and all that follows through "made—" and inserting "For the purpose of subsections (a) and (c), the principal outstanding on all loans made by an insured System bank, and the amount outstanding on all investments made by an insured System bank, shall be determined based on—";

(3) in each of paragraphs (1), (2), and (3), by inserting "all loans or investments made" before "by" the first place it appears; and

(4) in each of paragraphs (1) and (2), by inserting "or investments" after "that is able to make such loans" each place it appears.

(e) ALLOCATION TO SYSTEM INSTITUTIONS OF EXCESS RESERVES.—Section 5.55(e) of such Act (12 U.S.C. 2277a-4(e)) is amended—

(1) in paragraph (3), by striking "the average secure base amount for the calendar year (as calculated on an average daily balance basis)" and inserting "the secure base amount";

(2) in paragraph (4), by striking subparagraph (B) and inserting the following:

"(B) there shall be credited to the allocated insurance reserves account of each insured system bank an amount that bears the same ratio to the total amount (less any amount credited under subparagraph (A)) as—

"(i) the average principal outstanding for the calendar year on insured obligations issued by the bank (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)); bears to

"(ii) the average principal outstanding for the calendar year on insured obligations issued by all insured System banks (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)).";

(3) in paragraph (6)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "beginning more" and all that follows through "January 1, 2005";

(ii) by striking clause (i) and inserting the following:

"(i) subject to subparagraph (D), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the balance in the Allocated Insurance Reserves Account of the System bank; and"; and

(iii) in clause (ii)—

(I) by striking "subparagraphs (C), (E), and (F)" and inserting "subparagraphs (C) and (E)"; and

(II) by striking ", of the lesser of—" and all that follows through the end of subclause (II) and inserting "at the time of the termination of the Financial Assistance Corporation, of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B).";

(B) in subparagraph (C)—

(i) in clause (i), by striking "(in addition to the amounts described in subparagraph (F)(ii))"; and

(ii) by striking clause (ii) and inserting the following:

"(ii) TERMINATION OF ACCOUNT.—On disbursement of an amount equal to $56,000,000, the Corporation shall—

"(I) close the account established under paragraph (1)(B); and

"(II) transfer any remaining funds in the Account to the remaining Allocated Insurance Reserves Accounts in accordance with paragraph (4)(B) for the calendar year in which the transfer occurs."; and

(C) by striking subparagraph (F).

**SEC. 5405. CERTIFICATION OF PREMIUMS.**

(a) FILING CERTIFIED STATEMENT.—Section 5.56 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–5) is amended by striking subsection (a) and inserting the following:

"(a) FILING CERTIFIED STATEMENT.—On a date to be determined in the sole discretion of the Board of Directors of the Corporation, each insured System bank that became insured before the beginning of the period for which premiums are being assessed (referred to in this section as the 'period') shall file with the Corporation a certified statement showing—

"(1) the average outstanding insured obligations for the period issued by the bank;

"(2)(A) the average principal outstanding for the period on the guaranteed portion of Federal government-guaranteed loans that are in accrual status; and

"(B) the average amount outstanding for the period of Federal government-guaranteed investments that are not permanently impaired (as defined in section 5.55(a)(4));

"(3)(A) the average principal outstanding for the period on State government-guaranteed loans that are in accrual status; and

"(B) the average amount outstanding for the period of State government-guaranteed investments that are not permanently impaired (as defined in section 5.55(a)(4));

"(4)(A) the average principal outstanding for the period on loans that are in nonaccrual status; and

"(B) the average amount outstanding for the period of other-than-temporarily impaired investments; and

"(5) the amount of the premium due the Corporation from the bank for the period.".

(b) PREMIUM PAYMENTS.—Section 5.56 of such Act (12 U.S.C. 2277a–5) is amended by striking subsection (c) and inserting the following:

"(c) PREMIUM PAYMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each insured System bank shall pay to the Corporation the premium payments required under subsection (a), not more frequently than once in each calendar quarter, in such manner and at such 1 or more times as the Board of Directors shall prescribe.

"(2) PREMIUM AMOUNT.—The amount of the premium shall be established not later than 60 days after filing the certified statement specifying the amount of the premium.". Deadline.

(c) SUBSEQUENT PREMIUM PAYMENTS.—Section 5.56 of such Act (12 U.S.C. 2277a–5) is amended—

(1) by striking subsection (d); and
(2) by redesignating subsection (e) as subsection (d).

**SEC. 5406. RURAL UTILITY LOANS.**

(a) DEFINITION OF QUALIFIED LOAN.—Section 8.0(9) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(9)) is amended—

(1) in subparagraph (A)(iii), by striking "or" at the end;
(2) in subparagraph (B)(ii), by striking the period at the end and inserting "; or"; and
(3) by adding at the end the following:

"(C) that is a loan, or an interest in a loan, for an electric or telephone facility by a cooperative lender to a borrower that has received, or is eligible to receive, a loan under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).".

(b) GUARANTEE OF QUALIFIED LOANS.—Section 8.6(a)(1) of such Act (12 U.S.C. 2279aa–6(a)(1)) is amended by inserting "applicable" before "standards" each place it appears in subparagraphs (A) and (B)(i).

(c) STANDARDS FOR QUALIFIED LOANS.—Section 8.8 of such Act (12 U.S.C. 2279aa–8) is amended—

(1) in subsection (a)—

(A) by striking the first sentence and inserting the following:

"(1) IN GENERAL.—The Corporation shall establish underwriting, security appraisal, and repayment standards for qualified loans taking into account the nature, risk profile, and other differences between different categories of qualified loans.

"(2) SUPERVISION, EXAMINATION, AND REPORT OF CONDITION.—The standards shall be subject to the authorities of the Farm Credit Administration under section 8.11."; and

(B) in the last sentence, by striking "In establishing" and inserting the following:

"(3) MORTGAGE LOANS.—In establishing";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting "with respect to loans secured by agricultural real estate" after "subsection (a)"; and

(B) in paragraph (5)—

(i) by striking "borrower" the first place it appears and inserting "farmer or rancher"; and

(ii) by striking "site" and inserting "farm or ranch";

(3) in subsection (c)(1), by inserting "secured by agricultural real estate" after "A loan";

(4) by striking subsection (d); and

(5) by redesignating subsection (e) as subsection (d).

(d) RISK-BASED CAPITAL LEVELS.—Section 8.32(a)(1) of such Act (12 U.S.C. 2279bb–1(a)(1)) is amended—

(1) by striking "With respect" and inserting the following:

"(A) IN GENERAL.—With respect"; and

(2) by adding at the end the following:

"(B) RURAL UTILITY LOANS.—With respect to securities representing an interest in, or obligation backed by, a pool of qualified loans described in section 8.0(9)(C) owned or guaranteed by the Corporation, losses occur at a rate of default and severity reasonably related to risks in electric

and telephone facility loans (as applicable), as determined by the Director.".

**SEC. 5407. EQUALIZATION OF LOAN-MAKING POWERS OF CERTAIN DISTRICT ASSOCIATIONS.**

(a) IN GENERAL.—The Farm Credit Act of 1971 is amended by inserting after section 7.6 (12 U.S.C. 2279b) the following:

**"SEC. 7.7. EQUALIZATION OF LOAN-MAKING POWERS OF CERTAIN DISTRICT ASSOCIATIONS.** 12 USC 2279c.

"(a) EQUALIZATION OF LOAN-MAKING POWERS.—

"(1) IN GENERAL.—

"(A) FEDERAL LAND BANK ASSOCIATIONS.—Subject to paragraph (2), any association that owns a Federal land bank association authorized as of January 1, 2007, to make long-term loans under title I in its chartered territory within the geographic area described in subsection (b) may make short- and intermediate-term loans and otherwise operate as a production credit association under title II within that same chartered territory.

"(B) PRODUCTION CREDIT ASSOCIATIONS.—Subject to paragraph (2), any association that under its charter has title I lending authority and that owns a production credit association authorized as of January 1, 2007, to make short- and intermediate-term loans under title II in the geographic area described in subsection (b) may make long-term loans and otherwise operate, directly or through a subsidiary association, as a Federal land bank association or Federal land credit association under title I in the geographic area.

"(C) FARM CREDIT BANK.—Notwithstanding section 5.17(a), the Farm Credit Bank with which any association had a written financing agreement as of January 1, 2007, may make loans and extend other comparable financial assistance with respect to, and may purchase, any loans made under the new authority provided under subparagraph (A) or (B) by an association exercising such authority.

"(2) REQUIRED APPROVALS.—An association may exercise the additional authority provided for in paragraph (1) only after the exercise of the authority is approved by—

"(A) the board of directors of the association; and

"(B) a majority of the voting stockholders of the association (or, if the association is a subsidiary of another association, the voting stockholders of the parent association) voting, in person or by proxy, at a duly authorized meeting of stockholders in accordance with the process described in section 7.11.

"(b) APPLICABILITY.—This section applies only to associations the chartered territory of which was within the geographic area served by the Federal intermediate credit bank immediately prior to its merger with a Farm Credit Bank under section 410(e)(1) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note; Public Law 100–233).".

(b) CHARTER AMENDMENTS.—Section 5.17(a) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)) is amended by adding at the end the following:

"(15)(A) Approve amendments to the charters of institutions of the Farm Credit System to implement the equalization of

loan-making powers of a Farm Credit System association under section 7.7.

"(B) Amendments described in subparagraph (A) to the charters of an association and the related Farm Credit Bank shall be approved by the Farm Credit Administration, subject to any conditions of approval imposed, by not later than 30 days after the date on which the Farm Credit Administration receives all approvals required by section 7.7(a)(2).".

(c) CONFORMING AMENDMENTS.—

(1) Section 5.17(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(2)) is amended—

(A) by striking "(2)(A)" and inserting "(2)"; and

(B) by striking subparagraphs (B) and (C).

(2) SECTION 410 OF THE 1987 ACT.—Section 410(e)(1)(A)(iii) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note; Public Law 100–233) is amended by inserting "(except section 7.7 of that Act)" after "(12 U.S.C. 2001 et seq.)".

(3) SECTION 401 OF THE 1992 ACT.—Section 401(b) of the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (12 U.S.C. 2011 note; Public Law 102–552) is amended—

(A) by inserting "(except section 7.7 of the Farm Credit Act of 1971)" after "provision of law"; and

(B) by striking ", subject to such limitations" and all that follows through the end of the paragraph and inserting a period.

12 USC 2252 note.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2010.

## Subtitle F—Miscellaneous

**SEC. 5501. LOANS TO PURCHASERS OF HIGHLY FRACTIONED LAND.**

The first section of Public Law 91–229 (25 U.S.C. 488) is amended—

(1) by striking "That the Secretary" and inserting the following:

**"SECTION 1. LOANS TO PURCHASERS OF HIGHLY FRACTIONED LAND.**

"(a) IN GENERAL.—The Secretary"; and

(2) by adding at the end the following:

"(b) HIGHLY FRACTIONATED LAND.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture may make and insure loans in accordance with section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) to eligible purchasers of highly fractionated land pursuant to section 205(c) of the Indian Land Consolidation Act (25 U.S.C. 2204(c)).

"(2) EXCLUSION.—Section 4 shall not apply to trust land, restricted tribal land, or tribal corporation land that is mortgaged in accordance with paragraph (1).".

# TITLE VI—RURAL DEVELOPMENT

## Subtitle A—Consolidated Farm and Rural Development Act

### SEC. 6001. WATER, WASTE DISPOSAL, AND WASTEWATER FACILITY GRANTS.

Section 306(a)(2)(B)(vii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)(B)(vii)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

### SEC. 6002. SEARCH GRANTS.

(a) IN GENERAL.—Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended by adding at the end the following:

"(C) SPECIAL EVALUATION ASSISTANCE FOR RURAL COMMUNITIES AND HOUSEHOLDS PROGRAM.—

"(i) IN GENERAL.—The Secretary may establish the Special Evaluation Assistance for Rural Communities and Households (SEARCH) program, to make predevelopment planning grants for feasibility studies, design assistance, and technical assistance, to financially distressed communities in rural areas with populations of 2,500 or fewer inhabitants for water and waste disposal projects described in paragraph (1), this paragraph, and paragraph (24).

"(ii) TERMS.—

"(I) DOCUMENTATION.—With respect to grants made under this subparagraph, the Secretary shall require the lowest amount of documentation practicable.

"(II) MATCHING.—Notwithstanding any other provisions in this subsection, the Secretary may fund up to 100 percent of the eligible costs of grants provided under this subparagraph, as determined by the Secretary.

"(iii) FUNDING.—The Secretary may use not more than 4 percent of the total amount of funds made available for a fiscal year for water, waste disposal, and essential community facility activities under this title to carry out this subparagraph.

"(iv) RELATIONSHIP TO OTHER AUTHORITY.—The funds and authorities provided under this subparagraph are in addition to any other funds or authorities the Secretary may have to carry out activities described in clause (i).".

(b) CONFORMING AMENDMENT.—Subtitle D of title VI of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2009ee et seq.) is repealed.

7 USC 2009ee—2009ee–3.

### SEC. 6003. RURAL BUSINESS OPPORTUNITY GRANTS.

Section 306(a)(11)(D) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(D)) is amended by striking "1996 through 2007" and inserting "2008 through 2012".

**SEC. 6004. CHILD DAY CARE FACILITY GRANTS, LOANS, AND LOAN GUARANTEES.**

Section 306(a)(19)(C)(ii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(19)(C)(ii)) is amended by striking "April" and inserting "June".

**SEC. 6005. COMMUNITY FACILITY GRANTS TO ADVANCE BROADBAND.**

Section 306(a)(20)(E) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(20)(E)) is amended—

(1) by striking "state" and inserting "State"; and

(2) by striking "dial-up Internet access or".

**SEC. 6006. RURAL WATER AND WASTEWATER CIRCUIT RIDER PROGRAM.**

Section 306(a)(22)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(22)(C)) is amended by striking "$15,000,000 for fiscal year 2003" and inserting "$25,000,000 for fiscal year 2008".

**SEC. 6007. TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL COMMUNITY FACILITIES.**

Section 306(a)(25) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(25)) is amended—

(1) in subparagraph (A)—

(A) by striking "tribal colleges and universities" and inserting "an entity that is a Tribal College or University"; and

(B) by striking "tribal college or university" and inserting "Tribal College or University";

(2) by striking subparagraph (B) and inserting the following:

"(B) FEDERAL SHARE.—The Secretary shall establish the maximum percentage of the cost of the facility that may be covered by a grant under this paragraph, except that the Secretary may not require non-Federal financial support in an amount that is greater than 5 percent of the total cost of the facility."; and

(3) in subparagraph (C), by striking "2003 through 2007" and inserting "2008 through 2012".

**SEC. 6008. EMERGENCY AND IMMINENT COMMUNITY WATER ASSISTANCE GRANT PROGRAM.**

Section 306A(i)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a(i)(2)) is amended by striking "2003 through 2007" and inserting "2008 through 2012".

**SEC. 6009. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.**

(a) IN GENERAL.—Section 306D(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d(d)(1)) is amended by striking "2001 through 2007" and inserting "2008 through 2012".

(b) RURAL COMMUNITIES ASSISTANCE.—Section 4009 of the Solid Waste Disposal Act (42 U.S.C. 6949) is amended by adding at the end the following:

"(e) ADDITIONAL APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section for the Denali Commission to provide

assistance to municipalities in the State of Alaska $1,500,000 for each of fiscal years 2008 through 2012.

"(2) ADMINISTRATION.—For the purpose of carrying out this subsection, the Denali Commission shall—

"(A) be considered a State; and

"(B) comply with all other requirements and limitations of this section.".

**SEC. 6010. GRANTS TO NONPROFIT ORGANIZATIONS TO FINANCE THE CONSTRUCTION, REFURBISHING, AND SERVICING OF INDIVIDUALLY-OWNED HOUSEHOLD WATER WELL SYSTEMS IN RURAL AREAS FOR INDIVIDUALS WITH LOW OR MODERATE INCOMES.**

Section 306E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926e) is amended—

(1) in subsection (b)(2)(C), by striking "$8,000" and inserting "$11,000"; and

(2) in subsection (d), by striking "2003 through 2007" and inserting "2008 through 2012".

**SEC. 6011. INTEREST RATES FOR WATER AND WASTE DISPOSAL FACILITIES LOANS.**

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended by adding at the end the following:

"(E) INTEREST RATES FOR WATER AND WASTE DISPOSAL FACILITIES LOANS.—

"(i) IN GENERAL.—Except as provided in clause (ii) and notwithstanding subparagraph (A), in the case of a direct loan for a water or waste disposal facility—

"(I) in the case of a loan that would be subject to the 5 percent interest rate limitation under subparagraph (A), the Secretary shall establish the interest rate at a rate that is equal to 60 percent of the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity of the loan, adjusted to the nearest ⅛ of 1 percent; and

"(II) in the case of a loan that would be subject to the 7 percent limitation under subparagraph (A), the Secretary shall establish the interest rate at a rate that is equal to 80 percent of the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity of the loan, adjusted to the nearest ⅛ of 1 percent.

"(ii) EXCEPTION.—Clause (i) does not apply to a loan for a specific project that is the subject of a loan that has been approved, but not closed, as of the date of enactment of this subparagraph.".

**SEC. 6012. COOPERATIVE EQUITY SECURITY GUARANTEE.**

(a) IN GENERAL.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended—

(1) by striking "SEC. 310B. (a)" and inserting the following:

**"SEC. 310B. ASSISTANCE FOR RURAL ENTITIES.**

"(a) LOANS TO PRIVATE BUSINESS ENTERPRISES.—

"(1) DEFINITIONS.—In this subsection:";

(2) in subsection (a)—

(A) by moving the second and fourth sentences so as to appear as the second and first sentences, respectively;

(B) in the sentence beginning "As used in this subsection, the" (as moved by subparagraph (A)), by striking "As used in this subsection, the" and inserting the following:

"(A) AQUACULTURE.—The";

(C) in the sentence beginning "For the purposes of this subsection, the", by striking "For the purposes of this subsection, the" and inserting the following:

"(B) SOLAR ENERGY.—The";

(D) in the sentence beginning "The Secretary may also"—

(i) by striking "The Secretary may also" and inserting the following:

"(2) LOAN PURPOSES.—The Secretary may";

(ii) by inserting "and private investment funds that invest primarily in cooperative organizations" after "or nonprofit";

(iii) by striking "of (1) improving" and inserting "of—

"(A) improving";

(iv) by striking "control, (2) the" and inserting "control;

"(B) the";

(v) by striking "areas, (3) reducing" and inserting "areas;

"(C) reducing";

(vi) by striking "areas, and (4) to" and inserting "areas; and

"(D) to";

(E) in the sentence beginning "Such loans,", by striking "Such loans," and inserting the following:

"(3) LOAN GUARANTEES.—Loans described in paragraph (2),"; and

(F) in the last sentence, by striking "No loan" and inserting the following:

"(4) MAXIMUM AMOUNT OF PRINCIPAL.—No loan"; and

(3) in subsection (g)—

(A) in paragraph (1), by inserting ", including guarantees described in paragraph (3)(A)(ii)" before the period at the end;

(B) in paragraph (3)(A)—

(i) by striking "(A) IN GENERAL.—The Secretary" and inserting the following:

"(A) ELIGIBILITY.—

"(i) IN GENERAL.—The Secretary"; and

(ii) by adding at the end the following:

"(ii) EQUITY.—The Secretary may guarantee a loan made for the purchase of preferred stock or similar equity issued by a cooperative organization or a fund that invests primarily in cooperative organizations, if the guarantee significantly benefits 1 or more entities

eligible for assistance for the purposes described in subsection (a)(1), as determined by the Secretary."; and

(C) in paragraph (8)(A)(ii), by striking "a project—" and all that follows through the end of subclause (II) and inserting "a project that—

"(I)(aa) is in a rural area; and

"(bb) provides for the value-added processing of agricultural commodities; or

"(II) significantly benefits 1 or more entities eligible for assistance for the purposes described in subsection (a)(1), as determined by the Secretary.".

(b) CONFORMING AMENDMENTS.—

(1) Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) is amended by striking clause (ii) and inserting the following:

"(ii) section 310B(a)(2)(A); and".

(2) Section 310B(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)) is amended by striking "subsection (a)(1)" each place it appears in paragraphs (1), (6)(A)(iii), and (8)(C) and inserting "subsection (a)(2)(A)".

(3) Section 333A(g)(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(g)(1)(B)) is amended by striking "section 310B(a)(1)" and inserting "section 310B(a)(2)(A)".

(4) Section 381E(d)(3)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009d(d)(3)(B)) is amended by striking "section 310B(a)(1)" and inserting "section 310B(a)(2)(A)".

**SEC. 6013. RURAL COOPERATIVE DEVELOPMENT GRANTS.**

(a) ELIGIBILITY.—Section 310B(e)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)(5)) is amended—

(1) in subparagraph (A), by striking "administering a nationally coordinated, regionally or State-wide operated project" and inserting "carrying out activities to promote and assist the development of cooperatively and mutually owned businesses";

(2) in subparagraph (B), by inserting "to promote and assist the development of cooperatively and mutually owned businesses" before the semicolon;

(3) by striking subparagraph (D);

(4) by redesignating subparagraph (E) as subparagraph (D);

(5) in subparagraph (D) (as so redesignated), by striking "and" at the end;

(6) by inserting after subparagraph (D) (as so redesignated) the following:

"(E) demonstrate a commitment to—

"(i) networking with and sharing the results of the efforts of the center with other cooperative development centers and other organizations involved in rural economic development efforts; and

"(ii) developing multiorganization and multistate approaches to addressing the economic development and cooperative needs of rural areas; and"; and

(7) in subparagraph (F), by striking "providing greater than" and inserting "providing".

(b) AUTHORITY TO AWARD MULTIYEAR GRANTS.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by striking paragraph (6) and inserting the following:

"(6) GRANT PERIOD.—

"(A) IN GENERAL.—A grant awarded to a center that has received no prior funding under this subsection shall be made for a period of 1 year.

"(B) MULTIYEAR GRANTS.—If the Secretary determines it to be in the best interest of the program, the Secretary shall award grants for a period of more than 1 year, but not more than 3 years, to a center that has successfully met the parameters described in paragraph (5), as determined by the Secretary.".

(c) AUTHORITY TO EXTEND GRANT PERIOD.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (12), respectively; and

(2) by inserting after paragraph (6) the following:

"(7) AUTHORITY TO EXTEND GRANT PERIOD.—The Secretary may extend for 1 additional 12-month period the period in which a grantee may use a grant made under this subsection.".

(d) COOPERATIVE RESEARCH PROGRAM.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by inserting after paragraph (9) (as redesignated by subsection (c)(1)) the following:

Contracts.

"(10) COOPERATIVE RESEARCH PROGRAM.—The Secretary shall enter into a cooperative research agreement with 1 or more qualified academic institutions in each fiscal year to conduct research on the effects of all types of cooperatives on the national economy.".

(e) ADDRESSING NEEDS OF MINORITY COMMUNITIES.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by inserting after paragraph (10) (as added by subsection (d)) the following:

"(11) ADDRESSING NEEDS OF MINORITY COMMUNITIES.—

"(A) DEFINITION OF SOCIALLY DISADVANTAGED GROUP.—In this paragraph, the term 'socially disadvantaged group' has the meaning given the term in section 355(e).

"(B) RESERVATION OF FUNDS.—

"(i) IN GENERAL.—If the total amount appropriated under paragraph (12) for a fiscal year exceeds $7,500,000, the Secretary shall reserve an amount equal to 20 percent of the total amount appropriated for grants for cooperative development centers, individual cooperatives, or groups of cooperatives—

"(I) that serve socially disadvantaged groups; and

"(II) a majority of the boards of directors or governing boards of which are comprised of individuals who are members of socially disadvantaged groups.

"(ii) INSUFFICIENT APPLICATIONS.—To the extent there are insufficient applications to carry out clause

(i), the Secretary shall use the funds as otherwise authorized by this subsection.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Paragraph (12) of section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) (as redesignated by subsection (c)(1)) is amended by striking "1996 through 2007" and inserting "2008 through 2012".

**SEC. 6014. GRANTS TO BROADCASTING SYSTEMS.**

Section 310B(f)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)(3)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

**SEC. 6015. LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCTS.**

Section 310B(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)) is amended by adding at the end the following:

"(9) LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCTS.—

"(A) DEFINITIONS.—In this paragraph:

"(i) LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCT.—The term 'locally or regionally produced agricultural food product' means any agricultural food product that is raised, produced, and distributed in—

"(I) the locality or region in which the final product is marketed, so that the total distance that the product is transported is less than 400 miles from the origin of the product; or

"(II) the State in which the product is produced.

"(ii) UNDERSERVED COMMUNITY.—The term 'underserved community' means a community (including an urban or rural community and an Indian tribal community) that has, as determined by the Secretary—

"(I) limited access to affordable, healthy foods, including fresh fruits and vegetables, in grocery retail stores or farmer-to-consumer direct markets; and

"(II) a high rate of hunger or food insecurity or a high poverty rate.

"(B) LOAN AND LOAN GUARANTEE PROGRAM.—

"(i) IN GENERAL.—The Secretary shall make or guarantee loans to individuals, cooperatives, cooperative organizations, businesses, and other entities to establish and facilitate enterprises that process, distribute, aggregate, store, and market locally or regionally produced agricultural food products to support community development and farm and ranch income.

"(ii) REQUIREMENT.—The recipient of a loan or loan guarantee under clause (i) shall include in an appropriate agreement with retail and institutional facilities to which the recipient sells locally or regionally produced agricultural food products a requirement to inform consumers of the retail or institutional facilities that the consumers are purchasing or consuming

locally or regionally produced agricultural food products.

"(iii) PRIORITY.—In making or guaranteeing a loan under clause (i), the Secretary shall give priority to projects that have components benefitting underserved communities.

"(iv) REPORTS.—Not later than 2 years after the date of enactment of this paragraph and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes projects carried out using loans or loan guarantees made under clause (i), including—

"(I) the characteristics of the communities served; and

"(II) resulting benefits.

"(v) RESERVATION OF FUNDS.—

"(I) IN GENERAL.—For each of fiscal years 2008 through 2012, the Secretary shall reserve not less than 5 percent of the funds made available to carry out this subsection to carry out this subparagraph.

"(II) AVAILABILITY OF FUNDS.—Funds reserved under subclause (I) for a fiscal year shall be reserved until April 1 of the fiscal year.".

**SEC. 6016. APPROPRIATE TECHNOLOGY TRANSFER FOR RURAL AREAS.**

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end the following:

"(i) APPROPRIATE TECHNOLOGY TRANSFER FOR RURAL AREAS PROGRAM.—

"(1) DEFINITION OF NATIONAL NONPROFIT AGRICULTURAL ASSISTANCE INSTITUTION.—In this subsection, the term 'national nonprofit agricultural assistance institution' means an organization that—

"(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code;

"(B) has staff and offices in multiple regions of the United States;

"(C) has experience and expertise in operating national agriculture technical assistance programs;

"(D) expands markets for the agricultural commodities produced by producers through the use of practices that enhance the environment, natural resource base, and quality of life; and

"(E) improves the economic viability of agricultural operations.

"(2) ESTABLISHMENT.—The Secretary shall establish a national appropriate technology transfer for rural areas program to assist agricultural producers that are seeking information to—

"(A) reduce input costs;

"(B) conserve energy resources;

"(C) diversify operations through new energy crops and energy generation facilities; and

"(D) expand markets for agricultural commodities produced by the producers by using practices that enhance the environment, natural resource base, and quality of life.

"(3) IMPLEMENTATION.—

"(A) IN GENERAL.—The Secretary shall carry out the program under this subsection by making a grant to, or offering to enter into a cooperative agreement with, a national nonprofit agricultural assistance institution.

"(B) GRANT AMOUNT.—A grant made, or cooperative agreement entered into, under subparagraph (A) shall provide 100 percent of the cost of providing information described in paragraph (2).

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 6017. RURAL ECONOMIC AREA PARTNERSHIP ZONES.**

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) (as amended by section 6016) is amended by adding at the end the following:

"(j) RURAL ECONOMIC AREA PARTNERSHIP ZONES.—Effective beginning on the date of enactment of this subsection through September 30, 2012, the Secretary shall carry out those rural economic area partnership zones administratively in effect on the date of enactment of this subsection in accordance with the terms and conditions contained in the memorandums of agreement entered into by the Secretary for the rural economic area partnership zones, except as otherwise provided in this subsection.". Effective date. Termination date.

**SEC. 6018. DEFINITIONS.**

(a) RURAL AREA.—Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended by striking paragraph (13) and inserting the following:

"(13) RURAL AND RURAL AREA.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (G), the terms 'rural' and 'rural area' mean any area other than—

"(i) a city or town that has a population of greater than 50,000 inhabitants; and

"(ii) any urbanized area contiguous and adjacent to a city or town described in clause (i).

"(B) WATER AND WASTE DISPOSAL GRANTS AND DIRECT AND GUARANTEED LOANS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1), (2), and (24) of section 306(a), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.

"(C) COMMUNITY FACILITY LOANS AND GRANTS.—For the purpose of community facility direct and guaranteed loans and grants under paragraphs (1), (19), (20), (21), and (24) of section 306(a), the terms 'rural' and 'rural area' mean any area other than a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants.

"(D) AREAS RURAL IN CHARACTER.—

"(i) APPLICATION.—This subparagraph applies to—

"(I) an urbanized area described in subparagraphs (A)(ii) and (F) that—

"(aa) has 2 points on its boundary that are at least 40 miles apart; and

"(bb) is not contiguous or adjacent to a city or town that has a population of greater than 150,000 inhabitants or an urbanized area of such city or town; and

"(II) an area within an urbanized area described in subparagraphs (A)(ii) and (F) that is within ¼-mile of a rural area described in subparagraph (A).

"(ii) DETERMINATION.—Notwithstanding any other provision of this paragraph, on the petition of a unit of local government in an area described in clause (i) or on the initiative of the Under Secretary for Rural Development, the Under Secretary may determine that a part of an area described in clause (i) is a rural area for the purposes of this paragraph, if the Under Secretary finds that the part is rural in character, as determined by the Under Secretary.

"(iii) ADMINISTRATION.—In carrying out this subparagraph, the Under Secretary for Rural Development shall—

"(I) not delegate the authority to carry out this subparagraph;

"(II) consult with the applicable rural development State or regional director of the Department of Agriculture and the governor of the respective State;

"(III) provide to the petitioner an opportunity to appeal to the Under Secretary a determination made under this subparagraph;

Public information. Notice. Deadline.

"(IV) release to the public notice of a petition filed or initiative of the Under Secretary under this subparagraph not later than 30 days after receipt of the petition or the commencement of the initiative, as appropriate;

Time period.

"(V) make a determination under this subparagraph not less than 15 days, and not more than 60 days, after the release of the notice under subclause (IV);

Reports.

"(VI) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on actions taken to carry out this subparagraph; and

Termination date.

"(VII) terminate a determination under this subparagraph that part of an area is a rural area on the date that data is available for the next decennial census conducted under section 141(a) of title 13, United States Code.

"(E) EXCLUSIONS.—Notwithstanding any other provision of this paragraph, in determining which census blocks in an urbanized area are not in a rural area (as defined in this paragraph), the Secretary shall exclude any cluster of census blocks that would otherwise be considered not

in a rural area only because the cluster is adjacent to not more than 2 census blocks that are otherwise considered not in a rural area under this paragraph.

"(F) URBAN AREA GROWTH.—

"(i) APPLICATION.—This subparagraph applies to—

"(I) any area that—

"(aa) is a collection of census blocks that are contiguous to each other;

"(bb) has a housing density that the Secretary estimates is greater than 200 housing units per square mile; and

"(cc) is contiguous or adjacent to an existing boundary of a rural area; and

"(II) any urbanized area contiguous and adjacent to a city or town described in subparagraph (A)(i).

"(ii) ADJUSTMENTS.—The Secretary may, by regulation only, consider—

"(I) an area described in clause (i)(I) not to be a rural area for purposes of subparagraphs (A) and (C); and

"(II) an area described in clause (i)(II) not to be a rural area for purposes of subparagraph (C).

"(iii) APPEALS.—A program applicant may appeal an estimate made under clause (i)(I) based on appropriate data for an area, as determined by the Secretary.

"(G) HAWAII AND PUERTO RICO.—Notwithstanding any other provision of this paragraph, within the areas of the County of Honolulu, Hawaii, and the Commonwealth of Puerto Rico, the Secretary may designate any part of the areas as a rural area if the Secretary determines that the part is not urban in character, other than any area included in the Honolulu Census Designated Place or the San Juan Census Designated Place.".

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) assesses the various definitions of the term "rural" and "rural area" that are used with respect to programs administered by the Secretary;

(2) describes the effects that the variations in those definitions have on those programs;

(3) make recommendations for ways to better target funds provided through rural development programs; and

(4) determines the effect of the amendment made by subsection (a) on the level of rural development funding and participation in those programs in each State.

**SEC. 6019. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.**

Section 378 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008m) is amended—

(1) in subsection (g)(1), by striking "2003 through 2007" and inserting "2008 through 2012"; and

(2) in subsection (h), by striking "the date that is 5 years after the date of enactment of this section" and inserting "September 30, 2012".

**SEC. 6020. HISTORIC BARN PRESERVATION.**

(a) GRANT PRIORITY.—Section 379A(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o(c)) is amended—

(1) in paragraph (2)—

(A) in subparagraphs (A) and (B), by striking "a historic barn" each place it appears and inserting "historic barns"; and

(B) in subparagraph (C), by striking "on a historic barn" and inserting "on historic barns (including surveys)";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) PRIORITY.—In making grants under this subsection, the Secretary shall give the highest priority to funding projects described in paragraph (2)(C).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 379A(c)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o(c)(5)) (as redesignated by subsection (a)(2)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

**SEC. 6021. GRANTS FOR NOAA WEATHER RADIO TRANSMITTERS.**

Section 379B(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008p(d)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

**SEC. 6022. RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding at the end the following:

7 USC 2008s.

**"SEC. 379E. RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.**

"(a) DEFINITIONS.—In this section:

"(1) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(2) MICROENTREPRENEUR.—The term 'microentrepreneur' means an owner and operator, or prospective owner and operator, of a rural microenterprise who is unable to obtain sufficient training, technical assistance, or credit other than under this section, as determined by the Secretary.

"(3) MICROENTERPRISE DEVELOPMENT ORGANIZATION.—The term 'microenterprise development organization' means an organization that—

"(A) is—

"(i) a nonprofit entity;

"(ii) an Indian tribe, the tribal government of which certifies to the Secretary that—

"(I) no microenterprise development organization serves the Indian tribe; and

"(II) no rural microentrepreneur assistance program exists under the jurisdiction of the Indian tribe; or

"(iii) a public institution of higher education;

"(B) provides training and technical assistance to rural microentrepreneurs;

"(C) facilitates access to capital or another service described in subsection (b) for rural microenterprises; and

"(D) has a demonstrated record of delivering services to rural microentrepreneurs, or an effective plan to develop a program to deliver services to rural microentrepreneurs, as determined by the Secretary.

"(4) MICROLOAN.—The term 'microloan' means a business loan of not more than $50,000 that is provided to a rural microenterprise.

"(5) PROGRAM.—The term 'program' means the rural microentrepreneur assistance program established under subsection (b).

"(6) RURAL MICROENTERPRISE.—The term 'rural microenterprise' means—

"(A) a sole proprietorship located in a rural area; or

"(B) a business entity with not more than 10 full-time-equivalent employees located in a rural area.

"(b) RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a rural microentrepreneur assistance program to provide loans and grants to support microentrepreneurs in the development and ongoing success of rural microenterprises.

"(2) PURPOSE.—The purpose of the program is to provide microentrepreneurs with—

"(A) the skills necessary to establish new rural microenterprises; and

"(B) continuing technical and financial assistance related to the successful operation of rural microenterprises.

"(3) LOANS.—

"(A) IN GENERAL.—The Secretary shall make loans to microenterprise development organizations for the purpose of providing fixed interest rate microloans to microentrepreneurs for startup and growing rural microenterprises.

"(B) LOAN TERMS.—A loan made by the Secretary to a microenterprise development organization under this paragraph shall—

"(i) be for a term not to exceed 20 years; and

"(ii) bear an annual interest rate of at least 1 percent.

"(C) LOAN LOSS RESERVE FUND.—The Secretary shall require each microenterprise development organization that receives a loan under this paragraph to—

"(i) establish a loan loss reserve fund; and

"(ii) maintain the reserve fund in an amount equal to at least 5 percent of the outstanding balance of such loans owed by the microenterprise development organization, until all obligations owed to the Secretary under this paragraph are repaid.

"(D) DEFERRAL OF INTEREST AND PRINCIPAL.—The Secretary may permit the deferral of payments on principal and interest due on a loan to a microenterprise development organization made under this paragraph for a 2-year period beginning on the date the loan is made.

"(4) GRANTS.—

"(A) GRANTS TO SUPPORT RURAL MICROENTERPRISE DEVELOPMENT.—

"(i) IN GENERAL.—The Secretary shall make grants to microenterprise development organizations to—

"(I) provide training, operational support, business planning, and market development assistance, and other related services to rural microentrepreneurs; and

"(II) carry out such other projects and activities as the Secretary determines appropriate to further the purposes of the program.

"(ii) SELECTION.—In making grants under clause (i), the Secretary shall—

"(I) place an emphasis on microenterprise development organizations that serve microentrepreneurs that are located in rural areas that have suffered significant outward migration, as determined by the Secretary; and

"(II) ensure, to the maximum extent practicable, that grant recipients include microenterprise development organizations—

"(aa) of varying sizes; and

"(bb) that serve racially and ethnically diverse populations.

"(B) GRANTS TO ASSIST MICROENTREPRENEURS.—

"(i) IN GENERAL.—The Secretary shall make grants to microenterprise development organizations to provide marketing, management, and other technical assistance to microentrepreneurs that—

"(I) received a loan from the microenterprise development organization under paragraph (3); or

"(II) are seeking a loan from the microenterprise development organization under paragraph (3).

"(ii) MAXIMUM AMOUNT OF GRANT.—A microenterprise development organization shall be eligible to receive an annual grant under this subparagraph in an amount equal to not more than 25 percent of the total outstanding balance of microloans made by the microenterprise development organization under paragraph (3), as of the date the grant is awarded.

"(C) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of a grant received by a microenterprise development organization for a fiscal year under this paragraph may be used to pay administrative expenses.

"(c) ADMINISTRATION.—

"(1) COST SHARE.—

"(A) FEDERAL SHARE.—Subject to subparagraph (B), the Federal share of the cost of a project funded under this section shall not exceed 75 percent.

"(B) MATCHING REQUIREMENT.—As a condition of any grant made under this subparagraph, the Secretary shall require the microenterprise development organization to match not less than 15 percent of the total amount of the grant in the form of matching funds, indirect costs, or in-kind goods or services.

"(C) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the cost of a project funded under this section may be provided—

"(i) in cash (including through fees, grants (including community development block grants), and gifts); or

"(ii) in the form of in-kind contributions.

"(2) OVERSIGHT.—At a minimum, not later than December 1 of each fiscal year, a microenterprise development organization that receives a loan or grant under this section shall provide to the Secretary such information as the Secretary may require to ensure that assistance provided under this section is used for the purposes for which the loan or grant was made. Deadline.

"(d) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

"(A) $4,000,000 for each of fiscal years 2009 through 2011; and

"(B) $3,000,000 for fiscal year 2012.

"(2) DISCRETIONARY FUNDING.—In addition to amounts made available under paragraph (1), there are authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2009 through 2012.".

**SEC. 6023. GRANTS FOR EXPANSION OF EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES IN RURAL AREAS.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6022) is amended by adding at the end the following:

**"SEC. 379F. GRANTS FOR EXPANSION OF EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES IN RURAL AREAS.** 7 USC 2000t.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

"(2) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

"(b) GRANTS.—The Secretary shall make grants to nonprofit organizations, or to a consortium of nonprofit organizations, to expand and enhance employment opportunities for individuals with disabilities in rural areas.

"(c) ELIGIBILITY.—To be eligible to receive a grant under this section, a nonprofit organization or consortium of nonprofit organizations shall have—

"(1) a significant focus on serving the needs of individuals with disabilities;

"(2) demonstrated knowledge and expertise in—

"(A) employment of individuals with disabilities; and

"(B) advising private entities on accessibility issues involving individuals with disabilities;

"(3) expertise in removing barriers to employment for individuals with disabilities, including access to transportation, assistive technology, and other accommodations; and

"(4) existing relationships with national organizations focused primarily on the needs of rural areas.

"(d) USES.—A grant received under this section may be used only to expand or enhance—

"(1) employment opportunities for individuals with disabilities in rural areas by developing national technical assistance and education resources to assist small businesses in a rural area to recruit, hire, accommodate, and employ individuals with disabilities; and

"(2) self-employment and entrepreneurship opportunities for individuals with disabilities in a rural area.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 6024. HEALTH CARE SERVICES.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6023) is amended by adding at the end the following:

7 USC 2008u.

**"SEC. 379G. HEALTH CARE SERVICES.**

"(a) PURPOSE.—The purpose of this section is to address the continued unmet health needs in the Delta region through cooperation among health care professionals, institutions of higher education, research institutions, and other individuals and entities in the region.

"(b) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a consortium of regional institutions of higher education, academic health and research institutes, and economic development entities located in the Delta region that have experience in addressing the health care issues in the region.

"(c) GRANTS.—To carry out the purpose described in subsection (a), the Secretary may award a grant to an eligible entity for –

"(1) the development of –

"(A) health care services;

"(B) health education programs; and

"(C) health care job training programs; and

"(2) the development and expansion of public health-related facilities in the Delta region to address longstanding and unmet health needs of the region.

"(d) USE.—As a condition of the receipt of the grant, the eligible entity shall use the grant to fund projects and activities described in subsection (c), based on input solicited from local governments, public health care providers, and other entities in the Delta region.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section, $3,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 6025. DELTA REGIONAL AUTHORITY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 382M(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–12(a)) is amended by striking "2001 through 2007" and inserting "2008 through 2012".

(b) TERMINATION OF AUTHORITY.—Section 382N of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–13) is amended by striking "2007" and inserting "2012".

(c) EXPANSION.—Section 4(2) of the Delta Development Act (42 U.S.C. 3121 note; Public Law 100–460) is amended—

(1) in subparagraph (D), by inserting "Beauregard, Bienville, Cameron, Claiborne, DeSoto, Jefferson Davis, Red River, St. Mary, Vermillion, Webster," after "St. James,"; and

(2) in subparagraph (E)—

(A) by inserting "Jasper," after "Copiah,"; and

(B) by inserting "Smith," after "Simpson,".

**SEC. 6026. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.**

(a) DEFINITION OF REGION.—Section 383A(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb(4)) is amended by inserting "Missouri (other than counties included in the Delta Regional Authority)," after "Minnesota,".

(b) ESTABLISHMENT.—Section 383B of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb–1) is amended—

(1) in subsection (a), by adding at the end the following:

"(4) FAILURE TO CONFIRM.—

"(A) FEDERAL MEMBER.—Notwithstanding any other provision of this section, if a Federal member described in paragraph (2)(A) has not been confirmed by the Senate by not later than 180 days after the date of enactment of this paragraph, the Authority may organize and operate without the Federal member. Deadline.

"(B) INDIAN CHAIRPERSON.—In the case of the Indian Chairperson, if no Indian Chairperson is confirmed by the Senate, the regional authority shall consult and coordinate with the leaders of Indian tribes in the region concerning the activities of the Authority, as appropriate.";

(2) in subsection (d)—

(A) in paragraph (1), by striking "to establish priorities and" and inserting "for multistate cooperation to advance the economic and social well-being of the region and to";

(B) in paragraph (3), by striking "local development districts," and inserting "regional and local development districts or organizations, regional boards established under subtitle I,";

(C) in paragraph (4), by striking "cooperation;" and inserting "cooperation for—

"(i) renewable energy development and transmission;

"(ii) transportation planning and economic development;

"(iii) information technology;

"(iv) movement of freight and individuals within the region;

"(v) federally-funded research at institutions of higher education; and

"(vi) conservation land management;";

(D) by striking paragraph (6) and inserting the following:

"(6) enhance the capacity of, and provide support for, multistate development and research organizations, local

development organizations and districts, and resource conservation districts in the region;"; and

(E) in paragraph (7), by inserting "renewable energy," after "commercial,".

(3) in subsection (f)(2), by striking "the Federal cochairperson" and inserting "a cochairperson";

(4) in subsection (g)(1), by striking subparagraphs (A) through (C) and inserting the following:

"(A) for each of fiscal years 2008 and 2009, 100 percent;

"(B) for fiscal year 2010, 75 percent; and

"(C) for fiscal year 2011 and each fiscal year thereafter, 50 percent.".

(c) INTERSTATE COOPERATION FOR ECONOMIC OPPORTUNITY AND EFFICIENCY.—

(1) IN GENERAL.—Subtitle G of the Consolidated Farm and Rural Development Act is amended—

(A) by redesignating sections 383C through 383N (7 U.S.C. 2009bb–2 through 2009bb–13) as sections 383D through 383O, respectively; and

(B) by inserting after section 383B (7 U.S.C. 2009bb–1) the following:

7 USC 2009bb–1a.

**"SEC. 383C. INTERSTATE COOPERATION FOR ECONOMIC OPPORTUNITY AND EFFICIENCY.**

Plans.

"(a) IN GENERAL.—The Authority shall provide assistance to States in developing regional plans to address multistate economic issues, including plans—

"(1) to develop a regional transmission system for movement of renewable energy to markets outside the region;

"(2) to address regional transportation concerns, including the establishment of a Northern Great Plains Regional Transportation Working Group;

"(3) to encourage and support interstate collaboration on federally-funded research that is in the national interest; and

"(4) to establish a Regional Working Group on Agriculture Development and Transportation.

"(b) ECONOMIC ISSUES.—The multistate economic issues referred to in subsection (a) shall include—

"(1) renewable energy development and transmission;

"(2) transportation planning and economic development;

"(3) information technology;

"(4) movement of freight and individuals within the region;

"(5) federally-funded research at institutions of higher education; and

"(6) conservation land management.".

(2) CONFORMING AMENDMENTS.—

(A) Section 383B(c)(3)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb–1(c)(3)(B)) is amended by striking "383I" and inserting "383J".

(B) Section 383D(a) of the Consolidated Farm and Rural Development Act (as redesignated by paragraph (1)(A)) is amended by striking "383I" and inserting "383J".

7 USC 2009bb–2.

(C) Section 383E of the Consolidated Farm and Rural Development Act (as so redesignated) is amended—

7 USC 2009bb–3.

(i) in subsection (b)(1), by striking "383F(b)" and inserting "383G(b)"; and

(ii) in subsection (c)(2)(A), by striking "383I" and inserting "383J".

(D) Section 383G of the Consolidated Farm and Rural Development Act (as so redesignated) is amended— 7 USC 2009bb–5.

(i) in subsection (b)—

(I) in paragraph (1), by striking "383M" and inserting "383N"; and

(II) in paragraph (2), by striking "383D(b)" and inserting "383E(b)";

(ii) in subsection (c)(2)(A), by striking "383E(b)" and inserting "383F(b)"; and

(iii) in subsection (d)—

(I) by striking "383M" and inserting "383N"; and

(II) by striking "383C(a)" and inserting "383D(a)".

(E) Section 383J(c)(2) of the Consolidated Farm and Rural Development Act (as so redesignated) is amended by striking "383H" and inserting "383I". 7 USC 2009bb–8.

(d) ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS.—Section 383D of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended— 7 USC 2009bb–2.

(1) in subsection (a)—

(A) in paragraph (1), by striking "transportation and telecommunication" and inserting "transportation, renewable energy transmission, and telecommunication"; and

(B) by redesignating paragraphs (1) and (2) as paragraphs (2) and (1), respectively, and moving those paragraphs so as to appear in numerical order; and

(2) in subsection (b)(2), by striking "the activities in the following order or priority" and inserting "the following activities".

(e) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 383E(a) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by striking ", including local development districts,". 7 USC 2009bb–3.

(f) MULTISTATE AND LOCAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS AND NORTHERN GREAT PLAINS INC.—Section 383F of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended— 7 USC 2009bb–4.

(1) by striking the section heading and inserting "**MULTISTATE AND LOCAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS AND NORTHERN GREAT PLAINS INC.**"; and

(2) by striking subsections (a) through (c) and inserting the following:

"(a) DEFINITION OF MULTISTATE AND LOCAL DEVELOPMENT DISTRICT OR ORGANIZATION.—In this section, the term 'multistate and local development district or organization' means an entity—

"(1) that—

"(A) is a planning district in existence on the date of enactment of this subtitle that is recognized by the Economic Development Administration of the Department of Commerce; or

"(B) is—

"(i) organized and operated in a manner that ensures broad-based community participation and an

effective opportunity for other nonprofit groups to contribute to the development and implementation of programs in the region;

"(ii) a nonprofit incorporated body organized or chartered under the law of the State in which the entity is located;

"(iii) a nonprofit agency or instrumentality of a State or local government;

"(iv) a public organization established before the date of enactment of this subtitle under State law for creation of multijurisdictional, area-wide planning organizations;

"(v) a nonprofit agency or instrumentality of a State that was established for the purpose of assisting with multistate cooperation; or

"(vi) a nonprofit association or combination of bodies, agencies, and instrumentalities described in clauses (ii) through (v); and

"(2) that has not, as certified by the Authority (in consultation with the Federal cochairperson or Secretary, as appropriate)—

"(A) inappropriately used Federal grant funds from any Federal source; or

"(B) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

"(b) GRANTS TO MULTISTATE, LOCAL, OR REGIONAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS.—

"(1) IN GENERAL.—The Authority may make grants for administrative expenses under this section to multistate, local, and regional development districts and organizations.

"(2) CONDITIONS FOR GRANTS.—

"(A) MAXIMUM AMOUNT.—The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the multistate, local, or regional development district or organization receiving the grant.

"(B) MAXIMUM PERIOD.—No grant described in paragraph (1) shall be awarded for a period greater than 3 years.

"(3) LOCAL SHARE.—The contributions of a multistate, local, or regional development district or organization for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

"(c) DUTIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a local development district shall operate as a lead organization serving multicounty areas in the region at the local level.

"(2) DESIGNATION.—The Federal cochairperson may designate an Indian tribe or multijurisdictional organization to serve as a lead organization in such cases as the Federal cochairperson or Secretary, as appropriate, determines appropriate.".

(g) DISTRESSED COUNTIES AND AREAS AND NONDISTRESSED COUNTIES.—Section 383G of the Consolidated Farm and Rural

Development Act (as redesignated by subsection (c)(1)(A)) is amended— 7 USC 2009bb–5.

(1) in subsection (b)(1), by striking "75" and inserting "50";

(2) by striking subsection (c);

(3) by redesignating subsection (d) as subsection (c); and

(4) in subsection (c) (as so redesignated)—

(A) in the subsection heading, by inserting "RENEWABLE ENERGY," after"TELECOMMUNICATION"; and

(B) by inserting ", renewable energy," after "telecommunication,".

(h) DEVELOPMENT PLANNING PROCESS.—Section 383H of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended— 7 USC 2009bb–6.

(1) in subsection (c)(1), by striking subparagraph (A) and inserting the following:

"(A) multistate, regional, and local development districts and organizations; and"; and

(2) in subsection (d)(1), by striking "State and local development districts" and inserting "multistate, regional, and local development districts and organizations".

(i) PROGRAM DEVELOPMENT CRITERIA.—Section 383I(a)(1) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by inserting "multistate or" before "regional". 7 USC 2009bb–7.

(j) AUTHORIZATION OF APPROPRIATIONS.—Section 383N(a) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by striking "2002 through 2007" and inserting "2008 through 2012". 7 USC 2009bb–12.

(k) TERMINATION OF AUTHORITY.—Section 383O of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by striking "2007" and inserting "2012". 7 USC 2009bb–13.

**SEC. 6027. RURAL BUSINESS INVESTMENT PROGRAM.**

(a) ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.—Section 384F(b)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–5(b)(3)(A)) is amended by striking "In the event" and inserting the following:

"(i) AUTHORITY TO PREPAY.—A debenture may be prepaid at any time without penalty.

"(ii) REDUCTION OF GUARANTEE.—Subject to clause (i), if".

(b) FEES.—Section 384G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–6) is amended—

(1) in subsection (a), by striking "such fees as the Secretary considers appropriate" and inserting "a fee that does not exceed $500";

(2) in subsection (b), by striking "approved by the Secretary" and inserting "that does not exceed $500"; and

(3) in subsection (c)—

(A) in paragraph (1), by striking "The" and inserting "Except as provided in paragraph (3), the";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(C) shall not exceed $500 for any fee collected under this subsection."; and

(C) by adding at the end the following:

"(3) PROHIBITION ON COLLECTION OF CERTAIN FEES.—In the case of a license described in paragraph (1) that was approved before July 1, 2007, the Secretary shall not collect any fees due on or after the date of enactment of this paragraph.".

(c) RURAL BUSINESS INVESTMENT COMPANIES.—Section 384I(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–8(c)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) TIME FRAME.—Each rural business investment company shall have a period of 2 years to meet the capital requirements of this subsection.".

(d) FINANCIAL INSTITUTION INVESTMENTS.—Section 384J of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–9) is amended—

(1) in subsection (a)(1), by inserting ", including an investment pool created entirely by such bank or savings association" before the period at the end; and

(2) in subsection (c), by striking "15" and inserting "25".

(e) CONTRACTING OF FUNCTIONS.—Section 384Q of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–16) is repealed.

(f) FUNDING.—The Consolidated Farm and Rural Development Act is amended by striking section 384S (7 U.S.C. 2009cc–18) and inserting the following:

7 USC 2009cc–18.

**"SEC. 384S. AUTHORIZATION OF APPROPRIATIONS.**

"There is authorized to be appropriated to carry out this subtitle $50,000,000 for the period of fiscal years 2008 through 2012.".

**SEC. 6028. RURAL COLLABORATIVE INVESTMENT PROGRAM.**

Subtitle I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd et seq.) is amended to read as follows:

# "Subtitle I—Rural Collaborative Investment Program

7 USC 2009dd–1.

**"SEC. 385A. PURPOSE.**

"The purpose of this subtitle is to establish a regional rural collaborative investment program—

"(1) to provide rural regions with a flexible investment vehicle, allowing for local control with Federal oversight, assistance, and accountability;

"(2) to provide rural regions with incentives and resources to develop and implement comprehensive strategies for achieving regional competitiveness, innovation, and prosperity;

"(3) to foster multisector community and economic development collaborations that will optimize the asset-based competitive advantages of rural regions with particular emphasis on innovation, entrepreneurship, and the creation of quality jobs;

"(4) to foster collaborations necessary to provide the professional technical expertise, institutional capacity, and economies

of scale that are essential for the long-term competitiveness of rural regions; and

"(5) to better use Department of Agriculture and other Federal, State, and local governmental resources, and to leverage those resources with private, nonprofit, and philanthropic investments, in order to achieve measurable community and economic prosperity, growth, and sustainability.

**"SEC. 385B. DEFINITIONS.**

"In this subtitle:

"(1) BENCHMARK.—The term 'benchmark' means an annual set of goals and performance measures established for the purpose of assessing performance in meeting a regional investment strategy of a Regional Board.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(3) NATIONAL BOARD.—The term 'National Board' means the National Rural Investment Board established under section 385C(c).

"(4) NATIONAL INSTITUTE.—The term 'National Institute' means the National Institute on Regional Rural Competitiveness and Entrepreneurship established under section 385C(b)(2).

"(5) REGIONAL BOARD.—The term 'Regional Board' means a Regional Rural Investment Board described in section 385D(a).

"(6) REGIONAL INNOVATION GRANT.—The term 'regional innovation grant' means a grant made by the Secretary to a certified Regional Board under section 385F.

"(7) REGIONAL INVESTMENT STRATEGY GRANT.—The term 'regional investment strategy grant' means a grant made by the Secretary to a certified Regional Board under section 385E.

"(8) RURAL HERITAGE.—

"(A) IN GENERAL.—The term 'rural heritage' means historic sites, structures, and districts.

"(B) INCLUSIONS.—The term 'rural heritage' includes historic rural downtown areas and main streets, neighborhoods, farmsteads, scenic and historic trails, heritage areas, and historic landscapes.

**"SEC. 385C. ESTABLISHMENT AND ADMINISTRATION OF RURAL COLLABORATIVE INVESTMENT PROGRAM.**

7 USC 2009dd–2.

"(a) ESTABLISHMENT.—The Secretary shall establish a Rural Collaborative Investment Program to support comprehensive regional investment strategies for achieving rural competitiveness.

"(b) DUTIES OF SECRETARY.—In carrying out this subtitle, the Secretary shall—

"(1) appoint and provide administrative and program support to the National Board;

"(2) establish a national institute, to be known as the 'National Institute on Regional Rural Competitiveness and Entrepreneurship', to provide technical assistance to the Secretary and the National Board regarding regional competitiveness and rural entrepreneurship, including technical assistance for— Establishment.

"(A) the development of rigorous analytic programs to assist Regional Boards in determining the challenges

and opportunities that need to be addressed to receive the greatest regional competitive advantage;

"(B) the provision of support for best practices developed by the Regional Boards;

"(C) the establishment of programs to support the development of appropriate governance and leadership skills in the applicable regions; and

"(D) the evaluation of the progress and performance of the Regional Boards in achieving benchmarks established in a regional investment strategy;

"(3) work with the National Board to develop a national rural investment plan that shall—

"(A) create a framework to encourage and support a more collaborative and targeted rural investment portfolio in the United States;

"(B) establish a Rural Philanthropic Initiative, to work with rural communities to create and enhance the pool of permanent philanthropic resources committed to rural community and economic development;

"(C) cooperate with the Regional Boards and State and local governments, organizations, and entities to ensure investment strategies are developed that take into consideration existing rural assets; and

"(D) encourage the organization of Regional Boards;

Certification. "(4) certify the eligibility of Regional Boards to receive regional investment strategy grants and regional innovation grants;

Grants. "(5) provide grants for Regional Boards to develop and implement regional investment strategies;

"(6) provide technical assistance to Regional Boards on issues, best practices, and emerging trends relating to rural development, in cooperation with the National Rural Investment Board; and

"(7) provide analytic and programmatic support for regional rural competitiveness through the National Institute, including—

"(A) programs to assist Regional Boards in determining the challenges and opportunities that must be addressed to receive the greatest regional competitive advantage;

"(B) support for best practices development by the regional investment boards;

"(C) programs to support the development of appropriate governance and leadership skills in the region; and

Reports. "(D) a review and evaluation of the performance of the Regional Boards (including progress in achieving benchmarks established in a regional investment strategy) in an annual report submitted to—

"(i) the Committee on Agriculture of the House of Representatives; and

"(ii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Establishment. "(c) NATIONAL RURAL INVESTMENT BOARD.—The Secretary shall establish within the Department of Agriculture a board to be known as the 'National Rural Investment Board'.

"(d) DUTIES OF NATIONAL BOARD.—The National Board shall—

"(1) not later than 180 days after the date of establishment of the National Board, develop rules relating to the operation of the National Board; and Deadline. Regulations.

"(2) provide advice to—

"(A) the Secretary and subsequently review the design, development, and execution of the National Rural Investment Plan;

"(B) Regional Boards on issues, best practices, and emerging trends relating to rural development; and

"(C) the Secretary and the National Institute on the development and execution of the program under this subtitle.

"(e) MEMBERSHIP.—

"(1) IN GENERAL.—The National Board shall consist of 14 members appointed by the Secretary not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008. Deadline.

"(2) SUPERVISION.—The National Board shall be subject to the general supervision and direction of the Secretary.

"(3) SECTORS REPRESENTED.—The National Board shall consist of representatives from each of—

"(A) nationally recognized entrepreneurship organizations;

"(B) regional strategy and development organizations;

"(C) community-based organizations;

"(D) elected members of local governments;

"(E) members of State legislatures;

"(F) primary, secondary, and higher education, job skills training, and workforce development institutions;

"(G) the rural philanthropic community;

"(H) financial, lending, venture capital, entrepreneurship, and other related institutions;

"(I) private sector business organizations, including chambers of commerce and other for-profit business interests;

"(J) Indian tribes; and

"(K) cooperative organizations.

"(4) SELECTION OF MEMBERS.—

"(A) IN GENERAL.—In selecting members of the National Board, the Secretary shall consider recommendations made by—

"(i) the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate;

"(ii) the Majority Leader and Minority Leader of the Senate; and

"(iii) the Speaker and Minority Leader of the House of Representatives.

"(B) EX-OFFICIO MEMBERS.—In consultation with the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary may appoint not more than 3 other officers or employees of the Executive Branch to serve as ex-officio, nonvoting members of the National Board.

"(5) TERM OF OFFICE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term of office of a member of the National Board appointed under paragraph (1)(A) shall be for a period of not more than 4 years.

"(B) STAGGERED TERMS.—The members of the National Board shall be appointed to serve staggered terms.

Deadline.

"(6) INITIAL APPOINTMENTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall appoint the initial members of the National Board.

"(7) VACANCIES.—A vacancy on the National Board shall be filled in the same manner as the original appointment.

"(8) COMPENSATION.—A member of the National Board shall receive no compensation for service on the National Board, but shall be reimbursed for related travel and other expenses incurred in carrying out the duties of the member of the National Board in accordance with section 5702 and 5703 of title 5, United States Code.

"(9) CHAIRPERSON.—The National Board shall select a chairperson from among the members of the National Board.

"(10) FEDERAL STATUS.—For purposes of Federal law, a member of the National Board shall be considered a special Government employee (as defined in section 202(a) of title 18, United States Code).

"(f) ADMINISTRATIVE SUPPORT.—The Secretary, on a reimbursable basis from funds made available under section 385H, may provide such administrative support to the Secretary determines is necessary.

7 USC 2009dd–3.

**"SEC. 385D. REGIONAL RURAL INVESTMENT BOARDS.**

"(a) IN GENERAL.—A Regional Rural Investment Board shall be a multijurisdictional and multisectoral group that—

"(1) represents the long-term economic, community, and cultural interests of a region;

Certification.

"(2) is certified by the Secretary to establish a rural investment strategy and compete for regional innovation grants;

"(3) is composed of residents of a region that are broadly representative of diverse public, nonprofit, and private sector interests in investment in the region, including (to the maximum extent practicable) representatives of—

"(A) units of local, multijurisdictional, or State government, including not more than 1 representative from each State in the region;

"(B) nonprofit community-based development organizations, including community development financial institutions and community development corporations;

"(C) agricultural, natural resource, and other asset-based related industries;

"(D) in the case of regions with federally recognized Indian tribes, Indian tribes;

"(E) regional development organizations;

"(F) private business organizations, including chambers of commerce;

"(G)(i) institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)));

"(ii) tribally controlled colleges or universities (as defined in section 2(a) of Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a))); and

"(iii) tribal technical institutions;

"(H) workforce and job training organizations;

"(I) other entities and organizations, as determined by the Regional Board;

"(J) cooperatives; and

"(K) consortia of entities and organizations described in subparagraphs (A) through (J);

"(4) represents a region inhabited by—

"(A) more than 25,000 individuals, as determined in the latest available decennial census conducted under section 141(a) of title 13, United States Code; or

"(B) in the case of a region with a population density of less than 2 individuals per square mile, at least 10,000 individuals, as determined in that latest available decennial census;

"(5) has a membership of which not less than 25 percent, nor more than 40 percent, represents—

"(A) units of local government and Indian tribes described in subparagraphs (A) and (D) of paragraph (3);

"(B) nonprofit community and economic development organizations and institutions of higher education described in subparagraphs (B) and (G) of paragraph (3); or

"(C) private business (including chambers of commerce and cooperatives) and agricultural, natural resource, and other asset-based related industries described in subparagraphs (C) and (F) of paragraph (3);

"(6) has a membership that may include an officer or employee of a Federal agency, serving as an ex-officio, nonvoting member of the Regional Board to represent the agency; and

"(7) has organizational documents that demonstrate that the Regional Board will—

"(A) create a collaborative public-private strategy process;

"(B) develop, and submit to the Secretary for approval, a regional investment strategy that meets the requirements of section 385E, with benchmarks—

"(i) to promote investment in rural areas through the use of grants made available under this subtitle; and

"(ii) to provide financial and technical assistance to promote a broad-based regional development program aimed at increasing and diversifying economic growth, improved community facilities, and improved quality of life;

"(C) implement the approved regional investment strategy;

"(D) provide annual reports to the Secretary and the National Board on progress made in achieving the benchmarks of the regional investment strategy, including an annual financial statement; and

"(E) select a non-Federal organization (such as a regional development organization) in the local area served by the Regional Board that has previous experience in

the management of Federal funds to serve as fiscal manager of any funds of the Regional Board.

"(b) URBAN AREAS.—A resident of an urban area may serve as an ex-officio member of a Regional Board.

"(c) DUTIES.—A Regional Board shall—

"(1) create a collaborative planning process for public-private investment within a region;

"(2) develop, and submit to the Secretary for approval, a regional investment strategy;

"(3) develop approaches that will create permanent resources for philanthropic giving in the region, to the maximum extent practicable;

"(4) implement an approved strategy; and

Reports.

"(5) provide annual reports to the Secretary and the National Board on progress made in achieving the strategy, including an annual financial statement.

**"SEC. 385E. REGIONAL INVESTMENT STRATEGY GRANTS.**

"(a) IN GENERAL.—The Secretary shall make regional investment strategy grants available to Regional Boards for use in developing, implementing, and maintaining regional investment strategies.

"(b) REGIONAL INVESTMENT STRATEGY.—A regional investment strategy shall provide—

"(1) an assessment of the competitive advantage of a region, including—

"(A) an analysis of the economic conditions of the region;

"(B) an assessment of the current economic performance of the region;

"(C) an overview of the population, geography, workforce, transportation system, resources, environment, and infrastructure needs of the region; and

"(D) such other pertinent information as the Secretary may request;

"(2) an analysis of regional economic and community development challenges and opportunities, including—

"(A) incorporation of relevant material from other government-sponsored or supported plans and consistency with applicable State, regional, and local workforce investment strategies or comprehensive economic development plans; and

"(B) an identification of past, present, and projected Federal and State economic and community development investments in the region;

"(3) a section describing goals and objectives necessary to solve regional competitiveness challenges and meet the potential of the region;

"(4) an overview of resources available in the region for use in—

"(A) establishing regional goals and objectives;

"(B) developing and implementing a regional action strategy;

"(C) identifying investment priorities and funding sources; and

"(D) identifying lead organizations to execute portions of the strategy;

"(5) an analysis of the current state of collaborative public, private, and nonprofit participation and investment, and of the strategic roles of public, private, and nonprofit entities in the development and implementation of the regional investment strategy;

"(6) a section identifying and prioritizing vital projects, programs, and activities for consideration by the Secretary, including—

"(A) other potential funding sources; and

"(B) recommendations for leveraging past and potential investments;

"(7) a plan of action to implement the goals and objectives of the regional investment strategy;

"(8) a list of performance measures to be used to evaluate implementation of the regional investment strategy, including—

"(A) the number and quality of jobs, including self-employment, created during implementation of the regional rural investment strategy;

"(B) the number and types of investments made in the region;

"(C) the growth in public, private, and nonprofit investment in the human, community, and economic assets of the region;

"(D) changes in per capita income and the rate of unemployment; and

"(E) other changes in the economic environment of the region;

"(9) a section outlining the methodology for use in integrating the regional investment strategy with the economic priorities of the State; and

"(10) such other information as the Secretary determines to be appropriate.

"(c) MAXIMUM AMOUNT OF GRANT.—A regional investment strategy grant shall not exceed $150,000.

"(d) COST SHARING.—

"(1) IN GENERAL.—Subject to paragraph (2), of the share of the costs of developing, maintaining, evaluating, implementing, and reporting with respect to a regional investment strategy funded by a grant under this section—

"(A) not more than 40 percent may be paid using funds from the grant; and

"(B) the remaining share shall be provided by the applicable Regional Board or other eligible grantee.

"(2) FORM.—A Regional Board or other eligible grantee shall pay the share described in paragraph (1)(B) in the form of cash, services, materials, or other in-kind contributions, on the condition that not more than 50 percent of that share is provided in the form of services, materials, and other in-kind contributions.

**"SEC. 385F. REGIONAL INNOVATION GRANTS PROGRAM.** 7 USC 2009dd–5.

"(a) GRANTS.—

"(1) IN GENERAL.—The Secretary shall provide, on a competitive basis, regional innovation grants to Regional Boards for use in implementing projects and initiatives that are identified in a regional rural investment strategy approved under section 385E.

"(2) TIMING.—After October 1, 2008, the Secretary shall provide awards under this section on a quarterly funding cycle.

"(b) ELIGIBILITY.—To be eligible to receive a regional innovation grant, a Regional Board shall demonstrate to the Secretary that—

"(1) the regional rural investment strategy of a Regional Board has been reviewed by the National Board prior to approval by the Secretary;

"(2) the management and organizational structure of the Regional Board is sufficient to oversee grant projects, including management of Federal funds; and

"(3) the Regional Board has a plan to achieve, to the maximum extent practicable, the performance-based benchmarks of the project in the regional rural investment strategy.

"(c) LIMITATIONS.—

"(1) AMOUNT RECEIVED.—A Regional Board may not receive more than $6,000,000 in regional innovation grants under this section during any 5-year period.

"(2) DETERMINATION OF AMOUNT.—The Secretary shall determine the amount of a regional innovation grant based on—

"(A) the needs of the region being addressed by the applicable regional rural investment strategy consistent with the purposes described in subsection (f)(2); and

"(B) the size of the geographical area of the region.

"(3) GEOGRAPHIC DIVERSITY.—The Secretary shall ensure that not more than 10 percent of funding made available under this section is provided to Regional Boards in any State.

"(d) COST-SHARING.—

"(1) LIMITATION.—Subject to paragraph (2), the amount of a grant made under this section shall not exceed 50 percent of the cost of the project.

"(2) WAIVER OF GRANTEE SHARE.—The Secretary may waive the limitation in paragraph (1) under special circumstances, as determined by the Secretary, including—

"(A) a sudden or severe economic dislocation;

"(B) significant chronic unemployment or poverty;

"(C) a natural disaster; or

"(D) other severe economic, social, or cultural duress.

"(3) OTHER FEDERAL ASSISTANCE.—For the purpose of determining cost-share limitations for any other Federal program, funds provided under this section shall be considered to be non-Federal funds.

"(e) PREFERENCES.—In providing regional innovation grants under this section, the Secretary shall give—

"(1) a high priority to strategies that demonstrate significant leverage of capital and quality job creation; and

"(2) a preference to an application proposing projects and initiatives that would—

"(A) advance the overall regional competitiveness of a region;

"(B) address the priorities of a regional rural investment strategy, including priorities that—

"(i) promote cross-sector collaboration, public-private partnerships, or the provision of interim financing or seed capital for program implementation;

"(ii) exhibit collaborative innovation and entrepreneurship, particularly within a public-private partnership; and

"(iii) represent a broad coalition of interests described in section 385D(a);

"(C) include a strategy to leverage public non-Federal and private funds and existing assets, including agricultural, natural resource, and public infrastructure assets, with substantial emphasis placed on the existence of real financial commitments to leverage available funds;

"(D) create quality jobs;

"(E) enhance the role, relevance, and leveraging potential of community and regional foundations in support of regional investment strategies;

"(F) demonstrate a history, or involve organizations with a history, of successful leveraging of capital for economic development and public purposes;

"(G) address gaps in existing basic services, including technology, within a region;

"(H) address economic diversification, including agricultural and non-agriculturally based economies, within a regional framework;

"(I) improve the overall quality of life in the region;

"(J) enhance the potential to expand economic development successes across diverse stakeholder groups within the region;

"(K) include an effective working relationship with 1 or more institutions of higher education, tribally controlled colleges or universities, or tribal technical institutions;

"(L) help to meet the other regional competitiveness needs identified by a Regional Board; or

"(M) protect and promote rural heritage.

"(f) USES.—

"(1) LEVERAGE.—A Regional Board shall prioritize projects and initiatives carried out using funds from a regional innovation grant provided under this section, based in part on the degree to which members of the Regional Board are able to leverage additional funds for the implementation of the projects.

"(2) PURPOSES.—A Regional Board may use a regional innovation grant—

"(A) to support the development of critical infrastructure (including technology deployment and services) necessary to facilitate the competitiveness of a region;

"(B) to provide assistance to entities within the region that provide essential public and community services;

"(C) to enhance the value-added production, marketing, and use of agricultural and natural resources within the region, including activities relating to renewable and alternative energy production and usage;

"(D) to assist with entrepreneurship, job training, workforce development, housing, educational, or other quality of life services or needs, relating to the development and maintenance of strong local and regional economies;

"(E) to assist in the development of unique new collaborations that link public, private, and philanthropic resources, including community foundations;

"(F) to provide support for business and entrepreneurial investment, strategy, expansion, and development, including feasibility strategies, technical assistance, peer networks, business development funds, and other activities to strengthen the economic competitiveness of the region;

"(G) to provide matching funds to enable community foundations located within the region to build endowments which provide permanent philanthropic resources to implement a regional investment strategy; and

"(H) to preserve and promote rural heritage.

"(3) AVAILABILITY OF FUNDS.—The funds made available to a Regional Board or any other eligible grantee through a regional innovation grant shall remain available for the 7-year period beginning on the date on which the award is provided, on the condition that the Regional Board or other grantee continues to be certified by the Secretary as making adequate progress toward achieving established benchmarks.

"(g) COST SHARING.—

"(1) WAIVER OF GRANTEE SHARE.—The Secretary may waive the share of a grantee of the costs of a project funded by a regional innovation grant under this section if the Secretary determines that such a waiver is appropriate, including with respect to special circumstances within tribal regions, in the event an area experiences—

"(A) a sudden or severe economic dislocation;

"(B) significant chronic unemployment or poverty;

"(C) a natural disaster; or

"(D) other severe economic, social, or cultural duress.

"(2) OTHER FEDERAL PROGRAMS.—For the purpose of determining cost-sharing requirements for any other Federal program, funds provided as a regional innovation grant under this section shall be considered to be non-Federal funds.

"(h) NONCOMPLIANCE.—If a Regional Board or other eligible grantee fails to comply with any requirement relating to the use of funds provided under this section, the Secretary may—

"(1) take such actions as are necessary to obtain reimbursement of unused grant funds; and

"(2) reprogram the recaptured funds for purposes relating to implementation of this subtitle.

"(i) PRIORITY TO AREAS WITH AWARDS AND APPROVED STRATEGIES.—

"(1) IN GENERAL.—Subject to paragraph (3), in providing rural development assistance under other programs, the Secretary shall give a high priority to areas that receive innovation grants under this section.

"(2) CONSULTATION.—The Secretary shall consult with the heads of other Federal agencies to promote the development of priorities similar to those described in paragraph (1).

"(3) EXCLUSION OF CERTAIN PROGRAMS.—Paragraph (1) shall not apply to the provision of rural development assistance under any program relating to basic health, safety, or infrastructure, including broadband deployment or minimum environmental needs.

**"SEC. 385G. RURAL ENDOWMENT LOANS PROGRAM.** 7 USC 2009dd–6.

"(a) IN GENERAL.—The Secretary may provide long-term loans to eligible community foundations to assist in the implementation of regional investment strategies.

"(b) ELIGIBLE COMMUNITY FOUNDATIONS.—To be eligible to receive a loan under this section, a community foundation shall—

"(1) be located in an area that is covered by a regional investment strategy;

"(2) match the amount of the loan with an amount that is at least 250 percent of the amount of the loan; and

"(3) use the loan and the matching amount to carry out the regional investment strategy in a manner that is targeted to community and economic development, including through the development of community foundation endowments.

"(c) TERMS.—A loan made under this section shall—

"(1) have a term of not less than 10, nor more than 20, years;

"(2) bear an interest rate of 1 percent per annum; and

"(3) be subject to such other terms and conditions as are determined appropriate by the Secretary.

**"SEC. 385H. AUTHORIZATION OF APPROPRIATIONS.** 7 USC 2009dd–7.

"There are authorized to be appropriated to carry out this subtitle $135,000,000 for the period of fiscal years 2009 through 2012.".

**SEC. 6029. FUNDING OF PENDING RURAL DEVELOPMENT LOAN AND GRANT APPLICATIONS.**

(a) DEFINITION OF APPLICATION.—In this section, the term "application" does not include an application for a loan or grant that, as of the date of enactment of this Act, is in the preapplication phase of consideration under regulations of the Secretary in effect on the date of enactment of this Act.

(b) USE OF FUNDS.—Subject to subsection (c), the Secretary shall use funds made available under subsection (d) to provide funds for applications that are pending on the date of enactment of this Act for—

(1) water or waste disposal grants or direct loans under paragraph (1) or (2) of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)); and

(2) emergency community water assistance grants under section 306A of that Act (7 U.S.C. 1926a).

(c) LIMITATIONS.—

(1) APPROPRIATED AMOUNTS.—Funds made available under this section shall be available to the Secretary to provide funds for applications for loans and grants described in subsection (b) that are pending on the date of enactment of this Act only to the extent that funds for the loans and grants appropriated in the annual appropriations Act for fiscal year 2007 have been exhausted.

(2) PROGRAM REQUIREMENTS.—The Secretary may use funds made available under this section to provide funds for a pending application for a loan or grant described in subsection (b) only if the Secretary processes, reviews, and approves the application in accordance with regulations in effect on the date of enactment of this Act.

(3) PRIORITY.—In providing funding under this section for pending applications for loans or grants described in subsection (b), the Secretary shall provide funding in the following order of priority (until funds made available under this section are exhausted):

(A) Pending applications for water systems.

(B) Pending applications for waste disposal systems.

(d) FUNDING.—Notwithstanding any other provision of law, of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $120,000,000, to remain available until expended.

# Subtitle B—Rural Electrification Act of 1936

**SEC. 6101. ENERGY EFFICIENCY PROGRAMS.**

Sections 2(a) and 4 of the Rural Electrification Act of 1936 (7 U.S.C. 902(a), 904) are amended by inserting "efficiency and" before "conservation" each place it appears.

**SEC. 6102. REINSTATEMENT OF RURAL UTILITY SERVICES DIRECT LENDING.**

(a) IN GENERAL.—Section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904) is amended—

(1) by designating the first, second, and third sentences as subsections (a), (b), and (d), respectively; and

(2) by inserting after subsection (b) (as so designated) the following:

"(c) DIRECT LOANS.—

"(1) DIRECT HARDSHIP LOANS.—Direct hardship loans under this section shall be for the same purposes and on the same terms and conditions as hardship loans made under section 305(c)(1).

"(2) OTHER DIRECT LOANS.—All other direct loans under this section shall bear interest at a rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, plus ⅛ of 1 percent.".

(b) ELIMINATION OF FEDERAL FINANCING BANK GUARANTEED LOANS.—Section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) is amended—

(1) in the third sentence, by striking "guarantee, accommodation, or subordination" and inserting "accommodation or subordination"; and

(2) by striking the fourth sentence.

**SEC. 6103. DEFERMENT OF PAYMENTS TO ALLOWS LOANS FOR IMPROVED ENERGY EFFICIENCY AND DEMAND REDUCTION AND FOR ENERGY EFFICIENCY AND USE AUDITS.**

Section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) is amended by adding at the end the following:

"(c) DEFERMENT OF PAYMENTS ON LOANS.—

"(1) IN GENERAL.—The Secretary shall allow borrowers to defer payment of principal and interest on any direct loan made under this Act to enable the borrower to make loans to residential, commercial, and industrial consumers—

"(A) to conduct energy efficiency and use audits; and

"(B) to install energy efficient measures or devices that reduce the demand on electric systems.

"(2) AMOUNT.—The total amount of a deferment under this subsection shall not exceed the sum of the principal and interest on the loans made to a customer of the borrower, as determined by the Secretary.

"(3) TERM.—The term of a deferment under this subsection shall not exceed 60 months.".

**SEC. 6104. RURAL ELECTRIFICATION ASSISTANCE.**

Section 13 of the Rural Electrification Act of 1936 (7 U.S.C. 913) is amended to read as follows:

**"SEC. 13. DEFINITIONS.**

"In this Act:

"(1) FARM.—The term 'farm' means a farm, as defined by the Bureau of the Census.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(3) RURAL AREA.—Except as provided otherwise in this Act, the term 'rural area' means the farm and nonfarm population of—

"(A) any area described in section 343(a)(13)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(C)); and

"(B) any area within a service area of a borrower for which a borrower has an outstanding loan made under titles I through V as of the date of enactment of this paragraph.

"(4) TERRITORY.—The term 'territory' includes any insular possession of the United States.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.".

**SEC. 6105. SUBSTANTIALLY UNDERSERVED TRUST AREAS.** 7 USC 936f.

The Rural Electrification Act of 1936 is amended by inserting after section 306E (7 U.S.C. 936e) the following:

**"SEC. 306F. SUBSTANTIALLY UNDERSERVED TRUST AREAS.**

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROGRAM.—The term 'eligible program' means a program administered by the Rural Utilities Service and authorized in—

"(A) this Act; or

"(B) paragraph (1), (2), (14), (22), or (24) of section 306(a) or section 306A, 306C, 306D, or 306E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a), 1926a, 1926c, 1926d, 1926e).

"(2) SUBSTANTIALLY UNDERSERVED TRUST AREA.—The term 'substantially underserved trust area' means a community in 'trust land' (as defined in section 3765 of title 38, United States Code) with respect to which the Secretary determines has a high need for the benefits of an eligible program.

"(b) INITIATIVE.—The Secretary, in consultation with local governments and Federal agencies, may implement an initiative to identify and improve the availability of eligible programs in communities in substantially underserved trust areas.

"(c) AUTHORITY OF SECRETARY.—In carrying out subsection (b), the Secretary—

"(1) may make available from loan or loan guarantee programs administered by the Rural Utilities Service to qualified utilities or applicants financing with an interest rate as low as 2 percent, and with extended repayment terms;

Waiver authority.

"(2) may waive nonduplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program administered by the Rural Utilities Service to facilitate the construction, acquisition, or improvement of infrastructure;

"(3) may give the highest funding priority to designated projects in substantially underserved trust areas; and

"(4) shall only make loans or loan guarantees that are found to be financially feasible and that provide eligible program benefits to substantially underserved trust areas.

"(d) REPORT.—Not later than 1 year after the date of enactment of this section and annually thereafter, the Secretary shall submit to Congress a report that describes—

"(1) the progress of the initiative implemented under subsection (b); and

Recommendations.

"(2) recommendations for any regulatory or legislative changes that would be appropriate to improve services to substantially underserved trust areas.".

**SEC. 6106. GUARANTEES FOR BONDS AND NOTES ISSUED FOR ELECTRIFICATION OR TELEPHONE PURPOSES.**

(a) IN GENERAL.—Section 313A of the Rural Electrification Act of 1936 (7 U.S.C. 940c–1) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "for electrification" and all that follows through the end and inserting "for eligible electrification or telephone purposes consistent with this Act."; and

(B) by striking paragraph (4) and inserting the following:

"(4) ANNUAL AMOUNT.—The total amount of guarantees provided by the Secretary under this section during a fiscal year shall not exceed $1,000,000,000, subject to the availability of funds under subsection (e).";

(2) in subsection (c), by striking paragraphs (2) and (3) and inserting the following:

"(2) AMOUNT.—

"(A) IN GENERAL.—The amount of the annual fee paid for the guarantee of a bond or note under this section shall be equal to 30 basis points of the amount of the unpaid principal of the bond or note guaranteed under this section.

"(B) PROHIBITION.—Except as otherwise provided in this subsection and subsection (e)(2), no other fees shall be assessed.

"(3) PAYMENT.—

"(A) IN GENERAL.—A lender shall pay the fees required under this subsection on a semiannual basis.

"(B) STRUCTURED SCHEDULE.—The Secretary shall, with the consent of the lender, structure the schedule for payment of the fee to ensure that sufficient funds are

available to pay the subsidy costs for note or bond guarantees as provided for in subsection (e)(2).''; and

(3) in subsection (f), by striking ''2007'' and inserting ''2012''.

(b) ADMINISTRATION.—The Secretary shall continue to carry out section 313A of the Rural Electrification Act of 1936 (7 U.S.C. 940c–1) in the same manner as on the day before the date of enactment of this Act, except without regard to the limitations prescribed in subsection (b)(1) of that section, until such time as any regulations necessary to carry out the amendments made by this section are fully implemented. 7 USC 940c–1 note.

**SEC. 6107. EXPANSION OF 911 ACCESS.**

Section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e) is amended to read as follows:

**''SEC. 315. EXPANSION OF 911 ACCESS.**

''(a) IN GENERAL.—Subject to subsection (c) and such terms and conditions as the Secretary may prescribe, the Secretary may make loans under this title to entities eligible to borrow from the Rural Utilities Service, State or local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or other public entities for facilities and equipment to expand or improve in rural areas—

''(1) 911 access;

''(2) integrated interoperable emergency communications, including multiuse networks that provide commercial or transportation information services in addition to emergency communications services;

''(3) homeland security communications;

''(4) transportation safety communications; or

''(5) location technologies used outside an urbanized area.

''(b) LOAN SECURITY.—Government-imposed fees related to emergency communications (including State or local 911 fees) may be considered to be security for a loan under this section.

''(c) EMERGENCY COMMUNICATIONS EQUIPMENT PROVIDERS.—The Secretary may make a loan under this section to an emergency communication equipment provider to expand or improve 911 access or other communications or technologies described in subsection (a) if the local government that has jurisdiction over the project is not allowed to acquire the debt resulting from the loan.

''(d) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall use to make loans under this section any funds otherwise made available for telephone loans for each of fiscal years 2008 through 2012.''.

**SEC. 6108. ELECTRIC LOANS FOR RENEWABLE ENERGY.**

Title III of the Rural Electrification Act of 1936 is amended by inserting after section 316 (7 U.S.C. 940f) the following:

**''SEC. 317. ELECTRIC LOANS FOR RENEWABLE ENERGY.** 7 USC 940g.

''(a) DEFINITION OF RENEWABLE ENERGY SOURCE.—In this section, the term 'renewable energy source' means an energy conversion system fueled from a solar, wind, hydropower, biomass, or geothermal source of energy.

''(b) LOANS.—In addition to any other funds or authorities otherwise made available under this Act, the Secretary may make electric loans under this title for electric generation from renewable energy resources for resale to rural and nonrural residents.

"(c) RATE.—The rate of a loan under this section shall be equal to the average tax-exempt municipal bond rate of similar maturities.".

**SEC. 6109. BONDING REQUIREMENTS.**

Title III of the Rural Electrification Act of 1936 is amended by inserting after section 317 (as added by section 6108) the following:

7 USC 940h.

**"SEC. 318. BONDING REQUIREMENTS.**

Review.

"The Secretary shall review the bonding requirements for all programs administered by the Rural Utilities Service under this Act to ensure that bonds are not required if—

"(1) the interests of the Secretary are adequately protected by product warranties; or

"(2) the costs or conditions associated with a bond exceed the benefit of the bond.".

**SEC. 6110. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.**

(a) IN GENERAL.—Section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) is amended to read as follows:

Loans.

**"SEC. 601. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.**

"(a) PURPOSE.—The purpose of this section is to provide loans and loan guarantees to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in rural areas.

"(b) DEFINITIONS.—In this section:

"(1) BROADBAND SERVICE.—The term 'broadband service' means any technology identified by the Secretary as having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics, and video.

"(2) INCUMBENT SERVICE PROVIDER.—The term 'incumbent service provider', with respect to an application submitted under this section, means an entity that, as of the date of submission of the application, is providing broadband service to not less than 5 percent of the households in the service territory proposed in the application.

"(3) RURAL AREA.—

"(A) IN GENERAL.—The term 'rural area' means any area other than—

"(i) an area described in clause (i) or (ii) of section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A)); and

"(ii) a city, town, or incorporated area that has a population of greater than 20,000 inhabitants.

"(B) URBAN AREA GROWTH.—The Secretary may, by regulation only, consider an area described in section 343(a)(13)(F)(i)(I) of that Act to not be a rural area for purposes of this section.

"(c) LOANS AND LOAN GUARANTEES.—

"(1) IN GENERAL.—The Secretary shall make or guarantee loans to eligible entities described in subsection (d) to provide

funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.

"(2) PRIORITY.—In making or guaranteeing loans under paragraph (1), the Secretary shall give the highest priority to applicants that offer to provide broadband service to the greatest proportion of households that, prior to the provision of the broadband service, had no incumbent service provider.

"(d) ELIGIBILITY.—

"(1) ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—To be eligible to obtain a loan or loan guarantee under this section, an entity shall—

"(i) demonstrate the ability to furnish, improve, or extend a broadband service to a rural area;

"(ii) submit to the Secretary a loan application at such time, in such manner, and containing such information as the Secretary may require; and

"(iii) agree to complete buildout of the broadband service described in the loan application by not later than 3 years after the initial date on which proceeds from the loan made or guaranteed under this section are made available. Deadline.

"(B) LIMITATION.—An eligible entity that provides telecommunications or broadband service to at least 20 percent of the households in the United States may not receive an amount of funds under this section for a fiscal year in excess of 15 percent of the funds authorized and appropriated under subsection (k) for the fiscal year.

"(2) ELIGIBLE PROJECTS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the proceeds of a loan made or guaranteed under this section may be used to carry out a project in a proposed service territory only if, as of the date on which the application for the loan or loan guarantee is submitted—

"(i) not less than 25 percent of the households in the proposed service territory is offered broadband service by not more than 1 incumbent service provider; and

"(ii) broadband service is not provided in any part of the proposed service territory by 3 or more incumbent service providers.

"(B) EXCEPTION TO 25 PERCENT REQUIREMENT.—Subparagraph (A)(i) shall not apply to the proposed service territory of a project if a loan or loan guarantee has been made under this section to the applicant to provide broadband service in the proposed service territory.

"(C) EXCEPTION TO 3 OR MORE INCUMBENT SERVICE PROVIDER REQUIREMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), subparagraph (A)(ii) shall not apply to an incumbent service provider that is upgrading broadband service to the existing territory of the incumbent service provider.

"(ii) EXCEPTION.—Clause (i) shall not apply if the applicant is eligible for funding under another title of this Act.

"(3) EQUITY AND MARKET SURVEY REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may require an entity to provide a cost share in an amount not to exceed 10 percent of the amount of the loan or loan guarantee requested in the application of the entity, unless the Secretary determines that a higher percentage is required for financial feasibility.

"(B) MARKET SURVEY.—

"(i) IN GENERAL.—The Secretary may require an entity that proposes to have a subscriber projection of more than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.

"(ii) LESS THAN 20 PERCENT.—The Secretary may not require an entity that proposes to have a subscriber projection of less than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.

"(4) STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBES.—Subject to paragraph (1), a State or local government (including any agency, subdivision, or instrumentality thereof (including consortia thereof)) and an Indian tribe shall be eligible for a loan or loan guarantee under this section to provide broadband services to a rural area.

Publication.

"(5) NOTICE REQUIREMENT.—The Secretary shall publish a notice of each application for a loan or loan guarantee under this section describing the application, including—

"(A) the identity of the applicant;

"(B) each area proposed to be served by the applicant; and

"(C) the estimated number of households without terrestrial-based broadband service in those areas.

"(6) PAPERWORK REDUCTION.—The Secretary shall take steps to reduce, to the maximum extent practicable, the cost and paperwork associated with applying for a loan or loan guarantee under this section by first-time applicants (particularly first-time applicants who are small and start-up broadband service providers), including by providing for a new application that maintains the ability of the Secretary to make an analysis of the risk associated with the loan involved.

"(7) PREAPPLICATION PROCESS.—The Secretary shall establish a process under which a prospective applicant may seek a determination of area eligibility prior to preparing a loan application under this section.

"(e) BROADBAND SERVICE.—

"(1) IN GENERAL.—The Secretary shall, from time to time as advances in technology warrant, review and recommend modifications of rate-of-data transmission criteria for purposes of the identification of broadband service technologies under subsection (b)(1).

"(2) PROHIBITION.—The Secretary shall not establish requirements for bandwidth or speed that have the effect of precluding the use of evolving technologies appropriate for rural areas.

"(f) TECHNOLOGICAL NEUTRALITY.—For purposes of determining whether to make a loan or loan guarantee for a project under

this section, the Secretary shall use criteria that are technologically neutral.

"(g) TERMS AND CONDITIONS FOR LOANS AND LOAN GUARANTEES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a loan or loan guarantee under this section shall—

"(A) bear interest at an annual rate of, as determined by the Secretary—

"(i) in the case of a direct loan, a rate equivalent to—

"(I) the cost of borrowing to the Department of the Treasury for obligations of comparable maturity; or

"(II) 4 percent; and

"(ii) in the case of a guaranteed loan, the current applicable market rate for a loan of comparable maturity; and

"(B) have a term of such length, not exceeding 35 years, as the borrower may request, if the Secretary determines that the loan is adequately secured.

"(2) TERM.—In determining the term of a loan or loan guarantee, the Secretary shall consider whether the recipient is or would be serving an area that is not receiving broadband services.

"(3) RECURRING REVENUE.—The Secretary shall consider the existing recurring revenues of the entity at the time of application in determining an adequate level of credit support.

"(h) ADEQUACY OF SECURITY.—

"(1) IN GENERAL.—The Secretary shall ensure that the type and amount of, and method of security used to secure, any loan or loan guarantee under this section is commensurate to the risk involved with the loan or loan guarantee, particularly in any case in which the loan or loan guarantee is issued to a financially strong and stable entity, as determined by the Secretary.

"(2) DETERMINATION OF AMOUNT AND METHOD OF SECURITY.—In determining the amount of, and method of security used to secure, a loan or loan guarantee under this section, the Secretary shall consider reducing the security in a rural area that does not have broadband service.

"(i) USE OF LOAN PROCEEDS TO REFINANCE LOANS FOR DEPLOYMENT OF BROADBAND SERVICE.—Notwithstanding any other provision of this Act, the proceeds of any loan made or guaranteed by the Secretary under this Act may be used by the recipient of the loan for the purpose of refinancing an outstanding obligation of the recipient on another telecommunications loan made under this Act if the use of the proceeds for that purpose will support the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.

"(j) REPORTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, and annually thereafter, the Administrator shall submit to Congress a report that describes the extent of participation in the loan and loan guarantee program under this section for the preceding fiscal year, including a description of —

"(1) the number of loans applied for and provided under this section;

"(2)(A) the communities proposed to be served in each loan application submitted for the fiscal year; and

"(B) the communities served by projects funded by loans and loan guarantees provided under this section;

"(3) the period of time required to approve each loan application under this section;

"(4) any outreach activities carried out by the Secretary to encourage entities in rural areas without broadband service to submit applications under this section;

"(5) the method by which the Secretary determines that a service enables a subscriber to originate and receive high-quality voice, data, graphics, and video for purposes of subsection (b)(1); and

"(6) each broadband service, including the type and speed of broadband service, for which assistance was sought, and each broadband service for which assistance was provided, under this section.

"(k) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $25,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

"(2) ALLOCATION OF FUNDS.—

"(A) IN GENERAL.—From amounts made available for each fiscal year under this subsection, the Secretary shall—

"(i) establish a national reserve for loans and loan guarantees to eligible entities in States under this section; and

"(ii) allocate amounts in the reserve to each State for each fiscal year for loans and loan guarantees to eligible entities in the State.

"(B) AMOUNT.—The amount of an allocation made to a State for a fiscal year under subparagraph (A) shall bear the same ratio to the amount of allocations made for all States for the fiscal year as—

"(i) the number of communities with a population of 2,500 inhabitants or less in the State; bears to

"(ii) the number of communities with a population of 2,500 inhabitants or less in all States.

"(C) UNOBLIGATED AMOUNTS.—Any amounts in the reserve established for a State for a fiscal year under subparagraph (B) that are not obligated by April 1 of the fiscal year shall be available to the Secretary to make loans and loan guarantees under this section to eligible entities in any State, as determined by the Secretary.

"(l) TERMINATION OF AUTHORITY.—No loan or loan guarantee may be made under this section after September 30, 2012.".

7 USC 950bb note.

(b) REGULATIONS.—The Secretary may implement the amendment made by subsection (a) through the promulgation of an interim regulation.

7 USC 950bb note.

(c) APPLICATION.—The amendment made by subsection (a) shall not apply to—

(1) an application submitted under section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) (as it existed before the amendment made by subsection (a)) that—

(A) was pending on the date that is 45 days prior to the date of enactment of this Act; and

(B) is pending on the date of enactment of this Act; or

(2) a petition for reconsideration of a decision on an application described in paragraph (1).

**SEC. 6111. NATIONAL CENTER FOR RURAL TELECOMMUNICATIONS ASSESSMENT.**

Title VI of the Rural Electrification Act of 1936 (7 U.S.C. 950bb et seq.) is amended by adding at the end the following:

**"SEC. 602. NATIONAL CENTER FOR RURAL TELECOMMUNICATIONS ASSESSMENT.** 7 USC 950bb–1.

"(a) DESIGNATION OF CENTER.—The Secretary shall designate an entity to serve as the National Center for Rural Telecommunications Assessment (referred to in this section as the 'Center').

"(b) CRITERIA.—In designating the Center under subsection (a), the Secretary shall take into consideration the following criteria:

"(1) The Center shall be an entity that demonstrates to the Secretary—

"(A) a focus on rural policy research; and

"(B) a minimum of 5 years of experience relating to rural telecommunications research and assessment.

"(2) The Center shall be capable of assessing broadband services in rural areas.

"(3) The Center shall have significant experience involving other rural economic development centers and organizations with respect to the assessment of rural policies and the formulation of policy solutions at the Federal, State, and local levels.

"(c) BOARD OF DIRECTORS.—The Center shall be managed by a board of directors, which shall be responsible for the duties of the Center described in subsection (d).

"(d) DUTIES.—The Center shall—

"(1) assess the effectiveness of programs carried out under this title in increasing broadband penetration and purchase in rural areas, especially in rural communities identified by the Secretary as having no broadband service before the provision of a loan or loan guarantee under this title;

"(2) work with existing rural development centers selected by the Center to identify policies and initiatives at the Federal, State, and local levels that have increased broadband penetration and purchase in rural areas and provide recommendations to Federal, State, and local policymakers on effective strategies to bring affordable broadband services to residents of rural areas, particularly residents located outside of the municipal boundaries of a rural city or town; and

"(3) develop and publish reports describing the activities carried out by the Center under this section. Publication. Reports.

"(e) REPORTING REQUIREMENTS.—Not later than December 1 of each applicable fiscal year, the board of directors of the Center shall submit to Congress and the Secretary a report describing the activities carried out by the Center during the preceding fiscal year and the results of any research conducted by the Center during that fiscal year, including—

"(1) an assessment of each program carried out under this title; and

"(2) an assessment of the effects of the policy initiatives identified under subsection (d)(2).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 6112. COMPREHENSIVE RURAL BROADBAND STRATEGY.**

Deadline. Reports.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Chairman of the Federal Communications Commission, in coordination with the Secretary, shall submit to Congress a report describing a comprehensive rural broadband strategy that includes—

(1) recommendations—

(A) to promote interagency coordination of Federal agencies in regards to policies, procedures, and targeted resources, and to streamline or otherwise improve and streamline the policies, programs, and services;

(B) to coordinate existing Federal rural broadband or rural initiatives;

(C) to address both short- and long-term needs assessments and solutions for a rapid build-out of rural broadband solutions and application of the recommendations for Federal, State, regional, and local government policymakers; and

(D) to identify how specific Federal agency programs and resources can best respond to rural broadband requirements and overcome obstacles that currently impede rural broadband deployment; and

(2) a description of goals and timeframes to achieve the purposes of the report.

Deadline.

(b) UPDATES.—The Chairman of the Federal Communications Commission, in coordination with the Secretary, shall update and evaluate the report described in subsection (a) during the third year after the date of enactment of this Act.

**SEC. 6113. STUDY ON RURAL ELECTRIC POWER GENERATION.**

(a) IN GENERAL.—The Secretary shall conduct a study on the electric power generation needs in rural areas of the United States.

(b) COMPONENTS.—The study shall include an examination of—

(1) generation in various areas in rural areas of the United States, particularly by rural electric cooperatives;;

(2) financing available for capacity, including financing available through programs authorized under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.);

(3) the impact of electricity costs on consumers and local economic development;

(4) the ability of fuel feedstock technology to meet regulatory requirements, such as carbon capture and sequestration; and

(5) any other factors that the Secretary considers appropriate.

(c) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the findings of the study under this section.

## Subtitle C—Miscellaneous

**SEC. 6201. DISTANCE LEARNING AND TELEMEDICINE.**

(a) IN GENERAL.—Section 2333(c)(1) of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. Sec. 950aaa–2(a)(1)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(C) libraries.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 2335A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa–5) is amended by striking "2007" and inserting "2012".

(c) CONFORMING AMENDMENT.—Section 1(b) of Public Law 102–551 (7 U.S.C. 950aaa note; Public Law 102–551) is amended by striking "2007" and inserting "2012".

**SEC. 6202. VALUE-ADDED AGRICULTURAL MARKET DEVELOPMENT PROGRAM GRANTS.**

(a) DEFINITIONS.—Section 231 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) is amended by striking subsection (a) and inserting the following:

"(a) DEFINITIONS.—In this section:

"(1) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

"(2) FAMILY FARM.—The term 'family farm' has the meaning given the term in section 761.2 of title 7, Code of Federal Regulations (as in effect on December 30, 2007).

"(3) MID-TIER VALUE CHAIN.—The term 'mid-tier value chain' means local and regional supply networks that link independent producers with businesses and cooperatives that market value-added agricultural products in a manner that—

"(A) targets and strengthens the profitability and competitiveness of small and medium-sized farms and ranches that are structured as a family farm; and

"(B) obtains agreement from an eligible agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture that is engaged in the value chain on a marketing strategy.

"(4) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)).

"(5) VALUE-ADDED AGRICULTURAL PRODUCT.—The term 'value-added agricultural product' means any agricultural commodity or product that—

"(A)(i) has undergone a change in physical state;

"(ii) was produced in a manner that enhances the value of the agricultural commodity or product, as demonstrated through a business plan that shows the enhanced value, as determined by the Secretary;

"(iii) is physically segregated in a manner that results in the enhancement of the value of the agricultural commodity or product;

"(iv) is a source of farm- or ranch-based renewable energy, including E–85 fuel; or

"(v) is aggregated and marketed as a locally-produced agricultural food product; and

"(B) as a result of the change in physical state or the manner in which the agricultural commodity or product was produced, marketed, or segregated—

"(i) the customer base for the agricultural commodity or product is expanded; and

"(ii) a greater portion of the revenue derived from the marketing, processing, or physical segregation of the agricultural commodity or product is available to the producer of the commodity or product.".

(b) GRANT PROGRAM.—Section 231(b) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) is amended—

(1) in paragraph (1), by striking "paragraph (4)" and inserting "paragraph (7)"; and

(2) by striking paragraph (4) and inserting the following:

"(4) TERM.—A grant under this subsection shall have a term that does not exceed 3 years.

"(5) SIMPLIFIED APPLICATION.—The Secretary shall offer a simplified application form and process for project proposals requesting less than $50,000.

"(6) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to projects that contribute to increasing opportunities for—

"(A) beginning farmers or ranchers;

"(B) socially disadvantaged farmers or ranchers; and

"(C) operators of small- and medium-sized farms and ranches that are structured as a family farm.

"(7) FUNDING.—

"(A) MANDATORY FUNDING.—On October 1, 2008, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection $15,000,000, to remain available until expended.

"(B) DISCRETIONARY FUNDING.—There is authorized to be appropriated to carry out this subsection $40,000,000 for each of fiscal years 2008 through 2012.

"(C) RESERVATION OF FUNDS FOR PROJECTS TO BENEFIT BEGINNING FARMERS OR RANCHERS, SOCIALLY DISADVANTAGED FARMERS OR RANCHERS, AND MID-TIER VALUE CHAINS.—

"(i) IN GENERAL.—The Secretary shall reserve 10 percent of the amounts made available for each fiscal year under this paragraph to fund projects that benefit beginning farmers or ranchers or socially disadvantaged farmers or ranchers.

"(ii) MID-TIER VALUE CHAINS.—The Secretary shall reserve 10 percent of the amounts made available for each fiscal year under this paragraph to fund applications of eligible entities described in paragraph (1) that propose to develop mid-tier value chains.

"(iii) UNOBLIGATED AMOUNTS.—Any amounts in the reserves for a fiscal year established under clauses (i) and (ii) that are not obligated by June 30 of the fiscal year shall be available to the Secretary to make grants under this subsection to eligible entities in any State, as determined by the Secretary.".

**SEC. 6203. AGRICULTURE INNOVATION CENTER DEMONSTRATION PROGRAM.**

Section 6402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1621 note; Public Law 107–171) is amended by striking subsection (i) and inserting the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $6,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 6204. RURAL FIREFIGHTERS AND EMERGENCY MEDICAL SERVICE ASSISTANCE PROGRAM.**

Section 6405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2655) is amended to read as follows:

**"SEC. 6405. RURAL FIREFIGHTERS AND EMERGENCY MEDICAL SERVICE ASSISTANCE PROGRAM.**

"(a) DEFINITION OF EMERGENCY MEDICAL SERVICES.—In this section:

"(1) IN GENERAL.—The term 'emergency medical services' means resources used by a public or nonprofit entity to deliver medical care outside of a medical facility under emergency conditions that occur as a result of—

"(A) the condition of a patient; or

"(B) a natural disaster or related condition.

"(2) INCLUSION.—The term 'emergency medical services' includes services (whether compensated or volunteer) delivered by an emergency medical services provider or other provider recognized by the State involved that is licensed or certified by the State as—

"(A) an emergency medical technician or the equivalent (as determined by the State);

"(B) a registered nurse;

"(C) a physician assistant; or

"(D) a physician that provides services similar to services provided by such an emergency medical services provider.

"(b) GRANTS.—The Secretary shall award grants to eligible entities—

"(1) to enable the entities to provide for improved emergency medical services in rural areas; and

"(2) to pay the cost of training firefighters and emergency medical personnel in firefighting, emergency medical practices, and responding to hazardous materials and bioagents in rural areas.

"(c) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be—

"(A) a State emergency medical services office;

"(B) a State emergency medical services association;

"(C) a State office of rural health or an equivalent agency;

"(D) a local government entity;

"(E) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

"(F) a State or local ambulance provider; or

"(G) any other public or nonprofit entity determined appropriate by the Secretary; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, that includes—

"(A) a description of the activities to be carried out under the grant; and

"(B) an assurance that the applicant will comply with the matching requirement of subsection (f).

"(d) USE OF FUNDS.—An entity shall use amounts received under a grant made under subsection (b) only in a rural area—

"(1) to hire or recruit emergency medical service personnel;

"(2) to recruit or retain volunteer emergency medical service personnel;

"(3) to train emergency medical service personnel in emergency response, injury prevention, safety awareness, or other topics relevant to the delivery of emergency medical services;

"(4) to fund training to meet State or Federal certification requirements;

"(5) to provide training for firefighters or emergency medical personnel for improvements to the training facility, equipment, curricula, or personnel;

"(6) to develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods (such as distance learning);

"(7) to acquire emergency medical services vehicles, including ambulances;

"(8) to acquire emergency medical services equipment, including cardiac defibrillators;

"(9) to acquire personal protective equipment for emergency medical services personnel as required by the Occupational Safety and Health Administration; or

"(10) to educate the public concerning cardiopulmonary resuscitation (CPR), first aid, injury prevention, safety awareness, illness prevention, or other related emergency preparedness topics.

"(e) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to—

"(1) applications that reflect a collaborative effort by 2 or more of the entities described in subparagraphs (A) through (G) of subsection (c)(1); and

"(2) applications submitted by entities that intend to use amounts provided under the grant to fund activities described in any of paragraphs (1) through (5) of subsection (d).

"(f) MATCHING REQUIREMENT.—The Secretary may not make a grant under this section to an entity unless the entity makes available (directly or through contributions from other public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to at least 5 percent of the amount received under the grant.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this section not more than $30,000,000 for each of fiscal years 2008 through 2012.

"(2) ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount appropriated under paragraph (1) for a fiscal year may be used for administrative expenses incurred in carrying out this section.".

**SEC. 6205. INSURANCE OF LOANS FOR HOUSING AND RELATED FACILITIES FOR DOMESTIC FARM LABOR.**

Section 514(f)(3) of the Housing Act of 1949 (42 U.S.C. 1484(f)(3)) is amended by striking "or the handling of such commodities in the unprocessed stage" and inserting ", the handling of agricultural or aquacultural commodities in the unprocessed stage, or the processing of agricultural or aquacultural commodities".

**SEC. 6206. STUDY OF RURAL TRANSPORTATION ISSUES.**

(a) IN GENERAL.—The Secretary of Agriculture and the Secretary of Transportation shall jointly conduct a study of transportation issues regarding the movement of agricultural products, domestically produced renewable fuels, and domestically produced resources for the production of electricity for rural areas of the United States, and economic development in those areas.

(b) INCLUSIONS.—The study shall include an examination of—

(1) the importance of freight transportation, including rail, truck, and barge, to—

(A) the delivery of equipment, seed, fertilizer, and other such products important to the development of agricultural commodities and products;

(B) the movement of agricultural commodities and products to market;

(C) the delivery of ethanol and other renewable fuels;

(D) the delivery of domestically produced resources for use in the generation of electricity for rural areas;

(E) the location of grain elevators, ethanol plants, and other facilities;

(F) the development of manufacturing facilities in rural areas; and

(G) the vitality and economic development of rural communities;

(2) the sufficiency in rural areas of transportation capacity, the sufficiency of competition in the transportation system, the reliability of transportation services, and the reasonableness of transportation rates;

(3) the sufficiency of facility investment in rural areas necessary for efficient and cost-effective transportation; and

(4) the accessibility to shippers in rural areas of Federal processes for the resolution of grievances arising within various transportation modes.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall submit to Congress a report that contains the results of the study required by subsection (a).

# Subtitle D—Housing Assistance Council

Housing Assistance Council Authorization Act of 2008.
42 USC 1490e note.

**SEC. 6301. SHORT TITLE.**

This subtitle may be cited as the "Housing Assistance Council Authorization Act of 2008".

42 USC 1490e note.

**SEC. 6302. ASSISTANCE TO HOUSING ASSISTANCE COUNCIL.**

(a) USE.—The Secretary of Housing and Urban Development may provide financial assistance to the Housing Assistance Council for use by the Council to develop the ability and capacity of community-based housing development organizations to undertake community development and affordable housing projects and programs in rural areas. Assistance provided by the Secretary under this section may be used by the Housing Assistance Council for—

(1) technical assistance, training, support, research, and advice to develop the business and administrative capabilities of rural community-based housing development organizations;

(2) loans, grants, or other financial assistance to rural community-based housing development organizations to carry out community development and affordable housing activities for low- and moderate-income families; and

(3) such other activities as may be determined by the Secretary of Housing and Urban Development and the Housing Assistance Council.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for financial assistance under this section for the Housing Assistance Council $10,000,000 for each of fiscal years 2009 through 2011.

42 USC 1490e note.

**SEC. 6303. AUDITS AND REPORTS.**

(a) AUDIT.—

(1) IN GENERAL.—The financial transactions and activities of the Housing Assistance Council shall be audited annually by an independent certified public accountant or an independent licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(2) REQUIREMENTS OF AUDITS.—The Comptroller General of the United States may rely on any audit completed under paragraph (1), if the audit complies with—

(A) the annual programmatic and financial examination requirements established in OMB Circular A-133; and

(B) generally accepted government auditing standards.

(3) REPORT TO CONGRESS.—The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative a report detailing each audit completed under paragraph (1).

(b) GAO REPORT.—The Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative on the use of any funds appropriated to the Housing Assistance Council over the past 7 years.

**SEC. 6304. PERSONS NOT LAWFULLY PRESENT IN THE UNITED STATES.**

42 USC 1490e note.

Aliens who are not lawfully present in the United States shall be ineligible for financial assistance under this subtitle, as provided and defined by section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a). Nothing in this subtitle shall be construed to alter the restrictions or definitions in such section 214.

**SEC. 6305. LIMITATION ON USE OF AUTHORIZED AMOUNTS.**

42 USC 1490e note.

None of the amounts authorized by this subtitle may be used to lobby or retain a lobbyist for the purpose of influencing a Federal, State, or local governmental entity or officer.

# TITLE VII—RESEARCH AND RELATED MATTERS

## Subtitle A—National Agricultural Research, Extension, and Teaching Policy Act of 1977

**SEC. 7101. DEFINITIONS.**

(a) IN GENERAL.—Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively;

(B) by striking "(4) The terms" and inserting the following:

"(4) COLLEGE AND UNIVERSITY.—

"(A) IN GENERAL.—The terms"; and

(C) by adding at the end the following:

"(B) INCLUSIONS.—The terms 'college' and 'university' include a research foundation maintained by a college or university described in subparagraph (A).";

(2) by redesignating paragraphs (5) through (8), (9) through (11), (12) through (14), (15), (16), (17), and (18) as paragraphs (6) through (9), (11) through (13), (15) through (17), (20), (5), (18), and (19), respectively, and moving the paragraphs so as to appear in alphabetical and numerical order;

(3) in paragraph (9) (as redesignated by paragraph (2))—

(A) by striking "renewable natural resources" and inserting "renewable energy and natural resources"; and

(B) by striking subparagraph (F) and inserting the following:

"(F) Soil, water, and related resource conservation and improvement.";

(4) by inserting after paragraph (9) (as so redesignated) the following:

"(10) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—

"(A) IN GENERAL.—The term 'Hispanic-serving agricultural colleges and universities' means colleges or universities that—

"(i) qualify as Hispanic-serving institutions; and

"(ii) offer associate, bachelors, or other accredited degree programs in agriculture-related fields.

"(B) EXCEPTION.—The term 'Hispanic-serving agricultural colleges and universities' does not include 1862 institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)).";

(5) by striking paragraph (11) (as so redesignated) and inserting the following:

"(11) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given the term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).";

and

(6) by inserting after paragraph (13) (as so redesignated) the following:

"(14) NLGCA INSTITUTION; NON-LAND-GRANT COLLEGE OF AGRICULTURE.—

"(A) IN GENERAL.—The terms 'NLGCA Institution' and 'non-land-grant college of agriculture' mean a public college or university offering a baccalaureate or higher degree in the study of agriculture or forestry.

"(B) EXCLUSIONS.—The terms 'NLGCA Institution' and 'non-land-grant college of agriculture' do not include—

"(i) Hispanic-serving agricultural colleges and universities; or

"(ii) any institution designated under—

"(I) the Act of July 2, 1862 (commonly known as the 'First Morrill Act'; 7 U.S.C. 301 et seq.);

"(II) the Act of August 30, 1890 (commonly known as the 'Second Morrill Act') (7 U.S.C. 321 et seq.);

"(III) the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note); or

"(IV) Public Law 87–788 (commonly known as the 'McIntire-Stennis Cooperative Forestry Act') (16 U.S.C. 582a et seq.).".

(b) CONFORMING AMENDMENTS.—

(1) Section 2(3) of the Research Facilities Act (7 U.S.C. 390(3)) is amended by striking "section 1404(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(8))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)".

(2) Section 2(k) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(k)) is amended in the second sentence by striking "section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)".

(3) Section 18(a)(3)(B) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(3)(B)) is amended by striking "section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5)))" and inserting

"section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103))".

(4) Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319) is amended in the first sentence by striking "section 1404(16) of this title" and inserting "section 1404(18)".

(5) Section 1619(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801(b)) is amended—

(A) in paragraph (1), by striking "section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)";

(B) in paragraph (5), by striking "section 1404(7) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(7))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)"; and

(C) in paragraph (8), by striking "section 1404(13) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(13))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)".

(6) Section 125(c)(1)(C) of Public Law 100–238 (5 U.S.C. 8432 note) is amended by striking "section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)".

**SEC. 7102. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.**

(a) IN GENERAL.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "31" and inserting "25"; and

(B) by striking paragraph (3) and inserting the following:

"(3) MEMBERSHIP CATEGORIES.—The Advisory Board shall consist of members from each of the following categories:

"(A) 1 member representing a national farm organization.

"(B) 1 member representing farm cooperatives.

"(C) 1 member actively engaged in the production of a food animal commodity, recommended by a coalition of national livestock organizations.

"(D) 1 member actively engaged in the production of a plant commodity, recommended by a coalition of national crop organizations.

"(E) 1 member actively engaged in aquaculture, recommended by a coalition of national aquacultural organizations.

"(F) 1 member representing a national food animal science society.

"(G) 1 member representing a national crop, soil, agronomy, horticulture, plant pathology, or weed science society.

"(H) 1 member representing a national food science organization.

"(I) 1 member representing a national human health association.

"(J) 1 member representing a national nutritional science society.

"(K) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.).

"(L) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

"(M) 1 member representing the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)).

"(N) 1 member representing NLGCA Institutions.

"(O) 1 member representing Hispanic-serving institutions.

"(P) 1 member representing the American Colleges of Veterinary Medicine.

"(Q) 1 member engaged in the transportation of food and agricultural products to domestic and foreign markets.

"(R) 1 member representing food retailing and marketing interests.

"(S) 1 member representing food and fiber processors.

"(T) 1 member actively engaged in rural economic development.

"(U) 1 member representing a national consumer interest group.

"(V) 1 member representing a national forestry group.

"(W) 1 member representing a national conservation or natural resource group.

"(X) 1 member representing private sector organizations involved in international development.

"(Y) 1 member representing a national social science association.";

(2) in subsection (g)(1), by striking "$350,000" and inserting "$500,000"; and

(3) in subsection (h), by striking "2007" and inserting "2012".

7 USC 3123 note.

(b) NO EFFECT ON TERMS.—Nothing in this section or any amendment made by this section affects the term of any member of the National Agricultural Research, Extension, Education, and Economics Advisory Board serving as of the date of enactment of this Act.

**SEC. 7103. SPECIALTY CROP COMMITTEE REPORT.**

Section 1408A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123a(c)) is amended by adding at the end the following:

"(4) Analyses of changes in macroeconomic conditions, technologies, and policies on specialty crop production and consumption, with particular focus on the effect of those changes on the financial stability of producers.

"(5) Development of data that provide applied information useful to specialty crop growers, their associations, and other interested beneficiaries in evaluating that industry from a regional and national perspective.".

**SEC. 7104. RENEWABLE ENERGY COMMITTEE.**

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1408A (7 U.S.C. 3123a) the following:

**"SEC. 1408B. RENEWABLE ENERGY COMMITTEE.**

7 USC 3123b.

"(a) INITIAL MEMBERS.—Not later than 90 days after the date of enactment of this section, the executive committee of the Advisory Board shall establish and appoint the initial members of a permanent renewable energy committee.

Deadline. Establishment.

"(b) DUTIES.—The permanent renewable energy committee shall study the scope and effectiveness of research, extension, and economics programs affecting the renewable energy industry.

"(c) NONADVISORY BOARD MEMBERS.—

"(1) IN GENERAL.—An individual who is not a member of the Advisory Board may be appointed as a member of the renewable energy committee.

"(2) SERVICE.—A member of the renewable energy committee shall serve at the discretion of the executive committee.

"(d) REPORT BY RENEWABLE ENERGY COMMITTEE.—Not later than 180 days after the date of establishment of the renewable energy committee, and annually thereafter, the renewable energy committee shall submit to the Advisory Board a report that contains the findings and any recommendations of the renewable energy committee with respect to the study conducted under subsection (b).

"(e) CONSULTATION.—In carrying out the duties described in subsection (b), the renewable energy committee shall consult with the Biomass Research and Development Technical Advisory Committee established under section 9008(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8605).

"(f) MATTERS TO BE CONSIDERED IN BUDGET RECOMMENDATION.—In preparing the annual budget recommendations for the Department, the Secretary shall take into consideration those findings and recommendations contained in the most recent report of the renewable energy committee under subsection (d) that are developed by the Advisory Committee.

"(g) REPORT BY THE SECRETARY.—In the budget material submitted to Congress by the Secretary in connection with the budget submitted pursuant to section 1105 of title 31, United States Code, for a fiscal year, the Secretary shall include a report that describes the ways in which the Secretary addressed each recommendation of the renewable energy committee described in subsection (f).".

**SEC. 7105. VETERINARY MEDICINE LOAN REPAYMENT.**

(a) IN GENERAL.—Section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151a) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) DETERMINATION OF VETERINARIAN SHORTAGE SITUATIONS.—In determining 'veterinarian shortage situations', the Secretary may consider—

"(1) geographical areas that the Secretary determines have a shortage of veterinarians; and

"(2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety.";

(2) in subsection (c), by adding at the end the following:

"(8) PRIORITY.—In administering the program, the Secretary shall give priority to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.";

(3) by redesignating subsection (d) as subsection (f); and

(4) by inserting after subsection (c) the following:

"(d) USE OF FUNDS.—None of the funds appropriated to the Secretary under subsection (f) may be used to carry out section 5379 of title 5, United States Code.

Deadline.

"(e) REGULATIONS.—Notwithstanding subchapter II of chapter 5 of title 5, United States Code, not later than 270 days after the date of enactment of this subsection, the Secretary shall promulgate regulations to carry out this section.".

(b) DISAPPROVAL OF TRANSFER OF FUNDS.—Congress disapproves the transfer of funds from the Cooperative State Research, Education, and Extension Service to the Food Safety and Inspection Service described in the notice of use of funds for implementation of the veterinary medicine loan repayment program authorized by the National Veterinary Medical Service Act (72 Fed. Reg. 48609 (August 24, 2007)), and such funds shall be rescinded on the date of enactment of this Act and made available to the Secretary, without further appropriation or fiscal year limitation, for use only in accordance with section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151a) (as amended by subsection (a)).

**SEC. 7106. ELIGIBILITY OF UNIVERSITY OF THE DISTRICT OF COLUMBIA FOR GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.**

Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by inserting "(including the University of the District of Columbia)" after "land-grant colleges and universities"; and

(2) in subsection (d)(2), by inserting "(including the University of the District of Columbia)" after "universities".

**SEC. 7107. GRANTS TO 1890 SCHOOLS TO EXPAND EXTENSION CAPACITY.**

Section 1417(b)(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)(4)) is amended by striking "teaching and research" and inserting "teaching, research, and extension".

**SEC. 7108. EXPANSION OF FOOD AND AGRICULTURAL SCIENCES AWARDS.**

Section 1417(i) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(i)) is amended—

(1) in the subsection heading, by striking "Teaching Awards" and inserting "Teaching, Extension, and Research Awards"; and

(2) by striking paragraph (1) and inserting the following:

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish a National Food and Agricultural Sciences Teaching, Extension, and Research Awards program to recognize and promote excellence in teaching, extension, and research in the food and agricultural sciences at a college or university.

"(B) MINIMUM REQUIREMENT.—The Secretary shall make at least 1 cash award in each fiscal year to a nominee selected by the Secretary for excellence in each of the areas of teaching, extension, and research of food and agricultural science at a college or university.".

**SEC. 7109. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.**

(a) EDUCATION TEACHING PROGRAMS.—Section 1417(j) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)) is amended—

(1) in the subsection heading, by striking "SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS" and inserting "SECONDARY EDUCATION, 2-YEAR POSTSECONDARY EDUCATION, AND AGRICULTURE IN THE K–12 CLASSROOM"; and

(2) in paragraph (3)—

(A) by striking "secondary schools, and institutions of higher education that award an associate's degree" and inserting "secondary schools, institutions of higher education that award an associate's degree, other institutions of higher education, and nonprofit organizations";

(B) in subparagraph (E), by striking "and" at the end;

(C) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(G) to support current agriculture in the classroom programs for grades K–12.".

(b) REPORT.—Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following:

"(l) REPORT.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a biennial report detailing the distribution of funds used to implement the teaching programs under subsection (j).".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1417(m) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (as redesignated by subsection (b)(1)) is amended by striking "2007" and inserting "2012".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2008. 7 USC 3152 note.

**SEC. 7110. GRANTS FOR RESEARCH ON PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.**

(a) IN GENERAL.—Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is repealed.

(b) CONFORMING AMENDMENT.—Section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by striking "1419,".

**SEC. 7111. POLICY RESEARCH CENTERS.**

Section 1419A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155) is amended—

(1) in subsection (a)(1), by inserting "(including commodities, livestock, dairy, and specialty crops)" after "agricultural sectors";

(2) in subsection (b), by inserting "(including the Food Agricultural Policy Research Institute, the Agricultural and Food Policy Center, the Rural Policy Research Institute, and the National Drought Mitigation Center)" after "research institutions and organizations"; and

(3) in subsection (d), by striking "2007" and inserting "2012".

**SEC. 7112. EDUCATION GRANTS TO ALASKA NATIVE-SERVING INSTITUTIONS AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.**

Section 759 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 3242)—

(1) is amended—

(A) in subsection (a)(3), by striking "2006" and inserting "2012"; and

(B) in subsection (b)—

(i) in paragraph (2)(A), by inserting before the semicolon at the end the following: ", including permitting consortia to designate fiscal agents for the members of the consortia and to allocate among the members funds made available under this section"; and

(ii) in paragraph (3), by striking "2006" and inserting "2012";

(2) is redesignated as section 1419B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977; and

7 USC 3156.

(3) is moved so as to appear after section 1419A of that Act (7 U.S.C. 3155).

**SEC. 7113. EMPHASIS OF HUMAN NUTRITION INITIATIVE.**

Section 1424(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(b)) is amended—

(1) in paragraph (1), by striking "and,";

(2) in paragraph (2), by striking the comma at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) proposals that examine the efficacy of current agriculture policies in promoting the health and welfare of economically disadvantaged populations;".

**SEC. 7114. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.**

Section 1424(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(d)) is amended by striking "2007" and inserting "2012".

**SEC. 7115. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH.**

Section 1424A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174a(d)) is amended by striking "2007" and inserting "2012".

**SEC. 7116. NUTRITION EDUCATION PROGRAM.**

(a) IN GENERAL.—Section 1425 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175) is amended—

(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(2) by striking the section heading and designation and inserting the following:

**"SEC. 1425. NUTRITION EDUCATION PROGRAM.**

"(a) DEFINITION OF 1862 INSTITUTION AND 1890 INSTITUTION.—In this section, the terms '1862 Institution' and '1890 Institution' have the meaning given those terms in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).";

(3) in subsection (b) (as redesignated by paragraph (1)), by striking "(b) The Secretary" and inserting the following: "(b) ESTABLISHMENT.—The Secretary";

(4) in subsection (c) (as so redesignated), by striking "(c) In order to enable" and inserting the following:

"(c) EMPLOYMENT AND TRAINING.—To enable";

(5) in subsection (d) (as redesignated by paragraph (1))—

(A) by striking "(d) Beginning" and inserting the following:

"(d) ALLOCATION OF FUNDING.—Beginning";

(B) in paragraph (2), by striking subparagraph (B) and inserting the following:

"(B) Notwithstanding section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), the remainder shall be allocated among the States as follows:

"(i) $100,000 shall be distributed to each 1862 Institution and 1890 Institution.

"(ii) Subject to clause (iii), the remainder shall be allocated to each State in an amount that bears the same ratio to the total amount to be allocated under this clause as—

"(I) the population living at or below 125 percent of the income poverty guidelines (as prescribed by the Office of Management and Budget and as adjusted pursuant to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) in the State; bears to

"(II) the total population living at or below 125 percent of those income poverty guidelines in all States;

as determined by the most recent decennial census at the time at which each such additional amount is first appropriated.

"(iii)(I) Before any allocation of funds under clause (ii), for any fiscal year for which the amount of funds appropriated for the conduct of the expanded food and nutrition education program exceeds the amount of funds appropriated for the program for fiscal year 2007, the following percentage of such excess funds for the fiscal year shall be allocated to the 1890 Institutions in accordance with subclause (II):

"(aa) 10 percent for fiscal year 2009.

"(bb) 11 percent for fiscal year 2010.

"(cc) 12 percent for fiscal year 2011.

"(dd) 13 percent for fiscal year 2012.

"(ee) 14 percent for fiscal year 2013.

"(ff) 15 percent for fiscal year 2014 and for each fiscal year thereafter.

"(II) Funds made available under subclause (I) shall be allocated to each 1890 Institution in an amount that bears the same ratio to the total amount to be allocated under this clause as—

"(aa) the population living at or below 125 percent of the income poverty guidelines (as prescribed by the Office of Management and Budget and as adjusted pursuant to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) in the State in which the 1890 Institution is located; bears to

"(bb) the total population living at or below 125 percent of those income poverty guidelines in all States in which 1890 Institutions are located;

as determined by the most recent decennial census at the time at which each such additional amount is first appropriated.

"(iv) Nothing in this subparagraph precludes the Secretary from developing educational materials and programs for persons in income ranges above the level designated in this subparagraph."; and

(C) by striking paragraph (3); and

(6) by adding at the end the following:

"(e) COMPLEMENTARY ADMINISTRATION.—The Secretary shall ensure the complementary administration of the expanded food and nutrition education program by 1862 Institutions and 1890 Institutions in a State.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the expanded food and nutrition education program established under section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), and this section $90,000,000 for each of fiscal years 2009 through 2012.".

(b) CONFORMING AMENDMENT.—Section 1588(b) of the Food Security Act of 1985 (7 U.S.C. 3175e(b)) is amended by striking "section 1425(c)(2)" and inserting "section 1425(d)(2)".

7 USC 3175 note.

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

**SEC. 7117. CONTINUING ANIMAL HEALTH AND DISEASE RESEARCH PROGRAMS.**

Section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195(a)) is amended in the first sentence by striking "2007" and inserting "2012".

**SEC. 7118. COOPERATION AMONG ELIGIBLE INSTITUTIONS.**

Section 1433 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195) is amended by adding at the end the following:

"(g) COOPERATION AMONG ELIGIBLE INSTITUTIONS.—The Secretary, to the maximum extent practicable, shall encourage eligible institutions to cooperate in setting research priorities under this section through the conduct of regular regional and national meetings.".

**SEC. 7119. APPROPRIATIONS FOR RESEARCH ON NATIONAL OR REGIONAL PROBLEMS.**

Section 1434(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7120. ANIMAL HEALTH AND DISEASE RESEARCH PROGRAM.**

Section 1434(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(b)) is amended by inserting after "universities" the following: "(including 1890 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)))".

**SEC. 7121. AUTHORIZATION LEVEL FOR EXTENSION AT 1890 LAND-GRANT COLLEGES.**

Section 1444(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)(2)) is amended by striking "15 percent" and inserting "20 percent".

**SEC. 7122. AUTHORIZATION LEVEL FOR AGRICULTURAL RESEARCH AT 1890 LAND-GRANT COLLEGES.**

Section 1445(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(a)(2)) is amended by striking "25 percent" and inserting "30 percent".

**SEC. 7123. GRANTS TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.**

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking "2007" and inserting "2012".

**SEC. 7124. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AT THE DISTRICT OF COLUMBIA LAND-GRANT UNIVERSITY.**

7 USC 3222b–1.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1447 (7 U.S.C. 3222b) the following:

**"SEC. 1447A. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AT THE DISTRICT OF COLUMBIA LAND-GRANT UNIVERSITY.**

"(a) PURPOSE.—It is the intent of Congress to assist the land-grant university in the District of Columbia established under section 208 of the District of Columbia Public Postsecondary Education Reorganization Act (Public Law 93–471; 88 Stat. 1428) in efforts to acquire, alter, or repair facilities or relevant equipment necessary for conducting agricultural research.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000 for each of fiscal years 2008 through 2012.".

**SEC. 7125. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AND EQUIPMENT AT INSULAR AREA LAND-GRANT INSTITUTIONS.**

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by inserting after section 1447A (as added by section 7124) the following:

7 USC 3222b–2.

**"SEC. 1447B. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AND EQUIPMENT AT INSULAR AREA LAND-GRANT INSTITUTIONS.**

"(a) PURPOSE.—It is the intent of Congress to assist the land-grant institutions in the insular areas in efforts to acquire, alter, or repair facilities or relevant equipment necessary for conducting agricultural research.

"(b) METHOD OF AWARDING GRANTS.—Grants awarded pursuant to this section shall be made in such amounts and under such terms and conditions as the Secretary determines necessary to carry out the purposes of this section.

"(c) REGULATIONS.—The Secretary may promulgate such rules and regulations as the Secretary considers to be necessary to carry out this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 7126. NATIONAL RESEARCH AND TRAINING VIRTUAL CENTERS.**

Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended by striking "2007" each place it appears in subsections (a)(1) and (f) and inserting "2012".

**SEC. 7127. MATCHING FUNDS REQUIREMENT FOR RESEARCH AND EXTENSION ACTIVITIES OF 1890 INSTITUTIONS.**

Section 1449(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d(c)) is amended—

(1) in the first sentence—

(A) by striking "for each of fiscal years 2003 through 2007,"; and

(B) by inserting "equal" before "matching"; and

(2) by striking the second sentence and all that follows through paragraph (5).

**SEC. 7128. HISPANIC-SERVING INSTITUTIONS.**

Section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241) is amended—

(1) in subsection (a) by striking "(or grants without regard to any requirement for competition)";

(2) in subsection (b)(1), by striking "of consortia"; and

(3) in subsection (c)—

(A) by striking "$20,000,000" and inserting "$40,000,000"; and

(B) by striking "2007" and inserting "2012".

**SEC. 7129. HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.**

(a) IN GENERAL.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1455 (7 U.S.C. 3241) the following:

**"SEC. 1456. HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.** 7 USC 3243.

"(a) DEFINITION OF ENDOWMENT FUND.—In this section, the term 'endowment fund' means the Hispanic-Serving Agricultural Colleges and Universities Fund established under subsection (b).

"(b) ENDOWMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall establish in accordance with this subsection a Hispanic-Serving Agricultural Colleges and Universities Fund.

"(2) AGREEMENTS.—The Secretary of the Treasury may enter into such agreements as are necessary to carry out this subsection.

"(3) DEPOSIT TO THE ENDOWMENT FUND.—The Secretary of the Treasury shall deposit in the endowment fund any—

"(A) amounts made available through Acts of appropriations, which shall be the endowment fund corpus; and

"(B) interest earned on the endowment fund corpus.

"(4) INVESTMENTS.—The Secretary of the Treasury shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

"(5) WITHDRAWALS AND EXPENDITURES.—

"(A) CORPUS.—The Secretary of the Treasury may not make a withdrawal or expenditure from the endowment fund corpus.

"(B) WITHDRAWALS.—On September 30, 2008, and each September 30 thereafter, the Secretary of the Treasury shall withdraw the amount of the income from the endowment fund for the fiscal year and warrant the funds to the Secretary of Agriculture who, after making adjustments for the cost of administering the endowment fund, shall distribute the adjusted income as follows:

"(i) 60 percent shall be distributed among the Hispanic-serving agricultural colleges and universities on a pro rata basis based on the Hispanic enrollment count of each institution.

"(ii) 40 percent shall be distributed in equal shares to the Hispanic-serving agricultural colleges and universities.

"(6) ENDOWMENTS.—Amounts made available under this subsection shall be held and considered to be granted to Hispanic-serving agricultural colleges and universities to establish an endowment in accordance with this subsection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.

"(c) AUTHORIZATION FOR ANNUAL PAYMENTS.—

"(1) IN GENERAL.—For fiscal year 2008 and each fiscal year thereafter, there are authorized to be appropriated to the Department of Agriculture to carry out this subsection an amount equal to the product obtained by multiplying—

"(A) $80,000; by

"(B) the number of Hispanic-serving agricultural colleges and universities.

"(2) PAYMENTS.—For fiscal year 2008 and each fiscal year thereafter, the Secretary of the Treasury shall pay to the treasurer of each Hispanic-serving agricultural college and university an amount equal to—

"(A) the total amount made available by appropriations under paragraph (1); divided by

"(B) the number of Hispanic-serving agricultural colleges and universities.

"(3) USE OF FUNDS.—

"(A) IN GENERAL.—Amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (commonly known as the 'Second Morrill Act') (7 U.S.C. 321 et seq.).

Applicability.

"(B) RELATIONSHIP TO OTHER LAW.—Except as otherwise provided in this subsection, the requirements of that Act shall apply to Hispanic-serving agricultural colleges and universities under this section.

"(d) INSTITUTIONAL CAPACITY-BUILDING GRANTS.—

"(1) IN GENERAL.—For fiscal year 2008 and each fiscal year thereafter, the Secretary shall make grants to assist Hispanic-serving agricultural colleges and universities in institutional capacity building (not including alteration, repair, renovation, or construction of buildings).

"(2) CRITERIA FOR INSTITUTIONAL CAPACITY-BUILDING GRANTS.—

"(A) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this subsection on the basis of a competitive application process under which Hispanic-serving agricultural colleges and universities may submit applications to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) DEMONSTRATION OF NEED.—

"(i) IN GENERAL.—As part of an application for a grant under this subsection, the Secretary shall require the applicant to demonstrate need for the grant, as determined by the Secretary.

"(ii) OTHER SOURCES OF FUNDING.—The Secretary may award a grant under this subsection only to an applicant that demonstrates a failure to obtain funding

for a project after making a reasonable effort to otherwise obtain the funding.

"(C) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made only if the recipient of the grant pays a non-Federal share in an amount that is specified by the Secretary and based on assessed institutional needs.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.

"(e) COMPETITIVE GRANTS PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a competitive grants program to fund fundamental and applied research at Hispanic-serving agricultural colleges and universities in agriculture, human nutrition, food science, bioenergy, and environmental science.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.".

(b) EXTENSION.—Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended—

(1) in subsection (b), by adding at the end the following:

"(4) ANNUAL APPROPRIATION FOR HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for payments to Hispanic-serving agricultural colleges and universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) such sums as are necessary to carry out this paragraph for fiscal year 2008 and each fiscal year thereafter, to remain available until expended.

"(B) ADDITIONAL AMOUNT.—Amounts made available under this paragraph shall be in addition to any other amounts made available under this section to States, the Commonwealth of Puerto Rico, Guam, or the United States Virgin Islands.

"(C) ADMINISTRATION.—Amounts made available under this paragraph shall be—

"(i) distributed on the basis of a competitive application process to be developed and implemented by the Secretary;

"(ii) paid by the Secretary to the State institutions established in accordance with the Act of July 2, 1862 (commonly known as the 'First Morrill Act') (7 U.S.C. 301 et seq.); and

"(iii) administered by State institutions through cooperative agreements with the Hispanic-serving agricultural colleges and universities in the State in accordance with regulations promulgated by the Secretary."; and

(2) in subsection (f)—

(A) in the subsection heading, by inserting "AND HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES" after "1994 INSTITUTIONS"; and

(B) by striking "pursuant to subsection (b)(3)" and inserting "or Hispanic-serving agricultural colleges and universities in accordance with paragraphs (3) and (4) of subsection (b)".

(c) CONFORMING AMENDMENTS.—

(1) Section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601) is amended—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

"(6) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—The term 'Hispanic-serving agricultural colleges and universities' has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).".

(2) Section 102(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7612(c)) is amended—

(A) in the subsection heading, by inserting "AND HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES" after "INSTITUTIONS"; and

(B) in paragraph (1), by striking " and 1994 Institution" and inserting "1994 Institution, and Hispanic-serving agricultural college and university".

(3) Section 103(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(e)) is amended by adding at the end the following:

"(3) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—To be eligible to obtain agricultural extension funds from the Secretary for an activity, each Hispanic-serving agricultural college and university shall—

"(A) establish a process for merit review of the activity; and

"(B) review the activity in accordance with such process.".

(4) Section 406(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(b)) is amended by striking "and 1994 Institutions" and inserting ", 1994 Institutions, and Hispanic-serving agricultural colleges and universities".

**SEC. 7130. INTERNATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.**

Section 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by adding "and" at the end; and

(C) by adding at the end the following:

"(C) giving priority to those institutions with existing memoranda of understanding, agreements, or other formal ties to United States institutions, or Federal or State agencies;";

(2) by striking paragraph (3) and inserting the following:

"(3) enter into agreements with land-grant colleges and universities, Hispanic-serving agricultural colleges and universities, the Agency for International Development, and international organizations (such as the United Nations, the World Bank, regional development banks, international agricultural research centers), or other organizations, institutions, or individuals with comparable goals, to promote and support—

"(A) the development of a viable and sustainable global agricultural system;

"(B) antihunger and improved international nutrition efforts; and

"(C) increased quantity, quality, and availability of food;";

(3) in paragraph (7)(A), by striking "and land-grant colleges and universities" and inserting ", land-grant colleges and universities, and Hispanic-serving agricultural colleges and universities";

(4) in paragraph (9)—

(A) in subparagraph (A), by striking "or other colleges and universities" and inserting ", Hispanic-serving agricultural colleges and universities, or other colleges and universities"; and

(B) in subparagraph (D), by striking "and" at the end;

(5) in paragraph (10), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(11) establish a program for the purpose of providing fellowships to United States or foreign students to study at foreign agricultural colleges and universities working under agreements provided for under paragraph (3).".

**SEC. 7131. COMPETITIVE GRANTS FOR INTERNATIONAL AGRICULTURAL SCIENCE AND EDUCATION PROGRAMS.**

Section 1459A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b(c)) is amended by striking "2007" and inserting "2012".

**SEC. 7132. ADMINISTRATION.**

(a) LIMITATION ON INDIRECT COSTS FOR AGRICULTURAL RESEARCH, EDUCATION, AND EXTENSION PROGRAMS.—Section 1462(a) of the National Agriculture Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310(a)) is amended—

(1) by striking "a competitive" and inserting "any"; and

(2) by striking "19 percent" and inserting "22 percent".

(b) AUDITING, REPORTING, BOOKKEEPING, AND ADMINISTRATIVE REQUIREMENTS.—Section 1469(a)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3315(a)(3)) is amended by striking "appropriated" and inserting "made available".

**SEC. 7133. RESEARCH EQUIPMENT GRANTS.**

Section 1462A(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310a(e)) is amended by striking "2007" and inserting "2012".

**SEC. 7134. UNIVERSITY RESEARCH.**

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended by

striking "2007" each place it appears in subsections (a) and (b) and inserting "2012".

**SEC. 7135. EXTENSION SERVICE.**

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking "2007" and inserting "2012".

**SEC. 7136. SUPPLEMENTAL AND ALTERNATIVE CROPS.**

Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7137. NEW ERA RURAL TECHNOLOGY PROGRAM.**

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) is amended by adding at the end the following:

7 USC 3319e.

**"SEC. 1473E. NEW ERA RURAL TECHNOLOGY PROGRAM.**

"(a) DEFINITION OF COMMUNITY COLLEGE.—In this section, the term 'community college' means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001))—

"(1) that admits as regular students individuals who—

"(A) are beyond the age of compulsory school attendance in the State in which the institution is located; and

"(B) have the ability to benefit from the training offered by the institution;

"(2) that does not provide an educational program for which the institution awards a bachelor's degree or an equivalent degree; and

"(3) that—

"(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree; or

"(B) offers a 2-year program in engineering, technology, mathematics, or the physical, chemical, or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"(b) FUNCTIONS.—

"(1) ESTABLISHMENT.—

Grants.

"(A) IN GENERAL.—The Secretary shall establish a program to be known as the 'New Era Rural Technology Program', to make grants available for technology development, applied research, and training to aid in the development of an agriculture-based renewable energy workforce.

"(B) SUPPORT.—The initiative under this section shall support the fields of—

"(i) bioenergy;

"(ii) pulp and paper manufacturing; and

"(iii) agriculture-based renewable energy resources.

"(2) REQUIREMENTS FOR FUNDING.—To receive funding under this section, an entity shall—

"(A) be a community college or advanced technological center, located in a rural area and in existence on the

date of the enactment of this section, that participates in agricultural or bioenergy research and applied research;

"(B) have a proven record of development and implementation of programs to meet the needs of students, educators, and business and industry to supply the agriculture-based, renewable energy or pulp and paper manufacturing fields with certified technicians, as determined by the Secretary; and

"(C) have the ability to leverage existing partnerships and occupational outreach and training programs for secondary schools, 4-year institutions, and relevant nonprofit organizations.

"(c) GRANT PRIORITY.—In providing grants under this section, the Secretary shall give preference to eligible entities working in partnership—

"(1) to improve information-sharing capacity; and

"(2) to maximize the ability to meet the requirements of this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.".

**SEC. 7138. CAPACITY BUILDING GRANTS FOR NLGCA INSTITUTIONS.**

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) (as amended by section 7137) is amended by adding at the end the following:

**"SEC. 1473F. CAPACITY BUILDING GRANTS FOR NLGCA INSTITUTIONS.** 7 USC 3319c.

"(a) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall make competitive grants to NLGCA Institutions to assist the NLGCA Institutions in maintaining and expanding the capacity of the NLGCA Institutions to conduct education, research, and outreach activities relating to—

"(A) agriculture;

"(B) renewable resources; and

"(C) other similar disciplines.

"(2) USE OF FUNDS.—An NLGCA Institution that receives a grant under paragraph (1) may use the funds made available through the grant to maintain and expand the capacity of the NLGCA Institution—

"(A) to successfully compete for funds from Federal grants and other sources to carry out educational, research, and outreach activities that address priority concerns of national, regional, State, and local interest;

"(B) to disseminate information relating to priority concerns to—

"(i) interested members of the agriculture, renewable resources, and other relevant communities;

"(ii) the public; and

"(iii) any other interested entity;

"(C) to encourage members of the agriculture, renewable resources, and other relevant communities to participate in priority education, research, and outreach activities by providing matching funding to leverage grant funds; and

"(D) through—

"(i) the purchase or other acquisition of equipment and other infrastructure (not including alteration, repair, renovation, or construction of buildings);

"(ii) the professional growth and development of the faculty of the NLGCA Institution; and

"(iii) the development of graduate assistantships.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.".

**SEC. 7139. BORLAUG INTERNATIONAL AGRICULTURAL SCIENCE AND TECHNOLOGY FELLOWSHIP PROGRAM.**

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) (as amended by section 7138) is amended by adding at the end the following:

7 USC 3319j.

**"SEC. 1473G. BORLAUG INTERNATIONAL AGRICULTURAL SCIENCE AND TECHNOLOGY FELLOWSHIP PROGRAM.**

"(a) FELLOWSHIP PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a fellowship program, to be known as the 'Borlaug International Agricultural Science and Technology Fellowship Program,' to provide fellowships for scientific training and study in the United States to individuals from eligible countries (as described in subsection (b)) who specialize in agricultural education, research, and extension.

"(2) PROGRAMS.—The Secretary shall carry out the fellowship program by implementing 3 programs designed to assist individual fellowship recipients, including—

"(A) a graduate studies program in agriculture to assist individuals who participate in graduate agricultural degree training at a United States institution;

"(B) an individual career improvement program to assist agricultural scientists from developing countries in upgrading skills and understanding in agricultural science and technology; and

"(C) a Borlaug agricultural policy executive leadership course to assist senior agricultural policy makers from eligible countries, with an initial focus on individuals from sub-Saharan Africa and the independent states of the former Soviet Union.

"(b) ELIGIBLE COUNTRIES.—An eligible country is a developing country, as determined by the Secretary using a gross national income per capita test selected by the Secretary.

"(c) PURPOSE OF FELLOWSHIPS.—A fellowship provided under this section shall—

"(1) promote food security and economic growth in eligible countries by—

"(A) educating a new generation of agricultural scientists;

"(B) increasing scientific knowledge and collaborative research to improve agricultural productivity; and

"(C) extending that knowledge to users and intermediaries in the marketplace; and

"(2) shall support—

"(A) training and collaborative research opportunities through exchanges for entry level international agricultural

research scientists, faculty, and policymakers from eligible countries;

"(B) collaborative research to improve agricultural productivity;

"(C) the transfer of new science and agricultural technologies to strengthen agricultural practice; and

"(D) the reduction of barriers to technology adoption.

"(d) FELLOWSHIP RECIPIENTS.—

"(1) ELIGIBLE CANDIDATES.—The Secretary may provide fellowships under this section to individuals from eligible countries who specialize or have experience in agricultural education, research, extension, or related fields, including—

"(A) individuals from the public and private sectors; and

"(B) private agricultural producers.

"(2) CANDIDATE IDENTIFICATION.—The Secretary shall use the expertise of United States land-grant colleges and universities and similar universities, international organizations working in agricultural research and outreach, and national agricultural research organizations to help identify program candidates for fellowships under this section from the public and private sectors of eligible countries.

"(e) USE OF FELLOWSHIPS.—A fellowship provided under this section shall be used—

"(1) to promote collaborative programs among agricultural professionals of eligible countries, agricultural professionals of the United States, the international agricultural research system, and, as appropriate, United States entities conducting research; and

"(2) to support fellowship recipients through programs described in subsection (a)(2).

"(f) PROGRAM IMPLEMENTATION.—The Secretary shall provide for the management, coordination, evaluation, and monitoring of the Borlaug International Agricultural Science and Technology Fellowship Program and for the individual programs described in subsection (a)(2), except that the Secretary may contract out to 1 or more collaborating universities the management of 1 or more of the fellowship programs.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.".

**SEC. 7140. AQUACULTURE ASSISTANCE PROGRAMS.**

Section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended by striking "2007" and inserting "2012".

**SEC. 7141. RANGELAND RESEARCH GRANTS.**

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7142. SPECIAL AUTHORIZATION FOR BIOSECURITY PLANNING AND RESPONSE.**

Section 1484(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3351(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7143. RESIDENT INSTRUCTION AND DISTANCE EDUCATION GRANTS PROGRAM FOR INSULAR AREA INSTITUTIONS OF HIGHER EDUCATION.**

(a) DISTANCE EDUCATION GRANTS FOR INSULAR AREAS.—Section 1490(f) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3362(f)) is amended by striking "2007" and inserting "2012".

(b) RESIDENT INSTRUCTION GRANTS FOR INSULAR AREAS.—Section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363) is amended—

(1) by redesignating subsection (e) as subsection (c); and

(2) in subsection (c) (as so redesignated), by striking "2007" and inserting "2012".

# Subtitle B—Food, Agriculture, Conservation, and Trade Act of 1990

**SEC. 7201. NATIONAL GENETICS RESOURCES PROGRAM.**

Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking "2007" and inserting "2012".

**SEC. 7202. NATIONAL AGRICULTURAL WEATHER INFORMATION SYSTEM.**

Section 1641(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(c)) is amended by striking "1991 through 1997" and inserting "2008 through 2012".

**SEC. 7203. PARTNERSHIPS.**

Section 1672(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925(d)) is amended by striking "may" and inserting "shall".

**SEC. 7204. HIGH-PRIORITY RESEARCH AND EXTENSION AREAS.**

(a) IN GENERAL.—Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in subsection (e)—

(A) in paragraph (3), by striking "and controlling aflatoxin in the food and feed chains." and inserting ", improving, and eventually commercializing, alfatoxin controls in corn and other affected agricultural products and crops.";

(B) by striking paragraphs (1), (4), (7), (8), (15), (17), (21), (23), (26), (27), (32), (34), (41), (42), (43), and (45);

(C) by redesignating paragraphs (2), (3), (5), (6), (9) through (14), (16), (18) through (20), (22), (24), (25), (28) through (31), (33), (35) through (40), and (44) as paragraphs (1) through (29), respectively; and

(D) by adding at the end the following:

"(30) AIR EMISSIONS FROM LIVESTOCK OPERATIONS.—Research and extension grants may be made under this section for the purpose of conducting field verification tests and developing mitigation options for air emissions from animal feeding operations.

"(31) SWINE GENOME PROJECT.—Research grants may be made under this section to conduct swine genome research, including the mapping of the swine genome.

"(32) CATTLE FEVER TICK PROGRAM.—Research and extension grants may be made under this section to study cattle fever ticks to facilitate understanding of the role of wildlife in the persistence and spread of cattle fever ticks, to develop advanced methods for eradication of cattle fever ticks, and to improve management of diseases relating to cattle fever ticks that are associated with wildlife, livestock, and human health.

"(33) SYNTHETIC GYPSUM.—Research and extension grants may be made under this section to study the uses of synthetic gypsum from electric power plants to remediate soil and nutrient losses.

"(34) CRANBERRY RESEARCH PROGRAM.—Research and extension grants may be made under this section to study new technologies to assist cranberry growers in complying with Federal and State environmental regulations, increase production, develop new growing techniques, establish more efficient growing methodologies, and educate cranberry producers about sustainable growth practices.

"(35) SORGHUM RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the use of sorghum as a bioenergy feedstock, promote diversification in, and the environmental benefits of sorghum production, and promote water conservation through the use of sorghum.

"(36) MARINE SHRIMP FARMING PROGRAM.—Research and extension grants may be made under this section to establish a research program to advance and maintain a domestic shrimp farming industry in the United States.

"(37) TURFGRASS RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the production of turfgrass (including the use of water, fertilizer, pesticides, fossil fuels, and machinery for turf establishment and maintenance) and environmental protection and enhancement relating to turfgrass production.

"(38) AGRICULTURAL WORKER SAFETY RESEARCH INITIATIVE.—Research and extension grants may be made under this section—

"(A) to study and demonstrate methods to minimize exposure of farm and ranch owners and operators, pesticide handlers, and agricultural workers to pesticides, including research addressing the unique concerns of farm workers resulting from long-term exposure to pesticides; and

"(B) to develop rapid tests for on-farm use to better inform and educate farmers, ranchers, and farm and ranch workers regarding safe field re-entry intervals.

"(39) HIGH PLAINS AQUIFER REGION.—Research and extension grants may be made under this section to carry out interdisciplinary research relating to diminishing water levels and increased demand for water in the High Plains aquifer region.

"(40) DEER INITIATIVE.—Research and extension grants may be made under this section to support collaborative research focusing on the development of viable strategies for the prevention, diagnosis, and treatment of infectious, parasitic, and toxic diseases of farmed deer and the mapping of the deer genome.

"(41) PASTURE-BASED BEEF SYSTEMS RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the development of forage sequences and combinations for cow-calf, heifer development, stocker, and finishing systems, to deliver optimal nutritive value for efficient production of cattle for pasture finishing, to optimize forage systems to improve marketability of pasture-finished beef, and to assess the effect of forage quality on reproductive fitness.

"(42) AGRICULTURAL PRACTICES RELATING TO CLIMATE CHANGE.—Research and extension grants may be made under this section for field and laboratory studies that examine the ecosystem from gross to minute scales and for projects that explore the relationship of agricultural practices to climate change.

"(43) BRUCELLOSIS CONTROL AND ERADICATION.—Research and extension grants may be made under this section to conduct research relating to the development of vaccines and vaccine delivery systems to effectively control and eliminate brucellosis in wildlife, and to assist with the controlling of the spread of brucellosis from wildlife to domestic animals.

"(44) BIGHORN AND DOMESTIC SHEEP DISEASE MECHANISMS.—Research and extension grants may be made under this section to conduct research relating to the health status of (including the presence of infectious diseases in) bighorn and domestic sheep under range conditions.

"(45) AGRICULTURAL DEVELOPMENT IN THE AMERICAN-PACIFIC REGION.—Research and extension grants may be made under this section to support food and agricultural science at a consortium of land-grant institutions in the American-Pacific region.

"(46) TROPICAL AND SUBTROPICAL AGRICULTURAL RESEARCH.—Research grants may be made under this section, in equal dollar amounts to the Caribbean and Pacific Basins, to support tropical and subtropical agricultural research, including pest and disease research, at the land-grant institutions in the Caribbean and Pacific regions.

"(47) VIRAL HEMORRHAGIC SEPTICEMIA.—Research and extension grants may be made under this section to study—

"(A) the effects of viral hemorrhagic septicemia (referred to in this paragraph as 'VHS') on freshwater fish throughout the natural and expanding range of VHS; and

"(B) methods for transmission and human-mediated transport of VHS among waterbodies.

"(48) FARM AND RANCH SAFETY.—Research and extension grants may be made under this section to carry out projects to decrease the incidence of injury and death on farms and ranches, including—

"(A) on-site farm or ranch safety reviews;

"(B) outreach and dissemination of farm safety research and interventions to agricultural employers, employees, youth, farm and ranch families, seasonal workers, or other individuals; and

"(C) agricultural safety education and training.

"(49) WOMEN AND MINORITIES IN STEM FIELDS.—Research and extension grants may be made under this section to

increase participation by women and underrepresented minorities from rural areas in the fields of science, technology, engineering, and mathematics, with priority given to eligible institutions that carry out continuing programs funded by the Secretary.

"(50) ALFALFA AND FORAGE RESEARCH PROGRAM.—Research and extension grants may be made under this section for the purpose of studying improvements in alfalfa and forage yields, biomass and persistence, pest pressures, the bioenergy potential of alfalfa and other forages, and systems to reduce losses during harvest and storage.

"(51) FOOD SYSTEMS VETERINARY MEDICINE.—Research grants may be made under this section to address health issues that affect food-producing animals, food safety, and the environment, and to improve information resources, curriculum, and clinical education of students with respect to food animal veterinary medicine and food safety.

"(52) BIOCHAR RESEARCH.—Grants may be made under this section for research, extension, and integrated activities relating to the study of biochar production and use, including considerations of agronomic and economic impacts, synergies of coproduction with bioenergy, and the value of soil enhancements and soil carbon sequestration.";

(2) by redesignating subsection (h) as subsection (j);

(3) by inserting after subsection (g) the following:

"(h) POLLINATOR PROTECTION.—

"(1) RESEARCH AND EXTENSION.—

"(A) GRANTS.—Research and extension grants may be made under this section—

"(i) to survey and collect data on bee colony production and health;

"(ii) to investigate pollinator biology, immunology, ecology, genomics, and bioinformatics;

"(iii) to conduct research on various factors that may be contributing to or associated with colony collapse disorder, and other serious threats to the health of honey bees and other pollinators, including—

"(I) parasites and pathogens of pollinators; and

"(II) the sublethal effects of insecticides, herbicides, and fungicides on honey bees and native and managed pollinators;

"(iv) to develop mitigative and preventative measures to improve native and managed pollinator health; and

"(v) to promote the health of honey bees and native pollinators through habitat conservation and best management practices.

"(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 2008 through 2012.

"(2) DEPARTMENT OF AGRICULTURE CAPACITY AND INFRASTRUCTURE.—

"(A) IN GENERAL.—The Secretary shall, to the maximum extent practicable, increase the capacity and infrastructure of the Department—

"(i) to address colony collapse disorder and other long-term threats to pollinator health, including the hiring of additional personnel; and

"(ii) to conduct research on colony collapse disorder and other pollinator issues at the facilities of the Department.

"(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $7,250,000 for each of fiscal years 2008 through 2012.

Appropriation authorization.

"(3) HONEY BEE PEST AND PATHOGEN SURVEILLANCE.—There is authorized to be appropriated to conduct a nationwide honey bee pest and pathogen surveillance program $2,750,000 for each of fiscal years 2008 through 2012.

"(4) ANNUAL REPORT ON RESPONSE TO HONEY BEE COLONY COLLAPSE DISORDER.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report describing the progress made by the Department of Agriculture in—

"(A) investigating the cause or causes of honey bee colony collapse; and

"(B) finding appropriate strategies to reduce colony loss.

"(i) REGIONAL CENTERS OF EXCELLENCE.—

"(1) ESTABLISHMENT.—The Secretary shall prioritize regional centers of excellence established for specific agricultural commodities for the receipt of funding under this section.

"(2) COMPOSITION.—A regional center of excellence shall be composed of 1 or more colleges and universities (including land-grant institutions, schools of forestry, schools of veterinary medicine, or NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103))) that provide financial support to the regional center of excellence.

"(3) CRITERIA FOR REGIONAL CENTERS OF EXCELLENCE.—The criteria for consideration to be a regional center of excellence shall include efforts—

"(A) to ensure coordination and cost-effectiveness by reducing unnecessarily duplicative efforts regarding research, teaching, and extension;

"(B) to leverage available resources by using public/private partnerships among agricultural industry groups, institutions of higher education, and the Federal Government;

"(C) to implement teaching initiatives to increase awareness and effectively disseminate solutions to target audiences through extension activities;

"(D) to increase the economic returns to rural communities by identifying, attracting, and directing funds to high-priority agricultural issues; and

"(E) to improve teaching capacity and infrastructure at colleges and universities (including land-grant institutions, schools of forestry, and schools of veterinary medicine).''; and

(4) in subsection (j) (as redesignated by paragraph (2)), by striking "2007" and inserting "2012".

(b) CONFORMING AMENDMENTS.—Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in the first sentence of subsection (a), by striking "(e), (f), and (g)" and inserting "(e) through (i)"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "paragraphs (1), (6), (7), and (11)" and inserting "paragraphs (4), (7), (8), and (11)(B)"; and

(B) in paragraph (2), by striking "subsection (e)" and inserting "subsections (e) through (i)".

**SEC. 7205. NUTRIENT MANAGEMENT RESEARCH AND EXTENSION INITIATIVE.**

Section 1672A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925a) is amended—

(1) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section."; Applicability.

(2) by striking subsection (d) and inserting the following:

"(d) PRIORITY.—Following the completion of a peer review process for grant proposals received under this section, the Secretary shall give priority to those grant proposals that involve—

"(1) the cooperation of multiple entities; and

"(2) States or regions with a high concentration of livestock, dairy, or poultry operations.";

(3) in subsection (e)—

(A) in paragraph (1)(B), by inserting "and dairy and beef cattle waste" after "swine waste"; and

(B) by striking paragraph (5) and inserting the following:

"(5) ALTERNATIVE USES AND RENEWABLE ENERGY.—Research and extension grants may be made under this section for the purpose of finding innovative methods and technologies to allow agricultural operators to make use of animal waste, such as use as fertilizer, methane digestion, composting, and other useful byproducts.";

(4) by redesignating subsection (g) as subsection (f); and

(5) in subsection (f) (as so redesignated), by striking "2007" and inserting "2012".

**SEC. 7206. ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.**

(a) IN GENERAL.—Section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b) (commonly known as the "Organic Agriculture Research and Extension Initiative") is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking "and" after the semicolon;

(B) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(7) examining optimal conservation and environmental outcomes relating to organically produced agricultural products; and

"(8) developing new and improved seed varieties that are particularly suited for organic agriculture."; and

(2) by adding at the end the following:

"(f) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(A) $18,000,000 for fiscal year 2009; and

"(B) $20,000,000 for each of fiscal years 2010 through 2012.

"(2) ADDITIONAL FUNDING.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.".

7 USC 5925b note.

(b) COORDINATION.—In carrying out the amendment made by this section, the Secretary shall ensure that the Division Chief of the applicable Research, Education, and Extension Office established under section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) coordinates projects and activities under this section to ensure, to the maximum extent practicable, that unnecessary duplication of effort is eliminated or minimized.

**SEC. 7207. AGRICULTURAL BIOENERGY FEEDSTOCK AND ENERGY EFFICIENCY RESEARCH AND EXTENSION INITIATIVE.**

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801 et seq.) is amended by inserting after section 1672B (7 U.S.C. 5925b) the following:

7 USC 5925e.

**"SEC. 1672C. AGRICULTURAL BIOENERGY FEEDSTOCK AND ENERGY EFFICIENCY RESEARCH AND EXTENSION INITIATIVE.**

"(a) ESTABLISHMENT AND PURPOSE.—There is established within the Department of Agriculture an agricultural bioenergy feedstock and energy efficiency research and extension initiative (referred to in this section as the 'Initiative') for the purpose of enhancing the production of biomass energy crops and the energy efficiency of agricultural operations.

"(b) COMPETITIVE RESEARCH AND EXTENSION GRANTS AUTHORIZED.—In carrying out this section, the Secretary shall make competitive grants to support research and extension activities specified in subsections (c) and (d).

"(c) AGRICULTURAL BIOENERGY FEEDSTOCK RESEARCH AND EXTENSION AREAS.—

"(1) IN GENERAL.—Agricultural bioenergy feedstock research and extension activities funded under the Initiative shall focus on improving agricultural biomass production, biomass conversion in biorefineries, and biomass use by—

"(A) supporting on-farm research on crop species, nutrient requirements, management practices, environmental impacts, and economics;

"(B) supporting the development and operation of on-farm, integrated biomass feedstock production systems;

"(C) leveraging the broad scientific capabilities of the Department of Agriculture and other entities in—

"(i) plant genetics and breeding;

"(ii) crop production;
"(iii) soil and water science;
"(iv) use of agricultural waste; and
"(v) carbohydrate, lipid, protein, and lignin chemistry, enzyme development, and biochemistry; and
"(D) supporting the dissemination of any of the research conducted under this subsection that will assist in achieving the goals of this section.
"(2) SELECTION CRITERIA.—In selecting grant recipients for projects under paragraph (1), the Secretary shall consider—
"(A) the capabilities and experiences of the applicant, including—
"(i) research in actual field conditions; and
"(ii) engineering and research knowledge relating to biofuels or the production of inputs for biofuel production;
"(B) the range of species types and cropping practices proposed for study (including species types and practices studied using side-by-side comparisons of those types and practices);
"(C) the need for regional diversity among feedstocks;
"(D) the importance of developing multiyear data relevant to the production of biomass feedstock crops;
"(E) the extent to which the project involves direct participation of agricultural producers;
"(F) the extent to which the project proposal includes a plan or commitment to use the biomass produced as part of the project in commercial channels; and
"(G) such other factors as the Secretary may determine.
"(d) ENERGY-EFFICIENCY RESEARCH AND EXTENSION AREAS.—On-farm energy-efficiency research and extension activities funded under the Initiative shall focus on developing and demonstrating technologies and production practices relating to—
"(1) improving on-farm renewable energy production;
"(2) encouraging efficient on-farm energy use;
"(3) promoting on-farm energy conservation;
"(4) making a farm or ranch energy-neutral; and
"(5) enhancing on-farm usage of advanced technologies to promote energy efficiency.
"(e) BEST PRACTICES DATABASE.—The Secretary shall develop a best-practices database that includes information, to be available to the public, on— Public information.
"(1) the production potential of a variety of biomass crops; and
"(2) best practices for production, collection, harvesting, storage, and transportation of biomass crops to be used as a source of bioenergy.
"(f) ADMINISTRATION.—
"(1) IN GENERAL.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) shall apply with respect to making grants under this section. Applicability.
"(2) CONSULTATION AND COORDINATION.—The Secretary shall—
"(A) make the grants in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board; and Grants.

"(B) coordinate projects and activities carried out under the Initiative with projects and activities under section 9008 of the Farm Security and Rural Investment Act of 2002 to ensure, to the maximum extent practicable, that—

"(i) unnecessary duplication of effort is eliminated or minimized; and

"(ii) the respective strengths of the Department of Agriculture and the Department of Energy are appropriately used.

"(3) GRANT PRIORITY.—The Secretary shall give priority to grant applications that integrate research and extension activities established under subsections (c) and (d), respectively.

"(4) MATCHING FUNDS REQUIRED.—As a condition of receiving a grant under this section, the Secretary shall require the recipient of the grant to provide funds or in-kind support from non-Federal sources in an amount that is at least equal to the amount provided by the Federal Government.

"(5) PARTNERSHIPS ENCOURAGED.—Following the completion of a peer review process for grant proposals received under this section, the Secretary may provide a priority to those grant proposals found as a result of the peer review process—

"(A) to be scientifically meritorious; and

"(B) that involve cooperation—

"(i) among multiple entities; and

"(ii) with agricultural producers.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 7208. FARM BUSINESS MANAGEMENT AND BENCHMARKING.**

The Food, Agriculture, Conservation and Trade Act of 1990 is amended by inserting after section 1672C (as added by section 7207) the following:

7 USC 5925f.

**"SEC. 1672D. FARM BUSINESS MANAGEMENT.**

"(a) IN GENERAL.—The Secretary may make competitive research and extension grants for the purpose of—

"(1) improving the farm management knowledge and skills of agricultural producers; and

"(2) establishing and maintaining a national, publicly available farm financial management database to support improved farm management.

"(b) SELECTION CRITERIA.—In allocating funds made available to carry out this section, the Secretary may give priority to grants that—

"(1) demonstrate an ability to work directly with agricultural producers;

"(2) collaborate with farm management and producer associations;

"(3) address the farm management needs of a variety of crops and regions of the United States; and

"(4) use and support the national farm financial management database.

Applicability.

"(c) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) shall apply with respect to the making of grants under this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

**SEC. 7209. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.**

Section 1673 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926) is repealed.

**SEC. 7210. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.**

Section 1680(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(c)(1)) is amended by striking "2007" and inserting "2012".

**SEC. 7211. RESEARCH ON HONEY BEE DISEASES.**

Section 1681 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5934) is repealed.

**SEC. 7212. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.**

Section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is amended by striking "2007" and inserting "2012".

## Subtitle C—Agricultural Research, Extension, and Education Reform Act of 1998

**SEC. 7301. PEER AND MERIT REVIEW.**

Section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)) is amended by adding at the end the following:

"(3) CONSIDERATION.—Peer and merit review procedures established under paragraphs (1) and (2) shall not take the offer or availability of matching funds into consideration.".

**SEC. 7302. PARTNERSHIPS FOR HIGH-VALUE AGRICULTURAL PRODUCT QUALITY RESEARCH.**

Section 402 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7622) is repealed.

**SEC. 7303. PRECISION AGRICULTURE.**

Section 403 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623) is repealed.

**SEC. 7304. BIOBASED PRODUCTS.**

(a) PILOT PROJECT.—Section 404(e)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(e)(2)) is amended by striking "2007" and inserting "2012".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 404(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(h)) is amended by striking "2007" and inserting "2012".

**SEC. 7305. THOMAS JEFFERSON INITIATIVE FOR CROP DIVERSIFICATION.**

Section 405 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625) is repealed.

**SEC. 7306. INTEGRATED RESEARCH, EDUCATION, AND EXTENSION COMPETITIVE GRANTS PROGRAM.**

Section 406(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(f)) is amended by striking "2007" and inserting "2012".

**SEC. 7307. FUSARIUM GRAMINEARUM GRANTS.**

Section 408 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628) is amended—

(1) in subsection (a), in the subsection heading, by striking "GRANT" and inserting "GRANTS"; and

(2) in subsection (e), by striking "2007" and inserting "2012".

**SEC. 7308. BOVINE JOHNE'S DISEASE CONTROL PROGRAM.**

Section 409(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7629(b)) is amended by striking "2007" and inserting "2012".

**SEC. 7309. GRANTS FOR YOUTH ORGANIZATIONS.**

Section 410 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7630) is amended by striking subsections (b) and (c) and inserting the following:

"(b) FLEXIBILITY.—The Secretary shall provide maximum flexibility in content delivery to each organization receiving funds under this section so as to ensure that the unique goals of each organization, as well as the local community needs, are fully met.

"(c) REDISTRIBUTION OF FUNDING WITHIN ORGANIZATIONS AUTHORIZED.—Recipients of funds under this section may redistribute all or part of the funds received to individual councils or local chapters within the councils without further need of approval from the Secretary.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.".

**SEC. 7310. AGRICULTURAL BIOTECHNOLOGY RESEARCH AND DEVELOPMENT FOR DEVELOPING COUNTRIES.**

Section 411(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7631(c)) is amended by striking "2007" and inserting "2012".

**SEC. 7311. SPECIALTY CROP RESEARCH INITIATIVE.**

(a) IN GENERAL.—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) is amended by adding at the end the following:

7 USC 7632.

**"SEC. 412. SPECIALTY CROP RESEARCH INITIATIVE.**

"(a) DEFINITIONS.—In this section:

"(1) INITIATIVE.—The term 'Initiative' means the specialty crop research and extension initiative established by subsection (b).

"(2) SPECIALTY CROP.—The term 'specialty crop' has the meaning given that term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

"(b) ESTABLISHMENT.—There is established within the Department a specialty crop research and extension initiative to address

the critical needs of the specialty crop industry by developing and disseminating science-based tools to address needs of specific crops and their regions, including—

"(1) research in plant breeding, genetics, and genomics to improve crop characteristics, such as—

"(A) product, taste, quality, and appearance;

"(B) environmental responses and tolerances;

"(C) nutrient management, including plant nutrient uptake efficiency;

"(D) pest and disease management, including resistance to pests and diseases resulting in reduced application management strategies; and

"(E) enhanced phytonutrient content;

"(2) efforts to identify and address threats from pests and diseases, including threats to specialty crop pollinators;

"(3) efforts to improve production efficiency, productivity, and profitability over the long term (including specialty crop policy and marketing);

"(4) new innovations and technology, including improved mechanization and technologies that delay or inhibit ripening; and

"(5) methods to prevent, detect, monitor, control, and respond to potential food safety hazards in the production and processing of specialty crops, including fresh produce.

"(c) ELIGIBLE ENTITIES.—The Secretary may carry out the Initiative through—

"(1) Federal agencies;

"(2) national laboratories;

"(3) colleges and universities;

"(4) research institutions and organizations;

"(5) private organizations or corporations;

"(6) State agricultural experiment stations;

"(7) individuals; or

"(8) groups consisting of 2 or more entities described in paragraphs (1) through (7).

"(d) RESEARCH PROJECTS.—In carrying out this section, the Secretary shall award grants on a competitive basis. Grants.

"(e) ADMINISTRATION.—

"(1) IN GENERAL.—With respect to grants awarded under subsection (d), the Secretary shall—

"(A) seek and accept proposals for grants;

"(B) determine the relevance and merit of proposals through a system of peer and merit review in accordance with section 103; and

"(C) award grants on the basis of merit, quality, and relevance. Grants.

"(2) TERM.—The term of a grant under this section may not exceed 10 years.

"(3) MATCHING FUNDS REQUIRED.—The Secretary shall require the recipient of a grant under this section to provide funds or in-kind support from non-Federal sources in an amount that is at least equal to the amount provided by the Federal Government.

"(4) OTHER CONDITIONS.—The Secretary may set such other conditions on the award of a grant under this section as the Secretary determines to be appropriate.

"(f) PRIORITIES.—In making grants under this section, the Secretary shall provide a higher priority to projects that—

"(1) are multistate, multi-institutional, or multidisciplinary; and

"(2) include explicit mechanisms to communicate results to producers and the public.

"(g) BUILDINGS AND FACILITIES.—Funds made available under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement, and architect fees).

"(h) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section $30,000,000 for fiscal year 2008 and $50,000,000 for each of fiscal years 2009 through 2012, from which activities under each of paragraphs (1) through (5) of subsection (b) shall be allocated not less than 10 percent.

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under paragraph (1), there is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2008 through 2012.

"(3) TRANSFER.—Of the funds made available to the Secretary under paragraph (1) for fiscal year 2008 and authorized for use for payment of administrative expenses under section 1469(a)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3315(a)(3)), the Secretary shall transfer, upon the date of enactment of this section, $200,000 to the Office of Prevention, Pesticides, and Toxic Substances of the Environmental Protection Agency for use in conducting a meta-analysis relating to methyl bromide.

"(4) AVAILABILITY.—Funds made available pursuant to this subsection for a fiscal year shall remain available until expended to pay for obligations incurred in that fiscal year.".

7 USC 7632 note.

(b) COORDINATION.—In carrying out the amendment made by this section, the Secretary shall ensure that the Division Chief of the applicable Research, Education, and Extension Office established under section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) coordinates projects and activities under this section to ensure, to the maximum extent practicable, that unnecessary duplication of effort is eliminated or minimized.

**SEC. 7312. FOOD ANIMAL RESIDUE AVOIDANCE DATABASE PROGRAM.**

Section 604 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7642) is amended by adding at the end the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds available to carry out subsection (c), there is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2008 through 2012.".

**SEC. 7313. OFFICE OF PEST MANAGEMENT POLICY.**

Section 614(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7653(f)) is amended by striking "2007" and inserting "2012".

# Subtitle D—Other Laws

**SEC. 7401. CRITICAL AGRICULTURAL MATERIALS ACT.**

Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7402. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.**

(a) DEFINITION OF 1994 INSTITUTIONS.—Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by adding at the end the following:

"(34) Ilisagvik College.".

(b) ENDOWMENT FOR 1994 INSTITUTIONS.—Section 533 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) in subsection (a)(3), in the matter preceding subparagraph (A), by inserting "this section and" before "sections 534,"; and

(2) in the first sentence of subsection (b), by striking "2007" and inserting "2012".

(c) REDISTRIBUTION.—Section 534(a)(3) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by striking "The amounts" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amounts"; and

(2) by adding at the end the following:

"(B) REDISTRIBUTION.—Funds that would be paid to a 1994 Institution under paragraph (2) shall be withheld from that 1994 Institution and redistributed among the other 1994 Institutions if that 1994 Institution—

"(i) declines to accept funds under paragraph (2); or

"(ii) fails to meet the accreditation requirements under section 533(a)(3).".

(d) INSTITUTIONAL CAPACITY BUILDING GRANTS.—Section 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking "2007" each place it appears and inserting "2012".

(e) RESEARCH GRANTS.—Section 536(c) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended in the first sentence by striking "2007" and inserting "2012".

(f) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2008. 7 USC 1301 note.

**SEC. 7403. SMITH-LEVER ACT.**

(a) PROGRAM.—Section 3(d) of the Smith-Lever Act (7 U.S.C. 343(d)) is amended in the second sentence by striking "apply for and receive" and all that follows through paragraph (2) and inserting "compete for and receive funds directly from the Secretary of Agriculture.".

(b) ELIMINATION OF THE GOVERNOR'S REPORT REQUIREMENT FOR EXTENSION ACTIVITIES.—Section 5 of the Smith-Lever Act (7 U.S.C. 345) is amended by striking the third sentence.

(c) CONFORMING AMENDMENT.—Section 1444(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)(2)) is amended by striking "after September 30, 1995, under section 3(d) of that Act (7 U.S.C. 343(d))" and all that follows through the end of the sentence and inserting "under section 3(d) of that Act (7 U.S.C. 343(d)).".

**SEC. 7404. HATCH ACT OF 1887.**

(a) DISTRICT OF COLUMBIA.—Section 3(d)(4) of the Hatch Act of 1887 (7 U.S.C. 361c(d)(4)) is amended—

(1) in the paragraph heading, by inserting "AND THE DISTRICT OF COLUMBIA" after "AREAS";

(2) in subparagraph (A)—

(A) by inserting "and the District of Columbia" after "United States"; and

(B) by inserting "and the District of Columbia" after "respectively,"; and

(3) in subparagraph (B), by inserting "or the District of Columbia" after "area".

(b) ELIMINATION OF PENALTY MAIL AUTHORITIES.—

(1) IN GENERAL.—Section 6 of the Hatch Act of 1887 (7 U.S.C. 361f) is amended in the first sentence by striking "under penalty indicia:" and all that follows through the end of the sentence and inserting a period.

(2) CONFORMING AMENDMENTS IN OTHER LAWS.—

(A) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—

(i) Section 1444(f) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(f)) is amended by striking "under penalty indicia:" and all that follows through the end of the sentence and inserting a period.

(ii) Section 1445(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(e)) is amended by striking "under penalty indicia:" and all that follows through the end of the sentence and inserting a period.

(B) OTHER PROVISIONS.—Section 3202(a) of title 39, United States Code, is amended—

(i) in paragraph (1)—

(I) in subparagraph (D), by adding "and" at the end;

(II) in subparagraph (E), by striking "sections; and" and inserting "sections."; and

(III) by striking subparagraph (F);

(ii) in paragraph (2), by adding "and" at the end;

(iii) in paragraph (3) by striking "thereof; and" and inserting "thereof."; and

(iv) by striking paragraph (4).

**SEC. 7405. AGRICULTURAL EXPERIMENT STATION RESEARCH FACILITIES ACT.**

Section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) is amended by striking "2007" and inserting "2012".

**SEC. 7406. AGRICULTURE AND FOOD RESEARCH INITIATIVE.**

(a) IN GENERAL.—Subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) is amended to read as follows:

"(b) AGRICULTURE AND FOOD RESEARCH INITIATIVE.—

"(1) ESTABLISHMENT.—There is established in the Department of Agriculture an Agriculture and Food Research Initiative under which the Secretary of Agriculture (referred to in this subsection as 'the Secretary') may make competitive grants for fundamental and applied research, extension, and education to address food and agricultural sciences (as defined under section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)).

"(2) PRIORITY AREAS.—The competitive grants program established under this subsection shall address the following areas:

"(A) PLANT HEALTH AND PRODUCTION AND PLANT PRODUCTS.—Plant systems, including—

"(i) plant genome structure and function;

"(ii) molecular and cellular genetics and plant biotechnology;

"(iii) conventional breeding, including cultivar and breed development, selection theory, applied quantitative genetics, breeding for improved food quality, breeding for improved local adaptation to biotic stress and abiotic stress, and participatory breeding;

"(iv) plant-pest interactions and biocontrol systems;

"(v) crop plant response to environmental stresses;

"(vi) unproved nutrient qualities of plant products; and

"(vii) new food and industrial uses of plant products.

"(B) ANIMAL HEALTH AND PRODUCTION AND ANIMAL PRODUCTS.—Animal systems, including—

"(i) aquaculture;

"(ii) cellular and molecular basis of animal reproduction, growth, disease, and health;

"(iii) animal biotechnology;

"(iv) conventional breeding, including breed development, selection theory, applied quantitative genetics, breeding for improved food quality, breeding for improved local adaptation to biotic stress and abiotic stress, and participatory breeding;

"(v) identification of genes responsible for improved production traits and resistance to disease;

"(vi) improved nutritional performance of animals;

"(vii) improved nutrient qualities of animal products and uses; and

"(viii) the development of new and improved animal husbandry and production systems that take into account production efficiency, animal well-being, and animal systems applicable to aquaculture.

"(C) FOOD SAFETY, NUTRITION, AND HEALTH.—Nutrition, food safety and quality, and health, including—

"(i) microbial contaminants and pesticides residue relating to human health;

"(ii) links between diet and health;
"(iii) bioavailability of nutrients;
"(iv) postharvest physiology and practices; and
"(v) improved processing technologies.

"(D) RENEWABLE ENERGY, NATURAL RESOURCES, AND ENVIRONMENT.—Natural resources and the environment, including—

"(i) fundamental structures and functions of ecosystems;
"(ii) biological and physical bases of sustainable production systems;
"(iii) minimizing soil and water losses and sustaining surface water and ground water quality;
"(iv) global climate effects on agriculture;
"(v) forestry; and
"(vi) biological diversity.

"(E) AGRICULTURE SYSTEMS AND TECHNOLOGY.—Engineering, products, and processes, including—

"(i) new uses and new products from traditional and nontraditional crops, animals, byproducts, and natural resources;
"(ii) robotics, energy efficiency, computing, and expert systems;
"(iii) new hazard and risk assessment and mitigation measures; and
"(iv) water quality and management.

"(F) AGRICULTURE ECONOMICS AND RURAL COMMUNITIES.—Markets, trade, and policy, including—

"(i) strategies for entering into and being competitive in domestic and overseas markets;
"(ii) farm efficiency and profitability, including the viability and competitiveness of small and medium-sized dairy, livestock, crop and other commodity operations;
"(iii) new decision tools for farm and market systems;
"(iv) choices and applications of technology;
"(v) technology assessment; and
"(vi) new approaches to rural development, including rural entrepreneurship.

"(3) TERM.—The term of a competitive grant made under this subsection may not exceed 10 years.

Grants.

"(4) GENERAL ADMINISTRATION.—In making grants under this subsection, the Secretary shall—

"(A) seek and accept proposals for grants;
"(B) determine the relevance and merit of proposals through a system of peer and merit review in accordance with section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613);
"(C) award grants on the basis of merit, quality, and relevance;
"(D) solicit and consider input from persons who conduct or use agricultural research, extension, or education in accordance with section 102(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7612(b)); and

"(E) in seeking proposals for grants under this subsection and in performing peer review evaluations of such proposals, seek the widest participation of qualified individuals in the Federal Government, colleges and universities, State agricultural experiment stations, and the private sector.

"(5) ALLOCATION OF FUNDS.—In making grants under this subsection, the Secretary shall allocate funds to the Agriculture and Food Research Initiative to ensure that, of funds allocated for research activities—

"(A) not less than 60 percent is made available to make grants for fundamental research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971)), of which—

"(i) not less than 30 percent is made available to make grants for research to be conducted by multidisciplinary teams; and

"(ii) not more than 2 percent is used for equipment grants under paragraph (6)(A); and

"(B) not less than 40 percent is made available to make grants for applied research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971)).

"(6) SPECIAL CONSIDERATIONS.—In making grants under this subsection, the Secretary may assist in the development of capabilities in the agricultural, food, and environmental sciences by providing grants—

"(A) to an institution to allow for the improvement of the research, development, technology transfer, and education capacity of the institution through the acquisition of special research equipment and the improvement of agricultural education and teaching, except that the Secretary shall use not less than 25 percent of the funds made available for grants under this subparagraph to provide fellowships to outstanding pre- and post-doctoral students for research in the agricultural sciences;

"(B) to a single investigator or coinvestigators who are beginning research careers and do not have an extensive research publication record, except that, to be eligible for a grant under this subparagraph, an individual shall be within 5 years of the beginning of the initial career track position of the individual;

"(C) to ensure that the faculty of small, mid-sized, and minority-serving institutions who have not previously been successful in obtaining competitive grants under this subsection receive a portion of the grants; and

"(D) to improve research, extension, and education capabilities in States (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) in which institutions have been less successful in receiving funding under this subsection, based on a 3-year rolling average of funding levels.

"(7) ELIGIBLE ENTITIES.—The Secretary may make grants to carry out research, extension, and education under this subsection to—

"(A) State agricultural experiment stations;

"(B) colleges and universities;
"(C) university research foundations;
"(D) other research institutions and organizations;
"(E) Federal agencies;
"(F) national laboratories;
"(G) private organizations or corporations;
"(H) individuals; or
"(I) any group consisting of 2 or more of the entities described in subparagraphs (A) through (H).

"(8) CONSTRUCTION PROHIBITED.—Funds made available for grants under this subsection shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement, and architect fees).

"(9) MATCHING FUNDS.—
"(A) EQUIPMENT GRANTS.—
"(i) IN GENERAL.—Except as provided in clause (ii), in the case of a grant made under paragraph (6)(A), the amount provided under this subsection may not exceed 50 percent of the cost of the special research equipment or other equipment acquired using funds from the grant.
"(ii) WAIVER.—The Secretary may waive all or part of the matching requirement under clause (i) in the case of a college, university, or research foundation maintained by a college or university that ranks in the lowest ⅓ of such colleges, universities, and research foundations on the basis of Federal research funds received, if the equipment to be acquired using funds from the grant costs not more than $25,000 and has multiple uses within a single research project or is usable in more than 1 research project.
"(B) APPLIED RESEARCH.—As a condition of making a grant under paragraph (5)(B), the Secretary shall require the funding of the grant to be matched with equal matching funds from a non-Federal source if the grant is for applied research that is—
"(i) commodity-specific; and
"(ii) not of national scope.

"(10) PROGRAM ADMINISTRATION.—To the maximum extent practicable, the Director of the National Institute of Food and Agriculture, in coordination with the Under Secretary for Research, Education, and Economics, shall allocate grants under this subsection to high-priority research, taking into consideration, when available, the determinations made by the National Agricultural Research, Extension, Education, and Economics Advisory Board (as established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123)).

"(11) AUTHORIZATION OF APPROPRIATIONS.—
"(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection $700,000,000 for each of fiscal years 2008 through 2012, of which—
"(i) not less than 30 percent shall be made available for integrated research pursuant to section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626); and

"(ii) not more than 4 percent may be retained by the Secretary to pay administrative costs incurred by the Secretary in carrying out this subsection.

"(B) AVAILABILITY.—Funds made available under this paragraph shall—

"(i) be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are first made available; and

"(ii) remain available until expended to pay for obligations incurred during that 2-year period.".

(b) REPEALS.—

(1) Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is repealed.

(2) Subsection (d) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(d)) is repealed.

(c) EFFECT ON CURRENT SOLICITATIONS.—The amendments made by this section shall not apply to any solicitation for grant applications issued by the Cooperative State Research, Education, and Extension Service before the date of enactment of this Act. 7 USC 450i note.

(d) CONFORMING AMENDMENTS.—

(1) Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319) is amended in the first sentence by striking "and subsection (d)".

(2) Section 1671(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(d) is amended by striking "Paragraphs (1), (6), (7), and (11)" and inserting "Paragraphs (4), (7), (8), and (11)(B)".

(3) Section 1672B(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b(b)) is amended by striking "Paragraphs (1), (6), (7), and (11)" and inserting "Paragraphs (4), (7), (8), and (11)(B)".

**SEC. 7407. AGRICULTURAL RISK PROTECTION ACT OF 2000.**

Section 221 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 6711(g)) is amended by striking subsection (g) and inserting the following:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2007 through 2012.".

**SEC. 7408. EXCHANGE OR SALE AUTHORITY.**

Title III of the Department of Agriculture Reorganization Act of 1994 (Public Law 103–354; 108 Stat. 3238) is amended by adding at the end the following:

**"SEC. 307. EXCHANGE OR SALE AUTHORITY.** 7 USC 2241a.

"(a) DEFINITION OF QUALIFIED ITEM OF PERSONAL PROPERTY.—In this section, the term 'qualified item of personal property' means—

"(1) an animal;

"(2) an animal product;

"(3) a plant; or

"(4) a plant product.

"(b) GENERAL AUTHORITY.—Except as provided in subsection (c), notwithstanding chapter 5 of subtitle I of title 40, United States Code, the Secretary, acting through the Under Secretary for Research, Education, and Economics, in managing personal

property for the purpose of carrying out the research functions of the Department, may exchange, sell, or otherwise dispose of any qualified item of personal property, including by way of public auction, and may retain and apply the sale or other proceeds, without further appropriation and without fiscal year limitation, in whole or in partial payment—

"(1) to acquire any qualified item of personal property; or

"(2) to offset costs related to the maintenance, care, or feeding of any qualified item of personal property.

"(c) EXCEPTION.—Subsection (b) does not apply to the free dissemination of new varieties of seeds and germplasm in accordance with section 520 of the Revised Statutes (commonly known as the 'Department of Agriculture Organic Act') (7 U.S.C. 2201).".

**SEC. 7409. ENHANCED USE LEASE AUTHORITY PILOT PROGRAM.**

Title III of the Department of Agriculture Reorganization Act of 1994 (Public Law 103–354; 108 Stat. 3238) (as amended by section 7408) is amended by adding at the end the following:

7 USC 3125a note.

**"SEC. 308. ENHANCED USE LEASE AUTHORITY PILOT PROGRAM.**

"(a) ESTABLISHMENT.—To enhance the use of real property administered by agencies of the Department, the Secretary may establish a pilot program, in accordance with this section, at the Beltsville Agricultural Research Center of the Agricultural Research Service and the National Agricultural Library to lease nonexcess property of the Center or the Library to any individual or entity, including agencies or instrumentalities of State or local governments.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding chapter 5 of subtitle I of title 40, United States Code, the Secretary may lease real property at the Beltsville Agricultural Research Center or the National Agricultural Library in accordance with such terms and conditions as the Secretary may prescribe, if the Secretary determines that the lease—

"(A) is consistent with, and will not adversely affect, the mission of the Department agency administering the property;

"(B) will enhance the use of the property;

"(C) will not permit any portion of Department agency property or any facility of the Department to be used for the public retail or wholesale sale of merchandise or residential development;

"(D) will not permit the construction or modification of facilities financed by non-Federal sources to be used by an agency, except for incidental use; and

"(E) will not include any property or facility required for any Department agency purpose without prior consideration of the needs of the agency.

"(2) TERM.—The term of a lease under this section shall not exceed 30 years.

"(3) CONSIDERATION.—

"(A) IN GENERAL.—Consideration provided for a lease under this section shall be—

"(i) in an amount equal to fair market value, as determined by the Secretary; and

"(ii) in the form of cash.

"(B) USE OF FUNDS.—

"(i) IN GENERAL.—Consideration provided for a lease under this section shall be—

"(I) deposited in a capital asset account to be established by the Secretary; and

"(II) available until expended, without further appropriation, for maintenance, capital revitalization, and improvements of the Department properties and facilities at the Beltsville Agricultural Research Center and National Agricultural Library.

"(ii) BUDGETARY TREATMENT.—For purposes of the budget, the amounts described in clause (i) shall not be treated as a receipt of any Department agency or any other agency leasing property under this section.

"(4) COSTS.—The lessee shall cover all costs associated with a lease under this section, including the cost of—

"(A) the project to be carried out on property or at a facility covered by the lease;

"(B) provision and administration of the lease;

"(C) construction of any needed facilities;

"(D) provision of applicable utilities; and

"(E) any other facility cost normally associated with the operation of a leased facility.

"(5) PROHIBITION OF USE OF APPROPRIATIONS.—The Secretary shall not use any funds made available to the Secretary in an appropriations Act for the construction or operating costs of any space covered by a lease under this section.

"(6) TERMINATION OF AUTHORITY.—This section and the authority provided by this section terminate—

"(A) on the date that is 5 years after the date of enactment of this section; or

"(B) with respect to any particular leased property, on the date of termination of the lease.

"(c) EFFECT OF OTHER LAWS.—

"(1) UTILIZATION.—Property that is leased pursuant to this section shall not be considered to be unutilized or underutilized for purposes of section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

"(2) DISPOSAL.—Property at the Beltsville Agricultural Research Center or the National Agricultural Library that is leased pursuant to this section shall not be considered to be disposed of by sale, lease, rental, excessing, or surplusing for purposes of section 523 of Public Law 100–202 (101 Stat. 1329-417). Maryland.

"(d) ADMINISTRATION.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes detailed management objectives and performance measurements by which the Secretary intends to evaluate the success of the program under this section. Deadline. Reports.

"(2) REPORTS.—Not later than 1, 3, and 5 years after the date of enactment of this section, the Secretary shall submit

to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the implementation of the program under this section, including—

"(A) a copy of each lease entered into pursuant to this section; and

"(B) an assessment by the Secretary of the success of the program using the management objectives and performance measurements developed by the Secretary.".

**SEC. 7410. BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.**

(a) GRANTS.—Section 7405(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f(c)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) MAXIMUM TERM AND SIZE OF GRANT.—

"(A) IN GENERAL.—A grant under this subsection shall—

"(i) have a term that is not more than 3 years; and

"(ii) be in an amount that is not more than $250,000 for each year.

"(B) CONSECUTIVE GRANTS.—An eligible recipient may receive consecutive grants under this subsection.";

(2) by redesignating paragraphs (5) through (7) as paragraphs (8) through (10), respectively;

(3) by inserting after paragraph (4) the following:

"(5) EVALUATION CRITERIA.—In making grants under this subsection, the Secretary shall evaluate—

"(A) relevancy;

"(B) technical merit;

"(C) achievability;

"(D) the expertise and track record of 1 or more applicants;

"(E) the adequacy of plans for the participatory evaluation process, outcome-based reporting, and the communication of findings and results beyond the immediate target audience; and

"(F) other appropriate factors, as determined by the Secretary.

"(6) REGIONAL BALANCE.—In making grants under this subsection, the Secretary shall, to the maximum extent practicable, ensure geographical diversity.

"(7) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to partnerships and collaborations that are led by or include nongovernmental and community-based organizations with expertise in new agricultural producer training and outreach.".

(b) FUNDING.—Section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f) is amended by striking subsection (h) and inserting the following:

"(h) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(A) $18,000,000 for fiscal year 2009; and

"(B) $19,000,000 for each of fiscal years 2010 through 2012.

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds provided under paragraph (1), there is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 7411. PUBLIC EDUCATION REGARDING USE OF BIOTECHNOLOGY IN PRODUCING FOOD FOR HUMAN CONSUMPTION.**

Section 10802 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5921a) is repealed.

**SEC. 7412. MCINTIRE-STENNIS COOPERATIVE FORESTRY ACT.**

(a) IN GENERAL.—Section 2 of Public Law 87–788 (commonly known as the "McIntire-Stennis Cooperative Forestry Act") (16 U.S.C. 582a–1) is amended by inserting "and 1890 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601))," before "and (b)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2008. 16 USC 502a–1 note.

**SEC. 7413. RENEWABLE RESOURCES EXTENSION ACT OF 1978.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1675) is amended in the first sentence by striking "2007" and inserting "2012".

(b) TERMINATION DATE.—Section 8 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 note; Public Law 95–306) is amended by striking "2007" and inserting "2012".

**SEC. 7414. NATIONAL AQUACULTURE ACT OF 1980.**

Section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) is amended by striking "2007" each place it appears and inserting "2012".

**SEC. 7415. CONSTRUCTION OF CHINESE GARDEN AT THE NATIONAL ARBORETUM.**

The Act of March 4, 1927 (20 U.S.C. 191 et seq.), is amended by adding at the end the following:

**"SEC. 7. CONSTRUCTION OF CHINESE GARDEN AT THE NATIONAL ARBORETUM.** 20 USC 197.

"A Chinese Garden may be constructed at the National Arboretum established under this Act with—

"(1) funds accepted under section 5;

"(2) authorities provided to the Secretary of Agriculture under section 6; and

"(3) appropriations provided for this purpose.".

**SEC. 7416. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT AMENDMENTS OF 1985.**

Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended by striking "2007" and inserting "2012".

**SEC. 7417. ELIGIBILITY OF UNIVERSITY OF THE DISTRICT OF COLUMBIA FOR CERTAIN LAND-GRANT UNIVERSITY ASSISTANCE.**

(a) IN GENERAL.—Section 208 of the District of Columbia Public Postsecondary Education Reorganization Act (Public Law 93–471; 88 Stat. 1428) is amended—

(1) in subsection (b)(2), by striking ", except" and all that follows through the period and inserting a period; and

(2) in subsection (c)—

(A) by striking "section 3" each place it appears and inserting "section 3(c)"; and

(B) by striking "Such sums may be used to pay" and all that follows through "work.".

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

# Subtitle E—Miscellaneous

## PART I—GENERAL PROVISIONS

7 USC 7614.

**SEC. 7501. DEFINITIONS.**

Except as otherwise provided in this subtitle, in this subtitle:

(1) CAPACITY AND INFRASTRUCTURE PROGRAM.—The term "capacity and infrastructure program" has the meaning given the term in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).

(2) CAPACITY AND INFRASTRUCTURE PROGRAM CRITICAL BASE FUNDING.—The term "capacity and infrastructure program critical base funding" means the aggregate amount of Federal funds made available for capacity and infrastructure programs for fiscal year 2006, as appropriate.

(3) COMPETITIVE PROGRAM.—The term "competitive program" has the meaning given the term in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).

(4) COMPETITIVE PROGRAM CRITICAL BASE FUNDING.—The term "competitive program critical base funding" means the aggregate amount of Federal funds made available for competitive programs for fiscal year 2006, as appropriate.

(5) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—The term "Hispanic-serving agricultural colleges and universities" has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

(6) NLGCA INSTITUTION.—The term "NLGCA Institution" has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

(7) 1862 INSTITUTION; 1890 INSTITUTION; 1994 INSTITUTION.—The terms "1862 Institution", "1890 Institution", and "1994 Institution" have the meanings given the terms in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).

**SEC. 7502. GRAZINGLANDS RESEARCH LABORATORY.** Oklahoma.

Except as otherwise specifically authorized by law and notwithstanding any other provision of law, the Federal land and facilities at El Reno, Oklahoma, administered by the Secretary (as of the date of enactment of this Act) as the Grazinglands Research Laboratory, shall not at any time, in whole or in part, be declared to be excess or surplus Federal property under chapter 5 of subtitle I of title 40, United States Code, or otherwise be conveyed or transferred in whole or in part, for the 5-year period beginning on the date of enactment of this Act.

**SEC. 7503. FORT RENO SCIENCE PARK RESEARCH FACILITY.** Oklahoma.

The Secretary may lease land to the University of Oklahoma at the Grazinglands Research Laboratory at El Reno, Oklahoma, on such terms and conditions as the University and the Secretary may agree in furtherance of cooperative research and existing easement arrangements.

**SEC. 7504. ROADMAP.** 7 USC 7614a.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, acting through the Under Secretary of Research, Education, and Economics (referred to in this section as the "Under Secretary"), shall commence preparation of a roadmap for agricultural research, education, and extension that— Deadline.

(1) identifies current trends and constraints;

(2) identifies major opportunities and gaps that no single entity within the Department of Agriculture would be able to address individually;

(3) involves—

(A) interested parties from the Federal Government and nongovernmental entities; and

(B) the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123);

(4) incorporates roadmaps for agricultural research, education, and extension made publicly available by other Federal entities, agencies, or offices; and

(5) describes recommended funding levels for areas of agricultural research, education, and extension, including—

(A) competitive programs;

(B) capacity and infrastructure programs, with attention to the future growth needs of—

(i) small 1862 Institutions, 1890 Institutions, and 1994 Institutions;

(ii) Hispanic-serving agricultural colleges and universities;

(iii) NLGCA Institutions; and

(iv) colleges of veterinary medicine; and

(C) intramural programs at agencies within the research, education, and economics mission area; and

(6) describes how organizational changes enacted by this Act have impacted agricultural research, extension, and education across the Department of Agriculture, including minimization of unnecessary programmatic and administrative duplication.

(b) REVIEWABILITY.—The roadmap described in this section shall not be subject to review by any officer or employee of the Federal Government other than the Secretary (or a designee of the Secretary).

(c) ROADMAP IMPLEMENTATION AND REPORT.—Not later than 1 year after the date on which the Secretary commences preparation of the roadmap under this section, the Secretary shall—

(1) implement and use the roadmap to set the research, education, and extension agenda of the Department of Agriculture; and

(2) make the roadmap available to the public.

7 USC 7614b.

**SEC. 7505. REVIEW OF PLAN OF WORK REQUIREMENTS.**

(a) REVIEW.—The Secretary shall work with university partners in extension and research to review and identify measures to streamline the submission, reporting under, and implementation of plan of work requirements, including those requirements under—

(1) sections 1444(d) and 1445(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(d) and 3222(c), respectively);

(2) section 7 of the Hatch Act of 1887 (7 U.S.C. 361g); and

(3) section 4 of the Smith-Lever Act (7 U.S.C. 344).

(b) CONSULTATION.—In carrying out the review and formulating and compiling the recommendations, the Secretary shall consult with the land-grant institutions.

7 USC 7614c.

**SEC. 7506. BUDGET SUBMISSION AND FUNDING.**

(a) DEFINITION OF COMPETITIVE PROGRAMS.—In this section, the term "competitive programs" includes only competitive programs for which annual appropriations are requested in the annual budget submission of the President.

(b) BUDGET REQUEST.—The President shall submit to Congress, together with the annual budget submission of the President, a single budget line item reflecting the total amount requested by the President for funding for research, education, and extension activities of the Research, Education, and Economics mission area of the Department for that fiscal year and for the preceding 5 fiscal years.

(c) CAPACITY AND INFRASTRUCTURE PROGRAM REQUEST.—Of the funds requested for capacity and infrastructure programs in excess of the capacity and infrastructure program critical base funding level, budgetary emphasis should be placed on enhancing funding for—

(1) 1890 Institutions;

(2) 1994 Institutions;

(3) NLGCA Institutions;

(4) Hispanic-serving agricultural colleges and universities; and

(5) small 1862 Institutions.

(d) COMPETITIVE PROGRAM REQUEST.—Of the funds requested for competitive programs in excess of the competitive program critical base funding level, budgetary emphasis should be placed on—

(1) enhancing funding for emerging problems; and

(2) finding solutions for those problems.

# PART II—RESEARCH, EDUCATION, AND ECONOMICS

**SEC. 7511. RESEARCH, EDUCATION, AND ECONOMICS.**

(a) IN GENERAL.—Section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) is amended—

(1) in subsection (a), by inserting "(referred to in this section as the 'Under Secretary')" before the period at the end;

(2) by striking subsections (b) through (d);

(3) by redesignating subsection (e) as subsection (g); and 5 USC 5314.

(4) by inserting after subsection (a) the following:

"(b) CONFIRMATION REQUIRED.—The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among distinguished scientists with specialized training or significant experience in agricultural research, education, and economics. President. Congress.

"(c) CHIEF SCIENTIST.—The Under Secretary shall—

"(1) hold the title of Chief Scientist of the Department; and

"(2) be responsible for the coordination of the research, education, and extension activities of the Department.

"(d) FUNCTIONS OF UNDER SECRETARY.—

"(1) PRINCIPAL FUNCTION.—The Secretary shall delegate to the Under Secretary those functions and duties under the jurisdiction of the Department that relate to research, education, and economics.

"(2) SPECIFIC FUNCTIONS AND DUTIES.—The Under Secretary shall—

"(A) identify, address, and prioritize current and emerging agricultural research, education, and extension needs (including funding);

"(B) ensure that agricultural research, education, and extension programs are effectively coordinated and integrated—

"(i) across disciplines, agencies, and institutions; and

"(ii) among applicable participants, grantees, and beneficiaries;

"(C) promote the collaborative use of all agricultural research, education, and extension resources from the local, State, tribal, regional, national, and international levels to address priority needs; and

"(D) foster communication among agricultural research, education, and extension beneficiaries, including the public, to ensure the delivery of agricultural research, education, and extension knowledge.

"(3) ADDITIONAL FUNCTIONS.—The Under Secretary shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

"(e) RESEARCH, EDUCATION, AND EXTENSION OFFICE.—

"(1) ESTABLISHMENT.—The Under Secretary shall organize within the office of the Under Secretary 6 Divisions, to be known collectively as the 'Research, Education, and Extension Office', which shall coordinate the research programs and activities of the Department.

"(2) DIVISION DESIGNATIONS.—The Divisions within the Research, Education, and Extension Office shall be as follows:

"(A) Renewable energy, natural resources, and environment.

"(B) Food safety, nutrition, and health.

"(C) Plant health and production and plant products.

"(D) Animal health and production and animal products.

"(E) Agricultural systems and technology.

"(F) Agricultural economics and rural communities.

"(3) DIVISION CHIEFS.—

"(A) SELECTION.—The Under Secretary shall select a Division Chief for each Division using available personnel authority under title 5, United States Code, including—

"(i) by term, temporary, or other appointment, without regard to—

"(I) the provisions of title 5, United States Code, governing appointments in the competitive service;

"(II) the provisions of subchapter I of chapter 35 of title 5, United States Code, relating to retention preference; and

"(III) the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates;

"(ii) by detail, notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph, requiring reimbursement for those details unless the appropriation Act specifically refers to this subsection and specifically includes these details;

"(iii) by reassignment or transfer from any other civil service position; and

"(iv) by an assignment under subchapter VI of chapter 33 of title 5, United States Code.

"(B) SELECTION GUIDELINES.—To the maximum extent practicable, the Under Secretary shall select Division Chiefs under subparagraph (A) in a manner that—

"(i) promotes leadership and professional development;

"(ii) enables personnel to interact with other agencies of the Department; and

"(iii) maximizes the ability of the Under Secretary to allow for rotations of Department personnel into the position of Division Chief.

"(C) TERM OF SERVICE.—Notwithstanding title 5, United States Code, the maximum length of service for an individual selected as a Division Chief under subparagraph (A) shall not exceed 4 years.

"(D) QUALIFICATIONS.—To be eligible for selection as a Division Chief, an individual shall have—

"(i) conducted exemplary research, education, or extension in the field of agriculture or forestry; and

"(ii) earned an advanced degree at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

"(E) DUTIES OF DIVISION CHIEFS.—Except as otherwise provided in this Act, each Division Chief shall—

"(i) assist the Under Secretary in identifying and addressing emerging agricultural research, education, and extension needs;

"(ii) assist the Under Secretary in identifying and prioritizing Department-wide agricultural research, education, and extension needs, including funding;

"(iii) assess the strategic workforce needs of the research, education, and extension functions of the Department, and develop strategic workforce plans to ensure that existing and future workforce needs are met;

"(iv) communicate with research, education, and extension beneficiaries, including the public, and representatives of the research, education, and extension system, including the National Agricultural Research, Extension, Education, and Economics Advisory Board, to promote the benefits of agricultural research, education, and extension;

"(v) assist the Under Secretary in preparing and implementing the roadmap for agricultural research, education, and extension, as described in section 7504 of the Food, Conservation, and Energy Act of 2008; and

"(vi) perform such other duties as the Under Secretary may determine.

"(4) GENERAL ADMINISTRATION.—

"(A) FUNDING.—Notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph unless the appropriation Act specifically refers to this subsection and specifically includes the administration of funds under this section, the Secretary may transfer funds made available to an agency in the research, education, and economics mission area to fund the costs of Division personnel.

"(B) LIMITATION.—To the maximum extent practicable—

"(i) the Under Secretary shall minimize the number of full-time equivalent positions in the Divisions; and

"(ii) at no time shall the aggregate number of staff for all Divisions exceed 30 full-time equivalent positions.

"(C) ROTATION OF PERSONNEL.—To the maximum extent practicable, and using the authority described in paragraph (3)(A), the Under Secretary shall rotate personnel among the Divisions, and between the Divisions and agencies of the Department, in a manner that—

"(i) promotes leadership and professional development; and

"(ii) enables personnel to interact with other agencies of the Department.

"(5) ORGANIZATION.—The Under Secretary shall integrate leadership functions of the national program staff of the research agencies into the Research, Education and Extension Office in such form as is required to ensure that administrative duplication does not occur.

"(f) NATIONAL INSTITUTE OF FOOD AND AGRICULTURE.—

"(1) DEFINITIONS.—In this subsection:

"(A) ADVISORY BOARD.—The term 'Advisory Board' means the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123).

"(B) APPLIED RESEARCH.—The term 'applied research' means research that includes expansion of the findings of fundamental research to uncover practical ways in which new knowledge can be advanced to benefit individuals and society.

"(C) CAPACITY AND INFRASTRUCTURE PROGRAM.—The term 'capacity and infrastructure program' means each of the following agricultural research, extension, education, and related programs for which the Secretary has administrative or other authority as of the day before the date of enactment of the Food, Conservation, and Energy Act of 2008:

"(i) Each program providing funding to any of the 1994 Institutions under sections 533, 534(a), and 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382).

"(ii) The program established under section 536 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) providing research grants for 1994 Institutions.

"(iii) Each program established under subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343).

"(iv) Each program established under the Hatch Act of 1887 (7 U.S.C. 361a et seq.).

"(v) Each program established under section 1417(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)).

"(vi) The animal health and disease research program established under subtitle E of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191 et seq.).

"(vii) Each extension program available to 1890 Institutions established under section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221).

"(viii) The program established under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222).

"(ix) The program providing grants to upgrade agricultural and food sciences facilities at 1890 Institutions established under section 1447 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b).

"(x) The program providing distance education grants for insular areas established under section 1490 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3362).

"(xi) The program providing resident instruction grants for insular areas established under section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363).

"(xii) Each research and development and related program established under Public Law 87–788 (commonly known as the 'McIntire-Stennis Cooperative Forestry Act') (16 U.S.C. 582a et seq.).

"(xiii) Each program established under the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.).

"(xiv) Each program providing funding to Hispanic-serving agricultural colleges and universities under section 1456 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

"(xv) The program providing capacity grants to NLGCA Institutions under section 1473F of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

"(xvi) Other programs that are capacity and infrastructure programs, as determined by the Secretary.

"(D) COMPETITIVE PROGRAM.—The term 'competitive program' means each of the following agricultural research, extension, education, and related programs for which the Secretary has administrative or other authority as of the day before the date of enactment of the Food, Conservation, and Energy Act of 2008:

"(i) The Agriculture and Food Research Initiative established under section 2(b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)).

"(ii) The program providing competitive grants for risk management education established under section 524(a)(3) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)(3)).

"(iii) The program providing community food project competitive grants established under section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034).

"(iv) The program providing grants for beginning farmer and rancher development established under section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f).

"(v) The program providing grants under section 1417(j) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)).

"(vi) The program providing grants for Hispanic-serving institutions established under section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241).

"(vii) The program providing competitive grants for international agricultural science and education

programs under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b).

"(viii) The research and extension projects carried out under section 1621 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5811).

"(ix) The organic agriculture research and extension initiative established under section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b).

"(x) The specialty crop research initiative under section 412 of the Agricultural Research, Extension, and Education Reform Act of 1998.

"(xi) The administration and management of the Agricultural Bioenergy Feedstock and Energy Efficiency Research and Extension Initiative carried out under section 1672C of the Food, Agriculture, Conservation, and Trade Act of 1990.

"(xii) The research, extension, and education programs authorized by section 407 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627) relating to the competitiveness, viability and sustainability of small- and medium-sized dairy, livestock, and poultry operations.

"(xiii) Other programs that are competitive programs, as determined by the Secretary.

"(E) DIRECTOR.—The term 'Director' means the Director of the Institute.

"(F) FUNDAMENTAL RESEARCH.—The term 'fundamental research' means research that—

"(i) increases knowledge or understanding of the fundamental aspects of phenomena and has the potential for broad application; and

"(ii) has an effect on agriculture, food, nutrition, or the environment.

"(G) INSTITUTE.—The term 'Institute' means the National Institute of Food and Agriculture established by paragraph (2)(A).

"(2) ESTABLISHMENT OF NATIONAL INSTITUTE OF FOOD AND AGRICULTURE.—

"(A) ESTABLISHMENT.—The Secretary shall establish within the Department an agency to be known as the 'National Institute of Food and Agriculture'.

Deadline.

"(B) TRANSFER OF AUTHORITIES.—The Secretary shall transfer to the Institute, effective not later than October 1, 2009, the authorities (including all budget authorities, available appropriations, and personnel), duties, obligations, and related legal and administrative functions prescribed by law or otherwise granted to the Secretary, the Department, or any other agency or official of the Department under—

"(i) the capacity and infrastructure programs;

"(ii) the competitive programs;

"(iii) the research, education, economic, cooperative State research programs, cooperative extension and education programs, international programs, and other

functions and authorities delegated by the Under Secretary to the Administrator of the Cooperative State Research, Education, and Extension Service pursuant to section 2.66 of title 7, Code of Federal Regulations (or successor regulations); and

"(iv) any and all other authorities administered by the Administrator of the Cooperative State Research, Education, and Extension Service.

"(3) DIRECTOR.—

"(A) IN GENERAL.—The Institute shall be headed by a Director, who shall be an individual who is—

"(i) a distinguished scientist; and

"(ii) appointed by the President.

"(B) SUPERVISION.—The Director shall report directly to the Secretary, or the designee of the Secretary.

"(C) FUNCTIONS OF THE DIRECTOR.—The Director shall—

"(i) serve for a 6-year term, subject to reappointment for an additional 6-year term;

"(ii) periodically report to the Secretary, or the designee of the Secretary, with respect to activities carried out by the Institute; and

"(iii) consult regularly with the Secretary, or the designee of the Secretary, to ensure, to the maximum extent practicable, that—

"(I) research of the Institute is relevant to agriculture in the United States and otherwise serves the national interest; and

"(II) the research of the Institute supplements and enhances, and does not supplant, research conducted or funded by other Federal agencies.

"(D) COMPENSATION.—The Director shall receive basic pay at a rate not to exceed the maximum amount of compensation payable to a member of the Senior Executive Service under subsection (b) of section 5382 of title 5, United States Code, except that the certification requirement in that subsection shall not apply to the compensation of the Director.

"(E) AUTHORITY AND RESPONSIBILITIES OF DIRECTOR.—Except as otherwise specifically provided in this subsection, the Director shall—

"(i) exercise all of the authority provided to the Institute by this subsection;

"(ii) formulate and administer programs in accordance with policies adopted by the Institute, in coordination with the Under Secretary;

"(iii) establish offices within the Institute;

"(iv) establish procedures for the provision and administration of grants by the Institute; and Procedures.

"(v) consult regularly with the Advisory Board.

"(4) REGULATIONS.—The Institute shall have such authority as is necessary to carry out this subsection, including the authority to promulgate such regulations as the Institute considers to be necessary for governance of operations, organization, and personnel.

"(5) ADMINISTRATION.—

"(A) IN GENERAL.—The Director shall organize offices and functions within the Institute to administer fundamental and applied research and extension and education programs.

"(B) RESEARCH PRIORITIES.—The Director shall ensure the research priorities established by the Under Secretary through the Research, Education and Extension Office are carried out by the offices and functions of the Institute, where applicable.

"(C) FUNDAMENTAL AND APPLIED RESEARCH.—The Director shall—

"(i) determine an appropriate balance between fundamental and applied research programs and functions to ensure future research needs are met; and

"(ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

"(D) COMPETITIVELY FUNDED AWARDS.—The Director shall—

"(i) promote the use and growth of grants awarded through a competitive process; and

"(ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

"(E) COORDINATION.—The Director shall ensure that the offices and functions established under subparagraph (A) are effectively coordinated for maximum efficiency.

"(6) FUNDING.—

"(A) IN GENERAL.—In addition to funds otherwise appropriated to carry out each program administered by the Institute, there are authorized to be appropriated such sums as are necessary to carry out this subsection for each fiscal year.

"(B) ALLOCATION.—Funding made available under subparagraph (A) shall be allocated according to recommendations contained in the roadmap described in section 7504 of the Food, Conservation, and Energy Act of 2008.".

(b) FUNCTIONS.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)) is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(6) the authority of the Secretary to establish in the Department, under section 251—

"(A) the position of Under Secretary of Agriculture for Research, Education, and Economics;

"(B) the Research, Education, and Extension Office; and

"(C) the National Institute of Food and Agriculture.".

Effective date.
7 USC 1522 note.

(c) CONFORMING AMENDMENTS.—The following conforming amendments shall take effect on October 1, 2009:

(1) Section 522(d)(2) of the Federal Crop Insurance Act (7 U.S.C. 1522(d)(2)) is amended by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(2) Section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)) is amended in each of paragraphs (1)(B) and

(3)(A) by striking "the Cooperative State Research, Education, and Extension Service" each place it appears and inserting "the National Institute of Food and Agriculture".

(3) Section 306(a)(11)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(C)) is amended by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(4) Section 5(b)(2)(E) of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1929 note; Public Law 102–554) is amended by striking "Cooperative Extension Service" and inserting "National Institute of Food and Agriculture".

(5) Section 11(f)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(f)(1)) is amended by striking "Cooperative Extension Service" and inserting "National Institute of Food and Agriculture".

(6) Section 502(h) of the Rural Development Act of 1972 (7 U.S.C. 2662(h)) is amended—

(A) in paragraph (1), by striking "Extension Service" and inserting "National Institute of Food and Agriculture"; and

(B) in paragraph (4), by striking "Extension Service staff" and inserting "National Institute of Food and Agriculture staff".

(7) Section 7404(b)(1)(B) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3101 note; Public Law 107–171) is amended by striking clause (vi) and inserting the following:

"(vi) the National Institute of Food and Agriculture.".

(8) Section 1408(b)(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(b)(4)) is amended by striking "the Administrator of the Cooperative State Research, Education, and Extension Service" and inserting "the Director of the National Institute of Food and Agriculture".

(9) Section 2381(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(10) The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended—

(A) in section 1424A(b) (7 U.S.C. 3174a(b)), by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture"; and

(B) in section 1458(a)(10) (7 U.S.C. 3291(a)(10)), by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(11) Section 1587(a) of the Food Security Act of 1985 (7 U.S.C. 3175d(a)) is amended by striking "Extension Service" each place it appears and inserting "National Institute of Food and Agriculture".

(12) Section 1444(b)(2)(A) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C.

3221(b)(2)(A)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(13) Section 1473D(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(d)) is amended by striking "the Cooperative State Research Service, the Extension Service" and inserting "the National Institute of Food and Agriculture".

(14) Section 1499(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5506(c)) is amended by striking "the Cooperative State Research Service" and all that follows through "extension services;" and inserting "the National Institute of Food and Agriculture, in conjunction with the system of State agricultural experiment stations and State and county cooperative extension services; the Economic Research Service;".

(15) Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended—

(A) in subsection (a)(1), by striking "the Cooperative State Research Service in close cooperation with the Extension Service" and inserting "the National Institute of Food and Agriculture";

(B) in subsection (b)(1)—

(i) by striking subparagraphs (B) and (C) and inserting the following:

"(B) the National Institute of Food and Agriculture;"; and

(ii) by redesignating subparagraphs (D) through (L) as subparagraphs (C) through (K), respectively.

(16) Section 1627(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5821(d)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(17) Section 1629 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5832) is amended—

(A) in subsection (b), in the first sentence, by striking "the Extension Service" and inserting "the National Institute of Food and Agriculture"; and

(B) in subsection (h), by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(18) Section 1638(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5852(b)) is amended—

(A) in paragraph (3), by striking "Cooperative State Research Service" and inserting "National Institute of Food and Agriculture"; and

(B) in paragraph (5), by striking "Cooperative State Research Service" and inserting "National Institute of Food and Agriculture".

(19) Section 1640(a)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5854(a)(2)) is amended by striking "the Administrator of the Extension Service, the Administrator of the Cooperative State Research Service" and inserting "the Director of the National Institute of Food and Agriculture".

(20) Section 1641(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(a)) is amended—

(A) in paragraph (2), by striking "Cooperative State Research Service" and inserting "National Institute of Food and Agriculture"; and

(B) in paragraph (4,) by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(21) Section 1668(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921(b)) is amended by striking "Cooperative State Research, Education, and Extension Service" and inserting "National Institute of Food and Agriculture".

(22) Section 1670(a)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5923(a)(4)) is amended by striking "the Administrator of the Cooperative State Research, Education, and Extension Service" and inserting "the Director of the National Institute of Food and Agriculture".

(23) Section 1677(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5930(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(24) Section 2122(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6521(b)(1)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(25) Section 2371 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601) is amended—

(A) in subsection (a), by striking "Extension Service" and inserting "National Institute of Food and Agriculture"; and

(B) in subsection (c)(3), by striking "Service" and inserting "System".

(26) Section 2377(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6615(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(27) Section 212(a)(2)(A) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(a)(2)(A)) is amended by striking "251(d)," and inserting "251(f),".

(28) Section 537 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7446) is amended in each of subsections (a)(2) and (b)(3)(B)(i) by striking "Cooperative State Research, Education, and Extension Service" and inserting "cooperative extension".

(29) Section 101(b)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7611(b)(2)) is amended by striking "Cooperative State Research, Education, and Extension Service" and inserting "National Institute of Food and Agriculture".

(30) Section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)) is amended—

(A) in the subsection heading, by striking "Cooperative State Research, Education, and Extension Service" and inserting "National Institute of Food and Agriculture"; and

(B) in each of paragraphs (1) and (2)(A), by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(31) Section 407(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627(c)) is amended by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(32) Section 410(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7630(a)) is amended by striking "the Administrator of the Cooperative State Research, Education, and Extension Service" and inserting "the Director of the National Institute of Food and Agriculture".

(33) Section 307(g)(5) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 8606(g)(5)) is amended by striking "Administrator of the Cooperative State Research, Education, and Extension Service" and inserting "Director of the National Institute of Food and Agriculture".

(34) Section 5(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674a(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(35) Section 6(b) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103b(b)) is amended by striking "the Cooperative State Research, Education, and Extension Service, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or Cooperative Extension officials" and inserting "the National Institute of Food and Agriculture, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or cooperative extension officials".

(36) Section 9(g)(2)(A)(viii) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105(g)(2)(A)(viii)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(37) Section 19(b)(1)(B)(i) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113(b)(1)(B)(i)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(38) Section 1261(c)(4) of the Food Security Act of 1985 (16 U.S.C. 3861(c)(4)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(39) Section 105(a) of the Africa: Seeds of Hope Act of 1998 (22 U.S.C. 2293 note; Public Law 105–385) is amended by striking "the Cooperative State, Research, Education, and Extension Service (CSREES)" and inserting "the National Institute of Food and Agriculture".

(40) Section 307(a)(4) of the National Aeronautic and Space Administration Authorization Act of 2005 (42 U.S.C. 16657(a)(4)) is amended by striking subparagraph (B) and inserting the following:

> "(B) the program and structure of, peer review process of, management of conflicts of interest by, compensation of reviewers of, and the effects of compensation on reviewer efficiency and quality within, the National Institute of Food and Agriculture of the Department of Agriculture;".

# PART III—NEW GRANT AND RESEARCH PROGRAMS

**SEC. 7521. RESEARCH AND EDUCATION GRANTS FOR THE STUDY OF ANTIBIOTIC-RESISTANT BACTERIA.** 7 USC 3202.

(a) IN GENERAL.—The Secretary shall provide research and education grants, on a competitive basis—

(1) to study the development of antibiotic-resistant bacteria, including—

(A) movement of antibiotic-resistant bacteria into groundwater and surface water; and

(B) the effect on antibiotic resistance from various drug use regimens; and

(2) to study and ensure the judicious use of antibiotics in veterinary and human medicine, including—

(A) methods and practices of animal husbandry;

(B) safe and effective alternatives to antibiotics;

(C) the development of better veterinary diagnostics to improve decisionmaking; and

(D) the identification of conditions or factors that affect antibiotic use on farms.

(b) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section. Applicability.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

**SEC. 7522. FARM AND RANCH STRESS ASSISTANCE NETWORK.** 7 USC 5936.

(a) IN GENERAL.—The Secretary, in coordination with the Secretary of Health and Human Services, shall make competitive grants to support cooperative programs between State cooperative extension services and nonprofit organizations to establish a Farm and Ranch Stress Assistance Network that provides stress assistance programs to individuals who are engaged in farming, ranching, and other agriculture-related occupations.

(b) ELIGIBLE PROGRAMS.—Grants awarded under subsection (a) may be used to initiate, expand, or sustain programs that provide professional agricultural behavioral health counseling and referral for other forms of assistance as necessary through—

(1) farm telephone helplines and websites;

(2) community education;

(3) support groups;

(4) outreach services and activities; and

(5) home delivery of assistance, in a case in which a farm resident is homebound.

(c) EXTENSION SERVICES.—Grants shall be awarded under this subsection directly to State cooperative extension services to enable the State cooperative extension services to enter into contracts, on a multiyear basis, with nonprofit, community-based, direct-service organizations to initiate, expand, or sustain cooperative programs described in subsections (a) and (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

7 USC 415–1.

**SEC. 7523. SEED DISTRIBUTION.**

(a) IN GENERAL.—The Secretary shall make competitive grants to eligible entities to carry out a seed distribution program to administer and maintain the distribution of vegetable seeds donated by commercial seed companies.

(b) PURPOSES.—The purposes of this program include—

(1) the distribution of seeds donated by commercial seed companies free-of-charge to appropriate—

(A) individuals;

(B) groups;

(C) institutions;

(D) governmental and nongovernmental organizations; and

(E) such other entities as the Secretary may designate;

(2) distribution of seeds to underserved communities, such as communities that experience—

(A) limited access to affordable fresh vegetables;

(B) a high rate of hunger or food insecurity; or

(C) severe or persistent poverty.

Applicability.

(c) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.

(d) SELECTION.—An eligible entity selected to receive a grant under subsection (a) shall have—

(1) expertise regarding the distribution of vegetable seeds donated by commercial seed companies; and

(2) the ability to achieve the purpose of the seed distribution program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

21 USC 113a note.

**SEC. 7524. LIVE VIRUS FOOT AND MOUTH DISEASE RESEARCH.**

Permits.

(a) IN GENERAL.—The Secretary shall issue a permit required under section 12 of the Act of May 29, 1884 (21 U.S.C. 113a) to the Secretary of Homeland Security for work on the live virus of foot and mouth disease at any facility that is a successor to the Plum Island Animal Disease Center and charged with researching high-consequence biological threats involving zoonotic and foreign animal diseases (referred to in this section as the "successor facility").

(b) LIMITATION TO SINGLE FACILITY.—Not more than 1 facility shall be issued a permit under subsection (a).

(c) LIMITATION ON VALIDITY.—The permit issued under this section shall be valid unless the Secretary determines that the study of live foot and mouth disease virus at the successor facility is not being carried out in accordance with the regulations promulgated by the Secretary pursuant to the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).

(d) AUTHORITY.—The suspension, revocation, or other impairment of the permit issued under this section—

(1) shall be made by the Secretary; and

(2) is a nondelegable function.

**SEC. 7525. NATURAL PRODUCTS RESEARCH PROGRAM.** 7 USC 5937.

(a) IN GENERAL.—The Secretary shall establish within the Department a natural products research program.

(b) DUTIES.—In carrying out the program established under subsection (a), the Secretary shall coordinate research relating to natural products, including—

(1) research to improve human health and agricultural productivity through the discovery, development, and commercialization of products and agrichemicals from bioactive natural products, including products from plant, marine, and microbial sources;

(2) research to characterize the botanical sources, production, chemistry, and biological properties of plant-derived natural products; and

(3) other research priorities identified by the Secretary.

(c) PEER AND MERIT REVIEW.—The Secretary shall—

(1) determine the relevance and merit of research under this section through a system of peer review established by the Secretary pursuant to section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613); and

(2) approve funding for research on the basis of merit, quality, and relevance to advancing the purposes of this section.

(d) BUILDINGS AND FACILITIES.—Funds made available under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.

**SEC. 7526. SUN GRANT PROGRAM.** 7 USC 8114.

(a) ESTABLISHMENT.—The Secretary shall establish and carry out a program to provide grants to the sun grant centers and subcenter specified in subsection (b)—

(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration among—

(A) the Department of Agriculture;

(B) the Department of Energy; and

(C) land-grant colleges and universities.

(b) GRANTS.— State listing.

(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (g) to provide grants to each of the following:

(A) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the

region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

(B) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

(i) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

(ii) the Commonwealth of Puerto Rico; and

(iii) the United States Virgin Islands.

(C) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

(D) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

(i) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

(ii) insular areas (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103 (other than the insular areas referred to in clauses (ii) and (iii) of subparagraph (B))).

(E) NORTHEASTERN CENTER.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

(F) WESTERN INSULAR PACIFIC SUBCENTER.—A western insular Pacific sun grant subcenter at the University of Hawaii for the region of Alaska, Hawaii, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(2) MANNER OF DISTRIBUTION.—

(A) CENTERS.—In providing any funds made available under subsection (g), the Secretary shall distribute the grants in equal amounts to the sun grant centers described in subparagraphs (A) through (E) of paragraph (1).

(B) SUBCENTER.—The sun grant center described in paragraph (1)(D) shall allocate a portion of the funds received under paragraph (1) to the subcenter described in paragraph (1)(F) pursuant to guidance issued by the Secretary.

(3) FAILURE TO COMPLY WITH REQUIREMENTS.—If the Secretary finds on the basis of a review of the annual report required under subsection (f) or on the basis of an audit of a sun grant center or subcenter conducted by the Secretary that the center or subcenter has not complied with the requirements of this section, the sun grant center or subcenter shall be ineligible to receive further grants under this section for such period of time as may be prescribed by the Secretary.

(c) USE OF FUNDS.—

(1) COMPETITIVE GRANTS.—

(A) IN GENERAL.—A sun grant center or subcenter shall use 75 percent of the funds described in subsection (b) to provide competitive grants to entities that are—

(i) eligible to receive grants under subsection (b)(7) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(7)); and

(ii) located in the region covered by the sun grant center or subcenter.

(B) ACTIVITIES.—Grants described in subparagraph (A) shall be used by the grant recipient to conduct, in a manner consistent with the purposes described in subsection (a), multi-institutional and multistate—

(i) research, extension, and education programs on technology development; and

(ii) integrated research, extension, and education programs on technology implementation.

(C) FUNDING ALLOCATION.—Of the amount of funds that is used to provide grants under subparagraph (A), the sun grant center or subcenter shall use—

(i) not less than 30 percent of the funds to carry out the programs described in subparagraph (B)(i); and

(ii) not less than 30 percent of the funds to carry out the programs described in subparagraph (B)(ii).

(D) ADMINISTRATION.—

(i) PEER AND MERIT REVIEW.—In making grants under this paragraph, a sun grant center or subcenter shall—

(I) seek and accept proposals for grants;

(II) determine the relevance and merit of proposals through a system of peer review similar to that established by the Secretary pursuant to section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613); and

(III) award grants on the basis of merit, quality, and relevance to advancing the purposes of this section.

(ii) PRIORITY.—A sun grant center or subcenter shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (d).

(iii) TERM.—A grant awarded by a sun grant center or subcenter shall have a term that does not exceed 5 years.

(iv) MATCHING FUNDS REQUIRED.—

(I) IN GENERAL.—Except as provided in subclauses (II) and (III), as a condition of receiving a grant under this paragraph, the sun grant center or subcenter shall require that not less than 20 percent of the cost of an activity described in subparagraph (B) be matched with funds, including in-kind contributions, from a non-Federal source.

(II) EXCLUSION.—Subclause (I) shall not apply to fundamental research (as defined in subsection

(f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).

(III) REDUCTION.—The sun grant center or subcenter may reduce or eliminate the requirement for non-Federal funds under subclause (I) for applied research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)) if the sun grant center or subcenter determines that the reduction is necessary and appropriate pursuant to guidance issued by the Secretary.

(v) BUILDINGS AND FACILITIES.—Funds made available for grants shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

(vi) LIMITATION ON INDIRECT COSTS.—A sun grant center or subcenter may not recover the indirect costs of making grants under subparagraph (A).

(2) ADMINISTRATIVE EXPENSES.—A sun grant center or subcenter may use up to 4 percent of the funds described in subsection (b) to pay administrative expenses incurred in carrying out paragraph (1).

(3) RESEARCH, EXTENSION AND EDUCATIONAL ACTIVITIES.—The sun grant centers and subcenter shall use the remainder of the funds described in subsection (b) to conduct, in a manner consistent with the purposes described in subsection (a), multi-institutional and multistate—

(A) research, extension, and educational programs on technology development; and

(B) integrated research, extension, and educational programs on technology implementation.

(d) PLAN FOR RESEARCH ACTIVITIES TO BE FUNDED.—

(1) IN GENERAL.—Subject to the availability of funds under subsection (g), and in cooperation with land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers and subcenter shall jointly develop and submit to the Secretary for approval a plan for addressing the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy at the State and regional levels.

(2) GASIFICATION COORDINATION.—With respect to gasification research activity, the sun grant centers and subcenter shall coordinate planning with land-grant colleges and universities in their respective regions that have ongoing research activities in that area.

(3) FUNDING.—Funds described in subsection (c)(2) shall be available to carry out planning coordination under paragraph (1).

(4) USE OF PLAN.—The sun grant centers and subcenter shall use the plan described in paragraph (1) in making grants under subsection (c)(1).

(e) GRANT INFORMATION ANALYSIS CENTER.—The sun grant centers and subcenter shall maintain a Sun Grant Information

Analysis Center at the sun grant center specified in subsection (b)(1)(A) to provide the sun grant centers and subcenter with analysis and data management support.

(f) ANNUAL REPORTS.—Not later than 90 days after the end of each fiscal year, a sun grant center or subcenter receiving a grant under this section shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center or subcenter during the fiscal year, including—

(1) the results of all peer and merit review procedures conducted pursuant to subsection (c)(1)(D)(i); and

(2) a description of progress made in facilitating the priorities described in subsection (d)(1).

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2008 through 2012, of which not more than $4,000,000 for each fiscal year shall be made available to carry out subsection (e).

**SEC. 7527. STUDY AND REPORT ON FOOD DESERTS.**

(a) DEFINITION OF FOOD DESERT.—In this section, the term "food desert" means an area in the United States with limited access to affordable and nutritious food, particularly such an area composed of predominantly lower-income neighborhoods and communities.

(b) STUDY AND REPORT.—The Secretary shall carry out a study of, and prepare a report on, food deserts.

(c) CONTENTS.—The study and report shall—

(1) assess the incidence and prevalence of food deserts;

(2) identify—

(A) characteristics and factors causing and influencing food deserts; and

(B) the effect on local populations of limited access to affordable and nutritious food; and

(3) provide recommendations for addressing the causes and effects of food deserts through measures that include—

(A) community and economic development initiatives;

(B) incentives for retail food market development, including supermarkets, small grocery stores, and farmers' markets; and

(C) improvements to Federal food assistance and nutrition education programs.

(d) COORDINATION WITH OTHER AGENCIES AND ORGANIZATIONS.—The Secretary shall conduct the study under this section in coordination and consultation with—

(1) the Secretary of Health and Human Services;

(2) the Administrator of the Small Business Administration;

(3) the Institute of Medicine; and

(4) representatives of appropriate businesses, academic institutions, and nonprofit and faith-based organizations.

(e) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the report prepared under this section, including the findings and recommendations described in subsection (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000.

Effective date.

**SEC. 7528. DEMONSTRATION PROJECT AUTHORITY FOR TEMPORARY POSITIONS.**

Notwithstanding section 4703(d)(1) of title 5, United States Code, the amendment to the personnel management demonstration project established in the Department of Agriculture (67 Fed. Reg. 70776 (2002)), shall become effective upon the date of enactment of this Act and shall remain in effect unless modified by law.

7 USC 5938.

**SEC. 7529. AGRICULTURAL AND RURAL TRANSPORTATION RESEARCH AND EDUCATION.**

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, shall make competitive grants to institutions of higher education to carry out agricultural and rural transportation research and education activities.

(b) ACTIVITIES.—Research and education grants made under this section shall be used to address rural transportation and logistics needs of agricultural producers and related rural businesses, including—

(1) the transportation of biofuels; and

(2) the export of agricultural products.

(c) SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall award grants under this section on the basis of the transportation research, education, and outreach expertise of the applicant, as determined by the Secretary.

(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to institutions of higher education for use in coordinating research and education activities with other institutions of higher education with similar agricultural and rural transportation research and education programs.

(d) DIVERSIFICATION OF RESEARCH.—The Secretary shall award grants under this section in areas that are regionally diverse and broadly representative of the diversity of agricultural production and related transportation needs in the rural areas of the United States.

(e) MATCHING FUNDS REQUIREMENT.—The Secretary shall require each recipient of a grant under this section to provide, from non-Federal sources, in cash or in kind, 50 percent of the cost of carrying out activities under the grant.

(f) GRANT REVIEW.—A grant shall be awarded under this section on a competitive, peer- and merit-reviewed basis in accordance with section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)).

(g) NO DUPLICATION.—In awarding grants under this section, the Secretary shall ensure that activities funded under this section do not duplicate the efforts of the University Transportation Centers described in sections 5505 and 5506 of title 49, United States Code.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.

# TITLE VIII—FORESTRY

## Subtitle A—Amendments to Cooperative Forestry Assistance Act of 1978

### SEC. 8001. NATIONAL PRIORITIES FOR PRIVATE FOREST CONSERVATION.

Section 2 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101) is amended—

(1) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (b) the following new subsections:

"(c) PRIORITIES.—In allocating funds appropriated or otherwise made available under this Act, the Secretary shall focus on the following national private forest conservation priorities, notwithstanding other priorities specified elsewhere in this Act:

"(1) Conserving and managing working forest landscapes for multiple values and uses.

"(2) Protecting forests from threats, including catastrophic wildfires, hurricanes, tornados, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, or development, and restoring appropriate forest types in response to such threats.

"(3) Enhancing public benefits from private forests, including air and water quality, soil conservation, biological diversity, carbon storage, forest products, forestry-related jobs, production of renewable energy, wildlife, wildlife corridors and wildlife habitat, and recreation.

"(d) REPORTING REQUIREMENT.—Not later than September 30, 2011, the Secretary shall submit to Congress a report describing how funds were used under this Act, and through other programs administered by the Secretary, to address the national priorities specified in subsection (c) and the outcomes achieved in meeting the national priorities.".

### SEC. 8002. LONG-TERM STATE-WIDE ASSESSMENTS AND STRATEGIES FOR FOREST RESOURCES.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 2 (16 U.S.C. 2101) the following new section:

**"SEC. 2A. STATE-WIDE ASSESSMENT AND STRATEGIES FOR FOREST RESOURCES.** 16 USC 2101a.

"(a) ASSESSMENT AND STRATEGIES FOR FOREST RESOURCES.— Deadline.
For a State to be eligible to receive funds under the authorities of this Act, the State forester of that State or equivalent State official shall develop and submit to the Secretary, not later than two years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the following:

"(1) A State-wide assessment of forest resource conditions, including—

"(A) the conditions and trends of forest resources in that State;

"(B) the threats to forest lands and resources in that State consistent with the national priorities specified in section 2(c);

"(C) any areas or regions of that State that are a priority; and

"(D) any multi-State areas that are a regional priority.

"(2) A long-term State-wide forest resource strategy, including—

"(A) strategies for addressing threats to forest resources in the State outlined in the assessment required by paragraph (1); and

"(B) a description of the resources necessary for the State forester or equivalent State official from all sources to address the State-wide strategy.

"(b) UPDATING.—At such times as the Secretary determines to be necessary, the State forester or equivalent State official shall update and resubmit to the Secretary the State-wide assessment and State-wide strategy required by subsection (a).

"(c) COORDINATION.—In developing or updating the State-wide assessment and State-wide strategy required by subsection (a), the State Forester or equivalent State official shall coordinate with—

"(1) the State Forest Stewardship Coordinating Committee established for the State under section 19(b);

"(2) the State wildlife agency, with respect to strategies contained in the State wildlife action plans;

"(3) the State Technical Committee;

"(4) applicable Federal land management agencies; and

"(5) for purposes of the Forest Legacy Program under section 7, the State lead agency designated by the Governor.

"(d) INCORPORATION OF OTHER PLANS.—In developing or updating the State-wide assessment and State-wide strategy required by subsection (a), the State forester or equivalent State official shall incorporate any forest management plan of the State, including community wildfire protection plans and State wildlife action plans.

"(e) SUFFICIENCY.—Once approved by the Secretary, a State-wide assessment and State-wide strategy developed under subsection (a) shall be deemed to be sufficient to satisfy all relevant State planning and assessment requirements under this Act.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section up to $10,000,000 for each of fiscal years 2008 through 2012.

"(2) ADDITIONAL FUNDING SOURCES.—In addition to the funds appropriated for a fiscal year pursuant to the authorization of appropriations in paragraph (1) to carry out this section, the Secretary may use any other funds made available for planning under this Act to carry out this section, except that the total amount of combined funding used to carry out this section may not exceed $10,000,000 in any fiscal year.

"(g) ANNUAL REPORT ON USE OF FUNDS.—The State forester or equivalent State official shall submit to the Secretary an annual report detailing how funds made available to the State under this Act are being used.".

**SEC. 8003. COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.**

16 USC 2103d note.

(a) FINDINGS.—Congress finds that—

(1) the Forest Service projects that, by calendar year 2030, approximately 44,000,000 acres of privately-owned forest land will be developed throughout the United States;

(2) public access to parcels of privately-owned forest land for outdoor recreational activities, including hunting, fishing, and trapping, has declined and, as a result, participation in those activities has also declined in cases in which public access is not secured;

(3) rising rates of obesity and other public health problems relating to the inactivity of the citizens of the United States have been shown to be ameliorated by improving public access to safe and attractive areas for outdoor recreation;

(4) in rapidly-growing communities of all sizes throughout the United States, remaining parcels of forest land play an essential role in protecting public water supplies;

(5) forest parcels owned by local governmental entities and nonprofit organizations are providing important demonstration sites for private landowners to learn forest management techniques;

(6) throughout the United States, communities of diverse types and sizes are deriving significant financial and community benefits from managing forest land owned by local governmental entities for timber and other forest products; and

(7) there is an urgent need for local governmental entities to be able to leverage financial resources in order to purchase important parcels of privately-owned forest land as the parcels are offered for sale.

(b) COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 7 (16 U.S.C. 2103c) the following new section:

**"SEC. 7A. COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.**

16 USC 2103d.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a local governmental entity, Indian tribe, or nonprofit organization that owns or acquires a parcel under the program.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(3) LOCAL GOVERNMENTAL ENTITY.—The term 'local governmental entity' includes any municipal government, county government, or other local government body with jurisdiction over local land use decisions.

"(4) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any organization that—

"(A) is described in section 170(h)(3) of the Internal Revenue Code of 1986; and

"(B) operates in accordance with 1 or more of the purposes specified in section 170(h)(4)(A) of that Code.

"(5) PROGRAM.—The term 'Program' means the community forest and open space conservation program established under subsection (b).

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

"(b) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the 'community forest and open space conservation program'.

"(c) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary may award grants to eligible entities to acquire private forest land, to be owned in fee simple, that—

"(A) are threatened by conversion to nonforest uses; and

"(B) provide public benefits to communities, including—

"(i) economic benefits through sustainable forest management;

"(ii) environmental benefits, including clean water and wildlife habitat;

"(iii) benefits from forest-based educational programs, including vocational education programs in forestry;

"(iv) benefits from serving as models of effective forest stewardship for private landowners; and

"(v) recreational benefits, including hunting and fishing.

"(2) FEDERAL COST SHARE.—An eligible entity may receive a grant under the Program in an amount equal to not more than 50 percent of the cost of acquiring 1 or more parcels, as determined by the Secretary.

"(3) NON-FEDERAL SHARE.—As a condition of receipt of the grant, an eligible entity that receives a grant under the Program shall provide, in cash, donation, or in kind, a non-Federal matching share in an amount that is at least equal to the amount of the grant received.

"(4) APPRAISAL OF PARCELS.—To determine the non-Federal share of the cost of a parcel of privately-owned forest land under paragraph (2), an eligible entity shall require appraisals of the land that comply with the Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference.

"(5) APPLICATION.—An eligible entity that seeks to receive a grant under the Program shall submit to the State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) an application that includes—

"(A) a description of the land to be acquired;

"(B) a forest plan that provides—

"(i) a description of community benefits to be achieved from the acquisition of the private forest land; and

"(ii) an explanation of the manner in which any private forest land to be acquired using funds from the grant will be managed; and

"(C) such other relevant information as the Secretary may require.

"(6) EFFECT ON TRUST LAND.—

"(A) INELIGIBILITY.—The Secretary shall not provide a grant under the Program for any project on land held

in trust by the United States (including Indian reservations and allotment land).

"(B) ACQUIRED LAND.—No land acquired using a grant provided under the Program shall be converted to land held in trust by the United States on behalf of any Indian tribe.

"(7) APPLICATIONS TO SECRETARY.—The State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) shall submit to the Secretary a list that includes a description of each project submitted by an eligible entity at such times and in such form as the Secretary shall prescribe.

"(d) DUTIES OF ELIGIBLE ENTITY.—An eligible entity shall provide public access to, and manage, forest land acquired with a grant under this section in a manner that is consistent with the purposes for which the land was acquired under the Program.

"(e) PROHIBITED USES.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), an eligible entity that acquires a parcel under the Program shall not sell the parcel or convert the parcel to nonforest use.

"(2) REIMBURSEMENT OF FUNDS.—An eligible entity that sells or converts to nonforest use a parcel acquired under the Program shall pay to the Federal Government an amount equal to the greater of the current sale price, or current appraised value, of the parcel.

"(3) LOSS OF ELIGIBILITY.—An eligible entity that sells or converts a parcel acquired under the Program shall not be eligible for additional grants under the Program.

"(f) STATE ADMINISTRATION AND TECHNICAL ASSISTANCE.—The Secretary may allocate not more than 10 percent of all funds made available to carry out the Program for each fiscal year to State foresters or equivalent officials (including equivalent officials of Indian tribes) for Program administration and technical assistance.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

**SEC. 8004. ASSISTANCE TO THE FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF THE MARSHALL ISLANDS, AND THE REPUBLIC OF PALAU.**

Section 13(d)(1) of the Cooperative Forestry Act of 1978 (16 U.S.C. 2109(d)(1)) is amended by striking "the Trust Territory of the Pacific Islands," and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau,".

**SEC. 8005. CHANGES TO FOREST RESOURCE COORDINATING COMMITTEE.**

Section 19 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113) is amended by striking subsection (a) and inserting the following new subsection:

"(a) FOREST RESOURCE COORDINATING COMMITTEE.—

"(1) ESTABLISHMENT.—The Secretary shall establish a committee, to be known as the 'Forest Resource Coordinating Committee' (in this section referred to as the 'Coordinating Committee'), to coordinate nonindustrial private forestry activities within the Department of Agriculture and with the private sector.

"(2) COMPOSITION.—The Coordinating Committee shall be composed of the following:

"(A) The Chief of the Forest Service.

"(B) The Chief of the Natural Resources Conservation Service.

"(C) The Director of the Farm Service Agency.

"(D) The Director of the National Institute of Food and Agriculture.

"(E) Non-Federal representatives appointed by the Secretary to 3 year terms, although initial appointees shall have staggered terms, including the following persons:

"(i) At least three State foresters or equivalent State officials from geographically diverse regions of the United States.

"(ii) A representative of a State fish and wildlife agency.

"(iii) An owner of nonindustrial private forest land.

"(iv) A forest industry representative.

"(v) A conservation organization representative.

"(vi) A land-grant university or college representative.

"(vii) A private forestry consultant.

"(viii) A representative from a State Technical Committee established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861).

"(F) Such other persons as determined by the Secretary to be appropriate.

"(3) CHAIRPERSON.—The Chief of the Forest Service shall serve as chairperson of the Coordinating Committee.

"(4) DUTIES.—The Coordinating Committee shall—

"(A) provide direction and coordination of actions within the Department of Agriculture, and coordination with State agencies and the private sector, to effectively address the national priorities specified in section 2(c), with specific focus owners of nonindustrial private forest land;

"(B) clarify individual agency responsibilities of each agency represented on the Coordinating Committee concerning the national priorities specified in section 2(c), with specific focus on nonindustrial private forest land;

"(C) provide advice on the allocation of funds, including the competitive funds set-aside by sections 13A and 13B; and

"(D) assist the Secretary in developing and reviewing the report required by section 2(d).

"(5) MEETING.—The Coordinating Committee shall meet annually to discuss progress in addressing the national priorities specified in section 2(c) and issues regarding nonindustrial private forest land.

"(6) COMPENSATION.—

"(A) FEDERAL MEMBERS.—Members of the Coordinating Committee who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Coordinating Committee.

"(B) NON-FEDERAL MEMBERS.—Non-federal members of the Coordinating Committee shall serve without pay, but

may be reimbursed for reasonable costs incurred while performing their duties on behalf of the Coordinating Committee.".

**SEC. 8006. CHANGES TO STATE FOREST STEWARDSHIP COORDINATING COMMITTEES.**

Section 19(b) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113(b)) is amended—

(1) in paragraph (1)(B)(ii)—

(A) by striking "and" at the end of subclause (VII); and

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

"(IX) the State Technical Committee.".

(2) in paragraph (2)(C), by striking "a Forest Stewardship Plan under paragraph (3)" and inserting "the State-wide assessment and strategy regarding forest resource conditions under section 2A";

(3) by striking paragraphs (3) and (4); and

(4) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

**SEC. 8007. COMPETITION IN PROGRAMS UNDER COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978.**

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 13 (16 U.S.C. 2109) the following new section:

**"SEC. 13A. COMPETITIVE ALLOCATION OF FUNDS TO STATE FORESTERS OR EQUIVALENT STATE OFFICIALS.** 16 USC 2109a.

"(a) COMPETITION.—Beginning not later than 3 years after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall competitively allocate a portion, to be determined by the Secretary, of the funds available under this Act to State foresters or equivalent State officials. Deadline.

"(b) DETERMINATION.—In determining the competitive allocation of funds under subsection (a), the Secretary shall consult with the Forest Resource Coordinating Committee established by section 19(a).

"(c) PRIORITY.—The Secretary shall give priority for funding to States for which the long-term State-wide forest resource strategies submitted under section 2A(a)(2) will best promote the national priorities specified in section 2(c).".

**SEC. 8008. COMPETITIVE ALLOCATION OF FUNDS FOR COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.**

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 13A, as added by section 8006, the following new section:

**"SEC. 13B. COMPETITIVE ALLOCATION OF FUNDS FOR COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.** 16 USC 2109b.

"(a) COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.—The Secretary may competitively allocate not more than 5 percent of the funds made available under this Act to support innovative national, regional, or local education, outreach, or technology transfer projects that the Secretary determines would substantially increase the ability of the Department of Agriculture to address the national priorities specified in section 2(c).

"(b) ELIGIBILITY.—Notwithstanding the eligibility limitations contained in this Act, any State or local government, Indian tribe, land-grant college or university, or private entity shall be eligible to compete for funds to be competitively allocated under subsection (a).

"(c) COST-SHARE REQUIREMENT.—In carrying out subsection (a), the Secretary shall not cover more than 50 percent of the total cost of a project under such subsection. In calculating the total cost of a project and contributions made with regard to the project, the Secretary shall include in-kind contributions.".

Native Americans.

## Subtitle B—Cultural and Heritage Cooperation Authority

25 USC 3051.

**SEC. 8101. PURPOSES.**

The purposes of this subtitle are—

(1) to authorize the reburial of human remains and cultural items on National Forest System land, including human remains and cultural items repatriated under the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(2) to prevent the unauthorized disclosure of information regarding reburial sites, including the quantity and identity of human remains and cultural items on sites and the location of sites;

(3) to authorize the Secretary of Agriculture to ensure access to National Forest System land, to the maximum extent practicable, by Indians and Indian tribes for traditional and cultural purposes;

(4) to authorize the Secretary to provide forest products, without consideration, to Indian tribes for traditional and cultural purposes;

(5) to authorize the Secretary to protect the confidentiality of certain information, including information that is culturally sensitive to Indian tribes;

(6) to increase the availability of Forest Service programs and resources to Indian tribes in support of the policy of the United States to promote tribal sovereignty and self-determination; and

(7) to strengthen support for the policy of the United States of protecting and preserving the traditional, cultural, and ceremonial rites and practices of Indian tribes, in accordance with Public Law 95–341 (commonly known as the American Indian Religious Freedom Act; 42 U.S.C. 1996).

25 USC 3052.

**SEC. 8102. DEFINITIONS.**

In this subtitle:

(1) ADJACENT SITE.—The term "adjacent site" means a site that borders a boundary line of National Forest System land.

(2) CULTURAL ITEMS.—The term "cultural items" has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), except that the term does not include human remains.

(3) HUMAN REMAINS.—The term "human remains" means the physical remains of the body of a person of Indian ancestry.

(4) INDIAN.—The term "Indian" means an individual who is a member of an Indian tribe.

(5) INDIAN TRIBE.—The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community the name of which is included on a list published by the Secretary of the Interior pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

(6) LINEAL DESCENDANT.—The term "lineal descendant" means an individual that can trace, directly and without interruption, the ancestry of the individual through the traditional kinship system of an Indian tribe, or through the common law system of descent, to a known Indian, the human remains, funerary objects, or other sacred objects of whom are claimed by the individual.

(7) NATIONAL FOREST SYSTEM.—The term "National Forest System" has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(8) REBURIAL SITE.—The term "reburial site" means a specific physical location at which cultural items or human remains are reburied.

(9) TRADITIONAL AND CULTURAL PURPOSE.—The term "traditional and cultural purpose", with respect to a definable use, area, or practice, means that the use, area, or practice is identified by an Indian tribe as traditional or cultural because of the long-established significance or ceremonial nature of the use, area, or practice to the Indian tribe.

**SEC. 8103. REBURIAL OF HUMAN REMAINS AND CULTURAL ITEMS.** 25 USC 3053.

(a) REBURIAL SITES.—In consultation with an affected Indian tribe or lineal descendant, the Secretary may authorize the use of National Forest System land by the Indian tribe or lineal descendant for the reburial of human remains or cultural items in the possession of the Indian tribe or lineal descendant that have been disinterred from National Forest System land or an adjacent site.

(b) REBURIAL.—With the consent of the affected Indian tribe or lineal descendent, the Secretary may recover and rebury, at Federal expense or using other available funds, human remains and cultural items described in subsection (a) at the National Forest System land identified under that subsection.

(c) AUTHORIZATION OF USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may authorize such uses of reburial sites on National Forest System land, or on the National Forest System land immediately surrounding a reburial site, as the Secretary determines to be necessary for management of the National Forest System.

(2) AVOIDANCE OF ADVERSE IMPACTS.—In carrying out paragraph (1), the Secretary shall avoid adverse impacts to cultural items and human remains, to the maximum extent practicable.

**SEC. 8104. TEMPORARY CLOSURE FOR TRADITIONAL AND CULTURAL PURPOSES.** 25 USC 3054.

(a) RECOGNITION OF HISTORIC USE.—To the maximum extent practicable, the Secretary shall ensure access to National Forest System land by Indians for traditional and cultural purposes, in accordance with subsection (b), in recognition of the historic use by Indians of National Forest System land.

(b) CLOSING LAND FROM PUBLIC ACCESS.—

(1) AUTHORITY TO CLOSE.—Upon the approval by the Secretary of a request from an Indian tribe, the Secretary may temporarily close from public access specifically identified National Forest System land to protect the privacy of tribal activities for traditional and cultural purposes.

(2) LIMITATION.—A closure of National Forest System land under paragraph (1) shall affect the smallest practicable area for the minimum period necessary for activities of the applicable Indian tribe.

(3) CONSISTENCY.—Access by Indian tribes to National Forest System land under this subsection shall be consistent with the purposes of Public Law 95–341 (commonly known as the American Indian Religious Freedom Act; 42 U.S.C. 1996).

25 USC 3055.

**SEC. 8105. FOREST PRODUCTS FOR TRADITIONAL AND CULTURAL PURPOSES.**

(a) IN GENERAL.—Notwithstanding section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Secretary may provide free of charge to Indian tribes any trees, portions of trees, or forest products from National Forest System land for traditional and cultural purposes.

(b) PROHIBITION.—Trees, portions of trees, or forest products provided under subsection (a) may not be used for commercial purposes.

25 USC 3056.

**SEC. 8106. PROHIBITION ON DISCLOSURE.**

(a) NONDISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—The Secretary shall not disclose under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), information relating to—

(A) subject to subsection (b)(l), human remains or cultural items reburied on National Forest System land under section 8103; or

(B) subject to subsection (b)(2), resources, cultural items, uses, or activities that—

(i) have a traditional and cultural purpose; and

(ii) are provided to the Secretary by an Indian or Indian tribe under an express expectation of confidentiality in the context of forest and rangeland research activities carried out under the authority of the Forest Service.

(2) LIMITATIONS ON DISCLOSURE.—Subject to subsection (b)(2), the Secretary shall not be required to disclose information under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), concerning the identity, use, or specific location in the National Forest System of—

(A) a site or resource used for traditional and cultural purposes by an Indian tribe; or

(B) any cultural items not covered under section 8103.

(b) LIMITED RELEASE OF INFORMATION.—

(1) REBURIAL.—The Secretary may disclose information described in subsection (a)(l)(A) if, before the disclosure, the Secretary—

(A) consults with an affected Indian tribe or lineal descendent;

(B) determines that disclosure of the information—

(i) would advance the purposes of this subtitle; and

(ii) is necessary to protect the human remains or cultural items from harm, theft, or destruction; and

(C) attempts to mitigate any adverse impacts identified by an Indian tribe or lineal descendant that reasonably could be expected to result from disclosure of the information.

(2) OTHER INFORMATION.—The Secretary, in consultation with appropriate Indian tribes, may disclose information described under paragraph (1)(B) or (2) of subsection (a) if the Secretary determines that disclosure of the information to the public—

(A) would advance the purposes of this subtitle;

(B) would not create an unreasonable risk of harm, theft, or destruction of the resource, site, or object, including individual organic or inorganic specimens; and

(C) would be consistent with other applicable laws.

**SEC. 8107. SEVERABILITY AND SAVINGS PROVISIONS.** 25 USC 3057.

(a) SEVERABILITY.—If any provision of this subtitle, or the application of any provision of this subtitle to any person or circumstance is held invalid, the application of such provision or circumstance and the remainder of this subtitle shall not be affected thereby.

(b) SAVINGS.—Nothing in this subtitle—

(1) diminishes or expands the trust responsibility of the United States to Indian tribes, or any legal obligation or remedy resulting from that responsibility;

(2) alters, abridges, repeals, or affects any valid agreement between the Forest Service and an Indian tribe;

(3) alters, abridges, diminishes, repeals, or affects any reserved or other right of an Indian tribe; or

(4) alters, abridges, diminishes, repeals, or affects any other valid existing right relating to National Forest System land or other public land.

# Subtitle C—Amendments to Other Forestry-Related Laws

**SEC. 8201. RURAL REVITALIZATION TECHNOLOGIES.**

Section 2371(d)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601(d)(2)) is amended by striking "2004 through 2008" and inserting "2008 through 2012".

**SEC. 8202. OFFICE OF INTERNATIONAL FORESTRY.**

Section 2405(d) of the Global Climate Change Prevention Act of 1990 (7 U.S.C. 6704(d)) is amended by striking "2007" and inserting "2012".

**SEC. 8203. EMERGENCY FOREST RESTORATION PROGRAM.**

(a) ESTABLISHMENT.—Title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.) is amended by adding at the end the following new section:

**"SEC. 407. EMERGENCY FOREST RESTORATION PROGRAM.** 16 USC 2206.

"(a) DEFINITIONS.—In this section:

"(1) EMERGENCY MEASURES.—The term 'emergency measures' means those measures that—

"(A) are necessary to address damage caused by a natural disaster to natural resources on nonindustrial private forest land, and the damage, if not treated—

"(i) would impair or endanger the natural resources on the land; and

"(ii) would materially affect future use of the land; and

"(B) would restore forest health and forest-related resources on the land.

"(2) NATURAL DISASTER.—The term 'natural disaster' includes wildfires, hurricanes or excessive winds, drought, ice storms or blizzards, floods, or other resource-impacting events, as determined by the Secretary.

"(3) NONINDUSTRIAL PRIVATE FOREST LAND.—The term 'nonindustrial private forest land' means rural land, as determined by the Secretary, that—

"(A) has existing tree cover (or had tree cover immediately before the natural disaster and is suitable for growing trees); and

"(B) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decision-making authority over the land.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(b) AVAILABILITY OF ASSISTANCE.—The Secretary may make payments to an owner of nonindustrial private forest land who carries out emergency measures to restore the land after the land is damaged by a natural disaster.

"(c) ELIGIBILITY.—To be eligible to receive a payment under subsection (b), an owner must demonstrate to the satisfaction of the Secretary that the nonindustrial private forest land on which the emergency measures are carried out had tree cover immediately before the natural disaster.

"(d) COST SHARE REQUIREMENT.—Payments made under subsection (b) shall not exceed 75 percent of the total cost of the emergency measures carried out by an owner of nonindustrial private forest land.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such funds as may be necessary to carry out this section. Amounts so appropriated shall remain available until expended.".

Deadline.
16 USC 2206 note.

(b) REGULATIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out section 407 of the Agricultural Credit Act of 1978, as added by subsection (a).

**SEC. 8204. PREVENTION OF ILLEGAL LOGGING PRACTICES.**

(a) DEFINITIONS.—

(1) PLANT.—Subsection (f) of section 2 of the Lacey Act Amendments of 1981 (16 U.S.C. 3371) is amended to read as follows:

"(f) PLANT.—

"(1) IN GENERAL.—The terms 'plant' and 'plants' mean any wild member of the plant kingdom, including roots, seeds, parts,

or products thereof, and including trees from either natural or planted forest stands.

"(2) EXCLUSIONS.—The terms 'plant' and 'plants' exclude—

"(A) common cultivars, except trees, and common food crops (including roots, seeds, parts, or products thereof);

"(B) a scientific specimen of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that is to be used only for laboratory or field research; and

"(C) any plant that is to remain planted or to be planted or replanted.

"(3) EXCEPTIONS TO APPLICATION OF EXCLUSIONS.—The exclusions made by subparagraphs (B) and (C) of paragraph (2) do not apply if the plant is listed—

"(A) in an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

"(B) as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

"(C) pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.".

(2) INCLUSION OF SECRETARY OF AGRICULTURE.—Section 2(h) of the Lacey Act Amendments of 1981 (16 U.S.C. 3371(h)) is amended by striking "plants the term means" and inserting "plants, the term also means".

(3) TAKEN AND TAKING.—Subsection (j) of section 2 of the Lacey Act Amendments of 1981 (16 U.S.C. 3371) is amended to read as follows:

"(j) TAKEN AND TAKING.—

"(1) TAKEN.—The term 'taken' means captured, killed, or collected and, with respect to a plant, also means harvested, cut, logged, or removed.

"(2) TAKING.—The term 'taking' means the act by which fish, wildlife, or plants are taken.".

(b) PROHIBITED ACTS.—

(1) OFFENSES OTHER THAN MARKING.—Section 3(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3372(a)) is amended—

(A) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraph:

"(B) any plant—

"(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

"(I) the theft of plants;

"(II) the taking of plants from a park, forest reserve, or other officially protected area;

"(III) the taking of plants from an officially designated area; or

"(IV) the taking of plants without, or contrary to, required authorization;

"(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

"(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or"; and

(B) in paragraph (3), by striking subparagraph (B) and inserting the following subparagraph:

"(B) to possess any plant—

"(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

"(I) the theft of plants;

"(II) the taking of plants from a park, forest reserve, or other officially protected area;

"(III) the taking of plants from an officially designated area; or

"(IV) the taking of plants without, or contrary to, required authorization;

"(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

"(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or".

(2) PLANT DECLARATIONS.—Section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372) is amended by adding at the end the following new subsection:

"(f) PLANT DECLARATIONS.—

Effective date.

"(1) IMPORT DECLARATION.—Effective 180 days from the date of enactment of this subsection, and except as provided in paragraph (3), it shall be unlawful for any person to import any plant unless the person files upon importation a declaration that contains—

"(A) the scientific name of any plant (including the genus and species of the plant) contained in the importation;

"(B) a description of—

"(i) the value of the importation; and

"(ii) the quantity, including the unit of measure, of the plant; and

"(C) the name of the country from which the plant was taken.

"(2) DECLARATION RELATING TO PLANT PRODUCTS.—Until the date on which the Secretary promulgates a regulation under paragraph (6), a declaration relating to a plant product shall—

"(A) in the case in which the species of plant used to produce the plant product that is the subject of the importation varies, and the species used to produce the plant product is unknown, contain the name of each species of plant that may have been used to produce the plant product;

"(B) in the case in which the species of plant used to produce the plant product that is the subject of the importation is commonly taken from more than one country, and the country from which the plant was taken and used to produce the plant product is unknown, contain

the name of each country from which the plant may have been taken; and

"(C) in the case in which a paper or paperboard plant product includes recycled plant product, contain the average percent recycled content without regard for the species or country of origin of the recycled plant product, in addition to the information for the non-recycled plant content otherwise required by this subsection.

"(3) EXCLUSIONS.—Paragraphs (1) and (2) shall not apply to plants used exclusively as packaging material to support, protect, or carry another item, unless the packaging material itself is the item being imported.

"(4) REVIEW.—Not later than two years after the date of enactment of this subsection, the Secretary shall review the implementation of each requirement imposed by paragraphs (1) and (2) and the effect of the exclusion provided by paragraph (3). In conducting the review, the Secretary shall provide public notice and an opportunity for comment. Deadline.

"(5) REPORT.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (4), the Secretary shall submit to the appropriate committees of Congress a report containing—

"(A) an evaluation of—

"(i) the effectiveness of each type of information required under paragraphs (1) and (2) in assisting enforcement of this section; and

"(ii) the potential to harmonize each requirement imposed by paragraphs (1) and (2) with other applicable import regulations in existence as of the date of the report;

"(B) recommendations for such legislation as the Secretary determines to be appropriate to assist in the identification of plants that are imported into the United States in violation of this section; and Recommendations.

"(C) an analysis of the effect of subsection (a) and this subsection on—

"(i) the cost of legal plant imports; and

"(ii) the extent and methodology of illegal logging practices and trafficking.

"(6) PROMULGATION OF REGULATIONS.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (4), the Secretary may promulgate regulations— Deadline.

"(A) to limit the applicability of any requirement imposed by paragraph (2) to specific plant products;

"(B) to make any other necessary modification to any requirement imposed by paragraph (2), as determined by the Secretary based on the review; and

"(C) to limit the scope of the exclusion provided by paragraph (3), if the limitations in scope are warranted as a result of the review.".

(c) CROSS-REFERENCES TO NEW REQUIREMENT.—Section 4 of the Lacey Act Amendments of 1981 (16 U.S.C. 3373) is amended—

(1) by striking "subsections (b) and (d)" each place it appears and inserting "subsections (b), (d), and (f)";

(2) by striking "section 3(d)" each place it appears and inserting "subsection (d) or (f) of section 3"; and

(3) in subsection (a)(2), by striking "subsection 3(b)" and inserting "subsection (b) or (f) of section 3, except as provided in paragraph (1),".

(d) CIVIL FORFEITURES.—Section 5 of the Lacey Act Amendments of 1981 (16 U.S.C. 3374) is amended by adding at the end the following new subsection:

"(d) CIVIL FORFEITURES.—Civil forfeitures under this section shall be governed by the provisions of chapter 46 of title 18, United States Code.".

(e) ADMINISTRATION.—Section 7 of the Lacey Act Amendments of 1981 (16 U.S.C. 3376) is amended—

(1) in subsection (a)(1), by striking "section 4 and section" and inserting "sections 3(f), 4, and"; and

(2) by adding at the end the following new subsection:

Regulations.

"(c) CLARIFICATION OF EXCLUSIONS FROM DEFINITION OF PLANT.—The Secretary of Agriculture and the Secretary of the Interior, after consultation with the appropriate agencies, shall jointly promulgate regulations to define the terms used in section 2(f)(2)(A) for the purposes of enforcement under this Act.".

Effective date.
16 USC 3373 note.
16 USC 3373.

(f) TECHNICAL CORRECTION.—Effective as of November 14, 1988, and as if included therein as enacted, section 102(c) of Public Law 100–653 (102 Stat. 3825) is amended—

(1) by inserting "of the Lacey Act Amendments of 1981" after "Section 4"; and

(2) by striking "(other than section 3(b))" and inserting "(other than subsection 3(b))".

**SEC. 8205. HEALTHY FORESTS RESERVE PROGRAM.**

(a) ENROLLMENT.—Section 502 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6572(f)(1)) is amended—

(1) by striking subsections (e) and (f);

(2) by redesignating subsection (g) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection:

"(e) METHODS OF ENROLLMENT.—

"(1) AUTHORIZED METHODS.—Land may be enrolled in the healthy forests reserve program in accordance with—

"(A) a 10-year cost-share agreement;

"(B) a 30-year easement; or

"(C)(i) a permanent easement; or

"(ii) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under State law.

"(2) LIMITATION ON USE OF COST-SHARE AGREEMENTS AND EASEMENTS.—

"(A) IN GENERAL.—Of the total amount of funds expended under the program for a fiscal year to acquire easements and enter into cost-share agreements described in paragraph (1)—

"(i) not more than 40 percent shall be used for cost-share agreements described in paragraph (1)(A); and

"(ii) not more than 60 percent shall be used for easements described in subparagraphs (B) and (C) of paragraph (1).

"(B) REPOOLING.—The Secretary may use any funds allocated under clause (i) or (ii) of subparagraph (A) that

are not obligated by April 1 of the fiscal year for which the funds are made available to carry out a different method of enrollment during that fiscal year.

"(3) ACREAGE OWNED BY INDIAN TRIBES.—In the case of acreage owned by an Indian tribe, the Secretary may enroll acreage into the healthy forests reserve program through the use of—

"(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);

"(B) a 10-year cost-share agreement; or

"(C) any combination of the options described in subparagraphs (A) and (B).".

(b) FINANCIAL ASSISTANCE.—Section 504(a) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6574(a)) is amended by striking "(a) EASEMENTS OF NOT MORE THAN 99 YEARS" and all that follows through "502(f)(1)(C)" and inserting the following:

"(a) PERMANENT EASEMENTS.—In the case of land enrolled in the healthy forests reserve program using a permanent easement (or an easement described in section 502(f)(1)(C)(ii))".

(c) FUNDING.—Section 508 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6578) is amended to read as follows:

**"SEC. 508. FUNDING.**

"(a) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available $9,750,000 for each of fiscal years 2009 through 2012 to carry out this title.

"(b) DURATION OF AVAILABILITY.—The funds made available under subsection (a) shall remain available until expended.".

# Subtitle D—Boundary Adjustments and Land Conveyance Provisions

**SEC. 8301. GREEN MOUNTAIN NATIONAL FOREST BOUNDARY ADJUSTMENT.**

(a) IN GENERAL.—The boundary of the Green Mountain National Forest is modified to include the 13 designated expansion units as generally depicted on the forest maps entitled "Green Mountain Expansion Area Map I" and "Green Mountain Expansion Area Map II" and dated February 20, 2002 (copies of which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia), and more particularly described according to the site specific maps and legal descriptions on file in the office of the Forest Supervisor, Green Mountain National Forest.

(b) MANAGEMENT.—Federally owned land delineated on the maps acquired for National Forest purposes shall continue to be managed in accordance with the laws (including regulations) applicable to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460 l–9), the boundaries of the Green Mountain National Forest, as adjusted by this section, shall be considered to be the boundaries of the national forest as of January 1, 1965.

**SEC. 8302. LAND CONVEYANCES, CHIHUAHUAN DESERT NATURE PARK, NEW MEXICO, AND GEORGE WASHINGTON NATIONAL FOREST, VIRGINIA.**

(a) CHIHUAHUAN DESERT NATURE PARK CONVEYANCE.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights and subsection (b), the Secretary of Agriculture shall convey to the Chihuahuan Desert Nature Park, Inc., a nonprofit corporation in the State of New Mexico (in this section referred to as the "Nature Park"), by quitclaim deed and for no consideration, all right, title, and interest of the United States in and to the land described in paragraph (2)

(2) DESCRIPTION OF LAND.—

(A) IN GENERAL.—The parcel of land referred to in paragraph (1) consists of the approximately 935.62 acres of land in Dona Ana County, New Mexico, which is more particularly described—

(i) as sections 17, 20, and 21 of T. 21 S., R. 2 E., N.M.P.M.; and

(ii) in an easement deed dated May 14, 1998, from the Department of Agriculture to the Nature Park.

(B) MODIFICATIONS.—The Secretary may modify the description of the land under subparagraph (A) to—

(i) correct errors in the description; or

(ii) facilitate management of the land.

(b) CONDITIONS.—The conveyance of land under subsection (a) shall be subject to—

(1) the reservation by the United States of all mineral and subsurface rights to the land, including any geothermal resources;

(2) the condition that the Chihuahuan Desert Nature Park Board pay any costs relating to the conveyance;

(3) any rights-of-way reserved by the Secretary;

(4) a covenant or restriction in the deed to the land requiring that—

(A) the land may be used only for educational or scientific purposes; and

(B) if the land is no longer used for the purposes described in subparagraph (A), the land may, at the discretion of the Secretary, revert to the United States in accordance with subsection (c); and

(5) any other terms and conditions that the Secretary determines to be appropriate.

(c) REVERSION.—If the land conveyed under subsection (a) is no longer used for the purposes described in subsection (b)(4)(A), the land may, at the discretion of the Secretary, revert to the United States. If the Secretary chooses to have the land revert to the United States, the Secretary shall—

(1) determine whether the land is environmentally contaminated, including contamination from hazardous wastes, hazardous substances, pollutants, contaminants, petroleum, or petroleum by-products; and

(2) if the Secretary determines that the land is environmentally contaminated, the Nature Park, the successor to the Nature Park, or any other person responsible for the contamination shall be required to remediate the contamination.

(d) WITHDRAWAL.—All federally owned mineral and subsurface rights to the land to be conveyed under subsection (a) are withdrawn from—

(1) location, entry, and patent under the mining laws; and

(2) the operation of the mineral leasing laws, including the geothermal leasing laws.

(e) WATER RIGHTS.—Nothing in subsection (a) authorizes the conveyance of water rights to the Nature Park.

(f) GEORGE WASHINGTON NATIONAL FOREST CONVEYANCE, VIRGINIA.—

(1) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the Central Advent Christian Church of Alleghany County, Virginia (in this subsection referred to as the "recipient"), all right, title, and interest of the United States in and to a parcel of real property in the George Washington National Forest, Alleghany County, Virginia, consisting of not more than 8 acres, including a cemetery encompassing approximately 6 acres designated as an area of special use for the recipient, and depicted on the Forest Service map showing tract G–2032c and dated August 20, 2002, and the Forest Service map showing the area of special use and dated March 14, 2001.

(2) CONDITION OF CONVEYANCE.—The conveyance under this subsection shall be subject to the condition that the recipient accept the real property described in paragraph (1) in its condition at the time of the conveyance, commonly known as conveyance "as is".

(3) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this subsection shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the recipient.

(4) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this subsection as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 8303. SALE AND EXCHANGE OF NATIONAL FOREST SYSTEM LAND, VERMONT.**

(a) DEFINITIONS.—In this section:

(1) BROMLEY.—The term "Bromley" means Bromley Mountain Ski Resort, Inc.

(2) MAP.—The term "map" means the map entitled "Proposed Bromley Land Sale or Exchange" and dated April 7, 2004.

(3) STATE.—The term "State" means the State of Vermont.

(b) SALE OR EXCHANGE OF GREEN MOUNTAIN NATIONAL FOREST LAND.—

(1) IN GENERAL.—The Secretary of Agriculture may, under any terms and conditions that the Secretary may prescribe, sell or exchange any right, title, and interest of the United States in and to the parcels of National Forest System land described in paragraph (2).

(2) DESCRIPTION OF LAND.—The parcels of National Forest System land referred to in paragraph (1) are the 5 parcels

of land in Bennington County in the State, as generally depicted on the map.

(3) MAP AND LEGAL DESCRIPTIONS.—

(A) IN GENERAL.—The map shall be on file and available for public inspection in—

(i) the office of the Chief of the Forest Service; and

(ii) the office of the Supervisor of the Green Mountain National Forest.

(B) MODIFICATIONS.—The Secretary may modify the map and legal descriptions to—

(i) correct technical errors; or

(ii) facilitate the conveyance under paragraph (1).

(4) CONSIDERATION.—Consideration for the sale or exchange of land described in paragraph (2)—

(A) shall be equal to an amount that is not less than the fair market value of the land sold or exchanged; and

(B) may be in the form of cash, land, or a combination of cash and land.

(5) APPRAISALS.—Any appraisal carried out to facilitate the sale or exchange of land under paragraph (1) shall conform with the Uniform Appraisal Standards for Federal Land Acquisitions.

(6) METHODS OF SALE.—

(A) CONVEYANCE TO BROMLEY.—

(i) IN GENERAL.—Before soliciting offers under subparagraph (B), the Secretary shall offer to convey to Bromley the land described in paragraph (2).

(ii) CONTRACT DEADLINE.—If Bromley accepts the offer under clause (i), the Secretary and Bromley shall have not more than 180 days after the date on which any environmental analyses with respect to the land are completed to enter into a contract for the sale or exchange of the land.

(B) PUBLIC OR PRIVATE SALE.—If the Secretary and Bromley do not enter into a contract for the sale or exchange of the land by the date specified in subparagraph (A)(ii), the Secretary may sell or exchange the land at public or private sale (including auction), in accordance with such terms, conditions, and procedures as the Secretary determines to be in the public interest.

(C) REJECTION OF OFFERS.—The Secretary may reject any offer received under this paragraph if the Secretary determines that the offer is not adequate or is not in the public interest.

(D) BROKERS.—In any sale or exchange of land under this subsection, the Secretary may—

(i) use a real estate broker or other third party; and

(ii) pay the real estate broker or third party a commission in an amount comparable to the amounts of commission generally paid for real estate transactions in the area.

(7) CASH EQUALIZATION.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)), the Secretary may accept a cash equalization

payment in excess of 25 percent of the value of any Federal land exchanged under this section.

(c) DISPOSITION OF PROCEEDS.—

(1) IN GENERAL.—The Secretary shall deposit the net proceeds from a sale or exchange under this section in the fund established under Public Law 90–171 (16 U.S.C. 484a) (commonly known as the "Sisk Act").

(2) USE.—Amounts deposited under paragraph (1) shall be available to the Secretary until expended, without further appropriation, for—

(A) the location and relocation of the Appalachian National Scenic Trail and the Long National Recreation Trail in the State;

(B) the acquisition of land and interests in land by the Secretary for National Forest System purposes within the boundary of the Green Mountain National Forest, including land for and adjacent to the Appalachian National Scenic Trail and the Long National Recreation Trail;

(C) the acquisition of wetland or an interest in wetland within the boundary of the Green Mountain National Forest to offset the loss of wetland from the parcels sold or exchanged; and

(D) the payment of direct administrative costs incurred in carrying out this section.

(3) LIMITATION.—Amounts deposited under paragraph (1) shall not—

(A) be paid or distributed to the State or counties or towns in the State under any provision of law; or

(B) be considered to be money received from units of the National Forest System for purposes of—

(i) the Act of May 23, 1908 (16 U.S.C. 500); or

(ii) the Act of March 4, 1913 (16 U.S.C. 501).

(4) PROHIBITION OF TRANSFER OR REPROGRAMMING.—Amounts deposited under paragraph (1) shall not be subject to transfer or reprogramming for wildfire management or any other emergency purposes.

(d) ACQUISITION OF LAND.—The Secretary may acquire, using funds made available under subsection (c) or otherwise made available for acquisition, land or an interest in land for National Forest System purposes within the boundary of the Green Mountain National Forest.

(e) EXEMPTION FROM CERTAIN LAWS.—Subtitle I of title 40, United States Code, shall not apply to any sale or exchange of National Forest System land under this section.

# Subtitle E—Miscellaneous Provisions

**SEC. 8401. QUALIFYING TIMBER CONTRACT OPTIONS.**

16 USC 472a note.

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED PRODUCER PRICE INDEX.—The term "authorized Producer Price Index" includes—

(A) the softwood commodity index (code number WPU 0811);

(B) the hardwood commodity index (code number WPU 0812);

(C) the wood chip index (code number PCU 3211133211135); and

(D) any other subsequent comparable index, as established by the Bureau of Labor Statistics of the Department of Labor and utilized by the Secretary of Agriculture.

(2) QUALIFYING CONTRACT.—The term "qualifying contract" means a contract for the sale of timber on National Forest System land—

(A) that was awarded during the period beginning on July 1, 2004, and ending on December 31, 2006;

(B) for which there is unharvested volume remaining;

(C) for which, not later than 90 days after the date of enactment of this Act, the timber purchaser makes a written request to the Secretary for one or more of the options described in subsection (b);

(D) that is not a salvage sale;

(E) for which the Secretary determines there is not an urgent need to harvest due to deteriorating timber conditions that developed after the award of the contract; and

(F) that is not in breach or in default.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(b) OPTIONS FOR QUALIFYING CONTRACTS.—

(1) CANCELLATION OR RATE REDETERMINATION.—Notwithstanding any other provision of law, if the rate at which a qualifying contract would be advertised as of the date of enactment of this Act is at least 50 percent less than the sum of the original bid rates for all of the species of timber that are the subject of the qualifying contract, the Secretary may, at the sole discretion of the Secretary—

(A) cancel the qualifying contract if the timber purchaser—

(i) pays 30 percent of the total value of the timber remaining in the qualifying contract based on bid rates;

(ii) completes each contractual obligation (including the removal of downed timber, the completion of road work, and the completion of erosion control work) of the timber purchaser with respect to each unit on which harvest has begun to a logical stopping point, as determined by the Secretary after consultation with the timber purchaser; and

(iii) terminates its rights under the qualifying contract; or

(B) modify the qualifying contract to redetermine the current contract rate of the qualifying contract to equal the sum obtained by adding—

(i) 25 percent of the bid premium on the qualifying contract; and

(ii) the rate at which the qualifying contract would be advertised as of the date of enactment of this Act.

(2) SUBSTITUTION OF INDEX.—

(A) SUBSTITUTION.—Notwithstanding any other provision of law, the Secretary may, at the sole discretion of the Secretary, substitute the Producer Price Index specified in the qualifying contract of a timber purchaser if the timber purchaser identifies—

(i) the products the timber purchaser intends to produce from the timber harvested under the qualifying contract; and

(ii) a substitute index from an authorized Producer Price Index that more accurately represents the predominant product identified in clause (i) for which there is an index.

(B) RATE REDETERMINATION FOLLOWING SUBSTITUTION OF INDEX.—If the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract to provide for—

(i) an emergency rate redetermination under the terms of the contract; or

(ii) a rate redetermination under paragraph (1)(B).

(C) LIMITATION ON MARKET-RELATED CONTRACT TERM ADDITION; PERIODIC PAYMENTS.—Notwithstanding any other provision of law, if the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract—

(i) to adjust the term in accordance with the market-related contract term addition provision in the qualifying contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the adjustment, but only if the drastic reduction criteria in such section are met for 2 or more consecutive calendar year quarters beginning with the calendar quarter in which the Secretary substitutes the Producer Price Index under subparagraph (A); and

(ii) to adjust the periodic payments required under the contract in accordance with applicable law and policies.

(3) CONTRACTS USING HARDWOOD LUMBER INDEX.—With respect to a qualifying contract using the hardwood commodity index referred to in subsection (a)(1)(B) for which the Secretary does not substitute the Producer Price Index under paragraph (2), the Secretary may, at the sole discretion of the Secretary—

(A) extend the contract term for a 1-year period beginning on the current contract termination date; and

(B) adjust the periodic payments required under the contract in accordance with applicable law and policies.

(c) EXTENSION OF MARKET-RELATED CONTRACT TERM ADDITION TIME LIMIT FOR CERTAIN CONTRACTS.—Notwithstanding any other provision of law, upon the written request of a timber purchaser, the Secretary may, at the sole discretion of the Secretary, modify a timber sale contract (including a qualifying contract) awarded to the purchaser before January 1, 2007, to adjust the term of the contract in accordance with the market-related contract term addition provision in the contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the modification, except that the Secretary may add no more than 4 years to the original contract length.

(d) EFFECT OF OPTIONS.—

(1) NO SURRENDER OF CLAIMS.—Operation of this section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose—

(A) under a qualifying contract before the date on which the Secretary cancels the contract or redetermines the rate under subsection (b)(1), substitutes a Producer Price Index under subsection (b)(2), or modifies the contract under subsection (b)(3); or

(B) under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (c).

(2) RELEASE OF LIABILITY.—In the written request for any option provided under subsections (b) and (c), a timber purchaser shall release the United States from all liability, including further consideration or compensation, resulting from—

(A) the cancellation of a qualifying contract of the purchaser or rate redetermination under subsection (b)(1), the substitution of a Producer Price Index under subsection (b)(2), the modification of the contract under subsection (b)(3) or a determination by the Secretary not to provide the cancellation, redetermination, substitution, or modification; or

(B) the modification of the term of a timber sale contract (including a qualifying contract) of the purchaser under subsection (c) or a determination by the Secretary not to provide the modification.

(3) LIMITATION.—Subject to subsection (b)(1)(A), the cancellation of a qualifying contract by the Secretary under subsection (b)(1) shall release the timber purchaser from further obligation under the canceled contract.

16 USC 1649a.

**SEC. 8402. HISPANIC-SERVING INSTITUTION AGRICULTURAL LAND NATIONAL RESOURCES LEADERSHIP PROGRAM.**

(a) DEFINITION OF HISPANIC-SERVING INSTITUTION.—In this section, the term "Hispanic-serving institution" has the meaning given that term in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)).

(b) GRANT AUTHORITY.—The Secretary of Agriculture may make grants, on a competitive basis, to Hispanic-serving institutions for the purpose of establishing an undergraduate scholarship program to assist in the recruitment, retention, and training of Hispanics and other under-represented groups in forestry and related fields.

(c) USE OF GRANT FUNDS.—Grants made under this section shall be used to recruit, retain, train, and develop professionals to work in forestry and related fields with Federal agencies, such as the Forest Service, State agencies, and private-sector entities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2008 through 2012 such sums as may be necessary to carry out this section.

# TITLE IX—ENERGY

**SEC. 9001. ENERGY.**

(a) IN GENERAL.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended to read as follows:

# "TITLE IX—ENERGY

**"SEC. 9001. DEFINITIONS.** 7 USC 8101.

"Except as otherwise provided, in this title:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Biomass Research and Development Technical Advisory Committee established by section 9008(d)(1).

"(3) ADVANCED BIOFUEL.—

"(A) IN GENERAL.—The term 'advanced biofuel' means fuel derived from renewable biomass other than corn kernel starch.

"(B) INCLUSIONS.—Subject to subparagraph (A), the term 'advanced biofuel' includes—

"(i) biofuel derived from cellulose, hemicellulose, or lignin;

"(ii) biofuel derived from sugar and starch (other than ethanol derived from corn kernel starch);

"(iii) biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;

"(iv) diesel-equivalent fuel derived from renewable biomass, including vegetable oil and animal fat;

"(v) biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass;

"(vi) butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and

"(vii) other fuel derived from cellulosic biomass.

"(4) BIOBASED PRODUCT.—The term 'biobased product' means a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is—

"(A) composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials; or

"(B) an intermediate ingredient or feedstock.

"(5) BIOFUEL.—The term 'biofuel' means a fuel derived from renewable biomass.

"(6) BIOMASS CONVERSION FACILITY.—The term 'biomass conversion facility' means a facility that converts or proposes to convert renewable biomass into—

"(A) heat;

"(B) power;

"(C) biobased products; or

"(D) advanced biofuels.

"(7) BIOREFINERY.—The term 'biorefinery' means a facility (including equipment and processes) that—

"(A) converts renewable biomass into biofuels and biobased products; and

"(B) may produce electricity.

"(8) BOARD.—The term 'Board' means the Biomass Research and Development Board established by section 9008(c).

"(9) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(10) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)).

"(11) INTERMEDIATE INGREDIENT OR FEEDSTOCK.—The term 'intermediate ingredient or feedstock' means a material or compound made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials) or forestry materials, that are subsequently used to make a more complex compound or product.

"(12) RENEWABLE BIOMASS.—The term 'renewable biomass' means—

"(A) materials, pre-commercial thinnings, or invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) that—

"(i) are byproducts of preventive treatments that are removed—

"(I) to reduce hazardous fuels;

"(II) to reduce or contain disease or insect infestation; or

"(III) to restore ecosystem health;

"(ii) would not otherwise be used for higher-value products; and

"(iii) are harvested in accordance with—

"(I) applicable law and land management plans; and

"(II) the requirements for—

"(aa) old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); and

"(bb) large-tree retention of subsection (f) of that section; or

"(B) any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

"(i) renewable plant material, including—

"(I) feed grains;

"(II) other agricultural commodities;

"(III) other plants and trees; and

"(IV) algae; and

"(ii) waste material, including—

"(I) crop residue;

"(II) other vegetative waste material (including wood waste and wood residues);

"(III) animal waste and byproducts (including fats, oils, greases, and manure); and

"(IV) food waste and yard waste.

"(13) RENEWABLE ENERGY.—The term 'renewable energy' means energy derived from—

"(A) a wind, solar, renewable biomass, ocean (including tidal, wave, current, and thermal), geothermal, or hydroelectric source; or

"(B) hydrogen derived from renewable biomass or water using an energy source described in subparagraph (A).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

**"SEC. 9002. BIOBASED MARKETS PROGRAM.** 7 USC 8102.

"(a) FEDERAL PROCUREMENT OF BIOBASED PRODUCTS.—

"(1) DEFINITION OF PROCURING AGENCY.—In this subsection, the term 'procuring agency' means—

"(A) any Federal agency that is using Federal funds for procurement; or

"(B) a person that is a party to a contract with any Federal agency, with respect to work performed under such a contract.

"(2) PROCUREMENT PREFERENCE.—

"(A) IN GENERAL.—

"(i) PROCURING AGENCY DUTIES.—Except as provided in clause (ii) and subparagraph (B), after the date specified in applicable guidelines prepared pursuant to paragraph (3), each procuring agency shall—

"(I) establish a procurement program, develop procurement specifications, and procure biobased products identified under the guidelines described in paragraph (3) in accordance with this section; and

"(II) with respect to items described in the guidelines, give a procurement preference to those items that—

"(aa) are composed of the highest percentage of biobased products practicable; or

"(bb) comply with the regulations issued under section 103 of Public Law 100–556 (42 U.S.C. 6914b–1).

"(ii) EXCEPTION.—The requirements of clause (i)(I) to establish a procurement program and develop procurement specifications shall not apply to a person described in paragraph (1)(B).

"(B) FLEXIBILITY.—Notwithstanding subparagraph (A), a procuring agency may decide not to procure items described in that subparagraph if the procuring agency determines that the items—

"(i) are not reasonably available within a reasonable period of time;

"(ii) fail to meet—

"(I) the performance standards set forth in the applicable specifications; or

"(II) the reasonable performance standards of the procuring agencies; or

"(iii) are available only at an unreasonable price.

"(C) MINIMUM REQUIREMENTS.—Each procurement program required under this subsection shall, at a minimum—

"(i) be consistent with applicable provisions of Federal procurement law;

"(ii) ensure that items composed of biobased products will be purchased to the maximum extent practicable;

"(iii) include a component to promote the procurement program;

"(iv) provide for an annual review and monitoring of the effectiveness of the procurement program; and

"(v) adopt 1 of the 2 polices described in subparagraph (D) or (E), or a policy substantially equivalent to either of those policies.

"(D) CASE-BY-CASE POLICY.—

"(i) IN GENERAL.—Subject to subparagraph (B) and except as provided in clause (ii), a procuring agency adopting the case-by-case policy shall award a contract to the vendor offering an item composed of the highest percentage of biobased products practicable.

"(ii) EXCEPTION.—Subject to subparagraph (B), an agency adopting the policy described in clause (i) may make an award to a vendor offering items with less than the maximum biobased products content.

"(E) MINIMUM CONTENT STANDARDS.—Subject to subparagraph (B), a procuring agency adopting the minimum content standards policy shall establish minimum biobased products content specifications for awarding contracts in a manner that ensures that the biobased products content required is consistent with this subsection.

"(F) CERTIFICATION.—After the date specified in any applicable guidelines prepared pursuant to paragraph (3), contracting offices shall require that vendors certify that the biobased products to be used in the performance of the contract will comply with the applicable specifications or other contractual requirements.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary, after consultation with the Administrator, the Administrator of General Services, and the Secretary of Commerce (acting through the Director of the National Institute of Standards and Technology), shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this subsection.

"(B) REQUIREMENTS.—The guidelines under this paragraph shall—

"(i) designate those items (including finished products) that are or can be produced with biobased products (including biobased products for which there is only a single product or manufacturer in the category) that will be subject to the preference described in paragraph (2);

"(ii) designate those intermediate ingredients and feedstocks that are or can be used to produce items that will be subject to the preference described in paragraph (2);

"(iii) automatically designate items composed of intermediate ingredients and feedstocks designated

under clause (ii), if the content of the designated intermediate ingredients and feedstocks exceeds 50 percent of the item (unless the Secretary determines a different composition percentage is appropriate);

"(iv) set forth recommended practices with respect to the procurement of biobased products and items containing such materials;

"(v) provide information as to the availability, relative price, performance, and environmental and public health benefits of such materials and items; and

"(vi) take effect on the date established in the guidelines, which may not exceed 1 year after publication. Effective date.

"(C) INFORMATION PROVIDED.—Information provided pursuant to subparagraph (B)(v) with respect to a material or item shall be considered to be provided for another item made with the same material or item.

"(D) PROHIBITION.—Guidelines issued under this paragraph may not require a manufacturer or vendor of biobased products, as a condition of the purchase of biobased products from the manufacturer or vendor, to provide to procuring agencies more data than would be required to be provided by other manufacturers or vendors offering products for sale to a procuring agency, other than data confirming the biobased content of a product.

"(E) QUALIFYING PURCHASES.—The guidelines shall apply with respect to any purchase or acquisition of a procurement item for which—

"(i) the purchase price of the item exceeds $10,000; or

"(ii) the quantity of the items or of functionally-equivalent items purchased or acquired during the preceding fiscal year was at least $10,000.

"(4) ADMINISTRATION.—

"(A) OFFICE OF FEDERAL PROCUREMENT POLICY.—The Office of Federal Procurement Policy, in cooperation with the Secretary, shall—

"(i) coordinate the implementation of this subsection with other policies for Federal procurement;

"(ii) annually collect the information required to be reported under subparagraph (B) and make the information publicly available;

"(iii) take a leading role in informing Federal agencies concerning, and promoting the adoption of and compliance with, procurement requirements for biobased products by Federal agencies; and

"(iv) not less than once every 2 years, submit to Congress a report that— Deadline. Reports.

"(I) describes the progress made in carrying out this subsection; and

"(II) contains a summary of the information reported pursuant to subparagraph (B).

"(B) OTHER AGENCIES.—To assist the Office of Federal Procurement Policy in carrying out subparagraph (A)— Reports.

"(i) each procuring agency shall submit each year to the Office of Federal Procurement Policy, to the maximum extent practicable, information concerning—

"(I) actions taken to implement paragraph (2);

"(II) the results of the annual review and monitoring program established under paragraph (2)(C)(iv);

"(III) the number and dollar value of contracts entered into during the year that include the direct procurement of biobased products;

"(IV) the number of service and construction (including renovations) contracts entered into during the year that include language on the use of biobased products; and

"(V) the types and dollar value of biobased products actually used by contractors in carrying out service and construction (including renovations) contracts during the previous year; and

"(ii) the General Services Administration and the Defense Logistics Agency shall submit each year to the Office of Federal Procurement Policy information concerning, to the maximum extent practicable, the types and dollar value of biobased products purchased by procuring agencies.

"(C) PROCUREMENT SUBJECT TO OTHER LAW.—Any procurement by any Federal agency that is subject to regulations of the Administrator under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) shall not be subject to the requirements of this section to the extent that the requirements are inconsistent with the regulations.

"(b) LABELING.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall establish a voluntary program under which the Secretary authorizes producers of biobased products to use the label 'USDA Certified Biobased Product'.

"(2) ELIGIBILITY CRITERIA.—

"(A) CRITERIA.—

Deadline.

"(i) IN GENERAL.—Not later than 90 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008 and except as provided in clause (ii), the Secretary, in consultation with the Administrator and representatives from small and large businesses, academia, other Federal agencies, and such other persons as the Secretary considers appropriate, shall issue criteria (as of the date of enactment of that Act) for determining which products may qualify to receive the label under paragraph (1).

"(ii) EXCEPTION.—Clause (i) shall not apply to final criteria that have been issued (as of the date of enactment of that Act) by the Secretary.

"(B) REQUIREMENTS.—Criteria issued under subparagraph (A) shall—

"(i) encourage the purchase of products with the maximum biobased content;

"(ii) provide that the Secretary may designate as biobased for the purposes of the voluntary program established under this subsection finished products that contain significant portions of biobased materials or components; and

"(iii) to the maximum extent practicable, be consistent with the guidelines issued under subsection (a)(3).

"(3) USE OF LABEL.—The Secretary shall ensure that the label referred to in paragraph (1) is used only on products that meet the criteria issued pursuant to paragraph (2).

"(c) RECOGNITION.—The Secretary shall—

"(1) establish a program to recognize Federal agencies and private entities that use a substantial amount of biobased products; and

"(2) encourage Federal agencies to establish incentives programs to recognize Federal employees or contractors that make exceptional contributions to the expanded use of biobased products.

"(d) LIMITATION.—Nothing in this section shall apply to the procurement of motor vehicle fuels, heating oil, or electricity.

"(e) INCLUSION.—Effective beginning on the date that is 90 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Architect of the Capitol, the Sergeant at Arms of the Senate, and the Chief Administrative Officer of the House of Representatives shall consider the biobased product designations made under this section in making procurement decisions for the Capitol Complex. Effective date.

"(f) NATIONAL TESTING CENTER REGISTRY.—The Secretary shall establish a national registry of testing centers for biobased products that will serve biobased product manufacturers. Establishment.

"(g) REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008 and each year thereafter, the Secretary shall submit to Congress a report on the implementation of this section.

"(2) CONTENTS.—The report shall include—

"(A) a comprehensive management plan that establishes tasks, milestones, and timelines, organizational roles and responsibilities, and funding allocations for fully implementing this section; and

"(B) information on the status of implementation of—

"(i) item designations (including designation of intermediate ingredients and feedstocks); and

"(ii) the voluntary labeling program established under subsection (b).

"(h) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to provide mandatory funding for biobased products testing and labeling as required to carry out this section—

"(A) $1,000,000 for fiscal year 2008; and

"(B) $2,000,000 for each of fiscal years 2009 through 2012.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2009 through 2012.

7 USC 8103.

**"SEC. 9003. BIOREFINERY ASSISTANCE.**

"(a) PURPOSE.—The purpose of this section is to assist in the development of new and emerging technologies for the development of advanced biofuels, so as to—

"(1) increase the energy independence of the United States;

"(2) promote resource conservation, public health, and the environment;

"(3) diversify markets for agricultural and forestry products and agriculture waste material; and

"(4) create jobs and enhance the economic development of the rural economy.

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means an individual, entity, Indian tribe, or unit of State or local government, including a corporation, farm cooperative, farmer cooperative organization, association of agricultural producers, National Laboratory, institution of higher education, rural electric cooperative, public power entity, or consortium of any of those entities.

"(2) ELIGIBLE TECHNOLOGY.—The term 'eligible technology' means, as determined by the Secretary—

"(A) a technology that is being adopted in a viable commercial-scale operation of a biorefinery that produces an advanced biofuel; and

"(B) a technology not described in subparagraph (A) that has been demonstrated to have technical and economic potential for commercial application in a biorefinery that produces an advanced biofuel.

"(c) ASSISTANCE.—The Secretary shall make available to eligible entities—

"(1) grants to assist in paying the costs of the development and construction of demonstration-scale biorefineries to demonstrate the commercial viability of 1 or more processes for converting renewable biomass to advanced biofuels; and

"(2) guarantees for loans made to fund the development, construction, and retrofitting of commercial-scale biorefineries using eligible technology.

"(d) GRANTS.—

"(1) COMPETITIVE BASIS.—The Secretary shall award grants under subsection (c)(1) on a competitive basis.

"(2) SELECTION CRITERIA.—

"(A) IN GENERAL.—In approving grant applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve applications that exceed a specified minimum, as determined by the Secretary.

"(B) FEASIBILITY.—In approving a grant application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.

"(C) SCORING SYSTEM.—In determining the priority scoring system, the Secretary shall consider—

"(i) the potential market for the advanced biofuel and the byproducts produced;

"(ii) the level of financial participation by the applicant, including support from non-Federal and private sources;

"(iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;

"(iv) whether the applicant is proposing to work with producer associations or cooperatives;

"(v) whether the applicant has established that the adoption of the process proposed in the application will have a positive impact on resource conservation, public health, and the environment;

"(vi) the potential for rural economic development;

"(vii) whether the area in which the applicant proposes to locate the biorefinery has other similar facilities;

"(viii) whether the project can be replicated; and

"(ix) scalability for commercial use.

"(3) COST SHARING.—

"(A) LIMITS.—The amount of a grant awarded for development and construction of a biorefinery under subsection (c)(1) shall not exceed an amount equal to 30 percent of the cost of the project.

"(B) FORM OF GRANTEE SHARE.—

"(i) IN GENERAL.—The grantee share of the cost of a project may be made in the form of cash or material.

"(ii) LIMITATION.—The amount of the grantee share that is made in the form of material shall not exceed 15 percent of the amount of the grantee share determined under subparagraph (A).

"(e) LOAN GUARANTEES.—

"(1) SELECTION CRITERIA.—

"(A) IN GENERAL.—In approving loan guarantee applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve applications that exceed a specified minimum, as determined by the Secretary.

"(B) FEASIBILITY.—In approving a loan guarantee application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.

"(C) SCORING SYSTEM.—In determining the priority scoring system for loan guarantees under subsection (c)(2), the Secretary shall consider—

"(i) whether the applicant has established a market for the advanced biofuel and the byproducts produced;

"(ii) whether the area in which the applicant proposes to place the biorefinery has other similar facilities;

"(iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;

"(iv) whether the applicant is proposing to work with producer associations or cooperatives;

"(v) the level of financial participation by the applicant, including support from non-Federal and private sources;

"(vi) whether the applicant has established that the adoption of the process proposed in the application will have a positive impact on resource conservation, public health, and the environment;

"(vii) whether the applicant can establish that if adopted, the biofuels production technology proposed in the application will not have any significant negative impacts on existing manufacturing plants or other facilities that use similar feedstocks;

"(viii) the potential for rural economic development;

"(ix) the level of local ownership proposed in the application; and

"(x) whether the project can be replicated.

"(2) LIMITATIONS.—

"(A) MAXIMUM AMOUNT OF LOAN GUARANTEED.—The principal amount of a loan guaranteed under subsection (c)(2) may not exceed $250,000,000.

"(B) MAXIMUM PERCENTAGE OF LOAN GUARANTEED.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, a loan guaranteed under subsection (c)(2) shall be in an amount not to exceed 80 percent of the project costs, as determined by the Secretary.

"(ii) OTHER DIRECT FEDERAL FUNDING.—The amount of a loan guaranteed for a project under subsection (c)(2) shall be reduced by the amount of other direct Federal funding that the eligible entity receives for the same project.

"(iii) AUTHORITY TO GUARANTEE THE LOAN.—The Secretary may guarantee up to 90 percent of the principal and interest due on a loan guaranteed under subsection (c)(2).

"(C) LOAN GUARANTEE FUND DISTRIBUTION.—Of the funds made available for loan guarantees for a fiscal year under subsection (h), 50 percent of the funds shall be reserved for obligation during the second half of the fiscal year.

"(f) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

"(g) CONDITION ON PROVISION OF ASSISTANCE.—

"(1) IN GENERAL.—As a condition of receiving a grant or loan guarantee under this section, an eligible entity shall ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed, in whole or in part, with the grant or loan guarantee, as the case may be, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code.

"(2) AUTHORITY AND FUNCTIONS.—The Secretary of Labor shall have, with respect to the labor standards described in

paragraph (1), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App) and section 3145 of title 40, United States Code.

"(h) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use for the cost of loan guarantees under this section, to remain available until expended—

"(A) $75,000,000 for fiscal year 2009; and

"(B) $245,000,000 for fiscal year 2010.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $150,000,000 for each of fiscal years 2009 through 2012.

**"SEC. 9004. REPOWERING ASSISTANCE.** 7 USC 8104.

"(a) IN GENERAL.—The Secretary shall carry out a program to encourage biorefineries in existence on the date of enactment of the Food, Conservation, and Energy Act of 2008 to replace fossil fuels used to produce heat or power to operate the biorefineries by making payments for—

"(1) the installation of new systems that use renewable biomass; or

"(2) the new production of energy from renewable biomass.

"(b) PAYMENTS.—

"(1) IN GENERAL.—The Secretary may make payments under this section to any biorefinery that meets the requirements of this section for a period determined by the Secretary.

"(2) AMOUNT.—The Secretary shall determine the amount of payments to be made under this section to a biorefinery after considering—

"(A) the quantity of fossil fuels a renewable biomass system is replacing;

"(B) the percentage reduction in fossil fuel used by the biorefinery that will result from the installation of the renewable biomass system; and

"(C) the cost and cost effectiveness of the renewable biomass system.

"(c) ELIGIBILITY.—To be eligible to receive a payment under this section, a biorefinery shall demonstrate to the Secretary that the renewable biomass system of the biorefinery is feasible based on an independent feasibility study that takes into account the economic, technical and environmental aspects of the system.

"(d) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to make payments under this section $35,000,000 for fiscal year 2009, to remain available until expended.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2009 through 2012.

**"SEC. 9005. BIOENERGY PROGRAM FOR ADVANCED BIOFUELS.** 7 USC 8105.

"(a) DEFINITION OF ELIGIBLE PRODUCER.—In this section, the term 'eligible producer' means a producer of advanced biofuels.

"(b) PAYMENTS.—The Secretary shall make payments to eligible producers to support and ensure an expanding production of advanced biofuels.

"(c) CONTRACTS.—To receive a payment, an eligible producer shall—

"(1) enter into a contract with the Secretary for production of advanced biofuels; and

Records.

"(2) submit to the Secretary such records as the Secretary may require as evidence of the production of advanced biofuels.

"(d) BASIS FOR PAYMENTS.—The Secretary shall make payments under this section to eligible producers based on—

"(1) the quantity and duration of production by the eligible producer of an advanced biofuel;

"(2) the net nonrenewable energy content of the advanced biofuel, if sufficient data is available, as determined by the Secretary; and

"(3) other appropriate factors, as determined by the Secretary.

"(e) EQUITABLE DISTRIBUTION.—The Secretary may limit the amount of payments that may be received by a single eligible producer under this section in order to distribute the total amount of funding available in an equitable manner.

"(f) OTHER REQUIREMENTS.—To receive a payment under this section, an eligible producer shall meet any other requirements of Federal and State law (including regulations) applicable to the production of advanced biofuels.

"(g) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

"(A) $55,000,000 for fiscal year 2009;

"(B) $55,000,000 for fiscal year 2010;

"(C) $85,000,000 for fiscal year 2011; and

"(D) $105,000,000 for fiscal year 2012.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.

"(3) LIMITATION.—Of the funds provided for each fiscal year, not more than 5 percent of the funds shall be made available to eligible producers for production at facilities with a total refining capacity exceeding 150,000,000 gallons per year.

7 USC 8106.

**"SEC. 9006. BIODIESEL FUEL EDUCATION PROGRAM.**

Grants.

"(a) ESTABLISHMENT.—The Secretary shall, under such terms and conditions as the Secretary determines to be appropriate, make competitive grants to eligible entities to educate governmental and private entities that operate vehicle fleets, other interested entities (as determined by the Secretary), and the public about the benefits of biodiesel fuel use.

"(b) ELIGIBLE ENTITIES.—To receive a grant under subsection (b), an entity shall—

"(1) be a nonprofit organization or institution of higher education;

"(2) have demonstrated knowledge of biodiesel fuel production, use, or distribution; and

"(3) have demonstrated the ability to conduct educational and technical support programs.

"(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

"(d) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $1,000,000 for each of fiscal years 2008 through 2012.

**"SEC. 9007. RURAL ENERGY FOR AMERICA PROGRAM.** 7 USC 8107.

"(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Energy, shall establish a Rural Energy for America Program to promote energy efficiency and renewable energy development for agricultural producers and rural small businesses through—

"(1) grants for energy audits and renewable energy development assistance; and

"(2) financial assistance for energy efficiency improvements and renewable energy systems.

"(b) ENERGY AUDITS AND RENEWABLE ENERGY DEVELOPMENT ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make competitive grants to eligible entities to provide assistance to agricultural producers and rural small businesses— Grants.

"(A) to become more energy efficient; and

"(B) to use renewable energy technologies and resources.

"(2) ELIGIBLE ENTITIES.—An eligible entity under this subsection is—

"(A) a unit of State, tribal, or local government;

"(B) a land-grant college or university or other institution of higher education;

"(C) a rural electric cooperative or public power entity; and

"(D) any other similar entity, as determined by the Secretary.

"(3) SELECTION CRITERIA.—In reviewing applications of eligible entities to receive grants under paragraph (1), the Secretary shall consider—

"(A) the ability and expertise of the eligible entity in providing professional energy audits and renewable energy assessments;

"(B) the geographic scope of the program proposed by the eligible entity in relation to the identified need;

"(C) the number of agricultural producers and rural small businesses to be assisted by the program;

"(D) the potential of the proposed program to produce energy savings and environmental benefits;

"(E) the plan of the eligible entity for performing outreach and providing information and assistance to agricultural producers and rural small businesses on the benefits of energy efficiency and renewable energy development; and

"(F) the ability of the eligible entity to leverage other sources of funding.

"(4) USE OF GRANT FUNDS.—A recipient of a grant under paragraph (1) shall use the grant funds to assist agricultural producers and rural small businesses by—

"(A) conducting and promoting energy audits; and

"(B) providing recommendations and information on how—

"(i) to improve the energy efficiency of the operations of the agricultural producers and rural small businesses; and

"(ii) to use renewable energy technologies and resources in the operations.

"(5) LIMITATION.—Grant recipients may not use more than 5 percent of a grant for administrative expenses.

"(6) COST SHARING.—A recipient of a grant under paragraph (1) that conducts an energy audit for an agricultural producer or rural small business under paragraph (4) shall require that, as a condition of the energy audit, the agricultural producer or rural small business pay at least 25 percent of the cost of the energy audit, which shall be retained by the eligible entity for the cost of the energy audit.

"(c) FINANCIAL ASSISTANCE FOR ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY SYSTEMS.—

"(1) IN GENERAL.—In addition to any similar authority, the Secretary shall provide loan guarantees and grants to agricultural producers and rural small businesses—

"(A) to purchase renewable energy systems, including systems that may be used to produce and sell electricity; and

"(B) to make energy efficiency improvements.

"(2) AWARD CONSIDERATIONS.—In determining the amount of a loan guarantee or grant provided under this section, the Secretary shall take into consideration, as applicable—

"(A) the type of renewable energy system to be purchased;

"(B) the estimated quantity of energy to be generated by the renewable energy system;

"(C) the expected environmental benefits of the renewable energy system;

"(D) the quantity of energy savings expected to be derived from the activity, as demonstrated by an energy audit;

"(E) the estimated period of time for the energy savings generated by the activity to equal the cost of the activity;

"(F) the expected energy efficiency of the renewable energy system; and

"(G) other appropriate factors.

"(3) FEASIBILITY STUDIES.—

"(A) IN GENERAL.—The Secretary may provide assistance in the form of grants to an agricultural producer or rural small business to conduct a feasibility study for a project for which assistance may be provided under this subsection.

"(B) LIMITATION.—The Secretary shall use not more than 10 percent of the funds made available to carry out this subsection to provide assistance described in subparagraph (A).

"(C) AVOIDANCE OF DUPLICATIVE ASSISTANCE.—An entity shall be ineligible to receive assistance to carry out a feasibility study for a project under this paragraph

if the entity has received other Federal or State assistance for a feasibility study for the project.

"(4) LIMITS.—

"(A) GRANTS.—The amount of a grant under this subsection shall not exceed 25 percent of the cost of the activity carried out using funds from the grant.

"(B) MAXIMUM AMOUNT OF LOAN GUARANTEES.—The amount of a loan guaranteed under this subsection shall not exceed $25,000,000.

"(C) MAXIMUM AMOUNT OF COMBINED GRANT AND LOAN GUARANTEE.—The combined amount of a grant and loan guaranteed under this subsection shall not exceed 75 percent of the cost of the activity funded under this subsection.

"(d) OUTREACH.—The Secretary shall ensure, to the maximum extent practicable, that adequate outreach relating to this section is being conducted at the State and local levels.

"(e) LOWER-COST ACTIVITIES.—

"(1) LIMITATION ON USE OF FUNDS.—Except as provided in paragraph (2), the Secretary shall use not less than 20 percent of the funds made available under subsection (g) to provide grants of $20,000 or less.

"(2) EXCEPTION.—Effective beginning on June 30 of each fiscal year, paragraph (1) shall not apply to funds made available under subsection (g) for the fiscal year. Effective date.

"(f) REPORT.—Not later than 4 years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to Congress a report on the implementation of this section, including the outcomes achieved by projects funded under this section.

"(g) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

"(A) $55,000,000 for fiscal year 2009;

"(B) $60,000,000 for fiscal year 2010;

"(C) $70,000,000 for fiscal year 2011; and

"(D) $70,000,000 for fiscal year 2012.

"(2) AUDIT AND TECHNICAL ASSISTANCE FUNDING.—

"(A) IN GENERAL.—Subject to subparagraph (B), of the funds made available for each fiscal year under paragraph (1), 4 percent shall be available to carry out subsection (b).

"(B) OTHER USE.—Funds not obligated under subparagraph (A) by April 1 of each fiscal year to carry out subsection (b) shall become available to carry out subsection (c). Deadline.

"(3) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.

**"SEC. 9008. BIOMASS RESEARCH AND DEVELOPMENT.** 7 USC 8108.

"(a) DEFINITIONS.—In this section:

"(1) BIOBASED PRODUCT.—The term 'biobased product' means—

"(A) an industrial product (including chemicals, materials, and polymers) produced from biomass; or

"(B) a commercial or industrial product (including animal feed and electric power) derived in connection with the conversion of biomass to fuel.

"(2) DEMONSTRATION.—The term 'demonstration' means demonstration of technology in a pilot plant or semi-works scale facility, including a plant or facility located on a farm.

"(3) INITIATIVE.—The term 'Initiative' means the Biomass Research and Development Initiative established under subsection (e).

"(b) COOPERATION AND COORDINATION IN BIOMASS RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy shall coordinate policies and procedures that promote research and development regarding the production of biofuels and biobased products.

"(2) POINTS OF CONTACT.—To coordinate research and development programs and activities relating to biofuels and biobased products that are carried out by their respective departments—

"(A) the Secretary of Agriculture shall designate, as the point of contact for the Department of Agriculture, an officer of the Department of Agriculture appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate; and

"(B) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate.

"(c) BIOMASS RESEARCH AND DEVELOPMENT BOARD.—

"(1) ESTABLISHMENT.—There is established the Biomass Research and Development Board to carry out the duties described in paragraph (3).

"(2) MEMBERSHIP.—The Board shall consist of—

"(A) the point of contacts of the Department of Energy and the Department of Agriculture, who shall serve as cochairpersons of the Board;

"(B) a senior officer of each of the Department of the Interior, the Environmental Protection Agency, the National Science Foundation, and the Office of Science and Technology Policy, each of whom shall have a rank that is equivalent to the rank of the points of contact; and

"(C) at the option of the Secretary of Agriculture and the Secretary of Energy, other members appointed by the Secretaries (after consultation with the Board).

"(3) DUTIES.—The Board shall—

"(A) coordinate research and development activities relating to biofuels and biobased products—

"(i) between the Department of Agriculture and the Department of Energy; and

"(ii) with other departments and agencies of the Federal Government;

"(B) provide recommendations to the points of contact concerning administration of this title;

"(C) ensure that—

"(i) solicitations are open and competitive with awards made annually; and

"(ii) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest; and

"(D) ensure that the panel of scientific and technical peers assembled under subsection (e) to review proposals is composed predominantly of independent experts selected from outside the Departments of Agriculture and Energy.

"(4) FUNDING.—Each agency represented on the Board is encouraged to provide funds for any purpose under this section.

"(5) MEETINGS.—The Board shall meet at least quarterly.

"(d) BIOMASS RESEARCH AND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—There is established the Biomass Research and Development Technical Advisory Committee to carry out the duties described in paragraph (3).

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The Advisory Committee shall consist of—

"(i) an individual affiliated with the biofuels industry;

"(ii) an individual affiliated with the biobased industrial and commercial products industry;

"(iii) an individual affiliated with an institution of higher education who has expertise in biofuels and biobased products;

"(iv) 2 prominent engineers or scientists from government or academia who have expertise in biofuels and biobased products;

"(v) an individual affiliated with a commodity trade association;

"(vi) 2 individuals affiliated with environmental or conservation organizations;

"(vii) an individual associated with State government who has expertise in biofuels and biobased products;

"(viii) an individual with expertise in energy and environmental analysis;

"(ix) an individual with expertise in the economics of biofuels and biobased products;

"(x) an individual with expertise in agricultural economics;

"(xi) an individual with expertise in plant biology and biomass feedstock development;

"(xii) an individual with expertise in agronomy, crop science, or soil science; and

"(xiii) at the option of the points of contact, other members.

"(B) APPOINTMENT.—The members of the Advisory Committee shall be appointed by the points of contact.

"(3) DUTIES.—The Advisory Committee shall—

"(A) advise the points of contact with respect to the Initiative; and

"(B) evaluate and make recommendations in writing to the Board regarding whether—

"(i) funds authorized for the Initiative are distributed and used in a manner that is consistent with the objectives, purposes, and considerations of the Initiative;

"(ii) solicitations are open and competitive with awards made annually;

"(iii) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest;

"(iv) the points of contact are funding proposals under this title that are selected on the basis of merit, as determined by an independent panel of scientific and technical peers predominantly from outside the Departments of Agriculture and Energy; and

"(v) activities under this title are carried out in accordance with this title.

"(4) COORDINATION.—To avoid duplication of effort, the Advisory Committee shall coordinate its activities with those of other Federal advisory committees working in related areas.

"(5) MEETINGS.—The Advisory Committee shall meet at least quarterly.

"(6) TERMS.—Members of the Advisory Committee shall be appointed for a term of 3 years.

"(e) BIOMASS RESEARCH AND DEVELOPMENT INITIATIVE.—

"(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy, acting through their respective points of contact and in consultation with the Board, shall establish and carry out a Biomass Research and Development Initiative under which competitively awarded grants, contracts, and financial assistance are provided to, or entered into with, eligible entities to carry out research on and development and demonstration of—

"(A) biofuels and biobased products; and

"(B) the methods, practices, and technologies, for the production of biofuels and biobased products.

"(2) OBJECTIVES.—The objectives of the Initiative are to develop—

"(A) technologies and processes necessary for abundant commercial production of biofuels at prices competitive with fossil fuels;

"(B) high-value biobased products—

"(i) to enhance the economic viability of biofuels and power;

"(ii) to serve as substitutes for petroleum-based feedstocks and products; and

"(iii) to enhance the value of coproducts produced using the technologies and processes; and

"(C) a diversity of economically and environmentally sustainable domestic sources of renewable biomass for conversion to biofuels, bioenergy, and biobased products.

"(3) TECHNICAL AREAS.—The Secretary of Agriculture and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and heads of other appropriate departments and agencies (referred to in this subsection as the 'Secretaries'), shall direct the Initiative in the 3 following areas:

"(A) FEEDSTOCKS DEVELOPMENT.—Research, development, and demonstration activities regarding feedstocks and feedstock logistics (including the harvest, handling, transport, preprocessing, and storage) relevant to production of raw materials for conversion to biofuels and biobased products.

"(B) BIOFUELS AND BIOBASED PRODUCTS DEVELOPMENT.—Research, development, and demonstration activities to support—

"(i) the development of diverse cost-effective technologies for the use of cellulosic biomass in the production of biofuels and biobased products; and

"(ii) product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and cogenerated power) that potentially can increase the feasibility of fuel production in a biorefinery.

"(C) BIOFUELS DEVELOPMENT ANALYSIS.—

"(i) STRATEGIC GUIDANCE.—The development of analysis that provides strategic guidance for the application of renewable biomass technologies to improve sustainability and environmental quality, cost effectiveness, security, and rural economic development.

"(ii) ENERGY AND ENVIRONMENTAL IMPACT.—Development of systematic evaluations of the impact of expanded biofuel production on the environment (including forest land) and on the food supply for humans and animals, including the improvement and development of tools for life cycle analysis of current and potential biofuels.

"(iii) ASSESSMENT OF FEDERAL LAND.—Assessments of the potential of Federal land resources to increase the production of feedstocks for biofuels and biobased products, consistent with the integrity of soil and water resources and with other environmental considerations.

"(4) ADDITIONAL CONSIDERATIONS.—Within the technical areas described in paragraph (3), the Secretaries shall support research and development—

"(A) to create continuously expanding opportunities for participants in existing biofuels production by seeking synergies and continuity with current technologies and practices;

"(B) to maximize the environmental, economic, and social benefits of production of biofuels and derived biobased products on a large scale; and

"(C) to facilitate small-scale production and local and on-farm use of biofuels, including the development of small-scale gasification technologies for production of biofuel from cellulosic feedstocks.

"(5) ELIGIBILITY.—To be eligible for a grant, contract, or assistance under this section, an applicant shall be—

"(A) an institution of higher education;

"(B) a National Laboratory;

"(C) a Federal research agency;

"(D) a State research agency;

"(E) a private sector entity;

"(F) a nonprofit organization; or

"(G) a consortium of 2 or more entities described in subparagraphs (A) through (F).

"(6) ADMINISTRATION.—

"(A) IN GENERAL.—After consultation with the Board, the points of contact shall—

Publication.

"(i) publish annually 1 or more joint requests for proposals for grants, contracts, and assistance under this subsection;

"(ii) require that grants, contracts, and assistance under this section be awarded based on a scientific peer review by an independent panel of scientific and technical peers;

"(iii) give special consideration to applications that—

"(I) involve a consortia of experts from multiple institutions;

"(II) encourage the integration of disciplines and application of the best technical resources; and

"(III) increase the geographic diversity of demonstration projects; and

"(iv) require that the technical areas described in each of subparagraphs (A), (B), and (C) of paragraph (3) receive not less than 15 percent of funds made available to carry out this section.

"(B) COST SHARE.—

"(i) RESEARCH AND DEVELOPMENT PROJECTS.—

"(I) IN GENERAL.—Except as provided in subclause (II), the non-Federal share of the cost of a research or development project under this section shall be not less than 20 percent.

"(II) REDUCTION.—The Secretary of Agriculture or the Secretary of Energy, as appropriate, may reduce the non-Federal share required under subclause (I) if the appropriate Secretary determines the reduction to be necessary and appropriate.

"(ii) DEMONSTRATION AND COMMERCIAL PROJECTS.—The non-Federal share of the cost of a demonstration or commercial project under this section shall be not less than 50 percent.

"(C) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary of Agriculture and the Secretary of Energy shall ensure that applicable research results and technologies from the Initiative are—

"(i) adapted, made available, and disseminated, as appropriate; and

"(ii) included in the best practices database established under section 1672C(e) of the Food, Agriculture, Conservation, and Trade Act of 1990.

"(f) ADMINISTRATIVE SUPPORT AND FUNDS.—

"(1) IN GENERAL.—The Secretary of Energy and the Secretary of Agriculture may provide such administrative support and funds of the Department of Energy and the Department of Agriculture to the Board and the Advisory Committee as

are necessary to enable the Board and the Advisory Committee to carry out their duties under this section.

"(2) OTHER AGENCIES.—The heads of the agencies referred to in subsection (c)(2)(B), and the other members of the Board appointed under subsection (c)(2)(C), are encouraged to provide administrative support and funds of their respective agencies to the Board and the Advisory Committee.

"(3) LIMITATION.—Not more than 4 percent of the amount made available for each fiscal year under subsection (h) may be used to pay the administrative costs of carrying out this section.

"(g) REPORTS.—For each fiscal year for which funds are made available to carry out this section, the Secretary of Energy and the Secretary of Agriculture shall jointly submit to Congress a detailed report on—

"(1) the status and progress of the Initiative, including a report from the Advisory Committee on whether funds appropriated for the Initiative have been distributed and used in a manner that is consistent with the objectives and requirements of this section;

"(2) the general status of cooperation and research and development efforts carried out at each agency with respect to biofuels and biobased products; and

"(3) the plans of the Secretary of Energy and the Secretary of Agriculture for addressing concerns raised in the report, including concerns raised by the Advisory Committee.

"(h) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use to carry out this section, to remain available until expended—

"(A) $20,000,000 for fiscal year 2009;

"(B) $28,000,000 for fiscal year 2010;

"(C) $30,000,000 for fiscal year 2011; and

"(D) $40,000,000 for fiscal year 2012.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 2009 through 2012.

**"SEC. 9009. RURAL ENERGY SELF-SUFFICIENCY INITIATIVE.** 7 USC 8109.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means a community located in a rural area (as defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A))).

"(2) INITIATIVE.—The term 'Initiative' means the Rural Energy Self-Sufficiency Initiative established under this section.

"(3) INTEGRATED RENEWABLE ENERGY SYSTEM.—The term 'integrated renewable energy system' means a community-wide energy system that—

"(A) reduces conventional energy use; and

"(B) increases the use of energy from renewable sources.

"(b) ESTABLISHMENT.—The Secretary shall establish a Rural Energy Self-Sufficiency Initiative to provide financial assistance

for the purpose of enabling eligible rural communities to substantially increase the energy self-sufficiency of the eligible rural communities.

"(c) GRANT ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make grants available under the Initiative to eligible rural communities to carry out an activity described in paragraph (2).

"(2) USE OF GRANT FUNDS.—An eligible rural community may use a grant—

"(A) to conduct an energy assessment that assesses the total energy use of all energy users in the eligible rural community;

"(B) to formulate and analyze ideas for reducing energy usage by the eligible rural community from conventional sources; and

"(C) to develop and install an integrated renewable energy system.

"(3) GRANT SELECTION.—

"(A) APPLICATION.—To be considered for a grant, an eligible rural community shall submit an application to the Secretary that describes the ways in which the community would use the grant to carry out an activity described in paragraph (2).

"(B) PREFERENCE.—The Secretary shall give preference to those applications that propose to carry out an activity in coordination with—

"(i) institutions of higher education or nonprofit foundations of institutions of higher education;

"(ii) Federal, State, or local government agencies;

"(iii) public or private power generation entities; or

"(iv) government entities with responsibility for water or natural resources.

"(4) REPORT.—An eligible rural community receiving a grant under the Initiative shall submit to the Secretary a report on the project of the eligible rural community.

"(5) COST-SHARING.—The amount of a grant under the Initiative shall not exceed 50 percent of the cost of the activities described in the application.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2009 through 2012.

7 USC 8110.

**"SEC. 9010. FEEDSTOCK FLEXIBILITY PROGRAM FOR BIOENERGY PRODUCERS.**

"(a) DEFINITIONS.—In this section:

"(1) BIOENERGY.—The term 'bioenergy' means fuel grade ethanol and other biofuel.

"(2) BIOENERGY PRODUCER.—The term 'bioenergy producer' means a producer of bioenergy that uses an eligible commodity to produce bioenergy under this section.

"(3) ELIGIBLE COMMODITY.—The term 'eligible commodity' means a form of raw or refined sugar or in-process sugar that is eligible to be marketed in the United States for human consumption or to be used for the extraction of sugar for human consumption.

"(4) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity located in the United States that markets an eligible commodity in the United States.

"(b) FEEDSTOCK FLEXIBILITY PROGRAM.—

"(1) IN GENERAL.—

"(A) PURCHASES AND SALES.—For each of the 2008 through 2012 crops, the Secretary shall purchase eligible commodities from eligible entities and sell such commodities to bioenergy producers for the purpose of producing bioenergy in a manner that ensures that section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

"(B) COMPETITIVE PROCEDURES.—In carrying out the purchases and sales required under subparagraph (A), the Secretary shall, to the maximum extent practicable, use competitive procedures, including the receiving, offering, and accepting of bids, when entering into contracts with eligible entities and bioenergy producers, provided that such procedures are consistent with the purposes of subparagraph (A).

"(C) LIMITATION.—The purchase and sale of eligible commodities under subparagraph (A) shall only be made in crop years in which such purchases and sales are necessary to ensure that the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

"(2) NOTICE.— Deadlines.

"(A) IN GENERAL.—As soon as practicable after the date of enactment of the Food, Conservation, and Energy Act of 2008 and each September 1 thereafter through September 1, 2012, the Secretary shall provide notice to eligible entities and bioenergy producers of the quantity of eligible commodities that shall be made available for purchase and sale for the crop year following the date of the notice under this section.

"(B) REESTIMATES.—Not later than the January 1, April 1, and July 1 of the calendar year following the date of a notice under subparagraph (A), the Secretary shall reestimate the quantity of eligible commodities determined under subparagraph (A), and provide notice and make purchases and sales based on such reestimates.

"(3) COMMODITY CREDIT CORPORATION INVENTORY.—

"(A) DISPOSITIONS.—

"(i) BIOENERGY AND GENERALLY.—Except as provided in clause (ii), to the extent that an eligible commodity is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)), the Secretary shall—

"(I) sell the eligible commodity to bioenergy producers under this section consistent with paragraph (1)(C);

"(II) dispose of the eligible commodity in accordance with section 156(f)(2) of that Act; or

"(III) otherwise dispose of the eligible commodity through the buyback of certificates of quota entry.

"(ii) PRESERVATION OF OTHER AUTHORITIES.—Nothing in this section limits the use of other authorities for the disposition of an eligible commodity held in the inventory of the Commodity Credit Corporation for nonfood use or otherwise in a manner that does not increase the net quantity of sugar available for human consumption in the United States market, consistent with section 156(f)(1) of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272(f)(1)).

"(B) EMERGENCY SHORTAGES.—Notwithstanding subparagraph (A), if there is an emergency shortage of sugar for human consumption in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event, the Secretary may dispose of an eligible commodity that is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)) through disposition as authorized under section 156(f) of that Act or through the use of any other authority of the Commodity Credit Corporation.

"(4) TRANSFER RULE; STORAGE FEES.—

Deadline.

"(A) GENERAL TRANSFER RULE.—Except with regard to emergency dispositions under paragraph (3)(B) and as provided in subparagraph (C), the Secretary shall ensure that bioenergy producers that purchase eligible commodities pursuant to this section take possession of the eligible commodities within 30 calendar days of the date of such purchase from the Commodity Credit Corporation.

"(B) PAYMENT OF STORAGE FEES PROHIBITED.—

"(i) IN GENERAL.—The Secretary shall, to the maximum extent practicable, carry out this section in a manner that ensures no storage fees are paid by the Commodity Credit Corporation in the administration of this section.

"(ii) EXCEPTION.—Clause (i) shall not apply with respect to any commodities owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)).

"(C) OPTION TO PREVENT STORAGE FEES.—

"(i) IN GENERAL.—The Secretary may enter into contracts with bioenergy producers to sell eligible commodities to such producers prior in time to entering into contracts with eligible entities to purchase the eligible commodities to be used to satisfy the contracts entered into with the bioenergy producers.

Deadline.

"(ii) SPECIAL TRANSFER RULE.—If the Secretary makes a sale and purchase referred to in clause (i), the Secretary shall ensure that the bioenergy producer that purchased eligible commodities takes possession

of such commodities within 30 calendar days of the date the Commodity Credit Corporation purchases the eligible commodities.

"(5) RELATION TO OTHER LAWS.—If sugar that is subject to a marketing allotment under part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is the subject of a payment under this section, the sugar shall be considered marketed and shall count against a processor's allocation of an allotment under such part, as applicable. Sugar.

"(6) FUNDING.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation, including the use of such sums as are necessary, to carry out this section.

**"SEC. 9011. BIOMASS CROP ASSISTANCE PROGRAM.** 7 USC 8111.

"(a) DEFINITIONS.—In this section:

"(1) BCAP.—The term 'BCAP' means the Biomass Crop Assistance Program established under this section.

"(2) BCAP PROJECT AREA.—The term 'BCAP project area' means an area that—

"(A) has specified boundaries that are submitted to the Secretary by the project sponsor and subsequently approved by the Secretary;

"(B) includes producers with contract acreage that will supply a portion of the renewable biomass needed by a biomass conversion facility; and

"(C) is physically located within an economically practicable distance from the biomass conversion facility.

"(3) CONTRACT ACREAGE.—The term 'contract acreage' means eligible land that is covered by a BCAP contract entered into with the Secretary.

"(4) ELIGIBLE CROP.—

"(A) IN GENERAL.—The term 'eligible crop' means a crop of renewable biomass.

"(B) EXCLUSIONS.—The term 'eligible crop' does not include—

"(i) any crop that is eligible to receive payments under title I of the Food, Conservation, and Energy Act of 2008 or an amendment made by that title; or

"(ii) any plant that is invasive or noxious or has the potential to become invasive or noxious, as determined by the Secretary, in consultation with other appropriate Federal or State departments and agencies.

"(5) ELIGIBLE LAND.—

"(A) IN GENERAL.—The term 'eligible land' includes agricultural and nonindustrial private forest lands (as defined in section 5(c) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a(c))).

"(B) EXCLUSIONS.—The term 'eligible land' does not include—

"(i) Federal- or State-owned land;

"(ii) land that is native sod, as of the date of enactment of the Food, Conservation, and Energy Act of 2008;

"(iii) land enrolled in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

"(iv) land enrolled in the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of that Act (16 U.S.C. 3837 et seq.); or

"(v) land enrolled in the grassland reserve program established under subchapter D of chapter 2 of subtitle D of title XII of that Act (16 U.S.C. 3838n et seq.).

"(6) ELIGIBLE MATERIAL.—

"(A) IN GENERAL.—The term 'eligible material' means renewable biomass.

"(B) EXCLUSIONS.—The term 'eligible material' does not include—

"(i) any crop that is eligible to receive payments under title I of the Food, Conservation, and Energy Act of 2008 or an amendment made by that title;

"(ii) animal waste and byproducts (including fats, oils, greases, and manure);

"(iii) food waste and yard waste; or

"(iv) algae.

"(7) PRODUCER.—The term 'producer' means an owner or operator of contract acreage that is physically located within a BCAP project area.

"(8) PROJECT SPONSOR.—The term 'project sponsor' means—

"(A) a group of producers; or

"(B) a biomass conversion facility.

"(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and administer a Biomass Crop Assistance Program to—

"(1) support the establishment and production of eligible crops for conversion to bioenergy in selected BCAP project areas; and

"(2) assist agricultural and forest land owners and operators with collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.

"(c) BCAP PROJECT AREA.—

"(1) IN GENERAL.—The Secretary shall provide financial assistance to producers of eligible crops in a BCAP project area.

"(2) SELECTION OF PROJECT AREAS.—

"(A) IN GENERAL.—To be considered for selection as a BCAP project area, a project sponsor shall submit to the Secretary a proposal that includes, at a minimum—

"(i) a description of the eligible land and eligible crops of each producer that will participate in the proposed BCAP project area;

"(ii) a letter of commitment from a biomass conversion facility that the facility will use the eligible crops intended to be produced in the proposed BCAP project area;

"(iii) evidence that the biomass conversion facility has sufficient equity available, as determined by the Secretary, if the biomass conversion facility is not operational at the time the proposal is submitted to the Secretary; and

"(iv) any other appropriate information about the biomass conversion facility or proposed biomass conversion facility that gives the Secretary a reasonable assurance that the plant will be in operation by the time that the eligible crops are ready for harvest.

"(B) BCAP PROJECT AREA SELECTION CRITERIA.—In selecting BCAP project areas, the Secretary shall consider—

"(i) the volume of the eligible crops proposed to be produced in the proposed BCAP project area and the probability that such crops will be used for the purposes of the BCAP;

"(ii) the volume of renewable biomass projected to be available from sources other than the eligible crops grown on contract acres;

"(iii) the anticipated economic impact in the proposed BCAP project area;

"(iv) the opportunity for producers and local investors to participate in the ownership of the biomass conversion facility in the proposed BCAP project area;

"(v) the participation rate by—

"(I) beginning farmers or ranchers (as defined in accordance with section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a))); or

"(II) socially disadvantaged farmers or ranchers (as defined in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)));

"(vi) the impact on soil, water, and related resources;

"(vii) the variety in biomass production approaches within a project area, including (as appropriate)—

"(I) agronomic conditions;

"(II) harvest and postharvest practices; and

"(III) monoculture and polyculture crop mixes;

"(viii) the range of eligible crops among project areas; and

"(ix) any additional information, as determined by the Secretary.

"(3) CONTRACT.—

"(A) IN GENERAL.—On approval of a BCAP project area by the Secretary, each producer in the BCAP project area shall enter into a contract directly with the Secretary.

"(B) MINIMUM TERMS.—At a minimum, contracts shall include terms that cover—

"(i) an agreement to make available to the Secretary, or to an institution of higher education or other entity designated by the Secretary, such information as the Secretary considers to be appropriate to promote the production of eligible crops and the development of biomass conversion technology;

"(ii) compliance with the highly erodible land conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and the wetland conservation requirements of subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

"(iii) the implementation of (as determined by the Secretary)—

"(I) a conservation plan; or

"(II) a forest stewardship plan or an equivalent plan; and

"(iv) any additional requirements the Secretary considers appropriate.

"(C) DURATION.—A contract under this subsection shall have a term of up to—

"(i) 5 years for annual and perennial crops; or

"(ii) 15 years for woody biomass.

"(4) RELATIONSHIP TO OTHER PROGRAMS.—In carrying out this subsection, the Secretary shall provide for the preservation of cropland base and yield history applicable to the land enrolled in a BCAP contract.

"(5) PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make establishment and annual payments directly to producers to support the establishment and production of eligible crops on contract acreage.

"(B) AMOUNT OF ESTABLISHMENT PAYMENTS.—The amount of an establishment payment under this subsection shall be up to 75 percent of the costs of establishing an eligible perennial crop covered by the contract, including—

"(i) the cost of seeds and stock for perennials;

"(ii) the cost of planting the perennial crop, as determined by the Secretary; and

"(iii) in the case of nonindustrial private forestland, the costs of site preparation and tree planting.

"(C) AMOUNT OF ANNUAL PAYMENTS.—

"(i) IN GENERAL.—Subject to clause (ii), the amount of an annual payment under this subsection shall be determined by the Secretary.

"(ii) REDUCTION.—The Secretary shall reduce an annual payment by an amount determined to be appropriate by the Secretary, if—

"(I) an eligible crop is used for purposes other than the production of energy at the biomass conversion facility;

"(II) an eligible crop is delivered to the biomass conversion facility;

"(III) the producer receives a payment under subsection (d);

"(IV) the producer violates a term of the contract; or

"(V) there are such other circumstances, as determined by the Secretary to be necessary to carry out this section.

"(d) ASSISTANCE WITH COLLECTION, HARVEST, STORAGE, AND TRANSPORTATION.—

"(1) IN GENERAL.—The Secretary shall make a payment for the delivery of eligible material to a biomass conversion facility to—

"(A) a producer of an eligible crop that is produced on BCAP contract acreage; or

"(B) a person with the right to collect or harvest eligible material.

"(2) PAYMENTS.—

"(A) COSTS COVERED.—A payment under this subsection shall be in an amount described in subparagraph (B) for—

"(i) collection;

"(ii) harvest;

"(iii) storage; and

"(iv) transportation to a biomass conversion facility.

"(B) AMOUNT.—Subject to paragraph (3), the Secretary may provide matching payments at a rate of $1 for each $1 per ton provided by the biomass conversion facility, in an amount equal to not more than $45 per ton for a period of 2 years.

"(3) LIMITATION ON ASSISTANCE FOR BCAP CONTRACT ACREAGE.—As a condition of the receipt of annual payment under subsection (c), a producer receiving a payment under this subsection for collection, harvest, storage or transportation of an eligible crop produced on BCAP acreage shall agree to a reduction in the annual payment.

"(e) REPORT.—Not later than 4 years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the dissemination by the Secretary of the best practice data and information gathered from participants receiving assistance under this section.

"(f) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.

**"SEC. 9012. FOREST BIOMASS FOR ENERGY.**

7 USC 8112.

"(a) IN GENERAL.—The Secretary, acting through the Forest Service, shall conduct a competitive research and development program to encourage use of forest biomass for energy.

"(b) ELIGIBLE ENTITIES.—Entities eligible to compete under the program under this section include—

"(1) the Forest Service (acting through Research and Development);

"(2) other Federal agencies;

"(3) State and local governments;

"(4) Indian tribes;

"(5) land-grant colleges and universities; and

"(6) private entities.

"(c) PRIORITY FOR PROJECT SELECTION.—In carrying out this section, the Secretary shall give priority to projects that—

"(1) develop technology and techniques to use low-value forest biomass, such as byproducts of forest health treatments and hazardous fuels reduction, for the production of energy;

"(2) develop processes that integrate production of energy from forest biomass into biorefineries or other existing manufacturing streams;

"(3) develop new transportation fuels from forest biomass; and

"(4) improve the growth and yield of trees intended for renewable energy production.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2009 through 2012.

7 USC 8113.

**"SEC. 9013. COMMUNITY WOOD ENERGY PROGRAM.**

"(a) DEFINITIONS.—In this section:

"(1) COMMUNITY WOOD ENERGY PLAN.—The term 'community wood energy plan' means an assessment of—

"(A) available feedstocks necessary to supply a community wood energy system; and

"(B) the long-term feasibility of supplying and operating a community wood energy system.

"(2) COMMUNITY WOOD ENERGY SYSTEM.—

"(A) IN GENERAL.—The term 'community wood energy system' means an energy system that—

"(i) primarily services public facilities owned or operated by State or local governments, including schools, town halls, libraries, and other public buildings; and

"(ii) uses woody biomass as the primary fuel.

"(B) INCLUSIONS.—The term 'community wood energy system' includes single facility central heating, district heating, combined heat and energy systems, and other related biomass energy systems.

"(b) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall establish a program to be known as the 'Community Wood Energy Program' to provide—

"(A) grants of up to $50,000 to State and local governments (or designees) to develop community wood energy plans; and

"(B) competitive grants to State and local governments to acquire or upgrade community wood energy systems.

"(2) CONSIDERATIONS.—In selecting applicants for grants under paragraph (1)(B), the Secretary shall consider—

"(A) the energy efficiency of the proposed system;

"(B) the cost effectiveness of the proposed system; and

"(C) other conservation and environmental criteria that the Secretary considers appropriate.

"(3) USE OF PLAN.—A State or local government applying to receive a competitive grant described in paragraph (1)(B) shall submit to the Secretary as part of the grant application the applicable community wood energy plan.

"(c) LIMITATION.—A community wood energy system acquired with grant funds provided under subsection (b)(1)(B) shall not exceed an output of—

"(1) 50,000,000 Btu per hour for heating; and

"(2) 2 megawatts for electric power production.

"(d) MATCHING FUNDS.—A State or local government that receives a grant under subsection (b) shall contribute an amount of non-Federal funds towards the development of the community wood energy plan, or acquisition of the community wood energy systems that is at least equal to the amount of grant funds received by the State or local government under that subsection.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2009 through 2012.".

(b) CONFORMING AMENDMENT.—The Biomass Research and Development Act of 2000 (7 U.S.C. 8601 et seq.) is repealed.

**SEC. 9002. BIOFUELS INFRASTRUCTURE STUDY.**

(a) IN GENERAL.—The Secretary of Agriculture, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation (referred to in this section as the "Secretaries"), shall jointly conduct a study that includes—

(1) an assessment of the infrastructure needs for expanding the domestic production, transport, and distribution of biofuels given current and likely future market trends;

(2) recommendations for infrastructure needs and development approaches, taking into account cost and other associated factors; and

(3) a report that includes— Reports.

(A) a summary of infrastructure needs;

(B) an analysis of alternative development approaches to meeting the needs described in subparagraph (A), including cost, siting, and other regulatory issues; and

(C) recommendations for specific infrastructure development actions to be taken.

(b) SCOPE OF STUDY.—

(1) IN GENERAL.—In conducting the study described in subsection (a), the Secretaries shall address—

(A) current and likely future market trends for biofuels through calendar year 2025;

(B) current and future availability of feedstocks;

(C) water resource needs, including water requirements for biorefineries;

(D) shipping and storage needs for biomass feedstock and biofuels, including the adequacy of rural roads; and

(E) modes of transportation and delivery for biofuels (including shipment by rail, truck, pipeline or barge) and associated infrastructure issues.

(2) CONSIDERATIONS.—In addressing the issues described in paragraph (1), the Secretaries shall consider—

(A) the effects of increased tank truck, rail, and barge transport on existing infrastructure and safety;

(B) the feasibility of shipping biofuels through pipelines in existence as the date of enactment of this Act;

(C) the development of new biofuels pipelines, including siting, financing, timing, and other economic issues;

(D) the implications of various biofuel blend levels on infrastructure needs;

(E) the implications of various approaches to infrastructure development on resource use and conservation;

(F) regional differences in biofuels infrastructure needs; and

(G) other infrastructure issues, as determined by the Secretaries.

(c) IMPLEMENTATION.—In carrying out this section, the Secretaries —

(1) shall—

(A) consult with individuals and entities with interest or expertise in the areas described in subsection (b);

(B) to the extent available, use the information developed and results of the related studies authorized under sections 243 and 245 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1540, 1546)); and

(C) submit to Congress the report required under subsection (a)(3), including—

(i) in the Senate—

(I) the Committee on Agriculture, Nutrition, and Forestry ;

(II) the Committee on Commerce, Science, and Transportation;

(III) the Committee on Energy and Natural Resources; and

(IV) the Committee on Environment and Public Works; and

(ii) in the House of Representatives—

(I) the Committee on Agriculture;

(II) the Committee on Energy and Commerce;

(III) the Committee on Transportation and Infrastructure; and

(IV) the Committee on Science and Technology; and

(2) may issue a solicitation for a competition to select a contractor to support the Secretaries.

**SEC. 9003. RENEWABLE FERTILIZER STUDY.**

Deadline.

(a) IN GENERAL.—Not later than 1 year after the date of receipt of appropriations to carry out this section, the Secretary shall—

(1) conduct a study to assess the current state of knowledge regarding the potential for the production of fertilizer from renewable energy sources in rural areas, including—

(A) identification of the critical challenges to commercialization of rural production of nitrogen and phosphorus-based fertilizer from renewables;

(B) the most promising processes and technologies for renewable fertilizer production;

(C) the potential cost-competitiveness of renewable fertilizer; and

(D) the potential impacts of renewable fertilizer on fossil fuel use and the environment; and

Reports.

(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal year 2009.

# TITLE X—HORTICULTURE AND ORGANIC AGRICULTURE

7 USC 1622b note.

**SEC. 10001. DEFINITIONS.**

In this title:

(1) SPECIALTY CROP.—The term "specialty crop" has the meaning given the term in section 3 of the Specialty Crops

Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

(2) STATE DEPARTMENT OF AGRICULTURE.—The term "State department of agriculture" means the agency, commission, or department of a State government responsible for protecting and promoting agriculture in the State.

# Subtitle A—Horticulture Marketing and Information

### SEC. 10101. INDEPENDENT EVALUATION OF DEPARTMENT OF AGRICULTURE COMMODITY PURCHASE PROCESS.

(a) EVALUATION REQUIRED.—The Secretary shall arrange to have performed an independent evaluation of the purchasing processes (including the budgetary, statutory, and regulatory authority underlying the processes) used by the Department of Agriculture to implement the requirement that funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be principally devoted to perishable agricultural commodities.

(b) SUBMISSION OF RESULTS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the evaluation. Deadline.

### SEC. 10102. QUALITY REQUIREMENTS FOR CLEMENTINES.

Section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e–1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the matter preceding the first proviso in the first sentence by inserting "clementines," after "nectarines,".

### SEC. 10103. INCLUSION OF SPECIALTY CROPS IN CENSUS OF AGRICULTURE.

Section 2(a) of the Census of Agriculture Act of 1997 (7 U.S.C. 2204g(a)) is amended—

(1) by striking "In 1998" and inserting the following:

"(1) IN GENERAL.—In 1998"; and

(2) by adding at the end the following:

"(2) INCLUSION OF SPECIALTY CROPS.—Effective beginning with the census of agriculture required to be conducted in 2008, the Secretary shall conduct as part of each census of agriculture a census of specialty crops (as that term is defined in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108-465)).".

### SEC. 10104. MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION.

(a) REGIONS AND MEMBERS.—Section 1925(b)(2) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(b)(2)) is amended—

(1) in subparagraph (B), by striking "4 regions" and inserting "3 regions";

(2) in subparagraph (D), by striking "35,000,000 pounds" and inserting "50,000,000 pounds"; and

(3) by striking subparagraph (E) and inserting the following:

"(E) ADDITIONAL MEMBERS.—In addition to the members appointed pursuant to paragraph (1), and subject to the 9-member limit of members on the Council provided in that paragraph, the Secretary shall appoint additional members to the council from a region that attains additional pounds of production as follows:

"(i) If the annual production of a region is greater than 110,000,000 pounds, but less than or equal to 180,000,000 pounds, the region shall be represented by 1 additional member.

"(ii) If the annual production of a region is greater than 180,000,000 pounds, but less than or equal to 260,000,000 pounds, the region shall be represented by 2 additional members.

"(iii) If the annual production of a region is greater than 260,000,000 pounds, the region shall be represented by 3 additional members.".

(b) POWERS AND DUTIES OF COUNCIL.—Section 1925(c) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(c)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms;".

7 USC 7655a.

**SEC. 10105. FOOD SAFETY EDUCATION INITIATIVES.**

(a) INITIATIVE AUTHORIZED.—The Secretary may carry out a food safety education program to educate the public and persons in the fresh produce industry about—

(1) scientifically proven practices for reducing microbial pathogens on fresh produce; and

(2) methods of reducing the threat of cross-contamination of fresh produce through sanitary handling practices.

(b) COOPERATION.—The Secretary may carry out the education program in cooperation with public and private partners.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

**SEC. 10106. FARMERS' MARKET PROMOTION PROGRAM.**

Section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) is amended—

(1) in subsection (a), by inserting "and to promote direct producer-to-consumer marketing" before the period at the end;

(2) in subsection (b)(1)—

(A) in subparagraph (A), by inserting "agri-tourism activities," after "programs,"; and

(B) in subparagraph (B)—

(i) by inserting "agri-tourism activities," after "programs," and

(ii) by striking "infrastructure" and inserting "marketing opportunities";

(3) in subsection (c)(1), by inserting "or a producer network or association" after "cooperative"; and

(4) by striking subsection (e) and inserting the following:

"(e) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

"(A) $3,000,000 for fiscal year 2008;

"(B) $5,000,000 for each of fiscal years 2009 through 2010; and

"(C) $10,000,000 for each of fiscal years 2011 and 2012.

"(2) USE OF FUNDS.—Not less than 10 percent of the funds used to carry out this section in a fiscal year under paragraph (1) shall be used to support the use of electronic benefits transfers for Federal nutrition programs at farmers' markets.

"(3) INTERDEPARTMENTAL COORDINATION.—In carrying out this subsection, the Secretary shall ensure coordination between the various agencies to the maximum extent practicable.

"(4) LIMITATION.—Funds described in paragraph (2)—

"(A) may not be used for the ongoing cost of carrying out any project; and

"(B) shall only be provided to eligible entities that demonstrate a plan to continue to provide EBT card access at 1 or more farmers' markets following the receipt of the grant.".

**SEC. 10107. SPECIALTY CROPS MARKET NEWS ALLOCATION.** 7 USC 1622b.

(a) IN GENERAL.—The Secretary shall—

(1) carry out market news activities to provide timely price and shipment information of specialty crops in the United States; and

(2) use funds made available under subsection (b) to increase the reporting levels for specialty crops in effect on the date of enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available through annual appropriations for market news services, there is authorized to be appropriated to carry out this section $9,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

**SEC. 10108. EXPEDITED MARKETING ORDER FOR HASS AVOCADOS FOR GRADES AND STANDARDS AND OTHER PURPOSES.** 7 USC 608c note.

(a) IN GENERAL.—The Secretary shall initiate procedures under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to determine whether it would be appropriate to establish a Federal marketing order for Hass avocados relating to grades and standards and for other purposes under that Act. Procedures.

(b) EXPEDITED PROCEDURES.—

(1) PROPOSAL FOR AN ORDER.—An organization of domestic avocado producers in existence on the date of enactment of this Act may request the issuance of, and submit to the Secretary a proposal for, an order described in subsection (a).

(2) PUBLICATION OF PROPOSAL.—Not later than 60 days after the date on which the Secretary receives a proposed order under paragraph (1), the Secretary shall initiate procedures described in subsection (a) to determine whether the proposed order should proceed. Deadline.

(c) EFFECTIVE DATE.—Any order issued under this section shall become effective not later than 15 months after the date on which the Secretary initiates procedures under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

**SEC. 10109. SPECIALTY CROP BLOCK GRANTS.**

(a) DEFINITION OF SPECIALTY CROP.—Section 3(1) of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended by inserting "horticulture and" before "nursery".

(b) DEFINITION OF STATE.—Section 3(2) of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended by striking "and the Commonwealth of Puerto Rico" and inserting "the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands".

(c) SPECIALTY CROP BLOCK GRANTS.—Section 101 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended—

(1) in subsection (a)—

(A) by striking "Subject to the appropriation of funds to carry out this section" and inserting "Using the funds made available under subsection (j)"; and

(B) by striking "2009" and inserting "2012";

(2) in subsection (b), by striking "appropriated pursuant to the authorization of appropriations in subsection (i)" and inserting "made available under subsection (j)";

(3) by striking subsection (c) and inserting the following:

"(c) MINIMUM GRANT AMOUNT.—Notwithstanding subsection (b), each State shall receive a grant under this section for each fiscal year in an amount that is at least equal to the higher of—

"(1) $100,000; or

"(2) ⅓ of 1 percent of the total amount of funding made available to carry out this section for the fiscal year."; and

(4) by striking subsection (i) and inserting the following:

"(i) REALLOCATION.—

"(1) IN GENERAL.—The Secretary shall reallocate to other States in accordance with paragraph (2) any amounts made available for a fiscal year under this section that are not obligated or expended by a date during that fiscal year determined by the Secretary.

"(2) PRO RATA ALLOCATION.—The Secretary shall allocate funds described in paragraph (1) pro rata to the remaining States that applied during the specified grant application period.

"(3) USE OF REALLOCATED FUNDS.—Funds allocated to a State under this subsection shall be used by the State only to carry out projects that were previously approved in the State plan of the State.

"(j) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make grants under this section, using—

"(1) $10,000,000 for fiscal year 2008;

"(2) $49,000,000 for fiscal year 2009; and

"(3) $55,000,000 for each of fiscal years 2010 through 2012.".

# Subtitle B—Pest and Disease Management

**SEC. 10201. PLANT PEST AND DISEASE MANAGEMENT AND DISASTER PREVENTION.**

(a) IN GENERAL.—Subtitle A of the Plant Protection Act (7 U.S.C. 7711 et seq.) is amended by adding at the end the following:

**"SEC. 420. PLANT PEST AND DISEASE MANAGEMENT AND DISASTER PREVENTION.** 7 USC 7721.

"(a) DEFINITIONS.—In this section:

"(1) EARLY PLANT PEST DETECTION AND SURVEILLANCE.—The term 'early plant pest detection and surveillance' means the full range of activities undertaken to find newly introduced plant pests, whether the plant pests are new to the United States or new to certain areas of the United States, before—

"(A) the plant pests become established; or

"(B) the plant pest infestations become too large and costly to eradicate or control.

"(2) SPECIALTY CROP.—The term 'specialty crop' has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

"(3) STATE DEPARTMENT OF AGRICULTURE.—The term 'State department of agriculture' means an agency of a State that has a legal responsibility to perform early plant pest detection and surveillance activities.

"(b) EARLY PLANT PEST DETECTION AND SURVEILLANCE IMPROVEMENT PROGRAM.—

"(1) COOPERATIVE AGREEMENTS.—The Secretary shall enter into a cooperative agreement with each State department of agriculture that agrees to conduct early plant pest detection and surveillance activities.

"(2) CONSULTATION.—In carrying out this subsection, the Secretary shall consult with—

"(A) the National Plant Board; and

"(B) other interested parties.

"(3) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations under this subsection.

"(4) APPLICATION.—

"(A) IN GENERAL.—A State department of agriculture seeking to enter into a cooperative agreement under this subsection shall submit to the Secretary an application containing such information as the Secretary may require.

"(B) NOTIFICATION.—The Secretary shall notify applicants of—

"(i) the requirements to be imposed on a State department of agriculture for auditing of, and reporting on, the use of any funds provided by the Secretary under the cooperative agreement;

"(ii) the criteria to be used to ensure that early pest detection and surveillance activities supported

under the cooperative agreement are based on sound scientific data or thorough risk assessments; and

"(iii) the means of identifying pathways of pest introductions.

"(5) USE OF FUNDS.—

"(A) PLANT PEST DETECTION AND SURVEILLANCE ACTIVITIES.—A State department of agriculture that receives funds under this subsection shall use the funds to carry out early plant pest detection and surveillance activities approved by the Secretary to prevent the introduction or spread of a plant pest.

"(B) SUBAGREEMENTS.—Nothing in this subsection prevents a State department of agriculture from using funds received under paragraph (4) to enter into subagreements with political subdivisions of the State that have legal responsibilities relating to agricultural plant pest and disease surveillance.

"(C) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out a cooperative agreement under this section may be provided in-kind, including through provision of such indirect costs of the cooperative agreement as the Secretary considers to be appropriate.

"(D) ABILITY TO PROVIDE FUNDS.—The Secretary shall not take the ability to provide non-Federal costs to carry out a cooperative agreement entered into under subparagraph (A) into consideration when deciding whether to enter into a cooperative agreement with a State department of agriculture.

"(6) SPECIAL FUNDING CONSIDERATIONS.—The Secretary shall provide funds to a State department of agriculture if the Secretary determines that—

"(A) the State department of agriculture is in a State that has a high risk of being affected by 1 or more plant pests or diseases, taking into consideration—

"(i) the number of international ports of entry in the State;

"(ii) the volume of international passenger and cargo entry into the State;

"(iii) the geographic location of the State and if the location or types of agricultural commodities produced in the State are conducive to agricultural pest and disease establishment due to the climate, crop diversity, or natural resources (including unique plant species) of the State; and

"(iv) whether the Secretary has determined that an agricultural pest or disease in the State is a Federal concern ; and

"(B) the early plant pest detection and surveillance activities supported with the funds will likely—

"(i) prevent the introduction and establishment of plant pests; and

"(ii) provide a comprehensive approach to compliment Federal detection efforts.

"(7) REPORTING REQUIREMENT.—Not later than 90 days after the date of completion of an early plant pest detection and surveillance activity conducted by a State department of agriculture using funds provided under this section, the State

department of agriculture shall submit to the Secretary a report that describes the purposes and results of the activities.

"(c) THREAT IDENTIFICATION AND MITIGATION PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a threat identification and mitigation program to determine and address threats to the domestic production of crops.

"(2) REQUIREMENTS.—In conducting the program established under paragraph (1), the Secretary shall—

"(A) develop risk assessments of the potential threat to the agricultural industry of the United States from foreign sources;

"(B) collaborate with the National Plant Board; and

"(C) implement action plans for high consequence plant pest and diseases to assist in preventing the introduction and widespread dissemination of new plant pest and disease threats in the United States.

"(3) REPORTS.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the action plans described in paragraph (2), including an accounting of funds expended on the action plans.

"(d) SPECIALTY CROP CERTIFICATION AND RISK MANAGEMENT SYSTEMS.—The Secretary shall provide funds and technical assistance to specialty crop growers, organizations representing specialty crop growers, and State and local agencies working with specialty crop growers and organizations for the development and implementation of—

"(1) audit-based certification systems, such as best management practices—

"(A) to address plant pests; and

"(B) to mitigate the risk of plant pests in the movement of plants and plant products; and

"(2) nursery plant pest risk management systems, in collaboration with the nursery industry, research institutions, and other appropriate entities—

"(A) to enable growers to identify and prioritize nursery plant pests and diseases of regulatory significance;

"(B) to prevent the introduction, establishment, and spread of those plant pests and diseases; and

"(C) to reduce the risk of and mitigate those plant pests and diseases.

"(e) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(1) $12,000,000 for fiscal year 2009;

"(2) $45,000,000 for fiscal year 2010;

"(3) $50,000,000 for fiscal year 2011; and

"(4) $50,000,000 for fiscal year 2012 and each fiscal year thereafter.".

(b) CONGRESSIONAL DISAPPROVAL.—Congress disapproves the rule submitted by the Secretary of Agriculture relating to cost-sharing for animal and plant health emergency programs (68 Fed. Reg. 40541 (2003)), and such rule shall have no force or effect.

7 USC 7761.

**SEC. 10202. NATIONAL CLEAN PLANT NETWORK.**

(a) IN GENERAL.—The Secretary shall establish a program to be known as the "National Clean Plant Network" (referred to in this section as the "Program").

(b) REQUIREMENTS.—Under the Program, the Secretary shall establish a network of clean plant centers for diagnostic and pathogen elimination services to—

(1) produce clean propagative plant material; and

(2) maintain blocks of pathogen-tested plant material in sites located throughout the United States.

(c) AVAILABILITY OF CLEAN PLANT SOURCE MATERIAL.—Clean plant source material may be made available to—

(1) a State for a certified plant program of the State; and

(2) private nurseries and producers.

(d) CONSULTATION AND COLLABORATION.—In carrying out the Program, the Secretary shall—

(1) consult with State departments of agriculture, land grant universities, and NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)); and

(2) to the extent practicable and with input from the appropriate State officials and industry representatives, use existing Federal or State facilities to serve as clean plant centers.

(e) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out the Program $5,000,000 for each of fiscal years 2009 through 2012, to remain available until expended.

**SEC. 10203. PLANT PROTECTION.**

(a) REVIEW OF PAYMENT OF COMPENSATION.—Section 415(e) of the Plant Protection Act (7 U.S.C. 7715(e)) is amended in the second sentence by striking "of longer than 60 days".

(b) SECRETARIAL DISCRETION.—Section 442(c) of the Plant Protection Act (7 U.S.C. 7772(c)) is amended by striking "of longer than 60 days".

(c) SUBPOENA AUTHORITY.—Section 423 of the Plant Protection Act (7 U.S.C. 7733) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) AUTHORITY TO ISSUE.—The Secretary shall have the power to subpoena the attendance and testimony of any witness, the production of all evidence (including books, papers, documents, electronically stored information, and other tangible things that constitute or contain evidence), or to require the person to whom the subpoena is directed to permit the inspection of premises relating to the administration or enforcement of this title or any matter under investigation in connection with this title.";

(2) in subsection (b), by striking "documentary"; and

(3) in subsection (c)—

(A) in the first sentence, by striking "testimony of any witness and the production of documentary evidence" and inserting "testimony of any witness, the production of evidence, or the inspection of premises"; and

(B) in the second sentence, by striking "question or to produce documentary evidence" and inserting "question, produce evidence, or permit the inspection of premises".

(d) WILLFUL VIOLATIONS.—Section 424(b)(1)(A) of the Plant Protection Act (7 U.S.C. 7734(b)(1)(A)) is amended by striking "and $500,000 for all violations adjudicated in a single proceeding" and inserting "$500,000 for all violations adjudicated in a single proceeding if the violations do not include a willful violation, and $1,000,000 for all violations adjudicated in a single proceeding if the violations include a willful violation".

**SEC. 10204. REGULATIONS TO IMPROVE MANAGEMENT AND OVERSIGHT OF CERTAIN REGULATED ARTICLES.**

7 USC 7701 note.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall— Deadlines.

(1) take action on each issue identified in the document entitled "Lessons Learned and Revisions under Consideration for APHIS' Biotechnology Framework", dated October 4, 2007; and

(2) as the Secretary considers appropriate, promulgate regulations to improve the management and oversight of articles regulated under the Plant Protection Act (7 U.S.C. 7701 et seq.).

(b) INCLUSIONS.—In carrying out subsection (a), the Secretary shall take actions that are designed to enhance—

(1) the quality and completeness of records;

(2) the availability of representative samples;

(3) the maintenance of identity and control in the event of an unauthorized release;

(4) corrective actions in the event of an unauthorized release;

(5) protocols for conducting molecular forensics;

(6) clarity in contractual agreements;

(7) the use of the latest scientific techniques for isolation and confinement distances;

(8) standards for quality management systems and effective research; and

(9) the design of electronic permits to store documents and other information relating to the permit and notification processes.

(c) CONSIDERATION.—In carrying out subsection (a), the Secretary shall consider—

(1) establishing—

(A) a system of risk-based categories to classify each regulated article;

(B) a means to identify regulated articles (including the retention of seed samples); and

(C) standards for isolation and containment distances; and

(2) requiring permit holders—

(A) to maintain a positive chain of custody;

(B) to provide for the maintenance of records;

(C) to provide for the accounting of material;

(D) to conduct periodic audits;

(E) to establish an appropriate training program;

(F) to provide contingency and corrective action plans; and

(G) to submit reports as the Secretary considers to be appropriate.

16 USC 2104a.

**SEC. 10205. PEST AND DISEASE REVOLVING LOAN FUND.**

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED EQUIPMENT.—

(A) IN GENERAL.—The term "authorized equipment" means any equipment necessary for the management of forest land.

(B) INCLUSIONS.—The term "authorized equipment" includes—

(i) cherry pickers;

(ii) equipment necessary for—

(I) the construction of staging and marshalling areas;

(II) the planting of trees; and

(III) the surveying of forest land;

(iii) vehicles capable of transporting harvested trees;

(iv) wood chippers; and

(v) any other appropriate equipment, as determined by the Secretary.

(2) FUND.—The term "Fund" means the Pest and Disease Revolving Loan Fund established by subsection (b).

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Deputy Chief of the State and Private Forestry organization.

(b) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a revolving fund, to be known as the "Pest and Disease Revolving Loan Fund", consisting of such amounts as are appropriated to the Fund under subsection (f).

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under subsection (e).

(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this section.

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) USES OF FUND.—

(1) LOANS.—

(A) IN GENERAL.—The Secretary shall use amounts in the Fund to provide loans to eligible units of local government to finance purchases of authorized equipment to monitor, remove, dispose of, and replace infested trees that are located—

(i) on land under the jurisdiction of the eligible units of local government; and

(ii) within the borders of quarantine areas infested by plant pests.

(B) MAXIMUM AMOUNT.—The maximum amount of a loan that may be provided by the Secretary to an eligible unit of local government under this subsection shall be the lesser of—

(i) the amount that the eligible unit of local government has appropriated to finance purchases of authorized equipment in accordance with subparagraph (A); or

(ii) $5,000,000.

(C) INTEREST RATE.—The interest rate on any loan made by the Secretary under this paragraph shall be a rate equal to 2 percent.

(D) REPORT.—Not later than 180 days after the date on which an eligible unit of local government receives a loan provided by the Secretary under subparagraph (A), the eligible unit of local government shall submit to the Secretary a report that describes each purchase made by the eligible unit of local government using assistance provided through the loan.

(2) LOAN REPAYMENT SCHEDULE.—

(A) IN GENERAL.—To be eligible to receive a loan from the Secretary under paragraph (1), in accordance with each requirement described in subparagraph (B), an eligible unit of local government shall enter into an agreement with the Secretary to establish a loan repayment schedule relating to the repayment of the loan.

(B) REQUIREMENTS RELATING TO LOAN REPAYMENT SCHEDULE.—A loan repayment schedule established under subparagraph (A) shall require the eligible unit of local government— Deadlines.

(i) to repay to the Secretary of the Treasury, not later than 1 year after the date on which the eligible unit of local government receives a loan under paragraph (1), and semiannually thereafter, an amount equal to the quotient obtained by dividing—

(I) the principal amount of the loan (including interest); by

(II) the total quantity of payments that the eligible unit of local government is required to make during the repayment period of the loan; and

(ii) not later than 20 years after the date on which the eligible unit of local government receives a loan under paragraph (1), to complete repayment to the Secretary of the Treasury of the loan made under this section (including interest).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

**SEC. 10206. COOPERATIVE AGREEMENTS RELATING TO PLANT PEST AND DISEASE PREVENTION ACTIVITIES.**

Section 431 of the Plant Protection Act (7 U.S.C. 7751) is amended by adding at the end the following:

"(f) TRANSFER OF COOPERATIVE AGREEMENT FUND.—

"(1) IN GENERAL.—A State may provide to a unit of local government in the State described in paragraph (2) any cost-sharing assistance or financing mechanism provided to the State under a cooperative agreement entered into under this Act between the Secretary and the State relating to the eradication, prevention, control, or suppression of plant pests.

"(2) REQUIREMENTS.—To be eligible for assistance or financing under paragraph (1), a unit of local government shall be—

"(A) engaged in any activity relating to the eradication, prevention, control, or suppression of the plant pest infestation covered under the cooperative agreement between the Secretary and the State; and

"(B) capable of documenting each plant pest infestation eradication, prevention, control, or suppression activity generally carried out by—

"(i) the Department of Agriculture; or

"(ii) the State department of agriculture that has jurisdiction over the unit of local government.".

# Subtitle C—Organic Agriculture

**SEC. 10301. NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM.**

Section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523) is amended—

(1) in subsection (a), by striking "$5,000,000 for fiscal year 2002" and inserting "$22,000,000 for fiscal year 2008";

(2) in subsection (b)(2), by striking "$500" and inserting "$750"; and

(3) by adding at the end the following:

"(c) REPORTING.—Not later than March 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the requests by, disbursements to, and expenditures for each State under the program during the current and previous fiscal year, including the number of producers and handlers served by the program in the previous fiscal year.".

**SEC. 10302. ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.**

Section 7407 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5925c) is amended to read as follows:

**"SEC. 7407. ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.**

"(a) IN GENERAL.—The Secretary shall collect and report data on the production and marketing of organic agricultural products.

"(b) REQUIREMENTS.—In carrying out subsection (a), the Secretary shall, at a minimum—

"(1) collect and distribute comprehensive reporting of prices relating to organically produced agricultural products;

"(2) conduct surveys and analysis and publish reports relating to organic production, handling, distribution, retail, and trend studies (including consumer purchasing patterns); and

"(3) develop surveys and report statistical analysis on organically produced agricultural products.

"(c) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

"(1) describes the progress that has been made in implementing this section; and

"(2) identifies any additional production and marketing data needs.

"(d) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $5,000,000, to remain available until expended.

"(2) ADDITIONAL FUNDING.—In addition to funds made available under paragraph (1), there are authorized to be appropriated to carry out this section not more than $5,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.".

**SEC. 10303. NATIONAL ORGANIC PROGRAM.**

Section 2123 of the Organic Foods Production Act of 1990 (7 U.S.C. 6522) is amended—

(1) by striking "There are" and inserting the following: "(a) IN GENERAL.—There are"; and

(2) by adding at the end the following:

"(b) NATIONAL ORGANIC PROGRAM.—Notwithstanding any other provision of law, in order to carry out activities under the national organic program established under this title, there are authorized to be appropriated—

"(1) $5,000,000 for fiscal year 2008;

"(2) $6,500,000 for fiscal year 2009;

"(3) $8,000,000 for fiscal year 2010;

"(4) $9,500,000 for fiscal year 2011;

"(5) $11,000,000 for fiscal year 2012; and

"(6) in addition to those amounts, such additional sums as are necessary for fiscal year 2009 and each fiscal year thereafter.".

## Subtitle D—Miscellaneous

**SEC. 10401. NATIONAL HONEY BOARD.**

Section 7(c) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(c)) is amended by adding at the end the following:

"(12) REFERENDUM REQUIREMENT.—

"(A) DEFINITION OF EXISTING HONEY BOARD.—The term 'existing Honey Board' means the Honey Board in effect on the date of enactment of this paragraph.

"(B) CONDUCT OF REFERENDA.—Notwithstanding any other provision of law, subject to subparagraph (C), the order providing for the establishment and operation of the existing Honey Board shall continue in force, until the Secretary first conducts, at the earliest practicable date, but not later than 180 days after the date of enactment of this paragraph, referenda on orders to establish a honey Deadline.

packer-importer board or a United States honey producer board.

"(C) REQUIREMENTS.—In conducting referenda under subparagraph (B), and in exercising fiduciary responsibilities in any transition to any 1 or more successor boards, the Secretary shall—

"(i) conduct a referendum of eligible United States honey producers for the establishment of a marketing board solely for United States honey producers;

"(ii) conduct a referendum of eligible packers, importers, and handlers of honey for the establishment of a marketing board for packers, importers, and handlers of honey;

"(iii) notwithstanding the timing of the referenda required under clauses (i) and (ii) or of the establishment of any 1 or more successor boards pursuant to those referenda, ensure that the rights and interests of honey producers, importers, packers, and handlers of honey are equitably protected in any disposition of the assets, facilities, intellectual property, and programs of the existing Honey Board and in the transition to any 1 or more new successor marketing boards;

"(iv) ensure that the existing Honey Board continues in operation until such time as the Secretary determines that—

"(I) any 1 or more successor boards, if approved, are operational; and

"(II) the interests of producers, importers, packers, and handlers of honey can be equitably protected during any remaining period in which a referendum on a successor board or the establishment of such a board is pending; and

"(v) discontinue collection of assessments under the order establishing the existing Honey Board on the date the Secretary requires that collections commence pursuant to an order approved in a referendum by eligible producers or processors and importers of honey.

"(D) HONEY BOARD REFERENDUM.—If 1 or more orders are approved pursuant to paragraph (C)—

"(i) the Secretary shall not be required to conduct a continuation referendum on the order in existence on the date of enactment of this paragraph; and

"(ii) that order shall be terminated pursuant to the provisions of the order.".

**SEC. 10402. IDENTIFICATION OF HONEY.**

(a) IN GENERAL.—Section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended—

(1) by designating the first through sixth sentences as paragraphs (1), (2)(A), (2)(B), (3), (4), and (5), respectively; and

(2) by adding at the end the following:

"(6) IDENTIFICATION OF HONEY.—

"(A) IN GENERAL.—The use of a label or advertising material on, or in conjunction with, packaged honey that

bears any official certificate of quality, grade mark or statement, continuous inspection mark or statement, sampling mark or statement, or any combination of the certificates, marks, or statements of the Department of Agriculture is hereby prohibited under this Act unless there appears legibly and permanently in close proximity (such as on the same side(s) or surface(s)) to the certificate, mark, or statement, and in at least a comparable size, the 1 or more names of the 1 or more countries of origin of the lot or container of honey, preceded by the words 'Product of' or other words of similar meaning.

"(B) VIOLATION.—A violation of the requirements of subparagraph (A) may be deemed by the Secretary to be sufficient cause for debarment from the benefits of this Act only with respect to honey.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date that is 1 year after the date of enactment of this Act. 7 USC 1622 note.

**SEC. 10403. GRANT PROGRAM TO IMPROVE MOVEMENT OF SPECIALTY CROPS.** 7 USC 1622c.

(a) GRANTS AUTHORIZED.—The Secretary may make grants under this section to an eligible entity described in subsection (b)—

(1) to improve the cost-effective movement of specialty crops to local, regional, national, and international markets; and

(2) to address regional intermodal transportation deficiencies that adversely affect the movement of specialty crops to markets inside or outside the United States.

(b) ELIGIBLE GRANT RECIPIENTS.—Grants may be made under this section to any of, or any combination of:

(1) State and local governments.

(2) Grower cooperatives.

(3) National, State, or regional organizations of producers, shippers, or carriers.

(4) Other entities as determined to be appropriate by the Secretary.

(c) MATCHING FUNDS.—The recipient of a grant under this section shall contribute an amount of non-Federal funds toward the project for which the grant is provided that is at least equal to the amount of grant funds received by the recipient under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.

**SEC. 10404. MARKET LOSS ASSISTANCE FOR ASPARAGUS PRODUCERS.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall make payments to producers of the 2007 crop of asparagus for market loss resulting from imports during the 2004 through 2007 crop years.

(b) PAYMENT RATE.—The payment rate for a payment under this section shall be based on the reduction in revenue received by asparagus producers associated with imports during the 2004 through 2007 crop years.

(c) PAYMENT QUANTITY.—The payment quantity for asparagus for which the producers on a farm are eligible for payments under

this section shall be equal to the average quantity of the 2003 crop of asparagus produced by producers on the farm.

(d) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make available $15,000,000 of the funds of the Commodity Credit Corporation to carry out a program to provide market loss payments to producers of asparagus under this section.

(2) ALLOCATION.—Of the amount made available under paragraph (1), the Secretary shall use—

(A) $7,500,000 to make payments to producers of asparagus for the fresh market; and

(B) $7,500,000 to make payments to producers of asparagus for the processed or frozen market.

# TITLE XI—LIVESTOCK

**SEC. 11001. LIVESTOCK MANDATORY REPORTING.**

(a) WEB SITE IMPROVEMENTS AND USER EDUCATION.—

(1) IN GENERAL.—Section 251(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636(g)) is amended to read as follows:

"(g) ELECTRONIC REPORTING AND PUBLISHING.—

"(1) IN GENERAL.—The Secretary shall, to the maximum extent practicable, provide for the reporting and publishing of the information required under this subtitle by electronic means.

"(2) IMPROVEMENTS AND EDUCATION.—

"(A) ENHANCED ELECTRONIC PUBLISHING.—The Secretary shall develop and implement an enhanced system of electronic publishing to disseminate information collected pursuant to this subtitle. Such system shall—

"(i) present information in a format that can be readily understood by producers, packers, and other market participants;

"(ii) adhere to the publication deadlines in this subtitle;

"(iii) present information in charts and graphs, as appropriate;

"(iv) present comparative information for prior reporting periods, as the Secretary considers appropriate; and

"(v) be updated as soon as practicable after information is reported to the Secretary.

"(B) EDUCATION.—The Secretary shall carry out a market news education program to educate the public and persons in the livestock and meat industries about—

"(i) usage of the system developed under subparagraph (A); and

"(ii) interpreting and understanding information collected and disseminated through such system.".

7 USC 1636 note.

(2) APPLICABILITY.—

(A) ENHANCED REPORTING.—The Secretary of Agriculture shall develop and implement the system required under paragraph (2)(A) of section 251(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636(g)), as amended by paragraph (1), not later than one year after the date

on which the Secretary determines sufficient funds have been appropriated pursuant to subsection (c).

(B) CURRENT SYSTEM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall continue to use the information format for disseminating information under subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) in effect on the date of the enactment of this Act at least until the date that is two years after the date on which the Secretary makes the determination referred to in subparagraph (A).

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary shall conduct a study on the effects of requiring packer processing plants to report to the Secretary information on wholesale pork cuts (including price and volume information), including—

(A) the positive or negative economic effects on producers and consumers; and

(B) the effects of a confidentiality requirement on mandatory reporting.

(2) INFORMATION.—During the period preceding the submission of the report under paragraph (3), the Secretary may collect, and each packer processing plant shall provide, such information as is necessary to enable the Secretary to conduct the study required under paragraph (1).

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the study conducted under paragraph (1).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 11002. COUNTRY OF ORIGIN LABELING.**

Subtitle D of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638 et seq.) is amended—

(1) in section 281(2)(A)— 7 USC 1638.

(A) in clause (v), by striking "and";

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) meat produced from goats;

"(viii) chicken, in whole and in part;

"(ix) ginseng;

"(x) pecans; and

"(xi) macadamia nuts.";

(2) in section 282— 7 USC 1638a.

(A) in subsection (a), by striking paragraphs (2) and (3) and inserting the following:

"(2) DESIGNATION OF COUNTRY OF ORIGIN FOR BEEF, LAMB, PORK, CHICKEN, AND GOAT MEAT.—

"(A) UNITED STATES COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat may designate the covered commodity as exclusively having a United States country of origin only

if the covered commodity is derived from an animal that was—

"(i) exclusively born, raised, and slaughtered in the United States;

"(ii) born and raised in Alaska or Hawaii and transported for a period of not more than 60 days through Canada to the United States and slaughtered in the United States; or

"(iii) present in the United States on or before July 15, 2008, and once present in the United States, remained continuously in the United States.

"(B) MULTIPLE COUNTRIES OF ORIGIN.—

"(i) IN GENERAL.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is—

"(I) not exclusively born, raised, and slaughtered in the United States,

"(II) born, raised, or slaughtered in the United States, and

"(III) not imported into the United States for immediate slaughter,

may designate the country of origin of such covered commodity as all of the countries in which the animal may have been born, raised, or slaughtered.

"(ii) RELATION TO GENERAL REQUIREMENT.—Nothing in this subparagraph alters the mandatory requirement to inform consumers of the country of origin of covered commodities under paragraph (1).

"(C) IMPORTED FOR IMMEDIATE SLAUGHTER.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is imported into the United States for immediate slaughter shall designate the origin of such covered commodity as—

"(i) the country from which the animal was imported; and

"(ii) the United States.

"(D) FOREIGN COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is not born, raised, or slaughtered in the United States shall designate a country other than the United States as the country of origin of such commodity.

"(E) GROUND BEEF, PORK, LAMB, CHICKEN, AND GOAT.—The notice of country of origin for ground beef, ground pork, ground lamb, ground chicken, or ground goat shall include—

"(i) a list of all countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat; or

"(ii) a list of all reasonably possible countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat.

"(3) DESIGNATION OF COUNTRY OF ORIGIN FOR FISH.—

"(A) IN GENERAL.—A retailer of a covered commodity that is farm-raised fish or wild fish may designate the covered commodity as having a United States country of origin only if the covered commodity—

"(i) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States; and

"(ii) in the case of wild fish, is—

"(I) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and

"(II) processed in the United States, a territory of the United States, or a State, including the waters thereof, or aboard a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States.

"(B) DESIGNATION OF WILD FISH AND FARM-RAISED FISH.—The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.

"(4) DESIGNATION OF COUNTRY OF ORIGIN FOR PERISHABLE AGRICULTURAL COMMODITIES, GINSENG, PEANUTS, PECANS, AND MACADAMIA NUTS.—

"(A) IN GENERAL.—A retailer of a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut may designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively produced in the United States.

"(B) STATE, REGION, LOCALITY OF THE UNITED STATES.—With respect to a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut produced exclusively in the United States, designation by a retailer of the State, region, or locality of the United States where such commodity was produced shall be sufficient to identify the United States as the country of origin."; and

(B) by striking subsection (d) and inserting the following:

"(d) AUDIT VERIFICATION SYSTEM.—

"(1) IN GENERAL.—The Secretary may conduct an audit of any person that prepares, stores, handles, or distributes a covered commodity for retail sale to verify compliance with this subtitle (including the regulations promulgated under section 284(b)).

"(2) RECORD REQUIREMENTS.—

"(A) IN GENERAL.—A person subject to an audit under paragraph (1) shall provide the Secretary with verification of the country of origin of covered commodities. Records maintained in the course of the normal conduct of the business of such person, including animal health papers, import or customs documents, or producer affidavits, may serve as such verification.

"(B) PROHIBITION ON REQUIREMENT OF ADDITIONAL RECORDS.—The Secretary may not require a person that prepares, stores, handles, or distributes a covered commodity to maintain a record of the country of origin of a covered commodity other than those maintained in the

course of the normal conduct of the business of such person."; and

(3) in section 283—

(A) by striking subsections (a) and (c);

(B) by redesignating subsection (b) as subsection (a);

(C) in subsection (a) (as so redesignated), by striking "retailer" and inserting "retailer or person engaged in the business of supplying a covered commodity to a retailer"; and

(D) by adding at the end the following new subsection:

"(b) FINES.—If, on completion of the 30-day period described in subsection (a)(2), the Secretary determines that the retailer or person engaged in the business of supplying a covered commodity to a retailer has—

"(1) not made a good faith effort to comply with section 282, and

"(2) continues to willfully violate section 282 with respect to the violation about which the retailer or person received notification under subsection (a)(1),

after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer or person in an amount of not more than $1,000 for each violation.".

**SEC. 11003. AGRICULTURAL FAIR PRACTICES ACT OF 1967 DEFINITIONS.**

Section 3 of the Agricultural Fair Practices Act of 1967 (7 U.S.C. 2302) is amended—

(1) by striking "When used in this Act—" and inserting "In this Act:";

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (4) as clauses (i) through (iv), respectively; and

(B) in clause (iv) (as so redesignated), by striking "clause (1), (2), or (3) of this paragraph" and inserting "clause (i), (ii), or (iii)";

(3) by striking subsection (d);

(4) by redesignating subsections (a), (b), (c), and (e) as paragraphs (3), (4), (2), (1), respectively, indenting appropriately, and moving those paragraphs so as to appear in numerical order;

(5) in each paragraph (as so redesignated) that does not have a heading, by inserting a heading, in the same style as the heading in the amendment made by paragraph (6), the text of which is comprised of the term defined in the paragraph;

(6) in paragraph (2) (as so redesignated)—

(A) by striking "The term 'association of producers' means" and inserting the following:

"(2) ASSOCIATION OF PRODUCERS.—

"(A) IN GENERAL.—The term 'association of producers' means"; and

(B) by adding at the end the following:

"(B) INCLUSION.—The term 'association of producers' includes an organization whose membership is exclusively

limited to agricultural producers and dedicated to promoting the common interest and general welfare of producers of agricultural products."; and

(7) in paragraph (3) (as so redesignated)—

(A) by striking "The term" and inserting the following: "(3) HANDLER.—

"(A) IN GENERAL.—The term"; and

(B) by inserting after clause (iv) of subparagraph (A) (as redesignated by subparagraph (A) and paragraph (2)) the following:

"(B) EXCLUSION.—The term 'handler' does not include a person, other than a packer (as defined in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191)), that provides custom feeding services for a producer.".

**SEC. 11004. ANNUAL REPORT.**

(a) IN GENERAL.—The Packers and Stockyards Act, 1921, is amended—

(1) by redesignating section 416 (7 U.S.C. 229) as section 417; and

(2) by inserting after section 415 (7 U.S.C. 228d) the following:

**"SEC. 416. ANNUAL REPORT.** 7 USC 229.

"(a) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit to Congress and make publicly available a report that—

"(1) states, for the preceding year, separately for livestock and poultry and separately by enforcement area category (financial, trade practice, or competitive acts and practices), with respect to investigations into possible violations of this Act—

"(A) the number of investigations opened;

"(B) the number of investigations that were closed or settled without a referral to the General Counsel of the Department of Agriculture;

"(C) for investigations described in subparagraph (B), the length of time from initiation of the investigation to when the investigation was closed or settled without the filing of an enforcement complaint;

"(D) the number of investigations that resulted in referral to the General Counsel of the Department of Agriculture for further action, the number of such referrals resolved without administrative enforcement action, and the number of enforcement actions filed by the General Counsel;

"(E) for referrals to the General Counsel that resulted in an administrative enforcement action being filed, the length of time from the referral to the filing of the administrative action;

"(F) for referrals to the General Counsel that resulted in an administrative enforcement action being filed, the length of time from filing to resolution of the administrative enforcement action;

"(G) the number of investigations that resulted in referral to the Department of Justice for further action, and the number of civil enforcement actions filed by the Department of Justice on behalf of the Secretary pursuant to such a referral;

"(H) for referrals that resulted in a civil enforcement action being filed by the Department of Justice, the length of time from the referral to the filing of the enforcement action;

"(I) for referrals that resulted in a civil enforcement action being filed by the Department of Justice, the length of time from the filing of the enforcement action to resolution; and

"(J) the average civil penalty imposed in administrative or civil enforcement actions for violations of this Act, and the total amount of civil penalties imposed in all such enforcement actions; and

"(2) includes any other additional information the Secretary considers important to include in the annual report.

"(b) FORMAT OF INFORMATION PROVIDED.—For subparagraphs (C), (E), (F), and (H) of subsection (a)(1), the Secretary may, if appropriate due to the number of complaints for a given category, provide summary statistics (including range, maximum, minimum, mean, and average times) and graphical representations.".

7 USC 729 note.

(b) SUNSET.—Effective September 30, 2012, section 416 of the Packers and Stockyards Act, 1921, as added by subsection (a)(2), is repealed.

**SEC. 11005. PRODUCTION CONTRACTS.**

Title II of the Packers and Stockyards Act, 1921 (7 U.S.C. 198 et seq.) is amended by adding at the end the following:

7 USC 197a.

**"SEC. 208. PRODUCTION CONTRACTS.**

"(a) RIGHT OF CONTRACT PRODUCERS TO CANCEL PRODUCTION CONTRACTS.—

"(1) IN GENERAL.—A poultry grower or swine production contract grower may cancel a poultry growing arrangement or swine production contract by mailing a cancellation notice to the live poultry dealer or swine contractor not later than the later of—

"(A) the date that is 3 business days after the date on which the poultry growing arrangement or swine production contract is executed; or

"(B) any cancellation date specified in the poultry growing arrangement or swine production contract.

"(2) DISCLOSURE.—A poultry growing arrangement or swine production contract shall clearly disclose—

"(A) the right of the poultry grower or swine production contract grower to cancel the poultry growing arrangement or swine production contract;

"(B) the method by which the poultry grower or swine production contract grower may cancel the poultry growing arrangement or swine production contract; and

"(C) the deadline for canceling the poultry growing arrangement or swine production contract.

"(b) REQUIRED DISCLOSURE OF ADDITIONAL CAPITAL INVESTMENTS IN PRODUCTION CONTRACTS.—

"(1) IN GENERAL.—A poultry growing arrangement or swine production contract shall contain on the first page a statement identified as 'Additional Capital Investments Disclosure Statement', which shall conspicuously state that additional large capital investments may be required of the poultry grower

or swine production contract grower during the term of the poultry growing arrangement or swine production contract.

"(2) APPLICATION.—Paragraph (1) shall apply to any poultry growing arrangement or swine production contract entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this section.

**"SEC. 209. CHOICE OF LAW AND VENUE.** 7 USC 197b.

"(a) LOCATION OF FORUM.—The forum for resolving any dispute among the parties to a poultry growing arrangement or swine production or marketing contract that arises out of the arrangement or contract shall be located in the Federal judicial district in which the principle part of the performance takes place under the arrangement or contract.

"(b) CHOICE OF LAW.—A poultry growing arrangement or swine production or marketing contract may specify which State's law is to apply to issues governed by State law in any dispute arising out of the arrangement or contract, except to the extent that doing so is prohibited by the law of the State in which the principal part of the performance takes place under the arrangement or contract.

**"SEC. 210. ARBITRATION.** 7 USC 197c.

"(a) IN GENERAL.—Any livestock or poultry contract that contains a provision requiring the use of arbitration to resolve any controversy that may arise under the contract shall contain a provision that allows a producer or grower, prior to entering the contract to decline to be bound by the arbitration provision.

"(b) DISCLOSURE.—Any livestock or poultry contract that contains a provision requiring the use of arbitration shall contain terms that conspicuously disclose the right of the contract producer or grower, prior to entering the contract, to decline the requirement to use arbitration to resolve any controversy that may arise under the livestock or poultry contract.

"(c) DISPUTE RESOLUTION.—Any contract producer or grower that declines a requirement of arbitration pursuant to subsection (b) has the right, to nonetheless seek to resolve any controversy that may arise under the livestock or poultry contract, if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy.

"(d) APPLICATION.—Subsections (a) (b) and (c) shall apply to any contract entered into, amended, altered, modified, renewed, or extended after the date of the enactment of the Food, Conservation, and Energy Act of 2008 .

"(e) UNLAWFUL PRACTICE.—Any action by or on behalf of a packer, swine contractor, or live poultry dealer that violates this section (including any action that has the intent or effect of limiting the ability of a producer or grower to freely make a choice described in subsection (b)) is an unlawful practice under this Act.

"(f) REGULATIONS.—The Secretary shall promulgate regulations to—

"(1) carry out this section; and

"(2) establish criteria that the Secretary will consider in determining whether the arbitration process provided in a contract provides a meaningful opportunity for the grower or producer to participate fully in the arbitration process.".

7 USC 228 note.

**SEC. 11006. REGULATIONS.**

Deadline.

As soon as practicable, but not later than 2 years after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations with respect to the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) to establish criteria that the Secretary will consider in determining—

(1) whether an undue or unreasonable preference or advantage has occurred in violation of such Act;

(2) whether a live poultry dealer has provided reasonable notice to poultry growers of any suspension of the delivery of birds under a poultry growing arrangement;

(3) when a requirement of additional capital investments over the life of a poultry growing arrangement or swine production contract constitutes a violation of such Act; and

(4) if a live poultry dealer or swine contractor has provided a reasonable period of time for a poultry grower or a swine production contract grower to remedy a breach of contract that could lead to termination of the poultry growing arrangement or swine production contract.

**SEC. 11007. SENSE OF CONGRESS REGARDING PSEUDORABIES ERADICATION PROGRAM.**

It is the sense of Congress that—

(1) the Secretary of Agriculture should recognize the threat feral swine pose to the domestic swine population and the entire livestock industry;

(2) keeping the United States commercial swine herd free of pseudorabies is essential to maintaining and growing pork export markets;

(3) the establishment and continued support of a swine surveillance system will assist the swine industry in the monitoring, surveillance, and eradication of pseudorabies; and

(4) pseudorabies eradication is a high priority that the Secretary should carry out under the authorities of the Animal Health Protection Act.

**SEC. 11008. SENSE OF CONGRESS REGARDING THE CATTLE FEVER TICK ERADICATION PROGRAM.**

It is the sense of Congress that—

(1) the cattle fever tick and the southern cattle tick are vectors of the causal agent of babesiosis, a severe and often fatal disease of cattle; and

(2) implementing a national strategic plan for the cattle fever tick eradication program is a high priority that the Secretary of Agriculture should carry out in order to—

(A) prevent the entry of cattle fever ticks into the United States;

(B) enhance and maintain an effective surveillance program to rapidly detect any cattle fever tick incursions; and

(C) research, identify, and procure the tools and knowledge necessary to prevent and eradicate cattle fever ticks in the United States.

**SEC. 11009. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.**

(a) FUNDING.—Section 375(e)(6) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $1,000,000 for fiscal year 2008, to remain available until expended.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2008 through 2012.".

(b) REPEAL OF REQUIREMENT TO PRIVATIZE REVOLVING FUND.—

(1) IN GENERAL.—Section 375 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j) is amended by striking subsection (j).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on May 1, 2007. 7 USC 2008j note.

**SEC. 11010. TRICHINAE CERTIFICATION PROGRAM.**

(a) VOLUNTARY TRICHINAE CERTIFICATION.— Deadlines. 7 USC 8304 note.

(1) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall establish a voluntary trichinae certification program. Such program shall include the facilitation of the export of pork products and certification services related to such products.

(2) REGULATIONS.—The Secretary shall issue final regulations to implement the program under paragraph (1) not later than 90 days after the date of the enactment of this Act.

(3) REPORT.—If final regulations are not published in accordance with paragraph (2) within 90 days of the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing—

(A) an explanation of why the final regulations have not been issued in accordance with paragraph (2); and

(B) the date on which the Secretary expects to issue such final regulations.

(b) FUNDING.—Subject to the availability of appropriations under subsection (d)(1)(A) of section 10405 of the Animal Health Protection Act (7 U.S.C. 8304), as added by subsection (c), the Secretary shall use not less than $6,200,000 of the funds made available under such subsection to carry out subsection (a). 7 USC 8304 note.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 10405 of the Animal Health Protection Act (7 U.S.C. 8304) is amended by adding at the end the following new subsection:

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated—

"(A) $1,500,000 for each of fiscal years 2008 through 2012 to carry out section 11010 of the Food, Conservation, and Energy Act of 2008; and

"(B) such sums as may be necessary for each of fiscal years 2008 through 2012 to carry out this section.

"(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.".

**SEC. 11011. LOW PATHOGENIC DISEASES.**

The Animal Health Protection Act (7 U.S.C. 8301 et seq.) is amended—

(1) in section 10407(d)(2)(C) (7 U.S.C. 8306(d)(2)(C)), by striking "of longer than 60 days";

(2) in section 10409(b) (7 U.S.C. 8308(b))—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following new paragraph:

"(2) SPECIFIC COOPERATIVE PROGRAMS.—The Secretary shall compensate industry participants and State agencies that cooperate with the Secretary in carrying out operations and measures under subsection (a) for 100 percent of eligible costs relating to cooperative programs involving Federal, State, and industry participants to control diseases of low pathogenicity in accordance with regulations issued by the Secretary."; and

(C) in paragraph (3) (as so redesignated), by striking "of longer than 60 days"; and

(3) in section 10417(b)(3) (7 U.S.C. 8316(b)(3)), by striking "of longer than 60 days".

**SEC. 11012. ANIMAL PROTECTION.**

7 USC 8313.

(a) WILLFUL VIOLATIONS.—Section 10414(b)(1)(A) of the Animal Health Protection Act (7 U.S.C. 8316(b)(1)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) for all violations adjudicated in a single proceeding—

"(I) $500,000 if the violations do not include a willful violation; or

"(II) $1,000,000 if the violations include 1 or more willful violations.".

(b) SUBPOENA AUTHORITY.—Section 10415(a)(2) of the Animal Health Protection Act (7 U.S.C. 8314) is amended

(1) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—The Secretary shall have the power to subpoena the attendance and testimony of any witness, the production of all evidence (including books, papers, documents, electronically stored information, and other tangible things that constitute or contain evidence), or to require the person to whom the subpoena is directed to permit the inspection of premises relating to the administration or enforcement of this title or any matter under investigation in connection with this title.";

(2) in subparagraph (B), by striking "documentary"; and

(3) in subparagraph (C)—

(A) in clause (i), by striking "testimony of any witness and the production of documentary evidence" and inserting "testimony of any witness, the production of evidence, or the inspection of premises"; and

(B) in clause (ii), by striking "question or to produce documentary evidence" and inserting "question, produce evidence, or permit the inspection of premises".

7 USC 8322.

**SEC. 11013. NATIONAL AQUATIC ANIMAL HEALTH PLAN.**

(a) IN GENERAL.—The Secretary of Agriculture may enter into a cooperative agreement with an eligible entity to carry out a project under a national aquatic animal health plan under the authority of the Secretary under section 10411 of the Animal Health Protection Act (7 U.S.C. 8310) for the purpose of detecting, controlling, or eradicating diseases of aquaculture species and promoting species-specific best management practices.

(b) COOPERATIVE AGREEMENTS BETWEEN ELIGIBLE ENTITIES AND THE SECRETARY.—

(1) DUTIES.—As a condition of entering into a cooperative agreement with the Secretary under this section, an eligible entity shall agree to—

(A) assume responsibility for the non-Federal share of the cost of carrying out the project under the national aquatic health plan, as determined by the Secretary in accordance with paragraph (2); and

(B) act in accordance with applicable disease and species specific best management practices relating to activities to be carried out under such project.

(2) NON-FEDERAL SHARE.—The Secretary shall determine the non-Federal share of the cost of carrying out a project under the national aquatic health plan on a case-by-case basis for each such project. Such non-Federal share may be provided in cash or in-kind.

(c) APPLICABILITY OF OTHER LAWS.—In carrying out this section, the Secretary may make use of the authorities under the Animal Health Protection Act (7 U.S.C. 8301 et seq.), including the authority to carry out operations and measures to detect, control, and eradicate pests and diseases and the authority to pay claims arising out of the destruction of any animal, article, or means of conveyance.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2008 through 2012.

(e) ELIGIBLE ENTITY DEFINED.—In this section, the term "eligible entity" means a State, a political subdivision of a State, Indian tribe, or other appropriate entity, as determined by the Secretary of Agriculture.

**SEC. 11014. STUDY ON BIOENERGY OPERATIONS.**

(a) STUDY.—The Secretary of Agriculture shall conduct a study to evaluate the role of animal manure as a source of fertilizer and its potential additional uses. Such study shall include—

(1) a determination of the extent to which animal manure is utilized as fertilizer in agricultural operations by type (including species and agronomic practices employed) and size;

(2) an evaluation of the potential impact on consumers and on agricultural operations (by size) resulting from limitations being placed on the utilization of animal manure as fertilizer; and

(3) an evaluation of the effects on agriculture production contributable to the increased competition for animal manure use due to bioenergy production, including as a feedstock or a replacement for fossil fuels.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the results of the study conducted under subsection (a).

**SEC. 11015. INTERSTATE SHIPMENT OF MEAT AND POULTRY INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.**

(a) MEAT AND MEAT PRODUCTS.—The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended by adding at the end the following:

# "TITLE V—INSPECTIONS BY FEDERAL AND STATE AGENCIES

21 USC 683.

**"SEC. 501. INTERSTATE SHIPMENT OF MEAT INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.**

"(a) DEFINITIONS.—

"(1) APPROPRIATE STATE AGENCY.—The term 'appropriate State agency' means a State agency described in section 301(b).

"(2) DESIGNATED PERSONNEL.—The term 'designated personnel' means inspection personnel of a State agency that have undergone all necessary inspection training and certification to assist the Secretary in the administration and enforcement of this Act, including rules and regulations issued under this Act.

"(3) ELIGIBLE ESTABLISHMENT.—The term 'eligible establishment' means an establishment that is in compliance with—

"(A) the State inspection program of the State in which the establishment is located; and

"(B) this Act, including rules and regulations issued under this Act.

"(4) MEAT ITEM.—The term 'meat item' means—

"(A) a portion of meat; and

"(B) a meat food product.

"(5) SELECTED ESTABLISHMENT.—The term 'selected establishment' means an eligible establishment that is selected by the Secretary, in coordination with the appropriate State agency of the State in which the eligible establishment is located, under subsection (b) to ship carcasses, portions of carcasses, and meat items in interstate commerce.

"(b) AUTHORITY OF SECRETARY TO ALLOW SHIPMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary, in coordination with the appropriate State agency of the State in which an establishment is located, may select the establishment to ship carcasses, portions of carcasses, and meat items in interstate commerce, and place on each carcass, portion of a carcass, and meat item shipped in interstate commerce a Federal mark, stamp, tag, or label of inspection, if—

"(A) the carcass, portion of carcass, or meat item qualifies for the mark, stamp, tag, or label of inspection under the requirements of this Act;

"(B) the establishment is an eligible establishment; and

"(C) inspection services for the establishment are provided by designated personnel.

"(2) PROHIBITED ESTABLISHMENTS.—In carrying out paragraph (1), the Secretary, in coordination with an appropriate State agency, shall not select an establishment that—

"(A) on average, employs more than 25 employees (including supervisory and nonsupervisory employees), as defined by the Secretary;

"(B) as of the date of the enactment of this section, ships in interstate commerce carcasses, portions of carcasses, or meat items that are inspected by the Secretary in accordance with this Act;

"(C)(i) is a Federal establishment;

"(ii) was a Federal establishment that was reorganized on a later date under the same name or a different name or person by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section; or

"(iii) was a State establishment as of the date of the enactment of this section that—

"(I) as of the date of the enactment of this section, employed more than 25 employees; and

"(II) was reorganized on a later date by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section;

"(D) is in violation of this Act;

"(E) is located in a State that does not have a State inspection program; or

"(F) is the subject of a transition carried out in accordance with a procedure developed by the Secretary under paragraph (3)(A).

"(3) ESTABLISHMENTS THAT EMPLOY MORE THAN 25 EMPLOYEES.—

"(A) DEVELOPMENT OF PROCEDURE.—The Secretary may develop a procedure to transition to a Federal establishment any establishment under this section that, on average, consistently employs more than 25 employees.

"(B) ELIGIBILITY OF CERTAIN ESTABLISHMENTS.—

"(i) IN GENERAL.—A State establishment that employs more than 25 employees but less than 35 employees as of the date of the enactment of this section may be selected as a selected establishment under this subsection.

"(ii) PROCEDURES.—A State establishment shall be subject to the procedures established under subparagraph (A) beginning on the date that is 3 years after the effective date described in subsection (j).

"(c) REIMBURSEMENT OF STATE COSTS.—The Secretary shall reimburse a State for costs related to the inspection of selected establishments in the State in accordance with Federal requirements in an amount of not less than 60 percent of eligible State costs.

"(d) COORDINATION BETWEEN FEDERAL AND STATE AGENCIES.—

"(1) IN GENERAL.—The Secretary shall designate an employee of the Federal Government as State coordinator for each appropriate State agency—

"(A) to provide oversight and enforcement of this title; and

"(B) to oversee the training and inspection activities of designated personnel of the State agency.

"(2) SUPERVISION.—A State coordinator shall be under the direct supervision of the Secretary.

"(3) DUTIES OF STATE COORDINATOR.—

"(A) IN GENERAL.—A State coordinator shall visit selected establishments with a frequency that is appropriate to ensure that selected establishments are operating in a manner that is consistent with this Act (including regulations and policies under this Act).

"(B) QUARTERLY REPORTS.—A State coordinator shall, on a quarterly basis, submit to the Secretary a report that describes the status of each selected establishment that is under the jurisdiction of the State coordinator with respect to the level of compliance of each selected establishment with the requirements of this Act.

"(C) IMMEDIATE NOTIFICATION REQUIREMENT.—If a State coordinator determines that any selected establishment that is under the jurisdiction of the State coordinator is in violation of any requirement of this Act, the State coordinator shall—

"(i) immediately notify the Secretary of the violation; and

"(ii) deselect the selected establishment or suspend inspection at the selected establishment.

"(4) PERFORMANCE EVALUATIONS.—Performance evaluations of State coordinators designated under this subsection shall be conducted by the Secretary as part of the Federal agency management control system.

Deadlines.

"(e) AUDITS.—

"(1) PERIODIC AUDITS CONDUCTED BY INSPECTOR GENERAL OF THE DEPARTMENT OF AGRICULTURE.—Not later than 2 years after the effective date described in subsection (j), and not less often than every 3 years thereafter, the Inspector General of the Department of Agriculture shall conduct an audit of each activity taken by the Secretary under this section for the period covered by the audit to determine compliance with this section.

"(2) AUDIT CONDUCTED BY COMPTROLLER GENERAL OF THE UNITED STATES.—Not earlier than 3 years, nor later than 5 years, after the date of the enactment of this section, the Comptroller General of the United States shall conduct an audit of the implementation of this section to determine—

"(A) the effectiveness of the implementation of this section; and

"(B) the number of selected establishments selected by the Secretary to ship carcasses, portions of carcasses, or meat items under this section.

"(f) TECHNICAL ASSISTANCE DIVISION.—

Deadline.

"(1) ESTABLISHMENT.—Not later than 180 days after the effective date described in subsection (j), the Secretary shall establish in the Food Safety and Inspection Service of the Department of Agriculture a technical assistance division to coordinate the initiatives of any other appropriate agency of the Department of Agriculture to provide—

"(A) outreach, education, and training to very small or certain small establishments (as defined by the Secretary); and

"(B) grants to appropriate State agencies to provide outreach, technical assistance, education, and training to very small or certain small establishments (as defined by the Secretary).

"(2) PERSONNEL.—The technical assistance division shall be comprised of individuals that, as determined by the Secretary—

"(A) are of a quantity sufficient to carry out the duties of the technical assistance division; and

"(B) possess appropriate qualifications and expertise relating to the duties of the technical assistance division.

"(g) TRANSITION GRANTS.—The Secretary may provide grants to appropriate State agencies to assist the appropriate State agencies in helping establishments covered by title III to transition to selected establishments.

"(h) VIOLATIONS.—Any selected establishment that the Secretary determines to be in violation of any requirement of this Act shall be transitioned to a Federal establishment in accordance with a procedure developed by the Secretary under subsection (b)(3)(A).

"(i) EFFECT.—Nothing in this section limits the jurisdiction of the Secretary with respect to the regulation of meat and meat products under this Act.

"(j) EFFECTIVE DATE.—

"(1) IN GENERAL.—This section takes effect on the date on which the Secretary, after providing a period of public comment (including through the conduct of public meetings or hearings), promulgates final regulations to carry out this section.

"(2) REQUIREMENT.—Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate final regulations in accordance with paragraph (1).". Deadline.

(b) POULTRY AND POULTRY PRODUCTS.—The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended by adding at the end the following:

**"SEC. 31. INTERSTATE SHIPMENT OF POULTRY INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.** 21 USC 472.

"(a) DEFINITIONS.—

"(1) APPROPRIATE STATE AGENCY.—The term 'appropriate State agency' means a State agency described in section 5(a)(1).

"(2) DESIGNATED PERSONNEL.—The term 'designated personnel' means inspection personnel of a State agency that have undergone all necessary inspection training and certification to assist the Secretary in the administration and enforcement of this Act, including rules and regulations issued under this Act.

"(3) ELIGIBLE ESTABLISHMENT.—The term 'eligible establishment' means an establishment that is in compliance with—

"(A) the State inspection program of the State in which the establishment is located; and

"(B) this Act, including rules and regulations issued under this Act.

"(4) POULTRY ITEM.—The term 'poultry item' means—

"(A) a portion of poultry; and

"(B) a poultry product.

"(5) SELECTED ESTABLISHMENT.—The term 'selected establishment' means an eligible establishment that is selected by the Secretary, in coordination with the appropriate State agency of the State in which the eligible establishment is located, under subsection (b) to ship poultry items in interstate commerce.

"(b) AUTHORITY OF SECRETARY TO ALLOW SHIPMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary, in coordination with the appropriate State agency of the State in which an establishment is located, may select the establishment to ship poultry items in interstate commerce, and place on each poultry item shipped in interstate commerce a Federal mark, stamp, tag, or label of inspection, if—

"(A) the poultry item qualifies for the Federal mark, stamp, tag, or label of inspection under the requirements of this Act;

"(B) the establishment is an eligible establishment; and

"(C) inspection services for the establishment are provided by designated personnel.

"(2) PROHIBITED ESTABLISHMENTS.—In carrying out paragraph (1), the Secretary, in coordination with an appropriate State agency, shall not select an establishment that—

"(A) on average, employs more than 25 employees (including supervisory and nonsupervisory employees), as defined by the Secretary;

"(B) as of the date of the enactment of this section, ships in interstate commerce carcasses, portions of carcasses, or poultry items that are inspected by the Secretary in accordance with this Act;

"(C)(i) is a Federal establishment;

"(ii) was a Federal establishment as of the date of the enactment of this section, and was reorganized on a later date under the same name or a different name or person by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section; or

"(iii) was a State establishment as of the date of the enactment of this section that—

"(I) as of the date of the enactment of this section, employed more than 25 employees; and

"(II) was reorganized on a later date by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section;

"(D) is in violation of this Act;

"(E) is located in a State that does not have a State inspection program; or

"(F) is the subject of a transition carried out in accordance with a procedure developed by the Secretary under paragraph (3)(A).

"(3) ESTABLISHMENTS THAT EMPLOY MORE THAN 25 EMPLOYEES.—

"(A) DEVELOPMENT OF PROCEDURE.—The Secretary may develop a procedure to transition to a Federal establishment any establishment under this section that, on average, consistently employs more than 25 employees.

"(B) ELIGIBILITY OF CERTAIN ESTABLISHMENTS.—

"(i) IN GENERAL.—A State establishment that employs more than 25 employees but less than 35 employees as of the date of the enactment of this section may be selected as a selected establishment under this subsection.

"(ii) PROCEDURES.—A State establishment shall be subject to the procedures established under subparagraph (A) beginning on the date that is 3 years after the effective date described in subsection (i).

"(c) REIMBURSEMENT OF STATE COSTS.—The Secretary shall reimburse a State for costs related to the inspection of selected establishments in the State in accordance with Federal requirements in an amount of not less than 60 percent of eligible State costs.

"(d) COORDINATION BETWEEN FEDERAL AND STATE AGENCIES.—

"(1) IN GENERAL.—The Secretary shall designate an employee of the Federal Government as State coordinator for each appropriate State agency—

"(A) to provide oversight and enforcement of this section; and

"(B) to oversee the training and inspection activities of designated personnel of the State agency.

"(2) SUPERVISION.—A State coordinator shall be under the direct supervision of the Secretary.

"(3) DUTIES OF STATE COORDINATOR.—

"(A) IN GENERAL.—A State coordinator shall visit selected establishments with a frequency that is appropriate to ensure that selected establishments are operating in a manner that is consistent with this Act (including regulations and policies under this Act).

"(B) QUARTERLY REPORTS.—A State coordinator shall, on a quarterly basis, submit to the Secretary a report that describes the status of each selected establishment that is under the jurisdiction of the State coordinator with respect to the level of compliance of each selected establishment with the requirements of this Act.

"(C) IMMEDIATE NOTIFICATION REQUIREMENT.—If a State coordinator determines that any selected establishment that is under the jurisdiction of the State coordinator is in violation of any requirement of this Act, the State coordinator shall—

"(i) immediately notify the Secretary of the violation; and

"(ii) deselect the selected establishment or suspend inspection at the selected establishment.

"(4) PERFORMANCE EVALUATIONS.—Performance evaluations of State coordinators designated under this subsection shall be conducted by the Secretary as part of the Federal agency management control system.

"(e) AUDITS.— Deadlines.

"(1) PERIODIC AUDITS CONDUCTED BY INSPECTOR GENERAL OF THE DEPARTMENT OF AGRICULTURE.—Not later than 2 years

after the effective date described in subsection (i), and not less often than every 3 years thereafter, the Inspector General of the Department of Agriculture shall conduct an audit of each activity taken by the Secretary under this section for the period covered by the audit to determine compliance with this section.

"(2) AUDIT CONDUCTED BY COMPTROLLER GENERAL OF THE UNITED STATES.—Not earlier than 3 years, nor later than 5 years, after the date of the enactment of this section, the Comptroller General of the United States shall conduct an audit of the implementation of this section to determine—

"(A) the effectiveness of the implementation of this section; and

"(B) the number of selected establishments selected by the Secretary to ship poultry items under this section.

"(f) TRANSITION GRANTS.—The Secretary may provide grants to appropriate State agencies to assist the appropriate State agencies in helping establishments covered by this Act to transition to selected establishments.

"(g) VIOLATIONS.—Any selected establishment that the Secretary determines to be in violation of any requirement of this Act shall be transitioned to a Federal establishment in accordance with a procedure developed by the Secretary under subsection (b)(3)(A).

"(h) EFFECT.—Nothing in this section limits the jurisdiction of the Secretary with respect to the regulation of poultry and poultry products under this Act.

"(i) EFFECTIVE DATE.—

"(1) IN GENERAL.—This section takes effect on the date on which the Secretary, after providing a period of public comment (including through the conduct of public meetings or hearings), promulgates final regulations to carry out this section.

Deadline. Regulations.

"(2) REQUIREMENT.—Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate final regulations in accordance with paragraph (1).".

**SEC. 11016. INSPECTION AND GRADING.**

(a) GRADING.—Section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622) is amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m) the following new subsection:

"(n) GRADING PROGRAM.—To establish within the Department of Agriculture a voluntary fee based grading program for—

"(1) catfish (as defined by the Secretary under paragraph (2) of section 1(w) of the Federal Meat Inspection Act (21 U.S.C. 601(w))); and

"(2) any additional species of farm-raised fish or farm-raised shellfish—

"(A) for which the Secretary receives a petition requesting such voluntary fee based grading; and

"(B) that the Secretary considers appropriate.".

(b) INSPECTION.—

(1) IN GENERAL.—The Federal Meat Inspection Act is amended—

(A) in section 1(w) (21 U.S.C. 601(w)) —

(i) by striking "and" at the end of paragraph (1);

(ii) by redesignating paragraph (2) as paragraph (3); and

(iii) by inserting after paragraph (1) the following new paragraph:

"(2) catfish, as defined by the Secretary; and";

(B) by striking section 6 (21 U.S.C. 606) and inserting the following new section:

"SEC. 6. (a) IN GENERAL.—For the purposes hereinbefore set forth the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, and for the purposes of any examination and inspection and inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of said establishment; and said inspectors shall mark, stamp, tag, or label as 'Inspected and passed' all such products found to be not adulterated; and said inspectors shall label, mark, stamp, or tag as 'Inspected and condemned' all such products found adulterated, and all such condemned meat food products shall be destroyed for food purposes, as hereinbefore provided, and the Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products: *Provided*, That subject to the rules and regulations of the Secretary the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact sold or offered for sale for domestic use or consumption then this proviso shall not exempt said article from the operation of all the other provisions of this chapter. 21 USC 606.

"(b) CATFISH.—In the case of an examination and inspection under subsection (a) of a meat food product derived from catfish, the Secretary shall take into account the conditions under which the catfish is raised and transported to a processing establishment."; and

(C) by adding at the end of title I the following new section:

"SEC. 25. Notwithstanding any other provision of this Act, the requirements of sections 3, 4, 5, 10(b), and 23 shall not apply to catfish.". 21 USC 625.

(2) EFFECTIVE DATE.— 21 USC 601 note.

(A) IN GENERAL.—The amendments made by paragraph (1) shall not apply until the date on which the Secretary of Agriculture issues final regulations (after providing a period of public comment, including through the conduct of public meetings or hearings, in accordance with chapter 5 of title 5, United States Code) to carry out such amendments.

(B) REGULATIONS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Agriculture, in consultation with the Commissioner of Food and Drugs, shall issue final regulations to carry out the amendments made by paragraph (1). Deadline.

Deadline.

(3) BUDGET REQUEST.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit to Congress an estimate of the costs of implementing the amendments made by paragraph (1), including the estimated—

(A) staff years;

(B) number of establishments;

(C) volume expected to be produced at such establishments; and

(D) any other information used in estimating the costs of implementing such amendments.

**SEC. 11017. FOOD SAFETY IMPROVEMENT.**

(a) FEDERAL MEAT INSPECTION ACT.—Title I of the Federal Meat Inspection Act is further amended by inserting after section 11 (21 U.S.C. 611) the following:

21 USC 612.

**"SEC. 12. NOTIFICATION.**

"Any establishment subject to inspection under this Act that believes, or has reason to believe, that an adulterated or misbranded meat or meat food product received by or originating from the establishment has entered into commerce shall promptly notify the Secretary with regard to the type, amount, origin, and destination of the meat or meat food product.

21 USC 613.

**"SEC. 13. PLANS AND REASSESSMENTS.**

"The Secretary shall require that each establishment subject to inspection under this Act shall, at a minimum—

"(1) prepare and maintain current procedures for the recall of all meat or meat food products produced and shipped by the establishment;

"(2) document each reassessment of the process control plans of the establishment; and

"(3) upon request, make the procedures and reassessed process control plans available to inspectors appointed by the Secretary for review and copying.".

(b) POULTRY PRODUCTS INSPECTION ACT.—Section 10 of the Poultry Products Inspection Act (21 U.S.C. 459) is amended—

(1) by striking the section heading and all that follows through "**SEC. 10**. No establishment" and inserting the following:

**"SEC. 10. COMPLIANCE BY ALL ESTABLISHMENTS.**

"(a) IN GENERAL.—No establishment"; and

(2) by adding at the end the following:

"(b) NOTIFICATION.—Any establishment subject to inspection under this Act that believes, or has reason to believe, that an adulterated or misbranded poultry or poultry product received by or originating from the establishment has entered into commerce shall promptly notify the Secretary with regard to the type, amount, origin, and destination of the poultry or poultry product.

"(c) PLANS AND REASSESSMENTS.—The Secretary shall require that each establishment subject to inspection under this Act shall, at a minimum—

"(1) prepare and maintain current procedures for the recall of all poultry or poultry products produced and shipped by the establishment;

"(2) document each reassessment of the process control plans of the establishment; and

"(3) upon request, make the procedures and reassessed process control plans available to inspectors appointed by the Secretary for review and copying.".

# TITLE XII—CROP INSURANCE AND DISASTER ASSISTANCE PROGRAMS

## Subtitle A—Crop Insurance and Agricultural Disaster Assistance

**SEC. 12001. DEFINITION OF ORGANIC CROP.**

Section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following:

"(7) ORGANIC CROP.—The term 'organic crop' means an agricultural commodity that is organically produced consistent with section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502).".

**SEC. 12002. GENERAL POWERS.**

(a) IN GENERAL.—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended—

(1) in the first sentence of subsection (d), by striking "The Corporation" and inserting "Subject to section 508(j)(2)(A), the Corporation"; and

(2) by striking subsection (n).

(b) CONFORMING AMENDMENTS.—

(1) Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended by redesignating subsections (o), (p), and (q) as subsections (n), (o), and (p), respectively.

(2) Section 521 of the Federal Crop Insurance Act (7 U.S.C. 1521) is amended by striking the last sentence.

**SEC. 12003. REDUCTION IN LOSS RATIO.**

(a) PROJECTED LOSS RATIO.—Subsection (n)(2) of section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) (as redesignated by section 12002(b)(1)) is amended—

(1) in the paragraph heading, by striking "AS OF OCTOBER 1, 1998";

(2) by striking ", on and after October 1, 1998,"; and

(3) by striking "1.075" and inserting "1.0".

(b) PREMIUMS REQUIRED.—Section 508(d)(1) of the Federal Crop Insurance Act (7 U.S.C. 1508(d)(1)) is amended by striking "not greater than 1.1" and all that follows and inserting "not greater than—

"(A) 1.1 through September 30, 1998;

"(B) 1.075 for the period beginning October 1, 1998, and ending on the day before the date of enactment of the Food, Conservation, and Energy Act of 2008; and

"(C) 1.0 on and after the date of enactment of that Act.".

**SEC. 12004. PREMIUMS ADJUSTMENTS.**

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by adding at the end the following:

"(9) PREMIUM ADJUSTMENTS.—

"(A) PROHIBITION.—Except as provided in subparagraph (B), no person shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, either as an inducement to procure insurance or after insurance has been procured, any rebate, discount, abatement, credit, or reduction of the premium named in an insurance policy or any other valuable consideration or inducement not specified in the policy.

"(B) EXCEPTIONS.—Subparagraph (A) does not apply with respect to—

"(i) a payment authorized under subsection (b)(5)(B);

"(ii) a performance-based discount authorized under subsection (d)(3); or

"(iii) a patronage dividend, or similar payment, that is paid—

"(I) by an entity that was approved by the Corporation to make such payments for the 2005, 2006, or 2007 reinsurance year, in accordance with subsection (b)(5)(B) as in effect on the day before the date of enactment of this paragraph; and

"(II) in a manner consistent with the payment plan approved in accordance with that subsection for the entity by the Corporation for the applicable reinsurance year.".

**SEC. 12005. CONTROLLED BUSINESS INSURANCE.**

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 12004) is amended by adding at the end the following:

"(10) COMMISSIONS.—

"(A) DEFINITION OF IMMEDIATE FAMILY.—In this paragraph, the term 'immediate family' means an individual's father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, the spouse of the foregoing, and the individual's spouse.

"(B) PROHIBITION.—No individual (including a subagent) may receive directly, or indirectly through an entity, any compensation (including any commission, profit sharing, bonus, or any other direct or indirect benefit) for the sale or service of a policy or plan of insurance offered under this title if—

"(i) the individual has a substantial beneficial interest, or a member of the individual's immediate family has a substantial beneficial interest, in the policy or plan of insurance; and

"(ii) the total compensation to be paid to the individual with respect to the sale or service of the policies or plans of insurance that meet the condition described

in clause (i) exceeds 30 percent or the percentage specified in State law, whichever is less, of the total of all compensation received directly or indirectly by the individual for the sale or service of all policies and plans of insurance offered under this title for the reinsurance year.

"(C) REPORTING.—Not later than 90 days after the annual settlement date of the reinsurance year, any individual that received directly or indirectly any compensation for the service or sale of any policy or plan of insurance offered under this title in the prior reinsurance year shall certify to applicable approved insurance providers that the compensation that the individual received was in compliance with this paragraph.

"(D) SANCTIONS.—The procedural requirements and sanctions prescribed in section 515(h) shall apply to the prosecution of a violation of this paragraph.

"(E) APPLICABILITY.—

"(i) IN GENERAL.—Sanctions for violations under this paragraph shall only apply to the individuals or entities directly responsible for the certification required under subparagraph (C) or the failure to comply with the requirements of this paragraph.

"(ii) PROHIBITION.—No sanctions shall apply with respect to the policy or plans of insurance upon which compensation is received, including the reinsurance for those policies or plans.".

**SEC. 12006. ADMINISTRATIVE FEE.**

(a) IN GENERAL.—Section 508(b)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) BASIC FEE.—Each producer shall pay an administrative fee for catastrophic risk protection in the amount of $300 per crop per county."; and

(2) in subparagraph (B)—

(A) by striking "**PAYMENT ON BEHALF OF PRODUCERS**" and inserting "**PAYMENT OF CATASTROPHIC RISK PROTECTION FEE ON BEHALF OF PRODUCERS**";

(B) in clause (i)—

(i) by striking "or other payment"; and

(ii) by striking "with catastrophic risk protection or additional coverage" and inserting "through the payment of catastrophic risk protection administrative fees";

(C) by striking clauses (ii) and (vi);

(D) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively;

(E) in clause (iii) (as so redesignated), by striking "A policy or plan of insurance" and inserting "Catastrophic risk protection coverage"; and

(F) in clause (iv) (as so redesignated)—

(i) by striking "or other arrangement under this subparagraph"; and

(ii) by striking "additional".

(b) REPEAL.—Section 748 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1508 note; Public Law 105–277) is repealed.

**SEC. 12007. TIME FOR PAYMENT.**

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) in subsection (b)(5)(C), by striking "the date that premium" and inserting "the same date on which the premium";

(2) in subsection (c)(10), by adding at the end the following:

"(C) TIME FOR PAYMENT.—Subsection (b)(5)(C) shall apply with respect to the collection date for the administrative fee."; and

(3) in subsection (d), by adding at the end the following:

"(4) BILLING DATE FOR PREMIUMS.—Effective beginning with the 2012 reinsurance year, the Corporation shall establish August 15 as the billing date for premiums.".

**SEC. 12008. CATASTROPHIC COVERAGE REIMBURSEMENT RATE.**

Section 508(b)(11) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(11)) is amended by striking "8 percent" and inserting "6 percent".

**SEC. 12009. GRAIN SORGHUM PRICE ELECTION.**

Section 508(c)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)(5)) is amended by adding at the end the following:

Deadlines.

"(D) GRAIN SORGHUM PRICE ELECTION.—

"(i) IN GENERAL.—The Corporation, in conjunction with the Secretary (referred to in this subparagraph as the 'Corporation'), shall—

"(I) not later than 60 days after the date of enactment of this subparagraph, make available all methods and data, including data from the Economic Research Service, used by the Corporation to develop the expected market prices for grain sorghum under the production and revenue-based plans of insurance of the Corporation; and

"(II) request applicable data from the grain sorghum industry.

"(ii) EXPERT REVIEWERS.—

Contracts.

"(I) IN GENERAL.—Not later than 120 days after the date of enactment of this subparagraph, the Corporation shall contract individually with 5 expert reviewers described in subclause (II) to develop and recommend a methodology for determining an expected market price for sorghum for both the production and revenue-based plans of insurance to more accurately reflect the actual price at harvest.

"(II) REQUIREMENTS.—The expert reviewers under subclause (I) shall be comprised of agricultural economists with experience in grain sorghum and corn markets, of whom—

"(aa) 2 shall be agricultural economists of institutions of higher education;

"(bb) 2 shall be economists from within the Department; and

"(cc) 1 shall be an economist nominated by the grain sorghum industry.

"(iii) RECOMMENDATIONS.—

"(I) IN GENERAL.—Not later than 90 days after the date of contracting with the expert reviewers under clause (ii), the expert reviewers shall submit, and the Corporation shall make available to the public, the recommendations of the expert reviewers.

"(II) CONSIDERATION.—The Corporation shall consider the recommendations under subclause (I) when determining the appropriate pricing methodology to determine the expected market price for grain sorghum under both the production and revenue-based plans of insurance.

"(III) PUBLICATION.—Not later than 60 days after the date on which the Corporation receives the recommendations of the expert reviewers, the Corporation shall publish the proposed pricing methodology for both the production and revenue-based plans of insurance for notice and comment and, during the comment period, conduct at least 1 public meeting to discuss the proposed pricing methodologies.

"(iv) APPROPRIATE PRICING METHODOLOGY.—

"(I) IN GENERAL.—Not later than 180 days after the close of the comment period in clause (iii)(III), but effective not later than the 2010 crop year, the Corporation shall implement a pricing methodology for grain sorghum under the production and revenue-based plans of insurance that is transparent and replicable.

"(II) INTERIM METHODOLOGY.—Until the date on which the new pricing methodology is implemented, the Corporation may continue to use the pricing methodology that the Corporation determines best establishes the expected market price.

"(III) AVAILABILITY.—On an annual basis, the Corporation shall make available the pricing methodology and data used to determine the expected market prices for grain sorghum under the production and revenue-based plans of insurance, including any changes to the methodology used to determine the expected market prices for grain sorghum from the previous year.".

**SEC. 12010. PREMIUM REDUCTION AUTHORITY.**

Subsection 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) is amended—

(1) in paragraph (2), by striking "paragraph (4)" and inserting "paragraph (3)";

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

**SEC. 12011. ENTERPRISE AND WHOLE FARM UNITS.**

Section 508(e) of Federal Crop Insurance Act (7 U.S.C. 1508(e)) (as amended by section 12010) is amended by adding at the end the following:

"(5) ENTERPRISE AND WHOLE FARM UNITS.—

"(A) IN GENERAL.—The Corporation may carry out a pilot program under which the Corporation pays a portion of the premiums for plans or policies of insurance for which the insurable unit is defined on a whole farm or enterprise unit basis that is higher than would otherwise be paid in accordance with paragraph (2).

"(B) AMOUNT.—The percentage of the premium paid by the Corporation to a policyholder for a policy with an enterprise or whole farm unit under this paragraph shall, to the maximum extent practicable, provide the same dollar amount of premium subsidy per acre that would otherwise have been paid by the Corporation under paragraph (2) if the policyholder had purchased a basic or optional unit for the crop for the crop year.

"(C) LIMITATION.—The amount of the premium paid by the Corporation under this paragraph may not exceed 80 percent of the total premium for the enterprise or whole farm unit policy.".

**SEC. 12012. PAYMENT OF PORTION OF PREMIUM FOR AREA REVENUE PLANS.**

Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) (as amended by section 12011) is amended—

(1) in paragraph (2), in the matter preceding subparagraph (A), by striking "paragraph (4)" and inserting "paragraphs (4), (6), and (7)"; and

(2) by adding at the end the following:

"(6) PREMIUM SUBSIDY FOR AREA REVENUE PLANS.—Subject to paragraph (4), in the case of a policy or plan of insurance that covers losses due to a reduction in revenue in an area, the amount of the premium paid by the Corporation shall be as follows:

"(A) In the case of additional area coverage equal to or greater than 70 percent, but less than 75 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(B) In the case of additional area coverage equal to or greater than 75 percent, but less than 85 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(C) In the case of additional area coverage equal to or greater than 85 percent, but less than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 49 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(D) In the case of additional area coverage equal to or greater than 90 percent of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 44 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(7) PREMIUM SUBSIDY FOR AREA YIELD PLANS.—Subject to paragraph (4), in the case of a policy or plan of insurance that covers losses due to a loss of yield or prevented planting in an area, the amount of the premium paid by the Corporation shall be as follows:

"(A) In the case of additional area coverage equal to or greater than 70 percent, but less than 80 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(B) In the case of additional area coverage equal to or greater than 80 percent, but less than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(C) In the case of additional area coverage equal to or greater than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 51 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.".

**SEC. 12013. DENIAL OF CLAIMS.**

Section 508(j)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)(2)(A)) is amended by inserting "on behalf of the Corporation" after "approved provider".

**SEC. 12014. SETTLEMENT OF CROP INSURANCE CLAIMS ON FARM-STORED PRODUCTION.**

(a) IN GENERAL.—Section 508(j) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)) is amended by adding at the end the following:

"(5) SETTLEMENT OF CLAIMS ON FARM-STORED PRODUCTION.—A producer with farm-stored production may, at the option of the producer, delay settlement of a crop insurance claim relating to the farm-stored production for up to 4 months after the last date on which claims may be submitted under the policy of insurance.".

(b) STUDY ON THE EFFICACY OF PACK FACTORS.—

(1) IN GENERAL.—The Secretary shall conduct a study of the efficacy and accuracy of the application of pack factors regarding the measurement of farm-stored production for purposes of providing policies or plans of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(2) CONSIDERATIONS.—The study shall consider—

(A) structural shape and size;

(B) time in storage;

(C) the impact of facility aeration systems; and

(D) any other factors the Secretary considers appropriate.

(3) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes the findings of the study and any related policy recommendations.

**SEC. 12015. TIME FOR REIMBURSEMENT.**

Section 508(k)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(4)) is amended by adding at the end the following:

"(D) TIME FOR REIMBURSEMENT.—Effective beginning with the 2012 reinsurance year, the Corporation shall reimburse approved insurance providers and agents for the allowable administrative and operating costs of the providers and agents as soon as practicable after October 1 (but not later than October 31) after the reinsurance year for which reimbursements are earned.".

**SEC. 12016. REIMBURSEMENT RATE.**

Section 508(k)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(4)) (as amended by section 12015) is amended—

(1) in subparagraph (A), by striking "Except as provided in subparagraph (B)" and inserting "Except as otherwise provided in this paragraph"; and

(2) by adding at the end the following:

"(E) REIMBURSEMENT RATE REDUCTION.—In the case of a policy of additional coverage that received a rate of reimbursement for administrative and operating costs for the 2008 reinsurance year, for each of the 2009 and subsequent reinsurance years, the reimbursement rate for administrative and operating costs shall be 2.3 percentage points below the rates in effect as of the date of enactment of the Food, Conservation, and Energy Act of 2008 for all crop insurance policies used to define loss ratio, except that only ½ of the reduction shall apply in a reinsurance year to the total premium written in a State in which the State loss ratio is greater than 1.2.

"(F) REIMBURSEMENT RATE FOR AREA POLICIES AND PLANS OF INSURANCE.—Notwithstanding subparagraphs (A) through (E), for each of the 2009 and subsequent reinsurance years, the reimbursement rate for area policies and plans of insurance widely available as of the date of enactment of this subparagraph shall be 12 percent of the premium used to define loss ratio for that reinsurance year.".

**SEC. 12017. RENEGOTIATION OF STANDARD REINSURANCE AGREEMENT.**

Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) is amended by adding at the end the following:

"(8) RENEGOTIATION OF STANDARD REINSURANCE AGREEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), notwithstanding section 536 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 1506 note; Public Law 105–185) and section 148 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1506 note; Public Law 106–224), the Corporation may renegotiate the financial terms and conditions of each Standard Reinsurance Agreement—

"(i) to be effective for the 2011 reinsurance year beginning July 1, 2010; and Effective date.

"(ii) once during each period of 5 reinsurance years thereafter. Time period.

"(B) EXCEPTIONS.—

"(i) ADVERSE CIRCUMSTANCES.—Subject to clause (ii), subparagraph (A) shall not apply in any case in which the approved insurance providers, as a whole, experience unexpected adverse circumstances, as determined by the Secretary.

"(ii) EFFECT OF FEDERAL LAW CHANGES.—If Federal law is enacted after the date of enactment of this paragraph that requires revisions in the financial terms of the Standard Reinsurance Agreement, and changes in the Agreement are made on a mandatory basis by the Corporation, the changes shall not be considered to be a renegotiation of the Agreement for purposes of subparagraph (A).

"(C) NOTIFICATION REQUIREMENT.—If the Corporation renegotiates a Standard Reinsurance Agreement under subparagraph (A)(iii), the Corporation shall notify the Committee on Agriculture of the House of Representatives and

the Committee on Agriculture, Nutrition, and Forestry of the Senate of the renegotiation.

"(D) CONSULTATION.—The approved insurance providers may confer with each other and collectively with the Corporation during any renegotiation under subparagraph (A).

"(E) 2011 REINSURANCE YEAR.—

"(i) IN GENERAL.—As part of the Standard Reinsurance Agreement renegotiation authorized under subparagraph (A)(i), the Corporation shall consider alternative methods to determine reimbursement rates for administrative and operating costs.

"(ii) ALTERNATIVE METHODS.—Alternatives considered under clause (i) shall include—

"(I) methods that—

"(aa) are graduated and base reimbursement rates in a State on changes in premiums in that State;

"(bb) are graduated and base reimbursement rates in a State on the loss ratio for crop insurance for that State; and

"(cc) are graduated and base reimbursement rates on individual policies on the level of total premium for each policy; and

"(II) any other method that takes into account current financial conditions of the program and ensures continued availability of the program to producers on a nationwide basis.".

**SEC. 12018. CHANGE IN DUE DATE FOR CORPORATION PAYMENTS FOR UNDERWRITING GAINS.**

Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) (as amended by section 12017) is amended by adding at the end the following:

"(9) DUE DATE FOR PAYMENT OF UNDERWRITING GAINS.—Effective beginning with the 2011 reinsurance year, the Corporation shall make payments for underwriting gains under this title on—

"(A) for the 2011 reinsurance year, October 1, 2012; and

"(B) for each reinsurance year thereafter, October 1 of the following calendar year.".

**SEC. 12019. MALTING BARLEY.**

Section 508(m) of the Federal Crop Insurance Act (7 U.S.C. 1508(m)) is amended by adding at the end the following:

"(5) SPECIAL PROVISIONS FOR MALTING BARLEY.—The Corporation shall promulgate special provisions under this subsection specific to malting barley, taking into consideration any changes in quality factors, as required by applicable market conditions.".

**SEC. 12020. CROP PRODUCTION ON NATIVE SOD.**

(a) FEDERAL CROP INSURANCE.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended by adding at the end the following:

"(o) CROP PRODUCTION ON NATIVE SOD.—

"(1) DEFINITION OF NATIVE SOD.—In this subsection, the term 'native sod' means land—

"(A) on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and

"(B) that has never been tilled for the production of an annual crop as of the date of enactment of this subsection.

"(2) INELIGIBILITY FOR BENEFITS.—

"(A) IN GENERAL.—Subject to subparagraph (B) and paragraph (3), native sod acreage that has been tilled for the production of an annual crop after the date of enactment of this subsection shall be ineligible during the first 5 crop years of planting, as determined by the Secretary, for benefits under—

"(i) this title; and

"(ii) section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(B) DE MINIMIS ACREAGE EXEMPTION.—The Secretary shall exempt areas of 5 acres or less from subparagraph (A).

"(3) APPLICATION.—Paragraph (2) may apply to native sod acreage in the Prairie Pothole National Priority Area at the election of the Governor of the respective State.".

(b) NONINSURED CROP DISASTER ASSISTANCE.—Section 196(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(a)) is amended by adding at the end the following:

"(4) PROGRAM INELIGIBILITY RELATING TO CROP PRODUCTION ON NATIVE SOD.—

"(A) DEFINITION OF NATIVE SOD.—In this paragraph, the term 'native sod' means land—

"(i) on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and

"(ii) that has never been tilled for the production of an annual crop as of the date of enactment of this paragraph.

"(B) INELIGIBILITY FOR BENEFITS.—

"(i) IN GENERAL.—Subject to clause (ii) and subparagraph (C), native sod acreage that has been tilled for the production of an annual crop after the date of enactment of this paragraph shall be ineligible during the first 5 crop years of planting, as determined by the Secretary, for benefits under—

"(I) this section; and

"(II) the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(ii) DE MINIMIS ACREAGE EXEMPTION.—The Secretary shall exempt areas of 5 acres or less from clause (i).

"(C) APPLICATION.—Subparagraph (B) may apply to native sod acreage in the Prairie Pothole National Priority Area at the election of the Governor of the respective State.".

**SEC. 12021. INFORMATION MANAGEMENT.**

Section 515 of the Federal Crop Insurance Act (7 U.S.C. 1515) is amended—

(a) in subsection (j)(3), by adding before the period at the end the following: ", which shall be subject to competition on a periodic basis, as determined by the Secretary"; and

(b) by striking subsection (k) and inserting the following:

"(k) FUNDING.—

"(1) INFORMATION TECHNOLOGY.—To carry out subsection (j)(1), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than $15,000,000 for each of fiscal years 2008 through 2011.

"(2) DATA MINING.—To carry out subsection (j)(2), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than $4,000,000 for fiscal year 2009 and each subsequent fiscal year.".

**SEC. 12022. RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—Section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) RESEARCH AND DEVELOPMENT PAYMENT.—

"(A) IN GENERAL.—The Corporation shall provide a payment to an applicant for research and development costs in accordance with this subsection.

"(B) REIMBURSEMENT.—An applicant who submits a policy under section 508(h) shall be eligible for the reimbursement of reasonable research and development costs directly related to the policy if the policy is approved by the Board for sale to producers.

"(2) ADVANCE PAYMENTS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Board may approve the request of an applicant for advance payment of a portion of reasonable research and development costs prior to submission and approval of the policy by the Board under section 508(h).

"(B) PROCEDURES.—The Board shall establish procedures for approving advance payment of reasonable research and development costs to applicants.

"(C) CONCEPT PROPOSAL.—As a condition of eligibility for advance payments, an applicant shall submit a concept proposal for the policy that the applicant plans to submit to the Board under section 508(h), consistent with procedures established by the Board for submissions under subparagraph (B), including—

"(i) a summary of the qualifications of the applicant, including any prior concept proposals and submissions to the Board under section 508(h) and, if applicable, any work conducted under this section;

"(ii) a projection of total research and development costs that the applicant expects to incur;

"(iii) a description of the need for the policy, the marketability of and expected demand for the policy among affected producers, and the potential impact

of the policy on producers and the crop insurance delivery system;

"(iv) a summary of data sources available to demonstrate that the policy can reasonably be developed and actuarially appropriate rates established; and

"(v) an identification of the risks the proposed policy will cover and an explanation of how the identified risks are insurable under this title.

"(D) REVIEW.—

"(i) EXPERTS.—If the requirements of subparagraph (B) and (C) are met, the Board may submit a concept proposal described in subparagraph (C) to not less than 2 independent expert reviewers, whose services are appropriate for the type of concept proposal submitted, to assess the likelihood that the proposed policy being developed will result in a viable and marketable policy, as determined by the Board.

"(ii) TIMING.—The time frames described in subparagraphs (C) and (D) of section 508(h)(4) shall apply to the review of concept proposals under this subparagraph.

"(E) APPROVAL.—The Board may approve up to 50 percent of the projected total research and development costs to be paid in advance to an applicant, in accordance with the procedures developed by the Board for the making of such payments, if, after consideration of the reviewer reports described in subparagraph (D) and such other information as the Board determines appropriate, the Board determines that—

"(i) the concept, in good faith, will likely result in a viable and marketable policy consistent with section 508(h);

"(ii) in the sole opinion of the Board, the concept, if developed into a policy and approved by the Board, would provide crop insurance coverage—

"(I) in a significantly improved form;

"(II) to a crop or region not traditionally served by the Federal crop insurance program; or

"(III) in a form that addresses a recognized flaw or problem in the program;

"(iii) the applicant agrees to provide such reports as the Corporation determines are necessary to monitor the development effort;

"(iv) the proposed budget and timetable are reasonable; and

"(v) the concept proposal meets any other requirements that the Board determines appropriate.

"(F) SUBMISSION OF POLICY.—If the Board approves an advanced payment under subparagraph (E), the Board shall establish a date by which the applicant shall present a submission in compliance with section 508(h) (including the procedures implemented under that section) to the Board for approval.

"(G) FINAL PAYMENT.—

"(i) APPROVED POLICIES.—If a policy is submitted under subparagraph (F) and approved by the Board under section 508(h) and the procedures established

by the Board (including procedures established under subparagraph (B)), the applicant shall be eligible for a payment of reasonable research and development costs in the same manner as policies reimbursed under paragraph (1)(B), less any payments made pursuant to subparagraph (E).

"(ii) POLICIES NOT APPROVED.—If a policy is submitted under subparagraph (F) and is not approved by the Board under section 508(h), the Corporation shall—

"(I) not seek a refund of any payments made in accordance with this paragraph; and

"(II) not make any further research and development cost payments associated with the submission of the policy under this paragraph.

"(H) POLICY NOT SUBMITTED.—If an applicant receives an advance payment and fails to fulfill the obligation of the applicant to the Board by not submitting a completed submission without just cause and in accordance with the procedures established under subparagraph (B)), including notice and reasonable opportunity to respond, as determined by the Board, the applicant shall return to the Board the amount of the advance plus interest.

"(I) REPEATED SUBMISSIONS.—The Board may prohibit advance payments to applicants who have submitted—

"(i) a concept proposal or submission that did not result in a marketable product; or

"(ii) a concept proposal or submission of poor quality.

"(J) CONTINUED ELIGIBILITY.—A determination that an applicant is not eligible for advance payments under this paragraph shall not prevent an applicant from reimbursement under paragraph (1)(B).".

(b) CONFORMING AMENDMENTS.—Section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)) is amended—

(1) in paragraph (3), by striking "or (2)"; and

(2) in paragraph (4)(A), by striking "and (2)"."

**SEC. 12023. CONTRACTS FOR ADDITIONAL POLICIES AND STUDIES.**

Section 522(c) of the Federal Crop Insurance Act (7 U.S.C. 1522) is amended—

(1) by redesignating paragraph (10) as paragraph (17); and

(2) by inserting after paragraph (9) the following:

"(10) CONTRACTS FOR ORGANIC PRODUCTION COVERAGE IMPROVEMENTS.—

Deadline.

"(A) CONTRACTS REQUIRED.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Corporation shall enter into 1 or more contracts for the development of improvements in Federal crop insurance policies covering crops produced in compliance with standards issued by the Department of Agriculture under the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

"(B) REVIEW OF UNDERWRITING RISK AND LOSS EXPERIENCE.—

"(i) REVIEW REQUIRED.—

"(I) IN GENERAL.—A contract under subparagraph (A) shall include a review of the underwriting, risk, and loss experience of organic crops covered by the Corporation, as compared with the same crops produced in the same counties and during the same crop years using nonorganic methods.

"(II) REQUIREMENTS.—The review shall—

"(aa) to the maximum extent practicable, be designed to allow the Corporation to determine whether significant, consistent, or systemic variations in loss history exist between organic and nonorganic production;

"(bb) include the widest available range of data collected by the Secretary and other outside sources of information; and

"(cc) not be limited to loss history under existing crop insurance policies.

"(ii) EFFECT ON PREMIUM SURCHARGE.—Unless the review under this subparagraph documents the existence of significant, consistent, and systemic variations in loss history between organic and nonorganic crops, either collectively or on an individual crop basis, the Corporation shall eliminate or reduce the premium surcharge that the Corporation charges for coverage for organic crops, as determined in accordance with the results.

"(iii) ANNUAL UPDATES.—Beginning with the 2009 crop year, the review under this subparagraph shall be updated on an annual basis as data is accumulated by the Secretary and other sources, so that the Corporation may make determinations regarding adjustments to the surcharge in a timely manner as quickly as evolving practices and data trends allow.

"(C) ADDITIONAL PRICE ELECTION.—

"(i) IN GENERAL.—A contract under subparagraph (A) shall include the development of a procedure, including any associated changes in policy terms or materials required for implementation of the procedure, to offer producers of organic crops an additional price election that reflects actual prices received by organic producers for crops from the field (including appropriate retail and wholesale prices), as established using data collected and maintained by the Secretary or from other sources. Procedures.

"(ii) TIMING.—The development of the procedure shall be completed in a timely manner to allow the Corporation to begin offering the additional price election for organic crops with sufficient data for the 2010 crop year.

"(iii) EXPANSION.—The procedure shall be expanded as quickly as practicable as additional data on prices of organic crops collected by the Secretary and other sources of information becomes available, with a goal of applying this procedure to all organic crops not later than the fifth full crop year that begins

after the date of enactment of Food, Conservation, and Energy Act of 2008.

"(D) REPORTING REQUIREMENTS.—

"(i) IN GENERAL.—The Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on progress made in developing and improving Federal crop insurance for organic crops, including—

"(I) the numbers and varieties of organic crops insured;

"(II) the development of new insurance approaches; and

"(III) the progress of implementing the initiatives required under this paragraph, including the rate at which additional price elections are adopted for organic crops.

"(ii) RECOMMENDATIONS.—The report shall include such recommendations as the Corporation considers appropriate to improve Federal crop insurance coverage for organic crops.

"(11) ENERGY CROP INSURANCE POLICY.—

"(A) DEFINITION OF DEDICATED ENERGY CROP.—In this subsection, the term 'dedicated energy crop' means an annual or perennial crop that—

"(i) is grown expressly for the purpose of producing a feedstock for renewable biofuel, renewable electricity, or biobased products; and

"(ii) is not typically used for food, feed, or fiber.

"(B) AUTHORITY.—The Corporation shall offer to enter into 1 or more contracts with qualified entities to carry out research and development regarding a policy to insure dedicated energy crops.

"(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of risk management tools for the production of dedicated energy crops, including policies and plans of insurance that—

"(i) are based on market prices and yields;

"(ii) to the extent that insufficient data exist to develop a policy based on market prices and yields, evaluate the policies and plans of insurance based on the use of weather or rainfall indices to protect the interests of crop producers; and

"(iii) provide protection for production or revenue losses, or both.

"(12) AQUACULTURE INSURANCE POLICY.—

"(A) DEFINITION OF AQUACULTURE.—In this subsection:

"(i) IN GENERAL.—The term 'aquaculture' means the propagation and rearing of aquatic species in controlled or selected environments, including shellfish cultivation on grants or leased bottom and ocean ranching.

"(ii) EXCLUSION.—The term 'aquaculture' does not include the private ocean ranching of Pacific salmon for profit in any State in which private ocean ranching

of Pacific salmon is prohibited by any law (including regulations).

"(B) AUTHORITY.—

"(i) IN GENERAL.—As soon as practicable after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Corporation shall offer to enter into 3 or more contracts with qualified entities to carry out research and development regarding a policy to insure the production of aquacultural species in aquaculture operations.

"(ii) BIVALVE SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of bivalve species, including—

"(I) American oysters (crassostrea virginica);

"(II) hard clams (mercenaria mercenaria);

"(III) Pacific oysters (crassostrea gigas);

"(IV) Manila clams (tapes phillipinnarium); or

"(V) blue mussels (mytilus edulis).

"(iii) FRESHWATER SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of freshwater species, including—

"(I) catfish (icataluridae);

"(II) rainbow trout (oncorhynchus mykiss);

"(III) largemouth bass (micropterus salmoides);

"(IV) striped bass (morone saxatilis);

"(V) bream (abramis brama);

"(VI) shrimp (penaeus); or

"(VII) tilapia (oreochromis niloticus).

"(iv) SALTWATER SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of saltwater species, including—

"(I) Atlantic salmon (salmo salar); or

"(II) shrimp (penaeus).

"(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of policies and plans of insurance for the production of aquacultural species in aquaculture operations, including policies and plans of insurance that—

"(i) are based on market prices and yields;

"(ii) to the extent that insufficient data exist to develop a policy based on market prices and yields, evaluate how best to incorporate insuring of production of aquacultural species in aquaculture operations into existing policies covering adjusted gross revenue; and

"(iii) provide protection for production or revenue losses, or both.

"(13) POULTRY INSURANCE POLICY.—

"(A) DEFINITION OF POULTRY.—In this paragraph, the term 'poultry' has the meaning given the term in section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)).

"(B) AUTHORITY.—The Corporation shall offer to enter into 1 or more contracts with qualified entities to carry out research and development regarding a policy to insure commercial poultry production.

"(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of risk management tools for the production of poultry, including policies and plans of insurance that provide protection for production or revenue losses, or both, while the poultry is in production.

"(14) APIARY POLICIES.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research and development regarding insurance policies that cover loss of bees.

"(15) ADJUSTED GROSS REVENUE POLICIES FOR BEGINNING PRODUCERS.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research and development into needed modifications of adjusted gross revenue insurance policies, consistent with principles of actuarial sufficiency, to permit coverage for beginning producers with no previous production history, including permitting those producers to have production and premium rates based on information with similar farming operations.

"(16) SKIPROW CROPPING PRACTICES.—

"(A) IN GENERAL.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research into needed modifications of policies to insure corn and sorghum produced in the Central Great Plains (as determined by the Agricultural Research Service) through use of skiprow cropping practices.

"(B) RESEARCH.—Research described in subparagraph (A) shall—

"(i) review existing research on skiprow cropping practices and actual production history of producers using skiprow cropping practices; and

"(ii) evaluate the effectiveness of risk management tools for producers using skiprow cropping practices, including—

"(I) the appropriateness of rules in existence as of the date of enactment of this paragraph relating to the determination of acreage planted in skiprow patterns; and

"(II) whether policies for crops produced through skiprow cropping practices reflect actual production capabilities.".

**SEC. 12024. FUNDING FROM INSURANCE FUND.**

Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) is amended—

(1) in paragraph (1), by striking "$10,000,000" and all that follows through the end of the paragraph and inserting "$7,500,000 for fiscal year 2008 and each subsequent fiscal year";

(2) in paragraph (2)(A), by striking "$20,000,000 for" and all that follows through "year 2004" and inserting "$12,500,000 for fiscal year 2008"; and

(3) in paragraph (3), by striking "the Corporation may use" and all that follows through the end of the paragraph and inserting "the Corporation may use—

"(A) not more than $5,000,000 for each fiscal year to improve program integrity, including by—

"(i) increasing compliance-related training;

"(ii) improving analysis tools and technology regarding compliance;

"(iii) use of information technology, as determined by the Corporation; and

"(iv) identifying and using innovative compliance strategies; and

"(B) any excess amounts to carry out other activities authorized under this section.".

**SEC. 12025. PILOT PROGRAMS.**

(a) IN GENERAL.—Section 523 of the Federal Crop Insurance Act (7 U.S.C. 1523) is amended by adding at the end the following:

"(f) CAMELINA PILOT PROGRAM.—

"(1) IN GENERAL.—The Corporation shall establish a pilot program under which producers or processors of camelina may propose for approval by the Board policies or plans of insurance for camelina, in accordance with section 508(h).

"(2) DETERMINATION BY BOARD.—The Board shall approve a policy or plan of insurance proposed under paragraph (1) if, as determined by the Board, the policy or plan of insurance—

"(A) protects the interests of producers;

"(B) is actuarially sound; and

"(C) meets the requirements of this title.

"(3) TIMEFRAME.—The Corporation shall commence the camelina insurance pilot program as soon as practicable after the date of enactment of this subsection.

"(g) SESAME INSURANCE PILOT PROGRAM.—

"(1) IN GENERAL.—In addition to any other authority of the Corporation, the Corporation shall establish and carry out a pilot program under which a producer of nondehiscent sesame under contract may elect to obtain multiperil crop insurance, as determined by the Corporation.

"(2) TERMS AND CONDITIONS.—The multiperil crop insurance offered under the sesame insurance pilot program shall—

"(A) be offered through reinsurance arrangements with private insurance companies;

"(B) be actuarially sound; and

"(C) require the payment of premiums and administrative fees by a producer obtaining the insurance.

"(3) LOCATION.—The sesame insurance pilot program shall be carried out only in the State of Texas. Texas.

"(4) DURATION.—The Corporation shall commence the sesame insurance pilot program as soon as practicable after the date of the enactment of this subsection.

"(h) GRASS SEED INSURANCE PILOT PROGRAM.—

"(1) IN GENERAL.—In addition to any other authority of the Corporation, the Corporation shall establish and carry out a grass seed pilot program under which a producer of Kentucky bluegrass or perennial rye grass under contract may elect to obtain multiperil crop insurance, as determined by the Corporation.

"(2) TERMS AND CONDITIONS.—The multiperil crop insurance offered under the grass seed insurance pilot program shall—

"(A) be offered through reinsurance arrangements with private insurance companies;

"(B) be actuarially sound; and

"(C) require the payment of premiums and administrative fees by a producer obtaining the insurance.

Minnesota. North Dakota.

"(3) LOCATION.—The grass seed insurance pilot program shall be carried out only in each of the States of Minnesota and North Dakota.

"(4) DURATION.—The Corporation shall commence the grass seed insurance pilot program as soon as practicable after the date of the enactment of this subsection.".

(b) CONFORMING AMENDMENT.—Section 196(a)(2)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(a)(2)(B)) is amended by adding "camelina," after "sea oats,".

**SEC. 12026. RISK MANAGEMENT EDUCATION FOR BEGINNING FARMERS OR RANCHERS.**

Section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)) is amended—

(1) in paragraph (1), by striking "paragraph (4)" and inserting "paragraph (5)";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

"(4) REQUIREMENTS.—In carrying out the programs established under paragraphs (2) and (3), the Secretary shall place special emphasis on risk management strategies, education, and outreach specifically targeted at—

"(A) beginning farmers or ranchers;

"(B) legal immigrant farmers or ranchers that are attempting to become established producers in the United States;

"(C) socially disadvantaged farmers or ranchers;

"(D) farmers or ranchers that—

"(i) are preparing to retire; and

"(ii) are using transition strategies to help new farmers or ranchers get started; and

"(E) new or established farmers or ranchers that are converting production and marketing systems to pursue new markets.".

**SEC. 12027. COVERAGE FOR AQUACULTURE UNDER NONINSURED CROP ASSISTANCE PROGRAM.**

Section 196(c)(2) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(c)(2)) is amended—

(1) by striking "On making" and inserting the following:

"(A) IN GENERAL.—On making"; and

(2) by adding at the end the following:

"(B) AQUACULTURE PRODUCERS.—On making a determination described in subsection (a)(3) for aquaculture producers, the Secretary shall provide assistance under this section to aquaculture producers from all losses related to drought.".

**SEC. 12028. INCREASE IN SERVICE FEES FOR NONINSURED CROP ASSISTANCE PROGRAM.**

Section 196(k)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(k)(1)) is amended—

(1) in subparagraph (A), by striking "$100" and inserting "$250"; and

(2) in subparagraph (B)—

(A) by striking "$300" and inserting "$750"; and
(B) by striking "$900" and inserting "$1,875".

**SEC. 12029. DETERMINATION OF CERTAIN SWEET POTATO PRODUCTION.**

Section 9001(d) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 211) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and
(2) by inserting after paragraph (7) the following:
"(8) SWEET POTATOES.—
"(A) DATA.—In the case of sweet potatoes, any data obtained under a pilot program carried out by the Risk Management Agency shall not be considered for the purpose of determining the quantity of production under the crop disaster assistance program established under this section.
"(B) EXTENSION OF DEADLINE.—If this paragraph is not implemented before the sign-up deadline for the crop disaster assistance program established under this section, the Secretary shall extend the deadline for producers of sweet potatoes to permit sign-up for the program in accordance with this paragraph.".

**SEC. 12030. DECLINING YIELD REPORT.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing details about activities and administrative options of the Federal Crop Insurance Corporation and Risk Management Agency that address issues relating to—

(1) declining yields on the actual production histories of producers; and
(2) declining and variable yields for perennial crops, including pecans.

**SEC. 12031. DEFINITION OF BASIC UNIT.**

The Secretary shall not modify the definition of "basic unit" in accordance with the proposed regulations entitled "Common Crop Insurance Regulations" (72 Fed. Reg. 28895; relating to common crop insurance regulations) or any successor regulation.

**SEC. 12032. CROP INSURANCE MEDIATION.**

Section 275 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6995) is amended—

(1) by striking "If an officer" and inserting the following:
"(a) IN GENERAL.—If an officer";
(2) by striking "With respect to" and inserting the following:
"(b) FARM SERVICE AGENCY.—With respect to";
(3) by striking "If a mediation"; and inserting the following:
"(c) MEDIATION.—If a mediation"; and
(4) in subsection (c) (as so designated)—
(A) by striking "participant shall be offered" and inserting "participant shall—
"(1) be offered"; and
(B) by striking the period at the end and inserting the following: "; and

"(2) to the maximum extent practicable, be allowed to use both informal agency review and mediation to resolve disputes under that title.".

**SEC. 12033. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

(a) IN GENERAL.—The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended by adding at the end the following:

# "Subtitle B—Supplemental Agricultural Disaster Assistance

7 USC 1531.

**"SEC. 531. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

"(a) DEFINITIONS.—In this section:

"(1) ACTUAL PRODUCTION HISTORY YIELD.—The term 'actual production history yield' means the weighted average of the actual production history for each insurable commodity or noninsurable commodity, as calculated under subtitle A or the noninsured crop disaster assistance program, respectively.

"(2) ADJUSTED ACTUAL PRODUCTION HISTORY YIELD.—The term 'adjusted actual production history yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of actual production history yields for an insurable commodity that are established other than pursuant to section 508(g)(4)(B), the actual production history for the eligible producer without regard to any yields established under that section;

"(B) in the case of an eligible producer on a farm that has less than 4 years of actual production history yields for an insurable commodity, of which 1 or more were established pursuant to section 508(g)(4)(B), the actual production history for the eligible producer as calculated without including the lowest of the yields established pursuant to section 508(g)(4)(B); and

"(C) in all other cases, the actual production history of the eligible producer on a farm.

"(3) ADJUSTED NONINSURED CROP DISASTER ASSISTANCE PROGRAM YIELD.—The term 'adjusted noninsured crop disaster assistance program yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield without regard to any replacement yields;

"(B) in the case of an eligible producer on a farm that less than 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield as calculated without including the lowest of the replacement yields; and

"(C) in all other cases, the production history of the eligible producer on the farm under the noninsured crop disaster assistance program.

"(4) COUNTER-CYCLICAL PROGRAM PAYMENT YIELD.—The term 'counter-cyclical program payment yield' means the weighted average payment yield established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7

U.S.C. 7912), section 1102 of the Food, Conservation, and Energy Act of 2008, or a successor section.

"(5) DISASTER COUNTY.—

"(A) IN GENERAL.—The term 'disaster county' means a county included in the geographic area covered by a qualifying natural disaster declaration.

"(B) INCLUSION.—The term 'disaster county' includes—

"(i) a county contiguous to a county described in subparagraph (A); and

"(ii) any farm in which, during a calendar year, the total loss of production of the farm relating to weather is greater than 50 percent of the normal production of the farm, as determined by the Secretary.

"(6) ELIGIBLE PRODUCER ON A FARM.—

"(A) IN GENERAL.—The term 'eligible producer on a farm' means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

"(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—

"(i) a citizen of the United States;

"(ii) a resident alien;

"(iii) a partnership of citizens of the United States; or

"(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

"(7) FARM.—

"(A) IN GENERAL.—The term 'farm' means, in relation to an eligible producer on a farm, the sum of all crop acreage in all counties that is planted or intended to be planted for harvest by the eligible producer.

"(B) AQUACULTURE.—In the case of aquaculture, the term 'farm' means, in relation to an eligible producer on a farm, all fish being produced in all counties that are intended to be harvested for sale by the eligible producer.

"(C) HONEY.—In the case of honey, the term 'farm' means, in relation to an eligible producer on a farm, all bees and beehives in all counties that are intended to be harvested for a honey crop by the eligible producer.

"(8) FARM-RAISED FISH.—The term 'farm-raised fish' means any aquatic species that is propagated and reared in a controlled environment.

"(9) INSURABLE COMMODITY.—The term 'insurable commodity' means an agricultural commodity (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under subtitle A.

"(10) LIVESTOCK.—The term 'livestock' includes—

"(A) cattle (including dairy cattle);

"(B) bison;

"(C) poultry;

"(D) sheep;

"(E) swine;

"(F) horses; and

"(G) other livestock, as determined by the Secretary.

"(11) NONINSURABLE COMMODITY.—The term 'noninsurable commodity' means a crop for which the eligible producers on a farm are eligible to obtain assistance under the noninsured crop assistance program.

"(12) NONINSURED CROP ASSISTANCE PROGRAM.—The term 'noninsured crop assistance program' means the program carried out under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(13) QUALIFYING NATURAL DISASTER DECLARATION.—The term 'qualifying natural disaster declaration' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(15) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

"(16) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(17) TRUST FUND.—The term 'Trust Fund' means the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974.

"(18) UNITED STATES.—The term 'United States' when used in a geographical sense, means all of the States.

"(b) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall use such sums as are necessary from the Trust Fund to make crop disaster assistance payments to eligible producers on farms in disaster counties that have incurred crop production losses or crop quality losses, or both, during the crop year.

"(2) AMOUNT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide crop disaster assistance payments under this section to an eligible producer on a farm in an amount equal to 60 percent of the difference between—

"(i) the disaster assistance program guarantee, as described in paragraph (3); and

"(ii) the total farm revenue for a farm, as described in paragraph (4).

"(B) LIMITATION.—The disaster assistance program guarantee for a crop used to calculate the payments for a farm under subparagraph (A)(i) may not be greater than 90 percent of the sum of the expected revenue, as described in paragraph (5) for each of the crops on a farm, as determined by the Secretary.

"(3) SUPPLEMENTAL REVENUE ASSISTANCE PROGRAM GUARANTEE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the supplemental assistance program guarantee shall be the sum obtained by adding—

"(i) for each insurable commodity on the farm, 115 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to the price election for the commodity elected by the eligible producer;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity;

"(III) the payment yield for the commodity that is equal to the percentage of the crop insurance yield elected by the producer of the higher of—

"(aa) the adjusted actual production history yield; or

"(bb) the counter-cyclical program payment yield for each crop; and

"(ii) for each noninsurable commodity on a farm, 120 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to 100 percent of the noninsured crop assistance program established price for the commodity;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity; and

"(III) the payment yield for the commodity that is equal to the higher of—

"(aa) the adjusted noninsured crop assistance program yield guarantee; or

"(bb) the counter-cyclical program payment yield for each crop.

"(B) ADJUSTMENT INSURANCE GUARANTEE.—Notwithstanding subparagraph (A), in the case of an insurable commodity for which a plan of insurance provides for an adjustment in the guarantee, such as in the case of prevented planting, the adjusted insurance guarantee shall be the basis for determining the disaster assistance program guarantee for the insurable commodity.

"(C) ADJUSTED ASSISTANCE LEVEL.—Notwithstanding subparagraph (A), in the case of a noninsurable commodity for which the noninsured crop assistance program provides for an adjustment in the level of assistance, such as in the case of unharvested crops, the adjusted assistance level shall be the basis for determining the disaster assistance program guarantee for the noninsurable commodity.

"(D) EQUITABLE TREATMENT FOR NON-YIELD BASED POLICIES.—The Secretary shall establish equitable treatment for non-yield based policies and plans of insurance, such as the Adjusted Gross Revenue Lite insurance program.

"(4) FARM REVENUE.—

"(A) IN GENERAL.—For purposes of this subsection, the total farm revenue for a farm, shall equal the sum obtained by adding—

"(i) the estimated actual value for each crop produced on a farm by using the product obtained by multiplying—

"(I) the actual crop acreage harvested by an eligible producer on a farm;

"(II) the estimated actual yield of the crop production; and

"(III) subject to subparagraphs (B) and (C), to the extent practicable, the national average market price received for the marketing year, as determined by the Secretary;

"(ii) 15 percent of amount of any direct payments made to the producer under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 or successor sections;

"(iii) the total amount of any counter-cyclical payments made to the producer under sections 1104 and 1304 of the Food, Conservation, and Energy Act of 2008 or successor sections or of any average crop revenue election payments made to the producer under section 1105 of that Act;

"(iv) the total amount of any loan deficiency payments, marketing loan gains, and marketing certificate gains made to the producer under subtitles B and C of the Food, Conservation, and Energy Act of 2008 or successor subtitles;

"(v) the amount of payments for prevented planting on a farm;

"(vi) the amount of crop insurance indemnities received by an eligible producer on a farm for each crop on a farm;

"(vii) the amount of payments an eligible producer on a farm received under the noninsured crop assistance program for each crop on a farm; and

"(viii) the value of any other natural disaster assistance payments provided by the Federal Government to an eligible producer on a farm for each crop on a farm for the same loss for which the eligible producer is seeking assistance.

"(B) ADJUSTMENT.—The Secretary shall adjust the average market price received by the eligible producer on a farm—

"(i) to reflect the average quality discounts applied to the local or regional market price of a crop or mechanically harvested forage due to a reduction in the intrinsic characteristics of the production resulting from adverse weather, as determined annually by the State office of the Farm Service Agency; and

"(ii) to account for a crop the value of which is reduced due to excess moisture resulting from a disaster-related condition.

"(C) MAXIMUM AMOUNT FOR CERTAIN CROPS.—With respect to a crop for which an eligible producer on a farm receives assistance under the noninsured crop assistance program, the national average market price received during the marketing year shall be an amount not more than 100 percent of the price of the crop established under the noninsured crop assistance program.

"(5) EXPECTED REVENUE.—The expected revenue for each crop on a farm shall equal the sum obtained by adding—

"(A) the product obtained by multiplying—

"(i) the greatest of—

"(I) the adjusted actual production history yield of the eligible producer on a farm; and

"(II) the counter-cyclical program payment yield;

"(ii) the acreage planted or prevented from being planted for each crop; and

"(iii) 100 percent of the insurance price guarantee; and

"(B) the product obtained by multiplying—

"(i) 100 percent of the adjusted noninsured crop assistance program yield; and

"(ii) 100 percent of the noninsured crop assistance program price for each of the crops on a farm.

"(c) LIVESTOCK INDEMNITY PAYMENTS.—

"(1) PAYMENTS.—The Secretary shall use such sums as are necessary from the Trust Fund to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality due to adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

"(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

"(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED LIVESTOCK.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'covered livestock' means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

"(I) owned;

"(II) leased;

"(III) purchased;

"(IV) entered into a contract to purchase;

"(V) is a contract grower; or

"(VI) sold or otherwise disposed of due to qualifying drought conditions during—

"(aa) the current production year; or

"(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

"(ii) EXCLUSION.—The term 'covered livestock' does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

"(B) DROUGHT MONITOR.—The term 'drought monitor' means a system for classifying drought severity according

to a range of abnormally dry to exceptional drought, as defined by the Secretary.

"(C) ELIGIBLE LIVESTOCK PRODUCER.—

"(i) IN GENERAL.—The term 'eligible livestock producer' means an eligible producer on a farm that—

"(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

"(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

"(III) certifies grazing loss; and

"(IV) meets all other eligibility requirements established under this subsection.

"(ii) EXCLUSION.—The term 'eligible livestock producer' does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.

"(D) NORMAL CARRYING CAPACITY.—The term 'normal carrying capacity', with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

"(E) NORMAL GRAZING PERIOD.—The term 'normal grazing period', with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

"(2) PROGRAM.—The Secretary shall use such sums as are necessary from the Trust Fund to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

"(A) a drought condition, as described in paragraph (3); or

"(B) fire, as described in paragraph (4).

"(3) ASSISTANCE FOR LOSSES DUE TO DROUGHT CONDITIONS.—

"(A) ELIGIBLE LOSSES.—

"(i) IN GENERAL.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

"(I) is native or improved pastureland with permanent vegetative cover; or

"(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

"(ii) EXCLUSIONS.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle

D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

"(B) MONTHLY PAYMENT RATE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

"(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

"(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

"(ii) PARTIAL COMPENSATION.—In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

"(C) MONTHLY FEED COST.—

"(i) IN GENERAL.—The monthly feed cost shall equal the product obtained by multiplying—

"(I) 30 days;

"(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

"(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

"(ii) FEED GRAIN EQUIVALENT.—For purposes of clause (i)(I), the feed grain equivalent shall equal—

"(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

"(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

"(iii) CORN PRICE PER POUND.—For purposes of clause (i)(II), the corn price per pound shall equal the quotient obtained by dividing—

"(I) the higher of—

"(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

"(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

"(II) 56.

"(D) NORMAL GRAZING PERIOD AND DROUGHT MONITOR INTENSITY.—

"(i) FSA COUNTY COMMITTEE DETERMINATIONS.—

"(I) IN GENERAL.—The Secretary shall determine the normal carrying capacity and normal

grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

"(II) CHANGES.—No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

"(ii) DROUGHT INTENSITY.—

"(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

"(II) D3.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

"(aa) in an amount equal to 2 monthly payments using the monthly payment rate determined under subparagraph (B); or

"(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B).

"(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON PUBLIC MANAGED LAND.—

"(A) IN GENERAL.—An eligible livestock producer may receive assistance under this paragraph only if—

"(i) the grazing losses occur on rangeland that is managed by a Federal agency; and

"(ii) the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

"(B) PAYMENT RATE.—The payment rate for assistance under this paragraph shall be equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease of the eligible livestock producer, as determined under paragraph (3)(C).

"(C) PAYMENT DURATION.—

"(i) IN GENERAL.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

"(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

"(II) ending on the last day of the Federal lease of the eligible livestock producer.

"(ii) LIMITATION.—An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

"(5) MINIMUM RISK MANAGEMENT PURCHASE REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a livestock producer shall only be eligible for assistance under this subsection if the livestock producer—

"(i) obtained a policy or plan of insurance under subtitle A for the grazing land incurring the losses for which assistance is being requested; or

"(ii) filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the grazing land incurring the losses for which assistance is being requested.

"(B) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—In the case of an eligible livestock producer that is a socially disadvantaged farmer or rancher or limited resource or beginning farmer or rancher, as determined by the Secretary, the Secretary may—

"(i) waive subparagraph (A); and

"(ii) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(C) WAIVER FOR 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year but does not meet the requirements of subparagraph (A), the Secretary shall waive subparagraph (A) if the eligible livestock producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under subparagraph (A) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(D) EQUITABLE RELIEF.—

"(i) IN GENERAL.—The Secretary may provide equitable relief to an eligible livestock producer that is otherwise ineligible or unintentionally fails to meet the requirements of subparagraph (A) for the grazing land incurring the loss on a case-by-case basis, as determined by the Secretary.

"(ii) 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on

grazing land during the 2008 calendar year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible livestock producer failed to meet the requirements of subparagraph (A) due to the enactment of this subtitle after the closing date of sales periods for crop insurance under subtitle A and the noninsured crop assistance program.

"(6) NO DUPLICATIVE PAYMENTS.—

"(A) IN GENERAL.—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

"(B) RELATIONSHIP TO SUPPLEMENTAL REVENUE ASSISTANCE.—An eligible livestock producer that receives assistance under this subsection may not also receive assistance for losses to crops on the same land with the same intended use under subsection (b).

"(e) EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY BEES, AND FARM-RAISED FISH.—

"(1) IN GENERAL.—The Secretary shall use up to $50,000,000 per year from the Trust Fund to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b), (c), or (d).

"(2) USE OF FUNDS.—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

"(3) AVAILABILITY OF FUNDS.—Any funds made available under this subsection shall remain available until expended.

"(f) TREE ASSISTANCE PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ORCHARDIST.—The term 'eligible orchardist' means a person that produces annual crops from trees for commercial purposes.

"(B) NATURAL DISASTER.—The term 'natural disaster' means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

"(C) NURSERY TREE GROWER.—The term 'nursery tree grower' means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

"(D) TREE.—The term 'tree' includes a tree, bush, and vine.

"(2) ELIGIBILITY.—

"(A) LOSS.—Subject to subparagraph (B), the Secretary shall provide assistance—

"(i) under paragraph (3) to eligible orchardists and nursery tree growers that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary; and

"(ii) under paragraph (3)(B) to eligible orchardists and nursery tree growers that have a production history for commercial purposes on planted or existing trees but lost the trees as a result of a natural disaster, as determined by the Secretary.

"(B) LIMITATION.—An eligible orchardist or nursery tree grower shall qualify for assistance under subparagraph (A) only if the tree mortality of the eligible orchardist or nursery tree grower, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

"(3) ASSISTANCE.—Subject to paragraph (4), the assistance provided by the Secretary to eligible orchardists and nursery tree growers for losses described in paragraph (2) shall consist of—

"(A)(i) reimbursement of 70 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

"(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

"(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

"(4) LIMITATIONS ON ASSISTANCE.—

"(A) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this paragraph, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(B) AMOUNT.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed $100,000 for any crop year, or an equivalent value in tree seedlings.

"(C) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

"(g) RISK MANAGEMENT PURCHASE REQUIREMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the eligible producers on a farm shall not be eligible for assistance under this section (other than subsection (c)) if the eligible producers on the farm—

"(A) in the case of each insurable commodity of the eligible producers on the farm, did not obtain a policy or plan of insurance under subtitle A (excluding a crop insurance pilot program under that subtitle); or

"(B) in the case of each noninsurable commodity of the eligible producers on the farm, did not file the required paperwork, and pay the administrative fee by the

applicable State filing deadline, for the noninsured crop assistance program.

"(2) MINIMUM.—To be considered to have obtained insurance under paragraph (1)(A), an eligible producer on a farm shall have obtained a policy or plan of insurance with not less than 50 percent yield coverage at 55 percent of the insurable price for each crop grazed, planted, or intended to be planted for harvest on a whole farm.

"(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—With respect to eligible producers that are socially disadvantaged farmers or ranchers or limited resource or beginning farmers or ranchers, as determined by the Secretary, the Secretary may—

"(A) waive paragraph (1); and

"(B) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(4) WAIVER FOR 2008 CROP YEAR.—In the case of an eligible producer that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year but does not meet the requirements of paragraph (1), the Secretary shall waive paragraph (1) if the eligible producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(5) EQUITABLE RELIEF.—

"(A) IN GENERAL.—The Secretary may provide equitable relief to eligible producers on a farm that are otherwise ineligible or unintentionally fail to meet the requirements of paragraph (1) for 1 or more crops on a farm on a case-by-case basis, as determined by the Secretary.

"(B) 2008 CROP YEAR.—In the case of eligible producers on a farm that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible producers failed to meet the requirements of paragraph (1) due to the enactment of this subtitle after the closing date of sales periods for crop insurance under subtitle A and the noninsured crop assistance program.

"(h) PAYMENT LIMITATIONS.—

"(1) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this subsection, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (f)) may not exceed $100,000 for any crop year.

Applicability.

"(3) AGI LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) or any successor provision shall apply with respect to assistance provided under this section.

"(4) DIRECT ATTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct attribution shall apply with respect to assistance provided under this section. Applicability.

"(i) PERIOD OF EFFECTIVENESS.—This section shall be effective only for losses that are incurred as the result of a disaster, adverse weather, or other environmental condition that occurs on or before September 30, 2011, as determined by the Secretary.

"(j) NO DUPLICATIVE PAYMENTS.—In implementing any other program which makes disaster assistance payments (except for indemnities made under subtitle A and section 196 of the Federal Agriculture Improvement and Reform Act of 1996), the Secretary shall prevent duplicative payments with respect to the same loss for which a person receives a payment under subsections (b), (c), (d), (e), or (f).

"(k) APPLICATION.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any provision of subtitle A, subtitle A shall not apply to this subtitle.

"(2) CROSS REFERENCES.—Paragraph (1) shall not apply to a specific reference in this subtitle to a provision of subtitle A.".

(b) TRANSITION.—For purposes of the 2008 crop year, the Secretary shall carry out subsections (f)(4) and (h) of section 531 of the Federal Crop Insurance Act (as added by subsection (a)) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (16 U.S.C. 1308 et seq.), as in effect on September 30, 2007.

(c) CONFORMING AMENDMENTS.—

(1) Section 501 of the Federal Crop Insurance Act (7 U.S.C. 1501) is amended by striking the section heading and enumerator and inserting the following:

## "Subtitle A—Federal Crop Insurance Act

**"SEC. 501. SHORT TITLE AND APPLICATION OF OTHER PROVISIONS.".**

(2) Subtitle A of the Federal Crop Insurance Act (as designated under paragraph (1)) is amended—

(A) by striking "This title" each place it appears and inserting "This subtitle"; and 7 USC 1501, 1515.

(B) by striking "this title" each place it appears and inserting "this subtitle". 7 USC 1501–1503, 1505–1510, 1514, 1515, 1517, 1518, 1520–1523.

**SEC. 12034. FISHERIES DISASTER ASSISTANCE.** State listing.

Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall transfer to the Secretary of Commerce $170,000,000 for fiscal year 2008 for the National Marine Fisheries Service to distribute to commercial and recreational members of the fishing communities affected by the salmon fishery failure in the States of California, Oregon, and Washington designated under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) on May 1, 2008, in accordance with that section.

Small Business Disaster Response and Loan Improvements Act of 2008.
15 USC 631 note.

# Subtitle B—Small Business Disaster Loan Program

**SEC. 12051. SHORT TITLE.**

This subtitle may be cited as the "Small Business Disaster Response and Loan Improvements Act of 2008".

15 USC 636e.

**SEC. 12052. DEFINITIONS.**

In this subtitle—

(1) the terms "Administration" and "Administrator" mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term "disaster area" means an area affected by a natural or other disaster, as determined for purposes of paragraph (1) or (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), during the period of such declaration;

(3) the term "disaster loan program of the Administration" means assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;

(4) the term "disaster update period" means the period beginning on the date on which the President declares a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act) and ending on the date on which such declaration terminates;

(5) the term "major disaster" has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122);

(6) the term "small business concern" has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632); and

(7) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

## PART I—DISASTER PLANNING AND RESPONSE

**SEC. 12061. ECONOMIC INJURY DISASTER LOANS TO NONPROFITS.**

(a) IN GENERAL.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by inserting after "small business concern" the following: ", private nonprofit organization,"; and

(B) by inserting after "the concern" the following: ", the organization,"; and

(2) in subparagraph (D) by inserting after "small business concerns" the following: ", private nonprofit organizations,".

(b) CONFORMING AMENDMENT.—Section 7(c)(5)(C) of the Small Business Act (15 U.S.C. 636(c)(5)(C)) is amended by inserting after "business" the following: ", private nonprofit organization,".

**SEC. 12062. COORDINATION OF DISASTER ASSISTANCE PROGRAMS WITH FEMA.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended—
(1) by redesignating section 37 as section 44; and
(2) by inserting after section 36 the following:

15 USC 631 note.

**"SEC. 37. COORDINATION OF DISASTER ASSISTANCE PROGRAMS WITH FEMA.**

15 USC 657i.

"(a) COORDINATION REQUIRED.—The Administrator shall ensure that the disaster assistance programs of the Administration are coordinated, to the maximum extent practicable, with the disaster assistance programs of the Federal Emergency Management Agency.

"(b) REGULATIONS REQUIRED.—The Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall establish regulations to ensure that each application for disaster assistance is submitted as quickly as practicable to the Administration or directed to the appropriate agency under the circumstances.

"(c) COMPLETION; REVISION.—The initial regulations shall be completed not later than 270 days after the date of the enactment of the Small Business Disaster Response and Loan Improvements Act of 2008. Thereafter, the regulations shall be revised on an annual basis.

Deadline.

"(d) REPORT.—The Administrator shall include a report on the regulations whenever the Administration submits the report required by section 43.".

**SEC. 12063. PUBLIC AWARENESS OF DISASTER DECLARATION AND APPLICATION PERIODS.**

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (3), the following:

"(4) COORDINATION WITH FEMA.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, for any disaster declared under this subsection or major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall ensure, to the maximum extent practicable, that all application periods for disaster relief under this Act correspond with application deadlines established under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or as extended by the President.

"(B) DEADLINES.—Notwithstanding any other provision of law, not later than 10 days before the closing date of an application period for a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes—

Reports.

"(i) the deadline for submitting applications for assistance under this Act relating to that major disaster;

"(ii) information regarding the number of loan applications and disbursements processed by the Administrator relating to that major disaster for each day during the period beginning on the date on which that major disaster was declared and ending on the date of that report; and

"(iii) an estimate of the number of potential applicants that have not submitted an application relating to that major disaster.

"(5) PUBLIC AWARENESS OF DISASTERS.—If a disaster is declared under this subsection or the Administrator declares eligibility for additional disaster assistance under paragraph (9), the Administrator shall make every effort to communicate through radio, television, print, and web-based outlets, all relevant information needed by disaster loan applicants, including—

"(A) the date of such declaration;

"(B) cities and towns within the area of such declaration;

"(C) loan application deadlines related to such disaster;

"(D) all relevant contact information for victim services available through the Administration (including links to small business development center websites);

"(E) links to relevant Federal and State disaster assistance websites, including links to websites providing information regarding assistance available from the Federal Emergency Management Agency;

"(F) information on eligibility criteria for Administration loan programs, including where such applications can be found; and

"(G) application materials that clearly state the function of the Administration as the Federal source of disaster loans for homeowners and renters.".

Deadline.
Plan.
15 USC 636 note.

(b) MARKETING AND OUTREACH.—Not later than 90 days after the date of enactment of this Act, the Administrator shall create a marketing and outreach plan that—

(1) encourages a proactive approach to the disaster relief efforts of the Administration;

(2) makes clear the services provided by the Administration, including contact information, application information, and timelines for submitting applications, the review of applications, and the disbursement of funds;

(3) describes the different disaster loan programs of the Administration, including how they are made available and the eligibility requirements for each loan program;

(4) provides for regional marketing, focusing on disasters occurring in each region before the date of enactment of this Act, and likely scenarios for disasters in each such region; and

(5) ensures that the marketing plan is made available at small business development centers and on the website of the Administration.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(s) MAJOR DISASTER.—In this Act, the term 'major disaster' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).".

(2) TECHNICAL CORRECTION.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)".

**SEC. 12064. CONSISTENCY BETWEEN ADMINISTRATION REGULATIONS AND STANDARD OPERATING PROCEDURES.**

(a) IN GENERAL.—The Administrator shall, promptly following the date of enactment of this Act, conduct a study of whether the standard operating procedures of the Administration for loans offered under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) are consistent with the regulations of the Administration for administering the disaster loan program.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report containing all findings and recommendations of the study conducted under subsection (a).

**SEC. 12065. INCREASING COLLATERAL REQUIREMENTS.**

Section 7(c)(6) of the Small Business Act (15 U.S.C. 636(c)(6)) is amended by striking "$10,000 or less" and inserting "$14,000 or less (or such higher amount as the Administrator determines appropriate in the event of a major disaster)".

**SEC. 12066. PROCESSING DISASTER LOANS.**

(a) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS TO PROCESS DISASTER LOANS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (5), as added by this Act, the following:

"(6) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS.—

"(A) DISASTER LOAN PROCESSING.—The Administrator may enter into an agreement with a qualified private contractor, as determined by the Administrator, to process loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the contractor a fee for each loan processed.

"(B) LOAN LOSS VERIFICATION SERVICES.—The Administrator may enter into an agreement with a qualified lender or loss verification professional, as determined by the Administrator, to verify losses for loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the lender or verification professional a fee for each loan for which such lender or verification professional verifies losses.".

15 USC 636f.

(b) COORDINATION OF EFFORTS BETWEEN THE ADMINISTRATOR AND THE INTERNAL REVENUE SERVICE TO EXPEDITE LOAN PROCESSING.—The Administrator and the Commissioner of Internal Revenue shall, to the maximum extent practicable, ensure that all relevant and allowable tax records for loan approval are shared with loan processors in an expedited manner, upon request by the Administrator.

**SEC. 12067. INFORMATION TRACKING AND FOLLOW-UP SYSTEM.**

The Small Business Act is amended by inserting after section 37, as added by this Act, the following:

15 USC 657j.

**"SEC. 38. INFORMATION TRACKING AND FOLLOW-UP SYSTEM FOR DISASTER ASSISTANCE.**

"(a) SYSTEM REQUIRED.—The Administrator shall develop, implement, or maintain a centralized information system to track communications between personnel of the Administration and applicants for disaster assistance. The system shall ensure that whenever an applicant for disaster assistance communicates with such personnel on a matter relating to the application, the following information is recorded:

"(1) The method of communication.

"(2) The date of communication.

"(3) The identity of the personnel.

"(4) A summary of the subject matter of the communication.

"(b) FOLLOW-UP REQUIRED.—The Administrator shall ensure that an applicant for disaster assistance receives, by telephone, mail, or electronic mail, follow-up communications from the Administration at all critical stages of the application process, including the following:

"(1) When the Administration determines that additional information or documentation is required to process the application.

"(2) When the Administration determines whether to approve or deny the loan.

"(3) When the primary contact person managing the loan application has changed.".

**SEC. 12068. INCREASED DEFERMENT PERIOD.**

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (e), as so redesignated, the following:

"(f) ADDITIONAL REQUIREMENTS FOR 7(b) LOANS.—

"(1) INCREASED DEFERMENT AUTHORIZED.—

"(A) IN GENERAL.—In making loans under subsection (b), the Administrator may provide, to the person receiving the loan, an option to defer repayment on the loan.

"(B) PERIOD.—The period of a deferment under subparagraph (A) may not exceed 4 years.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

15 USC 633.

(1) in section 4(c)—

(A) in paragraph (1), by striking "7(c)(2)" and inserting "7(d)(2)"; and

(B) in paragraph (2)—

(i) by striking "7(c)(2)" and inserting "7(d)(2)"; and
(ii) by striking "7(e),"; and

(2) in section 7(b), in the undesignated matter following paragraph (3)— 15 USC 636.

(A) by striking "That the provisions of paragraph (1) of subsection (c)" and inserting "That the provisions of paragraph (1) of subsection (d)"; and

(B) by striking "Notwithstanding the provisions of any other law the interest rate on the Administration's share of any loan made under subsection (b) except as provided in subsection (c)," and inserting "Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration's share of any loan made under subsection (b)".

**SEC. 12069. DISASTER PROCESSING REDUNDANCY.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 38, as added by this Act, the following:

**"SEC. 39. DISASTER PROCESSING REDUNDANCY.** 15 USC 657k.

"(a) IN GENERAL.—The Administrator shall ensure that the Administration has in place a facility for disaster loan processing that, whenever the Administration's primary facility for disaster loan processing becomes unavailable, is able to take over all disaster loan processing from that primary facility within 2 days.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

**SEC. 12070. NET EARNINGS CLAUSES PROHIBITED.**

Section 7 of the Small Business Act (15 U.S.C. 636) is amended by inserting after subsection (f), as added by this Act, the following:

"(g) NET EARNINGS CLAUSES PROHIBITED FOR 7(b) LOANS.—In making loans under subsection (b), the Administrator shall not require the borrower to pay any non-amortized amount for the first five years after repayment begins.".

**SEC. 12071. ECONOMIC INJURY DISASTER LOANS IN CASES OF ICE STORMS AND BLIZZARDS.**

Section 3(k)(2) of the Small Business Act (15 U.S.C. 632(k)(2)) is amended—

(1) in subparagraph (A) by striking "and";

(2) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(C) ice storms and blizzards.".

**SEC. 12072. DEVELOPMENT AND IMPLEMENTATION OF MAJOR DISASTER RESPONSE PLAN.** 15 USC 636g.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Administrator shall— Deadline.

(1) by rule, amend the 2006 Atlantic hurricane season disaster response plan of the Administration (in this section referred to as the "disaster response plan") to apply to major disasters; and Regulations.

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Reports.

Small Business of the House of Representatives detailing the amendments to the disaster response plan.

(b) CONTENTS.—The report required under subsection (a)(2) shall include—

(1) any updates or modifications made to the disaster response plan since the report regarding the disaster response plan submitted to Congress on July 14, 2006;

(2) a description of how the Administrator plans to use and integrate District Office personnel of the Administration in the response to a major disaster, including information on the use of personnel for loan processing and loan disbursement;

(3) a description of the disaster scalability model of the Administration and on what basis or function the plan is scaled;

(4) a description of how the agency-wide Disaster Oversight Council is structured, which offices comprise its membership, and whether the Associate Deputy Administrator for Entrepreneurial Development of the Administration is a member;

(5) a description of how the Administrator plans to coordinate the disaster efforts of the Administration with State and local government officials, including recommendations on how to better incorporate State initiatives or programs, such as State-administered bridge loan programs, into the disaster response of the Administration;

(6) recommendations, if any, on how the Administration can better coordinate its disaster response operations with the operations of other Federal, State, and local entities;

(7) any surge plan for the disaster loan program of the Administration in effect on or after August 29, 2005 (including surge plans for loss verification, loan processing, mailroom, customer service or call center operations, and a continuity of operations plan);

(8) the number of full-time equivalent employees and job descriptions for the planning and disaster response staff of the Administration;

(9) the in-service and preservice training procedures for disaster response staff of the Administration;

(10) information on the logistical support plans of the Administration (including equipment and staffing needs, and detailed information on how such plans will be scalable depending on the size and scope of the major disaster;

(11) a description of the findings and recommendations of the Administrator, if any, based on a review of the response of the Administration to Hurricane Katrina of 2005, Hurricane Rita of 2005, and Hurricane Wilma of 2005; and

(12) a plan for how the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, will coordinate the provision of accommodations and necessary resources for disaster assistance personnel to effectively perform their responsibilities in the aftermath of a major disaster.

(c) BIENNIAL DISASTER SIMULATION EXERCISE.—

(1) EXERCISE REQUIRED.—The Administrator shall conduct a disaster simulation exercise at least once every 2 fiscal years. The exercise shall include the participation of, at a minimum, not less than 50 percent of the individuals in the disaster reserve corps and shall test, at maximum capacity, all of the information technology and telecommunications systems of the

Administration that are vital to the activities of the Administration during such a disaster.

(2) REPORT.—The Administrator shall include a report on the disaster simulation exercises conducted under paragraph (1) each time the Administration submits a report required under section 43 of the Small Business Act, as added by this Act.

**SEC. 12073. DISASTER PLANNING RESPONSIBILITIES.** 15 USC 1636h.

(a) ASSIGNMENT OF SMALL BUSINESS ADMINISTRATION DISASTER PLANNING RESPONSIBILITIES.—The disaster planning function of the Administration shall be assigned to an individual appointed by the Administrator who—

(1) is not an employee of the Office of Disaster Assistance of the Administration;

(2) has proven management ability;

(3) has substantial knowledge in the field of disaster readiness and emergency response; and

(4) has demonstrated significant experience in the area of disaster planning.

(b) RESPONSIBILITIES.—The individual assigned the disaster planning function of the Administration shall report directly and solely to the Administrator and shall be responsible for—

(1) creating, maintaining, and implementing the comprehensive disaster response plan of the Administration described in section 12072;

(2) ensuring there are in-service and pre-service training procedures for the disaster response staff of the Administration;

(3) coordinating and directing the training exercises of the Administration relating to disasters, including disaster simulation exercises and disaster exercises coordinated with other government departments and agencies; and

(4) other responsibilities relevant to disaster planning and readiness, as determined by the Administrator.

(c) COORDINATION.—In carrying out the responsibilities described in subsection (b), the individual assigned the disaster planning function of the Administration shall coordinate with—

(1) the Office of Disaster Assistance of the Administration;

(2) the Administrator of the Federal Emergency Management Agency; and

(3) other Federal, State, and local disaster planning offices, as necessary.

(d) RESOURCES.—The Administrator shall ensure that the individual assigned the disaster planning function of the Administration has adequate resources to carry out the duties under this section.

(e) REPORT.—Not later than 30 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing—

(1) a description of the actions of the Administrator to assign an individual the disaster planning function of the Administration;

(2) information detailing the background and expertise of the individual assigned; and

(3) information on the status of the implementation of the responsibilities described in subsection (b).

**SEC. 12074. ASSIGNMENT OF EMPLOYEES OF THE OFFICE OF DISASTER ASSISTANCE AND DISASTER CADRE.**

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (6), as added by this Act, the following:

"(7) DISASTER ASSISTANCE EMPLOYEES.—

"(A) IN GENERAL.—In carrying out this section, the Administrator may, where practicable, ensure that the number of full-time equivalent employees—

"(i) in the Office of the Disaster Assistance is not fewer than 800; and

"(ii) in the Disaster Cadre of the Administration is not fewer than 1,000.

"(B) REPORT.—In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is below the level described in subparagraph (A) for that office, not later than 21 days after the date on which that staffing level decreased below the level described in subparagraph (A), the Administrator shall submit to the Committee on Appropriations and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Appropriations and Committee on Small Business of the House of Representatives, a report—

"(i) detailing staffing levels on that date;

"(ii) requesting, if practicable and determined appropriate by the Administrator, additional funds for additional employees; and

"(iii) containing such additional information, as determined appropriate by the Administrator.".

**SEC. 12075. COMPREHENSIVE DISASTER RESPONSE PLAN.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended inserting after section 39, as added by this Act, the following:

15 USC 657*l*.

**"SEC. 40. COMPREHENSIVE DISASTER RESPONSE PLAN.**

"(a) PLAN REQUIRED.—The Administrator shall develop, implement, or maintain a comprehensive written disaster response plan. The plan shall include the following:

"(1) For each region of the Administration, a description of the disasters most likely to occur in that region.

"(2) For each disaster described under paragraph (1)—

"(A) an assessment of the disaster;

"(B) an assessment of the demand for Administration assistance most likely to occur in response to the disaster;

"(C) an assessment of the needs of the Administration, with respect to such resources as information technology, telecommunications, human resources, and office space, to meet the demand referred to in subparagraph (B); and

"(D) guidelines pursuant to which the Administration will coordinate with other Federal agencies and with State and local authorities to best respond to the demand referred to in subparagraph (B) and to best use the resources referred to in that subparagraph.

Deadline.

"(b) COMPLETION; REVISION.—The first plan required by subsection (a) shall be completed not later than 180 days after the date of the enactment of this section. Thereafter, the Administrator

shall update the plan on an annual basis and following any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under section 7(b)(9).

"(c) KNOWLEDGE REQUIRED.—The Administrator shall carry out subsections (a) and (b) through an individual with substantial knowledge in the field of disaster readiness and emergency response.

"(d) REPORT.—The Administrator shall include a report on the plan whenever the Administration submits the report required by section 43.".

**SEC. 12076. PLANS TO SECURE SUFFICIENT OFFICE SPACE.**

The Small Business Act is amended by inserting after section 40, as added by this Act, the following:

**"SEC. 41. PLANS TO SECURE SUFFICIENT OFFICE SPACE.** 15 USC 657m.

"(a) PLANS REQUIRED.—The Administrator shall develop long-term plans to secure sufficient office space to accommodate an expanded workforce in times of disaster.

"(b) REPORT.—The Administrator shall include a report on the plans developed under subsection (a) each time the Administration submits a report required under section 43.".

**SEC. 12077. APPLICANTS THAT HAVE BECOME A MAJOR SOURCE OF EMPLOYMENT DUE TO CHANGED ECONOMIC CIRCUMSTANCES.**

Section 7(b)(3)(E) of the Small Business Act (15 U.S.C. 636(b)(3)(E)) is amended by inserting after "constitutes" the following: ", or have become due to changed economic circumstances,".

**SEC. 12078. DISASTER LOAN AMOUNTS.**

(a) INCREASED LOAN CAPS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (7), as added by this Act, the following:

"(8) INCREASED LOAN CAPS.—

"(A) AGGREGATE LOAN AMOUNTS.—Except as provided in subparagraph (B), and notwithstanding any other provision of law, the aggregate loan amount outstanding and committed to a borrower under this subsection may not exceed $2,000,000.

"(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, increase the aggregate loan amount under subparagraph (A) for loans relating to a disaster to a level established by the Administrator, based on appropriate economic indicators for the region in which that disaster occurred.".

(b) DISASTER MITIGATION.—

(1) IN GENERAL.—Section 7(b)(1)(A) of the Small Business Act (15 U.S.C. 636(b)(1)(A)) is amended by inserting "of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise)" after "20 per centum".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a loan or guarantee made after the date of enactment of this Act. 15 USC 636 note.

(c) TECHNICAL AMENDMENTS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended—

(1) in the matter preceding paragraph (1), by striking "the, Administration" and inserting "the Administration"; and

(2) in the undesignated matter at the end—

(A) by striking ", (2), and (4)" and inserting "and (2)"; and

(B) by striking ", (2), or (4)" and inserting "(2)".

15 USC 636i.

**SEC. 12079. SMALL BUSINESS BONDING THRESHOLD.**

(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, for any procurement related to a major disaster, the Administrator may, upon such terms and conditions as the Administrator may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by a principal on any total work order or contract amount at the time of bond execution that does not exceed $5,000,000.

(b) INCREASE OF AMOUNT.—Upon request of the head of any Federal agency other than the Administration involved in reconstruction efforts in response to a major disaster, the Administrator may guarantee and enter into a commitment to guarantee any security against loss under subsection (a) on any total work order or contract amount at the time of bond execution that does not exceed $10,000,000.

(c) LIMITATION ON USE OF OTHER FUNDS.—The Administrator may carry out this section only with amounts appropriated in advance specifically to carry out this section.

## PART II—DISASTER LENDING

**SEC. 12081. ELIGIBILITY FOR ADDITIONAL DISASTER ASSISTANCE.**

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (8), as added by this Act, the following:

"(9) DECLARATION OF ELIGIBILITY FOR ADDITIONAL DISASTER ASSISTANCE.—

"(A) IN GENERAL.—If the President declares a major disaster, the Administrator may declare eligibility for additional disaster assistance in accordance with this paragraph.

"(B) THRESHOLD.—A major disaster for which the Administrator declares eligibility for additional disaster assistance under this paragraph shall—

"(i) have resulted in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

"(ii) be comparable to the description of a catastrophic incident in the National Response Plan of the Administration, or any successor thereto, unless there is no successor to such plan, in which case this clause shall have no force or effect; and

"(iii) be of such size and scope that—

"(I) the disaster assistance programs under the other paragraphs under this subsection are

incapable of providing adequate and timely assistance to individuals or business concerns located within the disaster area; or

"(II) a significant number of business concerns outside the disaster area have suffered disaster-related substantial economic injury as a result of the incident.".

**SEC. 12082. ADDITIONAL ECONOMIC INJURY DISASTER LOAN ASSISTANCE.**

Paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by section 12081, is amended by adding at the end the following:

"(C) ADDITIONAL ECONOMIC INJURY DISASTER LOAN ASSISTANCE.—

"(i) IN GENERAL.—If the Administrator declares eligibility for additional disaster assistance under this paragraph, the Administrator may make such loans under this subparagraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to eligible small business concerns located anywhere in the United States.

"(ii) PROCESSING TIME.—

"(I) IN GENERAL.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 15 days, the Administrator shall give priority to the processing of such applications submitted by eligible small business concerns located inside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

"(II) SUSPENSION OF APPLICATIONS FROM OUTSIDE DISASTER AREA.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 30 days, the Administrator shall suspend the processing of such applications submitted by eligible small business concerns located outside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

"(iii) LOAN TERMS.—A loan under this subparagraph shall be made on the same terms as a loan under paragraph (2).

"(D) DEFINITIONS.—In this paragraph—

"(i) the term 'disaster area' means the area for which the applicable major disaster was declared;

"(ii) the term 'disaster-related substantial economic injury' means economic harm to a business concern that results in the inability of the business concern to—

"(I) meet its obligations as it matures;

"(II) meet its ordinary and necessary operating expenses; or

"(III) market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern because the business concern relies on materials from the disaster area or sells or markets in the disaster area; and

"(iii) the term 'eligible small business concern' means a small business concern—

"(I) that has suffered disaster-related substantial economic injury as a result of the applicable major disaster; and

"(II)(aa) for which not less than 25 percent of the market share of that small business concern is from business transacted in the disaster area;

"(bb) for which not less than 25 percent of an input into a production process of that small business concern is from the disaster area; or

"(cc) that relies on a provider located in the disaster area for a service that is not readily available elsewhere.".

**SEC. 12083. PRIVATE DISASTER LOANS.**

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by inserting after subsection (b) the following:

"(c) PRIVATE DISASTER LOANS.—

"(1) DEFINITIONS.—In this subsection—

"(A) the term 'disaster area' means any area for which the President declared a major disaster relating to which the Administrator declares eligibility for additional disaster assistance under subsection (b)(9), during the period of that major disaster declaration;

"(B) the term 'eligible individual' means an individual who is eligible for disaster assistance under subsection (b)(1) relating to a major disaster relating to which the Administrator declares eligibility for additional disaster assistance under subsection (b)(9);

"(C) the term 'eligible small business concern' means a business concern that is—

"(i) a small business concern, as defined under this Act; or

"(ii) a small business concern, as defined in section 103 of the Small Business Investment Act of 1958;

"(D) the term 'preferred lender' means a lender participating in the Preferred Lender Program;

"(E) the term 'Preferred Lender Program' has the meaning given that term in subsection (a)(2)(C)(ii); and

"(F) the term 'qualified private lender' means any privately-owned bank or other lending institution that—

"(i) is not a preferred lender; and

"(ii) the Administrator determines meets the criteria established under paragraph (10).

"(2) PROGRAM REQUIRED.—The Administrator shall carry out a program, to be known as the Private Disaster Assistance program, under which the Administration may guarantee timely payment of principal and interest, as scheduled, on

any loan made to an eligible small business concern located in a disaster area and to an eligible individual.

"(3) USE OF LOANS.—A loan guaranteed by the Administrator under this subsection may be used for any purpose authorized under subsection (b).

"(4) ONLINE APPLICATIONS.—

"(A) ESTABLISHMENT.—The Administrator may establish, directly or through an agreement with another entity, an online application process for loans guaranteed under this subsection.

"(B) OTHER FEDERAL ASSISTANCE.—The Administrator may coordinate with the head of any other appropriate Federal agency so that any application submitted through an online application process established under this paragraph may be considered for any other Federal assistance program for disaster relief.

"(C) CONSULTATION.—In establishing an online application process under this paragraph, the Administrator shall consult with appropriate persons from the public and private sectors, including private lenders.

"(5) MAXIMUM AMOUNTS.—

"(A) GUARANTEE PERCENTAGE.—The Administrator may guarantee not more than 85 percent of a loan under this subsection.

"(B) LOAN AMOUNT.—The maximum amount of a loan guaranteed under this subsection shall be $2,000,000.

"(6) TERMS AND CONDITIONS.—A loan guaranteed under this subsection shall be made under the same terms and conditions as a loan under subsection (b).

"(7) LENDERS.—

"(A) IN GENERAL.—A loan guaranteed under this subsection made to—

"(i) a qualified individual may be made by a preferred lender; and

"(ii) a qualified small business concern may be made by a qualified private lender or by a preferred lender that also makes loans to qualified individuals.

"(B) COMPLIANCE.—If the Administrator determines that a preferred lender knowingly failed to comply with the underwriting standards for loans guaranteed under this subsection or violated the terms of the standard operating procedure agreement between that preferred lender and the Administration, the Administrator shall do 1 or more of the following:

"(i) Exclude the preferred lender from participating in the program under this subsection.

"(ii) Exclude the preferred lender from participating in the Preferred Lender Program for a period of not more than 5 years.

"(8) FEES.—

"(A) IN GENERAL.—The Administrator may not collect a guarantee fee under this subsection.

"(B) ORIGINATION FEE.—The Administrator may pay a qualified private lender or preferred lender an origination fee for a loan guaranteed under this subsection in an amount agreed upon in advance between the qualified private lender or preferred lender and the Administrator.

"(9) DOCUMENTATION.—A qualified private lender or preferred lender may use its own loan documentation for a loan guaranteed by the Administrator under this subsection, to the extent authorized by the Administrator. The ability of a lender to use its own loan documentation for a loan guaranteed under this subsection shall not be considered part of the criteria for becoming a qualified private lender under the regulations promulgated under paragraph (10).

"(10) IMPLEMENTATION REGULATIONS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall issue final regulations establishing permanent criteria for qualified private lenders.

"(B) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall submit a report on the progress of the regulations required by subparagraph (A) to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

"(11) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—Amounts necessary to carry out this subsection shall be made available from amounts appropriated to the Administration to carry out subsection (b).

"(B) AUTHORITY TO REDUCE INTEREST RATES AND OTHER TERMS AND CONDITIONS.—Funds appropriated to the Administration to carry out this subsection, may be used by the Administrator to meet the loan terms and conditions specified in paragraph (6).

"(12) PURCHASE OF LOANS.—The Administrator may enter into an agreement with a qualified private lender or preferred lender to purchase any loan guaranteed under this subsection.".

15 USC 636 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any major disaster declared on or after the date of enactment of this Act.

**SEC. 12084. IMMEDIATE DISASTER ASSISTANCE PROGRAM.**

The Small Business Act is amended by inserting after section 41, as added by this Act, the following:

15 USC 657n.

**"SEC. 42. IMMEDIATE DISASTER ASSISTANCE PROGRAM.**

"(a) PROGRAM REQUIRED.—The Administrator shall carry out a program, to be known as the Immediate Disaster Assistance program, under which the Administration participates on a deferred (guaranteed) basis in 85 percent of the balance of the financing outstanding at the time of disbursement of the loan if such balance is less than or equal to $25,000 for businesses affected by a disaster.

"(b) ELIGIBILITY REQUIREMENT.—To receive a loan guaranteed under subsection (a), the applicant shall also apply for, and meet basic eligibility standards for, a loan under subsection (b) or (c) of section 7.

"(c) USE OF PROCEEDS.—A person who receives a loan under subsection (b) or (c) of section 7 shall use the proceeds of that loan to repay all loans guaranteed under subsection (a), if any, before using the proceeds for any other purpose.

"(d) LOAN TERMS.—

"(1) NO PREPAYMENT PENALTY.—There shall be no prepayment penalty on a loan guaranteed under subsection (a).

"(2) REPAYMENT.—A person who receives a loan guaranteed under subsection (a) and who is disapproved for a loan under subsection (b) or (c) of section 7, as the case may be, shall repay the loan guaranteed under subsection (a) not later than the date established by the Administrator, which may not be earlier than 10 years after the date on which the loan guaranteed under subsection is disbursed.

"(e) APPROVAL OR DISAPPROVAL.—The Administrator shall ensure that each applicant for a loan under the program receives a decision approving or disapproving of the application within 36 hours after the Administration receives the application.". Deadline.

**SEC. 12085. EXPEDITED DISASTER ASSISTANCE LOAN PROGRAM.** 15 USC 636j.

(a) DEFINITION.—In this section, the term "program" means the expedited disaster assistance business loan program established under subsection (b).

(b) CREATION OF PROGRAM.—The Administrator shall take such administrative action as is necessary to establish and implement an expedited disaster assistance business loan program under which the Administration may, on an expedited basis, guarantee timely payment of principal and interest, as scheduled on any loan made to an eligible small business concern under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act.

(c) CONSULTATION REQUIRED.—In establishing the program, the Administrator shall consult with—

(1) appropriate personnel of the Administration (including District Office personnel of the Administration);

(2) appropriate technical assistance providers (including small business development centers);

(3) appropriate lenders and credit unions;

(4) the Committee on Small Business and Entrepreneurship of the Senate; and

(5) the Committee on Small Business of the House of Representatives.

(d) RULES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall issue rules in final form establishing and implementing the program in accordance with this section. Such rules shall apply as provided for in this section, beginning 90 days after their issuance in final form. Deadline. Applicability. Effective date.

(2) CONTENTS.—The rules promulgated under paragraph (1) shall—

(A) identify whether appropriate uses of funds under the program may include—

(i) paying employees;

(ii) paying bills and other financial obligations;

(iii) making repairs;

(iv) purchasing inventory;

(v) restarting or operating a small business concern in the community in which it was conducting operations prior to the applicable major disaster, or to a neighboring area, county, or parish in the disaster area; or

(vi) covering additional costs until the small business concern is able to obtain funding through insurance claims, Federal assistance programs, or other sources; and

(B) set the terms and conditions of any loan made under the program, subject to paragraph (3).

(3) TERMS AND CONDITIONS.—A loan guaranteed by the Administration under this section—

(A) shall be for not more than $150,000;

(B) shall be a short-term loan, not to exceed 180 days, except that the Administrator may extend such term as the Administrator determines necessary or appropriate on a case-by-case basis;

(C) shall have an interest rate not to exceed 300 basis points above the interest rate established by the Board of Governors of the Federal Reserve System that 1 bank charges another for reserves that are lent on an overnight basis on the date the loan is made;

(D) shall have no prepayment penalty;

(E) may only be made to a borrower that meets the requirements for a loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;

(F) may be refinanced as part of any subsequent disaster assistance provided under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;

(G) may receive expedited loss verification and loan processing, if the applicant is—

(i) a major source of employment in the disaster area (which shall be determined in the same manner as under section 7(b)(3)(B) of the Small Business Act (15 U.S.C. 636(b)(3)(B))); or

(ii) vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials); and

(H) shall be subject to such additional terms as the Administrator determines necessary or appropriate.

(e) REPORT TO CONGRESS.—Not later than 5 months after the date of enactment of this Act, the Administrator shall report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the progress of the Administrator in establishing the program.

(f) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section.

**SEC. 12086. GULF COAST DISASTER LOAN REFINANCING PROGRAM.**

(a) IN GENERAL.—The Administrator may carry out a program to refinance Gulf Coast disaster loans (in this section referred to as the "program").

(b) TERMS.—The terms of a Gulf Coast disaster loan refinanced under the program shall be identical to the terms of the original loan, except that the Administrator may provide an option to defer repayment on the loan. A deferment under the program shall end not later than 4 years after the date on which the initial disbursement under the original loan was made.

Deadline.

(c) AMOUNT.—The amount of a Gulf Coast disaster loan refinanced under the program shall not exceed the amount of the original loan.

(d) DISCLOSURE OF ACCRUED INTEREST.—If the Administrator provides an option to defer repayment under the program, the Administrator shall disclose the accrued interest that must be paid under the option.

(e) DEFINITION.—In this section, the term "Gulf Coast disaster loan" means a loan—

(1) made under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(2) in response to Hurricane Katrina of 2005, Hurricane Rita of 2005, or Hurricane Wilma of 2005; and

(3) to a small business concern located in a county or parish designated by the Administrator as a disaster area by reason of a hurricane described in paragraph (2) under disaster declaration 10176, 10177, 10178, 10179, 10180, 10181, 10203, 10204, 10205, 10206, 10222, or 10223.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

## PART III—MISCELLANEOUS

**SEC. 12091. REPORTS ON DISASTER ASSISTANCE.** 15 USC 636k.

(a) MONTHLY ACCOUNTING REPORT TO CONGRESS.—

(1) REPORTING REQUIREMENTS.—Not later than the fifth business day of each month during the applicable period for a major disaster, the Administrator shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Appropriations of the Senate and to the Committee on Small Business and the Committee on Appropriations of the House of Representatives a report on the operation of the disaster loan program authorized under section 7 of the Small Business Act (15 U.S.C. 636) for that major disaster during the preceding month.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the daily average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(B) the weekly average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(C) the amount of funding spent over the month for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(D) the amount of funding available for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding;

(E) an estimate of how long the available funding for such loans will last, based on the spending rate;

(F) the amount of funding spent over the month for staff, along with the number of staff, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(G) the amount of funding spent over the month for administrative costs, and the percent by which such spending has increased or decreased since the previous report under paragraph (1);

(H) the amount of funding available for salaries and expenses combined, and the percent by which such funding has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding; and

(I) an estimate of how long the available funding for salaries and expenses will last, based on the spending rate.

(b) WEEKLY DISASTER UPDATES TO CONGRESS FOR PRESIDENTIALLY DECLARED DISASTERS.—

(1) IN GENERAL.—Each week during a disaster update period, the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the operation of the disaster loan program of the Administration for the area in which the President declared a major disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the number of Administration staff performing loan processing, field inspection, and other duties for the declared disaster, and the allocations of such staff in the disaster field offices, disaster recovery centers, workshops, and other Administration offices nationwide;

(B) the daily number of applications received from applicants in the relevant area, as well as a breakdown of such figures by State;

(C) the daily number of applications pending application entry from applicants in the relevant area, as well as a breakdown of such figures by State;

(D) the daily number of applications withdrawn by applicants in the relevant area, as well as a breakdown of such figures by State;

(E) the daily number of applications summarily declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(F) the daily number of applications declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(G) the daily number of applications in process from applicants in the relevant area, as well as a breakdown of such figures by State;

(H) the daily number of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(I) the daily dollar amount of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(J) the daily amount of loans dispersed, both partially and fully, by the Administration to applicants in the relevant area, as well as a breakdown of such figures by State;

(K) the daily dollar amount of loans disbursed, both partially and fully, from the relevant area, as well as a breakdown of such figures by State;

(L) the number of applications approved, including dollar amount approved, as well as applications partially and fully disbursed, including dollar amounts, since the last report under paragraph (1); and

(M) the declaration date, physical damage closing date, economic injury closing date, and number of counties included in the declaration of a major disaster.

(c) PERIODS WHEN ADDITIONAL DISASTER ASSISTANCE IS MADE AVAILABLE.—

(1) IN GENERAL.—During any period for which the Administrator declares eligibility for additional disaster assistance under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 632(b)), as amended by this Act, the Administrator shall, on a monthly basis, submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the disaster assistance operations of the Administration with respect to the applicable major disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall specify—

(A) the number of applications for disaster assistance distributed;

(B) the number of applications for disaster assistance received;

(C) the average time for the Administration to approve or disapprove an application for disaster assistance;

(D) the amount of disaster loans approved;

(E) the average time for initial disbursement of disaster loan proceeds; and

(F) the amount of disaster loan proceeds disbursed.

(d) NOTICE OF THE NEED FOR SUPPLEMENTAL FUNDS.—On the same date that the Administrator notifies any committee of the Senate or the House of Representatives that supplemental funding is necessary for the disaster loan program of the Administration in any fiscal year, the Administrator shall notify in writing the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the need for supplemental funds for that loan program.

(e) REPORT ON CONTRACTING.—

(1) IN GENERAL.—Not later than 6 months after the date on which the President declares a major disaster, and every 6 months thereafter until the date that is 18 months after the date on which the major disaster was declared, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regarding Federal contracts awarded as a result of that major disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the total number of contracts awarded as a result of that major disaster;

(B) the total number of contracts awarded to small business concerns as a result of that major disaster;

(C) the total number of contracts awarded to women and minority-owned businesses as a result of that major disaster; and

(D) the total number of contracts awarded to local businesses as a result of that major disaster.

(f) REPORT ON LOAN APPROVAL RATE.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing how the Administration can improve the processing of applications under the disaster loan program of the Administration.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) recommendations, if any, regarding—

(i) staffing levels during a major disaster;

(ii) how to improve the process for processing, approving, and disbursing loans under the disaster loan program of the Administration, to ensure that the maximum assistance is provided to victims in a timely manner;

(iii) the viability of using alternative methods for assessing the ability of an applicant to repay a loan, including the credit score of the applicant on the day before the date on which the disaster for which the applicant is seeking assistance was declared;

(iv) methods, if any, for the Administration to expedite loss verification and loan processing of disaster loans during a major disaster for businesses affected by, and located in the area for which the President declared, the major disaster that are a major source of employment in the area or are vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials);

(v) legislative changes, if any, needed to implement findings from the Accelerated Disaster Response Initiative of the Administration; and

(vi) a description of how the Administration plans to integrate and coordinate the response to a major disaster with the technical assistance programs of the Administration; and

(B) the plans of the Administrator for implementing any recommendation made under subparagraph (A).

(g) REPORTS ON DISASTER ASSISTANCE.—The Small Business Act is amended by inserting after section 42, as added by this Act, the following:

15 USC 657o.

**"SEC. 43. ANNUAL REPORTS ON DISASTER ASSISTANCE.**

"Not later than 45 days after the end of a fiscal year, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small

Business of the House of Representatives a report on the disaster assistance operations of the Administration for that fiscal year. The report shall—

"(1) specify the number of Administration personnel involved in such operations;

"(2) describe any material changes to those operations, such as changes to technologies used or to personnel responsibilities;

"(3) describe and assess the effectiveness of the Administration in responding to disasters during that fiscal year, including a description of the number and amounts of loans made for damage and for economic injury; and

"(4) describe the plans of the Administration for preparing to respond to disasters during the next fiscal year.".

# TITLE XIII—COMMODITY FUTURES

CFTC Reauthorization Act of 2008.
7 USC 1 note.

**SEC. 13001. SHORT TITLE.**

This title may be cited as the "CFTC Reauthorization Act of 2008".

## Subtitle A—General Provisions

**SEC. 13101. COMMISSION AUTHORITY OVER AGREEMENTS, CONTRACTS OR TRANSACTIONS IN FOREIGN CURRENCY.**

(a) IN GENERAL.—Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) AGREEMENTS, CONTRACTS, AND TRANSACTIONS IN RETAIL FOREIGN CURRENCY.—

"(i) This Act applies to, and the Commission shall have jurisdiction over, an agreement, contract, or transaction in foreign currency that— Applicability.

"(I) is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a))); and

"(II) is offered to, or entered into with, a person that is not an eligible contract participant, unless the counterparty, or the person offering to be the counterparty, of the person is—

"(aa) a financial institution;

"(bb)(AA) a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o–5); or

"(BB) an associated person of a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o–5) concerning the financial or securities activities of which the broker or dealer makes and keeps records under section 15C(b) or

17(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(b), 78q(h));

"(cc)(AA) a futures commission merchant that is primarily or substantially engaged in the business activities described in section 1a(20) of this Act, is registered under this Act, is not a person described in item (bb) of this subclause, and maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph; or

"(BB) an affiliated person of a futures commission merchant that is primarily or substantially engaged in the business activities described in section 1a(20) of this Act, is registered under this Act, and is not a person described in item (bb) of this subclause, if the affiliated person maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph and is not a person described in such item (bb), and the futures commission merchant makes and keeps records under section 4f(c)(2)(B) of this Act concerning the futures and other financial activities of the affiliated person;

"(dd) an insurance company described in section 1a(12)(A)(ii) of this Act, or a regulated subsidiary or affiliate of such an insurance company;

"(ee) a financial holding company (as defined in section 2 of the Bank Holding Company Act of 1956);

"(ff) an investment bank holding company (as defined in section 17(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(i))); or

"(gg) a retail foreign exchange dealer that maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph and is registered in such capacity with the Commission, subject to such terms and conditions as the Commission shall prescribe, and is a member of a futures association registered under section 17.

Applicability.
Effective dates.

"(ii) The dollar amount that applies for purposes of this clause is—

"(I) $10,000,000, beginning 120 days after the date of the enactment of this clause;

"(II) $15,000,000, beginning 240 days after such date of enactment; and

"(III) $20,000,000, beginning 360 days after such date of enactment.

"(iii) Notwithstanding items (cc) and (gg) of clause (i)(II) of this subparagraph, agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this

section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b) if the agreements, contracts, or transactions are offered, or entered into, by a person that is registered as a futures commission merchant or retail foreign exchange dealer, or an affiliated person of a futures commission merchant registered under this Act that is not also a person described in any of item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II) of this subparagraph.

"(iv)(I) Notwithstanding items (cc) and (gg) of clause (i)(II), a person, unless registered in such capacity as the Commission by rule, regulation, or order shall determine and a member of a futures association registered under section 17, shall not—

"(aa) solicit or accept orders from any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II);

"(bb) exercise discretionary trading authority or obtain written authorization to exercise discretionary trading authority over any account for or on behalf of any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II); or

"(cc) operate or solicit funds, securities, or property for any pooled investment vehicle that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II).

"(II) Subclause (I) of this clause shall not apply to—

"(aa) any person described in any of item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

"(III) Notwithstanding items (cc) and (gg) of clause (i)(II), the Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any

of the purposes of, this Act in connection with the activities of persons subject to subclause (I).

"(IV) Subclause (III) of this clause shall not apply to—

"(aa) any person described in any of item (aa) through (ff) of clause (i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

"(v) Notwithstanding items (cc) and (gg) of clause (i)(II), the Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any of the purposes of, this Act in connection with agreements, contracts, or transactions described in clause (i) which are offered, or entered into, by a person described in item (cc) or (gg) of clause (i)(II).

Applicability.

"(C)(i)(I) This subparagraph shall apply to any agreement, contract, or transaction in foreign currency that is—

"(aa) offered to, or entered into with, a person that is not an eligible contract participant (except that this subparagraph shall not apply if the counterparty, or the person offering to be the counterparty, of the person that is not an eligible contract participant is a person described in any of item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II)); and

"(bb) offered, or entered into, on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.

"(II) Subclause (I) of this clause shall not apply to—

"(aa) a security that is not a security futures product; or

"(bb) a contract of sale that—

"(AA) results in actual delivery within 2 days; or

"(BB) creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business.

"(ii)(I) Agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b).

"(II) Subclause (I) of this clause shall not apply to—

"(aa) any person described in any of item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

"(bb) any such person's associated persons.

"(III) The Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of or to accomplish any of the purposes of this Act in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph if the agreements, contracts, or transactions are offered, or entered into, by a person that is not described in item (aa) through (ff) of subparagraph (B)(i)(II).

"(iii)(I) A person, unless registered in such capacity as the Commission by rule, regulation, or order shall determine and a member of a futures association registered under section 17, shall not—

"(aa) solicit or accept orders from any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II);

"(bb) exercise discretionary trading authority or obtain written authorization to exercise written trading authority over any account for or on behalf of any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

"(cc) operate or solicit funds, securities, or property for any pooled investment vehicle that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II).

"(II) Subclause (I) of this clause shall not apply to—

"(aa) any person described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

"(III) The Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any of the purposes of, this Act in connection with the activities of persons subject to subclause (I).

"(IV) Subclause (III) of this clause shall not apply to—

"(aa) any person described in item (aa) through (ff) of subparagraph (B)(i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

Applicability.

"(iv) Sections 4(b) and 4b shall apply to any agreement, contract, or transaction described in clause (i) of this subparagraph as if the agreement, contract, or transaction were a contract of sale of a commodity for future delivery.

"(v) This subparagraph shall not be construed to limit any jurisdiction that the Commission may otherwise have under any other provision of this Act over an agreement, contract, or transaction that is a contract of sale of a commodity for future delivery.

"(vi) This subparagraph shall not be construed to limit any jurisdiction that the Commission or the Securities and Exchange Commission may otherwise have under any other provision of this Act with respect to security futures products and persons effecting transactions in security futures products.".

7 USC 2 note.

(b) EFFECTIVE DATE.—The following provisions of the Commodity Exchange Act, as amended by subsection (a) of this section, shall be effective 120 days after the date of the enactment of this Act or at such other time as the Commodity Futures Trading Commission shall determine:

(1) Subparagraphs (B)(i)(II)(gg), (B)(iv), and (C)(iii) of section 2(c)(2).

(2) The provisions of section 2(c)(2)(B)(i)(II)(cc) that set forth adjusted net capital requirements, and the provisions of such section that require a futures commission merchant to be primarily or substantially engaged in certain business activities.

**SEC. 13102. ANTI-FRAUD AUTHORITY OVER PRINCIPAL-TO-PRINCIPAL TRANSACTIONS.**

Section 4b of the Commodity Exchange Act (7 U.S.C. Section 6b) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking all through the end of subsection (a) and inserting the following:

**"SEC. 4b. CONTRACTS DESIGNED TO DEFRAUD OR MISLEAD.**

"(a) UNLAWFUL ACTIONS.—It shall be unlawful—

"(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

"(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

"(A) to cheat or defraud or attempt to cheat or defraud the other person;

"(B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;

"(C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person; or

"(D)(i) to bucket an order if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market; or

"(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of the other person to become the buyer in respect to any selling order of the other person, or become the seller in respect to any buying order of the other person, if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market unless the order is executed in accordance with the rules of the designated contract market.

"(b) CLARIFICATION.—Subsection (a)(2) of this section shall not obligate any person, in or in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g), with another person, to disclose to the other person nonpublic information that may be material to the market price, rate, or level of the commodity or transaction, except as necessary to make any statement made to the other person in or in connection with the transaction not misleading in any material respect.".

**SEC. 13103. CRIMINAL AND CIVIL PENALTIES.**

(a) ENFORCEMENT POWERS OF THE COMMISSION.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in clause (3) of the 10th sentence—

(1) by inserting "(A)" after "assess such person"; and

(2) by inserting after "each such violation" the following: ", or (B) in any case of manipulation or attempted manipulation in violation of this subsection, subsection (d) of this section, or section 9(a)(2), a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to the person for each such violation,".

(b) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b of such Act (7 U.S.C. 13a) is amended—

(1) in the first sentence, by inserting before the period at the end the following: ", or, in any case of manipulation or attempted manipulation in violation of section 6(c), 6(d), or 9(a)(2), a civil penalty of not more than $1,000,000 for each such violation"; and

(2) in the second sentence, by inserting before the period at the end the following: ", except that if the failure or refusal to obey or comply with the order involved any offense under section 9(a)(2), the registered entity, director, officer, agent,

or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(a)(2)".

(c) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—Section 6c(d) of such Act (7 U.S.C. 13a–1(d)) is amended by striking all that precedes paragraph (2) and inserting the following:

"(d) CIVIL PENALTIES.—

"(1) IN GENERAL.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

"(A) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

"(B) in any case of manipulation or attempted manipulation in violation of section 6(c), 6(d), or 9(a)(2), a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.".

(d) VIOLATIONS GENERALLY.—Section 9(a) of such Act (7 U.S.C. 13(a)) is amended in the matter preceding paragraph (1)—

(1) by striking "(or $500,000 in the case of a person who is an individual)"; and

(2) by striking "five years" and inserting "10 years".

**SEC. 13104. AUTHORIZATION OF APPROPRIATIONS.**

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated such sums as are necessary to carry out this Act for each of the fiscal years 2008 through 2013.".

**SEC. 13105. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) Section 4a(e) of the Commodity Exchange Act (7 U.S.C. 6a(e)) is amended—

(1) by inserting "or certified by a registered entity pursuant to section 5c(c)(1)" after "approved by the Commission" ; and

(2) by striking "section 9(c)" and inserting "section 9(a)(5)".

(b) Section 4f(c)(4)(B)(i) of such Act (7 U.S.C. 6f(c)(4)(B)(i)) is amended by striking "compiled" and inserting "complied".

(c) Section 4k of such Act (7 U.S.C. 6k) is amended by redesignating the second paragraph (5) as paragraph (6).

(d) The Commodity Exchange Act is amended—

(1) by redesignating the first section 4p (7 U.S.C. 6o–1), as added by section 121 of the Commodity Futures Modernization Act of 2000, as section 4q; and

7 USC 6q.

(2) by moving such section to after the second section 4p, as added by section 206 of Public Law 93–446.

(e) Subsections (a)(1) and (d)(1) of section 5c of such Act (7 U.S.C. 7a–2(a)(1), (d)(1)) are each amended by striking "5b(d)(2)" and inserting "5b(c)(2)".

(f) Sections 5c(f) and 17(r) of such Act (7 U.S.C. 7a–2(f), 21(r)) are each amended by striking "4d(3)" and inserting "4d(c)".

(g) Section 8(a)(1) of such Act (7 U.S.C. 12(a)(1)) is amended in the matter following subparagraph (B)—

(1) by striking "commenced" in the 2nd place it appears; and

(2) by inserting "commenced" after "in a judicial proceeding".

(h) Section 9 of such Act (7 U.S.C. 13) is amended—

(1) in subsection (f)(1), by striking the period and inserting "; or"; and

(2) by redesignating subsection (f) as subsection (e).

(i) Section 22(a)(2) of such Act (7 U.S.C. 25(a)(2)) is amended by striking "5b(b)(1)(E)" and inserting "5b(c)(2)(H)".

(j) Section 1a(33)(A) of such Act (7 U.S.C. 1a(33)(A)) is amended by striking "transactions" and all that follows and inserting "transactions—

"(i) by accepting bids or offers made by other participants that are open to multiple partipants in the facility or system; or

"(ii) through the interaction of multiple bids or multiple offers within a system with a pre-determined non-discretionary automated trade matching and execution algorithm.".

(k) Section 14(d) of such Act (7 U.S.C. 18(d)) is amended—

(1) by inserting "(1)" before "If"; and

(2) by adding after and below the end the following:

"(2) A reparation award shall be directly enforceable in district court as if it were a judgment pursuant to section 1963 of title 28, United States Code. This paragraph shall operate retroactively from the effective date of its enactment, and shall apply to all reparation awards for which a proceeding described in paragraph (1) is commenced within 3 years of the date of the Commission's order.". Reparations. Applicability. Deadline.

**SEC. 13106. PORTFOLIO MARGINING AND SECURITY INDEX ISSUES.** 7 USC 2 note.

(a) The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission shall work to ensure that the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), or both, as appropriate, have taken the actions required under subsection (b).

(b) The SEC, the CFTC, or both, as appropriate, shall take action under their existing authorities to permit— Deadlines.

(1) by September 30, 2009, risk-based portfolio margining for security options and security futures products (as defined in section 1a(32) of the Commodity Exchange Act); and

(2) by June 30, 2009, the trading of futures on certain security indexes by resolving issues related to foreign security indexes.

# Subtitle B—Significant Price Discovery Contracts on Exempt Commercial Markets

**SEC. 13201. SIGNIFICANT PRICE DISCOVERY CONTRACTS.**

(a) DEFINITIONS.—Section la of the Commodity Exchange Act (7 U.S.C. la) is amended—

(1) by redesignating paragraph (33) as paragraph (34); and

(2) by inserting after paragraph (32) the following:

"(33) SIGNIFICANT PRICE DISCOVERY CONTRACT.—The term 'significant price discovery contract' means an agreement, contract, or transaction subject to section 2(h)(7).".

(b) STANDARDS APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—Section 2(h) of such Act (7 U.S.C. 2(h)) is amended by adding at the end the following:

"(7) SIGNIFICANT PRICE DISCOVERY CONTRACTS.—

"(A) IN GENERAL.—An agreement, contract, or transaction conducted in reliance on the exemption in paragraph (3) shall be subject to the provisions of subparagraphs (B) through (D), under such rules and regulations as the Commission shall promulgate, provided that the Commission determines, in its discretion, that the agreement, contract, or transaction performs a significant price discovery function as described in subparagraph (B).

"(B) SIGNIFICANT PRICE DISCOVERY DETERMINATION.—In making a determination whether an agreement, contract, or transaction performs a significant price discovery function, the Commission shall consider, as appropriate:

"(i) PRICE LINKAGE.—The extent to which the agreement, contract, or transaction uses or otherwise relies on a daily or final settlement price, or other major price parameter, of a contract or contracts listed for trading on or subject to the rules of a designated contract market or a derivatives transaction execution facility, or a significant price discovery contract traded on an electronic trading facility, to value a position, transfer or convert a position, cash or financially settle a position, or close out a position.

"(ii) ARBITRAGE.—The extent to which the price for the agreement, contract, or transaction is sufficiently related to the price of a contract or contracts listed for trading on or subject to the rules of a designated contract market or derivatives transaction execution facility, or a significant price discovery contract or contracts trading on or subject to the rules of an electronic trading facility, so as to permit market participants to effectively arbitrage between the markets by simultaneously maintaining positions or executing trades in the contracts on a frequent and recurring basis.

"(iii) MATERIAL PRICE REFERENCE.—The extent to which, on a frequent and recurring basis, bids, offers, or transactions in a commodity are directly based on, or are determined by referencing, the prices generated by agreements, contracts, or transactions being traded or executed on the electronic trading facility.

"(iv) MATERIAL LIQUIDITY.—The extent to which the volume of agreements, contracts, or transactions in the commodity being traded on the electronic trading facility is sufficient to have a material effect on other agreements, contracts, or transactions listed for trading on or subject to the rules of a designated contract market, a derivatives transaction execution facility, or an electronic trading facility operating in reliance on the exemption in paragraph (3).

"(v) OTHER MATERIAL FACTORS.—Such other material factors as the Commission specifies by rule as relevant to determine whether an agreement, contract,

or transaction serves a significant price discovery function.

"(C) CORE PRINCIPLES APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—

"(i) IN GENERAL.—An electronic trading facility on which significant price discovery contracts are traded or executed shall, with respect to those contracts, comply with the core principles specified in this subparagraph.

"(ii) CORE PRINCIPLES.—The electronic trading facility shall have reasonable discretion (including discretion to account for differences between cleared and uncleared significant price discovery contracts) in establishing the manner in which it complies with the following core principles:

"(I) CONTRACTS NOT READILY SUSCEPTIBLE TO MANIPULATION.—The electronic trading facility shall list only significant price discovery contracts that are not readily susceptible to manipulation.

"(II) MONITORING OF TRADING.—The electronic trading facility shall monitor trading in significant price discovery contracts to prevent market manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

"(III) ABILITY TO OBTAIN INFORMATION.—The electronic trading facility shall—

Regulations.

"(aa) establish and enforce rules that will allow the electronic trading facility to obtain any necessary information to perform any of the functions described in this subparagraph;

"(bb) provide the information to the Commission upon request; and

"(cc) have the capacity to carry out such international information-sharing agreements as the Commission may require.

"(IV) POSITION LIMITATIONS OR ACCOUNTABILITY.—The electronic trading facility shall adopt, where necessary and appropriate, position limitations or position accountability for speculators in significant price discovery contracts, taking into account positions in other agreements, contracts, and transactions that are treated by a derivatives clearing organization, whether registered or not registered, as fungible with such significant price discovery contracts to reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month.

Regulations.

"(V) EMERGENCY AUTHORITY.—The electronic trading facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, where

necessary and appropriate, including the authority—

"(aa) to liquidate open positions in a significant price discovery contract; and

"(bb) to suspend or curtail trading in a significant price discovery contract.

"(VI) DAILY PUBLICATION OF TRADING INFORMATION.—The electronic trading facility shall make public daily information on price, trading volume, and other trading data to the extent appropriate for significant price discovery contracts

"(VII) COMPLIANCE WITH RULES.—The electronic trading facility shall monitor and enforce compliance with any rules of the electronic trading facility applicable to significant price discovery contracts, including the terms and conditions of the contracts and any limitations on access to the electronic trading facility with respect to the contracts.

"(VIII) CONFLICT OF INTEREST.—The electronic trading facility, with respect to significant price discovery contracts, shall—

Regulations.

"(aa) establish and enforce rules to minimize conflicts of interest in its decision-making process; and

Procedures.

"(bb) establish a process for resolving the conflicts of interest.

"(IX) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the electronic trading facility, with respect to significant price discovery contracts, shall endeavor to avoid—

"(aa) adopting any rules or taking any actions that result in any unreasonable restraints of trade; or

"(bb) imposing any material anticompetitive burden on trading on the electronic trading facility.

"(D) IMPLEMENTATION.—

"(i) CLEARING.—The Commission shall take into consideration differences between cleared and uncleared significant price discovery contracts when reviewing the implementation of the core principles by an electronic trading facility.

"(ii) REVIEW.—As part of the Commission's continual monitoring and surveillance activities, the Commission shall, not less frequently than annually, evaluate, as appropriate, all the agreements, contracts, or transactions conducted on an electronic trading facility in reliance on the exemption provided in paragraph (3) to determine whether they serve a significant price discovery function as described in subparagraph (B) of this paragraph.".

**SEC. 13202. LARGE TRADER REPORTING.**

(a) REPORTING AND RECORDKEEPING.—Section 4g(a) of the Commodity Exchange Act (7 U.S.C. 6g(a)) is amended by inserting

", and in any significant price discovery contract traded or executed on an electronic trading facility or any agreement, contract, or transaction that is treated by a derivatives clearing organization, whether registered or not registered, as fungible with a significant price discovery contract" after "elsewhere".

(b) REPORTS OF POSITIONS EQUAL TO OR IN EXCESS OF TRADING LIMITS.—Section 4i of such Act (7 U.S.C. 6i) is amended—

(1) by inserting ", or any significant price discovery contract traded or executed on an electronic trading facility or any agreement, contract, or transaction that is treated by a derivatives clearing organization, whether registered or not registered, as fungible with a significant price discovery contract" after "subject to the rules of any contract market or derivatives transaction execution facility"; and

(2) in the matter following paragraph (2), by inserting "or electronic trading facility" after "subject to the rules of any other board of trade".

**SEC. 13203. CONFORMING AMENDMENTS.**

(a) Section 1a(12)(A)(x) of the Commodity Exchange Act (7 U.S.C. 1a(12)(A)(x)) is amended by inserting "(other than an electronic trading facility with respect to a significant price discovery contract)" after "registered entity".

(b) Section 1a(29) of such Act (7 U.S.C. 1a(29)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(E) with respect to a contract that the Commission determines is a significant price discovery contract, any electronic trading facility on which the contract is executed or traded.".

(c) Section 2(a)(1)(A) of such Act (7 U.S.C. 2(a)(1)(A)) is amended by inserting after "future delivery" the following: "(including significant price discovery contracts)".

(d) Section 2(h)(3) of such Act (7 U.S.C. 2(h)(3)) is amended by striking "paragraph (4)" and inserting "paragraphs (4) and (7)".

(e) Section 2(h)(4) of such Act (7 U.S.C. 2(h)(4)) is amended—

(1) in subparagraph (B), by inserting "and, for a significant price discovery contract, requiring large trader reporting," after "proscribing fraud";

(2) by striking "and" at the end of subparagraph (C); and

(3) by striking subparagraph (D) and inserting the following:

"(D) such rules, regulations, and orders as the Commission may issue to ensure timely compliance with any of the provisions of this Act applicable to a significant price discovery contract traded on or executed on any electronic trading facility; and

"(E) such other provisions of this Act as are applicable by their terms to significant price discovery contracts or to registered entities or electronic trading facilities with respect to significant price discovery contracts.".

(f) Section 2(h)(5)(B)(iii)(I) of such Act (7 U.S.C. 2(h)(5)(B)(iii)(I)) is amended by inserting "or to make the determination described in subparagraph (B) of paragraph (7)" after "paragraph (4)".

(g) Section 4a of such Act (7 U.S.C. 6a) is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting ", or on electronic trading facilities with respect to a significant price discovery contract" after "derivatives transaction execution facilities"; and

(B) in the second sentence, by inserting ", or on an electronic trading facility with respect to a significant price discovery contract," after "derivatives transaction execution facility"; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or electronic trading facility with respect to a significant price discovery contract" after "facility or facilities"; and

(B) in paragraph (2), by inserting "or electronic trading facility with respect to a significant price discovery contract" after "derivatives transaction execution facility"; and

(3) in subsection (e)—

(A) in the first sentence—

(i) by inserting "or by any electronic trading facility" after "registered by the Commission";

(ii) by inserting "or on an electronic trading facility" after "derivatives transaction execution facility" the second place it appears; and

(iii) by inserting "or electronic trading facility" before "or such board of trade" each place it appears; and

(B) in the second sentence, by inserting "or electronic trading facility with respect to a significant price discovery contract" after "registered by the Commission".

(h) Section 5a(d) of such Act (7 U.S.C. 7a(d)(1)) is amended—

(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10); and

(2) by inserting after paragraph (3) the following:

"(4) POSITION LIMITATIONS OR ACCOUNTABILITY.—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the derivatives transaction execution facility shall adopt position limits or position accountability for speculators, where necessary and appropriate for a contract, agreement or transaction with an underlying commodity that has a physically deliverable supply.".

(i) Section 5c(a) of such Act (7 U.S.C. 7a–2(a)) is amended in paragraph (1) by inserting ", and section 2(h)(7) with respect to significant price discovery contracts," after ", and 5b(d)(2)".

(j) Section 5c(b) of such Act (7 U.S.C. 7a–2(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—A contract market, derivatives transaction execution facility, or electronic trading facility with respect to a significant price discovery contract may comply with any applicable core principle through delegation of any relevant function to a registered futures association or a registered entity that is not an electronic trading facility.";

(2) in paragraph (2), by striking "contract market or derivatives transaction execution facility" and inserting "contract market, derivatives transaction execution facility, or electronic trading facility"; and

(3) in paragraph (3), by striking "contract market or derivatives transaction execution facility" each place it appears and

inserting "contract market, derivatives transaction execution facility, or electronic trading facility".

(k) Section 5c(d)(1) of such Act (7 U.S.C. 7a–2(d)(1)) is amended by inserting "or 2(h)(7)(C) with respect to a significant price discovery contract traded or executed on an electronic trading facility," after "5b(d)(2)".

(l) Section 5e of such Act (7 U.S.C. 7b) is amended by inserting ", or revocation of the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract," after "revocation of designation as a registered entity".

(m) Section 6(b) of the Commodity Exchange Act (7 U.S.C. 8(b)) is amended by striking the first sentence and all that follows through "hearing on the record: Provided," and inserting the following:

"The Commission is authorized to suspend for a period not to exceed 6 months or to revoke the designation or registration of any contract market or derivatives transaction execution facility, or to revoke the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract, on a showing that the contract market or derivatives transaction execution facility is not enforcing or has not enforced its rules of government, made a condition of its designation or registration as set forth in sections 5 through 5b or section 5f, or that the contract market or derivatives transaction execution facility or electronic trading facility, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this Act or any of the rules, regulations, or orders of the Commission thereunder. Such suspension or revocation shall only be made after a notice to the officers of the contract market or derivatives transaction execution facility or electronic trading facility affected and upon a hearing on the record: Provided,". Contracts. Notice.

(n) Section 22(b)(1) of such Act (7 U.S.C. 25(b)(1)) is amended by inserting "section 2(h)(7) or" before "sections 5".

**SEC. 13204. EFFECTIVE DATE.** 7 USC 2 note.

(a) IN GENERAL.—Except as provided in this section, this subtitle shall become effective on the date of enactment of this Act.

(b) SIGNIFICANT PRICE DISCOVERY STANDARDS RULEMAKING.—

(1) The Commodity Futures Trading Commission shall— Deadlines.

(A) not later than 180 days after the date of the enactment of this Act, issue a proposed rule regarding the implementation of section 2(h)(7) of the Commodity Exchange Act; and

(B) not later than 270 days after the date of enactment of this Act, issue a final rule regarding the implementation.

(2) In its rulemaking pursuant to paragraph (1) of this subsection, the Commission shall include the standards, terms, and conditions under which an electronic trading facility will have the responsibility to notify the Commission that an agreement, contract, or transaction conducted in reliance on the exemption provided in section 2(h)(3) of the Commodity Exchange Act may perform a price discovery function.

(c) SIGNIFICANT PRICE DISCOVERY DETERMINATIONS.—With respect to any electronic trading facility operating on the effective date of the final rule issued pursuant to subsection (b)(1), the Review. Deadline.

Commission shall complete a review of the agreements, contracts, and transactions of the facility not later than 180 days after that effective date to determine whether any such agreement, contract, or transaction performs a significant price discovery function.

# TITLE XIV—MISCELLANEOUS

## Subtitle A—Socially Disadvantaged Producers and Limited Resource Producers

### SEC. 14001. IMPROVED PROGRAM DELIVERY BY DEPARTMENT OF AGRICULTURE ON INDIAN RESERVATIONS.

Section 2501(g)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(g)(1)) is amended—

(1) in the first sentence—

(A) by striking "Agricultural Stabilization and Conservation Service, Soil Conservation Service, and Farmers Home Administration offices" and inserting "Farm Service Agency and Natural Resources Conservation Service"; and

(B) by inserting "where there has been a need demonstrated" after "include"; and

(2) by striking the second sentence.

### SEC. 14002. FORECLOSURE.

(a) IN GENERAL.—Section 331A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981a) is amended:

(1) by inserting "(a)" after "SEC. 331A."; and

(2) by adding at the end the following:

"(b) MORATORIUM.—

Effective date.

"(1) IN GENERAL.—Subject to the other provisions of this subsection, effective beginning on the date of the enactment of this subsection, there shall be in effect a moratorium, with respect to farmer program loans made under subtitle A, B, or C, on all acceleration and foreclosure proceedings instituted by the Department of Agriculture against any farmer or rancher who—

"(A) has pending against the Department a claim of program discrimination that is accepted by the Department as valid; or

"(B) files a claim of program discrimination that is accepted by the Department as valid.

"(2) WAIVER OF INTEREST AND OFFSETS.—During the period of the moratorium, the Secretary shall waive the accrual of interest and offsets on all farmer program loans made under subtitle A, B, or C for which loan acceleration or foreclosure proceedings have been suspended under paragraph (1).

"(3) TERMINATION OF MORATORIUM.—The moratorium shall terminate with respect to a claim of discrimination by a farmer or rancher on the earlier of—

"(A) the date the Secretary resolves the claim; or

"(B) if the farmer or rancher appeals the decision of the Secretary on the claim to a court of competent jurisdiction, the date that the court renders a final decision on the claim.

"(4) FAILURE TO PREVAIL.—If a farmer or rancher does not prevail on a claim of discrimination described in paragraph (1), the farmer or rancher shall be liable for any interest and offsets that accrued during the period that loan acceleration or foreclosure proceedings have been suspended under paragraph (1).".

(b) FORECLOSURE REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Agriculture (referred to in this subsection as the "Inspector General") shall determine whether decisions of the Department to implement foreclosure proceedings with respect to farmer program loans made under subtitle A, B, or C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et seq.) to socially disadvantaged farmers or ranchers during the 5-year period preceding the date of the enactment of this Act were consistent and in conformity with the applicable laws (including regulations) governing loan foreclosures.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspector General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the determination of the Inspector General under paragraph (1).

**SEC. 14003. RECEIPT FOR SERVICE OR DENIAL OF SERVICE FROM CERTAIN DEPARTMENT OF AGRICULTURE AGENCIES.**

Section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1) is amended by adding at the end the following new subsection:

"(e) RECEIPT FOR SERVICE OR DENIAL OF SERVICE.—In any case in which a current or prospective producer or landowner, in person or in writing, requests from the Farm Service Agency, the Natural Resources Conservation Service, or an agency of the Rural Development Mission Area any benefit or service offered by the Department to agricultural producers or landowners and, at the time of the request, also requests a receipt, the Secretary shall issue, on the date of the request, a receipt to the producer or landowner that contains—

"(1) the date, place, and subject of the request; and

"(2) the action taken, not taken, or recommended to the producer or landowner.".

**SEC. 14004. OUTREACH AND TECHNICAL ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.**

(a) OUTREACH AND TECHNICAL ASSISTANCE PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Paragraph (2) of section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)) is amended to read as follows:

"(2) REQUIREMENTS.—The outreach and technical assistance program under paragraph (1) shall be used exclusively—

"(A) to enhance coordination of the outreach, technical assistance, and education efforts authorized under agriculture programs; and

"(B) to assist the Secretary in—

"(i) reaching current and prospective socially disadvantaged farmers or ranchers in a linguistically appropriate manner; and

"(ii) improving the participation of those farmers and ranchers in Department programs, as reported under section 2501A.".

(2) GRANTS AND CONTRACTS UNDER PROGRAM.—Section 2501(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(3)) is amended—

(A) in subparagraph (A), by striking "entity to provide information" and inserting "entity that has demonstrated an ability to carry out the requirements described in paragraph (2) to provide outreach"; and

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

Public information.

"(D) REPORT.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and make publicly available, an annual report that includes a list of the following:

"(i) The recipients of funds made available under the program.

"(ii) The activities undertaken and services provided.

"(iii) The number of current and prospective socially disadvantaged farmers or ranchers served and outcomes of such service.

"(iv) The problems and barriers identified by entities in trying to increase participation by current and prospective socially disadvantaged farmers or ranchers.".

(3) FUNDING AND LIMITATION ON USE OF FUNDS.—Section 2501(a)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(4)) is amended—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(i) $15,000,000 for fiscal year 2009; and

"(ii) $20,000,000 for each of fiscal years 2010 through 2012.".

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

"(C) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amounts made available under subparagraph (A) for a fiscal year may be used for expenses related to administering the program under this section.".

(b) ELIGIBLE ENTITY DEFINED.—Section 2501(e)(5)(A)(ii) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(5)(A)(ii)) is amended by striking "work with socially disadvantaged farmers or ranchers during the 2-year period" and inserting "work with, and on behalf of, socially disadvantaged farmers or ranchers during the 3-year period".

**SEC. 14005. ACCURATE DOCUMENTATION IN THE CENSUS OF AGRICULTURE AND CERTAIN STUDIES.**

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended by adding at the end the following:

"(h) ACCURATE DOCUMENTATION.—The Secretary shall ensure, to the maximum extent practicable, that the Census of Agriculture and studies carried out by the Economic Research Service accurately document the number, location, and economic contributions of socially disadvantaged farmers or ranchers in agricultural production.".

**SEC. 14006. TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.**

Section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1) is amended by striking subsection (c) and inserting the following new subsections:

"(c) COMPILATION OF PROGRAM PARTICIPATION DATA.—

"(1) ANNUAL REQUIREMENT.—For each county and State in the United States, the Secretary of Agriculture (referred to in this section as the 'Secretary') shall annually compile program application and participation rate data regarding socially disadvantaged farmers or ranchers by computing for each program of the Department of Agriculture that serves agricultural producers and landowners—

"(A) raw numbers of applicants and participants by race, ethnicity, and gender, subject to appropriate privacy protections, as determined by the Secretary; and

"(B) the application and participation rate, by race, ethnicity, and gender, as a percentage of the total participation rate of all agricultural producers and landowners.

"(2) AUTHORITY TO COLLECT DATA.—The heads of the agencies of the Department of Agriculture shall collect and transmit to the Secretary any data, including data on race, gender, and ethnicity, that the Secretary determines to be necessary to carry out paragraph (1).

"(3) REPORT.—Using the technologies and systems of the National Agricultural Statistics Service, the Secretary shall compile and present the data compiled under paragraph (1) for each program described in that paragraph in a manner that includes the raw numbers and participation rates for—

"(A) the entire United States;

"(B) each State; and

"(C) each county in each State.

"(4) PUBLIC AVAILABILITY OF REPORT.—The Secretary shall maintain and make readily available to the public, via website and otherwise in electronic and paper form, the report described in paragraph (3). Web site.

"(d) LIMITATIONS ON USE OF DATA.—

"(1) PRIVACY PROTECTIONS.—In carrying out this section, the Secretary shall not disclose the names or individual data of any program participant.

"(2) AUTHORIZED USES.—The data under this section shall be used exclusively for the purposes described in subsection (a).

"(3) LIMITATION.—Except as otherwise provided, the data under this section shall not be used for the evaluation of individual applications for assistance.".

7 USC 2279–1 note.

**SEC. 14007. OVERSIGHT AND COMPLIANCE.**

The Secretary, acting through the Assistant Secretary for Civil Rights of the Department of Agriculture, shall use the reports described in subsection (c) of section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1), as amended by section 14006, in the conduct of oversight and evaluation of civil rights compliance.

7 USC 2279 note.

**SEC. 14008. MINORITY FARMER ADVISORY COMMITTEE.**

Deadline.

(a) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Agriculture shall establish an advisory committee, to be known as the "Advisory Committee on Minority Farmers" (in this section referred to as the "Committee").

(b) DUTIES.—The Committee shall provide advice to the Secretary on—

(1) the implementation of section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279);

(2) methods of maximizing the participation of minority farmers and ranchers in Department of Agriculture programs; and

(3) civil rights activities within the Department as such activities relate to participants in such programs.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall be composed of not more than 15 members, who shall be appointed by the Secretary, and shall include—

(A) not less than four socially disadvantaged farmers or ranchers (as defined in section 2501(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(2)));

(B) not less than two representatives of nonprofit organizations with a history of working with minority farmers and ranchers;

(C) not less than two civil rights professionals;

(D) not less than two representatives of institutions of higher education with demonstrated experience working with minority farmers and ranchers; and

(E) such other persons as the Secretary considers appropriate.

(2) EX-OFFICIO MEMBERS.—The Secretary may appoint such employees of the Department of Agriculture as the Secretary considers appropriate to serve as ex-officio members of the Committee.

**SEC. 14009. NATIONAL APPEALS DIVISION.**

Section 280 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7000) is amended—

(1) by striking "On the return" and inserting the following:

"(a) IN GENERAL.—On the return"; and

(2) by adding at the end the following:

"(b) REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, and every 180 days thereafter, the head of each agency shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and publish on the website of the Department, a report that includes— Web site.

"(A) a description of all cases returned to the agency during the period covered by the report pursuant to a final determination of the Division;

"(B) the status of implementation of each final determination; and

"(C) if the final determination has not been implemented—

"(i) the reason that the final determination has not been implemented; and

"(ii) the projected date of implementation of the final determination.

"(2) UPDATES.—Each month, the head of each agency shall publish on the website of the Department any updates to the reports submitted under paragraph (1).". Web site.

**SEC. 14010. REPORT OF CIVIL RIGHTS COMPLAINTS, RESOLUTIONS, AND ACTIONS.** 7 USC 2279–2.

Each year, the Secretary shall—

(1) prepare a report that describes, for each agency of the Department of Agriculture—

(A) the number of civil rights complaints filed that relate to the agency, including whether a complaint is a program complaint or an employment complaint;

(B) the length of time the agency took to process each civil rights complaint;

(C) the number of proceedings brought against the agency, including the number of complaints described in paragraph (1) that were resolved with a finding of discrimination; and

(D) the number and type of personnel actions taken by the agency following resolution of civil rights complaints;

(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the report; and

(3) make the report available to the public by posting the report on the website of the Department. Public information. Web site.

**SEC. 14011. SENSE OF CONGRESS RELATING TO CLAIMS BROUGHT BY SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.**

It is the sense of Congress that all pending claims and class actions brought against the Department of Agriculture by socially disadvantaged farmers or ranchers (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)), including Native American, Hispanic, and female farmers or ranchers, based on racial, ethnic, or gender discrimination in farm program participation should be resolved in an expeditious and just manner.

**SEC. 14012. DETERMINATION ON MERITS OF PIGFORD CLAIMS.**

(a) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term "consent decree" means the consent decree in the case of Pigford v. Glickman, approved by the United States District Court for the District of Columbia on April 14, 1999.

(2) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(3) PIGFORD CLAIM.—The term "Pigford claim" means a discrimination complaint, as defined by section 1(h) of the consent decree and documented under section 5(b) of the consent decree.

(4) PIGFORD CLAIMANT.—The term "Pigford claimant" means an individual who previously submitted a late-filing request under section 5(g) of the consent decree.

(b) DETERMINATION ON MERITS.—Any Pigford claimant who has not previously obtained a determination on the merits of a Pigford claim may, in a civil action brought in the United States District Court for the District of Columbia, obtain that determination.

(c) LIMITATION.—

(1) IN GENERAL.—Subject to paragraph (2), all payments or debt relief (including any limitation on foreclosure under subsection (h)) shall be made exclusively from funds made available under subsection (i).

(2) MAXIMUM AMOUNT.—The total amount of payments and debt relief pursuant to actions commenced under subsection (b) shall not exceed $100,000,000.

(d) INTENT OF CONGRESS AS TO REMEDIAL NATURE OF SECTION.—It is the intent of Congress that this section be liberally construed so as to effectuate its remedial purpose of giving a full determination on the merits for each Pigford claim previously denied that determination.

(e) LOAN DATA.—

(1) REPORT TO PERSON SUBMITTING PETITION.—

(A) IN GENERAL.—Not later than 120 days after the Secretary receives notice of a complaint filed by a claimant under subsection (b), the Secretary shall provide to the claimant a report on farm credit loans and noncredit benefits, as appropriate, made within the claimant's county (or if no documents are found, within an adjacent county as determined by the claimant), by the Department during the period beginning on January 1 of the year preceding the period covered by the complaint and ending on December 31 of the year following the period.

(B) REQUIREMENTS.—A report under subparagraph (A) shall contain information on all persons whose application for a loan or benefit was accepted, including—

(i) the race of the applicant;

(ii) the date of application;

(iii) the date of the loan or benefit decision, as appropriate;

(iv) the location of the office making the loan or benefit decision, as appropriate;

(v) all data relevant to the decisionmaking process for the loan or benefit, as appropriate; and

(vi) all data relevant to the servicing of the loan or benefit, as appropriate.

(2) NO PERSONALLY IDENTIFIABLE INFORMATION.—The reports provided pursuant to paragraph (1) shall not contain any information that would identify any person who applied for a loan from the Department.

(3) REPORTING DEADLINE.—

(A) IN GENERAL.—The Secretary shall—

(i) provide to claimants the reports required under paragraph (1) as quickly as practicable after the Secretary receives notice of a complaint filed by a claimant under subsection (b); and

(ii) devote such resources of the Department as are necessary to make providing the reports expeditiously a high priority of the Department.

(B) EXTENSION.—A court may extend the deadline for providing the report required in a particular case under paragraph (1) if the Secretary establishes that meeting the deadline is not feasible and demonstrates a continuing effort and commitment to provide the required report expeditiously.

(f) EXPEDITED RESOLUTIONS AUTHORIZED.—

(1) IN GENERAL.—Any person filing a complaint under this section for discrimination in the application for, or making or servicing of, a farm loan, at the discretion of the person, may seek liquidated damages of $50,000, discharge of the debt that was incurred under, or affected by, the 1 or more programs that were the subject of the 1 or more discrimination claims that are the subject of the person's complaint, and a tax payment in the amount equal to 25 percent of the liquidated damages and loan principal discharged, in which case—

(A) if only such damages, debt discharge, and tax payment are sought, the complainant shall be able to prove the case of the complainant by substantial evidence (as defined in section 1(l) of the consent decree); and

(B) the court shall decide the case based on a review of documents submitted by the complainant and defendant relevant to the issues of liability and damages.

(2) NONCREDIT CLAIMS.—

(A) STANDARD.—In any case in which a claimant asserts a noncredit claim under a benefit program of the Department, the court shall determine the merits of the claim in accordance with section 9(b)(i) of the consent decree.

(B) RELIEF.—A claimant who prevails on a claim of discrimination involving a noncredit benefit program of the Department shall be entitled to a payment by the Department in a total amount of $3,000, without regard to the number of such claims on which the claimant prevails.

(g) ACTUAL DAMAGES.—A claimant who files a claim under this section for discrimination under subsection (b) but not under subsection (f) and who prevails on the claim shall be entitled to actual damages sustained by the claimant.

(h) LIMITATION ON FORECLOSURES.—Notwithstanding any other provision of law, during the pendency of a Pigford claim, the Secretary may not begin acceleration on or foreclosure of a loan if—

(1) the borrower is a Pigford claimant; and

(2) makes a prima facie case in an appropriate administrative proceeding that the acceleration or foreclosure is related to a Pigford claim.

(i) FUNDING.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available for payments and debt relief in satisfaction of claims against the United States under subsection (b) and for any actions under subsection (g) $100,000,000 for fiscal year 2008, to remain available until expended.

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under paragraph (1), there are authorized to be appropriated such sums as are necessary to carry out this section.

(j) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and every 180 days thereafter until the funds made available under subsection (i) are depleted, the Secretary shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that describes the status of available funds under subsection (i) and the number of pending claims under subsection (f).

(2) DEPLETION OF FUNDS REPORT.—In addition to the reports required under paragraph (1), the Secretary shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that notifies the Committees when 75 percent of the funds made available under subsection (i)(1) have been depleted.

(k) TERMINATION OF AUTHORITY.—The authority to file a claim under this section terminates 2 years after the date of the enactment of this Act.

**SEC. 14013. OFFICE OF ADVOCACY AND OUTREACH.**

(a) IN GENERAL.—The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 226A (7 U.S.C. 6933) the following:

7 USC 6934.

**"SEC. 226B. OFFICE OF ADVOCACY AND OUTREACH.**

"(a) DEFINITIONS.—In this section:

"(1) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

"(2) OFFICE.—The term 'Office' means the Office of Advocacy and Outreach established under this section.

"(3) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

"(b) ESTABLISHMENT AND PURPOSE.—

"(1) IN GENERAL.—The Secretary shall establish within the executive operations of the Department an office to be known as the 'Office of Advocacy and Outreach'—

"(A) to improve access to programs of the Department; and

"(B) to improve the viability and profitability of—

"(i) small farms and ranches;

"(ii) beginning farmers or ranchers; and

"(iii) socially disadvantaged farmers or ranchers.

"(2) DIRECTOR.—The Office shall be headed by a Director, to be appointed by the Secretary from among the competitive service.

"(c) DUTIES.—The duties of the Office shall be to ensure small farms and ranches, beginning farmers or ranchers, and socially disadvantaged farmers or ranchers access to, and equitable participation in, programs and services of the Department by—

"(1) establishing and monitoring the goals and objectives of the Department to increase participation in programs of the Department by small, beginning, or socially disadvantaged farmers or ranchers;

"(2) assessing the effectiveness of Department outreach programs;

"(3) developing and implementing a plan to coordinate outreach activities and services provided by the Department;

"(4) providing input to the agencies and offices on programmatic and policy decisions;

"(5) measuring outcomes of the programs and activities of the Department on small farms and ranches, beginning farmers or ranchers, and socially disadvantaged farmers or ranchers programs;

"(6) recommending new initiatives and programs to the Secretary; and

"(7) carrying out any other related duties that the Secretary determines to be appropriate.

"(d) SOCIALLY DISADVANTAGED FARMERS GROUP.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Office the Socially Disadvantaged Farmers Group.

"(2) OUTREACH AND ASSISTANCE.—The Socially Disadvantaged Farmers Group—

"(A) shall carry out section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279); and

"(B) in the case of activities described in section 2501(a) of that Act, may conduct such activities through other agencies and offices of the Department.

"(3) SOCIALLY DISADVANTAGED FARMERS AND FARMWORKERS.—The Socially Disadvantaged Farmers Group shall oversee the operations of—

"(A) the Advisory Committee on Minority Farmers established under section 14009 of the Food, Conservation, and Energy Act of 2008; and

"(B) the position of Farmworker Coordinator established under subsection (f).

"(4) OTHER DUTIES.—

"(A) IN GENERAL.—The Socially Disadvantaged Farmers Group may carry out other duties to improve access to, and participation in, programs of the Department by socially disadvantaged farmers or ranchers, as determined by the Secretary.

"(B) OFFICE OF OUTREACH AND DIVERSITY.—The Office of Advocacy and Outreach shall carry out the functions and duties of the Office of Outreach and Diversity carried out by the Assistant Secretary for Civil Rights as such

functions and duties existed immediately before the date of the enactment of this section.

"(e) SMALL FARMS AND BEGINNING FARMERS AND RANCHERS GROUP.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Office the Small Farms and Beginning Farmers and Ranchers Group.

"(2) DUTIES.—

"(A) OVERSEE OFFICES.—The Small Farms and Beginning Farmers and Ranchers Group shall oversee the operations of the Office of Small Farms Coordination established by Departmental Regulation 9700-1 (August 3, 2006).

"(B) BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.—The Small Farms and Beginning Farmers and Ranchers Group shall consult with the National Institute for Food and Agriculture on the administration of the beginning farmer and rancher development program established under section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f).

"(C) ADVISORY COMMITTEE FOR BEGINNING FARMERS AND RANCHERS.—The Small Farms and Beginning Farmers and Ranchers Group shall coordinate the activities of the Group with the Advisory Committee for Beginning Farmers and Ranchers established under section 5(b) of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1621 note; Public Law 102–554).

"(D) OTHER DUTIES.—The Small Farms and Beginning Farmers and Ranchers Group may carry out other duties to improve access to, and participation in, programs of the Department by small farms and ranches and beginning farmers or ranchers, as determined by the Secretary.

"(f) FARMWORKER COORDINATOR.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Office the position of Farmworker Coordinator (referred to in this subsection as the 'Coordinator').

"(2) DUTIES.—The Secretary shall delegate to the Coordinator responsibility for the following:

"(A) Assisting in administering the program established by section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a).

"(B) Serving as a liaison to community-based nonprofit organizations that represent and have demonstrated experience serving low-income migrant and seasonal farmworkers.

"(C) Coordinating with the Department, other Federal agencies, and State and local governments to ensure that farmworker needs are assessed and met during declared disasters and other emergencies.

"(D) Consulting within the Office and with other entities to better integrate farmworker perspectives, concerns, and interests into the ongoing programs of the Department.

"(E) Consulting with appropriate institutions on research, program improvements, or agricultural education opportunities that assist low-income and migrant seasonal farmworkers.

"(F) Assisting farmworkers in becoming agricultural producers or landowners.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2012.".

(b) CONFORMING AMENDMENT.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)), as amended by section 7511(b), is further amended—

(1) in paragraph (5), by striking "; or" and inserting ";";

(2) in paragraph (6), by striking the period and inserting "; or"; and

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

"(7) the authority of the Secretary to establish in the Department the Office of Advocacy and Outreach in accordance with section 226B.".

# Subtitle B—Agricultural Security

Agricultural Security Improvement Act of 2008.
7 USC 8901 note.

**SEC. 14101. SHORT TITLE.**

This subtitle may be cited as the "Agricultural Security Improvement Act of 2008".

**SEC. 14102. DEFINITIONS.**

7 USC 8901.

In this subtitle:

(1) AGENT.—The term "agent" means a nuclear, biological, chemical, or radiological substance that causes agricultural disease or the adulteration of products regulated by the Secretary of Agriculture under any provision of law.

(2) AGRICULTURAL BIOSECURITY.—The term "agricultural biosecurity" means protection from an agent that poses a threat to—

(A) plant or animal health;

(B) public health as it relates to the adulteration of products regulated by the Secretary of Agriculture under any provision of law that is caused by exposure to an agent; or

(C) the environment as it relates to agriculture facilities, farmland, and air and water within the immediate vicinity of an area associated with an agricultural disease or outbreak.

(3) AGRICULTURAL COUNTERMEASURE.—The term "agricultural countermeasure"—

(A) means a product, practice, or technology that is intended to enhance or maintain the agricultural biosecurity of the United States; and

(B) does not include a product, practice, or technology used solely in response to a human medical incident or public health emergency not related to agriculture.

(4) AGRICULTURAL DISEASE.—The term "agricultural disease" has the meaning given the term by the Secretary.

(5) AGRICULTURAL DISEASE EMERGENCY.—The term "agricultural disease emergency" means an incident of agricultural disease that requires prompt action to prevent significant damage to people, plants, or animals.

(6) AGROTERRORIST ACT.—The term "agroterrorist act" means an act that—

(A) causes or attempts to cause—

(i) damage to agriculture; or

(ii) injury to a person associated with agriculture; and

(B) is committed or appears to be committed with the intent to—

(i) intimidate or coerce a civilian population; or

(ii) disrupt the agricultural industry in order to influence the policy of a government by intimidation or coercion.

(7) ANIMAL.—The term "animal" has the meaning given the term in section 10403 of the Animal Health Protection Act of 2002 (7 U.S.C. 8302).

(8) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(9) DEVELOPMENT.—The term "development" means—

(A) research leading to the identification of products or technologies intended for use as agricultural countermeasures to protect animal health;

(B) the formulation, production, and subsequent modification of those products or technologies;

(C) the conduct of in vitro and in vivo studies;

(D) the conduct of field, efficacy, and safety studies;

(E) the preparation of an application for marketing approval for submission to an applicable agency; or

(F) other actions taken by an applicable agency in a case in which an agricultural countermeasure is procured or used prior to issuance of a license or other form of Federal Government approval.

(10) PLANT.—The term "plant" has the meaning given the term in section 411 of the Plant Protection Act of 2000 (7 U.S.C. 7702).

(11) QUALIFIED AGRICULTURAL COUNTERMEASURE.—The term "qualified agricultural countermeasure" means an agricultural countermeasure that the Secretary, in consultation with the Secretary of Homeland Security, determines to be a priority in order to address an agricultural biosecurity threat.

## CHAPTER 1—AGRICULTURAL SECURITY

7 USC 8911.

**SEC. 14111. OFFICE OF HOMELAND SECURITY.**

(a) ESTABLISHMENT.—There is established within the Department the Office of Homeland Security (in this section referred to as the "Office").

(b) DIRECTOR.—The Office shall be headed by a Director of Homeland Security, who shall be appointed by the Secretary.

(c) RESPONSIBILITIES.—The Director of Homeland Security shall—

(1) coordinate all homeland security activities of the Department, including integration and coordination of interagency emergency response plans for—

(A) agricultural disease emergencies;

(B) agroterrorist acts; and

(C) other threats to agricultural biosecurity;

(2) act as the primary liaison on behalf of the Department with other Federal departments and agencies on the coordination of efforts and interagency activities pertaining to agricultural biosecurity; and

(3) advise the Secretary on policies, regulations, processes, budget, and actions pertaining to homeland security.

**SEC. 14112. AGRICULTURAL BIOSECURITY COMMUNICATION CENTER.** 7 USC 8912.

(a) ESTABLISHMENT.—The Secretary shall establish a communication center within the Department to—

(1) collect and disseminate information and prepare for an agricultural disease emergency, agroterrorist act, or other threat to agricultural biosecurity; and

(2) coordinate activities described in paragraph (1) among agencies and offices within the Department.

(b) RELATION TO EXISTING DHS COMMUNICATION SYSTEMS.—

(1) CONSISTENCY AND COORDINATION.—The communication center established under subsection (a) shall, to the maximum extent practicable, share and coordinate the dissemination of timely information with the Department of Homeland Security and other communication systems of appropriate Federal departments and agencies.

(2) AVOIDING REDUNDANCIES.—Paragraph (1) shall not be construed to impede, conflict with, or duplicate the communications activities performed by the Secretary of Homeland Security under any provision of law.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2008 through 2012.

**SEC. 14113. ASSISTANCE TO BUILD LOCAL CAPACITY IN AGRICULTURAL BIOSECURITY PLANNING, PREPAREDNESS, AND RESPONSE.** 7 USC 8913.

(a) ADVANCED TRAINING PROGRAMS.—

(1) GRANT ASSISTANCE.—The Secretary shall establish a competitive grant program to support the development and expansion of advanced training programs in agricultural biosecurity planning and response for food science professionals and veterinarians.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subsection for each of fiscal years 2008 through 2012.

(b) ASSESSMENT OF RESPONSE CAPABILITY.—

(1) GRANT AND LOAN ASSISTANCE.—The Secretary shall establish a competitive grant and low-interest loan assistance program to assist States in assessing agricultural disease response capability.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2008 through 2012.

## CHAPTER 2—OTHER PROVISIONS

**SEC. 14121. RESEARCH AND DEVELOPMENT OF AGRICULTURAL COUNTERMEASURES.** 7 USC 8921.

(a) GRANT PROGRAM.—

(1) COMPETITIVE GRANT PROGRAM.—The Secretary shall establish a competitive grant program to encourage basic and applied research and the development of qualified agricultural countermeasures.

(2) WAIVER IN EMERGENCIES.—The Secretary may waive the requirement under paragraph (1) that a grant be provided on a competitive basis if—

(A) the Secretary has declared a plant or animal disease emergency under the Plant Protection Act (7 U.S.C. 7701 et seq.) or the Animal Health Protection Act (7 U.S.C. 8301 et seq.); and

(B) waiving the requirement would lead to the rapid development of a qualified agricultural countermeasure, as determined by the Secretary.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2008 through 2012.

7 USC 8922.

**SEC. 14122. AGRICULTURAL BIOSECURITY GRANT PROGRAM.**

(a) COMPETITIVE GRANT PROGRAM.—The Secretary shall establish a competitive grant program to promote the development of teaching programs in agriculture, veterinary medicine, and disciplines closely allied to the food and agriculture system to increase the number of trained individuals with an expertise in agricultural biosecurity.

(b) ELIGIBILITY.—The Secretary may award a grant under this section only to an entity that is—

(1) an accredited school of veterinary medicine; or

(2) a department of an institution of higher education with a primary focus on—

(A) comparative medicine;

(B) veterinary science; or

(C) agricultural biosecurity.

(c) PREFERENCE.—The Secretary shall give preference in awarding grants based on the ability of an applicant—

(1) to increase the number of veterinarians or individuals with advanced degrees in food and agriculture disciplines who are trained in agricultural biosecurity practice areas;

(2) to increase research capacity in areas of agricultural biosecurity; or

(3) to fill critical agricultural biosecurity shortage situations outside of the Federal Government.

(d) USE OF FUNDS..—

(1) IN GENERAL.—Amounts received under this section shall be used by a grantee to pay—

(A) costs associated with the acquisition of equipment and other capital costs relating to the expansion of food, agriculture, and veterinary medicine teaching programs in agricultural biosecurity;

(B) capital costs associated with the expansion of academic programs that offer postgraduate training for veterinarians or concurrent training for veterinary students in specific areas of specialization; or

(C) other capacity and infrastructure program costs that the Secretary considers appropriate.

(2) LIMITATION.—Funds received under this section may not be used for the construction, renovation, or rehabilitation of a building or facility.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated sums as are necessary to carry out this section

for each of fiscal years 2008 through 2012, to remain available until expended.

# Subtitle C—Other Miscellaneous Provisions

**SEC. 14201. COTTON CLASSIFICATION SERVICES.**

Section 3a of the Act of March 3, 1927 (7 U.S.C. 473a), is amended to read as follows:

**"SEC. 3a. COTTON CLASSIFICATION SERVICES.**

"(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the 'Secretary') shall—

"(1) make cotton classification services available to producers of cotton; and

"(2) provide for the collection of classification fees from participating producers or agents that voluntarily agree to collect and remit the fees on behalf of producers.

"(b) FEES.—

"(1) USE OF FEES.—Classification fees collected under subsection (a)(2) and the proceeds from the sales of samples submitted under this section shall, to the maximum extent practicable, be used to pay the cost of the services provided under this section, including administrative and supervisory costs.

"(2) ANNOUNCEMENT OF FEES.—The Secretary shall announce a uniform classification fee and any applicable surcharge for classification services not later than June 1 of the year in which the fee applies. Deadline.

"(c) CONSULTATION.—

"(1) IN GENERAL.—In establishing the amount of fees under this section, the Secretary shall consult with representatives of the United States cotton industry.

"(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations with representatives of the United States cotton industry under this section.

"(d) CREDITING OF FEES.—Any fees collected under this section and under section 3d, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall—

"(1) be credited to the current appropriation account that incurs the cost of services provided under this section and section 3d; and

"(2) remain available without fiscal year limitation to pay the expenses of the Secretary in providing those services.

"(e) INVESTMENT OF FUNDS.—Funds described in subsection (d) may be invested—

"(1) by the Secretary in insured or fully collateralized, interest-bearing accounts; or

"(2) at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

"(f) LEASE AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may enter into long-term lease agreements that exceed 5 years or may take title to property (including through purchase agreements) for the purpose of obtaining offices to be used for the classification of cotton in accordance with this Act,

if the Secretary determines that action would best effectuate the purposes of this Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent that financing is not available from fees and the proceeds from the sales of samples, there are authorized to be appropriated such sums as are necessary to carry out this section.".

**SEC. 14202. DESIGNATION OF STATES FOR COTTON RESEARCH AND PROMOTION.**

Section 17(f) of the Cotton Research and Promotion Act (7 U.S.C. 2116(f)) is amended—

(1) by striking "(f) The term" and inserting the following: "(f) COTTON-PRODUCING STATE.—

"(1) IN GENERAL.—The term";

(2) by striking "more, and the term" and all that follows through the end of the subsection and inserting the following: "more.

"(2) INCLUSIONS.—The term 'cotton-producing State' includes—

"(A) any combination of States described in paragraph (1); and

"(B) effective beginning with the 2008 crop of cotton, the States of Kansas, Virginia, and Florida.".

21 USC 864a.

**SEC. 14203. GRANTS TO REDUCE PRODUCTION OF METHAMPHETAMINES FROM ANHYDROUS AMMONIA.**

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a producer of agricultural commodities;

(B) a cooperative association, a majority of the members of which produce or process agricultural commodities; or

(C) a person in the trade or business of—

(i) selling an agricultural product (including an agricultural chemical) at retail, predominantly to farmers and ranchers; or

(ii) aerial and ground application of an agricultural chemical.

(2) NURSE TANK.—The term "nurse tank" shall be considered to be a cargo tank (within the meaning of section 173.315(m) of title 49, Code of Federal Regulations, as in effect as of the date of the enactment of this Act).

(b) GRANT AUTHORITY.—The Secretary may make a grant to an eligible entity to enable the eligible entity to obtain and add to an anhydrous ammonia fertilizer nurse tank a physical lock or a substance to reduce the amount of methamphetamine that can be produced from any anhydrous ammonia removed from the nurse tank.

(c) GRANT AMOUNT.—The amount of a grant made under this section to an eligible entity shall be the product obtained by multiplying—

(1) an amount not less than $40 and not more than $60, as determined by the Secretary; and

(2) the number of fertilizer nurse tanks of the eligible entity.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to make grants under this

section $15,000,000 for the period of fiscal years 2008 through 2012.

**SEC. 14204. GRANTS TO IMPROVE SUPPLY, STABILITY, SAFETY, AND TRAINING OF AGRICULTURAL LABOR FORCE.**

7 USC 2008q–1.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means an entity described in section 379C(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008q(a)).

(b) GRANTS.—

(1) IN GENERAL.—To assist agricultural employers and farmworkers by improving the supply, stability, safety, and training of the agricultural labor force, the Secretary may provide grants to eligible entities for use in providing services to assist farmworkers who are citizens or otherwise legally present in the United States in securing, retaining, upgrading, or returning from agricultural jobs.

(2) ELIGIBLE SERVICES.—The services referred to in paragraph (1) include—

(A) agricultural labor skills development;

(B) the provision of agricultural labor market information;

(C) transportation;

(D) short-term housing while in transit to an agricultural worksite;

(E) workplace literacy and assistance with English as a second language;

(F) health and safety instruction, including ways of safeguarding the food supply of the United States; and

(G) such other services as the Secretary determines to be appropriate.

(c) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 15 percent of the funds made available to carry out this section for a fiscal year may be used to pay for administrative expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

**SEC. 14205. AMENDMENT TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.**

Section 1113(k) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(k)) is amended—

(1) by striking the subsection heading and inserting the following:

"(k) DISCLOSURE NECESSARY FOR PROPER ADMINISTRATION OF PROGRAMS OF CERTAIN GOVERNMENT AUTHORITIES.—"; and

(2) by striking paragraph (2) and inserting the following:

"(2) Nothing in this title shall apply to the disclosure by the financial institution of information contained in the financial records of any customer to any Government authority that certifies, disburses, or collects payments, where the disclosure of such information is necessary to, and such information is used solely for the purpose of—

"(A) verification of the identity of any person or proper routing and delivery of funds in connection with the issuance of a Federal payment or collection of funds by a Government authority; or

"(B) the investigation or recovery of an improper Federal payment or collection of funds or an improperly negotiated Treasury check.

"(3) Notwithstanding any other provision of law, a request authorized by paragraph (1) or (2) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing information contained in the financial records of the customer to the Government authority requesting the information, and the financial institution and its agents shall be barred from redisclosure of such information. Any Government authority receiving information pursuant to paragraph (1) or (2) may not disclose or use the information, except for the purposes set forth in such paragraph.".

**SEC. 14206. REPORT ON STORED QUANTITIES OF PROPANE.**

(a) REPORT.—

(1) IN GENERAL.—Not later than 240 days after the date of the enactment of this Act, the Secretary of Homeland Security (referred to in this section as the "Secretary") shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report describing the effect of interim or final regulations issued by the Secretary pursuant to section 550(a) of the Department of Homeland Security Appropriations Act, 2007 (6 U.S.C. 121 note; Public Law 109–295), with respect to possession of quantities of propane that meet or exceed the screening threshold quantity for propane established in the final rule under that section.

(2) INCLUSIONS.—The report under paragraph (1) shall include a description of—

(A) the number of facilities that completed a top screen consequence assessment due to possession of quantities of propane that meet or exceed the listed screening threshold quantity for propane;

(B) the number of agricultural facilities that completed the top screen consequence assessment due to possession of quantities of propane that meet or exceed the listed screening threshold quantity for propane;

(C) the number of propane facilities initially determined to be high risk by the Secretary;

(D) the number of propane facilities—

(i) required to complete a security vulnerability assessment or a site security plan; or

(ii) that submit to the Secretary an alternative security program;

(E) the number of propane facilities that file an appeal of a finding under the final rule described in paragraph (1); and

(F) to the extent available, the average cost of—

(i) completing a top screen consequence assessment requirement;

(ii) completing a security vulnerability assessment; and

(iii) completing and implementing a site security plan; and

(3) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(b) EDUCATIONAL OUTREACH.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall conduct educational outreach activities for rural facilities that may be required to complete a top screen consequence assessment due to possession of propane in a quantity that meets or exceeds the listed screening threshold quantity for propane. Deadline.

**SEC. 14207. PROHIBITIONS ON DOG FIGHTING VENTURES.**

(a) IN GENERAL.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ", if any animal in the venture was moved in interstate or foreign commerce"; and

(B) in the heading of paragraph (2), by striking "STATE" and inserting "STATE";

(2) in subsection (b)—

(A) by striking "(b) It shall be" and inserting the following:

"(b) BUYING, SELLING, DELIVERING, POSSESSING, TRAINING, OR TRANSPORTING ANIMALS FOR PARTICIPATION IN ANIMAL FIGHTING VENTURE.—It shall be"; and

(B) by striking "transport, deliver" and all that follows through "participate" and inserting "possess, train, transport, deliver, or receive any animal for purposes of having the animal participate";

(3) in subsection (c)—

(A) by striking "(c) It shall be" and inserting the following:

"(c) USE OF POSTAL SERVICE OR OTHER INTERSTATE INSTRUMENTALITY FOR PROMOTING OR FURTHERING ANIMAL FIGHTING VENTURE.—It shall be"; and

(B) by inserting "advertising an animal, or an instrument described in subsection (e), for use in an animal fighting venture," after "for purposes of";

(4) in subsection (d), by striking "(d) Notwithstanding" and inserting the following:

"(d) VIOLATION OF STATE LAW.—Notwithstanding";

(5) in subsection (e), by striking "(e) It shall be" and inserting the following:

"(e) BUYING, SELLING, DELIVERING, OR TRANSPORTING SHARP INSTRUMENTS FOR USE IN ANIMAL FIGHTING VENTURE.—It shall be";

(6) in subsection (f)—

(A) by striking "(f) The Secretary" and inserting the following:

"(f) INVESTIGATION OF VIOLATIONS BY SECRETARY; ASSISTANCE BY OTHER FEDERAL AGENCIES; ISSUANCE OF SEARCH WARRANT; FORFEITURE; COSTS RECOVERABLE IN FORFEITURE OR CIVIL ACTION.—The Secretary"; and

(B) in the last sentence—

(i) by striking "by the United States";

(ii) by inserting "(1)" after "owner of the animals"; and

(iii) by striking "proceeding or in" and inserting "proceeding, or (2) in";

(7) in subsection (g)—

(A) by striking "(g) For purposes of" and inserting the following:

"(g) DEFINITIONS.—In";

(B) in paragraph (1), by striking "any event" and all that follows through "entertainment" and inserting "any event, in or affecting interstate or foreign commerce, that involves a fight conducted or to be conducted between at least 2 animals for purposes of sport, wagering, or entertainment,";

(C) by striking paragraph (2);

(D) in paragraph (5)—

(i) by striking "dog or other"; and

(ii) by striking "; and" and inserting a period; and

(E) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

39 USC 3001.

(8) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively;

(9) in subsection (i) (as so redesignated), by striking "(i)(1) The provisions" and inserting the following:

"(i) CONFLICT WITH STATE LAW.—

"(1) IN GENERAL.—The provisions";

(10) in subsection (j) (as so redesignated), by striking "(j) The criminal" and inserting the following:

"(j) CRIMINAL PENALTIES.—The criminal"; and

(11) in subsection (g)(6), by striking "(6) the conduct" and inserting the following:

"(h) RELATIONSHIP TO OTHER PROVISIONS.—The conduct".

(b) ENFORCEMENT OF ANIMAL FIGHTING PROHIBITIONS.—Section 49 of title 18, United States Code, is amended by striking "3 years" and inserting "5 years".

7 USC 2255b.

**SEC. 14208. DEPARTMENT OF AGRICULTURE CONFERENCE TRANSPARENCY.**

(a) REPORT.—

(1) REQUIREMENT.—Not later than September 30 of each year, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on conferences sponsored or held by the Department of Agriculture or attended by employees of the Department of Agriculture.

(2) CONTENTS.—Each report under paragraph (1) shall contain—

(A) for each conference sponsored or held by the Department or attended by employees of the Department—

(i) the name of the conference;

(ii) the location of the conference;

(iii) the number of Department of Agriculture employees attending the conference; and

(iv) the costs (including travel expenses) relating to such conference; and

(B) for each conference sponsored or held by the Department of Agriculture for which the Department

awarded a procurement contract, a description of the contracting procedures related to such conference.

(3) EXCLUSIONS.—The requirement in paragraph (1) shall not apply to any conference—

(A) for which the cost to the Federal Government was less than $10,000; or

(B) outside of the United States that is attended by the Secretary or the Secretary's designee as an official representative of the United States government.

(b) AVAILABILITY OF REPORT.—Each report submitted in accordance with subsection (a) shall be posted in a searchable format on a Department of Agriculture website that is available to the public. Web site.

(c) DEFINITION OF CONFERENCE.—In this section, the term "conference"—

(1) means a meeting that—

(A) is held for consultation, education, awareness, or discussion;

(B) includes participants from at least one agency of the Department of Agriculture;

(C) is held in whole or in part at a facility outside of an agency of the Department of Agriculture; and

(D) involves costs associated with travel and lodging for some participants; and

(2) does not include any training program that is continuing education or a curriculum-based educational program, provided that such training program is held independent of a conference of a non-governmental organization.

**SEC. 14209. FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS.**

(a) PAYMENT OF EXPENSES.—Section 17(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136o(d)) is amended—

(1) by striking "The Administrator" and inserting the following:

"(1) IN GENERAL.—The Administrator"; and

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

"(2) DEPARTMENT OF STATE EXPENSES.—Any expenses incurred by an employee of the Environmental Protection Agency who participates in any international technical, economic, or policy review board, committee, or other official body that is meeting in relation to an international treaty shall be paid by the Department of State.".

(b) CONTAINER RECYCLING.—Section 19(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136q(a)) is amended by adding at the end the following new paragraph:

"(4) CONTAINER RECYCLING.—The Secretary may promulgate a regulation for the return and recycling of disposable pesticide containers used for the distribution or sale of registered pesticide products in interstate commerce. Any such regulation requiring recycling of disposable pesticide containers shall not apply to antimicrobial pesticides (as defined in section 2) or other pesticide products intended for non-agricultural uses.".

**SEC. 14210. IMPORTATION OF LIVE DOGS.**

(a) IN GENERAL.—The Animal Welfare Act is amended by adding after section 17 (7 U.S.C. 2147) the following:

7 USC 2148.

**"SEC. 18. IMPORTATION OF LIVE DOGS.**

"(a) DEFINITIONS.—In this section:

"(1) IMPORTER.—The term 'importer' means any person who, for purposes of resale, transports into the United States puppies from a foreign country.

"(2) RESALE.—The term 'resale' includes any transfer of ownership or control of an imported dog of less than 6 months of age to another person, for more than de minimis consideration.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no person shall import a dog into the United States for purposes of resale unless, as determined by the Secretary, the dog—

"(A) is in good health;

"(B) has received all necessary vaccinations; and

"(C) is at least 6 months of age, if imported for resale.

"(2) EXCEPTION.—

"(A) IN GENERAL.—The Secretary, by regulation, shall provide an exception to any requirement under paragraph (1) in any case in which a dog is imported for—

"(i) research purposes; or

"(ii) veterinary treatment.

"(B) LAWFUL IMPORTATION INTO HAWAII.—Paragraph (1)(C) shall not apply to the lawful importation of a dog into the State of Hawaii from the British Isles, Australia, Guam, or New Zealand in compliance with the applicable regulations of the State of Hawaii and the other requirements of this section, if the dog is not transported out of the State of Hawaii for purposes of resale at less than 6 months of age.

"(c) IMPLEMENTATION AND REGULATIONS.—The Secretary, the Secretary of Health and Human Services, the Secretary of Commerce, and the Secretary of Homeland Security shall promulgate such regulations as the Secretaries determine to be necessary to implement and enforce this section.

"(d) ENFORCEMENT.—An importer that fails to comply with this section shall—

"(1) be subject to penalties under section 19; and

"(2) provide for the care (including appropriate veterinary care), forfeiture, and adoption of each applicable dog, at the expense of the importer.".

7 USC 2148 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of the enactment of this Act.

7 USC 2209j.

**SEC. 14211. PERMANENT DEBARMENT FROM PARTICIPATION IN DEPARTMENT OF AGRICULTURE PROGRAMS FOR FRAUD.**

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Agriculture shall permanently debar an individual, organization, corporation, or other entity convicted of a felony for knowingly defrauding the United States in connection with any program administered by the Department of Agriculture from any subsequent participation in Department of Agriculture programs.

(b) EXCEPTIONS.—

(1) SECRETARY DETERMINATION.—The Secretary may reduce a debarment under subsection (a) to a period of not less than 10 years if the Secretary considers it appropriate.

(2) FOOD ASSISTANCE.—A debarment under subsection (a) shall not apply with respect to participation in domestic food assistance programs (as defined by the Secretary).

**SEC. 14212. PROHIBITION ON CLOSURE OR RELOCATION OF COUNTY OFFICES FOR THE FARM SERVICE AGENCY.**

7 USC 6932a.

(a) TEMPORARY PROHIBITION.—

(1) IN GENERAL.—Subject to paragraph (2), until the date that is two years after the date of the enactment of this Act, the Secretary of Agriculture may not close or relocate a county or field office of the Farm Service Agency.

(2) EXCEPTION.—Paragraph (1) shall not apply to—

(A) an office that is located not more than 20 miles from another office of the Farm Service Agency; or

(B) the relocation of an office within the same county in the course of routine leasing operations.

(b) LIMITATION ON CLOSURE; NOTICE.—

(1) LIMITATION.—After the period referred to in subsection (a)(1), the Secretary shall, before closing any office of the Farm Service Agency that is located more than 20 miles from another office of the Farm Service Agency, to the maximum extent practicable, first close any offices of the Farm Service Agency that—

(A) are located less than 20 miles from another office of the Farm Service Agency; and

Deadlines.

(B) have two or fewer permanent full-time employees.

(2) NOTICE.—After the period referred to in subsection (a)(1), the Secretary of Agriculture may not close a county or field office of the Farm Service Agency unless—

(A) not later than 30 days after the Secretary proposes to close such office, the Secretary holds a public meeting regarding the proposed closure in the county in which such office is located; and

(B) after the public meeting referred to in subparagraph (A), but not less than 90 days before the date on which the Secretary approves the closure of such office, the Secretary notifies the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, each Senator representing the State in which the office proposed to be closed is located, and the member of the House of Representatives who represents the Congressional district in which the office proposed to be closed is located of the proposed closure of such office.

**SEC. 14213. USDA GRADUATE SCHOOL.**

(a) IN GENERAL.—Section 921 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2279b) is amended—

(1) in the heading, to read as follows:

**"SEC. 921. DEPARTMENT OF AGRICULTURE EDUCATIONAL, TRAINING, AND PROFESSIONAL DEVELOPMENT ACTIVITIES."; and**

(2) by striking subsection (b) and inserting the following new subsection:

"(b) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—

Deadline.

"(1) CEASE OPERATIONS.—Not later than October 1, 2009, the Secretary of Agriculture shall cease to maintain or operate a nonappropriated fund instrumentality of the United States to develop, administer, or provide educational training and professional development activities, including educational activities for Federal agencies, Federal employees, non-profit organizations, other entities, and members of the general public.

"(2) TRANSITION.—

"(A) IN GENERAL.—The Secretary of Agriculture is authorized to use funds available to the Department of Agriculture and such resources of the Department as the Secretary considers appropriate (including the assignment of such employees of the Department as the Secretary considers appropriate) to assist the General Administrative Board of the Graduate School in the conversion of the Graduate School to an entity that is non-governmental and not a nonappropriated fund instrumentality of the United States, including such privatization activities not otherwise inconsistent with law or regulation.

"(B) TERMINATION OF AUTHORITY.—The authority under paragraph (1) shall terminate on the earlier of—

"(i) the completion of the transition of the Graduate School to an entity that is non-governmental and not a nonappropriated fund instrumentality of the United States, as determined by the Secretary; or

"(ii) September 30, 2009.".

Effective date. 7 USC 2279b note.

(b) PROCUREMENT PROCEDURES.—Notwithstanding the amendments made by subsection (a), effective on the date of the enactment of this Act, the Graduate School of the Department of Agriculture shall be subject to Federal procurement laws and regulations in the same manner and subject to the same requirements as a private entity providing services to the Federal Government.

**SEC. 14214. FINES FOR VIOLATIONS OF THE ANIMAL WELFARE ACT.**

Section 19(b) of the Animal Welfare Act (7 U.S.C. 2149(b)) is amended in the first sentence by striking "not more than $2,500 for each such violation" and inserting "not more than $10,000 for each such violation".

**SEC. 14215. DEFINITION OF CENTRAL FILING SYSTEM.**

Section 1324(c)(2) of the Food Security Act of 1985 (7 U.S.C. 1631(c)(2)) is amended—

(1) in subparagraph (C)(ii)(II), by inserting after "such debtors" the following: ", except that the numerical list containing social security or taxpayer identification numbers may be encrypted for security purposes if the Secretary of State provides a method by which an effective search of the encrypted numbers may be conducted to determine whether the farm product at issue is subject to 1 or more liens"; and

(2) in subparagraph (E)—

(A) by striking "paragraph (C)" and inserting "subparagraph (C)"; and

(B) by inserting before the semicolon at the end the following: "except that—

"(i) the distribution of the portion of the master list may be in electronic, written, or printed form; and

"(ii) if social security or taxpayer identification numbers on the master list are encrypted, the Secretary of State may distribute the master list only—

"(I) by compact disc or other electronic media that contains—

"(aa) the recorded list of debtor names; and

"(bb) an encryption program that enables the buyer, commission merchant, and selling agent to enter a social security number for matching against the recorded list of encrypted social security or taxpayer identification numbers; and

"(II) on the written request of the buyer, commission merchant, or selling agent, by paper copy of the list to the requestor".

**SEC. 14216. CONSIDERATION OF PROPOSED RECOMMENDATIONS OF STUDY ON USE OF CATS AND DOGS IN FEDERAL RESEARCH.**

(a) IN GENERAL.—The Secretary of Agriculture shall—

(1) review—

(A) any independent reviews conducted by a nationally recognized panel of experts of the use of Class B dogs and cats in federally supported research to determine how frequently such dogs and cats are used in research by the National Institutes of Health; and

(B) any recommendations proposed by such panel outlining the parameters of such use; and

(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on how recommendations referred to in paragraph (1)(B) can be applied within the Department of Agriculture to ensure such dogs and cats are treated in accordance with regulations of the Department of Agriculture. Reports.

(b) CLASS B DOGS AND CATS DEFINED.—In this section, the term "Class B dogs and cats" means dogs and cats obtained from a Class "B" licensee, as such term is defined in section 1.1 of title 9, Code of Federal Regulations.

**SEC. 14217. REGIONAL ECONOMIC AND INFRASTRUCTURE DEVELOPMENT.**

(a) IN GENERAL.—Title 40, United States Code, is amended—

(1) by redesignating subtitle V as subtitle VI; and

(2) by inserting after subtitle IV the following:

# "Subtitle V—Regional Economic and Infrastructure Development

"Chapter .....
"151. GENERAL PROVISIONS ..... 15101
"153. REGIONAL COMMISSIONS ..... 15301
"155. FINANCIAL ASSISTANCE ..... 15501
"157. ADMINISTRATIVE PROVISIONS ..... 15701

## "CHAPTER 1—GENERAL PROVISIONS

"Sec.
"15101. Definitions.

### "§ 15101. Definitions

"In this subtitle, the following definitions apply:

"(1) COMMISSION.—The term 'Commission' means a Commission established under section 15301.

"(2) LOCAL DEVELOPMENT DISTRICT.—The term 'local development district' means an entity that—

"(A)(i) is an economic development district that is—

"(I) in existence on the date of the enactment of this chapter; and

"(II) located in the region; or

"(ii) if an entity described in clause (i) does not exist—

"(I) is organized and operated in a manner that ensures broad-based community participation and an effective opportunity for local officials, community leaders, and the public to contribute to the development and implementation of programs in the region;

"(II) is governed by a policy board with at least a simple majority of members consisting of—

"(aa) elected officials; or

"(bb) designees or employees of a general purpose unit of local government that have been appointed to represent the unit of local government; and

"(III) is certified by the Governor or appropriate State officer as having a charter or authority that includes the economic development of counties, portions of counties, or other political subdivisions within the region; and

"(B) has not, as certified by the Federal Cochairperson—

"(i) inappropriately used Federal grant funds from any Federal source; or

"(ii) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

"(3) FEDERAL GRANT PROGRAM.—The term 'Federal grant program' means a Federal grant program to provide assistance in carrying out economic and community development activities.

"(4) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(5) NONPROFIT ENTITY.—The term 'nonprofit entity' means any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code that has been formed for the purpose of economic development.

"(6) REGION.—The term 'region' means the area covered by a Commission as described in subchapter II of chapter 157.

## "CHAPTER 2—REGIONAL COMMISSIONS

"Sec.
"15301. Establishment, membership, and employees.
"15302. Decisions.
"15303. Functions.
"15304. Administrative powers and expenses.
"15305. Meetings.
"15306. Personal financial interests.
"15307. Tribal participation.
"15308. Annual report.

### "§ 15301. Establishment, membership, and employees

"(a) ESTABLISHMENT.—There are established the following regional Commissions:

"(1) The Southeast Crescent Regional Commission.

"(2) The Southwest Border Regional Commission.

"(3) The Northern Border Regional Commission.

"(b) MEMBERSHIP.—

"(1) FEDERAL AND STATE MEMBERS.—Each Commission shall be composed of the following members:

"(A) A Federal Cochairperson, to be appointed by the President, by and with the advice and consent of the Senate.

"(B) The Governor of each participating State in the region of the Commission.

"(2) ALTERNATE MEMBERS.—

"(A) ALTERNATE FEDERAL COCHAIRPERSON.—The President shall appoint an alternate Federal Cochairperson for each Commission. The alternate Federal Cochairperson, when not actively serving as an alternate for the Federal Cochairperson, shall perform such functions and duties as are delegated by the Federal Cochairperson. President.

"(B) STATE ALTERNATES.—The State member of a participating State may have a single alternate, who shall be appointed by the Governor of the State from among the members of the Governor's cabinet or personal staff.

"(C) VOTING.—An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal or State member for which the alternate member is an alternate.

"(3) COCHAIRPERSONS.—A Commission shall be headed by—

"(A) the Federal Cochairperson, who shall serve as a liaison between the Federal Government and the Commission; and

"(B) a State Cochairperson, who shall be a Governor of a participating State in the region and shall be elected by the State members for a term of not less than 1 year.

"(4) CONSECUTIVE TERMS.—A State member may not be elected to serve as State Cochairperson for more than 2 consecutive terms.

"(c) COMPENSATION.—

"(1) FEDERAL COCHAIRPERSONS.—Each Federal Cochairperson shall be compensated by the Federal Government at level III of the Executive Schedule as set out in section 5314 of title 5.

"(2) ALTERNATE FEDERAL COCHAIRPERSONS.—Each Federal Cochairperson's alternate shall be compensated by the Federal Government at level V of the Executive Schedule as set out in section 5316 of title 5.

"(3) STATE MEMBERS AND ALTERNATES.—Each State member and alternate shall be compensated by the State that they represent at the rate established by the laws of that State.

"(d) EXECUTIVE DIRECTOR AND STAFF.—

"(1) IN GENERAL.—A Commission shall appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Commission to carry out its duties. Compensation under this paragraph may not exceed the maximum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

"(2) EXECUTIVE DIRECTOR.—The executive director shall be responsible for carrying out the administrative duties of the Commission, directing the Commission staff, and such other duties as the Commission may assign.

"(e) NO FEDERAL EMPLOYEE STATUS.—No member, alternate, officer, or employee of a Commission (other than the Federal Cochairperson, the alternate Federal Cochairperson, staff of the Federal Cochairperson, and any Federal employee detailed to the Commission) shall be considered to be a Federal employee for any purpose.

**"§ 15302. Decisions**

"(a) REQUIREMENTS FOR APPROVAL.—Except as provided in section 15304(c)(3), decisions by the Commission shall require the affirmative vote of the Federal Cochairperson and a majority of the State members (exclusive of members representing States delinquent under section 15304(c)(3)(C)).

"(b) CONSULTATION.—In matters coming before the Commission, the Federal Cochairperson shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter.

"(c) QUORUMS.—A Commission shall determine what constitutes a quorum for Commission meetings; except that—

"(1) any quorum shall include the Federal Cochairperson or the alternate Federal Cochairperson; and

"(2) a State alternate member shall not be counted toward the establishment of a quorum.

"(d) PROJECTS AND GRANT PROPOSALS.—The approval of project and grant proposals shall be a responsibility of each Commission and shall be carried out in accordance with section 15503.

**"§ 15303. Functions**

"A Commission shall—

"(1) assess the needs and assets of its region based on available research, demonstration projects, investigations,

assessments, and evaluations of the region prepared by Federal, State, and local agencies, universities, local development districts, and other nonprofit groups;

"(2) develop, on a continuing basis, comprehensive and coordinated economic and infrastructure development strategies to establish priorities and approve grants for the economic development of its region, giving due consideration to other Federal, State, and local planning and development activities in the region;

"(3) not later than one year after the date of the enactment of this section, and after taking into account State plans developed under section 15502, establish priorities in an economic and infrastructure development plan for its region, including 5-year regional outcome targets; Deadline. Plans.

"(4)(A) enhance the capacity of, and provide support for, local development districts in its region; or

"(B) if no local development district exists in an area in a participating State in the region, foster the creation of a local development district;

"(5) encourage private investment in industrial, commercial, and other economic development projects in its region;

"(6) cooperate with and assist State governments with the preparation of economic and infrastructure development plans and programs for participating States;

"(7) formulate and recommend to the Governors and legislatures of States that participate in the Commission forms of interstate cooperation and, where appropriate, international cooperation; and

"(8) work with State and local agencies in developing appropriate model legislation to enhance local and regional economic development.

**"§ 15304. Administrative powers and expenses**

"(a) POWERS.—In carrying out its duties under this subtitle, a Commission may—

"(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Commission as the Commission considers appropriate;

"(2) authorize, through the Federal or State Cochairperson or any other member of the Commission designated by the Commission, the administration of oaths if the Commission determines that testimony should be taken or evidence received under oath;

"(3) request from any Federal, State, or local agency such information as may be available to or procurable by the agency that may be of use to the Commission in carrying out the duties of the Commission;

"(4) adopt, amend, and repeal bylaws and rules governing the conduct of business and the performance of duties by the Commission;

"(5) request the head of any Federal agency, State agency, or local government to detail to the Commission such personnel as the Commission requires to carry out its duties, each such detail to be without loss of seniority, pay, or other employee status;

"(6) provide for coverage of Commission employees in a suitable retirement and employee benefit system by making arrangements or entering into contracts with any participating State government or otherwise providing retirement and other employee coverage;

"(7) accept, use, and dispose of gifts or donations or services or real, personal, tangible, or intangible property;

"(8) enter into and perform such contracts, cooperative agreements, or other transactions as are necessary to carry out Commission duties, including any contracts or cooperative agreements with a department, agency, or instrumentality of the United States, a State (including a political subdivision, agency, or instrumentality of the State), or a person, firm, association, or corporation; and

"(9) maintain a government relations office in the District of Columbia and establish and maintain a central office at such location in its region as the Commission may select.

"(b) FEDERAL AGENCY COOPERATION.—A Federal agency shall—

"(1) cooperate with a Commission; and

"(2) provide, to the extent practicable, on request of the Federal Cochairperson, appropriate assistance in carrying out this subtitle, in accordance with applicable Federal laws (including regulations).

"(c) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Subject to paragraph (2), the administrative expenses of a Commission shall be paid—

"(A) by the Federal Government, in an amount equal to 50 percent of the administrative expenses of the Commission; and

"(B) by the States participating in the Commission, in an amount equal to 50 percent of the administrative expenses.

"(2) EXPENSES OF THE FEDERAL COCHAIRPERSON.—All expenses of the Federal Cochairperson, including expenses of the alternate and staff of the Federal Cochairperson, shall be paid by the Federal Government.

"(3) STATE SHARE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the share of administrative expenses of a Commission to be paid by each State of the Commission shall be determined by a unanimous vote of the State members of the Commission.

"(B) NO FEDERAL PARTICIPATION.—The Federal Cochairperson shall not participate or vote in any decision under subparagraph (A).

"(C) DELINQUENT STATES.—During any period in which a State is more than 1 year delinquent in payment of the State's share of administrative expenses of the Commission under this subsection—

"(i) no assistance under this subtitle shall be provided to the State (including assistance to a political subdivision or a resident of the State) for any project not approved as of the date of the commencement of the delinquency; and

"(ii) no member of the Commission from the State shall participate or vote in any action by the Commission.

"(4) EFFECT ON ASSISTANCE.—A State's share of administrative expenses of a Commission under this subsection shall not be taken into consideration when determining the amount of assistance provided to the State under this subtitle.

**"§ 15305. Meetings**

"(a) INITIAL MEETING.—Each Commission shall hold an initial meeting not later than 180 days after the date of the enactment of this section. Deadline.

"(b) ANNUAL MEETING.—Each Commission shall conduct at least 1 meeting each year with the Federal Cochairperson and at least a majority of the State members present.

"(c) ADDITIONAL MEETINGS.—Each Commission shall conduct additional meetings at such times as it determines and may conduct such meetings by electronic means.

**"§ 15306. Personal financial interests**

"(a) CONFLICTS OF INTEREST.—

"(1) NO ROLE ALLOWED.—Except as permitted by paragraph (2), an individual who is a State member or alternate, or an officer or employee of a Commission, shall not participate personally and substantially as a member, alternate, officer, or employee of the Commission, through decision, approval, disapproval, recommendation, request for a ruling, or other determination, contract, claim, controversy, or other matter in which, to the individual's knowledge, any of the following has a financial interest:

"(A) The individual.

"(B) The individual's spouse, minor child, or partner.

"(C) An organization (except a State or political subdivision of a State) in which the individual is serving as an officer, director, trustee, partner, or employee.

"(D) Any person or organization with whom the individual is negotiating or has any arrangement concerning prospective employment.

"(2) EXCEPTION.—Paragraph (1) shall not apply if the individual, in advance of the proceeding, application, request for a ruling or other determination, contract, claim controversy, or other particular matter presenting a potential conflict of interest—

"(A) advises the Commission of the nature and circumstances of the matter presenting the conflict of interest;

"(B) makes full disclosure of the financial interest; and

"(C) receives a written decision of the Commission that the interest is not so substantial as to be considered likely to affect the integrity of the services that the Commission may expect from the individual.

"(3) VIOLATION.—An individual violating this subsection shall be fined under title 18, imprisoned for not more than 1 year, or both.

"(b) STATE MEMBER OR ALTERNATE.—A State member or alternate member may not receive any salary, or any contribution to, or supplementation of, salary, for services on a Commission from a source other than the State of the member or alternate.

"(c) DETAILED EMPLOYEES.—

"(1) IN GENERAL.—No person detailed to serve a Commission shall receive any salary, or any contribution to, or supplementation of, salary, for services provided to the Commission from any source other than the State, local, or intergovernmental department or agency from which the person was detailed to the Commission.

"(2) VIOLATION.—Any person that violates this subsection shall be fined under title 18, imprisoned not more than 1 year, or both.

"(d) FEDERAL COCHAIRMAN, ALTERNATE TO FEDERAL COCHAIRMAN, AND FEDERAL OFFICERS AND EMPLOYEES.—The Federal Cochairman, the alternate to the Federal Cochairman, and any Federal officer or employee detailed to duty with the Commission are not subject to this section but remain subject to sections 202 through 209 of title 18.

"(e) RESCISSION.—A Commission may declare void any contract, loan, or grant of or by the Commission in relation to which the Commission determines that there has been a violation of any provision under subsection (a)(1), (b), or (c), or any of the provisions of sections 202 through 209 of title 18.

**"§ 15307. Tribal participation**

"Governments of Indian tribes in the region of the Southwest Border Regional Commission shall be allowed to participate in matters before that Commission in the same manner and to the same extent as State agencies and instrumentalities in the region.

**"§ 15308. Annual report**

"(a) IN GENERAL.—Not later than 90 days after the last day of each fiscal year, each Commission shall submit to the President and Congress a report on the activities carried out by the Commission under this subtitle in the fiscal year.

"(b) CONTENTS.—The report shall include—

"(1) a description of the criteria used by the Commission to designate counties under section 15702 and a list of the counties designated in each category;

"(2) an evaluation of the progress of the Commission in meeting the goals identified in the Commission's economic and infrastructure development plan under section 15303 and State economic and infrastructure development plans under section 15502; and

"(3) any policy recommendations approved by the Commission.

**"CHAPTER 3—FINANCIAL ASSISTANCE**

"Sec.
"15501. Economic and infrastructure development grants.
"15502. Comprehensive economic and infrastructure development plans.
"15503. Approval of applications for assistance.
"15504. Program development criteria.
"15505. Local development districts and organizations.
"15506. Supplements to Federal grant programs.

**"§ 15501. Economic and infrastructure development grants**

"(a) IN GENERAL.—A Commission may make grants to States and local governments, Indian tribes, and public and nonprofit organizations for projects, approved in accordance with section 15503—

"(1) to develop the transportation infrastructure of its region;

"(2) to develop the basic public infrastructure of its region;

"(3) to develop the telecommunications infrastructure of its region;

"(4) to assist its region in obtaining job skills training, skills development and employment-related education, entrepreneurship, technology, and business development;

"(5) to provide assistance to severely economically distressed and underdeveloped areas of its region that lack financial resources for improving basic health care and other public services;

"(6) to promote resource conservation, tourism, recreation, and preservation of open space in a manner consistent with economic development goals;

"(7) to promote the development of renewable and alternative energy sources; and

"(8) to otherwise achieve the purposes of this subtitle.

"(b) ALLOCATION OF FUNDS.—A Commission shall allocate at least 40 percent of any grant amounts provided by the Commission in a fiscal year for projects described in paragraphs (1) through (3) of subsection (a).

"(c) SOURCES OF GRANTS.—Grant amounts may be provided entirely from appropriations to carry out this subtitle, in combination with amounts available under other Federal grant programs, or from any other source.

"(d) MAXIMUM COMMISSION CONTRIBUTIONS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Commission may contribute not more than 50 percent of a project or activity cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.

"(2) DISTRESSED COUNTIES.—The maximum Commission contribution for a project or activity to be carried out in a county for which a distressed county designation is in effect under section 15702 may be increased to 80 percent.

"(3) SPECIAL RULE FOR REGIONAL PROJECTS.—A Commission may increase to 60 percent under paragraph (1) and 90 percent under paragraph (2) the maximum Commission contribution for a project or activity if—

"(A) the project or activity involves 3 or more counties or more than one State; and

"(B) the Commission determines in accordance with section 15302(a) that the project or activity will bring significant interstate or multicounty benefits to a region.

"(e) MAINTENANCE OF EFFORT.—Funds may be provided by a Commission for a program or project in a State under this section only if the Commission determines that the level of Federal or State financial assistance provided under a law other than this subtitle, for the same type of program or project in the same area of the State within region, will not be reduced as a result of funds made available by this subtitle.

"(f) NO RELOCATION ASSISTANCE.—Financial assistance authorized by this section may not be used to assist a person or entity in relocating from one area to another.

**"§ 15502. Comprehensive economic and infrastructure development plans**

"(a) STATE PLANS.—In accordance with policies established by a Commission, each State member of the Commission shall submit a comprehensive economic and infrastructure development plan for the area of the region represented by the State member.

"(b) CONTENT OF PLAN.—A State economic and infrastructure development plan shall reflect the goals, objectives, and priorities identified in any applicable economic and infrastructure development plan developed by a Commission under section 15303.

"(c) CONSULTATION WITH INTERESTED LOCAL PARTIES.—In carrying out the development planning process (including the selection of programs and projects for assistance), a State shall—

"(1) consult with local development districts, local units of government, and local colleges and universities; and

"(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1).

"(d) PUBLIC PARTICIPATION.—

"(1) IN GENERAL.—A Commission and applicable State and local development districts shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this subtitle.

"(2) GUIDELINES.—A Commission shall develop guidelines for providing public participation, including public hearings.

**"§ 15503. Approval of applications for assistance**

"(a) EVALUATION BY STATE MEMBER.—An application to a Commission for a grant or any other assistance for a project under this subtitle shall be made through, and evaluated for approval by, the State member of the Commission representing the applicant.

"(b) CERTIFICATION.—An application to a Commission for a grant or other assistance for a project under this subtitle shall be eligible for assistance only on certification by the State member of the Commission representing the applicant that the application for the project—

"(1) describes ways in which the project complies with any applicable State economic and infrastructure development plan;

"(2) meets applicable criteria under section 15504;

"(3) adequately ensures that the project will be properly administered, operated, and maintained; and

"(4) otherwise meets the requirements for assistance under this subtitle.

"(c) VOTES FOR DECISIONS.—On certification by a State member of a Commission of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Commission under section 15302 shall be required for approval of the application.

**"§ 15504. Program development criteria**

"In considering programs and projects to be provided assistance by a Commission under this subtitle, and in establishing a priority ranking of the requests for assistance provided to the Commission, the Commission shall follow procedures that ensure, to the maximum extent practicable, consideration of—

"(1) the relationship of the project or class of projects to overall regional development;

"(2) the per capita income and poverty and unemployment and outmigration rates in an area;

"(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;

"(4) the importance of the project or class of projects in relation to the other projects or classes of projects that may be in competition for the same funds;

"(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area to be served by the project; and

"(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

**"§ 15505. Local development districts and organizations**

"(a) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—Subject to the requirements of this section, a Commission may make grants to a local development district to assist in the payment of development planning and administrative expenses.

"(b) CONDITIONS FOR GRANTS.—

"(1) MAXIMUM AMOUNT.—The amount of a grant awarded under this section may not exceed 80 percent of the administrative and planning expenses of the local development district receiving the grant.

"(2) MAXIMUM PERIOD FOR STATE AGENCIES.—In the case of a State agency certified as a local development district, a grant may not be awarded to the agency under this section for more than 3 fiscal years.

"(3) LOCAL SHARE.—The contributions of a local development district for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

"(c) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—A local development district shall—

"(1) operate as a lead organization serving multicounty areas in the region at the local level;

"(2) assist the Commission in carrying out outreach activities for local governments, community development groups, the business community, and the public;

"(3) serve as a liaison between State and local governments, nonprofit organizations (including community-based groups and educational institutions), the business community, and citizens; and

"(4) assist the individuals and entities described in paragraph (3) in identifying, assessing, and facilitating projects and programs to promote the economic development of the region.

**"§ 15506. Supplements to Federal grant programs**

"(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts,

may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

"(1) they lack the economic resources to provide the required matching share; or

"(2) there are insufficient funds available under the applicable Federal law with respect to a project to be carried out in the region.

"(b) FEDERAL GRANT PROGRAM FUNDING.—A Commission, with the approval of the Federal Cochairperson, may use amounts made available to carry out this subtitle—

"(1) for any part of the basic Federal contribution to projects or activities under the Federal grant programs authorized by Federal laws; and

"(2) to increase the Federal contribution to projects and activities under the programs above the fixed maximum part of the cost of the projects or activities otherwise authorized by the applicable law.

"(c) CERTIFICATION REQUIRED.—For a program, project, or activity for which any part of the basic Federal contribution to the project or activity under a Federal grant program is proposed to be made under subsection (b), the Federal contribution shall not be made until the responsible Federal official administering the Federal law authorizing the Federal contribution certifies that the program, project, or activity meets the applicable requirements of the Federal law and could be approved for Federal contribution under that law if amounts were available under the law for the program, project, or activity.

"(d) LIMITATIONS IN OTHER LAWS INAPPLICABLE.—Amounts provided pursuant to this subtitle are available without regard to any limitations on areas eligible for assistance or authorizations for appropriation in any other law.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project or activity receiving assistance under this section shall not exceed 80 percent.

Applicability.

"(f) MAXIMUM COMMISSION CONTRIBUTION.—Section 15501(d), relating to limitations on Commission contributions, shall apply to a program, project, or activity receiving assistance under this section.

## "CHAPTER 4—ADMINISTRATIVE PROVISIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec. 15701. Consent of States.
"Sec. 15702. Distressed counties and areas.
"Sec. 15703. Counties eligible for assistance in more than one region.
"Sec. 15704. Inspector General; records.
"Sec. 15705. Biannual meetings of representatives of all Commissions.

"SUBCHAPTER II—DESIGNATION OF REGIONS

"Sec. 15731. Southeast Crescent Regional Commission.
"Sec. 15732. Southwest Border Regional Commission.
"Sec. 15733. Northern Border Regional Commission.

"SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

"Sec. 15751. Authorization of appropriations.

"SUBCHAPTER I—GENERAL PROVISIONS

**"§ 15701. Consent of States**

"This subtitle does not require a State to engage in or accept a program under this subtitle without its consent.

**"§ 15702. Distressed counties and areas**

"(a) DESIGNATIONS.—Not later than 90 days after the date of the enactment of this section, and annually thereafter, each Commission shall make the following designations: Deadlines.

"(1) DISTRESSED COUNTIES.—The Commission shall designate as distressed counties those counties in its region that are the most severely and persistently economically distressed and underdeveloped and have high rates of poverty, unemployment, or outmigration.

"(2) TRANSITIONAL COUNTIES.—The Commission shall designate as transitional counties those counties in its region that are economically distressed and underdeveloped or have recently suffered high rates of poverty, unemployment, or outmigration.

"(3) ATTAINMENT COUNTIES.—The Commission shall designate as attainment counties, those counties in its region that are not designated as distressed or transitional counties under this subsection.

"(4) ISOLATED AREAS OF DISTRESS.—The Commission shall designate as isolated areas of distress, areas located in counties designated as attainment counties under paragraph (3) that have high rates of poverty, unemployment, or outmigration.

"(b) ALLOCATION.—A Commission shall allocate at least 50 percent of the appropriations made available to the Commission to carry out this subtitle for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

"(c) ATTAINMENT COUNTIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds may not be provided under this subtitle for a project located in a county designated as an attainment county under subsection (a).

"(2) EXCEPTIONS.—

"(A) ADMINISTRATIVE EXPENSES OF LOCAL DEVELOPMENT DISTRICTS.—The funding prohibition under paragraph (1) shall not apply to grants to fund the administrative expenses of local development districts under section 15505.

"(B) MULTICOUNTY AND OTHER PROJECTS.—A Commission may waive the application of the funding prohibition under paragraph (1) with respect to—

"(i) a multicounty project that includes participation by an attainment county; and

"(ii) any other type of project, if a Commission determines that the project could bring significant benefits to areas of the region outside an attainment county.

"(3) ISOLATED AREAS OF DISTRESS.—For a designation of an isolated area of distress to be effective, the designation shall be supported—

"(A) by the most recent Federal data available; or

"(B) if no recent Federal data are available, by the most recent data available through the government of the State in which the isolated area of distress is located.

**"§ 15703. Counties eligible for assistance in more than one region**

"(a) LIMITATION.—A political subdivision of a State may not receive assistance under this subtitle in a fiscal year from more than one Commission.

"(b) SELECTION OF COMMISSION.—A political subdivision included in the region of more than one Commission shall select the Commission with which it will participate by notifying, in writing, the Federal Cochairperson and the appropriate State member of that Commission.

Applicability.

"(c) CHANGES IN SELECTIONS.—The selection of a Commission by a political subdivision shall apply in the fiscal year in which the selection is made, and shall apply in each subsequent fiscal year unless the political subdivision, at least 90 days before the first day of the fiscal year, notifies the Cochairpersons of another Commission in writing that the political subdivision will participate in that Commission and also transmits a copy of such notification to the Cochairpersons of the Commission in which the political subdivision is currently participating.

"(d) INCLUSION OF APPALACHIAN REGIONAL COMMISSION.—In this section, the term 'Commission' includes the Appalachian Regional Commission established under chapter 143.

**"§ 15704. Inspector General; records**

"(a) APPOINTMENT OF INSPECTOR GENERAL.—There shall be an Inspector General for the Commissions appointed in accordance with section 3(a) of the Inspector General Act of 1978 (5 U.S.C. App.). All of the Commissions shall be subject to a single Inspector General.

"(b) RECORDS OF A COMMISSION.—

"(1) IN GENERAL.—A Commission shall maintain accurate and complete records of all its transactions and activities.

"(2) AVAILABILITY.—All records of a Commission shall be available for audit and examination by the Inspector General (including authorized representatives of the Inspector General).

"(c) RECORDS OF RECIPIENTS OF COMMISSION ASSISTANCE.—

"(1) IN GENERAL.—A recipient of funds from a Commission under this subtitle shall maintain accurate and complete records of transactions and activities financed with the funds and report to the Commission on the transactions and activities.

"(2) AVAILABILITY.—All records required under paragraph (1) shall be available for audit by the Commission and the Inspector General (including authorized representatives of the Commission and the Inspector General).

"(d) ANNUAL AUDIT.—The Inspector General shall audit the activities, transactions, and records of each Commission on an annual basis.

**"§ 15705. Biannual meetings of representatives of all Commissions**

"(a) IN GENERAL.—Representatives of each Commission, the Appalachian Regional Commission, and the Denali Commission shall meet biannually to discuss issues confronting regions suffering

from chronic and contiguous distress and successful strategies for promoting regional development.

"(b) CHAIR OF MEETINGS.—The chair of each meeting shall rotate among the Commissions, with the Appalachian Regional Commission to host the first meeting.

"SUBCHAPTER II—DESIGNATION OF REGIONS

**"§ 15731. Southeast Crescent Regional Commission**

State listing.

"The region of the Southeast Crescent Regional Commission shall consist of all counties of the States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida not already served by the Appalachian Regional Commission or the Delta Regional Authority.

**"§ 15732. Southwest Border Regional Commission**

"The region of the Southwest Border Regional Commission shall consist of the following political subdivisions:

"(1) ARIZONA.—The counties of Cochise, Gila, Graham, Greenlee, La Paz, Maricopa, Pima, Pinal, Santa Cruz, and Yuma in the State of Arizona.

"(2) CALIFORNIA.—The counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura in the State of California.

"(3) NEW MEXICO.—The counties of Catron, Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lincoln, Luna, Otero, Sierra, and Socorro in the State of New Mexico.

"(4) TEXAS.—The counties of Atascosa, Bandera, Bee, Bexar, Brewster, Brooks, Cameron, Coke, Concho, Crane, Crockett, Culberson, Dimmit, Duval, Ector, Edwards, El Paso, Frio, Gillespie, Glasscock, Hidalgo, Hudspeth, Irion, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Loving, Mason, Maverick, McMullen, Medina, Menard, Midland, Nueces, Pecos, Presidio, Reagan, Real, Reeves, San Patricio, Shleicher, Sutton, Starr, Sterling, Terrell, Tom Green Upton, Uvalde, Val Verde, Ward, Webb, Willacy, Wilson, Winkler, Zapata, and Zavala in the State of Texas.

**"§ 15733. Northern Border Regional Commission**

"The region of the Northern Border Regional Commission shall include the following counties:

"(1) MAINE.—The counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Oxford, Penobscot, Piscataquis, Somerset, Waldo, and Washington in the State of Maine.

"(2) NEW HAMPSHIRE.—The counties of Carroll, Coos, Grafton, and Sullivan in the State of New Hampshire.

"(3) NEW YORK.—The counties of Cayuga, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida, Oswego, Seneca, and St. Lawrence in the State of New York.

"(4) VERMONT.—The counties of Caledonia, Essex, Franklin, Grand Isle, Lamoille, and Orleans in the State of Vermont.

"SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

**"§ 15751. Authorization of appropriations**

"(a) IN GENERAL.—There is authorized to be appropriated to each Commission to carry out this subtitle $30,000,000 for each of fiscal years 2008 through 2012.

"(b) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the funds made available to a Commission in a fiscal year under this section may be used for administrative expenses.".

(b) CLERICAL AMENDMENT TO TABLE OF SUBTITLES.—The table of subtitles for chapter 40, United States Code, is amended by striking the item relating to subtitle V and inserting the following:

"V. REGIONAL ECONOMIC AND INFRASTRUCTURE DEVELOPMENT ....15101
"VI. MISCELLANEOUS .....17101".

(c) CONFORMING AMENDMENTS TO INSPECTOR GENERAL ACT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking "or the President of the Export-Import Bank;" and inserting "the President of the Export-Import Bank; or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code;"; and

(2) in paragraph (2), by striking "or the Export-Import Bank," and inserting "the Export-Import Bank, or the Commissions established under section 15301 of title 40, United States Code,".

40 USC 15101 note.

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

7 USC 6941a.

**SEC. 14218. COORDINATOR FOR CHRONICALLY UNDERSERVED RURAL AREAS.**

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a Coordinator for Chronically Underserved Rural Areas (in this section referred to as the "Coordinator"), to be located in the Rural Development Mission Area.

(b) MISSION.—The mission of the Coordinator shall be to direct Department of Agriculture resources to high need, high poverty rural areas.

(c) DUTIES.—The Coordinator shall consult with other offices in directing technical assistance, strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as necessary to carry out this section for fiscal years 2008 through 2012.

**SEC. 14219. ELIMINATION OF STATUTE OF LIMITATIONS APPLICABLE TO COLLECTION OF DEBT BY ADMINISTRATIVE OFFSET.**

(a) ELIMINATION.—Section 3716(e) of title 31, United States Code, is amended to read as follows:

"(e)(1) Notwithstanding any other provision of law, regulation, or administrative limitation, no limitation on the period within which an offset may be initiated or taken pursuant to this section shall be effective.

"(2) This section does not apply when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to any debt outstanding on or after the date of the enactment of this Act. 31 USC 3716 note.

**SEC. 14220. AVAILABILITY OF EXCESS AND SURPLUS COMPUTERS IN RURAL AREAS.** 7 USC 2206b.

In addition to any other authority, the Secretary of Agriculture may make available to an organization excess or surplus computers or other technical equipment of the Department of Agriculture for the purposes of distribution to a city, town, or local government entity in a rural area (as defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act).

**SEC. 14221. REPEAL OF SECTION 3068 OF THE WATER RESOURCES DEVELOPMENT ACT OF 2007.** 7 USC 612c–5.

Effective upon the date of enactment of this Act, section 3068 of the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1123), and the item relating to section 3068 in the table of contents of that Act, are repealed.

**SEC. 14222. DOMESTIC FOOD ASSISTANCE PROGRAMS.**

(a) DEFINITION OF SECTION 32.—In this section, the term "section 32" means section 32 of the Act of August 24, 1935 (7 U.S.C. 612c).

(b) TRANSFER TO FOOD AND NUTRITION SERVICE.—

(1) IN GENERAL.—Amounts made available for a fiscal year to carry out section 32 in excess of the maximum amount calculated under paragraph (2) shall be transferred to the Secretary, acting through the Administrator of the Food and Nutrition Service, to be used to carry out the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(2) MAXIMUM AMOUNT.—The maximum amount calculated under this paragraph for a fiscal year is the sum of—

(A)(i) in the case of fiscal year 2009, $1,173,000,000;
(ii) in the case of fiscal year 2010, $1,199,000,000;
(iii) in the case of fiscal year 2011, $1,215,000,000;
(iv) in the case of fiscal year 2012, $1,231,000,000;
(v) in the case of fiscal year 2013, $1,248,000,000;
(vi) in the case of fiscal year 2014, $1,266,000,000;
(vii) in the case of fiscal year 2015, $1,284,000,000;
(viii) in the case of fiscal year 2016, $1,303,000,000;
(ix) in the case of fiscal year 2017, $1,322,000,000; and

(x) for fiscal year 2018 and each fiscal year thereafter, the amount made available for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending on the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor; and

(B) any transfers for the fiscal year from section 32 to the Department of Commerce under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).

(c) FRESH FRUIT AND VEGETABLE PROGRAM.—Of amounts made available to carry out section 32 under subsection (b)(2)(A), the

Secretary shall transfer for use to carry out the fresh fruit and vegetable program under section 19 of the Richard B. Russell National School Lunch Act the amounts specified in subsection (i) of that section.

(d) WHOLE GRAIN PRODUCTS.—Of amounts made available to carry out section 32 under subsection (b)(2)(A), the Secretary shall use to carry out section 4305 $4,000,000 for fiscal year 2009.

(e) MAINTENANCE OF FUNDING.—The funding provided under subsections (c) and (d) shall supplement (and not supplant) other Federal funding (including section 32 funding) for programs carried out under—

(1) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), except for section 19 of that Act;

(2) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.); and

(3) section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036).

**SEC. 14223. TECHNICAL CORRECTION.**

Section 923(1)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2206a(1)(B)) is amended by striking "as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))" and inserting "as defined in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5))".

# TITLE XV—TRADE AND TAX PROVISIONS

Heartland, Habitat, Harvest, and Horticulture Act of 2008.

26 USC 1 note.

**SEC. 15001. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This title may be cited as the "Heartland, Habitat, Harvest, and Horticulture Act of 2008".

(b) AMENDMENTS TO 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

## Subtitle A—Supplemental Agricultural Disaster Assistance From the Agricultural Disaster Relief Trust Fund

**SEC. 15101. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

(a) IN GENERAL.—The Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by adding at the end the following:

# "TITLE IX—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE

19 USC 2497.

**"SEC. 901. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

"(a) DEFINITIONS.—In this section:

"(1) ACTUAL PRODUCTION HISTORY YIELD.—The term 'actual production history yield' means the weighted average of the actual production history for each insurable commodity or noninsurable commodity, as calculated under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or the noninsured crop disaster assistance program, respectively.

"(2) ADJUSTED ACTUAL PRODUCTION HISTORY YIELD.—The term 'adjusted actual production history yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of actual production history yields for an insurable commodity that are established other than pursuant to section 508(g)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(4)(B)), the actual production history for the eligible producer without regard to any yields established under that section;

"(B) in the case of an eligible producer on a farm that has less than 4 years of actual production history yields for an insurable commodity, of which 1 or more were established pursuant to section 508(g)(4)(B) of that Act, the actual production history for the eligible producer as calculated without including the lowest of the yields established pursuant to section 508(g)(4)(B) of that Act; and

"(C) in all other cases, the actual production history of the eligible producer on a farm.

"(3) ADJUSTED NONINSURED CROP DISASTER ASSISTANCE PROGRAM YIELD.—The term 'adjusted noninsured crop disaster assistance program yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield without regard to any replacement yields;

"(B) in the case of an eligible producer on a farm that less than 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield as calculated without including the lowest of the replacement yields; and

"(C) in all other cases, the production history of the eligible producer on the farm under the noninsured crop disaster assistance program.

"(4) COUNTER-CYCLICAL PROGRAM PAYMENT YIELD.—The term 'counter-cyclical program payment yield' means the weighted average payment yield established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912), section 1102 of the Food, Conservation, and Energy Act of 2008, or a successor section.

"(5) DISASTER COUNTY.—

"(A) IN GENERAL.—The term 'disaster county' means a county included in the geographic area covered by a qualifying natural disaster declaration.

"(B) INCLUSION.—The term 'disaster county' includes—

"(i) a county contiguous to a county described in subparagraph (A); and

"(ii) any farm in which, during a calendar year, the total loss of production of the farm relating to

weather is greater than 50 percent of the normal production of the farm, as determined by the Secretary.

"(6) ELIGIBLE PRODUCER ON A FARM.—

"(A) IN GENERAL.—The term 'eligible producer on a farm' means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

"(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—

"(i) a citizen of the United States;

"(ii) a resident alien;

"(iii) a partnership of citizens of the United States; or

"(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

"(7) FARM.—

"(A) IN GENERAL.—The term 'farm' means, in relation to an eligible producer on a farm, the sum of all crop acreage in all counties that is planted or intended to be planted for harvest by the eligible producer.

"(B) AQUACULTURE.—In the case of aquaculture, the term 'farm' means, in relation to an eligible producer on a farm, all fish being produced in all counties that are intended to be harvested for sale by the eligible producer.

"(C) HONEY.—In the case of honey, the term 'farm' means, in relation to an eligible producer on a farm, all bees and beehives in all counties that are intended to be harvested for a honey crop by the eligible producer.

"(8) FARM-RAISED FISH.—The term 'farm-raised fish' means any aquatic species that is propagated and reared in a controlled environment.

"(9) INSURABLE COMMODITY.—The term 'insurable commodity' means an agricultural commodity (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(10) LIVESTOCK.—The term 'livestock' includes—

"(A) cattle (including dairy cattle);

"(B) bison;

"(C) poultry;

"(D) sheep;

"(E) swine;

"(F) horses; and

"(G) other livestock, as determined by the Secretary.

"(11) NONINSURABLE COMMODITY.—The term 'noninsurable commodity' means a crop for which the eligible producers on a farm are eligible to obtain assistance under the noninsured crop assistance program.

"(12) NONINSURED CROP ASSISTANCE PROGRAM.—The term 'noninsured crop assistance program' means the program carried out under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(13) QUALIFYING NATURAL DISASTER DECLARATION.—The term 'qualifying natural disaster declaration' means a natural disaster declared by the Secretary for production losses under

section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(15) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

"(16) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(17) TRUST FUND.—The term 'Trust Fund' means the Agricultural Disaster Relief Trust Fund established under section 902.

"(18) UNITED STATES.—The term 'United States' when used in a geographical sense, means all of the States.

"(b) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall use such sums as are necessary from the Trust Fund to make crop disaster assistance payments to eligible producers on farms in disaster counties that have incurred crop production losses or crop quality losses, or both, during the crop year.

"(2) AMOUNT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide crop disaster assistance payments under this section to an eligible producer on a farm in an amount equal to 60 percent of the difference between—

"(i) the disaster assistance program guarantee, as described in paragraph (3); and

"(ii) the total farm revenue for a farm, as described in paragraph (4).

"(B) LIMITATION.—The disaster assistance program guarantee for a crop used to calculate the payments for a farm under subparagraph (A)(i) may not be greater than 90 percent of the sum of the expected revenue, as described in paragraph (5) for each of the crops on a farm, as determined by the Secretary.

"(3) SUPPLEMENTAL REVENUE ASSISTANCE PROGRAM GUARANTEE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the supplemental assistance program guarantee shall be the sum obtained by adding—

"(i) for each insurable commodity on the farm, 115 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to the price election for the commodity elected by the eligible producer;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity;

"(III) the payment yield for the commodity that is equal to the percentage of the crop insurance yield elected by the producer of the higher of—

"(aa) the adjusted actual production history yield; or

"(bb) the counter-cyclical program payment yield for each crop; and

"(ii) for each noninsurable commodity on a farm, 120 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to 100 percent of the noninsured crop assistance program established price for the commodity;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity; and

"(III) the payment yield for the commodity that is equal to the higher of—

"(aa) the adjusted noninsured crop assistance program yield guarantee; or

"(bb) the counter-cyclical program payment yield for each crop.

"(B) ADJUSTMENT INSURANCE GUARANTEE.—Notwithstanding subparagraph (A), in the case of an insurable commodity for which a plan of insurance provides for an adjustment in the guarantee, such as in the case of prevented planting, the adjusted insurance guarantee shall be the basis for determining the disaster assistance program guarantee for the insurable commodity.

"(C) ADJUSTED ASSISTANCE LEVEL.—Notwithstanding subparagraph (A), in the case of a noninsurable commodity for which the noninsured crop assistance program provides for an adjustment in the level of assistance, such as in the case of unharvested crops, the adjusted assistance level shall be the basis for determining the disaster assistance program guarantee for the noninsurable commodity.

"(D) EQUITABLE TREATMENT FOR NON-YIELD BASED POLICIES.—The Secretary shall establish equitable treatment for non-yield based policies and plans of insurance, such as the Adjusted Gross Revenue Lite insurance program.

"(4) FARM REVENUE.—

"(A) IN GENERAL.—For purposes of this subsection, the total farm revenue for a farm, shall equal the sum obtained by adding—

"(i) the estimated actual value for each crop produced on a farm by using the product obtained by multiplying—

"(I) the actual crop acreage harvested by an eligible producer on a farm;

"(II) the estimated actual yield of the crop production; and

"(III) subject to subparagraphs (B) and (C), to the extent practicable, the national average market price received for the marketing year, as determined by the Secretary;

"(ii) 15 percent of amount of any direct payments made to the producer under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 or successor sections;

"(iii) the total amount of any counter-cyclical payments made to the producer under sections 1104 and 1304 of the Food, Conservation, and Energy Act of 2008 or successor sections or of any average crop revenue election payments made to the producer under section 1105 of that Act;

"(iv) the total amount of any loan deficiency payments, marketing loan gains, and marketing certificate gains made to the producer under subtitles B and C of the Food, Conservation, and Energy Act of 2008 or successor subtitles;

"(v) the amount of payments for prevented planting on a farm;

"(vi) the amount of crop insurance indemnities received by an eligible producer on a farm for each crop on a farm;

"(vii) the amount of payments an eligible producer on a farm received under the noninsured crop assistance program for each crop on a farm; and

"(viii) the value of any other natural disaster assistance payments provided by the Federal Government to an eligible producer on a farm for each crop on a farm for the same loss for which the eligible producer is seeking assistance.

"(B) ADJUSTMENT.—The Secretary shall adjust the average market price received by the eligible producer on a farm—

"(i) to reflect the average quality discounts applied to the local or regional market price of a crop or mechanically harvested forage due to a reduction in the intrinsic characteristics of the production resulting from adverse weather, as determined annually by the State office of the Farm Service Agency; and

"(ii) to account for a crop the value of which is reduced due to excess moisture resulting from a disaster-related condition.

"(C) MAXIMUM AMOUNT FOR CERTAIN CROPS.—With respect to a crop for which an eligible producer on a farm receives assistance under the noninsured crop assistance program, the national average market price received during the marketing year shall be an amount not more than 100 percent of the price of the crop established under the noninsured crop assistance program.

"(5) EXPECTED REVENUE.—The expected revenue for each crop on a farm shall equal the sum obtained by adding—

"(A) the product obtained by multiplying—

"(i) the greatest of—

"(I) the adjusted actual production history yield of the eligible producer on a farm; and

"(II) the counter-cyclical program payment yield;

"(ii) the acreage planted or prevented from being planted for each crop; and

"(iii) 100 percent of the insurance price guarantee; and

"(B) the product obtained by multiplying—

"(i) 100 percent of the adjusted noninsured crop assistance program yield; and

"(ii) 100 percent of the noninsured crop assistance program price for each of the crops on a farm.

"(c) LIVESTOCK INDEMNITY PAYMENTS.—

"(1) PAYMENTS.—The Secretary shall use such sums as are necessary from the Trust Fund to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality due to adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

"(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

"(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED LIVESTOCK.—

"(i) IN GENERAL.—The term 'covered livestock' means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

"(I) owned;

"(II) leased;

"(III) purchased;

"(IV) entered into a contract to purchase;

"(V) is a contract grower; or

"(VI) sold or otherwise disposed of due to qualifying drought conditions during—

"(aa) the current production year; or

"(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

"(ii) EXCLUSION.—The term 'covered livestock' does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

"(B) DROUGHT MONITOR.—The term 'drought monitor' means a system for classifying drought severity according to a range of abnormally dry to exceptional drought, as defined by the Secretary.

"(C) ELIGIBLE LIVESTOCK PRODUCER.—

"(i) IN GENERAL.—The term 'eligible livestock producer' means an eligible producer on a farm that—

"(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

"(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

"(III) certifies grazing loss; and

"(IV) meets all other eligibility requirements established under this subsection.

"(ii) EXCLUSION.—The term 'eligible livestock producer' does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.

"(D) NORMAL CARRYING CAPACITY.—The term 'normal carrying capacity', with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

"(E) NORMAL GRAZING PERIOD.—The term 'normal grazing period', with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

"(2) PROGRAM.—The Secretary shall use such sums as are necessary from the Trust Fund to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

"(A) a drought condition, as described in paragraph (3); or

"(B) fire, as described in paragraph (4).

"(3) ASSISTANCE FOR LOSSES DUE TO DROUGHT CONDITIONS.—

"(A) ELIGIBLE LOSSES.—

"(i) IN GENERAL.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

"(I) is native or improved pastureland with permanent vegetative cover; or

"(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

"(ii) EXCLUSIONS.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

"(B) MONTHLY PAYMENT RATE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

"(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

"(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

"(ii) PARTIAL COMPENSATION.—In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

"(C) MONTHLY FEED COST.—

"(i) IN GENERAL.—The monthly feed cost shall equal the product obtained by multiplying—

"(I) 30 days;

"(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

"(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

"(ii) FEED GRAIN EQUIVALENT.—For purposes of clause (i)(I), the feed grain equivalent shall equal—

"(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

"(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

"(iii) CORN PRICE PER POUND.—For purposes of clause (i)(II), the corn price per pound shall equal the quotient obtained by dividing—

"(I) the higher of—

"(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

"(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

"(II) 56.

"(D) NORMAL GRAZING PERIOD AND DROUGHT MONITOR INTENSITY.—

"(i) FSA COUNTY COMMITTEE DETERMINATIONS.—

"(I) IN GENERAL.—The Secretary shall determine the normal carrying capacity and normal grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

"(II) CHANGES.—No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

"(ii) DROUGHT INTENSITY.—

"(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that

is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

"(II) D3.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

"(aa) in an amount equal to 2 monthly payments using the monthly payment rate determined under subparagraph (B); or

"(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B).

"(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON PUBLIC MANAGED LAND.—

"(A) IN GENERAL.—An eligible livestock producer may receive assistance under this paragraph only if—

"(i) the grazing losses occur on rangeland that is managed by a Federal agency; and

"(ii) the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

"(B) PAYMENT RATE.—The payment rate for assistance under this paragraph shall be equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease of the eligible livestock producer, as determined under paragraph (3)(C).

"(C) PAYMENT DURATION.—

"(i) IN GENERAL.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

"(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

"(II) ending on the last day of the Federal lease of the eligible livestock producer.

"(ii) LIMITATION.—An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

"(5) MINIMUM RISK MANAGEMENT PURCHASE REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a livestock producer shall only be eligible for assistance under this subsection if the livestock producer—

"(i) obtained a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the grazing land incurring the losses for which assistance is being requested; or

"(ii) filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the grazing land incurring the losses for which assistance is being requested.

"(B) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—In the case of an eligible livestock producer that is a socially disadvantaged farmer or rancher or limited resource or beginning farmer or rancher, as determined by the Secretary, the Secretary may—

"(i) waive subparagraph (A); and

"(ii) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(C) WAIVER FOR 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year but does not meet the requirements of subparagraph (A), the Secretary shall waive subparagraph (A) if the eligible livestock producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under subparagraph (A) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(D) EQUITABLE RELIEF.—

"(i) IN GENERAL.—The Secretary may provide equitable relief to an eligible livestock producer that is otherwise ineligible or unintentionally fails to meet the requirements of subparagraph (A) for the grazing land incurring the loss on a case-by-case basis, as determined by the Secretary.

"(ii) 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible livestock producer failed to meet the requirements of subparagraph (A) due to the enactment of this title after the closing date of sales periods for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and the noninsured crop assistance program.

"(6) NO DUPLICATIVE PAYMENTS.—

"(A) IN GENERAL.—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

"(B) RELATIONSHIP TO SUPPLEMENTAL REVENUE ASSISTANCE.—An eligible livestock producer that receives assistance under this subsection may not also receive assistance for losses to crops on the same land with the same intended use under subsection (b).

"(e) EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY BEES, AND FARM-RAISED FISH.—

"(1) IN GENERAL.—The Secretary shall use up to $50,000,000 per year from the Trust Fund to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b), (c), or (d).

"(2) USE OF FUNDS.—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

"(3) AVAILABILITY OF FUNDS.—Any funds made available under this subsection shall remain available until expended.

"(f) TREE ASSISTANCE PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ORCHARDIST.—The term 'eligible orchardist' means a person that produces annual crops from trees for commercial purposes.

"(B) NATURAL DISASTER.—The term 'natural disaster' means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

"(C) NURSERY TREE GROWER.—The term 'nursery tree grower' means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

"(D) TREE.—The term 'tree' includes a tree, bush, and vine.

"(2) ELIGIBILITY.—

"(A) LOSS.—Subject to subparagraph (B), the Secretary shall provide assistance—

"(i) under paragraph (3) to eligible orchardists and nursery tree growers that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary; and

"(ii) under paragraph (3)(B) to eligible orchardists and nursery tree growers that have a production history for commercial purposes on planted or existing trees but lost the trees as a result of a natural disaster, as determined by the Secretary.

"(B) LIMITATION.—An eligible orchardist or nursery tree grower shall qualify for assistance under subparagraph (A) only if the tree mortality of the eligible orchardist or nursery tree grower, as a result of damaging weather

or related condition, exceeds 15 percent (adjusted for normal mortality).

"(3) ASSISTANCE.—Subject to paragraph (4), the assistance provided by the Secretary to eligible orchardists and nursery tree growers for losses described in paragraph (2) shall consist of—

"(A)(i) reimbursement of 70 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

"(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

"(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

"(4) LIMITATIONS ON ASSISTANCE.—

"(A) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this paragraph, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(B) AMOUNT.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed $100,000 for any crop year, or an equivalent value in tree seedlings.

"(C) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

"(g) RISK MANAGEMENT PURCHASE REQUIREMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the eligible producers on a farm shall not be eligible for assistance under this section (other than subsection (c)) if the eligible producers on the farm—

"(A) in the case of each insurable commodity of the eligible producers on the farm, did not obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (excluding a crop insurance pilot program under that Act); or

"(B) in the case of each noninsurable commodity of the eligible producers on the farm, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program.

"(2) MINIMUM.—To be considered to have obtained insurance under paragraph (1)(A), an eligible producer on a farm shall have obtained a policy or plan of insurance with not less than 50 percent yield coverage at 55 percent of the insurable price for each crop grazed, planted, or intended to be planted for harvest on a whole farm.

"(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—With respect to eligible producers that are socially disadvantaged farmers or ranchers or limited resource or beginning farmers or ranchers, as determined by the Secretary, the Secretary may—

"(A) waive paragraph (1); and

"(B) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(4) WAIVER FOR 2008 CROP YEAR.—In the case of an eligible producer that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year but does not meet the requirements of paragraph (1), the Secretary shall waive paragraph (1) if the eligible producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(5) EQUITABLE RELIEF.—

"(A) IN GENERAL.—The Secretary may provide equitable relief to eligible producers on a farm that are otherwise ineligible or unintentionally fail to meet the requirements of paragraph (1) for 1 or more crops on a farm on a case-by-case basis, as determined by the Secretary.

"(B) 2008 CROP YEAR.—In the case of eligible producers on a farm that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible producers failed to meet the requirements of paragraph (1) due to the enactment of this title after the closing date of sales periods for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and the noninsured crop assistance program.

"(h) PAYMENT LIMITATIONS.—

"(1) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this subsection, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (f)) may not exceed $100,000 for any crop year.

"(3) AGI LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) or any successor provision shall apply with respect to assistance provided under this section. Applicability.

"(4) DIRECT ATTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct attribution shall apply with respect to assistance provided under this section. Applicability.

"(i) PERIOD OF EFFECTIVENESS.—This section shall be effective only for losses that are incurred as the result of a disaster, adverse weather, or other environmental condition that occurs on or before September 30, 2011, as determined by the Secretary.

"(j) NO DUPLICATIVE PAYMENTS.—In implementing any other program which makes disaster assistance payments (except for indemnities made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.)) and section 196 of the Federal Agriculture Improvement and Reform Act of 1996), the Secretary shall prevent duplicative payments with respect to the same loss for which a person receives a payment under subsections (b), (c), (d), (e), or (f).

19 USC 2497a.

**"SEC. 902. AGRICULTURAL DISASTER RELIEF TRUST FUND.**

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Agricultural Disaster Relief Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section.

"(b) TRANSFER TO TRUST FUND.—

"(1) IN GENERAL.—There are appropriated to the Agricultural Disaster Relief Trust Fund amounts equivalent to 3.08 percent of the amounts received in the general fund of the Treasury of the United States during fiscal years 2008 through 2011 attributable to the duties collected on articles entered, or withdrawn from warehouse, for consumption under the Harmonized Tariff Schedule of the United States.

"(2) AMOUNTS BASED ON ESTIMATES.—The amounts appropriated under this section shall be transferred at least monthly from the general fund of the Treasury of the United States to the Agricultural Disaster Relief Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(3) LIMITATION ON TRANSFERS TO AGRICULTURAL DISASTER RELIEF TRUST FUND.—No amount may be appropriated to the Agricultural Disaster Relief Trust Fund on and after the date of any expenditure from the Agricultural Disaster Relief Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

"(c) ADMINISTRATION.—

"(1) REPORTS.—The Secretary of the Treasury shall be the trustee of the Agricultural Disaster Relief Trust Fund and shall submit an annual report to Congress each year on the financial condition and the results of the operations of such Trust Fund during the preceding fiscal year and on its expected condition and operations during the 4 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of Congress to which the report is made.

"(2) INVESTMENT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Agricultural Disaster Relief Trust Fund as is not in his judgment required to meet current withdrawals. Such investments may be made only in

interest bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(i) on original issue at the issue price, or

"(ii) by purchase of outstanding obligations at the market price.

"(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Agricultural Disaster Relief Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Agricultural Disaster Relief Trust Fund shall be credited to and form a part of such Trust Fund.

"(d) EXPENDITURES FROM TRUST FUND.—Amounts in the Agricultural Disaster Relief Trust Fund shall be available for the purposes of making expenditures to meet those obligations of the United States incurred under section 901 or section 531 of the Federal Crop Insurance Act (as such sections are in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008).

"(e) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated, and are appropriated, to the Agricultural Disaster Relief Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made to the Agricultural Disaster Relief Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in such Trust Fund.

"(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be—

"(i) at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding, and

"(ii) compounded annually.

**"SEC. 903. JURISDICTION.** 19 USC 2497b.

"Legislation in the Senate of the United States amending section 901 or 902 shall be referred to the Committee on Finance of the Senate.".

(b) TRANSITION.—For purposes of the 2008 crop year, the Secretary shall carry out subsections (f)(4) and (h) of section 901 of the Trade Act of 1974 (as added by subsection (a)) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (16 U.S.C. 1308 et seq.), as in effect on September 30, 2007. 19 USC 2497 note.

(c) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by adding at the end the following:

"TITLE IX—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE

"Sec. 901. Supplemental agricultural disaster assistance.
"Sec. 902. Agricultural Disaster Relief Trust Fund.
"Sec. 903. Jurisdiction.".

# Subtitle B—Revenue Provisions for Agriculture Programs

**SEC. 15201. CUSTOMS USER FEES.**

(a) IN GENERAL.—Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A)) is amended by striking "December 27, 2014" and inserting "November 14, 2017".

(b) OTHER FEES.—Section 13031(j)(3)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(B)(i)) is amended by striking "December 27, 2014" and inserting "September 30, 2017".

19 USC 58c note.

(c) TIME FOR REMITTING CERTAIN COBRA FEES.—Notwithstanding any other provision of law, any fees authorized under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (1) through (8)) with respect to customs services provided on or after July 1, 2017, and before September 20, 2017, shall be paid not later than September 25, 2017.

(d) TIME FOR REMITTING CERTAIN MERCHANDISE PROCESSING FEES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any fees authorized under paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (9) and (10)) with respect to processing merchandise entered on or after October 1, 2017, and before November 15, 2017, shall be paid not later than September 25, 2017, in an amount equivalent to the amount of such fees paid by the person responsible for such fees with respect to merchandise entered on or after October 1, 2016, and before November 15, 2016, as determined by the Secretary of the Treasury.

(2) RECONCILIATION OF MERCHANDISE PROCESSING FEES.—Not later than December 15, 2017, the Secretary of the Treasury shall reconcile the fees paid pursuant to paragraph (1) with the fees for services actually provided on or after October 1, 2017, and before November 15, 2017, and shall refund with interest any overpayment of such fees and make proper adjustments with respect to any underpayment of such fees. No interest may be assessed with respect to any such underpayment that was based on the amount of fees paid for merchandise entered on or after October 1, 2016, and before November 15, 2016.

26 USC 6655 note.

**SEC. 15202. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 7.75 percentage points.

# Subtitle C—Tax Provisions

## PART I—CONSERVATION

### Subpart A—Land and Species Preservation Provisions

**SEC. 15301. EXCLUSION OF CONSERVATION RESERVE PROGRAM PAYMENTS FROM SECA TAX FOR CERTAIN INDIVIDUALS.**

(a) INTERNAL REVENUE CODE.—Section 1402(a)(1) (defining net earnings from self-employment) is amended by inserting ", and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2)) to individuals receiving benefits under section 202 or 223 of the Social Security Act" after "crop shares". 26 USC 1402.

(b) SOCIAL SECURITY ACT.—Section 211(a)(1) of the Social Security Act is amended by inserting ", and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2)) to individuals receiving benefits under section 202 or 223" after "crop shares". 42 USC 411.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 2007. 26 USC 1402 note.

**SEC. 15302. TWO-YEAR EXTENSION OF SPECIAL RULE ENCOURAGING CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY FOR CONSERVATION PURPOSES.**

(a) IN GENERAL.—

(1) INDIVIDUALS.—Section 170(b)(1)(E)(vi) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(2) CORPORATIONS.—Section 170(b)(2)(B)(iii) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

**SEC. 15303. DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.**

(a) DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (1) of section 175(c) (relating to definitions) is amended by inserting after the first sentence the following new sentence: "Such term shall include expenditures paid or incurred for the purpose of achieving site-specific management actions recommended in recovery plans approved pursuant to the Endangered Species Act of 1973.".

(2) CONFORMING AMENDMENTS.—

(A) Section 175 is amended by inserting ", or for endangered species recovery" after "prevention of erosion of land used in farming" each place it appears in subsections (a) and (c).

(B) The heading of section 175 is amended by inserting "**; ENDANGERED SPECIES RECOVERY EXPENDITURES**" before the period.

(C) The item relating to section 175 in the table of sections for part VI of subchapter B of chapter 1 is amended

by inserting "; endangered species recovery expenditures" before the period.

26 USC 175. (b) LIMITATIONS.—Paragraph (3) of section 175(c) (relating to additional limitations) is amended—

(1) in the heading of subparagraph (A), by inserting "OR ENDANGERED SPECIES RECOVERY PLAN" after "CONSERVATION PLAN", and

(2) in subparagraph (A)(i), by inserting "or the recovery plan approved pursuant to the Endangered Species Act of 1973" after "Department of Agriculture".

26 USC 175 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2008.

## Subpart B—Timber Provisions

### SEC. 15311. TEMPORARY REDUCTION IN RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.

(a) IN GENERAL.—Section 1201 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c) and by adding after subsection (a) the following new subsection:

"(b) SPECIAL RATE FOR QUALIFIED TIMBER GAINS.—

"(1) IN GENERAL.—If, for any taxable year ending after the date of the enactment of the Food, Conservation, and Energy Act of 2008 and beginning on or before the date which is 1 year after such date, a corporation has both a net capital gain and qualified timber gain—

Applicability. "(A) subsection (a) shall apply to such corporation for the taxable year without regard to whether the applicable tax rate exceeds 35 percent, and

"(B) the tax computed under subsection (a)(2) shall be equal to the sum of—

"(i) 15 percent of the least of—

"(I) qualified timber gain,

"(II) net capital gain, or

"(III) taxable income, plus

"(ii) 35 percent of the excess (if any) of taxable income over the sum of the amounts for which a tax was determined under subsection (a)(1) and clause (i).

"(2) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means, with respect to any taxpayer for any taxable year, the excess (if any) of—

"(A) the sum of the taxpayer's gains described in subsections (a) and (b) of section 631 for such year, over

"(B) the sum of the taxpayer's losses described in such subsections for such year.

For purposes of subparagraphs (A) and (B), only timber held more than 15 years shall be taken into account.

"(3) COMPUTATION FOR TAXABLE YEARS IN WHICH RATE FIRST APPLIES OR ENDS.—In the case of any taxable year which includes either of the dates set forth in paragraph (1), the qualified timber gain for such year shall not exceed the qualified timber gain properly taken into account for—

"(A) in the case of the taxable year including the date of the enactment of the Food, Conservation, and Energy Act of 2008, the portion of the year after such date, and

"(B) in the case of the taxable year including the date which is 1 year after such date of enactment, the portion of the year on or before such later date.".

(b) MINIMUM TAX.—Subsection (b) of section 55 is amended by adding at the end the following paragraph: 26 USC 55.

"(4) MAXIMUM RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.—In the case of any taxable year to which section 1201(b) applies, the amount determined under clause (i) of subparagraph (B) shall not exceed the sum of—

"(A) 20 percent of so much of the taxable excess (if any) as exceeds the qualified timber gain (or, if less, the net capital gain), plus

"(B) 15 percent of the taxable excess in excess of the amount on which a tax is determined under subparagraph (A).

Any term used in this paragraph which is also used in section 1201 shall have the meaning given such term by such section, except to the extent such term is subject to adjustment under this part.".

(c) CONFORMING AMENDMENT.—Section 857(b)(3)(A)(ii) is amended by striking "rate" and inserting "rates".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment. 26 USC 55 note.

**SEC. 15312. TIMBER REIT MODERNIZATION.**

(a) IN GENERAL.—Section 856(c)(5) is amended by adding after subparagraph (G) the following new subparagraph:

"(H) TREATMENT OF TIMBER GAINS.—

"(i) IN GENERAL.—Gain from the sale of real property described in paragraph (2)(D) and (3)(C) shall include gain which is—

"(I) recognized by an election under section 631(a) from timber owned by the real estate investment trust, the cutting of which is provided by a taxable REIT subsidiary of the real estate investment trust;

"(II) recognized under section 631(b); or

"(III) income which would constitute gain under subclause (I) or (II) but for the failure to meet the 1-year holding period requirement.

"(ii) SPECIAL RULES.—

"(I) For purposes of this subtitle, cut timber, the gain from which is recognized by a real estate investment trust pursuant to an election under section 631(a) described in clause (i)(I) or so much of clause (i)(III) as relates to clause (i)(I), shall be deemed to be sold to the taxable REIT subsidiary of the real estate investment trust on the first day of the taxable year.

"(II) For purposes of this subtitle, income described in this subparagraph shall not be treated as gain from the sale of property described in section 1221(a)(1).

"(iii) TERMINATION.—This subparagraph shall not apply to dispositions after the termination date.".

(b) TERMINATION DATE.—Subsection (c) of section 856 is amended by adding at the end the following new paragraph:

"(8) TERMINATION DATE.—For purposes of this subsection, the term 'termination date' means, with respect to any taxpayer, the last day of the taxpayer's first taxable year beginning after the date of the enactment of this paragraph and before the date that is 1 year after such date of enactment.".

26 USC 856 note. (c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.

**SEC. 15313. MINERAL ROYALTY INCOME QUALIFYING INCOME FOR TIMBER REITS.**

26 USC 856. (a) IN GENERAL.—Section 856(c)(2) is amended by striking "and" at the end of subparagraph (G), by inserting "and" at the end of subparagraph (H), and by adding after subparagraph (H) the following new subparagraph:

"(I) mineral royalty income earned in the first taxable year beginning after the date of the enactment of this subparagraph from real property owned by a timber real estate investment trust and held, or once held, in connection with the trade or business of producing timber by such real estate investment trust;".

(b) TIMBER REAL ESTATE INVESTMENT TRUST.—Section 856(c)(5), as amended by this Act, is amended by adding after subparagraph (H) the following new subparagraph:

"(I) TIMBER REAL ESTATE INVESTMENT TRUST.—The term 'timber real estate investment trust' means a real estate investment trust in which more than 50 percent in value of its total assets consists of real property held in connection with the trade or business of producing timber.".

26 USC 856 note. (c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 15314. MODIFICATION OF TAXABLE REIT SUBSIDIARY ASSET TEST FOR TIMBER REITS.**

(a) IN GENERAL.—Section 856(c)(4)(B)(ii) is amended by inserting "(in the case of a quarter which closes on or before the termination date, 25 percent in the case of a timber real estate investment trust)" after "REIT subsidiaries".

26 USC 856 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 15315. SAFE HARBOR FOR TIMBER PROPERTY.**

(a) IN GENERAL.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by adding at the end the following new subparagraph:

"(G) SPECIAL RULES FOR SALES TO QUALIFIED ORGANIZATIONS.—

"(i) IN GENERAL.—In the case of the sale of a real estate asset (as defined in section 856(c)(5)(B)) to a qualified organization (as defined in section 170(h)(3)) exclusively for conservation purposes (within the meaning of section 170(h)(1)(C)), subparagraph (D) shall be applied—

"(I) by substituting '2 years' for '4 years' in clause (i), and

"(II) by substituting '2-year period' for '4-year period' in clauses (ii) and (iii).

"(ii) TERMINATION.—This subparagraph shall not apply to sales after the termination date.".

(b) PROHIBITED TRANSACTIONS.—Section 857(b)(6)(D)(v) is amended by inserting ", or, in the case of a sale on or before the termination date, a taxable REIT subsidiary" after "any income". 26 USC 857.

(c) SALES THAT ARE NOT PROHIBITED TRANSACTIONS.—Section 857(b)(6), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(H) SALES OF PROPERTY THAT ARE NOT A PROHIBITED TRANSACTION.—In the case of a sale on or before the termination date, the sale of property which is not a prohibited transaction through the application of subparagraph (D) shall be considered property held for investment or for use in a trade or business and not property described in section 1221(a)(1) for all purposes of this subtitle.".

(d) TERMINATION DATE.—Section 857(b)(6), as amended by subsections (a) and (c), is amended by adding at the end the following new subparagraph:

"(I) TERMINATION DATE.—For purposes of this paragraph, the term 'termination date' has the meaning given such term by section 856(c)(8).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions in taxable years beginning after the date of the enactment of this Act. 26 USC 857 note.

**SEC. 15316. QUALIFIED FORESTRY CONSERVATION BONDS.**

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

## "Subpart I—Qualified Tax Credit Bonds

"Sec. 54A. Credit to holders of qualified tax credit bonds.
"Sec. 54B. Qualified forestry conservation bonds.

**"SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CREDIT BONDS.**

"(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax credit bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tax credit bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable

credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

"(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

Applicability.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

"(d) QUALIFIED TAX CREDIT BOND.—For purposes of this section—

"(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means a qualified forestry conservation bond which is part of an issue that meets the requirements of paragraphs (2), (3), (4), (5), and (6).

"(2) SPECIAL RULES RELATING TO EXPENDITURES.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects—

"(i) 100 percent or more of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and

"(ii) a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.

"(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 3 YEARS.—

"(i) IN GENERAL.—To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

"(ii) EXPENDITURE PERIOD.—For purposes of this subpart, the term 'expenditure period' means, with respect to any issue, the 3-year period beginning on

the date of issuance. Such term shall include any extension of such period under clause (iii).

"(iii) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

"(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means a purpose specified in section 54B(e).

"(D) REIMBURSEMENT.—For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—

"(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,

"(ii) not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

"(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

"(3) REPORTING.—An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).

"(4) SPECIAL RULES RELATING TO ARBITRAGE.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.

"(B) SPECIAL RULE FOR INVESTMENTS DURING EXPENDITURE PERIOD.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

"(C) SPECIAL RULE FOR RESERVE FUNDS.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—

"(i) such fund is funded at a rate not more rapid than equal annual installments,

"(ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and

"(iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

"(5) MATURITY LIMITATION.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue does not exceed the maximum term determined by the Secretary under subparagraph (B).

"(B) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

Certification.

"(6) PROHIBITION ON FINANCIAL CONFLICTS OF INTEREST.—An issue shall be treated as meeting the requirements of this paragraph if the issuer certifies that—

"(A) applicable State and local law requirements governing conflicts of interest are satisfied with respect to such issue, and

"(B) if the Secretary prescribes additional conflicts of interest rules governing the appropriate Members of Congress, Federal, State, and local officials, and their spouses, such additional rules are satisfied with respect to such issue.

"(e) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

"(4) AVAILABLE PROJECT PROCEEDS.—The term 'available project proceeds' means—

"(A) the excess of—

"(i) the proceeds from the sale of an issue, over

"(ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and

"(B) the proceeds from any investment of the excess described in subparagraph (A).

"(f) CREDIT TREATED AS INTEREST.—For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

"(g) S CORPORATIONS AND PARTNERSHIPS.—In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.

"(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If any qualified tax credit bond is held by a regulated investment company or a real estate investment trust, the credit determined under subsection (a) shall be allowed to shareholders of such company or beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be treated as distributed to such shareholders or beneficiaries) under procedures prescribed by the Secretary.

"(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary— Regulations.

"(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified tax credit bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tax credit bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

**"SEC. 54B. QUALIFIED FORESTRY CONSERVATION BONDS.**

"(a) QUALIFIED FORESTRY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified forestry conservation bond' means any bond issued as part of an issue if—

"(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified forestry conservation purposes,

"(2) the bond is issued by a qualified issuer, and

"(3) the issuer designates such bond for purposes of this section.

"(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (d).

"(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified forestry conservation bond limitation of $500,000,000.

"(d) ALLOCATIONS.—

"(1) IN GENERAL.—The Secretary shall make allocations of the amount of the national qualified forestry conservation bond limitation described in subsection (c) among qualified forestry conservation purposes in such manner as the Secretary determines appropriate so as to ensure that all of such limitation is allocated before the date which is 24 months after the date of the enactment of this section.

"(2) SOLICITATION OF APPLICATIONS.—The Secretary shall solicit applications for allocations of the national qualified forestry conservation bond limitation described in subsection (c) Deadline.

not later than 90 days after the date of the enactment of this section.

"(e) QUALIFIED FORESTRY CONSERVATION PURPOSE.—For purposes of this section, the term 'qualified forestry conservation purpose' means the acquisition by a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)) from an unrelated person of forest and forest land that meets the following qualifications:

"(1) Some portion of the land acquired must be adjacent to United States Forest Service Land.

"(2) At least half of the land acquired must be transferred to the United States Forest Service at no net cost to the United States and not more than half of the land acquired may either remain with or be conveyed to a State.

"(3) All of the land must be subject to a native fish habitat conservation plan approved by the United States Fish and Wildlife Service.

"(4) The amount of acreage acquired must be at least 40,000 acres.

"(f) QUALIFIED ISSUER.—For purposes of this section, the term 'qualified issuer' means a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)).

"(g) SPECIAL ARBITRAGE RULE.—In the case of any qualified forestry conservation bond issued as part of an issue, section 54A(d)(4)(C) shall be applied to such issue without regard to clause (i).

"(h) ELECTION TO TREAT 50 PERCENT OF BOND ALLOCATION AS PAYMENT OF TAX.—

"(1) IN GENERAL.—If—

"(A) a qualified issuer receives an allocation of any portion of the national qualified forestry conservation bond limitation described in subsection (c), and

"(B) the qualified issuer elects the application of this subsection with respect to such allocation,

then the qualified issuer (without regard to whether the issuer is subject to tax under this chapter) shall be treated as having made a payment against the tax imposed by this chapter, for the taxable year preceding the taxable year in which the allocation is received, in an amount equal to 50 percent of the amount of such allocation.

"(2) TREATMENT OF DEEMED PAYMENT.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall not use the payment of tax described in paragraph (1) as an offset or credit against any tax liability of the qualified issuer but shall refund such payment to such issuer.

"(B) NO INTEREST.—Except as provided in paragraph (3)(A), the payment described in paragraph (1) shall not be taken into account in determining any amount of interest under this title.

"(3) REQUIREMENT FOR, AND EFFECT OF, ELECTION.—

"(A) REQUIREMENT.—No election under this subsection shall take effect unless the qualified issuer certifies to the Secretary that any payment of tax refunded to the issuer under this subsection will be used exclusively for 1 or more qualified forestry conservation purposes. If the

qualified issuer fails to use any portion of such payment for such purpose, the issuer shall be liable to the United States in an amount equal to such portion, plus interest at the overpayment rate under section 6621 for the period from the date such portion was refunded to the date such amount is paid. Any such amount shall be assessed and collected in the same manner as tax imposed by this chapter, except that subchapter B of chapter 63 (relating to deficiency procedures) shall not apply in respect of such assessment or collection.

"(B) EFFECT OF ELECTION ON ALLOCATION.—If a qualified issuer makes the election under this subsection with respect to any allocation—

"(i) the issuer may issue no bonds pursuant to the allocation, and

"(ii) the Secretary may not reallocate such allocation for any other purpose.".

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph: 26 USC 6049.

"(9) REPORTING OF CREDIT ON QUALIFIED TAX CREDIT BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(e)(1)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(c) CONFORMING AMENDMENTS.—

(1) Sections 54(c)(2) and 1400N(l)(3)(B) are each amended by striking "subpart C" and inserting "subparts C and I".

(2) Section 1397E(c)(2) is amended by striking "subpart H" and inserting "subparts H and I".

(3) Section 6401(b)(1) is amended by striking "and H" and inserting "H, and I".

(4) The heading of subpart H of part IV of subchapter A of chapter 1 is amended by striking "**Certain Bonds**" and inserting "**Clean Renewable Energy Bonds**".

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart H and inserting the following new items:

"SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

"SUBPART I. QUALIFIED TAX CREDIT BONDS.".

(6) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by striking "or 6428 or 53(e)" and inserting ", 53(e), 54B(h), or 6428".

26 USC 54 note.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

# PART II—ENERGY PROVISIONS

## Subpart A—Cellulosic Biofuel

### SEC. 15321. CREDIT FOR PRODUCTION OF CELLULOSIC BIOFUEL.

26 USC 40.

(a) IN GENERAL.—Subsection (a) of section 40 (relating to alcohol used as fuel) is amended by striking "plus" at the end of paragraph (1), by striking "plus" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", plus", and by adding at the end the following new paragraph:

"(4) the cellulosic biofuel producer credit.".

(b) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 40 is amended by adding at the end the following new paragraph:

"(6) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

"(A) IN GENERAL.—The cellulosic biofuel producer credit of any taxpayer is an amount equal to the applicable amount for each gallon of qualified cellulosic biofuel production.

"(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount means $1.01, except that such amount shall, in the case of cellulosic biofuel which is alcohol, be reduced by the sum of—

"(i) the amount of the credit in effect for such alcohol under subsection (b)(1) (without regard to subsection (b)(3)) at the time of the qualified cellulosic biofuel production, plus

"(ii) in the case of ethanol, the amount of the credit in effect under subsection (b)(4) at the time of such production.

"(C) QUALIFIED CELLULOSIC BIOFUEL PRODUCTION.—For purposes of this section, the term 'qualified cellulosic biofuel production' means any cellulosic biofuel which is produced by the taxpayer, and which during the taxable year—

"(i) is sold by the taxpayer to another person—

"(I) for use by such other person in the production of a qualified cellulosic biofuel mixture in such other person's trade or business (other than casual off-farm production),

"(II) for use by such other person as a fuel in a trade or business, or

"(III) who sells such cellulosic biofuel at retail to another person and places such cellulosic biofuel in the fuel tank of such other person, or

"(ii) is used or sold by the taxpayer for any purpose described in clause (i).

The qualified cellulosic biofuel production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.

"(D) QUALIFIED CELLULOSIC BIOFUEL MIXTURE.—For purposes of this paragraph, the term 'qualified cellulosic

biofuel mixture' means a mixture of cellulosic biofuel and gasoline or of cellulosic biofuel and a special fuel which—

"(i) is sold by the person producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the person producing such mixture.

"(E) CELLULOSIC BIOFUEL.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'cellulosic biofuel' means any liquid fuel which—

"(I) is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and

"(II) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

"(ii) EXCLUSION OF LOW-PROOF ALCOHOL.—Such term shall not include any alcohol with a proof of less than 150. The determination of the proof of any alcohol shall be made without regard to any added denaturants.

"(F) ALLOCATION OF CELLULOSIC BIOFUEL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—Rules similar to the rules under subsection (g)(6) shall apply for purposes of this paragraph. Applicability.

"(G) REGISTRATION REQUIREMENT.—No credit shall be determined under this paragraph with respect to any taxpayer unless such taxpayer is registered with the Secretary as a producer of cellulosic biofuel under section 4101.

"(H) APPLICATION OF PARAGRAPH.—This paragraph shall apply with respect to qualified cellulosic biofuel production after December 31, 2008, and before January 1, 2013.". Time period.

(2) TERMINATION DATE NOT TO APPLY.—Subsection (e) of section 40 (relating to termination) is amended—

(A) by inserting "or subsection (b)(6)(H)" after "by reason of paragraph (1)" in paragraph (2), and

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

"(3) EXCEPTION FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.—Paragraph (1) shall not apply to the portion of the credit allowed under this section by reason of subsection (a)(4).".

(3) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4101(a) is amended— 26 USC 4101.

(i) by striking "and every person" and inserting ", every person", and

(ii) by inserting ", and every person producing cellulosic biofuel (as defined in section 40(b)(6)(E))" after "section 6426(b)(4)(A))".

(B) The heading of section 40, and the item relating to such section in the table of sections for subpart D of part IV of subchapter A of chapter 1, are each amended by inserting ", etc.," after "Alcohol".

(c) BIOFUEL NOT USED AS A FUEL, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 40(d) is amended by redesignating subparagraph (D) as subparagraph (E) and

by inserting after subparagraph (C) the following new subparagraph:

"(D) CELLULOSIC BIOFUEL PRODUCER CREDIT.—If—

"(i) any credit is allowed under subsection (a)(4), and

"(ii) any person does not use such fuel for a purpose described in subsection (b)(6)(C),

then there is hereby imposed on such person a tax equal to the applicable amount (as defined in subsection (b)(6)(B)) for each gallon of such cellulosic biofuel.".

(2) CONFORMING AMENDMENTS.—

26 USC 40.

(A) Subparagraph (C) of section 40(d)(3) is amended by striking "PRODUCER" in the heading and inserting "SMALL ETHANOL PRODUCER".

(B) Subparagraph (E) of section 40(d)(3), as redesignated by paragraph (1), is amended by striking "or (C)" and inserting "(C), or (D)".

(d) BIOFUEL PRODUCED IN THE UNITED STATES.—Section 40(d) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULE FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.—No cellulosic biofuel producer credit shall be determined under subsection (a) with respect to any cellulosic biofuel unless such cellulosic biofuel is produced in the United States and used as a fuel in the United States. For purposes of this subsection, the term 'United States' includes any possession of the United States.".

(e) WAIVER OF CREDIT LIMIT FOR CELLULOSIC BIOFUEL PRODUCTION BY SMALL ETHANOL PRODUCERS.—Section 40(b)(4)(C) is amended by inserting "(determined without regard to any qualified cellulosic biofuel production)" after "15,000,000 gallons".

(f) DENIAL OF DOUBLE BENEFIT.—

(1) BIODIESEL.—Paragraph (1) of section 40A(d) is amended by adding at the end the following new flush sentence:

"Such term shall not include any liquid with respect to which a credit may be determined under section 40.".

(2) RENEWABLE DIESEL.—Paragraph (3) of section 40A(f) is amended by adding at the end the following new flush sentence:

"Such term shall not include any liquid with respect to which a credit may be determined under section 40.".

26 USC 40 note.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced after December 31, 2008.

**SEC. 15322. COMPREHENSIVE STUDY OF BIOFUELS.**

Contracts.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Agriculture, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, shall enter into an agreement with the National Academy of Sciences to produce an analysis of current scientific findings to determine—

(1) current biofuels production, as well as projections for future production,

(2) the maximum amount of biofuels production capable in United States forests and farmlands, including the current quantities and character of the feedstocks and including such information as regional forest inventories that are commercially available, used in the production of biofuels,

(3) the domestic effects of an increase in biofuels production levels, including the effects of such levels on—

(A) the price of fuel,

(B) the price of land in rural and suburban communities,

(C) crop acreage, forest acreage, and other land use,

(D) the environment, due to changes in crop acreage, fertilizer use, runoff, water use, emissions from vehicles utilizing biofuels, and other factors,

(E) the price of feed,

(F) the selling price of grain crops and forest products,

(G) exports and imports of grains and forest products,

(H) taxpayers, through cost or savings to commodity crop payments, and

(I) the expansion of refinery capacity,

(4) the ability to convert corn ethanol plants for other uses, such as cellulosic ethanol or biodiesel,

(5) a comparative analysis of corn ethanol versus other biofuels and renewable energy sources, considering cost, energy output, and ease of implementation,

(6) the impact of the tax credit established by this subpart on the regional agricultural and silvicultural capabilities of commercially available forest inventories, and

(7) the need for additional scientific inquiry, and specific areas of interest for future research.

(b) REPORT.—The Secretary of the Treasury shall submit an initial report of the findings of the study required under subsection (a) to Congress not later than 6 months after the date of the enactment of this Act (36 months after such date in the case of the information required by subsection (a)(6)), and a final report not later than 12 months after such date (42 months after such date in the case of the information required by subsection (a)(6)).

## Subpart B—Revenue Provisions

**SEC. 15331. MODIFICATION OF ALCOHOL CREDIT.**

(a) INCOME TAX CREDIT.—

(1) IN GENERAL.—The table in paragraph (2) of section 40(h) is amended—

(A) by striking "through 2010" in the first column and inserting ", 2006, 2007, or 2008",

(B) by striking the period at the end of the third row, and

(C) by adding at the end the following new row:

"2009 through 2010 45 cents ..... 33.33 cents.".

(2) EXCEPTION.—Section 40(h) is amended by adding at the end the following new paragraph: 26 USC 40.

"(3) REDUCTION DELAYED UNTIL ANNUAL PRODUCTION OR IMPORTATION OF 7,500,000,000 GALLONS.—

"(A) IN GENERAL.—In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in subparagraph (B) with respect to all preceding calendar years beginning after 2007, the last row in the table in paragraph (2) shall be applied by substituting '51 cents' for '45 cents'. Applicability.

"(B) DETERMINATION.—A determination described in this subparagraph with respect to any calendar year is a determination, in consultation with the Administrator of the Environmental Protection Agency, that an amount less than 7,500,000,000 gallons of ethanol (including cellulosic ethanol) has been produced in or imported into the United States in such year.".

(b) EXCISE TAX CREDIT.—

26 USC 6426.

(1) IN GENERAL.—Subparagraph (A) of section 6426(b)(2) (relating to alcohol fuel mixture credit) is amended by striking "the applicable amount is 51 cents" and inserting "the applicable amount is—

"(i) in the case of calendar years beginning before 2009, 51 cents, and

"(ii) in the case of calendar years beginning after 2008, 45 cents.".

(2) EXCEPTION.—Paragraph (2) of section 6426(b) is amended by adding at the end the following new subparagraph:

Applicability.

"(C) REDUCTION DELAYED UNTIL ANNUAL PRODUCTION OR IMPORTATION OF 7,500,000,000 GALLONS.—In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in section 40(h)(3)(B) with respect to all preceding calendar years beginning after 2007, subparagraph (A)(ii) shall be applied by substituting '51 cents' for '45 cents'."

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 6426(b)(2) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

26 USC 40 note.

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

**SEC. 15332. CALCULATION OF VOLUME OF ALCOHOL FOR FUEL CREDITS.**

(a) IN GENERAL.—Paragraph (4) of section 40(d) (relating to volume of alcohol) is amended by striking "5 percent" and inserting "2 percent".

(b) CONFORMING AMENDMENT FOR EXCISE TAX CREDIT.—Section 6426(b) (relating to alcohol fuel mixture credit) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 2 percent of the volume of such alcohol (including denaturants).".

26 USC 40 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2008.

**SEC. 15333. ETHANOL TARIFF EXTENSION.**

Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States are each amended in the effective period column by striking "1/1/2009" and inserting "1/1/2011".

**SEC. 15334. LIMITATIONS ON DUTY DRAWBACK ON CERTAIN IMPORTED ETHANOL.**

(a) IN GENERAL.—Section 313(p) of the Tariff Act of 1930 (19 U.S.C. 1313(p)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES FOR ETHYL ALCOHOL.—For purposes of this subsection, any duty paid under subheading 9901.00.50 of the Harmonized Tariff Schedule of the United States on imports of ethyl alcohol or a mixture of ethyl alcohol may not be refunded if the exported article upon which a drawback claim is based does not contain ethyl alcohol or a mixture of ethyl alcohol.".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to— Applicability. 19 USC 1313 note.

(1) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, on or after October 1, 2008; and

(2) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, before October 1, 2008, if a duty drawback claim is filed with respect to such imports on or after October 1, 2010.

## PART III—AGRICULTURAL PROVISIONS

**SEC. 15341. INCREASE IN LOAN LIMITS ON AGRICULTURAL BONDS.**

(a) IN GENERAL.—Subparagraph (A) of section 147(c)(2) (relating to exception for first-time farmers) is amended by striking "$250,000" and inserting "$450,000". 26 USC 147.

(b) INFLATION ADJUSTMENT.—Section 147(c)(2) is amended by adding at the end the following new subparagraph:

"(H) ADJUSTMENTS FOR INFLATION.—In the case of any calendar year after 2008, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.".

(c) MODIFICATION OF SUBSTANTIAL FARMLAND DEFINITION.—Section 147(c)(2)(E) (defining substantial farmland) is amended by striking "unless" and all that follows through the period and inserting "unless such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located.".

(d) CONFORMING AMENDMENT.—Section 147(c)(2)(C)(i)(II) is amended by striking "$250,000" and inserting "the amount in effect under subparagraph (A)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act. 26 USC 147 note.

**SEC. 15342. ALLOWANCE OF SECTION 1031 TREATMENT FOR EXCHANGES INVOLVING CERTAIN MUTUAL DITCH, RESERVOIR, OR IRRIGATION COMPANY STOCK.**

26 USC 1031.

(a) IN GENERAL.—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR MUTUAL DITCH, RESERVOIR, OR IRRIGATION COMPANY STOCK.—For purposes of subsection (a)(2)(B), the term 'stocks' shall not include shares in a mutual ditch, reservoir, or irrigation company if at the time of the exchange—

"(1) the mutual ditch, reservoir, or irrigation company is an organization described in section 501(c)(12)(A) (determined without regard to the percentage of its income that is collected from its members for the purpose of meeting losses and expenses), and

"(2) the shares in such company have been recognized by the highest court of the State in which such company was organized or by applicable State statute as constituting or representing real property or an interest in real property.".

26 USC 1031 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to exchanges completed after the date of the enactment of this Act.

**SEC. 15343. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

**"SEC. 45O. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible agricultural business, the agricultural chemicals security credit determined under this section for the taxable year is 30 percent of the qualified security expenditures for the taxable year.

"(b) FACILITY LIMITATION.—The amount of the credit determined under subsection (a) with respect to any facility for any taxable year shall not exceed—

"(1) $100,000, reduced by

"(2) the aggregate amount of credits determined under subsection (a) with respect to such facility for the 5 prior taxable years.

"(c) ANNUAL LIMITATION.—The amount of the credit determined under subsection (a) with respect to any taxpayer for any taxable year shall not exceed $2,000,000.

"(d) QUALIFIED CHEMICAL SECURITY EXPENDITURE.—For purposes of this section, the term 'qualified chemical security expenditure' means, with respect to any eligible agricultural business for any taxable year, any amount paid or incurred by such business during such taxable year for—

"(1) employee security training and background checks,

"(2) limitation and prevention of access to controls of specified agricultural chemicals stored at the facility,

"(3) tagging, locking tank valves, and chemical additives to prevent the theft of specified agricultural chemicals or to render such chemicals unfit for illegal use,

"(4) protection of the perimeter of specified agricultural chemicals,

"(5) installation of security lighting, cameras, recording equipment, and intrusion detection sensors,

"(6) implementation of measures to increase computer or computer network security,

"(7) conducting a security vulnerability assessment,

"(8) implementing a site security plan, and

"(9) such other measures for the protection of specified agricultural chemicals as the Secretary may identify in regulation.

Amounts described in the preceding sentence shall be taken into account only to the extent that such amounts are paid or incurred for the purpose of protecting specified agricultural chemicals.

"(e) ELIGIBLE AGRICULTURAL BUSINESS.—For purposes of this section, the term 'eligible agricultural business' means any person in the trade or business of—

"(1) selling agricultural products, including specified agricultural chemicals, at retail predominantly to farmers and ranchers, or

"(2) manufacturing, formulating, distributing, or aerially applying specified agricultural chemicals.

"(f) SPECIFIED AGRICULTURAL CHEMICAL.—For purposes of this section, the term 'specified agricultural chemical' means—

"(1) any fertilizer commonly used in agricultural operations which is listed under—

"(A) section 302(a)(2) of the Emergency Planning and Community Right-to-Know Act of 1986,

"(B) section 101 of part 172 of title 49, Code of Federal Regulations, or

"(C) part 126, 127, or 154 of title 33, Code of Federal Regulations, and

"(2) any pesticide (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act), including all active and inert ingredients thereof, which is customarily used on crops grown for food, feed, or fiber.

"(g) CONTROLLED GROUPS.—Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for purposes of this section. Applicability.

"(h) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations which—

"(1) provide for the proper treatment of amounts which are paid or incurred for purpose of protecting any specified agricultural chemical and for other purposes, and

"(2) provide for the treatment of related properties as one facility for purposes of subsection (b).

"(i) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 2012.".

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking "plus" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", plus", and by adding at the end the following new paragraph: 26 USC 38.

"(32) in the case of an eligible agricultural business (as defined in section 45O(e)), the agricultural chemicals security credit determined under section 45O(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection: 26 USC 280C.

"(f) CREDIT FOR SECURITY OF AGRICULTURAL CHEMICALS.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction taken into account in determining the credit under section 45O for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45O(a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45O. Agricultural chemicals security credit.".

26 USC 38 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

**SEC. 15344. 3-YEAR DEPRECIATION FOR RACE HORSES THAT ARE 2-YEARS OLD OR YOUNGER.**

26 USC 168.

(a) IN GENERAL.—Clause (i) of section 168(e)(3)(A) (relating to 3-year property) is amended to read as follows:

"(i) any race horse—

"(I) which is placed in service before January 1, 2014, and

"(II) which is placed in service after December 31, 2013, and which is more than 2 years old at the time such horse is placed in service by such purchaser,".

26 USC 168 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2008.

**SEC. 15345. TEMPORARY TAX RELIEF FOR KIOWA COUNTY, KANSAS AND SURROUNDING AREA.**

Applicability.

(a) IN GENERAL.—Subject to the modifications described in this section, the following provisions of or relating to the Internal Revenue Code of 1986 shall apply to the Kansas disaster area in addition to the areas to which such provisions otherwise apply:

(1) Section 1400N(d) of such Code (relating to special allowance for certain property).

(2) Section 1400N(e) of such Code (relating to increase in expensing under section 179).

(3) Section 1400N(f) of such Code (relating to expensing for certain demolition and clean-up costs).

(4) Section 1400N(k) of such Code (relating to treatment of net operating losses attributable to storm losses).

(5) Section 1400N(n) of such Code (relating to treatment of representations regarding income eligibility for purposes of qualified rental project requirements).

(6) Section 1400N(o) of such Code (relating to treatment of public utility property disaster losses).

(7) Section 1400Q of such Code (relating to special rules for use of retirement funds).

(8) Section 1400R(a) of such Code (relating to employee retention credit for employers).

(9) Section 1400S(b) of such Code (relating to suspension of certain limitations on personal casualty losses).

(10) Section 405 of the Katrina Emergency Tax Relief Act of 2005 (relating to extension of replacement period for non-recognition of gain).

(b) KANSAS DISASTER AREA.—For purposes of this section, the term "Kansas disaster area" means an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA–1699–DR, as in effect on the date of the enactment of this Act) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to such storms and tornados.

(c) REFERENCES TO AREA OR LOSS.—

(1) AREA.—Any reference in such provisions to the Katrina disaster area or the Gulf Opportunity Zone shall be treated as a reference to the Kansas disaster area.

(2) LOSS.—Any reference in such provisions to any loss or damage attributable to Hurricane Katrina shall be treated as a reference to any loss or damage attributable to the May 4, 2007, storms and tornados.

(d) REFERENCES TO DATES, ETC.—

(1) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER MAY 5, 2007.—Section 1400N(d) of such Code— 26 USC 1400N.

(A) by substituting "qualified Recovery Assistance property" for "qualified Gulf Opportunity Zone property" each place it appears,

(B) by substituting "May 5, 2007" for "August 28, 2005" each place it appears,

(C) by substituting "December 31, 2008" for "December 31, 2007" in paragraph (2)(A)(v),

(D) by substituting "December 31, 2009" for "December 31, 2008" in paragraph (2)(A)(v),

(E) by substituting "May 4, 2007" for "August 27, 2005" in paragraph (3)(A),

(F) by substituting "January 1, 2009" for "January 1, 2008" in paragraph (3)(B), and

(G) determined without regard to paragraph (6) thereof.

(2) INCREASE IN EXPENSING UNDER SECTION 179.—Section 1400N(e) of such Code, by substituting "qualified section 179 Recovery Assistance property" for "qualified section 179 Gulf Opportunity Zone property" each place it appears.

(3) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f) of such Code—

(A) by substituting "qualified Recovery Assistance clean-up cost" for "qualified Gulf Opportunity Zone clean-up cost" each place it appears, and

(B) by substituting "beginning on May 4, 2007, and ending on December 31, 2009" for "beginning on August 28, 2005, and ending on December 31, 2007" in paragraph (2) thereof.

(4) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO STORM LOSSES.—Section 1400N(k) of such Code—

(A) by substituting "qualified Recovery Assistance loss" for "qualified Gulf Opportunity Zone loss" each place it appears,

(B) by substituting "after May 3, 2007, and before on January 1, 2010" for "after August 27, 2005, and before January 1, 2008" each place it appears,

(C) by substituting "May 4, 2007" for "August 28, 2005" in paragraph (2)(B)(ii)(I) thereof,

(D) by substituting "qualified Recovery Assistance property" for "qualified Gulf Opportunity Zone property" in paragraph (2)(B)(iv) thereof, and

(E) by substituting "qualified Recovery Assistance casualty loss" for "qualified Gulf Opportunity Zone casualty loss" each place it appears.

(5) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q of such Code— 26 USC 1400Q.

(A) by substituting "qualified Recovery Assistance distribution" for "qualified hurricane distribution" each place it appears,

(B) by substituting "on or after May 4, 2007, and before January 1, 2009" for "on or after August 25, 2005, and before January 1, 2007" in subsection (a)(4)(A)(i),

(C) by substituting "May 4, 2007" for "August 28, 2005" in subsections (a)(4)(A)(i) and (c)(3)(B),

(D) disregarding clauses (ii) and (iii) of subsection (a)(4)(A),

(E) by substituting "qualified storm distribution" for "qualified Katrina distribution" each place it appears,

(F) by substituting "after November 4, 2006, and before May 5, 2007" for "after February 28, 2005, and before August 29, 2005" in subsection (b)(2)(B)(ii),

(G) by substituting "the Kansas disaster area (as defined in section 15345(b) of the Food, Conservation, and Energy Act of 2008) but which was not so purchased or constructed on account of the May 4, 2007, storms and tornados" for "the Hurricane Katrina disaster area, but not so purchased or constructed on account of Hurricane Katrina" in subsection (b)(2)(B)(iii),

(H) by substituting "beginning on May 4, 2007, and ending on the date which is 5 months after the date of the enactment of the Heartland, Habitat, Harvest, and Horticulture Act of 2008" for "beginning on August 25, 2005, and ending on February 28, 2006" in subsection (b)(3)(A),

(I) by substituting "qualified storm individual" for "qualified Hurricane Katrina individual" each place it appears,

(J) by substituting "December 31, 2008" for "December 31, 2006" in subsection (c)(2)(A),

(K) by substituting "beginning on the date of the enactment of the Food, Conservation, and Energy Act of 2008 and ending on December 31, 2008" for "beginning on September 24, 2005, and ending on December 31, 2006" in subsection (c)(4)(A)(i),

(L) by substituting "May 4, 2007" for "August 25, 2005" in subsection (c)(4)(A)(ii), and

(M) by substituting "January 1, 2009" for "January 1, 2007" in subsection (d)(2)(A)(ii).

(6) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY MAY 4 STORMS AND TORNADOS.—Section 1400R(a) of the Internal Revenue Code of 1986—

(A) by substituting "May 4, 2007" for "August 28, 2005" each place it appears,

(B) by substituting "January 1, 2008" for "January 1, 2006" both places it appears, and

(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before May 4, 2007.

(7) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1) of the Internal Revenue Code of 1986, by substituting "May 4, 2007" for "August 25, 2005". 26 USC 1400.

(8) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Section 405 of the Katrina Emergency Tax Relief Act of 2005, by substituting "on or after May 4, 2007" for "on or after August 25, 2005".

**SEC. 15346. COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.**

(a) IN GENERAL.—Section 48A (relating to qualifying advanced coal project credit) is amended by adding at the end the following new subsection:

"(h) COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.—In implementing this section or section 48B, the Secretary is directed to modify the terms of any competitive certification award and any associated closing agreement where such modification—

"(1) is consistent with the objectives of such section,

"(2) is requested by the recipient of the competitive certification award, and

"(3) involves moving the project site to improve the potential to capture and sequester carbon dioxide emissions, reduce costs of transporting feedstock, and serve a broader customer base,

unless the Secretary determines that the dollar amount of tax credits available to the taxpayer under such section would increase as a result of the modification or such modification would result in such project not being originally certified. In considering any such modification, the Secretary shall consult with other relevant Federal agencies, including the Department of Energy.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and is applicable to all competitive certification awards entered into under section 48A or 48B of the Internal Revenue Code of 1986, whether such awards were issued before, on, or after such date of enactment. Applicability. 26 USC 48A note.

## PART IV—OTHER REVENUE PROVISIONS

**SEC. 15351. LIMITATION ON EXCESS FARM LOSSES OF CERTAIN TAXPAYERS.**

(a) IN GENERAL.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end the following new subsection:

"(j) LIMITATION ON EXCESS FARM LOSSES OF CERTAIN TAXPAYERS.—

"(1) LIMITATION.—If a taxpayer other than a C corporation receives any applicable subsidy for any taxable year, any excess farm loss of the taxpayer for the taxable year shall not be allowed.

"(2) DISALLOWED LOSS CARRIED TO NEXT TAXABLE YEAR.—Any loss which is disallowed under paragraph (1) shall be treated as a deduction of the taxpayer attributable to farming businesses in the next taxable year.

"(3) APPLICABLE SUBSIDY.—For purposes of this subsection, the term 'applicable subsidy' means—

"(A) any direct or counter-cyclical payment under title I of the Food, Conservation, and Energy Act of 2008, or any payment elected to be received in lieu of any such payment, or

"(B) any Commodity Credit Corporation loan.

"(4) EXCESS FARM LOSS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'excess farm loss' means the excess of—

"(i) the aggregate deductions of the taxpayer for the taxable year which are attributable to farming businesses of such taxpayer (determined without regard to whether or not such deductions are disallowed for such taxable year under paragraph (1)), over

"(ii) the sum of—

"(I) the aggregate gross income or gain of such taxpayer for the taxable year which is attributable to such farming businesses, plus

"(II) the threshold amount for the taxable year.

"(B) THRESHOLD AMOUNT.—

"(i) IN GENERAL.—The term 'threshold amount' means, with respect to any taxable year, the greater of—

"(I) $300,000 ($150,000 in the case of married individuals filing separately), or

"(II) the excess (if any) of the aggregate amounts described in subparagraph (A)(ii)(I) for the 5-consecutive taxable year period preceding the taxable year over the aggregate amounts described in subparagraph (A)(i) for such period.

"(ii) SPECIAL RULES FOR DETERMINING AGGREGATE AMOUNTS.—For purposes of clause (i)(II)—

"(I) notwithstanding the disregard in subparagraph (A)(i) of any disallowance under paragraph (1), in the case of any loss which is carried forward under paragraph (2) from any taxable year, such loss (or any portion thereof) shall be taken into account for the first taxable year in which a deduction for such loss (or portion) is not disallowed by reason of this subsection, and

"(II) the Secretary shall prescribe rules for the computation of the aggregate amounts described in such clause in cases where the filing status of the taxpayer is not the same for the taxable year and each of the taxable years in the period described in such clause.

"(C) FARMING BUSINESS.—

"(i) IN GENERAL.—The term 'farming business' has the meaning given such term in section 263A(e)(4).

"(ii) CERTAIN TRADES AND BUSINESSES INCLUDED.—If, without regard to this clause, a taxpayer is engaged

in a farming business with respect to any agricultural or horticultural commodity—

"(I) the term 'farming business' shall include any trade or business of the taxpayer of the processing of such commodity (without regard to whether the processing is incidental to the growing, raising, or harvesting of such commodity), and

"(II) if the taxpayer is a member of a cooperative to which subchapter T applies, any trade or business of the cooperative described in subclause (I) shall be treated as the trade or business of the taxpayer.

"(D) CERTAIN LOSSES DISREGARDED.—For purposes of subparagraph (A)(i), there shall not be taken into account any deduction for any loss arising by reason of fire, storm, or other casualty, or by reason of disease or drought, involving any farming business.

"(5) APPLICATION OF SUBSECTION IN CASE OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation—

"(A) this subsection shall be applied at the partner or shareholder level, and

"(B) each partner's or shareholder's proportionate share of the items of income, gain, or deduction of the partnership or S corporation for any taxable year from farming businesses attributable to the partnership or S corporation, and of any applicable subsidies received by the partnership or S corporation during the taxable year, shall be taken into account by the partner or shareholder in applying this subsection to the taxable year of such partner or shareholder with or within which the taxable year of the partnership or S corporation ends.

The Secretary may provide rules for the application of this paragraph to any other pass-thru entity to the extent necessary to carry out the provisions of this subsection.

"(6) ADDITIONAL REPORTING.—The Secretary may prescribe such additional reporting requirements as the Secretary determines appropriate to carry out the purposes of this subsection.

"(7) COORDINATION WITH SECTION 469.—This subsection shall be applied before the application of section 469.". Applicability.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009. 26 USC 461 note.

**SEC. 15352. MODIFICATION TO OPTIONAL METHOD OF COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.**

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—The matter following paragraph (17) of section 1402(a) is amended— 26 USC 1402.

(A) by striking "$2,400" each place it appears and inserting "the upper limit", and

(B) by striking "$1,600" each place it appears and inserting "the lower limit".

(2) DEFINITIONS.—Section 1402 is amended by adding at the end the following new subsection:

"(l) UPPER AND LOWER LIMITS.—For purposes of subsection (a)—

"(1) LOWER LIMIT.—The lower limit for any taxable year is the sum of the amounts required under section 213(d) of the Social Security Act for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

"(2) UPPER LIMIT.—The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) IN GENERAL.—The matter following paragraph (16) of section 211(a) of the Social Security Act is amended— 42 USC 411.

(A) by striking "$2,400" each place it appears and inserting "the upper limit", and

(B) by striking "$1,600" each place it appears and inserting "the lower limit".

(2) DEFINITIONS.—Section 211 of such Act is amended by adding at the end the following new subsection:

"(k) UPPER AND LOWER LIMITS.—For purposes of subsection (a)—

"(1) The lower limit for any taxable year is the sum of the amounts required under section 213(d) for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

"(2) The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.".

42 USC 412. (3) CONFORMING AMENDMENT.—Section 212 of such Act is amended—

(A) in subsection (b), by striking "For" and inserting "Except as provided in subsection (c), for"; and

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

"(c) For the purpose of determining average indexed monthly earnings, average monthly wage, and quarters of coverage in the case of any individual who elects the option described in clause (ii) or (iv) in the matter following section 211(a)(16) for any taxable year that does not begin with or during a particular calendar year and end with or during such year, the self-employment income of such individual deemed to be derived during such taxable year shall be allocated to the two calendar years, portions of which are included within such taxable year, in the same proportion to the total of such deemed self-employment income as the sum of the amounts applicable under section 213(d) for the calendar quarters ending with or within each such calendar year bears to the lower limit for such taxable year specified in section 211(k)(1).".

26 USC 1402 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 15353. INFORMATION REPORTING FOR COMMODITY CREDIT CORPORATION TRANSACTIONS.**

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039I the following new section:

**"SEC. 6039J. INFORMATION REPORTING WITH RESPECT TO COMMODITY CREDIT CORPORATION TRANSACTIONS.**

Regulations. "(a) REQUIREMENT OF REPORTING.—The Commodity Credit Corporation, through the Secretary of Agriculture, shall make a return,

according to the forms and regulations prescribed by the Secretary of the Treasury, setting forth any market gain realized by a taxpayer during the taxable year in relation to the repayment of a loan issued by the Commodity Credit Corporation, without regard to the manner in which such loan was repaid.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—The Secretary of Agriculture shall furnish to each person whose name is required to be set forth in a return required under subsection (a) a written statement showing the amount of market gain reported in such return.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039I the following new item:

"Sec. 6039J. Information reporting with respect to Commodity Credit Corporation transactions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans repaid on or after January 1, 2007. 26 USC 6039J note.

## PART V—PROTECTION OF SOCIAL SECURITY

**SEC. 15361. PROTECTION OF SOCIAL SECURITY.** 42 USC 401 note.

To ensure that the assets of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401) are not reduced as a result of the enactment of this Act, the Secretary of the Treasury shall transfer annually from the general revenues of the Federal Government to those trust funds the following amounts:

(1) For fiscal year 2009, $5,000,000.
(2) For fiscal year 2010, $9,000,000.
(3) For fiscal year 2011, $8,000,000.
(4) For fiscal year 2012, $7,000,000.
(5) For fiscal year 2013, $8,000,000.
(6) For fiscal year 2014, $8,000,000.
(7) For fiscal year 2015, $8,000,000.
(8) For fiscal year 2016, $6,000,000.
(9) For fiscal year 2017, $7,000,000.

# Subtitle D—Trade Provisions

## PART I—EXTENSION OF CERTAIN TRADE BENEFITS

Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008. 19 USC 2701 note.

**SEC. 15401. SHORT TITLE.**

This part may be cited as the "Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008" or the "HOPE II Act".

**SEC. 15402. BENEFITS FOR APPAREL AND OTHER TEXTILE ARTICLES.**

(a) VALUE-ADDED RULE.—Section 213A(b) of the Carribean Basin Economic Recovery Act (19 U.S.C. 2703a(b)) is amended as follows:

(1) The subsection heading is amended to read as follows: "APPAREL AND OTHER TEXTILE ARTICLES".

(2) Paragraph (1) is amended to read as follows:

"(1) VALUE-ADDED RULE FOR APPAREL ARTICLES.—

"(A) IN GENERAL.—Apparel articles described in subparagraph (B) of a producer or entity controlling production that are imported directly from Haiti or the Dominican Republic shall enter the United States free of duty during an applicable 1-year period, subject to the limitations set forth in subparagraphs (B) and (C), and subject to subparagraph (D).".

(3) Paragraph (2) is amended—

(A) in subparagraph (A)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i), by striking "subparagraph (C)" and inserting "clause (iii)";

(iii) in clause (ii), by striking "subparagraph (C)" and inserting "clause (iii)";

(iv) in the matter following clause (ii), by striking "subparagraph (E)(I)" and inserting "clause (v)(I)";

(v) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(vi) by redesignating subparagraph (A) as clause (i);

(B) in subparagraph (B)—

(i) by moving such subparagraph 2 ems to the right;

(ii) by striking "subparagraph (A)(i)" each place it appears and inserting "clause (i)(I)";

(iii) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(iv) by redesignating subparagraph (B) as clause (ii);

(C) in subparagraph (C)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in the matter preceding clause (i), by striking "subparagraph (A)" and inserting "clause (i)";

(iii) in clause (ii), by striking "that enters into force" and all that follows through "et seq.)" and inserting "that enters into force thereafter";

(iv) by redesignating clauses (i) through (v) as subclauses (I) through (V), respectively; and

(v) by redesignating subparagraph (C) as clause (iii);

(D) in subparagraph (D)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A)" and inserting "clause (i)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(V) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A)" and inserting "clause (i)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(V) by redesignating clause (ii) as subclause (II);

(iv) in clause (iii)—

(I) by striking "clause (i)(I) or (ii)(I)" each place it appears and inserting "subclause (I)(aa) or (II)(aa)";

(II) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(III) by redesignating clause (iii) as subclause (III);

(v) by amending clause (iv) to read as follows:

"(IV) INCLUSION IN CALCULATION OF OTHER ARTICLES RECEIVING PREFERENTIAL TREATMENT.—Entries of apparel articles that receive preferential treatment under any provision of law other than this subparagraph or are subject to the 'General' column 1 rate of duty under the HTS are not included in the annual aggregation under subclause (I) or (II) unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation."; and

(vi) by redesignating subparagraph (D) as clause (iv);

(E) in subparagraph (E)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) by redesignating subclauses (I) through (III) as items (aa) through (cc), respectively; and

(II) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) by striking "subparagraph (C)" and inserting "clause (iii)"; and

(II) by redesignating clause (ii) as subclause (II); and

(iv) by redesignating subparagraph (E) as clause (v);

(F) in subparagraph (F)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) by striking "The Bureau of Customs and Border Protection" and inserting "U.S. Customs and Border Protection";

(II) by striking "subparagraphs (A) and (D)" and inserting "clauses (i) and (iv)"; and

(III) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in the matter preceding subclause (I)—

(aa) by striking "the Bureau of Customs and Border Protection" and inserting "U.S. Customs and Border Protection";

(bb) by striking "subparagraph (A)" each place it appears and inserting "clause (i)"; and

(cc) by striking "subparagraph (D)" and inserting "clause (iv)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) in the matter following subclause (II), by striking "subparagraph (E)(i)" and inserting "clause (v)(I)";

(V) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(VI) by redesignating clause (ii) as subclause (II);

(iv) in clause (iii)—

(I) in subclause (I)—

(aa) by striking "paragraph (1)" and inserting "subparagraph (A)"; and

(bb) by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)";

(II) in subclause (II), by striking "clause (ii) of this subparagraph" and inserting "subclause (II) of this clause";

(III) in the matter following subclause (II)—

(aa) by striking "the Bureau of Customs and Border Protection" each place it appears and inserting "U.S. Customs and Border Protection"; and

(bb) by striking "subclause (II)" and inserting "item (bb)"; and

(IV) in item (bb)—

(aa) by striking "paragraph (1)" and inserting "subparagraph (A)"; and

(bb) by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)"; and

(V) in the matter following item (bb), by striking "paragraph (1)" and inserting "subparagraph (A)";

(VI) by redesignating items (aa) and (bb) as subitems (AA) and (BB), respectively;

(VII) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(VIII) by redesignating clause (iii) as subclause (III); and

(v) by redesignating subparagraph (F) as clause (vi);

(G) in subparagraph (G)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)";

(II) in subclause (II)—

(aa) in item (dd), by striking "under the Bipartisan Trade Promotion Authority Act of 2002" and inserting "with respect to the United States"; and

(bb) by redesignating items (aa) through (dd) as subitems (AA) through (DD), respectively;

(III) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(IV) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in subclause (I), by striking "clause (i)(I)" and inserting "subclause (I)(aa)";

(II) in subclause (II), by striking "clause (i)(II)" and inserting "subclause (I)(bb)";

(III) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(IV) by redesignating clause (ii) as subclause (II); and

(iv) by redesignating subparagraph (G) as clause (vii); and

(H) by striking "(2) APPAREL ARTICLES DESCRIBED.— " and inserting the following:

"(B) APPAREL ARTICLES DESCRIBED.—".

(4) Paragraph (3) is amended—

(A) by redesignating such paragraph as subparagraph (C) and moving it 2 ems to the right;

(B) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)"; and

(C) in the table—

(i) by striking "1.5 percent" and inserting "1.25 percent";

(ii) by striking "1.75 percent" and inserting "1.25 percent"; and

(iii) by striking "2 percent" and inserting "1.25 percent".

(5) The following is added after subparagraph (C), as redesignated by paragraph (4)(A) of this subsection:

"(D) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATIONS.—Any apparel article that qualifies for preferential treatment under paragraph (2), (3), (4), or (5) or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitations under subparagraph (C).".

(b) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—Section 213A(b) of the Carribean Basin Economic Recovery Act is amended by striking paragraph (4) and inserting the following:

19 USC 2703a.

"(2) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—

"(A) SPECIAL RULE FOR ARTICLES OF CHAPTER 62 OF THE HTS.—

"(i) GENERAL RULE.—Any apparel article classifiable under chapter 62 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii) and (iii), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

Extension.
Effective date.

"(ii) LIMITATION.—The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

"(iii) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (B) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (ii).

"(B) SPECIAL RULE FOR CERTAIN ARTICLES OF CHAPTER 61 OF THE HTS.—

"(i) GENERAL RULE.—Any apparel article classifiable under chapter 61 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii), (iii), and (iv), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(ii) EXCLUSIONS.—The preferential treatment described in clause (i) shall not apply to the following:

"(I) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6109.10.00 of the HTS:

"(aa) All white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the center of the V, and without pockets, trim, or embroidery.

"(bb) All white singlets, without pockets, trim, or embroidery.

"(cc) Other T-shirts, but not including thermal undershirts.

"(II) T-shirts for men or boys that are classifiable under subheading 6109.90.10.

"(III) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6110.20.20 of the HTS:

"(aa) Sweatshirts.

"(bb) Pullovers, other than sweaters, vests, or garments imported as part of playsuits.

"(IV) Sweatshirts for men or boys, of man-made fibers and containing less than 65 percent by weight of man-made fibers, that are classifiable under subheading 6110.30.30 of the HTS.

"(iii) LIMITATION.—The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause. Extension. Effective date.

"(iv) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (A) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (iii).".

(c) SINGLE TRANSFORMATION RULES NOT SUBJECT TO QUANTITATIVE LIMITATIONS.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by striking paragraph (5) and inserting the following: 19 USC 2703a.

"(3) APPAREL AND OTHER ARTICLES SUBJECT TO CERTAIN ASSEMBLY RULES.—

"(A) BRASSIERES.—Any apparel article classifiable under subheading 6212.10 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(B) OTHER APPAREL ARTICLES.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

"(i) Any apparel article that is of a type listed in chapter rule 3, 4, or 5 for chapter 61 of the HTS (as such chapter rules are contained in section A of the Annex to Proclamation 8213 of the President of December 20, 2007) as being excluded from the scope of such chapter rule, when such chapter rule is applied to determine whether an apparel article is an originating good for purposes of general note 29(n) to the HTS, except that, for purposes of this clause, reference

in such chapter rules to '6104.12.00' shall be deemed to be a reference to '6104.19.60'.

"(ii)(I) Subject to subclause (II), any apparel article that is of a type listed in chapter rule 3(a), 4(a), or 5(a) for chapter 62 of the HTS, as such chapter rules are contained in paragraph 9 of section A of the Annex to Proclamation 8213 of the President of December 20, 2007.

"(II) Subclause (I) shall not include any apparel article to which subparagraph (A) of this paragraph applies.

"(C) LUGGAGE AND SIMILAR ITEMS.—Any article classifiable under subheading 4202.12, 4202.22, 4202.32 or 4202.92 of the HTS that is wholly assembled in Haiti and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, components, or materials from which the article is made.

"(D) HEADGEAR.—Any article classifiable under heading 6501, 6502, or 6504 of the HTS, or under subheading 6505.90 of the HTS, that is wholly assembled, knit-to-shape, or formed in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(E) CERTAIN SLEEPWEAR.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

"(i) Pajama bottoms and other sleepwear for women and girls, of cotton, that are classifiable under subheading 6208.91.30, or of man-made fibers, that are classifiable under subheading 6208.92.00.

"(ii) Pajama bottoms and other sleepwear for girls, of other textile materials, that are classifiable under subheading 6208.99.20.".

(d) EARNED IMPORT ALLOWANCE RULES.—Section 231A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following new paragraph:

19 USC 2703a.

"(4) EARNED IMPORT ALLOWANCE RULE.—

"(A) IN GENERAL.—Apparel articles wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate that reflects the amount of credits equal to the total square meter equivalents of such

apparel articles, in accordance with the program established under subparagraph (B). For purposes of determining the quantity of square meter equivalents under this subparagraph, the conversion factors listed in 'Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America, 2008', or its successor publications, of the United States Department of Commerce, shall apply.

"(B) EARNED IMPORT ALLOWANCE PROGRAM.—

"(i) ESTABLISHMENT.—The Secretary of Commerce shall establish a program to provide earned import allowance certificates to any producer or entity controlling production for purposes of subparagraph (A), based on the elements described in clause (ii).

"(ii) ELEMENTS.—The elements referred to in clause (i) are the following:

"(I) One credit shall be issued to a producer or an entity controlling production for every three square meter equivalents of qualifying woven fabric or qualifying knit fabric that the producer or entity controlling production can demonstrate that it purchased for the manufacture in Haiti of articles like or similar to any article eligible for preferential treatment under subparagraph (A). The Secretary of Commerce shall, if requested by a producer or entity controlling production, create and maintain an account for such producer or entity controlling production, into which such credits shall be deposited.

"(II) Such producer or entity controlling production may redeem credits issued under subclause (I) for earned import allowance certificates reflecting such number of earned credits as the producer or entity may request and has available.

"(III) The Secretary of Commerce may require any textile mill or other entity located in the United States that exports to Haiti qualifying woven fabric or qualifying knit fabric to submit, upon such export or upon request, documentation, such as a Shipper's Export Declaration, to the Secretary of Commerce—

"(aa) verifying that the qualifying woven fabric or qualifying knit fabric was exported to a producer in Haiti or to an entity controlling production; and

"(bb) identifying such producer or entity controlling production, and the quantity and description of qualifying woven fabric or qualifying knit fabric exported to such producer or entity controlling production.

"(IV) The Secretary of Commerce may require that a producer or entity controlling production submit documentation to verify purchases of qualifying woven fabric or qualifying knit fabric.

"(V) The Secretary of Commerce may make available to each person or entity identified in documentation submitted under subclause (III) or

(IV) information contained in such documentation that relates to the purchase of qualifying woven fabric or qualifying knit fabric involving such person or entity.

"(VI) The program under this subparagraph shall be established so as to allow, to the extent feasible, the submission, storage, retrieval, and disclosure of information in electronic format, including information with respect to the earned import allowance certificates required under subparagraph (A)(i).

"(VII) The Secretary of Commerce may reconcile discrepancies in information provided under subclause (III) or (IV) and verify the accuracy of such information.

Procedures.

"(VIII) The Secretary of Commerce shall establish procedures to carry out the program under this subparagraph and may establish additional requirements to carry out this subparagraph. Such additional requirements may include—

"(aa) submissions by textile mills or other entities in the United States documenting exports of yarns wholly formed in the United States to countries described in paragraph (1)(B)(iii) for the manufacture of qualifying knit fabric; and

"(bb) procedures imposed on producers or entities controlling production to allow the Secretary of Commerce to obtain and verify information relating to the production of qualifying knit fabric.

"(iii) QUALIFYING WOVEN FABRIC DEFINED.—For purposes of this subparagraph, the term 'qualifying woven fabric' means fabric wholly formed in the United States from yarns wholly formed in the United States, except that—

"(I) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying woven fabric because the fabric contains nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;

"(II) fabric that would otherwise be ineligible as qualifying woven fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying woven fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric; and

"(III) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying fabric because the fabric contains yarns covered by clause (i) or (ii) of paragraph (5)(A).

"(iv) QUALIFYING KNIT FABRIC DEFINED.—For purposes of this subparagraph, the term 'qualifying knit fabric' means fabric or knit-to-shape components wholly formed or knit-to-shape in any country or any combination of countries described in paragraph

(1)(B)(iii), from yarns wholly formed in the United States, except that—

"(I) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;

"(II) fabric or knit-to-shape components that would otherwise be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns not wholly formed in the United States shall not be ineligible as qualifying knit fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric or knit-to-shape components; and

"(III) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns covered by clause (i) or (ii) of paragraph (5)(A).

"(C) REVIEW BY UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE.—The United States Government Accountability Office shall review the program established under subparagraph (B) annually for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.

"(D) ENFORCEMENT PROVISIONS.—

"(i) FRAUDULENT CLAIMS OF PREFERENCE.—Any person who makes a false claim for preference under the program established under subparagraph (B) shall be subject to any applicable civil or criminal penalty that may be imposed under the customs laws of the United States or under title 18, United States Code. Penalty.

"(ii) PENALTIES FOR OTHER FRAUDULENT INFORMATION.—The Secretary of Commerce may establish and impose penalties for the submission to the Secretary of Commerce of fraudulent information under the program established under subparagraph (B), other than a claim described in clause (i).".

(e) SHORT SUPPLY RULES .—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following: 19 USC 2703a.

"(5) SHORT SUPPLY PROVISION.—

"(A) IN GENERAL.—Any apparel article that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabrics, fabric components, components knit-to-shape, or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape, or yarns comprising the component that determines the tariff classification of the article are of any of the following:

"(i) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for

preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.

"(ii) Fabrics or yarns, to the extent that such fabrics or yarns are designated as not being available in commercial quantities for purposes of—

"(I) section 213(b)(2)(A)(v) of this Act;

"(II) section 112(b)(5) of the African Growth and Opportunity Act;

"(III) clause (i)(III) or (ii) of section 204(b)(3)(B) of the Andean Trade Preference Act; or

"(IV) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement entered into by the United States that is in effect at the time the claim for preferential treatment is made.

President. "(B) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that—

"(i) any fabric or yarn described in clause (i) of subparagraph (A) was determined to be eligible for preferential treatment, or

"(ii) any fabric or yarn described in clause (ii) of subparagraph (A) was designated as not being available in commercial quantities,

on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.".

(f) MISCELLANEOUS PROVISIONS.—

(1) RELATIONSHIP TO OTHER PREFERENTIAL PROGRAMS.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following:

19 USC 2703a.

"(6) OTHER PREFERENTIAL TREATMENT NOT AFFECTED.—The duty-free treatment provided under this subsection is in addition to any other preferential treatment under this title.".

(2) DEFINITIONS.—Section 213A(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(a)) is amended by adding at the end the following:

"(3) IMPORTED DIRECTLY FROM HAITI OR THE DOMINICAN REPUBLIC.—Articles are 'imported directly from Haiti or the Dominican Republic' if—

"(A) the articles are shipped directly from Haiti or the Dominican Republic into the United States without passing through the territory of any intermediate country; or

"(B) the articles are shipped from Haiti or the Dominican Republic into the United States through the territory of an intermediate country, and—

"(i) the articles in the shipment do not enter into the commerce of any intermediate country, and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

"(ii) the invoices and other documents do not specify the United States as the final destination, but the articles in the shipment—

"(I) remain under the control of the customs authority in the intermediate country;

"(II) do not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail; and

"(III) have not been subjected to operations in the intermediate country other than loading, unloading, or other activities necessary to preserve the articles in good condition.

"(4) KNIT-TO-SHAPE.—A good is 'knit-to-shape' if 50 percent or more of the exterior surface area of the good is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pockets, appliqués, or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether a good is 'knit-to-shape.'

"(5) WHOLLY ASSEMBLED.—A good is 'wholly assembled' in Haiti if all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti. Minor attachments and minor embellishments (for example, appliqués, beads, spangles, embroidery, and buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, and pockets), shall not affect the determination of whether a good is 'wholly assembled' in Haiti.".

(g) TERMINATION.—Section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a) is amended by adding at the end the following new subsection:

"(g) TERMINATION.—Except as provided in subsection (b)(1), the duty-free treatment provided under this section shall remain in effect until September 30, 2018.".

(h) CONFORMING AMENDMENTS.—Subsection (e)(1) of section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(e)(1)) is amended by striking "the Bureau of Customs and Border Protection" each place it appears and inserting "U.S. Customs and Border Protection".

**SEC. 15403. LABOR OMBUDSMAN AND TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.**

Section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a), as amended by section 15402 of this Act, is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (5) as paragraph (8):

(B) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6), respectively;

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—. The term "appropriate congressional committees" means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

"(3) CORE LABOR STANDARDS.—The term "core labor standards" means—

"(A) freedom of association;

"(B) the effective recognition of the right to bargain collectively;

"(C) the elimination of all forms of compulsory or forced labor;

"(D) the effective abolition of child labor and a prohibition on the worst forms of child labor; and

"(E) the elimination of discrimination in respect of employment and occupation."; and

(D) by inserting after paragraph (6) (as redesignated) the following new paragraph:

"(7) TAICNAR PROGRAM.—The term 'TAICNAR Program' means the Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program established pursuant to subsection (e).";

(2) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(3) by inserting after subsection (d) the following new subsection:

"(e) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

"(1) CONTINUED ELIGIBILITY FOR PREFERENCES.—

"(A) PRESIDENTIAL CERTIFICATION OF COMPLIANCE BY HAITI WITH REQUIREMENTS.—Upon the expiration of the 16-month period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, Haiti shall continue to be eligible for the preferential treatment provided under subsection (b) only if the President determines and certifies to the Congress that— Effective date.

"(i) Haiti has implemented the requirements set forth in paragraphs (2) and (3); and

"(ii) Haiti has agreed to require producers of articles for which duty-free treatment may be requested under subsection (b) to participate in the TAICNAR Program described in paragraph (3) and has developed a system to ensure participation in such program by such producers, including by developing and maintaining the registry described in paragraph (2)(B)(i).

"(B) EXTENSION.—The President may extend the period for compliance by Haiti under subparagraph (A) if the President—

"(i) determines that Haiti has made a good faith effort toward such compliance and has agreed to take additional steps to come into full compliance that are satisfactory to the President; and

"(ii) provides to the appropriate congressional committees, not later than 6 months after the last day of the 16-month period specified in subparagraph (A), and every 6 months thereafter, a report identifying the steps that Haiti has agreed to take to come into full compliance and the progress made over the preceding 6-month period in implementing such steps. Deadlines. Reports.

"(C) CONTINUING COMPLIANCE.—

"(i) TERMINATION OF PREFERENTIAL TREATMENT.—If, after making a certification under subparagraph (A), the President determines that Haiti is no longer

meeting the requirements set forth in subparagraph (A), the President shall terminate the preferential treatment provided under subsection (b), unless the President determines, after consulting with the appropriate congressional committees, that meeting such requirements is not practicable because of extraordinary circumstances existing in Haiti when the determination is made.

"(ii) SUBSEQUENT COMPLIANCE.—If the President, after terminating preferential treatment under clause (i), determines that Haiti is meeting the requirements set forth in subparagraph (A), the President shall reinstate the application of preferential treatment under subsection (b).

"(2) LABOR OMBUDSMAN.—

"(A) IN GENERAL.—The requirement under this paragraph is that Haiti has established an independent Labor Ombudsman's Office within the national government that—

"(i) reports directly to the President of Haiti;

"(ii) is headed by a Labor Ombudsman chosen by the President of Haiti, in consultation with Haitian labor unions and industry associations; and

"(iii) is vested with the authority to perform the functions described in subparagraph (B).

"(B) FUNCTIONS.—The functions of the Labor Ombudsman's Office shall include—

"(i) developing and maintaining a registry of producers of articles for which duty-free treatment may be requested under subsection (b), and developing, in consultation and coordination with any other appropriate officials of the Government of Haiti, a system to ensure participation by such producers in the TAICNAR Program described in paragraph (3);

"(ii) overseeing the implementation of the TAICNAR Program described in paragraph (3);

"(iii) receiving and investigating comments from any interested party regarding the conditions described in paragraph (3)(B) in facilities of producers listed in the registry described in clause (i) and, where appropriate, referring such comments or the result of such investigations to the appropriate Haitian authorities, or to the entity operating the TAICNAR Program described in paragraph (3);

"(iv) assisting, in consultation and coordination with any other appropriate Haitian authorities, producers listed in the registry described in clause (i) in meeting the conditions set forth in paragraph (3)(B); and

"(v) coordinating, with the assistance of the entity operating the TAICNAR Program described in paragraph (3), a tripartite committee comprised of appropriate representatives of government agencies, employers, and workers, as well as other relevant interested parties, for the purposes of evaluating progress in implementing the TAICNAR Program described in paragraph (3), and consulting on improving core labor standards and working conditions

in the textile and apparel sector in Haiti, and on other matters of common concern relating to such core labor standards and working conditions.

"(3) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

"(A) IN GENERAL.—The requirement under this paragraph is that Haiti, in cooperation with the International Labor Organization, has established a Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program meeting the requirements under subparagraph (C)—

"(i) to assess compliance by producers listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and to assist such producers in meeting such conditions; and

"(ii) to provide assistance to improve the capacity of the Government of Haiti—

"(I) to inspect facilities of producers listed in the registry described in paragraph (2)(B)(i); and

"(II) to enforce national labor laws and resolve labor disputes, including through measures described in subparagraph (E).

"(B) CONDITIONS DESCRIBED.—The conditions referred to in subparagraph (A) are—

"(i) compliance with core labor standards; and

"(ii) compliance with the labor laws of Haiti that relate directly to core labor standards and to ensuring acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety.

"(C) REQUIREMENTS.—The requirements for the TAICNAR Program are that the program—

"(i) be operated by the International Labor Organization (or any subdivision, instrumentality, or designee thereof), which prepares the biannual reports described in subparagraph (D);

"(ii) be developed through a participatory process that includes the Labor Ombudsman described in paragraph (2) and appropriate representatives of government agencies, employers, and workers;

"(iii) assess compliance by each producer listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and identify any deficiencies by such producer with respect to meeting such conditions, including by—

"(I) conducting unannounced site visits to manufacturing facilities of the producer;

"(II) conducting confidential interviews separately with workers and management of the facilities of the producer;

"(III) providing to management and workers, and where applicable, worker organizations in the facilities of the producer, on a confidential basis—

"(aa) the results of the assessment carried out under this clause; and

"(bb) specific suggestions for remediating any such deficiencies;

"(iv) assist the producer in remediating any deficiencies identified under clause (iii);

"(v) conduct prompt follow-up site visits to the facilities of the producer to assess progress on remediation of any deficiencies identified under clause (iii); and

"(vi) provide training to workers and management of the producer, and where appropriate, to other persons or entities, to promote compliance with subparagraph (B).

"(D) BIANNUAL REPORT.—The biannual reports referred to in subparagraph (C)(i) are a report, by the entity operating the TAICNAR Program, that is published (and available to the public in a readily accessible manner) on a biannual basis, beginning 6 months after Haiti implements the TAICNAR Program under this paragraph, covering the preceding 6-month period, and that includes the following: Public information.

"(i) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having met the conditions under subparagraph (B).

"(ii) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having deficiencies with respect to the conditions under subparagraph (B), and has failed to remedy such deficiencies.

"(iii) For each producer listed under clause (ii)—

"(I) a description of the deficiencies found to exist and the specific suggestions for remediating such deficiencies made by the entity operating the TAICNAR Program;

"(II) a description of the efforts by the producer to remediate the deficiencies, including a description of assistance provided by any entity to assist in such remediation; and

"(III) with respect to deficiencies that have not been remediated, the amount of time that has elapsed since the deficiencies were first identified in a report under this subparagraph.

"(iv) For each producer identified as having deficiencies with respect to the conditions described under subparagraph (B) in a prior report under this subparagraph, a description of the progress made in remediating such deficiencies since the submission of the prior report, and an assessment of whether any aspect of such deficiencies persists.

"(E) CAPACITY BUILDING.—The assistance to the Government of Haiti referred to in subparagraph (A)(ii) shall include programs—

"(i) to review the labor laws and regulations of Haiti and to develop and implement strategies for bringing the laws and regulations into conformity with core labor standards;

"(ii) to develop additional strategies for facilitating protection of core labor standards and providing acceptable conditions of work with respect to minimum

wages, hours of work, and occupational safety and health, including through legal, regulatory, and institutional reform;

"(iii) to increase awareness of worker rights, including under core labor standards and national labor laws;

"(iv) to promote consultation and cooperation between government representatives, employers, worker representatives, and United States importers on matters relating to core labor standards and national labor laws;

"(v) to assist the Labor Ombudsman appointed pursuant to paragraph (2) in establishing and coordinating operation of the committee described in paragraph (2)(B)(v);

"(vi) to assist worker representatives in more fully and effectively advocating on behalf of their members; and

"(vii) to provide on-the-job training and technical assistance to labor inspectors, judicial officers, and other relevant personnel to build their capacity to enforce national labor laws and resolve labor disputes.

President. "(4) COMPLIANCE WITH ELIGIBILITY CRITERIA.—

"(A) COUNTRY COMPLIANCE WITH WORKER RIGHTS ELIGIBILITY CRITERIA.—In making a determination of whether Haiti is meeting the requirement set forth in subsection (d)(1)(A)(vi) relating to internationally recognized worker rights, the President shall consider the reports produced under paragraph (3)(D).

"(B) PRODUCER ELIGIBILITY.—

"(i) IDENTIFICATION OF PRODUCERS.—Beginning in the second calendar year after the President makes the certification under paragraph (1)(A), the President shall identify on a biennial basis whether a producer listed in the registry described in paragraph (2)(B)(i) has failed to comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.

"(ii) ASSISTANCE TO PRODUCERS; WITHDRAWAL, ETC., OF PREFERENTIAL TREATMENT.—For each producer that the President identifies under clause (i), the President shall seek to assist such producer in coming into compliance with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards. If such efforts fail, the President shall withdraw, suspend, or limit the application of preferential treatment under subsection (b) to articles of such producer.

"(iii) REINSTATING PREFERENTIAL TREATMENT.—If the President, after withdrawing, suspending, or limiting the application of preferential treatment under clause (ii) to articles of a producer, determines that such producer is complying with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards, the President shall reinstate the application of preferential

treatment under subsection (b) to the articles of the producer.

"(iv) CONSIDERATION OF REPORTS.—In making the identification under clause (i) and the determination under clause (iii), the President shall consider the reports made available under paragraph (3)(D).

"(5) REPORTS BY THE PRESIDENT.—

"(A) IN GENERAL.—Not later than one year after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, and annually thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this subsection during the preceding 1-year period.

"(B) MATTERS TO BE INCLUDED.—Each report required by subparagraph (A) shall include the following:

"(i) An explanation of the efforts of Haiti, the President, and the International Labor Organization to carry out this subsection.

"(ii) A summary of each report produced under paragraph (3)(D) during the preceding 1-year period and a summary of the findings contained in such report.

"(iii) Identifications made under paragraph (4)(B)(i) and determinations made under paragraph (4)(B)(iii).

"(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection the sum of $10,000,000 for the period beginning on October 1, 2008, and ending on September 30, 2013.". Time period.

**SEC. 15404. PETITION PROCESS.**

Section 213A(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703A(d)) is amended by adding at the end the following new paragraph:

"(4) PETITION PROCESS.—Any interested party may file a request to have the status of Haiti reviewed with respect to the eligibility requirements listed in paragraph (1), and the President shall provide for this purpose the same procedures as those that are provided for reviewing the status of eligible beneficiary developing countries with respect to the designation criteria listed in subsections (b) and (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2642 (b) and (c)).". President.

**SEC. 15405. CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.**

Section 213A(f) of the Caribbean Basin Economic Recovery Act, as redesignated by section 15403(2) of this Act, is amended by adding at the end the following new paragraph:

"(3) LIMITATION ON GOODS SHIPPED FROM THE DOMINICAN REPUBLIC.—

"(A) LIMITATION.—Notwithstanding subsection (a)(5), relating to the definition of 'imported directly from Haiti or the Dominican Republic', articles described in subsection (b) that are shipped from the Dominican Republic, directly or through the territory of an intermediate country, whether or not such articles undergo processing in the Dominican Republic, shall not be considered to be 'imported President. Certification.

directly from Haiti or the Dominican Republic' until the President certifies to the Congress that Haiti and the Dominican Republic have developed procedures to prevent unlawful transshipment of the articles and the use of counterfeit documents related to the importation of the articles into the United States.

"(B) TECHNICAL AND OTHER ASSISTANCE.—The Commissioner responsible for U.S. Customs and Border Protection shall provide technical and other assistance to Haiti and the Dominican Republic to develop expeditiously the procedures described in subparagraph (A).".

19 USC 2703a note.

**SEC. 15406. PRESIDENTIAL PROCLAMATION AUTHORITY.**

The President may exercise the authority under section 604 of the Trade Act of 1974 to proclaim such modifications to the Harmonized Tariff Schedule of the United States as may be necessary to carry out this part and the amendments made by this part.

President. Deadlines. 19 USC 2703a note.

**SEC. 15407. REGULATIONS AND PROCEDURES.**

The President shall issue such regulations as may be necessary to carry out the amendments made by sections 15402, 15403, and 15404. Regulations to carry out the amendments made by section 15402 shall be issued not later than September 30, 2008. The Secretary of Commerce shall issue such procedures as may be necessary to carry out the amendment made by section 15402(d) not later than September 30, 2008.

**SEC. 15408. EXTENSION OF CBTPA.**

Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (iii)—

(i) in subclause (II)(cc), by striking "2008" and inserting "2010"; and

(ii) in subclause (IV)(dd), by striking "2008" and inserting "2010"; and

(B) in clause (iv)(II), by striking "6" and inserting "8"; and

(2) in paragraph (5)(D)—

(A) in clause (i), by striking "2008" and inserting "2010"; and

(B) in clause (ii), by striking "108(b)(5)" and inserting "section 108(b)(5)".

**SEC. 15409. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS FOR HAITI.**

It is the sense of the Congress that the executive branch, particularly the Committee for the Implementation of Textile Agreements (CITA), U.S. Customs and Border Protection of the Department of Homeland Security, and the Department of Commerce, should interpret, implement, and enforce the provisions of section 213A(b) of the Caribbean Basin Economic Recovery Act, as amended by section 15402 of this Act, relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of articles eligible for preferential treatment under such section 213A(b).

**SEC. 15410. SENSE OF CONGRESS ON TRADE MISSION TO HAITI.**

It is the sense of the Congress that the Secretary of Commerce, in coordination with the United States Trade Representative, the Secretary of State, and the Commissioner responsible for U.S. Customs and Border Protection of the Department of Homeland Security, should lead a trade mission to Haiti, within 6 months after the date of the enactment of this Act, to promote trade between the United States and Haiti, to promote new economic opportunities afforded under the amendments made by section 15402 of this Act, and to help educate United States and Haitian business concerns about such opportunities.

**SEC. 15411. SENSE OF CONGRESS ON VISA SYSTEMS.**

It is the sense of the Congress that Haiti, and other countries that receive preferences under trade preference programs of the United States that require effective visa systems to prevent transshipment, should ensure that monetary compensation for such visas is not required beyond the costs of processing the visa, including ensuring that such monetary compensation does not violate an applicable system to combat corruption and bribery.

**SEC. 15412. EFFECTIVE DATE.**

19 USC 2703a note.

(a) IN GENERAL.—Except as provided in subsection (b), this part and the amendments made by this part shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 15402 shall take effect on October 1, 2008, and shall apply to articles entered, or withdrawn from warehouse for consumption, on or after that date.

## PART II—MISCELLANEOUS TRADE PROVISIONS

**SEC. 15421. UNUSED MERCHANDISE DRAWBACK.**

(a) IN GENERAL.—Section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)) is amended by adding at the end the following: "For purposes of subparagraph (A) of this paragraph, wine of the same color having a price variation not to exceed 50 percent between the imported wine and the exported wine shall be deemed to be commercially interchangeable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to claims filed for drawback under section 313(j)(2) of the Tariff Act of 1930 on or after the date of the enactment of this Act.

19 USC 1313 note.

**SEC. 15422. REQUIREMENTS RELATING TO DETERMINATION OF TRANSACTION VALUE OF IMPORTED MERCHANDISE.**

19 USC 1484 note.

(a) REQUIREMENT ON IMPORTERS.—

(1) IN GENERAL.—Pursuant to sections 484 and 485 of the Tariff Act of 1930 (19 U.S.C. 1484 and 1485), the Commissioner responsible for U.S. Customs and Border Protection shall require each importer of merchandise to provide to U.S. Customs and Border Protection at the time of entry of the merchandise the information described in paragraph (2).

(2) INFORMATION REQUIRED.—The information referred to in paragraph (1) is a declaration as to whether the transaction value of the imported merchandise is determined on the basis

of the price paid by the buyer in the first or earlier sale occurring prior to introduction of the merchandise into the United States.

(3) EFFECTIVE DATE.—The requirement to provide information under this subsection shall be effective for the 1-year period beginning 90 days after the date of the enactment of this Act.

(b) REPORT TO INTERNATIONAL TRADE COMMISSION.—

(1) IN GENERAL.—The Commissioner responsible for U.S. Customs and Border Protection shall submit to the United States International Trade Commission on a monthly basis for the 1-year period specified in subsection (a)(3) a report on the information provided by importers under subsection (a)(2) during the preceding month. The report required under this paragraph shall be submitted in a form agreed upon between U.S. Customs and Border Protection and the United States International Trade Commission.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

(A) the number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2);

(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States; and

(C) the transaction value of such imported merchandise.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after the submission of the final report under subsection (b), the United States International Trade Commission shall submit to the appropriate congressional committees a report on the information contained in all reports submitted under subsection (b).

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

(A) the aggregate number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2), including a description of the frequency of the use of such method;

(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States on an aggregate basis, including an analysis of the tariff classification of such imported merchandise on a sectoral basis;

(C) the aggregate transaction value of such imported merchandise, including an analysis of the transaction value of such imported merchandise on a sectoral basis; and

(D) the aggregate transaction value of all merchandise imported into the United States during the 1-year period specified in subsection (a)(3).

(d) SENSE OF CONGRESS REGARDING PROHIBITION ON PROPOSED INTERPRETATION OF THE TERM "SOLD FOR EXPORTATION TO THE UNITED STATES".—

(1) IN GENERAL.—It is the sense of Congress that the Commissioner responsible for U.S. Customs and Border Protection should not implement a change to U.S. Customs and Border

Protection's interpretation (as such interpretation is in effect on the date of the enactment of this Act) of the term "sold for exportation to the United States", as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, before January 1, 2011.

Notice. Deadlines.

(2) EXCEPTION.—It is the sense of Congress that beginning on January 1, 2011, the Commissioner responsible for U.S. Customs and Border Protection may propose to change or change U.S. Customs and Border Protection's interpretation of the term "sold for exportation to the United States", as described in paragraph (1), only if U.S. Customs and Border Protection—

(A) consults with, and provides notice to, the appropriate congressional committees—

(i) not less than 180 days prior to proposing a change; and

(ii) not less than 90 days prior to publishing a change;

(B) consults with, provides notice to, and takes into consideration views expressed by, the Commercial Operations Advisory Committee—

(i) not less than 120 days prior to proposing a change; and

(ii) not less than 60 days prior to publishing a change; and

(C) receives the explicit approval of the Secretary of the Treasury prior to publishing a change.

(3) CONSIDERATION OF INTERNATIONAL TRADE COMMISSION REPORT.—It is the sense of Congress that prior to publishing a change to U.S. Customs and Border Protection's interpretation (as such interpretation is in effect on the date of the enactment of this Act) of the term "sold for exportation to the United States", as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, the Commissioner responsible for U.S. Customs and Border Protection should take into consideration the matters included in the report prepared by the United States International Trade Commission under subsection (c).

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) COMMERCIAL OPERATIONS ADVISORY COMMITTEE.—The term "Commercial Operations Advisory Committee" means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.

(3) IMPORTER.—The term "importer" means one of the parties qualifying as an "importer of record" under section 484(a)(2)(B) in the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)(B)).

(4) TRANSACTION VALUE OF THE IMPORTED MERCHANDISE.—The term "transaction value of the imported merchandise" has

the meaning described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)).

Nancy Pelosi
*Speaker of the House of Representatives.*

Jon Tester
*Acting President of the Senate pro tempore.*

IN THE HOUSE OF REPRESENTATIVES, U.S.

*June 18, 2008.*

The House of Representatives having proceeded to reconsider the bill (H.R. 6124) entitled "An Act to provide for the continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2012, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

*Resolved,* That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Lorraine C. Miller
*Clerk.*

I certify that this Act originated in the House of Representatives.

Lorraine C. Miller
*Clerk.*

IN THE SENATE OF THE UNITED STATES,

*June 18, 2008.*

The Senate having proceeded to reconsider the bill (H.R. 6124) entitled "An Act to provide for the continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2012, and for other purposes.", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

*Resolved,* That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Nancy Erickson

*Secretary.*

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LEGISLATIVE HISTORY—H.R. 6124 (S. 2302):

SENATE REPORTS: No. 110–220 accompanying S. 2302 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 154 (2008):

May 22, considered and passed House.

June 5, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):

June 18, Presidential veto message.

CONGRESSIONAL RECORD, Vol. 154 (2008):

June 18, House and Senate overrode veto.

# Public Law 110–247
# 110th Congress

## An Act

June 20, 2008
[S. 2420]

To encourage the donation of excess food to nonprofit organizations that provide assistance to food-insecure people in the United States in contracts entered into by executive agencies for the provision, service, or sale of food.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Federal Food Donation Act of 2008.
42 USC 1771 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Food Donation Act of 2008".

42 USC 1792 note.

**SEC. 2. PURPOSE.**

The purpose of this Act is to encourage executive agencies and contractors of executive agencies, to the maximum extent practicable and safe, to donate excess, apparently wholesome food to feed food-insecure people in the United States.

42 USC 1792 note.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) APPARENTLY WHOLESOME FOOD.—The term "apparently wholesome food" has the meaning given the term in section 2(b) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)).

(2) EXCESS.—The term "excess", when applied to food, means food that—

(A) is not required to meet the needs of executive agencies; and

(B) would otherwise be discarded.

(3) FOOD-INSECURE.—The term "food-insecure" means inconsistent access to sufficient, safe, and nutritious food.

(4) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means any organization that is—

(A) described in section 501(c) of the Internal Revenue Code of 1986; and

(B) exempt from tax under section 501(a) of that Code.

42 USC 1792.

**SEC. 4. PROMOTING FEDERAL FOOD DONATION.**

Deadline.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Acquisition Regulation issued in accordance with section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) shall be revised to provide that all contracts above $25,000 for the provision, service, or sale of food in the United States, or for the lease or rental of Federal property to a private entity for events at which food is provided in the United States, shall include a clause that—

(1) encourages the donation of excess, apparently wholesome food to nonprofit organizations that provide assistance to food-insecure people in the United States; and

(2) states the terms and conditions described in subsection (b).

(b) TERMS AND CONDITIONS.—

(1) COSTS.—In any case in which a contractor enters into a contract with an executive agency under which apparently wholesome food is donated to food-insecure people in the United States, the head of the executive agency shall not assume responsibility for the costs and logistics of collecting, transporting, maintaining the safety of, or distributing excess, apparently wholesome food to food-insecure people in the United States under this Act.

(2) LIABILITY.—An executive agency (including an executive agency that enters into a contract with a contractor) and any contractor making donations pursuant to this Act shall be exempt from civil and criminal liability to the extent provided under the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791).

Approved June 20, 2008.

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LEGISLATIVE HISTORY—S. 2420 (H.R. 4220):

SENATE REPORTS: No. 110–338 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 154 (2008):
May 22, considered and passed Senate.
June 3, considered and passed House.

# Public Law 110–248
# 110th Congress

## An Act

June 26, 2008
[H.R. 3179]

To amend title 40, United States Code, to authorize the use of Federal supply schedules for the acquisition of law enforcement, security, and certain other related items by State and local governments.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Local Preparedness Acquisition Act.
40 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Local Preparedness Acquisition Act".

**SEC. 2. AUTHORIZATION FOR ACQUISITION OF LAW ENFORCEMENT, SECURITY, AND CERTAIN OTHER RELATED ITEMS BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES.**

Paragraph (1) of section 502(c) of title 40, United States Code, is amended—

(1) by striking "for automated" and inserting the following: "for the following:

"(A) Automated"; and

(2) by adding at the end the following new subparagraph:

"(B) Alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purpose clothing, and related services (as contained in Federal supply classification code group 84 or any amended or subsequent version of that Federal supply classification group).".

Approved June 26, 2008.

LEGISLATIVE HISTORY—H.R. 3179:

HOUSE REPORTS: No. 110–494 (Comm. on Oversight and Government Reform).
SENATE REPORTS: No. 110–344 (Comm. on Homeland Security and Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 17, considered and passed House.
Vol. 154 (2008): June 10, considered and passed Senate.

Public Law 110–249
110th Congress

# An Act

To amend the International Center Act to authorize the lease or sublease of certain property described in such Act to an entity other than a foreign government or international organization if certain conditions are met.

June 26, 2008
[H.R. 3913]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENT TO THE INTERNATIONAL CENTER ACT.**

The first section of the International Center Act (Public Law 90–553; 82 Stat. 958) is amended by adding at the end the following new sentence: "Notwithstanding the foregoing limitations, the property identified by the District of Columbia as tax lots 803, 804, 805, and 806 within the area described in this section may be leased or subleased to an entity other than a foreign government or international organization, so long as the Secretary maintains the right to approve the occupant and the intended use of the property.".

Approved June 26, 2008.

LEGISLATIVE HISTORY—H.R. 3913:

HOUSE REPORTS: No. 110–518 (Comm. on Transportation and Infrastructure).
SENATE REPORTS: No. 110–343 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Jan. 28, considered and passed House.
June 5, considered and passed Senate.

# Public Law 110–250
# 110th Congress

## An Act

June 26, 2008
[S. 1245]

To reform mutual aid agreements for the National Capital Region.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REFORM OF MUTUAL AID AGREEMENTS FOR THE NATIONAL CAPITAL REGION.**

Section 7302 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 5196 note) is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking ", including its agents or authorized volunteers,"; and

(B) in paragraph (5), by striking "or town" and all that follows and inserting "town, or other governmental agency, governmental authority, or governmental institution with the power to sue or be sued in its own name, within the National Capital Region.";

(2) in subsection (b)(1), in the matter preceding subparagraph (A), by striking ", the Washington Metropolitan Area Transit Authority, the Metropolitan Washington Airports Authority, and any other governmental agency or authority"; and

(3) in subsection (d), by striking "or employees" each place that term appears and inserting ", employees, or agents".

Approved June 26, 2008.

LEGISLATIVE HISTORY—S. 1245:

SENATE REPORTS: No. 110–237 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 12, considered and passed Senate.
Vol. 154 (2008): June 9, considered and passed House.

# Public Law 110–251
# 110th Congress

## An Act

To assist members of the Armed Forces in obtaining United States citizenship, and for other purposes.

June 26, 2008
[S. 2516]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Kendell Frederick Citizenship Assistance Act.
8 USC 1101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Kendell Frederick Citizenship Assistance Act".

8 USC 1440f.

**SEC. 2. FINGERPRINTS AND OTHER BIOMETRIC INFORMATION FOR MEMBERS OF THE UNITED STATES ARMED FORCES.**

(a) IN GENERAL.—Notwithstanding any other provision of law, including section 552a of title 5, United States Code (commonly referred to as the "Privacy Act of 1974"), the Secretary of Homeland Security shall use the fingerprints provided by an individual at the time the individual enlisted in the United States Armed Forces, or at the time the individual filed an application for adjustment of status, to satisfy any requirement for background and security checks in connection with an application for naturalization if—

(1) the individual may be naturalized pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439, 1440);

(2) the individual was fingerprinted and provided other biometric information in accordance with the requirements of the Department of Defense at the time the individual enlisted in the United States Armed Forces;

(3) the individual—

(A) submitted an application for naturalization not later than 24 months after the date on which the individual enlisted in the United States Armed Forces; or

(B) provided the required biometric information to the Department of Homeland Security through a United States Citizenship and Immigration Services Application Support Center at the time of the individual's application for adjustment of status if filed not later than 24 months after the date on which the individual enlisted in the United States Armed Forces; and

(4) the Secretary of Homeland Security determines that the biometric information provided, including fingerprints, is sufficient to conduct the required background and security checks needed for the applicant's naturalization application.

(b) MORE TIMELY AND EFFECTIVE ADJUDICATION.—Nothing in this section precludes an individual described in subsection (a) from submitting a new set of biometric information, including

fingerprints, to the Secretary of Homeland Security with an application for naturalization. If the Secretary determines that submitting a new set of biometric information, including fingerprints, would result in more timely and effective adjudication of the individual's naturalization application, the Secretary shall—

(1) inform the individual of such determination; and

(2) provide the individual with a description of how to submit such biometric information, including fingerprints.

(c) COOPERATION.—The Secretary of Homeland Security, in consultation with the Secretary of Defense, shall determine the format of biometric information, including fingerprints, acceptable for usage under subsection (a). The Secretary of Defense, or any other official having custody of the biometric information, including fingerprints, referred to in subsection (a), shall—

(1) make such prints available, without charge, to the Secretary of Homeland Security for the purpose described in subsection (a); and

(2) otherwise cooperate with the Secretary of Homeland Security to facilitate the processing of applications for naturalization under subsection (a).

Deadline. Procedures.

(d) ELECTRONIC TRANSMISSION.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall, in coordination with the Secretary of Defense and the Director of the Federal Bureau of Investigation, implement procedures that will ensure the rapid electronic transmission of biometric information, including fingerprints, from existing repositories of such information needed for military personnel applying for naturalization as described in subsection (a) and that will safeguard privacy and civil liberties.

(e) CENTRALIZATION AND EXPEDITED PROCESSING.—

(1) CENTRALIZATION.—The Secretary of Homeland Security shall centralize the data processing of all applications for naturalization filed by members of the United States Armed Forces on active duty serving abroad.

Deadline.

(2) EXPEDITED PROCESSING.—The Secretary of Homeland Security, the Director of the Federal Bureau of Investigation, and the Director of National Intelligence shall take appropriate actions to ensure that applications for naturalization by members of the United States Armed Forces described in paragraph (1), and associated background checks, receive expedited processing and are adjudicated within 180 days of the receipt of responses to all background checks.

8 USC 1440g.

**SEC. 3. PROVISION OF INFORMATION ON MILITARY NATURALIZATION.**

Deadline. Web site.

(a) IN GENERAL.—Not later than 30 days after the effective date of any modification to a regulation related to naturalization under section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439, 1440), the Secretary of Homeland Security shall make appropriate updates to the Internet sites maintained by the Secretary to reflect such modification.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Homeland Security, not later than 180 days after each effective date described in subsection (a), should make necessary updates to the appropriate application forms of the Department of Homeland Security.

**SEC. 4. REPORTS.**

(a) ADJUDICATION PROCESS.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the appropriate congressional committees on the entire process for the adjudication of an application for naturalization filed pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439, 1440), including the process that—

(A) begins at the time the application is mailed to, or received by, the Secretary, regardless of whether the Secretary determines that such application is complete; and

(B) ends on the date of the final disposition of such application.

(2) CONTENTS.—The report submitted under paragraph (1) shall include a description of—

(A) the methods used by the Secretary of Homeland Security and the Secretary of Defense to prepare, handle, and adjudicate such applications;

(B) the effectiveness of the chain of authority, supervision, and training of employees of the Federal Government or of other entities, including contract employees, who have any role in such process or adjudication; and

(C) the ability of the Secretary of Homeland Security and the Secretary of Defense to use technology to facilitate or accomplish any aspect of such process or adjudication and to safeguard privacy and civil liberties.

(b) IMPLEMENTATION.—

(1) STUDY.—The Comptroller General of the United States and the Inspector General of the Department of Homeland Security shall conduct a study on the implementation of this Act by the Secretary of Homeland Security and the Secretary of Defense, including an assessment of any technology that may be used to improve the efficiency of the naturalization process for members of the United States Armed Forces and an assessment of the impact of this Act on privacy and civil liberties.

(2) REPORT.—Not later than 180 days after the date on which the Secretary of Homeland Security submits the report required under subsection (a), the Comptroller General and the Inspector General shall submit a report to the appropriate congressional committees on the study required by paragraph (1) that includes recommendations for improving the implementation of this Act.

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

(1) the Committee on Armed Services of the Senate;

(2) the Committee on Homeland Security and Governmental Affairs of the Senate;

(3) the Committee on the Judiciary of the Senate;

(4) the Committee on Armed Services of the House of Representatives;

(5) the Committee on Homeland Security of the House of Representatives; and

(6) the Committee on the Judiciary of the House of Representatives.

Approved June 26, 2008.

LEGISLATIVE HISTORY—S. 2516 (H.R. 2884):

HOUSE REPORTS: No. 110–429 accompanying H.R. 2884 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Mar. 11, considered and passed Senate.
June 9, considered and passed House.

Public Law 110–252
110th Congress

# An Act

Making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

June 30, 2008
[H.R. 2642]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, and for other purposes, namely:

Supplemental Appropriations Act, 2008.

## TITLE I—MILITARY CONSTRUCTION, VETERANS AFFAIRS, INTERNATIONAL AFFAIRS, AND OTHER SECURITY-RELATED MATTERS

## CHAPTER 1—AGRICULTURE

## DEPARTMENT OF AGRICULTURE

### FOREIGN AGRICULTURAL SERVICE

#### PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for "Public Law 480 Title II Grants", $850,000,000, to remain available until expended.

For an additional amount for "Public Law 480 Title II Grants", $395,000,000, to become available on October 1, 2008, and to remain available until expended.

## CHAPTER 2—JUSTICE

## DEPARTMENT OF JUSTICE

### OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $4,000,000, to remain available until September 30, 2009.

### LEGAL ACTIVITIES

#### SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

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

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and Expenses, United States Attorneys", $5,000,000, to remain available until September 30, 2009.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $28,621,000, to remain available until September 30, 2009.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $106,122,000, to remain available until September 30, 2009.

For an additional amount for "Salaries and Expenses", $82,600,000, to become available on October 1, 2008, and to remain available until September 30, 2009.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $29,861,000, to remain available until September 30, 2009.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

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

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

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

GENERAL PROVISION, THIS CHAPTER

SEC. 1201. Funds appropriated by this chapter, or made available by the transfer of funds in this chapter, for intelligence or intelligence related activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

## CHAPTER 3—MILITARY CONSTRUCTION AND VETERANS AFFAIRS

### DEPARTMENT OF DEFENSE

#### MILITARY CONSTRUCTION, ARMY

For an additional amount for "Military Construction, Army", $1,108,200,000, of which $921,000,000 shall remain available until September 30, 2009, and of which $187,200,000 for child development centers and trainee and recruit facilities (including planning and design) shall remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed $73,400,000 shall be available for study, planning, design, and architect and engineer services: *Provided further*, That funds provided under this heading for Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of United States military personnel in Iraq.

Certification.
Iraq.

#### MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for "Military Construction, Navy and Marine Corps", $355,907,000, of which $295,516,000 shall remain available until September 30, 2009, and of which $60,391,000 for child development centers and trainee and recruit facilities (including planning and design) shall remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed $15,843,000 shall be available for study, planning, design, and architect and engineer services.

#### MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", $399,627,000, of which $361,600,000 shall remain available until September 30, 2009, and of which $38,027,000 for child development centers (including planning and design) shall remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed $36,427,000 shall be available for study, planning, design, and architect and engineer services: *Provided further*, That funds provided under this heading for Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of United States military personnel in Iraq.

Certification.
Iraq.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for "Military Construction, Defense-Wide", $890,921,000, of which $27,600,000 shall remain available until September 30, 2009, and of which $863,321,000 for medical treatment facilities (including planning and design) shall remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for "Family Housing Construction, Navy and Marine Corps", $11,766,000, to remain available until September 30, 2009: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $1,278,886,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

## DEPARTMENT OF VETERANS AFFAIRS

### DEPARTMENTAL ADMINISTRATION

#### GENERAL OPERATING EXPENSES

For an additional amount for "General Operating Expenses", $100,000,000, to remain available until September 30, 2009.

#### INFORMATION TECHNOLOGY SYSTEMS

For an additional amount for "Information Technology Systems", $20,000,000, to remain available until September 30, 2009.

#### CONSTRUCTION, MAJOR PROJECTS

For an additional amount for "Construction, Major Projects", $396,377,000, to remain available until expended, which shall be for acceleration and completion of planned major construction of Level I polytrauma rehabilitation centers as identified in the Department of Veterans Affairs' Five Year Capital Plan: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and major medical facility construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline. Expenditure plan.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 1301. In addition to amounts otherwise appropriated or made available under the heading "Military Construction, Army", there is hereby appropriated an additional $200,000,000, to remain available until September 30, 2012, to accelerate barracks improvements at Department of Army installations: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and barracks construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary of the Army shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for barracks construction prior to obligation.

Deadline. Expenditure plan.

SEC. 1302. None of the funds appropriated in this or any other Act may be used to disestablish, reorganize, or relocate the Armed Forces Institute of Pathology, except for the Armed Forces Medical Examiner, until the President has established, as required by section 722 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 199; 10 U.S.C. 176 note), a Joint Pathology Center.

President.

SEC. 1303. (a) LIMITATION ON AUTHORITY.—

Combat Veterans Debt Elimination Act of 2008.

(1) IN GENERAL.—Chapter 53 of title 38, United States Code, is amended by inserting after section 5302 the following new section:

**"§ 5302A Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone**

"(a) LIMITATION ON AUTHORITY.—The Secretary may not collect all or any part of an amount owed to the United States by a member of the Armed Forces or veteran described in subsection (b) under any program under the laws administered by the Secretary, other than a program referred to in subsection (c), if the Secretary determines that termination of collection is in the best interest of the United States.

"(b) COVERED INDIVIDUALS.—A member of the Armed Forces or veteran described in this subsection is any member or veteran who dies as a result of an injury incurred or aggravated in the line of duty while serving in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) in a war or in combat against a hostile force during a period of hostilities (as that term is defined in section 1712A(a)(2)(B) of this title) after September 11, 2001.

"(c) INAPPLICABILITY TO HOUSING AND SMALL BUSINESS BENEFIT PROGRAMS.—The limitation on authority in subsection (a) shall not apply to any amounts owed the United States under any program carried out under chapter 37 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by inserting after the item relating to section 5302 the following new item:

"5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone.".

(b) EQUITABLE REFUND.—In any case where all or any part of an indebtedness of a covered individual, as described in section 5302A(a) of title 38, United States Code, as added by subsection

38 USC 5302A note.

(a)(1), was collected after September 11, 2001, and before the date of the enactment of this Act, and the Secretary of Veterans Affairs determines that such indebtedness would have been terminated had such section been in effect at such time, the Secretary may refund the amount so collected if the Secretary determines that the individual is equitably entitled to such refund.

Applicability. 38 USC 5302A note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to collections of indebtedness of members of the Armed Forces and veterans who die on or after September 11, 2001.

38 USC 101 note.

(d) SHORT TITLE.—This section may be cited as the "Combat Veterans Debt Elimination Act of 2008".

## CHAPTER 4—DEPARTMENT OF STATE AND FOREIGN OPERATIONS

## SUBCHAPTER A—SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008

## DEPARTMENT OF STATE

### ADMINISTRATION OF FOREIGN AFFAIRS

#### DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for "Diplomatic and Consular Programs", $1,465,700,000, to remain available until September 30, 2009, of which $210,400,000 is for worldwide security protection and shall remain available until expended: *Provided*, That not more than $1,150,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq: *Provided further*, That of the funds appropriated under this heading, not more than $30,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Department of State.

#### OFFICE OF INSPECTOR GENERAL

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Office of Inspector General", $9,500,000, to remain available until September 30, 2009: *Provided*, That $2,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and $2,000,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

#### EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance", $76,700,000, to remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to International Organizations", $66,000,000, to remain available until September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities", $373,708,000, to remain available until September 30, 2009, of which $333,600,000 shall be made available for the United Nations-African Union Hybrid Mission in Darfur.

## RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations", $2,000,000, to remain available until September 30, 2009.

## BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for "International Disaster Assistance", $220,000,000, to remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for "Operating Expenses of the United States Agency for International Development", $150,500,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated under this heading, not more than $25,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Agency for International Development.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for "Operating Expenses of the United States Agency for International Development Office of Inspector General", $4,000,000, to remain available until September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for "Economic Support Fund", $1,882,500,000, to remain available until September 30, 2009, of which not more than $424,000,000 may be made available for

assistance for Iraq, $175,000,000 shall be made available for assistance for Jordan to meet the needs of Iraqi refugees, and up to $53,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law: *Provided*, That not more than $171,000,000 of the funds appropriated under this heading in this subchapter shall be made available for assistance for the West Bank and Gaza and none of such funds shall be for cash transfer assistance: *Provided further*, That of the funds appropriated under this heading, $1,000,000 shall be made available for the Office of the United Nations High Commissioner for Human Rights in Mexico: *Provided further*, That the funds made available under this heading for energy-related assistance for North Korea may be made available to support the goals of the Six Party Talks Agreements after the Secretary of State determines and reports to the Committees on Appropriations that North Korea is continuing to fulfill its commitments under such agreements.

Reports.

DEPARTMENT OF STATE

DEMOCRACY FUND

For an additional amount for "Democracy Fund", $76,000,000, to remain available until September 30, 2009, of which $75,000,000 shall be for democracy programs in Iraq and $1,000,000 shall be for democracy programs in Chad.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for "International Narcotics Control and Law Enforcement", $390,300,000, to remain available until September 30, 2009, of which not more than $25,000,000 shall be made available for security assistance for the West Bank.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", $315,000,000, to remain available until expended.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for "United States Emergency Refugee and Migration Assistance Fund", $31,000,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs", $13,700,000, to remain available until September 30, 2009.

## MILITARY ASSISTANCE

### FUNDS APPROPRIATED TO THE PRESIDENT

#### FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program", $137,500,000, to remain available until September 30, 2009, of which $17,000,000 shall be made available for assistance for Jordan and up to $116,500,000 may be made available for assistance for Mexico.

Not more than $1,350,000 of the funds appropriated or otherwise made available under the heading "Foreign Military Financing Program" by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) that were previously transferred to and merged with "Diplomatic and Consular Programs" may be made available for any purposes authorized for that account, of which up to $500,000 shall be made available to increase the capacity of the United States Embassy in Mexico City to implement section 620J of the Foreign Assistance Act of 1961: *Provided*, That funds made available by this paragraph shall not be subject to Section 8002 of this Act.

## SUBCHAPTER B—BRIDGE FUND SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2009

## DEPARTMENT OF STATE

### ADMINISTRATION OF FOREIGN AFFAIRS

#### DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for "Diplomatic and Consular Programs", $704,900,000, which shall become available on October 1, 2008, and remain available through September 30, 2009: *Provided*, That of the funds appropriated under this heading, $78,400,000 is for worldwide security protection and shall remain available until expended: *Provided further*, That not more than $550,500,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq.

#### OFFICE OF INSPECTOR GENERAL

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Office of Inspector General", $57,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009: *Provided*, That $36,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight and $5,000,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

#### EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance", $41,300,000, which shall become available on

October 1, 2008, and remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to International Organizations", $75,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities", $150,500,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

## RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations", $6,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

## BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for "Global Health and Child Survival", $75,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009, for programs to combat avian influenza.

DEVELOPMENT ASSISTANCE

For an additional amount for "Development Assistance", $200,000,000, for assistance for developing countries to address the international food crisis notwithstanding any other provision of law, which shall become available on October 1, 2008, and remain available through September 30, 2010: *Provided*, That such assistance should be carried out consistent with the purposes of section 103(a)(1) of the Foreign Assistance Act of 1961: *Provided further*, That not more than $50,000,000 should be made available for local or regional purchase and distribution of food: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations not later than 45 days after enactment of this Act, and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of such funds to alleviate hunger and malnutrition, including a list of those countries facing significant food shortages.

Deadline.
Reports.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for "International Disaster Assistance", $200,000,000, which shall become available on October 1, 2008, and remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for "Operating Expenses of the United States Agency for International Development", $93,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for "Operating Expenses of the United States Agency for International Development Office of Inspector General", $1,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for "Economic Support Fund", $1,124,800,000, which shall become available on October 1, 2008, and remain available through September 30, 2009, of which not more than $102,500,000 may be made available for assistance for Iraq, $100,000,000 shall be made available for assistance for Jordan, not more than $455,000,000 may be made available for assistance for Afghanistan, not more than $150,000,000 may be made available for assistance for Pakistan, not more than $150,000,000 shall be made available for assistance for the West Bank and Gaza, and $15,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for "International Narcotics Control and Law Enforcement", $199,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009: *Provided*, That not more than $50,000,000 of the funds appropriated under this heading shall be made available for security assistance for the West Bank and up to $48,000,000 may be made available for assistance for Mexico.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", $350,000,000, which shall become available on October 1, 2008, and remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs", $4,500,000, for humanitarian demining assistance for Iraq, which shall become available on October 1, 2008, and remain available through September 30, 2009.

## MILITARY ASSISTANCE

### FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

Deadline.

For an additional amount for "Foreign Military Financing Program", $302,500,000, which shall become available on October 1, 2008, and remain available through September 30, 2009, of which $100,000,000 shall be made available for assistance for Jordan, and not less than $170,000,000 shall be available for grants only for Israel and shall be disbursed not later than November 1, 2008:

Applicability.

*Provided*, That section 3802(c) of title III, chapter 8 of Public Law 110–28 shall apply to funds made available under this heading for assistance for Lebanon.

PEACEKEEPING OPERATIONS

For an additional amount for "Peacekeeping Operations", $95,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

## SUBCHAPTER C—GENERAL PROVISIONS, THIS CHAPTER

EXTENSION OF AUTHORITIES

SEC. 1401. Funds appropriated by this chapter may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

IRAQ

Certification.
Reports.

SEC. 1402. (a) ASSET TRANSFER AGREEMENT.—

(1) None of the funds appropriated by this chapter for infrastructure maintenance activities in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the Governments of the United States and Iraq have entered into, and are implementing, an asset transfer agreement that includes commitments by the Government of Iraq to maintain United States-funded infrastructure in Iraq.

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

Lists.

(b) ANTI-CORRUPTION.—Not more than 40 percent of the funds appropriated by this chapter for rule of law programs in Iraq may be made available for assistance for the Government of Iraq

until the Secretary of State reports to the Committees on Appropriations that a comprehensive anti-corruption strategy has been developed, and is being implemented, by the Government of Iraq, and the Secretary of State submits a list, in classified form if necessary, to the Committees on Appropriations of senior Iraqi officials who the Secretary has credible evidence to believe have committed corrupt acts.

(c) PROVINCIAL RECONSTRUCTION TEAMS.—None of the funds appropriated by this chapter for the operational or program expenses of Provincial Reconstruction Teams (PRTs) in Iraq may be made available until the Secretary of State submits a report to the Committees on Appropriations detailing—

(1) the strategy for the eventual winding down and close out of PRTs;

(2) anticipated costs associated with PRT operations, programs, and eventual winding down and close out, including security for PRT personnel and anticipated Government of Iraq contributions; and

(3) anticipated placement and cost estimates of future United States Consulates in Iraq.

(d) COMMUNITY STABILIZATION PROGRAM.—Not more than 50 percent of the funds appropriated by this chapter for the Community Stabilization Program in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the United States Agency for International Development is implementing recommendations contained in Office of Inspector General Audit Report No. E-267-08-001-P to ensure accountability of funds.

(e) MATCHING REQUIREMENT.—

(1) Notwithstanding any other provision of law, funds appropriated by this chapter for assistance for Iraq shall be made available only to the extent that the Government of Iraq matches such assistance on a dollar-for-dollar basis.

(2) Paragraph (1) shall not apply to funds made available for—

(A) grants and cooperative agreements for programs to promote democracy and human rights;

(B) the Community Action Program and other assistance through civil society organizations;

(C) humanitarian demining; or

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

(3) The Secretary of State shall certify to the Committees on Appropriations prior to the initial obligation of funds pursuant to this section that the Government of Iraq has committed to obligate matching funds on a dollar-for-dollar basis. The Secretary shall submit a report to the Committees on Appropriations not later than September 30, 2008, and 180 days thereafter, detailing the amounts of funds obligated and expended by the Government of Iraq to meet the requirements of this section. Deadlines.

(4) Not later than 45 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing the amounts provided by the Government of Iraq since June 30, 2004, to assist Iraqi refugees in Syria, Jordan, and elsewhere, and the amount of such assistance the Government of Iraq plans to provide in fiscal year Deadline.

2008. The Secretary shall work expeditiously with the Government of Iraq to establish an account within its annual budget sufficient to, at a minimum, match United States contributions on a dollar-for-dollar basis to organizations and programs for the purpose of assisting Iraqi refugees.

AFGHANISTAN

SEC. 1403. (a) ASSISTANCE FOR WOMEN AND GIRLS.—Funds appropriated by this chapter under the heading "Economic Support Fund" that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, through local Afghan provincial and municipal governments and Afghan civil society organizations and in a manner that emphasizes the participation of Afghan women and directly improves the economic, social and political status of Afghan women and girls.

(b) HIGHER EDUCATION.—Of the funds appropriated by this chapter under the heading "Economic Support Fund" that are made available for education programs in Afghanistan, not less than 50 percent shall be made available to support higher education and vocational training programs in law, accounting, engineering, public administration, and other disciplines necessary to rebuild the country, in which the participation of women is emphasized.

(c) POST-OPERATIONS ASSISTANCE.—Of the funds appropriated by this chapter under the heading "Economic Support Fund" that are available for assistance for Afghanistan, not less than $2,000,000 shall be made available for a United States contribution to the North Atlantic Treaty Organization/International Security Assistance Force Post-Operations Humanitarian Relief Fund.

Deadline. Reports.

(d) ANTI-CORRUPTION.—Not later than 90 days after the enactment of this Act, the Secretary of State shall—

(1) submit a report to the Committees on Appropriations on actions being taken by the Government of Afghanistan to combat corruption within the national and provincial governments, including to remove and prosecute officials who have committed corrupt acts;

Lists.

(2) submit a list to the Committees on Appropriations, in classified form if necessary, of senior Afghan officials who the Secretary has credible evidence to believe have committed corrupt acts; and

Certification.

(3) certify and report to the Committees on Appropriations that effective mechanisms are in place to ensure that assistance to national government ministries and provincial governments will be properly accounted for.

WEST BANK

Deadlines. Reports.

SEC. 1404. Not later than 90 days after the date of enactment of this Act and 180 days thereafter, the Secretary of State shall submit to the Committees on Appropriations a report on assistance provided by the United States for the training of Palestinian security forces, including detailed descriptions of the training, curriculum, and equipment provided; an assessment of the training and the performance of forces after training has been completed; and a description of the assistance that has been pledged and provided to Palestinian security forces by other donors: *Provided*, That not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Committees on

Appropriations, in classified form if necessary, on the security strategy of the Palestinian Authority.

WAIVER OF CERTAIN SANCTIONS AGAINST NORTH KOREA

SEC. 1405. (a) WAIVER AUTHORITY.— 22 USC 2799aa–1 note.

(1) IN GENERAL.—Except as provided in subsection (b), the President may waive in whole or in part, with respect to North Korea, the application of any sanction contained in subparagraph (A), (B), (D) or (G) under section 102(b)(2) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)), for the purpose of providing assistance related to—

(A) the implementation and verification of the compliance by North Korea with its commitment, undertaken in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula; and

(B) the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction and their delivery systems.

(2) LIMITATION.—The authority under paragraph (1) shall expire 5 years after the date of enactment of this Act. Expiration date.

(b) EXCEPTIONS.—

(1) LIMITED EXCEPTION RELATED TO CERTAIN SANCTIONS AND PROHIBITIONS.—The authority under subsection (a) shall not apply with respect to a sanction or prohibition under subparagraph (B) or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines and certifies to the appropriate congressional committees that— President. Certification.

(A) all reasonable steps will be taken to assure that the articles or services exported or otherwise provided will not be used to improve the military capabilities of the armed forces of North Korea; and

(B) such waiver is in the national security interests of the United States.

(2) LIMITED EXCEPTION RELATED TO CERTAIN ACTIVITIES.—Unless the President determines and certifies to the appropriate congressional committees that using the authority under subsection (a) is vital to the national security interests of the United States, such authority shall not apply with respect to— President. Certification.

(A) an activity described in subparagraph (A) of section 102(b)(1) of the Arms Export Control Act that occurs after September 19, 2005, and before the date of the enactment of this Act;

(B) an activity described in subparagraph (C) of such section that occurs after September 19, 2005; or

(C) an activity described in subparagraph (D) of such section that occurs after the date of enactment of this Act.

(3) EXCEPTION RELATED TO CERTAIN ACTIVITIES OCCURRING AFTER DATE OF ENACTMENT.—The authority under subsection (a) shall not apply with respect to an activity described in subparagraph (A) or (B) of section 102(b)(1) of the Arms Export Control Act that occurs after the date of the enactment of this Act.

(4) LIMITED EXCEPTION RELATED TO LETHAL WEAPONS.—The authority under subsection (a) shall not apply with respect to any export of lethal defense articles that would be prevented by the application of section 102(b)(2) of the Arms Export Control Act.

President.

(c) NOTIFICATIONS AND REPORTS.—

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

(2) ANNUAL REPORT.—Not later than January 31, 2009, and annually thereafter, the President shall submit to the appropriate congressional committees a report that—

(A) lists all waivers issued under subsection (a) during the preceding year;

(B) describes in detail the progress that is being made in the implementation of the commitment undertaken by North Korea, in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula;

(C) discusses specifically any shortcomings in the implementation by North Korea of that commitment; and

(D) lists and describes the progress and shortcomings, in the preceding year, of all other programs promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction or their delivery systems.

(3) REPORT ON VERIFICATION MEASURES RELATING TO NORTH KOREA'S NUCLEAR PROGRAMS.—

(A) IN GENERAL.—Not later than 15 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on verification measures relating to North Korea's nuclear programs under the Six-Party Talks Agreement of February 13, 2007, with specific focus on how such verification measures are defined under the Six-Party Talks Agreement and understood by the United States Government.

(B) MATTERS TO BE INCLUDED.—The report required under subsection (A) shall include, among other elements, a description of—

(i) how the United States will confirm that North Korea has "provided a complete and correct declaration of all of its nuclear programs";

(ii) how the United States will maintain a high and ongoing level of confidence that North Korea has fully met the terms of the Six-Party Talks Agreement relating to its nuclear programs;

(iii) any diplomatic agreement with North Korea regarding verification measures relating to North Korea's nuclear programs under the Six-Party Talks Agreement (other than implementing arrangements made during on-site operations); and

(iv) any significant and continuing disagreement with North Korea regarding verification measures

relating to North Korea's nuclear programs under the Six-Party Talks Agreement.

(C) FORM.—The report required under subsection (A) shall be submitted in unclassified form, but may include a classified annex.

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

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives.

MEXICO

SEC. 1406. (a) ASSISTANCE FOR MEXICO.—Of the funds appropriated under the headings "International Narcotics Control and Law Enforcement", "Foreign Military Financing Program", and "Economic Support Fund" in this chapter, not more than $352,000,000 of the funds appropriated in subchapter A and $48,000,000 of the funds appropriated in subchapter B may be made available for assistance for Mexico, only to combat drug trafficking and related violence and organized crime, and for judicial reform, institution building, anti-corruption, and rule of law activities, of which not less than $73,500,000 shall be used for judicial reform, institution building, anti-corruption, and rule of law activities: *Provided*, That none of the funds made available under this section shall be made available for budget support or as cash payments: *Provided further*, That not more than 45 days after enactment of this Act, and after consulting with relevant Mexican Government authorities, the Secretary of State shall report in writing to the Committees on Appropriations on the procedures in place to implement section 620J of the Foreign Assistance Act of 1961.

Deadline. Reports.

(b) ALLOCATION OF FUNDS.—Fifteen percent of the funds made available in this chapter for assistance for Mexico under the headings "International Narcotics Control and Law Enforcement" and "Foreign Military Financing Program" may not be obligated until the Secretary of State reports in writing to the Committees on Appropriations that the Government of Mexico is—

Reports.

(1) improving the transparency and accountability of federal police forces and working with state and municipal authorities to improve the transparency and accountability of state and municipal police forces through mechanisms including establishing police complaints commissions with authority and independence to receive complaints and carry out effective investigations;

(2) establishing a mechanism for regular consultations among relevant Mexican Government authorities, Mexican human rights organizations and other relevant Mexican civil society organizations, to make recommendations concerning implementation of the Merida Initiative in accordance with Mexican and international law;

(3) ensuring that civilian prosecutors and judicial authorities are investigating and prosecuting, in accordance with Mexican and international law, members of the federal police and military forces who have been credibly alleged to have committed violations of human rights, and the federal police and

military forces are fully cooperating with the investigations; and

(4) enforcing the prohibition, in accordance with Mexican and international law, on the use of testimony obtained through torture or other ill-treatment.

(c) EXCEPTION.—Notwithstanding subsection (b), of the funds appropriated by subchapter A for assistance for Mexico under the heading "International Narcotics Control and Law Enforcement", $3,000,000 shall be made available for technical and other assistance to enable the Government of Mexico to implement a unified national registry of federal, state, and municipal police officers.

(d) REPORT.—The report required in subsection (b) shall include a description of actions taken with respect to each requirement and the cases or issues brought to the attention of the Secretary of State for which the response or action taken has been inadequate.

(e) NOTIFICATION.—Funds made available for Mexico by this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

Deadline.

(f) SPENDING PLAN.—Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for Mexico by this chapter, which shall include a strategy, developed after consulting with relevant Mexican Government authorities, for combating drug trafficking and related violence and organized crime, judicial reform, institution building, anti-corruption, and rule of law activities, with concrete goals, actions to be taken, budget proposals, and anticipated results.

CENTRAL AMERICA

SEC. 1407. (a) ASSISTANCE FOR THE COUNTRIES OF CENTRAL AMERICA.—Of the funds appropriated in subchapter A under the headings "International Narcotics Control and Law Enforcement", "Foreign Military Financing Program", "Nonproliferation, Anti-Terrorism, Demining and Related Programs", and "Economic Support Fund", $65,000,000 may be made available for assistance for the countries of Central America, Haiti, and the Dominican Republic only to combat drug trafficking and related violence and organized crime, and for judicial reform, institution building, anti-corruption, rule of law activities, and maritime security: *Provided*, That of the funds appropriated under the heading "Economic Support Fund", $25,000,000 shall be made available for an Economic and Social Development Fund for Central America, of which $20,000,000 shall be made available through the United States Agency for International Development and $5,000,000 shall be made available through the Department of State for educational exchange programs: *Provided further*, That of the funds appropriated in subchapter A under the heading "International Narcotics Control and Law Enforcement", $2,500,000 shall be made available for assistance for Haiti, $2,500,000 shall be made available for assistance for the Dominican Republic, and $1,000,000 shall be made available for a United States contribution to the International Commission Against Impunity in Guatemala: *Provided further*, That none of the funds shall be made available for budget support or as cash payments: *Provided further*, That not more than 45 days after enactment of this Act, the Secretary of State shall report in writing

Deadline.
Reports.

to the Committees on Appropriations on the procedures in place to implement section 620J of the Foreign Assistance Act of 1961.

(b) ALLOCATION OF FUNDS.—Fifteen percent of the funds made available by this chapter for assistance for the countries of Central America, Haiti and the Dominican Republic under the headings "International Narcotics Control and Law Enforcement" and "Foreign Military Financing Program" may not be obligated until the Secretary of State reports in writing to the Committees on Appropriations that the government of such country is— Reports.

(1) establishing police complaints commissions with authority and independence to receive complaints and carry out effective investigations;

(2) implementing reforms to improve the capacity and ensure the independence of the judiciary; and

(3) investigating and prosecuting members of the federal police and military forces who have been credibly alleged to have committed violations of human rights.

(c) REPORT.—The report required in subsection (b) shall include actions taken with respect to each requirement and the cases or issues brought to the attention of the Secretary of State for which the response or action taken has been inadequate.

(d) NOTIFICATION.—Funds made available for assistance for the countries of Central America, Haiti and the Dominican Republic in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(e) SPENDING PLAN.—Not later than 45 days after enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for the countries of Central America, Haiti and the Dominican Republic in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, institution building, anti-corruption, and rule of law activities, with concrete goals, actions to be taken, budget proposals and anticipated results. Deadline.

(f) DEFINITION.—For the purposes of this section, the term "countries of Central America" means Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

BUYING POWER MAINTENANCE ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

SEC. 1408. (a) Of the funds appropriated under the heading "Diplomatic and Consular Programs" and allocated by section 3810 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28), $26,000,000 shall be transferred to and merged with funds in the "Buying Power Maintenance Account": *Provided*, That of the funds made available by this chapter up to an additional $74,000,000 may be transferred to and merged with the "Buying Power Maintenance Account", subject to the regular notification procedures of the Committees on Appropriations and in accordance with the procedures in section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). Any funds transferred pursuant to this section shall be available, without fiscal year

limitation, pursuant to section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696).

(b) Section 24(b)(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)(7)) is amended by amending subparagraph (D) to read as follows:

"(D) The authorities contained in this paragraph may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008.".

22 USC 6204 note.

(c) The Broadcasting Board of Governors may transfer funds into its Buying Power Maintenance Account, notwithstanding the requirement that such funds be provided in advance in appropriations Acts. The authority in this subsection may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008.

SERBIA

Reports.

SEC. 1409. Of the funds made available under the heading "Assistance for Eastern Europe and the Baltic States" by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161), an amount equivalent to the unpaid costs of damage to the United States Embassy in Belgrade, Serbia, as estimated by the Secretary of State, resulting from the February 21, 2008 attack on such Embassy, shall be withheld from obligation for assistance for the central government of Serbia if the Secretary of State reports to the Committees on Appropriations that the Government of Serbia has failed to provide full compensation to the Department of State for damages to the United States Embassy resulting from the February 21, 2008 attack on such embassy. Section 8002 of this Act shall not apply to this section.

RESCISSIONS

SEC. 1410. (a) WORLD FOOD PROGRAM.—

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

(2) Of the funds appropriated under the heading "Andean Counterdrug Initiative" in prior Acts making appropriations for foreign operations, export financing, and related programs, $20,000,000 are rescinded.

(b) SUDAN.—

(1) For an additional amount for "International Narcotics Control and Law Enforcement", $10,000,000, for assistance for Sudan to support formed police units, to remain available until September 30, 2009, and subject to prior consultation with the Committees on Appropriations.

(2) Of the funds appropriated under the heading "International Narcotics Control and Law Enforcement" in prior Acts making appropriations for foreign operations, export financing, and related programs, $10,000,000 are rescinded.

(c) RESCISSION.—Of the unobligated balances of funds appropriated for "Iraq Relief and Reconstruction Fund" in prior Acts making appropriations for foreign operations, export financing, and related programs, $50,000,000 are rescinded.

(d) EXCEPTION.—Section 8002 of this Act shall not apply to subsections (a) and (b) of this section.

DARFUR PEACEKEEPING

SEC. 1411. Funds appropriated under the headings "Foreign Military Financing Program" and "Peacekeeping Operations" by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) and by prior Acts making appropriations for foreign operations, export financing, and related programs may be used to transfer, equip, upgrade, refurbish or lease helicopters or related equipment necessary to support the operations of the African Union/United Nations peacekeeping operation in Darfur, Sudan, that was established pursuant to United Nations Security Council Resolution 1769. The President may utilize the authority of sections 506 or 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321j) or section 61 of the Arms Export Control Act (22 U.S.C. 2796) in order to provide such support, notwithstanding any other provision of law except for sections 502B(a)(2), 620A and 620J of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2), 2371, 2378d) and section 40A of the Arms Export Control Act (22 U.S.C. 2780). Any exercise of the authorities provided by section 506 of the Foreign Assistance Act pursuant to this section may include the authority to acquire helicopters by contract.

TIBET

Establishment.

SEC. 1412. (a) Of the funds appropriated by this Act or prior Acts making appropriations for the Department of State, foreign operations and related programs under the headings "Diplomatic and Consular Programs" and "Embassy Security, Construction, and Maintenance", up to $5,000,000 shall be made available to establish a United States Consulate in Lhasa, Tibet.

(b) The Department of State should not consent to opening a consular post in the United States by the People's Republic of China until such time as the People's Republic of China consents to opening a United States consular post in Lhasa, Tibet.

JORDAN

(INCLUDING RESCISSION OF FUNDS)

SEC. 1413. (a) For an additional amount for "Economic Support Fund" for assistance for Jordan, $25,000,000, to remain available until September 30, 2009.

(b) For an additional amount for "Foreign Military Financing Program" for assistance for Jordan, $33,000,000, to remain available until September 30, 2009.

(c) Of the unobligated balances of funds appropriated under the heading "Millennium Challenge Corporation" in prior Acts making appropriations for foreign operations, export financing, and related programs, $58,000,000 are rescinded.

(d) Section 8002 of this Act shall not apply to this section.

ALLOCATIONS

SEC. 1414. (a) Funds provided by this chapter for the following accounts shall be made available for programs and countries in

the amounts contained in the respective tables included in the explanatory statement printed in the Congressional Record accompanying this Act:

"Diplomatic and Consular Programs"

"Economic Support Fund".

(b) Any proposed increases or decreases to the amounts contained in such tables in the explanatory statement printed in the Congressional Record accompanying this Act shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

REPROGRAMMING AUTHORITY

SEC. 1415. Notwithstanding any other provision of law, to include minimum funding requirements or funding directives, funds made available under the headings "Development Assistance" and "Economic Support Fund" in prior Acts making appropriations for foreign operations, export financing, and related programs may be made available to address critical food shortages, subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

SPENDING PLANS AND NOTIFICATION PROCEDURES

Deadlines. Reports.

SEC. 1416. (a) SUBCHAPTER A SPENDING PLAN.—Not later than 45 days after the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated under the headings in subchapter A, except for funds appropriated under the headings "International Disaster Assistance", "Migration and Refugee Assistance", and "United States Emergency Refugee and Migration Assistance Fund".

(b) SUBCHAPTER B SPENDING PLAN.—The Secretary of State shall submit to the Committees on Appropriations not later than November 1, 2008, and prior to the initial obligation of funds, a detailed spending plan for funds appropriated or otherwise made available in subchapter B, except for funds appropriated under the headings "International Disaster Assistance", "Migration and Refugee Assistance", and "United States Emergency Refugee and Migration Assistance Fund".

(c) NOTIFICATION.—Funds made available in this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

TERMS AND CONDITIONS

SEC. 1417. Unless otherwise provided for in this Act, funds appropriated or otherwise made available by this chapter shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161), except that section 699K of such Act shall not apply to funds in this chapter.

## TITLE II—DOMESTIC MATTERS

## CHAPTER 1—FOOD AND DRUG ADMINISTRATION

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### FOOD AND DRUG ADMINISTRATION

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $150,000,000, to remain available until September 30, 2009: *Provided*, That of the amount provided: (1) $66,792,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $28,019,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) $12,736,000 shall be for the Center for Biologics Evaluation and Research and related field activities in the Office of Regulatory Affairs; (4) $6,057,000 shall be for the Center for Veterinary Medicine and related field activities in the Office of Regulatory Affairs; (5) $20,094,000 shall be for the Center for Devices and Radiological Health and related field activities in the Office of Regulatory Affairs; (6) $3,396,000 shall be for the National Center for Toxicological Research; and (7) $12,906,000 shall be for other activities, including the Office of the Commissioner, the Office of Scientific and Medical Programs; the Office of Policy, Planning and Preparedness; the Office of International and Special Programs; the Office of Operations; and central services for these offices.

## CHAPTER 2—COMMERCE, JUSTICE, AND SCIENCE

### DEPARTMENT OF COMMERCE

#### BUREAU OF THE CENSUS

##### PERIODIC CENSUSES AND PROGRAMS

###### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Periodic Censuses and Programs", $210,000,000, to remain available until expended, for necessary expenses related to the 2010 Decennial Census: *Provided*, That not less than $3,000,000 shall be transferred to the "Office of Inspector General" at the Department of Commerce for necessary expenses associated with oversight activities of the 2010 Decennial Census: *Provided further,* That not less than $1,000,000 shall be used only for a reimbursable agreement with the Defense Contract Management Agency to provide continuing contract management oversight of the 2010 Decennial Census.

DEPARTMENT OF JUSTICE

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $178,000,000, to remain available until September 30, 2008.

OTHER AGENCIES

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE, AERONAUTICS AND EXPLORATION

For an additional amount for "Science, Aeronautics and Exploration", $62,500,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For an additional amount for "Research and Related Activities", $22,500,000, of which $5,000,000 shall be available solely for activities authorized by section 7002(b)(2)(A)(iv) of Public Law 110–69.

EDUCATION AND HUMAN RESOURCES

For an additional amount for "Education and Human Resources", $40,000,000: *Provided,* That of the amount provided, $20,000,000 shall be available for activities authorized by section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–1) and $20,000,000 shall be available for activities authorized by section 10A of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–1a).

CHAPTER 3—ENERGY

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

SCIENCE

For an additional amount for "Science", $62,500,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for "Defense Environmental Cleanup", $62,500,000, to remain available until expended.

## CHAPTER 4—LABOR AND HEALTH AND HUMAN SERVICES

### DEPARTMENT OF LABOR

#### EMPLOYMENT AND TRAINING ADMINISTRATION

##### STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for "State Unemployment Insurance and Employment Service Operations" for grants to the States for the administration of State unemployment insurance, $110,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, to be used for unemployment insurance workloads experienced by the States through September 30, 2008, which shall be available for Federal obligation through December 31, 2008.

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### NATIONAL INSTITUTES OF HEALTH

##### OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Office of the Director", $150,000,000, which shall be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act in proportion to the appropriations otherwise made to such Institutes, Centers, and Common Fund for fiscal year 2008: *Provided,* That these funds shall be used to support additional scientific research and shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further,* That none of these funds may be transferred to "National Institutes of Health–Buildings and Facilities", the Center for Scientific Review, the Center for Information Technology, the Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, or the Office of the Director (except for the transfer to the Common Fund).

## CHAPTER 5—LEGISLATIVE BRANCH

### HOUSE OF REPRESENTATIVES

#### PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Annette Lantos, widow of Tom Lantos, late a Representative from the State of California, $169,300: *Provided*, That section 8002 shall not apply to this appropriation. Annette Lantos.

# TITLE III—NATURAL DISASTER RELIEF AND RECOVERY

## CHAPTER 1—AGRICULTURE

## DEPARTMENT OF AGRICULTURE

### FARM SERVICE AGENCY

#### EMERGENCY CONSERVATION PROGRAM

For an additional amount for the "Emergency Conservation Program", $89,413,000, to remain available until expended.

### NATURAL RESOURCES CONSERVATION SERVICE

#### EMERGENCY WATERSHED PROTECTION PROGRAM

For an additional amount for the "Emergency Watershed Protection Program", $390,464,000, to remain available until expended.

## CHAPTER 2—COMMERCE

## DEPARTMENT OF COMMERCE

### ECONOMIC DEVELOPMENT ADMINISTRATION

#### ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Pursuant to section 703 of the Public Works and Economic Development Act (42 U.S.C. 3233), for an additional amount for "Economic Development Assistance Programs", for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of recent natural disasters, $100,000,000, to remain available until expended.

## CHAPTER 3—CORPS OF ENGINEERS

## DEPARTMENT OF DEFENSE—CIVIL

## DEPARTMENT OF THE ARMY

### CORPS OF ENGINEERS—CIVIL

#### CONSTRUCTION

For an additional amount for "Construction", for necessary expenses to address emergency situations at Corps of Engineers projects and rehabilitate and repair damages to Corps projects caused by recent natural disasters, $61,700,000, to remain available until expended.

For an additional amount for "Construction", for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $2,835,000,000, to become available on October 1, 2008, and to remain available until

expended: *Provided*, That the Secretary of the Army is directed to use $1,997,000,000 of the funds provided herein to modify authorized projects in southeast Louisiana to provide hurricane, storm and flood damage reduction in the greater New Orleans and surrounding areas to the levels of protection necessary to achieve the certification required for participation in the National Flood Insurance Program under the base flood elevations current at the time of enactment of this Act, and shall use $1,077,000,000 of those funds for the Lake Pontchartrain and Vicinity project and $920,000,000 of those funds for the West Bank and Vicinity project: *Provided further*, That, in addition, $838,000,000 of the funds provided herein shall be for elements of Southeast Louisiana Urban Drainage project within the geographic perimeter of the West Bank and Vicinity and Lake Pontchartrain and Vicinity projects, to provide for interior drainage of runoff from rainfall with a ten percent annual exceedance probability: *Provided further*, That the amounts provided herein shall be subject to a 65 percent Federal / 35 percent non-Federal cost share for the specified purposes: *Provided further*, That beginning not later than 60 days after the date of enactment of this Act, the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide monthly reports to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that is necessary to accomplish the established goals is authorized subject to the approval of the House and Senate Committees on Appropriations.

Deadlines.
Reports.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for "Mississippi River and Tributaries" for recovery from natural disasters, $17,590,000, to remain available until expended, to repair damages to Federal projects caused by recent natural disasters.

OPERATION AND MAINTENANCE

For an additional amount for "Operation and Maintenance" to dredge navigation channels and repair other Corps projects related to natural disasters, $298,344,000, to remain available until expended: *Provided*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

Reports.
Deadlines.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses to prepare for flood, hurricane and other natural disasters and support emergency operations, repair and other activities in response to flood and hurricane emergencies as authorized by law, $226,854,800, to remain available until expended.

For an additional amount for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Act of August 18, 1941

(33 U.S.C. 701n), for necessary expenses relating to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $2,926,000,000, to become available on October 1, 2008, and to remain available until expended: *Provided*, That funds provided herein shall be used to reduce the risk of hurricane and storm damages to the greater New Orleans metropolitan area, at full Federal expense, for the following: $704,000,000 shall be used to modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront; $90,000,000 shall be used for storm-proofing interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; $459,000,000 shall be used for armoring critical elements of the New Orleans hurricane and storm damage reduction system; $53,000,000 shall be used to improve protection at the Inner Harbor Navigation Canal; $456,000,000 shall be used to replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the existing New Orleans to Venice hurricane protection project; $412,000,000 shall be used for reinforcing or replacing flood walls, as necessary, in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve the performance of the systems; $393,000,000 shall be used for repair and restoration of authorized protections and floodwalls; and $359,000,000 shall be to complete the authorized protection for the Lake Ponchartrain and Vicinity, West Bank and Vicinity, and the New Orleans to Venice projects: *Provided further*, That the Secretary of the Army, within available funds, is directed to continue the NEPA alternative evaluation of all options with particular attention to Options 1, 2 and 2a of the report to Congress, dated August 30, 2007, provided in response to the requirements of chapter 3, section 4303 of Public Law 110–28, and within 90 days of enactment of this Act provide the House and Senate Committees on Appropriations cost estimates to implement Options 1, 2 and 2a of the above cited report: *Provided further*, That beginning not later than 60 days after the date of enactment of this Act, the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide monthly reports to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds: *Provided further*, That any project using funds appropriated under this heading shall be initiated only after non-Federal interests have entered into binding agreements with the Assistant Secretary of the Army for Civil Works requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of completed elements and to hold and save the United States free from damages due to the construction, operation, and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that is necessary to accomplish the established goals is authorized subject to the approval of the House and Senate Committees on Appropriations.

Deadline.
Cost estimates.

Deadlines.
Reports.

EXPENSES

For an additional amount for "Expenses" for increased efforts by the Mississippi Valley Division to oversee emergency response and recovery activities related to the consequences of hurricanes in the Gulf of Mexico in 2005, $1,500,000 to remain available until expended.

## CHAPTER 4—SMALL BUSINESS

### SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans authorized by section 7(b) of the Small Business Act, for necessary expenses related to flooding in Midwestern States and other natural disasters, $164,939,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for expenses to carry out the direct loan program in response to flooding in Midwestern States and other natural disasters, including onsite assistance to disaster victims, increased staff at call centers, processing centers, and field inspections teams, and attorneys to assist in loan closings, $101,814,000, to remain available until expended, of which $1,000,000 is for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program and shall be paid to appropriations for the Office of Inspector General; of which $94,814,000 is for direct administrative expenses of loan making and servicing to carry out the direct loan program, which may be paid to appropriations for Salaries and Expenses; and of which $6,000,000 is for indirect administrative expenses, which may be paid to appropriations for Salaries and Expenses.

## CHAPTER 5—FEMA DISASTER RELIEF

## DEPARTMENT OF HOMELAND SECURITY

### FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster Relief", $897,000,000, to remain available until expended.

## CHAPTER 6—HOUSING AND URBAN DEVELOPMENT

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### PERMANENT SUPPORTIVE HOUSING

For the provision of 3,000 units of permanent supportive housing as referenced in the Road Home Program of the Louisiana Recovery Authority approved by the Secretary of Housing and Urban Development, $73,000,000, to remain available until

expended, of which $20,000,000 shall be for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), including administrative expenses not to exceed $3,000,000, and $50,000,000 shall be for grants under the Shelter Plus Care program as authorized under subtitle F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11403 et seq.): *Provided*, That the Secretary of Housing and Urban Development shall, upon request, make funds available under this paragraph to the State of Louisiana or its designee or designees, upon request: *Provided further*, That notwithstanding any other provision of law, for the purpose of administering the amounts provided under this paragraph, the State of Louisiana or its designee or designees may act in all respects as a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)): *Provided further*, That subparagraphs (B) and (D) of section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) shall not apply with respect to vouchers made available under this paragraph.

Louisiana.

## COMMUNITY PLANNING AND DEVELOPMENT

### COMMUNITY DEVELOPMENT FUND

For an additional amount for "Community Development Fund", for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of recent natural disasters, $300,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93–383): *Provided*, That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each State: *Provided further*, That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers: *Provided further*, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State under this heading: *Provided further*, That each State may use up to five percent of its allocation for administrative costs: *Provided further*, That in administering the funds under this heading, the Secretary of Housing and Urban Development shall waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute, as modified: *Provided further*, That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: *Provided further*, That the Secretary

Waiver authority.

Waiver authority.

Federal Register, publication.
Deadline.

shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: *Provided further*, That every waiver made by the Secretary must be reconsidered according to the three previous provisos on the two-year anniversary of the day the Secretary published the waiver in the Federal Register: *Provided further*, That prior to the obligation of funds each State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further*, That each State will report quarterly to the Committees on Appropriations on all awards and uses of funds made available under this heading, including specifically identifying all awards of sole-source contracts and the rationale for making the award on a sole-source basis: *Provided further*, That the Secretary shall notify the Committees on Appropriations on any proposed allocation of any funds and any related waivers made pursuant to these provisions under this heading no later than 5 days before such waiver is made: *Provided further*, That the Secretary shall establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits.

Plans.

Reports.
Deadlines.

Notification.
Deadline.

Procedures.
Reports.
Deadlines.

## TITLE IV—EMERGENCY UNEMPLOYMENT COMPENSATION

### FEDERAL-STATE AGREEMENTS

SEC. 4001. (a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the "Secretary"). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

Deadline.
Notice.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before May 1, 2007);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (except as provided under subsection (e)); and

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

Applicability.

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except—

(A) that an individual shall not be eligible for emergency unemployment compensation under this title unless, in the base period with respect to which the individual exhausted all rights to regular compensation under the State law, the individual had 20 weeks of full-time insured employment or the equivalent in insured wages, as determined under the provisions of the State law implementing section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(B) where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an emergency unemployment compensation account is established under section 4002 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of emergency unemployment compensation prior to extended compensation to individuals who otherwise meet the requirements of this section.

(f) UNAUTHORIZED ALIENS INELIGIBLE.—A State shall require as a condition of eligibility for emergency unemployment compensation under this Act that each alien who receives such compensation must be legally authorized to work in the United States, as defined for purposes of the Federal Unemployment Tax Act (26 U.S.C. 3301 et seq.). In determining whether an alien meets the requirements of this subsection, a State must follow the procedures provided in section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)).

EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT

26 USC 3304 note.

SEC. 4002. (a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION

SEC. 4003. (a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement. 26 USC 3304 note.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 4004. (a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a)) shall be used for the making of payments to States having agreements entered into under this title. 26 USC 3304 note.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the Government Accountability Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the

account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

FRAUD AND OVERPAYMENTS

26 USC 3304 note.

SEC. 4005. (a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

Waiver authority.

(b) REPAYMENT.—In the case of individuals who have received amounts of emergency unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State

agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the emergency unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final. Notice.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

DEFINITIONS

SEC. 4006. In this title, the terms "compensation", "regular compensation", "extended compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note). 26 USC 3304 note.

APPLICABILITY

SEC. 4007. (a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment— 26 USC 3304 note.

(1) beginning after the date on which such agreement is entered into; and Effective date.

(2) ending on or before March 31, 2009. Termination date.

(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual who has amounts remaining in an account established under section 4002 as of the last day of the last week (as determined in accordance with the applicable State law) ending on or before March 31, 2009, emergency unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such last day for which the individual meets the eligibility requirements of this title.

(2) LIMIT ON COMPENSATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after June 30, 2009.

## TITLE V—VETERANS EDUCATIONAL ASSISTANCE

SHORT TITLE

SEC. 5001. This title may be cited as the "Post-9/11 Veterans Educational Assistance Act of 2008". Post-9/11 Veterans Educational Assistance Act of 2008. 38 USC 101 note.

FINDINGS

SEC. 5002. Congress makes the following findings: 38 USC 3301 note.

(1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.

(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.

(3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many "G.I. Bills" enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United States economy, and has a positive effect on recruitment for the Armed Forces.

(4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.

(5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.

(6) It is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.

EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WHO SERVE AFTER SEPTEMBER 11, 2001

SEC. 5003. (a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

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

## "CHAPTER 33—POST–9/11 EDUCATIONAL ASSISTANCE

"SUBCHAPTER I—DEFINITIONS

"Sec.
"3301. Definitions.

"SUBCHAPTER II—EDUCATIONAL ASSISTANCE

"3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement.
"3312. Educational assistance: duration.
"3313. Educational assistance: amount; payment.
"3314. Tutorial assistance.
"3315. Licensure and certification tests.
"3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service.
"3317. Public-private contributions for additional educational assistance.
"3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education.
"3319. Authority to transfer unused education benefits to family members.

"SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

"3321. Time limitation for use of and eligibility for entitlement.
"3322. Bar to duplication of educational assistance benefits.
"3323. Administration.
"3324. Allocation of administration and costs.

"SUBCHAPTER I—DEFINITIONS

**"§ 3301. Definitions**

"In this chapter:

"(1) The term 'active duty' has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b)):

"(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A).

"(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

"(2) The term 'entry level and skill training' means the following:

"(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training.

"(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called 'A' School).

"(C) In the case of members of the Air Force, Basic Military Training and Technical Training.

"(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

"(E) In the case of members of the Coast Guard, Basic Training.

"(3) The term 'program of education' has the meaning given such term in section 3002, except to the extent otherwise provided in section 3313.

"(4) The term 'Secretary of Defense' means the Secretary of Defense, except that the term means the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

"SUBCHAPTER II—EDUCATIONAL ASSISTANCE

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

"(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

"(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

"(1) An individual who—

"(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

"(B) after completion of service described in subparagraph (A)—

"(i) continues on active duty; or

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

"(2) An individual who—

"(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

"(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

"(3) An individual who—

"(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

"(B) after completion of service described in subparagraph (A)—

"(i) continues on active duty for an aggregate of less than 36 months; or

"(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

"(4) An individual who—

"(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

"(B) after completion of service described in subparagraph (A)—

"(i) continues on active duty for an aggregate of less than 30 months; or

"(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

"(5) An individual who—

"(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

"(B) after completion of service described in subparagraph (A)—

"(i) continues on active duty for an aggregate of less than 24 months; or

"(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

"(6) An individual who—

"(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

"(B) after completion of service described in subparagraph (A)—

"(i) continues on active duty for an aggregate of less than 18 months; or

"(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

"(7) An individual who—

"(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

"(B) after completion of service described in subparagraph (A)—

"(i) continues on active duty for an aggregate of less than 12 months; or

"(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

"(8) An individual who—

"(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

"(B) after completion of service described in subparagraph (A)—

"(i) continues on active duty for an aggregate of less than 6 months; or

"(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

"(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

"(1) A discharge from active duty in the Armed Forces with an honorable discharge.

"(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

"(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

"(4) A discharge or release from active duty in the Armed Forces for—

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

"(B) hardship; or

"(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

"(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which

an individual's entitlement to educational assistance under this chapter is based:

"(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

"(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10.

"(3) A period of service that is terminated because of a defective enlistment and induction based on—

"(A) the individual's being a minor for purposes of service in the Armed Forces;

"(B) an erroneous enlistment or induction; or

"(C) a defective enlistment agreement.

"(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of subsection (b).

**"§ 3312. Educational assistance: duration**

"(a) IN GENERAL.—Subject to section 3695 and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 equal to 36 months.

"(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2).

"(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—

"(1) IN GENERAL.—Any payment of educational assistance described in paragraph (2) shall not—

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

"(B) be counted against the aggregate period for which section 3695 limits the individual's receipt of educational assistance under this chapter.

"(2) DESCRIPTION OF PAYMENT OF EDUCATIONAL ASSISTANCE.—Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

"(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

"(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

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

"(3) PERIOD FOR WHICH PAYMENT NOT CHARGED.—The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

**"§ 3313. Educational assistance: amount; payment**

"(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

"(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is offered by an institution of higher learning (as that term is defined in section 3452(f)) and is approved for purposes of chapter 30 (including approval by the State approving agency concerned).

"(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

"(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2), amounts as follows:

"(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.

"(B) A monthly stipend in an amount as follows:

"(i) For each month the individual pursues the program of education (other than, in the case of assistance under this section only, a program of education offered through distance learning), a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.

"(ii) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs

with respect to such quarter, semester, or term in the amount equal to—

"(I) $1,000, multiplied by

"(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

"(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3), amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

"(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4), amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

"(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5), amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

"(5) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(6), amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

"(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7), amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

"(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8), amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

"(d) FREQUENCY OF PAYMENT.—

"(1) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

"(2) MONTHLY PAYMENTS.—Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

"(3) REGULATIONS.—The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

"(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—

"(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

"(2) AMOUNT OF ASSISTANCE.—The amount of educational assistance payable under this chapter to an individual pursuing a program of education while on active duty is the lesser of—

"(A) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

"(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1)

"(3) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

"(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

"(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—

"(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less.

"(2) AMOUNT OF ASSISTANCE.—The educational assistance payable under this chapter to an individual pursuing a program of education on half-time basis or less is the amounts as follows:

"(A) The amount equal to the lesser of—

"(i) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

"(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

"(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum

amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

"(3) QUARTER, TERM, OR SEMESTER PAYMENTS.—Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

"(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

"(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

"(B) the number of course hours for full-time pursuit of such program of education.

"(g) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2), and (f)(2)(A) shall be paid directly to the educational institution concerned.

"(h) ESTABLISHED CHARGES DEFINED.—

"(1) IN GENERAL.—In this section, the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

"(2) BASIS OF DETERMINATION.—Established charges shall be determined for purposes of this subsection on the following basis:

"(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

"(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

**"§ 3314. Tutorial assistance**

"(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492.

"(b) CONDITIONS.—

"(1) IN GENERAL.—The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492.

"(2) CERTIFICATION.—In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

"(A) such benefits are essential to correct a deficiency of the individual in such course; and

"(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

"(c) AMOUNT.—

"(1) IN GENERAL.—The amount of benefits described in subsection (a) that are payable under this section may not exceed $100 per month, for a maximum of 12 months, or until a maximum of $1,200 is utilized.

"(2) AS ADDITIONAL ASSISTANCE.—The amount provided an individual under this subsection is in addition to the amounts of educational assistance paid the individual under section 3313.

"(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance benefits provided the individual under this chapter.

**"§ 3315. Licensure and certification tests**

"(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to payment for one licensing or certification test described in section 3452(b).

"(b) LIMITATION ON AMOUNT.—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

"(1) $2,000; or

"(2) the fee charged for the test.

"(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.

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

"(a) INCREASED ASSISTANCE FOR MEMBERS WITH CRITICAL SKILLS OR SPECIALTY.—

"(1) IN GENERAL.—In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c), or under paragraphs (2) through (7) of such section (as applicable).

"(2) MAXIMUM AMOUNT OF INCREASE IN ASSISTANCE.—The amount of the increase in educational assistance authorized by paragraph (1) may not exceed the amount equal to the monthly amount of increased basic educational assistance providable under section 3015(d)(1) at the time of the increase under paragraph (1).

"(b) SUPPLEMENTAL ASSISTANCE FOR ADDITIONAL SERVICE.—

"(1) IN GENERAL.—The Secretary concerned may provide for the payment to an individual entitled to educational assistance under this chapter of supplemental educational assistance

for additional service authorized by subchapter III of chapter 30. The amount so payable shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c), or under paragraphs (2) through (7) of such section (as applicable).

"(2) ELIGIBILITY.—Eligibility for supplement educational assistance under this subsection shall be determined in accordance with the provisions of subchapter III of chapter 30, except that any reference in such provisions to eligibility for basic educational assistance under a provision of subchapter II of chapter 30 shall be treated as a reference to eligibility for educational assistance under the appropriate provision of this chapter.

"(3) AMOUNT.—The amount of supplemental educational assistance payable under this subsection shall be the amount equal to the monthly amount of supplemental educational payable under section 3022.

"(c) REGULATIONS.—The Secretaries concerned shall administer this section in accordance with such regulations as the Secretary of Defense shall prescribe.

### "§ 3317. Public-private contributions for additional educational assistance

"(a) ESTABLISHMENT OF PROGRAM.—In instances where the educational assistance provided pursuant to section 3313(c)(1)(A) does not cover the full cost of established charges (as specified in section 3313), the Secretary shall carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of those established charges not otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary. The program shall only apply to covered individuals described in paragraphs (1) and (2) of section 3311(b).

Applicability.

"(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the 'Yellow Ribbon G.I. Education Enhancement Program'.

"(c) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program under this section. Each agreement shall specify the following:

"(1) The manner (whether by direct grant, scholarship, or otherwise) of the contributions to be made by the college or university concerned.

"(2) The maximum amount of the contribution to be made by the college or university concerned with respect to any particular individual in any given academic year.

"(3) The maximum number of individuals for whom the college or university concerned will make contributions in any given academic year.

"(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

"(d) MATCHING CONTRIBUTIONS.—

"(1) IN GENERAL.—In instances where the educational assistance provided an individual under section 3313(c)(1)(A) does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs for tuition and mandatory

fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

"(2) USE OF APPROPRIATED FUNDS.—Amounts available to the Secretary under section 3324(b) for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

"(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

Web site. Public information. Lists.

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

"(a) ADDITIONAL ASSISTANCE.—Each individual described in subsection (b) shall be paid additional assistance under this section in the amount of $500.

"(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual entitled to educational assistance under this chapter—

"(1) who resides in a county (or similar entity utilized by the Bureau of the Census) with less than seven persons per square mile, according to the most recent decennial Census; and

"(2) who—

"(A) physically relocates a distance of at least 500 miles in order to pursue a program of education for which the individual utilizes educational assistance under this chapter; or

"(B) travels by air to physically attend an institution of higher education for pursuit of such a program of education because the individual cannot travel to such institution by automobile or other established form of transportation due to an absence of road or other infrastructure.

"(c) PROOF OF RESIDENCE.—For purposes of subsection (b)(1), an individual may demonstrate the individual's place of residence utilizing any of the following:

"(1) DD Form 214, Certification of Release or Discharge from Active Duty.

"(2) The most recent Federal income tax return.

"(3) Such other evidence as the Secretary shall prescribe for purposes of this section.

"(d) SINGLE PAYMENT OF ASSISTANCE.—An individual is entitled to only one payment of additional assistance under this section.

"(e) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under this section is in addition to any other educational assistance benefits provided the individual under this chapter.

**"§ 3319. Authority to transfer unused education benefits to family members**

"(a) IN GENERAL.—Subject to the provisions of this section, the Secretary of Defense may authorize the Secretary concerned, to promote recruitment and retention of members of the Armed Forces, to permit an individual described in subsection (b) who

is entitled to educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such individual's entitlement to such assistance, subject to the limitation under subsection (d).

"(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any member of the Armed Forces who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, has completed at least—

"(1) six years of service in the armed forces and enters into an agreement to serve at least four more years as a member of the Armed Forces; or

"(2) the years of service as determined in regulations pursuant to section (k).

"(c) ELIGIBLE DEPENDENTS.—An individual approved to transfer an entitlement to educational assistance under this section may transfer the individual's entitlement as follows:

"(1) To the individual's spouse.

"(2) To one or more of the individual's children.

"(3) To a combination of the individuals referred to in paragraphs (1) and (2).

"(d) LIMITATION ON MONTHS OF TRANSFER.—The total number of months of entitlement transferred by a individual under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

"(e) DESIGNATION OF TRANSFEREE.—An individual transferring an entitlement to educational assistance under this section shall—

"(1) designate the dependent or dependents to whom such entitlement is being transferred;

"(2) designate the number of months of such entitlement to be transferred to each such dependent; and

"(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

"(f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—

"(1) TIME FOR TRANSFER.—Subject to the time limitation for use of entitlement under section 3321 an individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed.

"(2) MODIFICATION OR REVOCATION.—

"(A) IN GENERAL.—An individual transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred.

"(B) NOTICE.—The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

"(3) PROHIBITION ON TREATMENT OF TRANSFERRED ENTITLEMENT AS MARITAL PROPERTY.—Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

"(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

"(1) in the case of entitlement transferred to a spouse, the completion by the individual making the transfer of at least—

"(A) six years of service in the armed forces; or

"(B) the years of service as determined in regulations pursuant to subsection (j); or

"(2) in the case of entitlement transferred to a child, both—

"(A) the completion by the individual making the transfer of at least—

"(i) ten years of service in the armed forces; or

"(ii) the years of service as determined in regulations pursuant to subsection (j); and

"(B) either—

"(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

"(ii) the attainment by the child of 18 years of age.

"(h) ADDITIONAL ADMINISTRATIVE MATTERS.—

"(1) USE.—The use of any entitlement to educational assistance transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

"(2) NATURE OF TRANSFERRED ENTITLEMENT.—Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6)—

"(A) in the case of entitlement transferred to a spouse under this section, the spouse is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred; or

"(B) in the case of entitlement transferred to a child under this section, the child is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred as if the individual were not on active duty.

"(3) RATE OF PAYMENT.—The monthly rate of educational assistance payable to a dependent to whom entitlement referred to in paragraph (2) is transferred under this section shall be payable—

"(A) in the case of a spouse, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer; or

"(B) in the case of a child, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer as if the individual were not on active duty.

"(4) DEATH OF TRANSFEROR.—The death of an individual transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

"(5) LIMITATION ON AGE OF USE BY CHILD TRANSFEREES.—A child to whom entitlement is transferred under this section

may use the benefit without regard to the 15-year delimiting date, but may not use any entitlement so transferred after attaining the age of 26 years.

"(6) SCOPE OF USE BY TRANSFEREES.—The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

Applicability.

"(7) ADDITIONAL ADMINISTRATIVE PROVISIONS.—The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible individual for purposes of such provisions.

"(i) OVERPAYMENT.—

"(1) JOINT AND SEVERAL LIABILITY.—In the event of an overpayment of educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685.

"(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (b)(1) in accordance with the terms of the agreement of the individual under that subsection, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of educational assistance under paragraph (1).

"(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

"(i) by reason of the death of the individual; or

"(ii) for a reason referred to in section 3311(c)(4).

"(j) REGULATIONS.—(1) The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section.

"(2) Such regulations shall specify—

"(A) the manner of authorizing the transfer of entitlements under this section;

"(B) the eligibility criteria in accordance with subsection (b); and

"(C) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).

"(k) SECRETARY CONCERNED DEFINED.—Notwithstanding section 101(25), in this section, the term 'Secretary concerned' means—

"(1) the Secretary of the Army with respect to matters concerning the Army;

"(2) the Secretary of the Navy with respect to matters concerning the Navy or the Marine Corps;

"(3) the Secretary of the Air Force with respect to matters concerning the Air Force; and

"(4) the Secretary of Defense with respect to matters concerning the Coast Guard, or the Secretary of Homeland Security when it is not operating as a service in the Navy.

"SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

**"§ 3321. Time limitation for use of and eligibility for entitlement**

"(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's last discharge or release from active duty.

"(b) EXCEPTIONS.—

"(1) APPLICABILITY OF SECTION 3031 TO RUNNING OF PERIOD.—Subsections (b), (c), and (d) of section 3031 shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 with respect to the running of the 10-year period described in section 3031(a).

"(2) APPLICABILITY OF SECTION 3031 TO TERMINATION.—Section 3031(f) shall apply with respect to the termination of an individual's entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual's entitlement to educational assistance under chapter 30, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 shall be deemed to be a reference to 3312.

"(3) DETERMINATION OF LAST DISCHARGE OR RELEASE.—For purposes of subsection (a), an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3311(b)(2).

**"§ 3322. Bar to duplication of educational assistance benefits**

"(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

"(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

"(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

"(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under

chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section 5003(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

**"§ 3323. Administration**

"(a) IN GENERAL.—

Applicability.

"(1) IN GENERAL.—Except as otherwise provided in this chapter, the provisions specified in section 3034(a)(1) shall apply to the provision of educational assistance under this chapter.

"(2) SPECIAL RULE.—In applying the provisions referred to in paragraph (1) to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such provisions to the term 'eligible veteran' shall be deemed to refer to an individual entitled to educational assistance under this chapter.

"(3) RULE FOR APPLYING SECTION 3474.—In applying section 3474 to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such section 3474 to the term 'educational assistance allowance' shall be deemed to refer to educational assistance payable under section 3313.

"(4) RULE FOR APPLYING SECTION 3482.—In applying section 3482(g) to an individual entitled to educational assistance under this chapter for purposes of this section—

"(A) the first reference to the term 'educational assistance allowance' in such section 3482(g) shall be deemed to refer to educational assistance payable under section 3313; and

"(B) the first sentence of paragraph (1) of such section 3482(g) shall be applied as if such sentence ended with 'equipment'.

"(b) INFORMATION ON BENEFITS.—

Regulations.

"(1) TIMING FOR PROVIDING.—The Secretary shall provide the information described in paragraph (2) to each member of the Armed Forces at such times as the Secretary and the Secretary of Defense shall jointly prescribe in regulations.

"(2) DESCRIPTION OF INFORMATION.—The information described in this paragraph is information on benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of educational assistance under this chapter, including application forms for such assistance under section 5102.

"(3) TO WHOM PROVIDED.—The Secretary of Veterans Affairs shall furnish the information and forms described in paragraph (2), and other educational materials on educational assistance under this chapter, to educational institutions, training establishments, military education personnel, and such other persons and entities as the Secretary considers appropriate.

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations for the administration of this chapter.

"(2) UNIFORMITY.—Any regulations prescribed by the Secretary of Defense for purposes of this chapter shall apply uniformly across the Armed Forces. Applicability.

**"§ 3324. Allocation of administration and costs**

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

"(b) COSTS.—Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department for the payment of readjustment benefits.".

(2) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 32 the following new item:

**"33. Post-9/11 Educational Assistance ..... 3301.".**

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO DUPLICATION OF BENEFITS.—

(A) Section 3033 of title 38, United States Code, is amended—

(i) in subsection (a)(1) by inserting "33," after "32,"; and

(ii) in subsection (c) by striking "both the program established by this chapter and the program established by chapter 106 of title 10" and inserting "two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10".

(B) Paragraph (4) of section 3695(a) of such title is amended to read as follows:

"(4) Chapters 30, 32, 33, 34, 35, and 36.".

(C) Section 16163(e) of title 10, United States Code, is amended by inserting "33," after "32,".

(2) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Title 38, United States Code, is further amended by inserting "33," after "32," each place it appears in the following provisions:

(i) In subsections (b) and (e)(1) of section 3485.

(ii) In section 3688(b).

(iii) In subsections (a)(1), (c)(1), (c)(1)(G), (d), and (e)(2) of section 3689.

(iv) In section 3690( b)(3)(A).

(v) In subsections (a) and (b) of section 3692.

(vi) In section 3697(a).

(B) Section 3697A(b)(1) of such title is amended by striking "or 32" and inserting "32, or 33".

(c) APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM.— 38 USC 3301 note.

(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

(A) as of August 1, 2009—

(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, entitlement under that chapter;

(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, entitlement under the applicable chapter;

(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any entitlement under that chapter;

(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, but has not used any entitlement under such chapter;

(v) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

(B) as of the date of the individual's election under this paragraph, meets the requirements for entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added).

Effective date.

(2) CESSATION OF CONTRIBUTIONS TOWARD GI BILL.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

(3) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

(A) ELECTION TO REVOKE.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of this subsection.

(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not

revoked by an individual in accordance with that subparagraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

(4) POST-9/11 EDUCATIONAL ASSISTANCE.—

(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in paragraph (5), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i) of that paragraph, the number of months of entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to—

(i) the number of months of unused entitlement of the individual under chapter 30 of title 38, United States Code, as of the date of the election, plus

(ii) the number of months, if any, of entitlement revoked by the individual under paragraph (3)(A).

(5) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—

(A) IN GENERAL.—In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, is not authorized to be available to the individual under the provisions of chapter 33 of title 38, United States Code (as so added), the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

(B) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement under subparagraph (A) shall be chargeable against the entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), at the rate of one month of entitlement under such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) (as determined as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable).

(6) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.—

(A) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph, the amount of educational assistance payable to the individual under chapter 33 of title 38,

United States Code (as so added), as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of such title, or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

(i) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of title 38, United States Code, as of the date of the election, multiplied by

(ii) the fraction—

(I) the numerator of which is—

(aa) the number of months of entitlement to basic educational assistance under chapter 30 of title 38, United States Code, remaining to the individual at the time of the election; plus

(bb) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under paragraph (3)(A); and

(II) the denominator of which is 36 months.

(B) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of subparagraph (A)(ii)(I)(aa) shall be 36 months.

(C) TIMING OF PAYMENT.—The amount payable with respect to an individual under subparagraph (A) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, United States Code (as so added), or under paragraphs (2) through (7) of that section (as applicable), before the exhaustion of the individual's entitlement to educational assistance under chapter 33 of such title (as so added).

(7) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALITY AND ADDITIONAL SERVICE.—An individual making an election under paragraph (1)(A) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of title 38, United States Code, or section 16131(i) of title 10, United States Code, or supplemental educational assistance under subchapter III of chapter 30 of title 38, United States Code, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added), in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

(8) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (3)(A) is irrevocable.

10 USC 16163 note.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on August 1, 2009.

INCREASE IN AMOUNTS OF BASIC EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL

SEC. 5004. (a) EDUCATIONAL ASSISTANCE BASED ON THREE-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (a)(1) of section 3015 of title 38, United States Code, is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

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

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

(b) EDUCATIONAL ASSISTANCE BASED ON TWO-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (b)(1) of such section is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

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

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

(c) MODIFICATION OF MECHANISM FOR COST-OF-LIVING ADJUSTMENTS.—Subsection (h)(1) of such section is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

"(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).".

(d) EFFECTIVE DATE.— 38 USC 3015 note.

(1) IN GENERAL.—The amendments made by this section shall take effect on August 1, 2008.

(2) NO COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2009.—The adjustment required by subsection (h) of section 3015 of title 38, United States Code (as amended by this section), in rates of basic educational assistance payable under subsections (a) and (b) of such section (as so amended) shall not be made for fiscal year 2009.

MODIFICATION OF AMOUNT AVAILABLE FOR REIMBURSEMENT OF STATE AND LOCAL AGENCIES ADMINISTERING VETERANS EDUCATION BENEFITS

SEC. 5005. Section 3674(a)(4) of title 38, United States Code, is amended by striking "may not exceed" and all that follows through the end and inserting "shall be $19,000,000.".

AUTHORITY TO TRANSFER UNUSED EDUCATION BENEFITS TO FAMILY MEMBERS FOR CAREER SERVICE MEMBERS

SEC. 5006. (a) AUTHORITY TO TRANSFER MONTGOMERY GI BILL BENEFITS TO A DEPENDENT.—Section 3020 of title 38, United States Code, is amended—

(1) by striking the section heading and subsections (a) and (b) and inserting the following:

**"§ 3020. Authority to transfer unused education benefits to family members for career service members**

"(a) IN GENERAL.—Subject to the provisions of this section, the Secretary of Defense may authorize the Secretary concerned, to promote recruitment and retention of members of the Armed Forces, to permit an individual described in subsection (b) who is entitled to basic educational assistance under this subchapter to elect to transfer to one or more of the dependents specified in subsection (c) the unused portion of entitlement to such assistance, subject to the limitation under subsection (d).

"(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any member of the Armed Forces—

"(1) who, while serving on active duty or as a member of the Selected Reserve at the time of the approval by the Secretary concerned of the member's request to transfer entitlement to basic educational assistance under this section, has completed six years of service in the Armed Forces and enters into an agreement to serve at least four more years as a member of the Armed Forces; or

"(2) as determined in regulations pursuant to subsection (k).";

(2) by striking subsection (d) and inserting the following:

"(d) LIMITATION ON MONTHS OF TRANSFER.—(1) An individual approved to transfer an entitlement to basic educational assistance under this section may transfer any unused entitlement to one or more of the dependents specified in subsection (c).

"(2) The total number of months of entitlement transferred by an individual under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.";

(3) in subsection (f)(1) by striking "without regard to whether" and inserting "only while"; and

(4) in subsection (f)(2) by inserting "as long as the individual is serving on active duty or as a member of the Selected Reserve" after "so transferred";

(5) by adding at the end of subsection (f) the following:

"(3) Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.";

(6) in subsection (h)(5) by inserting "may use the benefit without regard to the 10-year delimiting date, but" after "under this section"; and

(7) by striking subsection (k) and inserting the following:

"(k) REGULATIONS.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section. Such regulations shall specify—

"(1) the manner of authorizing the military departments to offer transfer of entitlements under this section;

"(2) the eligibility criteria in accordance with subsection (b);

"(3) the limitations on the amount of entitlement eligible to be transferred; and

"(4) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).".

(b) AUTHORITY TO TRANSFER MONTGOMERY GI BILL FOR THE SELECTED RESERVE BENEFITS TO A DEPENDENT.—Chapter 1606 of title 10, United States Code, is amended by inserting after section 16132 the following:

**"§ 16132a. Authority to transfer unused education benefits to family members**

"(a) IN GENERAL.—Subject to regulation prescribed by the Secretary of Defense, the Secretary concerned may permit a member described in subsection (b) who is entitled to basic educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such member's entitlement to such assistance, subject to the limitation under subsection (d). Regulations.

"(b) ELIGIBLE MEMBERS.—A member referred to in subsection (a) is a member of the Selected Reserve of the Ready Reserve who, at the time of the approval of the member's request to transfer entitlement to basic educational assistance under this section, has completed—

"(1) at least six years of service in the Selected Reserve and enters into an agreement to service at least four more years as a member of the armed forces; or

"(2) the years of service as determined in regulations pursuant to subsection (j).

"(c) ELIGIBLE DEPENDENTS.—A member approved to transfer an entitlement to basic educational assistance under this section may transfer the member's entitlement as follows:

"(1) To the member's spouse.

"(2) To one or more of the member's children.

"(3) To a combination of the individuals referred to in paragraphs (1) and (2).

"(d) LIMITATION ON MONTHS OF TRANSFER.—The total number of months of entitlement transferred by a member under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

"(e) DESIGNATION OF TRANSFEREE.—A member transferring an entitlement to basic educational assistance under this section shall—

"(1) designate the dependent or dependents to whom such entitlement is being transferred;

"(2) designate the number of months of such entitlement to be transferred to each such dependent; and

"(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

"(f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—(1) Subject to the time limitation for use of entitlement under section 16133, a member approved to transfer entitlement to basic

educational assistance under this section may transfer such entitlement at any time after the approval of the member's request to transfer such entitlement.

"(2) A member transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred. The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

Notice.

"(3) Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

"(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to basic educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

"(1) in the case of entitlement transferred to a spouse, the completion by the member making the transfer of at least—

"(A) six years of service in the armed forces; or

"(B) the years of service as determined in regulations pursuant to subsection (j); or

"(2) in the case of entitlement transferred to a child, both—

"(A) the completion by the member making the transfer of at least—

"(i) ten years of service in the armed forces; or

"(ii) the years of service as determined in regulations pursuant to subsection (j); and

"(B) either—

"(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

"(ii) the attainment by the child of 18 years of age.

"(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the member making the transfer at the rate of one month for each month of transferred entitlement that is used.

"(2) Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this chapter in the same manner as the member from whom the entitlement was transferred.

"(3) The monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 16131 and 16131a to the member making the transfer.

"(4) The death of a member transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

"(5) The involuntary separation or retirement of the member—

"(A) because of a nondiscretionary provision of law for age or years of service;

"(B) because of a policy prescribed by the Secretary concerned mandating such separation or retirement based solely on age or years of service for the prescribed pay grade of an enlisted member;

"(C) under section 16133(b); or

"(D) because of medical disqualification which is not the result of gross negligence or misconduct of the member,

shall not affect the use of entitlement by the dependent to whom the entitlement is transferred.

"(6) A child to whom entitlement is transferred under this section may not use any entitlement so transferred after attaining the age of 26 years.

"(7) The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible member for purposes of such provisions. Applicability.

"(8) The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

"(i) OVERPAYMENT.—(1) In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the member making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of title 38.

"(2) Except as provided in paragraph (3), if a member's whose eligibility is terminated under section 16134(2), the amount of any transferred entitlement under this section that is used by a dependent of the member as of the date of such termination shall be treated as an overpayment of basic educational assistance under paragraph (1).

"(3) Paragraph (2) shall not apply in the case of a member who fails to complete service agreed to by the member—

"(A) by reason of the death of the member; or

"(B) for a reason referred to in section 16133(b).

"(j) REGULATIONS.—The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section. Such regulations shall specify—

"(1) the manner of authorizing the military departments to offer transfer of entitlements under this section;

"(2) the eligibility criteria in accordance with subsection (b);

"(3) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2); and

"(4) the manner in which the provisions referred to in subsections (h)(4) and (5) shall be administered with respect to a dependent to whom entitlement is transferred under this section.".

(c) AUTHORITY TO TRANSFER RESERVE EDUCATIONAL ASSISTANCE PROGRAM BENEFITS TO A DEPENDENT.—Chapter 1607 of such title is amended by inserting after section 16163 the following:

### "§ 16163a. Authority to transfer unused education benefits to family members

"(a) IN GENERAL.—Subject to the provisions of this section, the Secretary concerned may permit, at such Secretary's sole discretion, a member described in subsection (b) who is entitled to basic educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion

of such member's entitlement to such assistance, subject to the limitation under subsection (d).

"(b) ELIGIBLE MEMBERS.—A member referred to in subsection (a) is a member of the armed forces who, at the time of the approval of the member's request to transfer entitlement to basic educational assistance under this section, has completed at least—

"(1) six years of service in the armed forces and enters into an agreement to serve at least four more years as a member of the armed forces; or

"(2) the years of service as determined in regulations pursuant to section (j).

"(c) ELIGIBLE DEPENDENTS.—A member approved to transfer an entitlement to basic educational assistance under this section may transfer the member's entitlement as follows:

"(1) To the member's spouse.

"(2) To one or more of the member's children.

"(3) To a combination of the individuals referred to in paragraphs (1) and (2).

"(d) LIMITATION ON MONTHS OF TRANSFER.—The total number of months of entitlement transferred by a member under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

"(e) DESIGNATION OF TRANSFEREE.—A member transferring an entitlement to basic educational assistance under this section shall—

"(1) designate the dependent or dependents to whom such entitlement is being transferred;

"(2) designate the number of months of such entitlement to be transferred to each such dependent; and

"(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

"(f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—(1) Subject to the time limitation for use of entitlement under section 16164, a member approved to transfer entitlement to basic educational assistance under this section may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed.

"(2) A member transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred. The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

Notice.

"(3) Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

"(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to basic educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

"(1) in the case of entitlement transferred to a spouse, the completion by the member making the transfer of at least—

"(A) six years of service in the armed forces; or

"(B) the years of service as determined in regulations pursuant to subsection (j); or

"(2) in the case of entitlement transferred to a child, both—

"(A) the completion by the member making the transfer of at least—

"(i) ten years of service in the armed forces; or

"(ii) the years of service as determined in regulations pursuant to subsection (j); and

"(B) either—

"(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

"(ii) the attainment by the child of 18 years of age.

"(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the member making the transfer at the rate of one month for each month of transferred entitlement that is used.

"(2) Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this chapter in the same manner as the member from whom the entitlement was transferred.

"(3) The monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 16162 and 16162a to the member making the transfer.

"(4) The death of a member transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

"(5) Notwithstanding section 16164(a)(2), a child to whom entitlement is transferred under this section may use the benefit without regard to the 10-year delimiting date, but may not use any entitlement so transferred after attaining the age of 26 years.

"(6) The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible member for purposes of such provisions. Applicability.

"(7) The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

"(i) OVERPAYMENT.—

"(1) JOINT AND SEVERAL LIABILITY.—In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the member making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of title 38.

"(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—Except as provided in paragraph (3), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (b)(1) in accordance with the terms of the agreement of the individual under that subsection, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of educational assistance under paragraph (1).

"(3) Paragraph (2) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

"(A) by reason of the death of the individual; or

"(B) for a reason referred to in section 16133(b).

"(j) REGULATIONS.—(1) The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section.

"(2) Such regulations shall specify—

"(A) the manner of authorizing the transfer of entitlements under this section;

"(B) the eligibility criteria in accordance with subsection (b); and

"(C) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).

"(k) SECRETARY CONCERNED DEFINED.—For purposes of this section, the term 'Secretary concerned' has the meaning given in section 101(a)(9) in the case of a member of the armed forces.".

(d) CONFORMING AMENDMENTS.—Section 16133(a) of title 10, United States Code, is amended by striking "(1)" and all that follows through the period at the end of the subsection and inserting "on the date the person is separated from the Selected Reserve.".

(e) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 30 of title 38, United States Code, is amended by striking the item relating to section 3020 and inserting the following new item:

"3020. Authority to transfer unused education benefits to family members of career service members.".

(2) The table of sections at the beginning of chapter 1606 of title 10, United States Code, is amended by inserting after the item relating to section 16132 the following new item:

"16132a. Authority to transfer unused education benefits to family members.".

(3) The table of sections at the beginning of chapter 1607 of such title is amended by inserting after the item relating to section 16163 the following new item:

"16163a. Authority to transfer unused education benefits to family members.".

## TITLE VI—ACCOUNTABILITY AND TRANSPARENCY IN GOVERNMENT CONTRACTING

### CHAPTER 1—CLOSE THE CONTRACTOR FRAUD LOOPHOLE

Close the Contractor Fraud Loophole Act.

#### SHORT TITLE

41 USC 251 note.

SEC. 6101. This chapter may be cited as the "Close the Contractor Fraud Loophole Act".

#### REVISION OF THE FEDERAL ACQUISITION REGULATION

Deadline.
41 USC 251 note.

SEC. 6102. The Federal Acquisition Regulation shall be amended within 180 days after the date of the enactment of this Act pursuant to FAR Case 2007–006 (as published at 72 Fed Reg. 64019, November 14, 2007) or any follow-on FAR case to include provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those performed outside the United States and those for commercial items.

DEFINITION

SEC. 6103. In this chapter, the term "covered contract" means any contract in an amount greater than $5,000,000 and more than 120 days in duration. 41 USC 251 note.

## CHAPTER 2—GOVERNMENT FUNDING TRANSPARENCY

Government Funding Transparency Act of 2008.

SHORT TITLE

SEC. 6201. This chapter may be cited as the "Government Funding Transparency Act of 2008". 31 USC 6101 note.

FINANCIAL DISCLOSURE REQUIREMENTS FOR CERTAIN RECIPIENTS OF FEDERAL AWARDS

SEC. 6202. (a) DISCLOSURE REQUIREMENTS.—Section 2(b)(1) of the Federal Funding Accountability and Transparency Act (Public Law 109–282; 31 U.S.C. 6101 note) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) the names and total compensation of the five most highly compensated officers of the entity if—

"(i) the entity in the preceding fiscal year received—

"(I) 80 percent or more of its annual gross revenues in Federal awards; and

"(II) $25,000,000 or more in annual gross revenues from Federal awards; and

"(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.".

(b) REGULATIONS REQUIRED.—The Director of the Office of Management and Budget shall promulgate regulations to implement the amendment made by this chapter. Such regulations shall include a definition of "total compensation" that is consistent with regulations of the Securities and Exchange Commission at section 402 of part 229 of title 17 of the Code of Federal Regulations (or any subsequent regulation). 31 USC 6101 note.

## TITLE VII—MEDICAID PROVISIONS

SEC. 7001. (a) MORATORIA ON CERTAIN MEDICAID REGULATIONS.—

(1) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110–28.—Section 7002(a)(1) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) is amended— 121 Stat. 187.

(A) by striking "prior to the date that is 1 year after the date of enactment of this Act" and inserting "prior to April 1, 2009";

(B) in subparagraph (A), by inserting after "Federal Regulations)" the following: "or in the final regulation, relating to such parts, published on May 29, 2007 (72 Federal Register 29748) and determined by the United States District Court for the District of Columbia to have been 'improperly promulgated', *Alameda County Medical Center, et al., v. Leavitt, et al.,* Civil Action No. 08-0422, Mem. at 4 (D.D.C. May 23, 2008)"; and

(C) in subparagraph (C), by inserting before the period at the end the following: ", including the proposed regulation published on May 23, 2007 (72 Federal Register 28930)".

(2) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110–173.—Section 206 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended— 121 Stat. 2514.

(A) by striking "June 30, 2008" and inserting "April 1, 2009";

(B) by inserting ", including the proposed regulation published on August 13, 2007 (72 Federal Register 45201)," after "rehabilitation services"; and

(C) by inserting ", including the final regulation published on December 28, 2007 (72 Federal Register 73635)," after "school-based transportation".

(3) ADDITIONAL MORATORIA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to a provision described in subparagraph (B) or (C) if such restrictions are more restrictive in any aspect than those applied to the respective provision as of the date specified in subparagraph (D) for such provision.

(B) PORTION OF INTERIM FINAL REGULATION RELATING TO MEDICAID TREATMENT OF OPTIONAL CASE MANAGEMENT SERVICES.—

(i) IN GENERAL.—Subject to clause (ii), the provision described in this subparagraph is the interim final regulation relating to optional State plan case management services under the Medicaid program published on December 4, 2007 (72 Federal Register 68077) in its entirety.

(ii) EXCEPTION.—The provision described in this subparagraph does not include the portion of such regulation as relates directly to implementing section 1915(g)(2)(A)(ii) of the Social Security Act, as amended by section 6052 of the Deficit Reduction Act of 2005 (Public Law 109–171), through the definition of case management services and targeted case management services contained in proposed section 440.169 of title 42, Code of Federal Regulations, but only to the extent that such portion is not more restrictive than the policies set forth in the Dear State Medicaid Director letter on case management issued on January 19, 2001

(SMDL #01–013), and with respect to community transition case management, the Dear State Medicaid Director letter issued on July 25, 2000 (Olmstead Update 3).

(C) PORTION OF PROPOSED REGULATION RELATING TO MEDICAID ALLOWABLE PROVIDER TAXES.—

(i) IN GENERAL.—Subject to clause (ii), the provision described in this subparagraph is the final regulation relating to health-care-related taxes under the Medicaid program published on February 22, 2008 (73 Federal Register 9685) in its entirety.

(ii) EXCEPTION.—The provision described in this subparagraph does not include the portions of such regulation as relate to the following:

(I) REDUCTION IN THRESHOLD.—The reduction from 6 percent to 5.5 percent in the threshold applied under section 433.68(f)(3)(i) of title 42, Code of Federal Regulations, for determining whether or not there is an indirect guarantee to hold a taxpayer harmless, as required to carry out section 1903(w)(4)(C)(ii) of the Social Security Act, as added by section 403 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109–432).

(II) CHANGE IN DEFINITION OF MANAGED CARE.—The change in the definition of managed care as proposed in the revision of section 433.56(a)(8) of title 42, Code of Federal Regulations, as required to carry out section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by section 6051 of the Deficit Reduction Act of 2005 (Public Law 109–171).

(D) DATE SPECIFIED.—The date specified in this subparagraph for the provision described in—

(i) subparagraph (B) is December 3, 2007; or

(ii) subparagraph (C) is February 21, 2008.

(b) FUNDS TO REDUCE MEDICAID FRAUD AND ABUSE.— 42 USC 1320a–7g.

(1) IN GENERAL.—For purposes of reducing fraud and abuse in the Medicaid program under title XIX of the Social Security Act—

(A) there is appropriated to the Office of the Inspector General of the Department of Health and Human Services, out of any money in the Treasury not otherwise appropriated, $25,000,000, for fiscal year 2009; and

(B) there is authorized to be appropriated to such Office $25,000,000 for fiscal year 2010 and each subsequent fiscal year.

Amounts appropriated under this section shall remain available for expenditure until expended and shall be in addition to any other amounts appropriated or made available to such Office for such purposes with respect to the Medicaid program.

(2) ANNUAL REPORT.—Not later than September 30 of 2009 and of each subsequent year, the Inspector General of the Department of Health and Human Services shall submit to the Committees on Energy and Commerce and Appropriations of the House of Representatives and the Committees on Finance and Appropriations of the Senate a report on the activities

(and the results of such activities) funded under paragraph (1) to reduce waste, fraud, and abuse in the Medicaid program under title XIX of the Social Security Act during the previous 12 month period, including the amount of funds appropriated under such paragraph for each such activity and an estimate of the savings to the Medicaid program resulting from each such activity.

(c) STUDY AND REPORTS TO CONGRESS.—

(1) SECRETARIAL REPORT IDENTIFYING PROBLEMS.—Not later than January 1, 2009, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that—

(A) outlines the specific problems the Medicaid regulations referred to in the amendments made by paragraphs (1) and (2) of subsection (a) were intended to address;

(B) details how these regulations were designed to address these specific problems; and

(C) cites the legal authority for such regulations.

(2) INDEPENDENT COMPREHENSIVE STUDY AND REPORT.—

Contracts.

(A) IN GENERAL.—Not later than January 1, 2009, the Secretary of Health and Human Services shall enter into a contract with an independent organization for the purpose of—

(i) producing a comprehensive report on the prevalence of the problems outlined in the report submitted under paragraph (1);

(ii) identifying strategies in existence to address these problems; and

(iii) assessing the impact of each regulation referred to in such paragraph on each State and the District of Columbia.

(B) ADDITIONAL MATTER.—The report under subparagraph (A) shall also include—

(i) an identification of which claims for items and services (including administrative activities) under title XIX of the Social Security Act are not processed through systems described in section 1903(r) of such Act;

(ii) an examination of the reasons why these claims for such items and services are not processed through such systems; and

(iii) recommendations on actions by the Federal government and the States that can make claims for such items and services more accurate and complete consistent with such title.

(C) DEADLINE.—The report under subparagraph (A) shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than September 1, 2009.

(D) COOPERATION OF STATES.—If the Secretary of Health and Human Services determines that a State or the District of Columbia has not cooperated with the independent organization for purposes of the report under this paragraph, the Secretary shall reduce the amount paid to the State or District under section 1903(a) of the Social

Security Act (42 U.S.C. 1396b(a)) by $25,000 for each day on which the Secretary determines such State or District has not so cooperated. Such reduction shall be made through a process that permits the State or District to challenge the Secretary's determination.

(3) FUNDING.—

(A) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary without further appropriation, $5,000,000 to carry out this subsection.

(B) AVAILABILITY; AMOUNTS IN ADDITION TO OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVITIES.—Amounts appropriated pursuant to subparagraph (A) shall—

(i) remain available until expended; and

(ii) be in addition to any other amounts appropriated or made available to the Secretary of Health and Human Services with respect to the Medicaid program.

(d) ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.—

(1) ADDITION OF AUTHORITY.—Title XIX of the Social Security Act is amended by inserting after section 1939 the following new section:

"ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS

"SEC. 1940. (a) IMPLEMENTATION.— 42 USC 1396w.

"(1) IN GENERAL.—Subject to the provisions of this section, each State shall implement an asset verification program described in subsection (b), for purposes of determining or redetermining the eligibility of an individual for medical assistance under the State plan under this title.

"(2) PLAN SUBMITTAL.—In order to meet the requirement of paragraph (1), each State shall— Deadlines.

"(A) submit not later than a deadline specified by the Secretary consistent with paragraph (3), a State plan amendment under this title that describes how the State intends to implement the asset verification program; and

"(B) provide for implementation of such program for eligibility determinations and redeterminations made on or after 6 months after the deadline established for submittal of such plan amendment.

"(3) PHASE-IN.—

"(A) IN GENERAL.—

"(i) IMPLEMENTATION IN CURRENT ASSET VERIFICATION DEMO STATES.—The Secretary shall require those States specified in subparagraph (C) (to which an asset verification program has been applied before the date of the enactment of this section) to implement an asset verification program under this subsection by the end of fiscal year 2009.

"(ii) IMPLEMENTATION IN OTHER STATES.—The Secretary shall require other States to submit and implement an asset verification program under this subsection in such manner as is designed to result in the application of such programs, in the aggregate

for all such other States, to enrollment of approximately, but not less than, the following percentage of enrollees, in the aggregate for all such other States, by the end of the fiscal year involved:

"(I) 12.5 percent by the end of fiscal year 2009.
"(II) 25 percent by the end of fiscal year 2010.
"(III) 50 percent by the end of fiscal year 2011.
"(IV) 75 percent by the end of fiscal year 2012.
"(V) 100 percent by the end of fiscal year 2013.

Consultation.

"(B) CONSIDERATION.—In selecting States under subparagraph (A)(ii), the Secretary shall consult with the States involved and take into account the feasibility of implementing asset verification programs in each such State.

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

"(D) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as preventing a State from requesting, and the Secretary from approving, the implementation of an asset verification program in advance of the deadline otherwise established under such subparagraph.

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

"(b) ASSET VERIFICATION PROGRAM.—

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

"(A) requires each applicant for, or recipient of, medical assistance under the State plan under this title on the basis of being aged, blind, or disabled to provide authorization by such applicant or recipient (and any other person whose resources are required by law to be disclosed to determine the eligibility of the applicant or recipient for such assistance) for the State to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act but at no cost to the applicant or recipient) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (and such other person, as applicable), whenever the State determines the record is needed in connection with a determination with respect to such eligibility for (or the amount or extent of) such medical assistance; and

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

"(2) PROGRAM DESCRIBED.—A program described in this paragraph is a program for verifying individual assets in a manner consistent with the approach used by the Commissioner of Social Security under section 1631(e)(1)(B)(ii).

"(c) DURATION OF AUTHORIZATION.—Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act, an authorization

provided to a State under subsection (b)(1) shall remain effective until the earliest of—

"(1) the rendering of a final adverse decision on the applicant's application for medical assistance under the State's plan under this title;

"(2) the cessation of the recipient's eligibility for such medical assistance; or

"(3) the express revocation by the applicant or recipient (or such other person described in subsection (b)(1), as applicable) of the authorization, in a written notification to the State. Notification.

"(d) TREATMENT OF RIGHT TO FINANCIAL PRIVACY ACT REQUIREMENTS.—

"(1) An authorization obtained by the State under subsection (b)(1) shall be considered to meet the requirements of the Right to Financial Privacy Act for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

"(2) The certification requirements of section 1103(b) of the Right to Financial Privacy Act shall not apply to requests by the State pursuant to an authorization provided under subsection (b)(1).

"(3) A request by the State pursuant to an authorization provided under subsection (b)(1) is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act and of section 1102 of such Act, relating to a reasonable description of financial records.

"(e) REQUIRED DISCLOSURE.—The State shall inform any person who provides authorization pursuant to subsection (b)(1)(A) of the duration and scope of the authorization.

"(f) REFUSAL OR REVOCATION OF AUTHORIZATION.—If an applicant for, or recipient of, medical assistance under the State plan under this title (or such other person described in subsection (b)(1), as applicable) refuses to provide, or revokes, any authorization made by the applicant or recipient (or such other person, as applicable) under subsection (b)(1)(A) for the State to obtain from any financial institution any financial record, the State may, on that basis, determine that the applicant or recipient is ineligible for medical assistance.

"(g) USE OF CONTRACTOR.—For purposes of implementing an asset verification program under this section, a State may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the State determines appropriate, consistent with requirements in regulations relating to general contracting provisions and with section 1903(i)(2). In carrying out activities under such contract, such an entity shall be subject to the same requirements and limitations on use and disclosure of information as would apply if the State were to carry out such activities directly.

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

"(i) REPORTS.—A State implementing an asset verification program under this section shall furnish to the Secretary such reports concerning the program, at such times, in such format, and containing such information as the Secretary determines appropriate.

"(j) TREATMENT OF PROGRAM EXPENSES.—Notwithstanding any other provision of law, reasonable expenses of States in carrying out the program under this section shall be treated, for purposes of section 1903(a), in the same manner as State expenditures specified in paragraph (7) of such section.".

(2) STATE PLAN REQUIREMENTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (69) by striking "and" at the end;

(B) in paragraph (70) by striking the period at the end and inserting "; and"; and

(C) by inserting after paragraph (70), as so amended, the following new paragraph:

"(71) provide that the State will implement an asset verification program as required under section 1940.".

(3) WITHHOLDING OF FEDERAL MATCHING PAYMENTS FOR NONCOMPLIANT STATES.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (22) by striking "or" at the end;

(B) in paragraph (23) by striking the period at the end and inserting "; or"; and

(C) by adding after paragraph (23) the following new paragraph:

Deadlines.

"(24) if a State is required to implement an asset verification program under section 1940 and fails to implement such program in accordance with such section, with respect to amounts expended by such State for medical assistance for individuals subject to asset verification under such section, unless—

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

Action plan.

"(B) not later than 60 days after the date of a finding that the State is in noncompliance, the State submits to the Secretary (and the Secretary approves) a corrective action plan to remedy such noncompliance; and

"(C) not later than 12 months after the date of such submission (and approval), the State fulfills the terms of such corrective action plan.".

42 USC 1396a note.

(4) REPEAL.—Section 4 of Public Law 110–90 is repealed.

SEC. 7002. (a) MEDICARE IMPROVEMENT FUND.— Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"MEDICARE IMPROVEMENT FUND

42 USC 1395iii.

"SEC. 1898. (a) ESTABLISHMENT.—The Secretary shall establish under this title a Medicare Improvement Fund (in this section referred to as the 'Fund') which shall be available to the Secretary to make improvements under the original fee-for-service program under parts A and B for individuals entitled to, or enrolled for, benefits under part A or enrolled under part B.

"(b) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund for services furnished during fiscal year 2014, $2,220,000,000.

"(2) PAYMENT FROM TRUST FUNDS.—The amount specified under paragraph (1) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical

Insurance Trust Fund in such proportion as the Secretary determines appropriate.

"(3) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.".

(b) MEDICAID IMPROVEMENT FUND.— Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), as amended by section 7001(d), is further amended by adding at the end the following new section:

"MEDICAID IMPROVEMENT FUND

"SEC. 1941. (a) ESTABLISHMENT.—The Secretary shall establish under this title a Medicaid Improvement Fund (in this section referred to as the 'Fund') which shall be available to the Secretary to improve the management of the Medicaid program by the Centers for Medicare & Medicaid Services, including oversight of contracts and contractors and evaluation of demonstration projects. Payments made for activities under this subsection shall be in addition to payments that would otherwise be made for such activities. 42 USC 1396w–1.

"(b) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund—

"(A) for fiscal year 2014, $100,000,000; and

"(B) for fiscal years 2015 through 2018, $150,000,000.

"(2) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.". Certification.

(c) ADJUSTMENT TO PAQI FUND.—Section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w-4(l)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), is amended—

(1) in subparagraph (A)(i)—

(A) in subclause (III), by striking "$4,960,000,000" and inserting "$4,670,000,000"; and

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

"(IV) For expenditures during 2014, an amount equal to $290,000,000.";

(2) in subparagraph (A)(ii), by adding at the end the following new subclause:

"(IV) 2014.—The amount available for expenditures during 2014 shall only be available for an adjustment to the update of the conversion factor under subsection (d) for that year."; and

(3) in subparagraph (B)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; and"; and

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

"(iv) 2014 for payment with respect to physicians' services furnished during 2014.".

## TITLE VIII—GENERAL PROVISIONS, THIS ACT

### AVAILABILITY OF FUNDS

SEC. 8001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

### EMERGENCY DESIGNATION

SEC. 8002. Each amount in each title of this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

### REDUCTION IN DEFENSE AMOUNTS

SEC. 8003. Notwithstanding any other provision of this Act, the total amount appropriated in chapter 1 of title IX of this Act under the headings "Procurement", "Research, Development, Test and Evaluation", and "Defense Working Capital Funds" is hereby reduced by $3,577,845,000. Such reduction shall be applied proportionally to each appropriation account under such headings, and to each program, project, and activity within each such appropriation account.

### JOINT BASING INITIATIVES

SEC. 8004. Section 9310 of this Act is amended by inserting ", except funds deposited in the Department of Defense Base Closure Account 2005," after "None of the funds available to the Department of Defense".

### DEFENSE HEALTH PROGRAM

SEC. 8005. Amounts provided for "Defense Health Program" in Public Law 110-28 for Post Traumatic Stress Disorder and Traumatic Brain Injury (TBI) within operation and maintenance which remain available for obligation shall be made available for psychological health and traumatic brain injury.

### SHORT TITLE

SEC. 8006. This Act may be cited as the "Supplemental Appropriations Act, 2008".

# TITLE IX

## DEFENSE MATTERS

## CHAPTER 1

## DEFENSE SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008

### DEPARTMENT OF DEFENSE—MILITARY

### MILITARY PERSONNEL

#### MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $12,216,715,000.

#### MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $894,185,000.

#### MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $1,826,688,000.

#### MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $1,355,544,000.

#### RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve Personnel, Army", $304,200,000.

#### RESERVE PERSONNEL, NAVY

For an additional amount for "Reserve Personnel, Navy", $72,800,000.

#### RESERVE PERSONNEL, MARINE CORPS

For an additional amount for "Reserve Personnel, Marine Corps", $16,720,000.

#### RESERVE PERSONNEL, AIR FORCE

For an additional amount for "Reserve Personnel, Air Force", $5,000,000.

#### NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard Personnel, Army", $1,369,747,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard Personnel, Air Force", $4,000,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $17,223,512,000.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance, Navy", $2,977,864,000: *Provided,* That up to $112,607,000 shall be transferred to the Coast Guard "Operating Expenses" account.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $159,900,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $5,972,520,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $3,657,562,000, of which—

(1) not to exceed $25,000,000 may be used for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom;

(2) not to exceed $800,000,000, to remain available until expended, may be used for payments to reimburse key cooperating nations, for logistical, military, and other support provided to United States military operations, notwithstanding any other provision of law: *Provided,* That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non-reimbursable basis to coalition forces supporting United States military operations in Iraq and Afghanistan: *Provided further,* That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further,* That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph: *Provided further,* That of the amount

Deadline.
Notification.

Reports.
Deadlines.

available under this heading for the Defense Contract Management Agency, $52,000,000 shall remain available until September 30, 2009.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $164,839,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $109,876,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $70,256,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", $165,994,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $685,644,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", $287,369,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Iraq Freedom Fund", $50,000,000, to remain available for transfer until September 30, 2009, notwithstanding any other provision of law, only for the redevelopment of the Iraqi industrial sector by identifying, and providing assistance to, factories and other industrial facilities that are best situated to resume operations quickly and reemploy the Iraqi workforce: *Provided,* That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

Deadline.
Notification.

AFGHANISTAN SECURITY FORCES FUND

For an additional amount for the "Afghanistan Security Forces Fund", $1,400,000,000, to remain available until September 30, 2009.

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Iraq Security Forces Fund", $1,500,000,000, to remain available until September 30, 2009: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further,* That none of the assistance provided under this heading in the form of funds may be utilized for the provision of salaries, wages, or bonuses to personnel of the Iraqi Security Forces: *Provided further,* That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further,* That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further,* That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further,* That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Notification.

Deadline.
Notification.

Reports.
Deadline.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", $954,111,000, to remain available for obligation until September 30, 2010.

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile Procurement, Army", $561,656,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $5,463,471,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", $344,900,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $16,337,340,000, to remain available for obligation until September 30, 2010.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", $3,563,254,000, to remain available for obligation until September 30, 2010.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons Procurement, Navy", $317,456,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $304,945,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", $1,399,135,000, to remain available for obligation until September 30, 2010.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $2,197,390,000, to remain available for obligation until September 30, 2010.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $7,103,923,000, to remain available for obligation until September 30, 2010.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for "Missile Procurement, Air Force", $66,943,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for "Procurement of Ammunition, Air Force", $205,455,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $1,953,167,000, to remain available for obligation until September 30, 2010.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $408,209,000, to remain available for obligation until September 30, 2010.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $825,000,000, to remain available for obligation until September 30, 2010: *Provided,* That the Chiefs of the National Guard and Reserve components shall, prior to the expenditure of funds, and not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees an equipment modernization priority assessment with a detailed plan for the expenditure of funds for their respective National Guard and Reserve components.

Deadline. Assessment. Expenditure plan.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", $162,958,000, to remain available until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $366,110,000, to remain available until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $399,817,000, to remain available until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $816,598,000, to remain available until September 30, 2009.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for "Defense Working Capital Funds", $1,837,450,000, to remain available for obligation until expended.

NATIONAL DEFENSE SEALIFT FUND

For an additional amount for "National Defense Sealift Fund", $5,110,000, to remain available for obligation until expended.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $1,413,864,000, of which $957,064,000 shall be for operation and maintenance; of which $91,900,000 is for procurement, to remain available until September 30, 2010; of which $364,900,000 shall be for research, development, test and evaluation, to remain available until September 30, 2009: *Provided,* That in addition to amounts otherwise contained in this paragraph, $75,000,000 is hereby appropriated to the "Defense Health Program" for operation and maintenance for psychological health and traumatic brain injury, to remain available until September 30, 2009.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", $65,317,000, to remain available until September 30, 2009.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for "Office of the Inspector General", $6,394,000, of which $2,000,000 shall be for research, development, test and evaluation, to remain available until September 30, 2009.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 9101. Appropriations provided in this chapter are available for obligation until September 30, 2008, unless otherwise provided in this chapter.

SEC. 9102. Notwithstanding any other provision of law, funds made available in this chapter are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2008.

(INCLUDING TRANSFER OF FUNDS)

SEC. 9103. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to $2,500,000,000 of the funds made available to the Department of Defense in this chapter: *Provided,* That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: Notification.

*Provided further,* That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of Public Law 110–116, except for the fourth proviso.

SEC. 9104. (a) From funds made available for operation and maintenance in this chapter to the Department of Defense, not to exceed $1,226,841,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq, Afghanistan, and the Philippines to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi, Afghan, and Filipino people.

Deadlines.
Reports.

(b) Not later than 15 days after the end of each fiscal year quarter, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

(INCLUDING TRANSFER OF FUNDS)

SEC. 9105. During fiscal year 2008, the Secretary of Defense may transfer not to exceed $6,500,000 of the amounts in or credited to the Defense Cooperation Account, pursuant to 10 U.S.C. 2608, to such appropriations or funds of the Department of Defense as the Secretary shall determine for use consistent with the purposes for which such funds were contributed and accepted: *Provided,* That such amounts shall be available for the same time period as the appropriation to which transferred: *Provided further,* That the Secretary shall report to the Congress all transfers made pursuant to this authority.

Reports.

SEC. 9106. Of the amount appropriated by this chapter under the heading "Drug Interdiction and Counter-Drug Activities, Defense", not to exceed $20,000,000 may be used for the provision of support for counter-drug activities of the Governments of Afghanistan, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, and Turkmenistan, as specified in section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85, as amended by Public Laws 106–398, 108–136, 109–364, and 110–181): *Provided,* That such support shall be in addition to support provided under any other provision of the law.

SEC. 9107. Amounts provided in this chapter for operations in Iraq and Afghanistan may be used by the Department of Defense for the purchase of up to 20 heavy and light armored vehicles for force protection purposes, notwithstanding price or other limitations specified elsewhere in the Department of Defense Appropriations Act, 2008 (Public Law 110–116), or any other provision of law: *Provided,* That notwithstanding any other provision of law, funds provided in Public Law 110–116 and Public Law 110–161 under the heading "Other Procurement, Navy" may be used for the purchase of 21 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle: *Provided further,* That the Secretary of Defense shall submit a report in writing no later than 30 days after the end of each fiscal quarter notifying

Reports.
Deadlines.

the congressional defense committees of any purchase described in this section, including cost, purposes, and quantities of vehicles purchased.

(INCLUDING TRANSFER OF FUNDS)

SEC. 9108. Section 8122(c) of Public Law 110–116 is amended by adding at the end the following: 121 Stat. 1341.

"(4) Upon a determination that all or part of the funds transferred under paragraph (1) are not necessary to accomplish the purposes specified in subsection (b), such amounts may be transferred back to the 'Mine Resistant Ambush Protected Vehicle Fund'.".

SEC. 9109. Notwithstanding any other provision of law, not to exceed $150,000,000 of funds made available in this chapter may be obligated to conduct or support a program to build the capacity of a foreign country's national military forces in order for that country to conduct counterterrorist operations or participate in or support military and stability operations in which the U.S. Armed Forces are a participant: *Provided,* That funds available pursuant to the authority in this section shall be subject to the same restrictions, limitations, and reporting requirements as funds available pursuant to section 1206 of Public Law 109–163 as amended.

## CHAPTER 2

## DEFENSE BRIDGE FUND APPROPRIATIONS FOR FISCAL YEAR 2009

## DEPARTMENT OF DEFENSE—MILITARY

### MILITARY PERSONNEL

#### MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $839,000,000.

#### MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $75,000,000.

#### MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $55,000,000.

#### MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $75,000,000.

#### NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard Personnel, Army", $150,000,000.

## OPERATION AND MAINTENANCE

### OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $37,300,000,000.

### OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance, Navy", $3,500,000,000: *Provided,* That up to $112,000,000 shall be transferred to the Coast Guard "Operating Expenses" account.

### OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $2,900,000,000.

### OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $5,000,000,000.

### OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $2,648,569,000, of which not to exceed $200,000,000, to remain available until expended, may be used for payments to reimburse key cooperating nations, for logistical, military, and other support provided to United States military operations, notwithstanding any other provision of law: *Provided,* That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non-reimbursable basis to coalition forces supporting United States military operations in Iraq and Afghanistan: *Provided further,* That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further,* That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

Deadline. Notification.

Reports. Deadlines.

### OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $79,291,000.

### OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $42,490,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $47,076,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", $12,376,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $333,540,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", $52,667,000.

AFGHANISTAN SECURITY FORCES FUND

For an additional amount for the "Afghanistan Security Forces Fund", $2,000,000,000, to remain available until September 30, 2009.

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the "Iraq Security Forces Fund", $1,000,000,000, to remain available until September 30, 2009: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further,* That none of the assistance provided under this heading in the form of funds may be utilized for the provision of salaries, wages, or bonuses to personnel of the Iraqi Security Forces: *Provided further,* That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further,* That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further,* That the Secretary shall notify the Notification.

congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further,* That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Deadline. Notification.

Reports. Deadlines.

## PROCUREMENT

### AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", $84,000,000, to remain available for obligation until September 30, 2011.

### PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $822,674,000, to remain available for obligation until September 30, 2011.

### PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", $46,500,000, to remain available for obligation until September 30, 2011.

### OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $1,009,050,000, to remain available for obligation until September 30, 2011.

### OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", $27,948,000, to remain available for obligation until September 30, 2011.

### PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $565,425,000, to remain available for obligation until September 30, 2011.

### AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $201,842,000, to remain available for obligation until September 30, 2011.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $1,500,644,000, to remain available for obligation until September 30, 2011.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $177,237,000, to remain available for obligation until September 30, 2011.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $113,228,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $72,041,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $202,559,000, to remain available until September 30, 2010.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $1,100,000,000 for operation and maintenance.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", $188,000,000.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Joint Improvised Explosive Device Defeat Fund", $2,000,000,000, to remain available until September 30, 2011: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Director of the Joint Improvised Explosive Device Defeat Organization to investigate, develop and provide equipment, supplies, services, training, facilities, personnel and funds to assist United States forces in the defeat of improvised explosive devices: *Provided further,* That within 60 days

Deadline.
Plans.

Reports.
Deadlines.

of the enactment of this Act, a plan for the intended management and use of the amounts provided under this heading shall be submitted to the congressional defense committees: *Provided further,* That the Secretary of Defense shall submit a report not later than 60 days after the end of each fiscal quarter to the congressional defense committees providing assessments of the evolving threats, individual service requirements to counter the threats, the current strategy for predeployment training of members of the Armed Forces on improvised explosive devices, and details on the execution of the Fund: *Provided further,* That the Secretary of Defense may transfer funds provided herein to appropriations for operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

Deadline.
Notification.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 9201. Appropriations provided in this chapter are not available for obligation until October 1, 2008.

SEC. 9202. Appropriations provided in this chapter are available for obligation until September 30, 2009, unless otherwise provided in this chapter.

### (INCLUDING TRANSFER OF FUNDS)

SEC. 9203. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to $4,000,000,000 of the funds made available to the Department of Defense in this chapter: *Provided,* That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further,* That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of Public Law 110–116, except for the fourth proviso.

Notification.

Deadlines.
Reports.

SEC. 9204. (a) Not later than December 5, 2008 and every 90 days thereafter through the end of fiscal year 2009, the Secretary of Defense shall set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(b) The report shall include performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(c) In specific, the report requires, at a minimum, the following:

(1) With respect to stability and security in Iraq, the following:

(A) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(B) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, trends relating to numbers

and types of ethnic and religious-based hostile encounters, and progress made in the transition of responsibility for the security of Iraqi provinces to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process.

(C) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(D) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(E) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including—

(i) unemployment levels;

(ii) electricity, water, and oil production rates; and

(iii) hunger and poverty levels.

(F) The most recent annual budget for the Government of Iraq, including a description of amounts budgeted for support of Iraqi security and police forces and an assessment of how planned funding will impact the training, equipping and overall readiness of those forces.

(G) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(2) With respect to the training and performance of security forces in Iraq, the following:

(A) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(B) Key criteria for assessing the capabilities and readiness of the Iraqi military and other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(C) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraq battalions that are—

(i) capable of conducting counterinsurgency operations independently without any support from Coalition Forces;

(ii) capable of conducting counterinsurgency operations with the support of United States or coalition forces; or

(iii) not ready to conduct counterinsurgency operations.

(D) The amount and type of support provided by Coalition Forces to the Iraqi Security Forces at each level of operational readiness.

(E) The number of Iraqi battalions in the Iraqi Army currently conducting operations and the type of operations being conducted.

(F) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(G) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(H) The level and effectiveness of the Iraqi Security Forces under the Ministry of Defense in provinces where the United States has formally transferred responsibility for the security of the province to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process.

(I) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including—

(i) the number of police recruits that have received classroom training and the duration of such instruction;

(ii) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(iii) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

(iv) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction;

(v) attrition rates and measures of absenteeism and infiltration by insurgents; and

(vi) the level and effectiveness of the Iraqi Police and other Ministry of Interior Forces in provinces where the United States has formally transferred responsibility for the security of the province to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process.

(J) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(K) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(L) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(M) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2009.

SEC. 9205. (a) REPORT BY SECRETARY OF DEFENSE.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that contains individual transition readiness assessments by unit of Iraq and Afghan security forces. The Secretary of Defense shall submit to the congressional defense committees updates of the report required by this subsection every 90 days after the date of the submission of the report until October

1, 2009. The report and updates of the report required by this subsection shall be submitted in classified form. Classified information.

(b) REPORT BY OMB.—

(1) The Director of the Office of Management and Budget, in consultation with the Secretary of Defense; the Commander, Multi-National Security Transition Command—Iraq; and the Commander, Combined Security Transition Command—Afghanistan, shall submit to the congressional defense committees not later than 120 days after the date of the enactment of this Act and every 90 days thereafter a report on the proposed use of all funds under each of the headings "Iraq Security Forces Fund" and "Afghanistan Security Forces Fund" on a project-by-project basis, for which the obligation of funds is anticipated during the 3-month period from such date, including estimates by the commanders referred to in this paragraph of the costs required to complete each such project.

(2) The report required by this subsection shall include the following:

(A) The use of all funds on a project-by-project basis for which funds appropriated under the headings referred to in paragraph (1) were obligated prior to the submission of the report, including estimates by the commanders referred to in paragraph (1) of the costs to complete each project.

(B) The use of all funds on a project-by-project basis for which funds were appropriated under the headings referred to in paragraph (1) in prior appropriations Acts, or for which funds were made available by transfer, reprogramming, or allocation from other headings in prior appropriations Acts, including estimates by the commanders referred to in paragraph (1) of the costs to complete each project.

(C) An estimated total cost to train and equip the Iraq and Afghan security forces, disaggregated by major program and sub-elements by force, arrayed by fiscal year.

(c) NOTIFICATION.—The Secretary of Defense shall notify the congressional defense committees of any proposed new projects or transfers of funds between sub-activity groups in excess of $15,000,000 using funds appropriated by this Act under the headings "Iraq Security Forces Fund" and "Afghanistan Security Forces Fund".

SEC. 9206. Funds available to the Department of Defense for operation and maintenance provided in this chapter may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided,* That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section. Reports. Deadlines.

SEC. 9207. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance, "Afghanistan Security Forces Fund" or "Iraq Security Forces Fund" provided in this chapter, and executed in direct support of the Global War on Terrorism only in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: *Provided,* That for the purpose of this section,

supervision and administration costs include all in-house Government costs.

(INCLUDING TRANSFER OF FUNDS)

SEC. 9208. (a) Notwithstanding any other provision of law, and in addition to amounts otherwise made available by this Act, there is appropriated $1,700,000,000 for the "Mine Resistant Ambush Protected Vehicle Fund", to remain available until September 30, 2009.

(b) The funds provided by subsection (a) shall be available to the Secretary of Defense to continue technological research and development and upgrades, to procure Mine Resistant Ambush Protected vehicles and associated support equipment, and to sustain, transport, and field Mine Resistant Ambush Protected vehicles.

(c)(1) The Secretary of Defense shall transfer funds provided by subsection (a) to appropriations for operation and maintenance; procurement; and research, development, test and evaluation to accomplish the purposes specified in subsection (b). Such transferred funds shall be merged with and be available for the same purposes and for the same time period as the appropriation to which they are transferred.

(2) The transfer authority provided by this subsection shall be in addition to any other transfer authority available to the Department of Defense.

Deadline. Notification.

(3) The Secretary of Defense shall, not less than 15 days prior to making any transfer under this subsection, notify the congressional defense committees in writing of the details of the transfer.

SEC. 9209. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

## CHAPTER 3

## GENERAL PROVISIONS—THIS TITLE

SEC. 9301. Each amount in this title is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SEC. 9302. Funds appropriated by this title, or made available by the transfer of funds in this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 9303. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

(1) Section 2340A of title 18, United States Code;

(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231 note) and regulations prescribed

thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations; and

(3) Sections 1002 and 1003 of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148).

SEC. 9304. (a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security, in coordination with the Chairman of the Joint Chiefs of Staff and the Director of National Intelligence, shall jointly submit to Congress a report setting forth the global strategy of the United States to combat and defeat al Qaeda and its affiliates.

(b) ELEMENTS OF STRATEGY.—The strategy set forth in the report required under subsection (a) shall include the following elements:

(1) An analysis of the global threat posed by al Qaeda and its affiliates, including an assessment of the relative threat posed in particular regions or countries.

(2) Recommendations regarding the distribution and deployment of United States military, intelligence, diplomatic, and other assets to meet the relative regional and country-specific threats described in paragraph (1).

(3) Recommendations to ensure that the global deployment of United States military personnel and equipment best meet the threat identified and described in paragraph (1) and:

(A) does not undermine the military readiness or homeland security of the United States;

(B) ensures adequate time between military deployments for rest and training; and

(C) does not require further extensions of military deployments to the extent practicable.

(c) CLASSIFIED ANNEX.—The report required by subsection (a) shall be submitted in unclassified form, but shall include a classified annex.

Notification.

SEC. 9305. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2007 or 2008 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

*Ante*, p. 300.

SEC. 9306. Section 1002(c)(2) of the National Defense Authorization Act, Fiscal Year 2008 (Public Law 110–181) is amended by striking "$362,159,000" and inserting "$435,259,000".

SEC. 9307. None of the funds appropriated or otherwise made available by this title may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364).

(RESCISSIONS)

SEC. 9308. (a) Of the funds made available for "Defense Health Program" in Public Law 110–28, $75,000,000 are rescinded.

(b) Of the funds made available for "Joint Improvised Explosive Device Defeat Fund" in division L of the Consolidated Appropriations Act, 2008 (Public Law 110–161), $71,531,000 are rescinded.

SEC. 9309. Of the funds appropriated in the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) which remain available for obligation under the "Iraq Freedom Fund", $150,000,000 is only for the Joint Rapid Acquisition Cell, and $10,000,000 is only for the transportation of fallen service members.

Certification.

SEC. 9310. None of the funds available to the Department of Defense may be obligated or expended to implement any final action on joint basing initiatives required under the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) until each affected Secretary of a military department or the head of each affected Federal agency certifies to the congressional defense committees that joint basing at the affected military installation will result in significant costs savings and will not negatively impact the morale of members of the Armed Forces.

SEC. 9311. Funds available in this title which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment unit cost of not more than $250,000: *Provided,* That upon determination by the Secretary of Defense that such action is necessary to meet the operational requirements of a Commander of a Combatant Command engaged in contingency operations overseas, such funds may be used to purchase items having an investment item unit cost of not more than $500,000.

Approved June 30, 2008.

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LEGISLATIVE HISTORY—H.R. 2642 (S. 1645) (S. 2363):

HOUSE REPORTS: No. 110–186 (Comm. on Appropriations).
SENATE REPORTS: No. 110–185 accompanying S. 1645 (Comm. on Appropriations).
CONGRESSIONAL RECORD:
Vol. 153 (2007): June 15, considered and passed House.
Sept. 4–6, considered and passed Senate, amended.
Vol. 154 (2008): May 15, House concurred in Senate amendment with amendments.
May 20, 22, Senate considered and concurred in House amendments with amendments.
June 19, House concurred in certain Senate amendment and in another with an amendment.
June 26, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
June 30, Presidential remarks.

# Public Law 110–253
# 110th Congress

## An Act

To amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes.

June 30, 2008
[H.R. 6327]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Federal Aviation Administration Extension Act of 2008.
26 USC 1 note.

This Act may be cited as the "Federal Aviation Administration Extension Act of 2008".

**SEC. 2. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.**

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) of the Internal Revenue Code of 1986 is amended by striking "June 30, 2008" and inserting "September 30, 2008". 26 USC 4081.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) of the Internal Revenue Code of 1986 is amended by striking "June 30, 2008" and inserting "September 30, 2008". 26 USC 4261.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) of such Code is amended by striking "June 30, 2008" and inserting "September 30, 2008". 26 USC 4271.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008. 26 USC 4081 note.

**SEC. 3. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.**

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 is amended— 26 USC 9502.

(1) by striking "July 1, 2008" and inserting "October 1, 2008", and

(2) by inserting "or the Federal Aviation Administration Extension Act of 2008" before the semicolon at the end of subparagraph (A).

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(e) of such Code is amended by striking the date specified in such paragraph and inserting "October 1, 2008".

(c) EXTENSION OF EXPIRING AVIATION PROGRAM AUTHORITY.—

(1) Section 40117(l)(7) of title 49, United States Code, is amended by striking "the date that is 3 years after the date of issuance of regulations to carry out this subsection." and inserting "September 30, 2008.".

(2) Section 47141(f) of title 49, United States Code, is amended by striking "September 30, 2007." and inserting "September 30, 2008.".

(3) Section 161 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 47109 note) is amended by striking "fiscal year 2008 before July 1, 2008." and inserting "fiscal year 2008.".

(4) Section 186(d) of the Vision 100—Century of Aviation Reauthorization Act (Pub. L. No. 108–176, 117 Stat. 2490, 2518) is amended by striking "October 1, 2007, and for the portion of fiscal year 2008 ending before July 1, 2008," and inserting "October 1, 2008,".

(5) Section 47115(j) of title 49, United States Code, is amended by striking "fiscal years 2004 through 2007," and inserting "fiscal years 2004 through 2008,".

(6) Section 44302(f)(1) of title 49, United States Code, is amended by striking "August 31, 2008" and inserting "November 30, 2008".

(7) Section 44303(b) of such title is amended by striking "December 31, 2008" and inserting "March 31, 2009".

26 USC 9502 note.

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

**SEC. 4. EXTENSION OF AIRPORT IMPROVEMENT PROGRAM.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103(5) of title 49, United States Code, is amended to read as follows:

"(5) $3,675,000,000 for fiscal year 2008.".

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) of such title is amended by striking "June 30, 2008," and inserting "September 30, 2008,".

49 USC 47104 note.

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

Approved June 30, 2008.

LEGISLATIVE HISTORY—H.R. 6327:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 24, considered and passed House.
June 26, considered and passed Senate.

Public Law 110–254
110th Congress

# An Act

To grant a Federal charter to Korean War Veterans Association, Incorporated.

June 30, 2008
[S. 1692]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.**

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following: 36 USC 130101.

**"CHAPTER 1201—[RESERVED]";**

and

(2) by inserting after chapter 1103 the following new chapter: 36 USC 120101.

**"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED**

"Sec.
"120101. Organization.
"120102. Purposes.
"120103. Membership.
"120104. Governing body.
"120105. Powers.
"120106. Restrictions.
"120107. Tax-exempt status required as condition of charter.
"120108. Records and inspection.
"120109. Service of process.
"120110. Liability for acts of officers and agents.
"120111. Annual report.
"120112. Definition.

**"§ 120101. Organization**

"(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), a nonprofit organization that meets the requirements for a veterans service organization under section 501(c)(19) of the Internal Revenue Code of 1986 and that is organized under the laws of the State of New York, is a federally chartered corporation.

"(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) shall expire.

**"§ 120102. Purposes**

"The purposes of the corporation are those provided in the articles of incorporation of the corporation and shall include the following:

"(1) To organize as a veterans service organization in order to maintain a continuing interest in the welfare of veterans of the Korean War, and rehabilitation of the disabled veterans of the Korean War to include all that served during active hostilities and subsequently in defense of the Republic of Korea, and their families.

"(2) To establish facilities for the assistance of all veterans and to represent them in their claims before the Department of Veterans Affairs and other organizations without charge.

"(3) To perpetuate and preserve the comradeship and friendships born on the field of battle and nurtured by the common experience of service to the United States during the time of war and peace.

"(4) To honor the memory of the men and women who gave their lives so that the United States and the world might be free and live by the creation of living memorial, monuments, and other forms of additional educational, cultural, and recreational facilities.

"(5) To preserve for the people of the United States and posterity of such people the great and basic truths and enduring principles upon which the United States was founded.

**"§ 120103. Membership**

"Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

**"§ 120104. Governing body**

"(a) BOARD OF DIRECTORS.—The composition of the board of directors of the corporation, and the responsibilities of the board, are as provided in the articles of incorporation of the corporation.

"(b) OFFICERS.—The positions of officers of the corporation, and the election of the officers, are as provided in the articles of incorporation.

**"§ 120105. Powers**

"The corporation has only those powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**"§ 120106. Restrictions**

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

"(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

"(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any activity of the corporation.

"(e) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

**"§ 120107. Tax-exempt status required as condition of charter**

"If the corporation fails to maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986, the charter granted under this chapter shall terminate.

**"§ 120108. Records and inspection**

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of the members, board of directors, and committees of the corporation having any of the authority of the board of directors of the corporation; and

"(3) at the principal office of the corporation, a record of the names and addresses of the members of the corporation entitled to vote on matters relating to the corporation.

"(b) INSPECTION.—A member entitled to vote on any matter relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**"§ 120109. Service of process**

"The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the corporation.

**"§ 120110. Liability for acts of officers and agents**

"The corporation is liable for any act of any officer or agent of the corporation acting within the scope of the authority of the corporation.

**"§ 120111. Annual report**

"The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101(b) of this title. The report may not be printed as a public document.

**"§ 120112. Definition**

"For purposes of this chapter, the term 'State' includes the District of Columbia and the territories and possessions of the United States.".

(b) CLERICAL AMENDMENT.—The item relating to chapter 1201 in the table of chapters at the beginning of subtitle II of title 36, United States Code, is amended to read as follows: 36 USC 10101.

"1201. Korean War Veterans Association, Incorporated ..... 120101".

Approved June 30, 2008.

LEGISLATIVE HISTORY—S. 1692:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Sept. 12, considered and passed Senate.
Vol. 154 (2008): June 17, considered and passed House.

# Public Law 110–255
# 110th Congress

## An Act

To authorize the Administrator of the Environmental Protection Agency to accept, as part of a settlement, diesel emission reduction Supplemental Environmental Projects, and for other purposes.

June 30, 2008
[S. 2146]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EPA AUTHORITY TO ACCEPT DIESEL EMISSIONS REDUCTION SUPPLEMENTAL ENVIRONMENTAL PROJECTS.**

42 USC 16138.

The Administrator of the Environmental Protection Agency (hereinafter, the "Agency") may accept (notwithstanding sections 3302 and 1301 of title 31, United States Code) diesel emissions reduction Supplemental Environmental Projects if the projects, as part of a settlement of any alleged violations of environmental law—

(1) protect human health or the environment;

(2) are related to the underlying alleged violations;

(3) do not constitute activities that the defendant would otherwise be legally required to perform; and

(4) do not provide funds for the staff of the Agency or for contractors to carry out the Agency's internal operations.

**SEC. 2. SETTLEMENT AGREEMENT PROVISIONS.**

42 USC 16139.

Certification.

In any settlement agreement regarding alleged violations of environmental law in which a defendant agrees to perform a diesel emissions reduction Supplemental Environmental Project, the Administrator of the Environmental Protection Agency shall require the defendant to include in the settlement documents a certification under penalty of law that the defendant would have agreed to perform a comparably valued, alternative project other than a diesel emissions reduction Supplemental Environmental Project if the Administrator were precluded by law from accepting a diesel emission reduction Supplemental Environmental Project. A failure by the Administrator to include this language in such a settlement agreement shall not create a cause of action against the United States under the Clean Air Act or any other law or create a basis for overturning a settlement agreement entered into by the United States.

**SEC. 3. INCLUSION OF THE DISTRICT OF COLUMBIA IN CERTAIN STATE AND LOCAL GRANT PROGRAMS FOR DIESEL EMISSION REDUCTIONS.**

(a) IN GENERAL.—Section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131) is amended by adding at the end thereof the following:

"(9) DEFINITION OF STATE.—The term 'State' includes the District of Columbia.".

(b) CONFORMING AMENDMENTS.—(1) Section 793(d)(2) of such Act (42 U.S.C. 16133(d)(2)) is amended by striking "Governor" and inserting "chief executive".

(2) Subparagraphs (A) and (B) of section 793(c)(2) of such Act are each amended by striking "50" and inserting "51" and by striking "2 percent" and inserting "1.96 percent" in each place such terms appear.

Approved June 30, 2008.

LEGISLATIVE HISTORY—S. 2146 (H.R. 3754):

HOUSE REPORTS: No. 110–705 accompanying H.R. 3754 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 110–266 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 29, considered and passed Senate.
June 11, 12, considered and passed House, amended.
June 17, Senate concurred in House amendment.

Public Law 110–256
110th Congress

# An Act

To temporarily extend the programs under the Higher Education Act of 1965.

June 30, 2008
[S. 3180]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF HIGHER EDUCATION PROGRAMS.**

(a) EXTENSION OF PROGRAMS.—Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking "June 30, 2008" and inserting "July 31, 2008".

(b) RULE OF CONSTRUCTION.—Nothing in this section, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171), by the College Cost Reduction and Access Act (Public Law 110–84), or by the Ensuring Continued Access to Student Loans Act of 2008 (Public Law 110–227) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

20 USC 1001 note.

Approved June 30, 2008.

LEGISLATIVE HISTORY—S. 3180:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 23, considered and passed Senate.
June 25, considered and passed House.

# Public Law 110–257
# 110th Congress

## An Act

July 1, 2008
[H.R. 5690]

To remove the African National Congress from treatment as a terrorist organization for certain acts or events, provide relief for certain members of the African National Congress regarding admissibility, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXEMPTION OF AFRICAN NATIONAL CONGRESS FROM TREATMENT AS TERRORIST ORGANIZATION FOR CERTAIN ACTS OR EVENTS.**

Section 691(b) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161; 121 Stat. 2365) is amended by inserting "the African National Congress (ANC)," after "the Karenni National Progressive Party,".

8 USC 1182 note.

**SEC. 2. RELIEF FOR CERTAIN MEMBERS OF THE AFRICAN NATIONAL CONGRESS REGARDING ADMISSIBILITY.**

(a) EXEMPTION AUTHORITY.—The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Secretary of Homeland Security, after consultation with the Secretary of State and the Attorney General, may determine, in such Secretary's sole and unreviewable discretion, that paragraphs (2)(A)(i)(I), (2)(B), and (3)(B) (other than clause (i)(II)) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply to an alien with respect to activities undertaken in association with the African National Congress in opposition to apartheid rule in South Africa.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of State and the Secretary of Homeland Security should immediately exercise in appropriate instances the authority in subsection (a) to exempt the anti-apartheid activities of aliens who are current or former officials of the Government of the Republic of South Africa.

8 USC 1182 note.

**SEC. 3. REMOVAL OF CERTAIN AFFECTED INDIVIDUALS FROM CERTAIN UNITED STATES GOVERNMENT DATABASES.**

The Secretary of State, in coordination with the Attorney General, the Secretary of Homeland Security, the Director of the Federal Bureau of Investigation, and the Director of National Intelligence, shall take all necessary steps to ensure that databases used to determine admissibility to the United States are updated so that

they are consistent with the exemptions provided under section 2.

Approved July 1, 2008.

LEGISLATIVE HISTORY—H.R. 5690:

HOUSE REPORTS: No. 110–620, Pt. 1 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
May 6, 8, considered and passed House.
June 26, considered and passed Senate, amended. House concurred in Senate amendment.

# Public Law 110–258
# 110th Congress

## An Act

July 1, 2008
[S. 188]

To revise the short title of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

42 USC 1971 note.

Section 1 of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006 (Public Law 109–246) is amended by striking "and Coretta Scott King" and inserting "Coretta Scott King, César E. Chávez, Barbara C. Jordan, William C. Velásquez, and Dr. Hector P. Garcia".

**SEC. 2. CONFORMING AMENDMENTS.**

Paragraphs (7) and (8) of section 4(a), and section 13(a)(1), of the Voting Rights Act of 1965 (42 U.S.C. 1973b(a), 1973k(a)(1)) are each amended by striking "and Coretta Scott King" and inserting "Coretta Scott King, César E. Chávez, Barbara C. Jordan, William C. Velásquez, and Dr. Hector P. Garcia".

**SEC. 3. CONSTRUCTION.**

Title I of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) is amended by adding at the end the following:

42 USC 1973q.

"SEC. 20. A reference in this title to the effective date of the amendments made by, or the date of the enactment of, the Fannie Lou Hamer, Rosa Parks, Coretta Scott King, César E. Chávez, Barbara C. Jordan, William C. Velásquez, and Dr. Hector P. Garcia Voting Rights Act Reauthorization and Amendments Act of 2006 shall be considered to refer to, respectively, the effective date of the amendments made by, or the date of the enactment

of, the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006.".

Approved July 1, 2008.

LEGISLATIVE HISTORY—S. 188:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Feb. 15, considered and passed Senate.
Vol. 154 (2008): June 17, considered and passed House.

# Public Law 110–259
# 110th Congress

## An Act

July 1, 2008
[S. 254]

To award posthumously a Congressional gold medal to Constantino Brumidi.

31 USC 5111 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

Congress finds the following:

(1) On July 26, 1805, Constantino Brumidi was born in Rome, Italy of an Italian mother and a Greek father who inspired him with a love of liberty.

(2) While Constantino Brumidi's Greek ancestry stirred his passion for liberty and citizenship, his Italian heritage provided the art styles of the Renaissance and the Baroque which influenced the artwork of the United States Capitol.

(3) Constantino Brumidi became a citizen of the United States as soon as he was able, embracing its history, values, and ideals.

(4) Beginning in 1855, Constantino Brumidi designed and decorated 1 House and 5 Senate committee rooms in the Capitol, as well as the Senate Reception Room, the Office of the Vice President, and, most notably, the President's Room, which represents Brumidi's supreme effort "to make beautiful the Capitol" of the United States.

(5) In 1865, Constantino Brumidi completed in just 11 months his masterpiece, "The Apotheosis of Washington", in the eye of the Capitol dome.

(6) In 1871, Constantino Brumidi created the first tribute to an African American in the Capitol when he placed the figure of Crispus Attucks at the center of his fresco of the Boston Massacre.

(7) In 1878, Constantino Brumidi, at the age of 72 and in poor health, began work on the Rotunda frieze, which chronicles the history of America.

(8) On February 19, 1880, Constantino Brumidi died at the age of 74, four and a half months after slipping and nearly falling from a scaffold while working on the Rotunda frieze.

(9) Constantino Brumidi, proud of his artistic accomplishments and devoted to his adopted country, said, "My one ambition and my daily prayer is that I may live long enough to make beautiful the Capitol of the one country on earth in which there is liberty.".

(10) Constantino Brumidi's life and work exemplify the lives of millions of immigrants who came to pursue the American dream.

**SEC. 2. CONGRESSIONAL GOLD MEDAL.**

(a) PRESENTATION AUTHORIZED.—

(1) IN GENERAL.—The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall make appropriate arrangements for the posthumous presentation, on behalf of Congress, of a gold medal of appropriate design to Constantino Brumidi, in recognition of his contributions to the Nation.

(2) DISPLAY OF MEDAL IN CAPITOL VISITOR CENTER.—The Architect of the Capitol shall arrange for the gold medal presented under this subsection to be displayed in the Capitol Visitor Center, as part of an exhibit honoring Constantino Brumidi.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

**SEC. 3. DUPLICATE MEDALS.**

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

**SEC. 4. STATUS OF MEDALS.**

(a) NATIONAL MEDALS.—The medals struck under this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

**SEC. 5. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.**

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 3 shall be deposited into the United States Mint Public Enterprise Fund.

Approved July 1, 2008.

LEGISLATIVE HISTORY—S. 254:

CONGRESSIONAL RECORD:
Vol. 153 (2007): May 21, considered and passed Senate.
Vol. 154 (2008): June 10, considered and passed House.

Public Law 110–260
110th Congress

# An Act

To award a congressional gold medal to Edward William Brooke III in recognition of his unprecedented and enduring service to our Nation.

July 1, 2008
[S. 682]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Edward William Brooke III Congressional Gold Medal Act. 31 USC 5111 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Edward William Brooke III Congressional Gold Medal Act".

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) Edward William Brooke III was the first African American elected by popular vote to the United States Senate and served with distinction for 2 terms from January 3, 1967, to January 3, 1979.

(2) In 1960, Senator Brooke began his public career when Governor John Volpe appointed him chairman of the Boston Finance Commission, where the young lawyer established an outstanding record of confronting and eliminating graft and corruption and proposed groundbreaking legislation for consumer protection and against housing discrimination and air pollution.

(3) At a time when few African Americans held State or Federal office, Senator Brooke became an exceptional pioneer, beginning in 1962, when he made national and State history by being elected Attorney General of Massachusetts, the first African American in the Nation to serve as a State Attorney General, the second highest office in the State, and the only Republican to win statewide in the election that year, at a time when there were fewer than 1,000 African American officials in our nation.

(4) He won office as a Republican in a state that was strongly Democratic.

(5) As Massachusetts Attorney General, Senator Brooke became known for his fearless and honest execution of the laws of his State and for his vigorous prosecution of organized crime.

(6) The pioneering accomplishments of Edward William Brooke III in public service were achieved although he was raised in Washington, DC at a time when the Nation's capital was a city where schools, public accommodations, and other institutions were segregated, and when the District of Columbia did not have its own self-governing institutions or elected officials.

(7) Senator Brooke graduated from Paul Laurence Dunbar High School and went on to graduate from Howard University in 1941.

(8) Senator Brooke's enduring advocacy for self-government and congressional voting rights for the citizens of Washington, DC has roots in his life and personal experience as a native Washingtonian.

(9) Senator Brooke served for 5 years in the United States Army in the segregated 366th Infantry Regiment during World War II in the European theater of operations, attaining the rank of captain and receiving a Bronze Star Medal for "heroic or meritorious achievement or service" and the Distinguished Service Award.

(10) After the war, Senator Brooke attended Boston University School of Law, where he served as editor of the school's Law Review, graduating with an LL.B. in 1948 and an LL.M. in 1949, and made Massachusetts his home.

(11) During his career in Congress, Senator Brooke was a leader on some of the most critical issues of his time, including the war in Vietnam, the struggle for civil rights, the shameful system of apartheid in South Africa, the Cold War, and United States' relations with the People's Republic of China.

(12) President Lyndon B. Johnson appointed Senator Brooke to the President's Commission on Civil Disorders in 1967, where his work on discrimination in housing would serve as the basis for the 1968 Civil Rights Act.

(13) Senator Brooke continued to champion open housing when he left the Senate and became the head of the National Low-Income Housing Coalition.

(14) Senator Brooke has been recognized with many high honors, among them the Presidential Medal of Freedom in 2004, an honor that recognizes "an especially meritorious contribution to the security or national interests of the United States, world peace, cultural or other significant public or private endeavors"; the Grand Cross of the Order of Merit from the Government of Italy; a State courthouse dedicated in his honor by the Commonwealth of Massachusetts, making him the first African American to have a State courthouse named in his honor; the NAACP Spingarn Medal; and the Charles Evans Hughes award from the National Conference of Christians and Jews.

(15) Senator Brooke's biography, Bridging The Divide: My Life, was published in 2006, and he is the author of The Challenge of Change: Crisis in Our Two-Party System, published in 1966.

(16) Senator Brooke became a racial pioneer, but race was never at the center of his political campaigns.

(17) He demonstrated to all that with commitment, determination, and strength of character, even the barriers once thought insurmountable can be overcome.

(18) He has devoted his life to the service of others, and made enormous contributions to our society today.

(19) The life and accomplishments of Senator Brooke is inspiring proof, as he says, that "people can be elected on the basis of their qualifications and not their race".

**SEC. 3. CONGRESSIONAL GOLD MEDAL.**

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design to Edward William Brooke III in recognition of his unprecedented and enduring service to our Nation.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

**SEC. 4. DUPLICATE MEDALS.**

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 3 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

**SEC. 5. STATUS OF MEDALS.**

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

**SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.**

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 4 shall be deposited into the United States Mint Public Enterprise Fund.

Approved July 1, 2008.

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LEGISLATIVE HISTORY—S. 682:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Mar. 29, considered and passed Senate.
Vol. 154 (2008): June 10, considered and passed House.

# Public Law 110–261
# 110th Congress

## An Act

July 10, 2008
[H.R. 6304]

To amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008.
50 USC 1801 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008" or the "FISA Amendments Act of 2008".

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

Sec. 1. Short title; table of contents.

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

SSec. 101. Additional procedures regarding certain persons outside the United States.
Sec. 102. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted.
Sec. 103. Submittal to Congress of certain court orders under the Foreign Intelligence Surveillance Act of 1978.
Sec. 104. Applications for court orders.
Sec. 105. Issuance of an order.
Sec. 106. Use of information.
Sec. 107. Amendments for physical searches.
Sec. 108. Amendments for emergency pen registers and trap and trace devices.
Sec. 109. Foreign Intelligence Surveillance Court.
Sec. 110. Weapons of mass destruction.

TITLE II—PROTECTIONS FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS

Sec. 201. Procedures for implementing statutory defenses under the Foreign Intelligence Surveillance Act of 1978.
Sec. 202. Technical amendments.

TITLE III—REVIEW OF PREVIOUS ACTIONS

Sec. 301. Review of previous actions.

TITLE IV—OTHER PROVISIONS

Sec. 401. Severability.
Sec. 402. Effective date.
Sec. 403. Repeals.
Sec. 404. Transition procedures.

# TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

**SEC. 101. ADDITIONAL PROCEDURES REGARDING CERTAIN PERSONS OUTSIDE THE UNITED STATES.**

50 USC 1801 note.

(a) IN GENERAL.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking title VII; and

(2) by adding at the end the following:

# "TITLE VII—ADDITIONAL PROCEDURES REGARDING CERTAIN PERSONS OUTSIDE THE UNITED STATES

**"SEC. 701. DEFINITIONS.**

50 USC 1881.

"(a) IN GENERAL.—The terms 'agent of a foreign power', 'Attorney General', 'contents', 'electronic surveillance', 'foreign intelligence information', 'foreign power', 'person', 'United States', and 'United States person' have the meanings given such terms in section 101, except as specifically provided in this title.

"(b) ADDITIONAL DEFINITIONS.—

"(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

"(A) the Select Committee on Intelligence of the Senate; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives.

"(2) FOREIGN INTELLIGENCE SURVEILLANCE COURT; COURT.—The terms 'Foreign Intelligence Surveillance Court' and 'Court' mean the court established under section 103(a).

"(3) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW; COURT OF REVIEW.—The terms 'Foreign Intelligence Surveillance Court of Review' and 'Court of Review' mean the court established under section 103(b).

"(4) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

"(A) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

"(B) a provider of electronic communication service, as that term is defined in section 2510 of title 18, United States Code;

"(C) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

"(D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or

"(E) an officer, employee, or agent of an entity described in subparagraph (A), (B), (C), or (D).

"(5) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

50 USC 1881a.

**"SEC. 702. PROCEDURES FOR TARGETING CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS.**

"(a) AUTHORIZATION.—Notwithstanding any other provision of law, upon the issuance of an order in accordance with subsection (i)(3) or a determination under subsection (c)(2), the Attorney General and the Director of National Intelligence may authorize jointly, for a period of up to 1 year from the effective date of the authorization, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information.

"(b) LIMITATIONS.—An acquisition authorized under subsection (a)—

"(1) may not intentionally target any person known at the time of acquisition to be located in the United States;

"(2) may not intentionally target a person reasonably believed to be located outside the United States if the purpose of such acquisition is to target a particular, known person reasonably believed to be in the United States;

"(3) may not intentionally target a United States person reasonably believed to be located outside the United States;

"(4) may not intentionally acquire any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States; and

"(5) shall be conducted in a manner consistent with the fourth amendment to the Constitution of the United States.

"(c) CONDUCT OF ACQUISITION.—

"(1) IN GENERAL.—An acquisition authorized under subsection (a) shall be conducted only in accordance with—

"(A) the targeting and minimization procedures adopted in accordance with subsections (d) and (e); and

Certification.

"(B) upon submission of a certification in accordance with subsection (g), such certification.

"(2) DETERMINATION.—A determination under this paragraph and for purposes of subsection (a) is a determination by the Attorney General and the Director of National Intelligence that exigent circumstances exist because, without immediate implementation of an authorization under subsection (a), intelligence important to the national security of the United States may be lost or not timely acquired and time does not permit the issuance of an order pursuant to subsection (i)(3) prior to the implementation of such authorization.

"(3) TIMING OF DETERMINATION.—The Attorney General and the Director of National Intelligence may make the determination under paragraph (2)—

"(A) before the submission of a certification in accordance with subsection (g); or

"(B) by amending a certification pursuant to subsection (i)(1)(C) at any time during which judicial review under subsection (i) of such certification is pending.

"(4) CONSTRUCTION.—Nothing in title I shall be construed to require an application for a court order under such title

for an acquisition that is targeted in accordance with this section at a person reasonably believed to be located outside the United States.

"(d) TARGETING PROCEDURES.—

"(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt targeting procedures that are reasonably designed to—

"(A) ensure that any acquisition authorized under subsection (a) is limited to targeting persons reasonably believed to be located outside the United States; and

"(B) prevent the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States.

"(2) JUDICIAL REVIEW.—The procedures adopted in accordance with paragraph (1) shall be subject to judicial review pursuant to subsection (i).

"(e) MINIMIZATION PROCEDURES.—

"(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt minimization procedures that meet the definition of minimization procedures under section 101(h) or 301(4), as appropriate, for acquisitions authorized under subsection (a).

"(2) JUDICIAL REVIEW.—The minimization procedures adopted in accordance with paragraph (1) shall be subject to judicial review pursuant to subsection (i).

"(f) GUIDELINES FOR COMPLIANCE WITH LIMITATIONS.—

"(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt guidelines to ensure—

"(A) compliance with the limitations in subsection (b); and

"(B) that an application for a court order is filed as required by this Act.

"(2) SUBMISSION OF GUIDELINES.—The Attorney General shall provide the guidelines adopted in accordance with paragraph (1) to—

"(A) the congressional intelligence committees;

"(B) the Committees on the Judiciary of the Senate and the House of Representatives; and

"(C) the Foreign Intelligence Surveillance Court.

"(g) CERTIFICATION.—

"(1) IN GENERAL.—

"(A) REQUIREMENT.—Subject to subparagraph (B), prior to the implementation of an authorization under subsection (a), the Attorney General and the Director of National Intelligence shall provide to the Foreign Intelligence Surveillance Court a written certification and any supporting affidavit, under oath and under seal, in accordance with this subsection.

Deadline.

"(B) EXCEPTION.—If the Attorney General and the Director of National Intelligence make a determination under subsection (c)(2) and time does not permit the submission of a certification under this subsection prior to the implementation of an authorization under subsection (a), the Attorney General and the Director of National Intelligence shall submit to the Court a certification for

such authorization as soon as practicable but in no event later than 7 days after such determination is made.

"(2) REQUIREMENTS.—A certification made under this subsection shall—

"(A) attest that—

"(i) there are procedures in place that have been approved, have been submitted for approval, or will be submitted with the certification for approval by the Foreign Intelligence Surveillance Court that are reasonably designed to—

"(I) ensure that an acquisition authorized under subsection (a) is limited to targeting persons reasonably believed to be located outside the United States; and

"(II) prevent the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States;

"(ii) the minimization procedures to be used with respect to such acquisition—

"(I) meet the definition of minimization procedures under section 101(h) or 301(4), as appropriate; and

"(II) have been approved, have been submitted for approval, or will be submitted with the certification for approval by the Foreign Intelligence Surveillance Court;

"(iii) guidelines have been adopted in accordance with subsection (f) to ensure compliance with the limitations in subsection (b) and to ensure that an application for a court order is filed as required by this Act;

"(iv) the procedures and guidelines referred to in clauses (i), (ii), and (iii) are consistent with the requirements of the fourth amendment to the Constitution of the United States;

"(v) a significant purpose of the acquisition is to obtain foreign intelligence information;

"(vi) the acquisition involves obtaining foreign intelligence information from or with the assistance of an electronic communication service provider; and

"(vii) the acquisition complies with the limitations in subsection (b);

"(B) include the procedures adopted in accordance with subsections (d) and (e);

"(C) be supported, as appropriate, by the affidavit of any appropriate official in the area of national security who is—

"(i) appointed by the President, by and with the advice and consent of the Senate; or

"(ii) the head of an element of the intelligence community;

Effective date.

"(D) include—

"(i) an effective date for the authorization that is at least 30 days after the submission of the written certification to the court; or

"(ii) if the acquisition has begun or the effective date is less than 30 days after the submission of the written certification to the court, the date the acquisition began or the effective date for the acquisition; and

"(E) if the Attorney General and the Director of National Intelligence make a determination under subsection (c)(2), include a statement that such determination has been made.

"(3) CHANGE IN EFFECTIVE DATE.—The Attorney General and the Director of National Intelligence may advance or delay the effective date referred to in paragraph (2)(D) by submitting an amended certification in accordance with subsection (i)(1)(C) to the Foreign Intelligence Surveillance Court for review pursuant to subsection (i).

"(4) LIMITATION.—A certification made under this subsection is not required to identify the specific facilities, places, premises, or property at which an acquisition authorized under subsection (a) will be directed or conducted.

"(5) MAINTENANCE OF CERTIFICATION.—The Attorney General or a designee of the Attorney General shall maintain a copy of a certification made under this subsection.

"(6) REVIEW.—A certification submitted in accordance with this subsection shall be subject to judicial review pursuant to subsection (i).

"(h) DIRECTIVES AND JUDICIAL REVIEW OF DIRECTIVES.—

"(1) AUTHORITY.—With respect to an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence may direct, in writing, an electronic communication service provider to—

"(A) immediately provide the Government with all information, facilities, or assistance necessary to accomplish the acquisition in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target of the acquisition; and

"(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such electronic communication service provider wishes to maintain.

"(2) COMPENSATION.—The Government shall compensate, at the prevailing rate, an electronic communication service provider for providing information, facilities, or assistance in accordance with a directive issued pursuant to paragraph (1).

"(3) RELEASE FROM LIABILITY.—No cause of action shall lie in any court against any electronic communication service provider for providing any information, facilities, or assistance in accordance with a directive issued pursuant to paragraph (1).

"(4) CHALLENGING OF DIRECTIVES.—

"(A) AUTHORITY TO CHALLENGE.—An electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition to modify or set

aside such directive with the Foreign Intelligence Surveillance Court, which shall have jurisdiction to review such petition.

Deadline.

"(B) ASSIGNMENT.—The presiding judge of the Court shall assign a petition filed under subparagraph (A) to 1 of the judges serving in the pool established under section 103(e)(1) not later than 24 hours after the filing of such petition.

"(C) STANDARDS FOR REVIEW.—A judge considering a petition filed under subparagraph (A) may grant such petition only if the judge finds that the directive does not meet the requirements of this section, or is otherwise unlawful.

Deadline.

"(D) PROCEDURES FOR INITIAL REVIEW.—A judge shall conduct an initial review of a petition filed under subparagraph (A) not later than 5 days after being assigned such petition. If the judge determines that such petition does not consist of claims, defenses, or other legal contentions that are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law, the judge shall immediately deny such petition and affirm the directive or any part of the directive that is the subject of such petition and order the recipient to comply with the directive or any part of it. Upon making a determination under this subparagraph or promptly thereafter, the judge shall provide a written statement for the record of the reasons for such determination.

Records.

Deadline.

"(E) PROCEDURES FOR PLENARY REVIEW.—If a judge determines that a petition filed under subparagraph (A) requires plenary review, the judge shall affirm, modify, or set aside the directive that is the subject of such petition not later than 30 days after being assigned such petition. If the judge does not set aside the directive, the judge shall immediately affirm or affirm with modifications the directive, and order the recipient to comply with the directive in its entirety or as modified. The judge shall provide a written statement for the record of the reasons for a determination under this subparagraph.

Records.

"(F) CONTINUED EFFECT.—Any directive not explicitly modified or set aside under this paragraph shall remain in full effect.

"(G) CONTEMPT OF COURT.—Failure to obey an order issued under this paragraph may be punished by the Court as contempt of court.

"(5) ENFORCEMENT OF DIRECTIVES.—

"(A) ORDER TO COMPEL.—If an electronic communication service provider fails to comply with a directive issued pursuant to paragraph (1), the Attorney General may file a petition for an order to compel the electronic communication service provider to comply with the directive with the Foreign Intelligence Surveillance Court, which shall have jurisdiction to review such petition.

Deadline.

"(B) ASSIGNMENT.—The presiding judge of the Court shall assign a petition filed under subparagraph (A) to 1 of the judges serving in the pool established under section

103(e)(1) not later than 24 hours after the filing of such petition.

"(C) PROCEDURES FOR REVIEW.—A judge considering a petition filed under subparagraph (A) shall, not later than 30 days after being assigned such petition, issue an order requiring the electronic communication service provider to comply with the directive or any part of it, as issued or as modified, if the judge finds that the directive meets the requirements of this section and is otherwise lawful. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph. Deadline. Records.

"(D) CONTEMPT OF COURT.—Failure to obey an order issued under this paragraph may be punished by the Court as contempt of court.

"(E) PROCESS.—Any process under this paragraph may be served in any judicial district in which the electronic communication service provider may be found.

"(6) APPEAL.—

"(A) APPEAL TO THE COURT OF REVIEW.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition with the Foreign Intelligence Surveillance Court of Review for review of a decision issued pursuant to paragraph (4) or (5). The Court of Review shall have jurisdiction to consider such petition and shall provide a written statement for the record of the reasons for a decision under this subparagraph. Records.

"(B) CERTIORARI TO THE SUPREME COURT.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

"(i) JUDICIAL REVIEW OF CERTIFICATIONS AND PROCEDURES.—

"(1) IN GENERAL.— Deadlines.

"(A) REVIEW BY THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign Intelligence Surveillance Court shall have jurisdiction to review a certification submitted in accordance with subsection (g) and the targeting and minimization procedures adopted in accordance with subsections (d) and (e), and amendments to such certification or such procedures.

"(B) TIME PERIOD FOR REVIEW.—The Court shall review a certification submitted in accordance with subsection (g) and the targeting and minimization procedures adopted in accordance with subsections (d) and (e) and shall complete such review and issue an order under paragraph (3) not later than 30 days after the date on which such certification and such procedures are submitted.

"(C) AMENDMENTS.—The Attorney General and the Director of National Intelligence may amend a certification submitted in accordance with subsection (g) or the targeting and minimization procedures adopted in accordance with subsections (d) and (e) as necessary at any time, including

if the Court is conducting or has completed review of such certification or such procedures, and shall submit the amended certification or amended procedures to the Court not later than 7 days after amending such certification or such procedures. The Court shall review any amendment under this subparagraph under the procedures set forth in this subsection. The Attorney General and the Director of National Intelligence may authorize the use of an amended certification or amended procedures pending the Court's review of such amended certification or amended procedures.

"(2) REVIEW.—The Court shall review the following:

"(A) CERTIFICATION.—A certification submitted in accordance with subsection (g) to determine whether the certification contains all the required elements.

"(B) TARGETING PROCEDURES.—The targeting procedures adopted in accordance with subsection (d) to assess whether the procedures are reasonably designed to—

"(i) ensure that an acquisition authorized under subsection (a) is limited to targeting persons reasonably believed to be located outside the United States; and

"(ii) prevent the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States.

"(C) MINIMIZATION PROCEDURES.—The minimization procedures adopted in accordance with subsection (e) to assess whether such procedures meet the definition of minimization procedures under section 101(h) or section 301(4), as appropriate.

"(3) ORDERS.—

"(A) APPROVAL.—If the Court finds that a certification submitted in accordance with subsection (g) contains all the required elements and that the targeting and minimization procedures adopted in accordance with subsections (d) and (e) are consistent with the requirements of those subsections and with the fourth amendment to the Constitution of the United States, the Court shall enter an order approving the certification and the use, or continued use in the case of an acquisition authorized pursuant to a determination under subsection (c)(2), of the procedures for the acquisition.

"(B) CORRECTION OF DEFICIENCIES.—If the Court finds that a certification submitted in accordance with subsection (g) does not contain all the required elements, or that the procedures adopted in accordance with subsections (d) and (e) are not consistent with the requirements of those subsections or the fourth amendment to the Constitution of the United States, the Court shall issue an order directing the Government to, at the Government's election and to the extent required by the Court's order—

Deadline.

"(i) correct any deficiency identified by the Court's order not later than 30 days after the date on which the Court issues the order; or

"(ii) cease, or not begin, the implementation of the authorization for which such certification was submitted.

"(C) REQUIREMENT FOR WRITTEN STATEMENT.—In support of an order under this subsection, the Court shall provide, simultaneously with the order, for the record a written statement of the reasons for the order. Records.

"(4) APPEAL.—

"(A) APPEAL TO THE COURT OF REVIEW.—The Government may file a petition with the Foreign Intelligence Surveillance Court of Review for review of an order under this subsection. The Court of Review shall have jurisdiction to consider such petition. For any decision under this subparagraph affirming, reversing, or modifying an order of the Foreign Intelligence Surveillance Court, the Court of Review shall provide for the record a written statement of the reasons for the decision. Records.

"(B) CONTINUATION OF ACQUISITION PENDING REHEARING OR APPEAL.—Any acquisition affected by an order under paragraph (3)(B) may continue—

"(i) during the pendency of any rehearing of the order by the Court en banc; and

"(ii) if the Government files a petition for review of an order under this section, until the Court of Review enters an order under subparagraph (C).

"(C) IMPLEMENTATION PENDING APPEAL.—Not later than 60 days after the filing of a petition for review of an order under paragraph (3)(B) directing the correction of a deficiency, the Court of Review shall determine, and enter a corresponding order regarding, whether all or any part of the correction order, as issued or modified, shall be implemented during the pendency of the review. Deadline.

"(D) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision. Records.

"(5) SCHEDULE.—

"(A) REAUTHORIZATION OF AUTHORIZATIONS IN EFFECT.—If the Attorney General and the Director of National Intelligence seek to reauthorize or replace an authorization issued under subsection (a), the Attorney General and the Director of National Intelligence shall, to the extent practicable, submit to the Court the certification prepared in accordance with subsection (g) and the procedures adopted in accordance with subsections (d) and (e) at least 30 days prior to the expiration of such authorization. Deadline.

"(B) REAUTHORIZATION OF ORDERS, AUTHORIZATIONS, AND DIRECTIVES.—If the Attorney General and the Director of National Intelligence seek to reauthorize or replace an authorization issued under subsection (a) by filing a certification pursuant to subparagraph (A), that authorization, and any directives issued thereunder and any order related thereto, shall remain in effect, notwithstanding the expiration provided for in subsection (a), until the Court issues Applicability.

an order with respect to such certification under paragraph (3) at which time the provisions of that paragraph and paragraph (4) shall apply with respect to such certification.

"(j) JUDICIAL PROCEEDINGS.—

"(1) EXPEDITED JUDICIAL PROCEEDINGS.—Judicial proceedings under this section shall be conducted as expeditiously as possible.

Applicability.

"(2) TIME LIMITS.—A time limit for a judicial decision in this section shall apply unless the Court, the Court of Review, or any judge of either the Court or the Court of Review, by order for reasons stated, extends that time as necessary for good cause in a manner consistent with national security.

"(k) MAINTENANCE AND SECURITY OF RECORDS AND PROCEEDINGS.—

"(1) STANDARDS.—The Foreign Intelligence Surveillance Court shall maintain a record of a proceeding under this section, including petitions, appeals, orders, and statements of reasons for a decision, under security measures adopted by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

"(2) FILING AND REVIEW.—All petitions under this section shall be filed under seal. In any proceedings under this section, the Court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

"(3) RETENTION OF RECORDS.—The Attorney General and the Director of National Intelligence shall retain a directive or an order issued under this section for a period of not less than 10 years from the date on which such directive or such order is issued.

"(l) ASSESSMENTS AND REVIEWS.—

Deadlines.

"(1) SEMIANNUAL ASSESSMENT.—Not less frequently than once every 6 months, the Attorney General and Director of National Intelligence shall assess compliance with the targeting and minimization procedures adopted in accordance with subsections (d) and (e) and the guidelines adopted in accordance with subsection (f) and shall submit each assessment to—

"(A) the Foreign Intelligence Surveillance Court; and

"(B) consistent with the Rules of the House of Representatives, the Standing Rules of the Senate, and Senate Resolution 400 of the 94th Congress or any successor Senate resolution—

"(i) the congressional intelligence committees; and

"(ii) the Committees on the Judiciary of the House of Representatives and the Senate.

"(2) AGENCY ASSESSMENT.—The Inspector General of the Department of Justice and the Inspector General of each element of the intelligence community authorized to acquire foreign intelligence information under subsection (a), with respect to the department or element of such Inspector General—

"(A) are authorized to review compliance with the targeting and minimization procedures adopted in accordance with subsections (d) and (e) and the guidelines adopted in accordance with subsection (f);

"(B) with respect to acquisitions authorized under subsection (a), shall review the number of disseminated intelligence reports containing a reference to a United States-

person identity and the number of United States-person identities subsequently disseminated by the element concerned in response to requests for identities that were not referred to by name or title in the original reporting;

"(C) with respect to acquisitions authorized under subsection (a), shall review the number of targets that were later determined to be located in the United States and, to the extent possible, whether communications of such targets were reviewed; and

"(D) shall provide each such review to—

"(i) the Attorney General;

"(ii) the Director of National Intelligence; and

"(iii) consistent with the Rules of the House of Representatives, the Standing Rules of the Senate, and Senate Resolution 400 of the 94th Congress or any successor Senate resolution—

"(I) the congressional intelligence committees; and

"(II) the Committees on the Judiciary of the House of Representatives and the Senate.

"(3) ANNUAL REVIEW.—

"(A) REQUIREMENT TO CONDUCT.—The head of each element of the intelligence community conducting an acquisition authorized under subsection (a) shall conduct an annual review to determine whether there is reason to believe that foreign intelligence information has been or will be obtained from the acquisition. The annual review shall provide, with respect to acquisitions authorized under subsection (a)—

"(i) an accounting of the number of disseminated intelligence reports containing a reference to a United States-person identity;

"(ii) an accounting of the number of United States-person identities subsequently disseminated by that element in response to requests for identities that were not referred to by name or title in the original reporting;

"(iii) the number of targets that were later determined to be located in the United States and, to the extent possible, whether communications of such targets were reviewed; and

"(iv) a description of any procedures developed by the head of such element of the intelligence community and approved by the Director of National Intelligence to assess, in a manner consistent with national security, operational requirements and the privacy interests of United States persons, the extent to which the acquisitions authorized under subsection (a) acquire the communications of United States persons, and the results of any such assessment.

"(B) USE OF REVIEW.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall use each such review to evaluate the adequacy of the minimization procedures utilized by such element and, as appropriate, the application of the minimization procedures to a particular acquisition authorized under subsection (a).

"(C) PROVISION OF REVIEW.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall provide such review to—

"(i) the Foreign Intelligence Surveillance Court;

"(ii) the Attorney General;

"(iii) the Director of National Intelligence; and

"(iv) consistent with the Rules of the House of Representatives, the Standing Rules of the Senate, and Senate Resolution 400 of the 94th Congress or any successor Senate resolution—

"(I) the congressional intelligence committees; and

"(II) the Committees on the Judiciary of the House of Representatives and the Senate.

50 USC 1881b.

**"SEC. 703. CERTAIN ACQUISITIONS INSIDE THE UNITED STATES TARGETING UNITED STATES PERSONS OUTSIDE THE UNITED STATES.**

"(a) JURISDICTION OF THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.—

"(1) IN GENERAL.—The Foreign Intelligence Surveillance Court shall have jurisdiction to review an application and to enter an order approving the targeting of a United States person reasonably believed to be located outside the United States to acquire foreign intelligence information, if the acquisition constitutes electronic surveillance or the acquisition of stored electronic communications or stored electronic data that requires an order under this Act, and such acquisition is conducted within the United States.

"(2) LIMITATION.—If a United States person targeted under this subsection is reasonably believed to be located in the United States during the effective period of an order issued pursuant to subsection (c), an acquisition targeting such United States person under this section shall cease unless the targeted United States person is again reasonably believed to be located outside the United States while an order issued pursuant to subsection (c) is in effect. Nothing in this section shall be construed to limit the authority of the Government to seek an order or authorization under, or otherwise engage in any activity that is authorized under, any other title of this Act.

"(b) APPLICATION.—

"(1) IN GENERAL.—Each application for an order under this section shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under subsection (a)(1). Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements of such application, as set forth in this section, and shall include—

"(A) the identity of the Federal officer making the application;

"(B) the identity, if known, or a description of the United States person who is the target of the acquisition;

"(C) a statement of the facts and circumstances relied upon to justify the applicant's belief that the United States person who is the target of the acquisition is—

"(i) a person reasonably believed to be located outside the United States; and

"(ii) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

"(D) a statement of proposed minimization procedures that meet the definition of minimization procedures under section 101(h) or 301(4), as appropriate;

"(E) a description of the nature of the information sought and the type of communications or activities to be subjected to acquisition;

"(F) a certification made by the Attorney General or an official specified in section 104(a)(6) that—

"(i) the certifying official deems the information sought to be foreign intelligence information;

"(ii) a significant purpose of the acquisition is to obtain foreign intelligence information;

"(iii) such information cannot reasonably be obtained by normal investigative techniques;

"(iv) designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

"(v) includes a statement of the basis for the certification that—

"(I) the information sought is the type of foreign intelligence information designated; and

"(II) such information cannot reasonably be obtained by normal investigative techniques;

"(G) a summary statement of the means by which the acquisition will be conducted and whether physical entry is required to effect the acquisition;

"(H) the identity of any electronic communication service provider necessary to effect the acquisition, provided that the application is not required to identify the specific facilities, places, premises, or property at which the acquisition authorized under this section will be directed or conducted;

"(I) a statement of the facts concerning any previous applications that have been made to any judge of the Foreign Intelligence Surveillance Court involving the United States person specified in the application and the action taken on each previous application; and

"(J) a statement of the period of time for which the acquisition is required to be maintained, provided that such period of time shall not exceed 90 days per application.

"(2) OTHER REQUIREMENTS OF THE ATTORNEY GENERAL.—The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

"(3) OTHER REQUIREMENTS OF THE JUDGE.—The judge may require the applicant to furnish such other information as may be necessary to make the findings required by subsection (c)(1).

"(c) ORDER.—

"(1) FINDINGS.—Upon an application made pursuant to subsection (b), the Foreign Intelligence Surveillance Court shall enter an ex parte order as requested or as modified by the Court approving the acquisition if the Court finds that—

"(A) the application has been made by a Federal officer and approved by the Attorney General;

"(B) on the basis of the facts submitted by the applicant, for the United States person who is the target of the acquisition, there is probable cause to believe that the target is—

"(i) a person reasonably believed to be located outside the United States; and

"(ii) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

"(C) the proposed minimization procedures meet the definition of minimization procedures under section 101(h) or 301(4), as appropriate; and

"(D) the application that has been filed contains all statements and certifications required by subsection (b) and the certification or certifications are not clearly erroneous on the basis of the statement made under subsection (b)(1)(F)(v) and any other information furnished under subsection (b)(3).

"(2) PROBABLE CAUSE.—In determining whether or not probable cause exists for purposes of paragraph (1)(B), a judge having jurisdiction under subsection (a)(1) may consider past activities of the target and facts and circumstances relating to current or future activities of the target. No United States person may be considered a foreign power, agent of a foreign power, or officer or employee of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

Records.

"(3) REVIEW.—

"(A) LIMITATION ON REVIEW.—Review by a judge having jurisdiction under subsection (a)(1) shall be limited to that required to make the findings described in paragraph (1).

"(B) REVIEW OF PROBABLE CAUSE.—If the judge determines that the facts submitted under subsection (b) are insufficient to establish probable cause under paragraph (1)(B), the judge shall enter an order so stating and provide a written statement for the record of the reasons for the determination. The Government may appeal an order under this subparagraph pursuant to subsection (f).

"(C) REVIEW OF MINIMIZATION PROCEDURES.—If the judge determines that the proposed minimization procedures referred to in paragraph (1)(C) do not meet the definition of minimization procedures under section 101(h) or 301(4), as appropriate, the judge shall enter an order so stating and provide a written statement for the record of the reasons for the determination. The Government may appeal an order under this subparagraph pursuant to subsection (f).

"(D) REVIEW OF CERTIFICATION.—If the judge determines that an application pursuant to subsection (b) does not contain all of the required elements, or that the certification or certifications are clearly erroneous on the basis of the statement made under subsection (b)(1)(F)(v) and any other information furnished under subsection (b)(3), the judge shall enter an order so stating and provide a written statement for the record of the reasons for the

determination. The Government may appeal an order under this subparagraph pursuant to subsection (f).

"(4) SPECIFICATIONS.—An order approving an acquisition under this subsection shall specify—

"(A) the identity, if known, or a description of the United States person who is the target of the acquisition identified or described in the application pursuant to subsection (b)(1)(B);

"(B) if provided in the application pursuant to subsection (b)(1)(H), the nature and location of each of the facilities or places at which the acquisition will be directed;

"(C) the nature of the information sought to be acquired and the type of communications or activities to be subjected to acquisition;

"(D) a summary of the means by which the acquisition will be conducted and whether physical entry is required to effect the acquisition; and

"(E) the period of time during which the acquisition is approved.

"(5) DIRECTIVES.—An order approving an acquisition under this subsection shall direct—

"(A) that the minimization procedures referred to in paragraph (1)(C), as approved or modified by the Court, be followed;

"(B) if applicable, an electronic communication service provider to provide to the Government forthwith all information, facilities, or assistance necessary to accomplish the acquisition authorized under such order in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target of the acquisition;

"(C) if applicable, an electronic communication service provider to maintain under security procedures approved by the Attorney General any records concerning the acquisition or the aid furnished that such electronic communication service provider wishes to maintain; and

"(D) if applicable, that the Government compensate, at the prevailing rate, such electronic communication service provider for providing such information, facilities, or assistance.

"(6) DURATION.—An order approved under this subsection shall be effective for a period not to exceed 90 days and such order may be renewed for additional 90-day periods upon submission of renewal applications meeting the requirements of subsection (b).

"(7) COMPLIANCE.—At or prior to the end of the period of time for which an acquisition is approved by an order or extension under this section, the judge may assess compliance with the minimization procedures referred to in paragraph (1)(C) by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

"(d) EMERGENCY AUTHORIZATION.—

"(1) AUTHORITY FOR EMERGENCY AUTHORIZATION.—Notwithstanding any other provision of this Act, if the Attorney General reasonably determines that—

"(A) an emergency situation exists with respect to the acquisition of foreign intelligence information for which an order may be obtained under subsection (c) before an order authorizing such acquisition can with due diligence be obtained, and

Deadline.

"(B) the factual basis for issuance of an order under this subsection to approve such acquisition exists,

the Attorney General may authorize such acquisition if a judge having jurisdiction under subsection (a)(1) is informed by the Attorney General, or a designee of the Attorney General, at the time of such authorization that the decision has been made to conduct such acquisition and if an application in accordance with this section is made to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 7 days after the Attorney General authorizes such acquisition.

"(2) MINIMIZATION PROCEDURES.—If the Attorney General authorizes an acquisition under paragraph (1), the Attorney General shall require that the minimization procedures referred to in subsection (c)(1)(C) for the issuance of a judicial order be followed.

"(3) TERMINATION OF EMERGENCY AUTHORIZATION.—In the absence of a judicial order approving an acquisition under paragraph (1), such acquisition shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 7 days from the time of authorization by the Attorney General, whichever is earliest.

"(4) USE OF INFORMATION.—If an application for approval submitted pursuant to paragraph (1) is denied, or in any other case where the acquisition is terminated and no order is issued approving the acquisition, no information obtained or evidence derived from such acquisition, except under circumstances in which the target of the acquisition is determined not to be a United States person, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

"(e) RELEASE FROM LIABILITY.—No cause of action shall lie in any court against any electronic communication service provider for providing any information, facilities, or assistance in accordance with an order or request for emergency assistance issued pursuant to subsection (c) or (d), respectively.

Records.

"(f) APPEAL.—

"(1) APPEAL TO THE FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—The Government may file a petition with the Foreign Intelligence Surveillance Court of Review for review of an order issued pursuant to subsection (c). The Court of Review shall have jurisdiction to consider such petition and shall provide a written statement for the record of the reasons for a decision under this paragraph.

"(2) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under paragraph (1). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

"(g) CONSTRUCTION.—Except as provided in this section, nothing in this Act shall be construed to require an application for a court order for an acquisition that is targeted in accordance with this section at a United States person reasonably believed to be located outside the United States.

**"SEC. 704. OTHER ACQUISITIONS TARGETING UNITED STATES PERSONS OUTSIDE THE UNITED STATES.** 50 USC 1881c.

"(a) JURISDICTION AND SCOPE.—

"(1) JURISDICTION.—The Foreign Intelligence Surveillance Court shall have jurisdiction to enter an order pursuant to subsection (c).

"(2) SCOPE.—No element of the intelligence community may intentionally target, for the purpose of acquiring foreign intelligence information, a United States person reasonably believed to be located outside the United States under circumstances in which the targeted United States person has a reasonable expectation of privacy and a warrant would be required if the acquisition were conducted inside the United States for law enforcement purposes, unless a judge of the Foreign Intelligence Surveillance Court has entered an order with respect to such targeted United States person or the Attorney General has authorized an emergency acquisition pursuant to subsection (c) or (d), respectively, or any other provision of this Act.

"(3) LIMITATIONS.—

"(A) MOVING OR MISIDENTIFIED TARGETS.—If a United States person targeted under this subsection is reasonably believed to be located in the United States during the effective period of an order issued pursuant to subsection (c), an acquisition targeting such United States person under this section shall cease unless the targeted United States person is again reasonably believed to be located outside the United States during the effective period of such order.

"(B) APPLICABILITY.—If an acquisition for foreign intelligence purposes is to be conducted inside the United States and could be authorized under section 703, the acquisition may only be conducted if authorized under section 703 or in accordance with another provision of this Act other than this section.

"(C) CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the authority of the Government to seek an order or authorization under, or otherwise engage in any activity that is authorized under, any other title of this Act.

"(b) APPLICATION.—Each application for an order under this section shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under subsection (a)(1). Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the

criteria and requirements of such application as set forth in this section and shall include—

"(1) the identity of the Federal officer making the application;

"(2) the identity, if known, or a description of the specific United States person who is the target of the acquisition;

"(3) a statement of the facts and circumstances relied upon to justify the applicant's belief that the United States person who is the target of the acquisition is—

"(A) a person reasonably believed to be located outside the United States; and

"(B) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

"(4) a statement of proposed minimization procedures that meet the definition of minimization procedures under section 101(h) or 301(4), as appropriate;

"(5) a certification made by the Attorney General, an official specified in section 104(a)(6), or the head of an element of the intelligence community that—

"(A) the certifying official deems the information sought to be foreign intelligence information; and

"(B) a significant purpose of the acquisition is to obtain foreign intelligence information;

"(6) a statement of the facts concerning any previous applications that have been made to any judge of the Foreign Intelligence Surveillance Court involving the United States person specified in the application and the action taken on each previous application; and

"(7) a statement of the period of time for which the acquisition is required to be maintained, provided that such period of time shall not exceed 90 days per application.

"(c) ORDER.—

"(1) FINDINGS.—Upon an application made pursuant to subsection (b), the Foreign Intelligence Surveillance Court shall enter an ex parte order as requested or as modified by the Court if the Court finds that—

"(A) the application has been made by a Federal officer and approved by the Attorney General;

"(B) on the basis of the facts submitted by the applicant, for the United States person who is the target of the acquisition, there is probable cause to believe that the target is—

"(i) a person reasonably believed to be located outside the United States; and

"(ii) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

"(C) the proposed minimization procedures, with respect to their dissemination provisions, meet the definition of minimization procedures under section 101(h) or 301(4), as appropriate; and

"(D) the application that has been filed contains all statements and certifications required by subsection (b) and the certification provided under subsection (b)(5) is not clearly erroneous on the basis of the information furnished under subsection (b).

"(2) PROBABLE CAUSE.—In determining whether or not probable cause exists for purposes of paragraph (1)(B), a judge

having jurisdiction under subsection (a)(1) may consider past activities of the target and facts and circumstances relating to current or future activities of the target. No United States person may be considered a foreign power, agent of a foreign power, or officer or employee of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

"(3) REVIEW.— Records.

"(A) LIMITATIONS ON REVIEW.—Review by a judge having jurisdiction under subsection (a)(1) shall be limited to that required to make the findings described in paragraph (1). The judge shall not have jurisdiction to review the means by which an acquisition under this section may be conducted.

"(B) REVIEW OF PROBABLE CAUSE.—If the judge determines that the facts submitted under subsection (b) are insufficient to establish probable cause to issue an order under this subsection, the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this subparagraph pursuant to subsection (e).

"(C) REVIEW OF MINIMIZATION PROCEDURES.—If the judge determines that the minimization procedures applicable to dissemination of information obtained through an acquisition under this subsection do not meet the definition of minimization procedures under section 101(h) or 301(4), as appropriate, the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this subparagraph pursuant to subsection (e).

"(D) SCOPE OF REVIEW OF CERTIFICATION.—If the judge determines that an application under subsection (b) does not contain all the required elements, or that the certification provided under subsection (b)(5) is clearly erroneous on the basis of the information furnished under subsection (b), the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this subparagraph pursuant to subsection (e).

"(4) DURATION.—An order under this paragraph shall be effective for a period not to exceed 90 days and such order may be renewed for additional 90-day periods upon submission of renewal applications meeting the requirements of subsection (b).

"(5) COMPLIANCE.—At or prior to the end of the period of time for which an order or extension is granted under this section, the judge may assess compliance with the minimization procedures referred to in paragraph (1)(C) by reviewing the circumstances under which information concerning United States persons was disseminated, provided that the judge may not inquire into the circumstances relating to the conduct of the acquisition.

"(d) EMERGENCY AUTHORIZATION.—

"(1) AUTHORITY FOR EMERGENCY AUTHORIZATION.—Notwithstanding any other provision of this section, if the Attorney General reasonably determines that—

"(A) an emergency situation exists with respect to the acquisition of foreign intelligence information for which an order may be obtained under subsection (c) before an order under that subsection can, with due diligence, be obtained, and

Deadline.

"(B) the factual basis for the issuance of an order under this section exists,

the Attorney General may authorize the emergency acquisition if a judge having jurisdiction under subsection (a)(1) is informed by the Attorney General or a designee of the Attorney General at the time of such authorization that the decision has been made to conduct such acquisition and if an application in accordance with this section is made to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 7 days after the Attorney General authorizes such acquisition.

"(2) MINIMIZATION PROCEDURES.—If the Attorney General authorizes an emergency acquisition under paragraph (1), the Attorney General shall require that the minimization procedures referred to in subsection (c)(1)(C) be followed.

"(3) TERMINATION OF EMERGENCY AUTHORIZATION.—In the absence of an order under subsection (c), an emergency acquisition under paragraph (1) shall terminate when the information sought is obtained, if the application for the order is denied, or after the expiration of 7 days from the time of authorization by the Attorney General, whichever is earliest.

"(4) USE OF INFORMATION.—If an application submitted to the Court pursuant to paragraph (1) is denied, or in any other case where the acquisition is terminated and no order with respect to the target of the acquisition is issued under subsection (c), no information obtained or evidence derived from such acquisition, except under circumstances in which the target of the acquisition is determined not to be a United States person, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

Records.

"(e) APPEAL.—

"(1) APPEAL TO THE COURT OF REVIEW.—The Government may file a petition with the Foreign Intelligence Surveillance Court of Review for review of an order issued pursuant to subsection (c). The Court of Review shall have jurisdiction to consider such petition and shall provide a written statement for the record of the reasons for a decision under this paragraph.

"(2) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under paragraph (1).

The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision."

**"SEC. 705. JOINT APPLICATIONS AND CONCURRENT AUTHORIZATIONS.** 50 USC 1881d.

"(a) JOINT APPLICATIONS AND ORDERS.—If an acquisition targeting a United States person under section 703 or 704 is proposed to be conducted both inside and outside the United States, a judge having jurisdiction under section 703(a)(1) or 704(a)(1) may issue simultaneously, upon the request of the Government in a joint application complying with the requirements of sections 703(b) and 704(b), orders under sections 703(c) and 704(c), as appropriate.

"(b) CONCURRENT AUTHORIZATION.—If an order authorizing electronic surveillance or physical search has been obtained under section 105 or 304, the Attorney General may authorize, for the effective period of that order, without an order under section 703 or 704, the targeting of that United States person for the purpose of acquiring foreign intelligence information while such person is reasonably believed to be located outside the United States.

**"SEC. 706. USE OF INFORMATION ACQUIRED UNDER TITLE VII.** 50 USC 1881e.

"(a) INFORMATION ACQUIRED UNDER SECTION 702.—Information acquired from an acquisition conducted under section 702 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for purposes of section 106, except for the purposes of subsection (j) of such section.

"(b) INFORMATION ACQUIRED UNDER SECTION 703.—Information acquired from an acquisition conducted under section 703 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for purposes of section 106.

**"SEC. 707. CONGRESSIONAL OVERSIGHT.** 50 USC 1881f.

"(a) SEMIANNUAL REPORT.—Not less frequently than once every 6 months, the Attorney General shall fully inform, in a manner consistent with national security, the congressional intelligence committees and the Committees on the Judiciary of the Senate and the House of Representatives, consistent with the Rules of the House of Representatives, the Standing Rules of the Senate, and Senate Resolution 400 of the 94th Congress or any successor Senate resolution, concerning the implementation of this title.

"(b) CONTENT.—Each report under subsection (a) shall include—

"(1) with respect to section 702—

"(A) any certifications submitted in accordance with section 702(g) during the reporting period;

"(B) with respect to each determination under section 702(c)(2), the reasons for exercising the authority under such section;

"(C) any directives issued under section 702(h) during the reporting period;

"(D) a description of the judicial review during the reporting period of such certifications and targeting and minimization procedures adopted in accordance with subsections (d) and (e) of section 702 and utilized with respect to an acquisition under such section, including a copy of an order or pleading in connection with such review that contains a significant legal interpretation of the provisions of section 702;

"(E) any actions taken to challenge or enforce a directive under paragraph (4) or (5) of section 702(h);

"(F) any compliance reviews conducted by the Attorney General or the Director of National Intelligence of acquisitions authorized under section 702(a);

"(G) a description of any incidents of noncompliance—

"(i) with a directive issued by the Attorney General and the Director of National Intelligence under section 702(h), including incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issued a directive under section 702(h); and

"(ii) by an element of the intelligence community with procedures and guidelines adopted in accordance with subsections (d), (e), and (f) of section 702; and

"(H) any procedures implementing section 702;

"(2) with respect to section 703—

"(A) the total number of applications made for orders under section 703(b);

"(B) the total number of such orders—

"(i) granted;

"(ii) modified; and

"(iii) denied; and

"(C) the total number of emergency acquisitions authorized by the Attorney General under section 703(d) and the total number of subsequent orders approving or denying such acquisitions; and

"(3) with respect to section 704—

"(A) the total number of applications made for orders under section 704(b);

"(B) the total number of such orders—

"(i) granted;

"(ii) modified; and

"(iii) denied; and

"(C) the total number of emergency acquisitions authorized by the Attorney General under section 704(d) and the total number of subsequent orders approving or denying such applications.

50 USC 1881g.

**"SEC. 708. SAVINGS PROVISION.**

"Nothing in this title shall be construed to limit the authority of the Government to seek an order or authorization under, or otherwise engage in any activity that is authorized under, any other title of this Act.".

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking the item relating to title VII;

(2) by striking the item relating to section 701; and

(3) by adding at the end the following:

"TITLE VII—ADDITIONAL PROCEDURES REGARDING CERTAIN PERSONS OUTSIDE THE UNITED STATES

"Sec. 701. Definitions.
"Sec. 702. Procedures for targeting certain persons outside the United States other than United States persons.
"Sec. 703. Certain acquisitions inside the United States targeting United States persons outside the United States.

"Sec. 704. Other acquisitions targeting United States persons outside the United States.
"Sec. 705. Joint applications and concurrent authorizations.
"Sec. 706. Use of information acquired under title VII.
"Sec. 707. Congressional oversight.
"Sec. 708. Savings provision.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 18, UNITED STATES CODE.—Section 2511(2)(a)(ii)(A) of title 18, United States Code, is amended by inserting "or a court order pursuant to section 704 of the Foreign Intelligence Surveillance Act of 1978" after "assistance".

(2) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—Section 601(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871(a)(1)) is amended—

(A) in subparagraph (C), by striking "and"; and

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

"(E) acquisitions under section 703; and

"(F) acquisitions under section 704;".

**SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED.**

(a) STATEMENT OF EXCLUSIVE MEANS.—Title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following new section:

"STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED

"SEC. 112. (a) Except as provided in subsection (b), the procedures of chapters 119, 121, and 206 of title 18, United States Code, and this Act shall be the exclusive means by which electronic surveillance and the interception of domestic wire, oral, or electronic communications may be conducted. 50 USC 1812.

"(b) Only an express statutory authorization for electronic surveillance or the interception of domestic wire, oral, or electronic communications, other than as an amendment to this Act or chapters 119, 121, or 206 of title 18, United States Code, shall constitute an additional exclusive means for the purpose of subsection (a).".

(b) OFFENSE.—Section 109(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1809(a)) is amended by striking "authorized by statute" each place it appears and inserting "authorized by this Act, chapter 119, 121, or 206 of title 18, United States Code, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 112."; and

(c) CONFORMING AMENDMENTS.—

(1) TITLE 18, UNITED STATES CODE.—Section 2511(2)(a) of title 18, United States Code, is amended by adding at the end the following:

"(iii) If a certification under subparagraph (ii)(B) for assistance to obtain foreign intelligence information is based on statutory authority, the certification shall identify the specific statutory provision and shall certify that the statutory requirements have been met."; and

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after the item relating to section 111, the following new item:

"Sec. 112. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted.".

**SEC. 103. SUBMITTAL TO CONGRESS OF CERTAIN COURT ORDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.**

(a) INCLUSION OF CERTAIN ORDERS IN SEMIANNUAL REPORTS OF ATTORNEY GENERAL.—Subsection (a)(5) of section 601 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871) is amended by striking "(not including orders)" and inserting ", orders,".

(b) REPORTS BY ATTORNEY GENERAL ON CERTAIN OTHER ORDERS.—Such section 601 is further amended by adding at the end the following:

Records. "(c) SUBMISSIONS TO CONGRESS.—The Attorney General shall submit to the committees of Congress referred to in subsection (a)—

Deadline. "(1) a copy of any decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that includes significant construction or interpretation of any provision of this Act, and any pleadings, applications, or memoranda of law associated with such decision, order, or opinion, not later than 45 days after such decision, order, or opinion is issued; and

"(2) a copy of each such decision, order, or opinion, and any pleadings, applications, or memoranda of law associated with such decision, order, or opinion, that was issued during the 5-year period ending on the date of the enactment of the FISA Amendments Act of 2008 and not previously submitted in a report under subsection (a).

"(d) PROTECTION OF NATIONAL SECURITY.—The Attorney General, in consultation with the Director of National Intelligence, may authorize redactions of materials described in subsection (c) that are provided to the committees of Congress referred to in subsection (a), if such redactions are necessary to protect the national security of the United States and are limited to sensitive sources and methods information or the identities of targets.".

(c) DEFINITIONS.—Such section 601, as amended by subsections (a) and (b), is further amended by adding at the end the following:

"(e) DEFINITIONS.—In this section:

"(1) FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The term 'Foreign Intelligence Surveillance Court' means the court established under section 103(a).

"(2) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—The term 'Foreign Intelligence Surveillance Court of Review' means the court established under section 103(b).".

**SEC. 104. APPLICATIONS FOR COURT ORDERS.**

Section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (2) and (11);

(B) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively;

(C) in paragraph (5), as redesignated by subparagraph (B) of this paragraph, by striking "detailed";

(D) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking "Affairs or" and inserting "Affairs,"; and

(ii) by striking "Senate—" and inserting "Senate, or the Deputy Director of the Federal Bureau of Investigation, if designated by the President as a certifying official—";

(E) in paragraph (7), as redesignated by subparagraph (B) of this paragraph, by striking "statement of" and inserting "summary statement of";

(F) in paragraph (8), as redesignated by subparagraph (B) of this paragraph, by adding "and" at the end; and

(G) in paragraph (9), as redesignated by subparagraph (B) of this paragraph, by striking "; and" and inserting a period;

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(4) in paragraph (1)(A) of subsection (d), as redesignated by paragraph (3) of this subsection, by striking "or the Director of National Intelligence" and inserting "the Director of National Intelligence, or the Director of the Central Intelligence Agency".

**SEC. 105. ISSUANCE OF AN ORDER.**

(a) IN GENERAL.—Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(2) in subsection (b), by striking "(a)(3)" and inserting "(a)(2)";

(3) in subsection (c)(1)—

(A) in subparagraph (D), by adding "and" at the end;

(B) in subparagraph (E), by striking "; and" and inserting a period; and

(C) by striking subparagraph (F);

(4) by striking subsection (d);

(5) by redesignating subsections (e) through (i) as subsections (d) through (h), respectively;

(6) by amending subsection (e), as redesignated by paragraph (5) of this section, to read as follows:

"(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of electronic surveillance if the Attorney General—

"(A) reasonably determines that an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained;

"(B) reasonably determines that the factual basis for the issuance of an order under this title to approve such electronic surveillance exists;

"(C) informs, either personally or through a designee, a judge having jurisdiction under section 103 at the time of such authorization that the decision has been made to employ emergency electronic surveillance; and

Deadline.

"(D) makes an application in accordance with this title to a judge having jurisdiction under section 103 as soon as practicable, but not later than 7 days after the Attorney General authorizes such surveillance.

"(2) If the Attorney General authorizes the emergency employment of electronic surveillance under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

Termination.

"(3) In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 7 days from the time of authorization by the Attorney General, whichever is earliest.

"(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

"(5) In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

Assessment.

"(6) The Attorney General shall assess compliance with the requirements of paragraph (5)."; and

(7) by adding at the end the following:

"(i) In any case in which the Government makes an application to a judge under this title to conduct electronic surveillance involving communications and the judge grants such application, upon the request of the applicant, the judge shall also authorize the installation and use of pen registers and trap and trace devices, and direct the disclosure of the information set forth in section 402(d)(2).".

(b) CONFORMING AMENDMENT.—Section 108(a)(2)(C) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)(2)(C)) is amended by striking "105(f)" and inserting "105(e)";

**SEC. 106. USE OF INFORMATION.**

50 USC 1806.

Subsection (i) of section 106 of the Foreign Intelligence Surveillance Act of 1978 (8 U.S.C. 1806) is amended by striking "radio communication" and inserting "communication".

**SEC. 107. AMENDMENTS FOR PHYSICAL SEARCHES.**

(a) APPLICATIONS.—Section 303 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1823) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(C) in paragraph (2), as redesignated by subparagraph (B) of this paragraph, by striking "detailed";

(D) in paragraph (3)(C), as redesignated by subparagraph (B) of this paragraph, by inserting "or is about to be" before "owned"; and

(E) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking "Affairs or" and inserting "Affairs,"; and

(ii) by striking "Senate—" and inserting "Senate, or the Deputy Director of the Federal Bureau of Investigation, if designated by the President as a certifying official—"; and

(2) in subsection (d)(1)(A), by striking "or the Director of National Intelligence" and inserting "the Director of National Intelligence, or the Director of the Central Intelligence Agency".

(b) ORDERS.—Section 304 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(C) in paragraph (2)(B), as redesignated by subparagraph (B) of this paragraph, by inserting "or is about to be" before "owned"; and

(2) by amending subsection (e) to read as follows:

"(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of a physical search if the Attorney General—

"(A) reasonably determines that an emergency situation exists with respect to the employment of a physical search to obtain foreign intelligence information before an order authorizing such physical search can with due diligence be obtained;

"(B) reasonably determines that the factual basis for issuance of an order under this title to approve such physical search exists;

"(C) informs, either personally or through a designee, a judge of the Foreign Intelligence Surveillance Court at the time of such authorization that the decision has been made to employ an emergency physical search; and

"(D) makes an application in accordance with this title to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 7 days after the Attorney General authorizes such physical search. Deadline.

"(2) If the Attorney General authorizes the emergency employment of a physical search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

"(3) In the absence of a judicial order approving such physical search, the physical search shall terminate when the information sought is obtained, when the application for the order is denied, Termination.

or after the expiration of 7 days from the time of authorization by the Attorney General, whichever is earliest.

"(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

"(5) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the physical search, no information obtained or evidence derived from such physical search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such physical search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

Assessment.

"(6) The Attorney General shall assess compliance with the requirements of paragraph (5).".

(c) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

50 USC 1824.

(1) in section 304(a)(4), as redesignated by subsection (b) of this section, by striking "303(a)(7)(E)" and inserting "303(a)(6)(E)"; and

50 USC 1825.

(2) in section 305(k)(2), by striking "303(a)(7)" and inserting "303(a)(6)".

**SEC. 108. AMENDMENTS FOR EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.**

Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended—

(1) in subsection (a)(2), by striking "48 hours" and inserting "7 days"; and

(2) in subsection (c)(1)(C), by striking "48 hours" and inserting "7 days".

**SEC. 109. FOREIGN INTELLIGENCE SURVEILLANCE COURT.**

(a) DESIGNATION OF JUDGES.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by inserting "at least" before "seven of the United States judicial circuits".

(b) EN BANC AUTHORITY.—

(1) IN GENERAL.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a) of this section, is further amended—

(A) by inserting "(1)" after "(a)"; and

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

"(2)(A) The court established under this subsection may, on its own initiative, or upon the request of the Government in any proceeding or a party under section 501(f) or paragraph (4) or (5) of section 702(h), hold a hearing or rehearing, en banc, when ordered by a majority of the judges that constitute such court upon a determination that—

"(i) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or

"(ii) the proceeding involves a question of exceptional importance.

"(B) Any authority granted by this Act to a judge of the court established under this subsection may be exercised by the court en banc. When exercising such authority, the court en banc shall comply with any requirements of this Act on the exercise of such authority.

"(C) For purposes of this paragraph, the court en banc shall consist of all judges who constitute the court established under this subsection.".

(2) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 is further amended—

(A) in subsection (a) of section 103, as amended by this subsection, by inserting "(except when sitting en banc under paragraph (2))" after "no judge designated under this subsection"; and

(B) in section 302(c) (50 U.S.C. 1822(c)), by inserting "(except when sitting en banc)" after "except that no judge".

(c) STAY OR MODIFICATION DURING AN APPEAL.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f)(1) A judge of the court established under subsection (a), the court established under subsection (b) or a judge of that court, or the Supreme Court of the United States or a justice of that court, may, in accordance with the rules of their respective courts, enter a stay of an order or an order modifying an order of the court established under subsection (a) or the court established under subsection (b) entered under any title of this Act, while the court established under subsection (a) conducts a rehearing, while an appeal is pending to the court established under subsection (b), or while a petition of certiorari is pending in the Supreme Court of the United States, or during the pendency of any review by that court.

"(2) The authority described in paragraph (1) shall apply to an order entered under any provision of this Act.". Applicability.

(d) AUTHORITY OF FOREIGN INTELLIGENCE SURVEILLANCE COURT.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803), as amended by this Act, is amended by adding at the end the following:

"(i) Nothing in this Act shall be construed to reduce or contravene the inherent authority of the court established under subsection (a) to determine or enforce compliance with an order or a rule of such court or with a procedure approved by such court.".

**SEC. 110. WEAPONS OF MASS DESTRUCTION.**

(a) DEFINITIONS.—

(1) FOREIGN POWER.—Subsection (a) of section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a)) is amended—

(A) in paragraph (5), by striking "persons; or" and inserting "persons;";

(B) in paragraph (6) by striking the period and inserting "; or"; and

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

"(7) an entity not substantially composed of United States persons that is engaged in the international proliferation of weapons of mass destruction.".

50 USC 1801.

(2) AGENT OF A FOREIGN POWER.—Subsection (b)(1) of such section 101 is amended—

(A) in subparagraph (B), by striking "or" at the end;

(B) in subparagraph (C), by striking "or" at the end; and

(C) by adding at the end the following new subparagraphs:

"(D) engages in the international proliferation of weapons of mass destruction, or activities in preparation therefor; or

"(E) engages in the international proliferation of weapons of mass destruction, or activities in preparation therefor for or on behalf of a foreign power; or".

(3) FOREIGN INTELLIGENCE INFORMATION.—Subsection (e)(1)(B) of such section 101 is amended by striking "sabotage or international terrorism" and inserting "sabotage, international terrorism, or the international proliferation of weapons of mass destruction".

(4) WEAPON OF MASS DESTRUCTION.—Such section 101 is amended by adding at the end the following new subsection:

"(p) 'Weapon of mass destruction' means—

"(1) any explosive, incendiary, or poison gas device that is designed, intended, or has the capability to cause a mass casualty incident;

"(2) any weapon that is designed, intended, or has the capability to cause death or serious bodily injury to a significant number of persons through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;

"(3) any weapon involving a biological agent, toxin, or vector (as such terms are defined in section 178 of title 18, United States Code) that is designed, intended, or has the capability to cause death, illness, or serious bodily injury to a significant number of persons; or

"(4) any weapon that is designed, intended, or has the capability to release radiation or radioactivity causing death, illness, or serious bodily injury to a significant number of persons.".

(b) USE OF INFORMATION.—

(1) IN GENERAL.—Section 106(k)(1)(B) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806(k)(1)(B)) is amended by striking "sabotage or international terrorism" and inserting "sabotage, international terrorism, or the international proliferation of weapons of mass destruction".

(2) PHYSICAL SEARCHES.—Section 305(k)(1)(B) of such Act (50 U.S.C. 1825(k)(1)(B)) is amended by striking "sabotage or international terrorism" and inserting "sabotage, international terrorism, or the international proliferation of weapons of mass destruction".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 is further amended—

(1) in paragraph (2) of section 105(d) (50 U.S.C. 1805(d)), as redesignated by section 105(a)(5) of this Act, by striking "section 101(a) (5) or (6)" and inserting "paragraph (5), (6), or (7) of section 101(a)";

(2) in section 301(1) (50 U.S.C. 1821(1)), by inserting "weapon of mass destruction," after "person,"; and

(3) in section 304(d)(2) (50 U.S.C. 1824(d)(2)), by striking "section 101(a) (5) or (6)" and inserting "paragraph (5), (6), or (7) of section 101(a)".

# TITLE II—PROTECTIONS FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS

**SEC. 201. PROCEDURES FOR IMPLEMENTING STATUTORY DEFENSES UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.**

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 101, is further amended by adding at the end the following new title:

# "TITLE VIII—PROTECTION OF PERSONS ASSISTING THE GOVERNMENT

**"SEC. 801. DEFINITIONS.** 50 USC 1885.

"In this title:

"(1) ASSISTANCE.—The term 'assistance' means the provision of, or the provision of access to, information (including communication contents, communications records, or other information relating to a customer or communication), facilities, or another form of assistance.

"(2) CIVIL ACTION.—The term 'civil action' includes a covered civil action.

"(3) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

"(A) the Select Committee on Intelligence of the Senate; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives.

"(4) CONTENTS.—The term 'contents' has the meaning given that term in section 101(n).

"(5) COVERED CIVIL ACTION.—The term 'covered civil action' means a civil action filed in a Federal or State court that—

"(A) alleges that an electronic communication service provider furnished assistance to an element of the intelligence community; and

"(B) seeks monetary or other relief from the electronic communication service provider related to the provision of such assistance.

"(6) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

"(A) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

"(B) a provider of electronic communication service, as that term is defined in section 2510 of title 18, United States Code;

"(C) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

"(D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored;

"(E) a parent, subsidiary, affiliate, successor, or assignee of an entity described in subparagraph (A), (B), (C), or (D); or

"(F) an officer, employee, or agent of an entity described in subparagraph (A), (B), (C), (D), or (E).

"(7) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

"(8) PERSON.—The term 'person' means—

"(A) an electronic communication service provider; or

"(B) a landlord, custodian, or other person who may be authorized or required to furnish assistance pursuant to—

"(i) an order of the court established under section 103(a) directing such assistance;

"(ii) a certification in writing under section 2511(2)(a)(ii)(B) or 2709(b) of title 18, United States Code; or

"(iii) a directive under section 102(a)(4), 105B(e), as added by section 2 of the Protect America Act of 2007 (Public Law 110–55), or 702(h).

"(9) STATE.—The term 'State' means any State, political subdivision of a State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States, and includes any officer, public utility commission, or other body authorized to regulate an electronic communication service provider.

50 USC 1885a.

**"SEC. 802. PROCEDURES FOR IMPLEMENTING STATUTORY DEFENSES.**

"(a) REQUIREMENT FOR CERTIFICATION.—Notwithstanding any other provision of law, a civil action may not lie or be maintained in a Federal or State court against any person for providing assistance to an element of the intelligence community, and shall be promptly dismissed, if the Attorney General certifies to the district court of the United States in which such action is pending that—

"(1) any assistance by that person was provided pursuant to an order of the court established under section 103(a) directing such assistance;

"(2) any assistance by that person was provided pursuant to a certification in writing under section 2511(2)(a)(ii)(B) or 2709(b) of title 18, United States Code;

"(3) any assistance by that person was provided pursuant to a directive under section 102(a)(4), 105B(e), as added by section 2 of the Protect America Act of 2007 (Public Law 110–55), or 702(h) directing such assistance;

"(4) in the case of a covered civil action, the assistance alleged to have been provided by the electronic communication service provider was—

"(A) in connection with an intelligence activity involving communications that was—

"(i) authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007; and

"(ii) designed to detect or prevent a terrorist attack, or activities in preparation for a terrorist attack, against the United States; and

"(B) the subject of a written request or directive, or a series of written requests or directives, from the Attorney General or the head of an element of the intelligence community (or the deputy of such person) to the electronic communication service provider indicating that the activity was—

"(i) authorized by the President; and

"(ii) determined to be lawful; or

"(5) the person did not provide the alleged assistance.

"(b) JUDICIAL REVIEW.—

"(1) REVIEW OF CERTIFICATIONS.—A certification under subsection (a) shall be given effect unless the court finds that such certification is not supported by substantial evidence provided to the court pursuant to this section.

"(2) SUPPLEMENTAL MATERIALS.—In its review of a certification under subsection (a), the court may examine the court order, certification, written request, or directive described in subsection (a) and any relevant court order, certification, written request, or directive submitted pursuant to subsection (d).

"(c) LIMITATIONS ON DISCLOSURE.—If the Attorney General files a declaration under section 1746 of title 28, United States Code, that disclosure of a certification made pursuant to subsection (a) or the supplemental materials provided pursuant to subsection (b) or (d) would harm the national security of the United States, the court shall—

"(1) review such certification and the supplemental materials in camera and ex parte; and Review.

"(2) limit any public disclosure concerning such certification and the supplemental materials, including any public order following such in camera and ex parte review, to a statement as to whether the case is dismissed and a description of the legal standards that govern the order, without disclosing the paragraph of subsection (a) that is the basis for the certification.

"(d) ROLE OF THE PARTIES.—Any plaintiff or defendant in a civil action may submit any relevant court order, certification, written request, or directive to the district court referred to in subsection (a) for review and shall be permitted to participate in the briefing or argument of any legal issue in a judicial proceeding conducted pursuant to this section, but only to the extent that such participation does not require the disclosure of classified information to such party. To the extent that classified information is relevant to the proceeding or would be revealed in the determination of an issue, the court shall review such information in camera and ex parte, and shall issue any part of the court's written order that would reveal classified information in camera and ex parte and maintain such part under seal. Review.

"(e) NONDELEGATION.—The authority and duties of the Attorney General under this section shall be performed by the Attorney General (or Acting Attorney General) or the Deputy Attorney General.

"(f) APPEAL.—The courts of appeals shall have jurisdiction of appeals from interlocutory orders of the district courts of the United States granting or denying a motion to dismiss or for summary judgment under this section.

"(g) REMOVAL.—A civil action against a person for providing assistance to an element of the intelligence community that is brought in a State court shall be deemed to arise under the Constitution and laws of the United States and shall be removable under section 1441 of title 28, United States Code.

"(h) RELATIONSHIP TO OTHER LAWS.—Nothing in this section shall be construed to limit any otherwise available immunity, privilege, or defense under any other provision of law.

"(i) APPLICABILITY.—This section shall apply to a civil action pending on or filed after the date of the enactment of the FISA Amendments Act of 2008.

50 USC 1885b.

**"SEC. 803. PREEMPTION.**

"(a) IN GENERAL.—No State shall have authority to—

"(1) conduct an investigation into an electronic communication service provider's alleged assistance to an element of the intelligence community;

"(2) require through regulation or any other means the disclosure of information about an electronic communication service provider's alleged assistance to an element of the intelligence community;

"(3) impose any administrative sanction on an electronic communication service provider for assistance to an element of the intelligence community; or

"(4) commence or maintain a civil action or other proceeding to enforce a requirement that an electronic communication service provider disclose information concerning alleged assistance to an element of the intelligence community.

"(b) SUITS BY THE UNITED STATES.—The United States may bring suit to enforce the provisions of this section.

"(c) JURISDICTION.—The district courts of the United States shall have jurisdiction over any civil action brought by the United States to enforce the provisions of this section.

"(d) APPLICATION.—This section shall apply to any investigation, action, or proceeding that is pending on or commenced after the date of the enactment of the FISA Amendments Act of 2008.

50 USC 1885c.

**"SEC. 804. REPORTING.**

"(a) SEMIANNUAL REPORT.—Not less frequently than once every 6 months, the Attorney General shall, in a manner consistent with national security, the Rules of the House of Representatives, the Standing Rules of the Senate, and Senate Resolution 400 of the 94th Congress or any successor Senate resolution, fully inform the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives concerning the implementation of this title.

"(b) CONTENT.—Each report made under subsection (a) shall include—

"(1) any certifications made under section 802;

"(2) a description of the judicial review of the certifications made under section 802; and

"(3) any actions taken to enforce the provisions of section 803.".

**SEC. 202. TECHNICAL AMENDMENTS.**

The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 101(b), is further amended by adding at the end the following:

"TITLE VIII—PROTECTION OF PERSONS ASSISTING THE GOVERNMENT

"Sec. 801. Definitions.
"Sec. 802. Procedures for implementing statutory defenses.
"Sec. 803. Preemption.
"Sec. 804. Reporting.".

# TITLE III—REVIEW OF PREVIOUS ACTIONS

**SEC. 301. REVIEW OF PREVIOUS ACTIONS.**

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means—

(A) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The term "Foreign Intelligence Surveillance Court" means the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

(3) PRESIDENT'S SURVEILLANCE PROGRAM AND PROGRAM.—The terms "President's Surveillance Program" and "Program" mean the intelligence activity involving communications that was authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007, including the program referred to by the President in a radio address on December 17, 2005 (commonly known as the Terrorist Surveillance Program).

(b) REVIEWS.—

(1) REQUIREMENT TO CONDUCT.—The Inspectors General of the Department of Justice, the Office of the Director of National Intelligence, the National Security Agency, the Department of Defense, and any other element of the intelligence community that participated in the President's Surveillance Program, shall complete a comprehensive review of, with respect to the oversight authority and responsibility of each such Inspector General—

(A) all of the facts necessary to describe the establishment, implementation, product, and use of the product of the Program;

(B) access to legal reviews of the Program and access to information about the Program;

(C) communications with, and participation of, individuals and entities in the private sector related to the Program;

(D) interaction with the Foreign Intelligence Surveillance Court and transition to court orders related to the Program; and

(E) any other matters identified by any such Inspector General that would enable that Inspector General to complete a review of the Program, with respect to such Department or element.

(2) COOPERATION AND COORDINATION.—

(A) COOPERATION.—Each Inspector General required to conduct a review under paragraph (1) shall—

(i) work in conjunction, to the extent practicable, with any other Inspector General required to conduct such a review; and

(ii) utilize, to the extent practicable, and not unnecessarily duplicate or delay, such reviews or audits that have been completed or are being undertaken by any such Inspector General or by any other office of the Executive Branch related to the Program.

Reports.

(B) INTEGRATION OF OTHER REVIEWS.—The Counsel of the Office of Professional Responsibility of the Department of Justice shall provide the report of any investigation conducted by such Office on matters relating to the Program, including any investigation of the process through which legal reviews of the Program were conducted and the substance of such reviews, to the Inspector General of the Department of Justice, who shall integrate the factual findings and conclusions of such investigation into its review.

Appointments.
President.

(C) COORDINATION.—The Inspectors General shall designate one of the Inspectors General required to conduct a review under paragraph (1) that is appointed by the President, by and with the advice and consent of the Senate, to coordinate the conduct of the reviews and the preparation of the reports.

(c) REPORTS.—

(1) PRELIMINARY REPORTS.—Not later than 60 days after the date of the enactment of this Act, the Inspectors General of the Department of Justice, the Office of the Director of National Intelligence, the National Security Agency, the Department of Defense, and any other Inspector General required to conduct a review under subsection (b)(1), shall submit to the appropriate committees of Congress an interim report that describes the planned scope of such review.

(2) FINAL REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspectors General of the Department of Justice, the Office of the Director of National Intelligence, the National Security Agency, the Department of Defense, and any other Inspector General required to conduct a review under subsection (b)(1), shall submit to the appropriate committees of Congress, in a manner consistent with national security, a comprehensive report on such reviews that includes any recommendations of any such Inspectors General within the oversight authority and responsibility of any such Inspector General with respect to the reviews.

(3) FORM.—A report under this subsection shall be submitted in unclassified form, but may include a classified annex. The unclassified report shall not disclose the name or identity of any individual or entity of the private sector that participated in the Program or with whom there was communication about the Program, to the extent that information is classified.

(d) RESOURCES.—

(1) EXPEDITED SECURITY CLEARANCE.—The Director of National Intelligence shall ensure that the process for the investigation and adjudication of an application by an Inspector General or any appropriate staff of an Inspector General for a security clearance necessary for the conduct of the review under subsection (b)(1) is carried out as expeditiously as possible.

(2) ADDITIONAL PERSONNEL FOR THE INSPECTORS GENERAL.—An Inspector General required to conduct a review under subsection (b)(1) and submit a report under subsection (c) is authorized to hire such additional personnel as may be necessary to carry out such review and prepare such report in a prompt and timely manner. Personnel authorized to be hired under this paragraph—

(A) shall perform such duties relating to such a review as the relevant Inspector General shall direct; and

(B) are in addition to any other personnel authorized by law.

(3) TRANSFER OF PERSONNEL.—The Attorney General, the Secretary of Defense, the Director of National Intelligence, the Director of the National Security Agency, or the head of any other element of the intelligence community may transfer personnel to the relevant Office of the Inspector General required to conduct a review under subsection (b)(1) and submit a report under subsection (c) and, in addition to any other personnel authorized by law, are authorized to fill any vacancy caused by such a transfer. Personnel transferred under this paragraph shall perform such duties relating to such review as the relevant Inspector General shall direct.

# TITLE IV—OTHER PROVISIONS

**SEC. 401. SEVERABILITY.**

50 USC 1801 note.

If any provision of this Act, any amendment made by this Act, or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act, of any such amendments, and of the application of such provisions to other persons and circumstances shall not be affected thereby.

**SEC. 402. EFFECTIVE DATE.**

50 USC 1801 note.

Except as provided in section 404, the amendments made by this Act shall take effect on the date of the enactment of this Act.

**SEC. 403. REPEALS.**

(a) REPEAL OF PROTECT AMERICA ACT OF 2007 PROVISIONS.— 50 USC 1805a–1805c.

(1) AMENDMENTS TO FISA.—

(A) IN GENERAL.—Except as provided in section 404, sections 105A, 105B, and 105C of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805a, 1805b, and 1805c) are repealed.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by

striking the items relating to sections 105A, 105B, and 105C.

(ii) CONFORMING AMENDMENTS.—Except as provided in section 404, section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(I) in paragraph (1), by striking "105B(h) or 501(f)(1)" and inserting "501(f)(1) or 702(h)(4)"; and

(II) in paragraph (2), by striking "105B(h) or 501(f)(1)" and inserting "501(f)(1) or 702(h)(4)".

(2) REPORTING REQUIREMENTS.—Except as provided in section 404, section 4 of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 555) is repealed.

50 USC 1803 note.

(3) TRANSITION PROCEDURES.—Except as provided in section 404, subsection (b) of section 6 of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 556) is repealed.

Effective dates.

(b) FISA AMENDMENTS ACT OF 2008.—

50 USC 1881 note.

(1) IN GENERAL.—Except as provided in section 404, effective December 31, 2012, title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101(a), is repealed.

50 USC 1881–1881g.

18 USC 2511 note.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Effective December 31, 2012—

(A) the table of contents in the first section of such Act (50 U.S.C. 1801 et seq.) is amended by striking the items related to title VII;

(B) except as provided in section 404, section 601(a)(1) of such Act (50 U.S.C. 1871(a)(1)) is amended to read as such section read on the day before the date of the enactment of this Act; and

(C) except as provided in section 404, section 2511(2)(a)(ii)(A) of title 18, United States Code, is amended by striking "or a court order pursuant to section 704 of the Foreign Intelligence Surveillance Act of 1978".

Applicability. 50 USC 1801 note.

**SEC. 404. TRANSITION PROCEDURES.**

(a) TRANSITION PROCEDURES FOR PROTECT AMERICA ACT OF 2007 PROVISIONS.—

(1) CONTINUED EFFECT OF ORDERS, AUTHORIZATIONS, DIRECTIVES.—Except as provided in paragraph (7), notwithstanding any other provision of law, any order, authorization, or directive issued or made pursuant to section 105B of the Foreign Intelligence Surveillance Act of 1978, as added by section 2 of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 552), shall continue in effect until the expiration of such order, authorization, or directive.

(2) APPLICABILITY OF PROTECT AMERICA ACT OF 2007 TO CONTINUED ORDERS, AUTHORIZATIONS, DIRECTIVES.—Notwithstanding any other provision of this Act, any amendment made by this Act, or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)—

(A) subject to paragraph (3), section 105A of such Act, as added by section 2 of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 552), shall continue to apply to any acquisition conducted pursuant to an order, authorization, or directive referred to in paragraph (1); and

(B) sections 105B and 105C of the Foreign Intelligence Surveillance Act of 1978, as added by sections 2 and 3, respectively, of the Protect America Act of 2007, shall continue to apply with respect to an order, authorization, or directive referred to in paragraph (1) until the later of—

(i) the expiration of such order, authorization, or directive; or

(ii) the date on which final judgment is entered for any petition or other litigation relating to such order, authorization, or directive.

(3) USE OF INFORMATION.—Information acquired from an acquisition conducted pursuant to an order, authorization, or directive referred to in paragraph (1) shall be deemed to be information acquired from an electronic surveillance pursuant to title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) for purposes of section 106 of such Act (50 U.S.C. 1806), except for purposes of subsection (j) of such section.

(4) PROTECTION FROM LIABILITY.—Subsection (l) of section 105B of the Foreign Intelligence Surveillance Act of 1978, as added by section 2 of the Protect America Act of 2007, shall continue to apply with respect to any directives issued pursuant to such section 105B.

Termination dates.

(5) JURISDICTION OF FOREIGN INTELLIGENCE SURVEILLANCE COURT.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), section 103(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1803(e)), as amended by section 5(a) of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 556), shall continue to apply with respect to a directive issued pursuant to section 105B of the Foreign Intelligence Surveillance Act of 1978, as added by section 2 of the Protect America Act of 2007, until the later of—

(A) the expiration of all orders, authorizations, or directives referred to in paragraph (1); or

(B) the date on which final judgment is entered for any petition or other litigation relating to such order, authorization, or directive.

(6) REPORTING REQUIREMENTS.—

Termination date.

(A) CONTINUED APPLICABILITY.—Notwithstanding any other provision of this Act, any amendment made by this Act, the Protect America Act of 2007 (Public Law 110–55), or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), section 4 of the Protect America Act of 2007 shall continue to apply until the date that the certification described in subparagraph (B) is submitted.

(B) CERTIFICATION.—The certification described in this subparagraph is a certification—

(i) made by the Attorney General;

(ii) submitted as part of a semi-annual report required by section 4 of the Protect America Act of 2007;

(iii) that states that there will be no further acquisitions carried out under section 105B of the Foreign Intelligence Surveillance Act of 1978, as added

by section 2 of the Protect America Act of 2007, after the date of such certification; and

(iv) that states that the information required to be included under such section 4 relating to any acquisition conducted under such section 105B has been included in a semi-annual report required by such section 4.

(7) REPLACEMENT OF ORDERS, AUTHORIZATIONS, AND DIRECTIVES.—

Certification. Deadline.

(A) IN GENERAL.—If the Attorney General and the Director of National Intelligence seek to replace an authorization issued pursuant to section 105B of the Foreign Intelligence Surveillance Act of 1978, as added by section 2 of the Protect America Act of 2007 (Public Law 110–55), with an authorization under section 702 of the Foreign Intelligence Surveillance Act of 1978 (as added by section 101(a) of this Act), the Attorney General and the Director of National Intelligence shall, to the extent practicable, submit to the Foreign Intelligence Surveillance Court (as such term is defined in section 701(b)(2) of such Act (as so added)) a certification prepared in accordance with subsection (g) of such section 702 and the procedures adopted in accordance with subsections (d) and (e) of such section 702 at least 30 days before the expiration of such authorization.

(B) CONTINUATION OF EXISTING ORDERS.—If the Attorney General and the Director of National Intelligence seek to replace an authorization made pursuant to section 105B of the Foreign Intelligence Surveillance Act of 1978, as added by section 2 of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 522), by filing a certification in accordance with subparagraph (A), that authorization, and any directives issued thereunder and any order related thereto, shall remain in effect, notwithstanding the expiration provided for in subsection (a) of such section 105B, until the Foreign Intelligence Surveillance Court (as such term is defined in section 701(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (as so added)) issues an order with respect to that certification under section 702(i)(3) of such Act (as so added) at which time the provisions of that section and of section 702(i)(4) of such Act (as so added) shall apply.

(8) EFFECTIVE DATE.—Paragraphs (1) through (7) shall take effect as if enacted on August 5, 2007.

(b) TRANSITION PROCEDURES FOR FISA AMENDMENTS ACT OF 2008 PROVISIONS.—

(1) ORDERS IN EFFECT ON DECEMBER 31, 2012.—Notwithstanding any other provision of this Act, any amendment made by this Act, or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), any order, authorization, or directive issued or made under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101(a), shall continue in effect until the date of the expiration of such order, authorization, or directive.

(2) APPLICABILITY OF TITLE VII OF FISA TO CONTINUED ORDERS, AUTHORIZATIONS, DIRECTIVES.—Notwithstanding any other provision of this Act, any amendment made by this Act,

or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), with respect to any order, authorization, or directive referred to in paragraph (1), title VII of such Act, as amended by section 101(a), shall continue to apply until the later of—

(A) the expiration of such order, authorization, or directive; or

(B) the date on which final judgment is entered for any petition or other litigation relating to such order, authorization, or directive.

(3) CHALLENGE OF DIRECTIVES; PROTECTION FROM LIABILITY; USE OF INFORMATION.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)—

(A) section 103(e) of such Act, as amended by section 403(a)(1)(B)(ii), shall continue to apply with respect to any directive issued pursuant to section 702(h) of such Act, as added by section 101(a);

(B) section 702(h)(3) of such Act (as so added) shall continue to apply with respect to any directive issued pursuant to section 702(h) of such Act (as so added);

(C) section 703(e) of such Act (as so added) shall continue to apply with respect to an order or request for emergency assistance under that section;

(D) section 706 of such Act (as so added) shall continue to apply to an acquisition conducted under section 702 or 703 of such Act (as so added); and

(E) section 2511(2)(a)(ii)(A) of title 18, United States Code, as amended by section 101(c)(1), shall continue to apply to an order issued pursuant to section 704 of the Foreign Intelligence Surveillance Act of 1978, as added by section 101(a).

(4) REPORTING REQUIREMENTS.—

(A) CONTINUED APPLICABILITY.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), section 601(a) of such Act (50 U.S.C. 1871(a)), as amended by section 101(c)(2), and sections 702(l) and 707 of such Act, as added by section 101(a), shall continue to apply until the date that the certification described in subparagraph (B) is submitted.

(B) CERTIFICATION.—The certification described in this subparagraph is a certification—

(i) made by the Attorney General;

(ii) submitted to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives;

(iii) that states that there will be no further acquisitions carried out under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101(a), after the date of such certification; and

(iv) that states that the information required to be included in a review, assessment, or report under section 601 of such Act, as amended by section 101(c), or section 702(l) or 707 of such Act, as added by section

101(a), relating to any acquisition conducted under title VII of such Act, as amended by section 101(a), has been included in a review, assessment, or report under such section 601, 702(l), or 707.

Deadline.

(5) TRANSITION PROCEDURES CONCERNING THE TARGETING OF UNITED STATES PERSONS OVERSEAS.—Any authorization in effect on the date of enactment of this Act under section 2.5 of Executive Order 12333 to intentionally target a United States person reasonably believed to be located outside the United States shall continue in effect, and shall constitute a sufficient basis for conducting such an acquisition targeting a United States person located outside the United States until the earlier of—

(A) the date that authorization expires; or

(B) the date that is 90 days after the date of the enactment of this Act.

Approved July 10, 2008.

LEGISLATIVE HISTORY—H.R. 6304:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 20, considered and passed House.
July 8, 9, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
July 9, Presidential remarks.

# Public Law 110–262
# 110th Congress

## An Act

To designate the United States bankruptcy courthouse located at 271 Cadman Plaza East in Brooklyn, New York, as the "Conrad B. Duberstein United States Bankruptcy Courthouse".

July 15, 2008
[H.R. 430]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States bankruptcy courthouse located at 271 Cadman Plaza East in Brooklyn, New York, shall be known and designated as the "Conrad B. Duberstein United States Bankruptcy Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States bankruptcy courthouse referred to in section 1 shall be deemed to be a reference to the "Conrad B. Duberstein United States Bankruptcy Courthouse".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 430:

HOUSE REPORTS: No. 110–21 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Mar. 13, considered and passed House.
Vol. 154 (2008): June 24, considered and passed Senate.

# Public Law 110–263
# 110th Congress

## An Act

July 15, 2008
[H.R. 781]

To redesignate Lock and Dam No. 5 of the McClellan-Kerr Arkansas River Navigation System near Redfield, Arkansas, authorized by the Rivers and Harbors Act approved July 24, 1946, as the "Colonel Charles D. Maynard Lock and Dam".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

Congress finds the following:

(1) Colonel Charles D. Maynard, who served the Nation with distinction as an engineer officer in World War II and afterwards oversaw the massive buildup of work on the "Arkansas River Project" in the early 1960s which at the time was the largest civil works project ever undertaken by the Corps of Engineers while concurrently overseeing construction of Greers Ferry and Beaver Dams on the White River.

(2) Colonel Charles D. Maynard was assigned as district engineer of the Little Rock Engineer District for 3 years during which time he directed planning, design, and construction of 13 locks and dams of the McClellan-Kerr Arkansas River Navigation Project.

(3) Colonel Charles D. Maynard successfully met the challenging schedules set by Congress and the Administration while coordinating with a host of state and Federal agencies in Arkansas and Oklahoma.

(4) Colonel Charles D. Maynard served as Chairman and President of the Water Resources Association of America, President of the Arkansas Basin Association, member of the Arkansas Basin Coordinating Committee of the Arkansas Basin Development Association.

(5) Colonel Charles D. Maynard actively promoted development of waterborne transportation in Arkansas and was appointed by 3 governors to serve on the Arkansas Waterways Commission for 21 years.

(6) Colonel Charles D. Maynard provided Congressional testimony in support of the McClellan-Kerr Arkansas River Navigation System, Fourche Creek Flood Control Project, and Montgomery Point Lock and Dam on behalf of various Arkansas associations and committees, and was named as a member of the Arkansas River Hall of Fame.

(7) Colonel Charles D. Maynard, who died on October 22, 2005, served in numerous community and civic roles, including the United States Savings Bond Coordinator for Arkansas for 10 years, Campaign Chairman for the United Way of Pulaski

County, Chairman Emeritus of Central Arkansas Radiation Treatment Center, and President of the Little Rock Chamber of Commerce.

(8) Colonel Charles D. Maynard was a dedicated citizen who served on a number of boards supporting his state and local community including Arkansas Arts Center, the Arkansas Symphony, and the Foundation Board of the University of Arkansas for Medical Sciences.

**SEC. 2. LOCK AND DAM REDESIGNATION.**

(a) REDESIGNATION.—Lock and Dam No. 5 of the McClellan-Kerr Arkansas River Navigation System near Redfield, Arkansas, authorized by the Rivers and Harbors Act approved July 24, 1946, shall be known and redesignated as the "Colonel Charles D. Maynard Lock and Dam".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in subsection (a) shall be deemed to be a reference to the "Colonel Charles D. Maynard Lock and Dam".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 781:

HOUSE REPORTS: No. 110–229 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 153 (2007): July 16, considered and passed House.
Vol. 154 (2008): June 24, considered and passed Senate.

# Public Law 110–264
# 110th Congress

## An Act

July 15, 2008
[H.R. 2728]

To designate the station of the United States Border Patrol located at 25762 Madison Avenue in Murrieta, California, as the "Theodore L. Newton, Jr. and George F. Azrak Border Patrol Station".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The station of the United States Border Patrol located at 25762 Madison Avenue in Murrieta, California, shall be known and designated as the "Theodore L. Newton, Jr. and George F. Azrak Border Patrol Station".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the station referred to in section 1 shall be deemed to be a reference to the "Theodore L. Newton, Jr. and George F. Azrak Border Patrol Station".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 2728:

HOUSE REPORTS: No. 110–327 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Oct. 29, considered and passed House.
Vol. 154 (2008): June 24, considered and passed Senate.

Public Law 110–265
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 1190 Lorena Road in Lorena, Texas, as the "Marine Gunnery Sgt. John D. Fry Post Office Building".

July 15, 2008
[H.R. 3721]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MARINE GUNNERY SGT. JOHN D. FRY POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1190 Lorena Road in Lorena, Texas, shall be known and designated as the "Marine Gunnery Sgt. John D. Fry Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Marine Gunnery Sgt. John D. Fry Post Office Building".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 3721:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 23, considered and passed House.
June 27, considered and passed Senate.

# Public Law 110–266
# 110th Congress

## An Act

July 15, 2008
[H.R. 4140]

To designate the Port Angeles Federal Building in Port Angeles, Washington, as the "Richard B. Anderson Federal Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. RICHARD B. ANDERSON FEDERAL BUILDING.**

(a) DESIGNATION.—The Federal building located at 138 West First Street, Port Angeles, Washington, shall be known and designated as the "Richard B. Anderson Federal Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Richard B. Anderson Federal Building".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 4140:

HOUSE REPORTS: No. 110–515 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Jan. 28, considered and passed House.
June 24, considered and passed Senate.

Public Law 110–267
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 11151 Valley Boulevard in El Monte, California, as the "Marisol Heredia Post Office Building".

July 15, 2008
[H.R. 4185]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MARISOL HEREDIA POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 11151 Valley Boulevard in El Monte, California, shall be known and designated as the "Marisol Heredia Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Marisol Heredia Post Office Building".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 4185:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 23, considered and passed House.
June 27, considered and passed Senate.

# Public Law 110–268
# 110th Congress

## An Act

July 15, 2008
[H.R. 5168]

To designate the facility of the United States Postal Service located at 19101 Cortez Boulevard in Brooksville, Florida, as the "Cody Grater Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CODY GRATER POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 19101 Cortez Boulevard in Brooksville, Florida, shall be known and designated as the "Cody Grater Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Cody Grater Post Office Building".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 5168:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 1, considered and passed House.
June 27, considered and passed Senate.

Public Law 110–269
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 11001 Dunklin Drive in St. Louis, Missouri, as the "William 'Bill' Clay Post Office Building".

July 15, 2008
[H.R. 5395]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WILLIAM "BILL" CLAY POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 11001 Dunklin Drive in St. Louis, Missouri, shall be known and designated as the "William 'Bill' Clay Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "William 'Bill' Clay Post Office Building".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 5395 (S. 2622):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 9, considered and passed House.
June 27, considered and passed Senate.

# Public Law 110–270
# 110th Congress

## An Act

July 15, 2008
[H.R. 5479]

To designate the facility of the United States Postal Service located at 117 North Kidd Street in Ionia, Michigan, as the "Alonzo Woodruff Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ALONZO WOODRUFF POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 117 North Kidd Street in Ionia, Michigan, shall be known and designated as the "Alonzo Woodruff Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Alonzo Woodruff Post Office Building".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 5479:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 23, considered and passed House.
June 27, considered and passed Senate.

Public Law 110–271
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 7231 FM 1960 in Humble, Texas, as the "Texas Military Veterans Post Office".

July 15, 2008
[H.R. 5517]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TEXAS MILITARY VETERANS POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 7231 FM 1960 in Humble, Texas, shall be known and designated as the "Texas Military Veterans Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Texas Military Veterans Post Office".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 5517:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 14, 15, considered and passed House.
June 27, considered and passed Senate.

# Public Law 110–272
# 110th Congress

## An Act

July 15, 2008
[H.R. 5528]

To designate the facility of the United States Postal Service located at 120 Commercial Street in Brockton, Massachusetts, as the "Rocky Marciano Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ROCKY MARCIANO POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 120 Commercial Street in Brockton, Massachusetts, shall be known and designated as the "Rocky Marciano Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Rocky Marciano Post Office Building".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 5528:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 23, considered and passed House.
June 27, considered and passed Senate.

Public Law 110–273
110th Congress

# An Act

To preserve the independence of the District of Columbia Water and Sewer Authority.

July 15, 2008
[H.R. 5778]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

District of Columbia Water and Sewer Authority Independence Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "District of Columbia Water and Sewer Authority Independence Preservation Act".

**SEC. 2. ENSURING INDEPENDENCE OF CHIEF FINANCIAL OFFICER OF DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY.**

(a) CLARIFICATION OF INAPPLICABILITY OF 2005 OMNIBUS AUTHORIZATION PROVISION.—The District of Columbia Home Rule Act is amended—

(1) by redesignating the section 424 added by section 202(a)(1) of the 2005 District of Columbia Omnibus Authorization Act (Public Law 109—356; 120 Stat. 2036) as section 424a; and

(2) in section 424a, as so redesignated, by adding at the end the following new subsection:

"(e) INAPPLICABILITY TO WATER AND SEWER AUTHORITY.—The authority of the Chief Financial Officer under this section does not apply to personnel of the District of Columbia Water and Sewer Authority established pursuant to the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the 2005 District of Columbia Omnibus Authorization Act.

**SEC. 3. PRESERVING EXISTING INDEPENDENCE OF DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY.**

(a) IN GENERAL.—Part F of title IV of the District of Columbia Home Rule Act (sec. 1—204.91 et seq., D.C. Official Code) is amended—

(1) by amending the heading of such part to read as follows: "PART F—INDEPENDENT AGENCIES AND AUTHORITIES"; and

(2) by adding at the end the following new section:

"INDEPENDENT FINANCIAL MANAGEMENT, PERSONNEL, AND PROCUREMENT AUTHORITY OF DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

"SEC. 496. (a) FINANCIAL MANAGEMENT, PERSONNEL, AND PROCUREMENT AUTHORITY.—Notwithstanding any other provision

of this Act or any District of Columbia law, the financial management, personnel, and procurement functions and responsibilities of the District of Columbia Water and Sewer Authority shall be established exclusively pursuant to rules and regulations adopted by its Board of Directors. Nothing in the previous sentence may be construed to affect the application to the District of Columbia Water and Sewer Authority of sections 445A, 451(d), 453(c), or 490(g).

"(b) CONSISTENCY WITH EXISTING AUTHORIZING LAW.—The rules and regulations adopted by the Board of Directors of the District of Columbia Water and Sewer Authority to establish the financial management, personnel, and procurement functions and responsibilities of the Authority shall be consistent with the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, as such Act is in effect as of January 1, 2008.".

(b) CLERICAL AMENDMENTS.—(1) The table of contents of such Act is amended by amending the item relating to part F of title IV to read as follows:

"PART F—INDEPENDENT AGENCIES AND AUTHORITIES".

(2) The table of contents of such Act is further amended by adding at the end of the items relating to part F of title IV the following:

"Sec. 496. Independent financial management, personnel, and procurement authority of District of Columbia Water and Sewer Authority.".

**SEC. 4. PRESERVING EQUAL ELIGIBILITY OF RESIDENTS OF JURISDICTIONS SERVED BY DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY TO SERVE AS EMPLOYEES OF AUTHORITY.**

(a) IN GENERAL.—Section 213 of D.C. Act 17—172 is repealed, and each provision of law amended by such section is restored as if such section had not been enacted into law.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect as if included in the enactment of D.C. Act 17—172.

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 5778:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 9, considered and passed House.
June 16, considered and passed Senate.

Public Law 110–274
110th Congress

# An Act

To amend the Water Resources Development Act of 2007 to clarify the authority of the Secretary of the Army to provide reimbursement for travel expenses incurred by members of the Committee on Levee Safety.

July 15, 2008
[H.R. 6040]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COMMITTEE ON LEVEE SAFETY.**

Section 9003(f) of the Water Resources Development Act of 2007 (33 U.S.C. 3302(f)) is amended by striking "To the extent amounts are made available in advance in appropriations Acts," and inserting "Subject to the availability of appropriations,".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 6040:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 23, considered and passed House.
June 25, considered and passed Senate.

# Public Law 110–275
# 110th Congress

## An Act

To amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes.

July 15, 2008
[H.R. 6331]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Medicare Improvements for Patients and Providers Act of 2008.
Inter-governmental relations.
42 USC 1305 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Medicare Improvements for Patients and Providers Act of 2008".

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

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE

Subtitle A—Beneficiary Improvements

PART I—PREVENTION, MENTAL HEALTH, AND MARKETING

Sec. 101. Improvements to coverage of preventive services.
Sec. 102. Elimination of discriminatory copayment rates for Medicare outpatient psychiatric services.
Sec. 103. Prohibitions and limitations on certain sales and marketing activities under Medicare Advantage plans and prescription drug plans.
Sec. 104. Improvements to the Medigap program.

PART II—LOW-INCOME PROGRAMS

Sec. 111. Extension of qualifying individual (QI) program.
Sec. 112. Application of full LIS subsidy assets test under Medicare Savings Program.
Sec. 113. Eliminating barriers to enrollment.
Sec. 114. Elimination of Medicare part D late enrollment penalties paid by subsidy eligible individuals.
Sec. 115. Eliminating application of estate recovery.
Sec. 116. Exemptions from income and resources for determination of eligibility for low-income subsidy.
Sec. 117. Judicial review of decisions of the Commissioner of Social Security under the Medicare part D low-income subsidy program.
Sec. 118. Translation of model form.
Sec. 119. Medicare enrollment assistance.

Subtitle B—Provisions Relating to Part A

Sec. 121. Expansion and extension of the Medicare Rural Hospital Flexibility Program.
Sec. 122. Rebasing for sole community hospitals.
Sec. 123. Demonstration project on community health integration models in certain rural counties.
Sec. 124. Extension of the reclassification of certain hospitals.
Sec. 125. Revocation of unique deeming authority of the Joint Commission.

Subtitle C—Provisions Relating to Part B

PART I—PHYSICIANS' SERVICES

Sec. 131. Physician payment, efficiency, and quality improvements.
Sec. 132. Incentives for electronic prescribing.
Sec. 133. Expanding access to primary care services.
Sec. 134. Extension of floor on Medicare work geographic adjustment under the Medicare physician fee schedule.
Sec. 135. Imaging provisions.
Sec. 136. Extension of treatment of certain physician pathology services under Medicare.
Sec. 137. Accommodation of physicians ordered to active duty in the Armed Services.
Sec. 138. Adjustment for Medicare mental health services.
Sec. 139. Improvements for Medicare anesthesia teaching programs.

PART II—OTHER PAYMENT AND COVERAGE IMPROVEMENTS

Sec. 141. Extension of exceptions process for Medicare therapy caps.
Sec. 142. Extension of payment rule for brachytherapy and therapeutic radiopharmaceuticals.
Sec. 143. Speech-language pathology services.
Sec. 144. Payment and coverage improvements for patients with chronic obstructive pulmonary disease and other conditions.
Sec. 145. Clinical laboratory tests.
Sec. 146. Improved access to ambulance services.
Sec. 147. Extension and expansion of the Medicare hold harmless provision under the prospective payment system for hospital outpatient department (HOPD) services for certain hospitals.
Sec. 148. Clarification of payment for clinical laboratory tests furnished by critical access hospitals.
Sec. 149. Adding certain entities as originating sites for payment of telehealth services.
Sec. 150. MedPAC study and report on improving chronic care demonstration programs.
Sec. 151. Increase of FQHC payment limits.
Sec. 152. Kidney disease education and awareness provisions.
Sec. 153. Renal dialysis provisions.
Sec. 154. Delay in and reform of Medicare DMEPOS competitive acquisition program.

Subtitle D—Provisions Relating to Part C

Sec. 161. Phase-out of indirect medical education (IME).
Sec. 162. Revisions to requirements for Medicare Advantage private fee-for-service plans.
Sec. 163. Revisions to quality improvement programs.
Sec. 164. Revisions relating to specialized Medicare Advantage plans for special needs individuals.
Sec. 165. Limitation on out-of-pocket costs for dual eligibles and qualified medicare beneficiaries enrolled in a specialized Medicare Advantage plan for special needs individuals.
Sec. 166. Adjustment to the Medicare Advantage stabilization fund.
Sec. 167. Access to Medicare reasonable cost contract plans.
Sec. 168. MedPAC study and report on quality measures.
Sec. 169. MedPAC study and report on Medicare Advantage payments.

Subtitle E—Provisions Relating to Part D

PART I—IMPROVING PHARMACY ACCESS

Sec. 171. Prompt payment by prescription drug plans and MA–PD plans under part D.
Sec. 172. Submission of claims by pharmacies located in or contracting with long-term care facilities.
Sec. 173. Regular update of prescription drug pricing standard.

PART II—OTHER PROVISIONS

Sec. 175. Inclusion of barbiturates and benzodiazepines as covered part D drugs.
Sec. 176. Formulary requirements with respect to certain categories or classes of drugs.

Subtitle F—Other Provisions

Sec. 181. Use of part D data.

Sec. 182. Revision of definition of medically accepted indication for drugs.
Sec. 183. Contract with a consensus-based entity regarding performance measurement.
Sec. 184. Cost-sharing for clinical trials.
Sec. 185. Addressing health care disparities.
Sec. 186. Demonstration to improve care to previously uninsured.
Sec. 187. Office of the Inspector General report on compliance with and enforcement of national standards on culturally and linguistically appropriate services (CLAS) in Medicare.
Sec. 188. Medicare Improvement Funding.
Sec. 189. Inclusion of Medicare providers and suppliers in Federal Payment Levy and Administrative Offset Program.

TITLE II—MEDICAID

Sec. 201. Extension of transitional medical assistance (TMA) and abstinence education program.
Sec. 202. Medicaid DSH extension.
Sec. 203. Pharmacy reimbursement under Medicaid.
Sec. 204. Review of administrative claim determinations.
Sec. 205. County medicaid health insuring organizations.

TITLE III—MISCELLANEOUS

Sec. 301. Extension of TANF supplemental grants.
Sec. 302. 70 percent federal matching for foster care and adoption assistance for the District of Columbia.
Sec. 303. Extension of Special Diabetes Grant Programs.
Sec. 304. IOM reports on best practices for conducting systematic reviews of clinical effectiveness research and for developing clinical protocols.

# TITLE I—MEDICARE

## Subtitle A—Beneficiary Improvements

### PART I—PREVENTION, MENTAL HEALTH, AND MARKETING

**SEC. 101. IMPROVEMENTS TO COVERAGE OF PREVENTIVE SERVICES.**

(a) COVERAGE OF ADDITIONAL PREVENTIVE SERVICES.—

(1) COVERAGE.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(A) in subsection (s)(2)—

(i) in subparagraph (Z), by striking "and" after the semicolon at the end;

(ii) in subparagraph (AA), by adding "and" after the semicolon at the end; and

(iii) by adding at the end the following new subparagraph:

"(BB) additional preventive services (described in subsection (ddd)(1));"; and

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

"Additional Preventive Services

"(ddd)(1) The term 'additional preventive services' means services not otherwise described in this title that identify medical conditions or risk factors and that the Secretary determines are—

"(A) reasonable and necessary for the prevention or early detection of an illness or disability;

"(B) recommended with a grade of A or B by the United States Preventive Services Task Force; and

"(C) appropriate for individuals entitled to benefits under part A or enrolled under part B.

"(2) In making determinations under paragraph (1) regarding the coverage of a new service, the Secretary shall use the process for making national coverage determinations (as defined in section 1869(f)(1)(B)) under this title. As part of the use of such process, the Secretary may conduct an assessment of the relation between predicted outcomes and the expenditures for such service and may take into account the results of such assessment in making such determination.".

(2) PAYMENT AND COINSURANCE FOR ADDITIONAL PREVENTIVE SERVICES.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" before "(V)"; and

(B) by inserting before the semicolon at the end the following: ", and (W) with respect to additional preventive services (as defined in section 1861(ddd)(1)), the amount paid shall be (i) in the case of such services which are clinical diagnostic laboratory tests, the amount determined under subparagraph (D), and (ii) in the case of all other such services, 80 percent of the lesser of the actual charge for the service or the amount determined under a fee schedule established by the Secretary for purposes of this subparagraph".

(3) CONFORMING AMENDMENT REGARDING COVERAGE.—Section 1862(a)(1)(A) of the Social Security Act (42 U.S.C. 1395y(a)(1)(A)) is amended by inserting "or additional preventive services (as described in section 1861(ddd)(1))" after "succeeding subparagraph".

(4) RULE OF CONSTRUCTION.—Nothing in the provisions of, or amendments made by, this subsection shall be construed to provide coverage under title XVIII of the Social Security Act of items and services for the treatment of a medical condition that is not otherwise covered under such title. 42 USC 1395*l* note.

(b) REVISIONS TO INITIAL PREVENTIVE PHYSICAL EXAMINATION.—

(1) IN GENERAL.—Section 1861(ww) of the Social Security Act (42 U.S.C. 1395x(ww)) is amended—

(A) in paragraph (1)—

(i) by inserting "body mass index," after "weight";

(ii) by striking ", and an electrocardiogram"; and

(iii) by inserting "and end-of-life planning (as defined in paragraph (3)) upon the agreement with the individual" after "paragraph (2)";

(B) in paragraph (2), by adding at the end the following new subparagraphs:

"(M) An electrocardiogram.

"(N) Additional preventive services (as defined in subsection (ddd)(1)).."; and

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

"(3) For purposes of paragraph (1), the term 'end-of-life planning' means verbal or written information regarding—

"(A) an individual's ability to prepare an advance directive in the case that an injury or illness causes the individual to be unable to make health care decisions; and

"(B) whether or not the physician is willing to follow the individual's wishes as expressed in an advance directive.".

(2) WAIVER OF APPLICATION OF DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking "and" before "(8)"; and

(B) by inserting ", and (9) such deductible shall not apply with respect to an initial preventive physical examination (as defined in section 1861(ww))" before the period at the end.

(3) EXTENSION OF ELIGIBILITY PERIOD FROM SIX MONTHS TO ONE YEAR.—Section 1862(a)(1)(K) of the Social Security Act (42 U.S.C. 1395y(a)(1)(K)) is amended by striking "6 months" and inserting "1 year".

(4) TECHNICAL CORRECTION.—Section 1862(a)(1)(K) of the Social Security Act (42 U.S.C. 1395y(a)(1)(K)) is amended by striking "not later" and inserting "more".

42 USC 1395*l* note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2009.

**SEC. 102. ELIMINATION OF DISCRIMINATORY COPAYMENT RATES FOR MEDICARE OUTPATIENT PSYCHIATRIC SERVICES.**

Section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended to read as follows:

"(c)(1) Notwithstanding any other provision of this part, with respect to expenses incurred in a calendar year in connection with the treatment of mental, psychoneurotic, and personality disorders of an individual who is not an inpatient of a hospital at the time such expenses are incurred, there shall be considered as incurred expenses for purposes of subsections (a) and (b)—

"(A) for expenses incurred in years prior to 2010, only 62½ percent of such expenses;

"(B) for expenses incurred in 2010 or 2011, only 68¾ percent of such expenses;

"(C) for expenses incurred in 2012, only 75 percent of such expenses;

"(D) for expenses incurred in 2013, only 81¼ percent of such expenses; and

"(E) for expenses incurred in 2014 or any subsequent calendar year, 100 percent of such expenses.

"(2) For purposes of subparagraphs (A) through (D) of paragraph (1), the term 'treatment' does not include brief office visits (as defined by the Secretary) for the sole purpose of monitoring or changing drug prescriptions used in the treatment of such disorders or partial hospitalization services that are not directly provided by a physician.".

**SEC. 103. PROHIBITIONS AND LIMITATIONS ON CERTAIN SALES AND MARKETING ACTIVITIES UNDER MEDICARE ADVANTAGE PLANS AND PRESCRIPTION DRUG PLANS.**

(a) PROHIBITIONS.—

(1) MEDICARE ADVANTAGE PROGRAM.—

(A) IN GENERAL.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21) is amended—

(i) in subsection (h)(4)—

(I) in subparagraph (A)—

(aa) by striking "cash or other monetary rebates" and inserting ", subject to subsection (j)(2)(C), cash, gifts, prizes, or other monetary rebates"; and

(bb) by striking ", and" at the end and inserting a semicolon;

(II) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(III) by adding at the end the following new subparagraph:

"(C) shall not permit a Medicare Advantage organization (or the agents, brokers, and other third parties representing such organization) to conduct the prohibited activities described in subsection (j)(1); and"; and

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

"(j) PROHIBITED ACTIVITIES DESCRIBED AND LIMITATIONS ON THE CONDUCT OF CERTAIN OTHER ACTIVITIES.—

"(1) PROHIBITED ACTIVITIES DESCRIBED.—The following prohibited activities are described in this paragraph:

"(A) UNSOLICITED MEANS OF DIRECT CONTACT.—Any unsolicited means of direct contact of prospective enrollees, including soliciting door-to-door or any outbound telemarketing without the prospective enrollee initiating contact.

"(B) CROSS-SELLING.—The sale of other non-health related products (such as annuities and life insurance) during any sales or marketing activity or presentation conducted with respect to a Medicare Advantage plan.

"(C) MEALS.—The provision of meals of any sort, regardless of value, to prospective enrollees at promotional and sales activities.

"(D) SALES AND MARKETING IN HEALTH CARE SETTINGS AND AT EDUCATIONAL EVENTS.—Sales and marketing activities for the enrollment of individuals in Medicare Advantage plans that are conducted—

"(i) in health care settings in areas where health care is delivered to individuals (such as physician offices and pharmacies), except in the case where such activities are conducted in common areas in health care settings; and

"(ii) at educational events.".

(2) MEDICARE PRESCRIPTION DRUG PROGRAM.—Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) is amended by adding at the end the following new subsection:

"(l) REQUIREMENTS WITH RESPECT TO SALES AND MARKETING ACTIVITIES.—The following provisions shall apply to a PDP sponsor (and the agents, brokers, and other third parties representing such sponsor) in the same manner as such provisions apply to a Medicare Advantage organization (and the agents, brokers, and other third parties representing such organization): Applicability.

"(1) The prohibition under section 1851(h)(4)(C) on conducting activities described in section 1851(j)(1).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning on or after January 1, 2009. 42 USC 1395w–21 note.

(b) LIMITATIONS.—

(1) MEDICARE ADVANTAGE PROGRAM.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21), as amended by subsection (a)(1), is amended—

(A) in subsection (h)(4), by adding at the end the following new subparagraph:

"(D) shall only permit a Medicare Advantage organization (and the agents, brokers, and other third parties representing such organization) to conduct the activities described in subsection (j)(2) in accordance with the limitations established under such subsection."; and

(B) in subsection (j), by adding at the end the following new paragraph:

"(2) LIMITATIONS.—The Secretary shall establish limitations with respect to at least the following:

"(A) SCOPE OF MARKETING APPOINTMENTS.—The scope of any appointment with respect to the marketing of a Medicare Advantage plan. Such limitation shall require advance agreement with a prospective enrollee on the scope of the marketing appointment and documentation of such agreement by the Medicare Advantage organization. In the case where the marketing appointment is in person, such documentation shall be in writing.

"(B) CO-BRANDING.—The use of the name or logo of a co-branded network provider on Medicare Advantage plan membership and marketing materials.

"(C) LIMITATION OF GIFTS TO NOMINAL DOLLAR VALUE.—The offering of gifts and other promotional items other than those that are of nominal value (as determined by the Secretary) to prospective enrollees at promotional activities.

"(D) COMPENSATION.—The use of compensation other than as provided under guidelines established by the Secretary. Such guidelines shall ensure that the use of compensation creates incentives for agents and brokers to enroll individuals in the Medicare Advantage plan that is intended to best meet their health care needs.

"(E) REQUIRED TRAINING, ANNUAL RETRAINING, AND TESTING OF AGENTS, BROKERS, AND OTHER THIRD PARTIES.—The use by a Medicare Advantage organization of any individual as an agent, broker, or other third party representing the organization that has not completed an initial training and testing program and does not complete an annual retraining and testing program.".

(2) MEDICARE PRESCRIPTION DRUG PROGRAM.—Section 1860D–4(l) of the Social Security Act, as added by subsection (a)(2), is amended by adding at the end the following new paragraph:

"(2) The requirement under section 1851(h)(4)(D) to conduct activities described in section 1851(j)(2) in accordance with the limitations established under such subsection.".

Deadline.
42 USC
1395w–21 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on a date specified by the Secretary (but in no case later than November 15, 2008).

(c) REQUIRED INCLUSION OF PLAN TYPE IN PLAN NAME.—

(1) MEDICARE ADVANTAGE PROGRAM.—Section 1851(h) of the Social Security Act (42 U.S.C. 1395w–21(h)) is amended by adding at the end following new paragraph:

Effective date.

"(6) REQUIRED INCLUSION OF PLAN TYPE IN PLAN NAME.—For plan years beginning on or after January 1, 2010, a Medicare Advantage organization must ensure that the name of

each Medicare Advantage plan offered by the Medicare Advantage organization includes the plan type of the plan (using standard terminology developed by the Secretary).".

(2) PRESCRIPTION DRUG PLANS.—Section 1860D–4(l) of the Social Security Act, as added by subsection (a)(2) and amended by subsection (b)(2), is amended by adding at the end the following new paragraph:

"(3) The inclusion of the plan type in the plan name under section 1851(h)(6).".

(d) STRENGTHENING THE ABILITY OF STATES TO ACT IN COLLABORATION WITH THE SECRETARY TO ADDRESS FRAUDULENT OR INAPPROPRIATE MARKETING PRACTICES.—

(1) MEDICARE ADVANTAGE PROGRAM.—Section 1851(h) of the Social Security Act (42 U.S.C. 1395w–21(h), as amended by subsection (c)(1), is amended by adding at the end the following new paragraph:

"(7) STRENGTHENING THE ABILITY OF STATES TO ACT IN COLLABORATION WITH THE SECRETARY TO ADDRESS FRAUDULENT OR INAPPROPRIATE MARKETING PRACTICES.—

"(A) APPOINTMENT OF AGENTS AND BROKERS.—Each Medicare Advantage organization shall—

"(i) only use agents and brokers who have been licensed under State law to sell Medicare Advantage plans offered by the Medicare Advantage organization;

"(ii) in the case where a State has a State appointment law, abide by such law; and

"(iii) report to the applicable State the termination of any such agent or broker, including the reasons for such termination (as required under applicable State law). Reports.

"(B) COMPLIANCE WITH STATE INFORMATION REQUESTS.—Each Medicare Advantage organization shall comply in a timely manner with any request by a State for information regarding the performance of a licensed agent, broker, or other third party representing the Medicare Advantage organization as part of an investigation by the State into the conduct of the agent, broker, or other third party.".

(2) PRESCRIPTION DRUG PLANS.—Section 1860D–4(l) of the Social Security Act, as amended by subsection (c)(2), is amended by adding at the end the following new paragraph:

"(4) The requirements regarding the appointment of agents and brokers and compliance with State information requests under subparagraphs (A) and (B), respectively, of section 1851(h)(7).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning on or after January 1, 2009. 42 USC 1395w–21 note.

**SEC. 104. IMPROVEMENTS TO THE MEDIGAP PROGRAM.** 42 USC 1395ss note.

(a) IMPLEMENTATION OF NAIC RECOMMENDATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide for implementation of the changes in the NAIC model law and regulations approved by the National Association of Insurance Commissioners in its Model #651 ("Model Regulation

to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act") on March 11, 2007, as modified to reflect the changes made under this Act and the Genetic Information Nondiscrimination Act of 2008 (Public Law 110–233).

(2) IMPLEMENTATION DATES.—

(A) IN GENERAL.—The modifications to Model #651 required under paragraph (1) shall be completed by the National Association of Insurance Commissioners not later than October 31, 2008. Except as provided in subparagraph (B), each State shall have 1 year from the date the National Association of Insurance Commissioners adopts the revised NAIC model law and regulations (as changed by Model #651, as so modified) to conform the regulatory program established by the State to such revised NAIC model law and regulations.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State which the Secretary determines requires State legislation in order to conform the regulatory program established by the State to such revised NAIC model law and regulations, the State shall not be regarded as failing to comply with the requirements of this section solely on the basis of its failure to meet such requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

(C) TRANSITION DATES.—No carrier may issue a new or revised medicare supplemental policy or certificate under section 1882 of the Social Security Act (42 U.S.C. 1395ss) that meets the requirements of such revised NAIC model law and regulations for coverage effective prior to June 1, 2010. A carrier may continue to offer or issue a medicare supplemental policy under such section that meets the requirements of the NAIC model law and regulations and State law (as in effect prior to the adoption of such revised NAIC model law and regulations) prior to June 1, 2010. Nothing shall preclude carriers from marketing new or revised medicare supplemental policies or certificates that meet the requirements of such revised NAIC model law and regulations on or after the date on which the State conforms the regulatory program established by the State to such revised NAIC model law and regulations.

42 USC 1395ss.

(b) REQUIRED OFFERING OF A RANGE OF POLICIES.—Section 1882(o) of the Social Security Act (42 U.S.C. 1395s(o)), as amended by section 104(b)(3) of the Genetic Information Nondiscrimination Act of 2008 (Public Law 110–233), is amended by adding at the end the following new paragraph:

"(5) In addition to the requirement under paragraph (2), the issuer of the policy must make available to the individual at least Medicare supplemental policies with benefit packages classified as 'C' or 'F'.".

42 USC 1395ss–1.

(c) CLARIFICATION.—Any health insurance policy that provides reimbursement for expenses incurred for items and services for

which payment may be made under title XVIII of the Social Security Act but which are not reimbursable by reason of the applicability of deductibles, coinsurance, copayments or other limitations imposed by a Medicare Advantage plan (including a Medicare Advantage private fee-for-service plan) under part C of such title shall comply with the requirements of section 1882(o) of the such Act (42 U.S.C. 1395ss(o)).

## PART II—LOW-INCOME PROGRAMS

**SEC. 111. EXTENSION OF QUALIFYING INDIVIDUAL (QI) PROGRAM.**

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking "June 2008" and inserting "December 2009".

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (H);

(B) in subparagraph (I)—

(i) by striking "June 30" and inserting "September 30";

(ii) by striking "$200,000,000" and inserting "$300,000,000"; and

(iii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(J) for the period that begins on October 1, 2008, and ends on December 31, 2008, the total allocation amount is $100,000,000;

"(K) for the period that begins on January 1, 2009, and ends on September 30, 2009, the total allocation amount is $350,000,000; and

"(L) for the period that begins on October 1, 2009, and ends on December 31, 2009, the total allocation amount is $150,000,000."; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking "or (H)" and inserting "(H), (J), or (L)".

**SEC. 112. APPLICATION OF FULL LIS SUBSIDY ASSETS TEST UNDER MEDICARE SAVINGS PROGRAM.**

Section 1905(p)(1)(C) of such Act (42 U.S.C. 1396d(p)(1)(C)) is amended by inserting before the period at the end the following: "or, effective beginning with January 1, 2010, whose resources (as so determined) do not exceed the maximum resource level applied for the year under subparagraph (D) of section 1860D–14(a)(3) (determined without regard to the life insurance policy exclusion provided under subparagraph (G) of such section) applicable to an individual or to the individual and the individual's spouse (as the case may be)".

**SEC. 113. ELIMINATING BARRIERS TO ENROLLMENT.**

(a) SSA ASSISTANCE WITH MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM APPLICATIONS.—Section 1144 of such Act (42 U.S.C. 1320b–14) is amended by adding at the end the following new subsection:

"(c) ASSISTANCE WITH MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM APPLICATIONS.—

"(1) DISTRIBUTION OF APPLICATIONS AND INFORMATION TO INDIVIDUALS WHO ARE POTENTIALLY ELIGIBLE FOR LOW-INCOME SUBSIDY PROGRAM.—For each individual who submits an application for low-income subsidies under section 1860D–14, requests an application for such subsidies, or is otherwise identified as an individual who is potentially eligible for such subsidies, the Commissioner shall do the following:

"(A) Provide information describing the low-income subsidy program under section 1860D–14 and the Medicare Savings Program (as defined in paragraph (7)).

"(B) Provide an application for enrollment under such low-income subsidy program (if not already received by the Commissioner).

"(C) In accordance with paragraph (3), transmit data from such an application for purposes of initiating an application for benefits under the Medicare Savings Program.

"(D) Provide information on how the individual may obtain assistance in completing such application and an application under the Medicare Savings Program, including information on how the individual may contact the State health insurance assistance program (SHIP).

"(E) Make the application described in subparagraph (B) and the information described in subparagraphs (A) and (D) available at local offices of the Social Security Administration.

"(2) TRAINING PERSONNEL IN EXPLAINING BENEFIT PROGRAMS AND ASSISTING IN COMPLETING LIS APPLICATION.—The Commissioner shall provide training to those employees of the Social Security Administration who are involved in receiving applications for benefits described in paragraph (1)(B) in order that they may promote beneficiary understanding of the low-income subsidy program and the Medicare Savings Program in order to increase participation in these programs. Such employees shall provide assistance in completing an application described in paragraph (1)(B) upon request.

Effective date.

"(3) TRANSMITTAL OF DATA TO STATES.—Beginning on January 1, 2010, with the consent of an individual completing an application for benefits described in paragraph (1)(B), the Commissioner shall electronically transmit to the appropriate State Medicaid agency data from such application, as determined by the Commissioner, which transmittal shall initiate an application of the individual for benefits under the Medicare Savings Program with the State Medicaid agency. In order to ensure that such data transmittal provides effective assistance for purposes of State adjudication of applications for benefits under the Medicare Savings Program, the Commissioner shall consult with the Secretary, after the Secretary has consulted with the States, regarding the content, form, frequency, and manner in which data (on a uniform basis for all States) shall be transmitted under this subparagraph.

"(4) COORDINATION WITH OUTREACH.—The Commissioner shall coordinate outreach activities under this subsection in connection with the low-income subsidy program and the Medicare Savings Program.

Appropriation authorization.

"(5) REIMBURSEMENT OF SOCIAL SECURITY ADMINISTRATION ADMINISTRATIVE COSTS.—

"(A) INITIAL MEDICARE SAVINGS PROGRAM COSTS; ADDITIONAL LOW-INCOME SUBSIDY COSTS.—

"(i) INITIAL MEDICARE SAVINGS PROGRAM COSTS.—There are hereby appropriated to the Commissioner to carry out this subsection, out of any funds in the Treasury not otherwise appropriated, $24,100,000. The amount appropriated under ths clause shall be available on October 1, 2008, and shall remain available until expended.

"(ii) ADDITIONAL AMOUNT FOR LOW-INCOME SUBSIDY ACTIVITIES.—There are hereby appropriated to the Commissioner, out of any funds in the Treasury not otherwise appropriated, $24,800,000 for fiscal year 2009 to carry out low-income subsidy activities under section 1860D–14 and the Medicare Savings Program (in accordance with this subsection), to remain available until expended. Such funds shall be in addition to the Social Security Administration's Limitation on Administrative Expenditure appropriations for such fiscal year.

"(B) SUBSEQUENT FUNDING UNDER AGREEMENTS.—

"(i) IN GENERAL.—Effective for fiscal years beginning on or after October 1, 2010, the Commissioner and the Secretary shall enter into an agreement which shall provide funding (subject to the amount appropriated under clause (ii)) to cover the administrative costs of the Commissioner's activities under this subsection. Such agreement shall— Effective date.

"(I) provide funds to the Commissioner for the full cost of the Social Security Administration's work related to the Medicare Savings Program required under this section;

"(II) provide such funding quarterly in advance of the applicable quarter based on estimating methodology agreed to by the Commissioner and the Secretary; and

"(III) require an annual accounting and reconciliation of the actual costs incurred and funds provided under this subsection.

"(ii) APPROPRIATION.—There are hereby appropriated to the Secretary solely for the purpose of providing payments to the Commissioner pursuant to an agreement specified in clause (i) that is in effect, out of any funds in the Treasury not otherwise appropriated, not more than $3,000,000 for fiscal year 2011 and each fiscal year thereafter.

"(C) LIMITATION.—In no case shall funds from the Social Security Administration's Limitation on Administrative Expenses be used to carry out activities related to the Medicare Savings Program. For fiscal years beginning on or after October 1, 2010, no such activities shall be undertaken by the Social Security Administration unless the agreement specified in subparagraph (B) is in effect and full funding has been provided to the Commissioner as specified in such subparagraph. Effective date.

"(6) GAO ANALYSIS AND REPORT.—

"(A) ANALYSIS.—The Comptroller General of the United States shall prepare an analysis of the impact of this subsection—

"(i) in increasing participation in the Medicare Savings Program, and

"(ii) on States and the Social Security Administration.

"(B) REPORT.—Not later than January 1, 2012, the Comptroller General shall submit to Congress, the Commissioner, and the Secretary a report on the analysis conducted under subparagraph (A).

"(7) MEDICARE SAVINGS PROGRAM DEFINED.—For purposes of this subsection, the term 'Medicare Savings Program' means the program of medical assistance for payment of the cost of medicare cost-sharing under the Medicaid program pursuant to sections 1902(a)(10)(E) and 1933.".

(b) MEDICAID AGENCY CONSIDERATION OF DATA TRANSMITTAL.—

(1) IN GENERAL.—Section 1935(a) of such Act (42 U.S.C. 1396u–5(a)) is amended by adding at the end the following new paragraph:

"(4) CONSIDERATION OF DATA TRANSMITTED BY THE SOCIAL SECURITY ADMINISTRATION FOR PURPOSES OF MEDICARE SAVINGS PROGRAM.—The State shall accept data transmitted under section 1144(c)(3) and act on such data in the same manner and in accordance with the same deadlines as if the data constituted an initiation of an application for benefits under the Medicare Savings Program (as defined for purposes of such section) that had been submitted directly by the applicant. The date of the individual's application for the low income subsidy program from which the data have been derived shall constitute the date of filing of such application for benefits under the Medicare Savings Program.".

(2) CONFORMING AMENDMENTS.—Section 1935(a) of such Act (42 U.S.C. 1396u–5(a)) is amended in the subsection heading by striking "AND" and by inserting ", AND MEDICARE COST-SHARING" after "ASSISTANCE".

42 USC 1320b–14 note.

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on January 1, 2010.

**SEC. 114. ELIMINATION OF MEDICARE PART D LATE ENROLLMENT PENALTIES PAID BY SUBSIDY ELIGIBLE INDIVIDUALS.**

(a) WAIVER OF LATE ENROLLMENT PENALTY.—

(1) IN GENERAL.—Section 1860D–13(b) of the Social Security Act (42 U.S.C. 1395w–113(b)) is amended by adding at the end the following new paragraph:

"(8) WAIVER OF PENALTY FOR SUBSIDY-ELIGIBLE INDIVIDUALS.—In no case shall a part D eligible individual who is determined to be a subsidy eligible individual (as defined in section 1860D–14(a)(3)) be subject to an increase in the monthly beneficiary premium established under subsection (a).".

(2) CONFORMING AMENDMENT.—Section 1860D–14(a)(1)(A) of the Social Security Act (42 U.S.C. 1395w–114(a)(1)(A)) is amended by striking "equal to" and all that follows through the period and inserting "equal to 100 percent of the amount described in subsection (b)(1), but not to exceed the premium amount specified in subsection (b)(2)(B).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to subsidies for months beginning with January 2009. 42 USC 1395w–113 note.

**SEC. 115. ELIMINATING APPLICATION OF ESTATE RECOVERY.**

(a) IN GENERAL.—Section 1917(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(B)(ii)) is amended by inserting "(but not including medical assistance for medicare cost-sharing or for benefits described in section 1902(a)(10)(E))" before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of January 1, 2010. 42 USC 1396p note.

**SEC. 116. EXEMPTIONS FROM INCOME AND RESOURCES FOR DETERMINATION OF ELIGIBILITY FOR LOW-INCOME SUBSIDY.**

(a) IN GENERAL.—Section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)) is amended—

(1) in subparagraph (C)(i), by inserting "and except that support and maintenance furnished in kind shall not be counted as income" after "section 1902(r)(2)";

(2) in subparagraph (D), in the matter before clause (i), by inserting "subject to the life insurance policy exclusion provided under subparagraph (G)" before ")";

(3) in subparagraph (E)(i), in the matter before subclause (I), by inserting "subject to the life insurance policy exclusion provided under subparagraph (G)" before ")"; and

(4) by adding at the end the following new subparagraph:

"(G) LIFE INSURANCE POLICY EXCLUSION.—In determining the resources of an individual (and the eligible spouse of the individual, if any) under section 1613 for purposes of subparagraphs (D) and (E) no part of the value of any life insurance policy shall be taken into account.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to applications filed on or after January 1, 2010. 42 USC 1395w–114 note.

**SEC. 117. JUDICIAL REVIEW OF DECISIONS OF THE COMMISSIONER OF SOCIAL SECURITY UNDER THE MEDICARE PART D LOW-INCOME SUBSIDY PROGRAM.**

(a) IN GENERAL.—Section 1860D–14(a)(3)(B)(iv) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(B)(iv)) is amended—

(1) in subclause (I), by striking "and" at the end;

(2) in subclause (II), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subclause:

"(III) judicial review of the final decision of the Commissioner made after a hearing shall be available to the same extent, and with the same limitations, as provided in subsections (g) and (h) of section 205.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. 42 USC 1395w–114 note.

**SEC. 118. TRANSLATION OF MODEL FORM.**

(a) IN GENERAL.—Section 1905(p)(5)(A) of the Social Security Act (42 U.S.C. 1396d(p)(5)(A)) is amended by adding at the end

the following: "The Secretary shall provide for the translation of such application form into at least the 10 languages (other than English) that are most often used by individuals applying for hospital insurance benefits under section 226 or 226A and shall make the translated forms available to the States and to the Commissioner of Social Security.".

42 USC 1396d note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2010.

42 USC 1395b–3 note.

**SEC. 119. MEDICARE ENROLLMENT ASSISTANCE.**

(a) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE ASSISTANCE PROGRAMS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall use amounts made available under subparagraph (B) to make grants to States for State health insurance assistance programs receiving assistance under section 4360 of the Omnibus Budget Reconciliation Act of 1990.

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $7,500,000 to the Centers for Medicare & Medicaid Services Program Management Account for fiscal year 2009, to remain available until expended.

(2) AMOUNT OF GRANTS.—The amount of a grant to a State under this subsection from the total amount made available under paragraph (1) shall be equal to the sum of the amount allocated to the State under paragraph (3)(A) and the amount allocated to the State under subparagraph (3)(B).

(3) ALLOCATION TO STATES.—

(A) ALLOCATION BASED ON PERCENTAGE OF LOW-INCOME BENEFICIARIES.—The amount allocated to a State under this subparagraph from ⅔ of the total amount made available under paragraph (1) shall be based on the number of individuals who meet the requirement under subsection (a)(3)(A)(ii) of section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114) but who have not enrolled to receive a subsidy under such section 1860D–14 relative to the total number of individuals who meet the requirement under such subsection (a)(3)(A)(ii) in each State, as estimated by the Secretary.

(B) ALLOCATION BASED ON PERCENTAGE OF RURAL BENEFICIARIES.—The amount allocated to a State under this subparagraph from ⅓ of the total amount made available under paragraph (1) shall be based on the number of part D eligible individuals (as defined in section 1860D–1(a)(3)(A) of such Act (42 U.S.C. 1395w–101(a)(3)(A))) residing in a rural area relative to the total number of such individuals in each State, as estimated by the Secretary.

(4) PORTION OF GRANT BASED ON PERCENTAGE OF LOW-INCOME BENEFICIARIES TO BE USED TO PROVIDE OUTREACH TO INDIVIDUALS WHO MAY BE SUBSIDY ELIGIBLE INDIVIDUALS OR ELIGIBLE FOR THE MEDICARE SAVINGS PROGRAM.—Each grant awarded under this subsection with respect to amounts allocated under paragraph (3)(A) shall be used to provide outreach to individuals who may be subsidy eligible individuals (as defined in section 1860D–14(a)(3)(A) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(A)) or eligible for the Medicare Savings Program (as defined in subsection (f)).

(b) ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Aging, shall make grants to States for area agencies on aging (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) and Native American programs carried out under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $7,500,000 to the Administration on Aging for fiscal year 2009, to remain available until expended.

(2) AMOUNT OF GRANT AND ALLOCATION TO STATES BASED ON PERCENTAGE OF LOW-INCOME AND RURAL BENEFICIARIES.—The amount of a grant to a State under this subsection from the total amount made available under paragraph (1) shall be determined in the same manner as the amount of a grant to a State under subsection (a), from the total amount made available under paragraph (1) of such subsection, is determined under paragraph (2) and subparagraphs (A) and (B) of paragraph (3) of such subsection.

(3) REQUIRED USE OF FUNDS.—

(A) ALL FUNDS.—Subject to subparagraph (B), each grant awarded under this subsection shall be used to provide outreach to eligible Medicare beneficiaries regarding the benefits available under title XVIII of the Social Security Act.

(B) OUTREACH TO INDIVIDUALS WHO MAY BE SUBSIDY ELIGIBLE INDIVIDUALS OR ELIGIBLE FOR THE MEDICARE SAVINGS PROGRAM.—Subsection (a)(4) shall apply to each grant awarded under this subsection in the same manner as it applies to a grant under subsection (a).

(c) ADDITIONAL FUNDING FOR AGING AND DISABILITY RESOURCE CENTERS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to Aging and Disability Resource Centers under the Aging and Disability Resource Center grant program that are established centers under such program on the date of the enactment of this Act.

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $5,000,000 to the Administration on Aging for fiscal year 2009, to remain available until expended.

(2) REQUIRED USE OF FUNDS.—Each grant awarded under this subsection shall be used to provide outreach to individuals regarding the benefits available under the Medicare prescription drug benefit under part D of title XVIII of the Social Security Act and under the Medicare Savings Program.

(d) COORDINATION OF EFFORTS TO INFORM OLDER AMERICANS ABOUT BENEFITS AVAILABLE UNDER FEDERAL AND STATE PROGRAMS.—

Grants.

(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Aging, in cooperation with related Federal agency partners, shall make a grant to, or enter into a contract with, a qualified, experienced entity under which the entity shall—

Internet.

(A) maintain and update web-based decision support tools, and integrated, person-centered systems, designed to inform older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) about the full range of benefits for which the individuals may be eligible under Federal and State programs;

(B) utilize cost-effective strategies to find older individuals with the greatest economic need (as defined in such section 102) and inform the individuals of the programs;

(C) develop and maintain an information clearinghouse on best practices and the most cost-effective methods for finding older individuals with greatest economic need and informing the individuals of the programs; and

(D) provide, in collaboration with related Federal agency partners administering the Federal programs, training and technical assistance on the most effective outreach, screening, and follow-up strategies for the Federal and State programs.

(2) FUNDING.—For purposes of making a grant or entering into a contract under paragraph (1), the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $5,000,000 to the Administration on Aging for fiscal year 2009, to remain available until expended.

(e) REPROGRAMMING FUNDS FROM MEDICARE, MEDICAID, AND SCHIP EXTENSION ACT OF 2007.—The Secretary shall only use the $5,000,000 in funds allocated to make grants to States for Area Agencies on Aging and Aging Disability and Resource Centers for the period of fiscal years 2008 through 2009 under section 118 of the Medicare, Medicaid, and SCHIP Extension Act of 2007

(Public Law 110–173) for the sole purpose of providing outreach to individuals regarding the benefits available under the Medicare prescription drug benefit under part D of title XVIII of the Social Security Act. The Secretary shall republish the request for proposals issued on April 17, 2008, in order to comply with the preceding sentence. Publication.

(f) MEDICARE SAVINGS PROGRAM DEFINED.—For purposes of this section, the term "Medicare Savings Program" means the program of medical assistance for payment of the cost of medicare cost-sharing under the Medicaid program pursuant to sections 1902(a)(10)(E) and 1933 of the Social Security Act (42 U.S.C. 1396a(a)(10)(E), 1396u–3).

# Subtitle B—Provisions Relating to Part A

**SEC. 121. EXPANSION AND EXTENSION OF THE MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.**

(a) IN GENERAL.—Section 1820(g) of the Social Security Act (42 U.S.C. 1395i–4(g)) is amended by adding at the end the following new paragraph:

"(6) PROVIDING MENTAL HEALTH SERVICES AND OTHER HEALTH SERVICES TO VETERANS AND OTHER RESIDENTS OF RURAL AREAS.—

"(A) GRANTS TO STATES.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for increasing the delivery of mental health services or other health care services deemed necessary to meet the needs of veterans of Operation Iraqi Freedom and Operation Enduring Freedom living in rural areas (as defined for purposes of section 1886(d) and including areas that are rural census tracks, as defined by the Administrator of the Health Resources and Services Administration), including for the provision of crisis intervention services and the detection of post-traumatic stress disorder, traumatic brain injury, and other signature injuries of veterans of Operation Iraqi Freedom and Operation Enduring Freedom, and for referral of such veterans to medical facilities operated by the Department of Veterans Affairs, and for the delivery of such services to other residents of such rural areas.

"(B) APPLICATION.—

"(i) IN GENERAL.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii) and (A)(iii) of subsection (b)(1).

"(ii) CONSIDERATION OF REGIONAL APPROACHES, NETWORKS, OR TECHNOLOGY.—The Secretary may, as appropriate in awarding grants to States under subparagraph (A), consider whether the application submitted by a State under this subparagraph includes 1 or more proposals that utilize regional approaches, networks, health information technology, telehealth, or telemedicine to deliver services described in subparagraph (A) to individuals described in that

subparagraph. For purposes of this clause, a network may, as the Secretary determines appropriate, include Federally qualified health centers (as defined in section 1861(aa)(4)), rural health clinics (as defined in section 1861(aa)(2)), home health agencies (as defined in section 1861(o)), community mental health centers (as defined in section 1861(ff)(3)(B)) and other providers of mental health services, pharmacists, local government, and other providers deemed necessary to meet the needs of veterans.

"(iii) COORDINATION AT LOCAL LEVEL.—The Secretary shall require, as appropriate, a State to demonstrate consultation with the hospital association of such State, rural hospitals located in such State, providers of mental health services, or other appropriate stakeholders for the provision of services under a grant awarded under this paragraph.

"(iv) SPECIAL CONSIDERATION OF CERTAIN APPLICATIONS.—In awarding grants to States under subparagraph (A), the Secretary shall give special consideration to applications submitted by States in which veterans make up a high percentage (as determined by the Secretary) of the total population of the State. Such consideration shall be given without regard to the number of veterans of Operation Iraqi Freedom and Operation Enduring Freedom living in the areas in which mental health services and other health care services would be delivered under the application.

"(C) COORDINATION WITH VA.—The Secretary shall, as appropriate, consult with the Director of the Office of Rural Health of the Department of Veterans Affairs in awarding and administering grants to States under subparagraph (A).

"(D) USE OF FUNDS.—A State awarded a grant under this paragraph may, as appropriate, use the funds to reimburse providers of services described in subparagraph (A) to individuals described in that subparagraph.

"(E) LIMITATION ON USE OF GRANT FUNDS FOR ADMINISTRATIVE EXPENSES.—A State awarded a grant under this paragraph may not expend more than 15 percent of the amount of the grant for administrative expenses.

"(F) INDEPENDENT EVALUATION AND FINAL REPORT.—The Secretary shall provide for an independent evaluation of the grants awarded under subparagraph (A). Not later than 1 year after the date on which the last grant is awarded to a State under such subparagraph, the Secretary shall submit a report to Congress on such evaluation. Such report shall include an assessment of the impact of such grants on increasing the delivery of mental health services and other health services to veterans of the United States Armed Forces living in rural areas (as so defined and including such areas that are rural census tracks), with particular emphasis on the impact of such grants on the delivery of such services to veterans of Operation Enduring Freedom and Operation Iraqi Freedom, and to other individuals living in such rural areas.".

(b) USE OF FUNDS FOR FEDERAL ADMINISTRATIVE EXPENSES.—Section 1820(g)(5) of the Social Security Act (42 U.S.C. 1395i–4(g)(5)) is amended—

(1) by striking "beginning with fiscal year 2005" and inserting "for each of fiscal years 2005 through 2008"; and

(2) by inserting "and, of the total amount appropriated for grants under paragraphs (1), (2), and (6) for a fiscal year (beginning with fiscal year 2009)" after "2005)".

(c) EXTENSION OF AUTHORIZATION FOR FLEX GRANTS.—Section 1820(j) of the Social Security Act (42 U.S.C. 1395i–4(j)) is amended—

(1) by striking "and for" and inserting "for"; and

(2) by inserting ", for making grants to all States under paragraphs (1) and (2) of subsection (g), $55,000,000 in each of fiscal years 2009 and 2010, and for making grants to all States under paragraph (6) of subsection (g), $50,000,000 in each of fiscal years 2009 and 2010, to remain available until expended" before the period at the end.

(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820(g)(1) of the Social Security Act (42 U.S.C. 1395i–4(g)(1)) is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) providing support for critical access hospitals for quality improvement, quality reporting, performance improvements, and benchmarking.".

(e) ASSISTANCE TO SMALL CRITICAL ACCESS HOSPITALS TRANSITIONING TO SKILLED NURSING FACILITIES AND ASSISTED LIVING FACILITIES.—Section 1820(g) of the Social Security Act (42 U.S.C. 1395i–4(g)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(7) CRITICAL ACCESS HOSPITALS TRANSITIONING TO SKILLED NURSING FACILITIES AND ASSISTED LIVING FACILITIES.—

"(A) GRANTS.—The Secretary may award grants to eligible critical access hospitals that have submitted applications in accordance with subparagraph (B) for assisting such hospitals in the transition to skilled nursing facilities and assisted living facilities.

"(B) APPLICATION.—An applicable critical access hospital seeking a grant under this paragraph shall submit an application to the Secretary on or before such date and in such form and manner as the Secretary specifies.

"(C) ADDITIONAL REQUIREMENTS.—The Secretary may not award a grant under this paragraph to an eligible critical access hospital unless—

"(i) local organizations or the State in which the hospital is located provides matching funds; and

"(ii) the hospital provides assurances that it will surrender critical access hospital status under this title within 180 days of receiving the grant.

"(D) AMOUNT OF GRANT.—A grant to an eligible critical access hospital under this paragraph may not exceed $1,000,000.

"(E) FUNDING.—There are appropriated from the Federal Hospital Insurance Trust Fund under section 1817 Appropriation authorization.

for making grants under this paragraph, $5,000,000 for fiscal year 2008.

"(F) ELIGIBLE CRITICAL ACCESS HOSPITAL DEFINED.—For purposes of this paragraph, the term 'eligible critical access hospital' means a critical access hospital that has an average daily acute census of less than 0.5 and an average daily swing bed census of greater than 10.0.".

**SEC. 122. REBASING FOR SOLE COMMUNITY HOSPITALS.**

(a) REBASING PERMITTED.—Section 1886(b)(3) of the Social Security Act (42 U.S.C. 1395ww(b)(3)) is amended by adding at the end the following new subparagraph:

"(L)(i) For cost reporting periods beginning on or after January 1, 2009, in the case of a sole community hospital there shall be substituted for the amount otherwise determined under subsection (d)(5)(D)(i) of this section, if such substitution results in a greater amount of payment under this section for the hospital, the subparagraph (L) rebased target amount.

Applicability.

"(ii) For purposes of this subparagraph, the term 'subparagraph (L) rebased target amount' has the meaning given the term 'target amount' in subparagraph (C), except that—

"(I) there shall be substituted for the base cost reporting period the 12-month cost reporting period beginning during fiscal year 2006;

"(II) any reference in subparagraph (C)(i) to the 'first cost reporting period' described in such subparagraph is deemed a reference to the first cost reporting period beginning on or after January 1, 2009; and

"(III) the applicable percentage increase shall only be applied under subparagraph (C)(iv) for discharges occurring on or after January 1, 2009.".

(b) CONFORMING AMENDMENTS.—Section 1886(b)(3) of the Social Security Act (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (C), in the matter preceding clause (i), by striking "subparagraph (I)" and inserting "subparagraphs (I) and (L)"; and

(2) in subparagraph (I)(i), in the matter preceding subclause (I), by striking "For" and inserting "Subject to subparagraph (L), for".

42 USC 1395i–4 note.

**SEC. 123. DEMONSTRATION PROJECT ON COMMUNITY HEALTH INTEGRATION MODELS IN CERTAIN RURAL COUNTIES.**

(a) IN GENERAL.—The Secretary shall establish a demonstration project to allow eligible entities to develop and test new models for the delivery of health care services in eligible counties for the purpose of improving access to, and better integrating the delivery of, acute care, extended care, and other essential health care services to Medicare beneficiaries.

(b) PURPOSE.—The purpose of the demonstration project under this section is to—

(1) explore ways to increase access to, and improve the adequacy of, payments for acute care, extended care, and other essential health care services provided under the Medicare and Medicaid programs in eligible counties; and

(2) evaluate regulatory challenges facing such providers and the communities they serve.

(c) REQUIREMENTS.—The following requirements shall apply under the demonstration project:

(1) Health care providers in eligible counties selected to participate in the demonstration project under subsection (d)(3) shall (when determined appropriate by the Secretary), instead of the payment rates otherwise applicable under the Medicare program, be reimbursed at a rate that covers at least the reasonable costs of the provider in furnishing acute care, extended care, and other essential health care services to Medicare beneficiaries.

(2) Methods to coordinate the survey and certification process under the Medicare program and the Medicaid program across all health service categories included in the demonstration project shall be tested with the goal of assuring quality and safety while reducing administrative burdens, as appropriate, related to completing such survey and certification process.

(3) Health care providers in eligible counties selected to participate in the demonstration project under subsection (d)(3) and the Secretary shall work with the State to explore ways to revise reimbursement policies under the Medicaid program to improve access to the range of health care services available in such eligible counties.

(4) The Secretary shall identify regulatory requirements that may be revised appropriately to improve access to care in eligible counties.

(5) Other essential health care services necessary to ensure access to the range of health care services in eligible counties selected to participate in the demonstration project under subsection (d)(3) shall be identified. Ways to ensure adequate funding for such services shall also be explored.

(d) APPLICATION PROCESS.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Eligibility to participate in the demonstration project under this section shall be limited to eligible entities.

(B) ELIGIBLE ENTITY DEFINED.—In this section, the term "eligible entity" means an entity that—

(i) is a Rural Hospital Flexibility Program grantee under section 1820(g) of the Social Security Act (42 U.S.C. 1395i–4(g)); and

(ii) is located in a State in which at least 65 percent of the counties in the State are counties that have 6 or less residents per square mile.

(2) APPLICATION.—

(A) IN GENERAL.—An eligible entity seeking to participate in the demonstration project under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) LIMITATION.—The Secretary shall select eligible entities located in not more than 4 States to participate in the demonstration project under this section.

(3) SELECTION OF ELIGIBLE COUNTIES.—An eligible entity selected by the Secretary to participate in the demonstration project under this section shall select not more than 6 eligible counties in the State in which the entity is located in which to conduct the demonstration project.

(4) ELIGIBLE COUNTY DEFINED.—In this section, the term "eligible county" means a county that meets the following requirements:

(A) The county has 6 or less residents per square mile.

(B) As of the date of the enactment of this Act, a facility designated as a critical access hospital which meets the following requirements was located in the county:

(i) As of the date of the enactment of this Act, the critical access hospital furnished 1 or more of the following:

(I) Home health services.

(II) Hospice care.

(III) Rural health clinic services.

(ii) As of the date of the enactment of this Act, the critical access hospital has an average daily inpatient census of 5 or less.

(C) As of the date of the enactment of this Act, skilled nursing facility services were available in the county in—

(i) a critical access hospital using swing beds; or

(ii) a local nursing home.

(e) ADMINISTRATION.—

(1) IN GENERAL.—The demonstration project under this section shall be administered jointly by the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration and the Administrator of the Centers for Medicare & Medicaid Services, in accordance with paragraphs (2) and (3).

(2) HRSA DUTIES.—In administering the demonstration project under this section, the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration shall—

Grants.

(A) award grants to the eligible entities selected to participate in the demonstration project; and

(B) work with such entities to provide technical assistance related to the requirements under the project.

(3) CMS DUTIES.—In administering the demonstration project under this section, the Administrator of the Centers for Medicare & Medicaid Services shall determine which provisions of titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.) the Secretary should waive under the waiver authority under subsection (i) that are relevant to the development of alternative reimbursement methodologies, which may include, as appropriate, covering at least the reasonable costs of the provider in furnishing acute care, extended care, and other essential health care services to Medicare beneficiaries and coordinating the survey and certification process under the Medicare and Medicaid programs, as appropriate, across all service categories included in the demonstration project.

(f) DURATION.—

(1) IN GENERAL.—The demonstration project under this section shall be conducted for a 3-year period beginning on October 1, 2009.

(2) BEGINNING DATE OF DEMONSTRATION PROJECT.—The demonstration project under this section shall be considered to have begun in a State on the date on which the eligible

counties selected to participate in the demonstration project under subsection (d)(3) begin operations in accordance with the requirements under the demonstration project.

(g) FUNDING.—

(1) CMS.—

(A) IN GENERAL.—The Secretary shall provide for the transfer, in appropriate part from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), of such sums as are necessary for the costs to the Centers for Medicare & Medicaid Services of carrying out its duties under the demonstration project under this section.

(B) BUDGET NEUTRALITY.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary estimates would have been paid if the demonstration project under this section was not implemented.

Appropriation authorization.

(2) HRSA.—There are authorized to be appropriated to the Office of Rural Health Policy of the Health Resources and Services Administration $800,000 for each of fiscal years 2010, 2011, and 2012 for the purpose of carrying out the duties of such Office under the demonstration project under this section, to remain available for the duration of the demonstration project.

(h) REPORT.—

(1) INTERIM REPORT.—Not later than the date that is 2 years after the date on which the demonstration project under this section is implemented, the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, shall submit a report to Congress on the status of the demonstration project that includes initial recommendations on ways to improve access to, and the availability of, health care services in eligible counties based on the findings of the demonstration project.

(2) FINAL REPORT.—Not later than 1 year after the completion of the demonstration project, the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, shall submit a report to Congress on such project, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(i) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.) as may be necessary and appropriate for the purpose of carrying out the demonstration project under this section.

(j) DEFINITIONS.—In this section:

(1) EXTENDED CARE SERVICES.—The term "extended care services" means the following:

(A) Home health services.

(B) Covered skilled nursing facility services.

(C) Hospice care.

(2) COVERED SKILLED NURSING FACILITY SERVICES.—The term "covered skilled nursing facility services" has the meaning given such term in section 1888(e)(2)(A) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)).

(3) CRITICAL ACCESS HOSPITAL.—The term "critical access hospital" means a facility designated as a critical access hospital under section 1820(c) of such Act (42 U.S.C. 1395i–4(c)).

(4) HOME HEALTH SERVICES.—The term "home health services" has the meaning given such term in section 1861(m) of such Act (42 U.S.C. 1395x(m)).

(5) HOSPICE CARE.—The term "hospice care" has the meaning given such term in section 1861(dd) of such Act (42 U.S.C. 1395x(dd)).

(6) MEDICAID PROGRAM.—The term "Medicaid program" means the program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(7) MEDICARE PROGRAM.—The term "Medicare program" means the program under title XVIII of such Act (42 U.S.C. 1395 et seq.).

(8) OTHER ESSENTIAL HEALTH CARE SERVICES.—The term "other essential health care services" means the following:

(A) Ambulance services (as described in section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7))).

(B) Rural health clinic services.

(C) Public health services (as defined by the Secretary).

(D) Other health care services determined appropriate by the Secretary.

(9) RURAL HEALTH CLINIC SERVICES.—The term "rural health clinic services" has the meaning given such term in section 1861(aa)(1) of such Act (42 U.S.C. 1395x(aa)(1)).

(10) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

**SEC. 124. EXTENSION OF THE RECLASSIFICATION OF CERTAIN HOSPITALS.**

42 USC 1395ww note.

(a) IN GENERAL.—Subsection (a) of section 106 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking "September 30, 2008" and inserting "September 30, 2009".

42 USC 1395ww note.

(b) SPECIAL EXCEPTION RECLASSIFICATIONS.—Section 117(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173)) is amended by striking "September 30, 2008" and inserting "the last date of the extension of reclassifications under section 106(a) of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109–432)".

(c) DISREGARDING SECTION 508 HOSPITAL RECLASSIFICATIONS FOR PURPOSES OF GROUP RECLASSIFICATIONS.—Section 508(g) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173, 42 U.S.C. 1395ww note), as added by section 117(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2008 (Public Law 110–173)), is amended by striking "during fiscal year 2008" and inserting "beginning on October 1, 2007, and ending on the last date of the extension

of reclassifications under section 106(a) of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109–432)".

**SEC. 125. REVOCATION OF UNIQUE DEEMING AUTHORITY OF THE JOINT COMMISSION.**

(a) REVOCATION.—Section 1865 of the Social Security Act (42 U.S.C. 1395bb) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively.

(b) CONFORMING AMENDMENTS.—(1) Section 1865 of the Social Security Act (42 U.S.C. 1395bb) is amended—

(A) in subsection (a)(1), as redesignated by subsection (a)(2), by striking "In addition, if" and inserting "If";

(B) in subsection (b), as so redesignated—

(i) by striking "released to him by the Joint Commission on Accreditation of Hospitals," and inserting "released to the Secretary by"; and

(ii) by striking the comma after "Association";

(C) in subsection (c), as so redesignated, by striking "pursuant to subsection (a) or (b)(1)" and inserting "pursuant to subsection (a)(1)"; and

(D) in subsection (d), as so redesignated, by striking "pursuant to subsection (a) or (b)(1)" and inserting "pursuant to subsection (a)(1)".

(2) Section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)) is amended in the fourth sentence by striking "and (ii) is accredited by the Joint Commission on Accreditation of Hospitals, or is accredited by or approved by a program of the country in which such institution is located if the Secretary finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of the Joint Commission on Accreditation of Hospitals" and inserting "and (ii) is accredited by a national accreditation body recognized by the Secretary under section 1865(a), or is accredited by or approved by a program of the country in which such institution is located if the Secretary finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of such a national accreditation body.".

(3) Section 1864(c) of the Social Security Act (42 U.S.C. 1395aa(c)) is amended by striking "pursuant to subsection (a) or (b)(1) of section 1865" and inserting "pursuant to section 1865(a)(1)".

(4) Section 1875(b) of the Social Security Act (42 U.S.C. 1395ll(b)) is amended by striking "the Joint Commission on Accreditation of Hospitals," and inserting "national accreditation bodies under section 1865(a)".

(5) Section 1834(a)(20)(B) of the Social Security Act (42 U.S.C. 1395m(a)(20)(B)) is amended by striking "section 1865(b)" and inserting "section 1865(a)".

(6) Section 1852(e)(4)(C) of the Social Security Act (42 U.S.C. 1395w–22(e)(4)(C)) is amended by striking "section 1865(b)(2)" and inserting "section 1865(a)(2)".

(c) AUTHORITY TO RECOGNIZE THE JOINT COMMISSION AS A NATIONAL ACCREDITATION BODY.—The Secretary of Health and Human Services may recognize the Joint Commission as a national accreditation body under section 1865 of the Social Security Act

42 USC 1395bb note.

(42 U.S.C. 1395bb), as amended by this section, upon such terms and conditions, and upon submission of such information, as the Secretary may require.

Applicability.
42 USC 1395bb note.

(d) EFFECTIVE DATE; TRANSITION RULE.—(1) Subject to paragraph (2), the amendments made by this section shall apply with respect to accreditations of hospitals granted on or after the date that is 24 months after the date of the enactment of this Act.

(2) For purposes of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the amendments made by this section shall not effect the accreditation of a hospital by the Joint Commission, or under accreditation or comparable approval standards found to be essentially equivalent to accreditation or approval standards of the Joint Commission, for the period of time applicable under such accreditation.

# Subtitle C—Provisions Relating to Part B

## PART I—PHYSICIANS' SERVICES

### SEC. 131. PHYSICIAN PAYMENT, EFFICIENCY, AND QUALITY IMPROVEMENTS.

(a) IN GENERAL.—

(1) INCREASE IN UPDATE FOR THE SECOND HALF OF 2008 AND FOR 2009.—

(A) FOR THE SECOND HALF OF 2008.—Section 1848(d)(8) of the Social Security Act (42 U.S.C. 1395w–4(d)(8)), as added by section 101 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(i) in the heading, by striking "A PORTION OF";

(ii) in subparagraph (A), by striking "for the period beginning on January 1, 2008, and ending on June 30, 2008,"; and

(iii) in subparagraph (B)—

(I) in the heading, by striking "THE REMAINING PORTION OF 2008 AND"; and

(II) by striking "for the period beginning on July 1, 2008, and ending on December 31, 2008, and".

(B) FOR 2009.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)), as amended by section 101 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by adding at the end the following new paragraph:

"(9) UPDATE FOR 2009.—

"(A) IN GENERAL.—Subject to paragraphs (7)(B) and (8)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2009, the update to the single conversion factor shall be 1.1 percent.

"(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2010 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2010 and subsequent years as if subparagraph (A) had never applied.".

(3) REVISION OF THE PHYSICIAN ASSISTANCE AND QUALITY INITIATIVE FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(i) in subparagraph (A)—

(I) by striking clause (i)(III); and

(II) by striking clause (ii)(III); and

(ii) in subparagraph (B)—

(I) in clause (i), by adding "and" at the end;

(II) in clause (ii), by striking "; and" and inserting a period; and

(III) by striking clause (iii).

(B) CONTINGENCY.—If there is enacted, before, on, or after the date of the enactment of this Act, a Supplemental Appropriations Act, 2008 that includes a provision amending section 1848(l) of the Social Security Act, the alternative amendment described in subparagraph (C)— Applicability.

(i) shall apply instead of the amendments made by subparagraph (A); and

(ii) shall be executed after such provision in such Supplemental Appropriations Act.

(C) ALTERNATIVE AMENDMENT DESCRIBED.—The alternative amendment described in this subparagraph is as follows: Section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) and by the Supplemental Appropriations Act, 2008, is amended—

(i) in subparagraph (A)—

(I) by striking subclauses (III) and (IV) of clause (i); and

(II) by striking subclauses (III) and (IV) of clause (ii); and

(ii) in subparagraph (B)—

(I) in clause (i), by adding "and" at the end;

(II) in clause (ii), by striking the semicolon at the end and inserting a period; and

(III) by striking clauses (iii) and (iv).

(b) EXTENSION AND IMPROVEMENT OF THE QUALITY REPORTING SYSTEM.—

(1) SYSTEM.—Section 1848(k)(2) of the Social Security Act (42 U.S.C. 1395w–4(k)(2)), as amended by section 101(b)(1) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by adding at the end the following new subparagraphs:

"(C) FOR 2010 AND SUBSEQUENT YEARS.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of reporting data on quality measures for covered professional services furnished during 2010 and each subsequent year, subject to subsection (m)(3)(C), the quality measures (including electronic prescribing quality measures) specified under this paragraph shall be such measures selected by the Secretary from measures that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

"(ii) EXCEPTION.—In the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical measure has not been endorsed by the entity with a contract under section 1890(a), the Secretary may specify a measure that is not so endorsed as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary, such as the AQA alliance.

"(D) OPPORTUNITY TO PROVIDE INPUT ON MEASURES FOR 2009 AND SUBSEQUENT YEARS.—For each quality measure (including an electronic prescribing quality measure) adopted by the Secretary under subparagraph (B) (with respect to 2009) or subparagraph (C), the Secretary shall ensure that eligible professionals have the opportunity to provide input during the development, endorsement, or selection of measures applicable to services they furnish.".

(2) REDESIGNATION OF REPORTING SYSTEM.—Subsection (c) of section 101 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), as amended by section 101(b)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is redesignated as subsection (m) of section 1848 of the Social Security Act.

(3) INCENTIVE PAYMENTS UNDER REPORTING SYSTEM.—Section 1848(m) of the Social Security Act, as redesignated by paragraph (2), is amended— 42 USC 1395w–4.

(A) by amending the heading to read as follows: "INCENTIVE PAYMENTS FOR QUALITY REPORTING";

(B) by striking paragraph (1) and inserting the following:

"(1) INCENTIVE PAYMENTS.—

Deadline.

"(A) IN GENERAL.—For 2007 through 2010, with respect to covered professional services furnished during a reporting period by an eligible professional, if—

"(i) there are any quality measures that have been established under the physician reporting system that are applicable to any such services furnished by such professional for such reporting period; and

"(ii) the eligible professional satisfactorily submits (as determined under this subsection) to the Secretary data on such quality measures in accordance with such reporting system for such reporting period,

in addition to the amount otherwise paid under this part, there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)) or, in the case of a group practice under paragraph (3)(C), to the group practice, from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 an amount equal to the applicable quality percent of the Secretary's estimate (based on claims submitted not later than 2 months after the end of the reporting period) of the allowed charges under this part for all such covered professional services furnished by the eligible professional (or, in the case of a group practice under paragraph (3)(C), by the group practice) during the reporting period.

"(B) APPLICABLE QUALITY PERCENT.—For purposes of subparagraph (A), the term 'applicable quality percent' means—

"(i) for 2007 and 2008, 1.5 percent; and

"(ii) for 2009 and 2010, 2.0 percent.";

(C) by striking paragraph (3) and redesignating paragraph (2) as paragraph (3);

(D) in paragraph (3), as so redesignated—

(i) in the matter preceding subparagraph (A), by striking "For purposes" and inserting the following: "(A) IN GENERAL.—For purposes";

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the indentation of such clauses 2 ems to the right;

(iii) in subparagraph (A), as added by clause (i), by adding at the end the following flush sentence: "For years after 2008, quality measures for purposes of this subparagraph shall not include electronic prescribing quality measures."; and

(iv) by adding at the end the following new subparagraphs:

"(C) SATISFACTORY REPORTING MEASURES FOR GROUP PRACTICES.—

"(i) IN GENERAL.—By January 1, 2010, the Secretary shall establish and have in place a process under which eligible professionals in a group practice (as defined by the Secretary) shall be treated as satisfactorily submitting data on quality measures under subparagraph (A) and as meeting the requirement described in subparagraph (B)(ii) for covered professional services for a reporting period (or, for purposes of subsection (a)(5), for a reporting period for a year) if, in lieu of reporting measures under subsection (k)(2)(C), the group practice reports measures determined appropriate by the Secretary, such as measures that target high-cost chronic conditions and preventive care, in a form and manner, and at a time, specified by the Secretary. Deadline.

"(ii) STATISTICAL SAMPLING MODEL.—The process under clause (i) shall provide for the use of a statistical sampling model to submit data on measures, such as the model used under the Physician Group Practice demonstration project under section 1866A.

"(iii) NO DOUBLE PAYMENTS.—Payments to a group practice under this subsection by reason of the process under clause (i) shall be in lieu of the payments that would otherwise be made under this subsection to eligible professionals in the group practice for satisfactorily submitting data on quality measures.

"(D) AUTHORITY TO REVISE SATISFACTORILY REPORTING DATA.—For years after 2009, the Secretary, in consultation with stakeholders and experts, may revise the criteria under this subsection for satisfactorily submitting data on quality measures under subparagraph (A) and the criteria for submitting data on electronic prescribing quality measures under subparagraph (B)(ii).";

(E) in paragraph (5)—

(i) in subparagraph (C), by inserting "for 2007, 2008, and 2009," after "provision of law,";

(ii) in subparagraph (D)—

(I) in clause (i)—

(aa) by inserting "for 2007 and 2008" after "under this subsection"; and

(bb) by striking "paragraph (2)" and inserting "this subsection";

(II) in clause (ii), by striking "shall" and inserting "may establish procedures to"; and

(III) in clause (iii)—

(aa) by inserting "(or, in the case of a group practice under paragraph (3)(C), the group practice)" after "an eligible professional";

(bb) by striking "bonus incentive payment" and inserting "incentive payment under this subsection"; and

(cc) by adding at the end the following new sentence: "If such payments for such period have already been made, the Secretary shall recoup such payments from the eligible professional (or the group practice).";

(iii) in subparagraph (E)—

(I) by striking "(I) IN GENERAL.—";

(II) by striking clause (ii);

(III) by redesignating subclauses (I) through (IV) as clauses (i) through (iv), respectively, and moving the indentation of such clauses 2 ems to the left;

(IV) in clause (ii), as so redesignated, by striking "paragraph (2)" and inserting "this subsection"; and

(V) in clause (iv), as so redesignated—

(aa) by striking "the bonus" and inserting "any"; and

(bb) by inserting "and the payment adjustment under subsection (a)(5)(A)" before the period at the end;

(iv) in subparagraph (F)—

(I) by striking "2009, paragraph (3) shall not apply, and" and inserting "subsequent years,"; and

(II) by striking "paragraph (2)" and inserting "this subsection"; and

(v) by adding at the end the following new subparagraph:

"(G) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names of the following:

"(i) The eligible professionals (or, in the case of reporting under paragraph (3)(C), the group practices) who satisfactorily submitted data on quality measures under this subsection.

"(ii) The eligible professionals (or, in the case of reporting under paragraph (3)(C), the group practices) who are successful electronic prescribers."; and

(F) in paragraph (6), by striking subparagraph (C) and inserting the following:

"(C) REPORTING PERIOD.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), the term 'reporting period' means—

"(I) for 2007, the period beginning on July 1, 2007, and ending on December 31, 2007; and

"(II) for 2008, 2009, 2010, and 2011, the entire year.

"(ii) AUTHORITY TO REVISE REPORTING PERIOD.—For years after 2009, the Secretary may revise the reporting period under clause (i) if the Secretary determines such revision is appropriate, produces valid results on measures reported, and is consistent with the goals of maximizing scientific validity and reducing administrative burden. If the Secretary revises such period pursuant to the preceding sentence, the term 'reporting period' shall mean such revised period.

"(iii) REFERENCE.—Any reference in this subsection to a reporting period with respect to the application of subsection (a)(5) shall be deemed a reference to the reporting period under subparagraph (D)(iii) of such subsection.".

(4) INCLUSION OF QUALIFIED AUDIOLOGISTS AS ELIGIBLE PROFESSIONALS.—

(A) IN GENERAL.—Section 1848(k)(3)(B) of the Social Security Act (42 U.S.C. 1395w–4(k)(3)(B)), is amended by adding at the end the following new clause:

"(iv) Beginning with 2009, a qualified audiologist (as defined in section 1861(ll)(3)(B)).".

(B) NO CHANGE IN BILLING.—Nothing in the amendment made by subparagraph (A) shall be construed to change the way in which billing for audiology services (as defined in section 1861(ll)(2) of the Social Security Act (42 U.S.C. 1395x(ll)(2))) occurs under title XVIII of such Act as of July 1, 2008. 42 USC 1395w–4 note.

(5) CONFORMING AMENDMENTS.—Section 1848(m) of the Social Security Act, as added and amended by paragraphs (2) and (3), is amended—

(A) in paragraph (5)—

(i) in subparagraph (A)—

(I) by striking "section 1848(k) of the Social Security Act, as added by subsection (b)," and inserting "subsection (k)"; and

(II) by striking "such section" and inserting "such subsection";

(ii) in subparagraph (B), by striking "of the Social Security Act (42 U.S.C. 1395l)";

(iii) in subparagraph (E), in the matter preceding clause (i), by striking "1869 or 1878 of the Social Security Act or otherwise" and inserting "1869, section 1878, or otherwise"; and

(iv) in subparagraph (F)—

(I) by striking "paragraph (2)(B) of section 1848(k) of the Social Security Act (42 U.S.C. 1395w–4(k))" and inserting "subsection (k)(2)(B)"; and

(II) by striking "paragraph (4) of such section" and inserting "subsection (k)(4)";

(B) in paragraph (6)—

(i) in subparagraph (A), by striking "section 1848(k)(3) of the Social Security Act, as added by subsection (b)" and inserting "subsection (k)(3)"; and

(ii) in subparagraph (B), by striking "section 1848(k) of the Social Security Act, as added by subsection (b)" and inserting "subsection (k)"; and

(C) by striking paragraph (6)(D).

42 USC 1395w–4 note.

(6) NO AFFECT ON INCENTIVE PAYMENTS FOR 2007 OR 2008.—Nothing in the amendments made by this subsection or section 132 shall affect the operation of the provisions of section 1848(m) of the Social Security Act, as redesignated and amended by such subsection and section, with respect to 2007 or 2008.

(c) PHYSICIAN FEEDBACK PROGRAM TO IMPROVE EFFICIENCY AND CONTROL COSTS.—

(1) IN GENERAL.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(n) PHYSICIAN FEEDBACK PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish a Physician Feedback Program (in this subsection referred to as the 'Program') under which the Secretary shall use claims data under this title (and may use other data) to provide confidential reports to physicians (and, as determined appropriate by the Secretary, to groups of physicians) that measure the resources involved in furnishing care to individuals under this title. If determined appropriate by the Secretary, the Secretary may include information on the quality of care furnished to individuals under this title by the physician (or group of physicians) in such reports.

"(B) RESOURCE USE.—The resources described in subparagraph (A) may be measured—

"(i) on an episode basis;

"(ii) on a per capita basis; or

"(iii) on both an episode and a per capita basis.

Deadline.

"(2) IMPLEMENTATION.—The Secretary shall implement the Program by not later than January 1, 2009.

"(3) DATA FOR REPORTS.—To the extent practicable, reports under the Program shall be based on the most recent data available.

"(4) AUTHORITY TO FOCUS APPLICATION.—The Secretary may focus the application of the Program as appropriate, such as focusing the Program on—

"(A) physician specialties that account for a certain percentage of all spending for physicians' services under this title;

"(B) physicians who treat conditions that have a high cost or a high volume, or both, under this title;

"(C) physicians who use a high amount of resources compared to other physicians;

"(D) physicians practicing in certain geographic areas; or

"(E) physicians who treat a minimum number of individuals under this title.

"(5) AUTHORITY TO EXCLUDE CERTAIN INFORMATION IF INSUFFICIENT INFORMATION.—The Secretary may exclude certain information regarding a service from a report under the Program with respect to a physician (or group of physicians) if the Secretary determines that there is insufficient information relating to that service to provide a valid report on that service.

"(6) ADJUSTMENT OF DATA.—To the extent practicable, the Secretary shall make appropriate adjustments to the data used in preparing reports under the Program, such as adjustments to take into account variations in health status and other patient characteristics.

"(7) EDUCATION AND OUTREACH.—The Secretary shall provide for education and outreach activities to physicians on the operation of, and methodologies employed under, the Program.

"(8) DISCLOSURE EXEMPTION.—Reports under the Program shall be exempt from disclosure under section 552 of title 5, United States Code.".

(2) GAO STUDY AND REPORT ON THE PHYSICIAN FEEDBACK PROGRAM.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study of the Physician Feedback Program conducted under section 1848(n) of the Social Security Act, as added by paragraph (1), including the implementation of the Program.

(B) REPORT.—Not later than March 1, 2011, the Comptroller General of the United States shall submit a report to Congress containing the results of the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

(d) PLAN FOR TRANSITION TO VALUE-BASED PURCHASING PROGRAM FOR PHYSICIANS AND OTHER PRACTITIONERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop a plan to transition to a value-based purchasing program for payment under the Medicare program for covered professional services (as defined in section 1848(k)(3)(A) of the Social Security Act (42 U.S.C. 1395w–4(k)(3)(A))).

(2) REPORT.—Not later than May 1, 2010, the Secretary of Health and Human Services shall submit a report to Congress containing the plan developed under paragraph (1), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

**SEC. 132. INCENTIVES FOR ELECTRONIC PRESCRIBING.**

(a) INCENTIVE PAYMENTS.—Section 1848(m) of the Social Security Act, as added and amended by section 131(b), is amended— 42 USC 1395w–4.

(1) by inserting after paragraph (1), the following new paragraph:

"(2) INCENTIVE PAYMENTS FOR ELECTRONIC PRESCRIBING.—

"(A) IN GENERAL.—For 2009 through 2013, with respect to covered professional services furnished during a reporting period by an eligible professional, if the eligible Deadline.

professional is a successful electronic prescriber for such reporting period, in addition to the amount otherwise paid under this part, there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)) or, in the case of a group practice under paragraph (3)(C), to the group practice, from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 an amount equal to the applicable electronic prescribing percent of the Secretary's estimate (based on claims submitted not later than 2 months after the end of the reporting period) of the allowed charges under this part for all such covered professional services furnished by the eligible professional (or, in the case of a group practice under paragraph (3)(C), by the group practice) during the reporting period.

"(B) LIMITATION WITH RESPECT TO ELECTRONIC PRESCRIBING QUALITY MEASURES.—The provisions of this paragraph and subsection (a)(5) shall not apply to an eligible professional (or, in the case of a group practice under paragraph (3)(C), to the group practice) if, for the reporting period (or, for purposes of subsection (a)(5), for the reporting period for a year)—

"(i) the allowed charges under this part for all covered professional services furnished by the eligible professional (or group, as applicable) for the codes to which the electronic prescribing quality measure applies (as identified by the Secretary and published on the Internet website of the Centers for Medicare & Medicaid Services as of January 1, 2008, and as subsequently modified by the Secretary) are less than 10 percent of the total of the allowed charges under this part for all such covered professional services furnished by the eligible professional (or the group, as applicable); or

"(ii) if determined appropriate by the Secretary, the eligible professional does not submit (including both electronically and nonelectronically) a sufficient number (as determined by the Secretary) of prescriptions under part D.

If the Secretary makes the determination to apply clause (ii) for a period, then clause (i) shall not apply for such period.

"(C) APPLICABLE ELECTRONIC PRESCRIBING PERCENT.—For purposes of subparagraph (A), the term 'applicable electronic prescribing percent' means—

"(i) for 2009 and 2010, 2.0 percent;

"(ii) for 2011 and 2012, 1.0 percent; and

"(iii) for 2013, 0.5 percent.";

(2) in paragraph (3), as redesignated by section 131(b)—

(A) in the heading, by inserting "AND SUCCESSFUL ELECTRONIC PRESCRIBER" after "REPORTING"; and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) SUCCESSFUL ELECTRONIC PRESCRIBER.—

"(i) IN GENERAL.—For purposes of paragraph (2) and subsection (a)(5), an eligible professional shall be

treated as a successful electronic prescriber for a reporting period (or, for purposes of subsection (a)(5), for the reporting period for a year) if the eligible professional meets the requirement described in clause (ii), or, if the Secretary determines appropriate, the requirement described in clause (iii). If the Secretary makes the determination under the preceding sentence to apply the requirement described in clause (iii) for a period, then the requirement described in clause (ii) shall not apply for such period.

"(ii) REQUIREMENT FOR SUBMITTING DATA ON ELECTRONIC PRESCRIBING QUALITY MEASURES.—The requirement described in this clause is that, with respect to covered professional services furnished by an eligible professional during a reporting period (or, for purposes of subsection (a)(5), for the reporting period for a year), if there are any electronic prescribing quality measures that have been established under the physician reporting system and are applicable to any such services furnished by such professional for the period, such professional reported each such measure under such system in at least 50 percent of the cases in which such measure is reportable by such professional under such system.

"(iii) REQUIREMENT FOR ELECTRONICALLY PRESCRIBING UNDER PART D.—The requirement described in this clause is that the eligible professional electronically submitted a sufficient number (as determined by the Secretary) of prescriptions under part D during the reporting period (or, for purposes of subsection (a)(5), for the reporting period for a year).

"(iv) USE OF PART D DATA.—Notwithstanding sections 1860D-15(d)(2)(B) and 1860D-15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D-15 that are necessary for purposes of clause (iii), paragraph (2)(B)(ii), and paragraph (5)(G).

"(v) STANDARDS FOR ELECTRONIC PRESCRIBING.—To the extent practicable, in determining whether eligible professionals meet the requirements under clauses (ii) and (iii) for purposes of clause (i), the Secretary shall ensure that eligible professionals utilize electronic prescribing systems in compliance with standards established for such systems pursuant to the Part D Electronic Prescribing Program under section 1860D–4(e).''; and

(3) in paragraph (5)(E), by striking clause (iii) and inserting the following new clause:

"(iii) the determination of a successful electronic prescriber under paragraph (3), the limitation under paragraph (2)(B), and the exception under subsection (a)(5)(B); and".

(b) INCENTIVE PAYMENT ADJUSTMENT.—Section 1848(a) of the Social Security Act (42 U.S.C. 1395w–4(a)) is amended by adding at the end the following new paragraph:

"(5) INCENTIVES FOR ELECTRONIC PRESCRIBING.—

"(A) ADJUSTMENT.—

"(i) IN GENERAL.—Subject to subparagraph (B) and subsection (m)(2)(B), with respect to covered professional services furnished by an eligible professional during 2012 or any subsequent year, if the eligible professional is not a successful electronic prescriber for the reporting period for the year (as determined under subsection (m)(3)(B)), the fee schedule amount for such services furnished by such professional during the year (including the fee schedule amount for purposes of determining a payment based on such amount) shall be equal to the applicable percent of the fee schedule amount that would otherwise apply to such services under this subsection (determined after application of paragraph (3) but without regard to this paragraph).

"(ii) APPLICABLE PERCENT.—For purposes of clause (i), the term 'applicable percent' means—

"(I) for 2012, 99 percent;

"(II) for 2013, 98.5 percent; and

"(III) for 2014 and each subsequent year, 98 percent.

"(B) SIGNIFICANT HARDSHIP EXCEPTION.—The Secretary may, on a case-by-case basis, exempt an eligible professional from the application of the payment adjustment under subparagraph (A) if the Secretary determines, subject to annual renewal, that compliance with the requirement for being a successful electronic prescriber would result in a significant hardship, such as in the case of an eligible professional who practices in a rural area without sufficient Internet access.

"(C) APPLICATION.—

"(i) PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this paragraph in the same manner as they apply for purposes of such subsection.

"(ii) INCENTIVE PAYMENT VALIDATION RULES.—Clauses (ii) and (iii) of subsection (m)(5)(D) shall apply for purposes of this paragraph in a similar manner as they apply for purposes of such subsection.

"(D) DEFINITIONS.—For purposes of this paragraph:

"(i) ELIGIBLE PROFESSIONAL; COVERED PROFESSIONAL SERVICES.—The terms 'eligible professional' and 'covered professional services' have the meanings given such terms in subsection (k)(3).

"(ii) PHYSICIAN REPORTING SYSTEM.—The term 'physician reporting system' means the system established under subsection (k).

"(iii) REPORTING PERIOD.—The term 'reporting period' means, with respect to a year, a period specified by the Secretary.".

(c) GAO REPORT ON ELECTRONIC PRESCRIBING.—Not later than September 1, 2012, the Comptroller General of the United States shall submit to Congress a report on the implementation of the incentives for electronic prescribing established under the provisions of, and amendments made by, this section. Such report shall include information regarding the following:

(1) The percentage of eligible professionals (as defined in section 1848(k)(3) of the Social Security Act (42 U.S.C. 1395w–4(k)(3)) that are using electronic prescribing systems, including a determination of whether less than 50 percent of eligible professionals are using electronic prescribing systems.

(2) If less than 50 percent of eligible professionals are using electronic prescribing systems, recommendations for increasing the use of electronic prescribing systems by eligible professionals, such as changes to the incentive payment adjustments established under section 1848(a)(5) of such Act, as added by subsection (b).

(3) The estimated savings to the Medicare program under title XVIII of such Act resulting from the use of electronic prescribing systems.

(4) Reductions in avoidable medical errors resulting from the use of electronic prescribing systems.

(5) The extent to which the privacy and security of the personal health information of Medicare beneficiaries is protected when such beneficiaries' prescription drug data and usage information is used for purposes other than their direct clinical care, including—

(A) whether information identifying the beneficiary is, and remains, removed from data regarding the beneficiary's prescription drug utilization; and

(B) the extent to which current law requires sufficient and appropriate oversight and audit capabilities to monitor the practice of prescription drug data mining.

(6) Such other recommendations and administrative action as the Comptroller General determines to be appropriate.

**SEC. 133. EXPANDING ACCESS TO PRIMARY CARE SERVICES.**

(a) REVISIONS TO THE MEDICARE MEDICAL HOME DEMONSTRATION PROJECT.—

(1) AUTHORITY TO EXPAND.—Section 204(b) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395b–1 note) is amended—

(A) in paragraph (1), by striking "The project" and inserting "Subject to paragraph (3), the project"; and

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

"(3) EXPANSION.—The Secretary may expand the duration and the scope of the project under paragraph (1), to an extent determined appropriate by the Secretary, if the Secretary determines that such expansion will result in any of the following conditions being met:

"(A) The expansion of the project is expected to improve the quality of patient care without increasing spending under the Medicare program (not taking into account amounts available under subsection (g)).

"(B) The expansion of the project is expected to reduce spending under the Medicare program (not taking into account amounts available under subsection (g)) without reducing the quality of patient care.".

(2) FUNDING AND APPLICATION.—Section 204 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395b–1 note) is amended by adding at the end the following new subsections:

"(g) FUNDING FROM SMI TRUST FUND.—There shall be available, from the Federal Supplementary Medical Insurance Trust Fund (under section 1841 of the Social Security Act (42 U.S.C. 1395t)), the amount of $100,000,000 to carry out the project.

"(h) APPLICATION.—Chapter 35 of title 44, United States Code, shall not apply to the conduct of the project.".

(b) APPLICATION OF BUDGET-NEUTRALITY ADJUSTOR TO CONVERSION FACTOR.—Section 1848(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w–4(c)(2)(B)) is amended by adding at the end the following new clause:

"(vi) ALTERNATIVE APPLICATION OF BUDGET-NEUTRALITY ADJUSTMENT.—Notwithstanding subsection (d)(9)(A), effective for fee schedules established beginning with 2009, with respect to the 5-year review of work relative value units used in fee schedules for 2007 and 2008, in lieu of continuing to apply budget-neutrality adjustments required under clause (ii) for 2007 and 2008 to work relative value units, the Secretary shall apply such budget-neutrality adjustments to the conversion factor otherwise determined for years beginning with 2009.".

**SEC. 134. EXTENSION OF FLOOR ON MEDICARE WORK GEOGRAPHIC ADJUSTMENT UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.**

(a) IN GENERAL.—Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)), as amended by section 103 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking "before July 1, 2008" and inserting "before January 1, 2010".

(b) TREATMENT OF PHYSICIANS' SERVICES FURNISHED IN CERTAIN AREAS.—Section 1848(e)(1)(G) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(G)) is amended by adding at the end the following new sentence: "For purposes of payment for services furnished in the State described in the preceding sentence on or after January 1, 2009, after calculating the work geographic index in subparagraph (A)(iii), the Secretary shall increase the work geographic index to 1.5 if such index would otherwise be less than 1.5".

(c) TECHNICAL CORRECTION.—Section 602(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2301) is amended to read as follows:

42 USC 1395w–4.

"(1) in subparagraph (A), by striking 'subparagraphs (B), (C), and (E)' and inserting 'subparagraphs (B), (C), (E), and (G)'; and".

**SEC. 135. IMAGING PROVISIONS.**

(a) ACCREDITATION REQUIREMENT.—

(1) ACCREDITATION REQUIREMENT.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by inserting after subsection (d) the following new subsection:

"(e) ACCREDITATION REQUIREMENT FOR ADVANCED DIAGNOSTIC IMAGING SERVICES.—

"(1) IN GENERAL.—

Effective date.

"(A) IN GENERAL.—Beginning with January 1, 2012, with respect to the technical component of advanced diagnostic imaging services for which payment is made under the fee schedule established under section 1848(b) and

that are furnished by a supplier, payment may only be made if such supplier is accredited by an accreditation organization designated by the Secretary under paragraph (2)(B)(i).

"(B) ADVANCED DIAGNOSTIC IMAGING SERVICES DEFINED.—In this subsection, the term 'advanced diagnostic imaging services' includes—

"(i) diagnostic magnetic resonance imaging, computed tomography, and nuclear medicine (including positron emission tomography); and

"(ii) such other diagnostic imaging services, including services described in section 1848(b)(4)(B) (excluding X-ray, ultrasound, and fluoroscopy), as specified by the Secretary in consultation with physician specialty organizations and other stakeholders.

"(C) SUPPLIER DEFINED.—In this subsection, the term 'supplier' has the meaning given such term in section 1861(d).

"(2) ACCREDITATION ORGANIZATIONS.—

"(A) FACTORS FOR DESIGNATION OF ACCREDITATION ORGANIZATIONS.—The Secretary shall consider the following factors in designating accreditation organizations under subparagraph (B)(i) and in reviewing and modifying the list of accreditation organizations designated pursuant to subparagraph (C):

"(i) The ability of the organization to conduct timely reviews of accreditation applications.

"(ii) Whether the organization has established a process for the timely integration of new advanced diagnostic imaging services into the organization's accreditation program.

"(iii) Whether the organization uses random site visits, site audits, or other strategies for ensuring accredited suppliers maintain adherence to the criteria described in paragraph (3).

"(iv) The ability of the organization to take into account the capacities of suppliers located in a rural area (as defined in section 1886(d)(2)(D)).

"(v) Whether the organization has established reasonable fees to be charged to suppliers applying for accreditation.

"(vi) Such other factors as the Secretary determines appropriate.

"(B) DESIGNATION.—Not later than January 1, 2010, the Secretary shall designate organizations to accredit suppliers furnishing the technical component of advanced diagnostic imaging services. The list of accreditation organizations so designated may be modified pursuant to subparagraph (C). Deadline.

"(C) REVIEW AND MODIFICATION OF LIST OF ACCREDITATION ORGANIZATIONS.—

"(i) IN GENERAL.—The Secretary shall review the list of accreditation organizations designated under subparagraph (B) taking into account the factors under subparagraph (A). Taking into account the results of such review, the Secretary may, by regulation, modify

the list of accreditation organizations designated under subparagraph (B).

"(ii) SPECIAL RULE FOR ACCREDITATIONS DONE PRIOR TO REMOVAL FROM LIST OF DESIGNATED ACCREDITATION ORGANIZATIONS.—In the case where the Secretary removes an organization from the list of accreditation organizations designated under subparagraph (B), any supplier that is accredited by the organization during the period beginning on the date on which the organization is designated as an accreditation organization under subparagraph (B) and ending on the date on which the organization is removed from such list shall be considered to have been accredited by an organization designated by the Secretary under subparagraph (B) for the remaining period such accreditation is in effect.

Procedures.

"(3) CRITERIA FOR ACCREDITATION.—The Secretary shall establish procedures to ensure that the criteria used by an accreditation organization designated under paragraph (2)(B) to evaluate a supplier that furnishes the technical component of advanced diagnostic imaging services for the purpose of accreditation of such supplier is specific to each imaging modality. Such criteria shall include—

"(A) standards for qualifications of medical personnel who are not physicians and who furnish the technical component of advanced diagnostic imaging services;

"(B) standards for qualifications and responsibilities of medical directors and supervising physicians, including standards that recognize the considerations described in paragraph (4);

"(C) procedures to ensure that equipment used in furnishing the technical component of advanced diagnostic imaging services meets performance specifications;

"(D) standards that require the supplier have procedures in place to ensure the safety of persons who furnish the technical component of advanced diagnostic imaging services and individuals to whom such services are furnished;

"(E) standards that require the establishment and maintenance of a quality assurance and quality control program by the supplier that is adequate and appropriate to ensure the reliability, clarity, and accuracy of the technical quality of diagnostic images produced by such supplier; and

"(F) any other standards or procedures the Secretary determines appropriate.

"(4) RECOGNITION IN STANDARDS FOR THE EVALUATION OF MEDICAL DIRECTORS AND SUPERVISING PHYSICIANS.—The standards described in paragraph (3)(B) shall recognize whether a medical director or supervising physician—

"(A) in a particular specialty receives training in advanced diagnostic imaging services in a residency program;

"(B) has attained, through experience, the necessary expertise to be a medical director or a supervising physician;

"(C) has completed any continuing medical education courses relating to such services; or

"(D) has met such other standards as the Secretary determines appropriate.

"(5) RULE FOR ACCREDITATIONS MADE PRIOR TO DESIGNATION.—In the case of a supplier that is accredited before January 1, 2010, by an accreditation organization designated by the Secretary under paragraph (2)(B) as of January 1, 2010, such supplier shall be considered to have been accredited by an organization designated by the Secretary under such paragraph as of January 1, 2012, for the remaining period such accreditation is in effect.".

(2) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (21), by striking "or" at the end;

(ii) in paragraph (22), by striking the period at the end and inserting "; or"; and

(iii) by inserting after paragraph (22) the following new paragraph:

"(23) which are the technical component of advanced diagnostic imaging services described in section 1834(e)(1)(B) for which payment is made under the fee schedule established under section 1848(b) and that are furnished by a supplier (as defined in section 1861(d)), if such supplier is not accredited by an accreditation organization designated by the Secretary under section 1834(e)(2)(B).".

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to advanced diagnostic imaging services furnished on or after January 1, 2012. 42 USC 1395y note.

(b) DEMONSTRATION PROJECT TO ASSESS THE APPROPRIATE USE OF IMAGING SERVICES.— 42 USC 1395m note.

(1) CONDUCT OF DEMONSTRATION PROJECT.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a demonstration project using the models described in paragraph (2)(E) to collect data regarding physician compliance with appropriateness criteria selected under paragraph (2)(D) in order to determine the appropriateness of advanced diagnostic imaging services furnished to Medicare beneficiaries.

(B) ADVANCED DIAGNOSTIC IMAGING SERVICES.—In this subsection, the term "advanced diagnostic imaging services" has the meaning given such term in section 1834(e)(1)(B) of the Social Security Act, as added by subsection (a).

(C) AUTHORITY TO FOCUS DEMONSTRATION PROJECT.—The Secretary may focus the demonstration project with respect to certain advanced diagnostic imaging services, such as services that account for a large amount of expenditures under the Medicare program, services that have recently experienced a high rate of growth, or services for which appropriateness criteria exists.

(2) IMPLEMENTATION AND DESIGN OF DEMONSTRATION PROJECT.—

(A) IMPLEMENTATION AND DURATION.—

(i) IMPLEMENTATION.—The Secretary shall implement the demonstration project under this subsection not later than January 1, 2010.

(ii) DURATION.—The Secretary shall conduct the demonstration project under this subsection for a 2-year period.

(B) APPLICATION AND SELECTION OF PARTICIPATING PHYSICIANS.—

(i) APPLICATION.—Each physician that desires to participate in the demonstration project under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(ii) SELECTION.—The Secretary shall select physicians to participate in the demonstration project under this subsection from among physicians submitting applications under clause (i). The Secretary shall ensure that the physicians selected—

(I) represent a wide range of geographic areas, demographic characteristics (such as urban, rural, and suburban), and practice settings (such as private and academic practices); and

(II) have the capability to submit data to the Secretary (or an entity under a subcontract with the Secretary) in an electronic format in accordance with standards established by the Secretary.

(C) ADMINISTRATIVE COSTS AND INCENTIVES.—The Secretary shall—

(i) reimburse physicians for reasonable administrative costs incurred in participating in the demonstration project under this subsection; and

(ii) provide reasonable incentives to physicians to encourage participation in the demonstration project under this subsection.

(D) USE OF APPROPRIATENESS CRITERIA.—

(i) IN GENERAL.—The Secretary, in consultation with medical specialty societies and other stakeholders, shall select criteria with respect to the clinical appropriateness of advanced diagnostic imaging services for use in the demonstration project under this subsection.

(ii) CRITERIA SELECTED.—Any criteria selected under clause (i) shall—

(I) be developed or endorsed by a medical specialty society; and

(II) be developed in adherence to appropriateness principles developed by a consensus organization, such as the AQA alliance.

(E) MODELS FOR COLLECTING DATA REGARDING PHYSICIAN COMPLIANCE WITH SELECTED CRITERIA.—Subject to subparagraph (H), in carrying out the demonstration project under this subsection, the Secretary shall use each of the following models for collecting data regarding physician compliance with appropriateness criteria selected under subparagraph (D):

(i) A model described in subparagraph (F).

(ii) A model described in subparagraph (G).

(iii) Any other model that the Secretary determines to be useful in evaluating the use of appropriateness criteria for advanced diagnostic imaging services.

(F) POINT OF SERVICE MODEL DESCRIBED.—A model described in this subparagraph is a model that—

(i) uses an electronic or paper intake form that—

Certification.

(I) contains a certification by the physician furnishing the imaging service that the data on the intake form was confirmed with the Medicare beneficiary before the service was furnished;

(II) contains standardized data elements for diagnosis, service ordered, service furnished, and such other information determined by the Secretary, in consultation with medical specialty societies and other stakeholders, to be germane to evaluating the effectiveness of the use of appropriateness criteria selected under subparagraph (D); and

(III) is accessible to physicians participating in the demonstration project under this subsection in a format that allows for the electronic submission of such form; and

(ii) provides for feedback reports in accordance with paragraph (3)(B).

(G) POINT OF ORDER MODEL DESCRIBED.—A model described in this subparagraph is a model that—

(i) uses a computerized order-entry system that requires the transmittal of relevant supporting information at the time of referral for advanced diagnostic imaging services and provides automated decision-support feedback to the referring physician regarding the appropriateness of furnishing such imaging services; and

(ii) provides for feedback reports in accordance with paragraph (3)(B).

(H) LIMITATION.—In no case may the Secretary use prior authorization—

(i) as a model for collecting data regarding physician compliance with appropriateness criteria selected under subparagraph (D) under the demonstration project under this subsection; or

(ii) under any model used for collecting such data under the demonstration project.

(I) REQUIRED CONTRACTS AND PERFORMANCE STANDARDS FOR CERTAIN ENTITIES.—

(i) IN GENERAL.—The Secretary shall enter into contracts with entities to carry out the model described in subparagraph (G).

(ii) PERFORMANCE STANDARDS.—The Secretary shall establish and enforce performance standards for such entities under the contracts entered into under clause (i), including performance standards with respect to—

(I) the satisfaction of Medicare beneficiaries who are furnished advanced diagnostic imaging services by a physician participating in the demonstration project;

(II) the satisfaction of physicians participating in the demonstration project;

(III) if applicable, timelines for the provision of feedback reports under paragraph (3)(B); and

(IV) any other areas determined appropriate by the Secretary.

(3) COMPARISON OF UTILIZATION OF ADVANCED DIAGNOSTIC IMAGING SERVICES AND FEEDBACK REPORTS.—

(A) COMPARISON OF UTILIZATION OF ADVANCED DIAGNOSTIC IMAGING SERVICES.—The Secretary shall consult with medical specialty societies and other stakeholders to develop mechanisms for comparing the utilization of advanced diagnostic imaging services by physicians participating in the demonstration project under this subsection against—

(i) the appropriateness criteria selected under paragraph (2)(D); and

(ii) to the extent feasible, the utilization of such services by physicians not participating in the demonstration project.

(B) FEEDBACK REPORTS.—The Secretary shall, in consultation with medical specialty societies and other stakeholders, develop mechanisms to provide feedback reports to physicians participating in the demonstration project under this subsection. Such feedback reports shall include—

(i) a profile of the rate of compliance by the physician with appropriateness criteria selected under paragraph (2)(D), including a comparison of—

(I) the rate of compliance by the physician with such criteria; and

(II) the rate of compliance by the physician's peers (as defined by the Secretary) with such criteria; and

(ii) to the extent feasible, a comparison of—

(I) the rate of utilization of advanced diagnostic imaging services by the physician; and

(II) the rate of utilization of such services by the physician's peers (as defined by the Secretary) who are not participating in the demonstration project.

(4) CONDUCT OF DEMONSTRATION PROJECT AND WAIVER.—

(A) CONDUCT OF DEMONSTRATION PROJECT.—Chapter 35 of title 44, United States Code, shall not apply to the conduct of the demonstration project under this subsection.

(B) WAIVER.—The Secretary may waive such provisions of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq.; 1395 et seq.) as may be necessary to carry out the demonstration project under this subsection.

(5) EVALUATION AND REPORT.—

(A) EVALUATION.—The Secretary shall evaluate the demonstration project under this subsection to—

(i) assess the timeliness and efficacy of the demonstration project;

(ii) assess the performance of entities under a contract entered into under paragraph (2)(I)(i);

(iii) analyze data—

(I) on the rates of appropriate, uncertain, and inappropriate advanced diagnostic imaging services furnished by physicians participating in the demonstration project;

(II) on patterns and trends in the appropriateness and inappropriateness of such services furnished by such physicians;

(III) on patterns and trends in national and regional variations of care with respect to the furnishing of such services; and

(IV) on the correlation between the appropriateness of the services furnished and image results; and

(iv) address—

(I) the thresholds used under the demonstration project to identify acceptable and outlier levels of performance with respect to the appropriateness of advanced diagnostic imaging services furnished;

(II) whether prospective use of appropriateness criteria could have an effect on the volume of such services furnished;

(III) whether expansion of the use of appropriateness criteria with respect to such services to a broader population of Medicare beneficiaries would be advisable;

(IV) whether, under such an expansion, physicians who demonstrate consistent compliance with such appropriateness criteria should be exempted from certain requirements;

(V) the use of incident-specific versus practice-specific outlier information in formulating future recommendations with respect to the use of appropriateness criteria for such services under the Medicare program; and

(VI) the potential for using methods (including financial incentives), in addition to those used under the models under the demonstration project, to ensure compliance with such criteria.

(B) REPORT.—Not later than 1 year after the completion of the demonstration project under this subsection, the Secretary shall submit to Congress a report containing the results of the evaluation of the demonstration project conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(6) FUNDING.—The Secretary shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t) of $10,000,000, for carrying out the demonstration project under this subsection (including costs associated with administering the demonstration project, reimbursing physicians for administrative costs and providing incentives to encourage participation under paragraph (2)(C), entering into contracts under paragraph (2)(I), and evaluating the demonstration project under paragraph (5)).

(c) GAO STUDY AND REPORTS ON ACCREDITATION REQUIREMENT FOR ADVANCED DIAGNOSTIC IMAGING SERVICES.—

(1) STUDY.—

(A) IN GENERAL.—The Comptroller General of the United States (in this subsection referred to as the "Comptroller General") shall conduct a study, by imaging modality, on—

(i) the effect of the accreditation requirement under section 1834(e) of the Social Security Act, as added by subsection (a); and

(ii) any other relevant questions involving access to, and the value of, advanced diagnostic imaging services for Medicare beneficiaries.

(B) ISSUES.—The study conducted under subparagraph (A) shall examine the following:

(i) The impact of such accreditation requirement on the number, type, and quality of imaging services furnished to Medicare beneficiaries.

(ii) The cost of such accreditation requirement, including costs to facilities of compliance with such requirement and costs to the Secretary of administering such requirement.

(iii) Access to imaging services by Medicare beneficiaries, especially in rural areas, before and after implementation of such accreditation requirement.

(iv) Such other issues as the Secretary determines appropriate.

(2) REPORTS.—

(A) PRELIMINARY REPORT.—Not later than March 1, 2013, the Comptroller General shall submit a preliminary report to Congress on the study conducted under paragraph (1).

(B) FINAL REPORT.—Not later than March 1, 2014, the Comptroller General shall submit a final report to Congress on the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

**SEC. 136. EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.**

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), and section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking "2007, and the first 6 months of 2008" and inserting "2007, 2008, and 2009".

42 USC 1395w–4 note.

**SEC. 137. ACCOMMODATION OF PHYSICIANS ORDERED TO ACTIVE DUTY IN THE ARMED SERVICES.**

Section 1842(b)(6)(D)(iii) of the Social Security Act (42 U.S.C. 1395u(b)(6)(D)(iii)), as amended by section 116 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking "(before July 1, 2008)".

**SEC. 138. ADJUSTMENT FOR MEDICARE MENTAL HEALTH SERVICES.** 42 USC 1395w–4.

(a) PAYMENT ADJUSTMENT.—

(1) IN GENERAL.—For purposes of payment for services furnished under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) during the period beginning on July 1, 2008, and ending on December 31, 2009, the Secretary of Health and Human Services shall increase the fee schedule otherwise applicable for specified services by 5 percent.

(2) NONAPPLICATION OF BUDGET-NEUTRALITY.—The budget-neutrality provision of section 1848(c)(2)(B)(ii) of the Social Security Act (42 U.S.C. 1395w–4(c)(2)(B)(ii)) shall not apply to the adjustments described in paragraph (1).

(b) DEFINITION OF SPECIFIED SERVICES.—In this section, the term "specified services" means procedure codes for services in the categories of the Health Care Common Procedure Coding System, established by the Secretary of Health and Human Services under section 1848(c)(5) of the Social Security Act (42 U.S.C. 1395w–4(c)(5)), as of July 1, 2007, and as subsequently modified by the Secretary, consisting of psychiatric therapeutic procedures furnished in office or other outpatient facility settings or in inpatient hospital, partial hospital, or residential care facility settings, but only with respect to such services in such categories that are in the subcategories of services which are—

(1) insight oriented, behavior modifying, or supportive psychotherapy; or

(2) interactive psychotherapy.

(c) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement this section by program instruction or otherwise.

**SEC. 139. IMPROVEMENTS FOR MEDICARE ANESTHESIA TEACHING PROGRAMS.**

(a) SPECIAL PAYMENT RULE FOR TEACHING ANESTHESIOLOGISTS.—Section 1848(a) of the Social Security Act (42 U.S.C. 1395w–4(a)), as amended by section 132(b), is amended—

(1) in paragraph (4)(A), by inserting "except as provided in paragraph (5)," after "anesthesia cases,"; and

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

"(6) SPECIAL RULE FOR TEACHING ANESTHESIOLOGISTS.—With respect to physicians' services furnished on or after January 1, 2010, in the case of teaching anesthesiologists involved in the training of physician residents in a single anesthesia case or two concurrent anesthesia cases, the fee schedule amount to be applied shall be 100 percent of the fee schedule amount otherwise applicable under this section if the anesthesia services were personally performed by the teaching anesthesiologist alone and paragraph (4) shall not apply if— Effective date.

"(A) the teaching anesthesiologist is present during all critical or key portions of the anesthesia service or procedure involved; and

"(B) the teaching anesthesiologist (or another anesthesiologist with whom the teaching anesthesiologist has entered into an arrangement) is immediately available to furnish anesthesia services during the entire procedure.".

(b) TREATMENT OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—With respect to items and services furnished on or after Effective date. 42 USC 1395*l*.

January 1, 2010, the Secretary of Health and Human Services shall make appropriate adjustments to payments under the Medicare program under title XVIII of the Social Security Act for teaching certified registered nurse anesthetists to implement a policy with respect to teaching certified registered nurse anesthetists that—

(1) is consistent with the adjustments made by the special rule for teaching anesthesiologists under section 1848(a)(6) of the Social Security Act, as added by subsection (a); and

(2) maintains the existing payment differences between teaching anesthesiologists and teaching certified registered nurse anesthetists.

## PART II—OTHER PAYMENT AND COVERAGE IMPROVEMENTS

### SEC. 141. EXTENSION OF EXCEPTIONS PROCESS FOR MEDICARE THERAPY CAPS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)), as amended by section 105 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking "June 30, 2008" and inserting "December 31, 2009".

### SEC. 142. EXTENSION OF PAYMENT RULE FOR BRACHYTHERAPY AND THERAPEUTIC RADIOPHARMACEUTICALS.

Section 1833(t)(16)(C) of the Social Security Act (42 U.S.C. 1395l(t)(16)(C)), as amended by section 106 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking "July 1, 2008" each place it appears and inserting "January 1, 2010".

### SEC. 143. SPEECH-LANGUAGE PATHOLOGY SERVICES.

(a) IN GENERAL.—Section 1861(ll) of the Social Security Act (42 U.S.C. 1395x(ll)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'outpatient speech-language pathology services' has the meaning given the term 'outpatient physical therapy services' in subsection (p), except that in applying such subsection—

"(A) 'speech-language pathology' shall be substituted for 'physical therapy' each place it appears; and

"(B) 'speech-language pathologist' shall be substituted for 'physical therapist' each place it appears.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1832(a)(2)(C) of the Social Security Act (42 U.S.C. 1395k(a)(2)(C)) is amended—

(A) by striking "and outpatient" and inserting ", outpatient"; and

(B) by inserting before the semicolon at the end the following: ", and outpatient speech-language pathology services (other than services to which the second sentence of section 1861(p) applies through the application of section 1861(ll)(2))".

(2) Subparagraphs (A) and (B) of section 1833(a)(8) of the Social Security Act (42 U.S.C. 1395l(a)(8)) are each amended

by striking "(which includes outpatient speech-language pathology services)" and inserting ", outpatient speech-language pathology services,".

(3) Section 1833(g)(1) of the Social Security Act (42 U.S.C. 1395l(g)(1)) is amended—

(A) by inserting "and speech-language pathology services of the type described in such section through the application of section 1861(ll)(2)" after "1861(p)"; and

(B) by inserting "and speech-language pathology services" after "and physical therapy services".

(4) The second sentence of section 1835(a) of the Social Security Act (42 U.S.C. 1395n(a)) is amended—

(A) by striking "section 1861(g)" and inserting "subsection (g) or (ll)(2) of section 1861" each place it appears; and

(B) by inserting "or outpatient speech-language pathology services, respectively" after "occupational therapy services".

(5) Section 1861(p) of the Social Security Act (42 U.S.C. 1395x(p)) is amended by striking the fourth sentence.

(6) Section 1861(s)(2)(D) of the Social Security Act (42 U.S.C. 1395x(s)(2)(D)) is amended by inserting ", outpatient speech-language pathology services," after "physical therapy services".

(7) Section 1862(a)(20) of the Social Security Act (42 U.S.C. 1395y(a)(20)) is amended—

(A) by striking "outpatient occupational therapy services or outpatient physical therapy services" and inserting "outpatient physical therapy services, outpatient speech-language pathology services, or outpatient occupational therapy services"; and

(B) by striking "section 1861(g)" and inserting "subsection (g) or (ll)(2) of section 1861".

(8) Section 1866(e)(1) of the Social Security Act (42 U.S.C. 1395cc(e)(1)) is amended—

(A) by striking "section 1861(g)" and inserting "subsection (g) or (ll)(2) of section 1861" the first two places it appears;

(B) by striking "defined) or" and inserting "defined),"; and

(C) by inserting before the semicolon at the end the following: ", or (through the operation of section 1861(ll)(2)) with respect to the furnishing of outpatient speech-language pathology".

(9) Section 1877(h)(6) of the Social Security Act (42 U.S.C. 1395nn(h)(6)) is amended by adding at the end the following new subparagraph:

"(L) Outpatient speech-language pathology services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after July 1, 2009. 42 USC 1395k note.

(d) CONSTRUCTION.—Nothing in this section shall be construed to affect existing regulations and policies of the Centers for Medicare & Medicaid Services that require physician oversight of care as a condition of payment for speech-language pathology services under part B of the Medicare program. 42 USC 1395k note.

**SEC. 144. PAYMENT AND COVERAGE IMPROVEMENTS FOR PATIENTS WITH CHRONIC OBSTRUCTIVE PULMONARY DISEASE AND OTHER CONDITIONS.**

(a) COVERAGE OF PULMONARY AND CARDIAC REHABILITATION.—

(1) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 101(a), is amended—

(A) in subsection (s)(2)—

(i) in subparagraph (AA), by striking "and" at the end;

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

"(CC) items and services furnished under a cardiac rehabilitation program (as defined in subsection (eee)(1)) or under a pulmonary rehabilitation program (as defined in subsection (fff)(1)); and

"(DD) items and services furnished under an intensive cardiac rehabilitation program (as defined in subsection (eee)(4));"; and

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

"Cardiac Rehabilitation Program; Intensive Cardiac Rehabilitation Program

"(eee)(1) The term 'cardiac rehabilitation program' means a physician-supervised program (as described in paragraph (2)) that furnishes the items and services described in paragraph (3).

"(2) A program described in this paragraph is a program under which—

"(A) items and services under the program are delivered—

"(i) in a physician's office;

"(ii) in a hospital on an outpatient basis; or

"(iii) in other settings determined appropriate by the Secretary.

"(B) a physician is immediately available and accessible for medical consultation and medical emergencies at all times items and services are being furnished under the program, except that, in the case of items and services furnished under such a program in a hospital, such availability shall be presumed; and

"(C) individualized treatment is furnished under a written plan established, reviewed, and signed by a physician every 30 days that describes—

"(i) the individual's diagnosis;

"(ii) the type, amount, frequency, and duration of the items and services furnished under the plan; and

"(iii) the goals set for the individual under the plan.

"(3) The items and services described in this paragraph are—

"(A) physician-prescribed exercise;

"(B) cardiac risk factor modification, including education, counseling, and behavioral intervention (to the extent such education, counseling, and behavioral intervention is closely related to the individual's care and treatment and is tailored to the individual's needs);

"(C) psychosocial assessment;

"(D) outcomes assessment; and

"(E) such other items and services as the Secretary may determine, but only if such items and services are—

"(i) reasonable and necessary for the diagnosis or active treatment of the individual's condition;

"(ii) reasonably expected to improve or maintain the individual's condition and functional level; and

"(iii) furnished under such guidelines relating to the frequency and duration of such items and services as the Secretary shall establish, taking into account accepted norms of medical practice and the reasonable expectation of improvement of the individual.

"(4)(A) The term 'intensive cardiac rehabilitation program' means a physician-supervised program (as described in paragraph (2)) that furnishes the items and services described in paragraph (3) and has shown, in peer-reviewed published research, that it accomplished—

"(i) one or more of the following:

"(I) positively affected the progression of coronary heart disease; or

"(II) reduced the need for coronary bypass surgery; or

"(III) reduced the need for percutaneous coronary interventions; and

"(ii) a statistically significant reduction in 5 or more of the following measures from their level before receipt of cardiac rehabilitation services to their level after receipt of such services:

"(I) low density lipoprotein;

"(II) triglycerides;

"(III) body mass index;

"(IV) systolic blood pressure;

"(V) diastolic blood pressure; or

"(VI) the need for cholesterol, blood pressure, and diabetes medications.

"(B) To be eligible for an intensive cardiac rehabilitation program, an individual must have—

"(i) had an acute myocardial infarction within the preceding 12 months;

"(ii) had coronary bypass surgery;

"(iii) stable angina pectoris;

"(iv) had heart valve repair or replacement;

"(v) had percutaneous transluminal coronary angioplasty (PTCA) or coronary stenting; or

"(vi) had a heart or heart-lung transplant.

"(C) An intensive cardiac rehabilitation program may be provided in a series of 72 one-hour sessions (as defined in section 1848(b)(5)), up to 6 sessions per day, over a period of up to 18 weeks.

Standards.

"(5) The Secretary shall establish standards to ensure that a physician with expertise in the management of individuals with cardiac pathophysiology who is licensed to practice medicine in the State in which a cardiac rehabilitation program (or the intensive cardiac rehabilitation program, as the case may be) is offered—

"(A) is responsible for such program; and

"(B) in consultation with appropriate staff, is involved substantially in directing the progress of individual in the program.

"Pulmonary Rehabilitation Program

"(fff)(1) The term 'pulmonary rehabilitation program' means a physician-supervised program (as described in subsection (eee)(2) with respect to a program under this subsection) that furnishes the items and services described in paragraph (2).

"(2) The items and services described in this paragraph are—

"(A) physician-prescribed exercise;

"(B) education or training (to the extent the education or training is closely and clearly related to the individual's care and treatment and is tailored to such individual's needs);

"(C) psychosocial assessment;

"(D) outcomes assessment; and

"(E) such other items and services as the Secretary may determine, but only if such items and services are—

"(i) reasonable and necessary for the diagnosis or active treatment of the individual's condition;

"(ii) reasonably expected to improve or maintain the individual's condition and functional level; and

"(iii) furnished under such guidelines relating to the frequency and duration of such items and services as the Secretary shall establish, taking into account accepted norms of medical practice and the reasonable expectation of improvement of the individual.

Standards.

"(3) The Secretary shall establish standards to ensure that a physician with expertise in the management of individuals with respiratory pathophysiology who is licensed to practice medicine in the State in which a pulmonary rehabilitation program is offered—

"(A) is responsible for such program; and

"(B) in consultation with appropriate staff, is involved substantially in directing the progress of individual in the program.".

(2) PAYMENT FOR INTENSIVE CARDIAC REHABILITATION PROGRAMS.—

(A) INCLUSION IN PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w–4(j)(3)) is amended by inserting "(2)(DD)," after "(2)(AA),".

(B) CONFORMING AMENDMENT.—Section 1848(b) of the Social Security Act (42 U.S.C. 1395w–4(b)) is amended by adding at the end the following new paragraph:

"(5) TREATMENT OF INTENSIVE CARDIAC REHABILITATION PROGRAM.—

"(A) IN GENERAL.—In the case of an intensive cardiac rehabilitation program described in section 1861(eee)(4), the Secretary shall substitute the Medicare OPD fee schedule amount established under the prospective payment system for hospital outpatient department service under paragraph (3)(D) of section 1833(t) for cardiac rehabilitation (under HCPCS codes 93797 and 93798 for calendar year 2007, or any succeeding HCPCS codes for cardiac rehabilitation).

"(B) DEFINITION OF SESSION.—Each of the services described in subparagraphs (A) through (E) of section 1861(eee)(3), when furnished for one hour, is a separate session of intensive cardiac rehabilitation.

"(C) MULTIPLE SESSIONS PER DAY.—Payment may be made for up to 6 sessions per day of the series of 72 one-hour sessions of intensive cardiac rehabilitation services described in section 1861(eee)(4)(B).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services furnished on or after January 1, 2010. 42 USC 1395w–4 note.

(b) REPEAL OF TRANSFER OF OWNERSHIP OF OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(5)(F) of the Social Security Act (42 U.S.C. 1395m(a)(5)(F)) is amended—

(A) in the heading, by striking "OWNERSHIP OF EQUIPMENT" and inserting "RENTAL CAP"; and

(B) by striking clause (ii) and inserting the following:

"(ii) PAYMENTS AND RULES AFTER RENTAL CAP.—After the 36th continuous month during which payment is made for the equipment under this paragraph—

"(I) the supplier furnishing such equipment under this subsection shall continue to furnish the equipment during any period of medical need for the remainder of the reasonable useful lifetime of the equipment, as determined by the Secretary;

"(II) payments for oxygen shall continue to be made in the amount recognized for oxygen under paragraph (9) for the period of medical need; and

"(III) maintenance and servicing payments shall, if the Secretary determines such payments are reasonable and necessary, be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the equipment), and such payments shall be in an amount determined to be appropriate by the Secretary.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2009. 42 USC 1395m note.

**SEC. 145. CLINICAL LABORATORY TESTS.**

(a) REPEAL OF MEDICARE COMPETITIVE BIDDING DEMONSTRATION PROJECT FOR CLINICAL LABORATORY SERVICES.—

(1) IN GENERAL.—Section 1847 of the Social Security Act (42 U.S.C. 1395w–3) is amended by striking subsection (e).

(2) CONFORMING AMENDMENTS.—Section 1833(a)(1)(D) of the Social Security Act (42 U.S.C. 1395l(a)(1)(D)) is amended—

(A) by inserting "or" before "(ii)"; and

(B) by striking "or (iii) on the basis" and all that follows before the comma at the end.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act. 42 USC 1395*l*.

(b) CLINICAL LABORATORY TEST FEE SCHEDULE UPDATE ADJUSTMENT.—Section 1833(h)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended by inserting "minus, for each of the years 2009 through 2013, 0.5 percentage points" after "city average)".

**SEC. 146. IMPROVED ACCESS TO AMBULANCE SERVICES.**

(a) EXTENSION OF INCREASED MEDICARE PAYMENTS FOR GROUND AMBULANCE SERVICES.—Section 1834(l)(13) of the Social Security Act (42 U.S.C. 1395m(l)(13)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting "and for such services furnished on or after July 1, 2008, and before January 1, 2010" after "2007,";

(B) in clause (i), by inserting "(or 3 percent if such service is furnished on or after July 1, 2008, and before January 1, 2010)" after "2 percent"; and

(C) in clause (ii), by inserting "(or 2 percent if such service is furnished on or after July 1, 2008, and before January 1, 2010)" after "1 percent"; and

(2) in subparagraph (B)—

(A) in the heading, by striking "2006" and inserting "APPLICABLE PERIOD"; and

(B) by inserting "applicable" before "period".

(b) AIR AMBULANCE PAYMENT IMPROVEMENTS.—

42 USC 1395m note.

(1) TREATMENT OF CERTAIN AREAS FOR PAYMENT FOR AIR AMBULANCE SERVICES UNDER THE AMBULANCE FEE SCHEDULE.—

Time period.

Notwithstanding any other provision of law, for purposes of making payments under section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) for air ambulance services furnished during the period beginning on July 1, 2008, and ending on December 31, 2009, any area that was designated as a rural area for purposes of making payments under such section for air ambulance services furnished on December 31, 2006, shall be treated as a rural area for purposes of making payments under such section for air ambulance services furnished during such period.

(2) CLARIFICATION REGARDING SATISFACTION OF REQUIREMENT OF MEDICALLY NECESSARY.—

(A) IN GENERAL.—Section 1834(l)(14)(B)(i) of the Social Security Act (42 U.S.C. 1395m(l)(14)(B)(i)) is amended by striking "reasonably determines or certifies" and inserting "certifies or reasonably determines".

42 USC 1395m note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to services furnished on or after the date of the enactment of this Act.

**SEC. 147. EXTENSION AND EXPANSION OF THE MEDICARE HOLD HARMLESS PROVISION UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT (HOPD) SERVICES FOR CERTAIN HOSPITALS.**

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking "2009" and inserting "2010"; and

(B) by striking the second sentence and inserting the following new sentence: "For purposes of the preceding sentence, the applicable percentage shall be 95 percent with respect to covered OPD services furnished in 2006, 90 percent with respect to such services furnished in 2007, and 85 percent with respect to such services furnished in 2008 or 2009."; and

(2) by adding at the end the following new subclause:

"(III) In the case of a sole community hospital (as defined in section 1886(d)(5)(D)(iii)) that has not more than 100 beds, for covered OPD services furnished on or after January 1, 2009, and before January 1, 2010, for which the PPS amount is less than the pre-BBA amount, the amount of payment under this subsection shall be increased by 85 percent of the amount of such difference.".

**SEC. 148. CLARIFICATION OF PAYMENT FOR CLINICAL LABORATORY TESTS FURNISHED BY CRITICAL ACCESS HOSPITALS.**

(a) IN GENERAL.—Section 1834(g)(4) of the Social Security Act (42 U.S.C. 1395m(g)(4)) is amended—

(1) in the heading, by striking "NO BENEFICIARY COST-SHARING FOR" and inserting "TREATMENT OF"; and

(2) by adding at the end the following new sentence: "For purposes of the preceding sentence and section 1861(mm)(3), clinical diagnostic laboratory services furnished by a critical access hospital shall be treated as being furnished as part of outpatient critical access services without regard to whether the individual with respect to whom such services are furnished is physically present in the critical access hospital, or in a skilled nursing facility or a clinic (including a rural health clinic) that is operated by a critical access hospital, at the time the specimen is collected.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after July 1, 2009. 42 USC 1395m note.

**SEC. 149. ADDING CERTAIN ENTITIES AS ORIGINATING SITES FOR PAYMENT OF TELEHEALTH SERVICES.**

(a) IN GENERAL.—Section 1834(m)(4)(C)(ii) of the Social Security Act (42 U.S.C. 1395m(m)(4)(C)(ii)) is amended by adding at the end the following new subclauses:

"(VI) A hospital-based or critical access hospital-based renal dialysis center (including satellites).

"(VII) A skilled nursing facility (as defined in section 1819(a)).

"(VIII) A community mental health center (as defined in section 1861(ff)(3)(B)).".

(b) CONFORMING AMENDMENT.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting "telehealth services furnished under section 1834(m)(4)(C)(ii)(VII)," after "section 1861(s)(2),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2009. 42 USC 1395m note.

**SEC. 150. MEDPAC STUDY AND REPORT ON IMPROVING CHRONIC CARE DEMONSTRATION PROGRAMS.**

(a) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the "Commission") shall conduct a study on the feasability and advisability of establishing a Medicare Chronic Care Practice Research Network that would serve as a standing network of providers testing new models of care coordination and other care approaches for chronically ill beneficiaries, including the initiation, operation, evaluation, and, if appropriate,

expansion of such models to the broader Medicare patient population. In conducting such study, the Commission shall take into account the structure, implementation, and results of prior and existing care coordination and disease management demonstrations and pilots, including the Medicare Coordinated Care Demonstration Project under section 4016 of the Balanced Budget Act of 1997 (42 U.S.C. 1395b–1 note) and the chronic care improvement programs under section 1807 of the Social Security Act (42 U.S.C. 1395b–8), commonly known to as "Medicare Health Support".

(b) REPORT.—Not later than June 15, 2009, the Commission shall submit to Congress a report containing the results of the study conducted under subsection (a).

**SEC. 151. INCREASE OF FQHC PAYMENT LIMITS.**

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(v) INCREASE OF FQHC PAYMENT LIMITS.—In the case of services furnished by Federally qualified health centers (as defined in section 1861(aa)(4)), the Secretary shall establish payment limits with respect to such services under this part for services furnished—

"(1) in 2010, at the limits otherwise established under this part for such year increased by $5; and

"(2) in a subsequent year, at the limits established under this subsection for the previous year increased by the percentage increase in the MEI (as defined in section 1842(i)(3)) for such subsequent year.".

(b) STUDY AND REPORT ON THE EFFECTS AND ADEQUACY OF THE MEDICARE FEDERALLY QUALIFIED HEALTH CENTER PAYMENT STRUCTURE.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine whether the structure for payments for services furnished by Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4)) under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) adequately reimburses Federally qualified health centers for the care furnished to Medicare beneficiaries. In conducting such study, the Comptroller General shall—

(A) use the most current cost report data available;

(B) examine the effects of the payment limits established with respect to such services under such part B on the ability of Federally qualified health centers to furnish care to Medicare beneficiaries; and

(C) examine the cost of furnishing services covered under the Medicare program as of the date of the enactment of this Act that were not covered under such program as of the date on which the Secretary determined the payment rate for Federally qualified health centers in 1991.

(2) REPORT.—Not later than 15 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1), together with recommendations for such legislation and administrative action the Comptroller General determines appropriate, taking into consideration the structure and adequacy of the prospective payment methodology used to make payments to Federally qualified health centers

under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

**SEC. 152. KIDNEY DISEASE EDUCATION AND AWARENESS PROVISIONS.**

(a) CHRONIC KIDNEY DISEASE INITIATIVES.—Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following new section:

**"SEC. 399R. CHRONIC KIDNEY DISEASE INITIATIVES.** 42 USC 280g–6.

"(a) IN GENERAL.—The Secretary shall establish pilot projects to—

"(1) increase public and medical community awareness (particularly of those who treat patients with diabetes and hypertension) regarding chronic kidney disease, focusing on prevention;

"(2) increase screening for chronic kidney disease, focusing on Medicare beneficiaries at risk of chronic kidney disease; and

"(3) enhance surveillance systems to better assess the prevalence and incidence of chronic kidney disease.

"(b) SCOPE AND DURATION.—

"(1) SCOPE.—The Secretary shall select at least 3 States in which to conduct pilot projects under this section.

"(2) DURATION.—The pilot projects under this section shall be conducted for a period that is not longer than 5 years and shall begin on January 1, 2009.

"(c) EVALUATION AND REPORT.—The Comptroller General of the United States shall conduct an evaluation of the pilot projects conducted under this section. Not later than 12 months after the date on which the pilot projects are completed, the Comptroller General shall submit to Congress a report on the evaluation.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the purpose of carrying out this section.".

(b) MEDICARE COVERAGE OF KIDNEY DISEASE PATIENT EDUCATION SERVICES.—

(1) COVERAGE OF KIDNEY DISEASE EDUCATION SERVICES.—

(A) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 144(a), is amended—

(i) in subparagraph (CC), by striking "and" after the semicolon at the end;

(ii) in subparagraph (DD), by adding "and" after the semicolon at the end; and

(iii) by adding at the end the following new subparagraph:

"(EE) kidney disease education services (as defined in subsection (ggg));".

(B) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 144(a), is amended by adding at the end the following new subsection:

"Kidney Disease Education Services

"(ggg)(1) The term 'kidney disease education services' means educational services that are—

"(A) furnished to an individual with stage IV chronic kidney disease who, according to accepted clinical guidelines identified by the Secretary, will require dialysis or a kidney transplant;

"(B) furnished, upon the referral of the physician managing the individual's kidney condition, by a qualified person (as defined in paragraph (2)); and

"(C) designed—

"(i) to provide comprehensive information (consistent with the standards set under paragraph (3)) regarding—

"(I) the management of comorbidities, including for purposes of delaying the need for dialysis;

"(II) the prevention of uremic complications; and

"(III) each option for renal replacement therapy (including hemodialysis and peritoneal dialysis at home and in-center as well as vascular access options and transplantation);

"(ii) to ensure that the individual has the opportunity to actively participate in the choice of therapy; and

"(iii) to be tailored to meet the needs of the individual involved.

"(2)(A) The term 'qualified person' means—

"(i) a physician (as defined in section 1861(r)(1)) or a physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)), who furnishes services for which payment may be made under the fee schedule established under section 1848; and

"(ii) a provider of services located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) Such term does not include a provider of services (other than a provider of services described in subparagraph (A)(ii)) or a renal dialysis facility.

Standards.

"(3) The Secretary shall set standards for the content of such information to be provided under paragraph (1)(C)(i) after consulting with physicians, other health professionals, health educators, professional organizations, accrediting organizations, kidney patient organizations, dialysis facilities, transplant centers, network organizations described in section 1881(c)(2), and other knowledgeable persons. To the extent possible the Secretary shall consult with persons or entities described in the previous sentence, other than a dialysis facility, that has not received industry funding from a drug or biological manufacturer or dialysis facility.

"(4) No individual shall be furnished more than 6 sessions of kidney disease education services under this title.".

(C) PAYMENT UNDER THE PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w–4(j)(3)), as amended by section 144(b), is amended by inserting "(2)(EE)," after "(2)(DD),".

(D) LIMITATION ON NUMBER OF SESSIONS.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(i) in subparagraph (M), by striking "and" at the end;

(ii) in subparagraph (N), by striking the semicolon at the end and inserting ", and"; and

(iii) by adding at the end the following new subparagraph:

"(O) in the case of kidney disease education services (as defined in paragraph (1) of section 1861(ggg)), which are furnished in excess of the number of sessions covered under paragraph (4) of such section;".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after January 1, 2010. 42 USC 1395w–4 note.

**SEC. 153. RENAL DIALYSIS PROVISIONS.**

(a) COMPOSITE RATE.—

(1) UPDATE.—Section 1881(b)(12)(G) of the Social Security Act (42 U.S.C. 1395rr(b)(12)(G)) is amended—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii)—

(i) by inserting "and before January 1, 2009," after "April 1, 2007,"; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new clauses:

"(iii) furnished on or after January 1, 2009, and before January 1, 2010, by 1.0 percent above the amount of such composite rate component for such services furnished on December 31, 2008; and Time period.

"(iv) furnished on or after January 1, 2010, by 1.0 percent above the amount of such composite rate component for such services furnished on December 31, 2009.". Effective date.

(2) SITE NEUTRAL COMPOSITE RATE.—Section 1881(b)(12)(A) of the Social Security Act (42 U.S.C. 1395rr(b)(12)(A)) is amended by adding at the end the following new sentence: "Under such system, the payment rate for dialysis services furnished on or after January 1, 2009, by providers of services shall be the same as the payment rate (computed without regard to this sentence) for such services furnished by renal dialysis facilities, and in applying the geographic index under subparagraph (D) to providers of services, the labor share shall be based on the labor share otherwise applied for renal dialysis facilities.". Effective date.

(b) DEVELOPMENT OF ESRD BUNDLED PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended by adding at the end the following new paragraph:

"(14)(A)(i) Subject to subparagraph (E), for services furnished on or after January 1, 2011, the Secretary shall implement a payment system under which a single payment is made under this title to a provider of services or a renal dialysis facility for renal dialysis services (as defined in subparagraph (B)) in lieu of any other payment (including a payment adjustment under paragraph (12)(B)(ii)) and for such services and items furnished pursuant to paragraph (4). Effective date.

"(ii) In implementing the system under this paragraph the Secretary shall ensure that the estimated total amount of payments under this title for 2011 for renal dialysis services shall equal 98 percent of the estimated total amount of payments for renal dialysis services, including payments under paragraph (12)(B)(ii), that would have been made under this title with respect to services furnished in 2011 if such system had not been implemented. In making the estimation under subclause (I), the Secretary shall

use per patient utilization data from 2007, 2008, or 2009, whichever has the lowest per patient utilization.

"(B) For purposes of this paragraph, the term 'renal dialysis services' includes—

"(i) items and services included in the composite rate for renal dialysis services as of December 31, 2010;

"(ii) erythropoiesis stimulating agents and any oral form of such agents that are furnished to individuals for the treatment of end stage renal disease;

"(iii) other drugs and biologicals that are furnished to individuals for the treatment of end stage renal disease and for which payment was (before the application of this paragraph) made separately under this title, and any oral equivalent form of such drug or biological; and

"(iv) diagnostic laboratory tests and other items and services not described in clause (i) that are furnished to individuals for the treatment of end stage renal disease.

Such term does not include vaccines.

"(C) The system under this paragraph may provide for payment on the basis of services furnished during a week or month or such other appropriate unit of payment as the Secretary specifies.

"(D) Such system—

"(i) shall include a payment adjustment based on case mix that may take into account patient weight, body mass index, comorbidities, length of time on dialysis, age, race, ethnicity, and other appropriate factors;

"(ii) shall include a payment adjustment for high cost outliers due to unusual variations in the type or amount of medically necessary care, including variations in the amount of erythropoiesis stimulating agents necessary for anemia management;

Time period.

"(iii) shall include a payment adjustment that reflects the extent to which costs incurred by low-volume facilities (as defined by the Secretary) in furnishing renal dialysis services exceed the costs incurred by other facilities in furnishing such services, and for payment for renal dialysis services furnished on or after January 1, 2011, and before January 1, 2014, such payment adjustment shall not be less than 10 percent; and

"(iv) may include such other payment adjustments as the Secretary determines appropriate, such as a payment adjustment—

"(I) for pediatric providers of services and renal dialysis facilities;

"(II) by a geographic index, such as the index referred to in paragraph (12)(D), as the Secretary determines to be appropriate; and

"(III) for providers of services or renal dialysis facilities located in rural areas.

The Secretary shall take into consideration the unique treatment needs of children and young adults in establishing such system.

Effective date.

"(E)(i) The Secretary shall provide for a four-year phase-in (in equal increments) of the payment amount under the payment system under this paragraph, with such payment amount being fully implemented for renal dialysis services furnished on or after January 1, 2014.

"(ii) A provider of services or renal dialysis facility may make a one-time election to be excluded from the phase-in under clause (i) and be paid entirely based on the payment amount under the payment system under this paragraph. Such an election shall be made prior to January 1, 2011, in a form and manner specified by the Secretary, and is final and may not be rescinded. Deadline.

"(iii) The Secretary shall make an adjustment to the payments under this paragraph for years during which the phase-in under clause (i) is applicable so that the estimated total amount of payments under this paragraph, including payments under this subparagraph, shall equal the estimated total amount of payments that would otherwise occur under this paragraph without such phase-in.

"(F)(i) Subject to clause (ii), beginning in 2012, the Secretary shall annually increase payment amounts established under this paragraph by an ESRD market basket percentage increase factor for a bundled payment system for renal dialysis services that reflects changes over time in the prices of an appropriate mix of goods and services included in renal dialysis services minus 1.0 percentage point. Effective date.

"(ii) For years during which a phase-in of the payment system pursuant to subparagraph (E) is applicable, the following rules shall apply to the portion of the payment under the system that is based on the payment of the composite rate that would otherwise apply if the system under this paragraph had not been enacted:

"(I) The update under clause (i) shall not apply.

"(II) The Secretary shall annually increase such composite rate by the ESRD market basket percentage increase factor described in clause (i) minus 1.0 percentage point.

"(G) There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the determination of payment amounts under subparagraph (A), the establishment of an appropriate unit of payment under subparagraph (C), the identification of renal dialysis services included in the bundled payment, the adjustments under subparagraph (D), the application of the phase-in under subparagraph (E), and the establishment of the market basket percentage increase factors under subparagraph (F).

"(H) Erythropoiesis stimulating agents and other drugs and biologicals shall be treated as prescribed and dispensed or administered and available only under part B if they are—

"(i) furnished to an individual for the treatment of end stage renal disease; and

"(ii) included in subparagraph (B) for purposes of payment under this paragraph.".

(2) PROHIBITION OF UNBUNDLING.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)), as amended by section 135(a)(2), is amended—

(A) in paragraph (22), by striking "or" at the end;

(B) in paragraph (23), by striking the period at the end and inserting "; or"; and

(C) by inserting after paragraph (23) the following new paragraph:

"(24) where such expenses are for renal dialysis services (as defined in subparagraph (B) of section 1881(b)(14)) for which payment is made under such section unless such payment is made under such section to a provider of services or a renal dialysis facility for such services.".

(3) CONFORMING AMENDMENTS.—(A) Section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended—

(i) in paragraph (12)(A), by striking "In lieu of payment" and inserting "Subject to paragraph (14), in lieu of payment";

(ii) in the second sentence of paragraph (12)(F)—

(I) by inserting "or paragraph (14)" after "this paragraph"; and

(II) by inserting "or under the system under paragraph (14)" after "subparagraph (B)"; and

(iii) in paragraph (13)—

(I) in subparagraph (A), in the matter preceding clause (i), by striking "The payment amounts" and inserting "Subject to paragraph (14), the payment amounts"; and

(II) in subparagraph (B)—

(aa) in clause (i), by striking "(i)" after "(B)" and by inserting ", subject to paragraph (14)" before the period at the end; and

(bb) by striking clause (ii).

(B) Section 1861(s)(2)(F) of the Social Security Act (42 U.S.C. 1395x(s)(2)(F)) is amended by inserting ", and, for items and services furnished on or after January 1, 2011, renal dialysis services (as defined in section 1881(b)(14)(B))" before the semicolon at the end.

(C) Section 623(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395rr note) is repealed.

42 USC 1395rr note.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection or the amendments made by this subsection shall be construed as authorizing or requiring the Secretary of Health and Human Services to make payments under the payment system implemented under paragraph (14)(A)(i) of section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)), as added by paragraph (1), for any unrecovered amount for any bad debt attributable to deductible and coinsurance on items and services not included in the basic case-mix adjusted composite rate under paragraph (12) of such section as in effect before the date of the enactment of this Act.

(c) QUALITY INCENTIVES IN THE END-STAGE RENAL DISEASE PROGRAM.—Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended by adding at the end the following new subsection:

"(h) QUALITY INCENTIVES IN THE END-STAGE RENAL DISEASE PROGRAM.—

"(1) QUALITY INCENTIVES.—

Effective date.

"(A) IN GENERAL.—With respect to renal dialysis services (as defined in subsection (b)(14)(B)) furnished on or after January 1, 2012, in the case of a provider of services or a renal dialysis facility that does not meet the requirement described in subparagraph (B) with respect to the year, payments otherwise made to such provider or facility under the system under subsection (b)(14) for such services shall be reduced by up to 2.0 percent, as determined appropriate by the Secretary.

"(B) REQUIREMENT.—The requirement described in this subparagraph is that the provider or facility meets (or

exceeds) the total performance score under paragraph (3) with respect to performance standards established by the Secretary with respect to measures specified in paragraph (2).

"(C) NO EFFECT IN SUBSEQUENT YEARS.—The reduction under subparagraph (A) shall apply only with respect to the year involved, and the Secretary shall not take into account such reduction in computing the single payment amount under the system under paragraph (14) in a subsequent year.

"(2) MEASURES.—

"(A) IN GENERAL.—The measures specified under this paragraph with respect to the year involved shall include—

"(i) measures on anemia management that reflect the labeling approved by the Food and Drug Administration for such management and measures on dialysis adequacy;

"(ii) to the extent feasible, such measure (or measures) of patient satisfaction as the Secretary shall specify; and

"(iii) such other measures as the Secretary specifies, including, to the extent feasible, measures on—

"(I) iron management;

"(II) bone mineral metabolism; and

"(III) vascular access, including for maximizing the placement of arterial venous fistula.

"(B) USE OF ENDORSED MEASURES.—

"(i) IN GENERAL.—Subject to clause (ii), any measure specified by the Secretary under subparagraph (A)(iii) must have been endorsed by the entity with a contract under section 1890(a).

"(ii) EXCEPTION.—In the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical measure has not been endorsed by the entity with a contract under section 1890(a), the Secretary may specify a measure that is not so endorsed as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary.

"(C) UPDATING MEASURES.—The Secretary shall establish a process for updating the measures specified under subparagraph (A) in consultation with interested parties.

"(D) CONSIDERATION.—In specifying measures under subparagraph (A), the Secretary shall consider the availability of measures that address the unique treatment needs of children and young adults with kidney failure.

"(3) PERFORMANCE SCORES.—

"(A) TOTAL PERFORMANCE SCORE.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall develop a methodology for assessing the total performance of each provider of services and renal dialysis facility based on performance standards with respect to the measures selected under paragraph (2) for a performance period established under paragraph (4)(D) (in this subsection referred to as the 'total performance score').

"(ii) APPLICATION.—For providers of services and renal dialysis facilities that do not meet (or exceed) the total performance score established by the Secretary, the Secretary shall ensure that the application of the methodology developed under clause (i) results in an appropriate distribution of reductions in payment under paragraph (1) among providers and facilities achieving different levels of total performance scores, with providers and facilities achieving the lowest total performance scores receiving the largest reduction in payment under paragraph (1)(A).

"(iii) WEIGHTING OF MEASURES.—In calculating the total performance score, the Secretary shall weight the scores with respect to individual measures calculated under subparagraph (B) to reflect priorities for quality improvement, such as weighting scores to ensure that providers of services and renal dialysis facilities have strong incentives to meet or exceed anemia management and dialysis adequacy performance standards, as determined appropriate by the Secretary.

"(B) PERFORMANCE SCORE WITH RESPECT TO INDIVIDUAL MEASURES.—The Secretary shall also calculate separate performance scores for each measure, including for dialysis adequacy and anemia management.

"(4) PERFORMANCE STANDARDS.—

"(A) ESTABLISHMENT.—Subject to subparagraph (E), the Secretary shall establish performance standards with respect to measures selected under paragraph (2) for a performance period with respect to a year (as established under subparagraph (D)).

"(B) ACHIEVEMENT AND IMPROVEMENT.—The performance standards established under subparagraph (A) shall include levels of achievement and improvement, as determined appropriate by the Secretary.

"(C) TIMING.—The Secretary shall establish the performance standards under subparagraph (A) prior to the beginning of the performance period for the year involved.

"(D) PERFORMANCE PERIOD.—The Secretary shall establish the performance period with respect to a year. Such performance period shall occur prior to the beginning of such year.

"(E) SPECIAL RULE.—The Secretary shall initially use as the performance standard for the measures specified under paragraph (2)(A)(i) for a provider of services or a renal dialysis facility the lesser of—

"(i) the performance of such provider or facility for such measures in the year selected by the Secretary under the second sentence of subsection (b)(14)(A)(ii); or

"(ii) a performance standard based on the national performance rates for such measures in a period determined by the Secretary.

"(5) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the following:

"(A) The determination of the amount of the payment reduction under paragraph (1).

"(B) The establishment of the performance standards and the performance period under paragraph (4).

"(C) The specification of measures under paragraph (2).

"(D) The methodology developed under paragraph (3) that is used to calculate total performance scores and performance scores for individual measures.

"(6) PUBLIC REPORTING.—

Procedures.

"(A) IN GENERAL.—The Secretary shall establish procedures for making information regarding performance under this subsection available to the public, including—

"(i) the total performance score achieved by the provider of services or renal dialysis facility under paragraph (3) and appropriate comparisons of providers of services and renal dialysis facilities to the national average with respect to such scores; and

"(ii) the performance score achieved by the provider or facility with respect to individual measures.

"(B) OPPORTUNITY TO REVIEW.—The procedures established under subparagraph (A) shall ensure that a provider of services and a renal dialysis facility has the opportunity to review the information that is to be made public with respect to the provider or facility prior to such data being made public.

"(C) CERTIFICATES.—

"(i) IN GENERAL.—The Secretary shall provide certificates to providers of services and renal dialysis facilities who furnish renal dialysis services under this section to display in patient areas. The certificate shall indicate the total performance score achieved by the provider or facility under paragraph (3).

"(ii) DISPLAY.—Each facility or provider receiving a certificate under clause (i) shall prominently display the certificate at the provider or facility.

"(D) WEB-BASED LIST.—The Secretary shall establish a list of providers of services and renal dialysis facilities who furnish renal dialysis services under this section that indicates the total performance score and the performance score for individual measures achieved by the provider and facility under paragraph (3). Such information shall be posted on the Internet website of the Centers for Medicare & Medicaid Services in an easily understandable format.".

(d) GAO REPORT ON ESRD BUNDLING SYSTEM AND QUALITY INITIATIVE.—Not later than March 1, 2013, the Comptroller General of the United States shall submit to Congress a report on the implementation of the payment system under subsection (b)(14) of section 1881 of the Social Security Act (as added by subsection (b)) for renal dialysis services and related services (defined in subparagraph (B) of such subsection (b)(14)) and the quality initiative under subsection (h) of such section 1881 (as added by subsection (b)). Such report shall include the following information:

(1) The changes in utilization rates for erythropoiesis stimulating agents.

(2) The mode of administering such agents, including information on the proportion of individuals receiving such agents intravenously as compared to subcutaneously.

(3) An analysis of the payment adjustment under subparagraph (D)(iii) of such subsection (b)(14), including an examination of the extent to which costs incurred by rural, low-volume providers and facilities (as defined by the Secretary) in furnishing renal dialysis services exceed the costs incurred by other providers and facilities in furnishing such services, and a recommendation regarding the appropriateness of such adjustment.

(4) The changes, if any, in utilization rates of drugs and biologicals that the Secretary identifies under subparagraph (B)(iii) of such subsection (b)(14), and any oral equivalent or oral substitutable forms of such drugs and biologicals or of drugs and biologicals described in clause (ii), that have occurred after implementation of the payment system under such subsection (b)(14).

(5) Any other information or recommendations for legislative and administrative actions determined appropriate by the Comptroller General.

**SEC. 154. DELAY IN AND REFORM OF MEDICARE DMEPOS COMPETITIVE ACQUISITION PROGRAM.**

(a) TEMPORARY DELAY AND REFORM.—

(1) IN GENERAL.—Section 1847(a)(1) of the Social Security Act (42 U.S.C. 1395w–3(a)(1)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (B)(i), in the matter before subclause (I), by inserting "consistent with subparagraph (D)" after "in a manner";

(ii) in subparagraph (B)(i)(II), by striking "80" and "in 2009" and inserting "an additional 70" and "in 2011", respectively;

(iii) in subparagraph (B)(i)(III), by striking "after 2009" and inserting "after 2011 (or, in the case of national mail order for items and services, after 2010)"; and

(iv) by adding at the end the following new subparagraphs:

"(D) CHANGES IN COMPETITIVE ACQUISITION PROGRAMS.—

"(i) ROUND 1 OF COMPETITIVE ACQUISITION PROGRAM.—Notwithstanding subparagraph (B)(i)(I) and in implementing the first round of the competitive acquisition programs under this section—

Contracts.

"(I) the contracts awarded under this section before the date of the enactment of this subparagraph are terminated, no payment shall be made under this title on or after the date of the enactment of this subparagraph based on such a contract, and, to the extent that any damages may be applicable as a result of the termination of such contracts, such damages shall be payable from the Federal Supplementary Medical Insurance Trust Fund under section 1841;

"(II) the Secretary shall conduct the competition for such round in a manner so that it occurs in 2009 with respect to the same items and services and the same areas, except as provided in subclauses (III) and (IV);

"(III) the Secretary shall exclude Puerto Rico so that such round of competition covers 9, instead of 10, of the largest metropolitan statistical areas; and Puerto Rico.

"(IV) there shall be excluded negative pressure wound therapy items and services.

Nothing in subclause (I) shall be construed to provide an independent cause of action or right to administrative or judicial review with regard to the termination provided under such subclause.

"(ii) ROUND 2 OF COMPETITIVE ACQUISITION PROGRAM.—In implementing the second round of the competitive acquisition programs under this section described in subparagraph (B)(i)(II)—

"(I) the metropolitan statistical areas to be included shall be those metropolitan statistical areas selected by the Secretary for such round as of June 1, 2008; and

"(II) the Secretary may subdivide metropolitan statistical areas with populations (based upon the most recent data from the Census Bureau) of at least 8,000,000 into separate areas for competitive acquisition purposes.

"(iii) EXCLUSION OF CERTAIN AREAS IN SUBSEQUENT ROUNDS OF COMPETITIVE ACQUISITION PROGRAMS.—In implementing subsequent rounds of the competitive acquisition programs under this section, including under subparagraph (B)(i)(III), for competitions occurring before 2015, the Secretary shall exempt from the competitive acquisition program (other than national mail order) the following:

"(I) Rural areas.

"(II) Metropolitan statistical areas not selected under round 1 or round 2 with a population of less than 250,000.

"(III) Areas with a low population density within a metropolitan statistical area that is otherwise selected, as determined for purposes of paragraph (3)(A).

"(E) VERIFICATION BY OIG.—The Inspector General of the Department of Health and Human Services shall, through post-award audit, survey, or otherwise, assess the process used by the Centers for Medicare & Medicaid Services to conduct competitive bidding and subsequent pricing determinations under this section that are the basis for pivotal bid amounts and single payment amounts for items and services in competitive bidding areas under rounds 1 and 2 of the competitive acquisition programs under this section and may continue to verify such calculations for subsequent rounds of such programs.

"(F) SUPPLIER FEEDBACK ON MISSING FINANCIAL DOCUMENTATION.—

"(i) IN GENERAL.—In the case of a bid where one or more covered documents in connection with such bid have been submitted not later than the covered document review date specified in clause (ii), the Secretary—

Deadlines.

"(I) shall provide, by not later than 45 days (in the case of the first round of the competitive acquisition programs as described in subparagraph (B)(i)(I)) or 90 days (in the case of a subsequent round of such programs) after the covered document review date, for notice to the bidder of all such documents that are missing as of the covered document review date; and

"(II) may not reject the bid on the basis that any covered document is missing or has not been submitted on a timely basis, if all such missing documents identified in the notice provided to the bidder under subclause (I) are submitted to the Secretary not later than 10 business days after the date of such notice.

"(ii) COVERED DOCUMENT REVIEW DATE.—The covered document review date specified in this clause with respect to a competitive acquisition program is the later of—

"(I) the date that is 30 days before the final date specified by the Secretary for submission of bids under such program; or

"(II) the date that is 30 days after the first date specified by the Secretary for submission of bids under such program.

"(iii) LIMITATIONS OF PROCESS.—The process provided under this subparagraph—

"(I) applies only to the timely submission of covered documents;

"(II) does not apply to any determination as to the accuracy or completeness of covered documents submitted or whether such documents meet applicable requirements;

"(III) shall not prevent the Secretary from rejecting a bid based on any basis not described in clause (i)(II); and

"(IV) shall not be construed as permitting a bidder to change bidding amounts or to make other changes in a bid submission.

"(iv) COVERED DOCUMENT DEFINED.—In this subparagraph, the term 'covered document' means a financial, tax, or other document required to be submitted by a bidder as part of an original bid submission under a competitive acquisition program in order to meet required financial standards. Such term does not include other documents, such as the bid itself or accreditation documentation."; and

(B) in paragraph (2)(A), by inserting before the period at the end the following: "and excluding certain complex rehabilitative power wheelchairs recognized by the Secretary as classified within group 3 or higher (and related

accessories when furnished in connection with such wheelchairs)".

(2) BUDGET NEUTRAL OFFSET.—

(A) IN GENERAL.—Section 1834(a)(14) of such Act (42 U.S.C. 1395m(a)(14)) is amended—

(i) by striking "and" at the end of subparagraphs (H) and (I);

(ii) by redesignating subparagraph (J) as subparagraph (M); and

(iii) by inserting after subparagraph (I) the following new subparagraphs:

"(J) for 2009—

"(i) in the case of items and services furnished in any geographic area, if such items or services were selected for competitive acquisition in any area under the competitive acquisition program under section 1847(a)(1)(B)(i)(I) before July 1, 2008, including related accessories but only if furnished with such items and services selected for such competition and diabetic supplies but only if furnished through mail order, - 9.5 percent; or

"(ii) in the case of other items and services, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June 2008;

"(K) for 2010, 2011, 2012, and 2013, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year;

"(L) for 2014—

"(i) in the case of items and services described in subparagraph (J)(i) for which a payment adjustment has not been made under subsection (a)(1)(F)(ii) in any previous year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June 2013, plus 2.0 percentage points; or

"(ii) in the case of other items and services, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June 2013; and".

Applicability.

(B) CONFORMING TREATMENT FOR CERTAIN ITEMS AND SERVICES.—The second sentence of section 1842(s)(1) of such Act (42 U.S.C. 1395u(s)(1)) is amended by striking "except that" and all that follows and inserting the following: "except that for items and services described in paragraph (2)(D)—

"(A) for 2009 section 1834(a)(14)(J)(i) shall apply under this paragraph instead of the percentage increase otherwise applicable; and

"(B) for 2014, if subparagraph (A) is applied to the items and services and there has not been a payment adjustment under paragraph (3)(B) for the items and services for any previous year, the percentage increase computed under section 1834(a)(14)(L)(i) shall apply instead of the percentage increase otherwise applicable.".

(3) CONFORMING DELAY.—Subsections (a)(1)(F) and (h)(1)(H) of section 1834 of the Social Security Act (42 U.S.C. 1395m) are each amended by striking "January 1, 2009" and inserting "January 1, 2011".

(4) CONSIDERATIONS IN APPLICATION.—Section 1834 of such Act (42 U.S.C. 1395m) is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (F), by inserting "subject to subparagraph (G)," before "that are included"; and

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

"(G) USE OF INFORMATION ON COMPETITIVE BID RATES.—The Secretary shall specify by regulation the methodology to be used in applying the provisions of subparagraph (F)(ii) and subsection (h)(1)(H)(ii). In promulgating such regulation, the Secretary shall consider the costs of items and services in areas in which such provisions would be applied compared to the payment rates for such items and services in competitive acquisition areas."; and

Regulations.

(B) in subsection (h)(1)(H), by inserting "subject to subsection (a)(1)(G)," before "that are included".

(b) QUALITY STANDARDS.—

(1) APPLICATION OF ACCREDITATION REQUIREMENT.—

(A) IN GENERAL.—Section 1834(a)(20) of the Social Security Act (42 U.S.C. 1395m(a)(20)) is amended—

(i) in subparagraph (E), by inserting "including subparagraph (F)," after "under this paragraph,"; and

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

"(F) APPLICATION OF ACCREDITATION REQUIREMENT.—In implementing quality standards under this paragraph—

"(i) subject to clause (ii), the Secretary shall require suppliers furnishing items and services described in subparagraph (D) on or after October 1, 2009, directly or as a subcontractor for another entity, to have submitted to the Secretary evidence of accreditation by an accreditation organization designated under subparagraph (B) as meeting applicable quality standards; and

Effective date.

"(ii) in applying such standards and the accreditation requirement of clause (i) with respect to eligible professionals (as defined in section 1848(k)(3)(B)), and including such other persons, such as orthotists and prosthetists, as specified by the Secretary, furnishing such items and services—

"(I) such standards and accreditation requirement shall not apply to such professionals and persons unless the Secretary determines that the standards being applied are designed specifically to be applied to such professionals and persons; and

"(II) the Secretary may exempt such professionals and persons from such standards and requirement if the Secretary determines that licensing, accreditation, or other mandatory quality

requirements apply to such professionals and persons with respect to the furnishing of such items and services.".

(B) CONSTRUCTION.—Section 1834(a)(20)(F)(ii) of the Social Security Act, as added by subparagraph (A), shall not be construed as preventing the Secretary of Health and Human Services from implementing the first round of competition under section 1847 of such Act on a timely basis. 42 USC 1395m note.

(2) DISCLOSURE OF SUBCONTRACTORS UNDER COMPETITIVE ACQUISITION PROGRAM.—Section 1847(b)(3) of such Act (42 U.S.C. 1395w–3(b)(3)) is amended by adding at the end the following new subparagraph:

"(C) DISCLOSURE OF SUBCONTRACTORS.—

"(i) INITIAL DISCLOSURE.—Not later than 10 days after the date a supplier enters into a contract with the Secretary under this section, such supplier shall disclose to the Secretary, in a form and manner specified by the Secretary, the information on— Deadline.

"(I) each subcontracting relationship that such supplier has in furnishing items and services under the contract; and

"(II) whether each such subcontractor meets the requirement of section 1834(a)(20)(F)(i), if applicable to such subcontractor.

"(ii) SUBSEQUENT DISCLOSURE.—Not later than 10 days after such a supplier subsequently enters into a subcontracting relationship described in clause (i)(II), such supplier shall disclose to the Secretary, in such form and manner, the information described in subclauses (I) and (II) of clause (i).".

(3) COMPETITIVE ACQUISITION OMBUDSMAN.—Such section is further amended by adding at the end the following new subsection:

"(f) COMPETITIVE ACQUISITION OMBUDSMAN.—The Secretary shall provide for a competitive acquisition ombudsman within the Centers for Medicare & Medicaid Services in order to respond to complaints and inquiries made by suppliers and individuals relating to the application of the competitive acquisition program under this section. The ombudsman may be within the office of the Medicare Beneficiary Ombudsman appointed under section 1808(c). The ombudsman shall submit to Congress an annual report on the activities under this subsection, which report shall be coordinated with the report provided under section 1808(c)(2)(C).". Establishment. Reports.

(c) CHANGE IN REPORTS AND DEADLINES.—

(1) GAO REPORT.—Section 302(b)(3) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) is amended— 42 USC 1395w–3 note.

(A) in subparagraph (A)—

(i) by inserting "and as amended by section 2 of the Medicare DMEPOS Competitive Acquisition Reform Act of 2008" after "as amended by paragraph (1)"; and

(ii) by inserting before the period at the end the following: "and the topics specified in subparagraph (C)";

(B) in subparagraph (B), by striking "Not later than January 1, 2009," and inserting "Not later than 1 year after the first date that payments are made under section 1847 of the Social Security Act,"; and

(C) by adding at the end the following new subparagraph:

"(C) TOPICS.—The topics specified in this subparagraph, for the study under subparagraph (A) concerning the competitive acquisition program, are the following:

"(i) Beneficiary access to items and services under the program, including the impact on such access of awarding contracts to bidders that—

"(I) did not have a physical presence in an area where they received a contract; or

"(II) had no previous experience providing the product category they were contracted to provide.

"(ii) Beneficiary satisfaction with the program and cost savings to beneficiaries under the program.

"(iii) Costs to suppliers of participating in the program and recommendations about ways to reduce those costs without compromising quality standards or savings to the Medicare program.

"(iv) Impact of the program on small business suppliers.

"(v) Analysis of the impact on utilization of different items and services paid within the same Healthcare Common Procedure Coding System (HCPCS) code.

"(vi) Costs to the Centers for Medicare & Medicaid Services, including payments made to contractors, for administering the program compared with administration of a fee schedule, in comparison with the relative savings of the program.

"(vii) Impact on access, Medicare spending, and beneficiary spending of any difference in treatment for diabetic testing supplies depending on how such supplies are furnished.

"(viii) Such other topics as the Comptroller General determines to be appropriate.".

(2) DELAY IN OTHER DEADLINES.—

(A) PROGRAM ADVISORY AND OVERSIGHT COMMITTEE.—Section 1847(c)(5) of the Social Security Act (42 U.S.C. 1395w–3(c)(5)) is amended by striking "December 31, 2009" and inserting "December 31, 2011".

(B) SECRETARIAL REPORT.—Section 1847(d) of such Act (42 U.S.C. 1395w–3(d)) is amended by striking "July 1, 2009" and inserting "July 1, 2011".

(C) IG REPORT.—Section 302(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) is amended by striking "July 1, 2009" and inserting "July 1, 2011".

42 USC 1395w–3 note.

42 USC 1395m note.

(3) EVALUATION OF CERTAIN CODE.—The Secretary of Health and Human Services shall evaluate the existing Health Care Common Procedure Coding System (HCPCS) codes for negative pressure wound therapy to ensure accurate reporting and billing for items and services under such codes. In carrying out such evaluation, the Secretary shall use an existing process,

administered by the Durable Medical Equipment Medicare Administrative Contractors, for the consideration of coding changes and consider all relevant studies and information furnished pursuant to such process.

(d) OTHER PROVISIONS.—

(1) EXEMPTION FROM COMPETITIVE ACQUISITION FOR CERTAIN OFF-THE-SHELF ORTHOTICS.—Section 1847(a) of the Social Security Act (42 U.S.C. 1395w–3(a)) is amended by adding at the end the following new paragraph:

"(7) EXEMPTION FROM COMPETITIVE ACQUISITION.—The programs under this section shall not apply to the following:

"(A) CERTAIN OFF-THE-SHELF ORTHOTICS.—Items and services described in paragraph (2)(C) if furnished—

"(i) by a physician or other practitioner (as defined by the Secretary) to the physician's or practitioner's own patients as part of the physician's or practitioner's professional service; or

"(ii) by a hospital to the hospital's own patients during an admission or on the date of discharge.

"(B) CERTAIN DURABLE MEDICAL EQUIPMENT.—Those items and services described in paragraph (2)(A)—

"(i) that are furnished by a hospital to the hospital's own patients during an admission or on the date of discharge; and

"(ii) to which such programs would not apply, as specified by the Secretary, if furnished by a physician to the physician's own patients as part of the physician's professional service.".

(2) CORRECTION IN FACE-TO-FACE EXAMINATION REQUIREMENT.—Section 1834(a)(1)(E)(ii) of such Act (42 U.S.C. 1395m(a)(1)(E)(ii)) is amended by striking "1861(r)(1)" and inserting "1861(r)".

(3) SPECIAL RULE IN CASE OF NATIONAL MAIL-ORDER COMPETITION FOR DIABETIC TESTING STRIPS.—Section 1847(b) of such Act (42 U.S.C. 1395w–3(b)) is amended—

(A) by redesignating paragraph (10) as paragraph (11); and

(B) by inserting after paragraph (9) the following new paragraph:

"(10) SPECIAL RULE IN CASE OF COMPETITION FOR DIABETIC TESTING STRIPS.—

"(A) IN GENERAL.—With respect to the competitive acquisition program for diabetic testing strips conducted after the first round of the competitive acquisition programs, if an entity does not demonstrate to the Secretary that its bid covers types of diabetic testing strip products that, in the aggregate and taking into account volume for the different products, cover 50 percent (or such higher percentage as the Secretary may specify) of all such types of products, the Secretary shall reject such bid. The volume for such types of products may be determined in accordance with such data (which may be market based data) as the Secretary recognizes.

"(B) STUDY OF TYPES OF TESTING STRIP PRODUCTS.—Before 2011, the Inspector General of the Department of Health and Human Services shall conduct a study to determine the types of diabetic testing strip products by volume

Deadline.

that could be used to make determinations pursuant to subparagraph (A) for the first competition under the competitive acquisition program described in such subparagraph and submit to the Secretary a report on the results of the study. The Inspector General shall also conduct such a study and submit such a report before the Secretary conducts a subsequent competitive acquistion program described in subparagraph (A).".

Reports.

(4) OTHER CONFORMING AMENDMENTS.—Section 1847(b)(11) of such Act, as redesignated by paragraph (3), is amended—

(A) in subparagraph (C), by inserting "and the identification of areas under subsection (a)(1)(D)(iii)" after "(a)(1)(A)";

(B) in subparagraph (D), by inserting "and implementation of subsection (a)(1)(D)" after "(a)(1)(B)";

(C) in subparagraph (E), by striking "or" at the end;

(D) in subparagraph (F), by striking the period at the end and inserting "; or"; and

(E) by adding at the end the following new subparagraph:

"(G) the implementation of the special rule described in paragraph (10).".

(5) FUNDING FOR IMPLEMENTATION.—In addition to funds otherwise available, for purposes of implementing the provisions of, and amendments made by, this section, other than the amendment made by subsection (c)(1) and other than section 1847(a)(1)(E) of the Social Security Act, the Secretary of Health and Human Services shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t) to the Centers for Medicare & Medicaid Services Program Management Account of $20,000,000 for fiscal year 2008, and $25,000,000 for each of fiscal years 2009 through 2012. Amounts transferred under this paragraph for a fiscal year shall be available until expended.

42 USC 1395m note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as of June 30, 2008.

# Subtitle D—Provisions Relating to Part C

**SEC. 161. PHASE-OUT OF INDIRECT MEDICAL EDUCATION (IME).**

(a) IN GENERAL.—Section 1853(k) of the Social Security Act (42 U.S.C. 1395w–23(k)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "paragraph (2)" and inserting "paragraphs (2) and (4)"; and

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

"(4) PHASE-OUT OF THE INDIRECT COSTS OF MEDICAL EDUCATION FROM CAPITATION RATES.—

"(A) IN GENERAL.—After determining the applicable amount for an area for a year under paragraph (1) (beginning with 2010), the Secretary shall adjust such applicable amount to exclude from such applicable amount the phase-in percentage (as defined in subparagraph (B)(i)) for the year of the Secretary's estimate of the standardized costs for payments under section 1886(d)(5)(B) in the area for

the year. Any adjustment under the preceding sentence shall be made prior to the application of paragraph (2).

"(B) PERCENTAGES DEFINED.—For purposes of this paragraph:

"(i) PHASE-IN PERCENTAGE.—The term 'phase-in percentage' means, for an area for a year, the ratio (expressed as a percentage, but in no case greater than 100 percent) of—

"(I) the maximum cumulative adjustment percentage for the year (as defined in clause (ii)); to

"(II) the standardized IME cost percentage (as defined in clause (iii)) for the area and year.

"(ii) MAXIMUM CUMULATIVE ADJUSTMENT PERCENTAGE.—The term 'maximum cumulative adjustment percentage' means, for—

"(I) 2010, 0.60 percent; and

"(II) a subsequent year, the maximum cumulative adjustment percentage for the previous year increased by 0.60 percentage points.

"(iii) STANDARDIZED IME COST PERCENTAGE.—The term 'standardized IME cost percentage' means, for an area for a year, the per capita costs for payments under section 1886(d)(5)(B) (expressed as a percentage of the fee-for-service amount specified in subparagraph (C)) for the area and the year.

"(C) FEE-FOR-SERVICE AMOUNT.—The fee-for-service amount specified in this subparagraph for an area for a year is the amount specified under subsection (c)(1)(D) for the area and the year.".

(b) EXCLUDING ADJUSTMENT FROM THE UPDATE.—Section 1853(k)(1)(B)(i) of the Social Security Act (42 U.S.C. 1395w–23(k)(1)(B)(i)) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (4)".

(c) HOLD HARMLESS FOR PACE PROGRAM PAYMENTS.—Section 1894(d) of the Social Security Act (42 U.S.C. 1395eee(d)) is amended by adding at the end the following new paragraph:

"(3) CAPITATION RATES DETERMINED WITHOUT REGARD TO THE PHASE-OUT OF THE INDIRECT COSTS OF MEDICAL EDUCATION FROM THE ANNUAL MEDICARE ADVANTAGE CAPITATION RATE.—Capitation amounts under this subsection shall be determined without regard to the application of section 1853(k)(4).".

**SEC. 162. REVISIONS TO REQUIREMENTS FOR MEDICARE ADVANTAGE PRIVATE FEE-FOR-SERVICE PLANS.**

(a) REQUIREMENTS TO ASSURE ACCESS TO NETWORK COVERAGE.—

(1) INDIVIDUAL MARKET.—Section 1852(d) of the Social Security Act (42 U.S.C. 1395w–22(d)) is amended—

(A) in paragraph (4), in the second sentence, by striking "The Secretary" and inserting "Subject to paragraph (5), the Secretary"; and

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

"(5) REQUIREMENT OF CERTAIN NONEMPLOYER MEDICARE ADVANTAGE PRIVATE FEE-FOR-SERVICE PLANS TO USE CONTRACTS WITH PROVIDERS.—

"(A) IN GENERAL.—For plan year 2011 and subsequent plan years, in the case of a Medicare Advantage private fee-for-service plan not described in paragraph (1) or (2) of section 1857(i) operating in a network area (as defined in subparagraph (B)), the plan shall meet the access standards under paragraph (4) in that area only through entering into written contracts as provided for under subparagraph (B) of such paragraph and not, in whole or in part, through the establishment of payment rates meeting the requirements under subparagraph (A) of such paragraph.

"(B) NETWORK AREA DEFINED.—For purposes of subparagraph (A), the term 'network area' means, for a plan year, an area which the Secretary identifies (in the Secretary's announcement of the proposed payment rates for the previous plan year under section 1853(b)(1)(B)) as having at least 2 network-based plans (as defined in subparagraph (C)) with enrollment under this part as of the first day of the year in which such announcement is made.

"(C) NETWORK-BASED PLAN DEFINED.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'network-based plan' means—

"(I) except as provided in clause (ii), a Medicare Advantage plan that is a coordinated care plan described in section 1851(a)(2)(A)(i);

"(II) a network-based MSA plan; and

"(III) a reasonable cost reimbursement plan under section 1876.

"(ii) EXCLUSION OF NON-NETWORK REGIONAL PPOS.—The term 'network-based plan' shall not include an MA regional plan that, with respect to the area, meets access adequacy standards under this part substantially through the authority of section 422.112(a)(1)(ii) of title 42, Code of Federal Regulations, rather than through written contracts.".

(2) EMPLOYER PLANS.—Section 1852(d) of the Social Security Act (42 U.S.C. 1395w–22(d)), as amended by paragraph (1), is amended—

(A) in paragraph (4), in the second sentence, by striking "paragraph (5)" and inserting "paragraphs (5) and (6)"; and

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

"(6) REQUIREMENT OF ALL EMPLOYER MEDICARE ADVANTAGE PRIVATE FEE-FOR-SERVICE PLANS TO USE CONTRACTS WITH PROVIDERS.—For plan year 2011 and subsequent plan years, in the case of a Medicare Advantage private fee-for-service plan that is described in paragraph (1) or (2) of section 1857(i), the plan shall meet the access standards under paragraph (4) only through entering into written contracts as provided for under subparagraph (B) of such paragraph and not, in whole or in part, through the establishment of payment rates meeting the requirements under subparagraph (A) of such paragraph.".

(3) ACCESS REQUIREMENTS.—

(A) IN GENERAL.—Section 1852(d)(4)(B) of the Social Security Act (42 U.S.C. 1395w–22(d)(4)(B)) is amended by

striking "a sufficient number" through "terms of the plan" and inserting "a sufficient number and range of providers within such category to meet the access standards in subparagraphs (A) through (E) of paragraph (1)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to plan year 2010 and subsequent plan years. 42 USC 1395w–22 note.

(b) CLARIFICATION REGARDING UTILIZATION.—Section 1859(b)(2) of the Social Security Act (42 U.S.C. 1395w–28(b)(2)) is amended by adding at the end the following flush sentence:

"Nothing in subparagraph (B) shall be construed to preclude a plan from varying rates for such a provider based on the specialty of the provider, the location of the provider, or other factors related to such provider that are not related to utilization, or to preclude a plan from increasing rates for such a provider based on increased utilization of specified preventive or screening services.".

**SEC. 163. REVISIONS TO QUALITY IMPROVEMENT PROGRAMS.**

(a) REQUIREMENT FOR MA PRIVATE FEE-FOR-SERVICE AND MSA PLANS TO HAVE A QUALITY IMPROVEMENT PROGRAM.—Section 1852(e)(1) of the Social Security Act (42 U.S.C. 1395w–22(e)(1)) is amended by striking "(other than an MA private fee-for-service plan or an MSA plan)".

(b) DATA COLLECTION REQUIREMENTS FOR MA REGIONAL PLANS, MA PRIVATE FEE-FOR-SERVICE PLANS, AND MSA PLANS.—Section 1852(e)(3)(A) of the Social Security Act (42 U.S.C. 1395w–22(e)(3)(A)) is amended—

(1) in clause (i), by adding at the end the following new sentence: "With respect to MA private fee-for-service plans and MSA plans, the requirements under the preceding sentence may not exceed the requirements under this subparagraph with respect to MA local plans that are preferred provider organization plans, except that, for plan year 2010, the limitation under clause (iii) shall not apply and such requirements shall apply only with respect to administrative claims data."

(2) by striking clause (ii); and

(3) in clause (iii)—

(A) in the heading—

(i) by inserting "LOCAL" after "TO"; and

(ii) by inserting "AND MA REGIONAL PLANS" after "ORGANIZATIONS"; and

(B) by inserting "and to MA regional plans" after "organization plans".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 2010. 42 USC 1395w–22 note.

**SEC. 164. REVISIONS RELATING TO SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS.**

(a) EXTENSION OF AUTHORITY TO RESTRICT ENROLLMENT.—Section 1859(f) of the Social Security Act (42 U.S.C. 1395w–28(f)), as amended by section 108(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended by striking "2010" and inserting "2011".

(b) MORATORIUM ON AUTHORITY TO DESIGNATE OTHER PLANS AS SPECIALIZED MA PLANS.—During the period beginning on January 1, 2010, and ending on December 31, 2010, the Secretary of Health and Human Services may not exercise the authority 42 USC 1395w–21 note. Time period.

provided under section 231(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–21 note) to designate other plans as specialized MA plans for special needs individuals.

(c) REQUIREMENTS FOR ENROLLMENT.—

(1) IN GENERAL.—Section 1859 of the Social Security Act (42 U.S.C. 1395w–28) is amended—

(A) in subsection (b)(6)(A), by inserting "and that, as of January 1, 2010, meets the applicable requirements of paragraph (2), (3), or (4) of subsection (f), as the case may be" before the period at the end; and

(B) in subsection (f)—

(i) by amending the heading to read as follows: "REQUIREMENTS REGARDING ENROLLMENT IN SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS";

(ii) by designating the sentence beginning "In the case of" as paragraph (1) with the heading "REQUIREMENTS FOR ENROLLMENT.—" and with appropriate indentation; and

(iii) by adding at the end the following new paragraphs:

"(2) ADDITIONAL REQUIREMENTS FOR INSTITUTIONAL SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(i), the applicable requirements described in this paragraph are as follows:

Effective date.

"(A) Each individual that enrolls in the plan on or after January 1, 2010, is a special needs individuals described in subsection (b)(6)(B)(i). In the case of an individual who is living in the community but requires an institutional level of care, such individual shall not be considered a special needs individual described in subsection (b)(6)(B)(i) unless the determination that the individual requires an institutional level of care was made—

"(i) using a State assessment tool of the State in which the individual resides; and

"(ii) by an entity other than the organization offering the plan.

"(B) The plan meets the requirements described in paragraph (5).

"(3) ADDITIONAL REQUIREMENTS FOR DUAL SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(ii), the applicable requirements described in this paragraph are as follows:

Effective date.

"(A) Each individual that enrolls in the plan on or after January 1, 2010, is a special needs individuals described in subsection (b)(6)(B)(ii).

"(B) The plan meets the requirements described in paragraph (5).

"(C) The plan provides each prospective enrollee, prior to enrollment, with a comprehensive written statement (using standardized content and format established by the Secretary) that describes—

"(i) the benefits and cost-sharing protections that the individual is entitled to under the State Medicaid program under title XIX; and

"(ii) which of such benefits and cost-sharing protections are covered under the plan.

Such statement shall be included with any description of benefits offered by the plan.

"(D) The plan has a contract with the State Medicaid agency to provide benefits, or arrange for benefits to be provided, for which such individual is entitled to receive as medical assistance under title XIX. Such benefits may include long-term care services consistent with State policy.

"(4) ADDITIONAL REQUIREMENTS FOR SEVERE OR DISABLING CHRONIC CONDITION SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(iii), the applicable requirements described in this paragraph are as follows:

Effective date.

"(A) Each individual that enrolls in the plan on or after January 1, 2010, is a special needs individual described in subsection (b)(6)(B)(iii).

"(B) The plan meets the requirements described in paragraph (5).".

42 USC 1395w–28 note.

(2) AUTHORITY TO OPERATE BUT NO SERVICE AREA EXPANSION FOR DUAL SNPS THAT DO NOT MEET CERTAIN REQUIREMENTS.—Notwithstanding subsection (f) of section 1859 of the Social Security Act (42 U.S.C. 1395w–28), during the period beginning on January 1, 2010, and ending on December 31, 2010, in the case of a specialized Medicare Advantage plan for special needs individuals described in subsection (b)(6)(B)(ii) of such section, as amended by this section, that does not meet the requirement described in subsection (f)(3)(D) of such section, the Secretary of Health and Human Services—

Time period.

(A) shall permit such plan to be offered under part C of title XVIII of such Act; and

(B) shall not permit an expansion of the service area of the plan under such part C.

(3) RESOURCES FOR STATE MEDICAID AGENCIES.—The Secretary of Health and Human Services shall provide for the designation of appropriate staff and resources that can address State inquiries with respect to the coordination of State and Federal policies for specialized MA plans for special needs individuals described in section 1859(b)(6)(B)(ii) of the Social Security Act (42 U.S.C. 1395w–28(b)(6)(B)(ii)), as amended by this section.

(4) NO REQUIREMENT FOR CONTRACT.—Nothing in the provisions of, or amendments made by, this subsection shall require a State to enter into a contract with a Medicare Advantage organization with respect to a specialized MA plan for special needs individuals described in section 1859(b)(6)(B)(ii) of the Social Security Act (42 U.S.C. 1395w–28(b)(6)(B)(ii)), as amended by this section.

(d) CARE MANAGEMENT REQUIREMENTS FOR ALL SNPS.—

(1) REQUIREMENTS.—Section 1859(f) of the Social Security Act (42 U.S.C. 1395w–28(f)), as amended by subsection (c)(1), is amended by adding at the end the following new paragraph:

"(5) CARE MANAGEMENT REQUIREMENTS FOR ALL SNPS.—The requirements described in this paragraph are that the organization offering a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(i)—

"(A) have in place an evidenced-based model of care with appropriate networks of providers and specialists; and

"(B) with respect to each individual enrolled in the plan—

"(i) conduct an initial assessment and an annual reassessment of the individual's physical, psychosocial, and functional needs;

"(ii) develop a plan, in consultation with the individual as feasible, that identifies goals and objectives, including measurable outcomes as well as specific services and benefits to be provided; and

"(iii) use an interdisciplinary team in the management of care.".

(2) REVIEW TO ENSURE COMPLIANCE WITH CARE MANAGEMENT REQUIREMENTS.—Section 1857(d) of the Social Security Act (42 U.S.C. 1395w–27(d)) is amended by adding at the end the following new paragraph:

"(6) REVIEW TO ENSURE COMPLIANCE WITH CARE MANAGEMENT REQUIREMENTS FOR SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS.—In conjunction with the periodic audit of a specialized Medicare Advantage plan for special needs individuals under paragraph (1), the Secretary shall conduct a review to ensure that such organization offering the plan meets the requirements described in section 1859(f)(5).".

(e) CLARIFICATION OF THE DEFINITION OF A SEVERE OR DISABLING CHRONIC CONDITIONS SPECIALIZED NEEDS INDIVIDUAL.—

(1) IN GENERAL.—Section 1859(b)(6)(B)(iii) of the Social Security Act (42 U.S.C. 1395w–28(b)(6)(B)(iii)) is amended by inserting "who have one or more comorbid and medically complex chronic conditions that are substantially disabling or life threatening, have a high risk of hospitalization or other significant adverse health outcomes, and require specialized delivery systems across domains of care" before the period at the end.

Establishment.

(2) PANEL.—The Secretary of Health and Human Services shall convene a panel of clinical advisors to determine the conditions that meet the definition of severe and disabling chronic conditions under section 1859(b)(6)(B)(iii) of the Social Security Act (42 U.S.C. 1395w–28(b)(6)(B)(iii)), as amended by paragraph (1). The panel shall include the Director of the Agency for Healthcare Research and Quality (or the Director's designee).

(f) SPECIAL REQUIREMENTS REGARDING QUALITY REPORTING FOR SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.—

(1) IN GENERAL.—Section 1852(e)(3)(A) of the Social Security Act (42 U.S.C. 1395w–22(e)(3)(A)), as amended by section 163, is amended by inserting after clause (i) the following new clause:

"(ii) SPECIAL REQUIREMENTS FOR SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.—In addition to the data required to be collected, analyzed, and reported under clause (i) and notwithstanding the limitations under subparagraph (B), as part of the quality improvement program under paragraph (1), each MA organization offering a specialized Medicare Advantage plan for special needs individuals shall provide for the collection, analysis, and reporting of data that permits the measurement of health outcomes and

other indices of quality with respect to the requirements described in paragraphs (2) through (5) of subsection (f). Such data may be based on claims data and shall be at the plan level.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on a date specified by the Secretary of Health and Human Services (but in no case later than January 1, 2010), and shall apply to all specialized Medicare Advantage plans for special needs individuals regardless of when the plan first entered the Medicare Advantage program under part C of title XVIII of the Social Security Act. 42 USC 1395w–22 note.

(g) EFFECTIVE DATE AND APPLICATION.—The amendments made by subsections (c)(1), (d), and (e)(1) shall apply to plan years beginning on or after January 1, 2010, and shall apply to all specialized Medicare Advantage plans for special needs individuals regardless of when the plan first entered the Medicare Advantage program under part C of title XVIII of the Social Security Act. 42 USC 1395w–27 note.

(h) NO AFFECT ON MEDICAID BENEFITS FOR DUALS.—Nothing in the provisions of, or amendments made by, this section shall affect the benefits available under the Medicaid program under title XIX of the Social Security Act for special needs individuals described in section 1859(b)(6)(B)(ii) of such Act (42 U.S.C. 1395w–28(b)(6)(B)(ii)). 42 USC 1395w–28 note.

**SEC. 165. LIMITATION ON OUT-OF-POCKET COSTS FOR DUAL ELIGIBLES AND QUALIFIED MEDICARE BENEFICIARIES ENROLLED IN A SPECIALIZED MEDICARE ADVANTAGE PLAN FOR SPECIAL NEEDS INDIVIDUALS.**

(a) IN GENERAL.—Section 1852(a) of the Social Security Act (42 U.S.C. 1395w–22(a)) is amended by adding at the end the following new paragraph:

"(7) LIMITATION ON COST-SHARING FOR DUAL ELIGIBLES AND QUALIFIED MEDICARE BENEFICIARIES.—In the case of an individual who is a full-benefit dual eligible individual (as defined in section 1935(c)(6)) or a qualified medicare beneficiary (as defined in section 1905(p)(1)) and who is enrolled in a specialized Medicare Advantage plan for special needs individuals described in section 1859(b)(6)(B)(ii), the plan may not impose cost-sharing that exceeds the amount of cost-sharing that would be permitted with respect to the individual under title XIX if the individual were not enrolled in such plan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning on or after January 1, 2010. 42 USC 1395w–22 note.

**SEC. 166. ADJUSTMENT TO THE MEDICARE ADVANTAGE STABILIZATION FUND.**

Section 1858(e)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395w–27a(e)(2)(A)(i)), as amended by section 110 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(1) by striking "2013" and inserting "2014"; and

(2) by striking "$1,790,000,000" and inserting "$1".

**SEC. 167. ACCESS TO MEDICARE REASONABLE COST CONTRACT PLANS.**

(a) EXTENSION OF REASONABLE COST CONTRACTS.—Section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)), as amended by section 109 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–

173), is amended by striking "January 1, 2009" and inserting "January 1, 2010" in the matter preceding subclause (I).

(b) REQUIREMENT FOR AT LEAST TWO MEDICARE ADVANTAGE ORGANIZATIONS TO BE OFFERING A PLAN IN AN AREA FOR THE PROHIBITION TO BE APPLICABLE.—Subclauses (I) and (II) of section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)) are each amended by inserting ", provided that all such plans are not offered by the same Medicare Advantage organization" after "clause (iii)".

(c) REVISION OF REQUIREMENTS FOR A PLAN THAT ARE USED TO DETERMINE IF PROHIBITION IS APPLICABLE.—

(1) IN GENERAL.—Section 1876(h)(5)(C)(iii)(I) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(iii)(I)) is amended by inserting "that are not in another Metropolitan Statistical Area with a population of more than 250,000" after "such Metropolitan Statistical Area".

(2) CLARIFICATION.—Section 1876(h)(5)(C)(iii)(I) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(iii)(I)) is amended by adding at the end the following new sentence: "If the service area includes a portion in more than 1 Metropolitan Statistical Area with a population of more than 250,000, the minimum enrollment determination under the preceding sentence shall be made with respect to each such Metropolitan Statistical Area (and such applicable contiguous counties to such Metropolitan Statistical Area).".

(d) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the reasons (if any) why reasonable cost contracts under section 1876(h) of the Social Security Act (42 U.S.C. 1395mm(h)) are unable to become Medicare Advantage plans under part C of title XVIII of such Act.

(2) REPORT.—Not later than December 31, 2009, the Comptroller General of the United States shall submit to Congress a report containing the results of the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

**SEC. 168. MEDPAC STUDY AND REPORT ON QUALITY MEASURES.**

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study on how comparable measures of performance and patient experience can be collected and reported by 2011 for the Medicare Advantage program under part C of title XVIII of the Social Security Act and the original Medicare fee-for-service program under parts A and B of such title. Such study shall address technical issues, such as data requirements, in addition to issues relating to appropriate quality benchmarks that—

(1) compare the quality of care Medicare beneficiaries receive across Medicare Advantage plans; and

(2) compare the quality of care Medicare beneficiaries receive under Medicare Advantage plans and under the original Medicare fee-for-service program.

(b) REPORT.—Not later than March 31, 2010, the Medicare Payment Advisory Commission shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and

administrative action as the Medicare Payment Advisory Commission determines appropriate.

**SEC. 169. MEDPAC STUDY AND REPORT ON MEDICARE ADVANTAGE PAYMENTS.**

(a) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the "Commission") shall conduct a study of the following:

(1) The correlation between—

(A) the costs that Medicare Advantage organizations with respect to Medicare Advantage plans incur in providing coverage under the plan for items and services covered under the original Medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act, as reflected in plan bids; and

(B) county-level spending under such original Medicare fee-for-service program on a per capita basis, as calculated by the Chief Actuary of the Centers for Medicare & Medicaid Services.

The study with respect to the issue described in the preceding sentence shall include differences in correlation statistics by plan type and geographic area.

(2) Based on these results of the study with respect to the issue described in paragraph (1), and other data the Commission determines appropriate—

(A) alternate approaches to payment with respect to a Medicare beneficiary enrolled in a Medicare Advantage plan other than through county-level payment area equivalents.

(B) the accuracy and completeness of county-level estimates of per capita spending under such original Medicare fee-for-service program (including counties in Puerto Rico), as used to determine the annual Medicare Advantage capitation rate under section 1853 of the Social Security Act (42 U.S.C. 1395w–23), and whether such estimates include—

(i) expenditures with respect to Medicare beneficiaries at facilities of the Department of Veterans Affairs; and

(ii) all appropriate administrative expenses, including claims processing.

(3) Ways to improve the accuracy and completeness of county-level estimates of per capita spending described in paragraph (2)(B).

(b) REPORT.—Not later than March 31, 2010, the Commission shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Commission determines appropriate.

# Subtitle E—Provisions Relating to Part D

## PART I—IMPROVING PHARMACY ACCESS

### SEC. 171. PROMPT PAYMENT BY PRESCRIPTION DRUG PLANS AND MA–PD PLANS UNDER PART D.

(a) PROMPT PAYMENT BY PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)) is amended by adding at the end the following new paragraph:

"(4) PROMPT PAYMENT OF CLEAN CLAIMS.—

"(A) PROMPT PAYMENT.—

"(i) IN GENERAL.—Each contract entered into with a PDP sponsor under this part with respect to a prescription drug plan offered by such sponsor shall provide that payment shall be issued, mailed, or otherwise transmitted with respect to all clean claims submitted by pharmacies (other than pharmacies that dispense drugs by mail order only or are located in, or contract with, a long-term care facility) under this part within the applicable number of calendar days after the date on which the claim is received.

"(ii) CLEAN CLAIM DEFINED.—In this paragraph, the term 'clean claim' means a claim that has no defect or impropriety (including any lack of any required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this part.

"(iii) DATE OF RECEIPT OF CLAIM.—In this paragraph, a claim is considered to have been received—

"(I) with respect to claims submitted electronically, on the date on which the claim is transferred; and

"(II) with respect to claims submitted otherwise, on the 5th day after the postmark date of the claim or the date specified in the time stamp of the transmission.

"(B) APPLICABLE NUMBER OF CALENDAR DAYS DEFINED.—In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims submitted electronically, 14 days; and

"(ii) with respect to claims submitted otherwise, 30 days.

"(C) INTEREST PAYMENT.—

"(i) IN GENERAL.—Subject to clause (ii), if payment is not issued, mailed, or otherwise transmitted within the applicable number of calendar days (as defined in subparagraph (B)) after a clean claim is received, the PDP sponsor shall pay interest to the pharmacy that submitted the claim at a rate equal to the weighted average of interest on 3-month marketable Treasury securities determined for such period, increased by 0.1 percentage point for the period beginning on the day after the required payment date and ending on the date on which payment is made (as

determined under subparagraph (D)(iv)). Interest amounts paid under this subparagraph shall not be counted against the administrative costs of a prescription drug plan or treated as allowable risk corridor costs under section 1860D–15(e).

"(ii) AUTHORITY NOT TO CHARGE INTEREST.—The Secretary may provide that a PDP sponsor is not charged interest under clause (i) in the case where there are exigent circumstances, including natural disasters and other unique and unexpected events, that prevent the timely processing of claims.

"(D) PROCEDURES INVOLVING CLAIMS.—

"(i) CLAIM DEEMED TO BE CLEAN.—A claim is deemed to be a clean claim if the PDP sponsor involved does not provide notice to the claimant of any deficiency in the claim— Notice. Deadlines.

"(I) with respect to claims submitted electronically, within 10 days after the date on which the claim is received; and

"(II) with respect to claims submitted otherwise, within 15 days after the date on which the claim is received.

"(ii) CLAIM DETERMINED TO NOT BE A CLEAN CLAIM.— Deadlines.

"(I) IN GENERAL.—If a PDP sponsor determines that a submitted claim is not a clean claim, the PDP sponsor shall, not later than the end of the period described in clause (i), notify the claimant of such determination. Such notification shall specify all defects or improprieties in the claim and shall list all additional information or documents necessary for the proper processing and payment of the claim. Notice.

"(II) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a clean claim under this paragraph if the PDP sponsor involved does not provide notice to the claimant of any defect or impropriety in the claim within 10 days of the date on which additional information is received under subclause (I).

"(iii) OBLIGATION TO PAY.—A claim submitted to a PDP sponsor that is not paid or contested by the sponsor within the applicable number of days (as defined in subparagraph (B)) after the date on which the claim is received shall be deemed to be a clean claim and shall be paid by the PDP sponsor in accordance with subparagraph (A).

"(iv) DATE OF PAYMENT OF CLAIM.—Payment of a clean claim under such subparagraph is considered to have been made on the date on which—

"(I) with respect to claims paid electronically, the payment is transferred; and

"(II) with respect to claims paid otherwise, the payment is submitted to the United States Postal Service or common carrier for delivery.

"(E) ELECTRONIC TRANSFER OF FUNDS.—A PDP sponsor shall pay all clean claims submitted electronically by electronic transfer of funds if the pharmacy so requests or has so requested previously. In the case where such payment is made electronically, remittance may be made by the PDP sponsor electronically as well.

"(F) PROTECTING THE RIGHTS OF CLAIMANTS.—

"(i) IN GENERAL.—Nothing in this paragraph shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any individual or organization has against a provider or a PDP sponsor.

"(ii) ANTI-RETALIATION.—Consistent with applicable Federal or State law, a PDP sponsor shall not retaliate against an individual or provider for exercising a right of action under this subparagraph.

"(G) RULE OF CONSTRUCTION.—A determination under this paragraph that a claim submitted by a pharmacy is a clean claim shall not be construed as a positive determination regarding eligibility for payment under this title, nor is it an indication of government approval of, or acquiescence regarding, the claim submitted. The determination shall not relieve any party of civil or criminal liability with respect to the claim, nor does it offer a defense to any administrative, civil, or criminal action with respect to the claim.".

(b) PROMPT PAYMENT BY MA–PD PLANS.—Section 1857(f) of the Social Security Act (42 U.S.C. 1395w–27) is amended by adding at the end the following new paragraph:

Applicability.

"(3) INCORPORATION OF CERTAIN PRESCRIPTION DRUG PLAN CONTRACT REQUIREMENTS.—The following provisions shall apply to contracts with a Medicare Advantage organization offering an MA–PD plan in the same manner as they apply to contracts with a PDP sponsor offering a prescription drug plan under part D:

"(A) PROMPT PAYMENT.—Section 1860D–12(b)(4).".

42 USC 1395w–27 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 2010.

**SEC. 172. SUBMISSION OF CLAIMS BY PHARMACIES LOCATED IN OR CONTRACTING WITH LONG-TERM CARE FACILITIES.**

(a) SUBMISSION OF CLAIMS BY PHARMACIES LOCATED IN OR CONTRACTING WITH LONG-TERM CARE FACILITIES.—

(1) SUBMISSION OF CLAIMS TO PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)), as amended by section 171(a), is amended by adding at the end the following new paragraph:

Deadline.

"(5) SUBMISSION OF CLAIMS BY PHARMACIES LOCATED IN OR CONTRACTING WITH LONG-TERM CARE FACILITIES.—Each contract entered into with a PDP sponsor under this part with respect to a prescription drug plan offered by such sponsor shall provide that a pharmacy located in, or having a contract with, a long-term care facility shall have not less than 30 days (but not more than 90 days) to submit claims to the sponsor for reimbursement under the plan.".

(2) SUBMISSION OF CLAIMS TO MA–PD PLANS.—Section 1857(f)(3) of the Social Security Act, as added by section 171(b),

is amended by adding at the end the following new subparagraph:

"(B) SUBMISSION OF CLAIMS BY PHARMACIES LOCATED IN OR CONTRACTING WITH LONG-TERM CARE FACILITIES.—Section 1860D–12(b)(5).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 2010. 42 USC 1395w–27 note.

**SEC. 173. REGULAR UPDATE OF PRESCRIPTION DRUG PRICING STANDARD.**

(a) REQUIREMENT FOR PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)), as amended by section 172(a)(1), is amended by adding at the end the following new paragraph:

"(6) REGULAR UPDATE OF PRESCRIPTION DRUG PRICING STANDARD.—If the PDP sponsor of a prescription drug plan uses a standard for reimbursement of pharmacies based on the cost of a drug, each contract entered into with such sponsor under this part with respect to the plan shall provide that the sponsor shall update such standard not less frequently than once every 7 days, beginning with an initial update on January 1 of each year, to accurately reflect the market price of acquiring the drug.".

(b) REQUIREMENT FOR MA–PD PLANS.—Section 1857(f)(3) of the Social Security Act, as amended by section 172(a)(2), is amended by adding at the end the following new subparagraph:

"(C) REGULAR UPDATE OF PRESCRIPTION DRUG PRICING STANDARD.—Section 1860D–12(b)(6).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 2009. 42 USC 1395w–27 note.

## PART II—OTHER PROVISIONS

**SEC. 175. INCLUSION OF BARBITURATES AND BENZODIAZEPINES AS COVERED PART D DRUGS.**

(a) IN GENERAL.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by inserting after "agents)," the following "other than subparagraph (I) of such section (relating to barbiturates) if the barbiturate is used in the treatment of epilepsy, cancer, or a chronic mental health disorder, and other than subparagraph (J) of such section (relating to benzodiazepines),".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to prescriptions dispensed on or after January 1, 2013. 42 USC 1395w–102 note.

**SEC. 176. FORMULARY REQUIREMENTS WITH RESPECT TO CERTAIN CATEGORIES OR CLASSES OF DRUGS.**

Section 1860D–4(b)(3) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)) is amended—

(1) in subparagraph (C)(i), by striking "The formulary" and inserting "Subject to subparagraph (G), the formulary"; and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G) REQUIRED INCLUSION OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—

Effective date.

"(i) IDENTIFICATION OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—Beginning with plan year 2010, the Secretary shall identify, as appropriate, categories and classes of drugs for which both of the following criteria are met:

"(I) Restricted access to drugs in the category or class would have major or life threatening clinical consequences for individuals who have a disease or disorder treated by the drugs in such category or class.

"(II) There is significant clinical need for such individuals to have access to multiple drugs within a category or class due to unique chemical actions and pharmacological effects of the drugs within the category or class, such as drugs used in the treatment of cancer.

"(ii) FORMULARY REQUIREMENTS.—Subject to clause (iii), PDP sponsors offering prescription drug plans shall be required to include all covered part D drugs in the categories and classes identified by the Secretary under clause (i).

"(iii) EXCEPTIONS.—The Secretary may establish exceptions that permits a PDP sponsor of a prescription drug plan to exclude from its formulary a particular covered part D drug in a category or class that is otherwise required to be included in the formulary under clause (ii) (or to otherwise limit access to such a drug, including through prior authorization or utilization management). Any exceptions established under the preceding sentence shall be provided under a process that—

"(I) ensures that any exception to such requirement is based upon scientific evidence and medical standards of practice (and, in the case of antiretroviral medications, is consistent with the Department of Health and Human Services Guidelines for the Use of Antiretroviral Agents in HIV-1-Infected Adults and Adolescents); and

"(II) includes a public notice and comment period.".

# Subtitle F—Other Provisions

**SEC. 181. USE OF PART D DATA.**

Section 1860D–12(b)(3)(D) of the Social Security Act (42 U.S.C. 1395w–112(b)(3)(D)) is amended by adding at the end the following sentence: "Notwithstanding any other provision of law, information provided to the Secretary under the application of section 1857(e)(1) to contracts under this section under the preceding sentence—

"(i) may be used for the purposes of carrying out this part, improving public health through research on the utilization, safety, effectiveness, quality, and efficiency of health care services (as the Secretary determines appropriate); and

"(ii) shall be made available to Congressional support agencies (in accordance with their obligations to

support Congress as set out in their authorizing statutes) for the purposes of conducting Congressional oversight, monitoring, making recommendations, and analysis of the program under this title.".

**SEC. 182. REVISION OF DEFINITION OF MEDICALLY ACCEPTED INDICATION FOR DRUGS.**

(a) REVISION OF DEFINITION FOR PART D DRUGS.—

(1) IN GENERAL.—Section 1860D–2(e)(1) of the Social Security Act (42 U.S.C. 1395w–102(e)(1)) is amended, in the matter following subparagraph (B)—

(A) by striking "(as defined in section 1927(k)(6))" and inserting "(as defined in paragraph (4))"; and

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

"(4) MEDICALLY ACCEPTED INDICATION DEFINED.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'medically accepted indication' has the meaning given that term—

"(i) in the case of a covered part D drug used in an anticancer chemotherapeutic regimen, in section 1861(t)(2)(B), except that in applying such section—

"(I) 'prescription drug plan or MA–PD plan' shall be substituted for 'carrier' each place it appears; and

"(II) subject to subparagraph (B), the compendia described in section 1927(g)(1)(B)(i)(III) shall be included in the list of compendia described in clause (ii)(I) section 1861(t)(2)(B); and

"(ii) in the case of any other covered part D drug, in section 1927(k)(6).

"(B) CONFLICT OF INTEREST.—On and after January 1, 2010, subparagraph (A)(i)(II) shall not apply unless the compendia described in section 1927(g)(1)(B)(i)(III) meets the requirement in the third sentence of section 1861(t)(2)(B). Effective date.

"(C) UPDATE.—For purposes of applying subparagraph (A)(ii), the Secretary shall revise the list of compendia described in section 1927(g)(1)(B)(i) as is appropriate for identifying medically accepted indications for drugs. Any such revision shall be done in a manner consistent with the process for revising compendia under section 1861(t)(2)(B).".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning on or after January 1, 2009. 42 USC 1395w–102 note.

(b) CONFLICTS OF INTEREST.—Section 1861(t)(2)(B) of the Social Security Act (42 U.S.C. 1395x(t)(2)(B)) is amended by adding at the end the following new sentence: "On and after January 1, 2010, no compendia may be included on the list of compendia under this subparagraph unless the compendia has a publicly transparent process for evaluating therapies and for identifying potential conflicts of interests.". Effective date.

**SEC. 183. CONTRACT WITH A CONSENSUS-BASED ENTITY REGARDING PERFORMANCE MEASUREMENT.**

(a) CONTRACT.—

(1) IN GENERAL.—Part E of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by inserting after section 1889 the following new section:

"CONTRACT WITH A CONSENSUS-BASED ENTITY REGARDING PERFORMANCE MEASUREMENT

42 USC 1395aaa.

"SEC. 1890. (a) CONTRACT.—

"(1) IN GENERAL.—For purposes of activities conducted under this Act, the Secretary shall identify and have in effect a contract with a consensus-based entity, such as the National Quality Forum, that meets the requirements described in subsection (c). Such contract shall provide that the entity will perform the duties described in subsection (b).

"(2) TIMING FOR FIRST CONTRACT.—As soon as practicable after the date of the enactment of this subsection, the Secretary shall enter into the first contract under paragraph (1).

"(3) PERIOD OF CONTRACT.—A contract under paragraph (1) shall be for a period of 4 years (except as may be renewed after a subsequent bidding process).

"(4) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into a contract under paragraph (1).

"(b) DUTIES.—The duties described in this subsection are the following:

"(1) PRIORITY SETTING PROCESS.—The entity shall synthesize evidence and convene key stakeholders to make recommendations, with respect to activities conducted under this Act, on an integrated national strategy and priorities for health care performance measurement in all applicable settings. In making such recommendations, the entity shall—

"(A) ensure that priority is given to measures—

"(i) that address the health care provided to patients with prevalent, high-cost chronic diseases;

"(ii) with the greatest potential for improving the quality, efficiency, and patient-centeredness of health care; and

"(iii) that may be implemented rapidly due to existing evidence, standards of care, or other reasons; and

"(B) take into account measures that—

"(i) may assist consumers and patients in making informed health care decisions;

"(ii) address health disparities across groups and areas; and

"(iii) address the continuum of care a patient receives, including services furnished by multiple health care providers or practitioners and across multiple settings.

"(2) ENDORSEMENT OF MEASURES.—The entity shall provide for the endorsement of standardized health care performance measures. The endorsement process under the preceding sentence shall consider whether a measure—

"(A) is evidence-based, reliable, valid, verifiable, relevant to enhanced health outcomes, actionable at the caregiver level, feasible to collect and report, and responsive to variations in patient characteristics, such as health

status, language capabilities, race or ethnicity, and income level; and

"(B) is consistent across types of health care providers, including hospitals and physicians.

"(3) MAINTENANCE OF MEASURES.—The entity shall establish and implement a process to ensure that measures endorsed under paragraph (2) are updated (or retired if obsolete) as new evidence is developed.

"(4) PROMOTION OF THE DEVELOPMENT OF ELECTRONIC HEALTH RECORDS.—The entity shall promote the development and use of electronic health records that contain the functionality for automated collection, aggregation, and transmission of performance measurement information.

"(5) ANNUAL REPORT TO CONGRESS AND THE SECRETARY; SECRETARIAL PUBLICATION AND COMMENT.—

"(A) ANNUAL REPORT.—By not later than March 1 of each year (beginning with 2009), the entity shall submit to Congress and the Secretary a report containing a description of—

"(i) the implementation of quality measurement initiatives under this Act and the coordination of such initiatives with quality initiatives implemented by other payers;

"(ii) the recommendations made under paragraph (1); and

"(iii) the performance by the entity of the duties required under the contract entered into with the Secretary under subsection (a).

"(B) SECRETARIAL REVIEW AND PUBLICATION OF ANNUAL REPORT.—Not later than 6 months after receiving a report under subparagraph (A) for a year, the Secretary shall—

"(i) review such report; and

"(ii) publish such report in the Federal Register, together with any comments of the Secretary on such report.

"(c) REQUIREMENTS DESCRIBED.—The requirements described in this subsection are the following:

"(1) PRIVATE NONPROFIT.—The entity is a private nonprofit entity governed by a board.

"(2) BOARD MEMBERSHIP.—The members of the board of the entity include—

"(A) representatives of health plans and health care providers and practitioners or representatives of groups representing such health plans and health care providers and practitioners;

"(B) health care consumers or representatives of groups representing health care consumers; and

"(C) representatives of purchasers and employers or representatives of groups representing purchasers or employers.

"(3) ENTITY MEMBERSHIP.—The membership of the entity includes persons who have experience with—

"(A) urban health care issues;

"(B) safety net health care issues;

"(C) rural and frontier health care issues; and

"(D) health care quality and safety issues.

"(4) OPEN AND TRANSPARENT.—With respect to matters related to the contract with the Secretary under subsection (a), the entity conducts its business in an open and transparent manner and provides the opportunity for public comment on its activities.

"(5) VOLUNTARY CONSENSUS STANDARDS SETTING ORGANIZATION.—The entity operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119 (published in the Federal Register on February 10, 1998).

"(6) EXPERIENCE.—The entity has at least 4 years of experience in establishing national consensus standards.

"(7) MEMBERSHIP FEES.—If the entity requires a membership fee for participation in the functions of the entity, such fees shall be reasonable and adjusted based on the capacity of the potential member to pay the fee. In no case shall membership fees pose a barrier to the participation of individuals or groups with low or nominal resources to participate in the functions of the entity.

"(d) FUNDING.—For purposes of carrying out this section, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841 (in such proportion as the Secretary determines appropriate), of $10,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for each of fiscal years 2009 through 2012.".

(2) SENSE OF THE SENATE.—It is the Sense of the Senate that the selection by the Secretary of Health and Human Services of an entity to contract with under section 1890(a) of the Social Security Act, as added by paragraph (1), should not be construed as diminishing the significant contributions of the Boards of Medicine, the quality alliances, and other clinical and technical experts to efforts to measure and improve the quality of health care services.

(b) GAO STUDY AND REPORTS ON THE PERFORMANCE AND COSTS OF THE CONSENSUS-BASED ENTITY UNDER THE CONTRACT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on—

(A) the performance of the entity with a contract with the Secretary of Health and Human Services under section 1890(a) of the Social Security Act, as added by subsection (a), of its duties under such contract; and

(B) the costs incurred by such entity in performing such duties.

(2) REPORTS.—Not later than 18 months and 36 months after the effective date of the first contract entered into under such section 1890(a), the Comptroller General of the United States shall submit to Congress a report containing the results of the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

**SEC. 184. COST-SHARING FOR CLINICAL TRIALS.**

Section 1833 of the Social Security Act (42 U.S.C. 1395l), as amended by section 151(a), is amended by adding at the end the following new subsection:

"(w) METHODS OF PAYMENT.—The Secretary may develop alternative methods of payment for items and services provided under clinical trials and comparative effectiveness studies sponsored or supported by an agency of the Department of Health and Human Services, as determined by the Secretary, to those that would otherwise apply under this section, to the extent such alternative methods are necessary to preserve the scientific validity of such trials or studies, such as in the case where masking the identity of interventions from patients and investigators is necessary to comply with the particular trial or study design.".

**SEC. 185. ADDRESSING HEALTH CARE DISPARITIES.**

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1808 the following new section:

"ADDRESSING HEALTH CARE DISPARITIES

"SEC. 1809. (a) EVALUATING DATA COLLECTION APPROACHES.— The Secretary shall evaluate approaches for the collection of data under this title, to be performed in conjunction with existing quality reporting requirements and programs under this title, that allow for the ongoing, accurate, and timely collection and evaluation of data on disparities in health care services and performance on the basis of race, ethnicity, and gender. In conducting such evaluation, the Secretary shall consider the following objectives: 42 USC 1395b–10.

"(1) Protecting patient privacy.

"(2) Minimizing the administrative burdens of data collection and reporting on providers and health plans participating under this title.

"(3) Improving Medicare program data on race, ethnicity, and gender.

"(b) REPORTS TO CONGRESS.—

"(1) REPORT ON EVALUATION.—Not later than 18 months after the date of the enactment of this section, the Secretary shall submit to Congress a report on the evaluation conducted under subsection (a). Such report shall, taking into consideration the results of such evaluation—

"(A) identify approaches (including defining methodologies) for identifying and collecting and evaluating data on health care disparities on the basis of race, ethnicity, and gender for the original Medicare fee-for-service program under parts A and B, the Medicare Advantage program under part C, and the Medicare prescription drug program under part D; and

"(B) include recommendations on the most effective strategies and approaches to reporting HEDIS quality measures as required under section 1852(e)(3) and other nationally recognized quality performance measures, as appropriate, on the basis of race, ethnicity, and gender.

"(2) REPORTS ON DATA ANALYSES.—Not later than 4 years after the date of the enactment of this section, and 4 years thereafter, the Secretary shall submit to Congress a report that includes recommendations for improving the identification

of health care disparities for Medicare beneficiaries based on analyses of the data collected under subsection (c).

Deadline.

"(c) IMPLEMENTING EFFECTIVE APPROACHES.—Not later than 24 months after the date of the enactment of this section, the Secretary shall implement the approaches identified in the report submitted under subsection (b)(1) for the ongoing, accurate, and timely collection and evaluation of data on health care disparities on the basis of race, ethnicity, and gender.".

42 USC 1395b–4 note.

**SEC. 186. DEMONSTRATION TO IMPROVE CARE TO PREVIOUSLY UNINSURED.**

Deadline.

(a) ESTABLISHMENT.—Within one year after the date of the enactment of this Act, the Secretary (in this section referred to as the "Secretary") shall establish a demonstration project to determine the greatest needs and most effective methods of outreach to medicare beneficiaries who were previously uninsured.

(b) SCOPE.—The demonstration shall be in no fewer than 10 sites, and shall include state health insurance assistance programs, community health centers, community-based organizations, community health workers, and other service providers under parts A, B, and C of title XVIII of the Social Security Act. Grantees that are plans operating under part C shall document that enrollees who were previously uninsured receive the "Welcome to Medicare" physical exam.

(c) DURATION.—The Secretary shall conduct the demonstration project for a period of 2 years.

(d) REPORT AND EVALUATION.—The Secretary shall conduct an evaluation of the demonstration and not later than 1 year after the completion of the project shall submit to Congress a report including the following:

(1) An analysis of the effectiveness of outreach activities targeting beneficiaries who were previously uninsured, such as revising outreach and enrollment materials (including the potential for use of video information), providing one-on-one counseling, working with community health workers, and amending the Medicare and You handbook.

(2) The effect of such outreach on beneficiary access to care, utilization of services, efficiency and cost-effectiveness of health care delivery, patient satisfaction, and select health outcomes.

42 USC 1395cc note.

**SEC. 187. OFFICE OF THE INSPECTOR GENERAL REPORT ON COMPLIANCE WITH AND ENFORCEMENT OF NATIONAL STANDARDS ON CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES (CLAS) IN MEDICARE.**

(a) REPORT.—Not later than two years after the date of the enactment of this Act, the Inspector General of the Department of Health and Human Services shall prepare and publish a report on—

(1) the extent to which Medicare providers and plans are complying with the Office for Civil Rights' Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons and the Office of Minority Health's Culturally and Linguistically Appropriate Services Standards in health care; and

(2) a description of the costs associated with or savings related to the provision of language services.

Such report shall include recommendations on improving compliance with CLAS Standards and recommendations on improving enforcement of CLAS Standards.

(b) IMPLEMENTATION.—Not later than one year after the date of publication of the report under subsection (a), the Department of Health and Human Services shall implement changes responsive to any deficiencies identified in the report. Deadline.

**SEC. 188. MEDICARE IMPROVEMENT FUNDING.**

(a) MEDICARE IMPROVEMENT FUND.—

(1) IN GENERAL.—Subject to paragraph (2), title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"MEDICARE IMPROVEMENT FUND

"SEC. 1898. (a) ESTABLISHMENT.—

"The Secretary shall establish under this title a Medicare Improvement Fund (in this section referred to as the 'Fund') which shall be available to the Secretary to make improvements under the original fee-for-service program under parts A and B for individuals entitled to, or enrolled for, benefits under part A or enrolled under part B.

"(b) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund for services furnished during fiscal years 2014 through 2017, $19,900,000,000.

"(2) PAYMENT FROM TRUST FUNDS.—The amount specified under paragraph (1) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines appropriate.

"(3) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.". Certification.

(2) CONTINGENCY.—

(A) IN GENERAL.—If there is enacted, before, on, or after the date of the enactment of this Act, a Supplemental Appropriations Act, 2008 that includes a provision providing for a Medicare Improvement Fund under a section 1898 of the Social Security Act, the alternative amendment described in subparagraph (B)—

(i) shall apply instead of the amendment made by paragraph (1); and Applicability.

(ii) shall be executed after such provision in such Supplemental Appropriations Act.

(B) ALTERNATIVE AMENDMENT DESCRIBED.—The alternative amendment described in this subparagraph is as follows: Section 1898(b)(1) of the Social Security Act, as added by the Supplemental Appropriations Act, 2008, is amended by inserting before the period at the end the 42 USC 1395iii.

following: " and, in addition for services furnished during fiscal years 2014 through 2017, $19,900,000,000".

(b) IMPLEMENTATION.—For purposes of carrying out the provisions of, and amendments made by, this title, in addition to any other amounts provided in such provisions and amendments, the Secretary of Health and Human Services shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $140,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for the period of fiscal years 2009 through 2013.

**SEC. 189. INCLUSION OF MEDICARE PROVIDERS AND SUPPLIERS IN FEDERAL PAYMENT LEVY AND ADMINISTRATIVE OFFSET PROGRAM.**

(a) IN GENERAL.—Section 1874 of the Social Security Act (42 U.S.C. 1395kk) is amended by adding at the end the following new subsection:

"(d) INCLUSION OF MEDICARE PROVIDER AND SUPPLIER PAYMENTS IN FEDERAL PAYMENT LEVY PROGRAM.—

"(1) IN GENERAL.—The Centers for Medicare & Medicaid Services shall take all necessary steps to participate in the Federal Payment Levy Program under section 6331(h) of the Internal Revenue Code of 1986 as soon as possible and shall ensure that—

"(A) at least 50 percent of all payments under parts A and B are processed through such program beginning within 1 year after the date of the enactment of this section;

"(B) at least 75 percent of all payments under parts A and B are processed through such program beginning within 2 years after such date; and

Deadline.

"(C) all payments under parts A and B are processed through such program beginning not later than September 30, 2011.

"(2) ASSISTANCE.—The Financial Management Service and the Internal Revenue Service shall provide assistance to the Centers for Medicare & Medicaid Services to ensure that all payments described in paragraph (1) are included in the Federal Payment Levy Program by the deadlines specified in that subsection.".

(b) APPLICATION OF ADMINISTRATIVE OFFSET PROVISIONS TO MEDICARE PROVIDER OR SUPPLIER PAYMENTS.—Section 3716 of title 31, United States Code, is amended—

(1) by inserting "the Department of Health and Human Services," after "United States Postal Service," in subsection (c)(1)(A); and

(2) by adding at the end of subsection (c)(3) the following new subparagraph:

Applicability.
Effective date.

"(D) This section shall apply to payments made after the date which is 90 days after the enactment of this subparagraph (or such earlier date as designated by the Secretary of Health and Human Services) with respect to claims or debts, and to amounts payable, under title XVIII of the Social Security Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 31 USC 3176 note.

# TITLE II—MEDICAID

**SEC. 201. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.**

Section 401 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432, 120 Stat. 2994), as amended by section 1 of Public Law 110–48 (121 Stat. 244), section 2 of the TMA, Abstinence, Education, and QI Programs Extension Act of 2007 (Public Law 110–90, 121 Stat. 984), and section 202 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(1) by striking "June 30, 2008" and inserting "June 30, 2009";

(2) by striking "the third quarter of fiscal year 2008" and inserting "the third quarter of fiscal year 2009"; and

(3) by striking "the third quarter of fiscal year 2007" and inserting "the third quarter of fiscal year 2008".

**SEC. 202. MEDICAID DSH EXTENSION.**

Section 1923(f)(6) of the Social Security Act (42 U.S.C. 1396r–4(f)(6)) is amended—

(1) in the heading, by striking "FISCAL YEAR 2007 AND PORTIONS OF FISCAL YEAR 2008" and inserting "FISCAL YEARS 2007 THROUGH 2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010"; and

(2) in subparagraph (A)—

(A) in clause (i)—

(i) in the second sentence—

(I) by striking "fiscal year 2008 for the period ending on June 30, 2008" and inserting "fiscal years 2008 and 2009"; and

(II) by striking "¾ of"; and

(ii) by adding at the end the following new sentences: "Only with respect to fiscal year 2010 for the period ending on December 31, 2009, the DSH allotment for Tennessee for such portion of the fiscal year, notwithstanding such table or terms, shall be ¼ of the amount specified in the first sentence for fiscal year 2007.";

(B) in clause (ii), by striking "or for a period in fiscal year 2008" and inserting ", 2008, 2009, or for a period in fiscal year 2010";

(C) in clause (iv)—

(i) in the heading, by striking "FISCAL YEAR 2007 AND FISCAL YEAR 2008" and inserting "FISCAL YEARS 2007 THROUGH 2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010";

(ii) in subclause (I), by striking "or for a period in fiscal year 2008" and inserting ", 2008, 2009, or for a period in fiscal year 2010"; and

(iii) in subclause (II), by striking "or for a period in fiscal year 2008" and inserting ", 2008, 2009, or for a period in fiscal year 2010"; and

(3) in subparagraph (B)(i)—

(A) in the first sentence, by striking "fiscal year 2007" and inserting "each of fiscal years 2007 through 2009"; and

(B) by striking the second sentence and inserting the following: "Only with respect to fiscal year 2010 for the period ending on December 31, 2009, the DSH allotment for Hawaii for such portion of the fiscal year, notwithstanding the table set forth in paragraph (2), shall be $2,500,000.".

42 USC 1396r–8 note.

**SEC. 203. PHARMACY REIMBURSEMENT UNDER MEDICAID.**

(a) DELAY IN APPLICATION OF NEW PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS UNDER MEDICAID.—Notwithstanding paragraphs (4) and (5) of subsection (e) of section 1927 of the Social Security Act (42 U.S.C. 1396r–8) or part 447 of title 42, Code of Federal Regulations, as published on July 17, 2007 (72 Federal Register 39142)—

(1) the specific upper limit under section 447.332 of title 42, Code of Federal Regulations (as in effect on December 31, 2006) applicable to payments made by a State for multiple source drugs under a State Medicaid plan shall continue to apply through September 30, 2009, for purposes of the availability of Federal financial participation for such payments; and

(2) the Secretary of Health and Human Services shall not, prior to October 1, 2009, finalize, implement, enforce, or otherwise take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose the specific upper limit established under section 447.514(b) of title 42, Code of Federal Regulations as published on July 17, 2007 (72 Federal Register 39142).

(b) TEMPORARY SUSPENSION OF UPDATED PUBLICLY AVAILABLE AMP DATA.—Notwithstanding clause (v) of section 1927(b)(3)(D) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)), the Secretary of Health and Human Services shall not, prior to October 1, 2009, make publicly available any AMP disclosed to the Secretary.

(c) DEFINITIONS.—In this subsection:

(1) The term "multiple source drug" has the meaning given that term in section 1927(k)(7)(A)(i) of the Social Security Act (42 U.S.C. 1396r–8(k)(7)(A)(i)).

(2) The term "AMP" has the meaning given "average manufacturer price" in section 1927(k)(1) of the Social Security Act (42 U.S.C. 1396r–8(k)(1)) and "AMP" in section 447.504(a) of title 42, Code of Federal Regulations as published on July 17, 2007 (72 Federal Register 39142).

**SEC. 204. REVIEW OF ADMINISTRATIVE CLAIM DETERMINATIONS.**

(a) IN GENERAL.—Section 1116 of the Social Security Act (42 U.S.C. 1316) is amended by adding at the end the following new subsection:

Time periods.

"(e)(1) Whenever the Secretary determines that any item or class of items on account of which Federal financial participation is claimed under title XIX shall be disallowed for such participation, the State shall be entitled to and upon request shall receive a

reconsideration of the disallowance, provided that such request is made during the 60-day period that begins on the date the State receives notice of the disallowance.

"(2)(A) A State may appeal a disallowance of a claim for federal financial participation under title XIX by the Secretary, or an unfavorable reconsideration of a disallowance, during the 60-day period that begins on the date the State receives notice of the disallowance or of the unfavorable reconsideration, in whole or in part, to the Departmental Appeals Board, established in the Department of Health and Human Services (in this paragraph referred to as the 'Board'), by filing a notice of appeal with the Board.

"(B) The Board shall consider a State's appeal of a disallowance of such a claim (or of an unfavorable reconsideration of a disallowance) on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold a disallowance of such a claim or any portion thereof, the Board shall be bound by all applicable laws and regulations and shall conduct a thorough review of the issues, taking into account all relevant evidence. The Board's decision of an appeal under subparagraph (A) shall be the final decision of the Secretary and shall be subject to reconsideration by the Board only upon motion of either party filed during the 60-day period that begins on the date of the Board's decision or to judicial review in accordance with subparagraph (C).

"(C) A State may obtain judicial review of a decision of the Board by filing an action in any United States District Court located within the appealing State (or, if several States jointly appeal the disallowance of claims for Federal financial participation under section 1903, in any United States District Court that is located within any State that is a party to the appeal) or the United States District Court for the District of Columbia. Such an action may only be filed—

"(i) if no motion for reconsideration was filed within the 60-day period specified in subparagraph (B), during such 60-day period; or

"(ii) if such a motion was filed within such period, during the 60-day period that begins on the date of the Board's decision on such motion.".

(b) CONFORMING AMENDMENT.—Section 1116(d) of such Act (42 U.S.C. 1316(d)) is amended by striking "or XIX,".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act and apply to any disallowance of a claim for Federal financial participation under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) made on or after such date or during the 60-day period prior to such date. 42 USC 1316 note.

**SEC. 205. COUNTY MEDICAID HEALTH INSURING ORGANIZATIONS.**

(a) IN GENERAL.—Section 9517(c)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 1396b note), as added by section 4734 of the Omnibus Budget Reconciliation Act of 1990 and as amended by section 704 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, is amended—

(1) in subparagraph (A), by inserting ", in the case of any health insuring organization described in such subparagraph that is operated by a public entity established by Ventura County, and in the case of any health insuring organization described in such subparagraph that is operated by a public entity established by Merced County" after "described in subparagraph (B)"; and

(2) in subparagraph (C), by striking "14 percent" and inserting "16 percent".

42 USC 1396b note.

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

# TITLE III—MISCELLANEOUS

**SEC. 301. EXTENSION OF TANF SUPPLEMENTAL GRANTS.**

(a) EXTENSION THROUGH FISCAL YEAR 2009.—Section 7101(a) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 135) is amended by striking "fiscal year 2008" and inserting "fiscal year 2009".

(b) CONFORMING AMENDMENT.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended to read as follows:

"(ii) subparagraph (G) shall be applied as if 'fiscal year 2009' were substituted for 'fiscal year 2001'; and".

**SEC. 302. 70 PERCENT FEDERAL MATCHING FOR FOSTER CARE AND ADOPTION ASSISTANCE FOR THE DISTRICT OF COLUMBIA.**

(a) IN GENERAL.—Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended in each of paragraphs (1) and (2) by striking "(as defined in section 1905(b) of this Act)" and inserting "(which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia)".

42 USC 674 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2008, and shall apply to calendar quarters beginning on or after that date.

**SEC. 303. EXTENSION OF SPECIAL DIABETES GRANT PROGRAMS.**

(a) SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.—Section 330B(b)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–2(b)(2)) is amended by striking "2009" and inserting "2011".

(b) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–3(c)(2)(C)) is amended by striking "2009" and inserting "2011".

(c) REPORT ON GRANT PROGRAMS.—Section 4923(b) of the Balanced Budget Act of 1997 (42 U.S.C. 1254c–2 note), as amended by section 931(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554, and section 1(c) of Public Law 107–360, is amended—

42 USC 254c–2 note.

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2)—

(A) by striking "a final report" and inserting "a second interim report"; and

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

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

"(3) a report on such evaluation not later than January 1, 2011.". Deadline.

**SEC. 304. IOM REPORTS ON BEST PRACTICES FOR CONDUCTING SYSTEMATIC REVIEWS OF CLINICAL EFFECTIVENESS RESEARCH AND FOR DEVELOPING CLINICAL PROTOCOLS.**

(a) SYSTEMATIC REVIEWS OF CLINICAL EFFECTIVENESS RESEARCH.—

(1) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine of the National Academies (in this section referred to as the "Institute") under which the Institute shall conduct a study to identify the methodological standards for conducting systematic reviews of clinical effectiveness research on health and health care in order to ensure that organizations conducting such reviews have information on methods that are objective, scientifically valid, and consistent. Contracts.

(2) REPORT.—Not later than 18 months after the effective date of the contract under paragraph (1), the Institute, as part of such contract, shall submit to the Secretary of Health and Human Services and the appropriate committees of jurisdiction of Congress a report containing the results of the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Institute determines appropriate.

(3) PARTICIPATION.—The contract under paragraph (1) shall require that stakeholders with expertise in conducting clinical effectiveness research participate on the panel responsible for conducting the study under paragraph (1) and preparing the report under paragraph (2).

(b) CLINICAL PROTOCOLS.—

(1) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine of the National Academies (in this section referred to as the "Institute") under which the Institute shall conduct a study on the best methods used in developing clinical practice guidelines in order to ensure that organizations developing such guidelines have information on approaches that are objective, scientifically valid, and consistent. Contracts.

(2) REPORT.—Not later than 18 months after the effective date of the contract under paragraph (1), the Institute, as part of such contract, shall submit to the Secretary of Health and Human Services and the appropriate committees of jurisdiction of Congress a report containing the results of the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Institute determines appropriate.

(3) PARTICIPATION.—The contract under paragraph (1) shall require that stakeholders with expertise in making clinical recommendations participate on the panel responsible for conducting the study under paragraph (1) and preparing the report under paragraph (2).

(c) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated for the period of fiscal years 2009 and 2010, $3,000,000 to carry out this section.

Nancy Pelosi
*Speaker of the House of Representatives.*

Robert C. Byrd
*President of the Senate pro tempore.*

IN THE HOUSE OF REPRESENTATIVES, U.S.

*July 15, 2008.*

The House of Representatives having proceeded to reconsider the bill (H.R. 6331) entitled 'An Act to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

*Resolved,* That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Lorraine C. Miller
*Clerk.*

By

Robert F. Reeves
*Deputy Clerk.*

I certify that this Act originated in the House of Representatives.

Lorraine C. Miller
*Clerk.*

IN THE SENATE OF THE UNITED STATES,

*July 15, 2008.*

The Senate having proceeded to reconsider the bill (H.R. 6331) entitled "An Act to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

*Resolved,* That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Nancy Erickson

*Secretary.*

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LEGISLATIVE HISTORY—H.R. 6331:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 24, considered and passed House.
July 9, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
July 15, Presidential veto message.
CONGRESSIONAL RECORD, Vol. 154 (2008):
July 15, House and Senate overrode veto.

# Public Law 110–276
# 110th Congress

## An Act

July 15, 2008
[H.R. 1019]

To designate the United States customhouse building located at 31 Gonzalez Clemente Avenue in Mayagüez, Puerto Rico, as the "Rafael Martínez Nadal United States Customhouse Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States customhouse building located at 31 Gonzalez Clemente Avenue in Mayagüez, Puerto Rico, shall be known and designated as the "Rafael Martínez Nadal United States Customhouse Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States customhouse building referred to in section 1 shall be deemed to be a reference to the "Rafael Martínez Nadal United States Customhouse Building".

Approved July 15, 2008.

LEGISLATIVE HISTORY—H.R. 1019:

HOUSE REPORTS: No. 110–70 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Mar. 26, considered and passed House.
Vol. 154 (2008): June 24, considered and passed Senate.

# Public Law 110–277
# 110th Congress

## An Act

To require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

July 17, 2008
[H.R. 634]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

American Veterans Disabled for Life Commemorative Coin Act. 31 USC 5112 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "American Veterans Disabled for Life Commemorative Coin Act".

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) The Armed Forces of the United States have answered the call and served with distinction around the world—from hitting the beaches in World War II in the Pacific and Europe, to the cold and difficult terrain in Korea, the steamy jungles of Vietnam, and the desert sands of the Middle East.

(2) All Americans should commemorate those who come home having survived the ordeal of war, and solemnly honor those who made the ultimate sacrifice in giving their lives for their country.

(3) All Americans should honor the millions of living disabled veterans who carry the scars of war every day, and who have made enormous personal sacrifices defending the principles of our democracy.

(4) In 2000, Congress authorized the construction of the American Veterans Disabled for Life Memorial.

(5) The United States should pay tribute to the Nation's living disabled veterans by minting and issuing a commemorative silver dollar coin.

(6) The surcharge proceeds from the sale of a commemorative coin would raise valuable funding for the construction of the American Veterans Disabled for Life Memorial.

**SEC. 3. COIN SPECIFICATIONS.**

(a) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 350,000 $1 coins in commemoration of disabled American veterans, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) DESIGN.—The design of the coins minted under this Act shall be emblematic of the service of our disabled veterans who, having survived the ordeal of war, made enormous personal sacrifices defending the principles of our democracy.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2010"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Disabled Veterans' LIFE Memorial Foundation and the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—

(1) IN GENERAL.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(2) USE OF THE UNITED STATES MINT AT WEST POINT, NEW YORK.—It is the sense of the Congress that the coins minted under this Act should be struck at the United States Mint at West Point, New York, to the greatest extent possible.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins under this Act only during the calendar year beginning on January 1, 2010.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7 with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) IN GENERAL.—All sales of coins issued under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be paid to the Disabled Veterans' LIFE Memorial Foundation for the purpose of establishing an endowment to support the construction of American Veterans' Disabled for Life Memorial in Washington, D.C.

(c) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Disabled Veterans' LIFE Memorial Foundation as may be related to the expenditures of amounts paid under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

Approved July 17, 2008.

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LEGISLATIVE HISTORY—H.R. 634:

CONGRESSIONAL RECORD:
Vol. 153 (2007): May 15, considered and passed House.
Vol. 154 (2008): June 10, considered and passed Senate, amended.
June 18, House concurred in Senate amendment.

# Public Law 110–278
# 110th Congress

## An Act

July 17, 2008
[H.R. 814]

To require the Consumer Product Safety Commission to issue regulations mandating child-resistant closures on all portable gasoline containers.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Children's Gasoline Burn Prevention Act.
15 USC 2056 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Children's Gasoline Burn Prevention Act".

**SEC. 2. CHILD-RESISTANT PORTABLE GASOLINE CONTAINERS.**

(a) CONSUMER PRODUCT SAFETY RULE.—The provision of subsection (b) shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

Effective date.

(b) REQUIREMENTS.—Effective 6 months after the date of enactment of this Act, each portable gasoline container manufactured on or after that date for sale in the United States shall conform to the child-resistance requirements for closures on portable gasoline containers specified in the standard ASTM F2517-05, issued by ASTM International.

(c) DEFINITION.—As used in this Act, the term "portable gasoline container" means any portable gasoline container intended for use by consumers.

Notification.
Deadline.

(d) REVISION OF RULE.—If, after the enactment of this Act, ASTM International proposes to revise the child resistance requirements of ASTM F2517-05, ASTM International shall notify the Consumer Product Safety Commission of the proposed revision and the proposed revision shall be incorporated in the consumer product safety rule under subsection (a) unless, within 60 days of such notice, the Commission notifies ASTM International that the Commission has determined that such revision does not carry out the purposes of subsection (b).

Applicability.

(e) IMPLEMENTING REGULATIONS.—Section 553 of title 5, United States Code, shall apply with respect to the issuance of any regulations by the Consumer Product Safety Commission to implement the requirements of this section, and sections 7 and 9 of the Consumer Product Safety Act shall not apply to such issuance.

(f) REPORT.—Not later than 2 years after the date of enactment of this Act, the Consumer Product Safety Commission shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on—

(1) the degree of industry compliance with the standard promulgated under subsection (a);

(2) any enforcement actions brought by the Commission to enforce such standard; and

(3) incidents involving children interacting with portable gasoline containers (including both those that are and are not in compliance with the standard promulgated under subsection (a)).

Approved July 17, 2008.

LEGISLATIVE HISTORY—H.R. 814:

HOUSE REPORTS: No. 110–367 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Oct. 9, considered and passed House.
Vol. 154 (2008): June 16, considered and passed Senate.

# Public Law 110–279
# 110th Congress

## An Act

July 17, 2008
[S. 2967]

To provide for certain Federal employee benefits to be continued for certain employees of the Senate Restaurants after operations of the Senate Restaurants are contracted to be performed by a private business concern, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

2 USC 2051.

**SECTION 1. CONTINUED BENEFITS FOR CERTAIN SENATE RESTAURANTS EMPLOYEES.**

(a) DEFINITIONS.—In this section:

(1) CONTRACTOR.—The term "contractor" means the private business concern that enters into a food services contract with the Architect of the Capitol.

(2) COVERED INDIVIDUAL.—The term "covered individual" means any individual who—

(A) is a Senate Restaurants employee who is an employee of the Architect of the Capitol on the date of enactment of this Act, including—

(i) a permanent, full-time or part-time employee;

(ii) a temporary, full-time or part-time employee; and

(iii) an employee in a position described under the second or third provisos under the subheading "SENATE OFFICE BUILDINGS" under the heading "CAPITOL BUILDINGS AND GROUNDS" under the heading "ARCHITECT OF THE CAPITOL" in the Legislative Branch Appropriations Act, 1972 (2 U.S.C. 2048);

(B) becomes an employee of the contractor under a food services contract on the transfer date; and

(C) with respect to benefits under subsection (c)(2) or (3), files an election before the transfer date with the Office of Human Resources of the Architect of the Capitol to have 1 or more benefits continued in accordance with this section.

(3) FOOD SERVICES CONTRACT.—The term "food services contract" means a contract under which food services operations of the Senate Restaurants are transferred to, and performed by, a private business concern.

(4) TRANSFER DATE.—The term "transfer date" means the date on which a contractor begins the performance of food services operations under a food services contract.

(b) ELECTION OF COVERAGE.—

Deadlines.

(1) IN GENERAL.—

(A) RETIREMENT COVERAGE.—Not later than the day before the transfer date, an individual described under

subsection (a)(2)(A) and (B) may file an election with the Office of Human Resources of the Architect of the Capitol to continue coverage under the retirement system under which that individual is covered on that day.

(B) LIFE AND HEALTH INSURANCE COVERAGE.—If the individual files an election under subparagraph (A) to continue retirement coverage, the individual may also file an election with the Office of Human Resources of the Architect of the Capitol to continue coverage of any other benefit under subsection (c)(2) or (3) for which that individual is covered on that day. Any election under this subparagraph shall be filed not later than the day before the transfer date.

(2) NOTIFICATION TO THE OFFICE OF PERSONNEL MANAGEMENT.—The Office of Human Resources of the Architect of the Capitol shall provide timely notification to the Office of Personnel Management of any election filed under paragraph (1).

(c) CONTINUITY OF BENEFITS.—

(1) PAY.—The rate of basic pay of a covered individual as an employee of a contractor, or successor contractor, during a period of continuous service may not be reduced to a rate less than the rate of basic pay paid to that individual as an employee of the Architect of the Capitol on the day before the transfer date, except for cause.

(2) RETIREMENT AND LIFE INSURANCE BENEFITS.—

(A) IN GENERAL.—For purposes of chapters 83, 84, and 87 of title 5, United States Code—

(i) any period of continuous service performed by a covered individual as an employee of a contractor, or successor contractor, shall be deemed to be a period of service as an employee of the Architect of the Capitol; and

(ii) the rate of basic pay of the covered individual during the period described under clause (i) shall be deemed to be the rate of basic pay of that individual as an employee of the Architect of the Capitol on the date on which the Architect of the Capitol enters into the food services contract.

(B) TREATMENT AS CIVIL SERVICE RETIREMENT OFFSET EMPLOYEES.—In the case of a covered individual who on the day before the transfer date is subject to subchapter III of chapter 83 of title 5, United States Code, but whose employment with the Architect of the Capitol is not employment for purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986—

(i) the employment described under subparagraph (A)(i) shall, for purposes of subchapter III of chapter 83 of title 5, United States Code, be deemed to be—

(I) employment of an individual described under section 8402(b)(2) of title 5, United States Code; and

(II) Federal service as defined under section 8349(c) of title 5, United States Code; and

(ii) the basic pay described under subparagraph (A)(ii) for employment described under subparagraph (A)(i) shall be deemed to be Federal wages as defined

under section 8334(k)(2)(C)(i) of title 5, United States Code.

(3) HEALTH INSURANCE BENEFITS.—For purposes of chapters 89, 89A, and 89B of title 5, United States Code, any period of continuous service performed by a covered individual as an employee of a contractor, or successor contractor, shall be deemed to be a period of service as an employee of the Architect of the Capitol.

(4) LEAVE.—

(A) CREDIT OF LEAVE.—Subject to section 6304 of title 5, United States Code, annual and sick leave balances of any covered individual shall be credited to the leave accounts of that individual as an employee of the contractor, or any successor contractor. A food services contract may include provisions similar to regulations prescribed under section 6308 of title 5, United States Code, to implement this subparagraph.

(B) ACCRUAL RATE.—During any period of continuous service performed by a covered individual as an employee of a contractor, or successor contractor, that individual shall continue to accrue annual and sick leave at rates not less than the rates applicable to that individual on the day before the transfer date.

(C) TECHNICAL AND CONFORMING AMENDMENT.—The second and third provisos under the subheading "SENATE OFFICE BUILDINGS" under the heading "CAPITOL BUILDINGS AND GROUNDS" under the heading "ARCHITECT OF THE CAPITOL" in the Legislative Branch Appropriations Act, 1972 (2 U.S.C. 2048) are repealed.

(5) TRANSIT SUBSIDY.—For purposes of any benefit under section 7905 of title 5, United States Code, any period of continuous service performed by a covered individual as an employee of a contractor, or successor contractor, shall be deemed to be a period of service as an employee of the Architect of the Capitol.

(6) EMPLOYEE PAY; GOVERNMENT CONTRIBUTIONS; TRANSIT SUBSIDY PAYMENTS; AND OTHER BENEFITS.—

(A) PAYMENT BY CONTRACTOR.—A contractor, or any successor to the contractor, shall pay—

(i) the pay of a covered individual as an employee of a contractor, or successor contractor, during a period of continuous service;

(ii) Government contributions for the benefits of a covered individual under paragraph (2) or (3);

(iii) any transit subsidy for a covered individual under paragraph (5); and

(iv) any payment for any other benefit for a covered individual in accordance with a food services contract.

(B) REIMBURSEMENTS AND PAYMENTS BY ARCHITECT OF THE CAPITOL.—From appropriations made available to the Architect of the Capitol under the heading "SENATE OFFICE BUILDINGS" under the heading "ARCHITECT OF THE CAPITOL", the Architect of the Capitol shall—

(i) reimburse a contractor, or any successor contractor, for that portion of any payment under subparagraph (A) which the Architect of the Capitol agreed to pay under a food services contract; and

(ii) pay a contractor, or any successor contractor, for any administrative fee (or portion of an administrative fee) which the Architect of the Capitol agreed to pay under a food services contract.

(7) REGULATIONS.—

(A) OFFICE OF PERSONNEL MANAGEMENT.—

(i) IN GENERAL.—After consultation with the Architect of the Capitol, the Director of the Office of Personnel Management shall prescribe regulations to provide for the continuity of benefits under paragraphs (2) and (3).

(ii) CONTENTS.—Regulations under this subparagraph shall—

(I) include regulations relating to employee deductions and employee and employer contributions and deposits in the Civil Service Retirement and Disability Fund, the Employees' Life Insurance Fund, and the Employees Health Benefits Fund; and

(II) provide for the Architect of the Capitol to perform employer administrative functions necessary to ensure administration of continued coverage of benefits under paragraphs (2) and (3), including receipt and transmission of the deductions, contributions, and deposits described under subclause (I), the collection and transmission of such information as necessary, and the performance of other administrative functions as may be required.

(B) THRIFT SAVINGS PLAN BENEFITS.—After consultation with the Architect of the Capitol, the Executive Director appointed by the Federal Retirement Thrift Investment Board under section 8474(a) of title 5, United States Code, shall prescribe regulations to provide for the continuity of benefits under paragraph (2) of this subsection relating to subchapter III of chapter 84 of that title. Regulations under this subparagraph shall include regulations relating to employee deductions and employee and employer contributions and deposits in the Thrift Savings Fund.

(d) COVERED INDIVIDUALS NOT ENTITLED TO SEVERANCE PAY.—

(1) IN GENERAL.—Except as provided under paragraph (2), a covered individual shall not be entitled to severance pay under section 5595 of title 5, United States Code, by reason of—

(A) separation from service with the Architect of the Capitol and becoming an employee of a contractor under a food services contract; or

(B) termination of employment with a contractor, or successor to a contractor.

(2) SEPARATION DURING 90-DAY PERIOD.—

(A) IN GENERAL.—

(i) COVERED INDIVIDUALS.—Except as provided under clause (ii), a covered individual shall be entitled to severance pay under section 5595 of title 5, United States Code, if during the 90-day period following the transfer date the employment of that individual with

a contractor is terminated as provided under a food services contract.

(ii) EXCEPTION.—Clause (i) shall not apply to a covered individual who is terminated for cause.

(B) TREATMENT.—For purposes of section 5595 of title 5, United States Code—

(i) any period of continuous service performed by a covered individual described under subparagraph (A) as an employee of a contractor shall be deemed to be a period of service as an employee of the Architect of the Capitol; and

(ii) any termination of employment of a covered individual described under subparagraph (A) with a contractor shall be treated as a separation from service with the Architect of the Capitol.

(e) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

Deadline.

(1) SUBMISSION OF PLAN.—Not later than 30 days after the date of enactment of this Act, the Architect of the Capitol shall submit a plan under section 210 of the Legislative Branch Appropriations Act, 2005 (2 U.S.C. 60q) to the applicable committees as provided under that section.

(2) PLAN.—

(A) IN GENERAL.—Notwithstanding section 210(e) of the Legislative Branch Appropriations Act, 2005 (2 U.S.C. 60q(e)), the plan submitted under this subsection shall—

(i) offer a voluntary separation incentive payment to any employee described under subsection (a)(2)(A) of this section in accordance with section 210 of that Act; and

(ii) offer such a payment to any such employee who becomes a covered individual, if that individual accepts the offer during the 90-day period following the transfer date.

(B) TREATMENT OF COVERED INDIVIDUALS.—For purposes of the plan under this subsection—

(i) any period of continuous service performed by a covered individual as an employee of a contractor shall be deemed to be a period of service as an employee of the Architect of the Capitol; and

(ii) any termination of employment of a covered individual with a contractor shall be treated as a separation from service with the Architect of the Capitol.

(f) EARLY RETIREMENT TREATMENT FOR CERTAIN SEPARATED EMPLOYEES.—

Applicability.

(1) IN GENERAL.—This subsection applies to—

(A) an employee of the Senate Restaurants of the Office of the Architect of the Capitol who—

(i) voluntarily separates from service on or after the date of enactment of this Act, but prior to the day before the transfer date; and

(ii) on such date of separation—

(I) has completed 25 years of service as defined under section 8331(12) or 8401(26) of title 5, United States Code; or

(II) has completed 20 years of such service and is at least 50 years of age; and

(B) except as provided under paragraph (2), a covered individual—

(i) whose employment with a contractor is terminated as provided under a food services contract during the 90-day period following the transfer date; and

(ii) on the date of such termination—

(I) has completed 25 years of service as defined under section 8331(12) or 8401(26) of title 5, United States Code; or

(II) has completed 20 years of such service and is at least 50 years of age.

(2) EXCEPTION.—Paragraph (1)(B) shall not apply to a covered individual who is terminated for cause.

(3) TREATMENT.—

(A) ANNUITY.—Notwithstanding any provision of chapter 83 or 84 of title 5, United States Code, an employee described under paragraph (1) is entitled to an annuity which shall be computed consistent with the provisions of law applicable to annuities under section 8336(d) or 8414(b) of title 5, United States Code.

(B) SEPARATION DURING 90-DAY PERIOD.—For purposes of chapter 83 or 84 of title 5, United States Code—

(i) any period of continuous service performed by a covered individual described under paragraphs (1)(B) and (2) as an employee of a contractor shall be deemed to be a period of service as an employee of the Architect of the Capitol; and

(ii) any termination of employment of a covered individual described under paragraphs (1)(B) and (2) with a contractor shall be treated as a separation from service with the Architect of the Capitol.

(g) CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—Section 101(5) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(5)) is amended by striking ", the Botanic Garden, or the Senate Restaurant" and inserting "or the Botanic Garden".

(2) DISABILITIES.—Section 210(a)(7) of the Congressional Accountability Act of 1995 (2 U.S.C. 1331(a)(7)) is amended by striking "the Senate Restaurants and the Botanic Garden" and inserting "the Botanic Garden".

(3) CONTINUING APPLICATION TO CERTAIN ACTS AND OMISSIONS.—For purposes of the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) a covered individual shall be treated as an employee of the Architect of the Capitol with respect to any act or omission which occurred before the transfer date.

(h) DEPOSIT OF COMMISSIONS.—

(1) SENATE RESTAURANTS FOOD SERVICES CONTRACT.—Any commissions paid by a contractor under a food services contract shall be deposited in the miscellaneous items account within the contingent fund of the Senate.

(2) USE OF FUNDS.—Any funds deposited under paragraph (1) shall be available for expenditure in the same manner as funds appropriated into that account.

(i) EFFECTIVE DATE.—This Act shall take effect on the date of enactment of this Act and apply to the remainder of the fiscal year in which enacted and each fiscal year thereafter.

Approved July 17, 2008.

LEGISLATIVE HISTORY—S. 2967:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 3, considered and passed Senate.
July 10, considered and passed House.

Public Law 110–280
110th Congress

# An Act

To amend the Act to Prevent Pollution from Ships to implement MARPOL Annex VI.

July 21, 2008
[H.R. 802]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Maritime Pollution Prevention Act of 2008.
33 USC 1901 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Maritime Pollution Prevention Act of 2008".

**SEC. 2. REFERENCES.**

Wherever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

**SEC. 3. DEFINITIONS.**

Section 2(a) (33 U.S.C. 1901(a)) is amended—

(1) by redesignating the paragraphs (1) through (12) as paragraphs (2) through (13), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

"(1) 'Administrator' means the Administrator of the Environmental Protection Agency;";

(3) in paragraph (5) (as so redesignated) by striking "and V" and inserting "V, and VI";

(4) in paragraph (6) (as so redesignated) by striking "'discharge' and 'garbage' and 'harmful substance' and 'incident'" and inserting "'discharge', 'emission', 'garbage', 'harmful substance', and 'incident'"; and

(5) by redesignating paragraphs (7) through (13) (as redesignated) as paragraphs (8) through (14), respectively, and inserting after paragraph (6) (as redesignated) the following:

"(7) 'navigable waters' includes the territorial sea of the United States (as defined in Presidential Proclamation 5928 of December 27, 1988) and the internal waters of the United States;".

**SEC. 4. APPLICABILITY.**

Section 3 (33 U.S.C. 1902) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following:

"(5) with respect to Annex VI to the Convention, and other than with respect to a ship referred to in paragraph (1)—

"(A) to a ship that is in a port, shipyard, offshore terminal, or the internal waters of the United States;

"(B) to a ship that is bound for, or departing from, a port, shipyard, offshore terminal, or the internal waters of the United States, and is in—

"(i) the navigable waters or the exclusive economic zone of the United States;

"(ii) an emission control area designated pursuant to section 4; or

"(iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment;

"(C) to a ship that is entitled to fly the flag of, or operating under the authority of, a party to Annex VI, and is in—

"(i) the navigable waters or the exclusive economic zone of the United States;

"(ii) an emission control area designated under section 4; or

"(iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment; and

"(D) to any other ship, to the extent that, and in the same manner as, such ship may be boarded by the Secretary to implement or enforce any other law of the United States or Annex I, II, or V of the Convention, and is in—

"(i) the exclusive economic zone of the United States;

"(ii) the navigable waters of the United States;

"(iii) an emission control area designated under section 4; or

"(iv) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment.";

(2) in subsection (b)—

(A) in paragraph (1) by striking "paragraph (2)," and inserting "paragraphs (2) and (3),"; and

(B) by adding at the end the following:

"(3) With respect to Annex VI the Administrator, or the Secretary, as relevant to their authorities pursuant to this Act, may determine that some or all of the requirements under this Act shall apply to one or more classes of public vessels, except that such a determination by the Administrator shall have no effect unless the head of the Department or agency under which the vessels operate concurs in the determination. This paragraph does

not apply during time of war or during a declared national emergency.";

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively, and inserting after subsection (b) the following:

"(c) APPLICATION TO OTHER PERSONS.—This Act shall apply to all persons to the extent necessary to ensure compliance with Annex VI to the Convention.";

(4) in subsection (e), as redesignated—

(A) by inserting "or the Administrator, consistent with section 4 of this Act," after "Secretary";

(B) by striking "of section (3)," and inserting "of this section,"; and

(C) by striking "Protocol, including regulations conforming to and giving effect to the requirements of Annex V" and inserting "Protocol (or the applicable Annex), including regulations conforming to and giving effect to the requirements of Annex V and Annex VI"; and

(5) by adding at the end thereof the following:

"(i) SAVINGS CLAUSE.—Nothing in this section shall be construed to restrict in a manner inconsistent with international law navigational rights and freedoms as defined by United States law, treaty, convention, or customary international law.".

**SEC. 5. ADMINISTRATION AND ENFORCEMENT.**

Section 4 (33 U.S.C. 1903) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection (a) the following:

"(b) DUTY OF THE ADMINISTRATOR.—In addition to other duties specified in this Act, the Administrator and the Secretary, respectively, shall have the following duties and authorities:

Certificates.

"(1) The Administrator shall, and no other person may, issue Engine International Air Pollution Prevention certificates in accordance with Annex VI and the International Maritime Organization's Technical Code on Control of Emissions of Nitrogen Oxides from Marine Diesel Engines, on behalf of the United States for a vessel of the United States as that term is defined in section 116 of title 46, United States Code. The issuance of Engine International Air Pollution Prevention certificates shall be consistent with any applicable requirements of the Clean Air Act or regulations prescribed under that Act.

"(2) The Administrator shall have authority to administer regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.

"(3) The Administrator shall, only as specified in section 8(f), have authority to enforce Annex VI of the Convention.";

(2) in subsection (c), as redesignated, by redesignating paragraph (2) as paragraph (4), and inserting after paragraph (1) the following:

Regulations.

"(2) In addition to the authority the Secretary has to prescribe regulations under this Act, the Administrator shall also prescribe any necessary or desired regulations to carry out the provisions of regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.

Consultation.

"(3) In prescribing any regulations under this section, the Secretary and the Administrator shall consult with each other, and

with respect to regulation 19, with the Secretary of the Interior."; and

(3) by adding at the end of subsection (c), as redesignated, the following:

Effective date. Notification.

"(5) No standard issued by any person or Federal authority, with respect to emissions from tank vessels subject to regulation 15 of Annex VI to the Convention, shall be effective until 6 months after the required notification to the International Maritime Organization by the Secretary.".

**SEC. 6. CERTIFICATES.**

Section 5 (33 U.S.C. 1904) is amended—

(1) in subsection (a) by striking "The Secretary" and inserting "Except as provided in section 4(b)(1), the Secretary";

(2) in subsection (b) by striking "Secretary under the authority of the MARPOL protocol." and inserting "Secretary or the Administrator under the authority of this Act."; and

(3) in subsection (e) by striking "environment." and inserting "environment or the public health and welfare.".

**SEC. 7. RECEPTION FACILITIES.**

Section 6 (33 U.S.C. 1905) is amended—

(1) in subsection (a) by adding at the end the following:

Regulations.

"(3) The Secretary and the Administrator, after consulting with appropriate Federal agencies, shall jointly prescribe regulations setting criteria for determining the adequacy of reception facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues at a port or terminal, and stating any additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that reception facilities are available, in accordance with those regulations. The Secretary and the Administrator may jointly prescribe regulations to certify, and may issue certificates to the effect, that a port's or terminal's facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues from ships are adequate.";

(2) in subsection (b) by inserting "or the Administrator" after "Secretary";

(3) in subsection (e) by striking paragraph (2) and inserting the following:

"(2) The Secretary may deny the entry of a ship to a port or terminal required by the MARPOL Protocol, this Act, or regulations prescribed under this section relating to the provision of adequate reception facilities for garbage, ozone depleting substances, equipment containing those substances, or exhaust gas cleaning residues, if the port or terminal is not in compliance with the MARPOL Protocol, this Act, or those regulations.";

(4) in subsection (f)(1) by striking "Secretary is" and inserting "Secretary and the Administrator are"; and

(5) in subsection (f)(2) by striking "(A)".

**SEC. 8. INSPECTIONS.**

Section 8(f) (33 U.S.C. 1907(f)) is amended to read as follows:

"(f)(1) The Secretary may inspect a ship to which this Act applies as provided under section 3(a)(5), to verify whether the ship is in compliance with Annex VI to the Convention and this Act.

"(2) If an inspection under this subsection or any other information indicates that a violation has occurred, the Secretary, or the Administrator in a matter referred by the Secretary, may undertake enforcement action under this section.

"(3) Notwithstanding subsection (b) and paragraph (2) of this subsection, the Administrator shall have all of the authorities of the Secretary, as specified in subsection (b) of this section, for the purposes of enforcing regulations 17 and 18 of Annex VI to the Convention to the extent that shoreside violations are the subject of the action and in any other matter referred to the Administrator by the Secretary.".

**SEC. 9. AMENDMENTS TO THE PROTOCOL.**

Section 10(b) (33 U.S.C. 1909(b)) is amended—

(1) by striking "Annex I, II, or V" and inserting "Annex I, II, V, or VI"; and

(2) by inserting "or the Administrator as provided for in this Act," after "Secretary,".

**SEC. 10. PENALTIES.**

Section 9 (33 U.S.C. 1908) is amended—

(1) by striking "Protocol,," each place it appears and inserting "Protocol,";

(2) in subsection (b)—

(A) by inserting "or the Administrator as provided for in this Act," after "Secretary," the first place it appears;

(B) in paragraph (2), by inserting ", or the Administrator as provided for in this Act," after "Secretary"; and

(C) in the matter after paragraph (2)—

(i) by inserting "or the Administrator as provided for in this Act" after "Secretary," the first place it appears; and

(ii) by inserting ", or the Administrator as provided for in this Act," after "Secretary" the second and third places it appears;

(3) in subsection (c), by inserting ", or the Administrator as provided for in this Act," after "Secretary" each place it appears; and

(4) in subsection (f), by inserting "or the Administrator as provided for in this Act" after "Secretary," the first place appears.

**SEC. 11. EFFECT ON OTHER LAWS.**

Section 15 (33 U.S.C. 1911) is amended to read as follows:

**"SEC. 15. EFFECT ON OTHER LAWS.**

"Authorities, requirements, and remedies of this Act supplement and neither amend nor repeal any other authorities, requirements, or remedies conferred by any other provision of law. Nothing in this Act shall limit, deny, amend, modify, or repeal any other authority, requirement, or remedy available to the United States or any other person, except as expressly provided in this Act.".

**SEC. 12. LEGAL ACTIONS.**

Section 11 (33 U.S.C. 1910) is amended—

(1) by redesignating paragraph (3) of subsection (a) as paragraph (4), and inserting after paragraph (2) the following:

"(3) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary; or";

(2) by striking "concerned," in subsection (b)(1) and inserting "concerned or the Administrator,"; and

(3) by inserting "or the Administrator" after "Secretary" in subsection (b)(2).

Approved July 21, 2008.

LEGISLATIVE HISTORY—H.R. 802:

HOUSE REPORTS: No. 110–54 (Comm. on Transportation).
SENATE REPORTS: No. 110–394 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Mar. 26, considered and passed House.
Vol. 154 (2008): June 26, considered and passed Senate, amended.
July 8, House concurred in Senate amendment.

# Public Law 110–281
# 110th Congress

## An Act

To amend the National Fish and Wildlife Foundation Establishment Act to increase the number of Directors on the Board of Directors of the National Fish and Wildlife Foundation.

July 21, 2008
[H.R. 3891]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National Fish and Wildlife Foundation Establishment Act Amendment of 2008.
16 USC 3701 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Fish and Wildlife Foundation Establishment Act Amendment of 2008".

**SEC. 2. BOARD OF DIRECTORS OF THE FOUNDATION.**

Section 3(a) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(a)) is amended by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—The Foundation shall have a governing Board of Directors (referred to in this Act as the 'Board'), which shall consist of 30 Directors appointed in accordance with subsection (b), each of whom shall be a United States citizen.".

Approved July 21, 2008.

LEGISLATIVE HISTORY—H.R. 3891:

HOUSE REPORTS: No. 110–552 (Comm. on Natural Resources).
SENATE REPORTS: No. 110–405 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Mar. 31, considered and passed House.
July 7, considered and passed Senate.

Public Law 110–282
110th Congress

An Act

July 23, 2008
[S. 3145]

To designate a portion of United States Route 20A, located in Orchard Park, New York, as the "Timothy J. Russert Highway".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

Congress finds the following:

(1) Timothy "Tim" John Russert was born on May 7, 1950 in Buffalo, New York, to Elizabeth and Timothy Joseph Russert.

(2) Tim Russert graduated from Canisius High School in Buffalo, New York, earned his bachelor's degree in political science from John Carroll University in 1972, and his Juris Doctor from Cleveland State University—Marshall School of Law in 1976.

(3) Tim Russert embarked on a career in public service with United States Senator Daniel Patrick Moynihan and the Governor of New York, Mario Cuomo, from 1977 to 1984.

(4) After his career in public service and New York politics, Tim Russert began his career in journalism when he joined NBC in 1984.

(5) In 1991, Tim Russert became the host of the Sunday morning news program Meet the Press, the longest-running program in the history of television. He would go on to become the longest serving host of the show.

(6) Throughout his career, Tim Russert received 48 honorary doctorates and several awards for excellence in journalism, including—

(A) the Edward R. Murrow Award from the Radio-Television News Directors Association;

(B) the John Peter Zenger Freedom of the Press Award;

(C) the American Legion Journalism Award;

(D) the Veterans of Foreign Wars News Media Award;

(E) the Congressional Medal of Honor Society Journalism Award;

(F) the Allen H. Neuharth Award for Excellence in Journalism;

(G) the David Brinkley Award for Excellence in Communication;

(H) the Catholic Academy for Communication's Gabriel Award; and

(I) an Emmy Award from the National Academy of Television Arts and Sciences.

(7) In 2004, Tim Russert authored the bestselling autobiography, Big Russ and Me, which chronicled his life growing

up in South Buffalo and his education at Canisius High School. He is also the author of Wisdom of our Fathers.

(8) Tim Russert advocated on behalf of abused children and voiced the need to protect our Nation's young people, serving on the board of directors of the Greater Washington Boys and Girls Club and America's Promise—Alliance for Youth.

(9) Tim Russert sat in the front seat of history, chronicling the political and societal events that have defined our time, and serving as a trusted source of information and analysis for millions of Americans.

(10) Tim Russert was a tireless booster of Buffalo, a famous fan of his beloved Buffalo Bills, and was always proud of his South Buffalo roots, a source of civic pride in the Western New York community.

(11) Tim Russert passed away on June 13, 2008. He is survived by his wife, Maureen Orth and their son, Luke Russert.

**SEC. 2. DESIGNATION.**

The portion of United States Route 20A located in Orchard Park, New York, between Abbot Road and California Road shall be known and designated as the "Timothy J. Russert Highway".

**SEC. 3. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the portion of United States Route 20A referred to in section 2 shall be deemed to be a reference to the Timothy J. Russert Highway.

Approved July 23, 2008.

LEGISLATIVE HISTORY—S. 3145:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 24, considered and passed Senate.
July 15, considered and passed House.

Public Law 110–283
110th Congress

An Act

July 23, 2008
[H.R. 3403]

To promote and enhance public safety by facilitating the rapid deployment of IP-enabled 911 and E–911 services, encourage the Nation's transition to a national IP-enabled emergency network, and improve 911 and E–911 access to those with disabilities.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

New and Emerging Technologies 911 Improvement Act of 2008.
47 USC 609 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "New and Emerging Technologies 911 Improvement Act of 2008" or the "NET 911 Improvement Act of 2008".

# TITLE I—911 SERVICES AND IP–ENABLED VOICE SERVICE PROVIDERS

**SEC. 101. DUTY TO PROVIDE 911 AND ENHANCED 911 SERVICE.**

The Wireless Communications and Public Safety Act of 1999 is amended—

(1) by redesignating section 6 (47 U.S.C. 615b) as section 7;

(2) by inserting after section 5 the following new section:

47 USC 615a–1.

**"SEC. 6. DUTY TO PROVIDE 9–1–1 AND ENHANCED 9–1–1 SERVICE.**

"(a) DUTIES.—It shall be the duty of each IP-enabled voice service provider to provide 9–1–1 service and enhanced 9–1–1 service to its subscribers in accordance with the requirements of the Federal Communications Commission, as in effect on the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008 and as such requirements may be modified by the Commission from time to time.

"(b) PARITY FOR IP-ENABLED VOICE SERVICE PROVIDERS.—An IP-enabled voice service provider that seeks capabilities to provide 9–1–1 and enhanced 9–1–1 service from an entity with ownership or control over such capabilities, to comply with its obligations under subsection (a), shall, for the exclusive purpose of complying with such obligations, have a right of access to such capabilities, including interconnection, to provide 9–1–1 and enhanced 9–1–1 service on the same rates, terms, and conditions that are provided to a provider of commercial mobile service (as such term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))), subject to such regulations as the Commission prescribes under subsection (c).

"(c) REGULATIONS.—The Commission—

"(1) within 90 days after the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008, shall issue regulations implementing such Act, including regulations that— Deadline.

"(A) ensure that IP-enabled voice service providers have the ability to exercise their rights under subsection (b);

"(B) take into account any technical, network security, or information privacy requirements that are specific to IP-enabled voice services; and

"(C) provide, with respect to any capabilities that are not required to be made available to a commercial mobile service provider but that the Commission determines under subparagraph (B) of this paragraph or paragraph (2) are necessary for an IP-enabled voice service provider to comply with its obligations under subsection (a), that such capabilities shall be available at the same rates, terms, and conditions as would apply if such capabilities were made available to a commercial mobile service provider;

"(2) shall require IP-enabled voice service providers to which the regulations apply to register with the Commission and to establish a point of contact for public safety and government officials relative to 9–1–1 and enhanced 9–1–1 service and access; and Registration.

"(3) may modify such regulations from time to time, as necessitated by changes in the market or technology, to ensure the ability of an IP-enabled voice service provider to comply with its obligations under subsection (a) and to exercise its rights under subsection (b).

"(d) DELEGATION OF ENFORCEMENT TO STATE COMMISSIONS.—The Commission may delegate authority to enforce the regulations issued under subsection (c) to State commissions or other State or local agencies or programs with jurisdiction over emergency communications. Nothing in this section is intended to alter the authority of State commissions or other State or local agencies with jurisdiction over emergency communications, provided that the exercise of such authority is not inconsistent with Federal law or Commission requirements.

"(e) IMPLEMENTATION.—

"(1) LIMITATION.—Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technological standard.

"(2) ENFORCEMENT.—The Commission shall enforce this section as if this section was a part of the Communications Act of 1934. For purposes of this section, any violations of this section, or any regulations promulgated under this section, shall be considered to be a violation of the Communications Act of 1934 or a regulation promulgated under that Act, respectively.

"(f) STATE AUTHORITY OVER FEES.—

"(1) AUTHORITY.—Nothing in this Act, the Communications Act of 1934 (47 U.S.C. 151 et seq.), the New and Emerging Technologies 911 Improvement Act of 2008, or any Commission regulation or order shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State, political subdivision thereof, Indian tribe, or village or regional

corporation serving a region established pursuant to the Alaska Native Claims Settlement Act, as amended (85 Stat. 688) for the support or implementation of 9–1–1 or enhanced 9–1–1 services, provided that the fee or charge is obligated or expended only in support of 9–1–1 and enhanced 9–1–1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge. For each class of subscribers to IP-enabled voice services, the fee or charge may not exceed the amount of any such fee or charge applicable to the same class of subscribers to telecommunications services.

"(2) FEE ACCOUNTABILITY REPORT.—To ensure efficiency, transparency, and accountability in the collection and expenditure of a fee or charge for the support or implementation of 9–1–1 or enhanced 9–1–1 services, the Commission shall submit a report within 1 year after the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008, and annually thereafter, to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives detailing the status in each State of the collection and distribution of such fees or charges, and including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any such fees or charges are specified.

"(g) AVAILABILITY OF PSAP INFORMATION.—The Commission may compile a list of public safety answering point contact information, contact information for providers of selective routers, testing procedures, classes and types of services supported by public safety answering points, and other information concerning 9–1–1 and enhanced 9–1–1 elements, for the purpose of assisting IP-enabled voice service providers in complying with this section, and may make any portion of such information available to telecommunications carriers, wireless carriers, IP-enabled voice service providers, other emergency service providers, or the vendors to or agents of any such carriers or providers, if such availability would improve public safety.

Procedures.

"(h) DEVELOPMENT OF STANDARDS.—The Commission shall work cooperatively with public safety organizations, industry participants, and the E–911 Implementation Coordination Office to develop best practices that promote consistency, where appropriate, including procedures for—

"(1) defining geographic coverage areas for public safety answering points;

"(2) defining network diversity requirements for delivery of IP-enabled 9–1–1 and enhanced 9–1–1 calls;

"(3) call-handling in the event of call overflow or network outages;

"(4) public safety answering point certification and testing requirements;

"(5) validation procedures for inputting and updating location information in relevant databases; and

"(6) the format for delivering address information to public safety answering points.

"(i) RULE OF CONSTRUCTION.—Nothing in the New and Emerging Technologies 911 Improvement Act of 2008 shall be construed as altering, delaying, or otherwise limiting the ability of the Commission to enforce the Federal actions taken or rules adopted obligating an IP-enabled voice service provider to provide 9–1–1 or enhanced 9–1–1 service as of the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008."; and

(3) in section 7 (as redesignated by paragraph (1) of this section) by adding at the end the following new paragraph:

"(8) IP-ENABLED VOICE SERVICE.—The term 'IP-enabled voice service' has the meaning given the term 'interconnected VoIP service' by section 9.3 of the Federal Communications Commission's regulations (47 CFR 9.3).".

**SEC. 102. MIGRATION TO IP-ENABLED EMERGENCY NETWORK.**

Section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) is amended—

(1) in subsection (b)(1), by inserting before the period at the end the following: "and for migration to an IP-enabled emergency network";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following new subsection:

"(d) MIGRATION PLAN REQUIRED.—

"(1) NATIONAL PLAN REQUIRED.—No more than 270 days after the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008, the Office shall develop and report to Congress on a national plan for migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen-activated emergency communications and improving information sharing among all emergency response entities. Deadline. Reports.

"(2) CONTENTS OF PLAN.—The plan required by paragraph (1) shall—

"(A) outline the potential benefits of such a migration;

"(B) identify barriers that must be overcome and funding mechanisms to address those barriers;

"(C) provide specific mechanisms for ensuring the IP-enabled emergency network is available in every community and is coordinated on a local, regional, and statewide basis;

"(D) identify location technology for nomadic devices and for office buildings and multi-dwelling units;

"(E) include a proposed timetable, an outline of costs, and potential savings;

"(F) provide specific legislative language, if necessary, for achieving the plan;

"(G) provide recommendations on any legislative changes, including updating definitions, that are necessary to facilitate a national IP-enabled emergency network;

"(H) assess, collect, and analyze the experiences of the public safety answering points and related public safety authorities who are conducting trial deployments of IP-enabled emergency networks as of the date of enactment

of the New and Emerging Technologies 911 Improvement Act of 2008;

"(I) identify solutions for providing 9–1–1 and enhanced 9–1–1 access to those with disabilities and needed steps to implement such solutions, including a recommended timeline; and

"(J) analyze efforts to provide automatic location for enhanced 9–1–1 services and provide recommendations on regulatory or legislative changes that are necessary to achieve automatic location for enhanced 9–1–1 services.

"(3) CONSULTATION.—In developing the plan required by paragraph (1), the Office shall consult with representatives of the public safety community, groups representing those with disabilities, technology and telecommunications providers, IP-enabled voice service providers, Telecommunications Relay Service providers, and other emergency communications providers and others it deems appropriate.".

# TITLE II—PARITY OF PROTECTION

**SEC. 201. LIABILITY.**

(a) AMENDMENTS.—Section 4 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a) is amended—

(1) by striking "**PARITY OF PROTECTION FOR PROVISION OR USE OF WIRELESS SERVICE.**" in the section heading and inserting "**SERVICE PROVIDER PARITY OF PROTECTION.**";

(2) in subsection (a)—

(A) by striking "wireless carrier," and inserting "wireless carrier, IP-enabled voice service provider, or other emergency communications provider,";

(B) by striking "its officers" the first place it appears and inserting "their officers";

(C) by striking "emergency calls or emergency services" and inserting "emergency calls, emergency services, or other emergency communications services";

(3) in subsection (b)—

(A) by striking "using wireless 9–1–1 service shall" and inserting "using wireless 9–1–1 service, or making 9–1–1 communications via IP-enabled voice service or other emergency communications service, shall"; and

(B) by striking "that is not wireless" and inserting "that is not via wireless 9–1–1 service, IP-enabled voice service, or other emergency communications service"; and

(4) in subsection (c)—

(A) by striking "wireless 9–1–1 communications, a PSAP" and inserting "9–1–1 communications via wireless 9–1–1 service, IP-enabled voice service, or other emergency communications service, a PSAP"; and

(B) by striking "that are not wireless" and inserting "that are not via wireless 9–1–1 service, IP-enabled voice service, or other emergency communications service".

(b) DEFINITION.—Section 7 of the Wireless Communications and Public Safety Act of 1999 (as redesignated by section 101(1) of this Act) is further amended by adding at the end the following new paragraphs:

"(8) OTHER EMERGENCY COMMUNICATIONS SERVICE.—The term 'other emergency communications service' means the provision of emergency information to a public safety answering point via wire or radio communications, and may include 9–1–1 and enhanced 9–1–1 service.

"(9) OTHER EMERGENCY COMMUNICATIONS SERVICE PROVIDER.—The term 'other emergency communications service provider' means—

"(A) an entity other than a local exchange carrier, wireless carrier, or an IP-enabled voice service provider that is required by the Federal Communications Commission consistent with the Commission's authority under the Communications Act of 1934 to provide other emergency communications services; or

"(B) in the absence of a Commission requirement as described in subparagraph (A), an entity that voluntarily elects to provide other emergency communications services and is specifically authorized by the appropriate local or State 9–1–1 service governing authority to provide other emergency communications services.

"(10) ENHANCED 9–1–1 SERVICE.—The term 'enhanced 9–1–1 service' means the delivery of 9–1–1 calls with automatic number identification and automatic location identification, or successor or equivalent information features over the wireline E911 network (as defined in section 9.3 of the Federal Communications Commission's regulations (47 C.F.R. 9.3) as of the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008) and equivalent or successor networks and technologies. The term also includes any enhanced 9–1–1 service so designated by the Commission in its Report and Order in WC Docket Nos. 04–36 and 05–196, or any successor proceeding.".

# TITLE III—AUTHORITY TO PROVIDE CUSTOMER INFORMATION FOR 911 PURPOSES

**SEC. 301. AUTHORITY TO PROVIDE CUSTOMER INFORMATION.**

Section 222 of the Communications Act of 1934 (47 U.S.C. 222) is amended—

(1) by inserting "or the user of an IP-enabled voice service (as such term is defined in section 7 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615b))" after "section 332(d))" each place it appears in subsections (d)(4) and (f)(1);

(2) by striking "WIRELESS" in the heading of subsection (f); and

(3) in subsection (g), by inserting "or a provider of IP-enabled voice service (as such term is defined in section 7 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615b))" after "telephone exchange service".

Approved July 23, 2008.

LEGISLATIVE HISTORY—H.R. 3403:

HOUSE REPORTS: No. 110–442 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Nov. 13, considered and passed House.
Vol. 154 (2008): June 16, considered and passed Senate, amended.
June 23, House concurred in Senate amendment.

Public Law 110–284
110th Congress

# An Act

To designate the United States courthouse located at 1716 Spielbusch Avenue in Toledo, Ohio, as the "James M. Ashley and Thomas W.L. Ashley United States Courthouse".

July 23, 2008
[H.R. 3712]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States courthouse located at 1716 Spielbusch Avenue in Toledo, Ohio, shall be known and designated as the "James M. Ashley and Thomas W.L. Ashley United States Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "James M. Ashley and Thomas W.L. Ashley United States Courthouse".

Approved July 23, 2008.

LEGISLATIVE HISTORY—H.R. 3712:

HOUSE REPORTS: No. 110–455 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 4, considered and passed House.
June 24, considered and passed Senate.

# Public Law 110–285
# 110th Congress

## An Act

To amend the Public Health Service Act to advance medical research and treatments into pediatric cancers, ensure patients and families have access to information regarding pediatric cancers and current treatments for such cancers, establish a national childhood cancer registry, and promote public awareness of pediatric cancer.

July 29, 2008
[H.R. 1553]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Caroline Pryce Walker Conquer Childhood Cancer Act of 2008.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Caroline Pryce Walker Conquer Childhood Cancer Act of 2008".

42 USC 280e–3a note.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Cancer kills more children than any other disease.

(2) Each year cancer kills more children between 1 and 20 years of age than asthma, diabetes, cystic fibrosis, and AIDS, combined.

(3) Every year, over 12,500 young people are diagnosed with cancer.

(4) Each year about 2,300 children and teenagers die from cancer.

(5) One in every 330 Americans develops cancer before age 20.

(6) Some forms of childhood cancer have proven to be so resistant that even in spite of the great research strides made, most of those children die. Up to 75 percent of the children with cancer can now be cured.

(7) The causes of most childhood cancers are not yet known.

(8) Childhood cancers are mostly those of the white blood cells (leukemias), brain, bone, the lymphatic system, and tumors of the muscles, kidneys, and nervous system. Each of these behaves differently, but all are characterized by an uncontrolled proliferation of abnormal cells.

(9) Eighty percent of the children who are diagnosed with cancer have disease which has already spread to distant sites in the body.

(10) Ninety percent of children with a form of pediatric cancer are treated at one of the more than 200 Children's Oncology Group member institutions throughout the United States.

42 USC 280e–3a note.

**SEC. 3. PURPOSES.**

It is the purpose of this Act to authorize appropriations to—

(1) encourage the support for pediatric cancer research and other activities related to pediatric cancer;

(2) establish a comprehensive national childhood cancer registry; and

(3) provide informational services to patients and families affected by childhood cancer.

**SEC. 4. PEDIATRIC CANCER RESEARCH AND AWARENESS; NATIONAL CHILDHOOD CANCER REGISTRY.**

(a) PEDIATRIC CANCER RESEARCH AND AWARENESS.—Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

**"SEC. 417E. PEDIATRIC CANCER RESEARCH AND AWARENESS.** 42 USC 285a–11.

"(a) PEDIATRIC CANCER RESEARCH.—

"(1) PROGRAMS OF RESEARCH EXCELLENCE IN PEDIATRIC CANCER.—The Secretary, in collaboration with the Director of NIH and other Federal agencies with interest in prevention and treatment of pediatric cancer, shall continue to enhance, expand, and intensify pediatric cancer research and other activities related to pediatric cancer, including therapeutically applicable research to generate effective treatments, pediatric preclinical testing, and pediatric clinical trials through National Cancer Institute-supported pediatric cancer clinical trial groups and their member institutions. In enhancing, expanding, and intensifying such research and other activities, the Secretary is encouraged to take into consideration the application of such research and other activities for minority, health disparity, and medically underserved communities. For purposes of this section, the term 'pediatric cancer research' means research on the causes, prevention, diagnosis, recognition, treatment, and long-term effects of pediatric cancer.

"(2) PEER REVIEW REQUIREMENTS.—All grants awarded under this subsection shall be awarded in accordance with section 492.

"(b) PUBLIC AWARENESS OF PEDIATRIC CANCERS AND AVAILABLE TREATMENTS AND RESEARCH.—

"(1) IN GENERAL.—The Secretary may award grants to childhood cancer professional and direct service organizations for the expansion and widespread implementation of—

"(A) activities that provide available information on treatment protocols to ensure early access to the best available therapies and clinical trials for pediatric cancers;

"(B) activities that provide available information on the late effects of pediatric cancer treatment to ensure access to necessary long-term medical and psychological care; and

"(C) direct resource services such as educational outreach for parents, peer-to-peer and parent-to-parent support networks, information on school re-entry and postsecondary education, and resource directories or referral services for financial assistance, psychological counseling, and other support services.

In awarding grants under this paragraph, the Secretary is encouraged to take into consideration the extent to which an entity would use such grant for purposes of making activities and services described in this paragraph available to minority, health disparity, and medically underserved communities.

"(2) PERFORMANCE MEASUREMENT, TRANSPARENCY, AND ACCOUNTABILITY.—For each grant awarded under this subsection, the Secretary shall develop and implement metrics-based performance measures to assess the effectiveness of activities funded under such grant.

"(3) INFORMATIONAL REQUIREMENTS.—Any information made available pursuant to a grant awarded under paragraph (1) shall be—

"(A) culturally and linguistically appropriate as needed by patients and families affected by childhood cancer; and

"(B) approved by the Secretary.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as being inconsistent with the goals and purposes of the Minority Health and Health Disparities Research and Education Act of 2000 (42 U.S.C. 202 note).

"(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section and section 399E–1, there are authorized to be appropriated $30,000,000 for each of fiscal years 2009 through 2013. Such authorization of appropriations is in addition to the authorization of appropriations established in section 402A with respect to such purpose. Funds appropriated under this subsection shall remain available until expended.".

(b) NATIONAL CHILDHOOD CANCER REGISTRY.—Part M of title III of the Public Health Service Act (42 U.S.C. 280e et seq.) is amended—

(1) by inserting after section 399E the following:

42 USC 280e–3a.

**"SEC. 399E–1. NATIONAL CHILDHOOD CANCER REGISTRY.**

Grants.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award a grant to enhance and expand infrastructure to track the epidemiology of pediatric cancer into a comprehensive nationwide registry of actual occurrences of pediatric cancer. Such registry shall be updated to include an actual occurrence within weeks of the date of such occurrence.

"(b) INFORMED CONSENT AND PRIVACY REQUIREMENTS AND COORDINATION WITH EXISTING PROGRAMS.—The registry established pursuant to subsection (a) shall be subject to section 552a of title 5, United States Code, the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996, applicable Federal and State informed consent regulations, any other applicable Federal and State laws relating to the privacy of patient information, and section 399B(d)(4) of this Act."; and

(2) in section 399F(a), by inserting "(other than section 399E–1)" after "this part". 42 USC 280e–4.

Approved July 29, 2008.

LEGISLATIVE HISTORY—H.R. 1553 (S. 911):

HOUSE REPORTS: No. 110–706 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 11, 12, considered and passed House.
July 16, considered and passed Senate.

# Public Law 110–286
# 110th Congress

## An Act

To impose sanctions on officials of the State Peace and Development Council in Burma, to amend the Burmese Freedom and Democracy Act of 2003 to exempt humanitarian assistance from United States sanctions on Burma, to prohibit the importation of gemstones from Burma, or that originate in Burma, to promote a coordinated international effort to restore civilian democratic rule to Burma, and for other purposes.

July 29, 2008
[H.R. 3890]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008".

Human rights.
Political prisoners.
50 USC 1701 note.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Beginning on August 19, 2007, hundreds of thousands of citizens of Burma, including thousands of Buddhist monks and students, participated in peaceful demonstrations against rapidly deteriorating living conditions and the violent and repressive policies of the State Peace and Development Council (SPDC), the ruling military regime in Burma—

(A) to demand the release of all political prisoners, including 1991 Nobel Peace Prize winner Aung San Suu Kyi; and

Aung San Suu Kyi.

(B) to urge the regime to engage in meaningful dialogue to pursue national reconciliation.

(2) The Burmese regime responded to these peaceful protests with a violent crackdown leading to the reported killing of approximately 200 people, including a Japanese photojournalist, and hundreds of injuries. Human rights groups further estimate that over 2,000 individuals have been detained, arrested, imprisoned, beaten, tortured, or otherwise intimidated as part of this crackdown. Burmese military, police, and their affiliates in the Union Solidarity Development Association (USDA) perpetrated almost all of these abuses. The Burmese regime continues to detain, torture, and otherwise intimidate those individuals whom it believes participated in or led the protests and it has closed down or otherwise limited access to several monasteries and temples that played key roles in the peaceful protests.

(3) The Department of State's 2006 Country Reports on Human Rights Practices found that the SPDC—

(A) routinely restricts freedoms of speech, press, assembly, association, religion, and movement;

(B) traffics in persons;

(C) discriminates against women and ethnic minorities;

(D) forcibly recruits child soldiers and child labor; and

(E) commits other serious violations of human rights, including extrajudicial killings, custodial deaths, disappearances, rape, torture, abuse of prisoners and detainees, and the imprisonment of citizens arbitrarily for political motives.

(4) Aung San Suu Kyi has been arbitrarily imprisoned or held under house arrest for more than 12 years.

(5) In October 2007, President Bush announced a new Executive Order to tighten economic sanctions against Burma and block property and travel to the United States by certain senior leaders of the SPDC, individuals who provide financial backing for the SPDC, and individuals responsible for human rights violations and impeding democracy in Burma. Additional names were added in updates done on October 19, 2007, and February 5, 2008. However, only 38 discrete individuals and 13 discrete companies have been designated under those sanctions, once aliases and companies with similar names were removed. By contrast, the Australian Government identified more than 400 individuals and entities subject to its sanctions applied in the wake of the 2007 violence. The European Union's regulations to implement sanctions against Burma have identified more than 400 individuals among the leadership of government, the military, and the USDA, along with nearly 1300 state and military-run companies potentially subject to its sanctions.

(6) The Burmese regime and its supporters finance their ongoing violations of human rights, undemocratic policies, and military activities in part through financial transactions, travel, and trade involving the United States, including the sale of petroleum products, gemstones and hardwoods.

(7) In 2006, the Burmese regime earned more than $500 million from oil and gas projects, over $500 million from sale of hardwoods, and in excess of $300 million from the sale of rubies and jade. At least $500 million of the $2.16 billion earned in 2006 from Burma's two natural gas pipelines, one of which is 28 percent owned by a United States company, went to the Burmese regime. The regime has earned smaller amounts from oil and gas exploration and non-operational pipelines but United States investors are not involved in those transactions. Industry sources estimate that over $100 million annually in Burmese rubies and jade enters the United States. Burma's official statistics report that Burma exported $500 million in hardwoods in 2006 but NGOs estimate the true figure to exceed $900 million. Reliable statistics on the amount of hardwoods imported into the United States from Burma in the form of finished products are not available, in part due to widespread illegal logging and smuggling.

(8) The SPDC seeks to evade the sanctions imposed in the Burmese Freedom and Democracy Act of 2003. Millions of dollars in gemstones that are exported from Burma ultimately enter the United States, but the Burmese regime attempts to conceal the origin of the gemstones in an effort to evade sanctions. For example, according to gem industry experts, over 90 percent of the world's ruby supply originates

in Burma but only 3 percent of the rubies entering the United States are claimed to be of Burmese origin. The value of Burmese gemstones is predominantly based on their original quality and geological origin, rather than the labor involved in cutting and polishing the gemstones.

(9) According to hardwood industry experts, Burma is home to approximately 60 percent of the world's native teak reserves. More than ¼ of the world's internationally traded teak originates from Burma, and hardwood sales, mainly of teak, represent more than 11 percent of Burma's official foreign exchange earnings.

(10) The SPDC owns a majority stake in virtually all enterprises responsible for the extraction and trade of Burmese natural resources, including all mining operations, the Myanmar Timber Enterprise, the Myanmar Gems Enterprise, the Myanmar Pearl Enterprise, and the Myanmar Oil and Gas Enterprise. Virtually all profits from these enterprises enrich the SPDC.

(11) On October 11, 2007, the United Nations Security Council, with the consent of the People's Republic of China, issued a statement condemning the violence in Burma, urging the release of all political prisoners, and calling on the SPDC to enter into a United Nations-mediated dialogue with its political opposition.

Ibrahim Gambari.
Than Shwe.

(12) The United Nations special envoy Ibrahim Gambari traveled to Burma from September 29, 2007, through October 2, 2007, holding meetings with SPDC leader General Than Shwe and democracy advocate Aung San Suu Kyi in an effort to promote dialogue between the SPDC and democracy advocates.

(13) The leaders of the SPDC will have a greater incentive to cooperate with diplomatic efforts by the United Nations, the Association of Southeast Asian Nations, and the People's Republic of China if they come under targeted economic pressure that denies them access to personal wealth and sources of revenue.

(14) On the night of May 2, 2008, through the morning of May 3, 2008, tropical cyclone Nargis struck the coast of Burma, resulting in the deaths of tens of thousands of Burmese.

(15) The response to the cyclone by Burma's military leaders illustrates their fundamental lack of concern for the welfare of the Burmese people. The regime did little to warn citizens of the cyclone, did not provide adequate humanitarian assistance to address basic needs and prevent loss of life, and continues to fail to provide life-protecting and life-sustaining services to its people.

(16) The international community responded immediately to the cyclone and attempted to provide humanitarian assistance. More than 30 disaster assessment teams from 18 different nations and the United Nations arrived in the region, but the Burmese regime denied them permission to enter the country. Eventually visas were granted to aid workers, but the regime continues to severely limit their ability to provide assistance in the affected areas.

(17) Despite the devastation caused by Cyclone Nargis, the junta went ahead with its referendum on a constitution drafted by an illegitimate assembly, conducting voting in

unaffected areas on May 10, 2008, and in portions of the affected Irrawaddy region and Rangoon on May 26, 2008.

**SEC. 3. DEFINITIONS.**

50 USC 1701 note.

In this Act:

(1) ACCOUNT; CORRESPONDENT ACCOUNT; PAYABLE-THROUGH ACCOUNT.—The terms "account", "correspondent account", and "payable-through account" have the meanings given the terms in section 5318A(e)(1) of title 31, United States Code.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Finance of the Senate;

(C) the Committee on Foreign Affairs of the House of Representatives; and

(D) the Committee on Ways and Means of the House of Representatives.

(3) ASEAN.—The term "ASEAN" means the Association of Southeast Asian Nations.

(4) PERSON.—The term "person" means—

(A) an individual, corporation, company, business association, partnership, society, trust, any other non-governmental entity, organization, or group; and

(B) any successor, subunit, or subsidiary of any person described in subparagraph (A).

(5) SPDC.—The term "SPDC" means the State Peace and Development Council, the ruling military regime in Burma.

(6) UNITED STATES PERSON.—The term "United States person" means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States (including foreign branches), or any person in the United States.

**SEC. 4. STATEMENT OF POLICY.**

50 USC 1701 note.

It is the policy of the United States to—

(1) condemn the continued repression carried out by the SPDC;

(2) work with the international community, especially the People's Republic of China, India, Thailand, and ASEAN, to foster support for the legitimate democratic aspirations of the people of Burma and to coordinate efforts to impose sanctions on those directly responsible for human rights abuses in Burma;

(3) provide all appropriate support and assistance to aid a peaceful transition to constitutional democracy in Burma;

(4) support international efforts to alleviate the suffering of Burmese refugees and address the urgent humanitarian needs of the Burmese people; and

(5) identify individuals responsible for the repression of peaceful political activity in Burma and hold them accountable for their actions.

**SEC. 5. SANCTIONS.**

50 USC 1701 note.

(a) VISA BAN.—

(1) IN GENERAL.—The following persons shall be ineligible for a visa to travel to the United States:

(A) Former and present leaders of the SPDC, the Burmese military, or the USDA.

(B) Officials of the SPDC, the Burmese military, or the USDA involved in the repression of peaceful political activity or in other gross violations of human rights in Burma or in the commission of other human rights abuses, including any current or former officials of the security services and judicial institutions of the SPDC.

(C) Any other Burmese persons who provide substantial economic and political support for the SPDC, the Burmese military, or the USDA.

(D) The immediate family members of any person described in subparagraphs (A) through (C).

(2) WAIVER.—The President may waive the visa ban described in paragraph (1) only if the President determines and certifies in writing to Congress that travel by the person seeking such a waiver is in the national interests of the United States.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to conflict with the provisions of section 694 of the Consolidated Appropriations Act, 2008 (Public Law 110–161), nor shall this subsection be construed to make ineligible for a visa members of ethnic groups in Burma now or previously opposed to the regime who were forced to provide labor or other support to the Burmese military and who are otherwise eligible for admission into the United States.

(b) FINANCIAL SANCTIONS.—

(1) BLOCKED PROPERTY.—No property or interest in property belonging to a person described in subsection (a)(1) may be transferred, paid, exported, withdrawn, or otherwise dealt with if—

(A) the property is located in the United States or within the possession or control of a United States person, including the overseas branch of a United States person; or

(B) the property comes into the possession or control of a United States person after the date of the enactment of this Act.

(2) FINANCIAL TRANSACTIONS.—Except with respect to transactions authorized under Executive Orders 13047 (May 20, 1997) and 13310 (July 28, 2003), no United States person may engage in a financial transaction with the SPDC or with a person described in subsection (a)(1).

(3) PROHIBITED ACTIVITIES.—Activities prohibited by reason of the blocking of property and financial transactions under this subsection shall include the following:

(A) Payments or transfers of any property, or any transactions involving the transfer of anything of economic value by any United States person, including any United States financial institution and any branch or office of such financial institution that is located outside the United States, to the SPDC or to an individual described in subsection (a)(1).

(B) The export or reexport directly or indirectly, of any goods, technology, or services by a United States person to the SPDC, to an individual described in subsection (a)(1) or to any entity owned, controlled, or operated by the SPDC or by an individual described in such subsection.

(c) AUTHORITY FOR ADDITIONAL BANKING SANCTIONS.—

(1) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit or impose conditions on the opening or maintaining in the United States of a correspondent account or payable-through account by any financial institution (as that term is defined in section 5312 of title 31, United States Code) or financial agency that is organized under the laws of a State, territory, or possession of the United States, for or on behalf of a foreign banking institution, if the Secretary determines that the account might be used—

(A) by a foreign banking institution that holds property or an interest in property belonging to the SPDC or a person described in subsection (a)(1); or

(B) to conduct a transaction on behalf of the SPDC or a person described in subsection (a)(1).

(2) AUTHORITY TO DEFINE TERMS.—The Secretary of the Treasury may, by regulation, further define the terms used in paragraph (1) for purposes of this section, as the Secretary considers appropriate.

(d) LIST OF SANCTIONED OFFICIALS.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a list of— Deadline. President.

(A) former and present leaders of the SPDC, the Burmese military, and the USDA;

(B) officials of the SPDC, the Burmese military, or the USDA involved in the repression of peaceful political activity in Burma or in the commission of other human rights abuses, including any current or former officials of the security services and judicial institutions of the SPDC;

(C) any other Burmese persons or entities who provide substantial economic and political support for the SPDC, the Burmese military, or the USDA; and

(D) the immediate family members of any person described in subparagraphs (A) through (C) whom the President determines effectively controls property in the United States or has benefitted from a financial transaction with any United States person.

(2) CONSIDERATION OF OTHER DATA.—In preparing the list required under paragraph (1), the President shall consider the data already obtained by other countries and entities that apply sanctions against Burma, such as the Australian Government and the European Union.

(3) UPDATES.—The President shall transmit to the appropriate congressional committees updated lists of the persons described in paragraph (1) as new information becomes available. President.

(4) IDENTIFICATION OF INFORMATION.—The Secretary of State and the Secretary of the Treasury shall devote sufficient resources to the identification of information concerning potential persons to be sanctioned to carry out the purposes described in this Act.

(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit any contract or other financial transaction with any nongovernmental humanitarian organization in Burma.

(f) EXCEPTIONS.—

(1) IN GENERAL.—The prohibitions and restrictions described in subsections (b) and (c) shall not apply to medicine, medical equipment or supplies, food or feed, or any other form of humanitarian assistance provided to Burma.

(2) REGULATORY EXCEPTIONS.—For the following purposes, the Secretary of State may, by regulation, authorize exceptions to the prohibition and restrictions described in subsection (a), and the Secretary of the Treasury may, by regulation, authorize exceptions to the prohibitions and restrictions described in subsections (b) and (c)—

(A) to permit the United States and Burma to operate their diplomatic missions, and to permit the United States to conduct other official United States Government business in Burma;

(B) to permit United States citizens to visit Burma; and

(C) to permit the United States to comply with the United Nations Headquarters Agreement and other applicable international agreements.

(g) PENALTIES.—Any person who violates any prohibition or restriction imposed pursuant to subsection (b) or (c) shall be subject to the penalties under section 6 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as for a violation under that Act.

President. Certification.

(h) TERMINATION OF SANCTIONS.—The sanctions imposed under subsection (a), (b), or (c) shall apply until the President determines and certifies to the appropriate congressional committees that the SPDC has—

National League for Democracy.

(1) unconditionally released all political prisoners, including Aung San Suu Kyi and other members of the National League for Democracy;

(2) entered into a substantive dialogue with democratic forces led by the National League for Democracy and the ethnic minorities of Burma on transitioning to democratic government under the rule of law; and

(3) allowed humanitarian access to populations affected by armed conflict in all regions of Burma.

President. Certification.

(i) WAIVER.—The President may waive the sanctions described in subsections (b) and (c) if the President determines and certifies to the appropriate congressional committees that such waiver is in the national interest of the United States.

50 USC 1701 note.

**SEC. 6. AMENDMENTS TO THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.**

(a) IN GENERAL.—The Burmese Freedom and Democracy Act of 2003 (Public Law 108–61; 50 U.S.C. 1701 note) is amended by inserting after section 3 the following new section:

**"SEC. 3A. PROHIBITION ON IMPORTATION OF JADEITE AND RUBIES FROM BURMA AND ARTICLES OF JEWELRY CONTAINING JADEITE OR RUBIES FROM BURMA.**

"(a) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Ways and Means and the Committee on Foreign Affairs of the House of Representatives; and

"(B) the Committee on Finance and the Committee on Foreign Relations of the Senate.

"(2) BURMESE COVERED ARTICLE.—The term 'Burmese covered article' means—

"(A) jadeite mined or extracted from Burma;

"(B) rubies mined or extracted from Burma; or

"(C) articles of jewelry containing jadeite described in subparagraph (A) or rubies described in subparagraph (B).

"(3) NON-BURMESE COVERED ARTICLE.—The term 'non-Burmese covered article' means—

"(A) jadeite mined or extracted from a country other than Burma;

"(B) rubies mined or extracted from a country other than Burma; or

"(C) articles of jewelry containing jadeite described in subparagraph (A) or rubies described in subparagraph (B).

"(4) JADEITE; RUBIES; ARTICLES OF JEWELRY CONTAINING JADEITE OR RUBIES.—

"(A) JADEITE.—The term 'jadeite' means any jadeite classifiable under heading 7103 of the Harmonized Tariff Schedule of the United States (in this paragraph referred to as the 'HTS').

"(B) RUBIES.—The term 'rubies' means any rubies classifiable under heading 7103 of the HTS.

"(C) ARTICLES OF JEWELRY CONTAINING JADEITE OR RUBIES.—The term 'articles of jewelry containing jadeite or rubies' means—

"(i) any article of jewelry classifiable under heading 7113 of the HTS that contains jadeite or rubies; or

"(ii) any article of jadeite or rubies classifiable under heading 7116 of the HTS.

"(5) UNITED STATES.—The term 'United States', when used in the geographic sense, means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(b) PROHIBITION ON IMPORTATION OF BURMESE COVERED ARTICLES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, until such time as the President determines and certifies to the appropriate congressional committees that Burma has met the conditions described in section 3(a)(3), beginning 60 days after the date of the enactment of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008, the President shall prohibit the importation into the United States of any Burmese covered article.

President. Certification. Effective date.

"(2) REGULATORY AUTHORITY.—The President is authorized to, and shall as necessary, issue such proclamations, regulations, licenses, and orders, and conduct such investigations, as may be necessary to implement the prohibition under paragraph (1).

"(3) OTHER ACTIONS.—Beginning on the date of the enactment of this Act, the President shall take all appropriate actions to seek the following:

"(A) The issuance of a draft waiver decision by the Council for Trade in Goods of the World Trade Organization granting a waiver of the applicable obligations of the United States under the World Trade Organization with respect to the provisions of this section and any measures taken to implement this section.

"(B) The adoption of a resolution by the United Nations General Assembly expressing the need to address trade in Burmese covered articles and calling for the creation and implementation of a workable certification scheme for non-Burmese covered articles to prevent the trade in Burmese covered articles.

"(c) REQUIREMENTS FOR IMPORTATION OF NON-BURMESE COVERED ARTICLES.—

President. Certification. Effective date.

"(1) IN GENERAL.—Except as provided in paragraph (2), until such time as the President determines and certifies to the appropriate congressional committees that Burma has met the conditions described in section 3(a)(3), beginning 60 days after the date of the enactment of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008, the President shall require as a condition for the importation into the United States of any non-Burmese covered article that—

"(A) the exporter of the non-Burmese covered article has implemented measures that have substantially the same effect and achieve the same goals as the measures described in clauses (i) through (iv) of paragraph (2)(B) (or their functional equivalent) to prevent the trade in Burmese covered articles; and

"(B) the importer of the non-Burmese covered article agrees—

Records.

"(i) to maintain a full record of, in the form of reports or otherwise, complete information relating to any act or transaction related to the purchase, manufacture, or shipment of the non-Burmese covered article for a period of not less than 5 years from the date of entry of the non-Burmese covered article; and

"(ii) to provide the information described in clause (i) within the custody or control of such person to the relevant United States authorities upon request.

"(2) EXCEPTION.—

"(A) IN GENERAL.—The President may waive the requirements of paragraph (1) with respect to the importation of non-Burmese covered articles from any country with respect to which the President determines and certifies to the appropriate congressional committees has implemented the measures described in subparagraph (B) (or their functional equivalent) to prevent the trade in Burmese covered articles.

Exports.

"(B) MEASURES DESCRIBED.—The measures referred to in subparagraph (A) are the following:

"(i) With respect to exportation from the country of jadeite or rubies in rough form, a system of verifiable controls on the jadeite or rubies from mine to exportation demonstrating that the jadeite or rubies were not mined or extracted from Burma, and accompanied by officially-validated documentation certifying the country from which the jadeite or rubies were mined

or extracted, total carat weight, and value of the jadeite or rubies.

"(ii) With respect to exportation from the country of finished jadeite or polished rubies, a system of verifiable controls on the jadeite or rubies from mine to the place of final finishing of the jadeite or rubies demonstrating that the jadeite or rubies were not mined or extracted from Burma, and accompanied by officially-validated documentation certifying the country from which the jadeite or rubies were mined or extracted.

"(iii) With respect to exportation from the country of articles of jewelry containing jadeite or rubies, a system of verifiable controls on the jadeite or rubies from mine to the place of final finishing of the article of jewelry containing jadeite or rubies demonstrating that the jadeite or rubies were not mined or extracted from Burma, and accompanied by officially-validated documentation certifying the country from which the jadeite or rubies were mined or extracted.

"(iv) Verifiable recordkeeping by all entities and individuals engaged in mining, importation, and exportation of non-Burmese covered articles in the country, and subject to inspection and verification by authorized authorities of the government of the country in accordance with applicable law. Records.

"(v) Implementation by the government of the country of proportionate and dissuasive penalties against any persons who violate laws and regulations designed to prevent trade in Burmese covered articles.

"(vi) Full cooperation by the country with the United Nations or other official international organizations that seek to prevent trade in Burmese covered articles.

"(3) REGULATORY AUTHORITY.—The President is authorized to, and shall as necessary, issue such proclamations, regulations, licenses, and orders and conduct such investigations, as may be necessary to implement the provisions under paragraphs (1) and (2).

"(d) INAPPLICABILITY.—

"(1) IN GENERAL.—The requirements of subsection (b)(1) and subsection (c)(1) shall not apply to Burmese covered articles and non-Burmese covered articles, respectively, that were previously exported from the United States, including those that accompanied an individual outside the United States for personal use, if they are reimported into the United States by the same person, without having been advanced in value or improved in condition by any process or other means while outside the United States.

"(2) ADDITIONAL PROVISION.—The requirements of subsection (c)(1) shall not apply with respect to the importation of non-Burmese covered articles that are imported by or on behalf of an individual for personal use and accompanying an individual upon entry into the United States.

"(e) ENFORCEMENT.—Burmese covered articles or non-Burmese covered articles that are imported into the United States in violation of any prohibition of this Act or any other provision law shall

be subject to all applicable seizure and forfeiture laws and criminal and civil laws of the United States to the same extent as any other violation of the customs laws of the United States.

"(f) SENSE OF CONGRESS.—

"(1) IN GENERAL.—It is the sense of Congress that the President should take the necessary steps to seek to negotiate an international arrangement—similar to the Kimberley Process Certification Scheme for conflict diamonds—to prevent the trade in Burmese covered articles. Such an international arrangement should create an effective global system of controls and should contain the measures described in subsection (c)(2)(B) (or their functional equivalent).

"(2) KIMBERLEY PROCESS CERTIFICATION SCHEME DEFINED.—In paragraph (1), the term 'Kimberley Process Certification Scheme' has the meaning given the term in section 3(6) of the Clean Diamond Trade Act (Public Law 108–19; 19 U.S.C. 3902(6)).

"(g) REPORT.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008, the President shall transmit to the appropriate congressional committees a report describing what actions the United States has taken during the 60-day period beginning on the date of the enactment of such Act to seek—

"(A) the issuance of a draft waiver decision by the Council for Trade in Goods of the World Trade Organization, as specified in subsection (b)(3)(A);

"(B) the adoption of a resolution by the United Nations General Assembly, as specified in subsection (b)(3)(B); and

"(C) the negotiation of an international arrangement, as specified in subsection (f)(1).

President. "(2) UPDATE.—The President shall make continued efforts to seek the items specified in subparagraphs (A), (B), and (C) of paragraph (1) and shall promptly update the appropriate congressional committees on subsequent developments with respect to these efforts.

"(h) GAO REPORT.—Not later than 14 months after the date of the enactment of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the effectiveness of the implementation of this section. The Comptroller General shall include in the report any recommendations for improving the administration of this Act.".

(b) DURATION OF SANCTIONS.—

(1) CONTINUATION OF IMPORT SANCTIONS.—Subsection (b) of section 9 of the Burmese Freedom and Democracy Act of 2003 (Public Law 108–61; 50 U.S.C. 1701 note) is amended by adding at the end the following new paragraph:

"(4) RULE OF CONSTRUCTION.—For purposes of this subsection, any reference to section 3(a)(1) shall be deemed to include a reference to section 3A (b)(1) and (c)(1).".

50 USC 1701 note. (2) RENEWAL RESOLUTIONS.—Subsection (c) of such section is amended by inserting after "section 3(a)(1)" each place it appears the following: "and section 3A (b)(1) and (c)(1)".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection take effect on the day after the date of the enactment of 5th renewal resolution enacted into law after the date of the enactment of the Burmese Freedom and Democracy Act of 2003, or the date of the enactment of this Act, whichever occurs later.

(B) RENEWAL RESOLUTION DEFINED.—In this paragraph, the term "renewal resolution" means a renewal resolution described in section 9(c) of the Burmese Freedom and Democracy Act of 2003 that is enacted into law in accordance with such section.

(c) CONFORMING AMENDMENT.—Section 3(b) of the Burmese Freedom and Democracy Act of 2003 (Public Law 108–61; 50 U.S.C. 1701 note) is amended—

(1) by striking "prohibitions" and inserting "restrictions";

(2) by inserting "or section 3A (b)(1) or (c)(1)" after "this section"; and

(3) by striking "a product of Burma" and inserting "subject to such restrictions".

**SEC. 7. SPECIAL REPRESENTATIVE AND POLICY COORDINATOR FOR BURMA.**

50 USC 1701 note.

(a) UNITED STATES SPECIAL REPRESENTATIVE AND POLICY COORDINATOR FOR BURMA.—The President shall appoint a Special Representative and Policy Coordinator for Burma, by and with the advice and consent of the Senate.

President. Government organization.

(b) RANK.—The Special Representative and Policy Coordinator for Burma appointed under subsection (a) shall have the rank of ambassador and shall hold the office at the pleasure of the President. Except for the position of United States Ambassador to the Association of Southeast Asian Nations, the Special Representative and Policy Coordinator may not simultaneously hold a separate position within the executive branch, including the Assistant Secretary of State, the Deputy Assistant Secretary of State, the United States Ambassador to Burma, or the Charge d'affairs to Burma.

(c) DUTIES AND RESPONSIBILITIES.—The Special Representative and Policy Coordinator for Burma shall—

(1) promote a comprehensive international effort, including multilateral sanctions, direct dialogue with the SPDC and democracy advocates, and support for nongovernmental organizations operating in Burma and neighboring countries, designed to restore civilian democratic rule to Burma and address the urgent humanitarian needs of the Burmese people;

(2) consult broadly, including with the Governments of the People's Republic of China, India, Thailand, and Japan, and the member states of ASEAN and the European Union to coordinate policies toward Burma;

(3) assist efforts by the United Nations Special Envoy to secure the release of all political prisoners in Burma and to promote dialogue between the SPDC and leaders of Burma's democracy movement, including Aung San Suu Kyi;

(4) consult with Congress on policies relevant to Burma and the future and welfare of all the Burmese people, including refugees; and

(5) coordinate the imposition of Burma sanctions within the United States Government and with the relevant international financial institutions.

50 USC 1701 note.

**SEC. 8. SUPPORT FOR CONSTITUTIONAL DEMOCRACY IN BURMA.**

(a) IN GENERAL.—The President is authorized to assist Burmese democracy activists who are dedicated to nonviolent opposition to the SPDC in their efforts to promote freedom, democracy, and human rights in Burma.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to the Secretary of State for fiscal year 2008 to—

(1) provide aid to democracy activists in Burma;

(2) provide aid to individuals and groups conducting democracy programming outside of Burma targeted at a peaceful transition to constitutional democracy inside Burma; and

(3) expand radio and television broadcasting into Burma.

50 USC 1701 note.

**SEC. 9. SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS ADDRESSING THE HUMANITARIAN NEEDS OF THE BURMESE PEOPLE.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the international community should increase support for nongovernmental organizations attempting to meet the urgent humanitarian needs of the Burmese people.

(b) LICENSES FOR HUMANITARIAN OR RELIGIOUS ACTIVITIES IN BURMA.—Section 5 of the Burmese Freedom and Democracy Act of 2003 (50 U.S.C. 1701 note) is amended—

(1) by inserting "(a) OPPOSITION TO ASSISTANCE TO BURMA.—" before "The Secretary"; and

(2) by adding at the end the following new subsection: "(b) LICENSES FOR HUMANITARIAN OR RELIGIOUS ACTIVITIES IN BURMA.—Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to issue multi-year licenses for humanitarian or religious activities in Burma.".

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, there are authorized to be appropriated $11,000,000 to the Secretary of State for fiscal year 2008 to support operations by nongovernmental organizations, subject to paragraph (2), designed to address the humanitarian needs of the Burmese people inside Burma and in refugee camps in neighboring countries.

(2) LIMITATION.—

(A) IN GENERAL.—Except as provided under subparagraph (B), amounts appropriated pursuant to paragraph (1) may not be provided to—

(i) SPDC-controlled entities;

(ii) entities run by members of the SPDC or their families; or

(iii) entities providing cash or resources to the SPDC, including organizations affiliated with the United Nations.

(B) WAIVER.—The President may waive the funding restriction described in subparagraph (A) if—

(i) the President determines and certifies to the appropriate congressional committees that such waiver is in the national interests of the United States;

(ii) a description of the national interests need for the waiver is submitted to the appropriate congressional committees; and

(iii) the description submitted under clause (ii) is posted on a publicly accessible Internet Web site of the Department of State.

**SEC. 10. REPORT ON MILITARY AND INTELLIGENCE AID TO BURMA.** 50 USC 1701 note.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and annually thereafter, the Secretary of State shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing a list of countries, companies, and other entities that provide military or intelligence aid to the SPDC and describing such military or intelligence aid provided by each such country, company, and other entity.

(b) MILITARY OR INTELLIGENCE AID DEFINED.—For the purpose of this section, the term "military or intelligence aid" means, with respect to the SPDC—

(1) the provision of weapons, weapons parts, military vehicles, or military aircraft;

(2) the provision of military or intelligence training, including advice and assistance on subject matter expert exchanges;

(3) the provision of weapons of mass destruction and related materials, capabilities, and technology, including nuclear, chemical, or dual-use capabilities;

(4) conducting joint military exercises;

(5) the provision of naval support, including ship development and naval construction;

(6) the provision of technical support, including computer and software development and installations, networks, and infrastructure development and construction; or

(7) the construction or expansion of airfields, including radar and anti-aircraft systems.

(c) FORM.—The report required under subsection (a) shall be submitted in unclassified form but may include a classified annex and the unclassified form shall be placed on the Department of State's website. Public information. Web site.

**SEC. 11. SENSE OF CONGRESS ON INTERNATIONAL ARMS SALES TO BURMA.** 50 USC 1701 note.

It is the sense of Congress that the United States should lead efforts in the United Nations Security Council to impose a mandatory international arms embargo on Burma, curtailing all sales of weapons, ammunition, military vehicles, and military aircraft to Burma until the SPDC releases all political prisoners, restores constitutional rule, takes steps toward inclusion of ethnic minorities in political reconciliation efforts, and holds free and fair elections to establish a new government.

**SEC. 12. REDUCTION OF SPDC REVENUE FROM TIMBER.** 50 USC 1701 note. Deadline.

(a) REPORT.—Not later than one year after the date of the enactment of this Act and annually thereafter, the Secretary of State, in consultation with the Secretary of Commerce, and other Federal officials, as appropriate, shall submit to the appropriate congressional committees a report on Burma's timber trade containing information on the following:

(1) Products entering the United States made in whole or in part of wood grown and harvested in Burma, including measurements of annual value and volume and considering both legal and illegal timber trade.

(2) Statistics about Burma's timber trade, including raw wood and wood products, in aggregate and broken down by country and timber species, including measurements of value and volume and considering both legal and illegal timber trade.

(3) A description of the chains of custody of products described in paragraph (1), including direct trade streams from Burma to the United States and via manufacturing or transshipment in third countries.

(4) Illegalities, abuses, or corruption in the Burmese timber sector.

(5) A description of all common consumer and commercial applications unique to Burmese hardwoods, including the furniture and marine manufacturing industries.

(b) RECOMMENDATIONS.—The report required under subsection (a) shall include recommendations on the following:

(1) Alternatives to Burmese hardwoods for the commercial applications described in paragraph (5) of subsection (a), including alternative species of timber that could provide the same applications.

(2) Strategies for encouraging sustainable management of timber in locations with potential climate, soil, and other conditions to compete with Burmese hardwoods for the consumer and commercial applications described in paragraph (5) of subsection (a).

(3) The appropriate United States and international customs documents and declarations that would need to be kept and compiled in order to establish the chain of custody concerning products described in paragraphs (1) and (3) of subsection (a).

(4) Strategies for strengthening the capacity of Burmese civil society, including Burmese society in exile, to monitor and report on the SPDC's trade in timber and other extractive industries so that Burmese natural resources can be used to benefit the majority of Burma's population.

Deadline.
50 USC 1701 note.

**SEC. 13. REPORT ON FINANCIAL ASSETS HELD BY MEMBERS OF THE SPDC.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and annually thereafter, the Secretary of the Treasury, in consultation with the Secretary of State, shall submit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Ways and Means of the House of the Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Finance of the Senate a report containing a list of all countries and foreign banking institutions that hold assets on behalf of senior Burmese officials.

(b) DEFINITIONS.—For the purpose of this section:

(1) SENIOR BURMESE OFFICIALS.—The term "senior Burmese officials" shall mean individuals covered under section 5(d)(1) of this Act.

(2) OTHER TERMS.—Other terms shall be defined under the authority of and consistent with section 5(c)(2) of this Act.

(c) FORM.—The report required under subsection (a) shall be submitted in unclassified form but may include a classified annex. The report shall also be posted on the Department of Treasury's website not later than 30 days of the submission to Congress of the report. To the extent possible, the report shall include the names of the senior Burmese officials and the approximate value of their holdings in the respective foreign banking institutions and any other pertinent information.

Public information. Web site. Deadline.

**SEC. 14. UNOCAL PLAINTIFFS.**

Thailand. Refugees. 50 USC 1701 note.

(a) SENSE OF CONGRESS.—It is the Sense of Congress that the United States should work with the Royal Thai Government to ensure the safety in Thailand of the 15 plaintiffs in the Doe v. Unocal case, and should consider granting refugee status or humanitarian parole to these plaintiffs to enter the United States consistent with existing United States law.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate Congressional committees a report on the status of the Doe vs. Unocal plaintiffs and whether the plaintiffs have been granted refugee status or humanitarian parole.

President. Deadline.

**SEC. 15. SENSE OF CONGRESS WITH RESPECT TO INVESTMENTS IN BURMA'S OIL AND GAS INDUSTRY.**

50 USC 1701 note.

(a) FINDINGS AND DECLARATIONS.—Congress finds the following:

(1) Currently United States, French, and Thai investors are engaged in the production and delivery of natural gas in the pipeline from the Yadana and Sein fields (Yadana pipeline) in the Andaman Sea, an enterprise which falls under the jurisdiction of the Burmese Government, and United States investment by Chevron represents approximately a 28 percent nonoperated, working interest in that pipeline.

(2) The Congressional Research Service estimates that the Yadana pipeline provides at least $500,000,000 in annual revenue for the Burmese Government.

(3) The natural gas that transits the Yadana pipeline is delivered primarily to Thailand, representing about 20 percent of Thailand's total gas supply.

(4) The executive branch has in the past exempted investment in the Yadana pipeline from the sanctions regime against the Burmese Government.

(5) Congress believes that United States companies ought to be held to a high standard of conduct overseas and should avoid as much as possible acting in a manner that supports repressive regimes such as the Burmese Government.

(6) Congress recognizes the important symbolic value that divestment of United States holdings in Burma would have on the international sanctions effort, demonstrating that the United States will continue to lead by example.

(b) STATEMENT OF POLICY.—

(1) Congress urges Yadana investors to consider voluntary divestment over time if the Burmese Government fails to take meaningful steps to release political prisoners, restore civilian constitutional rule and promote national reconciliation.

(2) Congress will remain concerned with the matter of continued investment in the Yadana pipeline in the years ahead.

(3) Congress urges the executive branch to work with all firms invested in Burma's oil and gas sector to use their influence to promote the peaceful transition to civilian democratic rule in Burma.

(c) SENSE OF CONGRESS.—It is the sense of Congress that so long as Yadana investors remain invested in Burma, such investors should—

(1) communicate to the Burmese Government, military and business officials, at the highest levels, concern about the lack of genuine consultation between the Burmese Government and its people, the failure of the Burmese Government to use its natural resources to benefit the Burmese people, and the military's use of forced labor;

(2) publicly disclose and deal with in a transparent manner, consistent with legal obligations, its role in any ongoing investment in Burma, including its financial involvement in any joint production agreement or other joint ventures and the amount of their direct or indirect support of the Burmese Government; and

(3) work with project partners to ensure that forced labor is not used to construct, maintain, support, or defend the project facilities, including pipelines, offices, or other facilities.

Approved July 29, 2008.

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LEGISLATIVE HISTORY—H.R. 3890:

HOUSE REPORTS: No. 110–418, Pt. 1 (Comm. on Foreign Affairs).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 11, considered and passed House.
Dec. 19, considered and passed Senate, amended.
Vol. 154 (2008): July 15, House concurred in Senate amendments with amendments pursuant to H. Res. 1341.
July 22, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
July 30, Presidential remarks.

# Public Law 110–287
# 110th Congress

## Joint Resolution

Approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

July 29, 2008
[H.J. Res. 93]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. RENEWAL OF IMPORT RESTRICTIONS UNDER THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.**

50 USC 1701 note.

(a) IN GENERAL.—Congress approves the renewal of the import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003.

(b) RULE OF CONSTRUCTION.—This joint resolution shall be deemed to be a "renewal resolution" for purposes of section 9 of the Burmese Freedom and Democracy Act of 2003.

**SEC. 2. CERTAIN COBRA FEES.**

Section 13031(j)(3)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(B)(i)) is amended by striking "September 30, 2017" and inserting "October 7, 2017".

**SEC. 3. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

26 USC 6655 note.

The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 0.25 percentage points.

**SEC. 4. EFFECTIVE DATE.**

19 USC 58c note.

This joint resolution and the amendments made by this joint resolution shall take effect on the date of the enactment of this joint resolution or July 26, 2008, whichever occurs first.

Approved July 29, 2008.

LEGISLATIVE HISTORY—H.J. Res. 93 (S.J. Res. 41):

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 23, considered and passed House.
July 24, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
July 29, Presidential remarks.

Public Law 110–288
110th Congress

An Act

July 29, 2008
[S. 2766]

To amend the Federal Water Pollution Control Act to address certain discharges incidental to the normal operation of a recreational vessel.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Clean Boating Act of 2008.
33 USC 1251 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Clean Boating Act of 2008".

**SEC. 2. DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF RECREATIONAL VESSELS.**

Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

"(r) DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF RECREATIONAL VESSELS.—No permit shall be required under this Act by the Administrator (or a State, in the case of a permit program approved under subsection (b)) for the discharge of any graywater, bilge water, cooling water, weather deck runoff, oil water separator effluent, or effluent from properly functioning marine engines, or any other discharge that is incidental to the normal operation of a vessel, if the discharge is from a recreational vessel.".

**SEC. 3. DEFINITION.**

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

"(25) RECREATIONAL VESSEL.—

"(A) IN GENERAL.—The term 'recreational vessel' means any vessel that is—

"(i) manufactured or used primarily for pleasure; or

"(ii) leased, rented, or chartered to a person for the pleasure of that person.

"(B) EXCLUSION.—The term 'recreational vessel' does not include a vessel that is subject to Coast Guard inspection and that—

"(i) is engaged in commercial use; or

"(ii) carries paying passengers.".

**SEC. 4. MANAGEMENT PRACTICES FOR RECREATIONAL VESSELS.**

Section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1322) is amended by adding at the end the following:

"(o) MANAGEMENT PRACTICES FOR RECREATIONAL VESSELS.—

"(1) APPLICABILITY.—This subsection applies to any discharge, other than a discharge of sewage, from a recreational vessel that is—

"(A) incidental to the normal operation of the vessel; and

"(B) exempt from permitting requirements under section 402(r).

"(2) DETERMINATION OF DISCHARGES SUBJECT TO MANAGEMENT PRACTICES.—

"(A) DETERMINATION.—

"(i) IN GENERAL.—The Administrator, in consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and interested States, shall determine the discharges incidental to the normal operation of a recreational vessel for which it is reasonable and practicable to develop management practices to mitigate adverse impacts on the waters of the United States.

"(ii) PROMULGATION.—The Administrator shall promulgate the determinations under clause (i) in accordance with section 553 of title 5, United States Code.

"(iii) MANAGEMENT PRACTICES.—The Administrator shall develop management practices for recreational vessels in any case in which the Administrator determines that the use of those practices is reasonable and practicable.

"(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Administrator shall consider—

"(i) the nature of the discharge;

"(ii) the environmental effects of the discharge;

"(iii) the practicability of using a management practice;

"(iv) the effect that the use of a management practice would have on the operation, operational capability, or safety of the vessel;

"(v) applicable Federal and State law;

"(vi) applicable international standards; and

"(vii) the economic costs of the use of the management practice.

"(C) TIMING.—The Administrator shall— Deadlines.

"(i) make the initial determinations under subparagraph (A) not later than 1 year after the date of enactment of this subsection; and

"(ii) every 5 years thereafter—

"(I) review the determinations; and

"(II) if necessary, revise the determinations based on any new information available to the Administrator.

"(3) PERFORMANCE STANDARDS FOR MANAGEMENT PRACTICES.—

"(A) IN GENERAL.—For each discharge for which a management practice is developed under paragraph (2), the Administrator, in consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, other interested Federal agencies, and interested States, shall promulgate, in accordance with section 553 of title 5, United States Code, Federal standards of performance for each management practice required with respect to the discharge.

"(B) CONSIDERATIONS.—In promulgating standards under this paragraph, the Administrator shall take into account the considerations described in paragraph (2)(B).

"(C) CLASSES, TYPES, AND SIZES OF VESSELS.—The standards promulgated under this paragraph may—

"(i) distinguish among classes, types, and sizes of vessels;

"(ii) distinguish between new and existing vessels; and

"(iii) provide for a waiver of the applicability of the standards as necessary or appropriate to a particular class, type, age, or size of vessel.

Deadlines.

"(D) TIMING.—The Administrator shall—

"(i) promulgate standards of performance for a management practice under subparagraph (A) not later than 1 year after the date of a determination under paragraph (2) that the management practice is reasonable and practicable; and

"(ii) every 5 years thereafter—

"(I) review the standards; and

"(II) if necessary, revise the standards, in accordance with subparagraph (B) and based on any new information available to the Administrator.

"(4) REGULATIONS FOR THE USE OF MANAGEMENT PRACTICES.—

"(A) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall promulgate such regulations governing the design, construction, installation, and use of management practices for recreational vessels as are necessary to meet the standards of performance promulgated under paragraph (3).

"(B) REGULATIONS.—

Deadline.

"(i) IN GENERAL.—The Secretary shall promulgate the regulations under this paragraph as soon as practicable after the Administrator promulgates standards with respect to the practice under paragraph (3), but not later than 1 year after the date on which the Administrator promulgates the standards.

"(ii) EFFECTIVE DATE.—The regulations promulgated by the Secretary under this paragraph shall be effective upon promulgation unless another effective date is specified in the regulations.

"(iii) CONSIDERATION OF TIME.—In determining the effective date of a regulation promulgated under this paragraph, the Secretary shall consider the period of time necessary to communicate the existence of the regulation to persons affected by the regulation.

"(5) EFFECT OF OTHER LAWS.—This subsection shall not affect the application of section 311 to discharges incidental to the normal operation of a recreational vessel.

"(6) PROHIBITION RELATING TO RECREATIONAL VESSELS.—After the effective date of the regulations promulgated by the Secretary of the department in which the Coast Guard is operating under paragraph (4), the owner or operator of a recreational vessel shall neither operate in nor discharge any discharge incidental to the normal operation of the vessel into,

the waters of the United States or the waters of the contiguous zone, if the owner or operator of the vessel is not using any applicable management practice meeting standards established under this subsection.".

Approved July 29, 2008.

LEGISLATIVE HISTORY—S. 2766:

SENATE REPORTS: No. 110–398 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 154 (2008):
July 22, considered and passed Senate and House.

# Public Law 110–289
# 110th Congress

## An Act

July 30, 2008
[H.R. 3221]

To provide needed housing reform and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Housing and Economic Recovery Act of 2008.
42 USC 4501 note.

**SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Housing and Economic Recovery Act of 2008".

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

Sec. 1. Short title; table of contents.

DIVISION A—HOUSING FINANCE REFORM

Sec. 1001. Short title.
Sec. 1002. Definitions.

TITLE I—REFORM OF REGULATION OF ENTERPRISES

Subtitle A—Improvement of Safety and Soundness Supervision

Sec. 1101. Establishment of the Federal Housing Finance Agency.
Sec. 1102. Duties and authorities of the Director.
Sec. 1103. Federal Housing Finance Oversight Board.
Sec. 1104. Authority to require reports by regulated entities.
Sec. 1105. Examiners and accountants; authority to contract for reviews of regulated entities; ombudsman.
Sec. 1106. Assessments.
Sec. 1107. Regulations and orders.
Sec. 1108. Prudential management and operations standards.
Sec. 1109. Review of and authority over enterprise assets and liabilities.
Sec. 1110. Risk-based capital requirements.
Sec. 1111. Minimum capital levels.
Sec. 1112. Registration under the securities laws.
Sec. 1113. Prohibition and withholding of executive compensation.
Sec. 1114. Limit on golden parachutes.
Sec. 1115. Reporting of fraudulent loans.
Sec. 1116. Inclusion of minorities and women; diversity in Agency workforce.
Sec. 1117. Temporary authority for purchase of obligations of regulated entities by Secretary of Treasury.
Sec. 1118. Consultation between the Director of the Federal Housing Finance Agency and the Board of Governors of the Federal Reserve System to ensure financial market stability .

Subtitle B—Improvement of Mission Supervision

Sec. 1121. Transfer of program approval and housing goal oversight.
Sec. 1122. Assumption by the Director of certain other HUD responsibilities.
Sec. 1123. Review of enterprise products.
Sec. 1124. Conforming loan limits.
Sec. 1125. Annual housing report.
Sec. 1126. Public use database.
Sec. 1127. Reporting of mortgage data.
Sec. 1128. Revision of housing goals.
Sec. 1129. Duty to serve underserved markets.
Sec. 1130. Monitoring and enforcing compliance with housing goals.

Sec. 1131. Affordable housing programs.
Sec. 1132. Financial education and counseling.
Sec. 1133. Transfer and rights of certain HUD employees.

Subtitle C—Prompt Corrective Action

Sec. 1141. Critical capital levels.
Sec. 1142. Capital classifications.
Sec. 1143. Supervisory actions applicable to undercapitalized regulated entities.
Sec. 1144. Supervisory actions applicable to significantly undercapitalized regulated entities.
Sec. 1145. Authority over critically undercapitalized regulated entities.

Subtitle D—Enforcement Actions

Sec. 1151. Cease and desist proceedings.
Sec. 1152. Temporary cease and desist proceedings.
Sec. 1153. Removal and prohibition authority.
Sec. 1154. Enforcement and jurisdiction.
Sec. 1155. Civil money penalties.
Sec. 1156. Criminal penalty.
Sec. 1157. Notice after separation from service.
Sec. 1158. Subpoena authority.

Subtitle E—General Provisions

Sec. 1161. Conforming and technical amendments.
Sec. 1162. Presidentially-appointed directors of enterprises.
Sec. 1163. Effective date.

TITLE II—FEDERAL HOME LOAN BANKS

Sec. 1201. Recognition of distinctions between the enterprises and the Federal Home Loan Banks.
Sec. 1202. Directors.
Sec. 1203. Definitions.
Sec. 1204. Agency oversight of Federal Home Loan Banks.
Sec. 1205. Housing goals.
Sec. 1206. Community development financial institutions.
Sec. 1207. Sharing of information among Federal Home Loan Banks.
Sec. 1208. Exclusion from certain requirements.
Sec. 1209. Voluntary mergers.
Sec. 1210. Authority to reduce districts.
Sec. 1211. Community financial institution members.
Sec. 1212. Public use database; reports to Congress.
Sec. 1213. Semiannual reports.
Sec. 1214. Liquidation or reorganization of a Federal Home Loan Bank.
Sec. 1215. Study and report to Congress on securitization of acquired member assets.
Sec. 1216. Technical and conforming amendments.
Sec. 1217. Study on Federal Home Loan Bank advances.
Sec. 1218. Federal Home Loan Bank refinancing authority for certain residential mortgage loans.

TITLE III—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFHEO AND THE FEDERAL HOUSING FINANCE BOARD

Subtitle A—OFHEO

Sec. 1301. Abolishment of OFHEO.
Sec. 1302. Continuation and coordination of certain actions.
Sec. 1303. Transfer and rights of employees of OFHEO.
Sec. 1304. Transfer of property and facilities.

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TITLE II—MORTGAGE FORECLOSURE PROTECTIONS FOR SERVICEMEMBERS

Sec. 2201. Temporary increase in maximum loan guaranty amount for certain housing loans guaranteed by the Secretary of Veterans Affairs.
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TITLE III—EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES

Sec. 2301. Emergency assistance for the redevelopment of abandoned and foreclosed homes.
Sec. 2302. Nationwide distribution of resources.
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TITLE IV—HOUSING COUNSELING RESOURCES

Sec. 2401. Housing counseling resources.
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Sec. 2501. Short title.
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TITLE VI—VETERANS HOUSING MATTERS

Sec. 2601. Home improvements and structural alterations for totally disabled members of the Armed Forces before discharge or release from the Armed Forces.
Sec. 2602. Eligibility for specially adapted housing benefits and assistance for members of the Armed Forces with service-connected disabilities and individuals residing outside the United States.
Sec. 2603. Specially adapted housing assistance for individuals with severe burn injuries.
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Sec. 2608. Definition of annual income for purposes of section 8 and other public housing programs.
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TITLE VII—SMALL PUBLIC HOUSING AUTHORITIES PAPERWORK REDUCTION ACT

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Sec. 2831. Short title.

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Sec. 3000. Short title; etc.

TITLE I—HOUSING TAX INCENTIVES

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PART I—LOW-INCOME HOUSING TAX CREDIT

Sec. 3001. Temporary increase in volume cap for low-income housing tax credit.
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PART II—MODIFICATIONS TO TAX-EXEMPT HOUSING BOND RULES

Sec. 3007. Recycling of tax-exempt debt for financing residential rental projects.
Sec. 3008. Coordination of certain rules applicable to low-income housing credit and qualified residential rental project exempt facility bonds.

PART III—REFORMS RELATED TO THE LOW-INCOME HOUSING CREDIT AND TAX-EXEMPT HOUSING BONDS

Sec. 3009. Hold harmless for reductions in area median gross income.
Sec. 3010. Exception to annual current income determination requirement where determination not relevant.

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Sec. 3011. First-time homebuyer credit.
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Subtitle C—General Provisions

Sec. 3021. Temporary liberalization of tax-exempt housing bond rules.
Sec. 3022. Repeal of alternative minimum tax limitations on tax-exempt housing bonds, low-income housing tax credit, and rehabilitation credit.
Sec. 3023. Bonds guaranteed by Federal home loan banks eligible for treatment as tax-exempt bonds.
Sec. 3024. Modification of rules pertaining to FIRPTA nonforeign affidavits.
Sec. 3025. Modification of definition of tax-exempt use property for purposes of the rehabilitation credit.
Sec. 3026. Extension of special rule for mortgage revenue bonds for residences located in disaster areas.
Sec. 3027. Transfer of funds appropriated to carry out 2008 recovery rebates for individuals.

TITLE II—REFORMS RELATED TO REAL ESTATE INVESTMENT TRUSTS

Subtitle A—Foreign Currency and Other Qualified Activities

Sec. 3031. Revisions to REIT income tests.
Sec. 3032. Revisions to REIT asset tests.
Sec. 3033. Conforming foreign currency revisions.

Subtitle B—Taxable REIT Subsidiaries

Sec. 3041. Conforming taxable REIT subsidiary asset test.

Subtitle C—Dealer Sales

Sec. 3051. Holding period under safe harbor.
Sec. 3052. Determining value of sales under safe harbor.

Subtitle D—Health Care REITs

Sec. 3061. Conformity for health care facilities.

Subtitle E—Effective Dates

Sec. 3071. Effective dates.

TITLE III—REVENUE PROVISIONS

Subtitle A—General Provisions

Sec. 3081. Election to accelerate the AMT and research credits in lieu of bonus depreciation.
Sec. 3082. Certain GO Zone incentives.
Sec. 3083. Increase in statutory limit on the public debt.

Subtitle B—Revenue Offsets

Sec. 3091. Returns relating to payments made in settlement of payment card and third party network transactions.
Sec. 3092. Gain from sale of principal residence allocated to nonqualified use not excluded from income.
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Sec. 3094. Time for payment of corporate estimated taxes.

# DIVISION A—HOUSING FINANCE REFORM

Federal Housing Finance Regulatory Reform Act of 2008.
12 USC 4501 note.

**SEC. 1001. SHORT TITLE.**

This division may be cited as the "Federal Housing Finance Regulatory Reform Act of 2008".

**SEC. 1002. DEFINITIONS.**

(a) FEDERAL SAFETY AND SOUNDNESS ACT DEFINITIONS.—Section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502) is amended—

(1) in each of paragraphs (8), (9), (10), and (19), by striking "Secretary" each place that term appears and inserting "Director";

(2) by redesignating paragraphs (16) through (19) as paragraphs (21) through (24), respectively;

(3) by striking paragraphs (13) through (15) and inserting the following:

"(19) OFFICE OF FINANCE.—The term 'Office of Finance' means the Office of Finance of the Federal Home Loan Bank System (or any successor thereto).

"(20) REGULATED ENTITY.—The term 'regulated entity' means—

"(A) the Federal National Mortgage Association and any affiliate thereof;

"(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof; and

"(C) any Federal Home Loan Bank.";

(4) by redesignating paragraphs (11) and (12) as paragraphs (17) and (18), respectively;

(5) by redesignating paragraph (7) as paragraph (12);

(6) by redesignating paragraphs (8) through (10) as paragraphs (14) through (16), respectively;

(7) in paragraph (5)—

(A) by striking "(5)" and inserting "(9)"; and

(B) by striking "Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" and inserting "Federal Housing Finance Agency";

(8) by redesignating paragraph (6) as paragraph (10);

(9) by redesignating paragraphs (2) through (4) as paragraphs (5) through (7), respectively;

(10) by inserting after paragraph (7), as redesignated, the following:

"(8) DEFAULT; IN DANGER OF DEFAULT.—

"(A) DEFAULT.—The term 'default' means, with respect to a regulated entity, any adjudication or other official determination by any court of competent jurisdiction, or the Agency, pursuant to which a conservator, receiver, limited-life regulated entity, or legal custodian is appointed for a regulated entity.

"(B) IN DANGER OF DEFAULT.—The term 'in danger of default' means a regulated entity with respect to which, in the opinion of the Agency—

"(i) the regulated entity is not likely to be able to pay the obligations of the regulated entity in the normal course of business; or

"(ii) the regulated entity—

"(I) has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

"(II) there is no reasonable prospect that the capital of the regulated entity will be replenished.";

(11) by inserting after paragraph (1) the following:

"(2) AGENCY.—The term 'Agency' means the Federal Housing Finance Agency established under section 1311.

"(3) AUTHORIZING STATUTES.—The term 'authorizing statutes' means—

"(A) the Federal National Mortgage Association Charter Act;

"(B) the Federal Home Loan Mortgage Corporation Act; and

"(C) the Federal Home Loan Bank Act.

"(4) BOARD.—The term 'Board' means the Federal Housing Finance Oversight Board established under section 1313A.";

(12) by inserting after paragraph (10), as redesignated by this section, the following:

"(11) ENTITY-AFFILIATED PARTY.—The term 'entity-affiliated party' means—

"(A) any director, officer, employee, or controlling stockholder of, or agent for, a regulated entity;

"(B) any shareholder, affiliate, consultant, or joint venture partner of a regulated entity, and any other person, as determined by the Director (by regulation or on a case-by-case basis) that participates in the conduct of the affairs of a regulated entity, provided that a member of a Federal Home Loan Bank shall not be deemed to have participated in the affairs of that Bank solely by virtue of being a shareholder of, and obtaining advances from, that Bank;

"(C) any independent contractor for a regulated entity (including any attorney, appraiser, or accountant), if—

"(i) the independent contractor knowingly or recklessly participates in—

"(I) any violation of any law or regulation;

"(II) any breach of fiduciary duty; or

"(III) any unsafe or unsound practice; and

"(ii) such violation, breach, or practice caused, or is likely to cause, more than a minimal financial loss

to, or a significant adverse effect on, the regulated entity;

"(D) any not-for-profit corporation that receives its principal funding, on an ongoing basis, from any regulated entity; and

"(E) the Office of Finance.";

(13) by inserting after paragraph (12), as redesignated by this section, the following:

"(13) LIMITED-LIFE REGULATED ENTITY.—The term 'limited-life regulated entity' means an entity established by the Agency under section 1367(i) with respect to a Federal Home Loan Bank in default or in danger of default or with respect to an enterprise in default or in danger of default."; and

(14) by adding at the end the following:

"(25) VIOLATION.—The term 'violation' includes any action (alone or in combination with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.".

(b) REFERENCES IN THIS ACT.—As used in this Act, unless otherwise specified— 12 USC 4511 note.

(1) the term "Agency" means the Federal Housing Finance Agency;

(2) the term "Director" means the Director of the Agency; and

(3) the terms "enterprise", "regulated entity", and "authorizing statutes" have the same meanings as in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by this Act.

# TITLE I—REFORM OF REGULATION OF ENTERPRISES

## Subtitle A—Improvement of Safety and Soundness Supervision

### SEC. 1101. ESTABLISHMENT OF THE FEDERAL HOUSING FINANCE AGENCY.

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended by striking sections 1311 and 1312 and inserting the following: 12 USC 4511, 4512.

### "SEC. 1311. ESTABLISHMENT OF THE FEDERAL HOUSING FINANCE AGENCY.

"(a) ESTABLISHMENT.—There is established the Federal Housing Finance Agency, which shall be an independent agency of the Federal Government.

"(b) GENERAL SUPERVISORY AND REGULATORY AUTHORITY.—

"(1) IN GENERAL.—Each regulated entity shall, to the extent provided in this title, be subject to the supervision and regulation of the Agency.

"(2) AUTHORITY OVER FANNIE MAE, FREDDIE MAC, THE FEDERAL HOME LOAN BANKS, AND THE OFFICE OF FINANCE.—The Director shall have general regulatory authority over each regulated entity and the Office of Finance, and shall exercise such

general regulatory authority, including such duties and authorities set forth under section 1313, to ensure that the purposes of this Act, the authorizing statutes, and any other applicable law are carried out.

"(c) SAVINGS PROVISION.—The authority of the Director to take actions under subtitles B and C shall not in any way limit the general supervisory and regulatory authority granted to the Director under subsection (b).

**"SEC. 1312. DIRECTOR.**

"(a) ESTABLISHMENT OF POSITION.—There is established the position of the Director of the Agency, who shall be the head of the Agency.

"(b) APPOINTMENT; TERM.—

President.

"(1) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of capital markets, including the mortgage securities markets and housing finance.

"(2) TERM.—The Director shall be appointed for a term of 5 years, unless removed before the end of such term for cause by the President.

"(3) VACANCY.—A vacancy in the position of Director that occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established under paragraph (1), and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term.

"(4) SERVICE AFTER END OF TERM.—An individual may serve as the Director after the expiration of the term for which appointed until a successor has been appointed.

Effective date.
Termination date.

"(5) TRANSITIONAL PROVISION.—Notwithstanding paragraphs (1) and (2), during the period beginning on the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, and ending on the date on which the Director is appointed and confirmed, the person serving as the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development on that effective date shall act for all purposes as, and with the full powers of, the Director.

"(c) DEPUTY DIRECTOR OF THE DIVISION OF ENTERPRISE REGULATION.—

"(1) IN GENERAL.—The Agency shall have a Deputy Director of the Division of Enterprise Regulation, who shall be designated by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage securities markets and housing finance.

"(2) FUNCTIONS.—The Deputy Director of the Division of Enterprise Regulation shall have such functions, powers, and duties with respect to the oversight of the enterprises as the Director shall prescribe.

"(d) DEPUTY DIRECTOR OF THE DIVISION OF FEDERAL HOME LOAN BANK REGULATION.—

"(1) IN GENERAL.—The Agency shall have a Deputy Director of the Division of Federal Home Loan Bank Regulation, who shall be designated by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of the Federal Home Loan Bank System and housing finance.

"(2) FUNCTIONS.—The Deputy Director of the Division of Federal Home Loan Bank Regulation shall have such functions, powers, and duties with respect to the oversight of the Federal Home Loan Banks as the Director shall prescribe.

"(e) DEPUTY DIRECTOR FOR HOUSING MISSION AND GOALS.—

"(1) IN GENERAL.—The Agency shall have a Deputy Director for Housing Mission and Goals, who shall be designated by the Director from among individuals who are citizens of the United States, and have a demonstrated understanding of the housing markets and housing finance.

"(2) FUNCTIONS.—The Deputy Director for Housing Mission and Goals shall have such functions, powers, and duties with respect to the oversight of the housing mission and goals of the enterprises, and with respect to oversight of the housing finance and community and economic development mission of the Federal Home Loan Banks, as the Director shall prescribe.

"(3) CONSIDERATIONS.—In exercising such functions, powers, and duties, the Deputy Director for Housing Mission and Goals shall consider the differences between the enterprises and the Federal Home Loan Banks, including those described in section 1313(d).

"(f) ACTING DIRECTOR.—In the event of the death, resignation, sickness, or absence of the Director, the President shall designate either the Deputy Director of the Division of Enterprise Regulation, the Deputy Director of the Division of Federal Home Loan Bank Regulation, or the Deputy Director for Housing Mission and Goals, to serve as acting Director until the return of the Director, or the appointment of a successor pursuant to subsection (b). President.

"(g) LIMITATIONS.—The Director and each of the Deputy Directors may not—

"(1) have any direct or indirect financial interest in any regulated entity or entity-affiliated party;

"(2) hold any office, position, or employment in any regulated entity or entity-affiliated party; or

"(3) have served as an executive officer or director of any regulated entity or entity-affiliated party at any time during the 3-year period preceding the date of appointment or designation of such individual as Director or Deputy Director, as applicable.".

**SEC. 1102. DUTIES AND AUTHORITIES OF THE DIRECTOR.**

(a) IN GENERAL.—Section 1313 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4513) is amended to read as follows:

**"SEC. 1313. DUTIES AND AUTHORITIES OF DIRECTOR.**

"(a) DUTIES.—

"(1) PRINCIPAL DUTIES.—The principal duties of the Director shall be—

"(A) to oversee the prudential operations of each regulated entity; and

"(B) to ensure that—

"(i) each regulated entity operates in a safe and sound manner, including maintenance of adequate capital and internal controls;

"(ii) the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities);

"(iii) each regulated entity complies with this title and the rules, regulations, guidelines, and orders issued under this title and the authorizing statutes;

"(iv) each regulated entity carries out its statutory mission only through activities that are authorized under and consistent with this title and the authorizing statutes; and

"(v) the activities of each regulated entity and the manner in which such regulated entity is operated are consistent with the public interest.

"(2) SCOPE OF AUTHORITY.—The authority of the Director shall include the authority—

"(A) to review and, if warranted based on the principal duties described in paragraph (1), reject any acquisition or transfer of a controlling interest in a regulated entity; and

"(B) to exercise such incidental powers as may be necessary or appropriate to fulfill the duties and responsibilities of the Director in the supervision and regulation of each regulated entity.

"(b) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Agency any of the functions, powers, or duties of the Director, as the Director considers appropriate.

"(c) LITIGATION AUTHORITY.—

"(1) IN GENERAL.—In enforcing any provision of this title, any regulation or order prescribed under this title, or any other provision of law, rule, regulation, or order, or in any other action, suit, or proceeding to which the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director's own name and through the Director's own attorneys.

"(2) SUBJECT TO SUIT.—Except as otherwise provided by law, the Director shall be subject to suit (other than suits on claims for money damages) by a regulated entity with respect to any matter under this title or any other applicable provision of law, rule, order, or regulation under this title, in the United States district court for the judicial district in which the regulated entity has its principal place of business, or in the United States District Court for the District of Columbia, and the Director may be served with process in the manner prescribed by the Federal Rules of Civil Procedure.".

(b) INDEPENDENCE IN CONGRESSIONAL TESTIMONY AND RECOMMENDATIONS.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by striking "the Federal Housing Finance Board" and inserting "the Director of the Federal Housing Finance Agency".

**SEC. 1103. FEDERAL HOUSING FINANCE OVERSIGHT BOARD.**

(a) IN GENERAL.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended by inserting after section 1313 the following:

**"SEC. 1313A. FEDERAL HOUSING FINANCE OVERSIGHT BOARD.** 12 USC 4513a.

"(a) IN GENERAL.—There is established the Federal Housing Finance Oversight Board, which shall advise the Director with respect to overall strategies and policies in carrying out the duties of the Director under this title. Establishment.

"(b) LIMITATIONS.—The Board may not exercise any executive authority, and the Director may not delegate to the Board any of the functions, powers, or duties of the Director.

"(c) COMPOSITION.—The Board shall be comprised of 4 members, of whom—

"(1) 1 member shall be the Secretary of the Treasury;

"(2) 1 member shall be the Secretary of Housing and Urban Development;

"(3) 1 member shall be the Chairman of the Securities and Exchange Commission; and

"(4) 1 member shall be the Director, who shall serve as the Chairperson of the Board.

"(d) MEETINGS.— Notices.

"(1) IN GENERAL.—The Board shall meet upon notice by the Director, but in no event shall the Board meet less frequently than once every 3 months. Deadlines.

"(2) SPECIAL MEETINGS.—Either the Secretary of the Treasury, the Secretary of Housing and Urban Development, or the Chairman of the Securities and Exchange Commission may, upon giving written notice to the Director, require a special meeting of the Board.

"(e) TESTIMONY.—On an annual basis, the Board shall testify before Congress regarding— Deadline.

"(1) the safety and soundness of the regulated entities;

"(2) any material deficiencies in the conduct of the operations of the regulated entities;

"(3) the overall operational status of the regulated entities;

"(4) an evaluation of the performance of the regulated entities in carrying out their respective missions;

"(5) operations, resources, and performance of the Agency; and

"(6) such other matters relating to the Agency and its fulfillment of its mission, as the Board determines appropriate.".

(b) ANNUAL REPORT OF THE DIRECTOR.—Section 1319B(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4521(a)) is amended—

(1) by striking "enterprise" each place that term appears and inserting "regulated entity";

(2) by striking "enterprises" each place that term appears and inserting "regulated entities";

(3) in paragraph (3), by striking "; and" and inserting a semicolon;

(4) in paragraph (4), by striking "1994." and inserting "1994; and"; and

(5) by adding at the end the following:

"(5) the assessment of the Board or any of its members with respect to—

"(A) the safety and soundness of the regulated entities;

"(B) any material deficiencies in the conduct of the operations of the regulated entities;

"(C) the overall operational status of the regulated entities; and

"(D) an evaluation of the performance of the regulated entities in carrying out their respective missions;

"(6) operations, resources, and performance of the Agency; and

"(7) such other matters relating to the Agency and the fulfillment of its mission.".

**SEC. 1104. AUTHORITY TO REQUIRE REPORTS BY REGULATED ENTITIES.**

(a) IN GENERAL.—Section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4514) is amended—

(1) in the section heading, by striking "**ENTERPRISES**" and inserting "**REGULATED ENTITIES**";

(2) by striking "an enterprise" each place that term appears and inserting "a regulated entity";

(3) by striking "the enterprise" and inserting "the regulated entity";

(4) in subsection (a)—

(A) by striking the subsection heading and all that follows through "and operations" in paragraph (1) and inserting the following:

"(a) REGULAR AND SPECIAL REPORTS.—

"(1) REGULAR REPORTS.—The Director may require, by general or specific orders, a regulated entity to submit regular reports, including financial statements determined on a fair value basis, on the condition (including financial condition), management, activities, or operations of the regulated entity, as the Director considers appropriate"; and

(B) in paragraph (2)—

(i) by inserting ", by general or specific orders," after "may also require"; and

(ii) by striking "whenever" and inserting "on any of the topics specified in paragraph (1) or any other relevant topics, if"; and

(5) by adding at the end the following:

"(c) PENALTIES FOR FAILURE TO MAKE REPORTS.—

"(1) VIOLATIONS.—It shall be a violation of this section for any regulated entity—

"(A) to fail to make, transmit, or publish any report or obtain any information required by the Director under this section, section 309(k) of the Federal National Mortgage Association Charter Act, section 307(c) of the Federal Home Loan Mortgage Corporation Act, or section 20 of the Federal Home Loan Bank Act, within the period of time specified in such provision of law or otherwise by the Director; or

"(B) to submit or publish any false or misleading report or information under this section.

"(2) PENALTIES.—

"(A) FIRST TIER.—

"(i) IN GENERAL.—A violation described in paragraph (1) shall be subject to a penalty of not more than $2,000 for each day during which such violation continues, in any case in which—

"(I) the subject regulated entity maintains procedures reasonably adapted to avoid any inadvertent error and the violation was unintentional and a result of such an error; or

"(II) the violation was an inadvertent transmittal or publication of any report which was minimally late.

"(ii) BURDEN OF PROOF.—For purposes of this subparagraph, the regulated entity shall have the burden of proving that the error was inadvertent or that a report was inadvertently transmitted or published late.

"(B) SECOND TIER.—A violation described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such violation continues or such false or misleading information is not corrected, in any case that is not addressed in subparagraph (A) or (C).

"(C) THIRD TIER.—A violation described in paragraph (1) shall be subject to a penalty of not more than $1,000,000 per day for each day during which such violation continues or such false or misleading information is not corrected, in any case in which the subject regulated entity committed such violation knowingly or with reckless disregard for the accuracy of any such information or report.

"(3) ASSESSMENTS.—Any penalty imposed under this subsection shall be in lieu of a penalty under section 1376, but shall be assessed and collected by the Director in the manner provided in section 1376 for penalties imposed under that section, and any such assessment (including the determination of the amount of the penalty) shall be otherwise subject to the provisions of section 1376.

"(4) HEARING.—A regulated entity against which a penalty is assessed under this section shall be afforded an agency hearing if the regulated entity submits a request for a hearing not later than 20 days after the date of the issuance of the notice of assessment. Section 1374 shall apply to any such proceedings.". Deadline. Applicability.

(b) CONFORMING AMENDMENT.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended by striking sections 1327 and 1328. 12 USC 4547, 4548.

**SEC. 1105. EXAMINERS AND ACCOUNTANTS; AUTHORITY TO CONTRACT FOR REVIEWS OF REGULATED ENTITIES; OMBUDSMAN.**

(a) IN GENERAL.—Section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4517) is amended—

(1) in subsection (a), by striking "enterprise" each place that term appears and inserting "regulated entity";

(2) in subsection (b)—

(A) by inserting "of a regulated entity" after "under this section"; and

(B) by striking "to determine the condition of an enterprise for the purpose of ensuring its financial safety and soundness" and inserting "or appropriate";

(3) in subsection (c), in the second sentence, by inserting before the period "to conduct examinations under this section";

(4) by redesignating subsections (d) through (f) as subsections (e) through (g), respectively; and

(5) by inserting after subsection (c) the following:

"(d) INSPECTOR GENERAL.—There shall be within the Agency an Inspector General, who shall be appointed in accordance with section 3(a) of the Inspector General Act of 1978.".

(b) DIRECT HIRE AUTHORITY TO HIRE ACCOUNTANTS, ECONOMISTS, AND EXAMINERS.—Section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4517) is amended by adding at the end the following:

"(h) APPOINTMENT OF ACCOUNTANTS, ECONOMISTS, AND EXAMINERS.—

"(1) APPLICABILITY.—This section shall apply with respect to any position of examiner, accountant, economist, and specialist in financial markets and in technology at the Agency, with respect to supervision and regulation of the regulated entities, that is in the competitive service.

"(2) APPOINTMENT AUTHORITY.—The Director may appoint candidates to any position described in paragraph (1)—

"(A) in accordance with the statutes, rules, and regulations governing appointments in the excepted service; and

"(B) notwithstanding any statutes, rules, and regulations governing appointments in the competitive service.".

(c) AMENDMENTS TO INSPECTOR GENERAL ACT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "; the Director of the Federal Housing Finance Agency" after "Social Security Administration"; and

(2) in paragraph (2), by inserting ", the Federal Housing Finance Agency" after "Social Security Administration".

(d) AUTHORITY TO CONTRACT FOR REVIEWS OF REGULATED ENTITIES.—Section 1319 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4519) is amended—

(1) in the section heading, by striking "**ENTERPRISES BY RATING ORGANIZATION**" and inserting "**REGULATED ENTITIES**"; and

(2) by striking "enterprises" and inserting "regulated entities".

(e) OFFICE OF THE OMBUDSMAN.—Section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4517) is amended by adding at the end the following:

Establishment. Regulations.

"(i) OMBUDSMAN.—The Director shall establish, by regulation, an Office of the Ombudsman within the Agency, which shall be responsible for considering complaints and appeals, from any regulated entity and any person that has a business relationship with a regulated entity, regarding any matter relating to the regulation and supervision of such regulated entity by the Agency. The regulation issued by the Director under this subsection shall specify the authority and duties of the Office of the Ombudsman.".

**SEC. 1106. ASSESSMENTS.**

Section 1316 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4516) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ANNUAL ASSESSMENTS.—The Director shall establish and collect from the regulated entities annual assessments in an amount not exceeding the amount sufficient to provide for reasonable costs (including administrative costs) and expenses of the Agency, including—

"(1) the expenses of any examinations under section 1317 of this Act and under section 20 of the Federal Home Loan Bank Act;

"(2) the expenses of obtaining any reviews and credit assessments under section 1319;

"(3) such amounts in excess of actual expenses for any given year as deemed necessary by the Director to maintain a working capital fund in accordance with subsection (e); and

"(4) the windup of the affairs of the Office of Federal Housing Enterprise Oversight and the Federal Housing Finance Board under title III of the Federal Housing Finance Regulatory Reform Act of 2008.";

(2) in subsection (b)—

(A) by realigning the margins of paragraph (2) two ems from the left, so as to align the left margin of such paragraph with the left margins of paragraph (1);

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(C) by inserting after paragraph (1) the following:

"(2) SEPARATE TREATMENT OF FEDERAL HOME LOAN BANK AND ENTERPRISE ASSESSMENTS.—Assessments collected from the enterprises shall not exceed the amounts sufficient to provide for the costs and expenses described in subsection (a) relating to the enterprises. Assessments collected from the Federal Home Loan Banks shall not exceed the amounts sufficient to provide for the costs and expenses described in subsection (a) relating to the Federal Home Loan Banks.";

(3) by striking subsection (c) and inserting the following:

"(c) INCREASED COSTS OF REGULATION.—

"(1) INCREASE FOR INADEQUATE CAPITALIZATION.—The semiannual payments made pursuant to subsection (b) by any regulated entity that is not classified (for purposes of subtitle B) as adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation of the regulated entity.

"(2) ADJUSTMENT FOR ENFORCEMENT ACTIVITIES.—The Director may adjust the amounts of any semiannual payments for an assessment under subsection (a) that are to be paid pursuant to subsection (b) by a regulated entity, as necessary in the discretion of the Director, to ensure that the costs of enforcement activities under this Act for a regulated entity are borne only by such regulated entity.

"(3) ADDITIONAL ASSESSMENT FOR DEFICIENCIES.—If at any time, as a result of increased costs of regulation of a regulated entity that is not classified (for purposes of subtitle B) as adequately capitalized or as the result of supervisory or enforcement activities under this Act for a regulated entity, the amount

available from any semiannual payment made by such regulated entity pursuant to subsection (b) is insufficient to cover the costs of the Agency with respect to such entity, the Director may make and collect from such regulated entity an immediate assessment to cover the amount of such deficiency for the semiannual period. If, at the end of any semiannual period during which such an assessment is made, any amount remains from such assessment, such remaining amount shall be deducted from the assessment for such regulated entity for the following semiannual period.";

(4) in subsection (d), by striking "If" and inserting "Except with respect to amounts collected pursuant to subsection (a)(3), if"; and

(5) by striking subsections (e) through (g) and inserting the following:

"(e) WORKING CAPITAL FUND.—At the end of each year for which an assessment under this section is made, the Director shall remit to each regulated entity any amount of assessment collected from such regulated entity that is attributable to subsection (a)(3) and is in excess of the amount the Director deems necessary to maintain a working capital fund.

"(f) TREATMENT OF ASSESSMENTS.—

"(1) DEPOSIT.—Amounts received by the Director from assessments under this section may be deposited by the Director in the manner provided in section 5234 of the Revised Statutes of the United States (12 U.S.C. 192) for monies deposited by the Comptroller of the Currency.

"(2) NOT GOVERNMENT FUNDS.—The amounts received by the Director from any assessment under this section shall not be construed to be Government or public funds or appropriated money.

"(3) NO APPORTIONMENT OF FUNDS.—Notwithstanding any other provision of law, the amounts received by the Director from any assessment under this section shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

"(4) USE OF FUNDS.—The Director may use any amounts received by the Director from assessments under this section for compensation of the Director and other employees of the Agency and for all other expenses of the Director and the Agency.

"(5) AVAILABILITY OF OVERSIGHT FUND AMOUNTS.—Notwithstanding any other provision of law, any amounts remaining in the Federal Housing Enterprises Oversight Fund established under this section (as in effect before the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, and any amounts remaining from assessments on the Federal Home Loan Banks pursuant to section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1438(b)), shall, upon such effective date, be treated for purposes of this subsection as amounts received from assessments under this section.

"(6) TREASURY INVESTMENTS.—

"(A) AUTHORITY.—The Director may request the Secretary of the Treasury to invest such portions of amounts received by the Director from assessments paid under this section that, in the Director's discretion, are not required to meet the current working needs of the Agency.

"(B) GOVERNMENT OBLIGATIONS.—Pursuant to a request under subparagraph (A), the Secretary of the Treasury shall invest such amounts in Government obligations guaranteed as to principal and interest by the United States with maturities suitable to the needs of the Agency and bearing interest at a rate determined by the Secretary of the Treasury taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

"(g) BUDGET AND FINANCIAL MANAGEMENT.—

"(1) FINANCIAL OPERATING PLANS AND FORECASTS.—The Director shall provide to the Director of the Office of Management and Budget copies of the Director's financial operating plans and forecasts, as prepared by the Director in the ordinary course of the Agency's operations, and copies of the quarterly reports of the Agency's financial condition and results of operations, as prepared by the Director in the ordinary course of the Agency's operations. Reports.

"(2) FINANCIAL STATEMENTS.—The Agency shall prepare annually a statement of— Deadline.

"(A) assets and liabilities and surplus or deficit;

"(B) income and expenses; and

"(C) sources and application of funds.

"(3) FINANCIAL MANAGEMENT SYSTEMS.—The Agency shall implement and maintain financial management systems that—

"(A) comply substantially with Federal financial management systems requirements and applicable Federal accounting standards; and

"(B) use a general ledger system that accounts for activity at the transaction level.

"(4) ASSERTION OF INTERNAL CONTROLS.—The Director shall provide to the Comptroller General of the United States an assertion as to the effectiveness of the internal controls that apply to financial reporting by the Agency, using the standards established in section 3512(c) of title 31, United States Code.

"(5) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Director to consult with or obtain the consent or approval of the Director of the Office of Management and Budget with respect to any report, plan, forecast, or other information referred to in paragraph (1) or any jurisdiction or oversight over the affairs or operations of the Agency.

"(h) AUDIT OF AGENCY.—

"(1) IN GENERAL.—The Comptroller General shall annually audit the financial transactions of the Agency in accordance with the United States generally accepted government auditing standards as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Agency are normally kept. The representatives of the Government Accountability Office shall have access to the personnel and to all books, accounts, documents, papers, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to or under the control of or used or employed by the Agency pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying Deadline. Records.

transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, documents, records, reports, files, papers, and property of the Agency shall remain in possession and custody of the Agency. The Comptroller General may obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to such audit without cost to the Comptroller General and the Comptroller General's right of access to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code.

"(2) REPORT.—The Comptroller General shall submit to the Congress a report of each annual audit conducted under this subsection. The report to the Congress shall set forth the scope of the audit and shall include the statement of assets and liabilities and surplus or deficit, the statement of income and expenses, the statement of sources and application of funds, and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Agency, together with such recommendations with respect thereto as the Comptroller General may deem advisable. A copy of each report shall be furnished to the President and to the Agency at the time submitted to the Congress.

"(3) ASSISTANCE AND COSTS.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes. Upon the request of the Comptroller General, the Director of the Agency shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.".

**SEC. 1107. REGULATIONS AND ORDERS.**

Section 1319G of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4526) is amended—

(1) by striking subsection (a) and inserting the following:

Guidelines.

"(a) AUTHORITY.—The Director shall issue any regulations, guidelines, or orders necessary to carry out the duties of the Director under this title or the authorizing statutes, and to ensure that the purposes of this title and the authorizing statutes are accomplished."; and

(2) by striking subsection (c).

**SEC. 1108. PRUDENTIAL MANAGEMENT AND OPERATIONS STANDARDS.**

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended by inserting after section 1313A, as added by this Act, the following new section:

**"SEC. 1313B. PRUDENTIAL MANAGEMENT AND OPERATIONS STANDARDS.** 12 USC 4513b.

"(a) STANDARDS.—The Director shall establish standards, by regulation or guideline, for each regulated entity relating to— Regulations. Guidelines.

"(1) adequacy of internal controls and information systems taking into account the nature and scale of business operations;

"(2) independence and adequacy of internal audit systems;

"(3) management of interest rate risk exposure;

"(4) management of market risk, including standards that provide for systems that accurately measure, monitor, and control market risks and, as warranted, that establish limitations on market risk;

"(5) adequacy and maintenance of liquidity and reserves;

"(6) management of asset and investment portfolio growth;

"(7) investments and acquisitions of assets by a regulated entity, to ensure that they are consistent with the purposes of this title and the authorizing statutes;

"(8) overall risk management processes, including adequacy of oversight by senior management and the board of directors and of processes and policies to identify, measure, monitor, and control material risks, including reputational risks, and for adequate, well-tested business resumption plans for all major systems with remote site facilities to protect against disruptive events;

"(9) management of credit and counterparty risk, including systems to identify concentrations of credit risk and prudential limits to restrict exposure of the regulated entity to a single counterparty or groups of related counterparties;

"(10) maintenance of adequate records, in accordance with consistent accounting policies and practices that enable the Director to evaluate the financial condition of the regulated entity; and

"(11) such other operational and management standards as the Director determines to be appropriate.

"(b) FAILURE TO MEET STANDARDS.—

"(1) PLAN REQUIREMENT.—

"(A) IN GENERAL.—If the Director determines that a regulated entity fails to meet any standard established under subsection (a)—

"(i) if such standard is established by regulation, the Director shall require the regulated entity to submit an acceptable plan to the Director within the time allowed under subparagraph (C); and

"(ii) if such standard is established by guideline, the Director may require the regulated entity to submit a plan described in clause (i).

"(B) CONTENTS.—Any plan required under subparagraph (A) shall specify the actions that the regulated entity will take to correct the deficiency. If the regulated entity is undercapitalized, the plan may be a part of the capital restoration plan for the regulated entity under section 1369C.

"(C) DEADLINES FOR SUBMISSION AND REVIEW.—The Director shall by regulation establish deadlines that— Regulations.

"(i) provide the regulated entities with reasonable time to submit plans required under subparagraph (A), and generally require a regulated entity to submit

a plan not later than 30 days after the Director determines that the entity fails to meet any standard established under subsection (a); and

"(ii) require the Director to act on plans expeditiously, and generally not later than 30 days after the plan is submitted.

Applicability.

"(2) REQUIRED ORDER UPON FAILURE TO SUBMIT OR IMPLEMENT PLAN.—If a regulated entity fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the Director, the following shall apply:

"(A) REQUIRED CORRECTION OF DEFICIENCY.—The Director shall, by order, require the regulated entity to correct the deficiency.

"(B) OTHER AUTHORITY.—The Director may, by order, take one or more of the following actions until the deficiency is corrected:

"(i) Prohibit the regulated entity from permitting its average total assets (as such term is defined in section 1316(b)) during any calendar quarter to exceed its average total assets during the preceding calendar quarter, or restrict the rate at which the average total assets of the entity may increase from one calendar quarter to another.

"(ii) Require the regulated entity—

"(I) in the case of an enterprise, to increase its ratio of core capital to assets.

"(II) in the case of a Federal Home Loan Bank, to increase its ratio of total capital (as such term is defined in section 6(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(5)) to assets.

"(iii) Require the regulated entity to take any other action that the Director determines will better carry out the purposes of this section than any of the actions described in this subparagraph.

"(3) MANDATORY RESTRICTIONS.—In complying with paragraph (2), the Director shall take one or more of the actions described in clauses (i) through (iii) of paragraph (2)(B) if—

"(A) the Director determines that the regulated entity fails to meet any standard prescribed under subsection (a);

"(B) the regulated entity has not corrected the deficiency; and

"(C) during the 18-month period before the date on which the regulated entity first failed to meet the standard, the entity underwent extraordinary growth, as defined by the Director.

"(c) OTHER ENFORCEMENT AUTHORITY NOT AFFECTED.—The authority of the Director under this section is in addition to any other authority of the Director.".

**SEC. 1109. REVIEW OF AND AUTHORITY OVER ENTERPRISE ASSETS AND LIABILITIES.**

(a) IN GENERAL.—Subtitle B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4611 et seq.) is amended—

(1) by striking the subtitle designation and heading and inserting the following:

## "Subtitle B—Required Capital Levels for Regulated Entities, Special Enforcement Powers, and Reviews of Assets and Liabilities";

and

(2) by adding at the end the following new section:

**"SEC. 1369E. REVIEWS OF ENTERPRISE ASSETS AND LIABILITIES.** 12 USC 4624.

"(a) IN GENERAL.—The Director shall, by regulation, establish criteria governing the portfolio holdings of the enterprises, to ensure that the holdings are backed by sufficient capital and consistent with the mission and the safe and sound operations of the enterprises. In establishing such criteria, the Director shall consider the ability of the enterprises to provide a liquid secondary market through securitization activities, the portfolio holdings in relation to the overall mortgage market, and adherence to the standards specified in section 1313B. Regulations. Criteria.

"(b) TEMPORARY ADJUSTMENTS.—The Director may, by order, make temporary adjustments to the established standards for an enterprise or both enterprises, such as during times of economic distress or market disruption.

"(c) AUTHORITY TO REQUIRE DISPOSITION OR ACQUISITION.—The Director shall monitor the portfolio of each enterprise. Pursuant to subsection (a) and notwithstanding the capital classifications of the enterprises, the Director may, by order, require an enterprise, under such terms and conditions as the Director determines to be appropriate, to dispose of or acquire any asset, if the Director determines that such action is consistent with the purposes of this Act or any of the authorizing statutes.".

(b) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the effective date of this Act, the Director shall issue regulations pursuant to section 1369E(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as added by subsection (a) of this section) establishing the portfolio holdings standards under such section. Deadline. Standards. 12 USC 4624 note.

**SEC. 1110. RISK-BASED CAPITAL REQUIREMENTS.**

(a) IN GENERAL.—Section 1361 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4611) is amended to read as follows:

**"SEC. 1361. RISK-BASED CAPITAL LEVELS FOR REGULATED ENTITIES.**

"(a) IN GENERAL.—

"(1) ENTERPRISES.—The Director shall, by regulation, establish risk-based capital requirements for the enterprises to ensure that the enterprises operate in a safe and sound manner, maintaining sufficient capital and reserves to support the risks that arise in the operations and management of the enterprises. Regulations.

"(2) FEDERAL HOME LOAN BANKS.—The Director shall establish risk-based capital standards under section 6 of the Federal Home Loan Bank Act for the Federal Home Loan Banks. Standards.

"(b) NO LIMITATION.—Nothing in this section shall limit the authority of the Director to require other reports or undertakings, or take other action, in furtherance of the responsibilities of the Director under this Act.".

(b) FEDERAL HOME LOAN BANKS RISK-BASED CAPITAL.—Section 6(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(3)) is amended—

(1) by striking subparagraph (A) and inserting the following:

Regulations.

"(A) RISK-BASED CAPITAL STANDARDS.—The Director shall, by regulation, establish risk-based capital standards for the Federal Home Loan Banks to ensure that the Federal Home Loan Banks operate in a safe and sound manner, with sufficient permanent capital and reserves to support the risks that arise in the operations and management of the Federal Home Loans Banks."; and

(2) in subparagraph (B), by striking "(A)(ii)" and inserting "(A)".

**SEC. 1111. MINIMUM CAPITAL LEVELS.**

Section 1362 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4612) is amended—

(1) in subsection (a), by striking "IN GENERAL" and inserting "ENTERPRISES"; and

(2) by striking subsection (b) and inserting the following:

"(b) FEDERAL HOME LOAN BANKS.—For purposes of this subtitle, the minimum capital level for each Federal Home Loan Bank shall be the minimum capital required to be maintained to comply with the leverage requirement for the bank established under section 6(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(2)).

"(c) ESTABLISHMENT OF REVISED MINIMUM CAPITAL LEVELS.—Notwithstanding subsections (a) and (b) and notwithstanding the capital classifications of the regulated entities, the Director may, by regulations issued under section 1319G, establish a minimum capital level for the enterprises, for the Federal Home Loan Banks, or for both the enterprises and the banks, that is higher than the level specified in subsection (a) for the enterprises or the level specified in subsection (b) for the Federal Home Loan Banks, to the extent needed to ensure that the regulated entities operate in a safe and sound manner.

"(d) AUTHORITY TO REQUIRE TEMPORARY INCREASE.—

"(1) IN GENERAL.—Notwithstanding subsections (a) and (b) and any minimum capital level established pursuant to subsection (c), the Director may, by order, increase the minimum capital level for a regulated entity on a temporary basis, when the Director determines that such an increase is necessary and consistent with the prudential regulation and the safe and sound operations of a regulated entity.

"(2) RESCISSION.—The Director shall rescind any temporary minimum capital level established under paragraph (1) when the Director determines that the circumstances or facts no longer justify the temporary minimum capital level.

"(3) REGULATIONS REQUIRED.—The Director shall issue regulations establishing—

"(A) standards for the imposition of a temporary increase in minimum capital under paragraph (1);

"(B) the standards and procedures that the Director will use to make the determination referred to in paragraph (2); and

"(C) a reasonable time frame for periodic review of any temporary increase in minimum capital for the purpose of making the determination referred to in paragraph (2).

"(e) AUTHORITY TO ESTABLISH ADDITIONAL CAPITAL AND RESERVE REQUIREMENTS FOR PARTICULAR PURPOSES.—The Director may, at any time by order or regulation, establish such capital or reserve requirements with respect to any product or activity of a regulated entity, as the Director considers appropriate to ensure that the regulated entity operates in a safe and sound manner, with sufficient capital and reserves to support the risks that arise in the operations and management of the regulated entity.

"(f) PERIODIC REVIEW.—The Director shall periodically review the amount of core capital maintained by the enterprises, the amount of capital retained by the Federal Home Loan Banks, and the minimum capital levels established for such regulated entities pursuant to this section.".

**SEC. 1112. REGISTRATION UNDER THE SECURITIES LAWS.**

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following:

**"SEC. 38. FEDERAL NATIONAL MORTGAGE ASSOCIATION, FEDERAL HOME LOAN MORTGAGE CORPORATION, FEDERAL HOME LOAN BANKS.** 15 USC 78oo.

"(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION AND FEDERAL HOME LOAN MORTGAGE CORPORATION.—No class of equity securities of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation shall be treated as an exempted security for purposes of section 12, 13, 14, or 16.

"(b) FEDERAL HOME LOAN BANKS.—

"(1) REGISTRATION.—Each Federal Home Loan Bank shall register a class of its common stock under section 12(g), not later than 120 days after the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, and shall thereafter maintain such registration and be treated for purposes of this title as an 'issuer', the securities of which are required to be registered under section 12, regardless of the number of members holding such stock at any given time. Deadline.

"(2) STANDARDS RELATING TO AUDIT COMMITTEES.—Each Federal Home Loan Bank shall comply with the rules issued by the Commission under section 10A(m).

"(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) FEDERAL HOME LOAN BANK; MEMBER.—The terms 'Federal Home Loan Bank' and 'member', have the same meanings as in section 2 of the Federal Home Loan Bank Act.

"(2) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—The term 'Federal National Mortgage Association' means the corporation created by the Federal National Mortgage Association Charter Act.

"(3) FEDERAL HOME LOAN MORTGAGE CORPORATION.—The term 'Federal Home Loan Mortgage Corporation' means the corporation created by the Federal Home Loan Mortgage Corporation Act.".

**SEC. 1113. PROHIBITION AND WITHHOLDING OF EXECUTIVE COMPENSATION.**

(a) IN GENERAL.—Section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518) is amended—

(1) in the section heading, by striking "**OF EXCESSIVE**" and inserting "**AND WITHHOLDING OF EXECUTIVE**";

(2) in subsection (a)—

(A) by striking "enterprise" and inserting "regulated entity"; and

(B) by striking "enterprises" and inserting "regulated entities";

(3) by redesignating subsection (b) as subsection (d); and

(4) by inserting after subsection (a) the following:

"(b) FACTORS.—In making any determination under subsection (a), the Director may take into consideration any factors the Director considers relevant, including any wrongdoing on the part of the executive officer, and such wrongdoing shall include any fraudulent act or omission, breach of trust or fiduciary duty, violation of law, rule, regulation, order, or written agreement, and insider abuse with respect to the regulated entity. The approval of an agreement or contract pursuant to section 309(d)(3)(B) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)(3)(B)) or section 303(h)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(h)(2)) shall not preclude the Director from making any subsequent determination under subsection (a).

"(c) WITHHOLDING OF COMPENSATION.—In carrying out subsection (a), the Director may require a regulated entity to withhold any payment, transfer, or disbursement of compensation to an executive officer, or to place such compensation in an escrow account, during the review of the reasonableness and comparability of compensation.".

(b) CONFORMING AMENDMENTS.—

(1) FANNIE MAE.—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended by adding at the end the following new paragraph:

"(4) Notwithstanding any other provision of this section, the corporation shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).".

(2) FREDDIE MAC.—Section 303(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(h)) is amended by adding at the end the following new paragraph:

"(4) Notwithstanding any other provision of this section, the Corporation shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).".

(3) FEDERAL HOME LOAN BANKS.—Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended by adding at the end the following new subsection:

"(l) WITHHOLDING OF COMPENSATION.—Notwithstanding any other provision of this section, a Federal Home Loan Bank shall not transfer, disburse, or pay compensation to any executive officer,

or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).".

**SEC. 1114. LIMIT ON GOLDEN PARACHUTES.**

Section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518) is amended by adding at the end the following:

"(e) AUTHORITY TO REGULATE OR PROHIBIT CERTAIN FORMS OF BENEFITS TO AFFILIATED PARTIES.—

"(1) GOLDEN PARACHUTES AND INDEMNIFICATION PAYMENTS.—The Director may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment.

"(2) FACTORS TO BE TAKEN INTO ACCOUNT.—The Director shall prescribe, by regulation, the factors to be considered by the Director in taking any action pursuant to paragraph (1), which may include such factors as— Regulations.

"(A) whether there is a reasonable basis to believe that the affiliated party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the regulated entity that has had a material effect on the financial condition of the regulated entity;

"(B) whether there is a reasonable basis to believe that the affiliated party is substantially responsible for the insolvency of the regulated entity, the appointment of a conservator or receiver for the regulated entity, or the troubled condition of the regulated entity (as defined in regulations prescribed by the Director);

"(C) whether there is a reasonable basis to believe that the affiliated party has materially violated any applicable provision of Federal or State law or regulation that has had a material effect on the financial condition of the regulated entity;

"(D) whether the affiliated party was in a position of managerial or fiduciary responsibility; and

"(E) the length of time that the party was affiliated with the regulated entity, and the degree to which—

"(i) the payment reasonably reflects compensation earned over the period of employment; and

"(ii) the compensation involved represents a reasonable payment for services rendered.

"(3) CERTAIN PAYMENTS PROHIBITED.—No regulated entity may prepay the salary or any liability or legal expense of any affiliated party if such payment is made—

"(A) in contemplation of the insolvency of such regulated entity, or after the commission of an act of insolvency; and

"(B) with a view to, or having the result of—

"(i) preventing the proper application of the assets of the regulated entity to creditors; or

"(ii) preferring one creditor over another.

"(4) GOLDEN PARACHUTE PAYMENT DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'golden parachute payment' means any payment (or

any agreement to make any payment) in the nature of compensation by any regulated entity for the benefit of any affiliated party pursuant to an obligation of such regulated entity that—

"(i) is contingent on the termination of such party's affiliation with the regulated entity; and

"(ii) is received on or after the date on which—

"(I) the regulated entity became insolvent;

"(II) any conservator or receiver is appointed for such regulated entity; or

"(III) the Director determines that the regulated entity is in a troubled condition (as defined in the regulations of the Director).

"(B) CERTAIN PAYMENTS IN CONTEMPLATION OF AN EVENT.—Any payment which would be a golden parachute payment but for the fact that such payment was made before the date referred to in subparagraph (A)(ii) shall be treated as a golden parachute payment if the payment was made in contemplation of the occurrence of an event described in any subclause of such subparagraph.

"(C) CERTAIN PAYMENTS NOT INCLUDED.—For purposes of this subsection, the term 'golden parachute payment' shall not include—

"(i) any payment made pursuant to a retirement plan which is qualified (or is intended to be qualified) under section 401 of the Internal Revenue Code of 1986, or other nondiscriminatory benefit plan;

"(ii) any payment made pursuant to a bona fide deferred compensation plan or arrangement which the Director determines, by regulation or order, to be permissible; or

"(iii) any payment made by reason of the death or disability of an affiliated party.

"(5) OTHER DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) INDEMNIFICATION PAYMENT.—Subject to paragraph (6), the term 'indemnification payment' means any payment (or any agreement to make any payment) by any regulated entity for the benefit of any person who is or was an affiliated party, to pay or reimburse such person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the Agency which results in a final order under which such person—

"(i) is assessed a civil money penalty;

"(ii) is removed or prohibited from participating in conduct of the affairs of the regulated entity; or

"(iii) is required to take any affirmative action to correct certain conditions resulting from violations or practices, by order of the Director.

"(B) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—

"(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(C) PAYMENT.—The term 'payment' includes—

"(i) any direct or indirect transfer of any funds or any asset; and

"(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated, without regard to whether the obligation to make such payment is contingent on—

"(I) the determination, after such date, of the liability for the payment of such amount; or

"(II) the liquidation, after such date, of the amount of such payment.

"(6) CERTAIN COMMERCIAL INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any regulated entity from purchasing any commercial insurance policy or fidelity bond, except that, subject to any requirement described in paragraph (5)(A)(iii), such insurance policy or bond shall not cover any legal or liability expense of the regulated entity which is described in paragraph (5)(A).".

**SEC. 1115. REPORTING OF FRAUDULENT LOANS.**

Part 1 of subtitle C of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4631 et seq.), as amended by this Act, is amended by adding at the end the following:

**"SEC. 1379E. REPORTING OF FRAUDULENT LOANS.** 12 USC 4642.

"(a) REQUIREMENT TO REPORT.—The Director shall require a regulated entity to submit to the Director a timely report upon discovery by the regulated entity that it has purchased or sold a fraudulent loan or financial instrument, or suspects a possible fraud relating to the purchase or sale of any loan or financial instrument. The Director shall require each regulated entity to establish and maintain procedures designed to discover any such transactions. Procedures.

"(b) PROTECTION FROM LIABILITY FOR REPORTS.—Any regulated entity that, in good faith, makes a report pursuant to subsection (a), and any entity-affiliated party, that, in good faith, makes or requires another to make any such report, shall not be liable to any person under any provision of law or regulation, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement) for such report or for any failure to provide notice of such report to the person who is the subject of such report or any other persons identified in the report.".

**SEC. 1116. INCLUSION OF MINORITIES AND WOMEN; DIVERSITY IN AGENCY WORKFORCE.**

Section 1319A of the Housing and Community Development Act of 1992 (12 U.S.C. 4520) is amended—

(1) in the section heading, by striking "**EQUAL OPPORTUNITY IN SOLICITATION OF CONTRACTS**" and inserting

"**MINORITY AND WOMEN INCLUSION; DIVERSITY REQUIREMENTS**";

(2) in subsection (a), by striking "(a) IN GENERAL.—Each enterprise" and inserting "(e) OUTREACH.—Each regulated entity"; and

(3) by striking subsection (b);

(4) by inserting before subsection (e), as so redesignated by paragraph (2) of this section, the following new subsections:

Establishment.

"(a) OFFICE OF MINORITY AND WOMEN INCLUSION.—Each regulated entity shall establish an Office of Minority and Women Inclusion, or designate an office of the entity, that shall be responsible for carrying out this section and all matters of the entity relating to diversity in management, employment, and business activities in accordance with such standards and requirements as the Director shall establish.

Standards. Procedures.

"(b) INCLUSION IN ALL LEVELS OF BUSINESS ACTIVITIES.—Each regulated entity shall develop and implement standards and procedures to ensure, to the maximum extent possible, the inclusion and utilization of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and women, and minority- and women-owned businesses (as such terms are defined in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)) (including financial institutions, investment banking firms, mortgage banking firms, asset management firms, broker-dealers, financial services firms, underwriters, accountants, brokers, investment consultants, and providers of legal services) in all business and activities of the regulated entity at all levels, including in procurement, insurance, and all types of contracts (including contracts for the issuance or guarantee of any debt, equity, or mortgage-related securities, the management of its mortgage and securities portfolios, the making of its equity investments, the purchase, sale and servicing of single- and multi-family mortgage loans, and the implementation of its affordable housing program and initiatives). The processes established by each regulated entity for review and evaluation for contract proposals and to hire service providers shall include a component that gives consideration to the diversity of the applicant.

Contracts.

"(c) APPLICABILITY.—This section shall apply to all contracts of a regulated entity for services of any kind, including services that require the services of investment banking, asset management entities, broker-dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services.

"(d) INCLUSION IN ANNUAL REPORTS.—Each regulated entity shall include, in the annual report submitted by the entity to the Director pursuant to section 309(k) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(k)), section 307(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(c)), and section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440), as applicable, detailed information describing the actions taken by the entity pursuant to this section, which shall include a statement of the total amounts paid by the entity to third party contractors since the last such report and the percentage of such amounts paid to businesses described in subsection (b) of this section."; and

(5) by adding at the end the following new subsection:

"(f) DIVERSITY IN AGENCY WORKFORCE.—The Agency shall take affirmative steps to seek diversity in its workforce at all levels of the agency consistent with the demographic diversity of the United States, which shall include—

"(1) heavily recruiting at historically Black colleges and universities, Hispanic-serving institutions, women's colleges, and colleges that typically serve majority minority populations;

"(2) sponsoring and recruiting at job fairs in urban communities, and placing employment advertisements in newspapers and magazines oriented toward women and people of color;

"(3) partnering with organizations that are focused on developing opportunities for minorities and women to place talented young minorities and women in industry internships, summer employment, and full-time positions; and

"(4) where feasible, partnering with inner-city high schools, girls' high schools, and high schools with majority minority populations to establish or enhance financial literacy programs and provide mentoring.".

**SEC. 1117. TEMPORARY AUTHORITY FOR PURCHASE OF OBLIGATIONS OF REGULATED ENTITIES BY SECRETARY OF TREASURY.**

(a) FANNIE MAE.—Section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719) is amended by adding at the end the following new subsection:

"(g) TEMPORARY AUTHORITY OF TREASURY TO PURCHASE OBLIGATIONS AND SECURITIES; CONDITIONS.—

"(1) AUTHORITY TO PURCHASE.—

"(A) GENERAL AUTHORITY.—In addition to the authority under subsection (c) of this section, the Secretary of the Treasury is authorized to purchase any obligations and other securities issued by the corporation under any section of this Act, on such terms and conditions as the Secretary may determine and in such amounts as the Secretary may determine. Nothing in this subsection requires the corporation to issue obligations or securities to the Secretary without mutual agreement between the Secretary and the corporation. Nothing in this subsection permits or authorizes the Secretary, without the agreement of the corporation, to engage in open market purchases of the common securities of the corporation.

"(B) EMERGENCY DETERMINATION REQUIRED.—In connection with any use of this authority, the Secretary must determine that such actions are necessary to—

"(i) provide stability to the financial markets;

"(ii) prevent disruptions in the availability of mortgage finance; and

"(iii) protect the taxpayer.

"(C) CONSIDERATIONS.—To protect the taxpayers, the Secretary of the Treasury shall take into consideration the following in connection with exercising the authority contained in this paragraph:

"(i) The need for preferences or priorities regarding payments to the Government.

"(ii) Limits on maturity or disposition of obligations or securities to be purchased.

"(iii) The corporation's plan for the orderly resumption of private market funding or capital market access.

"(iv) The probability of the corporation fulfilling the terms of any such obligation or other security, including repayment.

"(v) The need to maintain the corporation's status as a private shareholder-owned company.

"(vi) Restrictions on the use of corporation resources, including limitations on the payment of dividends and executive compensation and any such other terms and conditions as appropriate for those purposes.

"(D) REPORTS TO CONGRESS.—Upon exercise of this authority, the Secretary shall report to the Committees on the Budget, Financial Services, and Ways and Means of the House of Representatives and the Committees on the Budget, Finance, and Banking, Housing, and Urban Affairs of the Senate as to the necessity for the purchase and the determinations made by the Secretary under subparagraph (B) and with respect to the considerations required under subparagraph (C), and the size, terms, and probability of repayment or fulfillment of other terms of such purchase.

"(2) RIGHTS; SALE OF OBLIGATIONS AND SECURITIES.—

"(A) EXERCISE OF RIGHTS.—The Secretary of the Treasury may, at any time, exercise any rights received in connection with such purchases.

"(B) SALE OF OBLIGATION AND SECURITIES.—The Secretary of the Treasury may, at any time, subject to the terms of the security or otherwise upon terms and conditions and at prices determined by the Secretary, sell any obligation or security acquired by the Secretary under this subsection.

"(C) APPLICATION OF SUNSET TO PURCHASED OBLIGATIONS OR SECURITIES.—The authority of the Secretary of the Treasury to hold, exercise any rights received in connection with, or sell, any obligations or securities purchased is not subject to the provisions of paragraph (4).

"(3) FUNDING.—For the purpose of the authorities granted in this subsection, the Secretary of the Treasury may use the proceeds of the sale of any securities issued under chapter 31 of Title 31, and the purposes for which securities may be issued under chapter 31 of Title 31 are extended to include such purchases and the exercise of any rights in connection with such purchases. Any funds expended for the purchase of, or modifications to, obligations and securities, or the exercise of any rights received in connection with such purchases under this subsection shall be deemed appropriated at the time of such purchase, modification, or exercise.

"(4) TERMINATION OF AUTHORITY.—The authority under this subsection (g), with the exception of paragraphs (2) and (3) of this subsection, shall expire December 31, 2009.

"(5) AUTHORITY OF THE DIRECTOR WITH RESPECT TO EXECUTIVE COMPENSATION.—The Director shall have the power to approve, disapprove, or modify the executive compensation of the corporation, as defined under Regulation S-K, 17 C.F.R. 229.".

(b) FREDDIE MAC.—Section 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455) is amended by adding at the end the following new subsection:

"(l) TEMPORARY AUTHORITY OF TREASURY TO PURCHASE OBLIGATIONS AND SECURITIES; CONDITIONS.—

"(1) AUTHORITY TO PURCHASE.—

"(A) GENERAL AUTHORITY.—In addition to the authority under subsection (c) of this section, the Secretary of the Treasury is authorized to purchase any obligations and other securities issued by the Corporation under any section of this Act, on such terms and conditions as the Secretary may determine and in such amounts as the Secretary may determine. Nothing in this subsection requires the Corporation to issue obligations or securities to the Secretary without mutual agreement between the Secretary and the Corporation. Nothing in this subsection permits or authorizes the Secretary, without the agreement of the Corporation, to engage in open market purchases of the common securities of the Corporation.

"(B) EMERGENCY DETERMINATION REQUIRED.—In connection with any use of this authority, the Secretary must determine that such actions are necessary to—

"(i) provide stability to the financial markets;

"(ii) prevent disruptions in the availability of mortgage finance; and

"(iii) protect the taxpayer.

"(C) CONSIDERATIONS.—To protect the taxpayers, the Secretary of the Treasury shall take into consideration the following in connection with exercising the authority contained in this paragraph:

"(i) The need for preferences or priorities regarding payments to the Government.

"(ii) Limits on maturity or disposition of obligations or securities to be purchased.

"(iii) The Corporation's plan for the orderly resumption of private market funding or capital market access.

"(iv) The probability of the Corporation fulfilling the terms of any such obligation or other security, including repayment.

"(v) The need to maintain the Corporation's status as a private shareholder-owned company.

"(vi) Restrictions on the use of Corporation resources, including limitations on the payment of dividends and executive compensation and any such other terms and conditions as appropriate for those purposes.

"(D) REPORTS TO CONGRESS.—Upon exercise of this authority, the Secretary shall report to the Committees on the Budget, Financial Services, and Ways and Means of the House of Representatives and the Committees on the Budget, Finance, and Banking, Housing, and Urban Affairs of the Senate as to the necessity for the purchase and the determinations made by the Secretary under subparagraph (B) and with respect to the considerations required under subparagraph (C), and the size, terms, and probability of repayment or fulfillment of other terms of such purchase.

"(2) RIGHTS; SALE OF OBLIGATIONS AND SECURITIES.—

"(A) EXERCISE OF RIGHTS.—The Secretary of the Treasury may, at any time, exercise any rights received in connection with such purchases.

"(B) SALE OF OBLIGATION AND SECURITIES.—The Secretary of the Treasury may, at any time, subject to the terms of the security or otherwise upon terms and conditions and at prices determined by the Secretary, sell any obligation or security acquired by the Secretary under this subsection.

"(C) APPLICATION OF SUNSET TO PURCHASED OBLIGATIONS OR SECURITIES.—The authority of the Secretary of the Treasury to hold, exercise any rights received in connection with, or sell, any obligations or securities purchased is not subject to the provisions of paragraph (4).

"(3) FUNDING.—For the purpose of the authorities granted in this subsection, the Secretary of the Treasury may use the proceeds of the sale of any securities issued under chapter 31 of Title 31, and the purposes for which securities may be issued under chapter 31 of Title 31 are extended to include such purchases and the exercise of any rights in connection with such purchases. Any funds expended for the purchase of, or modifications to, obligations and securities, or the exercise of any rights received in connection with such purchases under this subsection shall be deemed appropriated at the time of such purchase, modification, or exercise.

"(4) TERMINATION OF AUTHORITY.—The authority under this subsection (l), with the exception of paragraphs (2) and (3) of this subsection, shall expire December 31, 2009.

"(5) AUTHORITY OF THE DIRECTOR WITH RESPECT TO EXECUTIVE COMPENSATION.—The Director shall have the power to approve, disapprove, or modify the executive compensation of the Corporation, as defined under Regulation S-K, 17 C.F.R. 229.".

(c) FEDERAL HOME LOAN BANKS.—Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by adding at the end the following new subsection:

"(l) TEMPORARY AUTHORITY OF TREASURY TO PURCHASE OBLIGATIONS; CONDITIONS.—

"(1) AUTHORITY TO PURCHASE.—

"(A) GENERAL AUTHORITY.—In addition to the authority under subsection (i) of this section, the Secretary of the Treasury is authorized to purchase any obligations issued by any Federal Home Loan Bank under any section of this Act, on such terms and conditions as the Secretary may determine and in such amounts as the Secretary may determine. Nothing in this subsection requires a Federal Home Loan Bank to issue obligations or securities to the Secretary without mutual agreement between the Secretary and the Federal Home Loan Bank. Nothing in this subsection permits or authorizes the Secretary, without the agreement of the Federal Home Loan Bank, to engage in open market purchases of the common securities of any Federal Home Loan Bank.

"(B) EMERGENCY DETERMINATION REQUIRED.—In connection with any use of this authority, the Secretary must determine that such actions are necessary to—

"(i) provide stability to the financial markets;

"(ii) prevent disruptions in the availability of mortgage finance; and

"(iii) protect the taxpayer.

"(C) CONSIDERATIONS.—To protect the taxpayers, the Secretary of the Treasury shall take into consideration the following in connection with exercising the authority contained in this paragraph:

"(i) The need for preferences or priorities regarding payments to the Government.

"(ii) Limits on maturity or disposition of obligations or securities to be purchased.

"(iii) The Federal Home Loan Bank's plan for the orderly resumption of private market funding or capital market access.

"(iv) The probability of the Federal Home Loan Bank fulfilling the terms of any such obligation or other security, including repayment.

"(v) The need to maintain the Federal Home Loan Bank's status as a private shareholder-owned company.

"(vi) Restrictions on the use of Federal Home Loan Bank resources, including limitations on the payment of dividends and executive compensation and any such other terms and conditions as appropriate for those purposes.

"(D) REPORTS TO CONGRESS.—Upon exercise of this authority, the Secretary shall report to the Committees on the Budget, Financial Services, and Ways and Means of the House of Representatives and the Committees on the Budget, Finance, and Banking, Housing, and Urban Affairs of the Senate as to the necessity for the purchase and the determinations made by the Secretary under subparagraph (B) and with respect to the considerations required under subparagraph (C), and the size, terms, and probability of repayment or fulfillment of other terms of such purchase.

"(2) RIGHTS; SALE OF OBLIGATIONS AND SECURITIES.—

"(A) EXERCISE OF RIGHTS.—The Secretary of the Treasury may, at any time, exercise any rights received in connection with such purchases.

"(B) SALE OF OBLIGATIONS.—The Secretary of the Treasury may, at any time, subject to the terms of the security or otherwise upon terms and conditions and at prices determined by the Secretary, sell any obligation acquired by the Secretary under this subsection.

"(C) APPLICATION OF SUNSET TO PURCHASED OBLIGATIONS.—The authority of the Secretary of the Treasury to hold, exercise any rights received in connection with, or sell, any obligations purchased is not subject to the provisions of paragraph (4).

"(3) FUNDING.—For the purpose of the authorities granted in this subsection, the Secretary of the Treasury may use the proceeds of the sale of any securities issued under chapter 31 of Title 31, and the purposes for which securities may be issued under chapter 31 of Title 31 are extended to include such purchases and the exercise of any rights in connection with such purchases. Any funds expended for the purchase of, or modifications to, obligations and securities, or the exercise

of any rights received in connection with such purchases under this subsection shall be deemed appropriated at the time of such purchase, modification, or exercise.

"(4) TERMINATION OF AUTHORITY.—The authority under this subsection (l), with the exception of paragraphs (2) and (3) of this subsection, shall expire December 31, 2009.

"(5) AUTHORITY OF THE DIRECTOR WITH RESPECT TO EXECUTIVE COMPENSATION.—The Director shall have the power to approve, disapprove, or modify the executive compensation of the Federal Home Loan Bank, as defined under Regulation S-K, 17 C.F.R. 229.".

**SEC. 1118. CONSULTATION BETWEEN THE DIRECTOR OF THE FEDERAL HOUSING FINANCE AGENCY AND THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM TO ENSURE FINANCIAL MARKET STABILITY .**

Subsection (a) of section 1313 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4513), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(3) COORDINATION WITH THE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—

"(A) CONSULTATION.— The Director shall consult with, and consider the views of, the Chairman of the Board of Governors of the Federal Reserve System, with respect to the risks posed by the regulated entities to the financial system, prior to issuing any proposed or final regulations, orders, and guidelines with respect to the exercise of the additional authority provided in this Act regarding prudential management and operations standards, safe and sound operations of, and capital requirements and portfolio standards applicable to the regulated entities (as such term is defined in section 1303). The Director also shall consult with the Chairman regarding any decision to place a regulated entity into conservatorship or receivership.

"(B) INFORMATION SHARING.—To facilitate the consultative process, the Director shall share information with the Board of Governors of the Federal Reserve System on a regular, periodic basis as determined by the Director and the Board regarding the capital, asset and liabilities, financial condition, and risk management practices of the regulated entities as well as any information related to financial market stability.

"(C) TERMINATION OF CONSULTATION REQUIREMENT.—The requirement of the Director to consult with the Board of Governors of the Federal Reserve System under this paragraph shall expire at the conclusion of December 31, 2009.".

# Subtitle B—Improvement of Mission Supervision

**SEC. 1121. TRANSFER OF PROGRAM APPROVAL AND HOUSING GOAL OVERSIGHT.**

Part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541 et seq.) is amended—

(1) by striking the heading for the part and inserting the following: 12 USC 4541.

## "PART 2—ADDITIONAL AUTHORITIES OF THE DIRECTOR";

and

(2) by striking sections 1321 and 1322. 12 USC 4541, 4542.

**SEC. 1122. ASSUMPTION BY THE DIRECTOR OF CERTAIN OTHER HUD RESPONSIBILITIES.**

(a) IN GENERAL.—Part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541 et seq.) is amended—

(1) by striking "Secretary" each place that term appears and inserting "Director" in each of sections 1323, 1326, 1327, 1328, and 1336; and 12 USC 4543, 4546–4548, 4566.

(2) by striking sections 1338 and 1349 (12 U.S.C. 4562 note and 4589).

(b) RETENTION OF FAIR HOUSING RESPONSIBILITIES.—Section 1325 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4545) is amended in the matter preceding paragraph (1), by inserting "of Housing and Urban Development" after "The Secretary".

**SEC. 1123. REVIEW OF ENTERPRISE PRODUCTS.**

Part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541 et seq.) is amended by inserting before section 1323 the following:

**"SEC. 1321. PRIOR APPROVAL AUTHORITY FOR PRODUCTS.** 12 USC 4541.

"(a) IN GENERAL.—The Director shall require each enterprise to obtain the approval of the Director for any product of the enterprise before initially offering the product.

"(b) STANDARD FOR APPROVAL.—In considering any request for approval of a product pursuant to subsection (a), the Director shall make a determination that—

"(1) in the case of a product of the Federal National Mortgage Association, the product is authorized under paragraph (2), (3), (4), or (5) of section 302(b) or section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b), 1719);

"(2) in the case of a product of the Federal Home Loan Mortgage Corporation, the product is authorized under paragraph (1), (4), or (5) of section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a));

"(3) the product is in the public interest; and

"(4) the product is consistent with the safety and soundness of the enterprise or the mortgage finance system.

"(c) PROCEDURE FOR APPROVAL.—

"(1) SUBMISSION OF REQUEST.—An enterprise shall submit to the Director a written request for approval of a product that describes the product in such form as prescribed by order or regulation of the Director.

Publication. Notice.

"(2) REQUEST FOR PUBLIC COMMENT.—Immediately upon receipt of a request for approval of a product, as required under paragraph (1), the Director shall publish notice of such request and of the period for public comment pursuant to paragraph (3) regarding the product, and a description of the product proposed by the request. The Director shall give interested parties the opportunity to respond in writing to the proposed product.

"(3) PUBLIC COMMENT PERIOD.—During the 30-day period beginning on the date of publication pursuant to paragraph (2) of a request for approval of a product, the Director shall receive public comments regarding the proposed product.

"(4) OFFERING OF PRODUCT.—

Deadline.

"(A) IN GENERAL.—Not later than 30 days after the close of the public comment period described in paragraph (3), the Director shall approve or deny the product, specifying the grounds for such decision in writing.

"(B) FAILURE TO ACT.—If the Director fails to act within the 30-day period described in subparagraph (A), then the enterprise may offer the product.

"(C) TEMPORARY APPROVAL.—The Director may, subject to the rules of the Director, provide for temporary approval of the offering of a product without a public comment period, if the Director finds that the existence of exigent circumstances makes such delay contrary to the public interest.

"(d) CONDITIONAL APPROVAL.—If the Director approves the offering of any product by an enterprise, the Director may establish terms, conditions, or limitations with respect to such product with which the enterprise must comply in order to offer such product.

"(e) EXCLUSIONS.—

"(1) IN GENERAL.—The requirements of subsections (a) through (d) do not apply with respect to—

"(A) the automated loan underwriting system of an enterprise in existence as of the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, including any upgrade to the technology, operating system, or software to operate the underwriting system;

"(B) any modification to the mortgage terms and conditions or mortgage underwriting criteria relating to the mortgages that are purchased or guaranteed by an enterprise, provided that such modifications do not alter the underlying transaction so as to include services or financing, other than residential mortgage financing; or

"(C) any other activity that is substantially similar, as determined by rule of the Director to—

"(i) the activities described in subparagraphs (A) and (B); and

"(ii) other activities that have been approved by the Director in accordance with this section.

"(2) EXPEDITED REVIEW.—

"(A) ENTERPRISE NOTICE.—For any new activity that an enterprise considers not to be a product, the enterprise shall provide written notice to the Director of such activity, and may not commence such activity until the date of receipt of a notice under subparagraph (B) or the expiration of the period described in subparagraph (C). The Director shall establish, by regulation, the form and content of such written notice. Regulations.

"(B) DIRECTOR DETERMINATION.—Not later than 15 days after the date of receipt of a notice under subparagraph (A), the Director shall determine whether such activity is a product subject to approval under this section. The Director shall, immediately upon so determining, notify the enterprise. Deadline. Notification.

"(C) FAILURE TO ACT.—If the Director fails to determine whether such activity is a product within the 15-day period described in subparagraph (B), the enterprise may commence the new activity in accordance with subparagraph (A).

"(f) NO LIMITATION.—Nothing in this section may be construed to restrict—

"(1) the safety and soundness authority of the Director over all new and existing products or activities; or

"(2) the authority of the Director to review all new and existing products or activities to determine that such products or activities are consistent with the statutory mission of an enterprise.".

**SEC. 1124. CONFORMING LOAN LIMITS.**

(a) FANNIE MAE.—

(1) GENERAL LIMIT.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by striking the 7th and 8th sentences and inserting the following new sentences: "Such limitations shall not exceed $417,000 for a mortgage secured by a single-family residence, $533,850 for a mortgage secured by a 2-family residence, $645,300 for a mortgage secured by a 3-family residence, and $801,950 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning after the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, subject to the limitations in this paragraph. Each adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase, during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Finance Agency (pursuant to section 1322 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541)). If the change in such house price index during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment is a decrease, then no adjustment shall be made for the next year, and the next adjustment shall take into account prior declines in the house price index, so that any adjustment shall reflect the net change in the Effective dates.

house price index since the last adjustment. Declines in the house price index shall be accumulated and then reduce increases until subsequent increases exceed prior declines.".

(2) HIGH-COST AREA LIMIT.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by adding after the period at the end the following: "Such foregoing limitations shall also be increased, with respect to properties of a particular size located in any area for which 115 percent of the median house price for such size residence exceeds the foregoing limitation for such size residence, to the lesser of 150 percent of such limitation for such size residence or the amount that is equal to 115 percent of the median house price in such area for such size residence.".

12 USC 1717 note.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) of this subsection shall take effect upon the expiration of the date described in section 201(a) of the Economic Stimulus Act of 2008 (Public Law 110–185).

(b) FREDDIE MAC.—

(1) GENERAL LIMIT.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by striking the 6th and 7th sentences and inserting the following new sentences: "Such limitations shall not exceed $417,000 for a mortgage secured by a single-family residence, $533,850 for a mortgage secured by a 2-family residence, $645,300 for a mortgage secured by a 3-family residence, and $801,950 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning after the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, subject to the limitations in this paragraph. Each adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase, during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Finance Agency (pursuant to section 1322 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541)). If the change in such house price index during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment is a decrease, then no adjustment shall be made for the next year, and the next adjustment shall take into account prior declines in the house price index, so that any adjustment shall reflect the net change in the house price index since the last adjustment. Declines in the house price index shall be accumulated and then reduce increases until subsequent increases exceed prior declines.".

Effective dates.

(2) HIGH-COST AREA LIMIT.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by adding after the period at the end the following: "Such foregoing limitations shall also be increased, with respect to properties of a particular size located in any area for which 115 percent of the median house price for such size residence exceeds the foregoing limitation for such size residence, to

the lesser of 150 percent of such limitation for such size residence or the amount that is equal to 115 percent of the median house price in such area for such size residence.".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) of this subsection shall take effect upon the expiration of the date described in section 201(a) of the Economic Stimulus Act of 2008 (Public Law 110–185). 12 USC 1454 note.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that the securitization of mortgages by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation plays an important role in providing liquidity to the United States housing markets. Therefore, the Congress encourages the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to securitize mortgages acquired under the increased conforming loan limits established under this Act.

(d) HOUSING PRICE INDEX.—Part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541 et seq.) is amended by inserting after section 1321 (as added by section 1123 of this Act) the following new section:

**"SEC. 1322. HOUSING PRICE INDEX.** 12 USC 4542.

"The Director shall establish and maintain a method of assessing the national average 1-family house price for use for adjusting the conforming loan limitations of the enterprises. In establishing such method, the Director shall take into consideration the monthly survey of all major lenders conducted by the Federal Housing Finance Agency to determine the national average 1-family house price, the House Price Index maintained by the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development before the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, any appropriate house price indexes of the Bureau of the Census of the Department of Commerce, and any other indexes or measures that the Director considers appropriate.". Assessments.

**SEC. 1125. ANNUAL HOUSING REPORT.**

(a) REPEAL.—Section 1324 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4544) is hereby repealed.

(b) ANNUAL HOUSING REPORT.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by inserting after section 1323 the following:

**"SEC. 1324. ANNUAL HOUSING REPORT.** 12 USC 4544.

"(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 309(n) of the Federal National Mortgage Association Charter Act and section 307(f) of the Federal Home Loan Mortgage Corporation Act, the Director shall submit a report, not later than October 30 of each year, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, on the activities of each enterprise.

"(b) CONTENTS.—The report required under subsection (a) shall—

"(1) discuss—

"(A) the extent to and manner in which—

"(i) each enterprise is achieving the annual housing goals established under subpart B;

"(ii) each enterprise is complying with its duty to serve underserved markets, as established under section 1335;

"(iii) each enterprise is complying with section 1337;

"(iv) each enterprise received credit towards achieving each of its goals resulting from a transaction or activity pursuant to section 1331(b)(2); and

"(v) each enterprise is achieving the purposes of the enterprise established by law; and

"(B) the actions that each enterprise could undertake to promote and expand the purposes of the enterprise;

"(2) aggregate and analyze relevant data on income to assess the compliance of each enterprise with the housing goals established under subpart B;

"(3) aggregate and analyze data on income, race, and gender by census tract and other relevant classifications, and compare such data with larger demographic, housing, and economic trends;

"(4) identify the extent to which each enterprise is involved in mortgage purchases and secondary market activities involving subprime and nontraditional loans;

"(5) compare the characteristics of subprime and nontraditional loans both purchased and securitized by each enterprise to other loans purchased and securitized by each enterprise; and

"(6) compare the characteristics of high-cost loans purchased and securitized, where such securities are not held on portfolio to loans purchased and securitized, where such securities are either retained on portfolio or repurchased by the enterprise, including such characteristics as—

"(A) the purchase price of the property that secures the mortgage;

"(B) the loan-to-value ratio of the mortgage, which shall reflect any secondary liens on the relevant property;

"(C) the terms of the mortgage;

"(D) the creditworthiness of the borrower; and

"(E) any other relevant data, as determined by the Director.

"(c) DATA COLLECTION AND REPORTING.—

Deadlines.
Surveys.

"(1) IN GENERAL.—To assist the Director in analyzing the matters described in subsection (b), the Director shall conduct, on a monthly basis, a survey of mortgage markets in accordance with this subsection.

"(2) DATA POINTS.—Each monthly survey conducted by the Director under paragraph (1) shall collect data on—

"(A) the characteristics of individual mortgages that are eligible for purchase by the enterprises and the characteristics of individual mortgages that are not eligible for purchase by the enterprises including, in both cases, information concerning—

"(i) the price of the house that secures the mortgage;

"(ii) the loan-to-value ratio of the mortgage, which shall reflect any secondary liens on the relevant property;

"(iii) the terms of the mortgage;

"(iv) the creditworthiness of the borrower or borrowers; and

"(v) whether the mortgage, in the case of a conforming mortgage, was purchased by an enterprise;

"(B) the characteristics of individual subprime and nontraditional mortgages that are eligible for purchase by the enterprises and the characteristics of borrowers under such mortgages, including the creditworthiness of such borrowers and determination whether such borrowers would qualify for prime lending; and

"(C) such other matters as the Director determines to be appropriate.

"(3) PUBLIC AVAILABILITY.—The Director shall make any data collected by the Director in connection with the conduct of a monthly survey available to the public in a timely manner, provided that the Director may modify the data released to the public to ensure that the data—

"(A) is not released in an identifiable form; and

"(B) is not otherwise obtainable from other publicly available data sets.

"(4) DEFINITION.—For purposes of this subsection, the term 'identifiable form' means any representation of information that permits the identity of a borrower to which the information relates to be reasonably inferred by either direct or indirect means.".

**SEC. 1126. PUBLIC USE DATABASE.**

Section 1323 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (42 U.S.C. 4543) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—The Secretary" and inserting the following:

"(a) AVAILABILITY.—

"(1) IN GENERAL.—The Director"; and

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

"(2) CENSUS TRACT LEVEL REPORTING.—Such data shall include the data elements required to be reported under the Home Mortgage Disclosure Act of 1975, at the census tract level.";

(2) in subsection (b)(2), by inserting before the period at the end the following: "or with subsection (a)(2)"; and

(3) by adding at the end the following new subsection:

"(d) TIMING.—Data submitted under this section by an enterprise in connection with a provision referred to in subsection (a) shall be made publicly available in accordance with this section not later than September 30 of the year following the year to which the data relates.". Deadline.

**SEC. 1127. REPORTING OF MORTGAGE DATA.**

Section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4546) is amended—

(1) in subsection (a), by striking "The Director" and inserting "Subject to subsection (d), the Director"; and

(2) by adding at the end the following:

Public information. Regulations. Order.

"(d) MORTGAGE INFORMATION.—Subject to privacy considerations, as described in section 304(j) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(j)), the Director shall, by regulation or order, provide that certain information relating to single family mortgage data of the enterprises shall be disclosed to the public, in order to make available to the public—

"(1) the same data from the enterprises that is required of insured depository institutions under the Home Mortgage Disclosure Act of 1975; and

"(2) information collected by the Director under section 1324(b)(6).".

**SEC. 1128. REVISION OF HOUSING GOALS.**

(a) REPEAL.—Sections 1331 through 1334 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4561 through 4564) are hereby repealed.

(b) HOUSING GOALS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by inserting before section 1335 the following:

12 USC 4561.

**"SEC. 1331. ESTABLISHMENT OF HOUSING GOALS.**

Regulations. Effective date.

"(a) IN GENERAL.—The Director shall, by regulation, establish effective for 2010 and each year thereafter, annual housing goals, with respect to the mortgage purchases by the enterprises, as follows:

"(1) SINGLE-FAMILY HOUSING GOALS.—Four single-family housing goals under section 1332.

"(2) MULTIFAMILY SPECIAL AFFORDABLE HOUSING GOAL.—One multifamily special affordable housing goal under section 1333.

Deadline. Regulations.

"(b) TIMING.—The Director shall, by regulation, establish an annual deadline by which the Director shall establish the annual housing goals under this subpart for each year, taking into consideration the need for the enterprises to reasonably and sufficiently plan their operations and activities in advance, including operations and activities necessary to meet such annual goals.

Deadline. Review.

"(c) TRANSITION.—The annual housing goals effective for 2008 pursuant to this subpart, as in effect before the enactment of the Federal Housing Finance Regulatory Reform Act of 2008, shall remain in effect for 2009, except that not later than the expiration of the 270-day period beginning on the date of the enactment of such Act, the Director shall review such goals applicable for 2009 to determine the feasibility of such goals given the market conditions current at such time and, after seeking public comment for a period not to exceed 30 days, may make appropriate adjustments consistent with such market conditions.

"(d) ELIMINATING INTEREST RATE DISPARITIES.—

Records.

"(1) IN GENERAL.—Upon request by the Director, an enterprise shall provide to the Director, in a form determined by the Director, data the Director may review to determine whether there exist disparities in interest rates charged on mortgages to borrowers who are minorities as compared with comparable mortgages to borrowers of similar creditworthiness who are not minorities.

"(2) REMEDIAL ACTIONS UPON PRELIMINARY FINDING.—Upon a preliminary finding by the Director that a pattern of disparities in interest rates with respect to any lender or lenders

exists pursuant to the data provided by an enterprise in paragraph (1), the Director shall—

"(A) refer the preliminary finding to the appropriate regulatory or enforcement agency for further review; and

"(B) require the enterprise to submit additional data with respect to any lender or lenders, as appropriate and to the extent practicable, to the Director who shall submit any such additional data to the regulatory or enforcement agency for appropriate action.

"(3) ANNUAL REPORT TO CONGRESS.—The Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the actions taken, and being taken, by the Director to carry out this subsection. No such report shall identify any lender or lenders who have not been found to have engaged in discriminatory lending practices pursuant to a final adjudication on the record, and after opportunity for an administrative hearing, in accordance with subchapter II of chapter 5 of title 5, United States Code.

"(4) PROTECTION OF IDENTITY OF INDIVIDUALS.—In carrying out this subsection, the Director shall ensure that no property-related or financial information that would enable a borrower to be identified shall be made public.

**"SEC. 1332. SINGLE-FAMILY HOUSING GOALS.**

12 USC 4562.

"(a) IN GENERAL.—The Director shall, by regulation, establish annual goals for the purchase by each enterprise of the following types of mortgages for the following categories of families:

Regulations.

"(1) PURCHASE-MONEY MORTGAGES.—A goal for purchase of conventional, conforming, single-family, purchase money mortgages financing owner-occupied housing for each of the following categories of families:

"(A) Low-income families.

"(B) Families that reside in low-income areas.

"(C) Very low-income families.

"(2) REFINANCING MORTGAGES.—A goal for purchase of conventional, conforming mortgages on owner-occupied, single-family housing for low-income families that are given to pay off or prepay an existing loan secured by the same property.

"(b) GOALS AS A PERCENTAGE OF TOTAL MORTGAGE PURCHASES.—The goals established under paragraphs (1) and (2) of subsection (a) shall be established as a percentage of the total number of conventional, conforming, single-family, owner-occupied, purchase money mortgages purchased by the enterprise, or as percentage of the total number of conventional, single-family, owner-occupied refinance mortgages purchased by the enterprise, as applicable, that are mortgages for the types of families specified in paragraphs (1) and (2) of subsection (a).

"(c) SINGLE-FAMILY, OWNER-OCCUPIED RENTAL HOUSING UNITS.—The Director shall require each enterprise to report the number of rental housing units affordable to low-income families each year which are contained in mortgages purchased by the enterprise financing 2- to 4-unit single-family, owner-occupied properties and may, by regulation, establish additional requirements relating to such units.

Reports. Deadline.

"(d) DETERMINATION OF COMPLIANCE.—

"(1) IN GENERAL.—The Director shall determine, for each year that the housing goals under this section are in effect pursuant to section 1331(a), whether each enterprise has complied with each such goal established under subsection (a) of this section and any additional requirements which may be established under subsection (c) of this section.

"(2) PURCHASE-MONEY MORTGAGE GOALS.—An enterprise shall be considered to be in compliance with a housing goal under subparagraph (A), (B), or (C) of subsection (a)(1) for a year only if, for the type of family described in such subparagraph, the percentage of the number of conventional, conforming, single-family, owner-occupied, purchase money mortgages purchased by the enterprise in such year that serve such families, meets or exceeds the target for the year for such type of family that is established under subsection (e).

"(3) REFINANCE GOAL.—An enterprise shall be considered to be in compliance with the refinance goal under subsection (a)(2) for a year only if the percentage of the number of conventional, conforming, single-family, owner-occupied refinance mortgages purchased by the enterprise in such year that serve low-income families meets or exceeds the target for the year that is established under subsection (e).

"(e) ANNUAL TARGETS.—

Regulations.

"(1) IN GENERAL.—The Director shall, by regulation, establish annual targets for each goal and subgoal under this section, provided that the Director shall not set prospective targets longer than three years. In establishing such targets, the Director shall not consider segments of the market determined to be unacceptable or contrary to good lending practices, inconsistent with safety and soundness, or unauthorized for purchase by the enterprises.

"(2) GOALS TARGETS.—

"(A) CALCULATION.—The Director shall calculate, for each of the types of families described in subsection (a), the percentage, for each of the three years that most recently precede such year and for which information under the Home Mortgage Disclosure Act of 1975 is publicly available—

"(i) of the number of conventional, conforming, single-family, owner-occupied purchase money mortgages originated in such year that serve such type of family, or

"(ii) the number of conventional, conforming, single-family, owner-occupied refinance mortgages originated in such year that serve low-income families,

as applicable, as determined by the Director using the information obtained and determined pursuant to paragraphs (4) and (5).

Regulations.

"(B) ESTABLISHMENT OF GOAL TARGETS.—The Director shall, by regulation, establish targets for each of the goal categories, taking into consideration the calculations under subparagraph (A) and the following factors:

"(i) National housing needs.

"(ii) Economic, housing, and demographic conditions, including expected market developments.

"(iii) The performance and effort of the enterprises toward achieving the housing goals under this section in previous years.

"(iv) The ability of the enterprise to lead the industry in making mortgage credit available.

"(v) Such other reliable mortgage data as may be available.

"(vi) The size of the purchase money conventional mortgage market, or refinance conventional mortgage market, as applicable, serving each of the types of families described in subsection (a), relative to the size of the overall purchase money mortgage market or the overall refinance mortgage market, respectively.

"(vii) The need to maintain the sound financial condition of the enterprises.

"(3) AUTHORITY TO ADJUST TARGETS.—The Director may, by regulation, adjust the percentage targets previously established by regulation pursuant to paragraph (2)(B) for any year, to reflect subsequent available data and market developments.

"(4) HMDA INFORMATION.—The Director shall annually obtain information submitted in compliance with the Home Mortgage Disclosure Act of 1975 regarding conventional, conforming, single-family, owner-occupied, purchase money and refinance mortgages originated and purchased for the previous year. Deadline.

"(5) CONFORMING MORTGAGES.—In determining whether a mortgage is a conforming mortgage for purposes of this paragraph, the Director shall consider the original principal balance of the mortgage loan to be the principal balance as reported in the information referred to in paragraph (4), as rounded to the nearest thousand dollars.

"(f) NOTICE OF DETERMINATION AND ENTERPRISE COMMENT.—

"(1) NOTICE.—Within 30 days of making a determination under subsection (d) regarding compliance of an enterprise for a year with a housing goal established under this section and before any public disclosure thereof, the Director shall provide notice of the determination to the enterprise, which shall include an analysis and comparison, by the Director, of the performance of the enterprise for the year and the targets for the year under subsection (e). Deadline.

"(2) COMMENT PERIOD.—The Director shall provide each enterprise an opportunity to comment on the determination during the 30-day period beginning upon receipt by the enterprise of the notice.

"(g) USE OF BORROWER INCOME.—In monitoring the performance of each enterprise pursuant to the housing goals under this section and evaluating such performance (for purposes of section 1336), the Director shall consider a mortgagor's income to be such income at the time of origination of the mortgage.

"(h) CONSIDERATION OF PROPERTIES WITH RENTAL UNITS.—Mortgages financing two- to four-unit owner-occupied properties shall count toward the achievement of the single-family housing goals under this section, if such properties otherwise meet the requirements under this section, notwithstanding the use of one or more units for rental purposes.

"(i) GOALS CREDIT.—The Director shall determine whether an enterprise shall receive full, partial, or no credit for a transaction

toward achievement of any of the housing goals established pursuant to section 1332 and 1333. In making any such determination, the Director shall consider whether a transaction or activity of an enterprise is substantially equivalent to a mortgage purchase and either (1) creates a new market, or (2) adds liquidity to an existing market. No credit toward the achievement of the housing goals and subgoals established under this section may be given to the purchase of mortgages, including any transaction or activity of an enterprise determined to be substantially equivalent to a mortgage purchase, that is determined to be unacceptable or contrary to good lending practices, inconsistent with safety and soundness, or unauthorized for purchase by the enterprises, pursuant to regulations issued by the Director.

12 USC 4563.

**"SEC. 1333. MULTIFAMILY SPECIAL AFFORDABLE HOUSING GOAL.**

"(a) ESTABLISHMENT OF GOAL.—

Regulations.

"(1) IN GENERAL.—The Director shall, by regulation, establish a single annual goal, by either unit or dollar volume, of purchases by each enterprise of mortgages on multifamily housing that finance dwelling units affordable to low-income families.

"(2) ADDITIONAL REQUIREMENTS FOR UNITS AFFORDABLE TO VERY LOW-INCOME FAMILIES.—When establishing the goal under this section, the Director shall establish additional requirements for the purchase by each enterprise of mortgages on multifamily housing that finance dwelling units affordable to very low-income families.

"(3) REPORTING ON SMALLER PROPERTIES.—The Director shall require each enterprise to report on the purchase by each enterprise of multifamily housing of a smaller or limited size that is affordable to low-income families, which may be based on multifamily projects of 5 to 50 units (as such numbers may be adjusted by the Director) or on mortgages of up to $5,000,000 (as such amount may be adjusted by the Director), and may, by regulation, establish such aditional requirements related to such units.

"(4) FACTORS.—In establishing the goal and additional requirements under this section, the Director shall not consider segments of the market determined to be inconsistent with safety and soundness or unauthorized for purchase by the enterprises, and shall take into consideration—

"(A) national multifamily mortgage credit needs and the ability of the enterprise to provide additional liquidity and stability for the multifamily mortgage market;

"(B) the performance and effort of the enterprise in making mortgage credit available for multifamily housing in previous years;

"(C) the size of the multifamily mortgage market for housing affordable to low-income and very low-income families, including the size of the multifamily markets for housing of a smaller or limited size;

"(D) the ability of the enterprise to lead the market in making multifamily mortgage credit available, especially for multifamily housing described in paragraphs (1) and (2);

"(E) the availability of public subsidies; and

"(F) the need to maintain the sound financial condition of the enterprise.

"(b) UNITS FINANCED BY HOUSING FINANCE AGENCY BONDS.—The Director shall give full credit toward the achievement of the multifamily special affordable housing goal under this section (for purposes of section 1336) to dwelling units in multifamily housing that otherwise qualifies under such goal and that is financed by tax-exempt or taxable bonds issued by a State or local housing finance agency, if such bonds, in whole or in part—

"(1) are secured by a guarantee of the enterprise; or

"(2) are purchased by the enterprise, except that the Director may give less than full credit for purchases of investment grade bonds, to the extent that such purchases do not provide a new market or add liquidity to an existing market.

"(c) MEASUREMENT OF PERFORMANCE.—The Director shall monitor the performance of each enterprise in meeting the goals established under this section and shall evaluate such performance (for purposes of section 1336) based on whether the rent levels are affordable. A rent level shall be considered to be affordable for purposes of this subsection for low-income families if it does not exceed 30 percent of the maximum income level of such income category, with appropriate adjustments for unit size as measured by the number of bedrooms.

"(d) DETERMINATION OF COMPLIANCE.—The Director shall determine, for each year that the housing goal under this section is in effect pursuant to section 1331(a), whether each enterprise has complied with such goal and the additional requirements under subsection (a)(2).

**"SEC. 1334. DISCRETIONARY ADJUSTMENT OF HOUSING GOALS.** 12 USC 4564.

"(a) AUTHORITY.—An enterprise may petition the Director in writing at any time during a year to reduce the level of any goal or subgoal for such year established pursuant to this subpart.

"(b) STANDARD FOR REDUCTION.—The Director may reduce the level for a goal or subgoal pursuant to such a petition only if—

"(1) market and economic conditions or the financial condition of the enterprise require such action; or

"(2) efforts to meet the goal or subgoal would result in the constraint of liquidity, over-investment in certain market segments, or other consequences contrary to the intent of this subpart, or section 301(3) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716(3)) or section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note), as applicable.

"(c) DETERMINATION.—The Director shall, promptly upon receipt of a petition regarding a reduction, seek public comment on the reduction for a period of 30 days. The Director shall make a determination regarding any proposed reduction within 30 days after the expiration of such public comment period. The Director may extend such determination period for a single additional 15-day period, but only if the Director requests additional information from the enterprise.". Public comment. Deadline.

(c) CONFORMING AMENDMENTS.—The Housing and Community Development Act of 1992 is amended

(1) in section 1335(a) (12 U.S.C. 4565(a)), in the matter preceding paragraph (1), by striking "low- and moderate-income

housing goal" and all that follows through "section 1334" and inserting "housing goals established under this subpart"; and

(2) in section 1336(a)(1) (12 U.S.C. 4566(a)(1)), by striking "sections 1332, 1333, and 1334," and inserting "this subpart".

(d) DEFINITIONS.—Section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502) is amended—

(1) by striking paragraph (24), as so designated by section 1002 of this Act, and inserting the following:

"(24) VERY LOW-INCOME.—

"(A) IN GENERAL.—The term 'very low-income' means—

"(i) in the case of owner-occupied units, families having incomes not greater than 50 percent of the area median income; and

"(ii) in the case of rental units, families having incomes not greater than 50 percent of the area median income, with adjustments for smaller and larger families, as determined by the Director.

"(B) RULE OF CONSTRUCTION.—For purposes of section 1338 and 1339, the term 'very low-income' means—

"(i) in the case of owner-occupied units, income in excess of 30 percent but not greater than 50 percent of the area median income; and

"(ii) in the case of rental units, income in excess of 30 percent but not greater than 50 percent of the area median income, with adjustments for smaller and larger families, as determined by the Director."; and

(2) by adding at the end the following:

"(26) CONFORMING MORTGAGE.—The term 'conforming mortgage' means, with respect to an enterprise, a conventional mortgage having an original principal obligation that does not exceed the dollar amount limitation in effect at the time of such origination and applicable to such mortgage, under, as applicable—

"(A) section 302(b)(2) of the Federal National Mortgage Association Charter Act; or

"(B) section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act.

"(27) EXTREMELY LOW-INCOME.—The term 'extremely low-income' means—

"(A) in the case of owner-occupied units, income not in excess of 30 percent of the area median income; and

"(B) in the case of rental units, income not in excess of 30 percent of the area median income, with adjustments for smaller and larger families, as determined by the Director.

"(28) LOW-INCOME AREA.—The term 'low-income area' means a census tract or block numbering area in which the median income does not exceed 80 percent of the median income for the area in which such census tract or block numbering area is located, and, for the purposes of section 1332(a)(1)(B), shall include families having incomes not greater than 100 percent of the area median income who reside in minority census tracts and shall include families having incomes not greater than 100 percent of the area median income who reside in designated disaster areas.

"(29) MINORITY CENSUS TRACT.—The term 'minority census tract' means a census tract that has a minority population of at least 30 percent and a median family income of less than 100 percent of the area family median income.

"(30) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY LOW-INCOME RENTER HOUSEHOLDS.—

"(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to extremely low-income renter households' means the gap between—

"(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 30 percent of the adjusted area median income as determined by the Director that are occupied by extremely low-income renter households or are vacant for rent; and

"(ii) the number of extremely low-income renter households.

"(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of extremely low-income households as described in subparagraph (A)(ii), there is no shortage.

"(31) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-INCOME RENTER HOUSEHOLDS.—

"(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to very low-income renter households' means the gap between—

"(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 50 percent of the adjusted area median income as determined by the Director that are occupied by either extremely low- or very low-income renter households or are vacant for rent; and

"(ii) the number of extremely low- and very low-income renter households.

"(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of extremely low- and very low-income households as described in subparagraph (A)(ii), there is no shortage.".

**SEC. 1129. DUTY TO SERVE UNDERSERVED MARKETS.**

(a) ESTABLISHMENT AND EVALUATION OF PERFORMANCE.—Section 1335 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565) is amended—

(1) in the section heading, by inserting "**DUTY TO SERVE UNDERSERVED MARKETS AND**" before "**OTHER**";

(2) by striking subsection (b);

(3) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting "and to carry out the duty under subsection (a) of this section" before ", each enterprise shall";

(B) in paragraph (3), by inserting "and" after the semicolon at the end;

(C) in paragraph (4), by striking "; and" and inserting a period;

(D) by striking paragraph (5); and

(E) by redesignating such subsection as subsection (b);

(4) by inserting before subsection (b) (as so redesignated by paragraph (3)(E) of this subsection) the following new subsection:

"(a) DUTY TO SERVE UNDERSERVED MARKETS.—

"(1) DUTY.—To increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets, each enterprise shall provide leadership to the market in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages for very low-, low-, and moderate-income families with respect to the following underserved markets:

"(A) MANUFACTURED HOUSING.—The enterprise shall develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on manufactured homes for very low-, low-, and moderate-income families.

"(B) AFFORDABLE HOUSING PRESERVATION.—The enterprise shall develop loan products and flexible underwriting guidelines to facilitate a secondary market to preserve housing affordable to very low-, low-, and moderate-income families, including housing projects subsidized under—

"(i) the project-based and tenant-based rental assistance programs under section 8 of the United States Housing Act of 1937;

"(ii) the program under section 236 of the National Housing Act;

"(iii) the below-market interest rate mortgage program under section 221(d)(4) of the National Housing Act;

"(iv) the supportive housing for the elderly program under section 202 of the Housing Act of 1959;

"(v) the supportive housing program for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act;

"(vi) the programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), but only permanent supportive housing projects subsidized under such programs;

"(vii) the rural rental housing program under section 515 of the Housing Act of 1949;

"(viii) the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986; and

"(ix) comparable state and local affordable housing programs.

Guidelines.

"(C) RURAL MARKETS.—The enterprise shall develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, and low-, and moderate-income families in rural areas."; and

(5) by adding at the end the following new subsections:

"(c) ADDITIONAL CATEGORIES.—The Director may submit recommendations to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate for the establishment of additional categories under subsection (a), provided that the Director makes

a preliminary determination that any such category is important to the mission of the enterprises, that the category is an underserved market, and that the establishment of such category is warranted.

"(d) EVALUATION AND REPORTING OF COMPLIANCE.—

Regulations.

"(1) IN GENERAL.—The Director shall, by regulation, establish effective for 2010 and thereafter a manner for evaluating whether, and the extent to which, the enterprises have complied with the duty under subsection (a) to serve underserved markets and for rating the extent of such compliance. Using such method, the Director shall, for 2010 and each year thereafter, evaluate such compliance and rate the performance of each enterprise as to extent of compliance. The Director shall include such evaluation and rating for each enterprise for a year in the report for that year submitted pursuant to section 1319B(a).

"(2) SEPARATE EVALUATIONS.—In determining whether an enterprise has complied with the duty referred to in paragraph (1), the Director shall separately evaluate whether the enterprise has complied with such duty with respect to each of the underserved markets identified in subsection (a), taking into consideration—

"(A) the development of loan products, more flexible underwriting guidelines, and other innovative approaches to providing financing to each of such underserved markets;

"(B) the extent of outreach to qualified loan sellers and other market participants in each of such underserved markets;

"(C) the volume of loans purchased in each of such underserved markets relative to the market opportunities available to the enterprise, except that the Director shall not establish specific quantitative targets nor evaluate the enterprises based solely on the volume of loans purchased; and

"(D) the amount of investments and grants in projects which assist in meeting the needs of such underserved markets.

"(3) MANUFACTURED HOUSING MARKET.—In determining whether an enterprise has complied with the duty under subparagraph (A) of subsection (a)(1), the Director may consider loans secured by both real and personal property.

"(4) PROHIBITION OF CONSIDERATION OF AFFORDABLE HOUSING FUND GRANTS FOR MEETING DUTY TO SERVE.— In determining whether an enterprise has complied with the duty referred to in paragraph (1), the Director may not consider any affordable housing fund grant amounts used under section 1337 for eligible activities under subsection (g) of such section.".

(b) ENFORCEMENT.—Subsection (a) of section 1336 of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)) is amended—

(1) in paragraph (1), by inserting "and with the duty under section 1335(a) of each enterprise with respect to underserved markets," before "as provided in this section"; and

(2) by adding at the end of such subsection, as amended by the preceding provisions of this title, the following new paragraph:

"(4) ENFORCEMENT OF DUTY TO PROVIDE MORTGAGE CREDIT TO UNDERSERVED MARKETS.—The duty under section 1335(a)

of each enterprise to serve underserved markets (as determined in accordance with section 1335(c)) shall be enforceable under this section to the same extent and under the same provisions that the housing goals established under this subpart are enforceable. Such duty shall be enforceable only under this section, except that such duty shall not be subject to subsection (c)(7) of this section and shall not be enforceable under any other provision of this title (including subpart C of this part) or under any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.".

(c) ADDITIONAL CREDIT FOR CERTAIN MORTGAGES.—Section 1336(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)) is amended—

(1) in paragraph (2), by inserting ", except as provided in paragraph (5)," after "which"; and

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

"(5) ADDITIONAL CREDIT.—The Director may assign additional credit toward achievement, under this section, of the housing goals for mortgage purchase activities of the enterprises that comply with the requirements of such goals and support housing that includes a licensed childcare center. The availability of additional credit under this paragraph shall not be used to increase any housing goal, subgoal, or target established under this subpart.".

**SEC. 1130. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.**

(a) IN GENERAL.—Section 1336 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4566) is amended by striking subsections (b) and (c) and inserting the following:

"(b) NOTICE AND PRELIMINARY DETERMINATION OF FAILURE TO MEET GOALS.—

"(1) NOTICE.—If the Director preliminarily determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal under this subpart, the Director shall provide written notice to the enterprise of such a preliminary determination, the reasons for such determination, and the information on which the Director based the determination.

"(2) RESPONSE PERIOD.—

"(A) IN GENERAL.—During the 30-day period beginning on the date on which an enterprise is provided notice under paragraph (1), the enterprise may submit to the Director any written information that the enterprise considers appropriate for consideration by the Director in finally determining whether such failure has occurred or whether the achievement of such goal was or is feasible.

"(B) EXTENDED PERIOD.—The Director may extend the period under subparagraph (A) for good cause for not more than 30 additional days.

"(C) SHORTENED PERIOD.—The Director may shorten the period under subparagraph (A) for good cause.

"(D) FAILURE TO RESPOND.—The failure of an enterprise to provide information during the 30-day period under this paragraph (as extended or shortened) shall waive any right

of the enterprise to comment on the proposed determination or action of the Director.

"(3) CONSIDERATION OF INFORMATION AND FINAL DETERMINATION.—

"(A) IN GENERAL.—After the expiration of the response period under paragraph (2), or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Director shall issue a final determination on—

"(i) whether the enterprise has failed, or there is a substantial probability that the enterprise will fail, to meet the housing goal; and

"(ii) whether (taking into consideration market and economic conditions and the financial condition of the enterprise) the achievement of the housing goal was or is feasible.

"(B) CONSIDERATIONS.—In making a final determination under subparagraph (A), the Director shall take into consideration any relevant information submitted by the enterprise during the response period.

"(C) NOTICE.—The Director shall provide written notice, including a response to any information submitted during the response period, to the enterprise, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, of—

"(i) each final determination under this paragraph that an enterprise has failed, or that there is a substantial probability that the enterprise will fail, to meet a housing goal;

"(ii) each final determination that the achievement of a housing goal was or is feasible; and

"(iii) the reasons for each such final determination.

"(c) CEASE AND DESIST, CIVIL MONEY PENALTIES, AND REMEDIES INCLUDING HOUSING PLANS.—

"(1) REQUIREMENT.—If the Director finds, pursuant to subsection (b), that there is a substantial probability that an enterprise will fail, or has actually failed, to meet any housing goal under this subpart, and that the achievement of the housing goal was or is feasible, the Director may require that the enterprise submit a housing plan under this subsection. If the Director makes such a finding and the enterprise refuses to submit such a plan, submits an unacceptable plan, or fails to comply with the plan, the Director may issue a cease and desist order in accordance with section 1341 and impose civil money penalties in accordance with section 1345.

"(2) HOUSING PLAN.—If the Director requires a housing plan under this subsection, such a plan shall be—

"(A) a feasible plan describing the specific actions the enterprise will take—

"(i) to achieve the goal for the next calendar year; and

"(ii) if the Director determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements and changes in its operations as are reasonable in the remainder of such year; and

"(B) sufficiently specific to enable the Director to monitor compliance periodically.

"(3) DEADLINE FOR SUBMISSION.—The Director shall establish a deadline for an enterprise to submit a housing plan to the Director, which may not be more than 45 days after the enterprise is provided notice. The Director may extend the deadline to the extent that the Director determines necessary. Any extension of the deadline shall be in writing and for a time certain.

Review. Deadline.

"(4) APPROVAL.—The Director shall review each submission by an enterprise, including a housing plan submitted under this subsection, and, not later than 30 days after submission, approve or disapprove the plan or other action. The Director may extend the period for approval or disapproval for a single additional 30-day period if the Director determines it necessary. The Director shall approve any plan that the Director determines is likely to succeed, and conforms with the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act (as applicable), this title, and any other applicable provision of law.

"(5) NOTICE OF APPROVAL AND DISAPPROVAL.—The Director shall provide written notice to any enterprise submitting a housing plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

Deadline.

"(6) RESUBMISSION.—If the initial housing plan submitted by an enterprise under this section is disapproved, the enterprise shall submit an amended plan acceptable to the Director not later than 15 days after such disapproval, or such longer period that the Director determines is in the public interest.

"(7) CEASE AND DESIST ORDERS; CIVIL MONEY PENALTIES.—Solely with respect to the housing goals established under sections 1332(a) and 1333(a)(1), if the Director requires an enterprise to submit a housing plan under this subsection and the enterprise refuses to submit such a plan, submits an unacceptable plan, or fails to comply with the plan, the Director may issue a cease and desist order in accordance with section 1341, impose civil money penalties in accordance with section 1345, exercise other appropriate enforcement authority or seek other appropriate actions.".

(b) CONFORMING AMENDMENT.—The heading for subpart C of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended to read as follows:

**"Subpart C—Enforcement".**

(c) CEASE AND DESIST PROCEEDINGS .—

(1) REPEAL.—Section 1341 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4581) is hereby repealed.

(2) CEASE AND DESIST PROCEEDINGS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by inserting before section 1342 the following:

12 USC 4581.

**"SEC. 1341. CEASE AND DESIST PROCEEDINGS.**

"(a) GROUNDS FOR ISSUANCE.—The Director may issue and serve a notice of charges under this section upon an enterprise if the Director determines that—

"(1) the enterprise has failed to submit a report under section 1327, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

"(2) the enterprise has failed to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

"(3) solely with respect to the housing goals established under sections 1332(a) and 1333(a)(1), the enterprise has failed to submit a housing plan that complies with section 1336(c) within the applicable period; or

"(4) solely with respect to the housing goals established under sections 1332(a) and 1333(a)(1), the enterprise has failed to comply with a housing plan under section 1336(c).

"(b) PROCEDURE.—

"(1) NOTICE OF CHARGES.—Each notice of charges issued under this section shall contain a statement of the facts constituting the alleged conduct and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct should issue.

"(2) ISSUANCE OF ORDER.—If the Director finds on the record made at a hearing described in paragraph (1) that any conduct specified in the notice of charges has been established (or the enterprise consents pursuant to section 1342(a)(4)), the Director may issue and serve upon the enterprise an order requiring the enterprise to—

"(A) submit a report under section 1327;

"(B) solely with respect to the housing goals established under sections 1332(a) and 1333(a)(1), submit a housing plan in compliance with section 1336(c);

"(C) solely with respect to the housing goals established under sections 1332(a) and 1333(a)(1), comply with the housing plan in compliance with section 1336(c); or

"(D) provide the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act.

"(c) EFFECTIVE DATE.—An order under this section shall become effective upon the expiration of the 30-day period beginning on the date of service of the order upon the enterprise (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise, as provided in this subpart.".

(d) CIVIL MONEY PENALTIES.—

(1) REPEAL.—Section 1345 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4585) is hereby repealed.

(2) CIVIL MONEY PENALTIES.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by inserting after section 1344 the following:

12 USC 4585.

**"SEC. 1345. CIVIL MONEY PENALTIES.**

"(a) AUTHORITY.—The Director may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed to—

"(1) submit a report under section 1327, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

"(2) submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

"(3) solely with respect to the housing goals established under sections 1332(a) and 1333(a)(1), submit a housing plan or perform its responsibilities under a remedial order issued pursuant to section 1336(c) within the required period; or

"(4) solely with respect to the housing goals established under sections 1332(a) and 1333(a)(1), comply with a housing plan for the enterprise under section 1336(c).

"(b) AMOUNT OF PENALTY.—The amount of a penalty under this section, as determined by the Director, may not exceed—

"(1) for any failure described in paragraph (1), (5), or (6) of subsection (a), $100,000 for each day that the failure occurs; and

"(2) for any failure described in paragraph (2), (3), or (4) of subsection (a), $50,000 for each day that the failure occurs.

"(c) PROCEDURES.—

Standards.

"(1) ESTABLISHMENT.—The Director shall establish standards and procedures governing the imposition of civil money penalties under this section. Such standards and procedures—

Records.

"(A) shall provide for the Director to notify the enterprise in writing of the determination of the Director to impose the penalty, which shall be made on the record;

"(B) shall provide for the imposition of a penalty only after the enterprise has been given an opportunity for a hearing on the record pursuant to section 1342; and

"(C) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this section, the Director shall give consideration to factors including—

"(A) the gravity of the offense;

"(B) any history of prior offenses;

"(C) ability to pay the penalty;

"(D) injury to the public;

"(E) benefits received;

"(F) deterrence of future violations;

"(G) the length of time that the enterprise should reasonably take to achieve the goal; and

"(H) such other factors as the Director may determine, by regulation, to be appropriate.

"(d) ACTION TO COLLECT PENALTY.—If an enterprise fails to comply with an order by the Director imposing a civil money penalty under this section, after the order is no longer subject to review, as provided in sections 1342 and 1343, the Director may bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise,

and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order imposing the penalty shall not be subject to review.

"(e) SETTLEMENT BY DIRECTOR.—The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(f) DEPOSIT OF PENALTIES.—The Director shall use any civil money penalties collected under this section to help fund the Housing Trust Fund established under section 1338.".

(e) DIRECTOR AUTHORITY.—

(1) AUTHORITY TO BRING A CIVIL ACTION.—Section 1344(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4584) is amended by striking "The Secretary may request the Attorney General of the United States to bring a civil action" and inserting "The Director may bring a civil action".

(2) SUBPOENA ENFORCEMENT.—Section 1348(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4588(c)) is amended by inserting "may bring an action or" before "may request".

(3) CONFORMING AMENDMENTS.—Subpart C of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4581 et seq.) is amended by striking "Secretary" each place that term appears and inserting "Director" in each of—

(A) section 1342 (12 U.S.C. 4582);
(B) section 1343 (12 U.S.C. 4583);
(C) section 1346 (12 U.S.C. 4586);
(D) section 1347 (12 U.S.C. 4587); and
(E) section 1348 (12 U.S.C. 4588).

**SEC. 1131. AFFORDABLE HOUSING PROGRAMS.**

(a) REPEAL.—Section 1337 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4567) is hereby repealed.

(b) ANNUAL HOUSING REPORT.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 1301 et seq.) is amended by inserting after section 1336 the following:

**"SEC. 1337. AFFORDABLE HOUSING ALLOCATIONS.** 12 USC 4567.

"(a) SET ASIDE AND ALLOCATION OF AMOUNTS BY ENTERPRISES.—Subject to subsection (b), in each fiscal year—

"(1) the Federal Home Loan Mortgage Corporation shall—

"(A) set aside an amount equal to 4.2 basis points for each dollar of the unpaid principal balance of its total new business purchases; and

"(B) allocate or otherwise transfer—

"(i) 65 percent of such amounts to the Secretary of Housing and Urban Development to fund the Housing Trust Fund established under section 1338; and

"(ii) 35 percent of such amounts to fund the Capital Magnet Fund established pursuant to section 1339; and

"(2) the Federal National Mortgage Association shall—

"(A) set aside an amount equal to 4.2 basis points for each dollar of unpaid principal balance of its total new business purchases; and

"(B) allocate or otherwise transfer—

"(i) 65 percent of such amounts to the Secretary of Housing and Urban Development to fund the Housing Trust Fund established under section 1338; and

"(ii) 35 percent of such amounts to fund the Capital Magnet Fund established pursuant to section 1339.

"(b) SUSPENSION OF CONTRIBUTIONS.—The Director shall temporarily suspend allocations under subsection (a) by an enterprise upon a finding by the Director that such allocations—

"(1) are contributing, or would contribute, to the financial instability of the enterprise;

"(2) are causing, or would cause, the enterprise to be classified as undercapitalized; or

"(3) are preventing, or would prevent, the enterprise from successfully completing a capital restoration plan under section 1369C.

Regulations.

"(c) PROHIBITION OF PASS-THROUGH OF COST OF ALLOCATIONS.—The Director shall, by regulation, prohibit each enterprise from redirecting the costs of any allocation required under this section, through increased charges or fees, or decreased premiums, or in any other manner, to the originators of mortgages purchased or securitized by the enterprise.

"(d) ENFORCEMENT OF REQUIREMENTS ON ENTERPRISE.—Compliance by the enterprises with the requirements under this section shall be enforceable under subpart C. Any reference in such subpart to this part or to an order, rule, or regulation under this part specifically includes this section and any order, rule, or regulation under this section.

"(e) REQUIRED AMOUNT FOR HOPE RESERVE FUND.—Of the aggregate amount allocated under subsection (a), 25 percent shall be deposited into a fund established in the Treasury of the United States by the Secretary of the Treasury for such purpose.

"(f) LIMITATION.—No funds under this title may be used in conjunction with property taken by eminent domain, unless eminent domain is employed only for a public use, except that, for purposes of this section, public use shall not be construed to include economic development that primarily benefits any private entity.

12 USC 4568.

**"SEC. 1338. HOUSING TRUST FUND.**

"(a) ESTABLISHMENT AND PURPOSE.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall establish and manage a Housing Trust Fund, which shall be funded with amounts allocated by the enterprises under section 1337 and any amounts as are or may be appropriated, transferred, or credited to such Housing Trust Fund under any other provisions of law. The purpose of the Housing Trust Fund under this section is to provide grants to States (as such term is defined in section 1303) for use—

"(A) to increase and preserve the supply of rental housing for extremely low- and very low-income families, including homeless families; and

"(B) to increase homeownership for extremely low- and very low-income families.

"(2) FEDERAL ASSISTANCE.—For purposes of the application of Federal civil rights laws, all assistance provided from the Housing Trust Fund shall be considered Federal financial assistance.

"(b) ALLOCATIONS FOR HOPE BOND PAYMENTS.—

"(1) IN GENERAL.—Notwithstanding subsection (c), to help address the mortgage crisis, of the amounts allocated pursuant to clauses (i) and (ii) of section 1337(a)(1)(B) and clauses (i) and (ii) of section 1337(a)(2)(B) in excess of amounts described in section 1337(e)—

"(A) 100 percent of such excess shall be used to reimburse the Treasury for payments made pursuant to section 257(w)(1)(C) of the National Housing Act in calendar year 2009;

"(B) 50 percent of such excess shall be used to reimburse the Treasury for such payments in calendar year 2010; and

"(C) 25 percent of such excess shall be used to reimburse the Treasury for such payments in calendar year 2011.

"(2) EXCESS FUNDS.—At the termination of the HOPE for Homeowners Program established under section 257 of the National Housing Act, if amounts used to reimburse the Treasury under paragraph (1) exceed the total net cost to the Government of the HOPE for Homeowners Program, such amounts shall be used for their original purpose, as described in paragraphs (1)(B) and (2)(B) of section 1337(a).

"(3) TREASURY FUND.—The amounts referred to in subparagraphs (A) through (C) of paragraph (1) shall be deposited into a fund established in the Treasury of the United States by the Secretary of the Treasury for such purpose.

"(c) ALLOCATION FOR HOUSING TRUST FUND IN FISCAL YEAR 2010 AND SUBSEQUENT YEARS.—

"(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall distribute the amounts allocated for the Housing Trust Fund under this section to provide affordable housing as described in this subsection.

"(2) PERMISSIBLE DESIGNEES.—A State receiving grant amounts under this subsection may designate a State housing finance agency, housing and community development entity, tribally designated housing entity (as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1997 (25 U.S.C. 4103)), or any other qualified instrumentality of the State to receive such grant amounts.

"(3) DISTRIBUTION TO STATES BY NEEDS-BASED FORMULA.—

"(A) IN GENERAL.—The Secretary shall, by regulation, establish a formula within 12 months of the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, to distribute amounts made available under this subsection to each State to provide affordable housing to extremely low- and very low-income households.

Regulations. Deadline. Disadvantaged persons.

"(B) BASIS FOR FORMULA.—The formula required under subparagraph (A) shall include the following:

"(i) The ratio of the shortage of standard rental units both affordable and available to extremely low-income renter households in the State to the aggregate shortage of standard rental units both affordable and available to extremely low-income renter households in all the States.

"(ii) The ratio of the shortage of standard rental units both affordable and available to very low-income renter households in the State to the aggregate shortage of standard rental units both affordable and available to very low-income renter households in all the States.

"(iii) The ratio of extremely low-income renter households in the State living with either (I) incomplete kitchen or plumbing facilities, (II) more than 1 person per room, or (III) paying more than 50 percent of income for housing costs, to the aggregate number of extremely low-income renter households living with either (IV) incomplete kitchen or plumbing facilities, (V) more than 1 person per room, or (VI) paying more than 50 percent of income for housing costs in all the States.

"(iv) The ratio of very low-income renter households in the State paying more than 50 percent of income on rent relative to the aggregate number of very low-income renter households paying more than 50 percent of income on rent in all the States.

"(v) The resulting sum calculated from the factors described in clauses (i) through (iv) shall be multiplied by the relative cost of construction in the State. For purposes of this subclause, the term 'cost of construction'—

"(I) means the cost of construction or building rehabilitation in the State relative to the national cost of construction or building rehabilitation; and

"(II) shall be calculated such that values higher than 1.0 indicate that the State's construction costs are higher than the national average, a value of 1.0 indicates that the State's construction costs are exactly the same as the national average, and values lower than 1.0 indicate that the State's cost of construction are lower than the national average.

"(C) PRIORITY.—The formula required under subparagraph (A) shall give priority emphasis and consideration to the factor described in subparagraph (B)(i).

"(4) ALLOCATION OF GRANT AMOUNTS.—

Deadline. Federal Register, publication.

"(A) NOTICE.—Not later than 60 days after the date that the Secretary determines the formula amounts described in paragraph (3), the Secretary shall caused to be published in the Federal Register a notice that such amounts shall be so available.

State and local governments.

"(B) GRANT AMOUNT.—In each fiscal year other than fiscal year 2009, the Secretary shall make a grant to each State in an amount that is equal to the formula amount determined under paragraph (3) for that State.

"(C) MINIMUM STATE ALLOCATIONS.—If the formula amount determined under paragraph (3) for a fiscal year would allocate less than $3,000,000 to any of the 50 States of the United States or the District of Columbia, the allocation for such State of the United States or the District of Columbia shall be $3,000,000, and the increase shall be deducted pro rata from the allocations made to all other of the States (as such term is defined in section 1303).

"(5) ALLOCATION PLANS REQUIRED.—

"(A) IN GENERAL.—For each year that a State or State designated entity receives a grant under this subsection, the State or State designated entity shall establish an allocation plan. Such plan shall—

"(i) set forth a plan for the distribution of grant amounts received by the State or State designated entity for such year;

"(ii) be based on priority housing needs, as determined by the State or State designated entity in accordance with the regulations established under subsection (g)(2)(D);

"(iii) comply with paragraph (6); and

"(iv) include performance goals that comply with the requirements established by the Secretary pursuant to subsection (g)(2).

Notification. Public comments.

"(B) ESTABLISHMENT.—In establishing an allocation plan under this paragraph, a State or State designated entity shall—

"(i) notify the public of the establishment of the plan;

"(ii) provide an opportunity for public comments regarding the plan;

"(iii) consider any public comments received regarding the plan; and

Public information.

"(iv) make the completed plan available to the public.

"(C) CONTENTS.—An allocation plan of a State or State designated entity under this paragraph shall set forth the requirements for eligible recipients under paragraph (8) to apply for such grant amounts, including a requirement that each such application include—

"(i) a description of the eligible activities to be conducted using such assistance; and

"(ii) a certification by the eligible recipient applying for such assistance that any housing units assisted with such assistance will comply with the requirements under this section.

"(6) SELECTION OF ACTIVITIES FUNDED USING HOUSING TRUST FUND GRANT AMOUNTS.—Grant amounts received by a State or State designated entity under this subsection may be used, or committed for use, only for activities that—

"(A) are eligible under paragraph (7) for such use;

"(B) comply with the applicable allocation plan of the State or State designated entity under paragraph (5); and

"(C) are selected for funding by the State or State designated entity in accordance with the process and criteria for such selection established pursuant to subsection (g)(2)(D).

Disadvantaged persons.

"(7) ELIGIBLE ACTIVITIES.—Grant amounts allocated to a State or State designated entity under this subsection shall be eligible for use, or for commitment for use, only for assistance for—

"(A) the production, preservation, and rehabilitation of rental housing, including housing under the programs identified in section 1335(a)(2)(B) and for operating costs, except that not less than 75 percent of such grant amounts shall be used for the benefit only of extremely low-income families or families with incomes at or below the poverty line (as such term is defined in section 673 of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902), including any revision required by such section) applicable to a family of the size involved, and not more than 25 percent for the benefit only of very low-income families; and

"(B) the production, preservation, and rehabilitation of housing for homeownership, including such forms as down payment assistance, closing cost assistance, and assistance for interest rate buy-downs, that—

"(i) is available for purchase only for use as a principal residence by families that qualify both as—

"(I) extremely low- and very low-income families at the times described in subparagraphs (A) through (C) of section 215(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(2)); and

"(II) first-time homebuyers, as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704), except that any reference in such section to assistance under title II of such Act shall for purposes of this subsection be considered to refer to assistance from affordable housing fund grant amounts;

"(ii) has an initial purchase price that meets the requirements of section 215(b)(1) of the Cranston-Gonzalez National Affordable Housing Act;

"(iii) is subject to the same resale restrictions established under section 215(b)(3) of the Cranston-Gonzalez National Affordable Housing Act and applicable to the participating jurisdiction that is the State in which such housing is located; and

"(iv) is made available for purchase only by, or in the case of assistance under this subsection, is made available only to homebuyers who have, before purchase completed a program of independent financial education and counseling from an eligible organization that meets the requirements of section 132 of the Federal Housing Finance Regulatory Reform Act of 2008.

"(8) TENANT PROTECTIONS AND PUBLIC PARTICIPATION.—All amounts from the Trust Fund shall be allocated in accordance with, and any eligible activities carried out in whole or in part with grant amounts under this subtitle (including housing

provided with such grant amounts) shall comply with and be operated in compliance with—

"(A) laws relating to tenant protections and tenant rights to participate in decision making regarding their residences;

"(B) laws requiring public participation, including laws relating to Consolidated Plans, Qualified Allocation Plans, and Public Housing Agency Plans; and

"(C) fair housing laws and laws regarding accessibility in federally assisted housing, including section 504 of the Rehabilitation Act of 1973.

"(9) ELIGIBLE RECIPIENTS.—Grant amounts allocated to a State or State designated entity under this subsection may be provided only to a recipient that is an organization, agency, or other entity (including a for-profit entity or a nonprofit entity) that—

"(A) has demonstrated experience and capacity to conduct an eligible activity under paragraph (7), as evidenced by its ability to—

"(i) own, construct or rehabilitate, manage, and operate an affordable multifamily rental housing development;

"(ii) design, construct or rehabilitate, and market affordable housing for homeownership; or

"(iii) provide forms of assistance, such as down payments, closing costs, or interest rate buy-downs for purchasers;

"(B) demonstrates the ability and financial capacity to undertake, comply, and manage the eligible activity;

"(C) demonstrates its familiarity with the requirements of any other Federal, State, or local housing program that will be used in conjunction with such grant amounts to ensure compliance with all applicable requirements and regulations of such programs; and

"(D) makes such assurances to the State or State designated entity as the Secretary shall, by regulation, require to ensure that the recipient will comply with the requirements of this subsection during the entire period that begins upon selection of the recipient to receive such grant amounts and ending upon the conclusion of all activities under paragraph (8) that are engaged in by the recipient and funded with such grant amounts. Regulations.

"(10) LIMITATIONS ON USE.—

"(A) REQUIRED AMOUNT FOR HOMEOWNERSHIP ACTIVITIES.—Of the aggregate amount allocated to a State or State designated entity under this subsection not more than 10 percent shall be used for activities under subparagraph (B) of paragraph (7).

"(B) DEADLINE FOR COMMITMENT OR USE.—Grant amounts allocated to a State or State designated entity under this subsection shall be used or committed for use within 2 years of the date that such grant amounts are made available to the State or State designated entity. The Secretary shall recapture any such amounts not so used or committed for use and reallocate such amounts under this subsection in the first year after such recapture.

Regulations.

"(C) USE OF RETURNS.—The Secretary shall, by regulation, provide that any return on a loan or other investment of any grant amount used by a State or State designated entity to provide a loan under this subsection shall be treated, for purposes of availability to and use by the State or State designated entity, as a grant amount authorized under this subsection.

Regulations.

"(D) PROHIBITED USES.—The Secretary shall, by regulation—

"(i) set forth prohibited uses of grant amounts allocated under this subsection, which shall include use for—

"(I) political activities;

"(II) advocacy;

"(III) lobbying, whether directly or through other parties;

"(IV) counseling services;

"(V) travel expenses; and

"(VI) preparing or providing advice on tax returns;

and for the purposes of this subparagraph, the prohibited use of funds for political activities includes influencing the selection, nomination, election, or appointment of one or more candidates to any Federal, State or local office as codified in section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501);

"(ii) provide that, except as provided in clause (iii), grant amounts of a State or State designated entity may not be used for administrative, outreach, or other costs of—

"(I) the State or State designated entity; or

"(II) any other recipient of such grant amounts; and

"(iii) limit the amount of any grant amounts for a year that may be used by the State or State designated entity for administrative costs of carrying out the program required under this subsection, including home ownership counseling, to a percentage of such grant amounts of the State or State designated entity for such year, which may not exceed 10 percent.

"(E) PROHIBITION OF CONSIDERATION OF USE FOR MEETING HOUSING GOALS OR DUTY TO SERVE.—In determining compliance with the housing goals under this subpart and the duty to serve underserved markets under section 1335, the Director may not consider any grant amounts used under this section for eligible activities under paragraph (7). The Director shall give credit toward the achievement of such housing goals and such duty to serve underserved markets to purchases by the enterprises of mortgages for housing that receives funding from such grant amounts, but only to the extent that such purchases by the enterprises are funded other than with such grant amounts.

"(d) REDUCTION FOR FAILURE TO OBTAIN RETURN OF MISUSED FUNDS.—If in any year a State or State designated entity fails to obtain reimbursement or return of the full amount required

under subsection (e)(1)(B) to be reimbursed or returned to the State or State designated entity during such year—

"(1) except as provided in paragraph (2)—

"(A) the amount of the grant for the State or State designated entity for the succeeding year, as determined pursuant to this section, shall be reduced by the amount by which such amounts required to be reimbursed or returned exceed the amount actually reimbursed or returned; and

"(B) the amount of the grant for the succeeding year for each other State or State designated entity whose grant is not reduced pursuant to subparagraph (A) shall be increased by the amount determined by applying the formula established pursuant to this section to the total amount of all reductions for all State or State designated entities for such year pursuant to subparagraph (A); or

Payments.

"(2) in any case in which such failure to obtain reimbursement or return occurs during a year immediately preceding a year in which grants under this section will not be made, the State or State designated entity shall pay to the Secretary for reallocation among the other grantees an amount equal to the amount of the reduction for the entity that would otherwise apply under paragraph (1)(A).

"(e) ACCOUNTABILITY OF RECIPIENTS AND GRANTEES.—

"(1) RECIPIENTS.—

"(A) TRACKING OF FUNDS.—The Secretary shall—

"(i) require each State or State designated entity to develop and maintain a system to ensure that each recipient of assistance under this section uses such amounts in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and

Requirements.

"(ii) establish minimum requirements for agreements, between the State or State designated entity and recipients, regarding assistance under this section, which shall include—

Reports.
Recordkeeping.

"(I) appropriate periodic financial and project reporting, record retention, and audit requirements for the duration of the assistance to the recipient to ensure compliance with the limitations and requirements of this section and the regulations under this section; and

"(II) any other requirements that the Secretary determines are necessary to ensure appropriate administration and compliance.

"(B) MISUSE OF FUNDS.—

Deadline.

"(i) REIMBURSEMENT REQUIREMENT.—If any recipient of assistance under this section is determined, in accordance with clause (ii), to have used any such amounts in a manner that is materially in violation of this section, the regulations issued under this section, or any requirements or conditions under which such amounts were provided, the State or State designated entity shall require that, within 12 months after the determination of such misuse, the recipient shall reimburse the State or State designated entity

for such misused amounts and return to the State or State designated entity any such amounts that remain unused or uncommitted for use. The remedies under this clause are in addition to any other remedies that may be available under law.

"(ii) DETERMINATION.—A determination is made in accordance with this clause if the determination is made by the Secretary or made by the State or State designated entity, provided that—

Notification.

"(I) the State or State designated entity provides notification of the determination to the Secretary for review, in the discretion of the Secretary, of the determination; and

"(II) the Secretary does not subsequently reverse the determination.

"(2) GRANTEES.—

"(A) REPORT.—

"(i) IN GENERAL.—The Secretary shall require each State or State designated entity receiving grant amounts in any given year under this section to submit a report, for such year, to the Secretary that—

"(I) describes the activities funded under this section during such year with such grant amounts; and

"(II) the manner in which the State or State designated entity complied during such year with any allocation plan established pursuant to subsection (c).

"(ii) PUBLIC AVAILABILITY.—The Secretary shall make such reports pursuant to this subparagraph publicly available.

Notification.

"(B) MISUSE OF FUNDS.—If the Secretary determines, after reasonable notice and opportunity for hearing, that a State or State designated entity has failed to comply substantially with any provision of this section, and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall—

"(i) reduce the amount of assistance under this section to the State or State designated entity by an amount equal to the amount of grant amounts which were not used in accordance with this section;

"(ii) require the State or State designated entity to repay the Secretary any amount of the grant which was not used in accordance with this section;

"(iii) limit the availability of assistance under this section to the State or State designated entity to activities or recipients not affected by such failure to comply; or

"(iv) terminate any assistance under this section to the State or State designated entity.

"(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) EXTREMELY LOW-INCOME RENTER HOUSEHOLD.—The term 'extremely low-income renter household' means a household whose income is not in excess of 30 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.

"(2) RECIPIENT.—The term 'recipient' means an individual or entity that receives assistance from a State or State designated entity from amounts made available to the State or State designated entity under this section.

"(3) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY LOW-INCOME RENTER HOUSEHOLDS.—

"(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to extremely low-income renter households' means for any State or other geographical area the gap between—

"(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 30 percent of the adjusted area median income as determined by the Secretary that are occupied by extremely low-income renter households or are vacant for rent; and

"(ii) the number of extremely low-income renter households.

"(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of extremely low-income households as described in subparagraph (A)(ii), there is no shortage.

"(4) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-INCOME RENTER HOUSEHOLDS.—

"(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to very low-income renter households' means for any State or other geographical area the gap between—

"(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 50 percent of the adjusted area median income as determined by the Secretary that are occupied by very low-income renter households or are vacant for rent; and

"(ii) the number of very low-income renter households.

"(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of very low-income households as described in subparagraph (A)(ii), there is no shortage.

"(5) VERY LOW-INCOME FAMILY.—The term 'very low-income family' has the meaning given such term in section 1303, except that such term includes any family that resides in a rural area that has an income that does not exceed the poverty line (as such term is defined in section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)), including any revision required by such section) applicable to a family of the size involved.

"(6) VERY LOW-INCOME RENTER HOUSEHOLDS.—The term 'very low-income renter households' means a household whose income is in excess of 30 percent but not greater than 50 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.

"(g) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall issue regulations to carry out this section.

"(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

Deadline.

"(A) a requirement that the Secretary ensure that the use of grant amounts under this section by States or State designated entities is audited not less than annually to ensure compliance with this section;

"(B) authority for the Secretary to audit, provide for an audit, or otherwise verify a State or State designated entity's activities to ensure compliance with this section;

"(C) a requirement that, for the purposes of subparagraphs (A) and (B), any financial statement submitted by a grantee or recipient to the Secretary shall be reviewed by an independent certified public accountant in accordance with Statements on Standards for Accounting and Review Services, issued by the American Institute of Certified Public Accountants;

"(D) requirements for a process for application to, and selection by, each State or State designated entity for activities meeting the State or State designated entity's priority housing needs to be funded with grant amounts under this section, which shall provide for priority in funding to be based upon—

"(i) geographic diversity;

"(ii) ability to obligate amounts and undertake activities so funded in a timely manner;

"(iii) in the case of rental housing projects under subsection (c)(7)(A), the extent to which rents for units in the project funded are affordable, especially for extremely low-income families;

"(iv) in the case of rental housing projects under subsection (c)(7)(A), the extent of the duration for which such rents will remain affordable;

"(v) the extent to which the application makes use of other funding sources; and

"(vi) the merits of an applicant's proposed eligible activity;

"(E) requirements to ensure that grant amounts provided to a State or State designated entity under this section that are used for rental housing under subsection (c)(7)(A) are used only for the benefit of extremely low- and very low-income families; and

"(F) requirements and standards for establishment, by a State or State designated entity, for use of grant amounts in 2009 and subsequent years of performance goals, benchmarks, and timetables for the production, preservation, and rehabilitation of affordable rental and homeownership housing with such grant amounts.

"(h) AFFORDABLE HOUSING TRUST FUND.—If, after the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, in any year, there is enacted any provision of Federal law establishing an affordable housing trust fund other than under this title for use only for grants to provide affordable rental housing and affordable homeownership opportunities, and the subsequent year is a year referred to in subsection (c), the Secretary shall in such subsequent year and any remaining years referred to in

subsection (c) transfer to such affordable housing trust fund the aggregate amount allocated pursuant to subsection (c) in such year. Notwithstanding any other provision of law, assistance provided using amounts transferred to such affordable housing trust fund pursuant to this subsection may not be used for any of the activities specified in clauses (i) through (vi) of subsection (c)(9)(D).

"(i) FUNDING ACCOUNTABILITY AND TRANSPARENCY.—Any grant under this section to a grantee by a State or State designated entity, any assistance provided to a recipient by a State or State designated entity, and any grant, award, or other assistance from an affordable housing trust fund referred to in subsection (h) shall be considered a Federal award for purposes of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note). Upon the request of the Director of the Office of Management and Budget, the Secretary shall obtain and provide such information regarding any such grants, assistance, and awards as the Director of the Office of Management and Budget considers necessary to comply with the requirements of such Act, as applicable, pursuant to the preceding sentence. Records.

**"SEC. 1339. CAPITAL MAGNET FUND.** 12 USC 4569.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Capital Magnet Fund, which shall be a special account within the Community Development Financial Institutions Fund.

"(b) DEPOSITS TO TRUST FUND.—The Capital Magnet Fund shall consist of—

"(1) any amounts transferred to the Fund pursuant to section 1337; and

"(2) any amounts as are or may be appropriated, transferred, or credited to such Fund under any other provisions of law.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Capital Magnet Fund shall be available to the Secretary of the Treasury to carry out a competitive grant program to attract private capital for and increase investment in— Grants.

"(1) the development, preservation, rehabilitation, or purchase of affordable housing for primarily extremely low-, very low-, and low-income families; and

"(2) economic development activities or community service facilities, such as day care centers, workforce development centers, and health care clinics, which in conjunction with affordable housing activities implement a concerted strategy to stabilize or revitalize a low-income area or underserved rural area.

"(d) FEDERAL ASSISTANCE.—For purposes of the application of Federal civil rights laws, all assistance provided using amounts in the Capital Magnet Fund shall be considered Federal financial assistance.

"(e) ELIGIBLE GRANTEES.—A grant under this section may be made, pursuant to such requirements as the Secretary of the Treasury shall establish for experience and success in attracting private financing and carrying out the types of activities proposed under the application of the grantee, only to— Requirements.

"(1) a Treasury certified community development financial institution; or

"(2) a nonprofit organization having as 1 of its principal purposes the development or management of affordable housing.

"(f) ELIGIBLE USES.—Grant amounts awarded from the Capital Magnet Fund pursuant to this section may be used for the purposes described in paragraphs (1) and (2) of subsection (c), including for the following uses:

"(1) To provide loan loss reserves.

"(2) To capitalize a revolving loan fund.

"(3) To capitalize an affordable housing fund.

"(4) To capitalize a fund to support activities described in subsection (c)(2).

"(5) For risk-sharing loans.

"(g) APPLICATIONS.—

Regulations.

"(1) IN GENERAL.—The Secretary of the Treasury shall provide, in a competitive application process established by regulation, for eligible grantees under subsection (e) to submit applications for Capital Magnet Fund grants to the Secretary at such time and in such manner as the Secretary shall determine.

"(2) CONTENT OF APPLICATION.—The application required under paragraph (1) shall include a detailed description of—

"(A) the types of affordable housing, economic, and community revitalization projects that support or sustain residents of an affordable housing project funded by a grant under this section for which such grant amounts would be used, including the proposed use of eligible grants as authorized under this section;

"(B) the types, sources, and amounts of other funding for such projects; and

"(C) the expected time frame of any grant used for such project.

"(h) GRANT LIMITATION.—

"(1) IN GENERAL.—Any 1 eligible grantee and its subsidiaries and affiliates may not be awarded more than 15 percent of the aggregate funds available for grants during any year from the Capital Magnet Fund.

"(2) GEOGRAPHIC DIVERSITY.—

"(A) GOAL.—The Secretary of the Treasury shall seek to fund activities in geographically diverse areas of economic distress, including metropolitan and underserved rural areas in every State.

"(B) DIVERSITY DEFINED.—For purposes of this paragraph, geographic diversity includes those areas that meet objective criteria of economic distress developed by the Secretary of the Treasury, which may include—

"(i) the percentage of low-income families or the extent of poverty;

"(ii) the rate of unemployment or underemployment;

"(iii) extent of blight and disinvestment;

"(iv) projects that target extremely low-, very low-, and low-income families in or outside a designated economic distress area; or

"(v) any other criteria designated by the Secretary of the Treasury.

"(3) LEVERAGE OF FUNDS.—Each grant from the Capital Magnet Fund awarded under this section shall be reasonably

expected to result in eligible housing, or economic and community development projects that support or sustain an affordable housing project funded by a grant under this section whose aggregate costs total at least 10 times the grant amount.

"(4) COMMITMENT FOR USE DEADLINE.—Amounts made available for grants under this section shall be committed for use within 2 years of the date of such allocation. The Secretary of the Treasury shall recapture into the Capital Magnet Fund any amounts not so used or committed for use and allocate such amounts in the first year after such recapture.

"(5) PROHIBITED USES.—The Secretary shall, by regulation, set forth prohibited uses of grant amounts awarded under this section, which shall include use for— Regulations.

"(A) political activities;

"(B) advocacy;

"(C) lobbying, whether directly or through other parties;

"(D) counseling services;

"(E) travel expenses; and

"(F) preparing or providing advice on tax returns;

and for the purposes of this paragraph, the prohibited use of funds for political activities includes influencing the selection, nomination, election, or appointment of one or more candidates to any Federal, State or local office as codified in section §501 of the Internal Revenue Code of 1986 (26 U.S.C. 501).

"(6) ADDITIONAL LOBBYING RESTRICTIONS.—No assistance or amounts made available under this section may be expended by an eligible grantee to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan, or cooperative agreement as such terms are defined in section 1352 of title 31, United States Code.

"(7) PROHIBITION OF CONSIDERATION OF USE FOR MEETING HOUSING GOALS OR DUTY TO SERVE.—In determining the compliance of the enterprises with the housing goals under this section and the duty to serve underserved markets under section 1335, the Director of the Federal Housing Finance Agency may not consider any Capital Magnet Fund amounts used under this section for eligible activities under subsection (f). The Director of the Federal Housing Finance Agency shall give credit toward the achievement of such housing goals and such duty to serve underserved markets to purchases by the enterprises of mortgages for housing that receives funding from Capital Magnet Fund grant amounts, but only to the extent that such purchases by the enterprises are funded other than with such grant amounts.

"(8) ACCOUNTABILITY OF RECIPIENTS AND GRANTEES.—

"(A) TRACKING OF FUNDS.—The Secretary of the Treasury shall—

"(i) require each grantee to develop and maintain a system to ensure that each recipient of assistance from the Capital Magnet Fund uses such amounts in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and Records.

"(ii) establish minimum requirements for agreements, between the grantee and the Capital Magnet Fund, regarding assistance from the Capital Magnet Fund, which shall include—

"(I) appropriate periodic financial and project reporting, record retention, and audit requirements for the duration of the grant to the recipient to ensure compliance with the limitations and requirements of this section and the regulations under this section; and

"(II) any other requirements that the Secretary determines are necessary to ensure appropriate grant administration and compliance.

"(B) MISUSE OF FUNDS.—If the Secretary of the Treasury determines, after reasonable notice and opportunity for hearing, that a grantee has failed to comply substantially with any provision of this section and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall—

"(i) reduce the amount of assistance under this section to the grantee by an amount equal to the amount of Capital Magnet Fund grant amounts which were not used in accordance with this section;

"(ii) require the grantee to repay the Secretary any amount of the Capital Magnet Fund grant amounts which were not used in accordance with this section;

"(iii) limit the availability of assistance under this section to the grantee to activities or recipients not affected by such failure to comply; or

"(iv) terminate any assistance under this section to the grantee.

"(i) PERIODIC REPORTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall submit a report, on a periodic basis, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the activities to be funded under this section.

"(2) REPORTS AVAILABLE TO PUBLIC.—The Secretary of the Treasury shall make the reports required under paragraph (1) publicly available.

"(j) REGULATIONS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall issue regulations to carry out this section.

"(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

"(A) authority for the Secretary to audit, provide for an audit, or otherwise verify an enterprise's activities, to ensure compliance with this section;

Deadline.

"(B) a requirement that the Secretary ensure that the allocation of each enterprise is audited not less than annually to ensure compliance with this section;

"(C) a requirement that, for the purposes of subparagraphs (A) and (B), any financial statement submitted by a grantee to the Secretary shall be reviewed by an independent certified public accountant in accordance with

Statements on Standards for Accounting and Review Services, issued by the American Institute of Certified Public Accountants; and

"(D) requirements for a process for application to, and selection by, the Secretary for activities to be funded with amounts from the Capital Magnet Fund, which shall provide that—

"(i) funds be fairly distributed to urban, suburban, and rural areas; and

"(ii) selection shall be based upon specific criteria, including a prioritization of funding based upon—

"(I) the ability to use such funds to generate additional investments;

"(II) affordable housing need (taking into account the distinct needs of different regions of the country); and

"(III) ability to obligate amounts and undertake activities so funded in a timely manner.".

**SEC. 1132. FINANCIAL EDUCATION AND COUNSELING.**

12 USC 1701x note.

(a) GOALS.—Financial education and counseling under this section shall have the goal of—

(1) increasing the financial knowledge and decision making capabilities of prospective homebuyers;

(2) assisting prospective homebuyers to develop monthly budgets, build personal savings, finance or plan for major purchases, reduce their debt, improve their financial stability, and set and reach their financial goals;

(3) helping prospective homebuyers to improve their credit scores by understanding the relationship between their credit histories and their credit scores; and

(4) educating prospective homebuyers about the options available to build savings for short- and long-term goals.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the "Secretary") shall make grants to eligible organizations to enable such organizations to provide a range of financial education and counseling services to prospective homebuyers.

(2) SELECTION.—The Secretary shall select eligible organizations to receive assistance under this section based on their experience and ability to provide financial education and counseling services that result in documented positive behavioral changes.

(c) ELIGIBLE ORGANIZATIONS.—

(1) IN GENERAL.—For purposes of this section, the term "eligible organization" means an organization that is—

(A) certified in accordance with section 106(e)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)); or

(B) certified by the Office of Financial Education of the Department of the Treasury for purposes of this section, in accordance with paragraph (2).

(2) OFE CERTIFICATION.—To be certified by the Office of Financial Education for purposes of this section, an eligible organization shall be—

(A) a housing counseling agency certified by the Secretary of Housing and Urban Development under section 106(e) of the Housing and Urban Development Act of 1968;

(B) a State, local, or tribal government agency;

(C) a community development financial institution (as defined in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)) or a credit union; or

(D) any collaborative effort of entities described in any of subparagraphs (A) through (C).

(d) AUTHORITY FOR PILOT PROJECTS.—

Grants.

(1) IN GENERAL.—The Secretary of the Treasury shall authorize not more than 5 pilot project grants to eligible organizations under subsection (c) in order to—

(A) carry out the services under this section; and

(B) provide such other services that will improve the financial stability and economic condition of low- and moderate-income and low-wealth individuals.

(2) GOAL.—The goal of the pilot project grants under this subsection is to—

(A) identify successful methods resulting in positive behavioral change for financial empowerment; and

(B) establish program models for organizations to carry out effective counseling services.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section and for the provision of additional financial educational services.

(f) STUDY AND REPORT ON EFFECTIVENESS AND IMPACT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the effectiveness and impact of the grant program established under this section. Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report on the results of such study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(2) CONTENT OF STUDY.—The study required under paragraph (1) shall include an evaluation of the following:

(A) The effectiveness of the grant program established under this section in improving the financial situation of homeowners and prospective homebuyers served by the grant program.

(B) The extent to which financial education and counseling services have resulted in positive behavioral changes.

(C) The effectiveness and quality of the eligible organizations providing financial education and counseling services under the grant program.

(g) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be necessary to implement and administer the grant program authorized by this section.

12 USC 4511 note.

**SEC. 1133. TRANSFER AND RIGHTS OF CERTAIN HUD EMPLOYEES.**

Deadline.

(a) TRANSFER.—Each employee of the Department of Housing and Urban Development whose position responsibilities primarily involve the establishment and enforcement of the housing goals under subpart B of part 2 of subtitle A of the Federal Housing

Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4561 et seq.) shall be transferred to the Federal Housing Finance Agency for employment, not later than the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—

(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer.

(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee transferred under subsection (a) holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, in the case of a temporary employee, separated in accordance with the terms of the appointment of the employee.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of an employee occupying a position in the excepted service or the Senior Executive Service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director may decline a transfer of authority under paragraph (1) to the extent that such authority relates to—

(A) a position excepted from the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character; or

(B) a noncareer position in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any employee described under subsection (a) accepting employment with the Agency as a result of a transfer under subsection (a) may retain, for 12 months after the date on which such transfer occurs, membership in any employee benefit program of the Agency or the Department of Housing and Urban Development, as applicable, including insurance, to which such employee belongs on such effective date, if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director of the Federal Housing Finance Agency.

(2) COST DIFFERENTIAL.—

Payments.

(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Department of Housing and Urban Development and those provided by this section shall be paid by the Director.

Deadline.

(B) HEALTH INSURANCE.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the date of such election or notice, without regard to any other regularly scheduled open season.

# Subtitle C—Prompt Corrective Action

**SEC. 1141. CRITICAL CAPITAL LEVELS.**

(a) IN GENERAL.—Section 1363 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4613) is amended—

(1) by striking "For" and inserting "(a) ENTERPRISES.—FOR"; and

(2) by adding at the end the following new subsection: "(b) FEDERAL HOME LOAN BANKS.—

Regulations.

"(1) IN GENERAL.—For purposes of this subtitle, the critical capital level for each Federal Home Loan Bank shall be such amount of capital as the Director shall, by regulation, require.

"(2) CONSIDERATION OF OTHER CRITICAL CAPITAL LEVELS.—In establishing the critical capital level under paragraph (1) for the Federal Home Loan Banks, the Director shall take due consideration of the critical capital level established under subsection (a) for the enterprises, with such modifications as the Director determines to be appropriate to reflect the difference in operations between the banks and the enterprises.".

Deadline. 12 USC 4613 note.

(b) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of enactment of this Act, the Director of the Federal Housing Finance Agency shall issue regulations pursuant to section 1363(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as added by this section) establishing the critical capital level under such section.

**SEC. 1142. CAPITAL CLASSIFICATIONS.**

(a) IN GENERAL.—Section 1364 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4614) is amended—

(1) in the heading for subsection (a) by striking "In General" and inserting "Enterprises";

(2) in subsection (c)—

(A) by striking "subsection (b)" and inserting "subsection (c)";

(B) by striking "enterprises" and inserting "regulated entities"; and

(C) by striking the last sentence;

(3) by redesignating subsections (c) (as so amended by paragraph (2) of this subsection) and (d) as subsections (d) and (f), respectively;

(4) by striking subsection (b) and inserting the following: "(b) FEDERAL HOME LOAN BANKS.—

"(1) ESTABLISHMENT AND CRITERIA.—For purposes of this subtitle, the Director shall, by regulation— Regulations.

"(A) establish the capital classifications specified under paragraph (2) for the Federal Home Loan Banks;

"(B) establish criteria for each such capital classification based on the amount and types of capital held by a bank and the risk-based, minimum, and critical capital levels for the banks and taking due consideration of the capital classifications established under subsection (a) for the enterprises, with such modifications as the Director determines to be appropriate to reflect the difference in operations between the banks and the enterprises; and

"(C) shall classify the Federal Home Loan Banks according to such capital classifications.

"(2) CLASSIFICATIONS.—The capital classifications specified under this paragraph are—

"(A) adequately capitalized;

"(B) undercapitalized;

"(C) significantly undercapitalized; and

"(D) critically undercapitalized.

"(c) DISCRETIONARY CLASSIFICATION.—

"(1) GROUNDS FOR RECLASSIFICATION.—The Director may reclassify a regulated entity under paragraph (2) if—

"(A) at any time, the Director determines in writing that the regulated entity is engaging in conduct that could result in a rapid depletion of core or total capital or the value of collateral pledged as security has decreased significantly or that the value of the property subject to mortgages held by the regulated entity (or securitized in the case of an enterprise) has decreased significantly;

"(B) after notice and an opportunity for hearing, the Director determines that the regulated entity is in an unsafe or unsound condition; or

"(C) pursuant to section 1371(b), the Director deems the regulated entity to be engaging in an unsafe or unsound practice.

"(2) RECLASSIFICATION.—In addition to any other action authorized under this title, including the reclassification of a regulated entity for any reason not specified in this subsection, if the Director takes any action described in paragraph (1), the Director may classify a regulated entity—

"(A) as undercapitalized, if the regulated entity is otherwise classified as adequately capitalized;

"(B) as significantly undercapitalized, if the regulated entity is otherwise classified as undercapitalized; and

"(C) as critically undercapitalized, if the regulated entity is otherwise classified as significantly undercapitalized."; and

(5) by inserting after subsection (d) (as so redesignated by paragraph (3) of this subsection), the following new subsection:

"(e) RESTRICTION ON CAPITAL DISTRIBUTIONS.—

"(1) IN GENERAL.—A regulated entity shall make no capital distribution if, after making the distribution, the regulated entity would be undercapitalized.

"(2) EXCEPTION.—Notwithstanding paragraph (1), the Director may permit a regulated entity, to the extent appropriate or applicable, to repurchase, redeem, retire, or otherwise acquire shares or ownership interests if the repurchase, redemption, retirement, or other acquisition—

"(A) is made in connection with the issuance of additional shares or obligations of the regulated entity in at least an equivalent amount; and

"(B) will reduce the financial obligations of the regulated entity or otherwise improve the financial condition of the entity.".

Deadline.

(b) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of enactment of this Act, the Director of the Federal Housing Finance Agency shall issue regulations to carry out section 1364(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as added by this section), relating to capital classifications for the Federal Home Loan Banks.

**SEC. 1143. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED REGULATED ENTITIES.**

Section 1365 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4615) is amended—

(1) by striking "the enterprise" each place that term appears and inserting "the regulated entity";

(2) by striking "An enterprise" each place that term appears and inserting "A regulated entity";

(3) by striking "an enterprise" each place that term appears and inserting "a regulated entity";

(4) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2), as redesignated, the following:

"(1) REQUIRED MONITORING.—The Director shall—

"(A) closely monitor the condition of any undercapitalized regulated entity;

"(B) closely monitor compliance with the capital restoration plan, restrictions, and requirements imposed on an undercapitalized regulated entity under this section; and

Review.

"(C) periodically review the plan, restrictions, and requirements applicable to an undercapitalized regulated entity to determine whether the plan, restrictions, and requirements are achieving the purpose of this section."; and

(C) by adding at the end the following:

"(4) RESTRICTION OF ASSET GROWTH.—An undercapitalized regulated entity shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter, unless—

"(A) the Director has accepted the capital restoration plan of the regulated entity;

"(B) any increase in total assets is consistent with the capital restoration plan; and

"(C) the ratio of tangible equity to assets of the regulated entity increases during the calendar quarter at a

rate sufficient to enable the regulated entity to become adequately capitalized within a reasonable time.

"(5) PRIOR APPROVAL OF ACQUISITIONS AND NEW ACTIVITIES.—An undercapitalized regulated entity shall not, directly or indirectly, acquire any interest in any entity or engage in any new activity, unless—

"(A) the Director has accepted the capital restoration plan of the regulated entity, the regulated entity is implementing the plan, and the Director determines that the proposed action is consistent with and will further the achievement of the plan; or

"(B) the Director determines that the proposed action will further the purpose of this subtitle.";

(5) in subsection (b)—

(A) in the subsection heading, by striking "DISCRETIONARY";

(B) in the matter preceding paragraph (1), by striking "may" and inserting "shall"; and

(C) in paragraph (2)—

(i) by striking "make, in good faith, reasonable efforts necessary to"; and

(ii) by striking the period at the end and inserting "in any material respect."; and

(6) by striking subsection (c) and inserting the following:

"(c) OTHER DISCRETIONARY SAFEGUARDS.—The Director may take, with respect to an undercapitalized regulated entity, any of the actions authorized to be taken under section 1366 with respect to a significantly undercapitalized regulated entity, if the Director determines that such actions are necessary to carry out the purpose of this subtitle.".

**SEC. 1144. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED REGULATED ENTITIES.**

Section 1366 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4616) is amended—

(1) in subsection (a)(2), by striking "undercapitalized enterprise" and inserting "undercapitalized";

(2) by striking "the enterprise" each place that term appears and inserting "the regulated entity";

(3) by striking "An enterprise" each place that term appears and inserting "A regulated entity";

(4) by striking "an enterprise" each place that term appears and inserting "a regulated entity";

(5) in subsection (b)—

(A) in the subsection heading, by striking "DISCRETIONARY SUPERVISORY" and inserting "SPECIFIC";

(B) in the matter preceding paragraph (1), by striking "may, at any time, take any" and inserting "shall carry out this section by taking, at any time, 1 or more";

(C) by striking paragraph (6);

(D) by redesignating paragraph (5) as paragraph (6);

(E) by inserting after paragraph (4) the following:

"(5) IMPROVEMENT OF MANAGEMENT.—Take 1 or more of the following actions:

"(A) NEW ELECTION OF BOARD.—Order a new election for the board of directors of the regulated entity.

"(B) DISMISSAL OF DIRECTORS OR EXECUTIVE OFFICERS.—Require the regulated entity to dismiss from office any director or executive officer who had held office for more than 180 days immediately before the date on which the regulated entity became undercapitalized. Dismissal under this subparagraph shall not be construed to be a removal pursuant to the enforcement powers of the Director under section 1377.

"(C) EMPLOY QUALIFIED EXECUTIVE OFFICERS.—Require the regulated entity to employ qualified executive officers (who, if the Director so specifies, shall be subject to approval by the Director)."; and

(F) by adding at the end the following:

"(7) OTHER ACTION.—Require the regulated entity to take any other action that the Director determines will better carry out the purpose of this section than any of the other actions specified in this subsection."; and

(6) by striking subsection (c) and inserting the following:

"(c) RESTRICTION ON COMPENSATION OF EXECUTIVE OFFICERS.—A regulated entity that is classified as significantly undercapitalized in accordance with section 1364 may not, without prior written approval by the Director—

"(1) pay any bonus to any executive officer; or

"(2) provide compensation to any executive officer at a rate exceeding the average rate of compensation of that officer (excluding bonuses, stock options, and profit sharing) during the 12 calendar months preceding the calendar month in which the regulated entity became significantly undercapitalized.".

**SEC. 1145. AUTHORITY OVER CRITICALLY UNDERCAPITALIZED REGULATED ENTITIES.**

(a) IN GENERAL.—Section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617) is amended to read as follows:

**"SEC. 1367. AUTHORITY OVER CRITICALLY UNDERCAPITALIZED REGULATED ENTITIES.**

"(a) APPOINTMENT OF THE AGENCY AS CONSERVATOR OR RECEIVER.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, the Director may appoint the Agency as conservator or receiver for a regulated entity in the manner provided under paragraph (2) or (4). All references to the conservator or receiver under this section are references to the Agency acting as conservator or receiver.

"(2) DISCRETIONARY APPOINTMENT.—The Agency may, at the discretion of the Director, be appointed conservator or receiver for the purpose of reorganizing, rehabilitating, or winding up the affairs of a regulated entity.

"(3) GROUNDS FOR DISCRETIONARY APPOINTMENT OF CONSERVATOR OR RECEIVER.—The grounds for appointing conservator or receiver for any regulated entity under paragraph (2) are as follows:

"(A) ASSETS INSUFFICIENT FOR OBLIGATIONS.—The assets of the regulated entity are less than the obligations of the regulated entity to its creditors and others.

"(B) SUBSTANTIAL DISSIPATION.—Substantial dissipation of assets or earnings due to—

"(i) any violation of any provision of Federal or State law; or

"(ii) any unsafe or unsound practice.

"(C) UNSAFE OR UNSOUND CONDITION.—An unsafe or unsound condition to transact business.

"(D) CEASE AND DESIST ORDERS.—Any willful violation of a cease and desist order that has become final.

"(E) CONCEALMENT.—Any concealment of the books, papers, records, or assets of the regulated entity, or any refusal to submit the books, papers, records, or affairs of the regulated entity, for inspection to any examiner or to any lawful agent of the Director.

"(F) INABILITY TO MEET OBLIGATIONS.—The regulated entity is likely to be unable to pay its obligations or meet the demands of its creditors in the normal course of business.

"(G) LOSSES.—The regulated entity has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the regulated entity to become adequately capitalized (as defined in section 1364(a)(1)).

"(H) VIOLATIONS OF LAW.—Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

"(i) cause insolvency or substantial dissipation of assets or earnings; or

"(ii) weaken the condition of the regulated entity.

"(I) CONSENT.—The regulated entity, by resolution of its board of directors or its shareholders or members, consents to the appointment.

"(J) UNDERCAPITALIZATION.—The regulated entity is undercapitalized or significantly undercapitalized (as defined in section 1364(a)(3)), and—

"(i) has no reasonable prospect of becoming adequately capitalized;

"(ii) fails to become adequately capitalized, as required by—

"(I) section 1365(a)(1) with respect to a regulated entity; or

"(II) section 1366(a)(1) with respect to a significantly undercapitalized regulated entity;

"(iii) fails to submit a capital restoration plan acceptable to the Agency within the time prescribed under section 1369C; or

"(iv) materially fails to implement a capital restoration plan submitted and accepted under section 1369C.

"(K) CRITICAL UNDERCAPITALIZATION.—The regulated entity is critically undercapitalized, as defined in section 1364(a)(4).

"(L) MONEY LAUNDERING.—The Attorney General notifies the Director in writing that the regulated entity has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 or 5324 of title 31, United States Code. Notification.

"(4) MANDATORY RECEIVERSHIP.—

"(A) IN GENERAL.—The Director shall appoint the Agency as receiver for a regulated entity if the Director determines, in writing, that—

"(i) the assets of the regulated entity are, and during the preceding 60 calendar days have been, less than the obligations of the regulated entity to its creditors and others; or

"(ii) the regulated entity is not, and during the preceding 60 calendar days has not been, generally paying the debts of the regulated entity (other than debts that are the subject of a bona fide dispute) as such debts become due.

Deadlines.

"(B) PERIODIC DETERMINATION REQUIRED FOR CRITICALLY UNDERCAPITALIZED REGULATED ENTITY.—If a regulated entity is critically undercapitalized, the Director shall make a determination, in writing, as to whether the regulated entity meets the criteria specified in clause (i) or (ii) of subparagraph (A)—

"(i) not later than 30 calendar days after the regulated entity initially becomes critically undercapitalized; and

"(ii) at least once during each succeeding 30-calendar day period.

"(C) DETERMINATION NOT REQUIRED IF RECEIVERSHIP ALREADY IN PLACE.—Subparagraph (B) does not apply with respect to a regulated entity in any period during which the Agency serves as receiver for the regulated entity.

"(D) RECEIVERSHIP TERMINATES CONSERVATORSHIP.—The appointment of the Agency as receiver of a regulated entity under this section shall immediately terminate any conservatorship established for the regulated entity under this title.

"(5) JUDICIAL REVIEW.—

Deadline.

"(A) IN GENERAL.—If the Agency is appointed conservator or receiver under this section, the regulated entity may, within 30 days of such appointment, bring an action in the United States district court for the judicial district in which the home office of such regulated entity is located, or in the United States District Court for the District of Columbia, for an order requiring the Agency to remove itself as conservator or receiver.

"(B) REVIEW.—Upon the filing of an action under subparagraph (A), the court shall, upon the merits, dismiss such action or direct the Agency to remove itself as such conservator or receiver.

"(6) DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF CONSERVATOR OR RECEIVER.—The members of the board of directors of a regulated entity shall not be liable to the shareholders or creditors of the regulated entity for acquiescing in or consenting in good faith to the appointment of the Agency as conservator or receiver for that regulated entity.

"(7) AGENCY NOT SUBJECT TO ANY OTHER FEDERAL AGENCY.—When acting as conservator or receiver, the Agency shall not be subject to the direction or supervision of any other agency of the United States or any State in the exercise of the rights, powers, and privileges of the Agency.

"(b) POWERS AND DUTIES OF THE AGENCY AS CONSERVATOR OR RECEIVER.—

"(1) RULEMAKING AUTHORITY OF THE AGENCY.—The Agency may prescribe such regulations as the Agency determines to be appropriate regarding the conduct of conservatorships or receiverships. Regulations.

"(2) GENERAL POWERS.—

"(A) SUCCESSOR TO REGULATED ENTITY.—The Agency shall, as conservator or receiver, and by operation of law, immediately succeed to—

"(i) all rights, titles, powers, and privileges of the regulated entity, and of any stockholder, officer, or director of such regulated entity with respect to the regulated entity and the assets of the regulated entity; and

"(ii) title to the books, records, and assets of any other legal custodian of such regulated entity.

"(B) OPERATE THE REGULATED ENTITY.—The Agency may, as conservator or receiver—

"(i) take over the assets of and operate the regulated entity with all the powers of the shareholders, the directors, and the officers of the regulated entity and conduct all business of the regulated entity;

"(ii) collect all obligations and money due the regulated entity;

"(iii) perform all functions of the regulated entity in the name of the regulated entity which are consistent with the appointment as conservator or receiver;

"(iv) preserve and conserve the assets and property of the regulated entity; and

"(v) provide by contract for assistance in fulfilling any function, activity, action, or duty of the Agency as conservator or receiver.

"(C) FUNCTIONS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF A REGULATED ENTITY.—The Agency may, by regulation or order, provide for the exercise of any function by any stockholder, director, or officer of any regulated entity for which the Agency has been named conservator or receiver.

"(D) POWERS AS CONSERVATOR.—The Agency may, as conservator, take such action as may be—

"(i) necessary to put the regulated entity in a sound and solvent condition; and

"(ii) appropriate to carry on the business of the regulated entity and preserve and conserve the assets and property of the regulated entity.

"(E) ADDITIONAL POWERS AS RECEIVER.—In any case in which the Agency is acting as receiver, the Agency shall place the regulated entity in liquidation and proceed to realize upon the assets of the regulated entity in such manner as the Agency deems appropriate, including through the sale of assets, the transfer of assets to a limited-life regulated entity established under subsection (i), or the exercise of any other rights or privileges granted to the Agency under this paragraph.

"(F) ORGANIZATION OF NEW ENTERPRISE.—The Agency may, as receiver for an enterprise, organize a successor enterprise that will operate pursuant to subsection (i).

"(G) TRANSFER OR SALE OF ASSETS AND LIABILITIES.—The Agency may, as conservator or receiver, transfer or sell any asset or liability of the regulated entity in default, and may do so without any approval, assignment, or consent with respect to such transfer or sale.

"(H) PAYMENT OF VALID OBLIGATIONS.—The Agency, as conservator or receiver, shall, to the extent of proceeds realized from the performance of contracts or sale of the assets of a regulated entity, pay all valid obligations of the regulated entity that are due and payable at the time of the appointment of the Agency as conservator or receiver, in accordance with the prescriptions and limitations of this section.

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—

"(I) AGENCY AUTHORITY.—The Agency may, as conservator or receiver, and for purposes of carrying out any power, authority, or duty with respect to a regulated entity (including determining any claim against the regulated entity and determining and realizing upon any asset of any person in the course of collecting money due the regulated entity), exercise any power established under section 1348.

"(II) APPLICABILITY OF LAW.—The provisions of section 1348 shall apply with respect to the exercise of any power under this subparagraph, in the same manner as such provisions apply under that section.

"(ii) SUBPOENA.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Director, or the designee of the Director.

"(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed to limit any rights that the Agency, in any capacity, might otherwise have under section 1317 or 1379B.

"(J) INCIDENTAL POWERS.—The Agency may, as conservator or receiver—

"(i) exercise all powers and authorities specifically granted to conservators or receivers, respectively, under this section, and such incidental powers as shall be necessary to carry out such powers; and

"(ii) take any action authorized by this section, which the Agency determines is in the best interests of the regulated entity or the Agency.

"(K) OTHER PROVISIONS.—

"(i) SHAREHOLDERS AND CREDITORS OF FAILED REGULATED ENTITY.—Notwithstanding any other provision of law, the appointment of the Agency as receiver for a regulated entity pursuant to paragraph (2) or (4) of subsection (a) and its succession, by operation of law, to the rights, titles, powers, and privileges described in subsection (b)(2)(A) shall terminate all

rights and claims that the stockholders and creditors of the regulated entity may have against the assets or charter of the regulated entity or the Agency arising as a result of their status as stockholders or creditors, except for their right to payment, resolution, or other satisfaction of their claims, as permitted under subsections (b)(9), (c), and (e).

"(ii) ASSETS OF REGULATED ENTITY.—Notwithstanding any other provision of law, for purposes of this section, the charter of a regulated entity shall not be considered an asset of the regulated entity.

"(3) AUTHORITY OF RECEIVER TO DETERMINE CLAIMS.—

"(A) IN GENERAL.—The Agency may, as receiver, determine claims in accordance with the requirements of this subsection and any regulations prescribed under paragraph (4).

"(B) NOTICE REQUIREMENTS.—The receiver, in any case involving the liquidation or winding up of the affairs of a closed regulated entity, shall— Publication. Deadline.

"(i) promptly publish a notice to the creditors of the regulated entity to present their claims, together with proof, to the receiver by a date specified in the notice which shall be not less than 90 days after the date of publication of such notice; and

"(ii) republish such notice approximately 1 month and 2 months, respectively, after the date of publication under clause (i).

"(C) MAILING REQUIRED.—The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the books of the regulated entity— Notice.

"(i) at the last address of the creditor appearing in such books; or

"(ii) upon discovery of the name and address of a claimant not appearing on the books of the regulated entity, within 30 days after the discovery of such name and address. Deadline.

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—Subject to subsection (c), the Director may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determination of claims and review of such determination.

"(5) PROCEDURES FOR DETERMINATION OF CLAIMS.—

"(A) DETERMINATION PERIOD.—

"(i) IN GENERAL.—Before the end of the 180-day period beginning on the date on which any claim against a regulated entity is filed with the Agency as receiver, the Agency shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim. Deadline. Notification.

"(ii) EXTENSION OF TIME.—The period described in clause (i) may be extended by a written agreement between the claimant and the Agency.

"(iii) MAILING OF NOTICE SUFFICIENT.—The requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any

claim is mailed to the last address of the claimant which appears—

"(I) on the books of the regulated entity;

"(II) in the claim filed by the claimant; or

"(III) in documents submitted in proof of the claim.

"(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

"(I) a statement of each reason for the disallowance; and

"(II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

"(B) ALLOWANCE OF PROVEN CLAIM.—The receiver shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i) by the receiver from any claimant which is proved to the satisfaction of the receiver.

"(C) DISALLOWANCE OF CLAIMS FILED AFTER FILING PERIOD.—Claims filed after the date specified in the notice published under paragraph (3)(B)(i), or the date specified under paragraph (3)(C), shall be disallowed and such disallowance shall be final.

"(D) AUTHORITY TO DISALLOW CLAIMS.—

"(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against a regulated entity which is secured by any property or other asset of such regulated entity, the receiver—

"(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the regulated entity; and

"(II) may not make any payment with respect to such unsecured portion of the claim, other than in connection with the disposition of all claims of unsecured creditors of the regulated entity.

"(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

"(I) any extension of credit from any Federal Reserve Bank, Federal Home Loan Bank, or the United States Treasury; or

"(II) any security interest in the assets of the regulated entity securing any such extension of credit.

"(E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (D).—No court may review the determination of the Agency under subparagraph (D) to disallow a claim.

"(F) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of

a claim with the receiver shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (10), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the date of the appointment of the receiver, subject to the determination of claims by the receiver.

"(6) PROVISION FOR JUDICIAL DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—The claimant may file suit on a claim (or continue an action commenced before the appointment of the receiver) in the district or territorial court of the United States for the district within which the principal place of business of the regulated entity is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim), before the end of the 60-day period beginning on the earlier of— Deadline.

"(i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a regulated entity for which the Agency is receiver; or

"(ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i).

"(B) STATUTE OF LIMITATIONS.—A claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver), and such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim, if the claimant fails, before the end of the 60-day period described under subparagraph (A), to file suit on such claim (or continue an action commenced before the appointment of the receiver).

"(7) REVIEW OF CLAIMS.—

"(A) OTHER REVIEW PROCEDURES.—

"(i) IN GENERAL.—The Agency shall establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i).

"(ii) CRITERIA.—In establishing alternative dispute resolution processes, the Agency shall strive for procedures which are expeditious, fair, independent, and low cost.

"(iii) VOLUNTARY BINDING OR NONBINDING PROCEDURES.—The Agency may establish both binding and nonbinding processes under this subparagraph, which may be conducted by any government or private party. All parties, including the claimant and the Agency, must agree to the use of the process in a particular case.

"(B) CONSIDERATION OF INCENTIVES.—The Agency shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

"(8) EXPEDITED DETERMINATION OF CLAIMS.—

"(A) ESTABLISHMENT REQUIRED.—The Agency shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who— Procedures.

"(i) allege the existence of legally valid and enforceable or perfected security interests in assets of any regulated entity for which the Agency has been appointed receiver; and

"(ii) allege that irreparable injury will occur if the routine claims procedure is followed.

Deadline.

"(B) DETERMINATION PERIOD.—Before the end of the 90-day period beginning on the date on which any claim is filed in accordance with the procedures established under subparagraph (A), the Director shall—

"(i) determine—

"(I) whether to allow or disallow such claim; or

"(II) whether such claim should be determined pursuant to the procedures established under paragraph (5); and

Notification.

"(ii) notify the claimant of the determination, and if the claim is disallowed, provide a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

"(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the date of appointment of the receiver, seeking a determination of the rights of the claimant with respect to such security interest after the earlier of—

"(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

"(ii) the date on which the Agency denies the claim.

Deadline.

"(D) STATUTE OF LIMITATIONS.—If an action described under subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed under subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(E) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (10), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action that was filed before the appointment of the receiver, subject to the determination of claims by the receiver.

"(9) PAYMENT OF CLAIMS.—

"(A) IN GENERAL.—The receiver may, in the discretion of the receiver, and to the extent that funds are available from the assets of the regulated entity, pay creditor claims, in such manner and amounts as are authorized under this section, which are—

"(i) allowed by the receiver;

"(ii) approved by the Agency pursuant to a final determination pursuant to paragraph (7) or (8); or

"(iii) determined by the final judgment of any court of competent jurisdiction.

"(B) AGREEMENTS AGAINST THE INTEREST OF THE AGENCY.—No agreement that tends to diminish or defeat the interest of the Agency in any asset acquired by the Agency as receiver under this section shall be valid against the Agency unless such agreement is in writing and executed by an authorized officer or representative of the regulated entity.

"(C) PAYMENT OF DIVIDENDS ON CLAIMS.—The receiver may, in the sole discretion of the receiver, pay from the assets of the regulated entity dividends on proved claims at any time, and no liability shall attach to the Agency by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

"(D) RULEMAKING AUTHORITY OF THE DIRECTOR.—The Director may prescribe such rules, including definitions of terms, as the Director deems appropriate to establish a single uniform interest rate for, or to make payments of post-insolvency interest to creditors holding proven claims against the receivership estates of the regulated entity, following satisfaction by the receiver of the principal amount of all creditor claims.

"(10) SUSPENSION OF LEGAL ACTIONS.—

"(A) IN GENERAL.—After the appointment of a conservator or receiver for a regulated entity, the conservator or receiver may, in any judicial action or proceeding to which such regulated entity is or becomes a party, request a stay for a period not to exceed—

"(i) 45 days, in the case of any conservator; and

"(ii) 90 days, in the case of any receiver.

"(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by the conservator or receiver under subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

"(11) ADDITIONAL RIGHTS AND DUTIES.—

"(A) PRIOR FINAL ADJUDICATION.—The Agency shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Agency as conservator or receiver.

"(B) RIGHTS AND REMEDIES OF CONSERVATOR OR RECEIVER.—In the event of any appealable judgment, the Agency as conservator or receiver—

"(i) shall have all of the rights and remedies available to the regulated entity (before the appointment of such conservator or receiver) and the Agency, including removal to Federal court and all appellate rights; and

"(ii) shall not be required to post any bond in order to pursue such remedies.

"(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may issue by any court upon assets in the

possession of the receiver, or upon the charter, of a regulated entity for which the Agency has been appointed receiver.

"(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this subsection, no court shall have jurisdiction over—

"(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets or charter of any regulated entity for which the Agency has been appointed receiver; or

"(ii) any claim relating to any act or omission of such regulated entity or the Agency as receiver.

"(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of a regulated entity for which the Agency has been appointed conservator or receiver, the Agency shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases; and

"(iii) ensures adequate competition and fair and consistent treatment of offerors.

"(12) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Agency as conservator or receiver shall be—

"(i) in the case of any contract claim, the longer of—

"(I) the 6-year period beginning on the date on which the claim accrues; or

"(II) the period applicable under State law; and

"(ii) in the case of any tort claim, the longer of—

"(I) the 3-year period beginning on the date on which the claim accrues; or

"(II) the period applicable under State law.

"(B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitations begins to run on any claim described in such subparagraph shall be the later of—

Effective date.

"(i) the date of the appointment of the Agency as conservator or receiver; or

"(ii) the date on which the cause of action accrues.

"(13) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—

"(A) IN GENERAL.—In the case of any tort claim described under clause (ii) for which the statute of limitations applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Agency as conservator or receiver, the Agency may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitations applicable under State law.

"(B) CLAIMS DESCRIBED.—A tort claim referred to under clause (i) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the regulated entity.

"(14) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

"(A) IN GENERAL.—The Agency as conservator or receiver shall, consistent with the accounting and reporting practices and procedures established by the Agency, maintain a full accounting of each conservatorship and receivership or other disposition of a regulated entity in default.

"(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or receivership, the Agency shall make an annual accounting or report available to the Board, the Comptroller General of the United States, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

"(C) AVAILABILITY OF REPORTS.—Any report prepared under subparagraph (B) shall be made available by the Agency upon request to any shareholder of a regulated entity or any member of the public.

"(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date on which the conservatorship or receivership is terminated by the Director, the Agency may destroy any records of such regulated entity which the Agency, in the discretion of the Agency, determines to be unnecessary, unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

"(15) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Agency, as conservator or receiver, may avoid a transfer of any interest of an entity-affiliated party, or any person determined by the conservator or receiver to be a debtor of the regulated entity, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Agency was appointed conservator or receiver, if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the regulated entity, the Agency, the conservator, or receiver.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the conservator or receiver may recover, for the benefit of the regulated entity, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

"(i) the initial transferee of such transfer or the entity-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The conservator or receiver may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) RIGHTS UNDER THIS PARAGRAPH.—The rights under this paragraph of the conservator or receiver described under subparagraph (A) shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.

"(16) ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF.—Subject to paragraph (17), any court of competent jurisdiction may, at the request of the conservator or receiver, issue an order in accordance with rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the conservator or receiver under the control of the court, and appointing a trustee to hold such assets.

Applicability.

"(17) STANDARDS OF PROOF.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (16) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

"(18) TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, any final and unappealable judgment for monetary damages entered against the conservator or receiver for the breach of an agreement executed or approved in writing by the conservator or receiver after the date of its appointment, shall be paid as an administrative expense of the conservator or receiver.

"(B) NO LIMITATION OF POWER.—Nothing in this paragraph shall be construed to limit the power of the conservator or receiver to exercise any rights under contract or law, including to terminate, breach, cancel, or otherwise discontinue such agreement.

"(19) GENERAL EXCEPTIONS.—

"(A) LIMITATIONS.—The rights of the conservator or receiver appointed under this section shall be subject to the limitations on the powers of a receiver under sections 402 through 407 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402 through 4407).

"(B) MORTGAGES HELD IN TRUST.—

"(i) IN GENERAL.—Any mortgage, pool of mortgages, or interest in a pool of mortgages held in trust, custodial, or agency capacity by a regulated entity for the benefit of any person other than the regulated entity shall not be available to satisfy the claims of creditors generally, except that nothing in this clause shall be construed to expand or otherwise affect the authority of any regulated entity.

"(ii) HOLDING OF MORTGAGES.—Any mortgage, pool of mortgages, or interest in a pool of mortgages described in clause (i) shall be held by the conservator or receiver appointed under this section for the beneficial owners of such mortgage, pool of mortgages, or interest in accordance with the terms of the agreement

creating such trust, custodial, or other agency arrangement.

"(iii) LIABILITY OF CONSERVATOR OR RECEIVER.—The liability of the conservator or receiver appointed under this section for damages shall, in the case of any contingent or unliquidated claim relating to the mortgages held in trust, be estimated in accordance with the regulations of the Director.

"(c) PRIORITY OF EXPENSES AND UNSECURED CLAIMS.—

"(1) IN GENERAL.—Unsecured claims against a regulated entity, or the receiver therefor, that are proven to the satisfaction of the receiver shall have priority in the following order:

"(A) Administrative expenses of the receiver.

"(B) Any other general or senior liability of the regulated entity (which is not a liability described under subparagraph (C) or (D).

"(C) Any obligation subordinated to general creditors (which is not an obligation described under subparagraph (D)).

"(D) Any obligation to shareholders or members arising as a result of their status as shareholder or members.

"(2) CREDITORS SIMILARLY SITUATED.—All creditors that are similarly situated under paragraph (1) shall be treated in a similar manner, except that the receiver may take any action (including making payments) that does not comply with this subsection, if—

"(A) the Director determines that such action is necessary to maximize the value of the assets of the regulated entity, to maximize the present value return from the sale or other disposition of the assets of the regulated entity, or to minimize the amount of any loss realized upon the sale or other disposition of the assets of the regulated entity; and

"(B) all creditors that are similarly situated under paragraph (1) receive not less than the amount provided in subsection (e)(2).

"(3) DEFINITION.—As used in this subsection, the term 'administrative expenses of the receiver' includes—

"(A) the actual, necessary costs and expenses incurred by the receiver in preserving the assets of a failed regulated entity or liquidating or otherwise resolving the affairs of a failed regulated entity; and

"(B) any obligations that the receiver determines are necessary and appropriate to facilitate the smooth and orderly liquidation or other resolution of the regulated entity.

"(d) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights a conservator or receiver may have, the conservator or receiver for any regulated entity may disaffirm or repudiate any contract or lease—

"(A) to which such regulated entity is a party;

"(B) the performance of which the conservator or receiver, in its sole discretion, determines to be burdensome; and

"(C) the disaffirmance or repudiation of which the conservator or receiver determines, in its sole discretion, will promote the orderly administration of the affairs of the regulated entity.

"(2) TIMING OF REPUDIATION.—The conservator or receiver shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

"(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

"(A) IN GENERAL.—Except as otherwise provided under subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or receiver for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

"(i) limited to actual direct compensatory damages; and

"(ii) determined as of—

"(I) the date of the appointment of the conservator or receiver; or

"(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

"(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term 'actual direct compensatory damages' shall not include—

"(i) punitive or exemplary damages;

"(ii) damages for lost profits or opportunity; or

"(iii) damages for pain and suffering.

"(C) MEASURE OF DAMAGES FOR REPUDIATION OF FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

"(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

"(ii) paid in accordance with this subsection and subsection (e), except as otherwise specifically provided in this section.

"(4) LEASES UNDER WHICH THE REGULATED ENTITY IS THE LESSEE.—

"(A) IN GENERAL.—If the conservator or receiver disaffirms or repudiates a lease under which the regulated entity was the lessee, the conservator or receiver shall not be liable for any damages (other than damages determined under subparagraph (B)) for the disaffirmance or repudiation of such lease.

"(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which that subparagraph applies shall—

"(i) be entitled to the contractual rent accruing before the later of the date on which—

"(I) the notice of disaffirmance or repudiation is mailed; or

"(II) the disaffirmance or repudiation becomes effective, unless the lessor is in default or breach of the terms of the lease;

"(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and

"(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment, which shall be paid in accordance with this subsection and subsection (e).

"(5) LEASES UNDER WHICH THE REGULATED ENTITY IS THE LESSOR.—

"(A) IN GENERAL.—If the conservator or receiver repudiates an unexpired written lease of real property of the regulated entity under which the regulated entity is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

"(i) treat the lease as terminated by such repudiation; or

"(ii) remain in possession of the leasehold interest for the balance of the term of the lease, unless the lessee defaults under the terms of the lease after the date of such repudiation.

"(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described under subparagraph (A) remains in possession of a leasehold interest under clause (ii) of subparagraph (A)—

"(i) the lessee—

"(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease; and Payments.

"(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, and any damages which accrue after such date due to the nonperformance of any obligation of the regulated entity under the lease after such date; and

"(ii) the conservator or receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II).

"(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

"(A) IN GENERAL.—If the conservator or receiver repudiates any contract for the sale of real property and the purchaser of such real property under such contract is in possession, and is not, as of the date of such repudiation, in default, such purchaser may either—

"(i) treat the contract as terminated by such repudiation; or

"(ii) remain in possession of such real property.

"(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described under subparagraph (A) remains in possession of such property under clause (ii) of subparagraph (A)—

"(i) the purchaser—

Payments.

"(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

"(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the regulated entity under the contract; and

"(ii) the conservator or receiver shall—

"(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II);

"(II) deliver title to the purchaser in accordance with the provisions of the contract; and

"(III) have no obligation under the contract other than the performance required under subclause (II).

"(C) ASSIGNMENT AND SALE ALLOWED.—

"(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the conservator or receiver to assign the contract described under subparagraph (A), and sell the property subject to the contract and the provisions of this paragraph.

"(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described under clause (i) is consummated, the conservator or receiver shall have no further liability under the contract described under subparagraph (A), or with respect to the real property which was the subject of such contract.

"(7) SERVICE CONTRACTS.—

"(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any regulated entity for which the Agency has been appointed conservator or receiver, any claim of such person for services performed before the appointment of the conservator or receiver shall be—

"(i) a claim to be paid in accordance with subsections (b) and (e); and

"(ii) deemed to have arisen as of the date on which the conservator or receiver was appointed.

"(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described under subparagraph (A), the conservator or receiver accepts performance by the other person before the conservator or receiver makes any determination to exercise the right of repudiation of such contract under this section—

Payments.

"(i) the other party shall be paid under the terms of the contract for the services performed; and

"(ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or receivership.

"(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by the conservator or receiver of services referred to under subparagraph (B)

in connection with a contract described in such subparagraph shall not affect the right of the conservator or receiver to repudiate such contract under this section at any time after such performance.

"(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

"(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to paragraphs (9) and (10), and notwithstanding any other provision of this title (other than subsection (b)(9)(B) of this section), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right of that person to cause the termination, liquidation, or acceleration of any qualified financial contract with a regulated entity that arises upon the appointment of the Agency as receiver for such regulated entity at any time after such appointment;

"(ii) any right under any security agreement or arrangement or other credit enhancement relating to one or more qualified financial contracts; or

"(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

"(B) APPLICABILITY OF OTHER PROVISIONS.—Subsection (b)(10) shall apply in the case of any judicial action or proceeding brought against any receiver referred to under subparagraph (A), or the regulated entity for which such receiver was appointed, by any party to a contract or agreement described under subparagraph (A)(i) with such regulated entity.

"(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

"(i) IN GENERAL.—Notwithstanding paragraph (11), or any other provision of Federal or State law relating to the avoidance of preferential or fraudulent transfers, the Agency, whether acting as such or as conservator or receiver of a regulated entity, may not avoid any transfer of money or other property in connection with any qualified financial contract with a regulated entity.

"(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with a regulated entity if the Agency determines that the transferee had actual intent to hinder, delay, or defraud such regulated entity, the creditors of such regulated entity, or any conservator or receiver appointed for such regulated entity.

"(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—In this subsection the following definitions shall apply:

"(i) QUALIFIED FINANCIAL CONTRACT.—The term 'qualified financial contract' means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Agency determines by regulation, resolution, or order to be a qualified financial contract for purposes of this paragraph.

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan, unless the Agency determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any combination of the agreements or transactions referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

"(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right,

or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date on which the contract is entered into, including a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (including a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined for purposes of this clause as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development, as determined by regulation or order adopted by the appropriate Federal banking authority), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor

thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan, unless the Agency determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type

that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the equity of redemption of the regulated entity.

"(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this section, any other Federal law, or the law of any State (other than paragraph (10) of this subsection and subsection (b)(9)(B)), no person shall be stayed or prohibited from exercising—

"(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a regulated entity in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;

"(ii) any right under any security agreement or arrangement or other credit enhancement relating to 1 or more such qualified financial contracts; or

"(iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Agency, or authorizing any court or agency to limit or delay in any manner, the right or power of the Agency to transfer any qualified financial contract in accordance with paragraphs (9) and (10), or to disaffirm or repudiate any such contract in accordance with subsection (d)(1).

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of a regulated entity in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of the status of such party as a nondefaulting party.

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—In making any transfer of assets or liabilities of a regulated entity in default which includes any qualified financial contract, the conservator or receiver for such regulated entity shall either—

"(A) transfer to 1 person—

"(i) all qualified financial contracts between any person (or any affiliate of such person) and the regulated entity in default;

"(ii) all claims of such person (or any affiliate of such person) against such regulated entity under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the

claims of general unsecured creditors of such regulated entity);

"(iii) all claims of such regulated entity against such person (or any affiliate of such person) under any such contract; and

"(iv) all property securing, or any other credit enhancement for any contract described in clause (i), or any claim described in clause (ii) or (iii) under any such contract; or

"(B) transfer none of the financial contracts, claims, or property referred to under subparagraph (A) (with respect to such person and any affiliate of such person).

"(10) NOTIFICATION OF TRANSFER.—

Deadline. Contracts.

"(A) IN GENERAL.—The conservator or receiver shall notify any person that is a party to a contract or transfer by 5:00 p.m. (Eastern Standard Time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship, if—

"(i) the conservator or receiver for a regulated entity in default makes any transfer of the assets and liabilities of such regulated entity; and

"(ii) such transfer includes any qualified financial contract.

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

Effective dates.

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with a regulated entity may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or under section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the regulated entity (or the insolvency or financial condition of the regulated entity for which the receiver has been appointed)—

"(I) until 5:00 p.m. (Eastern Standard Time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with a regulated entity may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or under section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the regulated entity (or the insolvency or financial condition of the regulated entity for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the conservator or receiver of a regulated entity shall be deemed to have notified a person who is a party to a qualified financial contract with such regulated

entity, if the conservator or receiver has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term 'business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which a regulated entity is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the regulated entity in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).

"(12) CERTAIN SECURITY INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any regulated entity, except where such an interest is taken in contemplation of the insolvency of the regulated entity, or with the intent to hinder, delay, or defraud the regulated entity or the creditors of such regulated entity.

"(13) AUTHORITY TO ENFORCE CONTRACTS.—

"(A) IN GENERAL.—Notwithstanding any provision of a contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of, or the exercise of rights or powers by, a conservator or receiver, the conservator or receiver may enforce any contract, other than a contract for liability insurance for a director or officer, or a contract or a regulated entity bond, entered into by the regulated entity.

"(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the conservator or receiver to enforce or recover under a liability insurance contract for an officer or director, or regulated entity bond under other applicable law.

"(C) CONSENT REQUIREMENT.—

Effective dates.

"(i) IN GENERAL.—Except as otherwise provided under this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which a regulated entity is a party, or to obtain possession of or exercise control over any property of the regulated entity, or affect any contractual rights of the regulated entity, without the consent of the conservator or receiver, as appropriate, for a period of—

"(I) 45 days after the date of appointment of a conservator; or

"(II) 90 days after the date of appointment of a receiver.

"(ii) EXCEPTIONS.—This subparagraph shall not—

"(I) apply to a contract for liability insurance for an officer or director;

"(II) apply to the rights of parties to certain qualified financial contracts under subsection (d)(8); and

"(III) be construed as permitting the conservator or receiver to fail to comply with otherwise enforceable provisions of such contracts.

"(14) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.

"(15) EXCEPTION FOR FEDERAL RESERVE AND FEDERAL HOME LOAN BANKS.—No provision of this subsection shall apply with respect to—

"(A) any extension of credit from any Federal Home Loan Bank or Federal Reserve Bank to any regulated entity; or

"(B) any security interest in the assets of the regulated entity securing any such extension of credit.

"(e) VALUATION OF CLAIMS IN DEFAULT.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State, and regardless of the method which the Agency determines to utilize with respect to a regulated entity in default or in danger of default, including transactions authorized under subsection (i), this subsection shall govern the rights of the creditors of such regulated entity.

"(2) MAXIMUM LIABILITY.—The maximum liability of the Agency, acting as receiver or in any other capacity, to any person having a claim against the receiver or the regulated entity for which such receiver is appointed shall be not more than the amount that such claimant would have received if the Agency had liquidated the assets and liabilities of the regulated entity without exercising the authority of the Agency under subsection (i).

"(f) LIMITATION ON COURT ACTION.—Except as provided in this section or at the request of the Director, no court may take any action to restrain or affect the exercise of powers or functions of the Agency as a conservator or a receiver.

"(g) LIABILITY OF DIRECTORS AND OFFICERS.—

"(1) IN GENERAL.—A director or officer of a regulated entity may be held personally liable for monetary damages in any civil action described in paragraph (2) brought by, on behalf of, or at the request or direction of the Agency, and prosecuted wholly or partially for the benefit of the Agency—

"(A) acting as conservator or receiver of such regulated entity; or

"(B) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such receiver or conservator.

"(2) ACTIONS ADDRESSED.—Paragraph (1) applies in any civil action for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care than gross negligence, including intentional tortious conduct, as such terms are defined and determined under applicable State law. Applicability.

"(3) NO LIMITATION.—Nothing in this subsection shall impair or affect any right of the Agency under other applicable law.

"(h) DAMAGES.—In any proceeding related to any claim against a director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to a regulated entity, recoverable damages determined to result from the improvident or otherwise improper use or investment of any assets of the regulated entity shall include principal losses and appropriate interest.

"(i) LIMITED-LIFE REGULATED ENTITIES.—

"(1) ORGANIZATION.—

"(A) PURPOSE.—The Agency, as receiver appointed pursuant to subsection (a)—

"(i) may, in the case of a Federal Home Loan Bank, organize a limited-life regulated entity with those powers and attributes of the Federal Home Loan Bank in default or in danger of default as the Director determines necessary, subject to the provisions of this subsection, and the Director shall grant a temporary charter to that limited-life regulated entity, and that limited-life regulated entity may operate subject to that charter; and

"(ii) shall, in the case of an enterprise, organize a limited-life regulated entity with respect to that enterprise in accordance with this subsection.

"(B) AUTHORITIES.—Upon the creation of a limited-life regulated entity under subparagraph (A), the limited-life regulated entity may—

"(i) assume such liabilities of the regulated entity that is in default or in danger of default as the Agency may, in its discretion, determine to be appropriate, except that the liabilities assumed shall not exceed the amount of assets purchased or transferred from the regulated entity to the limited-life regulated entity;

"(ii) purchase such assets of the regulated entity that is in default, or in danger of default as the Agency may, in its discretion, determine to be appropriate; and

"(iii) perform any other temporary function which the Agency may, in its discretion, prescribe in accordance with this section.

"(2) CHARTER AND ESTABLISHMENT.—

"(A) TRANSFER OF CHARTER.—

"(i) FANNIE MAE.—If the Agency is appointed as receiver for the Federal National Mortgage Association, the limited-life regulated entity established under this subsection with respect to such enterprise shall, by

operation of law and immediately upon its organization—

"(I) succeed to the charter of the Federal National Mortgage Association, as set forth in the Federal National Mortgage Association Charter Act; and

"(II) thereafter operate in accordance with, and subject to, such charter, this Act, and any other provision of law to which the Federal National Mortgage Association is subject, except as otherwise provided in this subsection.

"(ii) FREDDIE MAC.—If the Agency is appointed as receiver for the Federal Home Loan Mortgage Corporation, the limited-life regulated entity established under this subsection with respect to such enterprise shall, by operation of law and immediately upon its organization—

"(I) succeed to the charter of the Federal Home Loan Mortgage Corporation, as set forth in the Federal Home Loan Mortgage Corporation Charter Act; and

"(II) thereafter operate in accordance with, and subject to, such charter, this Act, and any other provision of law to which the Federal Home Loan Mortgage Corporation is subject, except as otherwise provided in this subsection.

"(B) INTERESTS IN AND ASSETS AND OBLIGATIONS OF REGULATED ENTITY IN DEFAULT.—Notwithstanding subparagraph (A) or any other provision of law—

"(i) a limited-life regulated entity shall assume, acquire, or succeed to the assets or liabilities of a regulated entity only to the extent that such assets or liabilities are transferred by the Agency to the limited-life regulated entity in accordance with, and subject to the restrictions set forth in, paragraph (1)(B);

"(ii) a limited-life regulated entity shall not assume, acquire, or succeed to any obligation that a regulated entity for which a receiver has been appointed may have to any shareholder of the regulated entity that arises as a result of the status of that person as a shareholder of the regulated entity; and

"(iii) no shareholder or creditor of a regulated entity shall have any right or claim against the charter of the regulated entity once the Agency has been appointed receiver for the regulated entity and a limited-life regulated entity succeeds to the charter pursuant to subparagraph (A).

"(C) LIMITED-LIFE REGULATED ENTITY TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES.—A limited-life regulated entity shall be treated as a regulated entity in default at such times and for such purposes as the Agency may, in its discretion, determine.

"(D) MANAGEMENT.—Upon its establishment, a limited-life regulated entity shall be under the management of a board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Agency.

"(E) BYLAWS.—The board of directors of a limited-life regulated entity shall adopt such bylaws as may be approved by the Agency.

"(3) CAPITAL STOCK.—

"(A) NO AGENCY REQUIREMENT.—The Agency is not required to pay capital stock into a limited-life regulated entity or to issue any capital stock on behalf of a limited-life regulated entity established under this subsection.

"(B) AUTHORITY.—If the Director determines that such action is advisable, the Agency may cause capital stock or other securities of a limited-life regulated entity established with respect to an enterprise to be issued and offered for sale, in such amounts and on such terms and conditions as the Director may determine, in the discretion of the Director.

"(4) INVESTMENTS.—Funds of a limited-life regulated entity shall be kept on hand in cash, invested in obligations of the United States or obligations guaranteed as to principal and interest by the United States, or deposited with the Agency, or any Federal reserve bank.

"(5) EXEMPT TAX STATUS.—Notwithstanding any other provision of Federal or State law, a limited-life regulated entity, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

"(6) WINDING UP.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), not later than 2 years after the date of its organization, the Agency shall wind up the affairs of a limited-life regulated entity. Deadline.

"(B) EXTENSION.—The Director may, in the discretion of the Director, extend the status of a limited-life regulated entity for 3 additional 1-year periods.

"(C) TERMINATION OF STATUS AS LIMITED-LIFE REGULATED ENTITY.—

"(i) IN GENERAL.—Upon the sale by the Agency of 80 percent or more of the capital stock of a limited-life regulated entity, as defined in clause (iv), to 1 or more persons (other than the Agency)—

"(I) the status of the limited-life regulated entity as such shall terminate; and

"(II) the entity shall cease to be a limited-life regulated entity for purposes of this subsection.

"(ii) DIVESTITURE OF REMAINING STOCK, IF ANY.—

"(I) IN GENERAL.—Not later than 1 year after the date on which the status of a limited-life regulated entity is terminated pursuant to clause (i), the Agency shall sell to 1 or more persons (other than the Agency) any remaining capital stock of the former limited-life regulated entity. Deadline.

"(II) EXTENSION AUTHORIZED.—The Director may extend the period referred to in subclause (I) for not longer than an additional 2 years, if the Director determines that such action would be in the public interest.

"(iii) SAVINGS CLAUSE.—Notwithstanding any provision of law, other than clause (ii), the Agency shall not be required to sell the capital stock of an enterprise or a limited-life regulated entity established with respect to an enterprise.

"(iv) APPLICABILITY.—This subparagraph applies only with respect to a limited-life regulated entity that is established with respect to an enterprise.

"(7) TRANSFER OF ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—

"(i) TRANSFER OF ASSETS AND LIABILITIES.—The Agency, as receiver, may transfer any assets and liabilities of a regulated entity in default, or in danger of default, to the limited-life regulated entity in accordance with and subject to the restrictions of paragraph (1).

"(ii) SUBSEQUENT TRANSFERS.—At any time after the establishment of a limited-life regulated entity, the Agency, as receiver, may transfer any assets and liabilities of the regulated entity in default, or in danger of default, as the Agency may, in its discretion, determine to be appropriate in accordance with and subject to the restrictions of paragraph (1).

"(iii) EFFECTIVE WITHOUT APPROVAL.—The transfer of any assets or liabilities of a regulated entity in default or in danger of default to a limited-life regulated entity shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

"(iv) EQUITABLE TREATMENT OF SIMILARLY SITUATED CREDITORS.—The Agency shall treat all creditors of a regulated entity in default or in danger of default that are similarly situated under subsection (c)(1) in a similar manner in exercising the authority of the Agency under this subsection to transfer any assets or liabilities of the regulated entity to the limited-life regulated entity established with respect to such regulated entity, except that the Agency may take actions (including making payments) that do not comply with this clause, if—

"(I) the Director determines that such actions are necessary to maximize the value of the assets of the regulated entity, to maximize the present value return from the sale or other disposition of the assets of the regulated entity, or to minimize the amount of any loss realized upon the sale or other disposition of the assets of the regulated entity; and

"(II) all creditors that are similarly situated under subsection (c)(1) receive not less than the amount provided in subsection (e)(2).

"(v) LIMITATION ON TRANSFER OF LIABILITIES.—Notwithstanding any other provision of law, the aggregate amount of liabilities of a regulated entity that are transferred to, or assumed by, a limited-life regulated entity may not exceed the aggregate amount of assets

of the regulated entity that are transferred to, or purchased by, the limited-life regulated entity.

"(8) REGULATIONS.—The Agency may promulgate such regulations as the Agency determines to be necessary or appropriate to implement this subsection.

"(9) POWERS OF LIMITED-LIFE REGULATED ENTITIES.—

"(A) IN GENERAL.—Each limited-life regulated entity created under this subsection shall have all corporate powers of, and be subject to the same provisions of law as, the regulated entity in default or in danger of default to which it relates, except that—

"(i) the Agency may—

"(I) remove the directors of a limited-life regulated entity;

"(II) fix the compensation of members of the board of directors and senior management, as determined by the Agency in its discretion, of a limited-life regulated entity; and

"(III) indemnify the representatives for purposes of paragraph (1)(B), and the directors, officers, employees, and agents of a limited-life regulated entity on such terms as the Agency determines to be appropriate; and

"(ii) the board of directors of a limited-life regulated entity—

"(I) shall elect a chairperson who may also serve in the position of chief executive officer, except that such person shall not serve either as chairperson or as chief executive officer without the prior approval of the Agency; and

"(II) may appoint a chief executive officer who is not also the chairperson, except that such person shall not serve as chief executive officer without the prior approval of the Agency.

"(B) STAY OF JUDICIAL ACTION.—Any judicial action to which a limited-life regulated entity becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a regulated entity in default shall be stayed from further proceedings for a period of not longer than 45 days, at the request of the limited-life regulated entity. Such period may be modified upon the consent of all parties.

"(10) NO FEDERAL STATUS.—

"(A) AGENCY STATUS.—A limited-life regulated entity is not an agency, establishment, or instrumentality of the United States.

"(B) EMPLOYEE STATUS.—Representatives for purposes of paragraph (1)(B), interim directors, directors, officers, employees, or agents of a limited-life regulated entity are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Agency or of any Federal instrumentality who serves at the request of the Agency as a representative for purposes of paragraph (1)(B), interim director, director, officer, employee, or agent of a limited-life regulated entity shall not—

"(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law; or

"(ii) receive any salary or benefits for service in any such capacity with respect to a limited-life regulated entity in addition to such salary or benefits as are obtained through employment with the Agency or such Federal instrumentality.

"(11) AUTHORITY TO OBTAIN CREDIT.—

"(A) IN GENERAL.—A limited-life regulated entity may obtain unsecured credit and issue unsecured debt.

"(B) INABILITY TO OBTAIN CREDIT.—If a limited-life regulated entity is unable to obtain unsecured credit or issue unsecured debt, the Director may authorize the obtaining of credit or the issuance of debt by the limited-life regulated entity—

"(i) with priority over any or all of the obligations of the limited-life regulated entity;

"(ii) secured by a lien on property of the limited-life regulated entity that is not otherwise subject to a lien; or

"(iii) secured by a junior lien on property of the limited-life regulated entity that is subject to a lien.

"(C) LIMITATIONS.—

"(i) IN GENERAL.—The Director, after notice and a hearing, may authorize the obtaining of credit or the issuance of debt by a limited-life regulated entity that is secured by a senior or equal lien on property of the limited-life regulated entity that is subject to a lien (other than mortgages that collateralize the mortgage-backed securities issued or guaranteed by an enterprise) only if—

"(I) the limited-life regulated entity is unable to otherwise obtain such credit or issue such debt; and

"(II) there is adequate protection of the interest of the holder of the lien on the property with respect to which such senior or equal lien is proposed to be granted.

"(D) BURDEN OF PROOF.—In any hearing under this subsection, the Director has the burden of proof on the issue of adequate protection.

"(12) EFFECT ON DEBTS AND LIENS.—The reversal or modification on appeal of an authorization under this subsection to obtain credit or issue debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so issued, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the issuance of such debt, or the granting of such priority or lien, were stayed pending appeal.

"(j) OTHER AGENCY EXEMPTIONS.—

"(1) APPLICABILITY.—The provisions of this subsection shall apply with respect to the Agency in any case in which the Agency is acting as a conservator or a receiver.

"(2) TAXATION.—The Agency, including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority, except that any real property of the Agency shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of the value of such property, and the tax thereon, shall be determined as of the period for which such tax is imposed.

"(3) PROPERTY PROTECTION.—No property of the Agency shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Agency, nor shall any involuntary lien attach to the property of the Agency.

"(4) PENALTIES AND FINES.—The Agency shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due.

"(k) PROHIBITION OF CHARTER REVOCATION.—In no case may the receiver appointed pursuant to this section revoke, annul, or terminate the charter of an enterprise.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended—

(1) in section 1368 (12 U.S.C. 4618)—

(A) by striking "an enterprise" each place that term appears and inserting "a regulated entity"; and

(B) by striking "the enterprise" each place that term appears and inserting "the regulated entity";

(2) in section 1369C (12 U.S.C. 4622), by striking "enterprise" each place that term appears and inserting "regulated entity";

(3) in section 1369D (12 U.S.C. 4623)—

(A) by striking "an enterprise" each place that term appears and inserting "a regulated entity"; and

(B) in subsection (a)(1), by striking "An enterprise" and inserting "A regulated entity"; and

(4) by striking sections 1369, 1369A, and 1369B (12 U.S.C. 4619, 4620, and 4621).

## Subtitle D—Enforcement Actions

**SEC. 1151. CEASE AND DESIST PROCEEDINGS.**

Section 1371 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4631) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) ISSUANCE FOR UNSAFE OR UNSOUND PRACTICES AND VIOLATIONS.—

"(1) AUTHORITY OF DIRECTOR.—If, in the opinion of the Director, a regulated entity or any entity-affiliated party is engaging or has engaged, or the Director has reasonable cause to believe that the regulated entity or any entity-affiliated party is about to engage, in an unsafe or unsound practice

in conducting the business of the regulated entity or the Office of Finance, or is violating or has violated, or the Director has reasonable cause to believe is about to violate, a law, rule, regulation, or order, or any condition imposed in writing by the Director in connection with the granting of any application or other request by the regulated entity or the Office of Finance or any written agreement entered into with the Director, the Director may issue and serve upon the regulated entity or entity-affiliated party a notice of charges in respect thereof.

"(2) LIMITATION.—The Director may not, pursuant to this section, enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(m), (n)), with subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f)), or with paragraph (5) of section 10(j) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)).

"(b) ISSUANCE FOR UNSATISFACTORY RATING.—If a regulated entity receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the Director may (if the deficiency is not corrected) deem the regulated entity to be engaging in an unsafe or unsound practice for purposes of subsection (a).";

(2) in subsection (c)—

(A) in paragraph (1), by inserting before the period at the end the following: ", unless the party served with a notice of charges shall appear at the hearing personally or by a duly authorized representative, the party shall be deemed to have consented to the issuance of the cease and desist order"; and

(B) in paragraph (2)—

(i) by striking "or director" and inserting "director, or entity-affiliated party"; and

(ii) by inserting "or entity-affiliated party" before "consents";

(3) in each of subsections (c), (d), and (e)—

(A) by striking "the enterprise" each place that term appears and inserting "the regulated entity";

(B) by striking "an enterprise" each place that term appears and inserting "a regulated entity"; and

(C) by striking "conduct" each place that term appears and inserting "practice";

(4) in subsection (d)—

(A) in the matter preceding paragraph (1)—

(i) by striking "or director" and inserting "director, or entity-affiliated party"; and

(ii) by inserting "to require a regulated entity or entity-affiliated party" after "includes the authority";

(B) in paragraph (1)—

(i) by striking "to require an executive officer or a director to"; and

(ii) by striking "loss" and all that follows through "person" and inserting "loss, if";

(iii) in subparagraph (A), by inserting "such entity or party or finance facility" before "was"; and

(iv) by striking subparagraph (B) and inserting the following:

"(B) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Director;"; and

(C) in paragraph (4), by inserting "loan or" before "asset";

(5) in subsection (e), by inserting "or entity-affiliated party"—

(A) before "or any executive"; and

(B) before the period at the end; and

(6) in subsection (f)—

(A) by striking "enterprise" and inserting "regulated entity, finance facility,"; and

(B) by striking "or director" and inserting "director, or entity-affiliated party".

**SEC. 1152. TEMPORARY CEASE AND DESIST PROCEEDINGS.**

Section 1372 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4632) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GROUNDS FOR ISSUANCE.—

"(1) IN GENERAL.—If the Director determines that the actions specified in the notice of charges served upon a regulated entity or any entity-affiliated party pursuant to section 1371(a), or the continuation thereof, is likely to cause insolvency or significant dissipation of assets or earnings of that entity, or is likely to weaken the condition of that entity prior to the completion of the proceedings conducted pursuant to sections 1371 and 1373, the Director may—

"(A) issue a temporary order requiring that regulated entity or entity-affiliated party to cease and desist from any such violation or practice; and

"(B) require that regulated entity or entity-affiliated party to take affirmative action to prevent or remedy such insolvency, dissipation, condition, or prejudice pending completion of such proceedings.

"(2) ADDITIONAL REQUIREMENTS.—An order issued under paragraph (1) may include any requirement authorized under subsection 1371(d).";

(2) in subsection (b)—

(A) by striking "or director" and inserting "director, or entity-affiliated party"; and

(B) by striking "enterprise" each place that term appears and inserting "regulated entity";

(3) in subsection (c), by striking "enterprise" each place that term appears and inserting "regulated entity";

(4) in subsection (d)—

(A) by striking "or director" each place that term appears and inserting "director, or entity-affiliated party"; and

(B) by striking "An enterprise" and inserting "A regulated entity"; and

(5) in subsection (e)—

(A) by striking "request the Attorney General of the United States to"; and

(B) by striking "or may, under the direction and control of the Attorney General, bring such action".

**SEC. 1153. REMOVAL AND PROHIBITION AUTHORITY.**

(a) IN GENERAL.—Part 1 of subtitle C of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4631 et seq.) is amended—

(1) by redesignating sections 1377 through 1379B (12 U.S.C. 4637–4641) as sections 1379 through 1379D, respectively; and

(2) by inserting after section 1376 (12 U.S.C. 4636) the following:

12 USC 4636a.

**"SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.**

"(a) AUTHORITY TO ISSUE ORDER.—

"(1) IN GENERAL.—The Director may serve upon a party described in paragraph (2), or any officer, director, or management of the Office of Finance a written notice of the intention of the Director to suspend or remove such party from office, or prohibit any further participation by such party, in any manner, in the conduct of the affairs of the regulated entity.

"(2) APPLICABILITY.—A party described in this paragraph is an entity-affiliated party or any officer, director, or management of the Office of Finance, if the Director determines that—

"(A) that party, officer, or director has, directly or indirectly—

"(i) violated—

"(I) any law or regulation;

"(II) any cease and desist order which has become final;

"(III) any condition imposed in writing by the Director in connection with the grant of any application or other request by such regulated entity; or

"(IV) any written agreement between such regulated entity and the Director;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any regulated entity or business institution; or

"(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

"(B) by reason of the violation, practice, or breach described in subparagraph (A)—

"(i) such regulated entity or business institution has suffered or will probably suffer financial loss or other damage; or

"(ii) such party has received financial gain or other benefit; and

"(C) the violation, practice, or breach described in subparagraph (A)—

"(i) involves personal dishonesty on the part of such party; or

"(ii) demonstrates willful or continuing disregard by such party for the safety or soundness of such regulated entity or business institution.

"(b) SUSPENSION ORDER.—

"(1) SUSPENSION OR PROHIBITION AUTHORITY.—If the Director serves written notice under subsection (a) upon a party subject to that subsection (a), the Director may, by order, suspend or remove such party from office, or prohibit such party from further participation in any manner in the conduct of the affairs of the regulated entity, if the Director—

"(A) determines that such action is necessary for the protection of the regulated entity; and

"(B) serves such party with written notice of the order.

"(2) EFFECTIVE PERIOD.—Any order issued under this subsection—

"(A) shall become effective upon service; and

"(B) unless a court issues a stay of such order under subsection (g), shall remain in effect and enforceable until—

"(i) the date on which the Director dismisses the charges contained in the notice served under subsection (a) with respect to such party; or

"(ii) the effective date of an order issued under subsection (b).

"(3) COPY OF ORDER.—If the Director issues an order under subsection (b) to any party, the Director shall serve a copy of such order on any regulated entity with which such party is affiliated at the time such order is issued.

"(c) NOTICE, HEARING, AND ORDER.—

"(1) NOTICE.—A notice under subsection (a) of the intention of the Director to issue an order under this section shall contain a statement of the facts constituting grounds for such action, and shall fix a time and place at which a hearing will be held on such action.

"(2) TIMING OF HEARING.—A hearing shall be fixed for a date not earlier than 30 days, nor later than 60 days, after the date of service of notice under subsection (a), unless an earlier or a later date is set by the Director at the request of—

"(A) the party receiving such notice, and good cause is shown; or

"(B) the Attorney General of the United States.

"(3) CONSENT.—Unless the party that is the subject of a notice delivered under subsection (a) appears at the hearing in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order under this section.

"(4) ISSUANCE OF ORDER OF SUSPENSION.—The Director may issue an order under this section, as the Director may deem appropriate, if—

"(A) a party is deemed to have consented to the issuance of an order under paragraph (3); or

"(B) upon the record made at the hearing, the Director finds that any of the grounds specified in the notice have been established.

"(5) EFFECTIVENESS OF ORDER.—Any order issued under paragraph (4) shall become effective at the expiration of 30 days after the date of service upon the relevant regulated entity and party (except in the case of an order issued upon consent under paragraph (3), which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified,

terminated, or set aside by action of the Director or a reviewing court.

"(d) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this section shall not—

"(1) participate in any manner in the conduct of the affairs of any regulated entity or the Office of Finance;

"(2) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any regulated entity;

"(3) violate any voting agreement previously approved by the Director; or

"(4) vote for a director, or serve or act as an entity-affiliated party of a regulated entity or as an officer or director of the Office of Finance.

"(e) INDUSTRY-WIDE PROHIBITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any person who, pursuant to an order issued under this section, has been removed or suspended from office in a regulated entity or the Office of Finance, or prohibited from participating in the conduct of the affairs of a regulated entity or the Office of Finance, may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of, any regulated entity or the Office of Finance.

"(2) EXCEPTION IF DIRECTOR PROVIDES WRITTEN CONSENT.—If, on or after the date on which an order is issued under this section which removes or suspends from office any party, or prohibits such party from participating in the conduct of the affairs of a regulated entity or the Office of Finance, such party receives the written consent of the Director, the order shall, to the extent of such consent, cease to apply to such party with respect to the regulated entity or such Office of Finance described in the written consent. Any such consent shall be publicly disclosed.

"(3) VIOLATION OF PARAGRAPH (1) TREATED AS VIOLATION OF ORDER.—Any violation of paragraph (1) by any person who is subject to an order issued under subsection (h) shall be treated as a violation of the order.

"(f) APPLICABILITY.—This section shall only apply to a person who is an individual, unless the Director specifically finds that it should apply to a corporation, firm, or other business entity.

Deadline.

"(g) STAY OF SUSPENSION AND PROHIBITION OF ENTITY-AFFILIATED PARTY.—Not later than 10 days after the date on which any entity-affiliated party has been suspended from office or prohibited from participation in the conduct of the affairs of a regulated entity under this section, such party may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the headquarters of the regulated entity is located, for a stay of such suspension or prohibition pending the completion of the administrative proceedings pursuant to subsection (c). The court shall have jurisdiction to stay such suspension or prohibition.

"(h) SUSPENSION OR REMOVAL OF ENTITY-AFFILIATED PARTY CHARGED WITH FELONY.—

"(1) SUSPENSION OR PROHIBITION.—

"(A) IN GENERAL.—Whenever any entity-affiliated party is charged in any information, indictment, or complaint,

with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding 1 year under Federal or State law, the Director may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of any regulated entity.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall be served upon the relevant regulated entity.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in subparagraph (A) is finally disposed of, or until terminated by the Director.

"(2) REMOVAL OR PROHIBITION.—

"(A) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an entity-affiliated party in connection with a crime described in paragraph (1)(A), at such time as such judgment is not subject to further appellate review, the Director may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the regulated entity without the prior written consent of the Director.

"(B) PROVISIONS APPLICABLE TO ORDER.—

"(i) COPY.—A copy of any order under subparagraph (A) shall be served upon the relevant regulated entity, at which time the entity-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such regulated entity.

"(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the Director from instituting proceedings after such finding or disposition to remove a party from office or to prohibit further participation in the affairs of a regulated entity pursuant to subsection (a) or (b).

"(iii) EFFECTIVE PERIOD.—Unless terminated by the Director, any notice of suspension or order of removal issued under this subsection shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (4).

"(3) AUTHORITY OF REMAINING BOARD MEMBERS.—

"(A) IN GENERAL.—If at any time, because of the suspension of 1 or more directors pursuant to this section, there shall be on the board of directors of a regulated entity less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such

board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors.

"(B) APPOINTMENT OF TEMPORARY DIRECTORS.—If all of the directors of a regulated entity are suspended pursuant to this section, the Director shall appoint persons to serve temporarily as directors pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the regulated entity and their respective successors take office.

"(4) HEARING REGARDING CONTINUED PARTICIPATION.—

"(A) IN GENERAL.—Not later than 30 days after the date of service of any notice of suspension or order of removal issued pursuant to paragraph (1) or (2), the entity-affiliated party may request in writing an opportunity to appear before the Director to show that the continued service or participation in the conduct of the affairs of the regulated entity by such party does not, or is not likely to, pose a threat to the interests of the regulated entity, or threaten to impair public confidence in the regulated entity.

"(B) TIMING AND FORM OF HEARING.—Upon receipt of a request for a hearing under subparagraph (A), the Director shall fix a time (not later than 30 days after the date of receipt of such request, unless extended at the request of such party) and place at which the entity-affiliated party may appear, personally or through counsel, before the Director or 1 or more designated employees of the Director to submit written materials (or, at the discretion of the Director, oral testimony) and oral argument.

Deadline. Notification.

"(C) DETERMINATION.—Not later than 60 days after the date of a hearing under subparagraph (B), the Director shall notify the entity-affiliated party whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the regulated entity will be continued, terminated, or otherwise modified, or whether the order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the regulated entity will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for any adverse decision of the Director.

"(5) RULES.—The Director is authorized to prescribe such rules as may be necessary to carry out this subsection.".

(b) CONFORMING AMENDMENTS.—

(1) SAFETY AND SOUNDNESS ACT.—Subtitle C of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended—

12 USC 4517.

(A) in section 1317(f), by striking "section 1379B" and inserting "section 1379D";

12 USC 4633.

(B) in section 1373(a)—

(i) in paragraph (1), by striking "or 1376(c)" and inserting ", 1376(c), or 1377";

(ii) in paragraph (2), by inserting "or 1377" after" 1371"; and

(iii) in paragraph (4), by inserting "or removal or prohibition" after "cease and desist"; and

(C) in section 1374(a)—

(i) by striking "or 1376" and inserting "1313B, 1376, or 1377"; and

(ii) by striking "such section" and inserting "this title".

(2) FANNIE MAE CHARTER ACT.—Section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended in the second sentence, by striking "The" and inserting "Except to the extent that action under section 1377 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 temporarily results in a lesser number, the".

(3) FREDDIE MAC CHARTER ACT.—Section 303(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended, in the second sentence, by striking "The" and inserting "Except to the extent action under section 1377 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 temporarily results in a lesser number, the".

**SEC. 1154. ENFORCEMENT AND JURISDICTION.**

Section 1375 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4635) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) ENFORCEMENT.—The Director may, in the discretion of the Director, apply to the United States District Court for the District of Columbia, or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located, for the enforcement of any effective and outstanding notice or order issued under this subtitle or subtitle B, or request that the Attorney General of the United States bring such an action. Such court shall have jurisdiction and power to order and require compliance with such notice or order."; and

(2) in subsection (b), by striking "or 1376" and inserting "1313B, 1376, or 1377".

**SEC. 1155. CIVIL MONEY PENALTIES.**

Section 1376 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4636) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—The Director may impose a civil money penalty in accordance with this section on any regulated entity or any entity-affiliated party. The Director shall not impose a civil penalty in accordance with this section on any regulated entity or any entity-affiliated party for any violation that is addressed under section 1345(a).";

(2) by striking subsection (b) and inserting the following:

"(b) AMOUNT OF PENALTY.—

"(1) FIRST TIER.—A regulated entity or entity-affiliated party shall forfeit and pay a civil penalty of not more than $10,000 for each day during which a violation continues, if such regulated entity or party—

"(A) violates any provision of this title, the authorizing statutes, or any order, condition, rule, or regulation under this title or any authorizing statute;

"(B) violates any final or temporary order or notice issued pursuant to this title;

"(C) violates any condition imposed in writing by the Director in connection with the grant of any application or other request by such regulated entity; or

"(D) violates any written agreement between the regulated entity and the Director.

"(2) SECOND TIER.—Notwithstanding paragraph (1), a regulated entity or entity-affiliated party shall forfeit and pay a civil penalty of not more than $50,000 for each day during which a violation, practice, or breach continues, if—

"(A) the regulated entity or entity-affiliated party, respectively—

"(i) commits any violation described in any subparagraph of paragraph (1);

"(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of the regulated entity; or

"(iii) breaches any fiduciary duty; and

"(B) the violation, practice, or breach—

"(i) is part of a pattern of misconduct;

"(ii) causes or is likely to cause more than a minimal loss to the regulated entity; or

"(iii) results in pecuniary gain or other benefit to such party.

"(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any regulated entity or entity-affiliated party shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues, if such regulated entity or entity-affiliated party—

"(A) knowingly—

"(i) commits any violation described in any subparagraph of paragraph (1);

"(ii) engages in any unsafe or unsound practice in conducting the affairs of the regulated entity; or

"(iii) breaches any fiduciary duty; and

"(B) knowingly or recklessly causes a substantial loss to the regulated entity or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach.

"(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in paragraph (3) is—

"(A) in the case of any entity-affiliated party, an amount not to exceed $2,000,000; and

"(B) in the case of any regulated entity, $2,000,000.";

(3) in subsection (c)—

(A) by striking "enterprise" each place that term appears and inserting "regulated entity";

(B) by inserting "or entity-affiliated party" before "in writing"; and

(C) by inserting "or entity-affiliated party" before "has been given";

(4) in subsection (d)—

(A) by striking "or director" each place such term appears and inserting "director, or entity-affiliated party";

(B) by striking "an enterprise" and inserting "a regulated entity";

(C) by striking "the enterprise" and inserting "the regulated entity";

(D) by striking "request the Attorney General of the United States to";

(E) by inserting ", or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located," after "District of Columbia";

(F) by striking ", or may, under the direction and control of the Attorney General of the United States, bring such an action"; and

(G) by striking "and section 1374"; and

(5) in subsection (g), by striking "An enterprise" and inserting "A regulated entity".

**SEC. 1156. CRIMINAL PENALTY.**

(a) IN GENERAL.—Subtitle C of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4631 et seq.) is amended by inserting after section 1377, as added by this Act, the following:

**"SEC. 1378. CRIMINAL PENALTY.** 12 USC 4636b.

"Whoever, being subject to an order in effect under section 1377, without the prior written approval of the Director, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order) in the conduct of the affairs of any regulated entity shall, notwithstanding section 3571 of title 18, be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended—

(1) in section 1379 (as so designated by this Act)— 12 USC 4637.

(A) by striking "an enterprise" and inserting "a regulated entity"; and

(B) by striking "the enterprise" and inserting "the regulated entity";

(2) in section 1379A (as so designated by this Act), by striking "an enterprise" and inserting "a regulated entity"; 12 USC 4638.

(3) in section 1379B(c) (as so designated by this Act), by striking "enterprise" and inserting "regulated entity"; and 12 USC 4639.

(4) in section 1379D (as so designated by this Act), by striking "enterprise" and inserting "regulated entity". 12 USC 4641.

**SEC. 1157. NOTICE AFTER SEPARATION FROM SERVICE.**

Section 1379 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4637), as so designated by this Act, is amended—

(1) by striking "2-year" and inserting "6-year";

(2) by striking "a director or executive officer of an enterprise" and inserting "an entity-affiliated party";

(3) by striking "director or officer" each place that term appears and inserting "entity-affiliated party"; and

(4) by striking "enterprise." and inserting "regulated entity.".

**SEC. 1158. SUBPOENA AUTHORITY.**

(a) IN GENERAL.—Section 1379B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4641) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "administrative";

(ii) by inserting ", examination, or investigation" after "proceeding";

(iii) by striking "subtitle" and inserting "title"; and

(iv) by inserting "or any designated representative thereof, including any person designated to conduct any hearing under this subtitle" after "Director"; and

(B) in paragraph (4), by striking "issued by the Director";

(2) in subsection (b), by inserting "or in any territory or other place subject to the jurisdiction of the United States" after "State";

(3) by striking subsection (c) and inserting the following:

"(c) ENFORCEMENT.—

"(1) IN GENERAL.—The Director, or any party to proceedings under this subtitle, may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district of the United States in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section.

"(2) POWER OF COURT.—The courts described under paragraph (1) shall have the jurisdiction and power to order and require compliance with any subpoena issued under paragraph (1).";

(4) in subsection (d), by inserting "enterprise-affiliated party" before "may allow"; and

(5) by adding at the end the following:

"(e) PENALTIES.—A person shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than 1 year, or both, if that person willfully fails or refuses, in disobedience of a subpoena issued under subsection (c), to—

"(1) attend court;

"(2) testify in court;

"(3) answer any lawful inquiry; or

"(4) produce books, papers, correspondence, contracts, agreements, or such other records as requested in the subpoena.".

# Subtitle E—General Provisions

**SEC. 1161. CONFORMING AND TECHNICAL AMENDMENTS.**

(a) AMENDMENTS TO 1992 ACT.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.), as amended by this Act, is amended—

(1) in section 1315 (12 U.S.C. 4515)—

(A) in subsection (a)—

(i) by striking "(a) OFFICE PERSONNEL.—The" and inserting "(a) IN GENERAL.—Subject to title III of the Federal Housing Finance Regulatory Reform Act of 2008, the"; and

(ii) by striking "the Office" each place that term appears and inserting "the Agency";

(B) in subsection (c), by striking "the Office" and inserting "the Agency";

(C) in subsection (e), by striking "the Office" and inserting "the Agency";

(D) by striking subsection (d) and redesignating subsection (e) as subsection (d); and

(E) by striking subsection (f);

(2) in section 1319A (12 U.S.C. 4520)—

(A) by striking "(a) IN GENERAL.—"; and

(B) by striking subsection (b);

(3) in section 1364(c) (12 U.S.C. 4614(c)), by striking the last sentence;

(4) by striking section 1383 (12 U.S.C. 1451 note);

(5) in each of sections 1319D, 1319E, and 1319F (12 U.S.C. 4523, 4524, 4525) by striking "the Office" each place that term appears and inserting "the Agency"; and

(6) in each of sections 1319B and 1369(a)(3) (12 U.S.C. 4521, 4619(a)(3)), by striking "Committee on Banking, Finance and Urban Affairs" each place such term appears and inserting "Committee on Financial Services".

(b) AMENDMENTS TO FANNIE MAE CHARTER ACT.—The Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.) is amended—

(1) in each of sections 303(c)(2) (12 U.S.C. 1718(c)(2)), 309(d)(3)(B) (12 U.S.C. 1723a(d)(3)(B)), and 309(k)(1) (12 U.S.C. 1723a(k)(1)), by striking "Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" each place that term appears, and inserting "Director of the Federal Housing Finance Agency"; and

(2) in section 309—

(A) in subsection (m) (12 U.S.C. 1723a(m))—

(i) in paragraph (1), by striking "to the Secretary, in a form determined by the Secretary" and inserting "to the Director of the Federal Housing Finance Agency, in a form determined by the Director"; and

(ii) in paragraph (2), by striking "to the Secretary, in a form determined by the Secretary" and inserting "to the Director of the Federal Housing Finance Agency, in a form determined by the Director";

(B) in subsection (n) (12 U.S.C. 1723a(n))—

(i) in paragraph (1), by striking "and the Secretary" and inserting "and the Director of the Federal Housing Finance Agency"; and

(ii) in paragraph (2), by striking "Secretary" each place that term appears and inserting "Director of the Federal Housing Finance Agency"; and

(C) in paragraph (3)(B), by striking "Secretary" and inserting "Director of the Federal Housing Finance Agency".

(c) AMENDMENTS TO FREDDIE MAC CHARTER ACT.—The Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.) is amended—

(1) in each of sections 303(b)(2) (12 U.S.C. 1452(b)(2)), 303(h)(2) (12 U.S.C. 1452(h)(2)), and section 307(c)(1) (12 U.S.C. 1456(c)(1)), by striking "Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" each place that term appears, and inserting "Director of the Federal Housing Finance Agency";

(2) in section 306 (12 U.S.C. 1455)—

(A) in subsection (c)(2), by inserting "the" after "Secretary of";

(B) in subsection (i)—

(i) by striking "section 1316(c)" and inserting "section 306(c)"; and

(ii) by striking "section 106" and inserting "section 1316"; and

(C) in subsection (j)(2), by striking "of substantially" and inserting "or substantially"; and

(3) in section 307 (12 U.S.C. 1456)—

(A) in subsection (e)—

(i) in paragraph (1), by striking "to the Secretary, in a form determined by the Secretary" and inserting "to the Director of the Federal Housing Finance Agency, in a form determined by the Director"; and

(ii) in paragraph (2), by striking "to the Secretary, in a form determined by the Secretary" and inserting "to the Director of the Federal Housing Finance Agency, in a form determined by the Director"; and

(B) in subsection (f)—

(i) in paragraph (1), by striking "and the Secretary" and inserting "and the Director of the Federal Housing Finance Agency";

(ii) in paragraph (2), by striking "the Secretary" each place that term appears and inserting "the Director of the Federal Housing Finance Agency"; and

(iii) in paragraph (3)(B), by striking "Secretary" and inserting "Director of the Federal Housing Finance Agency".

(d) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 1905 of title 18, United States Code, is amended by striking "Office of Federal Housing Enterprise Oversight" and inserting "Federal Housing Finance Agency".

(e) AMENDMENTS TO FLOOD DISASTER PROTECTION ACT OF 1973.—Section 102(f)(3)(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(3)(A)) is amended by striking "Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" and inserting "Director of the Federal Housing Finance Agency".

(f) AMENDMENT TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT.—Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by striking subsection (d).

(g) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) in section 5313, by striking the item relating to the Director of the Office of Federal Housing Enterprise Oversight,

Department of Housing and Urban Development and inserting the following new item:

"Director of the Federal Housing Finance Agency."; and

(2) in section 3132(a)(1)—

(A) in subparagraph (B), by striking ",, and" and inserting ", and";

(B) in subparagraph (D)—

(i) by striking "the Federal Housing Finance Board";

(ii) by striking "the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" and inserting "the Federal Housing Finance Agency"; and

(iii) by striking "or or" at the end;

(C) in subparagraph (E), as added by section 8(d)(1)(B)(iii) of Public Law 107–123, by adding "or" at the end; and

(D) by redesignating subparagraph (E), as added by section 10702(c)(1)(C) of Public Law 107–171, as subparagraph (F).

(h) AMENDMENT TO SARBANES-OXLEY ACT.—Section 105(b)(5)(B)(ii)(II) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(B)(ii)(II)) is amended by inserting "and the Director of the Federal Housing Finance Agency," after "Commission,".

(i) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Section 11(t)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(t)(2)(A)) is amended by adding at the end the following:

"(vii) Federal Housing Finance Agency.".

**SEC. 1162. PRESIDENTIALLY-APPOINTED DIRECTORS OF ENTERPRISES.**

(a) FANNIE MAE.—

(1) IN GENERAL.—Section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended—

(A) in the first sentence, by striking "eighteen persons, five of whom shall be appointed annually by the President of the United States, and the remainder of whom" and inserting "13 persons, or such other number that the Director determines appropriate, who";

(B) in the second sentence, by striking "appointed by the President";

(C) in the third sentence—

(i) by striking "appointed or"; and

(ii) by striking ", except that any such appointed member may be removed from office by the President for good cause";

(D) in the fourth sentence, by striking "elective"; and

(E) by striking the fifth sentence.

(2) TRANSITIONAL PROVISION.—The amendments made by paragraph (1) shall not apply to any appointed position of the board of directors of the Federal National Mortgage Association until the expiration of the annual term for such position during which the effective date under section 1163 occurs. 12 USC 1723 note.

(b) FREDDIE MAC.—

(1) IN GENERAL.—Section 303(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)) is amended—

(A) in subparagraph (A)—

(i) in the first sentence, by striking "18 persons, 5 of whom shall be appointed annually by the President of the United States and the remainder of whom" and inserting "13 persons, or such other number as the Director determines appropriate, who"; and

(ii) in the second sentence, by striking "appointed by the President of the United States";

(B) in subparagraph (B)—

(i) by striking "such or"; and

(ii) by striking ", except that any appointed member may be removed from office by the President for good cause"; and

(C) in subparagraph (C)—

(i) by striking the first sentence; and

(ii) by striking "elective".

12 USC 1452 note.

(2) TRANSITIONAL PROVISION.—The amendments made by paragraph (1) shall not apply to any appointed position of the board of directors of the Federal Home Loan Mortgage Corporation until the expiration of the annual term for such position during which the effective date under section 1163 occurs.

5 USC 13132 note.

**SEC. 1163. EFFECTIVE DATE.**

Except as otherwise specifically provided in this title, this title and the amendments made by this title shall take effect on, and shall apply beginning on, the date of enactment of this Act.

# TITLE II—FEDERAL HOME LOAN BANKS

**SEC. 1201. RECOGNITION OF DISTINCTIONS BETWEEN THE ENTERPRISES AND THE FEDERAL HOME LOAN BANKS.**

Section 1313 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4513) is amended by adding at the end the following:

"(f) RECOGNITION OF DISTINCTIONS BETWEEN THE ENTERPRISES AND THE FEDERAL HOME LOAN BANKS.—Prior to promulgating any regulation or taking any other formal or informal agency action of general applicability and future effect relating to the Federal Home Loan Banks (other than any regulation, advisory document, or examination guidance of the Federal Housing Finance Board that the Director reissues after the authority of the Director over the Federal Home Loan Banks takes effect), including the issuance of an advisory document or examination guidance, the Director shall consider the differences between the Federal Home Loan Banks and the enterprises with respect to—

"(1) the Banks'—

"(A) cooperative ownership structure;

"(B) the mission of providing liquidity to members;

"(C) affordable housing and community development mission;

"(D) capital structure; and

"(E) joint and several liability; and

"(2) any other differences that the Director considers appropriate.".

**SEC. 1202. DIRECTORS.**

Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) NUMBER; ELECTION; QUALIFICATIONS; CONFLICTS OF INTEREST.—

"(1) IN GENERAL.—Subject to paragraphs (2) through (4), the management of each Federal Home Loan Bank shall be vested in a board of 13 directors, or such other number as the Director determines appropriate.

"(2) BOARD MAKEUP.—The board of directors of each Bank shall be comprised of—

"(A) member directors, who shall comprise at least the majority of the members of the board of directors; and

"(B) independent directors, who shall comprise not fewer than ⅖ of the members of the board of directors.

"(3) SELECTION CRITERIA.—

"(A) IN GENERAL.—Each member of the board of directors shall be—

"(i) elected by plurality vote of the members, in accordance with procedures established under this section; and

"(ii) a citizen of the United States.

"(B) INDEPENDENT DIRECTOR CRITERIA.—

"(i) IN GENERAL.—Each independent director that is not a public interest director under clause (ii) shall have demonstrated knowledge of, or experience in, financial management, auditing and accounting, risk management practices, derivatives, project development, or organizational management, or such other knowledge or expertise as the Director may provide by regulation.

"(ii) PUBLIC INTEREST.—Not fewer than 2 of the independent directors shall have more than 4 years of experience in representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

"(iii) CONFLICTS OF INTEREST.—No independent director may, during the term of service on the board of directors, serve as an officer of any Federal Home Loan Bank or as a director, officer, or employee of any member of a Bank, or of any person that receives advances from a Bank.

"(4) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(A) INDEPENDENT DIRECTOR.—The terms 'independent director' and 'independent directorship' mean a member of the board of directors of a Federal Home Loan Bank who is a bona fide resident of the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.

"(B) MEMBER DIRECTOR.—The terms 'member director' and 'member directorship' mean a member of the board

of directors of a Federal Home Loan Bank who is an officer or director of a member institution that is located in the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.";

(2) by striking "elective" each place that term appears, other than in subsections (d), (e), and (f), and inserting "member";

(3) in subsection (b)—

(A) by striking the subsection heading and all that follows through "Each elective directorship" and inserting the following:

"(b) DIRECTORSHIPS.—

"(1) MEMBER DIRECTORSHIPS.—Each member directorship"; and

(B) by adding at the end the following:

"(2) INDEPENDENT DIRECTORSHIPS.—

"(A) ELECTIONS.—Each independent director—

"(i) shall be elected by the members entitled to vote, from among eligible persons nominated, after consultation with the Advisory Council of the Bank, by the board of directors of the Bank; and

"(ii) shall be elected by a plurality of the votes of the members of the Bank at large, with each member having the number of votes for each such directorship as it has under paragraph (1) in an election to fill member directorships.

"(B) CRITERIA.—Nominees shall meet all applicable requirements prescribed in this section.

"(C) NOMINATION AND ELECTION PROCEDURES.—Procedures for nomination and election of independent directors shall be prescribed by the bylaws of each Federal Home Loan Bank, in a manner consistent with the rules and regulations of the Agency.";

(4) in subsection (c)—

(A) by striking "elective" each place that term appears and inserting "member", except—

(i) in the second sentence, the second place that term appears; and

(ii) each place that term appears in the fifth sentence; and

(B) in the second sentence—

(i) by inserting "(A) except as provided in clause (B) of this sentence," before "if at any time"; and

(ii) by inserting before the period at the end the following: ", and (B) clause (A) of this sentence shall not apply to the directorships of any Federal Home Loan Bank resulting from the merger of any 2 or more such Banks";

(5) in subsection (d)—

(A) in the first sentence—

(i) by striking ", whether elected or appointed,"; and

(ii) by striking "3 years" and inserting "4 years";

(B) in the second sentence—

(i) by striking "Federal Home Loan Bank System Modernization Act of 1999" and inserting "Federal Housing Finance Regulatory Reform Act of 2008";

(ii) by striking "⅓" and inserting "¼"; and

(iii) by striking "or appointed"; and

(C) in the third sentence—

(i) by striking "an elective" each place that term appears and inserting "a"; and

(ii) by striking "in any elective directorship or elective directorships";

(6) in subsection (f)—

(A) by striking paragraph (2);

(B) by striking "appointed or" each place that term appears; and

(C) in paragraph (3)—

(i) by striking "(3) ELECTED BANK DIRECTORS.—" and inserting "(2) ELECTION PROCESS.—"; and

(ii) by striking "elective" each place that term appears;

(7) in subsection (i)—

(A) in paragraph (1), by striking "Subject to paragraph (2), each" and inserting "Each"; and

(B) by striking paragraph (2) and inserting the following:

"(2) ANNUAL REPORT.—The Director shall include, in the annual report submitted to the Congress pursuant to section 1319B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, information regarding the compensation and expenses paid by the Federal Home Loan Banks to the directors on the boards of directors of the Banks."; and

(8) by adding at the end the following:

"(l) TRANSITION RULE.—Any member of the board of directors of a Bank elected or appointed in accordance with this section prior to the date of enactment of this subsection may continue to serve as a member of that board of directors for the remainder of the existing term of service.".

**SEC. 1203. DEFINITIONS.**

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) by striking paragraphs (1), (10), and (11);

(2) by redesignating paragraphs (2) through (9) as paragraphs (1) through (8), respectively;

(3) by redesignating paragraphs (12) and (13) as paragraphs (9) and (10), respectively; and

(4) by adding at the end the following:

"(11) DIRECTOR.—The term 'Director' means the Director of the Federal Housing Finance Agency.

"(12) AGENCY.—The term 'Agency' means the Federal Housing Finance Agency, established under section 1311 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

**SEC. 1204. AGENCY OVERSIGHT OF FEDERAL HOME LOAN BANKS.**

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.), other than in provisions of that Act added or amended otherwise by this Act, is amended—

(1) by striking sections 2A and 2B (12 U.S.C. 1422a, 1422b);

(2) in section 18 (12 U.S.C. 1438), by striking subsection (b);

(3) in section 11 (12 U.S.C. 1431)—

(A) in subsection (b)—

(i) in the first sentence—

(I) by striking "The Board" and inserting "The Office of Finance, as agent for the Banks,"; and

(II) by striking "the Board" and inserting "such Office"; and

(ii) in the second and fourth sentences, by striking "the Board" each place such term appears and inserting "the Office of Finance";

(B) in subsection (c)—

(i) by striking "the Board" the first place such term appears and inserting "the Office of Finance, as agent for the Banks,"; and

(ii) by striking "the Board" the second place such term appears and inserting "such Office"; and

(C) in subsection (f)—

(i) by striking the 2 commas after "permit" and inserting "or"; and

(ii) by striking the comma after "require";

(4) in section 6 (12 U.S.C. 1426)—

(A) in subsection (b)(1), in the matter preceding subparagraph (A), by striking "Finance Board approval" and inserting "approval by the Director"; and

(B) in each of subsections (c)(4)(B) and (d)(2), by striking "Finance Board regulations" each place that term appears and inserting "regulations of the Director";

(5) in section 10(b) (12 U.S.C. 1430(b))—

(A) in the subsection heading, by striking "FORMAL BOARD RESOLUTION" and inserting "APPROVAL OF DIRECTOR"; and

(B) by striking "by formal resolution";

(6) in section 21(b)(5) (12 U.S.C. 1441(b)(5)), by striking "Chairperson of the Federal Housing Finance Board" and inserting "Director";

(7) in section 15 (12 U.S.C. 1435), by inserting "or the Director" after "the Board";

12 USC 1422 *et al.*

(8) by striking "the Board" each place that term appears and inserting "the Director";

12 USC 1427 *et al.*

(9) by striking "The Board" each place that term appears and inserting "The Director";

12 USC 1422 *et al.*

(10) by striking "the Finance Board" each place that term appears and inserting "the Director";

(11) by striking "The Finance Board" each place that term appears and inserting "The Director"; and

12 USC 1430 *et al.*

(12) by striking "Federal Housing Finance Board" each place that term appears and inserting "Director".

**SEC. 1205. HOUSING GOALS.**

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 10b the following new section:

12 USC 1430c.

**"SEC. 10C. HOUSING GOALS.**

"(a) IN GENERAL.—The Director shall establish housing goals with respect to the purchase of mortgages, if any, by the Federal

Home Loan Banks. Such goals shall be consistent with the goals established under sections 1331 through 1334 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(b) CONSIDERATIONS.—In establishing the goals required by subsection (a), the Director shall consider the unique mission and ownership structure of the Federal Home Loan Banks.

"(c) TRANSITION PERIOD.—To facilitate an orderly transition, the Director shall establish interim target goals for purposes of this section for each of the 2 calendar years following the date of enactment of this section.

"(d) MONITORING AND ENFORCEMENT OF GOALS.—The requirements of section 1336 of the Federal Housing Enterprises Safety and Soundness Act of 1992, shall apply to this section, in the same manner and to the same extent as that section applies to the Federal housing enterprises.

"(e) ANNUAL REPORT.—The Director shall annually report to Congress on the performance of the Banks in meeting the goals established under this section.".

**SEC. 1206. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.**

Section 4(a)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)(1)) is amended—

(1) by inserting after "savings bank," the following: "community development financial institution,"; and

(2) in subparagraph (B), by inserting after "United States," the following: "or, in the case of a community development financial institution, is certified as a community development financial institution under the Community Development Banking and Financial Institutions Act of 1994.".

**SEC. 1207. SHARING OF INFORMATION AMONG FEDERAL HOME LOAN BANKS.**

The Federal Home Loan Bank Act is amended by inserting after section 20 (12 U.S.C. 1440) the following new section:

**"SEC. 20A. SHARING OF INFORMATION AMONG FEDERAL HOME LOAN BANKS.** 12 USC 1440a.

"(a) INFORMATION ON FINANCIAL CONDITION.—In order to enable each Federal Home Loan Bank to evaluate the financial condition of one or more of the other Federal Home Loan Banks individually and the Federal Home Loan Bank System (including any risks associated with the issuance or repayment of consolidated Federal Home Loan Bank bonds and debentures or other borrowings and the joint and several liabilities of the Banks incurred due to such borrowings), as well as to comply with any of its obligations under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Director shall make available to the Banks such reports, records, or other information as may be available, relating to the condition of any Federal Home Loan Bank. Reports. Records.

"(b) SHARING OF INFORMATION.—

"(1) IN GENERAL.—The Director shall promulgate regulations to facilitate the sharing of information made available under subsection (a) directly among the Federal Home Loan Banks. Regulations.

"(2) LIMITATION.—Notwithstanding paragraph (1), a Federal Home Loan Bank responding to a request from another Bank or from the Director for information pursuant to this section may request that the Director determine that such

information is proprietary and that the public interest requires that such information not be shared.

"(c) LIMITATION.—Nothing in this section shall affect the obligations of any Federal Home Loan Bank under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the regulations issued by the Securities and Exchange Commission thereunder.

"(d) NO WAIVER OF PRIVILEGE.—The Director shall not be deemed to have waived any privilege applicable to any information concerning a Federal Home Loan Bank by transferring, or permitting the transfer of, that information to any other Federal Home Loan Bank for the purposes set out in subsection (a).".

12 USC 1426a.

**SEC. 1208. EXCLUSION FROM CERTAIN REQUIREMENTS.**

(a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with—

(1) sections 13(e), 14(a), and 14(c) of the Securities Exchange Act of 1934, and related Commission regulations;

(2) section 15 of the Securities Exchange Act of 1934, and related Commission regulations, with respect to transactions in the capital stock of a Federal Home Loan Bank;

(3) section 17A of the Securities Exchange Act of 1934, and related Commission regulations, with respect to the transfer of the securities of a Federal Home Loan Bank; and

(4) the Trust Indenture Act of 1939.

(b) MEMBER EXEMPTION.—The members of the Federal Home Loan Bank System shall be exempt from compliance with sections 13(d), 13(f), 13(g), 14(d), and 16 of the Securities Exchange Act of 1934, and related Commission regulations, with respect to ownership of or transactions in the capital stock of the Federal Home Loan Banks by such members.

(c) EXEMPTED AND GOVERNMENT SECURITIES.—

(1) CAPITAL STOCK.—The capital stock issued by each of the Federal Home Loan Banks under section 6 of the Federal Home Loan Bank Act are—

(A) exempted securities, within the meaning of section 3(a)(2) of the Securities Act of 1933; and

(B) exempted securities, within the meaning of section 3(a)(12)(A) of the Securities Exchange Act of 1934, except to the extent provided in section 38 of that Act.

(2) OTHER OBLIGATIONS.—The debentures, bonds, and other obligations issued under section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) are—

(A) exempted securities, within the meaning of section 3(a)(2) of the Securities Act of 1933;

(B) government securities, within the meaning of section 3(a)(42) of the Securities Exchange Act of 1934; and

(C) government securities, within the meaning of section 2(a)(16) of the Investment Company Act of 1940.

(3) BROKERS AND DEALERS.—A person (other than a Federal Home Loan Bank effecting transactions for members of the Federal Home Loan Bank System) that effects transactions in the capital stock or other obligations of a Federal Home Loan Bank, for the account of others or for that person's own account, as applicable, is a broker or dealer, as those terms are defined in paragraphs (4) and (5), respectively, of section 3(a) of the Securities Exchange Act of 1934, but is excluded from the definition of—

(A) the term "government securities broker" under section 3(a)(43) of the Securities Exchange Act of 1934; and

(B) the term "government securities dealer" under section 3(a)(44) of the Securities Exchange Act of 1934.

(d) EXEMPTION FROM REPORTING REQUIREMENTS.—The Federal Home Loan Banks shall be exempt from periodic reporting requirements under the securities laws pertaining to the disclosure of—

(1) related party transactions that occur in the ordinary course of the business of the Banks with members; and

(2) the unregistered sales of equity securities.

(e) TENDER OFFERS.—Commission rules relating to tender offers shall not apply in connection with transactions in the capital stock of the Federal Home Loan Banks.

(f) REGULATIONS.—

(1) IN GENERAL.—The Commission shall promulgate such rules and regulations as may be necessary or appropriate in the public interest or in furtherance of this section and the exemptions provided in this section.

(2) CONSIDERATIONS.—In issuing regulations under this section, the Commission shall consider the distinctive characteristics of the Federal Home Loan Banks when evaluating—

(A) the accounting treatment with respect to the payment to the Resolution Funding Corporation;

(B) the role of the combined financial statements of the Federal Home Loan Banks;

(C) the accounting classification of redeemable capital stock; and

(D) the accounting treatment related to the joint and several nature of the obligations of the Banks.

(g) DEFINITIONS.—As used in this section—

(1) the terms "Bank", "Federal Home Loan Bank", "member", and "Federal Home Loan Bank System" have the same meanings as in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422);

(2) the term "Commission" means the Securities and Exchange Commission; and

(3) the term "securities laws" has the same meaning as in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)).

**SEC. 1209. VOLUNTARY MERGERS.**

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended—

(1) by striking "Whenever" and inserting "(a) IN GENERAL.—Whenever"; and

(2) by adding at the end the following:

"(b) VOLUNTARY MERGERS AUTHORIZED.—

"(1) IN GENERAL.—Any Federal Home Loan Bank may, with the approval of the Director and of the boards of directors of the Banks involved, merge with another Bank.

"(2) REGULATIONS REQUIRED.—The Director shall promulgate regulations establishing the conditions and procedures for the consideration and approval of any voluntary merger described in paragraph (1), including the procedures for Bank member approval.".

**SEC. 1210. AUTHORITY TO REDUCE DISTRICTS.**

Section 3 of the Federal Home Loan Bank Act (12 U.S.C. 1423) is amended—

(1) by striking "As soon" and inserting "(a) IN GENERAL.—As soon"; and

(2) by adding at the end the following:

"(b) AUTHORITY TO REDUCE DISTRICTS.—Notwithstanding subsection (a), the number of districts may be reduced to a number less than 8—

"(1) pursuant to a voluntary merger between Banks, as approved pursuant to section 26(b); or

"(2) pursuant to a decision by the Director to liquidate a Bank pursuant to section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

**SEC. 1211. COMMUNITY FINANCIAL INSTITUTION MEMBERS.**

(a) TOTAL ASSET REQUIREMENT.—Paragraph (10) of section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(10)), as so redesignated by section 201(3) of this Act, is amended by striking "$500,000,000" each place such term appears and inserting "$1,000,000,000".

(b) USE OF ADVANCES FOR COMMUNITY DEVELOPMENT ACTIVITIES.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) in paragraph (2)(B)—

(A) by striking "and"; and

(B) by inserting ", and community development activities" before the period at the end;

(2) in paragraph (3)(E), by inserting "or community development activities" after "agriculture,"; and

(3) in paragraph (6)—

(A) by striking "and"; and

(B) by inserting ", and 'community development activities'" before "shall".

**SEC. 1212. PUBLIC USE DATABASE; REPORTS TO CONGRESS.**

Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(1) in subsection (j)(12)—

(A) by striking subparagraph (C) and inserting the following:

"(C) REPORTS.—The Director shall annually report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the collateral pledged to the Banks, including an analysis of collateral by type and by Bank district."; and

(B) by adding at the end the following:

Deadline.

"(D) SUBMISSION TO CONGRESS.—The Director shall submit the reports under subparagraphs (A) and (C) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 180 days after the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008."; and

(2) by adding at the end the following:

"(k) PUBLIC USE DATABASE.—

"(1) DATA.—Each Federal Home Loan Bank shall provide to the Director, in a form determined by the Director, census tract level data relating to mortgages purchased, if any, including—

"(A) data consistent with that reported under section 1323 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992;

"(B) data elements required to be reported under the Home Mortgage Disclosure Act of 1975; and

"(C) any other data elements that the Director considers appropriate.

"(2) PUBLIC USE DATABASE.—

"(A) IN GENERAL.—The Director shall make available to the public, in a form that is useful to the public (including forms accessible electronically), and to the extent practicable, the data provided to the Director under paragraph (1).

"(B) PROPRIETARY INFORMATION.—Not withstanding subparagraph (A), the Director may not provide public access to, or disclose to the public, any information required to be submitted under this subsection that the Director determines is proprietary or that would provide personally identifiable information and that is not otherwise publicly accessible through other forms, unless the Director determines that it is in the public interest to provide such information.".

**SEC. 1213. SEMIANNUAL REPORTS.**

Section 21B of the Federal Home Loan Bank Act is amended in subsection (f)(2)(C), by adding at the end the following: 12 USC 1441b.

"(v) SEMIANNUAL REPORTS.—The Director shall report semiannually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the projected date for the completion of contributions required by this section.".

**SEC. 1214. LIQUIDATION OR REORGANIZATION OF A FEDERAL HOME LOAN BANK.**

Deadline. Notification.

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended by adding at the end the following: "At least 30 days prior to liquidating or reorganizing any Bank under this section, the Director shall notify the Bank of its determination and the facts and circumstances upon which such determination is based. The Bank may contest that determination in a hearing before the Director, in which all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.". Records.

**SEC. 1215. STUDY AND REPORT TO CONGRESS ON SECURITIZATION OF ACQUIRED MEMBER ASSETS.**

(a) STUDY.—The Director shall conduct a study on securitization of home mortgage loans purchased or to be purchased from member financial institutions under the Acquired Member Assets programs. In conducting the study, the Director shall establish a process for the formal submission of comments.

(b) ELEMENTS.—The study shall encompass—

(1) the benefits and risks associated with securitization of Acquired Member Assets;

(2) the potential impact of securitization upon liquidity in the mortgage and broader credit markets;

(3) the ability of the Federal Home Loan Bank or Banks in question to manage the risks associated with such a program;

(4) the impact of such a program on the existing activities of the Banks, including their mortgage portfolios and advances; and

(5) the joint and several liability of the Banks and the cooperative structure of the Federal Home Loan Bank System.

(c) CONSULTATIONS.—In conducting the study under this section, the Director shall consult with the Federal Home Loan Banks, the Banks' fiscal agent, representatives of the mortgage lending industry, practitioners in the structured finance field, and other experts as needed.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director shall submit a report to Congress on the results of the study conducted under subsection (a), including policy recommendations based on the analysis of the Director of the feasibility of mortgage-backed securities issuance by a Federal Home Loan Bank or Banks and the risks and benefits associated with such program or programs.

(e) DEFINITIONS.—As used in this section, the terms "member", "Bank", and "Federal Home Loan Bank" have the same meanings as in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422).

**SEC. 1216. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1113(o) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(o)) is amended—

(1) by striking "Federal Housing Finance Board" and inserting "Federal Housing Finance Agency"; and

(2) by striking "Federal Housing Finance Board's" and inserting "Federal Housing Finance Agency's".

(b) RIEGLE COMMUNITY DEVELOPMENT AND REGULATORY IMPROVEMENT ACT OF 1994.—Section 117(e) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4716(e)) is amended by striking "Federal Housing Finance Board" and inserting "Federal Housing Finance Agency".

(c) TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by striking "Federal Housing Finance Board" each place such term appears in each of sections 212, 657, 1006, and 1014, and inserting "Federal Housing Finance Agency".

(d) MAHRA ACT OF 1997.—Section 517(b)(4) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking "Federal Housing Finance Board" and inserting "Federal Housing Finance Agency".

(e) TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking "Federal Housing Finance Board" and inserting "Federal Housing Finance Agency".

(f) ACCESS TO LOCAL TV ACT OF 2000.—Section 1004(d)(2)(D)(iii) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1103(d)(2)(D)(iii)) is amended by striking "Office of Federal Housing Enterprise Oversight, the Federal Housing Finance Board" and inserting "Federal Housing Finance Agency".

(g) FIRREA.—Section 1216 of the Financial Institutions Reform, Recovery, and Enhancement Act of 1989 (12 U.S.C. 1833e) is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

"(3) the Federal Housing Finance Agency;";

(2) in subsection (b), by striking "Federal National Mortgage Association" and inserting "Federal Home Loan Banks, the Federal National Mortgage Association,"; and

(3) in subsection (c), by striking "Finance Board" and inserting "Finance Agency".

**SEC. 1217. STUDY ON FEDERAL HOME LOAN BANK ADVANCES.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House or Representatives on the extent to which loans and securities used as collateral to support Federal Home Loan Bank advances are consistent with the interagency guidance on nontraditional mortgage products. Deadline.

(b) REQUIRED CONTENT.—The study required under subsection (a) shall—

(1) consider and recommend any additional regulations, guidance, advisory bulletins, or other administrative actions necessary to ensure that the Federal Home Loan Banks are not supporting loans with predatory characteristics; and Recommendations.

(2) include an opportunity for the public to comment on any recommendations made under paragraph (1). Public comment.

**SEC. 1218. FEDERAL HOME LOAN BANK REFINANCING AUTHORITY FOR CERTAIN RESIDENTIAL MORTGAGE LOANS.**

Section 10(j)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)(2)) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) during the 2-year period beginning on the date of enactment of this subparagraph, use such percentage as the Director may by regulation establish of any subsidized advances set aside to finance homeownership under subparagraph (A) to refinance loans that are secured by a first mortgage on a primary residence of any family having an income at or below 80 percent of the median income for the area.". Effective date.

# TITLE III—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFHEO AND THE FEDERAL HOUSING FINANCE BOARD

## Subtitle A—OFHEO

12 USC 4511 note.

**SEC. 1301. ABOLISHMENT OF OFHEO.**

Effective date.

(a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of enactment of this Act, the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and the positions of the Director and Deputy Director of such Office are abolished.

Effective date.

(b) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of enactment of this Act, the Director of the Office of Federal Housing Enterprise Oversight, solely for the purpose of winding up the affairs of the Office of Federal Housing Enterprise Oversight—

(1) shall manage the employees of such Office and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee under section 1303; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Office.

(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by title I and the abolishment of the Office of Federal Housing Enterprise Oversight under subsection (a) of this section may not be construed to affect the status of any employee of such Office as an employee of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee under section 1303.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director may use the property of the Office of Federal Housing Enterprise Oversight to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Act or any amendment made by this Act to any other provision of law.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Office of Federal Housing Enterprise Oversight before the expiration of the period under subsection (a) in connection with functions that are transferred to the Director shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) CONTINUATION OF SERVICES.—The Director may use the services of employees and other personnel of the Office of Federal Housing Enterprise Oversight, on a reimbursable basis, to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions

pursuant to any other provision of this Act or any amendment made by this Act to any other provision of law.

(f) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Federal Housing Enterprise Oversight, or any other person, which—

(A) arises under—

(i) the Federal Housing Enterprises Financial Safety and Soundness Act of 1992;

(ii) the Federal National Mortgage Association Charter Act;

(iii) the Federal Home Loan Mortgage Corporation Act; or

(iv) any other provision of law applicable with respect to such Office; and

(B) existed on the day before the date of abolishment under subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Director of the Office of Federal Housing Enterprise Oversight in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall abate by reason of the enactment of this Act, except that the Director of the Federal Housing Finance Agency shall be substituted for the Director of the Office of Federal Housing Enterprise Oversight as a party to any such action or proceeding.

**SEC. 1302. CONTINUATION AND COORDINATION OF CERTAIN ACTIONS.**

12 USC 4511 note.

(a) IN GENERAL.—All regulations, orders, and determinations described in subsection (b) shall remain in effect according to the terms of such regulations, orders, and determinations, and shall be enforceable by or against the Director or the Secretary of Housing and Urban Development, as the case may be, until modified, terminated, set aside, or superseded in accordance with applicable law by the Director or the Secretary, as the case may be, any court of competent jurisdiction, or operation of law.

(b) APPLICABILITY.—A regulation, order, or determination is described in this subsection if it—

(1) was issued, made, prescribed, or allowed to become effective by—

(A) the Office of Federal Housing Enterprise Oversight;

(B) the Secretary of Housing and Urban Development, and relates to the authority of the Secretary under—

(i) the Federal Housing Enterprises Financial Safety and Soundness Act of 1992;

(ii) the Federal National Mortgage Association Charter Act, with respect to the Federal National Mortgage Association; or

(iii) the Federal Home Loan Mortgage Corporation Act, with respect to the Federal Home Loan Mortgage Corporation; or

(C) a court of competent jurisdiction, and relates to functions transferred by this Act; and

(2) is in effect on the effective date of the abolishment under section 1301(a).

12 USC 4511 note.

**SEC. 1303. TRANSFER AND RIGHTS OF EMPLOYEES OF OFHEO.**

Deadline.

(a) TRANSFER.—Each employee of the Office of Federal Housing Enterprise Oversight shall be transferred to the Agency for employment, not later than the effective date of the abolishment under section 1301(a), and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—

(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer.

Effective date.

(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee transferred under subsection (a) holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, in the case of a temporary employee, separated in accordance with the terms of the appointment of the employee.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of an employee occupying a position in the excepted service or the Senior Executive Service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director may decline a transfer of authority under paragraph (1) to the extent that such authority relates to—

(A) a position excepted from the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character; or

(B) a noncareer position in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

Effective date.

(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 1301(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any employee of the Office of Federal Housing Enterprise Oversight accepting employment with the Agency as a result of a transfer under subsection (a) may retain, for 12 months after the date on which such transfer occurs, membership in any employee benefit program of the Agency or the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development, as applicable, including insurance, to which such employee belongs on the date of the abolishment under section 1301(a), if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director of the Federal Housing Finance Agency.

(2) COST DIFFERENTIAL.—

(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Office of Federal Housing Enterprise Oversight and those provided by this section shall be paid by the Director.

(B) HEALTH INSURANCE.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the date of such election or notice, without regard to any other regularly scheduled open season. Deadline.

**SEC. 1304. TRANSFER OF PROPERTY AND FACILITIES.** 12 USC 4511 note.

Upon the effective date of its abolishment under section 1301(a), all property of the Office of Federal Housing Enterprise Oversight shall transfer to the Agency.

# Subtitle B—Federal Housing Finance Board

**SEC. 1311. ABOLISHMENT OF THE FEDERAL HOUSING FINANCE BOARD.** 12 USC 4511 note. Effective date. Termination date.

(a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of enactment of this Act, the Federal Housing Finance Board (in this subtitle referred to as the "Board") is abolished.

(b) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of enactment of this Act, the Board, solely for the purpose of winding up the affairs of the Board— Effective date.

(1) shall manage the employees of the Board and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee under section 1313; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Board.

(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by titles I and II and the abolishment of the Board under subsection (a) may not be construed to affect the status of any employee of the Board as an employee of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee under section 1313.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director may use the property of the Board to perform functions which have been transferred to the Director, for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Act or any amendment made by this Act to any other provision of law.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Board before the expiration of the 1-year period under subsection (a) in connection with functions that are transferred to the Director shall— Deadline.

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) CONTINUATION OF SERVICES.—The Director may use the services of employees and other personnel of the Board, on a reimbursable basis, to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions pursuant to any other provision of this Act or any amendment made by this Act to any other provision of law.

(f) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, a member of the Board, or any other person, which—

(A) arises under the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Board; and

(B) existed on the day before the effective date of the abolishment under subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Board in connection with functions that are transferred under this Act to the Director shall abate by reason of the enactment of this Act, except that the Director shall be substituted for the Board or any member thereof as a party to any such action or proceeding.

12 USC 4511 note.

**SEC. 1312. CONTINUATION AND COORDINATION OF CERTAIN ACTIONS.**

Regulations. Orders.

(a) IN GENERAL.—All regulations, orders, determinations, and resolutions described under subsection (b) shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, and shall be enforceable by or against the Director until modified, terminated, set aside, or superseded in accordance with applicable law by the Director, any court of competent jurisdiction, or operation of law.

(b) APPLICABILITY.—A regulation, order, determination, or resolution is described under this subsection if it—

(1) was issued, made, prescribed, or allowed to become effective by—

(A) the Board; or

(B) a court of competent jurisdiction, and relates to functions transferred by this Act; and

(2) is in effect on the effective date of the abolishment under section 1311(a).

12 USC 4511 note.

**SEC. 1313. TRANSFER AND RIGHTS OF EMPLOYEES OF THE FEDERAL HOUSING FINANCE BOARD.**

Deadline.

(a) TRANSFER.—Each employee of the Board shall be transferred to the Agency for employment, not later than the effective date of the abolishment under section 1311(a), and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—

(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer.

(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, if the employee is a temporary employee, separated in accordance with the terms of the appointment of the employee. Effective date.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED EMPLOYEES.—

(1) IN GENERAL.—In the case of an employee occupying a position in the excepted service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director may decline a transfer of authority under paragraph (1), to the extent that such authority relates to a position excepted from the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character.

(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 1311(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code. Deadline.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any employee of the Board accepting employment with the Agency as a result of a transfer under subsection (a) may retain, for 12 months after the date on which such transfer occurs, membership in any employee benefit program of the Agency or the Board, as applicable, including insurance, to which such employee belongs on the effective date of the abolishment under section 1311(a) if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director.

(2) COST DIFFERENTIAL.—

(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Board and those provided by this section shall be paid by the Director.

(B) HEALTH INSURANCE.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the date of such election or notice, without regard to any other regularly scheduled open season.

**SEC. 1314. TRANSFER OF PROPERTY AND FACILITIES.**

Effective date. 12 USC 4511 note.

Upon the effective date of the abolishment under section 1311(a), all property of the Board shall transfer to the Agency.

# TITLE IV—HOPE FOR HOMEOWNERS

12 USC 1701 note.

**SEC. 1401. SHORT TITLE.**

This title may be cited as the "HOPE for Homeowners Act of 2008".

**SEC. 1402. ESTABLISHMENT OF HOPE FOR HOMEOWNERS PROGRAM.**

(a) ESTABLISHMENT.—Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following:

12 USC 1715z–23.

**"SEC. 257. HOPE FOR HOMEOWNERS PROGRAM.**

"(a) ESTABLISHMENT.—There is established in the Federal Housing Administration a HOPE for Homeowners Program.

"(b) PURPOSE.—The purpose of the HOPE for Homeowners Program is—

"(1) to create an FHA program, participation in which is voluntary on the part of homeowners and existing loan holders to insure refinanced loans for distressed borrowers to support long-term, sustainable homeownership;

"(2) to allow homeowners to avoid foreclosure by reducing the principle balance outstanding, and interest rate charged, on their mortgages;

"(3) to help stabilize and provide confidence in mortgage markets by bringing transparency to the value of assets based on mortgage assets;

"(4) to target mortgage assistance under this section to homeowners for their principal residence;

"(5) to enhance the administrative capacity of the FHA to carry out its expanded role under the HOPE for Homeowners Program;

"(6) to ensure the HOPE for Homeowners Program remains in effect only for as long as is necessary to provide stability to the housing market; and

"(7) to provide servicers of delinquent mortgages with additional methods and approaches to avoid foreclosure.

"(c) ESTABLISHMENT AND IMPLEMENTATION OF PROGRAM REQUIREMENTS.—

"(1) DUTIES OF THE BOARD.—In order to carry out the purposes of the HOPE for Homeowners Program, the Board shall—

Standards.

"(A) establish requirements and standards for the program; and

Regulations.

"(B) prescribe such regulations and provide such guidance as may be necessary or appropriate to implement such requirements and standards.

"(2) DUTIES OF THE SECRETARY.—In carrying out any of the program requirements or standards established under paragraph (1), the Secretary may issue such interim guidance and mortgagee letters as the Secretary determines necessary or appropriate.

"(d) INSURANCE OF MORTGAGES.—The Secretary is authorized upon application of a mortgagee to make commitments to insure or to insure any eligible mortgage that has been refinanced in a manner meeting the requirements under subsection (e).

"(e) REQUIREMENTS OF INSURED MORTGAGES.—To be eligible for insurance under this section, a refinanced eligible mortgage shall comply with all of the following requirements:

"(1) LACK OF CAPACITY TO PAY EXISTING MORTGAGE.—

"(A) BORROWER CERTIFICATION.—

"(i) IN GENERAL.—The mortgagor shall provide certification to the Secretary that the mortgagor has not intentionally defaulted on the mortgage or any other debt, and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining any eligible mortgage.

"(ii) PENALTIES.—

"(I) FALSE STATEMENT.—Any certification filed pursuant to clause (i) shall contain an acknowledgment that any willful false statement made in such certification is punishable under section 1001, of title 18, United States Code, by fine or imprisonment of not more than 5 years, or both.

"(II) LIABILITY FOR REPAYMENT.—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Federal Housing Administration any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made in the certifications and documentation required under this subparagraph, subject to the discretion of the Secretary. Records.

"(B) CURRENT BORROWER DEBT-TO-INCOME RATIO.—As of March 1, 2008, the mortgagor shall have had a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Board determines appropriate).

"(2) DETERMINATION OF PRINCIPAL OBLIGATION AMOUNT.—The principal obligation amount of the refinanced eligible mortgage to be insured shall—

"(A) be determined by the reasonable ability of the mortgagor to make his or her mortgage payments, as such ability is determined by the Secretary pursuant to section 203(b)(4) or by any other underwriting standards established by the Board; and

"(B) not exceed 90 percent of the appraised value of the property to which such mortgage relates.

"(3) REQUIRED WAIVER OF PREPAYMENT PENALTIES AND FEES.—All penalties for prepayment or refinancing of the eligible mortgage, and all fees and penalties related to default or delinquency on the eligible mortgage, shall be waived or forgiven.

"(4) EXTINGUISHMENT OF SUBORDINATE LIENS.—

"(A) REQUIRED AGREEMENT.—All holders of outstanding mortgage liens on the property to which the eligible mortgage relates shall agree to accept the proceeds of the insured loan as payment in full of all indebtedness under the eligible mortgage, and all encumbrances related to such eligible mortgage shall be removed. The Secretary may take such actions, subject to standards established by the Board under subparagraph (B), as may be necessary and appropriate to facilitate coordination and agreement

between the holders of the existing senior mortgage and any existing subordinate mortgages, taking into consideration the subordinate lien status of such subordinate mortgages.

"(B) SHARED APPRECIATION.—

Standards. Policies.

"(i) IN GENERAL.—The Board shall establish standards and policies that will allow for the payment to the holder of any existing subordinate mortgage of a portion of any future appreciation in the property secured by such eligible mortgage that is owed to the Secretary pursuant to subsection (k).

"(ii) FACTORS.—In establishing the standards and policies required under clause (i), the Board shall take into consideration—

"(I) the status of any subordinate mortgage;

"(II) the outstanding principal balance of and accrued interest on the existing senior mortgage and any outstanding subordinate mortgages;

"(III) the extent to which the current appraised value of the property securing a subordinate mortgage is less than the outstanding principal balance and accrued interest on any other liens that are senior to such subordinate mortgage; and

"(IV) such other factors as the Board determines to be appropriate.

"(C) VOLUNTARY PROGRAM.—This paragraph may not be construed to require any holder of any existing mortgage to participate in the program under this section generally, or with respect to any particular loan.

"(5) TERM OF MORTGAGE.—The refinanced eligible mortgage to be insured shall—

"(A) bear interest at a single rate that is fixed for the entire term of the mortgage; and

"(B) have a maturity of not less than 30 years from the date of the beginning of amortization of such refinanced eligible mortgage.

"(6) MAXIMUM LOAN AMOUNT.—The principal obligation amount of the eligible mortgage to be insured shall not exceed 132 percent of the dollar amount limitation in effect for 2007 under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a property of the applicable size.

"(7) PROHIBITION ON SECOND LIENS.—A mortgagor may not grant a new second lien on the mortgaged property during the first 5 years of the term of the mortgage insured under this section, except as the Board determines to be necessary to ensure the maintenance of property standards; and provided that such new outstanding liens (A) do not reduce the value of the Government's equity in the borrower's home; and (B) when combined with the mortgagor's existing mortgage indebtedness, do not exceed 95 percent of the home's appraised value at the time of the new second lien.

"(8) APPRAISALS.—Any appraisal conducted in connection with a mortgage insured under this section shall—

"(A) be based on the current value of the property;

"(B) be conducted in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.);

"(C) be completed by an appraiser who meets the competency requirements of the Uniform Standards of Professional Appraisal Practice;

"(D) be wholly consistent with the appraisal standards, practices, and procedures under section 202(e) of this Act that apply to all loans insured under this Act; and

"(E) comply with the requirements of subsection (g) of this section (relating to appraisal independence).

"(9) DOCUMENTATION AND VERIFICATION OF INCOME.—In complying with the FHA underwriting requirements under the HOPE for Homeowners Program under this section, the mortgagee shall document and verify the income of the mortgagor or non-filing status by procuring (A) an income tax return transcript of the income tax returns of the mortgagor, or(B) a copy of the income tax returns from the Internal Revenue Service, for the two most recent years for which the filing deadline for such years has passed and by any other method, in accordance with procedures and standards that the Board shall establish. Procedures. Standards.

"(10) MORTGAGE FRAUD.—The mortgagor shall not have been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

"(11) PRIMARY RESIDENCE.—The mortgagor shall provide documentation satisfactory in the determination of the Secretary to prove that the residence covered by the mortgage to be insured under this section is occupied by the mortgagor as the primary residence of the mortgagor, and that such residence is the only residence in which the mortgagor has any present ownership interest.

"(f) STUDY OF AUCTION OR BULK REFINANCE PROGRAM.—

"(1) STUDY.—The Board shall conduct a study of the need for and efficacy of an auction or bulk refinancing mechanism to facilitate refinancing of existing residential mortgages that are at risk for foreclosure into mortgages insured under this section. The study shall identify and examine various options for mechanisms under which lenders and servicers of such mortgages may make bids for forward commitments for such insurance in an expedited manner.

"(2) CONTENT.—

"(A) ANALYSIS.—The study required under paragraph (1) shall analyze—

"(i) the feasibility of establishing a mechanism that would facilitate the more rapid refinancing of borrowers at risk of foreclosure into performing mortgages insured under this section;

"(ii) whether such a mechanism would provide an effective and efficient mechanism to reduce foreclosures on qualified existing mortgages;

"(iii) whether the use of an auction or bulk refinance program is necessary to stabilize the housing market and reduce the impact of turmoil in that market on the economy of the United States;

"(iv) whether there are other mechanisms or authority that would be useful to reduce foreclosure; and

"(v) and any other factors that the Board considers relevant.

"(B) DETERMINATIONS.—To the extent that the Board finds that a facility of the type described in subparagraph (A) is feasible and useful, the study shall—

"(i) determine and identify any additional authority or resources needed to establish and operate such a mechanism;

"(ii) determine whether there is a need for additional authority with respect to the loan underwriting criteria established in this section or with respect to eligibility of participating borrowers, lenders, or holders of liens;

"(iii) determine whether such underwriting criteria should be established on the basis of individual loans, in the aggregate, or otherwise to facilitate the goal of refinancing borrowers at risk of foreclosure into viable loans insured under this section.

"(3) REPORT.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this section, the Board shall submit a report regarding the results of the study conducted under this subsection to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report shall include a detailed description of the analysis required under paragraph (2)(A) and of the determinations made pursuant to paragraph (2)(B), and shall include any other findings and recommendations of the Board pursuant to the study, including identifying various options for mechanisms described in paragraph (1).

"(g) APPRAISAL INDEPENDENCE.—

"(1) PROHIBITIONS ON INTERESTED PARTIES IN A REAL ESTATE TRANSACTION.—No mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, nor any other person with an interest in a real estate transaction involving an appraisal in connection with a mortgage insured under this section shall improperly influence, or attempt to improperly influence, through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, nonpayment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with the mortgage.

"(2) CIVIL MONETARY PENALTIES.—The Secretary may impose a civil money penalty for any knowing and material violation of paragraph (1) under the same terms and conditions as are authorized in section 536(a) of this Act.

"(h) STANDARDS TO PROTECT AGAINST ADVERSE SELECTION.—

Regulations. Orders.

"(1) IN GENERAL.—The Board shall, by rule or order, establish standards and policies to require the underwriter of the insured loan to provide such representations and warranties as the Board considers necessary or appropriate to enforce compliance with all underwriting and appraisal standards of the HOPE for Homeowners Program.

"(2) EXCLUSION FOR VIOLATIONS.—The Board shall prohibit the Secretary from paying insurance benefits to a mortgagee who violates the representations and warranties, as established under paragraph (1), or in any case in which a mortgagor fails to make the first payment on a refinanced eligible mortgage.

"(3) OTHER AUTHORITY.—The Board may establish such other standards or policies as necessary to protect against adverse selection, including requiring loans identified by the Secretary as higher risk loans to demonstrate payment performance for a reasonable period of time prior to being insured under the program.

"(i) PREMIUMS.—For each refinanced eligible mortgage insured under this section, the Secretary shall establish and collect—

"(1) at the time of insurance, a single premium payment in an amount equal to 3 percent of the amount of the original insured principal obligation of the refinanced eligible mortgage, which shall be paid from the proceeds of the mortgage being insured under this section, through the reduction of the amount of indebtedness that existed on the eligible mortgage prior to refinancing; and

"(2) in addition to the premium required under paragraph (1), an annual premium in an amount equal to 1.5 percent of the amount of the remaining insured principal balance of the mortgage.

"(j) ORIGINATION FEES AND INTEREST RATE.—The Board shall establish—

"(1) a reasonable limitation on origination fees for refinanced eligible mortgages insured under this section; and

"(2) procedures to ensure that interest rates on such mortgages shall be commensurate with market rate interest rates on such types of loans.

"(k) EQUITY AND APPRECIATION.—

"(1) FIVE-YEAR PHASE-IN FOR EQUITY AS A RESULT OF SALE OR REFINANCING.—For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, or upon the subsequent refinancing of such mortgage, be entitled to the following with respect to any equity created as a direct result of such sale or refinancing: Effective dates.

"(A) If such sale or refinancing occurs during the period that begins on the date that such mortgage is insured and ends 1 year after such date of insurance, the Secretary shall be entitled to 100 percent of such equity.

"(B) If such sale or refinancing occurs during the period that begins 1 year after such date of insurance and ends 2 years after such date of insurance, the Secretary shall be entitled to 90 percent of such equity and the mortgagor shall be entitled to 10 percent of such equity.

"(C) If such sale or refinancing occurs during the period that begins 2 years after such date of insurance and ends 3 years after such date of insurance, the Secretary shall be entitled to 80 percent of such equity and the mortgagor shall be entitled to 20 percent of such equity.

"(D) If such sale or refinancing occurs during the period that begins 3 years after such date of insurance and ends

4 years after such date of insurance, the Secretary shall be entitled to 70 percent of such equity and the mortgagor shall be entitled to 30 percent of such equity.

"(E) If such sale or refinancing occurs during the period that begins 4 years after such date of insurance and ends 5 years after such date of insurance, the Secretary shall be entitled to 60 percent of such equity and the mortgagor shall be entitled to 40 percent of such equity.

"(F) If such sale or refinancing occurs during any period that begins 5 years after such date of insurance, the Secretary shall be entitled to 50 percent of such equity and the mortgagor shall be entitled to 50 percent of such equity.

"(2) APPRECIATION IN VALUE.—For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, each be entitled to 50 percent of any appreciation in value of the appraised value of such property that has occurred since the date that such mortgage was insured under this section.

"(l) ESTABLISHMENT OF HOPE FUND.—

"(1) IN GENERAL.—There is established in the Federal Housing Administration a revolving fund to be known as the Home Ownership Preservation Entity Fund, which shall be used by the Board for carrying out the mortgage insurance obligations under this section.

"(2) MANAGEMENT OF FUND.—The HOPE Fund shall be administered and managed by the Secretary, who shall establish reasonable and prudent criteria for the management and operation of any amounts in the HOPE Fund.

"(m) LIMITATION ON AGGREGATE INSURANCE AUTHORITY.—The aggregate original principal obligation of all mortgages insured under this section may not exceed $300,000,000,000.

"(n) REPORTS BY THE BOARD.—The Board shall submit monthly reports to the Congress identifying the progress of the HOPE for Homeowners Program, which shall contain the following information for each month:

"(1) The number of new mortgages insured under this section, including the location of the properties subject to such mortgages by census tract.

"(2) The aggregate principal obligation of new mortgages insured under this section.

"(3) The average amount by which the principle balance outstanding on mortgages insured this section was reduced.

"(4) The amount of premiums collected for insurance of mortgages under this section.

"(5) The claim and loss rates for mortgages insured under this section.

"(6) Any other information that the Board considers appropriate.

"(o) REQUIRED OUTREACH EFFORTS.—The Secretary shall carry out outreach efforts to ensure that homeowners, lenders, and the general public are aware of the opportunities for assistance available under this section.

"(p) ENHANCEMENT OF FHA CAPACITY.—Under the direction of the Board, the Secretary shall take such actions as may be necessary to—

"(1) contract for the establishment of underwriting criteria, automated underwriting systems, pricing standards, and other factors relating to eligibility for mortgages insured under this section;

"(2) contract for independent quality reviews of underwriting, including appraisal reviews and fraud detection, of mortgages insured under this section or pools of such mortgages; and

"(3) increase personnel of the Department as necessary to process or monitor the processing of mortgages insured under this section.

"(q) GNMA COMMITMENT AUTHORITY.—

"(1) GUARANTEES.—The Secretary shall take such actions as may be necessary to ensure that securities based on and backed by a trust or pool composed of mortgages insured under this section are available to be guaranteed by the Government National Mortgage Association as to the timely payment of principal and interest.

"(2) GUARANTEE AUTHORITY.—To carry out the purposes of section 306 of the National Housing Act (12 U.S.C. 1721), the Government National Mortgage Association may enter into new commitments to issue guarantees of securities based on or backed by mortgages insured under this section, not exceeding $300,000,000,000. The amount of authority provided under the preceding sentence to enter into new commitments to issue guarantees is in addition to any amount of authority to make new commitments to issue guarantees that is provided to the Association under any other provision of law.

"(r) SUNSET.—The Secretary may not enter into any new commitment to insure any refinanced eligible mortgage, or newly insure any refinanced eligible mortgage pursuant to this section before October 1, 2008 or after September 30, 2011.

"(s) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) APPROVED FINANCIAL INSTITUTION OR MORTGAGEE.—The term 'approved financial institution or mortgagee' means a financial institution or mortgagee approved by the Secretary under section 203 as responsible and able to service mortgages responsibly.

"(2) BOARD.—The term 'Board' means the Board of Directors of the HOPE for Homeowners Program. The Board shall be composed of the Secretary, the Secretary of the Treasury, the Chairperson of the Board of Governors of the Federal Reserve System, and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, or their designees.

"(3) ELIGIBLE MORTGAGE.—The term 'eligible mortgage' means a mortgage—

"(A) the mortgagor of which—

"(i) occupies such property as his or her principal residence; and

"(ii) cannot, subject to subsection (e)(1)(B) and such other standards established by the Board, afford his or her mortgage payments; and

"(B) originated on or before January 1, 2008.

"(4) EXISTING SENIOR MORTGAGE.—The term 'existing senior mortgage' means, with respect to a mortgage insured under this section, the existing mortgage that has superior priority.

"(5) EXISTING SUBORDINATE MORTGAGE.—The term 'existing subordinate mortgage' means, with respect to a mortgage insured under this section, an existing mortgage that has subordinate priority to the existing senior mortgage.

"(6) HOPE FOR HOMEOWNERS PROGRAM.—The term 'HOPE for Homeowners Program' means the program established under this section.

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development, except where specifically provided otherwise.

"(t) REQUIREMENTS RELATED TO THE BOARD.—

"(1) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—

"(A) FEDERAL EMPLOYEES.—A member of the Board who is an officer or employee of the Federal Government shall serve without additional pay (or benefits in the nature of compensation) for service as a member of the Board.

"(B) TRAVEL EXPENSES.—Members of the Board shall be entitled to receive travel expenses, including per diem in lieu of subsistence, equivalent to those set forth in subchapter I of chapter 57 of title 5, United States Code.

"(2) BYLAWS.—The Board may prescribe, amend, and repeal such bylaws as may be necessary for carrying out the functions of the Board.

"(3) QUORUM.—A majority of the Board shall constitute a quorum.

"(4) STAFF; EXPERTS AND CONSULTANTS.—

"(A) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Board, any Federal Government employee may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(B) EXPERTS AND CONSULTANTS.—The Board shall procure the services of experts and consultants as the Board considers appropriate.

"(u) RULE OF CONSTRUCTION RELATED TO VOLUNTARY NATURE OF THE PROGRAM.—This section shall not be construed to require that any approved financial institution or mortgagee participate in any activity authorized under this section, including any activity related to the refinancing of an eligible mortgage.

"(v) RULE OF CONSTRUCTION RELATED TO INSURANCE OF MORTGAGES.—Except as otherwise provided for in this section or by action of the Board, the provisions and requirements of section 203(b) shall apply with respect to the insurance of any eligible mortgage under this section.

"(w) HOPE BONDS.—

"(1) ISSUANCE AND REPAYMENT OF BONDS.—Notwithstanding section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661d(b)), the Secretary of the Treasury shall—

"(A) subject to such terms and conditions as the Secretary of the Treasury deems necessary, issue Federal credit instruments, to be known as 'HOPE Bonds', that are callable at the discretion of the Secretary of the

Treasury and do not, in the aggregate, exceed the amount specified in subsection (m);

"(B) provide the subsidy amounts necessary for loan guarantees under the HOPE for Homeowners Program, not to exceed the amount specified in subsection (m), in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), except as provided in this paragraph; and

"(C) use the proceeds from HOPE Bonds only to pay for the net costs to the Federal Government of the HOPE for Homeowners Program, including administrative costs.

"(2) REIMBURSEMENTS TO TREASURY.—Funds received pursuant to section 1338(b) of the Federal Housing Enterprises Regulatory Reform Act of 1992 shall be used to reimburse the Secretary of the Treasury for amounts borrowed under paragraph (1).

"(3) USE OF RESERVE FUND.—If the net cost to the Federal Government for the HOPE for Homeowners Program exceeds the amount of funds received under paragraph (2), remaining debts of the HOPE for Homeowners Program shall be paid from amounts deposited into the fund established by the Secretary under section 1337(e) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, remaining amounts in such fund to be used to reduce the National debt.

"(4) REDUCTION OF NATIONAL DEBT.—Amounts collected under the HOPE for Homeowners Program in accordance with subsections (i) and (k) in excess of the net cost to the Federal Government for such Program shall be used to reduce the National debt.".

**SEC. 1403. FIDUCIARY DUTY OF SERVICERS OF POOLED RESIDENTIAL MORTGAGE LOANS.**

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 129 the following new section:

**"SEC. 129A. FIDUCIARY DUTY OF SERVICERS OF POOLED RESIDENTIAL MORTGAGES.** 15 USC 1639a.

"(a) IN GENERAL.—Except as may be established in any investment contract between a servicer of pooled residential mortgages and an investor, a servicer of pooled residential mortgages—

"(1) owes any duty to maximize the net present value of the pooled mortgages in an investment to all investors and parties having a direct or indirect interest in such investment, not to any individual party or group of parties; and

"(2) shall be deemed to act in the best interests of all such investors and parties if the servicer agrees to or implements a modification or workout plan, including any modification or refinancing undertaken pursuant to the HOPE for Homeowners Act of 2008, for a residential mortgage or a class of residential mortgages that constitute a part or all of the pooled mortgages in such investment, provided that any mortgage so modified meets the following criteria:

"(A) Default on the payment of such mortgage has occurred or is reasonably foreseeable.

"(B) The property securing such mortgage is occupied by the mortgagor of such mortgage.

"(C) The anticipated recovery on the principal outstanding obligation of the mortgage under the modification

or workout plan exceeds, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage through foreclosure.

"(b) DEFINITION.—As used in this section, the term 'servicer' means the person responsible for servicing of a loan (including the person who makes or holds a loan if such person also services the loan).".

**SEC. 1404. REVISED STANDARDS FOR FHA APPRAISERS.**

Section 202(e) of the National Housing Act (12 U.S.C. 1708(e)) is amended by adding at the end the following:

Effective date.

"(5) ADDITIONAL APPRAISER STANDARDS.—Beginning on the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, any appraiser chosen or approved to conduct appraisals for mortgages under this title shall—

Certification.

"(A) be certified—

"(i) by the State in which the property to be appraised is located; or

"(ii) by a nationally recognized professional appraisal organization; and

"(B) have demonstrated verifiable education in the appraisal requirements established by the Federal Housing Administration under this subsection.".

# TITLE V—S.A.F.E. MORTGAGE LICENSING ACT

Secure and Fair Enforcement for Mortgage Licensing Act of 2008.
12 USC 5101 note.

**SEC. 1501. SHORT TITLE.**

This title may be cited as the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008" or "S.A.F.E. Mortgage Licensing Act of 2008".

State and local governments.
12 USC 5101 note.

**SEC. 1502. PURPOSES AND METHODS FOR ESTABLISHING A MORTGAGE LICENSING SYSTEM AND REGISTRY.**

In order to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud, the States, through the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, are hereby encouraged to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry that accomplishes all of the following objectives:

(1) Provides uniform license applications and reporting requirements for State-licensed loan originators.

(2) Provides a comprehensive licensing and supervisory database.

(3) Aggregates and improves the flow of information to and between regulators.

(4) Provides increased accountability and tracking of loan originators.

(5) Streamlines the licensing process and reduces the regulatory burden.

(6) Enhances consumer protections and supports anti-fraud measures.

(7) Provides consumers with easily accessible information, offered at no charge, utilizing electronic media, including the Internet, regarding the employment history of, and publicly

adjudicated disciplinary and enforcement actions against, loan originators.

(8) Establishes a means by which residential mortgage loan originators would, to the greatest extent possible, be required to act in the best interests of the consumer.

(9) Facilitates responsible behavior in the subprime mortgage market place and provides comprehensive training and examination requirements related to subprime mortgage lending.

(10) Facilitates the collection and disbursement of consumer complaints on behalf of State and Federal mortgage regulators.

**SEC. 1503. DEFINITIONS.** 12 USC 5102.

For purposes of this title, the following definitions shall apply:

(1) FEDERAL BANKING AGENCIES.—The term "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(2) DEPOSITORY INSTITUTION.—The term "depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any credit union.

(3) LOAN ORIGINATOR.—

(A) IN GENERAL.—The term "loan originator"—

(i) means an individual who—

(I) takes a residential mortgage loan application; and

(II) offers or negotiates terms of a residential mortgage loan for compensation or gain;

(ii) does not include any individual who is not otherwise described in clause (i) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such clause;

(iii) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person or entity is compensated by a lender, a mortgage broker, or other loan originator or by any agent of such lender, mortgage broker, or other loan originator; and

(iv) does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of title 11, United States Code.

(B) OTHER DEFINITIONS RELATING TO LOAN ORIGINATOR.—For purposes of this subsection, an individual "assists a consumer in obtaining or applying to obtain a residential mortgage loan" by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.

(C) ADMINISTRATIVE OR CLERICAL TASKS.—The term "administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry

and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(D) REAL ESTATE BROKERAGE ACTIVITY DEFINED.—The term "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including—

(i) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(ii) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(iii) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction);

(iv) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(v) offering to engage in any activity, or act in any capacity, described in clause (i), (ii), (iii), or (iv).

(4) LOAN PROCESSOR OR UNDERWRITER.—

(A) IN GENERAL.—The term "loan processor or underwriter" means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of—

(i) a State-licensed loan originator; or

(ii) a registered loan originator.

(B) CLERICAL OR SUPPORT DUTIES.—For purposes of subparagraph (A), the term "clerical or support duties" may include—

(i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

(5) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.—The term "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the State licensing and registration of State-licensed loan originators and the registration of registered loan originators or any system established by the Secretary under section 1509.

(6) NONTRADITIONAL MORTGAGE PRODUCT.—The term "nontraditional mortgage product" means any mortgage product other than a 30-year fixed rate mortgage.

(7) REGISTERED LOAN ORIGINATOR.—The term "registered loan originator" means any individual who—

(A) meets the definition of loan originator and is an employee of—

(i) a depository institution;

(ii) a subsidiary that is—

(I) owned and controlled by a depository institution; and

(II) regulated by a Federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(8) RESIDENTIAL MORTGAGE LOAN.—The term "residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

(9) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(10) STATE.—The term "State" means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(11) STATE-LICENSED LOAN ORIGINATOR.—The term "State-licensed loan originator" means any individual who—

(A) is a loan originator;

(B) is not an employee of—

(i) a depository institution;

(ii) a subsidiary that is—

(I) owned and controlled by a depository institution; and

(II) regulated by a Federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(C) is licensed by a State or by the Secretary under section 1508 and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(12) UNIQUE IDENTIFIER.—

(A) IN GENERAL.—The term "unique identifier" means a number or other identifier that—

(i) permanently identifies a loan originator;

(ii) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the Federal banking agencies to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators; and

(iii) shall not be used for purposes other than those set forth under this title.

(B) RESPONSIBILITY OF STATES.—To the greatest extent possible and to accomplish the purpose of this title, States

shall use unique identifiers in lieu of social security numbers.

12 USC 5103.

**SEC. 1504. LICENSE OR REGISTRATION REQUIRED.**

(a) IN GENERAL.—Subject to the existence of a licensing or registration regime, as the case may be, an individual may not engage in the business of a loan originator without first—

(1) obtaining, and maintaining annually—

(A) a registration as a registered loan originator; or

(B) a license and registration as a State-licensed loan originator; and

(2) obtaining a unique identifier.

(b) LOAN PROCESSORS AND UNDERWRITERS.—

(1) SUPERVISED LOAN PROCESSORS AND UNDERWRITERS.—A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will perform any of the activities of a loan originator shall not be required to be a State-licensed loan originator.

(2) INDEPENDENT CONTRACTORS.—An independent contractor may not engage in residential mortgage loan origination activities as a loan processor or underwriter unless such independent contractor is a State-licensed loan originator.

12 USC 5104.

**SEC. 1505. STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.**

(a) BACKGROUND CHECKS.—In connection with an application to any State for licensing and registration as a State-licensed loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including—

(1) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(2) personal history and experience, including authorization for the System to obtain—

(A) an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(B) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) ISSUANCE OF LICENSE.—The minimum standards for licensing and registration as a State-licensed loan originator shall include the following:

(1) The applicant has never had a loan originator license revoked in any governmental jurisdiction.

(2) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court—

(A) during the 7-year period preceding the date of the application for licensing and registration; or

(B) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.

(3) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator will operate honestly, fairly, and efficiently within the purposes of this title.

(4) The applicant has completed the pre-licensing education requirement described in subsection (c).

(5) The applicant has passed a written test that meets the test requirement described in subsection (d).

(6) The applicant has met either a net worth or surety bond requirement, or paid into a State fund, as required by the State pursuant to section 1508(d)(6).

(c) PRE-LICENSING EDUCATION OF LOAN ORIGINATORS.—

(1) MINIMUM EDUCATIONAL REQUIREMENTS.—In order to meet the pre-licensing education requirement referred to in subsection (b)(4), a person shall complete at least 20 hours of education approved in accordance with paragraph (2), which shall include at least—

(A) 3 hours of Federal law and regulations;

(B) 3 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(2) APPROVED EDUCATIONAL COURSES.—For purposes of paragraph (1), pre-licensing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry.

(3) LIMITATION AND STANDARDS.—

(A) LIMITATION.—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer pre-licensure educational courses for loan originators.

(B) STANDARDS.—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

(d) TESTING OF LOAN ORIGINATORS.—

(1) IN GENERAL.—In order to meet the written test requirement referred to in subsection (b)(5), an individual shall pass, in accordance with the standards established under this subsection, a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by an approved test provider.

(2) QUALIFIED TEST.—A written test shall not be treated as a qualified written test for purposes of paragraph (1) unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including—

(A) ethics;

(B) Federal law and regulation pertaining to mortgage origination;

(C) State law and regulation pertaining to mortgage origination;

(D) Federal and State law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

(3) MINIMUM COMPETENCE.—

(A) PASSING SCORE.—An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.

(B) INITIAL RETESTS.—An individual may retake a test 3 consecutive times with each consecutive taking occurring at least 30 days after the preceding test.

(C) SUBSEQUENT RETESTS.—After failing 3 consecutive tests, an individual shall wait at least 6 months before taking the test again.

(D) RETEST AFTER LAPSE OF LICENSE.—A State-licensed loan originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test, not taking into account any time during which such individual is a registered loan originator.

(e) MORTGAGE CALL REPORTS.—Each mortgage licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require.

12 USC 5105.

**SEC. 1506. STANDARDS FOR STATE LICENSE RENEWAL.**

(a) IN GENERAL.—The minimum standards for license renewal for State-licensed loan originators shall include the following:

(1) The loan originator continues to meet the minimum standards for license issuance.

(2) The loan originator has satisfied the annual continuing education requirements described in subsection (b).

(b) CONTINUING EDUCATION FOR STATE-LICENSED LOAN ORIGINATORS.—

(1) IN GENERAL.—In order to meet the annual continuing education requirements referred to in subsection (a)(2), a State-licensed loan originator shall complete at least 8 hours of education approved in accordance with paragraph (2), which shall include at least—

(A) 3 hours of Federal law and regulations;

(B) 2 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(2) APPROVED EDUCATIONAL COURSES.—For purposes of paragraph (1), continuing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry.

(3) CALCULATION OF CONTINUING EDUCATION CREDITS.—A State-licensed loan originator—

(A) may only receive credit for a continuing education course in the year in which the course is taken; and

(B) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(4) INSTRUCTOR CREDIT.—A State-licensed loan originator who is approved as an instructor of an approved continuing education course may receive credit for the originator's own annual continuing education requirement at the rate of 2 hours credit for every 1 hour taught.

(5) LIMITATION AND STANDARDS.—

(A) LIMITATION.—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer any continuing education courses for loan originators.

(B) STANDARDS.—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

**SEC. 1507. SYSTEM OF REGISTRATION ADMINISTRATION BY FEDERAL AGENCIES.** 12 USC 5106.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Federal banking agencies shall jointly, through the Federal Financial Institutions Examination Council, and together with the Farm Credit Administration, develop and maintain a system for registering employees of a depository institution, employees of a subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency, or employees of an institution regulated by the Farm Credit Administration, as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on the date of enactment of this title. Deadline.

(2) REGISTRATION REQUIREMENTS.—In connection with the registration of any loan originator under this subsection, the appropriate Federal banking agency and the Farm Credit Administration shall, at a minimum, furnish or cause to be furnished to the Nationwide Mortgage Licensing System and Registry information concerning the employees's identity, including—

(A) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(B) personal history and experience, including authorization for the Nationwide Mortgage Licensing System and Registry to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) COORDINATION.—

(1) UNIQUE IDENTIFIER.—The Federal banking agencies, through the Financial Institutions Examination Council, and the Farm Credit Administration shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each registered loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and publicly adjudicated disciplinary and enforcement actions against loan originators. Public information.

(2) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY DEVELOPMENT.—To facilitate the transfer of information required by subsection (a)(2), the Nationwide Mortgage Licensing System and Registry shall coordinate with the Federal banking agencies, through the Financial Institutions

Examination Council, and the Farm Credit Administration concerning the development and operation, by such System and Registry, of the registration functionality and data requirements for loan originators.

Information technology.

(c) CONSIDERATION OF FACTORS AND PROCEDURES.—In establishing the registration procedures under subsection (a) and the protocols for assigning a unique identifier to a registered loan originator, the Federal banking agencies shall make such de minimis exceptions as may be appropriate to paragraphs (1)(A) and (2) of section 1504(a), shall make reasonable efforts to utilize existing information to minimize the burden of registering loan originators, and shall consider methods for automating the process to the greatest extent practicable consistent with the purposes of this title.

State and local governments. Deadlines. 12 USC 5107.

**SEC. 1508. SECRETARY OF HOUSING AND URBAN DEVELOPMENT BACKUP AUTHORITY TO ESTABLISH A LOAN ORIGINATOR LICENSING SYSTEM.**

(a) BACKUP LICENSING SYSTEM.—If, by the end of the 1-year period, or the 2-year period in the case of a State whose legislature meets only biennially, beginning on the date of the enactment of this title or at any time thereafter, the Secretary determines that a State does not have in place by law or regulation a system for licensing and registering loan originators that meets the requirements of sections 1505 and 1506 and subsection (d) of this section, or does not participate in the Nationwide Mortgage Licensing System and Registry, the Secretary shall provide for the establishment and maintenance of a system for the licensing and registration by the Secretary of loan originators operating in such State as State-licensed loan originators.

(b) LICENSING AND REGISTRATION REQUIREMENTS.—The system established by the Secretary under subsection (a) for any State shall meet the requirements of sections 1505 and 1506 for State-licensed loan originators.

Public infomation.

(c) UNIQUE IDENTIFIER.—The Secretary shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each loan originator licensed by the Secretary as a State-licensed loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

(d) STATE LICENSING LAW REQUIREMENTS.—For purposes of this section, the law in effect in a State meets the requirements of this subsection if the Secretary determines the law satisfies the following minimum requirements:

(1) A State loan originator supervisory authority is maintained to provide effective supervision and enforcement of such law, including the suspension, termination, or nonrenewal of a license for a violation of State or Federal law.

(2) The State loan originator supervisory authority ensures that all State-licensed loan originators operating in the State are registered with Nationwide Mortgage Licensing System and Registry.

Reports.

(3) The State loan originator supervisory authority is required to regularly report violations of such law, as well

as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry.

(4) The State loan originator supervisory authority has a process in place for challenging information contained in the Nationwide Mortgage Licensing System and Registry.

(5) The State loan originator supervisory authority has established a mechanism to assess civil money penalties for individuals acting as mortgage originators in their State without a valid license or registration.

(6) The State loan originator supervisory authority has established minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, or has established a recovery fund paid into by the loan originators.

(e) TEMPORARY EXTENSION OF PERIOD.—The Secretary may extend, by not more than 24 months, the 1-year or 2-year period, as the case may be, referred to in subsection (a) for the licensing of loan originators in any State under a State licensing law that meets the requirements of sections 1505 and 1506 and subsection (d) if the Secretary determines that such State is making a good faith effort to establish a State licensing law that meets such requirements, license mortgage originators under such law, and register such originators with the Nationwide Mortgage Licensing System and Registry.

**SEC. 1509. BACKUP AUTHORITY TO ESTABLISH A NATIONWIDE MORTGAGE LICENSING AND REGISTRY SYSTEM.** 12 USC 5108.

If at any time the Secretary determines that the Nationwide Mortgage Licensing System and Registry is failing to meet the requirements and purposes of this title for a comprehensive licensing, supervisory, and tracking system for loan originators, the Secretary shall establish and maintain such a system to carry out the purposes of this title and the effective registration and regulation of loan originators.

**SEC. 1510. FEES.** 12 USC 5109.

The Federal banking agencies, the Farm Credit Administration, the Secretary, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.

**SEC. 1511. BACKGROUND CHECKS OF LOAN ORIGINATORS.** 12 USC 5110.

(a) ACCESS TO RECORDS.—Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide access to all criminal history information to the appropriate State officials responsible for regulating State-licensed loan originators to the extent criminal history background checks are required under the laws of the State for the licensing of such loan originators.

(b) AGENT.—For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (a), the Conference of State Bank Supervisors or a wholly owned subsidiary may be used as a channeling agent of the States for requesting

and distributing information between the Department of Justice and the appropriate State agencies.

12 USC 5111.

**SEC. 1512. CONFIDENTIALITY OF INFORMATION.**

Applicability.

(a) SYSTEM CONFIDENTIALITY.—Except as otherwise provided in this section, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 1509, and any privilege arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all State and Federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by Federal and State laws.

(b) NONAPPLICABILITY OF CERTAIN REQUIREMENTS.—Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to—

(1) disclosure under any Federal or State law governing the disclosure to the public of information held by an officer or an agency of the Federal Government or the respective State; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry or the Secretary with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(c) COORDINATION WITH OTHER LAW.—Any State law, including any State open record law, relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of such provision to the extent State law provides less confidentiality or a weaker privilege.

(d) PUBLIC ACCESS TO INFORMATION.—This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators that is included in Nationwide Mortgage Licensing System and Registry for access by the public.

12 USC 5112.

**SEC. 1513. LIABILITY PROVISIONS.**

The Secretary, any State official or agency, any Federal banking agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 1509, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.

**SEC. 1514. ENFORCEMENT UNDER HUD BACKUP LICENSING SYSTEM.** 12 USC 5113.

(a) SUMMONS AUTHORITY.—The Secretary may—

(1) examine any books, papers, records, or other data of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 1508; and

(2) summon any loan originator referred to in paragraph (1) or any person having possession, custody, or care of the reports and records relating to such loan originator, to appear before the Secretary or any delegate of the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation of such loan originator for compliance with the requirements of this title.

(b) EXAMINATION AUTHORITY.—

(1) IN GENERAL.—If the Secretary establishes a licensing system under section 1508 for any State, the Secretary shall appoint examiners for the purposes of administering such section.

(2) POWER TO EXAMINE.—Any examiner appointed under paragraph (1) shall have power, on behalf of the Secretary, to make any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 1508 whenever the Secretary determines an examination of any loan originator is necessary to determine the compliance by the originator with this title.

(3) REPORT OF EXAMINATION.—Each examiner appointed under paragraph (1) shall make a full and detailed report of examination of any loan originator examined to the Secretary.

(4) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE.—In connection with examinations of loan originators operating in any State which is subject to a licensing system established by the Secretary under section 1508, or with other types of investigations to determine compliance with applicable law and regulations, the Secretary and examiners appointed by the Secretary may administer oaths and affirmations and examine and take and preserve testimony under oath as to any matter in respect to the affairs of any such loan originator.

(5) ASSESSMENTS.—The cost of conducting any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 1508 shall be assessed by the Secretary against the loan originator to meet the Secretary's expenses in carrying out such examination.

(c) CEASE AND DESIST PROCEEDING.—

(1) AUTHORITY OF SECRETARY.—If the Secretary finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any regulation thereunder, with respect to a State which is subject to a licensing system established by the Secretary under section 1508, the Secretary may publish such findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation

of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision or regulation, upon such terms and conditions and within such time as the Secretary may specify in such order. Any such order may, as the Secretary deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Secretary may specify, with such provision or regulation with respect to any loan originator.

Notification. Deadline.

(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Secretary with the consent of any respondent so served.

(3) TEMPORARY ORDER.—Whenever the Secretary determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest prior to the completion of the proceedings, the Secretary may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest as the Secretary deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Secretary determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Secretary or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

Effective date.

(4) REVIEW OF TEMPORARY ORDERS.—

(A) REVIEW BY SECRETARY.—At any time after the respondent has been served with a temporary cease and desist order pursuant to paragraph (3), the respondent may apply to the Secretary to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease and desist order entered without a prior hearing before the Secretary, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Secretary shall hold a hearing and render a decision on such application at the earliest possible time.

(B) JUDICIAL REVIEW.—Within—

(i) 10 days after the date the respondent was served with a temporary cease and desist order entered with a prior hearing before the Secretary; or

(ii) 10 days after the Secretary renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease and desist order entered without a prior hearing before the Secretary,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease and desist order entered without a prior hearing before the Secretary may not apply to the court except after hearing and decision by the Secretary on the respondent's application under subparagraph (A).

(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order.

(5) AUTHORITY OF THE SECRETARY TO PROHIBIT PERSONS FROM SERVING AS LOAN ORIGINATORS.—In any cease and desist proceeding under paragraph (1), the Secretary may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as the Secretary shall determine, any person who has violated this title or regulations thereunder, from acting as a loan originator if the conduct of that person demonstrates unfitness to serve as a loan originator.

(d) AUTHORITY OF THE SECRETARY TO ASSESS MONEY PENALTIES.—

Notification. Hearings.

(1) IN GENERAL.—The Secretary may impose a civil penalty on a loan originator operating in any State which is subject to a licensing system established by the Secretary under section 1508, if the Secretary finds, on the record after notice and opportunity for hearing, that such loan originator has violated or failed to comply with any requirement of this title or any regulation prescribed by the Secretary under this title or order issued under subsection (c).

(2) MAXIMUM AMOUNT OF PENALTY.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $25,000.

**SEC. 1515. STATE EXAMINATION AUTHORITY.**

12 USC 5114.

In addition to any authority allowed under State law a State licensing agency shall have the authority to conduct investigations and examinations as follows:

(1) For the purposes of investigating violations or complaints arising under this title, or for the purposes of examination, the State licensing agency may review, investigate, or examine any loan originator licensed or required to be licensed under this title, as often as necessary in order to carry out the purposes of this title.

Records.

(2) Each such loan originator shall make available upon request to the State licensing agency the books and records relating to the operations of such originator. The State licensing agency may have access to such books and records and interview the officers, principals, loan originators, employees, independent contractors, agents, and customers of the licensee concerning their business.

(3) The authority of this section shall remain in effect, whether such a loan originator acts or claims to act under

any licensing or registration law of such State, or claims to act without such authority.

(4) No person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

12 USC 5115.

**SEC. 1516. REPORTS AND RECOMMENDATIONS TO CONGRESS.**

(a) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit a report to Congress on the effectiveness of the provisions of this title, including legislative recommendations, if any, for strengthening consumer protections, enhancing examination standards, streamlining communication between all stakeholders involved in residential mortgage loan origination and processing, and establishing performance based bonding requirements for mortgage originators or institutions that employ such brokers.

Deadline.

(b) LEGISLATIVE RECOMMENDATIONS.—Not later than 6 months after the date of enactment of this title, the Secretary shall make recommendations to Congress on legislative reforms to the Real Estate Settlement Procedures Act of 1974, that the Secretary deems appropriate to promote more transparent disclosures, allowing consumers to better shop and compare mortgage loan terms and settlement costs.

12 USC 5116.

**SEC. 1517. STUDY AND REPORTS ON DEFAULTS AND FORECLOSURES.**

(a) STUDY REQUIRED.—The Secretary shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as is available.

Deadline.

(b) PRELIMINARY REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this title, the Secretary shall submit to Congress a preliminary report regarding the study required by this section.

Deadline.

(c) FINAL REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this title, the Secretary shall submit to Congress a final report regarding the results of the study required by this section, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to provide targeted assistance to populations with the highest risk of potential default or foreclosure.

# TITLE VI—MISCELLANEOUS

12 USC 4514a.

**SEC. 1601. STUDY AND REPORTS ON GUARANTEE FEES.**

(a) ONGOING STUDY OF FEES.—The Director shall conduct an ongoing study of fees charged by enterprises for guaranteeing a mortgage.

Regulations.
Orders.
Procedures.
Deadline.

(b) COLLECTION OF DATA.—The Director shall, by regulation or order, establish procedures for the collection of data from enterprises for purposes of this subsection, including the format and the process for collection of such data.

(c) REPORTS TO CONGRESS.—The Director shall annually submit a report to Congress on the results of the study conducted under subsection (a), based on the aggregated data collected under subsection (a) for the subject year, regarding the amount of such fees and the criteria used by the enterprises to determine such fees.

(d) CONTENTS OF REPORTS.—The reports required under subsection (c) shall identify and analyze—

(1) the factors considered in determining the amount of the guarantee fees charged;

(2) the total revenue earned by the enterprises from guarantee fees;

(3) the total costs incurred by the enterprises for providing guarantees;

(4) the average guarantee fee charged by the enterprises;

(5) an analysis of any increase or decrease in guarantee fees from the preceding year;

(6) a breakdown of the revenue and costs associated with providing guarantees, based on product type and risk classifications; and

(7) a breakdown of guarantee fees charged based on asset size of the originator and the number of loans sold or transferred to an enterprise.

(e) PROTECTION OF INFORMATION.—Nothing in this section may be construed to require or authorize the Director to publicly disclose information that is confidential or proprietary.

**SEC. 1602. STUDY AND REPORT ON DEFAULT RISK EVALUATION.**

(a) STUDY.—The Director shall conduct a study of ways to improve the overall default risk evaluation used with respect to residential mortgage loans. Particular attention shall be paid to the development and utilization of processes and technologies that provide a means to standardize the measurement of risk.

(b) REPORT.—The Director shall submit a report on the study conducted under this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 1 year after the date of enactment of this Act. Deadline.

**SEC. 1603. CONVERSION OF HUD CONTRACTS.** 42 USC 1437f note.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may, at the request of an owner of a multifamily housing project that exceeds 5,000 units to which a contract for project-based rental assistance under section 8 of the United States Housing Act of 1937 ("Act") (42 U.S.C. 1437f) and a Rental Assistance Payment contract is subject, convert such contracts to a contract for project-based rental assistance under section 8 of the Act.

(b) INITIAL RENEWAL.—

(1) At the request of an owner under subsection (a) made no later than 90 days prior to a conversion, the Secretary may, to the extent sufficient amounts are made available in appropriation Acts and notwithstanding any other law, treat the contemplated resulting contract as if such contract were eligible for initial renewal under section 524(a) of the Multi-Family Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) ("MAHRA") (42 U.S.C. 1437f note).

(2) A request by an owner pursuant to paragraph (1) shall be upon such terms and conditions as the Secretary may require.

(c) RESULTING CONTRACT.—The resulting contract shall—

(1) be subject to section 524(a) of MAHRA (42 U.S.C. 1437f note);

(2) be considered for all purposes a contract that has been renewed under section 524(a) of MAHRA (42 U.S.C. 1437f note) for a term not to exceed 20 years;

(3) be subsequently renewable at the request of an owner, under any renewal option for which the project is eligible under MAHRA (42 U.S.C. 1437f note);

(4) contain provisions limiting distributions, as the Secretary determines appropriate, not to exceed 10 percent of the initial investment of the owner;

(5) be subject to the availability of sufficient amounts in appropriation Acts; and

(6) be subject to such other terms and conditions as the Secretary considers appropriate.

(d) INCOME TARGETING.—To the extent that assisted dwelling units, subject to the resulting contract under subsection (a), serve low-income families, as defined in section 3(b)(2) of the Act (42 U.S.C. 1437a(b)(2)) the units shall be considered to be in compliance with all income targeting requirements under the Act (42 U.S.C. 1437 et seq).

(e) TENANT ELIGIBILITY.—Notwithstanding any other provision of law, each family residing in an assisted dwelling unit on the date of conversion of a contract under this section, subject to the resulting contract under subsection (a), shall be considered to meet the applicable requirements for income eligibility and occupancy.

(f) DEFINITIONS.—As used in this section—

(1) the term "Secretary" means the Secretary of Housing and Urban Development;

(2) the term "conversion" means the action under which a contract for project-based rental assistance under section 8 of the Act and a Rental Assistance Payment contract become a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) pursuant to subsection (a);

(3) the term "resulting contract" means the new contract after a conversion pursuant to subsection (a); and

(4) the term "assisted dwelling unit" means a dwelling unit in a multifamily housing project that exceeds 5,000 units that, on the date of conversion of a contract under this section, is subject to a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) or a Rental Assistance Payment contract.

**SEC. 1604. BRIDGE DEPOSITORY INSTITUTIONS.**

(a) IN GENERAL.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) in subsection (d)(2)—

(A) in subparagraph (F), by striking "as receiver" and all that follows through clause (ii) and inserting the following: "as receiver, with respect to any insured depository institution, organize a new depository institution under subsection (m) or a bridge depository institution under subsection (n).";

(B) in subparagraph (G), by striking "new bank or a bridge bank" and inserting "new depository institution or a bridge depository institution";

(2) in the heading for subsection (e)(10)(C), by striking "BRIDGE BANKS" and inserting "BRIDGE DEPOSITORY INSTITUTIONS";

(3) in subsection (e)(10)(C)(i), by striking "bridge bank" and inserting "bridge depository institution";

(4) in subsection (m)—

(A) in the subsection heading, by striking "BANKS" and inserting "DEPOSITORY INSTITUTIONS";

(B) by striking "insured bank" each place such term appears and inserting "insured depository institution";

(C) by striking "new bank" each place such term appears and inserting "new depository institution";

(D) by striking "such bank" each place such term appears and inserting "such depository institution";

(E) by striking "the bank" each place such term appears and inserting "the insured depository institution";

(F) in paragraph (1), by inserting "or Federal savings association" after "national bank";

(G) in paragraph (6), by striking "only bank" and inserting "only depository institution";

(H) in paragraph (9), by inserting "or the Director of the Office of Thrift Supervision, as appropriate" after "Comptroller of the Currency";

(I) in paragraph (15), by striking ", but in no event" and all that follows through "located";

(J) in paragraph (16)—

(i) by inserting "or the Director of the Office of Thrift Supervision, as appropriate," after "Comptroller of the Currency" each place such term appears;

(ii) by striking "the bank" each place such term appears and inserting "the depository institution";

(iii) by inserting "or Federal savings association" after "national bank" each place such term appears;

(iv) by inserting "or Federal savings associations" after "national banks"; and

(v) by striking "Such bank" and inserting "Such depository institution"; and

(K) in paragraph (18), by inserting "or the Director of the Office of Thrift Supervision, as appropriate," after "Comptroller of the Currency" each place such term appears;

(5) in subsection (n)—

(A) in the subsection heading, by striking "BANKS" and inserting "DEPOSITORY INSTITUTIONS";

(B) by striking "bridge bank" each place such term appears and inserting "bridge depository institution";

(C) by striking "bridge banks" each place such term appears (other than in paragraph (1)(A))and inserting "bridge depository institutions";

(D) by striking "bridge bank's" each place such term appears and inserting "bridge depository institution's";

(E) by striking "insured bank" each place such term appears and inserting "insured depository institution";

(F) by striking "insured banks" each place such term appears and inserting "insured depository institutions";

(G) by striking "such bank" each place such term appears (other than in paragraph (4)(J)) and inserting "such depository institution";

(H) by striking "the bank" each place such term appears and inserting "the depository institution";

(I) by striking "bank or banks" each place such term appears and inserting "depository institution or institutions";

(J) in paragraph (1)(A)—

(i) by inserting ", with respect to 1 or more insured banks, or the Director of the Office of Thrift Supervision, with respect to 1 or more insured savings associations," after "Comptroller of the Currency";

(ii) by inserting "or Federal savings associations, as appropriate," after "national banks";

(iii) by inserting "or Federal savings associations, as applicable," after "banking associations"; and

(iv) by striking "as bridge banks" and inserting "as 'bridge depository institutions'";

(K) in paragraph (1)(B)—

(i) by striking "of a bank"; and

(ii) by striking "of that bank";

(L) in the heading for paragraph (1)(E), by inserting "OR FEDERAL SAVINGS ASSOCIATION" before the period;

(M) in paragraph (1)(E), by inserting before the period ", in the case of 1 or more insured banks, and as a Federal savings association, in the case of 1 or more insured savings associations";

(N) in paragraph (2)—

(i) by inserting "or Federal savings association" after "national bank" each place such term appears;

(ii) in subparagraph (A), by inserting "or the Director of the Office of Thrift Supervision" after "Comptroller of the Currency"; and

(iii) in the heading for subparagraph (B), by inserting "OR FEDERAL SAVINGS ASSOCIATION" before the period;

(O) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by inserting "or Federal savings association, as appropriate" after "national bank";

(ii) in subparagraph (C), by striking "under section 5138 of the Revised Statutes or any other" and inserting "under any";

(iii) by inserting "and the Director of the Office of Thrift Supervision, as appropriate," after "Comptroller of the Currency" each place such term appears;

(iv) in subparagraph (D), by striking "bank's" and inserting "depository institution's"; and

(v) in subparagraph (H), by striking "a bank in default" and inserting "a depository institution in default";

(P) in paragraph (8)—

(i) in subparagraph (A), by striking "the banks" and inserting "the depository institutions";

(ii) in subparagraph (B), by striking "bank's" and inserting "depository institution's";

(Q) by striking "BRIDGE BANK" or "BRIDGE BANKS" as the case may be in the headings for paragraphs (9), (10), (12), and (13) and inserting "BRIDGE DEPOSITORY INSTITUTION" or "BRIDGE DEPOSITORY INSTITUTIONS" as appropriate;

(R) in paragraph (11), by inserting "or a Federal savings association, as the case may be," after "national bank" each place such term appears;

(S) in paragraph (12)—

(i) by inserting "or the Director of the Office of Thrift Supervision, as appropriate," after "Comptroller of the Currency" each place such term appears; and

(ii) by inserting "or Federal savings associations, as appropriate" after "national banks"; and

(T) in paragraph (13), by striking "single bank" and inserting "single depository institution".

(b) OTHER CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3 (12 U.S.C. 1813), by striking subsection (i) and inserting the following:

"(i) NEW DEPOSITORY INSTITUTION AND BRIDGE DEPOSITORY INSTITUTION DEFINED.—

"(1) NEW DEPOSITORY INSTITUTION.—The term 'new depository institution' means a new national bank or Federal savings association, other than a bridge depository institution, organized by the Corporation in accordance with section 11(m).

"(2) BRIDGE DEPOSITORY INSTITUTION.—The term 'bridge depository institution' means a new national bank or Federal savings association organized by the Corporation in accordance with section 11(n).";

(B) in section 10(d)(5)(B) (12 U.S.C. 1820(d)(5)(B)), by striking "bridge bank" and inserting "bridge depository institution";

(C) in section 12 (12 U.S.C. 1822), by striking "new bank" each place such term appears and inserting "new depository institution";and

(D) in section 38(j)(2) (12 U.S.C. 1831o(j)(2)), by striking "bridge bank" and inserting "bridge depository institution".

(2) FEDERAL CREDIT UNION ACT.—Section 207(c)(10)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(C)(i)) is amended by striking "bridge bank" and inserting "bridge depository institution".

(3) TITLE 11, UNITED STATES CODE.—Section 783 of title 11, United States Code, is amended by striking "bridge bank" and inserting "bridge depository institution".

(4) TITLE 26, UNITED STATES CODE.—Section 414(l)(2)(G) of the Internal Revenue Code of 1986, is amended by striking "bridge bank" and inserting "bridge depository institution".

(c) REPEAL OF DEPOSIT LIMITATION.—Section 11(n)(1)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)(1)(B)(i)) is amended by striking ", except that" and all that follows through "another insured depository institution".

(d) FEDERAL RESERVE BANK LENDING TO BRIDGE DEPOSITORY INSTITUTIONS.—Section 11(n)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)(5)) is amended by adding at the end the following new subparagraph:

"(D) CAPITAL LEVELS.—A bridge depository institution shall not be considered an undercapitalized depository institution or a critically undercapitalized depository institution for purposes of section 10B(b) of the Federal Reserve Act.".

**SEC. 1605. SENSE OF THE SENATE.**

It is the sense of the Senate that in implementing or carrying out any provision of this Act, or any amendment made by this Act, the Senate supports a policy of noninterference regarding local government requirements that the holder of a foreclosed property maintain that property.

Foreclosure Prevention Act of 2008.

# DIVISION B—FORECLOSURE PREVENTION

12 USC 1701 note.

**SEC. 2001. SHORT TITLE.**

This division may be cited as the "Foreclosure Prevention Act of 2008".

**SEC. 2002. EMERGENCY DESIGNATION.**

For purposes of Senate enforcement, all provisions of this division are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

FHA Modernization Act of 2008.

# TITLE I—FHA MODERNIZATION ACT OF 2008

12 USC 1701 note.

**SEC. 2101. SHORT TITLE.**

This title may be cited as the "FHA Modernization Act of 2008".

Building American Homeownership Act of 2008.

## Subtitle A—Building American Homeownership

12 USC 1701 note.

**SEC. 2111. SHORT TITLE.**

This subtitle may be cited as the "Building American Homeownership Act of 2008".

**SEC. 2112. MAXIMUM PRINCIPAL LOAN OBLIGATION.**

(a) IN GENERAL.—Paragraph (2) of section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended—

(1) by striking subparagraphs (A) and (B) and inserting the following:

"(A) not to exceed the lesser of—

"(i) in the case of a 1-family residence, 115 percent of the median 1-family house price in the area, as determined by the Secretary; and in the case of a 2-, 3-, or 4-family residence, the percentage of such median price that bears the same ratio to such median price as the dollar amount limitation determined under the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a 2-, 3-, or 4-family residence, respectively, bears to the dollar amount limitation determined under such section for a 1-family residence; or

"(ii) 150 percent of the dollar amount limitation determined under the sixth sentence of such section 305(a)(2) for a residence of applicable size;

except that the dollar amount limitation in effect under this subparagraph for any size residence for any area may not be less than the greater of: (I) the dollar amount limitation in effect under this section for the area on October 21, 1998; or (II) 65 percent of the dollar amount limitation determined under the sixth sentence of such section 305(a)(2) for a residence of the applicable size; and

"(B) not to exceed 100 percent of the appraised value of the property."; and

(2) in the matter following subparagraph (B), by striking the second sentence (relating to a definition of "average closing cost") and all that follows through "section 3103A(d) of title 38, United States Code.".

(b) TREATMENT OF UP-FRONT PREMIUMS.—Section 203(d) of the National Housing Act (12 U.S.C. 1709(d)) is amended—

(1) by striking "Notwithstanding any" and inserting the following: "Except as provided in paragraph (2) of this subsection, notwithstanding";

(2) by inserting "(1)" after "(d)"; and

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

"(2) The maximum amount of a mortgage determined under subsection (b)(2)(B) of this section may not be increased as provided in paragraph (1).".

(c) EFFECTIVE DATE.— The amendments made by subsection (a) shall take effect upon the expiration of the date described in section 202(a) of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 620). 12 USC 1709 note.

**SEC. 2113. CASH INVESTMENT REQUIREMENT AND PROHIBITION OF SELLER-FUNDED DOWN PAYMENT ASSISTANCE.**

Paragraph (9) of section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended to read as follows:

"(9) CASH INVESTMENT REQUIREMENT.—

"(A) IN GENERAL.—A mortgage insured under this section shall be executed by a mortgagor who shall have paid, in cash or its equivalent, on account of the property an amount equal to not less than 3.5 percent of the appraised value of the property or such larger amount as the Secretary may determine.

"(B) FAMILY MEMBERS.—For purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 201), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, that—

"(i) such lien shall be subordinate to the mortgage; and

"(ii) the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property plus any initial service charges, appraisal,

inspection, and other fees in connection with the mortgage.

"(C) PROHIBITED SOURCES.—In no case shall the funds required by subparagraph (A) consist, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale:

"(i) The seller or any other person or entity that financially benefits from the transaction.

"(ii) Any third party or entity that is reimbursed, directly or indirectly, by any of the parties described in clause (i).

Applicability. Effective date.

This subparagraph shall apply only to mortgages for which the mortgagee has issued credit approval for the borrower on or after October 1, 2008.".

**SEC. 2114. MORTGAGE INSURANCE PREMIUMS.**

Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking "or of the General Insurance Fund" and all that follows through "section 234(c),,"; and

(2) in subparagraph (A)—

(A) by striking "2.25 percent" and inserting "3 percent"; and

(B) by striking "2.0 percent" and inserting "2.75 percent".

**SEC. 2115. REHABILITATION LOANS.**

Subsection (k) of section 203 of the National Housing Act (12 U.S.C. 1709(k)) is amended—

(1) in paragraph (1), by striking "on" and all that follows through "1978"; and

(2) in paragraph (5)—

(A) by striking "General Insurance Fund" the first place it appears and inserting "Mutual Mortgage Insurance Fund"; and

(B) in the second sentence, by striking the comma and all that follows through "General Insurance Fund".

**SEC. 2116. DISCRETIONARY ACTION.**

The National Housing Act is amended—

(1) in subsection (e) of section 202 (12 U.S.C. 1708(e))—

(A) in paragraph (3)(B), by striking "section 202(e) of the National Housing Act" and inserting "this subsection"; and

(B) by redesignating such subsection as subsection (f);

(2) by striking paragraph (4) of section 203(s) (12 U.S.C. 1709(s)(4)) and inserting the following new paragraph:

"(4) the Secretary of Agriculture;"; and

(3) by transferring subsection (s) of section 203 (as amended by paragraph (2) of this section) to section 202, inserting such subsection after subsection (d) of section 202, and redesignating such subsection as subsection (e).

**SEC. 2117. INSURANCE OF CONDOMINIUMS.**

(a) IN GENERAL.—Section 234 of the National Housing Act (12 U.S.C. 1715y) is amended—

(1) in subsection (c), in the first sentence—

(A) by striking "and" before "(2)"; and

(B) by inserting before the period at the end the following: ", and (3) the project has a blanket mortgage insured by the Secretary under subsection (d)"; and

(2) in subsection (g), by striking ", except that" and all that follows and inserting a period.

(b) DEFINITION OF MORTGAGE.—Section 201(a) of the National Housing Act (12 U.S.C. 1707(a)) is amended—

(1) before "a first mortgage" insert "(A)";

(2) by striking "or on a leasehold (1)" and inserting "(B) a first mortgage on a leasehold on real estate (i)";

(3) by striking "or (2)" and inserting ", or (ii)"; and

(4) by inserting before the semicolon the following: ", or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project".

(c) DEFINITION OF REAL ESTATE.—Section 201 of the National Housing Act (12 U.S.C. 1707) is amended by adding at the end the following new subsection:

"(g) The term 'real estate' means land and all natural resources and structures permanently affixed to the land, including residential buildings and stationary manufactured housing. The Secretary may not require, for treatment of any land or other property as real estate for purposes of this title, that such land or property be treated as real estate for purposes of State taxation.".

**SEC. 2118. MUTUAL MORTGAGE INSURANCE FUND.**

(a) IN GENERAL.—Subsection (a) of section 202 of the National Housing Act (12 U.S.C. 1708(a)) is amended to read as follows:

"(a) MUTUAL MORTGAGE INSURANCE FUND.—

"(1) ESTABLISHMENT.—Subject to the provisions of the Federal Credit Reform Act of 1990, there is hereby created a Mutual Mortgage Insurance Fund (in this title referred to as the 'Fund'), which shall be used by the Secretary to carry out the provisions of this title with respect to mortgages insured under section 203. The Secretary may enter into commitments to guarantee, and may guarantee, such insured mortgages.

"(2) LIMIT ON LOAN GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee such insured mortgages shall be effective for any fiscal year only to the extent that the aggregate original principal loan amount under such mortgages, any part of which is guaranteed, does not exceed the amount specified in appropriations Acts for such fiscal year.

"(3) FIDUCIARY RESPONSIBILITY.—The Secretary has a responsibility to ensure that the Mutual Mortgage Insurance Fund remains financially sound.

"(4) ANNUAL INDEPENDENT ACTUARIAL STUDY.—The Secretary shall provide for an independent actuarial study of the Fund to be conducted annually, which shall analyze the financial position of the Fund. The Secretary shall submit a report annually to the Congress describing the results of such study and assessing the financial status of the Fund. The report

Reports.

shall recommend adjustments to underwriting standards, program participation, or premiums, if necessary, to ensure that the Fund remains financially sound. The report shall also include an evaluation of the quality control procedures and accuracy of information utilized in the process of underwriting loans guaranteed by the Fund. Such evaluation shall include a review of the risk characteristics of loans based not only on borrower information and performance, but on risks associated with loans originated or funded by various entities or financial institutions.

"(5) QUARTERLY REPORTS.—During each fiscal year, the Secretary shall submit a report to the Congress for each calendar quarter, which shall specify for mortgages that are obligations of the Fund—

"(A) the cumulative volume of loan guarantee commitments that have been made during such fiscal year through the end of the quarter for which the report is submitted;

"(B) the types of loans insured, categorized by risk;

"(C) any significant changes between actual and projected claim and prepayment activity;

"(D) projected versus actual loss rates; and

"(E) updated projections of the annual subsidy rates to ensure that increases in risk to the Fund are identified and mitigated by adjustments to underwriting standards, program participation, or premiums, and the financial soundness of the Fund is maintained.

Deadline. The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2008, or on the last day of the first full calendar quarter following the enactment of the Building American Homeownership Act of 2008, whichever is later.

"(6) ADJUSTMENT OF PREMIUMS.—If, pursuant to the independent actuarial study of the Fund required under paragraph (4), the Secretary determines that the Fund is not meeting the operational goals established under paragraph (7) or there is a substantial probability that the Fund will not maintain its established target subsidy rate, the Secretary may either make programmatic adjustments under this title as necessary to reduce the risk to the Fund, or make appropriate premium adjustments.

"(7) OPERATIONAL GOALS.—The operational goals for the Fund are—

Deadline. "(A) to minimize the default risk to the Fund and to homeowners by among other actions instituting fraud prevention quality control screening not later than 18 months after the date of enactment of the Building American Homeownership Act of 2008; and

"(B) to meet the housing needs of the borrowers that the single family mortgage insurance program under this title is designed to serve.".

(b) OBLIGATIONS OF FUND.—The National Housing Act is amended as follows:

(1) HOMEOWNERSHIP VOUCHER PROGRAM MORTGAGES.—In section 203(v) (12 U.S.C. 1709(v))—

(A) by striking "Notwithstanding section 202 of this title, the" and inserting "The"; and

(B) by striking "General Insurance Fund" the first place such term appears and all that follows through the end of the subsection and inserting "Mutual Mortgage Insurance Fund.".

(2) HOME EQUITY CONVERSION MORTGAGES.—Section 255(i)(2)(A) of the National Housing Act (12 U.S.C. 1715z–20(i)(2)(A)) is amended by striking "General Insurance Fund" and inserting "Mutual Mortgage Insurance Fund".

(c) CONFORMING AMENDMENTS.—The National Housing Act is amended—

(1) in section 205 (12 U.S.C. 1711), by striking subsections (g) and (h); and

(2) in section 519(e) (12 U.S.C. 1735c(e)), by striking "203(b)" and all that follows through "203(i)" and inserting "203, except as determined by the Secretary".

**SEC. 2119. HAWAIIAN HOME LANDS AND INDIAN RESERVATIONS.**

(a) HAWAIIAN HOME LANDS.—Section 247(c) of the National Housing Act (12 U.S.C. 1715z–12(c)) is amended—

(1) by striking "General Insurance Fund established in section 519" and inserting "Mutual Mortgage Insurance Fund"; and

(2) in the second sentence, by striking "(1) all references" and all that follows through "and (2)".

(b) INDIAN RESERVATIONS.—Section 248(f) of the National Housing Act (12 U.S.C. 1715z–13(f)) is amended—

(1) by striking "General Insurance Fund" the first place it appears through "519" and inserting "Mutual Mortgage Insurance Fund"; and

(2) in the second sentence, by striking "(1) all references" and all that follows through "and (2)".

**SEC. 2120. CONFORMING AND TECHNICAL AMENDMENTS.**

(a) REPEALS.—The following provisions of the National Housing Act are repealed:

(1) Subsection (i) of section 203 (12 U.S.C. 1709(i)).
(2) Subsection (o) of section 203 (12 U.S.C. 1709(o)).
(3) Subsection (p) of section 203 (12 U.S.C. 1709(p)).
(4) Subsection (q) of section 203 (12 U.S.C. 1709(q)).
(5) Section 222 (12 U.S.C. 1715m).
(6) Section 237 (12 U.S.C. 1715z–2).
(7) Section 245 (12 U.S.C. 1715z–10).

(b) DEFINITION OF AREA.—Section 203(u)(2)(A) of the National Housing Act (12 U.S.C. 1709(u)(2)(A)) is amended by striking "shall" and all that follows and inserting "means a metropolitan statistical area as established by the Office of Management and Budget;".

(c) DEFINITION OF STATE.—Section 201(d) of the National Housing Act (12 U.S.C. 1707(d)) is amended by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands".

**SEC. 2121. INSURANCE OF MORTGAGES.**

Subsection (n)(2) of section 203 of the National Housing Act (12 U.S.C. 1709(n)(2)) is amended—

(1) in subparagraph (A), by inserting "or subordinate mortgage or" before "lien given"; and

(2) in subparagraph (C), by inserting "or subordinate mortgage or" before "lien".

**SEC. 2122. HOME EQUITY CONVERSION MORTGAGES.**

(a) IN GENERAL.—Section 255 of the National Housing Act (12 U.S.C. 1715z–20) is amended—

(1) in subsection (b)(2), insert "'real estate,'" after "'mortgagor',";

(2) by amending subsection (d)(1) to read as follows:

"(1) have been originated by a mortgagee approved by the Secretary;";

(3) by amending subsection (d)(2)(B) to read as follows:

"(B) has received adequate counseling, as provided in subsection (f), by an independent third party that is not, either directly or indirectly, associated with or compensated by a party involved in—

"(i) originating or servicing the mortgage;

"(ii) funding the loan underlying the mortgage; or

"(iii) the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product;";

(4) in subsection (f)—

(A) by striking "(f) INFORMATION SERVICES FOR MORTGAGORS.—" and inserting "(f) COUNSELING SERVICES AND INFORMATION FOR MORTGAGORS.—"; and

(B) by amending the matter preceding paragraph (1) to read as follows: "The Secretary shall provide or cause to be provided adequate counseling for the mortgagor, as described in subsection (d)(2)(B). Such counseling shall be provided by counselors that meet qualification standards and follow uniform counseling protocols. The qualification standards and counseling protocols shall be established by the Secretary within 12 months of the date of enactment of the Building American Homeownership Act of 2008. The protocols shall require a qualified counselor to discuss with each mortgagor information which shall include—
"

Standards.
Deadline.

(5) in subsection (g), by striking "established under section 203(b)(2)" and all that follows through "located" and inserting "limitation established under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence";

(6) by striking subsection (l);

(7) by redesignating subsection (m) as subsection (l);

(8) by amending subsection (l), as so redesignated, to read as follows:

"(l) FUNDING FOR COUNSELING.—The Secretary may use a portion of the mortgage insurance premiums collected under the program under this section to adequately fund the counseling and disclosure activities required under subsection (f), including counseling for those homeowners who elect not to take out a home equity conversion mortgage, provided that the use of such funds is based upon accepted actuarial principles."; and

(9) by adding at the end the following new subsection:

"(m) AUTHORITY TO INSURE HOME PURCHASE MORTGAGE.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary may insure, upon application by a mortgagee, a home equity conversion mortgage upon such terms and conditions as the Secretary may prescribe, when the home equity conversion mortgage will be used to purchase

a 1- to 4-family dwelling unit, one unit of which the mortgagor will occupy as a primary residence, and to provide for any future payments to the mortgagor, based on available equity, as authorized under subsection (d)(9).

"(2) LIMITATION ON PRINCIPAL OBLIGATION.—A home equity conversion mortgage insured pursuant to paragraph (1) shall involve a principal obligation that does not exceed the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence.

"(n) REQUIREMENTS ON MORTGAGE ORIGINATORS.—

"(1) IN GENERAL.—The mortgagee and any other party that participates in the origination of a mortgage to be insured under this section shall—

"(A) not participate in, be associated with, or employ any party that participates in or is associated with any other financial or insurance activity; or

"(B) demonstrate to the Secretary that the mortgagee or other party maintains, or will maintain, firewalls and other safeguards designed to ensure that—

"(i) individuals participating in the origination of the mortgage shall have no involvement with, or incentive to provide the mortgagor with, any other financial or insurance product; and

"(ii) the mortgagor shall not be required, directly or indirectly, as a condition of obtaining a mortgage under this section, to purchase any other financial or insurance product.

"(2) APPROVAL OF OTHER PARTIES.—All parties that participate in the origination of a mortgage to be insured under this section shall be approved by the Secretary.

"(o) PROHIBITION AGAINST REQUIREMENTS TO PURCHASE ADDITIONAL PRODUCTS.—The mortgagor or any other party shall not be required by the mortgagee or any other party to purchase an insurance, annuity, or other similar product as a requirement or condition of eligibility for insurance under subsection (c), except for title insurance, hazard, flood, or other peril insurance, or other such products that are customary and normal under subsection (c), as determined by the Secretary.

"(p) STUDY TO DETERMINE CONSUMER PROTECTIONS AND UNDERWRITING STANDARDS.—The Secretary shall conduct a study to examine and determine appropriate consumer protections and underwriting standards to ensure that the purchase of products referred to in subsection (o) is appropriate for the consumer. In conducting such study, the Secretary shall consult with consumer advocates (including recognized experts in consumer protection), industry representatives, representatives of counseling organizations, and other interested parties.".

(b) MORTGAGES FOR COOPERATIVES.—Subsection (b) of section 255 of the National Housing Act (12 U.S.C. 1715z–20(b)) is amended—

(1) in paragraph (4)—

(A) by inserting "a first or subordinate mortgage or lien" before "on all stock";

(B) by inserting "unit" after "dwelling"; and

(C) by inserting "a first mortgage or first lien" before "on a leasehold"; and

(2) in paragraph (5), by inserting "a first or subordinate lien on" before "all stock".

(c) LIMITATION ON ORIGINATION FEES.—Section 255 of the National Housing Act (12 U.S.C. 1715z–20), as amended by the preceding provisions of this section, is further amended by adding at the end the following new subsection:

"(r) LIMITATION ON ORIGINATION FEES.—The Secretary shall establish limits on the origination fee that may be charged to a mortgagor under a mortgage insured under this section, which limitations shall—

"(1) be equal to 2.0 percent of the maximum claim amount of the mortgage, up to a maximum claim amount of $200,000 plus 1 percent of any portion of the maximum claim amount that is greater than $200,000, unless adjusted thereafter on the basis of an analysis of—

"(A) the costs to mortgagors; and

"(B) the impact on the reverse mortgage market;

"(2) be subject to a minimum allowable amount;

"(3) provide that the origination fee may be fully financed with the mortgage;

"(4) include any fees paid to correspondent mortgagees approved by the Secretary;

"(5) have the same effective date as subsection (m)(2) regarding the limitation on principal obligation; and

"(6) be subject to a maximum origination fee of $6,000, except that such maximum limit shall be adjusted in accordance with the annual percentage increase in the Consumer Price Index of the Bureau of Labor Statistics of the Department of Labor in increments of $500 only when the percentage increase in such index, when applied to the maximum origination fee, produces dollar increases that exceed $500.".

(d) STUDY REGARDING PROGRAM COSTS AND CREDIT AVAILABILITY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding the costs and availability of credit under the home equity conversion mortgages for elderly homeowners program under section 255 of the National Housing Act (12 U.S.C. 1715z–20) (in this subsection referred to as the "program").

(2) PURPOSE.—The purpose of the study required under paragraph (1) is to help Congress analyze and determine the effects of limiting the amounts of the costs or fees under the program from the amounts charged under the program as of the date of the enactment of this title.

(3) CONTENT OF REPORT.—The study required under paragraph (1) should focus on—

(A) the cost to mortgagors of participating in the program;

(B) the financial soundness of the program;

(C) the availability of credit under the program; and

(D) the costs to elderly homeowners participating in the program, including—

(i) mortgage insurance premiums charged under the program;

(ii) up-front fees charged under the program; and

(iii) margin rates charged under the program.

(4) TIMING OF REPORT.—Not later than 12 months after the date of the enactment of this title, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives setting forth the results and conclusions of the study required under paragraph (1).

**SEC. 2123. ENERGY EFFICIENT MORTGAGES PROGRAM.**

Section 106(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 12712 note) is amended—

(1) by amending subparagraph (C) to read as follows:

"(C) COSTS OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

"(i) 5 percent of the property value (not to exceed 5 percent of the limit established under section 203(b)(2)(A)) of the National Housing Act (12 U.S.C. 1709(b)(2)(A); or

"(ii) 2 percent of the limit established under section 203(b)(2)(B) of such Act."; and

(2) by adding at the end the following:

"(D) LIMITATION.—In any fiscal year, the aggregate number of mortgages insured pursuant to this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary of Housing and Urban Development under title II of the National Housing Act (12 U.S.C. 1707 et seq.) during the preceding fiscal year.".

**SEC. 2124. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.**

(a) ESTABLISHMENT.—Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following new section:

**"SEC. 257. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.**

12 USC 1715z–24.

"(a) ESTABLISHMENT.—The Secretary shall carry out a pilot program to establish, and make available to mortgagees, an automated process for providing alternative credit rating information for mortgagors and prospective mortgagors under mortgages on 1- to 4-family residences to be insured under this title who have insufficient credit histories for determining their creditworthiness. Such alternative credit rating information may include rent, utilities, and insurance payment histories, and such other information as the Secretary considers appropriate.

"(b) SCOPE.—The Secretary may carry out the pilot program under this section on a limited basis or scope, and may consider limiting the program to first-time homebuyers.

"(c) LIMITATION.—In any fiscal year, the aggregate number of mortgages insured pursuant to the automated process established under this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary under this title during the preceding fiscal year.

"(d) SUNSET.—After the expiration of the 5-year period beginning on the date of the enactment of the Building American Homeownership Act of 2008, the Secretary may not enter into

any new commitment to insure any mortgage, or newly insure any mortgage, pursuant to the automated process established under this section.".

Deadline.

(b) GAO REPORT.—Not later than the expiration of the two-year period beginning on the date of the enactment of this subtitle, the Comptroller General of the United States shall submit to the Congress a report identifying the number of additional mortgagors served using the automated process established pursuant to section 257 of the National Housing Act (as added by the amendment made by subsection (a) of this section) and the impact of such process and the insurance of mortgages pursuant to such process on the safety and soundness of the insurance funds under the National Housing Act of which such mortgages are obligations.

12 USC 1710 note.

**SEC. 2125. HOMEOWNERSHIP PRESERVATION.**

The Secretary of Housing and Urban Development and the Commissioner of the Federal Housing Administration, in consultation with industry, the Neighborhood Reinvestment Corporation, and other entities involved in foreclosure prevention activities, shall—

Plans.

(1) develop and implement a plan to improve the Federal Housing Administration's loss mitigation process; and

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(2) report such plan to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

**SEC. 2126. USE OF FHA SAVINGS FOR IMPROVEMENTS IN FHA TECHNOLOGIES, PROCEDURES, PROCESSES, PROGRAM PERFORMANCE, STAFFING, AND SALARIES.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2009 through 2013, $25,000,000, from negative credit subsidy for the mortgage insurance programs under title II of the National Housing Act, to the Secretary of Housing and Urban Development for increasing funding for the purpose of improving technology, processes, program performance, eliminating fraud, and for providing appropriate staffing in connection with the mortgage insurance programs under title II of the National Housing Act.

Regulations.

(b) CERTIFICATION.—The authorization under subsection (a) shall not be effective for a fiscal year unless the Secretary of Housing and Urban Development has, by rulemaking in accordance with section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section), made a determination that—

(1) premiums being, or to be, charged during such fiscal year for mortgage insurance under title II of the National Housing Act are established at the minimum amount sufficient to—

(A) comply with the requirements of section 205(f) of such Act (relating to required capital ratio for the Mutual Mortgage Insurance Fund); and

(B) ensure the safety and soundness of the other mortgage insurance funds under such Act; and

(2) any negative credit subsidy for such fiscal year resulting from such mortgage insurance programs adequately ensures the efficient delivery and availability of such programs.

(c) STUDY AND REPORT.—The Secretary of Housing and Urban Development shall conduct a study to obtain recommendations from

participants in the private residential (both single family and multifamily) mortgage lending business and the secondary market for such mortgages on how best to update and upgrade processes and technologies for the mortgage insurance programs under title II of the National Housing Act so that the procedures for originating, insuring, and servicing of such mortgages conform with those customarily used by secondary market purchasers of residential mortgage loans. Not later than the expiration of the 12-month period beginning on the date of the enactment of this title, the Secretary shall submit a report to the Congress describing the progress made and to be made toward updating and upgrading such processes and technology, and providing appropriate staffing for such mortgage insurance programs.

Deadline. Reports.

**SEC. 2127. POST-PURCHASE HOUSING COUNSELING ELIGIBILITY IMPROVEMENTS.**

Section 106(c)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended:

(1) in subparagraph (C)—

(A) in clause (i), by striking "; or" and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(iii) a significant reduction in the income of the household due to divorce or death; or

"(iv) a significant increase in basic expenses of the homeowner or an immediate family member of the homeowner (including the spouse, child, or parent for whom the homeowner provides substantial care or financial assistance) due to—

"(I) an unexpected or significant increase in medical expenses;

"(II) a divorce;

"(III) unexpected and significant damage to the property, the repair of which will not be covered by private or public insurance; or

"(IV) a large property-tax increase; or";

(2) by striking the matter that follows subparagraph (C); and

(3) by adding at the end the following:

"(D) the Secretary of Housing and Urban Development determines that the annual income of the homeowner is no greater than the annual income established by the Secretary as being of low- or moderate-income.".

**SEC. 2128. PRE-PURCHASE HOMEOWNERSHIP COUNSELING DEMONSTRATION.**

12 USC 1701x note.

(a) ESTABLISHMENT OF PROGRAM.—For the period beginning on the date of enactment of this title and ending on the date that is 3 years after such date of enactment, the Secretary of Housing and Urban Development shall establish and conduct a demonstration program to test the effectiveness of alternative forms of pre-purchase homeownership counseling for eligible homebuyers.

(b) FORMS OF COUNSELING.—The Secretary of Housing and Urban Development shall provide to eligible homebuyers pre-purchase homeownership counseling under this section in the form of—

(1) telephone counseling;
(2) individualized in-person counseling;
(3) web-based counseling;
(4) counseling classes; or
(5) any other form or type of counseling that the Secretary may, in his discretion, determine appropriate.

(c) SIZE OF PROGRAM.—The Secretary shall make available the pre-purchase homeownership counseling described in subsection (b) to not more than 3,000 eligible homebuyers in any given year.

(d) INCENTIVE TO PARTICIPATE.—The Secretary of Housing and Urban Development may provide incentives to eligible homebuyers to participate in the demonstration program established under subsection (a). Such incentives may include the reduction of any insurance premium charges owed by the eligible homebuyer to the Secretary.

(e) ELIGIBLE HOMEBUYER DEFINED.—For purposes of this section an "eligible homebuyer" means a first-time homebuyer who has been approved for a home loan with a loan-to-value ratio between 97 percent and 98.5 percent.

(f) REPORT TO CONGRESS.—The Secretary of Housing and Urban Development shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative—

Deadline.

(1) on an annual basis, on the progress and results of the demonstration program established under subsection (a); and

(2) for the period beginning on the date of enactment of this title and ending on the date that is 5 years after such date of enactment, on the payment history and delinquency rates of eligible homebuyers who participated in the demonstration program.

**SEC. 2129. FRAUD PREVENTION.**

Section 1014 of title 18, United States Code, is amended in the first sentence—

(1) by inserting "the Federal Housing Administration," before "the Farm Credit Administration"; and

(2) by striking "commitment, or loan" and inserting "commitment, loan, or insurance agreement or application for insurance or a guarantee".

12 USC 1709 note.

**SEC. 2130. LIMITATION ON MORTGAGE INSURANCE PREMIUM INCREASES.**

(a) IN GENERAL.—Notwithstanding any other provision of law, including any provision of this title and any amendment made by this title—

(1) for the period beginning on the date of the enactment of this title and ending on October 1, 2009, the premiums charged for mortgage insurance under multifamily housing programs under the National Housing Act may not be increased above the premium amounts in effect under such program on October 1, 2006, unless the Secretary of Housing and Urban Development determines that, absent such increase, insurance of additional mortgages under such program would, under the Federal Credit Reform Act of 1990, require the appropriation of new budget authority to cover the costs (as such term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a) of such insurance; and

(2) a premium increase pursuant to paragraph (1) may be made only if not less than 30 days prior to such increase taking effect, the Secretary of Housing and Urban Development—

(A) notifies the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such increase; and — Notification.

(B) publishes notice of such increase in the Federal Register. — Federal Register, publication.

(b) WAIVER.—The Secretary of Housing and Urban Development may waive the 30-day notice requirement under subsection (a)(2), if the Secretary determines that waiting 30-days before increasing premiums would cause substantial damage to the solvency of multifamily housing programs under the National Housing Act.

**SEC. 2131. SAVINGS PROVISION.** — 12 USC 1701 note.

Any mortgage insured under title II of the National Housing Act before the date of enactment of this subtitle shall continue to be governed by the laws, regulations, orders, and terms and conditions to which it was subject on the day before the date of the enactment of this subtitle.

**SEC. 2132. IMPLEMENTATION.** — Requirements. Notification. Effective date. 12 USC 1701 note.

The Secretary of Housing and Urban Development shall by notice establish any additional requirements that may be necessary to immediately carry out the provisions of this subtitle. The notice shall take effect upon issuance.

**SEC. 2133. MORATORIUM ON IMPLEMENTATION OF RISK-BASED PREMIUMS.**

(a) IN GENERAL.—During the 12-month period beginning on October 1, 2008, the Secretary of Housing and Urban Development shall not take any action to implement or carry out risk-based premiums, which are designed for mortgage lenders to offer borrowers an FHA-insured product that provides a range of mortgage insurance premium pricing, based on the risk that the insurance contract represents, as such planned implementation was set forth in the Notice published in the Federal Register on May 13, 2008 (Vol. 73, No. 93, Pages 27703 through 27711) (effective July 14, 2008). — Effective date.

(b) INSURANCE OF MORTGAGES UNDER THE NATIONAL HOUSING ACT.—During the 12-month period beginning on October 1, 2008, the Secretary of Housing and Urban Development shall not take any action to implement or carry out any other risk-based premium product related to the insurance of any mortgage on a single family residence under title II of the National Housing Act, where the premium price for such new product is based in whole or in part on a borrower's Decision Credit Score, as that term is defined in the Notice described under subsection (a), or any successor thereto. — Effective date.

FHA Manufactured Housing Loan Modernization Act of 2008. 12 USC 1701 note.

# Subtitle B—Manufactured Housing Loan Modernization

**SEC. 2141. SHORT TITLE.**

This subtitle may be cited as the "FHA Manufactured Housing Loan Modernization Act of 2008".

12 USC 1703 note.

**SEC. 2142. PURPOSES.**

The purposes of this subtitle are—

(1) to provide adequate funding for FHA-insured manufactured housing loans for low- and moderate-income homebuyers during all economic cycles in the manufactured housing industry;

(2) to modernize the FHA title I insurance program for manufactured housing loans to enhance participation by Ginnie Mae and the private lending markets; and

(3) to adjust the low loan limits for title I manufactured home loan insurance to reflect the increase in costs since such limits were last increased in 1992 and to index the limits to inflation.

**SEC. 2143. EXCEPTION TO LIMITATION ON FINANCIAL INSTITUTION PORTFOLIO.**

The second sentence of section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended—

(1) by striking "In no case" and inserting "Other than in connection with a manufactured home or a lot on which to place such a home (or both), in no case"; and

(2) by striking ": *Provided*, That with" and inserting ". With".

**SEC. 2144. INSURANCE BENEFITS.**

(a) IN GENERAL.—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), is amended by adding at the end the following new paragraph:

Contracts.

"(8) INSURANCE BENEFITS FOR MANUFACTURED HOUSING LOANS.—Any contract of insurance with respect to loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place a manufactured home (or both) for a financial institution that is executed under this title after the date of the enactment of the FHA Manufactured Housing Loan Modernization Act of 2008 by the Secretary shall be conclusive evidence of the eligibility of such financial institution for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of the bearer from the date of the execution of such contract, except for fraud or misrepresentation on the part of such institution.".

12 USC 1703 note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall only apply to loans that are registered or endorsed for insurance after the date of the enactment of this title.

**SEC. 2145. MAXIMUM LOAN LIMITS.**

(a) DOLLAR AMOUNTS.—Paragraph (1) of section 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(1) in clause (ii) of subparagraph (A), by striking "$17,500" and inserting "$25,090";

(2) in subparagraph (C) by striking "$48,600" and inserting "$69,678";

(3) in subparagraph (D) by striking "$64,800" and inserting "$92,904";

(4) in subparagraph (E) by striking "$16,200" and inserting "$23,226"; and

(5) by realigning subparagraphs (C), (D), and (E) 2 ems to the left so that the left margins of such subparagraphs are aligned with the margins of subparagraphs (A) and (B).

(b) ANNUAL INDEXING.—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

"(9) ANNUAL INDEXING OF MANUFACTURED HOUSING LOANS.—The Secretary shall develop a method of indexing in order to annually adjust the loan limits established in subparagraphs (A)(ii), (C), (D), and (E) of this subsection. Such index shall be based on the manufactured housing price data collected by the United States Census Bureau. The Secretary shall establish such index no later than 1 year after the date of the enactment of the FHA Manufactured Housing Loan Modernization Act of 2008." Deadline.

(c) TECHNICAL AND CONFORMING CHANGES.—Paragraph (1) of section 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(1) by striking "No" and inserting "Except as provided in the last sentence of this paragraph, no"; and

(2) by adding after and below subparagraph (G) the following:

"The Secretary shall, by regulation, annually increase the dollar amount limitations in subparagraphs (A)(ii), (C), (D), and (E) (as such limitations may have been previously adjusted under this sentence) in accordance with the index established pursuant to paragraph (9).". Regulations.

**SEC. 2146. INSURANCE PREMIUMS.**

Subsection (f) of section 2 of the National Housing Act (12 U.S.C. 1703(f)) is amended—

(1) by inserting "(1) PREMIUM CHARGES.—" after "(f)"; and

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

"(2) MANUFACTURED HOME LOANS.—Notwithstanding paragraph (1), in the case of a loan, advance of credit, or purchase in connection with a manufactured home or a lot on which to place such a home (or both), the premium charge for the insurance granted under this section shall be paid by the borrower under the loan or advance of credit, as follows:

"(A) At the time of the making of the loan, advance of credit, or purchase, a single premium payment in an amount not to exceed 2.25 percent of the amount of the original insured principal obligation.

"(B) In addition to the premium under subparagraph (A), annual premium payments during the term of the loan, advance, or obligation purchased in an amount not exceeding 1.0 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

"(C) Premium charges under this paragraph shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for the program under this section for insurance of loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place such a home (or both), as determined based upon risk to the Federal Government under existing underwriting requirements.

"(D) The Secretary may increase the limitations on premium payments to percentages above those set forth in subparagraphs (A) and (B), but only if necessary, and not in excess of the minimum increase necessary, to maintain a negative credit subsidy as described in subparagraph (C).".

**SEC. 2147. TECHNICAL CORRECTIONS.**

(a) DATES.—Subsection (a) of section 2 of the National Housing Act (12 U.S.C. 1703(a)) is amended—

(1) by striking "on and after July 1, 1939," each place such term appears; and

(2) by striking "made after the effective date of the Housing Act of 1954".

(b) AUTHORITY OF SECRETARY.—Subsection (c) of section 2 of the National Housing Act (12 U.S.C. 1703(c)) is amended to read as follows:

"(c) HANDLING AND DISPOSAL OF PROPERTY.—

"(1) AUTHORITY OF SECRETARY.—Notwithstanding any other provision of law, the Secretary may—

"(A) deal with, complete, rent, renovate, modernize, insure, or assign or sell at public or private sale, or otherwise dispose of, for cash or credit in the Secretary's discretion, and upon such terms and conditions and for such consideration as the Secretary shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by the Secretary, in connection with the payment of insurance heretofore or hereafter granted under this title, including any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted under this section; and

"(B) pursue to final collection, by way of compromise or otherwise, all claims assigned to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of such insurance, including unpaid insurance premiums owed in connection with insurance made available by this title.

"(2) ADVERTISEMENTS FOR PROPOSALS.—Section 3709 of the Revised Statutes shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $25,000.

"(3) DELEGATION OF AUTHORITY.—The power to convey and to execute in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this title may be exercised by an officer appointed by the Secretary without

the execution of any express delegation of power or power of attorney. Nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in the Secretary's discretion, to any officer or agent the Secretary may appoint.".

**SEC. 2148. REVISION OF UNDERWRITING CRITERIA.**

(a) IN GENERAL.—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

"(10) FINANCIAL SOUNDNESS OF MANUFACTURED HOUSING PROGRAM.—The Secretary shall establish such underwriting criteria for loans and advances of credit in connection with a manufactured home or a lot on which to place a manufactured home (or both), including such loans and advances represented by obligations purchased by financial institutions, as may be necessary to ensure that the program under this title for insurance for financial institutions against losses from such loans, advances of credit, and purchases is financially sound.".

(b) TIMING.—Not later than the expiration of the 6-month period beginning on the date of the enactment of this title, the Secretary of Housing and Urban Development shall revise the existing underwriting criteria for the program referred to in paragraph (10) of section 2(b) of the National Housing Act (as added by subsection (a) of this section) in accordance with the requirements of such paragraph. 12 USC 1703 note.

**SEC. 2149. PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES.**

Title I of the National Housing Act is amended by adding at the end of section 9 the following new section:

**"SEC. 10. PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES.** 12 USC 1706f.

"(a) IN GENERAL.—Except as provided in subsection (b), the provisions of sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall apply to each sale of a manufactured home financed with an FHA-insured loan or extension of credit, as well as to services rendered in connection with such transactions.

"(b) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to determine the manner and extent to which the provisions of sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) may reasonably be applied to the transactions described in subsection (a), and to grant such exemptions as may be necessary to achieve the purposes of this section.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'federally related mortgage loan' as used in sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall include an FHA-insured loan or extension of credit made to a borrower for the purpose of purchasing a manufactured home that the borrower intends to occupy as a personal residence; and

"(2) the term 'real estate settlement service' as used in sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall include any service rendered in connection with a loan or extension

of credit insured by the Federal Housing Administration for the purchase of a manufactured home.

"(d) UNFAIR AND DECEPTIVE PRACTICES.—In connection with the purchase of a manufactured home financed with a loan or extension of credit insured by the Federal Housing Administration under this title, the Secretary shall prohibit acts or practices in connection with loans or extensions of credit that the Secretary finds to be unfair, deceptive, or otherwise not in the interests of the borrower.".

**SEC. 2150. LEASEHOLD REQUIREMENTS.**

Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

"(11) LEASEHOLD REQUIREMENTS.—No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it, made for the purposes of financing a manufactured home which is intended to be situated in a manufactured home community pursuant to a lease, unless such lease—

"(A) expires not less than 3 years after the origination date of the obligation;

"(B) is renewable upon the expiration of the original 3 year term by successive 1 year terms; and

"(C) requires the lessor to provide the lessee written notice of termination of the lease not less than 180 days prior to the expiration of the current lease term in the event the lessee is required to move due to the closing of the manufactured home community, and further provides that failure to provide such notice to the mortgagor in a timely manner will cause the lease term, at its expiration, to automatically renew for an additional 1 year term.".

# TITLE II—MORTGAGE FORECLOSURE PROTECTIONS FOR SERVICEMEMBERS

**SEC. 2201. TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY THE SECRETARY OF VETERANS AFFAIRS.**

Definition.

Notwithstanding subparagraph (C) of section 3703(a)(1) of title 38, United States Code, for purposes of any loan described in subparagraph (A)(i)(IV) of such section that is originated during the period beginning on the date of the enactment of this Act and ending on December 31, 2008, the term "maximum guaranty amount" shall mean an amount equal to 25 percent of the higher of—

(1) the limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for the calendar year in which the loan is originated for a single-family residence; or

(2) 125 percent of the area median price for a single-family residence, but in no case to exceed 175 percent of the

limitation determined under such section 305(a)(2) for the calendar year in which the loan is originated for a single-family residence.

**SEC. 2202. COUNSELING ON MORTGAGE FORECLOSURES FOR MEMBERS OF THE ARMED FORCES RETURNING FROM SERVICE ABROAD.**

10 USC 992 note.

(a) IN GENERAL.—The Secretary of Defense shall develop and implement a program to advise members of the Armed Forces (including members of the National Guard and Reserve) who are returning from service on active duty abroad (including service in Operation Iraqi Freedom and Operation Enduring Freedom) on actions to be taken by such members to prevent or forestall mortgage foreclosures.

(b) ELEMENTS.—The program required by subsection (a) shall include the following:

(1) Credit counseling.

(2) Home mortgage counseling.

(3) Such other counseling and information as the Secretary considers appropriate for purposes of the program.

(c) TIMING OF PROVISION OF COUNSELING.—Counseling and other information under the program required by subsection (a) shall be provided to a member of the Armed Forces covered by the program as soon as practicable after the return of the member from service as described in subsection (a).

**SEC. 2203. ENHANCEMENT OF PROTECTIONS FOR SERVICEMEMBERS RELATING TO MORTGAGES AND MORTGAGE FORECLOSURES.**

(a) EXTENSION OF PERIOD OF PROTECTIONS AGAINST MORTGAGE FORECLOSURES.—

(1) EXTENSION OF PROTECTION PERIOD.—Subsection (c) of section 303 of the Servicemembers Civil Relief Act (50 U.S.C. App. 533) is amended by striking "90 days" and inserting "9 months".

(2) EXTENSION OF STAY OF PROCEEDINGS PERIOD.—Subsection (b) of such section is amended by striking "90 days" and inserting "9 months".

(b) TREATMENT OF MORTGAGES AS OBLIGATIONS SUBJECT TO INTEREST RATE LIMITATION.—Section 207 of the Servicemembers Civil Relief Act (50 U.S.C. App. 527) is amended—

(1) in subsection (a)(1), by striking "in excess of 6 percent" the second place it appears and all that follows and inserting "in excess of 6 percent—

"(A) during the period of military service and one year thereafter, in the case of an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage; or

"(B) during the period of military service, in the case of any other obligation or liability."; and

(2) by striking subsection (d) and inserting the following new subsection:

"(d) DEFINITIONS.—In this section:

"(1) INTEREST.—The term 'interest' includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.

"(2) OBLIGATION OR LIABILITY.—The term 'obligation or liability' includes an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage.".

50 USC app. 533 note.

(c) EFFECTIVE DATE; SUNSET.—

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

(2) SUNSET.—The amendments made by subsection (a) shall expire on December 31, 2010. Effective January 1, 2011, the provisions of subsections (b) and (c) of section 303 of the Servicemembers Civil Relief Act, as in effect on the day before the date of the enactment of this Act, are hereby revived.

# TITLE III—EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES

42 USC 5301 note.

**SEC. 2301. EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES.**

(a) DIRECT APPROPRIATIONS.—There are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year 2008, $4,000,000,000, to remain available until expended, for assistance to States and units of general local government (as such terms are defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) for the redevelopment of abandoned and foreclosed upon homes and residential properties.

(b) ALLOCATION OF APPROPRIATED AMOUNTS.—

State and local governments.

(1) IN GENERAL.—The amounts appropriated or otherwise made available to States and units of general local government under this section shall be allocated based on a funding formula established by the Secretary of Housing and Urban Development (in this title referred to as the "Secretary").

Deadline.

(2) FORMULA TO BE DEVISED SWIFTLY.—The funding formula required under paragraph (1) shall be established not later than 60 days after the date of enactment of this section.

(3) CRITERIA.—The funding formula required under paragraph (1) shall ensure that any amounts appropriated or otherwise made available under this section are allocated to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on—

(A) the number and percentage of home foreclosures in each State or unit of general local government;

(B) the number and percentage of homes financed by a subprime mortgage related loan in each State or unit of general local government; and

(C) the number and percentage of homes in default or delinquency in each State or unit of general local government.

Deadline.

(4) DISTRIBUTION.—Amounts appropriated or otherwise made available under this section shall be distributed according to the funding formula established by the Secretary under paragraph (1) not later than 30 days after the establishment of such formula.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Any State or unit of general local government that receives amounts pursuant to this section shall, not later than 18 months after the receipt of such amounts, use such amounts to purchase and redevelop abandoned and foreclosed homes and residential properties. Deadline.

(2) PRIORITY.—Any State or unit of general local government that receives amounts pursuant to this section shall in distributing such amounts give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas with the greatest need, including those— Urban and rural areas.

(A) with the greatest percentage of home foreclosures;

(B) with the highest percentage of homes financed by a subprime mortgage related loan; and

(C) identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.

(3) ELIGIBLE USES.—Amounts made available under this section may be used to—

(A) establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers;

(B) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;

(C) establish land banks for homes that have been foreclosed upon;

(D) demolish blighted structures; and

(E) redevelop demolished or vacant properties.

(d) LIMITATIONS.—

(1) ON PURCHASES.—Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property. Discounts.

(2) REHABILITATION.—Any rehabilitation of a foreclosed-upon home or residential property under this section shall be to the extent necessary to comply with applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, in order to sell, rent, or redevelop such homes and properties. Rehabilitation may include improvements to increase the energy efficiency or conservation of such homes and properties or provide a renewable energy source or sources for such homes and properties.

(3) SALE OF HOMES.—If an abandoned or foreclosed upon home or residential property is purchased, redeveloped, or otherwise sold to an individual as a primary residence, then such sale shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, and habitable condition.

(4) REINVESTMENT OF PROFITS.—

(A) PROFITS FROM SALES, RENTALS, AND REDEVELOPMENT.—

(i) 5-YEAR REINVESTMENT PERIOD.—During the 5-year period following the date of enactment of this Act, any revenue generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use that is in excess of the cost to acquire and redevelop (including reasonable development fees) or rehabilitate an abandoned or foreclosed upon home or residential property shall be provided to and used by the State or unit of general local government in accordance with, and in furtherance of, the intent and provisions of this section.

(ii) DEPOSITS IN THE TREASURY.—

(I) PROFITS.—Upon the expiration of the 5-year period set forth under clause (i), any revenue generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use that is in excess of the cost to acquire and redevelop (including reasonable development fees) or rehabilitate an abandoned or foreclosed upon home or residential property shall be deposited in the Treasury of the United States as miscellaneous receipts, unless the Secretary approves a request to use the funds for purposes under this Act.

(II) OTHER AMOUNTS.—Upon the expiration of the 5-year period set forth under clause (i), any other revenue not described under subclause (I) generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use of an abandoned or foreclosed upon home or residential property shall be deposited in the Treasury of the United States as miscellaneous receipts.

State and local governments.

(B) OTHER REVENUES.—Any revenue generated under subparagraphs (A), (C) or (D) of subsection (c)(3) shall be provided to and used by the State or unit of general local government in accordance with, and in furtherance of, the intent and provisions of this section.

State and local governments.

(e) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Except as otherwise provided by this section, amounts appropriated, revenues generated, or amounts otherwise made available to States and units of general local government under this section shall be treated as though such funds were community development block grant funds under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(2) NO MATCH.—No matching funds shall be required in order for a State or unit of general local government to receive any amounts under this section.

(f) AUTHORITY TO SPECIFY ALTERNATIVE REQUIREMENTS.—

(1) IN GENERAL.—In administering any amounts appropriated or otherwise made available under this section, the Secretary may specify alternative requirements to any provision under title I of the Housing and Community Development Act of 1974 (except for those related to fair housing, nondiscrimination, labor standards, and the environment) in accordance with the terms of this section and for the sole purpose of expediting the use of such funds.

(2) NOTICE.—The Secretary shall provide written notice of its intent to exercise the authority to specify alternative requirements under paragraph (1) to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 10 business days before such exercise of authority is to occur. Deadline.

(3) LOW AND MODERATE INCOME REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding the authority of the Secretary under paragraph (1)—

(i) all of the funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income; and

(ii) not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

(B) RECURRENT REQUIREMENT.—The Secretary shall, by rule or order, ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed upon homes and residential properties under this section remain affordable to individuals or families described in subparagraph (A). Regulations. Orders.

(g) PERIODIC AUDITS.—In consultation with the Secretary of Housing and Urban Development, the Comptroller General of the United States shall conduct periodic audits to ensure that funds appropriated, made available, or otherwise distributed under this section are being used in a manner consistent with the criteria provided in this section.

**SEC. 2302. NATIONWIDE DISTRIBUTION OF RESOURCES.** 42 USC 5301 note.

Notwithstanding any other provision of this Act or the amendments made by this Act, each State shall receive not less than 0.5 percent of funds made available under section 2301 (relating to emergency assistance for the redevelopment of abandoned and foreclosed homes).

**SEC. 2303. LIMITATION ON USE OF FUNDS WITH RESPECT TO EMINENT DOMAIN.** 42 USC 5301 note.

No State or unit of general local government may use any amounts received pursuant to section 2301 to fund any project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use: *Provided,* That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities.

**SEC. 2304. LIMITATION ON DISTRIBUTION OF FUNDS.** 42 USC 5301 note.

(a) IN GENERAL.—None of the funds made available under this title or title IV shall be distributed to—

(1) an organization which has been indicted for a violation under Federal law relating to an election for Federal office; or

(2) an organization which employs applicable individuals.

(b) APPLICABLE INDIVIDUALS DEFINED.—In this section, the term "applicable individual" means an individual who—

(1) is—

(A) employed by the organization in a permanent or temporary capacity;

(B) contracted or retained by the organization; or

(C) acting on behalf of, or with the express or apparent authority of, the organization; and

(2) has been indicted for a violation under Federal law relating to an election for Federal office.

42 USC 5301 note.

**SEC. 2305. COUNSELING INTERMEDIARIES.**

Notwithstanding any other provision of this Act, the amount appropriated under section 2301(a) of this Act shall be $3,920,000,000 and the amount appropriated under section 2401 of this Act shall be $180,000,000: *Provided,* That of the amount appropriated under section 2401 of this Act pursuant to this section, not less than 15 percent shall be provided to counseling organizations that target counseling services regarding loss mitigation to minority and low-income homeowners or provide such services in neighborhoods with high concentrations of minority and low-income homeowners: *Provided further,* That of amounts appropriated under such section 2401 $30,000,000 shall be used by the Neighborhood Reinvestment Corporation (referred to in this section as the "NRC") to make grants to counseling intermediaries approved by the Department of Housing and Urban Development or the NRC to hire attorneys to assist homeowners who have legal issues directly related to the homeowner's foreclosure, delinquency or short sale. Such attorneys shall be capable of assisting homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure and who have legal issues that cannot be handled by counselors already employed by such intermediaries: *Provided further,* That of the amounts provided for in the prior provisos the NRC shall give priority consideration to counseling intermediaries and legal organizations that (1) provide legal assistance in the 100 metropolitan statistical areas (as defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates, and (2) have the capacity to begin using the financial assistance within 90 days after receipt of the assistance: *Provided further,* That no funds provided under this Act shall be used to provide, obtain, or arrange on behalf of a homeowner, legal representation involving or for the purposes of civil litigation: *Provided further,* That the NRC, in awarding counseling grants under section 2401 of this Act, may consider, where appropriate, whether the entity has implemented a written plan for providing in-person counseling and for making contact, including personal contact, with defaulted mortgagors, for the purpose of providing counseling or providing information about available counseling.

Disadvantaged persons.

Grants.

Legal assistance. Deadline.

# TITLE IV—HOUSING COUNSELING RESOURCES

Appropriations authorization.

**SEC. 2401. HOUSING COUNSELING RESOURCES.**

There are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year 2008, for an additional

amount for the "Neighborhood Reinvestment Corporation—Payment to the Neighborhood Reinvestment Corporation" $100,000,000, to remain available until December 31, 2008, for foreclosure mitigation activities under the terms and conditions contained in the second undesignated paragraph (beginning with the phrase "For an additional amount") under the heading "Neighborhood Reinvestment Corporation—Payment to the Neighborhood Reinvestment Corporation" of Public Law 110–161.

**SEC. 2402. CREDIT COUNSELING.**

(a) IN GENERAL.—Entities approved by the Neighborhood Reinvestment Corporation or the Secretary and State housing finance entities receiving funds under this title shall work to identify and coordinate with non-profit organizations operating national or statewide toll-free foreclosure prevention hotlines, including those that—

(1) serve as a consumer referral source and data repository for borrowers experiencing some form of delinquency or foreclosure;

(2) connect callers with local housing counseling agencies approved by the Neighborhood Reinvestment Corporation or the Secretary to assist with working out a positive resolution to their mortgage delinquency or foreclosure; or

(3) facilitate or offer free assistance to help homeowners to understand their options, negotiate solutions, and find the best resolution for their particular circumstances.

# TITLE V—MORTGAGE DISCLOSURE IMPROVEMENT ACT

Mortgage Disclosure Improvement Act of 2008.

**SEC. 2501. SHORT TITLE.**

15 USC 1601 note.

This title may be cited as the "Mortgage Disclosure Improvement Act of 2008".

**SEC. 2502. ENHANCED MORTGAGE LOAN DISCLOSURES.**

Creditors.

(a) TRUTH IN LENDING ACT DISCLOSURES.—Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)) is amended—

(1) by inserting "(A)" before "In the";

(2) by striking "a residential mortgage transaction, as defined in section 103(w)" and inserting "any extension of credit that is secured by the dwelling of a consumer";

(3) by striking "before the credit is extended, or" and inserting "and";

(4) by inserting ", which shall be at least 7 business days before consummation of the transaction" after "written application";

(5) by striking ", whichever is earlier"; and

(6) by striking "If the" and all that follows through the end of the paragraph and inserting the following:

"(B) In the case of an extension of credit that is secured by the dwelling of a consumer, the disclosures provided under subparagraph (A), shall be in addition to the other disclosures required by subsection (a), and shall—

"(i) state in conspicuous type size and format, the following: 'You are not required to complete this agreement

merely because you have received these disclosures or signed a loan application.'; and

"(ii) be provided in the form of final disclosures at the time of consummation of the transaction, in the form and manner prescribed by this section.

"(C) In the case of an extension of credit that is secured by the dwelling of a consumer, under which the annual rate of interest is variable, or with respect to which the regular payments may otherwise be variable, in addition to the other disclosures required by subsection (a), the disclosures provided under this subsection shall do the following:

"(i) Label the payment schedule as follows: 'Payment Schedule: Payments Will Vary Based on Interest Rate Changes'.

"(ii) State in conspicuous type size and format examples of adjustments to the regular required payment on the extension of credit based on the change in the interest rates specified by the contract for such extension of credit. Among the examples required to be provided under this clause is an example that reflects the maximum payment amount of the regular required payments on the extension of credit, based on the maximum interest rate allowed under the contract, in accordance with the rules of the Board. Prior to issuing any rules pursuant to this clause, the Board shall conduct consumer testing to determine the appropriate format for providing the disclosures required under this subparagraph to consumers so that such disclosures can be easily understood, including the fact that the initial regular payments are for a specific time period that will end on a certain date, that payments will adjust afterwards potentially to a higher amount, and that there is no guarantee that the borrower will be able to refinance to a lower amount.

Consumer testing.

Deadline.

"(D) In any case in which the disclosure statement under subparagraph (A) contains an annual percentage rate of interest that is no longer accurate, as determined under section 107(c), the creditor shall furnish an additional, corrected statement to the borrower, not later than 3 business days before the date of consummation of the transaction.

"(E) The consumer shall receive the disclosures required under this paragraph before paying any fee to the creditor or other person in connection with the consumer's application for an extension of credit that is secured by the dwelling of a consumer. If the disclosures are mailed to the consumer, the consumer is considered to have received them 3 business days after they are mailed. A creditor or other person may impose a fee for obtaining the consumer's credit report before the consumer has received the disclosures under this paragraph, provided the fee is bona fide and reasonable in amount.

"(F) WAIVER OF TIMELINESS OF DISCLOSURES.—To expedite consummation of a transaction, if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency, the consumer may waive or modify the timing requirements for disclosures under subparagraph (A), provided that—

Definition. Regulations.

"(i) the term 'bona fide personal emergency' may be further defined in regulations issued by the Board;

"(ii) the consumer provides to the creditor a dated, written statement describing the emergency and specifically waiving or modifying those timing requirements, which statement shall bear the signature of all consumers entitled to receive the disclosures required by this paragraph; and

"(iii) the creditor provides to the consumers at or before the time of such waiver or modification, the final disclosures required by paragraph (1).

"(G) The requirements of subparagraphs (B), (C), (D) and (E) shall not apply to extensions of credit relating to plans described in section 101(53D) of title 11, United States Code.".

(b) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) in paragraph (2)(A)(iii), by striking "not less than $200 or greater than $2,000" and inserting "not less than $400 or greater than $4,000"; and

(2) in the penultimate sentence of the undesignated matter following paragraph (4)—

(A) by inserting "or section 128(b)(2)(C)(ii)," after "128(a),"; and

(B) by inserting "or section 128(b)(2)(C)(ii)" before the period.

(c) EFFECTIVE DATES.— 15 USC 1638 note.

(1) GENERAL DISCLOSURES.—Except as provided in paragraph (2), the amendments made by subsection (a) shall become effective 12 months after the date of enactment of this Act.

(2) VARIABLE INTEREST RATES.—Subparagraph (C) of section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)(C)), as added by subsection (a) of this section, shall become effective on the earlier of—

(A) the compliance date established by the Board for such purpose, by regulation; or

(B) 30 months after the date of enactment of this Act.

**SEC. 2503. COMMUNITY DEVELOPMENT INVESTMENT AUTHORITY FOR DEPOSITORY INSTITUTIONS.**

(a) NATIONAL BANKS.—The first sentence of the paragraph designated as the "Eleventh" of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking "promotes the public welfare by benefitting primarily" and inserting "is designed primarily to promote the public welfare, including the welfare of".

(b) STATE MEMBER BANKS.—The first sentence of the 23rd paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended by striking "promotes the public welfare by benefitting primarily" and inserting "is designed primarily to promote the public welfare, including the welfare of".

# TITLE VI—VETERANS HOUSING MATTERS

### SEC. 2601. HOME IMPROVEMENTS AND STRUCTURAL ALTERATIONS FOR TOTALLY DISABLED MEMBERS OF THE ARMED FORCES BEFORE DISCHARGE OR RELEASE FROM THE ARMED FORCES.

Section 1717 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) In the case of a member of the Armed Forces who, as determined by the Secretary, has a disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service, the Secretary may furnish improvements and structural alterations for such member for such disability or as otherwise described in subsection (a)(2) while such member is hospitalized or receiving outpatient medical care, services, or treatment for such disability if the Secretary determines that such member is likely to be discharged or released from the Armed Forces for such disability.

"(2) The furnishing of improvements and alterations under paragraph (1) in connection with the furnishing of medical services described in subparagraph (A) or (B) of subsection (a)(2) shall be subject to the limitation specified in the applicable subparagraph.".

### SEC. 2602. ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING BENEFITS AND ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WITH SERVICE-CONNECTED DISABILITIES AND INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.

(a) ELIGIBILITY.—Chapter 21 of title 38, United States Code, is amended by inserting after section 2101 the following new section:

#### "§ 2101A. Eligibility for benefits and assistance: members of the Armed Forces with service-connected disabilities; individuals residing outside the United States

"(a) MEMBERS WITH SERVICE-CONNECTED DISABILITIES.—(1) The Secretary may provide assistance under this chapter to a member of the Armed Forces serving on active duty who is suffering from a disability that meets applicable criteria for benefits under this chapter if the disability is incurred or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under this chapter to veterans eligible for assistance under this chapter and subject to the same requirements as veterans under this chapter.

"(2) For purposes of this chapter, any reference to a veteran or eligible individual shall be treated as a reference to a member of the Armed Forces described in subsection (a) who is similarly situated to the veteran or other eligible individual so referred to.

"(b) BENEFITS AND ASSISTANCE FOR INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.—(1) Subject to paragraph (2), the Secretary may, at the Secretary's discretion, provide benefits and assistance under this chapter (other than benefits under section

2106 of this title) to any individual otherwise eligible for such benefits and assistance who resides outside the United States.

"(2) The Secretary may provide benefits and assistance to an individual under paragraph (1) only if—

"(A) the country or political subdivision in which the housing or residence involved is or will be located permits the individual to have or acquire a beneficial property interest (as determined by the Secretary) in such housing or residence; and

"(B) the individual has or will acquire a beneficial property interest (as so determined) in such housing or residence.

"(c) REGULATIONS.—Benefits and assistance under this chapter by reason of this section shall be provided in accordance with such regulations as the Secretary may prescribe.".

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF SUPERSEDED AUTHORITY.—Section 2101 of title 38, United States Code, is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2) LIMITATIONS ON ASSISTANCE.—Section 2102 of title 38, United States Code, is amended—

(A) in subsection (a)—

(i) by striking "veteran" each place it appears and inserting "individual"; and

(ii) in paragraph (3), by striking "veteran's" and inserting "individual's";

(B) in subsection (b)(1), by striking "a veteran" and inserting "an individual";

(C) in subsection (c)—

(i) by striking "a veteran" and inserting "an individual"; and

(ii) by striking "the veteran" each place it appears and inserting "the individual"; and

(D) in subsection (d), by striking "a veteran" each place it appears and inserting "an individual".

(3) ASSISTANCE FOR INDIVIDUALS TEMPORARILY RESIDING IN HOUSING OF FAMILY MEMBER.—Section 2102A of title 38, United States Code, is amended—

(A) by striking "veteran" each place it appears (other than in subsection (b)) and inserting "individual";

(B) in subsection (a), by striking "veteran's" each place it appears and inserting "individual's"; and

(C) in subsection (b), by striking "a veteran" each place it appears and inserting "an individual".

(4) FURNISHING OF PLANS AND SPECIFICATIONS.—Section 2103 of title 38, United States Code, is amended by striking "veterans" both places it appears and inserting "individuals".

(5) CONSTRUCTION OF BENEFITS.—Section 2104 of title 38, United States Code, is amended—

(A) in subsection (a), by striking "veteran" each place it appears and inserting "individual"; and

(B) in subsection (b)—

(i) in the first sentence, by striking "A veteran" and inserting "An individual";

(ii) in the second sentence, by striking "a veteran" and inserting "an individual"; and

(iii) by striking "such veteran" each place it appears and inserting "such individual".

(6) VETERANS' MORTGAGE LIFE INSURANCE.—Section 2106 of title 38, United States Code, is amended—

(A) in subsection (a)—

(i) by striking "any eligible veteran" and inserting "any eligible individual"; and

(ii) by striking "the veterans'" and inserting "the individual's";

(B) in subsection (b), by striking "an eligible veteran" and inserting "an eligible individual";

(C) in subsection (e), by striking "an eligible veteran" and inserting "an individual";

(D) in subsection (h), by striking "each veteran" and inserting "each individual";

(E) in subsection (i), by striking "the veteran's" each place it appears and inserting "the individual's";

(F) by striking "the veteran" each place it appears and inserting "the individual"; and

(G) by striking "a veteran" each place it appears and inserting "an individual".

(7) HEADING AMENDMENTS.—(A) The heading of section 2101 of title 38, United States Code, is amended to read as follows:

**"§ 2101. Acquisition and adaptation of housing: eligible veterans".**

(B) The heading of section 2102A of such title is amended to read as follows:

**"§ 2102A. Assistance for individuals residing temporarily in housing owned by a family member".**

(8) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 21 of title 38, United States Code, is amended—

(A) by striking the item relating to section 2101 and inserting the following new item:

"2101. Acquisition and adaptation of housing: eligible veterans.";

(B) by inserting after the item relating to section 2101, as so amended, the following new item:

"2101A. Eligibility for benefits and assistance: members of the Armed Forces with service-connected disabilities; individuals residing outside the United States.";

and

(C) by striking the item relating to section 2102A and inserting the following new item:

"2102A. Assistance for individuals residing temporarily in housing owned by a family member.".

**SEC. 2603. SPECIALLY ADAPTED HOUSING ASSISTANCE FOR INDIVIDUALS WITH SEVERE BURN INJURIES.**

Section 2101 of title 38, United States Code, is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraph:

"(E) The disability is due to a severe burn injury (as determined pursuant to regulations prescribed by the Secretary).";

and

(2) in subsection (b)(2)—

(A) by striking "either" and inserting "any"; and

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

"(C) The disability is due to a severe burn injury (as so determined).".

**SEC. 2604. EXTENSION OF ASSISTANCE FOR INDIVIDUALS RESIDING TEMPORARILY IN HOUSING OWNED BY A FAMILY MEMBER.**

Section 2102A(e) of title 38, United States Code, is amended by striking "after the end of the five-year period that begins on the date of the enactment of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006" and inserting "after December 31, 2011".

**SEC. 2605. INCREASE IN SPECIALLY ADAPTED HOUSING BENEFITS FOR DISABLED VETERANS.**

(a) IN GENERAL.—Section 2102 of title 38, United States Code, is amended—

(1) in subsection (b)(2), by striking "$10,000" and inserting "$12,000";

(2) in subsection (d)—

(A) in paragraph (1), by striking "$50,000" and inserting "$60,000"; and

(B) in paragraph (2), by striking "$10,000" and inserting "$12,000"; and

(3) by adding at the end the following new subsection:

"(e)(1) Effective on October 1 of each year (beginning in 2009), the Secretary shall increase the amounts described in subsection (b)(2) and paragraphs (1) and (2) of subsection (d) in accordance with this subsection. Effective date.

"(2) The increase in amounts under paragraph (1) to take effect on October 1 of a year shall be by an amount of such amounts equal to the percentage by which—

"(A) the residential home cost-of-construction index for the preceding calendar year, exceeds

"(B) the residential home cost-of-construction index for the year preceding the year described in subparagraph (A).

"(3) The Secretary shall establish a residential home cost-of-construction index for the purposes of this subsection. The index shall reflect a uniform, national average change in the cost of residential home construction, determined on a calendar year basis. The Secretary may use an index developed in the private sector that the Secretary determines is appropriate for purposes of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008, and shall apply with respect to payments made in accordance with section 2102 of title 38, United States Code, on or after that date. 38 USC 2102 note.

**SEC. 2606. REPORT ON SPECIALLY ADAPTED HOUSING FOR DISABLED INDIVIDUALS.**

(a) IN GENERAL.—Not later than December 31, 2008, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report that contains an assessment of the adequacy of the authorities available to the Secretary under law to assist eligible disabled individuals in acquiring— Deadline.

(1) suitable housing units with special fixtures or movable facilities required for their disabilities, and necessary land therefor;

(2) such adaptations to their residences as are reasonably necessary because of their disabilities; and

(3) residences already adapted with special features determined by the Secretary to be reasonably necessary as a result of their disabilities.

(b) FOCUS ON PARTICULAR DISABILITIES.—The report required by subsection (a) shall set forth a specific assessment of the needs of—

(1) veterans who have disabilities that are not described in subsections (a)(2) and (b)(2) of section 2101 of title 38, United States Code; and

(2) other disabled individuals eligible for specially adapted housing under chapter 21 of such title by reason of section 2101A of such title (as added by section 2602(a) of this Act) who have disabilities that are not described in such subsections.

Deadline.

**SEC. 2607. REPORT ON SPECIALLY ADAPTED HOUSING ASSISTANCE FOR INDIVIDUALS WHO RESIDE IN HOUSING OWNED BY A FAMILY MEMBER ON PERMANENT BASIS.**

Not later than December 31, 2008, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the advisability of providing assistance under section 2102A of title 38, United States Code, to veterans described in subsection (a) of such section, and to members of the Armed Forces covered by such section 2102A by reason of section 2101A of title 38, United States Code (as added by section 2602(a) of this Act), who reside with family members on a permanent basis.

**SEC. 2608. DEFINITION OF ANNUAL INCOME FOR PURPOSES OF SECTION 8 AND OTHER PUBLIC HOUSING PROGRAMS.**

Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(3)(b)(4)) is amended by inserting "or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts" before "may not be considered".

**SEC. 2609. PAYMENT OF TRANSPORTATION OF BAGGAGE AND HOUSEHOLD EFFECTS FOR MEMBERS OF THE ARMED FORCES WHO RELOCATE DUE TO FORECLOSURE OF LEASED HOUSING.**

Section 406 of title 37, United States Code, is amended—

(1) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively; and

(2) by inserting after subsection (j) the following new subsection (k):

"(k) A member of the armed forces who relocates from leased or rental housing by reason of the foreclosure of such housing is entitled to transportation of baggage and household effects under subsection (b)(1) in the same manner, and subject to the same conditions and limitations, as similarly circumstanced members entitled to transportation of baggage and household effects under that subsection.".

# TITLE VII—SMALL PUBLIC HOUSING AUTHORITIES PAPERWORK REDUCTION ACT

Small Public Housing Authorities Paperwork Reduction Act.

**SEC. 2701. SHORT TITLE.**

42 USC 1437 note.

This title may be cited as the "Small Public Housing Authorities Paperwork Reduction Act".

**SEC. 2702. PUBLIC HOUSING AGENCY PLANS FOR CERTAIN QUALIFIED PUBLIC HOUSING AGENCIES.**

(a) IN GENERAL.—Section 5A(b) of the United States Housing Act of 1937 (42 U.S.C. 1437c–1(b)) is amended by adding at the end the following:

"(3) EXEMPTION OF CERTAIN PHAS FROM FILING REQUIREMENT.—

"(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of this Act—

"(i) the requirement under paragraph (1) shall not apply to any qualified public housing agency; and

"(ii) except as provided in subsection (e)(4)(B), any reference in this section or any other provision of law to a 'public housing agency' shall not be considered to refer to any qualified public housing agency, to the extent such reference applies to the requirement to submit an annual public housing agency plan under this subsection.

"(B) CIVIL RIGHTS CERTIFICATION.—Notwithstanding that qualified public housing agencies are exempt under subparagraph (A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall, on an annual basis, make the certification described in paragraph (16) of subsection (d), except that for purposes of such qualified public housing agencies, such paragraph shall be applied by substituting 'the public housing program of the agency' for 'the public housing agency plan'. Applicability.

"(C) DEFINITION.—For purposes of this section, the term 'qualified public housing agency' means a public housing agency that meets the following requirements:

"(i) The sum of (I) the number of public housing dwelling units administered by the agency, and (II) the number of vouchers under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) administered by the agency, is 550 or fewer.

"(ii) The agency is not designated under section 6(j)(2) as a troubled public housing agency, and does not have a failing score under the section 8 Management Assessment Program during the prior 12 months.".

(b) RESIDENT PARTICIPATION.—Section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) is amended—

(1) in subsection (e), by inserting after paragraph (3) the following:

"(4) QUALIFIED PUBLIC HOUSING AGENCIES.—

Establishment.

"(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section may be construed to exempt a qualified public housing agency from the requirement under paragraph (1) to establish 1 or more resident advisory boards. Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall consult with, and consider the recommendations of the resident advisory boards for the agency, at the annual public hearing required under subsection (f)(5), regarding any changes to the goals, objectives, and policies of that agency.

"(B) APPLICABILITY OF WAIVER AUTHORITY.—Paragraph (3) shall apply to qualified public housing agencies, except that for purposes of such qualified public housing agencies, subparagraph (B) of such paragraph shall be applied by substituting 'the functions described in the second sentence of paragraph (4)(A)' for 'the functions described in paragraph (2)'.

"(f) PUBLIC HEARINGS.—"; and

(2) in subsection (f) (as so designated by the amendment made by paragraph (1)), by adding at the end the following:

"(5) QUALIFIED PUBLIC HOUSING AGENCIES.—

"(A) REQUIREMENT.—Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to conduct a public hearing regarding the annual public housing plan of the agency, each qualified public housing agency shall annually conduct a public hearing—

"(i) to discuss any changes to the goals, objectives, and policies of the agency; and

Public comment.

"(ii) to invite public comment regarding such changes.

Deadline.

"(B) AVAILABILITY OF INFORMATION AND NOTICE.—Not later than 45 days before the date of any hearing described in subparagraph (A), a qualified public housing agency shall—

"(i) make all information relevant to the hearing and any determinations of the agency regarding changes to the goals, objectives, and policies of the agency to be considered at the hearing available for inspection by the public at the principal office of the public housing agency during normal business hours; and

"(ii) publish a notice informing the public that—

"(I) the information is available as required under clause (i); and

"(II) a public hearing under subparagraph (A) will be conducted.".

# TITLE VIII—HOUSING PRESERVATION

## Subtitle A—Preservation Under Federal Housing Programs

**SEC. 2801. CLARIFICATION OF DISPOSITION OF CERTAIN PROPERTIES.** Deadlines.

Notwithstanding any other provision of law, subtitle A of title II of the Deficit Reduction Act of 2005 (12 U.S.C. 1701z-11 note) and the amendments made by such title shall not apply to any transaction regarding a multifamily real property for which—

(1) the Secretary of Housing and Urban Development has received, before the date of the enactment of such Act, written expressions of interest in purchasing the property from both a city government and the housing commission of such city;

(2) after such receipt, the Secretary acquires title to the property at a foreclosure sale; and

(3) such city government and housing commission have resolved a previous disagreement with respect to the disposition of the property.

**SEC. 2802. ELIGIBILITY OF CERTAIN PROJECTS FOR ENHANCED VOUCHER ASSISTANCE.** Massachusetts. Disadvantaged persons.

Notwithstanding any other provision of law—

(1) the property known as The Heritage Apartments (FHA No. 023-44804), in Malden, Massachusetts, shall be considered eligible low-income housing for purposes of the eligibility of residents of the property for enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)), pursuant to paragraph (2)(A) of section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113(f)(2)(A));

(2) such residents shall receive enhanced rental housing vouchers upon the prepayment of the mortgage loan for the property under section 236 of the National Housing Act (12 U.S.C. 1715z-1); and

(3) the Secretary shall approve such prepayment and subsequent transfer of the property without any further condition, except that the property shall be restricted for occupancy, until the original maturity date of the prepaid mortgage loan, only by families with incomes not exceeding 80 percent of the adjusted median income for the area in which the property is located, as published by the Secretary. Public information.

Amounts for the enhanced vouchers pursuant to this section shall be provided under amounts appropriated for tenant-based rental assistance otherwise authorized under section 8(t) of the United States Housing Act of 1937.

**SEC. 2803. TRANSFER OF CERTAIN RENTAL ASSISTANCE CONTRACTS.**

(a) TRANSFER.—Subject to subsection (c) and notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall, at the request of the owner, transfer or authorize the transfer, of the contracts, restrictions, and debt described in subsection (b)— Ohio.

(1) on the housing that is owned or managed by Community Properties of Ohio Management Services LLC or an affiliate of Ohio Capital Corporation for Housing and located in Franklin

County, Ohio, to other properties located in Franklin County, Ohio; and

(2) on the housing that is owned or managed by The Model Group, Inc., and located in Hamilton County, Ohio, to other properties located in Hamilton County, Ohio.

(b) CONTRACTS, RESTRICTIONS, AND DEBT COVERED.—The contracts, restrictions, and debt described in this subsection are as follows:

(1) All or a portion of a project-based rental assistance housing assistance payments contract under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(2) Existing Federal use restrictions, including without limitation use agreements, regulatory agreements, and accommodation agreements.

(3) Any subordinate debt held by the Secretary or assigned and any mortgages securing such debt, all related loan and security documentation and obligations, and reserve and escrow balances.

(c) RETENTION OF SAME NUMBER OF UNITS AND AMOUNT OF ASSISTANCE.—Any transfer pursuant to subsection (a) shall result in—

(1) a total number of dwelling units (including units retained by the owners and units transferred) covered by assistance described in subsection (b)(1) after the transfer remaining the same as such number assisted before the transfer, with such increases or decreases in unit sizes as may be contained in a plan approved by a local planning or development commission or department; and

(2) no reduction in the total amount of the housing assistance payments under contracts described in subsection (b)(1).

**SEC. 2804. PUBLIC HOUSING DISASTER RELIEF.**

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(1) by striking subsection (k); and

(2) by redesignating subsections (l), (m), and (n) as subsections (k), (l), and (m), respectively.

California.

**SEC. 2805. PRESERVATION OF CERTAIN AFFORDABLE HOUSING.**

Notwithstanding any other provision of law—

(1) for the property known as Nihonmachi Terrace (FHA No. 121-44284), in San Francisco, California, upon the refinancing of the existing federally insured mortgage pursuant to section 236(b) of the National Housing Act (12 U.S.C. 1715z–1(b)), unassisted low and moderate-income residents of the property shall be deemed eligible for and shall receive voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)); and

(2) to preserve the affordability of the property, the housing authority shall utilize such additional voucher assistance pursuant to subsection 8(o)(13) of the United States Housing Act of 1937, without regard to the limitations of subparagraphs (B) and (D) of that subsection.

Amounts for the vouchers pursuant to this section shall be provided under amounts appropriated for tenant-based rental assistance otherwise authorized.

# Subtitle B—Coordination of Federal Housing Programs and Tax Incentives for Housing

Housing Tax Credit Coordination Act of 2008. Disadvantaged persons.

**SEC. 2831. SHORT TITLE.**

12 USC 1701 note.

This subtitle may be cited as the "Housing Tax Credit Coordination Act of 2008".

**SEC. 2832. APPROVALS BY DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.**

12 USC 1715s.

(a) ADMINISTRATIVE AND PROCEDURAL CHANGES.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall, not later than the expiration of the 6-month period beginning upon after the date of the enactment of this Act, implement administrative and procedural changes to expedite approval of multifamily housing projects under the jurisdiction of the Department of Housing and Urban Development that meet the requirements of the Secretary for such approvals.

Deadline.

(2) PROJECTS.—The multifamily housing projects referred to in paragraph (1) shall include—

(A) projects for which assistance is provided by such Department in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds; and

(B) existing public housing projects and assisted housing projects, for which approval of the Secretary is necessary for transactions, in conjunction with any such low-income housing tax credits or tax-exempt housing bonds, involving the preservation or rehabilitation of the project.

(3) CHANGES.—The administrative and procedural changes referred to in paragraph (1) shall include all actions necessary to carry out paragraph (1), which may include—

(A) improving the efficiency of approval procedures;

(B) simplifying approval requirements,

(C) establishing time deadlines or target deadlines for required approvals;

(D) modifying division of approval authority between field and national offices;

(E) improving outreach to project sponsors regarding information that is required to be submitted for such approvals;

(F) requesting additional funding for increasing staff, if necessary; and

(G) any other actions which would expedite approvals.

Any such changes shall be made in a manner that provides for full compliance with any existing requirements under law or regulation that are designed to protect families receiving public and assisted housing assistance, including income targeting, rent, and fair housing provisions, and shall also comply with requirements regarding environmental review and protection and wages paid to laborers.

(b) CONSULTATION.—The Secretary shall consult with the Commissioner of the Internal Revenue Service and take such actions

as are appropriate in conjunction with such consultation to simplify the coordination of rules, regulations, forms, and approval requirements for multifamily housing projects projects for which assistance is provided by such Department in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds.

(c) RECOMMENDATIONS.—In implementing the changes required under this section, the Secretary shall solicit recommendations regarding such changes from project owners and sponsors, investors and stakeholders in housing tax credits, State and local housing finance agencies, public housing agencies, tenant advocates, and other stakeholders in such projects.

Deadline.

(d) REPORT.—Not later than the expiration of the 9-month period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that—

(1) identifies the actions taken by the Secretary to comply with this section;

(2) includes information regarding any resulting improvements in the expedited approval for multifamily housing projects;

(3) identifies recommendations made pursuant to subsection (c);

(4) identifies actions taken by the Secretary to implement the provisions in the amendments made by sections 2834 and 2835 of this Act; and

(5) makes recommendations for any legislative changes that are needed to facilitate prompt approval of assistance for such projects.

**SEC. 2833. PROJECT APPROVALS BY RURAL HOUSING SERVICE.**

Section 515(h) of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(1) by inserting "(1) CONDITION.—" after "(h)"; and

(2) by adding at the end the following new paragraphs:

"(2) ACTIONS TO EXPEDITE PROJECT APPROVALS.—

"(A) IN GENERAL.—The Secretary shall take actions to facilitate timely approval of requests to transfer ownership or control, for the purpose of rehabilitation or preservation, of multifamily housing projects for which assistance is provided by the Secretary of Agriculture in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds.

"(B) CONSULTATION.—The Secretary of Agriculture shall consult with the Commissioner of the Internal Revenue Service and take such actions as are appropriate in conjunction with such consultation to simplify the coordination of rules, regulations, forms (including applications forms for project transfers), and approval requirements multifamily housing projects for which assistance is provided by the Secretary of Agriculture in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds.

"(C) EXISTING REQUIREMENTS.—Any actions taken pursuant to this paragraph shall be taken in a manner that provides for full compliance with any existing requirements under law or regulation that are designed to protect families receiving Federal housing assistance, including income targeting, rent, and fair housing provisions, and shall also comply with requirements regarding environmental review and protection and wages paid to laborers.

"(D) RECOMMENDATIONS.—In implementing the changes required under this paragraph, the Secretary shall solicit recommendations regarding such changes from project owners and sponsors, investors and stakeholders in housing tax credits, State and local housing finance agencies, tenant advocates, and other stakeholders in such projects.".

**SEC. 2834. USE OF FHA LOANS WITH HOUSING TAX CREDITS.**

(a) SUBSIDY LAYERING REQUIREMENTS.—Subsection (d) of section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) is amended—

(1) in the first sentence, by inserting after "assistance within the jurisdiction of the Department" the following: ", as such term is defined in subsection (m), except that for purposes of this subsection such term shall not include any mortgage insurance provided pursuant to title II of the National Housing Act (12 U.S.C. 1707 et seq.)"; and

(2) in the second sentence, by inserting "such" before "assistance".

(b) COST CERTIFICATION.—Section 227 of National Housing Act (12 U.S.C. 1715r) is amended—

(1) in the matter preceding paragraph (a) (relating to a definition of "new or rehabilitated multifamily housing")—

(A) in the first sentence—

(i) by striking "Notwithstanding" and inserting "Except as provided in subsection (b) and notwithstanding"; and

(ii) by redesignating clauses (a) and (b) as clauses (A) and (B), respectively; and

(B) by striking "As used in this section—";

(2) in paragraph (c) (relating to a definition of "actual cost")—

(A) in clause (i), by redesignating clauses (1) and (2) as clauses (I) and (II), respectively; and

(B) in clause (ii), by redesignating clauses (1) and (2) as clauses (I) and (II), respectively;

(3) by redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively;

(4) by inserting before paragraph (1) (as so redesignated by paragraph (3) of this subsection) the following:

"(b) EXEMPTION FOR CERTAIN PROJECTS ASSISTED WITH LOW-INCOME HOUSING TAX CREDIT.—In the case of any mortgage insured under any provision of this title that is executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity provided through any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42), if the Secretary determines at the time of issuance of the firm commitment for

insurance that the ratio of the loan proceeds to the actual cost of the project is less than 80 percent, subsection (a) of this section shall not apply.

"(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:"; and

(5) by inserting "(a) REQUIREMENT.—" after "227.".

(c) OTHER PROVISIONS REGARDING TREATMENT OF MORTGAGES COVERING TAX CREDIT PROJECTS.—Title II of the National Housing Act is amended by inserting after section 227 (12 U.S.C. 1715r) the following new section:

12 USC 1715s.

**"SEC. 228. TREATMENT OF MORTGAGES COVERING TAX CREDIT PROJECTS.**

"(a) DEFINITION.—For purposes of this section, the term 'insured mortgage covering a tax credit project' means a mortgage insured under any provision of this title that is executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity provided through any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42).

"(b) ACCEPTANCE OF LETTERS OF CREDIT.—In the case of an insured mortgage covering a tax credit project, the Secretary may not require the escrowing of equity provided by the sale of any low-income housing tax credits for the project pursuant to section 42 of the Internal Revenue Code of 1986, or any other form of security, such as a letter of credit.

"(c) ASSET MANAGEMENT REQUIREMENTS.—In the case of an insured mortgage covering a tax credit project for which project the applicable tax credit allocating agency is causing to be performed periodic inspections in compliance with the requirements of section 42 of the Internal Revenue Code of 1986, such project shall be exempt from requirements imposed by the Secretary regarding periodic inspections of the property by the mortgagee. To the extent that other compliance monitoring is being performed with respect to such a project by such an allocating agency pursuant to such section 42, the Secretary shall, to the extent that the Secretary determines such monitoring is sufficient to ensure compliance with any requirements established by the Secretary, accept such agency's evidence of compliance for purposes of determining compliance with the Secretary's requirements.

"(d) STREAMLINED PROCESSING PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a pilot program to demonstrate the effectiveness of streamlining the review process, which shall include all applications for mortgage insurance under any provision of this title for mortgages executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity provided through any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986. The Secretary shall issue instructions for implementing the pilot program under this subsection not later than the expiration of the 180-day period beginning upon the date of the enactment of the Housing Tax Credit Coordination Act of 2008.

Intructions.
Deadline.

"(2) REQUIREMENTS.—Such pilot program shall provide for—

"(A) the Secretary to appoint designated underwriters, who shall be responsible for reviewing such mortgage insurance applications and making determinations regarding the eligibility of such applications for such mortgage insurance in lieu of the processing functions regarding such applications that are otherwise performed by other employees of the Department of Housing and Urban Development;

"(B) submission of applications for such mortgage insurance by mortgagees who have previously been expressly approved by the Secretary; and

"(C) determinations regarding the eligibility of such applications for such mortgage insurance to be made by the chief underwriter pursuant to requirements prescribed by the Secretary, which shall include requiring submission of reports regarding applications of proposed mortgagees by third-party entities expressly approved by the chief underwriter.". Reports.

**SEC. 2835. OTHER HUD PROGRAMS.**

(a) SECTION 8 ASSISTANCE.—

(1) PHA PROJECT-BASED ASSISTANCE.—Section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) is amended—

(A) in subparagraph (D)(i)—

(i) by striking "building" and inserting "project"; and

(ii) by adding at the end the following: "For purposes of this subparagraph, the term"project" means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land."; Definition.

(B) in the first sentence of subparagraph (F), by striking "10 years" and inserting "15 years";

(C) in subparagraph (G)—

(i) by inserting after the period at the end of the first sentence the following: "Such contract may, at the election of the public housing agency and the owner of the structure, specify that such contract shall be extended for renewal terms of up to 15 years each, if the agency makes the determination required by this subparagraph and the owner is in compliance with the terms of the contract."; and

(ii) by adding at the end the following: "A public housing agency may agree to enter into such a contract at the time it enters into the initial agreement for a housing assistance payment contract or at any time thereafter that is before the expiration of the housing assistance payment contract.";

(D) in subparagraph (H), by inserting before the period at the end of the first sentence the following: ", except that in the case of a contract unit that has been allocated low-income housing tax credits and for which the rent limitation pursuant to such section 42 is less than the amount that would otherwise be permitted under this subparagraph, the rent for such unit may, in the sole discretion of a public housing agency, be established at the higher section 8 rent, subject only to paragraph (10)(A)";

(E) in subparagraph (I)(i), by inserting before the semicolon the following: ", except that the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the unit"; and

(F) by adding at the end the following new subparagraphs:

"(L) USE IN COOPERATIVE HOUSING AND ELEVATOR BUILDINGS.—A public housing agency may enter into a housing assistance payments contract under this paragraph with respect to—

"(i) dwelling units in cooperative housing; and

"(ii) notwithstanding subsection (c), dwelling units in a high-rise elevator project, including such a project that is occupied by families with children, without review and approval of the contract by the Secretary.

"(M) REVIEWS.—

"(i) SUBSIDY LAYERING.—A subsidy layering review in accordance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall not be required for assistance under this paragraph in the case of a housing assistance payments contract for an existing structure, or if a subsidy layering review has been conducted by the applicable State or local agency.

"(ii) ENVIRONMENTAL REVIEW.—A public housing agency shall not be required to undertake any environmental review before entering into a housing assistance payments contract under this paragraph for an existing structure, except to the extent such a review is otherwise required by law or regulation.".

(2) VOUCHER PROGRAM RENT REASONABLENESS.—Section 8(o)(10) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(10)) is amended by adding at the end the following new subparagraph;

"(F) TAX CREDIT PROJECTS.—In the case of a dwelling unit receiving tax credits pursuant to section 42 of the Internal Revenue Code of 1986 or for which assistance is provided under subtitle A of title II of the Cranston Gonzalez National Affordable Housing Act of 1990, for which a housing assistance contract not subject to paragraph (13) of this subsection is established, rent reasonableness shall be determined as otherwise provided by this paragraph, except that—

"(i) comparison with rent for units in the private, unassisted local market shall not be required if the rent is equal to or less than the rent for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

"(ii) the rent shall not be considered reasonable for purposes of this paragraph if it exceeds the greater of—

"(I) the rents charged for other comparable units receiving such tax credits or assistance in

the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

"(II) the payment standard established by the public housing agency for a unit of the size involved.".

(b) SECTION 202 HOUSING FOR ELDERLY PERSONS.—Subsection (f) of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q(f)) is amended—

(1) by striking "SELECTION CRITERIA.—" and inserting "INITIAL SELECTION CRITERIA AND PROCESSING.— (1) SELECTION CRITERIA.—";

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively; and

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

"(2) DELEGATED PROCESSING.—

"(A) In issuing a capital advance under this subsection for any project for which financing for the purposes described in the last two sentences of subsection (b) is provided by a combination of a capital advance under subsection (c)(1) and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that— Deadlines.

"(i) is in geographic proximity to the property;

"(ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;

"(iii) may or may not be providing low-income housing tax credits in combination with the capital advance under this section, and

"(iv) agrees to issue a firm commitment within 12 months of delegation.

"(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency has applied to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

"(C) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

"(D) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in capital Deadline.

advance amounts or project rental assistance and such reductions shall be subject to appeal.".

(c) MCKINNEY-VENTO ACT HOMELESS ASSISTANCE UNDER SHELTER PLUS CARE PROGRAM.—

(1) TERM OF CONTRACTS WITH OWNER OR LESSOR.—Part I of subtitle F of the McKinney-Vento Homeless Assistance Act is amended—

(A) by redesignating sections 462 and 463 (42 U.S.C. 11403g, 11403h) as sections 463 and 464, respectively;

(B) by striking "section 463" each place such term appears in sections 471, 476, 481, 486, and 488 (42 U.S.C. 11404, 11405, 11406, 11407, and 11407b) and inserting "section 464"; and

(C) by inserting after section 461 (42 U.S.C. 11403f) the following new section:

42 USC 11403f–1.

**"SEC. 462. TERM OF CONTRACT WITH OWNER OR LESSOR.**

"An applicant under this subtitle may enter into a contract with the owner or lessor of a property that receives rental assistance under this subtitle having a term of not more than 15 years, subject to the availability of sufficient funds provided in appropriation Acts for the purpose of renewing expiring contracts for assistance payments. Such contract may, at the election of the applicant and owner or lessor, specify that such contract shall be extended for renewal terms of not more than 15 years each, subject to the availability of sufficient such appropriated funds.".

Termination date. Extension. 42 USC 11405b.

(2) PROJECT-BASED RENTAL ASSISTANCE CONTRACTS.—Section 478(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11405a(a)) is amended by inserting before the period at the end the following: "; except that, in the case of any project for which equity is provided through any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42), if an expenditure of such amount for each unit (including the prorated share of such work) is required to make the structure decent, safe, and sanitary, and the owner agrees to reach initial closing on permanent financing from such other sources within two years and agrees to carry out the rehabilitation with resources other than assistance under this subtitle within 60 months of notification of grant approval, the contract shall be for a term of 10 years (except that such period may be extended by up to 1 year by the Secretary, which extension shall be granted unless the Secretary determines that the sponsor is primarily responsible for the failure to meet such deadline)".

(d) DATA COLLECTION ON TENANTS OF HOUSING TAX CREDIT PROJECTS.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

42 USC 1437z–8.

**"SEC. 36. COLLECTION OF INFORMATION ON TENANTS IN TAX CREDIT PROJECTS.**

Deadline.

"(a) IN GENERAL.—Each State agency administering tax credits under section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) shall furnish to the Secretary of Housing and Urban Development, not less than annually, information concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the United States Housing Act of 1937 or

other similar assistance, disability status, and monthly rental payments of households residing in each property receiving such credits through such agency. Such State agencies shall, to the extent feasible, collect such information through existing reporting processes and in a manner that minimizes burdens on property owners. In the case of any household that continues to reside in the same dwelling unit, information provided by the household in a previous year may be used if the information is of a category that is not subject to change or if information for the current year is not readily available to the owner of the property. Reports.

"(b) STANDARDS.—The Secretary shall establish standards and definitions for the information collected under subsection (a), provide States with technical assistance in establishing systems to compile and submit such information, and, in coordination with other Federal agencies administering housing programs, establish procedures to minimize duplicative reporting requirements for properties assisted under multiple housing programs.

"(c) PUBLIC AVAILABILITY.—The Secretary shall, not less than annually, compile and make publicly available the information submitted to the Secretary pursuant to subsection (a). Deadline.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the cost of activities required under subsections (b) and (c) $2,500,000 for fiscal year 2009 and $900,000 for each of fiscal years 2010 through 2013.".

# TITLE IX—MISCELLANEOUS

**SEC. 2901. HOMELESS ASSISTANCE.**

(a) APPROPRIATIONS.—Section 726 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11435) is amended by striking "$70,000,000" and all that follows and inserting "$100,000,000 for fiscal year 2009 and such sums as may be necessary for each subsequent fiscal year.".

(b) EMERGENCY ASSISTANCE.—Section 722 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432) is amended by adding at the end the following:

"(h) SPECIAL RULE FOR EMERGENCY ASSISTANCE.—

"(1) EMERGENCY ASSISTANCE.—

"(A) RESERVATION OF AMOUNTS.—Subject to paragraph (4) and notwithstanding any other provision of this title, the Secretary shall use funds appropriated under section 726 for fiscal year 2009, but not to exceed $30,000,000, for the purposes of providing emergency assistance through grants.

"(B) GENERAL AUTHORITY.—The Secretary shall use the funds to make grants to State educational agencies under paragraph (2), to enable the agencies to make subgrants to local educational agencies under paragraph (3), to provide activities described in section 723(d) for individuals referred to in subparagraph (C). State and local governments. Grants.

"(C) ELIGIBLE INDIVIDUALS.—Funds made available under this subsection shall be used to provide such activities for eligible individuals, consisting of homeless children and youths, and their families, who have become homeless due to home foreclosure, including children and youths,

and their families, who became homeless when lenders foreclosed on properties rented by the families.

"(2) GRANTS TO STATE EDUCATIONAL AGENCIES.—

"(A) DISBURSEMENT.—The Secretary shall make grants with funds provided under paragraph (1)(A) to State educational agencies based on need, consistent with the number of eligible individuals described in paragraph (1)(C) in the States involved, as determined by the Secretary.

"(B) ASSURANCE.—To be eligible to receive a grant under this paragraph, a State educational agency shall provide an assurance to the Secretary that the State educational agency, and each local educational agency receiving a subgrant from the State educational agency under this subsection shall ensure that the activities carried out under this subsection are consistent with the activities described in section 723(d).

"(3) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—A State educational agency that receives a grant under paragraph (2) shall use the funds made available through the grant to make subgrants to local educational agencies. The State educational agency shall make the subgrants to local educational agencies based on need, consistent with the number of eligible individuals described in paragraph (1)(C) in the areas served by the local educational agencies, as determined by the State educational agency.

"(4) RESTRICTION.—The Secretary—

"(A) shall determine the amount (if any) by which the funds appropriated under section 726 for fiscal year 2009 exceed $70,000,000; and

"(B) may only use funds from that amount to carry out this subsection.".

12 USC 1701z–17.

**SEC. 2902. INCREASING ACCESS AND UNDERSTANDING OF ENERGY EFFICIENT MORTGAGES.**

(a) DEFINITION.—As used in this section, the term "energy efficient mortgage" has the same meaning as given that term in paragraph (24) of section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(24)).

(b) RECOMMENDATIONS TO ELIMINATE BARRIERS TO USE OF ENERGY EFFICIENT MORTGAGES.—

Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of Housing and Urban Development, in conjunction with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall consult with the residential mortgage industry and States to develop recommendations to eliminate the barriers that exist to increasing the availability, use, and purchase of energy efficient mortgages, including such barriers as—

(A) the lack of reliable and accessible information on such mortgages, including estimated energy savings and other benefits of energy efficient housing;

(B) the confusion regarding underwriting requirements and differences among various energy efficient mortgage programs;

(C) the complex and time consuming process of securing such mortgages;

(D) the lack of publicly available research on the default risk of such mortgages; and

(E) the availability of certified or accredited home energy rating services.

(2) REPORT TO CONGRESS.—The Secretary of Housing and Urban Development shall submit a report to Congress that—

(A) summarizes the recommendations developed under paragraph (1); and

(B) includes any recommendations for statutory, regulatory, or administrative changes that the Secretary deems necessary to institute such recommendations.

(c) ENERGY EFFICIENT MORTGAGES OUTREACH CAMPAIGN.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development, in consultation and coordination with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and State Energy and Housing Finance Directors, shall carry out an education and outreach campaign to inform and educate consumers, home builders, residential lenders, and other real estate professionals on the availability, benefits, and advantages of—

(A) improved energy efficiency in housing; and

(B) energy efficient mortgages.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the education and outreach campaign described under paragraph (1).

# DIVISION C—TAX-RELATED PROVISIONS

Housing Assistance Tax Act of 2008. 26 USC 1 note.

**SEC. 3000. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This division may be cited as the "Housing Assistance Tax Act of 2008".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 3000. Short title; etc.

TITLE I—HOUSING TAX INCENTIVES

Subtitle A—Multi-Family Housing

PART I—LOW-INCOME HOUSING TAX CREDIT

Sec. 3001. Temporary increase in volume cap for low-income housing tax credit.
Sec. 3002. Determination of credit rate.
Sec. 3003. Modifications to definition of eligible basis.
Sec. 3004. Other simplification and reform of low-income housing tax incentives.
Sec. 3005. Treatment of military basic pay.

PART II—MODIFICATIONS TO TAX-EXEMPT HOUSING BOND RULES

Sec. 3007. Recycling of tax-exempt debt for financing residential rental projects.
Sec. 3008. Coordination of certain rules applicable to low-income housing credit and qualified residential rental project exempt facility bonds.

PART III—REFORMS RELATED TO THE LOW-INCOME HOUSING CREDIT AND TAX-EXEMPT HOUSING BONDS

Sec. 3009. Hold harmless for reductions in area median gross income.

Sec. 3010. Exception to annual current income determination requirement where determination not relevant.

Subtitle B—Single Family Housing

Sec. 3011. First-time homebuyer credit.
Sec. 3012. Additional standard deduction for real property taxes for nonitemizers.

Subtitle C—General Provisions

Sec. 3021. Temporary liberalization of tax-exempt housing bond rules.
Sec. 3022. Repeal of alternative minimum tax limitations on tax-exempt housing bonds, low-income housing tax credit, and rehabilitation credit.
Sec. 3023. Bonds guaranteed by Federal home loan banks eligible for treatment as tax-exempt bonds.
Sec. 3024. Modification of rules pertaining to FIRPTA nonforeign affidavits.
Sec. 3025. Modification of definition of tax-exempt use property for purposes of the rehabilitation credit.
Sec. 3026. Extension of special rule for mortgage revenue bonds for residences located in disaster areas.
Sec. 3027. Transfer of funds appropriated to carry out 2008 recovery rebates for individuals.

TITLE II—REFORMS RELATED TO REAL ESTATE INVESTMENT TRUSTS

Subtitle A—Foreign Currency and Other Qualified Activities

Sec. 3031. Revisions to REIT income tests.
Sec. 3032. Revisions to REIT asset tests.
Sec. 3033. Conforming foreign currency revisions.

Subtitle B—Taxable REIT Subsidiaries

Sec. 3041. Conforming taxable REIT subsidiary asset test.

Subtitle C—Dealer Sales

Sec. 3051. Holding period under safe harbor.
Sec. 3052. Determining value of sales under safe harbor.

Subtitle D—Health Care REITs

Sec. 3061. Conformity for health care facilities.

Subtitle E—Effective Dates

Sec. 3071. Effective dates.

TITLE III—REVENUE PROVISIONS

Subtitle A—General Provisions

Sec. 3081. Election to accelerate the AMT and research credits in lieu of bonus depreciation.
Sec. 3082. Certain GO Zone incentives.
Sec. 3083. Increase in statutory limit on the public debt.

Subtitle B—Revenue Offsets

Sec. 3091. Returns relating to payments made in settlement of payment card and third party network transactions.
Sec. 3092. Gain from sale of principal residence allocated to nonqualified use not excluded from income.
Sec. 3093. Delay in application of worldwide allocation of interest.
Sec. 3094. Time for payment of corporate estimated taxes.

# TITLE I—HOUSING TAX INCENTIVES

## Subtitle A—Multi-Family Housing

### PART I—LOW-INCOME HOUSING TAX CREDIT

#### SEC. 3001. TEMPORARY INCREASE IN VOLUME CAP FOR LOW-INCOME HOUSING TAX CREDIT.

Paragraph (3) of section 42(h) is amended by adding at the end the following new subparagraph:

"(I) INCREASE IN STATE HOUSING CREDIT CEILING FOR 2008 AND 2009.—In the case of calendar years 2008 and 2009—

"(i) the dollar amount in effect under subparagraph (C)(ii)(I) for such calendar year (after any increase under subparagraph (H)) shall be increased by $0.20, and

"(ii) the dollar amount in effect under subparagraph (C)(ii)(II) for such calendar year (after any increase under subparagraph (H)) shall be increased by an amount equal to 10 percent of such dollar amount (rounded to the next lowest multiple of $5,000).".

**SEC. 3002. DETERMINATION OF CREDIT RATE.**

(a) TEMPORARY MINIMUM CREDIT RATE FOR NON-FEDERALLY SUBSIDIZED NEW BUILDINGS.—

(1) IN GENERAL.—Subsection (b) of section 42 is amended by striking paragraph (1), by redesignating paragraph (2) as paragraph (1), and by inserting after paragraph (1), as so redesignated, the following new paragraph:

"(2) TEMPORARY MINIMUM CREDIT RATE FOR NON-FEDERALLY SUBSIDIZED NEW BUILDINGS.—In the case of any new building—

"(A) which is placed in service by the taxpayer after the date of the enactment of this paragraph and before December 31, 2013, and

"(B) which is not federally subsidized for the taxable year,

the applicable percentage shall not be less than 9 percent.".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 42, as amended by paragraph (1), is amended by striking "For purposes of this section—" and all that follows through "means the appropriate" and inserting the following:

"(1) DETERMINATION OF APPLICABLE PERCENTAGE.—For purposes of this section, the term 'applicable percentage' means, with respect to any building, the appropriate".

(B) Clause (i) of section 42(b)(1)(B), as redesignated by paragraph (1), is amended by striking "a building described in paragraph (1)(A)" and inserting "a new building which is not federally subsidized for the taxable year".

(C) Clause (ii) of section 42(b)(1)(B), as redesignated by paragraph (1), is amended by striking "a building described in paragraph (1)(B)" and inserting "a building not described in clause (i)".

(b) MODIFICATIONS TO DEFINITION OF FEDERALLY SUBSIDIZED BUILDING.—

(1) IN GENERAL.—Subparagraph (A) of section 42(i)(2) is amended by striking ", or any below market Federal loan,".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 42(i)(2) is amended—

(i) by striking "BALANCE OF LOAN OR" in the heading thereof,

(ii) by striking "loan or" in the matter preceding clause (i), and

(iii) by striking "subsection (d)—" and all that follows and inserting "subsection (d) the proceeds of such obligation.".

(B) Subparagraph (C) of section 42(i)(2) is amended—

(i) by striking "or below market Federal loan" in the matter preceding clause (i),

(ii) in clause (i)—

(I) by striking "or loan (when issued or made)" and inserting "(when issued)", and

(II) by striking "the proceeds of such obligation or loan" and inserting "the proceeds of such obligation", and

(iii) by striking ", and such loan is repaid," in clause (ii).

(C) Paragraph (2) of section 42(i) is amended by striking subparagraphs (D) and (E).

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to buildings placed in service after the date of the enactment of this Act.

**SEC. 3003. MODIFICATIONS TO DEFINITION OF ELIGIBLE BASIS.**

(a) INCREASE IN CREDIT FOR CERTAIN STATE DESIGNATED BUILDINGS.—Subparagraph (C) of section 42(d)(5) (relating to increase in credit for buildings in high cost areas), before redesignation under subsection (g), is amended by adding at the end the following new clause:

"(v) BUILDINGS DESIGNATED BY STATE HOUSING CREDIT AGENCY.—Any building which is designated by the State housing credit agency as requiring the increase in credit under this subparagraph in order for such building to be financially feasible as part of a qualified low-income housing project shall be treated for purposes of this subparagraph as located in a difficult development area which is designated for purposes of this subparagraph. The preceding sentence shall not apply to any building if paragraph (1) of subsection (h) does not apply to any portion of the eligible basis of such building by reason of paragraph (4) of such subsection.".

(b) MODIFICATION TO REHABILITATION REQUIREMENTS.—

(1) IN GENERAL.—Clause (ii) of section 42(e)(3)(A) is amended—

(A) by striking "10 percent" in subclause (I) and inserting "20 percent", and

(B) by striking "$3,000" in subclause (II) and inserting "$6,000".

(2) INFLATION ADJUSTMENT.—Paragraph (3) of section 42(e) is amended by adding at the end the following new subparagraph:

"(D) INFLATION ADJUSTMENT.—In the case of any expenditures which are treated under paragraph (4) as placed in service during any calendar year after 2009, the $6,000 amount in subparagraph (A)(ii)(II) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase under the preceding sentence which is not a multiple of $100 shall be rounded to the nearest multiple of $100.".

(3) CONFORMING AMENDMENT.—Subclause (II) of section 42(f)(5)(B)(ii) is amended by striking "if subsection (e)(3)(A)(ii)(II)" and all that follows and inserting "if the dollar amount in effect under subsection (e)(3)(A)(ii)(II) were two-thirds of such amount.".

(c) INCREASE IN ALLOWABLE COMMUNITY SERVICE FACILITY SPACE FOR SMALL PROJECTS.—Clause (ii) of section 42(d)(4)(C) (relating to limitation) is amended by striking "10 percent of the eligible basis of the qualified low-income housing project of which it is a part. For purposes of" and inserting "the sum of—

"(I) 25 percent of so much of the eligible basis of the qualified low-income housing project of which it is a part as does not exceed $15,000,000, plus

"(II) 10 percent of so much of the eligible basis of such project as is not taken into account under subclause (I).

For purposes of".

(d) CLARIFICATION OF TREATMENT OF FEDERAL GRANTS.—Subparagraph (A) of section 42(d)(5) is amended to read as follows:

"(A) FEDERAL GRANTS NOT TAKEN INTO ACCOUNT IN DETERMINING ELIGIBLE BASIS.—The eligible basis of a building shall not include any costs financed with the proceeds of a federally funded grant.".

(e) SIMPLIFICATION OF RELATED PARTY RULES.—Clause (iii) of section 42(d)(2)(D), before redesignation under subsection (g)(2), is amended—

(1) by striking all that precedes subclause (II),

(2) by redesignating subclause (II) as clause (iii) and moving such clause two ems to the left, and

(3) by striking the last sentence thereof.

(f) EXCEPTION TO 10-YEAR NONACQUISITION PERIOD FOR EXISTING BUILDINGS APPLICABLE TO FEDERALLY- OR STATE-ASSISTED BUILDINGS.—Paragraph (6) of section 42(d) is amended to read as follows:

"(6) CREDIT ALLOWABLE FOR CERTAIN BUILDINGS ACQUIRED DURING 10-YEAR PERIOD DESCRIBED IN PARAGRAPH (2)(B)(ii).—

"(A) IN GENERAL.—Paragraph (2)(B)(ii) shall not apply to any federally- or State-assisted building.

"(B) BUILDINGS ACQUIRED FROM INSURED DEPOSITORY INSTITUTIONS IN DEFAULT.—On application by the taxpayer, the Secretary may waive paragraph (2)(B)(ii) with respect to any building acquired from an insured depository institution in default (as defined in section 3 of the Federal Deposit Insurance Act) or from a receiver or conservator of such an institution.

"(C) FEDERALLY- OR STATE-ASSISTED BUILDING.—For purposes of this paragraph—

"(i) FEDERALLY-ASSISTED BUILDING.—The term 'federally-assisted building' means any building which is

substantially assisted, financed, or operated under section 8 of the United States Housing Act of 1937, section 221(d)(3), 221(d)(4), or 236 of the National Housing Act, section 515 of the Housing Act of 1949, or any other housing program administered by the Department of Housing and Urban Development or by the Rural Housing Service of the Department of Agriculture.

"(ii) STATE-ASSISTED BUILDING.—The term 'State-assisted building' means any building which is substantially assisted, financed, or operated under any State law similar in purposes to any of the laws referred to in clause (i).".

(g) REPEAL OF DEADWOOD.—

(1) Clause (ii) of section 42(d)(2)(B) is amended by striking "the later of—" and all that follows and inserting "the date the building was last placed in service,".

(2) Subparagraph (D) of section 42(d)(2) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(3) Paragraph (5) of section 42(d) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the amendments made by this subsection shall apply to buildings placed in service after the date of the enactment of this Act.

26 USC 42 note.

(2) REHABILITATION REQUIREMENTS.—

(A) IN GENERAL.—The amendments made by subsection (b) shall apply to buildings with respect to which housing credit dollar amounts are allocated after the date of the enactment of this Act.

(B) BUILDINGS NOT SUBJECT TO ALLOCATION LIMITS.—To the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof, the amendments made by subsection (b) shall apply buildings financed with bonds issued pursuant to allocations made after the date of the enactment of this Act.

**SEC. 3004. OTHER SIMPLIFICATION AND REFORM OF LOW-INCOME HOUSING TAX INCENTIVES.**

(a) REPEAL PROHIBITION ON MODERATE REHABILITATION ASSISTANCE.—Paragraph (2) of section 42(c) (defining qualified low-income building) is amended by striking the flush sentence at the end.

(b) MODIFICATION OF TIME LIMIT FOR INCURRING 10 PERCENT OF PROJECT'S COST.—Clause (ii) of section 42(h)(1)(E) is amended by striking "(as of the later of the date which is 6 months after the date that the allocation was made or the close of the calendar year in which the allocation is made)" and inserting "(as of the date which is 1 year after the date that the allocation was made)".

(c) REPEAL OF BONDING REQUIREMENT ON DISPOSITION OF BUILDING.—Paragraph (6) of section 42(j) (relating to no recapture on disposition of building (or interest therein) where bond posted) is amended to read as follows:

"(6) NO RECAPTURE ON DISPOSITION OF BUILDING WHICH CONTINUES IN QUALIFIED USE.—

"(A) IN GENERAL.—The increase in tax under this subsection shall not apply solely by reason of the disposition of a building (or an interest therein) if it is reasonably expected that such building will continue to be operated as a qualified low-income building for the remaining compliance period with respect to such building.

"(B) STATUTE OF LIMITATIONS.—If a building (or an interest therein) is disposed of during any taxable year and there is any reduction in the qualified basis of such building which results in an increase in tax under this subsection for such taxable or any subsequent taxable year, then—

Notification.

"(i) the statutory period for the assessment of any deficiency with respect to such increase in tax shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of such reduction in qualified basis, and

"(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(d) ENERGY EFFICIENCY AND HISTORIC NATURE TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.—Subparagraph (C) of section 42(m)(1) (relating to plans for allocation of credit among projects) is amended by striking "and" at the end of clause (vii), by striking the period at the end of clause (viii) and inserting a comma, and by adding at the end the following new clauses:

"(ix) the energy efficiency of the project, and

"(x) the historic nature of the project.".

(e) CONTINUED ELIGIBILITY FOR STUDENTS WHO RECEIVED FOSTER CARE ASSISTANCE.—Clause (i) of section 42(i)(3)(D) is amended by striking "or" at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

"(II) a student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act, or".

(f) TREATMENT OF RURAL PROJECTS.—Section 42(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) TREATMENT OF RURAL PROJECTS.—For purposes of this section, in the case of any project for residential rental property located in a rural area (as defined in section 520 of the Housing Act of 1949), any income limitation measured by reference to area median gross income shall be measured by reference to the greater of area median gross income or national nonmetropolitan median income. The preceding sentence shall not apply with respect to any building if paragraph (1) of section 42(h) does not apply by reason of paragraph (4) thereof to any portion of the credit determined under this section with respect to such building.".

(g) CLARIFICATION OF GENERAL PUBLIC USE REQUIREMENT.—Subsection (g) of section 42 is amended by adding at the end the following new paragraph:

"(9) CLARIFICATION OF GENERAL PUBLIC USE REQUIREMENT.—A project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants—

"(A) with special needs,

"(B) who are members of a specified group under a Federal program or State program or policy that supports housing for such a specified group, or

"(C) who are involved in artistic or literary activities.".

Deadline. Reports.

(h) GAO STUDY REGARDING MODIFICATIONS TO LOW-INCOME HOUSING TAX CREDIT.—Not later than December 31, 2012, the Comptroller General of the United States shall submit to Congress a report which analyzes the implementation of the modifications made by this subtitle to the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986. Such report shall include an analysis of the distribution of credit allocations before and after the effective date of such modifications.

26 USC 42 note.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to buildings placed in service after the date of the enactment of this Act.

(2) REPEAL OF BONDING REQUIREMENT ON DISPOSITION OF BUILDING.—The amendment made by subsection (c) shall apply to—

(A) interests in buildings disposed after the date of the enactment of this Act, and

(B) interests in buildings disposed of on or before such date if—

(i) it is reasonably expected that such building will continue to be operated as a qualified low-income building (within the meaning of section 42 of the Internal Revenue Code of 1986) for the remaining compliance period (within the meaning of such section) with respect to such building, and

(ii) the taxpayer elects the application of this subparagraph with respect to such disposition.

Applicability.

(3) ENERGY EFFICIENCY AND HISTORIC NATURE TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.—The amendments made by subsection (d) shall apply to allocations made after December 31, 2008.

(4) CONTINUED ELIGIBILITY FOR STUDENTS WHO RECEIVED FOSTER CARE ASSISTANCE.—The amendments made by subsection (e) shall apply to determinations made after the date of the enactment of this Act.

(5) TREATMENT OF RURAL PROJECTS.—The amendment made by subsection (f) shall apply to determinations made after the date of the enactment of this Act.

(6) CLARIFICATION OF GENERAL PUBLIC USE REQUIREMENT.—The amendment made by subsection (g) shall apply to buildings placed in service before, on, or after the date of the enactment of this Act.

**SEC. 3005. TREATMENT OF MILITARY BASIC PAY.**

(a) IN GENERAL.—Subparagraph (B) of section 142(d)(2) (relating to income of individuals; area median gross income) is amended—

(1) by striking "The income" and inserting the following:

"(i) IN GENERAL.—The income", and

(2) by adding at the end the following:

"(ii) SPECIAL RULE RELATING TO BASIC HOUSING ALLOWANCES.—For purposes of determining income under this subparagraph, payments under section 403 of title 37, United States Code, as a basic pay allowance for housing shall be disregarded with respect to any qualified building.

"(iii) QUALIFIED BUILDING.—For purposes of clause (ii), the term 'qualified building' means any building located—

"(I) in any county in which is located a qualified military installation to which the number of members of the Armed Forces of the United States assigned to units based out of such qualified military installation, as of June 1, 2008, has increased by not less than 20 percent, as compared to such number on December 31, 2005, or

"(II) in any county adjacent to a county described in subclause (I).

"(iv) QUALIFIED MILITARY INSTALLATION.—For purposes of clause (iii), the term 'qualified military installation' means any military installation or facility the number of members of the Armed Forces of the United States assigned to which, as of June 1, 2008, is not less than 1,000.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to— 26 USC 142 note.

(1) determinations made after the date of the enactment of this Act and before January 1, 2012, in the case of any qualified building (as defined in section 142(d)(2)(B)(iii) of the Internal Revenue Code of 1986)—

(A) with respect to which housing credit dollar amounts have been allocated on or before the date of the enactment of this Act, or

(B) with respect to buildings placed in service before such date of enactment, to the extent paragraph (1) of section 42(h) of such Code does not apply to such building by reason of paragraph (4) thereof, but only with respect to bonds issued before such date of enactment, and

(2) determinations made after the date of enactment of this Act, in the case of qualified buildings (as so defined)—

(A) with respect to which housing credit dollar amounts are allocated after the date of the enactment of this Act and before January 1, 2012, or

(B) with respect to which buildings placed in service after the date of enactment of this Act and before January 1, 2012, to the extent paragraph (1) of section 42(h) of such Code does not apply to such building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date of enactment and before January 1, 2012.

# PART II—MODIFICATIONS TO TAX-EXEMPT HOUSING BOND RULES

## SEC. 3007. RECYCLING OF TAX-EXEMPT DEBT FOR FINANCING RESIDENTIAL RENTAL PROJECTS.

(a) IN GENERAL.—Subsection (i) of section 146 (relating to treatment of refunding issues) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF CERTAIN RESIDENTIAL RENTAL PROJECT BONDS AS REFUNDING BONDS IRRESPECTIVE OF OBLIGOR.—

"(A) IN GENERAL.—If, during the 6-month period beginning on the date of a repayment of a loan financed by an issue 95 percent or more of the net proceeds of which are used to provide projects described in section 142(d), such repayment is used to provide a new loan for any project so described, any bond which is issued to refinance such issue shall be treated as a refunding issue to the extent the principal amount of such refunding issue does not exceed the principal amount of the bonds refunded.

Applicability.

"(B) LIMITATIONS.—Subparagraph (A) shall apply to only one refunding of the original issue and only if—

"(i) the refunding issue is issued not later than 4 years after the date on which the original issue was issued,

"(ii) the latest maturity date of any bond of the refunding issue is not later than 34 years after the date on which the refunded bond was issued, and

"(iii) the refunding issue is approved in accordance with section 147(f) before the issuance of the refunding issue.".

(b) LOW-INCOME HOUSING CREDIT.—Clause (ii) of section 42(h)(4)(A) is amended by inserting "or such financing is refunded as described in section 146(i)(6)" before the period at the end.

26 USC 42 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to repayments of loans received after the date of the enactment of this Act.

## SEC. 3008. COORDINATION OF CERTAIN RULES APPLICABLE TO LOW-INCOME HOUSING CREDIT AND QUALIFIED RESIDENTIAL RENTAL PROJECT EXEMPT FACILITY BONDS.

(a) DETERMINATION OF NEXT AVAILABLE UNIT.—Paragraph (3) of section 142(d) (relating to current income determinations) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR PROJECTS WITH RESPECT TO WHICH AFFORDABLE HOUSING CREDIT IS ALLOWED.—In the case of a project with respect to which credit is allowed under section 42, the second sentence of subparagraph (B) shall be applied by substituting 'building (within the meaning of section 42)' for 'project'.".

(b) STUDENTS.—Paragraph (2) of section 142(d) (relating to definitions and special rules) is amended by adding at the end the following new subparagraph:

"(C) STUDENTS.—Rules similar to the rules of 42(i)(3)(D) shall apply for purposes of this subsection.".

(c) SINGLE-ROOM OCCUPANCY UNITS.—Paragraph (2) of section 142(d) (relating to definitions and special rules), as amended by

subsection (b), is amended by adding at the end the following new subparagraph:

"(D) SINGLE-ROOM OCCUPANCY UNITS.—A unit shall not fail to be treated as a residential unit merely because such unit is a single-room occupancy unit (within the meaning of section 42).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations of the status of qualified residential rental projects for periods beginning after the date of the enactment of this Act, with respect to bonds issued before, on, or after such date. 26 USC 142 note.

## PART III—REFORMS RELATED TO THE LOW-INCOME HOUSING CREDIT AND TAX-EXEMPT HOUSING BONDS

### SEC. 3009. HOLD HARMLESS FOR REDUCTIONS IN AREA MEDIAN GROSS INCOME.

(a) IN GENERAL.—Paragraph (2) of section 142(d), as amended by section 3008, is amended by adding at the end the following new subparagraph:

"(E) HOLD HARMLESS FOR REDUCTIONS IN AREA MEDIAN GROSS INCOME.—

"(i) IN GENERAL.—Any determination of area median gross income under subparagraph (B) with respect to any project for any calendar year after 2008 shall not be less than the area median gross income determined under such subparagraph with respect to such project for the calendar year preceding the calendar year for which such determination is made.

"(ii) SPECIAL RULE FOR CERTAIN CENSUS CHANGES.—In the case of a HUD hold harmless impacted project, the area median gross income with respect to such project for any calendar year after 2008 (hereafter in this clause referred to as the current calendar year) shall be the greater of the amount determined without regard to this clause or the sum of—

"(I) the area median gross income determined under the HUD hold harmless policy with respect to such project for calendar year 2008, plus

"(II) any increase in the area median gross income determined under subparagraph (B) (determined without regard to the HUD hold harmless policy and this subparagraph) with respect to such project for the current calendar year over the area median gross income (as so determined) with respect to such project for calendar year 2008.

"(iii) HUD HOLD HARMLESS POLICY.—The term 'HUD hold harmless policy' means the regulations under which a policy similar to the rules of clause (i) applied to prevent a change in the method of determining area median gross income from resulting in a reduction in the area median gross income determined with respect to certain projects in calendar years 2007 and 2008.

"(iv) HUD HOLD HARMLESS IMPACTED PROJECT.—The term 'HUD hold harmless impacted project' means any project with respect to which area median gross income was determined under subparagraph (B) for calendar year 2007 or 2008 if such determination would have been less but for the HUD hold harmless policy.".

26 USC 142 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations of area median gross income for calendar years after 2008.

**SEC. 3010. EXCEPTION TO ANNUAL CURRENT INCOME DETERMINATION REQUIREMENT WHERE DETERMINATION NOT RELEVANT.**

(a) IN GENERAL.—Subparagraph (A) of section 142(d)(3) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply with respect to any project for any year if during such year no residential unit in the project is occupied by a new resident whose income exceeds the applicable income limit.".

26 USC 142 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years ending after the date of the enactment of this Act.

# Subtitle B—Single Family Housing

**SEC. 3011. FIRST-TIME HOMEBUYER CREDIT.**

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

**"SEC. 36. FIRST-TIME HOMEBUYER CREDIT.**

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a first-time homebuyer of a principal residence in the United States during a taxable year, there shall be allowed as a credit against the tax imposed by this subtitle for such taxable year an amount equal to 10 percent of the purchase price of the residence.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the credit allowed under subsection (a) shall not exceed $7,500.

"(B) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subparagraph (A) shall be applied by substituting '$3,750' for '$7,500'.

"(C) OTHER INDIVIDUALS.—If two or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $7,500.

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The amount allowable as a credit under subsection (a) (determined without regard to this paragraph) for the taxable year shall be reduced (but not

below zero) by the amount which bears the same ratio to the amount which is so allowable as—

"(i) the excess (if any) of—

"(I) the taxpayer's modified adjusted gross income for such taxable year, over

"(II) $75,000 ($150,000 in the case of a joint return), bears to

"(ii) $20,000.

"(B) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(c) DEFINITIONS.—For purposes of this section—

"(1) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of the purchase of the principal residence to which this section applies.

"(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

"(3) PURCHASE.—

"(A) IN GENERAL.—The term 'purchase' means any acquisition, but only if—

"(i) the property is not acquired from a person related to the person acquiring such property, and

"(ii) the basis of the property in the hands of the person acquiring such property is not determined—

"(I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(II) under section 1014(a) (relating to property acquired from a decedent).

"(B) CONSTRUCTION.—A residence which is constructed by the taxpayer shall be treated as purchased by the taxpayer on the date the taxpayer first occupies such residence.

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date such residence is purchased.

"(5) RELATED PERSONS.—A person shall be treated as related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267(b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants).

"(d) EXCEPTIONS.—No credit under subsection (a) shall be allowed to any taxpayer for any taxable year with respect to the purchase of a residence if—

"(1) a credit under section 1400C (relating to first-time homebuyer in the District of Columbia) is allowable to the taxpayer (or the taxpayer's spouse) for such taxable year or any prior taxable year,

"(2) the residence is financed by the proceeds of a qualified mortgage issue the interest on which is exempt from tax under section 103,

"(3) the taxpayer is a nonresident alien, or

"(4) the taxpayer disposes of such residence (or such residence ceases to be the principal residence of the taxpayer (and, if married, the taxpayer's spouse)) before the close of such taxable year.

"(e) REPORTING.—If the Secretary requires information reporting under section 6045 by a person described in subsection (e)(2) thereof to verify the eligibility of taxpayers for the credit allowable by this section, the exception provided by section 6045(e) shall not apply.

"(f) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, if a credit under subsection (a) is allowed to a taxpayer, the tax imposed by this chapter shall be increased by 6⅔ percent of the amount of such credit for each taxable year in the recapture period.

"(2) ACCELERATION OF RECAPTURE.—If a taxpayer disposes of the principal residence with respect to which a credit was allowed under subsection (a) (or such residence ceases to be the principal residence of the taxpayer (and, if married, the taxpayer's spouse)) before the end of the recapture period—

"(A) the tax imposed by this chapter for the taxable year of such disposition or cessation shall be increased by the excess of the amount of the credit allowed over the amounts of tax imposed by paragraph (1) for preceding taxable years, and

"(B) paragraph (1) shall not apply with respect to such credit for such taxable year or any subsequent taxable year.

"(3) LIMITATION BASED ON GAIN.—In the case of the sale of the principal residence to a person who is not related to the taxpayer, the increase in tax determined under paragraph (2) shall not exceed the amount of gain (if any) on such sale. Solely for purposes of the preceding sentence, the adjusted basis of such residence shall be reduced by the amount of the credit allowed under subsection (a) to the extent not previously recaptured under paragraph (1).

"(4) EXCEPTIONS.—

"(A) DEATH OF TAXPAYER.—Paragraphs (1) and (2) shall not apply to any taxable year ending after the date of the taxpayer's death.

"(B) INVOLUNTARY CONVERSION.—Paragraph (2) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence during the 2-year period beginning on the date of the disposition or cessation referred to in paragraph (2). Paragraph (2) shall apply to such new principal residence during the recapture period in the same manner as if such new principal residence were the converted residence.

"(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

"(i) paragraph (2) shall not apply to such transfer, and

"(ii) in the case of taxable years ending after such transfer, paragraphs (1) and (2) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

"(5) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

"(6) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

"(7) RECAPTURE PERIOD.—For purposes of this subsection, the term 'recapture period' means the 15 taxable years beginning with the second taxable year following the taxable year in which the purchase of the principal residence for which a credit is allowed under subsection (a) was made.

"(g) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence after December 31, 2008, and before July 1, 2009, a taxpayer may elect to treat such purchase as made on December 31, 2008, for purposes of this section (other than subsection (c)).

"(h) APPLICATION OF SECTION.—This section shall only apply to a principal residence purchased by the taxpayer on or after April 9, 2008, and before July 1, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 26(b)(2) is amended by striking "and" at the end of subparagraph (U), by striking the period and inserting ", and" and the end of subparagraph (V), and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 36(f) (relating to recapture of homebuyer credit).".

(2) Section 6211(b)(4)(A) is amended by striking "34," and all that follows through "6428" and inserting "34, 35, 36, 53(e), and 6428".

(3) Section 1324(b)(2) of title 31, United States Code, is amended by inserting "36," after "35,".

(4) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by redesignating the item relating to section 36 as an item relating to section 37 and by inserting before such item the following new item:

"Sec. 36. First-time homebuyer credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased on or after April 9, 2008, in taxable years ending on or after such date. 26 USC 26 note.

**SEC. 3012. ADDITIONAL STANDARD DEDUCTION FOR REAL PROPERTY TAXES FOR NONITEMIZERS.**

(a) IN GENERAL.—Section 63(c)(1) (defining standard deduction) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) in the case of any taxable year beginning in 2008, the real property tax deduction.".

(b) DEFINITION.—Section 63(c) is amended by adding at the end the following new paragraph:

"(7) REAL PROPERTY TAX DEDUCTION.—For purposes of paragraph (1), the real property tax deduction is the lesser of—

"(A) the amount allowable as a deduction under this chapter for State and local taxes described in section 164(a)(1), or

"(B) $500 ($1,000 in the case of a joint return).

Any taxes taken into account under section 62(a) shall not be taken into account under this paragraph.".

26 USC 63 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

# Subtitle C—General Provisions

**SEC. 3021. TEMPORARY LIBERALIZATION OF TAX-EXEMPT HOUSING BOND RULES.**

(a) TEMPORARY INCREASE IN VOLUME CAP.—

(1) IN GENERAL.—Subsection (d) of section 146 is amended by adding at the end the following new paragraph:

"(5) INCREASE AND SET ASIDE FOR HOUSING BONDS FOR 2008.—

"(A) INCREASE FOR 2008.—In the case of calendar year 2008, the State ceiling for each State shall be increased by an amount equal to $11,000,000,000 multiplied by a fraction—

"(i) the numerator of which is the State ceiling applicable to the State for calendar year 2008, determined without regard to this paragraph, and

"(ii) the denominator of which is the sum of the State ceilings determined under clause (i) for all States.

"(B) SET ASIDE.—

"(i) IN GENERAL.—Any amount of the State ceiling for any State which is attributable to an increase under this paragraph shall be allocated solely for one or more qualified housing issues.

"(ii) QUALIFIED HOUSING ISSUE.—For purposes of this paragraph, the term 'qualified housing issue' means—

"(I) an issue described in section 142(a)(7) (relating to qualified residential rental projects), or

"(II) a qualified mortgage issue (determined by substituting '12-month period' for '42-month period' each place it appears in section 143(a)(2)(D)(i)).".

(2) CARRYFORWARD OF UNUSED LIMITATIONS.—Subsection (f) of section 146 is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULES FOR INCREASED VOLUME CAP UNDER SUBSECTION (d)(5).—No amount which is attributable to the increase under subsection (d)(5) may be used—

"(A) for any issue other than a qualified housing issue (as defined in subsection (d)(5)), or

"(B) to issue any bond after calendar year 2010.".

(b) TEMPORARY RULE FOR USE OF QUALIFIED MORTGAGE BONDS PROCEEDS FOR SUBPRIME REFINANCING LOANS.—

(1) IN GENERAL.—Section 143(k) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(12) SPECIAL RULES FOR SUBPRIME REFINANCINGS.—

"(A) IN GENERAL.—Notwithstanding the requirements of subsection (i)(1), the proceeds of a qualified mortgage issue may be used to refinance a mortgage on a residence which was originally financed by the mortgagor through a qualified subprime loan.

"(B) SPECIAL RULES.—In applying subparagraph (A) to any refinancing— Applicability.

"(i) subsection (a)(2)(D)(i) shall be applied by substituting '12-month period' for '42-month period' each place it appears,

"(ii) subsection (d) (relating to 3-year requirement) shall not apply, and

"(iii) subsection (e) (relating to purchase price requirement) shall be applied by using the market value of the residence at the time of refinancing in lieu of the acquisition cost.

"(C) QUALIFIED SUBPRIME LOAN.—The term 'qualified subprime loan' means an adjustable rate single-family residential mortgage loan made after December 31, 2001, and before January 1, 2008, that the bond issuer determines would be reasonably likely to cause financial hardship to the borrower if not refinanced.

"(D) TERMINATION.—This paragraph shall not apply to any bonds issued after December 31, 2010.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act. 26 USC 143 note.

**SEC. 3022. REPEAL OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT HOUSING BONDS, LOW-INCOME HOUSING TAX CREDIT, AND REHABILITATION CREDIT.**

(a) TAX-EXEMPT INTEREST ON CERTAIN HOUSING BONDS EXEMPTED FROM ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subparagraph (C) of section 57(a)(5) (relating to specified private activity bonds) is amended by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively, and by inserting after clause (ii) the following new clause:

"(iii) EXCEPTION FOR CERTAIN HOUSING BONDS.—For purposes of clause (i), the term 'private activity bond' shall not include any bond issued after the date of the enactment of this clause if such bond is—

"(I) an exempt facility bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide qualified residential rental projects (as defined in section 142(d)),

"(II) a qualified mortgage bond (as defined in section 143(a)), or

"(III) a qualified veterans' mortgage bond (as defined in section 143(b)).

The preceding sentence shall not apply to any refunding bond unless such preceding sentence applied to the refunded bond (or in the case of a series of refundings, the original bond).".

(2) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS.—Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

"(iii) TAX EXEMPT INTEREST ON CERTAIN HOUSING BONDS.—Clause (i) shall not apply in the case of any interest on a bond to which section 57(a)(5)(C)(iii) applies.".

(b) ALLOWANCE OF LOW-INCOME HOUSING CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by redesignating clauses (ii) through (iv) as clauses (iii) through (v) and inserting after clause (i) the following new clause:

"(ii) the credit determined under section 42 to the extent attributable to buildings placed in service after December 31, 2007,".

(c) ALLOWANCE OF REHABILITATION CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4), as amended by subsection (b), is amended by striking "and" at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

"(v) the credit determined under section 47 to the extent attributable to qualified rehabilitation expenditures properly taken into account for periods after December 31, 2007, and".

(d) EFFECTIVE DATE.—

26 USC 56 note.

(1) HOUSING BONDS.—The amendments made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

26 USC 38 note.

(2) LOW INCOME HOUSING CREDIT.—The amendments made by subsection (b) shall apply to credits determined under section 42 of the Internal Revenue Code of 1986 to the extent attributable to buildings placed in service after December 31, 2007.

26 USC 38 note.

(3) REHABILITATION CREDIT.—The amendments made by subsection (c) shall apply to credits determined under section 47 of the Internal Revenue Code of 1986 to the extent attributable to qualified rehabilitation expenditures properly taken into account for periods after December 31, 2007.

**SEC. 3023. BONDS GUARANTEED BY FEDERAL HOME LOAN BANKS ELIGIBLE FOR TREATMENT AS TAX-EXEMPT BONDS.**

(a) IN GENERAL.—Subparagraph (A) of section 149(b)(3) (relating to exceptions for certain insurance programs) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or" and by adding at the end the following new clause:

"(iv) subject to subparagraph (E), any guarantee by a Federal home loan bank made in connection with the original issuance of a bond during the period beginning on the date of the enactment of this clause and ending on December 31, 2010 (or a renewal or extension of a guarantee so made).".

(b) SAFETY AND SOUNDNESS REQUIREMENTS.—Paragraph (3) of section 149(b) is amended by adding at the end the following new subparagraph:

"(E) SAFETY AND SOUNDNESS REQUIREMENTS FOR FEDERAL HOME LOAN BANKS.—Clause (iv) of subparagraph (A) shall not apply to any guarantee by a Federal home loan bank unless such bank meets safety and soundness collateral requirements for such guarantees which are at least as stringent as such requirements which apply under regulations applicable to such guarantees by Federal home loan banks as in effect on April 9, 2008.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to guarantees made after the date of the enactment of this Act. 26 USC 149 note.

**SEC. 3024. MODIFICATION OF RULES PERTAINING TO FIRPTA NONFOREIGN AFFIDAVITS.**

(a) IN GENERAL.—Subsection (b) of section 1445 (relating to exemptions) is amended by adding at the end the following:

"(9) ALTERNATIVE PROCEDURE FOR FURNISHING NONFOREIGN AFFIDAVIT.—For purposes of paragraphs (2) and (7)—

"(A) IN GENERAL.—Paragraph (2) shall be treated as applying to a transaction if, in connection with a disposition of a United States real property interest—

"(i) the affidavit specified in paragraph (2) is furnished to a qualified substitute, and

"(ii) the qualified substitute furnishes a statement to the transferee stating, under penalty of perjury, that the qualified substitute has such affidavit in his possession.

"(B) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph.".

(b) QUALIFIED SUBSTITUTE.—Subsection (f) of section 1445 (relating to definitions) is amended by adding at the end the following new paragraph:

"(6) QUALIFIED SUBSTITUTE.—The term 'qualified substitute' means, with respect to a disposition of a United States real property interest—

"(A) the person (including any attorney or title company) responsible for closing the transaction, other than the transferor's agent, and

"(B) the transferee's agent.".

(c) EXEMPTION NOT TO APPLY IF KNOWLEDGE OR NOTICE THAT AFFIDAVIT OR STATEMENT IS FALSE.—

(1) IN GENERAL.—Paragraph (7) of section 1445(b) (relating to special rules for paragraphs (2) and (3)) is amended to read as follows:

"(7) SPECIAL RULES FOR PARAGRAPHS (2), (3), AND (9).—Paragraph (2), (3), or (9) (as the case may be) shall not apply to any disposition—

"(A) if—

"(i) the transferee or qualified substitute has actual knowledge that the affidavit referred to in such paragraph, or the statement referred to in paragraph (9)(A)(ii), is false, or

"(ii) the transferee or qualified substitute receives a notice (as described in subsection (d)) from a transferor's agent, transferee's agent, or qualified substitute that such affidavit or statement is false, or

"(B) if the Secretary by regulations requires the transferee or qualified substitute to furnish a copy of such affidavit or statement to the Secretary and the transferee or qualified substitute fails to furnish a copy of such affidavit or statement to the Secretary at such time and in such manner as required by such regulations.".

(2) LIABILITY.—

(A) NOTICE.—Paragraph (1) of section 1445(d) (relating to notice of false affidavit; foreign corporations) is amended to read as follows:

"(1) NOTICE OF FALSE AFFIDAVIT; FOREIGN CORPORATIONS.—If—

"(A) the transferor furnishes the transferee or qualified substitute an affidavit described in paragraph (2) of subsection (b) or a domestic corporation furnishes the transferee an affidavit described in paragraph (3) of subsection (b), and

Regulations.

"(B) in the case of—

"(i) any transferor's agent—

"(I) such agent has actual knowledge that such affidavit is false, or

"(II) in the case of an affidavit described in subsection (b)(2) furnished by a corporation, such corporation is a foreign corporation, or

"(ii) any transferee's agent or qualified substitute, such agent or substitute has actual knowledge that such affidavit is false,

such agent or qualified substitute shall so notify the transferee at such time and in such manner as the Secretary shall require by regulations.".

(B) FAILURE TO FURNISH NOTICE.—Paragraph (2) of section 1445(d) (relating to failure to furnish notice) is amended to read as follows:

"(2) FAILURE TO FURNISH NOTICE.—

"(A) IN GENERAL.—If any transferor's agent, transferee's agent, or qualified substitute is required by paragraph (1) to furnish notice, but fails to furnish such notice at such time or times and in such manner as may be required by regulations, such agent or substitute shall have the same duty to deduct and withhold that the transferee would have had if such agent or substitute had complied with paragraph (1).

"(B) LIABILITY LIMITED TO AMOUNT OF COMPENSATION.—An agent's or substitute's liability under subparagraph (A) shall be limited to the amount of compensation the agent or substitute derives from the transaction.".

(C) CONFORMING AMENDMENT.—The heading for section 1445(d) is amended by striking "OR TRANSFEREE'S AGENTS" and inserting ", TRANSFEREE'S AGENTS, OR QUALIFIED SUBSTITUTES".

Real property.
26 USC 1445 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions of United States real property interests after the date of the enactment of this Act.

**SEC. 3025. MODIFICATION OF DEFINITION OF TAX-EXEMPT USE PROPERTY FOR PURPOSES OF THE REHABILITATION CREDIT.**

(a) IN GENERAL.—Subclause (I) of section 47(c)(2)(B)(v) is amended by striking "section 168(h)" and inserting "section 168(h), except that '50 percent' shall be substituted for '35 percent' in paragraph (1)(B)(iii) thereof".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures properly taken into account for periods after December 31, 2007. 26 USC 47 note.

**SEC. 3026. EXTENSION OF SPECIAL RULE FOR MORTGAGE REVENUE BONDS FOR RESIDENCES LOCATED IN DISASTER AREAS.**

(a) IN GENERAL.—Paragraph (11) of section 143(k) is amended—

(1) by striking "December 31, 1996" and inserting "May 1, 2008", and

(2) by striking "January 1, 1999" and inserting "January 1, 2010".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after May 1, 2008. 26 USC 143 note.

**SEC. 3027. TRANSFER OF FUNDS APPROPRIATED TO CARRY OUT 2008 RECOVERY REBATES FOR INDIVIDUALS.**

Of the funds made available by section 101(e)(1)(A) of the Economic Stimulus Act of 2008 (Public Law 110-185), the Secretary of the Treasury may transfer funds among the accounts specified in such section to carry out section 6428 of the Internal Revenue Code of 1986. The Secretary shall provide advance notification of any such transfer to the Committees on Appropriations of the House of Representatives and the Senate, and any transfer greater than $5,000,000 shall be subject to the approval of such Committees. Notification.

# TITLE II—REFORMS RELATED TO REAL ESTATE INVESTMENT TRUSTS

## Subtitle A—Foreign Currency and Other Qualified Activities

**SEC. 3031. REVISIONS TO REIT INCOME TESTS.**

(a) FOREIGN CURRENCY GAINS NOT GROSS INCOME IN APPLYING REIT INCOME TESTS.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

"(n) RULES REGARDING FOREIGN CURRENCY TRANSACTIONS.—

"(1) IN GENERAL.—For purposes of this part—

"(A) passive foreign exchange gain for any taxable year shall not constitute gross income for purposes of subsection (c)(2), and

"(B) real estate foreign exchange gain for any taxable year shall not constitute gross income for purposes of subsection (c)(3).

"(2) REAL ESTATE FOREIGN EXCHANGE GAIN.—For purposes of this subsection, the term 'real estate foreign exchange gain' means—

"(A) foreign currency gain (as defined in section 988(b)(1)) which is attributable to—

"(i) any item of income or gain described in subsection (c)(3),

"(ii) the acquisition or ownership of obligations secured by mortgages on real property or on interests in real property (other than foreign currency gain attributable to any item of income or gain described in clause (i)), or

"(iii) becoming or being the obligor under obligations secured by mortgages on real property or on interests in real property (other than foreign currency gain attributable to any item of income or gain described in clause (i)),

"(B) section 987 gain attributable to a qualified business unit (as defined by section 989) of the real estate investment trust, but only if such qualified business unit meets the requirements under—

"(i) subsection (c)(3) for the taxable year, and

"(ii) subsection (c)(4)(A) at the close of each quarter that the real estate investment trust has directly or indirectly held the qualified business unit, and

"(C) any other foreign currency gain as determined by the Secretary.

"(3) PASSIVE FOREIGN EXCHANGE GAIN.—For purposes of this subsection, the term 'passive foreign exchange gain' means—

"(A) real estate foreign exchange gain,

"(B) foreign currency gain (as defined in section 988(b)(1)) which is not described in subparagraph (A) and which is attributable to—

"(i) any item of income or gain described in subsection (c)(2),

"(ii) the acquisition or ownership of obligations (other than foreign currency gain attributable to any item of income or gain described in clause (i)), or

"(iii) becoming or being the obligor under obligations (other than foreign currency gain attributable to any item of income or gain described in clause (i)), and

"(C) any other foreign currency gain as determined by the Secretary.

"(4) EXCEPTION FOR INCOME FROM SUBSTANTIAL AND REGULAR TRADING.—Notwithstanding this subsection or any other provision of this part, any section 988 gain derived by a corporation, trust, or association from dealing, or engaging in substantial and regular trading, in securities (as defined in section 475(c)(2)) shall constitute gross income which does not qualify under paragraph (2) or (3) of subsection (c). This paragraph shall not apply to income which does not constitute gross income by reason of subsection (c)(5)(G).".

(b) ADDITION TO REIT HEDGING RULE.—Subparagraph (G) of section 856(c)(5) is amended to read as follows:

"(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent as determined by the Secretary—

"(i) any income of a real estate investment trust from a hedging transaction (as defined in clause (ii) or (iii) of section 1221(b)(2)(A)) which is clearly identified pursuant to section 1221(a)(7), including gain from

the sale or disposition of such a transaction, shall not constitute gross income under paragraphs (2) and (3) to the extent that the transaction hedges any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

"(ii) any income of a real estate investment trust from a transaction entered into by the trust primarily to manage risk of currency fluctuations with respect to any item of income or gain described in paragraph (2) or (3) (or any property which generates such income or gain), including gain from the termination of such a transaction, shall not constitute gross income under paragraphs (2) and (3), but only if such transaction is clearly identified as such before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may prescribe).".

(c) AUTHORITY TO EXCLUDE ITEMS OF INCOME FROM REIT INCOME TESTS.—Section 856(c)(5) is amended by adding at the end the following new subparagraph:

"(J) SECRETARIAL AUTHORITY TO EXCLUDE OTHER ITEMS OF INCOME.—To the extent necessary to carry out the purposes of this part, the Secretary is authorized to determine, solely for purposes of this part, whether any item of income or gain which—

"(i) does not otherwise qualify under paragraph (2) or (3) may be considered as not constituting gross income for purposes of paragraphs (2) or (3), or

"(ii) otherwise constitutes gross income not qualifying under paragraph (2) or (3) may be considered as gross income which qualifies under paragraph (2) or (3).".

**SEC. 3032. REVISIONS TO REIT ASSET TESTS.**

(a) CLARIFICATION OF VALUATION TEST.—The first sentence in the matter following section 856(c)(4)(B)(iii)(III) is amended by inserting "(including a discrepancy caused solely by the change in the foreign currency exchange rate used to value a foreign asset)" after "such requirements".

(b) CLARIFICATION OF PERMISSIBLE ASSET CATEGORY.—Section 856(c)(5), as amended by section 3031(c), is amended by adding at the end the following new subparagraph:

"(K) CASH.—If the real estate investment trust or its qualified business unit (as defined in section 989) uses any foreign currency as its functional currency (as defined in section 985(b)), the term 'cash' includes such foreign currency but only to the extent such foreign currency—

"(i) is held for use in the normal course of the activities of the trust or qualified business unit which give rise to items of income or gain described in paragraph (2) or (3) of subsection (c) or are directly related to acquiring or holding assets described in subsection (c)(4), and

"(ii) is not held in connection with an activity described in subsection (n)(4).".

**SEC. 3033. CONFORMING FOREIGN CURRENCY REVISIONS.**

(a) NET INCOME FROM FORECLOSURE PROPERTY.—Clause (i) of section 857(b)(4)(B) is amended to read as follows:

"(i) gain (including any foreign currency gain, as defined in section 988(b)(1)) from the sale or other disposition of foreclosure property described in section 1221(a)(1) and the gross income for the taxable year derived from foreclosure property (as defined in section 856(e)), but only to the extent such gross income is not described in (or, in the case of foreign currency gain, not attributable to gross income described in) section 856(c)(3) other than subparagraph (F) thereof, over".

(b) NET INCOME FROM PROHIBITED TRANSACTIONS.—Clause (i) of section 857(b)(6)(B) is amended to read as follows:

"(i) the term 'net income derived from prohibited transactions' means the excess of the gain (including any foreign currency gain, as defined in section 988(b)(1)) from prohibited transactions over the deductions (including any foreign currency loss, as defined in section 988(b)(2)) allowed by this chapter which are directly connected with prohibited transactions;".

## Subtitle B—Taxable REIT Subsidiaries

**SEC. 3041. CONFORMING TAXABLE REIT SUBSIDIARY ASSET TEST.**

Section 856(c)(4)(B)(ii) is amended—

(1) by striking "20 percent" and inserting "25 percent", and

(2) by striking "REIT subsidiaries" and all that follows, and inserting "REIT subsidiaries,".

## Subtitle C—Dealer Sales

**SEC. 3051. HOLDING PERIOD UNDER SAFE HARBOR.**

(a) IN GENERAL.—Section 857(b)(6) (relating to income from prohibited transactions) is amended—

(1) by striking "4 years" in subparagraphs (C)(i), (C)(iv), and (D)(i) and inserting "2 years",

(2) by striking "4-year period" in subparagraphs (C)(ii), (D)(ii), and (D)(iii) and inserting "2-year period", and

(3) by striking "real estate asset"and all that follows through "if" in the matter preceding clause (i) of subparagraphs (C) and (D), respectively, and inserting "real estate asset (as defined in section 856(c)(5)(B)) and which is described in section 1221(a)(1) if".

(b) RETENTION OF EXISTING LAW.—Section 857(b)(6) is amended—

(1) by striking subparagraph (G) and redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively, and

(2) in subparagraph (G), as so redesignated, by adding at the end the following: "For purposes of the preceding sentence, the reference to subparagraph (D) shall be a reference

to such subparagraph as in effect on the day before the enactment of the Housing Assistance Tax Act of 2008, as modified by subparagraph (G) as so in effect.".

**SEC. 3052. DETERMINING VALUE OF SALES UNDER SAFE HARBOR.**

Section 857(b)(6) is amended—

(1) by striking the semicolon at the end of subparagraph (C)(iii) and inserting ", or (III) the fair market value of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the fair market value of all of the assets of the trust as of the beginning of the taxable year;", and

(2) by adding "or" at the end of subclause (II) of subparagraph (D)(iv) and by adding at the end of such subparagraph the following new subclause:

"(III) the fair market value of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the fair market value of all of the assets of the trust as of the beginning of the taxable year,".

# Subtitle D—Health Care REITs

**SEC. 3061. CONFORMITY FOR HEALTH CARE FACILITIES.**

(a) RELATED PARTY RENTALS.—Subparagraph (B) of section 856(d)(8) (relating to special rule for taxable REIT subsidiaries) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN LODGING FACILITIES AND HEALTH CARE PROPERTY.—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility (as defined in paragraph (9)(D)) or a qualified health care property (as defined in subsection (e)(6)(D)(i)) leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor. For purposes of this section, a taxable REIT subsidiary is not considered to be operating or managing a qualified health care property or qualified lodging facility solely because it—

"(i) directly or indirectly possesses a license, permit, or similar instrument enabling it to do so, or

"(ii) employs individuals working at such facility or property located outside the United States, but only if an eligible independent contractor is responsible for the daily supervision and direction of such individuals on behalf of the taxable REIT subsidiary pursuant to a management agreement or similar service contract.".

(b) ELIGIBLE INDEPENDENT CONTRACTOR.—Subparagraphs (A) and (B) of section 856(d)(9) (relating to eligible independent contractor) are amended to read as follows:

"(A) IN GENERAL.—The term 'eligible independent contractor' means, with respect to any qualified lodging facility or qualified health care property (as defined in subsection

(e)(6)(D)(i)), any independent contractor if, at the time such contractor enters into a management agreement or other similar service contract with the taxable REIT subsidiary to operate such qualified lodging facility or qualified health care property, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities or qualified health care properties, respectively, for any person who is not a related person with respect to the real estate investment trust or the taxable REIT subsidiary.

"(B) SPECIAL RULES.—Solely for purposes of this paragraph and paragraph (8)(B), a person shall not fail to be treated as an independent contractor with respect to any qualified lodging facility or qualified health care property (as so defined) by reason of the following:

"(i) The taxable REIT subsidiary bears the expenses for the operation of such qualified lodging facility or qualified health care property pursuant to the management agreement or other similar service contract.

"(ii) The taxable REIT subsidiary receives the revenues from the operation of such qualified lodging facility or qualified health care property, net of expenses for such operation and fees payable to the operator pursuant to such agreement or contract.

"(iii) The real estate investment trust receives income from such person with respect to another property that is attributable to a lease of such other property to such person that was in effect as of the later of—

"(I) January 1, 1999, or

"(II) the earliest date that any taxable REIT subsidiary of such trust entered into a management agreement or other similar service contract with such person with respect to such qualified lodging facility or qualified health care property.".

(c) TAXABLE REIT SUBSIDIARIES.—The last sentence of section 856(l)(3) is amended—

(1) by inserting "or a health care facility" after "a lodging facility", and

(2) by inserting "or health care facility" after "such lodging facility".

# Subtitle E—Effective Dates

26 USC 856 note.

**SEC. 3071. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this title shall apply to taxable years beginning after the date of the enactment of this Act.

(b) REIT INCOME TESTS.—

(1) The amendments made by section 3031(a) and (c) shall apply to gains and items of income recognized after the date of the enactment of this Act.

(2) The amendment made by section 3031(b) shall apply to transactions entered into after the date of the enactment of this Act.

(c) CONFORMING FOREIGN CURRENCY REVISIONS.— Applicability.

(1) The amendment made by section 3033(a) shall apply to gains recognized after the date of the enactment of this Act.

(2) The amendment made by section 3033(b) shall apply to gains and deductions recognized after the date of the enactment of this Act.

(d) DEALER SALES.—The amendments made by subtitle C shall apply to sales made after the date of the enactment of this Act.

# TITLE III—REVENUE PROVISIONS

## Subtitle A—General Provisions

### SEC. 3081. ELECTION TO ACCELERATE THE AMT AND RESEARCH CREDITS IN LIEU OF BONUS DEPRECIATION.

(a) IN GENERAL.—Section 168(k) is amended by adding at the end the following new paragraph:

"(4) ELECTION TO ACCELERATE THE AMT AND RESEARCH CREDITS IN LIEU OF BONUS DEPRECIATION.—

"(A) IN GENERAL.—If a corporation elects to have this paragraph apply for the first taxable year of the taxpayer ending after March 31, 2008, in the case of such taxable year and each subsequent taxable year—

"(i) paragraph (1) shall not apply to any eligible qualified property placed in service by the taxpayer,

"(ii) the applicable depreciation method used under this section with respect to such property shall be the straight line method, and

"(iii) each of the limitations described in subparagraph (B) for any such taxable year shall be increased by the bonus depreciation amount which is—

"(I) determined for such taxable year under subparagraph (C), and

"(II) allocated to such limitation under subparagraph (E).

"(B) LIMITATIONS TO BE INCREASED.—The limitations described in this subparagraph are—

"(i) the limitation imposed by section 38(c), and

"(ii) the limitation imposed by section 53(c).

"(C) BONUS DEPRECIATION AMOUNT.—For purposes of this paragraph—

"(i) IN GENERAL.—The bonus depreciation amount for any taxable year is an amount equal to 20 percent of the excess (if any) of—

"(I) the aggregate amount of depreciation which would be allowed under this section for eligible qualified property placed in service by the taxpayer during such taxable year if paragraph (1) applied to all such property, over

"(II) the aggregate amount of depreciation which would be allowed under this section for eligible qualified property placed in service by the taxpayer during such taxable year if paragraph (1) did not apply to any such property.

The aggregate amounts determined under subclauses (I) and (II) shall be determined without regard to any election made under subsection (b)(2)(C), (b)(3)(D), or (g)(7) and without regard to subparagraph (A)(ii).

"(ii) MAXIMUM AMOUNT.—The bonus depreciation amount for any taxable year shall not exceed the maximum increase amount under clause (iii), reduced (but not below zero) by the sum of the bonus depreciation amounts for all preceding taxable years.

"(iii) MAXIMUM INCREASE AMOUNT.—For purposes of clause (ii), the term 'maximum increase amount' means, with respect to any corporation, the lesser of—

"(I) $30,000,000, or

"(II) 6 percent of the sum of the business credit increase amount, and the AMT credit increase amount, determined with respect to such corporation under subparagraph (E).

"(iv) AGGREGATION RULE.—All corporations which are treated as a single employer under section 52(a) shall be treated—

"(I) as 1 taxpayer for purposes of this paragraph, and

"(II) as having elected the application of this paragraph if any such corporation so elects.

"(D) ELIGIBLE QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'eligible qualified property' means qualified property under paragraph (2), except that in applying paragraph (2) for purposes of this paragraph—

"(i) 'March 31, 2008' shall be substituted for 'December 31, 2007' each place it appears in subparagraph (A) and clauses (i) and (ii) of subparagraph (E) thereof, and

"(ii) only adjusted basis attributable to manufacture, construction, or production after March 31, 2008, and before January 1, 2009, shall be taken into account under subparagraph (B)(ii) thereof.

"(E) ALLOCATION OF BONUS DEPRECIATION AMOUNTS.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), the taxpayer shall, at such time and in such manner as the Secretary may prescribe, specify the portion (if any) of the bonus depreciation amount for the taxable year which is to be allocated to each of the limitations described in subparagraph (B) for such taxable year.

"(ii) LIMITATION ON ALLOCATIONS.—The portion of the bonus depreciation amount which may be allocated under clause (i) to the limitations described in subparagraph (B) for any taxable year shall not exceed—

"(I) in the case of the limitation described in subparagraph (B)(i), the excess of the business credit increase amount over the bonus depreciation amount allocated to such limitation for all preceding taxable years, and

"(II) in the case of the limitation described in subparagraph (B)(ii), the excess of the AMT credit increase amount over the bonus depreciation

amount allocated to such limitation for all preceding taxable years.

"(iii) BUSINESS CREDIT INCREASE AMOUNT.—For purposes of this paragraph, the term 'business credit increase amount' means the amount equal to the portion of the credit allowable under section 38 (determined without regard to subsection (c) thereof) for the first taxable year ending after March 31, 2008, which is allocable to business credit carryforwards to such taxable year which are—

"(I) from taxable years beginning before January 1, 2006, and

"(II) properly allocable (determined under the rules of section 38(d)) to the research credit determined under section 41(a).

"(iv) AMT CREDIT INCREASE AMOUNT.—For purposes of this paragraph, the term 'AMT credit increase amount' means the amount equal to the portion of the minimum tax credit under section 53(b) for the first taxable year ending after March 31, 2008, determined by taking into account only the adjusted minimum tax for taxable years beginning before January 1, 2006. For purposes of the preceding sentence, credits shall be treated as allowed on a first-in, first-out basis.

"(F) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this paragraph shall be treated as allowed under subpart C of such part (and not any other subpart).

"(G) OTHER RULES.—

"(i) ELECTION.—Any election under this paragraph (including any allocation under subparagraph (E)) may be revoked only with the consent of the Secretary.

"(ii) PARTNERSHIPS WITH ELECTING PARTNERS.—In the case of a corporation making an election under subparagraph (A) and which is a partner in a partnership, for purposes of determining such corporation's distributive share of partnership items under section 702—

"(I) paragraph (1) shall not apply to any eligible qualified property, and

"(II) the applicable depreciation method used under this section with respect to such property shall be the straight line method.

"(iii) SPECIAL RULE FOR PASSENGER AIRCRAFT.—In the case of any passenger aircraft, the written binding contract limitation under paragraph (2)(A)(iii)(I) shall not apply for purposes of subparagraphs (C)(i)(I) and (D).".

(b) APPLICATION TO CERTAIN AUTOMOTIVE PARTNERSHIPS.—

(1) IN GENERAL.—If an applicable partnership elects the application of this subsection—

(A) the partnership shall be treated as having made a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any applicable taxable

year of the partnership in the amount determined under paragraph (3),

(B) in the case of any eligible qualified property placed in service by the partnership during any applicable taxable year—

(i) section 168(k) of such Code shall not apply in determining the amount of the deduction allowable with respect to such property under section 168 of such Code,

(ii) the applicable depreciation method used with respect to such property shall be the straight line method, and

(C) the amount of the credit determined under section 41 of such Code for any applicable taxable year with respect to the partnership shall be reduced by the amount of the deemed payment under subparagraph (A) for the taxable year.

(2) TREATMENT OF DEEMED PAYMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of the Internal Revenue Code of 1986, the Secretary of the Treasury or his delegate shall not use the payment of tax described in paragraph (1) as an offset or credit against any tax liability of the applicable partnership or any partner but shall refund such payment to the applicable partnership.

(B) NO INTEREST.—The payment described in paragraph (1) shall not be taken into account in determining any amount of interest under such Code.

(3) AMOUNT OF DEEMED PAYMENT.—The amount determined under this paragraph for any applicable taxable year shall be the least of the following:

(A) The amount which would be determined for the taxable year under section 168(k)(4)(C)(i) of the Internal Revenue Code of 1986 (as added by the amendments made by this section) if an election under section 168(k)(4) of such Code were in effect with respect to the partnership.

(B) The amount of the credit determined under section 41 of such Code for the taxable year with respect to the partnership.

(C) $30,000,000, reduced by the amount of any payment under this subsection for any preceding taxable year.

(4) DEFINITIONS.—For purposes of this subsection—

(A) APPLICABLE PARTNERSHIP.—The term "applicable partnership" means a domestic partnership that—

(i) was formed effective on August 3, 2007, and

(ii) will produce in excess of 675,000 automobiles during the period beginning on January 1, 2008, and ending on June 30, 2008.

(B) APPLICABLE TAXABLE YEAR.—The term "applicable taxable year" means any taxable year during which eligible qualified property is placed in service.

(C) ELIGIBLE QUALIFIED PROPERTY.—The term "eligible qualified property" has the meaning given such term by section 168(k)(4)(D) of the Internal Revenue Code of 1986 (as added by the amendments made by this section).

(c) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, as amended by this Act, is amended—

(1) by inserting "168(k)(4)(F)," after "36,", and

(2) by inserting ", or due under section 3081(b)(2) of the Housing Assistance Tax Act of 2008" before the period at the end.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 31, 2008. 26 USC 168 note.

**SEC. 3082. CERTAIN GO ZONE INCENTIVES.**

(a) USE OF AMENDED INCOME TAX RETURNS TO TAKE INTO ACCOUNT RECEIPT OF CERTAIN HURRICANE-RELATED CASUALTY LOSS GRANTS BY DISALLOWING PREVIOUSLY TAKEN CASUALTY LOSS DEDUCTIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of the Internal Revenue Code of 1986, if a taxpayer claims a deduction for any taxable year with respect to a casualty loss to a principal residence (within the meaning of section 121 of such Code) resulting from Hurricane Katrina, Hurricane Rita, or Hurricane Wilma and in a subsequent taxable year receives a grant under Public Law 109–148, 109–234, or 110–116 as reimbursement for such loss, such taxpayer may elect to file an amended income tax return for the taxable year in which such deduction was allowed (and for any taxable year to which such deduction is carried) and reduce (but not below zero) the amount of such deduction by the amount of such reimbursement.

(2) TIME OF FILING AMENDED RETURN.—Paragraph (1) shall apply with respect to any grant only if any amended income tax returns with respect to such grant are filed not later than the later of—

(A) the due date for filing the tax return for the taxable year in which the taxpayer receives such grant, or

(B) the date which is 1 year after the date of the enactment of this Act.

(3) WAIVER OF PENALTIES AND INTEREST.—Any underpayment of tax resulting from the reduction under paragraph (1) of the amount otherwise allowable as a deduction shall not be subject to any penalty or interest under such Code if such tax is paid not later than 1 year after the filing of the amended return to which such reduction relates. Deadline.

(b) WAIVER OF DEADLINE ON CONSTRUCTION OF GO ZONE PROPERTY ELIGIBLE FOR BONUS DEPRECIATION.—

(1) IN GENERAL.—Subparagraph (B) of section 1400N(d)(3) is amended to read as follows:

"(B) without regard to 'and before January 1, 2009' in clause (i) thereof, and".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2007. 26 USC 1400N note.

(c) INCLUSION OF CERTAIN COUNTIES IN GULF OPPORTUNITY ZONE FOR PURPOSES OF TAX-EXEMPT BOND FINANCING.—

(1) IN GENERAL.—Subsection (a) of section 1400N is amended by adding at the end the following new paragraph: Alabama.

"(8) INCLUSION OF CERTAIN COUNTIES.—For purposes of this subsection, the Gulf Opportunity Zone includes Colbert County, Alabama and Dallas County, Alabama.".

26 USC 1400N note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the Gulf Opportunity Zone Act of 2005 to which it relates.

**SEC. 3083. INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT.**

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof $10,615,000,000,000.

## Subtitle B—Revenue Offsets

**SEC. 3091. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.**

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

**"SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.**

"(a) IN GENERAL.—Each payment settlement entity shall make a return for each calendar year setting forth—

"(1) the name, address, and TIN of each participating payee to whom one or more payments in settlement of reportable payment transactions are made, and

"(2) the gross amount of the reportable payment transactions with respect to each such participating payee.

Such return shall be made at such time and in such form and manner as the Secretary may require by regulations.

"(b) PAYMENT SETTLEMENT ENTITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'payment settlement entity' means—

"(A) in the case of a payment card transaction, the merchant acquiring entity, and

"(B) in the case of a third party network transaction, the third party settlement organization.

"(2) MERCHANT ACQUIRING ENTITY.—The term 'merchant acquiring entity' means the bank or other organization which has the contractual obligation to make payment to participating payees in settlement of payment card transactions.

"(3) THIRD PARTY SETTLEMENT ORGANIZATION.—The term 'third party settlement organization' means the central organization which has the contractual obligation to make payment to participating payees of third party network transactions.

"(4) SPECIAL RULES RELATED TO INTERMEDIARIES.—For purposes of this section—

"(A) AGGREGATED PAYEES.—In any case where reportable payment transactions of more than one participating payee are settled through an intermediary—

"(i) such intermediary shall be treated as the participating payee for purposes of determining the reporting obligations of the payment settlement entity with respect to such transactions, and

"(ii) such intermediary shall be treated as the payment settlement entity with respect to the settlement of such transactions with the participating payees.

"(B) ELECTRONIC PAYMENT FACILITATORS.—In any case where an electronic payment facilitator or other third party makes payments in settlement of reportable payment transactions on behalf of the payment settlement entity, the return under subsection (a) shall be made by such electronic payment facilitator or other third party in lieu of the payment settlement entity.

"(c) REPORTABLE PAYMENT TRANSACTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable payment transaction' means any payment card transaction and any third party network transaction.

"(2) PAYMENT CARD TRANSACTION.—The term 'payment card transaction' means any transaction in which a payment card is accepted as payment.

"(3) THIRD PARTY NETWORK TRANSACTION.—The term 'third party network transaction' means any transaction which is settled through a third party payment network.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) PARTICIPATING PAYEE.—

"(A) IN GENERAL.—The term 'participating payee' means—

"(i) in the case of a payment card transaction, any person who accepts a payment card as payment, and

"(ii) in the case of a third party network transaction, any person who accepts payment from a third party settlement organization in settlement of such transaction.

"(B) EXCLUSION OF FOREIGN PERSONS.—Except as provided by the Secretary in regulations or other guidance, such term shall not include any person with a foreign address.

"(C) INCLUSION OF GOVERNMENTAL UNITS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) PAYMENT CARD.—The term 'payment card' means any card which is issued pursuant to an agreement or arrangement which provides for—

"(A) one or more issuers of such cards,

"(B) a network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment, and

"(C) standards and mechanisms for settling the transactions between the merchant acquiring entities and the persons who agree to accept such cards as payment.

The acceptance as payment of any account number or other indicia associated with a payment card shall be treated for purposes of this section in the same manner as accepting such payment card as payment.

"(3) THIRD PARTY PAYMENT NETWORK.—The term 'third party payment network' means any agreement or arrangement—

"(A) which involves the establishment of accounts with a central organization by a substantial number of persons who—

"(i) are unrelated to such organization,

"(ii) provide goods or services, and

"(iii) have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement,

"(B) which provides for standards and mechanisms for settling such transactions, and

"(C) which guarantees persons providing goods or services pursuant to such agreement or arrangement that such persons will be paid for providing such goods or services.

Such term shall not include any agreement or arrangement which provides for the issuance of payment cards.

Reports.

"(e) EXCEPTION FOR DE MINIMIS PAYMENTS BY THIRD PARTY SETTLEMENT ORGANIZATIONS.—A third party settlement organization shall be required to report any information under subsection (a) with respect to third party network transactions of any participating payee only if—

"(1) the amount which would otherwise be reported under subsection (a)(2) with respect to such transactions exceeds $20,000, and

"(2) the aggregate number of such transactions exceeds 200.

Records.

"(f) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return, and

"(2) the gross amount of the reportable payment transactions with respect to the person required to be shown on the return.

Deadline.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. Such statement may be furnished electronically, and if so, the email address of the person required to make such return may be shown in lieu of the phone number.

Email.

"(g) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out this section, including rules to prevent the reporting of the same transaction more than once.".

(b) PENALTY FOR FAILURE TO FILE.—

(1) RETURN.—Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xx),

(B) by redesignating the clause (xix) that follows clause (xx) as clause (xxi),

(C) by striking "and" at the end of clause (xxi), as redesignated by subparagraph (B) and inserting "or", and

(D) by adding at the end the following:

"(xxii) section 6050W (relating to returns to payments made in settlement of payment card transactions), and".

(2) STATEMENT.—Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (BB), by striking the period at the end of the subparagraph (CC) and inserting ", or", and by inserting after subparagraph (CC) the following:

"(DD) section 6050W(c) (relating to returns relating to payments made in settlement of payment card transactions).".

(c) APPLICATION OF BACKUP WITHHOLDING.—Paragraph (3) of section 3406(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by adding at the end the following new subparagraph:

"(F) section 6050W (relating to returns relating to payments made in settlement of payment card transactions).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following:

"Sec. 6050W. Returns relating to payments made in settlement of payment card transactions.".

(e) EFFECTIVE DATE.— 26 USC 3406 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to returns for calendar years beginning after December 31, 2010.

(2) APPLICATION OF BACKUP WITHHOLDING.—

(A) IN GENERAL.—The amendment made by subsection (c) shall apply to amounts paid after December 31, 2011.

(B) ELIGIBILITY FOR TIN MATCHING PROGRAM.—Solely for purposes of carrying out any TIN matching program established by the Secretary under section 3406(i) of the Internal Revenue Code of 1986—

(i) the amendments made this section shall be treated as taking effect on the date of the enactment of this Act, and

(ii) each person responsible for setting the standards and mechanisms referred to in section 6050W(d)(2)(C) of such Code, as added by this section, for settling transactions involving payment cards shall be treated in the same manner as a payment settlement entity.

**SEC. 3092. GAIN FROM SALE OF PRINCIPAL RESIDENCE ALLOCATED TO NONQUALIFIED USE NOT EXCLUDED FROM INCOME.**

(a) IN GENERAL.—Subsection (b) of section 121 of the Internal Revenue Code of 1986 (relating to limitations) is amended by adding at the end the following new paragraph:

"(4) EXCLUSION OF GAIN ALLOCATED TO NONQUALIFIED USE.—

"(A) IN GENERAL.—Subsection (a) shall not apply to so much of the gain from the sale or exchange of property as is allocated to periods of nonqualified use.

"(B) GAIN ALLOCATED TO PERIODS OF NONQUALIFIED USE.—For purposes of subparagraph (A), gain shall be allocated to periods of nonqualified use based on the ratio which—

"(i) the aggregate periods of nonqualified use during the period such property was owned by the taxpayer, bears to

"(ii) the period such property was owned by the taxpayer.

"(C) PERIOD OF NONQUALIFIED USE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'period of nonqualified use' means any period (other than the portion of any period preceding January 1, 2009) during which the property is not used as the principal residence of the taxpayer or the taxpayer's spouse or former spouse.

"(ii) EXCEPTIONS.—The term 'period of nonqualified use' does not include—

"(I) any portion of the 5-year period described in subsection (a) which is after the last date that such property is used as the principal residence of the taxpayer or the taxpayer's spouse,

"(II) any period (not to exceed an aggregate period of 10 years) during which the taxpayer or the taxpayer's spouse is serving on qualified official extended duty (as defined in subsection (d)(9)(C)) described in clause (i), (ii), or (iii) of subsection (d)(9)(A), and

"(III) any other period of temporary absence (not to exceed an aggregate period of 2 years) due to change of employment, health conditions, or such other unforeseen circumstances as may be specified by the Secretary.

Applicability.

"(D) COORDINATION WITH RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—For purposes of this paragraph—

"(i) subparagraph (A) shall be applied after the application of subsection (d)(6), and

"(ii) subparagraph (B) shall be applied without regard to any gain to which subsection (d)(6) applies.".

26 USC 121 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales and exchanges after December 31, 2008.

**SEC. 3093. DELAY IN APPLICATION OF WORLDWIDE ALLOCATION OF INTEREST.**

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) are each amended by striking "December 31, 2008" and inserting "December 31, 2010".

(b) TRANSITIONAL RULE.—Subsection (f) of section 864 is amended by adding at the end the following new paragraph:

"(7) TRANSITION.—In the case of the first taxable year to which this subsection applies, the increase (if any) in the amount of the interest expense allocable to sources within the United States by reason of the application of this subsection shall be 30 percent of the amount of such increase determined without regard to this paragraph.".

26 USC 864 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

**SEC. 3094. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

(a) REPEAL OF ADJUSTMENT FOR 2012.—Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation

Act of 2005 is amended by striking the percentage contained therein and inserting "100 percent". No other provision of law which would change such percentage shall have any force and effect. 26 USC 6655 note.

(b) MODIFICATION OF ADJUSTMENT FOR 2013.—The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 16.75 percentage points. 26 USC 6655 note.

Approved July 30, 2008.

LEGISLATIVE HISTORY—H.R. 3221:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Aug. 4, considered and passed House.
Vol. 154 (2008): Apr. 3, 4, 7–10, considered and passed Senate, amended.
May 8, House concurred in Senate amendment with amendments.
June 19, 20, 23–26, July 7–11, Senate considered and concurred in House amendments with an amendment.
July 23, House concurred in Senate amendment with an amendment.
July 25, 26, Senate considered and concurred in House amendment.

# Public Law 110–290
# 110th Congress

## An Act

July 30, 2008
[H.R. 3564]

To amend title 5, United States Code, to authorize appropriations for the Administrative Conference of the United States through fiscal year 2011, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Regulatory Improvement Act of 2007.
5 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Regulatory Improvement Act of 2007".

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

Section 596 of title 5, United States Code, is amended to read as follows:

**"§ 596. Authorization of appropriations**

"There are authorized to be appropriated to carry out this subchapter not more than $3,200,000 for fiscal year 2009, $3,200,000 for fiscal year 2010, and $3,200,000 for fiscal year 2011. Of any amounts appropriated under this section, not more than $2,500 may be made available in each fiscal year for official representation and entertainment expenses for foreign dignitaries.".

Approved July 30, 2008.

LEGISLATIVE HISTORY—H.R. 3564:

HOUSE REPORTS: No. 110–390 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Oct. 22, considered and passed House.
Vol. 154 (2008): June 27, considered and passed Senate, amended.
July 14, House concurred in Senate amendment.

# Public Law 110–291
# 110th Congress

## An Act

To amend title 49, United States Code, to direct the Secretary of Transportation to register a person providing transportation by an over-the-road bus as a motor carrier of passengers only if the person is willing and able to comply with certain accessibility requirements in addition to other existing requirements, and for other purposes.

July 30, 2008
[H.R. 3985]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Over-the-Road Bus Transportation Accessibility Act of 2007.
49 USC 10101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Over-the-Road Bus Transportation Accessibility Act of 2007".

**SEC. 2. REGISTRATION OF MOTOR CARRIERS OF PASSENGERS.**

(a) IN GENERAL.—Section 13902(a)(1) of title 49, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B)(iii);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus; and".

(b) CONFORMING AMENDMENTS.—Sections 13902(a)(5) and 13905(d)(1)(A) of such title are each amended by inserting after "Board" the following: "(including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus)".

**SEC. 3. OVER-THE-ROAD BUS DEFINED.**

Section 13102 of title 49, United States Code, is amended by adding at the end the following:

"(27) OVER-THE-ROAD BUS.—The term 'over-the-road bus' means a bus characterized by an elevated passenger deck located over a baggage compartment.".

**SEC. 4. DEADLINE FOR IMPLEMENTATION OF REGISTRATION REQUIREMENTS.**

49 USC 13902 note.

Not later than 30 days after the date of enactment of this Act, the Secretary shall take necessary actions to implement the changes required by the amendment made by section 2(a) relating

to registration of motor carriers providing transportation by an over-the-road bus.

Memorandum.
49 USC 13902 note.

**SEC. 5. COORDINATION WITH THE DEPARTMENT OF JUSTICE.**

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation and the Attorney General shall enter into a memorandum of understanding to delineate the specific roles and responsibilities of the Department of Transportation and the Department of Justice, respectively, in enforcing the compliance of motor carriers of passengers providing transportation by an over-the-road bus (as defined in section 13102 of title 49, United States Code) with the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue. Such memorandum shall recognize the Department of Transportation's statutory responsibilities as clarified by this Act (including the amendments made by this Act).

Approved July 30, 2008.

LEGISLATIVE HISTORY—H.R. 3985:

HOUSE REPORTS: No. 110–456 (Comm. on Transportation and Infrastructure).
SENATE REPORTS: No. 110–395 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 11, 12, considered and passed House.
Vol. 154 (2008): July 14, considered and passed Senate.

Public Law 110–292
110th Congress

# An Act

To name the Department of Veterans Affairs outpatient clinic in Ponce, Puerto Rico, as the "Euripides Rubio Department of Veterans Affairs Outpatient Clinic".

July 30, 2008
[H.R. 4289]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, PONCE, PUERTO RICO.**

The Department of Veterans Affairs outpatient clinic in Ponce, Puerto Rico, shall after the date of the enactment of this Act be known and designated as the "Eurípides Rubio Department of Veterans Affairs Outpatient Clinic". Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Eurípides Rubio Department of Veterans Affairs Outpatient Clinic.

Approved July 30, 2008.

LEGISLATIVE HISTORY—H.R. 4289:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 24, considered and passed House.
July 11, considered and passed Senate.

# Public Law 110–293
# 110th Congress

## An Act

July 30, 2008
[H.R. 5501]

To authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008.
22 USC 7601 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Purpose.
Sec. 5. Authority to consolidate and combine reports.

TITLE I—POLICY PLANNING AND COORDINATION

Sec. 101. Development of an updated, comprehensive, 5-year, global strategy.
Sec. 102. Interagency working group.
Sec. 103. Sense of Congress.

TITLE II—SUPPORT FOR MULTILATERAL FUNDS, PROGRAMS, AND PUBLIC-PRIVATE PARTNERSHIPS

Sec. 201. Voluntary contributions to international vaccine funds.
Sec. 202. Participation in the Global Fund to Fight AIDS, Tuberculosis and Malaria.
Sec. 203. Research on methods for women to prevent transmission of HIV and other diseases.
Sec. 204. Combating HIV/AIDS, tuberculosis, and malaria by strengthening health policies and health systems of partner countries.
Sec. 205. Facilitating effective operations of the Centers for Disease Control.
Sec. 206. Facilitating vaccine development.

TITLE III—BILATERAL EFFORTS

Subtitle A—General Assistance and Programs

Sec. 301. Assistance to combat HIV/AIDS.
Sec. 302. Assistance to combat tuberculosis.
Sec. 303. Assistance to combat malaria.
Sec. 304. Malaria Response Coordinator.
Sec. 305. Amendment to Immigration and Nationality Act.
Sec. 306. Clerical amendment.
Sec. 307. Requirements.
Sec. 308. Annual report on prevention of mother-to-child transmission of HIV.
Sec. 309. Prevention of mother-to-child transmission expert panel.

TITLE IV—FUNDING ALLOCATIONS

Sec. 401. Authorization of appropriations.

Sec. 402. Sense of Congress.
Sec. 403. Allocation of funds.

TITLE V—MISCELLANEOUS

Sec. 501. Machine readable visa fees.

TITLE VI—EMERGENCY PLAN FOR INDIAN SAFETY AND HEALTH

Sec. 601. Emergency plan for Indian safety and health.

**SEC. 2. FINDINGS.**

Section 2 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7601) is amended by adding at the end the following:

"(29) On May 27, 2003, the President signed this Act into law, launching the largest international public health program of its kind ever created.

"(30) Between 2003 and 2008, the United States, through the President's Emergency Plan for AIDS Relief (PEPFAR) and in conjunction with other bilateral programs and the multilateral Global Fund has helped to—

"(A) provide antiretroviral therapy for over 1,900,000 people;

"(B) ensure that over 150,000 infants, most of whom would have likely been infected with HIV during pregnancy or childbirth, were not infected; and

"(C) provide palliative care and HIV prevention assistance to millions of other people.

"(31) While United States leadership in the battles against HIV/AIDS, tuberculosis, and malaria has had an enormous impact, these diseases continue to take a terrible toll on the human race.

"(32) According to the 2007 AIDS Epidemic Update of the Joint United Nations Programme on HIV/AIDS (UNAIDS)—

"(A) an estimated 2,100,000 people died of AIDS-related causes in 2007; and

"(B) an estimated 2,500,000 people were newly infected with HIV during that year.

"(33) According to the World Health Organization, malaria kills more than 1,000,000 people per year, 70 percent of whom are children under 5 years of age.

"(34) According to the World Health Organization, ⅓ of the world's population is infected with the tuberculosis bacterium, and tuberculosis is 1 of the greatest infectious causes of death of adults worldwide, killing 1,600,000 people per year.

"(35) Efforts to promote abstinence, fidelity, the correct and consistent use of condoms, the delay of sexual debut, and the reduction of concurrent sexual partners represent important elements of strategies to prevent the transmission of HIV/AIDS.

"(36) According to UNAIDS—

"(A) women and girls make up nearly 60 percent of persons in sub-Saharan Africa who are HIV positive;

"(B) women and girls are more biologically, economically, and socially vulnerable to HIV infection; and

"(C) gender issues are critical components in the effort to prevent HIV/AIDS and to care for those affected by the disease.

"(37) Children who have lost a parent to HIV/AIDS, who are otherwise directly affected by the disease, or who live

in areas of high HIV prevalence may be vulnerable to the disease or its socioeconomic effects.

"(38) Lack of health capacity, including insufficient personnel and inadequate infrastructure, in sub-Saharan Africa and other regions of the world is a critical barrier that limits the effectiveness of efforts to combat HIV/AIDS, tuberculosis, and malaria, and to achieve other global health goals.

"(39) On March 30, 2007, the Institute of Medicine of the National Academies released a report entitled 'PEPFAR Implementation: Progress and Promise', which found that budget allocations setting percentage levels for spending on prevention, care, and treatment and for certain subsets of activities within the prevention category—

"(A) have 'adversely affected implementation of the U.S. Global AIDS Initiative';

"(B) have inhibited comprehensive, integrated, evidence based approaches;

"(C) 'have been counterproductive';

"(D) 'may have been helpful initially in ensuring a balance of attention to activities within the 4 categories of prevention, treatment, care, and orphans and vulnerable children';

"(E) 'have also limited PEPFAR's ability to tailor its activities in each country to the local epidemic and to coordinate with the level of activities in the countries' national plans'; and

"(F) should be removed by Congress and replaced with more appropriate mechanisms that—

"(i) 'ensure accountability for results from Country Teams to the U.S. Global AIDS Coordinator and to Congress'; and

"(ii) 'ensure that spending is directly linked to and commensurate with necessary efforts to achieve both country and overall performance targets for prevention, treatment, care, and orphans and vulnerable children'.

"(40) The United States Government has endorsed the principles of harmonization in coordinating efforts to combat HIV/AIDS commonly referred to as the 'Three Ones', which includes—

"(A) 1 agreed HIV/AIDS action framework that provides the basis for coordination of the work of all partners;

"(B) 1 national HIV/AIDS coordinating authority, with a broadbased multisectoral mandate; and

"(C) 1 agreed HIV/AIDS country-level monitoring and evaluating system.

"(41) In the Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases, of April 26–27, 2001 (referred to in this Act as the 'Abuja Declaration'), the Heads of State and Government of the Organization of African Unity (OAU)—

"(A) declared that they would 'place the fight against HIV/AIDS at the forefront and as the highest priority issue in our respective national development plans';

"(B) committed 'TO TAKE PERSONAL RESPONSIBILITY AND PROVIDE LEADERSHIP for the activities of the National AIDS Commissions/Councils';

"(C) resolved 'to lead from the front the battle against HIV/AIDS, Tuberculosis and Other Related Infectious Diseases by personally ensuring that such bodies were properly convened in mobilizing our societies as a whole and providing focus for unified national policymaking and programme implementation, ensuring coordination of all sectors at all levels with a gender perspective and respect for human rights, particularly to ensure equal rights for people living with HIV/AIDS'; and

"(D) pledged 'to set a target of allocating at least 15% of our annual budget to the improvement of the health sector'.".

**SEC. 3. DEFINITIONS.**

Section 3 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7602) is amended—

(1) in paragraph (2), by striking "Committee on International Relations" and inserting "Committee on Foreign Affairs of the House of Representatives, the Committee on Appropriations of the Senate, and the Committee on Appropriations";

(2) by redesignating paragraph (6) as paragraph (12);

(3) by redesignating paragraphs (3) through (5), as paragraphs (4) through (6), respectively;

(4) by inserting after paragraph (2) the following:

"(3) GLOBAL AIDS COORDINATOR.—The term 'Global AIDS Coordinator' means the Coordinator of United States Government Activities to Combat HIV/AIDS Globally."; and

(5) by inserting after paragraph (6), as redesignated, the following:

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

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

"(9) PARAPROFESSIONAL.—The term 'paraprofessional' means an individual who is trained and employed as a health agent for the provision of basic assistance in the identification, prevention, or treatment of illness or disability.

"(10) PARTNER GOVERNMENT.—The term 'partner government' means a government with which the United States is working to provide assistance to combat HIV/AIDS, tuberculosis, or malaria on behalf of people living within the jurisdiction of such government.

"(11) PROGRAM MONITORING.—The term 'program monitoring' means the collection, analysis, and use of routine program data to determine—

"(A) how well a program is carried out; and

"(B) how much the program costs.".

**SEC. 4. PURPOSE.**

Section 4 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7603) is amended to read as follows:

**"SEC. 4. PURPOSE.**

"The purpose of this Act is to strengthen and enhance United States leadership and the effectiveness of the United States response to the HIV/AIDS, tuberculosis, and malaria pandemics and other related and preventable infectious diseases as part of the overall United States health and development agenda by—

"(1) establishing comprehensive, coordinated, and integrated 5-year, global strategies to combat HIV/AIDS, tuberculosis, and malaria by—

"(A) building on progress and successes to date;

"(B) improving harmonization of United States efforts with national strategies of partner governments and other public and private entities; and

"(C) emphasizing capacity building initiatives in order to promote a transition toward greater sustainability through the support of country-driven efforts;

"(2) providing increased resources for bilateral and multilateral efforts to fight HIV/AIDS, tuberculosis, and malaria as integrated components of United States development assistance;

"(3) intensifying efforts to—

"(A) prevent HIV infection;

"(B) ensure the continued support for, and expanded access to, treatment and care programs;

"(C) enhance the effectiveness of prevention, treatment, and care programs; and

"(D) address the particular vulnerabilities of girls and women;

"(4) encouraging the expansion of private sector efforts and expanding public-private sector partnerships to combat HIV/AIDS, tuberculosis, and malaria;

"(5) reinforcing efforts to—

"(A) develop safe and effective vaccines, microbicides, and other prevention and treatment technologies; and

"(B) improve diagnostics capabilities for HIV/AIDS, tuberculosis, and malaria; and

"(6) helping partner countries to—

"(A) strengthen health systems;

"(B) expand health workforce; and

"(C) address infrastructural weaknesses.".

**SEC. 5. AUTHORITY TO CONSOLIDATE AND COMBINE REPORTS.**

Section 5 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7604) is amended by inserting ", with the exception of the 5-year strategy" before the period at the end.

# TITLE I—POLICY PLANNING AND COORDINATION

**SEC. 101. DEVELOPMENT OF AN UPDATED, COMPREHENSIVE, 5-YEAR, GLOBAL STRATEGY.**

(a) STRATEGY.—Section 101(a) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7611(a)) is amended to read as follows:

"(a) STRATEGY.—The President shall establish a comprehensive, integrated, 5-year strategy to expand and improve efforts to combat global HIV/AIDS. This strategy shall— President.

"(1) further strengthen the capability of the United States to be an effective leader of the international campaign against this disease and strengthen the capacities of nations experiencing HIV/AIDS epidemics to combat this disease;

"(2) maintain sufficient flexibility and remain responsive to—

"(A) changes in the epidemic;

"(B) challenges facing partner countries in developing and implementing an effective national response; and

"(C) evidence-based improvements and innovations in the prevention, care, and treatment of HIV/AIDS;

"(3) situate United States efforts to combat HIV/AIDS, tuberculosis, and malaria within the broader United States global health and development agenda, establishing a roadmap to link investments in specific disease programs to the broader goals of strengthening health systems and infrastructure and to integrate and coordinate HIV/AIDS, tuberculosis, or malaria programs with other health or development programs, as appropriate;

"(4) provide a plan to—

"(A) prevent 12,000,000 new HIV infections worldwide;

"(B) support—

"(i) the increase in the number of individuals with HIV/AIDS receiving antiretroviral treatment above the goal established under section 402(a)(3) and increased pursuant to paragraphs (1) through (3) of section 403(d); and

"(ii) additional treatment through coordinated multilateral efforts;

"(C) support care for 12,000,000 individuals infected with or affected by HIV/AIDS, including 5,000,000 orphans and vulnerable children affected by HIV/AIDS, with an emphasis on promoting a comprehensive, coordinated system of services to be integrated throughout the continuum of care;

"(D) help partner countries in the effort to achieve goals of 80 percent access to counseling, testing, and treatment to prevent the transmission of HIV from mother to child, emphasizing a continuum of care model;

"(E) help partner countries to provide care and treatment services to children with HIV in proportion to their percentage within the HIV-infected population in each country;

"(F) promote preservice training for health professionals designed to strengthen the capacity of institutions

to develop and implement policies for training health workers to combat HIV/AIDS, tuberculosis, and malaria;

"(G) equip teachers with skills needed for HIV/AIDS prevention and support for persons with, or affected by, HIV/AIDS;

"(H) provide and share best practices for combating HIV/AIDS with health professionals;

"(I) promote pediatric HIV/AIDS training for physicians, nurses, and other health care workers, through public-private partnerships if possible, including through the designation, if appropriate, of centers of excellence for training in pediatric HIV/AIDS prevention, care, and treatment in partner countries; and

"(J) help partner countries to train and support retention of health care professionals and paraprofessionals, with the target of training and retaining at least 140,000 new health care professionals and paraprofessionals with an emphasis on training and in country deployment of critically needed doctors and nurses and to strengthen capacities in developing countries, especially in sub-Saharan Africa, to deliver primary health care with the objective of helping countries achieve staffing levels of at least 2.3 doctors, nurses, and midwives per 1,000 population, as called for by the World Health Organization;

"(5) include multisectoral approaches and specific strategies to treat individuals infected with HIV/AIDS and to prevent the further transmission of HIV infections, with a particular focus on the needs of families with children (including the prevention of mother-to-child transmission), women, young people, orphans, and vulnerable children;

"(6) establish a timetable with annual global treatment targets with country-level benchmarks for antiretroviral treatment;

"(7) expand the integration of timely and relevant research within the prevention, care, and treatment of HIV/AIDS;

"(8) include a plan for program monitoring, operations research, and impact evaluation and for the dissemination of a best practices report to highlight findings;

"(9) support the in-country or intra-regional training, preferably through public-private partnerships, of scientific investigators, managers, and other staff who are capable of promoting the systematic uptake of clinical research findings and other evidence-based interventions into routine practice, with the goal of improving the quality, effectiveness, and local leadership of HIV/AIDS health care;

"(10) expand and accelerate research on and development of HIV/AIDS prevention methods for women, including enhancing inter-agency collaboration, staffing, and organizational infrastructure dedicated to microbicide research;

"(11) provide for consultation with local leaders and officials to develop prevention strategies and programs that are tailored to the unique needs of each country and community and targeted particularly toward those most at risk of acquiring HIV infection;

"(12) make the reduction of HIV/AIDS behavioral risks a priority of all prevention efforts by—

"(A) promoting abstinence from sexual activity and encouraging monogamy and faithfulness;

"(B) encouraging the correct and consistent use of male and female condoms and increasing the availability of, and access to, these commodities;

"(C) promoting the delay of sexual debut and the reduction of multiple concurrent sexual partners;

"(D) promoting education for discordant couples (where an individual is infected with HIV and the other individual is uninfected or whose status is unknown) about safer sex practices;

"(E) promoting voluntary counseling and testing, addiction therapy, and other prevention and treatment tools for illicit injection drug users and other substance abusers;

"(F) educating men and boys about the risks of procuring sex commercially and about the need to end violent behavior toward women and girls;

"(G) supporting partner country and community efforts to identify and address social, economic, or cultural factors, such as migration, urbanization, conflict, gender-based violence, lack of empowerment for women, and transportation patterns, which directly contribute to the transmission of HIV;

"(H) supporting comprehensive programs to promote alternative livelihoods, safety, and social reintegration strategies for commercial sex workers and their families;

"(I) promoting cooperation with law enforcement to prosecute offenders of trafficking, rape, and sexual assault crimes with the goal of eliminating such crimes; and

"(J) working to eliminate rape, gender-based violence, sexual assault, and the sexual exploitation of women and children;

"(13) include programs to reduce the transmission of HIV, particularly addressing the heightened vulnerabilities of women and girls to HIV in many countries; and

"(14) support other important means of preventing or reducing the transmission of HIV, including—

"(A) medical male circumcision;

"(B) the maintenance of a safe blood supply;

"(C) promoting universal precautions in formal and informal health care settings;

"(D) educating the public to recognize and to avoid risks to contract HIV through blood exposures during formal and informal health care and cosmetic services;

"(E) investigating suspected nosocomial infections to identify and stop further nosocomial transmission; and

"(F) other mechanisms to reduce the transmission of HIV;

"(15) increase support for prevention of mother-to-child transmission;

"(16) build capacity within the public health sector of developing countries by improving health systems and public health infrastructure and developing indicators to measure changes in broader public health sector capabilities;

"(17) increase the coordination of HIV/AIDS programs with development programs;

"(18) provide a framework for expanding or developing existing or new country or regional programs, including—

"(A) drafting compacts or other agreements, as appropriate;

"(B) establishing criteria and objectives for such compacts and agreements; and

"(C) promoting sustainability;

"(19) provide a plan for national and regional priorities for resource distribution and a global investment plan by region;

"(20) provide a plan to address the immediate and ongoing needs of women and girls, which—

"(A) addresses the vulnerabilities that contribute to their elevated risk of infection;

"(B) includes specific goals and targets to address these factors;

"(C) provides clear guidance to field missions to integrate gender across prevention, care, and treatment programs;

"(D) sets forth gender-specific indicators to monitor progress on outcomes and impacts of gender programs;

"(E) supports efforts in countries in which women or orphans lack inheritance rights and other fundamental protections to promote the passage, implementation, and enforcement of such laws;

"(F) supports life skills training, especially among women and girls, with the goal of reducing vulnerabilities to HIV/AIDS;

"(G) addresses and prevents gender-based violence; and

"(H) addresses the posttraumatic and psychosocial consequences and provides postexposure prophylaxis protecting against HIV infection to victims of gender-based violence and rape;

"(21) provide a plan to—

"(A) determine the local factors that may put men and boys at elevated risk of contracting or transmitting HIV;

"(B) address male norms and behaviors to reduce these risks, including by reducing alcohol abuse;

"(C) promote responsible male behavior; and

"(D) promote male participation and leadership at the community level in efforts to promote HIV prevention, reduce stigma, promote participation in voluntary counseling and testing, and provide care, treatment, and support for persons with HIV/AIDS;

"(22) provide a plan to address the vulnerabilities and needs of orphans and children who are vulnerable to, or affected by, HIV/AIDS;

"(23) encourage partner countries to develop health care curricula and promote access to training tailored to individuals receiving services through, or exiting from, existing programs geared to orphans and vulnerable children;

"(24) provide a framework to work with international actors and partner countries toward universal access to HIV/AIDS prevention, treatment, and care programs, recognizing that prevention is of particular importance;

"(25) enhance the coordination of United States bilateral efforts to combat global HIV/AIDS with other major public and private entities;

"(26) enhance the attention given to the national strategic HIV/AIDS plans of countries receiving United States assistance by—

"(A) reviewing the planning and programmatic decisions associated with that assistance; and

"(B) helping to strengthen such national strategies, if necessary;

"(27) support activities described in the Global Plan to Stop TB, including—

"(A) expanding and enhancing the coverage of the Directly Observed Treatment Short-course (DOTS) in order to treat individuals infected with tuberculosis and HIV, including multi-drug resistant or extensively drug resistant tuberculosis; and

"(B) improving coordination and integration of HIV/AIDS and tuberculosis programming;

"(28) ensure coordination between the Global AIDS Coordinator and the Malaria Coordinator and address issues of comorbidity between HIV/AIDS and malaria; and

"(29) include a longer term estimate of the projected resource needs, progress toward greater sustainability and country ownership of HIV/AIDS programs, and the anticipated role of the United States in the global effort to combat HIV/AIDS during the 10-year period beginning on October 1, 2013.".

(b) REPORT.—Section 101(b) of such Act (22 U.S.C. 7611(b)) is amended to read as follows:

"(b) REPORT.—

"(1) IN GENERAL.—Not later than October 1, 2009, the President shall submit a report to the appropriate congressional committees that sets forth the strategy described in subsection (a). President.

"(2) CONTENTS.—The report required under paragraph (1) shall include a discussion of the following elements:

"(A) The purpose, scope, methodology, and general and specific objectives of the strategy.

"(B) The problems, risks, and threats to the successful pursuit of the strategy.

"(C) The desired goals, objectives, activities, and outcome-related performance measures of the strategy.

"(D) A description of future costs and resources needed to carry out the strategy.

"(E) A delineation of United States Government roles, responsibility, and coordination mechanisms of the strategy.

"(F) A description of the strategy—

"(i) to promote harmonization of United States assistance with that of other international, national, and private actors as elucidated in the 'Three Ones'; and

"(ii) to address existing challenges in harmonization and alignment.

"(G) A description of the manner in which the strategy will—

"(i) further the development and implementation of the national multisectoral strategic HIV/AIDS frameworks of partner governments; and

"(ii) enhance the centrality, effectiveness, and sustainability of those national plans.

"(H) A description of how the strategy will seek to achieve the specific targets described in subsection (a) and other targets, as appropriate.

"(I) A description of, and rationale for, the timetable for annual global treatment targets with country-level estimates of numbers of persons in need of antiretroviral treatment, country-level benchmarks for United States support for assistance for antiretroviral treatment, and numbers of persons enrolled in antiretroviral treatment programs receiving United States support. If global benchmarks are not achieved within the reporting period, the report shall include a description of steps being taken to ensure that global benchmarks will be achieved and a detailed breakdown and justification of spending priorities in countries in which benchmarks are not being met, including a description of other donor or national support for antiretroviral treatment in the country, if appropriate.

"(J) A description of how operations research is addressed in the strategy and how such research can most effectively be integrated into care, treatment, and prevention activities in order to—

"(i) improve program quality and efficiency;

"(ii) ascertain cost effectiveness;

"(iii) ensure transparency and accountability;

"(iv) assess population-based impact;

"(v) disseminate findings and best practices; and

"(vi) optimize delivery of services.

"(K) An analysis of United States-assisted strategies to prevent the transmission of HIV/AIDS, including methodologies to promote abstinence, monogamy, faithfulness, the correct and consistent use of male and female condoms, reductions in concurrent sexual partners, and delay of sexual debut, and of intended monitoring and evaluation approaches to measure the effectiveness of prevention programs and ensure that they are targeted to appropriate audiences.

"(L) Within the analysis required under subparagraph (K), an examination of additional planned means of preventing the transmission of HIV including medical male circumcision, maintenance of a safe blood supply, public education about risks to acquire HIV infection from blood exposures, promotion of universal precautions, investigation of suspected nosocomial infections and other tools.

"(M) A description of efforts to assist partner country and community to identify and address social, economic, or cultural factors, such as migration, urbanization, conflict, gender-based violence, lack of empowerment for women, and transportation patterns, which directly contribute to the transmission of HIV.

"(N) A description of the specific targets, goals, and strategies developed to address the needs and

vulnerabilities of women and girls to HIV/AIDS, including—

"(i) activities directed toward men and boys;

"(ii) activities to enhance educational, microfinance, and livelihood opportunities for women and girls;

"(iii) activities to promote and protect the legal empowerment of women, girls, and orphans and vulnerable children;

"(iv) programs targeted toward gender-based violence and sexual coercion;

"(v) strategies to meet the particular needs of adolescents;

"(vi) assistance for victims of rape, sexual abuse, assault, exploitation, and trafficking; and

"(vii) programs to prevent alcohol abuse.

"(O) A description of strategies to address male norms and behaviors that contribute to the transmission of HIV, to promote responsible male behavior, and to promote male participation and leadership in HIV/AIDS prevention, care, treatment, and voluntary counseling and testing.

"(P) A description of strategies—

"(i) to address the needs of orphans and vulnerable children, including an analysis of—

"(I) factors contributing to children's vulnerability to HIV/AIDS; and

"(II) vulnerabilities caused by the impact of HIV/AIDS on children and their families; and

"(ii) in areas of higher HIV/AIDS prevalence, to promote a community-based approach to vulnerability, maximizing community input into determining which children participate.

"(Q) A description of capacity-building efforts undertaken by countries themselves, including adherents of the Abuja Declaration and an assessment of the impact of International Monetary Fund macroeconomic and fiscal policies on national and donor investments in health.

"(R) A description of the strategy to—

"(i) strengthen capacity building within the public health sector;

"(ii) improve health care in those countries;

"(iii) help countries to develop and implement national health workforce strategies;

"(iv) strive to achieve goals in training, retaining, and effectively deploying health staff;

"(v) promote the use of codes of conduct for ethical recruiting practices for health care workers; and

"(vi) increase the sustainability of health programs.

"(S) A description of the criteria for selection, objectives, methodology, and structure of compacts or other framework agreements with countries or regional organizations, including—

"(i) the role of civil society;

"(ii) the degree of transparency;

"(iii) benchmarks for success of such compacts or agreements; and

"(iv) the relationship between such compacts or agreements and the national HIV/AIDS and public health strategies and commitments of partner countries.

"(T) A strategy to better coordinate HIV/AIDS assistance with nutrition and food assistance programs.

"(U) A description of transnational or regional initiatives to combat regionalized epidemics in highly affected areas such as the Caribbean.

"(V) A description of planned resource distribution and global investment by region.

"(W) A description of coordination efforts in order to better implement the Stop TB Strategy and to address the problem of coinfection of HIV/AIDS and tuberculosis and of projected challenges or barriers to successful implementation.

"(X) A description of coordination efforts to address malaria and comorbidity with malaria and HIV/AIDS.".

(c) STUDY.—Section 101(c) of such Act (22 U.S.C. 7611(c)) is amended to read as follows:

"(c) STUDY OF PROGRESS TOWARD ACHIEVEMENT OF POLICY OBJECTIVES.—

Contracts. Deadline.

"(1) DESIGN AND BUDGET PLAN FOR DATA EVALUATION.—The Global AIDS Coordinator shall enter into a contract with the Institute of Medicine of the National Academies that provides that not later than 18 months after the date of the enactment of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, the Institute, in consultation with the Global AIDS Coordinator and other relevant parties representing the public and private sector, shall provide the Global AIDS Coordinator with a design plan and budget for the evaluation and collection of baseline and subsequent data to address the elements set forth in paragraph (2)(B). The Global AIDS Coordinator shall submit the budget and design plan to the appropriate congressional committees.

"(2) STUDY.—

Deadline. Publication.

"(A) IN GENERAL.—Not later than 4 years after the date of the enactment of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, the Institute of Medicine of the National Academies shall publish a study that includes—

"(i) an assessment of the performance of United States-assisted global HIV/AIDS programs; and

"(ii) an evaluation of the impact on health of prevention, treatment, and care efforts that are supported by United States funding, including multilateral and bilateral programs involving joint operations.

"(B) CONTENT.—The study conducted under this paragraph shall include—

"(i) an assessment of progress toward prevention, treatment, and care targets;

"(ii) an assessment of the effects on health systems, including on the financing and management of health systems and the quality of service delivery and staffing;

"(iii) an assessment of efforts to address gender-specific aspects of HIV/AIDS, including gender related constraints to accessing services and addressing underlying social and economic vulnerabilities of women and men;

"(iv) an evaluation of the impact of treatment and care programs on 5-year survival rates, drug adherence, and the emergence of drug resistance;

"(v) an evaluation of the impact of prevention programs on HIV incidence in relevant population groups;

"(vi) an evaluation of the impact on child health and welfare of interventions authorized under this Act on behalf of orphans and vulnerable children;

"(vii) an evaluation of the impact of programs and activities authorized in this Act on child mortality; and

"(viii) recommendations for improving the programs referred to in subparagraph (A)(i).

"(C) METHODOLOGIES.—Assessments and impact evaluations conducted under the study shall utilize sound statistical methods and techniques for the behavioral sciences, including random assignment methodologies as feasible. Qualitative data on process variables should be used for assessments and impact evaluations, wherever possible.

"(3) CONTRACT AUTHORITY.—The Institute of Medicine may enter into contracts or cooperative agreements or award grants to conduct the study under paragraph (2).

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the study under this subsection.".

(d) REPORT.—Section 101 of such Act, as amended by this section, is further amended by adding at the end the following:

"(d) COMPTROLLER GENERAL REPORT.—

"(1) REPORT REQUIRED.—Not later than 3 years after the date of the enactment of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, the Comptroller General of the United States shall submit a report on the global HIV/AIDS programs of the United States to the appropriate congressional committees.

"(2) CONTENTS.—The report required under paragraph (1) shall include—

"(A) a description and assessment of the monitoring and evaluation practices and policies in place for these programs;

"(B) an assessment of coordination within Federal agencies involved in these programs, examining both internal coordination within these programs and integration with the larger global health and development agenda of the United States;

"(C) an assessment of procurement policies and practices within these programs;

"(D) an assessment of harmonization with national government HIV/AIDS and public health strategies as well as other international efforts;

"(E) an assessment of the impact of global HIV/AIDS funding and programs on other United States global health programming; and

"(F) recommendations for improving the global HIV/AIDS programs of the United States.

"(e) BEST PRACTICES REPORT.—

Publication.

"(1) IN GENERAL.—Not later than 1 year after the date of the enactment of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, and annually thereafter, the Global AIDS Coordinator shall publish a best practices report that highlights the programs receiving financial assistance from the United States that have the potential for replication or adaption, particularly at a low cost, across global AIDS programs, including those that focus on both generalized and localized epidemics.

"(2) DISSEMINATION OF FINDINGS.—

"(A) PUBLICATION ON INTERNET WEBSITE.—The Global AIDS Coordinator shall disseminate the full findings of the annual best practices report on the Internet website of the Office of the Global AIDS Coordinator.

"(B) DISSEMINATION GUIDANCE.—The Global AIDS Coordinator shall develop guidance to ensure timely submission and dissemination of significant information regarding best practices with respect to global AIDS programs.

"(f) INSPECTORS GENERAL.—

"(1) OVERSIGHT PLAN.—

"(A) DEVELOPMENT.—The Inspectors General of the Department of State and Broadcasting Board of Governors, the Department of Health and Human Services, and the United States Agency for International Development shall jointly develop 5 coordinated annual plans for oversight activity in each of the fiscal years 2009 through 2013, with regard to the programs authorized under this Act and sections 104A, 104B, and 104C of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2, 2151b–3, and 2151b–4).

"(B) CONTENTS.—The plans developed under subparagraph (A) shall include a schedule for financial audits, inspections, and performance reviews, as appropriate.

"(C) DEADLINE.—

"(i) INITIAL PLAN.—The first plan developed under subparagraph (A) shall be completed not later than the later of—

"(I) September 1, 2008; or

"(II) 60 days after the date of the enactment of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008.

"(ii) SUBSEQUENT PLANS.—Each of the last four plans developed under subparagraph (A) shall be completed not later than 30 days before each of the fiscal years 2010 through 2013, respectively.

"(2) COORDINATION.—In order to avoid duplication and maximize efficiency, the Inspectors General described in paragraph (1) shall coordinate their activities with—

"(A) the Government Accountability Office; and

"(B) the Inspectors General of the Department of Commerce, the Department of Defense, the Department of Labor, and the Peace Corps, as appropriate, pursuant to the 2004 Memorandum of Agreement Coordinating Audit Coverage of Programs and Activities Implementing the President's Emergency Plan for AIDS Relief, or any successor agreement.

"(3) FUNDING.—The Global AIDS Coordinator and the Coordinator of the United States Government Activities to Combat Malaria Globally shall make available necessary funds not exceeding $15,000,000 during the 5-year period beginning on October 1, 2008 to the Inspectors General described in paragraph (1) for the audits, inspections, and reviews described in that paragraph.". Effective date.

(e) ANNUAL STUDY; MESSAGE.—Section 101 of such Act, as amended by this section, is further amended by adding at the end the following:

"(g) ANNUAL STUDY.— Deadlines.

"(1) IN GENERAL.—Not later than September 30, 2009, and annually thereafter through September 30, 2013, the Global AIDS Coordinator shall complete a study of treatment providers that—

"(A) represents a range of countries and service environments;

"(B) estimates the per-patient cost of antiretroviral HIV/AIDS treatment and the care of people with HIV/AIDS not receiving antiretroviral treatment, including a comparison of the costs for equivalent services provided by programs not receiving assistance under this Act;

"(C) estimates per-patient costs across the program and in specific categories of service providers, including—

"(i) urban and rural providers;

"(ii) country-specific providers; and

"(iii) other subcategories, as appropriate.

"(2) PUBLICATION.—Not later than 90 days after the completion of each study under paragraph (1), the Global AIDS Coordinator shall make the results of such study available on a publicly accessible Web site. Web site.

"(h) MESSAGE.—The Global AIDS Coordinator shall develop a message, to be prominently displayed by each program receiving funds under this Act, that—

"(1) demonstrates that the program is a commitment by citizens of the United States to the global fight against HIV/AIDS, tuberculosis, and malaria; and

"(2) enhances awareness by program recipients that the program is an effort on behalf of the citizens of the United States.".

**SEC. 102. INTERAGENCY WORKING GROUP.**

Section 1(f)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(f)(2)) is amended—

(1) in subparagraph (A), by inserting ", partner country finance, health, and other relevant ministries," after "community based organizations)" each place it appears;

(2) in subparagraph (B)(ii)—

(A) by striking subclauses (IV) and (V);

Government organization. Establishment.

(B) by inserting after subclause (III) the following:

"(IV) Establishing an interagency working group on HIV/AIDS headed by the Global AIDS Coordinator and comprised of representatives from the United States Agency for International Development and the Department of Health and Human Services, for the purposes of coordination of activities relating to HIV/AIDS, including—

"(aa) meeting regularly to review progress in partner countries toward HIV/AIDS prevention, treatment, and care objectives;

"(bb) participating in the process of identifying countries to consider for increased assistance based on the epidemiology of HIV/AIDS in those countries, including clear evidence of a public health threat, as well as government commitment to address the HIV/AIDS problem, relative need, and coordination and joint planning with other significant actors;

"(cc) assisting the Coordinator in the evaluation, execution, and oversight of country operational plans;

"(dd) reviewing policies that may be obstacles to reaching targets set forth for HIV/AIDS prevention, treatment, and care; and

"(ee) consulting with representatives from additional relevant agencies, including the National Institutes of Health, the Health Resources and Services Administration, the Department of Labor, the Department of Agriculture, the Millennium Challenge Corporation, the Peace Corps, and the Department of Defense.

"(V) Coordinating overall United States HIV/AIDS policy and programs, including ensuring the coordination of relevant executive branch agency activities in the field, with efforts led by partner countries, and with the assistance provided by other relevant bilateral and multilateral aid agencies and other donor institutions to promote harmonization with other programs aimed at preventing and treating HIV/AIDS and other health challenges, improving primary health, addressing food security, promoting education and development, and strengthening health care systems.";

(C) by redesignating subclauses (VII) and VIII) as subclauses (IX) and (XII), respectively;

(D) by inserting after subclause (VI) the following:

"(VII) Holding annual consultations with nongovernmental organizations in partner countries that provide services to improve health, and advocating on behalf of the individuals with HIV/AIDS

and those at particular risk of contracting HIV/AIDS, including organizations with members who are living with HIV/AIDS.

"(VIII) Ensuring, through interagency and international coordination, that HIV/AIDS programs of the United States are coordinated with, and complementary to, the delivery of related global health, food security, development, and education.";

(E) in subclause (IX), as redesignated by subparagraph (C)—

(i) by inserting "Vietnam," after "Uganda,";

(ii) by inserting after "of 2003" the following: "and other countries in which the United States is implementing HIV/AIDS programs as part of its foreign assistance program"; and

(iii) by adding at the end the following: "In designating additional countries under this subparagraph, the President shall give priority to those countries in which there is a high prevalence of HIV or risk of significantly increasing incidence of HIV within the general population and inadequate financial means within the country.";

(F) by inserting after subclause (IX), as redesignated by subparagraph (C), the following:

"(X) Working with partner countries in which the HIV/AIDS epidemic is prevalent among injection drug users to establish, as a national priority, national HIV/AIDS prevention programs.

"(XI) Working with partner countries in which the HIV/AIDS epidemic is prevalent among individuals involved in commercial sex acts to establish, as a national priority, national prevention programs, including education, voluntary testing, and counseling, and referral systems that link HIV/AIDS programs with programs to eradicate trafficking in persons and support alternatives to prostitution.";

(G) in subclause (XII), as redesignated by subparagraph (C), by striking "funds section" and inserting "funds appropriated for HIV/ AIDS assistance pursuant to the authorization of appropriations under section 401 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7671)"; and

(H) by adding at the end the following:

"(XIII) Publicizing updated drug pricing data to inform the purchasing decisions of pharmaceutical procurement partners.".

**SEC. 103. SENSE OF CONGRESS.**

Section 102 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7612) is amended by adding at the end the following:

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

"(1) full-time country level coordinators, preferably with management experience, should head each HIV/AIDS country

team for United States missions overseeing significant HIV/AIDS programs;

"(2) foreign service nationals provide critically important services in the design and implementation of United States country-level HIV/AIDS programs and their skills and experience as public health professionals should be recognized within hiring and compensation practices; and

"(3) staffing levels for United States country-level HIV/AIDS teams should be adequately maintained to fulfill oversight and other obligations of the positions.".

# TITLE II—SUPPORT FOR MULTILATERAL FUNDS, PROGRAMS, AND PUBLIC-PRIVATE PARTNERSHIPS

Appropriations authorizations.

## SEC. 201. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL VACCINE FUNDS.

Section 302 of the Foreign Assistance Act of 1961 (22 U.S.C. 2222) is amended—

(1) by inserting after subsection (c) the following:

"(d) TUBERCULOSIS VACCINE DEVELOPMENT PROGRAMS.—In addition to amounts otherwise available under this section, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2009 through 2013, which shall be used for United States contributions to tuberculosis vaccine development programs, which may include the Aeras Global TB Vaccine Foundation.";

(2) in subsection (k)—

(A) by striking "fiscal years 2004 through 2008" and inserting "fiscal years 2009 through 2013"; and

(B) by striking "Vaccine Fund" and inserting "GAVI Fund".

(3) in subsection (l), by striking "fiscal years 2004 through 2008" and inserting "fiscal years 2009 through 2013"; and

(4) in subsection (m), by striking "fiscal years 2004 through 2008" and inserting "fiscal years 2009 through 2013".

## SEC. 202. PARTICIPATION IN THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA.

(a) FINDINGS; SENSE OF CONGRESS.—Section 202(a) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7622(a)) is amended to read as follows:

"(a) FINDINGS; SENSE OF CONGRESS.—

"(1) FINDINGS.—Congress makes the following findings:

"(A) The establishment of the Global Fund in January 2002 is consistent with the general principles for an international AIDS trust fund first outlined by Congress in the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264).

"(B) The Global Fund is an innovative financing mechanism which—

"(i) has made progress in many areas in combating HIV/AIDS, tuberculosis, and malaria; and

"(ii) represents the multilateral component of this Act, extending United States efforts to more than 130 countries around the world.

"(C) The Global Fund and United States bilateral assistance programs—

"(i) are demonstrating increasingly effective coordination, with each possessing certain comparative advantages in the fight against HIV/AIDS, tuberculosis, and malaria; and

"(ii) often work most effectively in concert with each other.

"(D) The United States Government—

"(i) is the largest supporter of the Global Fund in terms of resources and technical support;

"(ii) made the founding contribution to the Global Fund; and

"(iii) is fully committed to the success of the Global Fund as a multilateral public-private partnership.

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

"(A) transparency and accountability are crucial to the long-term success and viability of the Global Fund;

"(B) the Global Fund has made significant progress toward addressing concerns raised by the Government Accountability Office by—

"(i) improving risk assessment and risk management capabilities;

"(ii) providing clearer guidance for and oversight of Local Fund Agents; and

"(iii) strengthening the Office of the Inspector General for the Global Fund;

"(C) the provision of sufficient resources and authority to the Office of the Inspector General for the Global Fund to ensure that office has the staff and independence necessary to carry out its mandate will be a measure of the commitment of the Global Fund to transparency and accountability;

"(D) regular, publicly published financial, programmatic, and reporting audits of the Fund, its grantees, and Local Fund Agents are also important benchmarks of transparency;

"(E) the Global Fund should establish and maintain a system to track—

"(i) the amount of funds disbursed to each subrecipient on the grant's fiscal cycle; and

"(ii) the distribution of resources, by grant and principal recipient, for prevention, care, treatment, drug and commodity purchases, and other purposes;

"(F) relevant national authorities in recipient countries should exempt from duties and taxes all products financed by Global Fund grants and procured by any principal recipient or subrecipient for the purpose of carrying out such grants;

"(G) the Global Fund, UNAIDS, and the Global AIDS Coordinator should work together to standardize program indicators wherever possible;

"(H) for purposes of evaluating total amounts of funds contributed to the Global Fund under subsection

(d)(4)(A)(i), the timetable for evaluations of contributions from sources other than the United States should take into account the fiscal calendars of other major contributors; and

"(I) the Global Fund should not support activities involving the 'Affordable Medicines Facility-Malaria' or similar entities pending compelling evidence of success from pilot programs as evaluated by the Coordinator of United States Government Activities to Combat Malaria Globally.".

22 USC 7622.

(b) STATEMENT OF POLICY.—Section 202(b) of such Act is amended by adding at the end the following:

"(3) STATEMENT OF POLICY.—The United States Government regards the imposition by recipient countries of taxes or tariffs on goods or services provided by the Global Fund, which are supported through public and private donations, including the substantial contribution of the American people, as inappropriate and inconsistent with standards of good governance. The Global AIDS Coordinator or other representatives of the United States Government shall work with the Global Fund to dissuade governments from imposing such duties, tariffs, or taxes.".

Taxes.
Tariffs.

(c) UNITED STATES FINANCIAL PARTICIPATION.—Section 202(d) of such Act (22 U.S.C. 7622(d)) is amended—

(1) in paragraph (1)—

(A) by striking "$1,000,000,000 for the period of fiscal year 2004 beginning on January 1, 2004" and inserting "$2,000,000,000 for fiscal year 2009,"; and

(B) by striking "the fiscal years 2005–2008" and inserting "each of the fiscal years 2010 through 2013";

(2) in paragraph (4)—

(A) in subparagraph (A)—

(i) in clause (i), by striking "fiscal years 2004 through 2008" and inserting "fiscal years 2009 through 2013";

(ii) in clause (ii)—

(I) by striking "during any of the fiscal years 2004 through 2008" and inserting "during any of the fiscal years 2009 through 2013"; and

(II) by adding at the end the following: "The President may waive the application of this clause with respect to assistance for Sudan that is overseen by the Southern Country Coordinating Mechanism, including Southern Sudan, Southern Kordofan, Blue Nile State, and Abyei, if the President determines that the national interest or humanitarian reasons justify such a waiver. The President shall publish each waiver of this clause in the Federal Register and, not later than 15 days before the waiver takes effect, shall consult with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives regarding the proposed waiver."; and

Federal Register, publication.
Deadline.

(iii) in clause (vi)—

(I) by striking "for the purposes" and inserting "For the purposes";

(II) by striking "fiscal years 2004 through 2008" and inserting "fiscal years 2009 through 2013"; and

(III) by striking "prior to fiscal year 2004" and inserting "before fiscal year 2009";

(B) in subparagraph (B)(iv), by striking "fiscal years 2004 through 2008" and inserting "fiscal years 2009 through 2013"; and

(C) in subparagraph (C)(ii), by striking "Committee on International Relations" and inserting "Committee on Foreign Affairs"; and

(3) by adding at the end the following:

"(5) WITHHOLDING FUNDS.—Notwithstanding any other provision of this Act, 20 percent of the amounts appropriated pursuant to this Act for a contribution to support the Global Fund for each of the fiscal years 2010 through 2013 shall be withheld from obligation to the Global Fund until the Secretary of State certifies to the appropriate congressional committees that the Global Fund— Certification.

"(A) has established an evaluation framework for the performance of Local Fund Agents (referred to in this paragraph as 'LFAs'); Performance evaluation.

"(B) is undertaking a systematic assessment of the performance of LFAs;

"(C) has adopted, and is implementing, a policy to publish on a publicly available Web site— Public information. Web site.

"(i) grant performance reviews;

"(ii) all reports of the Inspector General of the Global Fund, in a manner that is consistent with the Policy for Disclosure of Reports of the Inspector General, approved at the 16th Meeting of the Board of the Global Fund;

"(iii) decision points of the Board of the Global Fund;

"(iv) reports from Board committees to the Board; and

"(v) a regular collection and analysis of performance data and funding of grants of the Global Fund, which shall cover all principal recipients and all subrecipients;

"(D) is maintaining an independent, well-staffed Office of the Inspector General that—

"(i) reports directly to the Board of the Global Fund; and Reports.

"(ii) compiles regular, publicly published audits of financial, programmatic, and reporting aspects of the Global Fund, its grantees, and LFAs; Public information.

"(E) has established, and is reporting publicly on, standard indicators for all program areas; Public information. Reports.

"(F) has established a methodology to track and is publicly reporting on— Public information. Reports.

"(i) all subrecipients and the amount of funds disbursed to each subrecipient on the grant's fiscal cycle; and

"(ii) the distribution of resources, by grant and principal recipient, for prevention, care, treatment, drugs and commodities purchase, and other purposes;

"(G) has established a policy on tariffs imposed by national governments on all goods and services financed by the Global Fund;

"(H) through its Secretariat, has taken meaningful steps to prevent national authorities in recipient countries from imposing taxes or tariffs on goods or services provided by the Fund;

"(I) is maintaining its status as a financing institution focused on programs directly related to HIV/AIDS, malaria, and tuberculosis;

"(J) is maintaining and making progress on—

"(i) sustaining its multisectoral approach, through country coordinating mechanisms; and

"(ii) the implementation of grants, as reflected in the proportion of resources allocated to different sectors, including governments, civil society, and faith- and community-based organizations; and

"(K) has established procedures providing access by the Office of Inspector General of the Department of State and Broadcasting Board of Governors, as cognizant Inspector General, and the Inspector General of the Health and Human Services and the Inspector General of the United States Agency for International Development, to Global Fund financial data, and other information relevant to United States contributions (as determined by the Inspector General in consultation with the Global AIDS Coordinator).

Reports. Public information. Web site.

"(6) SUMMARIES OF BOARD DECISIONS AND UNITED STATES POSITIONS.—Following each meeting of the Board of the Global Fund, the Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall report on the public website of the Coordinator a summary of Board decisions and how the United States Government voted and its positions on such decisions.".

42 USC 300cc–40a note.

**SEC. 203. RESEARCH ON METHODS FOR WOMEN TO PREVENT TRANSMISSION OF HIV AND OTHER DISEASES.**

(a) SENSE OF CONGRESS.—Congress recognizes the need and urgency to expand the range of interventions for preventing the transmission of human immunodeficiency virus (HIV), including nonvaccine prevention methods that can be controlled by women.

(b) NIH OFFICE OF AIDS RESEARCH.—Subpart 1 of part D of title XXIII of the Public Health Service Act (42 U.S.C. 300cc–40 et seq.) is amended by inserting after section 2351 the following:

42 USC 300cc–40a.

**"SEC. 2351A. MICROBICIDE RESEARCH.**

"(a) FEDERAL STRATEGIC PLAN.—The Director of the Office shall—

"(1) expedite the implementation of the Federal strategic plans required by section 403(a) of the Public Health Service Act (42 U.S.C. 283(a)(5)) regarding the conduct and support of research on, and development of, a microbicide to prevent the transmission of the human immunodeficiency virus; and

"(2) review and, as appropriate, revise such plan to prioritize funding and activities relative to their scientific urgency and potential market readiness.

"(b) COORDINATION.—In implementing, reviewing, and prioritizing elements of the plan described in subsection (a), the Director of the Office shall consult, as appropriate, with—

"(1) representatives of other Federal agencies involved in microbicide research, including the Coordinator of United States Government Activities to Combat HIV/AIDS Globally, the Director of the Centers for Disease Control and Prevention, and the Administrator of the United States Agency for International Development;

"(2) the microbicide research and development community; and

"(3) health advocates.".

(c) NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES.—Subpart 6 of part C of title IV of the Public Health Service Act (42 U.S.C. 285f et seq.) is amended by adding at the end the following:

**"SEC. 447C. MICROBICIDE RESEARCH AND DEVELOPMENT.**

Women.
42 USC 285f–4.

"The Director of the Institute, acting through the head of the Division of AIDS, shall, consistent with the peer-review process of the National Institutes of Health, carry out research on, and development of, safe and effective methods for use by women to prevent the transmission of the human immunodeficiency virus, which may include microbicides.".

(d) CDC.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317S the following:

**"SEC. 317T. MICROBICIDE RESEARCH.**

42 USC 247b–22.

"(a) IN GENERAL.—The Director of the Centers for Disease Control and Prevention is strongly encouraged to fully implement the Centers' microbicide agenda to support research and development of microbicides for use to prevent the transmission of the human immunodeficiency virus.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2009 through 2013 to carry out this section.".

(e) UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—

22 USC 7631a.

(1) IN GENERAL.—The Administrator of the United States Agency for International Development, in coordination with the Coordinator of United States Government Activities to Combat HIV/AIDS Globally, may facilitate availability and accessibility of microbicides, provided that such pharmaceuticals are approved, tentatively approved, or otherwise authorized for use by—

(A) the Food and Drug Administration;

(B) a stringent regulatory agency acceptable to the Secretary of Health and Human Services; or

(C) a quality assurance mechanism acceptable to the Secretary of Health and Human Services.

(2) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated under section 401 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7671) for HIV/AIDS assistance, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2009 through 2013 to carry out this subsection.

**SEC. 204. COMBATING HIV/AIDS, TUBERCULOSIS, AND MALARIA BY STRENGTHENING HEALTH POLICIES AND HEALTH SYSTEMS OF PARTNER COUNTRIES.**

(a) IN GENERAL.—Title II of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7621) is amended by adding at the end the following:

22 USC 7623.

**"SEC. 204. COMBATING HIV/AIDS, TUBERCULOSIS, AND MALARIA BY STRENGTHENING HEALTH POLICIES AND HEALTH SYSTEMS OF PARTNER COUNTRIES.**

"(a) STATEMENT OF POLICY.—It shall be the policy of the United States Government—

"(1) to invest appropriate resources authorized under this Act—

"(A) to carry out activities to strengthen HIV/AIDS, tuberculosis, and malaria health policies and health systems; and

"(B) to provide workforce training and capacity-building consistent with the goals and objectives of this Act; and

"(2) to support the development of a sound policy environment in partner countries to increase the ability of such countries—

"(A) to maximize utilization of health care resources from donor countries;

"(B) to increase national investments in health and education and maximize the effectiveness of such investments;

"(C) to improve national HIV/AIDS, tuberculosis, and malaria strategies;

"(D) to deliver evidence-based services in an effective and efficient manner; and

"(E) to reduce barriers that prevent recipients of services from achieving maximum benefit from such services.

"(b) ASSISTANCE TO IMPROVE PUBLIC FINANCE MANAGEMENT SYSTEMS.—

"(1) IN GENERAL.—Consistent with the authority under section 129 of the Foreign Assistance Act of 1961 (22 U.S.C. 2152), the Secretary of the Treasury, acting through the head of the Office of Technical Assistance, is authorized to provide assistance for advisors and partner country finance, health, and other relevant ministries to improve the effectiveness of public finance management systems in partner countries to enable such countries to receive funding to carry out programs to combat HIV/AIDS, tuberculosis, and malaria and to manage such programs.

"(2) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated under section 401 for HIV/AIDS assistance, there are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary for each of the fiscal years 2009 through 2013 to carry out this subsection.

"(c) PLAN REQUIRED.—The Global AIDS Coordinator, in collaboration with the Administrator of the United States Agency for International Development (USAID), shall develop and implement a plan to combat HIV/AIDS by strengthening health policies and health systems of partner countries as part of USAID's 'Health

Systems 2020' project. Recognizing that human and institutional capacity form the core of any health care system that can sustain the fight against HIV/AIDS, tuberculosis, and malaria, the plan shall include a strategy to encourage postsecondary educational institutions in partner countries, particularly in Africa, in collaboration with United States postsecondary educational institutions, including historically black colleges and universities, to develop such human and institutional capacity and in the process further build their capacity to sustain the fight against these diseases.".

(b) CLERICAL AMENDMENT.—The table of contents for the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7601 note) is amended by inserting after the item relating to section 203, as added by section 203 of this Act, the following:

"Sec. 204. Combating HIV/AIDS, tuberculosis, and malaria by strengthening health policies and health systems of partner countries.".

**SEC. 205. FACILITATING EFFECTIVE OPERATIONS OF THE CENTERS FOR DISEASE CONTROL.**

Section 307 of the Public Health Service Act (42 U.S.C. 242l) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary may participate with other countries in cooperative endeavors in—

"(1) biomedical research, health care technology, and the health services research and statistical analysis authorized under section 306 and title IX; and

"(2) biomedical research, health care services, health care research, or other related activities in furtherance of the activities, objectives or goals authorized under the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008."; and

(2) in subsection (b)—

(A) in paragraph (7), by striking "and" after the semicolon at the end;

(B) by striking "The Secretary may not, in the exercise of his authority under this section, provide financial assistance for the construction of any facility in any foreign country."

(C) in paragraph (8), by striking "for any purpose." and inserting "for the purpose of any law administered by the Office of Personnel Management;"; and

(D) by adding at the end the following:

"(9) provide such funds by advance or reimbursement to the Secretary of State, as may be necessary, to pay the costs of acquisition, lease, construction, alteration, equipping, furnishing or management of facilities outside of the United States; and

"(10) in consultation with the Secretary of State, through grant or cooperative agreement, make funds available to public or nonprofit private institutions or agencies in foreign countries in which the Secretary is participating in activities described under subsection (a) to acquire, lease, construct, alter, or renovate facilities in those countries.".

(3) in subsection (c)—

(A) by striking "1990" and inserting "1980"; and

(B) by inserting or "or section 903 of the Foreign Service Act of 1980 (22 U.S.C. 4083)" after "Code".

22 USC 7624.

**SEC. 206. FACILITATING VACCINE DEVELOPMENT.**

(a) TECHNICAL ASSISTANCE FOR DEVELOPING COUNTRIES.—The Administrator of the United States Agency for International Development, utilizing public-private partners, as appropriate, and working in coordination with other international development agencies, is authorized to strengthen the capacity of developing countries' governmental institutions to—

(1) collect evidence for informed decision-making and introduction of new vaccines, including potential HIV/AIDS, tuberculosis, and malaria vaccines, if such vaccines are determined to be safe and effective;

(2) review protocols for clinical trials and impact studies and improve the implementation of clinical trials; and

(3) ensure adequate supply chain and delivery systems.

(b) ADVANCED MARKET COMMITMENTS.—

(1) PURPOSE.—The purpose of this subsection is to improve global health by requiring the United States to participate in negotiations for advance market commitments for the development of future vaccines, including potential vaccines for HIV/AIDS, tuberculosis, and malaria.

(2) NEGOTIATION REQUIREMENT.—The Secretary of the Treasury shall enter into negotiations with the appropriate officials of the International Bank of Reconstruction and Development (World Bank) and the GAVI Alliance, the member nations of such entities, and other interested parties to establish advanced market commitments to purchase vaccines to combat HIV/AIDS, tuberculosis, malaria, and other related infectious diseases.

(3) REQUIREMENTS.—In negotiating the United States participation in programs for advanced market commitments, the Secretary of the Treasury shall take into account whether programs for advance market commitments include—

(A) legally binding contracts for product purchase that include a fair market price for up to a maximum number of treatments, creating a strong market incentive;

(B) clearly defined and transparent rules of program participation for qualified developers and suppliers of the product;

(C) clearly defined requirements for eligible vaccines to ensure that they are safe and effective and can be delivered in developing country contexts;

(D) dispute settlement mechanisms; and

(E) sufficient flexibility to enable the contracts to be adjusted in accord with new information related to projected market size and other factors while still maintaining the purchase commitment at a fair price.

Deadline.

(4) REPORT.—Not later than 1 year after the date of the enactment of this Act—

(A) the Secretary of the Treasury shall submit a report to the appropriate congressional committees on the status of the United States negotiations to participate in programs for the advanced market commitments under this subsection; and

(B) the President shall produce a comprehensive report, written by a study group of qualified professionals from relevant Federal agencies and initiatives, nongovernmental organizations, and industry representatives, that sets forth a coordinated strategy to accelerate development of vaccines for infectious diseases, such as HIV/AIDS, malaria, and tuberculosis, which includes— President.

(i) initiatives to create economic incentives for the research, development, and manufacturing of vaccines for HIV/AIDS, tuberculosis, malaria, and other infectious diseases;

(ii) an expansion of public-private partnerships and the leveraging of resources from other countries and the private sector; and

(iii) efforts to maximize United States capabilities to support clinical trials of vaccines in developing countries and to address the challenges of delivering vaccines in developing countries to minimize delays in access once vaccines are available.

# TITLE III—BILATERAL EFFORTS

## Subtitle A—General Assistance and Programs

**SEC. 301. ASSISTANCE TO COMBAT HIV/AIDS.**

(a) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.—

(1) FINDING.—Section 104A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2(a)) is amended by inserting "Central Asia, Eastern Europe, Latin America" after "Caribbean,".

(2) POLICY.—Section 104A(b) of such Act is amended to read as follows:

"(b) POLICY.—

"(1) OBJECTIVES.—It is a major objective of the foreign assistance program of the United States to provide assistance for the prevention and treatment of HIV/AIDS and the care of those affected by the disease. It is the policy objective of the United States, by 2013, to—

"(A) assist partner countries to—

"(i) prevent 12,000,000 new HIV infections worldwide;

"(ii) support—

"(I) the increase in the number of individuals with HIV/AIDS receiving antiretroviral treatment above the goal established under section 402(a)(3) and increased pursuant to paragraphs (1) through (3) of section 403(d); and

"(II) additional treatment through coordinated multilateral efforts;

"(iii) support care for 12,000,000 individuals infected with or affected by HIV/AIDS, including 5,000,000 orphans and vulnerable children affected by

HIV/AIDS, with an emphasis on promoting a comprehensive, coordinated system of services to be integrated throughout the continuum of care;

"(iv) provide at least 80 percent of the target population with access to counseling, testing, and treatment to prevent the transmission of HIV from mother-to-child;

"(v) provide care and treatment services to children with HIV in proportion to their percentage within the HIV-infected population of a given partner country; and

"(vi) train and support retention of health care professionals, paraprofessionals, and community health workers in HIV/AIDS prevention, treatment, and care, with the target of providing such training to at least 140,000 new health care professionals and paraprofessionals with an emphasis on training and in country deployment of critically needed doctors and nurses;

"(B) strengthen the capacity to deliver primary health care in developing countries, especially in sub-Saharan Africa;

"(C) support and help countries in their efforts to achieve staffing levels of at least 2.3 doctors, nurses, and midwives per 1,000 population, as called for by the World Health Organization; and

"(D) help partner countries to develop independent, sustainable HIV/AIDS programs.

"(2) COORDINATED GLOBAL STRATEGY.—The United States and other countries with the sufficient capacity should provide assistance to countries in sub-Saharan Africa, the Caribbean, Central Asia, Eastern Europe, and Latin America, and other countries and regions confronting HIV/AIDS epidemics in a coordinated global strategy to help address generalized and concentrated epidemics through HIV/AIDS prevention, treatment, care, monitoring and evaluation, and related activities.

"(3) PRIORITIES.—The United States Government's response to the global HIV/AIDS pandemic and the Government's efforts to help countries assume leadership of sustainable campaigns to combat their local epidemics should place high priority on—

"(A) the prevention of the transmission of HIV;

"(B) moving toward universal access to HIV/AIDS prevention counseling and services;

"(C) the inclusion of cost sharing assurances that meet the requirements under section 110; and

"(D) the inclusion of transition strategies to ensure sustainability of such programs and activities, including health care systems, under other international donor support, or budget support by respective foreign governments.".

(b) AUTHORIZATION.—Section 104A(c) of such Act is amended—

(1) in paragraph (1), by striking "and other countries and areas." and inserting "Central Asia, Eastern Europe, Latin America, and other countries and areas, particularly with respect to refugee populations or those in postconflict settings in such countries and areas with significant or increasing HIV incidence rates.";

(2) in paragraph (2), by striking "and other countries and areas affected by the HIV/AIDS pandemic" and inserting "Central Asia, Eastern Europe, Latin America, and other countries and areas affected by the HIV/AIDS pandemic, particularly with respect to refugee populations or those in post-conflict settings in such countries and areas with significant or increasing HIV incidence rates."; and

(3) in paragraph (3)—

(A) by striking "foreign countries" and inserting "partner countries, other international actors,"; and

(B) by inserting "within the framework of the principles of the Three Ones" before the period at the end.

(c) ACTIVITIES SUPPORTED.—Section 104A(d) of such Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by inserting "and multiple concurrent sexual partnering," after "casual sexual partnering"; and

(ii) by striking "condoms" and inserting "male and female condoms";

(B) in subparagraph (B)—

(i) by striking "programs that" and inserting "programs that are designed with local input and"; and

(ii) by striking "those organizations" and inserting "those locally based organizations";

(C) in subparagraph (D), by inserting "and promoting the use of provider-initiated or 'opt-out' voluntary testing in accordance with World Health Organization guidelines" before the semicolon at the end;

(D) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (H), (I), and (J), respectively;

(E) by inserting after subparagraph (E) the following:

"(F) assistance to—

"(i) achieve the goal of reaching 80 percent of pregnant women for prevention and treatment of mother-to-child transmission of HIV in countries in which the United States is implementing HIV/AIDS programs by 2013; and

"(ii) promote infant feeding options and treatment protocols that meet the most recent criteria established by the World Health Organization;

"(G) medical male circumcision programs as part of national strategies to combat the transmission of HIV/AIDS;";

(F) in subparagraph (I), as redesignated, by striking "and" at the end; and

(G) by adding at the end the following:

"(K) assistance for counseling, testing, treatment, care, and support programs, including—

"(i) counseling and other services for the prevention of reinfection of individuals with HIV/AIDS;

"(ii) counseling to prevent sexual transmission of HIV, including—

"(I) life skills development for practicing abstinence and faithfulness;

"(II) reducing the number of sexual partners;

"(III) delaying sexual debut; and

"(IV) ensuring correct and consistent use of condoms;

"(iii) assistance to engage underlying vulnerabilities to HIV/AIDS, especially those of women and girls;

"(iv) assistance for appropriate HIV/AIDS education programs and training targeted to prevent the transmission of HIV among men who have sex with men;

"(v) assistance to provide male and female condoms;

"(vi) diagnosis and treatment of other sexually transmitted infections;

"(vii) strategies to address the stigma and discrimination that impede HIV/AIDS prevention efforts; and

"(viii) assistance to facilitate widespread access to microbicides for HIV prevention, if safe and effective products become available, including financial and technical support for culturally appropriate introductory programs, procurement, distribution, logistics management, program delivery, acceptability studies, provider training, demand generation, and postintroduction monitoring."; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C)—

(i) by inserting "pain management," after "opportunistic infections,"; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) as part of care and treatment of HIV/AIDS, assistance (including prophylaxis and treatment) for common HIV/AIDS-related opportunistic infections for free or at a rate at which it is easily affordable to the individuals and populations being served;

"(E) as part of care and treatment of HIV/AIDS, assistance or referral to available and adequately resourced service providers for nutritional support, including counseling and where necessary the provision of commodities, for persons meeting malnourishment criteria and their families;";

(3) in paragraph (4)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(E) carrying out and expanding program monitoring, impact evaluation research and analysis, and operations research and disseminating data and findings through mechanisms to be developed by the Coordinator of United States Government Activities to Combat HIV/AIDS Globally, in coordination with the Director of the Centers for Disease Control, in order to—

"(i) improve accountability, increase transparency, and ensure the delivery of evidence-based services through the collection, evaluation, and analysis of data

regarding gender-responsive interventions, disaggregated by age and sex;

"(ii) identify and replicate effective models; and

"(iii) develop gender indicators to measure outcomes and the impacts of interventions; and

"(F) establishing appropriate systems to—

"(i) gather epidemiological and social science data on HIV; and

"(ii) evaluate the effectiveness of prevention efforts among men who have sex with men, with due consideration to stigma and risks associated with disclosure.";

(4) in paragraph (5)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following:

"(C) MECHANISM TO ENSURE COST-EFFECTIVE DRUG PURCHASING.—Subject to subparagraph (B), mechanisms to ensure that safe and effective pharmaceuticals, including antiretrovirals and medicines to treat opportunistic infections, are purchased at the lowest possible price at which such pharmaceuticals may be obtained in sufficient quantity on the world market, provided that such pharmaceuticals are approved, tentatively approved, or otherwise authorized for use by—

"(i) the Food and Drug Administration;

"(ii) a stringent regulatory agency acceptable to the Secretary of Health and Human Services; or

"(iii) a quality assurance mechanism acceptable to the Secretary of Health and Human Services.";

(5) in paragraph (6)—

(A) by amending the paragraph heading to read as follows:

"(6) RELATED AND COORDINATED ACTIVITIES.—";

(B) in subparagraph (B), by striking "and" at the end;

(C) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(D) coordinated or referred activities to—

"(i) enhance the clinical impact of HIV/AIDS care and treatment; and

"(ii) ameliorate the adverse social and economic costs often affecting AIDS-impacted families and communities through the direct provision, as necessary, or through the referral, if possible, of support services, including—

"(I) nutritional and food support;

"(II) safe drinking water and adequate sanitation;

"(III) nutritional counseling;

"(IV) income-generating activities and livelihood initiatives;

"(V) maternal and child health care;

"(VI) primary health care;

"(VII) the diagnosis and treatment of other infectious or sexually transmitted diseases;

"(VIII) substance abuse and treatment services; and

"(IX) legal services;

"(E) coordinated or referred activities to link programs addressing HIV/AIDS with programs addressing gender-based violence in areas of significant HIV prevalence to assist countries in the development and enforcement of women's health, children's health, and HIV/AIDS laws and policies that—

"(i) prevent and respond to violence against women and girls;

"(ii) promote the integration of screening and assessment for gender-based violence into HIV/AIDS programming;

"(iii) promote appropriate HIV/AIDS counseling, testing, and treatment into gender-based violence programs; and

"(iv) assist governments to develop partnerships with civil society organizations to create networks for psychosocial, legal, economic, or other support services;

"(F) coordinated or referred activities to—

"(i) address the frequent coinfection of HIV and tuberculosis, in accordance with World Health Organization guidelines;

"(ii) promote provider-initiated or 'opt-out' HIV/AIDS counseling and testing and appropriate referral for treatment and care to individuals with tuberculosis or its symptoms, particularly in areas with significant HIV prevalence; and

"(iii) strengthen programs to ensure that individuals testing positive for HIV receive tuberculosis screening and to improve laboratory capacities, infection control, and adherence; and

"(G) activities to—

"(i) improve the effectiveness of national responses to HIV/AIDS;

"(ii) strengthen overall health systems in high-prevalence countries, including support for workforce training, retention, and effective deployment, capacity building, laboratory development, equipment maintenance and repair, and public health and related public financial management systems and operations; and

"(iii) encourage fair and transparent procurement practices among partner countries; and

"(iv) promote in-country or intra-regional pediatric training for physicians and other health professionals, preferably through public-private partnerships involving colleges and universities, with the goal of increasing pediatric HIV workforce capacity."; and

(6) by adding at the end the following:

"(8) COMPACTS AND FRAMEWORK AGREEMENTS.—The development of compacts or framework agreements, tailored to local circumstances, with national governments or regional partnerships in countries with significant HIV/AIDS burdens to promote host government commitment to deeper integration of HIV/AIDS services into health systems, contribute to health systems overall, and enhance sustainability, including—

"(A) cost sharing assurances that meet the requirements under section 110; and

"(B) transition strategies to ensure sustainability of such programs and activities, including health care systems, under other international donor support, or budget support by respective foreign governments.".

(d) COMPACTS AND FRAMEWORK AGREEMENTS.—Section 104A of such Act is amended—

(1) by redesignating subsections (e) through (g) as subsections (f) through (h); and

(2) by inserting after subsection (d) the following:

"(e) COMPACTS AND FRAMEWORK AGREEMENTS.—

"(1) FINDINGS.—Congress makes the following findings:

"(A) The congressionally mandated Institute of Medicine report entitled 'PEPFAR Implementation: Progress and Promise' states: 'The next strategy [of the U.S. Global AIDS Initiative] should squarely address the needs and challenges involved in supporting sustainable country HIV/AIDS programs, thereby transitioning from a focus on emergency relief.'.

"(B) One mechanism to promote the transition from an emergency to a public health and development approach to HIV/AIDS is through compacts or framework agreements between the United States Government and each participating nation.

"(2) ELEMENTS.—Compacts on HIV/AIDS authorized under subsection (d)(8) shall include the following elements:

"(A) Compacts whose primary purpose is to provide direct services to combat HIV/AIDS are to be made between—

"(i) the United States Government; and

"(ii)(I) national or regional entities representing low-income countries served by an existing United States Agency for International Development or Department of Health and Human Services presence or regional platform; or

"(II) countries or regions—

"(aa) experiencing significantly high HIV prevalence or risk of significantly increasing incidence within the general population;

"(bb) served by an existing United States Agency for International Development or Department of Health and Human Services presence or regional platform; and

"(cc) that have inadequate financial means within such country or region.

"(B) Compacts whose primary purpose is to provide limited technical assistance to a country or region connected to services provided within the country or region—

"(i) may be made with other countries or regional entities served by an existing United States Agency for International Development or Department of Health and Human Services presence or regional platform;

"(ii) shall require significant investments in HIV prevention, care, and treatment services by the host country;

"(iii) shall be time-limited in terms of United States contributions; and

Deadlines.

Notification.

"(iv) shall be made only upon prior notification to Congress—

"(I) justifying the need for such compacts;

"(II) describing the expected investment by the country or regional entity; and

"(III) describing the scope, nature, expected total United States investment, and time frame of the limited technical assistance under the compact and its intended impact.

"(C) Compacts shall include provisions to—

"(i) promote local and national efforts to reduce stigma associated with HIV/AIDS; and

"(ii) work with and promote the role of civil society in combating HIV/AIDS.

"(D) Compacts shall take into account the overall national health and development and national HIV/AIDS and public health strategies of each country.

"(E) Compacts shall contain—

"(i) consideration of the specific objectives that the country and the United States expect to achieve during the term of a compact;

"(ii) consideration of the respective responsibilities of the country and the United States in the achievement of such objectives;

"(iii) consideration of regular benchmarks to measure progress toward achieving such objectives;

"(iv) an identification of the intended beneficiaries, disaggregated by gender and age, and including information on orphans and vulnerable children, to the maximum extent practicable;

"(v) consideration of the methods by which the compact is intended to—

"(I) address the factors that put women and girls at greater risk of HIV/AIDS; and

"(II) strengthen elements such as the economic, educational, and social status of women, girls, orphans, and vulnerable children and the inheritance rights and safety of such individuals;

"(vi) consideration of the methods by which the compact will—

"(I) strengthen the health care capacity, including factors such as the training, retention, deployment, recruitment, and utilization of health care workers;

"(II) improve supply chain management; and

"(III) improve the health systems and infrastructure of the partner country, including the ability of compact participants to maintain and operate equipment transferred or purchased as part of the compact;

"(vii) consideration of proposed mechanisms to provide oversight;

"(viii) consideration of the role of civil society in the development of a compact and the achievement of its objectives;

"(ix) a description of the current and potential participation of other donors in the achievement of such objectives, as appropriate; and

"(x) consideration of a plan to ensure appropriate fiscal accountability for the use of assistance.

"(F) For regional compacts, priority shall be given to countries that are included in regional funds and programs in existence as of the date of the enactment of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008.

"(G) Amounts made available for compacts described in subparagraphs (A) and (B) shall be subject to the inclusion of—

"(i) cost sharing assurances that meet the requirements under section 110; and

"(ii) transition strategies to ensure sustainability of such programs and activities, including health care systems, under other international donor support, and budget support by respective foreign governments.

"(3) LOCAL INPUT.—In entering into a compact on HIV/AIDS authorized under subsection (d)(8), the Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall seek to ensure that the government of a country—

"(A) takes into account the local perspectives of the rural and urban poor, including women, in each country; and

"(B) consults with private and voluntary organizations, including faith-based organizations, the business community, and other donors in the country.

"(4) CONGRESSIONAL AND PUBLIC NOTIFICATION AFTER ENTERING INTO A COMPACT.—Not later than 10 days after entering into a compact authorized under subsection (d)(8), the Global AIDS Coordinator shall— Deadline. Reports.

"(A) submit a report containing a detailed summary of the compact and a copy of the text of the compact to—

"(i) the Committee on Foreign Relations of the Senate;

"(ii) the Committee on Appropriations of the Senate;

"(iii) the Committee on Foreign Affairs of the House of Representatives; and

"(iv) the Committee on Appropriations of the House of Representatives; and

"(B) publish such information in the Federal Register and on the Internet website of the Office of the Global AIDS Coordinator.". Federal Register, publication. Web site.

(e) ANNUAL REPORT.—Section 104A(f) of such Act, as redesignated, is amended—

(1) in paragraph (1), by striking "Committee on International Relations" and inserting "Committee on Foreign Affairs"; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) by striking subparagraph (C) and inserting the following:

"(C) a detailed breakdown of funding allocations, by program and by country, for prevention activities; and

"(D) a detailed assessment of the impact of programs established pursuant to such sections, including—

"(i)(I) the effectiveness of such programs in reducing—

"(aa) the transmission of HIV, particularly in women and girls;

"(bb) mother-to-child transmission of HIV, including through drug treatment and therapies, either directly or by referral; and

"(cc) mortality rates from HIV/AIDS;

"(II) the number of patients receiving treatment for AIDS in each country that receives assistance under this Act;

"(III) an assessment of progress towards the achievement of annual goals set forth in the timetable required under the 5-year strategy established under section 101 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 and, if annual goals are not being met, the reasons for such failure; and

"(IV) retention and attrition data for programs receiving United States assistance, including mortality and loss to follow-up rates, organized overall and by country;

"(ii) the progress made toward—

"(I) improving health care delivery systems (including the training of health care workers, including doctors, nurses, midwives, pharmacists, laboratory technicians, and compensated community health workers, and the use of codes of conduct for ethical recruiting practices for health care workers);

"(II) advancing safe working conditions for health care workers; and

"(III) improving infrastructure to promote progress toward universal access to HIV/AIDS prevention, treatment, and care by 2013;

"(iii) a description of coordination efforts with relevant executive branch agencies to link HIV/AIDS clinical and social services with non-HIV/AIDS services as part of the United States health and development agenda;

"(iv) a detailed description of integrated HIV/AIDS and food and nutrition programs and services, including—

"(I) the amount spent on food and nutrition support;

"(II) the types of activities supported; and

"(III) an assessment of the effectiveness of interventions carried out to improve the health status of persons with HIV/AIDS receiving food or nutritional support;

"(v) a description of efforts to improve harmonization, in terms of relevant executive branch agencies, coordination with other public and private entities, and coordination with partner countries' national strategic plans as called for in the 'Three Ones';

"(vi) a description of—

"(I) the efforts of partner countries that were signatories to the Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases to adhere to the goals of such Declaration in terms of investments in public health, including HIV/AIDS; and

"(II) a description of the HIV/AIDS investments of partner countries that were not signatories to such Declaration;

"(vii) a detailed description of any compacts or framework agreements reached or negotiated between the United States and any partner countries, including a description of the elements of compacts described in subsection (e);

"(viii) a description of programs serving women and girls, including—

"(I) HIV/AIDS prevention programs that address the vulnerabilities of girls and women to HIV/AIDS;

"(II) information on the number of individuals served by programs aimed at reducing the vulnerabilities of women and girls to HIV/AIDS and data on the types, objectives, and duration of programs to address these issues;

"(III) information on programs to address the particular needs of adolescent girls and young women; and

"(IV) programs to prevent gender-based violence or to assist victims of gender based violence as part of, or in coordination with, HIV/AIDS programs;

"(ix) a description of strategies, goals, programs, and interventions to—

"(I) address the needs and vulnerabilities of youth populations;

"(II) expand access among young men and women to evidence-based HIV/AIDS health care services and HIV prevention programs, including abstinence education programs; and

"(III) expand community-based services to meet the needs of orphans and of children and adolescents affected by or vulnerable to HIV/AIDS without increasing stigmatization;

"(x) a description of—

"(I) the specific strategies funded to ensure the reduction of HIV infection among injection drug users;

"(II) the number of injection drug users, by country, reached by such strategies; and

"(III) medication-assisted drug treatment for individuals with HIV or at risk of HIV;

"(xi) a detailed description of program monitoring, operations research, and impact evaluation research, including—

"(I) the amount of funding provided for each research type;

"(II) an analysis of cost-effectiveness models; and

"(III) conclusions regarding the efficiency, effectiveness, and quality of services as derived from previous or ongoing research and monitoring efforts;

"(xii) building capacity to identify, investigate, and stop nosocomial transmission of infectious diseases, including HIV and tuberculosis; and

"(xiii) a description of staffing levels of United States government HIV/AIDS teams in countries with significant HIV/AIDS programs, including whether or not a full-time coordinator was on staff for the year.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 301(b) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7631(b)) is amended—

(1) in paragraph (1), by striking "fiscal years 2004 through 2008" and inserting "fiscal years 2009 through 2013"; and

(2) in paragraph (3), by striking "fiscal years 2004 through 2008" and inserting "fiscal years 2009 through 2013".

(g) RELATIONSHIP TO ASSISTANCE PROGRAMS TO ENHANCE NUTRITION.—Section 301(c) of such Act is amended to read as follows:

"(c) FOOD AND NUTRITIONAL SUPPORT.—

"(1) IN GENERAL.—As indicated in the report produced by the Institute of Medicine, entitled 'PEPFAR Implementation: Progress and Promise', inadequate caloric intake has been clearly identified as a principal reason for failure of clinical response to antiretroviral therapy. In recognition of the impact of malnutrition as a clinical health issue for many persons living with HIV/AIDS that is often associated with health and economic impacts on these individuals and their families, the Global AIDS Coordinator and the Administrator of the United States Agency for International Development shall—

"(A) follow World Health Organization guidelines for HIV/AIDS food and nutrition services;

"(B) integrate nutrition programs with HIV/AIDS activities through effective linkages among the health, agricultural, and livelihood sectors and establish additional services in circumstances in which referrals are inadequate or impossible;

"(C) provide, as a component of care and treatment programs for persons with HIV/AIDS, food and nutritional support to individuals infected with, and affected by, HIV/AIDS who meet established criteria for nutritional support (including clinically malnourished children and adults, and pregnant and lactating women in programs in need of supplemental support), including—

"(i) anthropometric and dietary assessment;

"(ii) counseling; and

"(iii) therapeutic and supplementary feeding;

"(D) provide food and nutritional support for children affected by HIV/AIDS and to communities and households caring for children affected by HIV/AIDS; and

"(E) in communities where HIV/AIDS and food insecurity are highly prevalent, support programs to address these often intersecting health problems through community-based assistance programs, with an emphasis on sustainable approaches.

"(2) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated under section 401, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2009 through 2013 to carry out this subsection.".

(h) ELIGIBILITY FOR ASSISTANCE.—Section 301(d) of such Act is amended to read as follows:

"(d) ELIGIBILITY FOR ASSISTANCE.—An organization, including a faith-based organization, that is otherwise eligible to receive assistance under section 104A of the Foreign Assistance Act of 1961, under this Act, or under any amendment made by this Act or by the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, for HIV/AIDS prevention, treatment, or care—

"(1) shall not be required, as a condition of receiving such assistance—

"(A) to endorse or utilize a multisectoral or comprehensive approach to combating HIV/AIDS; or

"(B) to endorse, utilize, make a referral to, become integrated with, or otherwise participate in any program or activity to which the organization has a religious or moral objection; and

"(2) shall not be discriminated against in the solicitation or issuance of grants, contracts, or cooperative agreements under such provisions of law for refusing to meet any requirement described in paragraph (1).". Non-discrimination.

**SEC. 302. ASSISTANCE TO COMBAT TUBERCULOSIS.**

(a) POLICY.—Section 104B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–3(b)) is amended to read as follows:

"(b) POLICY.—It is a major objective of the foreign assistance program of the United States to control tuberculosis. In all countries in which the Government of the United States has established development programs, particularly in countries with the highest burden of tuberculosis and other countries with high rates of tuberculosis, the United States should support the objectives of the Global Plan to Stop TB, including through achievement of the following goals:

"(1) Reduce by half the tuberculosis death and disease burden from the 1990 baseline.

"(2) Sustain or exceed the detection of at least 70 percent of sputum smear-positive cases of tuberculosis and the successful treatment of at least 85 percent of the cases detected in countries with established United States Agency for International Development tuberculosis programs.

"(3) In support of the Global Plan to Stop TB, the President shall establish a comprehensive, 5-year United States strategy to expand and improve United States efforts to combat tuberculosis globally, including a plan to support— President. Plans.

"(A) the successful treatment of 4,500,000 new sputum smear tuberculosis patients under DOTS programs by 2013, primarily through direct support for needed services, commodities, health workers, and training, and additional treatment through coordinated multilateral efforts; and

"(B) the diagnosis and treatment of 90,000 new multiple drug resistant tuberculosis cases by 2013, and additional treatment through coordinated multilateral efforts.".

(b) PRIORITY TO STOP TB STRATEGY.—Section 104B(e) of such Act is amended to read as follows:

"(e) PRIORITY TO STOP TB STRATEGY.—In furnishing assistance under subsection (c), the President shall give priority to—

"(1) direct services described in the Stop TB Strategy, including expansion and enhancement of Directly Observed Treatment Short-course (DOTS) coverage, rapid testing, treatment for individuals infected with both tuberculosis and HIV, and treatment for individuals with multi-drug resistant tuberculosis (MDR–TB), strengthening of health systems, use of the International Standards for Tuberculosis Care by all providers, empowering individuals with tuberculosis, and enabling and promoting research to develop new diagnostics, drugs, and vaccines, and program-based operational research relating to tuberculosis; and

"(2) funding for the Global Tuberculosis Drug Facility, the Stop Tuberculosis Partnership, and the Global Alliance for TB Drug Development.".

(c) ASSISTANCE FOR THE WORLD HEALTH ORGANIZATION AND THE STOP TUBERCULOSIS PARTNERSHIP.—Section 104B of such Act is amended—

(1) by redesignating subsection (f) as subsection (h); and

(2) by inserting after subsection (e) the following:

"(f) ASSISTANCE FOR THE WORLD HEALTH ORGANIZATION AND THE STOP TUBERCULOSIS PARTNERSHIP.—In carrying out this section, the President, acting through the Administrator of the United States Agency for International Development, is authorized to provide increased resources to the World Health Organization and the Stop Tuberculosis Partnership to improve the capacity of countries with high rates of tuberculosis and other affected countries to implement the Stop TB Strategy and specific strategies related to addressing multiple drug resistant tuberculosis (MDR–TB) and extensively drug resistant tuberculosis (XDR–TB).".

(d) ANNUAL REPORT.—Section 104B of such Act is amended by inserting after subsection (f), as added by subsection (c) of this section, the following:

President. Foreign assistance.

"(g) ANNUAL REPORT.—The President shall submit an annual report to Congress that describes the impact of United States foreign assistance on efforts to control tuberculosis, including—

"(1) the number of tuberculosis cases diagnosed and the number of cases cured in countries receiving United States bilateral foreign assistance for tuberculosis control purposes;

"(2) a description of activities supported with United States tuberculosis resources in each country, including a description of how those activities specifically contribute to increasing the number of people diagnosed and treated for tuberculosis;

"(3) in each country receiving bilateral United States foreign assistance for tuberculosis control purposes, the percentage provided for direct tuberculosis services in countries receiving

United States bilateral foreign assistance for tuberculosis control purposes;

"(4) a description of research efforts and clinical trials to develop new tools to combat tuberculosis, including diagnostics, drugs, and vaccines supported by United States bilateral assistance;

"(5) the number of persons who have been diagnosed and started treatment for multidrug-resistant tuberculosis in countries receiving United States bilateral foreign assistance for tuberculosis control programs;

"(6) a description of the collaboration and coordination of United States anti-tuberculosis efforts with the World Health Organization, the Global Fund, and other major public and private entities within the Stop TB Strategy;

"(7) the constraints on implementation of programs posed by health workforce shortages and capacities;

"(8) the number of people trained in tuberculosis control; and

"(9) a breakdown of expenditures for direct patient tuberculosis services, drugs and other commodities, drug management, training in diagnosis and treatment, health systems strengthening, research, and support costs.".

(e) DEFINITIONS.—Section 104B(h) of such Act, as redesignated by subsection (c), is amended—

(1) in paragraph (1), by striking the period at the end and inserting the following: "including—

"(A) low-cost and effective diagnosis, treatment, and monitoring of tuberculosis;

"(B) a reliable drug supply;

"(C) a management strategy for public health systems;

"(D) health system strengthening;

"(E) promotion of the use of the International Standards for Tuberculosis Care by all care providers;

"(F) bacteriology under an external quality assessment framework;

"(G) short-course chemotherapy; and

"(H) sound reporting and recording systems."; and

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5) STOP TB STRATEGY.—The term 'Stop TB Strategy' means the 6-point strategy to reduce tuberculosis developed by the World Health Organization, which is described in the Global Plan to Stop TB 2006–2015: Actions for Life, a comprehensive plan developed by the Stop TB Partnership that sets out the actions necessary to achieve the millennium development goal of cutting tuberculosis deaths and disease burden in half by 2015.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 302 (b) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7632(b)) is amended—

(1) in paragraph (1), by striking "such sums as may be necessary for each of the fiscal years 2004 through 2008" and inserting "a total of $4,000,000,000 for the 5-year period beginning on October 1, 2008."; and

(2) in paragraph (3), by striking "fiscal years 2004 through 2008" and inserting "fiscal years 2009 through 2013.".

**SEC. 303. ASSISTANCE TO COMBAT MALARIA.**

(a) AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961.—Section 104C(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151–4(b)) is amended by inserting "treatment," after "control,".

22 USC 2151b–4.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, and Malaria Act of 2003 (22 U.S.C. 7633) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "such sums as may be necessary for fiscal years 2004 through 2008" and inserting "$5,000,000,000 during the 5-year period beginning on October 1, 2008"; and

(B) in paragraph (3), by striking "fiscal years 2004 through 2008" and inserting "fiscal years 2009 through 2013"; and

(2) by adding at the end the following:

22 USC 7633.

"(c) STATEMENT OF POLICY.—Providing assistance for the prevention, control, treatment, and the ultimate eradication of malaria is—

"(1) a major objective of the foreign assistance program of the United States; and

"(2) 1 component of a comprehensive United States global health strategy to reduce disease burdens and strengthen communities around the world.

President.

"(d) DEVELOPMENT OF A COMPREHENSIVE 5-YEAR STRATEGY.—The President shall establish a comprehensive, 5-year strategy to combat global malaria that—

"(1) strengthens the capacity of the United States to be an effective leader of international efforts to reduce malaria burden;

"(2) maintains sufficient flexibility and remains responsive to the ever-changing nature of the global malaria challenge;

"(3) includes specific objectives and multisectoral approaches and strategies to reduce the prevalence, mortality, incidence, and spread of malaria;

"(4) describes how this strategy would contribute to the United States' overall global health and development goals;

"(5) clearly explains how outlined activities will interact with other United States Government global health activities, including the 5-year global AIDS strategy required under this Act;

"(6) expands public-private partnerships and leverage of resources;

"(7) coordinates among relevant Federal agencies to maximize human and financial resources and to reduce duplication among these agencies, foreign governments, and international organizations;

"(8) coordinates with other international entities, including the Global Fund;

"(9) maximizes United States capabilities in the areas of technical assistance and training and research, including vaccine research; and

"(10) establishes priorities and selection criteria for the distribution of resources based on factors such as—

"(A) the size and demographics of the population with malaria;

"(B) the needs of that population;

"(C) the country's existing infrastructure; and

"(D) the ability to closely coordinate United States Government efforts with national malaria control plans of partner countries.".

**SEC. 304. MALARIA RESPONSE COORDINATOR.**

Section 304 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7634) is amended to read as follows:

**"SEC. 304. MALARIA RESPONSE COORDINATOR.**

Establishment. Government organization. President.

"(a) IN GENERAL.—There is established within the United States Agency for International Development a Coordinator of United States Government Activities to Combat Malaria Globally (referred to in this section as the 'Malaria Coordinator'), who shall be appointed by the President.

"(b) AUTHORITIES.—The Malaria Coordinator, acting through nongovernmental organizations (including faith-based and community-based organizations), partner country finance, health, and other relevant ministries, and relevant executive branch agencies as may be necessary and appropriate to carry out this section, is authorized to—

"(1) operate internationally to carry out prevention, care, treatment, support, capacity development, and other activities to reduce the prevalence, mortality, and incidence of malaria;

"(2) provide grants to, and enter into contracts and cooperative agreements with, nongovernmental organizations (including faith-based organizations) to carry out this section; and

"(3) transfer and allocate executive branch agency funds that have been appropriated for the purposes described in paragraphs (1) and (2).

"(c) DUTIES.—

"(1) IN GENERAL.—The Malaria Coordinator has primary responsibility for the oversight and coordination of all resources and international activities of the United States Government relating to efforts to combat malaria.

"(2) SPECIFIC DUTIES.—The Malaria Coordinator shall—

"(A) facilitate program and policy coordination of antimalarial efforts among relevant executive branch agencies and nongovernmental organizations by auditing, monitoring, and evaluating such programs;

"(B) ensure that each relevant executive branch agency undertakes antimalarial programs primarily in those areas in which the agency has the greatest expertise, technical capability, and potential for success;

"(C) coordinate relevant executive branch agency activities in the field of malaria prevention and treatment;

"(D) coordinate planning, implementation, and evaluation with the Global AIDS Coordinator in countries in which both programs have a significant presence;

"(E) coordinate with national governments, international agencies, civil society, and the private sector; and

Criteria.

"(F) establish due diligence criteria for all recipients of funds appropriated by the Federal Government for malaria assistance.

"(d) ASSISTANCE FOR THE WORLD HEALTH ORGANIZATION.—In carrying out this section, the President may provide financial assistance to the Roll Back Malaria Partnership of the World Health Organization to improve the capacity of countries with high rates of malaria and other affected countries to implement comprehensive malaria control programs.

"(e) COORDINATION OF ASSISTANCE EFFORTS.—In carrying out this section and in accordance with section 104C of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–4), the Malaria Coordinator shall coordinate the provision of assistance by working with—

"(1) relevant executive branch agencies, including—

"(A) the Department of State (including the Office of the Global AIDS Coordinator);

"(B) the Department of Health and Human Services;

"(C) the Department of Defense; and

"(D) the Office of the United States Trade Representative;

"(2) relevant multilateral institutions, including—

"(A) the World Health Organization;

"(B) the United Nations Children's Fund;

"(C) the United Nations Development Programme;

"(D) the Global Fund;

"(E) the World Bank; and

"(F) the Roll Back Malaria Partnership;

"(3) program delivery and efforts to lift barriers that would impede effective and comprehensive malaria control programs; and

"(4) partner or recipient country governments and national entities including universities and civil society organizations (including faith- and community-based organizations).

"(f) RESEARCH.—To carry out this section, the Malaria Coordinator, in accordance with section 104C of the Foreign Assistance Act of 1961 (22 U.S.C. 1151d–4), shall ensure that operations and implementation research conducted under this Act will closely complement the clinical and program research being undertaken by the National Institutes of Health. The Centers for Disease Control and Prevention should advise the Malaria Coordinator on priorities for operations and implementation research and should be a key implementer of this research.

"(g) MONITORING.—To ensure that adequate malaria controls are established and implemented, the Centers for Disease Control and Prevention should advise the Malaria Coordinator on monitoring, surveillance, and evaluation activities and be a key implementer of such activities under this Act. Such activities shall complement, rather than duplicate, the work of the World Health Organization.

"(h) ANNUAL REPORT.—

President.

"(1) SUBMISSION.—Not later than 1 year after the date of the enactment of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, and annually thereafter, the President shall submit a report to the appropriate congressional committees that describes United States assistance for the prevention, treatment, control, and elimination of malaria.

"(2) CONTENTS.—The report required under paragraph (1) shall describe—

"(A) the countries and activities to which malaria resources have been allocated;

"(B) the number of people reached through malaria assistance programs, including data on children and pregnant women;

"(C) research efforts to develop new tools to combat malaria, including drugs and vaccines;

"(D) the collaboration and coordination of United States antimalarial efforts with the World Health Organization, the Global Fund, the World Bank, other donor governments, major private efforts, and relevant executive agencies;

"(E) the coordination of United States antimalarial efforts with the national malarial strategies of other donor or partner governments and major private initiatives;

"(F) the estimated impact of United States assistance on childhood mortality and morbidity from malaria;

"(G) the coordination of antimalarial efforts with broader health and development programs; and

"(H) the constraints on implementation of programs posed by health workforce shortages or capacities; and

"(I) the number of personnel trained as health workers and the training levels achieved.".

**SEC. 305. AMENDMENT TO IMMIGRATION AND NATIONALITY ACT.**

Section 212(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(i)) is amended by striking ", which shall include infection with the etiologic agent for acquired immune deficiency syndrome," and inserting a semicolon.

**SEC. 306. CLERICAL AMENDMENT.**

Title III of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7631 et seq.) is amended by striking the heading for subtitle B and inserting the following:

## "Subtitle B—Assistance for Women, Children, and Families".

**SEC. 307. REQUIREMENTS.**

Section 312(b) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7652(b)) is amended by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) establish a target for the prevention and treatment of mother-to-child transmission of HIV that, by 2013, will reach at least 80 percent of pregnant women in those countries most affected by HIV/AIDS in which the United States has HIV/AIDS programs;

"(2) establish a target that, by 2013, the proportion of children receiving care and treatment under this Act is proportionate to their numbers within the population of HIV infected individuals in each country;

"(3) integrate care and treatment with prevention of mother-to-child transmission of HIV programs to improve outcomes for HIV-affected women and families as soon as is feasible and support strategies that promote successful follow-up and continuity of care of mother and child;

"(4) expand programs designed to care for children orphaned by, affected by, or vulnerable to HIV/AIDS;

"(5) ensure that women in prevention of mother-to-child transmission of HIV programs are provided with, or referred to, appropriate maternal and child services; and

"(6) develop a timeline for expanding access to more effective regimes to prevent mother-to-child transmission of HIV, consistent with the national policies of countries in which programs are administered under this Act and the goal of achieving universal use of such regimes as soon as possible.".

**SEC. 308. ANNUAL REPORT ON PREVENTION OF MOTHER-TO-CHILD TRANSMISSION OF HIV.**

Section 313(a) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7653(a)) is amended by striking "5 years" and inserting "10 years".

**SEC. 309. PREVENTION OF MOTHER-TO-CHILD TRANSMISSION EXPERT PANEL.**

Section 312 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7652) is amended by adding at the end the following:

"(c) PREVENTION OF MOTHER-TO-CHILD TRANSMISSION EXPERT PANEL.—

"(1) ESTABLISHMENT.—The Global AIDS Coordinator shall establish a panel of experts to be known as the Prevention of Mother-to-Child Transmission Panel (referred to in this subsection as the 'Panel') to—

"(A) provide an objective review of activities to prevent mother-to-child transmission of HIV; and

"(B) provide recommendations to the Global AIDS Coordinator and to the appropriate congressional committees for scale-up of mother-to-child transmission prevention services under this Act in order to achieve the target established in subsection (b)(1).

Appointments. Deadline.

"(2) MEMBERSHIP.—The Panel shall be convened and chaired by the Global AIDS Coordinator, who shall serve as a nonvoting member. The Panel shall consist of not more than 15 members (excluding the Global AIDS Coordinator), to be appointed by the Global AIDS Coordinator not later than 1 year after the date of the enactment of this Act, including—

"(A) 2 members from the Department of Health and Human Services with expertise relating to the prevention of mother-to-child transmission activities;

"(B) 2 members from the United States Agency for International Development with expertise relating to the prevention of mother-to-child transmission activities;

"(C) 2 representatives from among health ministers of national governments of foreign countries in which programs under this Act are administered;

"(D) 3 members representing organizations implementing prevention of mother-to-child transmission activities under this Act;

"(E) 2 health care researchers with expertise relating to global HIV/AIDS activities; and

"(F) representatives from among patient advocate groups, health care professionals, persons living with HIV/AIDS, and non-governmental organizations with expertise relating to the prevention of mother-to-child transmission activities, giving priority to individuals in foreign countries in which programs under this Act are administered.

"(3) DUTIES OF PANEL.—The Panel shall—

"(A) assess the effectiveness of current activities in reaching the target described in subsection (b)(1);

"(B) review scientific evidence related to the provision of mother-to-child transmission prevention services, including programmatic data and data from clinical trials;

"(C) review and assess ways in which the Office of the United States Global AIDS Coordinator collaborates with international and multilateral entities on efforts to prevent mother-to-child transmission of HIV in affected countries;

"(D) identify barriers and challenges to increasing access to mother-to-child transmission prevention services and evaluate potential mechanisms to alleviate those barriers and challenges;

"(E) identify the extent to which stigma has hindered pregnant women from obtaining HIV counseling and testing or returning for results, and provide recommendations to address such stigma and its effects;

"(F) identify opportunities to improve linkages between mother-to-child transmission prevention services and care and treatment programs; and

"(G) recommend specific activities to facilitate reaching the target described in subsection (b)(1).

"(4) REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the date on which the Panel is first convened, the Panel shall submit a report containing a detailed statement of the recommendations, findings, and conclusions of the Panel to the appropriate congressional committees.

"(B) AVAILABILITY.—The report submitted under subparagraph (A) shall be made available to the public. Public information.

"(C) CONSIDERATION BY COORDINATOR.—The Coordinator shall—

"(i) consider any recommendations contained in the report submitted under subparagraph (A); and

"(ii) include in the annual report required under section 104A(f) of the Foreign Assistance Act of 1961 a description of the activities conducted in response to the recommendations made by the Panel and an explanation of any recommendations not implemented at the time of the report.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Panel such sums as may be necessary for each of the fiscal years 2009 through 2011 to carry out this section.

"(6) TERMINATION.—The Panel shall terminate on the date that is 60 days after the date on which the Panel submits

the report to the appropriate congressional committees under paragraph (4).".

# TITLE IV—FUNDING ALLOCATIONS

**SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Section 401(a) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7671(a)) is amended by striking "$3,000,000,000 for each of the fiscal years 2004 through 2008" and inserting "$48,000,000,000 for the 5-year period beginning on October 1, 2008".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the appropriations authorized under section 401(a) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, as amended by subsection (a), should be allocated among fiscal years 2009 through 2013 in a manner that allows for the appropriations to be gradually increased in a manner that is consistent with program requirements, absorptive capacity, and priorities set forth in such Act, as amended by this Act.

**SEC. 402. SENSE OF CONGRESS.**

Section 402(b) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7672(b)) is amended by striking "an effective distribution of such amounts would be" and all that follows through "10 percent of such amounts" and inserting "10 percent should be used".

**SEC. 403. ALLOCATION OF FUNDS.**

Section 403 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7673) is amended—

(1) by amending subsection (a) to read as follows:

"(a) BALANCED FUNDING REQUIREMENT.—

"(1) IN GENERAL.—The Global AIDS Coordinator shall—

"(A) provide balanced funding for prevention activities for sexual transmission of HIV/AIDS; and

"(B) ensure that activities promoting abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction are implemented and funded in a meaningful and equitable way in the strategy for each host country based on objective epidemiological evidence as to the source of infections and in consultation with the government of each host county involved in HIV/AIDS prevention activities.

"(2) PREVENTION STRATEGY.—

"(A) ESTABLISHMENT.—In carrying out paragraph (1), the Global AIDS Coordinator shall establish an HIV sexual transmission prevention strategy governing the expenditure of funds authorized under this Act to prevent the sexual transmission of HIV in any host country with a generalized epidemic.

"(B) REPORT.—In each host country described in subparagraph (A), if the strategy established under subparagraph (A) provides less than 50 percent of the funds described in subparagraph (A) for activities promoting abstinence, delay of sexual debut, monogamy,

fidelity, and partner reduction, the Global AIDS Coordinator shall, not later than 30 days after the issuance of this strategy, report to the appropriate congressional committees on the justification for this decision.

"(3) EXCLUSION.—Programs and activities that implement or purchase new prevention technologies or modalities, such as medical male circumcision, public education about risks to acquire HIV infection from blood exposures, promoting universal precautions, investigating suspected nosocomial infections, pre-exposure pharmaceutical prophylaxis to prevent transmission of HIV, or microbicides and programs and activities that provide counseling and testing for HIV or prevent mother-to-child prevention of HIV, shall not be included in determining compliance with paragraph (2).

President.

"(4) REPORT.—Not later than 1 year after the date of the enactment of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, and annually thereafter as part of the annual report required under section 104A(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2(e)), the President shall—

"(A) submit a report on the implementation of paragraph (2) for the most recently concluded fiscal year to the appropriate congressional committees; and

Public information.

"(B) make the report described in subparagraph (A) available to the public.";

(2) in subsection (b)—

(A) by striking "fiscal years 2006 through 2008" and inserting "fiscal years 2009 through 2013"; and

(B) by striking "vulnerable children affected by" and inserting "other children affected by, or vulnerable to,"; and

(3) by adding at the end the following:

"(c) FUNDING ALLOCATION.—For each of the fiscal years 2009 through 2013, more than half of the amounts appropriated for bilateral global HIV/AIDS assistance pursuant to section 401 shall be expended for—

"(1) antiretroviral treatment for HIV/AIDS;

"(2) clinical monitoring of HIV-seropositive people not in need of antiretroviral treatment;

"(3) care for associated opportunistic infections;

"(4) nutrition and food support for people living with HIV/AIDS; and

"(5) other essential HIV/AIDS-related medical care for people living with HIV/AIDS.

"(d) TREATMENT, PREVENTION, AND CARE GOALS.—For each of the fiscal years 2009 through 2013—

"(1) the treatment goal under section 402(a)(3) shall be increased above 2,000,000 by at least the percentage increase in the amount appropriated for bilateral global HIV/AIDS assistance for such fiscal year compared with fiscal year 2008;

"(2) any increase in the treatment goal under section 402(a)(3) above the percentage increase in the amount appropriated for bilateral global HIV/AIDS assistance for such fiscal year compared with fiscal year 2008 shall be based on long-

term requirements, epidemiological evidence, the share of treatment needs being met by partner governments and other sources of treatment funding, and other appropriate factors;

"(3) the treatment goal under section 402(a)(3) shall be increased above the number calculated under paragraph (1) by the same percentage that the average United States Government cost per patient of providing treatment in countries receiving bilateral HIV/AIDS assistance has decreased compared with fiscal year 2008; and

"(4) the prevention and care goals established in clauses (i) and (iv) of section 104A(b)(1)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2(b)(1)(A)) shall be increased consistent with epidemiological evidence and available resources.".

# TITLE V—MISCELLANEOUS

8 USC 1351 note.

**SEC. 501. MACHINE READABLE VISA FEES.**

Deadlines.

(a) FEE INCREASE.—Notwithstanding any other provision of law—

(1) not later than October 1, 2010, the Secretary of State shall increase by $1 the fee or surcharge authorized under section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note) for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas; and

(2) not later than October 1, 2013, the Secretary shall increase the fee or surcharge described in paragraph (1) by an additional $1.

(b) DEPOSIT OF AMOUNTS.—Notwithstanding section 140(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note), fees collected under the authority of subsection (a) shall be deposited in the Treasury.

# TITLE VI—EMERGENCY PLAN FOR INDIAN SAFETY AND HEALTH

25 USC 443c.

**SEC. 601. EMERGENCY PLAN FOR INDIAN SAFETY AND HEALTH.**

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund, to be known as the "Emergency Fund for Indian Safety and Health" (referred to in this section as the "Fund"), consisting of such amounts as are appropriated to the Fund under subsection (b).

(b) TRANSFERS TO FUND.—

Effective date.

(1) IN GENERAL.—There is authorized to be appropriated to the Fund, out of funds of the Treasury not otherwise appropriated, $2,000,000,000 for the 5-year period beginning on October 1, 2008.

(2) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Fund under this section shall—

(A) be made available without further appropriation;

(B) be in addition to amounts made available under any other provision of law; and

(C) remain available until expended.

(c) EXPENDITURES FROM FUND.—On request by the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services, the Secretary of the Treasury shall transfer from the Fund to the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services, as appropriate, such amounts as the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services determines to be necessary to carry out the emergency plan under subsection (f).

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) REMAINING AMOUNTS.—Any amounts remaining in the Fund on September 30 of an applicable fiscal year may be used by the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services to carry out the emergency plan under subsection (f) for any subsequent fiscal year.

(f) EMERGENCY PLAN.—Not later than 1 year after the date of enactment of this Act, the Attorney General, the Secretary of the Interior, and the Secretary of Health and Human Services, in consultation with Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), shall jointly establish an emergency plan that addresses law enforcement, water, and health care needs of Indian tribes under which, for each of fiscal years 2010 through 2019, of amounts in the Fund— Deadline.

(1) the Attorney General shall use—

(A) 18.5 percent for the construction, rehabilitation, and replacement of Federal Indian detention facilities;

(B) 1.5 percent to investigate and prosecute crimes in Indian country (as defined in section 1151 of title 18, United States Code);

(C) 1.5 percent for use by the Office of Justice Programs for Indian and Alaska Native programs; and

(D) 0.5 percent to provide assistance to—

(i) parties to cross-deputization or other cooperative agreements between State or local governments and Indian tribes (as defined in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a)) carrying out law enforcement activities in Indian country; and

(ii) the State of Alaska (including political subdivisions of that State) for carrying out the Village Public Safety Officer Program and law enforcement activities on Alaska Native land (as defined in section 3 of Public Law 103–399 (25 U.S.C. 3902)); Alaska.

(2) the Secretary of the Interior shall—

(A) deposit 15.5 percent in the public safety and justice account of the Bureau of Indian Affairs for use by the Office of Justice Services of the Bureau in providing law

enforcement or detention services, directly or through contracts or compacts with Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); and

(B) use 50 percent to implement requirements of Indian water settlement agreements that are approved by Congress (or the legislation to implement such an agreement) under which the United States shall plan, design, rehabilitate, or construct, or provide financial assistance for the planning, design, rehabilitation, or construction of, water supply or delivery infrastructure that will serve an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)); and

(3) the Secretary of Health and Human Services, acting through the Director of the Indian Health Service, shall use 12.5 percent to provide, directly or through contracts or compacts with Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)—

(A) contract health services;

(B) construction, rehabilitation, and replacement of Indian health facilities; and

(C) domestic and community sanitation facilities serving members of Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) pursuant to section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

Approved July 30, 2008.

LEGISLATIVE HISTORY—H.R. 5501 (S. 2731):

HOUSE REPORTS: No. 110–546, Pts. 1 and 2 (Comm. on Foreign Affairs).
SENATE REPORTS: No. 110–325 accompanying S. 2731 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 2, considered and passed House.
July 16, considered and passed Senate, amended, in lieu of S. 2731.
July 24, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
July 30, Presidential remarks.

Public Law 110–294
110th Congress

# An Act

To authorize the Edward Byrne Memorial Justice Assistance Grant Program at fiscal year 2006 levels through 2012.

July 30, 2008
[S. 231]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION OF GRANTS.**

Section 508 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3758) is amended by striking "for fiscal year 2006" through the period and inserting "for each of the fiscal years 2006 through 2012.".

Approved July 30, 2008.

LEGISLATIVE HISTORY—S. 231 (H.R. 3546):

HOUSE REPORTS: No. 110–729 accompanying H.R. 3546 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:
Vol. 153 (2007): May 24, considered and passed Senate.
Vol. 154 (2008): July 14, considered and passed House.

# Public Law 110–295
# 110th Congress

## An Act

July 30, 2008
[S. 2607]

To make a technical correction to section 3009 of the Deficit Reduction Act of 2005.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

DTV Transition Assistance Act.
47 USC 609 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "DTV Transition Assistance Act".

**SEC. 2. DTV TRANSITION.**

47 USC 309 note.

(a) IN GENERAL.—Section 3008(a) of the Digital Television Transition and Public Safety Act of 2005 is amended—

(1) by inserting "(1) IN GENERAL.—" before "The Assistant Secretary"; and

(2) by adding at the end thereof the following:

"(2) USE OF FUNDS.—As soon as practicable after the date of enactment of the DTV Transition Assistance Act, the Assistant Secretary shall make a determination, which the Assistant Secretary may adjust from time to time, with respect to whether the full amount provided under paragraph (1) will be needed for payments under that paragraph. If the Assistant Secretary determines that the full amount will not be needed for payments authorized by paragraph (1), the Assistant Secretary may use the remaining amount for consumer education and technical assistance regarding the digital television transition and the availability of the digital-to-analog converter box program (in addition to any amounts expended for such purpose under 3005(c)(2)(A) of this title), including partnering with, providing grants to, and contracting with non-profit organizations or public interest groups in achieving these efforts. If the Assistant Secretary initiates such an education program, the Assistant Secretary shall develop a plan to address the educational and technical assistance needs of vulnerable populations, such as senior citizens, individuals residing in rural and remote areas, and minorities, including, where appropriate, education plans focusing on the need for analog pass-through digital converter boxes in areas served by low power or translator stations, and shall consider the speed with which these objectives can be accomplished to the greatest public benefit.".

Plans.

47 USC 309 note.

(b) FISCAL YEARS TO WHICH APPLICABLE.—Section 3009(a) of the Deficit Reduction Act of 2005 (Public Law 109–171) is amended—

(1) by striking "fiscal year 2009" and inserting "fiscal years 2009 through 2012"; and

(2) by striking "no earlier than October 1, 2010" and inserting "on or after February 18, 2009".

Approved July 30, 2008.

LEGISLATIVE HISTORY—S. 2607:

SENATE REPORTS: No. 110–348 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 19, considered and passed Senate.
July 9, considered and passed House.

# Public Law 110–296
# 110th Congress

## An Act

July 30, 2008
[S. 3218]

To extend the pilot program for volunteer groups to obtain criminal history background checks.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Criminal History Background Checks Pilot Extension Act of 2008.
42 USC 5101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Criminal History Background Checks Pilot Extension Act of 2008".

**SEC. 2. EXTENSION OF PILOT PROGRAM.**

Section 108(a)(3)(A) of the PROTECT Act (42 U.S.C. 5119a note) is amended by striking "a 60-month" and inserting "a 66-month".

Approved July 30, 2008.

LEGISLATIVE HISTORY—S. 3218:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 26, considered and passed Senate.
July 14, considered and passed House.

Public Law 110–297
110th Congress

# An Act

To approve, ratify, and confirm the settlement agreement entered into to resolve claims by the Soboba Band of Luiseno Indians relating to alleged interferences with the water resources of the Tribe, to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement and related waivers, and for other purposes.

July 31, 2008
[H.R. 4841]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Soboba Band of Luiseño Indians Settlement Act. California.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Soboba Band of Luiseño Indians Settlement Act".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds the following:

(1) The Soboba Band of Luiseño Indians is a federally recognized Indian tribe whose Reservation of approximately 6,000 acres, extending east and north from the banks of the San Jacinto River in Riverside County, California, was created by an Executive Order dated June 19, 1883, and enlarged and modified by subsequent Executive Orders, purchases, and an Act of Congress.

(2) The Tribe's water rights have not been quantified, and the Tribe has asserted claims for interferences with the water resources of its Reservation, which the Tribe maintains have rendered much of the Tribe's Reservation useless for habitation, livestock, or Agriculture. On April 20, 2000, the Tribe filed a lawsuit against The Metropolitan Water District of Southern California for interference with the Tribe's water resources and damages to its Reservation allegedly caused by Metropolitan's construction and operation of the San Jacinto Tunnel, which is part of the Colorado River Aqueduct. The lawsuit, styled Soboba Band of Luiseño Indians v. Metropolitan Water District of Southern California, No. 00–04208 GAF (MANx), is pending in the United States District Court for the Central District of California.

(3) The Tribe also has made claims against Eastern Municipal Water District and Lake Hemet Municipal Water District, located adjacent to the Reservation, seeking to secure its water rights and damages arising from alleged past interference with the Tribe's water resources.

(4) After negotiations, which included participation by representatives of the Tribe, the United States on behalf of the Tribe, The Metropolitan Water District of Southern California, Eastern Municipal Water District, and Lake Hemet Municipal

Water District, a Settlement Agreement has been developed to determine the Tribe's water rights, resolve all of its claims for interference with the water resources of, and damages to, its Reservation, provide for the construction of water projects to facilitate the exercise of the Tribe's rights, and resolve the lawsuit referenced in paragraph (2) of this section.

(5) The Settlement Agreement provides that—

(A) Eastern Municipal Water District and Lake Hemet Municipal Water District acknowledge and assure the Tribe's prior and paramount right, superior to all others, to pump 9,000 acre-feet of water annually from the San Jacinto River basin in accordance with the limitations and other conditions set forth in the Settlement Agreement;

(B) Eastern Municipal Water District and The Metropolitan Water District of Southern California will contract to supply water to Eastern Municipal Water District and Eastern Municipal Water District will use this water to recharge water supplies into the basin; and

(C) the three water districts will make substantial additional contributions to the settlement, including the conveyance of certain replacement lands and economic development funds to the Tribe, to carry out the Settlement Agreement's provisions.

(b) PURPOSES.—The purposes of this Act are—

(1) to approve, ratify, and confirm the Settlement Agreement entered into by the Tribe and non-Indians entities;

(2) to achieve a fair, equitable, and final settlement of all claims of the Soboba Band of Luiseño Indians, its members, and the United States on behalf of the Tribe and its members, to the water of the San Jacinto River basin;

(3) to authorize and direct the Secretary of the Interior to execute and perform all obligations of the Secretary under the Settlement Agreement; and

(4) to authorize the actions and appropriations necessary to meet obligations of the United States under the Settlement Agreement and this Act.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) RESTORATION FUND.—The term "Restoration Fund" means the San Jacinto Basin Restoration Fund established by section 6.

(2) DEVELOPMENT FUND.—The term "Development Fund" means the Soboba Band of Luiseño Indians Water Development Fund established by section 7.

(3) RESERVATION.—

(A) IN GENERAL.—The term "Reservation" means the Soboba Indian Reservation created by Executive Order dated June 19, 1883, and enlarged and modified as of the date of enactment of this Act by Executive Orders and an Act of Congress.

(B) EXCLUSIONS.—For the purposes of this Act, the term "Reservation" does not include—

(i) the 950 acres northwest of and contiguous to the Reservation known as the "Jones Ranch", purchased by the Soboba Tribe in fee on July 21, 2001, and placed into trust on January 13, 2003;

(ii) the 535 acres southeast of and contiguous to the Reservation known as the "Horseshoe Grande", purchased by the Soboba Tribe in fee in seven separate transactions in June and December 2001, December 2004, June 2006, and January 2007; and

(iii) the 478 acres north of and contiguous to the Reservation known as "The Oaks", purchased by the Soboba Tribe in fee on April 4, 2004.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior or a designee of the Secretary.

(5) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means that agreement dated June 7, 2006, as amended to be consistent with this Act, together with all exhibits thereto. The parties to the Settlement Agreement are the Soboba Band of Luiseño Indians and its members, the United States on behalf of the Tribe and its members, The Metropolitan Water District of Southern California, Eastern Municipal Water District, and Lake Hemet Municipal Water District.

(6) TRIBE, SOBOBA TRIBE, OR SOBOBA BAND OF LUISEÑO INDIANS.—The terms "Tribe", "Soboba Tribe", or "Soboba Band of Luiseño Indians" means the body politic and federally recognized Indian tribe, and its members.

(7) WATER MANAGEMENT PLAN.—The term "Water Management Plan" means the plan, approved by the Soboba Tribe and the Secretary, developed pursuant to section 4.8, paragraph A of the Settlement Agreement to resolve the overdraft of the San Jacinto basin.

**SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT; AUTHORIZATION.**

(a) IN GENERAL.—The United States hereby approves, ratifies, and confirms the Settlement Agreement, except to the extent it conflicts with the provisions of this Act.

(b) AUTHORIZATION.—The Secretary is authorized and directed to execute, and take such other actions as are necessary to implement, the Settlement Agreement and any amendments approved by the parties necessary to make the Settlement Agreement consistent with this Act.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

(a) RESTORATION FUND.—There is authorized to be appropriated to the San Jacinto Basin Restoration Fund established in section 6 of this Act the amount of $5,000,000 for each of fiscal years 2010 and 2011 to pay or reimburse the costs associated with constructing, operating, and maintaining the portion of the basin recharge project that the United States is responsible for under the Settlement Agreement. These costs are described in section 4.5 of the Settlement Agreement and are necessary to accommodate deliveries of the supplemental imported water under section 4.4 of the Settlement Agreement.

(b) DEVELOPMENT FUND.—There is authorized to be appropriated to the Soboba Band of Luiseño Indians Water Development Fund established in section 7 of this Act the amount of $5,500,000 for each of fiscal years 2010 and 2011 to pay or reimburse costs associated with constructing, operating, and maintaining water and sewage infrastructure, and other water-related development projects.

(c) LIMITATION.—No funding of any construction, operation, maintenance, or replacement other than those funds authorized under subsections (a) and (b) shall be the responsibility of the Federal Government under the Settlement Agreement or this Act.

**SEC. 6. RESTORATION FUND.**

(a) ESTABLISHMENT.—There shall be established within the Treasury of the United States a non-interest bearing account to be known as the "San Jacinto Basin Restoration Fund", consisting of the amounts authorized to be appropriated in section 5(a) of this Act.

(b) ADMINISTRATION.—The Restoration Fund shall be administered by the Secretary for the purposes set forth in subsection (d) of this section.

(c) AVAILABILITY.—The funds authorized to be appropriated pursuant to section 5(a) of this Act shall be available for expenditure or withdrawal only after the effective date set forth in section 10(a).

(d) EXPENDITURES AND WITHDRAWALS.—

(1) EXPENDITURE PLAN.—

(A) IN GENERAL.—Eastern Municipal Water District, on behalf of the Water Management Plan, shall submit to the Secretary for approval an expenditure plan for use of the Restoration Fund.

(B) REQUIREMENTS.—The expenditure plan shall require that any funds be expended or reimbursed in accordance with the purposes described in section 5(a) of this Act.

(2) WITHDRAWALS.—On approval by the Secretary of the expenditure plan described in this section, Eastern Municipal Water District, on behalf of the Water Management Plan, may expend or be reimbursed monies from the Restoration Fund as provided in the plan.

(3) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any expenditure plan to ensure that monies expended or reimbursed from the Restoration Fund under the plan are used in accordance with this Act.

(4) LIABILITY.—If Eastern Municipal Water District, on behalf of the Water Management Plan, exercises the right to expend or be reimbursed monies from the Restoration Fund, neither the Secretary nor the Secretary of the Treasury shall have any liability for the expenditure or reimbursement.

(5) ANNUAL REPORT.—Eastern Municipal Water District shall submit to the Tribe and the Secretary an annual report that describes all expenditures or reimbursements from the Restoration Fund during the year covered by the report.

**SEC. 7. DEVELOPMENT FUND.**

(a) ESTABLISHMENT.—There shall be established within the Treasury of the United States a fund to be known as the "Soboba Band of Luiseño Indians Water Development Fund", to be managed and invested by the Secretary consisting of the amounts authorized to be appropriated in section 5(b).

(b) MANAGEMENT.—The Secretary shall manage the Development Fund, make investments, and make monies available for distribution consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred

to in this section as the "Trust Fund Reform Act"), this Act, and the Settlement Agreement.

(c) INVESTMENT.—The Secretary shall invest amounts in the Development Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

(3) subsection (b) of this section.

(d) AVAILABILITY.—The funds authorized to be appropriated pursuant to section 5(b) of this Act shall be available for expenditure or withdrawal only after the effective date set forth in section 10(a).

(e) EXPENDITURES AND WITHDRAWALS.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—The Tribe may withdraw all or part of the Development Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that any funds be expended or reimbursed in accordance with the purposes described in section 5(b) of this Act.

(C) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that monies withdrawn from the Development Fund under the plan are used in accordance with this Act.

(D) LIABILITY.—If the Tribe exercises the right to withdraw monies from the Development Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment.

(2) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the amounts made available under section 5(b) that the Tribe does not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, amounts of the Tribe remaining in the Funds will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act and the Agreement.

(3) ANNUAL REPORT.—The Tribe shall submit to the Secretary an annual report that describes all expenditures from the Development Fund during the year covered by the report.

(4) NO PER CAPITA DISTRIBUTIONS.—No part of the Development Fund shall be distributed on a per capita basis to members of the Tribe.

**SEC. 8. WAIVERS AND RELEASES.**

(a) TRIBE AND UNITED STATES AUTHORIZATION.—The Tribe, on behalf of itself and its members, and the Secretary, on behalf of the United States in its capacity as trustee for the Tribe and its members, are authorized, as part of the performance of their

obligations under the Settlement Agreement, to execute a waiver and release for claims under Federal, State, or other law against The Metropolitan Water District of Southern California, Eastern Municipal Water District, and Lake Hemet Municipal Water District, for any and all—

(1) past, present, and future claims to surface water and groundwater rights for the Reservation arising from time immemorial through the effective date described in section 10 of this Act and anytime thereafter, except claims to enforce the Settlement Agreement or claims based on water rights acquired after the effective date described in section 10 of this Act;

(2) past, present, and future claims for injury of any kind arising from interference with surface water and groundwater resources and water rights of the Reservation, including, but not limited to, all claims for injury to the Tribe's use and enjoyment of the Reservation, economic development, religion, language, social structure and culture, and injury to the natural resources of the Reservation, from time immemorial through the effective date described in section 10 of this Act;

(3) past, present, and future claims for injury of any kind arising from, or in any way related to, continuing interference with surface water and groundwater resources and water rights of the Reservation, including the full scope of claims defined in section 5.1, paragraph A(2) of the Settlement Agreement, to the extent that such continuing interference began prior to the effective date described in section 10 of this Act, from time immemorial through the effective date described in section 10 of this Act and anytime thereafter;

(4) past, present, and future claims for injury of any kind arising from, or in any way related to, seepage of water into the San Jacinto Tunnel, including the full scope of claims defined in section 5.1, paragraph A(2) of the Settlement Agreement, from time immemorial through the effective date described in section 10 of this Act and anytime thereafter; and

(5) past, present, and future claims for injury of any kind arising from, or in any way related to, the Water Management Plan as approved in accordance with the Settlement Agreement, from time immemorial through the effective date described in section 10 of this Act and anytime thereafter.

(b) TRIBAL WAIVERS AGAINST THE UNITED STATES.—

(1) IN GENERAL.—The Tribe is authorized, as part of the performance of its obligations under the Settlement Agreement, to execute a waiver and release for claims against the United States (acting in its capacity as trustee for the Tribe or its members, or otherwise acting on behalf of the Tribe or its members), including any agencies, officials, or employees thereof, for any and all—

(A) claims described in subsection (a) of this section;

(B) past, present, and future claims for failure to acquire or develop water rights and water resources of the Reservation arising from time immemorial through the effective date described in section 10 of this Act and anytime thereafter;

(C) past, present, and future claims for failure to protect water rights and water resources of the Reservation

arising from time immemorial through the effective date described in section 10 of this Act, and any past, present, and future claims for any continuing failure to protect water rights and water resources of the Reservation, arising from time immemorial through the effective date described in section 10 of this Act and, to the extent that such continuing failure to protect began before the effective date described in section 10 of this Act, anytime thereafter;

(D) past, present, and future claims arising from the failure of any non-Federal Party to fulfill the terms of the Settlement Agreement at anytime; and

(E) past, present, and future claims arising out of the negotiation of the Settlement Agreement or the negotiation and enactment of this Act, or any specific terms of provisions thereof, including, but not limited to, the Tribe's consent to limit the number of participant parties to the Settlement Agreement.

(2) EFFECTIVENESS OF WAIVERS AGAINST THE UNITED STATES.—

(A) IN GENERAL.—The waiver and release contained in this subsection shall take effect on the date on which all of the amounts authorized under sections 5(a) and 5(b) are appropriated. Effective date.

(B) PERIODS OF LIMITATION; EQUITABLE CLAIMS.—

(i) IN GENERAL.—All periods of limitation and time-based equitable defenses applicable to the claims set forth in paragraph (1) are tolled for the period between the date of enactment of this Act until the date on which the amounts authorized under sections 5(a) and 5(b) are appropriated.

(ii) EFFECT OF SUBPARAGRAPH.—This subparagraph neither revives any claim nor tolls any period of limitation or time-based equitable defense that may have expired before the date of enactment of this Act.

(C) DEFENSE.—The making of the amounts of appropriations authorized under sections 5(a) and 5(b) shall constitute a complete defense to any claim which involves the claims set forth in paragraph (b)(1) pending in any court of the United States on the date on which the appropriations are made.

**SEC. 9. MISCELLANEOUS PROVISIONS.**

(a) JURISDICTION.—

(1) NO EFFECT ON SUBJECT MATTER JURISDICTION.—Nothing in the Agreement or this Act restricts, enlarges, or otherwise determines the subject matter jurisdiction of any Federal, State, or Tribal court.

(2) JUDGMENT AND DECREE.—The United States consents to jurisdiction in the United States District Court for the Central District of California case known as Soboba Band of Luiseño Indians v. Metropolitan Water District of Southern California, No. 00–04208 for the purpose of obtaining approval for a judgment and decree substantially the same as the judgment and decree attached to the Settlement Agreement as exhibit H.

(3) EFFECT OF SUBSECTION.—Nothing in this subsection confers jurisdiction on any State court to—

(A) enforce Federal environmental laws regarding the duties of the United States; or

(B) conduct judicial review of Federal agency action.

(b) USE OF WATER.—

(1) TRIBAL USE.—With respect to water rights made available under the Settlement Agreement—

(A) the Tribe may use water made available to it under the Settlement Agreement for any use it deems advisable on the Reservation and on any other lands it owns or may acquire, in fee or in trust, contiguous to the Reservation or within the area of the groundwater basin described in section 2.4 of the Settlement Agreement;

(B) such water rights shall be held in trust by the United States in perpetuity, and shall not be subject to forfeiture or abandonment; and

(C) State law shall not apply to the Tribe's use of water made available to it under the Settlement Agreement.

(2) NON-TRIBAL USE.—

(A) CONTRACTS AND OPTIONS.—Subject to the limitations in subparagraph (B), the Tribe may enter into contracts and options to lease or contracts and options to exchange water made available to it under the Settlement Agreement, or enter into contracts and options to postpone existing water uses or postpone undertaking new or expanded water uses.

(B) LIMITATIONS ON NON-TRIBAL USE.—

(i) CONSISTENCY WITH WATER MANAGEMENT PLAN.—Any water made available under subparagraph (A) shall only be used by participants in, or other users within the area of, the Water Management Plan described in section 2.32 of the Settlement Agreement.

(ii) PROHIBITION ON PERMANENT ALIENATION.—No contract under subparagraph (A) shall be for a term exceeding one hundred years, nor shall any contract under subparagraph (A) provide for permanent alienation of any portion of the water rights made available under the Settlement Agreement.

(C) LIABILITY.—The Secretary shall not be liable to any party, including the Tribe, for any term of, or any loss or other detriment resulting from, a lease or contract entered into pursuant to this subparagraph.

(c) RETENTION OF RIGHTS.—

(1) In the event the waivers and releases set out in section 8 of this Act do not become effective pursuant to section 10(a) of this Act, the Soboba Tribe and the United States shall retain the right to assert all rights and claims enumerated in section 8, and any claims or defenses of the parties to the Settlement Agreement shall also be retained.

(2) The parties expressly reserve all rights not specifically granted, recognized, waived, or released by the Settlement Agreement or this Act.

(3) Notwithstanding the waivers and releases set forth in section 8(a), the United States retains all claims relating to violations of the Clean Water Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, Resource Conservation and Recovery

Act, and the regulations implementing these Acts, including, but not limited to claims related to water quality.

(d) PRECEDENT.—Nothing in this Act establishes any standard for the quantification or litigation of Federal reserved water rights or any other Indian water claims of any other Indian tribes in any other judicial or administrative proceeding.

(e) OTHER INDIAN TRIBES.—Nothing in the Settlement Agreement or this Act shall be construed in any way to quantify or otherwise adversely affect the water rights, claims, or entitlements to water of any Indian tribe, band, or community, other than the Soboba Tribe.

(f) ENVIRONMENTAL COMPLIANCE.—

(1) Signing by the Secretary of the Settlement Agreement does not constitute major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) The Secretary is directed to carry out all environmental compliance required by Federal law in implementing the Agreement.

**SEC. 10. EFFECTIVE DATE.**

(a) IN GENERAL.—The waivers and releases authorized in subsection (a) of section 8 of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that— Federal Register, publication.

(1) this Act has been enacted;

(2) to the extent that the Settlement Agreement conflicts with this Act, the Settlement Agreement has been revised to conform with the Act;

(3) the Settlement Agreement, revised as necessary, and the waivers and releases described in article 5 of the Settlement Agreement and section 8(a) of this Act have been executed by the parties and the Secretary;

(4) warranty deeds for the property to be conveyed to the Tribe described in section 4.6 of the Settlement Agreement have been placed in escrow;

(5) the Tribe and the Secretary have approved the Water Management Plan; and

(6) the judgment and decree attached to the Settlement Agreement as exhibit H or a judgment and decree substantially the same as exhibit H has been approved by the United States District Court, Eastern Division of the Central District of California, and that judgment and decree has become final and nonappealable.

(b) DEADLINE FOR EFFECTIVE DATE.—If the conditions precedent required under subsection (a) of this section have not been fulfilled by March 1, 2012, the Settlement Agreement and this Act shall not thereafter be effective and shall be null and void, and any funds and the interest accrued thereon appropriated pursuant to

section 5 shall revert to the general fund of the United States Treasury.

Approved July 31, 2008.

LEGISLATIVE HISTORY—H.R. 4841:

HOUSE REPORTS: No. 110–649 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 154 (2008):
May 19, 21, considered and passed House.
July 23, considered and passed Senate.

Public Law 110–298
110th Congress

# An Act

To establish an awards mechanism to honor exceptional acts of bravery in the line of duty by Federal, State, and local law enforcement officers.

July 31, 2008
[S. 2565]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Law Enforcement Congressional Badge of Bravery Act of 2008.
42 USC 15231 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Law Enforcement Congressional Badge of Bravery Act of 2008".

42 USC 15231 note.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) FEDERAL AGENCY HEAD.—The term "Federal agency head" means the head of any executive, legislative, or judicial branch Government entity that employs Federal law enforcement officers.

(2) FEDERAL BOARD.—The term "Federal Board" means the Federal Law Enforcement Congressional Badge of Bravery Board established under section 103(a).

(3) FEDERAL BOARD MEMBERS.—The term "Federal Board members" means the members of the Federal Board appointed under section 103(c).

(4) FEDERAL LAW ENFORCEMENT BADGE.—The term "Federal Law Enforcement Badge" means the Federal Law Enforcement Congressional Badge of Bravery described in section 101.

(5) FEDERAL LAW ENFORCEMENT OFFICER.—The term "Federal law enforcement officer"—

(A) means a Federal employee—

(i) who has statutory authority to make arrests or apprehensions;

(ii) who is authorized by the agency of the employee to carry firearms; and

(iii) whose duties are primarily—

(I) engagement in or supervision of the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law; or

(II) the protection of Federal, State, local, or foreign government officials against threats to personal safety; and

(B) includes a law enforcement officer employed by the Amtrak Police Department or Federal Reserve.

(6) OFFICE.—The term "Office" means the Congressional Badge of Bravery Office established under section 301(a).

(7) STATE AND LOCAL BOARD.—The term "State and Local Board" means the State and Local Law Enforcement Congressional Badge of Bravery Board established under section 203(a).

(8) STATE AND LOCAL BOARD MEMBERS.—The term "State and Local Board members" means the members of the State and Local Board appointed under section 203(c).

(9) STATE AND LOCAL LAW ENFORCEMENT BADGE.—The term "State and Local Law Enforcement Badge" means the State and Local Law Enforcement Congressional Badge of Bravery described in section 201.

(10) STATE OR LOCAL AGENCY HEAD.—The term "State or local agency head" means the head of any executive, legislative, or judicial branch entity of a State or local government that employs State or local law enforcement officers.

(11) STATE OR LOCAL LAW ENFORCEMENT OFFICER.—The term "State or local law enforcement officer" means an employee of a State or local government—

(A) who has statutory authority to make arrests or apprehensions;

(B) who is authorized by the agency of the employee to carry firearms; and

(C) whose duties are primarily—

(i) engagement in or supervision of the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law; or

(ii) the protection of Federal, State, local, or foreign government officials against threats to personal safety.

# TITLE I—FEDERAL LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY

42 USC 15241.

**SEC. 101. AUTHORIZATION OF A BADGE.**

The Attorney General may award, and a Member of Congress or the Attorney General may present, in the name of Congress a Federal Law Enforcement Congressional Badge of Bravery to a Federal law enforcement officer who is cited by the Attorney General, upon the recommendation of the Federal Board, for performing an act of bravery while in the line of duty.

42 USC 15242.

**SEC. 102. NOMINATIONS.**

(a) IN GENERAL.—A Federal agency head may nominate for a Federal Law Enforcement Badge an individual—

(1) who is a Federal law enforcement officer working within the agency of the Federal agency head making the nomination; and

(2) who—

(A)(i) sustained a physical injury while—

(I) engaged in the lawful duties of the individual; and

(II) performing an act characterized as bravery by the Federal agency head making the nomination; and

(ii) put the individual at personal risk when the injury described in clause (i) occurred; or

(B) while not injured, performed an act characterized as bravery by the Federal agency head making the nomination that placed the individual at risk of serious physical injury or death.

(b) CONTENTS.—A nomination under subsection (a) shall include—

(1) a written narrative, of not more than 2 pages, describing the circumstances under which the nominee performed the act of bravery described in subsection (a) and how the circumstances meet the criteria described in such subsection;

(2) the full name of the nominee;

(3) the home mailing address of the nominee;

(4) the agency in which the nominee served on the date when such nominee performed the act of bravery described in subsection (a);

(5) the occupational title and grade or rank of the nominee;

(6) the field office address of the nominee on the date when such nominee performed the act of bravery described in subsection (a); and

(7) the number of years of Government service by the nominee as of the date when such nominee performed the act of bravery described in subsection (a).

(c) SUBMISSION DEADLINE.—A Federal agency head shall submit each nomination under subsection (a) to the Office not later than February 15 of the year following the date on which the nominee performed the act of bravery described in subsection (a).

**SEC. 103. FEDERAL LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY BOARD.**

42 USC 15243.

(a) ESTABLISHMENT.—There is established within the Department of Justice a Federal Law Enforcement Congressional Badge of Bravery Board.

(b) DUTIES.—The Federal Board shall do the following:

(1) Design the Federal Law Enforcement Badge with appropriate ribbons and appurtenances.

(2) Select an engraver to produce each Federal Law Enforcement Badge.

(3) Recommend recipients of the Federal Law Enforcement Badge from among those nominations timely submitted to the Office.

(4) Annually present to the Attorney General the names of Federal law enforcement officers who the Federal Board recommends as Federal Law Enforcement Badge recipients in accordance with the criteria described in section 102(a).

(5) After approval by the Attorney General—

(A) procure the Federal Law Enforcement Badges from the engraver selected under paragraph (2);

(B) send a letter announcing the award of each Federal Law Enforcement Badge to the Federal agency head who nominated the recipient of such Federal Law Enforcement Badge;

(C) send a letter to each Member of Congress representing the congressional district where the recipient of each Federal Law Enforcement Badge resides to offer such Member an opportunity to present such Federal Law Enforcement Badge; and

(D) make or facilitate arrangements for presenting each Federal Law Enforcement Badge in accordance with section 104.

(6) Set an annual timetable for fulfilling the duties described in this subsection.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Federal Board shall be composed of 7 members appointed as follows:

(A) One member jointly appointed by the majority leader and minority leader of the Senate.

(B) One member jointly appointed by the Speaker and minority leader of the House of Representatives.

(C) One member from the Department of Justice appointed by the Attorney General.

(D) Two members of the Federal Law Enforcement Officers Association appointed by the Executive Board of the Federal Law Enforcement Officers Association.

(E) Two members of the Fraternal Order of Police appointed by the Executive Board of the Fraternal Order of Police.

(2) LIMITATION.—Not more than—

(A) 2 Federal Board members may be members of the Federal Law Enforcement Officers Association; and

(B) 2 Federal Board members may be members of the Fraternal Order of Police.

(3) QUALIFICATIONS.—Federal Board members shall be individuals with knowledge or expertise, whether by experience or training, in the field of Federal law enforcement.

(4) TERMS AND VACANCIES.—Each Federal Board member shall be appointed for 2 years and may be reappointed. A vacancy in the Federal Board shall not affect the powers of the Federal Board and shall be filled in the same manner as the original appointment.

(d) OPERATIONS.—

(1) CHAIRPERSON.—The Chairperson of the Federal Board shall be a Federal Board member elected by a majority of the Federal Board.

Deadline.

(2) MEETINGS.—The Federal Board shall conduct its first meeting not later than 90 days after the appointment of a majority of Federal Board members. Thereafter, the Federal Board shall meet at the call of the Chairperson, or in the case of a vacancy of the position of Chairperson, at the call of the Attorney General.

(3) VOTING AND RULES.—A majority of Federal Board members shall constitute a quorum to conduct business, but the Federal Board may establish a lesser quorum for conducting hearings scheduled by the Federal Board. The Federal Board may establish by majority vote any other rules for the conduct of the business of the Federal Board, if such rules are not inconsistent with this title or other applicable law.

(e) POWERS.—

(1) HEARINGS.—

(A) IN GENERAL.—The Federal Board may hold hearings, sit and act at times and places, take testimony, and receive evidence as the Federal Board considers appropriate to carry out the duties of the Federal Board under

this title. The Federal Board may administer oaths or affirmations to witnesses appearing before it.

(B) WITNESS EXPENSES.—Witnesses requested to appear before the Federal Board may be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Federal Board.

(2) INFORMATION FROM FEDERAL AGENCIES.—Subject to sections 552, 552a, and 552b of title 5, United States Code—

(A) the Federal Board may secure directly from any Federal department or agency information necessary to enable it to carry out this title; and

(B) upon request of the Federal Board, the head of that department or agency shall furnish the information to the Federal Board.

(3) INFORMATION TO BE KEPT CONFIDENTIAL.—The Federal Board shall not disclose any information which may compromise an ongoing law enforcement investigation or is otherwise required by law to be kept confidential.

(f) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each Federal Board member shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such Federal Board member is engaged in the performance of the duties of the Federal Board.

(2) PROHIBITION OF COMPENSATION FOR GOVERNMENT EMPLOYEES.—Federal Board members who serve as officers or employees of the Federal Government or a State or a local government may not receive additional pay, allowances, or benefits by reason of their service on the Federal Board.

(3) TRAVEL EXPENSES.—Each Federal Board member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

**SEC. 104. PRESENTATION OF FEDERAL LAW ENFORCEMENT BADGES.** 42 USC 15244.

(a) PRESENTATION BY MEMBER OF CONGRESS.—A Member of Congress may present a Federal Law Enforcement Badge to any Federal Law Enforcement Badge recipient who resides in such Member's congressional district. If both a Senator and Representative choose to present a Federal Law Enforcement Badge, such Senator and Representative shall make a joint presentation.

(b) PRESENTATION BY ATTORNEY GENERAL.—If no Member of Congress chooses to present the Federal Law Enforcement Badge as described in subsection (a), the Attorney General, or a designee of the Attorney General, shall present such Federal Law Enforcement Badge.

(c) PRESENTATION ARRANGEMENTS.—The office of the Member of Congress presenting each Federal Law Enforcement Badge may make arrangements for the presentation of such Federal Law Enforcement Badge, and if a Senator and Representative choose to participate jointly as described in subsection (a), the Members shall make joint arrangements. The Federal Board shall facilitate

any such presentation arrangements as requested by the congressional office presenting the Federal Law Enforcement Badge and shall make arrangements in cases not undertaken by Members of Congress.

# TITLE II—STATE AND LOCAL LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY

42 USC 15251.

**SEC. 201. AUTHORIZATION OF A BADGE.**

The Attorney General may award, and a Member of Congress or the Attorney General may present, in the name of Congress a State and Local Law Enforcement Congressional Badge of Bravery to a State or local law enforcement officer who is cited by the Attorney General, upon the recommendation of the State and Local Board, for performing an act of bravery while in the line of duty.

42 USC 15252.

**SEC. 202. NOMINATIONS.**

(a) IN GENERAL.—A State or local agency head may nominate for a State and Local Law Enforcement Badge an individual—

(1) who is a State or local law enforcement officer working within the agency of the State or local agency head making the nomination; and

(2) who—

(A)(i) sustained a physical injury while—

(I) engaged in the lawful duties of the individual; and

(II) performing an act characterized as bravery by the State or local agency head making the nomination; and

(ii) put the individual at personal risk when the injury described in clause (i) occurred; or

(B) while not injured, performed an act characterized as bravery by the State or local agency head making the nomination that placed the individual at risk of serious physical injury or death.

(b) CONTENTS.—A nomination under subsection (a) shall include—

(1) a written narrative, of not more than 2 pages, describing the circumstances under which the nominee performed the act of bravery described in subsection (a) and how the circumstances meet the criteria described in such subsection;

(2) the full name of the nominee;

(3) the home mailing address of the nominee;

(4) the agency in which the nominee served on the date when such nominee performed the act of bravery described in subsection (a);

(5) the occupational title and grade or rank of the nominee;

(6) the field office address of the nominee on the date when such nominee performed the act of bravery described in subsection (a); and

(7) the number of years of government service by the nominee as of the date when such nominee performed the act of bravery described in subsection (a).

(c) SUBMISSION DEADLINE.—A State or local agency head shall submit each nomination under subsection (a) to the Office not later than February 15 of the year following the date on which the nominee performed the act of bravery described in subsection (a).

**SEC. 203. STATE AND LOCAL LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY BOARD.** 42 USC 15253.

(a) ESTABLISHMENT.—There is established within the Department of Justice a State and Local Law Enforcement Congressional Badge of Bravery Board.

(b) DUTIES.—The State and Local Board shall do the following:

(1) Design the State and Local Law Enforcement Badge with appropriate ribbons and appurtenances.

(2) Select an engraver to produce each State and Local Law Enforcement Badge.

(3) Recommend recipients of the State and Local Law Enforcement Badge from among those nominations timely submitted to the Office.

(4) Annually present to the Attorney General the names of State or local law enforcement officers who the State and Local Board recommends as State and Local Law Enforcement Badge recipients in accordance with the criteria described in section 202(a).

(5) After approval by the Attorney General—

(A) procure the State and Local Law Enforcement Badges from the engraver selected under paragraph (2);

(B) send a letter announcing the award of each State and Local Law Enforcement Badge to the State or local agency head who nominated the recipient of such State and Local Law Enforcement Badge;

(C) send a letter to each Member of Congress representing the congressional district where the recipient of each State and Local Law Enforcement Badge resides to offer such Member an opportunity to present such State and Local Law Enforcement Badge; and

(D) make or facilitate arrangements for presenting each State and Local Law Enforcement Badge in accordance with section 204.

(6) Set an annual timetable for fulfilling the duties described in this subsection.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The State and Local Board shall be composed of 9 members appointed as follows:

(A) One member jointly appointed by the majority leader and minority leader of the Senate.

(B) One member jointly appointed by the Speaker and minority leader of the House of Representatives.

(C) One member from the Department of Justice appointed by the Attorney General.

(D) Two members of the Fraternal Order of Police appointed by the Executive Board of the Fraternal Order of Police.

(E) One member of the National Association of Police Organizations appointed by the Executive Board of the National Association of Police Organizations.

(F) One member of the National Organization of Black Law Enforcement Executives appointed by the Executive Board of the National Organization of Black Law Enforcement Executives.

(G) One member of the International Association of Chiefs of Police appointed by the Board of Officers of the International Association of Chiefs of Police.

(H) One member of the National Sheriffs' Association appointed by the Executive Committee of the National Sheriffs' Association.

(2) LIMITATION.—Not more than 5 State and Local Board members may be members of the Fraternal Order of Police.

(3) QUALIFICATIONS.—State and Local Board members shall be individuals with knowledge or expertise, whether by experience or training, in the field of State and local law enforcement.

(4) TERMS AND VACANCIES.—Each State and Local Board member shall be appointed for 2 years and may be reappointed. A vacancy in the State and Local Board shall not affect the powers of the State and Local Board and shall be filled in the same manner as the original appointment.

(d) OPERATIONS.—

(1) CHAIRPERSON.—The Chairperson of the State and Local Board shall be a State and Local Board member elected by a majority of the State and Local Board.

Deadline.

(2) MEETINGS.—The State and Local Board shall conduct its first meeting not later than 90 days after the appointment of a majority of State and Local Board members. Thereafter, the State and Local Board shall meet at the call of the Chairperson, or in the case of a vacancy of the position of Chairperson, at the call of the Attorney General.

(3) VOTING AND RULES.—A majority of State and Local Board members shall constitute a quorum to conduct business, but the State and Local Board may establish a lesser quorum for conducting hearings scheduled by the State and Local Board. The State and Local Board may establish by majority vote any other rules for the conduct of the business of the State and Local Board, if such rules are not inconsistent with this title or other applicable law.

(e) POWERS.—

(1) HEARINGS.—

(A) IN GENERAL.—The State and Local Board may hold hearings, sit and act at times and places, take testimony, and receive evidence as the State and Local Board considers appropriate to carry out the duties of the State and Local Board under this title. The State and Local Board may administer oaths or affirmations to witnesses appearing before it.

(B) WITNESS EXPENSES.—Witnesses requested to appear before the State and Local Board may be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the State and Local Board.

(2) INFORMATION FROM FEDERAL AGENCIES.—Subject to sections 552, 552a, and 552b of title 5, United States Code—

(A) the State and Local Board may secure directly from any Federal department or agency information necessary to enable it to carry out this title; and

(B) upon request of the State and Local Board, the head of that department or agency shall furnish the information to the State and Local Board.

(3) INFORMATION TO BE KEPT CONFIDENTIAL.—The State and Local Board shall not disclose any information which may compromise an ongoing law enforcement investigation or is otherwise required by law to be kept confidential.

(f) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each State and Local Board member shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such State and Local Board member is engaged in the performance of the duties of the State and Local Board.

(2) PROHIBITION OF COMPENSATION FOR GOVERNMENT EMPLOYEES.—State and Local Board members who serve as officers or employees of the Federal Government or a State or a local government may not receive additional pay, allowances, or benefits by reason of their service on the State and Local Board.

(3) TRAVEL EXPENSES.—Each State and Local Board member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

**SEC. 204. PRESENTATION OF STATE AND LOCAL LAW ENFORCEMENT BADGES.**

42 USC 15254.

(a) PRESENTATION BY MEMBER OF CONGRESS.—A Member of Congress may present a State and Local Law Enforcement Badge to any State and Local Law Enforcement Badge recipient who resides in such Member's congressional district. If both a Senator and Representative choose to present a State and Local Law Enforcement Badge, such Senator and Representative shall make a joint presentation.

(b) PRESENTATION BY ATTORNEY GENERAL.—If no Member of Congress chooses to present the State and Local Law Enforcement Badge as described in subsection (a), the Attorney General, or a designee of the Attorney General, shall present such State and Local Law Enforcement Badge.

(c) PRESENTATION ARRANGEMENTS.—The office of the Member of Congress presenting each State and Local Law Enforcement Badge may make arrangements for the presentation of such State and Local Law Enforcement Badge, and if a Senator and Representative choose to participate jointly as described in subsection (a), the Members shall make joint arrangements. The State and Local Board shall facilitate any such presentation arrangements as requested by the congressional office presenting the State and Local Law Enforcement Badge and shall make arrangements in cases not undertaken by Members of Congress.

# TITLE III—CONGRESSIONAL BADGE OF BRAVERY OFFICE

42 USC 15261.

**SEC. 301. CONGRESSIONAL BADGE OF BRAVERY OFFICE.**

(a) ESTABLISHMENT.—There is established within the Department of Justice a Congressional Badge of Bravery Office.

(b) DUTIES.—The Office shall—

(1) receive nominations from Federal agency heads on behalf of the Federal Board and deliver such nominations to the Federal Board at Federal Board meetings described in section 103(d)(2);

(2) receive nominations from State or local agency heads on behalf of the State and Local Board and deliver such nominations to the State and Local Board at State and Local Board meetings described in section 203(d)(2); and

(3) provide staff support to the Federal Board and the State and Local Board to carry out the duties described in section 103(b) and section 203(b), respectively.

Approved July 31, 2008.

LEGISLATIVE HISTORY—S. 2565 (H.R. 4056):

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 26, considered and passed Senate.
July 22, considered and passed House.

Public Law 110–299
110th Congress

# An Act

To clarify the circumstances during which the Administrator of the Environmental Protection Agency and applicable States may require permits for discharges from certain vessels, and to require the Administrator to conduct a study of discharges incidental to the normal operation of vessels.

July 31, 2008
[S. 3298]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DEFINITIONS.**

33 USC 1342 note.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) COVERED VESSEL.—The term "covered vessel" means a vessel that is—

(A) less than 79 feet in length; or

(B) a fishing vessel (as defined in section 2101 of title 46, United States Code), regardless of the length of the vessel.

(3) OTHER TERMS.—The terms "contiguous zone", "discharge", "ocean", and "State" have the meanings given the terms in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362).

**SEC. 2. DISCHARGES INCIDENTAL TO NORMAL OPERATION OF VESSELS.**

33 USC 1342 note.

(a) NO PERMIT REQUIREMENT.—Except as provided in subsection (b), during the 2-year period beginning on the date of enactment of this Act, the Administrator, or a State in the case of a permit program approved under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), shall not require a permit under that section for a covered vessel for—

Time period.

(1) any discharge of effluent from properly functioning marine engines;

(2) any discharge of laundry, shower, and galley sink wastes; or

(3) any other discharge incidental to the normal operation of a covered vessel.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to—

(1) rubbish, trash, garbage, or other such materials discharged overboard;

(2) other discharges when the vessel is operating in a capacity other than as a means of transportation, such as when—

(A) used as an energy or mining facility;

(B) used as a storage facility or a seafood processing facility;

(C) secured to a storage facility or a seafood processing facility; or

(D) secured to the bed of the ocean, the contiguous zone, or waters of the United States for the purpose of mineral or oil exploration or development;

(3) any discharge of ballast water; or

(4) any discharge in a case in which the Administrator or State, as appropriate, determines that the discharge—

(A) contributes to a violation of a water quality standard; or

(B) poses an unacceptable risk to human health or the environment.

**SEC. 3. STUDY OF DISCHARGES INCIDENTAL TO NORMAL OPERATION OF VESSELS.**

(a) IN GENERAL.—The Administrator, in consultation with the Secretary of the department in which the Coast Guard is operating and the heads of other interested Federal agencies, shall conduct a study to evaluate the impacts of—

(1) any discharge of effluent from properly functioning marine engines;

(2) any discharge of laundry, shower, and galley sink wastes; and

(3) any other discharge incidental to the normal operation of a vessel.

(b) SCOPE OF STUDY.—The study under subsection (a) shall include—

(1) characterizations of the nature, type, and composition of discharges for—

(A) representative single vessels; and

(B) each class of vessels;

(2) determinations of the volumes of those discharges, including average volumes, for—

(A) representative single vessels; and

(B) each class of vessels;

(3) a description of the locations, including the more common locations, of the discharges;

(4) analyses and findings as to the nature and extent of the potential effects of the discharges, including determinations of whether the discharges pose a risk to human health, welfare, or the environment, and the nature of those risks;

(5) determinations of the benefits to human health, welfare, and the environment from reducing, eliminating, controlling, or mitigating the discharges; and

(6) analyses of the extent to which the discharges are currently subject to regulation under Federal law or a binding international obligation of the United States.

(c) EXCLUSION.—In carrying out the study under subsection (a), the Administrator shall exclude—

(1) discharges from a vessel of the Armed Forces (as defined in section 312(a) of the Federal Water Pollution Control Act (33 U.S.C. 1322(a));

(2) discharges of sewage (as defined in section 312(a) of the Federal Water Pollution Control Act (33 U.S.C. 1322(a))

from a vessel, other than the discharge of graywater from a vessel operating on the Great Lakes; and

(3) discharges of ballast water.

(d) PUBLIC COMMENT; REPORT.—The Administrator shall— Federal Register, publication.

(1) publish in the Federal Register for public comment a draft of the study required under subsection (a);

(2) after taking into account any comments received during the public comment period, develop a final report with respect to the study; and

(3) not later than 15 months after the date of enactment of this Act, submit the final report to—

(A) the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate.

Approved July 31, 2008.

LEGISLATIVE HISTORY—S. 3298:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 22, considered and passed Senate and House.

# Public Law 110–300
# 110th Congress

## An Act

July 31, 2008
[S. 3352]

To temporarily extend the programs under the Higher Education Act of 1965.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF HIGHER EDUCATION PROGRAMS.**

(a) EXTENSION OF PROGRAMS.—Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking "July 31, 2008" and inserting "August 15, 2008".

20 USC 1001 note.

(b) RULE OF CONSTRUCTION.—Nothing in this section, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171), by the College Cost Reduction and Access Act (Public Law 110–84), or by the Ensuring Continued Access to Student Loans Act of 2008 (Public Law 110–227) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

20 USC 1001 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on July 31, 2008.

Approved July 31, 2008.

LEGISLATIVE HISTORY—S. 3352:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 28, considered and passed Senate.
July 30, considered and passed House.

# Public Law 110–301
# 110th Congress

## An Act

To resolve pending claims against Libya by United States nationals, and for other purposes.

Aug. 4, 2008
[S. 3370]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Libyan Claims Resolution Act. 28 USC 1605A note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Libyan Claims Resolution Act".

28 USC 1605A note.

**SEC. 2. DEFINITIONS.**

In this Act—

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

(2) the term "claims agreement" means an international agreement between the United States and Libya, binding under international law, that provides for the settlement of terrorism-related claims of nationals of the United States against Libya through fair compensation;

(3) the term "national of the United States" has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(4) the term "Secretary" means the Secretary of State; and

(5) the term "state sponsor of terrorism" means a country the government of which the Secretary has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 40 of the Arms Export Control Act (22 U.S.C. 2780), or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism.

28 USC 1605A note.

**SEC. 3. SENSE OF CONGRESS.**

Congress supports the President in his efforts to provide fair compensation to all nationals of the United States who have terrorism-related claims against Libya through a comprehensive settlement of claims by such nationals against Libya pursuant to an international agreement between the United States and Libya as a part of the process of restoring normal relations between Libya and the United States.

28 USC 1605A note.

**SEC. 4. ENTITY TO ASSIST IN IMPLEMENTATION OF CLAIMS AGREEMENT.**

(a) DESIGNATION OF ENTITY.—

Federal Register, publication.

(1) DESIGNATION.—The Secretary, by publication in the Federal Register, may, after consultation with the appropriate congressional committees, designate 1 or more entities to assist in providing compensation to nationals of the United States, pursuant to a claims agreement.

(2) AUTHORITY OF THE SECRETARY.—The designation of an entity under paragraph (1) is within the sole discretion of the Secretary, and may not be delegated. The designation shall not be subject to judicial review.

(b) IMMUNITY.—

(1) PROPERTY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary designates any entity under subsection (a)(1), any property described in subparagraph (B) of this paragraph shall be immune from attachment or any other judicial process. Such immunity shall be in addition to any other applicable immunity.

(B) PROPERTY DESCRIBED.—The property described in this subparagraph is any property that—

(i) relates to the claims agreement; and

(ii) for the purpose of implementing the claims agreement, is—

(I) held by an entity designated by the Secretary under subsection (a)(1);

(II) transferred to the entity; or

(III) transferred from the entity.

(2) OTHER ACTS.—An entity designated by the Secretary under subsection (a)(1), and any person acting through or on behalf of such entity, shall not be liable in any Federal or State court for any action taken to implement a claims agreement.

(c) NONAPPLICABILITY OF THE GOVERNMENT CORPORATION CONTROL ACT.—An entity designated by the Secretary under subsection (a)(1) shall not be subject to chapter 91 of title 31, United States Code (commonly known as the "Government Corporation Control Act").

28 USC 1605A note.

**SEC. 5. RECEIPT OF ADEQUATE FUNDS; IMMUNITIES OF LIBYA.**

(a) IMMUNITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, upon submission of a certification described in paragraph (2)—

(A) Libya, an agency or instrumentality of Libya, and the property of Libya or an agency or instrumentality of Libya, shall not be subject to the exceptions to immunity from jurisdiction, liens, attachment, and execution contained in section 1605A, 1605(a)(7), or 1610 (insofar as section 1610 relates to a judgment under such section 1605A or 1605(a)(7)) of title 28, United States Code;

(B) section 1605A(c) of title 28, United States Code, section 1083(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 342;

28 U.S.C. 1605A note), section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (28 U.S.C. 1605 note), and any other private right of action relating to acts by a state sponsor of terrorism arising under Federal, State, or foreign law shall not apply with respect to claims against Libya, or any of its agencies, instrumentalities, officials, employees, or agents in any action in a Federal or State court; and

(C) any attachment, decree, lien, execution, garnishment, or other judicial process brought against property of Libya, or property of any agency, instrumentality, official, employee, or agent of Libya, in connection with an action that would be precluded by subparagraph (A) or (B) shall be void.

(2) CERTIFICATION.—A certification described in this paragraph is a certification—

(A) by the Secretary to the appropriate congressional committees; and

(B) stating that the United States Government has received funds pursuant to the claims agreement that are sufficient to ensure—

(i) payment of the settlements referred to in section 654(b) of division J of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2342); and

(ii) fair compensation of claims of nationals of the United States for wrongful death or physical injury in cases pending on the date of enactment of this Act against Libya arising under section 1605A of title 28, United States Code (including any action brought under section 1605(a)(7) of title 28, United States Code, or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (28 U.S.C. 1605 note), that has been given effect as if the action had originally been filed under 1605A(c) of title 28, United States Code, pursuant to section 1083(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 342; 28 U.S.C. 1605A note)).

(b) TEMPORAL SCOPE.—Subsection (a) shall apply only with respect to any conduct or event occurring before June 30, 2006, regardless of whether, or the extent to which, application of that subsection affects any action filed before, on, or after that date.

(c) AUTHORITY OF THE SECRETARY.—The certification by the Secretary referred to in subsection (a)(2) may not be delegated, and shall not be subject to judicial review.

Approved August 4, 2008.

LEGISLATIVE HISTORY—S. 3370:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 31, considered and passed Senate and House.

Public Law 110–302
110th Congress

# An Act

To designate the Department of Veterans Affairs outpatient clinic in Wenatchee, Washington, as the Elwood "Bud" Link Department of Veterans Affairs Outpatient Clinic.

Aug. 12, 2008
[H.R. 2245]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF ELWOOD "BUD" LINK DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.**

(a) DESIGNATION.—The Department of Veterans Affairs outpatient clinic located in Wenatchee, Washington, shall after the date of the enactment of this Act be known and designated as the "Elwood 'Bud' Link Department of Veterans Affairs Outpatient Clinic".

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Elwood "Bud" Link Department of Veterans Affairs Outpatient Clinic.

Approved August 12, 2008.

LEGISLATIVE HISTORY—H.R. 2245:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 24, 26, considered and passed House.
Aug. 1, considered and passed Senate.

# Public Law 110–303
# 110th Congress

## An Act

Aug. 12, 2008
[H.R. 4210]

To designate the facility of the United States Postal Service located at 401 Washington Avenue in Weldon, North Carolina, as the "Dock M. Brown Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DOCK M. BROWN POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 401 Washington Avenue in Weldon, North Carolina, shall be known and designated as the "Dock M. Brown Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Dock M. Brown Post Office Building".

Approved August 12, 2008.

LEGISLATIVE HISTORY—H.R. 4210:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 17, considered and passed House.
Vol. 154 (2008): Aug. 1, considered and passed Senate.

Public Law 110–304
110th Congress

# An Act

To name the Department of Veterans Affairs medical center in Miami, Florida, as the "Bruce W. Carter Department of Veterans Affairs Medical Center".

Aug. 12, 2008
[H.R. 4918]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, MIAMI, FLORIDA.**

The Department of Veterans Affairs medical center in Miami, Florida, shall after the date of the enactment of this Act be known and designated as the "Bruce W. Carter Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Bruce W. Carter Department of Veterans Affairs Medical Center.

Approved August 12, 2008.

LEGISLATIVE HISTORY—H.R. 4918:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 24, 26, considered and passed House.
Aug. 1, considered and passed Senate.

# Public Law 110–305
# 110th Congress

## An Act

Aug. 12, 2008
[H.R. 5477]

To designate the facility of the United States Postal Service located at 120 South Del Mar Avenue in San Gabriel, California, as the "Chi Mui Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CHI MUI POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 120 South Del Mar Avenue in San Gabriel, California, shall be known and designated as the "Chi Mui Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Chi Mui Post Office Building".

Approved August 12, 2008.

LEGISLATIVE HISTORY—H.R. 5477:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 3, considered and passed House.
Aug. 1, considered and passed Senate.

Public Law 110–306
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 10449 White Granite Drive in Oakton, Virginia, as the "Private First Class David H. Sharrett II Post Office Building".

Aug. 12, 2008
[H.R. 5483]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PRIVATE FIRST CLASS DAVID H. SHARRETT II POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 10449 White Granite Drive in Oakton, Virginia, shall be known and designated as the "Private First Class David H. Sharrett II Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Private First Class David H. Sharrett II Post Office Building".

Approved August 12, 2008.

LEGISLATIVE HISTORY—H.R. 5483:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 23, considered and passed House.
Aug. 1, considered and passed Senate.

# Public Law 110–307
# 110th Congress

## An Act

Aug. 12, 2008
[H.R. 5631]

To designate the facility of the United States Postal Service located at 1155 Seminole Trail in Charlottesville, Virginia, as the "Corporal Bradley T. Arms Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CORPORAL BRADLEY T. ARMS POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1155 Seminole Trail in Charlottesville, Virginia, shall be known and designated as the "Corporal Bradley T. Arms Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Corporal Bradley T. Arms Post Office Building".

Approved August 12, 2008.

LEGISLATIVE HISTORY—H.R. 5631:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 29, considered and passed House.
Aug. 1, considered and passed Senate.

Public Law 110–308
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 219 East Main Street in West Frankfort, Illinois, as the "Kenneth James Gray Post Office Building".

Aug. 12, 2008
[H.R. 6061]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. KENNETH JAMES GRAY POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 219 East Main Street in West Frankfort, Illinois, shall be known and designated as the "Kenneth James Gray Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Kenneth James Gray Post Office Building".

Approved August 12, 2008.

LEGISLATIVE HISTORY—H.R. 6061:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 9, considered and passed House.
Aug. 1, considered and passed Senate.

# Public Law 110–309
# 110th Congress

## An Act

Aug. 12, 2008
[H.R. 6085]

To designate the facility of the United States Postal Service located at 42222 Rancho Las Palmas Drive in Rancho Mirage, California, as the "Gerald R. Ford Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. GERALD R. FORD POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 42222 Rancho Las Palmas Drive in Rancho Mirage, California, shall be known and designated as the "Gerald R. Ford Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Gerald R. Ford Post Office Building".

Approved August 12, 2008.

LEGISLATIVE HISTORY—H.R. 6085:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 17, 18, considered and passed House.
Aug. 1, considered and passed Senate.

Public Law 110–310
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 14500 Lorain Avenue in Cleveland, Ohio, as the "John P. Gallagher Post Office Building".

Aug. 12, 2008
[H.R. 6150]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JOHN P. GALLAGHER POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 14500 Lorain Avenue in Cleveland, Ohio, shall be known and designated as the "John P. Gallagher Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "John P. Gallagher Post Office Building".

Approved August 12, 2008.

LEGISLATIVE HISTORY—H.R. 6150:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 17, 18, considered and passed House.
Aug. 1, considered and passed Senate.

# Public Law 110–311
# 110th Congress

## An Act

Aug. 12, 2008
[H.R. 6340]

To designate the Federal building and United States courthouse located at 300 Quarropas Street in White Plains, New York, as the "Charles L. Brieant, Jr., Federal Building and United States Courthouse".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The Federal building and United States courthouse located at 300 Quarropas Street in White Plains, New York, shall be known and designated as the "Charles L. Brieant, Jr., Federal Building and United States Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Charles L. Brieant, Jr., Federal Building and United States Courthouse".

Approved August 12, 2008.

LEGISLATIVE HISTORY—H.R. 6340:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 29, considered and passed House.
Aug. 1, considered and passed Senate.

Public Law 110–312
110th Congress

# An Act

To provide for the continued performance of the functions of the United States Parole Commission.

Aug. 12, 2008
[S. 3294]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

United States Parole Commission Extension Act of 2008.
18 USC 3551 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "United States Parole Commission Extension Act of 2008".

**SEC. 2. AMENDMENT OF SENTENCING REFORM ACT OF 1984.**

For purposes of section 235(b) of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 note; Public Law 98–473; 98 Stat. 2032), as such section relates to chapter 311 of title 18, United States Code, and the United States Parole Commission, each reference in such section to "21 years" or "21-year period" shall be deemed a reference to "24 years" or "24-year period", respectively.

Approved August 12, 2008.

LEGISLATIVE HISTORY—S. 3294:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 21, considered and passed Senate.
July 29, 31, considered and passed House.

Public Law 110–313
110th Congress

An Act

Aug. 12, 2008
[S. 3295]

To amend title 35, United States Code, and the Trademark Act of 1946 to provide that the Secretary of Commerce, in consultation with the Director of the United States Patent and Trademark Office, shall appoint administrative patent judges and administrative trademark judges, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. APPOINTMENT OF ADMINISTRATIVE PATENT JUDGES AND ADMINISTRATIVE TRADEMARK JUDGES.**

(a) ADMINISTRATIVE PATENT JUDGES.—Section 6 of title 35, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence, by striking "Deputy Commissioner" and inserting "Deputy Director"; and

(B) in the last sentence, by striking "Director" and inserting "Secretary of Commerce, in consultation with the Director"; and

(C) by adding at the end the following:

"(c) AUTHORITY OF THE SECRETARY.—The Secretary of Commerce may, in his or her discretion, deem the appointment of an administrative patent judge who, before the date of the enactment of this subsection, held office pursuant to an appointment by the Director to take effect on the date on which the Director initially appointed the administrative patent judge.

"(d) DEFENSE TO CHALLENGE OF APPOINTMENT.—It shall be a defense to a challenge to the appointment of an administrative patent judge on the basis of the judge's having been originally appointed by the Director that the administrative patent judge so appointed was acting as a de facto officer.".

(b) ADMINISTRATIVE TRADEMARK JUDGES.—Section 17 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (commonly referred to as the "Trademark Act of 1946"; 15 U.S.C. 1067), is amended—

(1) in subsection (b)—

(A) by inserting "Deputy Director of the United States Patent and Trademark Office", after "Director,"; and

(B) by striking "appointed by the Director" and inserting "appointed by the Secretary of Commerce, in consultation with the Director"; and

(2) by adding at the end the following:

"(c) AUTHORITY OF THE SECRETARY.—The Secretary of Commerce may, in his or her discretion, deem the appointment of

an administrative trademark judge who, before the date of the enactment of this subsection, held office pursuant to an appointment by the Director to take effect on the date on which the Director initially appointed the administrative trademark judge.

"(d) DEFENSE TO CHALLENGE OF APPOINTMENT.—It shall be a defense to a challenge to the appointment of an administrative trademark judge on the basis of the judge's having been originally appointed by the Director that the administrative trademark judge so appointed was acting as a de facto officer.".

Approved August 12, 2008.

LEGISLATIVE HISTORY—S. 3295:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 22, considered and passed Senate.
July 29, 31, considered and passed House.

# Public Law 110–314
# 110th Congress

## An Act

Aug. 14, 2008
[H.R. 4040]

To establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Consumer Product Safety Improvement Act of 2008.
Commerce and trade.
15 USC 2051 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Consumer Product Safety Improvement Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. References.
Sec. 3. Authority to issue implementing regulations.

TITLE I—CHILDREN'S PRODUCT SAFETY

Sec. 101. Children's products containing lead; lead paint rule.
Sec. 102. Mandatory third party testing for certain children's products.
Sec. 103. Tracking labels for children's products.
Sec. 104. Standards and consumer registration of durable nursery products.
Sec. 105. Labeling requirement for advertising toys and games.
Sec. 106. Mandatory toy safety standards.
Sec. 107. Study of preventable injuries and deaths in minority children related to consumer products.
Sec. 108. Prohibition on sale of certain products containing specified phthalates.

TITLE II—CONSUMER PRODUCT SAFETY COMMISSION REFORM

Subtitle A—Administrative Improvements

Sec. 201. Reauthorization of the Commission.
Sec. 202. Full Commission requirement; interim quorum; personnel.
Sec. 203. Submission of copy of certain documents to Congress.
Sec. 204. Expedited rulemaking.
Sec. 205. Inspector general audits and reports.
Sec. 206. Industry-sponsored travel ban.
Sec. 207. Sharing of information with Federal, State, local, and foreign government agencies.
Sec. 208. Employee training exchanges.
Sec. 209. Annual reporting requirement.

Subtitle B—Enhanced Enforcement Authority

Sec. 211. Public disclosure of information.
Sec. 212. Establishment of a public consumer product safety database.
Sec. 213. Prohibition on stockpiling under other Commission-enforced statutes.
Sec. 214. Enhanced recall authority and corrective action plans.
Sec. 215. Inspection of firewalled conformity assessment bodies; identification of supply chain.
Sec. 216. Prohibited acts.
Sec. 217. Penalties.
Sec. 218. Enforcement by State attorneys general.
Sec. 219. Whistleblower protections.

Subtitle C—Specific Import-Export Provisions

Sec. 221. Export of recalled and non-conforming products.
Sec. 222. Import safety management and interagency cooperation.
Sec. 223. Substantial product hazard list and destruction of noncompliant imported products.
Sec. 224. Financial responsibility.
Sec. 225. Study and report on effectiveness of authorities relating to safety of imported consumer products.

Subtitle D—Miscellaneous Provisions and Conforming Amendments

Sec. 231. Preemption.
Sec. 232. All-terrain vehicle standard.
Sec. 233. Cost-benefit analysis under the Poison Prevention Packaging Act of 1970.
Sec. 234. Study on use of formaldehyde in manufacturing of textile and apparel articles.
Sec. 235. Technical and conforming changes.
Sec. 236. Expedited judicial review.
Sec. 237. Repeal.
Sec. 238. Pool and Spa Safety Act technical amendments.
Sec. 239. Effective dates and Severability.

**SEC. 2. REFERENCES.**

(a) DEFINED TERMS.—As used in this Act— 15 USC 2051 note.

(1) the term "appropriate Congressional committees" means the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate; and

(2) the term "Commission" means the Consumer Product Safety Commission.

(b) CONSUMER PRODUCT SAFETY ACT.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed as an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

**SEC. 3. AUTHORITY TO ISSUE IMPLEMENTING REGULATIONS.** 15 USC 2051 note.

The Commission may issue regulations, as necessary, to implement this Act and the amendments made by this Act.

# TITLE I—CHILDREN'S PRODUCT SAFETY

**SEC. 101. CHILDREN'S PRODUCTS CONTAINING LEAD; LEAD PAINT RULE.** 15 USC 1278a.

(a) GENERAL LEAD BAN.—

(1) TREATMENT AS A BANNED HAZARDOUS SUBSTANCE.—Except as expressly provided in subsection (b) beginning on the dates provided in paragraph (2), any children's product (as defined in section 3(a)(16) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(16))) that contains more lead than the limit established by paragraph (2) shall be treated as a banned hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.).

(2) LEAD LIMIT.— Effective dates.

(A) 600 PARTS PER MILLION.—Except as provided in subparagraphs (B), (C), (D), and (E), beginning 180 days after the date of enactment of this Act, the lead limit referred to in paragraph (1) is 600 parts per million total lead content by weight for any part of the product.

(B) 300 PARTS PER MILLION.—Except as provided by subparagraphs (C), (D), and (E), beginning on the date

that is 1 year after the date of enactment of this Act, the lead limit referred to in paragraph (1) is 300 parts per million total lead content by weight for any part of the product.

Applicability.

(C) 100 PARTS PER MILLION.—Except as provided in subparagraphs (D) and (E), beginning on the date that is 3 years after the date of enactment of this Act, subparagraph (B) shall be applied by substituting "100 parts per million" for "300 parts per million" unless the Commission determines that a limit of 100 parts per million is not technologically feasible for a product or product category. The Commission may make such a determination only after notice and a hearing and after analyzing the public health protections associated with substantially reducing lead in children's products.

(D) ALTERNATE REDUCTION OF LIMIT.—If the Commission determines under subparagraph (C) that the 100 parts per million limit is not technologically feasible for a product or product category, the Commission shall, by regulation, establish an amount that is the lowest amount of lead, lower than 300 parts per million, the Commission determines to be technologically feasible to achieve for that product or product category. The amount of lead established by the Commission under the preceding sentence shall be substituted for the 300 parts per million limit under subparagraph (B) beginning on the date that is 3 years after the date of enactment of this Act.

(E) PERIODIC REVIEW AND FURTHER REDUCTIONS.—The Commission shall, based on the best available scientific and technical information, periodically review and revise downward the limit set forth in this subsection, no less frequently than every 5 years after promulgation of the limit under subparagraph (C) or (D) to require the lowest amount of lead that the Commission determines is technologically feasible to achieve. The amount of lead established by the Commission under the preceding sentence shall be substituted for the lead limit in effect immediately before such revision.

(b) EXCLUSION OF CERTAIN MATERIALS OR PRODUCTS AND INACCESSIBLE COMPONENT PARTS.—

(1) CERTAIN PRODUCTS OR MATERIALS.—The Commission may, by regulation, exclude a specific product or material from the prohibition in subsection (a) if the Commission, after notice and a hearing, determines on the basis of the best-available, objective, peer-reviewed, scientific evidence that lead in such product or material will neither—

(A) result in the absorption of any lead into the human body, taking into account normal and reasonably foreseeable use and abuse of such product by a child, including swallowing, mouthing, breaking, or other children's activities, and the aging of the product; nor

(B) have any other adverse impact on public health or safety.

(2) EXCEPTION FOR INACCESSIBLE COMPONENT PARTS.—

(A) IN GENERAL.—The limits established under subsection (a) shall not apply to any component part of a children's product that is not accessible to a child through

normal and reasonably foreseeable use and abuse of such product, as determined by the Commission. A component part is not accessible under this subparagraph if such component part is not physically exposed by reason of a sealed covering or casing and does not become physically exposed through reasonably foreseeable use and abuse of the product. Reasonably foreseeable use and abuse shall include to, swallowing, mouthing, breaking, or other children's activities, and the aging of the product.

(B) INACCESSIBILITY PROCEEDING.—Within 1 year after the date of enactment of this Act, the Commission shall promulgate a rule providing guidance with respect to what product components, or classes of components, will be considered to be inaccessible for purposes of subparagraph (A). Deadline.

(C) APPLICATION PENDING CPSC GUIDANCE.—Until the Commission promulgates a rule pursuant to subparagraph (B), the determination of whether a product component is inaccessible to a child shall be made in accordance with the requirements laid out in subparagraph (A) for considering a component to be inaccessible to a child.

(3) CERTAIN BARRIERS DISQUALIFIED.—For purposes of this subsection, paint, coatings, or electroplating may not be considered to be a barrier that would render lead in the substrate inaccessible to a child, or to prevent absorption of any lead into the human body, through normal and reasonably foreseeable use and abuse of the product.

(4) CERTAIN ELECTRONIC DEVICES.—If the Commission determines that it is not technologically feasible for certain electronic devices, including devices containing batteries, to comply with subsection (a), the Commission, by regulation, shall—

(A) issue requirements to eliminate or minimize the potential for exposure to and accessibility of lead in such electronic devices, which may include requirements that such electronic devices be equipped with a child-resistant cover or casing that prevents exposure to and accessibility of the parts of the product containing lead; and Requirements.

(B) establish a schedule by which such electronic devices shall be in full compliance with the limits in subsection (a), unless the Commission determines that full compliance will not be technologically feasible for such devices within a schedule set by the Commission.

(5) PERIODIC REVIEW.—The Commission shall, based on the best available scientific and technical information, periodically review and revise the regulations promulgated pursuant to this subsection no less frequently than every 5 years after the first promulgation of a regulation under this subsection to make them more stringent and to require the lowest amount of lead the Commission determines is technologically feasible to achieve. Deadline.

(c) APPLICATION WITH ASTM F963.—To the extent that any regulation promulgated by the Commission under this section (or any section of the Consumer Product Safety Act or any other Act enforced by the Commission, as such Acts are affected by this section) is inconsistent with the ASTM F963 standard, such

promulgated regulation shall supersede the ASTM F963 standard to the extent of the inconsistency.

(d) TECHNOLOGICAL FEASIBILITY DEFINED.—For purposes of this section, a limit shall be deemed technologically feasible with regard to a product or product category if—

(1) a product that complies with the limit is commercially available in the product category;

(2) technology to comply with the limit is commercially available to manufacturers or is otherwise available within the common meaning of the term;

(3) industrial strategies or devices have been developed that are capable or will be capable of achieving such a limit by the effective date of the limit and that companies, acting in good faith, are generally capable of adopting; or

(4) alternative practices, best practices, or other operational changes would allow the manufacturer to comply with the limit.

(e) PENDING RULEMAKING PROCEEDINGS TO HAVE NO EFFECT.—The pendency of a rulemaking proceeding to consider—

(1) a delay in the effective date of a limit or an alternate limit under this section related to technological feasibility,

(2) an exception for certain products or materials or inaccessibility guidance under subsection (b) of this section, or

(3) any other request for modification of or exemption from any regulation, rule, standard, or ban under this Act or any other Act enforced by the Commission,

shall not delay the effect of any provision or limit under this section nor shall it stay general enforcement of the requirements of this section.

(f) MORE STRINGENT LEAD PAINT BAN.—

Effective date.

(1) IN GENERAL.—Effective on the date that is 1 year after the date of enactment of this Act, the Commission shall modify section 1303.1 of its regulations (16 C.F.R. 1301.1) by substituting "0.009 percent" for "0.06 percent" in subsection (a) of that section.

Deadline.

(2) PERIODIC REVIEW AND REDUCTION.—The Commission shall, no less frequently than every 5 years after the date on which the Commission modifies the regulations pursuant to paragraph (1), review the limit for lead in paint set forth in section 1303.1 of title 16, Code of Federal Regulations (as revised by paragraph (1)), and shall by regulation revise downward the limit to require the lowest amount of lead that the Commission determines is technologically feasible to achieve.

(3) METHODS FOR SCREENING LEAD IN SMALL PAINTED AREAS.—In order to provide for effective and efficient enforcement of the limit set forth in section 1303.1 of title 16, Code of Federal Regulations, the Commission may rely on x-ray fluorescence technology or other alternative methods for measuring lead in paint or other surface coatings on products subject to such section where the total weight of such paint or surface coating is no greater than 10 milligrams or where such paint or surface coating covers no more than 1 square centimeter of the surface area of such products. Such alternative methods for measurement shall not permit more than 2 micrograms of lead in a total weight of 10 milligrams or less of paint or other surface coating or in a surface area of 1 square centimeter or less.

(4) ALTERNATIVE METHODS OF MEASURING LEAD IN PAINT GENERALLY.—

(A) STUDY.—Not later than 1 year after the date of enactment of this Act, the Commission shall complete a study to evaluate the effectiveness, precision, and reliability of x-ray fluorescence technology and other alternative methods for measuring lead in paint or other surface coatings when used on a children's product or furniture article in order to determine compliance with part 1303 of title 16, Code of Federal Regulations, as modified pursuant to this subsection. Deadline.

(B) RULEMAKING.—If the Commission determines, based on the study in subparagraph (A), that x-ray fluorescence technology or other alternative methods for measuring lead in paint are as effective, precise, and reliable as the methodology used by the Commission for compliance determinations prior to the date of enactment of this Act, the Commission may promulgate regulations governing the use of such methods in determining the compliance of products with part 1303 of title 16, Code of Federal Regulations, as modified pursuant to this subsection. Any regulations promulgated by the Commission shall ensure that such alternative methods are no less effective, precise, and reliable than the methodology used by the Commission prior to the date of enactment of this Act.

(5) PERIODIC REVIEW.—The Commission shall, no less frequently than every 5 years after the Commission completes the study required by paragraph (4)(A), review and revise any methods for measurement utilized by the Commission pursuant to paragraph (3) or pursuant to any regulations promulgated under paragraph (4) to ensure that such methods are the most effective methods available to protect children's health. The Commission shall conduct an ongoing effort to study and encourage the further development of alternative methods for measuring lead in paint and other surface coating that can effectively, precisely, and reliably detect lead levels at or below the level set forth in part 1303 of title 16, Code of Federal Regulations, or any lower level established by regulation. Deadline.

(6) NO EFFECT ON LEGAL LIMIT.—Nothing in paragraph (3), nor reliance by the Commission on any alternative method of measurement pursuant to such paragraph, nor any rule prescribed pursuant to paragraph (4), nor any method established pursuant to paragraph (5) shall be construed to alter the limit set forth in section 1303 of title 16, Code of Federal Regulations, as modified pursuant to this subsection, or provide any exemption from such limit.

(7) CONSTRUCTION.—Nothing in this subsection shall be construed to affect the authority of the Commission or any other person to use alternative methods for detecting lead as a screening method to determine whether further testing or action is needed.

(g) TREATMENT AS A REGULATION UNDER THE FHSA.—Any ban imposed by subsection (a) or rule promulgated under subsection (a) or (b) of this section, and section 1303.1 of title 16, Code of Federal Regulations (as modified pursuant to subsection (f)(1) or (2)), or any successor regulation, shall be considered a regulation of the Commission promulgated under or for the enforcement of

section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)).

**SEC. 102. MANDATORY THIRD PARTY TESTING FOR CERTAIN CHILDREN'S PRODUCTS.**

(a) MANDATORY AND THIRD PARTY TESTING.—

(1) GENERAL CONFORMITY CERTIFICATION.—

(A) AMENDMENT.—Paragraph (1) of section 14(a) (15 U.S.C. 2063(a)) is amended to read as follows:

"(1) GENERAL CONFORMITY CERTIFICATION.—Except as provided in paragraphs (2) and (3), every manufacturer of a product which is subject to a consumer product safety rule under this Act or similar rule, ban, standard, or regulation under any other Act enforced by the Commission and which is imported for consumption or warehousing or distributed in commerce (and the private labeler of such product if such product bears a private label) shall issue a certificate which—

"(A) shall certify, based on a test of each product or upon a reasonable testing program, that such product complies with all rules, bans, standards, or regulations applicable to the product under this Act or any other Act enforced by the Commission; and

"(B) shall specify each such rule, ban, standard, or regulation applicable to the product.".

15 USC 2063 note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect 90 days after the date of enactment of this Act.

(2) THIRD PARTY TESTING REQUIREMENT.—Section 14(2) (15 U.S.C. 2063(2)) is further amended by redesignating paragraph (2) as paragraph (4) and inserting after paragraph (1) the following:

"(2) THIRD PARTY TESTING REQUIREMENT.—Effective on the dates provided in paragraph (3), before importing for consumption or warehousing or distributing in commerce any children's product that is subject to a children's product safety rule, every manufacturer of such children's product (and the private labeler of such children's product if such children's product bears a private label) shall—

"(A) submit sufficient samples of the children's product, or samples that are identical in all material respects to the product, to a third party conformity assessment body accredited under paragraph (3) to be tested for compliance with such children's product safety rule; and

Certification.

"(B) based on such testing, issue a certificate that certifies that such children's product complies with the children's product safety rule based on the assessment of a third party conformity assessment body accredited to conduct such tests.

A manufacturer or private labeler shall issue either a separate certificate for each children's product safety rule applicable to a product or a combined certificate that certifies compliance with all applicable children's product safety rules, in which case each such rule shall be specified.

"(3) SCHEDULE FOR IMPLEMENTATION OF THIRD PARTY TESTING.—

Notice.

"(A) GENERAL APPLICATION.—Except as provided under subparagraph (F), the requirements of paragraph (2) shall

apply to any children's product manufactured more than 90 days after the Commission has established and published notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with a children's product safety rule to which such children's product is subject.

"(B) TIME LINE FOR ACCREDITATION.— Deadlines. Notices.

"(i) LEAD PAINT.—Not later than 30 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with part 1303 of title 16, Code of Federal Regulations.

"(ii) FULL-SIZE CRIBS; NON FULL-SIZE CRIBS; PACIFIERS.—Not later than 60 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with parts 1508, 1509, and 1511 of such title.

"(iii) SMALL PARTS.—Not later than 90 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with part 1501 of such title.

"(iv) CHILDREN'S METAL JEWELRY.—Not later than 120 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with the requirements of section 101(a)(2) of such Act with respect to children's metal jewelry.

"(v) BABY BOUNCERS, WALKERS, AND JUMPERS.—Not later than 210 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with parts 1500.18(a)(6) and 1500.86(a) of such title.

"(vi) ALL OTHER CHILDREN'S PRODUCT SAFETY RULES.—The Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with other children's product safety rules at the earliest practicable date, but in no case later than 10 months after the date of enactment of the Consumer Product Safety Improvement Act of 2008, or, in the case of children's product safety rules established or revised 1 year or more after such date of enactment, not later than 90 days before such rules or revisions take effect.

"(C) ACCREDITATION.—Accreditation of third party conformity assessment bodies pursuant to the requirements established under subparagraph (B) may be conducted

either by the Commission or by an independent accreditation organization designated by the Commission.

"(D) PERIODIC REVIEW.—The Commission shall periodically review and revise the accreditation requirements established under subparagraph (B) to ensure that the requirements assure the highest conformity assessment body quality that is feasible.

Web site.
Records.

"(E) PUBLICATION OF ACCREDITED ENTITIES.—The Commission shall maintain on its Internet website an up-to-date list of entities that have been accredited to assess conformity with children's product safety rules in accordance with the requirements published by the Commission under this paragraph.

"(F) EXTENSION.—If the Commission determines that an insufficient number of third party conformity assessment bodies have been accredited to permit certification for a children's product safety rule under the accelerated schedule required by this paragraph, the Commission may extend the deadline for certification to such rule by not more than 60 days.

Termination date.

"(G) RULEMAKING.—Until the date that is 3 years after the Consumer Product Safety Improvement Act of 2008, Commission proceedings under this paragraph shall be exempt from the requirements of sections 553 and 601 through 612 of title 5, United States Code.".

(3) CONFORMING AMENDMENTS.—Section 14(a)(4) (15 U.S.C. 2063(a)(4)), as redesignated by paragraph (2) of this subsection, is amended—

(A) by striking "required by paragraph (1) of this subsection" and inserting "required under paragraph (1), (2), or (3)"; and

(B) by striking "requirement under paragraph (1)" and inserting "requirement under paragraph (1), (2), or (3)".

(b) ADDITIONAL REQUIREMENTS; DEFINITIONS.—Section 14 (15 U.S.C. 2063) is further amended by adding at the end the following:

Deadlines.

"(d) ADDITIONAL REGULATIONS FOR THIRD PARTY TESTING.—

"(1) AUDIT.—Not later than 10 months after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall by regulation establish requirements for the periodic audit of third party conformity assessment bodies as a condition for the continuing accreditation of such conformity assessment bodies under subsection (a)(3)(C).

"(2) COMPLIANCE; CONTINUING TESTING.—Not later than 15 months after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall by regulation—

"(A) initiate a program by which a manufacturer or private labeler may label a consumer product as complying with the certification requirements of subsection (a); and

Protocols.
Standards.

"(B) establish protocols and standards—

"(i) for ensuring that a children's product tested for compliance with an applicable children's product safety rule is subject to testing periodically and when there has been a material change in the product's design or manufacturing process, including the sourcing of component parts;

"(ii) for the testing of random samples to ensure continued compliance;

"(iii) for verifying that a children's product tested by a conformity assessment body complies with applicable children's product safety rules; and

"(iv) for safeguarding against the exercise of undue influence on a third party conformity assessment body by a manufacturer or private labeler.

"(e) WITHDRAWAL OF ACCREDITATION.—

"(1) IN GENERAL.—The Commission may withdraw its accreditation or its acceptance of the accreditation of a third party conformity assessment body accredited under this section if the Commission finds, after notice and investigation, that—

"(A) a manufacturer, private labeler, or governmental entity has exerted undue influence on such conformity assessment body or otherwise interfered with or compromised the integrity of the testing process with respect to the certification of a children's product under this section; or

"(B) such conformity assessment body failed to comply with an applicable protocol, standard, or requirement established by the Commission under subsection (d).

"(2) PROCEDURE.—In any proceeding to withdraw the accreditation of a conformity assessment body, the Commission—

"(A) shall consider the gravity of the conformity assessment body's action or failure to act, including—

"(i) whether the action or failure to act resulted in injury, death, or the risk of injury or death;

"(ii) whether the action or failure to act constitutes an isolated incident or represents a pattern or practice; and

"(iii) whether and when the conformity assessment body initiated remedial action; and

"(B) may—

"(i) withdraw its acceptance of the accreditation of the conformity assessment body on a permanent or temporary basis; and

"(ii) establish requirements for reaccreditation of the conformity assessment body.

"(3) FAILURE TO COOPERATE.—The Commission may suspend the accreditation of a conformity assessment body if it fails to cooperate with the Commission in an investigation under this section.

"(f) DEFINITIONS.—In this section:

"(1) CHILDREN'S PRODUCT SAFETY RULE.—The term 'children's product safety rule' means a consumer product safety rule under this Act or similar rule, regulation, standard, or ban under any other Act enforced by the Commission, including a rule declaring a consumer product to be a banned hazardous product or substance.

"(2) THIRD PARTY CONFORMITY ASSESSMENT BODY.—

"(A) IN GENERAL.—The term 'third party conformity assessment body' means a conformity assessment body that, except as provided in subparagraph (D), is not owned, managed, or controlled by the manufacturer or private

labeler of a product assessed by such conformity assessment body.

"(B) GOVERNMENTAL PARTICIPATION.—Such term may include an entity that is owned or controlled in whole or in part by a government if—

"(i) to the extent practicable, manufacturers or private labelers located in any nation are permitted to choose conformity assessment bodies that are not owned or controlled by the government of that nation;

"(ii) the entity's testing results are not subject to undue influence by any other person, including another governmental entity;

"(iii) the entity is not accorded more favorable treatment than other third party conformity assessment bodies in the same nation who have been accredited under this section;

"(iv) the entity's testing results are accorded no greater weight by other governmental authorities than those of other third party conformity assessment bodies accredited under this section; and

"(v) the entity does not exercise undue influence over other governmental authorities on matters affecting its operations or on decisions by other governmental authorities controlling distribution of products based on outcomes of the entity's conformity assessments.

"(C) TESTING AND CERTIFICATION OF ART MATERIALS AND PRODUCTS.—A certifying organization (as defined in appendix A to section 1500.14(b)(8) of title 16, Code of Federal Regulations (or any successor regulation or ruling)) meets the requirements of subparagraph (A) with respect to the certification of art material and art products required under this section or by regulations prescribed under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.).

"(D) FIREWALLED CONFORMITY ASSESSMENT BODIES.—Upon request, the Commission may accredit a conformity assessment body that is owned, managed, or controlled by a manufacturer or private labeler as a third party conformity assessment body if the Commission by order finds that—

"(i) accreditation of the conformity assessment body would provide equal or greater consumer safety protection than the manufacturer's or private labeler's use of an independent third party conformity assessment body; and

"(ii) the conformity assessment body has established procedures to ensure that—

"(I) its test results are protected from undue influence by the manufacturer, private labeler or other interested party;

"(II) the Commission is notified immediately of any attempt by the manufacturer, private labeler or other interested party to hide or exert undue influence over test results; and

"(III) allegations of undue influence may be reported confidentially to the Commission.

"(g) REQUIREMENTS FOR CERTIFICATES.—

"(1) IDENTIFICATION OF ISSUER AND CONFORMITY ASSESSMENT BODY.—Every certificate required under this section shall identify the manufacturer or private labeler issuing the certificate and any third party conformity assessment body on whose testing the certificate depends. The certificate shall include, at a minimum, the date and place of manufacture, the date and place where the product was tested, each party's name, full mailing address, telephone number, and contact information for the individual responsible for maintaining records of test results.

"(2) ENGLISH LANGUAGE.—Every certificate required under this section shall be legible and all content required by this section shall be in the English language. A certificate may also contain the same content in any other language.

"(3) AVAILABILITY OF CERTIFICATES.—Every certificate required under this section shall accompany the applicable product or shipment of products covered by the same certificate and a copy of the certificate shall be furnished to each distributor or retailer of the product. Upon request, the manufacturer or private labeler issuing the certificate shall furnish a copy of the certificate to the Commission. Records.

"(4) ELECTRONIC FILING OF CERTIFICATES FOR IMPORTED PRODUCTS.—In consultation with the Commissioner of Customs, the Commission may, by rule, provide for the electronic filing of certificates under this section up to 24 hours before arrival of an imported product. Upon request, the manufacturer or private labeler issuing the certificate shall furnish a copy to the Commission and to the Commissioner of Customs.

"(h) RULE OF CONSTRUCTION.—Compliance of any children's product with third party testing and certification or general conformity certification requirements under this section shall not be construed to exempt such children's product from any requirement that such product actually be in conformity with all applicable rules, regulation, standards, or ban under any Act enforced by the Commission.".

(c) CPSC CONSIDERATION OF EXISTING REQUIREMENTS.—In establishing standards for accreditation of a third party conformity assessment body under section 14(a)(3) of the Consumer Product Safety Act, as added by subsection (a), the Commission may consider standards and protocols for accreditation of such conformity assessment bodies by independent accreditation organizations that are in effect on the date of enactment of this Act, but shall ensure that the protocols, standards, and requirements prescribed under such section 14(a)(3) incorporate, as the standard for accreditation, the most current scientific and technological standards and techniques available. 15 USC 2063 note.

(d) CONFORMING AMENDMENTS.—Section 14(b) (15 U.S.C. 2063(b)) is amended—

(1) by striking "consumer products which are subject to consumer product safety standards under this Act" and inserting "any product which is subject to a consumer product safety rule under this Act, or a similar rule, regulation, standard, or ban under any other Act enforced by the Commission,"; and

(2) by striking "or testing programs." and inserting ", unless the Commission, by rule, requires testing by an independent

third party for a particular rule, regulation, standard, or ban, or for a particular class of products.".

**SEC. 103. TRACKING LABELS FOR CHILDREN'S PRODUCTS.**

(a) IN GENERAL.—Section 14(a) (15 U.S.C. 2063(a)), as amended by section 102 of this Act, is further amended by adding at the end the following:

Effective date.

"(5) Effective 1 year after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the manufacturer of a children's product shall place permanent, distinguishing marks on the product and its packaging, to the extent practicable, that will enable—

"(A) the manufacturer to ascertain the location and date of production of the product, cohort information (including the batch, run number, or other identifying characteristic), and any other information determined by the manufacturer to facilitate ascertaining the specific source of the product by reference to those marks; and

"(B) the ultimate purchaser to ascertain the manufacturer or private labeler, location and date of production of the product, and cohort information (including the batch, run number, or other identifying characteristic).".

(b) LABEL INFORMATION.—Section 14(c) (15 U.S.C. 2063(c)) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following:

"(2) The cohort information (including the batch, run number, or other identifying characteristic) of the product.".

(c) ADVERTISING, LABELING, AND PACKAGING REPRESENTATION.—Section 14 (15 U.S.C. 2063) is further amended by adding at the end the following:

"(d) REQUIREMENT FOR ADVERTISEMENTS.—No advertisement for a consumer product or label or packaging of such product may contain a reference to a consumer product safety rule or a voluntary consumer product safety standard unless such product conforms with the applicable safety requirements of such rule or standard.".

Danny Keysar Child Product Safety Notification Act.
15 USC 2056a.

**SEC. 104. STANDARDS AND CONSUMER REGISTRATION OF DURABLE NURSERY PRODUCTS.**

(a) SHORT TITLE.—This section may be cited as the "Danny Keysar Child Product Safety Notification Act".

(b) SAFETY STANDARDS.—

(1) IN GENERAL.—The Commission shall—

(A) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler products; and

(B) in accordance with section 553 of title 5, United States Code, promulgate consumer product safety standards that—

(i) are substantially the same as such voluntary standards; or

(ii) are more stringent than such voluntary standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such products.

Deadlines.

(2) TIMETABLE FOR RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Commission shall

commence the rulemaking required under paragraph (1) and shall promulgate standards for no fewer than 2 categories of durable infant or toddler products every 6 months thereafter, beginning with the product categories that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories. Thereafter, the Commission shall periodically review and revise the standards set forth under this subsection to ensure that such standards provide the highest level of safety for such products that is feasible.

(3) JUDICIAL REVIEW.—Any person adversely affected by such standards may file a petition for review under the procedures set forth in section 11(g) of the Consumer Product Safety Act (15 U.S.C. 2060(g)), as added by section 236 of this Act.

(c) CRIBS.—

(1) IN GENERAL.—It shall be a violation of section 19(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(1)) for any person to which this subsection applies to manufacture, sell, contract to sell or resell, lease, sublet, offer, provide for use, or otherwise place in the stream of commerce a crib that is not in compliance with a standard promulgated under subsection (b).

(2) PERSONS TO WHICH SUBSECTION APPLIES.—This subsection applies to any person that—

(A) manufactures, distributes in commerce, or contracts to sell cribs;

(B) based on the person's occupation, holds itself out as having knowledge or skill peculiar to cribs, including child care facilities and family child care homes;

(C) is in the business of contracting to sell or resell, lease, sublet, or otherwise place cribs in the stream of commerce; or

(D) owns or operates a place of public accommodation affecting commerce (as defined in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203) applied without regard to the phrase "not owned by the Federal Government").

(3) CRIB DEFINED.—In this subsection, the term "crib" includes—

(A) new and used cribs;

(B) full-sized or nonfull-sized cribs; and

(C) portable cribs and crib-pens.

(d) CONSUMER REGISTRATION REQUIREMENT.—

(1) RULEMAKING.—Notwithstanding any provision of chapter 6 of title 5, United States Code, or the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), not later than 1 year after the date of enactment of this Act, the Commission shall, pursuant to its authority under section 16(b) of the Consumer Product Safety Act (15 U.S.C. 2065(b)), promulgate a final consumer product safety rule to require each manufacturer of a durable infant or toddler product— Deadline.

(A) to provide consumers with a postage-paid consumer registration form with each such product;

(B) to maintain a record of the names, addresses, e-mail addresses, and other contact information of consumers who register their ownership of such products with the

manufacturer in order to improve the effectiveness of manufacturer campaigns to recall such products; and

(C) to permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product.

(2) REQUIREMENTS FOR REGISTRATION FORM.—The registration form required to be provided to consumers under paragraph (1) shall—

(A) include spaces for a consumer to provide the consumer's name, address, telephone number, and e-mail address;

(B) include space sufficiently large to permit easy, legible recording of all desired information;

(C) be attached to the surface of each durable infant or toddler product so that, as a practical matter, the consumer must notice and handle the form after purchasing the product;

(D) include the manufacturer's name, model name and number for the product, and the date of manufacture;

(E) include a message explaining the purpose of the registration and designed to encourage consumers to complete the registration;

(F) include an option for consumers to register through the Internet; and

(G) include a statement that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product.

In issuing regulations under this section, the Commission may prescribe the exact text and format of the required registration form.

(3) RECORD KEEPING AND NOTIFICATION REQUIREMENTS.—The rules required under this section shall require each manufacturer of a durable infant or toddler product to maintain a record of registrants for each product manufactured that includes all of the information provided by each consumer registered, and to use such information to notify such consumers in the event of a voluntary or involuntary recall of or safety alert regarding such product. Each manufacturer shall maintain such a record for a period of not less than 6 years after the date of manufacture of the product. Consumer information collected by a manufacturer under this Act may not be used by the manufacturer, nor disseminated by such manufacturer to any other party, for any purpose other than notification to such consumer in the event of a product recall or safety alert.

(4) STUDY.—The Commission shall conduct a study at such time as it considers appropriate on the effectiveness of the consumer registration forms required by this section in facilitating product recalls and whether such registration forms should be required for other children's products. Not later than 4 years after the date of enactment of this Act, the Commission shall report its findings to the appropriate Congressional committees.

Deadline.
Reports.

(e) USE OF ALTERNATIVE RECALL NOTIFICATION TECHNOLOGY.—

(1) TECHNOLOGY ASSESSMENT AND REPORT.—The Commission shall—

(A) beginning 2 years after a rule is promulgated under subsection (d), regularly review recall notification technology and assess the effectiveness of such technology in facilitating recalls of durable infant or toddler products; and

Effective date. Review.

(B) not later than 3 years after the date of enactment of this Act and periodically thereafter as the Commission considers appropriate, transmit a report on such assessments to the appropriate Congressional committees.

(2) DETERMINATION.—If, based on the assessment required by paragraph (1), the Commission determines by rule that a recall notification technology is likely to be as effective or more effective in facilitating recalls of durable infant or toddler products as the registration forms required by subsection (d), the Commission—

(A) shall submit to the appropriate Congressional committees a report on such determination; and

(B) shall permit a manufacturer of durable infant or toddler products to use such technology in lieu of such registration forms to facilitate recalls of durable infant or toddler products.

(f) DEFINITION OF DURABLE INFANT OR TODDLER PRODUCT.—As used in this section, the term "durable infant or toddler product"—

(1) means a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years; and

(2) includes—

(A) full-size cribs and nonfull-size cribs;

(B) toddler beds;

(C) high chairs, booster chairs, and hook-on chairs;

(D) bath seats;

(E) gates and other enclosures for confining a child;

(F) play yards;

(G) stationary activity centers;

(H) infant carriers;

(I) strollers;

(J) walkers;

(K) swings; and

(L) bassinets and cradles.

**SEC. 105. LABELING REQUIREMENT FOR ADVERTISING TOYS AND GAMES.**

Section 24 of the Federal Hazardous Substances Act (15 U.S.C. 1278) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) ADVERTISING.—

"(1) REQUIREMENT.—

"(A) CAUTIONARY STATEMENT.—Any advertisement by a retailer, manufacturer, importer, distributor, or private labeler (including advertisements on Internet websites or in catalogues or other printed materials) that provides a direct means for the purchase or order of a product

for which a cautionary statement is required under subsection (a) or (b) shall include the appropriate cautionary statement displayed on or immediately adjacent to that advertisement, as modified by regulations issued under paragraph (3).

"(B) APPLICATION TO RETAILERS.—

"(i) REQUIREMENT TO INFORM.—A manufacturer, importer, distributor, or private labeler that provides such a product to a retailer shall inform the retailer of any cautionary statement requirement applicable to the product.

"(ii) RETAILER'S REQUIREMENT TO INQUIRE.—A retailer is not in violation of subparagraph (A) if the retailer requested information from the manufacturer, importer, distributor, or private labeler as to whether the cautionary statement required by subparagraph (A) applies to the product that is the subject of the advertisement and the manufacturer, importer, distributor, or private labeler provided false information or did not provide such information.

"(C) DISPLAY.—The cautionary statement required by subparagraph (A) shall be prominently displayed—

"(i) in the primary language used in the advertisement;

"(ii) in conspicuous and legible type in contrast by typography, layout, or color with other material printed or displayed in such advertisement; and

"(iii) in a manner consistent with part 1500 of title 16, Code of Federal Regulations.

"(D) DEFINITIONS.—In this subsection:

"(i) The terms 'manufacturer', 'distributor', and 'private labeler' have the meaning given those terms in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052).

"(ii) The term 'retailer' has the meaning given that term in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052), but does not include an individual whose selling activity is intermittent and does not constitute a trade or business.

"(2) EFFECTIVE DATE.—The requirement in paragraph (1) shall take effect—

"(A) with respect to advertisements on Internet websites, 120 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008; and

"(B) with respect to catalogues and other printed materials, 180 days after such date of enactment.

Deadlines.

"(3) RULEMAKING.—Notwithstanding any provision of chapter 6 of title 5, United States Code, or the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Commission shall, not later than 90 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, promulgate regulations to effectuate this section with respect to catalogues and other printed material. The Commission may, under such regulations, provide a grace period of no more than 180 days for catalogues and other printed material printed prior to the effective date of paragraph (1) during which time distribution of such catalogues and other printed material shall

not be considered a violation of such paragraph. The Commission may promulgate regulations concerning the size and placement of the cautionary statement required by paragraph (1) of this subsection as appropriate relative to the size and placement of the advertisements in such catalogues and other printed material. The Commission shall promulgate regulations that clarify the applicability of these requirements to catalogues and other printed material distributed solely between businesses and not to individual consumers.

"(4) ENFORCEMENT.—The requirements in paragraph (1) shall be treated as a consumer product safety standard promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2056). The publication or distribution of any advertisement that is not in compliance with paragraph (1) shall be treated as a prohibited act under section 19(a)(1) of such Act (15 U.S.C. 2068).".

**SEC. 106. MANDATORY TOY SAFETY STANDARDS.**

Effective date. 15 USC 2056b.

(a) IN GENERAL.—Beginning 180 days after the date of enactment of this Act, the provisions of ASTM International Standard F963–07 Consumer Safety Specifications for Toy Safety (ASTM F963), as it exists on the date of enactment of this Act (except for section 4.2 and Annex 4 or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute) shall be considered to be consumer product safety standards issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

(b) RULEMAKING FOR SPECIFIC TOYS, COMPONENTS AND RISKS.—

Deadline.

(1) EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Commission, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, shall examine and assess the effectiveness of ASTM F963 or its successor standard (except for section 4.2 and Annex 4), as it relates to safety requirements, safety labeling requirements, and test methods related to—

(A) internal harm or injury hazards caused by the ingestion or inhalation of magnets in children's products;

(B) toxic substances;

(C) toys with spherical ends;

(D) hemispheric-shaped objects;

(E) cords, straps, and elastics; and

(F) battery-operated toys.

Deadline.

(2) RULEMAKING.—Within 1 year after the completion of the assessment required by paragraph (1), the Commission shall promulgate rules in accordance with section 553 of title 5, United States Code, that—

(A) take into account other children's product safety rules; and

(B) are more stringent than such standards, if the Commission determines that more stringent standards would further reduce the risk of injury of such toys.

(c) PERIODIC REVIEW.—The Commission shall periodically review and revise the rules set forth under this section to ensure that such rules provide the highest level of safety for such products that is feasible.

(d) CONSIDERATION OF REMAINING ASTM STANDARDS.—After promulgating the rules required by subsection (b), the Commission shall—

(1) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of ASTM F963 (and alternative health protective requirements to prevent or minimize flammability of children's products) or its successor standard, and shall assess the adequacy of such standards in protecting children from safety hazards; and

Regulations.

(2) in accordance with section 553 of title 5, United States Code, promulgate consumer product safety rules that—

(A) take into account other children's product safety rules; and

(B) are more stringent than such standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such toys.

Regulations.

(e) PRIORITIZATION.—The Commission shall promulgate rules beginning with the product categories that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories.

(f) TREATMENT AS CONSUMER PRODUCT SAFETY STANDARDS.—Rules issued under this section shall be considered consumer product safety standards issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

Notification.

(g) REVISIONS.—If ASTM International (or its successor entity) proposes to revise ASTM F963–07, or a successor standard, it shall notify the Commission of the proposed revision. The Commission shall incorporate the revision or a section of the revision into the consumer product safety rule. The revised standard shall be considered to be a consumer product safety standard issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which ASTM International notifies the Commission of the revision unless, within 90 days after receiving that notice, the Commission notifies ASTM International that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard. If the Commission so notifies ASTM International with respect to a proposed revision of the standard, the existing standard shall continue to be considered to be a consumer product safety rule without regard to the proposed revision.

Effective dates.

(h) RULEMAKING TO CONSIDER EXEMPTION FROM PREEMPTION.—

(1) EXEMPTION OF STATE LAW FROM PREEMPTION.—Upon application of a State or political subdivision of a State, the Commission shall, after notice and opportunity for oral presentation of views, consider a rulemaking to exempt from the provisions of section 26(a) of the Consumer Product Safety Act (under such conditions as it may impose in the rule) any proposed safety standard or regulation which is described in such application and which is designed to protect against a risk of injury associated with a children's product subject to the consumer product safety standards described in subsection (a) or any rule promulgated under this section. The Commission shall grant such an exemption if the State or political subdivision standard or regulation—

(A) provides a significantly higher degree of protection from such risk of injury than the consumer product safety standard or rule under this section; and

(B) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision standard or regulation on interstate commerce, the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such standard or regulation, the cost of complying with such standard or regulation, the geographic distribution of the consumer product to which the standard or regulation would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar standard or regulation, and the need for a national, uniform standard under this Act for such consumer product.

(2) EFFECT OF STANDARDS ON ESTABLISHED STATE LAWS.— Deadline.
Nothing in this section or in section 26 of the Consumer Product Safety Act (15 U.S.C. 2075) shall prevent a State or political subdivision of a State from continuing in effect a safety requirement applicable to a toy or other children's product that is designed to deal with the same risk of injury as the consumer product safety standards established by this section and that is in effect on the day before the date of enactment of this Act, if such State or political subdivision has filed such requirement with the Commission within 90 days after the date of enactment of this Act, in such form and in such manner as the Commission may require.

(i) JUDICIAL REVIEW.—The issuance of any rule under this section is subject to judicial review as provided in section 11(g) of the Consumer Product Safety Act (15 U.S.C. 2060(g)), as added by section 236 of this Act.

**SEC. 107. STUDY OF PREVENTABLE INJURIES AND DEATHS IN MINORITY CHILDREN RELATED TO CONSUMER PRODUCTS.**

(a) IN GENERAL.—Not later than 90 days after the date of Deadline.
enactment of this Act, the Comptroller General shall initiate a study, by the Government Accountability Office or by contract through an independent entity, to assess disparities in the risks and incidence of preventable injuries and deaths among children of minority populations, including Black, Hispanic, American Indian, Alaska Native, Native Hawaiian, and Asian/Pacific Islander children in the United States. The Comptroller General shall consult with the Commission as necessary.

(b) REQUIREMENTS.—The study shall examine the racial disparities of the rates of preventable injuries and deaths related to suffocation, poisonings, and drownings, including those associated with the use of cribs, mattresses and bedding materials, swimming pools and spas, and toys and other products intended for use by children.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall report the findings to the appropriate Congressional committees. The report shall include—

(1) the Comptroller General's findings on the incidence of preventable risks of injuries and deaths among children

of minority populations and recommendations for minimizing such risks;

(2) recommendations for public outreach, awareness, and prevention campaigns specifically aimed at racial minority populations; and

(3) recommendations for education initiatives that may reduce statistical disparities.

15 USC 2057c.

**SEC. 108. PROHIBITION ON SALE OF CERTAIN PRODUCTS CONTAINING SPECIFIED PHTHALATES.**

(a) PROHIBITION ON THE SALE OF CERTAIN PRODUCTS CONTAINING PHTHALATES.—Beginning on the date that is 180 days after the date of enactment of this Act, it shall be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States any children's toy or child care article that contains concentrations of more than 0.1 percent of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP).

Effective date.

(b) PROHIBITION ON THE SALE OF ADDITIONAL PRODUCTS CONTAINING CERTAIN PHTHALATES.—

Effective date.

(1) INTERIM PROHIBITION.—Beginning on the date that is 180 days after the date of enactment of this Act and until a final rule is promulgated under paragraph (3), it shall be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States any children's toy that can be placed in a child's mouth or child care article that contains concentrations of more than 0.1 percent of diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).

Deadlines.

(2) CHRONIC HAZARD ADVISORY PANEL.—

(A) APPOINTMENT.—Not earlier than 180 days after the date of enactment of this Act, the Commission shall begin the process of appointing a Chronic Hazard Advisory Panel pursuant to the procedures of section 28 of the Consumer Product Safety Act (15 U.S.C. 2077) to study the effects on children's health of all phthalates and phthalate alternatives as used in children's toys and child care articles.

(B) EXAMINATION.—The panel shall, within 18 months after its appointment under subparagraph (A), complete an examination of the full range of phthalates that are used in products for children and shall—

(i) examine all of the potential health effects (including endocrine disrupting effects) of the full range of phthalates;

(ii) consider the potential health effects of each of these phthalates both in isolation and in combination with other phthalates;

(iii) examine the likely levels of children's, pregnant women's, and others' exposure to phthalates, based on a reasonable estimation of normal and foreseeable use and abuse of such products;

(iv) consider the cumulative effect of total exposure to phthalates, both from children's products and from other sources, such as personal care products;

(v) review all relevant data, including the most recent, best-available, peer-reviewed, scientific studies

of these phthalates and phthalate alternatives that employ objective data collection practices or employ other objective methods;

(vi) consider the health effects of phthalates not only from ingestion but also as a result of dermal, hand-to-mouth, or other exposure;

(vii) consider the level at which there is a reasonable certainty of no harm to children, pregnant women, or other susceptible individuals and their offspring, considering the best available science, and using sufficient safety factors to account for uncertainties regarding exposure and susceptibility of children, pregnant women, and other potentially susceptible individuals; and

(viii) consider possible similar health effects of phthalate alternatives used in children's toys and child care articles.

The panel's examinations pursuant to this paragraph shall be conducted *de novo*. The findings and conclusions of any previous Chronic Hazard Advisory Panel on this issue and other studies conducted by the Commission shall be reviewed by the panel but shall not be considered determinative.

(C) REPORT.—Not later than 180 days after completing its examination, the panel appointed under subparagraph (A) shall report to the Commission the results of the examination conducted under this section and shall make recommendations to the Commission regarding any phthalates (or combinations of phthalates) in addition to those identified in subsection (a) or phthalate alternatives that the panel determines should be declared banned hazardous substances.

(3) PERMANENT PROHIBITION BY RULE.—Not later than 180 days after receiving the report of the panel under paragraph (2)(C), the Commission shall, pursuant to section 553 of title 5, United States Code, promulgate a final rule to— Deadline.

(A) determine, based on such report, whether to continue in effect the prohibition under paragraph (1), in order to ensure a reasonable certainty of no harm to children, pregnant women, or other susceptible individuals with an adequate margin of safety; and

(B) evaluate the findings and recommendations of the Chronic Hazard Advisory Panel and declare any children's product containing any phthalates to be a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057), as the Commission determines necessary to protect the health of children.

(c) TREATMENT OF VIOLATION.—A violation of subsection (a) or (b)(1) or any rule promulgated by the Commission under subsection (b)(3) shall be treated as a violation of section 19(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(1)).

(d) TREATMENT AS CONSUMER PRODUCT SAFETY STANDARDS; EFFECT ON STATE LAWS.—Subsections (a) and (b)(1) and any rule promulgated under subsection (b)(3) shall be considered consumer product safety standards under the Consumer Product Safety Act. Nothing in this section or the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) shall be construed to preempt or otherwise

affect any State requirement with respect to any phthalate alternative not specifically regulated in a consumer product safety standard under the Consumer Product Safety Act.

(e) DEFINITIONS.—

(1) DEFINED TERMS.—As used in this section:

(A) The term "phthalate alternative" means any common substitute to a phthalate, alternative material to a phthalate, or alternative plasticizer.

(B) The term "children's toy" means a consumer product designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays.

(C) The term "child care article" means a consumer product designed or intended by the manufacturer to facilitate sleep or the feeding of children age 3 and younger, or to help such children with sucking or teething.

(D) The term "consumer product" has the meaning given such term in section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)).

(2) DETERMINATION GUIDELINES.—

(A) AGE.—In determining whether products described in paragraph (1) are designed or intended for use by a child of the ages specified, the following factors shall be considered:

(i) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.

(ii) Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children of the ages specified.

(iii) Whether the product is commonly recognized by consumers as being intended for use by a child of the ages specified.

(iv) The Age Determination guidelines issued by the Commission staff in September 2002 and any successor to such guidelines.

(B) TOY THAT CAN BE PLACED IN A CHILD'S MOUTH.—For purposes of this section a toy can be placed in a child's mouth if any part of the toy can actually be brought to the mouth and kept in the mouth by a child so that it can be sucked and chewed. If the children's product can only be licked, it is not regarded as able to be placed in the mouth. If a toy or part of a toy in one dimension is smaller than 5 centimeters, it can be placed in the mouth.

# TITLE II—CONSUMER PRODUCT SAFETY COMMISSION REFORM

## Subtitle A—Administrative Improvements

### SEC. 201. REAUTHORIZATION OF THE COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 32 (15 U.S.C. 2081) is amended to read as follows:

"(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Commission for the purpose of carrying out the provisions of this Act and any other provision of law the Commission is authorized or directed to carry out—

"(A) $118,200,000 for fiscal year 2010;
"(B) $115,640,000 for fiscal year 2011;
"(C) $123,994,000 for fiscal year 2012;
"(D) $131,783,000 for fiscal year 2013; and
"(E) $136,409,000 for fiscal year 2014.

"(2) TRAVEL ALLOWANCE.—From amounts appropriated pursuant to paragraph (1), there shall be made available $1,200,000 for fiscal year 2010, $1,248,000 for fiscal year 2011, $1,297,000 for fiscal year 2012, $1,350,000 for fiscal year 2013, and $1,403,000 for fiscal year 2014, for travel, subsistence, and related expenses incurred in furtherance of the official duties of Commissioners and employees with respect to attendance at meetings or similar functions, which shall be used by the Commission for such purposes in lieu of acceptance of payment or reimbursement for such expenses from any person—

"(A) seeking official action from, doing business with, or conducting activities regulated by, the Commission; or
"(B) whose interests may be substantially affected by the performance or nonperformance of the Commissioner's or employee's official duties.".

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commission shall transmit to the appropriate Congressional committees a report of its plans to allocate the funding authorized by subsection (a). Such report shall include—

(1) the number of full-time investigators and other full-time equivalents the Commission intends to employ;

(2) efforts by the Commission to develop standards for training product safety inspectors and technical staff employed by the Commission;

(3) efforts and policies of the Commission to encourage Commission scientific staff to seek appropriate publishing opportunities in peer-reviewed journals and other media; and

(4) the efforts of the Commission to reach and educate retailers of second-hand products and informal sellers, such as thrift shops and yard sales, concerning consumer product safety rules and product recalls, especially those relating to durable nursery products, in order to prevent the resale of any products that have been recalled, including the development of educational materials for distribution not later than 1 year after the date of enactment of this Act.

(c) CONFORMING AMENDMENTS.—Section 32 (15 U.S.C. 2081) is further amended by striking subsection (b) and redesignating subsection (c) as subsection (b) and inserting after such subsection designation the following: "LIMITATION.—".

**SEC. 202. FULL COMMISSION REQUIREMENT; INTERIM QUORUM; PERSONNEL.**

15 USC 2053 note.

(a) TEMPORARY QUORUM.—Notwithstanding section 4(d) of the Consumer Product Safety Act (15 U.S.C. 2053(d)), 2 members of the Commission, if they are not affiliated with the same political party, shall constitute a quorum for the transaction of business

for the 1 year period beginning on the date of enactment of this Act.

(b) REPEAL OF QUORUM LIMITATION.—

(1) REPEAL.—Title III of Public Law 102–389 is amended by striking the first proviso in the item captioned "CONSUMER PRODUCT SAFETY COMMISSION, SALARIES AND EXPENSES" (15 U.S.C. 2053 note).

15 USC 2053 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 1 year after the date of enactment of this Act.

(c) PERSONNEL.—

Deadline.

(1) PROFESSIONAL STAFF.—The Commission shall increase the number of full-time personnel employed by the Commission to at least 500 by October 1, 2013, subject to the availability of appropriations.

(2) PORTS OF ENTRY; OVERSEAS INSPECTORS.—As part of the 500 full-time employees required by paragraph (1), the Commission shall hire personnel to be assigned to duty stations at United States ports of entry, or to inspect overseas manufacturing facilities, subject to the availability of appropriations.

**SEC. 203. SUBMISSION OF COPY OF CERTAIN DOCUMENTS TO CONGRESS.**

15 USC 2076 note.

(a) IN GENERAL.—Notwithstanding any rule, regulation, or order to the contrary, the Commission shall comply with the requirements of section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076(k)) with respect to budget recommendations, legislative recommendations, testimony, and comments on legislation submitted by the Commission to the President or the Office of Management and Budget after the date of enactment of this Act.

(b) REINSTATEMENT OF REQUIREMENT.—Section 3003(d) of Public Law 104–66 (31 U.S.C. 1113 note) is amended—

(1) by striking "or" after the semicolon in paragraph (31);

(2) by redesignating paragraph (32) as (33); and

(3) by inserting after paragraph (31) the following:

"(32) section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076(k)); or".

**SEC. 204. EXPEDITED RULEMAKING.**

(a) ANPR REQUIREMENT.—

(1) IN GENERAL.—Section 9 (15 U.S.C. 2058) is amended—

(A) by striking "shall be commenced" in subsection (a) and inserting "may be commenced";

(B) by striking "in the notice" in subsection (b) and inserting "in a notice";

(C) by striking "unless, not less than 60 days after publication of the notice required in subsection (a), the" in subsection (c) and inserting "unless the";

(D) by striking "an advance notice of proposed rulemaking under subsection (a) relating to the product involved," in the third sentence of subsection (c) and inserting "the notice,"; and

(E) by striking "Register." in the matter following paragraph (4) of subsection (c) and inserting "Register. Nothing in this subsection shall preclude any person from submitting an existing standard or portion of a standard as a proposed consumer product safety standard.".

(2) CONFORMING AMENDMENT.—Section 5(a)(3) (15 U.S.C. 2054(a)(3)) is amended by striking "an advance notice of proposed rulemaking or".

(b) RULEMAKING UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.—

(1) IN GENERAL.—Section 3(a) of the Federal Hazardous Substances Act (15 U.S.C. 1262(a)) is amended to read as follows:

"(a) RULEMAKING.—

"(1) IN GENERAL.—Whenever in the judgment of the Commission such action will promote the objectives of this Act by avoiding or resolving uncertainty as to its application, the Commission may by regulation declare to be a hazardous substance, for the purposes of this Act, any substance or mixture of substances, which it finds meets the requirements of section 2(f)(1)(A).

"(2) PROCEDURE.—Proceedings for the issuance, amendment, or repeal of regulations under this subsection and the admissibility of the record of such proceedings in other proceedings, shall be governed by the provisions of subsections (f) through (i) of this section.".

(2) PROCEDURE.—Section 2(q)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(2)) is amended by striking "Proceedings for the issuance, amendment, or repeal of regulations pursuant to clause (B) of subparagraph (1) of this paragraph shall be governed by the provisions of sections 701(e), (f), and (g) of the Federal Food, Drug, and Cosmetic Act: Provided, That if" and inserting "Proceedings for the issuance, amendment, or repeal of regulations pursuant to clause (B) of subparagraph (1) of this paragraph shall be governed by the provisions of subsections (f) through (i) of section 3 of this Act, except that if".

(3) ANPR REQUIREMENT.—Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended—

(A) by striking "shall be commenced" in subsection (f) and inserting "may be commenced";

(B) by striking "in the notice" in subsection (g)(1) and inserting "in a notice";

(C) by striking "unless, not less than 60 days after publication of the notice required in subsection (f), the" in subsection (h) and inserting "unless the"; and

(D) by striking "Committee on Commerce" and all that follows through "Representatives." in subsection (h), and inserting "appropriate Congressional committees. Nothing in this subsection shall preclude any person from submitting an existing standard or portion of a standard as a proposed regulation."

(4) OTHER CONFORMING AMENDMENTS.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended—

(A) by striking paragraphs (c) and (d) of section 2 and inserting the following:

"(c) The term 'Commission' means the Consumer Product Safety Commission.";

(B) by striking "Secretary" each place it appears and inserting "Commission" except—

(i) in section 10(b) (15 U.S.C. 1269(b));

(ii) in section 14 (15 U.S.C. 1273); and

(iii) in section 21(a) (15 U.S.C. 1276(a));

15 USC 1263, 1270, 1272.

(C) by striking "Department" each place it appears, except in sections 5(c)(6)(D)(i) and 14(b) (15 U.S.C. 1264(c)(6)(D)(i) and 1273(b)), and inserting "Commission";

15 USC 1261, 1262, 1273.

(D) by striking "he" and "his" each place they appear in reference to the Secretary and inserting "it" and "its", respectively;

(E) by striking "Secretary of Health, Education, and Welfare" each place it appears in section 10(b) (15 U.S.C. 1269(b)) and inserting "Commission";

(F) by striking "Secretary of Health, Education, and Welfare" each place it appears in section 14 (15 U.S.C. 1273) and inserting "Commission";

(G) by striking "Department of Health, Education, and Welfare" in section 14(b) (15 U.S.C. 1273(b)) and inserting "Commission";

15 USC 1263 *et al*.

(H) by striking "Consumer Product Safety Commission" each place it appears and inserting "Commission";

(I) by striking "(hereinafter in this section referred to as the 'Commission')" in section 14(d) (15 U.S.C. 1273(d)) and section 20(a)(1) (15 U.S.C. 1275(a)(1)); and

(J) by striking paragraph (5) of section 18(b) (15 U.S.C. 1261 note).

(c) RULEMAKING UNDER FLAMMABLE FABRICS ACT.—

(1) IN GENERAL.—Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended—

(A) by striking "shall be commenced" in subsection (g) and inserting "may be commenced by a notice of proposed rulemaking or";

(B) by striking "unless, not less than 60 days after publication of the notice required in subsection (g), the" in subsection (i) and inserting "unless the"; and

(C) by striking "Committee on Commerce" and all that follows through "Representatives." in subsection (i), and inserting "appropriate Congressional committees. Nothing in this subsection shall preclude any person from submitting an existing standard or portion of a standard as a proposed regulation."

(2) OTHER CONFORMING AMENDMENTS.—The Flammable Fabrics Act (15 U.S.C. 1193) is amended—

(A) by striking paragraph (i) of section 2 (15 U.S.C. 1191(i)) and inserting the following:

"(i) The term 'Commission' means the Consumer Product Safety Commission.";

15 USC 1193, 1201.

(B) by striking "Secretary of Commerce" each place it appears and inserting "Commission";

15 USC 1193, 1204.

(C) by striking "Secretary" each place it appears and inserting "Commission", except in sections 9 and 14 (15 U.S.C. 1198 and 1201);

15 USC 1193.

(D) by striking "he" and "his" each place either such word appears in reference to the Secretary and inserting "it" and "its", respectively;

(E) by striking paragraph (5) of section 4(e) (15 U.S.C. 1193(e)) and redesignating paragraph (6) as paragraph (5);

15 USC 1202.

(F) by striking "Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') in section 15 (15 U.S.C. 1202)" and inserting "Commission";

(G) by amending subsection (d) of section 16 (15 U.S.C. 1203) to read as follows:

"(d) In this section, a reference to a flammability standard or other regulation for a fabric, related material, or product in effect under this Act includes a standard of flammability continued in effect by section 11 of the Act of December 14, 1967 (Public Law 90–189)."; and

(H) by striking "Consumer Product Safety Commission" in section 17 (15 U.S.C. 1204) and inserting "Commission".

**SEC. 205. INSPECTOR GENERAL AUDITS AND REPORTS.** 15 USC 2076b.

(a) IMPROVEMENTS BY THE COMMISSION.—The Inspector General of the Commission shall conduct reviews and audits to assess— Reviews.

(1) the Commission's capital improvement efforts, including improvements and upgrades of the Commission's information technology architecture and systems and the development of the database of publicly available information on incidents involving injury or death required under section 6A of the Consumer Product Safety Act, as added by section 212 of this Act; and

(2) the adequacy of procedures for accrediting conformity assessment bodies as authorized by section 14(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(3)), as amended by this Act, and overseeing the third party testing required by such section.

(b) EMPLOYEE COMPLAINTS.—Within 1 year after the date of enactment of this Act, the Inspector General shall conduct a review of— Deadline. Reviews.

(1) complaints received by the Inspector General from employees of the Commission about failures of other employees to enforce the rules or regulations of the Consumer Product Safety Act or any other Act enforced by the Commission or otherwise carry out their responsibilities under such Acts if such alleged failures raise issues of conflicts of interest, ethical violations, or the absence of good faith; and

(2) actions taken by the Commission to address such failures and complaints, including an assessment of the timeliness and effectiveness of such actions.

(c) PUBLIC INTERNET WEBSITE LINKS.—Not later than 30 days after the date of enactment of this Act, the Commission shall establish and maintain— Deadline. Web site.

(1) a direct link on the homepage of its Internet website to the Internet webpage of the Commission's Office of Inspector General; and

(2) a mechanism on the webpage of the Commission's Office of Inspector General by which individuals may anonymously report cases of waste, fraud, or abuse with respect to the Commission.

(d) REPORTS.—

(1) ACTIVITIES AND NEEDS OF INSPECTOR GENERAL.—Not later than 60 days after the date of enactment of this Act, the Inspector General of the Commission shall transmit a report to the appropriate Congressional committees on the activities of the Inspector General, any structural barriers which prevent the Inspector General from providing robust oversight of the activities of the Commission, and any additional authority or resources that would facilitate more effective oversight.

Effective date.

(2) REVIEWS OF IMPROVEMENTS AND EMPLOYEE COMPLAINTS.—Beginning for fiscal year 2010, the Inspector General of the Commission shall include in an annual report to the appropriate Congressional committees the Inspector General's findings, conclusions, and recommendations from the reviews and audits under subsections (a) and (b).

**SEC. 206. INDUSTRY-SPONSORED TRAVEL BAN.**

(a) IN GENERAL.—The Act (15 U.S.C. 1251 et seq.) is amended by adding at the end the following new section:

15 USC 2086.

**"SEC. 39. PROHIBITION ON INDUSTRY-SPONSORED TRAVEL.**

"Notwithstanding section 1353 of title 31, United States Code, and section 27(b)(6) of this Act, no Commissioner or employee of the Commission shall accept travel, subsistence, or related expenses with respect to attendance by a Commissioner or employee at any meeting or similar function relating to official duties of a Commissioner or an employee, from a person—

"(1) seeking official action from, doing business with, or conducting activities regulated by, the Commission; or

"(2) whose interests may be substantially affected by the performance or nonperformance of the Commissioner's or employee's official duties.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 (15 U.S.C. 2051 note) is amended by inserting at the end the following:

"Sec. 39. Prohibition on industry-sponsored travel.".

**SEC. 207. SHARING OF INFORMATION WITH FEDERAL, STATE, LOCAL, AND FOREIGN GOVERNMENT AGENCIES.**

Section 29 (15 U.S.C. 2078) is amended by adding at the end the following:

"(f) SHARING OF INFORMATION WITH FEDERAL, STATE, LOCAL, AND FOREIGN GOVERNMENT AGENCIES.—

"(1) AGREEMENTS AND CONDITIONS.—Notwithstanding the requirements of subsections (a)(3) and (b) of section 6, relating to public disclosure of information, the Commission may make information obtained by the Commission available to any Federal, State, local, or foreign government agency upon the prior certification of an appropriate official of any such agency, either by a prior agreement or memorandum of understanding with the Commission or by other written certification, that such material will be maintained in confidence and will be used only for official law enforcement or consumer protection purposes, if—

"(A) the agency has set forth a bona fide legal basis for its authority to maintain the material in confidence;

"(B) the materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of—

"(i) laws regulating the manufacture, importation, distribution, or sale of defective or unsafe consumer products, or other practices substantially similar to practices prohibited by any law administered by the Commission;

"(ii) a law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

"(iii) with respect to a foreign law enforcement agency, with the approval of the Attorney General, other foreign criminal laws, if such foreign criminal laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the government of the United States and the foreign law enforcement agency's government; and

"(C) in the case of a foreign government agency, such agency is not from a foreign state that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).

"(2) ABROGATION OF AGREEMENTS.—The Commission may abrogate any agreement or memorandum of understanding with another agency if the Commission determines that the other agency has failed to maintain in confidence any information provided under such agreement or memorandum of understanding, or has used any such information for purposes other than those set forth in such agreement or memorandum of understanding.

"(3) ADDITIONAL RULES AGAINST DISCLOSURE.—Except as provided in paragraph (4), the Commission shall not be required to disclose under section 552 of title 5, United States Code, or any other provision of law—

"(A) any material obtained from a foreign government agency, if the foreign government agency has requested confidential treatment, or has precluded such disclosure under other use limitations, as a condition of providing the material;

"(B) any material reflecting a consumer complaint obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of providing the material; or

"(C) any material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign government agencies.

"(4) LIMITATION.—Nothing in this subsection authorizes the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.

"(5) DEFINITION.—In this subsection, the term 'foreign government agency' means—

"(A) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters; and

"(B) any multinational organization, to the extent that it is acting on behalf of an entity described in subparagraph (A).

"(g) NOTIFICATION TO STATE HEALTH DEPARTMENTS.—Whenever the Commission is notified of any voluntary corrective action taken by a manufacturer (or a retailer in the case of a retailer selling a product under its own label) in consultation with the Commission, or issues an order under section 15(c) or (d) with respect to any product, the Commission shall notify each State's health department (or other agency designated by the State) of such voluntary corrective action or order.".

15 USC 2053a.

**SEC. 208. EMPLOYEE TRAINING EXCHANGES.**

(a) IN GENERAL.—The Commission may—

(1) retain or employ officers or employees of foreign government agencies on a temporary basis pursuant to section 4 of the Consumer Product Safety Act (15 U.S.C. 2053) or section 3101 or 3109 of title 5, United States Code; and

(2) detail officers or employees of the Commission to work on a temporary basis for appropriate foreign government agencies for the purpose of providing or receiving training.

(b) RECIPROCITY AND REIMBURSEMENT.—The Commission may execute the authority contained in subsection (a) with or without reimbursement in money or in kind, and with or without reciprocal arrangements by or on behalf of the foreign government agency involved. Any amounts received as reimbursement for expenses incurred by the Commission under this section shall be credited to the appropriations account from which such expenses were paid.

(c) STANDARDS OF CONDUCT.—An individual retained or employed under subsection (a)(1) shall be considered to be a Federal employee while so retained or employed, only for purposes of—

(1) injury compensation as provided in chapter 81 of title 5, United States Code, and tort claims liability under chapter 171 of title 28, United States Code;

(2) the Ethics in Government Act (5 U.S.C. App.) and the provisions of chapter 11 of title 18, United States Code; and

(3) any other statute or regulation governing the conduct of Federal employees.

**SEC. 209. ANNUAL REPORTING REQUIREMENT.**

(a) IN GENERAL.—Section 27(j) (15 U.S.C. 2076(j)) is amended—

(1) in the matter preceding paragraph (1), by striking "The Commission" and inserting "Notwithstanding section 3003 of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note), the Commission"; and

(2) by redesignating paragraphs (5) through (11) as paragraphs (7) through (13), respectively, and inserting after paragraph (4) the following:

"(5) the number and a summary of recall orders issued under section 12 or 15 during such year and a summary of voluntary corrective actions taken by manufacturers in consultation with the Commission of which the Commission has notified the public, and an assessment of such orders and actions;

"(6) beginning not later than 1 year after the date of enactment of the Consumer Product Safety Improvement Act of 2008—

"(A) progress reports and incident updates with respect to action plans implemented under section 15(d);

"(B) statistics with respect to injuries and deaths associated with products that the Commission determines present a substantial product hazard under section 15(c); and

"(C) the number and type of communication from consumers to the Commission with respect to each product with respect to which the Commission takes action under section 15(d);".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to reports submitted for fiscal year 2009 and thereafter. 15 USC 2076 note.

# Subtitle B—Enhanced Enforcement Authority

**SEC. 211. PUBLIC DISCLOSURE OF INFORMATION.**

Section 6 (15 U.S.C. 2055) is amended—

(1) by inserting "A manufacturer or private labeler shall submit any such mark within 15 calendar days after the date on which it receives the Commission's offer." after "paragraph (2)." in subsection (a)(3); Deadline.

(2) by striking "30 days" in subsection (b)(1) and inserting "15 days";

(3) by striking "finds that the public" in subsection (b)(1) and inserting "publishes a finding that the public";

(4) by striking "notice and publishes such a finding in the Federal Register)," in subsection (b)(1) and inserting "notice),";

(5) by striking "10 days" in subsection (b)(2) and inserting "5 days";

(6) by striking "finds that the public" in subsection (b)(2) and inserting "publishes a finding that the public";

(7) by striking "notice and publishes such finding in the Federal Register." in subsection (b)(2) and inserting "notice.";

(8) in subsection (b)—

(A) by striking "(3)" and inserting "(3)(A)"; and

(B) by adding at the end thereof the following:

"(B) If the Commission determines that the public health and safety requires expedited consideration of an action brought under subparagraph (A), the Commission may file a request with the District Court for such expedited consideration. If the Commission files such a request, the District Court shall—

"(i) assign the matter for hearing at the earliest possible date;

"(ii) give precedence to the matter, to the greatest extent practicable, over all other matters pending on the docket of the court at the time;

"(iii) expedite consideration of the matter to the greatest extent practicable; and

"(iv) grant or deny the requested injunction within 30 days after the date on which the Commission's request was filed with the court."; Deadline.

(9) by striking "section 19 (related to prohibited acts);" in subsection (b)(4) and inserting "any consumer product safety rule or provision of this Act or similar rule or provision of any other Act enforced by the Commission;";

(10) by striking "or" after the semicolon in subsection (b)(5)(B);

(11) by striking "disclosure." in subsection (b)(5)(C) and inserting "disclosure; or";

(12) by inserting in subsection (b)(5) after subparagraph (C) the following:

"(D) the Commission publishes a finding that the public health and safety requires public disclosure with a lesser period of notice than is required under paragraph (1).";

and

(13) in the matter following subparagraph (D) of subsection (b)(5) (as added by paragraph (12) of this section), by striking "section 19(a)," and inserting "any consumer product safety rule or provision under this Act or similar rule or provision of any other Act enforced by the Commission,".

**SEC. 212. ESTABLISHMENT OF A PUBLIC CONSUMER PRODUCT SAFETY DATABASE.**

(a) IN GENERAL.—The Act is amended by inserting after section 6 (15 U.S.C. 2055) the following:

15 USC 2055a.

**"SEC. 6A. PUBLICLY AVAILABLE CONSUMER PRODUCT SAFETY INFORMATION DATABASE.**

"(a) DATABASE REQUIRED.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Commission shall, in accordance with the requirements of this section, establish and maintain a database on the safety of consumer products, and other products or substances regulated by the Commission, that is—

"(A) publicly available;

"(B) searchable; and

Web site.

"(C) accessible through the Internet website of the Commission.

"(2) SUBMISSION OF DETAILED IMPLEMENTATION PLAN TO CONGRESS.—Not later than 180 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall transmit to the appropriate Congressional committees a detailed plan for establishing and maintaining the database required by paragraph (1), including plans for the operation, content, maintenance, and functionality of the database. The plan shall detail the integration of the database into the Commission's overall information technology improvement objectives and plans. The plan submitted under this subsection shall include a detailed implementation schedule for the database, and plans for a public awareness campaign to be conducted by the Commission to increase consumer awareness of the database.

Deadline.

Deadline.

"(3) DATE OF INITIAL AVAILABILITY.—Not later than 18 months after the date on which the Commission submits the plan required by paragraph (2), the Commission shall establish the database required by paragraph (1).

"(b) CONTENT AND ORGANIZATION.—

"(1) CONTENTS.—Except as provided in subsection (c)(4), the database shall include the following:

"(A) Reports of harm relating to the use of consumer products, and other products or substances regulated by the Commission, that are received by the Commission from—

"(i) consumers;

"(ii) local, State, or Federal government agencies;

"(iii) health care professionals;

"(iv) child service providers; and

"(v) public safety entities.

"(B) Information derived by the Commission from notice under section 15(c) or any notice to the public relating to a voluntary corrective action taken by a manufacturer, in consultation with the Commission, of which action the Commission has notified the public.

"(C) The comments received by the Commission under subsection (c)(2)(A) to the extent requested under subsection (c)(2)(B).

"(2) SUBMISSION OF INFORMATION.—In implementing the database, the Commission shall establish the following:

"(A) Electronic, telephonic, and paper-based means of submitting, for inclusion in the database, reports described in paragraph (1)(A) of this subsection.

"(B) A requirement that any report described in paragraph (1)(A) submitted for inclusion in such database include, at a minimum—

"(i) a description of the consumer product (or other product or substance regulated by the Commission) concerned;

"(ii) identification of the manufacturer or private labeler of the consumer product (or other product or substance regulated by the Commission);

"(iii) a description of the harm relating to the use of the consumer product (or other product or substance regulated by the Commission);

"(iv) contact information for the person submitting the report; and

"(v) a verification by the person submitting the information that the information submitted is true and accurate to the best of the person's knowledge and that the person consents that such information be included in the database.

"(3) ADDITIONAL INFORMATION.—In addition to the reports received under paragraph (1), the Commission shall include in the database, consistent with the requirements of section 6(a) and (b), any additional information it determines to be in the public interest.

"(4) ORGANIZATION OF DATABASE.—The Commission shall categorize the information available on the database in a manner consistent with the public interest and in such manner as it determines to facilitate easy use by consumers and shall ensure, to the extent practicable, that the database is sortable and accessible by—

"(A) the date on which information is submitted for inclusion in the database;

"(B) the name of the consumer product (or other product or substance regulated by the Commission);

"(C) the model name;

"(D) the manufacturer's or private labeler's name; and

"(E) such other elements as the Commission considers in the public interest.

"(5) NOTICE REQUIREMENTS.—The Commission shall provide clear and conspicuous notice to users of the database that the Commission does not guarantee the accuracy, completeness, or adequacy of the contents of the database.

"(6) AVAILABILITY OF CONTACT INFORMATION.—The Commission may not disclose, under this section, the name, address, or other contact information of any individual or entity that submits to the Commission a report described in paragraph (1)(A), except that the Commission may provide such information to the manufacturer or private labeler of the product with the express written consent of the person submitting the information. Consumer information provided to a manufacturer or private labeler under this section may not be used or disseminated to any other party for any purpose other than verifying a report submitted under paragraph (1)(A).

"(c) PROCEDURAL REQUIREMENTS.—

"(1) TRANSMISSION OF REPORTS TO MANUFACTURERS AND PRIVATE LABELERS.—Not later than 5 business days after the Commission receives a report described in subsection (b)(1)(A) which includes the information required by subsection (b)(2)(B), the Commission shall to the extent practicable transmit the report, subject to subsection (b)(6), to the manufacturer or private labeler identified in the report.

"(2) OPPORTUNITY TO COMMENT.—

"(A) IN GENERAL.—If the Commission transmits a report under paragraph (1) to a manufacturer or private labeler, the Commission shall provide such manufacturer or private labeler an opportunity to submit comments to the Commission on the information contained in such report.

"(B) REQUEST FOR INCLUSION IN DATABASE.—A manufacturer or private labeler may request the Commission to include its comments in the database.

"(C) CONFIDENTIAL MATTER.—

"(i) IN GENERAL.—If the Commission transmits a report received under paragraph (1) to a manufacturer or private labeler, the manufacturer or private labeler may review the report for confidential information and request that portions of the report identified as confidential be so designated.

"(ii) REDACTION.—If the Commission determines that the designated information contains, or relates to, a trade secret or other matter referred to in section 1905 of title 18, United States Code, or that is subject to section 552(b)(4) of title 5, United States Code, the Commission shall redact the designated information in the report before it is placed in the database.

"(iii) REVIEW.—If the Commission determines that the designated information is not confidential under clause (ii), the Commission shall notify the manufacturer or private labeler and include the information in the database. The manufacturer or private labeler may bring an action in the district court of the United States in the district in which the complainant resides,

or has its principal place of business, or in the United States District Court for the District of Columbia, to seek removal of the information from the database.

"(3) PUBLICATION OF REPORTS AND COMMENTS.—

"(A) REPORTS.—Except as provided in paragraph (4)(A), if the Commission receives a report described in subsection (b)(1)(A), the Commission shall make the report available in the database not later than the 10th business day after the date on which the Commission transmits the report under paragraph (1) of this subsection.

"(B) COMMENTS.—Except as provided in paragraph (4)(A), if the Commission receives a comment under paragraph (2)(A) with respect to a report described in subsection (b)(1)(A) and a request with respect to such comment under paragraph (2)(B) of this subsection, the Commission shall make such comment available in the database at the same time as such report or as soon as practicable thereafter.

"(4) INACCURATE INFORMATION.—

"(A) INACCURATE INFORMATION IN REPORTS AND COMMENTS RECEIVED.—If, prior to making a report described in subsection (b)(1)(A) or a comment described in paragraph (2) of this subsection available in the database, the Commission determines that the information in such report or comment is materially inaccurate, the Commission shall—

"(i) decline to add the materially inaccurate information to the database;

"(ii) correct the materially inaccurate information in the report or comment and add the report or comment to the database; or

"(iii) add information to correct inaccurate information in the database.

"(B) INACCURATE INFORMATION IN DATABASE.—If the Commission determines, after investigation, that information previously made available in the database is materially inaccurate or duplicative of information in the database, the Commission shall, not later than 7 business days after such determination— Deadline.

"(i) remove such information from the database;

"(ii) correct such information; or

"(iii) add information to correct inaccurate information in the database.

"(d) ANNUAL REPORT.—The Commission shall submit to the appropriate Congressional committees an annual report on the database, including—

"(1) the operation, content, maintenance, functionality, and cost of the database for the reporting year; and

"(2) the number of reports and comments for the year—

"(A) received by the Commission under this section;

"(B) posted on the database; and

"(C) corrected on or removed from the database.

"(e) GAO STUDY.—Within 2 years after the date on which the Commission establishes the database under this section, the Comptroller General shall submit a report to the appropriate Congressional committees containing— Deadline. Reports.

"(1) an analysis of the general utility of the database, including—

"(A) an assessment of the extent of use of the database by consumers, including whether the database is accessed by a broad range of the public and whether consumers find the database to be useful; and

"(B) efforts by the Commission to inform the public about the database; and

"(2) recommendations for measures to increase use of the database by consumers and to ensure use by a broad range of the public.

"(f) APPLICATION OF CERTAIN NOTICE AND DISCLOSURE REQUIREMENTS.—

"(1) IN GENERAL.—The provisions of section 6(a) and (b) shall not apply to the disclosure under this section of a report described in subsection (b)(1)(A) of this section.

"(2) CONSTRUCTION.—Paragraph (1) shall not be construed to exempt from the requirements of section 6(a) and (b) information received by the Commission under—

"(A) section 15(b); or

"(B) any other mandatory or voluntary reporting program established between a retailer, manufacturer, or private labeler and the Commission.

"(g) HARM DEFINED.—In this section, the term 'harm' means—

"(1) injury, illness, or death; or

"(2) risk of injury, illness, or death, as determined by the Commission.".

15 USC 2053 note.

(b) UPGRADE OF COMMISSION INFORMATION TECHNOLOGY SYSTEMS.—The Commission shall expedite efforts to upgrade and improve the information technology systems in use by the Commission on the date of enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of contents in section 1 (15 U.S.C. 2051 note), as amended by section 206, is amended by inserting after the item relating to section 6 the following new item:

"Sec. 6A. Publicly available consumer product safety information database.".

**SEC. 213. PROHIBITION ON STOCKPILING UNDER OTHER COMMISSION-ENFORCED STATUTES.**

Section 9(g)(2) (15 U.S.C. 2058(g)(2)) is amended—

(1) by inserting "or to which a rule under this Act or similar rule, regulation, standard, or ban under any other Act enforced by the Commission applies," after "applies,"; and

(2) by striking "consumer product safety rule" the second, third, and fourth places it appears, and inserting "rule, regulation, standard, or ban".

**SEC. 214. ENHANCED RECALL AUTHORITY AND CORRECTIVE ACTION PLANS.**

(a) ENHANCED RECALL AUTHORITY.—Section 15 (15 U.S.C. 2064) is amended—

(1) in subsection (a)(1), by inserting "under this Act or a similar rule, regulation, standard, or ban under any other Act enforced by the Commission" after "consumer product safety rule";

(2) in subsection (b)—

(A) by striking "consumer product distributed in commerce," and inserting "consumer product, or other product or substance over which the Commission has jurisdiction

under any other Act enforced by the Commission (other than motor vehicle equipment as defined in section 30102(a)(7) of title 49, United States Code), distributed in commerce,";

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

"(2) fails to comply with any other rule, regulation, standard, or ban under this Act or any other Act enforced by the Commission;"; and

(D) by adding at the end the following: "A report provided under paragraph (2) may not be used as the basis for criminal prosecution of the reporting person under section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264), except for offenses which require a showing of intent to defraud or mislead.".

(3) in subsection (c)—

(A) by inserting "(1)" after the subsection designation;

(B) by inserting "or if the Commission, after notifying the manufacturer, determines a product to be an imminently hazardous consumer product and has filed an action under section 12," after "from such substantial product hazard,";

(C) by redesignating paragraphs (1) through (3) as subparagraphs (D) through (F), respectively;

(D) by inserting after "the following actions:" the following:

"(A) To cease distribution of the product.

"(B) To notify all persons that transport, store, distribute, or otherwise handle the product, or to which the product has been transported, sold, distributed, or otherwise handled, to cease immediately distribution of the product. Notification.

"(C) To notify appropriate State and local public health officials."; Notification.

(E) by striking "comply." in subparagraph (D), as redesignated, and inserting "comply, including posting clear and conspicuous notice on its Internet website, providing notice to any third party Internet website on which such manufacturer, retailer, distributor, or licensor has placed the product for sale, and announcements in languages other than English and on radio and television where the Commission determines that a substantial number of consumers to whom the recall is directed may not be reached by other notice."; and

(F) by adding at the end the following:

"(2) The Commission may require a notice described in paragraph (1) to be distributed in a language other than English if the Commission determines that doing so is necessary to adequately protect the public.

"(3) If a district court determines, in an action filed under section 12, that the product that is the subject of such action is not an imminently hazardous consumer product, the Commission shall rescind any order issued under this subsection with respect to such product.";

(4) in subsection (f)—

(A) by striking "An order" and inserting "(1) Except as provided in paragraph (2), an order"; and

(B) by inserting at the end the following:

"(2) The requirement for a hearing in paragraph (1) shall not apply to an order issued under subsection (c) or (d) relating to an imminently hazardous consumer product with regard to which the Commission has filed an action under section 12.".

(b) CORRECTIVE ACTION PLANS.—Section 15(d) (15 U.S.C. 2064(d)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting "to provide the notice required by subsection (c) and" after "such product" the first place it appears;

(3) by striking "whichever of the following actions the person to whom the order is directed elects:" and inserting "any one or more of the following actions it determines to be in the public interest:";

(4) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C);

(5) in each of subparagraphs (A) and (B) (as so redesignated), by striking "consumer product safety rule" each place it appears and inserting "rule, regulation, standard, or ban";

(6) by striking "more (A)" in subparagraph (C), as redesignated, and inserting "more (i)";

(7) by striking "or (B)" in subparagraph (C), as redesignated, and inserting "or (ii)";

(8) by striking "An order under this subsection may" and inserting:

"(2) An order under this subsection shall";

(9) by striking "satisfactory to the Commission," and inserting "for approval by the Commission,";

(10) by striking "paragraphs of this subsection under which such person has elected to act" and inserting "subparagraphs under which such person has been ordered to act";

(11) by striking "if the person to whom the order is directed elects to take the action described in paragraph (3)" and insert "if the Commission orders the action described in subparagraph (C)";

(12) by striking "If an order under this subsection is directed" and all that follows through "has the election under this subsection";

(13) by striking "described in paragraph (3)." and inserting "described in paragraph (1)(C).."; and

(14) by adding at the end the following:

"(3)(A) If the Commission approves an action plan, it shall indicate its approval in writing.

"(B) If the Commission finds that an approved action plan is not effective or appropriate under the circumstances, or that the manufacturer, retailer, or distributor is not executing an approved action plan effectively, the Commission may, by order, amend, or require amendment of, the action plan. In determining whether an approved plan is effective or appropriate under the circumstances, the Commission shall consider whether a repair or replacement changes the intended functionality of the product.

"(C) If the Commission determines, after notice and opportunity for comment, that a manufacturer, retailer, or distributor has failed to comply substantially with its obligations under its action plan, the Commission may revoke its approval of the action plan. The manufacturer, retailer, or distributor to which the action plan applies may not distribute in commerce the product to which the

action plan relates after receipt of notice of a revocation of the action plan.".

(c) CONTENT OF NOTICE.—Section 15 (15 U.S.C. 2064) is further amended by adding at the end the following:

"(i) REQUIREMENTS FOR RECALL NOTICES.—

"(1) GUIDELINES.—Not later than 180 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall, by rule, establish guidelines setting forth a uniform class of information to be included in any notice required under an order under subsection (c) or (d) of this section or under section 12. Such guidelines shall include any information that the Commission determines would be helpful to consumers in— Deadline.

"(A) identifying the specific product that is subject to such an order;

"(B) understanding the hazard that has been identified with such product (including information regarding incidents or injuries known to have occurred involving such product); and

"(C) understanding what remedy, if any, is available to a consumer who has purchased the product.

"(2) CONTENT.—Except to the extent that the Commission determines with respect to a particular product that one or more of the following items is unnecessary or inappropriate under the circumstances, the notice shall include the following:

"(A) description of the product, including—

"(i) the model number or stock keeping unit (SKU) number of the product;

"(ii) the names by which the product is commonly known; and

"(iii) a photograph of the product.

"(B) A description of the action being taken with respect to the product.

"(C) The number of units of the product with respect to which the action is being taken.

"(D) A description of the substantial product hazard and the reasons for the action.

"(E) An identification of the manufacturers and significant retailers of the product.

"(F) The dates between which the product was manufactured and sold.

"(G) The number and a description of any injuries or deaths associated with the product, the ages of any individuals injured or killed, and the dates on which the Commission received information about such injuries or deaths.

"(H) A description of—

"(i) any remedy available to a consumer;

"(ii) any action a consumer must take to obtain a remedy; and

"(iii) any information a consumer needs in order to obtain a remedy or information about a remedy, such as mailing addresses, telephone numbers, fax numbers, and email addresses.

"(I) Other information the Commission deems appropriate.".

**SEC. 215. INSPECTION OF FIREWALLED CONFORMITY ASSESSMENT BODIES; IDENTIFICATION OF SUPPLY CHAIN.**

(a) INSPECTION OF FIREWALLED CONFORMITY ASSESSMENT BODY.—Section 16(a) (15 U.S.C. 2065(a)) is amended—

(1) by striking "or (B)" and inserting "(B) any firewalled conformity assessment bodies accredited under section 14(f)(2)(D), or (C)" in paragraph (1); and

(2) by inserting "firewalled conformity assessment body," after "factory," in paragraph (2).

(b) IDENTIFICATION OF MANUFACTURERS, IMPORTERS, RETAILERS, AND DISTRIBUTORS.—Section 16 (15 U.S.C. 2065) is further amended by adding at the end thereof the following:

"(c) IDENTIFICATION OF MANUFACTURERS, IMPORTERS, RETAILERS, AND DISTRIBUTORS.—Upon request by an officer or employee duly designated by the Commission—

"(1) every importer, retailer, or distributor of a consumer product (or other product or substance over which the Commission has jurisdiction under this or any other Act) shall identify the manufacturer of that product by name, address, or such other identifying information as the officer or employee may request, to the extent that such information is known or can be readily determined by the importer, retailer, or distributor; and

"(2) every manufacturer shall identify by name, address, or such other identifying information as the officer or employee may request—

"(A) each retailer or distributor to which the manufacturer directly supplied a given consumer product (or other product or substance over which the Commission has jurisdiction under this or any other Act);

"(B) each subcontractor involved in the production or fabrication of such product or substance; and

"(C) each subcontractor from which the manufacturer obtained a component thereof.".

(c) CONFORMING AMENDMENTS.—Section 16 (15 U.S.C. 2065) is further amended—

(1) in subsection (a), by inserting "INSPECTION.—" after the subsection designation; and

(2) in subsection (b), by inserting "RECORDKEEPING.—" after the subsection designation.

**SEC. 216. PROHIBITED ACTS.**

(a) SALE OF RECALLED PRODUCTS.—Section 19(a) (15 U.S.C. 2068(a)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is regulated under this Act or any other Act enforced by the Commission, that is not in conformity with an applicable consumer product safety rule under this Act, or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission;

"(2) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is—

"(B) subject to voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public or if the seller, distributor, or manufacturer knew or should have known of such voluntary corrective action;

"(C) subject to an order issued under section 12 or 15 of this Act; or

"(D) a banned hazardous substance within the meaning of section 2(q)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1));";

(2) by amending paragraph (6) to read as follows:

"(6) fail to furnish a certificate required by this Act or any other Act enforced by the Commission, or to issue a false certificate if such person in the exercise of due care has reason to know that the certificate is false or misleading in any material respect; or to fail to comply with any requirement of section 14 (including the requirement for tracking labels) or any rule or regulation under such section;".

(3) by striking "or" after the semicolon in paragraph (7);

(4) by striking "and" after the semicolon in paragraph (8);

(5) by striking "insulation)." in paragraph (9) and inserting "insulation);"; and

(6) by striking the period at the end of paragraph (10) and inserting a semicolon; and

(7) by inserting at the end the following:

"(12) sell, offer for sale, distribute in commerce, or import into the United States any consumer product bearing a registered safety certification mark owned by an accredited conformity assessment body, which mark is known, or should have been known, by such person to be used in a manner unauthorized by the owner of that certification mark;

"(13) misrepresent to any officer or employee of the Commission the scope of consumer products subject to an action required under section 12 or 15, or to make a material misrepresentation to such an officer or employee in the course of an investigation under this Act or any other Act enforced by the Commission; or

"(14) exercise, or attempt to exercise, undue influence on a third party conformity assessment body (as defined in section 14(f)(2)) with respect to the testing, or reporting of the results of testing, of any product for compliance under this Act or any other Act enforced by the Commission.

"(15) export from the United States for purpose of sale any consumer product, or other product or substance regulated by the Commission (other than a consumer product or substance, the export of which is permitted by the Secretary of the Treasury pursuant to section 17(e)) that—

"(A) is subject to an order issued under section 12 or 15 of this Act or is a banned hazardous substance within the meaning of section 2(q)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or

"(B) is subject to a voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public; or

"(16) violate an order of the Commission issued under section 18(c).".

(b) CONFORMING AMENDMENT.—Section 17(a)(2) (15 U.S.C. 2066(a)(2)) is amended to read as follows:

"(2) is not accompanied by a certificate required by this Act or any other Act enforced by the Commission, or is accompanied by a false certificate, if the manufacturer in the exercise of due care has reason to know that the certificate is false or misleading in any material respect, or is not accompanied by any label or certificate (including tracking labels) required under section 14 or any rule or regulation under such section;".

**SEC. 217. PENALTIES.**

(a) MAXIMUM CIVIL PENALTIES OF THE CONSUMER PRODUCT SAFETY COMMISSION.—

(1) CONSUMER PRODUCT SAFETY ACT.—Section 20(a)(1) (15 U.S.C. 2069(a)(1)) is amended—

(A) by striking "$5,000" and inserting "$100,000";

(B) by striking "$1,250,000" both places it appears and inserting "$15,000,000"; and

(C) by striking "December 1, 1994," in paragraph (3)(B) and inserting "December 1, 2011,".

(2) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5(c)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)(1)) is amended—

(A) by striking "$5,000" in paragraph (1) and inserting "$100,000";

(B) by striking "$1,250,000" both places it appears and inserting "$15,000,000"; and

(C) by striking "December 1, 1994," in paragraph (6)(B) and inserting "December 1, 2011,".

(3) FLAMMABLE FABRICS ACT.—Section 5(e)(1) of the Flammable Fabrics Act (15 U.S.C. 1194(e)(1)) is amended—

(A) by striking "$5,000" in paragraph (1) and inserting "$100,000";

(B) by striking "$1,250,000" and inserting "$15,000,000"; and

(C) by striking "December 1, 1994," in paragraph (6)(B) and inserting "December 1, 2011,".

15 USC 1194 note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is the earlier of the date on which final regulations are issued under subsection (b)(2) or 1 year after the date of enactment of this Act.

(b) DETERMINATION OF PENALTIES BY THE CONSUMER PRODUCT SAFETY COMMISSION.—

(1) FACTORS TO BE CONSIDERED.—

(A) CONSUMER PRODUCT SAFETY ACT.—Section 20 (15 U.S.C. 2069) is amended—

(i) in subsection (b)—

(I) by inserting "the nature, circumstances, extent, and gravity of the violation, including" after "shall consider";

(II) by striking "products distributed, and" and inserting "products distributed," ; and

(III) by inserting ", including how to mitigate undue adverse economic impacts on small

businesses, and such other factors as appropriate" before the period; and

(ii) in subsection (c)—

(I) by inserting ", including how to mitigate undue adverse economic impacts on small businesses, the nature, circumstances, extent, and gravity of the violation, including" after "person charged"; and

(II) by inserting ", and such other factors as appropriate" after "products distributed".

(B) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5(c) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)) is amended—

(i) in paragraph (3)—

(I) by inserting "the nature, circumstances, extent, and gravity of the violation, including" after "shall consider";

(II) by striking "substance distributed, and" and inserting "substance distributed,"; and

(III) by inserting ", including how to mitigate undue adverse economic impacts on small businesses, and such other factors as appropriate" before the period; and

(ii) in paragraph (4)—

(I) by inserting ", including how to mitigate undue adverse economic impacts on small businesses, the nature, circumstances, extent, and gravity of the violation, including" after "person charged"; and

(II) by inserting ", and such other factors as appropriate" after "substance distributed".

(C) FLAMMABLE FABRICS ACT.—Section 5(e) of the Flammable Fabrics Act (15 U.S.C. 1194(e)) is amended—

(i) in paragraph (2)—

(I) by striking "nature and number" and inserting "nature, circumstances, extent, and gravity";

(II) by striking "absence of injury, and" and inserting "absence of injury,"; and

(III) by inserting ", and such other factors as appropriate" before the period; and

(ii) in paragraph (3)—

(I) by striking "nature and number" and inserting "nature, circumstances, extent, and gravity";

(II) by striking "absence of injury, and" and inserting "absence of injury,"; and

(III) by inserting ", and such other factors as appropriate" before the period.

(2) CIVIL PENALTY CRITERIA.—Not later than 1 year after the date of enactment of this Act, and in accordance with the procedures of section 553 of title 5, United States Code, the Commission shall issue a final regulation providing its interpretation of the penalty factors described in section 20(b) of the Consumer Product Safety Act (15 U.S.C. 2069(b)), section 5(c)(3) of the Federal Hazardous Substances Act (15 U.S.C.

Deadline. Regulations. 15 USC 2069 note.

1264(c)(3)), and section 5(e)(2) of the Flammable Fabrics Act (15 U.S.C. 1194(e)(2)), as amended by subsection (a).

(c) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Section 21(a) (15 U.S.C. 2070(a)) is amended to read as follows:

"(a) Violation of section 19 of this Act is punishable by—

"(1) imprisonment for not more than 5 years for a knowing and willful violation of that section;

"(2) a fine determined under section 3571 of title 18, United States Code; or

"(3) both.".

(2) DIRECTORS, OFFICERS, AND AGENTS.—Section 21(b) (15 U.S.C. 2070(b)) is amended by striking "19, and who has knowledge of notice of noncompliance received by the corporation from the Commission," and inserting "19".

(3) UNDER THE FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5(a) of the Federal Hazardous Substances Act (15 U.S.C. 1264(a)) is amended by striking "one year, or a fine of not more than $3,000, or both such imprisonment and fine." and inserting "5 years, a fine determined under section 3571 of title 18, United States Code, or both.".

(4) UNDER THE FLAMMABLE FABRICS ACT.—Section 7 of the Flammable Fabrics Act (15 U.S.C. 1196) is amended to read as follows:

"PENALTIES

"SEC. 7. Violation of section 3 or 8(b) of this Act, or failure to comply with section 15(c) of this Act, is punishable by—

"(1) imprisonment for not more than 5 years for a knowing and willful violation of that section;

"(2) a fine determined under section 3571 of title 18, United States Code; or

"(3) both.".

(d) CRIMINAL PENALTIES TO INCLUDE ASSET FORFEITURE.—Section 21 (15 U.S.C. 2070) is amended by adding at the end thereof the following:

"(c)(1) In addition to the penalties provided by subsection (a), the penalty for a criminal violation of this Act or any other Act enforced by the Commission may include the forfeiture of assets associated with the violation.

Definition.

"(2) In this subsection, the term 'criminal violation' means a violation of this Act or any other Act enforced by the Commission for which the violator is sentenced to pay a fine, be imprisoned, or both.".

**SEC. 218. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

(a) IN GENERAL.—Section 24 (15 U.S.C. 2073) is amended—

(1) by striking "**PRIVATE**" in the section heading and inserting "**ADDITIONAL**";

(2) by inserting "(a) IN GENERAL.—" before "Any interested person"; and

(3) by adding at the end the following:

"(b) STATE ATTORNEY GENERAL ENFORCEMENT.—

"(1) RIGHT OF ACTION.—Except as provided in paragraph (5), the attorney general of a State, or other authorized State officer, alleging a violation of section 19(a)(1), (2), (5), (6), (7), (9), or (12) of this Act that affects or may affect such State

or its residents may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found or transacts business to obtain appropriate injunctive relief.

"(2) INITIATION OF CIVIL ACTION.—

"(A) NOTICE TO COMMISSION REQUIRED IN ALL CASES.— A State shall provide written notice to the Commission regarding any civil action under paragraph (1). Except when proceeding under subparagraph (C), the State shall provide the notice at least 30 days before the date on which the State intends to initiate the civil action by filing a complaint. Deadline.

"(B) FILING OF COMPLAINT.—A State may initiate the civil action by filing a complaint—

"(i) at any time after the date on which the 30-day period ends; or

"(ii) earlier than such date if the Commission consents to an earlier initiation of the civil action by the State.

"(C) ACTIONS INVOLVING SUBSTANTIAL PRODUCT HAZARD.—Notwithstanding subparagraph (B), a State may initiate a civil action under paragraph (1) by filing a complaint immediately after notifying the Commission of the State's determination that such immediate action is necessary to protect the residents of the State from a substantial product hazard (as defined in section 15(a)).

"(D) FORM OF NOTICE.—The written notice required by this paragraph may be provided by electronic mail, facsimile machine, or any other means of communication accepted by the Commission.

"(E) COPY OF COMPLAINT.—A State shall provide a copy of the complaint to the Commission upon filing the complaint or as soon as possible thereafter.

"(3) INTERVENTION BY THE COMMISSION.—The Commission may intervene in such civil action and upon intervening—

"(A) be heard on all matters arising in such civil action; and

"(B) file petitions for appeal of a decision in such civil action.

"(4) CONSTRUCTION.—Nothing in this section, section 5(d) of the Federal Hazardous Substances Act (15 U.S.C. 1264(d)), section 9 of the Poison Prevention Packaging Act of 1970, or section 5(a) of the Flammable Fabrics Act (15 U.S.C. 1194(d)) shall be construed—

"(A) to prevent the attorney general of a State, or other authorized State officer, from exercising the powers conferred on the attorney general, or other authorized State officer, by the laws of such State; or

"(B) to prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

"(5) LIMITATION.—No separate suit shall be brought under this subsection (other than a suit alleging a violation of paragraph (1) or (2) of section 19(a)) if, at the time the suit is brought, the same alleged violation is the subject of a pending civil or criminal action by the United States under this Act.

"(6) RESTRICTIONS ON PRIVATE COUNSEL.—If private counsel is retained to assist in any civil action under paragraph (1), the private counsel retained to assist the State may not—

"(A) share with participants in other private civil actions that arise out of the same operative facts any information that is—

"(i) subject to attorney-client or work product privilege; and

"(ii) was obtained during discovery in the action under paragraph (1); or

"(B) use any information that is subject to attorney-client or work product privilege that was obtained while assisting the State in the action under paragraph (1) in any other private civil actions that arise out of the same operative facts.".

(b) CONFORMING AMENDMENTS.—

(1) POISON PREVENTION PACKAGING ACT.—The Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) is amended by adding at the end the following:

15 USC 1477.

**"SEC. 9. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

"The attorney general of a State, or other authorized State officer, alleging a violation of a standard or rule promulgated under section 3 that affects or may affect such State or its residents, may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found or transacts business to obtain appropriate injunctive relief. The procedural requirements of section 24(b) of the Consumer Product Safety Act (15 U.S.C. 2073(b)) shall apply to any such action.".

Applicability.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 (15 U.S.C. 2051 note) is amended by striking the item relating to section 24 and inserting the following:

"Sec. 24. Additional enforcement of product safety rules and of section 15 orders.".

**SEC. 219. WHISTLEBLOWER PROTECTIONS.**

(a) IN GENERAL.—The Act (15 U.S.C. 2051 et seq.), as amended by section 206 of this Act, is further amended by adding at the end the following:

"WHISTLEBLOWER PROTECTION

15 USC 2087.

"SEC. 40. (a) No manufacturer, private labeler, distributor, or retailer, may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee, whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of this Act or any other Act enforced by the Commission, or any order, rule, regulation, standard, or ban under any such Acts;

"(2) testified or is about to testify in a proceeding concerning such violation;

"(3) assisted or participated or is about to assist or participate in such a proceeding; or

"(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this Act or any other Act enforced by the Commission, or any order, rule, regulation, standard, or ban under any such Acts.

Discrimination. Deadline.

"(b)(1) A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination and identifying the person responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

Notification.

Deadlines. Notification. Investigation. Order.

"(2)(A) Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the complainant and the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B)(i) The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any

behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

Deadline. Order.

"(3)(A) Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

"(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

"(i) to take affirmative action to abate the violation;

"(ii) to reinstate the complainant to his or her former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

"(iii) to provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(C) If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys' fee, not exceeding $1,000, to be paid by the complainant.

Deadlines.

"(4) If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for *de novo* review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(B). The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

"(A) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

"(B) the amount of back pay, with interest; and

"(C) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

"(5)(A) Unless the complainant brings an action under paragraph (4), any person adversely affected or aggrieved by a final

order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order. Deadline.

"(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(6) Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

"(7)(A) A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

"(c) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

"(d) Subsection (a) shall not apply with respect to an employee of a manufacturer, private labeler, distributor, or retailer who, acting without direction from such manufacturer, private labeler, distributor, or retailer (or such person's agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, regulation, or consumer product safety standard under this Act or any other law enforced by the Commission.".

(b) CONFORMING AMENDMENT.—The table of contents, as amended by section 206 of this Act, is further amended by inserting after the item relating to section 39 the following:

"Sec. 40. Whistleblower protection.".

# Subtitle C—Specific Import-Export Provisions

### SEC. 221. EXPORT OF RECALLED AND NON-CONFORMING PRODUCTS.

(a) IN GENERAL.—Section 18 (15 U.S.C. 2067) is amended—

(1) in subsection (b), by striking "any product—" and all that follows through "promulgated under section 9," and inserting "any product which is not in conformity with an

applicable consumer product safety rule in effect under this Act,"; and

(2) by adding at the end the following:

Notification. Deadline.

"(c) The Commission may prohibit a person from exporting from the United States for purpose of sale any consumer product that is not in conformity with an applicable consumer product safety rule under this Act, unless the importing country has notified the Commission that such country accepts the importation of such consumer product, provided that if the importing country has not so notified the Commission within 30 days after the Commission has provided notice to the importing country of the impending shipment, the Commission may take such action as appropriate within its authority with respect to the disposition of the product under the circumstances.

"(d) Nothing in this section shall apply to any consumer product, the export of which is permitted by the Secretary of the Treasury pursuant to section 17(e).".

(b) CONFORMING AMENDMENTS TO FLAMMABLE FABRICS ACT.—Section 15 of the Flammable Fabrics Act (15 U.S.C. 1202) is amended by adding at the end the following:

Notification. Deadline.

"(d) Notwithstanding any other provision of this section, the Consumer Product Safety Commission may prohibit, by order, a person from exporting from the United States for purpose of sale any fabric or related material that the Commission determines is not in conformity with an applicable standard or rule under this Act, unless the importing country has notified the Commission that such country accepts the importation of such fabric or related material, provided that if the importing country has not so notified the Commission within 30 days after the Commission has provided notice to the importing country of the impending shipment, the Commission may take such action as is appropriate with respect to the disposition of the fabric or related material under the circumstances.

"(e) Nothing in this section shall apply to any fabric or related material, the export of which is permitted by the Secretary of the Treasury pursuant to section 17(e).".

15 USC 2066 note.

**SEC. 222. IMPORT SAFETY MANAGEMENT AND INTERAGENCY COOPERATION.**

Deadline.

(a) RISK ASSESSMENT METHODOLOGY.—Not later than 2 years after the date of enactment of this Act, the Commission shall develop a risk assessment methodology for the identification of shipments of consumer products that are—

(1) intended for import into the United States; and

(2) likely to include consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

(b) USE OF INTERNATIONAL TRADE DATA SYSTEM AND OTHER DATABASES.—In developing the methodology required under subsection (a), the Commission shall—

(1) provide for the use of the International Trade Data System, insofar as is practicable, established under section 411(d) of the Tariff Act of 1930 (19 U.S.C. 1411(d)) to evaluate and assess information about shipments of consumer products intended for import into the customs territory of the United States;

(2) incorporate the risk assessment methodology required under this section into its information technology modernization plan;

(3) examine, in consultation with U.S. Customs and Border Protection, how to share information collected and retained by the Commission, including information in the database required under section 6A of the Consumer Product Safety Act, for the purpose of identifying shipments of consumer products in violation of section 17(a) of such Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission; and

(4) examine, in consultation with U.S. Customs and Border Protection, how to share information required by section 15(j) of the CPSA as added by section 223 of this Act for the purpose of identifying shipments of consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

(c) COOPERATION WITH U.S. CUSTOMS AND BORDER PROTECTION.—Not later than 1 year after the date of enactment of this Act, the Commission shall develop a plan for sharing information and coordinating with U.S. Customs and Border Protection that considers, at a minimum, the following: Deadline. Plans.

(1) The number of full-time equivalent personnel employed by the Commission that should be stationed at U.S. ports of entry for the purpose of identifying shipments of consumer products that are in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

(2) The extent and nature of cooperation between the Commission and U.S. Customs and Border Protection personnel stationed at ports of entry in the identification of shipments of consumer product that are in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission under this Act or any other provision of law.

(3) The number of full-time equivalent personnel employed by the Commission that should be stationed at the National Targeting Center (or its equivalent) of U.S. Customs and Border Protection, including—

(A) the extent and nature of cooperation between Commission and U.S. Customs and Border Protection personnel stationed at the National Targeting Center (or its equivalent), as well as at United States ports of entry;

(B) the responsibilities of Commission personnel assigned to the National Targeting Center (or its equivalent) under subsection (b)(3); and

(C) whether the information available at the National Targeting Center (or its equivalent) would be useful to the Commission or U.S. Customs and Border Protection in identifying the consumer products described in subsection (a).

(4) The development of rule sets for the Automated Targeting System and expedited access for the Commission to the Automated Targeting System.

(5) The information and resources necessary for the development, updating, and effective implementation of the risk assessment methodology required in subsection (a).

(d) REPORT TO CONGRESS.—Not later than 180 days after completion of the risk assessment methodology required under this section, the Commission shall submit a report to the appropriate Congressional committees concerning, at a minimum, the following:

(1) The Commission's plan for implementing the risk assessment methodology required under this section.

(2) The changes made or necessary to be made to the Commission's memorandum of understanding with U.S. Customs and Border Protection.

(3) The status of—

(A) the development of the Automated Targeting System rule set required under subsection (c)(4) of this section;

(B) the Commission's access to the Automated Targeting System; and

(C) the effectiveness of the International Trade Data System in enhancing cooperation between the Commission and U.S. Customs and Border Protection for the purpose of identifying shipments of consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission;

(4) Whether the Commission requires additional statutory authority under the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, or the Poison Prevention Packaging Act of 1970 in order to implement the risk assessment methodology required under this section.

(5) The level of appropriations necessary to implement the risk assessment methodology required under this section.

**SEC. 223. SUBSTANTIAL PRODUCT HAZARD LIST AND DESTRUCTION OF NONCOMPLIANT IMPORTED PRODUCTS.**

(a) IDENTIFICATION OF SUBSTANTIAL HAZARDS.—Section 15 (15 U.S.C. 2064), as amended by section 214, is amended by adding at the end thereof the following:

"(j) SUBSTANTIAL PRODUCT HAZARD LIST.—

Rules.

"(1) IN GENERAL.—The Commission may specify, by rule, for any consumer product or class of consumer products, characteristics whose existence or absence shall be deemed a substantial product hazard under subsection (a)(2), if the Commission determines that—

"(A) such characteristics are readily observable and have been addressed by voluntary standards; and

"(B) such standards have been effective in reducing the risk of injury from consumer products and that there is substantial compliance with such standards.

Deadline.

"(2) JUDICIAL REVIEW.—Not later than 60 days after promulgation of a rule under paragraph (1), any person adversely affected by such rule may file a petition for review under the procedures set forth in section 11 of this Act.".

(b) DESTRUCTION OF NONCOMPLIANT IMPORTED PRODUCTS.—Section 17(e) (15 U.S.C. 2066(e)) is amended to read as follows:

Deadline.

"(e) Products refused admission into the customs territory of the United States shall be destroyed unless, upon application by the owner, consignee, or importer of record, the Secretary of the Treasury permits the export of the product in lieu of destruction. If the owner, consignee, or importer of record does not export

the product within 90 days of approval to export, such product shall be destroyed.".

(c) INSPECTION AND RECORDKEEPING REQUIREMENT.—The Act is further amended—

(1) by amending section 17(g) (15 U.S.C. 2066(g)) to read as follows:

"(g) Manufacturers of imported products shall be in compliance with all inspection and recordkeeping requirements under section 16 applicable to such products, and the Commission shall advise the Secretary of the Treasury of any manufacturer who is not in compliance with all inspection and recordkeeping requirements under section 16."; and Manufacturers.

(2) by adding at the end of section 16 (15 U.S.C. 2065) the following:

"(d) The Commission shall, by rule, condition the manufacturing for sale, offering for sale, distribution in commerce, or importation into the United States of any consumer product or other product on the manufacturer's compliance with the inspection and recordkeeping requirements of this Act and the Commission's rules with respect to such requirements.". Rules.

**SEC. 224. FINANCIAL RESPONSIBILITY.**

(a) IN GENERAL.—The Act (15 U.S.C. 2051 et seq.), as amended by section 219, is further amended by adding at the end the following:

**"SEC. 41. FINANCIAL RESPONSIBILITY.** 15 USC 2088.

"(a) IDENTIFICATION AND DETERMINATION OF BOND.—The Commission, in consultation with U.S. Customs and Border Protection and other relevant Federal agencies, shall identify any consumer product, or other product or substance that is regulated under this Act or any other Act enforced by the Commission, for which the cost of destruction would normally exceed bond amounts determined under sections 623 and 624 of the Tariff Act of 1930 (19 U.S.C. 1623, 1624) and shall recommend to U.S. Customs and Border Protection a bond amount sufficient to cover the cost of destruction of such products or substances. Recommendations.

"(b) STUDY OF REQUIRING ESCROW FOR RECALLS AND DESTRUCTION OF PRODUCTS.—

"(1) STUDY.—The Comptroller General shall conduct a study to determine the feasibility of requiring—

"(A) the posting of an escrow, proof of insurance, or security sufficient in amount to cover the cost of destruction of a domestically-produced product or substance regulated under this Act or any other Act enforced by the Commission; and

"(B) the posting of an escrow, proof of insurance, or security sufficient in amount to cover the cost of an effective recall of a product or substance, domestic or imported, regulated under this Act or any other Act enforced by the Commission.

"(2) REPORT.—Not later than 180 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Comptroller General shall transmit to the appropriate Congressional committees a report on the conclusions of the study required under paragraph (1), including an assessment of whether such an escrow requirement could be implemented and any recommendations for such implementation.".

(b) CONFORMING AMENDMENTS.—The table of contents in section 1 (15 U.S.C. 2051 note), as amended by section 219, is amended by adding at the end the following:

"Sec. 41. Financial responsibility.".

**SEC. 225. STUDY AND REPORT ON EFFECTIVENESS OF AUTHORITIES RELATING TO SAFETY OF IMPORTED CONSUMER PRODUCTS.**

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study of the authorities and provisions of the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) to assess the effectiveness of such authorities and provisions in preventing unsafe consumer products from entering the customs territory of the United States;

Recommendations.

(2) review and provide recommendations with respect to plans to prevent unsafe consumer products from entering the customs territory of the United States; and

Manufacturers.

(3) submit to the appropriate Congressional committees a report on the findings of the Comptroller General with respect to paragraphs (1) and (2), including legislative recommendations related to, at a minimum—

(A) inspection of foreign manufacturing plants by the Commission; and

(B) requiring foreign manufacturers to consent to the jurisdiction of United States courts with respect to enforcement actions by the Commission.

# Subtitle D—Miscellaneous Provisions and Conforming Amendments

15 USC 2051 note.

**SEC. 231. PREEMPTION.**

(a) RULE WITH REGARD TO PREEMPTION.—The provisions of sections 25 and 26 of the Consumer Product Safety Act (15 U.S.C. 2074 and 2075, respectively), section 18 of the Federal Hazardous Substances Act (15 U.S.C. 1261 note), section 16 of the Flammable Fabrics Act (15 U.S.C. 1203), and section 7 of the Poison Packaging Prevention Act of 1970 (15 U.S.C. 1476) establishing the extent to which those Acts preempt, limit, or otherwise affect any other Federal, State, or local law, any rule, procedure, or regulation, or any cause of action under State or local law may not be expanded or contracted in scope, or limited, modified or extended in application, by any rule or regulation thereunder, or by reference in any preamble, statement of policy, executive branch statements, or other matter associated with the publication of any such rule or regulation. In accordance with the provisions of those Acts, the Commission may not construe any such Act as preempting any cause of action under State or local common law or State statutory law regarding damage claims.

(b) PRESERVATION OF CERTAIN STATE LAW.—Nothing in this Act or the Federal Hazardous Substances Act shall be construed to preempt or otherwise affect any warning requirement relating to consumer products or substances that is established pursuant to State law that was in effect on August 31, 2003.

**SEC. 232. ALL-TERRAIN VEHICLE STANDARD.**

(a) IN GENERAL.—The Act (15 U.S.C. 2051 et seq.), as amended by section 224, is further amended by adding at the end thereof the following:

**"SEC. 42. ALL-TERRAIN VEHICLES.** 15 USC 2089.

"(a) IN GENERAL.—

"(1) MANDATORY STANDARD.—Notwithstanding any other provision of law, within 90 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish in the Federal Register as a mandatory consumer product safety standard the American National Standard for Four Wheel All-Terrain Vehicles Equipment Configuration, and Performance Requirements developed by the Specialty Vehicle Institute of America (American National Standard ANSI/SVIA –1–2007). The standard shall take effect 150 days after it is published. Deadline. Federal Register, publication. Effective date.

"(2) COMPLIANCE WITH STANDARD.—After the standard takes effect, it shall be unlawful for any manufacturer or distributor to import into or distribute in commerce in the United States any new assembled or unassembled all-terrain vehicle unless— Manufacturers. Exports and imports.

"(A) the all-terrain vehicle complies with each applicable provision of the standard;

"(B) the ATV is subject to an ATV action plan filed with the Commission before the date of enactment of the Act, or subsequently filed with and approved by the Commission, and bears a label certifying such compliance and identifying the manufacturer, importer or private labeler and the ATV action plan to which it is subject; and

"(C) the manufacturer or distributor is in compliance with all provisions of the applicable ATV action plan.

"(3) VIOLATION.—The failure to comply with any requirement of paragraph (2) shall be deemed to be a failure to comply with a consumer product safety standard under this Act and subject to all of the penalties and remedies available under this Act.

"(4) COMPLIANT MODELS WITH ADDITIONAL FEATURES.—Paragraph (2) shall not be construed to prohibit the distribution in commerce of new all-terrain vehicles that comply with the requirements of that paragraph but also incorporate characteristics or components that are not covered by those requirements. Any such characteristics or components shall be subject to the requirements of section 15 of this Act.

"(b) MODIFICATION OF STANDARD.—

"(1) ANSI REVISIONS.—If the American National Standard ANSI/SVIA–1–2007 is revised through the applicable consensus standards development process after the date on which the product safety standard for all-terrain vehicles is published in the Federal Register, the American National Standards Institute shall notify the Commission of the revision. Notification.

"(2) COMMISSION ACTION.—Within 120 days after it receives notice of such a revision by the American National Standards Institute, the Commission shall issue a notice of proposed rulemaking in accordance with section 553 of title 5, United States Code, to amend the product safety standard for all-terrain Deadlines. Notices.

vehicles to include any such revision that the Commission determines is reasonably related to the safe performance of all-terrain vehicles, and notify the Institute of any provision it has determined not to be so related. The Commission shall promulgate an amendment to the standard for all-terrain vehicles within 180 days after the date on which the notice of proposed rulemaking for the amendment is published in the Federal Register.

"(3) UNREASONABLE RISK OF INJURY.—Notwithstanding any other provision of this Act, the Commission may, pursuant to sections 7 and 9 of this Act, amend the product safety standard for all-terrain vehicles to include any additional provision that the Commission determines is reasonably necessary to reduce an unreasonable risk of injury associated with the performance of all-terrain vehicles.

"(4) CERTAIN PROVISIONS NOT APPLICABLE.—Sections 7 and 9 of this Act shall not apply to promulgation of any amendment of the product safety standard under paragraph (2). Judicial review of any amendment of the standard under paragraph (2) shall be in accordance with chapter 7 of title 5, United States Code.

"(c) REQUIREMENTS FOR 3-WHEELED ALL-TERRAIN VEHICLES.—Until a mandatory consumer product safety standard applicable to 3-wheeled all-terrain vehicles promulgated pursuant to this Act is in effect, new 3-wheeled all-terrain vehicles may not be imported into or distributed in commerce in the United States. Any violation of this subsection shall be considered to be a violation of section 19(a)(1) of this Act and may also be enforced under section 17 of this Act.

"(d) FURTHER PROCEEDINGS.—

Regulations.

"(1) DEADLINE.—The Commission shall issue a final rule in its proceeding entitled 'Standards for All Terrain Vehicles and Ban of Three-wheeled All Terrain Vehicles'.

"(2) CATEGORIES OF YOUTH ATVS.—In the final rule, the Commission, in consultation with the National Highway Traffic Safety Administration, may provide for a multiple factor method of categorization that, at a minimum, takes into account—

"(A) the weight of the ATV;

"(B) the maximum speed of the ATV;

"(C) the velocity at which an ATV of a given weight is traveling at the maximum speed of the ATV;

"(D) the age of children for whose operation the ATV is designed or who may reasonably be expected to operate the ATV; and

"(E) the average weight of children for whose operation the ATV is designed or who may reasonably be expected to operate the ATV.

"(3) ADDITIONAL SAFETY STANDARDS.—In the final rule, the Commission, in consultation with the National Highway Traffic Safety Administration, shall review the standard published under subsection (a)(1) and establish additional safety standards for all-terrain vehicles to the extent necessary to protect the public health and safety. As part of its review, the Commission shall consider, at a minimum, establishing or strengthening standards on—

"(A) suspension;

"(B) brake performance;

"(C) speed governors;
"(D) warning labels;
"(E) marketing; and
"(F) dynamic stability.

"(e) DEFINITIONS.—In this section:

"(1) ALL-TERRAIN VEHICLE OR ATV.—The term 'all-terrain vehicle' or 'ATV' means—

"(A) any motorized, off-highway vehicle designed to travel on 3 or 4 wheels, having a seat designed to be straddled by the operator and handlebars for steering control; but

"(B) does not include a prototype of a motorized, off-highway, all-terrain vehicle or other motorized, off-highway, all-terrain vehicle that is intended exclusively for research and development purposes unless the vehicle is offered for sale.

"(2) ATV ACTION PLAN.—The term 'ATV action plan' means a written plan or letter of undertaking that describes actions the manufacturer or distributor agrees to take to promote ATV safety, including rider training, dissemination of safety information, age recommendations, other policies governing marketing and sale of the ATVs, the monitoring of such sales, and other safety related measures, and that is substantially similar to the plans described under the heading 'The Undertakings of the Companies in the Commission Notice' published in the Federal Register on September 9, 1998 (63 FR 48199–48204).".

(b) GAO STUDY.—The Comptroller General shall conduct a study of the utility, recreational, and other benefits of all-terrain vehicles to which section 42 of the Consumer Product Safety Act (15 U.S.C. 2085) applies, and the costs associated with all-terrain vehicle-related accidents and injuries.

(c) CONFORMING AMENDMENT.—The table of contents of this Act is further amended by inserting after the item relating to section 42 the following:

"Sec. 42. All-terrain vehicles.".

**SEC. 233. COST-BENEFIT ANALYSIS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970.**

Section 3 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1472) is amended by adding at the end thereof the following:

"(e) Nothing in this Act shall be construed to require the Consumer Product Safety Commission, in establishing a standard under this section, to prepare a comparison of the costs that would be incurred in complying with such standard with the benefits of such standard.".

**SEC. 234. STUDY ON USE OF FORMALDEHYDE IN MANUFACTURING OF TEXTILE AND APPAREL ARTICLES.**

Deadline.

Not later than 2 years after the date of enactment of this Act, the Comptroller General, in consultation with the Commission, shall conduct a study on the use of formaldehyde in the manufacture of textile and apparel articles, or in any component of such articles, to identify any risks to consumers caused by the use of formaldehyde in the manufacturing of such articles, or components of such articles.

**SEC. 235. TECHNICAL AND CONFORMING CHANGES.**

(a) DEFINITIONS.—Section 3(a) (15 U.S.C. 2052) is amended by adding at the end the following:

"(15) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate Congressional committees' means the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(16) CHILDREN'S PRODUCT.—The term 'children's product' means a consumer product designed or intended primarily for children 12 years of age or younger. In determining whether a consumer product is primarily intended for a child 12 years of age or younger, the following factors shall be considered:

"(A) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.

"(B) Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger.

"(C) Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger.

"(D) The Age Determination Guidelines issued by the Commission staff in September 2002, and any successor to such guidelines.

"(17) THIRD-PARTY LOGISTICS PROVIDER.—The term 'third-party logistics provider' means a person who solely receives, holds, or otherwise transports a consumer product in the ordinary course of business but who does not take title to the product.".

(b) MISCELLANEOUS.—Section 3 (15 U.S.C. 2052) is amended—

(1) by striking "(a) for purposes of this Act:" and inserting "(a) IN GENERAL.—In this Act:";

(2) by indenting each paragraph and subparagraph of subsection (a) 2 em spaces;

(3) by inserting a heading, in a form consistent with the form of the heading of this subsection consisting of the term defined by such paragraph, after the designation of each paragraph of subsection (a);

(4) by reordering such paragraphs and the additional paragraphs added by paragraph (1) of this subsection in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered; and

(5) by inserting "common carriers, contract carriers, and freight forwarders" after "(b)" in subsection (b).

(c) CONFORMING AMENDMENTS.—

(1) Section 3(b) (15 U.S.C. 2052(b) is amended by inserting "third-party logistics provider," after "contract carrier,".

(2) Section 6(e)(4) (15 U.S.C. 2055(e)(4)) is amended by striking "the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce of the House of Representatives or any subcommittee of such committee," and insert "either of the appropriate Congressional committees or any subcommittee thereof,".

(3) Sections 9(a), 9(c), and 35(c)(2)(D)(iii) (15 U.S.C. 2058(a), (c), and 2082(c)(2)(D)(iii), and 2082(e)(1), respectively) are each amended by striking "the Committee on Commerce, Science,

and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives" each place it appears and inserting "the appropriate Congressional committees".

(4) Section 32(b)(1) (15 U.S.C. 2050(b)(1)) is amended by striking "the Committee on Energy and Commerce of the House of Representatives, and by the Committee on Commerce, Science, and Transportation of the Senate." and inserting "the appropriate Congressional committees.". 15 USC 2081.

(5) Section 35(e)(1) (15 U.S.C. 2082(e)(1)) is amended by striking "the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives" and insert "the appropriate Congressional committees".

(6) Sections 17(h)(3), 28(j)(10)(F), and 28(k)(1) and (2) (15 U.S.C. 2066(h)(3), 2077(j)(10)(F), and 2077(k)(1) and (2), respectively) are each amended by striking "the Congress" and inserting "the appropriate Congressional committees".

(7) Section 29(e) (15 U.S.C. 2078(e)) is amended by striking "The Commission" and inserting "Notwithstanding section 6(a)(3), the Commission".

**SEC. 236. EXPEDITED JUDICIAL REVIEW.**

(a) IN GENERAL.—Section 11 (15 U.S.C. 2060) is amended by adding at the end thereof the following:

"(g) EXPEDITED JUDICIAL REVIEW.—

"(1) APPLICATION.—This subsection applies, in lieu of the preceding subsections of this section, to judicial review of—

"(A) any consumer product safety rule promulgated by the Commission pursuant to section 15(j) (relating to identification of substantial hazards);

"(B) any consumer product safety standard promulgated by the Commission pursuant to section 42 (relating to all-terrain vehicles);

"(C) any standard promulgated by the Commission under section 104 of the Consumer Product Safety Improvement Act of 2008 (relating to durable infant and toddler products); and

"(D) any consumer product safety standard promulgated by the Commission under section 106 of the Consumer Product Safety Improvement Act of 2008 (relating to mandatory toy safety standards).

"(2) IN GENERAL.—Not later than 60 days after the promulgation, by the Commission, of a rule or standard to which this subsection applies, any person adversely affected by such rule or standard may file a petition with the United States Court of Appeals for the District of Columbia Circuit for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by it for that purpose and to the Attorney General. The record of the proceedings on which the Commission based its rule shall be filed in the court as provided for in section 2112 of title 28, United States Code. Deadlines. Records.

"(3) REVIEW.—Upon the filing of the petition under paragraph (2) of this subsection, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5,

United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter.

"(4) CONCLUSIVENESS OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any final rule under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(5) FURTHER REVIEW.—A rule or standard with respect to which this subsection applies shall not be subject to judicial review in proceedings under section 17 (relating to imported products) or in civil or criminal proceedings for enforcement.".

15 USC 2060 note.

(b) PENDING ACTIONS UNAFFECTED.—The amendment made by subsection (a) shall not apply to any petition filed before the date of enactment of this Act for judicial review of any action by the Consumer Product Safety Commission.

**SEC. 237. REPEAL.**

Section 30 (15 U.S.C. 2079) is amended by striking subsection (d).

**SEC. 238. POOL AND SPA SAFETY ACT TECHNICAL AMENDMENTS.**

Title XIV of the Energy Independence and Security Act of 2007 (Public Law 110–140) is amended—

15 USC 8002.

(1) in section 1403 by adding at the end the following:

"(8) STATE.—The term 'State' has the meaning given such term in section 3(10) of the Consumer Product Safety Act (15 U.S.C. 2052(10)), and includes the Northern Mariana Islands.".

15 USC 8003. Notification. Deadline.

(2) in section 1404 by adding at the end of subsection (b) the following: "If a successor standard is proposed, the American Society of Mechanical Engineers shall notify the Commission of the proposed revision. If the Commission determines that the proposed revision is in the public interest, it shall incorporate the revision into the standard after providing 30 days notice to the public."; and

(3) by adding at the end the following:

15 USC 8008.

**"SEC. 1409. APPLICABILITY.**

"This Act is applicable to the United States and its territories, including American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.".

**SEC. 239. EFFECTIVE DATES AND SEVERABILITY.**

15 USC 2051 note.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise specifically provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(2) CERTAIN DELAYED EFFECTIVE DATES.—The amendments made by sections 103(c) and 214(a)(2) shall take effect on the date that is 60 days after the date of enactment of this Act. Subsection (c) of section 42 of the Consumer Product Safety Act, as added by section 232 of this Act, and the amendments made by sections 216 and 223(b) shall take effect on the date that is 30 days after the date of enactment of this Act.

15 USC 2051 note.

(b) SEVERABILITY.—If any provision of this Act or the amendments made by this Act, or the application of such provision to

any person or circumstance, is held invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

Approved August 14, 2008.

LEGISLATIVE HISTORY—H.R. 4040 (S. 2045) (S. 2663):

HOUSE REPORTS: Nos. 110–501 (Comm. on Energy and Commerce) and 110–787 (Comm. of Conference).

SENATE REPORTS: No. 110–265 accompanying S. 2045 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 153 (2007): Dec. 19, considered and passed House.

Vol. 154 (2008): Mar. 6, considered and passed Senate, amended, in lieu of S. 2663.

July 30, House agreed to conference report.

July 31, Senate agreed to conference report.

# Public Law 110–315
# 110th Congress

## An Act

Aug. 14, 2008
[H.R. 4137]

To amend and extend the Higher Education Act of 1965, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Higher Education Opportunity Act.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

20 USC 1001 note.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Opportunity Act".

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

Sec. 1. Short title; table of contents.
Sec. 2. References.
Sec. 3. General effective date.

TITLE I—GENERAL PROVISIONS

Sec. 101. General definition of institution of higher education.
Sec. 102. Definition of institution of higher education for purposes of title IV programs.
Sec. 103. Additional definitions.
Sec. 104. Protection of student speech and association rights.
Sec. 105. Treatment of territories and territorial student assistance.
Sec. 106. National Advisory Committee on Institutional Quality and Integrity.
Sec. 107. Drug and alcohol abuse prevention.
Sec. 108. Prior rights and obligations.
Sec. 109. Diploma mills.
Sec. 110. Improved information concerning the Federal student financial aid website.
Sec. 111. Transparency in college tuition for consumers.
Sec. 112. Textbook information.
Sec. 113. Database of student information prohibited.
Sec. 114. In-State tuition rates for Armed Forces members, spouses, and dependent children.
Sec. 115. State higher education information system pilot program.
Sec. 116. State commitment to affordable college education.
Sec. 117. Performance-based organization for the delivery of Federal student financial assistance.
Sec. 118. Procurement flexibility.
Sec. 119. Certification regarding the use of certain Federal funds.
Sec. 120. Institution and lender reporting and disclosure requirements.

TITLE II—TEACHER QUALITY ENHANCEMENT

Sec. 201. Teacher quality enhancement.

TITLE III—INSTITUTIONAL AID

Sec. 301. Program purpose.
Sec. 302. Definitions; eligibility.
Sec. 303. American Indian tribally controlled colleges and universities.
Sec. 304. Alaska Native and Native Hawaiian-serving institutions.
Sec. 305. Predominantly Black Institutions.
Sec. 306. Native American-serving, nontribal institutions.
Sec. 307. Assistance to Asian American and Native American Pacific Islander-serving institutions.

Sec. 308. Part B definitions.
Sec. 309. Grants to institutions.
Sec. 310. Allotments.
Sec. 311. Professional or graduate institutions.
Sec. 312. Unexpended funds.
Sec. 313. Endowment Challenge Grants.
Sec. 314. Historically Black college and university capital financing.
Sec. 315. Programs in STEM fields.
Sec. 316. Investing in historically Black colleges and universities and other minority-serving institutions.
Sec. 317. Technical assistance.
Sec. 318. Waiver authority.
Sec. 319. Authorization of appropriations.
Sec. 320. Technical corrections.

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

Sec. 401. Federal Pell Grants.
Sec. 402. Academic competitiveness grants.
Sec. 403. Federal TRIO Programs.
Sec. 404. Gaining early awareness and readiness for undergraduate programs.
Sec. 405. Academic Achievement Incentive Scholarships.
Sec. 406. Federal Supplemental Educational Opportunity Grants.
Sec. 407. Leveraging Educational Assistance Partnership program.
Sec. 408. Special programs for students whose families are engaged in migrant and seasonal farmwork.
Sec. 409. Robert C. Byrd Honors Scholarship Program.
Sec. 410. Child care access means parents in school.
Sec. 411. Learning Anytime Anywhere Partnerships.
Sec. 412. TEACH Grants.

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

Sec. 421. Limitations on amounts of loans covered by Federal insurance.
Sec. 422. Federal payments to reduce student interest costs.
Sec. 423. Voluntary flexible agreements.
Sec. 424. Federal PLUS loans.
Sec. 425. Federal consolidation loans.
Sec. 426. Default reduction program.
Sec. 427. Requirements for disbursement of student loans.
Sec. 428. Unsubsidized Stafford loan limits.
Sec. 429. Loan forgiveness for teachers employed by educational service agencies.
Sec. 430. Loan forgiveness for service in areas of national need.
Sec. 431. Loan repayment for civil legal assistance attorneys.
Sec. 432. Reports to consumer reporting agencies and institutions of higher education.
Sec. 433. Legal powers and responsibilities.
Sec. 434. Student loan information by eligible lenders.
Sec. 435. Consumer education information.
Sec. 436. Definitions of eligible institution and eligible lender.
Sec. 437. Discharge and cancellation rights in cases of disability.
Sec. 438. Conforming amendments for repeal of section 439.

PART C—FEDERAL WORK-STUDY PROGRAMS

Sec. 441. Authorization of appropriations.
Sec. 442. Allowance for books and supplies.
Sec. 443. Grants for Federal work-study programs.
Sec. 444. Flexible use of funds.
Sec. 445. Job location and development programs.
Sec. 446. Additional funds for off-campus community service.
Sec. 447. Work colleges.

PART D—FEDERAL DIRECT STUDENT LOAN

Sec. 451. Terms and conditions of loans.
Sec. 452. Funds for administrative expenses.
Sec. 453. Guaranty agency responsibilities and payments; reports and cost estimates.
Sec. 454. Loan cancellation for teachers.

PART E—FEDERAL PERKINS LOANS

Sec. 461. Extension of authority.

Sec. 462. Allowance for books and supplies.
Sec. 463. Agreements with institutions.
Sec. 464. Perkins loan terms and conditions.
Sec. 465. Cancellation for public service.
Sec. 466. Sense of Congress regarding Federal Perkins loans.

PART F—NEED ANALYSIS

Sec. 471. Cost of attendance.
Sec. 472. Discretion to make adjustments.
Sec. 473. Definitions.

PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE

Sec. 481. Definitions.
Sec. 482. Master calendar.
Sec. 483. Improvements to paper and electronic forms and processes.
Sec. 484. Model institution financial aid offer form.
Sec. 485. Student eligibility.
Sec. 486. Statute of limitations and State court judgments.
Sec. 487. Readmission requirements for servicemembers.
Sec. 488. Institutional and financial assistance information for students.
Sec. 489. National Student Loan Data System.
Sec. 490. Early awareness of financial aid eligibility.
Sec. 491. Distance Education Demonstration Programs.
Sec. 492. Articulation agreements.
Sec. 493. Program participation agreements.
Sec. 494. Regulatory relief and improvement.
Sec. 494A. Transfer of allotments.
Sec. 494B. Purpose of administrative payments.
Sec. 494C. Advisory Committee on Student Financial Assistance.
Sec. 494D. Regional meetings and negotiated rulemaking.
Sec. 494E. Year 2000 requirements at the Department.
Sec. 494F. Technical amendment of income-based repayment.

PART H—PROGRAM INTEGRITY

Sec. 495. Recognition of accrediting agency or association.
Sec. 496. Eligibility and certification procedures.
Sec. 497. Program review and data.
Sec. 498. Review of regulations.

PART I—COMPETITIVE LOAN AUCTION PILOT PROGRAM

Sec. 499. Competitive loan auction pilot program evaluation.

TITLE V—DEVELOPING INSTITUTIONS

Sec. 501. Authorized activities.
Sec. 502. Postbaccalaureate opportunities for Hispanic Americans.
Sec. 503. Applications.
Sec. 504. Cooperative arrangements.
Sec. 505. Authorization of appropriations.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

Sec. 601. Findings; purposes; consultation; survey.
Sec. 602. Graduate and Undergraduate Language and Area Centers and Programs.
Sec. 603. Language Resource Centers.
Sec. 604. Undergraduate International Studies and Foreign Language Programs.
Sec. 605. Research; studies.
Sec. 606. Technological innovation and cooperation for foreign information access.
Sec. 607. Selection of certain grant recipients.
Sec. 608. American overseas research centers.
Sec. 609. Authorization of appropriations for international and foreign language studies.
Sec. 610. Conforming amendments.
Sec. 611. Business and international education programs.
Sec. 612. Minority foreign service professional development program.
Sec. 613. Institutional development.
Sec. 614. Study abroad program.
Sec. 615. Advanced degree in international relations.
Sec. 616. Internships.
Sec. 617. Financial assistance.
Sec. 618. Report.
Sec. 619. Gifts and donations.

Sec. 620. Authorization of appropriations for the Institute for International Public Policy.
Sec. 621. Definitions.
Sec. 622. New provisions.

TITLE VII—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

Sec. 701. Purpose.
Sec. 702. Jacob K. Javits Fellowship program.
Sec. 703. Graduate assistance in areas of national need.
Sec. 704. Thurgood Marshall Legal educational opportunity program.
Sec. 705. Sense of Congress.
Sec. 706. Masters degree programs at historically Black colleges and universities and Predominantly Black Institutions.
Sec. 707. Fund for the improvement of postsecondary education.
Sec. 708. Repeal of the urban community service program.
Sec. 709. Programs to provide students with disabilities with a quality higher education.
Sec. 710. Subgrants to nonprofit organizations.

TITLE VIII—ADDITIONAL PROGRAMS

Sec. 801. Additional programs.
Sec. 802. National Center for Research in Advanced Information and Digital Technologies.
Sec. 803. Establishment of pilot program for course material rental.

TITLE IX—AMENDMENTS TO OTHER LAWS

PART A—EDUCATION OF THE DEAF ACT OF 1986

Sec. 901. Laurent Clerc National Deaf Education Center.
Sec. 902. Agreement with Gallaudet University.
Sec. 903. Agreement for the National Technical Institute for the Deaf.
Sec. 904. Cultural experiences grants.
Sec. 905. Audit.
Sec. 906. Reports.
Sec. 907. Monitoring, evaluation, and reporting.
Sec. 908. Liaison for educational programs.
Sec. 909. Federal endowment programs for Gallaudet University and the National Technical Institute for the Deaf.
Sec. 910. Oversight and effect of agreements.
Sec. 911. International students.
Sec. 912. Research priorities.
Sec. 913. National study on the education of the deaf.
Sec. 914. Authorization of appropriations.

PART B—UNITED STATES INSTITUTE OF PEACE ACT

Sec. 921. United States Institute of Peace Act.

PART C—THE HIGHER EDUCATION AMENDMENTS OF 1998; THE HIGHER EDUCATION AMENDMENTS OF 1992

Sec. 931. Repeals.
Sec. 932. Grants to States for workplace and community transition training for incarcerated individuals.
Sec. 933. Underground Railroad Educational and Cultural Program.
Sec. 934. Olympic Scholarships.
Sec. 935. Establishment of a Deputy Assistant Secretary for International and Foreign Language Education.

PART D—TRIBAL COLLEGE AND UNIVERSITIES; NAVAJO HIGHER EDUCATION

SUBPART 1—TRIBAL COLLEGES AND UNIVERSITIES

Sec. 941. Reauthorization of the Tribally Controlled College or University Assistance Act of 1978.

SUBPART 2—NAVAJO HIGHER EDUCATION

Sec. 945. Short title.
Sec. 946. Reauthorization of Navajo Community College Act.

PART E—OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

Sec. 951. Short title.

Sec. 952. Loan repayment for prosecutors and defenders.

PART F—INSTITUTIONAL LOAN REPAYMENT ASSISTANCE PROGRAMS

Sec. 961. Institutional loan forgiveness programs.

PART G—MINORITY SERVING INSTITUTION DIGITAL AND WIRELESS TECHNOLOGY OPPORTUNITY PROGRAM

Sec. 971. Minority Serving Institution Digital and Wireless Technology Opportunity Program.
Sec. 972. Authorization of appropriations.

TITLE X—PRIVATE STUDENT LOAN IMPROVEMENT

Sec. 1001. Short title.
Sec. 1002. Regulations.
Sec. 1003. Effective dates.

Subtitle A—Preventing Unfair and Deceptive Private Educational Lending Practices and Eliminating Conflicts of Interest

Sec. 1011. Amendment to the Truth in Lending Act.
Sec. 1012. Civil liability.
Sec. 1013. Clerical amendment.

Subtitle B—Improved Disclosures for Private Education Loans

Sec. 1021. Private education loan disclosures and limitations.
Sec. 1022. Application of Truth in Lending Act to all private education loans.

Subtitle C—College Affordability

Sec. 1031. Community Reinvestment Act credit for low-cost loans.

Subtitle D—Financial Literacy; Studies and Reports

Sec. 1041. Definitions.
Sec. 1042. Coordinated education efforts.

TITLE XI—STUDIES AND REPORTS

Sec. 1101. Study on foreign graduate medical schools.
Sec. 1102. Employment of postsecondary education graduates.
Sec. 1103. Study on IPEDS.
Sec. 1104. Report and study on articulation agreements.
Sec. 1105. Report on proprietary institutions of higher education.
Sec. 1106. Analysis of Federal regulations on institutions of higher education.
Sec. 1107. Independent evaluation of distance education programs.
Sec. 1108. Review of costs and benefits of environmental, health, and safety standards.
Sec. 1109. Study of minority male academic achievement.
Sec. 1110. Study on bias in standardized tests.
Sec. 1111. Endowment report.
Sec. 1112. Study of correctional postsecondary education.
Sec. 1113. Study of aid to less-than-half-time students.
Sec. 1114. Study on regional sensitivity in the needs analysis formula.
Sec. 1115. Study of the impact of student loan debt on public service.
Sec. 1116. Study on teaching students with reading disabilities.
Sec. 1117. Report on income contingent repayment through the income tax withholding system.
Sec. 1118. Developing additional measures of degree completion.
Sec. 1119. Study on the financial and compliance audits of the Federal student loan program.
Sec. 1120. Summit on sustainability.
Sec. 1121. Nursing school capacity.
Sec. 1122. Study and report on nonindividual information.
Sec. 1123. Feasibility study for student loan clearinghouse.
Sec. 1124. Study on Department of Education oversight of incentive compensation ban.
Sec. 1125. Definition of authorizing committees.

**SEC. 2. REFERENCES.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall

be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

**SEC. 3. GENERAL EFFECTIVE DATE.**

20 USC 1001 note.

Except as otherwise provided in this Act or the amendments made by this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

# TITLE I—GENERAL PROVISIONS

**SEC. 101. GENERAL DEFINITION OF INSTITUTION OF HIGHER EDUCATION.**

(a) AMENDMENTS.—Section 101 (20 U.S.C. 1001) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting before the semicolon the following: ", or persons who meet the requirements of section 484(d)(3)"; and

(B) in paragraph (3), by inserting ", or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary" after "such a degree"; and

(2) by striking paragraph (2) of subsection (b) and inserting the following:

"(2) a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1), admits as regular students individuals—

"(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

"(B) who will be dually or concurrently enrolled in the institution and a secondary school.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2010.

20 USC 1001 note.

**SEC. 102. DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.**

(a) INTERNATIONAL MEDICAL SCHOOLS AND NURSING SCHOOLS.—Section 102(a)(2) (20 U.S.C. 1002(a)(2)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence of the matter preceding clause (i), by inserting "nursing school," after "graduate medical school,";

(B) in clause (i)—

(i) in the matter preceding subclause (I), by inserting "except as provided in subparagraph (B)(iii)(IV)," before "in the case"; and

(ii) by striking subclause (II) and inserting the following new subclause:

"(II) the institution—

"(aa) has or had a clinical training program that was approved by a State as of January 1, 1992; and

"(bb) continues to operate a clinical training program in at least one State that is approved by that State;";

(C) in clause (ii), by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following:

"(iii) in the case of a nursing school located outside of the United States—

"(I) the nursing school has an agreement with a hospital, or accredited school of nursing (as such terms are defined in section 801 of the Public Health Service Act (42 U.S.C. 296)), located in the United States that requires the students of the nursing school to complete the students' clinical training at such hospital or accredited school of nursing;

"(II) the nursing school has an agreement with an accredited school of nursing located in the United States providing that the students graduating from the nursing school located outside of the United States also receive a degree from the accredited school of nursing located in the United States;

"(III) the nursing school certifies only Federal Stafford Loans under section 428, unsubsidized Federal Stafford Loans under section 428H, or Federal PLUS loans under section 428B for students attending the institution;

"(IV) the nursing school reimburses the Secretary for the cost of any loan defaults for current and former students included in the calculation of the institution's cohort default rate during the previous fiscal year; and

"(V) not less than 75 percent of the individuals who were students or graduates of the nursing school, and who took the National Council Licensure Examination for Registered Nurses in the year preceding the year for which the institution is certifying a Federal Stafford Loan under section 428, an unsubsidized Federal Stafford Loan under section 428H, or a Federal PLUS loan under section 428B, received a passing score on such examination."; and

(2) in subparagraph (B), by adding at the end the following:

"(iii) REPORT.—

"(I) IN GENERAL.—Not later than 1 year after the date of enactment of the Higher Education Opportunity Act, the advisory panel described in clause (i) shall submit a report to the Secretary and to the authorizing committees recommending eligibility criteria for participation in the loan programs under part B of title IV for graduate medical schools that—

"(aa) are located outside of the United States;

"(bb) do not meet the requirements of subparagraph (A)(i); and

"(cc) have a clinical training program approved by a State prior to January 1, 2008.

"(II) RECOMMENDATIONS.—In the report described in subclause (I), the advisory panel's eligibility criteria shall include recommendations

regarding the appropriate levels of performance for graduate medical schools described in such subclause in the following areas:

"(aa) Entrance requirements.

"(bb) Retention and graduation rates.

"(cc) Successful placement of students in United States medical residency programs.

"(dd) Passage rate of students on the United States Medical Licensing Examination.

"(ee) The extent to which State medical boards have assessed the quality of such school's program of instruction, including through on-site reviews.

"(ff) The extent to which graduates of such schools would be unable to practice medicine in 1 or more States, based on the judgment of a State medical board.

"(gg) Any areas recommended by the Comptroller General of the United States under section 1101 of the Higher Education Opportunity Act.

"(hh) Any additional areas the Secretary may require.

"(III) MINIMUM ELIGIBILITY REQUIREMENT.—In the recommendations described in subclause (II), the criteria described in subparagraph (A)(i)(I)(bb), as amended by section 102(b) of the Higher Education Opportunity Act, shall be a minimum eligibility requirement for a graduate medical school described in subclause (I) to participate in the loan programs under part B of title IV.

"(IV) AUTHORITY.—The Secretary may— Deadlines.

"(aa) not earlier than 180 days after the submission of the report described in subclause (I), issue proposed regulations establishing criteria for the eligibility of graduate medical schools described in such subclause to participate in the loan programs under part B of title IV based on the recommendations of such report; and

"(bb) not earlier than one year after the issuance of proposed regulations under item (aa), issue final regulations establishing such criteria for eligibility.".

(b) PERCENTAGE PASS RATE.—Section 102(a)(2)(A)(i)(I)(bb) (20 U.S.C. 1002(a)(2)(A)(i)(I)(bb)) is amended by striking "60" and inserting "75".

(c) CONFORMING AMENDMENT CONCERNING 90/10 ENFORCEMENT.—Section 102(b)(1) (20 U.S.C. 1002(b)(1)) is amended—

(1) in subparagraph (D), by adding "and" after the semicolon;

(2) in subparagraph (E), by striking "; and" and inserting a period; and

(3) by striking subparagraph (F).

(d) ADDITIONAL INSTITUTIONS.—

(1) AMENDMENT.—Section 102 (20 U.S.C. 1002) is further amended—

(A) in subsection (b)—

(i) by striking paragraph (1)(A) and inserting the following:

"(A)(i) provides an eligible program of training to prepare students for gainful employment in a recognized occupation; or

"(ii)(I) provides a program leading to a baccalaureate degree in liberal arts, and has provided such a program since January 1, 2009; and

"(II) is accredited by a recognized regional accrediting agency or association, and has continuously held such accreditation since October 1, 2007, or earlier;"; and

(ii) by striking paragraph (2) and inserting the following:

"(2) ADDITIONAL INSTITUTIONS.—The term 'proprietary institution of higher education' also includes a proprietary educational institution in any State that, in lieu of the requirement in section 101(a)(1), admits as regular students individuals—

"(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

"(B) who will be dually or concurrently enrolled in the institution and a secondary school."; and

(B) by striking paragraph (2) of subsection (c) and inserting the following:

"(2) ADDITIONAL INSTITUTIONS.—The term 'postsecondary vocational institution' also includes an educational institution in any State that, in lieu of the requirement in section 101(a)(1), admits as regular students individuals—

"(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

"(B) who will be dually or concurrently enrolled in the institution and a secondary school.".

20 USC 1002 note.

(2) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (1)(A)(i) to section 102(b)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1)(A)) shall be construed to negate or supercede any State laws governing proprietary institutions of higher education.

20 USC 1002 note.

(e) EFFECTIVE DATE.—The amendments made by subsections (a)(1), (b), and (d) shall take effect on July 1, 2010.

**SEC. 103. ADDITIONAL DEFINITIONS.**

(a) ADDITIONAL DEFINITIONS.—

(1) AMENDMENT.—Section 103 (20 U.S.C. 1003) is amended by adding at the end the following:

"(17) AUTHORIZING COMMITTEES.—The term 'authorizing committees' means the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives.

"(18) CRITICAL FOREIGN LANGUAGE.—Except as otherwise provided, the term 'critical foreign language' means each of the languages contained in the list of critical languages designated by the Secretary in the Federal Register on August 2, 1985 (50 Fed. Reg. 31412; promulgated under the authority of section 212(d) of the Education for Economic Security Act (repealed by section 2303 of the Augustus F. Hawkins-Robert

T. Stafford Elementary and Secondary School Improvement Amendments of 1988)), as updated by the Secretary from time to time and published in the Federal Register, except that in the implementation of this definition with respect to a specific title, the Secretary may set priorities according to the purposes of such title and the national security, economic competitiveness, and educational needs of the United States.

"(19) DISTANCE EDUCATION.—

"(A) IN GENERAL.—Except as otherwise provided, the term 'distance education' means education that uses one or more of the technologies described in subparagraph (B)—

"(i) to deliver instruction to students who are separated from the instructor; and

"(ii) to support regular and substantive interaction between the students and the instructor, synchronously or asynchronously.

"(B) INCLUSIONS.—For the purposes of subparagraph (A), the technologies used may include—

"(i) the Internet;

"(ii) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

"(iii) audio conferencing; or

"(iv) video cassettes, DVDs, and CD–ROMs, if the cassettes, DVDs, or CD–ROMs are used in a course in conjunction with any of the technologies listed in clauses (i) through (iii).

"(20) DIPLOMA MILL.—The term 'diploma mill' means an entity that—

"(A)(i) offers, for a fee, degrees, diplomas, or certificates, that may be used to represent to the general public that the individual possessing such a degree, diploma, or certificate has completed a program of postsecondary education or training; and

"(ii) requires such individual to complete little or no education or coursework to obtain such degree, diploma, or certificate; and

"(B) lacks accreditation by an accrediting agency or association that is recognized as an accrediting agency or association of institutions of higher education (as such term is defined in section 102) by—

"(i) the Secretary pursuant to subpart 2 of part H of title IV; or

"(ii) a Federal agency, State government, or other organization or association that recognizes accrediting agencies or associations.

"(21) EARLY CHILDHOOD EDUCATION PROGRAM.—The term 'early childhood education program' means—

"(A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including a migrant or seasonal Head Start program, an Indian Head Start program, or a Head Start program or an Early Head Start program that also receives State funding;

"(B) a State licensed or regulated child care program; or

"(C) a program that—

"(i) serves children from birth through age six that addresses the children's cognitive (including language, early literacy, and early mathematics), social, emotional, and physical development; and

"(ii) is—

"(I) a State prekindergarten program;

"(II) a program authorized under section 619 or part C of the Individuals with Disabilities Education Act; or

"(III) a program operated by a local educational agency.

"(22) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

"(23) UNIVERSAL DESIGN.—The term 'universal design' has the meaning given the term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

"(24) UNIVERSAL DESIGN FOR LEARNING.—The term 'universal design for learning' means a scientifically valid framework for guiding educational practice that—

"(A) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and

"(B) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.".

(2) REDESIGNATION AND REORDERING OF DEFINITIONS.—Section 103 (as amended by paragraph (1)) (20 U.S.C. 1003) is further amended by reordering paragraphs (1) through (16) and the paragraphs added by paragraph (1) of this subsection in alphabetical order based on the headings of such paragraphs, and renumbering such paragraphs as so reordered.

(b) CONFORMING AMENDMENTS.—The Act (20 U.S.C. 1001 et seq.) is amended—

(1) in section 131(a)(3)(B) (20 U.S.C. 1015(a)(3)(B)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees";

(2) in section 141(d)(4)(B) (20 U.S.C. 1018(d)(4)(B)), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(3) in section 401(f)(3) (20 U.S.C. 1070a(f)(3)), by striking "to the Committee on Appropriations" and all that follows through "House of Representatives" and inserting "to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the authorizing committees";

(4) in section 428 (20 U.S.C. 1078)—

(A) in subsection (c)(9)(K), by striking "House Committee on Education and the Workforce and the Senate Committee on Labor and Human Resources" and inserting "authorizing committees";

(B) in the matter following paragraph (2) of subsection (g), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees";

(C) in subsection (j)(9)(A) (as added by section 5(a) of the Ensuring Continued Access to Student Loans Act of 2008), by striking "Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives" each place the term appears and inserting "authorizing committees"; and

(D) in subsection (n)(4), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(5) in section 428A(c) (20 U.S.C. 1078–1(c))—

(A) in the matter preceding subparagraph (A) of paragraph (2), by striking "Chairperson" and all that follows through "House of Representatives" and inserting "members of the authorizing committees";

(B) in paragraph (3), by striking "Chairperson" and all that follows through "House of Representatives" and inserting "members of the authorizing committees"; and

(C) in paragraph (5), by striking "Chairperson" and all that follows through "House of Representatives" and inserting "members of the authorizing committees";

(6) in section 432 (20 U.S.C. 1082)—

(A) in subsection (f)(1)(C), by striking "the Committee on Education and the Workforce of the House of Representatives or the Committee on Labor and Human Resources of the Senate" and inserting "either of the authorizing committees"; and

(B) in the matter following subparagraph (D) of subsection (n)(3), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(7) in section 437(c)(1) (20 U.S.C. 1087(c)(1)), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(8) in section 455(b)(8)(B) (20 U.S.C. 1087e(b)(8)(B)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees";

(9) in section 482(d) (20 U.S.C. 1089(d)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives" and inserting "authorizing committees";

(10) in section 483(c) (20 U.S.C. 1090(c)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees";

(11) in section 485(f)(5)(A) (20 U.S.C. 1092(f)(5)(A)), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(12) in section 486(e) (20 U.S.C. 1093(e)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees"; and

(13) in section 487A(a)(5) (20 U.S.C. 1094a(a)(5)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees".

**SEC. 104. PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS.**

Section 112 (20 U.S.C. 1011a) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" before "It is the sense"; and

(B) by adding at the end the following:

"(2) It is the sense of Congress that—

"(A) the diversity of institutions and educational missions is one of the key strengths of American higher education;

"(B) individual institutions of higher education have different missions and each institution should design its academic program in accordance with its educational goals;

"(C) an institution of higher education should facilitate the free and open exchange of ideas;

"(D) students should not be intimidated, harassed, discouraged from speaking out, or discriminated against;

"(E) students should be treated equally and fairly; and

"(F) nothing in this paragraph shall be construed to modify, change, or infringe upon any constitutionally protected religious liberty, freedom, expression, or association."; and

(2) in subsection (b)(1), by inserting ", provided that the imposition of such sanction is done objectively and fairly" after "higher education".

**SEC. 105. TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.**

Section 113 (20 U.S.C. 1011b) is amended—

(1) by striking "**TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE**" in the heading of such section and inserting "**TERRITORIAL WAIVER AUTHORITY**";

(2) by striking "(a) WAIVER AUTHORITY.—"; and

(3) by striking subsection (b).

**SEC. 106. NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.**

(a) AMENDMENT.—Section 114 (20 U.S.C. 1011c) is amended to read as follows:

**"SEC. 114. NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.**

"(a) ESTABLISHMENT.—There is established in the Department a National Advisory Committee on Institutional Quality and Integrity (in this section referred to as the 'Committee') to assess the process of accreditation and the institutional eligibility and certification of institutions of higher education (as defined in section 102) under title IV.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Committee shall have 18 members, of which—

"(A) six members shall be appointed by the Secretary;

"(B) six members shall be appointed by the Speaker of the House of Representatives, three of whom shall be appointed on the recommendation of the majority leader of the House of Representatives, and three of whom shall be appointed on the recommendation of the minority leader of the House of Representatives; and

"(C) six members shall be appointed by the President pro tempore of the Senate, three of whom shall be appointed on the recommendation of the majority leader of the Senate, and three of whom shall be appointed on the recommendation of the minority leader of the Senate.

"(2) QUALIFICATIONS.—Individuals shall be appointed as members of the Committee—

"(A) on the basis of the individuals' experience, integrity, impartiality, and good judgment;

"(B) from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, representing all sectors and types of institutions of higher education (as defined in section 102); and

"(C) on the basis of the individuals' technical qualifications, professional standing, and demonstrated knowledge in the fields of accreditation and administration in higher education.

"(3) TERMS OF MEMBERS.—Except as provided in paragraph (5), the term of office of each member of the Committee shall be for six years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

Deadlines.

"(4) VACANCY.—A vacancy on the Committee shall be filled in the same manner as the original appointment was made not later than 90 days after the vacancy occurs. If a vacancy occurs in a position to be filled by the Secretary, the Secretary shall publish a Federal Register notice soliciting nominations for the position not later than 30 days after being notified of the vacancy.

Federal Register, publication. Notice.

"(5) INITIAL TERMS.—The terms of office for the initial members of the Committee shall be—

"(A) three years for members appointed under paragraph (1)(A);

"(B) four years for members appointed under paragraph (1)(B); and

"(C) six years for members appointed under paragraph (1)(C).

"(6) CHAIRPERSON.—The members of the Committee shall select a chairperson from among the members.

"(c) FUNCTIONS.—The Committee shall—

"(1) advise the Secretary with respect to establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part H of title IV;

"(2) advise the Secretary with respect to the recognition of a specific accrediting agency or association;

"(3) advise the Secretary with respect to the preparation and publication of the list of nationally recognized accrediting agencies and associations;

"(4) advise the Secretary with respect to the eligibility and certification process for institutions of higher education under title IV, together with recommendations for improvements in such process;

"(5) advise the Secretary with respect to the relationship between—

"(A) accreditation of institutions of higher education and the certification and eligibility of such institutions; and

"(B) State licensing responsibilities with respect to such institutions; and

"(6) carry out such other advisory functions relating to accreditation and institutional eligibility as the Secretary may prescribe by regulation.

"(d) MEETING PROCEDURES.—

"(1) SCHEDULE.—

"(A) BIANNUAL MEETINGS.—The Committee shall meet not less often than twice each year, at the call of the Chairperson.

Federal Register, publication. Deadline.

"(B) PUBLICATION OF DATE.—The Committee shall submit the date and location of each meeting in advance to the Secretary, and the Secretary shall publish such information in the Federal Register not later than 30 days before the meeting.

"(2) AGENDA.—

"(A) ESTABLISHMENT.—The agenda for a meeting of the Committee shall be established by the Chairperson and shall be submitted to the members of the Committee upon notification of the meeting.

"(B) OPPORTUNITY FOR PUBLIC COMMENT.—The agenda shall include, at a minimum, opportunity for public comment during the Committee's deliberations.

"(3) SECRETARY'S DESIGNEE.—The Secretary shall designate an employee of the Department to serve as the Secretary's designee to the Committee, and the Chairperson shall invite the Secretary's designee to attend all meetings of the Committee.

"(4) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee, except that section 14 of such Act shall not apply.

"(e) REPORT AND NOTICE.—

Federal Register, publication.

"(1) NOTICE.—The Secretary shall annually publish in the Federal Register—

"(A) a list containing, for each member of the Committee—

"(i) the member's name;

"(ii) the date of the expiration of the member's term of office; and

"(iii) the name of the individual described in subsection (b)(1) who appointed the member; and

"(B) a solicitation of nominations for each expiring term of office on the Committee of a member appointed by the Secretary.

"(2) REPORT.—Not later than the last day of each fiscal year, the Committee shall make available an annual report to the Secretary, the authorizing committees, and the public. The annual report shall contain— Public information.

"(A) a detailed summary of the agenda and activities of, and the findings and recommendations made by, the Committee during the fiscal year preceding the fiscal year in which the report is made;

"(B) a list of the date and location of each meeting during the fiscal year preceding the fiscal year in which the report is made;

"(C) a list of the members of the Committee; and

"(D) a list of the functions of the Committee, including any additional functions established by the Secretary through regulation.

"(f) TERMINATION.—The Committee shall terminate on September 30, 2014.".

(b) TRANSITION.—Notwithstanding section 114 of the Higher Education Act of 1965 (20 U.S.C. 1011c) (as in effect before, during, and after the date of enactment of this Act)— 20 USC 1011c note.

(1) the term of each member appointed to the National Advisory Committee on Institutional Quality and Integrity before the date of enactment of this Act shall expire on the date of enactment of this Act;

(2) no new members shall be appointed to the National Advisory Committee on Institutional Quality and Integrity during the period beginning on the date of enactment of this Act and ending on January 31, 2009; and

(3) no meeting of the National Advisory Committee on Institutional Quality and Integrity shall be convened during such period.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2009. 20 USC 1011c note.

**SEC. 107. DRUG AND ALCOHOL ABUSE PREVENTION.**

Section 120 (20 U.S.C. 1011i) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) by redesignating subparagraph (B) as subparagraph (D); and

(C) by inserting after subparagraph (A) the following:

"(B) determine the number of drug and alcohol-related violations and fatalities that—

"(i) occur on the institution's campus (as defined in section 485(f)(6)), or as part of any of the institution's activities; and

"(ii) are reported to campus officials;

"(C) determine the number and type of sanctions described in paragraph (1)(E) that are imposed by the

institution as a result of drug and alcohol-related violations and fatalities on the institution's campus or as part of any of the institution's activities; and";

(2) in subsection (e)(5), by striking "$5,000,000" and all that follows through the period at the end and inserting "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years."; and

(3) by striking subsection (f).

**SEC. 108. PRIOR RIGHTS AND OBLIGATIONS.**

Section 121(a) (20 U.S.C. 1011j(a)) is amended—

(1) in paragraph (1), by striking "1999 and for each of the 4 succeeding fiscal years" and inserting "2009 and for each succeeding fiscal year"; and

(2) in paragraph (2), by striking "1999 and for each of the 4 succeeding fiscal years" and inserting "2009 and for each succeeding fiscal year".

**SEC. 109. DIPLOMA MILLS.**

Part B of title I (20 U.S.C. 1011 et seq.) is further amended by adding at the end the following:

20 USC 1011*l*.

**"SEC. 123. DIPLOMA MILLS.**

Web site.

"(a) INFORMATION TO THE PUBLIC.—The Secretary shall maintain information and resources on the Department's website to assist students, families, and employers in understanding what a diploma mill is and how to identify and avoid diploma mills.

"(b) COLLABORATION.—The Secretary shall continue to collaborate with the United States Postal Service, the Federal Trade Commission, the Department of Justice (including the Federal Bureau of Investigation), the Internal Revenue Service, and the Office of Personnel Management to maximize Federal efforts to—

"(1) prevent, identify, and prosecute diploma mills; and

"(2) broadly disseminate to the public information about diploma mills, and resources to identify diploma mills.".

**SEC. 110. IMPROVED INFORMATION CONCERNING THE FEDERAL STUDENT FINANCIAL AID WEBSITE.**

(a) PROMOTION OF FEDERAL STUDENT FINANCIAL AID WEBSITE.—Section 131 (20 U.S.C. 1015) is amended by striking subsection (d) and inserting the following:

"(d) PROMOTION OF THE DEPARTMENT OF EDUCATION FEDERAL STUDENT FINANCIAL AID WEBSITE.—The Secretary shall display a link to the Federal student financial aid website of the Department in a prominent place on the homepage of the Department's website.

"(e) ENHANCED STUDENT FINANCIAL AID INFORMATION.—

"(1) IMPLEMENTATION.—The Secretary shall continue to improve the usefulness and accessibility of the information provided by the Department on college planning and student financial aid.

"(2) DISSEMINATION.—The Secretary shall continue to make the availability of the information on the Federal student financial aid website of the Department widely known, through a major media campaign and other forms of communication.

"(3) COORDINATION.—As a part of the efforts required under this subsection, the Secretary shall create one website accessible from the Department's website that fulfills the requirements under subsections (b), (f), and (g).".

(b) IMPROVED INFORMATION CONCERNING FINANCIAL AID FOR MILITARY MEMBERS AND VETERANS.—Section 131 (as amended by subsection (a)) (20 U.S.C. 1015) is further amended by adding at the end the following:

"(f) IMPROVED AVAILABILITY AND COORDINATION OF INFORMATION CONCERNING STUDENT FINANCIAL AID PROGRAMS FOR MILITARY MEMBERS AND VETERANS.— Web site.

"(1) COORDINATION.—The Secretary, in coordination with the Secretary of Defense and the Secretary of Veterans Affairs, shall create a searchable website that—

"(A) contains information, in simple and understandable terms, about all Federal and State student financial assistance, readmission requirements under section 484C, and other student services, for which members of the Armed Forces (including members of the National Guard and Reserves), veterans, and the dependents of such members or veterans may be eligible; and

"(B) is easily accessible through the website described in subsection (e)(3).

"(2) IMPLEMENTATION.—Not later than one year after the date of enactment of the Higher Education Opportunity Act, the Secretary shall make publicly available the Armed Forces information website described in paragraph (1). Deadline.

"(3) DISSEMINATION.—The Secretary, in coordination with the Secretary of Defense and the Secretary of Veterans Affairs, shall make the availability of the Armed Forces information website described in paragraph (1) widely known to members of the Armed Forces (including members of the National Guard and Reserves), veterans, the dependents of such members or veterans, States, institutions of higher education, and the general public.

"(4) DEFINITION.—In this subsection, the term 'Federal and State student financial assistance' means any grant, loan, work assistance, tuition assistance, scholarship, fellowship, or other form of financial aid for pursuing a postsecondary education that is—

"(A) administered, sponsored, or supported by the Department of Education, the Department of Defense, the Department of Veterans Affairs, or a State; and

"(B) available to members of the Armed Forces (including members of the National Guard and Reserves), veterans, or the dependents of such members or veterans.

"(g) PROMOTION OF AVAILABILITY OF INFORMATION CONCERNING OTHER STUDENT FINANCIAL AID PROGRAMS.—

"(1) DEFINITION.—For purposes of this subsection, the term 'nondepartmental student financial assistance program' means any grant, loan, scholarship, fellowship, or other form of financial aid for students pursuing a postsecondary education that is—

"(A) distributed directly to the student or to the student's account at an institution of higher education; and

"(B) operated, sponsored, or supported by a Federal department or agency other than the Department of Education.

Web site.

"(2) AVAILABILITY OF OTHER STUDENT FINANCIAL AID INFORMATION.—The Secretary shall ensure that—

Deadline.

"(A) not later than 90 days after the Secretary receives the information required under paragraph (3), the eligibility requirements, application procedures, financial terms and conditions, and other relevant information for each nondepartmental student financial assistance program are searchable and accessible through the Federal student financial aid website in a manner that is simple and understandable for students and the students' families; and

"(B) the website displaying the information described in subparagraph (A) includes a link to the National Database on Financial Assistance for the Study of Science, Technology, Engineering, and Mathematics pursuant to paragraph (4), and the information on military benefits under subsection (f), once such Database and information are available.

"(3) NONDEPARTMENTAL STUDENT FINANCIAL ASSISTANCE PROGRAMS.—The Secretary shall request all Federal departments and agencies to provide the information described in paragraph (2)(A), and each Federal department or agency shall—

"(A) promptly respond to surveys or other requests from the Secretary for the information described in such paragraph; and

"(B) identify for the Secretary any nondepartmental student financial assistance program operated, sponsored, or supported by such Federal department or agency.

"(4) NATIONAL STEM DATABASE.—

Web site.

"(A) IN GENERAL.—The Secretary shall establish and maintain, on the website described in subsection (e)(3), a National Database on Financial Assistance for the Study of Science, Technology, Engineering, and Mathematics (in this paragraph referred to as the 'STEM Database'). The STEM Database shall consist of information on scholarships, fellowships, and other programs of Federal, State, local, and, to the maximum extent practicable, private financial assistance available for the study of science, technology, engineering, or mathematics at the postsecondary and postbaccalaureate levels.

"(B) DATABASE CONTENTS.—The information maintained on the STEM Database shall be displayed on the website in the following manner:

"(i) SEPARATE INFORMATION.—The STEM Database shall provide separate information for each of the fields of science, technology, engineering, and mathematics, and for postsecondary and postbaccalaureate programs of financial assistance.

"(ii) INFORMATION ON TARGETED ASSISTANCE.—The STEM Database shall provide specific information on any program of financial assistance that is targeted to individuals based on financial need, merit, or student characteristics.

"(iii) CONTACT AND WEBSITE INFORMATION.—The STEM Database shall provide—

"(I) standard contact information that an interested person may use to contact a sponsor of any program of financial assistance included in the STEM Database; and

"(II) if such sponsor maintains a public website, a link to the website.

"(iv) SEARCH AND MATCH CAPABILITIES.—The STEM Database shall—

"(I) have a search capability that permits an individual to search for information on the basis of each category of the information provided through the STEM Database and on the basis of combinations of categories of the information provided, including—

"(aa) whether the financial assistance is need- or merit-based; and

"(bb) by relevant academic majors; and

"(II) have a match capability that—

"(aa) searches the STEM Database for all financial assistance opportunities for which an individual may be qualified to apply, based on the student characteristics provided by such individual; and

"(bb) provides information to an individual for only those opportunities for which such individual is qualified, based on the student characteristics provided by such individual.

"(v) RECOMMENDATION AND DISCLAIMER.—The STEM Database shall provide, to the users of the STEM Database—

"(I) a recommendation that students and families should carefully review all of the application requirements prior to applying for any aid or program of student financial assistance; and

"(II) a disclaimer that the non-Federal programs of student financial assistance presented in the STEM Database are not provided or endorsed by the Department or the Federal Government.

"(C) COMPILATION OF FINANCIAL ASSISTANCE INFORMATION.—In carrying out this paragraph, the Secretary shall—

"(i) consult with public and private sources of scholarships, fellowships, and other programs of student financial assistance; and

"(ii) make easily available a process for such entities to provide regular and updated information about the scholarships, fellowships, or other programs of student financial assistance.

"(D) CONTRACT AUTHORIZED.—In carrying out the requirements of this paragraph, the Secretary is authorized to enter into a contract with a private entity with demonstrated expertise in creating and maintaining databases such as the one required under this paragraph, under which contract the entity shall furnish, and regularly

update, all of the information required to be maintained on the STEM Database.

"(5) DISSEMINATION OF INFORMATION.—The Secretary shall take such actions, on an ongoing basis, as may be necessary to disseminate information under this subsection and to encourage the use of the information by interested parties, including sending notices to secondary schools and institutions of higher education.".

(c) NO USER FEES FOR DEPARTMENT FINANCIAL AID WEBSITES.—Section 131 (as amended by subsection (b)) (20 U.S.C. 1015) is further amended by adding at the end the following:

"(h) NO USER FEES FOR DEPARTMENT FINANCIAL AID WEBSITES.—No fee shall be charged to any individual to access—

"(1) a database or website of the Department that provides information about higher education programs or student financial assistance, including the College Navigator website (or successor website) and the websites and databases described in this section and section 132; or

"(2) information about higher education programs or student financial assistance available through a database or website of the Department.".

**SEC. 111. TRANSPARENCY IN COLLEGE TUITION FOR CONSUMERS.**

Part C of title I (20 U.S.C. 1015) is amended by adding at the end the following:

20 USC 1015a.

**"SEC. 132. TRANSPARENCY IN COLLEGE TUITION FOR CONSUMERS.**

"(a) DEFINITIONS.—In this section:

"(1) COLLEGE NAVIGATOR WEBSITE.—The term 'College Navigator website' means the College Navigator website operated by the Department and includes any successor website.

"(2) COST OF ATTENDANCE.—The term 'cost of attendance' means the average annual cost of tuition and fees, room and board, books, supplies, and transportation for an institution of higher education for a first-time, full-time undergraduate student enrolled in the institution.

"(3) NET PRICE.—The term 'net price' means the average yearly price actually charged to first-time, full-time undergraduate students receiving student aid at an institution of higher education after deducting such aid, which shall be determined by calculating the difference between—

"(A) the institution's cost of attendance for the year for which the determination is made; and

"(B) the quotient of—

"(i) the total amount of need-based grant aid and merit-based grant aid, from Federal, State, and institutional sources, provided to such students enrolled in the institution for such year; and

"(ii) the total number of such students receiving such need-based grant aid or merit-based grant aid for such year.

"(4) TUITION AND FEES.—The term 'tuition and fees' means the average annual cost of tuition and fees for an institution of higher education for first-time, full-time undergraduate students enrolled in the institution.

"(b) CALCULATIONS FOR PUBLIC INSTITUTIONS.—In making the calculations regarding cost of attendance, net price, and tuition and fees under this section with respect to a public institution

of higher education, the Secretary shall calculate the cost of attendance, net price, and tuition and fees at such institution in the manner described in subsection (a), except that—

"(1) the cost of attendance, net price, and tuition and fees shall be calculated for first-time, full-time undergraduate students enrolled in the institution who are residents of the State in which such institution is located; and

"(2) in determining the net price, the average need-based grant aid and merit-based grant aid described in subsection (a)(3)(B) shall be calculated based on the average total amount of such aid received by first-time, full-time undergraduate students who are residents of the State in which such institution is located, divided by the total number of such resident students receiving such need-based grant aid or merit-based grant aid at such institution.

"(c) COLLEGE AFFORDABILITY AND TRANSPARENCY LISTS.—

"(1) AVAILABILITY OF LISTS.—Beginning July 1, 2011, the Secretary shall make publicly available on the College Navigator website, in a manner that is sortable and searchable by State, the following: Effective date. Public information. Web site.

"(A) A list of the five percent of institutions in each category described in subsection (d) that have the highest tuition and fees for the most recent academic year for which data are available.

"(B) A list of the five percent of institutions in each such category that have the highest net price for the most recent academic year for which data are available.

"(C) A list of the five percent of institutions in each such category that have the largest increase, expressed as a percentage change, in tuition and fees over the most recent three academic years for which data are available, using the first academic year of the three-year period as the base year to compute such percentage change.

"(D) A list of the five percent of institutions in each such category that have the largest increase, expressed as a percentage change, in net price over the most recent three academic years for which data are available, using the first academic year of the three-year period as the base year to compute such percentage change.

"(E) A list of the ten percent of institutions in each such category that have the lowest tuition and fees for the most recent academic year for which data are available.

"(F) A list of the ten percent of institutions in each such category that have the lowest net price for the most recent academic year for which data are available.

"(2) ANNUAL UPDATES.—The Secretary shall annually update the lists described in paragraph (1) on the College Navigator website.

"(d) CATEGORIES OF INSTITUTIONS.—The lists described in subsection (c)(1) shall be compiled according to the following categories of institutions that participate in programs under title IV:

"(1) Four-year public institutions of higher education.

"(2) Four-year private, nonprofit institutions of higher education.

"(3) Four-year private, for-profit institutions of higher education.

"(4) Two-year public institutions of higher education.

"(5) Two-year private, nonprofit institutions of higher education.

"(6) Two-year private, for-profit institutions of higher education.

"(7) Less than two-year public institutions of higher education.

"(8) Less than two-year private, nonprofit institutions of higher education.

"(9) Less than two-year private, for-profit institutions of higher education.

"(e) REPORTS BY INSTITUTIONS.—

"(1) REPORT TO SECRETARY.—If an institution of higher education is included on a list described in subparagraph (C) or (D) of subsection (c)(1), the institution shall submit to the Secretary a report containing the following information:

"(A) A description of the major areas in the institution's budget with the greatest cost increases.

"(B) An explanation of the cost increases described in subparagraph (A).

"(C) A description of the steps the institution will take toward the goal of reducing costs in the areas described in subparagraph (A).

"(D) In the case of an institution that is included on the same list under subparagraph (C) or (D) of subsection (c)(1) for two or more consecutive years, a description of the progress made on the steps described in subparagraph (C) of this paragraph that were included in the institution's report for the previous year.

"(E) If the determination of any cost increase described in subparagraph (A) is not within the exclusive control of the institution—

"(i) an explanation of the extent to which the institution participates in determining such cost increase;

"(ii) the identification of the agency or instrumentality of State government responsible for determining such cost increase; and

"(iii) any other information the institution considers relevant to the report.

"(2) INFORMATION TO THE PUBLIC.—The Secretary shall—

"(A) issue an annual report that summarizes all of the reports by institutions required under paragraph (1) to the authorizing committees; and

"(B) publish such report on the College Navigator website.

"(f) EXEMPTIONS.—

"(1) IN GENERAL.—An institution shall not be placed on a list described in subparagraph (C) or (D) of subsection (c)(1), and shall not be subject to the reporting required under subsection (e), if the dollar amount of the institution's increase in tuition and fees, or net price, as applicable, is less than $600 for the three-year period described in such subparagraph.

Effective date. Deadline.

"(2) UPDATE.—Beginning in 2014, and every three years thereafter, the Secretary shall update the dollar amount described in paragraph (1) based on annual increases in inflation, using the Consumer Price Index for each of the three most recent preceding years.

"(g) STATE HIGHER EDUCATION SPENDING CHART.—The Secretary shall annually report on the College Navigator website, in charts for each State, comparisons of— Reports. Web site.

"(1) the percentage change in spending by such State per full-time equivalent student at all public institutions of higher education in such State, for each of the five most recent preceding academic years;

"(2) the percentage change in tuition and fees for such students for all public institutions of higher education in such State for each of the five most recent preceding academic years; and

"(3) the percentage change in the total amount of need-based aid and merit-based aid provided by such State to full-time students enrolled in the public institutions of higher education in the State for each of the five most recent preceding academic years.

"(h) NET PRICE CALCULATOR.—

"(1) DEVELOPMENT OF NET PRICE CALCULATOR.—Not later than one year after the date of enactment of the Higher Education Opportunity Act, the Secretary shall, in consultation with institutions of higher education and other appropriate experts, develop a net price calculator to help current and prospective students, families, and other consumers estimate the individual net price of an institution of higher education for a student. The calculator shall be developed in a manner that enables current and prospective students, families, and consumers to determine an estimate of a current or prospective student's individual net price at a particular institution. Deadline.

"(2) CALCULATION OF INDIVIDUAL NET PRICE.—For purposes of this subsection, an individual net price of an institution of higher education shall be calculated in the same manner as the net price of such institution is calculated under subsection (a)(3), except that the cost of attendance and the amount of need-based and merit-based aid available shall be calculated for the individual student as much as practicable.

"(3) USE OF NET PRICE CALCULATOR BY INSTITUTIONS.—Not later than two years after the date on which the Secretary makes the calculator developed under paragraph (1) available to institutions of higher education, each institution of higher education that receives Federal funds under title IV shall make publicly available on the institution's website a net price calculator to help current and prospective students, families, and other consumers estimate a student's individual net price at such institution of higher education. Such calculator may be a net price calculator developed— Deadline. Web site.

"(A) by the Department pursuant to paragraph (1); or

"(B) by the institution of higher education, if the institution's calculator includes, at a minimum, the same data elements included in the calculator developed under paragraph (1).

"(4) DISCLAIMER.—Estimates of an individual net price determined using a net price calculator required under paragraph (3) shall be accompanied by a clear and conspicuous notice—

"(A) stating that the estimate—

"(i) does not represent a final determination, or actual award, of financial assistance;

"(ii) shall not be binding on the Secretary, the institution of higher education, or the State; and

"(iii) may change;

"(B) stating that the student must complete the Free Application for Federal Student Aid described in section 483 in order to be eligible for, and receive, an actual financial aid award that includes Federal grant, loan, or work-study assistance under title IV; and

"(C) including a link to the website of the Department that allows students to access the Free Application for Federal Student Aid described in section 483.

"(i) CONSUMER INFORMATION.—

Deadline. Public information. Web site.

"(1) AVAILABILITY OF TITLE IV INSTITUTION INFORMATION.—Not later than one year after the date of enactment of the Higher Education Opportunity Act, the Secretary shall make publicly available on the College Navigator website, in simple and understandable terms, the following information about each institution of higher education that participates in programs under title IV, for the most recent academic year for which satisfactory data are available:

"(A) A statement of the institution's mission.

"(B) The total number of undergraduate students who applied to, were admitted by, and enrolled in the institution.

"(C) For institutions that require SAT or ACT scores to be submitted, the reading, writing, mathematics, and combined scores on the SAT or ACT, as applicable, for the middle 50 percent range of the institution's freshman class.

"(D) The number of first-time, full-time, and part-time students enrolled at the institution, at the undergraduate and (if applicable) graduate levels.

"(E) The number of degree- or certificate-seeking undergraduate students enrolled at the institution who have transferred from another institution.

"(F) The percentages of male and female undergraduate students enrolled at the institution.

"(G) Of the first-time, full-time, degree- or certificate-seeking undergraduate students enrolled at the institution—

"(i) the percentage of such students who are from the State in which the institution is located;

"(ii) the percentage of such students who are from other States; and

"(iii) the percentage of such students who are international students.

"(H) The percentages of first-time, full-time, degree- or certificate-seeking students enrolled at the institution, disaggregated by race and ethnic background.

"(I) The percentage of undergraduate students enrolled at the institution who are formally registered with the office of disability services of the institution (or the equivalent office) as students with disabilities, except that if such percentage is three percent or less, the institution shall report 'three percent or less'.

"(J) The percentages of first-time, full-time, degree- or certificate-seeking undergraduate students enrolled at the institution who obtain a degree or certificate within—

"(i) the normal time for completion of, or graduation from, the student's program;

"(ii) 150 percent of the normal time for completion of, or graduation from, the student's program; and

"(iii) 200 percent of the normal time for completion of, or graduation from, the student's program;

"(K) The number of certificates, associate degrees, baccalaureate degrees, master's degrees, professional degrees, and doctoral degrees awarded by the institution.

"(L) The undergraduate major areas of study at the institution with the highest number of degrees awarded.

"(M) The student-faculty ratio, the number of full-time and part-time faculty, and the number of graduate assistants with primarily instructional responsibilities, at the institution.

"(N)(i) The cost of attendance for first-time, full-time undergraduate students enrolled in the institution who live on campus;

"(ii) the cost of attendance for first-time, full-time undergraduate students enrolled in the institution who live off campus; and

"(iii) in the case of a public institution of higher education and notwithstanding subsection (b)(1), the costs described in clauses (i) and (ii), for—

"(I) first-time, full-time students enrolled in the institution who are residents of the State in which the institution is located; and

"(II) first-time, full-time students enrolled in the institution who are not residents of such State.

"(O) The average annual grant amount (including Federal, State, and institutional aid) awarded to a first-time, full-time undergraduate student enrolled at the institution who receives financial aid.

"(P) The average annual amount of Federal student loans provided through the institution to undergraduate students enrolled at the institution.

"(Q) The total annual grant aid awarded to undergraduate students enrolled at the institution, from the Federal Government, a State, the institution, and other sources known by the institution.

"(R) The percentage of first-time, full-time undergraduate students enrolled at the institution receiving Federal, State, and institutional grants, student loans, and any other type of student financial assistance known by the institution, provided publicly or through the institution, such as Federal work-study funds.

"(S) The number of students enrolled at the institution receiving Federal Pell Grants.

"(T) The institution's cohort default rate, as defined under section 435(m).

"(U) The information on campus safety required to be collected under section 485(i).

"(V) A link to the institution's website that provides, in an easily accessible manner, the following information:

"(i) Student activities offered by the institution.

"(ii) Services offered by the institution for individuals with disabilities.

"(iii) Career and placement services offered by the institution to students during and after enrollment.

"(iv) Policies of the institution related to transfer of credit from other institutions.

"(W) A link to the appropriate section of the Bureau of Labor Statistics website that provides information on regional data on starting salaries in all major occupations.

"(X) Information required to be submitted under paragraph (4) and a link to the institution pricing summary page described in paragraph (5).

"(Y) In the case of an institution that was required to submit a report under subsection (e)(1), a link to such report.

"(Z) The availability of alternative tuition plans, which may include guaranteed tuition plans.

Web site.

"(2) ANNUAL UPDATES.—The Secretary shall annually update the information described in paragraph (1) on the College Navigator website.

"(3) CONSULTATION.—The Secretary shall regularly consult with current and prospective college students, family members of such students, institutions of higher education, and other experts to improve the usefulness and relevance of the College Navigator website, with respect to the presentation of the consumer information collected in paragraph (1).

"(4) DATA COLLECTION.—The Commissioner for Education Statistics shall continue to update and improve the Integrated Postsecondary Education Data System (referred to in this section as 'IPEDS'), including the reporting of information by institutions and the timeliness of the data collected.

"(5) INSTITUTION PRICING SUMMARY PAGE.—

Web site.

"(A) AVAILABILITY OF LIST OF PARTICIPATING INSTITUTIONS.—The Secretary shall make publicly available on the College Navigator website in a sortable and searchable format a list of all institutions of higher education that participate in programs under title IV, which list shall, for each institution, include the following:

"(i) The tuition and fees for each of the three most recent academic years for which data are available.

"(ii) The net price for each of the three most recent available academic years for which data are available.

Time period.

"(iii)(I) During the period beginning July 1, 2010, and ending June 30, 2013, the net price for students receiving Federal student financial aid under title IV, disaggregated by the income categories described in paragraph (6), for the most recent academic year for which data are available.

Effective date.

"(II) Beginning July 1, 2013, the net price for students receiving Federal student financial aid under title IV, disaggregated by the income categories described in paragraph (6), for each of the three most recent academic years for which data are available.

"(iv) The average annual percentage change and average annual dollar change in such institution's tuition and fees for each of the three most recent academic years for which data are available.

"(v) The average annual percentage change and average annual dollar change in such institution's net price for each of the three most recent preceding academic years for which data are available.

"(vi) A link to the webpage on the College Navigator website that provides the information described in paragraph (1) for the institution.

"(B) ANNUAL UPDATES.—The Secretary shall annually update the lists described in subparagraph (A) on the College Navigator website. Web site.

"(6) INCOME CATEGORIES.—

"(A) IN GENERAL.—For purposes of reporting the information required under this subsection, the following income categories shall apply for students who receive Federal student financial aid under title IV: Applicability.

"(i) $0–30,000.

"(ii) $30,001–48,000.

"(iii) $48,001–75,000.

"(iv) $75,001–110,000.

"(v) $110,001 and more.

"(B) ADJUSTMENT.—The Secretary may adjust the income categories listed in subparagraph (A) using the Consumer Price Index if the Secretary determines such adjustment is necessary.

"(j) MULTI-YEAR TUITION CALCULATOR.—

"(1) DEVELOPMENT OF MULTI-YEAR TUITION CALCULATOR.—Not later than one year after the date of enactment of the Higher Education Opportunity Act, the Secretary shall, in consultation with institutions of higher education, financial planners, and other appropriate experts, develop a multi-year tuition calculator to help current and prospective students, families of such students, and other consumers estimate the amount of tuition an individual may pay to attend an institution of higher education in future years. Deadline.

"(2) CALCULATION OF MULTI-YEAR TUITION.—The multi-year tuition calculator described in paragraph (1) shall—

"(A) allow an individual to select an institution of higher education for which the calculation shall be made;

"(B) calculate an estimate of tuition and fees for each year of the normal duration of the program of study at such institution by—

"(i) using the tuition and fees for such institution, as reported under subsection (i)(5)(A)(i), for the most recent academic year for which such data are reported; and

"(ii) determining an estimated annual percentage change for each year for which the calculation is made, based on the annual percentage change in such institution's tuition and fees, as reported under subsection (i)(5)(A)(iv), for the most recent three-year period for which such data are reported;

"(C) calculate an estimate of the total amount of tuition and fees to complete a program of study at such institution,

based on the normal duration of such program, using the estimate calculated under subparagraph (B) for each year of the program of study;

"(D) provide the individual with the option to replace the estimated annual percentage change described in subparagraph (B)(ii) with an alternative annual percentage change specified by the individual, and calculate an estimate of tuition and fees for each year and an estimate of the total amount of tuition and fees using the alternative percentage change;

"(E) in the case of an institution that offers a multi-year tuition guarantee program, allow the individual to have the estimates of tuition and fees described in subparagraphs (B) and (C) calculated based on the provisions of such guarantee program for the tuition and fees charged to a student, or cohort of students, enrolled for the duration of the program of study; and

"(F) include any other features or information determined to be appropriate by the Secretary.

Web site.

"(3) AVAILABILITY AND COMPARISON.—The multi-year tuition calculator described in paragraph (1) shall be available on the College Navigator website and shall allow current and prospective students, families of such students, and consumers to compare information and estimates under this subsection for multiple institutions of higher education.

"(4) DISCLAIMER.—Each calculation of estimated tuition and fees made using the multi-year tuition calculator described in paragraph (1) shall be accompanied by a clear and conspicuous notice—

"(A) stating that the calculation—

"(i) is only an estimate and not a guarantee of the actual amount the student may be charged;

"(ii) is not binding on the Secretary, the institution of higher education, or the State; and

"(iii) may change, subject to the availability of financial assistance, State appropriations, and other factors;

"(B) stating that the student must complete the Free Application for Federal Student Aid described in section 483 in order to be eligible for, and receive, an actual financial aid award that includes Federal grant, loan, or work-study assistance under title IV; and

"(C) including a link to the website of the Department that allows students to access the Free Application for Federal Student Aid described in section 483.

"(k) STUDENT AID RECIPIENT SURVEY.—

"(1) SURVEY REQUIRED.—The Secretary, acting through the Commissioner for Education Statistics, shall conduct, on a State-by-State basis, a survey of recipients of Federal student financial aid under title IV—

"(A) to identify the population of students receiving such Federal student financial aid;

"(B) to describe the income distribution and other socioeconomic characteristics of recipients of such Federal student financial aid;

"(C) to describe the combinations of aid from Federal, State, and private sources received by such recipients from all income categories;

"(D) to describe the—

"(i) debt burden of such loan recipients, and their capacity to repay their education debts; and

"(ii) the impact of such debt burden on the recipients' course of study and post-graduation plans;

"(E) to describe the impact of the cost of attendance of postsecondary education in the determination by students of what institution of higher education to attend; and

"(F) to describe how the costs of textbooks and other instructional materials affect the costs of postsecondary education for students.

"(2) FREQUENCY.—The survey shall be conducted on a regular cycle and not less often than once every four years.

"(3) SURVEY DESIGN.—The survey shall be representative of students from all types of institutions, including full-time and part-time students, undergraduate, graduate, and professional students, and current and former students.

"(4) DISSEMINATION.—The Commissioner for Education Statistics shall disseminate to the public, in printed and electronic form, the information resulting from the survey. Public information.

"(l) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out this section.".

**SEC. 112. TEXTBOOK INFORMATION.**

(a) AMENDMENT.—Part C of title I (20 U.S.C. 1015) is further amended by adding after section 132 (as added by section 111 of this Act) the following new section:

**"SEC. 133. TEXTBOOK INFORMATION.** 20 USC 1015b.

"(a) PURPOSE AND INTENT.—The purpose of this section is to ensure that students have access to affordable course materials by decreasing costs to students and enhancing transparency and disclosure with respect to the selection, purchase, sale, and use of course materials. It is the intent of this section to encourage all of the involved parties, including faculty, students, administrators, institutions of higher education, bookstores, distributors, and publishers, to work together to identify ways to decrease the cost of college textbooks and supplemental materials for students while supporting the academic freedom of faculty members to select high quality course materials for students.

"(b) DEFINITIONS.—In this section:

"(1) BUNDLE.—The term 'bundle' means one or more college textbooks or other supplemental materials that may be packaged together to be sold as course materials for one price.

"(2) COLLEGE TEXTBOOK.—The term 'college textbook' means a textbook or a set of textbooks, used for, or in conjunction with, a course in postsecondary education at an institution of higher education.

"(3) COURSE SCHEDULE.—The term 'course schedule' means a listing of the courses or classes offered by an institution of higher education for an academic period, as defined by the institution.

"(4) CUSTOM TEXTBOOK.—The term 'custom textbook'—

"(A) means a college textbook that is compiled by a publisher at the direction of a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education; and

"(B) may include, alone or in combination, items such as selections from original instructor materials, previously copyrighted publisher materials, copyrighted third-party works, and elements unique to a specific institution, such as commemorative editions.

"(5) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 102.

"(6) INTEGRATED TEXTBOOK.—The term 'integrated textbook' means a college textbook that is—

"(A) combined with materials developed by a third party and that, by third-party contractual agreement, may not be offered by publishers separately from the college textbook with which the materials are combined; or

"(B) combined with other materials that are so interrelated with the content of the college textbook that the separation of the college textbook from the other materials would render the college textbook unusable for its intended purpose.

"(7) PUBLISHER.—The term 'publisher' means a publisher of college textbooks or supplemental materials involved in or affecting interstate commerce.

"(8) SUBSTANTIAL CONTENT.—The term 'substantial content' means parts of a college textbook such as new chapters, new material covering additional eras of time, new themes, or new subject matter.

"(9) SUPPLEMENTAL MATERIAL.—The term 'supplemental material' means educational material developed to accompany a college textbook that—

"(A) may include printed materials, computer disks, website access, and electronically distributed materials; and

"(B) is not being used as a component of an integrated textbook.

"(c) PUBLISHER REQUIREMENTS.—

"(1) COLLEGE TEXTBOOK PRICING INFORMATION.—When a publisher provides a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education receiving Federal financial assistance with information regarding a college textbook or supplemental material, the publisher shall include, with any such information and in writing (which may include electronic communications), the following:

"(A) The price at which the publisher would make the college textbook or supplemental material available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes the college textbook or supplemental material available to the public.

"(B) The copyright dates of the three previous editions of such college textbook, if any.

"(C) A description of the substantial content revisions made between the current edition of the college textbook or supplemental material and the previous edition, if any.

"(D)(i) Whether the college textbook or supplemental material is available in any other format, including paperback and unbound; and

"(ii) for each other format of the college textbook or supplemental material, the price at which the publisher would make the college textbook or supplemental material in the other format available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes such other format of the college textbook or supplemental material available to the public.

"(2) UNBUNDLING OF COLLEGE TEXTBOOKS FROM SUPPLEMENTAL MATERIALS.—A publisher that sells a college textbook and any supplemental material accompanying such college textbook as a single bundle shall also make available the college textbook and each supplemental material as separate and unbundled items, each separately priced.

"(3) CUSTOM TEXTBOOKS.—To the maximum extent practicable, a publisher shall provide the information required under this subsection with respect to the development and provision of custom textbooks.

"(d) PROVISION OF ISBN COLLEGE TEXTBOOK INFORMATION IN COURSE SCHEDULES.—To the maximum extent practicable, each institution of higher education receiving Federal financial assistance shall—

"(1) disclose, on the institution's Internet course schedule and in a manner of the institution's choosing, the International Standard Book Number and retail price information of required and recommended college textbooks and supplemental materials for each course listed in the institution's course schedule used for preregistration and registration purposes, except that— Web site.

"(A) if the International Standard Book Number is not available for such college textbook or supplemental material, then the institution shall include in the Internet course schedule the author, title, publisher, and copyright date for such college textbook or supplemental material; and

"(B) if the institution determines that the disclosure of the information described in this subsection is not practicable for a college textbook or supplemental material, then the institution shall so indicate by placing the designation 'To Be Determined' in lieu of the information required under this subsection; and

"(2) if applicable, include on the institution's written course schedule a notice that textbook information is available on the institution's Internet course schedule, and the Internet address for such schedule.

"(e) AVAILABILITY OF INFORMATION FOR COLLEGE BOOKSTORES.—An institution of higher education receiving Federal financial assistance shall make available to a college bookstore that is operated by, or in a contractual relationship or otherwise affiliated with, the institution, as soon as is practicable upon the request of such college bookstore, the most accurate information available regarding—

"(1) the institution's course schedule for the subsequent academic period; and

"(2) for each course or class offered by the institution for the subsequent academic period—

"(A) the information required by subsection (d)(1) for each college textbook or supplemental material required or recommended for such course or class;

"(B) the number of students enrolled in such course or class; and

"(C) the maximum student enrollment for such course or class.

"(f) ADDITIONAL INFORMATION.—An institution disclosing the information required by subsection (d)(1) is encouraged to disseminate to students information regarding—

"(1) available institutional programs for renting textbooks or for purchasing used textbooks;

"(2) available institutional guaranteed textbook buy-back programs;

"(3) available institutional alternative content delivery programs; or

"(4) other available institutional cost-saving strategies.

"(g) GAO REPORT.—Not later than July 1, 2013, the Comptroller General of the United States shall report to the authorizing committees on the implementation of this section by institutions of higher education, college bookstores, and publishers. The report shall particularly examine—

"(1) the availability of college textbook information on course schedules;

"(2) the provision of pricing information to faculty of institutions of higher education by publishers;

"(3) the use of bundled and unbundled material in the college textbook marketplace, including the adoption of unbundled materials by faculty and the use of integrated textbooks by publishers; and

"(4) the implementation of this section by institutions of higher education, including the costs and benefits to such institutions and to students.

"(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supercede the institutional autonomy or academic freedom of instructors involved in the selection of college textbooks, supplemental materials, and other classroom materials.

"(i) NO REGULATORY AUTHORITY.—The Secretary shall not promulgate regulations with respect to this section.".

20 USC 1015b note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 2010.

**SEC. 113. DATABASE OF STUDENT INFORMATION PROHIBITED.**

Part C of title I (20 U.S.C. 1015) is further amended by adding after section 133 (as added by section 112 of this Act) the following:

20 USC 1015c.

**"SEC. 134. DATABASE OF STUDENT INFORMATION PROHIBITED.**

"(a) PROHIBITION.—Except as described in subsection (b), nothing in this Act shall be construed to authorize the development, implementation, or maintenance of a Federal database of personally identifiable information on individuals receiving assistance under this Act, attending institutions receiving assistance under this Act, or otherwise involved in any studies or other collections of data under this Act, including a student unit record system, an education bar code system, or any other system that tracks individual students over time.

"(b) EXCEPTION.—The provisions of subsection (a) shall not apply to a system (or a successor system) that—

"(1) is necessary for the operation of programs authorized by title II, IV, or VII; and

"(2) was in use by the Secretary, directly or through a contractor, as of the day before the date of enactment of the Higher Education Opportunity Act.

"(c) STATE DATABASES.—Nothing in this Act shall prohibit a State or a consortium of States from developing, implementing, or maintaining State-developed databases that track individuals over time, including student unit record systems that contain information related to enrollment, attendance, graduation and retention rates, student financial assistance, and graduate employment outcomes.".

**SEC. 114. IN-STATE TUITION RATES FOR ARMED FORCES MEMBERS, SPOUSES, AND DEPENDENT CHILDREN.**

Part C of title I (20 U.S.C. 1015) is further amended by adding after section 134 (as added by section 113 of this Act) the following:

**"SEC. 135. IN-STATE TUITION RATES FOR MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY, SPOUSES, AND DEPENDENT CHILDREN.** 20 USC 1015d.

"(a) REQUIREMENT.—In the case of a member of the armed forces who is on active duty for a period of more than 30 days and whose domicile or permanent duty station is in a State that receives assistance under this Act, such State shall not charge such member (or the spouse or dependent child of such member) tuition for attendance at a public institution of higher education in the State at a rate that is greater than the rate charged for residents of the State.

"(b) CONTINUATION.—If a member of the armed forces (or the spouse or dependent child of a member) pays tuition at a public institution of higher education in a State at a rate determined by subsection (a), the provisions of subsection (a) shall continue to apply to such member, spouse, or dependent while continuously enrolled at that institution, notwithstanding a subsequent change in the permanent duty station of the member to a location outside the State.

"(c) EFFECTIVE DATE.—This section shall take effect at each public institution of higher education in a State that receives assistance under this Act for the first period of enrollment at such institution that begins after July 1, 2009.

"(d) DEFINITIONS.—In this section, the terms 'armed forces' and 'active duty for a period of more than 30 days' have the meanings given those terms in section 101 of title 10, United States Code.".

**SEC. 115. STATE HIGHER EDUCATION INFORMATION SYSTEM PILOT PROGRAM.**

Part C of title I of the Higher Education Act of 1965 (20 U.S.C. 1015) is further amended by adding after section 135 (as added by section 114 of this Act) the following:

20 USC 1015e.

**"SEC. 136. STATE HIGHER EDUCATION INFORMATION SYSTEM PILOT PROGRAM.**

"(a) PURPOSE.—It is the purpose of this section to carry out a pilot program to assist not more than five States to develop State-level postsecondary student data systems to—

"(1) improve the capacity of States and institutions of higher education to generate more comprehensive and comparable data, in order to develop better-informed educational policy at the State level and to evaluate the effectiveness of institutional performance while protecting the confidentiality of students' personally identifiable information; and

"(2) identify how to best minimize the data-reporting burden placed on institutions of higher education, particularly smaller institutions, and to maximize and improve the information institutions receive from the data systems, in order to assist institutions in improving educational practice and postsecondary outcomes.

"(b) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) a State higher education system; or

"(2) a consortium of State higher education systems, or a consortium of individual institutions of higher education, that is broadly representative of institutions in different sectors and geographic locations.

"(c) COMPETITIVE GRANTS.—

"(1) GRANTS AUTHORIZED.—The Secretary shall award grants, on a competitive basis, to not more than five eligible entities to enable the eligible entities to—

"(A) design, test, and implement systems of postsecondary student data that provide the maximum benefits to States, institutions of higher education, and State policymakers; and

"(B) examine the costs and burdens involved in implementing a State-level postsecondary student data system.

"(2) DURATION.—A grant awarded under this section shall be for a period of not more than three years.

"(d) APPLICATION REQUIREMENTS.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require, including a description of—

"(1) how the eligible entity will ensure that student privacy is protected and that individually identifiable information about students, the students' achievements, and the students' families remains confidential in accordance with section 444 of the General Education Provisions Act (Family Educational Rights and Privacy Act of 1974) (20 U.S.C. 1232g); and

"(2) how the activities funded by the grant will be supported after the three-year grant period.

"(e) USE OF FUNDS.—A grant awarded under this section shall be used to—

"(1) design, develop, and implement the components of a comprehensive postsecondary student data system with the capacity to transmit student information within a State;

"(2) improve the capacity of institutions of higher education to analyze and use student data;

"(3) select and define common data elements, data quality, and other elements that will enable the data system to—

"(A) serve the needs of institutions of higher education for institutional research and improvement;

"(B) provide students and the students' families with useful information for decision-making about postsecondary education; and

"(C) provide State policymakers with improved information to monitor and guide efforts to improve student outcomes and success in higher education;

"(4) estimate costs and burdens at the institutional level for the reporting system for different types of institutions; and

"(5) test the feasibility of protocols and standards for maintaining data privacy and data access.

"(f) EVALUATION; REPORTS.—Not later than six months after the end of the projects funded by grants awarded under this section, the Secretary shall—

"(1) conduct a comprehensive evaluation of the pilot program authorized by this section; and

"(2) report the Secretary's findings, as well as recommendations regarding the implementation of State-level postsecondary student data systems, to the authorizing committees.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.".

**SEC. 116. STATE COMMITMENT TO AFFORDABLE COLLEGE EDUCATION.**

Part C of title I (20 U.S.C. 1015) is further amended by adding after section 136 (as added by section 115 of this Act) the following new section:

**"SEC. 137. STATE COMMITMENT TO AFFORDABLE COLLEGE EDUCATION.** 20 USC 1015f.

"(a) MAINTENANCE OF EFFORT REQUIRED.—A State shall provide— Effective date.

"(1) for public institutions of higher education in such State for any academic year beginning on or after July 1, 2008, an amount which is equal to or greater than the average amount provided for non-capital and non-direct research and development expenses or costs by such State to such institutions of higher education during the five most recent preceding academic years for which satisfactory data are available; and

"(2) for private institutions of higher education in such State for any academic year beginning on or after July 1, 2008, an amount which is equal to or greater than the average amount provided for student financial aid for paying costs associated with postsecondary education by such State to such institutions during the five most recent preceding academic years for which satisfactory data are available.

"(b) ADJUSTMENTS FOR BIENNIAL APPROPRIATIONS.—The Secretary shall take into consideration any adjustments to the calculations under subsection (a) that may be required to accurately reflect funding levels for postsecondary education in States with biennial appropriation cycles.

"(c) WAIVER.—The Secretary shall waive the requirements of subsection (a), if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforseen decline in the financial resources of a State or State educational agency, as appropriate.

"(d) VIOLATION OF MAINTENANCE OF EFFORT.—Notwithstanding any other provision of law, the Secretary shall withhold from any State that violates subsection (a) and does not receive a waiver pursuant to subsection (c) any amount that would otherwise be available to the State under section 781 until such State has made significant efforts to correct such violation.".

**SEC. 117. PERFORMANCE-BASED ORGANIZATION FOR THE DELIVERY OF FEDERAL STUDENT FINANCIAL ASSISTANCE.**

Section 141 (20 U.S.C. 1018) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "operational" and inserting "administrative and oversight"; and

(B) in paragraph (2)(D), by striking "of the operational functions" and inserting "and administration";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "the information systems administered by the PBO, and other functions performed by the PBO" and inserting "the Federal student financial assistance programs authorized under title IV"; and

(ii) by striking subparagraph (C) and inserting the following:

"(C) assist the Chief Operating Officer in identifying goals for—

"(i) the administration of the systems used to administer the Federal student financial assistance programs authorized under title IV; and

"(ii) the updating of such systems to current technology.";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A)—

(I) by striking "administration of the information and financial systems that support" and inserting "the administration of Federal"; and

(II) by striking "this title" and inserting "title IV";

(ii) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "of the delivery system for Federal student assistance" and inserting "for the Federal student financial assistance programs authorized under title IV";

(II) by striking clauses (i) and (ii) and inserting the following:

"(i) the collection, processing, and transmission of data to students, institutions, lenders, State agencies, and other authorized parties;

"(ii) the design and technical specifications for software development and procurement for systems supporting the Federal student financial assistance programs authorized under title IV;";

(III) in clause (iii), by striking "delivery" and inserting "administration";

(IV) in clause (iv)—

(aa) by inserting "the Federal" after "supporting";

(bb) by striking "under this title" and inserting "authorized under title IV"; and

(cc) by striking "and" after the semicolon;

(V) in clause (v), by striking "systems that support those programs." and inserting "the administration of the Federal student financial assistance programs authorized under title IV; and"; and

(VI) by adding at the end the following:

"(vi) ensuring the integrity of the Federal student financial assistance programs authorized under title IV."; and

(iii) in subparagraph (B), by striking "operations and services" and inserting "activities and functions"; and

(3) in subsection (c)—

(A) in the subsection heading, by striking "PERFORMANCE PLAN AND REPORT" and inserting "PERFORMANCE PLAN, REPORT, AND BRIEFING";

(B) in paragraph (1)(C)—

(i) by striking "this title" each place the term appears and inserting "under title IV";

(ii) in clause (iii), by striking "information and delivery"; and

(iii) in clause (iv)—

(I) by striking "Developing an" and inserting "Developing"; and

(II) by striking "delivery and information system" and inserting "systems";

(C) in paragraph (2)—

(i) in subparagraph (A), by inserting "the" after "PBO and"; and

(ii) in subparagraph (B), by striking "Officer" and inserting "Officers";

(D) in paragraph (3), by inserting "students," after "consult with"; and

(E) by adding at the end the following:

"(4) BRIEFING ON ENFORCEMENT OF STUDENT LOAN PROVISIONS.—The Secretary shall, upon request, provide a briefing to the members of the authorizing committees on the steps the Department has taken to ensure—

"(A) the integrity of the student loan programs; and

"(B) that lenders and guaranty agencies are adhering to the requirements of title IV.";

(4) in subsection (d)—

(A) in paragraph (1), by striking the second sentence; and

(B) in paragraph (5)—

(i) in subparagraph (B), by striking "paragraph (2)" and inserting "paragraph (4)"; and

(ii) in subparagraph (C), by striking "this";

(5) in subsection (f)—

(A) in paragraph (2), by striking "to borrowers" and inserting "to students, borrowers,"; and

(B) in paragraph (3)(A), by striking "(1)(A)" and inserting "(1)";

(6) in subsection (g)(3), by striking "not more than 25";

(7) in subsection (h), by striking "organizational effectiveness" and inserting "effectiveness";

(8) by striking subsection (i);

(9) by redesignating subsection (j) as subsection (i); and

(10) in subsection (i) (as redesignated by paragraph (9)), by striking ", including transition costs".

**SEC. 118. PROCUREMENT FLEXIBILITY.**

Section 142 (20 U.S.C. 1018a) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "for information systems supporting the programs authorized under title IV"; and

(ii) by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) through the Chief Operating Officer—

"(A) to the maximum extent practicable, utilize procurement systems that streamline operations, improve internal controls, and enhance management; and

"(B) assess the efficiency of such systems and assess such systems' ability to meet PBO requirements.";

(2) by striking subsection (c)(2) and inserting the following:

"(2) FEE FOR SERVICE ARRANGEMENTS.—The Chief Operating Officer shall, when appropriate and consistent with the purposes of the PBO, acquire services related to the functions set forth in section 141(b)(2) from any entity that has the capability and capacity to meet the requirements set by the PBO. The Chief Operating Officer is authorized to pay fees that are equivalent to those paid by other entities to an organization that provides services that meet the requirements of the PBO, as determined by the Chief Operating Officer.";

(3) in subsection (d)(2)(B), by striking "on Federal Government contracts";

(4) in subsection (g)—

(A) in paragraph (4)(A)—

(i) in the subparagraph heading, by striking "SOLE SOURCE.—" and inserting "SINGLE-SOURCE BASIS.—"; and

(ii) by striking "sole-source" and inserting "single-source"; and

(B) in paragraph (7), by striking "sole-source" and inserting "single-source";

(5) in subsection (h)(2)(A), by striking "sole-source" and inserting "single-source"; and

(6) in subsection (l), by striking paragraph (3) and inserting the following:

"(3) SINGLE-SOURCE BASIS.—The term 'single-source basis', with respect to an award of a contract, means that the contract is awarded to a source after soliciting an offer or offers from, and negotiating with, only such source (although such source is not the only source in the marketplace capable of meeting the need) because such source is the most advantageous source for purposes of the award.".

**SEC. 119. CERTIFICATION REGARDING THE USE OF CERTAIN FEDERAL FUNDS.** 20 USC 1011m.

(a) PROHIBITION.—No Federal funds received under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) by an institution of higher education or other postsecondary educational institution may be used to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action described in subsection (b).

(b) APPLICABILITY.—The prohibition in subsection (a) applies with respect to the following Federal actions:

(1) The awarding of any Federal contract.

(2) The making of any Federal grant.

(3) The making of any Federal loan.

(4) The entering into of any Federal cooperative agreement.

(5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(c) LOBBYING AND EARMARKS.—No Federal student aid funding under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) may be used to hire a registered lobbyist or pay any person or entity for securing an earmark.

(d) CERTIFICATION.—Each institution of higher education or other postsecondary educational institution receiving Federal funding under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), as a condition for receiving such funding, shall annually certify to the Secretary of Education that the requirements of subsections (a) through (c) have been met. Deadline.

(e) ACTIONS TO IMPLEMENT AND ENFORCE.—The Secretary of Education shall take such actions as are necessary to ensure that the provisions of this section are implemented and enforced.

**SEC. 120. INSTITUTION AND LENDER REPORTING AND DISCLOSURE REQUIREMENTS.**

Title I (as amended by this title) (20 U.S.C. 1001 et seq.) is further amended by adding at the end the following:

## "PART E—LENDER AND INSTITUTION REQUIREMENTS RELATING TO EDUCATION LOANS

**"SEC. 151. DEFINITIONS.** 20 USC 1019.

"In this part:

"(1) AGENT.—The term 'agent' means an officer or employee of a covered institution or an institution-affiliated organization.

"(2) COVERED INSTITUTION.—The term 'covered institution' means any institution of higher education, as such term is

defined in section 102, that receives any Federal funding or assistance.

"(3) EDUCATION LOAN.—The term 'education loan' (except when used as part of the term 'private education loan') means—

"(A) any loan made, insured, or guaranteed under part B of title IV;

"(B) any loan made under part D of title IV; or

"(C) a private education loan.

"(4) ELIGIBLE LENDER.—The term 'eligible lender' has the meaning given such term in section 435(d).

"(5) INSTITUTION-AFFILIATED ORGANIZATION.—The term 'institution-affiliated organization'—

"(A) means any organization that—

"(i) is directly or indirectly related to a covered institution; and

"(ii) is engaged in the practice of recommending, promoting, or endorsing education loans for students attending such covered institution or the families of such students;

"(B) may include an alumni organization, athletic organization, foundation, or social, academic, or professional organization, of a covered institution; and

"(C) notwithstanding subparagraphs (A) and (B), does not include any lender with respect to any education loan secured, made, or extended by such lender.

"(6) LENDER.—The term 'lender' (except when used as part of the terms 'eligible lender' and 'private educational lender')—

"(A) means—

"(i) in the case of a loan made, insured, or guaranteed under part B of title IV, an eligible lender;

"(ii) in the case of any loan issued or provided to a student under part D of title IV, the Secretary; and

"(iii) in the case of a private education loan, a private educational lender as defined in section 140 of the Truth in Lending Act; and

"(B) includes any other person engaged in the business of securing, making, or extending education loans on behalf of the lender.

"(7) OFFICER.—The term 'officer' includes a director or trustee of a covered institution or institution-affiliated organization, if such individual is treated as an employee of such covered institution or institution-affiliated organization, respectively.

"(8) PREFERRED LENDER ARRANGEMENT.—The term 'preferred lender arrangement'—

"(A) means an arrangement or agreement between a lender and a covered institution or an institution-affiliated organization of such covered institution—

"(i) under which a lender provides or otherwise issues education loans to the students attending such covered institution or the families of such students; and

"(ii) that relates to such covered institution or such institution-affiliated organization recommending, promoting, or endorsing the education loan products of the lender; and

"(B) does not include—

"(i) arrangements or agreements with respect to loans under part D of title IV; or

"(ii) arrangements or agreements with respect to loans that originate through the auction pilot program under section 499(b).

"(9) PRIVATE EDUCATION LOAN.—The term 'private education loan' has the meaning given the term in section 140 of the Truth in Lending Act.

**"SEC. 152. RESPONSIBILITIES OF COVERED INSTITUTIONS, INSTITUTION-AFFILIATED ORGANIZATIONS, AND LENDERS.** 20 USC 1019a.

"(a) RESPONSIBILITIES OF COVERED INSTITUTIONS AND INSTITUTION-AFFILIATED ORGANIZATIONS.—

"(1) DISCLOSURES BY COVERED INSTITUTIONS AND INSTITUTION-AFFILIATED ORGANIZATIONS.—

"(A) PREFERRED LENDER ARRANGEMENT DISCLOSURES.— Web site.
In addition to the disclosures required by subsections (a)(27) and (h) of section 487 (if applicable), a covered institution, or an institution-affiliated organization of such covered institution, that participates in a preferred lender arrangement shall disclose—

"(i) on such covered institution's or institution-affiliated organization's website and in all informational materials described in subparagraph (C) that describe or discuss education loans—

"(I) the maximum amount of Federal grant and loan aid under title IV available to students, in an easy to understand format;

"(II) the information required to be disclosed pursuant to section 153(a)(2)(A)(i), for each type of loan described in section 151(3)(A) that is offered pursuant to a preferred lender arrangement of the institution or organization to students of the institution or the families of such students; and

"(III) a statement that such institution is required to process the documents required to obtain a loan under part B of title IV from any eligible lender the student selects; and

"(ii) on such covered institution's or institution-affiliated organization's website and in all informational materials described in subparagraph (C) that describe or discuss private education loans—

"(I) in the case of a covered institution, the information that the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(11) of the Truth in Lending Act (15 U.S.C. 1638(e)(11)), for each type of private education loan offered pursuant to a preferred lender arrangement of the institution to students of the institution or the families of such students; and

"(II) in the case of an institution-affiliated organization of a covered institution, the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(1) of the Truth in Lending Act (15 U.S.C. 1638(e)(1)), for each type of private education loan

offered pursuant to a preferred lender arrangement of the organization to students of such institution or the families of such students.

"(B) PRIVATE EDUCATION LOAN DISCLOSURES.—A covered institution, or an institution-affiliated organization of such covered institution, that provides information regarding a private education loan from a lender to a prospective borrower shall—

"(i) provide the prospective borrower with the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(1) of the Truth in Lending Act (15 U.S.C. 1638(e)(1)) for such loan;

"(ii) inform the prospective borrower that—

"(I) the prospective borrower may qualify for loans or other assistance under title IV; and

"(II) the terms and conditions of loans made, insured, or guaranteed under title IV may be more favorable than the provisions of private education loans; and

"(iii) ensure that information regarding private education loans is presented in such a manner as to be distinct from information regarding loans that are made, insured, or guaranteed under title IV.

"(C) INFORMATIONAL MATERIALS.—The informational materials described in this subparagraph are publications, mailings, or electronic messages or materials that—

"(i) are distributed to prospective or current students of a covered institution and families of such students; and

"(ii) describe or discuss the financial aid opportunities available to students at an institution of higher education.

"(2) USE OF INSTITUTION NAME.—A covered institution, or an institution-affiliated organization of such covered institution, that enters into a preferred lender arrangement with a lender regarding private education loans shall not agree to the lender's use of the name, emblem, mascot, or logo of such institution or organization, or other words, pictures, or symbols readily identified with such institution or organization, in the marketing of private education loans to students attending such institution in any way that implies that the loan is offered or made by such institution or organization instead of the lender.

"(3) USE OF LENDER NAME.—A covered institution, or an institution-affiliated organization of such covered institution, that enters into a preferred lender arrangement with a lender regarding private education loans shall ensure that the name of the lender is displayed in all information and documentation related to such loans.

"(b) LENDER RESPONSIBILITIES.—

"(1) DISCLOSURES BY LENDERS.—

"(A) DISCLOSURES TO BORROWERS.—

"(i) FEDERAL EDUCATION LOANS.—For each education loan that is made, insured, or guaranteed under part B or D of title IV (other than a loan made under section 428C or a Federal Direct Consolidation Loan),

at or prior to the time the lender disburses such loan, the lender shall provide the prospective borrower or borrower, in writing (including through electronic means), with the disclosures described in subsections (a) and (c) of section 433.

"(ii) PRIVATE EDUCATION LOANS.—For each of a lender's private education loans, the lender shall comply with the disclosure requirements under section 128(e) of the Truth in Lending Act (15 U.S.C. 1638(e)).

"(B) DISCLOSURES TO THE SECRETARY.—

"(i) IN GENERAL.—Each lender of a loan made, insured, or guaranteed under part B of title IV shall, on an annual basis, report to the Secretary— Deadline. Reports.

"(I) any reasonable expenses paid or provided under section 435(d)(5)(D) or paragraph (3)(B) or (7) of section 487(e) to any agent of a covered institution who—

"(aa) is employed in the financial aid office of a covered institution; or

"(bb) otherwise has responsibilities with respect to education loans or other financial aid of the institution; and

"(II) any similar expenses paid or provided to any agent of an institution-affiliated organization who is involved in the practice of recommending, promoting, or endorsing education loans.

"(ii) CONTENTS OF REPORTS.—Each report described in clause (i) shall include—

"(I) the amount for each specific instance in which the lender provided such expenses;

"(II) the name of any agent described in clause (i) to whom the expenses were paid or provided;

"(III) the dates of the activity for which the expenses were paid or provided; and

"(IV) a brief description of the activity for which the expenses were paid or provided.

"(iii) REPORT TO CONGRESS.—The Secretary shall summarize the information received from the lenders under this subparagraph in a report and transmit such report annually to the authorizing committees.

"(2) CERTIFICATION BY LENDERS.—Not later than 18 months after the date of enactment of the Higher Education Opportunity Act— Deadlines.

"(A) in addition to any other disclosure required under Federal law, each lender of a loan made, insured, or guaranteed under part B of title IV that participates in one or more preferred lender arrangements shall annually certify the lender's compliance with the requirements of this Act; and

"(B) if an audit of a lender is required pursuant to section 428(b)(1)(U)(iii), the lender's compliance with the requirements under this section shall be reported on and attested to annually by the auditor of such lender. Reports.

20 USC 1019b.

**"SEC. 153. LOAN INFORMATION TO BE DISCLOSED AND MODEL DISCLOSURE FORM FOR COVERED INSTITUTIONS, INSTITUTION-AFFILIATED ORGANIZATIONS, AND LENDERS PARTICIPATING IN PREFERRED LENDER ARRANGEMENTS.**

"(a) DUTIES OF THE SECRETARY.—

"(1) DETERMINATION OF MINIMUM DISCLOSURES.—

Deadline.

"(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Higher Education Opportunity Act, the Secretary, in coordination with the Board of Governors of the Federal Reserve System, shall determine the minimum information that lenders, covered institutions, and institution-affiliated organizations of such covered institutions participating in preferred lender arrangements shall make available regarding education loans described in section 151(3)(A) that are offered to students and the families of such students.

"(B) CONSULTATION AND CONTENT OF MINIMUM DISCLOSURES.—In carrying out subparagraph (A), the Secretary shall—

"(i) consult with students, the families of such students, representatives of covered institutions (including financial aid administrators, admission officers, and business officers), representatives of institution-affiliated organizations, secondary school guidance counselors, lenders, loan servicers, and guaranty agencies;

"(ii) include, in the minimum information under subparagraph (A) that is required to be made available, the information that the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(1) of the Truth in Lending Act (15 U.S.C. 1638(e)(1)), modified as necessary to apply to such loans; and

"(iii) consider the merits of requiring each covered institution, and each institution-affiliated organization of such covered institution, with a preferred lender arrangement to provide to prospective borrowers and the families of such borrowers the following information for each type of education loan offered pursuant to such preferred lender arrangement:

"(I) The interest rate and terms and conditions of the loan for the next award year, including loan forgiveness and deferment.

"(II) Information on any charges, such as origination and Federal default fees, that are payable on the loan, and whether those charges will be—

"(aa) collected by the lender at or prior to the disbursal of the loan, including whether the charges will be deducted from the proceeds of the loan or paid separately by the borrower; or

"(bb) paid in whole or in part by the lender.

"(III) The annual and aggregate maximum amounts that may be borrowed.

"(IV) The average amount borrowed from the lender by students who graduated from such

institution in the preceding year with certificates, undergraduate degrees, graduate degrees, and professional degrees, as applicable, and who obtained loans of such type from the lender for the preceding year.

"(V) The amount the borrower may pay in interest, based on a standard repayment plan and the average amount borrowed from the lender by students who graduated from such institution in the preceding year and who obtained loans of such type from the lender for the preceding year, for—

"(aa) borrowers who take out loans under section 428;

"(bb) borrowers who take out loans under section 428B or 428H, who pay the interest while in school; and

"(cc) borrowers who take out loans under section 428B or 428H, who do not pay the interest while in school.

"(VI) The consequences for the borrower of defaulting on a loan, including limitations on the discharge of an education loan in bankruptcy.

"(VII) Contact information for the lender.

"(VIII) Other information suggested by the persons and entities with whom the Secretary has consulted under clause (i).

"(2) REQUIRED DISCLOSURES.—After making the determinations under paragraph (1), the Secretary, in coordination with the Board of Governors of the Federal Reserve System and after consultation with the public, shall—

"(A)(i) provide that the information determined under paragraph (1) shall be disclosed by covered institutions, and institution-affiliated organizations of such covered institutions, with preferred lender arrangements to prospective borrowers and the families of such borrowers regarding the education loans described in section 151(3)(A) that are offered pursuant to such preferred lender arrangements; and

"(ii) make clear that such covered institutions and institution-affiliated organizations may provide the required information on a form designed by the institution or organization instead of the model disclosure form described in subparagraph (B);

"(B) develop a model disclosure form that may be used by covered institutions, institution-affiliated organizations, and preferred lenders that includes all of the information required under subparagraph (A)(i) in a format that—

"(i) is easily usable by students, families, institutions, institution-affiliated organizations, lenders, loan servicers, and guaranty agencies; and

"(ii) is similar in format to the form developed by the Board of Governors of the Federal Reserve System under paragraphs (1) and (5)(A) of section 128(e), in order to permit students and the families of students to easily compare private education loans and education loans described in section 151(3)(A); and

"(C) update such model disclosure form periodically, as necessary.

Deadline.

"(b) DUTIES OF LENDERS.—Each lender that has a preferred lender arrangement with a covered institution, or an institution-affiliated organization of such covered institution, with respect to education loans described in section 151(3)(A) shall annually, by a date determined by the Secretary, provide to such covered institution or such institution-affiliated organization, and to the Secretary, the information the Secretary requires pursuant to subsection (a)(2)(A)(i) for each type of education loan described in section 151(3)(A) that the lender plans to offer pursuant to such preferred lender arrangement to students attending such covered institution, or to the families of such students, for the next award year.

"(c) DUTIES OF COVERED INSTITUTIONS AND INSTITUTION-AFFILIATED ORGANIZATIONS.—

"(1) PROVIDING INFORMATION TO STUDENTS AND FAMILIES.—

"(A) IN GENERAL.—Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement shall provide the following information to students attending such institution, or the families of such students, as applicable:

"(i) The information the Secretary requires pursuant to subsection (a)(2)(A)(i), for each type of education loan described in section 151(3)(A) offered pursuant to a preferred lender arrangement to students of such institution or the families of such students.

"(ii)(I) In the case of a covered institution, the information that the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(11) of the Truth in Lending Act (15 U.S.C. 1638(e)(11)) to the covered institution, for each type of private education loan offered pursuant to such preferred lender arrangement to students of such institution or the families of such students.

"(II) In the case of an institution-affiliated organization, the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(1) of the Truth in Lending Act (15 U.S.C. 1638(e)(1)), for each type of private education loan offered pursuant to such preferred lender arrangement to students of the institution with which such organization is affiliated or the families of such students.

"(B) TIMELY PROVISION OF INFORMATION.—The information described in subparagraph (A) shall be provided in a manner that allows for the students or the families to take such information into account before selecting a lender or applying for an education loan.

"(2) ANNUAL REPORT.—Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement, shall—

"(A) prepare and submit to the Secretary an annual report, by a date determined by the Secretary, that includes, for each lender that has a preferred lender arrangement with such covered institution or organization—

"(i) the information described in clauses (i) and (ii) of paragraph (1)(A); and

"(ii) a detailed explanation of why such covered institution or institution-affiliated organization entered into a preferred lender arrangement with the lender, including why the terms, conditions, and provisions of each type of education loan provided pursuant to the preferred lender arrangement are beneficial for students attending such institution, or the families of such students, as applicable; and

"(B) ensure that the report required under subparagraph (A) is made available to the public and provided to students attending or planning to attend such covered institution and the families of such students. Public information.

"(3) CODE OF CONDUCT.—

"(A) IN GENERAL.—Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement, shall comply with the code of conduct requirements of subparagraphs (A) through (C) of section 487(a)(25).

"(B) APPLICABLE CODE OF CONDUCT.—For purposes of subparagraph (A), an institution-affiliated organization of a covered institution shall—

"(i) comply with the code of conduct developed and published by such covered institution under subparagraphs (A) and (B) of section 487(a)(25);

"(ii) if such institution-affiliated organization has a website, publish such code of conduct prominently on the website; and Web site.

"(iii) administer and enforce such code of conduct by, at a minimum, requiring that all of such organization's agents with responsibilities with respect to education loans be annually informed of the provisions of such code of conduct. Deadline. Notice.

**"SEC. 154. LOAN INFORMATION TO BE DISCLOSED AND MODEL DISCLOSURE FORM FOR INSTITUTIONS PARTICIPATING IN THE WILLIAM. D. FORD FEDERAL DIRECT LOAN PROGRAM.** 20 USC 1019c.

"(a) PROVISION OF DISCLOSURES TO INSTITUTIONS BY THE SECRETARY.—Not later than 180 days after the development of the model disclosure form under section 153(a)(2)(B), the Secretary shall provide each institution of higher education participating in the William D. Ford Direct Loan Program under part D of title IV with a completed model disclosure form including the same information for Federal Direct Stafford Loans, Federal Direct Unsubsidized Stafford Loans, and Federal Direct PLUS loans made to, or on behalf of, students attending each such institution as is required on such form for loans described in section 151(3)(A). Deadline.

"(b) DUTIES OF INSTITUTIONS.—

"(1) IN GENERAL.—Each institution of higher education participating in the William D. Ford Direct Loan Program under part D of title IV shall—

"(A) make the information the Secretary provides to the institution under subsection (a) available to students attending or planning to attend the institution, or the families of such students, as applicable; and

"(B) if the institution provides information regarding a private education loan to a prospective borrower, concurrently provide such borrower with the information the Secretary provides to the institution under subsection (a).

"(2) CHOICE OF FORMS.—In providing the information required under paragraph (1), an institution of higher education may use a comparable form designed by the institution instead of the model disclosure form developed under section 153(a)(2)(B).".

# TITLE II—TEACHER QUALITY ENHANCEMENT

**SEC. 201. TEACHER QUALITY ENHANCEMENT.**

Title II (20 U.S.C. 1021 et seq.) is amended—

(1) by inserting before part A the following:

20 USC 1021.

**"SEC. 200. DEFINITIONS.**

"In this title:

"(1) ARTS AND SCIENCES.—The term 'arts and sciences' means—

"(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

"(B) when referring to a specific academic subject area, the disciplines or content areas in which academic majors are offered by the arts and sciences organizational unit.

"(2) CHILDREN FROM LOW-INCOME FAMILIES.—The term 'children from low-income families' means children described in section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965.

"(3) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(4) EARLY CHILDHOOD EDUCATOR.—The term 'early childhood educator' means an individual with primary responsibility for the education of children in an early childhood education program.

"(5) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(6) ELIGIBLE PARTNERSHIP.—Except as otherwise provided in section 251, the term 'eligible partnership' means an entity that—

"(A) shall include—

"(i) a high-need local educational agency;

"(ii)(I) a high-need school or a consortium of high-need schools served by the high-need local educational agency; or

"(II) as applicable, a high-need early childhood education program;

"(iii) a partner institution;

"(iv) a school, department, or program of education within such partner institution, which may include

an existing teacher professional development program with proven outcomes within a four-year institution of higher education that provides intensive and sustained collaboration between faculty and local educational agencies consistent with the requirements of this title; and

"(v) a school or department of arts and sciences within such partner institution; and

"(B) may include any of the following:

"(i) The Governor of the State.

"(ii) The State educational agency.

"(iii) The State board of education.

"(iv) The State agency for higher education.

"(v) A business.

"(vi) A public or private nonprofit educational organization.

"(vii) An educational service agency.

"(viii) A teacher organization.

"(ix) A high-performing local educational agency, or a consortium of such local educational agencies, that can serve as a resource to the partnership.

"(x) A charter school (as defined in section 5210 of the Elementary and Secondary Education Act of 1965).

"(xi) A school or department within the partner institution that focuses on psychology and human development.

"(xii) A school or department within the partner institution with comparable expertise in the disciplines of teaching, learning, and child and adolescent development.

"(xiii) An entity operating a program that provides alternative routes to State certification of teachers.

"(7) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term 'essential components of reading instruction' has the meaning given the term in section 1208 of the Elementary and Secondary Education Act of 1965.

"(8) EXEMPLARY TEACHER.—The term 'exemplary teacher' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(9) HIGH-NEED EARLY CHILDHOOD EDUCATION PROGRAM.—The term 'high-need early childhood education program' means an early childhood education program serving children from low-income families that is located within the geographic area served by a high-need local educational agency.

"(10) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' means a local educational agency—

"(A)(i) for which not less than 20 percent of the children served by the agency are children from low-income families;

"(ii) that serves not fewer than 10,000 children from low-income families;

"(iii) that meets the eligibility requirements for funding under the Small, Rural School Achievement Program under section 6211(b) of the Elementary and Secondary Education Act of 1965; or

"(iv) that meets the eligibility requirements for funding under the Rural and Low-Income School Program under section 6221(b) of the Elementary and Secondary Education Act of 1965; and

"(B)(i) for which there is a high percentage of teachers not teaching in the academic subject areas or grade levels in which the teachers were trained to teach; or

"(ii) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

"(11) HIGH-NEED SCHOOL.—

"(A) IN GENERAL.—The term 'high-need school' means a school that, based on the most recent data available, meets one or both of the following:

"(i) The school is in the highest quartile of schools in a ranking of all schools served by a local educational agency, ranked in descending order by percentage of students from low-income families enrolled in such schools, as determined by the local educational agency based on one of the following measures of poverty:

"(I) The percentage of students aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary.

"(II) The percentage of students eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act.

"(III) The percentage of students in families receiving assistance under the State program funded under part A of title IV of the Social Security Act.

"(IV) The percentage of students eligible to receive medical assistance under the Medicaid program.

"(V) A composite of two or more of the measures described in subclauses (I) through (IV).

"(ii) In the case of—

"(I) an elementary school, the school serves students not less than 60 percent of whom are eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act; or

"(II) any other school that is not an elementary school, the other school serves students not less than 45 percent of whom are eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act.

"(B) SPECIAL RULE.—

"(i) DESIGNATION BY THE SECRETARY.—The Secretary may, upon approval of an application submitted by an eligible partnership seeking a grant under this title, designate a school that does not qualify as a high-need school under subparagraph (A) as a high-need school for the purpose of this title. The Secretary shall base the approval of an application for designation of a school under this clause on a consideration of the information required under clause (ii), and may

also take into account other information submitted by the eligible partnership.

"(ii) APPLICATION REQUIREMENTS.—An application for designation of a school under clause (i) shall include—

"(I) the number and percentage of students attending such school who are—

"(aa) aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary;

"(bb) eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act;

"(cc) in families receiving assistance under the State program funded under part A of title IV of the Social Security Act; or

"(dd) eligible to receive medical assistance under the Medicaid program;

"(II) information about the student academic achievement of students at such school; and

"(III) for a secondary school, the graduation rate for such school.

"(12) HIGHLY COMPETENT.—The term 'highly competent', when used with respect to an early childhood educator, means an educator—

"(A) with specialized education and training in development and education of young children from birth until entry into kindergarten;

"(B) with—

"(i) a baccalaureate degree in an academic major in the arts and sciences; or

"(ii) an associate's degree in a related educational area; and

"(C) who has demonstrated a high level of knowledge and use of content and pedagogy in the relevant areas associated with quality early childhood education.

"(13) HIGHLY QUALIFIED.—The term 'highly qualified' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 and, with respect to special education teachers, in section 602 of the Individuals with Disabilities Education Act.

"(14) INDUCTION PROGRAM.—The term 'induction program' means a formalized program for new teachers during not less than the teachers' first two years of teaching that is designed to provide support for, and improve the professional performance and advance the retention in the teaching field of, beginning teachers. Such program shall promote effective teaching skills and shall include the following components:

"(A) High-quality teacher mentoring.

"(B) Periodic, structured time for collaboration with teachers in the same department or field, including mentor teachers, as well as time for information-sharing among teachers, principals, administrators, other appropriate instructional staff, and participating faculty in the partner institution.

"(C) The application of empirically-based practice and scientifically valid research on instructional practices.

"(D) Opportunities for new teachers to draw directly on the expertise of teacher mentors, faculty, and researchers to support the integration of empirically-based practice and scientifically valid research with practice.

"(E) The development of skills in instructional and behavioral interventions derived from empirically-based practice and, where applicable, scientifically valid research.

"(F) Faculty who—

"(i) model the integration of research and practice in the classroom; and

"(ii) assist new teachers with the effective use and integration of technology in the classroom.

"(G) Interdisciplinary collaboration among exemplary teachers, faculty, researchers, and other staff who prepare new teachers with respect to the learning process and the assessment of learning.

"(H) Assistance with the understanding of data, particularly student achievement data, and the applicability of such data in classroom instruction.

"(I) Regular and structured observation and evaluation of new teachers by multiple evaluators, using valid and reliable measures of teaching skills.

"(15) LIMITED ENGLISH PROFICIENT.—The term 'limited English proficient' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(16) PARENT.—The term 'parent' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(17) PARTNER INSTITUTION.—The term 'partner institution' means an institution of higher education, which may include a two-year institution of higher education offering a dual program with a four-year institution of higher education, participating in an eligible partnership that has a teacher preparation program—

"(A) whose graduates exhibit strong performance on State-determined qualifying assessments for new teachers through—

"(i) demonstrating that 80 percent or more of the graduates of the program who intend to enter the field of teaching have passed all of the applicable State qualification assessments for new teachers, which shall include an assessment of each prospective teacher's subject matter knowledge in the content area in which the teacher intends to teach; or

"(ii) being ranked among the highest-performing teacher preparation programs in the State as determined by the State—

"(I) using criteria consistent with the requirements for the State report card under section 205(b) before the first publication of such report card; and

"(II) using the State report card on teacher preparation required under section 205(b), after the first publication of such report card and for every year thereafter; and

"(B) that requires—

"(i) each student in the program to meet high academic standards or demonstrate a record of success, as determined by the institution (including prior to entering and being accepted into a program), and participate in intensive clinical experience;

"(ii) each student in the program preparing to become a teacher to become highly qualified; and

"(iii) each student in the program preparing to become an early childhood educator to meet degree requirements, as established by the State, and become highly competent.

"(18) PRINCIPLES OF SCIENTIFIC RESEARCH.—The term 'principles of scientific research' means principles of research that—

"(A) apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs;

"(B) present findings and make claims that are appropriate to, and supported by, the methods that have been employed; and

"(C) include, appropriate to the research being conducted—

"(i) use of systematic, empirical methods that draw on observation or experiment;

"(ii) use of data analyses that are adequate to support the general findings;

"(iii) reliance on measurements or observational methods that provide reliable and generalizable findings;

"(iv) strong claims of causal relationships, only with research designs that eliminate plausible competing explanations for observed results, such as, but not limited to, random-assignment experiments;

"(v) presentation of studies and methods in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

"(vi) acceptance by a peer-reviewed journal or critique by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

"(vii) consistency of findings across multiple studies or sites to support the generality of results and conclusions.

"(19) PROFESSIONAL DEVELOPMENT.—The term 'professional development' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(20) SCIENTIFICALLY VALID RESEARCH.—The term 'scientifically valid research' includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with principles of scientific research.

"(21) TEACHER MENTORING.—The term 'teacher mentoring' means the mentoring of new or prospective teachers through a program that—

"(A) includes clear criteria for the selection of teacher mentors who will provide role model relationships for

mentees, which criteria shall be developed by the eligible partnership and based on measures of teacher effectiveness;

"(B) provides high-quality training for such mentors, including instructional strategies for literacy instruction and classroom management (including approaches that improve the schoolwide climate for learning, which may include positive behavioral interventions and supports);

"(C) provides regular and ongoing opportunities for mentors and mentees to observe each other's teaching methods in classroom settings during the day in a high-need school in the high-need local educational agency in the eligible partnership;

"(D) provides paid release time for mentors, as applicable;

"(E) provides mentoring to each mentee by a colleague who teaches in the same field, grade, or subject as the mentee;

"(F) promotes empirically-based practice of, and scientifically valid research on, where applicable—

"(i) teaching and learning;

"(ii) assessment of student learning;

"(iii) the development of teaching skills through the use of instructional and behavioral interventions; and

"(iv) the improvement of the mentees' capacity to measurably advance student learning; and

"(G) includes—

"(i) common planning time or regularly scheduled collaboration for the mentor and mentee; and

"(ii) joint professional development opportunities.

"(22) TEACHING RESIDENCY PROGRAM.—The term 'teaching residency program' means a school-based teacher preparation program in which a prospective teacher—

"(A) for one academic year, teaches alongside a mentor teacher, who is the teacher of record;

"(B) receives concurrent instruction during the year described in subparagraph (A) from the partner institution, which courses may be taught by local educational agency personnel or residency program faculty, in the teaching of the content area in which the teacher will become certified or licensed;

"(C) acquires effective teaching skills; and

"(D) prior to completion of the program, earns a master's degree, attains full State teacher certification or licensure, and becomes highly qualified.

"(23) TEACHING SKILLS.—The term 'teaching skills' means skills that enable a teacher to—

"(A) increase student learning, achievement, and the ability to apply knowledge;

"(B) effectively convey and explain academic subject matter;

"(C) effectively teach higher-order analytical, evaluation, problem-solving, and communication skills;

"(D) employ strategies grounded in the disciplines of teaching and learning that—

"(i) are based on empirically-based practice and scientifically valid research, where applicable, related to teaching and learning;

"(ii) are specific to academic subject matter; and

"(iii) focus on the identification of students' specific learning needs, particularly students with disabilities, students who are limited English proficient, students who are gifted and talented, and students with low literacy levels, and the tailoring of academic instruction to such needs;

"(E) conduct an ongoing assessment of student learning, which may include the use of formative assessments, performance-based assessments, project-based assessments, or portfolio assessments, that measures higher-order thinking skills (including application, analysis, synthesis, and evaluation);

"(F) effectively manage a classroom, including the ability to implement positive behavioral interventions and support strategies;

"(G) communicate and work with parents, and involve parents in their children's education; and

"(H) use, in the case of an early childhood educator, age-appropriate and developmentally appropriate strategies and practices for children in early childhood education programs.";

(2) by striking part A and inserting the following: 20 USC 1021 *et seq*.

# "PART A—TEACHER QUALITY PARTNERSHIP GRANTS

**"SEC. 201. PURPOSES.** 20 USC 1022.

"The purposes of this part are to—

"(1) improve student achievement;

"(2) improve the quality of prospective and new teachers by improving the preparation of prospective teachers and enhancing professional development activities for new teachers;

"(3) hold teacher preparation programs at institutions of higher education accountable for preparing highly qualified teachers; and

"(4) recruit highly qualified individuals, including minorities and individuals from other occupations, into the teaching force.

**"SEC. 202. PARTNERSHIP GRANTS.** 20 USC 1022a.

"(a) PROGRAM AUTHORIZED.—From amounts made available under section 209, the Secretary is authorized to award grants, on a competitive basis, to eligible partnerships, to enable the eligible partnerships to carry out the activities described in subsection (c).

"(b) APPLICATION.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall contain—

"(1) a needs assessment of the partners in the eligible partnership with respect to the preparation, ongoing training, professional development, and retention of general education

and special education teachers, principals, and, as applicable, early childhood educators;

"(2) a description of the extent to which the program to be carried out with grant funds, as described in subsection (c), will prepare prospective and new teachers with strong teaching skills;

"(3) a description of how such program will prepare prospective and new teachers to understand and use research and data to modify and improve classroom instruction;

"(4) a description of—

"(A) how the eligible partnership will coordinate strategies and activities assisted under the grant with other teacher preparation or professional development programs, including programs funded under the Elementary and Secondary Education Act of 1965 and the Individuals with Disabilities Education Act, and through the National Science Foundation; and

"(B) how the activities of the partnership will be consistent with State, local, and other education reform activities that promote teacher quality and student academic achievement;

"(5) an assessment that describes the resources available to the eligible partnership, including—

"(A) the integration of funds from other related sources;

"(B) the intended use of the grant funds; and

"(C) the commitment of the resources of the partnership to the activities assisted under this section, including financial support, faculty participation, and time commitments, and to the continuation of the activities when the grant ends;

"(6) a description of—

"(A) how the eligible partnership will meet the purposes of this part;

"(B) how the partnership will carry out the activities required under subsection (d) or (e), based on the needs identified in paragraph (1), with the goal of improving student academic achievement;

"(C) if the partnership chooses to use funds under this section for a project or activities under subsection (f) or (g), how the partnership will carry out such project or required activities based on the needs identified in paragraph (1), with the goal of improving student academic achievement;

"(D) the partnership's evaluation plan under section 204(a);

"(E) how the partnership will align the teacher preparation program under subsection (c) with the—

"(i) State early learning standards for early childhood education programs, as appropriate, and with the relevant domains of early childhood development; and

"(ii) student academic achievement standards and academic content standards under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965, established by the State in which the partnership is located;

"(F) how the partnership will prepare general education teachers to teach students with disabilities, including training related to participation as a member of individualized education program teams, as defined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act;

"(G) how the partnership will prepare general education and special education teachers to teach students who are limited English proficient;

"(H) how faculty at the partner institution will work, during the term of the grant, with highly qualified teachers in the classrooms of high-need schools served by the high-need local educational agency in the partnership to—

"(i) provide high-quality professional development activities to strengthen the content knowledge and teaching skills of elementary school and secondary school teachers; and

"(ii) train other classroom teachers to implement literacy programs that incorporate the essential components of reading instruction;

"(I) how the partnership will design, implement, or enhance a year-long and rigorous teaching preservice clinical program component;

"(J) how the partnership will support in-service professional development strategies and activities; and

"(K) how the partnership will collect, analyze, and use data on the retention of all teachers and early childhood educators in schools and early childhood education programs located in the geographic area served by the partnership to evaluate the effectiveness of the partnership's teacher and educator support system; and

"(7) with respect to the induction program required as part of the activities carried out under this section—

"(A) a demonstration that the schools and departments within the institution of higher education that are part of the induction program will effectively prepare teachers, including providing content expertise and expertise in teaching, as appropriate;

"(B) a demonstration of the eligible partnership's capability and commitment to, and the accessibility to and involvement of faculty in, the use of empirically-based practice and scientifically valid research on teaching and learning;

"(C) a description of how the teacher preparation program will design and implement an induction program to support, through not less than the first two years of teaching, all new teachers who are prepared by the teacher preparation program in the partnership and who teach in the high-need local educational agency in the partnership, and, to the extent practicable, all new teachers who teach in such high-need local educational agency, in the further development of the new teachers' teaching skills, including the use of mentors who are trained and compensated by such program for the mentors' work with new teachers; and

"(D) a description of how faculty involved in the induction program will be able to substantially participate in

an early childhood education program or an elementary school or secondary school classroom setting, as applicable, including release time and receiving workload credit for such participation.

"(c) USE OF GRANT FUNDS.—An eligible partnership that receives a grant under this section—

"(1) shall use grant funds to carry out a program for the pre-baccalaureate preparation of teachers under subsection (d), a teaching residency program under subsection (e), or a combination of such programs; and

"(2) may use grant funds to carry out a leadership development program under subsection (f).

"(d) PARTNERSHIP GRANTS FOR PRE-BACCALAUREATE PREPARATION OF TEACHERS.—An eligible partnership that receives a grant to carry out an effective program for the pre-baccalaureate preparation of teachers shall carry out a program that includes all of the following:

"(1) REFORMS.—

"(A) IN GENERAL.—Implementing reforms, described in subparagraph (B), within each teacher preparation program and, as applicable, each preparation program for early childhood education programs, of the eligible partnership that is assisted under this section, to hold each program accountable for—

"(i) preparing—

"(I) new or prospective teachers to be highly qualified (including teachers in rural school districts who may teach multiple subjects, special educators, and teachers of students who are limited English proficient who may teach multiple subjects);

"(II) such teachers and, as applicable, early childhood educators, to understand empirically-based practice and scientifically valid research related to teaching and learning and the applicability of such practice and research, including through the effective use of technology, instructional techniques, and strategies consistent with the principles of universal design for learning, and through positive behavioral interventions and support strategies to improve student achievement; and

"(III) as applicable, early childhood educators to be highly competent; and

"(ii) promoting strong teaching skills and, as applicable, techniques for early childhood educators to improve children's cognitive, social, emotional, and physical development.

"(B) REQUIRED REFORMS.—The reforms described in subparagraph (A) shall include—

"(i) implementing teacher preparation program curriculum changes that improve, evaluate, and assess how well all prospective and new teachers develop teaching skills;

"(ii) using empirically-based practice and scientifically valid research, where applicable, about teaching

and learning so that all prospective teachers and, as applicable, early childhood educators—

"(I) understand and can implement research-based teaching practices in classroom instruction;

"(II) have knowledge of student learning methods;

"(III) possess skills to analyze student academic achievement data and other measures of student learning, and use such data and measures to improve classroom instruction;

"(IV) possess teaching skills and an understanding of effective instructional strategies across all applicable content areas that enable general education and special education teachers and early childhood educators to—

"(aa) meet the specific learning needs of all students, including students with disabilities, students who are limited English proficient, students who are gifted and talented, students with low literacy levels and, as applicable, children in early childhood education programs; and

"(bb) differentiate instruction for such students;

"(V) can effectively participate as a member of the individualized education program team, as defined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act; and

"(VI) can successfully employ effective strategies for reading instruction using the essential components of reading instruction;

"(iii) ensuring collaboration with departments, programs, or units of a partner institution outside of the teacher preparation program in all academic content areas to ensure that prospective teachers receive training in both teaching and relevant content areas in order to become highly qualified, which may include training in multiple subjects to teach multiple grade levels as may be needed for individuals preparing to teach in rural communities and for individuals preparing to teach students with disabilities as described in section 602(10)(D) of the Individuals with Disabilities Education Act;

"(iv) developing and implementing an induction program;

"(v) developing admissions goals and priorities aligned with the hiring objectives of the high-need local educational agency in the eligible partnership; and

"(vi) implementing program and curriculum changes, as applicable, to ensure that prospective teachers have the requisite content knowledge, preparation, and degree to teach Advanced Placement or International Baccalaureate courses successfully.

"(2) CLINICAL EXPERIENCE AND INTERACTION.—Developing and improving a sustained and high-quality preservice clinical education program to further develop the teaching skills of

all prospective teachers and, as applicable, early childhood educators, involved in the program. Such program shall do the following:

"(A) Incorporate year-long opportunities for enrichment, including—

"(i) clinical learning in classrooms in high-need schools served by the high-need local educational agency in the eligible partnership, and identified by the eligible partnership; and

"(ii) closely supervised interaction between prospective teachers and faculty, experienced teachers, principals, other administrators, and school leaders at early childhood education programs (as applicable), elementary schools, or secondary schools, and providing support for such interaction.

"(B) Integrate pedagogy and classroom practice and promote effective teaching skills in academic content areas.

"(C) Provide high-quality teacher mentoring.

"(D) Be offered over the course of a program of teacher preparation.

"(E) Be tightly aligned with course work (and may be developed as a fifth year of a teacher preparation program).

"(F) Where feasible, allow prospective teachers to learn to teach in the same local educational agency in which the teachers will work, learning the instructional initiatives and curriculum of that local educational agency.

"(G) As applicable, provide training and experience to enhance the teaching skills of prospective teachers to better prepare such teachers to meet the unique needs of teaching in rural or urban communities.

"(H) Provide support and training for individuals participating in an activity for prospective or new teachers described in this paragraph or paragraph (1) or (3), and for individuals who serve as mentors for such teachers, based on each individual's experience. Such support may include—

"(i) with respect to a prospective teacher or a mentor, release time for such individual's participation;

"(ii) with respect to a faculty member, receiving course workload credit and compensation for time teaching in the eligible partnership's activities; and

"(iii) with respect to a mentor, a stipend, which may include bonus, differential, incentive, or performance pay, based on the mentor's extra skills and responsibilities.

"(3) INDUCTION PROGRAMS FOR NEW TEACHERS.—Creating an induction program for new teachers or, in the case of an early childhood education program, providing mentoring or coaching for new early childhood educators.

"(4) SUPPORT AND TRAINING FOR PARTICIPANTS IN EARLY CHILDHOOD EDUCATION PROGRAMS.—In the case of an eligible partnership focusing on early childhood educator preparation, implementing initiatives that increase compensation for early childhood educators who attain associate or baccalaureate degrees in early childhood education.

"(5) TEACHER RECRUITMENT.—Developing and implementing effective mechanisms (which may include alternative routes to State certification of teachers) to ensure that the eligible partnership is able to recruit qualified individuals to become highly qualified teachers through the activities of the eligible partnership, which may include an emphasis on recruiting into the teaching profession—

"(A) individuals from under represented populations;

"(B) individuals to teach in rural communities and teacher shortage areas, including mathematics, science, special education, and the instruction of limited English proficient students; and

"(C) mid-career professionals from other occupations, former military personnel, and recent college graduates with a record of academic distinction.

"(6) LITERACY TRAINING.—Strengthening the literacy teaching skills of prospective and, as applicable, new elementary school and secondary school teachers—

"(A) to implement literacy programs that incorporate the essential components of reading instruction;

"(B) to use screening, diagnostic, formative, and summative assessments to determine students' literacy levels, difficulties, and growth in order to improve classroom instruction and improve student reading and writing skills;

"(C) to provide individualized, intensive, and targeted literacy instruction for students with deficiencies in literacy skills; and

"(D) to integrate literacy skills in the classroom across subject areas.

"(e) PARTNERSHIP GRANTS FOR THE ESTABLISHMENT OF TEACHING RESIDENCY PROGRAMS.—

"(1) IN GENERAL.—An eligible partnership receiving a grant to carry out an effective teaching residency program shall carry out a program that includes all of the following activities:

"(A) Supporting a teaching residency program described in paragraph (2) for high-need subjects and areas, as determined by the needs of the high-need local educational agency in the partnership.

"(B) Placing graduates of the teaching residency program in cohorts that facilitate professional collaboration, both among graduates of the teaching residency program and between such graduates and mentor teachers in the receiving school.

"(C) Ensuring that teaching residents who participate in the teaching residency program receive—

"(i) effective preservice preparation as described in paragraph (2);

"(ii) teacher mentoring;

"(iii) support required through the induction program as the teaching residents enter the classroom as new teachers; and

"(iv) the preparation described in subparagraphs (A), (B), and (C) of subsection (d)(2).

"(2) TEACHING RESIDENCY PROGRAMS.—

"(A) ESTABLISHMENT AND DESIGN.—A teaching residency program under this paragraph shall be a program

based upon models of successful teaching residencies that serves as a mechanism to prepare teachers for success in the high-need schools in the eligible partnership, and shall be designed to include the following characteristics of successful programs:

"(i) The integration of pedagogy, classroom practice, and teacher mentoring.

"(ii) Engagement of teaching residents in rigorous graduate-level course work to earn a master's degree while undertaking a guided teaching apprenticeship.

"(iii) Experience and learning opportunities alongside a trained and experienced mentor teacher—

"(I) whose teaching shall complement the residency program so that classroom clinical practice is tightly aligned with coursework;

"(II) who shall have extra responsibilities as a teacher leader of the teaching residency program, as a mentor for residents, and as a teacher coach during the induction program for new teachers, and for establishing, within the program, a learning community in which all individuals are expected to continually improve their capacity to advance student learning; and

"(III) who may be relieved from teaching duties as a result of such additional responsibilities.

"(iv) The establishment of clear criteria for the selection of mentor teachers based on measures of teacher effectiveness and the appropriate subject area knowledge. Evaluation of teacher effectiveness shall be based on, but not limited to, observations of the following:

"(I) Planning and preparation, including demonstrated knowledge of content, pedagogy, and assessment, including the use of formative and diagnostic assessments to improve student learning.

"(II) Appropriate instruction that engages students with different learning styles.

"(III) Collaboration with colleagues to improve instruction.

"(IV) Analysis of gains in student learning, based on multiple measures that are valid and reliable and that, when feasible, may include valid, reliable, and objective measures of the influence of teachers on the rate of student academic progress.

"(V) In the case of mentor candidates who will be mentoring new or prospective literacy and mathematics coaches or instructors, appropriate skills in the essential components of reading instruction, teacher training in literacy instructional strategies across core subject areas, and teacher training in mathematics instructional strategies, as appropriate.

"(v) Grouping of teaching residents in cohorts to facilitate professional collaboration among such residents.

"(vi) The development of admissions goals and priorities—

"(I) that are aligned with the hiring objectives of the local educational agency partnering with the program, as well as the instructional initiatives and curriculum of such agency, in exchange for a commitment by such agency to hire qualified graduates from the teaching residency program; and

"(II) which may include consideration of applicants who reflect the communities in which they will teach as well as consideration of individuals from underrepresented populations in the teaching profession.

"(vii) Support for residents, once the teaching residents are hired as teachers of record, through an induction program, professional development, and networking opportunities to support the residents through not less than the residents' first two years of teaching.

"(B) SELECTION OF INDIVIDUALS AS TEACHER RESIDENTS.—

"(i) ELIGIBLE INDIVIDUAL.—In order to be eligible to be a teacher resident in a teaching residency program under this paragraph, an individual shall—

"(I) be a recent graduate of a four-year institution of higher education or a mid-career professional from outside the field of education possessing strong content knowledge or a record of professional accomplishment; and

"(II) submit an application to the teaching residency program.

"(ii) SELECTION CRITERIA.—An eligible partnership carrying out a teaching residency program under this subsection shall establish criteria for the selection of eligible individuals to participate in the teaching residency program based on the following characteristics:

"(I) Strong content knowledge or record of accomplishment in the field or subject area to be taught.

"(II) Strong verbal and written communication skills, which may be demonstrated by performance on appropriate tests.

"(III) Other attributes linked to effective teaching, which may be determined by interviews or performance assessments, as specified by the eligible partnership.

"(C) STIPENDS OR SALARIES; APPLICATIONS; AGREEMENTS; REPAYMENTS.—

"(i) STIPENDS OR SALARIES.—A teaching residency program under this subsection shall provide a one-year living stipend or salary to teaching residents during the one-year teaching residency program.

"(ii) APPLICATIONS FOR STIPENDS OR SALARIES.—Each teacher residency candidate desiring a stipend

or salary during the period of residency shall submit an application to the eligible partnership at such time, and containing such information and assurances, as the eligible partnership may require.

"(iii) AGREEMENTS TO SERVE.—Each application submitted under clause (ii) shall contain or be accompanied by an agreement that the applicant will—

"(I) serve as a full-time teacher for a total of not less than three academic years immediately after successfully completing the one-year teaching residency program;

"(II) fulfill the requirement under subclause (I) by teaching in a high-need school served by the high-need local educational agency in the eligible partnership and teach a subject or area that is designated as high need by the partnership;

"(III) provide to the eligible partnership a certificate, from the chief administrative officer of the local educational agency in which the resident is employed, of the employment required in subclauses (I) and (II) at the beginning of, and upon completion of, each year or partial year of service;

"(IV) meet the requirements to be a highly qualified teacher, as defined in section 9101 of the Elementary and Secondary Education Act of 1965, or section 602 of the Individuals with Disabilities Education Act, when the applicant begins to fulfill the service obligation under this clause; and

"(V) comply with the requirements set by the eligible partnership under clause (iv) if the applicant is unable or unwilling to complete the service obligation required by this clause.

"(iv) REPAYMENTS.—

"(I) IN GENERAL.—A grantee carrying out a teaching residency program under this paragraph shall require a recipient of a stipend or salary under clause (i) who does not complete, or who notifies the partnership that the recipient intends not to complete, the service obligation required by clause (iii) to repay such stipend or salary to the eligible partnership, together with interest, at a rate specified by the partnership in the agreement, and in accordance with such other terms and conditions specified by the eligible partnership, as necessary.

"(II) OTHER TERMS AND CONDITIONS.—Any other terms and conditions specified by the eligible partnership may include reasonable provisions for pro-rata repayment of the stipend or salary described in clause (i) or for deferral of a teaching resident's service obligation required by clause (iii), on grounds of health, incapacitation, inability to secure employment in a school served by the eligible partnership, being called to active duty in the Armed Forces of the United States, or other extraordinary circumstances.

"(III) USE OF REPAYMENTS.—An eligible partnership shall use any repayment received under this clause to carry out additional activities that are consistent with the purposes of this subsection.

"(f) PARTNERSHIP GRANTS FOR THE DEVELOPMENT OF LEADERSHIP PROGRAMS.—

"(1) IN GENERAL.—An eligible partnership that receives a grant under this section may carry out an effective school leadership program, which may be carried out in partnership with a local educational agency located in a rural area and that shall include all of the following activities:

"(A) Preparing individuals enrolled or preparing to enroll in school leadership programs for careers as superintendents, principals, early childhood education program directors, or other school leaders (including individuals preparing to work in local educational agencies located in rural areas who may perform multiple duties in addition to the role of a school leader).

"(B) Promoting strong leadership skills and, as applicable, techniques for school leaders to effectively—

"(i) create and maintain a data-driven, professional learning community within the leader's school;

"(ii) provide a climate conducive to the professional development of teachers, with a focus on improving student academic achievement and the development of effective instructional leadership skills;

"(iii) understand the teaching and assessment skills needed to support successful classroom instruction and to use data to evaluate teacher instruction and drive teacher and student learning;

"(iv) manage resources and school time to improve student academic achievement and ensure the school environment is safe;

"(v) engage and involve parents, community members, the local educational agency, businesses, and other community leaders, to leverage additional resources to improve student academic achievement; and

"(vi) understand how students learn and develop in order to increase academic achievement for all students.

"(C) Ensuring that individuals who participate in the school leadership program receive—

"(i) effective preservice preparation as described in subparagraph (D);

"(ii) mentoring; and

"(iii) if applicable, full State certification or licensure to become a school leader.

"(D) Developing and improving a sustained and high-quality preservice clinical education program to further develop the leadership skills of all prospective school leaders involved in the program. Such clinical education program shall do the following:

"(i) Incorporate year-long opportunities for enrichment, including—

"(I) clinical learning in high-need schools served by the high-need local educational agency

or a local educational agency located in a rural area in the eligible partnership and identified by the eligible partnership; and

"(II) closely supervised interaction between prospective school leaders and faculty, new and experienced teachers, and new and experienced school leaders, in such high-need schools.

"(ii) Integrate pedagogy and practice and promote effective leadership skills, meeting the unique needs of urban, rural, or geographically isolated communities, as applicable.

"(iii) Provide for mentoring of new school leaders.

"(E) Creating an induction program for new school leaders.

"(F) Developing and implementing effective mechanisms to ensure that the eligible partnership is able to recruit qualified individuals to become school leaders through the activities of the eligible partnership, which may include an emphasis on recruiting into school leadership professions—

"(i) individuals from underrepresented populations;

"(ii) individuals to serve as superintendents, principals, or other school administrators in rural and geographically isolated communities and school leader shortage areas; and

"(iii) mid-career professionals from other occupations, former military personnel, and recent college graduates with a record of academic distinction.

"(2) SELECTION OF INDIVIDUALS FOR THE LEADERSHIP PROGRAM.—In order to be eligible for the school leadership program under this subsection, an individual shall be enrolled in or preparing to enroll in an institution of higher education, and shall—

"(A) be a—

"(i) recent graduate of an institution of higher education;

"(ii) mid-career professional from outside the field of education with strong content knowledge or a record of professional accomplishment;

"(iii) current teacher who is interested in becoming a school leader; or

"(iv) school leader who is interested in becoming a superintendent; and

"(B) submit an application to the leadership program.

"(g) PARTNERSHIP WITH DIGITAL EDUCATION CONTENT DEVELOPER.—An eligible partnership that receives a grant under this section may use grant funds provided to carry out the activities described in subsection (d) or (e), or both, to partner with a television public broadcast station, as defined in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)), or another entity that develops digital educational content, for the purpose of improving the quality of pre-baccalaureate teacher preparation programs or to enhance the quality of preservice training for prospective teachers.

"(h) EVALUATION AND REPORTING.—The Secretary shall—

"(1) evaluate the programs assisted under this section; and

"(2) make publicly available a report detailing the Secretary's evaluation of each such program. Public information.

"(i) CONSULTATION.—

"(1) IN GENERAL.—Members of an eligible partnership that receives a grant under this section shall engage in regular consultation throughout the development and implementation of programs and activities carried out under this section.

"(2) REGULAR COMMUNICATION.—To ensure timely and meaningful consultation as described in paragraph (1), regular communication shall occur among all members of the eligible partnership, including the high-need local educational agency. Such communication shall continue throughout the implementation of the grant and the assessment of programs and activities under this section.

"(3) WRITTEN CONSENT.—The Secretary may approve changes in grant activities of a grant under this section only if the eligible partnership submits to the Secretary a written consent of such changes signed by all members of the eligible partnership.

"(j) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an eligible partnership from using grant funds to coordinate with the activities of eligible partnerships in other States or on a regional basis through Governors, State boards of education, State educational agencies, State agencies responsible for early childhood education, local educational agencies, or State agencies for higher education.

"(k) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities under this section.

**"SEC. 203. ADMINISTRATIVE PROVISIONS.** 20 USC 1022b.

"(a) DURATION; NUMBER OF AWARDS; PAYMENTS.—

"(1) DURATION.—A grant awarded under this part shall be awarded for a period of five years.

"(2) NUMBER OF AWARDS.—An eligible partnership may not receive more than one grant during a five-year period. Nothing in this title shall be construed to prohibit an individual member, that can demonstrate need, of an eligible partnership that receives a grant under this title from entering into another eligible partnership consisting of new members and receiving a grant with such other eligible partnership before the five-year period described in the preceding sentence applicable to the eligible partnership with which the individual member has first partnered has expired.

"(b) PEER REVIEW.—

"(1) PANEL.—The Secretary shall provide the applications submitted under this part to a peer review panel for evaluation. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

"(2) PRIORITY.—The Secretary, in funding applications under this part, shall give priority—

"(A) to eligible partnerships that include an institution of higher education whose teacher preparation program has a rigorous selection process to ensure the highest quality of students entering such program; and

"(B)(i) to applications from broad-based eligible partnerships that involve businesses and community organizations; or

"(ii) to eligible partnerships so that the awards promote an equitable geographic distribution of grants among rural and urban areas.

"(3) SECRETARIAL SELECTION.—The Secretary shall determine, based on the peer review process, which applications shall receive funding and the amounts of the grants. In determining grant amounts, the Secretary shall take into account the total amount of funds available for all grants under this part and the types of activities proposed to be carried out by the eligible partnership.

"(c) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—Each eligible partnership receiving a grant under this part shall provide, from non-Federal sources, an amount equal to 100 percent of the amount of the grant, which may be provided in cash or in-kind, to carry out the activities supported by the grant.

"(2) WAIVER.—The Secretary may waive all or part of the matching requirement described in paragraph (1) for any fiscal year for an eligible partnership if the Secretary determines that applying the matching requirement to the eligible partnership would result in serious hardship or an inability to carry out the authorized activities described in this part.

"(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—An eligible partnership that receives a grant under this part may use not more than two percent of the funds provided to administer the grant.

20 USC 1022c.

**"SEC. 204. ACCOUNTABILITY AND EVALUATION.**

Grants.

"(a) ELIGIBLE PARTNERSHIP EVALUATION.—Each eligible partnership submitting an application for a grant under this part shall establish, and include in such application, an evaluation plan that includes strong and measurable performance objectives. The plan shall include objectives and measures for increasing—

"(1) achievement for all prospective and new teachers, as measured by the eligible partnership;

"(2) teacher retention in the first three years of a teacher's career;

"(3) improvement in the pass rates and scaled scores for initial State certification or licensure of teachers; and

"(4)(A) the percentage of highly qualified teachers hired by the high-need local educational agency participating in the eligible partnership;

"(B) the percentage of highly qualified teachers hired by the high-need local educational agency who are members of underrepresented groups;

"(C) the percentage of highly qualified teachers hired by the high-need local educational agency who teach high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages and critical foreign languages);

"(D) the percentage of highly qualified teachers hired by the high-need local educational agency who teach in high-need

areas (including special education, language instruction educational programs for limited English proficient students, and early childhood education);

"(E) the percentage of highly qualified teachers hired by the high-need local educational agency who teach in high-need schools, disaggregated by the elementary school and secondary school levels;

"(F) as applicable, the percentage of early childhood education program classes in the geographic area served by the eligible partnership taught by early childhood educators who are highly competent; and

"(G) as applicable, the percentage of teachers trained—

"(i) to integrate technology effectively into curricula and instruction, including technology consistent with the principles of universal design for learning; and

"(ii) to use technology effectively to collect, manage, and analyze data to improve teaching and learning for the purpose of improving student academic achievement.

"(b) INFORMATION.—An eligible partnership receiving a grant under this part shall ensure that teachers, principals, school superintendents, faculty, and leadership at institutions of higher education located in the geographic areas served by the eligible partnership are provided information, including through electronic means, about the activities carried out with funds under this part.

"(c) REVISED APPLICATION.—If the Secretary determines that an eligible partnership receiving a grant under this part is not making substantial progress in meeting the purposes, goals, objectives, and measures of the grant, as appropriate, by the end of the third year of a grant under this part, then the Secretary— Deadline.

"(1) shall cancel the grant; and

"(2) may use any funds returned or available because of such cancellation under paragraph (1) to—

"(A) increase other grant awards under this part; or

"(B) award new grants to other eligible partnerships under this part.

"(d) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate the activities funded under this part and report the findings regarding the evaluation of such activities to the authorizing committees. The Secretary shall broadly disseminate— Reports.

"(1) successful practices developed by eligible partnerships under this part; and

"(2) information regarding such practices that were found to be ineffective.

**"SEC. 205. ACCOUNTABILITY FOR PROGRAMS THAT PREPARE TEACHERS.** 20 USC 1022d.

"(a) INSTITUTIONAL AND PROGRAM REPORT CARDS ON THE QUALITY OF TEACHER PREPARATION.—

"(1) REPORT CARD.—Each institution of higher education that conducts a traditional teacher preparation program or alternative routes to State certification or licensure program and that enrolls students receiving Federal assistance under this Act shall report annually to the State and the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary, the following:

"(A) GOALS AND ASSURANCES.—

"(i) For the most recent year for which the information is available for the institution—

"(I) whether the goals set under section 206 have been met; and

"(II) a description of the activities the institution implemented to achieve such goals.

"(ii) A description of the steps the institution is taking to improve its performance in meeting the annual goals set under section 206.

"(iii) A description of the activities the institution has implemented to meet the assurances provided under section 206.

"(B) PASS RATES AND SCALED SCORES.—For the most recent year for which the information is available for those students who took the assessments used for teacher certification or licensure by the State in which the program is located and are enrolled in the traditional teacher preparation program or alternative routes to State certification or licensure program, and for those who have taken such assessments and have completed the traditional teacher preparation program or alternative routes to State certification or licensure program during the two-year period preceding such year, for each of such assessments—

"(i) the percentage of students who have completed 100 percent of the nonclinical coursework and taken the assessment who pass such assessment;

"(ii) the percentage of all students who passed such assessment;

"(iii) the percentage of students who have taken such assessment who enrolled in and completed the traditional teacher preparation program or alternative routes to State certification or licensure program, as applicable;

"(iv) the average scaled score for all students who took such assessment;

"(v) a comparison of the program's pass rates with the average pass rates for programs in the State; and

"(vi) a comparison of the program's average scaled scores with the average scaled scores for programs in the State.

"(C) PROGRAM INFORMATION.—A description of—

"(i) the criteria for admission into the program;

"(ii) the number of students in the program (disaggregated by race, ethnicity, and gender);

"(iii) the average number of hours of supervised clinical experience required for those in the program;

"(iv) the number of full-time equivalent faculty and students in the supervised clinical experience; and

"(v) the total number of students who have been certified or licensed as teachers, disaggregated by subject and area of certification or licensure.

"(D) STATEMENT.—In States that require approval or accreditation of teacher preparation programs, a statement of whether the institution's program is so approved or accredited, and by whom.

"(E) DESIGNATION AS LOW-PERFORMING.—Whether the program has been designated as low-performing by the State under section 207(a).

"(F) USE OF TECHNOLOGY.—A description of the activities, including activities consistent with the principles of universal design for learning, that prepare teachers to integrate technology effectively into curricula and instruction, and to use technology effectively to collect, manage, and analyze data in order to improve teaching and learning for the purpose of increasing student academic achievement.

"(G) TEACHER TRAINING.—A description of the activities that prepare general education and special education teachers to teach students with disabilities effectively, including training related to participation as a member of individualized education program teams, as defined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act, and to effectively teach students who are limited English proficient.

"(2) REPORT.—Each eligible partnership receiving a grant under section 202 shall report annually on the progress of the eligible partnership toward meeting the purposes of this part and the objectives and measures described in section 204(a).

"(3) FINES.—The Secretary may impose a fine not to exceed $27,500 on an institution of higher education for failure to provide the information described in this subsection in a timely or accurate manner.

"(4) SPECIAL RULE.—In the case of an institution of higher education that conducts a traditional teacher preparation program or alternative routes to State certification or licensure program and has fewer than 10 scores reported on any single initial teacher certification or licensure assessment during an academic year, the institution shall collect and publish information, as required under paragraph (1)(B), with respect to an average pass rate and scaled score on each State certification or licensure assessment taken over a three-year period.

"(b) STATE REPORT CARD ON THE QUALITY OF TEACHER PREPARATION.—

"(1) IN GENERAL.—Each State that receives funds under this Act shall provide to the Secretary, and make widely available to the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary, an annual State report card on the quality of teacher preparation in the State, both for traditional teacher preparation programs and for alternative routes to State certification or licensure programs, which shall include not less than the following: Public information.

"(A) A description of the reliability and validity of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the State.

"(B) The standards and criteria that prospective teachers must meet to attain initial teacher certification or licensure and to be certified or licensed to teach particular academic subjects, areas, or grades within the State.

"(C) A description of how the assessments and requirements described in subparagraph (A) are aligned with the State's challenging academic content standards required under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 and, as applicable, State early learning standards for early childhood education programs.

"(D) For each of the assessments used by the State for teacher certification or licensure—

"(i) for each institution of higher education located in the State and each entity located in the State, including those that offer an alternative route for teacher certification or licensure, the percentage of students at such institution or entity who have completed 100 percent of the nonclinical coursework and taken the assessment who pass such assessment;

"(ii) the percentage of all such students at all such institutions and entities who have taken the assessment who pass such assessment;

"(iii) the percentage of students who have taken the assessment who enrolled in and completed a teacher preparation program; and

"(iv) the average scaled score of individuals participating in such a program, or who have completed such a program during the two-year period preceding the first year for which the annual State report card is provided, who took each such assessment.

"(E) A description of alternative routes to teacher certification or licensure in the State (including any such routes operated by entities that are not institutions of higher education), if any, including, for each of the assessments used by the State for teacher certification or licensure—

"(i) the percentage of individuals participating in such routes, or who have completed such routes during the two-year period preceding the date for which the determination is made, who passed each such assessment; and

"(ii) the average scaled score of individuals participating in such routes, or who have completed such routes during the two-year period preceding the first year for which the annual State report card is provided, who took each such assessment.

"(F) A description of the State's criteria for assessing the performance of teacher preparation programs within institutions of higher education in the State. Such criteria shall include indicators of the academic content knowledge and teaching skills of students enrolled in such programs.

"(G) For each teacher preparation program in the State—

"(i) the criteria for admission into the program;

"(ii) the number of students in the program, disaggregated by race, ethnicity, and gender (except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student);

"(iii) the average number of hours of supervised clinical experience required for those in the program; and

"(iv) the number of full-time equivalent faculty, adjunct faculty, and students in supervised clinical experience.

"(H) For the State as a whole, and for each teacher preparation program in the State, the number of teachers prepared, in the aggregate and reported separately by—

"(i) area of certification or licensure;

"(ii) academic major; and

"(iii) subject area for which the teacher has been prepared to teach.

"(I) A description of the extent to which teacher preparation programs are addressing shortages of highly qualified teachers, by area of certification or licensure, subject, and specialty, in the State's public schools.

"(J) The extent to which teacher preparation programs prepare teachers, including general education and special education teachers, to teach students with disabilities effectively, including training related to participation as a member of individualized education program teams, as defined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act.

"(K) A description of the activities that prepare teachers to—

"(i) integrate technology effectively into curricula and instruction, including activities consistent with the principles of universal design for learning; and

"(ii) use technology effectively to collect, manage, and analyze data to improve teaching and learning for the purpose of increasing student academic achievement.

"(L) The extent to which teacher preparation programs prepare teachers, including general education and special education teachers, to effectively teach students who are limited English proficient.

"(2) PROHIBITION AGAINST CREATING A NATIONAL LIST.—The Secretary shall not create a national list or ranking of States, institutions, or schools using the scaled scores provided under this subsection.

"(c) DATA QUALITY.—The Secretary shall prescribe regulations to ensure the reliability, validity, integrity, and accuracy of the data submitted pursuant to this section. Regulations.

"(d) REPORT OF THE SECRETARY ON THE QUALITY OF TEACHER PREPARATION.—

"(1) REPORT CARD.—The Secretary shall annually provide to the authorizing committees, and publish and make widely available, a report card on teacher qualifications and preparation in the United States, including all the information reported in subparagraphs (A) through (L) of subsection (b)(1). Such report shall identify States for which eligible partnerships received a grant under this part. Publication.

"(2) REPORT TO CONGRESS.—The Secretary shall prepare and submit a report to the authorizing committees that contains the following:

"(A) A comparison of States' efforts to improve the quality of the current and future teaching force.

"(B) A comparison of eligible partnerships' efforts to improve the quality of the current and future teaching force.

"(C) The national mean and median scaled scores and pass rate on any standardized test that is used in more than one State for teacher certification or licensure.

Publication. Public information.

"(3) SPECIAL RULE.—In the case of a teacher preparation program with fewer than ten scores reported on any single initial teacher certification or licensure assessment during an academic year, the Secretary shall collect and publish, and make publicly available, information with respect to an average pass rate and scaled score on each State certification or licensure assessment taken over a three-year period.

"(e) COORDINATION.—The Secretary, to the extent practicable, shall coordinate the information collected and published under this part among States for individuals who took State teacher certification or licensure assessments in a State other than the State in which the individual received the individual's most recent degree.

20 USC 1022e.

**"SEC. 206. TEACHER DEVELOPMENT.**

"(a) ANNUAL GOALS.—Each institution of higher education that conducts a traditional teacher preparation program (including programs that offer any ongoing professional development programs) or alternative routes to State certification or licensure program, and that enrolls students receiving Federal assistance under this Act, shall set annual quantifiable goals for increasing the number of prospective teachers trained in teacher shortage areas designated by the Secretary or by the State educational agency, including mathematics, science, special education, and instruction of limited English proficient students.

"(b) ASSURANCES.—Each institution described in subsection (a) shall provide assurances to the Secretary that—

"(1) training provided to prospective teachers responds to the identified needs of the local educational agencies or States where the institution's graduates are likely to teach, based on past hiring and recruitment trends;

"(2) training provided to prospective teachers is closely linked with the needs of schools and the instructional decisions new teachers face in the classroom;

"(3) prospective special education teachers receive course work in core academic subjects and receive training in providing instruction in core academic subjects;

"(4) general education teachers receive training in providing instruction to diverse populations, including children with disabilities, limited English proficient students, and children from low-income families; and

"(5) prospective teachers receive training on how to effectively teach in urban and rural schools, as applicable.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an institution to create a new teacher preparation area of concentration or degree program or adopt a specific curriculum in complying with this section.

20 USC 1022f.

**"SEC. 207. STATE FUNCTIONS.**

"(a) STATE ASSESSMENT.—In order to receive funds under this Act, a State shall conduct an assessment to identify low-performing

teacher preparation programs in the State and to assist such programs through the provision of technical assistance. Each such State shall provide the Secretary with an annual list of low-performing teacher preparation programs and an identification of those programs at risk of being placed on such list, as applicable. Such assessment shall be described in the report under section 205(b). Levels of performance shall be determined solely by the State and may include criteria based on information collected pursuant to this part, including progress in meeting the goals of—

"(1) increasing the percentage of highly qualified teachers in the State, including increasing professional development opportunities;

"(2) improving student academic achievement for elementary and secondary students; and

"(3) raising the standards for entry into the teaching profession.

"(b) TERMINATION OF ELIGIBILITY.—Any teacher preparation program from which the State has withdrawn the State's approval, or terminated the State's financial support, due to the low performance of the program based upon the State assessment described in subsection (a)—

"(1) shall be ineligible for any funding for professional development activities awarded by the Department;

"(2) may not be permitted to accept or enroll any student who receives aid under title IV in the institution's teacher preparation program;

"(3) shall provide transitional support, including remedial services if necessary, for students enrolled at the institution at the time of termination of financial support or withdrawal of approval; and

"(4) shall be reinstated upon demonstration of improved performance, as determined by the State.

"(c) NEGOTIATED RULEMAKING.—If the Secretary develops any regulations implementing subsection (b)(2), the Secretary shall submit such proposed regulations to a negotiated rulemaking process, which shall include representatives of States, institutions of higher education, and educational and student organizations.

"(d) APPLICATION OF THE REQUIREMENTS.—The requirements of this section shall apply to both traditional teacher preparation programs and alternative routes to State certification and licensure programs.

**"SEC. 208. GENERAL PROVISIONS.** 20 USC 1022g.

"(a) METHODS.—In complying with sections 205 and 206, the Secretary shall ensure that States and institutions of higher education use fair and equitable methods in reporting and that the reporting methods do not reveal personally identifiable information.

"(b) SPECIAL RULE.—For each State that does not use content assessments as a means of ensuring that all teachers teaching in core academic subjects within the State are highly qualified, as required under section 1119 of the Elementary and Secondary Education Act of 1965, in accordance with the State plan submitted or revised under section 1111 of such Act, and that each person employed as a special education teacher in the State who teaches elementary school or secondary school is highly qualified by the deadline, as required under section 612(a)(14)(C) of the Individuals with Disabilities Education Act, the Secretary shall—

"(1) to the extent practicable, collect data comparable to the data required under this part from States, local educational agencies, institutions of higher education, or other entities that administer such assessments to teachers or prospective teachers; and

"(2) notwithstanding any other provision of this part, use such data to carry out requirements of this part related to assessments, pass rates, and scaled scores.

"(c) RELEASE OF INFORMATION TO TEACHER PREPARATION PROGRAMS.—

"(1) IN GENERAL.—For the purpose of improving teacher preparation programs, a State that receives funds under this Act, or that participates as a member of a partnership, consortium, or other entity that receives such funds, shall provide to a teacher preparation program, upon the request of the teacher preparation program, any and all pertinent education-related information that—

"(A) may enable the teacher preparation program to evaluate the effectiveness of the program's graduates or the program itself; and

"(B) is possessed, controlled, or accessible by the State.

"(2) CONTENT OF INFORMATION.—The information described in paragraph (1)—

"(A) shall include an identification of specific individuals who graduated from the teacher preparation program to enable the teacher preparation program to evaluate the information provided to the program from the State with the program's own data about the specific courses taken by, and field experiences of, the individual graduates; and

"(B) may include—

"(i) kindergarten through grade 12 academic achievement and demographic data, without revealing personally identifiable information about an individual student, for students who have been taught by graduates of the teacher preparation program; and

"(ii) teacher effectiveness evaluations for teachers who graduated from the teacher preparation program.

20 USC 1022h.

**"SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part $300,000,000 for fiscal year 2009 and such sums as may be necessary for each of the two succeeding fiscal years."; and

20 USC 1041 *et seq*.

(3) by striking part B and inserting the following:

## "PART B—ENHANCING TEACHER EDUCATION

20 USC 1031.

**"SEC. 230. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

### "Subpart 1—Preparing Teachers for Digital Age Learners

20 USC 1032.

**"SEC. 231. PROGRAM AUTHORIZED.**

"(a) PROGRAM AUTHORITY.—The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements

with, eligible consortia to pay the Federal share of the costs of projects to—

"(1) serve graduate teacher candidates who are prepared to use modern information, communication, and learning tools to—

"(A) improve student learning, assessment, and learning management; and

"(B) help students develop learning skills to succeed in higher education and to enter the workforce;

"(2) strengthen and develop partnerships among the stakeholders in teacher preparation to transform teacher education and ensure technology-rich teaching and learning environments throughout a teacher candidate's preservice education, including clinical experiences; and

"(3) assess the effectiveness of departments, schools, and colleges of education at institutions of higher education in preparing teacher candidates for successful implementation of technology-rich teaching and learning environments, including environments consistent with the principles of universal design for learning, that enable kindergarten through grade 12 students to develop learning skills to succeed in higher education and to enter the workforce.

"(b) AMOUNT AND DURATION.—A grant, contract, or cooperative agreement under this subpart—

"(1) shall be for not more than $2,000,000;

"(2) shall be for a three-year period; and

"(3) may be renewed for one additional year.

"(c) NON-FEDERAL SHARE REQUIREMENT.—The Federal share of the cost of any project funded under this subpart shall not exceed 75 percent. The non-Federal share of the cost of such project may be provided in cash or in kind, fairly evaluated, including services.

"(d) DEFINITION OF ELIGIBLE CONSORTIUM.—In this subpart, the term 'eligible consortium' means a consortium of members that includes the following:

"(1) Not less than one institution of higher education that awards baccalaureate or masters degrees and prepares teachers for initial entry into teaching.

"(2) Not less than one State educational agency or local educational agency.

"(3) A department, school, or college of education at an institution of higher education.

"(4) A department, school, or college of arts and sciences at an institution of higher education.

"(5) Not less than one entity with the capacity to contribute to the technology-related reform of teacher preparation programs, which may be a professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity.

**"SEC. 232. USES OF FUNDS.** 20 USC 1032a.

"(a) IN GENERAL.—An eligible consortium that receives a grant or enters into a contract or cooperative agreement under this subpart shall use funds made available under this subpart to carry out a project that—

"(1) develops long-term partnerships among members of the consortium that are focused on effective teaching with

modern digital tools and content that substantially connect preservice preparation of teacher candidates with high-need schools; or

"(2) transforms the way departments, schools, and colleges of education teach classroom technology integration, including the principles of universal design, to teacher candidates.

"(b) USES OF FUNDS FOR PARTNERSHIP GRANTS.—In carrying out a project under subsection (a)(1), an eligible consortium shall—

"(1) provide teacher candidates, early in their preparation, with field experiences with technology in educational settings;

"(2) build the skills of teacher candidates to support technology-rich instruction, assessment and learning management in content areas, technology literacy, an understanding of the principles of universal design, and the development of other skills for entering the workforce;

"(3) provide professional development in the use of technology for teachers, administrators, and content specialists who participate in field placement;

"(4) provide professional development of technology pedagogical skills for faculty of departments, schools, and colleges of education and arts and sciences;

"(5) implement strategies for the mentoring of teacher candidates by members of the consortium with respect to technology implementation;

"(6) evaluate teacher candidates during the first years of teaching to fully assess outcomes of the project;

"(7) build collaborative learning communities for technology integration within the consortium to sustain meaningful applications of technology in the classroom during teacher preparation and early career practice; and

"(8) evaluate the effectiveness of the project.

"(c) USES OF FUNDS FOR TRANSFORMATION GRANTS.—In carrying out a project under subsection (a)(2), an eligible consortium shall—

"(1) redesign curriculum to require collaboration between the department, school, or college of education faculty and the department, school, or college of arts and sciences faculty who teach content or methods courses for training teacher candidates;

"(2) collaborate between the department, school, or college of education faculty and the department, school, or college of arts and science faculty and academic content specialists at the local educational agency to educate preservice teachers who can integrate technology and pedagogical skills in content areas;

"(3) collaborate between the department, school, or college of education faculty and the department, school, or college of arts and sciences faculty who teach courses to preservice teachers to—

"(A) develop and implement a plan for preservice teachers and continuing educators that demonstrates effective instructional strategies and application of such strategies in the use of digital tools to transform the teaching and learning process; and

"(B) better reach underrepresented preservice teacher populations with programs that connect such preservice teacher populations with applications of technology;

"(4) collaborate among faculty and students to create and disseminate case studies of technology applications in classroom settings with a goal of improving student academic achievement in high-need schools;

"(5) provide additional technology resources for preservice teachers to plan and implement technology applications in classroom settings that provide evidence of student learning; and

"(6) bring together expertise from departments, schools, or colleges of education, arts and science faculty, and academic content specialists at the local educational agency to share and disseminate technology applications in the classroom through teacher preparation and into early career practice.

**"SEC. 233. APPLICATION REQUIREMENTS.** 20 USC 1032b.

"To be eligible to receive a grant or enter into a contract or cooperative agreement under this subpart, an eligible consortium shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application shall include the following:

"(1) A description of the project to be carried out with the grant, including how the project will—

"(A) develop a long-term partnership focused on effective teaching with modern digital tools and content that substantially connects preservice preparation of teacher candidates with high-need schools; or

"(B) transform the way departments, schools, and colleges of education teach classroom technology integration, including the principles of universal design, to teacher candidates.

"(2) A demonstration of—

"(A) the commitment, including the financial commitment, of each of the members of the consortium for the proposed project; and

"(B) the support of the leadership of each organization that is a member of the consortium for the proposed project.

"(3) A description of how each member of the consortium will participate in the project.

"(4) A description of how the State educational agency or local educational agency will incorporate the project into the agency's technology plan, if such a plan already exists.

"(5) A description of how the project will be continued after Federal funds are no longer available under this subpart for the project.

"(6) A description of how the project will incorporate—

"(A) State teacher technology standards; and

"(B) State student technology standards.

"(7) A plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

**"SEC. 234. EVALUATION.** 20 USC 1032c.

"Not less than ten percent of the funds awarded to an eligible consortium to carry out a project under this subpart shall be used to evaluate the effectiveness of such project.

## "Subpart 2—Honorable Augustus F. Hawkins Centers of Excellence

20 USC 1033.

**"SEC. 241. DEFINITIONS.**

"In this subpart:

"(1) ELIGIBLE INSTITUTION.—The term 'eligible institution' means—

"(A) an institution of higher education that has a teacher preparation program that is a qualified teacher preparation program and that is—

"(i) a part B institution (as defined in section 322);

"(ii) a Hispanic-serving institution (as defined in section 502);

"(iii) a Tribal College or University (as defined in section 316);

"(iv) an Alaska Native-serving institution (as defined in section 317(b));

"(v) a Native Hawaiian-serving institution (as defined in section 317(b));

"(vi) a Predominantly Black Institution (as defined in section 318);

"(vii) an Asian American and Native American Pacific Islander-serving institution (as defined in section 320(b)); or

"(viii) a Native American-serving, nontribal institution (as defined in section 319);

"(B) a consortium of institutions described in subparagraph (A); or

"(C) an institution described in subparagraph (A), or a consortium described in subparagraph (B), in partnership with any other institution of higher education, but only if the center of excellence established under section 242 is located at an institution described in subparagraph (A).

"(2) SCIENTIFICALLY BASED READING RESEARCH.—The term 'scientifically based reading research' has the meaning given such term in section 1208 of the Elementary and Secondary Education Act of 1965.

20 USC 1033a.

**"SEC. 242. AUGUSTUS F. HAWKINS CENTERS OF EXCELLENCE.**

"(a) PROGRAM AUTHORIZED.—From the amounts appropriated to carry out this part, the Secretary is authorized to award competitive grants to eligible institutions to establish centers of excellence.

"(b) USE OF FUNDS.—Grants provided by the Secretary under this subpart shall be used to ensure that current and future teachers are highly qualified by carrying out one or more of the following activities:

"(1) Implementing reforms within teacher preparation programs to ensure that such programs are preparing teachers who are highly qualified, are able to understand scientifically valid research, and are able to use advanced technology effectively in the classroom, including use of instructional techniques to improve student academic achievement, by—

"(A) retraining or recruiting faculty; and

"(B) designing (or redesigning) teacher preparation programs that—

"(i) prepare teachers to serve in low-performing schools and close student achievement gaps, and that

are based on rigorous academic content, scientifically valid research (including scientifically based reading research and mathematics research, as it becomes available), and challenging State academic content standards and student academic achievement standards; and

"(ii) promote strong teaching skills.

"(2) Providing sustained and high-quality preservice clinical experience, including the mentoring of prospective teachers by exemplary teachers, substantially increasing interaction between faculty at institutions of higher education and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools, and providing support, including preparation time, for such interaction.

"(3) Developing and implementing initiatives to promote retention of highly qualified teachers and principals, including minority teachers and principals, including programs that provide—

"(A) teacher or principal mentoring from exemplary teachers or principals, respectively; or

"(B) induction and support for teachers and principals during their first three years of employment as teachers or principals, respectively.

"(4) Awarding scholarships based on financial need to help students pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program, not to exceed the cost of attendance.

"(5) Disseminating information on effective practices for teacher preparation and successful teacher certification and licensure assessment preparation strategies.

"(6) Activities authorized under section 202.

"(c) APPLICATION.—Any eligible institution desiring a grant under this subpart shall submit an application to the Secretary at such a time, in such a manner, and accompanied by such information as the Secretary may require.

"(d) MINIMUM GRANT AMOUNT.—The minimum amount of each grant under this subpart shall be $500,000.

"(e) LIMITATION ON ADMINISTRATIVE EXPENSES.—An eligible institution that receives a grant under this subpart may use not more than two percent of the funds provided to administer the grant.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subpart.

## "Subpart 3—Preparing General Education Teachers to More Effectively Educate Students With Disabilities

**"SEC. 251. TEACH TO REACH GRANTS.** 20 USC 1034.

"(a) AUTHORIZATION OF PROGRAM.—

"(1) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to improve the preparation of general education teacher candidates to ensure that such teacher candidates possess the knowledge and skills necessary to effectively instruct students with disabilities in general education classrooms.

"(2) DURATION OF GRANTS.—A grant under this section shall be awarded for a period of not more than five years.

"(3) NON-FEDERAL SHARE.—An eligible partnership that receives a grant under this section shall provide not less than 25 percent of the cost of the activities carried out with such grant from non-Federal sources, which may be provided in cash or in kind.

"(b) DEFINITION OF ELIGIBLE PARTNERSHIP.—In this section, the term 'eligible partnership' means a partnership that—

"(1) shall include—

"(A) one or more departments or programs at an institution of higher education—

"(i) that prepare elementary or secondary general education teachers;

"(ii) that have a program of study that leads to an undergraduate degree, a master's degree, or completion of a postbaccalaureate program required for teacher certification; and

"(iii) the graduates of which are highly qualified;

"(B) a department or program of special education at an institution of higher education;

"(C) a department or program at an institution of higher education that provides degrees in core academic subjects; and

"(D) a high-need local educational agency; and

"(2) may include a department or program of mathematics, earth or physical science, foreign language, or another department at the institution that has a role in preparing teachers.

"(c) ACTIVITIES.—An eligible partnership that receives a grant under this section—

"(1) shall use the grant funds to—

"(A) develop or strengthen an undergraduate, postbaccalaureate, or master's teacher preparation program by integrating special education strategies into the general education curriculum and academic content;

"(B) provide teacher candidates participating in the program under subparagraph (A) with skills related to—

"(i) response to intervention, positive behavioral interventions and supports, differentiated instruction, and data driven instruction;

"(ii) universal design for learning;

"(iii) determining and utilizing accommodations for instruction and assessments;

"(iv) collaborating with special educators, related services providers, and parents, including participation in individualized education program development and implementation; and

"(v) appropriately utilizing technology and assistive technology for students with disabilities; and

"(C) provide extensive clinical experience for participants described in subparagraph (B) with mentoring and induction support throughout the program that continues during the first two years of full-time teaching; and

"(2) may use grant funds to develop and administer alternate assessments of students with disabilities.

"(d) APPLICATION.—An eligible partnership seeking a grant under this section shall submit an application to the Secretary

at such time, in such manner, and containing such information as the Secretary may require. Such application shall include—

"(1) a self-assessment by the eligible partnership of the existing teacher preparation program at the institution of higher education and needs related to preparing general education teacher candidates to instruct students with disabilities; and

"(2) an assessment of the existing personnel needs for general education teachers who instruct students with disabilities, performed by the local educational agency in which most graduates of the teacher preparation program are likely to teach after completion of the program under subsection (c)(1).

"(e) PEER REVIEW.—The Secretary shall convene a peer review committee to review applications for grants under this section and to make recommendations to the Secretary regarding the selection of grantees. Members of the peer review committee shall be recognized experts in the fields of special education, teacher preparation, and general education and shall not be in a position to benefit financially from any grants awarded under this section.

"(f) EVALUATIONS.—

"(1) BY THE PARTNERSHIP.—

"(A) IN GENERAL.—An eligible partnership receiving a grant under this section shall conduct an evaluation at the end of the grant period to determine—

"(i) the effectiveness of the general education teachers who completed a program under subsection (c)(1) with respect to instruction of students with disabilities in general education classrooms; and

"(ii) the systemic impact of the activities carried out by such grant on how each institution of higher education that is a member of the partnership prepares teachers for instruction in elementary schools and secondary schools.

"(B) REPORT TO THE SECRETARY.—Each eligible partnership performing an evaluation under subparagraph (A) shall report the findings of such evaluation to the Secretary.

"(2) REPORT BY THE SECRETARY.—Not later than 180 days after the last day of the grant period under this section, the Secretary shall make available to Congress and the public the findings of the evaluations submitted under paragraph (1), and information on best practices related to effective instruction of students with disabilities in general education classrooms.

Public information.

## "Subpart 4—Adjunct Teacher Corps

**"SEC. 255. ADJUNCT TEACHER CORPS.**

20 USC 1035.

"(a) PURPOSE.—The purpose of this section is to create opportunities for professionals and other individuals with subject matter expertise in mathematics, science, or critical foreign languages to provide such subject matter expertise to secondary school students on an adjunct basis.

"(b) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants on a competitive basis to eligible entities to identify, recruit, and train qualified individuals with subject matter expertise in mathematics, science, or critical foreign languages to serve as adjunct content specialists.

"(c) DURATION OF GRANTS.—The Secretary may award grants under this section for a period of not more than five years.

"(d) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) a local educational agency; or

"(2) a partnership consisting of a local educational agency, serving as a fiscal agent, and a public or private educational organization or business.

"(e) USES OF FUNDS.—An eligible entity that receives a grant under this section is authorized to use such grant to carry out one or both of the following activities:

"(1) To develop the capacity of the eligible entity to identify, recruit, and train individuals with subject matter expertise in mathematics, science, or critical foreign languages who are not employed in the elementary and secondary education system (including individuals in business and government, and individuals who would participate through distance-learning arrangements) to become adjunct content specialists.

"(2) To provide preservice training and on-going professional development to adjunct content specialists.

"(f) APPLICATIONS.—

"(1) APPLICATION REQUIRED.—An eligible entity that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(2) CONTENTS.—An application submitted under paragraph (1) shall include—

"(A) a description of—

"(i) the need for, and expected benefits of using, adjunct content specialists in the schools served by the local educational agency, which may include information on the difficulty the local educational agency faces in recruiting qualified faculty in mathematics, science, and critical foreign language courses;

"(ii) measurable objectives for the activities supported by the grant, including the number of adjunct content specialists the eligible entity intends to place in schools and classrooms, and the gains in academic achievement expected as a result of the addition of such specialists;

"(iii) how the eligible entity will establish criteria for and recruit the most qualified individuals and public or private organizations and businesses to participate in the activities supported by the grant;

"(iv) how the eligible entity will provide preservice training and on-going professional development to adjunct content specialists to ensure that such specialists have the capacity to serve effectively;

"(v) how the eligible entity will use funds received under this section, including how the eligible entity will evaluate the success of the activities supported by the grant; and

"(vi) how the eligible entity will support and continue the activities supported by the grant after the grant has expired, including how such entity will seek support from other sources, such as State and local government and the private sector; and

"(B) an assurance that the use of adjunct content specialists will not result in the displacement or transfer of currently employed teachers nor a reduction in the number of overall teachers in the district.

"(g) PRIORITIES.—In awarding grants under this section, the Secretary shall give priority to eligible entities that demonstrate in the application for such a grant a plan to—

"(1) serve the schools served by the local educational agency that have a large number or percentage of students performing below grade level in mathematics, science, or critical foreign language courses;

"(2) serve local educational agencies that have a large number or percentage of students from low-income families; and

"(3) recruit and train individuals to serve as adjunct content specialists in schools that have an insufficient number of teachers in mathematics, science, or critical foreign languages.

"(h) MATCHING REQUIREMENT.—Each eligible entity that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 100 percent of the amount of such grant (in cash or in kind) to carry out the activities supported by such grant.

"(i) PERFORMANCE REPORT.—Each eligible entity receiving a grant under this section shall prepare and submit to the Secretary a final report on the results of the activities supported by such grant, which shall contain such information as the Secretary may require, including any improvements in student academic achievement as a result of the use of adjunct content specialists.

"(j) EVALUATION.—The Secretary shall evaluate the activities supported by grants under this section, including the impact of such activities on student academic achievement, and shall report the results of such evaluation to the authorizing committees. Reports.

"(k) DEFINITION.—In this section, the term 'adjunct content specialist' means an individual who—

"(1) meets the requirements of section 9101(23)(B)(ii) of the Elementary and Secondary Education Act of 1965;

"(2) has demonstrated expertise in mathematics, science, or a critical foreign language, as determined by the local educational agency; and

"(3) is not the primary provider of instructional services to a student, unless the adjunct content specialist is under the direct supervision of a teacher who meets the requirements of section 9101(23) of such Act.

## "Subpart 5—Graduate Fellowships to Prepare Faculty in High-Need Areas at Colleges of Education

### "SEC. 258. GRADUATE FELLOWSHIPS TO PREPARE FACULTY IN HIGH-NEED AREAS AT COLLEGES OF EDUCATION. 20 USC 1036.

"(a) GRANTS BY SECRETARY.—The Secretary shall make grants to eligible institutions to enable such institutions to make graduate fellowship awards to qualified individuals in accordance with the provisions of this section.

"(b) ELIGIBLE INSTITUTIONS.—In this section, the term 'eligible institution' means an institution of higher education, or a consortium of such institutions, that offers a program of postbaccalaureate study leading to a doctoral degree.

"(c) APPLICATIONS.—An eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(d) TYPES OF FELLOWSHIPS SUPPORTED.—

"(1) IN GENERAL.—An eligible institution that receives a grant under this section shall use the grant funds to provide graduate fellowships to individuals who are preparing for the professorate in order to prepare individuals to become highly qualified elementary school and secondary school mathematics and science teachers, special education teachers, and teachers who provide instruction for limited English proficient students.

"(2) TYPES OF STUDY.—A graduate fellowship provided under this section shall support an individual in pursuing postbaccalaureate study, which leads to a doctoral degree and may include a master's degree as part of such study, related to teacher preparation and pedagogy in one of the following areas:

"(A) Science, technology, engineering, or mathematics, if the individual has completed a master's degree in mathematics or science and is pursuing a doctoral degree in mathematics, science, or education.

"(B) Special education.

"(C) The instruction of limited English proficient students, including postbaccalaureate study in language instruction educational programs.

"(e) FELLOWSHIP TERMS AND CONDITIONS.—

"(1) SELECTION OF FELLOWS.—The Secretary shall ensure that an eligible institution that receives a grant under this section—

"(A) shall provide graduate fellowship awards to individuals who plan to pursue a career in instruction at an institution of higher education that has a teacher preparation program; and

"(B) may not provide a graduate fellowship to an otherwise eligible individual—

"(i) during periods in which such individual is enrolled at an institution of higher education unless such individual is maintaining satisfactory academic progress in, and devoting full-time study or research to, the pursuit of the degree for which the fellowship support was provided; or

"(ii) if the individual is engaged in gainful employment, other than part-time employment related to teaching, research, or a similar activity determined by the institution to be consistent with and supportive of the individuals's progress toward the degree for which the fellowship support was provided.

"(2) AMOUNT OF FELLOWSHIP AWARDS.—

"(A) IN GENERAL.—An eligible institution that receives a grant under this section shall award stipends to individuals who are provided graduate fellowships under this section.

"(B) AWARDS BASED ON NEED.—A stipend provided under this section shall be in an amount equal to the level of support provided by the National Science Foundation graduate fellowships, except that such stipend shall be adjusted as necessary so as not to exceed the fellowship recipient's demonstrated need, as determined by the institution of higher education where the fellowship recipient is enrolled.

"(3) SERVICE REQUIREMENT.—

"(A) TEACHING REQUIRED.—Each individual who receives a graduate fellowship under this section and earns a doctoral degree shall teach for one year at an institution of higher education that has a teacher preparation program for each year of fellowship support received under this section.

"(B) INSTITUTIONAL OBLIGATION.—Each eligible institution that receives a grant under this section shall provide an assurance to the Secretary that the institution has inquired of and determined the decision of each individual who has received a graduate fellowship to, within three years of receiving a doctoral degree, begin employment at an institution of higher education that has a teacher preparation program, as required by this section.

"(C) AGREEMENT REQUIRED.—Prior to receiving an initial graduate fellowship award, and upon the annual renewal of the graduate fellowship award, an individual selected to receive a graduate fellowship under this section shall sign an agreement with the Secretary agreeing to pursue a career in instruction at an institution of higher education that has a teacher preparation program in accordance with subparagraph (A).

"(D) FAILURE TO COMPLY.—If an individual who receives a graduate fellowship award under this section fails to comply with the agreement signed pursuant to subparagraph (C), the sum of the amounts of any graduate fellowship award received by such recipient shall, upon a determination of such a failure, be treated as a Federal Direct Unsubsidized Stafford Loan under part D of title IV, and shall be subject to repayment, together with interest thereon accruing from the date of the fellowship award, in accordance with terms and conditions specified by the Secretary in regulations under this subpart.

Waiver authority.

"(E) MODIFIED SERVICE REQUIREMENT.—The Secretary may waive or modify the service requirement of this paragraph in accordance with regulations promulgated by the Secretary with respect to the criteria to determine the circumstances under which compliance with such service requirement is inequitable or represents a substantial hardship. The Secretary may waive the service requirement if compliance by the fellowship recipient is determined to be inequitable or represent a substantial hardship—

"(i) because the individual is permanently and totally disabled at the time of the waiver request; or

"(ii) based on documentation presented to the Secretary of substantial economic or personal hardship.

"(f) INSTITUTIONAL SUPPORT FOR FELLOWS.—An eligible institution that receives a grant under this section may reserve not more than ten percent of the grant amount for academic and career transition support for graduate fellowship recipients and for meeting the institutional obligation described in subsection (e)(3)(B).

"(g) RESTRICTION ON USE OF FUNDS.—An eligible institution that receives a grant under this section may not use grant funds for general operational overhead of the institution.

## "PART C—GENERAL PROVISIONS

20 USC 1041.

**"SEC. 261. LIMITATIONS.**

"(a) FEDERAL CONTROL PROHIBITED.—Nothing in this title shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to prohibit private, religious, or home schools from participation in programs or services under this title.

"(b) NO CHANGE IN STATE CONTROL ENCOURAGED OR REQUIRED.—Nothing in this title shall be construed to encourage or require any change in a State's treatment of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law.

"(c) NATIONAL SYSTEM OF TEACHER CERTIFICATION OR LICENSURE PROHIBITED.—Nothing in this title shall be construed to permit, allow, encourage, or authorize the Secretary to establish or support any national system of teacher certification or licensure.

"(d) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to the employees of local educational agencies under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.".

# TITLE III—INSTITUTIONAL AID

**SEC. 301. PROGRAM PURPOSE.**

Section 311 (20 U.S.C. 1057) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "351" and inserting "391"; and

(B) in paragraph (3)(F), by inserting ", including services that will assist in the education of special populations" before the period; and

(2) in subsection (c)—

(A) in paragraph (6), by inserting ", including innovative, customized, instruction courses designed to help retain students and move the students rapidly into core courses and through program completion, which may include remedial education and English language instruction" before the period;

(B) by redesignating paragraphs (7) through (12) as paragraphs (8) through (13), respectively;

(C) by inserting after paragraph (6) the following:

"(7) Education or counseling services designed to improve the financial literacy and economic literacy of students or the students' families.";

(D) in paragraph (12) (as redesignated by subparagraph (B)), by striking "distance learning academic instruction capabilities" and inserting "distance education technologies"; and

(E) in the matter preceding subparagraph (A) of paragraph (13) (as redesignated by subparagraph (B)), by striking "subsection (c)" and inserting "subsection (b) and section 391".

**SEC. 302. DEFINITIONS; ELIGIBILITY.**

Section 312 (20 U.S.C. 1058) is amended—

(1) in subsection (b)(1)(A), by striking "subsection (c) of this section" and inserting "subsection (d)";

(2) in subsection (d)(2), by striking "subdivision" and inserting "paragraph";

(3) by redesignating subsection (g) as subsection (h); and

(4) by inserting after subsection (f) the following:

"(g) LOW-INCOME INDIVIDUAL.—For the purpose of this part, the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.".

**SEC. 303. AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.**

Section 316 (20 U.S.C. 1059c) is amended—

(1) by striking subsection (b)(3) and inserting the following:

"(3) TRIBAL COLLEGE OR UNIVERSITY.—The term 'Tribal College or University' means an institution that—

"(A) qualifies for funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Assistance Act of 1978 (25 U.S.C. 640a note); or

"(B) is cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).";

(2) in subsection (c)(2)—

(A) by striking subparagraph (B) and inserting the following:

"(B) construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services, and the acquisition of real property adjacent to the campus of the institution on which to construct such facilities;";

(B) in subparagraph (C), by inserting before the semicolon at the end the following: "or in tribal governance or tribal public policy";

(C) in subparagraph (D), by inserting before the semicolon the following: "and instruction in tribal governance or tribal public policy";

(D) by redesignating subparagraphs (G), (H), (I), (J), (K), and (L) as subparagraphs (H), (I), (J), (K), (L), and (N), respectively;

(E) by inserting after subparagraph (F) the following:

"(G) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' families;";

(F) in subparagraph (L) (as redesignated by subparagraph (D)), by striking "and" after the semicolon;

(G) by inserting after subparagraph (L) (as redesignated by subparagraph (D) and amended by subparagraph (F)) the following:

"(M) developing or improving facilities for Internet use or other distance education technologies; and"; and

(H) in subparagraph (N) (as redesignated by subparagraph (D)), by striking "subparagraphs (A) through (K)" and inserting "subparagraphs (A) through (M)"; and

(3) by striking subsection (d) and inserting the following:

"(d) APPLICATION, PLAN, AND ALLOCATION.—

"(1) INSTITUTIONAL ELIGIBILITY.—To be eligible to receive assistance under this section, a Tribal College or University shall be an eligible institution under section 312(b).

"(2) APPLICATION.—

"(A) IN GENERAL.—A Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(B) STREAMLINED PROCESS.—The Secretary shall establish application requirements in such a manner as to simplify and streamline the process for applying for grants under this section.

"(3) AWARDS AND ALLOCATIONS TO INSTITUTIONS.—

"(A) CONSTRUCTION GRANTS.—

"(i) IN GENERAL.—Of the amount appropriated to carry out this section for any fiscal year, the Secretary may reserve 30 percent for the purpose of awarding one-year grants of not less than $1,000,000 to address construction, maintenance, and renovation needs at eligible institutions.

"(ii) PREFERENCE.—In providing grants under clause (i) for any fiscal year, the Secretary shall give preference to eligible institutions that have not received an award under this section for a previous fiscal year.

"(B) ALLOTMENT OF REMAINING FUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall distribute the remaining funds appropriated for any fiscal year to each eligible institution as follows:

"(I) 60 percent of the remaining appropriated funds shall be distributed among the eligible Tribal Colleges and Universities on a pro rata basis, based on the respective Indian student counts (as defined in section 2(a) of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801(a)) of the Tribal Colleges and Universities.

"(II) The remaining 40 percent shall be distributed in equal shares to the eligible Tribal Colleges and Universities.

"(ii) MINIMUM GRANT.—The amount distributed to a Tribal College or University under clause (i) shall not be less than $500,000.

"(4) SPECIAL RULES.—

"(A) CONCURRENT FUNDING.—No Tribal College or University that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or part A of title V.

"(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.".

**SEC. 304. ALASKA NATIVE AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.**

Section 317(c)(2) (20 U.S.C. 1059d(c)(2)) is amended—

(1) in subparagraph (G), by striking "and" after the semicolon;

(2) in subparagraph (H), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(I) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' families.".

**SEC. 305. PREDOMINANTLY BLACK INSTITUTIONS.**

(a) IN GENERAL.—Part A of title III (20 U.S.C. 1057 et seq.) is amended by adding at the end the following:

**"SEC. 318. PREDOMINANTLY BLACK INSTITUTIONS.** 20 USC 1059e.

"(a) PURPOSE.—It is the purpose of this section to assist Predominantly Black Institutions in expanding educational opportunity through a program of Federal assistance.

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution of higher education that—

"(A) has an enrollment of needy undergraduate students;

"(B) has an average educational and general expenditure that is low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditure per full-time equivalent undergraduate student of institutions that offer similar instruction, except that the Secretary may apply the waiver requirements described in section 392(b) to this subparagraph in the same manner as the Secretary applies the waiver requirements to section 312(b)(1)(B);

"(C) has an enrollment of undergraduate students that is not less than 40 percent Black American students;

"(D) is legally authorized to provide, and provides, within the State an educational program for which the institution of higher education awards a baccalaureate degree or, in the case of a junior or community college, an associate's degree;

"(E) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation; and

"(F) is not receiving assistance under part B or part A of title V.

"(2) ENROLLMENT OF NEEDY STUDENTS.—The term 'enrollment of needy students' means the enrollment at an eligible institution with respect to which not less than 50 percent of the undergraduate students enrolled in an academic program leading to a degree—

"(A) in the second fiscal year preceding the fiscal year for which the determination is made, were Federal Pell Grant recipients for such year;

"(B) come from families that receive benefits under a means-tested Federal benefit program;

"(C) attended a public or nonprofit private secondary school that—

"(i) is in the school district of a local educational agency that was eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965 for any year during which the student attended such secondary school; and

"(ii) for the purpose of this paragraph and for such year of attendance, was determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children meeting a measure of poverty under section 1113(a)(5) of such Act exceeds 30 percent of the total enrollment of such school; or

"(D) are first-generation college students and a majority of such first-generation college students are low-income individuals.

"(3) FIRST-GENERATION COLLEGE STUDENT.—The term 'first-generation college student' has the meaning given the term in section 402A(h).

"(4) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' has the meaning given such term in section 402A(h).

"(5) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term 'means-tested Federal benefit program' means a program of the Federal Government, other than a program under title IV, in which eligibility for the program's benefits, or the amount of such benefits, are determined on the basis of income or resources of the individual or family seeking the benefit.

"(6) PREDOMINANTLY BLACK INSTITUTION.—The term 'Predominantly Black Institution' means an institution of higher education, as defined in section 101(a)—

"(A) that is an eligible institution with not less than 1,000 undergraduate students;

"(B) at which not less than 50 percent of the undergraduate students enrolled at the eligible institution are low-income individuals or first-generation college students; and

"(C) at which not less than 50 percent of the undergraduate students are enrolled in an educational program leading to a bachelor's or associate's degree that the eligible institution is licensed to award by the State in which the eligible institution is located.

"(7) STATE.—The term 'State' means each of the 50 States and the District of Columbia.

"(c) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary is authorized to award grants, from allotments under subsection (e), to Predominantly Black Institutions to enable the Predominantly Black Institutions to carry out the authorized activities described in subsection (d).

"(2) PRIORITY.—In awarding grants under this section the Secretary shall give priority to Predominantly Black Institutions with large numbers or percentages of students described in subsections (b)(1)(A) or (b)(1)(C). The level of priority given to Predominantly Black Institutions with large numbers or percentages of students described in subsection (b)(1)(A) shall be twice the level of priority given to Predominantly Black Institutions with large numbers or percentages of students described in subsection (b)(1)(C).

"(d) AUTHORIZED ACTIVITIES.—

"(1) REQUIRED ACTIVITIES.—Grant funds provided under this section shall be used—

"(A) to assist the Predominantly Black Institution to plan, develop, undertake, and implement programs to enhance the institution's capacity to serve more low- and middle-income Black American students;

"(B) to expand higher education opportunities for students eligible to participate in programs under title IV by encouraging college preparation and student persistence in secondary school and postsecondary education; and

"(C) to strengthen the financial ability of the Predominantly Black Institution to serve the academic needs of the students described in subparagraphs (A) and (B).

"(2) ADDITIONAL ACTIVITIES.—Grant funds provided under this section shall be used for one or more of the following activities:

"(A) The activities described in paragraphs (1) through (12) of section 311(c).

"(B) Academic instruction in disciplines in which Black Americans are underrepresented.

"(C) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary school or secondary school in the State that shall include, as part of such program, preparation for teacher certification or licensure.

"(D) Establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education.

"(E) Other activities proposed in the application submitted pursuant to subsection (f) that—

"(i) contribute to carrying out the purpose of this section; and

"(ii) are approved by the Secretary as part of the review and approval of an application submitted under subsection (f).

"(3) ENDOWMENT FUND.—

"(A) IN GENERAL.—A Predominantly Black Institution may use not more than 20 percent of the grant funds provided under this section to establish or increase an endowment fund at the institution.

"(B) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with subparagraph (A), a Predominantly Black Institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

Applicability.

"(C) COMPARABILITY.—The provisions of part C, regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under subparagraph (A).

"(4) LIMITATION.—Not more than 50 percent of the grant funds provided to a Predominantly Black Institution under this section may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

"(e) ALLOTMENTS TO PREDOMINANTLY BLACK INSTITUTIONS.—

"(1) FEDERAL PELL GRANT BASIS.—From the amounts appropriated to carry out this section for any fiscal year, the Secretary shall allot to each Predominantly Black Institution having an application approved under subsection (f) a sum that bears the same ratio to one-half of that amount as the number of Federal Pell Grant recipients in attendance at such institution at the end of the academic year preceding the beginning of that fiscal year, bears to the total number of Federal Pell Grant recipients at all such institutions at the end of such academic year.

"(2) GRADUATES BASIS.—From the amounts appropriated to carry out this section for any fiscal year, the Secretary shall allot to each Predominantly Black Institution having an application approved under subsection (f) a sum that bears the same ratio to one-fourth of that amount as the number of graduates for such academic year at such institution, bears to the total number of graduates for such academic year at all such institutions.

"(3) GRADUATES SEEKING A HIGHER DEGREE BASIS.—From the amounts appropriated to carry out this section for any fiscal year, the Secretary shall allot to each Predominantly Black Institution having an application approved under subsection (f) a sum that bears the same ratio to one-fourth of that amount as the percentage of graduates from such institution who are admitted to and in attendance at, not later than two years after graduation with an associate's degree or a baccalaureate degree, a baccalaureate degree-granting institution or a graduate or professional school in a degree program in disciplines in which Black American students are underrepresented, bears to the percentage of such graduates for all such institutions.

"(4) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1), (2), and (3), the amount allotted to each Predominantly Black Institution under this section may not be less than $250,000.

"(B) INSUFFICIENT AMOUNT.—If the amounts appropriated to carry out this section for a fiscal year are not sufficient to pay the minimum allotment provided under

subparagraph (A) for the fiscal year, then the amount of such minimum allotment shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allotment shall be increased on the same basis as the allotment was reduced until the amount allotted equals the minimum allotment required under subparagraph (A).

"(5) REALLOTMENT.—The amount of a Predominantly Black Institution's allotment under paragraph (1), (2), (3), or (4) for any fiscal year that the Secretary determines will not be needed for such institution for the period for which such allotment is available, shall be available for reallotment to other Predominantly Black Institutions in proportion to the original allotments to such other institutions under this section for such fiscal year. The Secretary shall reallot such amounts from time to time, on such date and during such period as the Secretary determines appropriate.

"(f) APPLICATIONS.—Each Predominantly Black Institution desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(g) APPLICATION REVIEW PROCESS.—Section 393 shall not apply to applications under this section.

"(h) DURATION AND CARRYOVER.—Any grant funds paid to a Predominantly Black Institution under this section that are not expended or used for the purposes for which the funds were paid within ten years following the date on which the grant was awarded, shall be repaid to the Treasury.

"(i) SPECIAL RULE ON ELIGIBILITY.—No Predominantly Black Institution that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or part A of title V.".

(b) CONFORMING AMENDMENT.—Section 312(d) (20 U.S.C. 1058(d)) is amended by striking "For the purpose" and inserting "Except as provided in section 318(b), for the purpose".

**SEC. 306. NATIVE AMERICAN-SERVING, NONTRIBAL INSTITUTIONS.**

Part A of title III (20 U.S.C. 1057 et seq.) is amended by adding after section 318 (as added by section 305 of this Act) the following:

**"SEC. 319. NATIVE AMERICAN-SERVING, NONTRIBAL INSTITUTIONS.** 20 USC 1059f.

"(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Native American-serving, nontribal institutions to enable such institutions to improve and expand their capacity to serve Native Americans and low-income individuals. Grants.

"(b) DEFINITIONS.—In this section:

"(1) NATIVE AMERICAN.—The term 'Native American' means an individual who is of a tribe, people, or culture that is indigenous to the United States.

"(2) NATIVE AMERICAN-SERVING, NONTRIBAL INSTITUTION.—The term 'Native American-serving, nontribal institution' means an institution of higher education, as defined in section 101(a), that, at the time of application—

"(A) is an eligible institution under section 312(b);

"(B) has an enrollment of undergraduate students that is not less than 10 percent Native American students; and

"(C) is not a Tribal College or University (as defined in section 316).

"(c) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Native American-serving, nontribal institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Native Americans and low-income individuals.

"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—

"(A) the purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

"(C) support of faculty exchanges, and faculty development and faculty fellowships to assist faculty in attaining advanced degrees in the faculty's field of instruction;

"(D) curriculum development and academic instruction;

"(E) the purchase of library books, periodicals, microfilm, and other educational materials;

"(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

"(G) the joint use of facilities such as laboratories and libraries;

"(H) academic tutoring and counseling programs and student support services; and

"(I) education or counseling services designed to improve the financial and economic literacy of students or the students' families.

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—A Native American-serving, nontribal institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Native American-serving, nontribal institution, along with such other information and data as the Secretary may reasonably require.

"(2) APPLICATIONS.—

"(A) AUTHORITY TO SUBMIT APPLICATIONS.—Any institution that is determined by the Secretary to be a Native American-serving, nontribal institution may submit an application for assistance under this section to the Secretary.

"(B) SIMPLIFIED AND STREAMLINED FORMAT.—The Secretary shall, to the extent possible, continue to prescribe a simplified and streamlined format for applications under this section that takes into account the limited number of institutions that are eligible for assistance under this section.

"(C) CONTENT.—An application submitted under subparagraph (A) shall include—

"(i) a five-year plan for improving the assistance provided by the Native American-serving, nontribal institution to Native Americans and low-income individuals; and

"(ii) such other information and assurances as the Secretary may reasonably require.

"(3) SPECIAL RULES.—

"(A) ELIGIBILITY.—No Native American-serving, nontribal institution that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or part A of title V.

"(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.

"(C) DISTRIBUTION.—In awarding grants under this section, the Secretary shall, to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions.

"(D) MINIMUM GRANT AMOUNT.—The minimum amount of a grant under this section shall be $200,000.".

**SEC. 307. ASSISTANCE TO ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTIONS.**

Part A of title III (20 U.S.C. 1057 et seq.) is amended by adding after section 319 (as added by section 306 of this Act) the following:

**"SEC. 320. ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTIONS.** 20 USC 1059g.

"(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Asian American and Native American Pacific Islander-serving institutions to enable such institutions to improve and expand their capacity to serve Asian Americans and Native American Pacific Islanders and low-income individuals. Grants.

"(b) DEFINITIONS.—In this section:

"(1) ASIAN AMERICAN.—The term 'Asian American' has the meaning given the term 'Asian' in the Office of Management and Budget's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as published on October 30, 1997 (62 Fed. Reg. 58789).

"(2) ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTION.—The term 'Asian American and Native American Pacific Islander-serving institution' means an institution of higher education that—

"(A) is an eligible institution under section 312(b); and

"(B) at the time of application, has an enrollment of undergraduate students that is not less than 10 percent students who are Asian American or Native American Pacific Islander.

"(3) NATIVE AMERICAN PACIFIC ISLANDER.—The term 'Native American Pacific Islander' means any descendant of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

"(c) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Asian American and Native American Pacific Islander-serving institutions to assist such

institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Asian Americans and Native American Pacific Islanders and low-income individuals.

"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—

"(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

"(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

"(D) curriculum development and academic instruction;

"(E) purchase of library books, periodicals, microfilm, and other educational materials;

"(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

"(G) joint use of facilities such as laboratories and libraries;

"(H) academic tutoring and counseling programs and student support services;

"(I) establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education;

"(J) establishing or improving an endowment fund;

"(K) academic instruction in disciplines in which Asian Americans and Native American Pacific Islanders are underrepresented;

"(L) conducting research and data collection for Asian American and Native American Pacific Islander populations and subpopulations;

"(M) establishing partnerships with community-based organizations serving Asian Americans and Native American Pacific Islanders; and

"(N) education or counseling services designed to improve the financial and economic literacy of students or the students' families.

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—Each Asian American and Native American Pacific Islander-serving institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is an Asian American and Native American Pacific Islander-serving institution as defined in subsection (b), along with such other information and data as the Secretary may reasonably require.

"(2) APPLICATIONS.—Any institution that is determined by the Secretary to be an Asian American and Native American Pacific Islander-serving institution may submit an application for assistance under this section to the Secretary. Such application shall include—

"(A) a five-year plan for improving the assistance provided by the Asian American and Native American Pacific

Islander-serving institution to Asian American and Native American Pacific Islander students and low-income individuals; and

"(B) such other information and assurances as the Secretary may reasonably require.

"(3) SPECIAL RULES.—

"(A) ELIGIBILITY.—No Asian American and Native American Pacific Islander-serving institution that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or title V.

"(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.

"(C) DISTRIBUTION.—In awarding grants under this section, the Secretary shall—

"(i) to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions; and

"(ii) give priority consideration to institutions for which not less than 10 percent of such institution's Asian American and Native American Pacific Islander students are low-income individuals.".

**SEC. 308. PART B DEFINITIONS.**

Section 322(4) (20 U.S.C. 1061(4)) is amended by inserting ", in consultation with the Commissioner for Education Statistics" before "and the Commissioner".

**SEC. 309. GRANTS TO INSTITUTIONS.**

Section 323(a) (20 U.S.C. 1062(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "360(a)(2)" and inserting "399(a)(2)";

(2) by redesignating paragraph (12) as paragraphs (15); and

(3) by inserting after paragraph (11) the following:

"(12) Acquisition of real property in connection with the construction, renovation, or addition to or improvement of campus facilities.

"(13) Education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under title IV.

"(14) Services necessary for the implementation of projects or activities that are described in the grant application and that are approved, in advance, by the Secretary, except that not more than two percent of the grant amount may be used for this purpose.".

**SEC. 310. ALLOTMENTS.**

(a) MINIMUM ALLOTMENT.—Subsection (d) of section 324 (20 U.S.C. 1063(d)) is amended to read as follows:

"(d) MINIMUM ALLOTMENT.—Notwithstanding subsections (a) through (c), and subject to subsection (h), if the amount of an award under this section for a part B institution, based on the data provided by the part B institution and the formula under subsections (a) through (c), would be—

"(1) an amount that is greater than $250,000 but less than $500,000, the Secretary shall award the part B institution an allotment in the amount of $500,000; and

"(2) an amount that is equal to or less than $250,000, the Secretary shall award the part B institution an allotment in the amount of $250,000.".

(b) CONDITIONS FOR ALLOTMENTS.—Section 324 (20 U.S.C. 1063) is further amended by adding at the end the following new subsection:

"(h) CONDITIONS FOR ALLOTMENTS.—

"(1) STUDENT REQUIREMENTS FOR ALLOTMENT.—Notwithstanding any other provision of this section, a part B institution that would otherwise be eligible for funds under this part shall not receive an allotment under this part for a fiscal year, including the minimum allotment under subsection (d), if the part B institution, in the academic year preceding such fiscal year—

"(A) did not have any enrolled students who were Pell Grant recipients;

"(B) did not graduate any students; or

"(C) where appropriate, did not have any students who, within 5 years of graduation from the part B institution, were admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented.

"(2) DATA REQUIREMENTS FOR ALLOTMENTS.—Notwithstanding any other provision of this section, a part B institution shall not receive an allotment under this part for a fiscal year, including the minimum allotment under subsection (d), unless the institution provides the Secretary with the data required by the Secretary and for purposes of the formula described in subsections (a) through (c), including—

"(A) the number of Pell Grant recipients enrolled in the part B institution in the academic year preceding such fiscal year;

"(B) the number of students who earned an associate or baccalaureate degree from the part B institution in the academic year preceding such fiscal year; and

"(C) where appropriate, the percentage of students who, within 5 years of graduation from the part B institution, were admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented in the academic year preceding such fiscal year.".

**SEC. 311. PROFESSIONAL OR GRADUATE INSTITUTIONS.**

(a) DURATION OF GRANT.—Section 326(b) (20 U.S.C. 1063b(b)) is amended by adding at the end the following: "Any funds awarded for such five-year grant period that are obligated during such five-year period may be expended during the 10-year period beginning on the first day of such five-year period.".

(b) AUTHORIZED ACTIVITIES.—Section 326(c) (20 U.S.C. 1063b(c)) is amended—

(1) in paragraph (5), by striking "establish or improve" and inserting "establishing or improving";

(2) in paragraph (6)—

(A) by striking "assist" and inserting "assisting"; and

(B) by striking "and" after the semicolon;

(3) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(4) by adding at the end the following:

"(8) acquisition of real property that is adjacent to the campus in connection with the construction, renovation, or addition to or improvement of campus facilities;

"(9) education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under title IV;

"(10) services necessary for the implementation of projects or activities that are described in the grant application and that are approved, in advance, by the Secretary, except that not more than two percent of the grant amount may be used for this purpose;

"(11) tutoring, counseling, and student service programs designed to improve academic success; and

"(12) other activities proposed in the application submitted under subsection (d) that—

"(A) contribute to carrying out the purposes of this part; and

"(B) are approved by the Secretary as part of the review and acceptance of such application.".

(c) ELIGIBILITY.—

(1) IN GENERAL.—Section 326(e)(1) (20 U.S.C. 1063b(e)(1)) is amended—

(A) in the matter preceding subparagraph (A), by inserting a colon after "the following";

(B) in subparagraph (Q), by striking "and" at the end;

(C) in subparagraph (R), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

"(S) Alabama State University qualified graduate programs;

"(T) Prairie View A&M University qualified graduate programs;

"(U) Delaware State University qualified graduate programs;

"(V) Langston University qualified graduate programs;

"(W) Bowie State University qualified graduate programs; and

"(X) University of the District of Columbia David A. Clarke School of Law.".

(2) CONFORMING AMENDMENT.—Section 326(e)(3) (20 U.S.C. 1063b(e)(3)) is amended—

(A) by striking "1998" and inserting "2008"; and

(B) by striking "(Q) and (R)" and inserting "(S) through (X)".

(3) ADDITIONAL ELIGIBILITY CHANGES.—Section 326(e)(2)(A) (20 U.S.C. 1063b(e)(2)(A)) is amended—

(A) by inserting "in law or" after "instruction"; and

(B) by striking "mathematics, or" and inserting "mathematics, psychometrics, or".

(4) ONE GRANT PER INSTITUTION.—Section 326(e)(4) (20 U.S.C. 1063b(e)(4)) is amended by striking "or university system".

(d) FUNDING RULE.—Section 326(f) (20 U.S.C. 1063b(f)) is amended—

(1) in paragraph (1)—

(A) by striking "$26,600,000" and inserting "$56,900,000"; and

(B) by striking "(P)" and inserting "(R)";

(2) in paragraph (2)—

(A) by striking "$26,600,000, but not in excess of $28,600,000" and inserting "$56,900,000, but not in excess of $62,900,000"; and

(B) by striking "subparagraphs (Q) and (R)" and inserting "subparagraphs (S) through (X)"; and

(3) in the matter preceding subparagraph (A) of paragraph (3)—

(A) by striking "$28,600,000" and inserting "$62,900,000"; and

(B) by striking "(R)" and inserting "(X)".

20 USC 1063b.

(e) HOLD HARMLESS RULE.—Section 326(g) (20 U.S.C. 1063(g)) is amended by striking "1998" each place it appears and inserting "2008".

20 USC 1063b.

(f) INTERACTION WITH OTHER GRANT PROGRAMS.—Section 326 (as amended by this section) (20 U.S.C. 1063) is further amended by adding at the end the following:

"(h) INTERACTION WITH OTHER GRANT PROGRAMS.—No institution that is eligible for and receives an award under section 512, 723, or 724 for a fiscal year shall be eligible to apply for a grant, or receive grant funds, under this section for the same fiscal year.".

**SEC. 312. UNEXPENDED FUNDS.**

Section 327(b) (20 U.S.C. 1063c(b)) is amended to read as follows:

"(b) USE OF UNEXPENDED FUNDS.—Any funds paid to an institution and not expended or used for the purposes for which the funds were paid during the five-year period following the date of the initial grant award, may be carried over and expended during the succeeding five-year period, if such funds were obligated for a purpose for which the funds were paid during the five-year period following the date of the initial grant award.".

**SEC. 313. ENDOWMENT CHALLENGE GRANTS.**

(a) AMOUNTS.—Section 331(b) (20 U.S.C. 1065(b)) is amended—

(1) in paragraph (2)(B)(i), by striking "$500,000" and inserting "$1,000,000"; and

(2) in paragraph (5), by striking "$50,000" and inserting "$100,000".

(b) TECHNICAL ASSISTANCE.—Section 331 (20 U.S.C. 1065) is further amended by adding at the end the following:

"(i) TECHNICAL ASSISTANCE.—The Secretary, directly or by grant or contract, may provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a grant, under this section.".

**SEC. 314. HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING.**

(a) DEFINITIONS.—Section 342 (20 U.S.C. 1066a) is amended—

(1) in paragraph (5)(G), by striking "by a nationally recognized accrediting agency or association" and inserting "by an

accrediting agency or association recognized by the Secretary under subpart 2 of part H of title IV"; and

(2) in paragraph (8), by inserting "capital project" after "issuing taxable".

(b) FEDERAL INSURANCE FOR BONDS.—Section 343(b) (20 U.S.C. 1066b(b)) is amended—

(1) in paragraph (8)(B)(ii)—

(A) by striking "10" and inserting "5"; and

(B) by inserting "within 120 days" after "loan proceeds";

(2) in paragraph (10), by striking "and" after the semicolon;

(3) in paragraph (11), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(12) limit loan collateralization, with respect to any loan made under this part, to 100 percent of the loan amount, except as otherwise required by the Secretary.".

(c) LIMITATIONS ON FEDERAL INSURANCE FOR BONDS ISSUED BY THE DESIGNATED BONDING AUTHORITY.—Section 344(a) (20 U.S.C. 1066c(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "$375,000,000" and inserting "$1,100,000,000";

(2) in paragraph (1), by striking "$250,000,000" and inserting "$733,333,333"; and

(3) in paragraph (2), by striking "$125,000,000" and inserting "$366,666,667".

(d) AUTHORITY OF THE SECRETARY.—Section 345 (20 U.S.C. 1066d) is amended—

(1) in paragraph (1), by striking "enactment of the Higher Education Amendments of 1992," and inserting "the date of enactment of the Higher Education Opportunity Act,";

(2) by redesignating paragraphs (2) through (7) as paragraphs (4) through (9), respectively;

(3) by inserting after paragraph (1) the following:

"(2) shall ensure that—

"(A) the selection process for the designated bonding authority is conducted on a competitive basis; and

"(B) the evaluation and selection process is transparent;

"(3) shall—

"(A) review the performance of the designated bonding authority after the third year of the insurance agreement; and

"(B) following the review described in subparagraph (A), implement a revised competitive selection process, if determined necessary by the Secretary in consultation with the Advisory Board established pursuant to section 347;";

(4) in paragraph (8) (as redesignated by paragraph (2)), by striking "and" after the semicolon;

(5) in paragraph (9) (as redesignated by paragraph (2)), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(10) not later than 120 days after the date of enactment of the Higher Education Opportunity Act, shall submit to the authorizing committees a report on the progress of the Department in implementing the recommendations made by the Government Accountability Office in October 2006 for

Deadline.
Reports.

improving the Historically Black College and Universities Capital Financing Program.".

(e) HBCU CAPITAL FINANCING ADVISORY BOARD.—Section 347 (20 U.S.C. 1066f) is amended—

(1) in subsection (b)(1)—

(A) by striking out "9 members" and inserting "11 members";

(B) in subparagraph (C), by striking "Two" and inserting "Three"; and

(C) by adding at the end the following:

"(G) The president of the Thurgood Marshall College Fund, or the designee of the president."; and

(2) by adding at the end the following:

"(c) ADDITIONAL RECOMMENDATIONS FROM ADVISORY BOARD.—

"(1) IN GENERAL.—In addition to the responsibilities of the Advisory Board described in subsection (a), the Advisory Board shall advise the Secretary and the authorizing committees regarding—

"(A) the fiscal status and strategic financial condition of not less than ten historically Black colleges and universities that have—

"(i) obtained construction financing through the program under this part and seek additional financing or refinancing under such program; or

"(ii) applied for construction financing through the program under this part but have not received financing under such program; and

"(B) the feasibility of reducing borrowing costs associated with the program under this part, including reducing interest rates.

"(2) REPORT.—Not later than six months after the date of enactment of the Higher Education Opportunity Act, the Advisory Board shall prepare and submit a report to the authorizing committees regarding the historically Black colleges and universities described in paragraph (1)(A) that includes administrative and legislative recommendations for addressing the issues related to construction financing facing such historically Black colleges and universities.".

**SEC. 315. PROGRAMS IN STEM FIELDS.**

(a) YES PARTNERSHIPS; ENTRY INTO STEM FIELDS.—Part E of title III (20 U.S.C. 1067 et seq.) is amended—

(1) by redesignating subpart 2 as subpart 3; and

(2) by inserting after subpart 1 the following new subpart:

## "Subpart 2—Programs in STEM Fields

20 USC 1067e.

**"SEC. 355. YES PARTNERSHIPS GRANT PROGRAM.**

"(a) GRANT PROGRAM AUTHORIZED.—Subject to the availability of appropriations to carry out this subpart, the Secretary shall make grants to eligible partnerships (as described in subsection (f)) to support the engagement of underrepresented minority youth and youth who are low-income individuals (as such term is defined in section 302) in science, technology, engineering, and mathematics through outreach and hands-on, experiential-based learning projects that encourage students in kindergarten through grade 12 who are underrepresented minority youth or low-income individuals to

pursue careers in science, technology, engineering, and mathematics.

"(b) MINIMUM GRANT AMOUNT.—A grant awarded to a partnership under this subpart shall be for an amount that is not less than $500,000.

"(c) DURATION.—A grant awarded under this subpart shall be for a period of five years.

"(d) NON-FEDERAL MATCHING SHARE REQUIRED.—A partnership receiving a grant under this subpart shall provide, from non-Federal sources, in cash or in-kind, an amount equal to 50 percent of the costs of the project supported by such grant.

"(e) DISTRIBUTION OF GRANTS.—In awarding grants under this subpart, the Secretary shall ensure that, to the maximum extent practicable, the projects funded under this subpart are located in diverse geographic regions of the United States.

"(f) ELIGIBLE PARTNERSHIPS.—Notwithstanding the general eligibility provision in section 361, eligibility to receive grants under this subpart is limited to partnerships described in paragraph (5) of such section.

**"SEC. 356. PROMOTION OF ENTRY INTO STEM FIELDS.**

20 USC 1067e–1.

"(a) AUTHORITY TO CONTRACT, SUBJECT TO APPROPRIATIONS.—The Secretary is authorized to enter into a contract with a firm with a demonstrated record of success in advertising to implement a campaign to expand the population of qualified individuals in science, technology, engineering, and mathematics fields (referred to in this section as 'STEM fields') by encouraging young Americans to enter such fields.

"(b) DESIGN OF CAMPAIGN.—The campaign under this section shall be designed to enhance the image of education and professions in the STEM fields and promote participation in the STEM fields, and may include—

"(1) monitoring trends in youths' attitudes toward pursuing education and professions in the STEM fields and their propensity toward entering the STEM fields;

"(2) determining what factors contribute to encouraging and discouraging Americans from pursuing study in STEM fields and entering the STEM fields professionally;

"(3) determining what specific factors limit the participation of groups currently underrepresented in STEM fields, including Latinos, African-Americans, and women; and

"(4) drawing from the market research performed under this section and implementing an advertising campaign to encourage young Americans to take up studies in STEM fields, beginning at an early age.

"(c) REQUIRED COMPONENTS.—The campaign under this section shall—

"(1) include components that focus tailored messages on appropriate age groups, starting with elementary school students; and

"(2) link participation in the STEM fields to the concept of service to one's country, so that young people will be encouraged to enter the STEM fields in order fulfill the obligation to be of service to their country.

"(d) PRIORITY.—The campaign under this section shall hold as a high priority making specific appeals to Hispanic Americans, African Americans, Native Americans, students with disabilities,

and women, who are currently underrepresented in the STEM fields, in order to increase their numbers in the STEM fields, and shall tailor recruitment efforts to each specific group.

"(e) USE OF VARIETY OF MEDIA.—The campaign under this section shall make use of a variety of media, with an emphasis on television advertising, to reach its intended audience.

"(f) TEACHING.—The campaign under this section shall include a narrowly focused effort to attract current professionals in the STEM fields, through advertising in mediums likely to reach that specific group, into teaching in a STEM field in elementary schools and secondary schools.

20 USC 1067e–2.

**"SEC. 357. EVALUATION AND ACCOUNTABILITY PLAN.**

"The Secretary shall develop an evaluation and accountability plan for projects funded under this subpart. Such plan shall include, if the Secretary determines that it is practical, an objective measure of the impact of such projects, such as a measure of whether underrepresented minority student enrollment in courses related to science, technology, engineering, and mathematics increases at the secondary and postsecondary levels.".

(b) ELIGIBILITY FOR GRANTS.—Section 361 (20 U.S.C. 1067g) is amended—

(1) by striking "or" at the end of paragraph (3)(B);

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "institutions of higher education" and inserting "public and private nonprofit institutions of higher education";

(B) in subparagraph (C), by inserting before the semicolon the following: ", the Department of Defense, or the National Institutes of Health";

(C) by striking subparagraph (D) and inserting the following:

"(D) relevant offices of the National Aeronautics and Space Administration, National Oceanic and Atmospheric Administration, National Science Foundation, and National Institute of Standards and Technology;";

(D) by striking the period at the end of subparagraph (E) and inserting "; or"; and

(E) by adding at the end the following:

"(F) institutions of higher education that have State-sponsored centers for research in science, technology, engineering, and mathematics; or"; and

(3) by adding at the end the following:

"(5) only with respect to grants under subpart 2, partnerships of organizations, the membership of which shall include—

"(A) at least one institution of higher education eligible for assistance under this title or title V;

"(B) at least one high-need local educational agency (as defined in section 200); and

"(C) at least two community organizations or entities, such as businesses, professional associations, community-based organizations, philanthropic organizations, or State agencies.".

**SEC. 316. INVESTING IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS.**

(a) REDESIGNATION AND RELOCATION.—The Act (20 U.S.C. 1001 et seq.) is further amended—

(1) by redesignating part F of title III as part G of title III; 20 USC 1066 *et seq.*

(2) by redesignating part J of title IV (as added by section 802 of the College Cost Reduction and Access Act) as part F of title III, and moving such part so that such part follows part E of title III; and 20 USC 1099e.

(3) by redesignating section 499A (as added by section 802 of such Act) as section 371. 20 USC 1067q.

(b) CONFORMING AMENDMENTS.—Section 371 (as redesignated by subsection (a)(3)) is amended—

(1) in subsection (b)(2)(C)(i), by striking "title III" each place the term appears and inserting "this title"; and

(2) in subsection (c)(9)(F), by striking "title III" and inserting "this title".

(c) AVAILABILITY OF FUNDS.—Paragraph (1) of section 371(b) (as redesignated by subsection (a)(3)) is amended to read as follows:

"(1) IN GENERAL.—

"(A) PROVISION OF FUNDS.—There shall be available to the Secretary to carry out this section, from funds in the Treasury not otherwise appropriated, $255,000,000 for each of the fiscal years 2008 and 2009. The authority to award grants under this section shall expire at the end of fiscal year 2009. Expiration date.

"(B) AVAILABILITY.—Funds made available under subparagraph (A) for a fiscal year shall remain available for the next succeeding fiscal year.".

**SEC. 317. TECHNICAL ASSISTANCE.**

Section 391 (20 U.S.C. 1068) is amended by adding at the end the following:

"(e) TECHNICAL ASSISTANCE.—The Secretary, directly or by grant or contract, may provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a grant, under this title.".

**SEC. 318. WAIVER AUTHORITY.**

Section 392 (20 U.S.C. 1068a) is amended by adding at the end the following:

"(c) WAIVER AUTHORITY WITH RESPECT TO INSTITUTIONS LOCATED IN AN AREA AFFECTED BY A GULF HURRICANE DISASTER.—

"(1) WAIVER AUTHORITY.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, for any affected institution that was receiving assistance under this title at the time of a Gulf hurricane disaster, the Secretary shall, for each of the fiscal years 2009 through 2011 (and may, for each of the fiscal years 2012 and 2013)—

"(A) waive—

"(i) the eligibility data requirements set forth in section 391(d);

"(ii) the wait-out period set forth in section 313(d);

"(iii) the allotment requirements under section 324; and

"(iv) the use of the funding formula developed pursuant to section 326(f)(3);

"(B) waive or modify any statutory or regulatory provision to ensure that affected institutions that were receiving assistance under this title at the time of a Gulf hurricane disaster are not adversely affected by any formula calculation for fiscal year 2009 or for any of the four succeeding fiscal years, as necessary; and

"(C) make available to each affected institution an amount that is not less than the amount made available to such institution under this title for fiscal year 2006, except that for any fiscal year for which the funds appropriated for payments under this title are less than the appropriated level for fiscal year 2006, the amount made available to such institutions shall be ratably reduced among the institutions receiving funds under this title.

"(2) DEFINITIONS.—In this subsection:

"(A) AFFECTED INSTITUTION.—The term 'affected institution' means an institution of higher education that—

"(i) is—

"(I) a part A institution (which term shall have the meaning given the term 'eligible institution' under section 312(b)); or

"(II) a part B institution, as such term is defined in section 322(2), or as identified in section 326(e);

"(ii) is located in an area affected by a Gulf hurricane disaster; and

"(iii) is able to demonstrate that, as a result of the impact of a Gulf hurricane disaster, the institution—

"(I) incurred physical damage;

"(II) has pursued collateral source compensation from insurance, the Federal Emergency Management Agency, and the Small Business Administration, as appropriate; and

"(III) was not able to fully reopen in existing facilities or to fully reopen to the pre-hurricane enrollment levels during the 30-day period beginning on August 29, 2005.

"(B) AREA AFFECTED BY A GULF HURRICANE DISASTER; GULF HURRICANE DISASTER.—The terms 'area affected by a Gulf hurricane disaster' and 'Gulf hurricane disaster' have the meanings given such terms in section 209 of the Higher Education Hurricane Relief Act of 2005 (Public Law 109–148, 119 Stat. 2809).".

**SEC. 319. AUTHORIZATION OF APPROPRIATIONS.**

Section 399(a) (20 U.S.C. 1068h(a)) is amended to read as follows:

"(a) AUTHORIZATIONS.—

"(1) PART A.—(A) There are authorized to be appropriated to carry out part A (other than sections 316 through 320), $135,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 316, $30,000,000 for fiscal year 2009, and such sums

as may be necessary for each of the five succeeding fiscal years.

"(C) There are authorized to be appropriated to carry out section 317, $15,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

"(D) There are authorized to be appropriated to carry out section 318, $75,000,000 for fiscal year 2009 and each of the five succeeding fiscal years.

"(E) There are authorized to be appropriated to carry out section 319, $25,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

"(F) There are authorized to be appropriated to carry out section 320, $30,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

"(2) PART B.—(A) There are authorized to be appropriated to carry out part B (other than section 326), $375,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 326, $125,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

"(3) PART C.—There are authorized to be appropriated to carry out part C, $10,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

"(4) PART D.—(A) There are authorized to be appropriated to carry out part D (other than section 345(9), but including section 347), $185,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 345(9) such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

"(5) PART E.—(A) There are authorized to be appropriated to carry out subpart 1 of part E, $12,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out subpart 2 of part E, such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.".

**SEC. 320. TECHNICAL CORRECTIONS.**

Title III (20 U.S.C. 1051 et seq.) is further amended—

(1) in section 342(5) (20 U.S.C. 1066a(5))—

(A) in the matter preceding subparagraph (A), by inserting a comma after "344(b)"; and

(B) in subparagraph (C), by striking "equipment technology,," and inserting "equipment, technology,";

(2) in section 343(e) (20 U.S.C. 1066b(e)), by inserting "SALE OF QUALIFIED BONDS.—" before "Notwithstanding";

(3) in the matter preceding clause (i) of section 365(9)(A) (20 U.S.C. 1067k(9)(A)), by striking "support" and inserting "supports";

(4) in section 391(b)(7)(E) (20 U.S.C. 1068(b)(7)(E)), by striking "subparagraph (E)" and inserting "subparagraph (D)";

(5) in the matter preceding subparagraph (A) of section 392(b)(2) (20 U.S.C. 1068a(b)(2)), by striking "eligible institutions under part A institutions" and inserting "eligible institutions under part A"; and

(6) in the matter preceding paragraph (1) of section 396 (20 U.S.C. 1068e), by striking "360" and inserting "399".

# TITLE IV—STUDENT ASSISTANCE

## PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

### SEC. 401. FEDERAL PELL GRANTS.

(a) AUTHORIZED MAXIMUMS.—

(1) AMENDMENTS.—Section 401(b) (20 U.S.C. 1070a(b)) is amended—

(A) by amending paragraph (2)(A) to read as follows:

"(2)(A) The amount of the Federal Pell Grant for a student eligible under this part shall be—

"(i) $6,000 for academic year 2009–2010;

"(ii) $6,400 for academic year 2010–2011;

"(iii) $6,800 for academic year 2011–2012;

"(iv) $7,200 for academic year 2012–2013;

"(v) $7,600 for academic year 2013–2014; and

"(vi) $8,000 for academic year 2014–2015,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.";

(B) by designating the paragraphs following paragraph (2), in the order in which such paragraphs appear, as paragraphs (3) through (8);

(C) in paragraph (4) (as designated by subparagraph (B)), by striking "$400, except" and all that follows through the period and inserting "ten percent of the maximum basic grant level specified in the appropriate appropriation Act for such academic year, except that a student who is eligible for a Federal Pell Grant in an amount that is equal to or greater than five percent of such level but less than ten percent of such level shall be awarded a Federal Pell grant in the amount of ten percent of such level.";

(D) by striking paragraph (5) (as designated by subparagraph (B)) and inserting the following:

"(5)(A) The Secretary shall award a student not more than two Federal Pell Grants during a single award year to permit such student to accelerate the student's progress toward a degree or certificate if the student is enrolled—

"(i) on at least a half-time basis for a period of more than one academic year, or more than two semesters or an equivalent period of time, during a single award year; and

"(ii) in a program of instruction at an institution of higher education for which the institution awards an associate or baccalaureate degree or a certificate.

"(B) In the case of a student receiving more than one Federal Pell Grant in a single award year under subparagraph (A), the total amount of Federal Pell Grants awarded to such student for the award year may exceed the maximum basic grant level specified in the appropriate appropriations Act for such award year.";

(E) in paragraph (7) (as designated by subparagraph (B)), by inserting before the period the following: "or who is subject to an involuntary civil commitment upon completion of a period of incarceration for a forcible or nonforcible sexual offense (as determined in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program)"; and

(F) in paragraph (8) (as designated by subparagraph (B))—

(i) by amending subparagraph (D) to read as follows:

"(D) PROGRAM REQUIREMENTS AND OPERATIONS OTHERWISE UNAFFECTED.—Except as provided in subparagraphs (B) and (C), nothing in this paragraph shall be construed to alter the requirements and operations of the Federal Pell Grant Program as authorized under this section, or authorize the imposition of additional requirements or operations for the determination and allocation of Federal Pell Grants under this section."; and

(ii) by amending subparagraph (F) to read as follows:

"(F) AVAILABILITY OF FUNDS.—The amounts made available by subparagraph (A) for any fiscal year shall be available beginning on October 1 of that fiscal year, and shall remain available through September 30 of the succeeding fiscal year.". Time period.

(2) EFFECTIVE DATE.— 20 USC 1070a note.

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by paragraph (1) shall take effect on July 1, 2009.

(B) SPECIAL RULE.—The amendments made by subparagraph (F) of paragraph (1) shall take effect on the date of enactment of this Act.

(b) MAXIMUM DURATION OF ELIGIBILITY.—Section 401(c) (20 U.S.C. 1070a(c)) is amended by adding at the end the following new paragraph:

"(5) The period during which a student may receive Federal Pell Grants shall not exceed 18 semesters, or the equivalent of 18 semesters, as determined by the Secretary by regulation. Such regulations shall provide, with respect to a student who received a Federal Pell Grant for a term but was enrolled at a fraction of full-time, that only that same fraction of such semester or equivalent shall count towards such duration limits. The provisions of this paragraph shall apply only to a student who receives a Federal Pell Grant for the first time on or after July 1, 2008.". Regulations. Applicability.

(c) CALCULATION OF FEDERAL PELL GRANT ELIGIBILITY.—

(1) AMENDMENT.—Section 401(f) (20 U.S.C. 1070a(f)) is amended by adding at the end the following new paragraph:

"(4)(A) Notwithstanding paragraph (1) or any other provision of this section, the expected family contribution of each student described in subparagraph (B) shall be deemed to be zero for the

period during which each such student is eligible to receive a Federal Pell Grant under subsection (c).

Applicability.

"(B) Subparagraph (A) shall apply to any student at an institution of higher education—

"(i) whose parent or guardian was a member of the Armed Forces of the United States who died as a result of performing military service in Iraq or Afghanistan after September 11, 2001; and

"(ii) who was less than 24 years of age, or was enrolled as a full-time or part-time student at an institution of higher education, as of the time of the parent or guardian's death.

"(C) Notwithstanding any other provision of law, the Secretary of Veterans Affairs and the Secretary of Defense, as appropriate, shall provide the Secretary of Education with information necessary to determine which students meet the requirements of subparagraph (B).".

20 USC 1070a note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on July 1, 2009.

**SEC. 402. ACADEMIC COMPETITIVENESS GRANTS.**

(a) AMENDMENTS.—

(1) IN GENERAL.—Section 401A (as amended by Public Law 110–227) (20 U.S.C. 1070a–1) is amended—

(A) in subsection (c)(3)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

"(i)(I) successfully completes, after January 1, 2006, but before July 1, 2009, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; or

"(II) successfully completes, on or after July 1, 2009, a rigorous secondary school program of study that prepares students for college—

"(aa)(AA) that is recognized as such by the official designated for such recognition consistent with State law; and

"(BB) about which the designated official has reported to the Secretary, at such time as the Secretary may reasonably require, in order to assist financial aid administrators to determine that the student is an eligible student under this section; or

"(bb) that is recognized as such by the Secretary in regulations promulgated to carry out this section, as such regulations were in effect on May 6, 2008; and"; and

(ii) in subparagraph (B), by striking clause (i) and inserting the following:

"(i)(I) successfully completes, after January 1, 2005, but before July 1, 2009, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; or

"(II) successfully completes, on or after July 1, 2009, a rigorous secondary school program of study that prepares students for college—

"(aa)(AA) that is recognized as such by the official designated for such recognition consistent with State law; and

"(BB) about which the designated official has reported to the Secretary, at such time as the Secretary may reasonably require, in order to assist financial aid administrators to determine that the student is an eligible student under this section; or

"(bb) that is recognized as such by the Secretary in regulations promulgated to carry out this section, as such regulations were in effect on May 6, 2008; and"; and Regulations.

(B) by amending subsection (e)(2) to read as follows:

"(2) AVAILABILITY OF FUNDS.—The amounts made available by paragraph (1) for any fiscal year shall be available from October 1 of that fiscal year and remain available through September 30 of the succeeding fiscal year.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(B) shall take effect on October 1, 2008. 20 USC 1070a–1 note.

(3) EFFECTIVE DATE AMENDMENT.—Section 10(b) of the Ensuring Continued Access to Student Loans Act of 2008 is amended by striking "January 1" and inserting "July 1". 20 USC 1070a–1 note.

(b) WAIVER OF MASTER CALENDAR AND NEGOTIATED RULEMAKING REQUIREMENTS.—Sections 482 and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089, 1098a) shall not apply to the amendments made by subsection (a), or to any regulations promulgated under those amendments. 20 USC 1089 note.

(c) RELATED AMENDMENT TO THE ENSURING CONTINUED ACCESS TO STUDENT LOANS ACT OF 2008.—

(1) AMENDMENT.—Section 11 of the Ensuring Continued Access to Student Loans Act of 2008 is amended by striking "sections 2 through 9 of". 20 USC 1089 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted as part of the Ensuring Continued Access to Student Loans Act of 2008. 20 USC 1089 note.

**SEC. 403. FEDERAL TRIO PROGRAMS.**

(a) PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—Section 402A (20 U.S.C. 1070a–11) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting "including community-based organizations with experience in serving disadvantaged youth" after "private agencies and organizations"; and

(ii) by striking "in exceptional circumstances" and inserting ", as appropriate to the purposes of the program";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "4" and inserting "5"; and

(ii) by amending subparagraph (A) to read as follows:

"(A) in order to synchronize the awarding of grants for programs under this chapter, the Secretary may, under such terms as are consistent with the purposes of this

chapter, provide a one-time, limited extension of the length of such an award;"; and

(C) by striking paragraph (3) and inserting the following:

"(3) MINIMUM GRANTS.—Unless the institution or agency requests a smaller amount, an individual grant authorized under this chapter shall be awarded in an amount that is not less than $200,000, except that an individual grant authorized under section 402G shall be awarded in an amount that is not less than $170,000.";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "(2) PRIOR EXPERIENCE.—In" and inserting the following:

"(2) CONSIDERATIONS.—

"(A) PRIOR EXPERIENCE.—In";

(ii) by striking "service delivery" and inserting "high quality service delivery, as determined under subsection (f),"; and

(iii) by adding at the end the following new subparagraph:

"(B) PARTICIPANT NEED.—In making grants under this chapter, the Secretary shall consider the number, percentages, and needs of eligible participants in the area, institution of higher education, or secondary school to be served to aid such participants in preparing for, enrolling in, or succeeding in postsecondary education, as appropriate to the particular program for which the eligible entity is applying.";

(B) in paragraph (3)(B), by striking "is not required to" and inserting "shall not";

(C) in paragraph (5), by striking "campuses" and inserting "different campuses";

(D) in paragraph (6), by adding at the end the following new sentence: "The Secretary shall, as appropriate, require each applicant for funds under the programs authorized by this chapter to identify and make available services under such program, including mentoring, tutoring, and other services provided by such program, to foster care youth (including youth in foster care and youth who have left foster care after reaching age 13) or to homeless children and youths as defined in section 725 of the McKinney-Vento Homeless Assistance Act."; and

(E) by adding at the end the following:

"(8) REVIEW AND NOTIFICATION BY THE SECRETARY.—

Deadline.

"(A) GUIDANCE.—Not later than 180 days after the date of enactment of the Higher Education Opportunity Act, the Secretary shall issue nonregulatory guidance regarding the rights and responsibilities of applicants with respect to the application and evaluation process for programs and projects assisted under this chapter, including applicant access to peer review comments. The guidance shall describe the procedures for the submission, processing, and scoring of applications for grants under this chapter, including—

"(i) the responsibility of applicants to submit materials in a timely manner and in accordance with the

processes established by the Secretary under the authority of the General Education Provisions Act;

"(ii) steps the Secretary will take to ensure that the materials submitted by applicants are processed in a proper and timely manner;

"(iii) steps the Secretary will take to ensure that prior experience points for high quality service delivery are awarded in an accurate and transparent manner;

"(iv) steps the Secretary will take to ensure the quality and integrity of the peer review process, including assurances that peer reviewers will consider applications for grants under this chapter in a thorough and complete manner consistent with applicable Federal law; and

"(v) steps the Secretary will take to ensure that the final score of an application, including prior experience points for high quality service delivery and points awarded through the peer review process, is determined in an accurate and transparent manner.

"(B) UPDATED GUIDANCE.—Not later than 45 days before the date of the commencement of each competition for a grant under this chapter that is held after the expiration of the 180-day period described in subparagraph (A), the Secretary shall update and publish the guidance described in such subparagraph. Deadline. Publication.

"(C) REVIEW.—

"(i) IN GENERAL.—With respect to any competition for a grant under this chapter, an applicant may request a review by the Secretary if the applicant—

"(I) has evidence of a specific technical, administrative, or scoring error made by the Department, an agent of the Department, or a peer reviewer, with respect to the scoring or processing of a submitted application; and

"(II) has otherwise met all of the requirements for submission of the application.

"(ii) TECHNICAL OR ADMINISTRATIVE ERROR.—In the case of evidence of a technical or administrative error listed in clause (i)(I), the Secretary shall review such evidence and provide a timely response to the applicant. If the Secretary determines that a technical or administrative error was made by the Department or an agent of the Department, the application of the applicant shall be reconsidered in the peer review process for the applicable grant competition.

"(iii) SCORING ERROR.—In the case of evidence of a scoring error listed in clause (i)(I), when the error relates to either prior experience points for high quality service delivery or to the final score of an application, the Secretary shall—

"(I) review such evidence and provide a timely response to the applicant; and

"(II) if the Secretary determines that a scoring error was made by the Department or a peer reviewer, adjust the prior experience points or final score of the application appropriately and quickly,

so as not to interfere with the timely awarding of grants for the applicable grant competition.

"(iv) ERROR IN PEER REVIEW PROCESS.—

Panel.

"(I) REFERRAL TO SECONDARY REVIEW.—In the case of a peer review process error listed in clause (i)(I), if the Secretary determines that points were withheld for criteria not required in Federal statute, regulation, or guidance governing a program assisted under this chapter or the application for a grant for such program, or determines that information pertaining to selection criteria was wrongly determined missing from an application by a peer reviewer, then the Secretary shall refer the application to a secondary review panel.

"(II) TIMELY REVIEW; REPLACEMENT SCORE.—The secondary review panel described in subclause (I) shall conduct a secondary review in a timely fashion, and the score resulting from the secondary review shall replace the score from the initial peer review.

"(III) COMPOSITION OF SECONDARY REVIEW PANEL.—The secondary review panel shall be composed of reviewers each of whom—

"(aa) did not review the application in the original peer review;

"(bb) is a member of the cohort of peer reviewers for the grant program that is the subject of such secondary review; and

"(cc) to extent practicable, has conducted peer reviews in not less than two previous competitions for the grant program that is the subject of such secondary review.

"(IV) FINAL SCORE.—The final peer review score of an application subject to a secondary review under this clause shall be adjusted appropriately and quickly using the score awarded by the secondary review panel, so as not to interfere with the timely awarding of grants for the applicable grant competition.

"(V) QUALIFICATION FOR SECONDARY REVIEW.—To qualify for a secondary review under this clause, an applicant shall have evidence of a scoring error and demonstrate that—

"(aa) points were withheld for criteria not required in statute, regulation, or guidance governing the Federal TRIO programs or the application for a grant for such programs; or

"(bb) information pertaining to selection criteria was wrongly determined to be missing from the application.

"(v) FINALITY.—

"(I) IN GENERAL.—A determination by the Secretary under clause (i), (ii), or (iii) shall not be reviewable by any officer or employee of the Department.

"(II) SCORING.—The score awarded by a secondary review panel under clause (iv) shall not

be reviewable by any officer or employee of the Department other than the Secretary.

"(vi) FUNDING OF APPLICATIONS WITH CERTAIN ADJUSTED SCORES.—To the extent feasible based on the availability of appropriations, the Secretary shall fund applications with scores that are adjusted upward under clauses (ii), (iii), and (iv) to equal or exceed the minimum cut off score for the applicable grant competition.";

(3) in subsection (e)—

(A) by striking "(g)(2)" each place it appears and inserting "(h)(4)"; and

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

"(3) Notwithstanding this subsection and subsection (h)(4), individuals who are foster care youth (including youth in foster care and youth who have left foster care after reaching age 13), or homeless children and youths as defined in section 725 of the McKinney-Vento Homeless Assistance Act, shall be eligible to participate in programs under sections 402B, 402C, 402D, and 402F.";

(4) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(5) by inserting after subsection (e) the following:

"(f) OUTCOME CRITERIA.—

"(1) USE FOR PRIOR EXPERIENCE DETERMINATION.—For competitions for grants under this chapter that begin on or after January 1, 2009, the Secretary shall determine an eligible entity's prior experience of high quality service delivery, as required under subsection (c)(2), based on the outcome criteria described in paragraphs (2) and (3).

"(2) DISAGGREGATION OF RELEVANT DATA.—The outcome criteria under this subsection shall be disaggregated by low-income students, first generation college students, and individuals with disabilities, in the schools and institutions of higher education served by the program to be evaluated.

"(3) CONTENTS OF OUTCOME CRITERIA.—The outcome criteria under this subsection shall measure, annually and for longer periods, the quality and effectiveness of programs authorized under this chapter and shall include the following:

"(A) For programs authorized under section 402B, the extent to which the eligible entity met or exceeded the entity's objectives established in the entity's application for such program regarding—

"(i) the delivery of service to a total number of students served by the program;

"(ii) the continued secondary school enrollment of such students;

"(iii) the graduation of such students from secondary school with a regular secondary school diploma in the standard number of years;

"(iv) the completion by such students of a rigorous secondary school program of study that will make such students eligible for programs such as the Academic Competitiveness Grants Program;

"(v) the enrollment of such students in an institution of higher education; and

"(vi) to the extent practicable, the postsecondary education completion of such students.

"(B) For programs authorized under section 402C, the extent to which the eligible entity met or exceeded the entity's objectives for such program regarding—

"(i) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period;

"(ii) such students' school performance, as measured by the grade point average, or its equivalent;

"(iii) such students' academic performance, as measured by standardized tests, including tests required by the students' State;

"(iv) the retention in, and graduation from, secondary school of such students;

"(v) the completion by such students of a rigorous secondary school program of study that will make such students eligible for programs such as the Academic Competitiveness Grants Program;

"(vi) the enrollment of such students in an institution of higher education; and

"(vii) to the extent practicable, the postsecondary education completion of such students.

"(C) For programs authorized under section 402D—

"(i) the extent to which the eligible entity met or exceeded the entity's objectives regarding the retention in postsecondary education of the students served by the program;

"(ii)(I) in the case of an entity that is an institution of higher education offering a baccalaureate degree, the extent to which the entity met or exceeded the entity's objectives regarding the percentage of such students' completion of the degree programs in which such students were enrolled; or

"(II) in the case of an entity that is an institution of higher education that does not offer a baccalaureate degree, the extent to which such students met or exceeded the entity's objectives regarding—

"(aa) the completion of a degree or certificate by such students; and

"(bb) the transfer of such students to institutions of higher education that offer baccalaureate degrees;

"(iii) the extent to which the entity met or exceeded the entity's objectives regarding the delivery of service to a total number of students, as agreed upon by the entity and the Secretary for the period; and

"(iv) the extent to which the entity met or exceeded the entity's objectives regarding the students served under the program who remain in good academic standing.

"(D) For programs authorized under section 402E, the extent to which the entity met or exceeded the entity's objectives for such program regarding—

"(i) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period;

"(ii) the provision of appropriate scholarly and research activities for the students served by the program;

"(iii) the acceptance and enrollment of such students in graduate programs; and

"(iv) the continued enrollment of such students in graduate study and the attainment of doctoral degrees by former program participants.

"(E) For programs authorized under section 402F, the extent to which the entity met or exceeded the entity's objectives for such program regarding—

"(i) the enrollment of students without a secondary school diploma or its recognized equivalent, who were served by the program, in programs leading to such diploma or equivalent;

"(ii) the enrollment of secondary school graduates who were served by the program in programs of postsecondary education;

"(iii) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period; and

"(iv) the provision of assistance to students served by the program in completing financial aid applications and college admission applications.

"(4) MEASUREMENT OF PROGRESS.—In order to determine the extent to which each outcome criterion described in paragraph (2) or (3) is met or exceeded, the Secretary shall compare the agreed upon target for the criterion, as established in the eligible entity's application approved by the Secretary, with the results for the criterion, measured as of the last day of the applicable time period for the determination for the outcome criterion.";

(6) in subsection (g) (as redesignated by paragraph (4))—

(A) in the first sentence, by striking "$700,000,000 for fiscal year 1999" and all that follows through the period and inserting "$900,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years."; and

(B) by striking the fourth sentence; and

(7) in subsection (h) (as redesignated by paragraph (4))—

(A) by redesignating paragraphs (1) through (4) as paragraphs (3) through (6), respectively;

(B) by inserting before paragraph (3) (as redesignated by subparagraph (A)) the following:

"(1) DIFFERENT CAMPUS.—The term 'different campus' means a site of an institution of higher education that—

"(A) is geographically apart from the main campus of the institution;

"(B) is permanent in nature; and

"(C) offers courses in educational programs leading to a degree, certificate, or other recognized educational credential.

"(2) DIFFERENT POPULATION.—The term 'different population' means a group of individuals that an eligible entity desires to serve through an application for a grant under this chapter, and that—

"(A) is separate and distinct from any other population that the entity has applied for a grant under this chapter to serve; or

"(B) while sharing some of the same needs as another population that the eligible entity has applied for a grant under this chapter to serve, has distinct needs for specialized services.";

(C) in paragraph (5) (as redesignated by subparagraph (A))—

(i) in subparagraph (A)—

(I) by striking ", any part of which occurred after January 31, 1955,"; and

(II) by striking "or" after the semicolon;

(ii) in subparagraph (B)—

(I) by striking "after January 31, 1955,"; and

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(C) was a member of a reserve component of the Armed Forces called to active duty for a period of more than 30 days; or

"(D) was a member of a reserve component of the Armed Forces who served on active duty in support of a contingency operation (as that term is defined in section 101(a)(13) of title 10, United States Code) on or after September 11, 2001."; and

(D) in paragraph (6) (as redesignated by subparagraph (A)), by striking "subparagraph (A) or (B) of paragraph (3)" and inserting "subparagraph (A), (B), or (C) of paragraph (5)".

(b) TALENT SEARCH.—Section 402B (20 U.S.C. 1070a–12) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting ", and facilitate the application for," after "the availability of"; and

(B) in paragraph (3), by striking ", but who have the ability to complete such programs, to reenter" and inserting "to enter or reenter, and complete";

(2) by redesignating subsection (c) as subsection (d);

(3) by striking subsection (b) and inserting the following:

"(b) REQUIRED SERVICES.—Any project assisted under this section shall provide—

"(1) connections to high quality academic tutoring services, to enable students to complete secondary or postsecondary courses;

"(2) advice and assistance in secondary course selection and, if applicable, initial postsecondary course selection;

"(3) assistance in preparing for college entrance examinations and completing college admission applications;

"(4)(A) information on the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

"(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

"(5) guidance on and assistance in—

"(A) secondary school reentry;

"(B) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma;

"(C) entry into general educational development (GED) programs; or

"(D) postsecondary education; and

"(6) connections to education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents, including financial planning for postsecondary education.

"(c) PERMISSIBLE SERVICES.—Any project assisted under this section may provide services such as—

"(1) academic tutoring, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

"(2) personal and career counseling or activities;

"(3) information and activities designed to acquaint youth with the range of career options available to the youth;

"(4) exposure to the campuses of institutions of higher education, as well as cultural events, academic programs, and other sites or activities not usually available to disadvantaged youth;

"(5) workshops and counseling for families of students served;

"(6) mentoring programs involving elementary or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons; and

"(7) programs and activities as described in subsection (b) or paragraphs (1) through (6) of this subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students."; and

(4) in the matter preceding paragraph (1) of subsection (d) (as redesignated by paragraph (2)), by striking "talent search projects under this chapter" and inserting "projects under this section".

(c) UPWARD BOUND.—Section 402C (20 U.S.C. 1070a–13) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) REQUIRED SERVICES.—Any project assisted under this section shall provide—

"(1) academic tutoring to enable students to complete secondary or postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

"(2) advice and assistance in secondary and postsecondary course selection;

"(3) assistance in preparing for college entrance examinations and completing college admission applications;

"(4)(A) information on the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

"(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

"(5) guidance on and assistance in—

"(A) secondary school reentry;

"(B) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma;

"(C) entry into general educational development (GED) programs; or

"(D) postsecondary education; and

"(6) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents, including financial planning for postsecondary education.";

(2) in subsection (c)—

(A) in the subsection heading, by striking "REQUIRED SERVICES" and inserting "ADDITIONAL REQUIRED SERVICES FOR MULTIPLE-YEAR GRANT RECIPIENTS"; and

(B) by striking "upward bound project assisted under this chapter" and inserting "project assisted under this section";

(3) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(4) by inserting after subsection (c) the following:

"(d) PERMISSIBLE SERVICES.—Any project assisted under this section may provide such services as—

"(1) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(2) information, activities, and instruction designed to acquaint youth participating in the project with the range of career options available to the youth;

"(3) on-campus residential programs;

"(4) mentoring programs involving elementary school or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons;

"(5) work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree;

"(6) special services, including mathematics and science preparation, to enable veterans to make the transition to postsecondary education; and

"(7) programs and activities as described in subsection (b), subsection (c), or paragraphs (1) through (6) of this subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students.";

(5) in subsection (e) (as redesignated by paragraph (3))—

(A) in the matter preceding paragraph (1), by striking "upward bound projects under this chapter" and inserting "projects under this section";

(B) in paragraph (2), by striking "either low-income" and all that follows through the semicolon and inserting "low-income individuals, first generation college students, or students who have a high risk for academic failure;";

(C) in paragraph (3), by striking "and" after the semicolon;

(D) in paragraph (4), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(5) require an assurance that no student will be denied participation in a project assisted under this section because the student will enter the project after the 9th grade.";

(6) in subsection (f) (as redesignated by paragraph (3))—

(A) by striking "during June, July, and August" each place the term occurs and inserting "during the summer school recess, for a period not to exceed three months"; and

(B) by striking "(b)(10)" and inserting "(d)(5)"; and

(7) by adding at the end the following:

"(h) ABSOLUTE PRIORITY PROHIBITED IN UPWARD BOUND PROGRAM.—Upon enactment of this subsection and except as otherwise expressly provided by amendment to this section, the Secretary shall not continue, implement, or enforce the absolute priority for the Upward Bound Program published by the Department of Education in the Federal Register on September 22, 2006 (71 Fed. Reg. 55447 et seq.). This subsection shall not be applied retroactively. In implementing this subsection, the Department shall allow the programs and participants chosen in the grant cycle to which the priority applies to continue their grants and participation without a further recompetition. The entities shall not be required to apply the absolute priority conditions or restrictions to future participants.".

(d) STUDENT SUPPORT SERVICES.—Section 402D (20 U.S.C. 1070a–14) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "and" after the semicolon; and

(B) by striking paragraph (3) and inserting the following:

"(3) to foster an institutional climate supportive of the success of students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students; and

"(4) to improve the financial literacy and economic literacy of students, including—

"(A) basic personal income, household money management, and financial planning skills; and

"(B) basic economic decisionmaking skills.";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e);

(3) by striking subsection (b) and inserting the following:

"(b) REQUIRED SERVICES.—A project assisted under this section shall provide—

"(1) academic tutoring, directly or through other services provided by the institution, to enable students to complete postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

"(2) advice and assistance in postsecondary course selection;

"(3)(A) information on both the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

"(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

"(4) education or counseling services designed to improve the financial literacy and economic literacy of students, including financial planning for postsecondary education;

"(5) activities designed to assist students participating in the project in applying for admission to, and obtaining financial assistance for enrollment in, graduate and professional programs; and

"(6) activities designed to assist students enrolled in two-year institutions of higher education in applying for admission to, and obtaining financial assistance for enrollment in, a four-year program of postsecondary education.

"(c) PERMISSIBLE SERVICES.—A project assisted under this section may provide services such as—

"(1) individualized counseling for personal, career, and academic matters provided by assigned counselors;

"(2) information, activities, and instruction designed to acquaint students participating in the project with the range of career options available to the students;

"(3) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(4) mentoring programs involving faculty or upper class students, or a combination thereof;

"(5) securing temporary housing during breaks in the academic year for—

"(A) students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)) or were formerly homeless children and youths; and

"(B) students who are in foster care or are aging out of the foster care system; and

"(6) programs and activities as described in subsection (b) or paragraphs (1) through (4) of this subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students.";

(4) in subsection (d)(1) (as redesignated by paragraph (2)), by striking "subsection (b)" and inserting "subsection (c)"; and

(5) in the matter preceding paragraph (1) of subsection (e) (as redesignated by paragraph (2)), by striking "student support services projects under this chapter" and inserting "projects under this section".

(e) POSTBACCALAUREATE ACHIEVEMENT PROGRAM AUTHORITY.—Section 402E (20 U.S.C. 1070a–15) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by inserting "REQUIRED" before "SERVICES";

(B) in the matter preceding paragraph (1), by striking "A postbaccalaureate achievement project assisted under this section may provide services such as—" and inserting "A project assisted under this section shall provide—";

(C) in paragraph (5), by inserting "and" after the semicolon;

(D) in paragraph (6), by striking the semicolon and inserting a period; and

(E) by striking paragraphs (7) and (8);

(2) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively;

(3) by inserting after subsection (b) the following:

"(c) PERMISSIBLE SERVICES.—A project assisted under this section may provide services such as—

"(1) education or counseling services designed to improve the financial literacy and economic literacy of students, including financial planning for postsecondary education;

"(2) mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and

"(3) exposure to cultural events and academic programs not usually available to disadvantaged students.";

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) in the matter preceding paragraph (1), by striking "postbaccalaureate achievement"; and

(B) in paragraph (2), by inserting after "graduate education" the following: ", including—

"(A) Alaska Natives, as defined in section 7306 of the Elementary and Secondary Education Act of 1965;

"(B) Native Hawaiians, as defined in section 7207 of such Act; and

"(C) Native American Pacific Islanders, as defined in section 320.";

(5) in the matter preceding paragraph (1) of subsection (f) (as redesignated by paragraph (2)), by striking "postbaccalaureate achievement project" and inserting "project under this section"; and

(6) in subsection (g) (as redesignated by paragraph (2))—

(A) by striking "402A(f)" and inserting "402A(g)"; and

(B) by striking "1993 through 1997" and inserting "2009 through 2014".

(f) EDUCATIONAL OPPORTUNITY CENTERS.—Section 402F (20 U.S.C. 1070a–16) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) to improve the financial literacy and economic literacy of students, including—

"(A) basic personal income, household money management, and financial planning skills; and

"(B) basic economic decisionmaking skills."; and

(2) in subsection (b)—

(A) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively;

(B) by inserting after paragraph (4) the following:

"(5) education or counseling services designed to improve the financial literacy and economic literacy of students;";

(C) by striking paragraph (7) (as redesignated by subparagraph (A)) and inserting the following:

"(7) individualized personal, career, and academic counseling;"; and

(D) by striking paragraph (11) (as redesignated by subparagraph (A)) and inserting the following:

"(11) programs and activities as described in paragraphs (1) through (10) that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students.".

(g) STAFF DEVELOPMENT ACTIVITIES.—Section 402G(b) (20 U.S.C. 1070a–17(b)) is amended by adding at the end the following new paragraph:

"(5) Strategies for recruiting and serving hard to reach populations, including students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students.".

(h) REPORTS, EVALUATIONS, AND GRANTS FOR PROJECT IMPROVEMENT AND DISSEMINATION.—Section 402H (20 U.S.C. 1070a–18) is amended—

(1) by striking the section heading and inserting "**REPORTS, EVALUATIONS, AND GRANTS FOR PROJECT IMPROVEMENT AND DISSEMINATION**.";

(2) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(3) by inserting before subsection (b) (as redesignated by paragraph (2)) the following:

"(a) REPORTS TO THE AUTHORIZING COMMITTEES.—

"(1) IN GENERAL.—The Secretary shall submit annually, to the authorizing committees, a report that documents the performance of all programs funded under this chapter. Such report shall—

"(A) be submitted not later than 12 months after the eligible entities receiving funds under this chapter are required to report their performance to the Secretary;

"(B) focus on the programs' performance on the relevant outcome criteria determined under section 402A(f)(4);

"(C) aggregate individual project performance data on the outcome criteria in order to provide national performance data for each program;

"(D) include, when appropriate, descriptive data, multi-year data, and multi-cohort data; and

"(E) include comparable data on the performance nationally of low-income students, first-generation students, and students with disabilities.

"(2) INFORMATION.—The Secretary shall provide, with each report submitted under paragraph (1), information on the impact of the secondary review process described in section 402A(c)(8)(C)(iv), including the number and type of secondary reviews, the disposition of the secondary reviews, the effect on timing of awards, and any other information the Secretary determines is necessary."; and

(4) in subsection (b) (as redesignated by paragraph (2)), by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—

"(A) AUTHORIZATION OF GRANTS AND CONTRACTS.—For the purpose of improving the effectiveness of the programs and projects assisted under this chapter, the Secretary shall make grants to, or enter into contracts with, institutions of higher education and other public and private institutions and organizations to rigorously evaluate the effectiveness of the programs and projects assisted under this chapter, including a rigorous evaluation of the programs and projects assisted under section 402C. The evaluation of the programs and projects assisted under section 402C shall be implemented not later than June 30, 2010. Deadline.

"(B) CONTENT OF UPWARD BOUND EVALUATION.—The evaluation of the programs and projects assisted under section 402C that is described in subparagraph (A) shall examine the characteristics of the students who benefit most from the Upward Bound program under section 402C and the characteristics of the programs and projects that most benefit students.

"(C) IMPLEMENTATION.—Each evaluation described in this paragraph shall be implemented in accordance with the requirements of this section.

"(2) PRACTICES.—

"(A) IN GENERAL.—The evaluations described in paragraph (1) shall identify institutional, community, and program or project practices that are effective in—

"(i) enhancing the access of low-income individuals and first-generation college students to postsecondary education;

"(ii) the preparation of such individuals and students for postsecondary education; and

"(iii) fostering the success of the individuals and students in postsecondary education.

"(B) PRIMARY PURPOSE.—Any evaluation conducted under this chapter shall have as the evaluation's primary purpose the identification of particular practices that further the achievement of the outcome criteria determined under section 402A(f)(4).

"(C) DISSEMINATION AND USE OF EVALUATION FINDINGS.—The Secretary shall disseminate to eligible entities and make available to the public the practices identified under subparagraph (B). The practices may be used by eligible entities that receive assistance under this chapter after the dissemination.

"(3) SPECIAL RULE RELATED TO EVALUATION PARTICIPATION.—The Secretary shall not require an eligible entity, as a condition for receiving, or that receives, assistance under any program or project under this chapter to participate in an evaluation under this section that—

"(A) requires the eligible entity to recruit additional students beyond those the program or project would normally recruit; or

"(B) results in the denial of services for an eligible student under the program or project.

"(4) CONSIDERATION.—When designing an evaluation under this subsection, the Secretary shall continue to consider—

"(A) the burden placed on the program participants or the eligible entity; and

"(B) whether the evaluation meets generally accepted standards of institutional review boards.".

**SEC. 404. GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS.**

(a) EARLY INTERVENTION AND COLLEGE AWARENESS PROGRAM AUTHORIZED.—Section 404A (20 U.S.C. 1070a–21) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized, in accordance with the requirements of this chapter, to establish a program that encourages eligible entities to provide support, and maintain a commitment, to eligible low-income students, including students with disabilities, to assist the students in obtaining a secondary school diploma (or its recognized equivalent) and to prepare for and succeed in postsecondary education, by providing—

"(1) financial assistance, academic support, additional counseling, mentoring, outreach, and supportive services to secondary school students, including students with disabilities, to reduce—

"(A) the risk of such students dropping out of school; or

"(B) the need for remedial education for such students at the postsecondary level; and

"(2) information to students and their families about the advantages of obtaining a postsecondary education and, college financing options for the students and their families.";

(2) in subsection (b), by striking paragraph (2) and inserting the following:

"(2) AWARD PERIOD.—The Secretary may award a grant under this chapter to an eligible entity described in paragraphs (1) and (2) of subsection (c) for—

"(A) six years; or

"(B) in the case of an eligible entity that applies for a grant under this chapter for seven years to enable the eligible entity to provide services to a student through the student's first year of attendance at an institution of higher education, seven years.

"(3) PRIORITY.—In making awards to eligible entities described in subsection (c)(1), the Secretary shall—

"(A) give priority to eligible entities that—

"(i) on the day before the date of enactment of the Higher Education Opportunity Act, carried out successful educational opportunity programs under this chapter (as this chapter was in effect on such day); and

"(ii) have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies; and

"(B) ensure that students served under this chapter on the day before the date of enactment of the Higher Education Opportunity Act continue to receive assistance through the completion of secondary school."; and

(3) in subsection (c), by striking paragraph (2) and inserting the following:

"(2) a partnership—

"(A) consisting of—

"(i) one or more local educational agencies; and

"(ii) one or more degree granting institutions of higher education; and

"(B) which may include not less than two other community organizations or entities, such as businesses, professional organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4, or other public or private agencies or organizations.".

(b) REQUIREMENTS.—Section 404B (20 U.S.C. 1070a–22) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) FUNDING RULES.—In awarding grants from the amount appropriated under section 404H for a fiscal year, the Secretary shall make available—

"(1) to eligible entities described in section 404A(c)(1), not less than 33 percent of such amount;

"(2) to eligible entities described in section 404A(c)(2), not less than 33 percent of such amount; and

"(3) to eligible entities described in paragraph (1) or (2) of section 404A(c), the remainder of such amount taking into consideration the number, quality, and promise of the applications for the grants, and, to the extent practicable—

"(A) the geographic distribution of such grant awards; and

"(B) the distribution of such grant awards between urban and rural applicants.";

(2) by striking subsections (b), (e), and (f);

(3) by redesignating subsections (c), (d), and (g), as subsections (b), (c), and (d), respectively;

(4) in subsection (d)(1) (as redesignated by paragraph (3))—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by inserting "and provide the option of continued services through the student's first year of attendance at an institution of higher education to the extent the provision of such services was described in the eligible entity's application for assistance under this chapter" after "grade level"; and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) provide services under this chapter to students who have received services under a previous GEAR UP grant award but have not yet completed the 12th grade."; and

(5) by adding at the end the following:

"(e) SUPPLEMENT, NOT SUPPLANT.—Grant funds awarded under this chapter shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities assisted under this chapter.".

(c) APPLICATION.—Section 404C (20 U.S.C. 1070a–23) is amended—

(1) in the section heading, by striking "**ELIGIBLE ENTITY PLANS**" and inserting "**APPLICATIONS**";

(2) in subsection (a)—

(A) in the subsection heading, by striking "PLAN" and inserting "APPLICATION";

(B) in paragraph (1)—

(i) by striking "a plan" and inserting "an application"; and

(ii) by striking the second sentence; and

(C) by striking paragraph (2) and inserting the following:

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may reasonably require. Each such application shall, at a minimum—

"(A) describe the activities for which assistance under this chapter is sought, including how the eligible entity will carry out the required activities described in section 404D(a);

"(B) describe, in the case of an eligible entity described in section 404A(c)(2) that chooses to provide scholarships, or an eligible entity described in section 404A(c)(1), how the eligible entity will meet the requirements of section 404E;

"(C) describe, in the case of an eligible entity described in section 404A(c)(2) that requests a reduced match percentage under subsection (b)(2), how such reduction will assist the entity to provide the scholarships described in subsection (b)(2)(A)(ii);

"(D) provide assurances that adequate administrative and support staff will be responsible for coordinating the activities described in section 404D;

"(E) provide assurances that activities assisted under this chapter will not displace an employee or eliminate a position at a school assisted under this chapter, including

a partial displacement such as a reduction in hours, wages, or employment benefits;

"(F) describe, in the case of an eligible entity described in section 404A(c)(1) that chooses to use a cohort approach, or an eligible entity described in section 404A(c)(2), how the eligible entity will define the cohorts of the students served by the eligible entity pursuant to section 404B(d), and how the eligible entity will serve the cohorts through grade 12, including—

"(i) how vacancies in the program under this chapter will be filled; and

"(ii) how the eligible entity will serve students attending different secondary schools;

"(G) describe how the eligible entity will coordinate programs under this chapter with other existing Federal, State, or local programs to avoid duplication and maximize the number of students served;

"(H) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this chapter;

"(I) provide information about the activities that will be carried out by the eligible entity to support systemic changes from which future cohorts of students will benefit; and

"(J) describe the sources of matching funds that will enable the eligible entity to meet the matching requirement described in subsection (b).";

(3) in subsection (b)—

(A) in the matter preceding subparagraph (A) of paragraph (1)—

(i) by striking "a plan" and inserting "an application"; and

(ii) by striking "such plan" and inserting "such application";

(B) in paragraph (1)(A), by inserting "and may be accrued over the full duration of the grant award period, except that the eligible entity shall make substantial progress towards meeting the matching requirement in each year of the grant award period" after "in cash or in-kind"; and

(C) in paragraph (2), by adding at the end the following new sentence: "The Secretary may approve an eligible entity's request for a reduced match percentage—

"(A) at the time of application—

"(i) if the eligible entity demonstrates significant economic hardship that precludes the eligible entity from meeting the matching requirement; or

"(ii) if the eligible entity is described in section 404A(c)(2) and requests that contributions to the eligible entity's scholarship fund established under section 404E be matched on a two to one basis; or

"(B) in response to a petition by an eligible entity subsequent to a grant award under this section if the eligible entity demonstrates that the matching funds described in its application are no longer available and the eligible entity has exhausted all revenues for replacing such matching funds."; and

(4) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "paid to students from State, local, institutional, or private funds under this chapter" and inserting "obligated to students from State, local, institutional, or private funds under this chapter, including pre-existing non-Federal financial assistance programs,"; and

(ii) by striking the semicolon at the end and inserting "including—

"(A) the amount contributed to a student scholarship fund established under section 404E; and

"(B) the amount of the costs of administering the scholarship program under section 404E;";

(B) in paragraph (2), by striking "and" after the semicolon;

(C) in paragraph (3), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(4) other resources recognized by the Secretary, including equipment and supplies, cash contributions from non-Federal sources, transportation expenses, in-kind or discounted program services, indirect costs, and facility usage.".

(d) ACTIVITIES.—Section 404D (20 U.S.C. 1070a–24) is amended to read as follows:

**"SEC. 404D. ACTIVITIES.**

"(a) REQUIRED ACTIVITIES.—Each eligible entity receiving a grant under this chapter shall provide comprehensive mentoring, outreach, and supportive services to students participating in the programs under this chapter. Such activities shall include the following:

"(1) Providing information regarding financial aid for postsecondary education to participating students in the cohort described in section 404B(d)(1)(A) or to priority students described in subsection (d).

"(2) Encouraging student enrollment in rigorous and challenging curricula and coursework, in order to reduce the need for remedial coursework at the postsecondary level.

"(3) Improving the number of participating students who—

"(A) obtain a secondary school diploma; and

"(B) complete applications for and enroll in a program of postsecondary education.

"(4) In the case of an eligible entity described in section 404A(c)(1), providing for the scholarships described in section 404E.

"(b) PERMISSIBLE ACTIVITIES FOR STATES AND PARTNERSHIPS.—An eligible entity that receives a grant under this chapter may use grant funds to carry out one or more of the following activities:

"(1) Providing tutors and mentors, who may include adults or former participants of a program under this chapter, for eligible students.

"(2) Conducting outreach activities to recruit priority students described in subsection (d) to participate in program activities.

"(3) Providing supportive services to eligible students.

"(4) Supporting the development or implementation of rigorous academic curricula, which may include college preparatory, Advanced Placement, or International Baccalaureate programs, and providing participating students access to rigorous core academic courses that reflect challenging State academic standards.

"(5) Supporting dual or concurrent enrollment programs between the secondary school and institution of higher education partners of an eligible entity described in section 404A(c)(2), and other activities that support participating students in—

"(A) meeting challenging State academic standards;

"(B) successfully applying for postsecondary education;

"(C) successfully applying for student financial aid; and

"(D) developing graduation and career plans.

"(6) Providing special programs or tutoring in science, technology, engineering, or mathematics.

"(7) In the case of an eligible entity described in section 404A(c)(2), providing support for scholarships described in section 404E.

"(8) Introducing eligible students to institutions of higher education, through trips and school-based sessions.

"(9) Providing an intensive extended school day, school year, or summer program that offers—

"(A) additional academic classes; or

"(B) assistance with college admission applications.

"(10) Providing other activities designed to ensure secondary school completion and postsecondary education enrollment of at-risk children, such as—

"(A) the identification of at-risk children;

"(B) after-school and summer tutoring;

"(C) assistance to at-risk children in obtaining summer jobs;

"(D) academic counseling;

"(E) financial literacy and economic literacy education or counseling;

"(F) volunteer and parent involvement;

"(G) encouraging former or current participants of a program under this chapter to serve as peer counselors;

"(H) skills assessments;

"(I) personal and family counseling, and home visits;

"(J) staff development; and

"(K) programs and activities described in this subsection that are specially designed for students who are limited English proficient.

"(11) Enabling eligible students to enroll in Advanced Placement or International Baccalaureate courses, or college entrance examination preparation courses.

"(12) Providing services to eligible students in the participating cohort described in section 404B(d)(1)(A), through the first year of attendance at an institution of higher education.

"(13) Fostering and improving parent and family involvement in elementary and secondary education by promoting the advantages of a college education, and emphasizing academic admission requirements and the need to take college

preparation courses, through parent engagement and leadership activities.

"(14) Disseminating information that promotes the importance of higher education, explains college preparation and admission requirements, and raises awareness of the resources and services provided by the eligible entities to eligible students, their families, and communities.

"(15) In the event that matching funds described in the application are no longer available, engaging entities described in section 404A(c)(2) in a collaborative manner to provide matching resources and participate in other activities authorized under this section.

"(c) ADDITIONAL PERMISSIBLE ACTIVITIES FOR STATES.—In addition to the required activities described in subsection (a) and the permissible activities described in subsection (b), an eligible entity described in section 404A(c)(1) receiving funds under this chapter may use grant funds to carry out one or more of the following activities:

"(1) Providing technical assistance to—

"(A) secondary schools that are located within the State; or

"(B) partnerships described in section 404A(c)(2) that are located within the State.

"(2) Providing professional development opportunities to individuals working with eligible cohorts of students described in section 404B(d)(1)(A).

"(3) Providing administrative support to help build the capacity of eligible entities described in section 404A(c)(2) to compete for and manage grants awarded under this chapter.

"(4) Providing strategies and activities that align efforts in the State to prepare eligible students to attend and succeed in postsecondary education, which may include the development of graduation and career plans.

"(5) Disseminating information on the use of scientifically valid research and best practices to improve services for eligible students.

"(6)(A) Disseminating information on effective coursework and support services that assist students in obtaining the goals described in subparagraph (B)(ii).

"(B) Identifying and disseminating information on best practices with respect to—

"(i) increasing parental involvement; and

"(ii) preparing students, including students with disabilities and students who are limited English proficient, to succeed academically in, and prepare financially for, postsecondary education.

"(7) Working to align State academic standards and curricula with the expectations of postsecondary institutions and employers.

"(8) Developing alternatives to traditional secondary school that give students a head start on attaining a recognized postsecondary credential (including an industry-recognized certificate, an apprenticeship, or an associate's or a bachelor's degree), including school designs that give students early exposure to college-level courses and experiences and allow students to earn transferable college credits or an associate's degree at the same time as a secondary school diploma.

"(9) Creating community college programs for drop-outs that are personalized drop-out recovery programs that allow drop-outs to complete a regular secondary school diploma and begin college-level work.

"(d) PRIORITY STUDENTS.—For eligible entities not using a cohort approach, the eligible entity shall treat as a priority student any student in secondary school who is—

"(1) eligible to be counted under section 1124(c) of the Elementary and Secondary Education Act of 1965;

"(2) eligible for assistance under a State program funded under part A or E of title IV of the Social Security Act (42 U.S.C. 601 et seq., 670 et seq.);

"(3) eligible for assistance under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.); or

"(4) otherwise considered by the eligible entity to be a disconnected student.

"(e) ALLOWABLE PROVIDERS.—In the case of eligible entities described in section 404A(c)(1), the activities required by this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4, and other organizations the State determines appropriate.".

(e) SCHOLARSHIP COMPONENT.—Section 404E (20 U.S.C. 1070a–25) is amended—

(1) by striking subsections (e) and (f);

(2) by redesignating subsections (b), (c), and (d) as subsections (d), (f), and (g), respectively;

(3) by inserting after subsection (a) the following:

"(b) LIMITATION.—

"(1) IN GENERAL.—Subject to paragraph (2), each eligible entity described in section 404A(c)(1) that receives a grant under this chapter shall use not less than 25 percent and not more than 50 percent of the grant funds for activities described in section 404D (except for the activity described in subsection (a)(4) of such section), with the remainder of such funds to be used for a scholarship program under this section in accordance with such subsection.

"(2) EXCEPTION.—Notwithstanding paragraph (1), the Secretary may allow an eligible entity to use more than 50 percent of grant funds received under this chapter for such activities, if the eligible entity demonstrates that the eligible entity has another means of providing the students with the financial assistance described in this section and describes such means in the application submitted under section 404C.

"(c) NOTIFICATION OF ELIGIBILITY.—Each eligible entity providing scholarships under this section shall provide information on the eligibility requirements for the scholarships to all participating students upon the students' entry into the programs assisted under this chapter.";

(4) in subsection (d) (as redesignated by paragraph (2)), by striking "the lesser of" and all that follows through the period at the end of paragraph (2) of such subsection (d) and inserting "the minimum Federal Pell Grant award under section 401 for such award year.";

(5) by inserting after subsection (d) (as redesignated by paragraph (2) and amended by paragraph (4)) the following:

"(e) PORTABILITY OF ASSISTANCE.—

"(1) IN GENERAL.—Each eligible entity described in section 404A(c)(1) that receives a grant under this chapter shall hold in reserve, for the students served by such grant as described in section 404B(d)(1)(A) or 404D(d), an amount that is not less than the minimum scholarship amount described in subsection (d), multiplied by the number of students the eligible entity estimates will meet the requirements of paragraph (2).

"(2) REQUIREMENT FOR PORTABILITY.—Funds held in reserve under paragraph (1) shall be made available to an eligible student when the eligible student has—

"(A) completed a secondary school diploma, its recognized equivalent, or another recognized alternative standard for individuals with disabilities; and

"(B) enrolled in an institution of higher education.

"(3) QUALIFIED EDUCATIONAL EXPENSES.—Funds available to an eligible student under this subsection may be used for—

"(A) tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the eligible student at an institution of higher education; and

"(B) in the case of an eligible student with special needs, expenses for special needs services that are incurred in connection with such enrollment or attendance.

"(4) RETURN OF FUNDS.—

"(A) REDISTRIBUTION.—

"(i) IN GENERAL.—Funds held in reserve under paragraph (1) that are not used by an eligible student within six years of the student's scheduled completion of secondary school may be redistributed by the eligible entity to other eligible students.

"(ii) RETURN OF EXCESS TO THE SECRETARY.—If, after meeting the requirements of paragraph (1) and, if applicable, redistributing excess funds in accordance with clause (i) of this subparagraph, an eligible entity has funds held in reserve under paragraph (1) that remain available, the eligible entity shall return such remaining reserved funds to the Secretary for distribution to other grantees under this chapter in accordance with the funding rules described in section 404B(a).

"(B) NONPARTICIPATING ENTITY.—Notwithstanding subparagraph (A), in the case of an eligible entity that does not receive assistance under this subpart for six fiscal years, the eligible entity shall return any funds held in reserve under paragraph (1) that are not awarded or obligated to eligible students to the Secretary for distribution to other grantees under this chapter."; and

(6) in subsection (g)(4) (as redesignated by paragraph (2)), by striking "early intervention component required under section 404D" and inserting "activities required under section 404D(a)".

(f) 21ST CENTURY SCHOLAR CERTIFICATES.—Section 404F (20 U.S.C. 1070a–26) is amended by striking subsections (a) and (b) and inserting the following:

"(a) IN GENERAL.—An eligible entity that receives a grant under this chapter shall provide certificates, to be known as 21st Century

Scholar Certificates, to all students served by the eligible entity who are participating in a program under this chapter.

"(b) INFORMATION REQUIRED.—A 21st Century Scholar Certificate shall be personalized for each student and indicate the amount of Federal financial aid for college and the estimated amount of any scholarship provided under section 404E, if applicable, that a student may be eligible to receive.".

(g) EVALUATION.—Section 404G(c) (20 U.S.C. 1070a–27(c)) is amended by adding at the end the following: "Such evaluation shall include a separate analysis of—

"(1) the implementation of the scholarship component described in section 404E; and

"(2) the use of methods for complying with matching requirements described in paragraphs (1) and (2) of section 404C(c).".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 404H (20 U.S.C. 1070a–28) is amended by striking "$200,000,000 for fiscal year 1999" and all that follows through the period and inserting "$400,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.".

**SEC. 405. ACADEMIC ACHIEVEMENT INCENTIVE SCHOLARSHIPS.**

Chapter 3 of subpart 2 of part A of title IV (20 U.S.C. 1070a–31 et seq.) is repealed.

**SEC. 406. FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.**

(a) APPROPRIATIONS AUTHORIZED.—Section 413A(b)(1) (20 U.S.C. 1070b(b)(1)) is amended by striking "$675,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.".

(b) ALLOWANCE FOR BOOKS AND SUPPLIES.—Section 413D(c)(3)(D) (20 U.S.C. 1070b–3(c)(3)(D)) is amended by striking "$450" and inserting "$600".

(c) TECHNICAL CORRECTION.—Section 413D(a)(1) (20 U.S.C. 1070b–3(a)(1)) is amended by striking "such institution" and all that follows through the period and inserting "such institution received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year).".

**SEC. 407. LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 415A(b) (20 U.S.C. 1070c(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this subpart $200,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

"(2) RESERVATION.—For any fiscal year for which the amount appropriated under paragraph (1) exceeds $30,000,000, the excess amount shall be available to carry out section 415E.".

(b) APPLICATIONS.—Section 415C(b) (20 U.S.C. 1070c–2(b)) is amended—

(1) in paragraph (2), by striking "not in excess of $5,000 per academic year" and inserting "not to exceed the lesser

of $12,500 or the student's cost of attendance per academic year"; and

(2) in paragraph (9), by striking "and" after the semicolon;

(3) in paragraph (10)—

(A) by striking "a direct appropriation of"; and

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

(4) by adding at the end the following:

"(11) provides notification to eligible students that such grants are—

"(A) Leveraging Educational Assistance Partnership Grants; and

"(B) funded by the Federal Government, the State, and, where applicable, other contributing partners.".

(c) GRANTS FOR ACCESS AND PERSISTENCE.—Section 415E (20 U.S.C. 1070c–3a) is amended to read as follows:

**"SEC. 415E. GRANTS FOR ACCESS AND PERSISTENCE.**

"(a) PURPOSE.—It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

"(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties, including community-based organizations, in order to—

"(A) carry out activities under this section; and

"(B) provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend an institution of higher education;

"(2) provide need-based grants for access and persistence to eligible low-income students;

"(3) provide early notification to low-income students of the students' eligibility for financial aid; and

"(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

"(b) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION.—From sums reserved under section 415A(b)(2) for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share, as described in paragraph (2), of the cost of carrying out the activities under subsection (d).

"(B) DETERMINATION OF ALLOTMENT.—In making allotments under subparagraph (A), the Secretary shall consider the following:

"(i) CONTINUATION OF AWARD.—If a State continues to meet the specifications established in such State's application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

"(ii) PRIORITY.—The Secretary shall give priority in making allotments to States that meet the requirements described in paragraph (2)(B)(ii).

"(2) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of the cost of carrying out the activities under subsection (d) for any fiscal year shall not exceed 66.66 percent.

"(B) DIFFERENT PERCENTAGES.—The Federal share under this section shall be determined in accordance with the following:

"(i) The Federal share of the cost of carrying out the activities under subsection (d) shall be 57 percent if a State applies for an allotment under this section in partnership with any number of degree-granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State, and—

"(I) philanthropic organizations that are located in, or that provide funding in, the State; or

"(II) private corporations that are located in, or that do business in, the State.

"(ii) The Federal share of the cost of carrying out the activities under subsection (d) shall be 66.66 percent if a State applies for an allotment under this section in partnership with any number of degree-granting institutions of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State, and—

"(I) philanthropic organizations that are located in, or that provide funding in, the State; or

"(II) private corporations that are located in, or that do business in, the State.

"(C) NON-FEDERAL SHARE.—

"(i) IN GENERAL.—The non-Federal share under this section may be provided in cash or in kind, fairly evaluated.

"(ii) IN-KIND CONTRIBUTION.—For the purpose of calculating the non-Federal share under this subparagraph, an in-kind contribution is a non-cash contribution that—

"(I) has monetary value, such as the provision of—

"(aa) room and board; or

"(bb) transportation passes; and

"(II) helps a student meet the cost of attendance at an institution of higher education.

"(iii) EFFECT ON NEED ANALYSIS.—For the purpose of calculating a student's need in accordance with part F, an in-kind contribution described in clause (ii) shall not be considered an asset or income of the student or the student's parent.

"(c) APPLICATION FOR ALLOTMENT.—

"(1) IN GENERAL.—

"(A) SUBMISSION.—A State that desires to receive an allotment under this section on behalf of a partnership described in paragraph (3) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) CONTENT.—An application submitted under subparagraph (A) shall include the following:

"(i) A description of the State's plan for using the allotted funds.

"(ii) An assurance that the State will provide matching funds, in cash or in kind, from State, institutional, philanthropic, or private funds, of not less than 33.33 percent of the cost of carrying out the activities under subsection (d). The State shall specify the methods by which matching funds will be paid. A State that uses non-Federal funds to create or expand partnerships with entities described in subsection (a)(1), in which such entities match State funds for student scholarships, may apply such matching funds from such entities toward fulfilling the State's matching obligation under this clause.

"(iii) An assurance that the State will use funds provided under this section to supplement, and not supplant, Federal and State funds available for carrying out the activities under this title.

"(iv) An assurance that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make such programs widely available.

"(v) A description of the organizational structure that the State has in place to administer the activities under subsection (d), including a description of how the State will compile information on degree completion of students receiving grants under this section.

"(vi) A description of the steps the State will take to ensure that students who receive grants under this section persist to degree completion.

"(vii) An assurance that the State has a method in place, such as acceptance of the automatic zero expected family contribution determination described in section 479(c), to identify eligible low-income students and award State grant aid to such students.

"(viii) An assurance that the State will provide notification to eligible low-income students that grants under this section are—

"(I) Leveraging Educational Assistance Partnership Grants; and

"(II) funded by the Federal Government and the State, and, where applicable, other contributing partners.

"(2) STATE AGENCY.—The State agency that submits an application for a State under section 415C(a) shall be the same State agency that submits an application under paragraph (1) for such State.

"(3) PARTNERSHIP.—In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

"(A) not less than one public and one private degree-granting institution of higher education that are located in the State, if applicable;

"(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and

"(C) not less than one—

"(i) philanthropic organization located in, or that provides funding in, the State; or

"(ii) private corporation located in, or that does business in, the State.

"(4) ROLES OF PARTNERS.—

"(A) STATE AGENCY.—A State agency that is in a partnership receiving an allotment under this section—

"(i) shall—

"(I) serve as the primary administrative unit for the partnership;

"(II) provide or coordinate non-Federal share funds, and coordinate activities among partners;

"(III) encourage each institution of higher education in the State to participate in the partnership;

"(IV) make determinations and early notifications of assistance as described under subsection (d)(2); and Notification.

"(V) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and Deadline. Reports.

"(ii) may provide early information and intervention, mentoring, or outreach programs.

"(B) DEGREE-GRANTING INSTITUTIONS OF HIGHER EDUCATION.—A degree-granting institution of higher education that is in a partnership receiving an allotment under this section—

"(i) shall—

"(I) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;

"(II) provide support services to students who receive grants for access and persistence under this section and are enrolled at such institution; and

"(III) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

"(ii) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

"(C) PROGRAMS.—An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct services, support, and information to participating students.

"(D) PHILANTHROPIC ORGANIZATION OR PRIVATE CORPORATION.—A philanthropic organization or private corporation that is in a partnership receiving an allotment

under this section shall provide funds for grants for access and persistence for participating students, or provide funds or support for early information and intervention, mentoring, or outreach programs.

"(d) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT OF PARTNERSHIP.—Each State receiving an allotment under this section shall use the funds to establish a partnership to award grants for access and persistence to eligible low-income students in order to increase the amount of financial assistance such students receive under this subpart for undergraduate education expenses.

"(B) AMOUNT OF GRANTS.—The amount of a grant for access and persistence awarded by a State to a student under this section shall be not less than—

"(i) the average undergraduate tuition and mandatory fees at the public institutions of higher education in the State where the student resides that are of the same type of institution as the institution of higher education the student attends; minus

"(ii) other Federal and State aid the student receives.

"(C) SPECIAL RULES.—

"(i) PARTNERSHIP INSTITUTIONS.—A State receiving an allotment under this section may restrict the use of grants for access and persistence under this section by awarding the grants only to students attending institutions of higher education that are participating in the partnership.

"(ii) OUT-OF-STATE INSTITUTIONS.—If a State provides grants through another program under this subpart to students attending institutions of higher education located in another State, grants awarded under this section may be used at institutions of higher education located in another State.

"(2) EARLY NOTIFICATION.—

Deadline.

"(A) IN GENERAL.—Each State receiving an allotment under this section shall annually notify low-income students in grades seven through 12 in the State, and their families, of their potential eligibility for student financial assistance, including an access and persistence grant, to attend an institution of higher education.

"(B) CONTENT OF NOTICE.—The notice under subparagraph (A)—

"(i) shall include—

"(I) information about early information and intervention, mentoring, or outreach programs available to the student;

"(II) information that a student's eligibility for a grant for access and persistence is enhanced through participation in an early information and intervention, mentoring, or outreach program;

"(III) an explanation that student and family eligibility for, and participation in, other Federal means-tested programs may indicate eligibility for

a grant for access and persistence and other student aid programs;

"(IV) a nonbinding estimate of the total amount of financial aid that a low-income student with a similar income level may expect to receive, including an estimate of the amount of a grant for access and persistence and an estimate of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

"(V) an explanation that in order to be eligible for a grant for access and persistence, at a minimum, a student shall—

"(aa) meet the requirement under paragraph (3);

"(bb) graduate from secondary school; and

"(cc) enroll at an institution of higher education—

"(AA) that is a partner in the partnership; or

"(BB) with respect to which attendance is permitted under subsection (d)(1)(C)(ii);

"(VI) information on any additional requirements (such as a student pledge detailing student responsibilities) that the State may impose for receipt of a grant for access and persistence under this section; and

"(VII) instructions on how to apply for a grant for access and persistence and an explanation that a student is required to file a Free Application for Federal Student Aid authorized under section 483(a) to be eligible for such grant and assistance from other Federal and State financial aid programs; and

"(ii) may include a disclaimer that grant awards for access and persistence are contingent on—

"(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership or qualifies under subsection (d)(1)(C)(ii);

"(II) annual Federal and State spending for higher education; and

"(III) other aid received by the student at the time of the student's enrollment at such institution of higher education.

"(3) ELIGIBILITY.—In determining which students are eligible to receive grants for access and persistence, the State shall ensure that each such student complies with the following subparagraph (A) or (B):

"(A) Meets not less than two of the following criteria, with priority given to students meeting all of the following criteria:

"(i) Has an expected family contribution equal to zero, as determined under part F, or a comparable

alternative based upon the State's approved criteria in section 415C(b)(4).

"(ii) Qualifies for the State's maximum undergraduate award, as authorized under section 415C(b).

"(iii) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

"(B) Is receiving, or has received, a grant for access and persistence under this section, in accordance with paragraph (5).

"(4) GRANT AWARD.—Once a student, including those students who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related State form, and is determined eligible by the State under paragraph (3), the State shall—

"(A) issue the student a preliminary award certificate for a grant for access and persistence with estimated award amounts; and

"(B) inform the student that payment of the grant for access and persistence award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

"(5) DURATION OF AWARD.—An eligible student who receives a grant for access and persistence under this section shall receive such grant award for each year of such student's undergraduate education in which the student remains eligible for assistance under this title, including pursuant to section 484(c), and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to degree completion.

"(e) ADMINISTRATIVE COST ALLOWANCE.—A State that receives an allotment under this section may reserve not more than two percent of the funds made available annually through the allotment for State administrative functions required to carry out this section.

Waiver authority.

"(f) STATUTORY AND REGULATORY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may grant, upon the request of an institution of higher education that is in a partnership described in subsection (b)(2)(B)(ii) and that receives an allotment under this section, a waiver for such institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

"(g) APPLICABILITY RULE.—The provisions of this subpart that are not inconsistent with this section shall apply to the program authorized by this section.

"(h) MAINTENANCE OF EFFORT REQUIREMENT.—Each State receiving an allotment under this section for a fiscal year shall provide the Secretary with an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (d) for the preceding fiscal year

were not less than the amount expended per student or the aggregate expenditure by the State for the activities for the second preceding fiscal year.

"(i) SPECIAL RULE.—Notwithstanding subsection (h), for purposes of determining a State's share of the cost of the authorized activities described in subsection (d), the State shall consider only those expenditures from non-Federal sources that exceed the State's total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1999 (including any such assistance provided under this subpart).

"(j) CONTINUATION AND TRANSITION.—For the two-year period that begins on the date of enactment of the Higher Education Opportunity Act, the Secretary shall continue to award grants under section 415E of the Higher Education Act of 1965 as such section existed on the day before the date of enactment of the Higher Education Opportunity Act to States that choose to apply for grants under such predecessor section. Effective date.

"(k) REPORTS.—Not later than three years after the date of enactment of the Higher Education Opportunity Act and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships under this section to the authorizing committees.".

**SEC. 408. SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK.**

Section 418A (20 U.S.C. 1070d–2) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(B)(i), by striking "parents" and inserting "immediate family";

(B) in paragraph (3)(B), by inserting "(including preparation for college entrance examinations)" after "college program";

(C) in paragraph (5), by striking "weekly";

(D) in paragraph (7), by striking "and" after the semicolon;

(E) in paragraph (8)—

(i) by inserting "(such as transportation and child care)" after "services"; and

(ii) by striking the period at the end and inserting "; and"; and

(F) by adding at the end the following:

"(9) other activities to improve persistence and retention in postsecondary education.";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking "parents" and inserting "immediate family"; and

(II) by striking "(or such part's predecessor authority)";

(ii) in subparagraph (B)—

(I) in the matter preceding clause (i), by inserting "to improve placement, persistence, and retention in postsecondary education," after "services"; and

(II) in clause (i), by striking "and career" and inserting "career, and economic education or personal finance";

(iii) in subparagraph (E), by striking "and" after the semicolon;

(iv) by redesignating subparagraph (F) as subparagraph (G);

(v) by inserting after subparagraph (E) the following:

"(F) internships; and"; and

(vi) in subparagraph (G) (as redesignated by clause (iv)), by striking "support services" and inserting "essential supportive services (such as transportation and child care)" ; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "and" after the semicolon;

(ii) in subparagraph (B), by striking the period at the end and inserting ", and coordinating such services, assistance, and aid with other non-program services, assistance, and aid, including services, assistance, and aid provided by community-based organizations, which may include mentoring and guidance; and"; and

(iii) by adding at the end the following:

"(C) for students attending two-year institutions of higher education, encouraging the students to transfer to four-year institutions of higher education, where appropriate, and monitoring the rate of transfer of such students.";

(3) in subsection (e), by striking "section 402A(c)(1)" and inserting "section 402A(c)(2)";

(4) in subsection (f)—

(A) in paragraph (1), by striking "$150,000" and inserting "$180,000"; and

(B) in paragraph (2), by striking "$150,000" and inserting "$180,000";

(5) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively;

(6) by inserting after subsection (f) the following:

"(g) RESERVATION AND ALLOCATION OF FUNDS.—From the amounts made available under subsection (i), the Secretary—

"(1) may reserve not more than a total of ½ of one percent for outreach activities, technical assistance, and professional development programs relating to the programs under subsection (a);

"(2) for any fiscal year for which the amount appropriated to carry out this section is equal to or greater than $40,000,000, shall, in awarding grants from the remainder of such amounts—

"(A) make available not less than 45 percent of such remainder for the high school equivalency programs and not less than 45 percent of such remainder for the college assistance migrant programs;

"(B) award the rest of such remainder for high school equivalency programs or college assistance migrant programs based on the number, quality, and promise of the applications; and

"(C) consider the need to provide an equitable geographic distribution of such grants; and

"(3) for any fiscal year for which the amount appropriated to carry out this section is less than $40,000,000, shall, in awarding grants from the remainder of such amounts make available the same percentage of funds to the high school equivalency program and to the college assistance migrant program as was made available for each such program for the fiscal year preceding the fiscal year for which the grant was made.";

(7) by striking subsection (h) (as redesignated by paragraph (5)) and inserting the following:

"(h) DATA COLLECTION.—The Secretary shall— Deadlines.

"(1) annually collect data on persons receiving services authorized under this subpart regarding such persons' rates of secondary school graduation, entrance into postsecondary education, and completion of postsecondary education, as applicable;

"(2) not less often than once every two years, prepare and submit to the authorizing committees a report based on the most recently available data under paragraph (1); and Reports.

"(3) make such report available to the public."; and Public information.

(8) by striking subsection (i) (as redesignated by paragraph (5)) and inserting the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this section, there are authorized to be appropriated $75,000,000 for fiscal year 2009 and such sums as may be necessary for the each of the five succeeding fiscal years.".

**SEC. 409. ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM.**

(a) ELIGIBILITY OF SCHOLARS.—Section 419F(a) (20 U.S.C. 1070d–36(a)) is amended by inserting "(or a home school, whether treated as a home school or a private school under State law)" after "public or private secondary school".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 419K (20 U.S.C. 1070d–41) is amended by striking "$45,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.".

**SEC. 410. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL.**

(a) MINIMUM GRANT.—Section 419N(b)(2)(B) (20 U.S.C. 1070e(b)(2)(B)) is amended—

(1) by striking "A grant" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii), a grant"; and

(2) by adding at the end the following:

"(ii) INCREASE TRIGGER.—For any fiscal year for which the amount appropriated under the authority of subsection (g) is equal to or greater than $20,000,000, a grant under this section shall be awarded in an amount that is not less than $30,000.".

(b) ELIGIBLE INSTITUTIONS.—Section 419N(b)(4) (20 U.S.C. 1070e(b)(4)) is amended by inserting ", except that for any fiscal year for which the amount appropriated to carry out this section is equal to or greater than $20,000,000, this sentence shall be applied by substituting '$250,000' for '$350,000'" before the period.

(c) DEFINITION OF LOW-INCOME STUDENT.—Paragraph (7) of section 419N(b) (20 U.S.C. 1070e(b)) is amended to read as follows:

"(7) DEFINITION OF LOW-INCOME STUDENT.—For the purpose of this section, the term 'low-income student' means a student—

"(A) who is eligible to receive a Federal Pell Grant for the award year for which the determination is made; or

"(B) who would otherwise be eligible to receive a Federal Pell Grant for the award year for which the determination is made, except that the student fails to meet the requirements of—

"(i) section 401(c)(1) because the student is enrolled in a graduate or first professional course of study; or

"(ii) section 484(a)(5) because the student is in the United States for a temporary purpose.".

(d) PUBLICITY.—Section 419N(b) (20 U.S.C. 1070e(b)) is further amended by adding at the end the following new paragraph:

Federal Register, publication.

"(8) PUBLICITY.—The Secretary shall publicize the availability of grants under this section in appropriate periodicals, in addition to publication in the Federal Register, and shall inform appropriate educational organizations of such availability.".

(e) REPORTING REQUIREMENTS.—Section 419N(e) (20 U.S.C. 1070e(e)) is amended—

(1) in paragraph (1)(A), by striking "18 months," and all that follows through the end and inserting "annually."; and

(2) in paragraph (2)—

(A) by striking "the third annual grant payment" and inserting "continuation awards"; and

(B) by striking "the 18-month report" and inserting "the reports".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 419N(g) (20 U.S.C. 1070e(g)) is amended by striking "$45,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.".

**SEC. 411. LEARNING ANYTIME ANYWHERE PARTNERSHIPS.**

Subpart 8 of part A of title IV (20 U.S.C. 1070f et seq.) is repealed.

**SEC. 412. TEACH GRANTS.**

(a) AMENDMENTS.—Subpart 9 of part A of title IV (20 U.S.C. 1070g et seq.) is amended—

(1) in section 420N (20 U.S.C. 1070g–2)—

(A) in subsection (b)—

(i) in paragraph (1)(E), by striking "and" after the semicolon;

(ii) in paragraph (2), by striking the period at the end and inserting "; and"; and

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

"(3) contains, or is accompanied by, a plain-language disclosure form developed by the Secretary that clearly describes the nature of the TEACH Grant award, the service obligation, and the loan repayment requirements that are the consequence of the failure to complete the service obligation."; and

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

"(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

"(1) CHANGE OF HIGH-NEED DESIGNATION.—If a recipient of an initial grant under this subpart has acquired an academic degree, or expertise, in a field that was, at the time of the recipient's application for that grant, designated as high need in accordance with subsection (b)(1)(C)(vii), but is no longer so designated, the grant recipient may fulfill the service obligation described in subsection (b)(1) by teaching in that field.

"(2) EXTENUATING CIRCUMSTANCES.—The Secretary shall establish, by regulation, categories of extenuating circumstances under which a recipient of a grant under this subpart who is unable to fulfill all or part of the recipient's service obligation may be excused from fulfilling that portion of the service obligation."; and Regulations.

(2) by adding at the end the following new section:

**"SEC. 420P. PROGRAM REPORT.** 20 USC 1070g–4.

"Not later than two years after the date of enactment of the Higher Education Opportunity Act and every two years thereafter, the Secretary shall prepare and submit to the authorizing committees a report on TEACH grants with respect to the schools and students served by recipients of such grants. Such report shall take into consideration information related to—

"(1) the number of TEACH grant recipients;

"(2) the degrees obtained by such recipients;

"(3) the location, including the school, local educational agency, and State, where the recipients completed the service agreed to under section 420N(b) and the subject taught;

"(4) the duration of such service; and

"(5) any other data necessary to conduct such evaluation.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(1) shall take effect on July 1, 2010. 20 USC 1070g–2 note.

# PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

**SEC. 421. LIMITATIONS ON AMOUNTS OF LOANS COVERED BY FEDERAL INSURANCE.**

Section 424(a) (20 U.S.C. 1074(a)) is amended—

(1) by striking "2012" and inserting "2014"; and

(2) by striking "2016" and inserting "2018".

**SEC. 422. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.**

(a) DEFINITIONS.—

(1) AMENDMENTS.—Subparagraph (C) of section 428(a)(2) (20 U.S.C. 1078(a)(2)) is amended to read as follows:

"(C) For the purpose of this paragraph—

"(i) a student's cost of attendance shall be determined under section 472;

"(ii) a student's estimated financial assistance means, for the period for which the loan is sought—

"(I) the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 3 of part A, and parts C and E; plus

"(II) other scholarship, grant, or loan assistance, but excluding—

"(aa) any national service education award or post-service benefit under title I of the National and Community Service Act of 1990; and

"(bb) any veterans' education benefits as defined in section 480(c); and

"(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part F.".

20 USC 1078 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on July 1, 2010.

(b) DURATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS.—Section 428(a)(5) (20 U.S.C. 1078(a)(5)) is amended—

(1) by striking "2012" and inserting "2014"; and

(2) by striking "2016" and inserting "2018".

(c) INSURANCE PROGRAM AGREEMENTS.—

(1) DEFERMENT INFORMATION REQUIREMENTS.—Section 428(b)(1)(Y) (20 U.S.C. 1078(b)(1)(Y)) is amended—

(A) by striking clause (i) and inserting the following:

"(i) the lender shall determine the eligibility of a borrower for a deferment described in subparagraph (M)(i) based on—

"(I) receipt of a request for deferment from the borrower and documentation of the borrower's eligibility for the deferment;

"(II) receipt of a newly completed loan application that documents the borrower's eligibility for a deferment;

"(III) receipt of student status information documenting that the borrower is enrolled on at least a half-time basis; or

"(IV) the lender's confirmation of the borrower's half-time enrollment status through use of the National Student Loan Data System, if the confirmation is requested by the institution of higher education;";

(B) in clause (ii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iii) the lender shall, at the time the lender grants a deferment to a borrower who received a loan under section 428H and is eligible for a deferment under subparagraph (M) of this paragraph, provide information to the borrower to assist the borrower in understanding the impact of the capitalization of interest on the borrower's loan principal and on the total amount of interest to be paid during the life of the loan.".

(2) TRANSFER INFORMATION REQUIREMENTS.—Section 428(b)(2)(F)(i) (20 U.S.C. 1078(b)(2)(F)(i)) is amended—

(A) in subclause (III), by striking "and" after the semicolon;

(B) in subclause (IV), by striking "and" after the semicolon; and

(C) by adding at the end the following:

"(V) the effective date of the transfer;

"(VI) the date on which the current servicer (as of the date of the notice) will stop accepting payments; and

"(VII) the date on which the new servicer will begin accepting payments; and".

(d) RESTRICTIONS ON INDUCEMENTS, PAYMENTS, MAILINGS, AND ADVERTISING.—Paragraph (3) of section 428(b) (20 U.S.C. 1078(b)(3)) is amended to read as follows:

"(3) RESTRICTIONS ON INDUCEMENTS, PAYMENTS, MAILINGS, AND ADVERTISING.—A guaranty agency shall not—

"(A) offer, directly or indirectly, premiums, payments, stock or other securities, prizes, travel, entertainment expenses, tuition payment or reimbursement, or other inducements to—

"(i) any institution of higher education or the employees of an institution of higher education in order to secure applicants for loans made under this part; or

"(ii) any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a loan made as part of the guaranty agency's lender-of-last-resort program pursuant to section 428(j)), for the purpose of securing the designation of the guaranty agency as the insurer of such loans;

"(B) conduct unsolicited mailings, by postal or electronic means, of student loan application forms to students enrolled in secondary schools or postsecondary educational institutions, or to the families of such students, except that applications may be mailed, by postal or electronic means, to students or borrowers who have previously received loans guaranteed under this part by the guaranty agency;

"(C) perform, for an institution of higher education participating in a program under this title, any function that such institution is required to perform under this title, except that the guaranty agency may perform functions on behalf of such institution in accordance with section 485(b);

"(D) pay, on behalf of an institution of higher education, another person to perform any function that such institution is required to perform under this title, except that the guaranty agency may perform functions on behalf of such institution in accordance with section 485(b); or

"(E) conduct fraudulent or misleading advertising concerning loan availability, terms, or conditions.

It shall not be a violation of this paragraph for a guaranty agency to provide technical assistance to institutions of higher education comparable to the technical assistance provided to institutions of higher education by the Department.".

(e) INFORMATION REGARDING INCOME-BASED REPAYMENT PLANS.—

(1) IN GENERAL.—Section 428(b)(9)(A) (20 U.S.C. 1078(b)(9)(A)) is amended—

(A) in clause (iii), by striking "and" after the semicolon;

(B) in clause (iv), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

Effective date.

"(v) beginning July 1, 2009, an income-based repayment plan that enables a borrower who has a partial financial hardship to make a lower monthly payment in accordance with section 493C, except that the plan described in this clause shall not be available to a borrower for a loan under section 428B made on behalf of a dependent student or for a consolidation loan under section 428C, if the proceeds of such loan were used to discharge the liability of a loan under section 428B made on behalf of a dependent student.".

(2) CONFORMING AMENDMENT.—Section 428(b)(1)(L)(i) (20 U.S.C. 1078(b)(1)(L)(i)) is amended by striking "clause (ii) or (iii)" and inserting "clause (ii), (iii), or (v)".

(f) FORBEARANCE INFORMATION REQUIREMENTS IN GUARANTY AGREEMENTS.—Section 428(c) (20 U.S.C. 1078(c)) is amended—

(1) in paragraph (2)(H)(i), by striking "preclaims" and inserting "default aversion"; and

(2) in paragraph (3)(C)—

(A) in clause (i), by striking "and" after the semicolon;

(B) in clause (ii), by striking "and" after the semicolon; and

(C) by inserting after clause (ii) the following:

"(iii) the lender shall, at the time of granting a borrower forbearance, provide information to the borrower to assist the borrower in understanding the impact of capitalization of interest on the borrower's loan principal and total amount of interest to be paid during the life of the loan; and

Deadline.

"(iv) the lender shall contact the borrower not less often than once every 180 days during the period of forbearance to inform the borrower of—

"(I) the amount of unpaid principal and the amount of interest that has accrued since the last statement of such amounts provided to the borrower by the lender;

"(II) the fact that interest will accrue on the loan for the period of forbearance;

"(III) the amount of interest that will be capitalized, and the date on which capitalization will occur;

"(IV) the option of the borrower to pay the interest that has accrued before the interest is capitalized; and

"(V) the borrower's option to discontinue the forbearance at any time; and".

(g) APPLICABILITY OF USURY LAWS.—

(1) AMENDMENT.—Section 428(d) (20 U.S.C. 1078(d)) is amended by inserting "and section 207 of the Servicemembers Civil Relief Act (50 U.S.C. App. 527)" after "this Act".

(2) CONFORMING AMENDMENT.—Section 438 (20 U.S.C. 1087–1) is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE.—With respect to any loan made under this part for which the interest rate is determined under the

Servicemembers Civil Relief Act (50 U.S.C. App. 527), the applicable interest rate to be subtracted in calculating the special allowance for such loan under this section shall be the interest rate determined under that Act for such loan.".

(3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act, and the amendment made by paragraph (2) shall take effect for loans for which the first disbursement is made on or after July 1, 2008. 20 USC 1078 note.

(h) REPEAL OF DUPLICATIVE NOTICE REQUIREMENT.—Subsection (e) of section 428 (20 U.S.C. 1078(e)) is repealed.

(i) INFORMATION ON DEFAULTS.—Section 428(k) (20 U.S.C. 1078(k)) is amended by adding at the end the following:

"(4) PROVISION OF INFORMATION TO BORROWERS IN DEFAULT.—Each guaranty agency that has received a default claim from a lender regarding a borrower, shall provide the borrower in default, on not less than two separate occasions, with a notice, in simple and understandable terms, of not less than the following information:

"(A) The options available to the borrower to remove the borrower's loan from default.

"(B) The relevant fees and conditions associated with each option.".

(j) AUTHORITY TO REQUIRE INCOME-BASED REPAYMENT.—Section 428(m) (20 U.S.C. 1078(m)) is amended—

(1) in the subsection heading, by inserting "AND INCOME-BASED" after "INCOME CONTINGENT";

(2) in paragraph (1)—

(A) by inserting "or income-based repayment plan" before ", the terms and conditions"; and

(B) by inserting "or an income-based repayment plan under section 493C, as the case may be" before the period at the end; and

(3) in the paragraph heading of paragraph (2), by inserting "OR INCOME-BASED" after "INCOME CONTINGENT".

**SEC. 423. VOLUNTARY FLEXIBLE AGREEMENTS.**

Section 428A(a) (20 U.S.C. 1078–1(a)) is amended by adding at the end the following:

"(3) REPORT REQUIRED.—

"(A) IN GENERAL.—The Secretary, in consultation with the guaranty agencies operating under voluntary flexible agreements, shall report on an annual basis to the authorizing committees regarding the program outcomes that the voluntary flexible agreements have had with respect to—

"(i) program integrity and program and cost efficiencies, delinquency prevention, and default aversion, including a comparison of such outcomes to such outcomes for each guaranty agency operating under an agreement under subsection (b) or (c) of section 428;

"(ii) consumer education programs described in section 433A; and

"(iii) the availability and delivery of student financial aid.

"(B) CONTENTS.—Each report described in subparagraph (A) shall include—

"(i) a description of each voluntary flexible agreement and the performance goals established by the Secretary for each agreement;

"(ii) a list of—

"(I) guaranty agencies operating under voluntary flexible agreements;

"(II) the specific statutory or regulatory waivers provided to each such guaranty agency; and

"(III) any other waivers provided to other guaranty agencies under paragraph (1);

"(iii) a description of the standards by which each guaranty agency's performance under the guaranty agency's voluntary flexible agreement was assessed and the degree to which each guaranty agency achieved the performance standards;

"(iv) an analysis of the fees paid by the Secretary, and the costs and efficiencies achieved under each voluntary flexible agreement; and

"(v) an identification of promising practices for program improvement that could be replicated by other guaranty agencies.".

**SEC. 424. FEDERAL PLUS LOANS.**

(a) AMENDMENTS.—Section 428B (20 U.S.C. 1078–2) is amended—

(1) in subsection (a)(3)(B)(i), by striking subclause (II) and inserting the following:

"(II) does not otherwise have an adverse credit history, as determined by the lender in accordance with the regulations promulgated pursuant to paragraph (1)(A), as such regulations were in effect on the day before the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008."; and

(2) in subsection (d), by striking paragraphs (1) and (2) and inserting the following:

Deadline.

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral—

"(A)(i) during any period during which the parent borrower or the graduate or professional student borrower meets the conditions required for a deferral under section 427(a)(2)(C) or 428(b)(1)(M); and

"(ii) upon the request of the parent borrower, during any period during which the student on whose behalf the loan was borrowed by the parent borrower meets the conditions required for a deferral under section 427(a)(2)(C)(i)(I) or 428(b)(1)(M)(i)(I); and

Time period.

"(B)(i) in the case of a parent borrower, upon the request of the parent borrower, during the 6-month period beginning on the later of—

"(I) the day after the date the student on whose behalf the loan was borrowed ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

"(II) if the parent borrower is also a student, the day after the date such parent borrower ceases to carry at least one-half such a workload; and

"(ii) in the case of a graduate or professional student borrower, during the 6-month period beginning on the day after the date such student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).

"(2) CAPITALIZATION OF INTEREST.—

"(A) IN GENERAL.—Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) shall, if agreed upon by the borrower and the lender—

"(i) be paid monthly or quarterly; or

"(ii) be added to the principal amount of the loan not more frequently than quarterly by the lender.

"(B) INSURABLE LIMITS.—Capitalization of interest under this paragraph shall not be deemed to exceed the annual insurable limit on account of the borrower.".

(b) CONFORMING AMENDMENT.—Section 428(b)(7)(C) (20 U.S.C. 1078(b)(7)(C)) is amended by striking "section" and all that follows through "428C" and inserting "section 428B or 428C".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect for loans for which the first disbursement is made on or after July 1, 2008. 20 USC 1078 note.

**SEC. 425. FEDERAL CONSOLIDATION LOANS.**

(a) ELIGIBLE BORROWER.—Section 428C(a)(3)(B)(i)(V) (20 U.S.C. 1078–3(a)(3)(B)(i)(V)) is amended—

(1) in item (aa), by striking "or" after the semicolon;

(2) in item (bb), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(cc) for the purpose of using the no accrual of interest for active duty service members benefit offered under section 455(o).".

(b) CONSOLIDATION LOAN LENDER AGREEMENTS.—

(1) IN GENERAL.—Section 428C(b)(1) (20 U.S.C. 1078–3(b)(1)) is amended—

(A) in subparagraph (E), by striking "and" after the semicolon;

(B) by redesignating subparagraph (F) as subparagraph (G); and

(C) by inserting after subparagraph (E) the following:

"(F) that the lender shall disclose to a prospective borrower, in simple and understandable terms, at the time the lender provides an application for a consolidation loan—

"(i) whether consolidation would result in a loss of loan benefits under this part or part D, including loan forgiveness, cancellation, and deferment;

"(ii) with respect to Federal Perkins Loans under part E—

"(I) that if a borrower includes a Federal Perkins Loan under part E in the consolidation loan, the borrower will lose all interest-free periods that would have been available for the Federal Perkins Loan, such as—

"(aa) the periods during which no interest accrues on such loan while the borrower is enrolled in school at least half-time;

"(bb) the grace period under section 464(c)(1)(A); and

"(cc) the periods during which the borrower's student loan repayments are deferred under section 464(c)(2);

"(II) that if a borrower includes a Federal Perkins Loan in the consolidation loan, the borrower will no longer be eligible for cancellation of part or all of the Federal Perkins Loan under section 465(a); and

"(III) the occupations listed in section 465 that qualify for Federal Perkins Loan cancellation under section 465(a);

"(iii) the repayment plans that are available to the borrower;

"(iv) the options of the borrower to prepay the consolidation loan, to pay such loan on a shorter schedule, and to change repayment plans;

"(v) that borrower benefit programs for a consolidation loan may vary among different lenders;

"(vi) the consequences of default on the consolidation loan; and

"(vii) that by applying for a consolidation loan, the borrower is not obligated to agree to take the consolidation loan; and".

(2) CONSOLIDATION LOANS.—Section 428C(b)(5) (20 U.S.C. 1078–3(b)(5)) is amended—

(A) by inserting after the first sentence the following: "In addition, in the event that a borrower chooses to obtain a consolidation loan for the purposes of using the no accrual of interest for active duty service members program offered under section 455(o), the Secretary shall offer a Federal Direct Consolidation loan to any such borrower who applies for participation in such program."; and

(B) by striking "Such direct consolidation loan" and inserting "A direct consolidation loan offered under this paragraph".

(3) CONFORMING AMENDMENT.—Section 455(g) (20 U.S.C. 1087e(g)) is amended by striking "section 428C(b)(1)(F)" and inserting "section 428C(b)(1)(G)".

(c) TECHNICAL AMENDMENT.—Section 203(b)(2)(C) of the College Cost Reduction and Access Act (121 Stat. 794) is amended by striking "the second sentence" and inserting "the third sentence".

20 USC 1078–3.

(d) INCOME-BASED REPAYMENT.—

(1) AMENDMENTS.—Section 428C(c) (20 U.S.C. 1078–3(c)) is amended—

(A) in the matter preceding clause (i) of paragraph (2)(A)—

(i) by striking "or income-sensitive" and inserting "income-sensitive, or income-based"; and

(ii) by inserting "or income-based" after "such income-sensitive"; and

(B) in paragraph (3)—

(i) in subparagraph (A)—

(I) by inserting "except in the case of an income-based repayment schedule under section 493C", before "a repayment"; and

(II) by striking "and" after the semicolon;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(C) an income-based repayment schedule under section 493C shall not be available to a consolidation loan borrower who used the proceeds of the loan to discharge the liability on a loan under section 428B, or a Federal Direct PLUS loan, made on behalf of a dependent student.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on July 1, 2009. 20 USC 1078–3 note.

(e) EXTENSION OF CONSOLIDATION LOAN AUTHORITY.—Section 428C(e) (20 U.S.C. 1078–3(e)) is amended by striking "2012" and inserting "2014".

**SEC. 426. DEFAULT REDUCTION PROGRAM.**

Section 428F (20 U.S.C. 1078–6) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by adding at the end the following: "Upon the sale of the loan to an eligible lender, the guaranty agency or other holder of the loan shall request any consumer reporting agency to which the guaranty agency or holder, as applicable, reported the default of the loan, to remove the record of default from the borrower's credit history."; and

(B) by adding at the end the following:

"(5) LIMITATION.—A borrower may obtain the benefits available under this subsection with respect to rehabilitating a loan only one time per loan."; and

(2) by adding at the end the following:

"(c) FINANCIAL AND ECONOMIC LITERACY.—Each program described in subsection (b) shall include making available financial and economic education materials for a borrower who has rehabilitated a loan.".

**SEC. 427. REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.**

(a) SPECIAL RULE.—Section 428G(a) (20 U.S.C. 1078–7(a)) is amended by adding at the end the following:

"(4) AMENDMENT TO SPECIAL RULE.—Beginning on October 1, 2011, the special rule under paragraph (3) shall be applied by substituting '15 percent' for '10 percent'.". Effective date.

(b) REQUIREMENTS FOR DISBURSEMENTS TO FIRST YEAR STUDENTS.—Section 428G(b) (20 U.S.C. 1078–7(b)) is amended by adding at the end the following:

"(3) AMENDMENT TO COHORT DEFAULT RATE EXEMPTION.—Beginning on October 1, 2011, the exemption to the requirements of paragraph (1) in the second sentence of such paragraph shall be applied by substituting '15 percent' for '10 percent'.". Effective date.

**SEC. 428. UNSUBSIDIZED STAFFORD LOAN LIMITS.**

(a) AMENDMENTS.—Section 428H(d) (20 U.S.C. 1078–8(d)) is amended—

(1) in paragraph (2)—

(A) in the paragraph heading, by striking "GRADUATE AND PROFESSIONAL STUDENTS" and inserting "GRADUATE, PROFESSIONAL, AND INDEPENDENT POSTBACCALAUREATE STUDENTS"; and

(B) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting ", or a student described in clause (ii)," after "graduate or professional student"; and

(ii) by striking clause (ii) and inserting the following:

"(ii) notwithstanding paragraph (4), in the case of an independent student, or a dependent student whose parents are unable to borrow under section 428B or the Federal Direct PLUS Loan Program, who has obtained a baccalaureate degree and who is enrolled in coursework specified in paragraph (3)(B) or (4)(B) of section 484(b)—

"(I) $7,000 for coursework necessary for enrollment in a graduate or professional program; and

"(II) $7,000 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school,"; and

(2) in paragraph (4)(A), by striking clause (iii) and inserting the following:

"(iii) in the case of such a student enrolled in coursework specified in—

"(I) section 484(b)(3)(B), $6,000; or

"(II) section 484(b)(4)(B), $7,000.".

20 USC 1078–8 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect for loans for which the first disbursement is made on or after July 1, 2008.

**SEC. 429. LOAN FORGIVENESS FOR TEACHERS EMPLOYED BY EDUCATIONAL SERVICE AGENCIES.**

Section 428J (20 U.S.C. 1078–10) is amended—

(1) in subsection (b)(1)(A)—

(A) by inserting "or location" after "a school"; and

(B) by inserting "or locations" after "schools";

(2) in subsection (c)(1), by striking the second sentence;

(3) in subsection (c)(3)(B)(iii), by inserting "or, in the case of a teacher who is employed by an educational service agency, as certified by the chief administrative officer of such agency," after "borrower is employed,"; and

(4) in subsection (g), by striking paragraph (2) and inserting the following:

"(2) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same service, receive a benefit under both this section and—

"(A) section 428K;

"(B) section 455(m);

"(C) section 460; or

"(D) subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).".

**SEC. 430. LOAN FORGIVENESS FOR SERVICE IN AREAS OF NATIONAL NEED.**

Section 428K (20 U.S.C. 1078–11) is amended to read as follows:

**"SEC. 428K. LOAN FORGIVENESS FOR SERVICE IN AREAS OF NATIONAL NEED.**

"(a) PROGRAM AUTHORIZED.—

"(1) LOAN FORGIVENESS AUTHORIZED.—The Secretary shall forgive, in accordance with this section, the qualified loan amount described in subsection (c) of the student loan obligation of a borrower who—

"(A) is employed full-time in an area of national need, as described in subsection (b); and

"(B) is not in default on a loan for which the borrower seeks forgiveness.

"(2) METHOD OF LOAN FORGIVENESS.—To provide loan forgiveness under paragraph (1), the Secretary is authorized to carry out a program—

"(A) through the holder of the loan, to assume the obligation to repay a qualified loan amount for a loan made, insured, or guaranteed under this part (other than an excepted PLUS loan or an excepted consolidation loan (as such terms are defined in section 493C(a))); and

"(B) to cancel a qualified loan amount for a loan made under part D of this title (other than an excepted PLUS loan or an excepted consolidation loan).

"(3) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out this section.

"(b) AREAS OF NATIONAL NEED.—For purposes of this section, an individual is employed in an area of national need if the individual meets the requirements of one of the following:

"(1) EARLY CHILDHOOD EDUCATORS.—The individual is employed full-time as an early childhood educator.

"(2) NURSES.—The individual is employed full-time—

"(A) as a nurse in a clinical setting; or

"(B) as a member of the nursing faculty at an accredited school of nursing (as those terms are defined in section 801 of the Public Health Service Act (42 U.S.C. 296)).

"(3) FOREIGN LANGUAGE SPECIALISTS.—The individual—

"(A) has obtained a baccalaureate or advanced degree in a critical foreign language; and

"(B) is employed full-time—

"(i) in an elementary school or secondary school as a teacher of a critical foreign language;

"(ii) in an agency of the United States Government in a position that regularly requires the use of such critical foreign language; or

"(iii) in an institution of higher education as a faculty member or instructor teaching a critical foreign language.

"(4) LIBRARIANS.—The individual is employed full-time as a librarian in—

"(A) a public library that serves a geographic area within which the public schools have a combined average of 30 percent or more of the schools' total student enrollments composed of children meeting a measure of poverty under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965; or

"(B) a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.

"(5) HIGHLY QUALIFIED TEACHERS SERVING STUDENTS WHO ARE LIMITED ENGLISH PROFICIENT, LOW-INCOME COMMUNITIES, AND UNDERREPRESENTED POPULATIONS.—The individual—

"(A) is highly qualified, as such term is defined in section 9101 of the Elementary and Secondary Education Act of 1965; and

"(B) is employed full-time—

"(i) as a teacher educating students who are limited English proficient;

"(ii) as a teacher in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school;

"(iii) as a teacher and is an individual from an underrepresented population in the teaching profession, as determined by the Secretary; or

"(iv) as a teacher in an educational service agency, as such term is defined in section 9101 of the Elementary and Secondary Education Act of 1965.

"(6) CHILD WELFARE WORKERS.—The individual—

"(A) has obtained a degree in social work or a related field with a focus on serving children and families; and

"(B) is employed full-time in public or private child welfare services.

"(7) SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.—The individual—

"(A) is employed full-time as a speech-language pathologist or audiologist in an eligible preschool program or a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; and

"(B) has, at a minimum, a graduate degree in speech-language pathology, audiology, or communication sciences and disorders.

"(8) SCHOOL COUNSELORS.—The individual is employed full-time as a school counselor (as such term is defined in section 5421(e) of the Elementary and Secondary Education Act of 1965), in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.

"(9) PUBLIC SECTOR EMPLOYEES.—The individual is employed full-time in—

"(A) public safety (including as a first responder, firefighter, police officer, or other law enforcement or public safety officer);

"(B) emergency management (including as an emergency medical technician);

"(C) public health (including full-time professionals engaged in health care practitioner occupations and health care support occupations, as such terms are defined by the Bureau of Labor Statistics); or

"(D) public interest legal services (including prosecution, public defense, or legal advocacy in low-income communities at a nonprofit organization).

"(10) NUTRITION PROFESSIONALS.—The individual—

"(A) is a licensed, certified, or registered dietician who has completed a degree in a relevant field; and

"(B) is employed full-time as a dietician with an agency of the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(11) MEDICAL SPECIALISTS.—The individual—

"(A) has received a degree from a medical school at an institution of higher education; and

"(B) has been accepted to, or currently participates in, a full-time graduate medical education training program or fellowship (or both) to provide health care services (as recognized by the Accreditation Council for Graduate Medical Education) that—

"(i) requires more than five years of total graduate medical training; and

"(ii) has fewer United States medical school graduate applicants than the total number of positions available in such program or fellowship.

"(12) MENTAL HEALTH PROFESSIONALS.—The individual—

"(A) has not less than a master's degree in social work, psychology, or psychiatry; and

"(B) is employed full-time providing mental health services to children, adolescents, or veterans.

"(13) DENTISTS.—The individual—

"(A)(i) has received a degree from an accredited dental school (as accredited by the Commission on Dental Accreditation);

"(ii) has completed residency training in pediatric dentistry, general dentistry, or dental public health; and

"(iii) is employed full-time as a dentist; or

"(B) is employed full-time as a member of the faculty at a program or school accredited by the Commission on Dental Accreditation.

"(14) STEM EMPLOYEES.—The individual is employed full-time in applied sciences, technology, engineering, or mathematics.

"(15) PHYSICAL THERAPISTS.—The individual—

"(A) is a physical therapist; and

"(B) is employed full-time providing physical therapy services to children, adolescents, or veterans.

"(16) SUPERINTENDENTS, PRINCIPALS, AND OTHER ADMINISTRATORS.—The individual is employed full-time as a school superintendent, principal, or other administrator in a local educational agency, including in an educational service agency, in which 30 percent or more of the schools are schools that qualify under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.

"(17) OCCUPATIONAL THERAPISTS.—The individual is an occupational therapist and is employed full-time providing occupational therapy services to children, adolescents, or veterans.

"(c) QUALIFIED LOAN AMOUNT.—

"(1) IN GENERAL.—Subject to paragraph (2), for each school, academic, or calendar year of full-time employment in an area of national need described in subsection (b) that a borrower completes on or after the date of enactment of the Higher Education Opportunity Act, the Secretary shall forgive not more than $2,000 of the student loan obligation of the borrower

that is outstanding after the completion of each such school, academic, or calendar year of employment, respectively.

"(2) MAXIMUM AMOUNT.—The Secretary shall not forgive more than $10,000 in the aggregate for any borrower under this section, and no borrower shall receive loan forgiveness under this section for more than five years of service.

"(d) PRIORITY.—The Secretary shall grant loan forgiveness under this section on a first-come, first-served basis, and subject to the availability of appropriations.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the refunding of any repayment of a loan.

"(f) INELIGIBILITY FOR DOUBLE BENEFITS.—No borrower may, for the same service, receive a reduction of loan obligations under both this section and section 428J, 428L, 455(m), or 460.

"(g) DEFINITIONS.—In this section:

"(1) AUDIOLOGIST.—The term 'audiologist' means an individual who—

"(A) has received, at a minimum, a graduate degree in audiology from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 496(a); and

"(B)(i) provides audiology services under subsection (ll)(2) of section 1861 of the Social Security Act (42 U.S.C. 1395x(ll)(2)); or

"(ii) meets or exceeds the qualifications for a qualified audiologist under subsection (ll)(4) of such section (42 U.S.C. 1395x(ll)(4)).

"(2) EARLY CHILDHOOD EDUCATOR.—The term 'early childhood educator' means an individual who—

"(A) works directly with children in an eligible preschool program or eligible early childhood education program in a low-income community;

"(B) is involved directly in the care, development, and education of infants, toddlers, or young children age five and under; and

"(C) has completed a baccalaureate or advanced degree in early childhood development or early childhood education, or in a field related to early childhood education.

"(3) ELIGIBLE PRESCHOOL PROGRAM.—The term 'eligible preschool program' means a program that—

"(A) provides for the care, development, and education of infants, toddlers, or young children age five and under;

"(B) meets any applicable State or local government licensing, certification, approval, and registration requirements, and

"(C) is operated by—

"(i) a public or private school that is supported, sponsored, supervised, or administered by a local educational agency;

"(ii) a Head Start agency serving as a grantee designated under the Head Start Act (42 U.S.C. 9831 et seq.);

"(iii) a nonprofit or community based organization; or

"(iv) a child care program, including a home.

"(4) ELIGIBLE EARLY CHILDHOOD EDUCATION PROGRAM.—The term 'eligible early childhood education program' means—

"(A) a family child care program, center-based child care program, State prekindergarten program, school program, or other out-of-home early childhood development care program, that—

"(i) is licensed or regulated by the State; and

"(ii) serves two or more unrelated children who are not old enough to attend kindergarten;

"(B) a Head Start Program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); or

"(C) an Early Head Start Program carried out under section 645A of the Head Start Act (42 U.S.C. 9840a).

"(5) LOW-INCOME COMMUNITY.—The term 'low-income community' means a school attendance area (as defined in section 1113(a)(2)(A) of the Elementary and Secondary Education Act of 1965)—

"(A) in which 70 percent of households earn less than 85 percent of the State median household income; or

"(B) that includes a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.

"(6) NURSE.—The term 'nurse' means a nurse who meets all of the following:

"(A) The nurse graduated from—

"(i) an accredited school of nursing (as those terms are defined in section 801 of the Public Health Service Act (42 U.S.C. 296));

"(ii) a nursing center; or

"(iii) an academic health center that provides nurse training.

"(B) The nurse holds a valid and unrestricted license to practice nursing in the State in which the nurse practices in a clinical setting.

"(C) The nurse holds one or more of the following:

"(i) A graduate degree in nursing, or an equivalent degree.

"(ii) A nursing degree from a collegiate school of nursing (as defined in section 801 of the Public Health Service Act (42 U.S.C. 296)).

"(iii) A nursing degree from an associate degree school of nursing (as defined in such section).

"(iv) A nursing degree from a diploma school of nursing (as defined in such section).

"(7) OCCUPATIONAL THERAPIST.—The term 'occupational therapist' means an individual who—

"(A) has received, at a minimum, a baccalaureate degree in occupational therapy from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 496(a); and

"(B)(i) provides occupational therapy services under section 1861(g) of the Social Security Act (42 U.S.C. 1395x(g)); or

"(ii) meets or exceeds the qualifications for a qualified occupational therapist, as determined by State law.

"(8) PHYSICAL THERAPIST.—The term 'physical therapist' means an individual who—

"(A) has received, at a minimum, a graduate degree in physical therapy from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 496(a); and

"(B)(i) provides physical therapy services under section 1861(p) of the Social Security Act (42 U.S.C. 1395x(p)); or

"(ii) meets or exceeds the qualifications for a qualified physical therapist, as determined by State law.

"(9) SPEECH-LANGUAGE PATHOLOGIST.—The term 'speech-language pathologist' means a speech-language pathologist who—

"(A) has received, at a minimum, a graduate degree in speech-language pathology or communication sciences and disorders from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 496(a); and

"(B) provides speech-language pathology services under section 1861(ll)(1) of the Social Security Act (42 U.S.C. 1395x(ll)(1)), or meets or exceeds the qualifications for a qualified speech-language pathologist under subsection (ll)(3) of such section (42 U.S.C. 1395x(ll)(3)).

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years to provide loan forgiveness in accordance with this section.".

**SEC. 431. LOAN REPAYMENT FOR CIVIL LEGAL ASSISTANCE ATTORNEYS.**

Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 428K the following:

20 USC 1078–12.

**"SEC. 428L. LOAN REPAYMENT FOR CIVIL LEGAL ASSISTANCE ATTORNEYS.**

"(a) PURPOSE.—The purpose of this section is to encourage qualified individuals to enter and continue employment as civil legal assistance attorneys.

"(b) DEFINITIONS.—In this section:

"(1) CIVIL LEGAL ASSISTANCE ATTORNEY.—The term 'civil legal assistance attorney' means an attorney who—

"(A) is a full-time employee of—

"(i) a nonprofit organization that provides legal assistance with respect to civil matters to low-income individuals without a fee; or

"(ii) a protection and advocacy system or client assistance program that provides legal assistance with respect to civil matters and receives funding under—

"(I) subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.);

"(II) section 112 or 509 of the Rehabilitation Act of 1973 (29 U.S.C. 732, 794e);

"(III) part A of title I of the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.);

"(IV) section 5 of the Assistive Technology Act of 1998 (29 U.S.C. 3004);

"(V) section 1150 of the Social Security Act (42 U.S.C. 1320b–21);

"(VI) section 1253 of the Public Health Service Act (42 U.S.C. 300d–53); or

"(VII) section 291 of the Help America Vote Act of 2002 (42 U.S.C. 15461);

"(B) as such employee, provides civil legal assistance as described in subparagraph (A) on a full-time basis; and

"(C) is continually licensed to practice law.

"(2) STUDENT LOAN.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'student loan' means—

"(i) subject to clause (ii), a loan made, insured, or guaranteed under this part, part D, or part E; and

"(ii) a loan made under section 428C or 455(g), to the extent that such loan was used to repay—

"(I) a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct PLUS Loan;

"(II) a loan made under section 428, 428B, or 428H; or

"(III) a loan made under part E.

"(B) EXCLUSION OF PARENT PLUS LOANS.—The term 'student loan' does not include any of the following loans:

"(i) A loan made to the parents of a dependent student under section 428B.

"(ii) A Federal Direct PLUS Loan made to the parents of a dependent student.

"(iii) A loan made under section 428C or 455(g), to the extent that such loan was used to repay—

"(I) a loan made to the parents of a dependent student under section 428B; or

"(II) a Federal Direct PLUS Loan made to the parents of a dependent student.

"(c) PROGRAM AUTHORIZED.—From amounts appropriated under subsection (i) for a fiscal year, the Secretary shall carry out a program of assuming the obligation to repay a student loan, by direct payments on behalf of a borrower to the holder of such loan, in accordance with subsection (d), for any borrower who—

"(1) is employed as a civil legal assistance attorney; and

"(2) is not in default on a loan for which the borrower seeks repayment.

"(d) TERMS OF AGREEMENT.—

"(1) IN GENERAL.—To be eligible to receive repayment benefits under subsection (c), a borrower shall enter into a written agreement with the Secretary that specifies that—

"(A) the borrower will remain employed as a civil legal assistance attorney for a required period of service of not less than three years, unless involuntarily separated from that employment;

"(B) if the borrower is involuntarily separated from employment on account of misconduct, or voluntarily separates from employment, before the end of the period specified in the agreement, the borrower will repay the Secretary the amount of any benefits received by such employee under this agreement;

"(C) if the borrower is required to repay an amount to the Secretary under subparagraph (B) and fails to repay such amount, a sum equal to that amount shall be recoverable by the Federal Government from the employee by such methods as are provided by law for the recovery of amounts owed to the Federal Government;

Waiver authority.

"(D) the Secretary may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be contrary to the public interest; and

"(E) the Secretary shall make student loan payments under this section for the period of the agreement, subject to the availability of appropriations.

"(2) REPAYMENTS.—

"(A) IN GENERAL.—Any amount repaid by, or recovered from, an individual under this subsection shall be credited to the appropriation account from which the amount involved was originally paid.

"(B) MERGER.—Any amount credited under subparagraph (A) shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations, if any, as the sums with which the amount was merged.

"(3) LIMITATIONS.—

"(A) STUDENT LOAN PAYMENT AMOUNT.—Student loan repayments made by the Secretary under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed upon by the borrower and the Secretary in an agreement under paragraph (1), except that the amount paid by the Secretary under this section shall not exceed—

"(i) $6,000 for any borrower in any calendar year; or

"(ii) an aggregate total of $40,000 in the case of any borrower.

"(B) BEGINNING OF PAYMENTS.—Nothing in this section shall authorize the Secretary to pay any amount to reimburse a borrower for any repayments made by such borrower prior to the date on which the Secretary entered into an agreement with the borrower under this subsection.

"(e) ADDITIONAL AGREEMENTS.—

"(1) IN GENERAL.—On completion of the required period of service under an agreement under subsection (d), the borrower and the Secretary may, subject to paragraph (2), enter into an additional agreement in accordance with subsection (d).

"(2) TERM.—An agreement entered into under paragraph (1) may require the borrower to remain employed as a civil legal assistance attorney for less than three years.

"(f) AWARD BASIS; PRIORITY.—

"(1) AWARD BASIS.—Subject to paragraph (2), the Secretary shall provide repayment benefits under this section on a first-come, first-served basis, and subject to the availability of appropriations.

"(2) PRIORITY.—The Secretary shall give priority in providing repayment benefits under this section in any fiscal year to a borrower who—

"(A) has practiced law for five years or less and, for not less than 90 percent of the time in such practice, has served as a civil legal assistance attorney;

"(B) received repayment benefits under this section during the preceding fiscal year; and

"(C) has completed less than three years of the first required period of service specified for the borrower in an agreement entered into under subsection (d).

"(g) INELIGIBILITY FOR DOUBLE BENEFITS.—No borrower may, for the same service, receive a reduction of loan obligations under both this section and section 428K or 455(m).

"(h) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.".

**SEC. 432. REPORTS TO CONSUMER REPORTING AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION.**

(a) IN GENERAL.—Section 430A (20 U.S.C. 1080a) is amended—

(1) in the section heading, by striking "**CREDIT BUREAUS**" and inserting "**CONSUMER REPORTING AGENCIES**";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) in the first sentence—

(I) by striking "the Secretary," and inserting "the Secretary and"; and

(II) by striking "agreements with credit bureau organizations" and inserting "an agreement with each consumer reporting agency";

(ii) in the second sentence—

(I) by striking "such organizations" each place the term occurs and inserting "such consumer reporting agencies"; and

(II) by striking "insurance), by" and inserting "insurance) or by"; and

(iii) in the third sentence—

(I) by striking "Secretary," and inserting "Secretary or"; and

(II) by striking "organizations" and inserting "consumer reporting agencies";

(B) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(C) by inserting before paragraph (2) (as redesignated by subparagraph (B)), the following:

"(1) that the loan is an education loan (as such term is defined in section 151);"; and

(D) by inserting after paragraph (2) (as redesignated by subparagraph (B)) the following:

"(3) information concerning the repayment status of the loan for inclusion in the file of the borrower, except that nothing in this subsection shall be construed to affect any otherwise applicable provision of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);";

(3) in subsection (b)—

(A) by striking "organizations" and inserting "consumer reporting agencies"; and

(B) by striking "subsection (a)(2)" and inserting "subsection (a)(4)";

(4) in subsection (c)—

(A) in paragraph (2), by striking "organizations" and inserting "consumer reporting agencies"; and

(B) in paragraph (4)—

(i) by striking "subsection (a)(2)" and inserting "subsection (a)(4)"; and

(ii) in subparagraph (A), by striking "credit bureau organizations" and inserting "consumer reporting agencies"; and

(5) in subsection (d), by striking "credit bureau organization" and inserting "consumer reporting agency".

(b) CONFORMING AMENDMENTS.—The Act (20 U.S.C. 1001 et seq.) is further amended—

(1) in section 427(a)(2)(G) (20 U.S.C. 1077(a)(2)(G))—

(A) in clause (i), by striking "credit bureau organizations" and inserting "consumer reporting agencies"; and

(B) in clause (ii), by striking "organizations" and inserting "consumer reporting agencies";

(2) in section 428(c)(3)(A)(iii) (20 U.S.C. 1078(c)(3)(A)(iii)), by striking "credit bureau organization" and inserting "consumer reporting agency";

(3) in section 428C(b)(4)(E) (20 U.S.C. 1078–3(b)(4)(E))—

(A) in clause (i), by striking "credit bureau organizations" and inserting "consumer reporting agencies"; and

(B) in clause (ii), by striking "organizations" and inserting "consumer reporting agencies";

(4) in section 437(c)(5) (20 U.S.C. 1087(c)(5)), by striking "credit bureaus" and inserting "consumer reporting agencies";

(5) in section 463(c) (20 U.S.C. 1087cc(c))—

(A) in the subsection heading, by striking "CREDIT BUREAU ORGANIZATIONS" and inserting "CONSUMER REPORTING AGENCIES";

(B) in paragraph (1), by striking "credit bureau organizations" and inserting "consumer reporting agencies";

(C) in paragraph (2), by striking "organizations" and inserting "consumer reporting agencies";

(D) in paragraph (4)(A), by striking "credit bureau organization" each place the term occurs and inserting "consumer reporting agency"; and

(E) in paragraph (5)—

(i) by striking "credit bureau organizations" and inserting "consumer reporting agencies"; and

(ii) by striking "such organizations" and inserting "such consumer reporting agencies";

(6) in section 463A(a)(11) (20 U.S.C. 1087cc–1(a)(11)), by striking "credit bureau or credit" and inserting "consumer"; and

20 USC 1087dd.

(7) in section 464 (20 U.S.C. 10877dd)—

(A) in subsection (c)(1)(I), by striking "credit bureau organizations" and inserting "consumer reporting agencies"; and

(B) in subsection (h)(1)(A), by striking "credit bureau organization or credit" and inserting "consumer".

**SEC. 433. LEGAL POWERS AND RESPONSIBILITIES.**

(a) SETTLEMENT OF CLAIMS.—Section 432(b) (20 U.S.C. 1082(b)) is amended by adding at the end the following: "The Secretary may not enter into any settlement of any claim under this title that exceeds $1,000,000 unless—

"(1) the Secretary requests a review of the proposed settlement of such claim by the Attorney General; and

"(2) the Attorney General responds to such request, which may include, at the Attorney General's discretion, a written opinion related to such proposed settlement.".

(b) COMMON FORMS AND FORMATS.—Section 432(m)(1)(D)(i) (20 U.S.C. 1082(m)(1)(D)(i)) is amended by adding at the end the following: "Unless otherwise notified by the Secretary, each institution of higher education that participates in the program under this part or part D may use a master promissory note for loans under this part and part D.".

**SEC. 434. STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS.**

(a) AMENDMENT.—Section 433 (20 U.S.C. 1083) is amended to read as follows:

**"SEC. 433. STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS.**

"(a) REQUIRED DISCLOSURE BEFORE DISBURSEMENT.—Each eligible lender, at or prior to the time such lender disburses a loan that is insured or guaranteed under this part (other than a loan made under section 428C), shall provide thorough and accurate loan information on such loan to the borrower in simple and understandable terms. Any disclosure required by this subsection may be made by an eligible lender by written or electronic means, including as part of the application material provided to the borrower, as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. Each lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. The disclosure shall include—

"(1) a statement prominently and clearly displayed and in bold print that the borrower is receiving a loan that must be repaid;

"(2) the name of the eligible lender, and the address to which communications and payments should be sent;

"(3) the principal amount of the loan;

"(4) the amount of any charges, such as the origination fee and Federal default fee, and whether those fees will be—

"(A) collected by the lender at or prior to the disbursal of the loan;

"(B) deducted from the proceeds of the loan;

"(C) paid separately by the borrower; or

"(D) paid by the lender;

"(5) the stated interest rate on the loan;

"(6) for loans made under section 428H or to a student borrower under section 428B, an explanation—

"(A) that the borrower has the option to pay the interest that accrues on the loan while the borrower is a student at an institution of higher education; and

"(B) if the borrower does not pay such interest while attending an institution, when and how often interest on the loan will be capitalized;

"(7) for loans made to a parent borrower on behalf of a student under section 428B, an explanation—

"(A) that the parent has the option to defer payment on the loan while the student is enrolled on at least a half-time basis in an institution of higher education;

"(B) if the parent does not pay the interest on the loan while the student is enrolled in an institution, when and how often interest on the loan will be capitalized; and

"(C) that the parent may be eligible for a deferment on the loan if the parent is enrolled on at least a half-time basis in an institution of higher education;

"(8) the yearly and cumulative maximum amounts that may be borrowed;

"(9) a statement of the total cumulative balance, including the loan being disbursed, owed by the borrower to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

"(10) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

"(11) a description of the types of repayment plans that are available for the loan;

"(12) a statement as to the minimum and maximum repayment terms which the lender may impose, and the minimum annual payment required by law;

"(13) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

"(14) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty;

"(15) a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred;

"(16) a statement summarizing the circumstances in which a borrower may obtain forbearance on the loan;

"(17) a description of the options available for forgiveness of the loan, and the requirements to obtain loan forgiveness;

"(18) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default will be reported to a consumer reporting agency; and

"(19) an explanation of any cost the borrower may incur during repayment or in the collection of the loan, including fees that the borrower may be charged, such as late payment fees and collection costs.

"(b) REQUIRED DISCLOSURE BEFORE REPAYMENT.—Each eligible lender shall, at or prior to the start of the repayment period on a loan made, insured, or guaranteed under section 428, 428B, or 428H, disclose to the borrower by written or electronic means the information required under this subsection in simple and understandable terms. Each eligible lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. The disclosure required by this subsection shall be made not less than 30 days nor more than 150 days before the first payment on the loan is due from the borrower. The disclosure shall include—

Deadlines.

"(1) the name of the eligible lender or loan servicer, and the address to which communications and payments should be sent;

"(2) the scheduled date upon which the repayment period is to begin or the deferment period under section 428B(d)(1) is to end, as applicable;

"(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure (including, if applicable, the estimated amount of interest to be capitalized) as of the scheduled date on which the repayment period is to begin or the deferment period under 428B(d)(1) is to end, as applicable;

"(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

"(5) information on loan repayment benefits offered for the loan or loans, including—

"(A) whether the lender offers any benefits that are contingent on the repayment behavior of the borrower, such as—

"(i) a reduction in interest rate if the borrower repays the loan by automatic payroll or checking account deduction;

"(ii) a reduction in interest rate if the borrower makes a specified number of on-time payments; and

"(iii) other loan repayment benefits for which the borrower could be eligible that would reduce the amount of repayment or the length of the repayment period;

"(B) if the lender provides a loan repayment benefit—

"(i) any limitations on such benefit;

"(ii) explicit information on the reasons a borrower may lose eligibility for such benefit;

"(iii) for a loan repayment benefit that reduces the borrower's interest rate—

"(I) examples of the impact the interest rate reduction would have on the length of the borrower's repayment period and the amount of repayment; and

"(II) upon the request of the borrower, the effect the reduction in interest rate would have with respect to the borrower's payoff amount and time for repayment; and

"(iv) whether and how the borrower can regain eligibility for a benefit if a borrower loses a benefit;

"(6) a description of all the repayment plans that are available to the borrower and a statement that the borrower may change from one plan to another during the period of repayment;

"(7) the repayment schedule for all loans covered by the disclosure, including—

"(A) the date the first installment is due; and

"(B) the number, amount, and frequency of required payments, which shall be based on a standard repayment plan or, in the case of a borrower who has selected another repayment plan, on the repayment plan selected by the borrower;

"(8) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan and of the availability and terms of such other options;

"(9) except as provided in subsection (d)—

"(A) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

"(B) if the borrower has already paid interest on the loan or loans, the amount of interest paid;

"(10) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

"(11) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty;

"(12) a description of the options by which the borrower may avoid or be removed from default, including any relevant fees associated with such options; and

"(13) additional resources, including nonprofit organizations, advocates, and counselors (including the Student Loan Ombudsman of the Department) of which the lender is aware, where borrowers may receive advice and assistance on loan repayment.

"(c) SEPARATE NOTIFICATION.—Each eligible lender shall, at the time such lender notifies a borrower of approval of a loan which is insured or guaranteed under this part, provide the borrower with a separate notification which summarizes, in simple and understandable terms, the rights and responsibilities of the borrower with respect to the loan, including a statement of the consequences of defaulting on the loan and a statement that each borrower who defaults will be reported to a consumer reporting agency. The requirement of this subsection shall be in addition to the information required by subsection (a) of this section.

"(d) SPECIAL DISCLOSURE RULES ON PLUS LOANS, AND UNSUBSIDIZED LOANS.—Loans made under sections 428B and 428H shall not be subject to the disclosure of projected monthly payment amounts required under subsection (b)(7) if the lender, in lieu of such disclosure, provides the borrower with sample projections of monthly repayment amounts, assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the borrower, or the student on whose behalf the loan is made, is in school, in simple and understandable terms. Such sample projections shall disclose the cost to the borrower of—

"(1) capitalizing the interest; and

"(2) paying the interest as the interest accrues.

"(e) REQUIRED DISCLOSURES DURING REPAYMENT.—

"(1) PERTINENT INFORMATION ABOUT A LOAN PROVIDED ON A PERIODIC BASIS.—Each eligible lender shall provide the borrower of a loan made, insured, or guaranteed under this part with a bill or statement (as applicable) that corresponds to each payment installment time period in which a payment is due and that includes, in simple and understandable terms—

"(A) the original principal amount of the borrower's loan;

"(B) the borrower's current balance, as of the time of the bill or statement, as applicable;

"(C) the interest rate on such loan;

"(D) the total amount the borrower has paid in interest on the loan;

"(E) the aggregate amount the borrower has paid for the loan, including the amount the borrower has paid in interest, the amount the borrower has paid in fees, and the amount the borrower has paid against the balance;

"(F) a description of each fee the borrower has been charged for the most recently preceding installment time period;

"(G) the date by which the borrower needs to make a payment in order to avoid additional fees and the amount of such payment and the amount of such fees;

"(H) the lender's or loan servicer's address and toll-free phone number for payment and billing error purposes; and

"(I) a reminder that the borrower has the option to change repayment plans, a list of the names of the repayment plans available to the borrower, a link to the appropriate page of the Department's website to obtain a more detailed description of the repayment plans, and directions for the borrower to request a change in repayment plan.

"(2) INFORMATION PROVIDED TO A BORROWER HAVING DIFFICULTY MAKING PAYMENTS.—Each eligible lender shall provide to a borrower who has notified the lender that the borrower is having difficulty making payments on a loan made, insured, or guaranteed under this part with the following information in simple and understandable terms:

"(A) A description of the repayment plans available to the borrower, including how the borrower should request a change in repayment plan.

"(B) A description of the requirements for obtaining forbearance on a loan, including expected costs associated with forbearance.

"(C) A description of the options available to the borrower to avoid defaulting on the loan, and any relevant fees or costs associated with such options.

"(3) REQUIRED DISCLOSURES DURING DELINQUENCY.—Each eligible lender shall provide to a borrower who is 60 days delinquent in making payments on a loan made, insured, or guaranteed under this part with a notice, in simple and understandable terms, of the following:

"(A) The date on which the loan will default if no payment is made.

"(B) The minimum payment the borrower must make to avoid default.

"(C) A description of the options available to the borrower to avoid default, and any relevant fees or costs associated with such options, including a description of deferment and forbearance and the requirements to obtain each.

"(D) Discharge options to which the borrower may be entitled.

"(E) Additional resources, including nonprofit organizations, advocates, and counselors (including the Student Loan Ombudsman of the Department), of which the lender is aware, where the borrower can receive advice and assistance on loan repayment.

"(f) COST OF DISCLOSURE AND CONSEQUENCES OF NONDISCLOSURE.—

"(1) NO COST TO BORROWERS.—The information required under this section shall be available without cost to the borrower.

"(2) CONSEQUENCES OF NONDISCLOSURE.—The failure of an eligible lender to provide information as required by this section shall not—

"(A) relieve a borrower of the obligation to repay a loan in accordance with the loan's terms; or

"(B) provide a basis for a claim for civil damages.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as subjecting the lender to the Truth in Lending Act with regard to loans made under this part.

"(4) ACTIONS BY THE SECRETARY.—The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.".

20 USC 1083 note.

(b) EFFECTIVE DATES.—

(1) REGULAR DISCLOSURE REQUIREMENTS AND DISCLOSURE REQUIREMENTS TO BORROWERS HAVING DIFFICULTY MAKING PAYMENTS.—Paragraphs (1) and (2) of section 433(e) of the Higher Education Act of 1965, as amended by subsection (a), shall apply with respect to loans for which the first payment is due on or after July 1, 2009.

(2) DISCLOSURE REQUIREMENTS FOR BORROWERS WITH DELINQUENT LOANS.—Section 433(e)(3) of the Higher Education Act of 1965, as amended by subsection (a), shall apply with respect to loans that become delinquent on or after July 1, 2009.

**SEC. 435. CONSUMER EDUCATION INFORMATION.**

Part B (20 U.S.C. 1071 et seq.) is amended by inserting after section 433 (20 U.S.C. 1083) the following:

20 USC 1083a.

**"SEC. 433A. CONSUMER EDUCATION INFORMATION.**

"(a) IN GENERAL.—Each guaranty agency participating in a program under this part, working with the institutions of higher education served by such guaranty agency, shall develop and make available high-quality educational programs and materials to provide training for students and families in budgeting and financial management, including debt management and other aspects of financial literacy, such as the cost of using high interest loans to pay for postsecondary education, particularly as budgeting and financial management relates to student loan programs authorized by this title. Such programs and materials shall be in formats that are simple and understandable to students and families, and shall be provided before, during, and after the students' enrollment in an institution of higher education. The activities described in this section shall be considered default reduction activities for the purposes of section 422.

"(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit—

"(1) a guaranty agency from using existing activities, programs, and materials in meeting the requirements of this section;

"(2) a guaranty agency from providing programs or materials similar to the programs or materials described in subsection (a) to an institution of higher education that provides loans exclusively through part D; or

"(3) a lender or loan servicer from providing outreach or financial aid literacy information in accordance with subsection (a).".

**SEC. 436. DEFINITIONS OF ELIGIBLE INSTITUTION AND ELIGIBLE LENDER.**

(a) PARTICIPATION RATE INDEX.—

(1) AMENDMENTS.—Section 435(a) (20 U.S.C. 1085(a)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking "paragraph (4)" and inserting "paragraph (5)"; and

(ii) in subparagraph (B)—

(I) by striking "and" at the end of clause (ii); and

(II) by striking clause (iii) and inserting the following:

"(iii) 25 percent for fiscal year 1994 through fiscal year 2011; and

"(iv) 30 percent for fiscal year 2012 and any succeeding fiscal year.";

(B) by redesignating paragraph (6) as paragraph (8), and redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(C) by inserting after paragraph (2) the following new paragraph:

"(3) APPEALS FOR REGULATORY RELIEF.—An institution whose cohort default rate, calculated in accordance with subsection (m), is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) for any two consecutive fiscal years may, not later than 30 days after the date the institution receives notification from the Secretary, file an appeal demonstrating exceptional mitigating circumstances, as defined in paragraph (5). The Secretary shall issue a decision on any such appeal not later than 45 days after the date of submission of the appeal. If the Secretary determines that the institution demonstrates exceptional mitigating circumstances, the Secretary may not subject the institution to provisional certification based solely on the institution's cohort default rate.";

Deadlines.
Notification.

(D) in paragraph (5)(A) (as redesignated by subparagraph (B)), by striking "For purposes of paragraph (2)(A)(ii)" and all that follows through "following criteria:" and inserting "For purposes of this subsection, an institution of higher education shall be treated as having exceptional mitigating circumstances that make application of paragraph (2) inequitable, and that provide for regulatory relief under paragraph (3), if such institution, in the opinion of an independent auditor, meets the following criteria:";

(E) by inserting after paragraph (6) (as redesignated by subparagraph (B)) the following:

"(7) DEFAULT PREVENTION AND ASSESSMENT OF ELIGIBILITY BASED ON HIGH DEFAULT RATES.—

"(A) FIRST YEAR.—

Plans.

"(i) IN GENERAL.—An institution whose cohort default rate is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) in any fiscal year shall establish a default prevention task force to prepare a plan to—

"(I) identify the factors causing the institution's cohort default rate to exceed such threshold;

"(II) establish measurable objectives and the steps to be taken to improve the institution's cohort default rate; and

"(III) specify actions that the institution can take to improve student loan repayment, including appropriate counseling regarding loan repayment options.

"(ii) TECHNICAL ASSISTANCE.—Each institution subject to this subparagraph shall submit the plan under clause (i) to the Secretary, who shall review the plan and offer technical assistance to the institution to promote improved student loan repayment.

"(B) SECOND CONSECUTIVE YEAR.—

"(i) IN GENERAL.—An institution whose cohort default rate is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) for two consecutive fiscal years, shall require the institution's default prevention task force established under subparagraph (A) to review and revise the plan required under such subparagraph, and shall submit such revised plan to the Secretary.

"(ii) REVIEW BY THE SECRETARY.—The Secretary shall review each revised plan submitted in accordance with this subparagraph, and may direct that such plan be amended to include actions, with measurable objectives, that the Secretary determines, based on available data and analyses of student loan defaults, will promote student loan repayment."; and

(F) in paragraph (8)(A) (as redesignated by subparagraph (B)) by striking "0.0375" and inserting "0.0625".

20 USC 1085 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(F) shall take effect for fiscal years beginning on or after October 1, 2011.

(b) TYPES OF LENDERS.—Section 435(d)(1)(A)(ii) (20 U.S.C. 1085(d)(1)(A)(ii)) is amended—

(1) by striking "part, or (III)" and inserting "part, (III)"; and

(2) by inserting before the semicolon at the end the following: ", or (IV) it is a National or State chartered bank, or a credit union, with assets of less than $1,000,000,000".

(c) DISQUALIFICATION.—Paragraph (5) of section 435(d) (20 U.S.C. 1085(d)(5)) is amended to read as follows:

"(5) DISQUALIFICATION FOR USE OF CERTAIN INCENTIVES.—The term 'eligible lender' does not include any lender that the Secretary determines, after notice and opportunity for a hearing, has—

"(A) offered, directly or indirectly, points, premiums, payments (including payments for referrals and for processing or finder fees), prizes, stock or other securities, travel, entertainment expenses, tuition payment or

reimbursement, the provision of information technology equipment at below-market value, additional financial aid funds, or other inducements, to any institution of higher education or any employee of an institution of higher education in order to secure applicants for loans under this part;

"(B) conducted unsolicited mailings, by postal or electronic means, of student loan application forms to students enrolled in secondary schools or postsecondary institutions, or to family members of such students, except that applications may be mailed, by postal or electronic means, to students or borrowers who have previously received loans under this part from such lender;

"(C) entered into any type of consulting arrangement, or other contract to provide services to a lender, with an employee who is employed in the financial aid office of an institution of higher education, or who otherwise has responsibilities with respect to student loans or other financial aid of the institution;

"(D) compensated an employee who is employed in the financial aid office of an institution of higher education, or who otherwise has responsibilities with respect to student loans or other financial aid of the institution, and who is serving on an advisory board, commission, or group established by a lender or group of lenders for providing such service, except that the eligible lender may reimburse such employee for reasonable expenses incurred in providing such service;

"(E) performed for an institution of higher education any function that such institution of higher education is required to perform under this title, except that a lender shall be permitted to perform functions on behalf of such institution in accordance with section 485(b);

"(F) paid, on behalf of an institution of higher education, another person to perform any function that such institution of higher education is required to perform under this title, except that a lender shall be permitted to perform functions on behalf of such institution in accordance with section 485(b);

"(G) provided payments or other benefits to a student at an institution of higher education to act as the lender's representative to secure applications under this title from individual prospective borrowers, unless such student—

"(i) is also employed by the lender for other purposes; and

"(ii) made all appropriate disclosures regarding such employment;

"(H) offered, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

"(I) engaged in fraudulent or misleading advertising.

It shall not be a violation of this paragraph for a lender to provide technical assistance to institutions of higher education comparable to the kinds of technical assistance provided to institutions of higher education by the Department.".

(d) SCHOOL AS LENDER PROGRAM AUDIT.—Section 435(d) (20 U.S.C. 1085(d)) is further amended by adding at the end the following:

Deadline.

"(8) SCHOOL AS LENDER PROGRAM AUDIT.—Each institution serving as an eligible lender under paragraph (1)(E), and each eligible lender serving as a trustee for an institution of higher education or an organization affiliated with an institution of higher education, shall annually complete and submit to the Secretary a compliance audit to determine whether—

"(A) the institution or lender is using all proceeds from special allowance payments and interest payments from borrowers, interest subsidies received from the Department, and any proceeds from the sale or other disposition of loans, for need-based grant programs, in accordance with paragraph (2)(A)(viii);

"(B) the institution or lender is using not more than a reasonable portion of the proceeds described in paragraph (2)(A)(viii) for direct administrative expenses; and

"(C) the institution or lender is ensuring that the proceeds described in paragraph (2)(A)(viii) are being used to supplement, and not to supplant, Federal and non-Federal funds that would otherwise be used for need-based grant programs.".

(e) COHORT DEFAULT RATES.—

(1) AMENDMENTS.—Section 435(m) (20 U.S.C. 1085(m)) is amended—

(A) in paragraph (1)—

(i) in the first sentence of subparagraph (A), by striking "end of the following fiscal year" and inserting "end of the second fiscal year following the fiscal year in which the students entered repayment";

(ii) in subparagraph (B), by striking "such fiscal year" and inserting "such second fiscal year";

(iii) in subparagraph (C), by striking "end of the fiscal year immediately following the year in which they entered repayment" and inserting "end of the second fiscal year following the year in which they entered repayment";

(B) in paragraph (2)(C)—

(i) by striking "end of such following fiscal year is not considered as in default for the purposes of this subsection" and inserting "end of the second fiscal year following the year in which the loan entered repayment is not considered as in default for purposes of this subsection"; and

(ii) by striking "such following fiscal year" and inserting "such second fiscal year"; and

(C) in paragraph (4)—

(i) by amending the paragraph heading to read as follows: "COLLECTION AND REPORTING OF COHORT DEFAULT RATES AND LIFE OF COHORT DEFAULT RATES.—"; and

(ii) by amending subparagraph (A) to read as follows:

Publications.
Deadline.
Reports.

"(A) The Secretary shall publish not less often than once every fiscal year a report showing cohort default data and life of cohort default rates for each category of institution,

including: (i) four-year public institutions; (ii) four-year private nonprofit institutions; (iii) two-year public institutions; (iv) two-year private nonprofit institutions; (v) four-year proprietary institutions; (vi) two-year proprietary institutions; and (vii) less than two-year proprietary institutions. For purposes of this subparagraph, for any fiscal year in which one or more current and former students at an institution enter repayment on loans under section 428, 428B, or 428H, received for attendance at the institution, the Secretary shall publish the percentage of those current and former students who enter repayment on such loans (or on the portion of a loan made under section 428C that is used to repay any such loans) received for attendance at the institution in that fiscal year who default before the end of each succeeding fiscal year.". Publication.

(2) EFFECTIVE DATE AND TRANSITION.— 20 USC 1085 note.

(A) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect for purposes of calculating cohort default rates for fiscal year 2009 and succeeding fiscal years.

(B) TRANSITION.—Notwithstanding subparagraph (A), the method of calculating cohort default rates under section 435(m) of the Higher Education Act of 1965 as in effect on the day before the date of enactment of this Act shall continue in effect, and the rates so calculated shall be the basis for any sanctions imposed on institutions of higher education because of their cohort default rates, until three consecutive years of cohort default rates calculated in accordance with the amendments made by paragraph (1) are available.

**SEC. 437. DISCHARGE AND CANCELLATION RIGHTS IN CASES OF DISABILITY.**

(a) FFEL AND DIRECT LOANS.—Section 437(a) (20 U.S.C. 1087(a)) is amended—

(1) by striking "(a) REPAYMENT IN FULL FOR DEATH AND DISABILITY.—If a" and inserting the following:

"(a) REPAYMENT IN FULL FOR DEATH AND DISABILITY.—

"(1) IN GENERAL.—If a";

(2) by inserting ", or if a student borrower who has received such a loan is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months" after "of the Secretary),"; and

(3) by adding at the end the following: "The Secretary may develop such safeguards as the Secretary determines necessary to prevent fraud and abuse in the discharge of liability under this subsection. Notwithstanding any other provision of this subsection, the Secretary may promulgate regulations to reinstate the obligation of, and resume collection on, loans discharged under this subsection in any case in which—

"(A) a borrower received a discharge of liability under this subsection and after the discharge the borrower—

"(i) receives a loan made, insured, or guaranteed under this title; or

"(ii) has earned income in excess of the poverty line; or

"(B) the Secretary determines necessary.".

(b) DISABILITY DETERMINATIONS.—Section 437(a) (20 U.S.C. 1087(a)) is further amended by adding at the end the following:

"(2) DISABILITY DETERMINATIONS.—A borrower who has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected condition and who provides documentation of such determination to the Secretary of Education, shall be considered permanently and totally disabled for the purpose of discharging such borrower's loans under this subsection, and such borrower shall not be required to present additional documentation for purposes of this subsection.".

20 USC 1087 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on July 1, 2010.

**SEC. 438. CONFORMING AMENDMENTS FOR REPEAL OF SECTION 439.**

(a) PART B AMENDMENTS.—Part B of title IV (20 U.S.C. 1071 et seq.) is amended—

(1) in section 422A(d)(1) (20 U.S.C. 1072a(d)(1)), by striking "437, and 439(q)" and inserting "and 437";

(2) in section 428 (20 U.S.C. 1078)—

(A) in subsection (b)(1)(G)(i), by striking "or 439(q)";

(B) by striking subsection (h); and

(C) in subsection (j)(2)—

(i) by inserting "and" at the end of subparagraph (C);

(ii) by striking "; and" at the end of subparagraph (D) and inserting a period; and

(iii) by striking subparagraph (E); and

(3) in section 435(d)(1)(G) (20 U.S.C. 1085(d)(1)(G)), by striking "428C, and 439(q)," and inserting "and 428C,".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(s)(4)(C)(ii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1828(s)(4)(C)(ii)(I)) is amended by striking "as amended" and inserting "as such section existed on the day before the date of the repeal of such section".

## PART C—FEDERAL WORK-STUDY PROGRAMS

**SEC. 441. AUTHORIZATION OF APPROPRIATIONS.**

Section 441 (42 U.S.C. 2751) is amended—

(1) in subsection (b), by striking "$1,000,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years."; and

(2) in subsection (c)(1), by inserting "emergency preparedness and response," after "public safety,".

**SEC. 442. ALLOWANCE FOR BOOKS AND SUPPLIES.**

Section 442(c)(4)(D) (42 U.S.C. 2752(c)(4)(D)) is amended by striking "$450" and inserting "$600".

**SEC. 443. GRANTS FOR FEDERAL WORK-STUDY PROGRAMS.**

Section 443 (42 U.S.C. 2753) is amended—

(1) in subsection (b)(2)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(2) by adding at the end the following new subsection:

"(e) CIVIC EDUCATION AND PARTICIPATION ACTIVITIES.—

"(1) USE OF FUNDS.—Funds granted to an institution under this section may be used in accordance with such subsection to compensate (including compensation for time spent in training and travel directly related to civic education and participation activities) students employed in projects that—

"(A) teach civics in schools;

"(B) raise awareness of government functions or resources; or

"(C) increase civic participation.

"(2) PRIORITY FOR SCHOOLS.—To the extent practicable, an institution shall—

"(A) give priority to the employment of students participating in projects that educate or train the public about evacuation, emergency response, and injury prevention strategies relating to natural disasters, acts of terrorism, and other emergency situations; and

"(B) ensure that any student compensated with the funds described in paragraph (1) receives appropriate training to carry out the educational services required.

"(3) FEDERAL SHARE.—The Federal share of the compensation of work-study students compensated under this subsection may exceed 75 percent.".

**SEC. 444. FLEXIBLE USE OF FUNDS.**

Section 445 (42 U.S.C. 2755) is amended by adding at the end the following new subsection:

"(d) FLEXIBILITY IN THE EVENT OF A MAJOR DISASTER.—

"(1) IN GENERAL.—In the event of a major disaster, an eligible institution located in any area affected by such major disaster, as determined by the Secretary, may make payments under this part to disaster-affected students, for the period of time (not to exceed one academic year) in which the disaster-affected students were prevented from fulfilling the students' work-study obligations as described in paragraph (2)(A)(iii), as follows:

"(A) Payments may be made under this part to disaster-affected students in an amount equal to or less than the amount of wages such students would have been paid under this part had the students been able to complete the work obligation necessary to receive work study funds.

"(B) Payments shall not be made to any student who was not eligible for work study or was not completing the work obligation necessary to receive work study funds under this part prior to the occurrence of the major disaster.

"(C) Any payments made to disaster-affected students under this subsection shall meet the matching requirements of section 443, unless such matching requirements are waived by the Secretary.

"(2) DEFINITIONS.—In this subsection:

"(A) The term 'disaster-affected student' means a student enrolled at an eligible institution who—

"(i) received a work-study award under this section for the academic year during which a major disaster occurred;

"(ii) earned Federal work-study wages from such eligible institution for such academic year;

"(iii) was prevented from fulfilling the student's work-study obligation for all or part of such academic year due to such major disaster; and

"(iv) was unable to be reassigned to another work-study job.

"(B) The term 'major disaster' has the meaning given such term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).".

**SEC. 445. JOB LOCATION AND DEVELOPMENT PROGRAMS.**

Section 446(a)(1) (42 U.S.C. 2756(a)(1)) is amended by striking "$50,000" and inserting "$75,000".

**SEC. 446. ADDITIONAL FUNDS FOR OFF-CAMPUS COMMUNITY SERVICE.**

Section 447 (42 U.S.C. 2756a) is amended—

(1) by striking "Each institution participating" and inserting "(a) COMMUNITY SERVICE-LEARNING.—Each institution participating"; and

(2) by adding at the end the following new subsection: "(b) OFF-CAMPUS COMMUNITY SERVICE.—

"(1) GRANTS AUTHORIZED.—In addition to funds made available under section 443(b)(2)(A), the Secretary is authorized to award grants to institutions participating under this part to supplement off-campus community service employment.

"(2) USE OF FUNDS.—An institution shall ensure that funds granted to such institution under this subsection are used in accordance with section 443(b)(2)(A) to recruit and compensate students (including compensation for time spent in training and for travel directly related to such community service).

"(3) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applications that support postsecondary students assisting with early childhood education activities and activities in preparation for emergencies and natural disasters.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.".

**SEC. 447. WORK COLLEGES.**

Section 448 (42 U.S.C. 2756b) is amended—

(1) by striking "work-learning" each place it appears and inserting "work-learning-service";

(2) by striking subsection (e) and inserting the following: "(e) DEFINITIONS.—For the purpose of this section—

"(1) the term 'work college' means an eligible institution that—

"(A) has been a public or private nonprofit, four-year, degree-granting institution with a commitment to community service;

"(B) has operated a comprehensive work-learning-service program for at least two years;

"(C) requires students, including at least one-half of all students who are enrolled on a full-time basis, to participate in a comprehensive work-learning-service program for at least five hours each week, or at least 80 hours during each period of enrollment, except summer school, unless the student is engaged in an institutionally organized or approved study abroad or externship program; and

"(D) provides students participating in the comprehensive work-learning-service program with the opportunity to contribute to their education and to the welfare of the community as a whole; and

"(2) the term 'comprehensive student work-learning-service program' means a student work-learning-service program that—

"(A) is an integral and stated part of the institution's educational philosophy and program;

"(B) requires participation of all resident students for enrollment and graduation;

"(C) includes learning objectives, evaluation, and a record of work performance as part of the student's college record;

"(D) provides programmatic leadership by college personnel at levels comparable to traditional academic programs;

"(E) recognizes the educational role of work-learning-service supervisors; and

"(F) includes consequences for nonperformance or failure in the work-learning-service program similar to the consequences for failure in the regular academic program."; and

(3) in subsection (f), by striking "$5,000,000" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.".

## PART D—FEDERAL DIRECT STUDENT LOAN

### SEC. 451. TERMS AND CONDITIONS OF LOANS.

(a) INCOME-BASED REPAYMENT.—Section 455(d)(1) (20 U.S.C. 1087e(d)(1)) is amended—

(1) in subparagraph (C), by striking "and" after the semicolon;

(2) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E) beginning on July 1, 2009, an income-based repayment plan that enables borrowers who have a partial financial hardship to make a lower monthly payment in accordance with section 493C, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS Loan made on behalf of a dependent student or a Federal Direct Consolidation Loan, if the proceeds of such loan were used to discharge the liability on such Federal Direct PLUS Loan or a loan

Effective date.

under section 428B made on behalf of a dependent student.".

(b) PUBLIC SERVICE JOB DEFINITION.—

(1) IN GENERAL.—Section 455(m)(3)(B) (20 U.S.C. 1087e(m)(3)(B)) is amended to read as follows:

"(B) PUBLIC SERVICE JOB.—The term 'public service job' means—

"(i) a full-time job in emergency management, government (excluding time served as a member of Congress), military service, public safety, law enforcement, public health (including nurses, nurse practitioners, nurses in a clinical setting, and full-time professionals engaged in health care practitioner occupations and health care support occupations, as such terms are defined by the Bureau of Labor Statistics), public education, social work in a public child or family service agency, public interest law services (including prosecution or public defense or legal advocacy on behalf of low-income communities at a nonprofit organization), early childhood education (including licensed or regulated childcare, Head Start, and State funded prekindergarten), public service for individuals with disabilities, public service for the elderly, public library sciences, school-based library sciences and other school-based services, or at an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

"(ii) teaching as a full-time faculty member at a Tribal College or University as defined in section 316(b) and other faculty teaching in high-needs subject areas or areas of shortage (including nurse faculty, foreign language faculty, and part-time faculty at community colleges), as determined by the Secretary.".

(2) INELIGIBILITY FOR DOUBLE BENEFITS.—Section 455(m) (20 U.S.C. 1087e(m)) is further amended by adding at the end the following:

"(4) INELIGIBILITY FOR DOUBLE BENEFITS.—No borrower may, for the same service, receive a reduction of loan obligations under both this subsection and section 428J, 428K, 428L, or 460.".

(c) IDENTITY FRAUD PROTECTION.—Section 455 (as amended by this section) (20 U.S.C. 1087e) is amended by adding at the end the following:

"(n) IDENTITY FRAUD PROTECTION.—The Secretary shall take such steps as may be necessary to ensure that monthly Federal Direct Loan statements and other publications of the Department do not contain more than four digits of the Social Security number of any individual.".

(d) NO ACCRUAL OF INTEREST FOR ACTIVE DUTY SERVICE MEMBERS.—Section 455 (as amended by this section) (20 U.S.C. 1087e) is further amended by adding at the end the following:

"(o) NO ACCRUAL OF INTEREST FOR ACTIVE DUTY SERVICE MEMBERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part and in accordance with paragraphs (2) and (4), interest shall not accrue for an eligible military borrower on a loan

made under this part for which the first disbursement is made on or after October 1, 2008.

"(2) CONSOLIDATION LOANS.—In the case of any consolidation loan made under this part that is disbursed on or after October 1, 2008, interest shall not accrue pursuant to this subsection only on such portion of such loan as was used to repay a loan made under this part for which the first disbursement is made on or after October 1, 2008.

"(3) ELIGIBLE MILITARY BORROWER.—In this subsection, the term 'eligible military borrower' means an individual who—

"(A)(i) is serving on active duty during a war or other military operation or national emergency; or

"(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency; and

"(B) is serving in an area of hostilities in which service qualifies for special pay under section 310 of title 37, United States Code.

"(4) LIMITATION.—An individual who qualifies as an eligible military borrower under this subsection may receive the benefit of this subsection for not more than 60 months.".

(e) DISCLOSURES.—Section 455 (as amended by this section) (20 U.S.C. 1087e) is further amended by adding at the end the following:

"(p) DISCLOSURES.—Each institution of higher education with which the Secretary has an agreement under section 453, and each contractor with which the Secretary has a contract under section 456, shall, with respect to loans under this part and in accordance with such regulations as the Secretary shall prescribe, comply with each of the requirements under section 433 that apply to a lender with respect to a loan under part B.". Regulations.

**SEC. 452. FUNDS FOR ADMINISTRATIVE EXPENSES.**

Section 458(a) (20 U.S.C. 1087h(a)) is amended—

(1) in paragraph (2)—

(A) in the heading of such paragraph, by striking "2011" and inserting "2014"; and

(B) by striking "2011" and inserting "2014"; and

(2) in paragraph (3), by striking "2011" and inserting "2014".

**SEC. 453. GUARANTY AGENCY RESPONSIBILITIES AND PAYMENTS; REPORTS AND COST ESTIMATES.**

Section 459A of the Higher Education Act of 1965 (20 U.S.C. 1087i–1) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following:

"(d) GUARANTY AGENCY RESPONSIBILITIES AND PAYMENTS.—Notwithstanding any other provision of this Act, beginning on the date on which the Secretary purchases a loan under this section—

"(1) the guaranty agency that insured such loan shall cease to have any obligations, responsibilities, or rights (including rights to any payment) under this Act for any activity related to the administration of such loan that is carried out or required to be carried out on or after the date of such purchase; and

"(2) the insurance issued by such agency pursuant to section 428(b) for such loan shall cease to be effective with respect

to any default on such loan that occurs on or after the date of such purchase.

Public information.

"(e) REPORTS AND COST ESTIMATES.—The Secretary shall prepare, transmit to the authorizing committees, and make available to the public, the following:

"(1) QUARTERLY REPORTS.—

"(A) CONTENTS.—Not later than 60 days after the end of each quarter during the period beginning July 1, 2008, and ending September 30, 2009, a quarterly report on—

"(i) the number of loans the Secretary has agreed to purchase, or has purchased, using the authority provided under this section, and the total amount of outstanding principal and accrued interest of such loans, during such period; and

"(ii) the number of loans in which the Secretary has purchased a participation interest, and the total amount of outstanding principal and accrued interest of such loans, during such period.

"(B) DISAGGREGATED INFORMATION.—For each quarterly report, the information described in clauses (i) and (ii) of subparagraph (A) shall be disaggregated by lender and, for each lender, by category of institution (using the categories described in section 132(d)) and type of loan.

"(2) ESTIMATES OF PURCHASE PROGRAM COSTS.—Not later than February 15, 2010, an estimate of the costs associated with the program of purchasing loans described in paragraph (1)(A)(i) during the period beginning July 1, 2008, and ending September 30, 2009, and an estimate of the costs associated with the program of purchasing a participation interest in loans described in paragraph (1)(A)(ii) during such period. Each such estimate shall—

"(A) contain the same level of detail, and be reported in a similar manner, as the budget estimates provided for the loan program under part B and the direct student loan program under this part in the President's annual budget submission to Congress, except that current and future administrative costs shall also be reported;

"(B) include an estimate of the gross and net outlays that have been, or will be, incurred by the Federal Government (including subsidy and administrative costs, and any payments made by the Department to lenders, trusts, or other entities related to such activities) in purchasing such loans or purchasing a participation interest in such loans during such period (as applicable); and

"(C) include a comparison of—

"(i) the average amount of the gross and net outlays (including costs and payments) described in subparagraph (B) for each $100 of loans purchased or for which a participation interest was purchased (as applicable) during such period, disaggregated by type of loan; with

"(ii) the average amount of such gross and net outlays (including costs and payments) to the Federal Government for each $100 of comparable loans made under this part and part B during such period, disaggregated by part and by type of loan.

"(3) ANNUAL COST ESTIMATES.—Not later than February 15 of the fiscal year following each of the fiscal years 2008, 2009, and 2010, an annual estimate of the costs associated with the program of purchasing loans described in paragraph (1)(A)(i), and an annual estimate of the costs associated with the program of purchasing a participation interest in loans described in paragraph (1)(A)(ii), that includes the information described in paragraph (2) for such fiscal year.". Deadline.

**SEC. 454. LOAN CANCELLATION FOR TEACHERS.**

(a) IN GENERAL.—Section 460 (20 U.S.C. 1087j) is amended—

(1) in subsection (b)(1)(A)(i)—

(A) by inserting "or location" after "a school"; and

(B) by inserting "or locations" after "schools"; and

(2) in subsection (c)(3)(B)(iii), by inserting "or, in the case of a teacher who is employed by an educational service agency, as certified by the chief administrative officer of such agency," after "borrower is employed,".

(b) PREVENTION OF DOUBLE BENEFITS.—Section 460(g)(2) (20 U.S.C. 1087j(g)(2)) is amended to read as follows:

"(2) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same voluntary service, receive a benefit under both this section and—

"(A) section 428J;

"(B) section 428K;

"(C) section 455(m); or

"(D) subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).".

(c) TECHNICAL AMENDMENTS.—Section 460(b) (as amended by subsection (a)(1)) (20 U.S.C. 1087j(b)) is further amended—

(1) by striking paragraph (2);

(2) by striking "PROGRAM AUTHORIZED.—" and all that follows through "The Secretary shall" and inserting "PROGRAM AUTHORIZED.—The Secretary shall";

(3) by redesignating subparagraph (B) as paragraph (2), and adjusting the margin accordingly; and

(4) by redesignating subparagraph (A) as paragraph (1), by redesignating clauses (i) and (ii) of such paragraph (as so redesignated) as subparagraphs (A) and (B), respectively, and by adjusting the margins accordingly.

(d) CONFORMING AMENDMENTS.—Section 460 (20 U.S.C. 1087j) is further amended—

(1) in subsection (c)(1), by striking "(b)(1)(A)" and inserting "(b)(1)";

(2) in subsection (c)(3)—

(A) in subparagraph (A)(i), by striking "(b)(1)" and inserting "(b)"; and

(B) in subparagraph (B)(i), by striking "(b)(1)" and inserting "(b)"; and

(3) in subsection (g)(3), by striking "(b)(1)(A)(ii)" and inserting "(b)(1)(B)".

## PART E—FEDERAL PERKINS LOANS

**SEC. 461. EXTENSION OF AUTHORITY.**

Section 461(b) (20 U.S.C. 1087aa(b)) is amended—

(1) in paragraph (1), by striking "$250,000,000 for fiscal year 1999" and all that follows through the period and inserting "$300,000,000 for fiscal year 2009 and for each of the five succeeding fiscal years."; and

(2) in paragraph (2), by striking "2003" each place it appears and inserting "2015".

**SEC. 462. ALLOWANCE FOR BOOKS AND SUPPLIES.**

Section 462(c)(4)(D) (20 U.S.C. 1087bb(c)(4)(D)) is amended by striking "$450" and inserting "$600".

**SEC. 463. AGREEMENTS WITH INSTITUTIONS.**

(a) TRANSFERS FOR COLLECTION.—Section 463(a)(4)(B) (20 U.S.C. 1087cc(a)(4)(B)) is amended to read as follows:

"(B) if the institution is not one described in subparagraph (A), the Secretary may allow such institution to refer such note or agreement to the Secretary, without recompense, except that, once every six months, any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution and treated as an additional capital contribution under section 462;".

(b) REVISE AUTHORITY TO PRESCRIBE ADDITIONAL FISCAL CONTROLS.—Section 463(a)(9) (20 U.S.C. 1087cc(a)(9)) is amended by inserting ", except that nothing in this paragraph shall be construed to permit the Secretary to require the assignment of loans to the Secretary other than as is provided for in paragraphs (4) and (5)" before the period.

**SEC. 464. PERKINS LOAN TERMS AND CONDITIONS.**

(a) LOAN LIMITS.—Section 464(a) (20 U.S.C. 1087dd(a)) is amended—

(1) in paragraph (2)(A)—

(A) by striking "$4,000" in clause (i) and inserting "$5,500"; and

(B) by striking "$6,000" in clause (ii) and inserting "$8,000"; and

(2) in paragraph (2)(B)—

(A) by striking "$40,000" in clause (i) and inserting "$60,000";

(B) by striking "$20,000" in clause (ii) and inserting "$27,500"; and

(C) by striking "$8,000" in clause (iii) and inserting "$11,000".

(b) DISCHARGE AND CANCELLATION RIGHTS IN CASES OF DISABILITY.—

(1) AMENDMENT.—Section 464 (20 U.S.C. 1087dd(c)) is further amended—

(A) in subsection (c)(1)(F), by striking "canceled upon the death" and all that follows through the semicolon and inserting "cancelled—

"(i) upon the death of the borrower;

"(ii) if the borrower becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

"(iii) if the borrower is unable to engage in any substantial gainful activity by reason of any medically

determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months; or

"(iv) if the borrower is determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability;"; and

(B) by adding at the end the following:

"(k) The Secretary may develop such additional safeguards as the Secretary determines necessary to prevent fraud and abuse in the cancellation of liability under subsection (c)(1)(F). Notwithstanding subsection (c)(1)(F), the Secretary may promulgate regulations to resume collection on loans cancelled under subsection (c)(1)(F) in any case in which—

"(1) a borrower received a cancellation of liability under subsection (c)(1)(F) and after the cancellation the borrower—

"(A) receives a loan made, insured, or guaranteed under this title; or

"(B) has earned income in excess of the poverty line; or

"(2) the Secretary determines necessary.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on July 1, 2008. 20 USC 1087dd note.

(c) FORBEARANCE.—Section 464 (20 U.S.C. 1087dd) is further amended—

(1) in subsection (e)—

(A) in the matter preceding paragraph (1), by striking ", upon written request," and inserting ", as documented in accordance with paragraph (2),";

(B) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(C) by inserting "(1)" after "FORBEARANCE.—"; and

(D) by adding at the end the following:

"(2) For the purpose of paragraph (1), the terms of forbearance agreed to by the parties shall be documented by—

"(A) confirming the agreement of the borrower by notice to the borrower from the institution of higher education; and

"(B) recording the terms in the borrower's file.";

(2) in subsection (h)(1)(A), by striking "12 ontime" and inserting "9 on-time"; and

(3) in subsection (j)(2), by striking "(e)(3)" and inserting "(e)(1)(C)".

**SEC. 465. CANCELLATION FOR PUBLIC SERVICE.**

Section 465(a) (20 U.S.C. 1087ee(a)) is amended—

(1) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

"(A) as a full-time teacher for service in an academic year (including such a teacher employed by an educational service agency)—

"(i) in a public or other nonprofit private elementary school or secondary school, which, for the purpose of this paragraph and for that year—

"(I) has been determined by the Secretary (pursuant to regulations of the Secretary and after consultation with the State educational agency of the State in which the school is located) to be a school in which the number of children meeting a measure of poverty under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965, exceeds 30 percent of the total number of children enrolled in such school; and

"(II) is in the school district of a local educational agency which is eligible in such year for assistance pursuant to part A of title I of the Elementary and Secondary Education Act of 1965; or

"(ii) in one or more public, or nonprofit private, elementary schools or secondary schools or locations operated by an educational service agency that have been determined by the Secretary (pursuant to regulations of the Secretary and after consultation with the State educational agency of the State in which the educational service agency operates) to be a school or location at which the number of children taught who meet a measure of poverty under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965, exceeds 30 percent of the total number of children taught at such school or location;";

(B) in subparagraph (B), by striking "Head Start Act which" and inserting "Head Start Act, or in a prekindergarten or child care program that is licensed or regulated by the State, that";

(C) in subparagraph (C), by inserting ", including a system administered by an educational service agency" after "secondary school system";

(D) by striking subparagraph (F) and inserting the following:

"(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies, or as a full-time attorney employed in a defender organization established in accordance with section 3006A(g)(2) of title 18, United States Code;";

(E) in subparagraph (H), by striking "or" after the semicolon;

(F) in subparagraph (I), by striking the period and inserting a semicolon; and

(G) by inserting before the matter following subparagraph (I) the following:

"(J) as a full-time fire fighter for service to a local, State, or Federal fire department or fire district;

"(K) as a full-time faculty member at a Tribal College or University, as that term is defined in section 316;

"(L) as a librarian, if the librarian has a master's degree in library science and is employed in—

"(i) an elementary school or secondary school that is eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965; or

"(ii) a public library that serves a geographic area that contains one or more schools eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965; or

"(M) as a full-time speech language pathologist, if the pathologist has a masters degree and is working exclusively with schools that are eligible for assistance under title I of the Elementary and Secondary Education Act of 1965."; and

(2) in paragraph (3)(A)—

(A) in clause (i)—

(i) by inserting "(D)," after "(C),"; and

(ii) by striking "or (I)" and inserting "(I), (J), (K), (L), or (M)";

(B) in clause (ii), by inserting "or" after the semicolon;

(C) by striking clause (iii); and

(D) by redesignating clause (iv) as clause (iii).

**SEC. 466. SENSE OF CONGRESS REGARDING FEDERAL PERKINS LOANS.**

It is the sense of Congress that the Federal Perkins Loan Program, which provides low-interest loans to help needy students finance the costs of postsecondary education, is an important part of Federal student aid, and should remain a campus-based aid program at colleges and universities.

## PART F—NEED ANALYSIS

**SEC. 471. COST OF ATTENDANCE.**

(a) AMENDMENTS.—Section 472(3) (20 U.S.C. 1087ll(3)) is amended—

(1) in subparagraph (B), by striking "and" after the semicolon;

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B), as amended by paragraph (1), the following:

"(C) for students who live in housing located on a military base or for which a basic allowance is provided under section 403(b) of title 37, United States Code, shall be an allowance based on the expenses reasonably incurred by such students for board but not for room; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on July 1, 2010. 20 USC 1087*ll* note.

**SEC. 472. DISCRETION TO MAKE ADJUSTMENTS.**

(a) AMENDMENTS.—Section 479A(a) (as amended by Public Law 110–84) (20 U.S.C. 1087tt(a)) is amended—

(1) by striking "medical or dental expenses" and inserting "medical, dental, or nursing home expenses";

(2) by inserting "or dependent care" after "child care";

(3) by inserting "student or" before "family member who is a dislocated worker"; and

(4) by striking the second to last sentence and inserting the following: "In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator in such cases (1) to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this title, or (2) to offer a dependent student financial assistance under section 428H or a Federal Direct Unsubsidized Stafford Loan without requiring the parents of such student to file the financial aid form prescribed under section 483 if the student financial aid

administrator verifies that the parent or parents of such student have ended financial support of such student and refuse to file such form.".

(b) EFFECTIVE DATE AMENDMENT TO THE COLLEGE COST REDUCTION AND ACCESS ACT.—Section 603(b) of the College Cost Reduction and Access Act (Public Law 110–84) is amended by striking "July 1, 2009" and inserting "the date of enactment of the Higher Education Opportunity Act".

20 USC 1087tt note.

**SEC. 473. DEFINITIONS.**

(a) TOTAL INCOME.—Section 480(a) (as amended by Public Law 110–84) (20 U.S.C. 1087vv(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)";

(B) by inserting "subparagraph (B) and" after "provided in"; and

(C) by adding at the end the following new subparagraph:

"(B) Notwithstanding section 478(a), the Secretary may provide for the use of data from the second preceding tax year when and to the extent necessary to carry out the simplification of applications (including simplification for a subset of applications) used for the estimation and determination of financial aid eligibility. Such simplification may include the sharing of data between the Internal Revenue Service and the Department, pursuant to the consent of the taxpayer."; and

(2) in paragraph (2), by inserting "no portion of veterans' education benefits received by an individual," after "any program by an individual,".

(b) UNTAXED INCOME AND BENEFITS.—Section 480(b)(1)(E) (as amended by Public Law 110–84) (20 U.S.C. 1087vv(b)(1)(E)) is amended by inserting ", except that the value of on-base military housing or the value of basic allowance for housing determined under section 403(b) of title 37, United States Code, received by the parents, in the case of a dependent student, or the student or student's spouse, in the case of an independent student, shall be excluded" before the semicolon.

(c) INDEPENDENT STUDENT.—Section 480(d)(1) (as amended by Public Law 110–84) (20 U.S.C. 1087vv(d)(1)) is amended—

(1) by striking subparagraph (B) and inserting the following:

"(B) is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;"; and

(2) by striking subparagraph (C) and inserting the following:

"(C) is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;".

(d) TREATMENT OF COOPERATIVE EDUCATION WORK INCOME.—Section 480(e) (as amended by Public Law 110–84) (20 U.S.C. 1087vv(e)) is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) any income earned from work under a cooperative education program offered by an institution of higher education;".

(e) OTHER FINANCIAL ASSISTANCE.—Section 480(j)(1) (20 U.S.C. 1087vv(j)(1)) is amended—

(1) by striking "veterans' education benefits as defined in subsection (c), and"; and

(2) by inserting before the period at the end the following: ", but excluding veterans' education benefits as defined in subsection (c)".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2010. 20 USC 1087vv note.

## PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE

### SEC. 481. DEFINITIONS.

Section 481 (20 U.S.C. 1088) is amended—

(1) in subsection (a)(2)(B), by inserting "and that measures program length in credit hours or clock hours" after "baccalaureate degree"; and

(2) by adding at the end the following:

"(e) CONSUMER REPORTING AGENCY.—For purposes of this title, the term 'consumer reporting agency' has the meaning given the term 'consumer reporting agency that compiles and maintains files on consumers on a nationwide basis' in Section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)).

"(f) DEFINITION OF EDUCATIONAL SERVICE AGENCY.—For purposes of parts B, D, and E, the term 'educational service agency' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.".

### SEC. 482. MASTER CALENDAR.

(a) AMENDMENT.—Section 482 (20 U.S.C. 1089) is amended—

(1) in subsection (a)(1), by striking subparagraphs (B) and (C) and inserting the following: Deadlines.

"(B) by March 1: proposed modifications, updates, and notices pursuant to sections 478 and 483(a)(5) published in the Federal Register;

"(C) by June 1: final modifications, updates, and notices pursuant to sections 478 and 483(a)(5) published in the Federal Register;"; and

(2) by adding at the end the following:

"(e) COMPLIANCE CALENDAR.—Prior to the beginning of each award year, the Secretary shall provide to institutions of higher education a list of all the reports and disclosures required under this Act. The list shall include— Deadline. Records.

"(1) the date each report or disclosure is required to be completed and to be submitted, made available, or disseminated;

"(2) the required recipients of each report or disclosure;

"(3) any required method for transmittal or dissemination of each report or disclosure;

"(4) a description of the content of each report or disclosure sufficient to allow the institution to identify the appropriate

individuals to be assigned the responsibility for such report or disclosure;

"(5) references to the statutory authority, applicable regulations, and current guidance issued by the Secretary regarding each report or disclosure; and

"(6) any other information which is pertinent to the content or distribution of the report or disclosure.".

20 USC 1089 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on July 1, 2010.

**SEC. 483. IMPROVEMENTS TO PAPER AND ELECTRONIC FORMS AND PROCESSES.**

(a) COMMON FINANCIAL AID FORM DEVELOPMENT AND PROCESSING.—Section 483 (20 U.S.C. 1090) is amended—

(1) in subsection (a), by striking paragraphs (1) through (7) and inserting the following:

"(1) IN GENERAL.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance under parts A through E (other than subpart 4 of part A). The forms shall be made available to applicants in both paper and electronic formats and shall be referred to as the 'Free Application for Federal Student Aid' or the 'FAFSA'. The Secretary shall work to make the FAFSA consumer-friendly and to make questions on the FAFSA easy for students and families to read and understand, and shall ensure that the FAFSA is available in formats accessible to individuals with disabilities.

"(2) PAPER FORMAT.—

"(A) IN GENERAL.—The Secretary shall develop, make available, and process—

"(i) a paper version of EZ FAFSA, as described in subparagraph (B); and

"(ii) a paper version of the other forms described in this subsection, in accordance with subparagraph (C), for any applicant who does not meet the requirements of or does not wish to use the process described in subparagraph (B).

"(B) EZ FAFSA.—

"(i) IN GENERAL.—The Secretary shall develop and use, after appropriate field testing, a simplified paper form, to be known as the EZ FAFSA, to be used for applicants meeting the requirements of subsection (b) or (c) of section 479.

"(ii) REDUCED DATA REQUIREMENTS.—The EZ FAFSA shall permit an applicant to submit, for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under subsection (b) or (c) of section 479.

"(iii) STATE DATA.—The Secretary shall include on the EZ FAFSA such data items as may be necessary to award State financial assistance, as provided under paragraph (5), except that the Secretary shall not

include a State's data if that State does not permit the State's resident applicants to use the EZ FAFSA for State assistance.

"(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by means of the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (10). Applicability.

"(C) PROMOTING THE USE OF ELECTRONIC FAFSA.—

"(i) IN GENERAL.—The Secretary shall make all efforts to encourage all applicants to utilize the electronic version of the forms described in paragraph (3).

"(ii) MAINTENANCE OF THE FAFSA IN A PRINTABLE ELECTRONIC FILE.—The Secretary shall maintain a version of the paper forms described in subparagraphs (A) and (B) in a printable electronic file that is easily portable, accessible, and downloadable to students on the same website used to provide students with the electronic version of the forms described in paragraph (3).

"(iii) REQUESTS FOR PRINTED COPY.—The Secretary shall provide a printed copy of the full paper version of FAFSA upon request.

"(iv) REPORTING REQUIREMENT.—The Secretary shall maintain data, and periodically report to Congress, on the impact of the digital divide on students completing applications for aid under this title. The Secretary shall report on the steps taken to eliminate the digital divide and reduce production of the paper form described in subparagraph (A). The Secretary's report shall specifically address the impact of the digital divide on the following student populations:

"(I) Independent students.

"(II) Traditionally underrepresented students.

"(III) Dependent students.

"(3) ELECTRONIC FORMAT.—

"(A) IN GENERAL.—The Secretary shall produce, distribute, and process forms in electronic format to meet the requirements of paragraph (1). The Secretary shall develop an electronic version of the forms for applicants who do not meet the requirements of subsection (b) or (c) of section 479.

"(B) SIMPLIFIED APPLICATIONS: FAFSA ON THE WEB.—

"(i) IN GENERAL.—The Secretary shall develop and use a simplified electronic version of the form to be used by applicants meeting the requirements under subsection (b) or (c) of section 479.

"(ii) REDUCED DATA REQUIREMENTS.—The simplified electronic version of the forms shall permit an applicant to submit, for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under subsection (b) or (c) of section 479.

"(iii) USE OF FORMS.—Nothing in this subsection shall be construed to prohibit the use of the forms

developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software provider, a consortium thereof, or such other entities as the Secretary may designate.

"(C) STATE DATA.—The Secretary shall include on the electronic version of the forms such items as may be necessary to determine eligibility for State financial assistance, as provided under paragraph (5), except the Secretary shall not require an applicant to enter data pursuant to this subparagraph that are required by any State other than the applicant's State of residence.

"(D) AVAILABILITY AND PROCESSING.—The data collected by means of the simplified electronic version of the forms shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (10).

"(E) PRIVACY.—The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the forms. Data collected by such electronic version of the forms shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the forms shall be used for making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this title.

"(F) SIGNATURE.—Notwithstanding any other provision of this Act, the Secretary may continue to permit an electronic version of the form under this paragraph to be submitted without a signature, if a signature is subsequently submitted by the applicant or if the applicant uses a personal identification number provided by the Secretary under subparagraph (G).

"(G) PERSONAL IDENTIFICATION NUMBERS AUTHORIZED.—The Secretary may continue to assign to an applicant a personal identification number—

"(i) to enable the applicant to use such number as a signature for purposes of completing an electronic version of a form developed under this paragraph; and

"(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this title.

"(H) PERSONAL IDENTIFICATION NUMBER IMPROVEMENT.—The Secretary shall continue to work with the Commissioner of Social Security to minimize the time required for an applicant to obtain a personal identification number when applying for aid under this title through

an electronic version of a form developed under this paragraph.

"(4) STREAMLINING.—

"(A) STREAMLINED REAPPLICATION PROCESS.—

"(i) IN GENERAL.—The Secretary shall continue to streamline reapplication forms and processes for an applicant who applies for financial assistance under this title in the next succeeding academic year subsequent to an academic year for which such applicant applied for financial assistance under this title.

"(ii) UPDATING OF DATA ELEMENTS.—The Secretary shall determine, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, the data elements that may be transferred from the previous academic year's application and those data elements that shall be updated.

"(iii) REDUCED DATA AUTHORIZED.—Nothing in this title shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

"(iv) ZERO FAMILY CONTRIBUTION.—Applicants determined to have a zero family contribution pursuant to section 479(c) shall not be required to provide any financial data in a reapplication form, except data that are necessary to determine eligibility under such section.

"(B) REDUCTION OF DATA ELEMENTS.—

"(i) REDUCTION ENCOURAGED.—Of the number of data elements on the FAFSA used for the 2009–2010 award year, the Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance and consistent with efforts under subsection (c), shall continue to reduce the number of such data elements required to be entered by all applicants, with the goal of reducing such number by 50 percent.

"(ii) REPORT.—The Secretary shall submit a report on the process of this reduction to each of the authorizing committees by June 30, 2011.

"(5) STATE REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in paragraphs (2)(B)(iii), (3)(B), and (4)(A)(ii), the Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with State agencies in order to assist in the awarding of State financial assistance in accordance with the terms of this subsection. The number of such data items shall not be less than the number included on the form for the 2008–2009 award year unless a State notifies the Secretary that the State no longer requires those data items for the distribution of State need-based aid.

Notification.

"(B) ANNUAL REVIEW.—The Secretary shall conduct an annual review to determine—

"(i) which data items each State requires to award need-based State aid; and

"(ii) if the State will permit an applicant to file a form described in paragraph (2)(B) or (3)(B).

Deadline.

"(C) FEDERAL REGISTER NOTICE.—Beginning with the forms developed under paragraphs (2)(B) and (3)(B) for the award year 2010–2011, the Secretary shall publish on an annual basis a notice in the Federal Register requiring State agencies to inform the Secretary—

"(i) if the State agency is unable to permit applicants to utilize the simplified forms described in paragraphs (2)(B) and (3)(B); and

"(ii) of the State-specific nonfinancial data that the State agency requires for delivery of State need-based financial aid.

"(D) USE OF SIMPLIFIED FORMS ENCOURAGED.—The Secretary shall encourage States to take such steps as are necessary to encourage the use of simplified forms under this subsection, including those forms described in paragraphs (2)(B) and (3)(B), for applicants who meet the requirements of subsection (b) or (c) of section 479.

"(E) CONSEQUENCES IF STATE DOES NOT ACCEPT SIMPLIFIED FORMS.—If a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based financial aid, the Secretary may determine that State-specific questions for such State will not be included on a form described in paragraph (2)(B) or (3)(B). If the Secretary makes such determination, the Secretary shall advise the State of the Secretary's determination.

"(F) LACK OF STATE RESPONSE TO REQUEST FOR INFORMATION.—If a State does not respond to the Secretary's request for information under subparagraph (B), the Secretary shall—

"(i) permit residents of that State to complete simplified forms under paragraphs (2)(B) and (3)(B); and

"(ii) not require any resident of such State to complete any data items previously required by that State under this section.

"(G) RESTRICTION.—The Secretary shall, to the extent practicable, not require applicants to complete any financial or nonfinancial data items that are not required—

"(i) by the applicant's State; or

"(ii) by the Secretary.

"(6) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may be determined only by using a form developed by the Secretary under this subsection. Such forms shall be produced, distributed, and processed by the Secretary, and no parent or student shall be charged a fee by the Secretary, a contractor, a third-party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. No data collected on a form for which a fee is charged shall be used to complete the form prescribed under this section, except that a Federal or State income tax form prepared by

a paid income tax preparer or preparer service for the primary purpose of filing a Federal or State income tax return may be used to complete the form prescribed under this section.

"(7) RESTRICTIONS ON USE OF PIN.—No person, commercial entity, or other entity may request, obtain, or utilize an applicant's personal identification number assigned under paragraph (3)(G) for purposes of submitting a form developed under this subsection on an applicant's behalf.

"(8) APPLICATION PROCESSING CYCLE.—The Secretary shall enable students to submit forms developed under this subsection and initiate the processing of such forms under this subsection, as early as practicable prior to January 1 of the student's planned year of enrollment.

"(9) EARLY ESTIMATES.—The Secretary shall continue to—

"(A) permit applicants to enter data in such forms as described in this subsection in the years prior to enrollment in order to obtain a non-binding estimate of the applicant's family contribution (as defined in section 473);

"(B) permit applicants to update information submitted on forms described in this subsection, without needing to re-enter previously submitted information;

"(C) develop a means to inform applicants, in the years prior to enrollment, of student aid options for individuals in similar financial situations;

"(D) develop a means to provide a clear and conspicuous notice that the applicant's expected family contribution is subject to change and may not reflect the final expected family contribution used to determine Federal student financial aid award amounts under this title; and

"(E) consult with representatives of States, institutions of higher education, and other individuals with experience or expertise in student financial assistance application processes in making updates to forms used to provide early estimates under this paragraph.

"(10) DISTRIBUTION OF DATA.—Institutions of higher education, guaranty agencies, and States shall receive, without charge, the data collected by the Secretary using a form developed under this subsection for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education, guaranty agencies, or States to receive such data shall be subject to all the requirements of this section, unless such requirements are waived by the Secretary.

"(11) THIRD PARTY SERVICERS AND PRIVATE SOFTWARE PROVIDERS.—To the extent practicable and in a timely manner, the Secretary shall provide, to private organizations and consortia that develop software used by institutions of higher education for the administration of funds under this title, all the necessary specifications that the organizations and consortia must meet for the software the organizations and consortia develop, produce, and distribute (including any diskette, modem, or network communications) to be so used. The specifications shall contain record layouts for required data. The Secretary shall develop in advance of each processing cycle

an annual schedule for providing such specifications. The Secretary, to the extent practicable, shall use multiple means of providing such specifications, including conferences and other meetings, outreach, and technical support mechanisms (such as training and printed reference materials). The Secretary shall, from time to time, solicit from such organizations and consortia means of improving the support provided by the Secretary.

"(12) PARENT'S SOCIAL SECURITY NUMBER AND BIRTH DATE.—The Secretary is authorized to include space on the forms developed under this subsection for the social security number and birth date of parents of dependent students seeking financial assistance under this title.";

(2) by striking subsections (b) and (e);

(3) by redesignating subsections (c) and (d) (as amended by section 103(b)(10)) as subsections (b) and (c), respectively;

(4) in subsection (c) (as redesignated by paragraph (3)), by striking "that is authorized" and all that follows through the period at the end and inserting "or other appropriate provider of technical assistance and information on postsecondary educational services for individuals with disabilities, including the National Technical Assistance Center under section 777. The Secretary shall continue to implement, to the extent practicable, a toll-free telephone based system to permit applicants who meet the requirements of subsection (b) or (c) of section 479 to submit an application over such system."; and

Communication and telecommunications.

(5) by adding at the end the following:

"(d) ASSISTANCE IN PREPARATION OF FINANCIAL AID APPLICATION.—

"(1) PREPARATION AUTHORIZED.—Notwithstanding any provision of this Act, an applicant may use a preparer for consultative or preparation services for the completion of a form developed under subsection (a) if the preparer satisfies the requirements of this subsection.

"(2) PREPARER IDENTIFICATION REQUIRED.—If an applicant uses a preparer for consultative or preparation services for the completion of a form developed under subsection (a), and for which a fee is charged, the preparer shall—

"(A) include, at the time the form is submitted to the Department, the name, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer on the applicant's form; and

"(B) be subject to the same penalties as an applicant for purposely giving false or misleading information in the application.

"(3) ADDITIONAL REQUIREMENTS.—A preparer that provides consultative or preparation services pursuant to this subsection shall—

"(A) clearly inform each individual upon initial contact, including contact through the Internet or by telephone, that the FAFSA and EZ FAFSA are free forms that may be completed without professional assistance via paper or electronic version of the forms that are provided by the Secretary;

"(B) include in any advertising clear and conspicuous information that the FAFSA and EZ FAFSA are free forms

that may be completed without professional assistance via paper or electronic version of the forms that are provided by the Secretary;

"(C) if advertising or providing any information on a website, or if providing services through a website, include on the website a link to the website that provides the electronic version of the forms developed under subsection (a); and

"(D) not produce, use, or disseminate any other form for the purpose of applying for Federal student financial aid other than the form developed by the Secretary under subsection (a).

"(4) SPECIAL RULE.—Nothing in this Act shall be construed to limit preparers of the forms required under this title that meet the requirements of this subsection from collecting source information from a student or parent, including Internal Revenue Service tax forms, in providing consultative and preparation services in completing the forms.

"(e) EARLY APPLICATION AND ESTIMATED AWARD DEMONSTRATION PROGRAM.—

"(1) PURPOSE AND OBJECTIVES.—The purpose of the demonstration program under this subsection is to measure the benefits, in terms of student aspirations and plans to attend an institution of higher education, and any adverse effects, in terms of program costs, integrity, distribution, and delivery of aid under this title, of implementing an early application system for all dependent students that allows dependent students to apply for financial aid using information from two years prior to the year of enrollment. Additional objectives associated with implementation of the demonstration program are the following:

"(A) To measure the feasibility of enabling dependent students to apply for Federal, State, and institutional financial aid in their junior year of secondary school, using information from two years prior to the year of enrollment, by completing any of the forms under this subsection.

"(B) To identify whether receiving final financial aid award estimates not later than the fall of the senior year of secondary school provides students with additional time to compete for the limited resources available for State and institutional financial aid and positively impacts the college aspirations and plans of these students.

"(C) To measure the impact of using income information from the years prior to enrollment on—

"(i) eligibility for financial aid under this title and for other State and institutional aid; and

"(ii) the cost of financial aid programs under this title.

"(D) To effectively evaluate the benefits and adverse effects of the demonstration program on program costs, integrity, distribution, and delivery of financial aid.

"(2) PROGRAM AUTHORIZED.—Not later than two years after the date of enactment of the Higher Education Opportunity Act, the Secretary shall implement an early application demonstration program enabling dependent students who wish to participate in the program— Deadlines.

"(A) to complete an application under this subsection during the academic year that is two years prior to the year such students plan to enroll in an institution of higher education; and

"(B) based on the application described in subparagraph (A), to obtain, not later than one year prior to the year of the students' planned enrollment, information on eligibility for Federal Pell Grants, Federal student loans under this title, and State and institutional financial aid for the student's first year of enrollment in the institution of higher education.

Deadline.

"(3) EARLY APPLICATION AND ESTIMATED AWARD.—For all dependent students selected for participation in the demonstration program who submit a completed FAFSA, or, as appropriate, an EZ FAFSA, two years prior to the year such students plan to enroll in an institution of higher education, the Secretary shall, not later than one year prior to the year of such planned enrollment—

"(A) provide each student who completes an early application with an estimated determination of such student's—

"(i) expected family contribution for the first year of the student's enrollment in an institution of higher education; and

"(ii) Federal Pell Grant award for the first such year, based on the maximum Federal Pell Grant award at the time of application; and

"(B) remind the students of the need to update the students' information during the calendar year of enrollment using the expedited reapplication process provided for in subsection (a)(4)(A).

"(4) PARTICIPANTS.—The Secretary shall include as participants in the demonstration program—

"(A) States selected through the application process described in paragraph (5);

"(B) institutions of higher education within the selected States that are interested in participating in the demonstration program, and that can make estimates or commitments of institutional student financial aid, as appropriate, to students the year before the students' planned enrollment date; and

"(C) secondary schools within the selected States that are interested in participating in the demonstration program, and that can commit resources to—

"(i) advertising the availability of the program;

"(ii) identifying students who might be interested in participating in the program;

"(iii) encouraging such students to apply; and

"(iv) participating in the evaluation of the program.

"(5) APPLICATIONS.—Each State that is interested in participating in the demonstration program shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require. The application shall include—

"(A) information on the amount of the State's need-based student financial assistance available, and the eligibility criteria for receiving such assistance;

"(B) a commitment to make, not later than the year before the dependent students participating in the demonstration program plan to enroll in an institution of higher education, an estimate of the award of State financial aid to such dependent students;

"(C) a plan for recruiting institutions of higher education and secondary schools with different demographic characteristics to participate in the program;

"(D) a plan for selecting institutions of higher education and secondary schools to participate in the program that—

"(i) demonstrate a commitment to encouraging students to submit a FAFSA, or, as appropriate, an EZ FAFSA, two years before the students' planned date of enrollment in an institution of higher education;

"(ii) serve different populations of students;

"(iii) in the case of institutions of higher education—

"(I) to the extent possible, are of varying types and sectors; and

"(II) commit to making, not later than the year prior to the year that dependent students participating in the demonstration program plan to enroll in the institution—

"(aa) estimated institutional awards to participating dependent students; and

"(bb) estimated grants or other financial aid available under this title (including supplemental grants under subpart 3 of part A), for all participating dependent students, along with information on State awards, as provided to the institution by the State;

"(E) a commitment to participate in the evaluation conducted by the Secretary; and

"(F) such other information as the Secretary may require.

"(6) SPECIAL PROVISIONS.—

"(A) DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.—A financial aid administrator at an institution of higher education participating in a demonstration program under this subsection may use the discretion provided under section 479A as necessary for students participating in the demonstration program.

"(B) WAIVERS.—The Secretary is authorized to waive, for an institution of higher education participating in the demonstration program, any requirements under this title, or regulations prescribed under this title, that will make the demonstration program unworkable, except that the Secretary shall not waive any provisions with respect to the maximum award amounts for grants and loans under this title.

"(7) OUTREACH.—The Secretary shall make appropriate efforts to notify States of the demonstration program under this subsection. Upon determination of participating States, the Secretary shall continue to make efforts to notify institutions of higher education and dependent students within participating States of the opportunity to participate in the demonstration program and of the participation requirements. Notification.

"(8) EVALUATION.—The Secretary shall conduct a rigorous evaluation of the demonstration program to measure the program's benefits and adverse effects, as the benefits and effects relate to the purpose and objectives of the program described in paragraph (1). In conducting the evaluation, the Secretary shall—

"(A) identify whether receiving financial aid estimates one year prior to the year in which the student plans to enroll in an institution of higher education, has a positive impact on the higher education aspirations and plans of such student;

"(B) measure the extent to which using a student's income information from the year that is two years prior to the student's planned enrollment date had an impact on the ability of States and institutions of higher education to make financial aid awards and commitments;

"(C) determine what operational changes are required to implement the program on a larger scale;

"(D) identify any changes to Federal law that are necessary to implement the program on a permanent basis;

"(E) identify the benefits and adverse effects of providing early estimates on program costs, program operations, program integrity, award amounts, distribution, and delivery of aid; and

"(F) examine the extent to which estimated awards differ from actual awards made to students participating in the program.

"(9) CONSULTATION.—The Secretary shall consult, as appropriate, with the Advisory Committee on Student Financial Assistance established under section 491 on the design, implementation, and evaluation of the demonstration program.

"(f) REDUCTION OF INCOME AND ASSET INFORMATION TO DETERMINE ELIGIBILITY FOR STUDENT FINANCIAL AID.—

"(1) CONTINUATION OF CURRENT FAFSA SIMPLIFICATION EFFORTS.—The Secretary shall continue to examine—

"(A) how the Internal Revenue Service can provide to the Secretary income and other data needed to compute an expected family contribution for taxpayers and dependents of taxpayers, and when in the application cycle the data can be made available;

"(B) whether data provided by the Internal Revenue Service can be used to—

"(i) prepopulate the electronic version of the FAFSA with student and parent taxpayer data; or

"(ii) generate an expected family contribution without additional action on the part of the student and taxpayer; and

"(C) whether the data elements collected on the FAFSA that are needed to determine eligibility for student aid, or to administer the Federal student financial aid programs under this title, but are not needed to compute an expected family contribution, such as information regarding the student's citizenship or permanent residency status, registration for selective service, or driver's license number, can be reduced without adverse effects.

"(2) REPORT ON FAFSA SIMPLIFICATION EFFORTS TO DATE.—Not later than 90 days after the date of enactment of the

Higher Education Opportunity Act, the Secretary shall provide a written report to the authorizing committees on the work the Department has done with the Secretary of the Treasury regarding—

"(A) how the expected family contribution of a student can be calculated using substantially less income and asset information than was used on March 31, 2008;

"(B) the extent to which the reduced income and asset information will result in a redistribution of Federal grants and subsidized loans under this title, State aid, or institutional aid, or in a change in the composition of the group of recipients of such aid, and the amount of such redistribution;

"(C) how the alternative approaches for calculating the expected family contribution will—

"(i) rely mainly, in the case of students and parents who file income tax returns, on information available on the 1040, 1040EZ, and 1040A; and

"(ii) include formulas for adjusting income or asset information to produce similar results to the existing approach with less data;

"(D) how the Internal Revenue Service can provide to the Secretary of Education income and other data needed to compute an expected family contribution for taxpayers and dependents of taxpayers, and when in the application cycle the data can be made available;

"(E) whether data provided by the Internal Revenue Service can be used to—

"(i) prepopulate the electronic version of the FAFSA with student and parent taxpayer data; or

"(ii) generate an expected family contribution without additional action on the part of the student and taxpayer;

"(F) the extent to which the use of income data from two years prior to a student's planned enrollment date will change the expected family contribution computed in accordance with part F, and potential adjustments to the need analysis formula that will minimize the change; and

"(G) the extent to which the data elements collected on the FAFSA on March 31, 2008, that are needed to determine eligibility for student aid or to administer the Federal student financial aid programs, but are not needed to compute an expected family contribution, such as information regarding the student's citizenship or permanent residency status, registration for selective service, or driver's license number, can be reduced without adverse effects.

"(3) STUDY.—

"(A) FORMATION OF STUDY GROUP.—Not later than 90 days after the date of enactment of the Higher Education Opportunity Act, the Comptroller General shall convene a study group the membership of which shall include the Secretary of Education, the Secretary of the Treasury, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, representatives of institutions of higher education with expertise in Federal and State financial aid assistance, State chief

Deadline.

executive officers of higher education with a demonstrated commitment to simplifying the FAFSA, and such other individuals as the Comptroller General and the Secretary of Education may designate.

"(B) STUDY REQUIRED.—The Comptroller General, in consultation with the study group convened under subparagraph (A) shall—

"(i) review and build on the work of the Secretary of Education and the Secretary of the Treasury, and individuals with expertise in analysis of financial need, to assess alternative approaches for calculating the expected family contribution under the statutory need analysis formula in effect on the day before the date of enactment of the Higher Education Opportunity Act and under a new calculation that will use substantially less income and asset information than was used for the 2008–2009 FAFSA;

"(ii) conduct an additional analysis if necessary; and

Recommendations.

"(iii) make recommendations to the authorizing committees.

"(C) OBJECTIVES OF STUDY.—The objectives of the study required under subparagraph (B) are—

"(i) to determine methods to shorten the FAFSA and make the FAFSA easier and less time-consuming to complete, thereby increasing higher education access for low-income students;

"(ii) to identify changes to the statutory need analysis formula that will be necessary to reduce the amount of financial information students and families need to provide to receive a determination of eligibility for student financial aid without causing significant redistribution of Federal grants and subsidized loans under this title; and

"(iii) to review State and institutional needs and uses for data collected on the FAFSA, and to determine the best means of addressing such needs in the case of modification of the FAFSA as described in clause (i), or modification of the need analysis formula as described in clause (ii).

"(D) REQUIRED SUBJECTS OF STUDY.—The study required under subparagraph (B) shall examine—

"(i) with respect to simplification of the financial aid application process using the statutory requirements for need analysis—

"(I) additional steps that can be taken to simplify the financial aid application process for students who (or, in the case of dependent students, whose parents) are not required to file a Federal income tax return for the prior taxable year;

"(II) information on State use of information provided on the FAFSA, including—

"(aa) whether a State uses, as of the time of the study, or can use, a student's expected family contribution based on data from two years prior to the student's planned enrollment date;

"(bb) the extent to which States and institutions will accept the data provided by the Internal Revenue Service to prepopulate the electronic version of the FAFSA to determine the distribution of State and institutional student financial aid funds;

"(cc) what data are used by States, as of the time of the study, to determine eligibility for State student financial aid, and whether the data are used for merit- or need-based aid;

"(dd) whether State data are required by State law, State regulations, or policy directives; and

"(ee) the extent to which any State-specific information requirements can be met by completion of a State application linked to the electronic version of the FAFSA; and

"(III) information on institutional needs, including the extent to which institutions of higher education are already using supplemental forms to collect additional data from students and their families to determine eligibility for institutional funds; and

"(ii) ways to reduce the amount of financial information students and families need to provide to receive a determination of eligibility for student financial aid, taking into account—

"(I) the amount of redistribution of Federal grants and subsidized loans under this title caused by such a reduction, and the benefits to be gained by having an application process that will be easier for students and their families;

"(II) students and families who do not file income tax returns;

"(III) the extent to which the full array of income and asset information collected on the FAFSA, as of the time of the study, plays an important role in the awarding of need-based State financial aid, and whether the State can use an expected family contribution generated by the FAFSA, instead of income and asset information or a calculation with reduced data elements, to support determinations of eligibility for such State aid programs and, if not, what additional information will be needed or what changes to the FAFSA will be required; and

"(IV) information on institutional needs, including the extent to which institutions of higher education are already using supplemental forms to collect additional data from students and their families to determine eligibility for institutional funds; and

"(V) changes to this Act or other laws that will be required to implement a modified need analysis system.

"(4) CONSULTATION.—The Secretary shall consult with the Advisory Committee on Student Financial Assistance established under section 491 as appropriate in carrying out this subsection.

"(5) REPORTS.—

"(A) REPORTS ON STUDY.—The Secretary shall prepare and submit to the authorizing committees—

"(i) not later than one year after the date of enactment of the Higher Education Opportunity Act, an interim report on the progress of the study required under paragraph (3) that includes any preliminary recommendations by the study group established under such paragraph; and

"(ii) not later than two years after the date of enactment of the Higher Education Opportunity Act, a final report on the results of the study required under paragraph (3) that includes recommendations by the study group established under such paragraph.

"(B) REPORTS ON FAFSA SIMPLIFICATION EFFORTS.—The Secretary shall report to the authorizing committees, from time to time, on the progress of the simplification efforts under this subsection.

"(g) ADDRESSING THE DIGITAL DIVIDE.—The Secretary shall utilize savings accrued by moving more applicants to the electronic version of the forms described in subsection (a)(3) to improve access to the electronic version of the forms described in such subsection for applicants meeting the requirements of subsection (b) or (c) of section 479.

"(h) ADJUSTMENTS.—The Secretary shall disclose, on the form notifying a student of the student's expected family contribution, that the student may, on a case-by-case basis, qualify for an adjustment under section 479A to the cost of attendance or the values of the data items required to calculate the expected contribution for the student or parent. Such disclosure shall specify—

"(1) the special circumstances under which a student or family member may qualify for such adjustment; and

"(2) additional information regarding the steps a student or family member may take in order to seek an adjustment under section 479A.".

20 USC 1092 note. Deadlines.

**SEC. 484. MODEL INSTITUTION FINANCIAL AID OFFER FORM.**

(a) MODEL FORMAT.—The Secretary of Education shall—

(1) not later than six months after the date of enactment of the Higher Education Opportunity Act, convene a group of students, families of students, secondary school guidance counselors, representatives of institutions of higher education (including financial aid administrators, registrars, and business officers), and nonprofit consumer groups for the purpose of offering recommendations for improvements that—

(A) can be made to financial aid offer forms; and

(B) include the information described in subsection (b);

(2) develop a model format for financial aid offer forms based on the recommendations of the group; and

Recommendations.

(3) not later than one year after the date of enactment of the Higher Education Opportunity Act—

(A) submit recommendations to the authorizing committees (as defined in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003); and

(B) make the recommendations and model format widely available.

(b) CONTENTS.—The recommendations developed under subsection (a) for model financial aid offer forms shall include, in a consumer-friendly manner that is simple and understandable, the following:

(1) Information on the student's cost of attendance, including the following:

(A) Tuition and fees.

(B) Room and board costs.

(C) Books and supplies.

(D) Transportation.

(2) The amount of financial aid that the student does not have to repay, such as scholarships, grants, and work-study assistance, offered to the student for such year, and the conditions of such financial aid.

(3) The types and amounts of loans under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.) for which the student is eligible for such year, and the applicable terms and conditions of such loans.

(4) The net amount that the student, or the student's family on behalf of the student, will have to pay for the student to attend the institution for such year, equal to—

(A) the cost of attendance for the student for such year; minus

(B) the amount of financial aid described in paragraphs (2) and (3) that is offered in the financial aid offer form.

(5) Where a student or the student's family can seek additional information regarding the financial aid offered.

(6) Any other information the Secretary of Education determines necessary so that students and parents can make informed student loan borrowing decisions.

**SEC. 485. STUDENT ELIGIBILITY.**

(a) AMENDMENTS.—Section 484 (20 U.S.C. 1091) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(B), by striking "number," and all that follows through the semicolon and inserting "number;"; and

(B) in paragraph (5)—

(i) by inserting "or" after "a permanent resident of the United States,"; and

(ii) by striking "citizen or permanent resident" and all that follows through the semicolon and inserting "citizen or permanent resident;";

(2) in subsection (b)(1), by inserting ", or under section 428H pursuant to an exercise of discretion under section 479A" after "428C";

(3) in subsection (d), by adding at the end the following:

"(4) The student shall be determined by the institution of higher education as having the ability to benefit from the education or training offered by the institution of higher education upon satisfactory completion of six credit hours or the

equivalent coursework that are applicable toward a degree or certificate offered by the institution of higher education.";

(4) by striking subsection (j);

(5) by striking subsection (l) and inserting the following: "(l) COURSES OFFERED THROUGH DISTANCE EDUCATION.—

"(1) RELATION TO CORRESPONDENCE COURSES.—

"(A) IN GENERAL.—A student enrolled in a course of instruction at an institution of higher education that is offered principally through distance education and leads to a recognized certificate, or recognized associate, recognized baccalaureate, or recognized graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses.

"(B) EXCEPTION.—An institution of higher education referred to in subparagraph (A) shall not include an institution or school described in section 3(3)(C) of the Carl D. Perkins Career and Technical Education Act of 2006.

"(2) REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive grants, loans, or work assistance under this title shall be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that distance education results in a substantially reduced cost of attendance to such student.

"(3) SPECIAL RULE.—For award years beginning prior to July 1, 2008, the Secretary shall not take any compliance, disallowance, penalty, or other action based on a violation of this subsection against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this title if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.";

(6) by striking subsection (q) and inserting the following: "(q) USE OF INCOME DATA.—

"(1) MATCHING WITH IRS.—The Secretary, in cooperation with the Secretary of the Treasury, is authorized to obtain from the Internal Revenue Service such information reported on Federal income tax returns by applicants, or by any other person whose financial information is required to be provided on the Federal student financial aid application, as the Secretary determines is necessary for the purpose of—

"(A) prepopulating the Federal student financial aid application described in section 483; or

"(B) verifying the information reported on such student financial aid applications.

"(2) CONSENT.—The Secretary may require that applicants for financial assistance under this title provide a consent to the disclosure of the data described in paragraph (1) as a condition of the student receiving assistance under this title. The parents of an applicant, in the case of a dependent student, or the spouse of an applicant, in the case of an applicant who is married but files separately, may also be required to provide consent as a condition of the student receiving assistance under this title.";

(7) in subsection (r)(2)—

(A) in subparagraph (A), by striking "or" at the end of clause (ii);

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) the student successfully passes two unannounced drug tests conducted by a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe in regulations for purposes of subparagraph (A)(i); or";

Criteria. Regulations.

(8) by adding at the end the following:

"(s) STUDENTS WITH INTELLECTUAL DISABILITIES.—

"(1) DEFINITIONS.—In this subsection the terms 'comprehensive transition and postsecondary program for students with intellectual disabilities' and 'student with an intellectual disability' have the meanings given the terms in section 760.

"(2) REQUIREMENTS.—Notwithstanding subsections (a), (c), and (d), in order to receive any grant or work assistance under section 401, subpart 3 of part A, or part C, a student with an intellectual disability shall—

"(A) be enrolled or accepted for enrollment in a comprehensive transition and postsecondary program for students with intellectual disabilities at an institution of higher education;

"(B) be maintaining satisfactory progress in the program as determined by the institution, in accordance with standards established by the institution; and

"(C) meet the requirements of paragraphs (3), (4), (5), and (6) of subsection (a).

"(3) AUTHORITY.—Notwithstanding any other provision of law unless such provision is enacted with specific reference to this section, the Secretary is authorized to waive any statutory provision applicable to the student financial assistance programs under section 401, subpart 3 of part A, or part C (other than a provision of part F related to such a program), or any institutional eligibility provisions of this title, as the Secretary determines necessary to ensure that programs enrolling students with intellectual disabilities otherwise determined to be eligible under this subsection may receive such financial assistance.

Waiver authority.

"(4) REGULATIONS.—Notwithstanding regulations applicable to grant or work assistance awards made under section 401, subpart 3 of part A, and part C (other than a regulation under part F related to such an award), including with respect to eligible programs, instructional time, credit status, and enrollment status as described in section 481, the Secretary shall promulgate regulations allowing programs enrolling students with intellectual disabilities otherwise determined to be eligible under this subsection to receive such awards."; and

(9) by adding after subsection (s) (as added by paragraph (7)) the following:

"(t) DATA ANALYSIS ON ACCESS TO FEDERAL STUDENT AID FOR CERTAIN POPULATIONS.—

"(1) DEVELOPMENT OF THE SYSTEM.—Within one year of enactment of the Higher Education Opportunity Act, the Secretary shall analyze data from the FAFSA containing information regarding the number, characteristics, and circumstances

Deadline.

of students denied Federal student aid based on a drug conviction while receiving Federal aid.

Web site.

"(2) RESULTS FROM ANALYSIS.—The results from the analysis of such information shall be made available on a continuous basis via the Department website and the Digest of Education Statistics.

"(3) DATA UPDATING.—The data analyzed under this subsection shall be updated at the beginning of each award year and at least one additional time during such award year.

"(4) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the authorizing committees, in each fiscal year, a report describing the results obtained by the establishment and operation of the data system authorized by this subsection.".

20 USC 1091 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on July 1, 2010, except that the amendments made by paragraphs (3), (4), and (8) of such subsection shall take effect on the date of enactment of this Act.

**SEC. 486. STATUTE OF LIMITATIONS AND STATE COURT JUDGMENTS.**

Section 484A (20 U.S.C. 1091a) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(3) in collecting any obligation arising from a loan made under part E, an institution of higher education that has an agreement with the Secretary pursuant to section 463(a) shall not be subject to a defense raised by any borrower based on a claim of infancy."; and

(2) by adding at the end the following:

"(d) SPECIAL RULE.—This section shall not apply in the case of a student who is deceased, or to a deceased student's estate or the estate of such student's family. If a student is deceased, then the student's estate or the estate of the student's family shall not be required to repay any financial assistance under this title, including interest paid on the student's behalf, collection costs, or other charges specified in this title.".

**SEC. 487. READMISSION REQUIREMENTS FOR SERVICEMEMBERS.**

Part G of title IV (20 U.S.C. 1088 et seq.) is amended by inserting after section 484B the following:

20 USC 1091c.

**"SEC. 484C. READMISSION REQUIREMENTS FOR SERVICEMEMBERS.**

"(a) DEFINITION OF SERVICE IN THE UNIFORMED SERVICES.—In this section, the term 'service in the uniformed services' means service (whether voluntary or involuntary) on active duty in the Armed Forces, including such service by a member of the National Guard or Reserve, for a period of more than 30 days under a call or order to active duty of more than 30 days.

"(b) DISCRIMINATION AGAINST STUDENTS WHO SERVE IN THE UNIFORMED SERVICES PROHIBITED.—A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform, service in the uniformed services shall not be denied readmission to an institution of higher

education on the basis of that membership, application for membership, performance of service, application for service, or obligation.

"(c) READMISSION PROCEDURES.—

"(1) IN GENERAL.—Any student whose absence from an institution of higher education is necessitated by reason of service in the uniformed services shall be entitled to readmission to the institution of higher education if—

"(A) the student (or an appropriate officer of the Armed Forces or official of the Department of Defense) gives advance written or verbal notice of such service to the appropriate official at the institution of higher education;

"(B) the cumulative length of the absence and of all previous absences from that institution of higher education by reason of service in the uniformed services does not exceed five years; and

"(C) except as otherwise provided in this section, the student submits a notification of intent to reenroll in the institution of higher education in accordance with the provisions of paragraph (4).

"(2) EXCEPTIONS.—

"(A) MILITARY NECESSITY.—No notice is required under paragraph (1)(A) if the giving of such notice is precluded by military necessity, such as—

"(i) a mission, operation, exercise, or requirement that is classified; or

"(ii) a pending or ongoing mission, operation, exercise, or requirement that may be compromised or otherwise adversely affected by public knowledge.

"(B) FAILURE TO GIVE ADVANCE NOTICE.—Any student (or an appropriate officer of the Armed Forces or official of the Department of Defense) who did not give advance written or verbal notice of service to the appropriate official at the institution of higher education in accordance with paragraph (1)(A) may meet the notice requirement by submitting, at the time the student seeks readmission, an attestation to the student's institution of higher education that the student performed service in the uniformed services that necessitated the student's absence from the institution of higher education.

"(3) APPLICABILITY.—This section shall apply to a student who is absent from an institution of higher education by reason of service in the uniformed services if such student's cumulative period of service in the Armed Forces (including the National Guard or Reserve), with respect to the institution of higher education for which a student seeks readmission, does not exceed five years, except that any such period of service shall not include any service—

"(A) that is required, beyond five years, to complete an initial period of obligated service;

"(B) during which such student was unable to obtain orders releasing such student from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such student; or

"(C) performed by a member of the Armed Forces (including the National Guard and Reserves) who is—

"(i) ordered to or retained on active duty under section 688, 12301(a), 12301(g), 12302, 12304, or 12305 of title 10, United States Code, or under section 331, 332, 359, 360, 367, or 712 of title 14, United States Code;

"(ii) ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;

"(iii) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 12304 of title 10, United States Code;

"(iv) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the Armed Forces (including the National Guard or Reserve); or

"(v) called into Federal service as a member of the National Guard under chapter 15 of title 10, United States Code, or section 12406 of title 10, United States Code.

Deadlines.

"(4) NOTIFICATION OF INTENT TO RETURN.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a student referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the institution of higher education of the student's intent to return to the institution not later than three years after the completion of the period of service.

"(B) HOSPITALIZATION OR CONVALESCENCE.—A student who is hospitalized for or convalescing from an illness or injury incurred in or aggravated during the performance of service in the uniformed services shall notify the institution of higher education of the student's intent to return to the institution not later than two years after the end of the period that is necessary for recovery from such illness or injury.

"(C) SPECIAL RULE.—A student who fails to apply for readmission within the period described in this section shall not automatically forfeit such eligibility for readmission to the institution of higher education, but shall be subject to the institution of higher education's established leave of absence policy and general practices.

"(5) DOCUMENTATION.—

"(A) IN GENERAL.—A student who submits an application for readmission to an institution of higher education under this section shall provide to the institution of higher education documentation to establish that—

"(i) the student has not exceeded the service limitations established under this section; and

"(ii) the student's eligibility for readmission has not been terminated due to an exception in subsection (d).

"(B) PROHIBITED DOCUMENTATION DEMANDS.—An institution of higher education may not delay or attempt to avoid a readmission of a student under this section

by demanding documentation that does not exist, or is not readily available, at the time of readmission.

"(6) NO CHANGE IN ACADEMIC STATUS.—A student who is readmitted to an institution of higher education under this section shall be readmitted with the same academic status as such student had when such student last attended the institution of higher education.

"(d) EXCEPTION FROM READMISSION ELIGIBILITY.—A student's eligibility for readmission to an institution of higher education under this section by reason of such student's service in the uniformed services terminates upon the occurrence of any of the following events:

"(1) A separation of such person from the Armed Forces (including the National Guard and Reserves) with a dishonorable or bad conduct discharge.

"(2) A dismissal of such person permitted under section 1161(a) of title 10, United States Code.

"(3) A dropping of such person from the rolls pursuant to section 1161(b) of title 10, United States Code.".

**SEC. 488. INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS.**

(a) INFORMATION DISSEMINATION ACTIVITIES.—Section 485(a) (20 U.S.C. 1092(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)—

(i) by striking "program, and" and inserting "program,"; and

(ii) by inserting ", and (iv) any plans by the institution for improving the academic program of the institution" after "instructional personnel"; and

(B) by striking subparagraph (M) and inserting the following:

"(M) the terms and conditions of the loans that students receive under parts B, D, and E;";

(C) in subparagraph (N), by striking "and" after the semicolon;

(D) in subparagraph (O), by striking the period and inserting a semicolon; and

(E) by adding at the end the following:

"(P) institutional policies and sanctions related to copyright infringement, including—

"(i) an annual disclosure that explicitly informs students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;

"(ii) a summary of the penalties for violation of Federal copyright laws; and

"(iii) a description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in unauthorized distribution of copyrighted materials using the institution's information technology system;

"(Q) student body diversity at the institution, including information on the percentage of enrolled, full-time students who—

"(i) are male;

"(ii) are female;

"(iii) receive a Federal Pell Grant; and

"(iv) are a self-identified member of a major racial or ethnic group;

"(R) the placement in employment of, and types of employment obtained by, graduates of the institution's degree or certificate programs, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement, State data systems, or other relevant sources;

"(S) the types of graduate and professional education in which graduates of the institution's four-year degree programs enrolled, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, State data systems, or other relevant sources;

"(T) the fire safety report prepared by the institution pursuant to subsection (i);

"(U) the retention rate of certificate- or degree-seeking, first-time, full-time, undergraduate students entering such institution; and

"(V) institutional policies regarding vaccinations."; and

(2) by striking paragraph (4) and inserting the following:

"(4) For purposes of this section, institutions may—

"(A) exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

"(B) in cases where the students described in subparagraph (A) represent 20 percent or more of the certificate- or degree-seeking, full-time, undergraduate students at the institution, recalculate the completion or graduation rates of such students by excluding from the calculation described in paragraph (3) the time period such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government."; and

(3) by adding at the end the following:

"(7)(A)(i) Subject to clause (ii), the information disseminated under paragraph (1)(L), or reported under subsection (e), shall be disaggregated by gender, by each major racial and ethnic subgroup, by recipients of a Federal Pell Grant, by recipients of a loan made under part B or D (other than a loan made under section 428H or a Federal Direct Unsubsidized Stafford Loan) who did not receive a Federal Pell Grant, and by recipients of neither a Federal Pell Grant nor a loan made under part B or D (other than a loan made under section 428H or a Federal Direct Unsubsidized Stafford Loan), if the number of students in such subgroup or with such status is sufficient to yield statistically reliable information and

reporting will not reveal personally identifiable information about an individual student. If such number is not sufficient for such purposes, then the institution shall note that the institution enrolled too few of such students to so disclose or report with confidence and confidentiality.

"(ii) The requirements of clause (i) shall not apply to two-year, degree-granting institutions of higher education until academic year 2011-2012.

"(B)(i) In order to assist two-year degree-granting institutions of higher education in meeting the requirements of paragraph (1)(L) and subsection (e), the Secretary, in consultation with the Commissioner for Education Statistics, shall, not later than 90 days after the date of enactment of the Higher Education Opportunity Act, convene a group of representatives from diverse institutions of higher education, experts in the field of higher education policy, state higher education officials, students, and other stakeholders in the higher education community, to develop recommendations regarding the accurate calculation and reporting of the information required to be disseminated or reported under paragraph (1)(L) and subsection (e) by two-year, degree-granting institutions of higher education. In developing such recommendations, the group of representatives shall consider the mission and role of two-year degree-granting institutions of higher education, and may recommend additional or alternative measures of student success for such institutions in light of the mission and role of such institutions. Deadline. Recommendations.

"(ii) The Secretary shall widely disseminate the recommendations required under this subparagraph to two-year, degree-granting institutions of higher education, the public, and the authorizing committees not later than 18 months after the first meeting of the group of representatives convened under clause (i). Deadline.

"(iii) The Secretary shall use the recommendations from the group of representatives convened under clause (i) to provide technical assistance to two-year, degree-granting institutions of higher education in meeting the requirements of paragraph (1)(L) and subsection (e).

"(iv) The Secretary may modify the information required to be disseminated or reported under paragraph (1)(L) or subsection (e) by a two-year, degree-granting institution of higher—

"(I) based on the recommendations received under this subparagraph from the group of representatives convened under clause (i);

"(II) to include additional or alternative measures of student success if the goals of the provisions of paragraph (1)(L) and subsection (e) can be met through additional means or comparable alternatives; and

"(III) during the period beginning on the date of enactment of the Higher Education Opportunity Act, and ending on June 30, 2011.". Time period.

(b) EXIT COUNSELING.—Subsection (b)(1)(A) of section 485 (20 U.S.C. 1092(b)(1)(A)) is amended to read as follows:

"(b) EXIT COUNSELING FOR BORROWERS.—(1)(A) Each eligible institution shall, through financial aid offices or otherwise, provide counseling to borrowers of loans that are made, insured, or guaranteed under part B (other than loans made pursuant to section

428C or loans under section 428B made on behalf of a student) or made under part D (other than Federal Direct Consolidation Loans or Federal Direct PLUS Loans made on behalf of a student) or made under part E of this title prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

"(i) information on the repayment plans available, including a description of the different features of each plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments, under each plan;

"(ii) debt management strategies that are designed to facilitate the repayment of such indebtedness;

"(iii) an explanation that the borrower has the options to prepay each loan, pay each loan on a shorter schedule, and change repayment plans;

"(iv) for any loan forgiveness or cancellation provision of this title, a general description of the terms and conditions under which the borrower may obtain full or partial forgiveness or cancellation of the principal and interest, and a copy of the information provided by the Secretary under section 485(d);

"(v) for any forbearance provision of this title, a general description of the terms and conditions under which the borrower may defer repayment of principal or interest or be granted forbearance, and a copy of the information provided by the Secretary under section 485(d);

"(vi) the consequences of defaulting on a loan, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

"(vii) information on the effects of using a consolidation loan under section 428C or a Federal Direct Consolidation Loan to discharge the borrower's loans under parts B, D, and E, including at a minimum—

"(I) the effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

"(II) the effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;

"(III) the option of the borrower to prepay the loan or to change repayment plans; and

"(IV) that borrower benefit programs may vary among different lenders;

"(viii) a general description of the types of tax benefits that may be available to borrowers; and

"(ix) a notice to borrowers about the availability of the National Student Loan Data System and how the system can be used by a borrower to obtain information on the status of the borrower's loans; and".

(c) DEPARTMENTAL PUBLICATION OF DESCRIPTIONS OF ASSISTANCE PROGRAMS.—Section 485(d) (20 U.S.C. 1092(d)) is amended—

(1) in paragraph (1)—

(A) by inserting after "under this title." the following: "Such information shall also include information on the various payment options available for student loans, including income-sensitive and income-based repayment plans for loans made, insured, or guaranteed under part

B and income-contingent and income-based repayment plans for loans made under part D."; and

(B) by inserting after "tax-exempt organization." the following: "The Secretary shall also provide information on loan forbearance, including the increase in debt that results from capitalization of interest."; and

(2) by adding at the end the following:

"(4) The Secretary shall widely publicize the location of the information described in paragraph (1) among the public, eligible institutions, and eligible lenders, and promote the use of such information by prospective students, enrolled students, families of prospective and enrolled students, and borrowers.". Public information.

(d) DISCLOSURE OF ATHLETICALLY RELATED GRADUATION RATES.—Section 485(e)(3) (20 U.S.C. 1092(e)(3)) is amended to read as follows:

"(3) For purposes of this subsection, institutions may—

"(A) exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

"(B) in cases where the students described in subparagraph (A) represent 20 percent or more of the certificate- or degree-seeking, full-time, undergraduate students at the institution, calculate the completion or graduation rates of such students by excluding from the calculations described in paragraph (1) the time period such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government.".

(e) CRIMINAL OFFENSES REPORTED.—Section 485(f) (20 U.S.C. 1092(f)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting ", other than a foreign institution higher education," after "under this title";

(B) in subparagraph (C), by striking clauses (i) and (ii) and inserting the following:

"(i) the law enforcement authority of campus security personnel;

"(ii) the working relationship of campus security personnel with State and local law enforcement agencies, including whether the institution has agreements with such agencies, such as written memoranda of understanding, for the investigation of alleged criminal offenses; and

"(iii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate law enforcement agencies.";

(C) in subparagraph (F)(ii)—

(i) by striking "clause (i), and" and inserting "clause (i), of larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property, and of"; and

(ii) by inserting a comma after "any person"; and

(D) by adding at the end the following new subparagraph:

"(J) A statement of current campus policies regarding immediate emergency response and evacuation procedures, including the use of electronic and cellular communication (if appropriate), which policies shall include procedures to—

"(i) immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus, as defined in paragraph (6), unless issuing a notification will compromise efforts to contain the emergency;

"(ii) publicize emergency response and evacuation procedures on an annual basis in a manner designed to reach students and staff; and

"(iii) test emergency response and evacuation procedures on an annual basis.";

(2) by redesignating paragraph (15) as paragraph (18); and

(3) by inserting after paragraph (14) the following:

Deadline.
Reports.

"(15) The Secretary shall annually report to the authorizing committees regarding compliance with this subsection by institutions of higher education, including an up-to-date report on the Secretary's monitoring of such compliance.

"(16) The Secretary may seek the advice and counsel of the Attorney General concerning the development, and dissemination to institutions of higher education, of best practices information about campus safety and emergencies.

"(17) Nothing in this subsection shall be construed to permit an institution, or an officer, employee, or agent of an institution, participating in any program under this title to retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual with respect to the implementation of any provision of this subsection.".

(f) REPORT.—Section 485(g)(4) (20 U.S.C. 1092(g)(4)) is amended—

(1) by striking subparagraph (B);

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(3) in subparagraph (B) (as redesignated by paragraph (2)), by striking "and the report to Congress described in subparagraph (B)"; and

(4) in subparagraph (C) (as redesignated by paragraph (2)), by striking "the information reported under subparagraph (B) and".

(g) ADDITIONAL REQUIREMENTS.—Section 485 (20 U.S.C. 1092) is further amended by adding at the end the following new subsections:

"(h) TRANSFER OF CREDIT POLICIES.—

"(1) DISCLOSURE.—Each institution of higher education participating in any program under this title shall publicly disclose, in a readable and comprehensible manner, the transfer of credit policies established by the institution which shall include a statement of the institution's current transfer of credit policies that includes, at a minimum—

"(A) any established criteria the institution uses regarding the transfer of credit earned at another institution of higher education; and

"(B) a list of institutions of higher education with which the institution has established an articulation agreement.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) authorize the Secretary or the National Advisory Committee on Institutional Quality and Integrity to require particular policies, procedures, or practices by institutions of higher education with respect to transfer of credit;

"(B) authorize an officer or employee of the Department to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any institution of higher education, or over any accrediting agency or association;

"(C) limit the application of the General Education Provisions Act; or

"(D) create any legally enforceable right on the part of a student to require an institution of higher education to accept a transfer of credit from another institution.

"(i) DISCLOSURE OF FIRE SAFETY STANDARDS AND MEASURES.—

"(1) ANNUAL FIRE SAFETY REPORTS ON STUDENT HOUSING REQUIRED.—Each eligible institution participating in any program under this title that maintains on-campus student housing facilities shall, on an annual basis, publish a fire safety report, which shall contain information with respect to the campus fire safety practices and standards of that institution, including— Publication.

"(A) statistics concerning the following in each on-campus student housing facility during the most recent calendar years for which data are available:

"(i) the number of fires and the cause of each fire;

"(ii) the number of injuries related to a fire that result in treatment at a medical facility;

"(iii) the number of deaths related to a fire; and

"(iv) the value of property damage caused by a fire;

"(B) a description of each on-campus student housing facility fire safety system, including the fire sprinkler system;

"(C) the number of regular mandatory supervised fire drills;

"(D) policies or rules on portable electrical appliances, smoking, and open flames (such as candles), procedures for evacuation, and policies regarding fire safety education and training programs provided to students, faculty, and staff; and

"(E) plans for future improvements in fire safety, if determined necessary by such institution.

"(2) REPORT TO THE SECRETARY.—Each eligible institution participating in any program under this title shall, on an annual basis, submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(A).

"(3) CURRENT INFORMATION TO CAMPUS COMMUNITY.—Each eligible institution participating in any program under this title shall—

Records.

"(A) make, keep, and maintain a log, recording all fires in on-campus student housing facilities, including the nature, date, time, and general location of each fire; and

Deadline. Reports.

"(B) make annual reports to the campus community on such fires.

Public. information.

"(4) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall—

"(A) make the statistics submitted under paragraph (1)(A) to the Secretary available to the public; and

"(B) in coordination with nationally recognized fire organizations and representatives of institutions of higher education, representatives of associations of institutions of higher education, and other organizations that represent and house a significant number of students—

"(i) identify exemplary fire safety policies, procedures, programs, and practices, including the installation, to the technical standards of the National Fire Protection Association, of fire detection, prevention, and protection technologies in student housing, dormitories, and other buildings;

"(ii) disseminate the exemplary policies, procedures, programs and practices described in clause (i) to the Administrator of the United States Fire Administration;

"(iii) make available to the public information concerning those policies, procedures, programs, and practices that have proven effective in the reduction of fires; and

"(iv) develop a protocol for institutions to review the status of their fire safety systems.

"(5) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) authorize the Secretary to require particular policies, procedures, programs, or practices by institutions of higher education with respect to fire safety, other than with respect to the collection, reporting, and dissemination of information required by this subsection;

"(B) affect section 444 of the General Education Provisions Act (the Family Educational Rights and Privacy Act of 1974) or the regulations issued under section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note);

"(C) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

"(D) establish any standard of care.

"(6) COMPLIANCE REPORT.—The Secretary shall annually report to the authorizing committees regarding compliance with this subsection by institutions of higher education, including an up-to-date report on the Secretary's monitoring of such compliance.

"(7) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding

of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

"(j) MISSING PERSON PROCEDURES.— Notification.

"(1) OPTION AND PROCEDURES.—Each institution of higher education that provides on-campus housing and participates in any program under this title shall—

"(A) establish a missing student notification policy for students who reside in on-campus housing that—

"(i) informs each such student that such student has the option to identify an individual to be contacted by the institution not later than 24 hours after the time that the student is determined missing in accordance with official notification procedures established by the institution under subparagraph (B);

"(ii) provides each such student a means to register confidential contact information in the event that the student is determined to be missing for a period of more than 24 hours;

"(iii) advises each such student who is under 18 years of age, and not an emancipated individual, that the institution is required to notify a custodial parent or guardian not later 24 hours after the time that the student is determined to be missing in accordance with such procedures;

"(iv) informs each such residing student that the institution will notify the appropriate law enforcement agency not later than 24 hours after the time that the student is determined missing in accordance with such procedures; and

"(v) requires, if the campus security or law enforcement personnel has been notified and makes a determination that a student who is the subject of a missing person report has been missing for more than 24 hours and has not returned to the campus, the institution to initiate the emergency contact procedures in accordance with the student's designation; and

"(B) establish official notification procedures for a missing student who resides in on-campus housing that—

"(i) includes procedures for official notification of appropriate individuals at the institution that such student has been missing for more than 24 hours;

"(ii) requires any official missing person report relating to such student be referred immediately to the institution's police or campus security department; and

"(iii) if, on investigation of the official report, such department determines that the missing student has been missing for more than 24 hours, requires—

"(I) such department to contact the individual identified by such student under subparagraph (A)(i);

"(II) if such student is under 18 years of age, and not an emancipated individual, the institution to immediately contact the custodial parent or legal guardian of such student; and

"(III) if subclauses (I) or (II) do not apply to a student determined to be a missing person, inform the appropriate law enforcement agency.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed—

"(A) to provide a private right of action to any person to enforce any provision of this subsection; or

"(B) to create a cause of action against any institution of higher education or any employee of the institution for any civil liability.

"(k) NOTICE TO STUDENTS CONCERNING PENALTIES FOR DRUG VIOLATIONS.—

"(1) NOTICE UPON ENROLLMENT.—Each institution of higher education shall provide to each student, upon enrollment, a separate, clear, and conspicuous written notice that advises the student of the penalties under section 484(r).

"(2) NOTICE AFTER LOSS OF ELIGIBILITY.—An institution of higher education shall provide in a timely manner to each student who has lost eligibility for any grant, loan, or work-study assistance under this title as a result of the penalties listed under 484(r)(1) a separate, clear, and conspicuous written notice that notifies the student of the loss of eligibility and advises the student of the ways in which the student can regain eligibility under section 484(r)(2).

"(l) ENTRANCE COUNSELING FOR BORROWERS.—

"(1) DISCLOSURE REQUIRED PRIOR TO DISBURSEMENT.—

"(A) IN GENERAL.—Each eligible institution shall, at or prior to the time of a disbursement to a first-time borrower of a loan made, insured, or guaranteed under part B (other than a loan made pursuant to section 428C or a loan made on behalf of a student pursuant to section 428B) or made under part D (other than a Federal Direct Consolidation Loan or a Federal Direct PLUS loan made on behalf of a student), ensure that the borrower receives comprehensive information on the terms and conditions of the loan and of the responsibilities the borrower has with respect to such loan in accordance with subparagraph (B). Such information—

"(i) shall be provided in a simple and understandable manner; and

"(ii) may be provided—

"(I) during an entrance counseling session conduction in person;

"(II) on a separate written form provided to the borrower that the borrower signs and returns to the institution; or

"(III) online, with the borrower acknowledging receipt of the information.

"(B) USE OF INTERACTIVE PROGRAMS.—The Secretary shall encourage institutions to carry out the requirements of subparagraph (A) through the use of interactive programs that test the borrower's understanding of the terms and conditions of the borrower's loans under part B or D, using simple and understandable language and clear formatting.

"(2) INFORMATION TO BE PROVIDED.—The information to be provided to the borrower under paragraph (1)(A) shall include the following:

"(A) To the extent practicable, the effect of accepting the loan to be disbursed on the eligibility of the borrower for other forms of student financial assistance.

"(B) An explanation of the use of the master promissory note.

"(C) Information on how interest accrues and is capitalized during periods when the interest is not paid by either the borrower or the Secretary.

"(D) In the case of a loan made under section 428B or 428H, a Federal Direct PLUS Loan, or a Federal Direct Unsubsidized Stafford Loan, the option of the borrower to pay the interest while the borrower is in school.

"(E) The definition of half-time enrollment at the institution, during regular terms and summer school, if applicable, and the consequences of not maintaining half-time enrollment.

"(F) An explanation of the importance of contacting the appropriate offices at the institution of higher education if the borrower withdraws prior to completing the borrower's program of study so that the institution can provide exit counseling, including information regarding the borrower's repayment options and loan consolidation.

"(G) Sample monthly repayment amounts based on—

"(i) a range of levels of indebtedness of—

"(I) borrowers of loans under section 428 or 428H; and

"(II) as appropriate, graduate borrowers of loans under section 428, 428B, or 428H; or

"(ii) the average cumulative indebtedness of other borrowers in the same program as the borrower at the same institution.

"(H) The obligation of the borrower to repay the full amount of the loan, regardless of whether the borrower completes or does not complete the program in which the borrower is enrolled within the regular time for program completion.

"(I) The likely consequences of default on the loan, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation.

"(J) Information on the National Student Loan Data System and how the borrower can access the borrower's records.

"(K) The name of and contact information for the individual the borrower may contact if the borrower has any questions about the borrower's rights and responsibilities or the terms and conditions of the loan.".

**SEC. 489. NATIONAL STUDENT LOAN DATA SYSTEM.**

Section 485B (20 U.S.C. 1092b) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively;

(B) in paragraph (5) (as added by Public Law 101–610), by striking "effectiveness." and inserting "effectiveness;"; and

(C) by redesignating paragraph (5) (as added by Public Law 101–234) as paragraph (6);

(2) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(3) by inserting after subsection (c) the following:

"(d) PRINCIPLES FOR ADMINISTERING THE DATA SYSTEM.—In managing the National Student Loan Data System, the Secretary shall take actions necessary to maintain confidence in the data system, including, at a minimum—

"(1) ensuring that the primary purpose of access to the data system by guaranty agencies, eligible lenders, and eligible institutions of higher education is for legitimate program operations, such as the need to verify the eligibility of a student, potential student, or parent for loans under part B, D, or E;

"(2) prohibiting nongovernmental researchers and policy analysts from accessing personally identifiable information;

"(3) creating a disclosure form for students and potential students that is distributed when such students complete the common financial reporting form under section 483, and as a part of the exit counseling process under section 485(b), that—

"(A) informs the students that any title IV grant or loan the students receive will be included in the National Student Loan Data System, and instructs the students on how to access that information;

"(B) describes the categories of individuals or entities that may access the data relating to such grant or loan through the data system, and for what purposes access is allowed;

"(C) defines and explains the categories of information included in the data system;

"(D) provides a summary of the provisions of section 444 of the General Education Provisions Act (the Family Educational Rights and Privacy Act of 1974) and other applicable Federal privacy statutes, and a statement of the students' rights and responsibilities with respect to such statutes;

"(E) explains the measures taken by the Department to safeguard the students' data; and

"(F) includes other information as determined appropriate by the Secretary;

"(4) requiring guaranty agencies, eligible lenders, and eligible institutions of higher education that enter into an agreement with a potential student, student, or parent of such student regarding a loan under part B, D, or E, to inform the student or parent that such loan shall be—

"(A) submitted to the data system; and

"(B) accessible to guaranty agencies, eligible lenders, and eligible institutions of higher education determined by the Secretary to be authorized users of the data system;

"(5) regularly reviewing the data system to—

"(A) delete inactive users from the data system;

"(B) ensure that the data in the data system are not being used for marketing purposes; and

"(C) monitor the use of the data system by guaranty agencies and eligible lenders to determine whether an agency or lender is accessing the records of students in which the agency or lender has no existing financial interest; and

"(6) developing standardized protocols for limiting access to the data system that include—

"(A) collecting data on the usage of the data system to monitor whether access has been or is being used contrary to the purposes of the data system;

"(B) defining the steps necessary for determining whether, and how, to deny or restrict access to the data system; and

"(C) determining the steps necessary to reopen access to the data system following a denial or restriction of access."; and

(4) by striking subsection (e) (as redesignated by paragraph (1)) and inserting the following:

"(e) REPORTS TO CONGRESS.—

"(1) ANNUAL REPORT.—Not later than September 30 of each fiscal year, the Secretary shall prepare and submit to the authorizing committees a report describing—

"(A) the effectiveness of existing privacy safeguards in protecting student and parent information in the data system;

"(B) the success of any new authorization protocols in more effectively preventing abuse of the data system;

"(C) the ability of the Secretary to monitor how the system is being used, relative to the intended purposes of the data system; and

"(D) any protocols developed under subsection (d)(6) during the preceding fiscal year.

"(2) STUDY.—

"(A) IN GENERAL.—The Secretary shall conduct a study regarding—

"(i) available mechanisms for providing students and parents with the ability to opt in or opt out of allowing eligible lenders to access their records in the National Student Loan Data System; and

"(ii) appropriate protocols for limiting access to the data system, based on the risk assessment required under subchapter III of chapter 35 of title 44, United States Code.

"(B) SUBMISSION OF STUDY.—Not later than three years after the date of enactment of the Higher Education Opportunity Act, the Secretary shall prepare and submit a report on the findings of the study under subparagraph (A) to the authorizing committees.".

**SEC. 490. EARLY AWARENESS OF FINANCIAL AID ELIGIBILITY.**

Part G of title IV (20 U.S.C. 1088 et seq.) is amended by inserting after section 485D (20 U.S.C. 1092c) the following:

**"SEC. 485E. EARLY AWARENESS OF FINANCIAL AID ELIGIBILITY.** 20 USC 1092f.

"(a) IN GENERAL.—The Secretary shall implement, in cooperation with States, institutions of higher education, secondary schools,

early intervention and outreach programs under this title, other agencies and organizations involved in student financial assistance and college access, public libraries, community centers, employers, and businesses, a comprehensive system of early financial aid information in order to provide students and families with early information about financial aid and early estimates of such students' eligibility for financial aid from multiple sources. Such system shall include the activities described in subsection (b).

"(b) COMMUNICATION OF AVAILABILITY OF AID AND AID ELIGIBILITY.—

"(1) STUDENTS WHO RECEIVE BENEFITS.—The Secretary shall—

Notification.

"(A) make special efforts to notify students who receive or are eligible to receive benefits under a Federal means-tested benefit program (including the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.)), or another such benefit program as determined by the Secretary, of such students' potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A; and

"(B) disseminate such informational materials, that are part of the system described in subsection (a), as the Secretary determines necessary.

Notification.

"(2) SECONDARY SCHOOL STUDENTS.—The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, secondary schools, and programs under this title that serve secondary school students, shall make special efforts to notify students in secondary school and their families, as early as possible but not later than such students' junior year of secondary school, of the availability of financial aid under this title and shall provide nonbinding estimates of the amounts of grant and loan aid that an individual may be eligible for under this title upon completion of an application form under section 483(a). The Secretary shall ensure that such information is as accurate as possible and that such information is provided in an age-appropriate format using dissemination mechanisms suitable for students in secondary school.

"(3) ADULT LEARNERS.—The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, employers, workforce investment boards, and public libraries, shall make special efforts to provide individuals who would qualify as independent students, as defined in section 480(d), with information regarding the availability of financial aid under this title and with nonbinding estimates of the amounts of grant and loan aid that an individual may be eligible for under this title upon completion of an application form under section 483(a). The Secretary shall ensure that such information—

"(A) is as accurate as possible;

"(B) includes specific information regarding the availability of financial aid for students qualified as independent students, as defined in section 480(d); and

"(C) uses dissemination mechanisms suitable for adult learners.

"(4) PUBLIC AWARENESS CAMPAIGN.—Not later than two years after the date of enactment of the Higher Education Opportunity Act, the Secretary, in coordination with States, institutions of higher education, early intervention and outreach programs under this title, other agencies and organizations involved in college access and student financial aid, secondary schools, organizations that provide services to individuals that are or were homeless, to individuals in foster care, or to other disconnected individuals, local educational agencies, public libraries, community centers, businesses, employers, employment services, workforce investment boards, and movie theaters, shall implement a public awareness campaign in order to increase national awareness regarding the availability of financial aid under this title. The public awareness campaign shall disseminate accurate information regarding the availability of financial aid under this title and shall be implemented, to the extent practicable, using a variety of media, including print, television, radio, and the Internet. The Secretary shall design and implement the public awareness campaign based upon relevant independent research and the information and dissemination strategies found most effective in implementing paragraphs (1) through (3).". Deadline.

**SEC. 491. DISTANCE EDUCATION DEMONSTRATION PROGRAMS.**

Section 486(f)(3) (20 U.S.C. 1093(f)(3)) is amended—

(1) in subparagraph (B), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly; and

(2) by striking "REPORTS.—" and all that follows through "House of Representatives on an annual basis" and inserting "ANNUAL REPORTS.—The Secretary shall provide reports to the authorizing committees on an annual basis".

**SEC. 492. ARTICULATION AGREEMENTS.**

Part G of title IV is further amended by inserting after section 486 (20 U.S.C. 1093) the following new section:

**"SEC. 486A. ARTICULATION AGREEMENTS.** 20 USC 1093a.

"(a) DEFINITION.—In this section, the term 'articulation agreement' means an agreement between or among institutions of higher education that specifies the acceptability of courses in transfer toward meeting specific degree or program requirements.

"(b) PROGRAM TO ENCOURAGE ARTICULATION AGREEMENTS.—

"(1) PROGRAM ESTABLISHED.—The Secretary shall carry out a program for States, in cooperation with public institutions of higher education, to develop, enhance, and implement comprehensive articulation agreements between or among such institutions in a State, and (to the extent practicable) across State lines, by 2010. Such articulation agreements shall be made widely and publicly available on the websites of States and such institutions. In developing, enhancing, and implementing articulation agreements, States and public institutions of higher education may employ strategies, where applicable, including— Public information. Web site.

"(A) common course numbering;

"(B) a general education core curriculum;

"(C) management systems regarding course equivalency, transfer of credit, and articulation; and

"(D) other strategies identified by the Secretary.

"(2) TECHNICAL ASSISTANCE PROVIDED.—The Secretary shall provide technical assistance to States and public institutions of higher education for the purposes of developing and implementing articulation agreements in accordance with this subsection.

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to articulation agreements.".

**SEC. 493. PROGRAM PARTICIPATION AGREEMENTS.**

(a) PROGRAM PARTICIPATION AGREEMENT REQUIREMENTS.—

(1) VOTER REGISTRATION; 90-10 RULE; CODE OF CONDUCT; DISCIPLINARY PROCEEDINGS; PREFERRED LENDER LISTS; PRIVATE EDUCATION LOAN CERTIFICATION; COPYRIGHTED MATERIAL.—

(A) AMENDMENT.—Section 487(a) (20 U.S.C. 1094(a)) is amended—

(i) in paragraph (23)—

(I) by moving subparagraph (C) two ems to the left; and

(II) by adding at the end the following:

"(D) The institution shall be considered in compliance with the requirements of subparagraph (A) for each student to whom the institution electronically transmits a message containing a voter registration form acceptable for use in the State in which the institution is located, or an Internet address where such a form can be downloaded, if such information is in an electronic message devoted exclusively to voter registration."; and

(ii) by adding at the end the following:

"(24) In the case of a proprietary institution of higher education (as defined in section 102(b)), such institution will derive not less than ten percent of such institution's revenues from sources other than funds provided under this title, as calculated in accordance with subsection (d)(1), or will be subject to the sanctions described in subsection (d)(2).

"(25) In the case of an institution that participates in a loan program under this title, the institution will—

"(A) develop a code of conduct with respect to such loans with which the institution's officers, employees, and agents shall comply, that—

"(i) prohibits a conflict of interest with the responsibilities of an officer, employee, or agent of an institution with respect to such loans; and

"(ii) at a minimum, includes the provisions described in subsection (e);

Web site.

"(B) publish such code of conduct prominently on the institution's website; and

"(C) administer and enforce such code by, at a minimum, requiring that all of the institution's officers, employees, and agents with responsibilities with respect to such loans be annually informed of the provisions of the code of conduct.

"(26) The institution will, upon written request, disclose to the alleged victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), or

a nonforcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

"(27) In the case of an institution that has entered into a preferred lender arrangement, the institution will at least annually compile, maintain, and make available for students attending the institution, and the families of such students, a list, in print or other medium, of the specific lenders for loans made, insured, or guaranteed under this title or private education loans that the institution recommends, promotes, or endorses in accordance with such preferred lender arrangement. In making such list, the institution shall comply with the requirements of subsection (h). Lists.

"(28)(A) The institution will, upon the request of an applicant for a private education loan, provide to the applicant the form required under section 128(e)(3) of the Truth in Lending Act (15 U.S.C. 1638(e)(3)), and the information required to complete such form, to the extent the institution possesses such information.

"(B) For purposes of this paragraph, the term 'private education loan' has the meaning given such term in section 140 of the Truth in Lending Act.

"(29) The institution certifies that the institution— Certification.

"(A) has developed plans to effectively combat the unauthorized distribution of copyrighted material, including through the use of a variety of technology-based deterrents; and

"(B) will, to the extent practicable, offer alternatives to illegal downloading or peer-to-peer distribution of intellectual property, as determined by the institution in consultation with the chief technology officer or other designated officer of the institution.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) with respect to section 487(a)(26) of the Higher Education Act of 1965 (as added by subparagraph (A)) shall apply with respect to any disciplinary proceeding conducted by an institution on or after the day that is one year after the date of enactment of this Act. 20 USC 1094 note.

(b) AUDITS; FINANCIAL RESPONSIBILITY; ENFORCEMENT OF STANDARDS.—Section 487(c)(1)(A)(i) (20 U.S.C. 1094(c)(1)(A)(i)) is amended by inserting before the semicolon at the end the following: ", except that the Secretary may modify the requirements of this clause with respect to institutions of higher education that are foreign institutions, and may waive such requirements with respect to a foreign institution whose students receives less than $500,000 in loans under this title during the award year preceding the audit period".

(c) IMPLEMENTATION OF NON-TITLE IV REVENUE REQUIREMENT; CODE OF CONDUCT; INSTITUTIONAL REQUIREMENTS FOR TEACH-OUTS; INSPECTOR GENERAL REPORT ON GIFT BAN VIOLATIONS; PREFERRED LENDER LIST REQUIREMENTS.—Section 487 (20 U.S.C. 1094) is further amended—

(1) by redesignating subsections (d) and (e) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (c) the following:

"(d) IMPLEMENTATION OF NON-TITLE IV REVENUE REQUIREMENT.—

"(1) CALCULATION.—In making calculations under subsection (a)(24), a proprietary institution of higher education shall—

"(A) use the cash basis of accounting, except in the case of loans described in subparagraph (D)(i) that are made by the proprietary institution of higher education;

"(B) consider as revenue only those funds generated by the institution from—

"(i) tuition, fees, and other institutional charges for students enrolled in programs eligible for assistance under this title;

"(ii) activities conducted by the institution that are necessary for the education and training of the institution's students, if such activities are—

"(I) conducted on campus or at a facility under the control of the institution;

"(II) performed under the supervision of a member of the institution's faculty; and

"(III) required to be performed by all students in a specific educational program at the institution; and

"(iii) funds paid by a student, or on behalf of a student by a party other than the institution, for an education or training program that is not eligible for funds under this title, if the program—

"(I) is approved or licensed by the appropriate State agency;

"(II) is accredited by an accrediting agency recognized by the Secretary; or

"(III) provides an industry-recognized credential or certification;

"(C) presume that any funds for a program under this title that are disbursed or delivered to or on behalf of a student will be used to pay the student's tuition, fees, or other institutional charges, regardless of whether the institution credits those funds to the student's account or pays those funds directly to the student, except to the extent that the student's tuition, fees, or other institutional charges are satisfied by—

"(i) grant funds provided by non-Federal public agencies or private sources independent of the institution;

"(ii) funds provided under a contractual arrangement with a Federal, State, or local government agency for the purpose of providing job training to low-income individuals who are in need of that training;

"(iii) funds used by a student from savings plans for educational expenses established by or on behalf of the student and which qualify for special tax treatment under the Internal Revenue Code of 1986; or

"(iv) institutional scholarships described in subparagraph (D)(iii);

"(D) include institutional aid as revenue to the school only as follows:

"(i) in the case of loans made by a proprietary institution of higher education on or after July 1, 2008 and prior to July 1, 2012, the net present value of such loans made by the institution during the applicable institutional fiscal year accounted for on an accrual basis and estimated in accordance with generally accepted accounting principles and related standards and guidance, if the loans—

"(I) are bona fide as evidenced by enforceable promissory notes;

"(II) are issued at intervals related to the institution's enrollment periods; and

"(III) are subject to regular loan repayments and collections;

"(ii) in the case of loans made by a proprietary institution of higher education on or after July 1, 2012, only the amount of loan repayments received during the applicable institutional fiscal year, excluding repayments on loans made and accounted for as specified in clause (i); and

"(iii) in the case of scholarships provided by a proprietary institution of higher education, only those scholarships provided by the institution in the form of monetary aid or tuition discounts based upon the academic achievements or financial need of students, disbursed during each fiscal year from an established restricted account, and only to the extent that funds in that account represent designated funds from an outside source or from income earned on those funds;

"(E) in the case of each student who receives a loan on or after July 1, 2008, and prior to July 1, 2011, that is authorized under section 428H or that is a Federal Direct Unsubsidized Stafford Loan, treat as revenue received by the institution from sources other than funds received under this title, the amount by which the disbursement of such loan received by the institution exceeds the limit on such loan in effect on the day before the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008; and

"(F) exclude from revenues—

"(i) the amount of funds the institution received under part C, unless the institution used those funds to pay a student's institutional charges;

"(ii) the amount of funds the institution received under subpart 4 of part A;

"(iii) the amount of funds provided by the institution as matching funds for a program under this title;

"(iv) the amount of funds provided by the institution for a program under this title that are required to be refunded or returned; and

"(v) the amount charged for books, supplies, and equipment, unless the institution includes that amount as tuition, fees, or other institutional charges.

"(2) SANCTIONS.—

"(A) INELIGIBILITY.—A proprietary institution of higher education that fails to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years shall be ineligible to participate in the programs authorized by this title for a period of not less than two institutional fiscal years. To regain eligibility to participate in the programs authorized by this title, a proprietary institution of higher education shall demonstrate compliance with all eligibility and certification requirements under section 498 for a minimum of two institutional fiscal years after the institutional fiscal year in which the institution became ineligible.

Termination.

"(B) ADDITIONAL ENFORCEMENT.—In addition to such other means of enforcing the requirements of this title as may be available to the Secretary, if a proprietary institution of higher education fails to meet a requirement of subsection (a)(24) for any institutional fiscal year, then the institution's eligibility to participate in the programs authorized by this title becomes provisional for the two institutional fiscal years after the institutional fiscal year in which the institution failed to meet the requirement of subsection (a)(24), except that such provisional eligibility shall terminate—

"(i) on the expiration date of the institution's program participation agreement under this subsection that is in effect on the date the Secretary determines that the institution failed to meet the requirement of subsection (a)(24); or

"(ii) in the case that the Secretary determines that the institution failed to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years, on the date the institution is determined ineligible in accordance with subparagraph (A).

"(3) PUBLICATION ON COLLEGE NAVIGATOR WEBSITE.—The Secretary shall publicly disclose on the College Navigator website—

"(A) the identity of any proprietary institution of higher education that fails to meet a requirement of subsection (a)(24); and

"(B) the extent to which the institution failed to meet such requirement.

"(4) REPORT TO CONGRESS.—Not later than July 1, 2009, and July 1 of each succeeding year, the Secretary shall submit to the authorizing committees a report that contains, for each proprietary institution of higher education that receives assistance under this title, as provided in the audited financial statements submitted to the Secretary by each institution pursuant to the requirements of subsection (a)(24)—

"(A) the amount and percentage of such institution's revenues received from sources under this title; and

"(B) the amount and percentage of such institution's revenues received from other sources.

"(e) CODE OF CONDUCT REQUIREMENTS.—An institution of higher education's code of conduct, as required under subsection (a)(25), shall include the following requirements:

"(1) BAN ON REVENUE-SHARING ARRANGEMENTS.—

"(A) PROHIBITION.—The institution shall not enter into any revenue-sharing arrangement with any lender.

"(B) DEFINITION.—For purposes of this paragraph, the term 'revenue-sharing arrangement' means an arrangement between an institution and a lender under which—

"(i) a lender provides or issues a loan that is made, insured, or guaranteed under this title to students attending the institution or to the families of such students; and

"(ii) the institution recommends the lender or the loan products of the lender and in exchange, the lender pays a fee or provides other material benefits, including revenue or profit sharing, to the institution, an officer or employee of the institution, or an agent.

"(2) GIFT BAN.—

"(A) PROHIBITION.—No officer or employee of the institution who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or agent who has responsibilities with respect to education loans, shall solicit or accept any gift from a lender, guarantor, or servicer of education loans.

"(B) DEFINITION OF GIFT.—

"(i) IN GENERAL.—In this paragraph, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a de minimus amount. The term includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(ii) EXCEPTIONS.—The term 'gift' shall not include any of the following:

"(I) Standard material, activities, or programs on issues related to a loan, default aversion, default prevention, or financial literacy, such as a brochure, a workshop, or training.

"(II) Food, refreshments, training, or informational material furnished to an officer or employee of an institution, or to an agent, as an integral part of a training session that is designed to improve the service of a lender, guarantor, or servicer of education loans to the institution, if such training contributes to the professional development of the officer, employee, or agent.

"(III) Favorable terms, conditions, and borrower benefits on an education loan provided to a student employed by the institution if such terms, conditions, or benefits are comparable to those provided to all students of the institution.

"(IV) Entrance and exit counseling services provided to borrowers to meet the institution's responsibilities for entrance and exit counseling as required by subsections (b) and (l) of section 485, as long as—

"(aa) the institution's staff are in control of the counseling, (whether in person or via electronic capabilities); and

"(bb) such counseling does not promote the products or services of any specific lender.

"(V) Philanthropic contributions to an institution from a lender, servicer, or guarantor of education loans that are unrelated to education loans or any contribution from any lender, guarantor, or servicer that is not made in exchange for any advantage related to education loans.

"(VI) State education grants, scholarships, or financial aid funds administered by or on behalf of a State.

"(iii) RULE FOR GIFTS TO FAMILY MEMBERS.—For purposes of this paragraph, a gift to a family member of an officer or employee of an institution, to a family member of an agent, or to any other individual based on that individual's relationship with the officer, employee, or agent, shall be considered a gift to the officer, employee, or agent if—

"(I) the gift is given with the knowledge and acquiescence of the officer, employee, or agent; and

"(II) the officer, employee, or agent has reason to believe the gift was given because of the official position of the officer, employee, or agent.

"(3) CONTRACTING ARRANGEMENTS PROHIBITED.—

"(A) PROHIBITION.—An officer or employee who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or an agent who has responsibilities with respect to education loans, shall not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit (including the opportunity to purchase stock) as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender relating to education loans.

"(B) EXCEPTIONS.—Nothing in this subsection shall be construed as prohibiting—

"(i) an officer or employee of an institution who is not employed in the institution's financial aid office and who does not otherwise have responsibilities with respect to education loans, or an agent who does not have responsibilities with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans;

"(ii) an officer or employee of the institution who is not employed in the institution's financial aid office but who has responsibility with respect to education loans as a result of a position held at the institution, or an agent who has responsibility with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans, if the institution has a written conflict of interest policy that clearly sets forth that officers, employees, or agents must recuse themselves from participating in any decision of the board regarding education loans at the institution; or

"(iii) an officer, employee, or contractor of a lender, guarantor, or servicer of education loans from serving on a board of directors, or serving as a trustee, of an institution, if the institution has a written conflict of interest policy that the board member or trustee must recuse themselves from any decision regarding education loans at the institution.

"(4) INTERACTION WITH BORROWERS.—The institution shall not—

"(A) for any first-time borrower, assign, through award packaging or other methods, the borrower's loan to a particular lender; or

"(B) refuse to certify, or delay certification of, any loan based on the borrower's selection of a particular lender or guaranty agency.

"(5) PROHIBITION ON OFFERS OF FUNDS FOR PRIVATE LOANS.—

"(A) PROHIBITION.—The institution shall not request or accept from any lender any offer of funds to be used for private education loans (as defined in section 140 of the Truth in Lending Act), including funds for an opportunity pool loan, to students in exchange for the institution providing concessions or promises regarding providing the lender with—

"(i) a specified number of loans made, insured, or guaranteed under this title;

"(ii) a specified loan volume of such loans; or

"(iii) a preferred lender arrangement for such loans.

"(B) DEFINITION OF OPPORTUNITY POOL LOAN.—In this paragraph, the term 'opportunity pool loan' means a private education loan made by a lender to a student attending the institution or the family member of such a student that involves a payment, directly or indirectly, by such institution of points, premiums, additional interest, or financial support to such lender for the purpose of such lender extending credit to the student or the family.

"(6) BAN ON STAFFING ASSISTANCE.—

"(A) PROHIBITION.—The institution shall not request or accept from any lender any assistance with call center staffing or financial aid office staffing.

"(B) CERTAIN ASSISTANCE PERMITTED.—Nothing in paragraph (1) shall be construed to prohibit the institution from requesting or accepting assistance from a lender related to—

"(i) professional development training for financial aid administrators;

"(ii) providing educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that such materials disclose to borrowers the identification of any lender that assisted in preparing or providing such materials; or

"(iii) staffing services on a short-term, nonrecurring basis to assist the institution with financial aid-related functions during emergencies, including State-declared or federally declared natural disasters,

federally declared national disasters, and other localized disasters and emergencies identified by the Secretary.

"(7) ADVISORY BOARD COMPENSATION.—Any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to education loans or other student financial aid of the institution, and who serves on an advisory board, commission, or group established by a lender, guarantor, or group of lenders or guarantors, shall be prohibited from receiving anything of value from the lender, guarantor, or group of lenders or guarantors, except that the employee may be reimbursed for reasonable expenses incurred in serving on such advisory board, commission, or group.

"(f) INSTITUTIONAL REQUIREMENTS FOR TEACH-OUTS.—

Plans.

"(1) IN GENERAL.—In the event the Secretary initiates the limitation, suspension, or termination of the participation of an institution of higher education in any program under this title under the authority of subsection (c)(1)(F) or initiates an emergency action under the authority of subsection (c)(1)(G) and its prescribed regulations, the Secretary shall require that institution to prepare a teach-out plan for submission to the institution's accrediting agency or association in compliance with section 496(c)(4), the Secretary's regulations on teach-out plans, and the standards of the institution's accrediting agency or association.

"(2) TEACH-OUT PLAN DEFINED.—In this subsection, the term 'teach-out plan' means a written plan that provides for the equitable treatment of students if an institution of higher education ceases to operate before all students have completed their program of study, and may include, if required by the institution's accrediting agency or association, an agreement between institutions for such a teach-out plan.

"(g) INSPECTOR GENERAL REPORT ON GIFT BAN VIOLATIONS.—The Inspector General of the Department shall—

"(1) submit an annual report to the authorizing committees identifying all violations of an institution's code of conduct that the Inspector General has substantiated during the preceding year relating to the gift ban provisions described in subsection (f)(2); and

Public information. Web site.

"(2) make the report available to the public through the Department's website.

"(h) PREFERRED LENDER LIST REQUIREMENTS.—

"(1) IN GENERAL.—In compiling, maintaining, and making available a preferred lender list as required under subsection (a)(27), the institution will—

"(A) clearly and fully disclose on such preferred lender list—

"(i) not less than the information required to be disclosed under section 153(a)(2)(A);

"(ii) why the institution has entered into a preferred lender arrangement with each lender on the preferred lender list, particularly with respect to terms and conditions or provisions favorable to the borrower; and

"(iii) that the students attending the institution, or the families of such students, do not have to borrow from a lender on the preferred lender list;

"(B) ensure, through the use of the list of lender affiliates provided by the Secretary under paragraph (2), that—

"(i) there are not less than three lenders of loans made under part B that are not affiliates of each other included on the preferred lender list and, if the institution recommends, promotes, or endorses private education loans, there are not less than two lenders of private education loans that are not affiliates of each other included on the preferred lender list; and

"(ii) the preferred lender list under this paragraph—

"(I) specifically indicates, for each listed lender, whether the lender is or is not an affiliate of each other lender on the preferred lender list; and

"(II) if a lender is an affiliate of another lender on the preferred lender list, describes the details of such affiliation;

"(C) prominently disclose the method and criteria used by the institution in selecting lenders with which to enter into preferred lender arrangements to ensure that such lenders are selected on the basis of the best interests of the borrowers, including—

"(i) payment of origination or other fees on behalf of the borrower;

"(ii) highly competitive interest rates, or other terms and conditions or provisions of loans under this title or private education loans;

"(iii) high-quality servicing for such loans; or

"(iv) additional benefits beyond the standard terms and conditions or provisions for such loans;

"(D) exercise a duty of care and a duty of loyalty to compile the preferred lender list under this paragraph without prejudice and for the sole benefit of the students attending the institution, or the families of such students;

"(E) not deny or otherwise impede the borrower's choice of a lender or cause unnecessary delay in loan certification under this title for those borrowers who choose a lender that is not included on the preferred lender list; and

"(F) comply with such other requirements as the Secretary may prescribe by regulation.

"(2) LENDER AFFILIATES LIST.—

"(A) IN GENERAL.—The Secretary shall maintain and regularly update a list of lender affiliates of all eligible lenders, and shall provide such list to institutions for use in carrying out paragraph (1)(B).

"(B) USE OF MOST RECENT LIST.—An institution shall use the most recent list of lender affiliates provided by the Secretary under subparagraph (A) in carrying out paragraph (1)(B).".

(d) DEFINITIONS.—Section 487(i) (as redesignated by subsection (c)(1)) (20 U.S.C. 1087(i)) is further amended— 20 USC 1094.

(1) by striking "(i) DEFINITION OF ELIGIBLE INSTITUTION.—For the purpose of this section, the" and inserting the following:

"(i) DEFINITIONS.—For the purpose of this section:

"(1) AGENT.—The term 'agent' has the meaning given the term in section 151.

"(2) AFFILIATE.—The term 'affiliate' means a person that controls, is controlled by, or is under common control with another person. A person controls, is controlled by, or is under common control with another person if—

"(A) the person directly or indirectly, or acting through one or more others, owns, controls, or has the power to vote five percent or more of any class of voting securities of such other person;

"(B) the person controls, in any manner, the election of a majority of the directors or trustees of such other person; or

"(C) the Secretary determines (after notice and opportunity for a hearing) that the person directly or indirectly exercises a controlling interest over the management or policies of such other person's education loans.

"(3) EDUCATION LOAN.—The term 'education loan' has the meaning given the term in section 151.

"(4) ELIGIBLE INSTITUTION.—The"; and

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

"(5) OFFICER.—The term 'officer' has the meaning given the term in section 151.

"(6) PREFERRED LENDER ARRANGEMENT.—The term 'preferred lender arrangement' has the meaning given the term in section 151.".

**SEC. 494. REGULATORY RELIEF AND IMPROVEMENT.**

Section 487A(b) (20 U.S.C. 1094a(b)) is amended—

(1) by amending paragraph (1) to read as follows:

Effective date.

"(1) IN GENERAL.—The Secretary shall continue the voluntary participation of any experimental sites in existence as of July 1, 2007, unless the Secretary determines that such site's participation has not been successful in carrying out the purposes of this section. Any activities approved by the Secretary prior to such date that have not been successful in carrying out the purposes of this section shall be discontinued not later than June 30, 2009.";

Deadline.

(2) in paragraph (2), by striking the matter preceding subparagraph (A) and inserting the following:

"(2) REPORT.—The Secretary shall review and evaluate the experience of institutions participating as experimental sites and shall, on a biennial basis, submit a report based on the review and evaluation to the authorizing committees. Such report shall include—"; and

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking "Upon the submission of the report required by paragraph (2), the" and inserting "The"; and

(ii) by inserting "periodically" after "authorized to";

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (B); and

(D) in subparagraph (B) (as redesignated by subparagraph (C))—

(i) by inserting ", including requirements related to the award process and disbursement of student financial aid (such as innovative delivery systems for modular or compressed courses, or other innovative systems), verification of student financial aid application data, entrance and exit interviews, or other management procedures or processes as determined in the negotiated rulemaking process under section 492" after "requirements in this title";

(ii) by inserting "(other than an award rule related to an experiment in modular or compressed schedules)" after "award rules"; and

(iii) by inserting "unless the waiver of such provisions is authorized by another provision under this title" before the period at the end.

**SEC. 494A. TRANSFER OF ALLOTMENTS.**

Section 488 (20 U.S.C. 1095) is amended in the first sentence—

(1) in paragraph (1), by striking "and" after the semicolon;

(2) in paragraph (2), by striking "413D." and inserting "413D or 462 (or both); and"; and

(3) by adding at the end "(3) transfer 25 percent of the institution's allotment under section 413D to the institution's allotment under section 442.".

**SEC. 494B. PURPOSE OF ADMINISTRATIVE PAYMENTS.**

Section 489(b)(1) (20 U.S.C. 1096(b)(1)) is amended by striking "offsetting the administrative costs of" and inserting "administering".

**SEC. 494C. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.**

(a) AMENDMENTS.—Section 491 (20 U.S.C. 1098) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(D) to provide knowledge and understanding of early intervention programs, and to make recommendations that will result in early awareness by low- and moderate-income students and families—

"(i) of their eligibility for assistance under this title; and

"(ii) to the extent practicable, of their eligibility for other forms of State and institutional need-based student assistance;

"(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions of higher education, and private entities to increase the awareness and the total amount of need-based student assistance available to low- and moderate-income students; and

"(F) to collect information on Federal regulations, and on the impact of Federal regulations on student financial assistance and on the cost of receiving a postsecondary

education, and to make recommendations to help streamline the regulations for institutions of higher education from all sectors.";

(2) by striking subsection (c) and inserting the following new subsection:

"(c) MEMBERSHIP.—(1) The Advisory Committee shall consist of 11 members appointed as follows:

President.

"(A) Four members shall be appointed by the President pro tempore of the Senate, of whom two members shall be appointed from recommendations by the Majority Leader of the Senate, and two members shall be appointed from recommendations by the Minority Leader of the Senate.

"(B) Four members shall be appointed by the Speaker of the House of Representatives, of whom two members shall be appointed from recommendations by the Majority Leader of the House of Representatives, and two members shall be appointed from recommendations by the Minority Leader of the House of Representatives.

"(C) Three members shall be appointed by the Secretary, of whom at least one member shall be a student.

"(2) Each member of the Advisory Committee, with the exception of a student member, shall be appointed on the basis of technical qualifications, professional experience, and demonstrated knowledge in the fields of higher education, student financial aid, financing post-secondary education, and the operations and financing of student loan guarantee agencies.

Effective date. Publication.

"(3) The appointment of a member under subparagraph (A) or (B) of paragraph (1) shall be effective upon publication of such appointment in the Congressional Record.";

(3) in subsection (d)—

(A) in paragraph (6), by striking ", but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses";

(B) in paragraph (8), by striking "and" after the semicolon;

(C) by redesignating paragraph (9) as paragraph (11); and

(D) by inserting after paragraph (8) (as amended by subparagraph (B)) the following:

Deadline. Reports.

"(9) provide an annual report to the authorizing committees that provides analyses and policy recommendations regarding—

"(A) the adequacy of need-based grant aid for low- and moderate-income students; and

"(B) the postsecondary enrollment and graduation rates of low- and moderate-income students;

Clearinghouse.

"(10) develop and maintain an information clearinghouse to help institutions of higher education understand the regulatory impact of the Federal Government on institutions of higher education from all sectors, in order to raise awareness of institutional legal obligations and provide information to improve compliance with, and to reduce the duplication and inefficiency of, Federal regulations; and";

(4) in subsection (e)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking "3" and inserting "4"; and

(B) in paragraph (2), by striking "A member of the Advisory Committee shall" and all that follows through

"on the Advisory Committee." and inserting "A member of the Advisory Committee serving on the date of enactment of the Higher Education Opportunity Act shall be permitted to serve the duration of the member's term, regardless of whether the member was previously appointed to more than one term.";

(5) in subsection (j)—

(A) in paragraph (1)—

(i) by inserting "and simplifications" after "delivery processes"; and

(ii) by striking "including the implementation of a performance-based organization within the Department, and report to Congress regarding such modernization on not less than an annual basis,"; and

(B) by striking paragraphs (4) and (5) and inserting the following:

"(4) conduct a review and analysis of regulations in accordance with subsection (l); and

"(5) conduct a study in accordance with subsection (m).";

(6) in subsection (k), by striking "2004" and inserting "2014"; and

(7) by adding at the end the following:

"(l) REVIEW AND ANALYSIS OF REGULATIONS.—

"(1) RECOMMENDATIONS.—The Advisory Committee shall make recommendations to the Secretary and the authorizing committees for consideration of future legislative action regarding redundant or outdated regulations consistent with the Secretary's requirements under section 498B.

"(2) REVIEW AND ANALYSIS OF REGULATIONS.—

"(A) REVIEW OF CURRENT REGULATIONS.—To meet the requirements of subsection (d)(10), the Advisory Committee shall conduct a review and analysis of the regulations issued by Federal agencies that are in effect at the time of the review and that apply to the operations or activities of institutions of higher education from all sectors. The review and analysis may include a determination of whether the regulation is duplicative, is no longer necessary, is inconsistent with other Federal requirements, or is overly burdensome. In conducting the review, the Advisory Committee shall pay specific attention to evaluating ways in which regulations under this title affecting institutions of higher education (other than institutions described in section 102(a)(1)(C)), that have received in each of the two most recent award years prior to the date of enactment of Higher Education Opportunity Act less than $200,000 in funds through this title, may be improved, streamlined, or eliminated.

"(B) REVIEW AND COLLECTION OF FUTURE REGULATIONS.—The Advisory Committee shall—

"(i) monitor all Federal regulations, including notices of proposed rulemaking, for their impact or potential impact on higher education; and

"(ii) provide a succinct description of each regulation or proposed regulation that is generally relevant to institutions of higher education from all sectors.

"(C) MAINTENANCE OF PUBLIC WEBSITE.—The Advisory Committee shall develop and maintain an easy to use, searchable, and regularly updated website that—

"(i) provides information collected in subparagraph (B);

"(ii) provides an area for the experts and members of the public to provide recommendations for ways in which the regulations may be streamlined; and

"(iii) publishes the study conducted by the National Research Council of the National Academy of Sciences under section 1106 of the Higher Education Opportunity Act.

"(3) CONSULTATION.—

"(A) IN GENERAL.—In carrying out the review, analysis, and development of the website required under paragraph (2), the Advisory Committee shall consult with the Secretary, other Federal agencies, relevant representatives of institutions of higher education, individuals who have expertise and experience with Federal regulations, and the review panels described in subparagraph (B).

"(B) REVIEW PANELS.—The Advisory Committee shall convene not less than two review panels of representatives of the groups involved in higher education, including individuals involved in student financial assistance programs under this title, who have experience and expertise in the regulations issued by the Federal Government that affect all sectors of higher education, in order to review the regulations and to provide recommendations to the Advisory Committee with respect to the review and analysis under paragraph (2). The panels shall be made up of experts in areas such as the operations of the financial assistance programs, the institutional eligibility requirements for the financial assistance programs, regulations not directly related to the operations or the institutional eligibility requirements of the financial assistance programs, and regulations for dissemination of information to students about the financial assistance programs.

"(4) PERIODIC UPDATES TO THE AUTHORIZING COMMITTEES.—The Advisory Committee shall—

Deadline. Reports.

"(A) submit, not later than two years after the completion of the negotiated rulemaking process required under section 492 resulting from the amendments to this Act made by the Higher Education Opportunity Act, a report to the authorizing committees and the Secretary detailing the review panels' findings and recommendations with respect to the review of regulations; and

"(B) provide periodic updates to the authorizing committees regarding—

"(i) the impact of all Federal regulations on all sectors of higher education; and

"(ii) suggestions provided through the website for streamlining or eliminating duplicative regulations.

"(5) ADDITIONAL SUPPORT.—The Secretary and the Inspector General of the Department shall provide such assistance and resources to the Advisory Committee as the Secretary and Inspector General determine are necessary to conduct the review and analysis required by this subsection.

"(m) STUDY OF INNOVATIVE PATHWAYS TO BACCALAUREATE DEGREE ATTAINMENT.—

"(1) STUDY REQUIRED.—The Advisory Committee shall conduct a study of the feasibility of increasing baccalaureate degree attainment rates by reducing the costs and financial barriers to attaining a baccalaureate degree through innovative programs.

"(2) SCOPE OF STUDY.—The Advisory Committee shall examine new and existing programs that promote baccalaureate degree attainment through innovative ways, such as dual or concurrent enrollment programs, changes made to the Federal Pell Grant program, simplification of the needs analysis process, compressed or modular scheduling, articulation agreements, and programs that allow two-year institutions of higher education to offer baccalaureate degrees.

"(3) REQUIRED ASPECTS OF THE STUDY.—In performing the study described in this subsection, the Advisory Committee shall examine the following aspects of such innovative programs:

"(A) The impact of such programs on baccalaureate attainment rates.

"(B) The degree to which a student's total cost of attaining a baccalaureate degree can be reduced by such programs.

"(C) The ways in which low- and moderate-income students can be specifically targeted by such programs.

"(D) The ways in which nontraditional students can be specifically targeted by such programs.

"(E) The cost-effectiveness for the Federal Government, States, and institutions of higher education to implement such programs.

"(4) CONSULTATION.—

"(A) IN GENERAL.—In performing the study described in this subsection, the Advisory Committee shall consult with a broad range of interested parties in higher education, including parents, students, appropriate representatives of secondary schools and institutions of higher education, appropriate State administrators, administrators of dual or concurrent enrollment programs, and appropriate Department officials.

"(B) CONSULTATION WITH THE AUTHORIZING COMMITTEES.—The Advisory Committee shall consult on a regular basis with the authorizing committees in carrying out the study required by this subsection.

"(5) REPORTS TO AUTHORIZING COMMITTEES.—

"(A) INTERIM REPORT.—The Advisory Committee shall prepare and submit to the authorizing committees and the Secretary an interim report, not later than one year after the date of enactment of the Higher Education Opportunity Act, describing the progress made in conducting the study required by this subsection and any preliminary findings on the topics identified under paragraph (2).

"(B) FINAL REPORT.—The Advisory Committee shall, not later than three years after the date of enactment of the Higher Education Opportunity Act, prepare and submit to the authorizing committees and the Secretary a final report on the study, including recommendations

for legislative, regulatory, and administrative changes based on findings related to the topics identified under paragraph (2).".

(b) CONFORMING AMENDMENTS.—Subsections (a)(1), (b), and (d)(6) of section 491 (20 U.S.C. 1098) are each amended by striking "Congress" and inserting "authorizing committees".

**SEC. 494D. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.**

(a) REGIONAL MEETINGS.—Section 492(a) (20 U.S.C. 1098a(a)) is amended—

(1) in paragraph (1), by inserting "State student grant agencies," after "institutions of higher education,"; and

(2) in paragraph (2), by striking ", as amended by the Higher Education Amendments of 1998".

(b) NEGOTIATED RULEMAKING.—Section 492(b)(1) (20 U.S.C. 1098a(b)(1)) is amended—

(1) in the first sentence, by striking "as amended by the Higher Education Amendments of 1998"; and

(2) in the third sentence—

(A) by striking "To the extent possible, the Secretary" and inserting "The Secretary"; and

(B) by inserting "with demonstrated expertise or experience in the relevant subjects under negotiation," after "select individuals".

**SEC. 494E. YEAR 2000 REQUIREMENTS AT THE DEPARTMENT.**

Section 493A (20 U.S.C. 1098c) is repealed.

**SEC. 494F. TECHNICAL AMENDMENT OF INCOME-BASED REPAYMENT.**

Section 493C(b)(1) (20 U.S.C. 1098e(b)(1)) is amended by striking "or is already in default" and inserting "or had been in default".

## PART H—PROGRAM INTEGRITY

**SEC. 495. RECOGNITION OF ACCREDITING AGENCY OR ASSOCIATION.**

Section 496 (20 U.S.C. 1099b) is amended—

(1) in subsection (a)—

(A) by striking paragraph (4) and inserting the following:

"(4)(A) such agency or association consistently applies and enforces standards that respect the stated mission of the institution of higher education, including religious missions, and that ensure that the courses or programs of instruction, training, or study offered by the institution of higher education, including distance education or correspondence courses or programs, are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered; and

"(B) if such agency or association has or seeks to include within its scope of recognition the evaluation of the quality of institutions or programs offering distance education or correspondence education, such agency or association shall, in addition to meeting the other requirements of this subpart, demonstrate to the Secretary that—

"(i) the agency or association's standards effectively address the quality of an institution's distance education

or correspondence education in the areas identified in paragraph (5), except that—

"(I) the agency or association shall not be required to have separate standards, procedures, or policies for the evaluation of distance education or correspondence education institutions or programs in order to meet the requirements of this subparagraph; and

"(II) in the case that the agency or association is recognized by the Secretary, the agency or association shall not be required to obtain the approval of the Secretary to expand its scope of accreditation to include distance education or correspondence education, provided that the agency or association notifies the Secretary in writing of the change in scope; and Notification.

"(ii) the agency or association requires an institution that offers distance education or correspondence education to have processes through which the institution establishes that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the program and receives the academic credit;";

(B) in paragraph (5), by amending subparagraph (A) to read as follows:

"(A) success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of State licensing examinations, consideration of course completion, and job placement rates;";

(C) by striking paragraph (6) and inserting the following:

"(6) such an agency or association shall establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings, which comply with due process procedures that provide— Procedures.

"(A) for adequate written specification of—

"(i) requirements, including clear standards for an institution of higher education or program to be accredited; and

"(ii) identified deficiencies at the institution or program examined;

"(B) for sufficient opportunity for a written response, by an institution or program, regarding any deficiencies identified by the agency or association to be considered by the agency or association—

"(i) within a timeframe determined by the agency or association; and

"(ii) prior to final action in the evaluation and withdrawal proceedings;

"(C) upon the written request of an institution or program, for an opportunity for the institution or program to appeal any adverse action under this section, including denial, withdrawal, suspension, or termination of accreditation, taken against the institution or program, prior to such action becoming final at a hearing before an appeals panel that—

"(i) shall not include current members of the agency's or association's underlying decisionmaking body that made the adverse decision; and

"(ii) is subject to a conflict of interest policy;

"(D) for the right to representation and participation by counsel for an institution or program during an appeal of the adverse action;

"(E) for a process, in accordance with written procedures developed by the agency or association, through which an institution or program, before a final adverse action based solely upon a failure to meet a standard or criterion pertaining to finances, may on one occasion seek review of significant financial information that was unavailable to the institution or program prior to the determination of the adverse action, and that bears materially on the financial deficiencies identified by the agency or association;

"(F) in the case that the agency or association determines that the new financial information submitted by the institution or program under subparagraph (E) meets the criteria of significance and materiality described in such subparagraph, for consideration by the agency or association of the new financial information prior to the adverse action described in such subparagraph becoming final; and

"(G) that any determination by the agency or association made with respect to the new financial information described in subparagraph (E) shall not be separately appealable by the institution or program.";

(2) in subsection (c)—

(A) in paragraph (1), by inserting ", including those regarding distance education" after "their responsibilities";

(B) by redesignating paragraphs (2) through (6) as paragraphs (4) through (8);

(C) by inserting after paragraph (1) (as amended by subparagraph (A)) the following:

"(2) monitors the growth of programs at institutions that are experiencing significant enrollment growth;

"(3) requires an institution to submit for approval to the accrediting agency a teach-out plan upon the occurrence of any of the following events:

"(A) the Department notifies the accrediting agency of an action against the institution pursuant to section 487(f);

"(B) the accrediting agency acts to withdraw, terminate, or suspend the accreditation of the institution; or

"(C) the institution notifies the accrediting agency that the institution intends to cease operations;";

(D) by striking paragraph (7) (as redesignated by subparagraph (B)) and inserting the following:

"(7) makes available to the public and the State licensing or authorizing agency, and submits to the Secretary, a summary of agency or association actions, including—

"(A) the award of accreditation or reaccreditation of an institution;

"(B) final denial, withdrawal, suspension, or termination of accreditation of an institution, and any findings

made in connection with the action taken, together with the official comments of the affected institution; and

"(C) any other adverse action taken with respect to an institution or placement on probation of an institution;";

(E) in paragraph (8) (as redesignated by subparagraph (B)), by striking the period and inserting "; and"; and

(F) by adding at the end the following:

"(9) confirms, as a part of the agency's or association's review for accreditation or reaccreditation, that the institution has transfer of credit policies—

"(A) that are publicly disclosed; and

"(B) that include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.";

(3) in subsection (g), by adding at the end the following: "Nothing in this section shall be construed to permit the Secretary to establish any criteria that specifies, defines, or prescribes the standards that accrediting agencies or associations shall use to assess any institution's success with respect to student achievement.";

(4) in subsection (o), by adding at the end the following: "Notwithstanding any other provision of law, the Secretary shall not promulgate any regulation with respect to the standards of an accreditation agency or association described in subsection (a)(5)."; and

(5) by adding at the end the following new subsection:

"(p) RULE OF CONSTRUCTION.—Nothing in subsection (a)(5) shall be construed to restrict the ability of—

"(1) an accrediting agency or association to set, with the involvement of its members, and to apply, accreditation standards for or to institutions or programs that seek review by the agency or association; or

"(2) an institution to develop and use institutional standards to show its success with respect to student achievement, which achievement may be considered as part of any accreditation review.

"(q) REVIEW OF SCOPE CHANGES.—The Secretary shall require a review, at the next available meeting of the National Advisory Committee on Institutional Quality and Integrity, of any change in scope undertaken by an agency or association under subsection (a)(4)(B)(i)(II) if the enrollment of an institution that offers distance education or correspondence education that is accredited by such agency or association increases by 50 percent or more within any one institutional fiscal year.".

**SEC. 496. ELIGIBILITY AND CERTIFICATION PROCEDURES.**

Section 498 (20 U.S.C. 1099c) is amended—

(1) in subsection (d)(1)(B), by inserting "and" after the semicolon; and

(2) by adding at the end the following:

"(k) TREATMENT OF TEACH-OUTS AT ADDITIONAL LOCATIONS.—

"(1) IN GENERAL.—A location of a closed institution of higher education shall be eligible as an additional location of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, for the purposes of a teach-out described in section 487(f), if such teach-out has been approved by the institution's accrediting agency.

"(2) SPECIAL RULE.—An institution of higher education that conducts a teach-out through the establishment of an additional location described in paragraph (1) shall be permitted to establish a permanent additional location at a closed institution and shall not be required—

"(A) to meet the requirements of sections 102(b)(1)(E) and 102(c)(1)(C) for such additional location; or

"(B) to assume the liabilities of the closed institution.".

**SEC. 497. PROGRAM REVIEW AND DATA.**

Section 498A(b) (20 U.S.C. 1099c–1(b)) is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) in paragraph (5) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(6) provide to an institution of higher education an adequate opportunity to review and respond to any program review report and relevant materials related to the report before any final program review report is issued;

"(7) review and take into consideration an institution of higher education's response in any final program review report or audit determination, and include in the report or determination—

"(A) a written statement addressing the institution of higher education's response;

"(B) a written statement of the basis for such report or determination; and

"(C) a copy of the institution's response; and

"(8) maintain and preserve at all times the confidentiality of any program review report until the requirements of paragraphs (6) and (7) are met, and until a final program review is issued, other than to the extent required to comply with paragraph (5), except that the Secretary shall promptly disclose any and all program review reports to the institution of higher education under review.".

**SEC. 498. REVIEW OF REGULATIONS.**

Section 498B (20 U.S.C. 1099c–2) is amended by striking subsection (d).

## PART I—COMPETITIVE LOAN AUCTION PILOT PROGRAM

**SEC. 499. COMPETITIVE LOAN AUCTION PILOT PROGRAM EVALUATION.**

Section 499 (20 U.S.C. 1099d) is amended—

(1) in subsection (b)(3)—

(A) in subparagraph (B)—

(i) in clause (i), by striking "and" after the semicolon;

(ii) in clause (ii), by striking the period at the end of the sentence and inserting "; and"; and

(iii) by adding at the end the following:

"(iii) a commitment from such eligible lender that, if the lender has a winning bid under subparagraph (F), the lender will enter into the agreement required under subparagraph (G).";

(B) by striking subparagraph (G) and inserting the following:

"(G) AGREEMENT WITH SECRETARY; COMPLIANCE.—

"(i) AGREEMENT.—Each eligible lender having a winning bid under subparagraph (F) shall enter into an agreement with the Secretary under which the eligible lender—

"(I) agrees to originate eligible Federal PLUS Loans under this paragraph to each borrower who—

"(aa) seeks an eligible Federal PLUS Loan under this paragraph to enable a dependent student to attend an institution of higher education within the State;

"(bb) is eligible for an eligible Federal PLUS Loan; and

"(cc) elects to borrow from the eligible lender; and

"(II) agrees to accept a special allowance payment (after the application of section 438(b)(2)(I)(v)) from the Secretary with respect to the eligible Federal PLUS Loans originated under subclause (I) in the amount proposed in the second lowest winning bid described in subparagraph (F) for the applicable State auction.

"(ii) COMPLIANCE.—If an eligible lender with a winning bid under subparagraph (F) fails to enter into the agreement required under clause (i), or fails to comply with the terms of such agreement, the Secretary may sanction such eligible lender through one or more of the following:

"(I) The assessment of a penalty on such eligible lender for any eligible Federal PLUS Loans that such eligible lender fails to originate under this paragraph in accordance with the agreement required under clause (i), in the amount of the additional costs (including the amounts of any increase in special allowance payments) incurred by the Secretary in obtaining another eligible lender to originate such eligible Federal PLUS Loans. The Secretary shall collect such penalty by—

"(aa) reducing the amount of any payments otherwise due to such eligible lender from the Secretary by the amount of the penalty; or

"(bb) requesting any other Federal agency to reduce the amount of any payments due to such eligible lender from such agency by the amount of the penalty, in accordance with section 3716 of title 31, United States Code.

"(II) A prohibition of bidding by such lender in other auctions under this section.

"(III) The limitation, suspension, or termination of such eligible lender's participation in the loan program under part B.

"(IV) Any other enforcement action the Secretary is authorized to take under part B."; and

(C) by striking subparagraph (J) and inserting the following:

"(J) GUARANTEE AGAINST LOSSES.—Each eligible Federal PLUS Loan originated under this paragraph shall be insured by a guaranty agency in accordance with part B, except that, notwithstanding section 428(b)(1)(G), such insurance shall be in an amount equal to 99 percent of the unpaid principal and interest due on the loan."; and

(2) by adding at the end the following new subsections:

"(c) REQUIRED INITIAL EVALUATION.—The Secretary and Secretary of the Treasury shall jointly conduct an evaluation, in consultation with the Office of Management and Budget, the Congressional Budget Office, and the Comptroller General, of the pilot program carried out by the Secretary under this section. The evaluation shall determine—

"(1) the extent of the savings to the Federal Government that are generated through the pilot program, compared to the cost the Federal Government would have incurred in operating the PLUS loan program under section 428B in the absence of the pilot program;

"(2) the number of lenders that participated in the pilot program, and the extent to which the pilot program generated competition among lenders to participate in the auctions under the pilot program;

"(3) the number and volume of loans made under the pilot program in each State;

"(4) the effect of the transition to and operation of the pilot program on the ability of—

"(A) lenders participating in the pilot program to originate loans made through the pilot program smoothly and efficiently;

"(B) institutions of higher education participating in the pilot program to disburse loans made through the pilot program smoothly and efficiently; and

"(C) parents to obtain loans made through the pilot program in a timely and efficient manner;

"(5) the differential impact, if any, of the auction among the States, including between rural and non-rural States; and

"(6) the feasibility of using the mechanism piloted to operate the other loan programs under part B of this title.

"(d) REPORTS.—

"(1) IN GENERAL.—The Secretary and the Secretary of the Treasury shall submit to the authorizing committees—

"(A) not later than September 1, 2010, a preliminary report regarding the findings of the evaluation described in subsection (c);

"(B) not later than September 1, 2012, an interim report regarding such findings; and

"(C) not later than September 1, 2013, a final report regarding such findings.

"(2) CONTENTS.—The Secretary shall include, in each report required under subparagraphs (A), (B), and (C) of paragraph (1), any recommendations, that are based on the findings of the evaluation under subsection (c), for—

"(A) improving the operation and administration of the auction; and

"(B) improving the operation and administration of other loan programs under part B.".

# TITLE V—DEVELOPING INSTITUTIONS

**SEC. 501. AUTHORIZED ACTIVITIES.**

Section 503(b) (20 U.S.C. 1101b(b)) is amended—

(1) by redesignating paragraphs (6), (7), (8), (9), (10), (11), (12), (13), and (14), as paragraphs (7), (8), (9), (10), (11), (12), (13), (14), and (16), respectively;

(2) in paragraph (5), by inserting ", including innovative and customized instruction courses (which may include remedial education and English language instruction) designed to help retain students and move the students rapidly into core courses and through program completion" before the period at the end;

(3) by inserting after paragraph (5) the following:

"(6) Articulation agreements and student support programs designed to facilitate the transfer from two-year to four-year institutions.";

(4) by inserting after paragraph (14) (as redesignated by paragraph (1)) the following:

"(15) Providing education, counseling services, or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under title IV."; and

(5) in paragraph (11) (as redesignated by paragraph (1)), by striking "distance learning academic instruction capabilities" and inserting "distance education technologies".

**SEC. 502. POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS.**

(a) AMENDMENTS.—Title V (20 U.S.C. 1101 et seq.) is amended—

(1) by redesignating part B as part C; 20 USC 1103.

(2) by redesignating sections 511 through 518 as sections 521 through 528, respectively; and 20 USC 1103–1103g.

(3) by inserting after section 505 the following:

## "PART B—PROMOTING POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS

**"SEC. 511. PURPOSES.** 20 USC 1102.

"The purposes of this part are—

"(1) to expand postbaccalaureate educational opportunities for, and improve the academic attainment of, Hispanic students; and

"(2) to expand the postbaccalaureate academic offerings and enhance the program quality in the institutions of higher education that are educating the majority of Hispanic college students and helping large numbers of Hispanic and low-income students complete postsecondary degrees.

20 USC 1102a.

**"SEC. 512. PROGRAM AUTHORITY AND ELIGIBILITY.**

Grants.

"(a) PROGRAM AUTHORIZED.—Subject to the availability of funds appropriated to carry out this part, the Secretary shall award grants, on a competitive basis, to eligible institutions to enable the eligible institutions to carry out the authorized activities described in section 513.

"(b) ELIGIBILITY.—For the purposes of this part, an 'eligible institution' means an institution of higher education that—

"(1) is a Hispanic-serving institution (as defined in section 502); and

"(2) offers a postbaccalaureate certificate or postbaccalaureate degree granting program.

20 USC 1102b.

**"SEC. 513. AUTHORIZED ACTIVITIES.**

"Grants awarded under this part shall be used for one or more of the following activities:

"(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(2) Construction, maintenance, renovation, and improvement of classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

"(3) Purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials.

"(4) Support for low-income postbaccalaureate students including outreach, academic support services, mentoring, scholarships, fellowships, and other financial assistance to permit the enrollment of such students in postbaccalaureate certificate and postbaccalaureate degree granting programs.

"(5) Support of faculty exchanges, faculty development, faculty research, curriculum development, and academic instruction.

"(6) Creating or improving facilities for Internet or other distance education technologies, including purchase or rental of telecommunications technology equipment or services.

"(7) Collaboration with other institutions of higher education to expand postbaccalaureate certificate and postbaccalaureate degree offerings.

"(8) Other activities proposed in the application submitted pursuant to section 514 that—

"(A) contribute to carrying out the purposes of this part; and

"(B) are approved by the Secretary as part of the review and acceptance of such application.

20 USC 1102c.

**"SEC. 514. APPLICATION AND DURATION.**

"(a) APPLICATION.—Any eligible institution may apply for a grant under this part by submitting an application to the Secretary at such time and in such manner as the Secretary may require. Such application shall demonstrate how the grant funds will be used to improve postbaccalaureate education opportunities for Hispanic and low-income students.

"(b) DURATION.—Grants under this part shall be awarded for a period not to exceed five years.

"(c) LIMITATION.—The Secretary may not award more than one grant under this part in any fiscal year to any Hispanic-serving institution.".

(b) CONFORMING AMENDMENTS.—Title V (20 U.S.C. 1101 et seq.) is amended—

(1) in section 502— 20 USC 1101a.

(A) in subsection (a)(2)(A)(ii), by striking "section 512(b)" and inserting "section 522(b)"; and

(B) in subsection (b)(2), by striking "section 512(a)" and inserting "section 522(a)";

(2) in section 521(c)(6) (as redesignated by subsection (a)(2)), by striking "section 516" and inserting "section 526"; and 20 USC 1103.

(3) in section 526 (as redesignated by subsection (a)(2)), by striking "section 518" and inserting "section 528". 20 USC 1103e.

**SEC. 503. APPLICATIONS.**

Section 521(b)(1)(A) (as redesignated by section 502(a)(2)) (20 U.S.C. 1103(b)(1)(A)) is amended by striking "subsection (b)" and inserting "subsection (c)".

**SEC. 504. COOPERATIVE ARRANGEMENTS.**

Section 524(a) (as redesignated by section 502(a)(2)) (20 U.S.C. 1103c(a)) is amended by striking "section 503" and inserting "sections 503 and 513".

**SEC. 505. AUTHORIZATION OF APPROPRIATIONS.**

Section 528(a) (as redesignated by section 502(a)(2)) (20 U.S.C. 1103g(a)) is amended to read as follows:

"(a) AUTHORIZATIONS.—

"(1) PARTS A AND C.—There are authorized to be appropriated to carry out parts A and C $175,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

"(2) PART B.—There are authorized to be appropriated to carry out part B $100,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.".

# TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

**SEC. 601. FINDINGS; PURPOSES; CONSULTATION; SURVEY.**

Section 601 (20 U.S.C. 1121) is amended—

(1) in the section heading, by striking "**AND PURPOSES**" and inserting "**; PURPOSES; CONSULTATION; SURVEY**";

(2) in subsection (a)(3), by striking "post-Cold War";

(3) in subsection (b)(1)(D), by inserting ", including through linkages with overseas institutions" before the semicolon; and

(4) by adding at the end the following:

"(c) CONSULTATION.—

"(1) IN GENERAL.—The Secretary shall, prior to requesting applications for funding under this title during each grant cycle, consult with and receive recommendations regarding national need for expertise in foreign languages and world

regions from the head officials of a wide range of Federal agencies.

"(2) CONSIDERING RECOMMENDATIONS; PROVIDING INFORMATION.—The Secretary—

"(A) may take into account the recommendations described in paragraph (1); and

"(B) shall—

"(i) provide information collected under paragraph (1) when requesting applications for funding under this title; and

"(ii) make available to applicants a list of areas identified as areas of national need.

"(d) SURVEY.—The Secretary shall assist grantees in developing a survey to administer to students who have completed programs under this title to determine postgraduate employment, education, or training. All grantees, where applicable, shall administer such survey once every two years and report survey results to the Secretary.".

Deadline.
Reports.

**SEC. 602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS AND PROGRAMS.**

Section 602 (20 U.S.C. 1122) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following:

Grants.

"(A) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education or consortia of such institutions for the purpose of establishing, strengthening, and operating—

"(i) comprehensive foreign language and area or international studies centers and programs; and

"(ii) a diverse network of undergraduate foreign language and area or international studies centers and programs.";

(B) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (G);

(ii) by striking the period at the end of subparagraph (H) and inserting a semicolon; and

(iii) by inserting after subparagraph (H) the following new subparagraphs:

"(I) supporting instructors of the less commonly taught languages; and

"(J) projects that support students in the science, technology, engineering, and mathematics fields to achieve foreign language proficiency."; and

(C) in paragraph (4)—

(i) in subparagraph (C)—

(I) by striking "Programs of linkage or outreach" and inserting "Partnerships or programs of linkage and outreach"; and

(II) by inserting ", including Federal or State scholarship programs for students in related areas" before the period at the end;

(ii) in subparagraph (E)—

(I) by striking "foreign area" and inserting "area studies";

(II) by striking "of linkage and outreach"; and

(III) by striking "(C), and (D)" and inserting "(D), and (E)";

(iii) by redesignating subparagraphs (C) through (E) (as so amended) as subparagraphs (D) through (F), respectively; and

(iv) by inserting after subparagraph (B) the following:

"(C) Programs of linkage or outreach between or among—

"(i) postsecondary programs or departments in foreign language, area studies, or other international fields; and

"(ii) State educational agencies or local educational agencies.";

(2) in subsection (b)—

(A) in the subsection heading, by striking "GRADUATE"; and

(B) by striking paragraph (2) and inserting the following:

"(2) ELIGIBLE STUDENTS.—A student receiving a stipend described in paragraph (1) shall be engaged—

"(A) in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program; and

"(B)(i) in the case of an undergraduate student, in the intermediate or advanced study of a less commonly taught language; or

"(ii) in the case of a graduate student, in graduate study in connection with a program described in subparagraph (A), including—

"(I) predissertation level study;

"(II) preparation for dissertation research;

"(III) dissertation research abroad; or

"(IV) dissertation writing."; and

(3) by striking subsection (d) and inserting the following:

"(d) ALLOWANCES.—

"(1) GRADUATE LEVEL RECIPIENTS.—A stipend awarded to a graduate level recipient may include allowances for dependents and for travel for research and study in the United States and abroad.

"(2) UNDERGRADUATE LEVEL RECIPIENTS.—A stipend awarded to an undergraduate level recipient may include an allowance for educational programs in the United States or educational programs abroad that—

"(A) are closely linked to the overall goals of the recipient's course of study; and

"(B) have the purpose of promoting foreign language fluency and knowledge of foreign cultures.

"(e) APPLICATION.—Each institution of higher education or consortium of such institutions desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may require. Each such application shall include—

"(1) an explanation of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs; and

"(2) a description of how the applicant will encourage government service in areas of national need, as identified by the Secretary, as well as in areas of need in the education, business, and nonprofit sectors.".

**SEC. 603. LANGUAGE RESOURCE CENTERS.**

Section 603(c) (20 U.S.C. 1123(c)) is amended by inserting "reflect the purposes of this part and" after "shall".

**SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.**

Section 604 (20 U.S.C. 1124) is amended—

(1) in subsection (a)(1), by striking "combinations" each place it appears and inserting "consortia";

(2) in subsection (a)(2)—

(A) in subparagraph (B), by amending clause (ii) to read as follows:

"(ii) pre-service teacher training and in-service teacher professional development;";

(B) by redesignating subparagraphs (I) through (M) as subparagraphs (J) through (N), respectively; and

(C) by inserting after subparagraph (H) the following new subparagraph:

"(I) the provision of grants for educational programs abroad that—

"(i) are closely linked to the program's overall goals; and

"(ii) have the purpose of promoting foreign language fluency and knowledge of world regions;";

(3) in subsection (a)(4)(B), by inserting "that demonstrates a need for a waiver or reduction" before the period at the end;

(4) in subsection (a)(6), by inserting "reflect the purposes of this part and" after "shall";

(5) in subsection (a)(7)—

(A) in subparagraph (C), by striking "and" after the semicolon;

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(E) a description of how the applicant will provide information to students regarding federally funded scholarship programs in related areas;

"(F) an explanation of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, where applicable; and

"(G) a description of how the applicant will encourage service in areas of national need, as identified by the Secretary."; and

(6) in subsection (c)—

(A) by striking "(c) FUNDING SUPPORT.—The Secretary" and inserting the following:

"(c) FUNDING SUPPORT.—

"(1) IN GENERAL.—The Secretary";

(B) by striking "10" and inserting "20"; and

(C) by adding at the end the following:

"(2) GRANTEES.—Of the total amount of grant funds awarded to a grantee under this section, the grantee may use not more than ten percent of such funds for the activity described in subsection (a)(2)(I).".

**SEC. 605. RESEARCH; STUDIES.**

Section 605(a) (20 U.S.C. 1125(a)) is amended—

(1) in paragraph (8), by striking "and" after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(10) evaluation of the extent to which programs assisted under this title reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, as described in the grantee's application;

"(11) the systematic collection, analysis, and dissemination of data that contribute to achieving the purposes of this part; and

"(12) support for programs or activities to make data collected, analyzed, or disseminated under this section publicly available and easy to understand.".

**SEC. 606. TECHNOLOGICAL INNOVATION AND COOPERATION FOR FOREIGN INFORMATION ACCESS.**

Section 606 (20 U.S.C. 1126) is amended—

(1) in subsection (a)—

(A) by striking "or consortia of such institutions or libraries" and inserting "or partnerships between such institutions and other such institutions, libraries, or nonprofit educational organizations";

(B) by striking "new electronic technologies" and inserting "electronic technologies";

(C) by inserting "from foreign sources" after "disseminate information";

(D) by striking "(a) AUTHORITY.— The Secretary" and inserting the following:

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary"; and

(E) by adding at the end the following:

"(2) GRANT RECIPIENTS.—The Secretary may award grants under this section to carry out the activities authorized under this section to the following:

"(A) An institution of higher education.

"(B) A public or nonprofit private library.

"(C) A partnership of an institution of higher education and one or more of the following:

"(i) Another institution of higher education.

"(ii) A library.

"(iii) A nonprofit educational organization.";

(2) in subsection (b)—

(A) in paragraph (1), by striking "to facilitate access to" and inserting "to acquire, facilitate access to,";

(B) in paragraph (3), by inserting "or standards for" after "means of";

(C) in paragraph (6), by striking "and" after the semicolon;

(D) in paragraph (7), by striking the period and inserting a semicolon; and

(E) by adding at the end the following:

"(8) to establish linkages to facilitate carrying out the activities described in this subsection between—

"(A) the institutions of higher education, libraries, and partnerships receiving grants under this section; and

"(B) institutions of higher education, nonprofit educational organizations, and libraries overseas; and

"(9) to carry out other activities that the Secretary determines are consistent with the purpose of the grants awarded under this section."; and

(3) in subsection (c), by striking "institution or consortium" and inserting "institution of higher education, library, or partnership".

**SEC. 607. SELECTION OF CERTAIN GRANT RECIPIENTS.**

Section 607 (20 U.S.C. 1127) is amended—

(1) in subsection (a), by striking "evaluates the applications for comprehensive and undergraduate language and area centers and programs." and inserting "evaluates—

"(1) the applications for comprehensive foreign language and area or international studies centers and programs; and

"(2) the applications for undergraduate foreign language and area or international studies centers and programs."; and

(2) in subsection (b), by adding at the end the following: "In keeping with the purposes of this part, the Secretary shall take into account the degree to which activities of centers, programs, and fellowships at institutions of higher education address national needs, and generate information for and disseminate information to the public. The Secretary shall also consider an applicant's record of placing students into postgraduate employment, education, or training in areas of national need and an applicant's stated efforts to increase the number of such students that go into such placements.".

**SEC. 608. AMERICAN OVERSEAS RESEARCH CENTERS.**

Section 609 (20 U.S.C. 1128a) is amended by adding at the end the following:

"(e) APPLICATION.—Each center desiring to receive a grant or contract under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may require.".

**SEC. 609. AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL AND FOREIGN LANGUAGE STUDIES.**

Section 610 (20 U.S.C. 1128b) is amended—

(1) by striking "$80,000,000" and inserting "such sums as may be necessary";

(2) by striking "1999" and inserting "2009"; and

(3) by striking "4" and inserting "five".

**SEC. 610. CONFORMING AMENDMENTS.**

(a) Sections 603(a), 604(a)(5), and 612 (20 U.S.C. 1123(a), 1124(a)(5), 1130–1) are each amended by striking "combinations" each place it appears and inserting "consortia".

(b) Section 612 (20 U.S.C. 1130–1) is further amended by striking "combination" each place it appears and inserting "consortium".

**SEC. 611. BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS.**

(a) CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.—Section 612 (20 U.S.C. 1130–1) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

"(1) PURPOSE.—The purpose of this section is to coordinate the programs of the Federal Government in the areas of research, education, and training in international business and trade competitiveness.";

(2) in subsection (c)(2)——

(A) in subparagraph (E), by inserting "(including those that are eligible to receive assistance under part A or B of title III or under title V)" after "other institutions of higher education";

(B) by striking "and" at the end of subparagraph (E);

(C) by redesignating subparagraph (F) as subparagraph (G); and

(D) by inserting the following new subparagraph after subparagraph (E):

"(F) programs encouraging the advancement and understanding of technology-related disciplines, including manufacturing software systems and technology management; and"; and

(3) in subsection (f)(3), by inserting ", and that diverse perspectives will be made available to students in programs under this section" before the semicolon.

(b) EDUCATION AND TRAINING PROGRAMS.—Section 613(c) (20 U.S.C. 1130a(c)) is amended by adding at the end the following: "Each such application shall include an assurance that, where applicable, the activities funded by the grant will reflect diverse perspectives and a wide range of views on world regions and international affairs.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 614 (20 U.S.C. 1130b) is amended—

(1) in subsection (a)—

(A) by striking "$11,000,000" and inserting "such sums as may be necessary";

(B) by striking "1999" and inserting "2009"; and

(C) by striking "4" and inserting "five"; and

(2) in subsection (b)—

(A) by striking "$7,000,000" and inserting "such sums as may be necessary";

(B) by striking "1999" and inserting "2009"; and

(C) by striking "4" and inserting "five".

**SEC. 612. MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM.**

Section 621 (20 U.S.C. 1131) is amended—

(1) in subsection (a), by striking the second sentence and inserting the following: "The Institute shall conduct a program to enhance the international competitiveness of the United

States by increasing the participation of underrepresented populations in the international service, including private international voluntary organizations and the foreign service of the United States.";

(2) in subsection (b)(1)—

(A) by striking subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (A) the following:

"(B) A tribally controlled college or university or Alaska Native or Native Hawaiian-serving institution eligible for assistance under part A or B of title III, or an institution eligible for assistance under title V.

"(C) An institution of higher education that serves substantial numbers of underrepresented minority students."; and

(3) in subsection (c)—

(A) by striking "(c) APPLICATION.—Each" and inserting the following:

"(c) APPLICATION.—

"(1) IN GENERAL.—Each"; and

(B) by adding at the end the following:

"(2) CONTENT OF APPLICATION.—Each application submitted under paragraph (1) shall include a description of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, where applicable.".

**SEC. 613. INSTITUTIONAL DEVELOPMENT.**

Section 622 (20 U.S.C. 1131–1) is amended—

(1) in subsection (a)—

(A) by striking "Tribally Controlled Colleges or Universities" and inserting "tribally controlled colleges or universities"; and

(B) by striking "international affairs programs." and inserting "international affairs, international business, and foreign language study programs, including the teaching of foreign languages, at such colleges, universities, and institutions, respectively, which may include collaboration with institutions of higher education that receive funding under this title"; and

(2) in subsection (c)—

(A) by striking paragraphs (1) and (3);

(B) by redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated by subparagraph (B)), by inserting "and" after the semicolon.

**SEC. 614. STUDY ABROAD PROGRAM.**

Section 623(a) (20 U.S.C. 1131a(a)) is amended—

(1) by striking "as defined in section 322 of this Act"; and

(2) by striking "tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978" and inserting "tribally controlled colleges or universities, Alaska Native-serving, Native Hawaiian-serving, and Hispanic-serving institutions".

**SEC. 615. ADVANCED DEGREE IN INTERNATIONAL RELATIONS.**

Section 624 (20 U.S.C. 1131b) is amended—

(1) by striking "**MASTERS**" in the heading of such section and inserting "**ADVANCED**";

(2) by striking "a masters degree in international relations" and inserting "an advanced degree in international relations, international affairs, international economics, or other academic areas related to the Institute fellow's career objectives"; and

(3) by striking "The masters degree program designed by the consortia" and inserting "The advanced degree study program shall be designed by the consortia, consistent with the fellow's career objectives, and".

**SEC. 616. INTERNSHIPS.**

Section 625 (20 U.S.C. 1131c) is amended—

(1) in subsection (a)—

(A) by striking "as defined in section 322 of this Act";

(B) by striking "tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978" and inserting "tribally controlled colleges or universities, Alaska Native-serving, Native Hawaiian-serving, and Hispanic-serving institutions";

(C) by striking "an international" and inserting "international,"; and

(D) by striking "the United States Information Agency" and inserting "the Department of State";

(2) in subsection (b)—

(A) by inserting "and" after the semicolon at the end of paragraph (2);

(B) by striking "; and" at the end of paragraph (3) and inserting a period; and

(C) by striking paragraph (4); and

(3) in subsection (c)(1)—

(A) in subparagraph (E), by inserting "and" after the semicolon;

(B) in subparagraph (F), by striking "; and" and inserting a period; and

(C) by striking subparagraph (G).

**SEC. 617. FINANCIAL ASSISTANCE.**

Part C of title VI (20 U.S.C. 1131 et seq.) is further amended—

(1) by redesignating sections 626, 627, and 628 as sections 627, 628, and 629, respectively; and 20 USC 1131d–1131f.

(2) by inserting after section 625 the following:

**"SEC. 626. FINANCIAL ASSISTANCE.** 20 USC 1131c–1.

"(a) AUTHORITY.—The Institute may provide financial assistance, in the form of summer stipends described in subsection (b) and Ralph Bunche scholarship assistance described in subsection (c), to low-income students to facilitate the participation of the students in the Institute's programs under this part.

"(b) SUMMER STIPENDS.—

"(1) REQUIREMENTS.—A student receiving a summer stipend under this section shall use such stipend to defray the student's cost of participation in a summer institute program funded under this part, including the costs of travel, living,

and educational expenses necessary for the student's participation in such program.

"(2) AMOUNT.—A summer stipend awarded to a student under this section shall not exceed $3,000 per summer.

"(c) RALPH BUNCHE SCHOLARSHIP.—

"(1) REQUIREMENTS.—A student receiving a Ralph Bunche scholarship under this section—

"(A) shall be a full-time student at an institution of higher education who is accepted into a program funded under this part; and

"(B) shall use such scholarship to pay costs related to the cost of attendance, as defined in section 472, at the institution of higher education in which the student is enrolled.

"(2) AMOUNT AND DURATION.—A Ralph Bunche scholarship awarded to a student under this section shall not exceed $5,000 per academic year.".

**SEC. 618. REPORT.**

Section 627 (as redesignated by section 617(1)) (20 U.S.C. 1131d) is amended by striking "annually prepare a report" and inserting "prepare a report once every two years".

**SEC. 619. GIFTS AND DONATIONS.**

Section 628 (as redesignated by section 617(1)) (20 U.S.C. 1131e) is amended by striking "annual report described in section 626" and inserting "report described in section 627".

**SEC. 620. AUTHORIZATION OF APPROPRIATIONS FOR THE INSTITUTE FOR INTERNATIONAL PUBLIC POLICY.**

Section 629 (as redesignated by section 617(1)) (20 U.S.C. 1131f) is amended—

(1) by striking "$10,000,000" and inserting "such sums as may be necessary";

(2) by striking "1999" and inserting "2009"; and

(3) by striking "4 succeeding" and inserting "five succeeding".

**SEC. 621. DEFINITIONS.**

Section 631 (20 U.S.C. 1132) is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (2), (3), (4), (5), (6), (8), and (9), as paragraphs (7), (4), (8), (2), (10), (6), and (3), respectively;

(3) in paragraph (2), as redesignated by paragraph (2), by striking "comprehensive language and area center" and inserting "comprehensive foreign language and area or international studies center";

(4) in paragraph (3), as redesignated by paragraph (2), by striking the period at the end and inserting a semicolon;

(5) by inserting after paragraph (4), as redesignated by paragraph (2), the following:

"(5) the term 'historically Black college and university' has the meaning given the term 'part B institution' in section 322;";

(6) in paragraph (6), as redesignated by paragraph (2), by striking "and" after the semicolon;

(7) by inserting after paragraph (8), as redesignated by paragraph (2), the following:

"(9) the term 'tribally controlled college or university' has the meaning given the term in section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801); and"; and

(8) in paragraph (10), as redesignated by paragraph (2)—

(A) by striking "undergraduate language and area center" and inserting "undergraduate foreign language and area or international studies center"; and

(B) by striking the semicolon and inserting a period.

**SEC. 622. NEW PROVISIONS.**

Part D of title VI (20 U.S.C. 1132) is amended by adding at the end the following:

**"SEC. 632. SPECIAL RULE.** 20 USC 1132–1.

"The Secretary may waive or reduce the non-Federal share required under this title for institutions that— Waiver authority.

"(1) are eligible to receive assistance under part A or B of title III or under title V; and

"(2) have submitted a grant application under this section that demonstrates a need for a waiver or reduction, as determined by the Secretary.".

**"SEC. 633. RULE OF CONSTRUCTION.** 20 USC 1132–2.

"Nothing in this title shall be construed to authorize the Secretary to mandate, direct, or control an institution of higher education's specific instructional content, curriculum, or program of instruction.

**"SEC. 634. ASSESSMENT.** 20 USC 1132–3.

"The Secretary is authorized to assess and ensure compliance with all the conditions and terms of grants provided under this title.

**"SEC. 635. EVALUATION, OUTREACH, AND INFORMATION.** 20 USC 1132–4.

"The Secretary may use not more than one percent of the funds made available under this title to carry out program evaluation, national outreach, and information dissemination activities relating to the programs authorized under this title.

**"SEC. 636. REPORT.** 20 USC 1132–5.

"The Secretary shall, in consultation and collaboration with the Secretary of State, the Secretary of Defense, and the heads of other relevant Federal agencies, submit a report once every two years that identifies areas of national need in foreign language, area, and international studies as such studies relate to government, education, business, and nonprofit needs, and a plan to address those needs. The report shall be provided to the authorizing committees and made available to the public. Public information.

**"SEC. 637. SCIENCE AND TECHNOLOGY ADVANCED FOREIGN LANGUAGE EDUCATION GRANT PROGRAM.** 20 USC 1132–6.

"(a) PURPOSE.—It is the purpose of this section to support programs in institutions of higher education that—

"(1) encourage students to develop—

"(A) an understanding of science and technology; and

"(B) foreign language proficiency;

"(2) foster future international scientific collaboration;

"(3) provide for professional development opportunities for elementary school and secondary school teachers of critical foreign languages to increase the number of highly qualified teachers in critical foreign languages; and

"(4) increase the number of United States students who achieve the highest level of proficiency in foreign languages critical to the security and competitiveness of the Nation.

"(b) DEVELOPMENT.—The Secretary shall develop a program for the awarding of grants to institutions of higher education that develop innovative programs for the teaching of foreign languages, which may include the preparation of teachers to teach foreign languages.

"(c) REGULATIONS AND REQUIREMENTS.—The Secretary shall promulgate regulations for the awarding of grants under subsection (b). Such regulations may require institutions of higher education to use grant funds for, among other things—

"(1) the development of an on-campus cultural awareness program by which students attend classes taught in a foreign language and study the science and technology developments and practices in a non-English speaking country;

"(2) immersion programs where students take science or technology related course work in a non-English speaking country;

"(3) other programs, such as summer workshops, that emphasize the intense study of a foreign language and science technology;

"(4) if applicable, recruiting highly qualified teachers in critical foreign languages, and providing professional development activities for such teachers at the elementary school and secondary school levels; and

"(5) providing innovative opportunities for students that will allow for critical language learning, such as immersion environments, intensive study opportunities, internships, and distance learning.

"(d) GRANT DISTRIBUTION.—In distributing grants to institutions of higher education under this section, the Secretary shall give priority to—

"(1) institutions that have programs focusing on curricula that combine the study of foreign languages and the study of science and technology and produce graduates who have both skills; and

"(2) institutions teaching critical foreign languages.

"(e) REPORT ON BEST PRACTICES.—Not later than one year after the date of enactment of this section, the Secretary shall—

Study.

"(1) conduct a study to identify the best practices to strengthen the role of institutions of higher education that receive funding under title III or title V in increasing the critical foreign language education efforts in the United States; and

"(2) submit a report on the results of such study to the authorizing committees.

"(f) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for fiscal year 2009 and for each subsequent fiscal year.

**"SEC. 638. REPORTING BY INSTITUTIONS.** 20 USC 1132–7.

"(a) APPLICABILITY.—The data requirement in subsection (b) shall apply to an institution of higher education that receives funds for a center or program under this title if—

"(1) the amount of the contribution (including cash and the fair market value of any property) received from any foreign government or from a foreign private sector corporation or foundation during any fiscal year exceeds $250,000 in the aggregate; and

"(2) the aggregate contribution, or a significant part of the aggregate contribution, is to be used by a center or program receiving funds under this title.

"(b) DATA REQUIRED.—The Secretary shall require an institution of higher education referred to in subsection (a) to report information listed in subsection (a) to the Secretary consistent with the requirements of section 117.".

# TITLE VII—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

**SEC. 701. PURPOSE.**

Section 700(1)(B)(i) (20 U.S.C. 1133(1)(B)(i)) is amended by inserting ", including those areas critical to United States national and homeland security needs, such as science, technology, engineering, and mathematics" before the semicolon.

**SEC. 702. JACOB K. JAVITS FELLOWSHIP PROGRAM.**

(a) INTERRUPTIONS OF STUDY.—Section 701(c) (20 U.S.C. 1134(c)) is amended by adding at the end the following new sentence: "In the case of other exceptional circumstances, such as active duty military service or personal or family member illness, the institution of higher education may also permit the fellowship recipient to interrupt periods of study for the duration of the tour of duty (in the case of military service) or for not more than 12 months (in any other case), but without payment of the stipend.".

(b) ALLOCATION OF FELLOWSHIPS.—Section 702(a)(1) (20 U.S.C. 1134a(a)(1)) is amended to read as follows:

"(1) APPOINTMENT.—

"(A) IN GENERAL.—The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (referred to in this subpart as the 'Board') consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board.

"(B) QUALIFICATIONS.—In making appointments under subparagraph (A), the Secretary shall—

"(i) give due consideration to the appointment of individuals who are highly respected in the academic community;

"(ii) appoint members who represent the various geographic regions of the United States;

"(iii) ensure that individuals appointed to the Board are broadly representative of a range of disciplines in graduate education in arts, humanities, and social sciences; and

"(iv) ensure that such individuals include representatives from institutions that are eligible for one or more of the grants under title III or V.".

(c) STIPENDS.—

(1) Section 703 (20 U.S.C. 1134b) is amended—

(A) in subsection (a)—

(i) by striking "1999–2000" and inserting "2009–2010"; and

(ii) by striking "Foundation graduate fellowships" and inserting "Foundation Graduate Research Fellowship Program for such academic year"; and

(B) in subsection (b), by striking paragraph (1)(A) and inserting the following:

Payments.

"(1) IN GENERAL.—(A) The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be, for academic year 2009–2010 and succeeding academic years, the same amount as the institutional payment made for academic year 2008–2009, adjusted for academic year 2009–2010 and annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 705 (20 U.S.C. 1134d) is amended by striking "fiscal year 1999" and all that follows through the period at the end and inserting "fiscal year 2009 and each of the five succeeding fiscal years to carry out this subpart.".

**SEC. 703. GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED.**

(a) INSTITUTIONAL ELIGIBILITY.—Section 712 (20 U.S.C. 1135a) is amended by striking subsection (b) and inserting the following:

"(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with appropriate Federal and nonprofit agencies and organizations, including the National Science Foundation, the Department of Defense, the Department of Homeland Security, the National Academy of Sciences, and the Bureau of Labor Statistics, the Secretary shall designate areas of national need. In making such designations, the Secretary shall take into consideration—

"(1) the extent to which the interest in the area is compelling;

"(2) the extent to which other Federal programs support postbaccalaureate study in the area concerned;

"(3) an assessment of how the program may achieve the most significant impact with available resources; and

"(4) an assessment of current (as of the time of the designation) and future professional workforce needs of the United States.".

(b) AWARDS TO GRADUATE STUDENTS.—Section 714(b) (20 U.S.C. 1135c(b)) is amended—

(1) by striking "1999–2000" and inserting "2009–2010"; and

(2) by striking "Foundation graduate fellowships" and inserting "Foundation Graduate Research Fellowship Program for such academic year".

(c) ADDITIONAL ASSISTANCE.—Section 715(a)(1) (20 U.S.C. 1135d(a)(1)) is amended—

(1) by striking "1999–2000" and inserting "2009–2010"; and
(2) by striking "1998–1999" and inserting "2008–2009".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 716 (20 U.S.C. 1135e) is amended by striking "fiscal year 1999" and all that follows through the period at the end and inserting "fiscal year 2009 and each of the five succeeding fiscal years to carry out this subpart.".

(e) TECHNICAL AMENDMENTS.—Subpart 2 of part A of title VII (as amended by this section) (20 U.S.C. 113 et seq.) is further amended—

(1) in section 711(a)(1) (20 U.S.C. 1135(a)(1)), by inserting ", including a master's or doctoral degree," after "leading to a graduate degree";

(2) in section 712(a) (20 U.S.C. 1135a(a)), by inserting ", including a master's or doctoral degree," after "leading to a graduate degree";

(3) in section 713(b)(5)(C) (20 U.S.C. 1135b(b)(5)(C)), by inserting "at the institution" before the semicolon; and

(4) in section 714(c) (20 U.S.C. 1135c(c))—

(A) by striking "716(a)" and inserting "715(a)"; and
(B) by striking "714(b)(2)" and inserting "713(b)(2)".

**SEC. 704. THURGOOD MARSHALL LEGAL EDUCATIONAL OPPORTUNITY PROGRAM.**

(a) PROGRAM AUTHORITY.—

(1) Section 721(a) (20 U.S.C. 1136(a)) is amended—

(A) by inserting "secondary school and" after "disadvantaged"; and

(B) by inserting "and admission to law practice" before the period at the end.

(b) ELIGIBILITY.—Section 721(b) (20 U.S.C. 1136(b)) is amended in the matter preceding paragraph (1), by inserting "secondary school student or" before "college student".

(c) CONTRACT AND GRANT PURPOSES.—Section 721(c) (20 U.S.C. 1136(c)) is amended—

(1) in paragraph (1), by inserting "secondary school and" before "college students";

(2) by striking paragraph (2) and inserting the following:

"(2) to prepare such students for successful completion of a baccalaureate degree and for study at accredited law schools, and to assist them with the development of analytical skills, writing skills, and study methods to enhance the students' success in, and promote the students' admission to and completion of, law school;";

(3) in paragraph (4), by striking "and" after the semicolon; and

(4) by striking paragraph (5) and inserting the following:

"(5) to motivate and prepare such students—

"(A) with respect to law school studies and practice in low-income communities; and

"(B) to provide legal services to low-income individuals and families; and

"(6) to award Thurgood Marshall Fellowships to eligible law school students—

"(A) who participated in summer institutes under subsection (d)(6) and who are enrolled in an accredited law school; or

"(B) who have successfully completed a comparable summer institute program that is certified by the Council on Legal Education Opportunity.".

(d) SERVICES PROVIDED.—Section 721(d) (20 U.S.C. 1136(d)) is amended—

(1) in the matter preceding paragraph (1), by inserting "pre-college programs, undergraduate" before "pre-law";

(2) in paragraph (1)—

(A) in subparagraph (B), by inserting "law school" before "graduation"; and

(B) by striking subparagraph (D) and inserting the following:

"(D) pre-college and undergraduate preparatory courses in analytical and writing skills, study methods, and course selection;";

(3) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(4) by inserting after paragraph (1) the following:

"(2) summer academic programs for secondary school students who have expressed interest in a career in the law;"; and

(5) in paragraph (7) (as redesignated by paragraph (3)), by inserting "and Associates" after "Thurgood Marshall Fellows".

(e) DURATION.—Section 721(e)(1) (20 U.S.C. 1136(e)(1)) is amended by inserting ", including before and during undergraduate study" before the semicolon.

(f) SUBCONTRACTS AND SUBGRANTS.—Section 721(f) (20 U.S.C. 1136(f)) is amended—

(1) by inserting "national and State bar associations," after "agencies and organizations,"; and

(2) by striking "and organizations." and inserting "organizations, and associations.".

(g) STIPENDS.—Section 721(g) (20 U.S.C. 1136(g)) is amended to read as follows:

Deadline.

"(g) FELLOWSHIPS AND STIPENDS.—The Secretary shall annually establish the maximum fellowship to be awarded, and the maximum stipend to be paid (including allowances for participant travel and for the travel of the dependents of the participant), to Thurgood Marshall Fellows or Associates for the period of participation in summer institutes, midyear seminars, and bar preparation seminars. A Thurgood Marshall Fellow or Associate may be eligible for such a fellowship or stipend only if the Fellow or Associate maintains satisfactory academic progress toward the Juris Doctor or Bachelor of Laws degree, as determined by the respective institutions (except with respect to a law school graduate enrolled in a bar preparation course).".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 721(h) (20 U.S.C. 1136(h)) is amended by striking "fiscal year 1999" and all that follows through the period at the end and inserting "fiscal year 2009 and each of the five succeeding fiscal years.".

(i) REPEAL OF CONTINUATION AWARDS.—Subsection (e) of section 731 (20 U.S.C. 1137(e)) is repealed.

**SEC. 705. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) addressing the under-representation of women and minorities in the higher education professoriate will require consistent inter-institutional cooperation, data gathering, analysis, and self-evaluation; and

(2) institutions eligible for funds under part A of title VII of the Higher Education Act of 1965 (20 U.S.C. 1134 et seq.) should be encouraged to consider the feasibility and potential design of an inter-institution monitoring organization addressing under-representation by race, ethnicity, and gender in postsecondary faculty and administrators.

**SEC. 706. MASTERS DEGREE PROGRAMS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND PREDOMINANTLY BLACK INSTITUTIONS.**

(a) TECHNICAL AMENDMENTS.—Part A of title VII (as amended by this title) (20 U.S.C. 1134 et seq.) is further amended—

(1) by redesignating subpart 4 as subpart 5;

(2) in the heading of section 731, by striking "**SUBPARTS 1, 2, AND 3**" and inserting "**SUBPARTS 1 THROUGH 4**"; and 20 USC 1137.

(3) in section 731—

(A) in subsections (a) and (b), by striking "subparts 1, 2, and 3" each place the term appears and inserting "subparts 1 through 4"; and

(B) in subsection (d), by striking "subpart 1, 2, or 3" and inserting "subpart 1, 2, 3, or 4".

(b) MASTER'S DEGREE PROGRAMS.—Part A of title VII (as amended by this title) (20 U.S.C. 1134 et seq.) is further amended by inserting after subpart 3 the following:

## "Subpart 4—Masters Degree Programs at Historically Black Colleges and Universities and Predominantly Black Institutions

**"SEC. 723. MASTERS DEGREE PROGRAMS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.** 20 USC 1136a.

"(a) GRANT PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the institutions listed in subsection (b)(1) that is determined by the Secretary to be making a substantial contribution to graduate education opportunities at the masters level in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines for Black Americans.

"(2) ASSURANCE OF NON-FEDERAL MATCHING FUNDS.—No grant in excess of $1,000,000 may be made under this section unless the institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources, except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f), the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply

with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.

"(3) MINIMUM AWARD.—Subject to subsections (f) and (g), the amount awarded to each eligible institution listed in subsection (b)(1) for a fiscal year shall be not less than $500,000.

"(4) DURATION OF GRANTS.—A grant awarded under this section shall be for a period of not more than six years, but may be periodically renewed for a period to be determined by the Secretary.

"(b) INSTITUTIONAL ELIGIBILITY.—

"(1) IN GENERAL.—Institutions eligible for grants under subsection (a) are the following:

"(A) Albany State University.
"(B) Alcorn State University.
"(C) Claflin University.
"(D) Coppin State University.
"(E) Elizabeth City State University.
"(F) Fayetteville State University.
"(G) Fisk University.
"(H) Fort Valley State University.
"(I) Grambling State University.
"(J) Kentucky State University.
"(K) Mississippi Valley State University.
"(L) Savannah State University.
"(M) South Carolina State University.
"(N) University of Arkansas, Pine Bluff.
"(O) Virginia State University.
"(P) West Virginia Sate University.
"(Q) Wilberforce University.
"(R) Winston-Salem State University.

"(2) QUALIFIED MASTERS DEGREE PROGRAM.—

"(A) IN GENERAL.—For the purposes of this section, the term 'qualified masters degree program' means a masters degree program that provides a program of instruction in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented and has students enrolled in such program of instruction at the time of application for a grant under this section.

"(B) ENROLLMENT EXCEPTION.—Notwithstanding the enrollment requirement contained in subparagraph (A), an institution may use an amount equal to not more than 10 percent of the institution's grant under this section for the development of a new qualified masters degree program.

"(3) INSTITUTIONAL CHOICE.—The president or chancellor of the institution may decide which graduate school or qualified masters degree program will receive funds under the grant in any one fiscal year, if the allocation of funds among the schools or programs is delineated in the application for funds submitted to the Secretary under this section.

"(4) ONE GRANT PER INSTITUTION.—The Secretary shall not award more than one grant under this section in any fiscal year to any institution of higher education.

"(c) APPLICATION.—An eligible institution listed in subsection (b)(1) desiring a grant under this section shall submit an application at such time, in such manner, and containing such information as the Secretary may require. The application shall—

"(1) demonstrate how the grant funds under this section will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

"(2) provide, in the case of applications for grants in excess of $1,000,000, the assurances required under subsection (a)(2) and specify the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

"(d) USES OF FUNDS.—A grant under this section may be used for—

"(1) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

"(3) purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials;

"(4) scholarships, fellowships, and other financial assistance for needy graduate students to permit the enrollment of the students in, and completion of, a masters degree in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented;

"(5) establishing or improving a development office to strengthen and increase contributions from alumni and the private sector;

"(6) assisting in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 331;

"(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems;

"(8) acquisition of real property that is adjacent to the campus in connection with the construction, renovation, or improvement of, or an addition to, campus facilities;

"(9) education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under title IV;

"(10) tutoring, counseling, and student service programs designed to improve academic success;

"(11) faculty professional development, faculty exchanges, and faculty participation in professional conferences and meetings; and

"(12) other activities proposed in the application submitted under subsection (c) that—

"(A) contribute to carrying out the purposes of this section; and

"(B) are approved by the Secretary as part of the review and acceptance of such application.

"(e) INTERACTION WITH OTHER GRANT PROGRAMS.—No institution that is eligible for and receives an award under section 326, 512, or 724 for a fiscal year shall be eligible to apply for a grant, or receive grant funds, under this section for the same fiscal year.

"(f) FUNDING RULE.—Subject to subsection (g), of the amount appropriated to carry out this section for any fiscal year—

"(1) the first $9,000,000 (or any lesser amount appropriated) shall be available only for the purposes of making minimum grants under subsection (a)(3) to eligible institutions listed in subparagraphs (A) through (R) of subsection (b)(1), except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced;

"(2) after the application of paragraph (1), an amount shall be available for the purpose of making minimum grants under subsection (a)(3) to eligible institutions listed in subsection (b)(1) that do not receive a grant under paragraph (1), if any, except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced; and

"(3) any amount in excess of $9,000,000 shall be made available to each of the eligible institutions identified in subparagraphs (A) through (R) of subsection (b)(1), pursuant to a formula developed by the Secretary that uses the following elements:

"(A) The ability of the institution to match Federal funds with non-Federal funds.

"(B) The number of students enrolled in the qualified masters degree program at the eligible institution in the previous academic year.

"(C) The average cost of attendance per student, for all full-time students enrolled in the qualified masters degree program at such institution.

"(D) The number of students in the previous year who received a degree in the qualified masters degree program at such institution.

"(E) The contribution, on a percent basis, of the programs for which the institution is eligible to receive funds under this section to the total number of African Americans receiving masters degrees in the disciplines related to the programs for the previous year.

"(g) HOLD HARMLESS RULE.—Notwithstanding paragraphs (2) and (3) of subsection (f), no eligible institution identified in subsection (b)(1) that receives a grant under this section for fiscal year 2009 and that is eligible to receive a grant for a subsequent fiscal year shall receive a grant amount for any such subsequent fiscal year that is less than the grant amount received for fiscal year 2009, unless—

"(1) the amount appropriated is not sufficient to provide such grant amounts to all such institutions and programs that received grants under this section for such fiscal year and

that are eligible to receive a grant in such subsequent fiscal year; or

"(2) the institution cannot provide sufficient matching funds to meet the requirements of this section.

**"SEC. 724. MASTERS DEGREE PROGRAMS AT PREDOMINANTLY BLACK INSTITUTIONS.** 20 USC 1136b.

"(a) GRANT PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the institutions listed in subsection (b)(1) that is determined by the Secretary to be making a substantial contribution to graduate education opportunities at the masters level in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines for Black Americans.

"(2) ASSURANCE OF NON-FEDERAL MATCHING FUNDS.—No grant in excess of $1,000,000 may be made under this section unless the institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources, except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f), the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.

"(3) MINIMUM AWARD.—Subject to subsections (f) and (g), the amount awarded to each eligible institution listed in subsection (b)(1) for a fiscal year shall be not less than $500,000.

"(4) DURATION OF GRANTS.—A grant awarded under this section shall be for a period of not more than six years, but may be periodically renewed for a period to be determined by the Secretary.

"(b) INSTITUTIONAL ELIGIBILITY.—

"(1) IN GENERAL.—Institutions eligible for grants under subsection (a) are the following:

"(A) Chicago State University.

"(B) Columbia Union College.

"(C) Long Island University, Brooklyn campus.

"(D) Robert Morris College.

"(E) York College, The City University of New York.

"(2) QUALIFIED MASTERS DEGREE PROGRAM.—

"(A) IN GENERAL.—For the purposes of this section, the term 'qualified masters degree program' means a masters degree program that provides a program of instruction in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented and has students enrolled in such program of instruction at the time of application for a grant under this section.

"(B) ENROLLMENT EXCEPTION.—Notwithstanding the enrollment requirement contained in subparagraph (A), an institution may use an amount equal to not more than 10 percent of the institution's grant under this section for the development of a new qualified masters degree program.

"(3) INSTITUTIONAL CHOICE.—The president or chancellor of the institution may decide which graduate school or qualified masters degree program will receive funds under the grant in any one fiscal year, if the allocation of funds among the schools or programs is delineated in the application for funds submitted to the Secretary under this section.

"(4) ONE GRANT PER INSTITUTION.—The Secretary shall not award more than one grant under this section in any fiscal year to any institution of higher education.

"(c) APPLICATION.—An eligible institution listed in subsection (b)(1) desiring a grant under this section shall submit an application at such time, in such manner, and containing such information as the Secretary may require. The application shall—

"(1) demonstrate how the grant funds under this section will be used to improve graduate educational opportunities for Black and low-income students and lead to greater financial independence; and

"(2) provide, in the case of applications for grants in excess of $1,000,000, the assurances required under subsection (a)(2) and specify the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

"(d) USES OF FUNDS.—A grant under this section may be used for—

"(1) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

"(3) purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials;

"(4) scholarships, fellowships, and other financial assistance for needy graduate students to permit the enrollment of the students in, and completion of, a masters degree in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented;

"(5) establishing or improving a development office to strengthen and increase contributions from alumni and the private sector;

"(6) assisting in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 331;

"(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems;

"(8) acquisition of real property that is adjacent to the campus in connection with the construction, renovation, or improvement of, or an addition to, campus facilities;

"(9) education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under title IV;

"(10) tutoring, counseling, and student service programs designed to improve academic success;

"(11) faculty professional development, faculty exchanges, and faculty participation in professional conferences and meetings; and

"(12) other activities proposed in the application submitted under subsection (c) that—

"(A) contribute to carrying out the purposes of this section; and

"(B) are approved by the Secretary as part of the review and acceptance of such application.

"(e) INTERACTION WITH OTHER GRANT PROGRAMS.—No institution that is eligible for and receives an award under section 326, 512, or 723 for a fiscal year shall be eligible to apply for a grant, or receive grant funds, under this section for the same fiscal year.

"(f) FUNDING RULE.—Subject to subsection (g), of the amount appropriated to carry out this section for any fiscal year—

"(1) the first $2,500,000 (or any lesser amount appropriated) shall be available only for the purposes of making minimum grants under subsection (a)(3) to eligible institutions listed in subparagraphs (A) through (E) of subsection (b)(1), except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced;

"(2) after the application of paragraph (1), an amount shall be available for the purpose of making minimum grants under subsection (a)(3) to eligible institutions described in subsection (b)(1) that do not receive a grant under paragraph (1), if any, except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced; and

"(3) any amount in excess of $2,500,000 shall be made available to each of the eligible institutions identified in subparagraphs (A) through (E) of subsection (b)(1), pursuant to a formula developed by the Secretary that uses the following elements:

"(A) The ability of the institution to match Federal funds with non-Federal funds.

"(B) The number of students enrolled in the qualified masters degree program at the eligible institution in the previous academic year.

"(C) The average cost of attendance per student, for all full-time students enrolled in the qualified masters degree program at such institution.

"(D) The number of students in the previous year who received a degree in the qualified masters degree program at such institution.

"(E) The contribution, on a percent basis, of the programs for which the institution is eligible to receive funds under this section to the total number of African Americans receiving masters degrees in the disciplines related to the programs for the previous year.

"(g) HOLD HARMLESS RULE.—Notwithstanding paragraphs (2) and (3) of subsection (f), no eligible institution identified in subsection (b)(1) that receives a grant under this section for fiscal year 2009 and that is eligible to receive a grant in a subsequent fiscal year shall receive a grant amount in any such subsequent fiscal year that is less than the grant amount received for fiscal year 2009, unless—

"(1) the amount appropriated is not sufficient to provide such grant amounts to all such institutions and programs that received grants under this section for such fiscal year and that are eligible to receive a grant in such subsequent fiscal year; or

"(2) the institution cannot provide sufficient matching funds to meet the requirements of this section.

20 USC 1136c.

**"SEC. 725. AUTHORIZATION OF APPROPRIATIONS.**

"(a) MASTERS DEGREE PROGRAMS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—There are authorized to be appropriated to carry out section 723 such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

"(b) MASTERS DEGREE PROGRAMS AT PREDOMINANTLY BLACK INSTITUTIONS.—There are authorized to be appropriated to carry out section 724 such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.".

**SEC. 707. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.**

(a) CONTRACT AND GRANT PURPOSES.—Section 741(a) (20 U.S.C. 1138(a)) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

"(1) the encouragement of reform and improvement of, and innovation in, postsecondary education and the provision of educational opportunity for all students, including nontraditional students;

"(2) the creation of institutions, programs, and joint efforts involving paths to career and professional training, including—

"(A) efforts that provide academic credit for programs; and

"(B) combinations of academic and experiential learning;

"(3) the establishment and continuation of institutions, programs, consortia, collaborations, and other joint efforts based on communications technology, including those efforts that utilize distance education and technological advancements to educate and train postsecondary students (including health professionals serving medically underserved populations);";

(2) by striking paragraph (6) and inserting the following:

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering postsecondary institutions and pursuing programs of postsecondary study tailored to individual needs;";

(3) in paragraph (7), by striking "and" after the semicolon;

(4) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

"(9) the introduction of reforms in remedial education, including English language instruction, to customize remedial courses to student goals and help students progress rapidly from remedial courses into core courses and through postsecondary program completion;

"(10) the provision of support and assistance to partnerships between institutions of higher education and secondary schools with a significant population of students identified as late-entering limited English proficient students, to establish programs that—

"(A) result in increased secondary school graduation rates of limited English proficient students; and

"(B) increase the number of participating late-entering limited English proficient students who pursue postsecondary education;

"(11) the creation of consortia that join diverse institutions of higher education to design and offer curricular and cocurricular interdisciplinary programs at the undergraduate and graduate levels, sustained for not less than a 5 year period, that—

"(A) focus on poverty and human capability; and

"(B) include—

"(i) a service-learning component; and

"(ii) the delivery of educational services through informational resource centers, summer institutes, midyear seminars, and other educational activities that stress the effects of poverty and how poverty can be alleviated through different career paths;

"(12) the provision of support and assistance for demonstration projects to provide comprehensive support services to ensure that homeless students, or students who were in foster care or were a ward of the court at any time before the age of 13, enroll and succeed in postsecondary education, including providing housing to such students during periods when housing at the institution of higher education is closed or generally unavailable to other students; and

"(13) the support of efforts to work with institutions of higher education, and nonprofit organizations, that seek to promote cultural diversity in the entertainment media industry, including through the training of students in production, marketing, and distribution of culturally relevant content.".

(b) CENTER FOR BEST PRACTICES TO SUPPORT SINGLE PARENT STUDENTS.—Section 741 (20 U.S.C. 1138) is further amended by adding at the end the following:

"(c) CENTER FOR BEST PRACTICES TO SUPPORT SINGLE PARENT STUDENTS.— Grants. Contracts.

"(1) PROGRAM AUTHORIZED.—The Secretary is authorized to award one grant or contract to an institution of higher education to enable such institution to establish and maintain a center to study and develop best practices for institutions of higher education to support single parents who are also students attending such institutions.

"(2) INSTITUTION REQUIREMENTS.—The Secretary shall award the grant or contract under this subsection to a four-

year institution of higher education that has demonstrated expertise in the development of programs to assist single parents who are students at institutions of higher education, as shown by the institution's development of a variety of targeted services to such students, including on-campus housing, child care, counseling, advising, internship opportunities, financial aid, and financial aid counseling and assistance.

"(3) CENTER ACTIVITIES.—The center funded under this section shall—

"(A) assist institutions implementing innovative programs that support single parents pursuing higher education;

"(B) study and develop an evaluation protocol for such programs that includes quantitative and qualitative methodologies;

"(C) provide appropriate technical assistance regarding the replication, evaluation, and continuous improvement of such programs; and

"(D) develop and disseminate best practices for such programs.".

(c) PROHIBITION.—Section 741 (20 U.S.C. 1138) is further amended by adding after subsection (c) (as added by subsection (b) of this section) the following:

"(d) PROHIBITION.—

"(1) IN GENERAL.—No funds made available under this part shall be used to provide direct financial assistance in the form of grants or scholarships to students who do not meet the requirements of section 484(a).

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a student who does not meet the requirements of section 484(a) from participating in programs funded under this part.".

(d) PRIORITY.—Section 741 (20 U.S.C. 1138) is further amended by adding after subsection (d) (as added by subsection (c) of this section) the following:

"(e) PRIORITY.—In making grants under this part to any institution of higher education after the date of enactment of the Higher Education Opportunity Act, the Secretary may give priority to institutions that meet or exceed the most current version of ASHRAE/IES Standard 90.1 (as such term is used in section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) for any new facilities construction or major renovation of the institution after such date, except that this subsection shall not apply with respect to barns or greenhouses or similar structures owned by the institution.".

(e) SCHOLARSHIP PROGRAM FOR FAMILY MEMBERS OF VETERANS OR MEMBERS OF THE MILITARY.—Section 741 (20 U.S.C. 1138) is further amended by adding after subsection (e) (as added by subsection (d) of this section) the following:

"(f) SCHOLARSHIP PROGRAM FOR FAMILY MEMBERS OF VETERANS OR MEMBERS OF THE MILITARY.—

Contracts. Nonprofit organizations.

"(1) AUTHORIZATION.—The Secretary shall enter into a contract with a nonprofit organization with demonstrated success in carrying out the activities described in this subsection to carry out a program to provide postsecondary education scholarships for eligible students.

"(2) DEFINITION OF ELIGIBLE STUDENT.—In this subsection, the term 'eligible student' means an individual who is enrolled as a full-time or part-time student at an institution of higher education (as defined in section 102) and is—

"(A) a dependent student who is a child of—

"(i) an individual who is—

"(I) serving on active duty during a war or other military operation or national emergency (as defined in section 481); or

"(II) performing qualifying National Guard duty during a war or other military operation or national emergency (as defined in section 481); or

"(ii) a veteran who—

"(I) served or performed, as described in clause (i), since September 11, 2001; and

"(II) died, or has been disabled, as a result of such service or performance; or

"(B) an independent student who—

"(i) is a spouse of an individual who is—

"(I) serving on active duty during a war or other military operation or national emergency (as defined in section 481); or

"(II) performing qualifying National Guard duty during a war or other military operation or national emergency (as defined in section 481);

"(ii) was (at the time of death of the veteran) a spouse of a veteran who—

"(I) served or performed, as described in clause (i), since September 11, 2001; and

"(II) died as a result of such service or performance; or

"(iii) is a spouse of a veteran who—

"(I) served or performed, as described in clause (i), since September 11, 2001; and

"(II) has been disabled as a result of such service or performance.

"(3) AWARDING OF SCHOLARSHIPS.—Scholarships awarded under this subsection shall be awarded based on need with priority given to eligible students who are eligible to receive Federal Pell Grants under subpart 1 of part A of title IV.

"(4) MAXIMUM SCHOLARSHIP AMOUNT.—The maximum scholarship amount awarded to an eligible student under this subsection for an award year shall be the lesser of $5,000, or the student's cost of attendance (as defined in section 472).

"(5) AMOUNTS FOR SCHOLARSHIPS.—All of the amounts appropriated to carry out this subsection for a fiscal year shall be used for scholarships awarded under this subsection, except that the nonprofit organization receiving a contract under this subsection may use not more than one percent of such amounts for the administrative costs of the contract.".

(f) AREAS OF NATIONAL NEED.—Section 744(c) (20 U.S.C. 1138c(c)) is amended to read as follows:

"(c) AREAS OF NATIONAL NEED.—Areas of national need shall include, at a minimum, the following:

"(1) Institutional restructuring to improve learning and promote productivity, efficiency, quality improvement, and cost reduction.

"(2) Improvements in academic instruction and student learning, including efforts designed to assess the learning gains made by postsecondary students.

"(3) Articulation between two- and four-year institutions of higher education, including developing innovative methods for ensuring the successful transfer of students from two- to four-year institutions of higher education.

"(4) Development, evaluation, and dissemination of model courses, including model courses that—

"(A) provide students with a broad and integrated knowledge base;

"(B) include, at a minimum, broad survey courses in English literature, American and world history, American political institutions, economics, philosophy, college-level mathematics, and the natural sciences; and

"(C) include study of a foreign language that leads to reading and writing competency in the foreign language.

"(5) International cooperation and student exchanges among postsecondary educational institutions.

"(6) Support of centers to incorporate education in quality and safety into the preparation of medical and nursing students, through grants to medical schools, nursing schools, and osteopathic schools. Such grants shall be used to assist in providing courses of instruction that specifically equip students to—

"(A) understand the causes of, and remedies for, medical error, medically induced patient injuries and complications, and other defects in medical care;

"(B) engage effectively in personal and systemic efforts to continually reduce medical harm; and

"(C) improve patient care and outcomes, as recommended by the Institute of Medicine.".

(g) AUTHORIZATION OF APPROPRIATIONS FOR THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.—Section 745 (20 U.S.C. 1138d) is amended by striking "$30,000,000 for fiscal year 1999" and all that follows through the period at the end and inserting "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.".

(h) TECHNICAL FIPSE AMENDMENTS.—Part B of title VII (20 U.S.C. 1138 et seq.) is further amended—

(1) in section 742 (20 U.S.C. 1138a)—

(A) in subsection (b)—

(i) by striking "(b) MEMBERSHIP.—" and all that follows through "The Secretary" and inserting "(b) MEMBERSHIP.—The Secretary"; and

(ii) by striking paragraph (2);

(B) in subsection (c), by striking "and the Director" each place the term appears; and

(C) in subsection (d), by striking "Director" and inserting "Secretary";

(2) in section 743 (20 U.S.C. 1138b)—

(A) by striking "(a) TECHNICAL EMPLOYEES.—"; and

(B) by striking subsection (b); and

(3) in section 744(a) (20 U.S.C. 1138c(a)), by striking "Director" each place the term appears and inserting "Secretary".

**SEC. 708. REPEAL OF THE URBAN COMMUNITY SERVICE PROGRAM.**

Part C of title VII (20 U.S.C. 1139 et seq.) is repealed.

**SEC. 709. PROGRAMS TO PROVIDE STUDENTS WITH DISABILITIES WITH A QUALITY HIGHER EDUCATION.**

Title VII (20 U.S.C. 1133 et seq.) is further amended—

(1) by redesignating section 771 (20 U.S.C. 1141) as section 781; and

(2) by striking part D of title VII (20 U.S.C. 1140 et seq.) and inserting the following:

## "PART D—PROGRAMS TO PROVIDE STUDENTS WITH DISABILITIES WITH A QUALITY HIGHER EDUCATION

**"SEC. 760. DEFINITIONS.** 20 USC 1140.

"In this part:

"(1) COMPREHENSIVE TRANSITION AND POSTSECONDARY PROGRAM FOR STUDENTS WITH INTELLECTUAL DISABILITIES.—The term 'comprehensive transition and postsecondary program for students with intellectual disabilities' means a degree, certificate, or nondegree program that is—

"(A) offered by an institution of higher education;

"(B) designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an institution of higher education in order to prepare for gainful employment;

"(C) includes an advising and curriculum structure; and

"(D) requires students with intellectual disabilities to participate on not less than a half-time basis, as determined by the institution, with such participation focusing on academic components and occurring through one or more of the following activities:

"(i) Regular enrollment in credit-bearing courses with nondisabled students offered by the institution.

"(ii) Auditing or participating in courses with nondisabled students offered by the institution for which the student does not receive regular academic credit.

"(iii) Enrollment in noncredit-bearing, nondegree courses with nondisabled students.

"(iv) Participation in internships or work-based training in settings with nondisabled individuals.

"(2) STUDENT WITH AN INTELLECTUAL DISABILITY.—The term 'student with an intellectual disability' means a student—

"(A) with mental retardation or a cognitive impairment, characterized by significant limitations in—

"(i) intellectual and cognitive functioning; and

"(ii) adaptive behavior as expressed in conceptual, social, and practical adaptive skills; and

"(B) who is currently, or was formerly, eligible for a free appropriate public education under the Individuals with Disabilities Education Act.

## "Subpart 1—Demonstration Projects to Support Postsecondary Faculty, Staff, and Administrators in Educating Students With Disabilities

20 USC 1140a.

**"SEC. 761. PURPOSE.**

"It is the purpose of this subpart to support model demonstration projects to provide technical assistance or professional development for postsecondary faculty, staff, and administrators in institutions of higher education to enable such faculty, staff, and administrators to provide students with disabilities with a quality postsecondary education.

20 USC 1140b.

**"SEC. 762. GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS AUTHORIZED.**

"(a) COMPETITIVE GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS AUTHORIZED.—

"(1) IN GENERAL.—From amounts appropriated under section 765, the Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to institutions of higher education to enable the institutions to carry out the activities under subsection (b).

"(2) AWARDS FOR PROFESSIONAL DEVELOPMENT AND TECHNICAL ASSISTANCE.—Not less than two grants, contracts, cooperative agreements, or a combination of such awards shall be awarded to institutions of higher education that provide professional development and technical assistance in order for students with learning disabilities to receive a quality postsecondary education.

"(b) DURATION; ACTIVITIES.—

"(1) DURATION.—A grant, contract, or cooperative agreement under this subpart shall be awarded for a period of three years.

"(2) AUTHORIZED ACTIVITIES.—A grant, contract, or cooperative agreement awarded under this subpart shall be used to carry out one or more of the following activities:

"(A) TEACHING METHODS AND STRATEGIES.—The development of innovative, effective, and efficient teaching methods and strategies, consistent with the principles of universal design for learning, to provide postsecondary faculty, staff, and administrators with the skills and supports necessary to teach and meet the academic and programmatic needs of students with disabilities, in order to improve the retention of such students in, and the completion by such students of, postsecondary education. Such methods and strategies may include in-service training, professional development, customized and general technical assistance, workshops, summer institutes, distance learning, and training in the use of assistive and educational technology.

"(B) EFFECTIVE TRANSITION PRACTICES.—The development of innovative and effective teaching methods and strategies to provide postsecondary faculty, staff, and

administrators with the skill and supports necessary to ensure the successful and smooth transition of students with disabilities from secondary school to postsecondary education.

"(C) SYNTHESIZING RESEARCH AND INFORMATION.—The synthesis of research and other information related to the provision of postsecondary educational services to students with disabilities, including data on the impact of a postsecondary education on subsequent employment of students with disabilities. Such research, information, and data shall be made publicly available and accessible.

Public information.

"(D) DISTANCE LEARNING.—The development of innovative and effective teaching methods and strategies to provide postsecondary faculty, staff, and administrators with the ability to provide accessible distance education programs or classes that would enhance the access of students with disabilities to postsecondary education, including the use of accessible curricula and electronic communication for instruction and advising.

"(E) DISABILITY CAREER PATHWAYS.—

"(i) IN GENERAL.—The provision of information, training, and technical assistance to secondary and postsecondary faculty, staff, and administrators with respect to disability-related fields that would enable such faculty, staff, and administrators to—

"(I) encourage interest and participation in such fields, among students with disabilities and other students;

"(II) enhance awareness and understanding of such fields among students with disabilities and other students;

"(III) provide educational opportunities in such fields for students with disabilities and other students;

"(IV) teach practical skills related to such fields to students with disabilities and other students; and

"(V) offer work-based opportunities in such fields to students with disabilities and other students.

"(ii) DEVELOPMENT.—The training and support described in subclauses (I) through (V) of clause (i) may include offering students—

"(I) credit-bearing postsecondary-level coursework; and

"(II) career and educational counseling.

"(F) PROFESSIONAL DEVELOPMENT AND TRAINING SESSIONS.—The conduct of professional development and training sessions for postsecondary faculty, staff, and administrators from other institutions of higher education to enable such individuals to meet the educational needs of students with disabilities.

"(G) ACCESSIBILITY OF EDUCATION.—Making postsecondary education more accessible to students with disabilities through curriculum development, consistent with the principles of universal design for learning.

"(3) MANDATORY EVALUATION AND DISSEMINATION.—An institution of higher education awarded a grant, contract, or cooperative agreement under this subpart shall evaluate and disseminate to other institutions of higher education, the information obtained through the activities described in subparagraphs (A) through (G) of paragraph (2).

"(c) CONSIDERATIONS IN MAKING AWARDS.—In awarding grants, contracts, or cooperative agreements under this subpart, the Secretary shall consider the following:

"(1) GEOGRAPHIC DISTRIBUTION.—Providing an equitable geographic distribution of such awards.

"(2) RURAL AND URBAN AREAS.—Distributing such awards to urban and rural areas.

"(3) RANGE AND TYPE OF INSTITUTION.—Ensuring that the activities to be assisted are developed for a range of types and sizes of institutions of higher education.

"(4) PRIOR EXPERIENCE OR EXCEPTIONAL PROGRAMS.—Distributing the awards to institutions of higher education with demonstrated prior experience in, or exceptional programs for, meeting the postsecondary educational needs of students with disabilities.

Public information.

"(d) REPORTS.—

"(1) INITIAL REPORT.—Not later than one year after the date of enactment of the Higher Education Opportunity Act, the Secretary shall prepare and submit to the authorizing committees, and make available to the public, a report on all demonstration projects awarded grants under this part for any of fiscal years 1999 through 2008, including a review of the activities and program performance of such demonstration projects based on existing information as of the date of the report.

"(2) SUBSEQUENT REPORT.—Not later than three years after the date of the first award of a grant under this subpart after the date of enactment of the Higher Education Opportunity Act, the Secretary shall prepare and submit to the authorizing committees, and make available to the public, a report that—

"(A) reviews the activities and program performance of the demonstration projects authorized under this subpart; and

"(B) provides guidance and recommendations on how effective projects can be replicated.

20 USC 1140c.

**"SEC. 763. APPLICATIONS.**

"Each institution of higher education desiring to receive a grant, contract, or cooperative agreement under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall include—

"(1) a description of the activities authorized under this subpart that the institution proposes to carry out, and how such institution plans to conduct such activities in order to further the purpose of this subpart;

"(2) a description of how the institution consulted with a broad range of people within the institution to develop activities for which assistance is sought;

"(3) a description of how the institution will coordinate and collaborate with the office that provides services to students with disabilities within the institution; and

"(4) a description of the extent to which the institution will work to replicate the research-based and best practices of institutions of higher education with demonstrated effectiveness in serving students with disabilities.

**"SEC. 764. RULE OF CONSTRUCTION.** 20 USC 1140d.

"Nothing in this subpart shall be construed to impose any additional duty, obligation, or responsibility on an institution of higher education or on the institution's faculty, administrators, or staff than is required under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

**"SEC. 765. AUTHORIZATION OF APPROPRIATIONS.** 20 USC 1140e.

"There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "Subpart 2—Transition Programs for Students With Intellectual Disabilities Into Higher Education

**"SEC. 766. PURPOSE.** 20 USC 1140f.

"It is the purpose of this subpart to support model demonstration programs that promote the successful transition of students with intellectual disabilities into higher education.

**"SEC. 767. MODEL COMPREHENSIVE TRANSITION AND POSTSECONDARY PROGRAMS FOR STUDENTS WITH INTELLECTUAL DISABILITIES.** 20 USC 1140g.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From amounts appropriated under section 769(a), the Secretary shall annually award grants, on a competitive basis, to institutions of higher education (or consortia of institutions of higher education), to enable the institutions or consortia to create or expand high quality, inclusive model comprehensive transition and postsecondary programs for students with intellectual disabilities.

"(2) ADMINISTRATION.—The program under this section shall be administered by the office in the Department that administers other postsecondary education programs.

"(3) DURATION OF GRANTS.—A grant under this section shall be awarded for a period of 5 years.

"(b) APPLICATION.—An institution of higher education (or a consortium) desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(c) AWARD BASIS.—In awarding grants under this section, the Secretary shall—

"(1) provide for an equitable geographic distribution of such grants;

"(2) provide grant funds for model comprehensive transition and postsecondary programs for students with intellectual

disabilities that will serve areas that are underserved by programs of this type; and

"(3) give preference to applications submitted under subsection (b) that agree to incorporate into the model comprehensive transition and postsecondary program for students with intellectual disabilities carried out under the grant one or more of the following elements:

"(A) The formation of a partnership with any relevant agency serving students with intellectual disabilities, such as a vocational rehabilitation agency.

"(B) In the case of an institution of higher education that provides institutionally owned or operated housing for students attending the institution, the integration of students with intellectual disabilities into the housing offered to nondisabled students.

"(C) The involvement of students attending the institution of higher education who are studying special education, general education, vocational rehabilitation, assistive technology, or related fields in the model program.

"(d) USE OF FUNDS.—An institution of higher education (or consortium) receiving a grant under this section shall use the grant funds to establish a model comprehensive transition and postsecondary program for students with intellectual disabilities that—

"(1) serves students with intellectual disabilities;

"(2) provides individual supports and services for the academic and social inclusion of students with intellectual disabilities in academic courses, extracurricular activities, and other aspects of the institution of higher education's regular postsecondary program;

"(3) with respect to the students with intellectual disabilities participating in the model program, provides a focus on—

"(A) academic enrichment;

"(B) socialization;

"(C) independent living skills, including self-advocacy skills; and

"(D) integrated work experiences and career skills that lead to gainful employment;

"(4) integrates person-centered planning in the development of the course of study for each student with an intellectual disability participating in the model program;

"(5) participates with the coordinating center established under section 777(b) in the evaluation of the model program;

"(6) partners with one or more local educational agencies to support students with intellectual disabilities participating in the model program who are still eligible for special education and related services under the Individuals with Disabilities Education Act, including the use of funds available under part B of such Act to support the participation of such students in the model program;

"(7) plans for the sustainability of the model program after the end of the grant period; and

"(8) creates and offers a meaningful credential for students with intellectual disabilities upon the completion of the model program.

"(e) MATCHING REQUIREMENT.—An institution of higher education (or consortium) that receives a grant under this section

shall provide matching funds toward the cost of the model comprehensive transition and postsecondary program for students with intellectual disabilities carried out under the grant. Such matching funds may be provided in cash or in-kind, and shall be in an amount of not less than 25 percent of the amount of such costs.

"(f) REPORT.—Not later than five years after the date of the first grant awarded under this section, the Secretary shall prepare and disseminate a report to the authorizing committees and to the public that—

"(1) reviews the activities of the model comprehensive transition and postsecondary programs for students with intellectual disabilities funded under this section; and

"(2) provides guidance and recommendations on how effective model programs can be replicated.

**"SEC. 768. RULE OF CONSTRUCTION.** 20 USC 1140h.

"Nothing in this subpart shall be construed to reduce or expand—

"(1) the obligation of a State or local educational agency to provide a free appropriate public education, as defined in section 602 of the Individuals with Disabilities Education Act; or

"(2) eligibility requirements under any Federal, State, or local disability law, including the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), or the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.).

**"SEC. 769. AUTHORIZATION OF APPROPRIATIONS AND RESERVATION.** 20 USC 1140i.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

"(b) RESERVATION OF FUNDS.—For any fiscal year for which appropriations are made for this subpart, the Secretary shall reserve funds to enter into a cooperative agreement to establish the coordinating center under section 777(b), in an amount that is— Contracts.

"(1) not less than $240,000 for any year in which the amount appropriated to carry out this subpart is $8,000,000 or less; or

"(2) equal to 3 percent of the amount appropriated to carry out this subpart for any year in which such amount appropriated is greater than $8,000,000.

## "Subpart 3—Commission on Accessible Materials; Programs to Support Improved Access to Materials

**"SEC. 771. DEFINITION OF STUDENT WITH A PRINT DISABILITY.** 20 USC 1140k.

"In this subpart, the term 'student with a print disability' means a student with a disability who experiences barriers to accessing instructional material in nonspecialized formats, including an individual described in section 121(d)(2) of title 17, United States Code.

20 USC 1140*l*.

**"SEC. 772. ESTABLISHMENT OF ADVISORY COMMISSION ON ACCESSIBLE INSTRUCTIONAL MATERIALS IN POSTSECONDARY EDUCATION FOR STUDENTS WITH DISABILITIES.**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish a commission to be known as the Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities (in this section referred to as the 'Commission').

"(2) MEMBERSHIP.—

"(A) TOTAL NUMBER OF MEMBERS.—The Commission shall include not more than 19 members, who shall be appointed by the Secretary in accordance with in subparagraphs (B) and (C).

"(B) MEMBERS OF THE COMMISSION.—The Commission members shall include one representative from each of the following categories:

"(i) The Office of Postsecondary Education of the Department.

"(ii) The Office of Special Education and Rehabilitative Services of the Department.

"(iii) The Office for Civil Rights of the Department.

"(iv) The Library of Congress National Digital Information and Infrastructure Preservation Program Copyright Working Group.

"(v) The Association on Higher Education and Disability.

"(vi) The Association of American Publishers.

"(vii) The Association of American University Presses.

"(viii) The National Council on Disability.

"(ix) Recording for the Blind and Dyslexic.

"(x) National organizations representing individuals with visual impairments.

"(xi) National organizations representing individuals with learning disabilities.

"(C) ADDITIONAL MEMBERS OF THE COMMISSION.—The Commission members shall include two representatives from each of the following categories:

"(i) Staff from institutions of higher education with demonstrated experience teaching or supporting students with print disabilities, including representatives from both two-year and four-year institutions of higher education of different sizes.

"(ii) Producers of accessible materials, publishing software, and supporting technologies in specialized formats, such as Braille, audio or synthesized speech, and digital media.

"(iii) Individuals with visual impairments, including not less than one currently enrolled postsecondary student.

"(iv) Individuals with dyslexia or other learning disabilities related to reading, including not less than one currently enrolled postsecondary student.

Deadline.

"(D) TIMING.—The Secretary shall appoint the members of the Commission not later than 60 days after the Commission is established under paragraph (1).

"(3) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a chairperson and vice chairperson from among the members of the Commission.

"(4) MEETINGS.—

"(A) IN GENERAL.—The Commission shall meet at the call of the Chairperson.

"(B) FIRST MEETING.—Not later than 60 days after the appointment of the members of the Commission under paragraph (2)(D), the Commission shall hold the Commission's first meeting. Deadline.

"(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

"(b) DUTIES OF THE COMMISSION.—

"(1) STUDY.—

"(A) IN GENERAL.—The Commission shall conduct a comprehensive study to—

"(i) assess the barriers and systemic issues that may affect, and technical solutions available that may improve, the timely delivery and quality of accessible instructional materials for postsecondary students with print disabilities, as well as the effective use of such materials by faculty and staff; and

"(ii) make recommendations related to the development of a comprehensive approach to improve the opportunities for postsecondary students with print disabilities to access instructional materials in specialized formats in a timeframe comparable to the availability of instructional materials for postsecondary nondisabled students.

"(B) EXISTING INFORMATION.—To the extent practicable, in carrying out the study under this paragraph, the Commission shall identify and use existing research, recommendations, and information.

"(C) RECOMMENDATIONS.—

"(i) IN GENERAL.—The Commission shall develop recommendations—

"(I) to inform Federal regulations and legislation;

"(II) to support the model demonstration programs authorized under section 773;

"(III) to identify best practices in systems for collecting, maintaining, processing, and disseminating materials in specialized formats to students with print disabilities at costs comparable to instructional materials for postsecondary nondisabled students;

"(IV) to improve the effective use of such materials by faculty and staff, while complying with applicable copyright law; and

"(V) to modify the definitions of instructional materials, authorized entities, and eligible students, as such terms are used in applicable Federal law, for the purpose of improving services to students with disabilities.

"(ii) CONSIDERATIONS.—In developing the recommendations under subparagraph (C), the Commission shall consider—

"(I) how students with print disabilities may obtain instructional materials in accessible formats—

"(aa) within a timeframe comparable to the availability of instructional materials for nondisabled students; and

"(bb) to the maximum extent practicable, at costs comparable to the costs of such materials for nondisabled students;

"(II) the feasibility and technical parameters of establishing standardized electronic file formats, such as the National Instructional Materials Accessibility Standard as defined in section 674(e)(3) of the Individuals with Disabilities Education Act, to be provided by publishers of instructional materials to producers of materials in specialized formats, institutions of higher education, and eligible students;

"(III) the feasibility of establishing a national clearinghouse, repository, or file-sharing network for electronic files in specialized formats and files used in producing instructional materials in specialized formats, and a list of possible entities qualified to administer such clearinghouse, repository, or network;

"(IV) the feasibility of establishing market-based solutions involving collaborations among publishers of instructional materials, producers of materials in specialized formats, and institutions of higher education;

"(V) solutions utilizing universal design; and

"(VI) solutions for low-incidence, high-cost requests for instructional materials in specialized formats.

"(2) REPORT.—Not later than one year after the Commission's first meeting, the Commission shall submit a report to the Secretary and the authorizing committees detailing the findings and recommendations of the study conducted under paragraph (1).

"(3) DISSEMINATION OF INFORMATION.—In carrying out the study under paragraph (1), the Commission shall disseminate information concerning the issues that are the subject of the study through—

"(A) the National Technical Assistance Center established under subpart 4; and

"(B) other means, as determined by the Commission.

"(c) TERMINATION OF THE COMMISSION.—The Commission shall terminate on the date that is 90 days after the date on which the Commission submits the report under subsection (b)(2) to the Secretary and the authorizing committees.

**"SEC. 773. MODEL DEMONSTRATION PROGRAMS TO SUPPORT IMPROVED ACCESS TO POSTSECONDARY INSTRUCTIONAL MATERIALS FOR STUDENTS WITH PRINT DISABILITIES.**

Grants.
Contracts.
20 USC 1140m.

"(a) PURPOSE.—It is the purpose of this section to support model demonstration programs for the purpose of encouraging the development of systems to improve the quality of postsecondary instructional materials in specialized formats and such materials' timely delivery to postsecondary students with print disabilities, including systems to improve efficiency and reduce duplicative efforts across multiple institutions of higher education.

"(b) DEFINITION OF ELIGIBLE PARTNERSHIP.—In this section, the term 'eligible partnership' means a partnership that—

"(1) shall include—

"(A) an institution of higher education with demonstrated expertise in meeting the needs of students with print disabilities, including the retention of such students in, and such students' completion of, postsecondary education; and

"(B) a public or private entity, other than an institution of higher education, with—

"(i) demonstrated expertise in developing accessible instructional materials in specialized formats for postsecondary students with print disabilities; and

"(ii) the technical development expertise necessary for the efficient dissemination of such materials, including procedures to protect against copyright infringement with respect to the creation, use, and distribution of instructional materials in specialized formats; and

"(2) may include representatives of the publishing industry.

"(c) PROGRAM AUTHORIZED.—From amounts appropriated under section 775, the Secretary shall award grants or contracts, on a competitive basis, to not less than one eligible partnership to enable the eligible partnership to support the activities described in subsection (f) and, as applicable, subsection (g).

"(d) APPLICATION.—An eligible partnership that desires a grant or contract under this section shall submit an application at such time, in such manner, and in such format as the Secretary may prescribe. The application shall include information on how the eligible partnership will implement activities under subsection (f) and, as applicable, subsection (g).

"(e) PRIORITY.—In awarding grants or contracts under this section, the Secretary shall give priority to any applications that include the development and implementation of the procedures and approaches described in paragraphs (2) and (3) of subsection (g).

"(f) REQUIRED ACTIVITIES.—An eligible partnership that receives a grant or contract under this section shall use the grant or contract funds to carry out the following:

"(1) Supporting the development and implementation of the following:

"(A) Processes and systems to help identify, and verify eligibility of, postsecondary students with print disabilities in need of instructional materials in specialized formats.

"(B) Procedures and systems to facilitate and simplify request methods for accessible instructional materials in specialized formats from eligible students described in

subparagraph (A), which may include a single point-of-entry system.

"(C) Procedures and systems to coordinate among institutions of higher education, publishers of instructional materials, and entities that produce materials in specialized formats, to efficiently facilitate—

"(i) requests for such materials;

"(ii) the responses to such requests; and

"(iii) the delivery of such materials.

"(D) Delivery systems that will ensure the timely provision of instructional materials in specialized formats to eligible students, which may include electronic file distribution.

"(E) Systems to reduce duplicative conversions and improve sharing of the same instructional materials in specialized formats for multiple eligible students at multiple institutions of higher education.

"(F) Procedures to protect against copyright infringement with respect to the development, use, and distribution of instructional materials in specialized formats while maintaining accessibility for eligible students, which may include digital technologies such as watermarking, fingerprinting, and other emerging approaches.

"(G) Awareness, outreach, and training activities for faculty, staff, and students related to the acquisition and dissemination of instructional materials in specialized formats and instructional materials utilizing universal design.

"(2) Providing recommendations on how effective procedures and systems described in paragraph (1) may be disseminated and implemented on a national basis.

"(g) AUTHORIZED APPROACHES.—An eligible partnership that receives a grant or contract under this section may use the grant or contract funds to support the development and implementation of the following:

"(1) Approaches for the provision of instructional materials in specialized formats limited to instructional materials used in smaller categories of postsecondary courses, such as introductory, first-, and second-year courses.

"(2) Approaches supporting a unified search for instructional materials in specialized formats across multiple databases or lists of available materials.

"(3) Market-based approaches for making instructional materials in specialized formats directly available to eligible students at prices comparable to standard instructional materials.

"(h) REPORT.—Not later than three years after the date of the first grant or contract awarded under this section, the Secretary shall submit to the authorizing committees a report that includes—

"(1) the number of grants and contracts and the amount of funds distributed under this section;

"(2) a summary of the purposes for which the grants and contracts were provided and an evaluation of the progress made under such grants and contracts;

"(3) a summary of the activities implemented under subsection (f) and, as applicable, subsection (g), including data on the number of postsecondary students with print disabilities

served and the number of instructional material requests executed and delivered in specialized formats; and

"(4) an evaluation of the effectiveness of programs funded under this section.

"(i) MODEL EXPANSION.—The Secretary may, on the basis of the reports under subsection (h) and section 772(b)(2) and any evaluations of the projects funded under this section, expand the program under this section to additional grant or contract recipients that use other programmatic approaches and serve different geographic regions, if the Secretary finds that the models used under this section—

"(1) are effective in improving the timely delivery and quality of materials in specialized formats; and

"(2) provide adequate protections against copyright infringement.

**"SEC. 774. RULE OF CONSTRUCTION.** 20 USC 1140n.

"Nothing in this subpart shall be construed to limit or preempt any State law requiring the production or distribution of postsecondary instructional materials in accessible formats to students with disabilities.

**"SEC. 775. AUTHORIZATION OF APPROPRIATIONS.** 20 USC 1140o.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

"(b) PRIORITY.—For the first fiscal year for which funds are made available under this section, the Secretary shall give priority to allocating funding for the purposes of section 772.

## "Subpart 4—National Technical Assistance Center; Coordinating Center

**"SEC. 776. PURPOSE.** 20 USC 1140p.

"It is the purpose of this subpart to provide technical assistance and information on best and promising practices to students with disabilities, the families of students with disabilities, and entities awarded grants, contracts, or cooperative agreements under subpart 1, 2, or 3 to improve the postsecondary recruitment, transition, retention, and completion rates of students with disabilities.

**"SEC. 777. NATIONAL TECHNICAL ASSISTANCE CENTER; COORDINATING CENTER.** 20 USC 1140q.

"(a) NATIONAL CENTER.—

"(1) IN GENERAL.—From amounts appropriated under section 778, the Secretary shall award a grant to, or enter into a contract or cooperative agreement with, an eligible entity to provide for the establishment and support of a National Center for Information and Technical Support for Postsecondary Students with Disabilities (in this subsection referred to as the 'National Center'). The National Center shall carry out the duties set forth in paragraph (4). Grants. Contracts.

"(2) ADMINISTRATION.—The program under this section shall be administered by the office in the Department that administers other postsecondary education programs.

"(3) ELIGIBLE ENTITY.—In this subpart, the term 'eligible entity' means an institution of higher education, a nonprofit

organization, or partnership of two or more such institutions or organizations, with demonstrated expertise in—

"(A) supporting students with disabilities in postsecondary education;

"(B) technical knowledge necessary for the dissemination of information in accessible formats;

"(C) working with diverse types of institutions of higher education, including community colleges; and

"(D) the subjects supported by the grants, contracts, or cooperative agreements authorized in subparts 1, 2, and 3.

"(4) DUTIES.—The duties of the National Center shall include the following:

"(A) ASSISTANCE TO STUDENTS AND FAMILIES.—The National Center shall provide information and technical assistance to students with disabilities and the families of students with disabilities to support students across the broad spectrum of disabilities, including—

"(i) information to assist individuals with disabilities who are prospective students of an institution of higher education in planning for postsecondary education while the students are in secondary school;

"(ii) information and technical assistance provided to individualized education program teams (as defined in section 614(d)(1) of the Individuals with Disabilities Education Act) for secondary school students with disabilities, and to early outreach and student services programs, including programs authorized under subparts 2, 4, and 5 of part A of title IV, to support students across a broad spectrum of disabilities with the successful transition to postsecondary education;

"(iii) research-based supports, services, and accommodations which are available in postsecondary settings, including services provided by other agencies such as vocational rehabilitation;

"(iv) information on student mentoring and networking opportunities for students with disabilities; and

"(v) effective recruitment and transition programs at postsecondary educational institutions.

"(B) ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION.—The National Center shall provide information and technical assistance to faculty, staff, and administrators of institutions of higher education to improve the services provided to, the accommodations for, the retention rates of, and the completion rates of, students with disabilities in higher education settings, which may include—

"(i) collection and dissemination of best and promising practices and materials for accommodating and supporting students with disabilities, including practices and materials supported by the grants, contracts, or cooperative agreements authorized under subparts 1, 2, and 3;

"(ii) development and provision of training modules for higher education faculty on exemplary practices for accommodating and supporting postsecondary students with disabilities across a range of academic

fields, which may include universal design for learning and practices supported by the grants, contracts, or cooperative agreements authorized under subparts 1, 2, and 3; and

"(iii) development of technology-based tutorials for higher education faculty and staff, including new faculty and graduate students, on best and promising practices related to support and retention of students with disabilities in postsecondary education.

Records.

"(C) INFORMATION COLLECTION AND DISSEMINATION.—The National Center shall be responsible for building, maintaining, and updating a database of disability support services information with respect to institutions of higher education, or for expanding and updating an existing database of disabilities support services information with respect to institutions of higher education. Such database shall be available to the general public through a website built to high technical standards of accessibility practicable for the broad spectrum of individuals with disabilities. Such database and website shall include available information on—

Public information. Web site.

"(i) disability documentation requirements;

"(ii) support services available;

"(iii) links to financial aid;

"(iv) accommodations policies;

"(v) accessible instructional materials;

"(vi) other topics relevant to students with disabilities; and

"(vii) the information in the report described in subparagraph (E).

"(D) DISABILITY SUPPORT SERVICES.—The National Center shall work with organizations and individuals with proven expertise related to disability support services for postsecondary students with disabilities to evaluate, improve, and disseminate information related to the delivery of high quality disability support services at institutions of higher education.

"(E) REVIEW AND REPORT.—Not later than three years after the establishment of the National Center, and every two years thereafter, the National Center shall prepare and disseminate a report to the Secretary and the authorizing committees analyzing the condition of postsecondary success for students with disabilities. Such report shall include—

"(i) a review of the activities and the effectiveness of the programs authorized under this part;

"(ii) annual enrollment and graduation rates of students with disabilities in institutions of higher education from publicly reported data;

"(iii) recommendations for effective postsecondary supports and services for students with disabilities, and how such supports and services may be widely implemented at institutions of higher education;

"(iv) recommendations on reducing barriers to full participation for students with disabilities in higher education; and

"(v) a description of strategies with a demonstrated record of effectiveness in improving the success of such students in postsecondary education.

"(F) STAFFING OF THE CENTER.—In hiring employees of the National Center, the National Center shall consider the expertise and experience of prospective employees in providing training and technical assistance to practitioners.

"(b) COORDINATING CENTER.—

"(1) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means an entity, or a partnership of entities, that has demonstrated expertise in the fields of—

"(A) higher education;

"(B) the education of students with intellectual disabilities;

"(C) the development of comprehensive transition and postsecondary programs for students with intellectual disabilities; and

"(D) evaluation and technical assistance.

Contracts.

"(2) IN GENERAL.—From amounts appropriated under section 778, the Secretary shall enter into a cooperative agreement, on a competitive basis, with an eligible entity for the purpose of establishing a coordinating center for institutions of higher education that offer inclusive comprehensive transition and postsecondary programs for students with intellectual disabilities, including institutions participating in grants authorized under subpart 2, to provide—

"(A) recommendations related to the development of standards for such programs;

"(B) technical assistance for such programs; and

"(C) evaluations for such programs.

"(3) ADMINISTRATION.—The program under this subsection shall be administered by the office in the Department that administers other postsecondary education programs.

Contracts.

"(4) DURATION.—The Secretary shall enter into a cooperative agreement under this subsection for a period of five years.

"(5) REQUIREMENTS OF COOPERATIVE AGREEMENT.—The eligible entity entering into a cooperative agreement under this subsection shall establish and maintain a coordinating center that shall—

"(A) serve as the technical assistance entity for all comprehensive transition and postsecondary programs for students with intellectual disabilities;

"(B) provide technical assistance regarding the development, evaluation, and continuous improvement of such programs;

"(C) develop an evaluation protocol for such programs that includes qualitative and quantitative methodologies for measuring student outcomes and program strengths in the areas of academic enrichment, socialization, independent living, and competitive or supported employment;

"(D) assist recipients of grants under subpart 2 in efforts to award a meaningful credential to students with intellectual disabilities upon the completion of such programs, which credential shall take into consideration unique State factors;

"(E) develop recommendations for the necessary components of such programs, such as—

"(i) academic, vocational, social, and independent living skills;

"(ii) evaluation of student progress;

"(iii) program administration and evaluation;

"(iv) student eligibility; and

"(v) issues regarding the equivalency of a student's participation in such programs to semester, trimester, quarter, credit, or clock hours at an institution of higher education, as the case may be;

"(F) analyze possible funding streams for such programs and provide recommendations regarding the funding streams;

"(G) develop model memoranda of agreement for use between or among institutions of higher education and State and local agencies providing funding for such programs;

"(H) develop mechanisms for regular communication, outreach and dissemination of information about comprehensive transition and postsecondary programs for students with intellectual disabilities under subpart 2 between or among such programs and to families and prospective students;

"(I) host a meeting of all recipients of grants under subpart 2 not less often than once each year; and

"(J) convene a workgroup to develop and recommend model criteria, standards, and components of such programs as described in subparagraph (E), that are appropriate for the development of accreditation standards, which workgroup shall include—

"(i) an expert in higher education;

"(ii) an expert in special education;

"(iii) a disability organization that represents students with intellectual disabilities;

"(iv) a representative from the National Advisory Committee on Institutional Quality and Integrity; and

"(v) a representative of a regional or national accreditation agency or association.

"(6) REPORT.—Not later than five years after the date of the establishment of the coordinating center under this subsection, the coordinating center shall report to the Secretary, the authorizing committees, and the National Advisory Committee on Institutional Quality and Integrity on the recommendations of the workgroup described in paragraph (5)(J).

**"SEC. 778. AUTHORIZATION OF APPROPRIATIONS.** 20 USC 1140r.

"There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.".

**SEC. 710. SUBGRANTS TO NONPROFIT ORGANIZATIONS.**

Section 781 (as redesignated by section 709(1)) (20 U.S.C. 1141) is amended—

(1) in subsection (a), by striking the second sentence and inserting the following: "In addition to the amount authorized and appropriated under the preceding sentence, there are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.";

(2) in subsection (b)(1), by inserting ", subject to the availability of appropriations," after "the Secretary shall"; and

(3) in subsection (e), by inserting after "of this Act)" the following: ", or those nonprofit organizations that have agreements with the Secretary under section 435(j)".

# TITLE VIII—ADDITIONAL PROGRAMS

**SEC. 801. ADDITIONAL PROGRAMS.**

The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is further amended by adding at the end the following new title:

# "TITLE VIII—ADDITIONAL PROGRAMS

## "PART A—PROJECT GRAD

20 USC 1161a.

**"SEC. 801. PROJECT GRAD.**

"(a) PURPOSES.—The purposes of this section are—

"(1) to provide support and assistance to programs implementing integrated education reform services in order to improve secondary school graduation, postsecondary program attendance, and postsecondary completion rates for low-income students; and

"(2) to promote the establishment of new programs to implement such integrated education reform services.

"(b) DEFINITIONS.—In this section:

"(1) LOW-INCOME STUDENT.—The term 'low-income student' means a student who is determined by a local educational agency to be from a low-income family using the measures described in section 1113(a)(5) of the Elementary and Secondary Education Act of 1965.

"(2) FEEDER PATTERN.—The term 'feeder pattern' means a secondary school and the elementary schools and middle schools that channel students into that secondary school.

"(c) CONTRACT AUTHORIZED.—From the amount appropriated to carry out this section, the Secretary is authorized to award a five-year contract to Project GRAD USA (referred to in this section as the 'contractor'), a nonprofit education organization that has as its primary purpose the improvement of secondary school graduation and postsecondary attendance and completion rates for low-income students. Such contract shall be used to carry out the requirements of subsection (d) and to implement and sustain integrated education reform services through subcontractor activities described in subsection (e)(3) at existing Project GRAD program sites and to promote the expansion to new sites.

"(d) REQUIREMENTS OF CONTRACT.—The Secretary shall enter into an agreement with the contractor that requires that the contractor shall—

"(1) enter into subcontracts with nonprofit educational organizations that serve a substantial number or percentage of low-income students (referred to in this subsection as 'subcontractors'), under which the subcontractors agree to implement the Project GRAD programs described in subsection (e) and provide matching funds for such programs;

"(2) directly carry out—

"(A) activities to implement and sustain the literacy, mathematics, classroom management, social service, and postsecondary access programs further described in subsection (e)(3);

"(B) activities to build the organizational and management capacity of the subcontractors to effectively implement and sustain the programs;

"(C) activities for the purpose of improving and expanding the programs, including activities—

"(i) to further articulate a program for one or more grade levels and across grade levels;

"(ii) to tailor a program for a particular target audience; and

"(iii) to provide tighter integration across programs;

"(D) activities for the purpose of implementing new Project GRAD program sites;

"(E) activities for the purpose of promoting greater public awareness of integrated education reform services to improve secondary school graduation and postsecondary attendance rates for low-income students; and

"(F) other activities directly related to improving secondary school graduation and postsecondary attendance and completion rates for low-income students; and

"(3) use contract funds available under this section to pay—

"(A) the amount determined under subsection (f); and

"(B) costs associated with carrying out the activities and providing the services, as provided in paragraph (2) of this subsection.

"(e) SUPPORTED PROGRAMS.—

"(1) DESIGNATION.—The subcontractor programs referred to in this subsection shall be known as Project GRAD programs.

"(2) FEEDER PATTERNS.—Each subcontractor shall implement a Project GRAD program and shall, with the agreement of the contractor—

"(A) identify or establish not less than one feeder pattern of public schools; and

"(B) provide the integrated educational reform services described in paragraph (3) at each identified feeder pattern.

"(3) INTEGRATED EDUCATION REFORM SERVICES.—The services provided through a Project GRAD program may include—

"(A) research-based programs in reading, mathematics, and classroom management;

"(B) campus-based social services programs, including a systematic approach to increase family and community involvement in the schools served by the Project GRAD program;

"(C) a postsecondary access program that includes—

"(i) providing postsecondary scholarships for students who meet established criteria;

"(ii) proven approaches for increasing student and family postsecondary awareness; and

"(iii) assistance for students in applying for higher education financial aid; and

"(D) such other services identified by the contractor as necessary to increase secondary school graduation and postsecondary attendance and completion rates.

"(f) USE OF FUNDS.—Of the funds made available to carry out this section, not more than five percent of such funds, or $4,000,000, whichever is less, shall be used by the contractor to pay for administration of the contract.

"(g) CONTRIBUTION AND MATCHING REQUIREMENT.—

"(1) IN GENERAL.—The contractor shall provide to each subcontractor an average of $200 for each student served by the subcontractor in the Project GRAD program, adjusted to take into consideration—

"(A) the resources or funds available in the area where the subcontractor will implement the Project GRAD program; and

"(B) the need for the Project GRAD program in such area to improve student outcomes, including reading and mathematics achievement, secondary school graduation, and postsecondary attendance and completion rates.

"(2) MATCHING REQUIREMENT.—Each subcontractor shall provide funds for the Project GRAD program in an amount that is equal to the amount received by the subcontractor from the contractor. Such matching funds may be provided in cash or in kind, fairly evaluated.

"(3) WAIVER AUTHORITY.—The contractor may waive, in whole or in part, the requirement of paragraph (2) for a subcontractor, if the subcontractor—

"(A) demonstrates that the subcontractor would not otherwise be able to participate in the program; and

"(B) enters into an agreement with the contractor with respect to the amount to which the waiver will apply.

"(h) EVALUATION.—

Deadline.

"(1) EVALUATION BY THE SECRETARY.—The Secretary shall select an independent entity to evaluate, every three years, the performance of students who participate in a Project GRAD program under this section. The evaluation shall—

"(A) be conducted using a rigorous research design for determining the effectiveness of the Project GRAD programs funded under this section; and

"(B) compare reading and mathematics achievement, secondary school graduation, and postsecondary attendance and completion rates of students who participate in a Project GRAD program funded under this section with those indicators for students of similar backgrounds who do not participate in such program.

Reports.

"(2) EVALUATION BY CONTRACTOR AND SUBCONTRACTORS.—The contractor shall require each subcontractor to prepare an in-depth report of the results and the use of funds of each Project GRAD program funded under this section that includes—

"(A) data on the reading and mathematics achievement of students involved in the Project GRAD program;

"(B) data on secondary school graduation and postsecondary attendance and completion rates; and

"(C) such financial reporting as required by the Secretary to review the effectiveness and efficiency of the program.

"(3) AVAILABILITY OF EVALUATIONS.—Copies of any evaluation or report prepared under this subsection shall be made available to—

"(A) the Secretary; and

"(B) the authorizing committees.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART B—MATHEMATICS AND SCIENCE SCHOLARS PROGRAM

**"SEC. 802. MATHEMATICS AND SCIENCE SCHOLARS PROGRAM.**

Grants.
20 USC 1161b.

"(a) PROGRAM AUTHORIZED.—From the amounts appropriated under subsection (f), the Secretary is authorized to award grants to States, on a competitive basis, to enable the States to encourage students to pursue a rigorous course of study, beginning in secondary school and continuing through the students' postsecondary education, in science, technology, engineering, mathematics, or a health-related field.

"(b) APPLICATIONS.—

"(1) IN GENERAL.—A State that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. A State may submit an application to receive a grant under subsection (c) or (d), or both.

"(2) CONTENTS OF APPLICATION.—Each application shall include a description of—

"(A) the program or programs for which the State is applying;

"(B) if applicable, the priority set by the Governor pursuant to subsection (c)(4) or (d)(3); and

"(C) how the State will meet the requirements of subsection (e).

"(c) MATHEMATICS AND SCIENCE SCHOLARS PROGRAM.—

"(1) GRANT FOR SCHOLARSHIPS.—The Secretary shall award grants under this subsection to provide scholarship support to eligible students.

"(2) ELIGIBLE STUDENTS.—A student is eligible for a scholarship under this subsection if the student—

"(A) meets the requirements of section 484(a);

"(B) is a full-time student in the student's first year of undergraduate study; and

"(C) has completed a rigorous secondary school curriculum in mathematics and science.

"(3) RIGOROUS CURRICULUM.—Each participating State shall determine the requirements for a rigorous secondary school curriculum in mathematics and science described in paragraph (2)(C).

"(4) PRIORITY FOR SCHOLARSHIPS.—The Governor of a State may set a priority for awarding scholarships under this subsection for particular eligible students, such as students attending schools in high-need local educational agencies (as defined in section 200), students who are from groups underrepresented in the fields of mathematics, science, and engineering, students served by local educational agencies that do not meet or exceed State standards in mathematics and science, or other high-need students.

"(5) AMOUNT AND DURATION OF SCHOLARSHIP.—The Secretary shall award a grant under this subsection to provide scholarships—

"(A) in an amount that does not exceed $5,000 per student; and

"(B) for not more than one year of undergraduate study.

"(d) STEM OR HEALTH-RELATED SCHOLARS PROGRAM.—

"(1) GRANT FOR SCHOLARSHIPS.—The Secretary shall award grants under this subsection to provide scholarship support to eligible students.

"(2) ELIGIBLE STUDENTS.—A student is eligible for scholarship under this subsection if the student—

"(A) meets the requirements of section 484(a);

"(B) is a full-time student who has completed at least the first year of undergraduate study;

"(C) is enrolled in a program of undergraduate instruction leading to a bachelor's degree with a major in science, technology, engineering, mathematics, or a health-related field; and

"(D) has obtained a cumulative grade point average of at least a 3.0 (or the equivalent as determined under regulation prescribed by the Secretary) at the end of the most recently completed term.

"(3) PRIORITY FOR SCHOLARSHIPS.—The Governor of a State may set a priority for awarding scholarships under this subsection for students agreeing to work in areas of science, technology, engineering, mathematics, or health-related fields.

"(4) AMOUNT AND DURATION OF SCHOLARSHIP.—The Secretary shall award a grant under this subsection to provide scholarships—

"(A) in an amount that does not exceed $5,000 per student for an academic year; and

"(B) in an aggregate amount that does not exceed $20,000 per student.

"(e) MATCHING REQUIREMENT.—In order to receive a grant under this section, a State shall provide matching funds for the scholarships awarded under this section in an amount equal to 50 percent of the Federal funds received.

"(f) AUTHORIZATION.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

"(g) DEFINITION.—The term 'Governor' means the chief executive officer of a State.

## "PART C—BUSINESS WORKFORCE PARTNERSHIPS FOR JOB SKILL TRAINING IN HIGH-GROWTH OCCUPATIONS OR INDUSTRIES

Grants.
20 USC 1161c.

### "SEC. 803. BUSINESS WORKFORCE PARTNERSHIPS FOR JOB SKILL TRAINING IN HIGH-GROWTH OCCUPATIONS OR INDUSTRIES.

"(a) PURPOSE.—The purpose of this section is to provide grants to institutions of higher education partnering with employers to—

"(1) provide relevant job skill training in high-growth and high-wage industries or occupations to nontraditional students; and

"(2) strengthen ties between degree credit offerings at institutions of higher education and business and industry workforce needs.

"(b) AUTHORIZATION.—

"(1) IN GENERAL.—From the amounts appropriated under subsection (k), the Secretary shall award grants, on a competitive basis, to eligible partnerships for the purpose provided in subsection (a).

"(2) DURATION.—The Secretary shall award grants under this section for a period of not less than 36 months and not more than 60 months.

"(3) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds available to the eligible partnership for carrying out the activities described in subsection (c).

"(c) USE OF FUNDS.—In consultation with all of the members of an eligible partnership, grant funds provided under this section may be used to—

"(1) expand or create for-credit academic programs or programs of training that provide relevant job skill training for high-growth and high-wage occupations or industries, including offerings connected to registered apprenticeship programs and entrepreneurial training opportunities;

"(2) in consultation with faculty in the appropriate departments of an institution of higher education, adapt college offerings to the schedules and needs of working students, such as the creation of evening, weekend, modular, compressed, or distance learning formats;

"(3) purchase equipment that will facilitate the development of academic programs or programs of training that provide training for high-growth and high-wage occupations or industries;

"(4) strengthen outreach efforts that enable students, including students with limited English proficiency, to attend institutions of higher education with academic programs or programs of training focused on high-growth and high-wage occupations or industries;

"(5) expand worksite learning and training opportunities, including registered apprenticeships as appropriate; and

"(6) support other activities the Secretary determines to be consistent with the purpose of this section.

"(d) APPLICATION.—

"(1) IN GENERAL.—Each eligible partnership that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require.

"(2) CONTENTS.—Each application submitted under paragraph (1) shall include a description of—

"(A) how the eligible partnership, through the institution of higher education, will provide relevant job skill training for students to enter high-growth and high-wage occupations or industries; and

"(B) how the eligible partnership has consulted with employers and, where applicable, labor organizations to identify local high-growth and high-wage occupations or industries.

"(e) AWARD BASIS.—In awarding grants under this section, the Secretary shall—

"(1) give priority to applications focused on serving non-traditional students;

"(2) ensure an equitable distribution of grant funds under this section among urban and rural areas of the United States; and

"(3) take into consideration the capability of an institution of higher education that is participating in an eligible partnership to—

"(A) offer one- or two-year high-quality programs of instruction and job skill training for students entering a high-growth and high-wage occupation or industry;

"(B) involve the local business community, and to place graduates in employment in high-growth and high-wage occupations or industries in the community; and

"(C) serve adult workers or displaced workers.

"(f) ADMINISTRATIVE COSTS.—A grantee under this section may use not more than five percent of the grant amount to pay administrative costs associated with activities funded by the grant.

"(g) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to grantees under this section throughout the grant period.

Public information.

"(h) EVALUATION.—The Secretary shall conduct an evaluation of the effectiveness of the program under this section based on performance standards developed in consultation with the Department of Labor, and shall disseminate to the public the findings of such evaluation and information related to promising practices developed under this section.

"(i) REPORT TO CONGRESS.—Not later than 36 months after the first grant is awarded under this section, the Comptroller General shall report to the authorizing committees recommendations—

"(1) for changes to this Act and related Acts, such as the Carl D. Perkins Career and Technical Education Act of 2006 and the Workforce Investment Act of 1998 (including titles I and II), to help create and sustain business and industry workforce partnerships at institutions of higher education; and

"(2) for other changes to this Act and related Acts to otherwise strengthen the links between business and industry workforce needs, workforce development programs, and other degree credit offerings at institutions of higher education.

"(j) DEFINITIONS.—In this section:

"(1) ELIGIBLE PARTNERSHIP.—

"(A) IN GENERAL.—The term 'eligible partnership' means a partnership that includes—

"(i) one or more institutions of higher education, one of which serves as the fiscal agent and grant recipient for the eligible partnership;

"(ii) except as provided in subparagraph (B), an employer, group of employers, local board (as such term is defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), or workforce intermediary, or any combination thereof; and

"(iii) where applicable, one or more labor organizations that represent workers locally in the businesses or industries that are the focus of the partnership,

including as a result of such an organization's representation of employees at a worksite at which the partnership proposes to conduct activities under this section.

"(B) STATE AND LOCAL BOARDS.—Notwithstanding subparagraph (A), if an institution of higher education that is participating in an eligible partnership under this section is located in a State that does not operate local boards, an eligible partnership may include a State board (as such term is defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)).

"(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an eligible partnership that is in existence on the date of enactment of the Higher Education Opportunity Act from applying for a grant under this section.

"(2) NONTRADITIONAL STUDENT.—The term 'nontraditional student' means a student—

"(A) who is an independent student, as defined in section 480(d);

"(B) who attends an institution of higher education—

"(i) on less than a full-time basis;

"(ii) via evening, weekend, modular, or compressed courses; or

"(iii) via distance education methods; and

"(C) who—

"(i) enrolled for the first time in an institution of higher education three or more years after completing high school; or

"(ii) works full-time.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART D—CAPACITY FOR NURSING STUDENTS AND FACULTY

**"SEC. 804. CAPACITY FOR NURSING STUDENTS AND FACULTY.**

Grants.
20 USC 1161d.

"(a) AUTHORIZATION.—From the amounts appropriated under subsection (f), the Secretary shall award grants to institutions of higher education that offer—

"(1) an accredited registered nursing program at the baccalaureate or associate degree level to enable such program to expand the faculty and facilities of such program to accommodate additional students in such program; or

"(2) an accredited graduate-level nursing program to accommodate advanced practice degrees for registered nurses or to accommodate students enrolled in such program to become teachers of nursing students.

"(b) DETERMINATION OF NUMBER OF STUDENTS AND APPLICATION.—Each institution of higher education that offers a program described in subsection (a) that desires to receive a grant under this section shall—

"(1) determine, for the four academic years preceding the academic year for which the determination is made, the average number of matriculated nursing program students, in each of the institution's accredited associate, baccalaureate, or

advanced nursing degree programs at such institution for such academic years;

"(2) submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require, including the average number in each of the institution's accredited nursing programs determined under paragraph (1); and

"(3) with respect to the partnerships described in subsection (c)(2)(B), provide assurances that—

"(A) the individuals enrolled in the program will—

"(i) be registered nurses in pursuit of a master's or doctoral degree in nursing; and

"(ii) have a contractual obligation with the hospital or health facility that is in partnership with the institution of higher education;

"(B) the hospital or health facility of employment will be the clinical site for the accredited school of nursing program, if the program requires a clinical site;

"(C) individuals enrolled in the program will—

"(i) maintain their employment on at least a part-time basis with the hospital or health facility that allowed them to participate in the program; and

"(ii) receive an income from the hospital or health facility, as at least a part-time employee, and release times or flexible schedules, to accommodate their program requirements, as necessary; and

"(D) upon completion of the program, recipients of scholarships described in subsection (c)(2)(B)(ii)(III) will be required to teach for two years in an accredited school of nursing for each year of support the individual received under this section.

"(c) GRANT AMOUNT; AWARD BASIS.—

"(1) GRANT AMOUNT.—For each academic year after academic year 2009–2010, the Secretary is authorized to provide to each institution of higher education awarded a grant under this section an amount that is equal to $3,000 multiplied by the number by which—

"(A) the number of matriculated nursing program students at such institution for such academic year, exceeds

"(B) the average number determined with respect to such institution under subsection (b)(1).

"(2) DISTRIBUTION OF GRANTS AMONG DIFFERENT DEGREE PROGRAMS.—

"(A) IN GENERAL.—Subject to subparagraph (D), from the funds available to award grants under this section for each fiscal year, the Secretary shall—

"(i) use 20 percent of such funds to award grants under this section to institutions of higher education for the purpose of accommodating advanced practice degrees or students in accredited graduate-level nursing programs;

"(ii) use 40 percent of such funds to award grants under this section to institutions of higher education for the purpose of expanding accredited registered nurse programs at the baccalaureate degree level; and

"(iii) use 40 percent of such funds to award grants under this section to institutions of higher education

for the purpose of expanding accredited registered nurse programs at the associate degree level.

"(B) OPTIONAL USES OF FUNDS.—Grants awarded under this section may be used to support partnerships with hospitals or health facilities to—

"(i) improve the alignment between nursing education and the emerging challenges of health care delivery by—

"(I) the purchase of distance learning technologies and expanding methods of delivery of instruction to include alternatives to onsite learning; and

"(II) the collection, analysis, and dissemination of data on educational outcomes and best practices identified through the activities described in this section; and

"(ii) ensure that students can earn a salary while obtaining an advanced degree in nursing with the goal of becoming nurse faculty by—

"(I) funding release time for qualified nurses enrolled in the graduate nursing program;

"(II) providing for faculty salaries; or

"(III) providing scholarships to qualified nurses in pursuit of an advanced degree with the goal of becoming faculty members in an accredited nursing program.

"(C) CONSIDERATIONS IN MAKING AWARDS.—In awarding grants under this section, the Secretary shall consider the following:

"(i) GEOGRAPHIC DISTRIBUTION.—Providing an equitable geographic distribution of such grants.

"(ii) URBAN AND RURAL AREAS.—Distributing such grants to urban and rural areas.

"(iii) RANGE AND TYPE OF INSTITUTION.—Ensuring that the activities to be assisted are developed for a range of types and sizes of institutions of higher education, including institutions providing alternative methods of delivery of instruction in addition to on-site learning.

"(D) DISTRIBUTION OF EXCESS FUNDS.—If, for a fiscal year, funds described in clause (i), (ii), or (iii) of subparagraph (A) remain available after the Secretary awards grants under this section to all applicants for the particular category of accredited nursing programs described in such clause, the Secretary shall use equal amounts of the remaining funds to award grants under this section to applicants that applied under the other categories of nursing programs.

"(E) LIMITATION.—Of the amount appropriated to carry out this section, the Secretary may award not more than ten percent of such amount for the optional purposes under subparagraph (B).

"(d) DEFINITION.—For purposes of this section:

"(1) HEALTH FACILITY.—The term 'health facility' means an Indian health service center, a Native Hawaiian health center, a hospital, a federally qualified health center, a rural health clinic, a nursing home, a home health agency, a hospice

program, a public health clinic, a State or local department of public health, a skilled nursing facility, or an ambulatory surgical center.

"(2) ACCREDITED.—The terms 'accredited school of nursing' and 'accredited nursing program' have the meaning given those terms in section 801 of the Public Health Service Act (42 U.S.C. 296).

"(e) PROHIBITION.—

"(1) IN GENERAL.—Funds provided under this section may not be used for the construction of new facilities.

"(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit funds provided under this section from being used for the repair or renovation of facilities.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART E—AMERICAN HISTORY FOR FREEDOM

Grants.
20 USC 1161e.

**"SEC. 805. AMERICAN HISTORY FOR FREEDOM.**

"(a) GRANTS AUTHORIZED.—From the amounts appropriated under subsection (f), the Secretary is authorized to award three-year grants, on a competitive basis, to eligible institutions to establish or strengthen postsecondary academic programs or centers that promote and impart knowledge of—

"(1) traditional American history;

"(2) the history and nature of, and threats to, free institutions; or

"(3) the history and achievements of Western civilization.

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution of higher education as defined in section 101.

"(2) FREE INSTITUTION.—The term 'free institution' means an institution that emerged out of Western civilization, such as democracy, constitutional government, individual rights, market economics, religious freedom and religious tolerance, and freedom of thought and inquiry.

"(3) TRADITIONAL AMERICAN HISTORY.—The term 'traditional American history' means—

"(A) the significant constitutional, political, intellectual, economic, and foreign policy trends and issues that have shaped the course of American history; and

"(B) the key episodes, turning points, and leading figures involved in the constitutional, political, intellectual, diplomatic, and economic history of the United States.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application submitted under paragraph (1) shall include a description of—

"(A) how funds made available under this section will be used for the activities set forth under subsection (e), including how such activities will increase knowledge with

respect to traditional American history, free institutions, or Western civilization;

"(B) how the eligible institution will ensure that information about the activities funded under this section is widely disseminated pursuant to subsection (e)(1)(B);

"(C) any activities to be undertaken pursuant to subsection (e)(2)(A), including identification of entities intended to participate;

"(D) how funds made available under this section shall be used to supplement and not supplant non-Federal funds available for the activities described in subsection (e); and

"(E) such fiscal controls and accounting procedures as may be necessary to ensure proper disbursement of and accounting for funding made available to the eligible institution under this section.

"(d) AWARD BASIS.—In awarding grants under this section, the Secretary shall take into consideration the capability of the eligible institution to—

"(1) increase access to quality programming that expands knowledge of traditional American history, free institutions, or Western civilization;

"(2) involve personnel with strong expertise in traditional American history, free institutions, or Western civilization; and

"(3) sustain the activities funded under this section after the grant has expired.

"(e) USE OF FUNDS.—

"(1) REQUIRED USE OF FUNDS.—Funds provided under this section shall be used to—

"(A) establish or strengthen academic programs or centers focused on traditional American history, free institutions, or Western civilization, which may include—

"(i) design and implementation of programs of study, courses, lecture series, seminars, and symposia;

"(ii) development, publication, and dissemination of instructional materials;

"(iii) research;

"(iv) support for faculty teaching in undergraduate and, if applicable, graduate programs;

"(v) support for graduate and postgraduate fellowships, if applicable; or

"(vi) teacher preparation initiatives that stress content mastery regarding traditional American history, free institutions, or Western civilization; and

"(B) conduct outreach activities to ensure that information about the activities funded under this section is widely disseminated—

"(i) to undergraduate students (including students enrolled in teacher education programs, if applicable);

"(ii) to graduate students (including students enrolled in teacher education programs, if applicable);

"(iii) to faculty;

"(iv) to local educational agencies; and

"(v) within the local community.

"(2) ALLOWABLE USES OF FUNDS.—Funds provided under this section may be used to support—

"(A) collaboration with entities such as—

"(i) local educational agencies, for the purpose of providing elementary and secondary school teachers an opportunity to enhance their knowledge of traditional American history, free institutions, or Western civilization; and

"(ii) nonprofit organizations whose mission is consistent with the purpose of this section, such as academic organizations, museums, and libraries, for assistance in carrying out activities described under subsection (a); and

"(B) other activities that meet the purposes of this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART F—TEACH FOR AMERICA

Grants.
20 USC 1161f.

**"SEC. 806. TEACH FOR AMERICA.**

"(a) DEFINITIONS.—For purposes of this section:

"(1) GRANTEE.—The term 'grantee' means Teach For America, Inc.

"(2) HIGHLY QUALIFIED.—The term 'highly qualified' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 or section 602 of the Individuals with Disabilities Education Act.

"(3) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' has the meaning given such term in section 200.

"(b) GRANTS AUTHORIZED.—From the amounts appropriated under subsection (f), the Secretary is authorized to award a five-year grant to Teach For America, Inc., the national teacher corps of outstanding recent college graduates who commit to teach for two years in underserved communities in the United States, to implement and expand its program of recruiting, selecting, training, and supporting new teachers.

Contracts.

"(c) REQUIREMENTS.—In carrying out the grant program under subsection (b), the Secretary shall enter into an agreement with the grantee under which the grantee agrees to use the grant funds provided under this section to—

"(1) provide highly qualified teachers to high-need local educational agencies in urban and rural communities;

"(2) pay the costs of recruiting, selecting, training, and supporting new teachers; and

"(3) serve a substantial number and percentage of underserved students.

"(d) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Grant funds provided under this section shall be used by the grantee to carry out each of the following activities:

"(A) Recruiting and selecting teachers through a highly selective national process.

"(B) Providing preservice training to such teachers through a rigorous summer institute that includes hands-on teaching experience and significant exposure to education coursework and theory.

"(C) Placing such teachers in schools and positions designated by high-need local educational agencies as high-need placements serving underserved students.

"(D) Providing ongoing professional development activities for such teachers' first two years in the classroom, including regular classroom observations and feedback, and ongoing training and support.

"(2) LIMITATION.—The grantee shall use all grant funds received under this section to support activities related directly to the recruitment, selection, training, and support of teachers as described in subsection (b), except that funds may be used for non-programmatic costs in accordance with subsection (f)(2).

"(e) REPORTS AND EVALUATIONS.—

"(1) ANNUAL REPORT.—The grantee shall provide to the Secretary an annual report that includes—

"(A) data on the number and quality of the teachers provided to local educational agencies through a grant under this section;

"(B) an externally conducted analysis of the satisfaction of local educational agencies and principals with the teachers so provided; and

"(C) comprehensive data on the background of the teachers chosen, the training such teachers received, the placement sites of such teachers, the professional development of such teachers, and the retention of such teachers.

"(2) STUDY.—

"(A) IN GENERAL.—From funds appropriated under subsection (f), the Secretary shall provide for a study that examines the achievement levels of the students taught by the teachers assisted under this section.

"(B) STUDENT ACHIEVEMENT GAINS COMPARED.—The study shall compare, within the same schools, the achievement gains made by students taught by teachers who are assisted under this section with the achievement gains made by students taught by teachers who are not assisted under this section.

"(C) REQUIREMENTS.—The Secretary shall provide for such a study not less than once every three years, and each such study shall include multiple placement sites and multiple schools within placement sites.

"(D) PEER REVIEW STANDARDS.—Each such study shall meet the peer review standards of the education research community. Further, the peer review standards shall ensure that reviewers are practicing researchers and have expertise in assessment systems, accountability, psychometric measurement and statistics, and instruction.

"(3) ACCOUNTING, FINANCIAL REPORTING, AND INTERNAL CONTROL SYSTEMS.—

Contracts.

"(A) IN GENERAL.—The grantee shall contract with an independent auditor to conduct a comprehensive review of the grantee's accounting, financial reporting, and internal control systems. Such review shall assess whether that grantee's accounting, financial reporting, and internal control systems are designed to—

"(i) provide information that is complete, accurate, and reliable;

"(ii) reasonably detect and prevent material misstatements, as well as fraud, waste, and abuse; and

"(iii) provide information to demonstrate the grantee's compliance with related Federal programs, as applicable.

Deadline.

"(B) REVIEW REQUIREMENTS.—Not later than 90 days after the grantee receives funds to carry out this section for the first fiscal year in which funds become available to carry out this section after the date of enactment of the Higher Education Opportunity Act, the independent auditor shall complete the review required by this paragraph.

"(C) REPORT.—Not later than 120 days after the grantee receives funds to carry out this section for the first fiscal year in which funds become available to carry out this section after the date of enactment of the Higher Education Opportunity Act, the independent auditor shall submit a report to the authorizing committees and the Secretary of the findings of the review required under this paragraph, including any recommendations of the independent auditor, as appropriate, with respect to the grantee's accounting, financial reporting, and internal control systems.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—The amount authorized to be appropriated to carry out this section shall not exceed—

"(A) $20,000,000 for fiscal year 2009;

"(B) $25,000,000 for fiscal year 2010; and

"(C) such sums as may be necessary for each of the four succeeding fiscal years.

"(2) LIMITATION.—The grantee shall not use more than 5 percent of Federal funds made available under this section for non-programmatic costs to carry out this section.

## "PART G—PATSY T. MINK FELLOWSHIP PROGRAM

20 USC 1161g.

**"SEC. 807. PATSY T. MINK FELLOWSHIP PROGRAM.**

"(a) PURPOSE; DESIGNATION.—

"(1) IN GENERAL.—It is the purpose of this section to provide, through eligible institutions, a program of fellowship awards to assist highly qualified minorities and women to acquire the doctoral degree, or highest possible degree available, in academic areas in which such individuals are underrepresented for the purpose of enabling such individuals to enter the higher education professoriate.

"(2) DESIGNATION.—Each recipient of a fellowship award from an eligible institution receiving a grant under this section shall be known as a 'Patsy T. Mink Graduate Fellow'.

"(b) ELIGIBLE INSTITUTION.—In this section, the term 'eligible institution' means an institution of higher education, or a consortium of such institutions, that offers a program of postbaccalaureate study leading to a graduate degree.

"(c) PROGRAM AUTHORIZED.—

"(1) GRANTS BY SECRETARY.—

"(A) IN GENERAL.—From the amounts appropriated under subsection (f), the Secretary shall award grants to eligible institutions to enable such institutions to make fellowship awards to individuals in accordance with the provisions of this section.

"(B) PRIORITY CONSIDERATION.—In awarding grants under this section, the Secretary shall consider the eligible institution's prior experience in producing doctoral degree, or highest possible degree available, holders who are minorities and women, and shall give priority consideration in making grants under this section to those eligible institutions with a demonstrated record of producing minorities and women who have earned such degrees.

"(2) APPLICATIONS.—

"(A) IN GENERAL.—An eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) APPLICATIONS MADE ON BEHALF.—The following entities may submit an application on behalf of an eligible institution:

"(i) A graduate school or department of such institution.

"(ii) A graduate school or department of such institution in collaboration with an undergraduate college or school of such institution.

"(iii) An organizational unit within such institution that offers a program of postbaccalaureate study leading to a graduate degree, including an interdisciplinary or an interdepartmental program.

"(C) PARTNERSHIP.—In developing a grant application and carrying out the grant activities authorized under this section, an eligible institution may partner with a nonprofit organization with a demonstrated record of helping minorities and women earn postbaccalaureate degrees.

"(3) SELECTION OF APPLICATIONS.—In awarding grants under paragraph (1), the Secretary shall—

"(A) take into account—

"(i) the number and distribution of minority and female faculty nationally;

"(ii) the current and projected need for highly trained individuals in all areas of the higher education professoriate; and

"(iii) the present and projected need for highly trained individuals in academic career fields in which minorities and women are underrepresented in the higher education professoriate; and

"(B) consider the need to prepare a large number of minorities and women generally in academic career fields of high national priority, especially in areas in which such individuals are traditionally underrepresented in college and university faculty.

"(4) DISTRIBUTION AND AMOUNTS OF GRANTS.—

"(A) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among public and

private eligible institutions that apply for grants under this section and that demonstrate an ability to achieve the purpose of this section.

"(B) SPECIAL RULE.—To the maximum extent practicable, the Secretary shall use not less than 30 percent of the amount appropriated pursuant to subsection (f) to award grants to eligible institutions that are eligible for assistance under title III or title V, or to consortia of eligible institutions that include at least one eligible institution that is eligible for assistance under title III or title V.

"(C) ALLOCATION.—In awarding grants under this section, the Secretary shall allocate appropriate funds to those eligible institutions whose applications indicate an ability to significantly increase the numbers of minorities and women entering the higher education professoriate and that commit institutional resources to the attainment of the purpose of this section.

"(D) NUMBER OF FELLOWSHIP AWARDS.—An eligible institution that receives a grant under this section shall make not less than ten fellowship awards.

"(E) INSUFFICIENT FUNDS.—If the amount appropriated is not sufficient to permit all grantees under this section to provide the minimum number of fellowships required by subparagraph (D), the Secretary may, after awarding as many grants to support the minimum number of fellowships as such amount appropriated permits, award grants that do not require the grantee to award the minimum number of fellowships required by such subparagraph.

"(5) INSTITUTIONAL ALLOWANCE.—

"(A) IN GENERAL.—

Payments.

"(i) NUMBER OF ALLOWANCES.—In awarding grants under this section, the Secretary shall pay to each eligible institution awarded a grant, for each individual awarded a fellowship by such institution under this section, an institutional allowance.

"(ii) AMOUNT.—Except as provided in subparagraph (C), for academic year 2009–2010 and succeeding academic years, an institutional allowance under this paragraph shall be in an amount equal to the amount of institutional allowance made to an institution of higher education under section 715 for such academic year.

"(B) USE OF FUNDS.—Institutional allowances may be expended at the discretion of the eligible institution and may be used to provide, except as prohibited under subparagraph (D), academic support and career transition services for individuals awarded fellowships by such institution.

"(C) REDUCTION.—The institutional allowance paid under subparagraph (A) shall be reduced by the amount the eligible institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

"(D) USE FOR OVERHEAD PROHIBITED.—Funds made available under this section may not be used for general

operational overhead of the academic department or institution receiving funds under this section.

"(d) FELLOWSHIP RECIPIENTS.—

"(1) AUTHORIZATION.—An eligible institution that receives a grant under this section shall use the grant funds to make fellowship awards to minorities and women who are enrolled at such institution in a doctoral degree program, or program for the highest possible degree available, and— Minorities. Women.

"(A) intend to pursue a career in instruction at—

"(i) an institution of higher education (as the term is defined in section 101);

"(ii) an institution of higher education (as the term is defined in section 102(a)(1)); and

"(iii) a proprietary institution of higher education (as the term is defined in section 102(b)); and

"(B) sign an agreement with the Secretary agreeing—

"(i) to begin employment at an institution described in subparagraph (A) not later than three years after receiving the doctoral degree or highest possible degree available, which three-year period may be extended by the Secretary for extraordinary circumstances; and

"(ii) to be employed by such institution for one year for each year of fellowship assistance received under this section.

"(2) REPAYMENT FOR FAILURE TO COMPLY.—In the event that any recipient of a fellowship under this section fails or refuses to comply with the agreement signed pursuant to paragraph (1)(B), the sum of the amounts of any fellowship received by such recipient shall, upon a determination of such a failure or refusal to comply, be treated as a Federal Direct Unsubsidized Stafford Loan under part D of title IV, and shall be subject to repayment, together with interest thereon accruing from the date of the grant award, in accordance with terms and conditions specified by the Secretary in regulations under this section. Regulations.

"(3) WAIVER AND MODIFICATION.—

"(A) REGULATIONS.—The Secretary shall promulgate regulations setting forth criteria to be considered in granting a waiver for the service requirement under paragraph (1)(B). Criteria.

"(B) CONTENT.—The criteria under subparagraph (A) shall include whether compliance with the service requirement by the fellowship recipient would be—

"(i) inequitable and represent an extraordinary hardship; or

"(ii) deemed impossible because the individual is permanently and totally disabled at the time of the waiver request.

"(4) AMOUNT OF FELLOWSHIP AWARDS.—Fellowship awards under this section shall consist of a stipend in an amount equal to the level of support provided to fellows under the National Science Foundation Graduate Research Fellowship Program, except that such stipend shall be adjusted as necessary so as not to exceed the fellow's tuition and fees or demonstrated need (as determined by the institution of higher

education where the graduate student is enrolled), whichever is greater.

"(5) ACADEMIC PROGRESS REQUIRED.—An individual student shall not be eligible to receive a fellowship award—

"(A) except during periods in which such student is enrolled, and such student is maintaining satisfactory academic progress in, and devoting essentially full time to, study or research in the pursuit of the degree for which the fellowship support was awarded; and

"(B) if the student is engaged in gainful employment, other than part-time employment in teaching, research, or similar activity determined by the eligible institution to be consistent with and supportive of the student's progress toward the appropriate degree.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an eligible institution that receives a grant under this section—

"(1) to grant a preference to or to differentially treat any applicant for a faculty position as a result of the institution's participation in the program under this section; or

"(2) to hire a Patsy T. Mink Fellow who completes this program and seeks employment at such institution.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART H—IMPROVING COLLEGE ENROLLMENT BY SECONDARY SCHOOLS

### "SEC. 808. IMPROVING COLLEGE ENROLLMENT BY SECONDARY SCHOOLS.

Grants. Nonprofit organization. 20 USC 1161h.

"(a) IN GENERAL.—From the amounts appropriated under subsection (c), the Secretary shall award a grant to one nonprofit organization described in subsection (b) to enable the nonprofit organization—

"(1) to make publicly available the year-to-year postsecondary education enrollment rate trends of secondary school students, disaggregated by secondary school, in compliance with the Family Education Rights and Privacy Act of 1974;

"(2) to identify not less than 50 urban local educational agencies and five States with significant rural populations, each serving a significant population of low-income students, and to carry out a comprehensive assessment in the agencies and States of the factors known to contribute to improved postsecondary education enrollment rates, which factors shall include—

"(A) the local educational agency's and State's leadership strategies and capacities;

"(B) the secondary school curriculum and class offerings of the local educational agency and State;

"(C) the professional development used by the local educational agency and the State to assist teachers, guidance counselors, and administrators in supporting the transition of secondary students to postsecondary education;

"(D) secondary school student attendance and other factors demonstrated to be associated with enrollment into postsecondary education;

"(E) the use of data systems by the local educational agency and the State to measure postsecondary education enrollment rates and the incentives in place to motivate the efforts of faculty and students to improve student and schoolwide outcomes; and

"(F) strategies to mobilize student leaders to build a college-bound culture; and

"(3) to provide comprehensive services to improve the schoolwide postsecondary education enrollment rates of each of not less than ten local educational agencies and States, with the federally funded portion of each project declining by not less than 20 percent each year beginning in the second year of the comprehensive services, that—

"(A) participated in the needs assessment described in paragraph (2); and

"(B) demonstrated a willingness and commitment to improving the postsecondary education enrollment rates of the local educational agency or State, respectively.

"(b) GRANT RECIPIENT CRITERIA.—The recipient of the grant awarded under subsection (a) shall be a nonprofit organization with demonstrated expertise—

"(1) in increasing schoolwide postsecondary enrollment rates in low-income communities nationwide by providing curriculum, training, and technical assistance to secondary school staff and student peer influencers; and

"(2) in a postsecondary education transition data management system.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART I—EARLY CHILDHOOD EDUCATION PROFESSIONAL DEVELOPMENT AND CAREER TASK FORCE

**"SEC. 811. PURPOSE.** 20 USC 1161i.

"The purposes of this part are—

"(1) to improve the quality of the early childhood education workforce by creating a statewide early childhood education professional development and career task force for early childhood education program staff, directors, administrators, and faculty; and

"(2) to create—

"(A) a coherent system of core competencies, pathways to qualifications, credentials, degrees, quality assurances, access, and outreach, for early childhood education program staff, directors, administrators, and faculty that is linked to compensation commensurate with experience and qualifications;

"(B) articulation agreements that enable early childhood education professionals to transition easily among degrees; and

"(C) compensation initiatives for individuals working in an early childhood education program that reflect the individuals' credentials, degrees, and experience.

20 USC 1161i–1.

**"SEC. 812. DEFINITION OF EARLY CHILDHOOD EDUCATION PROGRAM.**

"In this part, the term 'early childhood education program' means—

"(1) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including a migrant or seasonal Head Start program or an Indian Head Start program;

"(2) a State licensed or regulated child care program; or

"(3) a State prekindergarten program or a program authorized under section 619 or part C of the Individuals with Disabilities Education Act, that serves children from birth through age six and that addresses the children's cognitive (including language, early literacy, and pre-numeracy), social, emotional, and physical development.

20 USC 1161i–2.

**"SEC. 813. GRANTS AUTHORIZED.**

"(a) IN GENERAL.—From the amounts appropriated under section 818, the Secretary is authorized to award grants to States in accordance with the provisions of this part to enable such States—

"(1) to establish a State Task Force described in section 814; and

"(2) to support activities of the State Task Force described in section 815.

"(b) COMPETITIVE BASIS.—Grants under this part shall be awarded on a competitive basis.

"(c) EQUITABLE GEOGRAPHIC DISTRIBUTION.—In awarding grants under this part, the Secretary shall take into consideration providing an equitable geographic distribution of such grants.

"(d) DURATION.—Grants under this part shall be awarded for a period of five years.

20 USC 1161i–3.

**"SEC. 814. STATE TASK FORCE ESTABLISHMENT.**

"(a) STATE TASK FORCE ESTABLISHED.—The Governor of a State receiving a grant under this part shall establish, or designate an existing entity to serve as, the State Early Childhood Education Professional Development and Career Task Force (hereafter in this part referred to as the 'State Task Force').

"(b) MEMBERSHIP.—The State Task Force shall include a representative of a State agency, an institution of higher education (including an associate or a baccalaureate degree granting institution of higher education), an early childhood education program, a nonprofit early childhood organization, a statewide early childhood workforce scholarship or supplemental initiative, the State Head Start collaboration director, and any other entity or individual the Governor determines appropriate.

20 USC 1161i–4.

**"SEC. 815. STATE TASK FORCE ACTIVITIES.**

"(a) ACTIVITIES.—The State Task Force shall—

"(1) coordinate and communicate regularly with the State Advisory Council on Early Care and Education (hereafter in this part referred to as 'State Advisory Council') or a similar State entity charged with creating a comprehensive system

of early care and education in the State, for the purposes of—

"(A) integrating recommendations for early childhood professional development and career activities into the plans of the State Advisory Council; and

"(B) assisting in the implementation of professional development and career activities that are consistent with the plans described in subparagraph (A);

"(2) conduct a review of opportunities for and barriers to high-quality professional development, training, and higher education degree programs, in early childhood development and learning, including a periodic statewide survey concerning the demographics of individuals working in early childhood education programs in the State, which survey shall include information disaggregated by—

"(A) race, gender, and ethnicity;

"(B) compensation levels;

"(C) type of early childhood education program setting;

"(D) specialized knowledge of child development;

"(E) years of experience in an early childhood education program;

"(F) attainment of—

"(i) academic credit for coursework;

"(ii) an academic degree;

"(iii) a credential;

"(iv) licensure; or

"(v) certification in early childhood education; and

"(G) specialized knowledge in the education of children with limited English proficiency and students with disabilities; and

"(3) develop a plan for a comprehensive statewide professional development and career system for individuals working in early childhood education programs or for early childhood education providers, which plan may include— Plans.

"(A) methods of providing outreach to early childhood education program staff, directors, and administrators, including methods for how outreach is provided to non-English speaking providers, in order to enable the providers to be aware of opportunities and resources under the statewide plan;

"(B) developing a unified data collection and dissemination system for early childhood education training, professional development, and higher education programs;

"(C) increasing the participation of early childhood educators in high-quality training and professional development by assisting in paying the costs of enrollment in and completion of such training and professional development courses;

"(D) increasing the participation of early childhood educators in undergraduate and graduate education programs leading to degrees in early childhood education by providing assistance to pay the costs of enrollment in and completion of such programs, which assistance—

"(i) shall only be provided to an individual who—

"(I) in the case of an individual pursuing an undergraduate or graduate degree, enters into an agreement under which the individual agrees to

work, for a reasonable number of years after receiving such a degree, in an early childhood education program that is located in a low-income area; and

"(II) has a family income equal to or less than the annually adjusted national median family income as determined by the Bureau of the Census; and

"(ii) shall be provided in an amount that does not exceed $17,500;

"(E) supporting professional development activities and a career lattice for a variety of early childhood professional roles with varying professional qualifications and responsibilities for early childhood education personnel, including strategies to enhance the compensation of such personnel;

"(F) supporting articulation agreements between two- and four-year public and private institutions of higher education and mechanisms to transform other training, professional development, and experience into academic credit;

"(G) developing mentoring and coaching programs to support new educators in and directors of early childhood education programs;

"(H) providing career development advising with respect to the field of early childhood education, including informing an individual regarding—

"(i) entry into and continuing education requirements for professional roles in the field;

"(ii) available financial assistance for postsecondary education; and

"(iii) professional development and career advancement in the field;

"(I) enhancing the capacity and quality of faculty and coursework in postsecondary programs that lead to an associate, baccalaureate, or graduate degree in early childhood education;

"(J) consideration of the availability of on-line graduate level professional development offered by institutions of higher education with experience and demonstrated expertise in establishing programs in child development, in order to improve the skills and expertise of individuals working in early childhood education programs; and

"(K) developing or enhancing a system of quality assurance with respect to the early childhood education professional development and career system, including standards or qualifications for individuals and entities who offer training and professional development in early childhood education.

"(b) PUBLIC HEARINGS.—The State Task Force shall hold public hearings and provide an opportunity for public comment on the activities described in the statewide plan described in subsection (a)(3).

"(c) PERIODIC REVIEW.—The State Task Force shall meet periodically to review implementation of the statewide plan and to recommend any changes to the statewide plan the State Task Force determines necessary.

**"SEC. 816. STATE APPLICATION AND REPORT.** 20 USC 1161i–5.

"(a) IN GENERAL.—Each State desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall include a description of—

"(1) the membership of the State Task Force;

"(2) the activities for which the grant assistance will be used;

"(3) other Federal, State, local, and private resources that will be available to support the activities of the State Task Force described in section 815;

"(4) the availability within the State of training, early childhood educator preparation, professional development, compensation initiatives, and career systems, related to early childhood education; and

"(5) the resources available within the State for such training, educator preparation, professional development, compensation initiatives, and career systems.

"(b) REPORT TO THE SECRETARY.—Not later than two years after receiving a grant under this part, a State shall submit a report to the Secretary that shall describe—

"(1) other Federal, State, local, and private resources that will be used in combination with a grant under this section to develop or expand the State's early childhood education professional development and career activities;

"(2) the ways in which the State Advisory Council (or similar State entity) will coordinate the various State and local activities that support the early childhood education professional development and career system; and

"(3) the ways in which the State Task Force will use funds provided under this part and carry out the activities described in section 815.

**"SEC. 817. EVALUATIONS.** 20 USC 1161i–6.

"(a) STATE EVALUATION.—Each State receiving a grant under this part shall—

"(1) evaluate the activities that are assisted under this part in order to determine—

"(A) the effectiveness of the activities in achieving State goals;

"(B) the impact of a career lattice for individuals working in early childhood education programs;

"(C) the impact of the activities on licensing or regulating requirements for individuals in the field of early childhood development;

"(D) the impact of the activities, and the impact of the statewide plan described in section 815(a)(3), on the quality of education, professional development, and training related to early childhood education programs that are offered in the State;

"(E) the change in compensation and retention of individuals working in early childhood education programs within the State resulting from the activities; and

"(F) the impact of the activities on the demographic characteristics of individuals working in early childhood education programs; and

Reports.

"(2) submit a report at the end of the grant period to the Secretary regarding the evaluation described in paragraph (1).

Deadline.

"(b) SECRETARY'S EVALUATION.—Not later than September 30, 2013, the Secretary, in consultation with the Secretary of Health and Human Services, shall prepare and submit to the authorizing committees an evaluation of the State reports submitted under subsection (a)(2).

20 USC 1161i–7.

**"SEC. 818. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART J—IMPROVING SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION WITH A FOCUS ON ALASKA NATIVE AND NATIVE HAWAIIAN STUDENTS

20 USC 1161j.

**"SEC. 819. IMPROVING SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION WITH A FOCUS ON ALASKA NATIVE AND NATIVE HAWAIIAN STUDENTS.**

"(a) PURPOSE.—The purposes of this section are—

"(1) to develop or expand programs for the development of professionals in the fields of science, technology, engineering, and mathematics; and

"(2) to focus resources on meeting the educational and cultural needs of Alaska Natives and Native Hawaiians.

"(b) DEFINITIONS.—In this section:

"(1) ALASKA NATIVE.—The term 'Alaska Native' has the meaning given such term in section 7306 of the Elementary and Secondary Education Act of 1965.

"(2) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership that includes—

"(A) one or more colleges, schools, or departments of engineering;

"(B) one or more colleges of science or mathematics;

"(C) one or more institutions of higher education that offer two-year degrees; and

"(D) one or more private entities that—

"(i) conduct career awareness activities showcasing local technology professionals;

"(ii) encourage students to pursue education in science, technology, engineering, and mathematics from elementary school through postsecondary education, and careers in those fields, with the assistance of local technology professionals;

"(iii) develop internships, apprenticeships, and mentoring programs in partnership with relevant industries; and

"(iv) assist with placement of interns and apprentices.

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a)

"(4) NATIVE HAWAIIAN.—The term 'Native Hawaiian' has the meaning given the term in section 7207 of the Elementary and Secondary Education Act of 1965.

"(c) GRANT AUTHORIZED.—From the amounts appropriated to carry out this section under subsection (i), the Secretary is authorized to award a grant to an eligible partnership to enable the eligible partnership to expand programs for the development of science, technology, engineering, or mathematics professionals, from elementary school through postsecondary education, including existing programs for Alaska Native and Native Hawaiian students.

"(d) USES OF FUNDS.—Grant funds under this section shall be used for one or more of the following:

"(1) Development or implementation of cultural, social, or educational transition programs to assist students to transition into college life and academics in order to increase such students' retention rates in the fields of science, technology, engineering, or mathematics, with a focus on Alaska Native or Native Hawaiian students.

"(2) Development or implementation of academic support or supplemental educational programs to increase the graduation rates of students in the fields of science, technology, engineering, or mathematics, with a focus on Alaska Native and Native Hawaiian students.

"(3) Development or implementation of internship programs, carried out in coordination with educational institutions and private entities, to prepare students for careers in the fields of science, technology, engineering, or mathematics, with a focus on programs that serve Alaska Native or Native Hawaiian students.

"(4) Such other activities as are consistent with the purpose of this section.

"(e) APPLICATION.—Each eligible partnership that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(f) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to an eligible partnership that, on the day before the date of enactment of the Higher Education Opportunity Act, provides one or more programs in which 30 percent or more of the program participants are Alaska Native or Native Hawaiian.

"(g) PERIOD OF GRANT.—A grant under this section shall be awarded for a period of five years.

"(h) EVALUATION AND REPORT.—Each eligible partnership that receives a grant under this section shall conduct an evaluation to determine the effectiveness of the programs funded under the grant and shall provide a report regarding the evaluation to the Secretary not later than six months after the end of the grant period.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

# "PART K—PILOT PROGRAMS TO INCREASE COLLEGE PERSISTENCE AND SUCCESS

20 USC 1161k.

**"SEC. 820. PILOT PROGRAMS TO INCREASE COLLEGE PERSISTENCE AND SUCCESS.**

Disadvantaged persons.

"(a) GRANTS AUTHORIZED.—From the amounts appropriated under subsection (i), the Secretary is authorized to award grants in accordance with this section, on a competitive basis, to eligible institutions to enable the institutions to develop programs to increase the persistence and success of low-income college students.

"(b) APPLICATIONS.—

"(1) IN GENERAL.—An eligible institution seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. An eligible institution may submit an application to receive a grant under subsection (c) or (d) or both.

"(2) EVALUATION CONDITION.—Each eligible institution seeking a grant under this section shall agree to participate in the evaluation described in subsection (f).

Disadvantaged persons.

"(3) PRIORITY FOR REPLICATION OF EVIDENCE-BASED POLICIES AND PRACTICES.—In awarding grants for the program under subsection (d), the Secretary shall give priority to applications submitted by eligible institutions that propose to replicate policies and practices that have proven effective in increasing persistence and degree completion by low-income students or students in need of developmental education.

"(c) PILOT PROGRAM TO INCREASE PERSISTENCE AND SUCCESS IN COMMUNITY COLLEGES.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution of higher education, as defined in section 101, that provides a one- or two-year program of study leading to a degree or certificate.

"(B) ELIGIBLE STUDENT.—The term 'eligible student' means a student who—

"(i) is eligible to receive assistance under section 401;

"(ii) is enrolled at least half-time;

"(iii) is not younger than age 19;

"(iv) is the parent of at least one dependent child, which dependent child is age 18 or younger;

"(v) has a secondary school diploma or its recognized equivalent; and

"(vi) does not have a degree or certificate from an institution of higher education.

"(2) USES OF FUNDS.—

Grants.

"(A) SUPPORT.—The Secretary shall award grants under this subsection to eligible institutions to enable such institutions to provide additional monetary and nonmonetary support to eligible students to enable the eligible students to maintain enrollment and complete degree or certificate programs.

"(B) REQUIRED USES.—Each eligible institution receiving a grant under this subsection shall use the grant funds—

"(i) to provide scholarships in accordance with paragraph (3); and

"(ii) to provide counseling services in accordance with paragraph (4) .

"(C) ALLOWABLE USES OF FUNDS.—Grant funds provided under this subsection may be used—

"(i) to conduct outreach to make students aware of the scholarships and counseling services available under this subsection and to encourage the students to participate in the program assisted under this subsection; and

"(ii) to provide incentives of $20 or less to applicants who complete the process of applying for assistance under this subsection, as compensation for the student's time.

"(3) SCHOLARSHIP REQUIREMENTS.—

"(A) IN GENERAL.—Each scholarship awarded under this subsection shall—

"(i) be awarded for one academic year consisting of two semesters or the equivalent;

"(ii) require the student to maintain, during the scholarship period, at least half-time enrollment and at least a 2.0 grade point average or the equivalent;

"(iii) be awarded in the amount of $1,000 for each of two semesters (prorated for quarters or other equivalents), or $2,000 for an academic year;

"(iv) not exceed the student's cost of attendance, as defined in section 472; and

"(v) be paid, for each of the two semesters, in increments of—

"(I) $250 upon enrollment (prorated for quarters or other equivalents);

"(II) $250 upon passing midterm examinations or comparable assessments (prorated for quarters or other equivalents); and

"(III) $500 upon passing courses (prorated for quarters or other equivalents).

"(B) NUMBER.—An eligible institution may award an eligible student not more than two scholarships under this subsection.

"(4) COUNSELING SERVICES.—

"(A) IN GENERAL.—Each eligible institution receiving a grant under this subsection shall use the grant funds to provide students at the institution with a counseling staff dedicated to students participating in the program under this subsection. Each such counselor shall—

"(i) have a caseload of less than 125 students;

"(ii) use a proactive, team-oriented approach to counseling;

"(iii) hold a minimum of two meetings with each student each semester; and

"(iv) provide referrals to and follow-up with other student services staff, including financial aid and career services.

"(B) COUNSELING SERVICES AVAILABILITY.—The counseling services provided under this subsection shall be

available to participating students during the daytime and evening hours.

"(d) STUDENT SUCCESS GRANT PILOT PROGRAM.—

"(1) DEFINITIONS.—

"(A) ELIGIBLE INSTITUTION.—In this subsection, the term 'eligible institution' means an institution of higher education in which, during the three-year period preceding the year in which the institution is applying for a grant under this subsection, an average of not less than 50 percent of the institution's entering first-year students are assessed as needing developmental courses to bring reading, writing, or mathematics skills up to college level.

"(B) ELIGIBLE STUDENT.—In this subsection, the term 'eligible student' means a student who—

"(i) is eligible to receive assistance under section 401;

"(ii) is a first-year student at the time of entering the program;

"(iii) is assessed as needing developmental education to bring reading, writing, or mathematics skills up to college level; and

"(iv) is selected by an eligible institution to participate in the program.

"(2) STUDENT SUCCESS GRANT AMOUNT.—The Secretary shall award grants under this subsection to eligible institutions in an amount equal to $1,500 multiplied by the number of students the institution selects to participate in the program in such year. An institution shall not select more than 200 students to participate in the program under this subsection during such year.

"(3) REQUIRED USES.—An eligible institution that receives a grant under this subsection shall use the grant funds to assign a student success coach to each first-year student participating in the program to provide intensive career and academic advising, ongoing personal help in navigating college services (such as financial aid and registration), and assistance in connecting to community resources that can help students overcome family and personal challenges to success. Student success coaches—

"(A) shall work with not more than 50 new students during any academic period;

"(B) may be employees of academic departments, student services offices, community-based organizations, or other entities as determined appropriate by the institution; and

"(C) shall meet with each eligible student selected for the program before registration for courses.

"(4) ALLOWABLE USES.—An eligible institution that receives a grant under this subsection may use the grant funds to provide services and program innovations for students participating in the program, including the following:

"(A) College and career success courses provided at no charge to participating students. These courses may cover college success topics, including how to take notes, how to study, how to take tests, and how to budget time, and may also include a substantial career exploration

component. Institutions may use such courses to help students develop a college and career success plan, so that by the end of the first semester the students have a clear sense of their career goals and what classes to take to achieve such goals.

"(B) Work-study jobs with private employers in the students' fields of study.

"(C) Learning communities that ensure that students participating in the program are clustered together for at least two courses beginning in the first semester after enrolling and have other opportunities to create and maintain bonds that allow them to provide academic and social support to each other.

"(D) Curricular redesign, which may include such innovations as blended or accelerated remediation classes that help student success grant recipients to attain college-level reading, writing, or math skills (or a combination thereof) more rapidly than traditional remediation formats allow, and intensive skills refresher classes, offered prior to each semester, to help students who have tested into remedial coursework to reach entry level assessment scores for the postsecondary programs they wish to enter.

"(E) Instructional support, such as learning labs, supplemental instruction, and tutoring.

"(F) Assistance with support services, such as child care and transportation.

"(5) REQUIRED NON-FEDERAL SHARE.—Each institution participating in the program under this subsection shall provide a non-Federal share of 25 percent of the amount of grant to carry out the activities of the program. The non-Federal share under this subsection may be provided in cash or in kind.

"(e) PERIOD OF GRANT.—The Secretary may award a grant under subsection (c) or (d) of this section for a period of five years.

"(f) TECHNICAL ASSISTANCE AND EVALUATION.—

"(1) CONTRACTOR.—From the funds appropriated under this section, the Secretary shall enter into a contract with one or more private, nonprofit entities to provide technical assistance to grantees and to conduct the evaluations required under paragraph (3). Contracts.

"(2) EVALUATIONS.—The evaluations required under paragraph (3) shall be conducted by entities that are capable of designing and carrying out independent evaluations that identify the impact of the activities carried out by eligible institutions under this subpart on improving persistence and success of student participants under this subpart.

"(3) CONDUCT OF EVALUATIONS.—The Secretary shall conduct an evaluation of the impact of the persistence and success grant programs as follows:

"(A) PROGRAM TO INCREASE PERSISTENCE IN COMMUNITY COLLEGES.—The evaluation of the program under subsection (c) shall be conducted using a random assignment research design with the following requirements:

"(i) When students are recruited for the program, all students will be told about the program and the evaluation.

"(ii) Baseline data will be collected from all applicants for assistance under subsection (c).

"(iii) Students will be assigned randomly to two groups, which will consist of—

"(I) a program group that will receive the scholarship and the additional counseling services; and

"(II) a control group that will receive whatever regular financial aid and counseling services are available to all students at the institution of higher education.

Demographics. Statistics.

"(B) STUDENT SUCCESS GRANT PROGRAM.—Eligible institutions receiving a grant to carry out the program under subsection (d) shall work with the evaluator to track persistence and completion outcomes for students in such program, specifically the proportion of these students who take and complete developmental education courses, the proportion who take and complete college-level coursework, and the proportion who complete certificates and degrees. The data shall be broken down by gender, race, ethnicity, and age and the evaluator shall assist institutions in analyzing these data to compare program participants to comparable nonparticipants, using statistical techniques to control for differences in the groups.

"(g) REPORT.—The Secretary shall—

"(1) provide a report to the authorizing committees that includes the evaluation and information on best practices and lessons learned during the pilot programs described in this section; and

Web site.

"(2) disseminate the report to the public by making the report available on the Department's website.

"(h) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be use to supplement and not supplant other Federal, State, and local funds available to the institution to carrying out the activities described in subsections (c) and (d).

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years. The Secretary may use not more than two percent of the amounts appropriated to provide the technical assistance and conduct the evaluations required under subsection (f).

Grants.

## "PART L—STUDENT SAFETY AND CAMPUS EMERGENCY MANAGEMENT

20 USC 1161*l*.

**"SEC. 821. STUDENT SAFETY AND CAMPUS EMERGENCY MANAGEMENT.**

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From the amounts appropriated under subsection (g), the Secretary is authorized to award grants, on a competitive basis, to institutions of higher education or consortia of institutions of higher education to enable institutions of higher education or consortia to pay the Federal share of the cost of carrying out the authorized activities described in subsection (c).

"(2) CONSULTATION WITH THE ATTORNEY GENERAL AND THE SECRETARY OF HOMELAND SECURITY.—Where appropriate, the Secretary shall award grants under this section in consultation

with the Attorney General and the Secretary of Homeland Security.

"(3) DURATION.—The Secretary shall award each grant under this section for a period of two years.

"(4) LIMITATION ON INSTITUTIONS AND CONSORTIA.—An institution of higher education or consortium shall be eligible for only one grant under this section.

"(b) FEDERAL SHARE; NON-FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the activities described in subsection (c) shall be 50 percent.

"(2) NON-FEDERAL SHARE.—An institution of higher education or consortium that receives a grant under this section shall provide the non-Federal share, which may be provided from State and local resources dedicated to emergency preparedness and response.

"(c) AUTHORIZED ACTIVITIES.—Each institution of higher education or consortium receiving a grant under this section may use the grant funds to carry out one or more of the following:

"(1) Developing and implementing a state-of-the-art emergency communications system for each campus of an institution of higher education or consortium, in order to contact students via cellular, text message, or other state-of-the-art communications methods when a significant emergency or dangerous situation occurs. An institution or consortium using grant funds to carry out this paragraph shall also, in coordination with the appropriate State and local emergency management authorities— Procedures.

"(A) develop procedures that students, employees, and others on a campus of an institution of higher education or consortium will be directed to follow in the event of a significant emergency or dangerous situation; and

"(B) develop procedures the institution of higher education or consortium shall follow to inform, within a reasonable and timely manner, students, employees, and others on a campus in the event of a significant emergency or dangerous situation, which procedures shall include the emergency communications system described in this paragraph.

"(2) Supporting measures to improve safety at the institution of higher education or consortium, such as—

"(A) security assessments;

"(B) security training of personnel and students at the institution of higher education or consortium;

"(C) where appropriate, coordination of campus preparedness and response efforts with local law enforcement, local emergency management authorities, and other agencies, to improve coordinated responses in emergencies among such entities;

"(D) establishing a hotline that allows a student or staff member at an institution or consortium to report another student or staff member at the institution or consortium who the reporting student or staff member believes may be a danger to the reported student or staff member or to others; and

"(E) acquisition and installation of access control, video surveillance, intrusion detection, and perimeter security technologies and systems.

"(3) Coordinating with appropriate local entities for the provision of mental health services for students and staff of the institution of higher education or consortium, including mental health crisis response and intervention services for students and staff affected by a campus or community emergency.

"(d) APPLICATION.—Each institution of higher education or consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(e) TECHNICAL ASSISTANCE.—The Secretary shall coordinate technical assistance provided by State and local emergency management agencies, the Department of Homeland Security, and other agencies as appropriate, to institutions of higher education or consortia that request assistance in developing and implementing the activities assisted under this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

20 USC 1161*l*–1.

**"SEC. 822. MODEL EMERGENCY RESPONSE POLICIES, PROCEDURES, AND PRACTICES.**

"The Secretary, in consultation with the Attorney General and the Secretary of Homeland Security, shall continue to—

"(1) advise institutions of higher education on model emergency response policies, procedures, and practices; and

Public information.

"(2) disseminate information concerning those policies, procedures, and practices.

20 USC 1161*l*–2.

**"SEC. 823. PREPARATION FOR FUTURE DISASTERS PLAN BY THE SECRETARY.**

"The Secretary shall continue to coordinate with the Secretary of Homeland Security and other appropriate agencies to develop and maintain procedures to address the preparedness, response, and recovery needs of institutions of higher education in the event of a natural or manmade disaster with respect to which the President has declared a major disaster or emergency (as such terms are defined in section 824).

20 USC 1161*l*–3.

**"SEC. 824. EDUCATION DISASTER AND EMERGENCY RELIEF LOAN PROGRAM.**

"(a) PROGRAM AUTHORIZED.—The Secretary, in consultation with the Secretary of Homeland Security, is authorized to establish an Education Disaster and Emergency Relief Loan Program for institutions of higher education impacted by a major disaster or emergency declared by the President.

"(b) USE OF ASSISTANCE.—The Secretary shall, subject to the availability of appropriations, provide loans under this section to institutions of higher education after the declaration of a major disaster or emergency by the President. Loan funds provided under this section may be used for construction, replacement, renovation, and operations costs resulting from a major disaster or emergency declared by the President.

"(c) APPLICATION REQUIREMENTS.—To be considered for a loan under this section, an institution of higher education shall—

"(1) submit a financial statement and other appropriate data, documentation, or evidence requested by the Secretary that indicates that the institution incurred losses resulting

from the impact of a major disaster or emergency declared by the President, and the monetary amount of such losses;

"(2) demonstrate that the institution had appropriate insurance policies prior to the major disaster or emergency and filed claims, as appropriate, related to the major disaster or emergency; and

"(3) demonstrate that the institution attempted to minimize the cost of any losses by pursuing collateral source compensation from the Federal Emergency Management Agency prior to seeking a loan under this section, except that an institution of higher education shall not be required to receive collateral source compensation from the Federal Emergency Management Agency prior to being eligible for a loan under this section.

"(d) AUDIT.—The Secretary may audit a financial statement submitted under subsection (c) and an institution of higher education shall provide any information that the Secretary determines necessary to conduct such an audit.

"(e) REDUCTION IN LOAN AMOUNTS.—To determine the amount of a loan to make available to an institution of higher education under this section, the Secretary shall calculate the monetary amount of losses incurred by such institution as a result of a major disaster or emergency declared by the President, and shall reduce such amount by the amount of collateral source compensation the institution has already received from insurance, the Federal Emergency Management Agency, and the Small Business Administration.

"(f) ESTABLISHMENT OF LOAN PROGRAM.—Prior to disbursing any loans under this section, the Secretary shall prescribe regulations that establish the Education Disaster and Emergency Relief Loan Program, including— Regulations.

"(1) terms for the loan program;

"(2) procedures for an application for a loan;

"(3) minimum requirements for the loan program and for receiving a loan, including—

"(A) online forms to be used in submitting request for a loan;

"(B) information to be included in such forms; and

"(C) procedures to assist in filing and pursing a loan; and

"(4) any other terms and conditions the Secretary may prescribe after taking into consideration the structure of other existing capital financing loan programs under this Act.

"(g) DEFINITIONS.—In this section:

"(1) INSTITUTION AFFECTED BY A GULF HURRICANE DISASTER.—The term 'institution affected by a Gulf hurricane disaster' means an institution of higher education that—

"(A) is located in an area affected by a Gulf hurricane disaster; and

"(B) is able to demonstrate that the institution—

"(i) incurred physical damage resulting from the impact of a Gulf hurricane disaster; and

"(ii) was not able to fully reopen in existing facilities or to fully reopen to the pre-hurricane levels for 30 days or more on or after August 29, 2005.

"(2) AREA AFFECTED BY A GULF HURRICANE DISASTER; GULF HURRICANE DISASTER.—The terms 'area affected by a Gulf hurricane disaster' and 'Gulf hurricane disaster' have the meanings

given such terms in section 209 of the Higher Education Hurricane Relief Act of 2005 (Public Law 109-148, 119 Stat. 2808).

"(3) EMERGENCY.—The term 'emergency' has the meaning given such term in section 102(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(1)).

"(4) INSTITUTIONS OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101.

"(5) MAJOR DISASTER.—The term 'major disaster' has the meaning given the term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).

"(h) EFFECTIVE DATE.—Loans provided to institutions of higher education pursuant to this section shall be available only with respect to major disasters or emergencies declared by the President that occur after the date of the enactment of the Higher Education Opportunity Act, except that loans may be provided pursuant to this section to an institution affected by a Gulf hurricane disaster with respect to such disaster.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

Records.
20 USC 1161*l*–4.

**"SEC. 825. GUIDANCE ON MENTAL HEALTH DISCLOSURES FOR STUDENT SAFETY.**

"(a) GUIDANCE.—The Secretary shall continue to provide guidance that clarifies the role of institutions of higher education with respect to the disclosure of education records, including to a parent or legal guardian of a dependent student, in the event that such student demonstrates that the student poses a significant risk of harm to himself or herself or to others, including a significant risk of suicide, homicide, or assault. Such guidance shall further clarify that an institution of higher education that, in good faith, discloses education records or other information in accordance with the requirements of this Act and section 444 of the General Education Provisions Act (the Family Educational Rights and Privacy Act of 1974) shall not be liable to any person for that disclosure.

Deadline.

"(b) INFORMATION TO CONGRESS.—The Secretary shall provide an update to the authorizing committees on the Secretary's activities under subsection (a) not later than 180 days after the date of enactment of the Higher Education Opportunity Act.

20 USC 1161*l*–5.

**"SEC. 826. RULE OF CONSTRUCTION.**

"Nothing in this part shall be construed—

"(1) to provide a private right of action to any person to enforce any provision of this section;

"(2) to create a cause of action against any institution of higher education or any employee of the institution for any civil liability; or

"(3) to affect section 444 of the General Education Provisions Act (the Family Educational Rights and Privacy Act of 1974) or the regulations issued under section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

# "PART M—LOW TUITION

**"SEC. 830. INCENTIVES AND REWARDS FOR LOW TUITION.** 20 USC 1161m.

"(a) REWARDS FOR LOW TUITION.—

"(1) GRANTS.—From funds made available under subsection (e), the Secretary shall award grants to institutions of higher education that, for academic year 2009–2010 or any succeeding academic year—

"(A) have an annual tuition and fee increase, expressed as a percentage change, for the most recent academic year for which satisfactory data is available, that is in the lowest 20 percent of such increases for each category described in subsection (b);

"(B) are public institutions of higher education that have tuition and fees that are in the lowest quartile of for institutions in each category described in subsection (b)(1), (b)(4), or (b)(7); or

"(C) are public institutions of higher education that have a tuition and fee increase of less than $600 for a first-time, full-time undergraduate student.

"(2) USE OF FUNDS.—Funds awarded to an institution of higher education under paragraph (1) shall be distributed by the institution in the form of need-based grant aid to students who are eligible for Federal Pell Grants, except that no student shall receive an amount under this section that would cause the amount of total financial aid received by such student to exceed the cost of attendance of the institution.

"(b) CATEGORIES OF INSTITUTIONS.—The categories of institutions described in subsection (a) shall be the following:

"(1) four-year public institutions of higher education;

"(2) four-year private, nonprofit institutions of higher education;

"(3) four-year private, for-profit institutions of higher education;

"(4) two-year public institutions of higher education;

"(5) two-year private, nonprofit institutions of higher education;

"(6) two-year private, for-profit institutions of higher education;

"(7) less than two-year public institutions of higher education;

"(8) less than two-year private, nonprofit institutions of higher education; and

"(9) less than two-year private, for-profit institutions of higher education.

"(c) REWARDS FOR GUARANTEED TUITION.—

"(1) BONUS.—For each institution of higher education that the Secretary determines complies with the requirements of paragraph (2) or (3) of this subsection, the Secretary shall provide to such institution a bonus amount. Such institution shall award the bonus amount in the form of need-based aid first to students who are eligible for Federal Pell Grants who were in attendance at the institution during the award year that such institution satisfied the eligibility criteria for maintaining low tuition and fees, then to students who are eligible for Federal Pell Grants who were not in attendance at the institution during such award year. Disadvantaged persons.

"(2) FOUR-YEAR INSTITUTIONS.—An institution of higher education that provides a program of instruction for which it awards a bachelor's degree complies with the requirements of this paragraph if—

"(A) for a public institution of higher education, such institution's tuition and fees are in the lowest quartile of institutions in the same category as described under subsection (b); or

"(B) for any institution of higher education, such institution guarantees that for any academic year (or the equivalent) beginning on or after July 1, 2009, and for each of the four succeeding continuous academic years, the tuition and fees charged to an undergraduate student will not exceed—

"(i) for a public institution of higher education, $600 per year for a full-time undergraduate student; or

"(ii) for any other institution of higher education—

"(I) the amount that the student was charged for an academic year at the time the student first enrolled in the institution of higher education, plus

"(II) the percentage change in tuition and fees at the institution for the three most recent academic years for which data is available, multiplied by the amount determined under subclause (I).

"(3) LESS-THAN FOUR-YEAR INSTITUTIONS.—An institution of higher education that does not provide a program of instruction for which it awards a bachelor's degree complies with the requirements of this paragraph if—

"(A) for a public institution of higher education, such institution's tuition is in the lowest quartile of institutions in the same category as described under subsection (b); or

"(B) for any institution of higher education, such institution guarantees that for any academic year (or the equivalent) beginning on or after July 1, 2009, and for each of the 1.5 succeeding continuous academic years, the tuition and fees charged to an undergraduate student will not exceed—

"(i) for a public institution of higher education, $600 per year for a full-time undergraduate student; or

"(ii) for any other institution of higher education—

"(I) the amount that the student was charged for an academic year at the time the student first enrolled in the institution of higher education, plus

"(II) the percentage change in tuition and fees at the institution for the three most recent academic years for which data is available, multiplied by the amount determined under subclause (I).

"(d) DEFINITIONS.—In this section, the terms 'tuition and fees' and 'net price' have the meaning given to such terms in section 132 of this Act.

"(e) AUTHORIZATION.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

# "PART N—COOPERATIVE EDUCATION

**"SEC. 831. STATEMENT OF PURPOSE; DEFINITION.** 20 USC 1161n.

"(a) PURPOSE.—It is the purpose of this part to award grants to institutions of higher education or consortia of such institutions to encourage such institutions to develop and make available to their students work experience that will aid such students in future careers and will enable such students to support themselves financially while in school.

"(b) DEFINITION.—In this part the term 'cooperative education' means the provision of alternating or parallel periods of academic study and public or private employment to give students work experiences related to their academic or occupational objectives and an opportunity to earn the funds necessary for continuing and completing their education.

**"SEC. 832. RESERVATIONS.** 20 USC 1161n–1.

"(a) RESERVATIONS.—Of the amount appropriated to carry out this part in each fiscal year—

"(1) not less than 50 percent shall be available for awarding grants to institutions of higher education and consortia of such institutions described in section 833(a)(1)(A) for cooperative education under section 833;

"(2) not less than 25 percent shall be available for awarding grants to institutions of higher education described in section 833(a)(1)(B) for cooperative education under section 833;

"(3) not to exceed 11 percent shall be available for demonstration projects under paragraph (1) of section 834(a);

"(4) not to exceed 11 percent shall be available for training and resource centers under paragraph (2) of section 834(a); and

"(5) not to exceed 3 percent shall be available for research under paragraph (3) of section 834(a).

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under this part shall not be used for the payment of compensation of students for employment by employers participating in a program under this part.

**"SEC. 833. GRANTS FOR COOPERATIVE EDUCATION.** 20 USC 1161n–2.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized, from the amount available to carry out this section under section 835 in each fiscal year and in accordance with the provisions of this part—

"(A) to award grants to institutions of higher education or consortia of such institutions that have not received a grant under this paragraph in the ten-year period preceding the date for which a grant under this section is requested to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or consortia of institutions; and

"(B) to award grants to institutions of higher education that are operating an existing cooperative education program as determined by the Secretary to pay the Federal share of the cost of planning, establishing, expanding, or

carrying out programs of cooperative education by such institutions.

"(2) PROGRAM REQUIREMENT.—Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving students work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

"(3) AMOUNT OF GRANTS.—

"(A) The amount of each grant awarded pursuant to paragraph (1)(A) to any institution of higher education or consortia of such institutions in any fiscal year shall not exceed $500,000.

"(B)(i) Except as provided in clauses (ii) and (iii), the Secretary shall award grants in each fiscal year to each institution of higher education described in paragraph (1)(B) that has an application approved under subsection (b) in an amount that bears the same ratio to the amount reserved pursuant to section 832(a)(2) for such fiscal year as the number of unduplicated students placed in cooperative education jobs during the preceding fiscal year by such institution of higher education (other than cooperative education jobs under section 834 and as determined by the Secretary) bears to the total number of all such students placed in such jobs during the preceding fiscal year by all such institutions.

"(ii) No institution of higher education shall receive a grant pursuant to paragraph (1)(B) in any fiscal year in an amount that exceeds 25 percent of such institution's cooperative education program's personnel and operating budget for the preceding fiscal year.

"(iii) The minimum annual grant amount that an institution of higher education is eligible to receive under paragraph (1)(B) is $1,000 and the maximum annual grant amount is $75,000.

"(4) LIMITATION.—The Secretary shall not award grants pursuant to subparagraphs (A) and (B) of paragraph (1) to the same institution of higher education or consortia of such institution in any one fiscal year.

"(5) USES.—Grants awarded under paragraph (1)(B) shall be used exclusively—

"(A) to expand the quality of and participation in a cooperative education program;

"(B) for outreach to potential participants in new curricular areas; and

"(C) for outreach to potential participants including underrepresented and nontraditional populations.

"(b) APPLICATIONS.—Each institution of higher education or consortium of such institutions desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

"(1) set forth the program or activities for which a grant is authorized under this section;

"(2) specify each portion of such program or activities which will be performed by a nonprofit organization or institution

other than the applicant, and the amount of grant funds to be used for such program or activities;

"(3) provide that the applicant will expend, during the fiscal year for which the grant is awarded for the purpose of such program or activities, not less than the amount expended for such purpose during the previous fiscal year;

"(4) describe the plans which the applicant will carry out to assure, and contain a formal statement of the institution's commitment that assures, that the applicant will continue the cooperative education program beyond the five-year period of Federal assistance described in subsection (c)(1) at a level that is not less than the total amount expended for such program during the first year such program was assisted under this section;

"(5) provide that, in the case of an institution of higher education that provides a two-year program that is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate or associate degree candidates and who carry at least one-half of the normal full-time academic workload;

"(6) provide that the applicant will—

"(A) make such reports as may be necessary to ensure that the applicant is complying with the provisions of this section, including reports for the second and each succeeding fiscal year for which the applicant receives a grant with respect to the impact of the cooperative education program in the previous fiscal year, including— Reports.

"(i) the number of unduplicated student applicants in the cooperative education program;

"(ii) the number of unduplicated students placed in cooperative education jobs;

"(iii) the number of employers who have hired cooperative education students;

"(iv) the income for students derived from working in cooperative education jobs; and

"(v) the increase or decrease in the number of unduplicated students placed in cooperative education jobs in each fiscal year compared to the previous fiscal year; and

"(B) keep such records as may be necessary to ensure that the applicant is complying with the provisions of this part, including the notation of cooperative education employment on the student's transcript; Records.

"(7) describe the extent to which programs in the academic disciplines for which the application is made have satisfactorily met the needs of public and private sector employers;

"(8) describe the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit;

"(9) describe the plans that the applicant will carry out to evaluate the applicant's cooperative education program at the end of the grant period;

"(10) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under this part;

"(11) demonstrate a commitment to serving underserved populations at the institution; and

"(12) include such other information as may be necessary to carry out the provisions of this part.

"(c) DURATION OF GRANTS; FEDERAL SHARE.—

"(1) DURATION OF GRANTS.—No individual institution of higher education may receive, individually or as a participant in a consortium of such institutions—

"(A) a grant pursuant to subsection (a)(1)(A) for more than five fiscal years; or

"(B) a grant pursuant to subsection (a)(1)(B) for more than five fiscal years.

"(2) FEDERAL SHARE.—The Federal share of a grant under subsection (a)(1)(A) may not exceed—

"(A) 85 percent of the cost of carrying out the program or activities described in the application in the first year the applicant receives a grant under this section;

"(B) 70 percent of such cost in the second such year;

"(C) 55 percent of such cost in the third such year;

"(D) 40 percent of such cost in the fourth such year; and

"(E) 25 percent of such cost in the fifth such year.

"(3) SPECIAL RULE.—Notwithstanding any other provision of law, the Secretary may not waive the provisions of paragraphs (1) and (2).

"(d) MAINTENANCE OF EFFORT.—If the Secretary determines that a recipient of funds under this section has failed to maintain the fiscal effort described in subsection (b)(3), then the Secretary may elect not to make grant payments under this section to such recipient.

"(e) FACTORS FOR SPECIAL CONSIDERATION OF APPLICATIONS.—

"(1) IN GENERAL.—In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education or consortia of such institutions for programs that show the greatest promise of success because of—

"(A) the extent to which programs in the academic discipline with respect to which the application is made have satisfactorily met the needs of public and private sector employers;

"(B) the strength of the commitment of the institution of higher education or consortium of such institutions to cooperative education as demonstrated by the plans and formalized institutional commitment statement which such institution or consortium has made to continue the program after the termination of Federal financial assistance;

"(C) the extent to which the institution or consortium of institutions is committed to extending cooperative education for students who can benefit; and

"(D) such other factors as are consistent with the purposes of this section.

"(2) ADDITIONAL SPECIAL CONSIDERATION.—The Secretary shall also give special consideration to applications from institutions of higher education or consortia of such institutions that demonstrate a commitment to serving underserved populations attending such institutions.

**"SEC. 834. DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH.** 20 USC 1161n–3.

"(a) AUTHORIZATION.—From the amounts appropriated under section 835, the Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts—

"(1) from the amounts available in each fiscal year under section 832(a)(3), for the conduct of demonstration projects designed to demonstrate or determine the effectiveness of innovative methods of cooperative education;

"(2) from the amounts available in each fiscal year under section 832(a)(4), for the conduct of training and resource centers designed to—

"(A) train personnel in the field of cooperative education;

"(B) improve materials used in cooperative education programs if such improvement is conducted in conjunction with other activities described in this paragraph;

"(C) provide technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

"(D) encourage model cooperative education programs that furnish education and training in occupations in which there is a national need;

"(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with one or more institutions of higher education in order to—

"(i) assist the institution that is not the institution carrying out the cooperative education program to develop and expand an existing program of cooperative education; or

"(ii) establish and improve or expand comprehensive cooperative education programs; and

"(F) encourage model cooperative education programs in the fields of science and mathematics for women and minorities who are underrepresented in such fields; and

"(3) from the amounts available in each fiscal year under section 832(a)(5), for the conduct of research relating to cooperative education.

"(b) ADMINISTRATIVE PROVISION.—

"(1) IN GENERAL.—To carry out this section, the Secretary may—

"(A) make grants to or contracts with institutions of higher education or consortia of such institutions; and

"(B) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will contribute to the objectives of this section.

"(2) LIMITATION.—

"(A) CONTRACTS WITH INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may use not more than three percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(A).

"(B) CONTRACTS WITH OTHER AGENCIES OR ORGANIZATIONS.—The Secretary may use not more than three percent

of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(B).

"(c) SUPPLEMENT NOT SUPPLANT.—A recipient of a grant or contract under this section may use the funds provided only to supplement funds made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.

20 USC 1161n–4.

**"SEC. 835. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART O—COLLEGE PARTNERSHIP GRANTS

20 USC 1161o.

**"SEC. 841. COLLEGE PARTNERSHIP GRANTS AUTHORIZED.**

"(a) GRANTS AUTHORIZED.—From the amount appropriated to carry out this section, the Secretary shall award grants to eligible partnerships for the purposes of developing and implementing articulation agreements.

"(b) ELIGIBLE PARTNERSHIPS.—For purposes of this part, an eligible partnership shall include at least two institutions of higher education, or a system of institutions of higher education, and may include either or both of the following:

"(1) A consortia of institutions of higher education.

"(2) A State higher education agency.

"(c) PRIORITY.—The Secretary shall give priority to eligible partnerships that—

"(1) are located in a State that has employed strategies described in section 486A(d); or

"(2) include—

"(A) one or more junior or community colleges (as defined by section 312(f)) that award associate's degrees; and

"(B) one or more institutions of higher education that offer a baccalaureate or post-baccalaureate degree not awarded by the institutions described in subparagraph (A) with which it is partnered.

"(d) MANDATORY USE OF FUNDS.—Grants awarded under this part shall be used for—

"(1) the development of policies and programs to expand opportunities for students to earn bachelor's degrees, by facilitating the transfer of academic credits between institutions and expanding articulation and guaranteed transfer agreements between institutions of higher education, including through common course numbering and general education core curriculum;

"(2) academic program enhancements; and

"(3) programs to identify and remove barriers that inhibit student transfers, including technological and informational programs.

"(e) OPTIONAL USE OF FUNDS.—Grants awarded under this part may be used for—

"(1) support services to students participating in the program, such as tutoring, mentoring, and academic and personal counseling; and

"(2) any service that facilitates the transition of students between the partner institutions.

"(f) PROHIBITION.—No funds provided under this section shall be used to financially compensate an institution for the purposes of entering into an articulation agreement or for accepting students transferring into such institution.

"(g) APPLICATIONS.—Any eligible partnership that desires to obtain a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information or assurances as the Secretary may require.

"(h) DEFINITION.—For purposes of this section, the term 'articulation agreement' means an agreement between institutions of higher education that specifies the acceptability of courses in transfer toward meeting specific degree requirements.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART P—JOBS TO CAREERS

**"SEC. 851. GRANTS TO CREATE BRIDGES FROM JOBS TO CAREERS.** 20 USC 1161p.

"(a) PURPOSE.—The purpose of this section is to provide grants on a competitive basis to institutions of higher education for the purpose of improving developmental education to help students move more rapidly into for-credit occupational courses and into better jobs that may require a certificate or degree.

"(b) AUTHORIZATION OF PROGRAM.—From amounts appropriated Grants. to carry out this section, the Secretary shall award grants, on a competitive basis, to institutions of higher education, as defined in section 101(a), to create workforce bridge programs between developmental courses and for-credit courses in occupational certificate programs that are articulated to degree programs. Such workforce bridge programs shall focus on—

"(1) improving developmental education, including English language instruction, by customizing developmental education to student career goals; and

"(2) helping students move rapidly from developmental coursework into for-credit occupational courses and through program completion.

"(c) APPLICATION.—An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(d) PRIORITIES.—The Secretary shall give priority to applications that—

"(1) are from institutions of higher education in which not less than 50 percent of the institution's entering first-year students who are subject to mandatory assessment are assessed as needing developmental courses to bring reading, writing, or mathematics skills up to college level; and

"(2) propose to replicate practices that have proven effective with adults, or propose to collaborate with adult education providers.

"(e) REQUIRED ACTIVITY.—An institution of higher education that receives a grant under this section shall use the grant funds to create workforce bridge programs to customize developmental

education curricula, including English language instruction, to reflect the content of for-credit occupational certificate or degree programs, or clusters of such programs, in which developmental education students are enrolled or plan to enroll. Such workforce bridge programs shall integrate the curricula and the instruction of the developmental and college-level coursework.

"(f) PERMISSIBLE ACTIVITIES.—An institution of higher education that receives a grant under this section may use the grant funds to carry out one or more of the following activities:

"(1) Designing and implementing innovative ways to improve retention in and completion of developmental education courses, including enrolling students in cohorts, accelerating course content, dually enrolling students in developmental and college-level courses, tutoring, providing counseling and other supportive services, and giving small, material incentives for attendance and performance.

"(2) In consultation with faculty in the appropriate departments, reconfiguring courses offered on-site during standard academic terms for modular, compressed, or other alternative schedules, or for distance-learning formats, to meet the needs of working adults.

"(3) Developing counseling strategies that address the needs of students in remedial education courses, and including counseling students on career options and the range of programs available, such as certificate programs that are articulated to degree programs and programs designed to facilitate transfer to four-year institutions of higher education.

"(4) Improving the quality of teaching in remedial courses through professional development, reclassification of such teaching positions, or other means the institution of higher education determines appropriate.

"(5) Any other activities the institution of higher education and the Secretary determine will promote retention of, and completion by, students attending institutions of higher education.

"(g) GRANT PERIOD.—Grants made under this section shall be for a period of not less than three years and not more than five years.

"(h) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to recipients of, and applicants for, grants under this section.

"(i) REPORT AND SUMMARY.—Each institution of higher education that receives a grant under this section shall report to the Secretary on the effectiveness of the program in enabling students to move rapidly from developmental coursework into for-credit occupational courses and through program completion. The Secretary shall summarize the reports, identify best practices, and disseminate the information from such summary and identification to the public.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART Q—RURAL DEVELOPMENT GRANTS FOR RURAL-SERVING COLLEGES AND UNIVERSITIES

**"SEC. 861. GRANTS TO RURAL-SERVING INSTITUTIONS OF HIGHER EDUCATION.** 20 USC 1161q.

"(a) PURPOSES.—The purposes of this section are—

"(1) to increase enrollment and graduation rates of secondary school graduates and nontraditional students from rural areas at two-year and four-year institutions of higher education, and their articulation from two-year degree programs into four-year degree programs; and

"(2) to promote economic growth and development in rural America through partnership grants to consortia of rural-serving institutions of higher education, local educational agencies, and regional employers.

"(b) DEFINITIONS.—For the purposes of this section:

"(1) RURAL-SERVING INSTITUTION OF HIGHER EDUCATION.—The term 'rural-serving institution of higher education' means an institution of higher education that primarily serves rural areas.

"(2) RURAL AREA.—The term 'rural area' means an area that is defined, identified, or otherwise recognized as rural by a governmental agency of the State in which the area is located.

"(3) NONTRADITIONAL STUDENT.—The term 'nontraditional student' means an individual who—

"(A) delays enrollment in an institution of higher education by three or more years after secondary school graduation;

"(B) attends an institution of higher education part-time; or

"(C) attends an institution of higher education and—

"(i) works full-time;

"(ii) is an independent student, as defined in section 480;

"(iii) has one or more dependents other than a spouse;

"(iv) is a single parent; or

"(v) does not have a secondary school diploma or the recognized equivalent of such a diploma.

"(4) REGIONAL EMPLOYER.—The term 'regional employer' means an employer within a rural area.

"(c) PARTNERSHIP.—

"(1) REQUIRED PARTNERS.—A rural-serving institution of higher education, or a consortium of rural-serving institutions of higher education, that receives a grant under this section shall carry out the activities of the grant in partnership with—

"(A) one or more local educational agencies serving a rural area; and

"(B) one or more regional employers or local boards (as such term is defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) serving a rural area.

"(2) OPTIONAL PARTNERS.—A rural-serving institution of higher education, or a consortium of rural-serving institutions

of higher education, that receives a grant under this section, may carry out the activities of the grant in partnership with—

"(A) an educational service agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965); or

"(B) a nonprofit organization with demonstrated expertise in rural education at the secondary and postsecondary levels.

"(d) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From amounts made available under subsection (g), the Secretary is authorized to award grants, on a competitive basis, to eligible rural-serving institutions of higher education or a consortium of such institutions, to carry out the activities described in subsection (f).

"(2) DURATION.—A grant awarded under this section shall be awarded for a period not to exceed three years.

"(3) MAXIMUM AND MINIMUM GRANTS.—No grant awarded under this section shall be less than $200,000.

"(4) SPECIAL CONSIDERATIONS.—In awarding grants under this section, the Secretary shall give special consideration to applications that demonstrate the most potential and propose the most promising and innovative approaches for—

"(A) increasing the percentage of graduates of rural secondary schools attending rural-serving institutions of higher education;

"(B) meeting the employment needs of regional employers with graduates of rural-serving institutions of higher education; and

"(C) improving the health of the regional economy of a rural area through a partnership of local educational agencies serving the rural area, rural-serving institutions of higher education, and regional employers.

"(5) LIMITATION.—A rural-serving institution of higher education shall not receive more than one grant under this section.

"(e) APPLICATIONS.—Each rural-serving institution of higher education desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

Rural areas.

"(f) REQUIRED USE OF FUNDS.—A rural-serving institution of higher education that receives a grant under this section shall use grant funds for at least three of the following four purposes:

"(1) To improve postsecondary enrollment rates for rural secondary school students at rural-serving institutions of higher education, which may include—

"(A) programs to provide students and families with counseling related to applying for postsecondary education, and Federal and State financial assistance for postsecondary education;

"(B) programs that provide students and families of rural high schools access and exposure to campuses, classes, programs, and internships of rural-serving institutions of higher education, including covering the cost of transportation to and from such institutions; and

"(C) other initiatives that assist students and families in applying for and developing interest in attending rural-serving institutions of higher education.

"(2) To increase enrollment rates of nontraditional students in degree programs at rural-serving institutions of higher education, which may include—

"(A) programs to provide nontraditional students with counseling related to applying for postsecondary education, and Federal and State financial assistance for postsecondary education;

"(B) community outreach initiatives to encourage nontraditional students to enroll in a rural-serving institution of higher education; and

"(C) programs to improve the enrollment of nontraditional students in two-year degree programs and the transition of nontraditional students articulating from two-year degree programs to four-year degree programs.

"(3) To create or strengthen academic programs at rural-serving institutions of higher education to prepare graduates to enter into high-need occupations in the regional and local economies.

"(4) To provide additional career training to students of rural-serving institutions of higher education in fields relevant to the regional economy.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as many be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART R—CAMPUS-BASED DIGITAL THEFT PREVENTION

**"SEC. 871. CAMPUS-BASED DIGITAL THEFT PREVENTION.** 20 USC 1161r.

"(a) PROGRAM AUTHORITY.—From the amounts appropriated under subsection (d), the Secretary may make grants to institutions of higher education, or consortia of such institutions, and enter into contracts with such institutions, consortia, and other organizations, to develop, implement, operate, improve, and disseminate programs of prevention, education, and cost-effective technological solutions, to reduce and eliminate the illegal downloading and distribution of intellectual property. Such grants or contracts may also be used for the support of higher education centers that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

"(b) AWARDS.—Grants and contracts shall be awarded under this section on a competitive basis. Grants. Contracts.

"(c) APPLICATIONS.—An institution of higher education or a consortium of such institutions that desires to receive a grant or contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation. Regulations.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART S—TRAINING FOR REALTIME WRITERS

20 USC 1161s.

**"SEC. 872. PROGRAM TO PROMOTE TRAINING AND JOB PLACEMENT OF REALTIME WRITERS.**

"(a) AUTHORIZATION OF GRANT PROGRAM.—

Grants.

"(1) IN GENERAL.—From the amounts appropriated to carry out this section, the Secretary shall award grants, on a competitive basis, to eligible entities under paragraph (2) to promote training and placement of individuals, including individuals who have completed a court reporting training program, as realtime writers in order to meet the requirements for closed captioning of video programming set forth in section 713 of the Communications Act of 1934 (47 U.S.C. 613) and the rules prescribed thereunder.

"(2) ELIGIBLE ENTITIES.—For purposes of this section, an eligible entity is a court reporting program that—

"(A) has a curriculum capable of training realtime writers qualified to provide captioning services;

"(B) is accredited by an accrediting agency or association recognized by the Secretary; and

"(C) is participating in student aid programs under title IV.

"(3) PRIORITY IN GRANTS.—In determining whether to make grants under this section, the Secretary shall give a priority to eligible entities that, as determined by the Secretary—

"(A) possess the most substantial capability to increase their capacity to train realtime writers;

"(B) demonstrate the most promising collaboration with educational institutions, businesses, labor organizations, or other community groups having the potential to train or provide job placement assistance to realtime writers; or

"(C) propose the most promising and innovative approaches for initiating or expanding training or job placement assistance efforts with respect to realtime writers.

"(4) DURATION OF GRANT.—A grant under this section shall be for a period of up to five years.

"(5) MAXIMUM AMOUNT OF GRANT.—The amount of a grant provided under this subsection to an eligible entity may not exceed $1,500,000 for the period of the grant.

"(b) APPLICATION.—

"(1) IN GENERAL.—To receive a grant under subsection (a), an eligible entity shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall contain the information set forth under paragraph (2).

"(2) INFORMATION.—Information in the application of an eligible entity for a grant under subsection (a) shall include the following:

"(A) A description of the training and assistance to be funded using the grant amount, including how such training and assistance will increase the number of realtime writers.

"(B) A description of performance measures to be utilized to evaluate the progress of individuals receiving such training and assistance in matters relating to enrollment, completion of training, and job placement and retention.

"(C) A description of the manner in which the eligible entity will ensure that recipients of scholarships, if any, funded by the grant will be employed and retained as realtime writers.

"(D) A description of the manner in which the eligible entity intends to continue providing the training and assistance to be funded by the grant after the end of the grant period, including any partnerships or arrangements established for that purpose.

"(E) A description of how the eligible entity will work with local boards (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) to ensure that training and assistance to be funded with the grant will further local workforce goals, including the creation of educational opportunities for individuals who are from economically disadvantaged backgrounds or are displaced workers.

"(F) Additional information, if any, on the eligibility of the eligible entity for priority in the making of grants under subsection (a)(3).

"(G) Such other information as the Secretary may require.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible entity receiving a grant under subsection (a) shall use the grant amount for purposes relating to the recruitment, training and assistance, and job placement of individuals, including individuals who have completed a court reporting training program, as realtime writers, including—

"(A) recruitment;

"(B) subject to paragraph (2), the provision of scholarships;

"(C) distance learning;

"(D) further developing and implementing both English and Spanish curricula to more effectively train individuals in realtime writing skills, and education in the knowledge necessary for the delivery of high quality closed captioning services;

"(E) mentoring students to ensure successful completion of the realtime training and providing assistance in job placement;

"(F) encouraging individuals with disabilities to pursue a career in realtime writing; and

"(G) the employment and payment of personnel for the purposes described in this paragraph.

"(2) SCHOLARSHIPS.—

"(A) AMOUNT.—The amount of a scholarship under paragraph (1)(B) shall be based on the amount of need of the scholarship recipient for financial assistance, as determined in accordance with part F of title IV.

"(B) AGREEMENT.—Each recipient of a scholarship under paragraph (1)(B) shall enter into an agreement with the school in which the recipient is enrolled to provide realtime writing services for the purposes described in subsection (a)(1) for a period of time appropriate (as determined by the Secretary) for the amount of the scholarship received.

"(C) COURSEWORK AND EMPLOYMENT.—The Secretary shall establish requirements for coursework and employment for recipients of scholarships under paragraph (1)(B), including requirements for repayment of scholarship amounts in the event of failure to meet such requirements for coursework and employment. The Secretary may waive, in whole or in part, the requirements for repayment of scholarship amounts on the basis of economic conditions which may affect the ability of scholarship recipients to find work as realtime writers.

Waiver authority.

"(3) ADMINISTRATIVE COSTS.—The recipient of a grant under this section may not use more than five percent of the grant amount to pay administrative costs associated with activities funded by the grant. The Secretary shall use not more than five percent of the amount available for grants under this section in any fiscal year for administrative costs of the program.

"(4) SUPPLEMENT NOT SUPPLANT.—Grant amounts under this section shall supplement and not supplant other Federal or non-Federal funds of the grant recipient for purposes of promoting the training and placement of individuals as realtime writers.

"(d) REPORT.—

"(1) IN GENERAL.—Each eligible entity receiving a grant under subsection (a) shall submit to the Secretary, at the end of the grant period, a report on the activities of such entity with respect to the use of grant amounts during the grant period.

"(2) REPORT INFORMATION.—Each report of an eligible entity under paragraph (1) shall include—

"(A) an assessment by the entity of the effectiveness of activities carried out using such funds in increasing the number of realtime writers, using the performance measures submitted by the eligible entity in the application for the grant under subsection (b)(2); and

"(B) a description of the best practices identified by the eligible entity for increasing the number of individuals who are trained, employed, and retained in employment as realtime writers.

"(3) SUMMARIES.—The Secretary shall summarize the reports submitted under paragraph (2) and make such summary available on the Department's website.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART T—CENTERS OF EXCELLENCE FOR VETERAN STUDENT SUCCESS

20 USC 1161t.

### "SEC. 873. MODEL PROGRAMS FOR CENTERS OF EXCELLENCE FOR VETERAN STUDENT SUCCESS.

"(a) PURPOSE.—It is the purpose of this section to encourage model programs to support veteran student success in postsecondary education by coordinating services to address the academic, financial, physical, and social needs of veteran students.

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—Subject to the availability of appropriations under subsection (f), the Secretary shall award grants to institutions of higher education to develop model programs to support veteran student success in postsecondary education.

"(2) GRANT PERIOD.—A grant awarded under this section shall be awarded for a period of three years.

"(c) USE OF GRANTS.—

"(1) REQUIRED ACTIVITIES.—An institution of higher education receiving a grant under this section shall use such grant to carry out a model program that includes—

Establishment.

"(A) establishing a Center of Excellence for Veteran Student Success on the campus of the institution to provide a single point of contact to coordinate comprehensive support services for veteran students;

"(B) establishing a veteran student support team, including representatives from the offices of the institution responsible for admissions, registration, financial aid, veterans benefits, academic advising, student health, personal or mental health counseling, career advising, disabilities services, and any other office of the institution that provides support to veteran students on campus;

"(C) providing a coordinator whose primary responsibility is to coordinate the model program carried out under this section;

"(D) monitoring the rates of veteran student enrollment, persistence, and completion; and

"(E) developing a plan to sustain the Center of Excellence for Veteran Student Success after the grant period.

"(2) OTHER AUTHORIZED ACTIVITIES.—An institution of higher education receiving a grant under this section may use such grant to carry out any of the following activities with respect to veteran students:

"(A) Outreach and recruitment of such students.

"(B) Supportive instructional services for such students, which may include—

"(i) personal, academic, and career counseling, as an ongoing part of the program;

"(ii) tutoring and academic skill-building instruction assistance, as needed; and

"(iii) assistance with special admissions and transfer of credit from previous postsecondary education or experience.

"(C) Assistance in obtaining student financial aid.

"(D) Housing support for veteran students living in institutional facilities and commuting veteran students.

"(E) Cultural events, academic programs, orientation programs, and other activities designed to ease the transition to campus life for veteran students.

"(F) Support for veteran student organizations and veteran student support groups on campus.

"(G) Coordination of academic advising and admissions counseling with military bases and national guard units in the area.

"(H) Other support services the institution determines to be necessary to ensure the success of veterans in achieving educational and career goals.

"(d) APPLICATION; SELECTION.—

"(1) APPLICATION.—To be considered for a grant under this section, an institution of higher education shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

"(2) SELECTION CONSIDERATIONS.—In awarding grants under this section, the Secretary shall consider—

"(A) the number of veteran students enrolled at an institution of higher education; and

"(B) the need for model programs to address the needs of veteran students at a wide range of institutions of higher education, including the need to provide—

"(i) an equitable distribution of such grants to institutions of higher education of various types and sizes;

"(ii) an equitable geographic distribution of such grants; and

"(iii) an equitable distribution of such grants among rural and urban areas.

"(e) EVALUATION AND ACCOUNTABILITY PLAN.—The Secretary shall develop an evaluation and accountability plan for model programs funded under this section to objectively measure the impact of such programs, including a measure of whether postsecondary education enrollment, persistence, and completion for veterans increases as a result of such programs.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART U—UNIVERSITY SUSTAINABILITY PROGRAMS

20 USC 1161u.

**"SEC. 881. SUSTAINABILITY PLANNING GRANTS AUTHORIZED.**

Grants.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—From the amounts appropriated to carry out this section, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall make grants to eligible entities to establish sustainability programs to design and implement sustainability practices, including in the areas of energy management, greenhouse gas emissions reductions, green building, waste management, purchasing, transportation, and toxics management, and other aspects of sustainability that integrate campus operations with multidisciplinary academic programs and are applicable to the private and government sectors.

"(2) PERIOD OF GRANT.—The provision of payments under a grant under paragraph (1) shall extend over a period of not more than four fiscal years.

"(3) DEFINITION OF ELIGIBLE ENTITY.—For purposes of this part, the term 'eligible entity' means—

"(A) an institution of higher education; or

"(B) a nonprofit consortium, association, alliance, or collaboration operating in partnership with one or more institutions of higher education that received funds for the implementation of work associated with sustainability programs under this part.

"(b) APPLICATIONS.—

"(1) IN GENERAL.—To receive a grant under subsection (a)(1), an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may reasonably require.

"(2) ASSURANCES.—Such application shall include assurances that the eligible entity—

"(A) has developed a plan, including an evaluation component, for the program component established pursuant to subsection (c);

"(B) shall use Federal funds received from a grant under subsection (a) to supplement, not supplant, non-Federal funds that would otherwise be available for projects funded under this section;

"(C) shall provide, with respect to any fiscal year in which such entity receives funds from a grant under subsection (a)(1), non-Federal funds or an in-kind contribution in an amount equal to 20 percent of funds from such grant, for the purpose of carrying out the program component established pursuant to subsection (c); and

"(D) shall collaborate with business, government, and the nonprofit sectors in the development and implementation of its sustainability plan.

"(c) USE OF FUNDS.—

"(1) INDIVIDUAL INSTITUTIONS.—Grants made under subsection (a) may be used by an eligible entity that is an individual institution of higher education for the following purposes:

"(A) To develop and implement administrative and operations practices at an institution of higher education that test, model, and analyze principles of sustainability.

"(B) To establish multidisciplinary education, research, and outreach programs at an institution of higher education that address the environmental, social, and economic dimensions of sustainability.

"(C) To support research and teaching initiatives that focus on multidisciplinary and integrated environmental, economic, and social elements.

"(D) To establish initiatives in the areas of energy management, greenhouse gas emissions reductions, green building, waste management, purchasing, toxics management, transportation, and other aspects of sustainability.

"(E) To support student, faculty, and staff work at an institution of higher education to implement, research, and evaluate sustainable practices.

"(F) To expand sustainability literacy on campus.

"(G) To integrate sustainability curricula in all programs of instruction, particularly in business, architecture, technology, manufacturing, engineering, and science programs.

"(2) PARTNERSHIPS.—Grants made under subsection (a) may be used by an eligible entity that is a nonprofit consortium, association, alliance, or collaboration operating in partnership with one or more institutions of higher education for the following purposes:

"(A) To conduct faculty, staff and administrator training on the subjects of sustainability and institutional change.

"(B) To compile, evaluate, and disseminate best practices, case studies, guidelines and standards regarding sustainability.

"(C) To conduct efforts to engage external stakeholders such as business, alumni, and accrediting agencies in the process of building support for research, education, and technology development for sustainability.

"(D) To conduct professional development programs for faculty in all disciplines to enable faculty to incorporate sustainability content in their courses.

"(E) To create the analytical tools necessary for institutions of higher education to assess and measure their individual progress toward fully sustainable campus operations and fully integrating sustainability into the curriculum.

"(F) To develop educational benchmarks for institutions of higher education to determine the necessary rigor and effectiveness of academic sustainability programs.

"(d) REPORTS.—An eligible entity that receives a grant under subsection (a) shall submit to the Secretary, for each fiscal year in which the entity receives amounts from such grant, a report that describes the work conducted pursuant to subsection (c), research findings and publications, administrative savings experienced, and an evaluation of the program.

"(e) ALLOCATION REQUIREMENT.—The Secretary may not make grants under subsection (a) to any eligible entity in a total amount that is less than $250,000 or more than $2,000,000.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART V—MODELING AND SIMULATION PROGRAMS

20 USC 1161v.

**"SEC. 891. MODELING AND SIMULATION.**

"(a) PURPOSE; DEFINITION.—

"(1) PURPOSE.—The purpose of this section is to promote the study of modeling and simulation at institutions of higher education, through the collaboration with new and existing programs, and specifically to promote the use of technology in such study through the creation of accurate models that can simulate processes or recreate real life, by—

"(A) establishing a task force at the Department of Education to raise awareness of and define the study of modeling and simulation;

"(B) providing grants to institutions of higher education to develop new modeling and simulation degree programs; and

"(C) providing grants for institutions of higher education to enhance existing modeling and simulation degree programs.

"(2) DEFINITION.—In this section, the term 'modeling and simulation' means a field of study related to the application of computer science and mathematics to develop a level of understanding of the interaction of the parts of a system and of a system as a whole.

"(b) ESTABLISHMENT OF TASK FORCE.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a task force within the Department to study modeling and simulation and to support the development of the modeling and simulation field. The activities of such task force shall include—

"(A) helping to define the study of modeling and simulation (including the content of modeling and simulation classes and programs);

"(B) identifying best practices for such study;

"(C) identifying core knowledge and skills that individuals who participate in modeling and simulation programs should acquire; and

"(D) providing recommendations to the Secretary with respect to—

"(i) the information described in subparagraphs (A) through (C); and

"(ii) a system by which grants under this section will be distributed.

"(2) TASK FORCE MEMBERSHIP.—The membership of the task force under this subsection shall be composed of representatives from—

"(A) institutions of higher education with established modeling and simulation degree programs;

"(B) the National Science Foundation;

"(C) Federal Government agencies that use modeling and simulation extensively, including the Department of Defense, the National Institutes of Health, the Department of Homeland Security, the Department of Health and Human Services, the Department of Energy, and the Department of Transportation;

"(D) private industries with a primary focus on modeling and simulation;

"(E) national modeling and simulation organizations; and

"(F) the Office of Science and Technology Policy.

"(c) ENHANCING MODELING AND SIMULATION AT INSTITUTIONS OF HIGHER EDUCATION.—

"(1) ENHANCEMENT GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to eligible institutions to enhance modeling and simulation degree programs at such eligible institutions.

"(B) DURATION OF GRANT.—A grant awarded under this subsection shall be awarded for a three-year period, and such grant period may be extended for not more than two years if the Secretary determines that an eligible institution has demonstrated success in enhancing the modeling and simulation degree program at such eligible institution.

"(C) MINIMUM GRANT AMOUNT.—Subject to the availability of appropriations, a grant awarded to an eligible institution under this subsection shall not be less than $750,000.

"(D) NON-FEDERAL SHARE.—Each eligible institution receiving a grant under this subsection shall provide, from non-Federal sources, in cash or in-kind, an amount equal to 25 percent of the amount of the grant to carry out

the activities supported by the grant. The Secretary may waive the non-Federal share requirement under this subparagraph for an eligible institution if the Secretary determines a waiver to be appropriate based on the financial ability of the institution.

"(2) ELIGIBLE INSTITUTIONS.—For the purposes of this subsection, an eligible institution is an institution of higher education that—

"(A) has an established modeling and simulation degree program, including a major, minor, or career-track program; or

"(B) has an established modeling and simulation certificate or concentration program.

"(3) APPLICATION.—To be considered for a grant under this subsection, an eligible institution shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall include—

"(A) a letter from the president or provost of the eligible institution that demonstrates the institution's commitment to the enhancement of the modeling and simulation program at the institution of higher education;

"(B) an identification of designated faculty responsible for the enhancement of the institution's modeling and simulation program; and

"(C) a detailed plan for how the grant funds will be used to enhance the modeling and simulation program of the institution.

"(4) USES OF FUNDS.—A grant awarded under this subsection shall be used by an eligible institution to carry out the plan developed in accordance with paragraph (3)(C) to enhance modeling and simulation programs at the institution, which may include—

"(A) in the case of an institution that is eligible under paragraph (2)(B), activities to assist in the establishment of a major, minor, or career-track modeling and simulation program at the eligible institution;

"(B) expanding the multidisciplinary nature of the institution's modeling and simulation programs;

"(C) recruiting students into the field of modeling and simulation through the provision of fellowships or assistantships;

"(D) creating new courses to complement existing courses and reflect emerging developments in the modeling and simulation field;

"(E) conducting research to support new methodologies and techniques in modeling and simulation; and

"(F) purchasing equipment necessary for modeling and simulation programs.

"(d) ESTABLISHING MODELING AND SIMULATION PROGRAMS.—

"(1) ESTABLISHMENT GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The Secretary is authorized to award grants to institutions of higher education to establish a modeling and simulation program, including a major, minor, career-track, certificate, or concentration program.

"(B) DURATION OF GRANT.—A grant awarded under this subsection shall be awarded for a three-year period,

and such grant period may be extended for not more than two years if the Secretary determines that an eligible institution has demonstrated success in establishing a modeling and simulation degree program at such eligible institution.

"(C) MINIMUM GRANT AMOUNT.—Subject to the availability of appropriations, a grant awarded to an eligible institution under this subsection shall not be less than $750,000.

"(D) NON-FEDERAL SHARE.—Each eligible institution receiving a grant under this subsection shall provide, from non-Federal sources, in cash or in-kind, an amount equal to 25 percent of the amount of the grant to carry out the activities supported by the grant. The Secretary may waive the non-Federal share requirement under this subparagraph for an eligible institution if the Secretary determines a waiver to be appropriate based on the financial ability of the institution.

"(2) APPLICATION.—To apply for a grant under this subsection, an eligible institution shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall include—

"(A) a letter from the president or provost of the eligible institution that demonstrates the institution's commitment to the establishment of a modeling and simulation program at the institution of higher education;

"(B) a detailed plan for how the grant funds will be used to establish a modeling and simulation program at the institution; and

"(C) a description of how the modeling and simulation program established under this subsection will complement existing programs and fit into the institution's current program and course offerings.

"(3) USES OF FUNDS.—A grant awarded under this subsection may be used by an eligible institution to—

"(A) establish, or work toward the establishment of, a modeling and simulation program, including a major, minor, career-track, certificate, or concentration program at the eligible institution;

"(B) provide adequate staffing to ensure the successful establishment of the modeling and simulation program, which may include the assignment of full-time dedicated or supportive faculty; and

"(C) purchase equipment necessary for a modeling and simulation program.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years. Of the amounts authorized to be appropriated for each fiscal year—

"(1) $1,000,000 is authorized to carry out the activities of the task force established pursuant to subsection (b); and

"(2) of the amount remaining after the allocation for paragraph (1)—

"(A) 50 percent is authorized to carry out the grant program under subsection (c); and

"(B) 50 percent is authorized to carry out the grant program under subsection (d).

## "PART W—PATH TO SUCCESS

20 USC 1161w.

**"SEC. 892. PATH TO SUCCESS.**

"(a) PURPOSE.—The purpose of this section is to encourage community supported programs that—

"(1) leverage and enhance community support for at-risk young adults by facilitating the transition of such young adults who are eligible individuals into productive learning environments where such young adults can obtain the life, social, academic, career, and technical skills and credentials necessary to strengthen the Nation's workforce;

"(2) provide counseling, as appropriate, for eligible individuals participating in the programs to allow the eligible individuals to build a relationship with one or more guidance counselors during the period that the individuals are enrolled in the programs, including providing referrals and connections to community resources that help eligible individuals transition back into the community with the necessary life, social, academic, career, and technical skills after being in detention, or incarcerated, particularly resources related to health, housing, job training, and workplace readiness;

"(3) provide training and education for eligible individuals participating in the programs, to allow such individuals to assist community officials and law enforcement agencies with the deterrence and prevention of gang and youth violence by participating in seminars, training, and workshops throughout the community; and

"(4) provide each eligible individual participating in the programs with individual attention based on a curriculum that matches the interests and abilities of the individual to the resources of the program.

"(b) REENTRY EDUCATION PROGRAM.—

"(1) GRANT PROGRAM ESTABLISHED.—From the amounts appropriated under subsection (g), the Secretary is authorized to award grants to community colleges to enter into and maintain partnerships with juvenile detention centers and secure juvenile justice residential facilities to provide assistance, services, and education to eligible individuals who reenter the community and pursue, in accordance with the requirements of this section, at least one of the following:

"(A) A certificate of completion for a specialized area of study, such as career and technical training and other alternative postsecondary educational programs.

"(B) An associate's degree.

"(2) GRANT PERIOD.—A grant awarded under this part shall be for one four-year period, and may be renewed for an additional period as the Secretary determines to be appropriate.

"(3) APPLICATION.—A community college desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require. Such application shall include—

"(A) an assessment of the existing community resources available to serve at-risk youth;

"(B) a detailed description of the program and activities the community college will carry out with such grant; and

"(C) a proposed budget describing how the community college will use the funds made available by such grant.

"(4) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to community colleges that propose to serve the highest number of priority individuals, and, among such community colleges, shall give priority to community colleges that the Secretary determines will best carry out the purposes of this part, based on the applications submitted in accordance with paragraph (3).

"(c) ALLOWABLE USES OF FUNDS.—A community college awarded a grant under this part may use such grant to—

"(1) pay for tuition and transportation costs of eligible individuals;

"(2) establish and carry out an education program that includes classes for eligible individuals that—

"(A) provide marketable life and social skills to such individuals;

"(B) meet the education program requirements under subsection (d), including as appropriate, courses necessary for the completion of a secondary school diploma or the recognized equivalent;

"(C) promote the civic engagement of such individuals; and

"(D) facilitate a smooth reentry of such individuals into the community;

"(3) create and carry out a mentoring program that is—

"(A) specifically designed to help eligible individuals with the potential challenges of the transitional period from detention to release;

"(B) created in consultation with guidance counselors, academic advisors, law enforcement officials, and other community resources; and

"(C) administered by a program coordinator, selected and employed by the community college, who shall oversee each individual's development and shall serve as the immediate supervisor and reporting officer to whom the academic advisors, guidance counselors, and volunteers shall report regarding the progress of each such individual;

"(4) facilitate employment opportunities for eligible individuals by entering into partnerships with public and private entities to provide opportunities for internships, apprenticeships, and permanent employment, as possible, for such individuals; and

"(5) provide training for eligible individuals participating in the programs, to allow such individuals to assist community officials and law enforcement agencies with the deterrence and prevention of gang and youth violence by participating in seminars and workshop series throughout the community.

"(d) EDUCATION PROGRAM REQUIREMENTS.—An education program established and carried out under subsection (c) shall—

"(1) include classes that are required for completion of a certificate, diploma, or degree described in subparagraph (A) or (B) of subsection (b)(1), including as appropriate courses necessary for the completion of a secondary school diploma or the recognized equivalent;

"(2) provide a variety of academic programs, with various completion requirements, to accommodate the diverse academic backgrounds, learning styles, and academic and career interests of the eligible individuals who participate in the education program;

"(3) offer flexible academic programs that are designed to improve the academic development and achievement of eligible individuals, and to avoid high attrition rates for such individuals; and

"(4) provide for a uniquely designed education plan for each eligible individual participating in the program, which shall require such individual to receive, at a minimum, a certificate or degree described in subparagraph (A) or (B) of subsection (b)(1) to successfully complete such program.

"(e) REPORTS.—Each community college awarded a grant under this part shall submit to the Secretary a report—

Records.

"(1) documenting the results of the program carried out with such grant; and

"(2) evaluating the effectiveness of activities carried out through such program.

"(f) DEFINITIONS.—In this section:

"(1) COMMUNITY COLLEGE.—The term 'community college' has the meaning given the term 'junior or community college' in section 312(f).

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who—

"(A) is 16 to 25 years of age (inclusive); and

"(B)(i) has been convicted of a criminal offense; and

"(ii) is detained in, or has been released from, a juvenile detention center or secure juvenile justice residential facility.

"(3) GANG-RELATED OFFENSE.—

"(A) IN GENERAL.—The term 'gang-related offense' means an offense that involves the circumstances described in subparagraph (B) and that is—

"(i) a Federal or State felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than five years;

"(ii) a Federal or State crime of violence that has as an element the use or attempted use of physical force against the person of another for which the maximum penalty is not less than six months; or

"(iii) a conspiracy to commit an offense described in clause (i) or (ii).

"(B) CIRCUMSTANCES.—The circumstances described in this subparagraph are that the offense described in subparagraph (A) was committed by a person who—

"(i) participates in a criminal street gang (as defined in section 521(a) of title 18, United States Code) with knowledge that such gang's members engage in or have engaged in a continuing series of offenses described in subparagraph (A); and

"(ii) intends to promote or further the felonious activities of the criminal street gang or maintain or increase the person's position in the gang.

"(4) PRIORITY INDIVIDUAL.—The term 'priority individual' means an individual who—

"(A) is an eligible individual;

"(B) has been convicted of a gang-related offense; and

"(C) has served or is serving a period of detention in a juvenile detention center or secure juvenile justice residential facility for such offense.

"(5) GUIDANCE COUNSELOR.—The term 'guidance counselor' means an individual who works with at-risk youth on a one-on-one basis, to establish a supportive relationship with such at-risk youth and to provide such at-risk youth with academic assistance and exposure to new experiences that enhance their ability to become responsible citizens.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART X—SCHOOL OF VETERINARY MEDICINE COMPETITIVE GRANT PROGRAM

### "SEC. 893. SCHOOL OF VETERINARY MEDICINE COMPETITIVE GRANT PROGRAM.

Public welfare.
20 USC 1161x.

"(a) IN GENERAL.—From the amounts appropriated under subsection (g), the Secretary of Health and Human Services shall award competitive grants to eligible entities for the purpose of improving public health preparedness through increasing the number of veterinarians in the workforce.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be—

"(A) a public or other nonprofit school of veterinary medicine that is accredited by a nationally recognized accrediting agency or association recognized by the Secretary of Education pursuant to part H of title IV;

"(B) a public or nonprofit, department of comparative medicine, department of veterinary science, school of public health, or school of medicine that is accredited by a nationally recognized accrediting agency or association recognized by the Secretary of Education pursuant to part H of title IV and that offers graduate training for veterinarians in a public health practice area as determined by the Secretary of Health and Human Services; or

"(C) a public or nonprofit entity that—

"(i) conducts recognized residency training programs for veterinarians that are approved by a veterinary specialty organization that is recognized by the American Veterinary Medical Association; and

"(ii) offers postgraduate training for veterinarians in a public health practice area as determined by the Secretary of Health and Human Services; and

"(2) prepare and submit to the Secretary of Health and Human Services an application, at such time, in such manner, and containing such information as the Secretary of Health and Human Services may require.

Applications.

"(c) CONSIDERATION OF APPLICATIONS.—The Secretary of Health and Human Services shall establish procedures to ensure that

Procedures.

applications under subsection (b)(2) are rigorously reviewed and that grants are competitively awarded based on—

"(1) the ability of the applicant to increase the number of veterinarians who are trained in specified public health practice areas as determined by the Secretary of Health and Human Services;

"(2) the ability of the applicant to increase capacity in research on high priority disease agents; or

"(3) any other consideration the Secretary of Health and Human Services determines necessary.

"(d) PREFERENCE.—In awarding grants under subsection (a), the Secretary of Health and Human Services shall give preference to applicants that demonstrate a comprehensive approach by involving more than one school of veterinary medicine, department of comparative medicine, department of veterinary science, school of public health, school of medicine, or residency training program that offers postgraduate training for veterinarians in a public health practice area as determined by the Secretary of Health and Human Services.

"(e) USE OF FUNDS.—Amounts received under a grant under this section shall be used by a grantee to increase the number of veterinarians in the workforce through paying costs associated with the expansion of academic programs at schools of veterinary medicine, departments of comparative medicine, departments of veterinary science, or entities offering residency training programs, or academic programs that offer postgraduate training for veterinarians or concurrent training for veterinary students in specific areas of specialization, which costs may include minor renovation and improvement in classrooms, libraries, and laboratories.

"(f) DEFINITION OF PUBLIC HEALTH PRACTICE AREA.—In this section, the term 'public health practice area' includes the areas of bioterrorism and emergency preparedness, environmental health, food safety and food security, regulatory medicine, diagnostic laboratory medicine, and biomedical research.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years. Amounts appropriated under this subsection shall remain available until expended.

Disadvantaged persons.

## "PART Y—EARLY FEDERAL PELL GRANT COMMITMENT DEMONSTRATION PROGRAM

20 USC 1161y.

### "SEC. 894. EARLY FEDERAL PELL GRANT COMMITMENT DEMONSTRATION PROGRAM.

"(a) DEMONSTRATION PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary is authorized to carry out an Early Federal Pell Grant Commitment Demonstration Program under which—

"(A) the Secretary awards grants to four State educational agencies, in accordance with paragraph (2), to pay the administrative expenses incurred in participating in the demonstration program under this section; and

"(B) the Secretary awards Federal Pell Grants to participating students in accordance with this section and consistent with section 401.

"(2) GRANTS.—

"(A) IN GENERAL.—From amounts appropriated under subsection (h) for a fiscal year, the Secretary is authorized to award grants to four State educational agencies to enable the State educational agencies to pay the administrative expenses incurred in participating in the demonstration program under this section by carrying out a demonstration project under which eighth grade students described in subsection (b)(1)(B) receive a commitment early in the students' academic careers to receive a Federal Pell Grant.

"(B) EQUAL AMOUNTS.—The Secretary shall award grants under this section in equal amounts to each of the four participating State educational agencies.

"(b) DEMONSTRATION PROJECT REQUIREMENTS.—Each of the four demonstration projects assisted under this section shall meet the following requirements:

"(1) PARTICIPANTS.—

"(A) IN GENERAL.—The State educational agency shall make participation in the demonstration project available to two cohorts of students, which shall consist of—

"(i) one cohort of eighth grade students who begin participating in the first academic year for which funds have been appropriated to carry out this section; and

"(ii) one cohort of eighth grade students who begin participating in the academic year succeeding the academic year described in clause (i).

"(B) STUDENTS IN EACH COHORT.—Each cohort of students shall consist of not more than 10,000 eighth grade students who qualify for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(2) STUDENT DATA.—The State educational agency shall ensure that student data from local educational agencies serving students who participate in the demonstration project, as well as student data from local educational agencies serving a comparable group of students who do not participate in the demonstration project, are available for evaluation of the demonstration project, and are made available in accordance with the requirements of section 444 of the General Education Provisions Act (the Family Educational Rights and Privacy Act of 1974).

"(3) FEDERAL PELL GRANT COMMITMENT.—Each student who participates in the demonstration project receives a commitment from the Secretary to receive a Federal Pell Grant during the first academic year that the student is in attendance at an institution of higher education as an undergraduate, provided that the student applies for Federal financial aid (via the FAFSA or EZ FAFSA) for such academic year.

State and local governments.

"(4) APPLICATION PROCESS.—Each State educational agency shall establish an application process to select local educational agencies within the State to participate in the demonstration project in accordance with subsection (d)(2).

"(5) LOCAL EDUCATIONAL AGENCY PARTICIPATION.—Subject to the 10,000 statewide student limitation described in paragraph (1), a local educational agency serving students, not less than 50 percent of whom are eligible for a free or reduced price school lunch under the Richard B. Russell National School

Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), shall be eligible to participate in the demonstration project.

"(c) STATE EDUCATIONAL AGENCY APPLICATIONS.—

"(1) IN GENERAL.—Each State educational agency desiring to participate in the demonstration program under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(2) CONTENTS.—Each application shall include—

"(A) a description of the proposed targeted information campaign for the demonstration project and a copy of the plan described in subsection (f)(2);

"(B) a description of the student population that will receive an early commitment to receive a Federal Pell Grant under this section;

"(C) an assurance that the State educational agency will fully cooperate with the ongoing evaluation of the demonstration project; and

"(D) such other information as the Secretary may require.

"(d) SELECTION CONSIDERATIONS.—

"(1) SELECTION OF STATE EDUCATIONAL AGENCIES.—In selecting State educational agencies to participate in the demonstration program under this section, the Secretary shall consider—

"(A) the number and quality of State educational agency applications received;

"(B) a State educational agency's—

"(i) financial responsibility;

"(ii) administrative capability;

"(iii) commitment to focusing resources, in addition to any resources provided on students who receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965;

"(iv) ability and plans to run an effective and thorough targeted information campaign for students served by local educational agencies eligible to participate in the demonstration project; and

"(v) ability to ensure the participation in the demonstration project of a diverse group of students, including with respect to ethnicity and gender.

"(2) LOCAL EDUCATIONAL AGENCY.—In selecting local educational agencies to participate in a demonstration project under this section, the State educational agency shall consider—

"(A) the number and quality of local educational agency applications received;

"(B) a local educational agency's—

"(i) financial responsibility;

"(ii) administrative capability;

"(iii) commitment to focusing resources on students who receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965;

"(iv) ability and plans to run an effective and thorough targeted information campaign for students served by the local educational agency; and

"(v) ability to ensure the participation in the demonstration project of a diverse group of students.

"(e) EVALUATION.—

"(1) IN GENERAL.—From amounts appropriated under subsection (h) for a fiscal year, the Secretary shall reserve not more than $1,000,000 to award a grant or contract to an organization outside the Department for an independent evaluation of the impact of the demonstration program assisted under this section.

"(2) COMPETITIVE BASIS.—The grant or contract shall be awarded on a competitive basis. Contracts.

"(3) MATTERS EVALUATED.—The evaluation described in this subsection shall—

"(A) determine the number of students who were encouraged by the demonstration program to pursue higher education;

"(B) identify the barriers to the effectiveness of the demonstration program;

"(C) assess the cost-effectiveness of the demonstration program in improving access to higher education;

"(D) identify the reasons why participants in the demonstration program either received or did not receive a Federal Pell Grant;

"(E) identify intermediate outcomes related to postsecondary education attendance, such as whether participants—

"(i) were more likely to take a college-preparatory curriculum while in secondary school;

"(ii) submitted any applications to institutions of higher education; and

"(iii) took the PSAT, SAT, or ACT;

"(F) identify the number of students participating in the demonstration program who pursued an associate's degree or a bachelor's degree, or other postsecondary education;

"(G) compare the findings of the demonstration program with respect to participants to comparison groups (of similar size and demographics) that did not participate in the demonstration program; and

"(H) identify the impact of the demonstration program on the parents of students eligible to participate in the program.

"(4) DISSEMINATION.—The findings of the evaluation shall be reported to the Secretary, who shall widely disseminate the findings to the public. Reports.

"(f) TARGETED INFORMATION CAMPAIGN.—

"(1) IN GENERAL.—Each State educational agency receiving a grant under this section shall, in cooperation with the participating local educational agencies within the State and the Secretary, develop a targeted information campaign for the demonstration project assisted under this section.

"(2) PLAN.—Each State educational agency receiving a grant under this section shall include in the application submitted under subsection (c) a written plan for the State educational agency proposed targeted information campaign. The plan shall include the following:

"(A) OUTREACH.—A description of the outreach to students and the students' families at the beginning and end of each academic year of the demonstration project, at a minimum.

"(B) DISTRIBUTION.—A description of how the State educational agency plans to provide the outreach described in subparagraph (A) and to provide the information described in subparagraph (C).

"(C) INFORMATION.—The annual provision by the State educational agency to all students and families participating in the demonstration project of information regarding—

"(i) the estimated statewide average cost of attendance for an institution of higher education for each academic year, which cost data shall be disaggregated by—

"(I) type of institution, including—

"(aa) two-year public degree-granting institutions of higher education;

"(bb) four-year public degree-granting institutions of higher education; and

"(cc) four-year private degree-granting institutions of higher education;

"(II) component, including—

"(aa) tuition and fees; and

"(bb) room and board;

"(ii) Federal Pell Grants, including—

"(I) the maximum Federal Pell Grant for each award year;

"(II) when and how to apply for a Federal Pell Grant; and

"(III) what the application process for a Federal Pell Grant requires;

"(iii) State-specific postsecondary education savings programs;

"(iv) State merit-based financial aid;

"(v) State need-based financial aid; and

"(vi) Federal financial aid available to students, including eligibility criteria for such aid and an explanation of the Federal financial aid programs under title IV, such as the Student Guide published by the Department (or any successor to such document).

Deadline.

"(3) COHORTS.—The information described in paragraph (2)(C) shall be provided annually to the two successive cohorts of students described in subsection (b)(1)(A) for the duration of the students' participation in the demonstration project.

"(4) RESERVATION.—Each State educational agency receiving a grant under this section shall reserve not more than 15 percent of the grant funds received each fiscal year to carry out the targeted information campaign described in this subsection.

"(g) SUPPLEMENT, NOT SUPPLANT.—A State educational agency shall use grant funds received under this section only to supplement the funds that would, in the absence of such grant funds, be made available from non-Federal sources for students participating in the demonstration project under this section, and not to supplant such funds.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART Z—HENRY KUUALOHA GIUGNI KUPUNA MEMORIAL ARCHIVES

Hawaii.

**"SEC. 895. HENRY KUUALOHA GIUGNI KUPUNA MEMORIAL ARCHIVES.**

20 USC 1161z.

"(a) GRANTS AUTHORIZED.—From the amounts appropriated under subsection (c), the Secretary is authorized to award a grant to the University of Hawaii Academy for Creative Media for the establishment, maintenance, and periodic modernization of the Henry Kuualoha Giugni Kupuna Memorial Archives at the University of Hawaii.

"(b) USE OF FUNDS.—The Henry Kuualoha Giugni Kupuna Memorial Archives shall use the grant funds received under this section—

"(1) to facilitate the acquisition of a secure web-accessible repository of Native Hawaiian historical data rich in ethnic and cultural significance to the United States for preservation and access by future generations;

"(2) to award scholarships to facilitate access to postsecondary education for students who cannot afford such education;

"(3) to support programmatic efforts associated with the web-based media projects of the archives;

"(4) to create educational materials, from the contents of the archives, that are applicable to a broad range of indigenous students, such as Native Hawaiians, Alaskan Natives, and Native American Indians;

"(5) to develop outreach initiatives that introduce the archival collections to elementary schools and secondary schools;

"(6) to develop supplemental web-based resources that define terms and cultural practices innate to Native Hawaiians;

"(7) to rent, lease, purchase, maintain, or repair educational facilities to house the archival collections;

"(8) to rent, lease, purchase, maintain, or repair computer equipment for use by elementary schools and secondary schools in accessing the archival collections;

"(9) to provide preservice and in-service teacher training to develop a core group of kindergarten through grade 12 teachers who are able to provide instruction in a way that is relevant to the unique background of indigenous students, such as Native Hawaiians, Alaskan Natives, and Native American Indians, in order to—

Native Hawaiians. Alaska Natives. Native Americans.

"(A) facilitate greater understanding by teachers of the unique background of indigenous students; and

"(B) improve student achievement; and

"(10) to increase the economic and financial literacy of postsecondary education students through the dissemination of best practices used at other institutions of higher education regarding debt and credit management and economic decision-making.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may

be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

## "PART AA—MASTERS AND POSTBACCALAUREATE PROGRAMS

Appropriations authorization. 20 USC 1161aa.

**"SEC. 897. MASTERS DEGREE PROGRAMS.**

"In addition to any amounts appropriated under section 725, there are authorized to be appropriated, and there are appropriated, out of any funds in the Treasury not otherwise appropriated, $11,500,000 for fiscal year 2009 and for each of the five succeeding fiscal years to carry out subpart 4 of part A of title VII in order to provide grants under sections 723 and 724, in the minimum amount authorized under such sections, to all institutions eligible for grants under such sections.

Appropriations authorization. 20 USC 1161aa–1.

**"SEC. 898. POSTBACCALAUREATE PROGRAMS.**

"In addition to any amounts appropriated under part B of title V, there are authorized to be appropriated, and there are appropriated, out of any funds in the Treasury not otherwise appropriated, $11,500,000 for fiscal year 2009 and for each of the five succeeding fiscal years to carry out part B of title V.".

20 USC 9631.

**SEC. 802. NATIONAL CENTER FOR RESEARCH IN ADVANCED INFORMATION AND DIGITAL TECHNOLOGIES.**

(a) ESTABLISHMENT.—There shall be established, during the first fiscal year for which appropriations are made available under subsection (c), a nonprofit corporation to be known as the National Center for Research in Advanced Information and Digital Technologies, which shall not be an agency or establishment of the Federal Government. The Center shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act (sec. 29–501 et seq., D.C. Official Code).

(b) PURPOSE.—The purpose of the Center shall be to support a comprehensive research and development program to harness the increasing capacity of advanced information and digital technologies to improve all levels of learning and education, formal and informal, in order to provide Americans with the knowledge and skills needed to compete in the global economy.

(c) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Center such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(2) ADDITIONAL FUNDS.—The Center is authorized—

(A) to accept funds from any Federal agency or entity;

(B) to accept, hold, administer, and spend any gift, devise, or bequest of real or personal property made to the Center; and

(C) to enter into competitive contracts with individuals, public or private organizations, professional societies, and government agencies for the purpose of carrying out the functions of the Center.

(3) PROHIBITION.—The Center shall not accept gifts, devises, or bequests from a foreign government or foreign source.

(d) BOARD OF DIRECTORS; VACANCIES; COMPENSATION.—

(1) IN GENERAL.—A Board of the Center shall be established to oversee the administration of the Center.

(2) INITIAL COMPOSITION.—The initial Board shall consist of nine members to be appointed by the Secretary of Education from recommendations received from the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate, who—

(A) reflect representation from the public and private sectors;

(B) shall provide, as nearly as practicable, a broad representation of various regions of the United States, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Center;

(C) shall not be in a position to benefit financially directly from the contracts and grants to eligible institutions under subsection (f)(2); and

(D) may not be officers or employees of the Federal Government or a Members of Congress serving at the time of such appointment.

(3) VACANCIES AND SUBSEQUENT APPOINTMENTS.—To the extent not inconsistent with paragraph (2), in the case of a vacancy on the Board due to death, resignation, or removal, the vacancy shall be filled through nomination and selection by the sitting members of the Board after—

(A) taking into consideration the composition of the Board; and

(B) soliciting recommendations from the public.

(4) COMPENSATION.—Members of the Board shall serve without compensation but may be reimbursed for reasonable expenses for transportation, lodging, and other expenses directly related to their duties as members of the Board.

(5) ORGANIZATION AND OPERATION.—The Board shall incorporate and operate the Center in accordance with the laws governing tax exempt organizations in the District of Columbia. District of Columbia. Taxes.

(e) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Board shall appoint a Director of the Center after conducting a national, competitive search to find an individual with the appropriate expertise, experience, and knowledge to oversee the operations of the Center. Appointments.

(2) STAFF.—In accordance with procedures established by the Board, the Director shall employ individuals to carry out the functions of the Center.

(3) COMPENSATION.—In no case shall the Director or any employee of the Center receive annual compensation that exceeds an amount equal to the annual rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(f) CENTER ACTIVITIES.—

(1) USES OF FUNDS.—The Director, after consultation with the Board, shall use the funds made available to the Center—

(A) to support research to improve education, teaching, and learning that is in the public interest, but that is determined unlikely to be undertaken entirely with private funds;

(B) to support—

(i) precompetitive research, development, and demonstrations;

(ii) assessments of prototypes of innovative digital learning and information technologies, as well as the components and tools needed to create such technologies; and

(iii) pilot testing and evaluation of prototype systems described in clause (ii); and

(C) to encourage the widespread adoption and use of effective, innovative digital approaches to improving education, teaching, and learning.

(2) CONTRACTS AND GRANTS.—

(A) IN GENERAL.—To carry out the activities described in paragraph (1), the Director, with the agreement of two-thirds of the members of the Board, may award, on a competitive basis, contracts and grants to four-year institutions of higher education, museums, libraries, nonprofit organizations, public institutions with or without for-profit partners, for-profit organizations, and consortia of any such entities.

(B) PUBLIC DOMAIN.—

(i) IN GENERAL.—The research and development properties and materials associated with any project funded by a grant or contract under this section shall be freely and nonexclusively available to the general public in a timely manner, consistent with regulations prescribed by the Secretary of Education.

(ii) EXEMPTION.—The Director may waive the requirements of clause (i) with respect to a project funded by a grant or contract under this section if—

(I) the Director and the Board (by a unanimous vote of the Board members) determine that the general public will benefit significantly due to the project not being freely and nonexclusively available to the general public in a timely manner; and

(II) the Board issues a public statement as to the specific reasons of the determination under subclause (I).

Grants.
Contracts.

(C) PEER REVIEW.—Proposals for grants or contracts shall be evaluated on the basis of comparative merit by panels of experts who represent diverse interests and perspectives, and who are appointed by the Director based on recommendations from the fields served and from the Board.

(g) ACCOUNTABILITY AND REPORTING.—

(1) REPORT.—

(A) IN GENERAL.—Not later than December 30 of each year beginning in fiscal year 2009, the Director shall prepare and submit to the Secretary of Education and the authorizing committees a report that contains the information described in subparagraph (B) with respect to the preceding fiscal year.

(B) CONTENTS.—A report under subparagraph (A) shall include—

(i) a comprehensive and detailed report of the Center's operations, activities, financial condition, and accomplishments, and such recommendations as the Director determines appropriate;

(ii) evidence of coordination with the Department of Education, the National Science Foundation, Office of the Director of Defense Research and Engineering in the Department of Defense, and other related Federal agencies to carry out the operations and activities of the Center;

(iii) a comprehensive and detailed inventory of funds distributed from the Center during the fiscal year for which the report is being prepared; and

(iv) an independent audit of the Center's finances and operations, and of the implementation of the goals established by the Board.

(C) STATEMENT OF THE BOARD.—Each report under subparagraph (A) shall include a statement from the Board containing—

(i) a clear description of the plans and priorities of the Board for the subsequent year for activities of the Center; and

(ii) an estimate of the funds that will be expended by the Center for such year.

(2) TESTIMONY.—The Director and principal officers of the Center shall testify before the authorizing committees and the Committees on Appropriations of the House of Representatives and the Senate, upon request of such committees, with respect to—

(A) any report required under paragraph (1)(A); and

(B) any other matter that such committees may determine appropriate.

(h) USE OF FUNDS SUBJECT TO APPROPRIATIONS.—The authority to award grants, enter into contracts, or otherwise expend funds under this section is subject to the availability of amounts deposited into the Center under subsection (c), or amounts otherwise appropriated for such purposes by an Act of Congress.

(i) DEFINITIONS.—For purposes of this section:

(1) AUTHORIZING COMMITTEES.—The term "authorizing committees" has the meaning given the term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(2) BOARD.—The term "Board" means the Board of the Center appointed under subsection (d)(1).

(3) CENTER.—The term "Center" means the National Center for Research in Advanced Information and Digital Technologies established under subsection (a).

(4) DIRECTOR.—The term "Director" means the Director of the Center appointed under subsection (e)(1).

**SEC. 803. ESTABLISHMENT OF PILOT PROGRAM FOR COURSE MATERIAL RENTAL.**

20 USC 1015b note.

(a) PILOT GRANT PROGRAM.—From the amounts appropriated pursuant to subsection (e), the Secretary of Education (referred to in this section as the "Secretary") shall make grants on a competitive basis to not more than ten institutions of higher education to support pilot programs that expand the services of bookstores

to provide the option for students to rent course materials in order to achieve savings for students.

(b) APPLICATION.—An institution of higher education that desires to obtain a grant under this section shall submit an application to the Secretary at such time, in such form, and containing or accompanied by such information, agreements, and assurances as the Secretary may reasonably require.

(c) USE OF FUNDS.—The funds made available by a grant under this section may be used for—

(1) purchase of course materials that the entity will make available by rent to students;

(2) any equipment or software necessary for the conduct of a rental program;

(3) hiring staff needed for the conduct of a rental program, with priority given to hiring enrolled undergraduate students; and

(4) building or acquiring extra storage space dedicated to course materials for rent.

(d) EVALUATION AND REPORT.—

(1) EVALUATIONS BY RECIPIENTS.—After a period of time to be determined by the Secretary, each institution of higher education that receives a grant under this section shall submit a report to the Secretary on the effectiveness of their rental programs in reducing textbook costs for students.

(2) REPORT TO CONGRESS.—Not later than September 30, 2010, the Secretary shall submit a report to Congress on the effectiveness of the textbook rental pilot programs under this section, and identify the best practices developed in such pilot programs. Such report shall contain an estimate by the Secretary of the savings achieved by students who participate in such pilot programs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 2009 and 2010.

# TITLE IX—AMENDMENTS TO OTHER LAWS

## PART A—EDUCATION OF THE DEAF ACT OF 1986

### SEC. 901. LAURENT CLERC NATIONAL DEAF EDUCATION CENTER.

Section 104 of the Education of the Deaf Act of 1986 (20 U.S.C. 4304) is amended—

(1) by striking the section heading and inserting "**LAURENT CLERC NATIONAL DEAF EDUCATION CENTER**";

(2) in subsection (a)(1)(A), by inserting "the Laurent Clerc National Deaf Education Center (referred to in this section as the 'Clerc Center') to carry out" after "maintain and operate"; and

(3) in subsection (b)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking "elementary and secondary education programs" and inserting "Clerc Center";

(B) in paragraph (2)—

(i) by striking "elementary and secondary education programs" and inserting "Clerc Center"; and

(ii) by striking "section 618(a)(1)(A)" and inserting "section 618(a)(1)";

(C) in paragraph (4), in subparagraph (C)—

(i) by moving the margins 2 ems to the left;

(ii) in clause (i), by striking "(6)" and inserting "(8)"; and

(iii) in clause (vi), by striking "(m)" and inserting "(o)"; and

(D) by adding at the end the following:

"(5) The University, for purposes of the elementary and secondary education programs carried out at the Clerc Center, shall—

"(A)(i) select challenging academic content standards, challenging student academic achievement standards, and academic assessments of a State, adopted and implemented, as appropriate, pursuant to paragraphs (1) and (3) of section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1) and (3)) and approved by the Secretary; and Standards.

"(ii) implement such standards and assessments for such programs by not later than the beginning of the 2009–2010 academic year; Deadline.

"(B) annually determine whether such programs at the Clerc Center are making adequate yearly progress, as determined according to the definition of adequate yearly progress defined (pursuant to section 1111(b)(2)(C) of such Act (20 U.S.C. 6311(b)(2)(C))) by the State that has adopted and implemented the standards and assessments selected under subparagraph (A)(i); and Deadline.

"(C) publicly report the results of the academic assessments implemented under subparagraph (A), except where such reporting would not yield statistically reliable information or would reveal personally identifiable information about an individual student, and whether the programs at the Clerc Center are making adequate yearly progress, as determined under subparagraph (B).". Reports.

**SEC. 902. AGREEMENT WITH GALLAUDET UNIVERSITY.**

Section 105(b)(4) of the Education of the Deaf Act of 1986 (20 U.S.C. 4305(b)(4)) is amended—

(1) by striking "the Act of March 3, 1931 (40 U.S.C. 276a–276a–5) commonly referred to as the Davis-Bacon Act" and inserting "subchapter IV of chapter 31 of title 40, United States Code, commonly referred to as the Davis-Bacon Act"; and

(2) by striking "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)" and inserting "section 3145 of title 40, United States Code".

**SEC. 903. AGREEMENT FOR THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.**

Section 112 of the Education of the Deaf Act of 1986 (20 U.S.C. 4332) is amended—

(1) in subsection (a)(1), by striking the second sentence; and

(2) in subsection (b)—

(A) in paragraph (3), by striking "Committee on Labor and Human Resources of the Senate" and inserting "Committee on Health, Education, Labor, and Pensions of the Senate"; and

(B) in paragraph (5)—

(i) by striking "the Act of March 3, 1931 (40 U.S.C. 276a—276a–5) commonly referred to as the Davis-Bacon Act" and inserting "subchapter IV of chapter 31 of title 40, United States Code, commonly referred to as the Davis-Bacon Act"; and

(ii) by striking "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)" and inserting "section 3145 of title 40, United States Code".

**SEC. 904. CULTURAL EXPERIENCES GRANTS.**

(a) CULTURAL EXPERIENCES GRANTS.—Title I of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) is amended by adding at the end the following:

## "PART C—OTHER PROGRAMS

20 USC 4341.

**"SEC. 121. CULTURAL EXPERIENCES GRANTS.**

Contracts.

"(a) IN GENERAL.—The Secretary is authorized to, on a competitive basis, make grants to, and enter into contracts and cooperative agreements with, eligible entities to support the activities described in subsection (b).

"(b) ACTIVITIES.—In carrying out this section, the Secretary shall support activities providing cultural experiences, through appropriate nonprofit organizations with a demonstrated proficiency in providing such activities, that—

"(1) enrich the lives of deaf and hard-of-hearing children and adults;

"(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard-of-hearing persons; or

"(3) promote the integration of hearing, deaf, and hard-of-hearing persons through shared cultural, educational, and social experiences.

"(c) APPLICATIONS.—An eligible entity that desires to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.".

(b) CONFORMING AMENDMENT.—The title heading of title I of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) is amended by adding at the end the following: "; OTHER PROGRAMS".

**SEC. 905. AUDIT.**

Section 203 of the Education of the Deaf Act of 1986 (20 U.S.C. 4353) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "sections" and all that follows through the period and inserting "sections

102(b), 105(b)(4), 112(b)(5), 203(c), 207(b)(2), subsections (c) through (f) of section 207, and subsections (b) and (c) of section 209."; and

(B) in paragraph (3), by inserting "and the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate" after "Secretary"; and

(2) in subsection (c)(2)(A), by striking "Committee on Labor and Human Resources of the Senate" and inserting "Committee on Health, Education, Labor, and Pensions of the Senate".

**SEC. 906. REPORTS.**

Section 204 of the Education of the Deaf Act of 1986 (20 U.S.C. 4354) is amended—

(1) in the matter preceding paragraph (1), by striking "Committee on Labor and Human Resources of the Senate" and inserting "Committee on Health, Education, Labor, and Pensions of the Senate";

(2) in paragraph (1), by striking "preparatory,";

(3) in paragraph (2)(C), by striking "upon graduation/completion" and inserting "on the date that is one year after the date of graduation or completion"; and

(4) in paragraph (3)(B), by striking "of the institution of higher education" and all that follows through "section 203" and inserting "of NTID programs and activities".

**SEC. 907. MONITORING, EVALUATION, AND REPORTING.**

Section 205 of the Education of the Deaf Act of 1986 (20 U.S.C. 4355) is amended—

(1) in the first sentence of subsection (a), by striking "preparatory,";

(2) in subsection (b), by striking "The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of" and inserting "The Secretary shall annually transmit information to Congress on"; and

(3) in subsection (c), by striking "fiscal years 1998 through 2003" and inserting "fiscal years 2009 through 2014". Appropriations authorization.

**SEC. 908. LIAISON FOR EDUCATIONAL PROGRAMS.** Designation. Deadline.

Section 206(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4356(a)) is amended by striking "Not later than 30 days after the date of enactment of this Act, the" and inserting "The".

**SEC. 909. FEDERAL ENDOWMENT PROGRAMS FOR GALLAUDET UNIVERSITY AND THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.** Appropriations authorization.

Section 207(h) of the Education of the Deaf Act of 1986 (20 U.S.C. 4357(h)) is amended by striking "fiscal years 1998 through 2003" both places it appears and inserting "fiscal years 2009 through 2014".

**SEC. 910. OVERSIGHT AND EFFECT OF AGREEMENTS.**

Section 208(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4359(a)) is amended by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "Committee on Education and Labor of the House of Representatives

and the Committee on Health, Education, Labor, and Pensions of the Senate".

**SEC. 911. INTERNATIONAL STUDENTS.**

Section 209 of the Education of the Deaf Act of 1986 (20 U.S.C. 4359a) is amended—

(1) in subsection (a)—

(A) by striking "preparatory, undergraduate," and inserting "undergraduate";

(B) by striking "Effective with" and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), effective with"; and

(C) by adding at the end the following:

"(2) DISTANCE LEARNING.—International students who participate in distance learning courses that are at the University or the NTID, who are residing outside of the United States, and are not enrolled in a degree program at the University or the NTID shall—

"(A) not be counted as international students for purposes of the cap on international students under paragraph (1), except that in any school year no United States citizen who applies to participate in distance learning courses that are at the University or NTID shall be denied participation in such courses because of the participation of an international student in such courses; and

"(B) not be charged a tuition surcharge, as described in subsection (b)."; and

(2) by striking subsections (b), (c), and (d), and inserting the following:

"(b) TUITION SURCHARGE.—Except as provided in subsections (a)(2)(B) and (c), the tuition for postsecondary international students enrolled in the University (including undergraduate and graduate students) or NTID shall include, for academic year 2009–2010 and any succeeding academic year, a surcharge of—

"(1) 100 percent for a postsecondary international student from a non-developing country; and

"(2) 50 percent for a postsecondary international student from a developing country, or a country that was a developing country for any academic year during the student's period of uninterrupted enrollment in a degree program at the University or NTID, except that such a surcharge shall not be adjusted retroactively.

"(c) REDUCTION OF SURCHARGE.—

"(1) IN GENERAL.—Beginning with the academic year 2009–2010, the University or NTID may reduce the surcharge—

"(A) under subsection (b)(1) from 100 percent to not less than 50 percent if—

"(i) a student described under subsection (b)(1) demonstrates need; and

"(ii) such student has made a good-faith effort to secure aid through such student's government or other sources; and

"(B) under subsection (b)(2) from 50 percent to not less than 25 percent if—

"(i) a student described under subsection (b)(2) demonstrates need; and

"(ii) such student has made a good faith effort to secure aid through such student's government or other sources.

"(2) DEVELOPMENT OF SLIDING SCALE.—The University and NTID shall develop a sliding scale model that—

"(A) will be used to determine the amount of a tuition surcharge reduction pursuant to paragraph (1); and

"(B) shall be approved by the Secretary.

"(d) DEFINITION.—In this section, the term 'developing country' means a country with a per-capita income of not more than $5,345, measured in 2005 United States dollars, as adjusted by the Secretary to reflect inflation since 2005.".

**SEC. 912. RESEARCH PRIORITIES.**

Section 210(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4359b(b)) is amended by striking "Committee on Education and the Workforce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate" and inserting "Committee on Education and Labor of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate".

**SEC. 913. NATIONAL STUDY ON THE EDUCATION OF THE DEAF.**

Establishment.

(a) CONDUCT OF STUDY.—Subsection (a)(1) of section 211 of the Education of the Deaf Act of 1986 (20 U.S.C. 4360) is amended by inserting after "The Secretary shall" the following: "establish a commission on the education of the deaf (in this section referred to as the 'commission') to".

(b) PUBLIC INPUT AND CONSULTATION.—Subsection (b) of such section is amended by striking "Secretary" each place the term appears and inserting "commission".

(c) REPORT.—Subsection (c) of such section is amended—

(1) in the matter preceding paragraph (1), by striking "Secretary" and all that follows through "1998" and inserting "commission shall report to the Secretary and Congress not later than 18 months after the date of the enactment of the Higher Education Opportunity Act"; and

(2) in paragraph (1)—

(A) by striking "recommendations," and inserting "recommendations relating to educated-related factors that contribute to successful postsecondary education experiences and employment for individuals who are deaf,"; and

(B) by striking "Secretary" and inserting "commission".

(d) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of such section is amended by striking "$1,000,000 for each of the fiscal years 1999 and 2000" and inserting "such sums as may be necessary for each of the fiscal years 2009 and 2010".

**SEC. 914. AUTHORIZATION OF APPROPRIATIONS.**

Section 212 of the Education of the Deaf Act of 1986 (20 U.S.C. 4360a) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking "fiscal years 1998 through 2003" and inserting "fiscal years 2009 through 2014"; and

(2) in subsection (b), by striking "fiscal years 1998 through 2003" and inserting "fiscal years 2009 through 2014".

## PART B—UNITED STATES INSTITUTE OF PEACE ACT

**SEC. 921. UNITED STATES INSTITUTE OF PEACE ACT.**

(a) POWERS AND DUTIES.—Section 1705(b)(3) of the United States Institute of Peace Act (22 U.S.C. 4604(b)(3)) is amended by striking "the Arms Control and Disarmament Agency,".

(b) BOARD OF DIRECTORS.—

(1) AMENDMENTS.—Section 1706 of the United States Institute of Peace Act (22 U.S.C. 4605) is amended—

(A) by striking "(b)(5)" each place the term appears and inserting "(b)(4)"; and

(B) in subsection (e), by adding at the end the following:

Effective date.

"(5) The term of a member of the Board shall not commence until the member is confirmed by the Senate and sworn in as a member of the Board.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if enacted on June 1, 2007, and shall apply to any member of the Board of Directors of the Institute of Peace confirmed by the Senate and sworn in as a member of the Board of Directors on or after such date.

(c) FUNDING.—Section 1710 of the United States Institute of Peace Act (22 U.S.C. 4609) is amended—

(1) in subsection (a)(1), by striking "to be appropriated" and all that follows through the period at the end and inserting "to be appropriated such sums as may be necessary for fiscal years 2009 through 2014."; and

(2) by adding at the end the following:

"(d) EXTENSION.—Any authorization of appropriations made for the purposes of carrying out this title shall be extended in the same manner as applicable programs are extended under section 422 of the General Education Provisions Act.".

## PART C—THE HIGHER EDUCATION AMENDMENTS OF 1998; THE HIGHER EDUCATION AMENDMENTS OF 1992

**SEC. 931. REPEALS.**

The following provisions of title VIII of the Higher Education Amendments of 1998 (Public Law 105–244) are repealed:

20 USC 1001 note, 1015 note, 1018 note, 1099b note.

(1) Part A.

(2) Part C (20 U.S.C. 1070 note).

(3) Part F (20 U.S.C. 1862 note).

(4) Part J.

(5) Section 861.

(6) Section 863.

42 USC 1862 note.

**SEC. 932. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED INDIVIDUALS.**

112 Stat. 1825.

Section 821 of the Higher Education Amendments of 1998 (20 U.S.C. 1151) is amended to read as follows:

112 Stat. 1826.

**"SEC. 821. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED INDIVIDUALS.**

"(a) DEFINITION.—In this section, the term 'incarcerated individual' means a male or female offender who is—

"(1) 35 years of age or younger; and

"(2) incarcerated in a State prison, including a prerelease facility.

"(b) GRANT PROGRAM.—The Secretary of Education (in this section referred to as the 'Secretary')—

"(1) shall establish a program in accordance with this section to provide grants to the State correctional education agencies in the States to assist and encourage incarcerated individuals who have obtained a secondary school diploma or its recognized equivalent to acquire educational and job skills through—

"(A) coursework to prepare such individuals to pursue a postsecondary education certificate, an associate's degree, or bachelor's degree while in prison;

"(B) the pursuit of a postsecondary education certificate, an associate's degree, or bachelor's degree while in prison; and

"(C) employment counseling and other related services, which start during incarceration and end not later than two years after release from incarceration; and

"(2) may establish such performance objectives and reporting requirements for State correctional education agencies receiving grants under this section as the Secretary determines are necessary to assess the effectiveness of the program under this section.

"(c) APPLICATION.—To be eligible for a grant under this section, a State correctional education agency shall submit to the Secretary a proposal for an incarcerated individual program that—

"(1) identifies the scope of the problem, including the number of incarcerated individuals in need of postsecondary education and career and technical training;

"(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

"(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

"(4) describes specific performance objectives and evaluation methods (in addition to, and consistent with, any objectives established by the Secretary under subsection (b)(2)) that the State correctional education agency will use in carrying out its proposal, including—

"(A) specific and quantified student outcome measures that are referenced to outcomes for non-program participants with similar demographic characteristics; and

"(B) measures, consistent with the data elements and definitions described in subsection (d)(1)(A), of—

"(i) program completion, including an explicit definition of what constitutes a program completion within the proposal;

"(ii) knowledge and skill attainment, including specification of instruments that will measure knowledge and skill attainment;

"(iii) attainment of employment both prior to and subsequent to release;

"(iv) success in employment indicated by job retention and advancement; and

"(v) recidivism, including such subindicators as time before subsequent offense and severity of offense;

"(5) describes how the proposed program is to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and career and technical training) and State industry programs;

"(6) describes how the proposed program will—

"(A) deliver services under this section; and

"(B) utilize technology to deliver such services; and

"(7) describes how incarcerated individuals will be selected so that only those eligible under subsection (e) will be enrolled in postsecondary programs.

Deadline. Reports.

"(d) PROGRAM REQUIREMENTS.—Each State correctional education agency receiving a grant under this section shall—

"(1) annually report to the Secretary regarding—

"(A) the results of the evaluations conducted using data elements and definitions provided by the Secretary for the use of State correctional education programs;

"(B) any objectives or requirements established by the Secretary pursuant to subsection (b)(2);

"(C) the additional performance objectives and evaluation methods contained in the proposal described in subsection (c)(4) as necessary to document the attainment of project performance objectives;

"(D) how the funds provided under this section are being allocated among postsecondary preparatory education, postsecondary academic programs, and career and technical education programs; and

"(E) the service delivery methods being used for each course offering; and

"(2) provide for each student eligible under subsection (e) not more than—

"(A) $3,000 annually for tuition, books, and essential materials; and

"(B) $300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education.

"(e) STUDENT ELIGIBILITY.—An incarcerated individual who has obtained a secondary school diploma or its recognized equivalent shall be eligible for participation in a program receiving a grant under this section if such individual—

"(1) is eligible to be released within seven years (including an incarcerated individual who is eligible for parole within such time);

"(2) is 35 years of age or younger; and

"(3) has not been convicted of—

"(A) a 'criminal offense against a victim who is a minor' or a 'sexually violent offense', as such terms are defined in the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071 et seq.); or

"(B) murder, as described in section 1111 of title 18, United States Code.

"(f) LENGTH OF PARTICIPATION.—A State correctional education agency receiving a grant under this section shall provide educational

and related services to each participating incarcerated individual for a period not to exceed seven years, not more than two years of which may be devoted to study in a graduate education degree program or to coursework to prepare such individuals to take college level courses. Educational and related services shall start during the period of incarceration in prison or prerelease, and the related services may continue for not more than two years after release from confinement.

"(g) EDUCATION DELIVERY SYSTEMS.—State correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this section.

"(h) ALLOCATION OF FUNDS.—From the funds appropriated pursuant to subsection (i) for each fiscal year, the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (e) in such State bears to the total number of such students in all States.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 2009 through 2014.".

**SEC. 933. UNDERGROUND RAILROAD EDUCATIONAL AND CULTURAL PROGRAM.**

Section 841 of the Higher Education Amendments of 1998 (20 U.S.C. 1153) is amended—

(1) in subsection (a), by inserting ", including the lessons to be drawn from such history" after "Railroad";

(2) in subsection (b)—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) to establish a facility to—

"(A) house, display, interpret, and communicate information regarding the artifacts and other materials related to the history of the Underground Railroad, including the lessons to be drawn from such history;

"(B) maintain such artifacts and materials; and

"(C) make the efforts described in subparagraph (A) available, including through electronic means, to elementary and secondary schools, institutions of higher education, and the general public;

"(2) to demonstrate substantial public and private support for the operation of the facility through the implementation of a public-private partnership between one or more State or local public entities and one or more private entities, which public-private partnership shall provide matching funds from non-federal sources for the support of the facility in an amount equal to or greater than four times the amount of the grant awarded under this section;";

(B) in paragraph (4)—

(i) by inserting "and maintain" after "establish"; and

(ii) by inserting "including the lessons to be drawn from the history of the Underground Railroad," after "States,"; and

(C) in paragraph (5)—

(i) by inserting "and maintain" after "establish"; and

(ii) by inserting ", including the lessons to be drawn from such history" after "Railroad"; and

Appropriations authorization.

(3) in subsection (c), by striking "this section" and all that follows through the period at the end and inserting "$3,000,000 for fiscal year 2009 and each of the five succeeding fiscal years.".

**SEC. 934. OLYMPIC SCHOLARSHIPS.**

Section 1543(d) of the Higher Education Amendments of 1992 (20 U.S.C. 1070 note) is amended—

Appropriations authorization.

(1) by striking "1999" and inserting "2009"; and

(2) by striking "4" and inserting "five".

**SEC. 935. ESTABLISHMENT OF A DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL AND FOREIGN LANGUAGE EDUCATION.**

Section 205 of the Department of Education Organization Act (20 U.S.C. 3415) is amended to read as follows:

"OFFICE OF POSTSECONDARY EDUCATION

"SEC. 205. (a) There shall be in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(b). The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting postsecondary education.

Appointments.

"(b) The Assistant Secretary for Postsecondary Education shall appoint a Deputy Assistant Secretary for International and Foreign Language Education to perform such functions affecting postsecondary, international, and foreign language education as the Secretary may prescribe. The Deputy Assistant Secretary for International and Foreign Language Education shall—

"(1) be an individual with extensive background and experience in international and foreign language education;

"(2) have responsibility for encouraging and promoting the study of foreign languages and the study of the cultures of other countries at the elementary, secondary, and postsecondary levels in the United States; and

"(3) coordinate with related international and foreign language education programs of other Federal agencies.".

# PART D—TRIBAL COLLEGE AND UNIVERSITIES; NAVAJO HIGHER EDUCATION

## Subpart 1—Tribal Colleges and Universities

**SEC. 941. REAUTHORIZATION OF THE TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY ASSISTANCE ACT OF 1978.**

(a) CLARIFICATION OF THE DEFINITION OF NATIONAL INDIAN ORGANIZATION.—Section 2(a)(6) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)(6)) is amended by striking "in the field of Indian education" and inserting "in the fields of tribally controlled colleges and universities and Indian higher education".

(b) INDIAN STUDENT COUNT.—Section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following:

"(7) 'Indian student' means a student who is—

"(A) a member of an Indian tribe; or

"(B) a biological child of a member of an Indian tribe, living or deceased;".

(c) CONTINUING EDUCATION.—Section 2(b) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(b)) is amended—

(1) in the matter preceding paragraph (1), by striking "paragraph (7) of subsection (a)" and inserting "subsection (a)(8)";

(2) by striking paragraph (5) and inserting the following:

"(5) Eligible credits earned in a continuing education program—

"(A) shall be determined as one credit for every ten contact hours in the case of an institution on a quarter system, or 15 contact hours in the case of an institution on a semester system, of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as described in the criteria established by the International Association for Continuing Education and Training; and

"(B) shall be limited to ten percent of the Indian student count of a tribally controlled college or university."; and

(3) by striking paragraph (6).

(d) ACCREDITATION REQUIREMENT.—Section 103 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1804) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (3), the following:

"(4)(A) is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority with regard to the quality of training offered; or

"(B) according to such an agency or association, is making reasonable progress toward accreditation.".

(e) TECHNICAL ASSISTANCE CONTRACTS.—Section 105 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1805) is amended—

(1) by striking the section designation and heading and all that follows through "The Secretary shall" and inserting the following:

**"SEC. 105. TECHNICAL ASSISTANCE CONTRACTS.**

"(a) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall";

(2) in the second sentence, by striking "In the awarding of contracts for technical assistance, preference shall be given" and inserting the following:

Contracts.

"(2) DESIGNATED ORGANIZATION.—The Secretary shall require that a contract for technical assistance under paragraph (1) shall be awarded"; and

(3) in the third sentence, by striking "No authority" and inserting the following:

"(b) EFFECT OF SECTION.—No authority".

(f) AMOUNT OF GRANTS.—Section 108(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1808(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately;

(2) by striking "(a) Except as provided in section 111," and inserting the following:

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and section 111,";

(3) in paragraph (1) (as redesignated by paragraphs (1) and (2))—

(A) in the matter preceding subparagraph (A) (as redesignated by paragraph (1))—

(i) by striking "him" and inserting "the Secretary"; and

(ii) by striking "product of" and inserting "product obtained by multiplying";

(B) in subparagraph (A) (as redesignated by paragraph (1)), by striking "section 2(a)(7)" and inserting "section 2(a)(8)"; and

(C) in subparagraph (B) (as redesignated by paragraph (1)), by striking "$6,000," and inserting "$8,000, as adjusted annually for inflation."; and

(4) by striking "except that no grant shall exceed the total cost of the education program provided by such college or university." and inserting the following:

"(2) EXCEPTION.—The amount of a grant under paragraph (1) shall not exceed an amount equal to the total cost of the education program provided by the applicable tribally controlled college or university.".

(g) GENERAL PROVISIONS REAUTHORIZATION.—Section 110(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(1) in paragraphs (1), (2), (3), and (4), by striking "1999" and inserting "2009";

(2) in paragraphs (1), (2), and (3), by striking "4 succeeding" and inserting "five succeeding";

(3) in paragraph (2), by striking "$40,000,000" and inserting "such sums as may be necessary";

(4) in paragraph (3), by striking "$10,000,000" and inserting "such sums as may be necessary"; and

(5) in paragraph (4), by striking "succeeding 4" and inserting "five succeeding".

(h) ENDOWMENT PROGRAM REAUTHORIZATION.—Section 306(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1836(a)) is amended—

(1) by striking "1999" and inserting "2009"; and

(2) by striking "4 succeeding" and inserting "five succeeding".

(i) TRIBAL ECONOMIC DEVELOPMENT REAUTHORIZATION.—Section 403 of the Tribal Economic Development and Technology Related Education Assistance Act of 1990 (25 U.S.C. 1852) is amended—

(1) by striking "$2,000,000 for fiscal year 1999" and inserting "such sums as may be necessary for fiscal year 2009"; and

(2) by striking "4 succeeding" and inserting "five succeeding".

(j) TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS.—

(1) IN GENERAL.—The Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) is amended by adding at the end the following:

# "TITLE V—TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS

**"SEC. 501. DEFINITION OF TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTION.** 25 USC 1861.

"In this title, the term 'tribally controlled postsecondary career and technical institution' has the meaning given the term in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302).

**"SEC. 502. TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS PROGRAM.** 25 USC 1862.

"(a) IN GENERAL.—Subject to the availability of appropriations, for fiscal year 2009 and each fiscal year thereafter, the Secretary shall—

"(1) subject to subsection (b), select two tribally controlled postsecondary career and technical institutions to receive assistance under this title; and

"(2) provide funding to the selected tribally controlled postsecondary career and technical institutions to pay the costs (including institutional support costs) of operating postsecondary career and technical education programs for Indian students at the tribally controlled postsecondary career and technical institutions.

"(b) SELECTION OF CERTAIN INSTITUTIONS.—

"(1) REQUIREMENT.—For each fiscal year during which the Secretary determines that a tribally controlled postsecondary career and technical institution described in paragraph (2) meets the definition referred to in section 501, the Secretary shall select that tribally controlled postsecondary career and technical institution under subsection (a)(1) to receive funding under this section.

"(2) INSTITUTIONS.—The two tribally controlled postsecondary career and technical institutions referred to in paragraph (1) are—

"(A) the United Tribes Technical College; and

"(B) the Navajo Technical College.

"(c) METHOD OF PAYMENT.—For each applicable fiscal year, the Secretary shall provide funding under this section to each

tribally controlled postsecondary career and technical institution selected for the fiscal year under subsection (a)(1) in a lump sum payment for the fiscal year.

"(d) DISTRIBUTION.—

"(1) IN GENERAL.—For fiscal year 2009 and each fiscal year thereafter, of amounts made available pursuant to section 504, the Secretary shall distribute to each tribally controlled postsecondary career and technical institution selected for the fiscal year under subsection (a)(1) an amount equal to the greater of—

"(A) the total amount appropriated for the tribally controlled postsecondary career and technical institution for fiscal year 2006; or

"(B) the total amount appropriated for the tribally controlled postsecondary career and technical institution for fiscal year 2008.

"(2) EXCESS AMOUNTS.—If, for any fiscal year, the amount made available pursuant to section 504 exceeds the sum of the amounts required to be distributed under paragraph (1) to the tribally controlled postsecondary career and technical institutions selected for the fiscal year under subsection (a)(1), the Secretary shall distribute to each tribally controlled postsecondary career and technical institution selected for that fiscal year a portion of the excess amount, to be determined by—

"(A) dividing the excess amount by the aggregate Indian student count (as defined in section 117(h) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2327(h)) of such institutions for the prior academic year; and

"(B) multiplying the quotient described in subparagraph (A) by the Indian student count of each such institution for the prior academic year.

25 USC 1863.

**"SEC. 503. APPLICABILITY OF OTHER LAWS.**

"(a) IN GENERAL.—Paragraphs (4) and (8) of subsection (a), and subsection (b), of section 2, sections 105, 108, 111, 112 and 113, and titles II, III, and IV shall not apply to this title.

"(b) INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE.—Funds made available pursuant to this title shall be subject to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(c) ELECTION TO RECEIVE.—A tribally controlled postsecondary career and technical institution selected for a fiscal year under section 502(b) may elect to receive funds pursuant to section 502 in accordance with an agreement between the tribally controlled postsecondary career and technical institution and the Secretary under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) if the agreement is in existence on the date of enactment of the Higher Education Opportunity Act.

"(d) OTHER ASSISTANCE.—Eligibility for, or receipt of, assistance under this title shall not preclude the eligibility of a tribally controlled postsecondary career and technical institution to receive Federal financial assistance under—

"(1) any program under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.);

"(2) any program under the Carl D. Perkins Career and Technical Education Act of 2006; or

"(3) any other applicable program under which a benefit is provided for—

"(A) institutions of higher education;

"(B) community colleges; or

"(C) postsecondary educational institutions.

**"SEC. 504. AUTHORIZATION OF APPROPRIATIONS.** 25 USC 1864.

"There are authorized to be appropriated such sums as are necessary for fiscal year 2009 and each fiscal year thereafter to carry out this title.".

(2) CONFORMING AMENDMENTS.—Section 117 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2327) is amended—

(A) by striking subsection (a) and inserting the following:

"(a) GRANT PROGRAM.—Subject to the availability of appropriations, the Secretary shall make grants under this section, to provide basic support for the education and training of Indian students, to tribally controlled postsecondary career and technical institutions that are not receiving Federal assistance as of the date on which the grant is provided under—

"(1) title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1802 et seq.); or

"(2) the Navajo Community College Act (25 U.S.C. 640a et seq.).''; and

(B) by striking subsection (d) and inserting the following:

"(d) APPLICATIONS.—To be eligible to receive a grant under this section, a tribally controlled postsecondary career and technical institution that is not receiving Federal assistance under title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1802 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.".

(k) SHORT TITLE.—

(1) IN GENERAL.—The first section of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 note; Public Law 95–471) is amended to read as follows:

**"SECTION 1. SHORT TITLE.**

"This Act may be cited as the 'Tribally Controlled Colleges and Universities Assistance Act of 1978'.".

(2) TECHNICAL AMENDMENTS.—

(A) EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking "Tribally Controlled College or University Assistance Act of 1978" and inserting "Tribally Controlled Colleges and Universities Assistance Act of 1978".

(B) NATIONAL MUSEUM OF THE AMERICAN INDIAN ACT.—Section 10(b)(2) of the National Museum of the American Indian Act (20 U.S.C. 80q-8(b)(2)) is amended by striking "tribally controlled community colleges (as defined in section 2 of the Tribally Controlled Community College Assistance Act of 1978)" and inserting "tribally controlled colleges or universities (as defined in section 2(a) of the Tribally

Controlled Colleges and Universities Assistance Act of 1978)".

(C) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 602(17)(B) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(17)(B)) is amended—

(i) by striking "community college" and inserting "college or university"; and

(ii) by striking "the Tribally Controlled College or University Assistance Act of 1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978".

(D) CARL D. PERKINS CAREER AND TECHNICAL EDUCATION ACT OF 2006.—The Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) is amended—

(i) in section 3(33) (20 U.S.C. 2302(33)), by striking "the Tribally Controlled College or University Assistance Act of 1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978";

(ii) in section 117 (20 U.S.C. 2327), by striking "the Tribally Controlled College or University Assistance Act of 1978" each place the term appears and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978"; and

(iii) in section 203(a)(1)(B)(i)(I)(bb)(AA) (20 U.S.C. 2373(a)(1)(B)(i)(I)(bb)(AA)), by striking "the Tribally Controlled College or University Assistance Act of 1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978".

(E) OMNIBUS EDUCATION RECONCILIATION ACT OF 1981.—Section 528 of the Omnibus Education Reconciliation Act of 1981 (20 U.S.C. 3489) is amended by striking "the Tribally Controlled" and all that follows through "1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978".

(F) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(i) in section 3301(3) (20 U.S.C. 7011(3)), by striking "the Tribally Controlled College or University Assistance Act of 1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978"; and

(ii) in section 7134(b)(1)(A) (20 U.S.C. 7454(b)(1)(A)), by striking "the Tribally Controlled College or University Assistance Act of 1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978".

(G) AUGUSTUS F. HAWKINS-ROBERT T. STAFFORD ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT AMENDMENTS OF 1988.—Section 5404(a)(1) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 13d–2(a)(1)) is amended by striking "the Tribally Controlled" and all that follows through "1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978".

(H) INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—Section 403(b)(4)(A) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458cc(b)(4)(A)) is amended by striking "the Tribally Controlled" and all that follows through "1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978".

(I) INDIAN HEALTH CARE IMPROVEMENT ACT.—The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended—

(i) in section 113(b)(1) (25 U.S.C. 1616f(b)(1)), by striking "tribally-controlled" and all that follows through "1978)" and inserting "tribally controlled colleges or universities (within the meaning of section 2(a)(4) of the Tribally Controlled Colleges and Universities Act of 1978)";

(ii) in section 115(e) (25 U.S.C. 1616h(e)(2))—

(I) in paragraph (1)(A), by striking "a tribally controlled community college" and inserting "a junior or community college that is a tribally controlled college or university"; and

(II) by striking paragraph (2) and inserting the following:

"(2) The term 'tribally controlled college or university' has the meaning given to such term by section 2(a)(4) of the Tribally Controlled Colleges and Universities Assistance Act of 1978."; and Definition.

(iii) by striking paragraph (3) of section 711(g) (25 U.S.C. 1665j(g)) and inserting the following:

"(3) The term 'tribally controlled community college' means a community college that is a tribally controlled college or university, as such term is defined in section 2(a)(4) of the Tribally Controlled Colleges and Universities Assistance Act of 1978.".

(J) INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT.—Section 411(d)(5)(C) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3210(d)(5)(C)) is amended by striking "tribally controlled" and all that follows through the semicolon at the end and inserting "tribally controlled college or university (within the meaning of section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978);".

(K) ASSISTIVE TECHNOLOGY ACT OF 1998.—Section 3(11) of the Assistive Technology Act of 1998 (29 U.S.C. 3002(11)) is amended by striking "the Tribally Controlled College or University Assistance Act of 1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978".

(L) ATOMIC ENERGY ACT OF 1954.—Section 244(a)(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2015c(a)(3)) is amended by striking "the Tribally Controlled College or University Assistance Act of 1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978".

(M) DEPARTMENT OF ENERGY SCIENCE EDUCATION ENHANCEMENT ACT.—Section 3167(a)(5) of the Department of Energy Science Education Enhancement Act (42 U.S.C.

7381c–1(a)(5)) is amended by striking "the Tribally Controlled College Assistance Act of 1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978".

(N) ED 1.0 ACT.—The ED 1.0 Act (47 U.S.C. 902 note) is amended in subsection (a)(2)(C) by striking "the Tribally Controlled College or University Assistance Act of 1978" and inserting "the Tribally Controlled Colleges and Universities Assistance Act of 1978".

## Subpart 2—Navajo Higher Education

Navajo Nation Higher Education Act of 2008. 25 USC 640a note.

**SEC. 945. SHORT TITLE.**

This subpart may be cited as the "Navajo Nation Higher Education Act of 2008".

**SEC. 946. REAUTHORIZATION OF NAVAJO COMMUNITY COLLEGE ACT.**

(a) PURPOSE.—Section 2 of the Navajo Community College Act (25 U.S.C. 640a) is amended—

(1) by striking "Navajo Tribe of Indians" and inserting "Navajo Nation"; and

(2) by striking "the Navajo Community College" and inserting "Diné College".

(b) GRANTS.—Section 3 of the Navajo Community College Act (25 U.S.C. 640b) is amended—

(1) in the first sentence—

(A) by inserting "the" before "Interior";

(B) by striking "Navajo Tribe of Indians" and inserting "Navajo Nation"; and

(C) by striking "the Navajo Community College" and inserting "Diné College"; and

(2) in the second sentence—

(A) by striking "Navajo Tribe" and inserting "Navajo Nation"; and

(B) by striking "Navajo Indians" and inserting "Navajo people".

(c) STUDY OF FACILITIES NEEDS.—Section 4 of the Navajo Community College Act (25 U.S.C. 640c) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking "the Navajo Community College" and inserting "Dine College"; and

(ii) by striking "August 1, 1979" and inserting "October 31, 2010"; and

(B) in the second sentence, by striking "Navajo Tribe" and inserting "Navajo Nation";

(2) in subsection (b), by striking "the date of enactment of the Tribally Controlled Community College Assistance Act of 1978" and inserting "October 1, 2007"; and

(3) in subsection (c), in the first sentence, by striking "the Navajo Community College" and inserting "Diné College".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 5 of the Navajo Community College Act (25 U.S.C. 640c–1) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "$2,000,000" and all that follows through the end of the paragraph and inserting

"such sums as are necessary for fiscal years 2009 through 2014."; and

(B) by adding at the end the following:

"(3) Sums described in paragraph (2) shall be used to provide grants for construction activities, including the construction of buildings, water and sewer facilities, roads, information technology and telecommunications infrastructure, classrooms, and external structures (such as walkways)."; Grants.

(2) in subsection (b)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "the Navajo Community College" and inserting "Diné College"; and

(ii) by striking ", for each fiscal year" and all that follows through "for—" and inserting "such sums as are necessary for fiscal years 2009 through 2014 to pay the cost of—";

(B) in subparagraph (A)—

(i) by striking "college" and inserting "College";

(ii) in clauses (i) and (iii), by striking the commas at the ends of the clauses and inserting semicolons; and

(iii) in clause (ii), by striking ", and" at the end and inserting "; and";

(C) in subparagraph (B), by striking the comma at the end and inserting a semicolon;

(D) in subparagraph (C), by striking ", and" at the end and inserting a semicolon;

(E) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(F) by adding at the end the following:

"(E) improving and expanding the College, including by providing, for the Navajo people and others in the community of the College—

"(i) higher education programs;

"(ii) career and technical education;

"(iii) activities relating to the preservation and protection of the Navajo language, philosophy, and culture;

"(iv) employment and training opportunities;

"(v) economic development and community outreach; and

"(vi) a safe learning, working, and living environment."; and

(3) in subsection (c), by striking "the Navajo Community College" and inserting "Diné College".

(e) EFFECT ON OTHER LAWS.—Section 6 of the Navajo Community College Act (25 U.S.C. 640c–2) is amended—

(1) by striking "the Navajo Community College" each place it appears and inserting "Diné College"; and

(2) in subsection (b), by striking "college" and inserting "College".

(f) PAYMENTS; INTEREST.—Section 7 of the Navajo Community College Act (25 U.S.C. 640c–3) is amended by striking "the Navajo Community College" each place it appears and inserting "Diné College".

John R. Justice Prosecutors and Defenders Incentive Act of 2008. 42 USC 3711 note.

# PART E—OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

**SEC. 951. SHORT TITLE.**

This part may be cited as the "John R. Justice Prosecutors and Defenders Incentive Act of 2008".

**SEC. 952. LOAN REPAYMENT FOR PROSECUTORS AND DEFENDERS.**

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part II (42 U.S.C. 3797cc et seq.) the following:

## "PART JJ—LOAN REPAYMENT FOR PROSECUTORS AND PUBLIC DEFENDERS

42 USC 3797cc–21.

**"SEC. 3001. GRANT AUTHORIZATION.**

"(a) PURPOSE.—The purpose of this section is to encourage qualified individuals to enter and continue employment as prosecutors and public defenders.

"(b) DEFINITIONS.—In this section:

"(1) PROSECUTOR.—The term 'prosecutor' means a full-time employee of a State or unit of local government who—

"(A) is continually licensed to practice law; and

"(B) prosecutes criminal or juvenile delinquency cases at the State or unit of local government level (including supervision, education, or training of other persons prosecuting such cases).

"(2) PUBLIC DEFENDER.—The term 'public defender' means an attorney who—

"(A) is continually licensed to practice law; and

"(B) is—

"(i) a full-time employee of a State or unit of local government who provides legal representation to indigent persons in criminal or juvenile delinquency cases (including supervision, education, or training of other persons providing such representation);

"(ii) a full-time employee of a nonprofit organization operating under a contract with a State or unit of local government, who devotes substantially all of the employee's full-time employment to providing legal representation to indigent persons in criminal or juvenile delinquency cases (including supervision, education, or training of other persons providing such representation); or

"(iii) employed as a full-time Federal defender attorney in a defender organization established pursuant to subsection (g) of section 3006A of title 18, United States Code, that provides legal representation to indigent persons in criminal or juvenile delinquency cases.

"(3) STUDENT LOAN.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'student loan' means—

"(i) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

"(ii) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq. and 1087aa et seq.); and

"(iii) a loan made under section 428C or 455(g) of the Higher Education Act of 1965 (20 U.S.C. 1078–3 and 1087e(g)).

"(B) EXCLUSION OF PARENT PLUS LOANS.—The term 'student loan' does not include any of the following loans:

"(i) A loan made to the parents of a dependent student under section 428B of the Higher Education Act of 1965 (20 U.S.C. 1078–2).

"(ii) A Federal Direct PLUS Loan made to the parents of a dependent student.

"(iii) A loan made under section 428C or 455(g) of the Higher Education Act of 1965 (20 U.S.C. 1078–3 and 1087e(g)) to the extent that such loan was used to repay a loan described in clause (i) or (ii).

"(c) PROGRAM AUTHORIZED.—The Attorney General shall establish a program by which the Department of Justice shall assume the obligation to repay a student loan, by direct payments on behalf of a borrower to the holder of such loan, in accordance with subsection (d), for any borrower who—

"(1) is employed as a prosecutor or public defender; and

"(2) is not in default on a loan for which the borrower seeks forgiveness.

"(d) TERMS OF AGREEMENT.—

"(1) IN GENERAL.—To be eligible to receive repayment benefits under subsection (c), a borrower shall enter into a written agreement that specifies that—

"(A) the borrower will remain employed as a prosecutor or public defender for a required period of service of not less than three years, unless involuntarily separated from that employment;

"(B) if the borrower is involuntarily separated from employment on account of misconduct, or voluntarily separates from employment, before the end of the period specified in the agreement, the borrower will repay the Attorney General the amount of any benefits received by such employee under this section;

"(C) if the borrower is required to repay an amount to the Attorney General under subparagraph (B) and fails to repay such amount, a sum equal to that amount shall be recoverable by the Federal Government from the employee (or such employee's estate, if applicable) by such methods as are provided by law for the recovery of amounts owed to the Federal Government;

"(D) the Attorney General may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest; and

"(E) the Attorney General shall make student loan payments under this section for the period of the agreement, subject to the availability of appropriations.

"(2) REPAYMENTS.—

"(A) IN GENERAL.—Any amount repaid by, or recovered from, an individual or the estate of an individual under this subsection shall be credited to the appropriation

account from which the amount involved was originally paid.

"(B) MERGER.—Any amount credited under subparagraph (A) shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations, if any, as the sums with which the amount was merged.

"(3) LIMITATIONS.—

"(A) STUDENT LOAN PAYMENT AMOUNT.—Student loan repayments made by the Attorney General under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed upon by the borrower and the Attorney General in an agreement under paragraph (1), except that the amount paid by the Attorney General under this section shall not exceed—

"(i) $10,000 for any borrower in any calendar year; or

"(ii) an aggregate total of $60,000 in the case of any borrower.

"(B) BEGINNING OF PAYMENTS.—Nothing in this section shall authorize the Attorney General to pay any amount to reimburse a borrower for any repayments made by such borrower prior to the date on which the Attorney General entered into an agreement with the borrower under this subsection.

"(e) ADDITIONAL AGREEMENTS.—

"(1) IN GENERAL.—On completion of the required period of service under an agreement under subsection (d), the borrower and the Attorney General may, subject to paragraph (2), enter into an additional agreement in accordance with subsection (d).

"(2) TERM.—An agreement entered into under paragraph (1) may require the borrower to remain employed as a prosecutor or public defender for less than three years.

"(f) AWARD BASIS; PRIORITY.—

"(1) AWARD BASIS.—Subject to paragraph (2), the Attorney General shall provide repayment benefits under this section—

"(A) giving priority to borrowers who have the least ability to repay their loans, except that the Attorney General shall determine a fair allocation of repayment benefits among prosecutors and public defenders, and among employing entities nationwide; and

"(B) subject to the availability of appropriations.

"(2) PRIORITY.—The Attorney General shall give priority in providing repayment benefits under this section in any fiscal year to a borrower who—

"(A) received repayment benefits under this section during the preceding fiscal year; and

"(B) has completed less than three years of the first required period of service specified for the borrower in an agreement entered into under subsection (d).

"(g) REGULATIONS.—The Attorney General is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

"(h) REPORT BY INSPECTOR GENERAL.—Not later than three years after the date of the enactment of this section, the Inspector

General of the Department of Justice shall submit to Congress a report on—

"(1) the cost of the program authorized under this section; and

"(2) the impact of such program on the hiring and retention of prosecutors and public defenders.

"(i) GAO STUDY.—Not later than one year after the date of the enactment of this section, the Comptroller General shall conduct a study of, and report to Congress on, the impact that law school accreditation requirements and other factors have on the costs of law school and student access to law school, including the impact of such requirements on racial and ethnic minorities. Deadline. Reports.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.".

## PART F—INSTITUTIONAL LOAN REPAYMENT ASSISTANCE PROGRAMS

**SEC. 961. INSTITUTIONAL LOAN FORGIVENESS PROGRAMS.** 5 USC 5379 note.

Notwithstanding any other provision of law—

(1) a public or private institution of higher education may provide an officer or employee of any branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, who is a current or former student of such institution, financial assistance for the purpose of repaying a student loan or providing forbearance of student loan repayment if—

(A) such repayment or forbearance is provided to such officer or employee in accordance with a written, published policy of the institution relating to repaying or providing forbearance, respectively, for students or former students who perform public service; and

(B) in the case of a former student of the institution of higher education, the policy described in subparagraph (A) was in effect at the institution of higher education on the day before the date such officer or employee graduated from or otherwise ceased being a student at such institution; and

(2) an officer or employee of any branch of the United States Government, of any independent agency of the United States, or of the District of Columbia may receive repayment or forbearance permitted under paragraph (1).

## PART G—MINORITY SERVING INSTITUTION DIGITAL AND WIRELESS TECHNOLOGY OPPORTUNITY PROGRAM

**SEC. 971. MINORITY SERVING INSTITUTION DIGITAL AND WIRELESS TECHNOLOGY OPPORTUNITY PROGRAM.**

Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended by inserting after subsection (b) the following:

"(c) MINORITY SERVING INSTITUTION DIGITAL AND WIRELESS TECHNOLOGY OPPORTUNITY PROGRAM.—

Grants.
Contracts.

"(1) IN GENERAL.—The Secretary shall establish a Minority Serving Institution Digital and Wireless Technology Opportunity Program that awards grants, cooperative agreements, and contracts to eligible institutions to enable the eligible institutions in acquiring, and augmenting the institutions' use of, digital and wireless networking technologies to improve the quality and delivery of educational services at eligible institutions.

"(2) APPLICATION AND REVIEW PROCEDURES.—

"(A) IN GENERAL.—To be eligible to receive a grant, cooperative agreement, or contract under this subsection, an eligible institution shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application, at a minimum, shall include a description of how the funds will be used, including a description of any digital and wireless networking technology to be acquired, and a description of how the institution will ensure that digital and wireless networking technology will be made accessible to, and employed by, students, faculty, and administrators. The Secretary, consistent with subparagraph (C) and in consultation with the advisory council established under subparagraph (B), shall establish procedures to review such applications. The Secretary shall publish the application requirements and review criteria in the Federal Register, along with a statement describing the availability of funds.

Procedures.

Federal Register, publication.
Requirements.
Criteria.

"(B) ADVISORY COUNCIL.—The Secretary shall establish an advisory council to advise the Secretary on the best approaches to encourage maximum participation by eligible institutions in the program established under paragraph (1), and on the procedures to review applications submitted to the program. In selecting the members of the advisory council, the Secretary shall consult with representatives of appropriate organizations, including representatives of eligible institutions, to ensure that the membership of the advisory council includes representatives of minority businesses and eligible institution communities. The Secretary shall also consult with experts in digital and wireless networking technology to ensure that such expertise is represented on the advisory council.

"(C) REVIEW PANELS.—Each application submitted under this subsection by an eligible institution shall be reviewed by a panel of individuals selected by the Secretary to judge the quality and merit of the proposal, including the extent to which the eligible institution can effectively and successfully utilize the proposed grant, cooperative agreement, or contract to carry out the program described in paragraph (1). The Secretary shall ensure that the review panels include representatives of minority serving institutions and others who are knowledgeable about eligible institutions and technology issues. The Secretary shall ensure that no individual assigned under this subsection to review any application has a conflict of interest with regard to that application. The Secretary shall take into consideration the recommendations of the review panel

in determining whether to award a grant, cooperative agreement, or contract to an eligible institution.

"(3) AWARDS.—

"(A) LIMITATION.—An eligible institution that receives a grant, cooperative agreement, or contract under this subsection that exceeds $2,500,000 shall not be eligible to receive another grant, cooperative agreement, or contract under this subsection.

"(B) CONSORTIA.—Grants, cooperative agreements, and contracts may only be awarded to eligible institutions. Eligible institutions may seek funding under this subsection for consortia, which may include other eligible institutions, a State or a State educational agency, local educational agencies, institutions of higher education, community-based organizations, national nonprofit organizations, or businesses, including minority businesses.

"(C) PLANNING GRANTS.—The Secretary may provide funds to develop strategic plans to implement grants, cooperative agreements, or contracts awarded under this subsection.

"(D) INSTITUTIONAL DIVERSITY.—In awarding grants, cooperative agreements, and contracts to eligible institutions, the Secretary shall ensure, to the extent practicable, that awards are made to all types of institutions eligible for assistance under this subsection.

"(E) NEED.—In awarding funds under this subsection, the Secretary shall give priority to the eligible institution with the greatest demonstrated need for assistance.

"(4) AUTHORIZED ACTIVITIES.—An eligible institution may use a grant, cooperative agreement, or contract awarded under this subsection—

"(A) to acquire equipment, instrumentation, networking capability, hardware and software, digital network technology, wireless technology, and infrastructure to further the objective of the program described in paragraph (1);

"(B) to develop and provide training, education, and professional development programs, including faculty development, to increase the use of, and usefulness of, digital and wireless networking technology;

"(C) to provide teacher education, including the provision of preservice teacher training and in-service professional development at eligible institutions, library and media specialist training, and preschool and teacher aid certification to individuals who seek to acquire or enhance technology skills in order to use digital and wireless networking technology in the classroom or instructional process, including instruction in science, mathematics, engineering, and technology subjects;

"(D) to obtain capacity-building technical assistance, including through remote technical support, technical assistance workshops, and distance learning services; or

"(E) to foster the use of digital and wireless networking technology to improve research and education, including scientific, mathematics, engineering, and technology instruction.

"(5) INFORMATION DISSEMINATION.—The Secretary shall convene an annual meeting of eligible institutions receiving grants, cooperative agreements, or contracts under this subsection to foster collaboration and capacity-building activities among eligible institutions.

"(6) MATCHING REQUIREMENT.—The Secretary may not award a grant, cooperative agreement, or contract to an eligible institution under this subsection unless such institution agrees that, with respect to the costs incurred by the institution in carrying out the program for which the grant, cooperative agreement, or contract was awarded, such institution shall make available, directly, or through donations from public or private entities, non-Federal contributions in an amount equal to 25 percent of the grant, cooperative agreement, or contract awarded by the Secretary, or $500,000, whichever is the lesser amount. The Secretary shall waive the matching requirement for any institution or consortium with no endowment, or an endowment that has a current dollar value lower than $50,000,000.

Waiver authority.

"(7) ANNUAL REPORT AND ASSESSMENTS.—

"(A) ANNUAL REPORT REQUIRED FROM RECIPIENTS.—Each eligible institution that receives a grant, cooperative agreement, or contract awarded under this subsection shall provide an annual report to the Secretary on its use of the grant, cooperative agreement, or contract.

"(B) INDEPENDENT ASSESSMENTS.—

Deadlines.

"(i) CONTRACT TO CONDUCT ASSESSMENTS.—Not later than 6 months after the date of enactment of this subsection, the Secretary shall enter into a contract with the National Academy of Public Administration to conduct periodic assessments of the program established under paragraph (1). The assessments shall be conducted once every 3 years during the 10-year period following the date of enactment of this subsection.

"(ii) EVALUATIONS AND RECOMMENDATIONS.—The assessments described in clause (i) shall include—

"(I) an evaluation of the effectiveness of the program established under paragraph (1) in improving the education and training of students, faculty, and staff at eligible institutions that have been awarded grants, cooperative agreements, or contracts under the program;

"(II) an evaluation of the effectiveness of the program in improving access to, and familiarity with, digital and wireless networking technology for students, faculty, and staff at all eligible institutions;

"(III) an evaluation of the procedures established under paragraph (2)(A); and

"(IV) recommendations for improving the program, including recommendations concerning the continuing need for Federal support.

"(iii) REVIEW OF REPORTS.—In carrying out the assessments under this subparagraph, the National Academy of Public Administration shall review the

reports submitted to the Secretary under subparagraph (A).

"(iv) REPORT TO CONGRESS.—Upon completion of each assessment under this subparagraph, the Secretary shall transmit the assessment to Congress along with a summary of the Secretary's plans, if any, to implement the recommendations of the National Academy of Public Administration.

"(8) DEFINITIONS.—In this subsection:

"(A) DIGITAL AND WIRELESS NETWORKING TECHNOLOGY.—The term 'digital and wireless networking technology' means computer and communications equipment and software that facilitates the transmission of information in a digital format.

"(B) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution that is—

"(i) a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)), an institution identified in subparagraph (A), (B), or (C) of section 326(e)(1) of such Act (20 U.S.C. 1063b(e)(1)(A), (B), or (C)), or a consortium of institutions described in this clause;

"(ii) a Hispanic-serving institution, as defined in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5));

"(iii) a Tribal College or University, as defined in section 316(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)(3));

"(iv) an Alaska Native-serving institution, as defined in section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b));

"(v) a Native Hawaiian-serving institution, as defined in section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b));

"(vi) a Predominately Black Institution, as defined in section 318 of the Higher Education Act of 1965 (20 U.S.C. 1059e);

"(vii) a Native American-serving, nontribal institution, as defined in section 319 of the Higher Education Act of 1965 (20 U.S.C. 1059f);

"(viii) an Asian American and Native American Pacific Islander-serving institution, as defined in section 320 of the Higher Education Act of 1965 (20 U.S.C. 1059g); or

"(ix) a minority institution, as defined in section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k), with an enrollment of needy students, as defined in section 312(d) of the Higher Education Act of 1965 (20 U.S.C. 1058(d)).

"(C) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

"(D) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

"(E) MINORITY BUSINESS.—The term 'minority business' includes HUBZone small business concerns (as defined in section 3(p) of the Small Business Act (15 U.S.C. 632(p))).

"(F) MINORITY INDIVIDUAL.—The term 'minority individual' means an American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), or Pacific Islander individual.

"(G) STATE.—The term 'State' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

"(H) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).".

**SEC. 972. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary of Commerce to carry out section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 such sums as may be necessary for each of the fiscal years 2009 through 2012.

# TITLE X—PRIVATE STUDENT LOAN IMPROVEMENT

Private Student Loan Transparency and Improvement Act of 2008. 15 USC 1601 note.

**SEC. 1001. SHORT TITLE.**

This title may be cited as the "Private Student Loan Transparency and Improvement Act of 2008".

15 USC 1638 note. Deadlines. Effective date.

**SEC. 1002. REGULATIONS.**

Not later than 365 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall issue regulations in final form to implement paragraphs (1), (2), (3), (4), (6), (7), and (8) of section 128(e) and section 140(c) of the Truth in Lending Act, as added by this title, which regulations shall become effective not later than 6 months after their date of issuance.

15 USC 1638 note.

**SEC. 1003. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided in subsection (b) and as otherwise provided in this title, this title and the amendments made by this title shall become effective on the date of enactment of this Act.

(b) EFFECT NOTWITHSTANDING REGULATIONS.—Paragraphs (1), (2), (3), (4), (6), (7), and (8) of section 128(e) and section 140(c) of the Truth in Lending Act, as added by this title, shall become effective on the earlier of the date on which regulations issued under section 1002 become effective or 18 months after the date of enactment of this Act.

# Subtitle A—Preventing Unfair and Deceptive Private Educational Lending Practices and Eliminating Conflicts of Interest

**SEC. 1011. AMENDMENT TO THE TRUTH IN LENDING ACT.**

(a) PREVENTING UNFAIR AND DECEPTIVE PRIVATE EDUCATIONAL LENDING PRACTICES AND CONFLICTS OF INTEREST.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

**"§ 140. Preventing unfair and deceptive private educational lending practices and eliminating conflicts of interest** 15 USC 1650.

"(a) DEFINITIONS.—As used in this section—

"(1) the term 'covered educational institution'—

"(A) means any educational institution that offers a postsecondary educational degree, certificate, or program of study (including any institution of higher education); and

"(B) includes an agent, officer, or employee of the educational institution;

"(2) the term 'gift'—

"(A)(i) means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having more than a de minimis monetary value, including services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred; and

"(ii) includes an item described in clause (i) provided to a family member of an officer, employee, or agent of a covered educational institution, or to any other individual based on that individual's relationship with the officer, employee, or agent, if—

"(I) the item is provided with the knowledge and acquiescence of the officer, employee, or agent; and

"(II) the officer, employee, or agent has reason to believe the item was provided because of the official position of the officer, employee, or agent; and

"(B) does not include—

"(i) standard informational material related to a loan, default aversion, default prevention, or financial literacy;

"(ii) food, refreshments, training, or informational material furnished to an officer, employee, or agent of a covered educational institution, as an integral part of a training session or through participation in an advisory council that is designed to improve the service of the private educational lender to the covered educational institution, if such training or participation contributes to the professional development of the officer, employee, or agent of the covered educational institution;

"(iii) favorable terms, conditions, and borrower benefits on a private education loan provided to a student employed by the covered educational institution, if such terms, conditions, or benefits are not provided because of the student's employment with the covered educational institution;

"(iv) the provision of financial literacy counseling or services, including counseling or services provided in coordination with a covered educational institution, to the extent that such counseling or services are not undertaken to secure—

"(I) applications for private education loans or private education loan volume;

"(II) applications or loan volume for any loan made, insured, or guaranteed under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); or

"(III) the purchase of a product or service of a specific private educational lender;

"(v) philanthropic contributions to a covered educational institution from a private educational lender that are unrelated to private education loans and are not made in exchange for any advantage related to private education loans; or

"(vi) State education grants, scholarships, or financial aid funds administered by or on behalf of a State;

"(3) the term 'institution of higher education' has the same meaning as in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);

"(4) the term 'postsecondary educational expenses' means any of the expenses that are included as part of the cost of attendance of a student, as defined under section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll);

"(5) the term 'preferred lender arrangement' has the same meaning as in section 151 of the Higher Education Act of 1965;

"(6) the term 'private educational lender' means—

"(A) a financial institution, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) that solicits, makes, or extends private education loans;

"(B) a Federal credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752) that solicits, makes, or extends private education loans; and

"(C) any other person engaged in the business of soliciting, making, or extending private education loans;

"(7) the term 'private education loan'—

"(A) means a loan provided by a private educational lender that—

"(i) is not made, insured, or guaranteed under of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

"(ii) is issued expressly for postsecondary educational expenses to a borrower, regardless of whether the loan is provided through the educational institution that the subject student attends or directly to the borrower from the private educational lender; and

"(B) does not include an extension of credit under an open end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling; and

"(8) the term 'revenue sharing' means an arrangement between a covered educational institution and a private educational lender under which—

"(A) a private educational lender provides or issues private education loans with respect to students attending the covered educational institution;

"(B) the covered educational institution recommends to students or others the private educational lender or the private education loans of the private educational lender; and

"(C) the private educational lender pays a fee or provides other material benefits, including profit sharing, to the covered educational institution in connection with the private education loans provided to students attending the covered educational institution or a borrower acting on behalf of a student.

"(b) PROHIBITION ON CERTAIN GIFTS AND ARRANGEMENTS.—A private educational lender may not, directly or indirectly—

"(1) offer or provide any gift to a covered educational institution in exchange for any advantage or consideration provided to such private educational lender related to its private education loan activities; or

"(2) engage in revenue sharing with a covered educational institution.

"(c) PROHIBITION ON CO-BRANDING.—A private educational lender may not use the name, emblem, mascot, or logo of the covered educational institution, or other words, pictures, or symbols readily identified with the covered educational institution, in the marketing of private education loans in any way that implies that the covered educational institution endorses the private education loans offered by the private educational lender.

"(d) ADVISORY BOARD COMPENSATION.—Any person who is employed in the financial aid office of a covered educational institution, or who otherwise has responsibilities with respect to private education loans or other financial aid of the institution, and who serves on an advisory board, commission, or group established by a private educational lender or group of such lenders shall be prohibited from receiving anything of value from the private educational lender or group of lenders. Nothing in this subsection prohibits the reimbursement of reasonable expenses incurred by an employee of a covered educational institution as part of their service on an advisory board, commission, or group described in this subsection.

"(e) PROHIBITION ON PREPAYMENT OR REPAYMENT FEES OR PENALTY.—It shall be unlawful for any private educational lender to impose a fee or penalty on a borrower for early repayment or prepayment of any private education loan.".

Definition.

(b) CONFORMING AMENDMENT TO TRUTH IN LENDING ACT.—Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by adding at the end the following: "The term 'creditor' includes a private educational lender (as that term is defined in section 140) for purposes of this title.".

(c) DISCLOSURES OF REIMBURSEMENTS FOR SERVICE ON ADVISORY BOARDS.—

Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092), as amended by this Act, is further amended by adding at the end the following:

"(m) DISCLOSURES OF REIMBURSEMENTS FOR SERVICE ON ADVISORY BOARDS.—

Reports. Deadline.

"(1) DISCLOSURE.—Each institution of higher education participating in any program under this title shall report, on an annual basis, to the Secretary, any reasonable expenses paid or provided under section 140(d) of the Truth in Lending Act to any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to education loans or other financial aid of the institution. Such reports shall include—

"(A) the amount for each specific instance of reasonable expenses paid or provided;

"(B) the name of the financial aid official, other employee, or agent to whom the expenses were paid or provided;

"(C) the dates of the activity for which the expenses were paid or provided; and

"(D) a brief description of the activity for which the expenses were paid or provided.

Deadline.

"(2) REPORT TO CONGRESS.—The Secretary shall summarize the information received from institutions of higher education under paragraph (1) in a report and transmit such report annually to the authorizing committees.".

**SEC. 1012. CIVIL LIABILITY.**

(a) IN GENERAL.—Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting "or 128(e)(7)" after "section 125"; and

(B) in the fourth sentence of the undesignated matter at the end—

(i) by striking "125 or" and inserting "125,"; and

(ii) by inserting "of subparagraphs (A), (B), (D), (F), or (J) of section 128(e)(2) (for purposes of paragraph (2) or (4) of section 128(e)), or paragraph (4)(C), (6), (7), or (8) of section 128(e)," before "or for failing";

(2) in subsection (e), by inserting before the first period the following: "or, in the case of a violation involving a private education loan (as that term is defined in section 140(a)), 1 year from the date on which the first regular payment of principal is due under the loan"; and

(3) by adding at the end the following:

"(j) PRIVATE EDUCATIONAL LENDER.—A private educational lender (as that term is defined in section 140(a)) has no liability under this section for failure to comply with section 128(e)(3)).".

15 USC 1640 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall have the same effective date as provisions referred to in section 1003(b).

**SEC. 1013. CLERICAL AMENDMENT.**

The table of sections for chapter 2 of title I of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following:

"140. Preventing unfair and deceptive private educational lending practices and eliminating conflicts of interest.".

# Subtitle B—Improved Disclosures for Private Education Loans

**SEC. 1021. PRIVATE EDUCATION LOAN DISCLOSURES AND LIMITATIONS.**

(a) TRUTH IN LENDING ACT.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended by adding at the end the following:

"(e) TERMS AND DISCLOSURE WITH RESPECT TO PRIVATE EDUCATION LOANS.—

"(1) DISCLOSURES REQUIRED IN PRIVATE EDUCATION LOAN APPLICATIONS AND SOLICITATIONS.—In any application for a private education loan, or a solicitation for a private education loan without requiring an application, the private educational lender shall disclose to the borrower, clearly and conspicuously—

"(A) the potential range of rates of interest applicable to the private education loan;

"(B) whether the rate of interest applicable to the private education loan is fixed or variable;

"(C) limitations on interest rate adjustments, both in terms of frequency and amount, or the lack thereof, if applicable;

"(D) requirements for a co-borrower, including any changes in the applicable interest rates without a co-borrower;

"(E) potential finance charges, late fees, penalties, and adjustments to principal, based on defaults or late payments of the borrower;

"(F) fees or range of fees applicable to the private education loan;

"(G) the term of the private education loan;

"(H) whether interest will accrue while the student to whom the private education loan relates is enrolled at a covered educational institution;

"(I) payment deferral options;

"(J) general eligibility criteria for the private education loan;

"(K) an example of the total cost of the private education loan over the life of the loan—

"(i) which shall be calculated using the principal amount and the maximum rate of interest actually offered by the private educational lender; and

"(ii) calculated both with and without capitalization of interest, if an option exists for postponing interest payments;

"(L) that a covered educational institution may have school-specific education loan benefits and terms not detailed on the disclosure form;

"(M) that the borrower may qualify for Federal student financial assistance through a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), in lieu of, or in addition to, a loan from a non-Federal source;

"(N) the interest rates available with respect to such Federal student financial assistance through a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.);

"(O) that, as provided in paragraph (6)—

Deadline.

"(i) the borrower shall have the right to accept the terms of the loan and consummate the transaction at any time within 30 calendar days (or such longer period as the private educational lender may provide) following the date on which the application for the private education loan is approved and the borrower receives the disclosure documents required under this subsection for the loan; and

"(ii) except for changes based on adjustments to the index used for a loan, the rates and terms of the loan may not be changed by the private educational lender during the period described in clause (i);

"(P) that, before a private education loan may be consummated, the borrower must obtain from the relevant institution of higher education the form required under paragraph (3), and complete, sign, and return such form to the private educational lender;

"(Q) that the consumer may obtain additional information concerning such Federal student financial assistance from their institution of higher education, or at the website of the Department of Education; and

Regulations.

"(R) such other information as the Board shall prescribe, by rule, as necessary or appropriate for consumers to make informed borrowing decisions.

"(2) DISCLOSURES AT THE TIME OF PRIVATE EDUCATION LOAN APPROVAL.—Contemporaneously with the approval of a private education loan application, and before the loan transaction is consummated, the private educational lender shall disclose to the borrower, clearly and conspicuously—

"(A) the applicable rate of interest in effect on the date of approval;

"(B) whether the rate of interest applicable to the private education loan is fixed or variable;

"(C) limitations on interest rate adjustments, both in terms of frequency and amount, or the lack thereof, if applicable;

"(D) the initial approved principal amount;

"(E) applicable finance charges, late fees, penalties, and adjustments to principal, based on borrower defaults or late payments, including limitations on the discharge of a private education loan in bankruptcy;

"(F) fees or range of fees applicable to the private education loan;

"(G) the maximum term under the private education loan program;

"(H) an estimate of the total amount for repayment, at both the interest rate in effect on the date of approval and at the maximum possible rate of interest offered by the private educational lender and applicable to the borrower, to the extent that such maximum rate may be determined, or if not, a good faith estimate thereof;

"(I) any principal and interest payments required while the student for whom the private education loan is intended is enrolled at a covered educational institution and unpaid interest that will accrue during such enrollment;

"(J) payment deferral options applicable to the borrower;

"(K) whether monthly payments are graduated;

"(L) that, as provided in paragraph (6)—

"(i) the borrower shall have the right to accept the terms of the loan and consummate the transaction at any time within 30 calendar days (or such longer period as the private educational lender may provide) following the date on which the application for the private education loan is approved and the borrower receives the disclosure documents required under this subsection for the loan; and Deadline.

"(ii) except for changes based on adjustments to the index used for a loan, the rates and terms of the loan may not be changed by the private educational lender during the period described in clause (i);

"(M) that the borrower —

"(i) may qualify for Federal financial assistance through a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), in lieu of, or in addition to, a loan from a non-Federal source; and

"(ii) may obtain additional information concerning such assistance from their institution of higher education or the website of the Department of Education;

"(N) the interest rates available with respect to such Federal financial assistance through a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.);

"(O) the maximum monthly payment, calculated using the maximum rate of interest actually offered by the private educational lender and applicable to the borrower, to the extent that such maximum rate may be determined, or if not, a good faith estimate thereof; and

"(P) such other information as the Board shall prescribe, by rule, as necessary or appropriate for consumers to make informed borrowing decisions. Regulations.

"(3) SELF-CERTIFICATION OF INFORMATION.—

"(A) IN GENERAL.—Before a private educational lender may consummate a private education loan with respect to a student attending an institution of higher education, the lender shall obtain from the applicant for the private education loan the form developed by the Secretary of Education under section 155 of the Higher Education Act

of 1965, signed by the applicant, in written or electronic form.

"(B) RULE OF CONSTRUCTION.—No other provision of this subsection shall be construed to require a private educational lender to perform any additional duty under this paragraph, other than collecting the form required under subparagraph (A).

"(4) DISCLOSURES AT THE TIME OF PRIVATE EDUCATION LOAN CONSUMMATION.—Contemporaneously with the consummation of a private education loan, a private educational lender shall make to the borrower each of the disclosures described in—

"(A) paragraph (2)(A) (adjusted, as necessary, for the rate of interest in effect on the date of consummation, based on the index used for the loan);

"(B) subparagraphs (B) through (K) and (M) through (P) of paragraph (2); and

"(C) paragraph (7).

"(5) FORMAT OF DISCLOSURES.—

Deadline.

"(A) MODEL FORM.—Not later than 2 years after the date of enactment of this subsection, the Board shall, based on consumer testing, and in consultation with the Secretary of Education, develop and issue model forms that may be used, at the option of the private educational lender, for the provision of disclosures required under this subsection.

"(B) FORMAT.—Model forms developed under this paragraph shall—

"(i) be comprehensible to borrowers, with a clear format and design;

"(ii) provide for clear and conspicuous disclosures;

"(iii) enable borrowers easily to identify material terms of the loan and to compare such terms among private education loans; and

"(iv) be succinct, and use an easily readable type font.

"(C) SAFE HARBOR.—Any private educational lender that elects to provide a model form developed under this subsection that accurately reflects the practices of the private educational lender shall be deemed to be in compliance with the disclosures required under this subsection.

"(6) EFFECTIVE PERIOD OF APPROVED RATE OF INTEREST AND LOAN TERMS.—

"(A) IN GENERAL.—With respect to a private education loan, the borrower shall have the right to accept the terms of the loan and consummate the transaction at any time within 30 calendar days (or such longer period as the private educational lender may provide) following the date on which the application for the private education loan is approved and the borrower receives the disclosure documents required under this subsection for the loan, and the rates and terms of the loan may not be changed by the private educational lender during that period.

"(B) PROHIBITION ON CHANGES.—Except for changes based on adjustments to the index used for a loan, the rates and terms of the loan may not be changed by the private educational lender prior to the earlier of—

"(i) the date of acceptance of the terms of the loan and consummation of the transaction by the borrower, as described in subparagraph (A); or

"(ii) the expiration of the period described in subparagraph (A).

"(7) RIGHT TO CANCEL.—With respect to a private education loan, the borrower may cancel the loan, without penalty to the borrower, at any time within 3 business days of the date on which the loan is consummated, and the private educational lender shall disclose such right to the borrower in accordance with paragraph (4). Deadline.

"(8) PROHIBITION ON DISBURSEMENT.—No funds may be disbursed with respect to a private education loan until the expiration of the 3-day period described in paragraph (7).

"(9) BOARD REGULATIONS.—In issuing regulations under this subsection, the Board shall prevent, to the extent possible, duplicative disclosure requirements for private educational lenders that are otherwise required to make disclosures under this title, except that in any case in which the disclosure requirements of this subsection differ or conflict with the disclosure requirements of any other provision of this title, the requirements of this subsection shall be controlling.

"(10) DEFINITIONS.—For purposes of this subsection, the terms 'covered educational institution', 'private educational lender', and 'private education loan' have the same meanings as in section 140.

"(11) DUTIES OF LENDERS PARTICIPATING IN PREFERRED LENDER ARRANGEMENTS.—Each private educational lender that has a preferred lender arrangement with a covered educational institution shall annually, by a date determined by the Board, in consultation with the Secretary of Education, provide to the covered educational institution such information as the Board determines to include in the model form developed under paragraph (5) for each type of private education loan that the lender plans to offer to students attending the covered educational institution, or to the families of such students, for the next award year (as that term is defined in section 481 of the Higher Education Act of 1965).". Deadline.

(b) SELF-CERTIFICATION FORM.—Part E of title I of the Higher Education Act of 1965, as added by this Act, is further amended by inserting after section 154 the following:

**"SEC. 155. SELF-CERTIFICATION FORM FOR PRIVATE EDUCATION LOANS.** 20 USC 1019d.

"(a) IN GENERAL.—The Secretary, in consultation with the Board of Governors of the Federal Reserve System, shall develop the self-certification form for private education loans that shall be used to satisfy the requirements of section 128(e)(3) of the Truth in Lending Act. Such form shall—

"(1) be developed in a standardized format;

"(2) be made available to the applicant by the relevant institution of higher education, in written or electronic form, upon request of the applicant;

"(3) contain only disclosures that—

"(A) the applicant may qualify for Federal student financial assistance through a program under title IV of

this Act, or State or institutional student financial assistance, in place of, or in addition to, a private education loan;

"(B) the applicant is encouraged to discuss the availability of Federal, State, and institutional student financial assistance with financial aid officials at the applicant's institution of higher education;

"(C) a private education loan may affect the applicant's eligibility for free or low-cost Federal, State or institutional student financial assistance; and

"(D) the information that the applicant is required to provide on the form is available from officials at the financial aid office of the institution of higher education;

"(4) include a place to provide information on—

"(A) the applicant's cost of attendance at the institution of higher education, as determined by the institution under Part F of title IV;

"(B) the applicant's expected family contribution, as determined under Part F of title IV, as applicable, for students who have completed the free application for Federal student aid;

"(C) the applicant's estimated financial assistance, as determined by the institution, in accordance with title IV, as applicable;

"(D) the difference between the amounts under subparagraphs (A) and (C), as applicable; and

"(E) the sum of the amounts under subparagraphs (B) and (D), as applicable; and

"(5) include a place for the applicant's signature, in written or electronic form.

"(b) LIMIT ON LIABILITY.—Nothing in this section shall be construed to create a private right of action against an institution of higher education with respect to the form developed under subsection (a).".

**SEC. 1022. APPLICATION OF TRUTH IN LENDING ACT TO ALL PRIVATE EDUCATION LOANS.**

Section 104(3) of the Truth in Lending Act (15 U.S.C. 1603(3)) is amended by inserting "and other than private education loans (as that term is defined in section 140(a))" after "consumer".

# Subtitle C—College Affordability

**SEC. 1031. COMMUNITY REINVESTMENT ACT CREDIT FOR LOW-COST LOANS.**

(a) IN GENERAL.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by adding at the end the following new subsection:

"(d) LOW-COST EDUCATION LOANS.—In assessing and taking into account, under subsection (a), the record of a financial institution, the appropriate Federal financial supervisory agency shall consider, as a factor, low-cost education loans provided by the financial institution to low-income borrowers.".

12 USC 2903 note.

(b) REGULATIONS REQUIRED.—Not later than 1 year after the date of enactment of this Act, each appropriate Federal financial supervisory agency shall issue rules in final form to implement

section 804(d) of the Community Reinvestment Act of 1977, as added by this section.

# Subtitle D—Financial Literacy; Studies and Reports

**SEC. 1041. DEFINITIONS.**

20 USC 9709 note.

As used in this subtitle—

(1) the terms "covered educational institution", "private educational lender", and "private education loan" have the same meanings as in section 140 of the Truth in Lending Act, as added by this Act;

(2) the term "historically Black colleges and universities" means a "part B institution", within the meaning of section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061)); and

(3) the term "land-grant colleges and universities" has the same meaning as in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

**SEC. 1042. COORDINATED EDUCATION EFFORTS.**

20 USC 9709.

(a) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the "Secretary"), in coordination with the Secretary of Education, the Secretary of Agriculture (with respect to land-grant colleges and universities), and any other appropriate agency that is a member of the Financial Literacy and Education Commission established under the Financial Literacy and Education Improvement Act (20 U.S.C. 9701 et seq.), shall seek to enhance financial literacy among students at covered educational institutions through—

(1) the development of initiatives, programs, and curricula that improve student awareness of the short- and long-term costs associated with education loans and other debt assumed while in college, their repayment obligations, and their rights as borrowers; and

(2) assisting such students in navigating the financial aid process.

(b) DUTIES.—For purposes of this section, the Secretary, working in conjunction with the Secretary of Education, the Secretary of Agriculture, and the Financial Literacy and Education Commission, shall—

(1) identify programs that promote or enhance financial literacy for college students, with specific emphasis on programs that impart the knowledge and ability for students to best navigate the financial aid process, including those that involve partnerships between nonprofit organizations, colleges and universities, State and local governments, and student organizations;

(2) evaluate the effectiveness of such programs in terms of measured results, including positive behavioral change among college students;

(3) promote the programs identified as being the most effective; and

(4) encourage covered educational institutions to implement financial education programs for their students, including those that have the highest evaluations.

(c) REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Financial Literacy and Education Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Health Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives on the state of financial education among students at covered educational institutions.

(2) CONTENT.—The report required by this subsection shall include a description of progress made in enhancing financial education with respect to student understanding of financial aid, including the programs and evaluations required by this section.

(3) APPEARANCE BEFORE CONGRESS.—The Secretary shall, upon request, provide testimony before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives concerning the report required by this subsection.

# TITLE XI—STUDIES AND REPORTS

**SEC. 1101. STUDY ON FOREIGN GRADUATE MEDICAL SCHOOLS.**

Deadline.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) complete a study that examines the performance of students from the United States receiving Federal student financial aid to attend graduate medical schools located outside of the United States;

Recommendations.

(2) provide data and make recommendations to the National Committee on Foreign Medical Education and Accreditation in a timely manner so as to assist the Secretary of Education in the Department of Education's review required under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and

(3) submit to the authorizing committees a report setting forth the conclusions of the study.

(b) CONTENTS.—The study conducted under this section shall include the following:

(1) The amount of Federal student financial aid dollars that are spent on graduate medical schools located outside of the United States every year, and the percentage of overall student aid such amount represents.

(2) The percentage of students of such medical schools who pass the examination sponsored by the Federation of State Medical Boards of the United States, Inc., and the National Board of Medical Examiners the first time.

(3) The percentage of students of such medical schools who pass the United States medical licensing examination after taking such examinations multiple times, disaggregated by the

number of times the students had to take the examinations to pass.

(4) The percentage of recent graduates of such medical schools practicing medicine in the United States, and a description of where the students are practicing and what types of medicine the students are practicing.

(5) The rate of graduates of such medical schools who lose malpractice lawsuits or have the graduates' medical licenses revoked, as compared to graduates of graduate medical schools located in the United States.

(6) Recommendations regarding the percentage passing rate of the United States medical licensing examination that the United States should require of graduate medical schools located outside of the United States for Federal student financial aid purposes.

**SEC. 1102. EMPLOYMENT OF POSTSECONDARY EDUCATION GRADUATES.**

(a) STUDY, ASSESSMENTS, AND RECOMMENDATIONS.—The Comptroller General of the United States shall—

(1) conduct a study of—

(A) the information that States have on the employment of students who have completed postsecondary education programs;

(B) the feasibility of collecting information on students who complete all types of postsecondary education programs (including two- and four-year degree, certificate, professional, and graduate programs) at all types of institutions of higher education (including public, private nonprofit, and for–profit schools), regarding—

(i) employment, including—

(I) the type of job obtained not later than six months after the completion of the degree, certificate, or program;

(II) whether such job was related to the course of study;

(III) the starting salary for such job; and

(IV) the student's satisfaction with the student's preparation for such job and guidance provided with respect to securing the job; and

(ii) for recipients of Federal student aid, the type of assistance received, so that the information can be used to evaluate various education programs;

(C) the evaluation systems used by other industries to identify successful programs and challenges, set priorities, monitor performance, and make improvements;

(D) the best means of collecting information from or regarding recent postsecondary graduates, including—

(i) whether a national website would be the most effective way to collect information;

(ii) whether postsecondary education graduates could be encouraged to voluntarily submit information by allowing a graduate to access aggregated information about other graduates (such as graduates from the graduate's school, with the graduate's degree, or in the graduate's area) if the graduate completes an online questionnaire;

(iii) whether employers could be encouraged to submit information by allowing an employer to access aggregated information about graduates (such as institutions of higher education attended, degrees, or starting pay) if the employer completes an online questionnaire to evaluate the employer's satisfaction with the graduates the employer hires; and

(iv) whether postsecondary institutions that receive Federal funds or whose students have received Federal student financial aid could be required to submit aggregated information about the graduates of the institutions; and

(E) the best means of displaying employment information; and

(2) provide assessments and recommendations regarding—

(A) whether successful State cooperative relationships between higher education system offices and State agencies responsible for employment statistics can be encouraged and replicated in other States;

(B) whether there is value in collecting additional information from, or about, the employment experience of individuals who have recently completed a postsecondary educational program;

(C) the most promising ways of obtaining and displaying or disseminating such information;

(D) if a website is used for such information, whether the website should be run by a governmental agency or contracted out to an independent education or employment organization;

(E) whether a voluntary information system would work, both from the graduates' and employers' perspectives;

(F) the value of such information to future students, institutions, accrediting agencies or associations, policymakers, and employers, including how the information would be used and the practical applications of the information;

(G) whether the request for such information is duplicative of information that is already being collected; and

(H) whether the National Postsecondary Student Aid Survey conducted by the National Center for Education Statistics could be amended to collect such information.

Deadlines.

(b) REPORTS.—

(1) PRELIMINARY REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the authorizing committees a preliminary report regarding the study, assessments, and recommendations described in subsection (a).

(2) FINAL REPORT.—Not later than two years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the authorizing committees a final report regarding such study, assessments, and recommendations.

**SEC. 1103. STUDY ON IPEDS.**

The Comptroller General of the United States shall—

(1) conduct a study on the time and cost burdens to institutions of higher education associated with completing the

Integrated Postsecondary Education Data System (referred to in this section as the "IPEDS") survey, which shall—

(A) report on the time and cost burden of completing the IPEDS survey for four-year, two-year, and less than two-year institutions of higher education;

(B) present recommendations for reducing such burden; and

(C) report on the feasibility of collecting additional data from institutions for use in IPEDS, including information on the percentage of enrolled undergraduate students who graduate within two years (in the case of two-year institutions), and four, five, and six years (in the case of two- and four-year institutions), disaggregated by race and ethnic background and by income categories;

(2) not later than one year after the date of enactment of this Act, submit to the authorizing committees a preliminary report regarding the findings of the study described in paragraph (1); and Deadline.

(3) not later than two years after the date of enactment of this Act, submit to the authorizing committees a final report regarding such findings. Deadline.

**SEC. 1104. REPORT AND STUDY ON ARTICULATION AGREEMENTS.**

(a) STUDY REQUIRED.—The Secretary of Education shall conduct a study to review the articulation agreements at State-supported college and university systems, including junior or community colleges, as well as those at other institutions of higher education. Such study shall consider—

(1) the extent to which States and institutions have developed and implemented articulation agreements;

(2) with respect to the articulation agreements developed—

(A) the number and types of institutions participating in articulation agreements;

(B) the cost-savings to the participating institutions and to the students;

(C) what strategies are being employed, including common course numbering, general education core curriculum, and management systems;

(D) the effective use of technologies to contain costs, maintain quality of instruction, and inform students; and

(E) a description of the students to whom the articulation agreements are offered and, to the extent practicable, a description of the students who take advantage of the articulation agreements;

(3) best practices and innovative strategies employed to implement effective articulation agreements; and

(4) barriers to the implementation of articulation agreements, including technological and informational barriers.

(b) REPORT.—The Secretary of Education shall submit to the authorizing committees an interim report on the study required by subsection (a) not later than two years after the date of enactment of this Act and a final report on such study not later than January 1, 2013. Deadline.

**SEC. 1105. REPORT ON PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION.**

(a) IN GENERAL.—Not later than two years after the date of enactment of this Act, the Comptroller General of the United States Deadline.

shall conduct an analysis of proprietary institutions of higher education subject to section 487(a)(24) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(24)) and shall submit to the authorizing committees a report that provides the results of the analysis.

(b) CONTENTS OF REPORT.—The report shall provide—

(1) the number of institutions subject to section 487(a)(24) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(24));

(2) the number and percentage of such institutions each year that do not comply with such section;

(3) the number of such institutions that are in compliance with such section at the time of submission of the report; and

(4) in the case of institutions that are in compliance with such section at the time of submission of the report, information on the extent to which such institutions' revenue is derived from funds provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), including information on the number of such institutions that derive not less than 85 percent of their revenues from funds provided under such title.

**SEC. 1106. ANALYSIS OF FEDERAL REGULATIONS ON INSTITUTIONS OF HIGHER EDUCATION.**

Contracts. Study. Deadline.

The Secretary of Education shall enter into an agreement with the National Research Council of the National Academy of Sciences for the conduct of a study to ascertain the amount and scope of all Federal regulations and reporting requirements with which institutions of higher education must comply. The study shall be completed not later than two years after the date of enactment of this Act, and shall include information describing—

(1) by agency, the number of Federal regulations and reporting requirements affecting institutions of higher education;

(2) by agency, the estimated time required and costs to institutions of higher education (disaggregated by types of institutions) to comply with the regulations and reporting requirements described in paragraph (1); and

(3) by agency, recommendations for consolidating, streamlining, and eliminating redundant and burdensome Federal regulations and reporting requirements affecting institutions of higher education.

**SEC. 1107. INDEPENDENT EVALUATION OF DISTANCE EDUCATION PROGRAMS.**

Contracts.

(a) INDEPENDENT EVALUATION.—The Secretary of Education shall enter into an agreement with the National Research Council of the National Academy of Sciences to conduct a statistically valid evaluation of the quality of distance education programs, as compared to campus-based education programs, at institutions of higher education. Such evaluation shall include—

(1) identification of the elements by which the quality of distance education can be assessed, which may include elements such as subject matter, interactivity, and student outcomes;

(2) identification of distance education program success, with respect to student achievement, in relation to the mission of the institution of higher education;

(3) identification of the benefits and limitations of distance education programs and campus-based programs for different

students (including classification of types of students by age category) by assessing access, job placement rates, graduation rates, and other factors related to persistence, completion, and cost; and

(4) identification and analysis of factors that may make direct comparisons of distance education programs and campus-based education programs difficult.

(b) SCOPE.—The National Research Council shall select for participation in the evaluation under subsection (a) a diverse group of institutions of higher education with respect to size, mission, and geographic distribution.

(c) INTERIM AND FINAL REPORTS.—The contract under subsection (a) shall require that the National Research Council submit to the authorizing committees— Deadlines.

(1) an interim report regarding the evaluation under subsection (a) not later than June 30, 2009; and

(2) a final report regarding such evaluation not later than June 30, 2010.

**SEC. 1108. REVIEW OF COSTS AND BENEFITS OF ENVIRONMENTAL, HEALTH, AND SAFETY STANDARDS.**

(a) REVIEW OF STANDARDS.—The Secretary of Education shall enter into an agreement with the National Research Council of the National Academy of Sciences to conduct a national study that— Contracts.

(1) reviews, analyzes, and compares existing standards in environmental, health, and safety areas, for the regulation of—

(A) industrial research and development facilities; and

(B) research and teaching laboratories and facilities at institutions of higher education; and

(2) based upon the review in paragraph (1), develops recommended frameworks for alternative regulatory standards, if any, for research and teaching laboratories and facilities at institutions of higher education that—

(A) maintain the overall level of protection of the environment, and of the health and safety of those using such laboratories and facilities;

(B) reflect the need to ensure consistent application of Federal laws; and

(C) take into account the educational and research activities of institutions of higher education.

(b) REPORT.—The National Research Council shall report to Congress regarding the recommended frameworks for alternative regulatory standards developed under subsection (a). Such report shall contain recommendations for statutory or regulatory changes needed to implement the different standards described in subsection (a), and the projected costs and benefits resulting from the adoption of such standards.

**SEC. 1109. STUDY OF MINORITY MALE ACADEMIC ACHIEVEMENT.**

(a) STUDY REQUIRED.—The Secretary of Education shall carry out the following:

(1) Commission and ensure the conduct of a national study of underrepresented minority males (particularly African American, Hispanic American, Native American, Native Hawaiian, and Alaska Native males) completing high school, and entering

and graduating from colleges and universities in accordance with the following:

(A) The data comprising the study shall focus primarily on African American, Hispanic American, Native American, Native Hawaiian, and Alaska Native males and shall utilize existing data sources.

(B) The study shall focus on high school completion and preparation for college, success on the SAT and ACT, and minority male access to college, including the financing of college, and college persistence and graduation.

(C) The implementation of the study shall be in four stages based on the recommendations of the Commissioner for Education Statistics.

Recommendations.

(2) Make specific recommendations to the authorizing committees and States on new approaches to increase—

(A) the number of minority males successfully preparing themselves for college study;

(B) the number of minority males graduating from high school and entering college; and

(C) the number of minority males graduating from college and entering careers in which they are underrepresented.

(b) SUBMISSION OF THE REPORT.—Not later than four years after the date of enactment of this Act, the Secretary of Education shall submit a report on the study required by subsection (a)(1), together with the recommendations required by subsection (a)(2), to the authorizing committees.

**SEC. 1110. STUDY ON BIAS IN STANDARDIZED TESTS.**

Contracts.

(a) STUDY.—The Secretary of Education shall enter into an agreement with the Board on Testing and Assessment of the National Academy of Sciences for the conduct of a study to identify any race, ethnicity, or gender bias in the content and construction of standardized tests that are used for admission to institutions of higher education.

Deadline.

(b) REPORT.—Not later than two years after the date of enactment of this Act, the Secretary of Education shall issue an interim report to the authorizing committees related to the progress of the study under subsection (a).

**SEC. 1111. ENDOWMENT REPORT.**

Study.

(a) ANALYSIS OF ENDOWMENTS.—The Comptroller General of the United States shall conduct a study on the amounts, uses, and public purposes of the endowments of institutions of higher education. The study shall include information (disaggregated by types of institutions) describing—

(1) the average and range of—

(A) the outstanding balance of such endowments; and

(B) the growth of such endowments over the last 20 years;

(2) the amount and percentage of endowment assets distributed on an annual basis for spending on education;

(3) the amount and percentage of endowment assets distributed on an annual basis for financial aid or for the purpose of reducing the costs of tuition, fees, textbooks, and room and board; and

(4) the extent to which the funds in such endowments are restricted, and the restrictions placed upon such funds.

(b) SUBMISSION OF REPORT.—The Comptroller General of the United States shall submit a report on the study required by subsection (a) to the authorizing committees not later than 18 months after the date of enactment of this Act.

**SEC. 1112. STUDY OF CORRECTIONAL POSTSECONDARY EDUCATION.**

(a) STUDY REQUIRED.—The Secretary of Education, in consultation with the Secretary of Labor and the Attorney General, shall—

(1) conduct a longitudinal study to assess the effects of correctional postsecondary education that—

(A) employs rigorous empirical methods that control for self-selection bias;

(B) measures a range of outcomes, including those related to employment and earnings, recidivism, engaged citizenship, impact on families of the incarcerated, and impact on the culture of the correctional institution;

(C) examines different delivery systems of postsecondary education, such as on-site and distance learning; and

(D) includes a projected cost-benefit analysis of the Federal investment in terms of reduction of future offending, reduction of future prison costs (construction and operational), increased tax payments by formerly incarcerated individuals, a reduction of welfare and other social service costs for successful formerly incarcerated individuals, and increased costs from the employment of formerly incarcerated individuals; and

(2) make specific recommendations to the authorizing committees and the relevant State agencies responsible for correctional education, such as the State superintendents of education and State secretaries of corrections, on best approaches to increase correctional education and its effectiveness. Recommendations.

(b) SUBMISSION OF REPORTS.—Not later than three years after the date of enactment of this Act, the Secretary of Education shall submit an interim report on the progress of the study required by subsection (a)(1) to the authorizing committees. Not later than seven years after the date of enactment of this Act, the Secretary of Education shall submit a final report, together with the recommendations required by subsection (a)(2), to the authorizing committees.

**SEC. 1113. STUDY OF AID TO LESS-THAN-HALF-TIME STUDENTS.**

(a) STUDY REQUIRED.—The Secretary shall conduct a study on making and expanding the student aid available under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) to less-than-half-time students. The Secretary shall submit a report on the results of such study, including the Secretary's recommendations, to the authorizing committees not later than one year after the date of enactment of this Act. Reports. Deadline.

(b) SUBJECTS FOR STUDY.—The study required by this section shall, at a minimum, examine the following:

(1) The existing sources of Federal aid for less-than-half-time students seeking a college degree or certificate.

(2) The demand for Federal aid for less-than-half-time students and whether the demand is satisfied by existing sources of Federal aid, taking into consideration not only the number of less-than-half-time students currently seeking a college

degree or certificate, but also any increase in the number of less-than-half-time students that may result from an expansion of Federal aid for less-than-half-time students seeking a college degree or certificate.

(3) The potential costs to the Federal Government and the potential benefits that could be received by students resulting from expanding Federal aid for less-than-half-time students seeking a college degree or certificate.

(4) The barriers to expanding Federal aid for less-than-half-time students, including identifying—

(A) statutory and regulatory barriers, such as student eligibility, institutional eligibility, needs analysis, program integrity, and award amounts; and

(B) other factors that may limit participation in an expanded Federal aid program for less-than-half-time students.

(c) RECOMMENDATIONS TO BE PROVIDED.—The Secretary's recommendations under this section shall include recommendations for designing a demonstration student loan program tailored to less-than-half-time students. The recommendations shall include any required statutory or regulatory modifications, as well as proposed accountability mechanisms to protect students, institutions, and the Federal investment in higher education.

(d) DEFINITIONS.—In this section—

(1) the term "Secretary" means the Secretary of Education; and

(2) the term "less-than-half-time student" means a student who is carrying less than one-half the normal full-time work load for the course of study that the student is pursuing, as determined by the institution such student is attending.

**SEC. 1114. STUDY ON REGIONAL SENSITIVITY IN THE NEEDS ANALYSIS FORMULA.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study to review the methodology that is used to determine the expected family contribution under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.).

(b) STUDY COMPONENTS.—The study conducted under subsection (a) shall identify and evaluate the needs analysis formula under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.) and examine the need for regional sensitivity in need analysis. The study shall include—

(1) the factors that are used to determine a student's expected family contribution under part F of title IV of the Higher Education Act of 1965;

(2) the varying allowances that are made in calculating the expected family contribution;

(3) the effects of the income protection allowance on all aid recipients; and

(4) options for modifying the income protection allowance to reflect the significant differences in the cost of living in various parts of the United States.

Deadline.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall report to the authorizing committees on the results of the study conducted under this section.

**SEC. 1115. STUDY OF THE IMPACT OF STUDENT LOAN DEBT ON PUBLIC SERVICE.**

(a) STUDY.—The Secretary of Education, in consultation with the Office of Management and Budget, is authorized to coordinate with an organization with expertise in the field of public service, such as the National Academy of Public Administrators or the American Society for Public Administration, to coordinate with interested parties to conduct a study of how student loan debt levels impact the decisions of graduates of postsecondary and graduate education programs to enter into public service careers. Such study shall include—

(1) an assessment of the challenges to recruiting and retaining well-qualified public servants, including the impact of student loan debt;

(2) an evaluation of existing Federal programs to recruit and retain well-qualified public servants;

(3) an evaluation of whether additional Federal programs could increase the number of graduates of postsecondary and graduate education programs who enter careers in public service; and

(4) recommendations for programs that could encourage new graduates of postsecondary and graduate education programs to enter public service careers.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of Education, in consultation with the Office of Management and Budget, shall submit to the authorizing committees a report related to the findings of the study conducted under subsection (a). Deadline.

**SEC. 1116. STUDY ON TEACHING STUDENTS WITH READING DISABILITIES.**

(a) INDEPENDENT EVALUATION.—The Secretary of Education shall enter into an agreement with the Center for Education of the National Academies for a scientifically-based study of the quality of teacher education programs— Contracts.

(1) to determine if teachers are adequately prepared to meet the needs of students with reading and language processing disabilities, including dyslexia; and

(2) to determine the extent to which teacher education programs are based on the essential components of reading instruction and scientifically valid research.

(b) COMPONENTS.—The study conducted under subsection (a) shall be designed to provide statistically reliable information on—

(1) the number, type of courses, and credit hours required to meet the requirements of reading degree programs of teacher education programs; and

(2) the extent to which the content of the reading degree programs are based on—

(A) the essential components of reading instruction and scientifically valid research, including phonemic awareness, phonics, fluency, vocabulary, and comprehension; and

(B) early intervention strategies based on scientific evidence concerning challenges to the development of language processing capacity, including dyslexia, and the extent to which such strategies are effective in preventing reading failure before it occurs.

(c) SCOPE.—The Director of the Center for Education of the National Academy of Sciences shall select for participation in the study under subsection (a) a diverse group of institutions of higher education with respect to size, mission, and geographic distribution.

(d) INTERIM AND FINAL REPORTS.—The Director of the Center for Education of the National Academy of Sciences shall submit to the authorizing committees and the Secretary of Education—

(1) an interim report regarding the study under subsection (a) not later than one year after the date the Center for Education of the National Academies enters into an agreement with the Secretary of Education under this section; and

(2) a final report summarizing the findings, conclusions, and recommendations of such study not later than two years after the date the Center for Education of the National Academies enters into such agreement.

(e) TASK FORCE.—

(1) ESTABLISHMENT.—Upon submission of the final report under subsection (d)(2), the Secretary of Education shall establish a task force to make policy recommendations to the Secretary regarding the findings of the report.

(2) MEMBERSHIP.—The membership of the task force established under paragraph (1) shall include chief State school officers, State reading consultants, master teachers, national reading experts, and researchers with expertise in relevant fields.

(3) PUBLIC HEARINGS.—The task force established under paragraph (1) shall hold public hearings to provide an opportunity for public comment on the recommendations made under paragraph (1).

**SEC. 1117. REPORT ON INCOME CONTINGENT REPAYMENT THROUGH THE INCOME TAX WITHHOLDING SYSTEM.**

Study. Deadline.

(a) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of Education and the Secretary of the Treasury shall conduct a study to determine the feasibility and benefits of developing a system through which a borrower who is repaying a loan through the income contingent repayment plan or the income-based repayment program may make payments on the loan using the income tax withholding system (referred to in this section as "direct IDEA loans"). The goal of this program would be to—

(1) streamline the repayment process and provide greater flexibility for borrowers electing to use the direct IDEA loan;

(2) reduce the number of loan defaults by borrowers; and

(3) reduce the redundancy in reporting information pertaining to income contingent repayment and income-based repayment to the Department of Education, institutions, and applicants.

(b) EVALUATIONS.—In conducting the study under subsection (a), the Secretary of Education and the Secretary of the Treasury shall evaluate—

(1) the feasibility of implementing direct IDEA loans by the Department of Education and the Department of the Treasury;

(2) any advantages or disadvantages of direct IDEA loans on borrowers and taxpayers;

(3) the program structure necessary to administer direct IDEA loans; and

(4) whether the repayment programs that implement income contingent and income-based repayment collected through revenue services, such as programs in England, Australia, and New Zealand, could be effective in collecting loan payments under the income contingent and income-based repayment options in the United States.

(c) RECOMMENDATIONS.—Not later than one year after the date of enactment of this Act, the Secretary of Education and the Secretary of the Treasury shall provide a report on the study conducted under subsection (a) to Congress. The report shall include recommendations based on the factors examined in subsection (b) for implementing direct IDEA loans, including the necessary statutory changes needed to implement such repayment option. Deadline.

**SEC. 1118. DEVELOPING ADDITIONAL MEASURES OF DEGREE COMPLETION.**

(a) IN GENERAL.—The Secretary of Education, in coordination with the Commissioner for Education Statistics and after consultation with representatives from diverse institutions of higher education, students, experts in the field of higher education policy, State higher education officials, and other stakeholders in the higher education community, shall issue a report with recommendations to Congress about alternatives ways to measure and report degree or program completion rates for institutions of higher education receiving funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.). Reports.

(b) MEASURES TO TAKE INTO CONSIDERATION.—The alternative measures described in subsection (a) shall consider—

(1) the number of degrees awarded and the increase in number of degrees awarded disaggregated by race, ethnicity, gender, and income for all students who have earned a degree; and

(2) the increase in degrees awarded in high-need fields such as science, technology, engineering, mathematics, education, and nursing.

**SEC. 1119. STUDY ON THE FINANCIAL AND COMPLIANCE AUDITS OF THE FEDERAL STUDENT LOAN PROGRAM.**

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall complete a study to examine all the financial and compliance audits and reviews required or conducted as part of the proper management of the Federal student loan programs under parts B and D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq. and 1087a et seq.), whether each such audit or review is required under a law or is otherwise performed in order to evaluate a program. Deadline.

(b) CONTENT OF STUDY.—

(1) COMPARISON OF AUDITS AND REVIEWS UNDER PARTS B AND D OF TITLE IV.—As part of the study under subsection (a), the Comptroller General of the United States shall compare the audits and reviews of programs under parts B and D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq. and 1087a et seq.) for purposes of—

(A) determining whether such audits and reviews are comparable among programs;

(B) determining whether such audits and reviews result in a level of protection of borrower interests and of Federal fiscal interests that is comparable for each program; and

(C) determining the extent to which the Department of Education ensures timely submission of required financial and compliance audits and reviews and compliance with statutory and regulatory requirements.

(2) ADDITIONAL CONTENT OF STUDY.—The study under subsection (a) shall—

(A) provide a list of the financial and compliance audits and reviews required or conducted as part of the proper management of the Federal student loan programs under parts B and D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq. and 1087a et seq.);

(B) determine the frequency of each audit and review;

(C) provide a list of the entities and activities that are the subject of each audit and review, including institutions of higher education, servicers, secondary markets, guaranty agencies, the Department of Education and the contractors of the Department of Education, and any other entities that are required to participate in the audit or review;

(D) determine the degree of individual borrower level reconciliation required under Federal student loan programs under such parts B and D of title IV;

(E) make recommendations with respect to such audits and reviews to ensure—

(i) such audits and reviews are comparable among Federal student loan programs under such parts B and D of title IV; and

(ii) a level of protection of borrower interests and of Federal fiscal interests that is comparable for Federal student loan programs under such parts B and D of title IV, to the extent such comparability does not exist; and

(F) assess the extent to which the Department of Education makes appropriate use of such financial and compliance audits and reviews in the Department's administration and oversight of the Federal student loan programs under such parts B and D of title IV.

**SEC. 1120. SUMMIT ON SUSTAINABILITY.**

Deadline.

Not later than September 30, 2010, the Secretary of Education, in consultation with the Administrator of the Environmental Protection Agency, shall convene a summit of higher education experts working in the area of sustainable operations and programs, representatives from agencies of the Federal Government, and business and industry leaders to focus on efforts of national distinction that—

(1) encourage faculty, staff, and students at institutions of higher education to establish administrative and academic sustainability programs on campus;

(2) enhance research by faculty and students at institutions of higher education in sustainability practices and innovations that assist and improve sustainability;

(3) encourage institutions of higher education to work with community partners from the business, government, and nonprofit sectors to design and implement sustainability programs for application in the community and workplace;

(4) identify opportunities for partnerships involving institutions of higher education and the Federal Government to expand sustainable operations and academic programs focused on environmental and economic sustainability; and

(5) charge the summit participants or steering committee to submit a set of recommendations for addressing sustainability through institutions of higher education.

**SEC. 1121. NURSING SCHOOL CAPACITY.**

(a) FINDINGS.—Congress finds the following:

(1) Researchers in the field of public health have identified the need for a national study to identify constraints encountered by schools of nursing in graduating the number of nurses sufficient to meet the health care needs of the United States.

(2) The shortage of qualified registered nurses has adversely affected the health care system of the United States.

(3) Individual States have had varying degrees of success with programs designed to increase the recruitment and retention of nurses.

(4) Schools of nursing have been unable to provide a sufficient number of qualified graduates to meet the workforce needs.

(5) Many nurses are approaching the age of retirement, and the problem worsens each year.

(6) In 2004, an estimated 125,000 applications from qualified applicants were rejected by schools of nursing, due to a shortage of faculty and a lack of capacity for additional students.

(b) STUDY WITH RESPECT TO CONSTRAINTS WITH RESPECT TO SCHOOLS OF NURSING.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the Institute of Medicine of the National Academy of Sciences to conduct a study for the purpose of— Contracts.

(A) identifying constraints encountered by schools of nursing in admitting and graduating the number of registered nurses necessary to ensure patient safety and meet the need for quality assurance in the provision of health care; and

(B) developing recommendations to alleviate the constraints on a short-term and long-term basis.

(2) CERTAIN COMPONENTS.—The Secretary shall ensure that the agreement under paragraph (1) provides that the study under such paragraph will include information on the following:

(A) The trends in applications for attendance at schools of nursing that are relevant to the purpose of the study, including trends regarding applicants who are accepted for enrollment and applicants who are not accepted, particularly qualified applicants who are not accepted.

(B) The number and demographic characteristics of entry-level and graduate students currently enrolled in schools of nursing, the retention rates at the schools, and

the number of recent graduates from the schools, as compared to previous years and to the projected need for registered nurses based on two-year, five-year, and ten-year projections.

(C) The number and demographic characteristics of nurses who pursue graduate education in nursing and nonnursing programs but do not pursue faculty positions in schools of nursing, the reasons for not pursuing faculty positions, including any regulatory barriers to choosing to pursue such positions, and the effect of such decisions on the ability of the schools to obtain adequate numbers of faculty members.

(D) The extent to which—

(i) entry-level graduates of the schools of nursing are satisfied with their educational preparation, including their participation in nurse externships, internships, and residency programs; and

(ii) such entry-level graduates are able to effectively transition into the nursing workforce.

(E) The satisfaction of nurse managers and administrators with respect to the preparation and performance levels of entry-level graduates from the schools after one year, three years, and five years of practice, respectively.

(F) The extent to which the current salary, benefit structures, and characteristics of the workplace, including the number of nurses who are presently serving in faculty positions, influence the career path of nurses who have pursued graduate education.

(G) The extent to which the use of innovative technologies for didactic and clinical nursing education might provide for an increase in the ability of schools of nursing to train qualified nurses.

(3) RECOMMENDATIONS.—The Institute of Medicine may include in the recommendations developed under paragraph (1)(B) recommendations for legislative or administrative changes at the Federal or State level, and measures that can be taken in the private sector—

(A) to facilitate the recruitment of students into the nursing profession;

(B) to facilitate the retention of nurses in the workplace; and

(C) to improve the resources and ability of the education and health care systems to prepare a sufficient number of qualified registered nurses.

(4) METHODOLOGY OF STUDY.—

(A) SCOPE.—The Secretary shall ensure that the agreement under paragraph (1) provides that the study under such paragraph will consider the perspectives of—

(i) nurses and physicians in each of the various types of inpatient, outpatient, and residential facilities in the health care delivery system;

(ii) faculty and administrators of schools of nursing;

(iii) providers of health plans or health insurance; and

(iv) consumers.

(B) CONSULTATION WITH RELEVANT ORGANIZATION.—The Secretary shall ensure that the agreement under paragraph (1) provides that relevant agencies and organizations with expertise on the nursing shortage will be consulted with respect to the study under such paragraph, including the following:

(i) The Agency for Healthcare Research and Quality.

(ii) The American Academy of Nursing.

(iii) The American Association of Colleges of Nursing.

(iv) The American Nurses Association.

(v) The American Organization of Nurse Executives.

(vi) The National Institute of Nursing Research.

(vii) The National League for Nursing.

(viii) The National Organization for Associate Degree Nursing.

(ix) The National Student Nurses Association.

(5) REPORT.—The Secretary shall ensure that the agreement under paragraph (1) provides that, not later than 18 months after the date of enactment of this section, the Institute of Medicine shall submit a report providing the findings and recommendations made in the study under this section to the Secretary and the authorizing committees. Deadline.

(6) OTHER ORGANIZATION.—If the Institute of Medicine declines to conduct the study under paragraph (1), the Secretary may enter into an agreement with another appropriate private entity to conduct the study.

(c) DEFINITIONS.—In this section:

(1) TERMS IN PUBLIC HEALTH SERVICE ACT.—The terms "collegiate school of nursing", "associate degree school of nursing", and "diploma school of nursing" have the meanings given to such terms in section 801 of the Public Health Service Act (42 U.S.C. 296).

(2) SCHOOL OF NURSING.—The term "school of nursing" means a collegiate school of nursing, an associate degree school of nursing, or a diploma school of nursing in a State.

(3) SECRETARY.—The term "Secretary" means the Secretary of Education.

**SEC. 1122. STUDY AND REPORT ON NONINDIVIDUAL INFORMATION.**

(a) DEFINITIONS.—In this section:

(1) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term "historically Black college or university" has the meaning given the term "part B institution" in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(2) TRUTH IN LENDING ACT.—The terms "covered educational institution" and "private education loan" have the meanings given the terms in section 140 of the Truth in Lending Act, as added by title X.

(b) STUDY.—The Comptroller General of the United States shall conduct a study—

(1) on the impact on and benefits to borrowers of the inclusion of nonindividual factors, including cohort default rate, accreditation, and graduation rate at institutions of higher

education, used in the underwriting criteria to determine the pricing of private education loans;

(2) to examine whether and to what extent the inclusion of such nonindividual factors—

(A) increases access to private education loans for borrowers who lack credit history or results in less favorable rates for such borrowers; and

(B) affects the types of private education loan products and rates available at certain institutions of higher education, including a comparison of such impact—

(i) on private and public institutions; and

(ii) on historically Black colleges and universities and institutions of higher education; and

(3) to assess the extent to which the use of such nonindividual factors in underwriting may have a disparate impact on the pricing of private education loans, based on gender, race, income level, and covered educational institution.

Deadline.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study required by this section.

**SEC. 1123. FEASIBILITY STUDY FOR STUDENT LOAN CLEARINGHOUSE.**

Deadline.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility of developing a national student loan clearinghouse on the website of the Department of Education that would provide for one or more of the following:

(1) A registry of real-time information on Federal student loans (including loans under parts B and D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq. and 1087a et seq.) and private education loans (as defined in section 140 of the Truth in Lending Act)), for both undergraduate and graduate students, and parents of students, for use by prospective borrowers or any person desiring information regarding available interest rates, fees, and other terms from lenders.

(2) A mechanism whereby prospective borrowers could be matched with lenders that offer highly competitive products and loan servicing quality, including any procedures and safeguards necessary to minimize potentially adverse effects of multiple inquiries into participating borrowers' credit histories recorded by consumer reporting agencies.

(3) Options concerning the establishment and ongoing maintenance of such a system, including whether such a system should be operated by one or more entities, and methods to finance such a system at no or minimal cost to consumers and the Government.

(4) Other features that could help prospective borrowers make informed decisions in selecting lenders from whom to obtain Federal and private education loans.

(b) CONSULTATION.—In conducting the study under subsection (a), the Comptroller General of the United States shall consult with—

(1) the Secretary of Education;

(2) the Federal Trade Commission;

(3) representatives of student loan borrowers;

(4) representatives from institutions of higher education, including financial aid administrators, registrars, business officers, and student affairs officials;

(5) Federal and private educational lenders (as defined in section 140 of the Truth in Lending Act), loan servicers, and guaranty agencies; and

(6) other appropriate entities with relevant experience.

(c) REPORT.—Not later than two years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the authorizing committees a report on the study conducted under subsection (a).

**SEC. 1124. STUDY ON DEPARTMENT OF EDUCATION OVERSIGHT OF INCENTIVE COMPENSATION BAN.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall— Deadline.

(1) conduct a study of efforts by the Secretary of Education to enforce the provisions of section 487(a)(20) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(20)); and

(2) submit to the authorizing committees a report that provides the results of such study. Reports.

(b) CONTENT OF REPORT.—The report submitted under subsection (a) shall include—

(1) an analysis of the nature, extent, and effectiveness of the Secretary of Education's activities to enforce the provisions of section 487(a)(20) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(20));

(2) the number of institutions of higher education for which investigations were initiated by the Secretary for potential violations of such section since 1998;

(3) in cases where violations of such section by institutions of higher education were substantiated by the Secretary—

(A) the names of such institutions;

(B) the nature of the violations; and

(C) the penalty, if any, imposed by the Secretary for such violations;

(4) an analysis of the impact of the "safe harbor" regulations under section 668.14(b)(22)(ii)(A) through (L) of title 34, Code of Federal Regulations, promulgated under such section 487(a)(20), on the number and nature of cases examined by the Secretary for potential violations of such section 487(a)(20), including whether the number of cases examined by the Secretary has increased or decreased since such regulations went into effect;

(5) information on the extent to which the Secretary has considered efforts by States to examine unethical or unlawful student recruitment or admissions practices by institutions of higher education, including practices that violate the provisions of such section 487(a)(20); and

(6) information on the extent to which the Secretary reviews publicly-available documents, such as filings to the Securities and Exchange Commission, to monitor the compliance of institutions of higher education with the provisions of such section 487(a)(20).

**SEC. 1125. DEFINITION OF AUTHORIZING COMMITTEES.**

For purposes of this title, the term "authorizing committees" has the meaning given such term in section 103 of the Higher Education Act of 1965, as amended by this Act.

Approved August 14, 2008.

LEGISLATIVE HISTORY—H.R. 4137:

HOUSE REPORTS: Nos. 110–500, Pt. 1 (Comm. on Education and Labor) and 110–803 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 154 (2008):

Feb. 7, considered and passed House.

July 29, considered and passed Senate, amended.

July 31, House and Senate agreed to conference report.

Public Law 110–316
110th Congress

# An Act

To amend the Federal Food, Drug, and Cosmetic Act to revise and extend the animal drug user fee program, to establish a program of fees relating to generic new animal drugs, to make certain technical corrections to the Food and Drug Administration Amendments Act of 2007, and for other purposes.

Aug. 14, 2008
[H.R. 6432]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

Sec. 1. Table of contents.
Sec. 2. References in Act.

TITLE I—ANIMAL DRUG USER FEE AMENDMENTS

Sec. 101. Short title; finding.
Sec. 102. Definitions.
Sec. 103. Authority to assess and use animal drug fees.
Sec. 104. Reauthorization; reporting requirements.
Sec. 105. Antimicrobial animal drug distribution reports.
Sec. 106. Savings clause.
Sec. 107. Effective date.
Sec. 108. Sunset dates.

TITLE II—ANIMAL GENERIC DRUG USER FEE

Sec. 201. Short title; findings.
Sec. 202. Fees relating to abbreviated applications for generic new animal drugs.
Sec. 203. Accountability and reports.
Sec. 204. Sunset dates.

TITLE III—TECHNICAL CORRECTIONS TO FDAAA

Sec. 301. Consideration of certain petitions.
Sec. 302. Registry and results data bank.

**SEC. 2. REFERENCES IN ACT.**

Except as otherwise specified, amendments made by this Act to a section or other provision of law are amendments to such section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

# TITLE I—ANIMAL DRUG USER FEE AMENDMENTS

Animal Drug User Fee Amendments of 2008.

**SEC. 101. SHORT TITLE; FINDING.**

(a) SHORT TITLE.—This title may be cited as the "Animal Drug User Fee Amendments of 2008". 21 USC 301 note.

(b) FINDING.—Congress finds that the fees authorized by the amendments made in this title will be dedicated toward expediting 21 USC 379j–11 note.

the animal drug development process and the review of new and supplemental animal drug applications and investigational animal drug submissions as set forth in the goals identified, for purposes of part 4 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate as set forth in the Congressional Record.

**SEC. 102. DEFINITIONS.**

Section 739 (21 U.S.C. 379j–11) is amended—

(1) in paragraph (6), by striking ", except for an approved application for which all subject products have been removed from listing under section 510" and inserting "that has not been withdrawn by the applicant and for which approval has not been withdrawn by the Secretary";

(2) in paragraph (8)(H), by striking "but not such activities after an animal drug has been approved" and inserting "but not after such application has been approved";

(3) in paragraph (10), by striking "year being 2003" and inserting "month being October 2002";

(4) by redesignating paragraph (11) as paragraph (12); and

(5) by inserting after paragraph (10) the following:

"(11) The term 'person' includes an affiliate thereof.".

**SEC. 103. AUTHORITY TO ASSESS AND USE ANIMAL DRUG FEES.**

(a) TYPES OF FEES.—Section 740(a) (21 U.S.C. 379j–12(a)) is amended—

(1) in paragraph (1)(A)(i), by inserting after "for an animal drug application" the following: ", except an animal drug application subject to the criteria set forth in section 512(d)(4)"; and

(2) by amending paragraph (1)(A)(ii) to read as follows:

"(ii) A fee established in subsection (b), in an amount that is equal to 50 percent of the amount of the fee under clause (i), for—

"(I) a supplemental animal drug application for which safety or effectiveness data are required; and

"(II) an animal drug application subject to the criteria set forth in section 512(d)(4).".

(b) FEE AMOUNTS.—

(1) TOTAL FEE REVENUES FOR APPLICATION AND SUPPLEMENT FEES.—Section 740(b)(1) (21 U.S.C. 379j–12(b)(1)) is amended—

(A) by striking "and supplemental animal drug application fees" and inserting "and supplemental and other animal drug application fees"; and

(B) by striking "$1,250,000" and all that follows through the period at the end and inserting "$3,815,000 for fiscal year 2009, $4,320,000 for fiscal year 2010, $4,862,000 for fiscal year 2011, $5,442,000 for fiscal year 2012, and $6,061,000 for fiscal year 2013.".

(2) TOTAL FEE REVENUES FOR PRODUCT FEES.—Section 740(b)(2) (21 U.S.C. 379j–12(b)(2)) is amended by striking "$1,250,000" and all that follows through the period at the end and inserting "$3,815,000 for fiscal year 2009, $4,320,000

for fiscal year 2010, $4,862,000 for fiscal year 2011, $5,442,000 for fiscal year 2012, and $6,061,000 for fiscal year 2013.".

(3) TOTAL FEE REVENUES FOR ESTABLISHMENT FEES.—Section 740(b)(3) (21 U.S.C. 379j–12(b)(3)) is amended by striking "$1,250,000" and all that follows through the period at the end and inserting "$3,815,000 for fiscal year 2009, $4,320,000 for fiscal year 2010, $4,862,000 for fiscal year 2011, $5,442,000 for fiscal year 2012, and $6,061,000 for fiscal year 2013.".

(4) TOTAL FEE REVENUES FOR SPONSOR FEES.—Section 740(b)(4) (21 U.S.C. 379j–12(b)(4)) is amended by striking "$1,250,000" and all that follows through the period at the end and inserting "$3,815,000 for fiscal year 2009, $4,320,000 for fiscal year 2010, $4,862,000 for fiscal year 2011, $5,442,000 for fiscal year 2012, and $6,061,000 for fiscal year 2013.".

(c) ADJUSTMENTS TO FEES.—Section 740(c) (21 U.S.C. 379j–12(c)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(3) in paragraph (1), as so redesignated—

(A) in the matter preceding subparagraph (A), by striking "After the fee revenues are adjusted for inflation in accordance with paragraph (1), the fee revenues shall be further adjusted each fiscal year after fiscal year 2004" and inserting "The fee revenues shall be adjusted each fiscal year after fiscal year 2009"; and

(B) in subparagraph (B), by striking ", as adjusted for inflation under paragraph (1)"; and

(4) in paragraph (2), as so redesignated—

(A) by striking "2008" each place it appears and inserting "2013"; and

(B) by striking "2009" and inserting "2014".

(d) AUTHORIZATION OF APPROPRIATIONS.—Subparagraphs (A) through (E) of section 740(g)(3) (21 U.S.C. 379j–12(g)(3)) are amended to read as follows:

"(A) $15,260,000 for fiscal year 2009;

"(B) $17,280,000 for fiscal year 2010;

"(C) $19,448,000 for fiscal year 2011;

"(D) $21,768,000 for fiscal year 2012; and

"(E) $24,244,000 for fiscal year 2013;".

(e) OFFSET.—Section 740(g)(4) (21 U.S.C. 379j–12(g)(4)) is amended to read as follows:

"(4) OFFSET.—If the sum of the cumulative amount of fees collected under this section for fiscal years 2009 through 2011 and the amount of fees estimated to be collected under this section for fiscal year 2012 exceeds the cumulative amount appropriated under paragraph (3) for the fiscal years 2009 through 2012, the excess amount shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for fiscal year 2013.".

**SEC. 104. REAUTHORIZATION; REPORTING REQUIREMENTS.**

Part 4 of subchapter C of chapter VII (21 U.S.C. 379j–11 et seq.) is amended by inserting after section 740 the following:

Effective dates.
21 USC 379j–13.

**"SEC. 740A. REAUTHORIZATION; REPORTING REQUIREMENTS.**

"(a) PERFORMANCE REPORT.—Beginning with fiscal year 2009, not later than 60 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 101(b) of the Animal Drug User Fee Amendments of 2008 toward expediting the animal drug development process and the review of the new and supplemental animal drug applications and investigational animal drug submissions during such fiscal year, the future plans of the Food and Drug Administration for meeting the goals, the review times for abbreviated new animal drug applications, and the administrative procedures adopted by the Food and Drug Administration to ensure that review times for abbreviated new animal drug applications are not increased from their current level due to activities under the user fee program.

"(b) FISCAL REPORT.—Beginning with fiscal year 2009, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

Web site.

"(c) PUBLIC AVAILABILITY.—The Secretary shall make the reports required under subsections (a) and (b) available to the public on the Internet Web site of the Food and Drug Administration.

"(d) REAUTHORIZATION.—

Recommendations.

"(1) CONSULTATION.—In developing recommendations to present to the Congress with respect to the goals, and plans for meeting the goals, for the process for the review of animal drug applications for the first 5 fiscal years after fiscal year 2013, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

"(A) the Committee on Energy and Commerce of the House of Representatives;

"(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

"(C) scientific and academic experts;

"(D) veterinary professionals;

"(E) representatives of patient and consumer advocacy groups; and

"(F) the regulated industry.

"(2) PRIOR PUBLIC INPUT.—Prior to beginning negotiations with the regulated industry on the reauthorization of this part, the Secretary shall—

Notice.
Federal Register, publication.

"(A) publish a notice in the Federal Register requesting public input on the reauthorization;

"(B) hold a public meeting at which the public may present its views on the reauthorization, including specific suggestions for changes to the goals referred to in subsection (a);

"(C) provide a period of 30 days after the public meeting to obtain written comments from the public suggesting changes to this part; and

"(D) publish the comments on the Food and Drug Administration's Internet Web site. Web site.

"(3) PERIODIC CONSULTATION.—Not less frequently than once every 4 months during negotiations with the regulated industry, the Secretary shall hold discussions with representatives of veterinary, patient, and consumer advocacy groups to continue discussions of their views on the reauthorization and their suggestions for changes to this part as expressed under paragraph (2). Deadlines.

"(4) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the regulated industry, the Secretary shall—

"(A) present the recommendations developed under paragraph (1) to the Congressional committees specified in such paragraph;

"(B) publish such recommendations in the Federal Register; Federal Register, publication.

"(C) provide for a period of 30 days for the public to provide written comments on such recommendations; Comments.

"(D) hold a meeting at which the public may present its views on such recommendations; and

"(E) after consideration of such public views and comments, revise such recommendations as necessary.

"(5) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2013, the Secretary shall transmit to the Congress the revised recommendations under paragraph (4), a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments. Deadline.

"(6) MINUTES OF NEGOTIATION MEETINGS.—

"(A) PUBLIC AVAILABILITY.—Before presenting the recommendations developed under paragraphs (1) through (5) to the Congress, the Secretary shall make publicly available, on the Internet Web site of the Food and Drug Administration, minutes of all negotiation meetings conducted under this subsection between the Food and Drug Administration and the regulated industry. Web site.

"(B) CONTENT.—The minutes described under subparagraph (A) shall summarize any substantive proposal made by any party to the negotiations as well as significant controversies or differences of opinion during the negotiations and their resolution.".

**SEC. 105. ANTIMICROBIAL ANIMAL DRUG DISTRIBUTION REPORTS.**

(a) REPORTS.—Section 512(l) (21 U.S.C. 360b(l)) is amended by adding at the end the following:

"(3)(A) In the case of each new animal drug described in paragraph (1) that contains an antimicrobial active ingredient, the sponsor of the drug shall submit an annual report to the Secretary on the amount of each antimicrobial active ingredient in the drug that is sold or distributed for use in food-producing animals, including information on any distributor-labeled product.

"(B) Each report under this paragraph shall specify the amount of each antimicrobial active ingredient—

"(i) by container size, strength, and dosage form;

"(ii) by quantities distributed domestically and quantities exported; and

"(iii) by dosage form, including, for each such dosage form, a listing of the target animals, indications, and production classes that are specified on the approved label of the product.

"(C) Each report under this paragraph shall—

"(i) be submitted not later than March 31 each year;

"(ii) cover the period of the preceding calendar year; and

"(iii) include separate information for each month of such calendar year.

"(D) The Secretary may share information reported under this paragraph with the Antimicrobial Resistance Task Force established under section 319E of the Public Health Service Act.

Public information.

"(E) The Secretary shall make summaries of the information reported under this paragraph publicly available, except that—

"(i) the summary data shall be reported by antimicrobial class, and no class with fewer than 3 distinct sponsors of approved applications shall be independently reported; and

"(ii) the data shall be reported in a manner consistent with protecting both national security and confidential business information.".

21 USC 360b note.

(b) FIRST REPORT.—For each new animal drug that is subject to the reporting requirement under section 512(l)(3) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), and for which an approval of an application filed pursuant to section 512(b) or 571 of such Act is in effect on the date of the enactment of this title, the Secretary of Health and Human Services shall require the sponsor of the drug to submit the first report under such section 512(l)(3) for the drug not later than March 31, 2010.

(c) SEPARATE REPORT.—The reports required under section 512(l)(3) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall be separate from periodic drug experience reports that are required under section 514.80(b)(4) of title 21, Code of Federal Regulations (as in effect on the date of the enactment of this title).

21 USC 379j–11 note.

**SEC. 106. SAVINGS CLAUSE.**

Notwithstanding section 5 of the Animal Drug User Fee Act of 2003 (21 U.S.C. 379j–11 note), and notwithstanding the amendments made by this title, part 4 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j–11 et seq.), as in effect on the day before the date of the enactment of this title, shall continue to be in effect with respect to animal drug applications and supplemental animal drug applications (as defined in such part as of such day) that on or after September 1, 2003, but before October 1, 2008, were accepted by the Food and Drug Administration for filing with respect to assessing and collecting any fee required by such part for a fiscal year prior to fiscal year 2009.

21 USC 379j–11 note.

**SEC. 107. EFFECTIVE DATE.**

The amendments made by sections 102, 103, and 104 shall take effect on October 1, 2008, and fees under part 4 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as amended by this title, shall be assessed for all animal drug applications and supplemental animal drug applications received on or after such date, regardless of the date of the enactment of this title.

**SEC. 108. SUNSET DATES.**

21 USC 379j–11 note.

(a) AUTHORIZATION.—The amendments made by sections 102 and 103 cease to be effective October 1, 2013.

(b) REPORTING REQUIREMENTS.—The amendment made by section 104 ceases to be effective January 31, 2014.

# TITLE II—ANIMAL GENERIC DRUG USER FEE

Animal Generic Drug User Fee Act of 2008.

**SEC. 201. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This title may be cited as the "Animal Generic Drug User Fee Act of 2008". 21 USC 301 note.

(b) FINDINGS.—Congress finds as follows: 21 USC 379j–21 note.

(1) Prompt approval of abbreviated applications for safe and effective generic new animal drugs will reduce animal healthcare costs and promote the well-being of animal health and the public health.

(2) Animal health and the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for the review of abbreviated applications for the approval of generic new animal drugs.

(3) The fees authorized by this title will be dedicated toward expediting the generic new animal drug development process and the review of abbreviated applications for generic new animal drugs, supplemental abbreviated applications for generic new animal drugs, and investigational submissions for generic new animal drugs as set forth in the goals identified in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate as set forth in the Congressional Record.

**SEC. 202. FEES RELATING TO ABBREVIATED APPLICATIONS FOR GENERIC NEW ANIMAL DRUGS.**

(a) REDESIGNATION.—Chapter VII (21 U.S.C. 371 et seq.) is amended by redesignating sections 741, 742, and 746 as sections 745, 746, and 749, respectively. 21 USC 379k, 379*l*, and 379o.

(b) AUTHORITY TO ASSESS AND USE GENERIC NEW ANIMAL DRUG FEES.—Subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379f et seq.) is amended by adding at the end the following:

## "PART 5—FEES RELATING TO GENERIC NEW ANIMAL DRUGS

**"SEC. 741. AUTHORITY TO ASSESS AND USE GENERIC NEW ANIMAL DRUG FEES.** 21 USC 379j–21.

"(a) TYPES OF FEES.—Beginning with respect to fiscal year 2009, the Secretary shall assess and collect fees in accordance with this section as follows:

"(1) ABBREVIATED APPLICATION FEE.—

"(A) IN GENERAL.—Each person that submits, on or after July 1, 2008, an abbreviated application for a generic Effective date.

new animal drug shall be subject to a fee as established in subsection (b) for such an application.

"(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the abbreviated application.

"(C) EXCEPTION FOR PREVIOUSLY FILED APPLICATION.—If an abbreviated application was submitted by a person that paid the fee for such application, was accepted for filing, and was not approved or was withdrawn (without a waiver or refund), the submission of an abbreviated application for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

"(D) REFUND OF FEE IF APPLICATION REFUSED FOR FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (B) for any abbreviated application which is refused for filing.

"(E) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an abbreviated application is withdrawn after the application was filed, the Secretary may refund the fee or portion of the fee paid under subparagraph (B) if no substantial work was performed on the application after the application was filed. The Secretary shall have the sole discretion to refund the fee under this subparagraph. A determination by the Secretary concerning a refund under this subparagraph shall not be reviewable.

"(2) GENERIC NEW ANIMAL DRUG PRODUCT FEE.—Each person—

"(A) who is named as the applicant in an abbreviated application or supplemental abbreviated application for a generic new animal drug product which has been submitted for listing under section 510, and

"(B) who, after September 1, 2008, had pending before the Secretary an abbreviated application or supplemental abbreviated application,

shall pay for each such generic new animal drug product the annual fee established in subsection (b). Such fee shall be payable for the fiscal year in which the generic new animal drug product is first submitted for listing under section 510, or is submitted for relisting under section 510 if the generic new animal drug product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each generic new animal drug product for a fiscal year in which the fee is payable.

Deadline.

"(3) GENERIC NEW ANIMAL DRUG SPONSOR FEE.—

"(A) IN GENERAL.—Each person—

"(i) who meets the definition of a generic new animal drug sponsor within a fiscal year, and

"(ii) who, after September 1, 2008, had pending before the Secretary an abbreviated application, a supplemental abbreviated application, or an investigational submission,

shall be assessed an annual fee established under subsection (b). The fee shall be paid on or before January 31 of each year.

Deadline.

"(B) AMOUNT OF FEE.—Each generic new animal drug sponsor shall pay only 1 such fee each fiscal year, as follows:

"(i) 100 percent of the amount of the generic new animal drug sponsor fee published for that fiscal year under subsection (c)(3) for an applicant with more than 6 approved abbreviated applications.

"(ii) 75 percent of the amount of the generic new animal drug sponsor fee published for that fiscal year under subsection (c)(3) for an applicant with more than 1 and fewer than 7 approved abbreviated applications.

"(iii) 50 percent of the amount of the generic new animal drug sponsor fee published for that fiscal year under subsection (c)(3) for an applicant with 1 or fewer approved abbreviated applications.

"(b) FEE AMOUNTS.—Except as provided in subsection (a)(1) and subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be established to generate fee revenue amounts as follows:

"(1) TOTAL FEE REVENUES FOR APPLICATION FEES.—The total fee revenues to be collected in abbreviated application fees under subsection (a)(1) shall be $1,449,000 for fiscal year 2009, $1,532,000 for fiscal year 2010, $1,619,000 for fiscal year 2011, $1,712,000 for fiscal year 2012, and $1,809,000 for fiscal year 2013.

"(2) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in generic new animal drug product fees under subsection (a)(2) shall be $1,691,000 for fiscal year 2009, $1,787,000 for fiscal year 2010, $1,889,000 for fiscal year 2011, $1,997,000 for fiscal year 2012, and $2,111,000 for fiscal year 2013.

"(3) TOTAL FEE REVENUES FOR SPONSOR FEES.—The total fee revenues to be collected in generic new animal drug sponsor fees under subsection (a)(3) shall be $1,691,000 for fiscal year 2009, $1,787,000 for fiscal year 2010, $1,889,000 for fiscal year 2011, $1,997,000 for fiscal year 2012, and $2,111,000 for fiscal year 2013.

"(c) ADJUSTMENTS.—

"(1) WORKLOAD ADJUSTMENT.—The fee revenues shall be adjusted each fiscal year after fiscal year 2009 to reflect changes in review workload. With respect to such adjustment:

"(A) This adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of abbreviated applications for generic new animal drugs, manufacturing supplemental abbreviated applications for generic new animal drugs, investigational generic new animal drug study submissions, and investigational generic new animal drug protocol submissions submitted to the Secretary. The Secretary shall publish in the Federal Register the fees resulting from this adjustment and the supporting methodologies.

Federal Register, publication.

"(B) Under no circumstances shall this workload adjustment result in fee revenues for a fiscal year that are less than the fee revenues for that fiscal year established in subsection (b).

"(2) FINAL YEAR ADJUSTMENT.—For fiscal year 2013, the Secretary may further increase the fees to provide for up to

3 months of operating reserves of carryover user fees for the process for the review of abbreviated applications for generic new animal drugs for the first 3 months of fiscal year 2014. If the Food and Drug Administration has carryover balances for the process for the review of abbreviated applications for generic new animal drugs in excess of 3 months of such operating reserves, then this adjustment shall not be made. If this adjustment is necessary, then the rationale for the amount of the increase shall be contained in the annual notice setting fees for fiscal year 2013.

Deadline.
Effective date.

"(3) ANNUAL FEE SETTING.—The Secretary shall establish, 60 days before the start of each fiscal year beginning after September 30, 2008, for that fiscal year, abbreviated application fees, generic new animal drug sponsor fees, and generic new animal drug product fees based on the revenue amounts established under subsection (b) and the adjustments provided under this subsection.

"(4) LIMIT.—The total amount of fees charged, as adjusted under this subsection, for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of abbreviated applications for generic new animal drugs.

"(d) FEE WAIVER OR REDUCTION.—The Secretary shall grant a waiver from or a reduction of 1 or more fees assessed under subsection (a) where the Secretary finds that the generic new animal drug is intended solely to provide for a minor use or minor species indication.

"(e) EFFECT OF FAILURE TO PAY FEES.—An abbreviated application for a generic new animal drug submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid. An investigational submission for a generic new animal drug that is submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person have been paid. The Secretary may discontinue review of any abbreviated application for a generic new animal drug, supplemental abbreviated application for a generic new animal drug, or investigational submission for a generic new animal drug from a person if such person has not submitted for payment all fees owed under this section by 30 days after the date upon which they are due.

"(f) ASSESSMENT OF FEES.—

"(1) LIMITATION.—Fees may not be assessed under subsection (a) for a fiscal year beginning after fiscal year 2008 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 2003 (excluding the amount of fees appropriated for such fiscal year) multiplied by the adjustment factor applicable to the fiscal year involved.

"(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess

and collect such fees, without any modification in the rate, for abbreviated applications, generic new animal drug sponsors, and generic new animal drug products at any time in such fiscal year notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

"(g) CREDITING AND AVAILABILITY OF FEES.—

"(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to be appropriated to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salary and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of abbreviated applications for generic new animal drugs.

"(2) COLLECTIONS AND APPROPRIATION ACTS.—

"(A) IN GENERAL.—The fees authorized by this section—

"(i) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year; and

"(ii) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of abbreviated applications for generic new animal drugs (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs, excluding costs paid from fees collected under this section, for fiscal year 2008 multiplied by the adjustment factor.

"(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for the process for the review of abbreviated applications for generic new animal drugs—

"(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

"(ii)(I) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for the fiscal year following the subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in subparagraph (A)(ii); and

"(II) such costs are not more than 5 percent below the level specified in subparagraph (A)(ii).

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

"(A) $4,831,000 for fiscal year 2009;

"(B) $5,106,000 for fiscal year 2010;

"(C) $5,397,000 for fiscal year 2011;

"(D) $5,706,000 for fiscal year 2012; and

"(E) $6,031,000 for fiscal year 2013;

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by abbreviated application fees, generic new animal drug sponsor fees, and generic new animal drug product fees.

"(4) OFFSET.—If the sum of the cumulative amount of fees collected under this section for the fiscal years 2009 through 2011 and the amount of fees estimated to be collected under this section for fiscal year 2012 exceeds the cumulative amount appropriated under paragraph (3) for the fiscal years 2009 through 2012, the excess amount shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for fiscal year 2013.

Deadline. "(h) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

Deadline. "(i) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (d), or for a refund of any fee collected in accordance with subsection (a), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.

"(j) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in the process of the review of abbreviated applications for generic new animal drugs, be reduced to offset the number of officers, employees, and advisory committees so engaged.

"(k) DEFINITIONS.—In this section and section 742:

"(1) ABBREVIATED APPLICATION FOR A GENERIC NEW ANIMAL DRUG.—The terms 'abbreviated application for a generic new animal drug' and 'abbreviated application' mean an abbreviated application for the approval of any generic new animal drug submitted under section 512(b)(2). Such term does not include a supplemental abbreviated application for a generic new animal drug.

"(2) ADJUSTMENT FACTOR.—The term 'adjustment factor' applicable to a fiscal year is the Consumer Price Index for all urban consumers (all items; United States city average) for October of the preceding fiscal year divided by—

"(A) for purposes of subsection (f)(1), such Index for October 2002; and

"(B) for purposes of subsection (g)(2)(A)(ii), such Index for October 2007.

"(3) COSTS OF RESOURCES ALLOCATED FOR THE PROCESS FOR THE REVIEW OF ABBREVIATED APPLICATIONS FOR GENERIC NEW ANIMAL DRUGS.—The term 'costs of resources allocated for the process for the review of abbreviated applications for generic new animal drugs' means the expenses incurred in connection with the process for the review of abbreviated applications for generic new animal drugs for—

"(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees consulted with respect to the review of specific abbreviated applications, supplemental abbreviated applications, or investigational submissions, and costs related to such officers, employees, committees, and contractors, including costs for travel, education, and recruitment and other personnel activities;

"(B) management of information, and the acquisition, maintenance, and repair of computer resources;

"(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies; and

"(D) collecting fees under this section and accounting for resources allocated for the review of abbreviated applications, supplemental abbreviated applications, and investigational submissions.

"(4) FINAL DOSAGE FORM.—The term 'final dosage form' means, with respect to a generic new animal drug product, a finished dosage form which is approved for administration to an animal without substantial further manufacturing. Such term includes generic new animal drug products intended for mixing in animal feeds.

"(5) GENERIC NEW ANIMAL DRUG.—The term 'generic new animal drug' means a new animal drug that is the subject of an abbreviated application.

"(6) GENERIC NEW ANIMAL DRUG PRODUCT.—The term 'generic new animal drug product' means each specific strength or potency of a particular active ingredient or ingredients in final dosage form marketed by a particular manufacturer or distributor, which is uniquely identified by the labeler code and product code portions of the national drug code, and for which an abbreviated application for a generic new animal drug or a supplemental abbreviated application has been approved.

"(7) GENERIC NEW ANIMAL DRUG SPONSOR.—The term 'generic new animal drug sponsor' means either an applicant named in an abbreviated application for a generic new animal drug that has not been withdrawn by the applicant and for which approval has not been withdrawn by the Secretary, or a person who has submitted an investigational submission for a generic new animal drug that has not been terminated or otherwise rendered inactive by the Secretary.

"(8) INVESTIGATIONAL SUBMISSION FOR A GENERIC NEW ANIMAL DRUG.—The terms 'investigational submission for a generic new animal drug' and 'investigational submission' mean—

"(A) the filing of a claim for an investigational exemption under section 512(j) for a generic new animal drug intended to be the subject of an abbreviated application or a supplemental abbreviated application; or

"(B) the submission of information for the purpose of enabling the Secretary to evaluate the safety or effectiveness of a generic new animal drug in the event of the filing of an abbreviated application or supplemental abbreviated application for such drug.

"(9) PERSON.—The term 'person' includes an affiliate thereof (as such term is defined in section 735(11)).

"(10) PROCESS FOR THE REVIEW OF ABBREVIATED APPLICATIONS FOR GENERIC NEW ANIMAL DRUGS.—The term 'process for the review of abbreviated applications for generic new animal drugs' means the following activities of the Secretary with respect to the review of abbreviated applications, supplemental abbreviated applications, and investigational submissions:

"(A) The activities necessary for the review of abbreviated applications, supplemental abbreviated applications, and investigational submissions.

"(B) The issuance of action letters which approve abbreviated applications or supplemental abbreviated applications or which set forth in detail the specific deficiencies in abbreviated applications, supplemental abbreviated applications, or investigational submissions and, where appropriate, the actions necessary to place such applications, supplemental applications, or submissions in condition for approval.

"(C) The inspection of generic new animal drug establishments and other facilities undertaken as part of the Secretary's review of pending abbreviated applications, supplemental abbreviated applications, and investigational submissions.

"(D) Monitoring of research conducted in connection with the review of abbreviated applications, supplemental abbreviated applications, and investigational submissions.

"(E) The development of regulations and policy related to the review of abbreviated applications, supplemental abbreviated applications, and investigational submissions.

"(F) Development of standards for products subject to review.

"(G) Meetings between the agency and the generic new animal drug sponsor.

"(H) Review of advertising and labeling prior to approval of an abbreviated application or supplemental abbreviated application, but not after such application has been approved.

"(11) SUPPLEMENTAL ABBREVIATED APPLICATION FOR GENERIC NEW ANIMAL DRUG.—The terms 'supplemental abbreviated application for a generic new animal drug' and 'supplemental abbreviated application' mean a request to the Secretary to approve a change in an approved abbreviated application.".

**SEC. 203. ACCOUNTABILITY AND REPORTS.**

Part 5 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379f et seq.), as added by section 202, is amended by inserting after section 741 the following:

21 USC 379j–22.

**"SEC. 742. REAUTHORIZATION; REPORTING REQUIREMENTS.**

Effective date.

"(a) PERFORMANCE REPORTS.—Beginning with fiscal year 2009, not later than 60 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Energy and Commerce of the House of Representatives a report concerning the progress of the Food and Drug Administration in achieving the

goals identified in the letters described in section 201(3) of the Animal Generic Drug User Fee Act of 2008 toward expediting the generic new animal drug development process and the review of abbreviated applications for generic new animal drugs, supplemental abbreviated applications for generic new animal drugs, and investigational submissions for generic new animal drugs during such fiscal year.

"(b) FISCAL REPORT.—Beginning with fiscal year 2009, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made. Effective date.

"(c) PUBLIC AVAILABILITY.—The Secretary shall make the reports required under subsections (a) and (b) available to the public on the Internet Web site of the Food and Drug Administration. Web site.

"(d) REAUTHORIZATION.—

"(1) CONSULTATION.—In developing recommendations to present to Congress with respect to the goals, and plans for meeting the goals, for the process for the review of abbreviated applications for generic new animal drugs for the first 5 fiscal years after fiscal year 2013, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with— Recommendations.

"(A) the Committee on Energy and Commerce of the House of Representatives;

"(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

"(C) scientific and academic experts;

"(D) veterinary professionals;

"(E) representatives of patient and consumer advocacy groups; and

"(F) the regulated industry.

"(2) PRIOR PUBLIC INPUT.—Prior to beginning negotiations with the regulated industry on the reauthorization of this part, the Secretary shall—

"(A) publish a notice in the Federal Register requesting public input on the reauthorization; Notice. Federal Register, publication.

"(B) hold a public meeting at which the public may present its views on the reauthorization, including specific suggestions for changes to the goals referred to in subsection (a);

"(C) provide a period of 30 days after the public meeting to obtain written comments from the public suggesting changes to this part; and

"(D) publish the comments on the Food and Drug Administration's Internet Web site. Web site.

"(3) PERIODIC CONSULTATION.—Not less frequently than once every 4 months during negotiations with the regulated industry, the Secretary shall hold discussions with representatives of veterinary, patient, and consumer advocacy groups to continue discussions of their views on the reauthorization Deadlines.

and their suggestions for changes to this part as expressed under paragraph (2).

"(4) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the regulated industry, the Secretary shall—

"(A) present the recommendations developed under paragraph (1) to the congressional committees specified in such paragraph;

Federal Register, publication.

"(B) publish such recommendations in the Federal Register;

"(C) provide for a period of 30 days for the public to provide written comments on such recommendations;

"(D) hold a meeting at which the public may present its views on such recommendations; and

"(E) after consideration of such public views and comments, revise such recommendations as necessary.

Deadline.

"(5) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2013, the Secretary shall transmit to Congress the revised recommendations under paragraph (4), a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments.

"(6) MINUTES OF NEGOTIATION MEETINGS.—

Web site.

"(A) PUBLIC AVAILABILITY.—Before presenting the recommendations developed under paragraphs (1) through (5) to Congress, the Secretary shall make publicly available, on the Internet Web site of the Food and Drug Administration, minutes of all negotiation meetings conducted under this subsection between the Food and Drug Administration and the regulated industry.

"(B) CONTENT.—The minutes described under subparagraph (A) shall summarize any substantive proposal made by any party to the negotiations as well as significant controversies or differences of opinion during the negotiations and their resolution.".

**SEC. 204. SUNSET DATES.**

21 USC 379j–21 note.

(a) AUTHORIZATION.—The amendments made by section 202 shall cease to be effective October 1, 2013.

21 USC 379j–22 note.

(b) REPORTING REQUIREMENTS.—The amendment made by section 203 shall cease to be effective January 31, 2014.

# TITLE III—TECHNICAL CORRECTIONS TO FDAAA

**SEC. 301. CONSIDERATION OF CERTAIN PETITIONS.**

Subparagraph (A) of section 505(q)(1) (21 U.S.C. 355(q)(1)) is amended by adding at the end the following:

"Consideration of the petition shall be separate and apart from review and approval of any application.".

**SEC. 302. REGISTRY AND RESULTS DATA BANK.**

Paragraph (3) of section 402(j) of the Public Health Service Act (42 U.S.C. 282(j)) is amended—

(1) in the matter preceding clause (i) in subparagraph (C), by striking "the following elements" and all that follows through "520(m) of such Act:" and inserting "for each applicable

clinical trial for a drug that is approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act or a device that is cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act or approved under section 515 or 520(m) of such Act, the following elements:"; and

(2) in clauses (i) and (iii) of subparagraph (I), by striking the term "drugs described in subparagraph (C)" each place such term appears and inserting "applicable clinical trials described in subparagraph (C)".

Approved August 14, 2008.

LEGISLATIVE HISTORY—H.R. 6432:

HOUSE REPORTS: No. 110–804 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 154 (2008):
July 30, considered and passed House.
Aug. 1, considered and passed Senate.

# Public Law 110–317
# 110th Congress

## An Act

To ensure the fair treatment of a member of the Armed Forces who is discharged from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early discharge of a member who is the only surviving child in a family in which the father or mother, or one or more siblings, served in the Armed Forces and, because of hazards incident to such service, was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently disabled, to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on contributions to funeral trusts, and for other purposes.

Aug. 29, 2008
[H.R. 6580]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Hubbard Act.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

10 USC 101 note.

(a) SHORT TITLE.—This Act may be cited as the "Hubbard Act".

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

Sec. 1. Short title; table of contents.
Sec. 2. Continued payment of bonuses and similar benefits for members of the Armed Forces who receive sole survivorship discharge.
Sec. 3. Availability of separation pay for members of the Armed Forces with less than six years of active service who receive sole survivorship discharge.
Sec. 4. Transitional health care for members of the Armed Forces who receive sole survivorship discharge.
Sec. 5. Transitional commissary and exchange benefits for members of the Armed Forces who receive sole survivorship discharge.
Sec. 6. Veterans benefits for members of the Armed Forces who receive sole survivorship discharge.
Sec. 7. Unemployment compensation for members of the Armed Forces who receive sole survivorship discharge.
Sec. 8. Preference-eligible status for members of the Armed Forces who receive sole survivorship discharge.
Sec. 9. Repeal of dollar limitation on contributions to funeral trusts.
Sec. 10. Effective dates.

**SEC. 2. CONTINUED PAYMENT OF BONUSES AND SIMILAR BENEFITS FOR MEMBERS OF THE ARMED FORCES WHO RECEIVE SOLE SURVIVORSHIP DISCHARGE.**

(a) EFFECT OF SOLE SURVIVORSHIP DISCHARGE.—Section 303a(e) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking "A member" and inserting "(A) Except as provided in paragraph (2), a member";

(2) by redesignating paragraph (2) as subparagraph (B) of paragraph (1); and

(3) by inserting after paragraph (1), as so amended, the following new paragraph (2):

"(2)(A) If a member of the uniformed services receives a sole survivorship discharge, the Secretary concerned—

"(i) shall not require repayment by the member of the unearned portion of any bonus, incentive pay, or similar benefit previously paid to the member; and

"(ii) may grant an exception to the requirement to terminate the payment of any unpaid amounts of a bonus, incentive pay, or similar benefit if the Secretary concerned determines that termination of the payment of the unpaid amounts would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

"(B) In this paragraph, the term 'sole survivorship discharge' means the separation of a member from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early separation of a member who is the only surviving child in a family in which—

"(i) the father or mother or one or more siblings—

"(I) served in the Armed Forces; and

"(II) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

"(ii) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.".

(b) SENSE OF CONGRESS.—In light of the extraordinary discretion granted to the Secretary of a military department by statute and policy to continue to pay the unpaid amounts of a bonus, incentive pay, or similar benefit otherwise due to a member of the Armed Forces under the jurisdiction of the Secretary who receives a sole survivorship discharge, it is the sense of Congress that the Secretaries of the military departments should aggressively use such discretion to the benefit of members receiving a sole survivorship discharge.

**SEC. 3. AVAILABILITY OF SEPARATION PAY FOR MEMBERS OF THE ARMED FORCES WITH LESS THAN SIX YEARS OF ACTIVE SERVICE WHO RECEIVE SOLE SURVIVORSHIP DISCHARGE.**

Section 1174 of title 10, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

"(i) SPECIAL RULE FOR MEMBERS RECEIVING SOLE SURVIVORSHIP DISCHARGE.—(1) A member of the Armed Forces who receives a sole survivorship discharge shall be entitled to separation pay under this section even though the member has completed less than six years of active service immediately before that discharge. Subsection (e) shall not apply to a member who receives a sole survivorship discharge.

"(2) The amount of the separation pay to be paid to a member pursuant to this subsection shall be based on the years of active service actually completed by the member before the member's sole survivorship discharge.

"(3) In this subsection, the term 'sole survivorship discharge' means the separation of a member from the Armed Forces, at the request of the member, pursuant to the Department of Defense

policy permitting the early separation of a member who is the only surviving child in a family in which—

"(A) the father or mother or one or more siblings—

"(i) served in the Armed Forces; and

"(ii) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

"(B) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.".

**SEC. 4. TRANSITIONAL HEALTH CARE FOR MEMBERS OF THE ARMED FORCES WHO RECEIVE SOLE SURVIVORSHIP DISCHARGE.**

Section 1145(a)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(E) A member who receives a sole survivorship discharge (as defined in section 1174(i) of this title).".

**SEC. 5. TRANSITIONAL COMMISSARY AND EXCHANGE BENEFITS FOR MEMBERS OF THE ARMED FORCES WHO RECEIVE SOLE SURVIVORSHIP DISCHARGE.**

Section 1146 of title 10, United States Code, is amended—

(1) by striking "The Secretary of Defense" and inserting the following:

"(a) BENEFITS FOR MEMBERS INVOLUNTARILY SEPARATED.—The Secretary of Defense"; and

(2) by adding at the end the following new subsection:

"(b) BENEFITS FOR MEMBERS RECEIVING SOLE SURVIVORSHIP DISCHARGE.—A member of the Armed Forces who receives a sole survivorship discharge (as defined in section 1174(i) of this title) is entitled to continue to use commissary and exchange stores and morale, welfare, and recreational facilities in the same manner as a member on active duty during the two-year period beginning on the later of the following dates:

"(1) The date of the separation of the member.

"(2) The date on which the member is first notified of the members entitlement to benefits under this section.".

**SEC. 6. VETERANS BENEFITS FOR MEMBERS OF THE ARMED FORCES WHO RECEIVE SOLE SURVIVORSHIP DISCHARGE.**

(a) HOUSING LOAN BENEFITS.—Section 3702(a)(2) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Each veteran who was discharged or released from a period of active duty of 90 days or more by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10).".

(b) EMPLOYMENT AND TRAINING.—Section 4211(4) of such title is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) was discharged or released from active duty by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10).".

(c) EXISTING BASIC EDUCATIONAL ASSISTANCE.—

(1) SERVICE ON ACTIVE DUTY.—Section 3011(a)(1) of such title is amended—

(A) in subparagraph (A)(ii), by inserting after "service-connected disability," the following: "by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10),";

(B) in subparagraph (B)(ii), by inserting after "service-connected disability," the following: "by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10),"; and

(C) in subparagraph (C)(iii)(II), by inserting after "service-connected disability," the following: "by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10),".

(2) SERVICE IN THE SELECTED RESERVE.—Section 3012(b)(1) of such title is amended—

(A) in subparagraph (A)—

(i) by striking ", or (vi)" and inserting ", (vi)"; and

(ii) by inserting before the period at the end the following: ", or (vii) by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10)"; and

(B) in subparagraph (B)—

(i) in clause (i), by inserting after "service-connected disability," the following: "by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10),"; and

(ii) in clause (ii)—

(I) by striking ", or (VI)" and inserting ", (VI)"; and

(II) by inserting before the period at the end the following: ", or (VII) by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10)".

**SEC. 7. UNEMPLOYMENT COMPENSATION FOR MEMBERS OF THE ARMED FORCES WHO RECEIVE SOLE SURVIVORSHIP DISCHARGE.**

Section 8521(a)(1)(B)(ii)(III) of title 5, United States Code, is amended by striking "hardship," and inserting "hardship (including pursuant to a sole survivorship discharge, as that term is defined in section 1174(i) of title 10),".

**SEC. 8. PREFERENCE-ELIGIBLE STATUS FOR MEMBERS OF THE ARMED FORCES WHO RECEIVE SOLE SURVIVORSHIP DISCHARGE.**

Section 2108(3) of title 5, United States Code, is amended—

(1) in subparagraph (F), by striking "and" at the end;

(2) in subparagraph (G), by inserting "and" at the end; and

(3) by inserting after subparagraph (G) the following:

"(H) a veteran who was discharged or released from a period of active duty by reason of a sole survivorship

discharge (as that term is defined in section 1174(i) of title 10);".

**SEC. 9. REPEAL OF DOLLAR LIMITATION ON CONTRIBUTIONS TO FUNERAL TRUSTS.**

26 USC 685.

(a) IN GENERAL.—Subsection (c) of section 685 of the Internal Revenue Code of 1986 (relating to treatment of funeral trusts) is repealed.

(b) CONFORMING AMENDMENT.—Subsections (d), (e), and (f) of such section are redesignated as subsections (c), (d), and (e), respectively.

26 USC 685 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Applicability.
5 USC 2108 note.

**SEC. 10. EFFECTIVE DATES.**

(a) RETROACTIVE EFFECTIVE DATE.—Except as provided in subsection (b) and section 9, this Act and the amendments made by this Act shall apply with respect to any sole survivorship discharge granted after September 11, 2001.

(b) DATE OF ENACTMENT EFFECTIVE DATE FOR CERTAIN AMENDMENTS.—The amendments made by sections 4, 7, and 8 shall apply with respect to any sole survivorship discharge granted after the date of the enactment of this Act.

(c) SOLE SURVIVORSHIP DISCHARGE DEFINED.—In this section, the term "sole survivorship discharge" means the separation of a member from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early separation of a member who is the only surviving child in a family in which—

(1) the father or mother or one or more siblings—

(A) served in the Armed Forces; and

(B) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

(2) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or

sibling and was not incurred during a period of unauthorized absence.

Approved August 29, 2008.

LEGISLATIVE HISTORY—H.R. 6580:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 29, considered and passed House.
Aug. 1, considered and passed Senate.

# An Act

Sept. 15, 2008
[H.R. 6532]

To amend the Internal Revenue Code of 1986 to restore the Highway Trust Fund balance.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. RESTORATION OF HIGHWAY TRUST FUND BALANCE.**

26 USC 9503.

(a) IN GENERAL.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 (relating to determination of trust fund balances after September 30, 1998) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by moving such subparagraphs 2 ems to the right,

(2) by striking "For purposes" and inserting the following: "(1) IN GENERAL.—For purposes",

(3) by moving the flush sentence at the end of paragraph (1), as so amended, 2 ems to the right, and

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

Appropriation authorization.

"(2) RESTORATION OF FUND BALANCE.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated to the Highway Trust Fund $8,017,000,000.".

(b) CONFORMING AMENDMENT.—The last sentence of section 9503(f)(1) of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by striking "subsection" and inserting "paragraph".

26 USC 9503 note.

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

Approved September 15, 2008.

LEGISLATIVE HISTORY—H.R. 6532:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 23, considered and passed House.
Sept. 10, considered and passed Senate, amended.
Sept. 11, House concurred in Senate amendment.

Public Law 110–319
110th Congress

# An Act

To designate the United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, as the "Theodore Roosevelt United States Courthouse".

Sept. 17, 2008
[S. 2837]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. THEODORE ROOSEVELT UNITED STATES COURTHOUSE.**

(a) DESIGNATION.—The United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, shall be known and designated as the "Theodore Roosevelt United States Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "Theodore Roosevelt United States Courthouse".

Approved September 17, 2008.

LEGISLATIVE HISTORY—S. 2837:

HOUSE REPORTS: No. 110–823 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 24, considered and passed Senate.
Sept. 8, considered and passed House.

# Public Law 110–320
# 110th Congress

## An Act

Sept. 18, 2008
[S. 2403]

To designate the United States courthouse located in the 700 block of East Broad Street, Richmond, Virginia, as the "Spottswood W. Robinson III and Robert R. Merhige, Jr., United States Courthouse".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States courthouse located in the 700 block of East Broad Street, Richmond, Virginia, shall be known and designated as the "Spottswood W. Robinson III and Robert R. Merhige, Jr., United States Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Spottswood W. Robinson III and Robert R. Merhige, Jr., United States Courthouse".

Approved September 18, 2008.

LEGISLATIVE HISTORY—S. 2403:

HOUSE REPORTS: No. 110–824 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 24, considered and passed Senate.
Sept. 8, considered and passed House, amended.
Sept. 9, Senate concurred in House amendments.

Public Law 110–321
110th Congress

# An Act

To provide for extensions of certain authorities of the Department of State, and for other purposes.

Sept. 19, 2008
[H.R. 6456]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF AUTHORITY FOR REEMPLOYMENT OF FOREIGN SERVICE ANNUITANTS.**

Section 824(g)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)(2)) is amended by striking "2008" each place it appears and inserting "2009".

**SEC. 2. INCLUSION OF UNITED STATES TERRITORIES AS ELIGIBLE FOR REST AND RECUPERATION TRAVEL FOR MEMBERS OF THE FOREIGN SERVICE.**

The Foreign Service Act of 1980 is amended—

(1) in section 901(6)(B) (22 U.S.C. 4081(6)(B)), by inserting after "United States" the following: "or its territories, including American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands"; and

(2) in section 903(b) (22 U.S.C. 4083(b)), by striking ", its territories and possessions, or the Commonwealth of Puerto Rico" and inserting "or its territories, including American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands".

**SEC. 3. EXTENSION OF AUTHORITY TO PAY SUBSISTENCE OF SPECIAL AGENTS ON PROTECTIVE DETAILS.**

Section 32 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2704) is amended, in the first sentence, by striking "on authorized protective missions, and" and inserting "on authorized protective missions, whether at or away from their duty stations, and".

**SEC. 4. EXTENSION OF AUTHORITY FOR RADIO FREE ASIA.**

Section 309(c)(2) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6208(c)(2)) is amended by striking "2009" and inserting "2010".

**SEC. 5. EXTENSION OF PERSONNEL AUTHORITIES FOR INTERNATIONAL BROADCASTING ACTIVITIES.**

Section 504(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 6206 note) is amended by striking "2008" and inserting "2009".

Approved September 19, 2008.

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LEGISLATIVE HISTORY—H.R. 6456:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 30, considered and passed House.
Sept. 8, considered and passed Senate.

Public Law 110–322
110th Congress

# An Act

To amend the Federal Rules of Evidence to address the waiver of the attorney-client privilege and the work product doctrine.

Sept. 19, 2008
[S. 2450]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ATTORNEY-CLIENT PRIVILEGE AND WORK PRODUCT; LIMITATIONS ON WAIVER.**

(a) IN GENERAL.—Article V of the Federal Rules of Evidence is amended by adding at the end the following:

**"Rule 502. Attorney-Client Privilege and Work Product; Limitations on Waiver**

28 USC app.

"The following provisions apply, in the circumstances set out, to disclosure of a communication or information covered by the attorney-client privilege or work-product protection.

"(a) DISCLOSURE MADE IN A FEDERAL PROCEEDING OR TO A FEDERAL OFFICE OR AGENCY; SCOPE OF A WAIVER.—When the disclosure is made in a Federal proceeding or to a Federal office or agency and waives the attorney-client privilege or work-product protection, the waiver extends to an undisclosed communication or information in a Federal or State proceeding only if:

"(1) the waiver is intentional;

"(2) the disclosed and undisclosed communications or information concern the same subject matter; and

"(3) they ought in fairness to be considered together.

"(b) INADVERTENT DISCLOSURE.—When made in a Federal proceeding or to a Federal office or agency, the disclosure does not operate as a waiver in a Federal or State proceeding if:

"(1) the disclosure is inadvertent;

"(2) the holder of the privilege or protection took reasonable steps to prevent disclosure; and

"(3) the holder promptly took reasonable steps to rectify the error, including (if applicable) following Federal Rule of Civil Procedure 26(b)(5)(B).

"(c) DISCLOSURE MADE IN A STATE PROCEEDING.—When the disclosure is made in a State proceeding and is not the subject of a State-court order concerning waiver, the disclosure does not operate as a waiver in a Federal proceeding if the disclosure:

"(1) would not be a waiver under this rule if it had been made in a Federal proceeding; or

"(2) is not a waiver under the law of the State where the disclosure occurred.

"(d) CONTROLLING EFFECT OF A COURT ORDER.—A Federal court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court—in which event the disclosure is also not a waiver in any other Federal or State proceeding.

"(e) CONTROLLING EFFECT OF A PARTY AGREEMENT.—An agreement on the effect of disclosure in a Federal proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.

"(f) CONTROLLING EFFECT OF THIS RULE.—Notwithstanding Rules 101 and 1101, this rule applies to State proceedings and to Federal court-annexed and Federal court-mandated arbitration proceedings, in the circumstances set out in the rule. And notwithstanding Rule 501, this rule applies even if State law provides the rule of decision.

"(g) DEFINITIONS.—In this rule:

"(1) 'attorney-client privilege' means the protection that applicable law provides for confidential attorney-client communications; and

"(2) 'work-product protection' means the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation or for trial.".

(b) TECHNICAL AND CONFORMING CHANGES.—The table of contents for the Federal Rules of Evidence is amended by inserting after the item relating to rule 501 the following:

"502. Attorney-client privilege and work-product doctrine; limitations on waiver.".

28 USC app.

(c) EFFECTIVE DATE.—The amendments made by this Act shall apply in all proceedings commenced after the date of enactment of this Act and, insofar as is just and practicable, in all proceedings pending on such date of enactment.

Approved September 19, 2008.

LEGISLATIVE HISTORY—S. 2450:

SENATE REPORTS: No. 110–264 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 27, considered and passed Senate.
Sept. 8, considered and passed House.

Public Law 110–323
110th Congress

# An Act

To make certain reforms with respect to the Government Accountability Office, and for other purposes.

Sept. 22, 2008
[H.R. 5683]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Government Accountability Office Act of 2008.
31 USC 701 note.

**SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Government Accountability Office Act of 2008".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 31, United States Code.

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

Sec. 1. Short title; references; table of contents.
Sec. 2. Provisions relating to future annual pay adjustments.
Sec. 3. Pay adjustment relating to certain previous years.
Sec. 4. Lump-sum payment for certain performance-based compensation.
Sec. 5. Inspector General.
Sec. 6. Reimbursement of audit costs.
Sec. 7. Financial disclosure requirements.
Sec. 8. Highest basic pay rate.
Sec. 9. Additional authorities.

**SEC. 2. PROVISIONS RELATING TO FUTURE ANNUAL PAY ADJUSTMENTS.**

(a) IN GENERAL.—Section 732 is amended by adding at the end the following: 31 USC 732.

"(j)(1) For purposes of this subsection—

"(A) the term 'pay increase', as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under section 731(b) and subsection (c)(3) in such year;

"(B) the term 'required minimum percentage', as used with respect to an officer or employee in connection with a year, means the percentage equal to the total increase in rates of basic pay (expressed as a percentage) taking effect under sections 5303 and 5304–5304a of title 5 in such year with respect to General Schedule positions within the pay locality (as defined by section 5302(5) of title 5) in which the position of such officer or employee is located;

"(C) the term 'covered officer or employee', as used with respect to a pay increase, means any individual—

"(i) who is an officer or employee of the Government Accountability Office, other than an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1) of the Government Accountability Office Act of 2008, determined as of the effective date of such pay increase; and

"(ii) whose performance is at least at a satisfactory level, as determined by the Comptroller General under the provisions of subsection (c)(3) for purposes of the adjustment taking effect under such provisions in such year; and

"(D) the term 'nonpermanent merit pay' means any amount payable under section 731(b) which does not constitute basic pay.

"(2)(A) Notwithstanding any other provision of this chapter, if (disregarding this subsection) the pay increase that would otherwise take effect with respect to a covered officer or employee in a year would be less than the required minimum percentage for such officer or employee in such year, the Comptroller General shall provide for a further increase in the rate of basic pay of such officer or employee.

"(B) The further increase under this subsection—

"(i) shall be equal to the amount necessary to make up for the shortfall described in subparagraph (A); and

"(ii) shall take effect as of the same date as the pay increase otherwise taking effect in such year.

"(C) Nothing in this paragraph shall be considered to permit or require that a rate of basic pay be increased to an amount inconsistent with the limitation set forth in subsection (c)(2).

"(D) If (disregarding this subsection) the covered officer or employee would also have received any nonpermanent merit pay in such year, such nonpermanent merit pay shall be decreased by an amount equal to the portion of such officer's or employee's basic pay for such year which is attributable to the further increase described in subparagraph (A) (as determined by the Comptroller General), but to not less than zero.

"(3) Notwithstanding any other provision of this chapter, the effective date of any pay increase (within the meaning of paragraph (1)(A)) taking effect with respect to a covered officer or employee in any year shall be the same as the effective date of any adjustment taking effect under section 5303 of title 5 with respect to statutory pay systems (as defined by section 5302(1) of title 5) in such year.".

31 USC 732 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any pay increase (as defined by such amendment) taking effect on or after the date of the enactment of this Act.

31 USC 732 note.

**SEC. 3. PAY ADJUSTMENT RELATING TO CERTAIN PREVIOUS YEARS.**

(a) APPLICABILITY.—This section applies in the case of any individual who, as of the date of the enactment of this Act, is an officer or employee of the Government Accountability Office, excluding—

(1) an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1); and

(2) an officer or employee who received both a 2.6 percent pay increase in January 2006 and a 2.4 percent pay increase in February 2007.

(b) PAY INCREASE DEFINED.—For purposes of this section, the term "pay increase", as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under sections 731(b) and 732(c)(3) of title 31, United States Code, in such year.

(c) PROSPECTIVE EFFECT.—Effective with respect to pay for service performed in any pay period beginning after the end of the 6-month period beginning on the date of the enactment of this Act (or such earlier date as the Comptroller General may specify), the rate of basic pay for each individual to whom this section applies shall be determined as if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, subject to subsection (e). Effective date.

(d) LUMP-SUM PAYMENT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall, subject to the availability of appropriations, pay to each individual to whom this section applies a lump-sum payment. Subject to subsection (e), such lump-sum payment shall be equal to— Deadline.

(1)(A) the total amount of basic pay that would have been paid to the individual, for service performed during the period beginning on the effective date of the pay increase for 2006 and ending on the day before the effective date of the pay adjustment under subsection (c) (or, if earlier, the date on which the individual retires or otherwise ceases to be employed by the Government Accountability Office), if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, minus

(B) the total amount of basic pay that was in fact paid to the individual for service performed during the period described in subparagraph (A); and

(2) increased by 4 percent of the amount calculated under paragraph (1).

Eligibility for a lump-sum payment under this subsection shall be determined solely on the basis of whether an individual satisfies the requirements of subsection (a) (to be considered an individual to whom this section applies), and without regard to such individual's employment status as of any date following the date of the enactment of this Act or any other factor.

(e) CONDITIONS.—Nothing in subsection (c) or (d) shall be considered to permit or require—

(1) the payment of any rate (or portion of the lump-sum amount as calculated under subsection (d)(1) based on a rate) for any pay period, to the extent that such rate would be (or would have been) inconsistent with the limitation that applies (or that applied) with respect to such pay period under section 732(c)(2) of title 31, United States Code; or

(2) the payment of any rate or amount based on the pay increase for 2006 or 2007 (as the case may be), if—

(A) the performance of the officer or employee involved was not at a satisfactory level, as determined by the Comptroller General under paragraph (3) of section 732(c) of such title 31 for purposes of the adjustment under such paragraph for that year; or

(B) the individual involved was not an officer or employee of the Government Accountability Office on the date as of which that increase took effect.

As used in paragraph (2)(A), the term "satisfactory" includes a rating of "meets expectations" (within the meaning of the performance appraisal system used for purposes of the adjustment under section 732(c)(3) of such title 31 for the year involved).

(f) RETIREMENT.—

(1) IN GENERAL.—The portion of the lump-sum payment paid under subsection (d) to an officer or employee as calculated under subsection (d)(1) shall, for purposes of any determination of the average pay (as defined by section 8331 or 8401 of title 5, United States Code) which is used to compute an annuity under subchapter III of chapter 83 or chapter 84 of such title—

(A) be treated as basic pay (as defined by section 8331 or 8401 of such title); and

(B) be allocated to the biweekly pay periods covered by subsection (d).

(2) CONTRIBUTIONS TO CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(A) EMPLOYEE CONTRIBUTIONS.—The Government Accountability Office shall deduct and withhold from the lump-sum payment paid to each employee under subsection (d) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, if the portion of the lump-sum payment as calculated under subsection (d)(1) had been additionally paid as basic pay during the period described under subsection (d)(1) of this section; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period.

Deadline.

(B) AGENCY CONTRIBUTIONS AND PAYMENT TO THE FUND.—Not later than 9 months after the Government Accountability Office makes the lump-sum payments under subsection (d), the Government Accountability Office shall pay into the Civil Service Retirement and Disability Fund—

(i) the amount of each deduction and withholding under subparagraph (A); and

(ii) an amount for applicable agency contributions under section 8334 or 8423 of title 5, United states Code, based on payments made under clause (i).

(g) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any individuals to whom this section applies (as described in subsection (a)) have for any claim that they are owed any monies denied to them in the form of a pay increase for 2006 or 2007 under section 732(c)(3) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such individuals that they were due money in the form of a pay increase for 2006 or 2007 pursuant to such section 732(c)(3) or any other law.

**SEC. 4. LUMP-SUM PAYMENT FOR CERTAIN PERFORMANCE-BASED COMPENSATION.**

31 USC 732 note.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall, subject to the availability of appropriations, pay to each qualified individual a lump-sum payment equal to the amount of performance-based compensation such individual was denied for 2006, as determined under subsection (b).

Deadline.

(b) AMOUNT.—The amount payable to a qualified individual under this section shall be equal to—

(1) the total amount of performance-based compensation such individual would have earned for 2006 (determined by applying the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006) if such individual had not had a salary equal to or greater than the maximum for such individual's band (as further described in subsection (c)(2)), less

(2) the total amount of performance-based compensation such individual was in fact granted, in January 2006, for that year.

(c) QUALIFIED INDIVIDUAL.—For purposes of this section, the term "qualified individual" means an individual who—

(1) as of the date of the enactment of this Act, is an officer or employee of the Government Accountability Office, excluding—

(A) an individual holding a position subject to section 732a or 733 of title 31, United States Code (disregarding section 732a(b) and 733(c) of such title);

(B) a Federal Wage System employee; and

(C) an individual participating in a development program under which such individual receives performance appraisals, and is eligible to receive permanent merit pay increases, more than once a year; and

(2) as of January 22, 2006, was a Band I staff member with a salary above the Band I cap, a Band IIA staff member with a salary above the Band IIA cap, or an administrative professional or support staff member with a salary above the cap for that individual's pay band (determined in accordance with the orders cited in subsection (b)(1)).

(d) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any officers and employees (as described in subsection (c)) have for any claim that they are owed any monies denied to them in the form of merit pay for 2006 under section 731(b) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body in the United States, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such officers or employees that they were due money in the form of merit pay for 2006 pursuant to such section 731(b) or any other law.

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

(1) the term "performance-based compensation" has the meaning given such term under the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006; and

(2) the term "permanent merit pay increase" means an increase under section 731(b) of title 31, United States Code, in a rate of basic pay.

**SEC. 5. INSPECTOR GENERAL.**

(a) IN GENERAL.—Subchapter I of chapter 7 is amended by adding at the end the following:

**"§ 705. Inspector General for the Government Accountability Office**

"(a) ESTABLISHMENT OF OFFICE.—There is established an Office of the Inspector General in the Government Accountability Office, to—

"(1) conduct and supervise audits consistent with generally accepted government auditing standards and investigations relating to the Government Accountability Office;

"(2) provide leadership and coordination and recommend policies, to promote economy, efficiency, and effectiveness in the Government Accountability Office; and

"(3) keep the Comptroller General and Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations of the Government Accountability Office.

"(b) APPOINTMENT, SUPERVISION, AND REMOVAL.—

"(1) The Office of the Inspector General shall be headed by an Inspector General, who shall be appointed by the Comptroller General without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the Comptroller General.

"(2) The Inspector General may be removed from office by the Comptroller General. The Comptroller General shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of Congress.

"(3) The Inspector General shall be paid at an annual rate of pay equal to $5,000 less than the annual rate of pay of the Comptroller General, and may not receive any cash award or bonus, including any award under chapter 45 of title 5.

"(c) AUTHORITY OF INSPECTOR GENERAL.—In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, may—

"(1) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that relate to programs and operations of the Government Accountability Office;

"(2) make such investigations and reports relating to the administration of the programs and operations of the Government Accountability Office as are, in the judgment of the Inspector General, necessary or desirable;

"(3) request such documents and information as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal agency;

"(4) in the performance of the functions assigned by this section, obtain all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence from a person not in the United States Government or from a Federal agency, to the same extent and in the same manner as the Comptroller General under the authority and procedures available to the Comptroller General in section 716 of this title;

"(5) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this section, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;

"(6) have direct and prompt access to the Comptroller General when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

"(7) report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law; and

"(8) provide copies of all reports to the Audit Advisory Committee of the Government Accountability Office and provide such additional information in connection with such reports as is requested by the Committee.

"(d) COMPLAINTS BY EMPLOYEES.—

"(1) The Inspector General—

"(A) subject to subparagraph (B), may receive, review, and investigate, as the Inspector General considers appropriate, complaints or information from an employee of the Government Accountability Office concerning the possible existence of an activity constituting a violation of any law, rule, or regulation, mismanagement, or a gross waste of funds; and

"(B) shall refer complaints or information concerning violations of personnel law, rules, or regulations to established investigative and adjudicative entities of the Government Accountability Office.

"(2) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

"(3) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

"(e) SEMIANNUAL REPORTS.—(1) The Inspector General shall submit semiannual reports summarizing the activities of the Office of the Inspector General to the Comptroller General. Such reports shall include, but need not be limited to—

"(A) a summary of each significant report made during the reporting period, including a description of significant problems, abuses, and deficiencies disclosed by such report;

"(B) a description of the recommendations for corrective action made with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

"(C) a summary of the progress made in implementing such corrective action described pursuant to subparagraph (B); and

"(D) information concerning any disagreement the Comptroller General has with a recommendation of the Inspector General.

"(2) The Comptroller General shall transmit the semiannual reports of the Inspector General, together with any comments the Comptroller General considers appropriate, to Congress within 30 days after receipt of such reports.

"(f) INDEPENDENCE IN CARRYING OUT DUTIES AND RESPONSIBILITIES.—The Comptroller General may not prevent or prohibit the Inspector General from carrying out any of the duties or responsibilities of the Inspector General under this section.

"(g) AUTHORITY FOR STAFF.—

"(1) IN GENERAL.—The Inspector General shall select, appoint, and employ (including fixing and adjusting the rates of pay of) such personnel as may be necessary to carry out this section consistent with the provisions of this title governing selections, appointments, and employment (including the fixing and adjusting the rates of pay) in the Government Accountability Office. Such personnel shall be appointed, promoted, and assigned only on the basis of merit and fitness, but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service, except that no personnel of the Office may be paid at an annual rate greater than $1,000 less than the annual rate of pay of the Inspector General.

"(2) EXPERTS AND CONSULTANTS.—The Inspector General may procure temporary and intermittent services under section 3109 of title 5 at rates not to exceed the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title.

"(3) INDEPENDENCE IN APPOINTING STAFF.—No individual may carry out any of the duties or responsibilities of the Office of the Inspector General unless the individual is appointed by the Inspector General, or provides services obtained by the Inspector General, pursuant to this paragraph.

"(4) LIMITATION ON PROGRAM RESPONSIBILITIES.—The Inspector General and any individual carrying out any of the duties or responsibilities of the Office of the Inspector General are prohibited from performing any program responsibilities.

"(h) OFFICE SPACE.—The Comptroller General shall provide the Office of the Inspector General—

"(1) appropriate and adequate office space;

"(2) such equipment, office supplies, and communications facilities and services as may be necessary for the operation of the Office of the Inspector General;

"(3) necessary maintenance services for such office space, equipment, office supplies, and communications facilities; and

"(4) equipment and facilities located in such office space.

"(i) DEFINITION.—As used in this section, the term 'Federal agency' means a department, agency, instrumentality, or unit thereof, of the Federal Government.".

(b) INCUMBENT.—The individual who serves in the position of Inspector General of the Government Accountability Office on the date of the enactment of this Act shall continue to serve in such position subject to removal in accordance with the amendments made by this section. 31 USC 705 note.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 7 is amended by inserting after the item relating to section 704 the following:

"705. Inspector General for the Government Accountability Office.".

**SEC. 6. REIMBURSEMENT OF AUDIT COSTS.**

(a) IN GENERAL.—Section 3521 is amended by adding at the end the following:

"(i)(1) If the Government Accountability Office audits any financial statement or related schedule which is prepared under section 3515 by an executive agency (or component thereof) for a fiscal year beginning on or after October 1, 2009, such executive agency (or component) shall reimburse the Government Accountability Office for the cost of such audit, if the Government Accountability Office audited the statement or schedule of such executive agency (or component) for fiscal year 2007.

"(2) Any executive agency (or component thereof) that prepares a financial statement under section 3515 for a fiscal year beginning on or after October 1, 2009, and that requests, with the concurrence of the Inspector General of such agency, the Government Accountability Office to conduct the audit of such statement or any related schedule required by section 3521 may reimburse the Government Accountability Office for the cost of such audit.

"(3) For the audits conducted under paragraphs (1) and (2), the Government Accountability Office shall consult prior to the initiation of the audit with the relevant executive agency (or component) and the Inspector General of such agency on the scope, terms, and cost of such audit.

"(4) Any reimbursement under paragraph (1) or (2) shall be deposited to a special account in the Treasury and shall be available to the Government Accountability Office for such purposes and in such amounts as are specified in annual appropriations Acts.".

(b) CONFORMING AMENDMENT.—Section 1401 of title I of Public Law 108–83 (31 U.S.C. 3523 note) is repealed, effective October 1, 2010. Effective date.

**SEC. 7. FINANCIAL DISCLOSURE REQUIREMENTS.**

Section 109(13)(B) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in clause (i), by inserting "(except any officer or employee of the Government Accountability Office)" after "legislative branch", and by striking "and" at the end;

(2) by redesignating clause (ii) as clause (iii); and

(3) by inserting after clause (i) the following:

"(ii) each officer or employee of the Government Accountability Office who, for at least 60 consecutive days, occupies a position for which the rate of basic pay, minus the amount of locality pay that would have been authorized under section 5304 of title 5, United States Code (had

the officer or employee been paid under the General Schedule) for the locality within which the position of such officer or employee is located (as determined by the Comptroller General), is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and".

**SEC. 8. HIGHEST BASIC PAY RATE.**

31 USC 732.

Section 732(c)(2) is amended by striking "highest basic rate for GS–15;" and inserting "rate for level III of the Executive Level, except that the total amount of cash compensation in any year shall be subject to the limitations provided under section 5307(a)(1) of title 5;".

**SEC. 9. ADDITIONAL AUTHORITIES.**

(a) IN GENERAL.—Section 731 is amended—

(1) by repealing subsection (d);

(2) in subsection (e)—

(A) in the matter before paragraph (1), by striking "maximum daily rate for GS–18 under section 5332 of such title" and inserting "daily rate for level IV of the Executive Schedule"; and

(B) by striking "more than—" and all that follows and inserting the following: "more than 20 experts and consultants may be procured for terms of not more than 3 years, but which shall be renewable."; and

(3) by adding at the end the following:

"(j) Funds appropriated to the Government Accountability Office for salaries and expenses are available for meals and other related reasonable expenses incurred in connection with recruitment.".

(b) CONFORMING AMENDMENTS.—(1) Section 732a(b) is amended by striking "section 731(d), (e)(1), or (e)(2)" and inserting "paragraph (1) or (2) of section 731(e)".

(2) Section 733(c) is amended by striking "(d),".

(3) Section 735(a) is amended by striking "731(c)–(e)," and inserting "731(c) and (e),".

Approved September 22, 2008.

LEGISLATIVE HISTORY—H.R. 5683:

HOUSE REPORTS: No. 110–671 (Comm. on Oversight and Government Reform).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 9, considered and passed House.
Aug. 1, considered and passed Senate, amended.
Sept. 9, House concurred in Senate amendment.

# Public Law 110–324
# 110th Congress

## An Act

To amend title 38, United States Code, to codify increases in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans that were effective as of December 1, 2007, to provide for an increase in the rates of such compensation effective December 1, 2008, and for other purposes.

Sept. 24, 2008
[S. 2617]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Veterans' Compensation Cost-of-Living Adjustment Act of 2008.
38 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 2008".

**SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.**

Effective date.
38 USC 1114 note.

(a) RATE ADJUSTMENT.—Effective on December 1, 2008, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on November 30, 2008, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) WARTIME DISABILITY COMPENSATION.—Each of the dollar amounts under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount under section 1162 of such title.

(4) DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.—Each of the dollar amounts under subsections (a) through (d) of section 1311 of such title.

(5) DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.—Each of the dollar amounts under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—

(1) PERCENTAGE.—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2008, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) ROUNDING.—Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

38 USC 1114 note.

(d) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38, United States Code.

Federal Register, publication. Deadline. 38 USC 1114 note.

(e) PUBLICATION OF ADJUSTED RATES.—The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b), as increased under that subsection, not later than the date on which the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2009.

**SEC. 3. CODIFICATION OF 2007 COST-OF-LIVING ADJUSTMENT IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) in subsection (a), by striking "$115" and inserting "$117";

(2) in subsection (b), by striking "$225" and inserting "$230";

(3) in subsection (c), by striking "$348" and inserting "$356";

(4) in subsection (d), by striking "$501" and inserting "$512";

(5) in subsection (e), by striking "$712" and inserting "$728";

(6) in subsection (f), by striking "$901" and inserting "$921";

(7) in subsection (g), by striking "$1,135" and inserting "$1,161";

(8) in subsection (h), by striking "$1,319" and inserting "$1,349";

(9) in subsection (i), by striking "$1,483" and inserting "$1,517";

(10) in subsection (j), by striking "$2,471" and inserting "$2,527";

(11) in subsection (k)—

(A) by striking "$89" both places it appears and inserting "$91"; and

(B) by striking "$3,075" and "$4,313" and inserting "$3,145" and "$4,412", respectively;

(12) in subsection (l), by striking "$3,075" and inserting "$3,145";

(13) in subsection (m), by striking "$3,392" and inserting "$3,470";

(14) in subsection (n), by striking "$3,860" and inserting "$3,948";

(15) in subsections (o) and (p), by striking "$4,313" each place it appears and inserting "$4,412";

(16) in subsection (r), by striking "$1,851" and "$2,757" and inserting "$1,893" and "$2,820", respectively; and

(17) in subsection (s), by striking "$2,766" and inserting "$2,829".

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended— 38 USC 1115.

(1) in subparagraph (A), by striking "$139" and inserting "$142";

(2) in subparagraph (B), by striking "$240" and "$70" and inserting "$245" and "$71", respectively;

(3) in subparagraph (C), by striking "$94" and "$70" and inserting "$96" and "$71", respectively;

(4) in subparagraph (D), by striking "$112" and inserting "$114";

(5) in subparagraph (E), by striking "$265" and inserting "$271"; and

(6) in subparagraph (F), by striking "$222" and inserting "$227".

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking "$662" and inserting "$677".

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Section 1311(a) of such title is amended—

(A) in paragraph (1), by striking "$1,067" and inserting "$1,091"; and

(B) in paragraph (2), by striking "$228" and inserting "$233".

(2) OLD LAW DIC.—The table in paragraph (3) of such section is amended to read as follows:

| "Pay grade | Monthly rate | Pay grade | Monthly rate |
|---|---|---|---|
| E–1 | $1,091 | W–4 | $1,305 |
| E–2 | $1,091 | O–1 | $1,153 |
| E–3 | $1,091 | O–2 | $1,191 |
| E–4 | $1,091 | O–3 | $1,274 |
| E–5 | $1,091 | O–4 | $1,349 |
| E–6 | $1,091 | O–5 | $1,485 |
| E–7 | $1,129 | O–6 | $1,674 |
| E–8 | $1,191 | O–7 | $1,808 |
| E–9 | $1,242[1] | O–8 | $1,985 |
| W–1 | $1,153 | O–9 | $2,123 |
| W–2 | $1,198 | O–10 | $2,328[2] |
| W–3 | $1,234 | | |

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,342.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,499."

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Section 1311 of such title is amended—

(A) in subsection (b), by striking "$265" and inserting "$271";

(B) in subsection (c), by striking "$265" and inserting "$271"; and

(C) in subsection (d), by striking "$126" and inserting "$128".

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) of such title is amended— 38 USC 1313.

(A) in paragraph (1), by striking "$452" and inserting "$462";

(B) in paragraph (2), by striking "$649" and inserting "$663";

(C) in paragraph (3), by striking "$846" and inserting "$865"; and

(D) in paragraph (4), by striking "$846" and "$162" and inserting "$865" and "$165", respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 of such title is amended—

(A) in subsection (a), by striking "$265" and inserting "$271";

(B) in subsection (b), by striking "$452" and inserting "$462"; and

(C) in subsection (c), by striking "$225" and inserting "$230".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 1, 2007. 38 USC 1114 note.

Approved September 24, 2008.

LEGISLATIVE HISTORY—S. 2617 (H.R. 5826):

HOUSE REPORTS: No. 110–643 accompanying H.R. 5826 (Comm. on Veterans' Affairs).

SENATE REPORTS: No. 110–430 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 154 (2008):

July 30, considered and passed Senate.

Sept. 9, 10, considered and passed House.

Public Law 110–325
110th Congress

# An Act

To restore the intent and protections of the Americans with Disabilities Act of 1990.

Sept. 25, 2008
[S. 3406]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

ADA Amendments Act of 2008.
42 USC 12101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "ADA Amendments Act of 2008".

42 USC 12101 note.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" and provide broad coverage;

(2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

(3) while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of a handicapped individual under the Rehabilitation Act of 1973, that expectation has not been fulfilled;

(4) the holdings of the Supreme Court in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) and its companion cases have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect;

(5) the holding of the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) further narrowed the broad scope of protection intended to be afforded by the ADA;

(6) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities;

(7) in particular, the Supreme Court, in the case of Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), interpreted the term "substantially limits" to require a greater degree of limitation than was intended by Congress; and

(8) Congress finds that the current Equal Employment Opportunity Commission ADA regulations defining the term "substantially limits" as "significantly restricted" are inconsistent with congressional intent, by expressing too high a standard.

(b) PURPOSES.—The purposes of this Act are—

(1) to carry out the ADA's objectives of providing "a clear and comprehensive national mandate for the elimination of discrimination" and "clear, strong, consistent, enforceable standards addressing discrimination" by reinstating a broad scope of protection to be available under the ADA;

(2) to reject the requirement enunciated by the Supreme Court in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;

(3) to reject the Supreme Court's reasoning in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in School Board of Nassau County v. Arline, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;

(4) to reject the standards enunciated by the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), that the terms "substantially" and "major" in the definition of disability under the ADA "need to be interpreted strictly to create a demanding standard for qualifying as disabled," and that to be substantially limited in performing a major life activity under the ADA "an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives";

(5) to convey congressional intent that the standard created by the Supreme Court in the case of Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) for "substantially limits", and applied by lower courts in numerous decisions, has created an inappropriately high level of limitation necessary to obtain coverage under the ADA, to convey that it is the intent of Congress that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations, and to convey that the question of whether an individual's impairment is a disability under the ADA should not demand extensive analysis; and

(6) to express Congress' expectation that the Equal Employment Opportunity Commission will revise that portion of its current regulations that defines the term "substantially limits" as "significantly restricted" to be consistent with this Act, including the amendments made by this Act.

**SEC. 3. CODIFIED FINDINGS.**

Section 2(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society,

yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;";

(2) by striking paragraph (7); and

(3) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

**SEC. 4. DISABILITY DEFINED AND RULES OF CONSTRUCTION.**

(a) DEFINITION OF DISABILITY.—Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102) is amended to read as follows:

**"SEC. 3. DEFINITION OF DISABILITY.**

"As used in this Act:

"(1) DISABILITY.—The term 'disability' means, with respect to an individual—

"(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

"(B) a record of such an impairment; or

"(C) being regarded as having such an impairment (as described in paragraph (3)).

"(2) MAJOR LIFE ACTIVITIES.—

"(A) IN GENERAL.—For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

"(B) MAJOR BODILY FUNCTIONS.—For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

"(3) REGARDED AS HAVING SUCH AN IMPAIRMENT.—For purposes of paragraph (1)(C):

"(A) An individual meets the requirement of 'being regarded as having such an impairment' if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

"(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

"(4) RULES OF CONSTRUCTION REGARDING THE DEFINITION OF DISABILITY.—The definition of 'disability' in paragraph (1) shall be construed in accordance with the following:

"(A) The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.

"(B) The term 'substantially limits' shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

"(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

"(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

"(E)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

"(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

"(II) use of assistive technology;

"(III) reasonable accommodations or auxiliary aids or services; or

"(IV) learned behavioral or adaptive neurological modifications.

"(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

"(iii) As used in this subparagraph—

"(I) the term 'ordinary eyeglasses or contact lenses' means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

"(II) the term 'low-vision devices' means devices that magnify, enhance, or otherwise augment a visual image.".

(b) CONFORMING AMENDMENT.—The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is further amended by adding after section 3 the following:

42 USC 12103.

**"SEC. 4. ADDITIONAL DEFINITIONS.**

"As used in this Act:

"(1) AUXILIARY AIDS AND SERVICES.—The term 'auxiliary aids and services' includes—

"(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

"(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

"(C) acquisition or modification of equipment or devices; and

"(D) other similar services and actions.

"(2) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

(c) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents contained in section 1(b) of the Americans with Disabilities

Act of 1990 is amended by striking the item relating to section 3 and inserting the following items:

"Sec. 3. Definition of disability.
"Sec. 4. Additional definitions.".

**SEC. 5. DISCRIMINATION ON THE BASIS OF DISABILITY.**

(a) ON THE BASIS OF DISABILITY.—Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

(1) in subsection (a), by striking "with a disability because of the disability of such individual" and inserting "on the basis of disability"; and

(2) in subsection (b) in the matter preceding paragraph (1), by striking "discriminate" and inserting "discriminate against a qualified individual on the basis of disability".

(b) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Section 103 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12113) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and inserting after subsection (b) the following new subsection:

"(c) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Notwithstanding section 3(4)(E)(ii), a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity.".

(c) CONFORMING AMENDMENTS.—

(1) Section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)) is amended—

(A) in the paragraph heading, by striking "WITH A DISABILITY"; and

(B) by striking "with a disability" after "individual" both places it appears.

(2) Section 104(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12114(a)) is amended by striking "the term 'qualified individual with a disability' shall" and inserting "a qualified individual with a disability shall".

**SEC. 6. RULES OF CONSTRUCTION.**

(a) Title V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201 et seq.) is amended—

(1) by adding at the end of section 501 the following: 42 USC 12201.

"(e) BENEFITS UNDER STATE WORKER'S COMPENSATION LAWS.—Nothing in this Act alters the standards for determining eligibility for benefits under State worker's compensation laws or under State and Federal disability benefit programs.

"(f) FUNDAMENTAL ALTERATION.—Nothing in this Act alters the provision of section 302(b)(2)(A)(ii), specifying that reasonable modifications in policies, practices, or procedures shall be required, unless an entity can demonstrate that making such modifications in policies, practices, or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations involved.

"(g) CLAIMS OF NO DISABILITY.—Nothing in this Act shall provide the basis for a claim by an individual without a disability

that the individual was subject to discrimination because of the individual's lack of disability.

"(h) REASONABLE ACCOMMODATIONS AND MODIFICATIONS.—A covered entity under title I, a public entity under title II, and any person who owns, leases (or leases to), or operates a place of public accommodation under title III, need not provide a reasonable accommodation or a reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in section 3(1) solely under subparagraph (C) of such section.";

42 USC 12206–12211; 29 USC 706; 42 USC 12212, 12213.

(2) by redesignating section 506 through 514 as sections 507 through 515, respectively, and adding after section 505 the following:

42 USC 12205a.

**"SEC. 506. RULE OF CONSTRUCTION REGARDING REGULATORY AUTHORITY.**

"The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this Act includes the authority to issue regulations implementing the definitions of disability in section 3 (including rules of construction) and the definitions in section 4, consistent with the ADA Amendments Act of 2008."; and

42 USC 12210.

(3) in section 511 (as redesignated by paragraph (2)) (42 U.S.C. 12211), in subsection (c), by striking "511(b)(3)" and inserting "512(b)(3)".

(b) The table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by redesignating the items relating to sections 506 through 514 as the items relating to sections 507 through 515, respectively, and by inserting after the item relating to section 505 the following new item:

"Sec. 506. Rule of construction regarding regulatory authority.".

**SEC. 7. CONFORMING AMENDMENTS.**

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in paragraph (9)(B), by striking "a physical" and all that follows through "major life activities", and inserting "the meaning given it in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)"; and

(2) in paragraph (20)(B), by striking "any person who" and all that follows through the period at the end, and inserting "any person who has a disability as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).".

**SEC. 8. EFFECTIVE DATE.** 29 USC 705 note.

This Act and the amendments made by this Act shall become effective on January 1, 2009.

Approved September 25, 2008.

LEGISLATIVE HISTORY—S. 3406:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 11, considered and passed Senate.
Sept. 17, considered and passed House.

Public Law 110–326
110th Congress

An Act

Sept. 26, 2008
[H.R. 5938]

To amend title 18, United States Code, to provide secret service protection to former Vice Presidents, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Former Vice President Protection Act of 2008.

# TITLE I—FORMER VICE PRESIDENT PROTECTION ACT

18 USC 1 note.

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Former Vice President Protection Act of 2008".

**SEC. 102. SECRET SERVICE PROTECTION FOR FORMER VICE PRESIDENTS AND THEIR FAMILIES.**

Section 3056(a) of title 18, United States Code, is amended—

(1) by inserting immediately after paragraph (7) the following:

"(8) Former Vice Presidents, their spouses, and their children who are under 16 years of age, for a period of not more than six months after the date the former Vice President leaves office. The Secretary of Homeland Security shall have the authority to direct the Secret Service to provide temporary protection for any of these individuals at any time thereafter if the Secretary of Homeland Security or designee determines that information or conditions warrant such protection."; and

(2) in the sentence immediately preceding subsection (b) of section 3056, by striking "(7)" and inserting "(8)".

18 USC 3056 note.

**SEC. 103. EFFECTIVE DATE.**

The amendments made by this Act shall apply with respect to any Vice President holding office on or after the date of enactment of the Act.

Identity Theft Enforcement and Restitution Act of 2008.

# TITLE II—IDENTITY THEFT ENFORCEMENT AND RESTITUTION ACT

18 USC 1 note.

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Identity Theft Enforcement and Restitution Act of 2008".

**SEC. 202. CRIMINAL RESTITUTION.**

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (4), by striking "; and" and inserting a semicolon;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) in the case of an offense under sections 1028(a)(7) or 1028A(a) of this title, pay an amount equal to the value of the time reasonably spent by the victim in an attempt to remediate the intended or actual harm incurred by the victim from the offense.".

**SEC. 203. ENSURING JURISDICTION OVER THE THEFT OF SENSITIVE IDENTITY INFORMATION.**

Section 1030(a)(2)(C) of title 18, United States Code, is amended by striking "if the conduct involved an interstate or foreign communication".

**SEC. 204. MALICIOUS SPYWARE, HACKING AND KEYLOGGERS.**

(a) IN GENERAL.—Section 1030 of title 18, United States Code, is amended—

(1) in subsection (a)(5)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking "(A)(i) knowingly" and inserting "(A) knowingly";

(ii) by redesignating clauses (ii) and (iii) as subparagraphs (B) and (C), respectively; and

(iii) in subparagraph (C), as so redesignated—

(I) by inserting "and loss" after "damage"; and

(II) by striking "; and" and inserting a period;

(2) in subsection (c)—

(A) in paragraph (2)(A), by striking "(a)(5)(A)(iii),";

(B) in paragraph (3)(B), by striking "(a)(5)(A)(iii),";

(C) by amending paragraph (4) to read as follows:

"(4)(A) except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 5 years, or both, in the case of—

"(i) an offense under subsection (a)(5)(B), which does not occur after a conviction for another offense under this section, if the offense caused (or, in the case of an attempted offense, would, if completed, have caused)—

"(I) loss to 1 or more persons during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United States only, loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least $5,000 in value;

"(II) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

"(III) physical injury to any person;

"(IV) a threat to public health or safety;

"(V) damage affecting a computer used by or for an entity of the United States Government in furtherance of the administration of justice, national defense, or national security; or

"(VI) damage affecting 10 or more protected computers during any 1-year period; or

"(ii) an attempt to commit an offense punishable under this subparagraph;

"(B) except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 10 years, or both, in the case of—

"(i) an offense under subsection (a)(5)(A), which does not occur after a conviction for another offense under this section, if the offense caused (or, in the case of an attempted offense, would, if completed, have caused) a harm provided in subclauses (I) through (VI) of subparagraph (A)(i); or

"(ii) an attempt to commit an offense punishable under this subparagraph;

"(C) except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 20 years, or both, in the case of—

"(i) an offense or an attempt to commit an offense under subparagraphs (A) or (B) of subsection (a)(5) that occurs after a conviction for another offense under this section; or

"(ii) an attempt to commit an offense punishable under this subparagraph;

"(D) a fine under this title, imprisonment for not more than 10 years, or both, in the case of—

"(i) an offense or an attempt to commit an offense under subsection (a)(5)(C) that occurs after a conviction for another offense under this section; or

"(ii) an attempt to commit an offense punishable under this subparagraph;

"(E) if the offender attempts to cause or knowingly or recklessly causes serious bodily injury from conduct in violation of subsection (a)(5)(A), a fine under this title, imprisonment for not more than 20 years, or both;

"(F) if the offender attempts to cause or knowingly or recklessly causes death from conduct in violation of subsection (a)(5)(A), a fine under this title, imprisonment for any term of years or for life, or both; or

"(G) a fine under this title, imprisonment for not more than 1 year, or both, for—

"(i) any other offense under subsection (a)(5); or

"(ii) an attempt to commit an offense punishable under this subparagraph."; and

(D) by striking paragraph (5); and

(3) in subsection (g)—

(A) in the second sentence, by striking "in clauses (i), (ii), (iii), (iv), or (v) of subsection (a)(5)(B)" and inserting "in subclauses (I), (II), (III), (IV), or (V) of subsection (c)(4)(A)(i)"; and

(B) in the third sentence, by striking "subsection (a)(5)(B)(i)" and inserting "subsection (c)(4)(A)(i)(I)".

(b) CONFORMING CHANGES.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by striking "1030(a)(5)(A)(i)

resulting in damage as defined in 1030(a)(5)(B)(ii) through (v)" and inserting "1030(a)(5)(A) resulting in damage as defined in 1030(c)(4)(A)(i)(II) through (VI)".

**SEC. 205. CYBER-EXTORTION.**

Section 1030(a)(7) of title 18, United States Code, is amended to read as follows:

"(7) with intent to extort from any person any money or other thing of value, transmits in interstate or foreign commerce any communication containing any—

"(A) threat to cause damage to a protected computer;

"(B) threat to obtain information from a protected computer without authorization or in excess of authorization or to impair the confidentiality of information obtained from a protected computer without authorization or by exceeding authorized access; or

"(C) demand or request for money or other thing of value in relation to damage to a protected computer, where such damage was caused to facilitate the extortion;".

**SEC. 206. CONSPIRACY TO COMMIT CYBER-CRIMES.**

Section 1030(b) of title 18, United States Code, is amended by inserting "conspires to commit or" after "Whoever".

**SEC. 207. USE OF FULL INTERSTATE AND FOREIGN COMMERCE POWER FOR CRIMINAL PENALTIES.**

Section 1030(e)(2)(B) of title 18, United States Code, is amended by inserting "or affecting" after "which is used in".

**SEC. 208. FORFEITURE FOR SECTION 1030 VIOLATIONS.**

Section 1030 of title 18, United States Code, is amended by adding at the end the following:

"(i)(1) The court, in imposing sentence on any person convicted of a violation of this section, or convicted of conspiracy to violate this section, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person forfeit to the United States— Courts.

"(A) such person's interest in any personal property that was used or intended to be used to commit or to facilitate the commission of such violation; and

"(B) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation. Real property.

"(2) The criminal forfeiture of property under this subsection, any seizure and disposition thereof, and any judicial proceeding in relation thereto, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.

"(j) For purposes of subsection (i), the following shall be subject to forfeiture to the United States and no property right shall exist in them:

"(1) Any personal property used or intended to be used to commit or to facilitate the commission of any violation of this section, or a conspiracy to violate this section.

"(2) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this section, or a conspiracy to violate this section". Real property.

28 USC 994 note.

**SEC. 209. DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.**

Review.

(a) DIRECTIVE.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review its guidelines and policy statements applicable to persons convicted of offenses under sections 1028, 1028A, 1030, 2511, and 2701 of title 18, United States Code, and any other relevant provisions of law, in order to reflect the intent of Congress that such penalties be increased in comparison to those currently provided by such guidelines and policy statements.

(b) REQUIREMENTS.—In determining its guidelines and policy statements on the appropriate sentence for the crimes enumerated in subsection (a), the United States Sentencing Commission shall consider the extent to which the guidelines and policy statements may or may not account for the following factors in order to create an effective deterrent to computer crime and the theft or misuse of personally identifiable data:

(1) The level of sophistication and planning involved in such offense.

(2) Whether such offense was committed for purpose of commercial advantage or private financial benefit.

(3) The potential and actual loss resulting from the offense including—

(A) the value of information obtained from a protected computer, regardless of whether the owner was deprived of use of the information; and

(B) where the information obtained constitutes a trade secret or other proprietary information, the cost the victim incurred developing or compiling the information.

(4) Whether the defendant acted with intent to cause either physical or property harm in committing the offense.

(5) The extent to which the offense violated the privacy rights of individuals.

(6) The effect of the offense upon the operations of an agency of the United States Government, or of a State or local government.

(7) Whether the offense involved a computer used by the United States Government, a State, or a local government in furtherance of national defense, national security, or the administration of justice.

(8) Whether the offense was intended to, or had the effect of, significantly interfering with or disrupting a critical infrastructure.

(9) Whether the offense was intended to, or had the effect of, creating a threat to public health or safety, causing injury to any person, or causing death.

(10) Whether the defendant purposefully involved a juvenile in the commission of the offense.

(11) Whether the defendant's intent to cause damage or intent to obtain personal information should be disaggregated and considered separately from the other factors set forth in USSG 2B1.1(b)(14).

(12) Whether the term "victim" as used in USSG 2B1.1, should include individuals whose privacy was violated as a result of the offense in addition to individuals who suffered monetary harm as a result of the offense.

(13) Whether the defendant disclosed personal information obtained during the commission of the offense.

(c) ADDITIONAL REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(2) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(3) make any conforming changes to the sentencing guidelines; and

(4) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

Approved September 26, 2008.

LEGISLATIVE HISTORY—H.R. 5938:

HOUSE REPORTS: No. 110–696 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 9, considered and passed House.
July 30, considered and passed Senate, amended.
Sept. 15, House concurred in Senate amendments.

# Public Law 110–327
# 110th Congress

## An Act

Sept. 30, 2008
[H.R. 1777]

To amend the Improving America's Schools Act of 1994 to make permanent the favorable treatment of need-based educational aid under the antitrust laws.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Need-Based Educational Aid Act of 2008.
15 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Need-Based Educational Aid Act of 2008".

**SEC. 2. AMENDMENT.**

Section 568(d) of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) is amended by striking "2008" and inserting "2015".

Approved September 30, 2008.

LEGISLATIVE HISTORY—H.R. 1777:

HOUSE REPORTS: No. 110–577 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 30, considered and passed House.
Sept. 25, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendment.

Public Law 110–328
110th Congress

# An Act

To amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 through 2011, extensions of supplemental security income for refugees, asylees, and certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud.

Sept. 30, 2008
[H.R. 2608]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SSI Extension for Elderly and Disabled Refugees Act.
8 USC 1601 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "SSI Extension for Elderly and Disabled Refugees Act".

**SEC. 2. SSI EXTENSIONS FOR HUMANITARIAN IMMIGRANTS.**

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

"(M) SSI EXTENSIONS THROUGH FISCAL YEAR 2011.—

"(i) TWO-YEAR EXTENSION FOR CERTAIN ALIENS AND VICTIMS OF TRAFFICKING.—

"(I) IN GENERAL.—Subject to clause (ii), with respect to eligibility for benefits under subparagraph (A) for the specified Federal program described in paragraph (3)(A) of qualified aliens (as defined in section 431(b)) and victims of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act), the 7-year period described in subparagraph (A) shall be deemed to be a 9-year period during fiscal years 2009 through 2011 in the case of such a qualified alien or victim of trafficking who furnishes to the Commissioner of Social Security the declaration required under subclause (IV) (if applicable) and is described in subclause (III).

"(II) ALIENS AND VICTIMS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS.—Subject to clause (ii), beginning on the date of the enactment of the SSI Extension for Elderly and Disabled Refugees Act, any qualified alien (as defined in section 431(b)) or victim of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act

of 2000 (Public Law 106–386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act) rendered ineligible for the specified Federal program described in paragraph (3)(A) during the period beginning on August 22, 1996, and ending on September 30, 2008, solely by reason of the termination of the 7-year period described in subparagraph (A) shall be eligible for such program for an additional 2-year period in accordance with this clause, if such qualified alien or victim of trafficking meets all other eligibility factors under title XVI of the Social Security Act, furnishes to the Commissioner of Social Security the declaration required under subclause (IV) (if applicable), and is described in subclause (III).

"(III) ALIENS AND VICTIMS DESCRIBED.—For purposes of subclauses (I) and (II), a qualified alien or victim of trafficking described in this subclause is an alien or victim who—

"(aa) has been a lawful permanent resident for less than 6 years and such status has not been abandoned, rescinded under section 246 of the Immigration and Nationality Act, or terminated through removal proceedings under section 240 of the Immigration and Nationality Act, and the Commissioner of Social Security has verified such status, through procedures established in consultation with the Secretary of Homeland Security;

"(bb) has filed an application, within 4 years from the date the alien or victim began receiving supplemental security income benefits, to become a lawful permanent resident with the Secretary of Homeland Security, and the Commissioner of Social Security has verified, through procedures established in consultation with such Secretary, that such application is pending;

"(cc) has been granted the status of Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96–422), for purposes of the specified Federal program described in paragraph (3)(A);

"(dd) has had his or her deportation withheld by the Secretary of Homeland Security under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208), or whose removal is withheld under section 241(b)(3) of such Act;

"(ee) has not attained age 18; or

"(ff) has attained age 70.

"(IV) DECLARATION REQUIRED.—

"(aa) IN GENERAL.—For purposes of subclauses (I) and (II), the declaration required

under this subclause of a qualified alien or victim of trafficking described in either such subclause is a declaration under penalty of perjury stating that the alien or victim has made a good faith effort to pursue United States citizenship, as determined by the Secretary of Homeland Security. The Commissioner of Social Security shall develop criteria as needed, in consultation with the Secretary of Homeland Security, for consideration of such declarations.

Criteria.

"(bb) EXCEPTION FOR CHILDREN.—A qualified alien or victim of trafficking described in subclause (I) or (II) who has not attained age 18 shall not be required to furnish to the Commissioner of Social Security a declaration described in item (aa) as a condition of being eligible for the specified Federal program described in paragraph (3)(A) for an additional 2-year period in accordance with this clause.

"(V) PAYMENT OF BENEFITS TO ALIENS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS.—Benefits paid to a qualified alien or victim described in subclause (II) shall be paid prospectively over the duration of the qualified alien's or victim's renewed eligibility.

"(ii) SPECIAL RULE IN CASE OF PENDING OR APPROVED NATURALIZATION APPLICATION.—With respect to eligibility for benefits for the specified program described in paragraph (3)(A), paragraph (1) shall not apply during fiscal years 2009 through 2011 to an alien described in one of clauses (i) through (v) of subparagraph (A) or a victim of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act), if such alien or victim (including any such alien or victim rendered ineligible for the specified Federal program described in paragraph (3)(A) during the period beginning on August 22, 1996, and ending on September 30, 2008, solely by reason of the termination of the 7-year period described in subparagraph (A)) has filed an application for naturalization that is pending before the Secretary of Homeland Security or a United States district court based on section 336(b) of the Immigration and Nationality Act, or has been approved for naturalization but not yet sworn in as a United States citizen, and the Commissioner of Social Security has verified, through procedures established in consultation with the Secretary of Homeland Security, that such application is pending or has been approved.".

**SEC. 3. COLLECTION OF UNEMPLOYMENT COMPENSATION DEBTS RESULTING FROM FRAUD.**

26 USC 6402.

(a) IN GENERAL.—Section 6402 of the Internal Revenue Code (relating to authority to make credits or refunds) is amended by redesignating subsections (f) through (k) as subsections (g) through (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) COLLECTION OF UNEMPLOYMENT COMPENSATION DEBTS RESULTING FROM FRAUD.—

Notification.

"(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a covered unemployment compensation debt to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

"(A) reduce the amount of any overpayment payable to such person by the amount of such covered unemployment compensation debt;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

"(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a covered unemployment compensation debt.

If an offset is made pursuant to a joint return, the notice under subparagraph (C) shall include information related to the rights of a spouse of a person subject to such an offset.

"(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

"(A) after such overpayment is reduced pursuant to—

"(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

"(ii) subsection (c) with respect to past-due support; and

"(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

"(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from a State or States of more than one debt subject to paragraph (1) or subsection (e) that is owed by a person to such State or States, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

"(3) OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET.—Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.

Applicability.

"(4) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

"(A) notifies by certified mail with return receipt the person owing the covered unemployment compensation debt that the State proposes to take action pursuant to this section;

"(B) provides such person at least 60 days to present evidence that all or part of such liability is not legally enforceable or due to fraud; Deadline.

"(C) considers any evidence presented by such person and determines that an amount of such debt is legally enforceable and due to fraud; and

"(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such covered unemployment compensation debt.

"(5) COVERED UNEMPLOYMENT COMPENSATION DEBT.—For purposes of this subsection, the term 'covered unemployment compensation debt' means—

"(A) a past-due debt for erroneous payment of unemployment compensation due to fraud which has become final under the law of a State certified by the Secretary of Labor pursuant to section 3304 and which remains uncollected for not more than 10 years;

"(B) contributions due to the unemployment fund of a State for which the State has determined the person to be liable due to fraud and which remain uncollected for not more than 10 years; and

"(C) any penalties and interest assessed on such debt.

"(6) REGULATIONS.—

"(A) IN GENERAL.—The Secretary may issue regulations prescribing the time and manner in which States must submit notices of covered unemployment compensation debt and the necessary information that must be contained in or accompany such notices. The regulations may specify the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied.

"(B) FEE PAYABLE TO SECRETARY.—The regulations may require States to pay a fee to the Secretary, which may be deducted from amounts collected, to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

"(C) SUBMISSION OF NOTICES THROUGH SECRETARY OF LABOR.—The regulations may include a requirement that States submit notices of covered unemployment compensation debt to the Secretary via the Secretary of Labor in accordance with procedures established by the Secretary of Labor. Such procedures may require States to pay a fee to the Secretary of Labor to reimburse the Secretary of Labor for the costs of applying this subsection. Any such fee shall be established in consultation with the Secretary of the Treasury. Any fee paid to the Secretary of Labor may be deducted from amounts collected and shall be used to reimburse the appropriation account which bore all or part of the cost of applying this subsection.

"(7) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of

such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

"(8) TERMINATION.—This section shall not apply to refunds payable after the date which is 10 years after the date of the enactment of this subsection.".

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR LEGALLY ENFORCEABLE STATE UNEMPLOYMENT COMPENSATION DEBT RESULTING FROM FRAUD.—

(1) GENERAL RULE.—Paragraph (3) of section 6103(a) of such Code is amended by inserting "(10)," after "(6),". 26 USC 6103.

(2) DISCLOSURE TO DEPARTMENT OF LABOR AND ITS AGENT.—Paragraph (10) of section 6103(l) of such Code is amended—

(A) by striking "(c), (d), or (e)" each place it appears in the heading and text and inserting "(c), (d), (e), or (f)",

(B) in subparagraph (A) by inserting ", to officers and employees of the Department of Labor for purposes of facilitating the exchange of data in connection with a request made under subsection (f)(5) of section 6402," after "section 6402", and

(C) in subparagraph (B)—

(i) by inserting "(i)" after "(B)"; and

(ii) by adding at the end the following:

"(ii) Notwithstanding clause (i), return information disclosed to officers and employees of the Department of Labor may be accessed by agents who maintain and provide technological support to the Department of Labor's Interstate Connection Network (ICON) solely for the purpose of providing such maintenance and support.".

(3) SAFEGUARDS.—Paragraph (4) of section 6103(p) of such Code is amended—

(A) in the matter preceding subparagraph (A), by striking "(l)(16)," and inserting "(l)(10), (16),";

(B) in subparagraph (F)(i), by striking "(l)(16)," and inserting "(l)(10), (16),"; and

(C) in the matter following subparagraph (F)(iii)—

(i) in each of the first two places it appears, by striking "(l)(16)," and inserting "(l)(10), (16),";

(ii) by inserting "(10)," after "paragraph (6)(A),"; and

(iii) in each of the last two places it appears, by striking "(l)(16)" and inserting "(l)(10) or (16)".

(c) EXPENDITURES FROM STATE FUND.—Section 3304(a)(4) of such Code is amended—

(1) in subparagraph (E), by striking "and" after the semicolon;

(2) in subparagraph (F), by inserting "and" after the semicolon; and

(3) by adding at the end the following new subparagraph:

"(G) with respect to amounts of covered unemployment compensation debt (as defined in section 6402(f)(4)) collected under section 6402(f)—

"(i) amounts may be deducted to pay any fees authorized under such section; and

"(ii) the penalties and interest described in section 6402(f)(4)(B) may be transferred to the appropriate

State fund into which the State would have deposited such amounts had the person owing the debt paid such amounts directly to the State;".

(d) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6402 of such Code is amended by striking "(c), (d), and (e)," and inserting "(c), (d), (e), and (f)". 26 USC 6402.

(2) Paragraph (2) of section 6402(d) of such Code is amended by striking "and before such overpayment is reduced pursuant to subsection (e)" and inserting "and before such overpayment is reduced pursuant to subsections (e) and (f)".

(3) Paragraph (3) of section 6402(e) of such Code is amended in the last sentence by inserting "or subsection (f)" after "paragraph (1)".

(4) Subsection (g) of section 6402 of such Code, as redesignated by subsection (a), is amended by striking "(c), (d), or (e)" and inserting "(c), (d), (e), or (f)".

(5) Subsection (i) of section 6402 of such Code, as redesignated by subsection (a), is amended by striking "subsection (c) or (e)" and inserting "subsection (c), (e), or (f)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 on or after the date of enactment of this Act. 26 USC 3304 note.

Approved September 30, 2008.

LEGISLATIVE HISTORY—H.R. 2608:

CONGRESSIONAL RECORD:
Vol. 153 (2007): July 11, considered and passed House.
Vol. 154 (2008): Aug. 1, considered and passed Senate, amended.
Sept. 17, House concurred in Senate amendments.

# Public Law 110–329
# 110th Congress

## An Act

Sept. 30, 2008
[H.R. 2638]

Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

DIVISION A—CONTINUING APPROPRIATIONS RESOLUTION, 2009
DIVISION B—DISASTER RELIEF AND RECOVERY SUPPLEMENTAL APPROPRIATIONS ACT, 2008
DIVISION C—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2009
DIVISION D—DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2009
DIVISION E—MILITARY CONSTRUCTION AND VETERANS AFFAIRS APPROPRIATIONS ACT, 2009

1 USC 1 note.

**SEC. 3. REFERENCES.**

Except as expressly provided otherwise, any reference to "this Act" or "this joint resolution" contained in any division of this Act shall be treated as referring only to the provisions of that division.

**SEC. 4. EXPLANATORY STATEMENT.**

The explanatory statement regarding this legislation, printed in the House of Representatives section of the Congressional Record on or about September 24, 2008 by the Chairman of the Committee on Appropriations of the House, shall have the same effect with respect to the allocation of funds and implementation of this Act as if it were a joint explanatory statement of a committee of conference.

Continuing Appropriations Resolution, 2009.

## DIVISION A—CONTINUING APPROPRIATIONS RESOLUTION, 2009

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2009, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for

fiscal year 2008 and under the authority and conditions provided in such Acts, for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this joint resolution, that were conducted in fiscal year 2008, and for which appropriations, funds, or other authority were made available in the following appropriations Acts: divisions A, B, C, D, F, G, H, J, and K of the Consolidated Appropriations Act, 2008 (Public Law 110–161).

SEC. 102. Rates for operations shall be calculated under section 101 without regard to any amount designated in the applicable appropriations Acts for fiscal year 2008 as an emergency requirement or necessary to meet emergency needs pursuant to any concurrent resolution on the budget, other than the following amounts:

(1) $150,000,000 provided in Public Law 110–252 for "Department of Health and Human Services—Food and Drug Administration—Salaries and Expenses".

(2) $143,539,000 provided in division B of Public Law 110–161 for "Department of Justice—Federal Bureau of Investigation—Salaries and Expenses".

(3) $110,000,000 provided in Public Law 110–252 for "Department of Labor—Employment and Training Administration—State Unemployment Insurance and Employment Service Operations", without regard to the dates specified under such heading.

(4) $272,000,000 of the $575,000,000 provided in division J of Public Law 110–161 for "Department of State—Administration of Foreign Affairs—Diplomatic and Consular Programs" in the first paragraph under such heading, and $206,632,000 provided in the last paragraph under such heading.

(5) $76,700,000 provided in subchapter A of chapter 4 of title I of Public Law 110–252 for "Department of State—Administration of Foreign Affairs—Embassy Security, Construction, and Maintenance".

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2008.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

Expiration date.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act for fiscal year 2009, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this joint resolution; (2) the enactment into law of the applicable appropriations Act for fiscal year 2009 without any provision for such project or activity; or (3) March 6, 2009.

SEC. 107. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. Appropriations made and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this joint resolution may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that would otherwise have high initial rates of operation or complete distribution of appropriations at the beginning of fiscal year 2009 because of distributions of funding to States, foreign countries, grantees, or others, such high initial rates of operation or complete distribution shall not be made, and no grants shall be awarded for such programs funded by this joint resolution that would impinge on final funding prerogatives.

SEC. 110. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 111. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2008, and for activities under the Food and Nutrition Act of 2008, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2008, to be continued through the date specified in section 106(3).

Deadline.

(b) Notwithstanding section 106, obligations for mandatory payments due on or about the first day of any month that begins after October 2008 but not later than 30 days after the date specified in section 106(3) may continue to be made, and funds shall be available for such payments.

SEC. 112. Amounts made available under section 101 for civilian personnel compensation and benefits in each department and agency may be apportioned up to the rate for operations necessary to avoid furloughs within such department or agency, consistent with the applicable appropriations Act for fiscal year 2008, except that such authority provided under this section shall not be used until after the department or agency has taken all necessary actions to reduce or defer non-personnel-related administrative expenses.

SEC. 113. Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 114. Notwithstanding section 101, amounts are provided for "Department of Agriculture—Food and Nutrition Service—Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)" at a rate for operations of $6,658,000,000.

SEC. 115. Notwithstanding section 101, amounts are provided for "Department of Agriculture—Rural Housing Service—Rental Assistance Program" at a rate for operations of $997,000,000.

SEC. 116. Section 14222(b)(1) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246) shall not apply through the date specified in section 106(3) of this joint resolution.

SEC. 117. Notwithstanding section 101, amounts are provided for "Department of Agriculture—Rural Housing Service—Rural Housing Insurance Fund Program Account", for the cost of unsubsidized guaranteed loans for section 502 borrowers, at the rate necessary to maintain the same principal amount of loan guarantee commitments as made in fiscal year 2008.

SEC. 118. With respect to amounts provided by section 101 for the Department of Agriculture, sections 101 and 104 may not be construed to prohibit the use of such amounts for necessary administrative expenses for programs for which direct spending authority (as defined in section 250(c)(8)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(8)(A))) is provided by the Food, Conservation, and Energy Act of 2008 (Public Law 110–246).

SEC. 119. Notwithstanding section 101, amounts are provided for "Department of Agriculture–Food and Nutrition Service—Commodity Assistance Program" at a rate for operations of $233,791,000, of which $163,218,000 shall be for carrying out the Commodity Supplemental Food Program.

SEC. 120. Notwithstanding section 101, amounts are provided for "Department of Commerce—Bureau of the Census—Periodic Censuses and Programs" at a rate for operations of $2,906,262,000. From such amounts, funds may be used for additional promotion, outreach, and marketing activities.

Digital converter.

SEC. 121. Notwithstanding the limitations on administrative expenses in subsections (c)(2) and (c)(3)(A) of section 3005 of the Digital Television Transition and Public Safety Act of 2005 (Public Law 109–171; 120 Stat. 21), the Assistant Secretary (as such term is defined in section 3001(b) of such Act) may expend funds made available under sections 3006, 3008, and 3009 of such Act for additional administrative expenses of the digital-to-analog converter box program established by such section 3005 at a rate not to exceed $180,000,000 through the date specified in section 106(3) of this joint resolution.

SEC. 122. Notwithstanding section 101, amounts are provided for "Department of Justice—Federal Prison System—Salaries and Expenses" at a rate for operations of $5,396,615,000.

SEC. 123. Notwithstanding section 101, amounts are provided for "Department of Justice—General Administration—Detention Trustee" at a rate for operations of $1,245,920,000.

SEC. 124. Amounts provided by section 101 for the National Aeronautics and Space Administration may be obligated in the account and budget structure set forth in S. 3182 (110th Congress), the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2009, as reported by the Committee on Appropriations of the Senate.

SEC. 125. Section 7(1)(B) of Public Law 106–178 (50 U.S.C. 1701 note) is amended by striking "January 1, 2012" and inserting "July 1, 2016".

SEC. 126. In addition to amounts otherwise provided by section 101, an additional amount is provided for "Department of Justice—

Legal Activities—Salaries and Expenses, General Legal Activities" to reimburse the Office of Personnel Management for salaries and expenses associated with the Federal observer program under section 8 of the Voting Rights Act of 1965 (42 U.S.C. 1973f), at a rate for operations of $3,390,000, of which $1,090,000 shall be derived by transfer from amounts provided by section 101 for "Office of Personnel Management—Salaries and Expenses".

Applicability.

SEC. 127. Section 14704 of title 40, United States Code, shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2007".

SEC. 128. Amounts provided by section 101 for "Department of the Army—Corps of Engineers-Civil—Construction" for inland waterway major rehabilitation projects shall not be derived from the Inland Waterways Trust Fund.

Loans.

SEC. 129. (a) Notwithstanding any other provision of this joint resolution, there is appropriated $7,510,000,000 for fiscal year 2009 for "Department of Energy—Energy Programs—Advanced Technology Vehicles Manufacturing Loan Program Account" for the cost of direct loans as authorized by section 136(d) of the Energy Independence and Security Act of 2007 (Public Law 110–140; 42 U.S.C. 17013(d)), to remain available until expended. Of such amount, $10,000,000 shall be used for administrative expenses in carrying out the direct loan program. Commitments for direct loans using such amount shall not exceed $25,000,000,000 in total loan principal. The cost of such direct loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

(c) Section 136 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 42 U.S.C. 17013) is amended as follows:

(1) In subsection (d)(1), by adding at the end the following: "The loans shall be made through the Federal Financing Bank, with the full faith and credit of the United States Government on the principal and interest. The full credit subsidy shall be paid by the Secretary using appropriated funds.".

Deadline.
Regulations.

(2) In subsection (e), by striking "The Secretary shall issue regulations that require that," and inserting the following: "Not later than 60 days after the enactment of the Continuing Appropriations Resolution, 2009, the Secretary shall promulgate an interim final rule establishing regulations that the Secretary deems necessary to administer this section and any loans made by the Secretary pursuant to this section. Such interim final rule shall require that,".

(3) By adding at the end the following new subsection: "(j) APPOINTMENT AND PAY OF PERSONNEL.—(1) The Secretary may use direct hiring authority pursuant to section 3304(a)(3) of title 5, United States Code, to appoint such professional and administrative personnel as the Secretary deems necessary to the discharge of the Secretary's functions under this section.

"(2) The rate of pay for a person appointed pursuant to paragraph (1) shall not exceed the maximum rate payable for GS-15 of the General Schedule under chapter 53 such title 5.

"(3) The Secretary may retain such consultants as the Secretary deems necessary to the discharge of the functions required by this section, pursuant to section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427).".

SEC. 130. (a) In addition to the amounts otherwise provided by section 101 for "Department of Energy—Energy Programs—Energy Efficiency and Renewable Energy" for weatherization assistance under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.), there is appropriated $250,000,000 for an additional amount for fiscal year 2009, to remain available until expended.

(b) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SEC. 131. In addition to the amounts otherwise provided by section 101, an additional amount is provided for "Department of the Treasury—Internal Revenue Service—Taxpayer Services" to meet the requirements of the Economic Stimulus Act of 2008 (Public Law 110–185), at a rate for operations of $67,900,000.

SEC. 132. In addition to the amounts otherwise provided by section 101, an additional amount is provided for "Executive Office of the President—Office of Administration—Salaries and Expenses" for e-mail restoration activities, at a rate for operations of $5,700,000.

SEC. 133. Notwithstanding section 101, amounts are provided for "Executive Office of the President—Office of Administration—Presidential Transition Administrative Support" to carry out the Presidential Transition Act of 1963 (3 U.S.C. 102 note) at a rate for operations of $8,000,000. Such funds may be transferred to other accounts that provide funding for offices within the Executive Office of the President and the Office of the Vice President in this joint resolution or any other Act, to carry out such purposes.

SEC. 134. Notwithstanding any other provision of this joint resolution, except section 106, the District of Columbia may expend local funds for programs and activities under the heading "District of Columbia Funds" for such programs and activities under title IV of S. 3260 (110th Congress), as reported by the Committee on Appropriations of the Senate, at the rate set forth under "District of Columbia Funds" as included in the Fiscal Year 2009 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 9, 2008.

SEC. 135. Notwithstanding section 101, amounts are provided for "Federal Payment for Emergency Planning and Security Costs in the District of Columbia" for a direct Federal payment to the District of Columbia, at a rate for operations of $15,000,000.

Digital television.

SEC. 136. In addition to the amounts otherwise provided by section 101, an additional amount is provided for "Federal Communications Commission—Salaries and Expenses" for consumer education associated with the transition to digital television occurring on February 17, 2009, at a rate for operations of $20,000,000.

SEC. 137. Notwithstanding section 101, amounts are provided for "General Services Administration—Expenses, Presidential Transition" to carry out the Presidential Transition Act of 1963 (3 U.S.C. 102 note) at a rate for operations of $8,520,000, of which not to exceed $1,000,000 is for activities authorized by paragraphs (8) and (9) of section 3(a) of such Act.

SEC. 138. Notwithstanding section 101, amounts are provided for "General Services Administration—Allowances and Office Staff for Former Presidents" to carry out the provisions of the Act of August 25, 1958 (3 U.S.C. 102 note) at a rate for operations of $2,682,000.

SEC. 139. Notwithstanding section 101, the limitation on gross obligations applicable under the heading "National Credit Union Administration—Central Liquidity Facility" in division D of Public Law 110–161 shall be the amount authorized by section 307(a)(4)(A) of the Federal Credit Union Act (12 U.S.C. 1795f(a)(4)(A)).

SEC. 140. Notwithstanding section 101, amounts are provided to carry out section 504(d) of title 39, United States Code, as amended by section 603(a) of the Postal Accountability and Enhancement Act (Public Law 109–435), at a rate for operations of $14,043,000, to be derived by transfer from the Postal Service Fund.

SEC. 141. Notwithstanding section 101, amounts are provided to carry out section 8G(f)(6) of the Inspector General Act of 1978 (5 U.S.C. App.), as added by section 603(b)(3) of the Postal Accountability and Enhancement Act (Public Law 109–435), at a rate for operations of $233,440,000, to be derived by transfer from the Postal Service Fund.

Pay raise.
Applicability.
5 USC 5303 note.

SEC. 142. (a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2009 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.9 percent, and this adjustment shall apply to civilian employees in the Department of Homeland Security. Such adjustment shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2009.

Effective date.

(b) The adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2009 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in subsection (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of such title 5. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of such title 5 and prevailing rate employees described in section 5343(a)(5) of such title 5 shall be considered to be located in the pay locality designated as "Rest of US" pursuant to section 5304 of such title 5 for purposes of this subsection.

(c) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2009.

Applicability.

(d) The provisions of this section shall apply notwithstanding any other provision of this joint resolution.

Applicability.

SEC. 143. Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "the 11-year period beginning on the first day the pilot program is in effect".

SEC. 144. The requirement set forth in section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) shall continue through the date specified in section 106(3) of this joint resolution. Extension date.

SEC. 145. Sections 1309(a) and 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a) and 4026) shall each be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2008". Applicability.

SEC. 146. Section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2008". Applicability.

SEC. 147. The authority provided by section 330 of Public Law 106–291 (43 U.S.C. 1701 note), as amended by section 428 of Public Law 109–54, shall continue in effect through the date specified in section 106(3) of this joint resolution. Extension date.

SEC. 148. Section 337(a) of division E of Public Law 108–447, as amended by section 420 of division F of Public Law 110–161, shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2008". Applicability.

SEC. 149. Section 503(f) of Public Law 109–54 (16 U.S.C. 580d note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2008". Applicability.

SEC. 150. The authority provided by section 325 of Public Law 108–108 (117 Stat. 1307) shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 151. In addition to the amounts otherwise provided by section 101, an additional amount is provided for "Department of the Interior—National Park Service—Operation of the National Park System" for security and visitor safety activities related to the Presidential Inaugural Ceremonies, at a rate for operations of $2,000,000.

SEC. 152. (a) Sections 104, 105, and 433 of division F of Public Law 110–161 shall not apply to amounts provided by this joint resolution.

(b) Nothing in this section amends or shall be construed as amending the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), including the public comment periods mandated by section 18 of that Act (43 U.S.C. 1344), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), or any other law or regulation.

SEC. 153. Amounts provided by section 101 for implementation of the Modified Water Deliveries to Everglades National Park shall be made available to the Army Corps of Engineers, which shall immediately carry out Alternative 3.2.2.a to U.S. Highway 41 (the Tamiami Trail) as substantially described in the Limited Reevaluation Report with Integrated Environmental Assessment and addendum, approved August 2008, which, for purposes of this section, is determined to meet the requirements of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), including subsection (r), in order to achieve the goals set forth in section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r-8).

SEC. 154. Activities authorized by chapters 2, 3, and 5 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), including section 246 of such Act, shall continue through the date specified in section 106(3) of this joint resolution.

SEC. 155. (a) In lieu of the amount otherwise provided by section 101 for "Department of Health and Human Services—Administration for Children and Families—Low-Income Home Energy Assistance", there is appropriated for such account for making payments under the Low-Income Home Energy Assistance Act of 1981, $5,100,000,000, which shall remain available through September 30, 2009. Of such amount, $4,509,672,000 is for payments under subsections (b) and (d) of section 2602 of such Act and $590,328,000 is for payments under subsection (e) of such section. All but $839,792,000 of the amount provided by this section for such subsections (b) and (d) shall be allocated as though the total appropriation for such payments for fiscal year 2009 was less than $1,975,000,000.

(b) Notwithstanding section 2605(b)(2)(B)(ii) of such Act, a State may use any amount of an allotment from prior appropriations Acts that is available to that State for providing assistance in fiscal year 2009, and any allotment from funds appropriated in this section or in any other appropriations Act for fiscal year 2009, to provide assistance to households whose income does not exceed 75 percent of the State median income.

Deadline.

(c) The amount provided by this section shall be obligated to States within 30 calender days from the date of enactment of this joint resolution.

(d) Of the amount provided by this section, $2,779,672,000 is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

Applicability.

(e) The provisions of this section shall apply notwithstanding any other provision of this joint resolution.

SEC. 156. Notwithstanding section 101, amounts are provided for "Corporation for National and Community Service—Operating Expenses" to carry out subtitle E of the National and Community Service Act of 1990 at a rate for operations of $23,782,000.

SEC. 157. (a) Amounts provided by section 101 for "Department of Health and Human Services—Office of the Secretary—General Departmental Management" are also available for the purpose of funding the National Commission on Children and Disasters authorized under title VI of division G of Public Law 110–161 (the "title VI Commission").

Effective date.

(b) Effective on and after the date of enactment of this joint resolution (1) the National Commission on Children and Disasters established by the Secretary of Health and Human Services under section 1114 of the Social Security Act (the "section 1114 Commission"), together with its members, personnel, and other resources and obligations, shall be considered to be the title VI Commission and shall no longer be subject to the provisions of such section 1114; and (2) for purposes of any contract entered into by any component of the Department of Health and Human Services in fiscal year 2008 for support of the section 1114 Commission, any reference to the section 1114 Commission shall be deemed to refer to the title VI Commission.

SEC. 158. (a) Notwithstanding section 101, amounts are provided for "Department of Education–Student Financial Assistance" at a rate for operations of $18,627,136,000, of which $16,761,000,000

shall be for carrying out subpart 1 of part A of title IV of the Higher Education Act of 1965.

(b) Subparagraph (E) of section 401(b)(8) of the Higher Education Act of 1965 shall not apply to any funds made available under subparagraph (A) of such section through the date specified in section 106(3) of this joint resolution.

Stephanie Tubbs Jones.

SEC. 159. Notwithstanding any other provision of this joint resolution, there is appropriated for payment to the heirs-at-law of Stephanie Tubbs Jones, late a Representative from the State of Ohio, $169,300.

SEC. 160. (a) Notwithstanding any other provision of this joint resolution, there is appropriated for "Department of Veterans Affairs—Veterans Benefits Administration—Filipino Veterans Equity Compensation Fund" for payments to eligible persons who served in the Philippines during World War II as authorized, $198,000,000, to remain available until expended.

(b) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SEC. 161. The authority provided by section 1603(a) of Public Law 109–234 shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 162. Notwithstanding section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)), the authority of subsections (a) through (c) of section 234 of such Act shall remain in effect through the date specified in section 106(3) of this joint resolution.

Liberia.

SEC. 163. Notwithstanding any other provision of this joint resolution, up to $5,000,000 of the amounts appropriated under the heading "Other Bilateral Economic Assistance—Department of the Treasury—Debt Restructuring" in Public Law 109–102, in such Act as made applicable to fiscal year 2007 by the Continuing Appropriations Resolution, 2007 (as amended by Public Law 110–5), and in title III of division J of Public Law 110–161, may be used to assist Liberia in buying back its commercial debt through the Debt Reduction Facility of the International Development Association.

SEC. 164. The first proviso under the heading "Department of State—Migration and Refugee Assistance" in title III of division J of Public Law 110–161 shall not apply to amounts provided by this joint resolution.

Applicability. Israel.

SEC. 165. Notwithstanding section 101 of this joint resolution, the number in the third proviso under the heading "Military Assistance—Funds Appropriated to the President—Foreign Military Financing Program" in title IV of division J of Public Law 110–161 shall be deemed to be $670,650,000 and shall apply to the $2,550,000,000 made available for assistance for Israel in fiscal year 2009 under the heading "Foreign Military Financing Program".

SEC. 166. Notwithstanding section 101, amounts are provided for "Department of Transportation—Federal Aviation Administration—Operations" at a rate for operations of $8,756,800,000, of which not less than $1,099,402,000 shall be available for aviation safety activities.

SEC. 167. Amounts provided by section 101 for "Department of Transportation—Maritime Administration—Operations and Training" shall include amounts necessary to satisfy the salaries and benefits of employees of the United States Merchant Marine Academy, to be derived solely from the total amount made available in this joint resolution for the United States Merchant Marine Academy. The Secretary of Transportation shall inform the Committees on Appropriations of the House of Representatives and the Senate of salaries and expenses funding obligated for personnel that had heretofore not been compensated from funds made available under this account.

Contracts.

SEC. 168. Notwithstanding any other provision of this joint resolution, other than section 106, the Secretary of Housing and Urban Development shall obligate funds provided by section 101 at a rate the Secretary determines is necessary to renew, in a timely manner, all section 8 project-based rental assistance contracts. In renewing such contracts, the Secretary may provide for payments to be made beyond the period covered by this joint resolution.

SEC. 169. Section 24(o) of the United States Housing Act of 1937 (42 U.S.C. 1437v(o)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2008".

Mortgages.

SEC. 170. Notwithstanding the limitation in the first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)), the Secretary of Housing and Urban Development may, until the date specified in section 106(3) of this joint resolution, insure and enter into commitments to insure mortgages under section 255 of such Act.

SEC. 171. During the period covered by this joint resolution, commitments to guarantee loans insured under the Mutual Mortgage Insurance Fund, as authorized by the National Housing Act (12 U.S.C. 1701 et seq.), shall not exceed a loan principal of $1,154,000,000 multiplied by the number of days in such period.

SEC. 172. Notwithstanding any other provision of this joint resolution, from funds made available for personnel compensation and benefits or salaries and expenses under any account in title II of division K of Public Law 110–161 (except for "Office of Inspector General" and "Office of Federal Housing Enterprise Oversight—Salaries and Expenses"), up to $15,000,000 may be transferred to "Working Capital Fund" for information technology needs for the Federal Housing Administration.

SEC. 173. Amounts provided by section 101 for "National Transportation Safety Board—Salaries and Expenses" shall include amounts necessary to make lease payments due in fiscal year 2009 only, on an obligation incurred in 2001 under a capital lease.

SEC. 174. The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act, through the earlier of (1) the date specified in section 106(3) of this joint resolution; or (2) the date of enactment of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

This division may be cited as the "Continuing Appropriations Resolution, 2009".

Disaster Relief and Recovery Supplemental Appropriations Act, 2008.

# DIVISION B—DISASTER RELIEF AND RECOVERY SUPPLEMENTAL APPROPRIATIONS ACT, 2008

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, and for other purposes, namely:

## TITLE I—RELIEF AND RECOVERY FROM NATURAL DISASTERS

## CHAPTER 1—AGRICULTURE AND RURAL DEVELOPMENT

### DEPARTMENT OF AGRICULTURE

#### OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $5,000,000, to remain available until expended, for oversight of disaster- and emergency-related funding provided by this chapter.

#### AGRICULTURAL RESEARCH SERVICE

##### BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", $5,000,000, to remain available until expended, for the repair and reconstruction of buildings damaged by natural disasters occurring during 2008.

#### ANIMAL AND PLANT HEALTH INSPECTION SERVICE

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $5,000,000, to remain available through September 30, 2010, for pathogen surveillance and eradication to address confirmed or suspected outbreaks.

#### NATURAL RESOURCES CONSERVATION SERVICE

##### EMERGENCY WATERSHED PROTECTION PROGRAM

For an additional amount for the "Emergency Watershed Protection Program", $100,000,000, to remain available until expended, for disaster recovery operations.

#### FARM SERVICE AGENCY

##### EMERGENCY CONSERVATION PROGRAM

For an additional amount for "Emergency Conservation Program", $115,000,000, to remain available until expended.

RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT DISASTER ASSISTANCE FUND

For grants, and for the cost of direct and guaranteed loans, for authorized activities of agencies of the Rural Development Mission Area, $150,000,000, to remain available until expended, which shall be allocated as follows: $59,000,000 for single and multi-family housing activities; $40,000,000 for community facilities activities; $26,000,000 for utilities activities; and $25,000,000 for business activities: *Provided*, That such funds shall be for areas affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974: *Provided further,* That the cost of such direct and guaranteed loans, including the cost of modifying loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That the Secretary of Agriculture may reallocate funds made available in this paragraph among the 4 specified activities, if the Secretary notifies the Committees on Appropriations of the House of Representatives and the Senate not less than 15 days prior to such reallocation.

Notification. Deadline.

In addition, for an additional amount for grants, and for the cost of direct and guaranteed loans, for authorized activities of the Rural Housing Service, $38,000,000, to remain available until expended, for single and multi-family housing activities: *Provided,* That such funds shall be for areas affected by Hurricanes Katrina and Rita: *Provided further*, That the cost of such direct and guaranteed loans, including the cost of modifying loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

GENERAL PROVISIONS, THIS CHAPTER

(INCLUDING TRANSFERS OF FUNDS)

7 USC 6945.

SEC. 10101. (a) RURAL DEVELOPMENT DISASTER ASSISTANCE FUND.—Hereafter, there is established in the Treasury a fund entitled the "Rural Development Disaster Assistance Fund".

(b) PURPOSE AND AVAILABILITY OF FUND.—Subject to subsection (d), amounts in the Rural Development Disaster Assistance Fund shall be available to the Secretary of Agriculture, until expended, to provide additional amounts for authorized activities of agencies of the Rural Development Mission Area in areas affected by a disaster declared by the President or the Secretary of Agriculture. Amounts so provided shall be in addition to any other amounts available to carry out the activity.

(c) WAIVER OF ACTIVITY OR PROJECT LIMITATIONS.—The Secretary of Agriculture may waive any limits on population, income, or cost-sharing otherwise applicable to an activity or project for which amounts in the Rural Development Disaster Assistance Fund will be obligated under subsection (b), except that, if the amounts proposed to be obligated in connection with the disaster would exceed the amount specified in subsection (h), the notification required by that subsection shall include information and justification with regard to any waivers to be granted under this subsection.

(d) TREATMENT OF CERTAIN AMOUNTS IN FUND.—Amounts appropriated directly to the Rural Development Disaster Assistance Fund by this Act or any subsequent Act for a specific purpose

shall be available only for that purpose until such time as the transfer authority provided by subsection (f) takes effect with regard to the amounts. Only subsection (c), including the notification requirements of such subsection, and subsections (g) and (i) apply to amounts described in this subsection. Applicability.

(e) TRANSFER OF PRIOR APPROPRIATIONS TO FUND.—The Secretary of Agriculture may transfer to the Rural Development Disaster Assistance Fund, and merge with other amounts generally appropriated to the Fund, the available unobligated balance of any amounts that were appropriated before the date of the enactment of this Act for programs and activities of the Rural Development Mission Area to respond to a disaster and were designated by the Congress as an emergency requirement if, in advance of the transfer, the Secretary determines that the unobligated amounts are no longer needed to respond to the disaster for which the amounts were originally appropriated and the Secretary provides a certification of this determination to the Committees on Appropriations of the House of Representatives and the Senate. Certification.

(f) TRANSFER OF OTHER APPROPRIATIONS TO FUND.—Unless otherwise specifically provided in an appropriations Act, the Secretary of Agriculture may transfer to or within the Rural Development Disaster Assistance Fund, and merge with other amounts generally appropriated to the Fund, the available unobligated balance of any amounts that are appropriated for fiscal year 2009 or any subsequent fiscal year for programs and activities of the Rural Development Mission Area to respond to a disaster and are designated by the Congress as an emergency requirement if, in advance of the transfer, the Secretary determines that the unobligated amounts are no longer needed to respond to the disaster for which the amounts were originally appropriated and the Secretary provides a certification of this determination to the Committees on Appropriations of the House of Representatives and the Senate. A transfer of unobligated amounts with respect to a disaster may not be made under this subsection until after the end of the two-year period beginning on the date on which the amounts were originally appropriated for that disaster. Certification.

(g) ADMINISTRATIVE EXPENSES.—In addition to any other funds available to the Secretary of Agriculture to cover administrative costs, the Secretary may use up to 3 percent of the amounts allocated from the Rural Development Disaster Assistance Fund for a specific disaster to cover administrative costs of Rural Development's State and local offices in the areas affected by the disaster to carry out disaster related activities.

(h) LIMITATION ON PER DISASTER OBLIGATIONS.—Amounts in the Rural Development Disaster Assistance Fund, except for amounts described in subsection (d) that are appropriated to the Fund and obligated in accordance with that subsection, may not be obligated in excess of $1,000,000 for a disaster until at least 15 days after the date on which the Secretary of Agriculture notifies the Committees on Appropriations of the House of Representatives and the Senate of the Secretary's determination to obligate additional amounts and the reasons for the determination. The Secretary may not obligate more than 50 percent of the funds contained in the Rural Development Disaster Assistance Fund for any one disaster unless the Secretary declares that there is a specific and extreme need that additional funds must be provided in response to such disaster at time of the obligation. Deadline. Notification.

(i) QUARTERLY REPORTS.—The Secretary of Agriculture shall submit, on a quarterly basis, to the Committees on Appropriations of the House of Representatives and the Senate a report describing the status of the Rural Development Disaster Assistance Fund and any transactions that have affected the Fund since the previous report.

Applicability.
7 USC 1531 note.

SEC. 10102. Section 1601 (c)(2) of the Food, Conservation and Energy Act of 2008 (Public Law 110-246) shall apply in implementing section 12033 of such Act.

## CHAPTER 2—COMMERCE AND SCIENCE

## DEPARTMENT OF COMMERCE

### ECONOMIC DEVELOPMENT ADMINISTRATION

#### ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Pursuant to section 703 of the Public Works and Economic Development Act (42 U.S.C. 3233), for an additional amount for "Economic Development Assistance Programs", for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure related to the consequences of hurricanes, floods and other natural disasters occuring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, $400,000,000, to remain available until expended.

### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

#### OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities", to improve hurricane track and intensity forecasts for the protection of life and property, $11,000,000, to remain available until September 30, 2009.

In addition, for an additional amount for "Operations, Research, and Facilities", for fishery disaster assistance, $75,000,000, to remain available until September 30, 2009: *Provided*, That the National Marine Fisheries Service shall cause such amounts to be distributed among eligible recipients of assistance for fishery resource disasters and commercial fishery failures as declared by the Secretary of Commerce under sections 308(b) and 308(d) of the Interjurisdicitional Fisheries Act (16 U.S.C. 4107) and sections 312(a) and 315 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a) and 1864).

#### PROCUREMENT, ACQUISITION, AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition, and Construction", to improve hurricane track and intensity forecasts for the protection of life and property, $6,000,000, to remain available until September 30, 2009.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

EXPLORATION CAPABILITIES

For an additional amount for "Exploration Capabilities", for necessary expenses for restoration and mitigation of National Aeronautics and Space Administration owned infrastructure and facilities related to the consequences of hurricanes, floods, and other natural disasters occuring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $30,000,000, to remain available until expended with such sums as determined by the Administrator of the National Aeronautics and Space Administration as available to reimburse costs incurred and for transfer to "Science, Aeronautics and Exploration" in accordance with section 505 of division B of Public Law 110-161.

## CHAPTER 3—ENERGY AND WATER DEVELOPMENT

## DEPARTMENT OF DEFENSE—CIVIL

## DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for "Construction" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes, floods and other natural disasters, $1,538,800,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use $38,800,000 of the funds appropriated under this heading to address emergency situations at Corps of Engineers projects and rehabilitate and repair damages to Corps projects caused by recent natural disasters: *Provided further*, That the Secretary is directed to use $1,500,000,000 of the funds appropriated under this heading to fund the estimated amount of the non-Federal cash contribution for projects in southeast Louisiana that will be financed in accordance with the provisions of section 103(k) of Public Law 99–662 over a period of 30 years from the date of completion of the project or separable element, with $700,000,000 used for the Lake Pontchartrain and Vicinity project; $350,000,000 used for the West Bank and Vicinity project and $450,000,000 used for elements of the Southeast Louisiana Urban Drainage project that are within the geographic perimeter of the West Bank and Vicinity and Lake Pontchartrain and Vicinity projects: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes and any reallocation of funds that is necessary to accomplish the established goals is authorized subject to the approval of the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

Louisiana.

Reports.
Deadline.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for "Mississippi River and Tributaries" for recovery from natural disasters, $82,400,000, to remain available until expended, to dredge eligible projects in response to and repair damages to Federal projects caused by recent natural disasters: *Provided*, That $35,000,000 shall be used to reimburse projects where funding was transferred to the Flood Control and Coastal Emergencies account under the provisions of section 5 of the Act of August 18, 1941 (33 U.S.C. 701n): *Provided further*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

Reports. Deadline.

OPERATION AND MAINTENANCE

For an additional amount for "Operation and Maintenance" to dredge navigation channels and repair other Corps projects related to natural disasters, $740,000,000, to remain available until expended: *Provided*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

Reports. Deadline.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of recent hurricanes and other natural disasters as authorized by law, $415,600,000, to remain available until expended to support emergency operations, repair eligible projects nationwide, and for other activities in response to natural disasters: *Provided*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

Reports. Deadline.

## CHAPTER 4—FINANCIAL SERVICES AND GENERAL GOVERNMENT

## INDEPENDENT AGENCIES

### GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

CONSTRUCTION AND ACQUISITION

For an additional amount to be deposited in the Federal Buildings Fund, $182,000,000, exclusive of permitted escalation, is authorized and available for the Administrator to proceed with

necessary site acquisition, design, and construction for the new courthouse project in Cedar Rapids, Iowa: *Provided*, That the foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent of the amounts provided unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That all funds for direct construction projects shall expire on September 30, 2009 and remain in the Federal Buildings Fund except for funds for projects to which funds for design or other funds have been obligated in whole or in part prior to such date.

Expiration date.

## SMALL BUSINESS ADMINISTRATION

### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $10,000,000, to remain available until September 30, 2009, for grants under section 21 of the Small Business Act (15 U.S.C. 648) to small business development centers to provide technical assistance to small business concerns affected by recent hurricanes, flooding, and other natural disasters in calendar year 2008: *Provided*, That the Administrator of the Small Business Administration shall waive the matching requirement under section 21(a)(4)(A) of such Act for any grant made using funds made available under this heading.

Waiver authority.

### OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General" for necessary expenses related to the consequences of recent hurricanes and other natural disasters in calendar year 2008, $3,000,000, to remain available until expended.

### DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for the "Disaster Loans Program Account" for the cost of direct loans authorized by section 7(b) of the Small Business Act, for necessary expenses related to recent hurricanes and other natural disasters, $498,000,000, to remain available until expended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program authorized by section 7(b) in response to recent hurricanes and other natural disasters, including onsite assistance to disaster victims, increased staff at call centers, processing centers, and field inspections teams, and attorneys to assist in loan closings, $288,000,000 to remain available until expended; of which $279,000,000 is for direct administrative expenses of loan making and servicing to carry out the direct loan program, which may be paid to appropriations for Salaries and Expenses; and of which $9,000,000 is for indirect administrative expenses, which may be paid to appropriations for Salaries and Expenses.

## CHAPTER 5—HOMELAND SECURITY

## DEPARTMENT OF HOMELAND SECURITY

### COAST GUARD

#### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Acquisition, Construction, and Improvements" for necessary expenses related to the consequences of 2008 natural disasters and flooding, $300,000,000, to remain available until expended: *Provided,* That notwithstanding the transfer limitation contained in section 503 of division E of Public Law 110–161, such funding may be transferred to other Coast Guard appropriations after notification as required in accordance with such section: *Provided further,* That a plan listing all facilities to be reconstructed and restored, with associated costs, shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives.

Plan.

### FEDERAL EMERGENCY MANAGEMENT AGENCY

#### DISASTER RELIEF

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Disaster Relief", $7,960,000,000, to remain available until expended: *Provided*, That of the amount provided, up to $98,150,000 may be transferred to the "Disaster Assistance Direct Loan Program Account" for the cost of direct loans as authorized under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184), of which up to $4,200,000 is for administrative expenses to carry out the direct loan program: *Provided further*, That such transfer may be made to subsidize gross obligations for the principal amount of direct loans not to exceed $100,000,000 under section 417 of such Act: *Provided further*, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a): *Provided further*, That of the amount provided, up to $8,000,000 shall be transferred to the "Department of Homeland Security Office of Inspector General" for audits and investigations related to disasters.

### GENERAL PROVISIONS, THIS CHAPTER

(INCLUDING RESCISSION OF FUNDS)

SEC. 10501. (a) RESCISSION.—Of amounts previously made available from "Federal Emergency Management Agency—Disaster Relief" to the State of Mississippi pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5170c) for Hurricane Katrina, an additional $20,000,000 is rescinded.

(b) APPROPRIATION.—For "Federal Emergency Management Agency—State and Local Programs", there is appropriated an additional $20,000,000, to remain available until expended, for a grant

Grants.
Mississippi.

to the State of Mississippi for an interoperable communications system required in the aftermath of Hurricane Katrina.

SEC. 10502. There is hereby appropriated to the Secretary of the Department of Homeland Security not to exceed $100,000,000, to remain available until September 30, 2009, for payments to the American Red Cross for reimbursement of disaster relief and recovery expenditures and emergency services provided in the United States associated with hurricanes, floods, and other natural disasters occurring in 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, and only to the extent funds are not made available for those activities by other Federal sources: *Provided*, That these funds may be administered by any authorized federal government agency to meet the purposes of this provision and that total administrative costs shall not exceed 3 percent of the total appropriation: *Provided further*, That the Comptroller General shall audit the use of these funds by the American Red Cross.

Audits.

SEC. 10503. Until such time as preliminary flood insurance rate maps initiated prior to October 1, 2008 are completed and released for public review, preliminary base flood elevations are published in the Federal Register, and the second required local newspaper publication of such base flood elevations is made for the City of St. Louis, St. Charles and St. Louis counties in Missouri, and Madison, Monroe, and St. Clair counties in Illinois, the Administration shall not begin the statutory appeals process in such areas required under section 1363 of the National Flood Insurance Act of 1968.

Missouri.
Illinois.

## CHAPTER 6—INTERIOR AND ENVIRONMENT

## DEPARTMENT OF THE INTERIOR

### BUREAU OF LAND MANAGEMENT

#### WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Wildland Fire Management", $135,000,000, to remain available until expended, of which (1) $110,000,000 is for urgent wildland fire suppression activities, including repayments to other accounts from which funds were transferred in fiscal year 2008 for wildfire suppression so that all such transfers for fiscal year 2008 are fully repaid; and (2) $25,000,000 is for burned area rehabilitation.

### UNITED STATES FISH AND WILDLIFE SERVICE

#### CONSTRUCTION

For an additional amount for "Construction", $75,000,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes and natural disasters.

## DEPARTMENT OF AGRICULTURE

### FOREST SERVICE

#### CAPITAL IMPROVEMENT AND MAINTENANCE

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Capital Improvement and Maintenance", $30,000,000, to remain available until expended, for necessary expenses, including cleanup, related to the consequences of hurricanes, floods and other natural disasters.

#### WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

Deadlines.

For an additional amount for "Wildland Fire Management", $775,000,000, to remain available until expended, of which (1) $500,000,000 shall be available for emergency wildfire suppression and related activities, of which no less than $300,000,000 shall be transferred to Forest Service accounts within 15 days of enactment of this Act so that all such transfers for wildfire suppression in fiscal year 2008 are fully repaid, including $30,000,000 reallocated between programs in the Wildland Fire Management Account; and of which $100,000,000 shall be transferred within 15 days of enactment of this Act to the fund established by section 3 of Public Law 71–319 (16 U.S.C. 576 et seq.) to repay transfers made for previous emergency wildfire suppression activities; (2) $175,000,000 shall be available for hazardous fuels reduction and hazard mitigation activities in areas at high risk of catastrophic wildfire due to population density and fuel loads, of which $125,000,000 is available for work on State and private lands using all the authorities available to the Forest Service; (3) $75,000,000 is for rehabilitation and restoration of Federal lands and may be transferred to other Forest Service accounts as necessary; and (4) $25,000,000 is for preparedness for retention initiatives in areas at high risk of catastrophic wildfire that face recurrent staffing shortages.

## CHAPTER 7—HEALTH AND HUMAN SERVICES AND EDUCATION

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### ADMINISTRATION FOR CHILDREN AND FAMILIES

#### SOCIAL SERVICES BLOCK GRANT

For an additional amount for "Social Services Block Grant", $600,000,000, which shall remain available through September 30, 2009, for necessary expenses resulting from hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, and from Hurricanes Katrina and Rita, notwithstanding section 2003 and paragraphs (1) and (4) of section 2005(a) of the Social Security Act: *Provided,* That notwithstanding section 2002 of the

Social Security Act, the distribution of such amount shall be limited to States directly affected by these events: *Provided further,* That the Secretary of Health and Human Services shall distribute such amount to eligible States based on demonstrated need in accordance with objective criteria that are made available to the public: *Provided further,* That in addition to other uses permitted by title XX of the Social Security Act, funds appropriated under this heading may be used for health services (including mental health services), and for repair, renovation, and construction of health care facilities (including mental health facilities), child care centers, and other social services facilities.

Criteria. Public information.

## DEPARTMENT OF EDUCATION

### SCHOOL IMPROVEMENT PROGRAMS

For an additional amount for "School Improvement Programs" for education for homeless children and youths (as defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), $15,000,000, to remain available through September 30, 2009: *Provided,* That such funds shall be made available, based on demonstrated need, only to local educational agencies whose enrollment of homeless students has increased as a result of hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974: *Provided further*, That such funds shall be used for the activities described in section 723(d) of such Act (42 U.S.C. 11433(d)) and services provided using such funds shall comply with paragraphs (2) and (3) of section 723(a) of such Act (42 U.S.C. 11433(a)): *Provided further*, That the local educational agency requirements described in paragraphs (3) through (7) of section 722(g) of such Act (42 U.S.C. 11432(g)) shall apply: *Provided further*, That the Secretary of Education shall distribute these funds to such local educational agencies not later than 120 days after the date of the enactment of this Act.

Applicability.

Deadline.

### HIGHER EDUCATION DISASTER RELIEF

For an additional amount under part B of title VII of the Higher Education Act of 1965 ("HEA") for institutions of higher education (as defined in section 101 or section 102(c) of that Act) that are located in an area affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $15,000,000, to remain available through September 30, 2009: *Provided*, That such funds shall be available to the Secretary of Education only for payments to help defray the expenses (which may include lost revenue, reimbursement for expenses already incurred, and construction) incurred by such institutions of higher education that were forced to close, relocate, or whose operations were impaired as a result of damage directly caused by such hurricanes, floods, and other natural disasters occurring during 2008, and for payments to enable such institutions to provide grants to students who attend such institutions for academic years beginning on or after July 1, 2008: *Provided further*, That such payments shall be made in accordance with criteria established by the Secretary

Criteria. Public information.

Deadline.

and made publicly available without regard to section 437 of the General Education Provisions Act, section 553 of title 5, United States Code, or part B of title VII of the HEA: *Provided further*, That the Secretary shall award funds available under this paragraph not later than 60 days after the date of the enactment of this Act.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 10701. (a) EXTENSION OF WAIVER AUTHORITY.—Section 105 of subtitle A of title IV of division B of Public Law 109–148 (119 Stat. 2797) is amended—

(1) in subsection (b)—

(A) in the first sentence, by striking "for fiscal year 2007." and inserting "for any of fiscal years 2007 through 2009."; and

(B) by striking the second sentence; and

(2) in subsection (c)(2), by striking "for fiscal year 2006 or 2007" and inserting "for any fiscal year".

(b) APPLICATION OF WAIVER AUTHORITY TO AREAS AFFECTED IN 2008.—The authority of the Secretary of Education under section 105 of subtitle A of title IV of division B of Public Law 109–148 (119 Stat. 2797), as amended by subsection (a), may be exercised with respect to an entity in an area affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.

SEC. 10702. (a) ALLOCATION AND USE OF CAMPUS-BASED HIGHER EDUCATION ASSISTANCE.—

(1) WAIVER OF MATCHING REQUIREMENTS.—Notwithstanding sections 413C(a)(2) and 443(b)(5) of the Higher Education Act of 1965 (20 U.S.C. 1070b-2(a)(2); 42 U.S.C. 2753(b)(5)), with respect to funds made available for academic year 2009-2010 to an institution of higher education located in an area affected by a 2008 natural disaster, the Secretary shall waive the requirement that a participating institution of higher education provide a non-Federal share or a capital contribution, as the case may be, to match Federal funds provided to the institution for the programs authorized pursuant to subpart 3 of part A and part C of title IV of such Act.

(2) WAIVER OF REALLOCATION RULES.—

(A) AUTHORITY TO REALLOCATE.—Notwithstanding sections 413D(d) and 442(d) of the Higher Education Act of 1965 (20 U.S.C. 1070b-3(d); 42 U.S.C. 2752(d)), the Secretary shall—

(i) reallocate any funds returned under any of those sections that were allocated to institutions of higher education for award year 2008–2009 to an institution of higher education that is eligible under this paragraph; and

(ii) waive the allocation reduction for award year 2009-2010 for an institution returning more than 10 percent of its allocation under any of those sections.

(B) ELIGIBLE INSTITUTIONS FOR REALLOCATION.—An institution of higher education may receive a reallocation of excess allocations under this paragraph if the institution—

(i) participates in the program for which excess allocations are being reallocated; and

(ii) is located in an area affected by a 2008 natural disaster.

(C) BASIS OF REALLOCATION.—The Secretary shall determine the manner in which excess allocations shall be reallocated to institutions under subparagraph (A), and shall give additional consideration to the needs of institutions located in an area affected by a 2008 natural disaster.

(D) ADDITIONAL WAIVER AUTHORITY.—Notwithstanding any other provision of law, in order to carry out this paragraph, the Secretary may waive or modify any statutory or regulatory provision relating to the reallocation of excess allocations under subpart 3 of part A or part C of title IV of the Higher Education Act of 1965 in order to ensure that assistance is received by institutions described in subsection (a)(2)(B).

(b) DEFINITIONS.—In this section:

(1) 2008 NATURAL DISASTER.—The term "2008 natural disaster" means a major disaster that the President declared to exist, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) that was caused by hurricanes, floods, and other natural disasters during calendar year 2008.

(2) AREA AFFECTED BY A 2008 NATURAL DISASTER.—The term "area affected by a 2008 natural disaster" means a county or parish that has been designated by the Federal Emergency Management Agency for disaster assistance for individuals and households as a result of a 2008 natural disaster.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

(4) SECRETARY.—The term "Secretary" means the Secretary of Education.

## CHAPTER 8—MILITARY CONSTRUCTION

## DEPARTMENT OF DEFENSE

### MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for "Military Construction, Army National Guard", $25,000,000, to remain available until September 30, 2013, for construction due to damages as a result of natural disasters: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military contruction projects not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act, the Army National Guard shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline.
Expenditure plan.

## CHAPTER 9—DEPARTMENT OF STATE AND FOREIGN OPERATIONS

### INTERNATIONAL COMMISSIONS

#### INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

##### CONSTRUCTION

For an additional amount for "Construction", for the water quantity program to meet immediate and emergency repair and rehabilitation requirements, $37,500,000, to remain available until expended: *Provided*, That up to $3,000,000 may be transferred to, and merged with, funds available under the heading "International Boundary and Water Commission—Salaries and Expenses": *Provided further*, That not later than 60 days after enactment of this Act, the Commission shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed spending plan for funds appropriated under this heading.

Deadline.
Spending plan.

## CHAPTER 10—TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT

## DEPARTMENT OF TRANSPORTATION

### FEDERAL HIGHWAY ADMINISTRATION

#### FEDERAL-AID HIGHWAYS

##### EMERGENCY RELIEF PROGRAM

For an additional amount for the Emergency Relief Program as authorized under section 125 of title 23, United States Code, $850,000,000, to remain available until expended: *Provided*, That notwithstanding section 125(d)(1) of such title, the Secretary of Transportation may obligate more than $100,000,000 for eligible expenses in a State in a fiscal year to respond to damage caused by Hurricanes Gustav and Ike.

### FEDERAL RAILROAD ADMINISTRATION

#### RAILROAD REHABILITATION AND REPAIR

For necessary expenses for the Secretary of Transportation to make grants to repair and rehabilitate Class II and Class III railroad infrastructure damaged by hurricanes, floods, and other natural disasters in areas for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $20,000,000, to remain available until expended, and to be awarded to States on a competitive case-by-case basis based on need: *Provided*, That funds available under this heading shall be available for repair and rehabilitation of railroad rights-of-way, bridges, signals, and other infrastructure which is part of the general railroad system of transportation and primarily used by railroads to move freight traffic: *Provided further*, That the maximum Federal share for carrying out a project

under this heading shall be 80 percent of the project cost with the non-Federal share provided only in cash, equipment or supplies: *Provided further*, That the Secretary may retain up to one-half of 1 percent of the funds under this heading to fund the oversight by the Administrator of the Federal Railroad Administration of the design and implementation of projects funded by grants made under this heading: *Provided further*, That the provisions of section 24312 of title 49, United States Code, shall apply to grantees assisted under this heading: *Provided further*, That grantees must exhaust all other Federal and State resources prior to seeking assistance under this heading.

Applicability.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### PUBLIC AND INDIAN HOUSING

#### TENANT-BASED RENTAL ASSISTANCE

For an additional amount for "Tenant-Based Rental Assistance", as authorized under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), not otherwise provided for, $85,000,000, to remain available until expended, for incremental housing assistance, including related administrative expenses, for persons assisted under the Disaster Housing Assistance Program whose assistance would otherwise end on March 1, 2009.

#### PROJECT-BASED RENTAL ASSISTANCE

For an additional amount to areas impacted by Hurricanes Katrina and Rita for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), $50,000,000, to remain available until expended.

#### PUBLIC HOUSING CAPITAL FUND

For an additional amount to be made available to the Secretary of Housing and Urban Development, $15,000,000, notwithstanding any other provision of law, to be used solely for the redevelopment of public housing impacted by Hurricanes Katrina and Rita.

### COMMUNITY PLANNING AND DEVELOPMENT

#### COMMUNITY DEVELOPMENT FUND

For an additional amount for the "Community Development Fund", for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, floods, and other natural disasters occuring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $6,500,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93–383): *Provided*, That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each State: *Provided further*, That such funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency

Management Agency or the Army Corps of Engineers: *Provided further*, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State under the Community Development Fund: *Provided further*, That each State may use up to 5 percent of its allocation for administrative costs: *Provided further*, That $6,500,000 shall be available for use by the Assistant Secretary of Community Planning and Development for the administrative costs, including information technology costs, with respect to amounts made available under this section and under section 2301(a) of the Housing and Economic Recovery Act of 2008. *Provided further*, That not less than $650,000,000 from funds made available on a pro-rata basis according to the allocation made to each State under this heading shall be used for repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas where there is a demonstrated need as determined by the Secretary: *Provided further*, That in administering the funds under this heading, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by a State explaining why such waiver is required to facilitate the use of such funds or guarantees, if the Secretary finds that such waiver would not be inconsistent with the overall purpose of title I of the Housing and Community Development Act of 1974: *Provided further*, That a waiver granted by the Secretary under the preceding proviso may not reduce the percentage of funds which must be used for activities that benefit persons of low and moderate income to less than 50 percent, unless the Secretary specifically finds that there is compelling need to further reduce or eliminate the percentage requirement: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: *Provided further*, That every waiver made by the Secretary must be reconsidered according to the three previous provisos on the 2-year anniversary of the day the Secretary published the waiver in the Federal Register: *Provided further*, That the Secretary shall allocate to the states not less than 33 percent of the funding provided under this heading within 60 days after the enactment of this Act based on the best estimates available of relative damage and anticipated assistance from other Federal sources: *Provided further*, That prior to the obligation of funds each State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further*, That each State will report quarterly to the Committees on Appropriations on all awards and uses of funds made available under this heading, including specifically identifying all awards of sole-source contracts and the rationale for making the award on a sole-source basis: *Provided further*, That the Secretary shall notify the Committees on Appropriations of any proposed allocation of

Waiver authority.

Federal Register, publication. Deadline.

Deadline.

State and local governments. Plan.

Reports. Contracts.

Notification. Deadline.

any funds and any related waivers made pursuant to the provisions under this heading no later than 5 days before such allocation or waiver is made: *Provided further*, That the Secretary shall establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits: *Provided further*, That none of the funds provided under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program.

Procedures.
Reports.
Deadline.
Fraud.

## GENERAL PROVISIONS, THIS CHAPTER

SEC. 11001. Section 7025 of Public Law 109–234 is amended by inserting "and nine months" after "two years".

120 Stat. 486.

SEC. 11002. The Secretary of Housing and Urban Development ("Secretary") is authorized to transfer, at the request of the project owner, any project-based assistance contract in its entirety entered into pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (and any use restriction on the project) from one project to another project. The Secretary shall make a determination of approval or disapproval within 60 days of receipt of the proper documentation required for such transfer, as determined by the Secretary, if—

Contracts.

Deadline.

(1) the project from which the contract is transferred is destroyed, damaged by Hurricanes Katrina or Rita, or is considered beyond repair, physically obsolete, or economically infeasible; and

(2) the number of individuals that can be served in the project to which the contract is transferred is approximately at least equal to the number of individuals that could be served in the project from which the contract is transferred, and any difference in the unit count and bedroom configuration between the two projects shall be immaterial to the Secretary's authority to transfer the contract.

SEC. 11003. Section 901 of Public Law 109–148 is amended by deleting "calendar years 2006 and 2007" and inserting "calendar years 2006, 2007, 2008, and 2009".

119 Stat. 2781; 121 Stat. 162.

# TITLE II—OTHER SUPPLEMENTAL APPROPRIATIONS

## CHAPTER 1—STATE AND FOREIGN OPERATIONS

### DEPARTMENT OF STATE

#### OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Office of Inspector General", $9,000,000, which shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight, to remain available until September 30, 2010.

## BILATERAL ECONOMIC ASSISTANCE

### OTHER BILATERAL ECONOMIC ASSISTANCE

#### ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Economic Support Fund", $465,000,000, to remain available until September 30, 2010, of which up to $5,000,000 may be made available for administrative expenses of the United States Agency for International Development, in addition to amounts otherwise made available for such purposes: *Provided*, That of the funds appropriated under this heading, $365,000,000 shall be made available for assistance for Georgia and the region for humanitarian and economic relief, reconstruction, energy-related programs and democracy activities, and may be transferred to, and merged with, funds appropriated under the headings "Assistance for the Independent States of the Former Soviet Union" and "International Disaster Assistance", of which up to $8,000,000 may be transferred to, and merged with, funds made available for "International Broadcasting Operations" for broadcasting activities to Georgia, Russia and the region: *Provided further*, That none of the funds made available in prior Acts making appropriations for foreign operations, export financing, and related programs under the headings "Assistance for the Independent States of the Former Soviet Union" and "Assistance for Eastern Europe and the Baltic States", or funds appropriated for Iraq for the Community Stabilization Program under the heading "Economic Support Fund" in Public Law 110-252, may be reprogrammed for assistance for Georgia: *Provided further*, That of the funds appropriated under this heading, not less than $100,000,000 shall be made available for hurricane relief and reconstruction assistance for Haiti and other Caribbean countries: *Provided further*, That funds appropriated under this heading shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

Haiti.

## CHAPTER 2—AGRICULTURE

#### BILL EMERSON HUMANITARIAN TRUST

SEC. 20201. There is hereby appropriated to the Secretary of Agriculture $100,000,000, to remain available until expended, to carry out the Bill Emerson Humanitarian Trust, as authorized by the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1).

## TITLE III—GENERAL PROVISIONS

#### SHORT TITLE

SEC. 30001. This division may be cited as the "Disaster Relief and Recovery Supplemental Appropriations Act, 2008".

#### EMERGENCY DESIGNATION

SEC. 30002. Each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs

pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

COORDINATION OF PROVISIONS

SEC. 30003. Unless otherwise expressly provided, each amount in this Act is a supplemental appropriation for fiscal year 2008 or, if enacted after September 30, 2008, for fiscal year 2009.

## DIVISION C—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2009

Department of Defense Appropriations Act, 2009.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, for military functions administered by the Department of Defense and for other purposes, namely:

## TITLE I

## MILITARY PERSONNEL

### MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $36,382,736,000.

### MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $24,037,553,000.

### MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42

U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $11,792,974,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $25,103,789,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $3,904,296,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,855,968,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $584,910,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,423,676,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $6,616,220,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,741,768,000.

## TITLE II

## OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,478,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $31,207,243,000: *Provided,* That of the funds made available under

this heading, $2,500,000 shall be available for Fort Baker, in accordance with terms and conditions as provided under the heading "Operation and Maintenance, Army", in Public Law 107–117.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $14,657,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $34,410,773,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $5,519,232,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $34,865,964,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $25,939,466,000: *Provided,* That not more than $50,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code: *Provided further,* That not to exceed $36,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further,* That of the funds provided under this heading, not less than $29,900,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than $3,600,000 shall be available for centers defined in 10 U.S.C. 2411(1)(D): *Provided further,* That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: *Provided further,* That, notwithstanding section 130(a) of title 10, United States Code, not less than $46,970,000 shall be available for the Office of the Undersecretary of Defense, Comptroller and Chief Financial

Officer: *Provided further,* That $4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further,* That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: *Provided further,* That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,628,896,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,308,141,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $212,487,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $3,018,151,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division,

regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $5,858,303,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $5,901,044,000.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $13,254,000, of which not to exceed $5,000 may be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $457,776,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $290,819,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste,

removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $496,277,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $13,175,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $291,296,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 407, 2557, and 2561 of title 10, United States Code), $83,273,000, to remain available until September 30, 2010.

COOPERATIVE THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $434,135,000, to remain available until September 30, 2011: *Provided*, That of the amounts provided under this heading, $12,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

## TITLE III

## PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing

purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,900,835,000, to remain available for obligation until September 30, 2011.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,185,060,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $3,169,128,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,287,398,000, to remain available for obligation until September 30, 2011.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat

vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $262,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $10,684,014,000, to remain available for obligation until September 30, 2011.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $14,141,318,000, to remain available for obligation until September 30, 2011.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $3,292,972,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,085,158,000, to remain available for obligation until September 30, 2011.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program, $2,692,607,000;
Carrier Replacement Program (AP), $1,214,188,000;
NSSN, $2,107,040,000;
NSSN (AP), $1,395,548,000;
CVN Refueling, $593,534,000;
CVN Refuelings (AP), $21,389,000;
SSBN Submarine Refuelings, $221,823,000;
SSBN Submarine Refuelings (AP), $39,363,000;
DDG–1000 Program, $1,508,803,000;
DDG–51 Destroyer (AP), $200,000,000;
Littoral Combat Ship, $1,020,000,000;
LPD–17, $933,216,000;
LHA–R (AP), $178,300,000;
Intratheater Connector, $174,782,000;
LCAC Service Life Extension Program, $110,918,000;
Prior year shipbuilding costs, $165,152,000;
Service Craft, $48,117,000; and
For outfitting, post delivery, conversions, and first destination transportation, $429,587,000.

In all: $13,054,367,000, to remain available for obligation until September 30, 2013: *Provided*, That additional obligations may be incurred after September 30, 2013, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of seven vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $262,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway,

$5,250,627,000, to remain available for obligation until September 30, 2011.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,376,917,000, to remain available for obligation until September 30, 2011.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $13,112,617,000, to remain available for obligation until September 30, 2011.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $5,442,428,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and

machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $859,466,000, to remain available for obligation until September 30, 2011.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of two vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $262,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $16,052,569,000, to remain available for obligation until September 30, 2011.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $3,306,269,000, to remain available for obligation until September 30, 2011.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $750,000,000, to remain available for obligation until September 30, 2011, of which $480,000,000 shall be available only for the Army National Guard: *Provided,* That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

Deadline.
Assessment.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $100,565,000, to remain available until expended.

## TITLE IV

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $12,060,111,000, to remain available for obligation until September 30, 2010.

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $19,764,276,000, to remain available for obligation until September 30, 2010: *Provided*, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique operational requirements of the Special Operations Forces: *Provided further*, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $27,084,340,000, to remain available for obligation until September 30, 2010.

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $21,423,338,000, to remain available for obligation until September 30, 2010: *Provided,* That of the amount available under this heading for the Prompt Global Strike Capability Development program, not less than one-fourth shall be available for the Army Advanced Hypersonic Weapon initiative.

### OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $188,772,000, to remain available for obligation until September 30, 2010.

## TITLE V

## REVOLVING AND MANAGEMENT FUNDS

### DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, $1,489,234,000.

### NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $1,666,572,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

Contracts.

Waiver authority.
Certification.

## TITLE VI

## OTHER DEPARTMENT OF DEFENSE PROGRAMS

### DEFENSE HEALTH PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense as authorized by law, $25,825,832,000, of which $1,300,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund; of which $24,611,369,000 shall be for operation and maintenance, of which not to exceed one percent shall remain available until September 30, 2010, and of which up to $13,217,751,000 may be available for contracts entered into under the TRICARE program; of which $311,905,000, to remain available for obligation until September 30, 2011, shall be for procurement; and of which $902,558,000, to remain available for obligation until September 30, 2010, shall be for research, development, test and evaluation: *Provided,* That, notwithstanding any other provision of law, of the amount made available under this heading for research, development, test and evaluation, not less than $8,000,000 shall

be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions, to include construction of facilities, in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,505,634,000, of which $1,152,668,000 shall be for operation and maintenance, of which no less than $103,198,000, shall be for the Chemical Stockpile Emergency Preparedness Program, consisting of $33,411,000 for activities on military installations and $69,787,000, to remain available until September 30, 2010, to assist State and local governments; $64,085,000 shall be for procurement, to remain available until September 30, 2011, of which no less than $26,428,000 shall be for the Chemical Stockpile Emergency Preparedness Program to assist State and local governments; and $288,881,000, to remain available until September 30, 2010, shall be for research, development, test and evaluation, of which $283,219,000 shall only be for the Assembled Chemical Weapons Alternatives (ACWA) program.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for operation and maintenance; for procurement; and for research, development, test and evaluation, $1,096,743,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $271,845,000, of which $270,445,000 shall be for operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which

$1,400,000, to remain available until September 30, 2011, shall be for procurement.

## TITLE VII

## RELATED AGENCIES

### CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $279,200,000.

### INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $710,042,000: *Provided,* That of the funds appropriated under this heading, $44,000,000 shall be transferred to the Department of Justice, of which $2,000,000 shall be for reimbursement of Air Force personnel for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities: *Provided further,* That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

## TITLE VIII

## GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress. 10 USC 1584 note.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not Wages.

apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $4,100,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: *Provided further*, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2009: *Provided further*, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section: *Provided further*, That no obligation of funds may be made pursuant to section 1206 of Public Law 109–163 (or any successor provision) unless the Secretary of Defense has notified the congressional defense committees prior to any such obligation.

Notification.

Deadline.

Notification.

SEC. 8006. (a) With regard to the list of specific programs, projects, and activities (and the dollar amounts and adjustments to budget activities corresponding to such programs, projects, and activities) contained in the tables titled "Explanation of Project Level Adjustments" in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act), the obligation and expenditure of amounts appropriated or otherwise made available in this Act for those programs, projects, and activities for which the amounts appropriated exceed the amounts requested are hereby required by law to be carried out in the manner provided by such tables to the same extent as if the tables were included in the text of this Act.

(b) Amounts specified in the referenced tables described in subsection (a) shall not be treated as subdivisions of appropriations for purposes of section 8005 of this Act: *Provided,* That section 8005 shall apply when transfers of the amounts described in subsection (a) occur between appropriation accounts. Applicability.

SEC. 8007. (a) Not later than 60 days after enactment of this Act, the Department of Defense shall submit a report to the congressional defense committees to establish the baseline for application of reprogramming and transfer authorities for fiscal year 2009: *Provided*, That the report shall include— Deadline. Reports.

(1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(2) a delineation in the table for each appropriation both by budget activity and program, project, and activity as detailed in the Budget Appendix; and

(3) an identification of items of special congressional interest.

(b) Notwithstanding section 8005 of this Act, none of the funds provided in this Act shall be available for reprogramming or transfer until the report identified in subsection (a) is submitted to the congressional defense committees, unless the Secretary of Defense certifies in writing to the congressional defense committees that such reprogramming or transfer is necessary as an emergency requirement. Certification.

SEC. 8008. The Secretaries of the Air Force and the Army are authorized, using funds available under the headings "Operation and Maintenance, Air Force" and "Operation and Maintenance, Army", to complete facility conversions and phased repair projects which may include upgrades and additions to Alaskan range infrastructure and training areas, and improved access to these ranges.

(TRANSFER OF FUNDS)

SEC. 8009. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation. Notification. Notification.

SEC. 8010. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in advance to the congressional defense committees. Notification. Deadline.

SEC. 8011. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic Contracts. Notification. Deadline. 10 USC 2306b note.

order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: *Provided further*, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract and, in the case of a contract for procurement of aircraft, that includes, for any aircraft unit to be procured through the contract for which procurement funds are requested in that budget request for production beyond advance procurement activities in the fiscal year covered by the budget, full funding of procurement of such unit in that fiscal year;

(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

SSN Virginia class submarine.

SEC. 8012. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized

Humanitarian assistance. Territories.

by Public Law 99–239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8013. (a) During fiscal year 2009, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2010 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2010 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2010.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

Lobbying.

SEC. 8014. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8015. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this section shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this section applies only to active components of the Army.

Applicability.

Contracts.
Outsourcing.

SEC. 8016. (a) None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) $10,000,000; and

(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(b)(1) The Department of Defense, without regard to subsection (a) of this section or subsection (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(c) The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

(TRANSFER OF FUNDS)

SEC. 8017. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

Vessels.

SEC. 8018. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4

inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

Waiver authority. Certification.

SEC. 8019. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

Ammunition.

SEC. 8020. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

Waiver authority. Certification.

SEC. 8021. In addition to the funds provided elsewhere in this Act, $15,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code, shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: *Provided further*, That notwithstanding section 430 of title 41, United States Code, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code.

Contracts.

Applicability.

SEC. 8022. Funds appropriated by this Act for the Defense Media Activity shall not be used for any national or international political or psychological activities.

SEC. 8023. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

Kuwait.

SEC. 8024. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8025. (a) Of the funds made available in this Act, not less than $34,929,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) $26,605,000 shall be available from "Operation and Maintenance, Air Force" to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) $7,435,000 shall be available from "Aircraft Procurement, Air Force"; and

(3) $889,000 shall be available from "Other Procurement, Air Force" for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

SEC. 8026. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2009 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2009, not more than 5,600 staff years of technical effort (staff years) may be funded

for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,100 staff years may be funded for the defense studies and analysis FFRDCs: *Provided further*, That this subsection shall not apply to staff years funded in the National Intelligence Program (NIP) and the Military Intelligence Program (MIP).

Reports.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2010 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year and the associated budget estimates.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $84,000,000.

SEC. 8027. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

Contracts.
Applicability.

Waiver authority.
Certification.

SEC. 8028. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

10 USC 101 note.

SEC. 8029. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

Certification.

SEC. 8030. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act

41 USC 10b–2 note.

with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

Reports.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2009. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8031. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

Housing.
Native Americans.
State listing.

SEC. 8032. (a) Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8033. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000.

SEC. 8034. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for

sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

Federal budget.

(b) The fiscal year 2010 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2010 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2010 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8035. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2010: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: *Provided further*, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2010.

50 USC 403u note.

SEC. 8036. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8037. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $12,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8038. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

Labeling. Fraud.

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the

United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

Contracts.

SEC. 8039. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8040. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

Waiver authority.
Certification.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to—

(1) field operating agencies funded within the National Intelligence Program; or

(2) an Army field operating agency established to eliminate, mitigate, or counter the effects of improvised explosive devices, and, as determined by the Secretary of the Army, other similar threats.

SEC. 8041. The Secretary of Defense, notwithstanding any other provision of law, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading "Operation and Maintenance, Defense-

Wide" to make grants and supplement other Federal funds in accordance with the guidance provided in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

(RESCISSIONS)

SEC. 8042. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Aircraft Procurement, Army", 2008/2010, $174,600,000;

"Procurement of Ammunition, Army", 2008/2010, $69,200,000;

"Shipbuilding and Conversion, Navy", 2008/2012, $337,000,000;

"Research, Development, Test and Evaluation, Army", 2008/2009, $49,800,000;

"Research, Development, Test and Evaluation, Air Force", 2008/2009, $300,073,000;

"Research, Development, Test and Evaluation, Defense-Wide", 2008/2009, $150,000,000; and

"Tanker Replacement Transfer Fund", $239,800,000.

SEC. 8043. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

North Korea.

SEC. 8044. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of Korea unless specifically appropriated for that purpose.

SEC. 8045. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program and the Military Intelligence Program: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8046. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003, level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

Waiver authority. Certification.

SEC. 8047. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or

10 USC 374 note.

agency of the United States except as specifically provided in an appropriations law.

50 USC 403f note.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

Ball bearings.

SEC. 8048. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

Waiver authority. Certification.

Applicability.

Certification.

SEC. 8049. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8050. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided*, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

Notification. Deadline.

SEC. 8051. (a) Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

Applicability.

(b) This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) A notice under subsection (a) shall include the following—

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

Contracts.

SEC. 8052. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8053. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8054. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided*

*further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8055. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

Germany.

SEC. 8056. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8057. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

Waiver authority.
Certification.

Medical supplies and equipment.
American Samoa.
Native Americans.
10 USC 2241 note.

SEC. 8058. Notwithstanding any other provision of law, funds available to the Department of Defense in this Act, and hereafter, shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8059. None of the funds made available in this Act may be used to approve or license the sale of the F–22A advanced tactical fighter to any foreign government.

Waiver authority.
Contracts.

SEC. 8060. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements

for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to— Applicability.

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8061. (a) None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken. Human rights.

(b) The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances. Waiver authority.

(d) Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver. Deadline. Reports.

SEC. 8062. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference. Waiver authority. Certification.

SEC. 8063. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the

Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

Reports.

SEC. 8064. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any new start advanced concept technology demonstration project or joint capability demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

Waiver authority. Certification.

Classified information. Reports. Deadline.

SEC. 8065. The Secretary of Defense shall provide a classified quarterly report beginning 30 days after enactment of this Act, to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

SEC. 8066. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

Waiver authority. Certification.

SEC. 8067. Notwithstanding section 12310(b) of title 10, United States Code, a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32, United States Code, may perform duties in support of the ground-based elements of the National Ballistic Missile Defense System.

Ammunition.

SEC. 8068. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API–T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

Waiver authority.

SEC. 8069. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would

be required under section 2667 of title 10, United States Code, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in section 508(d) of title 32, United States Code, or any other youth, social, or fraternal nonprofit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

Alcohol and alcoholic beverages.
State and local governments.
District of Columbia.

SEC. 8070. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

Applicability.

SEC. 8071. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8072. Of the amounts appropriated in this Act under the heading "Operation and Maintenance, Army", $47,700,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: *Provided further*, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects carrying out the purposes of this section: *Provided further*, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: *Provided further*, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

Contracts.
Real property.

SEC. 8073. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2009.

Applicability.
10 USC 113 note.

SEC. 8074. In addition to amounts provided elsewhere in this Act, $8,000,000 is hereby appropriated to the Department of Defense, to remain available for obligation until expended: *Provided,* That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation,

Grants.
Fisher House Foundation, Inc.

Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

10 USC 2571 note.

SEC. 8075. (a) During the current fiscal year and hereafter, the Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

Native Americans. Government property.

(b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8076. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $177,237,000 shall be for the Israeli Cooperative Programs: *Provided*, That of this amount, $72,895,000 shall be for the Short Range Ballistic Missile Defense (SRBMD) program, $30,000,000 shall be available for an upper-tier component to the Israeli Missile Defense Architecture, and $74,342,000 shall be for the Arrow Missile Defense Program, of which $13,076,000 shall be for producing Arrow missile components in the United States and Arrow missile components in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures: *Provided further*, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8077. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", $165,152,000 shall be available until September 30, 2009, to fund prior year shipbuilding cost increases: *Provided,* That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: *Provided further,* That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading "Shipbuilding and Conversion, Navy, 2001/2009":

Carrier Replacement Program, $20,516,000;

Under the heading "Shipbuilding and Conversion, Navy, 2002/2009":

New SSN, $21,000,000;

Under the heading "Shipbuilding and Conversion, Navy, 2003/2009":

LPD–17 Amphibious Transport Dock Program, $33,082,000;

Under the heading "Shipbuilding and Conversion, Navy, 2004/2009":

New SSN, $60,000,000;

Under the heading "Shipbuilding and Conversion, Navy, 2007/2011":

LHA Replacement Program, $14,310,000; and

Under the heading "Shipbuilding and Conversion, Navy, 2008/2012":

SSBN Submarine Refuelings, $16,244,000.

SEC. 8078. None of the funds available to the Department of Defense may be obligated to modify command and control relationships to give Fleet Forces Command administrative and operational control of U.S. Navy forces assigned to the Pacific fleet: *Provided*, That the command and control relationships which existed on October 1, 2004, shall remain in force unless changes are specifically authorized in a subsequent Act.

SEC. 8079. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of section 7403(g) of title 38, United States Code, for occupations listed in section 7403(a)(2) of title 38, United States Code, as well as the following:

Pharmacists, Audiologists, Psychologists, Social Workers, Othotists/Prosthetists, Occupational Therapists, Physical Therapists, Rehabilitation Therapists, Respiratory Therapists, Speech Pathologists, Dietitian/Nutritionists, Industrial Hygienists, Psychology Technicians, Social Service Assistants, Practical Nurses, Nursing Assistants, and Dental Hygienists:

(A) The requirements of section 7403(g)(1)(A) of title 38, United States Code, shall apply. Applicability.

(B) The limitations of section 7403(g)(1)(B) of title 38, United States Code, shall not apply.

SEC. 8080. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2009 until the enactment of the Intelligence Authorization Act for Fiscal Year 2009.

SEC. 8081. None of the funds provided in this Act shall be available for obligation or expenditure through a reprogramming of funds that creates or initiates a new program, project, or activity unless such program, project, or activity must be undertaken immediately in the interest of national security and only after written prior notification to the congressional defense committees. Notification.

SEC. 8082. (a) In addition to the amounts provided elsewhere in this Act, $3,000,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Army National Guard". Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of $3,000,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry. Grants.

(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit labor-management cooperation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29

U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

SEC. 8083. In addition to funds made available elsewhere in this Act, $5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: *Provided*, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: *Provided further*, That up to 2 percent of the total appropriated funds under this section shall be available to support the administration and execution of the funds or program and/or events that promote the purpose of this appropriation (e.g. payment of travel and per diem of school teachers attending conferences or a meeting that promotes the purpose of this appropriation and/or consultant fees for on-site training of teachers, staff, or Joint Venture Education Forum (JVEF) Committee members): *Provided further,* That up to $300,000 shall be available to examine human capital, family and quality of life issues relating to military presence in Hawaii: *Provided further*, That up to $2,000,000 shall be available for the Department of Defense to establish a nonprofit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to nonprofit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: *Provided further*, That to the extent a Federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-Federal funds in combination with these Federal funds to provide assistance for the authorized purpose, if the non-Federal entity requests such assistance and the non-Federal funds are provided on a reimbursable basis.

Grants.

SEC. 8084. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $112,400,000 is hereby appropriated to the Department of Defense: *Provided,* That the Secretary of Defense shall make grants in the amounts specified as follows: $20,000,000 to the United Service Organizations; $30,000,000 to the Red Cross; $15,000,000 for the Waterbury Industrial Commons Redevelopment Project; $4,750,000 for the SOAR Virtual School District; $1,750,000 to The Presidio Trust; $5,000,000 to the STEM Education Research Center; $10,000,000 to the Intrepid Museum Foundation; $4,000,000 to the Go For Broke National Education Center; $9,900,000 to the U.S.S. Missouri Memorial Association; $4,000,000 to the Nimitz Center; $3,000,000 to Special Olympics International; and $5,000,000 to the Paralympics Military Program.

SEC. 8085. The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon (NLOS–C) and a compatible large caliber ammunition resupply capability for this system supported by the Future Combat Systems (FCS) Brigade Combat Team (BCT) in order to field this system in fiscal year 2010: *Provided*, That the Army shall develop the NLOS–

C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition, the Army will deliver five pre-production NLOS–C systems by the end of calendar year 2008 and three pre-production NLOS–C systems by the end of calendar year 2009. These systems shall be in addition to those systems necessary for developmental and operational testing.

Federal budget.
10 USC 221 note.

SEC. 8086. The budget of the President for fiscal year 2010 submitted to the Congress pursuant to section 1105 of title 31, United States Code, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP–5 and OP–32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

SEC. 8087. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8088. Up to $2,500,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

SEC. 8089. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act: *Provided*, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8090. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: *Provided*, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

Notification.
Deployment.

SEC. 8091. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under section 12302(a) of title 10, United States Code, each member

shall be notified in writing of the expected period during which the member will be mobilized.

Waiver authority.

(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet dire operational requirements of the Armed Forces.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8092. The Secretary of Defense may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated in law: *Provided*, That the Secretary may transfer not to exceed $100,000,000 under the authority provided by this section: *Provided further*, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to the Committees on Appropriations of the House of Representatives and the Senate, unless a response from the Committees is received sooner: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

Notification.
Deadline.

SEC. 8093. For purposes of section 612 of title 41, United States Code, any subdivision of appropriations made under the heading "Shipbuilding and Conversion, Navy" that is not closed at the time reimbursement is made shall be available to reimburse the Judgment Fund and shall be considered for the same purposes as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in the current fiscal year or any prior fiscal year.

SEC. 8094. (a) None of the funds appropriated by this Act may be used to transfer research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army.

(b) The Army shall retain responsibility for and operational control of the MQ–1C Sky Warrior Unmanned Aerial Vehicle (UAV) in order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles.

Contracts.
Deadline.
Certification.

(c) None of the funds appropriated by this Act may be used to institute an inter-Service common contract for acquisition of MQ–1 or MQ–1C UAVs until 30 days after the Secretary of Defense certifies to the congressional defense committees that a common contract would achieve cost savings, be interoperable with, and not create undue sustainment costs compared to the current fleet.

10 USC 1073 note.

SEC. 8095. None of the funds appropriated by this Act, and hereafter, available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided,* That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because

of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8096. Of the funds provided in this Act, $10,000,000 shall be available for the operations and development of training and technology for the Joint Interagency Training and Education Center and the affiliated Center for National Response at the Memorial Tunnel and for providing homeland defense/security and traditional warfighting training to the Department of Defense, other Federal agencies, and State and local first responder personnel at the Joint Interagency Training and Education Center.

SEC. 8097. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

Extension date.

SEC. 8098. The authority to conduct a continuing cooperative program in the proviso in title II of Public Law 102–368 under the heading "Research, Development, Test and Evaluation, Defense Agencies" (106 Stat. 1121) shall be extended through September 30, 2009 and hereafter, in cooperation with NELHA.

SEC. 8099. Up to $15,000,000 of the funds appropriated under the heading, "Operation and Maintenance, Navy" may be made available for the Asia Pacific Regional Initiative Program for the purpose of enabling the Pacific Command to execute Theater Security Cooperation activities such as humanitarian assistance, and payment of incremental and personnel costs of training and exercising with foreign security forces: *Provided*, That funds made available for this purpose may be used, notwithstanding any other funding authorities for humanitarian assistance, security assistance or combined exercise expenses: *Provided further*, That funds may not be obligated to provide assistance to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

SEC. 8100. None of the funds appropriated by this Act for programs of the Office of the Director of National Intelligence shall remain available for obligation beyond the current fiscal year, except for funds appropriated for research and technology, which shall remain available until September 30, 2010.

SEC. 8101. Notwithstanding any other provision of this Act, to reflect savings from revised economic assumptions, the total amount appropriated in title II of this Act is hereby reduced by $313,780,000, the total amount appropriated in title III of this Act is hereby reduced by $298,000,000, and the total amount appropriated in title IV of this Act is hereby reduced by $218,000,000: *Provided*, That the Secretary of Defense shall allocate this reduction proportionally to each budget activity, activity group, subactivity group, and each program, project, and activity, within each appropriation account.

Applicability.

SEC. 8102. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations

in any prior fiscal year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8103. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

Designation.
10 USC 221 note.

SEC. 8104. The Secretary of Defense shall create a major force program category for space for the Future Years Defense Program of the Department of Defense. The Secretary of Defense shall designate an official in the Office of the Secretary of Defense to provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

10 USC 2302 note.

SEC. 8105. During the current fiscal year and hereafter, none of the funds appropriated or otherwise available to the Department of Defense may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364).

Iraq.

SEC. 8106. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control over any oil resource of Iraq.

Effective date.
50 USC 415a–2.

SEC. 8107. Beginning with the fiscal year 2010 budget request, the Director of National Intelligence shall include the budget exhibits identified in paragraphs (1) and (2) as described in the Department of Defense Financial Management Regulation with the congressional budget justification books.

(1) For procurement programs requesting more than $20,000,000 in any fiscal year, the P–1, Procurement Program; P–5, Cost Analysis; P–5a, Procurement History and Planning; P–21, Production Schedule; and P–40 Budget Item Justification.

(2) For research, development, test and evaluation projects requesting more than $10,000,000 in any fiscal year, the R–1, RDT&E Program; R–2, RDT&E Budget Item Justification; R–3, RDT&E Project Cost Analysis; and R–4, RDT&E Program Schedule Profile.

SEC. 8108. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

(1) Section 2340A of title 18, United States Code.

(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231 note) and regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations.

(3) Sections 1002 and 1003 of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148).

Contracts. Grants.

SEC. 8109. Notwithstanding any other provision of law, none of the funds made available in this Act may be used to pay negotiated indirect cost rates on a contract, grant, or cooperative agreement (or similar arrangement) entered into by the Department of Defense and an entity in excess of 35 percent of the total cost of the contract, grant, or agreement (or similar arrangement): *Provided,* That this limitation shall apply only to contracts, grants, or cooperative agreements entered into after the date of the enactment of this Act using funds made available in this Act for basic research.

Applicability.

Web site.

SEC. 8110. The Secretary of Defense shall maintain on the homepage of the Internet website of the Department of Defense a direct link to the Internet website of the Office of Inspector General of the Department of Defense.

Deadline. Reports.

SEC. 8111. (a) Not later than 60 days after enactment of this Act, the Office of the Director of National Intelligence shall submit a report to the congressional intelligence committees to establish the baseline for application of reprogramming and transfer authorities for fiscal year 2009: *Provided,* That the report shall include—

(1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(2) a delineation in the table for each appropriation by Expenditure Center and project; and

(3) an identification of items of special congressional interest.

Certification.

(b) None of the funds provided for the National Intelligence Program in this Act shall be available for reprogramming or transfer until the report identified in subsection (a) is submitted to the congressional intelligence committees, unless the Director of National Intelligence certifies in writing to the congressional intelligence committees that such reprogramming or transfer is necessary as an emergency requirement.

Submission. 50 USC 415a–3.

SEC. 8112. The Director of National Intelligence shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, United States Code, a future-years intelligence program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years intelligence program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.

SEC. 8113. For the purposes of this Act, the term "congressional intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives, and the Subcommittee on Defense of the Committee on Appropriations of the Senate.

Reports.

SEC. 8114. The Department of Defense shall continue to report incremental contingency operations costs for Operation Iraqi Freedom and Operation Enduring Freedom on a monthly basis

in the Cost of War Execution Report as prescribed in the Department of Defense Financial Management Regulation Department of Defense Instruction 7000.14, Volume 12, Chapter 23 "Contingency Operations", Annex 1, dated September 2005.

SEC. 8115. HORSHAM JOINT INTERAGENCY INSTALLATION.—

Pennsylvania.

(a) ESTABLISHMENT OF INSTALLATION.—The Horsham Joint Interagency Installation located in Horsham Township, Montgomery County, Pennsylvania is hereby established. Pursuant to Section 3703 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act (121 Stat. 145), at a time determined by the Secretary of the Navy, or upon completion of the associated Defense Base Closure and Realignment Commission recommendations, the Secretary of the Navy shall, notwithstanding any other provision of law, transfer to the Secretary of the Air Force, at no cost, all designated lands, easements, Air Installation Compatible Use Zones, and facilities at NASJRB Willow Grove. The airfield at the Horsham Joint Interagency Installation shall be known as "Pitcairn-Willow Grove Field".

Designation.

(b) TRANSFER TO COMMONWEALTH OF PENNSYLVANIA.—Notwithstanding any other provision of law, the Secretary of the Air Force shall convey all of the Navy property transferred to the Air Force, as well as excess Air Force property at the Willow Grove Air Reserve Station, to the Commonwealth of Pennsylvania, at no cost, for operation of the Horsham Joint Interagency Installation so long as it is used continuously as the Horsham Joint Interagency Installation. In the event the property is no longer used for the Horsham Joint Interagency Installation, it shall revert to the Department of Defense. Installation property conveyed to the Commonwealth of Pennsylvania may not be reconveyed, but may be leased, subleased, or licensed by the Commonwealth, for any agreed upon term, for use by the United States, its agencies or instrumentalities, at terms agreeable to the United States, or to State or local government agencies, or other associated users.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8116. (a) STOP-LOSS SPECIAL PAY.—In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $72,000,000 is hereby appropriated to the Secretary of Defense to carry out this section. Such amount shall be made available to the Secretaries of the military departments only to provide special pay during fiscal year 2009 to members of the Army, Navy, Air Force, and Marine Corps, including members of their reserve components who at any time during fiscal year 2009, serve on active duty while the members' enlistment or period of obligated service is extended, or whose eligibility for retirement is suspended, pursuant to section 123 or 12305 of title 10, United States Code, or any other provision of law (commonly referred to as a "stop-loss authority") authorizing the President to extend an enlistment or period of obligated service, or suspend an eligibility for retirement, of a member of the uniformed services in time of war or of national emergency declared by Congress or the President.

(b) SPECIAL PAY AMOUNT.—The amount of the special pay paid under subsection (a) to or on behalf of an eligible member may not exceed $500 per month for each month or portion of a month during fiscal year 2009 that the member is retained on active duty as a result of application of the stop-loss authority.

(c) IMPLEMENTATION PLAN.—Before obligating or expending any of the funds made available under subsection (a), the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report containing a plan for the provision of the special pay authorized by this section. Reports.

SEC. 8117. Section 3287 of title 18, United States Code, is amended—

(1) by inserting "or Congress has enacted a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b))," after "is at war";

(2) by inserting "or directly connected with or related to the authorized use of the Armed Forces" after "prosecution of the war";

(3) by striking "three years" and inserting "5 years";

(4) by striking "proclaimed by the President" and inserting "proclaimed by a Presidential proclamation, with notice to Congress,"; and

(5) by adding at the end the following: "For purposes of applying such definitions in this section, the term 'war' includes a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)).".

SEC. 8118. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION. The USEC Privatization Act (42 U.S.C. 2297h et seq.) is amended—

(1) in section 3102, by striking "For purposes" and inserting "Except as provided in section 3112A, for purposes"; and 42 USC 2297h.

(2) by inserting after section 3112 the following:

**"SEC. 3112A. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION.** 42 USC 2297h–10a.

"(a) DEFINITIONS.—In this section:

"(1) COMPLETION OF THE RUSSIAN HEU AGREEMENT.—The term 'completion of the Russian HEU Agreement' means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.

"(2) DOWNBLENDING.—The term 'downblending' means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

"(3) HIGHLY ENRICHED URANIUM.—The term 'highly enriched uranium' has the meaning given that term in section 3102(4).

"(4) HIGHLY ENRICHED URANIUM OF WEAPONS ORIGIN.—The term 'highly enriched uranium of weapons origin' means highly enriched uranium that—

"(A) contains 90 percent or more uranium-235; and

"(B) is verified by the Secretary of Energy to be of weapons origin.

"(5) LOW-ENRICHED URANIUM.—The term 'low-enriched uranium' means a uranium product in any form, including uranium hexafluoride ($UF_6$) and uranium oxide ($UO_2$), in which the

uranium contains less than 20 percent uranium-235, including natural uranium, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.

"(6) RUSSIAN HEU AGREEMENT.—The term 'Russian HEU Agreement' has the meaning given that term in section 3102(11).

"(7) URANIUM-235.—The term 'uranium-235' means the isotope $^{235}U$.

"(b) STATEMENT OF POLICY.—It is the policy of the United States to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons.

"(c) PROMOTION OF DOWNBLENDING OF RUSSIAN HIGHLY ENRICHED URANIUM.—

"(1) COMPLETION OF THE RUSSIAN HEU AGREEMENT.—Prior to the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation and is not imported pursuant to the Russian HEU Agreement, may not exceed the following amounts:

"(A) In the 4-year period beginning with calendar year 2008, 16,559 kilograms.

"(B) In calendar year 2012, 24,839 kilograms.

"(C) In calendar year 2013 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, 41,398 kilograms.

"(2) INCENTIVES TO CONTINUE DOWNBLENDING RUSSIAN HIGHLY ENRICHED URANIUM AFTER THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—

"(A) IN GENERAL.—After the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed—

"(i) in calendar year 2014, 485,279 kilograms;

"(ii) in calendar year 2015, 455,142 kilograms;

"(iii) in calendar year 2016, 480,146 kilograms;

"(iv) in calendar year 2017, 490,710 kilograms;

"(v) in calendar year 2018, 492,731 kilograms;

"(vi) in calendar year 2019, 509,058 kilograms; and

"(vii) in calendar year 2020, 514,754 kilograms.

"(B) ADDITIONAL IMPORTS IN EXCHANGE FOR A COMMITMENT TO DOWNBLEND AN ADDITIONAL 300 METRIC TONS OF HIGHLY ENRICHED URANIUM.—

"(i) IN GENERAL.—In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), if the Russian Federation enters into a bilateral agreement with the United States under which the Russian Federation agrees to downblend an additional 300 metric tons of highly enriched uranium after the completion of the Russian HEU Agreement, 4 kilograms of low-enriched uranium,

whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin and including low-enriched uranium obtained under contracts for separative work units, may be imported in a calendar year for every 1 kilogram of Russian highly enriched uranium of weapons origin that was downblended in the preceding calendar year, subject to the verification of the Secretary of Energy under paragraph (10).

"(ii) MAXIMUM ANNUAL IMPORTS.—Not more than 120,000 kilograms of low-enriched uranium may be imported in a calendar year under clause (i).

"(3) EXCEPTIONS.—The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium produced in the Russian Federation that is imported into the United States—

"(A) for use in the initial core of a new nuclear reactor;

"(B) for processing and to be certified for reexportation and not for consumption in the United States; or

"(C) to be added to the inventory of the Department of Energy.

"(4) LIMITED WAIVER AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding paragraph (1)(C), if the completion of the Russian HEU Agreement does not occur before December 31, 2013, the import limitations under paragraph (1)(C) shall be waived, and low-enriched uranium may be imported into the United States in the quantities specified in paragraph (2) in a calendar year after 2013, if— Deadline.

"(i) the Secretary of Energy and the Secretary of State jointly determine that—

"(I) the failure of the completion of the Russian HEU Agreement arises from causes beyond the control and without the fault or negligence of the Government of the Russian Federation; and

"(II) the Government of the Russian Federation has made reasonable efforts to avoid and mitigate the effects of the failure of the completion of the Russian HEU Agreement; and

"(ii) the Secretary of Energy and the Secretary of State jointly notify Congress of, and publish in the Federal Register, the determination under clause (i) and the reasons for the determination. Notification. Federal Register, publication.

"(B) NOTICE AND WAIT.—A waiver under subparagraph (A) may not take effect until the date that is 180 days after the date on which Secretary of Energy and the Secretary of State notify Congress under subparagraph (A)(ii). Effective date.

"(C) TERMINATION.—A waiver under subparagraph (A) shall terminate on December 31 of the calendar year with respect to which the Secretary makes the determination under subparagraph (A)(i).

"(5) ADJUSTMENTS TO IMPORT LIMITATIONS.—

"(A) IN GENERAL.—The import limitations described in paragraph (2)(A) are based on the reference data in the 2005 Market Report on the Global Nuclear Fuel Market Supply and Demand 2005–2030 of the World Nuclear Association. In each of calendar years 2016 and 2019, the

Secretary of Commerce shall review the projected demand for uranium for nuclear reactors in the United States and adjust the import limitations described in paragraph (2)(A) to account for changes in such demand in years after the year in which that report or a subsequent report is published.

Effective date.

"(B) INCENTIVE ADJUSTMENT.—Beginning in the second calendar year after the calendar year of the completion of the Russian HEU Agreement, the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported in a calendar year under paragraph (2)(B) (including the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B)(i)) by a percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium loaded into nuclear power reactors in the United States in the most recent 3-calendar-year period for which data are available, as reported by the Energy Information Administration of the Department of Energy, compared to the average amount of uranium loaded into such reactors during the 3-calendar-year period beginning on January 1, 2011, as reported by the Energy Information Administration.

Deadline.
Federal Register, publication.

"(C) PUBLICATION OF ADJUSTMENTS.—As soon as practicable, but not later than July 31 of each calendar year, the Secretary of Energy shall publish in the Federal Register the amount of low-enriched uranium that may be imported in the current calendar year after the adjustments under subparagraph (B).

"(6) AUTHORITY FOR ADDITIONAL ADJUSTMENT.—In addition to the adjustment under paragraph (5)(A), the Secretary of Commerce may adjust the import limitations under paragraph (2)(A) for a calendar year if the Secretary—

"(A) in consultation with the Secretary of Energy, determines that the available supply of low-enriched uranium and the available stockpiles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

Notification.

"(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

"(7) EQUIVALENT QUANTITIES OF LOW-ENRICHED URANIUM IMPORTS.—

"(A) IN GENERAL.—The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

"(B) ADJUSTMENT FOR OTHER URANIUM.—Imports of low-enriched uranium under paragraphs (1) and (2), including low-enriched uranium obtained under contracts for separative work units, shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

"(8) DOWNBLENDING OF OTHER HIGHLY ENRICHED URANIUM.—

"(A) IN GENERAL.—The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraph (2)(B), subject to verification under paragraph (10), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

"(B) EQUIVALENT QUANTITIES OF HIGHLY ENRICHED URANIUM.—For purposes of determining the additional low-enriched uranium imports allowed under paragraph (2)(B), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A).

"(9) TERMINATION OF IMPORT RESTRICTIONS.—The provisions of this subsection shall terminate on December 31, 2020.

"(10) TECHNICAL VERIFICATIONS BY SECRETARY OF ENERGY.—

"(A) IN GENERAL.—The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B) and (8).

"(B) METHODS OF VERIFICATION.—In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures and access provisions agreed to under the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

"(11) ENFORCEMENT OF IMPORT LIMITATIONS.—The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

"(12) EFFECT ON OTHER AGREEMENTS.—

"(A) RUSSIAN HEU AGREEMENT.—Nothing in this section shall be construed to modify the terms of the Russian HEU Agreement, including the provisions of the Agreement relating to the amount of low-enriched uranium that may be imported into the United States.

"(B) OTHER AGREEMENTS.—If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement, relating to the importation of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, into the United States conflicts with a provision of this section, the provision of this section shall supersede the provision of the agreement to the extent of the conflict.".

SEC. 8119. The amounts appropriated in title II of this Act are hereby reduced by $859,000,000 to reflect excess cash balances in Department of Defense Working Capital Funds, as follows:

(1) From "Operation and Maintenance, Army", $823,000,000; and

(2) From "Operation and Maintenance, Air Force", $36,000,000.

This division may be cited as the "Department of Defense Appropriations Act, 2009".

Department of Homeland Security Appropriations Act, 2009.

## DIVISION D—DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2009

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2009, and for other purposes, namely:

### TITLE I

### DEPARTMENTAL MANAGEMENT AND OPERATIONS

#### OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $123,456,000: *Provided*, That not to exceed $60,000 shall be for official reception and representation expenses, of which $20,000 shall be made available to the Office of Policy solely to host Visa Waiver Program negotiations in Washington, DC: *Provided further,* That within 15 days after the end of each quarter of the fiscal year, the Secretary shall submit to the Committees on Appropriations of the Senate and House of Representatives and to the Government Accountability Office a report of each instance where a request by the Government Accountability Office for access to Department of Homeland Security records was not granted within 20 calendar days and Government Accountability Office requests for interviews with Department of Homeland Security employees were not granted within seven calendar days: *Provided further,* That $15,000,000 shall not be available for obligation until the second quarterly report detailed in the previous proviso is submitted to the Committees on Appropriations of the Senate and House of Representatives: *Provided further,* That $10,000,000 shall not be available for obligation until the Secretary of Homeland Security, in coordination with the Administrator of the Federal Emergency Management Agency, certifies to the Committees on Appropriations of the Senate and the House of Representatives that processes to incorporate stakeholder input for grant guidance development and award distribution have been: (1) developed to ensure transparency and increased consultation about security needs for all-hazards; (2) formalized and made clear to stakeholders; and (3) formalized to ensure future use for each fiscal year.

Deadlines. Reports.

Certification.

#### OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701 through 705 of the Homeland Security Act of 2002 (6 U.S.C. 341 through 345), $191,793,000, of which not to exceed $3,000 shall be for official reception and representation expenses: *Provided*, That of the total amount, $6,000,000 shall remain available until expended solely

for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations at the Nebraska Avenue Complex; and $17,131,000 shall remain available until expended for the Human Resources Information Technology program.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $55,235,000, of which $11,000,000 shall remain available until expended for financial systems consolidation efforts.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $272,169,000; of which $86,928,000 shall be available for salaries and expenses; and of which $185,241,000, to remain available until expended, shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, of which not less than $23,830,000 shall be available for data center development and an additional $22,300,000 shall be available to support costs of transition to the National Center for Critical Information Processing and Storage: *Provided,* That $100,000,000 of the total amount appropriated under this heading shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive the report on data center transition: *Provided further,* That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: *Provided further*, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days after the date of enactment of this Act, an expenditure plan for all information technology acquisition projects that: (1) are funded under this heading; or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: *Provided further*, That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project.

Deadline. Expenditure plan.

ANALYSIS AND OPERATIONS

For necessary expenses for information analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $327,373,000, of which not to exceed $5,000 shall be for official reception and representation expenses; and of which $215,745,000 shall remain available until September 30, 2010.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

For necessary expenses of the Office of the Federal Coordinator for Gulf Coast Rebuilding, $1,900,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $98,513,000, of which not to exceed $150,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

## TITLE II

## SECURITY, ENFORCEMENT, AND INVESTIGATIONS

### U.S. CUSTOMS AND BORDER PROTECTION

#### SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, agricultural inspections and regulatory activities related to plant and animal imports, and transportation of unaccompanied minor aliens; purchase and lease of up to 6,300 (3,300 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $7,603,206,000, of which $3,154,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $271,679,000 shall be for Air and Marine Operations; of which $4,500,000 shall be for the 2010 Olympics Coordination Center, of which not to exceed $2,000,000 shall be available until September 30, 2010; of which $2,000,000 shall be for Project SeaHawk; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; and of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: *Provided*, That for fiscal year 2009, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of U.S. Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive

costs, or in cases of immigration emergencies: *Provided further,* That no funding available under this heading may be obligated for the operation of the Analytical Framework for Intelligence Officers until the Commissioner of U.S. Customs and Border Protection certifies that this Framework complies with all applicable laws, including section 552a of title 5, United States Code, and other laws protecting privacy, and such certification is reviewed by the Inspector General of the Department of Homeland Security: *Provided further,* That the Commissioner shall submit to the Committees on Appropriations of the Senate and the House of Representatives the results of operational field testing of cargo container security devices in high risk trade lanes no later than 120 days after the date of enactment of this Act.

Certification.

Test results. Deadline.

AUTOMATION MODERNIZATION

For expenses for U.S. Customs and Border Protection automated systems, $511,334,000, to remain available until expended, of which not less than $316,851,000 shall be for the development of the Automated Commercial Environment: *Provided*, That of the total amount made available under this heading, $216,851,000 may not be obligated for the Automated Commercial Environment program until 30 days after the Committees on Appropriations of the Senate and the House of Representatives receive a report on the results to date and plans for the program from the Department of Homeland Security.

Deadline. Reports.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For expenses for customs and border protection fencing, infrastructure, and technology, $775,000,000, to remain available until expended: *Provided*, That of the amount provided under this heading, $400,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure, prepared by the Secretary of Homeland Security and submitted not later than 90 days after the date of the enactment of this Act, for a program to establish and maintain a security barrier along the borders of the United States of fencing and vehicle barriers, where practicable, and other forms of tactical infrastructure and technology, that includes the following—

Expenditure plan. Deadline.

(1) a detailed accounting of the program's implementation to date for all investments, including technology and tactical infrastructure, for funding already expended relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, program management capabilities, identification of the maximum investment, including life cycle costs, related to the Secure Border Initiative program or any successor program, and description of the methodology used to obtain these cost figures;

(2) a description of how specific projects will further the objectives of the Secure Border Initiative, as defined in the Department of Homeland Security Secure Border Plan, and how the expenditure plan allocates funding to the highest priority border security needs;

(3) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based

delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(4) an identification of staffing, including full-time equivalents, contractors, and detailees, by program office;

(5) a description of how the plan addresses security needs at the Northern border and ports of entry, including infrastructure, technology, design and operations requirements, specific locations where funding would be used, and priorities for Northern border activities;

(6) a report on budget, obligations and expenditures, the activities completed, and the progress made by the program in terms of obtaining operational control of the entire border of the United States;

(7) a listing of all open Government Accountability Office and the Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones to fully address such recommendations;

(8) a certification by the Chief Procurement Officer of the Department that the program: (a) has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including as provided in Circular A–11, part 7; (b) that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with such actions, together with any plans for addressing these risks, and the status of the implementation of such actions; (c) that procedures to prevent conflicts of interest between the prime integrator and major subcontractors are established and that the Secure Border Initiative Program Office has adequate staff and resources to effectively manage the Secure Border Initiative program, all contracts, including the exercise of technical oversight; and (d) the certifications required under this paragraph should be accompanied by all documents or memoranda, as well as documentation and a description of the investment review processes used to obtain such certifications;

(9) a certification by the Chief Information Officer of the Department that: (a) the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were or were not assessed in making the alignment determination, the date of the alignment determination, and any known areas of misalignment together with the associated risks and corrective actions to address any such areas; (b) the program has a risk management process that regularly and proactively identifies, evaluates, mitigates, and monitors risks throughout the system life cycle and communicates high-risk conditions to U.S. Customs and Border Protection and Department of Homeland Security investment decision-makers, as well as a listing of all the program's high risks and the status of efforts to address such risks; (c) an independent verification and

validation agent is currently under contract for the projects funded under this heading; and (d) the certification required under this paragraph should be accompanied by all documents or memoranda, as well as documentation and a description of the investment review processes used to obtain such certification;

(10) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the Secure Border Initiative program are being addressed so as to ensure adequate staff and resources to effectively manage the Secure Border Initiative, together with a description of SBI staffing priorities;

(11) an analysis by the Secretary for each segment, defined as not more than 15 miles, of fencing or tactical infrastructure, of the selected approach compared to other, alternative means of achieving operational control, and such analysis should include cost, level of operational control, possible unintended effects on communities, and other factors critical to the decision making process; and

(12) is reviewed by the Government Accountability Office: *Provided further*, That the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives on program progress, and obligations and expenditures for all outstanding task orders as well as specific objectives to be achieved through the award of current and remaining task orders planned for the balance of available appropriations at least 15 days before the award of any task order requiring an obligation of funds in an amount greater than $25,000,000 and before the award of a task order that would cause cumulative obligations of funds to exceed 50 percent of the total amount appropriated: *Provided further*, That none of the funds provided under this heading may be obligated unless the Department has complied with section 102(b)(1)(C)(i) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), and the Secretary certifies such to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further*, That none of the funds under this heading may be obligated for any project or activity for which the Secretary has exercised waiver authority pursuant to section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) until 15 days have elapsed from the date of the publication of the decision in the Federal Register: *Provided further,* That notwithstanding the previous provisos, $100,000,000 of the amount provided under this heading shall be made available for obligation upon enactment of this Act without restriction.

Reports.
Deadline.

Certification.

Waiver authority.
Deadline.
Federal Register, publication.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aircraft systems, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department

of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $528,000,000, to remain available until expended, of which $5,000,000 shall be to address private aircraft enforcement system noncompliance as specified in House Report 110–862: *Provided*, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to U.S. Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2009 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That of the total amount made available under this heading, $18,000,000 shall not be obligated until the Secretary notifies the Committees on Appropriations of the Senate and House of Representatives that the Department of Homeland Security has implemented the concept of operations described in section 544 of this Act.

Notification.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $403,201,000, to remain available until expended, of which $39,700,000 shall be for the Advanced Training Center: *Provided,* That for fiscal year 2010 and thereafter, the annual budget submission of U.S. Customs and Border Protection for "Construction" shall, in consultation with the General Services Administration, include a detailed 5-year plan for all Federal land border port of entry projects with a yearly update of total projected future funding needs.

Plan.
6 USC 214 note.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; $4,927,210,000, of which not to exceed $7,500,000 shall be available until expended for conducting special operations under section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than $305,000 shall be for promotion of public awareness of the child pornography tipline and anti-child exploitation activities; of which not less than $5,400,000 shall be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled aliens unlawfully present in the United States: *Provided*, That none of

Waiver authority.

the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further*, That of the total amount provided, $15,770,000 shall be for activities in fiscal year 2009 to enforce laws against forced child labor, of which not to exceed $6,000,000 shall remain available until expended: *Provided further,* That of the total amount available, not less than $1,000,000,000, of which $150,000,000 shall remain available until September 30, 2010, shall be available to identify aliens convicted of a crime, and who may be deportable, and to remove them from the United States once they are judged deportable: *Provided further,* That the Secretary, or the designee of the Secretary, shall report to the Committees on Appropriations of the Senate and the House of Representatives, at least quarterly, on progress implementing the preceding proviso, and the funds obligated during that quarter to make that progress: *Provided further,* That the Secretary shall prioritize the identification and removal of aliens convicted of a crime by the severity of that crime: *Provided further*, That of the total amount provided, not less than $2,481,213,000 is for detention and removal operations, including transportation of unaccompanied minor aliens: *Provided further,* That of the total amount provided, $6,800,000 shall remain available until September 30, 2010, for the Visa Security Program: *Provided further,* That none of the funds provided under this heading may be used to continue a delegation of law enforcement authority authorized under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) if the Department of Homeland Security Inspector General determines that the terms of the agreement governing the delegation of authority have been violated: *Provided further,* That effective April 15, 2009, none of the funds provided under this heading may be used to continue any contract for the provision of detention services if the two most recent overall performance evaluations received by the contracted facility are less than "adequate" or the equivalent median score in any subsequent performance evaluation system: *Provided further,* That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not later than January 5, 2009, a plan for nationwide implementation of the Alternatives to Detention program that identifies: (1) the funds required for nationwide program implementation; (2) the timeframe for achieving nationwide program implementation; and (3) an estimate of the number of individuals who could be enrolled in a nationwide program: *Provided further,* That nothing under this heading shall prevent U.S. Immigation and Customs Enforcement from exercising those authorities provided under immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) during priority operations pertaining to aliens convicted of a crime.

Child labor.

Aliens.

Reports.
Deadlines.
Aliens.

Effective date.
Contracts.

Deadline.
Plan.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service: *Provided*, That the Secretary of Homeland Security and the Director of the

Certification.
Deadline.

Office of Management and Budget shall certify in writing to the Committees on Appropriations of the Senate and the House of Representatives no later than December 31, 2008, that the operations of the Federal Protective Service will be fully funded in fiscal year 2009 through revenues and collection of security fees, and shall adjust the fees to ensure fee collections are sufficient to ensure that the Federal Protective Service maintains not fewer than 1,200 full-time equivalent staff and 900 full-time equivalent Police Officers, Inspectors, Area Commanders, and Special Agents who, while working, are directly engaged on a daily basis protecting and enforcing laws at Federal buildings (referred to as "in-service field staff").

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $57,000,000, to remain available until expended: *Provided*, That of the funds made available under this heading, $5,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan prepared by the Secretary of Homeland Security.

Expenditure plan.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $5,000,000, to remain available until expended: *Provided*, That none of the funds made available under this heading may be used to solicit or consider any request to privatize facilities currently owned by the United States Government and used to detain aliens unlawfully present in the United States until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for carrying out that privatization.

Privatization plan.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $4,754,518,000, to remain available until September 30, 2010, of which not to exceed $10,000 shall be for official reception and representation expenses: *Provided*, That of the total amount made available under this heading, not to exceed $3,935,710,000 shall be for screening operations, of which $621,106,000 shall be available for explosives detection systems; and not to exceed $798,808,000 shall be for aviation security direction and enforcement: *Provided further,* That of the amount made available in the preceding proviso for explosives detection systems, $294,000,000 shall be available for the purchase and installation of these systems, of which not less than $84,500,000 shall be available for the purchase and installation of certified explosives detection systems at medium- and small-sized airports: *Provided further,* That the purchase of screening equipment for medium- and small-

sized airports must be competitively awarded: *Provided further,* That any award to deploy explosives detection systems shall be based on risk, the airports current reliance on other screening solutions, lobby congestion resulting in increased security concerns, high injury rates, airport readiness, and increased cost effectiveness: *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: *Provided further*, That any funds collected and made available from aviation security fees pursuant to section 44940(i) of title 49, United States Code, may, notwithstanding paragraph (4) of such section 44940(i), be expended for the purpose of improving screening at airport screening checkpoints, which may include the purchase and utilization of emerging technology equipment; the refurbishment and replacement of current equipment; the installation of surveillance systems to monitor checkpoint activities; the modification of checkpoint infrastructure to support checkpoint reconfigurations; and the creation of additional checkpoints to screen aviation passengers and airport personnel: *Provided further*, That of the amounts provided under this heading, $20,000,000 may be transferred to the "Surface Transportation Security", "Transportation Threat Assessment and Credentialing", and "Transportation Security Support" appropriations in this Act for the purpose of implementing regulations and activities authorized in the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53): *Provided further*, That the sum appropriated under this heading from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2009, so as to result in a final fiscal year appropriation from the general fund estimated at not more than $2,434,518,000: *Provided further*, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2010: *Provided further*, That Members of the United States House of Representatives and United States Senate, including the leadership; the heads of Federal agencies and commissions, including the Secretary, Under Secretaries, and Assistant Secretaries of the Department of Homeland Security; the United States Attorney General and Assistant Attorneys General and the United States attorneys; and senior members of the Executive Office of the President, including the Director of the Office of Management and Budget; shall not be exempt from Federal passenger and baggage screening.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $49,606,000, to remain available until September 30, 2010.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Threat Assessment and Credentialing, $116,018,000, to remain available until September 30, 2010: *Provided*, That if the Assistant Secretary of Homeland Security (Transportation Security Administration) determines that the Secure Flight program does not need to check airline passenger names against the full terrorist watch list, the

Certification.

Assistant Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives that no significant security risks are raised by screening airline passenger names only against a subset of the full terrorist watch list.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $947,735,000, to remain available until September 30, 2010: *Provided*, That of the funds appropriated under this heading, $20,000,000 may not be obligated for headquarters administration until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives detailed expenditure plans for checkpoint support and explosives detection systems refurbishment, procurement, and installations on an airport-by-airport basis for fiscal year 2009: *Provided further,* That these plans shall be submitted no later than 60 days after the date of enactment of this Act.

Expenditure plans. Explosives detection.

Deadline.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $819,481,000.

## COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; for purchase or lease of small boats for contingent and emergent requirements (at a unit cost of no more than $700,000) and for repairs and service-life replacements, not to exceed a total of $26,000,000; minor shore construction projects not exceeding $1,000,000 in total cost at any location; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note; 96 Stat. 1920); and recreation and welfare; $6,194,925,000, of which $340,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which not to exceed $20,000 shall be for official reception and representation expenses; and of which $3,600,000 shall be available until expended for the cost of repairing, rehabilitating, altering, modifying, and making improvements, including customized tenant improvements, to any replacement or expanded Operations Systems Center facility: *Provided*, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds made available by this Act shall be for expenses incurred for recreational vessels under section 12114 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided*

Financial plan. Deadline.

*further*, That the Commandant shall submit a financial management improvement plan that has been reviewed by the Inspector General of the Department of Homeland Security containing yearly, measurable milestones, to the Committees on Appropriations of the Senate and the House of Representatives by December 1, 2008: *Provided further,* That the Coast Guard shall comply with the requirements of section 527 of Public Law 108-136 with respect to the Coast Guard Academy: *Provided further,* That notwithstanding section 503 of this Act, amounts not to exceed 5 percent of the total amount appropriated under this heading may be transferred to the "Acquisition, Construction, and Improvements" appropriation, to be available under the terms and conditions applicable to that appropriation, and to be available for personnel compensation and benefits and related costs to adjust personnel assignment to accelerate management and oversight of new or existing projects without detrimentally affecting the management and oversight of other projects: *Provided further,* That the amount made available for "Personnel, Compensation, and Benefits" in the "Acquisition, Construction, and Improvements" appropriation shall not be increased by more than 10 percent by such transfers: *Provided further,* That the Committees on Appropriations of the Senate and the House of Representatives shall be notified of each transfer within 10 days after it is executed.

Notification. Deadline.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the Coast Guard under chapter 19 of title 14, United States Code, $13,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $130,501,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,494,576,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $113,000,000 shall be available until September 30, 2013, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $89,174,000 shall be available until September 30, 2011, for other equipment; of which $68,000,000 shall be available until September 30, 2011, for shore facilities and aids to navigation facilities, including $3,000,000 for Sector Buffalo and $15,000,000 for the Rescue Swimmer Training Facility; of which $92,830,000 shall be available for personnel compensation and benefits and related costs; of which $97,578,000 shall be available until expended for a new Coast Guard and Department of Homeland Security headquarters; and

of which $1,033,994,000 shall be available until September 30, 2013, for the Integrated Deepwater Systems program: *Provided*, That of the funds made available for the Integrated Deepwater Systems program, $244,550,000 is for aircraft and $571,003,000 is for surface ships: *Provided further*, That $350,000,000 of the funds provided for the Integrated Deepwater Systems program may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive directly from the Coast Guard and approve a plan for expenditure that—

Expenditure plan.

(1) defines activities, milestones, yearly costs, and life cycle costs for each new procurement of a major asset, including an independent cost estimate for each;

(2) identifies life cycle staffing and training needs of Coast Guard project managers and procurement and contract staff;

(3) identifies competition to be conducted in, and summarizes the approved acquisition strategy for, each procurement;

(4) includes a certification by the Chief Human Capital Officer of the Department of Homeland Security that current human capital capabilities are sufficient to execute the expenditure plan;

(5) includes an explanation of each procurement that involves an indefinite delivery/indefinite quantity contract and explains the need for such contract;

(6) identifies individual project balances by fiscal year, including planned carryover into fiscal year 2010 by project;

(7) identifies operational gaps by asset and explains how funds provided in this Act address the shortfalls between current operational capabilities and requirements;

(8) includes a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Coast Guard actions to address the recommendations, including milestones for fully addressing them;

(9) includes a certification by the Chief Procurement Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A–11, part 7;

(10) identifies use of the Defense Contract Audit Agency;

(11) includes a certification by the head of contracting activity for the Coast Guard and the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with plans for addressing these risks, and the status of their implementation;

(12) identifies the use of independent validation and verification; and

(13) is reviewed by the Government Accountability Office: *Provided further,* That no funding may be obligated for low rate initial production or initial production of any Integrated Deepwater Systems program asset until Coast Guard revises its Major Systems Acquisition Manual procedures to require a formal design review prior to the authorization of low rate initial production or initial

production: *Provided further,* That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2010 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Integrated Deepwater Systems program assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Integrated Deepwater Systems program; and the earned value management system gold card data for each Integrated Deepwater Systems program asset: *Provided further*, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every 5 years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: *Provided further*, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

Reports.

Reports. Deadline. Effective date. 14 USC 663 note.

Deadline. Investment plan. 14 USC 663 note.

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next 5 fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives:

*Provided further*, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31, United States Code, for that fiscal year: *Provided further*, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified: *Provided further,* That subsections (a), and (b) of section 6402 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) shall apply to fiscal year 2009: *Provided further,* That notwithstanding section 503 of this Act, amounts transferred from the "Operating Expenses" appropriation for personnel compensation and benefits and related costs to adjust personnel assignment to accelerate management and oversight of new or existing projects may be transferred to the "Operating Expenses" appropriation to be merged with that appropriation, to be available under the same terms and conditions for which that appropriation is available, when no longer required for project acceleration or oversight, or to otherwise adjust personnel assignment: *Provided further,* That the Committees on Appropriations of the Senate and the House

Applicability.

Notification. Deadline.

of Representatives shall be notified of each transfer within 30 days after it is executed.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $16,000,000, to remain available until expended: *Provided,* That of the amounts made available under this heading, $2,000,000 shall be for the Burlington Northern Railroad Bridge in Burlington, Iowa; $2,000,000 shall be for the Canadian Pacific Railway Bridge in La Crosse, Wisconsin; $2,000,000 shall be for the Chelsea Street Bridge in Chelsea, Massachusetts; $2,000,000 shall be for the Elgin, Joliet, and Eastern Railway Company Bridge in Morris, Illinois; $4,000,000 shall be for the Fourteen Mile Bridge in Mobile, Alabama; and $4,000,000 shall be for the Galveston Causeway Bridge in Galveston, Texas.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $18,000,000, to remain available until expended, of which $500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): *Provided*, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,236,745,000, to remain available until expended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 675 vehicles for police-type use, of which 645 shall be for replacement only, and hire of passenger motor vehicles; purchase of motorcycles made in the United States; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the

actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of United States Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,408,729,000; of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $6,000,000 shall be for a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: *Provided*, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2010: *Provided further,* That up to $1,000,000 for National Special Security Events shall remain available until expended: *Provided further*, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year: *Provided further,* That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes: *Provided further,* That the limitation in the preceding proviso shall not take effect until the Director of the Office of Management and Budget submits to the Committees on Appropriations of the Senate and the House of Representatives a report certifying that such a limitation on compensation will not have a significant effect on operations of the United States Secret Service: *Provided further,* That none of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: *Provided further,* That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

Waiver authority.

Reports.
Certification.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $4,225,000, to remain available until expended: *Provided,* That of the total amount provided, $250,000 is for a perimeter security and noise abatement study at the James J. Rowley Training Center.

# TITLE III

## PROTECTION, PREPAREDNESS, RESPONSE, AND RECOVERY

### NATIONAL PROTECTION AND PROGRAMS DIRECTORATE

#### MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for the National Protection and Programs Directorate, support for operations, information technology, and the Office of Risk Management and Analysis, $51,350,000: *Provided*, That not to exceed $5,000 shall be for official reception and representation expenses.

#### INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $806,913,000, of which $720,116,000 shall remain available until September 30, 2010: *Provided,* That of the total amount provided, $20,000,000 is for necessary expenses of the National Infrastructure Simulation and Analysis Center: *Provided further,* That of the amount made available under this heading, $127,462,000 may not be obligated for the National Cyber Security Initiative program and $25,125,000 may not be obligated for the Next Generation Networks program until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure for that program that describes the strategic context of the program; the specific goals and milestones set for the program; and the funds allocated to achieving each of those goals: *Provided further,* That of the total amount provided, $2,000,000 is for Philadelphia infrastructure monitoring; $3,000,000 is for protection of critical underground infrastructure in major urban areas; $1,000,000 is for improved improvised explosive device mapping and modeling tools; $3,500,000 is for State and local cyber security training; and $4,000,000 is for the Power and Cyber Systems Protection, Analysis, and Testing Program at the Idaho National Laboratory.

Expenditure plan.

#### UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), $300,000,000, to remain available until expended: *Provided*, That of the total amount made available under this heading, $75,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure prepared by the Secretary of Homeland Security that includes—

Expenditure plan.

(1) a detailed accounting of the program's progress to date relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, and program management capabilities;

(2) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(3) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones for fully addressing such recommendations;

(4)(a) a certification by the Chief Procurement Officer of the Department that (1) the program has been reviewed and approved in accordance with the investment management process of the Department; (2) the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including as provided in Circular A–11, part 7; and (3) the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices; and (b) a description by the Chief Procurement Officer of the actions being taken to address areas of non-compliance, the risks associated with such areas as well as any plans for addressing such risks, and the status of the implementation of such actions;

(5)(a) a certification by the Chief Information Officer of the Department that (1) an independent verification and validation agent is currently under contract for the project; (2) the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architecture that were or were not assessed in making the alignment determination, the date of the alignment determination, and any known areas of misalignment along with the associated risks and corrective actions to address any such areas; and (3) the program has a risk management process that regularly identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicates high-risk conditions to agency and Department investment decision makers; and (b) a listing by the Chief Information Officer of all the program's high risks and the status of efforts to address them;

(6) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report;

(7) a complete schedule for the full implementation of a biometric exit program or a certification that such program is not possible within 5 years; and

(8) a detailed accounting of operation and maintenance, contractor services, and program costs associated with the management of identity services:

*Provided further*, That no funding under this heading shall be obligated for implementation of a final air exit solution pursuant to the notice of proposed rulemaking (DHS–2008–0039) published on April 24, 2008, until the Committees on Appropriations of the Senate and the House of Representatives receive a report on pilot

Reports.

tests of the air exit solution, which shall be reviewed by the Government Accountability Office, and which shall test at least two scenarios: (a) where the airlines collect and transmit biometric exit data as proposed in the notice of proposed rulemaking and (b) where U.S. Customs and Border Protection collects such information at the departure gates.

OFFICE OF HEALTH AFFAIRS

For necessary expenses of the Office of Health Affairs, $157,191,000, of which $29,210,000 is for salaries and expenses; and of which $127,981,000 is to remain available until September 30, 2010, for biosurveillance, BioWatch, medical readiness planning, chemical response, and other activities: *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses.

FEDERAL EMERGENCY MANAGEMENT AGENCY

MANAGEMENT AND ADMINISTRATION

For necessary expenses for management and administration of the Federal Emergency Management Agency, $837,437,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), and the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109–295; 120 Stat. 1394): *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses: *Provided further*, That the President's budget submitted under section 1105(a) of title 31, United States Code, shall be detailed by office for the Federal Emergency Management Agency: *Provided further,* That $10,000,000 shall not be available for obligation until the Secretary of Homeland Security, in coordination with the Administrator of the Federal Emergency Management Agency, certifies and reports to the Committees on Appropriations of the Senate and the House of Representatives that processes to incorporate stakeholder input for grant guidance development and award distribution have been: (1) developed to ensure transparency and increased consultation about security needs for all-hazards; (2) formalized and made clear to stakeholders; and (3) formalized to ensure future use for each fiscal year: *Provided further,* That of the total amount made available under this heading, $5,000,000 shall be for the development of tools and systems to measure the achievement and effectiveness of first responder grant programs: *Provided further*, That of the total amount made available under this heading, $32,500,000 shall be for the Urban Search and Rescue Response System, of which not to exceed $1,600,000 may be made available for administrative costs; $2,200,000 shall be for the Pacific Region Homeland Security Center, Honolulu, Hawaii, $5,000,000 shall be for the State of North Carolina, and $2,425,000 shall be for the Commonwealth of Kentucky, as detailed in the statement accompanying this Act; and $6,342,000 shall be for the Office of National Capital Region Coordination: *Provided further*, That for

Federal budget.

Certification.
Reports.

West Virginia.
Pennsylvania.
Disaster evacuation.

purposes of planning, coordination, execution, and decision-making related to mass evacuation during a disaster, the Governors of the State of West Virginia and the Commonwealth of Pennsylvania, or their designees, shall be incorporated into efforts to integrate the activities of Federal, State, and local governments in the National Capital Region, as defined in section 882 of Public Law 107–296, the Homeland Security Act of 2002.

STATE AND LOCAL PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For grants, contracts, cooperative agreements, and other activities, $3,105,700,000 shall be allocated as follows:

(1) $950,000,000 shall be for the State Homeland Security Grant Program under section 2004 of the Homeland Security Act of 2002 (6 U.S.C. 605): *Provided*, That of the amount provided by this paragraph, $60,000,000 shall be for Operation Stonegarden: *Provided further,* That notwithstanding subsection (c)(4) of such section 2004, for fiscal year 2009, the Commonwealth of Puerto Rico shall make available to local and tribal governments amounts provided to the Commonwealth of Puerto Rico under this paragraph in accordance with subsection (c)(1) of such section 2004.

(2) $837,500,000 shall be for the Urban Area Security Initiative under section 2003 of the Homeland Security Act of 2002 (6 U.S.C. 604), of which, notwithstanding subsection (c)(1) of such section, $15,000,000 shall be for grants to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such code) determined by the Secretary of Homeland Security to be at high risk of a terrorist attack.

(3) $35,000,000 shall be for Regional Catastrophic Preparedness Grants.

(4) $41,000,000 shall be for the Metropolitan Medical Response System under section 635 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 723).

(5) $15,000,000 shall be for the Citizen Corps Program.

(6) $400,000,000 shall be for Public Transportation Security Assistance and Railroad Security Assistance under sections 1406 and 1513 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 6 U.S.C. 1135 and 1163), of which not less than $25,000,000 shall be for Amtrak security: *Provided,* That there shall be no cost share requirement for funds made available under this paragraph and made available for these same purposes in Public Law 110–161: *Provided further,* That such public transportation security assistance shall be provided directly to public transportation agencies.

(7) $400,000,000 shall be for Port Security Grants in accordance with 46 U.S.C. 70107.

(8) $12,000,000 shall be for Over-the-Road Bus Security Assistance under section 1532 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 6 U.S.C. 1182).

(9) $8,000,000 shall be for Trucking Industry Security Grants.

(10) $50,000,000 shall be for Buffer Zone Protection Program Grants.

(11) $8,000,000 shall be for the Commercial Equipment Direct Assistance Program.

(12) $50,000,000 shall be for the Interoperable Emergency Communications Grant Program under section 1809 of the Homeland Security Act of 2002 (6 U.S.C. 579).

(13) $35,000,000 shall remain available until expended, for grants for Emergency Operations Centers under section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c), as detailed in the statement accompanying this Act.

(14) $264,200,000 shall be for training, exercises, technical assistance, and other programs, of which—

(A) $164,500,000 is for purposes of training in accordance with section 1204 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1102), of which $62,500,000 shall be for the Center for Domestic Preparedness; $23,000,000 shall be for the National Energetic Materials Research and Testing Center, New Mexico Institute of Mining and Technology; $23,000,000 shall be for the National Center for Biomedical Research and Training, Louisiana State University; $23,000,000 shall be for the National Emergency Response and Rescue Training Center, Texas A&M University; $23,000,000 shall be for the National Exercise, Test, and Training Center, Nevada Test Site; $5,000,000 shall be for the Transportation Technology Center, Incorporated, in Pueblo, Colorado; and $5,000,000 shall be for the National Disaster Preparedness Training Center, University of Hawaii, Honolulu, Hawaii; and

(B) $1,700,000 for the Center for Counterterrorism and Cyber Crime, Norwich University, Northfield, Vermont:

Expenditure plan. Deadline.

*Provided*, That not to exceed 3 percent of the amounts provided under this heading may be transferred to the Federal Emergency Management Agency "Management and Administration" account for program administration, and an expenditure plan for program administration shall be provided to the Committees on Appropriations of the Senate and the House of Representatives within 60 days of the date of enactment of this Act: *Provided further*, That for grants under paragraphs (1) through (5), the applications for grants shall be made available to eligible applicants not later than 25 days after the date of enactment of this Act, that eligible applicants shall submit applications not later than 90 days after the grant announcement, and that the Administrator of the Federal Emergency Management Agency shall act within 90 days after receipt of an application: *Provided further*, That for grants under paragraphs (6) through (10) and (12), the applications for grants shall be made available to eligible applicants not later than 30 days after the date of enactment of this Act, that eligible applicants shall submit applications within 45 days after the grant announcement, and that the Federal Emergency Management Agency shall act not later than 60 days after receipt of an application: *Provided further,* That for grants under paragraphs (1) and (2), the installation of communications towers is not considered construction of a building or other physical facility: *Provided further*, That grantees shall provide reports on their use of funds, as determined necessary

Grants. Deadlines.

Grants. Deadlines.

Reports.

by the Secretary: *Provided further*, That (a) the Center for Domestic Preparedness may provide training to emergency response providers from the Federal Government, foreign governments, or private entities, if the Center for Domestic Preparedness is reimbursed for the cost of such training, and any reimbursement under this subsection shall be credited to the account from which the expenditure being reimbursed was made and shall be available, without fiscal year limitation, for the purposes for which amounts in the account may be expended, (b) the head of the Center for Domestic Preparedness shall ensure that any training provided under (a) does not interfere with the primary mission of the Center to train State and local emergency response providers: *Provided further*, That the Government Accountability Office shall report to the Committees on Appropriations of the Senate and the House of Representatives regarding the data, assumptions, and methodology that the Department of Homeland Security uses to assess risk and allocate grants under the Urban Area Security Initiative and State Homeland Security Grant Program not later than 45 days after the date of enactment of this Act: *Provided further*, That the report shall include an assessment of the reliability and validity of the data used, the basis for the assumptions used, how the methodology is applied to determine the risk scores for individual locations, an analysis of the usefulness of placing States and cities into tier groups, and the allocation of grants to eligible locations: *Provided further*, That the Department provide the Government Accountability Office with the actual data that the Department used for its risk assessment and grant allocation: *Provided further*, That the Department provide the Government Accountability Office with access to all data needed for its analysis and report, including specifics on all changes for the fiscal year 2009 process, including, but not limited to, all changes in data, assumptions, and weights used in methodology within 7 days after the date of enactment of this Act: *Provided further*, That any subsequent changes made regarding the risk methodology after the initial information is provided to the Government Accountability Office shall be provided within 7 days after the change is made.

Reports.
Deadline.

Deadline.

Deadline.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $775,000,000, of which $565,000,000 shall be available to carry out section 33 of that Act (15 U.S.C. 2229) and $210,000,000 shall be available to carry out section 34 of that Act (15 U.S.C. 2229a), to remain available until September 30, 2010: *Provided*, That not to exceed 5 percent of the amount available under this heading shall be available for program administration, and an expenditure plan for program administration shall be provided to the Committees on Appropriations of the Senate and the House of Representatives within 60 days of the date of enactment of this Act.

Expenditure plan.
Deadline.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701

et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $315,000,000: *Provided*, That total administrative costs shall not exceed 3 percent of the total amount appropriated under this heading.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2009, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: *Provided*, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: *Provided further*, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2009, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), $44,979,000.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,400,000,000, to remain available until expended: *Provided,* That the Federal Emergency Management Agency shall submit an expenditure plan to the Committees on Appropriations of the Senate and the House of Representatives detailing the use of the funds for disaster readiness and support within 60 days after the date of enactment of this Act: *Provided further,* That the Federal Emergency Management Agency shall provide a quarterly report detailing obligations against the expenditure plan and a justification for any changes in spending: *Provided further,* That of the total amount provided, $16,000,000 shall be transferred to the Department of Homeland Security Office of Inspector General for audits and investigations related to disasters, subject to section 503 of this Act: *Provided further*, That up to $105,600,000 may be transferred to Federal Emergency Management Agency "Management and Administration" for management and administration functions: *Provided further*, That the amount provided in the previous proviso shall not be available for transfer to "Management and Administration" until the Federal Emergency Management Agency submits an implementation plan to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further*, That the Federal Emergency Management Agency shall submit the monthly "Disaster Relief" report, as specified in Public Law 110–161, to the Committees on Appropriations of the

Expenditure plan.
Deadline.

Deadlines.
Reports.

Implementation plan.

Reports.

Senate and the House of Representatives, and include the amounts provided to each Federal agency for mission assignments: *Provided further*, That for any request for reimbursement from a Federal agency to the Department of Homeland Security to cover expenditures under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or any mission assignment orders issued by the Department for such purposes, the Secretary of Homeland Security shall take appropriate steps to ensure that each agency is periodically reminded of Department policies on—

(1) the detailed information required in supporting documentation for reimbursements; and

(2) the necessity for timeliness of agency billings.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For activities under section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $295,000 is for the cost of direct loans: *Provided*, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: *Provided further*, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $220,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act (42 U.S.C. 4101(f)(2)), to remain available until expended: *Provided*, That total administrative costs shall not exceed 3 percent of the total amount appropriated under this heading.

NATIONAL FLOOD INSURANCE FUND

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), $156,599,000, which shall be derived from offsetting collections assessed and collected under section 1308(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(d)), which is available as follows: (1) not to exceed $49,418,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and (2) no less than $107,181,000 for flood plain management and flood mapping, which shall remain available until September 30, 2010: *Provided*, That any additional fees collected pursuant to section 1308(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(d)) shall be credited as an offsetting collection to this account, to be available for flood plain management and flood mapping: *Provided further*, That in fiscal year 2009, no funds shall be available from the National Flood Insurance Fund under section 1310 of that Act (42 U.S.C. 4017) in excess of: (1) $85,000,000 for operating expenses; (2) $869,905,000 for commissions and taxes of agents; (3) such sums as are necessary for interest on Treasury borrowings; and (4) $125,700,000, which shall remain available until expended for flood mitigation actions, of which $80,000,000 is for severe repetitive loss properties under section 1361A of the National Flood Insurance

Act of 1968 (42 U.S.C. 4102a), of which $10,000,000 is for repetitive insurance claims properties under section 1323 of the National Flood Insurance Act of 1968 (42 U.S.C. 4030), and of which $35,700,000 is for flood mitigation assistance under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) notwithstanding subparagraphs (B) and (C) of subsection (b)(3) and subsection (f) of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) and notwithstanding subsection (a)(7) of section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017): *Provided further,* That amounts collected under section 102 of the Flood Disaster Protection Act of 1973 and section 1366(i) of the National Flood Insurance Act of 1968 shall be deposited in the National Flood Insurance Fund to supplement other amounts specified as available for section 1366 of the National Flood Insurance Act of 1968, notwithstanding 42 U.S.C. 4012a(f)(8), 4104c(i), and 4104d(b)(2)-(3): *Provided further*, That total administrative costs shall not exceed 4 percent of the total appropriation.

NATIONAL PREDISASTER MITIGATION FUND

For the predisaster mitigation grant program under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133), $90,000,000, to remain available until expended and as detailed in the statement accompanying this Act: *Provided*, That the total administrative costs associated with such grants shall not exceed 3 percent of the total amount made available under this heading.

EMERGENCY FOOD AND SHELTER

To carry out the emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.), $200,000,000, to remain available until expended: *Provided*, That total administrative costs shall not exceed 3.5 percent of the total amount made available under this heading.

CERRO GRANDE FIRE CLAIMS

(RESCISSION OF FUNDS)

Of the funds made available under this heading for obligation in prior years, $9,000,000 are rescinded.

## TITLE IV

## RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $101,740,000, of which $100,000,000 is for the E-Verify program to assist United States employers with maintaining a legal workforce: *Provided*, That notwithstanding any other provision of law, funds available to United States Citizenship and Immigration Services may be used to acquire, operate, equip, dispose of and replace up to five vehicles, of which two are for replacement only, for areas where the Administrator of General Services does not provide vehicles for lease: *Provided further*, That the Director of

United States Citizenship and Immigration Services may authorize employees who are assigned to those areas to use such vehicles between the employees' residences and places of employment.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; the purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $246,530,000, of which up to $48,611,000 shall remain available until September 30, 2010, for materials and support costs of Federal law enforcement basic training; of which $300,000 shall remain available until expended for Federal law enforcement agencies participating in training accreditation, to be distributed as determined by the Federal Law Enforcement Training Center for the needs of participating agencies; and of which not to exceed $12,000 shall be for official reception and representation expenses: *Provided*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That section 1202(a) of Public Law 107–206 (42 U.S.C. 3771 note), as amended by Public Law 110–161 (121 Stat. 2068), is further amended by striking "December 31, 2010" and inserting "December 31, 2011": *Provided further,* That the Federal Law Enforcement Training Accreditation Board, including representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, shall lead the Federal law enforcement training accreditation process to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors: *Provided further,* That the Director of the Federal Law Enforcement Training Center shall schedule basic or advanced law enforcement training, or both, at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that such training facilities are operated at the highest capacity throughout the fiscal year.

ACQUISITIONS, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $86,456,000, to remain available until expended: *Provided*, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities: *Provided further,* That $3,000,000 is for

construction of training and related facilities at Artesia, New Mexico.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $132,100,000: *Provided*, That not to exceed $10,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); $800,487,000, to remain available until expended: *Provided,* That not less than $27,000,000 shall be available for the Southeast Region Research Initiative at the Oak Ridge National Laboratory: *Provided further,* That not less than $3,000,000 shall be available for Distributed Environment for Critical Infrastructure Decisionmaking Exercises: *Provided further,* That of the amount provided, $25,000,000 is for construction expenses of the Pacific Northwest National Laboratory: *Provided further,* That not less than $11,000,000 shall be available for the National Institute for Hometown Security: *Provided further,* That not less than $2,000,000 shall be available for the Naval Postgraduate School: *Provided further,* That not less than $2,000,000 shall be available to establish a homeland security research, development, and manufacturing pilot project: *Provided further,* That none of the funds made available under this heading shall be obligated for a follow-on program to the Analysis, Dissemination, Visualization, Insight, and Semantic Enhancement program: *Provided further,* That none of the funds available under this heading shall be obligated for construction of a National Bio and Agro-defense Facility located on the United States mainland until the Secretary of Homeland Security completes a risk assessment of whether foot-and-mouth disease work can be done safely on the United States mainland and this assessment is reviewed by the Government Accountability Office: *Provided further,* That the Government Accountability Office shall complete its review within 6 months after the Department concludes the risk assessment.

Risk assessment.

Deadline.

DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Domestic Nuclear Detection Office as authorized by title XIX of the Homeland Security Act of 2002 (6 U.S.C. 591 et seq.) for management and administration of programs and activities, $37,500,000: *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, AND OPERATIONS

For necessary expenses for radiological and nuclear research, development, testing, evaluation, and operations, $323,200,000, to remain available until expended.

SYSTEMS ACQUISITION

For expenses for the Domestic Nuclear Detection Office acquisition and deployment of radiological detection systems in accordance with the global nuclear detection architecture, $153,491,000, to remain available until September 30, 2011: *Provided*, That none of the funds appropriated under this heading shall be obligated for full-scale procurement of Advanced Spectroscopic Portal monitors until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a report certifying that a significant increase in operational effectiveness will be achieved: *Provided further*, That the Secretary shall submit separate and distinct certifications prior to the procurement of Advanced Spectroscopic Portal monitors for primary and secondary deployment that address the unique requirements for operational effectiveness of each type of deployment: *Provided further*, That the Secretary shall consult with the National Academy of Sciences before making such certifications: *Provided further*, That none of the funds appropriated under this heading shall be used for high-risk concurrent development and production of mutually dependent software and hardware.

Reports. Certification.

Certifications.

Consultation.

## TITLE V

## GENERAL PROVISIONS

(INCLUDING RESCISSIONS OF FUNDS)

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act, may be merged with funds in the applicable established accounts, and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2009, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program, project, or activity; (2) eliminates a program, project, office, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or the House of Representatives for a different purpose; or (5) contracts out any function

Notifications. Deadlines.

or activity for which funding levels were requested for Federal full-time equivalents in the object classification tables contained in the fiscal year 2009 Budget Appendix for the Department of Homeland Security, as modified by the explanatory statement accompanying this Act, unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2009, or provided from any accounts in the Treasury of the United States derived by the collection of fees or proceeds available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress, unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: *Provided*, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances that imminently threaten the safety of human life or the protection of property.

Reports.

(e) Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report listing all dollar amounts specified in this Act and accompanying explanatory statement that are identified in the detailed funding table at the end of the explanatory statement accompanying this Act or any other amounts specified in this Act or accompanying explanatory statement: *Provided,* That such dollar amounts specified in this Act and accompanying explanatory statement shall be subject to the conditions and requirements of subsections (a), (b), and (c) of this section.

31 USC 501 note.

SEC. 504. The Department of Homeland Security Working Capital Fund, established pursuant to section 403 of Public Law 103–356 (31 U.S.C. 501 note), shall continue operations as a permanent working capital fund for fiscal year 2009: *Provided,* That none of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the Working Capital Fund, except for the activities and amounts

allowed in the President's fiscal year 2009 budget: *Provided further,* That funds provided to the Working Capital Fund shall be available for obligation until expended to carry out the purposes of the Working Capital Fund: *Provided further,* That all departmental components shall be charged only for direct usage of each Working Capital Fund service: *Provided further,* That funds provided to the Working Capital Fund shall be used only for purposes consistent with the contributing component: *Provided further,* That such fund shall be paid in advance or reimbursed at rates which will return the full cost of each service: *Provided further,* That the Working Capital Fund shall be subject to the requirements of section 503 of this Act.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2009 from appropriations for salaries and expenses for fiscal year 2009 in this Act shall remain available through September 30, 2010, in the account and for the purposes for which the appropriations were provided: *Provided*, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

Approval request.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2009 until the enactment of an Act authorizing intelligence activities for fiscal year 2009.

SEC. 507. None of the funds made available by this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, including a contract covered by the Federal Acquisition Regulation, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance of making such an award or issuing such a letter: *Provided,* That if the Secretary of Homeland Security determines that compliance with this section would pose a substantial risk to human life, health, or safety, an award may be made without notification and the Committees on Appropriations of the Senate and the House of Representatives shall be notified not later than 5 full business days after such an award is made or letter issued: *Provided further*, That no notification shall involve funds that are not available for obligation: *Provided further*, That the notification shall include the amount of the award, the fiscal year in which the funds for the award were appropriated, and the account from which the funds are being drawn: *Provided further*, That the Federal Emergency Management Agency shall brief the Committees on Appropriations of the Senate and the House of Representatives 5 full business days in advance of announcing publicly the intention of making an award under the State Homeland Security Grant Program; Urban Area Security Initiative; and the Regional Catastrophic Preparedness Grant Program.

Grants.
Notification.
Deadline.

Notification.
Deadline.

Briefing.
Deadline.

SEC. 508. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance

approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 509. None of the funds appropriated or otherwise made available by this Act may be used for expenses for any construction, repair, alteration, or acquisition project for which a prospectus otherwise required under chapter 33 of title 40, United States Code, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

Applicability.

SEC. 510. Sections 519, 520, 522, 528, 530, and 531 of the Department of Homeland Security Appropriations Act, 2008 (division E of Public Law 110–161; 121 Stat. 2072, 2073, 2074, 2082) shall apply with respect to funds made available in this Act in the same manner as such sections applied to funds made available in that Act.

SEC. 511. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

Certification.
Reports.
Test phase.
Air carriers.

SEC. 512. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow-on or successor passenger prescreening program, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the conditions contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 (118 Stat. 1319) have been successfully met.

Deadlines.

(b) The report required by subsection (a) shall be submitted within 90 days after the Secretary provides the requisite certification, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten conditions have been successfully met.

Deadline.
Plan.

(c) Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a detailed plan that describes: (1) the dates for achieving key milestones, including the date or timeframes that the Secretary will certify the program under subsection (a); and (2) the methodology to be followed to support the Secretary's certification, as required under subsection (a).

(d) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(e) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(f) None of the funds provided in this or any other Act may be used for data or a database that is obtained from or remains under the control of a non-Federal entity: *Provided*, That this

restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 513. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 514. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 515. (a) The Secretary of Homeland Security shall research, develop, and procure new technologies to inspect and screen air cargo carried on passenger aircraft by the earliest date possible.

(b) Existing checked baggage explosive detection equipment and screeners shall be utilized to screen air cargo carried on passenger aircraft to the greatest extent practicable at each airport until technologies developed under subsection (a) are available.

(c) The Assistant Secretary of Homeland Security (Transportation Security Administration) shall work with air carriers and airports to ensure that the screening of cargo carried on passenger aircraft, as defined in section 44901(g)(5) of title 49, United States Code, increases incrementally each quarter.

(d) Not later than 45 days after the end of each quarter, the Assistant Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on air cargo inspection statistics by airport and air carrier detailing the incremental progress being made to meet the requirements of section 44901(g)(2) of title 49, United States Code. Deadlines. Reports.

SEC. 516. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration "Aviation Security", "Administration" and "Transportation Security Support" for fiscal years 2004, 2005, 2006, and 2007 that are recovered or deobligated shall be available only for the procurement or installation of explosives detection systems, for air cargo, baggage, and checkpoint screening systems, subject to notification: *Provided*, That quarterly reports shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives on any funds that are recovered or deobligated. Deadlines. Reports.

SEC. 517. Any funds appropriated to United States Coast Guard, "Acquisition, Construction, and Improvements" for fiscal years 2002, 2003, 2004, 2005, and 2006 for the 110–123 foot patrol boat conversion that are recovered, collected, or otherwise received as the result of negotiation, mediation, or litigation, shall be available until expended for the Replacement Patrol Boat (FRC-B) program.

SEC. 518. (a)(1) Except as provided in paragraph (2), none of the funds provided in this or any other Act shall be available to commence or continue operations of the National Applications Office until— Notification.

(A) the Secretary certifies in fiscal year 2009 that: (i) National Applications Office programs comply with all existing Certification.

laws, including all applicable privacy and civil liberties standards; and, (ii) that clear definitions of all proposed domains are established and are auditable;

(B) the Comptroller General of the United States notifies the Committees on Appropriations of the Senate and the House of Representatives and the Secretary that the Comptroller has reviewed such certification; and

(C) the Secretary notifies the Committees of all funds to be expended on the National Applications Office pursuant to section 503 of this Act.

(2) Paragraph (1) shall not apply with respect to any use of funds for activities substantially similar to such activities conducted by the Department of the Interior as set forth in the 1975 charter for the Civil Applications Committee under the provisions of law codified at section 31 of title 43, United States Code.

Deadlines. Reports. 5 USC app. 8I note.

(b) The Inspector General shall provide to the Committees on Appropriations of the Senate and the House of Representatives, starting six months after the date of enactment of this Act, and quarterly thereafter, a classified report containing a review of the data collected by the National Applications Office, including a description of the collection purposes and the legal authority under which the collection activities were authorized: *Provided,* That the report shall also include a listing of all data collection activities carried out on behalf of the National Applications Office by any component of the National Guard.

Certification. Notification.

(c) None of the funds provided in this or any other Act shall be available to commence operations of the National Immigration Information Sharing Operation until the Secretary certifies that such program complies with all existing laws, including all applicable privacy and civil liberties standards, the Comptroller General of the United States notifies the Committees on Appropriations of the Senate and the House of Representatives and the Secretary that the Comptroller has reviewed such certification, and the Secretary notifies the Committees on Appropriations of the Senate and the House of Representatives of all funds to be expended on the National Immigration Information Sharing Operation pursuant to section 503.

Deadlines. Reports.

SEC. 519. Within 45 days after the close of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a monthly budget and staffing report that includes total obligations, on-board versus funded full-time equivalent staffing levels, and the number of contract employees by office.

SEC. 520. Section 532(a) of Public Law 109–295 (120 Stat. 1384) is amended by striking "2008" and inserting "2009".

SEC. 521. The functions of the Federal Law Enforcement Training Center instructor staff shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

SEC. 522. (a) None of the funds provided by this or any other Act may be obligated for the development, testing, deployment, or operation of any portion of a human resources management system authorized by 5 U.S.C. 9701(a), or by regulations prescribed pursuant to such section, for an employee as defined in 5 U.S.C. 7103(a)(2).

(b) The Secretary of Homeland Security shall collaborate with employee representatives in the manner prescribed in 5 U.S.C. 9701(e), in the planning, testing, and development of any portion of a human resources management system that is developed, tested, or deployed for persons excluded from the definition of employee as that term is defined in 5 U.S.C. 7103(a)(2).

Butane lighters.

SEC. 523. In fiscal year 2009, none of the funds made available in this or any other Act may be used to enforce section 4025(1) of Public Law 108–458 unless the Assistant Secretary of Homeland Security (Transportation Security Administration) reverses the determination of July 19, 2007, that butane lighters are not a significant threat to civil aviation security.

SEC. 524. Funds made available in this Act may be used to alter operations within the Civil Engineering Program of the Coast Guard nationwide, including civil engineering units, facilities design and construction centers, maintenance and logistics commands, and the Coast Guard Academy, except that none of the funds provided in this Act may be used to reduce operations within any Civil Engineering Unit unless specifically authorized by a statute enacted after the date of the enactment of this Act.

Grants.
Contracts.

SEC. 525. (a) Except as provided in subsection (b), none of the funds appropriated in this or any other Act to the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, or the Office of the Chief Financial Officer, may be obligated for a grant or contract funded under such headings by a means other than full and open competition.

(b) Subsection (a) does not apply to obligation of funds for a contract awarded—

(1) by a means that is required by a Federal statute, including obligation for a purchase made under a mandated preferential program, such as the AbilityOne Program, that is authorized under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.);

(2) under the Small Business Act (15 U.S.C. 631 et seq.);

(3) in an amount less than the simplified acquisition threshold described under section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)); or

(4) by another Federal agency using funds provided through an interagency agreement.

Waiver authority.

(c)(1) Subject to paragraph (2), the Secretary of Homeland Security may waive the application of this section for the award of a contract in the interest of national security or if failure to do so would pose a substantial risk to human health or welfare.

Deadline.
Notification.

(2) Not later than 5 days after the date on which the Secretary of Homeland Security issues a waiver under this subsection, the Secretary shall submit notification of that waiver to the Committees on Appropriations of the Senate and the House of Representatives, including a description of the applicable contract and an explanation of why the waiver authority was used. The Secretary may not delegate the authority to grant such a waiver.

(d) In addition to the requirements established by this section, the Inspector General for the Department of Homeland Security shall review departmental contracts awarded through other than full and open competition to assess departmental compliance with applicable laws and regulations: *Provided,* That the Inspector General shall review selected contracts awarded in the previous fiscal

year through other than full and open competition: *Provided further,* That in determining which contracts to review, the Inspector General shall consider the cost and complexity of the goods and services to be provided under the contract, the criticality of the contract to fulfilling Department missions, past performance problems on similar contracts or by the selected vendor, complaints received about the award process or contractor performance, and such other factors as the Inspector General deems relevant: *Provided further,* That the Inspector General shall report the results of the reviews to the Committees on Appropriations of the Senate and the House of Representatives.

Reports.

SEC. 526. None of the funds provided by this or previous appropriations Acts shall be used to fund any position designated as a Principal Federal Official for any Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) declared disasters or emergencies.

SEC. 527. None of the funds made available in this Act may be used by United States Citizenship and Immigration Services to grant an immigration benefit unless the results of background checks required by law to be completed prior to the granting of the benefit have been received by United States Citizenship and Immigration Services, and the results do not preclude the granting of the benefit.

SEC. 528. None of the funds made available in this Act may be used to destroy or put out to pasture any horse or other equine belonging to the Federal Government that has become unfit for service, unless the trainer or handler is first given the option to take possession of the equine through an adoption program that has safeguards against slaughter and inhumane treatment.

SEC. 529. None of the funds provided in this Act shall be available to carry out section 872 of Public Law 107–296.

Certification.

SEC. 530. None of the funds provided in this Act under the heading "Office of the Chief Information Officer" shall be used for data center development other than for the National Center for Critical Information Processing and Storage until the Chief Information Officer certifies that the National Center for Critical Information Processing and Storage is fully utilized as the Department's primary data storage center at the highest capacity throughout the fiscal year.

SEC. 531. None of the funds in this Act shall be used to reduce the United States Coast Guard's Operations Systems Center mission or its government-employed or contract staff levels.

SEC. 532. None of the funds appropriated by this Act may be used to conduct, or to implement the results of, a competition under Office of Management and Budget Circular A–76 for activities performed with respect to the Coast Guard National Vessel Documentation Center.

Contracts.

SEC. 533. The Secretary of Homeland Security shall require that all contracts of the Department of Homeland Security that provide award fees link such fees to successful acquisition outcomes (which outcomes shall be specified in terms of cost, schedule, and performance).

SEC. 534. None of the funds made available to the Office of the Secretary and Executive Management under this Act may be expended for any new hires by the Department of Homeland Security that are not verified through the basic pilot program under

section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

Drugs and drug abuse.

SEC. 535. None of the funds made available in this Act for U.S. Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act: *Provided*, That this section shall apply only to individuals transporting on their person a personal-use quantity of the prescription drug, not to exceed a 90-day supply: *Provided further*, That the prescription drug may not be—

Applicability.

(1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SEC. 536. None of the funds made available in this Act may be used by the Secretary of Homeland Security or any delegate of the Secretary to issue any rule or regulation which implements the Notice of Proposed Rulemaking related to Petitions for Aliens To Perform Temporary Nonagricultural Services or Labor (H–2B) set out beginning on 70 Fed. Reg. 3984 (January 27, 2005).

SEC. 537. Section 831 of the Homeland Security Act of 2002 (6 U.S.C. 391) is amended—

(1) in subsection (a), by striking "Until September 30, 2008," and inserting "Until September 30, 2009 and subject to subsection (d),";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

"(d) ADDITIONAL REQUIREMENTS.—

Termination date.

"(1) IN GENERAL.—The authority of the Secretary under this section shall terminate September 30, 2009, unless before that date the Secretary—

"(A) issues policy guidance detailing the appropriate use of that authority; and

"(B) provides training to each employee that is authorized to exercise that authority.

"(2) REPORT.—The Secretary shall provide an annual report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives detailing the projects for which the authority granted by subsection (a) was used, the rationale for its use, the funds spent using that authority, the outcome of each project for which that authority was used, and the results of any audits of such projects.".

SEC. 538. None of the funds made available in this Act may be used for planning, testing, piloting, or developing a national identification card.

Deadline. President. Web site. Reports.

SEC. 539. (a) Notwithstanding any other provision of this Act, except as provided in subsection (b), and 30 days after the date that the President determines whether to declare a major disaster because of an event and any appeal is completed, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Transportation

and Infrastructure of the House of Representatives, the Committees on Appropriations of the Senate and the House of Representatives, and publish on the website of the Federal Emergency Management Agency, a report regarding that decision, which shall summarize damage assessment information used to determine whether to declare a major disaster.

(b) The Administrator may redact from a report under subsection (a) any data that the Administrator determines would compromise national security.

(c) In this section—

(1) the term "Administrator" means the Administrator of the Federal Emergency Management Agency; and

(2) the term "major disaster" has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

New York.

SEC. 540. Notwithstanding any other provision of law, should the Secretary of Homeland Security determine that the National Bio and Agro-defense Facility be located at a site other than Plum Island, New York, the Secretary shall liquidate the Plum Island asset by directing the Administrator of General Services to sell through public sale all real and related personal property and transportation assets which support Plum Island operations, subject to such terms and conditions as necessary to protect government interests and meet program requirements: *Provided,* That the gross proceeds of such sale shall be deposited as offsetting collections into the Department of Homeland Security Science and Technology "Research, Development, Acquisition, and Operations" account and, subject to appropriation, shall be available until expended, for site acquisition, construction, and costs related to the construction of the National Bio and Agro-defense Facility, including the costs associated with the sale, including due diligence requirements, necessary environmental remediation at Plum Island, and reimbursement of expenses incurred by the General Services Administration which shall not exceed 1 percent of the sale price: *Provided further,* That after the completion of construction and environmental remediation, the unexpended balances of funds appropriated for costs in the preceding proviso shall be available for transfer to the appropriate account for design and construction of a consolidated Department of Homeland Security Headquarters project, excluding daily operations and maintenance costs, notwithstanding section 503 of this Act, and the Committees on Appropriations of the Senate and the House of Representatives shall be notified 15 days prior to such transfer.

Notification.
Deadline.

SEC. 541. Any official that is required by this Act to report or certify to the Committees on Appropriations of the Senate and the House of Representatives may not delegate such authority to perform that act unless specifically authorized herein.

Notification.

SEC. 542. The Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall notify the Committees on Appropriations of the Senate and the House of Representatives of any proposed transfers of funds available under 31 U.S.C. 9703.2(g)(4)(B) from the Department of the Treasury Forfeiture Fund to any agency within the Department of Homeland Security: *Provided,* That none of the funds identified for such a transfer may be obligated until the Committees on Appropriations of the Senate and the House of Representatives approve the proposed transfers.

SEC. 543. Section 520 of Public Law 108–90 (6 U.S.C. 469) is amended—

(1) by inserting "(a) FEES.—" before "For fiscal year 2004 and thereafter"; and

(2) by adding at the end the following:

"(b) RECURRENT TRAINING OF ALIENS IN OPERATION OF AIRCRAFT.—

"(1) PROCESS FOR REVIEWING THREAT ASSESSMENTS.—Notwithstanding section 44939(e) of title 49, United States Code, the Secretary shall establish a process to ensure that an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)) applying for recurrent training in the operation of any aircraft is properly identified and has not, since the time of any prior threat assessment conducted pursuant to section 44939(a) of such title, become a risk to aviation or national security.

"(2) INTERRUPTION OF TRAINING.—If the Secretary determines, in carrying out the process established under paragraph (1), that an alien is a present risk to aviation or national security, the Secretary shall immediately notify the person providing the training of the determination and that person shall not provide the training or if such training has commenced that person shall immediately terminate the training. Notification.

"(3) FEES.—The Secretary may charge reasonable fees under subsection (a) for providing credentialing and background investigations for aliens in connection with the process for recurrent training established under paragraph (1). Such fees shall be promulgated by notice in the Federal Register.". Notice. Federal Register, publication.

SEC. 544. (a) Not later than six months from the date of enactment of this Act, the Secretary of Homeland Security shall consult with the Secretaries of Defense and Transportation and develop a concept of operations for unmanned aerial systems in the United States national airspace system for the purposes of border and maritime security operations. Deadlines. Consultation.

(b) The Secretary of Homeland Security shall report to the Committees on Appropriations of the Senate and the House of Representatives not later than 30 days after the date of enactment of this Act on any foreseeable challenges to complying with subsection (a). Reports.

SEC. 545. If the Assistant Secretary of Homeland Security (Transportation Security Administration) determines that an airport does not need to participate in the basic pilot program, the Assistant Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives that no security risks will result by such non-participation. Certification.

SEC. 546. Notwithstanding any other provision of law, and not later than 30 days after the date of submission of a request for a single payment, the President shall provide a single payment for any eligible costs under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) for any police station, fire station, or criminal justice facility that was damaged by Hurricane Katrina of 2005 or Hurricane Rita of 2005: *Provided,* That the President shall not reduce the amount of assistance provided under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)) for such facilities: *Provided further,* That nothing in the previous proviso may be construed to alter the appeal or review Deadline. President.

process relating to assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172): *Provided further,* That the President shall not reduce the amount of assistance provided to a local government under section 406(d) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(d)) more than once for each such type of facility for which that local government is receiving assistance under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act relating to Hurricane Katrina of 2005 or Hurricane Rita of 2005.

SEC. 547. For grants to States pursuant to section 204(a) of the REAL ID Act of 2005 (division B of Public Law 109–13), $50,000,000, to remain available until expended. In addition, for developing an information sharing and verification capability with States to support implementation of the REAL ID Act, $50,000,000, to remain available until expended: *Provided,* That none of the funds provided in this section for development of the information sharing and verification system shall be available to create any new system of records from the data accessible by such information technology system, or to create any means of access by Federal agencies to such information technology system other than to fulfill responsibilities pursuant to the REAL ID Act of 2005.

Mississippi.

SEC. 548. Notwithstanding any other provision of law, the Federal Emergency Management Agency shall reimburse Jones County and Harrison County in the State of Mississippi under section 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5173) for unreimbursed costs relating to the removal of debris that were incurred by such counties as a result of Hurricane Katrina in 2005.

SEC. 549. From the unobligated balances of prior year appropriations made available for Transportation Security Administration, $31,000,000 are rescinded: *Provided,* That the Transportation Security Administration shall not rescind any unobligated balances from the following programs: screener partnership program; explosives detection systems; checkpoint support; aviation regulation and other enforcement; air cargo; and air cargo research and development.

SEC. 550. From the unobligated balances of prior year appropriations made available for "Analysis and Operations", $21,373,000 are rescinded.

SEC. 551. From unobligated balances of prior year appropriations made available for Coast Guard "Acquisition, Construction, and Improvements", $20,000,000 are rescinded: *Provided,* That no funds shall be rescinded from prior year appropriations provided for the National Security Cutter or the Maritime Patrol Aircraft: *Provided further,* That the Coast Guard shall submit notification in accordance with section 503 of this Act listing projects for which funding will be rescinded.

Notification.

SEC. 552. For fiscal year 2008, funds made available for Federal Emergency Management Agency "National Predisaster Mitigation Fund" shall be provided as detailed in the explanatory statement accompanying Public Law 110–161.

SEC. 553. Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking "September 30, 2008" and inserting "September 30, 2009".

This division may be cited as the "Department of Homeland Security Appropriations Act, 2009".

## DIVISION E—MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2009

Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2009.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2009, and for other purposes, namely:

### TITLE I

### DEPARTMENT OF DEFENSE

#### MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $4,692,648,000, to remain available until September 30, 2013: *Provided*, That of this amount, not to exceed $178,685,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Army", and under the headings "Army" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act): *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 110–5, $34,720,000 are hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 110–161, $16,600,000 are hereby rescinded.

Notification.

#### MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $3,333,369,000, to remain available until September 30, 2013: *Provided*, That of this amount, not to exceed $246,528,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law,

Notification.

unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Navy and Marine Corps", and under the headings "Navy" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,117,746,000, to remain available until September 30, 2013: *Provided*, That of this amount, not to exceed $93,436,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Air Force", and under the headings "Air Force" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act): *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 110–161, $20,821,000 are hereby rescinded.

Notification.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $1,695,204,000, to remain available until September 30, 2013: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $186,060,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further,* That the amount

Notification.

appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Defense-Wide", and under the headings "Defense-Wide" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act): *Provided further*, That of the funds appropriated for "Military Construction, Defense-Wide" under Public Law 108–324, $3,589,000 are hereby rescinded: *Provided further,* That none of the funds appropriated under this heading may be obligated or expended for site activation or construction of a long-range missile defense system in a European country until the government of the country in which such missile defense system (including interceptors and associated radars) is proposed to be deployed has given final approval (including parliamentary ratification) to any missile defense agreements negotiated between such government and the United States Government concerning the proposed deployment of such components in such country.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(INCLUDING RESCISSION OF FUNDS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $736,317,000, to remain available until September 30, 2013: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Army National Guard", and under the headings "Army National Guard" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act): *Provided further,* That of the funds appropriated for "Military Construction, Army National Guard" under Public Law 110–161, $1,400,000 are hereby rescinded.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $242,924,000, to remain available until September 30, 2013: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Air National Guard", and under the headings "Air National Guard" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts,

$282,607,000, to remain available until September 30, 2013: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Army Reserve", and under the headings "Army Reserve" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

MILITARY CONSTRUCTION, NAVY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $57,045,000, to remain available until September 30, 2013: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Navy Reserve", and under the headings "Navy Reserve" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $36,958,000, to remain available until September 30, 2013: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Military Construction, Air Force Reserve", and under the headings "Air Force Reserve" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

NORTH ATLANTIC TREATY ORGANIZATION

SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, $230,867,000, to remain available until expended.

FAMILY HOUSING CONSTRUCTION, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $646,580,000, to remain available until September 30, 2013: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Family Housing

Construction, Army", and under the heading "Family Housing Construction, Army" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $716,110,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $380,123,000, to remain available until September 30, 2013: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Family Housing Construction, Navy and Marine Corps", and under the heading "Family Housing Construction, Navy and Marine Corps" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $376,062,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $395,879,000, to remain available until September 30, 2013: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Family Housing Construction, Air Force", and under the heading "Family Housing Construction, Air Force" in the table entitled "Military Construction", in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $594,465,000.

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments)

for operation and maintenance, leasing, and minor construction, as authorized by law, $49,231,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, $850,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

HOMEOWNERS ASSISTANCE FUND

For the Homeowners Assistance Fund established by section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3374), $4,500,000, to remain available until expended.

CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE

For expenses of construction, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, as currently authorized by law, $144,278,000, to remain available until September 30, 2013, which shall be only for the Assembled Chemical Weapons Alternatives program: *Provided,* That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Chemical Demilitarization Construction, Defense-Wide" in the table entitled "Military Construction" in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For deposit into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $458,377,000, to remain available until expended.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

Notification. Deadline.

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $8,765,613,000, to remain available until expended: *Provided*, That the Department of Defense shall notify the Committees on Appropriations of both Houses of Congress 14 days prior to obligating an amount for a construction project that exceeds or reduces the amount identified for that project in the most recently submitted budget request for this account by 20 percent or $2,000,000, whichever is less: *Provided further*, That the previous proviso shall not apply to projects costing less than $5,000,000, except for those projects not previously identified in any budget submission for this account and exceeding the minor construction threshold under 10 U.S.C. 2805.

ADMINISTRATIVE PROVISIONS

SEC. 101. None of the funds made available in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor. Contracts.

SEC. 102. Funds made available in this title for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds made available in this title for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this title may be used to begin construction of new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this title shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or the designee of the Attorney General; (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this title shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Acts making appropriations for military construction.

SEC. 107. None of the funds made available in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress. Notification.

SEC. 108. None of the funds made available in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds made available in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress. Notification.

SEC. 111. None of the funds made available in this title may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms. Contracts. Japan.

Contracts.
Kwajalein Atoll.

SEC. 112. None of the funds made available in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

Notification.
Military exercise.
Deadline.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 percent of the funds made available in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(INCLUDING TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds made available to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available, if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

Deadlines.
Reports.
22 USC 1928 note.

SEC. 118. (a) The Secretary of Defense, in consultation with the Secretary of State, shall submit to the Committees on Appropriations of both Houses of Congress, by February 15 of each year, an annual report in unclassified and, if necessary, classified form, on actions taken by the Department of Defense and the Department of State during the previous fiscal year to encourage host countries to assume a greater share of the common defense burden of such countries and the United States.

(b) The report under subsection (a) shall include a description of—

(1) attempts to secure cash and in-kind contributions from host countries for military construction projects;

(2) attempts to achieve economic incentives offered by host countries to encourage private investment for the benefit of the United States Armed Forces;

(3) attempts to recover funds due to be paid to the United States by host countries for assets deeded or otherwise imparted to host countries upon the cessation of United States operations at military installations;

(4) the amount spent by host countries on defense, in dollars and in terms of the percent of gross domestic product (GDP) of the host country; and

(5) for host countries that are members of the North Atlantic Treaty Organization (NATO), the amount contributed to NATO by host countries, in dollars and in terms of the percent of the total NATO budget.

(c) In this section, the term "host country" means other member countries of NATO, Japan, South Korea, and United States allies bordering the Arabian Sea.

(INCLUDING TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

(INCLUDING TRANSFER OF FUNDS)

Deadlines. Notifications.

SEC. 120. Subject to 30 days prior notification, or 14 days for a notification provided in an electronic medium pursuant to sections 480 and 2883, of title 10, United States Code, to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169 of title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

Deadline. Contracts. Notice.

SEC. 121. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing

the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(INCLUDING TRANSFER OF FUNDS)

SEC. 122. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the accounts established by sections 2906(a)(1) and 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

10 USC 2821 note.

SEC. 123. Notwithstanding any other provision of law, funds made available in this title for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

Notification.

Reports. Deadline.

SEC. 124. Amounts contained in the Ford Island Improvement Account established by subsection (h) of section 2814 of title 10, United States Code, are appropriated and shall be available until expended for the purposes specified in subsection (i)(1) of such section or until transferred pursuant to subsection (i)(3) of such section.

(INCLUDING TRANSFER OF FUNDS)

Certification.

SEC. 125. None of the funds made available in this title, or in any Act making appropriations for military construction which remain available for obligation, may be obligated or expended to

carry out a military construction, land acquisition, or family housing project at or for a military installation approved for closure, or at a military installation for the purposes of supporting a function that has been approved for realignment to another installation, in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), unless such a project at a military installation approved for realignment will support a continuing mission or function at that installation or a new mission or function that is planned for that installation, or unless the Secretary of Defense certifies that the cost to the United States of carrying out such project would be less than the cost to the United States of cancelling such project, or if the project is at an active component base that shall be established as an enclave or in the case of projects having multi-agency use, that another Government agency has indicated it will assume ownership of the completed project. The Secretary of Defense may not transfer funds made available as a result of this limitation from any military construction project, land acquisition, or family housing project to another account or use such funds for another purpose or project without the prior approval of the Committees on Appropriations of both Houses of Congress. This section shall not apply to military construction projects, land acquisition, or family housing projects for which the project is vital to the national security or the protection of health, safety, or environmental quality: *Provided*, That the Secretary of Defense shall notify the congressional defense committees within seven days of a decision to carry out such a military construction project.

Notification.
Deadline.

(INCLUDING TRANSFER OF FUNDS)

SEC. 126. During the 5-year period after appropriations available in this Act to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense", to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

Colorado.

SEC. 127. None of the funds appropriated or otherwise made available in this title may be used for any action that is related to or promotes the expansion of the boundaries or size of the Pinon Canyon Maneuver Site, Colorado.

SEC. 128. Amounts appropriated or otherwise made available in an account funded under the headings in this title may be transferred among projects and activities within that account in accordance with the reprogramming guidelines for military construction and family housing construction contained in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act), and in the guidance for military construction reprogrammings and notifications contained in Department of Defense Financial Management Regulation 7000.14–R, Volume 3, Chapter 7, of December 1996, as in effect on the date of enactment of this Act.

(INCLUDING TRANSFER OF FUNDS)

Study.

SEC. 129. (a) Of the amount appropriated or otherwise made available by this Act for the Department of Defense under the heading "Military Construction, Air Force" and available for planning and design, the Secretary of the Air Force shall, in accordance with section 1535 of title 31, United States Code, transfer $500,000 to the American Battle Monuments Commission to conduct an engineering study on the restoration of the Lafayette Escadrille Memorial in Marnes-La-Coquette, France.

(b) The study conducted pursuant to subsection (a) shall include:

(1) an estimate of costs to be incurred to restore the structure, features, landscaped grounds and caretaker's quarters of the Lafayette Escadrille Memorial to standards similar to memorials and burial grounds administered by the American Battle Monuments Commission; and

(2) an estimate of annual costs for the long-term preservation, maintenance, and operation of the memorial under those standards.

(c) The amount transferred under subsection (a) shall remain available until expended.

SEC. 130. Of the funds provided for "Family Housing Construction, Defense-Wide" under Public Law 110–5, $6,040,000 are hereby rescinded.

SEC. 131. In addition to amounts otherwise appropriated or made available under the heading "Military Construction, Air National Guard", there is hereby appropriated an additional $28,000,000, to remain available until September 30, 2013, for the construction of Air National Guard fire stations: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act, and prior to obligation of funds, the Air National Guard shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this section.

Deadline. Expenditure plan.

SEC. 132. In addition to amounts otherwise appropriated or made available under the heading "Military Construction, Army National Guard", there is hereby appropriated an additional $147,000,000 to remain available until September 30, 2013, for the construction of facilities consistent with Army National Guard emerging requirements: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act, and prior to obligation of funds, the Director of the Army National Guard shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this section.

Deadline. Expenditure plan.

# TITLE II

## DEPARTMENT OF VETERANS AFFAIRS

### VETERANS BENEFITS ADMINISTRATION

#### COMPENSATION AND PENSIONS

#### (INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by section 107 and chapters 11, 13, 18, 51, 53, 55, and 61 of title 38, United States Code; pension benefits to or on behalf of veterans as authorized by chapters 15, 51, 53, 55, and 61 of title 38, United States Code; and burial benefits, the Reinstated Entitlement Program for Survivors, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of title IV of the Servicemembers Civil Relief Act (50 U.S.C. App. 541 et seq.) and for other benefits as authorized by sections 107, 1312, 1977, and 2106, and chapters 23, 51, 53, 55, and 61 of title 38, United States Code, $43,111,681,000, to remain available until expended: *Provided*, That not to exceed $26,798,000 of the amount appropriated under this heading shall be reimbursed to "General operating expenses", "Medical support and compliance", and "Information technology systems" for necessary expenses in implementing the provisions of chapters 51, 53, and 55 of title 38, United States Code, the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical care collections fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

#### READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by chapters 21, 30, 31, 33, 34, 35, 36, 39, 51, 53, 55, and 61 of title 38, United States Code, $3,832,944,000, to remain available until expended: *Provided,* That expenses for rehabilitation program services and assistance which the Secretary is authorized to provide under subsection (a) of section 3104 of title 38, United States Code, other than under paragraphs (1), (2), (5), and (11) of that subsection, shall be charged to this account.

#### VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by title 38, United States Code, chapters 19 and 21, $42,300,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by subchapters I through III of chapter 37 of title 38, United States Code: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That during fiscal year 2009, within the resources available, not to exceed $500,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $157,210,000.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $61,000, as authorized by chapter 31 of title 38, United States Code: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That funds made available under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed $3,180,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $320,000, which may be paid to the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program authorized by subchapter V of chapter 37 of title 38, United States Code, $646,000.

GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by subchapter VI of chapter 20 of title 38, United States Code, not to exceed $750,000 of the amounts appropriated by this Act for "General operating expenses" and "Medical support and compliance" may be expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment, food services, and salaries and expenses of health-care employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; $30,969,903,000, plus reimbursements, of which not less than $3,800,000,000 shall

be expended for specialty mental health care and of which $250,000,000 shall be for establishment and implementation of a new rural health outreach and delivery initiative: *Provided*, That of the funds made available under this heading, not to exceed $1,600,000,000 shall be available until September 30, 2010: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for the provision of medical treatment for veterans who have service-connected disabilities, lower income, or have special needs: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: *Provided further*, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: *Provided further*, That for the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 8111(d) of title 38, United States Code, a minimum of $15,000,000, to remain available until expended, for any purpose authorized by section 8111 of title 38, United States Code.

Priorities.

Priorities.

MEDICAL SUPPORT AND COMPLIANCE

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; and administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.): $4,450,000,000, plus reimbursements, of which $250,000,000 shall be available until September 30, 2010.

MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities of the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering, and architectural activities not charged to project costs; for repairing, altering, improving, or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry services, $5,029,000,000, plus reimbursements, of which $350,000,000 shall be available until September 30, 2010: *Provided*, That $300,000,000 for non-recurring maintenance provided under this heading shall be allocated in a manner not subject to the Veterans Equitable Resource Allocation.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by chapter 73 of title 38, United States Code, $510,000,000, plus reimbursements, to remain available until September 30, 2010.

NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of one passenger motor vehicle for use in cemeterial operations; hire of passenger motor vehicles; and repair, alteration or improvement of facilities under the jurisdiction of the National Cemetery Administration, $230,000,000, of which not to exceed $23,000,000 shall be available until September 30, 2010.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of Department-Wide capital planning, management and policy activities, uniforms, or allowances therefor; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, $1,801,867,000: *Provided*, That expenses for services and assistance authorized under paragraphs (1), (2), (5), and (11) of section 3104(a) of title 38, United States Code, that the Secretary of Veterans Affairs determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: *Provided further*, That the Veterans Benefits Administration shall be funded at not less than $1,466,095,000: *Provided further*, That of the funds made available under this heading, not to exceed $83,000,000 shall be available for obligation until September 30, 2010: *Provided further*, That from the funds made available under this heading, the Veterans Benefits Administration may purchase (on a one-for-one replacement basis only) up to two passenger motor vehicles for use in operations of that Administration in Manila, Philippines.

INFORMATION TECHNOLOGY SYSTEMS

For necessary expenses for information technology systems and telecommunications support, including developmental information systems and operational information systems; for pay and associated costs; and for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by section 3109 of title 5, United States Code,

$2,489,391,000, plus reimbursements, to be available until September 30, 2010: *Provided*, That of the funds made available under this heading, not less than $48,000,000 shall be for the Financial and Logistics Integrated Technology Enterprise program: *Provided further,* That none of these funds may be obligated until the Department of Veterans Affairs submits to the Committees on Appropriations of both Houses of Congress, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget; (2) complies with the Department of Veterans Affairs enterprise architecture; (3) conforms with an established enterprise life cycle methodology; and (4) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government: *Provided further,* That within 30 days of enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a reprogramming base letter which provides, by project, the costs included in this appropriation.

Expenditure plan.

Deadline. Submission.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, to include information technology, in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $87,818,000, of which $5,000,000 shall be available until September 30, 2010.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, construction management services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is more than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, or where funds for a project were made available in a previous major project appropriation, $923,382,000, to remain available until expended, of which $10,000,000 shall be to make reimbursements as provided in section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) for claims paid for contract disputes: *Provided*, That except for advance planning activities, including needs assessments which may or may not lead to capital investments, and other capital asset management related activities, including portfolio development and management activities, and investment strategy studies funded through the advance planning fund and the planning and design activities funded through the design fund, including needs assessments which may or may not lead to capital investments, and funds provided for the purchase of land for the National Cemetery Administration through the land acquisition line item, none of the funds appropriated under this heading shall be used for any project which has not been approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 2009, for each approved project

Contracts. Deadlines.

Reports.

shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2009; and (2) by the awarding of a construction contract by September 30, 2010: *Provided further*, That the Secretary of Veterans Affairs shall promptly submit to the Committees on Appropriations of both Houses of Congress a written report on any approved major construction project for which obligations are not incurred within the time limitations established above: *Provided further,* That of the amount appropriated in this paragraph, $923,382,000 shall be for the projects and activities, and in the amounts, specified under this heading in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or for the use of the Department of Veterans Affairs, including planning and assessments of needs which may lead to capital investments, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, 8122, and 8162 of title 38, United States Code, where the estimated cost of a project is equal to or less than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, $741,534,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is equal to or less than the amount set forth in such section: *Provided*, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes: *Provided further:* That $7,000,000 of the amount appropriated in this paragraph shall be for the installation of alternative fueling stations at 35 medical facility campuses.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify, or alter existing hospital, nursing home, and domiciliary facilities in State homes, for furnishing care to veterans as authorized by sections 8131 through 8137 of title 38, United States Code, $175,000,000, to remain available until expended.

GRANTS FOR CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to assist States in establishing, expanding, or improving State veterans cemeteries as authorized by section 2408 of title 38, United States Code, $42,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Any appropriation for fiscal year 2009 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred as necessary to any other of the mentioned appropriations: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and such Committees issue an approval, or absent a response, a period of 30 days has elapsed. Deadline.

(INCLUDING TRANSFER OF FUNDS)

SEC. 202. Amounts made available for the Department of Veterans Affairs for fiscal year 2009, in this Act or any other Act, under the "Medical services", "Medical support and compliance", and "Medical facilities" accounts may be transferred among the accounts to the extent necessary to implement the restructuring of the Veterans Health Administration accounts: *Provided,* That any transfers between the "Medical services" and "Medical support and compliance" accounts of 1 percent or less of the total amount appropriated to the account in this or any other Act may take place subject to notification from the Secretary of Veterans Affairs to the Committees on Appropriations of both Houses of Congress of the amount and purpose of the transfer: *Provided further,* That any transfers between the "Medical services" and "Medical support and compliance" accounts in excess of 1 percent, or exceeding the cumulative 1 percent for the fiscal year, may take place only after the Secretary requests from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued: *Provided further,* That any transfers to or from the "Medical facilities" account may take place only after the Secretary requests from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued. Notification.

SEC. 203. Appropriations available in this title for salaries and expenses shall be available for services authorized by section 3109 of title 5, United States Code, hire of passenger motor vehicles; lease of a facility or land or both; and uniforms or allowances therefore, as authorized by sections 5901 through 5902 of title 5, United States Code.

SEC. 204. No appropriations in this title (except the appropriations for "Construction, major projects", and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 205. No appropriations in this title shall be available for hospitalization or examination of any persons (except beneficiaries entitled to such hospitalization or examination under the laws providing such benefits to veterans, and persons receiving such treatment under sections 7901 through 7904 of title 5, United States Code, or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)), unless reimbursement of the cost of such hospitalization or examination is made to the "Medical services" account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 206. Appropriations available in this title for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 2008.

SEC. 207. Appropriations available in this title shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from sections 3328(a), 3334, and 3712(a) of title 31, United States Code, except that if such obligations are from trust fund accounts they shall be payable only from "Compensation and pensions".

(INCLUDING TRANSFER OF FUNDS)

SEC. 208. Notwithstanding any other provision of law, during fiscal year 2009, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the "General operating expenses" and "Information technology systems" accounts for the cost of administration of the insurance programs financed through those accounts: *Provided,* That reimbursement shall be made only from the surplus earnings accumulated in such an insurance program during fiscal year 2009 that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: *Provided further,* That if the cost of administration of such an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: *Provided further,* That the Secretary shall determine the cost of administration for fiscal year 2009 which is properly allocable to the provision of each such insurance program and to the provision of any total disability income insurance included in that insurance program.

SEC. 209. Amounts deducted from enhanced-use lease proceeds to reimburse an account for expenses incurred by that account during a prior fiscal year for providing enhanced-use lease services, may be obligated during the fiscal year in which the proceeds are received.

(INCLUDING TRANSFER OF FUNDS)

SEC. 210. Funds available in this title or funds for salaries and other administrative expenses shall also be available to reimburse the Office of Resolution Management of the Department of Veterans Affairs and the Office of Employment Discrimination Complaint Adjudication under section 319 of title 38, United States Code, for all services provided at rates which will recover actual costs but not exceed $34,158,000 for the Office of Resolution Management and $3,278,000 for the Office of Employment and Discrimination Complaint Adjudication: *Provided,* That payments may be made in advance for services to be furnished based on estimated costs: *Provided further,* That amounts received shall be credited to the "General operating expenses" and "Information technology systems" accounts for use by the office that provided the service.

Reports.
Deadline.

SEC. 211. No appropriations in this title shall be available to enter into any new lease of real property if the estimated annual rental is more than $1,000,000 unless the Secretary submits a report which the Committees on Appropriations of both Houses of Congress approve within 30 days following the date on which the report is received.

SEC. 212. No funds of the Department of Veterans Affairs shall be available for hospital care, nursing home care, or medical services provided to any person under chapter 17 of title 38, United States Code, for a non-service-connected disability described in section 1729(a)(2) of such title, unless that person has disclosed to the Secretary of Veterans Affairs, in such form as the Secretary may require, current, accurate third-party reimbursement information for purposes of section 1729 of such title: *Provided,* That the Secretary may recover, in the same manner as any other debt due the United States, the reasonable charges for such care or services from any person who does not make such disclosure as required: *Provided further,* That any amounts so recovered for care or services provided in a prior fiscal year may be obligated by the Secretary during the fiscal year in which amounts are received.

(INCLUDING TRANSFER OF FUNDS)

SEC. 213. Notwithstanding any other provision of law, proceeds or revenues derived from enhanced-use leasing activities (including disposal) may be deposited into the "Construction, major projects" and "Construction, minor projects" accounts and be used for construction (including site acquisition and disposition), alterations, and improvements of any medical facility under the jurisdiction or for the use of the Department of Veterans Affairs. Such sums as realized are in addition to the amount provided for in "Construction, major projects" and "Construction, minor projects".

SEC. 214. Amounts made available under "Medical services" are available—

(1) for furnishing recreational facilities, supplies, and equipment; and

(2) for funeral expenses, burial expenses, and other expenses incidental to funerals and burials for beneficiaries receiving care in the Department.

(INCLUDING TRANSFER OF FUNDS)

SEC. 215. Such sums as may be deposited to the Medical Care Collections Fund pursuant to section 1729A of title 38, United States Code, may be transferred to "Medical services", to remain available until expended for the purposes of that account.

Alaska.

SEC. 216. Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall allow veterans who are eligible under existing Department of Veterans Affairs medical care requirements and who reside in Alaska to obtain medical care services from medical facilities supported by the Indian Health Service or tribal organizations. The Secretary shall: (1) limit the application of this provision to rural Alaskan veterans in areas where an existing Department of Veterans Affairs facility or Veterans Affairs-contracted service is unavailable; (2) require participating veterans and facilities to comply with all appropriate rules and regulations, as established by the Secretary; (3) require this provision to be consistent with Capital Asset Realignment for Enhanced Services

activities; and (4) result in no additional cost to the Department of Veterans Affairs or the Indian Health Service.

(INCLUDING TRANSFER OF FUNDS)

SEC. 217. Such sums as may be deposited to the Department of Veterans Affairs Capital Asset Fund pursuant to section 8118 of title 38, United States Code, may be transferred to the "Construction, major projects" and "Construction, minor projects" accounts, to remain available until expended for the purposes of these accounts.

SEC. 218. None of the funds available to the Department of Veterans Affairs, in this Act, or any other Act, may be used to replace the current system by which the Veterans Integrated Services Networks select and contract for diabetes monitoring supplies and equipment.

SEC. 219. None of the funds made available in this title may be used to implement any policy prohibiting the Directors of the Veterans Integrated Services Networks from conducting outreach or marketing to enroll new veterans within their respective Networks.

Deadlines. Reports.

SEC. 220. The Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a quarterly report on the financial status of the Veterans Health Administration.

(INCLUDING TRANSFER OF FUNDS)

SEC. 221. Amounts made available under the "Medical services", "Medical support and compliance", "Medical facilities", "General operating expenses", and "National Cemetery Administration" accounts for fiscal year 2009, may be transferred to or from the "Information technology systems" account: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

(INCLUDING TRANSFER OF FUNDS)

Deadline.

SEC. 222. Amounts made available for the "Information technology systems" account may be transferred between projects: *Provided*, That no project may be increased or decreased by more than $1,000,000 of cost prior to submitting a request to the Committees on Appropriations of both Houses of Congress to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed.

(INCLUDING TRANSFER OF FUNDS)

SEC. 223. Any balances in prior year accounts established for the payment of benefits under the Reinstated Entitlement Program for Survivors shall be transferred to and merged with amounts available under the "Compensation and pensions" account, and receipts that would otherwise be credited to the accounts established for the payment of benefits under the Reinstated Entitlement Program for Survivors program shall be credited to amounts available under the "Compensation and pensions" account.

SEC. 224. Section 1710(f)(2)(B) of title 38, United States Code, is amended by striking "September 30, 2008," and inserting "September 30, 2009,".

SEC. 225. Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking "October 1, 2008," and inserting "October 1, 2009,".

SEC. 226. The Department shall continue research into Gulf War illness at levels not less than those made available in fiscal year 2008, within available funds contained in this Act.

SEC. 227. (a) Upon a determination by the Secretary of Veterans Affairs that such action is in the national interest, and will have a direct benefit for veterans through increased access to treatment, the Secretary of Veterans Affairs may transfer not more than $5,000,000 to the Secretary of Health and Human Services for the Graduate Psychology Education Program, which includes treatment of veterans, to support increased training of psychologists skilled in the treatment of post-traumatic stress disorder, traumatic brain injury, and related disorders.

(b) The Secretary of Health and Human Services may only use funds transferred under this section for the purposes described in subsection (a).

(c) The Secretary of Veterans Affairs shall notify Congress of any such transfer of funds under this section. Notification.

SEC. 228. None of the funds appropriated or otherwise made available by this Act or any other Act for the Department of Veterans Affairs may be used in a manner that is inconsistent with—

(1) section 842 of the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006 (Public Law 109–115; 119 Stat. 2506); or

(2) section 8110(a)(5) of title 38, United States Code.

SEC. 229. The Secretary of Veterans Affairs may carry out a major medical facility lease in fiscal year 2009 in an amount not to exceed $12,000,000 to implement the recommendations outlined in the August 2007 Study of South Texas Veterans' Inpatient and Specialty Outpatient Health Care Needs.

SEC. 230. Of the amounts made available to the Department of Veterans Affairs for fiscal year 2009, in this Act or any other Act, under the "Medical Facilities" account for non-recurring maintenance, not more than 20 percent of the funds made available shall be obligated during the last 2 months of the fiscal year: *Provided,* That the Secretary may waive this requirement after providing written notice to the Committees on Appropriations of both Houses of Congress. Waiver authority. Notice.

SEC. 231. Section 2703 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (120 Stat. 469) is amended—

(1) by inserting "(a)" before "Notwithstanding"; and

(2) by adding at the end the following:

"(b) This land shall be owned by the City of Gulfport for no less than 50 years from the date of enactment of this Act.".

SEC. 232. None of the funds made available in this Act may be used to carry out section 111(c)(5) of title 38, United States Code, during fiscal year 2009.

SEC. 233. Notwithstanding any other provision of law, authority to carry out activities provided for under section 1703(d)(4) of title 38, United States Code, shall continue in effect until January Extension date.

31, 2009, unless prior to that date, authorization is enacted into law otherwise extending this authority.

Extension date.

SEC. 234. Notwithstanding any other provision of law, authority to carry out activities provided for under section 5317(g) of title 38, United States Code, shall continue in effect until January 31, 2009, unless prior to that date, authorization is enacted into law otherwise extending this authority.

## TITLE III

## RELATED AGENCIES

### AMERICAN BATTLE MONUMENTS COMMISSION

#### SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one-for-one replacement basis only) and hire of passenger motor vehicles; not to exceed $7,500 for official reception and representation expenses; and insurance of official motor vehicles in foreign countries, when required by law of such countries, $59,470,000, to remain available until expended.

#### FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, such sums as may be necessary, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

### UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

#### SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by sections 7251 through 7298 of title 38, United States Code, $30,975,000, of which $1,700,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102–229.

### DEPARTMENT OF DEFENSE—CIVIL

### CEMETERIAL EXPENSES, ARMY

#### SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation

expenses, $36,730,000, to remain available until expended. In addition, such sums as may be necessary for parking maintenance, repairs and replacement, to be derived from the Lease of Department of Defense Real Property for Defense Agencies account.

Funds appropriated under this Act may be provided to Arlington County, Virginia, for the relocation of the federally owned water main at Arlington National Cemetery making additional land available for ground burials.

ARMED FORCES RETIREMENT HOME

TRUST FUND

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington, District of Columbia, and the Armed Forces Retirement Home—Gulfport, Mississippi, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $63,010,000, of which $8,025,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington, District of Columbia and the Armed Forces Retirement Home—Gulfport, Mississippi.

## TITLE IV

## GENERAL PROVISIONS

SEC. 401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 402. Such sums as may be necessary for fiscal year 2009 for pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act. Pay raises.

SEC. 403. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 404. No part of any funds appropriated in this Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before Congress, except in presentation to Congress itself. Lobbying.

SEC. 405. All departments and agencies funded under this Act are encouraged, within the limits of the existing statutory authorities and funding, to expand their use of "E-Commerce" technologies and procedures in the conduct of their business practices and public service activities.

SEC. 406. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this or any other appropriations Act.

SEC. 407. Unless stated otherwise, all reports and notifications required by this Act shall be submitted to the Subcommittee on Submissions.

Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

SEC. 408. None of the funds made available in this Act may be used to modify the standards applicable to the determination of the entitlement of veterans to special monthly pensions under sections 1513(a) and 1521(e) of title 38, United States Code, as in effect pursuant to the opinion of the United States Court of Appeals for Veterans Claims in the case of Hartness v. Nicholson (No. 04–0888, July 21, 2006).

SEC. 409. None of the funds made available in this Act may be used for a project or program named for an individual then serving as a Member, Delegate, or Resident Commissioner of the United States Congress.

This division may be cited as the "Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2009".

Approved September 30, 2008.

LEGISLATIVE HISTORY—H.R. 2638 (S. 1644):

HOUSE REPORTS: No. 110–181 (Comm. on Appropriations).
SENATE REPORTS: No. 110–84 accompanying S. 1644 (Comm. on Appropriations).
CONGRESSIONAL RECORD:
Vol. 153 (2007): June 12–15, considered and passed House.
July 24–26, considered and passed Senate, amended.
Vol. 154 (2008): Sept. 24, House concurred in Senate amendment with an amendment.
Sept. 26, 27, Senate considered and concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
Sept. 30, Presidential statement.

# Public Law 110–330
# 110th Congress

## An Act

To amend title 49, United States Code, to extend authorizations for the airport improvement program, to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes.

Sept. 30, 2008
[H.R. 6984]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Federal Aviation Administration Extension Act of 2008, Part II.
26 USC 1 note.

This Act may be cited as the "Federal Aviation Administration Extension Act of 2008, Part II".

**SEC. 2. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.**

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) of the Internal Revenue Code of 1986 is amended by striking "September 30, 2008" and inserting "March 31, 2009". 26 USC 4081.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) of the Internal Revenue Code of 1986 is amended by striking "September 30, 2008" and inserting "March 31, 2009".

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) of such Code is amended by striking "September 30, 2008" and inserting "March 31, 2009".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2008. 26 USC 4081 note.

**SEC. 3. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.**

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 is amended—

(1) by striking "October 1, 2008" and inserting "April 1, 2009", and

(2) by inserting "or the Federal Aviation Administration Extension Act of 2008, Part II" before the semicolon at the end of subparagraph (A).

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(e) of such Code is amended by striking the date specified in such paragraph and inserting "April 1, 2009".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2008. 26 USC 9502 note.

**SEC. 4. EXTENSION OF AIRPORT IMPROVEMENT PROGRAM.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 48103 of title 49, United States Code, is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by inserting after paragraph (5) the following:

"(6) $1,950,000,000 for the 6-month period beginning on October 1, 2008.".

(2) OBLIGATION OF AMOUNTS.—Sums made available pursuant to the amendment made by paragraph (1) may be obligated at any time through September 30, 2009, and shall remain available until expended.

Time period.

(3) PROGRAM IMPLEMENTATION.—For purposes of calculating funding apportionments and meeting other requirements under sections 47114, 47115, 47116, and 47117 of title 49, United States Code, for the 6-month period beginning on October 1, 2008, the Administrator of the Federal Aviation Administration shall—

(A) first calculate funding apportionments on an annualized basis as if the total amount available under section 48103 of such title for fiscal year 2009 were $3,900,000,000; and

(B) then reduce by 50 percent—

(i) all funding apportionments calculated under subparagraph (A); and

(ii) amounts available pursuant to sections 47117(b) and 47117(f)(2) of such title.

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) of such title is amended by striking "September 30, 2008," and inserting "March 31, 2009,".

**SEC. 5. EXTENSION OF EXPIRING AUTHORITIES.**

(a) Section 40117(l)(7) of title 49, United States Code, is amended by striking "September 30, 2008." and inserting "April 1, 2009.".

(b) Section 41743(e)(2) of such title is amended by striking "2008" and inserting "2009".

(c) Section 44302(f)(1) of such title is amended—

(1) by striking "November 30, 2008," and inserting "March 31, 2009,"; and

(2) by striking "December 31, 2008," and inserting "May 31, 2009,".

(d) Section 44303(b) of such title is amended by striking "March 31, 2009," and inserting "May 31, 2009,".

(e) Section 47107(s)(3) of such title is amended by striking "October 1, 2008." and inserting "April 1, 2009.".

(f) Section 47115(j) of such title is amended by inserting "and for the portion of fiscal year 2009 ending before April 1, 2009," after "2008,".

(g) Section 47141(f) of such title is amended by striking "September 30, 2008." and inserting "March 31, 2009.".

(h) Section 49108 of such title is amended by striking "October 1, 2008," and inserting "March 31, 2009,".

(i) Section 161 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 47109 note) is amended by striking "fiscal year 2008," and inserting "fiscal year 2009 before April 1, 2009,".

(j) Section 186(d) of such Act (117 Stat. 2518) is amended by inserting "and for the portion of fiscal year 2009 ending before April 1, 2009," after "2008,".

(k) Section 409(d) of such Act (49 U.S.C. 41731 note) is amended by striking "September 30, 2008." and inserting "September 30, 2009.".

(l) The amendments made by this section shall take effect on October 1, 2008. Effective date. 49 USC 40117 note.

**SEC. 6. FEDERAL AVIATION ADMINISTRATION OPERATIONS.**

Section 106(k)(1) of title 49, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by inserting after subparagraph (D) the following:

"(E) $4,516,364,500 for the 6-month period beginning on October 1, 2008.". Time period.

**SEC. 7. AIR NAVIGATION FACILITIES AND EQUIPMENT.**

Section 48101(a) of title 49, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) $1,360,188,750 for the 6-month period beginning on October 1, 2008.". Time period.

**SEC. 8. RESEARCH, ENGINEERING, AND DEVELOPMENT.**

Section 48102(a) of title 49, United States Code, is amended—

(1) by striking "and" at the end of paragraph (11)(K);

(2) by striking the period at the end of paragraph (12)(L) and inserting "; and"; and

(3) by adding at the end the following:

"(13) $85,507,500 for the 6-month period beginning on October 1, 2008.". Time period.

Approved September 30, 2008.

LEGISLATIVE HISTORY—H.R. 6984:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, considered and passed House and Senate.

# Public Law 110–331
# 110th Congress

## An Act

Sept. 30, 2008
[S. 171]

To designate the facility of the United States Postal Service located at 301 Commerce Street in Commerce, Oklahoma, as the "Mickey Mantle Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MICKEY MANTLE POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 301 Commerce Street in Commerce, Oklahoma, shall be known and designated as the "Mickey Mantle Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Mickey Mantle Post Office Building".

Approved September 30, 2008.

LEGISLATIVE HISTORY—S. 171:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Feb. 17, considered and passed Senate.
Vol. 154 (2008): Sept. 17, 18, considered and passed House.

Public Law 110–332
110th Congress

# An Act

To designate the Department of Veterans Affairs clinic in Alpena, Michigan, as the "Lieutenant Colonel Clement C. Van Wagoner Department of Veterans Affairs Clinic".

Sept. 30, 2008
[S. 2339]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF LIEUTENANT COLONEL CLEMENT C. VAN WAGONER DEPARTMENT OF VETERANS AFFAIRS CLINIC.**

(a) DESIGNATION.—The Department of Veterans Affairs clinic located in Alpena, Michigan, shall after the date of the enactment of this Act be known and designated as the "Lieutenant Colonel Clement C. Van Wagoner Department of Veterans Affairs Clinic".

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the clinic referred to in subsection (a) shall be considered to be a reference to the Lieutenant Colonel Clement C. Van Wagoner Department of Veterans Affairs Clinic.

Approved September 30, 2008.

LEGISLATIVE HISTORY—S. 2339:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 13, considered and passed Senate.
Vol. 154 (2008): Sept. 15, 17, considered and passed House.

# Public Law 110–333
# 110th Congress

## An Act

Sept. 30, 2008
[S. 3241]

To designate the facility of the United States Postal Service located at 1717 Orange Avenue in Fort Pierce, Florida, as the "CeeCee Ross Lyles Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CEECEE ROSS LYLES POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1717 Orange Avenue in Fort Pierce, Florida, shall be known and designated as the "CeeCee Ross Lyles Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "CeeCee Ross Lyles Post Office Building".

Approved September 30, 2008.

LEGISLATIVE HISTORY—S. 3241 (H.R. 6772):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Aug. 1, considered and passed Senate.
Sept. 23, considered and passed House.

Public Law 110–334
110th Congress

# An Act

To designate the Federal Bureau of Investigation building under construction in Omaha, Nebraska, as the "J. James Exon Federal Bureau of Investigation Building".

Oct. 1, 2008
[S. 3009]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. J. JAMES EXON FEDERAL BUREAU OF INVESTIGATION BUILDING.**

(a) DESIGNATION.—The Federal Bureau of Investigation building under construction at the intersection of 120th and L Streets in Omaha, Nebraska, shall be known and designated as the "J. James Exon Federal Bureau of Investigation Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the J. James Exon Federal Bureau of Investigation Building.

Approved October 1, 2008.

LEGISLATIVE HISTORY—S. 3009:

HOUSE REPORTS: No. 110–878 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 24, considered and passed Senate.
Sept. 24, considered and passed House.

# Public Law 110–335
# 110th Congress

## An Act

Oct. 2, 2008
[H.R. 5551]

To amend title 11, District of Columbia Official Code, to implement the increase provided under the District of Columbia Appropriations Act, 2008, in the amount of funds made available for the compensation of attorneys representing indigent defendants in the District of Columbia courts, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. IMPLEMENTATION OF INCREASE PROVIDED IN FUNDING FOR COMPENSATION OF ATTORNEYS REPRESENTING INDIGENT DEFENDANTS IN DISTRICT OF COLUMBIA COURTS.**

(a) INCREASE IN HOURLY RATE.—Section 11–2604(a), District of Columbia Official Code, is amended by striking "$65 per hour" and inserting "$80 per hour".

(b) INCREASE IN CAPS ON TOTAL COMPENSATION PAID FOR PARTICULAR CASES.—Section 11–2604(b), District of Columbia Official Code, is amended to read as follows:

"(b) The compensation to be paid to an attorney appointed pursuant to this chapter shall not exceed the following maximum amounts:

"(1) For representation of a defendant before the Superior Court of the District of Columbia for misdemeanors or felonies, the maximum amount set forth in section 3006A(d)(2) of title 18, United States Code, for representation of a defendant before the United States magistrate judge or the district court for misdemeanors or felonies (as the case may be).

"(2) For representation of a defendant before the District of Columbia Court of Appeals, the maximum amount set forth in section 3006A(d)(2) of title 18, United States Code, for representation of a defendant in an appellate court.

"(3) For representation of a defendant in post-trial matters for misdemeanors or felonies, the amount applicable under paragraph (1) for misdemeanors or felonies (as the case may be).".

**SEC. 2. EFFECTIVE DATE.**

The amendments made by this Act shall apply with respect to cases and proceedings initiated on or after the date of the enactment of this Act.

Approved October 2, 2008.

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LEGISLATIVE HISTORY—H.R. 5551:

HOUSE REPORTS: No. 110–560 (Comm. on Oversight and Government Reform).
SENATE REPORTS: No. 110–432 (Comm. on Homeland Security and Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 1, considered and passed House.
Sept. 16, considered and passed Senate.

# Public Law 110–336
# 110th Congress

## An Act

Oct. 2, 2008
[H.R. 5893]

To reauthorize the sound recording and film preservation programs of the Library of Congress, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Library of Congress Sound Recording and Film Preservation Programs Reauthorization Act of 2008.
2 USC 179*l* note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Library of Congress Sound Recording and Film Preservation Programs Reauthorization Act of 2008".

**SEC. 2. SOUND RECORDING PRESERVATION PROGRAMS.**

(a) NATIONAL RECORDING PRESERVATION BOARD.—

(1) REAUTHORIZATION.—

(A) IN GENERAL.—Section 133 of the National Recording Preservation Act of 2000 (2 U.S.C. 1743) is amended by striking "for each of the first 7 fiscal years beginning on or after the date of the enactment of this Act" and inserting "for the first fiscal year beginning on or after the date of the enactment of this Act and each succeeding fiscal year through fiscal year 2016".

2 USC 1743 note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of the National Recording Preservation Act of 2000.

(2) CRITERIA FOR REMOVAL OF MEMBERS.—Section 122(d)(2) of such Act (2 U.S.C. 1722(d)(2)) is amended to read as follows:

"(2) REMOVAL OF MEMBERS.—The Librarian shall have the authority to remove any member of the Board if the member fails, after receiving proper notification, to attend (or send a designated alternate to attend) a regularly scheduled Board meeting, or if the member is determined by the Librarian to have substantially failed to fulfill the member's responsibilities as a member of the Board.".

(b) NATIONAL RECORDING PRESERVATION FOUNDATION.—

(1) REAUTHORIZATION.—

(A) IN GENERAL.—Section 152411(a) of title 36, United States Code, is amended by striking "for each of the first 7 fiscal years beginning on or after the date of the enactment of this chapter" and inserting "for the first fiscal year beginning on or after the date of the enactment of this chapter and each succeeding fiscal year through fiscal year 2016".

36 USC 152411 note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the

enactment of the National Recording Preservation Act of 2000.

(2) PERMITTING BOARD MEMBERS TO SERVE MORE THAN 2 TERMS.—Section 152403(b)(4) of such title is amended by striking the second sentence. 36 USC 152403.

(3) PERMITTING BOARD TO DETERMINE LOCATION OF PRINCIPAL OFFICE.—

(A) IN GENERAL.—Section 152406 of such title is amended by striking "District of Columbia." and inserting "District of Columbia or another place as determined by the Board of Directors.".

(B) CONFORMING AMENDMENT.—Section 152405(b) of such title is amended by striking "District of Columbia," and inserting "jurisdiction in which the principal office of the corporation is located,".

(4) CLARIFICATION OF LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Section 152411(b) of such title is amended to read as follows:

"(b) LIMITATION RELATED TO ADMINISTRATIVE EXPENSES.—Amounts authorized under this section may not be used by the corporation for management and general or fundraising expenses as reported to the Internal Revenue Service as part of an annual information return required under the Internal Revenue Code of 1986.".

**SEC. 3. FILM PRESERVATION PROGRAMS.**

(a) NATIONAL FILM PRESERVATION BOARD.—

(1) REAUTHORIZATION.—

(A) IN GENERAL.—Section 112 of the National Film Preservation Act of 1996 (2 U.S.C. 179v) is amended by inserting after "the Librarian" the following: "for the first fiscal year beginning on or after the date of the enactment of this Act and each succeeding fiscal year through fiscal year 2016".

(B) CONFORMING AMENDMENT.—Section 113 of such Act (2 U.S.C. 179w) is amended by striking the first sentence.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect as if included in the enactment of the National Film Preservation Act of 1996. 2 USC 179v note.

(2) EXPANDING AUTHORIZED USES OF SEAL.—Section 103(b) of such Act (2 U.S.C. 179m(b)) is amended by adding at the end the following: "The Librarian may authorize the use of the seal by the Library or by others for other limited purposes in order to promote in the National Film Registry when exhibiting, showing, or otherwise disseminating films in the Registry.".

(3) UPDATING NAMES OF ORGANIZATIONS REPRESENTED ON BOARD.—Section 104(a)(1) of such Act (2 U.S.C. 179n(a)(1)) is amended—

(A) in subparagraph (E), by striking "Cinema" and inserting "Cinema and Media";

(B) in subparagraph (G), by striking "Department of Film and Television" and inserting "Department of Film, Television, and Digital Media";

(C) in subparagraph (H), by striking "Film and Television" and inserting "Cinema Studies"; and

(D) by amending subparagraph (L) to read as follows:

"(L) Screen Actors Guild.".

(b) NATIONAL FILM PRESERVATION FOUNDATION.—

(1) REAUTHORIZATION.—Section 151711(a) of title 36, United States Code, is amended to read as follows: by inserting after the first sentence the following:

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Library of Congress amounts necessary to carry out this chapter, not to exceed—

"(A) $530,000 for each of the fiscal years 2005 through 2009;

"(B) $750,000 for each of the fiscal years 2010 through 2011; and

"(C) $1,000,000 for each of the fiscal years 2012 through 2016.

"(2) MATCHING.—The amounts authorized to be appropriated under this subsection are to be made available to the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.".

(2) REPATRIATION OF FILMS FROM FOREIGN ARCHIVES AS PURPOSE OF FOUNDATION.—Section 151702(1) of such title is amended by striking "United States;" and inserting "United States and the repatriation of American films from foreign archives;".

(3) EXTENSION OF DEADLINE FOR FILLING VACANCIES IN MEMBERSHIP OF BOARD OF DIRECTORS.—Section 151703(b)(5) of such title is amended by striking "60 days" and inserting "120 days".

Approved October 2, 2008.

LEGISLATIVE HISTORY—H.R. 5893:

HOUSE REPORTS: No. 110–683, Pt. 1 (Comm. on House Administration).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 4, considered and passed House.
Sept. 16, considered and passed Senate.

Public Law 110–337
110th Congress

# An Act

To amend title 49, United States Code, to expand passenger facility fee eligibility for certain noise compatibility projects.

Oct. 2, 2008
[S. 996]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXPANDED PASSENGER FACILITY FEE ELIGIBILITY FOR NOISE COMPATIBILITY PROJECTS.**

Section 40117(b) of title 49, United States Code, is amended by adding at the end the following:

"(7) NOISE MITIGATION FOR CERTAIN SCHOOLS.—

"(A) IN GENERAL.—In addition to the uses specified in paragraphs (1), (4), and (6), the Secretary may authorize a passenger facility fee imposed under paragraph (1) or (4) at a large hub airport that is the subject of an amended judgment and final order in condemnation filed on January 7, 1980, by the Superior Court of the State of California for the county of Los Angeles, to be used for a project to carry out noise mitigation for a building, or for the replacement of a relocatable building with a permanent building, in the noise impacted area surrounding the airport at which such building is used primarily for educational purposes, notwithstanding the air easement granted or any terms to the contrary in such judgment and final order, if—

"(i) the Secretary determines that the building is adversely affected by airport noise;

"(ii) the building is owned or chartered by the school district that was the plaintiff in case number 986,442 or 986,446, which was resolved by such judgment and final order;

"(iii) the project is for a school identified in 1 of the settlement agreements effective February 16, 2005, between the airport and each of the school districts;

"(iv) in the case of a project to replace a relocatable building with a permanent building, the eligible project costs are limited to the actual structural construction costs necessary to mitigate aircraft noise in instructional classrooms to an interior noise level meeting current standards of the Federal Aviation Administration; and

"(v) the project otherwise meets the requirements of this section for authorization of a passenger facility fee.

"(B) ELIGIBLE PROJECT COSTS.—In subparagraph (A)(iv), the term 'eligible project costs' means the difference between the cost of standard school construction and the cost of construction necessary to mitigate classroom noise to the standards of the Federal Aviation Administration.".

Approved October 2, 2008.

LEGISLATIVE HISTORY—S. 996:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Feb. 28, considered and passed Senate.
Sept. 17, considered and passed House.

Public Law 110–338
110th Congress

# An Act

To amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes.

Oct. 3, 2008
[H.R. 3986]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

John F. Kennedy Center Reauthorization Act of 2008. 20 USC 76h note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "John F. Kennedy Center Reauthorization Act of 2008".

**SEC. 2. TECHNICAL AMENDMENT.**

Section 2(a)(2)(J)(ii) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)(2)(J)(ii)) is amended by striking "Public Works and Transportation" and inserting "Transportation and Infrastructure".

**SEC. 3. PHOTOVOLTAIC SYSTEM.**

The John F. Kennedy Center Act is amended by inserting after section 6 (20 U.S.C. 76*l*) the following:

**"SEC. 7. PHOTOVOLTAIC SYSTEM.**

20 USC 76m.

"(a) IN GENERAL.—The Board may study, plan, design, engineer, and construct a photovoltaic system for the main roof of the John F. Kennedy Center for the Performing Arts.

"(b) REPORT.—Not later than 60 days before beginning construction of the photovoltaic system pursuant to subsection (a), the Board shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the feasibility and design of the project.".

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

Section 13 of the John F. Kennedy Center Act (20 U.S.C. 76r) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H)—

"(1) $20,200,000 for fiscal year 2008;

"(2) $21,800,000 for fiscal year 2009;

"(3) $22,500,000 for fiscal year 2010;

"(4) $23,500,000 for fiscal year 2011; and

"(5) $24,500,000 for fiscal year 2012.

"(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1)—

"(1) $23,150,000 for fiscal year 2008;

"(2) $16,000,000 for fiscal year 2009;
"(3) $17,000,000 for fiscal year 2010;
"(4) $17,000,000 for fiscal year 2011; and
"(5) $18,500,000 for fiscal year 2012.";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

"(d) PHOTOVOLTAIC SYSTEM.—There are authorized to be appropriated to the Board such sums as are necessary to carry out section 7, to remain available until expended.".

20 USC 76h note.

**SEC. 5. EXISTING AUTHORITIES.**

Nothing in this Act limits or otherwise affects the authority or responsibility of the National Capital Planning Commission or the Commission of Fine Arts.

Approved October 3, 2008.

LEGISLATIVE HISTORY—H.R. 3986:

HOUSE REPORTS: No. 110–480 (Comm. on Transportation and Infrastructure).
SENATE REPORTS: No. 110–406 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 11, considered and passed House.
Vol. 154 (2008): June 26, considered and passed Senate, amended.
Sept. 17, 18, House considered and concurred in Senate amendment.

Public Law 110–339
110th Congress

# An Act

To amend the Public Health Service Act with respect to the Healthy Start Initiative.

Oct. 3, 2008
[S. 1760]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Healthy Start Reauthorization Act of 2007.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Healthy Start Reauthorization Act of 2007".

**SEC. 2. AMENDMENTS TO HEALTHY START INITIATIVE.**

(a) CONSIDERATIONS IN MAKING GRANTS.—Section 330H(b) of the Public Health Service Act (42 U.S.C. 254c–8(b)) is amended—

(1) by striking "(b) REQUIREMENTS" and all that follows through "In making grants under subsection (a)" and inserting the following:

"(b) CONSIDERATIONS IN MAKING GRANTS.—

"(1) REQUIREMENTS.—In making grants under subsection (a)"; and

(2) by adding at the end the following paragraphs:

"(2) OTHER CONSIDERATIONS.—In making grants under subsection (a), the Secretary shall take into consideration the following:

"(A) Factors that contribute to infant mortality, such as low birthweight.

"(B) The extent to which applicants for such grants facilitate—

"(i) a community-based approach to the delivery of services; and

"(ii) a comprehensive approach to women's health care to improve perinatal outcomes.

"(3) SPECIAL PROJECTS.—Nothing in paragraph (2) shall be construed to prevent the Secretary from awarding grants under subsection (a) for special projects that are intended to address significant disparities in perinatal health indicators in communities along the United States-Mexico border or in Alaska or Hawaii.".

(b) OTHER GRANTS.—Section 330H of the Public Health Service Act (42 U.S.C. 254c–8) is amended—

(1) in subsection (a), by striking paragraph (3); and

(2) by striking subsections (e) and (f).

(c) FUNDING.—Section 330H of the Public Health Service Act, as amended by subsection (b) of this section, is amended by adding at the end the following subsection:

"(e) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated—

"(A) $120,000,000 for fiscal year 2008; and

"(B) for each of fiscal years 2009 through 2013, the amount authorized for the preceding fiscal year increased by the percentage increase in the Consumer Price Index for all urban consumers for such year.

"(2) ALLOCATION.—

"(A) PROGRAM ADMINISTRATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may reserve up to 5 percent for coordination, dissemination, technical assistance, and data activities that are determined by the Secretary to be appropriate for carrying out the program under this section.

"(B) EVALUATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may reserve up to 1 percent for evaluations of projects carried out under subsection (a). Each such evaluation shall include a determination of whether such projects have been effective in reducing the disparity in health status between the general population and individuals who are members of racial or ethnic minority groups.".

Approved October 3, 2008.

LEGISLATIVE HISTORY—S. 1760:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 30, considered and passed Senate.
Sept. 23, considered and passed House.

Public Law 110–340
110th Congress

# An Act

To prohibit the recruitment or use of child soldiers, to designate persons who recruit or use child soldiers as inadmissible aliens, to allow the deportation of persons who recruit or use child soldiers, and for other purposes.

Oct. 3, 2008
[S. 2135]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Child Soldiers Accountability Act of 2008.
18 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Child Soldiers Accountability Act of 2008".

**SEC. 2. ACCOUNTABILITY FOR THE RECRUITMENT AND USE OF CHILD SOLDIERS.**

(a) CRIME FOR RECRUITING OR USING CHILD SOLDIERS.—

(1) IN GENERAL.—Chapter 118 of title 18, United States Code, is amended by adding at the end the following:

**"§ 2442. Recruitment or use of child soldiers**

"(a) OFFENSE.—Whoever knowingly—

"(1) recruits, enlists, or conscripts a person to serve while such person is under 15 years of age in an armed force or group; or

"(2) uses a person under 15 years of age to participate actively in hostilities;

knowing such person is under 15 years of age, shall be punished as provided in subsection (b).

"(b) PENALTY.—Whoever violates, or attempts or conspires to violate, subsection (a) shall be fined under this title or imprisoned not more than 20 years, or both and, if death of any person results, shall be fined under this title and imprisoned for any term of years or for life.

"(c) JURISDICTION.—There is jurisdiction over an offense described in subsection (a), and any attempt or conspiracy to commit such offense, if—

"(1) the alleged offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act (8 U.S.C. 1101(a)(20));

"(2) the alleged offender is a stateless person whose habitual residence is in the United States;

"(3) the alleged offender is present in the United States, irrespective of the nationality of the alleged offender; or

"(4) the offense occurs in whole or in part within the United States.

"(d) DEFINITIONS.—In this section:

"(1) PARTICIPATE ACTIVELY IN HOSTILITIES.—The term 'participate actively in hostilities' means taking part in—

"(A) combat or military activities related to combat, including sabotage and serving as a decoy, a courier, or at a military checkpoint; or

"(B) direct support functions related to combat, including transporting supplies or providing other services.

"(2) ARMED FORCE OR GROUP.—The term 'armed force or group' means any army, militia, or other military organization, whether or not it is state-sponsored, excluding any group assembled solely for nonviolent political association.".

(2) STATUTE OF LIMITATIONS.—Chapter 213 of title 18, United States Code is amended by adding at the end the following:

**"§ 3300. Recruitment or use of child soldiers**

"No person may be prosecuted, tried, or punished for a violation of section 2442 unless the indictment or the information is filed not later than 10 years after the commission of the offense.".

(3) CLERICAL AMENDMENT.—Title 18, United States Code, is amended—

(A) in the table of sections for chapter 118, by adding at the end the following:

"2442. Recruitment or use of child soldiers.";

and

(B) in the table of sections for chapter 213, by adding at the end the following:

"3300. Recruitment or use of child soldiers.".

(b) GROUND OF INADMISSIBILITY FOR RECRUITING OR USING CHILD SOLDIERS.—Section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)) is amended by adding at the end the following:

"(G) RECRUITMENT OR USE OF CHILD SOLDIERS.—Any alien who has engaged in the recruitment or use of child soldiers in violation of section 2442 of title 18, United States Code, is inadmissible.".

(c) GROUND OF REMOVABILITY FOR RECRUITING OR USING CHILD SOLDIERS.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

"(F) RECRUITMENT OR USE OF CHILD SOLDIERS.—Any alien who has engaged in the recruitment or use of child soldiers in violation of section 2442 of title 18, United States Code, is deportable.".

8 USC 1158 note. Deadline.

(d) ASYLUM AND WITHHOLDING OF REMOVAL.—

(1) ISSUANCE OF REGULATIONS.—Not later than 60 days after the date of enactment of this Act, the Attorney General and the Secretary of Homeland Security shall promulgate final regulations establishing that, for purposes of sections 241(b)(3)(B)(iii) and 208(b)(2)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)(iii); 8 U.S.C. 1158(b)(2)(A)(iii)), an alien who is deportable under section 237(a)(4)(F) of such Act (8 U.S.C. 1227(a)(4)(F)) or inadmissible under section 212(a)(3)(G) of such Act (8 U.S.C. 1182(a)(3)(G)) shall be considered an alien with respect to whom there are

serious reasons to believe that the alien committed a serious nonpolitical crime.

(2) AUTHORITY TO WAIVE CERTAIN REGULATORY REQUIREMENTS.—The requirements of chapter 5 of title 5, United States Code (commonly referred to as the "Administrative Procedure Act"), chapter 35 of title 44, United States Code (commonly referred to as the "Paperwork Reduction Act"), or any other law relating to rulemaking, information collection, or publication in the Federal Register, shall not apply to any action to implement paragraph (1) to the extent the Attorney General or the Secretary Homeland of Security determines that compliance with any such requirement would impede the expeditious implementation of such paragraph.

Approved October 3, 2008.

LEGISLATIVE HISTORY—S. 2135:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Dec. 19, considered and passed Senate.
Vol. 154 (2008): Sept. 8, considered and passed House, amended.
Sept. 15, Senate concurred in House amendment.

# Public Law 110–341
# 110th Congress

## Joint Resolution

Oct. 3, 2008
[S.J. Res. 35]

To amend Public Law 108–331 to provide for the construction and related activities in support of the Very Energetic Radiation Imaging Telescope Array System (VERITAS) project in Arizona.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LOCATION OF VERITAS PROJECT.**

Public Law 108–331 (118 Stat. 1281) is amended—

(1) in the long title, by striking "on Kitt Peak near Tucson, Arizona" and inserting "in Arizona"; and

20 USC 50 note.

(2) in section 1, by striking "on Kitt Peak near Tucson, Arizona" and inserting "at the Fred Lawrence Whipple Observatory Base Camp on Mount Hopkins, Arizona, or other similar location".

Approved October 3, 2008.

LEGISLATIVE HISTORY—S.J. Res. 35:

HOUSE REPORTS: No. 110–850 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 154 (2008):
July 17, considered and passed Senate.
Sept. 17, 18, considered and passed House.

Public Law 110–342
110th Congress

Joint Resolution

Expressing the consent and approval of Congress to an interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin.

Oct. 3, 2008
[S.J. Res. 45]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That

Whereas the interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin reads as follows:

## "AGREEMENT

**"Section 1.** The states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin and the Commonwealth of Pennsylvania hereby solemnly covenant and agree with each other, upon enactment of concurrent legislation by the respective state legislatures and consent by the Congress of the United States as follows:

State listing.

## "GREAT LAKES—ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT

## "ARTICLE 1

## "SHORT TITLE, DEFINITIONS, PURPOSES AND DURATION

Great Lakes—St. Lawrence River Basin Water Resources Compact.

**"Section 1.1. Short Title.** This act shall be known and may be cited as the "Great Lakes—St. Lawrence River Basin Water Resources Compact."

**"Section 1.2. Definitions.** For the purposes of this Compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

**"Adaptive Management** means a Water resources management system that provides a systematic process for evaluation, monitoring and learning from the outcomes of operational programs and adjustment of policies, plans and programs based on experience and the evolution of scientific knowledge concerning Water resources and Water Dependent Natural Resources.

**"Agreement** means the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.

**"Applicant** means a Person who is required to submit a Proposal that is subject to management and regulation under this Compact. **Application** has a corresponding meaning.

**"Basin** or **Great Lakes—St. Lawrence River Basin** means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières, Québec within the jurisdiction of the Parties.

**"Basin Ecosystem** or **Great Lakes—St. Lawrence River Basin Ecosystem** means the interacting components of air, land, Water and living organisms, including humankind, within the Basin.

**"Community within a Straddling County** means any incorporated city, town or the equivalent thereof, that is located outside the Basin but wholly within a County that lies partly within the Basin and that is not a Straddling Community.

**"Compact** means this Compact.

**"Consumptive Use** means that portion of the Water Withdrawn or withheld from the Basin that is lost or otherwise not returned to the Basin due to evaporation, incorporation into Products, or other processes.

**"Council** means the Great Lakes—St. Lawrence River Basin Water Resources Council, created by this Compact.

**"Council Review** means the collective review by the Council members as described in Article 4 of this Compact.

**"County** means the largest territorial division for local government in a State. The County boundaries shall be defined as those boundaries that exist as of December 13, 2005.

**"Cumulative Impacts** mean the impact on the Basin Ecosystem that results from incremental effects of all aspects of a Withdrawal, Diversion or Consumptive Use in addition to other past, present, and reasonably foreseeable future Withdrawals, Diversions and Consumptive Uses regardless of who undertakes the other Withdrawals, Diversions and Consumptive Uses. Cumulative Impacts can result from individually minor but collectively significant Withdrawals, Diversions and Consumptive Uses taking place over a period of time.

**"Decision-Making Standard** means the decision-making standard established by Section 4.11 for Proposals subject to management and regulation in Section 4.10.

**"Diversion** means a transfer of Water from the Basin into another watershed, or from the watershed of one of the Great Lakes into that of another by any means of transfer, including but not limited to a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, a tanker ship, tanker truck or rail tanker but does not apply to Water that is used in the Basin or a Great Lake watershed to manufacture or produce a Product that is then transferred out of the Basin or watershed. **Divert** has a corresponding meaning.

**"Environmentally Sound and Economically Feasible Water Conservation Measures** mean those measures, methods, technologies or practices for efficient water use and for reduction of water loss and waste or for reducing a Withdrawal, Consumptive Use or Diversion that i) are environmentally sound, ii) reflect best practices applicable to the water use sector, iii) are technically feasible and available, iv) are economically feasible and cost effective based on an analysis that considers direct and avoided economic and environmental costs and v) consider the particular facilities and processes involved, taking into account the environmental impact, age of equipment and facilities involved, the processes employed, energy impacts and other appropriate factors.

**"Exception** means a transfer of Water that is excepted under Section 4.9 from the prohibition against Diversions in Section 4.8.

**"Exception Standard** means the standard for Exceptions established in Section 4.9.4.

**"Intra-Basin Transfer** means the transfer of Water from the watershed of one of the Great Lakes into the watershed of another Great Lake.

**"Measures** means any legislation, law, regulation, directive, requirement, guideline, program, policy, administrative practice or other procedure.

**"New or Increased Diversion** means a new Diversion, an increase in an existing Diversion, or the alteration of an existing Withdrawal so that it becomes a Diversion.

**"New or Increased Withdrawal or Consumptive Use** means a new Withdrawal or Consumptive Use or an increase in an existing Withdrawal or Consumptive Use.

**"Originating Party** means the Party within whose jurisdiction an Application or registration is made or required.

**"Party** means a State party to this Compact.

**"Person** means a human being or a legal person, including a government or a nongovernmental organization, including any scientific, professional, business, non-profit, or public interest organization or association that is neither affiliated with, nor under the direction of a government.

**"Product** means something produced in the Basin by human or mechanical effort or through agricultural processes and used in manufacturing, commercial or other processes or intended for intermediate or end use consumers. (i) Water used as part of the packaging of a Product shall be considered to be part of the Product. (ii) Other than Water used as part of the packaging of a Product, Water that is used primarily to transport materials in or out of the Basin is not a Product or part of a Product. (iii) Except as provided in (i) above, Water which is transferred as part of a public or private supply is not a Product or part of a Product. (iv) Water in its natural state such as in lakes, rivers, reservoirs, aquifers, or water basins is not a Product.

**"Proposal** means a Withdrawal, Diversion or Consumptive Use of Water that is subject to this Compact.

**"Province** means Ontario or Québec.

**"Public Water Supply Purposes** means water distributed to the public through a physically connected system of treatment, storage and distribution facilities serving a group of largely residential customers that may also serve industrial, commercial, and other institutional operators. Water Withdrawn directly from the Basin and not through such a system shall not be considered to be used for Public Water Supply Purposes.

**"Regional Body** means the members of the Council and the Premiers of Ontario and Québec or their designee as established by the Agreement.

**"Regional Review** means the collective review by the Regional Body as described in Article 4 of this Compact.

**"Source Watershed** means the watershed from which a Withdrawal originates. If Water is Withdrawn directly from a Great Lake or from the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If Water is Withdrawn from the watershed of a stream that is a direct

tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was Withdrawn.

**"Standard of Review and Decision** means the Exception Standard, Decision-Making Standard and reviews as outlined in Article 4 of this Compact.

**"State** means one of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio or Wisconsin or the Commonwealth of Pennsylvania.

**"Straddling Community** means any incorporated city, town or the equivalent thereof, wholly within any County that lies partly or completely within the Basin, whose corporate boundary existing as of the effective date of this Compact, is partly within the Basin or partly within two Great Lakes watersheds.

**"Technical Review** means a detailed review conducted to determine whether or not a Proposal that requires Regional Review under this Compact meets the Standard of Review and Decision following procedures and guidelines as set out in this Compact.

**"Water** means ground or surface water contained within the Basin.

**"Water Dependent Natural Resources** means the interacting components of land, Water and living organisms affected by the Waters of the Basin.

**"Waters of the Basin or Basin Water** means the Great Lakes and all streams, rivers, lakes, connecting channels and other bodies of water, including tributary groundwater, within the Basin.

**"Withdrawal** means the taking of water from surface water or groundwater. **Withdraw** has a corresponding meaning.

**"Section 1.3. Findings and Purposes.**

"The legislative bodies of the respective Parties hereby find and declare:

"1. Findings:

"a. The Waters of the Basin are precious public natural resources shared and held in trust by the States;

"b. The Waters of the Basin are interconnected and part of a single hydrologic system;

"c. The Waters of the Basin can concurrently serve multiple uses. Such multiple uses include municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, the subsistence, economic and cultural activities of native peoples, Water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem. And, other purposes are encouraged, recognizing that such uses are interdependent and must be balanced;

"d. Future Diversions and Consumptive Uses of Basin Water resources have the potential to significantly impact the environment, economy and welfare of the Great Lakes—St. Lawrence River region;

"e. Continued sustainable, accessible and adequate Water supplies for the people and economy of the Basin are of vital importance; and,

"f. The Parties have a shared duty to protect, conserve, restore, improve and manage the renewable but finite Waters of the Basin for the use, benefit and enjoyment

of all their citizens, including generations yet to come. The most effective means of protecting, conserving, restoring, improving and managing the Basin Waters is through the joint pursuit of unified and cooperative principles, policies and programs mutually-agreed upon, enacted and adhered to by all Parties.

"2. Purposes:

"a. To act together to protect, conserve, restore, improve and effectively manage the Waters and Water Dependent Natural Resources of the Basin under appropriate arrangements for intergovernmental cooperation and consultation because current lack of full scientific certainty should not be used as a reason for postponing measures to protect the Basin Ecosystem;

"b. To remove causes of present and future controversies;

"c. To provide for cooperative planning and action by the Parties with respect to such Water resources;

"d. To facilitate consistent approaches to Water management across the Basin while retaining State management authority over Water management decisions within the Basin;

"e. To facilitate the exchange of data, strengthen the scientific information base upon which decisions are made and engage in consultation on the potential effects of proposed Withdrawals and losses on the Waters and Water Dependent Natural Resources of the Basin;

"f. To prevent significant adverse impacts of Withdrawals and losses on the Basin's ecosystems and watersheds;

"g. To promote interstate and State-Provincial comity; and,

"h. To promote an Adaptive Management approach to the conservation and management of Basin Water resources, which recognizes, considers and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the Basin's Waters and Water Dependent Natural Resources.

**"Section 1.4. Science.**

"1. The Parties commit to provide leadership for the development of a collaborative strategy with other regional partners to strengthen the scientific basis for sound Water management decision making under this Compact.

"2. The strategy shall guide the collection and application of scientific information to support:

"a. An improved understanding of the individual and Cumulative Impacts of Withdrawals from various locations and Water sources on the Basin Ecosystem and to develop a mechanism by which impacts of Withdrawals may be assessed;

"b. The periodic assessment of Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses on a Great Lake and St. Lawrence River watershed basis;

"c. Improved scientific understanding of the Waters of the Basin;

"d. Improved understanding of the role of groundwater in Basin Water resources management; and,

"e. The development, transfer and application of science and research related to Water conservation and Water use efficiency.

## "ARTICLE 2

## "ORGANIZATION

**"Section 2.1. Council Created.**

"The Great Lakes—St. Lawrence River Basin Water Resources Council is hereby created as a body politic and corporate, with succession for the duration of this Compact, as an agency and instrumentality of the governments of the respective Parties.

**"Section 2.2. Council Membership.**

"The Council shall consist of the Governors of the Parties, ex officio.

**"Section 2.3. Alternates.**

"Each member of the Council shall appoint at least one alternate who may act in his or her place and stead, with authority to attend all meetings of the Council and with power to vote in the absence of the member. Unless otherwise provided by law of the Party for which he or she is appointed, each alternate shall serve during the term of the member appointing him or her, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

**"Section 2.4. Voting.**

"1. Each member is entitled to one vote on all matters that may come before the Council.

"2. Unless otherwise stated, the rule of decision shall be by a simple majority.

"3. The Council shall annually adopt a budget for each fiscal year and the amount required to balance the budget shall be apportioned equitably among the Parties by unanimous vote of the Council. The appropriation of such amounts shall be subject to such review and approval as may be required by the budgetary processes of the respective Parties.

"4. The participation of Council members from a majority of the Parties shall constitute a quorum for the transaction of business at any meeting of the Council.

**"Section 2.5. Organization and Procedure.**

"The Council shall provide for its own organization and procedure, and may adopt rules and regulations governing its meetings and transactions, as well as the procedures and timeline for submission, review and consideration of Proposals that come before the Council for its review and action. The Council shall organize, annually, by the election of a Chair and Vice Chair from among its members. Each member may appoint an advisor, who may attend all meetings of the Council and its committees, but shall not have voting power. The Council may employ or appoint professional and administrative personnel, including an Executive Director, as it may deem advisable, to carry out the purposes of this Compact.

**"Section 2.6. Use of Existing Offices and Agencies.**

"It is the policy of the Parties to preserve and utilize the functions, powers and duties of existing offices and agencies of government to the extent consistent with this Compact. Further, the Council shall promote and aid the coordination of the activities and programs of the Parties concerned with Water resources

management in the Basin. To this end, but without limitation, the Council may:

"1. Advise, consult, contract, assist or otherwise cooperate with any and all such agencies;

"2. Employ any other agency or instrumentality of any of the Parties for any purpose; and,

"3. Develop and adopt plans consistent with the Water resources plans of the Parties.

**"Section 2.7. Jurisdiction.**

"The Council shall have, exercise and discharge its functions, powers and duties within the limits of the Basin. Outside the Basin, it may act in its discretion, but only to the extent such action may be necessary or convenient to effectuate or implement its powers or responsibilities within the Basin and subject to the consent of the jurisdiction wherein it proposes to act.

**"Section 2.8. Status, Immunities and Privileges.**

"1. The Council, its members and personnel in their official capacity and when engaged directly in the affairs of the Council, its property and its assets, wherever located and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by the Parties, except to the extent that the Council may expressly waive its immunity for the purposes of any proceedings or by the terms of any contract.

"2. The property and assets of the Council, wherever located and by whomsoever held, shall be considered public property and shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

"3. The Council, its property and its assets, income and the operations it carries out pursuant to this Compact shall be immune from all taxation by or under the authority of any of the Parties or any political subdivision thereof; provided, however, that in lieu of property taxes the Council may make reasonable payments to local taxing districts in annual amounts which shall approximate the taxes lawfully assessed upon similar property.

**"Section 2.9. Advisory Committees.**

"The Council may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, State, tribal, county and local governments, water resources agencies, water-using industries and sectors, water-interest groups and academic experts in related fields.

## "ARTICLE 3

## "GENERAL POWERS AND DUTIES

**"Section 3.1. General.**

"The Waters and Water Dependent Natural Resources of the Basin are subject to the sovereign right and responsibilities of the Parties, and it is the purpose of this Compact to provide for joint exercise of such powers of sovereignty by the Council in the common interests of the people of the region, in the manner and to the extent provided in this Compact. The Council and the

Parties shall use the Standard of Review and Decision and procedures contained in or adopted pursuant to this Compact as the means to exercise their authority under this Compact.

The Council may revise the Standard of Review and Decision, after consultation with the Provinces and upon unanimous vote of all Council members, by regulation duly adopted in accordance with Section 3.3 of this Compact and in accordance with each Party's respective statutory authorities and applicable procedures.

Plans. Policies.

The Council shall identify priorities and develop plans and policies relating to Basin Water resources. It shall adopt and promote uniform and coordinated policies for Water resources conservation and management in the Basin.

**"Section 3.2. Council Powers.**

"The Council may: plan; conduct research and collect, compile, analyze, interpret, report and disseminate data on Water resources and uses; forecast Water levels; conduct investigations; institute court actions; design, acquire, construct, reconstruct, own, operate, maintain, control, sell and convey real and personal property and any interest therein as it may deem necessary, useful or convenient to carry out the purposes of this Compact; make contracts; receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services as may be transferred or made available to it by any Party or by any other public or private agency, corporation or individual; and, exercise such other and different powers as may be delegated to it by this Compact or otherwise pursuant to law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

**"Section 3.3. Rules and Regulations.**

"1. The Council may promulgate and enforce such rules and regulations as may be necessary for the implementation and enforcement of this Compact. The Council may adopt by regulation, after public notice and public hearing, reasonable Application fees with respect to those Proposals for Exceptions that are subject to Council review under Section 4.9. Any rule or regulation of the Council, other than one which deals solely with the internal management of the Council or its property, shall be adopted only after public notice and hearing.

"2. Each Party, in accordance with its respective statutory authorities and applicable procedures, may adopt and enforce rules and regulations to implement and enforce this Compact and the programs adopted by such Party to carry out the management programs contemplated by this Compact.

**"Section 3.4. Program Review and Findings.**

Reports.

"1. Each Party shall submit a report to the Council and the Regional Body detailing its Water management and conservation and efficiency programs that implement this Compact. The report shall set out the manner in which Water Withdrawals are managed by sector, Water source, quantity or any other means, and how the provisions of the Standard of Review and Decision and conservation and efficiency programs are implemented. The first report shall be provided by each Party one year from the effective date of this Compact and thereafter every 5 years.

Deadlines.

"2. The Council, in cooperation with the Provinces, shall review its Water management and conservation and efficiency programs

and those of the Parties that are established in this Compact and make findings on whether the Water management program provisions in this Compact are being met, and if not, recommend options to assist the Parties in meeting the provisions of this Compact. Such review shall take place: Deadlines.

"a. 30 days after the first report is submitted by all Parties; and,

"b. Every five years after the effective date of this Compact; and,

"c. At any other time at the request of one of the Parties.

"3. As one of its duties and responsibilities, the Council may recommend a range of approaches to the Parties with respect to the development, enhancement and application of Water management and conservation and efficiency programs to implement the Standard of Review and Decision reflecting improved scientific understanding of the Waters of the Basin, including groundwater, and the impacts of Withdrawals on the Basin Ecosystem.

## "ARTICLE 4

## "WATER MANAGEMENT AND REGULATION

### "Section 4.1. Water Resources Inventory, Registration and Reporting.

"1. Within five years of the effective date of this Compact, each Party shall develop and maintain a Water resources inventory for the collection, interpretation, storage, retrieval exchange, and dissemination of information concerning the Water resources of the Party, including, but not limited to, information on the location, type, quantity, and use of those resources and the location, type, and quantity of Withdrawals, Diversions and Consumptive Uses. To the extent feasible, the Water resources inventory shall be developed in cooperation with local, State, federal, tribal and other private agencies and entities, as well as the Council. Each Party's agencies shall cooperate with that Party in the development and maintenance of the inventory. Deadline.

"2. The Council shall assist each Party to develop a common base of data regarding the management of the Water Resources of the Basin and to establish systematic arrangements for the exchange of those data with other States and Provinces.

"3. To develop and maintain a compatible base of Water use information, within five years of the effective date of this Compact any Person who Withdraws Water in an amount of 100,000 gallons per day or greater average in any 30-day period (including Consumptive Uses) from all sources, or Diverts Water of any amount, shall register the Withdrawal or Diversion by a date set by the Council unless the Person has previously registered in accordance with an existing State program. The Person shall register the Withdrawal or Diversion with the Originating Party using a form prescribed by the Originating Party that shall include, at a minimum and without limitation: the name and address of the registrant and date of registration; the locations and sources of the Withdrawal or Diversion; the capacity of the Withdrawal or Diversion per day and the amount Withdrawn or Diverted from each source; the uses made of the Water; places of use and places Deadline.

of discharge; and, such other information as the Originating Party may require. All registrations shall include an estimate of the volume of the Withdrawal or Diversion in terms of gallons per day average in any 30-day period.

Reports.

"4. All registrants shall annually report the monthly volumes of the Withdrawal, Consumptive Use and Diversion in gallons to the Originating Party and any other information requested by the Originating Party.

Reports.

"5. Each Party shall annually report the information gathered pursuant to this Section to a Great Lakes—St. Lawrence River Water use data base repository and aggregated information shall be made publicly available, consistent with the confidentiality requirements in Section 8.3.

"6. Information gathered by the Parties pursuant to this Section shall be used to improve the sources and applications of scientific information regarding the Waters of the Basin and the impacts of the Withdrawals and Diversions from various locations and Water sources on the Basin Ecosystem, and to better understand the role of groundwater in the Basin. The Council and the Parties shall coordinate the collection and application of scientific information to further develop a mechanism by which individual and Cumulative Impacts of Withdrawals, Consumptive Uses and Diversions shall be assessed.

**"Section 4.2. Water Conservation and Efficiency Programs.**

"1. The Council commits to identify, in cooperation with the Provinces, Basin-wide Water conservation and efficiency objectives to assist the Parties in developing their Water conservation and efficiency program. These objectives are based on the goals of:

"a. Ensuring improvement of the Waters and Water Dependent Natural Resources;

"b. Protecting and restoring the hydrologic and ecosystem integrity of the Basin;

"c. Retaining the quantity of surface water and groundwater in the Basin;

"d. Ensuring sustainable use of Waters of the Basin; and,

"e. Promoting the efficiency of use and reducing losses and waste of Water.

Deadline.

"2. Within two years of the effective date of this Compact, each Party shall develop its own Water conservation and efficiency goals and objectives consistent with the Basin-wide goals and objectives, and shall develop and implement a Water conservation and efficiency program, either voluntary or mandatory, within its jurisdiction based on the Party's goals and objectives. Each Party shall annually assess its programs in meeting the Party's goals and objectives, report to the Council and the Regional Body and make this annual assessment available to the public.

Reports.
Public information.

Effective date.
Deadlines.

"3. Beginning five years after the effective date of this Compact, and every five years thereafter, the Council, in cooperation with the Provinces, shall review and modify as appropriate the Basin-wide objectives, and the Parties shall have regard for any such modifications in implementing their programs. This assessment will be based on examining new technologies, new patterns of Water use, new resource demands and threats, and Cumulative Impact assessment under Section 4.15.

Deadline.

"4. Within two years of the effective date of this Compact, the Parties commit to promote Environmentally Sound and Economically Feasible Water Conservation Measures such as:

"a. Measures that promote efficient use of Water;

"b. Identification and sharing of best management practices and state of the art conservation and efficiency technologies;

"c. Application of sound planning principles;

"d. Demand-side and supply-side Measures or incentives; and,

"e. Development, transfer and application of science and research.

"5. Each Party shall implement in accordance with paragraph 2 above a voluntary or mandatory Water conservation program for all, including existing, Basin Water users. Conservation programs need to adjust to new demands and the potential impacts of cumulative effects and climate.

**"Section 4.3. Party Powers and Duties.**

"1. Each Party, within its jurisdiction, shall manage and regulate New or Increased Withdrawals, Consumptive Uses and Diversions, including Exceptions, in accordance with this Compact.

"2. Each Party shall require an Applicant to submit an Application in such manner and with such accompanying information as the Party shall prescribe.

"3. No Party may approve a Proposal if the Party determines that the Proposal is inconsistent with this Compact or the Standard of Review and Decision or any implementing rules or regulations promulgated thereunder. The Party may approve, approve with modifications or disapprove any Proposal depending on the Proposal's consistency with this Compact and the Standard of Review and Decision.

"4. Each Party shall monitor the implementation of any approved Proposal to ensure consistency with the approval and may take all necessary enforcement actions.

"5. No Party shall approve a Proposal subject to Council or Regional Review, or both, pursuant to this Compact unless it shall have been first submitted to and reviewed by either the Council or Regional Body, or both, and approved by the Council, as applicable. Sufficient opportunity shall be provided for comment on the Proposal's consistency with this Compact and the Standard of Review and Decision. All such comments shall become part of the Party's formal record of decision, and the Party shall take into consideration any such comments received.

**"Section 4.4. Requirement for Originating Party Approval.**

"No Proposal subject to management and regulation under this Compact shall hereafter be undertaken by any Person unless it shall have been approved by the Originating Party.

**"Section 4.5. Regional Review.**

"1. General.

"a. It is the intention of the Parties to participate in Regional Review of Proposals with the Provinces, as described in this Compact and the Agreement.

"b. Unless the Applicant or the Originating Party otherwise requests, it shall be the goal of the Regional Body to conclude its review no later than 90 days after notice under Section 4.5.2 of such Proposal is received from the Originating Party. Deadline.

"c. Proposals for Exceptions subject to Regional Review shall be submitted by the Originating Party to the Regional Body for Regional Review, and where applicable, to the Council for concurrent review.

"d. The Parties agree that the protection of the integrity of the Great Lakes—St. Lawrence River Basin Ecosystem shall be the overarching principle for reviewing Proposals subject to Regional Review, recognizing uncertainties with respect to demands that may be placed on Basin Water, including groundwater, levels and flows of the Great Lakes and the St. Lawrence River, future changes in environmental conditions, the reliability of existing data and the extent to which Diversions may harm the integrity of the Basin Ecosystem.

"e. The Originating Party shall have lead responsibility for coordinating information for resolution of issues related to evaluation of a Proposal, and shall consult with the Applicant throughout the Regional Review Process.

"f. A majority of the members of the Regional Body may request Regional Review of a regionally significant or potentially precedent setting Proposal. Such Regional Review must be conducted, to the extent possible, within the time frames set forth in this Section. Any such Regional Review shall be undertaken only after consulting the Applicant.

"2. Notice from Originating Party to the Regional Body.

"a. The Originating Party shall determine if a Proposal is subject to Regional Review. If so, the Originating Party shall provide timely notice to the Regional Body and the public.

Notification.

"b. Such notice shall not be given unless and until all information, documents and the Originating Party's Technical Review needed to evaluate whether the Proposal meets the Standard of Review and Decision have been provided.

"c. An Originating Party may:

"i. Provide notice to the Regional Body of an Application, even if notification is not required; or,

"ii. Request Regional Review of an application, even if Regional Review is not required. Any such Regional Review shall be undertaken only after consulting the Applicant.

"d. An Originating Party may provide preliminary notice of a potential Proposal.

"3. Public Participation.

"a. To ensure adequate public participation, the Regional Body shall adopt procedures for the review of Proposals that are subject to Regional Review in accordance with this Article.

Notification.

"b. The Regional Body shall provide notice to the public of a Proposal undergoing Regional Review. Such notice shall indicate that the public has an opportunity to comment in writing to the Regional Body on whether the Proposal meets the Standard of Review and Decision.

Public meetings.

"c. The Regional Body shall hold a public meeting in the State or Province of the Originating Party in order to receive public comment on the issue of whether the Proposal under consideration meets the Standard of Review and Decision.

"d. The Regional Body shall consider the comments received before issuing a Declaration of Finding.

"e. The Regional Body shall forward the comments it receives to the Originating Party.

"4. Technical Review.

"a. The Originating Party shall provide the Regional Body with its Technical Review of the Proposal under consideration.

"b. The Originating Party's Technical Review shall thoroughly analyze the Proposal and provide an evaluation of the Proposal sufficient for a determination of whether the Proposal meets the Standard of Review and Decision.

"c. Any member of the Regional Body may conduct their own Technical Review of any Proposal subject to Regional Review.

"d. At the request of the majority of its members, the Regional Body shall make such arrangements as it considers appropriate for an independent Technical Review of a Proposal.

"e. All Parties shall exercise their best efforts to ensure that a Technical Review undertaken under Sections 4.5.4.c and 4.5.4.d does not unnecessarily delay the decision by the Originating Party on the Application. Unless the Applicant or the Originating Party otherwise requests, all Technical Reviews shall be completed no later than 60 days after the date the notice of the Proposal was given to the Regional Body.

"5. Declaration of Finding.

"a. The Regional Body shall meet to consider a Proposal. The Applicant shall be provided with an opportunity to present the Proposal to the Regional Body at such time.

"b. The Regional Body, having considered the notice, the Originating Party's Technical Review, any other independent Technical Review that is made, any comments or objections including the analysis of comments made by the public, First Nations and federally recognized Tribes, and any other information that is provided under this Compact shall issue a Declaration of Finding that the Proposal under consideration:

"i. Meets the Standard of Review and Decision;

"ii. Does not meet the Standard of Review and Decision; or,

"iii. Would meet the Standard of Review and Decision if certain conditions were met.

"c. An Originating Party may decline to participate in a Declaration of Finding made by the Regional Body.

"d. The Parties recognize and affirm that it is preferable for all members of the Regional Body to agree whether the Proposal meets the Standard of Review and Decision.

"e. If the members of the Regional Body who participate in the Declaration of Finding all agree, they shall issue a written Declaration of Finding with consensus.

"f. In the event that the members cannot agree, the Regional Body shall make every reasonable effort to achieve consensus within 25 days. Deadline.

"g. Should consensus not be achieved, the Regional Body may issue a Declaration of Finding that presents different points of view and indicates each Party's conclusions.

"h. The Regional Body shall release the Declarations of Finding to the public.

"i. The Originating Party and the Council shall consider the Declaration of Finding before making a decision on the Proposal.

**"Section 4.6. Proposals Subject to Prior Notice.**

"1. Beginning no later than five years of the effective date of this Compact, the Originating Party shall provide all Parties Effective date. Deadlines.

and the Provinces with detailed and timely notice and an opportunity to comment within 90 days on any Proposal for a New or Increased Consumptive Use of 5 million gallons per day or greater average in any 90-day period. Comments shall address whether or not the Proposal is consistent with the Standard of Review and Decision. The Originating Party shall provide a response to any such comment received from another Party.

"2. A Party may provide notice, an opportunity to comment and a response to comments even if this is not required under paragraph 1 of this Section. Any provision of such notice and opportunity to comment shall be undertaken only after consulting the Applicant.

**"Section 4.7. Council Actions.**

Proposals.

"1. Proposals for Exceptions subject to Council Review shall be submitted by the Originating Party to the Council for Council Review, and where applicable, to the Regional Body for concurrent review.

"2. The Council shall review and take action on Proposals in accordance with this Compact and the Standard of Review and Decision. The Council shall not take action on a Proposal subject to Regional Review pursuant to this Compact unless the Proposal shall have been first submitted to and reviewed by the Regional Body. The Council shall consider any findings resulting from such review.

**"Section 4.8. Prohibition of New or Increased Diversions.**

"All New or Increased Diversions are prohibited, except as provided for in this Article.

**"Section 4.9. Exceptions to the Prohibition of Diversions.**

"1. Straddling Communities. A Proposal to transfer Water to an area within a Straddling Community but outside the Basin or outside the source Great Lake Watershed shall be excepted from the prohibition against Diversions and be managed and regulated by the Originating Party provided that, regardless of the volume of Water transferred, all the Water so transferred shall be used solely for Public Water Supply Purposes within the Straddling Community, and:

"a. All Water Withdrawn from the Basin shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use. No surface water or groundwater from outside the Basin may be used to satisfy any portion of this criterion except if it:

"i. Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin;

"ii. Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;

"iii. Maximizes the portion of water returned to the Source Watershed as Basin Water and minimizes the surface water or groundwater from outside the Basin;

"b. If the Proposal results from a New or Increased Withdrawal of 100,000 gallons per day or greater average over any 90-day period, the Proposal shall also meet the Exception Standard; and,

"c. If the Proposal results in a New or Increased Consumptive Use of 5 million gallons per day or greater average over

any 90-day period, the Proposal shall also undergo Regional Review.

"2. Intra-Basin Transfer. A Proposal for an Intra-Basin Transfer that would be considered a Diversion under this Compact, and not already excepted pursuant to paragraph 1 of this Section, shall be excepted from the prohibition against Diversions, provided that:

"a. If the Proposal results from a New or Increased Withdrawal less than 100,000 gallons per day average over any 90-day period, the Proposal shall be subject to management and regulation at the discretion of the Originating Party.

"b. If the Proposal results from a New or Increased Withdrawal 100,000 gallons per day or greater average over any 90-day period and if the Consumptive Use resulting from the Withdrawal is less than 5 million gallons per day average over any 90-day period:

"i. The Proposal shall meet the Exception Standard and be subject to management and regulation by the Originating Party, except that the Water may be returned to another Great Lake watershed rather than the Source Watershed;

"ii. The Applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies; and,

"iii. The Originating Party shall provide notice to the other Parties prior to making any decision with respect to the Proposal. Notification.

"c. If the Proposal results in a New or Increased Consumptive Use of 5 million gallons per day or greater average over any 90-day period:

"i. The Proposal shall be subject to management and regulation by the Originating Party and shall meet the Exception Standard, ensuring that Water Withdrawn shall be returned to the Source Watershed;

"ii. The Applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies;

"iii. The Proposal undergoes Regional Review; and,

"iv. The Proposal is approved by the Council. Council approval shall be given unless one or more Council Members vote to disapprove.

"3. Straddling Counties. A Proposal to transfer Water to a Community within a Straddling County that would be considered a Diversion under this Compact shall be excepted from the prohibition against Diversions, provided that it satisfies all of the following conditions:

"a. The Water shall be used solely for the Public Water Supply Purposes of the Community within a Straddling County that is without adequate supplies of potable water;

"b. The Proposal meets the Exception Standard, maximizing the portion of water returned to the Source Watershed as Basin Water and minimizing the surface water or groundwater from outside the Basin;

"c. The Proposal shall be subject to management and regulation by the Originating Party, regardless of its size;

"d. There is no reasonable water supply alternative within the basin in which the community is located, including conservation of existing water supplies;

"e. Caution shall be used in determining whether or not the Proposal meets the conditions for this Exception. This Exception should not be authorized unless it can be shown that it will not endanger the integrity of the Basin Ecosystem;

"f. The Proposal undergoes Regional Review; and,

"g. The Proposal is approved by the Council. Council approval shall be given unless one or more Council Members vote to disapprove.

A Proposal must satisfy all of the conditions listed above. Further, substantive consideration will also be given to whether or not the Proposal can provide sufficient scientifically based evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to Waters of the Basin.

"4. Exception Standard. Proposals subject to management and regulation in this Section shall be declared to meet this Exception Standard and may be approved as appropriate only when the following criteria are met:

"a. The need for all or part of the proposed Exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies;

"b. The Exception will be limited to quantities that are considered reasonable for the purposes for which it is proposed;

"c. All Water Withdrawn shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use. No surface water or groundwater from the outside the Basin may be used to satisfy any portion of this criterion except if it:

"i. Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin;

"ii. Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;

"d. The Exception will be implemented so as to ensure that it will result in no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin with consideration given to the potential Cumulative Impacts of any precedent-setting consequences associated with the Proposal;

"e. The Exception will be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures to minimize Water Withdrawals or Consumptive Use;

"f. The Exception will be implemented so as to ensure that it is in compliance with all applicable municipal, State and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909; and,

"g. All other applicable criteria in Section 4.9 have also been met.

**"Section 4.10. Management and Regulation of New or Increased Withdrawals and Consumptive Uses.**

"1. Within five years of the effective date of this Compact, each Party shall create a program for the management and regulation of New or Increased Withdrawals and Consumptive Uses by adopting and implementing Measures consistent with the Decision-Making Standard. Each Party, through a considered process, shall set and may modify threshold levels for the regulation of New or Increased Withdrawals in order to assure an effective and efficient Water management program that will ensure that uses overall are reasonable, that Withdrawals overall will not result in significant impacts to the Waters and Water Dependent Natural Resources of the Basin, determined on the basis of significant impacts to the physical, chemical, and biological integrity of Source Watersheds, and that all other objectives of the Compact are achieved. Each Party may determine the scope and thresholds of its program, including which New or Increased Withdrawals and Consumptive Uses will be subject to the program. Deadline.

"2. Any Party that fails to set threshold levels that comply with Section 4.10.1 any time before 10 years after the effective date of this Compact shall apply a threshold level for management and regulation of all New or Increased Withdrawals of 100,000 gallons per day or greater average in any 90 day period. Deadline. Applicability.

"3. The Parties intend programs for New or Increased Withdrawals and Consumptive Uses to evolve as may be necessary to protect Basin Waters. Pursuant to Section 3.4, the Council, in cooperation with the Provinces, shall periodically assess the Water management programs of the Parties. Such assessments may produce recommendations for the strengthening of the programs, including without limitation, establishing lower thresholds for management and regulation in accordance with the Decision-Making Standard. Assessment.

**"Section 4.11. Decision-Making Standard.**

"Proposals subject to management and regulation in Section 4.10 shall be declared to meet this Decision-Making Standard and may be approved as appropriate only when the following criteria are met:

"1. All Water Withdrawn shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use;

"2. The Withdrawal or Consumptive Use will be implemented so as to ensure that the Proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources and the applicable Source Watershed;

"3. The Withdrawal or Consumptive Use will be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures;

"4. The Withdrawal or Consumptive Use will be implemented so as to ensure that it is in compliance with all applicable municipal, State and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909;

"5. The proposed use is reasonable, based upon a consideration of the following factors:

"a. Whether the proposed Withdrawal or Consumptive Use is planned in a fashion that provides for efficient use of the water, and will avoid or minimize the waste of Water;

"b. If the Proposal is for an increased Withdrawal or Consumptive use, whether efficient use is made of existing water supplies;

"c. The balance between economic development, social development and environmental protection of the proposed Withdrawal and use and other existing or planned withdrawals and water uses sharing the water source;

"d. The supply potential of the water source, considering quantity, quality, and reliability and safe yield of hydrologically interconnected water sources;

"e. The probable degree and duration of any adverse impacts caused or expected to be caused by the proposed Withdrawal and use under foreseeable conditions, to other lawful consumptive or non-consumptive uses of water or to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin, and the proposed plans and arrangements for avoidance or mitigation of such impacts; and,

"f. If a Proposal includes restoration of hydrologic conditions and functions of the Source Watershed, the Party may consider that.

**"Section 4.12. Applicability.**

"1. Minimum Standard. This Standard of Review and Decision shall be used as a minimum standard. Parties may impose a more restrictive decision-making standard for Withdrawals under their authority. It is also acknowledged that although a Proposal meets the Standard of Review and Decision it may not be approved under the laws of the Originating Party that has implemented more restrictive Measures.

"2. Baseline.

Records.

"a. To establish a baseline for determining a New or Increased Diversion, Consumptive Use or Withdrawal, each Party shall develop either or both of the following lists for their jurisdiction:

"i. A list of existing Withdrawal approvals as of the effective date of the Compact;

"ii. A list of the capacity of existing systems as of the effective date of this Compact. The capacity of the existing systems should be presented in terms of Withdrawal capacity, treatment capacity, distribution capacity, or other capacity limiting factors. The capacity of the existing systems must represent the state of the systems. Existing capacity determinations shall be based upon approval limits or the most restrictive capacity information.

"b. For all purposes of this Compact, volumes of Diversions, Consumptive Uses, or Withdrawals of Water set forth in the list(s) prepared by each Party in accordance with this Section, shall constitute the baseline volume.

"c. The list(s) shall be furnished to the Regional Body and the Council within one year of the effective date of this Compact.

"3. Timing of Additional Applications. Applications for New or Increased Withdrawals, Consumptive Uses or Exceptions shall be considered cumulatively within ten years of any application.

"4. Change of Ownership. Unless a new owner proposes a project that shall result in a Proposal for a New or Increased Diversion or Consumptive Use subject to Regional Review or Council

approval, the change of ownership in and of itself shall not require Regional Review or Council approval.

"5. Groundwater. The Basin surface water divide shall be used for the purpose of managing and regulating New or Increased Diversions, Consumptive Uses or Withdrawals of surface water and groundwater.

"6. Withdrawal Systems. The total volume of surface water and groundwater resources that supply a common distribution system shall determine the volume of a Withdrawal, Consumptive Use or Diversion.

"7. Connecting Channels. The watershed of each Great Lake shall include its upstream and downstream connecting channels.

"8. Transmission in Water Lines. Transmission of Water within a line that extends outside the Basin as it conveys Water from one point to another within the Basin shall not be considered a Diversion if none of the Water is used outside the Basin.

"9. Hydrologic Units. The Lake Michigan and Lake Huron watersheds shall be considered to be a single hydrologic unit and watershed.

"10. Bulk Water Transfer. A Proposal to Withdraw Water and to remove it from the Basin in any container greater than 5.7 gallons shall be treated under this Compact in the same manner as a Proposal for a Diversion. Each Party shall have the discretion, within its jurisdiction, to determine the treatment of Proposals to Withdraw Water and to remove it from the Basin in any container of 5.7 gallons or less.

**"Section 4.13. Exemptions.**

"Withdrawals from the Basin for the following purposes are exempt from the requirements of Article 4.

"1. To supply vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

"2. To use in a non-commercial project on a short-term basis for firefighting, humanitarian, or emergency response purposes.

**"Section 4.14. U.S. Supreme Court Decree: Wisconsin et al. v. Illinois et al.**

"1. Notwithstanding any terms of this Compact to the contrary, with the exception of Paragraph 5 of this Section, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois shall be governed by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. and shall not be subject to the terms of this Compact nor any rules or regulations promulgated pursuant to this Compact. This means that, with the exception of Paragraph 5 of this Section, for purposes of this Compact, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water within the State of Illinois shall be allowed unless prohibited by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al.

"2. The Parties acknowledge that the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. shall continue in full force and effect, that this Compact shall not modify any terms thereof, and that this Compact shall grant the parties no additional rights, obligations, remedies or defenses thereto. The

Parties specifically acknowledge that this Compact shall not prohibit or limit the State of Illinois in any manner from seeking additional Basin Water as allowed under the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al., any other party from objecting to any request by the State of Illinois for additional Basin Water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the Parties to this Compact who are also parties to the decree shall seek formal input from the Canadian Provinces of Ontario and Québec, with respect to the proposed modification, use best efforts to facilitate the appropriate participation of said Provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation.

"3. With the exception of Paragraph 5 of this Section, because current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois are not subject to the terms of this Compact, the State of Illinois is prohibited from using any term of this Compact, including Section 4.9, to seek New or Increased Withdrawals, Consumptive Uses or Diversions of Basin Water.

"4. With the exception of Paragraph 5 of this Section, because Sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 (Paragraphs 1, 2, 3, 4, 6 and 10 only), and 4.13 of this Compact all relate to current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Waters, said provisions do not apply to the State of Illinois. All other provisions of this Compact not listed in the preceding sentence shall apply to the State of Illinois, including the Water Conservation Programs provision of Section 4.2.

"5. In the event of a Proposal for a Diversion of Basin Water for use outside the territorial boundaries of the Parties to this Compact, decisions by the State of Illinois regarding such a Proposal would be subject to all terms of this Compact, except Paragraphs 1, 3 and 4 of this Section.

"6. For purposes of the State of Illinois' participation in this Compact, the entirety of this Section 4.14 is necessary for the continued implementation of this Compact and, if severed, this Compact shall no longer be binding on or enforceable by or against the State of Illinois.

**"Section 4.15. Assessment of Cumulative Impacts.**

Deadlines.

"1. The Parties in cooperation with the Provinces shall collectively conduct within the Basin, on a Lake watershed and St. Lawrence River Basin basis, a periodic assessment of the Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses from the Waters of the Basin, every 5 years or each time the incremental Basin Water losses reach 50 million gallons per day average in any 90-day period in excess of the quantity at the time of the most recent assessment, whichever comes first, or at the request of one or more of the Parties. The assessment shall form the basis for a review of the Standard of Review and Decision, Council and Party regulations and their application. This assessment shall:

"a. Utilize the most current and appropriate guidelines for such a review, which may include but not be limited to

Council on Environmental Quality and Environment Canada guidelines;

"b. Give substantive consideration to climate change or other significant threats to Basin Waters and take into account the current state of scientific knowledge, or uncertainty, and appropriate Measures to exercise caution in cases of uncertainty if serious damage may result;

"c. Consider adaptive management principles and approaches, recognizing, considering and providing adjustments for the uncertainties in, and evolution of science concerning the Basin's water resources, watersheds and ecosystems, including potential changes to Basin-wide processes, such as lake level cycles and climate.

"2. The Parties have the responsibility of conducting this Cumulative Impact assessment. Applicants are not required to participate in this assessment.

"3. Unless required by other statutes, Applicants are not required to conduct a separate cumulative impact assessment in connection with an Application but shall submit information about the potential impacts of a Proposal to the quantity or quality of the Waters and Water Dependent Natural Resources of the applicable Source Watershed. An Applicant may, however, provide an analysis of how their Proposal meets the no significant adverse Cumulative Impact provision of the Standard of Review and Decision.

## "ARTICLE 5

## "TRIBAL CONSULTATION

**"Section 5.1. Consultation with Tribes.**

"1. In addition to all other opportunities to comment pursuant to Section 6.2, appropriate consultations shall occur with federally recognized Tribes in the Originating Party for all Proposals subject to Council or Regional Review pursuant to this Compact. Such consultations shall be organized in the manner suitable to the individual Proposal and the laws and policies of the Originating Party.

Notification.

"2. All federally recognized Tribes within the Basin shall receive reasonable notice indicating that they have an opportunity to comment in writing to the Council or the Regional Body, or both, and other relevant organizations on whether the Proposal meets the requirements of the Standard of Review and Decision when a Proposal is subject to Regional Review or Council approval. Any notice from the Council shall inform the Tribes of any meeting or hearing that is to be held under Section 6.2 and invite them to attend. The Parties and the Council shall consider the comments received under this Section before approving, approving with modifications or disapproving any Proposal subject to Council or Regional Review.

"3. In addition to the specific consultation mechanisms described above, the Council shall seek to establish mutually-agreed upon mechanisms or processes to facilitate dialogue with, and input from federally recognized Tribes on matters to be dealt with by the Council; and, the Council shall seek to establish mechanisms

and processes with federally recognized Tribes designed to facilitate on-going scientific and technical interaction and data exchange regarding matters falling within the scope of this Compact. This may include participation of tribal representatives on advisory committees established under this Compact or such other processes that are mutually-agreed upon with federally recognized Tribes individually or through duly-authorized intertribal agencies or bodies.

## "ARTICLE 6

## "PUBLIC PARTICIPATION

**"Section 6.1. Meetings, Public Hearings and Records.**

"1. The Parties recognize the importance and necessity of public participation in promoting management of the Water Resources of the Basin. Consequently, all meetings of the Council shall be open to the public, except with respect to issues of personnel.

"2. The minutes of the Council shall be a public record open to inspection at its offices during regular business hours.

**"Section 6.2. Public Participation.**

"It is the intent of the Council to conduct public participation processes concurrently and jointly with processes undertaken by the Parties and through Regional Review. To ensure adequate public participation, each Party or the Council shall ensure procedures for the review of Proposals subject to the Standard of Review and Decision consistent with the following requirements:

Notification. "1. Provide public notification of receipt of all Applications and a reasonable opportunity for the public to submit comments before Applications are acted upon.

"2. Assure public accessibility to all documents relevant to an Application, including public comment received.

Guidance. "3. Provide guidance on standards for determining whether to conduct a public meeting or hearing for an Application, time and place of such a meeting(s) or hearing(s), and procedures for conducting of the same.

Records. "4. Provide the record of decision for public inspection including comments, objections, responses and approvals, approvals with conditions and disapprovals.

## "ARTICLE 7

## "DISPUTE RESOLUTION AND ENFORCEMENT

**"Section 7.1. Good Faith Implementation.**

"Each of the Parties pledges to support implementation of all provisions of this Compact, and covenants that its officers and agencies shall not hinder, impair, or prevent any other Party carrying out any provision of this Compact.

**"Section 7.2. Alternative Dispute Resolution.**

"1. Desiring that this Compact be carried out in full, the Parties agree that disputes between the Parties regarding interpretation, application and implementation of this Compact shall be settled by alternative dispute resolution.

"2. The Council, in consultation with the Provinces, shall provide by rule procedures for the resolution of disputes pursuant to this section. Procedures.

**"Section 7.3. Enforcement.**

"1. Any Person aggrieved by any action taken by the Council pursuant to the authorities contained in this Compact shall be entitled to a hearing before the Council. Any Person aggrieved by a Party action shall be entitled to a hearing pursuant to the relevant Party's administrative procedures and laws. After exhaustion of such administrative remedies, (i) any aggrieved Person shall have the right to judicial review of a Council action in the United States District Courts for the District of Columbia or the District Court in which the Council maintains offices, provided such action is commenced within 90 days; and, (ii) any aggrieved Person shall have the right to judicial review of a Party's action in the relevant Party's court of competent jurisdiction, provided that an action or proceeding for such review is commenced within the time frames provided for by the Party's law. For the purposes of this paragraph, a State or Province is deemed to be an aggrieved Person with respect to any Party action pursuant to this Compact. Deadlines.

"2. a. Any Party or the Council may initiate actions to compel compliance with the provisions of this Compact, and the rules and regulations promulgated hereunder by the Council. Jurisdiction over such actions is granted to the court of the relevant Party, as well as the United States District Courts for the District of Columbia and the District Court in which the Council maintains offices. The remedies available to any such court shall include, but not be limited to, equitable relief and civil penalties.

"b. Each Party may issue orders within its respective jurisdiction and may initiate actions to compel compliance with the provisions of its respective statutes and regulations adopted to implement the authorities contemplated by this Compact in accordance with the provisions of the laws adopted in each Party's jurisdiction.

"3. Any aggrieved Person, Party or the Council may commence a civil action in the relevant Party's courts and administrative systems to compel any Person to comply with this Compact should any such Person, without approval having been given, undertake a New or Increased Withdrawal, Consumptive Use or Diversion that is prohibited or subject to approval pursuant to this Compact.

"a. No action under this subsection may be commenced if:

"i. The Originating Party or Council approval for the New or Increased Withdrawal, Consumptive Use or Diversion has been granted; or,

"ii. The Originating Party or Council has found that the New or Increased Withdrawal, Consumptive Use or Diversion is not subject to approval pursuant to this Compact.

"b. No action under this subsection may be commenced unless:

"i. A Person commencing such action has first given 60 days prior notice to the Originating Party, the Council and Person alleged to be in noncompliance; and, Deadline. Notification.

"ii. Neither the Originating Party nor the Council has commenced and is diligently prosecuting appropriate enforcement actions to compel compliance with this Compact.

The available remedies shall include equitable relief, and the prevailing or substantially prevailing party may recover the costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such an award is appropriate.

"4. Each of the Parties may adopt provisions providing additional enforcement mechanisms and remedies including equitable relief and civil penalties applicable within its jurisdiction to assist in the implementation of this Compact.

## "ARTICLE 8

## "ADDITIONAL PROVISIONS

**"Section 8.1. Effect on Existing Rights.**

"1. Nothing in this Compact shall be construed to affect, limit, diminish or impair any rights validly established and existing as of the effective date of this Compact under State or federal law governing the Withdrawal of Waters of the Basin.

"2. Nothing contained in this Compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective Parties relating to common law Water rights.

"3. Nothing in this Compact is intended to abrogate or derogate from treaty rights or rights held by any Tribe recognized by the federal government of the United States based upon its status as a Tribe recognized by the federal government of the United States.

"4. An approval by a Party or the Council under this Compact does not give any property rights, nor any exclusive privileges, nor shall it be construed to grant or confer any right, title, easement, or interest in, to or over any land belonging to or held in trust by a Party; neither does it authorize any injury to private property or invasion of private rights, nor infringement of federal, State or local laws or regulations; nor does it obviate the necessity of obtaining federal assent when necessary.

**"Section 8.2. Relationship to Agreements Concluded by the United States of America.**

"1. Nothing in this Compact is intended to provide nor shall be construed to provide, directly or indirectly, to any Person any right, claim or remedy under any treaty or international agreement nor is it intended to derogate any right, claim, or remedy that already exists under any treaty or international agreement.

"2. Nothing in this Compact is intended to infringe nor shall be construed to infringe upon the treaty power of the United States of America, nor shall any term hereof be construed to alter or amend any treaty or term thereof that has been or may hereafter be executed by the United States of America.

"3. Nothing in this Compact is intended to affect nor shall be construed to affect the application of the Boundary Waters Treaty of 1909 whose requirements continue to apply in addition to the requirements of this Compact.

**"Section 8.3. Confidentiality.**

"1. Nothing in this Compact requires a Party to breach confidentiality obligations or requirements prohibiting disclosure, or to compromise security of commercially sensitive or proprietary information.

"2. A Party may take measures, including but not limited to deletion and redaction, deemed necessary to protect any confidential, proprietary or commercially sensitive information when distributing information to other Parties. The Party shall summarize or paraphrase any such information in a manner sufficient for the Council to exercise its authorities contained in this Compact.

**"Section 8.4. Additional Laws.**

"Nothing in this Compact shall be construed to repeal, modify or qualify the authority of any Party to enact any legislation or enforce any additional conditions and restrictions regarding the management and regulation of Waters within its jurisdiction.

**"Section 8.5. Amendments and Supplements.**

"The provisions of this Compact shall remain in full force and effect until amended by action of the governing bodies of the Parties and consented to and approved by any other necessary authority in the same manner as this Compact is required to be ratified to become effective.

**"Section 8.6. Severability.**

"Should a court of competent jurisdiction hold any part of this Compact to be void or unenforceable, it shall be considered severable from those portions of the Compact capable of continued implementation in the absence of the voided provisions. All other provisions capable of continued implementation shall continue in full force and effect.

**"Section 8.7. Duration of Compact and Termination.**

"Once effective, the Compact shall continue in force and remain binding upon each and every Party unless terminated.

This Compact may be terminated at any time by a majority vote of the Parties. In the event of such termination, all rights established under it shall continue unimpaired.

## "ARTICLE 9

## "EFFECTUATION

**"Section 9.1. Repealer.**

"All acts and parts of acts inconsistent with this act are to the extent of such inconsistency hereby repealed.

**"Section 9.2. Effectuation by Chief Executive.**

"The Governor is authorized to take such action as may be necessary and proper in his or her discretion to effectuate the Compact and the initial organization and operation thereunder.

**"Section 9.3. Entire Agreement.**

"The Parties consider this Compact to be complete and an integral whole. Each provision of this Compact is considered material to the entire Compact, and failure to implement or adhere to any provision may be considered a material breach. Unless otherwise noted in this Compact, any change or amendment made to the Compact by any Party in its implementing legislation or by the U.S. Congress when giving its consent to this Compact is not considered effective unless concurred in by all Parties.

**"Section 9.4. Effective Date and Execution.**

"This Compact shall become binding and effective when ratified through concurring legislation by the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin and the Commonwealth of Pennsylvania and consented to by the Congress of the United States. This Compact shall be signed and sealed in nine identical original copies by the respective chief executives of the signatory Parties. One such copy shall be filed with the Secretary of State of each of the signatory Parties or in accordance with the laws of the state in which the filing is made, and one copy shall be filed and retained in the archives of the Council upon its organization. The signatures shall be affixed and attested under the following form:

"In Witness Whereof, and in evidence of the adoption and enactment into law of this Compact by the legislatures of the signatory parties and consent by the Congress of the United States, the respective Governors do hereby, in accordance with the authority conferred by law, sign this Compact in nine duplicate original copies, attested by the respective Secretaries of State, and have caused the seals of the respective states to be hereunto affixed this _____ day of (month), (year).": Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That—

(1) Congress consents to and approves the interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin described in the preamble;

(2) until a Great Lakes Water Compact is ratified and enforceable, laws in effect as of the date of enactment of this resolution provide protection sufficient to prevent Great Lakes water diversions; and

(3) Congress expressly reserves the right to alter, amend, or repeal this resolution.

Approved October 3, 2008.

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LEGISLATIVE HISTORY—S.J. Res. 45 (H.R. 6577):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Aug. 1, considered and passed Senate.
Sept. 22, 23, considered and passed House.

Public Law 110–343
110th Congress

An Act

To provide authority for the Federal Government to purchase and insure certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes.

Oct. 3, 2008
[H.R. 1424]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# DIVISION A—EMERGENCY ECONOMIC STABILIZATION

Emergency Economic Stabilization Act of 2008.

12 USC 5201 note.

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This division may be cited as the "Emergency Economic Stabilization Act of 2008".

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

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—TROUBLED ASSETS RELIEF PROGRAM

Sec. 101. Purchases of troubled assets.
Sec. 102. Insurance of troubled assets.
Sec. 103. Considerations.
Sec. 104. Financial Stability Oversight Board.
Sec. 105. Reports.
Sec. 106. Rights; management; sale of troubled assets; revenues and sale proceeds.
Sec. 107. Contracting procedures.
Sec. 108. Conflicts of interest.
Sec. 109. Foreclosure mitigation efforts.
Sec. 110. Assistance to homeowners.
Sec. 111. Executive compensation and corporate governance.
Sec. 112. Coordination with foreign authorities and central banks.
Sec. 113. Minimization of long-term costs and maximization of benefits for taxpayers.
Sec. 114. Market transparency.
Sec. 115. Graduated authorization to purchase.
Sec. 116. Oversight and audits.
Sec. 117. Study and report on margin authority.
Sec. 118. Funding.
Sec. 119. Judicial review and related matters.
Sec. 120. Termination of authority.
Sec. 121. Special Inspector General for the Troubled Asset Relief Program.
Sec. 122. Increase in statutory limit on the public debt.
Sec. 123. Credit reform.
Sec. 124. HOPE for Homeowners amendments.
Sec. 125. Congressional Oversight Panel.

Sec. 126. FDIC authority.
Sec. 127. Cooperation with the FBI.
Sec. 128. Acceleration of effective date.
Sec. 129. Disclosures on exercise of loan authority.
Sec. 130. Technical corrections.
Sec. 131. Exchange Stabilization Fund reimbursement.
Sec. 132. Authority to suspend mark-to-market accounting.
Sec. 133. Study on mark-to-market accounting.
Sec. 134. Recoupment.
Sec. 135. Preservation of authority.
Sec. 136. Temporary increase in deposit and share insurance coverage.

TITLE II—BUDGET-RELATED PROVISIONS

Sec. 201. Information for congressional support agencies.
Sec. 202. Reports by the Office of Management and Budget and the Congressional Budget Office.
Sec. 203. Analysis in President's Budget.
Sec. 204. Emergency treatment.

TITLE III—TAX PROVISIONS

Sec. 301. Gain or loss from sale or exchange of certain preferred stock.
Sec. 302. Special rules for tax treatment of executive compensation of employers participating in the troubled assets relief program.
Sec. 303. Extension of exclusion of income from discharge of qualified principal residence indebtedness.

12 USC 5201.

**SEC. 2. PURPOSES.**

The purposes of this Act are—

(1) to immediately provide authority and facilities that the Secretary of the Treasury can use to restore liquidity and stability to the financial system of the United States; and

(2) to ensure that such authority and such facilities are used in a manner that—

(A) protects home values, college funds, retirement accounts, and life savings;

(B) preserves homeownership and promotes jobs and economic growth;

(C) maximizes overall returns to the taxpayers of the United States; and

(D) provides public accountability for the exercise of such authority.

12 USC 5202.

**SEC. 3. DEFINITIONS.**

For purposes of this Act, the following definitions shall apply:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means—

(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, the Committee on the Budget, and the Committee on Appropriations of the Senate; and

(B) the Committee on Financial Services, the Committee on Ways and Means, the Committee on the Budget, and the Committee on Appropriations of the House of Representatives.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) CONGRESSIONAL SUPPORT AGENCIES.—The term "congressional support agencies" means the Congressional Budget Office and the Joint Committee on Taxation.

(4) CORPORATION.—The term "Corporation" means the Federal Deposit Insurance Corporation.

(5) FINANCIAL INSTITUTION.—The term "financial institution" means any institution, including, but not limited to, any

bank, savings association, credit union, security broker or dealer, or insurance company, established and regulated under the laws of the United States or any State, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Commonwealth of Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands, and having significant operations in the United States, but excluding any central bank of, or institution owned by, a foreign government.

(6) FUND.—The term "Fund" means the Troubled Assets Insurance Financing Fund established under section 102.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(8) TARP.—The term "TARP" means the Troubled Asset Relief Program established under section 101.

(9) TROUBLED ASSETS.—The term "troubled assets" means—

(A) residential or commercial mortgages and any securities, obligations, or other instruments that are based on or related to such mortgages, that in each case was originated or issued on or before March 14, 2008, the purchase of which the Secretary determines promotes financial market stability; and

(B) any other financial instrument that the Secretary, after consultation with the Chairman of the Board of Governors of the Federal Reserve System, determines the purchase of which is necessary to promote financial market stability, but only upon transmittal of such determination, in writing, to the appropriate committees of Congress.

# TITLE I—TROUBLED ASSETS RELIEF PROGRAM

**SEC. 101. PURCHASES OF TROUBLED ASSETS.** 12 USC 5211.

(a) OFFICES; AUTHORITY.—

(1) AUTHORITY.—The Secretary is authorized to establish the Troubled Asset Relief Program (or "TARP") to purchase, and to make and fund commitments to purchase, troubled assets from any financial institution, on such terms and conditions as are determined by the Secretary, and in accordance with this Act and the policies and procedures developed and published by the Secretary.

(2) COMMENCEMENT OF PROGRAM.—Establishment of the policies and procedures and other similar administrative requirements imposed on the Secretary by this Act are not intended to delay the commencement of the TARP.

(3) ESTABLISHMENT OF TREASURY OFFICE.—

(A) IN GENERAL.—The Secretary shall implement any program under paragraph (1) through an Office of Financial Stability, established for such purpose within the Office of Domestic Finance of the Department of the Treasury, which office shall be headed by an Assistant Secretary of the Treasury, appointed by the President, by and with the advice and consent of the Senate, except that an interim Assistant Secretary may be appointed by the Secretary.

(B) CLERICAL AMENDMENTS.—

(i) TITLE 5.—Section 5315 of title 5, United States Code, is amended in the item relating to Assistant Secretaries of the Treasury, by striking "(9)" and inserting "(10)".

(ii) TITLE 31.—Section 301(e) of title 31, United States Code, is amended by striking "9" and inserting "10".

(b) CONSULTATION.—In exercising the authority under this section, the Secretary shall consult with the Board, the Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the National Credit Union Administration Board, and the Secretary of Housing and Urban Development.

(c) NECESSARY ACTIONS.—The Secretary is authorized to take such actions as the Secretary deems necessary to carry out the authorities in this Act, including, without limitation, the following:

Administration.

(1) The Secretary shall have direct hiring authority with respect to the appointment of employees to administer this Act.

Contracts.

(2) Entering into contracts, including contracts for services authorized by section 3109 of title 5, United States Code.

Financial agents.

(3) Designating financial institutions as financial agents of the Federal Government, and such institutions shall perform all such reasonable duties related to this Act as financial agents of the Federal Government as may be required.

(4) In order to provide the Secretary with the flexibility to manage troubled assets in a manner designed to minimize cost to the taxpayers, establishing vehicles that are authorized, subject to supervision by the Secretary, to purchase, hold, and sell troubled assets and issue obligations.

Regulations.

(5) Issuing such regulations and other guidance as may be necessary or appropriate to define terms or carry out the authorities or purposes of this Act.

Publication. Deadline.

(d) PROGRAM GUIDELINES.—Before the earlier of the end of the 2-business-day period beginning on the date of the first purchase of troubled assets pursuant to the authority under this section or the end of the 45-day period beginning on the date of enactment of this Act, the Secretary shall publish program guidelines, including the following:

(1) Mechanisms for purchasing troubled assets.

(2) Methods for pricing and valuing troubled assets.

(3) Procedures for selecting asset managers.

(4) Criteria for identifying troubled assets for purchase.

(e) PREVENTING UNJUST ENRICHMENT.—In making purchases under the authority of this Act, the Secretary shall take such steps as may be necessary to prevent unjust enrichment of financial institutions participating in a program established under this section, including by preventing the sale of a troubled asset to the Secretary at a higher price than what the seller paid to purchase the asset. This subsection does not apply to troubled assets acquired in a merger or acquisition, or a purchase of assets from a financial institution in conservatorship or receivership, or that has initiated bankruptcy proceedings under title 11, United States Code.

12 USC 5212.

**SEC. 102. INSURANCE OF TROUBLED ASSETS.**

(a) AUTHORITY.—

(1) IN GENERAL.—If the Secretary establishes the program authorized under section 101, then the Secretary shall establish a program to guarantee troubled assets originated or issued prior to March 14, 2008, including mortgage-backed securities.

(2) GUARANTEES.—In establishing any program under this subsection, the Secretary may develop guarantees of troubled assets and the associated premiums for such guarantees. Such guarantees and premiums may be determined by category or class of the troubled assets to be guaranteed.

(3) EXTENT OF GUARANTEE.—Upon request of a financial institution, the Secretary may guarantee the timely payment of principal of, and interest on, troubled assets in amounts not to exceed 100 percent of such payments. Such guarantee may be on such terms and conditions as are determined by the Secretary, provided that such terms and conditions are consistent with the purposes of this Act.

(b) REPORTS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall report to the appropriate committees of Congress on the program established under subsection (a).

(c) PREMIUMS.—

(1) IN GENERAL.—The Secretary shall collect premiums from any financial institution participating in the program established under subsection (a). Such premiums shall be in an amount that the Secretary determines necessary to meet the purposes of this Act and to provide sufficient reserves pursuant to paragraph (3).

(2) AUTHORITY TO BASE PREMIUMS ON PRODUCT RISK.—In establishing any premium under paragraph (1), the Secretary may provide for variations in such rates according to the credit risk associated with the particular troubled asset that is being guaranteed. The Secretary shall publish the methodology for setting the premium for a class of troubled assets together with an explanation of the appropriateness of the class of assets for participation in the program established under this section. The methodology shall ensure that the premium is consistent with paragraph (3).

Methodology. Publication.

(3) MINIMUM LEVEL.—The premiums referred to in paragraph (1) shall be set by the Secretary at a level necessary to create reserves sufficient to meet anticipated claims, based on an actuarial analysis, and to ensure that taxpayers are fully protected.

(4) ADJUSTMENT TO PURCHASE AUTHORITY.—The purchase authority limit in section 115 shall be reduced by an amount equal to the difference between the total of the outstanding guaranteed obligations and the balance in the Troubled Assets Insurance Financing Fund.

(d) TROUBLED ASSETS INSURANCE FINANCING FUND.—

(1) DEPOSITS.—The Secretary shall deposit fees collected under this section into the Fund established under paragraph (2).

(2) ESTABLISHMENT.—There is established a Troubled Assets Insurance Financing Fund that shall consist of the amounts collected pursuant to paragraph (1), and any balance in such fund shall be invested by the Secretary in United States Treasury securities, or kept in cash on hand or on deposit, as necessary.

(3) PAYMENTS FROM FUND.—The Secretary shall make payments from amounts deposited in the Fund to fulfill obligations of the guarantees provided to financial institutions under subsection (a).

12 USC 5213.

**SEC. 103. CONSIDERATIONS.**

In exercising the authorities granted in this Act, the Secretary shall take into consideration—

(1) protecting the interests of taxpayers by maximizing overall returns and minimizing the impact on the national debt;

(2) providing stability and preventing disruption to financial markets in order to limit the impact on the economy and protect American jobs, savings, and retirement security;

(3) the need to help families keep their homes and to stabilize communities;

(4) in determining whether to engage in a direct purchase from an individual financial institution, the long-term viability of the financial institution in determining whether the purchase represents the most efficient use of funds under this Act;

(5) ensuring that all financial institutions are eligible to participate in the program, without discrimination based on size, geography, form of organization, or the size, type, and number of assets eligible for purchase under this Act;

(6) providing financial assistance to financial institutions, including those serving low- and moderate-income populations and other underserved communities, and that have assets less than $1,000,000,000, that were well or adequately capitalized as of June 30, 2008, and that as a result of the devaluation of the preferred government-sponsored enterprises stock will drop one or more capital levels, in a manner sufficient to restore the financial institutions to at least an adequately capitalized level;

(7) the need to ensure stability for United States public instrumentalities, such as counties and cities, that may have suffered significant increased costs or losses in the current market turmoil;

(8) protecting the retirement security of Americans by purchasing troubled assets held by or on behalf of an eligible retirement plan described in clause (iii), (iv), (v), or (vi) of section 402(c)(8)(B) of the Internal Revenue Code of 1986, except that such authority shall not extend to any compensation arrangements subject to section 409A of such Code; and

(9) the utility of purchasing other real estate owned and instruments backed by mortgages on multifamily properties.

12 USC 5214.

**SEC. 104. FINANCIAL STABILITY OVERSIGHT BOARD.**

(a) ESTABLISHMENT.—There is established the Financial Stability Oversight Board, which shall be responsible for—

(1) reviewing the exercise of authority under a program developed in accordance with this Act, including—

(A) policies implemented by the Secretary and the Office of Financial Stability created under sections 101 and 102, including the appointment of financial agents, the designation of asset classes to be purchased, and plans for the structure of vehicles used to purchase troubled assets; and

(B) the effect of such actions in assisting American families in preserving home ownership, stabilizing financial markets, and protecting taxpayers;

(2) making recommendations, as appropriate, to the Secretary regarding use of the authority under this Act; and

(3) reporting any suspected fraud, misrepresentation, or malfeasance to the Special Inspector General for the Troubled Assets Relief Program or the Attorney General of the United States, consistent with section 535(b) of title 28, United States Code. Reports. Fraud.

(b) MEMBERSHIP.—The Financial Stability Oversight Board shall be comprised of—

(1) the Chairman of the Board of Governors of the Federal Reserve System;

(2) the Secretary;

(3) the Director of the Federal Housing Finance Agency;

(4) the Chairman of the Securities Exchange Commission; and

(5) the Secretary of Housing and Urban Development.

(c) CHAIRPERSON.—The chairperson of the Financial Stability Oversight Board shall be elected by the members of the Board from among the members other than the Secretary.

(d) MEETINGS.—The Financial Stability Oversight Board shall meet 2 weeks after the first exercise of the purchase authority of the Secretary under this Act, and monthly thereafter.

(e) ADDITIONAL AUTHORITIES.—In addition to the responsibilities described in subsection (a), the Financial Stability Oversight Board shall have the authority to ensure that the policies implemented by the Secretary are—

(1) in accordance with the purposes of this Act;

(2) in the economic interests of the United States; and

(3) consistent with protecting taxpayers, in accordance with section 113(a).

(f) CREDIT REVIEW COMMITTEE.—The Financial Stability Oversight Board may appoint a credit review committee for the purpose of evaluating the exercise of the purchase authority provided under this Act and the assets acquired through the exercise of such authority, as the Financial Stability Oversight Board determines appropriate.

(g) REPORTS.—The Financial Stability Oversight Board shall report to the appropriate committees of Congress and the Congressional Oversight Panel established under section 125, not less frequently than quarterly, on the matters described under subsection (a)(1).

(h) TERMINATION.—The Financial Stability Oversight Board, and its authority under this section, shall terminate on the expiration of the 15-day period beginning upon the later of—

(1) the date that the last troubled asset acquired by the Secretary under section 101 has been sold or transferred out of the ownership or control of the Federal Government; or

(2) the date of expiration of the last insurance contract issued under section 102.

**SEC. 105. REPORTS.** 12 USC 5215.

(a) IN GENERAL.—Before the expiration of the 60-day period beginning on the date of the first exercise of the authority granted in section 101(a), or of the first exercise of the authority granted

in section 102, whichever occurs first, and every 30-day period thereafter, the Secretary shall report to the appropriate committees of Congress, with respect to each such period—

(1) an overview of actions taken by the Secretary, including the considerations required by section 103 and the efforts under section 109;

(2) the actual obligation and expenditure of the funds provided for administrative expenses by section 118 during such period and the expected expenditure of such funds in the subsequent period; and

(3) a detailed financial statement with respect to the exercise of authority under this Act, including—

(A) all agreements made or renewed;

(B) all insurance contracts entered into pursuant to section 102;

(C) all transactions occurring during such period, including the types of parties involved;

(D) the nature of the assets purchased;

(E) all projected costs and liabilities;

(F) operating expenses, including compensation for financial agents;

(G) the valuation or pricing method used for each transaction; and

(H) a description of the vehicles established to exercise such authority.

(b) TRANCHE REPORTS TO CONGRESS.—

(1) REPORTS.—The Secretary shall provide to the appropriate committees of Congress, at the times specified in paragraph (2), a written report, including—

(A) a description of all of the transactions made during the reporting period;

(B) a description of the pricing mechanism for the transactions;

(C) a justification of the price paid for and other financial terms associated with the transactions;

(D) a description of the impact of the exercise of such authority on the financial system, supported, to the extent possible, by specific data;

(E) a description of challenges that remain in the financial system, including any benchmarks yet to be achieved; and

(F) an estimate of additional actions under the authority provided under this Act that may be necessary to address such challenges.

Deadline.

(2) TIMING.—The report required by this subsection shall be submitted not later than 7 days after the date on which commitments to purchase troubled assets under the authorities provided in this Act first reach an aggregate of $50,000,000,000 and not later than 7 days after each $50,000,000,000 interval of such commitments is reached thereafter.

(c) REGULATORY MODERNIZATION REPORT.—The Secretary shall review the current state of the financial markets and the regulatory system and submit a written report to the appropriate committees of Congress not later than April 30, 2009, analyzing the current state of the regulatory system and its effectiveness at overseeing the participants in the financial markets, including the over-the-

counter swaps market and government-sponsored enterprises, and providing recommendations for improvement, including—

(1) recommendations regarding—

(A) whether any participants in the financial markets that are currently outside the regulatory system should become subject to the regulatory system; and

(B) enhancement of the clearing and settlement of over-the-counter swaps; and

(2) the rationale underlying such recommendations.

(d) SHARING OF INFORMATION.—Any report required under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

(e) SUNSET.—The reporting requirements under this section shall terminate on the later of—

(1) the date that the last troubled asset acquired by the Secretary under section 101 has been sold or transferred out of the ownership or control of the Federal Government; or

(2) the date of expiration of the last insurance contract issued under section 102.

**SEC. 106. RIGHTS; MANAGEMENT; SALE OF TROUBLED ASSETS; REVENUES AND SALE PROCEEDS.** 12 USC 5216.

(a) EXERCISE OF RIGHTS.—The Secretary may, at any time, exercise any rights received in connection with troubled assets purchased under this Act.

(b) MANAGEMENT OF TROUBLED ASSETS.—The Secretary shall have authority to manage troubled assets purchased under this Act, including revenues and portfolio risks therefrom.

(c) SALE OF TROUBLED ASSETS.—The Secretary may, at any time, upon terms and conditions and at a price determined by the Secretary, sell, or enter into securities loans, repurchase transactions, or other financial transactions in regard to, any troubled asset purchased under this Act.

(d) TRANSFER TO TREASURY.—Revenues of, and proceeds from the sale of troubled assets purchased under this Act, or from the sale, exercise, or surrender of warrants or senior debt instruments acquired under section 113 shall be paid into the general fund of the Treasury for reduction of the public debt.

(e) APPLICATION OF SUNSET TO TROUBLED ASSETS.—The authority of the Secretary to hold any troubled asset purchased under this Act before the termination date in section 120, or to purchase or fund the purchase of a troubled asset under a commitment entered into before the termination date in section 120, is not subject to the provisions of section 120.

**SEC. 107. CONTRACTING PROCEDURES.** 12 USC 5217.

(a) STREAMLINED PROCESS.—For purposes of this Act, the Secretary may waive specific provisions of the Federal Acquisition Regulation upon a determination that urgent and compelling circumstances make compliance with such provisions contrary to the public interest. Any such determination, and the justification for such determination, shall be submitted to the Committees on Oversight and Government Reform and Financial Services of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Banking, Housing, and Urban Affairs of the Senate within 7 days.

Waiver authority.

Deadline.

(b) ADDITIONAL CONTRACTING REQUIREMENTS.—In any solicitation or contract where the Secretary has, pursuant to subsection

Minorities.

(a), waived any provision of the Federal Acquisition Regulation pertaining to minority contracting, the Secretary shall develop and implement standards and procedures to ensure, to the maximum extent practicable, the inclusion and utilization of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and women, and minority- and women-owned businesses (as such terms are defined in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)), in that solicitation or contract, including contracts to asset managers, servicers, property managers, and other service providers or expert consultants.

(c) ELIGIBILITY OF FDIC.—Notwithstanding subsections (a) and (b), the Corporation—

(1) shall be eligible for, and shall be considered in, the selection of asset managers for residential mortgage loans and residential mortgage-backed securities; and

(2) shall be reimbursed by the Secretary for any services provided.

12 USC 5218.

**SEC. 108. CONFLICTS OF INTEREST.**

Regulations.

(a) STANDARDS REQUIRED.—The Secretary shall issue regulations or guidelines necessary to address and manage or to prohibit conflicts of interest that may arise in connection with the administration and execution of the authorities provided under this Act, including—

(1) conflicts arising in the selection or hiring of contractors or advisors, including asset managers;

(2) the purchase of troubled assets;

(3) the management of the troubled assets held;

(4) post-employment restrictions on employees; and

(5) any other potential conflict of interest, as the Secretary deems necessary or appropriate in the public interest.

(b) TIMING.—Regulations or guidelines required by this section shall be issued as soon as practicable after the date of enactment of this Act.

12 USC 5219.

**SEC. 109. FORECLOSURE MITIGATION EFFORTS.**

(a) RESIDENTIAL MORTGAGE LOAN SERVICING STANDARDS.—To the extent that the Secretary acquires mortgages, mortgage backed securities, and other assets secured by residential real estate, including multifamily housing, the Secretary shall implement a plan that seeks to maximize assistance for homeowners and use the authority of the Secretary to encourage the servicers of the underlying mortgages, considering net present value to the taxpayer, to take advantage of the HOPE for Homeowners Program under section 257 of the National Housing Act or other available programs to minimize foreclosures. In addition, the Secretary may use loan guarantees and credit enhancements to facilitate loan modifications to prevent avoidable foreclosures.

(b) COORDINATION.—The Secretary shall coordinate with the Corporation, the Board (with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank, as provided in section 110(a)(1)(C)), the Federal Housing Finance Agency, the Secretary of Housing and Urban Development, and other Federal Government entities that hold troubled assets to attempt to identify opportunities for the acquisition of classes of troubled assets that will improve the ability of the Secretary to improve the loan modification and

restructuring process and, where permissible, to permit bona fide tenants who are current on their rent to remain in their homes under the terms of the lease. In the case of a mortgage on a residential rental property, the plan required under this section shall include protecting Federal, State, and local rental subsidies and protections, and ensuring any modification takes into account the need for operating funds to maintain decent and safe conditions at the property.

Residential rental property.

(c) CONSENT TO REASONABLE LOAN MODIFICATION REQUESTS.—Upon any request arising under existing investment contracts, the Secretary shall consent, where appropriate, and considering net present value to the taxpayer, to reasonable requests for loss mitigation measures, including term extensions, rate reductions, principal write downs, increases in the proportion of loans within a trust or other structure allowed to be modified, or removal of other limitation on modifications.

**SEC. 110. ASSISTANCE TO HOMEOWNERS.**

12 USC 5220.

(a) DEFINITIONS.—As used in this section—

(1) the term "Federal property manager" means—

(A) the Federal Housing Finance Agency, in its capacity as conservator of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(B) the Corporation, with respect to residential mortgage loans and mortgage-backed securities held by any bridge depository institution pursuant to section 11(n) of the Federal Deposit Insurance Act; and

(C) the Board, with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank, other than mortgages or securities held, owned, or controlled in connection with open market operations under section 14 of the Federal Reserve Act (12 U.S.C. 353), or as collateral for an advance or discount that is not in default;

(2) the term "consumer" has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602);

(3) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

(4) the term "servicer" has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).

(b) HOMEOWNER ASSISTANCE BY AGENCIES.—

(1) IN GENERAL.—To the extent that the Federal property manager holds, owns, or controls mortgages, mortgage backed securities, and other assets secured by residential real estate, including multifamily housing, the Federal property manager shall implement a plan that seeks to maximize assistance for homeowners and use its authority to encourage the servicers of the underlying mortgages, and considering net present value to the taxpayer, to take advantage of the HOPE for Homeowners Program under section 257 of the National Housing Act or other available programs to minimize foreclosures.

(2) MODIFICATIONS.—In the case of a residential mortgage loan, modifications made under paragraph (1) may include—

(A) reduction in interest rates;

(B) reduction of loan principal; and

(C) other similar modifications.

(3) TENANT PROTECTIONS.—In the case of mortgages on residential rental properties, modifications made under paragraph (1) shall ensure—

(A) the continuation of any existing Federal, State, and local rental subsidies and protections; and

(B) that modifications take into account the need for operating funds to maintain decent and safe conditions at the property.

Deadline.

(4) TIMING.—Each Federal property manager shall develop and begin implementation of the plan required by this subsection not later than 60 days after the date of enactment of this Act.

(5) REPORTS TO CONGRESS.—Each Federal property manager shall, 60 days after the date of enactment of this Act and every 30 days thereafter, report to Congress specific information on the number and types of loan modifications made and the number of actual foreclosures occurring during the reporting period in accordance with this section.

(6) CONSULTATION.—In developing the plan required by this subsection, the Federal property managers shall consult with one another and, to the extent possible, utilize consistent approaches to implement the requirements of this subsection.

(c) ACTIONS WITH RESPECT TO SERVICERS.—In any case in which a Federal property manager is not the owner of a residential mortgage loan, but holds an interest in obligations or pools of obligations secured by residential mortgage loans, the Federal property manager shall—

(1) encourage implementation by the loan servicers of loan modifications developed under subsection (b); and

(2) assist in facilitating any such modifications, to the extent possible.

(d) LIMITATION.—The requirements of this section shall not supersede any other duty or requirement imposed on the Federal property managers under otherwise applicable law.

12 USC 5221.

**SEC. 111. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.**

(a) APPLICABILITY.—Any financial institution that sells troubled assets to the Secretary under this Act shall be subject to the executive compensation requirements of subsections (b) and (c) and the provisions under the Internal Revenue Code of 1986, as provided under the amendment by section 302, as applicable.

(b) DIRECT PURCHASES.—

Standards.

(1) IN GENERAL.—Where the Secretary determines that the purposes of this Act are best met through direct purchases of troubled assets from an individual financial institution where no bidding process or market prices are available, and the Secretary receives a meaningful equity or debt position in the financial institution as a result of the transaction, the Secretary shall require that the financial institution meet appropriate standards for executive compensation and corporate governance. The standards required under this subsection shall be effective for the duration of the period that the Secretary holds an equity or debt position in the financial institution.

Effective date.

(2) CRITERIA.—The standards required under this subsection shall include—

(A) limits on compensation that exclude incentives for senior executive officers of a financial institution to take unnecessary and excessive risks that threaten the value of the financial institution during the period that the Secretary holds an equity or debt position in the financial institution;

(B) a provision for the recovery by the financial institution of any bonus or incentive compensation paid to a senior executive officer based on statements of earnings, gains, or other criteria that are later proven to be materially inaccurate; and

(C) a prohibition on the financial institution making any golden parachute payment to its senior executive officer during the period that the Secretary holds an equity or debt position in the financial institution.

(3) DEFINITION.—For purposes of this section, the term "senior executive officer" means an individual who is one of the top 5 highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

(c) AUCTION PURCHASES.—Where the Secretary determines that the purposes of this Act are best met through auction purchases of troubled assets, and only where such purchases per financial institution in the aggregate exceed $300,000,000 (including direct purchases), the Secretary shall prohibit, for such financial institution, any new employment contract with a senior executive officer that provides a golden parachute in the event of an involuntary termination, bankruptcy filing, insolvency, or receivership. The Secretary shall issue guidance to carry out this paragraph not later than 2 months after the date of enactment of this Act, and such guidance shall be effective upon issuance.

Employment. Contracts. Prohibition.

Guidance. Deadline. Effective date.

(d) SUNSET.—The provisions of subsection (c) shall apply only to arrangements entered into during the period during which the authorities under section 101(a) are in effect, as determined under section 120.

**SEC. 112. COORDINATION WITH FOREIGN AUTHORITIES AND CENTRAL BANKS.**

12 USC 5222.

The Secretary shall coordinate, as appropriate, with foreign financial authorities and central banks to work toward the establishment of similar programs by such authorities and central banks. To the extent that such foreign financial authorities or banks hold troubled assets as a result of extending financing to financial institutions that have failed or defaulted on such financing, such troubled assets qualify for purchase under section 101.

**SEC. 113. MINIMIZATION OF LONG-TERM COSTS AND MAXIMIZATION OF BENEFITS FOR TAXPAYERS.**

12 USC 5223.

(a) LONG-TERM COSTS AND BENEFITS.—

(1) MINIMIZING NEGATIVE IMPACT.—The Secretary shall use the authority under this Act in a manner that will minimize any potential long-term negative impact on the taxpayer, taking into account the direct outlays, potential long-term returns on assets purchased, and the overall economic benefits of the program, including economic benefits due to improvements in economic activity and the availability of credit, the impact

on the savings and pensions of individuals, and reductions in losses to the Federal Government.

(2) AUTHORITY.—In carrying out paragraph (1), the Secretary shall—

(A) hold the assets to maturity or for resale for and until such time as the Secretary determines that the market is optimal for selling such assets, in order to maximize the value for taxpayers; and

(B) sell such assets at a price that the Secretary determines, based on available financial analysis, will maximize return on investment for the Federal Government.

(3) PRIVATE SECTOR PARTICIPATION.—The Secretary shall encourage the private sector to participate in purchases of troubled assets, and to invest in financial institutions, consistent with the provisions of this section.

(b) USE OF MARKET MECHANISMS.—In making purchases under this Act, the Secretary shall—

(1) make such purchases at the lowest price that the Secretary determines to be consistent with the purposes of this Act; and

(2) maximize the efficiency of the use of taxpayer resources by using market mechanisms, including auctions or reverse auctions, where appropriate.

(c) DIRECT PURCHASES.—If the Secretary determines that use of a market mechanism under subsection (b) is not feasible or appropriate, and the purposes of the Act are best met through direct purchases from an individual financial institution, the Secretary shall pursue additional measures to ensure that prices paid for assets are reasonable and reflect the underlying value of the asset.

(d) CONDITIONS ON PURCHASE AUTHORITY FOR WARRANTS AND DEBT INSTRUMENTS.—

(1) IN GENERAL.—The Secretary may not purchase, or make any commitment to purchase, any troubled asset under the authority of this Act, unless the Secretary receives from the financial institution from which such assets are to be purchased—

(A) in the case of a financial institution, the securities of which are traded on a national securities exchange, a warrant giving the right to the Secretary to receive nonvoting common stock or preferred stock in such financial institution, or voting stock with respect to which, the Secretary agrees not to exercise voting power, as the Secretary determines appropriate; or

(B) in the case of any financial institution other than one described in subparagraph (A), a warrant for common or preferred stock, or a senior debt instrument from such financial institution, as described in paragraph (2)(C).

(2) TERMS AND CONDITIONS.—The terms and conditions of any warrant or senior debt instrument required under paragraph (1) shall meet the following requirements:

(A) PURPOSES.—Such terms and conditions shall, at a minimum, be designed—

(i) to provide for reasonable participation by the Secretary, for the benefit of taxpayers, in equity appreciation in the case of a warrant or other equity security,

or a reasonable interest rate premium, in the case of a debt instrument; and

(ii) to provide additional protection for the taxpayer against losses from sale of assets by the Secretary under this Act and the administrative expenses of the TARP.

(B) AUTHORITY TO SELL, EXERCISE, OR SURRENDER.—The Secretary may sell, exercise, or surrender a warrant or any senior debt instrument received under this subsection, based on the conditions established under subparagraph (A).

(C) CONVERSION.—The warrant shall provide that if, after the warrant is received by the Secretary under this subsection, the financial institution that issued the warrant is no longer listed or traded on a national securities exchange or securities association, as described in paragraph (1)(A), such warrants shall convert to senior debt, or contain appropriate protections for the Secretary to ensure that the Treasury is appropriately compensated for the value of the warrant, in an amount determined by the Secretary.

Anti-dilution provisions.

(D) PROTECTIONS.—Any warrant representing securities to be received by the Secretary under this subsection shall contain anti-dilution provisions of the type employed in capital market transactions, as determined by the Secretary. Such provisions shall protect the value of the securities from market transactions such as stock splits, stock distributions, dividends, and other distributions, mergers, and other forms of reorganization or recapitalization.

(E) EXERCISE PRICE.—The exercise price for any warrant issued pursuant to this subsection shall be set by the Secretary, in the interest of the taxpayers.

(F) SUFFICIENCY.—The financial institution shall guarantee to the Secretary that it has authorized shares of nonvoting stock available to fulfill its obligations under this subsection. Should the financial institution not have sufficient authorized shares, including preferred shares that may carry dividend rights equal to a multiple number of common shares, the Secretary may, to the extent necessary, accept a senior debt note in an amount, and on such terms as will compensate the Secretary with equivalent value, in the event that a sufficient shareholder vote to authorize the necessary additional shares cannot be obtained.

(3) EXCEPTIONS.—

(A) DE MINIMIS.—The Secretary shall establish de minimis exceptions to the requirements of this subsection, based on the size of the cumulative transactions of troubled assets purchased from any one financial institution for the duration of the program, at not more than $100,000,000.

(B) OTHER EXCEPTIONS.—The Secretary shall establish an exception to the requirements of this subsection and appropriate alternative requirements for any participating financial institution that is legally prohibited from issuing securities and debt instruments, so as not to allow circumvention of the requirements of this section.

12 USC 5224.

**SEC. 114. MARKET TRANSPARENCY.**

Public information. Deadline.

(a) PRICING.—To facilitate market transparency, the Secretary shall make available to the public, in electronic form, a description, amounts, and pricing of assets acquired under this Act, within 2 business days of purchase, trade, or other disposition.

(b) DISCLOSURE.—For each type of financial institutions that sells troubled assets to the Secretary under this Act, the Secretary shall determine whether the public disclosure required for such financial institutions with respect to off-balance sheet transactions, derivatives instruments, contingent liabilities, and similar sources of potential exposure is adequate to provide to the public sufficient information as to the true financial position of the institutions. If such disclosure is not adequate for that purpose, the Secretary shall make recommendations for additional disclosure requirements to the relevant regulators.

12 USC 5225.

**SEC. 115. GRADUATED AUTHORIZATION TO PURCHASE.**

Effective dates.

(a) AUTHORITY.—The authority of the Secretary to purchase troubled assets under this Act shall be limited as follows:

(1) Effective upon the date of enactment of this Act, such authority shall be limited to $250,000,000,000 outstanding at any one time.

(2) If at any time, the President submits to the Congress a written certification that the Secretary needs to exercise the authority under this paragraph, effective upon such submission, such authority shall be limited to $350,000,000,000 outstanding at any one time.

(3) If, at any time after the certification in paragraph (2) has been made, the President transmits to the Congress a written report detailing the plan of the Secretary to exercise the authority under this paragraph, unless there is enacted, within 15 calendar days of such transmission, a joint resolution described in subsection (c), effective upon the expiration of such 15-day period, such authority shall be limited to $700,000,000,000 outstanding at any one time.

(b) AGGREGATION OF PURCHASE PRICES.—The amount of troubled assets purchased by the Secretary outstanding at any one time shall be determined for purposes of the dollar amount limitations under subsection (a) by aggregating the purchase prices of all troubled assets held.

(c) JOINT RESOLUTION OF DISAPPROVAL.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary may not exercise any authority to make purchases under this Act with regard to any amount in excess of $350,000,000,000 previously obligated, as described in this section if, within 15 calendar days after the date on which Congress receives a report of the plan of the Secretary described in subsection (a)(3), there is enacted into law a joint resolution disapproving the plan of the Secretary with respect to such additional amount.

Definition.

(2) CONTENTS OF JOINT RESOLUTION.—For the purpose of this section, the term "joint resolution" means only a joint resolution—

(A) that is introduced not later than 3 calendar days after the date on which the report of the plan of the Secretary referred to in subsection (a)(3) is received by Congress;

(B) which does not have a preamble;

(C) the title of which is as follows: "Joint resolution relating to the disapproval of obligations under the Emergency Economic Stabilization Act of 2008"; and

(D) the matter after the resolving clause of which is as follows: "That Congress disapproves the obligation of any amount exceeding the amounts obligated as described in paragraphs (1) and (2) of section 115(a) of the Emergency Economic Stabilization Act of 2008.".

(d) FAST TRACK CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

(1) RECONVENING.—Upon receipt of a report under subsection (a)(3), the Speaker, if the House would otherwise be adjourned, shall notify the Members of the House that, pursuant to this section, the House shall convene not later than the second calendar day after receipt of such report; Notification. Deadline.

(2) REPORTING AND DISCHARGE.—Any committee of the House of Representatives to which a joint resolution is referred shall report it to the House not later than 5 calendar days after the date of receipt of the report described in subsection (a)(3). If a committee fails to report the joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.

(3) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution reports it to the House or has been discharged from its consideration, it shall be in order, not later than the sixth day after Congress receives the report described in subsection (a)(3), to move to proceed to consider the joint resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order. Deadline. Waiver.

(4) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except two hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

(e) FAST TRACK CONSIDERATION IN SENATE.—

(1) RECONVENING.—Upon receipt of a report under subsection (a)(3), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this section, the Senate shall convene not later than the second calendar day after receipt of such message. Notification. Deadline.

(2) PLACEMENT ON CALENDAR.—Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar.

(3) FLOOR CONSIDERATION.—

(A) IN GENERAL.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the 4th day after the date on which Congress receives a report of the plan of the Secretary described in subsection (a)(3) and ending on the 6th day after the date on which Congress receives a report of the plan of the Secretary described in subsection (a)(3) (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

Duration.

(B) DEBATE.—Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(C) VOTE ON PASSAGE.—The vote on passage shall occur immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(f) RULES RELATING TO SENATE AND HOUSE OF REPRESENTATIVES.—

(1) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on passage shall be on the joint resolution of the other House.

(2) TREATMENT OF JOINT RESOLUTION OF OTHER HOUSE.—If one House fails to introduce or consider a joint resolution under this section, the joint resolution of the other House shall be entitled to expedited floor procedures under this section.

(3) TREATMENT OF COMPANION MEASURES.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(4) CONSIDERATION AFTER PASSAGE.—

(A) IN GENERAL.—If Congress passes a joint resolution, the period beginning on the date the President is presented with the joint resolution and ending on the date the President takes action with respect to the joint resolution shall be disregarded in computing the 15-calendar day period described in subsection (a)(3).

(B) VETOES.—If the President vetoes the joint resolution—

(i) the period beginning on the date the President vetoes the joint resolution and ending on the date the Congress receives the veto message with respect to the joint resolution shall be disregarded in computing the 15-calendar day period described in subsection (a)(3), and

(ii) debate on a veto message in the Senate under this section shall be 1 hour equally divided between the majority and minority leaders or their designees.

Debate. Duration.

(5) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection and subsections (c), (d), and (e) are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

**SEC. 116. OVERSIGHT AND AUDITS.**

12 USC 5226.

(a) COMPTROLLER GENERAL OVERSIGHT.—

(1) SCOPE OF OVERSIGHT.—The Comptroller General of the United States shall, upon establishment of the troubled assets relief program under this Act (in this section referred to as the "TARP"), commence ongoing oversight of the activities and performance of the TARP and of any agents and representatives of the TARP (as related to the agent or representative's activities on behalf of or under the authority of the TARP), including vehicles established by the Secretary under this Act. The subjects of such oversight shall include the following:

(A) The performance of the TARP in meeting the purposes of this Act, particularly those involving—

(i) foreclosure mitigation;

(ii) cost reduction;

(iii) whether it has provided stability or prevented disruption to the financial markets or the banking system; and

(iv) whether it has protected taxpayers.

(B) The financial condition and internal controls of the TARP, its representatives and agents.

(C) Characteristics of transactions and commitments entered into, including transaction type, frequency, size, prices paid, and all other relevant terms and conditions, and the timing, duration and terms of any future commitments to purchase assets.

(D) Characteristics and disposition of acquired assets, including type, acquisition price, current market value, sale prices and terms, and use of proceeds from sales.

(E) Efficiency of the operations of the TARP in the use of appropriated funds.

(F) Compliance with all applicable laws and regulations by the TARP, its agents and representatives.

(G) The efforts of the TARP to prevent, identify, and minimize conflicts of interest involving any agent or representative performing activities on behalf of or under the authority of the TARP.

(H) The efficacy of contracting procedures pursuant to section 107(b), including, as applicable, the efforts of the TARP in evaluating proposals for inclusion and contracting to the maximum extent possible of minorities (as such term is defined in 1204(c) of the Financial Institutions Reform, Recovery, and Enhancement Act of 1989 (12 U.S.C. 1811 note), women, and minority- and women-owned businesses, including ascertaining and reporting the total amount of fees paid and other value delivered by the TARP to all of its agents and representatives, and such amounts paid or delivered to such firms that are minority- and women-owned businesses (as such terms are defined in section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a)).

(2) CONDUCT AND ADMINISTRATION OF OVERSIGHT.—

(A) GAO PRESENCE.—The Secretary shall provide the Comptroller General with appropriate space and facilities in the Department of the Treasury as necessary to facilitate oversight of the TARP until the termination date established in section 120.

(B) ACCESS TO RECORDS.—To the extent otherwise consistent with law, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the TARP, or any vehicles established by the Secretary under this Act, and to the officers, directors, employees, independent public accountants, financial advisors, and other agents and representatives of the TARP (as related to the agent or representative's activities on behalf of or under the authority of the TARP) or any such vehicle at such reasonable time as the Comptroller General may request. The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General deems appropriate.

(C) REIMBURSEMENT OF COSTS.—The Treasury shall reimburse the Government Accountability Office for the full cost of any such oversight activities as billed therefor by the Comptroller General of the United States. Such reimbursements shall be credited to the appropriation account "Salaries and Expenses, Government Accountability Office" current when the payment is received and remain available until expended.

(3) REPORTING.—The Comptroller General shall submit reports of findings under this section, regularly and no less frequently than once every 60 days, to the appropriate committees of Congress, and the Special Inspector General for the Troubled Asset Relief Program established under this Act on the activities and performance of the TARP. The Comptroller may also submit special reports under this subsection as warranted by the findings of its oversight activities.

(b) COMPTROLLER GENERAL AUDITS.—

(1) ANNUAL AUDIT.—The TARP shall annually prepare and issue to the appropriate committees of Congress and the public audited financial statements prepared in accordance with generally accepted accounting principles, and the Comptroller General shall annually audit such statements in accordance with generally accepted auditing standards. The Treasury shall reimburse the Government Accountability Office for the full cost of any such audit as billed therefor by the Comptroller General. Such reimbursements shall be credited to the appropriation account "Salaries and Expenses, Government Accountability Office" current when the payment is received and remain available until expended. The financial statements prepared under this paragraph shall be on the fiscal year basis prescribed under section 1102 of title 31, United States Code. Public information.

(2) AUTHORITY.—The Comptroller General may audit the programs, activities, receipts, expenditures, and financial transactions of the TARP and any agents and representatives of the TARP (as related to the agent or representative's activities on behalf of or under the authority of the TARP), including vehicles established by the Secretary under this Act.

(3) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The TARP shall—

(A) take action to address deficiencies identified by the Comptroller General or other auditor engaged by the TARP; or

(B) certify to appropriate committees of Congress that no action is necessary or appropriate. Certification.

(c) INTERNAL CONTROL.—

(1) ESTABLISHMENT.—The TARP shall establish and maintain an effective system of internal control, consistent with the standards prescribed under section 3512(c) of title 31, United States Code, that provides reasonable assurance of—

(A) the effectiveness and efficiency of operations, including the use of the resources of the TARP;

(B) the reliability of financial reporting, including financial statements and other reports for internal and external use; and

(C) compliance with applicable laws and regulations.

(2) REPORTING.—In conjunction with each annual financial statement issued under this section, the TARP shall—

(A) state the responsibility of management for establishing and maintaining adequate internal control over financial reporting; and

(B) state its assessment, as of the end of the most recent year covered by such financial statement of the TARP, of the effectiveness of the internal control over financial reporting.

Reports. Audits.

(d) SHARING OF INFORMATION.—Any report or audit required under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

(e) TERMINATION.—Any oversight, reporting, or audit requirement under this section shall terminate on the later of—

(1) the date that the last troubled asset acquired by the Secretary under section 101 has been sold or transferred out of the ownership or control of the Federal Government; or

(2) the date of expiration of the last insurance contract issued under section 102.

12 USC 5227.

**SEC. 117. STUDY AND REPORT ON MARGIN AUTHORITY.**

(a) STUDY.—The Comptroller General shall undertake a study to determine the extent to which leverage and sudden deleveraging of financial institutions was a factor behind the current financial crisis.

(b) CONTENT.—The study required by this section shall include—

(1) an analysis of the roles and responsibilities of the Board, the Securities and Exchange Commission, the Secretary, and other Federal banking agencies with respect to monitoring leverage and acting to curtail excessive leveraging;

(2) an analysis of the authority of the Board to regulate leverage, including by setting margin requirements, and what process the Board used to decide whether or not to use its authority;

(3) an analysis of any usage of the margin authority by the Board; and

(4) recommendations for the Board and appropriate committees of Congress with respect to the existing authority of the Board.

(c) REPORT.—Not later than June 1, 2009, the Comptroller General shall complete and submit a report on the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(d) SHARING OF INFORMATION.—Any reports required under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

12 USC 5228.

**SEC. 118. FUNDING.**

For the purpose of the authorities granted in this Act, and for the costs of administering those authorities, the Secretary may use the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include actions authorized by this Act, including the payment of administrative expenses. Any funds expended or obligated by the Secretary for actions authorized by this Act, including the payment of administrative expenses, shall

be deemed appropriated at the time of such expenditure or obligation.

**SEC. 119. JUDICIAL REVIEW AND RELATED MATTERS.** 12 USC 5229.

(a) JUDICIAL REVIEW.—

(1) STANDARD.—Actions by the Secretary pursuant to the authority of this Act shall be subject to chapter 7 of title 5, United States Code, including that such final actions shall be held unlawful and set aside if found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

(2) LIMITATIONS ON EQUITABLE RELIEF.—

(A) INJUNCTION.—No injunction or other form of equitable relief shall be issued against the Secretary for actions pursuant to section 101, 102, 106, and 109, other than to remedy a violation of the Constitution.

(B) TEMPORARY RESTRAINING ORDER.—Any request for a temporary restraining order against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court within 3 days of the date of the request. Deadline.

(C) PRELIMINARY INJUNCTION.—Any request for a preliminary injunction against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court on an expedited basis consistent with the provisions of rule 65(b)(3) of the Federal Rules of Civil Procedure, or any successor thereto.

(D) PERMANENT INJUNCTION.—Any request for a permanent injunction against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court on an expedited basis. Whenever possible, the court shall consolidate trial on the merits with any hearing on a request for a preliminary injunction, consistent with the provisions of rule 65(a)(2) of the Federal Rules of Civil Procedure, or any successor thereto.

(3) LIMITATION ON ACTIONS BY PARTICIPATING COMPANIES.— Contracts.
No action or claims may be brought against the Secretary by any person that divests its assets with respect to its participation in a program under this Act, except as provided in paragraph (1), other than as expressly provided in a written contract with the Secretary.

(4) STAYS.—Any injunction or other form of equitable relief issued against the Secretary for actions pursuant to section 101, 102, 106, and 109, shall be automatically stayed. The stay shall be lifted unless the Secretary seeks a stay from a higher court within 3 calendar days after the date on which the relief is issued. Deadline.

(b) RELATED MATTERS.—

(1) TREATMENT OF HOMEOWNERS' RIGHTS.—The terms of any residential mortgage loan that is part of any purchase by the Secretary under this Act shall remain subject to all claims and defenses that would otherwise apply, notwithstanding the exercise of authority by the Secretary under this Act.

(2) SAVINGS CLAUSE.—Any exercise of the authority of the Secretary pursuant to this Act shall not impair the claims or defenses that would otherwise apply with respect to persons other than the Secretary. Except as established in any contract,

a servicer of pooled residential mortgages owes any duty to determine whether the net present value of the payments on the loan, as modified, is likely to be greater than the anticipated net recovery that would result from foreclosure to all investors and holders of beneficial interests in such investment, but not to any individual or groups of investors or beneficial interest holders, and shall be deemed to act in the best interests of all such investors or holders of beneficial interests if the servicer agrees to or implements a modification or workout plan when the servicer takes reasonable loss mitigation actions, including partial payments.

12 USC 5230.

**SEC. 120. TERMINATION OF AUTHORITY.**

(a) TERMINATION.—The authorities provided under sections 101(a), excluding section 101(a)(3), and 102 shall terminate on December 31, 2009.

(b) EXTENSION UPON CERTIFICATION.—The Secretary, upon submission of a written certification to Congress, may extend the authority provided under this Act to expire not later than 2 years from the date of enactment of this Act. Such certification shall include a justification of why the extension is necessary to assist American families and stabilize financial markets, as well as the expected cost to the taxpayers for such an extension.

12 USC 5231.

**SEC. 121. SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.**

(a) OFFICE OF INSPECTOR GENERAL.—There is hereby established the Office of the Special Inspector General for the Troubled Asset Relief Program.

President.

(b) APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.—(1) The head of the Office of the Special Inspector General for the Troubled Asset Relief Program is the Special Inspector General for the Troubled Asset Relief Program (in this section referred to as the "Special Inspector General"), who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The appointment of the Special Inspector General shall be made on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(3) The nomination of an individual as Special Inspector General shall be made as soon as practicable after the establishment of any program under sections 101 and 102.

(4) The Special Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

(5) For purposes of section 7324 of title 5, United States Code, the Special Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(6) The annual rate of basic pay of the Special Inspector General shall be the annual rate of basic pay for an Inspector General under section 3(e) of the Inspector General Act of 1978 (5 U.S.C. App.).

(c) DUTIES.—(1) It shall be the duty of the Special Inspector General to conduct, supervise, and coordinate audits and investigations of the purchase, management, and sale of assets by the Secretary of the Treasury under any program established by the Secretary under section 101, and the management by the Secretary

of any program established under section 102, including by collecting and summarizing the following information:

(A) A description of the categories of troubled assets purchased or otherwise procured by the Secretary.

(B) A listing of the troubled assets purchased in each such category described under subparagraph (A).

(C) An explanation of the reasons the Secretary deemed it necessary to purchase each such troubled asset.

(D) A listing of each financial institution that such troubled assets were purchased from.

(E) A listing of and detailed biographical information on each person or entity hired to manage such troubled assets.

(F) A current estimate of the total amount of troubled assets purchased pursuant to any program established under section 101, the amount of troubled assets on the books of the Treasury, the amount of troubled assets sold, and the profit and loss incurred on each sale or disposition of each such troubled asset.

(G) A listing of the insurance contracts issued under section 102.

(2) The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate to discharge the duty under paragraph (1).

(3) In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978.

(d) POWERS AND AUTHORITIES.—(1) In carrying out the duties specified in subsection (c), the Special Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978.

(2) The Special Inspector General shall carry out the duties specified in subsection (c)(1) in accordance with section 4(b)(1) of the Inspector General Act of 1978.

(e) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—(1) The Special Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Special Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(2) The Special Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–15 of the General Schedule by section 5332 of such title.

(3) The Special Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

(4)(A) Upon request of the Special Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Special Inspector General, or an authorized designee.

Reports.

(B) Whenever information or assistance requested by the Special Inspector General is, in the judgment of the Special Inspector General, unreasonably refused or not provided, the Special Inspector General shall report the circumstances to the appropriate committees of Congress without delay.

(f) REPORTS.—(1) Not later than 60 days after the confirmation of the Special Inspector General, and every calendar quarter thereafter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during the 120-day period ending on the date of such report. Each report shall include, for the period covered by such report, a detailed statement of all purchases, obligations, expenditures, and revenues associated with any program established by the Secretary of the Treasury under sections 101 and 102, as well as the information collected under subsection (c)(1).

(2) Nothing in this subsection shall be construed to authorize the public disclosure of information that is—

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

Reports.

(3) Any reports required under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

(g) FUNDING.—(1) Of the amounts made available to the Secretary of the Treasury under section 118, $50,000,000 shall be available to the Special Inspector General to carry out this section.

(2) The amount available under paragraph (1) shall remain available until expended.

(h) TERMINATION.—The Office of the Special Inspector General shall terminate on the later of—

(1) the date that the last troubled asset acquired by the Secretary under section 101 has been sold or transferred out of the ownership or control of the Federal Government; or

(2) the date of expiration of the last insurance contract issued under section 102.

**SEC. 122. INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT.**

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting "$11,315,000,000,000".

12 USC 5232.

**SEC. 123. CREDIT REFORM.**

(a) IN GENERAL.—Subject to subsection (b), the costs of purchases of troubled assets made under section 101(a) and guarantees of troubled assets under section 102, and any cash flows associated with the activities authorized in section 102 and subsections (a), (b), and (c) of section 106 shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.).

(b) COSTS.—For the purposes of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))—

(1) the cost of troubled assets and guarantees of troubled assets shall be calculated by adjusting the discount rate in section 502(5)(E) (2 U.S.C. 661a(5)(E)) for market risks; and

(2) the cost of a modification of a troubled asset or guarantee of a troubled asset shall be the difference between the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset and the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset, as modified.

**SEC. 124. HOPE FOR HOMEOWNERS AMENDMENTS.**

Section 257 of the National Housing Act (12 U.S.C. 1715z–23) is amended—

(1) in subsection (e)—

(A) in paragraph (1)(B), by inserting before "a ratio" the following: ", or thereafter is likely to have, due to the terms of the mortgage being reset,";

(B) in paragraph (2)(B), by inserting before the period at the end "(or such higher percentage as the Board determines, in the discretion of the Board)";

(C) in paragraph (4)(A)—

(i) in the first sentence, by inserting after "insured loan" the following: "and any payments made under this paragraph,"; and

(ii) by adding at the end the following: "Such actions may include making payments, which shall be accepted as payment in full of all indebtedness under the eligible mortgage, to any holder of an existing subordinate mortgage, in lieu of any future appreciation payments authorized under subparagraph (B).."; and

(2) in subsection (w), by inserting after "administrative costs" the following: "and payments pursuant to subsection (e)(4)(A)".

**SEC. 125. CONGRESSIONAL OVERSIGHT PANEL.** 12 USC 5233.

(a) ESTABLISHMENT.—There is hereby established the Congressional Oversight Panel (hereafter in this section referred to as the "Oversight Panel") as an establishment in the legislative branch.

(b) DUTIES.—The Oversight Panel shall review the current state of the financial markets and the regulatory system and submit the following reports to Congress:

(1) REGULAR REPORTS.—

(A) IN GENERAL.—Regular reports of the Oversight Panel shall include the following:

(i) The use by the Secretary of authority under this Act, including with respect to the use of contracting authority and administration of the program.

(ii) The impact of purchases made under the Act on the financial markets and financial institutions.

(iii) The extent to which the information made available on transactions under the program has contributed to market transparency.

(iv) The effectiveness of foreclosure mitigation efforts, and the effectiveness of the program from the standpoint of minimizing long-term costs to the taxpayers and maximizing the benefits for taxpayers.

(B) TIMING.—The reports required under this paragraph shall be submitted not later than 30 days after

the first exercise by the Secretary of the authority under section 101(a) or 102, and every 30 days thereafter.

(2) SPECIAL REPORT ON REGULATORY REFORM.—The Oversight Panel shall submit a special report on regulatory reform not later than January 20, 2009, analyzing the current state of the regulatory system and its effectiveness at overseeing the participants in the financial system and protecting consumers, and providing recommendations for improvement, including recommendations regarding whether any participants in the financial markets that are currently outside the regulatory system should become subject to the regulatory system, the rationale underlying such recommendation, and whether there are any gaps in existing consumer protections.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Oversight Panel shall consist of 5 members, as follows:

(A) 1 member appointed by the Speaker of the House of Representatives.

(B) 1 member appointed by the minority leader of the House of Representatives.

(C) 1 member appointed by the majority leader of the Senate.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed by the Speaker of the House of Representatives and the majority leader of the Senate, after consultation with the minority leader of the Senate and the minority leader of the House of Representatives.

(2) PAY.—Each member of the Oversight Panel shall each be paid at a rate equal to the daily equivalent of the annual rate of basic pay for level I of the Executive Schedule for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Commission.

(3) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Oversight Panel who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Oversight Panel.

(4) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(5) QUORUM.—Four members of the Oversight Panel shall constitute a quorum but a lesser number may hold hearings.

(6) VACANCIES.—A vacancy on the Oversight Panel shall be filled in the manner in which the original appointment was made.

(7) MEETINGS.—The Oversight Panel shall meet at the call of the Chairperson or a majority of its members.

(d) STAFF.—

(1) IN GENERAL.—The Oversight Panel may appoint and fix the pay of any personnel as the Commission considers appropriate.

(2) EXPERTS AND CONSULTANTS.—The Oversight Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(3) STAFF OF AGENCIES.—Upon request of the Oversight Panel, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Oversight Panel to assist it in carrying out its duties under this Act.

(e) POWERS.—

(1) HEARINGS AND SESSIONS.—The Oversight Panel may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Panel considers appropriate and may administer oaths or affirmations to witnesses appearing before it.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Oversight Panel may, if authorized by the Oversight Panel, take any action which the Oversight Panel is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Oversight Panel may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Oversight Panel, the head of that department or agency shall furnish that information to the Oversight Panel.

(4) REPORTS.—The Oversight Panel shall receive and consider all reports required to be submitted to the Oversight Panel under this Act.

(f) TERMINATION.—The Oversight Panel shall terminate 6 months after the termination date specified in section 120.

(g) FUNDING FOR EXPENSES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Oversight Panel such sums as may be necessary for any fiscal year, half of which shall be derived from the applicable account of the House of Representatives, and half of which shall be derived from the contingent fund of the Senate.

(2) REIMBURSEMENT OF AMOUNTS.—An amount equal to the expenses of the Oversight Panel shall be promptly transferred by the Secretary, from time to time upon the presentment of a statement of such expenses by the Chairperson of the Oversight Panel, from funds made available to the Secretary under this Act to the applicable fund of the House of Representatives and the contingent fund of the Senate, as appropriate, as reimbursement for amounts expended from such account and fund under paragraph (1).

**SEC. 126. FDIC AUTHORITY.**

(a) IN GENERAL.—Section 18(a) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended by adding at the end the following new paragraph:

"(4) FALSE ADVERTISING, MISUSE OF FDIC NAMES, AND MISREPRESENTATION TO INDICATE INSURED STATUS.—

"(A) PROHIBITION ON FALSE ADVERTISING AND MISUSE OF FDIC NAMES.—No person may represent or imply that any deposit liability, obligation, certificate, or share is insured or guaranteed by the Corporation, if such deposit liability, obligation, certificate, or share is not insured or guaranteed by the Corporation—

"(i) by using the terms 'Federal Deposit', 'Federal Deposit Insurance', 'Federal Deposit Insurance Corporation', any combination of such terms, or the abbreviation 'FDIC' as part of the business name or firm name of any person, including any corporation, partnership, business trust, association, or other business entity; or

"(ii) by using such terms or any other terms, sign, or symbol as part of an advertisement, solicitation, or other document.

"(B) PROHIBITION ON MISREPRESENTATIONS OF INSURED STATUS.—No person may knowingly misrepresent—

"(i) that any deposit liability, obligation, certificate, or share is insured, under this Act, if such deposit liability, obligation, certificate, or share is not so insured; or

"(ii) the extent to which or the manner in which any deposit liability, obligation, certificate, or share is insured under this Act, if such deposit liability, obligation, certificate, or share is not so insured, to the extent or in the manner represented.

"(C) AUTHORITY OF THE APPROPRIATE FEDERAL BANKING AGENCY.—The appropriate Federal banking agency shall have enforcement authority in the case of a violation of this paragraph by any person for which the agency is the appropriate Federal banking agency, or any institution-affiliated party thereof.

"(D) CORPORATION AUTHORITY IF THE APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—

"(i) RECOMMENDATION.—The Corporation may recommend in writing to the appropriate Federal banking agency that the agency take any enforcement action authorized under section 8 for purposes of enforcement of this paragraph with respect to any person for which the agency is the appropriate Federal banking agency or any institution-affiliated party thereof.

Deadline.

"(ii) AGENCY RESPONSE.—If the appropriate Federal banking agency does not, within 30 days of the date of receipt of a recommendation under clause (i), take the enforcement action with respect to this paragraph recommended by the Corporation or provide a plan acceptable to the Corporation for responding to the situation presented, the Corporation may take the recommended enforcement action against such person or institution-affiliated party.

"(E) ADDITIONAL AUTHORITY.—In addition to its authority under subparagraphs (C) and (D), for purposes of this paragraph, the Corporation shall have, in the same manner and to the same extent as with respect to a State nonmember insured bank—

"(i) jurisdiction over—

"(I) any person other than a person for which another agency is the appropriate Federal banking agency or any institution-affiliated party thereof; and

"(II) any person that aids or abets a violation of this paragraph by a person described in subclause (I); and

"(ii) for purposes of enforcing the requirements of this paragraph, the authority of the Corporation under—

"(I) section 10(c) to conduct investigations; and

"(II) subsections (b), (c), (d) and (i) of section 8 to conduct enforcement actions.

"(F) OTHER ACTIONS PRESERVED.—No provision of this paragraph shall be construed as barring any action otherwise available, under the laws of the United States or any State, to any Federal or State agency or individual.".

(b) ENFORCEMENT ORDERS.—Section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended by adding at the end the following new paragraph:

"(4) FALSE ADVERTISING OR MISUSE OF NAMES TO INDICATE INSURED STATUS.—

"(A) TEMPORARY ORDER.—

"(i) IN GENERAL.—If a notice of charges served under subsection (b)(1) specifies on the basis of particular facts that any person engaged or is engaging in conduct described in section 18(a)(4), the Corporation or other appropriate Federal banking agency may issue a temporary order requiring—

"(I) the immediate cessation of any activity or practice described, which gave rise to the notice of charges; and

"(II) affirmative action to prevent any further, or to remedy any existing, violation.

"(ii) EFFECT OF ORDER.—Any temporary order issued under this subparagraph shall take effect upon service.

"(B) EFFECTIVE PERIOD OF TEMPORARY ORDER.—A temporary order issued under subparagraph (A) shall remain effective and enforceable, pending the completion of an administrative proceeding pursuant to subsection (b)(1) in connection with the notice of charges—

"(i) until such time as the Corporation or other appropriate Federal banking agency dismisses the charges specified in such notice; or

"(ii) if a cease-and-desist order is issued against such person, until the effective date of such order.

"(C) CIVIL MONEY PENALTIES.—Any violation of section 18(a)(4) shall be subject to civil money penalties, as set forth in subsection (i), except that for any person other than an insured depository institution or an institution-affiliated party that is found to have violated this paragraph, the Corporation or other appropriate Federal banking agency shall not be required to demonstrate any loss to an insured depository institution.".

(c) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by adding at the end the following new paragraph:

"(11) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—No provision contained in any existing or future standstill, confidentiality, or other agreement that, directly or indirectly—

"(A) affects, restricts, or limits the ability of any person to offer to acquire or acquire,

"(B) prohibits any person from offering to acquire or acquiring, or

"(C) prohibits any person from using any previously disclosed information in connection with any such offer to acquire or acquisition of,

all or part of any insured depository institution, including any liabilities, assets, or interest therein, in connection with any transaction in which the Corporation exercises its authority under section 11 or 13, shall be enforceable against or impose any liability on such person, as such enforcement or liability shall be contrary to public policy.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) in subsection (a)(3)—

(A) by striking "this subsection" the first place that term appears and inserting "paragraph (1)"; and

(B) by striking "this subsection" the second place that term appears and inserting "paragraph (2)"; and

(2) in the heading for subsection (a), by striking "INSURANCE LOGO.—" and inserting "REPRESENTATIONS OF DEPOSIT INSURANCE.—".

12 USC 5234.

**SEC. 127. COOPERATION WITH THE FBI.**

Any Federal financial regulatory agency shall cooperate with the Federal Bureau of Investigation and other law enforcement agencies investigating fraud, misrepresentation, and malfeasance with respect to development, advertising, and sale of financial products.

**SEC. 128. ACCELERATION OF EFFECTIVE DATE.**

Section 203 of the Financial Services Regulatory Relief Act of 2006 (12 U.S.C. 461 note) is amended by striking "October 1, 2011" and inserting "October 1, 2008".

12 USC 5235.

**SEC. 129. DISCLOSURES ON EXERCISE OF LOAN AUTHORITY.**

Reports.
Deadline.

(a) IN GENERAL.—Not later than 7 days after the date on which the Board exercises its authority under the third paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343; relating to discounts for individuals, partnerships, and corporations) the Board shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report which includes—

(1) the justification for exercising the authority; and

(2) the specific terms of the actions of the Board, including the size and duration of the lending, available information concerning the value of any collateral held with respect to such a loan, the recipient of warrants or any other potential equity in exchange for the loan, and any expected cost to the taxpayers for such exercise.

(b) PERIODIC UPDATES.—The Board shall provide updates to the Committees specified in subsection (a) not less frequently than once every 60 days while the subject loan is outstanding, including—

(1) the status of the loan;

(2) the value of the collateral held by the Federal reserve bank which initiated the loan; and

(3) the projected cost to the taxpayers of the loan.

(c) CONFIDENTIALITY.—The information submitted to the Congress under this section shall be kept confidential, upon the written request of the Chairman of the Board, in which case it shall be made available only to the Chairpersons and Ranking Members of the Committees described in subsection (a).

(d) APPLICABILITY.—The provisions of this section shall be in force for all uses of the authority provided under section 13 of the Federal Reserve Act occurring during the period beginning on March 1, 2008 and ending on the after the date of enactment of this Act, and reports described in subsection (a) shall be required beginning not later than 30 days after that date of enactment, with respect to any such exercise of authority.

Effective date. Termination date. Reports. Deadline.

(e) SHARING OF INFORMATION.—Any reports required under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

Reports.

**SEC. 130. TECHNICAL CORRECTIONS.**

(a) IN GENERAL.—Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)), as amended by section 2502 of the Mortgage Disclosure Improvement Act of 2008 (Public Law 110–289), is amended—

(1) in subparagraph (A), by striking "In the case" and inserting "Except as provided in subparagraph (G), in the case"; and

(2) by amending subparagraph (G) to read as follows:

"(G)(i) In the case of an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code—

"(I) the requirements of subparagraphs (A) through (E) shall not apply; and

"(II) a good faith estimate of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before such credit is extended, or shall be delivered or placed in the mail not later than 3 business days after the date on which the creditor receives the written application of the consumer for such credit, whichever is earlier.

Good faith estimate. Deadline.

"(ii) If a disclosure statement furnished within 3 business days of the written application (as provided under clause (i)(II)) contains an annual percentage rate which is subsequently rendered inaccurate, within the meaning of section 107(c), the creditor shall furnish another disclosure statement at the time of settlement or consummation of the transaction.".

Disclosure statement. Deadline.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 2502 of the Mortgage Disclosure Improvement Act of 2008 (Public Law 110–289).

15 USC 1638 note.

**SEC. 131. EXCHANGE STABILIZATION FUND REIMBURSEMENT.**

12 USC 5236.

(a) REIMBURSEMENT.—The Secretary shall reimburse the Exchange Stabilization Fund established under section 5302 of title 31, United States Code, for any funds that are used for the Treasury Money Market Funds Guaranty Program for the United States money market mutual fund industry, from funds under this Act.

(b) LIMITS ON USE OF EXCHANGE STABILIZATION FUND.—The Secretary is prohibited from using the Exchange Stabilization Fund

for the establishment of any future guaranty programs for the United States money market mutual fund industry.

12 USC 5237.

**SEC. 132. AUTHORITY TO SUSPEND MARK-TO-MARKET ACCOUNTING.**

(a) AUTHORITY.—The Securities and Exchange Commission shall have the authority under the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) to suspend, by rule, regulation, or order, the application of Statement Number 157 of the Financial Accounting Standards Board for any issuer (as such term is defined in section 3(a)(8) of such Act) or with respect to any class or category of transaction if the Commission determines that is necessary or appropriate in the public interest and is consistent with the protection of investors.

(b) SAVINGS PROVISION.—Nothing in subsection (a) shall be construed to restrict or limit any authority of the Securities and Exchange Commission under securities laws as in effect on the date of enactment of this Act.

12 USC 5238.

**SEC. 133. STUDY ON MARK-TO-MARKET ACCOUNTING.**

(a) STUDY.—The Securities and Exchange Commission, in consultation with the Board and the Secretary, shall conduct a study on mark-to-market accounting standards as provided in Statement Number 157 of the Financial Accounting Standards Board, as such standards are applicable to financial institutions, including depository institutions. Such a study shall consider at a minimum—

(1) the effects of such accounting standards on a financial institution's balance sheet;

(2) the impacts of such accounting on bank failures in 2008;

(3) the impact of such standards on the quality of financial information available to investors;

(4) the process used by the Financial Accounting Standards Board in developing accounting standards;

(5) the advisability and feasibility of modifications to such standards; and

(6) alternative accounting standards to those provided in such Statement Number 157.

(b) REPORT.—The Securities and Exchange Commission shall submit to Congress a report of such study before the end of the 90-day period beginning on the date of the enactment of this Act containing the findings and determinations of the Commission, including such administrative and legislative recommendations as the Commission determines appropriate.

12 USC 5239.

**SEC. 134. RECOUPMENT.**

Reports. Deadline.

Upon the expiration of the 5-year period beginning upon the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Director of the Congressional Budget Office, shall submit a report to the Congress on the net amount within the Troubled Asset Relief Program under this Act. In any case where there is a shortfall, the President shall submit a legislative proposal that recoups from the financial industry an amount equal to the shortfall in order to ensure that the Troubled Asset Relief Program does not add to the deficit or national debt.

President. Legislation.

**SEC. 135. PRESERVATION OF AUTHORITY.**

12 USC 5240.

With the exception of section 131, nothing in this Act may be construed to limit the authority of the Secretary or the Board under any other provision of law.

**SEC. 136. TEMPORARY INCREASE IN DEPOSIT AND SHARE INSURANCE COVERAGE.**

Effective dates. Termination dates. 12 USC 5241.

(a) FEDERAL DEPOSIT INSURANCE ACT; TEMPORARY INCREASE IN DEPOSIT INSURANCE.—

(1) INCREASED AMOUNT.—Effective only during the period beginning on the date of enactment of this Act and ending on December 31, 2009, section 11(a)(1)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(E)) shall apply with "$250,000" substituted for "$100,000".

(2) TEMPORARY INCREASE NOT TO BE CONSIDERED FOR SETTING ASSESSMENTS.—The temporary increase in the standard maximum deposit insurance amount made under paragraph (1) shall not be taken into account by the Board of Directors of the Corporation for purposes of setting assessments under section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)).

(3) BORROWING LIMITS TEMPORARILY LIFTED.—During the period beginning on the date of enactment of this Act and ending on December 31, 2009, the Board of Directors of the Corporation may request from the Secretary, and the Secretary shall approve, a loan or loans in an amount or amounts necessary to carry out this subsection, without regard to the limitations on such borrowing under section 14(a) and 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a), 1825(c)).

(b) FEDERAL CREDIT UNION ACT; TEMPORARY INCREASE IN SHARE INSURANCE.—

(1) INCREASED AMOUNT.—Effective only during the period beginning on the date of enactment of this Act and ending on December 31, 2009, section 207(k)(5) of the Federal Credit Union Act (12 U.S.C. 1787(k)(5)) shall apply with "$250,000" substituted for "$100,000".

(2) TEMPORARY INCREASE NOT TO BE CONSIDERED FOR SETTING INSURANCE PREMIUM CHARGES AND INSURANCE DEPOSIT ADJUSTMENTS.—The temporary increase in the standard maximum share insurance amount made under paragraph (1) shall not be taken into account by the National Credit Union Administration Board for purposes of setting insurance premium charges and share insurance deposit adjustments under section 202(c)(2) of the Federal Credit Union Act (12 U.S.C. 1782(c)(2)).

(3) BORROWING LIMITS TEMPORARILY LIFTED.—During the period beginning on the date of enactment of this Act and ending on December 31, 2009, the National Credit Union Administration Board may request from the Secretary, and the Secretary shall approve, a loan or loans in an amount or amounts necessary to carry out this subsection, without regard to the limitations on such borrowing under section 203(d)(1) of the Federal Credit Union Act (12 U.S.C. 1783(d)(1)).

(c) NOT FOR USE IN INFLATION ADJUSTMENTS.—The temporary increase in the standard maximum deposit insurance amount made under this section shall not be used to make any inflation adjustment under section 11(a)(1)(F) of the Federal Deposit Insurance

Act (12 U.S.C. 1821(a)(1)(F)) for purposes of that Act or the Federal Credit Union Act.

# TITLE II—BUDGET-RELATED PROVISIONS

12 USC 5251.

**SEC. 201. INFORMATION FOR CONGRESSIONAL SUPPORT AGENCIES.**

Upon request, and to the extent otherwise consistent with law, all information used by the Secretary in connection with activities authorized under this Act (including the records to which the Comptroller General is entitled under this Act) shall be made available to congressional support agencies (in accordance with their obligations to support the Congress as set out in their authorizing statutes) for the purposes of assisting the committees of Congress with conducting oversight, monitoring, and analysis of the activities authorized under this Act.

12 USC 5252.

**SEC. 202. REPORTS BY THE OFFICE OF MANAGEMENT AND BUDGET AND THE CONGRESSIONAL BUDGET OFFICE.**

(a) REPORTS BY THE OFFICE OF MANAGEMENT AND BUDGET.—Within 60 days of the first exercise of the authority granted in section 101(a), but in no case later than December 31, 2008, and semiannually thereafter, the Office of Management and Budget shall report to the President and the Congress—

(1) the estimate, notwithstanding section 502(5)(F) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(F)), as of the first business day that is at least 30 days prior to the issuance of the report, of the cost of the troubled assets, and guarantees of the troubled assets, determined in accordance with section 123;

(2) the information used to derive the estimate, including assets purchased or guaranteed, prices paid, revenues received, the impact on the deficit and debt, and a description of any outstanding commitments to purchase troubled assets; and

(3) a detailed analysis of how the estimate has changed from the previous report.

Beginning with the second report under subsection (a), the Office of Management and Budget shall explain the differences between the Congressional Budget Office estimates delivered in accordance with subsection (b) and prior Office of Management and Budget estimates.

(b) REPORTS BY THE CONGRESSIONAL BUDGET OFFICE.—Within 45 days of receipt by the Congress of each report from the Office of Management and Budget under subsection (a), the Congressional Budget Office shall report to the Congress the Congressional Budget Office's assessment of the report submitted by the Office of Management and Budget, including—

(1) the cost of the troubled assets and guarantees of the troubled assets,

(2) the information and valuation methods used to calculate such cost, and

(3) the impact on the deficit and the debt.

(c) FINANCIAL EXPERTISE.—In carrying out the duties in this subsection or performing analyses of activities under this Act, the Director of the Congressional Budget Office may employ personnel and procure the services of experts and consultants.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to produce reports required by this section.

**SEC. 203. ANALYSIS IN PRESIDENT'S BUDGET.**

(a) IN GENERAL.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(35) as supplementary materials, a separate analysis of the budgetary effects for all prior fiscal years, the current fiscal year, the fiscal year for which the budget is submitted, and ensuing fiscal years of the actions the Secretary of the Treasury has taken or plans to take using any authority provided in the Emergency Economic Stabilization Act of 2008, including—

"(A) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 using methodology required by the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and section 123 of the Emergency Economic Stabilization Act of 2008;

"(B) an estimate of the deficit, the debt held by the public, and the gross Federal debt using methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008;

"(C) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 calculated on a cash basis;

"(D) a revised estimate of the deficit, the debt held by the public, and the gross Federal debt, substituting the cash-based estimates in subparagraph (C) for the estimates calculated under subparagraph (A) pursuant to the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008; and

"(E) the portion of the deficit which can be attributed to any action taken by the Secretary using authority provided by the Emergency Economic Stabilization Act of 2008 and the extent to which the change in the deficit since the most recent estimate is due to a reestimate using the methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008."

(b) CONSULTATION.—In implementing this section, the Director of Office of Management and Budget shall consult periodically, but at least annually, with the Committee on the Budget of the House of Representatives, the Committee on the Budget of the Senate, and the Director of the Congressional Budget Office. 31 USC 1105 note.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall apply beginning with respect to the fiscal year 2010 budget submission of the President. 31 USC 1105 note.

**SEC. 204. EMERGENCY TREATMENT.** 12 USC 5253.

All provisions of this Act are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008 and rescissions of

any amounts provided in this Act shall not be counted for purposes of budget enforcement.

# TITLE III—TAX PROVISIONS

12 USC 5261.

**SEC. 301. GAIN OR LOSS FROM SALE OR EXCHANGE OF CERTAIN PREFERRED STOCK.**

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gain or loss from the sale or exchange of any applicable preferred stock by any applicable financial institution shall be treated as ordinary income or loss.

Definition.

(b) APPLICABLE PREFERRED STOCK.—For purposes of this section, the term "applicable preferred stock" means any stock—

(1) which is preferred stock in—

(A) the Federal National Mortgage Association, established pursuant to the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), or

(B) the Federal Home Loan Mortgage Corporation, established pursuant to the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), and

(2) which—

(A) was held by the applicable financial institution on September 6, 2008, or

(B) was sold or exchanged by the applicable financial institution on or after January 1, 2008, and before September 7, 2008.

(c) APPLICABLE FINANCIAL INSTITUTION.—For purposes of this section:

Definition.

(1) IN GENERAL.—Except as provided in paragraph (2), the term "applicable financial institution" means—

(A) a financial institution referred to in section 582(c)(2) of the Internal Revenue Code of 1986, or

(B) a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1))).

(2) SPECIAL RULES FOR CERTAIN SALES.—In the case of—

(A) a sale or exchange described in subsection (b)(2)(B), an entity shall be treated as an applicable financial institution only if it was an entity described in subparagraph (A) or (B) of paragraph (1) at the time of the sale or exchange, and

(B) a sale or exchange after September 6, 2008, of preferred stock described in subsection (b)(2)(A), an entity shall be treated as an applicable financial institution only if it was an entity described in subparagraph (A) or (B) of paragraph (1) at all times during the period beginning on September 6, 2008, and ending on the date of the sale or exchange of the preferred stock.

(d) SPECIAL RULE FOR CERTAIN PROPERTY NOT HELD ON SEPTEMBER 6, 2008.—The Secretary of the Treasury or the Secretary's delegate may extend the application of this section to all or a portion of the gain or loss from a sale or exchange in any case where—

(1) an applicable financial institution sells or exchanges applicable preferred stock after September 6, 2008, which the applicable financial institution did not hold on such date, but

the basis of which in the hands of the applicable financial institution at the time of the sale or exchange is the same as the basis in the hands of the person which held such stock on such date, or

(2) the applicable financial institution is a partner in a partnership which—

(A) held such stock on September 6, 2008, and later sold or exchanged such stock, or

(B) sold or exchanged such stock during the period described in subsection (b)(2)(B).

(e) REGULATORY AUTHORITY.—The Secretary of the Treasury or the Secretary's delegate may prescribe such guidance, rules, or regulations as are necessary to carry out the purposes of this section.

(f) EFFECTIVE DATE.—This section shall apply to sales or exchanges occurring after December 31, 2007, in taxable years ending after such date.

**SEC. 302. SPECIAL RULES FOR TAX TREATMENT OF EXECUTIVE COMPENSATION OF EMPLOYERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF PROGRAM.**

(a) DENIAL OF DEDUCTION.—Subsection (m) of section 162 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph: 26 USC 162.

"(5) SPECIAL RULE FOR APPLICATION TO EMPLOYERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF PROGRAM.—

"(A) IN GENERAL.—In the case of an applicable employer, no deduction shall be allowed under this chapter—

"(i) in the case of executive remuneration for any applicable taxable year which is attributable to services performed by a covered executive during such applicable taxable year, to the extent that the amount of such remuneration exceeds $500,000, or

"(ii) in the case of deferred deduction executive remuneration for any taxable year for services performed during any applicable taxable year by a covered executive, to the extent that the amount of such remuneration exceeds $500,000 reduced (but not below zero) by the sum of—

"(I) the executive remuneration for such applicable taxable year, plus

"(II) the portion of the deferred deduction executive remuneration for such services which was taken into account under this clause in a preceding taxable year.

"(B) APPLICABLE EMPLOYER.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'applicable employer' means any employer from whom 1 or more troubled assets are acquired under a program established by the Secretary under section 101(a) of the Emergency Economic Stabilization Act of 2008 if the aggregate amount of the assets so acquired for all taxable years exceeds $300,000,000. Definition.

"(ii) DISREGARD OF CERTAIN ASSETS SOLD THROUGH DIRECT PURCHASE.—If the only sales of troubled assets

by an employer under the program described in clause (i) are through 1 or more direct purchases (within the meaning of section 113(c) of the Emergency Economic Stabilization Act of 2008), such assets shall not be taken into account under clause (i) in determining whether the employer is an applicable employer for purposes of this paragraph.

"(iii) AGGREGATION RULES.—Two or more persons who are treated as a single employer under subsection (b) or (c) of section 414 shall be treated as a single employer, except that in applying section 1563(a) for purposes of either such subsection, paragraphs (2) and (3) thereof shall be disregarded.

"(C) APPLICABLE TAXABLE YEAR.—For purposes of this paragraph, the term 'applicable taxable year' means, with respect to any employer—

"(i) the first taxable year of the employer—

"(I) which includes any portion of the period during which the authorities under section 101(a) of the Emergency Economic Stabilization Act of 2008 are in effect (determined under section 120 thereof), and

"(II) in which the aggregate amount of troubled assets acquired from the employer during the taxable year pursuant to such authorities (other than assets to which subparagraph (B)(ii) applies), when added to the aggregate amount so acquired for all preceding taxable years, exceeds $300,000,000, and

"(ii) any subsequent taxable year which includes any portion of such period.

"(D) COVERED EXECUTIVE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'covered executive' means, with respect to any applicable taxable year, any employee—

"(I) who, at any time during the portion of the taxable year during which the authorities under section 101(a) of the Emergency Economic Stabilization Act of 2008 are in effect (determined under section 120 thereof), is the chief executive officer of the applicable employer or the chief financial officer of the applicable employer, or an individual acting in either such capacity, or

"(II) who is described in clause (ii).

"(ii) HIGHEST COMPENSATED EMPLOYEES.—An employee is described in this clause if the employee is 1 of the 3 highest compensated officers of the applicable employer for the taxable year (other than an individual described in clause (i)(I)), determined—

"(I) on the basis of the shareholder disclosure rules for compensation under the Securities Exchange Act of 1934 (without regard to whether those rules apply to the employer), and

"(II) by only taking into account employees employed during the portion of the taxable year described in clause (i)(I).

"(iii) EMPLOYEE REMAINS COVERED EXECUTIVE.—If an employee is a covered executive with respect to an applicable employer for any applicable taxable year, such employee shall be treated as a covered executive with respect to such employer for all subsequent applicable taxable years and for all subsequent taxable years in which deferred deduction executive remuneration with respect to services performed in all such applicable taxable years would (but for this paragraph) be deductible.

"(E) EXECUTIVE REMUNERATION.—For purposes of this paragraph, the term 'executive remuneration' means the applicable employee remuneration of the covered executive, as determined under paragraph (4) without regard to subparagraphs (B), (C), and (D) thereof. Such term shall not include any deferred deduction executive remuneration with respect to services performed in a prior applicable taxable year.

"(F) DEFERRED DEDUCTION EXECUTIVE REMUNERATION.—For purposes of this paragraph, the term 'deferred deduction executive remuneration' means remuneration which would be executive remuneration for services performed in an applicable taxable year but for the fact that the deduction under this chapter (determined without regard to this paragraph) for such remuneration is allowable in a subsequent taxable year.

"(G) COORDINATION.—Rules similar to the rules of subparagraphs (F) and (G) of paragraph (4) shall apply for purposes of this paragraph.

"(H) REGULATORY AUTHORITY.—The Secretary may prescribe such guidance, rules, or regulations as are necessary to carry out the purposes of this paragraph and the Emergency Economic Stabilization Act of 2008, including the extent to which this paragraph applies in the case of any acquisition, merger, or reorganization of an applicable employer.".

(b) GOLDEN PARACHUTE RULE.—Section 280G of the Internal Revenue Code of 1986 is amended— 26 USC 280G.

(1) by redesignating subsection (e) as subsection (f), and

(2) by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR APPLICATION TO EMPLOYERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF PROGRAM.—

"(1) IN GENERAL.—In the case of the severance from employment of a covered executive of an applicable employer during the period during which the authorities under section 101(a) of the Emergency Economic Stabilization Act of 2008 are in effect (determined under section 120 of such Act), this section shall be applied to payments to such executive with the following modifications:

"(A) Any reference to a disqualified individual (other than in subsection (c)) shall be treated as a reference to a covered executive.

"(B) Any reference to a change described in subsection (b)(2)(A)(i) shall be treated as a reference to an applicable severance from employment of a covered executive, and any reference to a payment contingent on such a change

shall be treated as a reference to any payment made during an applicable taxable year of the employer on account of such applicable severance from employment.

"(C) Any reference to a corporation shall be treated as a reference to an applicable employer.

"(D) The provisions of subsections (b)(2)(C), (b)(4), (b)(5), and (d)(5) shall not apply.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection:

"(A) DEFINITIONS.—Any term used in this subsection which is also used in section 162(m)(5) shall have the meaning given such term by such section.

"(B) APPLICABLE SEVERANCE FROM EMPLOYMENT.—The term 'applicable severance from employment' means any severance from employment of a covered executive—

"(i) by reason of an involuntary termination of the executive by the employer, or

"(ii) in connection with any bankruptcy, liquidation, or receivership of the employer.

"(C) COORDINATION AND OTHER RULES.—

"(i) IN GENERAL.—If a payment which is treated as a parachute payment by reason of this subsection is also a parachute payment determined without regard to this subsection, this subsection shall not apply to such payment.

"(ii) REGULATORY AUTHORITY.—The Secretary may prescribe such guidance, rules, or regulations as are necessary—

"(I) to carry out the purposes of this subsection and the Emergency Economic Stabilization Act of 2008, including the extent to which this subsection applies in the case of any acquisition, merger, or reorganization of an applicable employer,

"(II) to apply this section and section 4999 in cases where one or more payments with respect to any individual are treated as parachute payments by reason of this subsection, and other payments with respect to such individual are treated as parachute payments under this section without regard to this subsection, and

"(III) to prevent the avoidance of the application of this section through the mischaracterization of a severance from employment as other than an applicable severance from employment.".

26 USC 162 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending on or after the date of the enactment of this Act.

26 USC 280G note.

(2) GOLDEN PARACHUTE RULE.—The amendments made by subsection (b) shall apply to payments with respect to severances occurring during the period during which the authorities under section 101(a) of this Act are in effect (determined under section 120 of this Act).

**SEC. 303. EXTENSION OF EXCLUSION OF INCOME FROM DISCHARGE OF QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.**

(a) EXTENSION.—Subparagraph (E) of section 108(a)(1) of the Internal Revenue Code of 1986 is amended by striking "January 1, 2010" and inserting "January 1, 2013". 26 USC 108.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to discharges of indebtedness occurring on or after January 1, 2010. 26 USC 108 note.

# DIVISION B—ENERGY IMPROVEMENT AND EXTENSION ACT OF 2008

**SEC. 1. SHORT TITLE, ETC.**

(a) SHORT TITLE.—This division may be cited as the "Energy Improvement and Extension Act of 2008".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986. 26 USC 1 *et al.*

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

Sec. 1. Short title, etc.

TITLE I—ENERGY PRODUCTION INCENTIVES

Subtitle A—Renewable Energy Incentives

Sec. 101. Renewable energy credit.
Sec. 102. Production credit for electricity produced from marine renewables.
Sec. 103. Energy credit.
Sec. 104. Energy credit for small wind property.
Sec. 105. Energy credit for geothermal heat pump systems.
Sec. 106. Credit for residential energy efficient property.
Sec. 107. New clean renewable energy bonds.
Sec. 108. Credit for steel industry fuel.
Sec. 109. Special rule to implement FERC and State electric restructuring policy.

Subtitle B—Carbon Mitigation and Coal Provisions

Sec. 111. Expansion and modification of advanced coal project investment credit.
Sec. 112. Expansion and modification of coal gasification investment credit.
Sec. 113. Temporary increase in coal excise tax; funding of Black Lung Disability Trust Fund.
Sec. 114. Special rules for refund of the coal excise tax to certain coal producers and exporters.
Sec. 115. Tax credit for carbon dioxide sequestration.
Sec. 116. Certain income and gains relating to industrial source carbon dioxide treated as qualifying income for publicly traded partnerships.
Sec. 117. Carbon audit of the tax code.

TITLE II—TRANSPORTATION AND DOMESTIC FUEL SECURITY PROVISIONS

Sec. 201. Inclusion of cellulosic biofuel in bonus depreciation for biomass ethanol plant property.
Sec. 202. Credits for biodiesel and renewable diesel.
Sec. 203. Clarification that credits for fuel are designed to provide an incentive for United States production.
Sec. 204. Extension and modification of alternative fuel credit.
Sec. 205. Credit for new qualified plug-in electric drive motor vehicles.
Sec. 206. Exclusion from heavy truck tax for idling reduction units and advanced insulation.
Sec. 207. Alternative fuel vehicle refueling property credit.
Sec. 208. Certain income and gains relating to alcohol fuels and mixtures, biodiesel fuels and mixtures, and alternative fuels and mixtures treated as qualifying income for publicly traded partnerships.

Sec. 209. Extension and modification of election to expense certain refineries.
Sec. 210. Extension of suspension of taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
Sec. 211. Transportation fringe benefit to bicycle commuters.

TITLE III—ENERGY CONSERVATION AND EFFICIENCY PROVISIONS

Sec. 301. Qualified energy conservation bonds.
Sec. 302. Credit for nonbusiness energy property.
Sec. 303. Energy efficient commercial buildings deduction.
Sec. 304. New energy efficient home credit.
Sec. 305. Modifications of energy efficient appliance credit for appliances produced after 2007.
Sec. 306. Accelerated recovery period for depreciation of smart meters and smart grid systems.
Sec. 307. Qualified green building and sustainable design projects.
Sec. 308. Special depreciation allowance for certain reuse and recycling property.

TITLE IV—REVENUE PROVISIONS

Sec. 401. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.
Sec. 402. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.
Sec. 403. Broker reporting of customer's basis in securities transactions.
Sec. 404. 0.2 percent FUTA surtax.
Sec. 405. Increase and extension of Oil Spill Liability Trust Fund tax.

# TITLE I—ENERGY PRODUCTION INCENTIVES

## Subtitle A—Renewable Energy Incentives

### SEC. 101. RENEWABLE ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) 1-YEAR EXTENSION FOR WIND AND REFINED COAL FACILITIES.—Paragraphs (1) and (8) of section 45(d) are each amended by striking "January 1, 2009" and inserting "January 1, 2010". 26 USC 45.

(2) 2-YEAR EXTENSION FOR CERTAIN OTHER FACILITIES.—Each of the following provisions of section 45(d) is amended by striking "January 1, 2009" and inserting "January 1, 2011":

(A) Clauses (i) and (ii) of paragraph (2)(A).
(B) Clauses (i)(I) and (ii) of paragraph (3)(A).
(C) Paragraph (4).
(D) Paragraph (5).
(E) Paragraph (6).
(F) Paragraph (7).
(G) Subparagraphs (A) and (B) of paragraph (9).

(b) MODIFICATION OF REFINED COAL AS A QUALIFIED ENERGY RESOURCE.—

(1) ELIMINATION OF INCREASED MARKET VALUE TEST.—Section 45(c)(7)(A)(i) (defining refined coal), as amended by section 108, is amended—

(A) by striking subclause (IV),
(B) by adding "and" at the end of subclause (II), and
(C) by striking ", and" at the end of subclause (III) and inserting a period.

(2) INCREASE IN REQUIRED EMISSION REDUCTION.—Section 45(c)(7)(B) (defining qualified emission reduction) is amended by inserting "at least 40 percent of the emissions of" after "nitrogen oxide and".

(c) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended— 26 USC 45.

(1) by striking "facility which burns" and inserting "facility (other than a facility described in paragraph (6)) which uses", and

(2) by striking "COMBUSTION".

(d) EXPANSION OF BIOMASS FACILITIES.—

(1) OPEN-LOOP BIOMASS FACILITIES.—Paragraph (3) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.".

(2) CLOSED-LOOP BIOMASS FACILITIES.—Paragraph (2) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

"(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A)(i), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.".

(e) MODIFICATION OF RULES FOR HYDROPOWER PRODUCTION.—Subparagraph (C) of section 45(c)(8) is amended to read as follows:

"(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

"(i) the hydroelectric project installed on the nonhydroelectric dam is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

"(ii) the nonhydroelectric dam was placed in service before the date of the enactment of this paragraph and operated for flood control, navigation, or water supply purposes and did not produce hydroelectric power on the date of the enactment of this paragraph, and

"(iii) the hydroelectric project is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license requirements imposed under applicable law that change the water surface elevation for the purpose of improving environmental quality of the affected waterway.

The Secretary, in consultation with the Federal Energy Regulatory Commission, shall certify if a hydroelectric project licensed at a nonhydroelectric dam meets the criteria in clause (iii). Nothing in this section shall affect the standards under which the Federal Energy Regulatory Commission issues licenses for and regulates hydropower projects under part I of the Federal Power Act.". Certification.

Applicability.
26 USC 45 note.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property originally placed in service after December 31, 2008.

(2) REFINED COAL.—The amendments made by subsection (b) shall apply to coal produced and sold from facilities placed in service after December 31, 2008.

Electricity.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (c) shall apply to electricity produced and sold after the date of the enactment of this Act.

(4) EXPANSION OF BIOMASS FACILITIES.—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

**SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.**

(a) IN GENERAL.—Paragraph (1) of section 45(c) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", and", and by adding at the end the following new subparagraph:

"(I) marine and hydrokinetic renewable energy.".

(b) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

"(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

"(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

"(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

"(ii) free flowing water in rivers, lakes, and streams,

"(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

"(iv) differentials in ocean temperature (ocean thermal energy conversion).

"(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.".

(c) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

"(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

"(A) which has a nameplate capacity rating of at least 150 kilowatts, and

"(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2012.".

(d) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking "or (9)" and inserting "(9), or (11)".

(e) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by section 101, is amended by

striking "January 1, 2012" and inserting "the date of the enactment of paragraph (11)".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date. 26 USC 45 note.

**SEC. 103. ENERGY CREDIT.**

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each amended by striking "January 1, 2009" and inserting "January 1, 2017". 26 USC 48.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) is amended by striking "December 31, 2008" and inserting "December 31, 2016".

(3) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) is amended by striking "December 31, 2008" and inserting "December 31, 2016".

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subparagraph (B) of section 38(c)(4), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating clause (vi) as clause (vi) and (vii), respectively, and by inserting after clause (iv) the following new clause:

"(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48,".

(2) TECHNICAL AMENDMENT.—Clause (vi) of section 38(c)(4)(B), as redesignated by paragraph (1), is amended by striking "section 47 to the extent attributable to" and inserting "section 46 to the extent that such credit is attributable to the rehabilitation credit under section 47, but only with respect to".

(c) ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.—

(1) IN GENERAL.—Section 48(a)(3)(A) is amended by striking "or" at the end of clause (iii), by inserting "or" at the end of clause (iv), and by adding at the end the following new clause:

"(v) combined heat and power system property,".

(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Subsection (c) of section 48 is amended—

(A) by striking "QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY" in the heading and inserting "DEFINITIONS", and

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

"(3) COMBINED HEAT AND POWER SYSTEM PROPERTY.—

"(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

"(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(ii) which produces—

"(I) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

"(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

"(iii) the energy efficiency percentage of which exceeds 60 percent, and

"(iv) which is placed in service before January 1, 2017.

"(B) LIMITATION.—

"(i) IN GENERAL.—In the case of combined heat and power system property with an electrical capacity in excess of the applicable capacity placed in service during the taxable year, the credit under subsection (a)(1) (determined without regard to this paragraph) for such year shall be equal to the amount which bears the same ratio to such credit as the applicable capacity bears to the capacity of such property.

"(ii) APPLICABLE CAPACITY.—For purposes of clause (i), the term 'applicable capacity' means 15 megawatts or a mechanical energy capacity of more than 20,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

Definition.

"(iii) MAXIMUM CAPACITY.—The term 'combined heat and power system property' shall not include any property comprising a system if such system has a capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

"(C) SPECIAL RULES.—

"(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this paragraph, the energy efficiency percentage of a system is the fraction—

"(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

"(II) the denominator of which is the lower heating value of the fuel sources for the system.

"(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(ii) shall be determined on a Btu basis.

"(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(D) SYSTEMS USING BIOMASS.—If a system is designed to use biomass (within the meaning of paragraphs (2) and (3) of section 45(c) without regard to the last sentence of paragraph (3)(A)) for at least 90 percent of the energy source—

"(i) subparagraph (A)(iii) shall not apply, but

"(ii) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this subparagraph) as the energy efficiency percentage of such system bears to 60 percent.".

(3) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by striking "paragraphs (1)(B) and (2)(B)" and inserting "paragraphs (1)(B), (2)(B), and (3)(B)".

(d) INCREASE OF CREDIT LIMITATION FOR FUEL CELL PROPERTY.—Subparagraph (B) of section 48(c)(1) is amended by striking "$500" and inserting "$1,500".

(e) PUBLIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(B) Paragraph (2) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(f) EFFECTIVE DATE.— 26 USC 48 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) COMBINED HEAT AND POWER AND FUEL CELL PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(4) PUBLIC UTILITY PROPERTY.—The amendments made by subsection (e) shall apply to periods after February 13, 2008, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 104. ENERGY CREDIT FOR SMALL WIND PROPERTY.**

(a) IN GENERAL.—Section 48(a)(3)(A), as amended by section 103, is amended by striking "or" at the end of clause (iv), by adding "or" at the end of clause (v), and by inserting after clause (v) the following new clause:

"(vi) qualified small wind energy property,".

(b) 30 PERCENT CREDIT.—Section 48(a)(2)(A)(i) is amended by striking "and" at the end of subclause (II) and by inserting after subclause (III) the following new subclause:

"(IV) qualified small wind energy property, and".

(c) QUALIFIED SMALL WIND ENERGY PROPERTY.—Section 48(c), as amended by section 103, is amended by adding at the end the following new paragraph:

"(4) QUALIFIED SMALL WIND ENERGY PROPERTY.—

"(A) IN GENERAL.—The term 'qualified small wind energy property' means property which uses a qualifying small wind turbine to generate electricity.

"(B) LIMITATION.—In the case of qualified small wind energy property placed in service during the taxable year, the credit otherwise determined under subsection (a)(1) for such year with respect to all such property of the taxpayer shall not exceed $4,000.

"(C) QUALIFYING SMALL WIND TURBINE.—The term 'qualifying small wind turbine' means a wind turbine which has a nameplate capacity of not more than 100 kilowatts.

"(D) TERMINATION.—The term 'qualified small wind energy property' shall not include any property for any period after December 31, 2016.".

(d) CONFORMING AMENDMENT.—Section 48(a)(1), as amended by section 103, is amended by striking "paragraphs (1)(B), (2)(B), and (3)(B)" and inserting "paragraphs (1)(B), (2)(B), (3)(B), and (4)(B)".

26 USC 48 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 105. ENERGY CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.**

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3), as amended by this Act, is amended by striking "or" at the end of clause (v), by inserting "or" at the end of clause (vi), and by adding at the end the following new clause:

"(vii) equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure, but only with respect to periods ending before January 1, 2017,".

26 USC 48 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 106. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

(a) EXTENSION.—Section 25D(g) is amended by striking "December 31, 2008" and inserting "December 31, 2016".

(b) REMOVAL OF LIMITATION FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1), as amended by subsections (c) and (d), is amended—

(A) by striking subparagraph (A), and

(B) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through and (D), respectively.

(2) CONFORMING AMENDMENT.—Section 25D(e)(4)(A), as amended by subsections (c) and (d), is amended—

(A) by striking clause (i), and

(B) by redesignating clauses (ii) through (v) as clauses (i) and (iv), respectively.

(c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

(1) IN GENERAL.—Section 25D(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph: 26 USC 25D.

"(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year.".

(2) LIMITATION.—Section 25D(b)(1) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) $500 with respect to each half kilowatt of capacity (not to exceed $4,000) of wind turbines for which qualified small wind energy property expenditures are made.".

(3) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURES.—

(A) IN GENERAL.—Section 25D(d) is amended by adding at the end the following new paragraph:

"(4) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified small wind energy property expenditure' means an expenditure for property which uses a wind turbine to generate electricity for use in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.".

(B) NO DOUBLE BENEFIT.—Section 45(d)(1) is amended by adding at the end the following new sentence: "Such term shall not include any facility with respect to which any qualified small wind energy property expenditure (as defined in subsection (d)(4) of section 25D) is taken into account in determining the credit under such section.".

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) $1,667 in the case of each half kilowatt of capacity (not to exceed $13,333) of wind turbines for which qualified small wind energy property expenditures are made.".

(d) CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.—

(1) IN GENERAL.—Section 25D(a), as amended by subsection (c), is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end the following new paragraph:

"(5) 30 percent of the qualified geothermal heat pump property expenditures made by the taxpayer during such year.".

(2) LIMITATION.—Section 25D(b)(1), as amended by subsection (c), is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) $2,000 with respect to any qualified geothermal heat pump property expenditures.".

(3) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—Section 25D(d), as amended by subsection (c), is amended by adding at the end the following new paragraph:

"(5) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified geothermal heat pump property expenditure' means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

"(B) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY.—The term 'qualified geothermal heat pump property' means any equipment which—

"(i) uses the ground or ground water as a thermal energy source to heat the dwelling unit referred to in subparagraph (A) or as a thermal energy sink to cool such dwelling unit, and

"(ii) meets the requirements of the Energy Star program which are in effect at the time that the expenditure for such equipment is made.".

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A), as amended by subsection (c), is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) $6,667 in the case of any qualified geothermal heat pump property expenditures.".

(e) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

"(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

"(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

"(2) CARRYFORWARD OF UNUSED CREDIT.—

"(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added

to the credit allowable under subsection (a) for such succeeding taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting "and section 25D" after "this section". 26 USC 23.

(B) Section 24(b)(3)(B) is amended by striking "and 25B" and inserting ", 25B, and 25D".

(C) Section 25B(g)(2) is amended by striking "section 23" and inserting "sections 23 and 25D".

(D) Section 26(a)(1) is amended by striking "and 25B" and inserting "25B, and 25D".

(f) EFFECTIVE DATE.— 26 USC 23 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) SOLAR ELECTRIC PROPERTY LIMITATION.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2008.

(3) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (e)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

**SEC. 107. NEW CLEAN RENEWABLE ENERGY BONDS.**

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

**"SEC. 54C. NEW CLEAN RENEWABLE ENERGY BONDS.**

"(a) NEW CLEAN RENEWABLE ENERGY BOND.—For purposes of this subpart, the term 'new clean renewable energy bond' means any bond issued as part of an issue if—

"(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities,

"(2) the bond is issued by a qualified issuer, and

"(3) the issuer designates such bond for purposes of this section.

"(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any new clean renewable energy bond shall be 70 percent of the amount so determined without regard to this subsection.

"(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(1) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under this subsection to such issuer.

"(2) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national new clean renewable energy bond limitation of $800,000,000 which shall be allocated by the Secretary as provided in paragraph (3), except that—

"(A) not more than 33⅓ percent thereof may be allocated to qualified projects of public power providers,

"(B) not more than 33⅓ percent thereof may be allocated to qualified projects of governmental bodies, and

"(C) not more than 33⅓ percent thereof may be allocated to qualified projects of cooperative electric companies.

"(3) METHOD OF ALLOCATION.—

"(A) ALLOCATION AMONG PUBLIC POWER PROVIDERS.—After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

"(B) ALLOCATION AMONG GOVERNMENTAL BODIES AND COOPERATIVE ELECTRIC COMPANIES.—The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

"(2) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).

"(3) GOVERNMENTAL BODY.—The term 'governmental body' means any State or Indian tribal government, or any political subdivision thereof.

"(4) COOPERATIVE ELECTRIC COMPANY.—The term 'cooperative electric company' means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

"(5) CLEAN RENEWABLE ENERGY BOND LENDER.—The term 'clean renewable energy bond lender' means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

"(6) QUALIFIED ISSUER.—The term 'qualified issuer' means a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.".

(b) CONFORMING AMENDMENTS.—

26 USC 54A.

(1) Paragraph (1) of section 54A(d) is amended to read as follows:

Definition.

"(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

"(A) a qualified forestry conservation bond, or

"(B) a new clean renewable energy bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).".

(2) Subparagraph (C) of section 54A(d)(2) is amended to read as follows: 26 USC 54A.

"(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

"(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e), and

"(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1).".

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 54C. Qualified clean renewable energy bonds.".

(c) EXTENSION FOR CLEAN RENEWABLE ENERGY BONDS.—Subsection (m) of section 54 is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act. 26 USC 54 note.

**SEC. 108. CREDIT FOR STEEL INDUSTRY FUEL.**

(a) TREATMENT AS REFINED COAL.—

(1) IN GENERAL.—Subparagraph (A) of section 45(c)(7) of the Internal Revenue Code of 1986 (relating to refined coal), as amended by this Act, is amended to read as follows:

"(A) IN GENERAL.—The term 'refined coal' means a fuel— Definition.

"(i) which—

"(I) is a liquid, gaseous, or solid fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock,

"(II) is sold by the taxpayer with the reasonable expectation that it will be used for purpose of producing steam,

"(III) is certified by the taxpayer as resulting (when used in the production of steam) in a qualified emission reduction, and

"(IV) is produced in such a manner as to result in an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal, or

"(ii) which is steel industry fuel.".

(2) STEEL INDUSTRY FUEL DEFINED.—Paragraph (7) of section 45(c) of such Code is amended by adding at the end the following new subparagraph:

"(C) STEEL INDUSTRY FUEL.—

"(i) IN GENERAL.—The term 'steel industry fuel' means a fuel which—

"(I) is produced through a process of liquifying coal waste sludge and distributing it on coal, and

"(II) is used as a feedstock for the manufacture of coke.

"(ii) COAL WASTE SLUDGE.—The term 'coal waste sludge' means the tar decanter sludge and related

byproducts of the coking process, including such materials that have been stored in ground, in tanks and in lagoons, that have been treated as hazardous wastes under applicable Federal environmental rules absent liquefaction and processing with coal into a feedstock for the manufacture of coke.".

(b) CREDIT AMOUNT.—

Applicability.
26 USC 45.

(1) IN GENERAL.—Paragraph (8) of section 45(e) of the Internal Revenue Code of 1986 (relating to refined coal production facilities) is amended by adding at the end the following new subparagraph

"(D) SPECIAL RULE FOR STEEL INDUSTRY FUEL.—

"(i) IN GENERAL.—In the case of a taxpayer who produces steel industry fuel—

"(I) this paragraph shall be applied separately with respect to steel industry fuel and other refined coal, and

"(II) in applying this paragraph to steel industry fuel, the modifications in clause (ii) shall apply.

"(ii) MODIFICATIONS.—

"(I) CREDIT AMOUNT.—Subparagraph (A) shall be applied by substituting '$2 per barrel-of-oil equivalent' for '$4.375 per ton'.

"(II) CREDIT PERIOD.—In lieu of the 10-year period referred to in clauses (i) and (ii)(II) of subparagraph (A), the credit period shall be the period beginning on the later of the date such facility was originally placed in service, the date the modifications described in clause (iii) were placed in service, or October 1, 2008, and ending on the later of December 31, 2009, or the date which is 1 year after the date such facility or the modifications described in clause (iii) were placed in service.

"(III) NO PHASEOUT.—Subparagraph (B) shall not apply.

"(iii) MODIFICATIONS.—The modifications described in this clause are modifications to an existing facility which allow such facility to produce steel industry fuel.

"(iv) BARREL-OF-OIL EQUIVALENT.—For purposes of this subparagraph, a barrel-of-oil equivalent is the amount of steel industry fuel that has a Btu content of 5,800,000 Btus.".

(2) INFLATION ADJUSTMENT.—Paragraph (2) of section 45(b) of such Code is amended by inserting "the $3 amount in subsection (e)(8)(D)(ii)(I)," after "subsection (e)(8)(A),".

(c) TERMINATION.—Paragraph (8) of section 45(d) of the Internal Revenue Code of 1986 (relating to refined coal production facility), as amended by this Act, is amended to read as follows:

"(8) REFINED COAL PRODUCTION FACILITY.—In the case of a facility that produces refined coal, the term 'refined coal production facility' means—

"(A) with respect to a facility producing steel industry fuel, any facility (or any modification to a facility) which is placed in service before January 1, 2010, and

"(B) with respect to any other facility producing refined coal, any facility placed in service after the date of the enactment of the American Jobs Creation Act of 2004 and before January 1, 2010.".

(d) COORDINATION WITH CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.—

(1) IN GENERAL.—Subparagraph (B) of section 45(e)(9) of the Internal Revenue Code of 1986 is amended— 26 USC 45.

(A) by striking "The term" and inserting the following:

"(i) IN GENERAL.—The term", and

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

"(ii) EXCEPTION FOR STEEL INDUSTRY COAL.—In the case of a facility producing steel industry fuel, clause (i) shall not apply to so much of the refined coal produced at such facility as is steel industry fuel.".

(2) NO DOUBLE BENEFIT.—Section 45K(g)(2) of such Code is amended by adding at the end the following new subparagraph:

"(E) COORDINATION WITH SECTION 45.—No credit shall be allowed with respect to any qualified fuel which is steel industry fuel (as defined in section 45(c)(7)) if a credit is allowed to the taxpayer for such fuel under section 45.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced and sold after September 30, 2008. 26 USC 45 note.

**SEC. 109. SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.**

(a) EXTENSION FOR QUALIFIED ELECTRIC UTILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 451(i) is amended by inserting "(before January 1, 2010, in the case of a qualified electric utility)" after "January 1, 2008".

(2) QUALIFIED ELECTRIC UTILITY.—Subsection (i) of section 451 is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) QUALIFIED ELECTRIC UTILITY.—For purposes of this subsection, the term 'qualified electric utility' means a person that, as of the date of the qualifying electric transmission transaction, is vertically integrated, in that it is both—

"(A) a transmitting utility (as defined in section 3(23) of the Federal Power Act (16 U.S.C. 796(23))) with respect to the transmission facilities to which the election under this subsection applies, and

"(B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22))).".

(b) EXTENSION OF PERIOD FOR TRANSFER OF OPERATIONAL CONTROL AUTHORIZED BY FERC.—Clause (ii) of section 451(i)(4)(B) is amended by striking "December 31, 2007" and inserting "the date which is 4 years after the close of the taxable year in which the transaction occurs".

(c) PROPERTY LOCATED OUTSIDE THE UNITED STATES NOT TREATED AS EXEMPT UTILITY PROPERTY.—Paragraph (5) of section 451(i) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The term 'exempt utility property' shall

not include any property which is located outside the United States.".

26 USC 451 note.

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) TRANSFERS OF OPERATIONAL CONTROL.—The amendment made by subsection (b) shall take effect as if included in section 909 of the American Jobs Creation Act of 2004.

(3) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The amendment made by subsection (c) shall apply to transactions after the date of the enactment of this Act.

# Subtitle B—Carbon Mitigation and Coal Provisions

### SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED COAL PROJECT INVESTMENT CREDIT.

26 USC 48A.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48A(a) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 30 percent of the qualified investment for such taxable year in the case of projects described in clause (iii) of subsection (d)(3)(B).".

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48A(d)(3)(A) is amended by striking "$1,300,000,000" and inserting "$2,550,000,000".

(c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

(1) IN GENERAL.—Subparagraph (B) of section 48A(d)(3) is amended to read as follows:

Certification.

"(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

"(i) $800,000,000 for integrated gasification combined cycle projects the application for which is submitted during the period described in paragraph (2)(A)(i),

"(ii) $500,000,000 for projects which use other advanced coal-based generation technologies the application for which is submitted during the period described in paragraph (2)(A)(i), and

"(iii) $1,250,000,000 for advanced coal-based generation technology projects the application for which is submitted during the period described in paragraph (2)(A)(ii).".

(2) APPLICATION PERIOD FOR ADDITIONAL PROJECTS.—Subparagraph (A) of section 48A(d)(2) is amended to read as follows:

"(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

"(i) for an allocation from the dollar amount specified in clause (i) or (ii) of paragraph (3)(B) during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1), and

"(ii) for an allocation from the dollar amount specified in paragraph (3)(B)(iii) during the 3-year period beginning at the earlier of the termination of the period described in clause (i) or the date prescribed by the Secretary.".

(3) CAPTURE AND SEQUESTRATION OF CARBON DIOXIDE EMISSIONS REQUIREMENT.—

(A) IN GENERAL.—Section 48A(e)(1) is amended by striking "and" at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting "; and", and by adding at the end the following new subparagraph: 26 USC 48A.

"(G) in the case of any project the application for which is submitted during the period described in subsection (d)(2)(A)(ii), the project includes equipment which separates and sequesters at least 65 percent (70 percent in the case of an application for reallocated credits under subsection (d)(4)) of such project's total carbon dioxide emissions.".

(B) HIGHEST PRIORITY FOR PROJECTS WHICH SEQUESTER CARBON DIOXIDE EMISSIONS.—Section 48A(e)(3) is amended by striking "and" at the end of subparagraph (A)(iii), by striking the period at the end of subparagraph (B)(iii) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.".

(C) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48A is amended by adding at the end the following new subsection:

"(i) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements of subsection (e)(1)(G).".

(4) ADDITIONAL PRIORITY FOR RESEARCH PARTNERSHIPS.—Section 48A(e)(3)(B), as amended by paragraph (3)(B), is amended—

(A) by striking "and" at the end of clause (ii),

(B) by redesignating clause (iii) as clause (iv), and

(C) by inserting after clause (ii) the following new clause:

"(iii) applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)), and".

(5) CLERICAL AMENDMENT.—Section 48A(e)(3) is amended by striking "INTEGRATED GASIFICATION COMBINED CYCLE" in the heading and inserting "CERTAIN".

(d) DISCLOSURE OF ALLOCATIONS.—Section 48A(d) is amended by adding at the end the following new paragraph:

"(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection or section 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.".

(e) EFFECTIVE DATES.— 26 USC 48A note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to

credits the application for which is submitted during the period described in section 48A(d)(2)(A)(ii) of the Internal Revenue Code of 1986 and which are allocated or reallocated after the date of the enactment of this Act.

(2) DISCLOSURE OF ALLOCATIONS.—The amendment made by subsection (d) shall apply to certifications made after the date of the enactment of this Act.

(3) CLERICAL AMENDMENT.—The amendment made by subsection (c)(5) shall take effect as if included in the amendment made by section 1307(b) of the Energy Tax Incentives Act of 2005.

**SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFICATION INVESTMENT CREDIT.**

26 USC 48B.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48B(a) is amended by inserting "(30 percent in the case of credits allocated under subsection (d)(1)(B))" after "20 percent".

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48B(d)(1) is amended by striking "shall not exceed $350,000,000" and all that follows and inserting "shall not exceed—

"(A) $350,000,000, plus

"(B) $250,000,000 for qualifying gasification projects that include equipment which separates and sequesters at least 75 percent of such project's total carbon dioxide emissions.".

(c) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48B is amended by adding at the end the following new subsection:

"(f) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements for such project under subsection (d)(1).".

(d) SELECTION PRIORITIES.—Section 48B(d) is amended by adding at the end the following new paragraph:

"(4) SELECTION PRIORITIES.—In determining which qualifying gasification projects to certify under this section, the Secretary shall—

"(A) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions, and

"(B) give high priority to applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)).".

(e) ELIGIBLE PROJECTS INCLUDE TRANSPORTATION GRADE LIQUID FUELS.—Section 48B(c)(7) (defining eligible entity) is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", and", and by adding at the end the following new subparagraph:

"(H) transportation grade liquid fuels.".

26 USC 48B note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to credits described in section 48B(d)(1)(B) of the Internal Revenue Code of 1986 which are allocated or reallocated after the date of the enactment of this Act.

**SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX; FUNDING OF BLACK LUNG DISABILITY TRUST FUND.**

(a) EXTENSION OF TEMPORARY INCREASE.—Paragraph (2) of section 4121(e) is amended—

(1) by striking "January 1, 2014" in subparagraph (A) and inserting "December 31, 2018", and

(2) by striking "January 1 after 1981" in subparagraph (B) and inserting "December 31 after 2007".

(b) RESTRUCTURING OF TRUST FUND DEBT.— 26 USC 9501 note.

(1) DEFINITIONS.—For purposes of this subsection—

(A) MARKET VALUE OF THE OUTSTANDING REPAYABLE ADVANCES, PLUS ACCRUED INTEREST.—The term "market value of the outstanding repayable advances, plus accrued interest" means the present value (determined by the Secretary of the Treasury as of the refinancing date and using the Treasury rate as the discount rate) of the stream of principal and interest payments derived assuming that each repayable advance that is outstanding on the refinancing date is due on the 30th anniversary of the end of the fiscal year in which the advance was made to the Trust Fund, and that all such principal and interest payments are made on September 30 of the applicable fiscal year.

(B) REFINANCING DATE.—The term "refinancing date" means the date occurring 2 days after the enactment of this Act.

(C) REPAYABLE ADVANCE.—The term "repayable advance" means an amount that has been appropriated to the Trust Fund in order to make benefit payments and other expenditures that are authorized under section 9501 of the Internal Revenue Code of 1986 and are required to be repaid when the Secretary of the Treasury determines that monies are available in the Trust Fund for such purpose.

(D) TREASURY RATE.—The term "Treasury rate" means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(E) TREASURY 1-YEAR RATE.—The term "Treasury 1-year rate" means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States with remaining periods to maturity of approximately 1 year, to have been in effect as of the close of business 1 business day prior to the date on which the Trust Fund issues obligations to the Secretary of the Treasury under paragraph (2)(B).

(2) REFINANCING OF OUTSTANDING PRINCIPAL OF REPAYABLE ADVANCES AND UNPAID INTEREST ON SUCH ADVANCES.—

(A) TRANSFER TO GENERAL FUND.—On the refinancing date, the Trust Fund shall repay the market value of the outstanding repayable advances, plus accrued interest, by transferring into the general fund of the Treasury the following sums:

(i) The proceeds from obligations that the Trust Fund shall issue to the Secretary of the Treasury in such amounts as the Secretaries of Labor and the Treasury shall determine and bearing interest at the Treasury rate, and that shall be in such forms and denominations and be subject to such other terms and

conditions, including maturity, as the Secretary of the Treasury shall prescribe.

(ii) All, or that portion, of the appropriation made to the Trust Fund pursuant to paragraph (3) that is needed to cover the difference defined in that paragraph.

(B) REPAYMENT OF OBLIGATIONS.—In the event that the Trust Fund is unable to repay the obligations that it has issued to the Secretary of the Treasury under subparagraph (A)(i) and this subparagraph, or is unable to make benefit payments and other authorized expenditures, the Trust Fund shall issue obligations to the Secretary of the Treasury in such amounts as may be necessary to make such repayments, payments, and expenditures, with a maturity of 1 year, and bearing interest at the Treasury 1-year rate. These obligations shall be in such forms and denominations and be subject to such other terms and conditions as the Secretary of the Treasury shall prescribe.

(C) AUTHORITY TO ISSUE OBLIGATIONS.—The Trust Fund is authorized to issue obligations to the Secretary of the Treasury under subparagraphs (A)(i) and (B). The Secretary of the Treasury is authorized to purchase such obligations of the Trust Fund. For the purposes of making such purchases, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such Trust Fund obligations under this subparagraph.

(3) ONE-TIME APPROPRIATION.—There is hereby appropriated to the Trust Fund an amount sufficient to pay to the general fund of the Treasury the difference between—

(A) the market value of the outstanding repayable advances, plus accrued interest; and

(B) the proceeds from the obligations issued by the Trust Fund to the Secretary of the Treasury under paragraph (2)(A)(i).

(4) PREPAYMENT OF TRUST FUND OBLIGATIONS.—The Trust Fund is authorized to repay any obligation issued to the Secretary of the Treasury under subparagraphs (A)(i) and (B) of paragraph (2) prior to its maturity date by paying a prepayment price that would, if the obligation being prepaid (including all unpaid interest accrued thereon through the date of prepayment) were purchased by a third party and held to the maturity date of such obligation, produce a yield to the third-party purchaser for the period from the date of purchase to the maturity date of such obligation substantially equal to the Treasury yield on outstanding marketable obligations of the United States having a comparable maturity to this period.

26 USC 4121 note.

**SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL PRODUCERS AND EXPORTERS.**

(a) REFUND.—

(1) COAL PRODUCERS.—

(A) IN GENERAL.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, if—

(i) a coal producer establishes that such coal producer, or a party related to such coal producer, exported coal produced by such coal producer to a foreign country or shipped coal produced by such coal producer to a possession of the United States, or caused such coal to be exported or shipped, the export or shipment of which was other than through an exporter who meets the requirements of paragraph (2),

(ii) such coal producer filed an excise tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and Deadlines.

(iii) such coal producer files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act, Deadline.

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

(B) SPECIAL RULES FOR CERTAIN TAXPAYERS.—For purposes of this section—

(i) IN GENERAL.—If a coal producer or a party related to a coal producer has received a judgment described in clause (iii), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).

(ii) AMOUNT OF PAYMENT.—If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

(iii) JUDGMENT DESCRIBED.—A judgment is described in this subparagraph if such judgment—

(I) is made by a court of competent jurisdiction within the United States,

(II) relates to the constitutionality of any tax paid on exported coal under section 4121 of the Internal Revenue Code of 1986, and

(III) is in favor of the coal producer or the party related to the coal producer.

(2) EXPORTERS.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, and a judgment described in paragraph (1)(B)(iii) of this subsection, if—

(A) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

(B) such exporter filed a tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and Deadlines.

Deadline.

(C) such exporter files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such exporter an amount equal to $0.825 per ton of such coal exported by the exporter or caused to be exported or shipped, or caused to be exported or shipped, by the exporter.

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term "settlement with the Federal Government" shall not include any settlement or stipulation entered into as of the date of the enactment of this Act, the terms of which contemplate a judgment concerning which any party has reserved the right to file an appeal, or has filed an appeal.

(c) SUBSEQUENT REFUND PROHIBITED.—No refund shall be made under this section to the extent that a credit or refund of such tax on such exported or shipped coal has been paid to any person.

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

(1) COAL PRODUCER.—The term "coal producer" means the person in whom is vested ownership of the coal immediately after the coal is severed from the ground, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who extracts coal from coal waste refuse piles or from the silt waste product which results from the wet washing (or similar processing) of coal.

(2) EXPORTER.—The term "exporter" means a person, other than a coal producer, who does not have a contract, fee arrangement, or any other agreement with a producer or seller of such coal to export or ship such coal to a third party on behalf of the producer or seller of such coal and—

(A) is indicated in the shipper's export declaration or other documentation as the exporter of record, or

(B) actually exported such coal to a foreign country or shipped such coal to a possession of the United States, or caused such coal to be so exported or shipped.

(3) RELATED PARTY.—The term "a party related to such coal producer" means a person who—

(A) is related to such coal producer through any degree of common management, stock ownership, or voting control,

(B) is related (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986) to such coal producer, or

(C) has a contract, fee arrangement, or any other agreement with such coal producer to sell such coal to a third party on behalf of such coal producer.

(4) SECRETARY.—The term "Secretary" means the Secretary of Treasury or the Secretary's designee.

(e) TIMING OF REFUND.—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the

requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

(f) INTEREST.—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of the Internal Revenue Code of 1986.

(g) DENIAL OF DOUBLE BENEFIT.—The payment under subsection (a) with respect to any coal shall not exceed—

(1) in the case of a payment to a coal producer, the amount of tax paid under section 4121 of the Internal Revenue Code of 1986 with respect to such coal by such coal producer or a party related to such coal producer, and

(2) in the case of a payment to an exporter, an amount equal to $0.825 per ton with respect to such coal exported by the exporter or caused to be exported by the exporter.

(h) APPLICATION OF SECTION.—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act.

(i) STANDING NOT CONFERRED.—

(1) EXPORTERS.—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

(2) COAL PRODUCERS.—With respect to coal producers, this section shall not confer standing upon a coal producer to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by an exporter of any Federal or State tax, fee, or royalty paid by the producer and alleged to have been passed on to an exporter.

**SEC. 115. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRATION.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits) is amended by adding at the end the following new section:

**"SEC. 45Q. CREDIT FOR CARBON DIOXIDE SEQUESTRATION.**

"(a) GENERAL RULE.—For purposes of section 38, the carbon dioxide sequestration credit for any taxable year is an amount equal to the sum of—

"(1) $20 per metric ton of qualified carbon dioxide which is—

"(A) captured by the taxpayer at a qualified facility, and

"(B) disposed of by the taxpayer in secure geological storage, and

"(2) $10 per metric ton of qualified carbon dioxide which is—

"(A) captured by the taxpayer at a qualified facility, and

"(B) used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project.

"(b) QUALIFIED CARBON DIOXIDE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified carbon dioxide' means carbon dioxide captured from an industrial source which— Definition.

"(A) would otherwise be released into the atmosphere as industrial emission of greenhouse gas, and

"(B) is measured at the source of capture and verified at the point of disposal or injection.

"(2) RECYCLED CARBON DIOXIDE.—The term 'qualified carbon dioxide' includes the initial deposit of captured carbon dioxide used as a tertiary injectant. Such term does not include carbon dioxide that is re-captured, recycled, and re-injected as part of the enhanced oil and natural gas recovery process.

"(c) QUALIFIED FACILITY.—For purposes of this section, the term 'qualified facility' means any industrial facility—

"(1) which is owned by the taxpayer,

"(2) at which carbon capture equipment is placed in service, and

"(3) which captures not less than 500,000 metric tons of carbon dioxide during the taxable year.

"(d) SPECIAL RULES AND OTHER DEFINITIONS.—For purposes of this section—

"(1) ONLY CARBON DIOXIDE CAPTURED AND DISPOSED OF OR USED WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—The credit under this section shall apply only with respect to qualified carbon dioxide the capture and disposal or use of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

Regulations.

"(2) SECURE GEOLOGICAL STORAGE.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide under subsection (a)(1)(B) such that the carbon dioxide does not escape into the atmosphere. Such term shall include storage at deep saline formations and unminable coal seems under such conditions as the Secretary may determine under such regulations.

"(3) TERTIARY INJECTANT.—The term 'tertiary injectant' has the same meaning as when used within section 193(b)(1).

"(4) QUALIFIED ENHANCED OIL OR NATURAL GAS RECOVERY PROJECT.—The term 'qualified enhanced oil or natural gas recovery project' has the meaning given the term 'qualified enhanced oil recovery project' by section 43(c)(2), by substituting 'crude oil or natural gas' for 'crude oil' in subparagraph (A)(i) thereof.

"(5) CREDIT ATTRIBUTABLE TO TAXPAYER.—Any credit under this section shall be attributable to the person that captures and physically or contractually ensures the disposal of or the use as a tertiary injectant of the qualified carbon dioxide, except to the extent provided in regulations prescribed by the Secretary.

Regulations.

"(6) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any qualified carbon dioxide which ceases to be captured, disposed of, or used as a tertiary injectant in a manner consistent with the requirements of this section.

"(7) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2009, there shall be substituted for each dollar amount contained in subsection (a) an amount equal to the product of—

"(A) such dollar amount, multiplied by

"(B) the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting '2008' for '1990'.

"(e) APPLICATION OF SECTION.—The credit under this section shall apply with respect to qualified carbon dioxide before the end of the calendar year in which the Secretary, in consultation with the Administrator of the Environmental Protection Agency, certifies that 75,000,000 metric tons of qualified carbon dioxide have been captured and disposed of or used as a tertiary injectant.".

(b) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit) is amended by striking "plus" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ", plus", and by adding at the end of following new paragraph: 26 USC 38.

"(34) the carbon dioxide sequestration credit determined under section 45Q(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following new section:

"Sec. 45Q. Credit for carbon dioxide sequestration.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to carbon dioxide captured after the date of the enactment of this Act. 26 USC 38 note.

**SEC. 116. CERTAIN INCOME AND GAINS RELATING TO INDUSTRIAL SOURCE CARBON DIOXIDE TREATED AS QUALIFYING INCOME FOR PUBLICLY TRADED PARTNERSHIPS.**

(a) IN GENERAL.—Subparagraph (E) of section 7704(d)(1) (defining qualifying income) is amended by inserting "or industrial source carbon dioxide" after "timber)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, in taxable years ending after such date. 26 USC 7704 note.

**SEC. 117. CARBON AUDIT OF THE TAX CODE.**

(a) STUDY.—The Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects. Contracts.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to Congress a report containing the results of study authorized under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for the period of fiscal years 2009 and 2010.

# TITLE II—TRANSPORTATION AND DOMESTIC FUEL SECURITY PROVISIONS

## SEC. 201. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS DEPRECIATION FOR BIOMASS ETHANOL PLANT PROPERTY.

26 USC 168.

(a) IN GENERAL.—Paragraph (3) of section 168(l) is amended to read as follows:

"(3) CELLULOSIC BIOFUEL.—The term 'cellulosic biofuel' means any liquid fuel which is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.".

(b) CONFORMING AMENDMENTS.—Subsection (l) of section 168 is amended—

(1) by striking "cellulosic biomass ethanol" each place it appears and inserting "cellulosic biofuel",

(2) by striking "CELLULOSIC BIOMASS ETHANOL" in the heading of such subsection and inserting "CELLULOSIC BIOFUEL", and

(3) by striking "CELLULOSIC BIOMASS ETHANOL" in the heading of paragraph (2) thereof and inserting "CELLULOSIC BIOFUEL".

Applicability.
26 USC 168 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

## SEC. 202. CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

(a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and 6427(e)(5)(B) are each amended by striking "December 31, 2008" and inserting "December 31, 2009".

(b) INCREASE IN RATE OF CREDIT.—

(1) INCOME TAX CREDIT.—Paragraphs (1)(A) and (2)(A) of section 40A(b) are each amended by striking "50 cents" and inserting "$1.00".

(2) EXCISE TAX CREDIT.—Paragraph (2) of section 6426(c) is amended to read as follows:

"(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount is $1.00.".

(3) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 40A is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(B) Paragraph (2) of section 40A(f) is amended to read as follows:

"(2) EXCEPTION.—Subsection (b)(4) shall not apply with respect to renewable diesel.".

(C) Paragraphs (2) and (3) of section 40A(e) are each amended by striking "subsection (b)(5)(C)" and inserting "subsection (b)(4)(C)".

(D) Clause (ii) of section 40A(d)(3)(C) is amended by striking "subsection (b)(5)(B)" and inserting "subsection (b)(4)(B)".

(c) UNIFORM TREATMENT OF DIESEL PRODUCED FROM BIOMASS.—Paragraph (3) of section 40A(f) is amended—

(1) by striking "diesel fuel" and inserting "liquid fuel",

(2) by striking "using a thermal depolymerization process", and

(3) by inserting ", or other equivalent standard approved by the Secretary" after "D396".

(d) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—

(1) IN GENERAL.—Paragraph (3) of section 40A(f) is amended by adding at the end the following new sentences: "Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass. For purposes of this paragraph, the term 'biomass' has the meaning given such term by section 45K(c)(3).". 26 USC 40A. Definition.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 40A(f) is amended by striking "(as defined in section 45K(c)(3))".

(e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Subsection (f) of section 40A (relating to renewable diesel) is amended by adding at the end the following new paragraph:

"(4) CERTAIN AVIATION FUEL.—

"(A) IN GENERAL.—Except as provided in the last 3 sentences of paragraph (3), the term 'renewable diesel' shall include fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel.

"(B) APPLICATION OF MIXTURE CREDITS.—In the case of fuel which is treated as renewable diesel solely by reason of subparagraph (A), subsection (b)(1) and section 6426(c) shall be applied with respect to such fuel by treating kerosene as though it were diesel fuel.".

(f) MODIFICATION RELATING TO DEFINITION OF AGRI-BIODIESEL.—Paragraph (2) of section 40A(d) (relating to agri-biodiesel) is amended by striking "and mustard seeds" and inserting "mustard seeds, and camelina".

(g) EFFECTIVE DATE.— Applicability. 26 USC 40A note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

(2) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—The amendment made by subsection (d) shall apply to fuel produced, and sold or used, after the date of the enactment of this Act.

**SEC. 203. CLARIFICATION THAT CREDITS FOR FUEL ARE DESIGNED TO PROVIDE AN INCENTIVE FOR UNITED STATES PRODUCTION.**

(a) ALCOHOL FUELS CREDIT.—Subsection (d) of section 40 is amended by adding at the end the following new paragraph:

"(7) LIMITATION TO ALCOHOL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.".

(b) BIODIESEL FUELS CREDIT.—Subsection (d) of section 40A is amended by adding at the end the following new paragraph:

"(5) LIMITATION TO BIODIESEL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this paragraph, the term 'United States' includes any possession of the United States.".

(c) EXCISE TAX CREDIT.—

26 USC 6426.

(1) IN GENERAL.—Section 6426 is amended by adding at the end the following new subsection:

"(i) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—

"(1) ALCOHOL.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

"(2) BIODIESEL AND ALTERNATIVE FUELS.—No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term 'United States' includes any possession of the United States.".

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel if credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(i).".

Applicability.
26 USC 40 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to claims for credit or payment made on or after May 15, 2008.

**SEC. 204. EXTENSION AND MODIFICATION OF ALTERNATIVE FUEL CREDIT.**

(a) EXTENSION.—

(1) ALTERNATIVE FUEL CREDIT.—Paragraph (4) of section 6426(d) (relating to alternative fuel credit) is amended by striking "September 30, 2009" and inserting "December 31, 2009".

(2) ALTERNATIVE FUEL MIXTURE CREDIT.—Paragraph (3) of section 6426(e) (relating to alternative fuel mixture credit) is amended by striking "September 30, 2009" and inserting "December 31, 2009".

(3) PAYMENTS.—Subparagraph (C) of section 6427(e)(5) (relating to termination) is amended by striking "September 30, 2009" and inserting "December 31, 2009".

(b) MODIFICATIONS.—

(1) ALTERNATIVE FUEL TO INCLUDE COMPRESSED OR LIQUIFIED BIOMASS GAS.—Paragraph (2) of section 6426(d) (relating to alternative fuel credit) is amended by striking "and" at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

"(F) compressed or liquefied gas derived from biomass (as defined in section 45K(c)(3)), and".

(2) CREDIT ALLOWED FOR AVIATION USE OF FUEL.—Paragraph (1) of section 6426(d) is amended by inserting "sold by the taxpayer for use as a fuel in aviation," after "motorboat,".

(c) CARBON CAPTURE REQUIREMENT FOR CERTAIN FUELS.—

(1) IN GENERAL.—Subsection (d) of section 6426, as amended by subsection (a), is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) CARBON CAPTURE REQUIREMENT.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the fuel is certified, under such procedures as required by the Secretary, as having been derived from coal produced at a gasification facility which separates and sequesters not less than the applicable percentage of such facility's total carbon dioxide emissions. Certification.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

"(i) 50 percent in the case of fuel produced after September 30, 2009, and on or before December 30, 2009, and

"(ii) 75 percent in the case of fuel produced after December 30, 2009.".

(2) CONFORMING AMENDMENT.—Subparagraph (E) of section 6426(d)(2) is amended by inserting "which meets the requirements of paragraph (4) and which is" after "any liquid fuel". 26 USC 6426.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after the date of the enactment of this Act. 26 USC 6426 note.

**SEC. 205. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.**

(a) PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CREDIT.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following new section:

**"SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.**

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is sum of—

"(A) $2,500, plus

"(B) $417 for each kilowatt hour of traction battery capacity in excess of 4 kilowatt hours.

"(b) LIMITATIONS.—

"(1) LIMITATION BASED ON WEIGHT.—The amount of the credit allowed under subsection (a) by reason of subsection (a)(2) shall not exceed—

"(A) $7,500, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds,

"(B) $10,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 10,000 pounds but not more than 14,000 pounds,

"(C) $12,500, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight

rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $15,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 26,000 pounds.

"(2) LIMITATION ON NUMBER OF PASSENGER VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CREDIT.—

"(A) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

"(B) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the total number of such new qualified plug-in electric drive motor vehicles sold for use in the United States after December 31, 2008, is at least 250,000.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

"(i) 50 percent for the first 2 calendar quarters of the phaseout period,

"(ii) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

"(iii) 0 percent for each calendar quarter thereafter.

"(D) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

"(c) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section, the term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle—

"(1) which draws propulsion using a traction battery with at least 4 kilowatt hours of capacity,

"(2) which uses an offboard source of energy to recharge such battery,

"(3) which, in the case of a passenger vehicle or light truck which has a gross vehicle weight rating of not more than 8,500 pounds, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(A) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

"(B) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

"(4) the original use of which commences with the taxpayer,

"(5) which is acquired for use or lease by the taxpayer and not for resale, and

"(6) which is made by a manufacturer.

"(d) APPLICATION WITH OTHER CREDITS.—

"(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

"(2) PERSONAL CREDIT.—

"(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

"(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

"(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(2) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) TRACTION BATTERY CAPACITY.—Traction battery capacity shall be measured in kilowatt hours from a 100 percent state of charge to a zero percent state of charge.

"(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a new qualified plug-in electric drive motor vehicle shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (b)(2)).

"(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a)

with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

Regulations.

"(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects not to have this section apply to such vehicle.

"(10) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(f) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(g) TERMINATION.—This section shall not apply to property purchased after December 31, 2014.".

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) is amended by adding at the end the following new subparagraph:

26 USC 30B.

"(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (d) thereof) shall not be taken into account under this section.".

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting "plus", and by adding at the end the following new paragraph:

"(35) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30D(d)(1) applies.".

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by section 106, is amended by striking "and 25D" and inserting "25D, and 30D".

(B) Section 25(e)(1)(C)(ii) is amended by inserting "30D," after "25D,".

(C) Section 25B(g)(2), as amended by section 106, is amended by striking "and 25D" and inserting ", 25D, and 30D".

(D) Section 26(a)(1), as amended by section 106, is amended by striking "and 25D" and inserting "25D, and 30D".

(E) Section 1400C(d)(2) is amended by striking "and 25D" and inserting "25D, and 30D". 26 USC 1400C.

(2) Section 1016(a) is amended by striking "and" at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting ", and", and by adding at the end the following new paragraph:

"(37) to the extent provided in section 30D(e)(4).".

(3) Section 6501(m) is amended by inserting "30D(e)(9)," after "30C(e)(5),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 30D. New qualified plug-in electric drive motor vehicles.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008. Applicability. 26 USC 24 note.

(f) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates. 26 USC 24 note.

**SEC. 206. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING REDUCTION UNITS AND ADVANCED INSULATION.**

(a) IN GENERAL.—Section 4053 is amended by adding at the end the following new paragraphs:

"(9) IDLING REDUCTION DEVICE.—Any device or system of devices which—

"(A) is designed to provide to a vehicle those services (such as heat, air conditioning, or electricity) that would otherwise require the operation of the main drive engine while the vehicle is temporarily parked or remains stationary using one or more devices affixed to a tractor, and

"(B) is determined by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, to reduce idling of such vehicle at a motor vehicle rest stop or other location where such vehicles are temporarily parked or remain stationary.

"(10) ADVANCED INSULATION.—Any insulation that has an R value of not less than R35 per inch.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or installations after the date of the enactment of this Act. Applicability. 26 USC 4053 note.

**SEC. 207. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.**

(a) EXTENSION OF CREDIT.—Paragraph (2) of section 30C(g) is amended by striking "December 31, 2009" and inserting "December 31, 2010".

(b) INCLUSION OF ELECTRICITY AS A CLEAN-BURNING FUEL.—Section 30C(c)(2) is amended by adding at the end the following new subparagraph:

"(C) Electricity.".

Applicability.
26 USC 30C note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 208. CERTAIN INCOME AND GAINS RELATING TO ALCOHOL FUELS AND MIXTURES, BIODIESEL FUELS AND MIXTURES, AND ALTERNATIVE FUELS AND MIXTURES TREATED AS QUALIFYING INCOME FOR PUBLICLY TRADED PARTNERSHIPS.**

26 USC 7704.

(a) IN GENERAL.—Subparagraph (E) of section 7704(d)(1), as amended by this Act, is amended by striking "or industrial source carbon dioxide" and inserting ", industrial source carbon dioxide, or the transportation or storage of any fuel described in subsection (b), (c), (d), or (e) of section 6426, or any alcohol fuel defined in section 6426(b)(4)(A) or any biodiesel fuel as defined in section 40A(d)(1)" after "timber)".

26 USC 7704 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 209. EXTENSION AND MODIFICATION OF ELECTION TO EXPENSE CERTAIN REFINERIES.**

(a) EXTENSION.—Paragraph (1) of section 179C(c) (relating to qualified refinery property) is amended—

(1) by striking "January 1, 2012" in subparagraph (B) and inserting "January 1, 2014", and

(2) by striking "January 1, 2008" each place it appears in subparagraph (F) and inserting "January 1, 2010".

(b) INCLUSION OF FUEL DERIVED FROM SHALE AND TAR SANDS.—

(1) IN GENERAL.—Subsection (d) of section 179C is amended by inserting ", or directly from shale or tar sands" after "(as defined in section 45K(c))".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 179C(e) is amended by inserting "shale, tar sands, or" before "qualified fuels".

Applicability.
26 USC 179C note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

**SEC. 210. EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.**

Subparagraph (H) of section 613A(c)(6) (relating to oil and gas produced from marginal properties) is amended by striking "for any taxable year" and all that follows and inserting "for any taxable year—

"(i) beginning after December 31, 1997, and before January 1, 2008, or

"(ii) beginning after December 31, 2008, and before January 1, 2010.".

**SEC. 211. TRANSPORTATION FRINGE BENEFIT TO BICYCLE COMMUTERS.**

(a) IN GENERAL.—Paragraph (1) of section 132(f) is amended by adding at the end the following:

"(D) Any qualified bicycle commuting reimbursement.".

(b) LIMITATION ON EXCLUSION.—Paragraph (2) of section 132(f) is amended by striking "and" at the end of subparagraph (A),

by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.".

(c) DEFINITIONS.—Paragraph (5) of section 132(f) is amended by adding at the end the following: 26 USC 132.

"(F) DEFINITIONS RELATED TO BICYCLE COMMUTING REIMBURSEMENT.—

"(i) QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.—The term 'qualified bicycle commuting reimbursement' means, with respect to any calendar year, any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee's residence and place of employment.

"(ii) APPLICABLE ANNUAL LIMITATION.—The term 'applicable annual limitation' means, with respect to any employee for any calendar year, the product of $20 multiplied by the number of qualified bicycle commuting months during such year.

"(iii) QUALIFIED BICYCLE COMMUTING MONTH.—The term 'qualified bicycle commuting month' means, with respect to any employee, any month during which such employee—

"(I) regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment, and

"(II) does not receive any benefit described in subparagraph (A), (B), or (C) of paragraph (1).".

(d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Paragraph (4) of section 132(f) is amended by inserting "(other than a qualified bicycle commuting reimbursement)" after "qualified transportation fringe".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008. Applicability. 26 USC 132 note.

# TITLE III—ENERGY CONSERVATION AND EFFICIENCY PROVISIONS

### SEC. 301. QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as amended by section 107, is amended by adding at the end the following new section:

### "SEC. 54D. QUALIFIED ENERGY CONSERVATION BONDS.

"(a) QUALIFIED ENERGY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified energy conservation bond' means any bond issued as part of an issue if—

"(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

"(2) the bond is issued by a State or local government, and

"(3) the issuer designates such bond for purposes of this section.

"(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any qualified energy conservation bond shall be 70 percent of the amount so determined without regard to this subsection.

"(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (e).

"(d) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified energy conservation bond limitation of $800,000,000.

"(e) ALLOCATIONS.—

"(1) IN GENERAL.—The limitation applicable under subsection (d) shall be allocated by the Secretary among the States in proportion to the population of the States.

"(2) ALLOCATIONS TO LARGEST LOCAL GOVERNMENTS.—

"(A) IN GENERAL.—In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State's allocation which bears the same ratio to the State's allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

"(B) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.

"(C) LARGE LOCAL GOVERNMENT.—For purposes of this section, the term 'large local government' means any municipality or county if such municipality or county has a population of 100,000 or more.

"(3) ALLOCATION TO ISSUERS; RESTRICTION ON PRIVATE ACTIVITY BONDS.—Any allocation under this subsection to a State or large local government shall be allocated by such State or large local government to issuers within the State in a manner that results in not less than 70 percent of the allocation to such State or large local government being used to designate bonds which are not private activity bonds.

"(f) QUALIFIED CONSERVATION PURPOSE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified conservation purpose' means any of the following:

"(A) Capital expenditures incurred for purposes of—

"(i) reducing energy consumption in publicly-owned buildings by at least 20 percent,

"(ii) implementing green community programs,

"(iii) rural development involving the production of electricity from renewable energy resources, or

"(iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

"(B) Expenditures with respect to research facilities, and research grants, to support research in—

"(i) development of cellulosic ethanol or other nonfossil fuels,

"(ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,

"(iii) increasing the efficiency of existing technologies for producing nonfossil fuels,

"(iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or

"(v) technologies to reduce energy use in buildings.

"(C) Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

"(D) Demonstration projects designed to promote the commercialization of—

"(i) green building technology,

"(ii) conversion of agricultural waste for use in the production of fuel or otherwise,

"(iii) advanced battery manufacturing technologies,

"(iv) technologies to reduce peak use of electricity, or

"(v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

"(E) Public education campaigns to promote energy efficiency.

"(2) SPECIAL RULES FOR PRIVATE ACTIVITY BONDS.—For purposes of this section, in the case of any private activity bond, the term 'qualified conservation purposes' shall not include any expenditure which is not a capital expenditure.

"(g) POPULATION.—

"(1) IN GENERAL.—The population of any State or local government shall be determined for purposes of this section as provided in section 146(j) for the calendar year which includes the date of the enactment of this section.

"(2) SPECIAL RULE FOR COUNTIES.—In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

"(h) APPLICATION TO INDIAN TRIBAL GOVERNMENTS.—An Indian tribal government shall be treated for purposes of this section in the same manner as a large local government, except that—

"(1) an Indian tribal government shall be treated for purposes of subsection (e) as located within a State to the extent of so much of the population of such government as resides within such State, and

"(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as amended by this Act, is amended to read as follows:

"(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

"(A) a qualified forestry conservation bond,

"(B) a new clean renewable energy bond, or

"(C) a qualified energy conservation bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).".

(2) Subparagraph (C) of section 54A(d)(2), as amended by this Act, is amended to read as follows:

"(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

"(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e),

"(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1), and

"(iii) in the case of a qualified energy conservation bond, a purpose specified in section 54D(a)(1).".

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 54D. Qualified energy conservation bonds.".

Applicability.
26 USC 54A note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 302. CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

(a) EXTENSION OF CREDIT.—Section 25C(g) is amended by striking "placed in service after December 31, 2007" and inserting "placed in service—

"(1) after December 31, 2007, and before January 1, 2009, or

"(2) after December 31, 2009.".

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking "and" at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.".

(2) BIOMASS FUEL.—Section 25C(d) is amended by adding at the end the following new paragraph:

"(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.".

(c) MODIFICATION OF WATER HEATER REQUIREMENTS.—Section 25C(d)(3)(E) is amended by inserting "or a thermal efficiency of at least 90 percent" after "0.80".

(d) COORDINATION WITH CREDIT FOR QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (3) of section 25C(d), as amended by subsections (b) and (c), is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 25C(d)(2) is amended to read as follows:

"(C) REQUIREMENTS AND STANDARDS FOR AIR CONDITIONERS AND HEAT PUMPS.—The standards and requirements prescribed by the Secretary under subparagraph (B) with respect to the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

"(i) shall require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and Public information.

"(ii) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency.".

(e) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) IN GENERAL.—Paragraph (1) of section 25C(c) is amended by inserting ", or an asphalt roof with appropriate cooling granules," before "which meet the Energy Star program requirements". 26 USC 25C.

(2) BUILDING ENVELOPE COMPONENT.—Subparagraph (D) of section 25C(c)(2) is amended—

(A) by inserting "or asphalt roof" after "metal roof", and

(B) by inserting "or cooling granules" after "pigmented coatings".

(f) EFFECTIVE DATES.— Applicability. 26 USC 25C note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made this section shall apply to expenditures made after December 31, 2008.

(2) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—The amendments made by subsection (e) shall apply to property placed in service after the date of the enactment of this Act.

**SEC. 303. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.**

Subsection (h) of section 179D is amended by striking "December 31, 2008" and inserting "December 31, 2013".

**SEC. 304. NEW ENERGY EFFICIENT HOME CREDIT.**

Subsection (g) of section 45L (relating to termination) is amended by striking "December 31, 2008" and inserting "December 31, 2009".

**SEC. 305. MODIFICATIONS OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.**

(a) IN GENERAL.—Subsection (b) of section 45M is amended to read as follows:

"(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

"(1) DISHWASHERS.—The applicable amount is—

"(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no

more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

"(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

"(2) CLOTHES WASHERS.—The applicable amount is—

"(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

"(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

"(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

"(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

"(3) REFRIGERATORS.—The applicable amount is—

"(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

"(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

"(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

"(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.".

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M is amended— 26 USC 45M.

(A) by striking paragraph (2),

(B) by striking "(1) IN GENERAL" and all that follows through "the eligible" and inserting "The eligible",

(C) by moving the text of such subsection in line with the subsection heading, and

(D) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and by moving such paragraphs 2 ems to the left.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1), is amended by striking "3-calendar year" and inserting "2-calendar year".

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M is amended to read as follows: 26 USC 45M.

"(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

"(1) dishwashers described in subsection (b)(1),

"(2) clothes washers described in subsection (b)(2), and

"(3) refrigerators described in subsection (b)(3).".

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) is amended to read as follows:

"(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.".

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

"(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).".

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) is amended to read as follows:

"(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

"(A) any dishwasher described in subsection (b)(1),

"(B) any clothes washer described in subsection (b)(2), and

"(C) any refrigerator described in subsection (b)(3).".

(2) CLOTHES WASHER.—Section 45M(f)(3) is amended by inserting "commercial" before "residential" the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.".

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

"(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.".

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f), as amended by paragraph (3), is amended by adding at the end the following:

"(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

"(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.".

Applicability. 26 USC 45M note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

**SEC. 306. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS AND SMART GRID SYSTEMS.**

(a) IN GENERAL.—Section 168(e)(3)(D) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma, and by inserting after clause (ii) the following new clauses:

"(iii) any qualified smart electric meter, and

"(iv) any qualified smart electric grid system.".

(b) DEFINITIONS.—Section 168(i) is amended by inserting at the end the following new paragraph:

"(18) QUALIFIED SMART ELECTRIC METERS.—

"(A) IN GENERAL.—The term 'qualified smart electric meter' means any smart electric meter which—

"(i) is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services, and

"(ii) does not have a class life (determined without regard to subsection (e)) of less than 10 years.

"(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term 'smart electric meter' means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

"(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

"(ii) provides for the exchange of information between supplier or provider and the customer's electric meter in support of time-based rates or other forms of demand response,

"(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

"(iv) provides net metering.

"(19) QUALIFIED SMART ELECTRIC GRID SYSTEMS.—

"(A) IN GENERAL.—The term 'qualified smart electric grid system' means any smart grid property which—

"(i) is used as part of a system for electric distribution grid communications, monitoring, and management placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services, and

"(ii) does not have a class life (determined without regard to subsection (e)) of less than 10 years.

"(B) SMART GRID PROPERTY.—For the purposes of subparagraph (A), the term 'smart grid property' means electronics and related equipment that is capable of—

"(i) sensing, collecting, and monitoring data of or from all portions of a utility's electric distribution grid,

"(ii) providing real-time, two-way communications to monitor or manage such grid, and

"(iii) providing real time analysis of and event prediction based upon collected data that can be used to improve electric distribution system reliability, quality, and performance.".

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph: 26 USC 168.

"(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter or qualified smart electric grid system, or".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act. Applicability. 26 USC 168 note.

**SEC. 307. QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.**

(a) IN GENERAL.—Paragraph (8) of section 142(l) is amended by striking "September 30, 2009" and inserting "September 30, 2012".

(b) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraph (9) of section 142(l) is amended by striking "October 1, 2009" and inserting "October 1, 2012".

(c) ACCOUNTABILITY.—The second sentence of section 701(d) of the American Jobs Creation Act of 2004 is amended by striking "issuance," and inserting "issuance of the last issue with respect to such project,". 26 USC 142 note.

**SEC. 308. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN REUSE AND RECYCLING PROPERTY.**

(a) IN GENERAL.—Section 168 is amended by adding at the end the following new subsection:

"(m) SPECIAL ALLOWANCE FOR CERTAIN REUSE AND RECYCLING PROPERTY.—

"(1) IN GENERAL.—In the case of any qualified reuse and recycling property—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified reuse and recycling property, and

"(B) the adjusted basis of the qualified reuse and recycling property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED REUSE AND RECYCLING PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified reuse and recycling property' means any reuse and recycling property—

"(i) to which this section applies,

"(ii) which has a useful life of at least 5 years,

"(iii) the original use of which commences with the taxpayer after August 31, 2008, and Effective date.

"(iv) which is—

Effective dates.

"(I) acquired by purchase (as defined in section 179(d)(2)) by the taxpayer after August 31, 2008, but only if no written binding contract for the acquisition was in effect before September 1, 2008, or

Effective date.

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after August 31, 2008.

"(B) EXCEPTIONS.—

"(i) BONUS DEPRECIATION PROPERTY UNDER SUBSECTION (k).—The term 'qualified reuse and recycling property' shall not include any property to which section 168(k) applies.

"(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified reuse and recycling property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).

"(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—

Effective date.

In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after August 31, 2008.

"(D) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for qualified reuse and recycling property shall be determined under this section without regard to any adjustment under section 56.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) REUSE AND RECYCLING PROPERTY.—

"(i) IN GENERAL.—The term 'reuse and recycling property' means any machinery and equipment (not including buildings or real estate), along with all appurtenances thereto, including software necessary to operate such equipment, which is used exclusively to collect, distribute, or recycle qualified reuse and recyclable materials.

"(ii) EXCLUSION.—Such term does not include rolling stock or other equipment used to transport reuse and recyclable materials.

"(B) QUALIFIED REUSE AND RECYCLABLE MATERIALS.—

"(i) IN GENERAL.—The term 'qualified reuse and recyclable materials' means scrap plastic, scrap glass, scrap textiles, scrap rubber, scrap packaging, recovered fiber, scrap ferrous and nonferrous metals, or electronic scrap generated by an individual or business.

"(ii) ELECTRONIC SCRAP.—For purposes of clause (i), the term 'electronic scrap' means—

"(I) any cathode ray tube, flat panel screen, or similar video display device with a screen size greater than 4 inches measured diagonally, or

"(II) any central processing unit.

"(C) RECYCLING OR RECYCLE.—The term 'recycling' or 'recycle' means that process (including sorting) by which worn or superfluous materials are manufactured or processed into specification grade commodities that are suitable for use as a replacement or substitute for virgin materials in manufacturing tangible consumer and commercial products, including packaging.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after August 31, 2008. Applicability. 26 USC 168 note.

# TITLE IV—REVENUE PROVISIONS

## SEC. 401. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Section 199(d) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph: 26 USC 199.

"(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

"(A) IN GENERAL.—If a taxpayer has oil related qualified production activities income for any taxable year beginning after 2009, the amount otherwise allowable as a deduction under subsection (a) shall be reduced by 3 percent of the least of—

"(i) the oil related qualified production activities income of the taxpayer for the taxable year,

"(ii) the qualified production activities income of the taxpayer for the taxable year, or

"(iii) taxable income (determined without regard to this section).

"(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this paragraph, the term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.

"(C) PRIMARY PRODUCT.—For purposes of this paragraph, the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.".

(b) CONFORMING AMENDMENT.—Section 199(d)(2) (relating to application to individuals) is amended by striking "subsection (a)(1)(B)" and inserting "subsections (a)(1)(B) and (d)(9)(A)(iii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008. Applicability. 26 USC 199 note.

**SEC. 402. ELIMINATION OF THE DIFFERENT TREATMENT OF FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME FOR PURPOSES OF THE FOREIGN TAX CREDIT.**

26 USC 907.

(a) IN GENERAL.—Subsections (a) and (b) of section 907 (relating to special rules in case of foreign oil and gas income) are amended to read as follows:

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the combined foreign oil and gas income for the taxable year,

"(2) multiplied by—

"(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

"(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income.

"(b) COMBINED FOREIGN OIL AND GAS INCOME; FOREIGN OIL AND GAS TAXES.—For purposes of this section—

"(1) COMBINED FOREIGN OIL AND GAS INCOME.—The term 'combined foreign oil and gas income' means, with respect to any taxable year, the sum of—

"(A) foreign oil and gas extraction income, and

"(B) foreign oil related income.

"(2) FOREIGN OIL AND GAS TAXES.—The term 'foreign oil and gas taxes' means, with respect to any taxable year, the sum of—

"(A) oil and gas extraction taxes, and

"(B) any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid or accrued under section 902 or 960) during the taxable year with respect to foreign oil related income (determined without regard to subsection (c)(4)) or loss which would be taken into account for purposes of section 901 without regard to this section.".

(b) RECAPTURE OF FOREIGN OIL AND GAS LOSSES.—Paragraph (4) of section 907(c) (relating to recapture of foreign oil and gas extraction losses by recharacterizing later extraction income) is amended to read as follows:

"(4) RECAPTURE OF FOREIGN OIL AND GAS LOSSES BY RECHARACTERIZING LATER COMBINED FOREIGN OIL AND GAS INCOME.—

"(A) IN GENERAL.—The combined foreign oil and gas income of a taxpayer for a taxable year (determined without regard to this paragraph) shall be reduced—

"(i) first by the amount determined under subparagraph (B), and

"(ii) then by the amount determined under subparagraph (C).

The aggregate amount of such reductions shall be treated as income (from sources without the United States) which is not combined foreign oil and gas income.

"(B) REDUCTION FOR PRE-2009 FOREIGN OIL EXTRACTION LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

"(i) the foreign oil and gas extraction income of the taxpayer for the taxable year (determined without regard to this paragraph), or

"(ii) the excess of— Effective dates.

"(I) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, and before January 1, 2009, over

"(II) so much of such aggregate amount as was recharacterized under this paragraph (as in effect before and after the date of the enactment of the Energy Improvement and Extension Act of 2008) for preceding taxable years beginning after December 31, 1982.

"(C) REDUCTION FOR POST-2008 FOREIGN OIL AND GAS LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

"(i) the combined foreign oil and gas income of the taxpayer for the taxable year (determined without regard to this paragraph), reduced by an amount equal to the reduction under subparagraph (A) for the taxable year, or

"(ii) the excess of— Effective dates.

"(I) the aggregate amount of foreign oil and gas losses for preceding taxable years beginning after December 31, 2008, over

"(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2008.

"(D) FOREIGN OIL AND GAS LOSS DEFINED.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'foreign oil and gas loss' means the amount by which—

"(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the combined foreign oil and gas income for such year, is exceeded by

"(II) the sum of the deductions properly apportioned or allocated thereto.

"(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

"(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

"(I) any foreign expropriation loss (as defined in section 172(h) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) for the taxable year, or

"(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

Effective date.

"(iv) FOREIGN OIL EXTRACTION LOSS.—For purposes of subparagraph (B)(ii)(I), foreign oil extraction losses shall be determined under this paragraph as in effect on the day before the date of the enactment of the Energy Improvement and Extension Act of 2008.".

(c) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—Section 907(f) (relating to carryback and carryover of disallowed credits) is amended— 26 USC 907.

(1) by striking "oil and gas extraction taxes" each place it appears and inserting "foreign oil and gas taxes", and

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

"(4) TRANSITION RULES FOR PRE-2009 AND 2009 DISALLOWED CREDITS.—

"(A) PRE-2009 CREDITS.—In the case of any unused credit year beginning before January 1, 2009, this subsection shall be applied to any unused oil and gas extraction taxes carried from such unused credit year to a year beginning after December 31, 2008—

"(i) by substituting 'oil and gas extraction taxes' for 'foreign oil and gas taxes' each place it appears in paragraphs (1), (2), and (3), and

"(ii) by computing, for purposes of paragraph (2)(A), the limitation under subparagraph (A) for the year to which such taxes are carried by substituting 'foreign oil and gas extraction income' for 'foreign oil and gas income' in subsection (a).

Effective date.

"(B) 2009 CREDITS.—In the case of any unused credit year beginning in 2009, the amendments made to this subsection by the Energy Improvement and Extension Act of 2008 shall be treated as being in effect for any preceding year beginning before January 1, 2009, solely for purposes of determining how much of the unused foreign oil and gas taxes for such unused credit year may be deemed paid or accrued in such preceding year.".

(d) CONFORMING AMENDMENT.—Section 6501(i) is amended by striking "oil and gas extraction taxes" and inserting "foreign oil and gas taxes".

26 USC 907 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

**SEC. 403. BROKER REPORTING OF CUSTOMER'S BASIS IN SECURITIES TRANSACTIONS.**

(a) IN GENERAL.—

(1) BROKER REPORTING FOR SECURITIES TRANSACTIONS.—Section 6045 is amended by adding at the end the following new subsection:

"(g) ADDITIONAL INFORMATION REQUIRED IN THE CASE OF SECURITIES TRANSACTIONS, ETC.—

"(1) IN GENERAL.—If a broker is otherwise required to make a return under subsection (a) with respect to the gross proceeds of the sale of a covered security, the broker shall include in such return the information described in paragraph (2).

"(2) ADDITIONAL INFORMATION REQUIRED.—

"(A) IN GENERAL.—The information required under paragraph (1) to be shown on a return with respect to a covered security of a customer shall include the customer's adjusted basis in such security and whether any gain or loss with respect to such security is long-term or short-term (within the meaning of section 1222).

"(B) DETERMINATION OF ADJUSTED BASIS.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The customer's adjusted basis shall be determined—

"(I) in the case of any security (other than any stock for which an average basis method is permissible under section 1012), in accordance with the first-in first-out method unless the customer notifies the broker by means of making an adequate identification of the stock sold or transferred, and

"(II) in the case of any stock for which an average basis method is permissible under section 1012, in accordance with the broker's default method unless the customer notifies the broker that he elects another acceptable method under section 1012 with respect to the account in which such stock is held.

"(ii) EXCEPTION FOR WASH SALES.—Except as otherwise provided by the Secretary, the customer's adjusted basis shall be determined without regard to section 1091 (relating to loss from wash sales of stock or securities) unless the transactions occur in the same account with respect to identical securities.

"(3) COVERED SECURITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'covered security' means any specified security acquired on or after the applicable date if such security—

"(i) was acquired through a transaction in the account in which such security is held, or

"(ii) was transferred to such account from an account in which such security was a covered security, but only if the broker received a statement under section 6045A with respect to the transfer.

"(B) SPECIFIED SECURITY.—The term 'specified security' means—

"(i) any share of stock in a corporation,

"(ii) any note, bond, debenture, or other evidence of indebtedness,

"(iii) any commodity, or contract or derivative with respect to such commodity, if the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection, and

"(iv) any other financial instrument with respect to which the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection.

"(C) APPLICABLE DATE.—The term 'applicable date' means—

"(i) January 1, 2011, in the case of any specified security which is stock in a corporation (other than any stock described in clause (ii)),

"(ii) January 1, 2012, in the case of any stock for which an average basis method is permissible under section 1012, and

"(iii) January 1, 2013, or such later date determined by the Secretary in the case of any other specified security.

"(4) TREATMENT OF S CORPORATIONS.—In the case of the sale of a covered security acquired by an S corporation (other than a financial institution) after December 31, 2011, such S corporation shall be treated in the same manner as a partnership for purposes of this section.

"(5) SPECIAL RULES FOR SHORT SALES.—In the case of a short sale, reporting under this section shall be made for the year in which such sale is closed.".

(2) BROKER INFORMATION REQUIRED WITH RESPECT TO OPTIONS.—Section 6045, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(h) APPLICATION TO OPTIONS ON SECURITIES.—

"(1) EXERCISE OF OPTION.—For purposes of this section, if a covered security is acquired or disposed of pursuant to the exercise of an option that was granted or acquired in the same account as the covered security, the amount received with respect to the grant or paid with respect to the acquisition of such option shall be treated as an adjustment to gross proceeds or as an adjustment to basis, as the case may be.

"(2) LAPSE OR CLOSING TRANSACTION.—In the case of the lapse (or closing transaction (as defined in section 1234(b)(2)(A))) of an option on a specified security or the exercise of a cash-settled option on a specified security, reporting under subsections (a) and (g) with respect to such option shall be made for the calendar year which includes the date of such lapse, closing transaction, or exercise.

"(3) PROSPECTIVE APPLICATION.—Paragraphs (1) and (2) shall not apply to any option which is granted or acquired before January 1, 2013.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'covered security' and 'specified security' shall have the meanings given such terms in subsection (g)(3).".

(3) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—

(A) IN GENERAL.—Subsection (b) of section 6045 is amended by striking "January 31" and inserting "February 15".

(B) STATEMENTS RELATED TO SUBSTITUTE PAYMENTS.—Subsection (d) of section 6045 is amended—

(i) by striking "at such time and", and

(ii) by inserting after "other item." the following new sentence: "The written statement required under the preceding sentence shall be furnished on or before

Deadline.

February 15 of the year following the calendar year in which the payment was made.".

(C) OTHER STATEMENTS.—Subsection (b) of section 6045 is amended by adding at the end the following: "In the case of a consolidated reporting statement (as defined in regulations) with respect to any customer, any statement which would otherwise be required to be furnished on or before January 31 of a calendar year with respect to any item reportable to the taxpayer shall instead be required to be furnished on or before February 15 of such calendar year if furnished with such consolidated reporting statement.". 26 USC 6045. Deadline.

(b) DETERMINATION OF BASIS OF CERTAIN SECURITIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS METHOD.—Section 1012 is amended—

(1) by striking "The basis of property" and inserting the following:

"(a) IN GENERAL.—The basis of property",

(2) by striking "The cost of real property" and inserting the following:

"(b) SPECIAL RULE FOR APPORTIONED REAL ESTATE TAXES.—The cost of real property", and

(3) by adding at the end the following new subsections:

"(c) DETERMINATIONS BY ACCOUNT.—

"(1) IN GENERAL.—In the case of the sale, exchange, or other disposition of a specified security on or after the applicable date, the conventions prescribed by regulations under this section shall be applied on an account by account basis.

"(2) APPLICATION TO CERTAIN FUNDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any stock for which an average basis method is permissible under section 1012 which is acquired before January 1, 2012, shall be treated as a separate account from any such stock acquired on or after such date.

"(B) ELECTION FUND FOR TREATMENT AS SINGLE ACCOUNT.—If a fund described in subparagraph (A) elects to have this subparagraph apply with respect to one or more of its stockholders—

"(i) subparagraph (A) shall not apply with respect to any stock in such fund held by such stockholders, and

"(ii) all stock in such fund which is held by such stockholders shall be treated as covered securities described in section 6045(g)(3) without regard to the date of the acquisition of such stock.

A rule similar to the rule of the preceding sentence shall apply with respect to a broker holding such stock as a nominee.

"(3) DEFINITIONS.—For purposes of this section, the terms 'specified security' and 'applicable date' shall have the meaning given such terms in section 6045(g).

"(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSUANT TO A DIVIDEND REINVESTMENT PLAN.—

"(1) IN GENERAL.—In the case of any stock acquired after December 31, 2010, in connection with a dividend reinvestment plan, the basis of such stock while held as part of such plan

shall be determined using one of the methods which may be used for determining the basis of stock in an open-end fund.

"(2) TREATMENT AFTER TRANSFER.—In the case of the transfer to another account of stock to which paragraph (1) applies, such stock shall have a cost basis in such other account equal to its basis in the dividend reinvestment plan immediately before such transfer (properly adjusted for any fees or other charges taken into account in connection with such transfer).

Applicability.

"(3) SEPARATE ACCOUNTS; ELECTION FOR TREATMENT AS SINGLE ACCOUNT.—Rules similar to the rules of subsection (c)(2) shall apply for purposes of this subsection.

"(4) DIVIDEND REINVESTMENT PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'dividend reinvestment plan' means any arrangement under which dividends on any stock are reinvested in stock identical to the stock with respect to which the dividends are paid.

"(B) INITIAL STOCK ACQUISITION TREATED AS ACQUIRED IN CONNECTION WITH PLAN.—Stock shall be treated as acquired in connection with a dividend reinvestment plan if such stock is acquired pursuant to such plan or if the dividends paid on such stock are subject to such plan.".

(c) INFORMATION BY TRANSFERORS TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6045 the following new section:

**"SEC. 6045A. INFORMATION REQUIRED IN CONNECTION WITH TRANSFERS OF COVERED SECURITIES TO BROKERS.**

"(a) FURNISHING OF INFORMATION.—Every applicable person which transfers to a broker (as defined in section 6045(c)(1)) a security which is a covered security (as defined in section 6045(g)(3)) in the hands of such applicable person shall furnish to such broker a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe for purposes of enabling such broker to meet the requirements of section 6045(g).

"(b) APPLICABLE PERSON.—For purposes of subsection (a), the term 'applicable person' means—

"(1) any broker (as defined in section 6045(c)(1)), and

"(2) any other person as provided by the Secretary in regulations.

"(c) TIME FOR FURNISHING STATEMENT.—Except as otherwise provided by the Secretary, any statement required by subsection (a) shall be furnished not later than 15 days after the date of the transfer described in such subsection.".

(2) ASSESSABLE PENALTIES.—Paragraph (2) of section 6724(d), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating subparagraphs (I) through (DD) as subparagraphs (J) through (EE), respectively, and by inserting after subparagraph (H) the following new subparagraph:

*Ante*, p. 2911.

"(I) section 6045A (relating to information required in connection with transfers of covered securities to brokers),".

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended

by inserting after the item relating to section 6045 the following new item:

"Sec. 6045A. Information required in connection with transfers of covered securities to brokers.".

(d) ADDITIONAL ISSUER INFORMATION TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by subsection (b), is amended by inserting after section 6045A the following new section:

**"SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING BASIS OF SPECIFIED SECURITIES.**

"(a) IN GENERAL.—According to the forms or regulations prescribed by the Secretary, any issuer of a specified security shall make a return setting forth—

"(1) a description of any organizational action which affects the basis of such specified security of such issuer,

"(2) the quantitative effect on the basis of such specified security resulting from such action, and

"(3) such other information as the Secretary may prescribe.

"(b) TIME FOR FILING RETURN.—Any return required by subsection (a) shall be filed not later than the earlier of—

"(1) 45 days after the date of the action described in subsection (a), or

"(2) January 15 of the year following the calendar year during which such action occurred.

"(c) STATEMENTS TO BE FURNISHED TO HOLDERS OF SPECIFIED SECURITIES OR THEIR NOMINEES.—According to the forms or regulations prescribed by the Secretary, every person required to make a return under subsection (a) with respect to a specified security shall furnish to the nominee with respect to the specified security (or certificate holder if there is no nominee) a written statement showing— Regulations.

"(1) the name, address, and phone number of the information contact of the person required to make such return,

"(2) the information required to be shown on such return with respect to such security, and

"(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the holder on or before January 15 of the year following the calendar year during which the action described in subsection (a) occurred. Deadline.

"(d) SPECIFIED SECURITY.—For purposes of this section, the term 'specified security' has the meaning given such term by section 6045(g)(3)(B). No return shall be required under this section with respect to actions described in subsection (a) with respect to a specified security which occur before the applicable date (as defined in section 6045(g)(3)(C)) with respect to such security.

"(e) PUBLIC REPORTING IN LIEU OF RETURN.—The Secretary may waive the requirements under subsections (a) and (c) with respect to a specified security, if the person required to make the return under subsection (a) makes publicly available, in such form and manner as the Secretary determines necessary to carry out the purposes of this section—

"(1) the name, address, phone number, and email address of the information contact of such person, and

"(2) the information described in paragraphs (1), (2), and (3) of subsection (a).".

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating clause (iv) and each of the clauses which follow as clauses (v) through (xxiii), respectively, and by inserting after clause (iii) the following new clause:

"(iv) section 6045B(a) (relating to returns relating to actions affecting basis of specified securities),".

26 USC 6724.

(B) Paragraph (2) of section 6724(d), as amended by the Housing Assistance Tax Act of 2008 and by subsection (c)(2), is amended by redesignating subparagraphs (J) through (EE) as subparagraphs (K) through (FF), respectively, and by inserting after subparagraph (I) the following new subparagraph:

"(J) subsections (c) and (e) of section 6045B (relating to returns relating to actions affecting basis of specified securities),".

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61, as amended by subsection (b)(3), is amended by inserting after the item relating to section 6045A the following new item:

"Sec. 6045B. Returns relating to actions affecting basis of specified securities.".

(e) EFFECTIVE DATE.—

26 USC 1012 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 2011.

(2) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—The amendments made by subsection (a)(3) shall apply to statements required to be furnished after December 31, 2008.

Applicability.

**SEC. 404. 0.2 PERCENT FUTA SURTAX.**

26 USC 3301.

(a) IN GENERAL.—Section 3301 (relating to rate of tax) is amended—

(1) by striking "through 2008" in paragraph (1) and inserting "through 2009", and

(2) by striking "calendar year 2009" in paragraph (2) and inserting "calendar year 2010".

26 USC 3301 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 2008.

**SEC. 405. INCREASE AND EXTENSION OF OIL SPILL LIABILITY TRUST FUND TAX.**

(a) INCREASE IN RATE.—

(1) IN GENERAL.—Section 4611(c)(2)(B) (relating to rates) is amended by striking "is 5 cents a barrel." and inserting "is—

"(i) in the case of crude oil received or petroleum products entered before January 1, 2017, 8 cents a barrel, and

"(ii) in the case of crude oil received or petroleum products entered after December 31, 2016, 9 cents a barrel.".

26 USC 4611 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply on and after the first day of the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

(b) EXTENSION.—

(1) IN GENERAL.—Section 4611(f) (relating to application of Oil Spill Liability Trust Fund financing rate) is amended by striking paragraphs (2) and (3) and inserting the following new paragraph: 26 USC 4611.

"(2) TERMINATION.—The Oil Spill Liability Trust Fund financing rate shall not apply after December 31, 2017.".

(2) CONFORMING AMENDMENT.—Section 4611(f)(1) is amended by striking "paragraphs (2) and (3)" and inserting "paragraph (2)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act. 26 USC 4611 note.

# DIVISION C—TAX EXTENDERS AND ALTERNATIVE MINIMUM TAX RELIEF

Tax Extenders and Alternative Minimum Tax Relief Act of 2008.

## SEC. 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Tax Extenders and Alternative Minimum Tax Relief Act of 2008". 26 USC 1 note.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 101. Extension of alternative minimum tax relief for nonrefundable personal credits.
Sec. 102. Extension of increased alternative minimum tax exemption amount.
Sec. 103. Increase of AMT refundable credit amount for individuals with long-term unused credits for prior year minimum tax liability, etc.

TITLE II—EXTENSION OF INDIVIDUAL TAX PROVISIONS

Sec. 201. Deduction for State and local sales taxes.
Sec. 202. Deduction of qualified tuition and related expenses.
Sec. 203. Deduction for certain expenses of elementary and secondary school teachers.
Sec. 204. Additional standard deduction for real property taxes for nonitemizers.
Sec. 205. Tax-free distributions from individual retirement plans for charitable purposes.
Sec. 206. Treatment of certain dividends of regulated investment companies.
Sec. 207. Stock in RIC for purposes of determining estates of nonresidents not citizens.
Sec. 208. Qualified investment entities.

TITLE III—EXTENSION OF BUSINESS TAX PROVISIONS

Sec. 301. Extension and modification of research credit.
Sec. 302. New markets tax credit.
Sec. 303. Subpart F exception for active financing income.
Sec. 304. Extension of look-thru rule for related controlled foreign corporations.
Sec. 305. Extension of 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements; 15-year straight-line cost recovery for certain improvements to retail space.
Sec. 306. Modification of tax treatment of certain payments to controlling exempt organizations.

Sec. 307. Basis adjustment to stock of S corporations making charitable contributions of property.
Sec. 308. Increase in limit on cover over of rum excise tax to Puerto Rico and the Virgin Islands.
Sec. 309. Extension of economic development credit for American Samoa.
Sec. 310. Extension of mine rescue team training credit.
Sec. 311. Extension of election to expense advanced mine safety equipment.
Sec. 312. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
Sec. 313. Qualified zone academy bonds.
Sec. 314. Indian employment credit.
Sec. 315. Accelerated depreciation for business property on Indian reservations.
Sec. 316. Railroad track maintenance.
Sec. 317. Seven-year cost recovery period for motorsports racing track facility.
Sec. 318. Expensing of environmental remediation costs.
Sec. 319. Extension of work opportunity tax credit for Hurricane Katrina employees.
Sec. 320. Extension of increased rehabilitation credit for structures in the Gulf Opportunity Zone.
Sec. 321. Enhanced deduction for qualified computer contributions.
Sec. 322. Tax incentives for investment in the District of Columbia.
Sec. 323. Enhanced charitable deductions for contributions of food inventory.
Sec. 324. Extension of enhanced charitable deduction for contributions of book inventory.
Sec. 325. Extension and modification of duty suspension on wool products; wool research fund; wool duty refunds.

TITLE IV—EXTENSION OF TAX ADMINISTRATION PROVISIONS

Sec. 401. Permanent authority for undercover operations.
Sec. 402. Permanent authority for disclosure of information relating to terrorist activities.

TITLE V—ADDITIONAL TAX RELIEF AND OTHER TAX PROVISIONS

Subtitle A—General Provisions

Sec. 501. $8,500 income threshold used to calculate refundable portion of child tax credit.
Sec. 502. Provisions related to film and television productions.
Sec. 503. Exemption from excise tax for certain wooden arrows designed for use by children.
Sec. 504. Income averaging for amounts received in connection with the Exxon Valdez litigation.
Sec. 505. Certain farming business machinery and equipment treated as 5-year property.
Sec. 506. Modification of penalty on understatement of taxpayer's liability by tax return preparer.

Subtitle B—Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

Sec. 511. Short title.
Sec. 512. Mental health parity.

TITLE VI—OTHER PROVISIONS

Sec. 601. Secure rural schools and community self-determination program.
Sec. 602. Transfer to abandoned mine reclamation fund.

TITLE VII—DISASTER RELIEF

Subtitle A—Heartland and Hurricane Ike Disaster Relief

Sec. 701. Short title.
Sec. 702. Temporary tax relief for areas damaged by 2008 Midwestern severe storms, tornados, and flooding.
Sec. 703. Reporting requirements relating to disaster relief contributions.
Sec. 704. Temporary tax-exempt bond financing and low-income housing tax relief for areas damaged by Hurricane Ike.

Subtitle B—National Disaster Relief

Sec. 706. Losses attributable to federally declared disasters.
Sec. 707. Expensing of Qualified Disaster Expenses.
Sec. 708. Net operating losses attributable to federally declared disasters.

Sec. 709. Waiver of certain mortgage revenue bond requirements following federally declared disasters.
Sec. 710. Special depreciation allowance for qualified disaster property.
Sec. 711. Increased expensing for qualified disaster assistance property.
Sec. 712. Coordination with Heartland disaster relief.

TITLE VIII—SPENDING REDUCTIONS AND APPROPRIATE REVENUE RAISERS FOR NEW TAX RELIEF POLICY

Sec. 801. Nonqualified deferred compensation from certain tax indifferent parties.

# TITLE I—ALTERNATIVE MINIMUM TAX RELIEF

### SEC. 101. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) IN GENERAL.—Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2007) is amended— 26 USC 26.

(1) by striking "or 2007" and inserting "2007, or 2008", and

(2) by striking "2007" in the heading thereof and inserting "2008".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007. 26 USC 26 note.

### SEC. 102. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.

(a) IN GENERAL.—Paragraph (1) of section 55(d) (relating to exemption amount) is amended—

(1) by striking "($66,250 in the case of taxable years beginning in 2007)" in subparagraph (A) and inserting "($69,950 in the case of taxable years beginning in 2008)", and

(2) by striking "($44,350 in the case of taxable years beginning in 2007)" in subparagraph (B) and inserting "($46,200 in the case of taxable years beginning in 2008)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007. 26 USC 55 note.

### SEC. 103. INCREASE OF AMT REFUNDABLE CREDIT AMOUNT FOR INDIVIDUALS WITH LONG-TERM UNUSED CREDITS FOR PRIOR YEAR MINIMUM TAX LIABILITY, ETC.

(a) IN GENERAL.—Paragraph (2) of section 53(e) is amended to read as follows:

"(2) AMT REFUNDABLE CREDIT AMOUNT.—For purposes of paragraph (1), the term 'AMT refundable credit amount' means, with respect to any taxable year, the amount (not in excess of the long-term unused minimum tax credit for such taxable year) equal to the greater of—

"(A) 50 percent of the long-term unused minimum tax credit for such taxable year, or

"(B) the amount (if any) of the AMT refundable credit amount determined under this paragraph for the taxpayer's preceding taxable year (determined without regard to subsection (f)(2)).".

(b) TREATMENT OF CERTAIN UNDERPAYMENTS, INTEREST, AND PENALTIES ATTRIBUTABLE TO THE TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 53 is amended by adding at the end the following new subsection:

"(f) TREATMENT OF CERTAIN UNDERPAYMENTS, INTEREST, AND PENALTIES ATTRIBUTABLE TO THE TREATMENT OF INCENTIVE STOCK OPTIONS.—

"(1) ABATEMENT.—Any underpayment of tax outstanding on the date of the enactment of this subsection which is attributable to the application of section 56(b)(3) for any taxable year ending before January 1, 2008, and any interest or penalty with respect to such underpayment which is outstanding on such date of enactment, is hereby abated. The amount determined under subsection (b)(1) shall not include any tax abated under the preceding sentence.

"(2) INCREASE IN CREDIT FOR CERTAIN INTEREST AND PENALTIES ALREADY PAID.—The AMT refundable credit amount, and the minimum tax credit determined under subsection (b), for the taxpayer's first 2 taxable years beginning after December 31, 2007, shall each be increased by 50 percent of the aggregate amount of the interest and penalties which were paid by the taxpayer before the date of the enactment of this subsection and which would (but for such payment) have been abated under paragraph (1).".

26 USC 53 note. (c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) ABATEMENT.—Section 53(f)(1), as added by subsection (b), shall take effect on the date of the enactment of this Act.

# TITLE II—EXTENSION OF INDIVIDUAL TAX PROVISIONS

### SEC. 201. DEDUCTION FOR STATE AND LOCAL SALES TAXES.

26 USC 164. (a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking "January 1, 2008" and inserting "January 1, 2010".

26 USC 164 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

### SEC. 202. DEDUCTION OF QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

26 USC 222 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

### SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) (relating to certain expenses of elementary and secondary school teachers) is amended by striking "or 2007" and inserting "2007, 2008, or 2009".

26 USC 62 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2007.

**SEC. 204. ADDITIONAL STANDARD DEDUCTION FOR REAL PROPERTY TAXES FOR NONITEMIZERS.**

(a) IN GENERAL.—Subparagraph (C) of section 63(c)(1), as added by the Housing Assistance Tax Act of 2008, is amended by inserting "or 2009" after "2008". 26 USC 63.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008. 26 USC 63 note.

**SEC. 205. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.**

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2007. 26 USC 408 note.

**SEC. 206. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.**

(a) INTEREST-RELATED DIVIDENDS.—Subparagraph (C) of section 871(k)(1) (defining interest-related dividend) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(b) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Subparagraph (C) of section 871(k)(2) (defining short-term capital gain dividend) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2007. 26 USC 871 note.

**SEC. 207. STOCK IN RIC FOR PURPOSES OF DETERMINING ESTATES OF NONRESIDENTS NOT CITIZENS.**

(a) IN GENERAL.—Paragraph (3) of section 2105(d) (relating to stock in a RIC) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to decedents dying after December 31, 2007. 26 USC 2105 note.

**SEC. 208. QUALIFIED INVESTMENT ENTITIES.**

(a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2008. 26 USC 897 note.

# TITLE III—EXTENSION OF BUSINESS TAX PROVISIONS

**SEC. 301. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.**

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009" in paragraph (1)(B).

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) (relating to special rule) is amended by striking

"after December 31, 2007" and inserting "after December 31, 2009".

(b) TERMINATION OF ALTERNATIVE INCREMENTAL CREDIT.—Section 41(h) is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph: 26 USC 41.

"(2) TERMINATION OF ALTERNATIVE INCREMENTAL CREDIT.—No election under subsection (c)(4) shall apply to taxable years beginning after December 31, 2008.". Applicability.

(c) MODIFICATION OF ALTERNATIVE SIMPLIFIED CREDIT.—Paragraph (5)(A) of section 41(c) (relating to election of alternative simplified credit) is amended by striking "12 percent" and inserting "14 percent (12 percent in the case of taxable years ending before January 1, 2009)".

(d) TECHNICAL CORRECTION.—Paragraph (3) of section 41(h) is amended to read as follows:

"(2) COMPUTATION FOR TAXABLE YEAR IN WHICH CREDIT TERMINATES.—In the case of any taxable year with respect to which this section applies to a number of days which is less than the total number of days in such taxable year—

"(A) the amount determined under subsection (c)(1)(B) with respect to such taxable year shall be the amount which bears the same ratio to such amount (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year, and

"(B) for purposes of subsection (c)(5), the average qualified research expenses for the preceding 3 taxable years shall be the amount which bears the same ratio to such average qualified research expenses (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year.".

(e) EFFECTIVE DATE.— 26 USC 41 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) EXTENSION.—The amendments made by subsection (a) shall apply to amounts paid or incurred after December 31, 2007.

**SEC. 302. NEW MARKETS TAX CREDIT.**

Subparagraph (D) of section 45D(f)(1) (relating to national limitation on amount of investments designated) is amended by striking "and 2008" and inserting "2008, and 2009".

**SEC. 303. SUBPART F EXCEPTION FOR ACTIVE FINANCING INCOME.**

(a) EXEMPT INSURANCE INCOME.—Paragraph (10) of section 953(e) (relating to application) is amended—

(1) by striking "January 1, 2009" and inserting "January 1, 2010", and

(2) by striking "December 31, 2008" and inserting "December 31, 2009".

(b) EXCEPTION TO TREATMENT AS FOREIGN PERSONAL HOLDING COMPANY INCOME.—Paragraph (9) of section 954(h) (relating to application) is amended by striking "January 1, 2009" and inserting "January 1, 2010".

**SEC. 304. EXTENSION OF LOOK-THRU RULE FOR RELATED CONTROLLED FOREIGN CORPORATIONS.**

(a) IN GENERAL.—Subparagraph (C) of section 954(c)(6) (relating to application) is amended by striking "January 1, 2009" and inserting "January 1, 2010". 26 USC 954.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2007, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end. 26 USC 954 note.

**SEC. 305. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS; 15-YEAR STRAIGHT-LINE COST RECOVERY FOR CERTAIN IMPROVEMENTS TO RETAIL SPACE.**

(a) EXTENSION OF LEASEHOLD AND RESTAURANT IMPROVEMENTS.—

(1) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) (relating to 15-year property) are each amended by striking "January 1, 2008" and inserting "January 1, 2010".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2007. 26 USC 168 note.

(b) TREATMENT TO INCLUDE NEW CONSTRUCTION.—

(1) IN GENERAL.—Paragraph (7) of section 168(e) (relating to classification of property) is amended to read as follows:

"(7) QUALIFIED RESTAURANT PROPERTY.—

"(A) IN GENERAL.—The term 'qualified restaurant property' means any section 1250 property which is—

"(i) a building, if such building is placed in service after December 31, 2008, and before January 1, 2010, or

"(ii) an improvement to a building,

if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.

"(B) EXCLUSION FROM BONUS DEPRECIATION.—Property described in this paragraph shall not be considered qualified property for purposes of subsection (k).".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2008. 26 USC 168 note.

(c) RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN IMPROVEMENTS TO RETAIL SPACE.—

(1) 15-YEAR RECOVERY PERIOD.—Section 168(e)(3)(E) (relating to 15-year property) is amended by striking "and" at the end of clause (vii), by striking the period at the end of clause (viii) and inserting ", and", and by adding at the end the following new clause:

"(ix) any qualified retail improvement property placed in service after December 31, 2008, and before January 1, 2010.".

(2) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Section 168(e) is amended by adding at the end the following new paragraph:

"(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

"(A) IN GENERAL.—The term 'qualified retail improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

"(i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and

"(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

"(B) IMPROVEMENTS MADE BY OWNER.—In the case of an improvement made by the owner of such improvement, such improvement shall be qualified retail improvement property (if at all) only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

"(C) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

"(i) the enlargement of the building,

"(ii) any elevator or escalator,

"(iii) any structural component benefitting a common area, or

"(iv) the internal structural framework of the building.

"(D) EXCLUSION FROM BONUS DEPRECIATION.—Property described in this paragraph shall not be considered qualified property for purposes of subsection (k).

"(E) TERMINATION.—Such term shall not include any improvement placed in service after December 31, 2009.".

(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

26 USC 168.

"(I) Qualified retail improvement property described in subsection (e)(8).".

(4) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(viii) the following new item:

"(E)(ix) ..... 39".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2008.

26 USC 168 note.

**SEC. 306. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2007.

26 USC 512 note.

**SEC. 307. BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.**

(a) IN GENERAL.—The last sentence of section 1367(a)(2) (relating to decreases in basis) is amended by striking "December 31, 2007" and inserting "December 31, 2009". 26 USC 1367.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

**SEC. 308. INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAX TO PUERTO RICO AND THE VIRGIN ISLANDS.**

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking "January 1, 2008" and inserting "January 1, 2010".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2007. 26 USC 7652 note.

**SEC. 309. EXTENSION OF ECONOMIC DEVELOPMENT CREDIT FOR AMERICAN SAMOA.**

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended— 26 USC 30A note.

(1) by striking "first two taxable years" and inserting "first 4 taxable years", and

(2) by striking "January 1, 2008" and inserting "January 1, 2010".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007. 26 USC 30A note.

**SEC. 310. EXTENSION OF MINE RESCUE TEAM TRAINING CREDIT.**

Section 45N(e) (relating to termination) is amended by striking "December 31, 2008" and inserting "December 31, 2009".

**SEC. 311. EXTENSION OF ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.**

Section 179E(g) (relating to termination) is amended by striking "December 31, 2008" and inserting "December 31, 2009".

**SEC. 312. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.**

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) (relating to termination) is amended—

(1) by striking "first 2 taxable years" and inserting "first 4 taxable years", and

(2) by striking "January 1, 2008" and inserting "January 1, 2010".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007. 26 USC 199 note.

**SEC. 313. QUALIFIED ZONE ACADEMY BONDS.**

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

**"SEC. 54E. QUALIFIED ZONE ACADEMY BONDS.**

"(a) QUALIFIED ZONE ACADEMY BONDS.—For purposes of this subchapter, the term 'qualified zone academy bond' means any bond issued as part of an issue if—

"(1) 100 percent of the available project proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,

"(2) the bond is issued by a State or local government within the jurisdiction of which such academy is located, and

Certification.

"(3) the issuer—

"(A) designates such bond for purposes of this section,

"(B) certifies that it has written assurances that the private business contribution requirement of subsection (b) will be met with respect to such academy, and

"(C) certifies that it has the written approval of the eligible local education agency for such bond issuance.

"(b) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—For purposes of subsection (a), the private business contribution requirement of this subsection is met with respect to any issue if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

"(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(1) NATIONAL LIMITATION.—There is a national zone academy bond limitation for each calendar year. Such limitation is $400,000,000 for 2008 and 2009, and, except as provided in paragraph (4), zero thereafter.

"(2) ALLOCATION OF LIMITATION.—The national zone academy bond limitation for a calendar year shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

"(3) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under paragraph (2) for such calendar year.

"(4) CARRYOVER OF UNUSED LIMITATION.—

"(A) IN GENERAL.—If for any calendar year—

"(i) the limitation amount for any State, exceeds

"(ii) the amount of bonds issued during such year which are designated under subsection (a) with respect to qualified zone academies within such State,

the limitation amount for such State for the following calendar year shall be increased by the amount of such excess.

"(B) LIMITATION ON CARRYOVER.—Any carryforward of a limitation amount may be carried only to the first 2 years following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in first-out basis.

"(C) COORDINATION WITH SECTION 1397E.—Any carryover determined under section 1397E(e)(4) (relating to carryover of unused limitation) with respect to any State to calendar year 2008 or 2009 shall be treated for purposes

of this section as a carryover with respect to such State for such calendar year under subparagraph (A), and the limitation of subparagraph (B) shall apply to such carryover taking into account the calendar years to which such carryover relates.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ZONE ACADEMY.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if—

"(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

"(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the eligible local education agency,

"(C) the comprehensive education plan of such public school or program is approved by the eligible local education agency, and

"(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

"(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

"(2) ELIGIBLE LOCAL EDUCATION AGENCY.—For purposes of this section, the term 'eligible local education agency' means any local educational agency as defined in section 9101 of the Elementary and Secondary Education Act of 1965.

"(3) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

"(A) rehabilitating or repairing the public school facility in which the academy is established,

"(B) providing equipment for use at such academy,

"(C) developing course materials for education to be provided at such academy, and

"(D) training teachers and other school personnel in such academy.

"(4) QUALIFIED CONTRIBUTIONS.—The term 'qualified contribution' means any contribution (of a type and quality acceptable to the eligible local education agency) of—

"(A) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

"(B) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

"(C) services of employees as volunteer mentors,

"(D) internships, field trips, or other educational opportunities outside the academy for students, or

"(E) any other property or service specified by the eligible local education agency.".

(b) CONFORMING AMENDMENTS.—

26 USC 54A.

(1) Paragraph (1) of section 54A(d), as amended by this Act, is amended by striking "or" at the end of subparagraph (B), by inserting "or" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

"(D) a qualified zone academy bond,".

(2) Subparagraph (C) of section 54A(d)(2), as amended by this Act, is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of a qualified zone academy bond, a purpose specified in section 54E(a)(1).".

(3) Section 1397E is amended by adding at the end the following new subsection:

"(m) TERMINATION.—This section shall not apply to any obligation issued after the date of the enactment of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.".

(4) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 54E. Qualified zone academy bonds.".

26 USC 54A note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 314. INDIAN EMPLOYMENT CREDIT.**

(a) IN GENERAL.—Subsection (f) of section 45A (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

26 USC 45A note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 315. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATIONS.**

(a) IN GENERAL.—Paragraph (8) of section 168(j) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

26 USC 168 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

**SEC. 316. RAILROAD TRACK MAINTENANCE.**

(a) IN GENERAL.—Subsection (f) of section 45G (relating to application of section) is amended by striking "January 1, 2008" and inserting "January 1, 2010".

(b) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4), as amended by this Act, is amended—

(1) by redesignating clauses (v), (vi), and (vii) as clauses (vi), (vii), and (viii), respectively, and

(2) by inserting after clause (iv) the following new clause:

"(v) the credit determined under section 45G,".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to expenditures paid or incurred during taxable years beginning after December 31, 2007. 26 USC 45G note.

(2) The amendments made by subsection (b) shall apply to credits determined under section 45G of the Internal Revenue Code of 1986 in taxable years beginning after December 31, 2007, and to carrybacks of such credits. 26 USC 38 note.

**SEC. 317. SEVEN-YEAR COST RECOVERY PERIOD FOR MOTORSPORTS RACING TRACK FACILITY.**

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009". 26 USC 168.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007. 26 USC 168 note.

**SEC. 318. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.**

(a) IN GENERAL.—Subsection (h) of section 198 (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2007. 26 USC 198 note.

**SEC. 319. EXTENSION OF WORK OPPORTUNITY TAX CREDIT FOR HURRICANE KATRINA EMPLOYEES.**

(a) IN GENERAL.—Paragraph (1) of section 201(b) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking "2-year" and inserting "4-year". 119 Stat. 2020.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals hired after August 27, 2007.

**SEC. 320. EXTENSION OF INCREASED REHABILITATION CREDIT FOR STRUCTURES IN THE GULF OPPORTUNITY ZONE.**

(a) IN GENERAL.—Subsection (h) of section 1400N is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act. 26 USC 1400N note.

**SEC. 321. ENHANCED DEDUCTION FOR QUALIFIED COMPUTER CONTRIBUTIONS.**

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made during taxable years beginning after December 31, 2007. 26 USC 170 note.

**SEC. 322. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.**

(a) DESIGNATION OF ZONE.—

(1) IN GENERAL.—Subsection (f) of section 1400 is amended by striking "2007" both places it appears and inserting "2009".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2007. 26 USC 1400 note.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—

26 USC 1400A.

(1) IN GENERAL.—Subsection (b) of section 1400A is amended by striking "2007" and inserting "2009".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after December 31, 2007.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking "2008" each place it appears and inserting "2010".

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking "2012" and inserting "2014", and

(ii) by striking "2012" in the heading thereof and inserting "2014".

(B) Section 1400B(g)(2) is amended by striking "2012" and inserting "2014".

(C) Section 1400F(d) is amended by striking "2012" and inserting "2014".

26 USC 1400B note.

(3) EFFECTIVE DATES.—

(A) EXTENSION.—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2007.

(B) CONFORMING AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (i) of section 1400C is amended by striking "2008" and inserting "2010".

26 USC 1400C note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property purchased after December 31, 2007.

**SEC. 323. ENHANCED CHARITABLE DEDUCTIONS FOR CONTRIBUTIONS OF FOOD INVENTORY.**

(a) INCREASED AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

26 USC 170 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to contributions made after December 31, 2007.

(b) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—Section 170(b) is amended by adding at the end the following new paragraph:

"(3) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—In the case of a qualified farmer or rancher (as defined in paragraph (1)(E)(v)), any charitable contribution of food—

"(A) to which subsection (e)(3)(C) applies (without regard to clause (ii) thereof), and

"(B) which is made during the period beginning on the date of the enactment of this paragraph and before January 1, 2009,

shall be treated for purposes of paragraph (1)(E) or (2)(B), whichever is applicable, as if it were a qualified conservation contribution which is made by a qualified farmer or rancher and which otherwise meets the requirements of such paragraph.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 170 note.

**SEC. 324. EXTENSION OF ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.**

(a) EXTENSION.—Clause (iv) of section 170(e)(3)(D) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009". 26 USC 170.

(b) CLERICAL AMENDMENT.—Clause (iii) of section 170(e)(3)(D) (relating to certification by donee) is amended by inserting "of books" after "to any contribution".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2007. 26 USC 170 note.

**SEC. 325. EXTENSION AND MODIFICATION OF DUTY SUSPENSION ON WOOL PRODUCTS; WOOL RESEARCH FUND; WOOL DUTY REFUNDS.**

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking the date in the effective period column and inserting "12/31/2014":

(1) Heading 9902.51.11 (relating to fabrics of worsted wool).

(2) Heading 9902.51.13 (relating to yarn of combed wool).

(3) Heading 9902.51.14 (relating to wool fiber, waste, garnetted stock, combed wool, or wool top).

(4) Heading 9902.51.15 (relating to fabrics of combed wool).

(5) Heading 9902.51.16 (relating to fabrics of combed wool).

(b) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—Section 4002(c) of the Wool Suit and Textile Trade Extension Act of 2004 (Public Law 108–429; 118 Stat. 2603) is amended—

(A) in paragraph (3)(C), by striking "2010" and inserting "2015"; and

(B) in paragraph (6)(A), by striking "through 2009" and inserting "through 2014".

(2) SUNSET.—Section 506(f) of the Trade and Development Act of 2000 (Public 106–200; 114 Stat. 303 (7 U.S.C. 7101 note)) is amended by striking "2010" and inserting "2015".

# TITLE IV—EXTENSION OF TAX ADMINISTRATION PROVISIONS

**SEC. 401. PERMANENT AUTHORITY FOR UNDERCOVER OPERATIONS.**

(a) IN GENERAL.—Section 7608(c) (relating to rules relating to undercover operations) is amended by striking paragraph (6).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to operations conducted after the date of the enactment of this Act. 26 USC 7608 note.

**SEC. 402. PERMANENT AUTHORITY FOR DISCLOSURE OF INFORMATION RELATING TO TERRORIST ACTIVITIES.**

(a) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF TERRORIST ACTIVITIES.—Subparagraph (C) of section 6103(i)(3) is amended by striking clause (iv).

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES.—Paragraph (7) of section 6103(i) is amended by striking subparagraph (E).

26 USC 6103.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures after the date of the enactment of this Act.

26 USC 6103 note.

# TITLE V—ADDITIONAL TAX RELIEF AND OTHER TAX PROVISIONS

## Subtitle A—General Provisions

### SEC. 501. $8,500 INCOME THRESHOLD USED TO CALCULATE REFUNDABLE PORTION OF CHILD TAX CREDIT.

(a) IN GENERAL.—Section 24(d) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR 2008.—Notwithstanding paragraph (3), in the case of any taxable year beginning in 2008, the dollar amount in effect for such taxable year under paragraph (1)(B)(i) shall be $8,500.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

26 USC 24 note.

### SEC. 502. PROVISIONS RELATED TO FILM AND TELEVISION PRODUCTIONS.

(a) EXTENSION OF EXPENSING RULES FOR QUALIFIED FILM AND TELEVISION PRODUCTIONS.—Section 181(f) (relating to termination) is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(b) MODIFICATION OF LIMITATION ON EXPENSING.—Subparagraph (A) of section 181(a)(2) is amended to read as follows:

"(A) IN GENERAL.—Paragraph (1) shall not apply to so much of the aggregate cost of any qualified film or television production as exceeds $15,000,000.".

(c) MODIFICATIONS TO DEDUCTION FOR DOMESTIC ACTIVITIES.—

(1) DETERMINATION OF W–2 WAGES.—Paragraph (2) of section 199(b) is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR QUALIFIED FILM.—In the case of a qualified film, such term shall include compensation for services performed in the United States by actors, production personnel, directors, and producers.".

(2) DEFINITION OF QUALIFIED FILM.—Paragraph (6) of section 199(c) is amended by adding at the end the following: "A qualified film shall include any copyrights, trademarks, or other intangibles with respect to such film. The methods and means of distributing a qualified film shall not affect the availability of the deduction under this section.".

(3) PARTNERSHIPS.—Subparagraph (A) of section 199(d)(1) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of each partner of a partnership, or shareholder of an S corporation, who owns (directly or indirectly) at least 20 percent of the capital interests

in such partnership or of the stock of such S corporation—

"(I) such partner or shareholder shall be treated as having engaged directly in any film produced by such partnership or S corporation, and

"(II) such partnership or S corporation shall be treated as having engaged directly in any film produced by such partner or shareholder.".

(d) CONFORMING AMENDMENT.—Section 181(d)(3)(A) is amended by striking "actors" and all that follows and inserting "actors, production personnel, directors, and producers.". 26 USC 181.

(e) EFFECTIVE DATES.— 26 USC 181 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to qualified film and television productions commencing after December 31, 2007.

(2) DEDUCTION.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 2007.

**SEC. 503. EXEMPTION FROM EXCISE TAX FOR CERTAIN WOODEN ARROWS DESIGNED FOR USE BY CHILDREN.**

(a) IN GENERAL.—Paragraph (2) of section 4161(b) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) EXEMPTION FOR CERTAIN WOODEN ARROW SHAFTS.—Subparagraph (A) shall not apply to any shaft consisting of all natural wood with no laminations or artificial means of enhancing the spine of such shaft (whether sold separately or incorporated as part of a finished or unfinished product) of a type used in the manufacture of any arrow which after its assembly—

"(i) measures 5/16 of an inch or less in diameter, and

"(ii) is not suitable for use with a bow described in paragraph (1)(A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to shafts first sold after the date of enactment of this Act. 26 USC 4161 note.

**SEC. 504. INCOME AVERAGING FOR AMOUNTS RECEIVED IN CONNECTION WITH THE EXXON VALDEZ LITIGATION.**

(a) INCOME AVERAGING OF AMOUNTS RECEIVED FROM THE EXXON VALDEZ LITIGATION.—For purposes of section 1301 of the Internal Revenue Code of 1986—

(1) any qualified taxpayer who receives any qualified settlement income in any taxable year shall be treated as engaged in a fishing business (determined without regard to the commercial nature of the business), and

(2) such qualified settlement income shall be treated as income attributable to such a fishing business for such taxable year.

(b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RETIREMENT ACCOUNTS.—

(1) IN GENERAL.—Any qualified taxpayer who receives qualified settlement income during the taxable year may, at any time before the end of the taxable year in which such income was received, make one or more contributions to an

eligible retirement plan of which such qualified taxpayer is a beneficiary in an aggregate amount not to exceed the lesser of—

(A) $100,000 (reduced by the amount of qualified settlement income contributed to an eligible retirement plan in prior taxable years pursuant to this subsection), or

(B) the amount of qualified settlement income received by the individual during the taxable year.

(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of paragraph (1), a qualified taxpayer shall be deemed to have made a contribution to an eligible retirement plan on the last day of the taxable year in which such income is received if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(3) TREATMENT OF CONTRIBUTIONS TO ELIGIBLE RETIREMENT PLANS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income, then—

(A) except as provided in paragraph (4)—

(i) to the extent of such contribution, the qualified settlement income shall not be included in taxable income, and

(ii) for purposes of section 72 of such Code, such contribution shall not be considered to be investment in the contract,

(B) the qualified taxpayer shall, to the extent of the amount of the contribution, be treated—

(i) as having received the qualified settlement income—

(I) in the case of a contribution to an individual retirement plan (as defined under section 7701(a)(37) of such Code), in a distribution described in section 408(d)(3) of such Code, and

(II) in the case of any other eligible retirement plan, in an eligible rollover distribution (as defined under section 402(f)(2) of such Code), and

(ii) as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution,

(C) section 408(d)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts treated as a rollover under this paragraph, and

(D) section 408A(c)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts contributed to a Roth IRA (as defined under section 408A(b) of such Code) or a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code) under this paragraph.

(4) SPECIAL RULE FOR ROTH IRAS AND ROTH 401(k)S.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income to a Roth IRA (as defined under section 408A(b) of such Code) or as a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code), then—

(A) the qualified settlement income shall be includible in taxable income, and

(B) for purposes of section 72 of such Code, such contribution shall be considered to be investment in the contract.

(5) ELIGIBLE RETIREMENT PLAN.—For purpose of this subsection, the term "eligible retirement plan" has the meaning given such term under section 402(c)(8)(B) of the Internal Revenue Code of 1986.

(c) TREATMENT OF QUALIFIED SETTLEMENT INCOME UNDER EMPLOYMENT TAXES.—

(1) SECA.—For purposes of chapter 2 of the Internal Revenue Code of 1986 and section 211 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as self-employment income.

(2) FICA.—For purposes of chapter 21 of the Internal Revenue Code of 1986 and section 209 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as wages.

(d) QUALIFIED TAXPAYER.—For purposes of this section, the term "qualified taxpayer" means—

(1) any individual who is a plaintiff in the civil action In re Exxon Valdez, No. 89–095–CV (HRH) (Consolidated) (D. Alaska); or

(2) any individual who is a beneficiary of the estate of such a plaintiff who—

(A) acquired the right to receive qualified settlement income from that plaintiff; and

(B) was the spouse or an immediate relative of that plaintiff.

(e) QUALIFIED SETTLEMENT INCOME.—For purposes of this section, the term "qualified settlement income" means any interest and punitive damage awards which are—

(1) otherwise includible in taxable income, and

(2) received (whether as lump sums or periodic payments) in connection with the civil action In re Exxon Valdez, No. 89–095–CV (HRH) (Consolidated) (D. Alaska) (whether pre- or post-judgment and whether related to a settlement or judgment).

**SEC. 505. CERTAIN FARMING BUSINESS MACHINERY AND EQUIPMENT TREATED AS 5-YEAR PROPERTY.**

(a) IN GENERAL.—Section 168(e)(3)(B) (defining 5-year property) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi)(III) and inserting ", and", and by inserting after clause (vi) the following new clause: 26 USC 168.

"(vii) any machinery or equipment (other than any grain bin, cotton ginning asset, fence, or other land improvement) which is used in a farming business (as defined in section 263A(e)(4)), the original use of which commences with the taxpayer after December 31, 2008, and which is placed in service before January 1, 2010.".

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (B)(iii) the following:

(B)(vii) ..... 10".

26 USC 168 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008.

**SEC. 506. MODIFICATION OF PENALTY ON UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY TAX RETURN PREPARER.**

26 USC 6694.

(a) IN GENERAL.—Subsection (a) of section 6694 is amended to read as follows:

"(a) UNDERSTATEMENT DUE TO UNREASONABLE POSITIONS.—

"(1) IN GENERAL.—If a tax return preparer—

"(A) prepares any return or claim of refund with respect to which any part of an understatement of liability is due to a position described in paragraph (2), and

"(B) knew (or reasonably should have known) of the position,

such tax return preparer shall pay a penalty with respect to each such return or claim in an amount equal to the greater of $1,000 or 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

"(2) UNREASONABLE POSITION.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a position is described in this paragraph unless there is or was substantial authority for the position.

"(B) DISCLOSED POSITIONS.—If the position was disclosed as provided in section 6662(d)(2)(B)(ii)(I) and is not a position to which subparagraph (C) applies, the position is described in this paragraph unless there is a reasonable basis for the position.

"(C) TAX SHELTERS AND REPORTABLE TRANSACTIONS.—If the position is with respect to a tax shelter (as defined in section 6662(d)(2)(C)(ii)) or a reportable transaction to which section 6662A applies, the position is described in this paragraph unless it is reasonable to believe that the position would more likely than not be sustained on its merits.

"(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection if it is shown that there is reasonable cause for the understatement and the tax return preparer acted in good faith.".

26 USC 6694 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply—

(1) in the case of a position other than a position described in subparagraph (C) of section 6694(a)(2) of the Internal Revenue Code of 1986 (as amended by this section), to returns prepared after May 25, 2007, and

(2) in the case of a position described in such subparagraph (C), to returns prepared for taxable years ending after the date of the enactment of this Act.

# Subtitle B—Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

**SEC. 511. SHORT TITLE.**

42 USC 201 note.

This subtitle may be cited as the "Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008".

**SEC. 512. MENTAL HEALTH PARITY.**

(a) AMENDMENTS TO ERISA.—Section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a) is amended—

(1) in subsection (a), by adding at the end the following:

"(3) FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS.—

"(A) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan or coverage shall ensure that—

"(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and

"(ii) the treatment limitations applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage) and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

"(B) DEFINITIONS.—In this paragraph:

"(i) FINANCIAL REQUIREMENT.—The term 'financial requirement' includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit subject to paragraphs (1) and (2),

"(ii) PREDOMINANT.—A financial requirement or treatment limit is considered to be predominant if it is the most common or frequent of such type of limit or requirement.

"(iii) TREATMENT LIMITATION.—The term 'treatment limitation' includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

"(4) AVAILABILITY OF PLAN INFORMATION.—The criteria for medical necessity determinations made under the plan with respect to mental health or substance use disorder benefits (or the health insurance coverage offered in connection with the plan with respect to such benefits) shall be made available

by the plan administrator (or the health insurance issuer offering such coverage) in accordance with regulations to any current or potential participant, beneficiary, or contracting provider upon request. The reason for any denial under the plan (or coverage) of reimbursement or payment for services with respect to mental health or substance use disorder benefits in the case of any participant or beneficiary shall, on request or as otherwise required, be made available by the plan administrator (or the health insurance issuer offering such coverage) to the participant or beneficiary in accordance with regulations.

"(5) OUT-OF-NETWORK PROVIDERS.—In the case of a plan or coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits, if the plan or coverage provides coverage for medical or surgical benefits provided by out-of-network providers, the plan or coverage shall provide coverage for mental health or substance use disorder benefits provided by out-of-network providers in a manner that is consistent with the requirements of this section.";

(2) in subsection (b), by amending paragraph (2) to read as follows:

"(2) in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health or substance use disorder benefits, as affecting the terms and conditions of the plan or coverage relating to such benefits under the plan or coverage, except as provided in subsection (a).";

(3) in subsection (c)—

(A) in paragraph (1)(B)—

(i) by inserting "(or 1 in the case of an employer residing in a State that permits small groups to include a single individual)" after "at least 2" the first place that such appears; and

(ii) by striking "and who employs at least 2 employees on the first day of the plan year"; and

(B) by striking paragraph (2) and inserting the following:

"(2) COST EXEMPTION.—

"(A) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connection with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan (as determined and certified under subparagraph (C)) by an amount that exceeds the applicable percentage described in subparagraph (B) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health and substance use disorder parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

"(B) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this subparagraph shall be—

"(i) 2 percent in the case of the first plan year in which this section is applied; and

"(ii) 1 percent in the case of each subsequent plan year.

"(C) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan or health insurance issuer for a period of 6 years following the notification made under subparagraph (E).

"(D) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connection with a group health plan) seeks an exemption under this paragraph, determinations under subparagraph (A) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

"(E) NOTIFICATION.—

"(i) IN GENERAL.—A group health plan (or a health insurance issuer offering coverage in connection with a group health plan) that, based upon a certification described under subparagraph (C), qualifies for an exemption under this paragraph, and elects to implement the exemption, shall promptly notify the Secretary, the appropriate State agencies, and participants and beneficiaries in the plan of such election.

"(ii) REQUIREMENT.—A notification to the Secretary under clause (i) shall include—

"(I) a description of the number of covered lives under the plan (or coverage) involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this paragraph by such plan (or coverage);

"(II) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan; and

"(III) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health and substance use disorder benefits under the plan.

"(iii) CONFIDENTIALITY.—A notification to the Secretary under clause (i) shall be confidential. The Secretary shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes—

"(I) a breakdown of States by the size and type of employers submitting such notification; and

"(II) a summary of the data received under clause (ii).

"(F) AUDITS BY APPROPRIATE AGENCIES.—To determine compliance with this paragraph, the Secretary may audit the books and records of a group health plan or health insurance issuer relating to an exemption, including any actuarial reports prepared pursuant to subparagraph (C), during the 6 year period following the notification of such exemption under subparagraph (E). A State agency receiving a notification under subparagraph (E) may also conduct such an audit with respect to an exemption covered by such notification.";

(4) in subsection (e), by striking paragraph (4) and inserting the following:

"(4) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

"(5) SUBSTANCE USE DISORDER BENEFITS.—The term 'substance use disorder benefits' means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.";

(5) by striking subsection (f);

(6) by inserting after subsection (e) the following:

"(f) SECRETARY REPORT.—The Secretary shall, by January 1, 2012, and every two years thereafter, submit to the appropriate committees of Congress a report on compliance of group health plans (and health insurance coverage offered in connection with such plans) with the requirements of this section. Such report shall include the results of any surveys or audits on compliance of group health plans (and health insurance coverage offered in connection with such plans) with such requirements and an analysis of the reasons for any failures to comply.

Publication.

"(g) NOTICE AND ASSISTANCE.—The Secretary, in cooperation with the Secretaries of Health and Human Services and Treasury, as appropriate, shall publish and widely disseminate guidance and information for group health plans, participants and beneficiaries, applicable State and local regulatory bodies, and the National Association of Insurance Commissioners concerning the requirements of this section and shall provide assistance concerning such requirements and the continued operation of applicable State law. Such guidance and information shall inform participants and beneficiaries of how they may obtain assistance under this section, including, where appropriate, assistance from State consumer and insurance agencies.";

(7) by striking "mental health benefits" and inserting "mental health and substance use disorder benefits" each place it appears in subsections (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C); and

(8) by striking "mental health benefits" and inserting "mental health or substance use disorder benefits" each place it appears (other than in any provision amended by the previous paragraph).

(b) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—Section 2705 of the Public Health Service Act (42 U.S.C. 300gg–5) is amended—

(1) in subsection (a), by adding at the end the following:

"(3) FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS.—

"(A) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan or coverage shall ensure that—

"(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and

"(ii) the treatment limitations applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage) and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

"(B) DEFINITIONS.—In this paragraph:

"(i) FINANCIAL REQUIREMENT.—The term 'financial requirement' includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit subject to paragraphs (1) and (2).

"(ii) PREDOMINANT.—A financial requirement or treatment limit is considered to be predominant if it is the most common or frequent of such type of limit or requirement.

"(iii) TREATMENT LIMITATION.—The term 'treatment limitation' includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

"(4) AVAILABILITY OF PLAN INFORMATION.—The criteria for medical necessity determinations made under the plan with respect to mental health or substance use disorder benefits (or the health insurance coverage offered in connection with the plan with respect to such benefits) shall be made available by the plan administrator (or the health insurance issuer offering such coverage) in accordance with regulations to any current or potential participant, beneficiary, or contracting provider upon request. The reason for any denial under the plan (or coverage) of reimbursement or payment for services with respect to mental health or substance use disorder benefits in the case of any participant or beneficiary shall, on request or as otherwise required, be made available by the plan administrator (or the health insurance issuer offering such coverage) to the participant or beneficiary in accordance with regulations.

"(5) OUT-OF-NETWORK PROVIDERS.—In the case of a plan or coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits, if the plan or coverage provides coverage for medical or surgical benefits provided by out-of-network providers, the plan or coverage shall provide coverage for mental health or substance use disorder benefits provided by out-of-network providers in a manner that is consistent with the requirements of this section.";

(2) in subsection (b), by amending paragraph (2) to read as follows:

"(2) in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health or substance use disorder benefits, as affecting the terms and conditions of the plan or coverage relating to such benefits under the plan or coverage, except as provided in subsection (a).";

(3) in subsection (c)—

(A) in paragraph (1), by inserting before the period the following: "(as defined in section 2791(e)(4), except that for purposes of this paragraph such term shall include employers with 1 employee in the case of an employer residing in a State that permits small groups to include a single individual)"; and

(B) by striking paragraph (2) and inserting the following:

"(2) COST EXEMPTION.—

"(A) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connection with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan (as determined and certified under subparagraph (C)) by an amount that exceeds the applicable percentage described in subparagraph (B) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health and substance use disorder parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

"(B) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this subparagraph shall be—

"(i) 2 percent in the case of the first plan year in which this section is applied; and

"(ii) 1 percent in the case of each subsequent plan year.

"(C) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared

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by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan or health insurance issuer for a period of 6 years following the notification made under subparagraph (E). Records.

"(D) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connection with a group health plan) seeks an exemption under this paragraph, determinations under subparagraph (A) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

"(E) NOTIFICATION.—

"(i) IN GENERAL.—A group health plan (or a health insurance issuer offering coverage in connection with a group health plan) that, based upon a certification described under subparagraph (C), qualifies for an exemption under this paragraph, and elects to implement the exemption, shall promptly notify the Secretary, the appropriate State agencies, and participants and beneficiaries in the plan of such election.

"(ii) REQUIREMENT.—A notification to the Secretary under clause (i) shall include—

"(I) a description of the number of covered lives under the plan (or coverage) involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this paragraph by such plan (or coverage);

"(II) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan; and

"(III) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health and substance use disorder benefits under the plan.

"(iii) CONFIDENTIALITY.—A notification to the Secretary under clause (i) shall be confidential. The Secretary shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes—

"(I) a breakdown of States by the size and type of employers submitting such notification; and

"(II) a summary of the data received under clause (ii).

"(F) AUDITS BY APPROPRIATE AGENCIES.—To determine compliance with this paragraph, the Secretary may audit the books and records of a group health plan or health insurance issuer relating to an exemption, including any actuarial reports prepared pursuant to subparagraph (C), during the 6 year period following the notification of such exemption under subparagraph (E). A State agency receiving a notification under subparagraph (E) may also conduct such an audit with respect to an exemption covered by such notification.";

(4) in subsection (e), by striking paragraph (4) and inserting the following:

"(4) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

"(5) SUBSTANCE USE DISORDER BENEFITS.—The term 'substance use disorder benefits' means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.";

(5) by striking subsection (f);

(6) by striking "mental health benefits" and inserting "mental health and substance use disorder benefits" each place it appears in subsections (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C); and

(7) by striking "mental health benefits" and inserting "mental health or substance use disorder benefits" each place it appears (other than in any provision amended by the previous paragraph).

(c) AMENDMENTS TO INTERNAL REVENUE CODE.—Section 9812 of the Internal Revenue Code of 1986 is amended— 26 USC 9812.

(1) in subsection (a), by adding at the end the following:

"(3) FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS.—

"(A) IN GENERAL.—In the case of a group health plan that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan shall ensure that—

"(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan, and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and

"(ii) the treatment limitations applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

"(B) DEFINITIONS.—In this paragraph:

"(i) FINANCIAL REQUIREMENT.—The term 'financial requirement' includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit subject to paragraphs (1) and (2),

"(ii) PREDOMINANT.—A financial requirement or treatment limit is considered to be predominant if it is the most common or frequent of such type of limit or requirement.

"(iii) TREATMENT LIMITATION.—The term 'treatment limitation' includes limits on the frequency of

treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

"(4) AVAILABILITY OF PLAN INFORMATION.—The criteria for medical necessity determinations made under the plan with respect to mental health or substance use disorder benefits shall be made available by the plan administrator in accordance with regulations to any current or potential participant, beneficiary, or contracting provider upon request. The reason for any denial under the plan of reimbursement or payment for services with respect to mental health or substance use disorder benefits in the case of any participant or beneficiary shall, on request or as otherwise required, be made available by the plan administrator to the participant or beneficiary in accordance with regulations.

"(5) OUT-OF-NETWORK PROVIDERS.—In the case of a plan that provides both medical and surgical benefits and mental health or substance use disorder benefits, if the plan provides coverage for medical or surgical benefits provided by out-of-network providers, the plan shall provide coverage for mental health or substance use disorder benefits provided by out-of-network providers in a manner that is consistent with the requirements of this section.";

(2) in subsection (b), by amending paragraph (2) to read as follows:

"(2) in the case of a group health plan that provides mental health or substance use disorder benefits, as affecting the terms and conditions of the plan relating to such benefits under the plan, except as provided in subsection (a).";

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) SMALL EMPLOYER EXEMPTION.—

"(A) IN GENERAL.—This section shall not apply to any group health plan for any plan year of a small employer.

"(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, with respect to a calendar year and a plan year, an employer who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year. For purposes of the preceding sentence, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer and rules similar to rules of subparagraphs (B) and (C) of section 4980D(d)(2) shall apply."; and Applicability.

(B) by striking paragraph (2) and inserting the following:

"(2) COST EXEMPTION.—

"(A) IN GENERAL.—With respect to a group health plan, if the application of this section to such plan results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan (as determined and certified under subparagraph (C)) by an amount that exceeds the applicable percentage described in subparagraph (B) of the actual total plan costs, the provisions of this section shall not Applicability.

apply to such plan during the following plan year, and such exemption shall apply to the plan for 1 plan year. An employer may elect to continue to apply mental health and substance use disorder parity pursuant to this section with respect to the group health plan involved regardless of any increase in total costs.

"(B) APPLICABLE PERCENTAGE.—With respect to a plan, the applicable percentage described in this subparagraph shall be—

"(i) 2 percent in the case of the first plan year in which this section is applied; and

"(ii) 1 percent in the case of each subsequent plan year.

"(C) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan for a period of 6 years following the notification made under subparagraph (E).

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"(D) 6-MONTH DETERMINATIONS.—If a group health plan seeks an exemption under this paragraph, determinations under subparagraph (A) shall be made after such plan has complied with this section for the first 6 months of the plan year involved.

"(E) NOTIFICATION.—

"(i) IN GENERAL.—A group health plan that, based upon a certification described under subparagraph (C), qualifies for an exemption under this paragraph, and elects to implement the exemption, shall promptly notify the Secretary, the appropriate State agencies, and participants and beneficiaries in the plan of such election.

"(ii) REQUIREMENT.—A notification to the Secretary under clause (i) shall include—

"(I) a description of the number of covered lives under the plan involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this paragraph by such plan;

"(II) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan; and

"(III) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health and substance use disorder benefits under the plan.

"(iii) CONFIDENTIALITY.—A notification to the Secretary under clause (i) shall be confidential. The Secretary shall make available, upon request and on not

more than an annual basis, an anonymous itemization of such notifications, that includes—

"(I) a breakdown of States by the size and type of employers submitting such notification; and

"(II) a summary of the data received under clause (ii).

"(F) AUDITS BY APPROPRIATE AGENCIES.—To determine compliance with this paragraph, the Secretary may audit the books and records of a group health plan relating to an exemption, including any actuarial reports prepared pursuant to subparagraph (C), during the 6 year period following the notification of such exemption under subparagraph (E). A State agency receiving a notification under subparagraph (E) may also conduct such an audit with respect to an exemption covered by such notification.";

(4) in subsection (e), by striking paragraph (4) and inserting the following:

"(4) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

"(5) SUBSTANCE USE DISORDER BENEFITS.—The term 'substance use disorder benefits' means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.";

(5) by striking subsection (f);

(6) by striking "mental health benefits" and inserting "mental health and substance use disorder benefits" each place it appears in subsections (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C); and

(7) by striking "mental health benefits" and inserting "mental health or substance use disorder benefits" each place it appears (other than in any provision amended by the previous paragraph).

(d) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretaries of Labor, Health and Human Services, and the Treasury shall issue regulations to carry out the amendments made by subsections (a), (b), and (c), respectively. Deadline. 42 USC 300gg–5 note.

(e) EFFECTIVE DATE.— 42 USC 300gg–5 note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of enactment of this Act, regardless of whether regulations have been issued to carry out such amendments by such effective date, except that the amendments made by subsections (a)(5), (b)(5), and (c)(5), relating to striking of certain sunset provisions, shall take effect on January 1, 2009.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 2009.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

42 USC 300gg–5 note.

(f) ASSURING COORDINATION.—The Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury may ensure, through the execution or revision of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this section (and the amendments made by this section) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

(g) CONFORMING CLERICAL AMENDMENTS.—

(1) ERISA HEADING.—

29 USC 1185a.

(A) IN GENERAL.—The heading of section 712 of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

**"SEC. 712. PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.".**

(B) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 712 and inserting the following new item:

"Sec. 712. Parity in mental health and substance use disorder benefits.".

(2) PHSA HEADING.—The heading of section 2705 of the

42 USC 300gg–5.

Public Health Service Act is amended to read as follows:

**"SEC. 2705. PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.".**

(3) IRC HEADING.—

26 USC 9812.

(A) IN GENERAL.—The heading of section 9812 of the Internal Revenue Code of 1986 is amended to read as follows:

**"SEC. 9812. PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.".**

(B) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 100 of such Code is amended by striking the item relating to section 9812 and inserting the following new item:

"Sec. 9812. Parity in mental health and substance use disorder benefits.".

(h) GAO STUDY ON COVERAGE AND EXCLUSION OF MENTAL HEALTH AND SUBSTANCE USE DISORDER DIAGNOSES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study that analyzes the specific rates, patterns, and trends in coverage and exclusion of specific mental health and substance use disorder diagnoses by health plans and health insurance. The study shall include an analysis of—

(A) specific coverage rates for all mental health conditions and substance use disorders;

(B) which diagnoses are most commonly covered or excluded;

(C) whether implementation of this Act has affected trends in coverage or exclusion of such diagnoses; and

(D) the impact of covering or excluding specific diagnoses on participants' and enrollees' health, their health care coverage, and the costs of delivering health care.

(2) REPORTS.—Not later than 3 years after the date of the enactment of this Act, and 2 years after the date of submission the first report under this paragraph, the Comptroller General shall submit to Congress a report on the results of the study conducted under paragraph (1).

# TITLE VI—OTHER PROVISIONS

**SEC. 601. SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION PROGRAM.**

(a) REAUTHORIZATION OF THE SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) is amended by striking sections 1 through 403 and inserting the following: 16 USC 500 notes.

**"SEC. 1. SHORT TITLE.** 16 USC 7101 note.

"This Act may be cited as the 'Secure Rural Schools and Community Self-Determination Act of 2000'.

**"SEC. 2. PURPOSES.** 16 USC 7101.

"The purposes of this Act are—

"(1) to stabilize and transition payments to counties to provide funding for schools and roads that supplements other available funds;

"(2) to make additional investments in, and create additional employment opportunities through, projects that—

"(A)(i) improve the maintenance of existing infrastructure;

"(ii) implement stewardship objectives that enhance forest ecosystems; and

"(iii) restore and improve land health and water quality;

"(B) enjoy broad-based support; and

"(C) have objectives that may include—

"(i) road, trail, and infrastructure maintenance or obliteration;

"(ii) soil productivity improvement;

"(iii) improvements in forest ecosystem health;

"(iv) watershed restoration and maintenance;

"(v) the restoration, maintenance, and improvement of wildlife and fish habitat;

"(vi) the control of noxious and exotic weeds; and

"(vii) the reestablishment of native species; and

"(3) to improve cooperative relationships among—

"(A) the people that use and care for Federal land; and

"(B) the agencies that manage the Federal land.

16 USC 7102.

**"SEC. 3. DEFINITIONS.**

"In this Act:

"(1) ADJUSTED SHARE.—The term 'adjusted share' means the number equal to the quotient obtained by dividing—

"(A) the number equal to the quotient obtained by dividing—

"(i) the base share for the eligible county; by

"(ii) the income adjustment for the eligible county; by

"(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (8)(A) for all eligible counties.

"(2) BASE SHARE.—The term 'base share' means the number equal to the average of—

"(A) the quotient obtained by dividing—

"(i) the number of acres of Federal land described in paragraph (7)(A) in each eligible county; by

"(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

"(B) the quotient obtained by dividing—

"(i) the amount equal to the average of the 3 highest 25-percent payments and safety net payments made to each eligible State for each eligible county during the eligibility period; by

"(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (9)(B)(i) for all eligible counties in all eligible States during the eligibility period.

"(3) COUNTY PAYMENT.—The term 'county payment' means the payment for an eligible county calculated under section 101(b).

"(4) ELIGIBLE COUNTY.—The term 'eligible county' means any county that—

"(A) contains Federal land (as defined in paragraph (7)); and

"(B) elects to receive a share of the State payment or the county payment under section 102(b).

"(5) ELIGIBILITY PERIOD.—The term 'eligibility period' means fiscal year 1986 through fiscal year 1999.

"(6) ELIGIBLE STATE.—The term 'eligible State' means a State or territory of the United States that received a 25-percent payment for 1 or more fiscal years of the eligibility period.

"(7) FEDERAL LAND.—The term 'Federal land' means—

"(A) land within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) exclusive of the National Grasslands and land utilization

projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012); and

"(B) such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site land valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

"(8) 50-PERCENT ADJUSTED SHARE.—The term '50-percent adjusted share' means the number equal to the quotient obtained by dividing—

"(A) the number equal to the quotient obtained by dividing—

"(i) the 50-percent base share for the eligible county; by

"(ii) the income adjustment for the eligible county; by

"(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (1)(A) for all eligible counties.

"(9) 50-PERCENT BASE SHARE.—The term '50-percent base share' means the number equal to the average of—

"(A) the quotient obtained by dividing—

"(i) the number of acres of Federal land described in paragraph (7)(B) in each eligible county; by

"(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

"(B) the quotient obtained by dividing—

"(i) the amount equal to the average of the 3 highest 50-percent payments made to each eligible county during the eligibility period; by

"(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (2)(B)(i) for all eligible counties in all eligible States during the eligibility period.

"(10) 50-PERCENT PAYMENT.—The term '50-percent payment' means the payment that is the sum of the 50-percent share otherwise paid to a county pursuant to title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the payment made to a county pursuant to the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.).

"(11) FULL FUNDING AMOUNT.—The term 'full funding amount' means—

"(A) $500,000,000 for fiscal year 2008; and

"(B) for fiscal year 2009 and each fiscal year thereafter, the amount that is equal to 90 percent of the full funding amount for the preceding fiscal year.

"(12) INCOME ADJUSTMENT.—The term 'income adjustment' means the square of the quotient obtained by dividing—

"(A) the per capita personal income for each eligible county; by

"(B) the median per capita personal income of all eligible counties.

"(13) PER CAPITA PERSONAL INCOME.—The term 'per capita personal income' means the most recent per capita personal income data, as determined by the Bureau of Economic Analysis.

"(14) SAFETY NET PAYMENTS.—The term 'safety net payments' means the special payment amounts paid to States and counties required by section 13982 or 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note).

"(15) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

"(A) the Secretary of Agriculture or the designee of the Secretary of Agriculture with respect to the Federal land described in paragraph (7)(A); and

"(B) the Secretary of the Interior or the designee of the Secretary of the Interior with respect to the Federal land described in paragraph (7)(B).

"(16) STATE PAYMENT.—The term 'State payment' means the payment for an eligible State calculated under section 101(a).

"(17) 25-PERCENT PAYMENT.—The term '25-percent payment' means the payment to States required by the sixth paragraph under the heading of 'FOREST SERVICE' in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

# "TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LAND

16 USC 7111.

**"SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING FEDERAL LAND.**

"(a) STATE PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of Agriculture shall calculate for each eligible State an amount equal to the sum of the products obtained by multiplying—

"(1) the adjusted share for each eligible county within the eligible State; by

"(2) the full funding amount for the fiscal year.

"(b) COUNTY PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of the Interior shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the product obtained by multiplying—

"(1) the 50-percent adjusted share for the eligible county; by

"(2) the full funding amount for the fiscal year.

16 USC 7112.

**"SEC. 102. PAYMENTS TO STATES AND COUNTIES.**

"(a) PAYMENT AMOUNTS.—Except as provided in section 103, the Secretary of the Treasury shall pay to—

"(1) a State or territory of the United States an amount equal to the sum of the amounts elected under subsection (b) by each county within the State or territory for—

"(A) if the county is eligible for the 25-percent payment, the share of the 25-percent payment; or

"(B) the share of the State payment of the eligible county; and

"(2) a county an amount equal to the amount elected under subsection (b) by each county for—

"(A) if the county is eligible for the 50-percent payment, the 50-percent payment; or

"(B) the county payment for the eligible county.

"(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

"(1) ELECTION; SUBMISSION OF RESULTS.—

"(A) IN GENERAL.—The election to receive a share of the State payment, the county payment, a share of the State payment and the county payment, a share of the 25-percent payment, the 50-percent payment, or a share of the 25-percent payment and the 50-percent payment, as applicable, shall be made at the discretion of each affected county by August 1, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and August 1 of each second fiscal year thereafter, in accordance with paragraph (2), and transmitted to the Secretary concerned by the Governor of each eligible State.

"(B) FAILURE TO TRANSMIT.—If an election for an affected county is not transmitted to the Secretary concerned by the date specified under subparagraph (A), the affected county shall be considered to have elected to receive a share of the State payment, the county payment, or a share of the State payment and the county payment, as applicable.

"(2) DURATION OF ELECTION.—

"(A) IN GENERAL.—A county election to receive a share of the 25-percent payment or 50-percent payment, as applicable, shall be effective for 2 fiscal years.

"(B) FULL FUNDING AMOUNT.—If a county elects to receive a share of the State payment or the county payment, the election shall be effective for all subsequent fiscal years through fiscal year 2011.

"(3) SOURCE OF PAYMENT AMOUNTS.—The payment to an eligible State or eligible county under this section for a fiscal year shall be derived from—

"(A) any amounts that are appropriated to carry out this Act;

"(B) any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, special account, or permanent operating funds, received by the Federal Government from activities by the Bureau of Land Management or the Forest Service on the applicable Federal land; and

"(C) to the extent of any shortfall, out of any amounts in the Treasury of the United States not otherwise appropriated.

"(c) DISTRIBUTION AND EXPENDITURE OF PAYMENTS.—

"(1) DISTRIBUTION METHOD.—A State that receives a payment under subsection (a) for Federal land described in section 3(7)(A) shall distribute the appropriate payment amount among the appropriate counties in the State in accordance with—

"(A) the Act of May 23, 1908 (16 U.S.C. 500); and

"(B) section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

"(2) EXPENDITURE PURPOSES.—Subject to subsection (d), payments received by a State under subsection (a) and distributed to counties in accordance with paragraph (1) shall be expended as required by the laws referred to in paragraph (1).

"(d) EXPENDITURE RULES FOR ELIGIBLE COUNTIES.—

"(1) ALLOCATIONS.—

"(A) USE OF PORTION IN SAME MANNER AS 25-PERCENT PAYMENT OR 50-PERCENT PAYMENT, AS APPLICABLE.—Except as provided in paragraph (3)(B), if an eligible county elects to receive its share of the State payment or the county payment, not less than 80 percent, but not more than 85 percent, of the funds shall be expended in the same manner in which the 25-percent payments or 50-percent payment, as applicable, are required to be expended.

"(B) ELECTION AS TO USE OF BALANCE.—Except as provided in subparagraph (C), an eligible county shall elect to do 1 or more of the following with the balance of any funds not expended pursuant to subparagraph (A):

"(i) Reserve any portion of the balance for projects in accordance with title II.

"(ii) Reserve not more than 7 percent of the total share for the eligible county of the State payment or the county payment for projects in accordance with title III.

"(iii) Return the portion of the balance not reserved under clauses (i) and (ii) to the Treasury of the United States.

"(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to which more than $100,000, but less than $350,000, is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county, with respect to the balance of any funds not expended pursuant to subparagraph (A) for that fiscal year, shall—

"(i) reserve any portion of the balance for—

"(I) carrying out projects under title II;

"(II) carrying out projects under title III; or

"(III) a combination of the purposes described in subclauses (I) and (II); or

"(ii) return the portion of the balance not reserved under clause (i) to the Treasury of the United States.

"(2) DISTRIBUTION OF FUNDS.—

"(A) IN GENERAL.—Funds reserved by an eligible county under subparagraph (B)(i) or (C)(i) of paragraph (1) for carrying out projects under title II shall be deposited in a special account in the Treasury of the United States.

"(B) AVAILABILITY.—Amounts deposited under subparagraph (A) shall—

"(i) be available for expenditure by the Secretary concerned, without further appropriation; and

"(ii) remain available until expended in accordance with title II.

"(3) ELECTION.—

"(A) NOTIFICATION.—

"(i) IN GENERAL.—An eligible county shall notify the Secretary concerned of an election by the eligible county under this subsection not later than September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year.

"(ii) FAILURE TO ELECT.—Except as provided in subparagraph (B), if the eligible county fails to make an election by the date specified in clause (i), the eligible county shall—

"(I) be considered to have elected to expend 85 percent of the funds in accordance with paragraph (1)(A); and

"(II) return the balance to the Treasury of the United States.

"(B) COUNTIES WITH MINOR DISTRIBUTIONS.—In the case of each eligible county to which less than $100,000 is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county may elect to expend all the funds in the same manner in which the 25-percent payments or 50-percent payments, as applicable, are required to be expended.

"(e) TIME FOR PAYMENT.—The payments required under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

**"SEC. 103. TRANSITION PAYMENTS TO STATES.** 16 USC 7113.

"(a) DEFINITIONS.—In this section:

"(1) ADJUSTED AMOUNT.—The term 'adjusted amount' means, with respect to a covered State—

"(A) for fiscal year 2008, 90 percent of—

"(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2008; and

"(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2008;

"(B) for fiscal year 2009, 81 percent of—

"(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2009; and

"(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2009; and

"(C) for fiscal year 2010, 73 percent of—

"(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State

that have elected under section 102(b) to receive a share of the State payment for fiscal year 2010; and

"(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2010.

"(2) COVERED STATE.—The term 'covered State' means each of the States of California, Louisiana, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, and Washington.

"(b) TRANSITION PAYMENTS.—For each of fiscal years 2008 through 2010, in lieu of the payment amounts that otherwise would have been made under paragraphs (1)(B) and (2)(B) of section 102(a), the Secretary of the Treasury shall pay the adjusted amount to each covered State and the eligible counties within the covered State, as applicable.

"(c) DISTRIBUTION OF ADJUSTED AMOUNT.—Except as provided in subsection (d), it is the intent of Congress that the method of distributing the payments under subsection (b) among the counties in the covered States for each of fiscal years 2008 through 2010 be in the same proportion that the payments were distributed to the eligible counties in fiscal year 2006.

"(d) DISTRIBUTION OF PAYMENTS IN CALIFORNIA.—The following payments shall be distributed among the eligible counties in the State of California in the same proportion that payments under section 102(a)(2) (as in effect on September 29, 2006) were distributed to the eligible counties for fiscal year 2006:

"(1) Payments to the State of California under subsection (b).

"(2) The shares of the eligible counties of the State payment for California under section 102 for fiscal year 2011.

"(e) TREATMENT OF PAYMENTS.—For purposes of this Act, any payment made under subsection (b) shall be considered to be a payment made under section 102(a).

# "TITLE II—SPECIAL PROJECTS ON FEDERAL LAND

16 USC 7121.

**"SEC. 201. DEFINITIONS.**

"In this title:

"(1) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

"(2) PROJECT FUNDS.—The term 'project funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

"(3) RESOURCE ADVISORY COMMITTEE.—The term 'resource advisory committee' means—

"(A) an advisory committee established by the Secretary concerned under section 205; or

"(B) an advisory committee determined by the Secretary concerned to meet the requirements of section 205.

"(4) RESOURCE MANAGEMENT PLAN.—The term 'resource management plan' means—

"(A) a land use plan prepared by the Bureau of Land Management for units of the Federal land described in section 3(7)(B) pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

"(B) a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

**"SEC. 202. GENERAL LIMITATION ON USE OF PROJECT FUNDS.** 16 USC 7122.

"(a) LIMITATION.—Project funds shall be expended solely on projects that meet the requirements of this title.

"(b) AUTHORIZED USES.—Project funds may be used by the Secretary concerned for the purpose of entering into and implementing cooperative agreements with willing Federal agencies, State and local governments, private and nonprofit entities, and landowners for protection, restoration, and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this Act on Federal land and on non-Federal land where projects would benefit the resources on Federal land.

**"SEC. 203. SUBMISSION OF PROJECT PROPOSALS.** 16 USC 7123.

"(a) SUBMISSION OF PROJECT PROPOSALS TO SECRETARY CONCERNED.—

"(1) PROJECTS FUNDED USING PROJECT FUNDS.—Not later than September 30 for fiscal year 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, each resource advisory committee shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved by eligible counties in the area in which the resource advisory committee has geographic jurisdiction. Deadlines.

"(2) PROJECTS FUNDED USING OTHER FUNDS.—A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from State or local governments, or from the private sector, other than project funds and funds appropriated and otherwise available to do similar work.

"(3) JOINT PROJECTS.—Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 205.

"(b) REQUIRED DESCRIPTION OF PROJECTS.—In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:

"(1) The purpose of the project and a description of how the project will meet the purposes of this title.

"(2) The anticipated duration of the project.

"(3) The anticipated cost of the project.

"(4) The proposed source of funding for the project, whether project funds or other funds.

"(5)(A) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives.

"(B) An estimate of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.

"(6) A detailed monitoring plan, including funding needs and sources, that—

"(A) tracks and identifies the positive or negative impacts of the project, implementation, and provides for validation monitoring; and

"(B) includes an assessment of the following:

"(i) Whether or not the project met or exceeded desired ecological conditions; created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate.

"(ii) Whether the project improved the use of, or added value to, any products removed from land consistent with the purposes of this title.

"(7) An assessment that the project is to be in the public interest.

"(c) AUTHORIZED PROJECTS.—Projects proposed under subsection (a) shall be consistent with section 2.

16 USC 7124.

**"SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY CONCERNED.**

"(a) CONDITIONS FOR APPROVAL OF PROPOSED PROJECT.—The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

"(1) The project complies with all applicable Federal laws (including regulations).

"(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.

"(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of that section.

"(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.

"(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.

"(b) ENVIRONMENTAL REVIEWS.—

"(1) REQUEST FOR PAYMENT BY COUNTY.—The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project.

"(2) CONDUCT OF ENVIRONMENTAL REVIEW.—If a payment is requested under paragraph (1) and the resource advisory committee agrees to the expenditure of funds for this purpose,

the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal laws (including regulations).

"(3) EFFECT OF REFUSAL TO PAY.—

"(A) IN GENERAL.—If a resource advisory committee does not agree to the expenditure of funds under paragraph (1), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title.

"(B) EFFECT OF WITHDRAWAL.—A withdrawal under subparagraph (A) shall be deemed to be a rejection of the project for purposes of section 207(c).

"(c) DECISIONS OF SECRETARY CONCERNED.—

"(1) REJECTION OF PROJECTS.—

"(A) IN GENERAL.—A decision by the Secretary concerned to reject a proposed project shall be at the sole discretion of the Secretary concerned.

"(B) NO ADMINISTRATIVE APPEAL OR JUDICIAL REVIEW.—Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review.

"(C) NOTICE OF REJECTION.—Not later than 30 days after the date on which the Secretary concerned makes the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection. Deadline. Notification.

"(2) NOTICE OF PROJECT APPROVAL.—The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if the notice would be required had the project originated with the Secretary. Federal Register, publication.

"(d) SOURCE AND CONDUCT OF PROJECT.—Once the Secretary concerned accepts a project for review under section 203, the acceptance shall be deemed a Federal action for all purposes.

"(e) IMPLEMENTATION OF APPROVED PROJECTS.—

"(1) COOPERATION.—Notwithstanding chapter 63 of title 31, United States Code, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.

"(2) BEST VALUE CONTRACTING.—

"(A) IN GENERAL.—For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis.

"(B) FACTORS.—The Secretary concerned shall determine best value based on such factors as—

"(i) the technical demands and complexity of the work to be done;

"(ii)(I) the ecological objectives of the project; and

"(II) the sensitivity of the resources being treated;

"(iii) the past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions; and

"(iv) the commitment of the contractor to hiring highly qualified workers and local residents.

"(3) MERCHANTABLE TIMBER CONTRACTING PILOT PROGRAM.—

"(A) ESTABLISHMENT.—The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable timber using separate contracts for—

"(i) the harvesting or collection of merchantable timber; and

"(ii) the sale of the timber.

"(B) ANNUAL PERCENTAGES.—Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less than the following percentage of all approved projects involving the sale of merchantable timber are implemented using separate contracts:

"(i) For fiscal year 2008, 35 percent.

"(ii) For fiscal year 2009, 45 percent.

"(iii) For each of fiscal years 2010 and 2011, 50 percent.

"(C) INCLUSION IN PILOT PROGRAM.—The decision whether to use separate contracts to implement a project involving the sale of merchantable timber shall be made by the Secretary concerned after the approval of the project under this title.

"(D) ASSISTANCE.—

"(i) IN GENERAL.—The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal land to assist in the administration of projects conducted under the pilot program.

"(ii) MAXIMUM AMOUNT OF ASSISTANCE.—The total amount obligated under this subparagraph may not exceed $1,000,000 for any fiscal year during which the pilot program is in effect.

"(E) REVIEW AND REPORT.—

"(i) INITIAL REPORT.—Not later than September 30, 2010, the Comptroller General shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives a report assessing the pilot program.

"(ii) ANNUAL REPORT.—The Secretary concerned shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives an annual report describing the results of the pilot program.

"(f) REQUIREMENTS FOR PROJECT FUNDS.—The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated—

"(1) to road maintenance, decommissioning, or obliteration; or

"(2) to restoration of streams and watersheds.

**"SEC. 205. RESOURCE ADVISORY COMMITTEES.** 16 USC 7125.

"(a) ESTABLISHMENT AND PURPOSE OF RESOURCE ADVISORY COMMITTEES.—

"(1) ESTABLISHMENT.—The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).

"(2) PURPOSE.—The purpose of a resource advisory committee shall be—

"(A) to improve collaborative relationships; and

"(B) to provide advice and recommendations to the land management agencies consistent with the purposes of this title.

"(3) ACCESS TO RESOURCE ADVISORY COMMITTEES.—To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or 1 or more, units of Federal land.

"(4) EXISTING ADVISORY COMMITTEES.—

"(A) IN GENERAL.—An advisory committee that meets the requirements of this section, a resource advisory committee established before September 29, 2006, or an advisory committee determined by the Secretary concerned before September 29, 2006, to meet the requirements of this section may be deemed by the Secretary concerned to be a resource advisory committee for the purposes of this title.

"(B) CHARTER.—A charter for a committee described in subparagraph (A) that was filed on or before September 29, 2006, shall be considered to be filed for purposes of this Act.

"(C) BUREAU OF LAND MANAGEMENT ADVISORY COMMITTEES.—The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.

"(b) DUTIES.—A resource advisory committee shall—

"(1) review projects proposed under this title by participating counties and other persons;

"(2) propose projects and funding to the Secretary concerned under section 203;

"(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act under this title;

"(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this title;

"(5)(A) monitor projects that have been approved under section 204; and

"(B) advise the designated Federal official on the progress of the monitoring efforts under subparagraph (A); and

"(6) make recommendations to the Secretary concerned for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.

"(c) APPOINTMENT BY THE SECRETARY.—

"(1) APPOINTMENT AND TERM.—

"(A) IN GENERAL.—The Secretary concerned, shall appoint the members of resource advisory committees for a term of 4 years beginning on the date of appointment.

"(B) REAPPOINTMENT.—The Secretary concerned may reappoint members to subsequent 4-year terms.

"(2) BASIC REQUIREMENTS.—The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

Deadline.

"(3) INITIAL APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall make initial appointments to the resource advisory committees.

"(4) VACANCIES.—The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

"(5) COMPENSATION.—Members of the resource advisory committees shall not receive any compensation.

"(d) COMPOSITION OF ADVISORY COMMITTEE.—

"(1) NUMBER.—Each resource advisory committee shall be comprised of 15 members.

"(2) COMMUNITY INTERESTS REPRESENTED.—Committee members shall be representative of the interests of the following 3 categories:

"(A) 5 persons that—

"(i) represent organized labor or non-timber forest product harvester groups;

"(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

"(iii) represent—

"(I) energy and mineral development interests; or

"(II) commercial or recreational fishing interests;

"(iv) represent the commercial timber industry; or

"(v) hold Federal grazing or other land use permits, or represent nonindustrial private forest land owners, within the area for which the committee is organized.

"(B) 5 persons that represent—

"(i) nationally recognized environmental organizations;

"(ii) regionally or locally recognized environmental organizations;

"(iii) dispersed recreational activities;

"(iv) archaeological and historical interests; or

"(v) nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

"(C) 5 persons that—

"(i) hold State elected office (or a designee);

"(ii) hold county or local elected office;

"(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;

"(iv) are school officials or teachers; or

"(v) represent the affected public at large.

"(3) BALANCED REPRESENTATION.—In appointing committee members from the 3 categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

"(4) GEOGRAPHIC DISTRIBUTION.—The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).

"(5) CHAIRPERSON.—A majority on each resource advisory committee shall select the chairperson of the committee.

"(e) APPROVAL PROCEDURES.—

"(1) IN GENERAL.—Subject to paragraph (3), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this title.

"(2) QUORUM.—A quorum must be present to constitute an official meeting of the committee.

"(3) APPROVAL BY MAJORITY OF MEMBERS.—A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a), if the project has been approved by a majority of members of the committee from each of the 3 categories in subsection (d)(2).

"(f) OTHER COMMITTEE AUTHORITIES AND REQUIREMENTS.—

"(1) STAFF ASSISTANCE.—A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

"(2) MEETINGS.—All meetings of a resource advisory committee shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

"(3) RECORDS.—A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

**"SEC. 206. USE OF PROJECT FUNDS.** 16 USC 7126.

"(a) AGREEMENT REGARDING SCHEDULE AND COST OF PROJECT.—

"(1) AGREEMENT BETWEEN PARTIES.—The Secretary concerned may carry out a project submitted by a resource advisory committee under section 203(a) using project funds or other funds described in section 203(a)(2), if, as soon as practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

"(A) The schedule for completing the project.

"(B) The total cost of the project, including the level of agency overhead to be assessed against the project.

"(C) For a multiyear project, the estimated cost of the project for each of the fiscal years in which it will be carried out.

"(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

"(2) LIMITED USE OF FEDERAL FUNDS.—The Secretary concerned may decide, at the sole discretion of the Secretary concerned, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

"(b) TRANSFER OF PROJECT FUNDS.—

"(1) INITIAL TRANSFER REQUIRED.—As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 203(a)(2), the Secretary concerned shall transfer to the applicable unit of National Forest System land or Bureau of Land Management District an amount of project funds equal to—

"(A) in the case of a project to be completed in a single fiscal year, the total amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2); or

"(B) in the case of a multiyear project, the amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2) for the first fiscal year.

"(2) CONDITION ON PROJECT COMMENCEMENT.—The unit of National Forest System land or Bureau of Land Management District concerned, shall not commence a project until the project funds, or other funds described in section 203(a)(2) required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

"(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR PROJECTS.—

"(A) IN GENERAL.—For the second and subsequent fiscal years of a multiyear project to be funded in whole or in part using project funds, the unit of National Forest System land or Bureau of Land Management District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a).

"(B) SUSPENSION OF WORK.—The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent fiscal years are not available.

16 USC 7127.

**"SEC. 207. AVAILABILITY OF PROJECT FUNDS.**

"(a) SUBMISSION OF PROPOSED PROJECTS TO OBLIGATE FUNDS.—By September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, a resource advisory committee shall submit to the Secretary concerned pursuant to section 203(a)(1) a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

"(b) USE OR TRANSFER OF UNOBLIGATED FUNDS.—Subject to section 208, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining

unobligated shall be available for use as part of the project submissions in the next fiscal year.

"(c) EFFECT OF REJECTION OF PROJECTS.—Subject to section 208, any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

"(d) EFFECT OF COURT ORDERS.—

"(1) IN GENERAL.—If an approved project under this Act is enjoined or prohibited by a Federal court, the Secretary concerned shall return the unobligated project funds related to the project to the participating county or counties that reserved the funds.

"(2) EXPENDITURE OF FUNDS.—The returned funds shall be available for the county to expend in the same manner as the funds reserved by the county under subparagraph (B) or (C)(i) of section 102(d)(1).

**"SEC. 208. TERMINATION OF AUTHORITY.** 16 USC 7128.

"(a) IN GENERAL.—The authority to initiate projects under this title shall terminate on September 30, 2011.

"(b) DEPOSITS IN TREASURY.—Any project funds not obligated by September 30, 2012, shall be deposited in the Treasury of the United States.

# "TITLE III—COUNTY FUNDS

**"SEC. 301. DEFINITIONS.** 16 USC 7141.

"In this title:

"(1) COUNTY FUNDS.—The term 'county funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

"(2) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

**"SEC. 302. USE.** 16 USC 7142.

"(a) AUTHORIZED USES.—A participating county, including any applicable agencies of the participating county, shall use county funds, in accordance with this title, only—

"(1) to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires;

"(2) to reimburse the participating county for search and rescue and other emergency services, including firefighting, that are—

"(A) performed on Federal land after the date on which the use was approved under subsection (b);

"(B) paid for by the participating county; and

"(3) to develop community wildfire protection plans in coordination with the appropriate Secretary concerned.

"(b) PROPOSALS.—A participating county shall use county funds for a use described in subsection (a) only after a 45-day public comment period, at the beginning of which the participating county shall—

Publication.

"(1) publish in any publications of local record a proposal that describes the proposed use of the county funds; and

"(2) submit the proposal to any resource advisory committee established under section 205 for the participating county.

16 USC 7143.

**"SEC. 303. CERTIFICATION.**

Deadline.

"(a) IN GENERAL.—Not later than February 1 of the year after the year in which any county funds were expended by a participating county, the appropriate official of the participating county shall submit to the Secretary concerned a certification that the county funds expended in the applicable year have been used for the uses authorized under section 302(a), including a description of the amounts expended and the uses for which the amounts were expended.

"(b) REVIEW.—The Secretary concerned shall review the certifications submitted under subsection (a) as the Secretary concerned determines to be appropriate.

16 USC 7144.

**"SEC. 304. TERMINATION OF AUTHORITY.**

"(a) IN GENERAL.—The authority to initiate projects under this title terminates on September 30, 2011.

"(b) AVAILABILITY.—Any county funds not obligated by September 30, 2012, shall be returned to the Treasury of the United States.

# "TITLE IV—MISCELLANEOUS PROVISIONS

16 USC 7151.

**"SEC. 401. REGULATIONS.**

"The Secretary of Agriculture and the Secretary of the Interior shall issue regulations to carry out the purposes of this Act.

16 USC 7152.

**"SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 2008 through 2011.

16 USC 7153.

**"SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

"(a) RELATION TO OTHER APPROPRIATIONS.—Funds made available under section 402 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

"(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—All revenues generated from projects pursuant to title II, including any interest accrued from the revenues, shall be deposited in the Treasury of the United States.".

(b) FOREST RECEIPT PAYMENTS TO ELIGIBLE STATES AND COUNTIES.—

(1) ACT OF MAY 23, 1908.—The sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 (16 U.S.C. 500) is amended in the first sentence by striking "twenty-five percentum" and all that follows through "shall

be paid" and inserting the following: "an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid".

(2) WEEKS LAW.—Section 13 of the Act of March 1, 1911 (commonly known as the "Weeks Law") (16 U.S.C. 500) is amended in the first sentence by striking "twenty-five percentum" and all that follows through "shall be paid" and inserting the following: "an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid".

(c) PAYMENTS IN LIEU OF TAXES.—

(1) IN GENERAL.—Section 6906 of title 31, United States Code, is amended to read as follows:

**"§ 6906. Funding**

"For each of fiscal years 2008 through 2012—

"(1) each county or other eligible unit of local government shall be entitled to payment under this chapter; and

"(2) sums shall be made available to the Secretary of the Interior for obligation or expenditure in accordance with this chapter.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 69 of title 31, United States Code, is amended by striking the item relating to section 6906 and inserting the following:

"6906. Funding.".

(3) BUDGET SCOREKEEPING.—

(A) IN GENERAL.—Notwithstanding the Budget Scorekeeping Guidelines and the accompanying list of programs and accounts set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the section in this title regarding Payments in Lieu of Taxes shall be treated in the baseline for purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002), and by the Chairmen of the House and Senate Budget Committees, as appropriate, for purposes of budget enforcement in the House and Senate, and under the Congressional Budget Act of 1974 as if Payment in Lieu of Taxes (14–1114–0–1–806) were an account designated as Appropriated Entitlements and Mandatories for Fiscal Year 1997 in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217.

(B) EFFECTIVE DATE.—This paragraph shall remain in effect for the fiscal years to which the entitlement in section 6906 of title 31, United States Code (as amended by paragraph (1)), applies.

**SEC. 602. TRANSFER TO ABANDONED MINE RECLAMATION FUND.**

Subparagraph (C) of section 402(i)(1) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(i)(1)) is amended by striking "and $9,000,000 on October 1, 2009" and

inserting "$9,000,000 on October 1, 2009, and $9,000,000 on October 1, 2010".

# TITLE VII—DISASTER RELIEF

## Subtitle A—Heartland and Hurricane Ike Disaster Relief

Heartland Disaster Tax Relief Act of 2008.

26 USC 1 note.

**SEC. 701. SHORT TITLE.**

This subtitle may be cited as the "Heartland Disaster Tax Relief Act of 2008".

**SEC. 702. TEMPORARY TAX RELIEF FOR AREAS DAMAGED BY 2008 MIDWESTERN SEVERE STORMS, TORNADOS, AND FLOODING.**

Applicability.

(a) IN GENERAL.—Subject to the modifications described in this section, the following provisions of or relating to the Internal Revenue Code of 1986 shall apply to any Midwestern disaster area in addition to the areas to which such provisions otherwise apply:

(1) GO ZONE BENEFITS.—

(A) Section 1400N (relating to tax benefits) other than subsections (b), (d), (e), (i), (j), (m), and (o) thereof.

(B) Section 1400O (relating to education tax benefits).

(C) Section 1400P (relating to housing tax benefits).

(D) Section 1400Q (relating to special rules for use of retirement funds).

(E) Section 1400R(a) (relating to employee retention credit for employers).

(F) Section 1400S (relating to additional tax relief) other than subsection (d) thereof.

(G) Section 1400T (relating to special rules for mortgage revenue bonds).

(2) OTHER BENEFITS INCLUDED IN KATRINA EMERGENCY TAX RELIEF ACT OF 2005.—Sections 302, 303, 304, 401, and 405 of the Katrina Emergency Tax Relief Act of 2005.

(b) MIDWESTERN DISASTER AREA.—

(1) IN GENERAL.—For purposes of this section and for applying the substitutions described in subsections (d) and (e), the term "Midwestern disaster area" means an area—

(A) with respect to which a major disaster has been declared by the President on or after May 20, 2008, and before August 1, 2008, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of severe storms, tornados, or flooding occurring in any of the States of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin, and

(B) determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to such severe storms, tornados, or flooding.

Applicability.

(2) CERTAIN BENEFITS AVAILABLE TO AREAS ELIGIBLE ONLY FOR PUBLIC ASSISTANCE.—For purposes of applying this section to benefits under the following provisions, paragraph (1) shall be applied without regard to subparagraph (B):

(A) Sections 1400Q, 1400S(b), and 1400S(d) of the Internal Revenue Code of 1986.

(B) Sections 302, 401, and 405 of the Katrina Emergency Tax Relief Act of 2005.

(c) REFERENCES.—

(1) AREA.—Any reference in such provisions to the Hurricane Katrina disaster area or the Gulf Opportunity Zone shall be treated as a reference to any Midwestern disaster area and any reference to the Hurricane Katrina disaster area or the Gulf Opportunity Zone within a State shall be treated as a reference to all Midwestern disaster areas within the State.

(2) ITEMS ATTRIBUTABLE TO DISASTER.—Any reference in such provisions to any loss, damage, or other item attributable to Hurricane Katrina shall be treated as a reference to any loss, damage, or other item attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(3) APPLICABLE DISASTER DATE.—For purposes of applying the substitutions described in subsections (d) and (e), the term "applicable disaster date" means, with respect to any Midwestern disaster area, the date on which the severe storms, tornados, or flooding giving rise to the Presidential declaration described in subsection (b)(1)(A) occurred.

Applicability.

(d) MODIFICATIONS TO 1986 CODE.—The following provisions of the Internal Revenue Code of 1986 shall be applied with the following modifications:

(1) TAX-EXEMPT BOND FINANCING.—Section 1400N(a)—

(A) by substituting "qualified Midwestern disaster area bond" for "qualified Gulf Opportunity Zone Bond" each place it appears, except that in determining whether a bond is a qualified Midwestern disaster area bond—

(i) paragraph (2)(A)(i) shall be applied by only treating costs as qualified project costs if—

(I) in the case of a project involving a private business use (as defined in section 141(b)(6)), either the person using the property suffered a loss in a trade or business attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A) or is a person designated for purposes of this section by the Governor of the State in which the project is located as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss, and

(II) in the case of a project relating to public utility property, the project involves repair or reconstruction of public utility property damaged by such severe storms, tornados, or flooding, and

(ii) paragraph (2)(A)(ii) shall be applied by treating an issue as a qualified mortgage issue only if 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of the issue are to be used to provide financing for mortgagors who suffered damages to their principal residences attributable to such severe storms, tornados, or flooding.

(B) by substituting "any State in which a Midwestern disaster area is located" for "the State of Alabama, Louisiana, or Mississippi" in paragraph (2)(B),

(C) by substituting "designated for purposes of this section (on the basis of providing assistance to areas in the order in which such assistance is most needed)" for "designated for purposes of this section" in paragraph (2)(C),

(D) by substituting "January 1, 2013" for "January 1, 2011" in paragraph (2)(D),

(E) in paragraph (3)(A)—

(i) by substituting "$1,000" for "$2,500", and

(ii) by substituting "before the earliest applicable disaster date for Midwestern disaster areas within the State" for "before August 28, 2005",

(F) by substituting "qualified Midwestern disaster area repair or construction" for "qualified GO Zone repair or construction" each place it appears,

(G) by substituting "after the date of the enactment of the Heartland Disaster Tax Relief Act of 2008 and before January 1, 2013" for "after the date of the enactment of this paragraph and before January 1, 2011" in paragraph (7)(C), and

(H) by disregarding paragraph (8) thereof.

(2) LOW-INCOME HOUSING CREDIT.—Section 1400N(c)—

(A) only with respect to calendar years 2008, 2009, and 2010,

(B) by substituting "Disaster Recovery Assistance housing amount" for "Gulf Opportunity housing amount" each place it appears,

(C) in paragraph (1)(B)—

(i) by substituting "$8.00" for "$18.00", and

(ii) by substituting "before the earliest applicable disaster date for Midwestern disaster areas within the State" for "before August 28, 2005", and

(D) determined without regard to paragraphs (2), (3), (4), (5), and (6) thereof.

(3) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f)—

(A) by substituting "qualified Disaster Recovery Assistance clean-up cost" for "qualified Gulf Opportunity Zone clean-up cost" each place it appears,

(B) by substituting "beginning on the applicable disaster date and ending on December 31, 2010" for "beginning on August 28, 2005, and ending on December 31, 2007" in paragraph (2), and

(C) by treating costs as qualified Disaster Recovery Assistance clean-up costs only if the removal of debris or demolition of any structure was necessary due to damage attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(4) EXTENSION OF EXPENSING FOR ENVIRONMENTAL REMEDIATION COSTS.—Section 1400N(g)—

(A) by substituting "the applicable disaster date" for "August 28, 2005" each place it appears,

(B) by substituting "January 1, 2011" for "January 1, 2008" in paragraph (1),

(C) by substituting "December 31, 2010" for "December 31, 2007" in paragraph (1), and

(D) by treating a site as a qualified contaminated site only if the release (or threat of release) or disposal of a hazardous substance at the site was attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(5) INCREASE IN REHABILITATION CREDIT.—Section 1400N(h), as amended by this Act—

(A) by substituting "the applicable disaster date" for "August 28, 2005",

(B) by substituting "December 31, 2011" for "December 31, 2009" in paragraph (1), and

(C) by only applying such subsection to qualified rehabilitation expenditures with respect to any building or structure which was damaged or destroyed as a result of the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(6) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO DISASTER LOSSES.—Section 1400N(k)—

(A) by substituting "qualified Disaster Recovery Assistance loss" for "qualified Gulf Opportunity Zone loss" each place it appears,

(B) by substituting "after the day before the applicable disaster date, and before January 1, 2011" for "after August 27, 2005, and before January 1, 2008" each place it appears,

(C) by substituting "the applicable disaster date" for "August 28, 2005" in paragraph (2)(B)(ii)(I),

(D) by substituting "qualified Disaster Recovery Assistance property" for "qualified Gulf Opportunity Zone property" in paragraph (2)(B)(iv), and

(E) by substituting "qualified Disaster Recovery Assistance casualty loss" for "qualified Gulf Opportunity Zone casualty loss" each place it appears.

(7) CREDIT TO HOLDERS OF TAX CREDIT BONDS.—Section 1400N(l)—

(A) by substituting "Midwestern tax credit bond" for "Gulf tax credit bond" each place it appears,

(B) by substituting "any State in which a Midwestern disaster area is located or any instrumentality of the State" for "the State of Alabama, Louisiana, or Mississippi" in paragraph (4)(A)(i),

(C) by substituting "after December 31, 2008 and before January 1, 2010" for "after December 31, 2005, and before January 1, 2007",

(D) by substituting "shall not exceed $100,000,000 for any State with an aggregate population located in all Midwestern disaster areas within the State of at least 2,000,000, $50,000,000 for any State with an aggregate population located in all Midwestern disaster areas within the State of at least 1,000,000 but less than 2,000,000, and zero for any other State. The population of a State within any area shall be determined on the basis of the most recent census estimate of resident population released

by the Bureau of Census before the earliest applicable disaster date for Midwestern disaster areas within the State." for "shall not exceed" and all that follows in paragraph (4)(C), and

(E) by substituting "the earliest applicable disaster date for Midwestern disaster areas within the State" for "August 28, 2005" in paragraph (5)(A).

(8) EDUCATION TAX BENEFITS.—Section 1400O, by substituting "2008 or 2009" for "2005 or 2006".

(9) HOUSING TAX BENEFITS.—Section 1400P, by substituting "the applicable disaster date" for "August 28, 2005" in subsection (c)(1).

(10) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q—

(A) by substituting "qualified Disaster Recovery Assistance distribution" for "qualified hurricane distribution" each place it appears,

(B) by substituting "on or after the applicable disaster date and before January 1, 2010" for "on or after August 25, 2005, and before January 1, 2007" in subsection (a)(4)(A)(i),

(C) by substituting "the applicable disaster date" for "August 28, 2005" in subsections (a)(4)(A)(i) and (c)(3)(B),

(D) by disregarding clauses (ii) and (iii) of subsection (a)(4)(A) thereof,

(E) by substituting "qualified storm damage distribution" for "qualified Katrina distribution" each place it appears,

(F) by substituting "after the date which is 6 months before the applicable disaster date and before the date which is the day after the applicable disaster date" for "after February 28, 2005, and before August 29, 2005" in subsection (b)(2)(B)(ii),

(G) by substituting "the Midwestern disaster area, but not so purchased or constructed on account of severe storms, tornados, or flooding giving rise to the designation of the area as a disaster area" for "the Hurricane Katrina disaster area, but not so purchased or constructed on account of Hurricane Katrina" in subsection (b)(2)(B)(iii),

(H) by substituting "beginning on the applicable disaster date and ending on the date which is 5 months after the date of the enactment of the Heartland Disaster Tax Relief Act of 2008" for "beginning on August 25, 2005, and ending on February 28, 2006" in subsection (b)(3)(A),

(I) by substituting "qualified storm damage individual" for "qualified Hurricane Katrina individual" each place it appears,

(J) by substituting "December 31, 2009" for "December 31, 2006" in subsection (c)(2)(A),

(K) by disregarding subparagraphs (C) and (D) of subsection (c)(3) thereof,

(L) by substituting "beginning on the date of the enactment of the Heartland Disaster Tax Relief Act of 2008 and ending on December 31, 2009" for "beginning on September 24, 2005, and ending on December 31, 2006" in subsection (c)(4)(A)(i),

(M) by substituting "the applicable disaster date" for "August 25, 2005" in subsection (c)(4)(A)(ii), and

(N) by substituting "January 1, 2010" for "January 1, 2007" in subsection (d)(2)(A)(ii).

(11) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY SEVERE STORMS, TORNADOS, AND FLOODING.—Section 1400R(a)—

(A) by substituting "the applicable disaster date" for "August 28, 2005" each place it appears,

(B) by substituting "January 1, 2009" for "January 1, 2006" both places it appears, and

(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before the applicable disaster date.

(12) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—Section 1400S(a), by substituting the following paragraph for paragraph (4) thereof:

"(4) QUALIFIED CONTRIBUTIONS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified contribution' means any charitable contribution (as defined in section 170(c)) if—

"(i) such contribution—

"(I) is paid during the period beginning on the earliest applicable disaster date for all States and ending on December 31, 2008, in cash to an organization described in section 170(b)(1)(A), and

"(II) is made for relief efforts in 1 or more Midwestern disaster areas,

"(ii) the taxpayer obtains from such organization contemporaneous written acknowledgment (within the meaning of section 170(f)(8)) that such contribution was used (or is to be used) for relief efforts in 1 or more Midwestern disaster areas, and

"(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

"(B) EXCEPTION.—Such term shall not include a contribution by a donor if the contribution is—

"(i) to an organization described in section 509(a)(3), or

"(ii) for establishment of a new, or maintenance of an existing, donor advised fund (as defined in section 4966(d)(2)).

"(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.".

(13) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1), by substituting "the applicable disaster date" for "August 25, 2005".

(14) SPECIAL RULE FOR DETERMINING EARNED INCOME.—Section 1400S(d)—

(A) by treating an individual as a qualified individual if such individual's principal place of abode on the applicable disaster date was located in a Midwestern disaster area,

(B) by treating the applicable disaster date with respect to any such individual as the applicable date for purposes of such subsection, and

(C) by treating an area as described in paragraph (2)(B)(ii) thereof if the area is a Midwestern disaster area only by reason of subsection (b)(2) of this section (relating to areas eligible only for public assistance).

(15) ADJUSTMENTS REGARDING TAXPAYER AND DEPENDENCY STATUS.—Section 1400S(e), by substituting "2008 or 2009" for "2005 or 2006".

Applicability.

(e) MODIFICATIONS TO KATRINA EMERGENCY TAX RELIEF ACT OF 2005.—The following provisions of the Katrina Emergency Tax Relief Act of 2005 shall be applied with the following modifications:

(1) ADDITIONAL EXEMPTION FOR HOUSING DISPLACED INDIVIDUAL.—Section 302—

(A) by substituting "2008 or 2009" for "2005 or 2006" in subsection (a) thereof,

(B) by substituting "Midwestern displaced individual" for "Hurricane Katrina displaced individual" each place it appears, and

(C) by treating an area as a core disaster area for purposes of applying subsection (c) thereof if the area is a Midwestern disaster area without regard to subsection (b)(2) of this section (relating to areas eligible only for public assistance).

(2) INCREASE IN STANDARD MILEAGE RATE.—Section 303, by substituting "beginning on the applicable disaster date and ending on December 31, 2008" for "beginning on August 25, 2005, and ending on December 31, 2006".

(3) MILEAGE REIMBURSEMENTS FOR CHARITABLE VOLUNTEERS.—Section 304—

(A) by substituting "beginning on the applicable disaster date and ending on December 31, 2008" for "beginning on August 25, 2005, and ending on December 31, 2006" in subsection (a), and

(B) by substituting "the applicable disaster date" for "August 25, 2005" in subsection (a).

(4) EXCLUSION OF CERTAIN CANCELLATION OF INDEBTEDNESS INCOME.—Section 401—

(A) by treating an individual whose principal place of abode on the applicable disaster date was in a Midwestern disaster area (determined without regard to subsection (b)(2) of this section) as an individual described in subsection (b)(1) thereof, and by treating an individual whose principal place of abode on the applicable disaster date was in a Midwestern disaster area solely by reason of subsection (b)(2) of this section as an individual described in subsection (b)(2) thereof,

(B) by substituting "the applicable disaster date" for "August 28, 2005" both places it appears, and

(C) by substituting "January 1, 2010" for "January 1, 2007" in subsection (e).

(5) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Section 405, by substituting "on or after the applicable disaster date" for "on or after August 25, 2005".

**SEC. 703. REPORTING REQUIREMENTS RELATING TO DISASTER RELIEF CONTRIBUTIONS.**

(a) IN GENERAL.—Section 6033(b) (relating to returns of certain organizations described in section 501(c)(3)) is amended by striking "and" at the end of paragraph (13), by redesignating paragraph (14) as paragraph (15), and by adding after paragraph (13) the following new paragraph: 26 USC 6033.

"(14) such information as the Secretary may require with respect to disaster relief activities, including the amount and use of qualified contributions to which section 1400S(a) applies, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to any extension) occurs after December 31, 2008. 26 USC 6033 note.

**SEC. 704. TEMPORARY TAX-EXEMPT BOND FINANCING AND LOW-INCOME HOUSING TAX RELIEF FOR AREAS DAMAGED BY HURRICANE IKE.**

(a) TAX-EXEMPT BOND FINANCING.—Section 1400N(a) of the Internal Revenue Code of 1986 shall apply to any Hurricane Ike disaster area in addition to any other area referenced in such section, but with the following modifications: Applicability.

(1) By substituting "qualified Hurricane Ike disaster area bond" for "qualified Gulf Opportunity Zone Bond" each place it appears, except that in determining whether a bond is a qualified Hurricane Ike disaster area bond—

(A) paragraph (2)(A)(i) shall be applied by only treating costs as qualified project costs if—

(i) in the case of a project involving a private business use (as defined in section 141(b)(6)), either the person using the property suffered a loss in a trade or business attributable to Hurricane Ike or is a person designated for purposes of this section by the Governor of the State in which the project is located as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss, and

(ii) in the case of a project relating to public utility property, the project involves repair or reconstruction of public utility property damaged by Hurricane Ike, and

(B) paragraph (2)(A)(ii) shall be applied by treating an issue as a qualified mortgage issue only if 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of the issue are to be used to provide financing for mortgagors who suffered damages to their principal residences attributable to Hurricane Ike.

(2) By substituting "any State in which any Hurricane Ike disaster area is located" for "the State of Alabama, Louisiana, or Mississippi" in paragraph (2)(B).

(3) By substituting "designated for purposes of this section (on the basis of providing assistance to areas in the order in which such assistance is most needed)" for "designated for purposes of this section" in paragraph (2)(C).

(4) By substituting "January 1, 2013" for "January 1, 2011" in paragraph (2)(D).

(5) By substituting the following for subparagraph (A) of paragraph (3):

"(A) AGGREGATE AMOUNT DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection with respect to any State shall not exceed the product of $2,000 multiplied by the portion of the State population which is in—

Texas. "(i) in the case of Texas, the counties of Brazoria, Chambers, Galveston, Jefferson, and Orange, and

Louisiana. "(ii) in the case of Louisiana, the parishes of Calcasieu and Cameron,

(as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before September 13, 2008).".

(6) By substituting "qualified Hurricane Ike disaster area repair or construction" for "qualified GO Zone repair or construction" each place it appears.

(7) By substituting "after the date of the enactment of the Heartland Disaster Tax Relief Act of 2008 and before January 1, 2013" for "after the date of the enactment of this paragraph and before January 1, 2011" in paragraph (7)(C).

(8) By disregarding paragraph (8) thereof.

(9) By substituting "any Hurricane Ike disaster area" for "the Gulf Opportunity Zone" each place it appears.

Applicability. (b) LOW-INCOME HOUSING CREDIT.—Section 1400N(c) of the Internal Revenue Code of 1986 shall apply to any Hurricane Ike disaster area in addition to any other area referenced in such section, but with the following modifications:

(1) Only with respect to calendar years 2008, 2009, and 2010.

(2) By substituting "any Hurricane Ike disaster area" for "the Gulf Opportunity Zone" each place it appears.

(3) By substituting "Hurricane Ike Recovery Assistance housing amount" for "Gulf Opportunity housing amount" each place it appears.

(4) By substituting the following for subparagraph (B) of paragraph (1):

"(B) HURRICANE IKE HOUSING AMOUNT.—For purposes of subparagraph (A), the term 'Hurricane Ike housing amount' means, for any calendar year, the amount equal to the product of $16.00 multiplied by the portion of the State population which is in—

Texas. "(i) in the case of Texas, the counties of Brazoria, Chambers, Galveston, Jefferson, and Orange, and

Louisiana. "(ii) in the case of Louisiana, the parishes of Calcasieu and Cameron,

(as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before September 13, 2008).".

(5) Determined without regard to paragraphs (2), (3), (4), (5), and (6) thereof.

(c) HURRICANE IKE DISASTER AREA.—For purposes of this section and for applying the substitutions described in subsections (a) and (b), the term "Hurricane Ike disaster area" means an area in the State of Texas or Louisiana—

(1) with respect to which a major disaster has been declared by the President on September 13, 2008, under section 401

of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Ike, and

(2) determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to Hurricane Ike.

# Subtitle B—National Disaster Relief

**SEC. 706. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.**

(a) WAIVER OF ADJUSTED GROSS INCOME LIMITATION.—

(1) IN GENERAL.—Subsection (h) of section 165 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph: 26 USC 165.

"(3) SPECIAL RULE FOR LOSSES IN FEDERALLY DECLARED DISASTERS.—

"(A) IN GENERAL.—If an individual has a net disaster loss for any taxable year, the amount determined under paragraph (2)(A)(ii) shall be the sum of—

"(i) such net disaster loss, and

"(ii) so much of the excess referred to in the matter preceding clause (i) of paragraph (2)(A) (reduced by the amount in clause (i) of this subparagraph) as exceeds 10 percent of the adjusted gross income of the individual.

"(B) NET DISASTER LOSS.—For purposes of subparagraph (A), the term 'net disaster loss' means the excess of—

"(i) the personal casualty losses—

"(I) attributable to a federally declared disaster occurring before January 1, 2010, and

"(II) occurring in a disaster area, over

"(ii) personal casualty gains.

"(C) FEDERALLY DECLARED DISASTER.—For purposes of this paragraph—

"(i) FEDERALLY DECLARED DISASTER.—The term 'federally declared disaster' means any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

"(ii) DISASTER AREA.—The term 'disaster area' means the area so determined to warrant such assistance.".

(2) CONFORMING AMENDMENTS.—

(A) Section 165(h)(4)(B) (as so redesignated) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

(B) Section 165(i)(1) is amended by striking "loss" and all that follows through "Act" and inserting "loss occurring in a disaster area (as defined by clause (ii) of subsection (h)(3)(C)) and attributable to a federally declared disaster (as defined by clause (i) of such subsection)".

26 USC 165.

(C) Section 165(i)(4) is amended by striking "Presidentially declared disaster (as defined by section 1033(h)(3))" and inserting "federally declared disaster (as defined by subsection (h)(3)(C)(i)".

(D)(i) So much of subsection (h) of section 1033 as precedes subparagraph (A) of paragraph (1) thereof is amended to read as follows:

"(h) SPECIAL RULES FOR PROPERTY DAMAGED BY FEDERALLY DECLARED DISASTERS.—

"(1) PRINCIPAL RESIDENCES.—If the taxpayer's principal residence or any of its contents is located in a disaster area and is compulsorily or involuntarily converted as a result of a federally declared disaster—".

(ii) Paragraph (2) of section 1033(h) is amended by striking "investment" and all that follows through "disaster" and inserting "investment located in a disaster area and compulsorily or involuntarily converted as a result of a federally declared disaster".

(iii) Paragraph (3) of section 1033(h) is amended to read as follows:

"(3) FEDERALLY DECLARED DISASTER; DISASTER AREA.—The terms "federally declared disaster" and "disaster area" shall have the respective meaning given such terms by section 165(h)(3)(C).".

(iv) Section 139(c)(2) is amended to read as follows:

"(2) federally declared disaster (as defined by section 165(h)(3)(C)(i)),".

(v) Subclause (II) of section 172(b)(1)(F)(ii) is amended by striking "Presidentially declared disasters (as defined in section 1033(h)(3))" and inserting "federally declared disasters (as defined by subsection (h)(3)(C)(i))".

(vi) Subclause (III) of section 172(b)(1)(F)(ii) is amended by striking "Presidentially declared disasters" and inserting "federally declared disasters".

(vii) Subsection (a) of section 7508A is amended by striking "Presidentially declared disaster (as defined in section 1033(h)(3))" and inserting "federally declared disaster (as defined by section 165(h)(3)(C)(i))".

(b) INCREASE IN STANDARD DEDUCTION BY DISASTER CASUALTY LOSS.—

(1) IN GENERAL.—Paragraph (1) of section 63(c), as amended by the Housing Assistance Tax Act of 2008, is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) the disaster loss deduction.".

(2) DISASTER LOSS DEDUCTION.—Subsection (c) of section 63, as amended by the Housing Assistance Tax Act of 2008, is amended by adding at the end the following new paragraph:

"(8) DISASTER LOSS DEDUCTION.—For the purposes of paragraph (1), the term 'disaster loss deduction' means the net disaster loss (as defined in section 165(h)(3)(B)).".

(3) ALLOWANCE IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.—Subparagraph (E) of section 56(b)(1) is amended by adding at the end the following new sentence: "The preceding

sentence shall not apply to so much of the standard deduction as is determined under section 63(c)(1)(D).".

(c) INCREASE IN LIMITATION ON INDIVIDUAL LOSS PER CASUALTY.—Paragraph (1) of section 165(h) is amended by striking "$100" and inserting "$500 ($100 for taxable years beginning after December 31, 2009)". 26 USC 165.

(d) EFFECTIVE DATES.— 26 USC 56 note.

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to disasters declared in taxable years beginning after December 31, 2007.

(2) INCREASE IN LIMITATION ON INDIVIDUAL LOSS PER CASUALTY.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 2008.

**SEC. 707. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 198 the following new section:

**"SEC. 198A. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

"(a) IN GENERAL.—A taxpayer may elect to treat any qualified disaster expenses which are paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expense which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

"(b) QUALIFIED DISASTER EXPENSE.—For purposes of this section, the term 'qualified disaster expense' means any expenditure—

"(1) which is paid or incurred in connection with a trade or business or with business-related property,

"(2) which is—

"(A) for the abatement or control of hazardous substances that were released on account of a federally declared disaster occurring before January 1, 2010,

"(B) for the removal of debris from, or the demolition of structures on, real property which is business-related property damaged or destroyed as a result of a federally declared disaster occurring before such date, or

"(C) for the repair of business-related property damaged as a result of a federally declared disaster occurring before such date, and

"(3) which is otherwise chargeable to capital account.

"(c) OTHER DEFINITIONS.—For purposes of this section—

"(1) BUSINESS-RELATED PROPERTY.—The term 'business-related property' means property—

"(A) held by the taxpayer for use in a trade or business or for the production of income, or

"(B) described in section 1221(a)(1) in the hands of the taxpayer.

"(2) FEDERALLY DECLARED DISASTER.—The term 'federally declared disaster' has the meaning given such term by section 165(h)(3)(C)(i).

"(d) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified disaster expense would have been capitalized but for this section—

"(1) the deduction allowed by this section for such expense shall be treated as a deduction for depreciation, and

"(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

"(e) COORDINATION WITH OTHER PROVISIONS.—Sections 198, 280B, and 468 shall not apply to amounts which are treated as expenses under this section.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 198 the following new item:

"Sec. 198A. Expensing of Qualified Disaster Expenses.".

26 USC 198A note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2007 in connection with disaster declared after such date.

**SEC. 708. NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.**

26 USC 172.

(a) IN GENERAL.—Paragraph (1) of section 172(b) is amended by adding at the end the following new subparagraph:

"(J) CERTAIN LOSSES ATTRIBUTABLE FEDERALLY DECLARED DISASTERS.—In the case of a taxpayer who has a qualified disaster loss (as defined in subsection (j)), such loss shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss.".

(b) QUALIFIED DISASTER LOSS.—Section 172 is amended by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and by inserting after subsection (i) the following new subsection:

"(j) RULES RELATING TO QUALIFIED DISASTER LOSSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified disaster loss' means the lesser of—

"(A) the sum of—

"(i) the losses allowable under section 165 for the taxable year—

"(I) attributable to a federally declared disaster (as defined in section 165(h)(3)(C)(i)) occurring before January 1, 2010, and

"(II) occurring in a disaster area (as defined in section 165(h)(3)(C)(ii)), and

"(ii) the deduction for the taxable year for qualified disaster expenses which is allowable under section 198A(a) or which would be so allowable if not otherwise treated as an expense, or

"(B) the net operating loss for such taxable year.

"(2) COORDINATION WITH SUBSECTION (b)(2).—For purposes of applying subsection (b)(2), a qualified disaster loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated.

"(3) ELECTION.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(J) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(J). Such

election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

"(4) EXCLUSION.—The term 'qualified disaster loss' shall not include any loss with respect to any property described in section 1400N(p)(3).".

(c) LOSS DEDUCTION ALLOWED IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.—Subsection (d) of section 56 is amended by adding at the end the following new paragraph: 26 USC 56.

"(3) NET OPERATING LOSS ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.—In the case of a taxpayer which has a qualified disaster loss (as defined by section 172(b)(1)(J)) for the taxable year, paragraph (1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of such loss.". Applicability.

(d) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 172(b)(1)(F) is amended by inserting "or qualified disaster loss (as defined in subsection (j))" before the period at the end of the last sentence.

(2) Paragraph (1) of section 172(i) is amended by adding at the end the following new flush sentence:

"Such term shall not include any qualified disaster loss (as defined in subsection (j)).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to losses arising in taxable years beginning after December 31, 2007, in connection with disasters declared after such date. 26 USC 56 note.

**SEC. 709. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS FOLLOWING FEDERALLY DECLARED DISASTERS.**

(a) IN GENERAL.—Subsection (k) of section 143 is amended by adding at the end the following new paragraph:

"(12) SPECIAL RULES FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—

"(A) PRINCIPAL RESIDENCE DESTROYED.—At the election of the taxpayer, if the principal residence (within the meaning of section 121) of such taxpayer is—

"(i) rendered unsafe for use as a residence by reason of a federally declared disaster occurring before January 1, 2010, or

"(ii) demolished or relocated by reason of an order of the government of a State or political subdivision thereof on account of a federally declared disaster occurring before such date, Applicability.

then, for the 2-year period beginning on the date of the disaster declaration, subsection (d)(1) shall not apply with respect to such taxpayer and subsection (e) shall be applied by substituting '110' for '90' in paragraph (1) thereof.

"(B) PRINCIPAL RESIDENCE DAMAGED.—

"(i) IN GENERAL.—At the election of the taxpayer, if the principal residence (within the meaning of section 121) of such taxpayer was damaged as the result of a federally declared disaster occurring before January

1, 2010, any owner-financing provided in connection with the repair or reconstruction of such residence shall be treated as a qualified rehabilitation loan.

"(ii) LIMITATION.—The aggregate owner-financing to which clause (i) applies shall not exceed the lesser of—

"(I) the cost of such repair or reconstruction, or

"(II) $150,000.

"(C) FEDERALLY DECLARED DISASTER.—For purposes of this paragraph, the term 'federally declared disaster' has the meaning given such term by section 165(h)(3)(C)(i).

"(D) ELECTION; DENIAL OF DOUBLE BENEFIT.—

"(i) ELECTION.—An election under this paragraph may not be revoked except with the consent of the Secretary.

"(ii) DENIAL OF DOUBLE BENEFIT.—If a taxpayer elects the application of this paragraph, paragraph (11) shall not apply with respect to the purchase or financing of any residence by such taxpayer.".

26 USC 143 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disasters occurring after December 31, 2007.

**SEC. 710. SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER PROPERTY.**

26 USC 168.

(a) IN GENERAL.—Section 168, as amended by this Act, is amended by adding at the end the following new subsection:

"(n) SPECIAL ALLOWANCE FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.—

"(1) IN GENERAL.—In the case of any qualified disaster assistance property—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified disaster assistance property, and

"(B) the adjusted basis of the qualified disaster assistance property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED DISASTER ASSISTANCE PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified disaster assistance property' means any property—

"(i)(I) which is described in subsection (k)(2)(A)(i), or

"(II) which is nonresidential real property or residential rental property,

"(ii) substantially all of the use of which is—

"(I) in a disaster area with respect to a federally declared disaster occurring before January 1, 2010, and

"(II) in the active conduct of a trade or business by the taxpayer in such disaster area,

"(iii) which—

"(I) rehabilitates property damaged, or replaces property destroyed or condemned, as a result of such federally declared disaster, except that, for purposes of this clause, property shall be treated as replacing property destroyed or condemned if, as part of an integrated plan, such property replaces property which is included in a continuous area which includes real property destroyed or condemned, and

"(II) is similar in nature to, and located in the same county as, the property being rehabilitated or replaced,

"(iv) the original use of which in such disaster area commences with an eligible taxpayer on or after the applicable disaster date,

"(v) which is acquired by such eligible taxpayer by purchase (as defined in section 179(d)) on or after the applicable disaster date, but only if no written binding contract for the acquisition was in effect before such date, and

"(vi) which is placed in service by such eligible taxpayer on or before the date which is the last day of the third calendar year following the applicable disaster date (the fourth calendar year in the case of nonresidential real property and residential rental property).

"(B) EXCEPTIONS.—

"(i) OTHER BONUS DEPRECIATION PROPERTY.—The term 'qualified disaster assistance property' shall not include—

"(I) any property to which subsection (k) (determined without regard to paragraph (4)), (l), or (m) applies,

"(II) any property to which section 1400N(d) applies, and

"(III) any property described in section 1400N(p)(3).

"(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified disaster assistance property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).

"(iii) TAX-EXEMPT BOND FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

"(iv) QUALIFIED REVITALIZATION BUILDINGS.—Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

"(v) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall

not apply to all property in such class placed in service during such taxable year.

Applicability.

"(C) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of subparagraph (E) of subsection (k)(2) shall apply, except that such subparagraph shall be applied—

"(i) by substituting 'the applicable disaster date' for 'December 31, 2007' each place it appears therein,

"(ii) without regard to 'and before January 1, 2009' in clause (i) thereof, and

"(iii) by substituting 'qualified disaster assistance property' for 'qualified property' in clause (iv) thereof.

Applicability.

"(D) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of subsection (k)(2)(G) shall apply.

"(3) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) APPLICABLE DISASTER DATE.—The term 'applicable disaster date' means, with respect to any federally declared disaster, the date on which such federally declared disaster occurs.

"(B) FEDERALLY DECLARED DISASTER.—The term 'federally declared disaster' has the meaning given such term under section 165(h)(3)(C)(i).

"(C) DISASTER AREA.—The term 'disaster area' has the meaning given such term under section 165(h)(3)(C)(ii).

"(D) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a taxpayer who has suffered an economic loss attributable to a federally declared disaster.

"(4) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified disaster assistance property which ceases to be qualified disaster assistance property.".

26 USC 168 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007, with respect disasters declared after such date.

**SEC. 711. INCREASED EXPENSING FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.**

26 USC 179.

(a) IN GENERAL.—Section 179 is amended by adding at the end the following new subsection:

"(e) SPECIAL RULES FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.—

"(1) IN GENERAL.—For purposes of this section—

"(A) the dollar amount in effect under subsection (b)(1) for the taxable year shall be increased by the lesser of—

"(i) $100,000, or

"(ii) the cost of qualified section 179 disaster assistance property placed in service during the taxable year, and

"(B) the dollar amount in effect under subsection (b)(2) for the taxable year shall be increased by the lesser of—

"(i) $600,000, or

"(ii) the cost of qualified section 179 disaster assistance property placed in service during the taxable year.

"(2) QUALIFIED SECTION 179 DISASTER ASSISTANCE PROPERTY.—For purposes of this subsection, the term 'qualified section 179 disaster assistance property' means section 179 property (as defined in subsection (d)) which is qualified disaster assistance property (as defined in section 168(n)(2)).

"(3) COORDINATION WITH EMPOWERMENT ZONES AND RENEWAL COMMUNITIES.—For purposes of sections 1397A and 1400J, qualified section 179 disaster assistance property shall not be treated as qualified zone property or qualified renewal property, unless the taxpayer elects not to take such qualified section 179 disaster assistance property into account for purposes of this subsection.

"(4) RECAPTURE.—For purposes of this subsection, rules similar to the rules under subsection (d)(10) shall apply with respect to any qualified section 179 disaster assistance property which ceases to be qualified section 179 disaster assistance property.". Applicability.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007, with respect disasters declared after such date. 26 USC 179 note.

**SEC. 712. COORDINATION WITH HEARTLAND DISASTER RELIEF.** 26 USC 56 note.

The amendments made by this subtitle, other than the amendments made by sections 706(a)(2), 710, and 711, shall not apply to any disaster described in section 702(c)(1)(A), or to any expenditure or loss resulting from such disaster.

# TITLE VIII—SPENDING REDUCTIONS AND APPROPRIATE REVENUE RAISERS FOR NEW TAX RELIEF POLICY

**SEC. 801. NONQUALIFIED DEFERRED COMPENSATION FROM CERTAIN TAX INDIFFERENT PARTIES.**

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 is amended by inserting after section 457 the following new section:

**"SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION FROM CERTAIN TAX INDIFFERENT PARTIES.**

"(a) IN GENERAL.—Any compensation which is deferred under a nonqualified deferred compensation plan of a nonqualified entity shall be includible in gross income when there is no substantial risk of forfeiture of the rights to such compensation.

"(b) NONQUALIFIED ENTITY.—For purposes of this section, the term 'nonqualified entity' means—

"(1) any foreign corporation unless substantially all of its income is—

"(A) effectively connected with the conduct of a trade or business in the United States, or

"(B) subject to a comprehensive foreign income tax, and

"(2) any partnership unless substantially all of its income is allocated to persons other than—

"(A) foreign persons with respect to whom such income is not subject to a comprehensive foreign income tax, and

"(B) organizations which are exempt from tax under this title.

"(c) DETERMINABILITY OF AMOUNTS OF COMPENSATION.—

"(1) IN GENERAL.—If the amount of any compensation is not determinable at the time that such compensation is otherwise includible in gross income under subsection (a)—

"(A) such amount shall be so includible in gross income when determinable, and

"(B) the tax imposed under this chapter for the taxable year in which such compensation is includible in gross income shall be increased by the sum of—

"(i) the amount of interest determined under paragraph (2), and

"(ii) an amount equal to 20 percent of the amount of such compensation.

"(2) INTEREST.—For purposes of paragraph (1)(B)(i), the interest determined under this paragraph for any taxable year is the amount of interest at the underpayment rate under section 6621 plus 1 percentage point on the underpayments that would have occurred had the deferred compensation been includible in gross income for the taxable year in which first deferred or, if later, the first taxable year in which such deferred compensation is not subject to a substantial risk of forfeiture.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) SUBSTANTIAL RISK OF FORFEITURE.—

"(A) IN GENERAL.—The rights of a person to compensation shall be treated as subject to a substantial risk of forfeiture only if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual.

"(B) EXCEPTION FOR COMPENSATION BASED ON GAIN RECOGNIZED ON AN INVESTMENT ASSET.—

Regulations.

"(i) IN GENERAL.—To the extent provided in regulations prescribed by the Secretary, if compensation is determined solely by reference to the amount of gain recognized on the disposition of an investment asset, such compensation shall be treated as subject to a substantial risk of forfeiture until the date of such disposition.

"(ii) INVESTMENT ASSET.—For purposes of clause (i), the term 'investment asset' means any single asset (other than an investment fund or similar entity)—

"(I) acquired directly by an investment fund or similar entity,

"(II) with respect to which such entity does not (nor does any person related to such entity) participate in the active management of such asset (or if such asset is an interest in an entity, in the active management of the activities of such entity), and

"(III) substantially all of any gain on the disposition of which (other than such deferred compensation) is allocated to investors in such entity.

"(iii) COORDINATION WITH SPECIAL RULE.—Paragraph (3)(B) shall not apply to any compensation to which clause (i) applies.

"(2) COMPREHENSIVE FOREIGN INCOME TAX.—The term 'comprehensive foreign income tax' means, with respect to any foreign person, the income tax of a foreign country if—

"(A) such person is eligible for the benefits of a comprehensive income tax treaty between such foreign country and the United States, or

"(B) such person demonstrates to the satisfaction of the Secretary that such foreign country has a comprehensive income tax.

"(3) NONQUALIFIED DEFERRED COMPENSATION PLAN.—

"(A) IN GENERAL.—The term 'nonqualified deferred compensation plan' has the meaning given such term under section 409A(d), except that such term shall include any plan that provides a right to compensation based on the appreciation in value of a specified number of equity units of the service recipient.

"(B) EXCEPTION.—Compensation shall not be treated as deferred for purposes of this section if the service provider receives payment of such compensation not later than 12 months after the end of the taxable year of the service recipient during which the right to the payment of such compensation is no longer subject to a substantial risk of forfeiture. Deadline.

"(4) EXCEPTION FOR CERTAIN COMPENSATION WITH RESPECT TO EFFECTIVELY CONNECTED INCOME.—In the case a foreign corporation with income which is taxable under section 882, this section shall not apply to compensation which, had such compensation had been paid in cash on the date that such compensation ceased to be subject to a substantial risk of forfeiture, would have been deductible by such foreign corporation against such income.

"(5) APPLICATION OF RULES.—Rules similar to the rules of paragraphs (5) and (6) of section 409A(d) shall apply.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations disregarding a substantial risk of forfeiture in cases where necessary to carry out the purposes of this section.".

(b) CONFORMING AMENDMENT.—Section 26(b)(2), as amended by the Housing Assistance Tax Act of 2008, is amended by striking "and" at the end of subparagraph (V), by striking the period at the end of subparagraph (W) and inserting ", and", and by adding at the end the following new subparagraph: 26 USC 26.

"(X) section 457A(c)(1)(B) (relating to determinability of amounts of compensation).".

(c) CLERICAL AMENDMENT.—The table of sections of subpart B of part II of subchapter E of chapter 1 is amended by inserting after the item relating to section 457 the following new item:

"Sec. 457A. Nonqualified deferred compensation from certain tax indifferent parties.".

(d) EFFECTIVE DATE.— 26 USC 457A note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to

amounts deferred which are attributable to services performed after December 31, 2008.

(2) APPLICATION TO EXISTING DEFERRALS.—In the case of any amount deferred to which the amendments made by this section do not apply solely by reason of the fact that the amount is attributable to services performed before January 1, 2009, to the extent such amount is not includible in gross income in a taxable year beginning before 2018, such amounts shall be includible in gross income in the later of—

(A) the last taxable year beginning before 2018, or

(B) the taxable year in which there is no substantial risk of forfeiture of the rights to such compensation (determined in the same manner as determined for purposes of section 457A of the Internal Revenue Code of 1986, as added by this section).

Deadline. Guidance.

(3) ACCELERATED PAYMENTS.—No later than 120 days after the date of the enactment of this Act, the Secretary shall issue guidance providing a limited period of time during which a nonqualified deferred compensation arrangement attributable to services performed on or before December 31, 2008, may, without violating the requirements of section 409A(a) of the Internal Revenue Code of 1986, be amended to conform the date of distribution to the date the amounts are required to be included in income.

(4) CERTAIN BACK-TO-BACK ARRANGEMENTS.—If the taxpayer is also a service recipient and maintains one or more nonqualified deferred compensation arrangements for its service providers under which any amount is attributable to services performed on or before December 31, 2008, the guidance issued under paragraph (4) shall permit such arrangements to be amended to conform the dates of distribution under such arrangement to the date amounts are required to be included in the income of such taxpayer under this subsection.

(5) ACCELERATED PAYMENT NOT TREATED AS MATERIAL MODIFICATION.—Any amendment to a nonqualified deferred compensation arrangement made pursuant to paragraph (4) or (5) shall not be treated as a material modification of the

arrangement for purposes of section 409A of the Internal Revenue Code of 1986.

Approved October 3, 2008.

LEGISLATIVE HISTORY—H.R. 1424:

HOUSE REPORTS: No. 110–374, Pt. 1 (Comm. on Education and Labor), Pt. 2 (Comm. on Ways and Means), and Pt. 3 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 154 (2008):
Mar. 5, considered and passed House.
Oct. 1, considered and passed Senate, amended.
Oct. 3, House concurred in Senate amendments.

Public Law 110–344
110th Congress

# An Act

Oct. 7, 2008
[H.R. 923]

To provide for the investigation of certain unsolved civil rights crimes, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Emmett Till Unsolved Civil Rights Crime Act of 2007.
28 USC 509 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Emmett Till Unsolved Civil Rights Crime Act of 2007".

28 USC 509 note.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that all authorities with jurisdiction, including the Federal Bureau of Investigation and other entities within the Department of Justice, should—

(1) expeditiously investigate unsolved civil rights murders, due to the amount of time that has passed since the murders and the age of potential witnesses; and

(2) provide all the resources necessary to ensure timely and thorough investigations in the cases involved.

28 USC 509 note.

**SEC. 3. DEPUTY CHIEF OF THE CRIMINAL SECTION OF THE CIVIL RIGHTS DIVISION.**

Designation.

(a) IN GENERAL.—The Attorney General shall designate a Deputy Chief in the Criminal Section of the Civil Rights Division of the Department of Justice.

(b) RESPONSIBILITY.—

(1) IN GENERAL.—The Deputy Chief shall be responsible for coordinating the investigation and prosecution of violations of criminal civil rights statutes that occurred not later than December 31, 1969, and resulted in a death.

(2) COORDINATION.—In investigating a complaint under paragraph (1), the Deputy Chief may coordinate investigative activities with State and local law enforcement officials.

(c) STUDY AND REPORT.—

(1) STUDY.—The Attorney General shall annually conduct a study of the cases under the jurisdiction of the Deputy Chief or under the jurisdiction of the Supervisory Special Agent and, in conducting the study, shall determine—

(A) the number of open investigations within the Department for violations of criminal civil rights statutes that occurred not later than December 31, 1969;

(B) the number of new cases opened pursuant to this Act since the previous year's study;

(C) the number of unsealed Federal cases charged within the study period, including the case names, the

jurisdiction in which the charges were brought, and the date the charges were filed;

(D) the number of cases referred by the Department to a State or local law enforcement agency or prosecutor within the study period, the number of such cases that resulted in State charges being filed, the jurisdiction in which such charges were filed, the date the charges were filed, and if a jurisdiction declines to prosecute or participate in an investigation of a case so referred, the fact it did so;

(E) the number of cases within the study period that were closed without Federal prosecution, the case names of unsealed Federal cases, the dates the cases were closed, and the relevant federal statutes;

(F) the number of attorneys who worked, in whole or in part, on any case described in subsection (b)(1); and

(G) the applications submitted for grants under section 5, the award of such grants, and the purposes for which the grant amount were expended.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, and each year thereafter, the Attorney General shall prepare and submit to Congress a report containing the results of the study conducted under paragraph (1).

**SEC. 4. SUPERVISORY SPECIAL AGENT IN THE CIVIL RIGHTS UNIT OF THE FEDERAL BUREAU OF INVESTIGATION.** 28 USC 509 note.

(a) IN GENERAL.—The Attorney General shall designate a Supervisory Special Agent in the Civil Rights Unit of the Federal Bureau of Investigation of the Department of Justice. Designation.

(b) RESPONSIBILITY.—

(1) IN GENERAL.—The Supervisory Special Agent shall be responsible for investigating violations of criminal civil rights statutes that occurred not later than December 31, 1969, and resulted in a death.

(2) COORDINATION.—In investigating a complaint under paragraph (1), the Supervisory Special Agent may coordinate the investigative activities with State and local law enforcement officials.

**SEC. 5. GRANTS TO STATE AND LOCAL LAW ENFORCEMENT.** 28 USC 509 note.

(a) IN GENERAL.—The Attorney General may award grants to State or local law enforcement agencies for expenses associated with the investigation and prosecution by them of criminal offenses, involving civil rights, that occurred not later than December 31, 1969, and resulted in a death.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 2008 through 2017 to carry out this section.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.** 28 USC 509 note.

(a) IN GENERAL.—There are authorized to be appropriated, in addition to any other amounts otherwise authorized to be appropriated for this purpose, to the Attorney General $10,000,000 for each of the fiscal years 2008 through 2017 for the purpose of investigating and prosecuting violations of criminal civil rights statutes that occurred not later than December 31, 1969, and resulted in a death. These funds shall be allocated by the Attorney General

to the Deputy Chief of the Criminal Section of the Civil Rights Division and the Supervisory Special Agent of the Civil Rights Unit of the Federal Bureau of Investigation in order to advance the purposes set forth in this Act.

(b) COMMUNITY RELATIONS SERVICE OF THE DEPARTMENT OF JUSTICE.—In addition to any amounts authorized to be appropriated under title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.), there are authorized to be appropriated to the Community Relations Service of the Department of Justice $1,500,000 for fiscal year 2008 and each subsequent fiscal year, to enable the Service (in carrying out the functions described in title X of such Act (42 U.S.C. 2000g et seq.)) to provide technical assistance by bringing together law enforcement agencies and communities in the investigation of violations of criminal civil rights statutes, in cases described in section 4(b).

28 USC 509 note.

**SEC. 7. DEFINITION OF "CRIMINAL CIVIL RIGHTS STATUTES".**

In this Act, the term "criminal civil rights statutes" means—

(1) section 241 of title 18, United States Code (relating to conspiracy against rights);

(2) section 242 of title 18, United States Code (relating to deprivation of rights under color of law);

(3) section 245 of title 18, United States Code (relating to federally protected activities);

(4) sections 1581 and 1584 of title 18, United States Code (relating to involuntary servitude and peonage);

(5) section 901 of the Fair Housing Act (42 U.S.C. 3631); and

(6) any other Federal law that—

(A) was in effect on or before December 31, 1969; and

(B) the Criminal Section of the Civil Rights Division of the Department of Justice enforced, before the date of enactment of this Act.

28 USC 509 note.

**SEC. 8. SUNSET.**

Sections 2 through 6 of this Act shall cease to have effect at the end of fiscal year 2017.

**SEC. 9. AUTHORITY OF INSPECTORS GENERAL.**

Title XXXVII of the Crime Control Act of 1990 (42 U.S.C. 5779 et seq.) is amended by adding at the end the following:

42 USC 5780a.

**"SEC. 3703. AUTHORITY OF INSPECTORS GENERAL.**

"(a) IN GENERAL.—An Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.) may authorize staff to assist the National Center for Missing and Exploited Children—

"(1) by conducting reviews of inactive case files to develop recommendations for further investigations; and

"(2) by engaging in similar activities.

"(b) LIMITATIONS.—

"(1) PRIORITY.—An Inspector General may not permit staff to engage in activities described in subsection (a) if such activities will interfere with the duties of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.).

"(2) FUNDING.—No additional funds are authorized to be appropriated to carry out this section.".

Approved October 7, 2008.

LEGISLATIVE HISTORY—H.R. 923 (S. 535):

HOUSE REPORTS: No. 110–200 (Comm. on the Judiciary).
SENATE REPORTS: No. 110–88 accompanying S. 535 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 153 (2007): June 20, considered and passed House.
Vol. 154 (2008): Sept. 24, considered and passed Senate.

# Public Law 110–345
# 110th Congress

## An Act

Oct. 7, 2008
[H.R. 1199]

To extend the grant program for drug-endangered children.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Drug Endangered Children Act of 2007.
42 USC 3711 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Drug Endangered Children Act of 2007".

**SEC. 2. DRUG-ENDANGERED CHILDREN GRANT PROGRAM EXTENDED.**

Section 755(c) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (42 U.S.C. 3797cc–2(c)) is amended by striking "fiscal years 2006 and 2007" and inserting "fiscal years 2008 and 2009".

Approved October 7, 2008.

LEGISLATIVE HISTORY—H.R. 1199 (S. 1210):

HOUSE REPORTS: No. 110–341, Pt. 1 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Sept. 24, considered and passed House.
Vol. 154 (2008): Sept. 24, considered and passed Senate.

Public Law 110–346
110th Congress

# An Act

To amend the North Korean Human Rights Act of 2004 to promote respect for the fundamental human rights of the people of North Korea, and for other purposes.

Oct. 7, 2008
[H.R. 5834]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

North Korean Human Rights Reauthorization Act of 2008. 22 USC 7801 note.

This Act may be cited as the "North Korean Human Rights Reauthorization Act of 2008".

**SEC. 2. FINDINGS.**

22 USC 7801 note.

Congress finds the following:

(1) The North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7801 et seq.) (in this section referred to as "the Act") was the product of broad, bipartisan consensus in Congress regarding the promotion of human rights, transparency in the delivery of humanitarian assistance, and refugee protection.

(2) In addition to the longstanding commitment of the United States to refugee and human rights advocacy, the United States is home to the largest Korean population outside of northeast Asia, and many in the two-million strong Korean-American community have family ties to North Korea.

(3) Human rights and humanitarian conditions inside North Korea are deplorable, North Korean refugees remain acutely vulnerable, and the findings in section 3 of the Act remain accurate today.

(4) The Government of China is conducting an increasingly aggressive campaign to locate and forcibly return border-crossers to North Korea, where they routinely face torture and imprisonment, and sometimes execution. According to recent reports, the Chinese Government is shutting down Christian churches and imprisoning people who help North Korean defectors and has increased the bounty paid for turning in North Korean refugees.

(5) In an attempt to deter escape attempts, the Government of North Korea has reportedly stepped up its public execution of border-crossers and those who help others cross into China.

(6) In spite of the requirement of the Act that the Special Envoy on Human Rights in North Korea (the "Special Envoy") report to the Congress no later than April 16, 2005, a Special Envoy was not appointed until August 19, 2005, more than four months after the reporting deadline.

(7) The Special Envoy appointed by the President has filled that position on a part-time basis only.

(8) Since the passage of the North Korean Human Rights Act, Congress has on several occasions expressed interest in the status of North Korean refugees, and on February 21, 2006, a bipartisan group of senior Members of the House and Senate wrote Secretary of State Condoleezza Rice "to express [their] deep concern for the lack of progress in funding and implementing the key provisions of the North Korean Human Rights Act", particularly the lack of North Korean refugee admissions to the United States.

(9) Although the United States refugee resettlement program remains the largest in the world by far, the United States has resettled only 37 North Koreans in the period from 2004 through 2007.

(10) From the end of 2004 through 2007, the Republic of Korea resettled 5,961 North Koreans.

(11) Extensive delays in assessment and processing have led numerous North Korean refugees to abandon their quest for United States resettlement, and long waits (of more than a year in some cases) have been the source of considerable discouragement and frustration among refugees, many of whom are awaiting United States resettlement in circumstances that are unsafe and insecure.

(12) From 2000 through 2006, the United States granted asylum to 15 North Koreans, as compared to 60 North Korean asylum grantees in the United Kingdom, and 135 in Germany during that same period.

22 USC 7801 note.

**SEC. 3. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) the United States should continue to make it a priority to seek broader permission and greater cooperation from foreign governments to allow the United States to process North Korean refugees overseas for resettlement in the United States, through persistent diplomacy by senior officials of the United States, including United States ambassadors to Asia-Pacific nations;

(2) at the same time that careful screening of intending refugees is important, the United States also should make every effort to ensure that its screening, processing, and resettlement of North Korean refugees are as efficient and expeditious as possible;

(3) the Special Envoy for North Korean Human Rights Issues should be a full-time position within the Department of State in order to properly promote and coordinate North Korean human rights and humanitarian issues, and to participate in policy planning and implementation with respect to refugee issues, as intended by the North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7801 et seq.);

(4) in an effort to more efficiently and actively participate in humanitarian burden-sharing, the United States should approach our ally, the Republic of Korea, to revisit and explore new opportunities for coordinating efforts to screen and resettle North Koreans who have expressed a wish to pursue resettlement in the United States and have not yet availed themselves of any right to citizenship they may enjoy under the Constitution of the Republic of Korea; and

(5) because there are genuine refugees among North Koreans fleeing into China who face severe punishments upon their forcible return, the United States should urge the Government of China to—

(A) immediately halt its forcible repatriation of North Koreans;

(B) fulfill its obligations pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China; and

(C) allow the United Nations High Commissioner for Refugees (UNHCR) unimpeded access to North Koreans inside China to determine whether they are refugees and whether they require assistance.

**SEC. 4. DEFINITIONS.**

Section 5(1)(A) of the North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7803(1)(A)) is amended by striking "International Relations" and inserting "Foreign Affairs".

**SEC. 5. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY PROGRAMS.**

Section 102(b)(1) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7812(b)(1)) is amended by inserting after "2008" the following: "and $2,000,000 for each of fiscal years 2009 through 2012".

**SEC. 6. RADIO BROADCASTING TO NORTH KOREA.**

Deadline. Reports.

Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors (BBG) shall submit to the appropriate congressional committees, as defined in section 5(1) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7803(1)), a report that describes the status and content of current United States broadcasting to North Korea and the extent to which the BBG has achieved the goal of 12-hour-per-day broadcasting to North Korea pursuant to section 103 of such Act (22 U.S.C. 7813).

**SEC. 7. ACTIONS TO PROMOTE FREEDOM OF INFORMATION.**

Section 104 of the North Korean Human Rights Act of 2004 (22 U.S.C. 7814) is amended—

(1) in subsection (b)(1), by striking "2008" and inserting "2012"; and

(2) in subsection (c), by striking "in each of the 3 years thereafter" and inserting "annually through 2012".

**SEC. 8. SPECIAL ENVOY ON NORTH KOREAN HUMAN RIGHTS ISSUES.**

Section 107 of the North Korean Human Rights Act of 2004 (22 U.S.C. 7817) is amended—

(1) in the section heading, by striking "**HUMAN RIGHTS IN NORTH KOREA**" and inserting "**NORTH KOREAN HUMAN RIGHTS ISSUES**";

(2) in subsection (a)—

(A) in the first sentence—

(i) by striking "human rights in North Korea" and inserting "North Korean human rights issues"; and

(ii) by inserting before the period at the end the following: ", by and with the advice and consent of the Senate";

(B) in the second sentence, by inserting before the period at the end the following: "who shall have the rank of ambassador and shall hold the office at the pleasure of the President";

(3) in subsection (b), by inserting before the period at the end the following: ", including, in coordination with the Bureau of Population, Refugees, and Migration, the protection of those people who have fled as refugees";

(4) in subsection (c)—

(A) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) participate in the formulation and the implementation of activities carried out pursuant to this Act;"; and

(C) in paragraph (5), as so redesignated, by striking "section 102" and inserting "sections 102 and 104"; and

(5) in subsection (d), by striking "for the subsequent 5 year-period" and inserting "thereafter through 2012".

**SEC. 9. REPORT ON UNITED STATES HUMANITARIAN ASSISTANCE.**

Section 201(a) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7831(a)) is amended, in the matter preceding paragraph (1), by striking "in each of the 2 years thereafter" and inserting "annually thereafter through 2012".

**SEC. 10. ASSISTANCE PROVIDED OUTSIDE OF NORTH KOREA.**

Section 203(c)(1) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7833(c)(1)) is amended by striking "2008" and inserting "2012".

**SEC. 11. ANNUAL REPORTS.**

Section 305(a) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7845(a)) is amended—

(1) in the subsection heading, by inserting "AND REFUGEE" before "INFORMATION";

(2) in the matter preceding paragraph (1)—

(A) by striking "for each of the following 5 years" and inserting "through 2012"; and

(B) by striking "which shall include—" and inserting "which shall include the following:";

(3) in paragraph (1)—

(A) by striking "the number of aliens" and inserting "The number of aliens"; and

(B) by striking "; and" at the end and inserting a period;

(4) in paragraph (2), by striking "the number of aliens" and inserting "The number of aliens"; and

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

"(3) A detailed description of the measures undertaken by the Secretary of State to carry out section 303, including country-specific information with respect to United States efforts to secure the cooperation and permission of the governments of countries in East and Southeast Asia to facilitate United States processing of North Koreans seeking protection

as refugees. The information required under this paragraph shall be provided in unclassified form, with a classified annex, if necessary.".

Approved October 7, 2008.

LEGISLATIVE HISTORY—H.R. 5834:

HOUSE REPORTS: No. 110–628 (Comm. on Foreign Affairs).
CONGRESSIONAL RECORD, Vol. 154 (2008):
May 13, 15, considered and passed House.
Sept. 22, considered and passed Senate, amended.
Sept. 23, House concurred in Senate amendments.

# Public Law 110–347
# 110th Congress

## An Act

Oct. 7, 2008
[H.R. 5975]

To designate the facility of the United States Postal Service located at 101 West Main Street in Waterville, New York, as the "Cpl. John P. Sigsbee Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CPL. JOHN P. SIGSBEE POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 101 West Main Street in Waterville, New York, shall be known and designated as the "Cpl. John P. Sigsbee Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Cpl. John P. Sigsbee Post Office".

Approved October 7, 2008.

LEGISLATIVE HISTORY—H.R. 5975 (S. 3317):

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 8, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 110–348
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 101 Tallapoosa Street in Bremen, Georgia, as the "Sergeant Paul Saylor Post Office Building".

Oct. 7, 2008
[H.R. 6092]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SERGEANT PAUL SAYLOR POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 101 Tallapoosa Street in Bremen, Georgia, shall be known and designated as the "Sergeant Paul Saylor Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Sergeant Paul Saylor Post Office Building".

Approved October 7, 2008.

LEGISLATIVE HISTORY—H.R. 6092:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 8, considered and passed House.
Sept. 26, considered and passed Senate.

# Public Law 110–349
# 110th Congress

## An Act

Oct. 7, 2008
[H.R. 6437]

To designate the facility of the United States Postal Service located at 200 North Texas Avenue in Odessa, Texas, as the "Corporal Alfred Mac Wilson Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CORPORAL ALFRED MAC WILSON POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 200 North Texas Avenue in Odessa, Texas, shall be known and designated as the "Corporal Alfred Mac Wilson Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Corporal Alfred Mac Wilson Post Office".

Approved October 7, 2008.

LEGISLATIVE HISTORY—H.R. 6437:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 29, 31, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 110–350
110th Congress

# An Act

To extend the authority of the Secretary of Education to purchase guaranteed student loans for an additional year, and for other purposes.

Oct. 7, 2008
[H.R. 6889]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF STUDENT LOAN PURCHASE AUTHORITY.**

Section 459A of the Higher Education Act of 1965 (20 U.S.C. 1087i-1) is amended—

(1) by striking "July 1, 2009" each place it appears in subsections (a)(1) and (f) and inserting "July 1, 2010"; and

(2) in subsection (e)—

(A) by striking "September 30, 2009" each place it appears in paragraphs (1)(A) and (2) and inserting "September 30, 2010";

(B) by striking "February 15, 2010" in paragraph (2) and inserting "February 15, 2011"; and

(C) by striking "2009, and 2010" in paragraph (3) and inserting "2009, 2010, and 2011".

**SEC. 2. EXTENSION OF AUTHORITY TO DESIGNATE LENDERS FOR LENDER-OF-LAST-RESORT PROGRAM.**

Section 428(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(j)) is amended—

(1) in paragraph (6), by striking "June 30, 2009" and inserting "June 30, 2010";

(2) in paragraph (7), by striking "June 30, 2009" and inserting "June 30, 2010"; and

(3) in paragraph (9)(A)—

(A) in clause (ii), by striking "June 30, 2010" and inserting "June 30, 2011";

(B) in clause (ii)(III), by striking "June 30, 2009" and inserting "June 30, 2010"; and

(C) in clause (iii), by striking "July 1, 2010" and inserting "July 1, 2011".

Approved October 7, 2008.

LEGISLATIVE HISTORY—H.R. 6889:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 15, considered and passed House.
Sept. 17, considered and passed Senate.

# Public Law 110–351
# 110th Congress

## An Act

To amend parts B and E of title IV of the Social Security Act to connect and support relative caregivers, improve outcomes for children in foster care, provide for tribal foster care and adoption access, improve incentives for adoption, and for other purposes.

Oct. 7, 2008
[H.R. 6893]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Fostering Connections to Success and Increasing Adoptions Act of 2008.
42 USC 1305 note.

This Act may be cited as the "Fostering Connections to Success and Increasing Adoptions Act of 2008".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CONNECTING AND SUPPORTING RELATIVE CAREGIVERS

Sec. 101. Kinship guardianship assistance payments for children.
Sec. 102. Family connection grants.
Sec. 103. Notification of relatives.
Sec. 104. Licensing standards for relatives.
Sec. 105. Authority for comparisons and disclosures of information in the Federal Parent Locator Service for child welfare, foster care, and adoption assistance program purposes.

TITLE II—IMPROVING OUTCOMES FOR CHILDREN IN FOSTER CARE

Sec. 201. State option for children in foster care, and certain children in an adoptive or guardianship placement, after attaining age 18.
Sec. 202. Transition plan for children aging out of foster care.
Sec. 203. Short-term training for child welfare agencies, relative guardians, and court personnel.
Sec. 204. Educational stability.
Sec. 205. Health oversight and coordination plan.
Sec. 206. Sibling placement.

TITLE III—TRIBAL FOSTER CARE AND ADOPTION ACCESS

Sec. 301. Equitable access for foster care and adoption services for Indian children in tribal areas.
Sec. 302. Technical assistance and implementation.

TITLE IV—IMPROVEMENT OF INCENTIVES FOR ADOPTION

Sec. 401. Adoption incentives program.
Sec. 402. Promotion of adoption of children with special needs.
Sec. 403. Information on adoption tax credit.

TITLE V—CLARIFICATION OF UNIFORM DEFINITION OF CHILD AND OTHER PROVISIONS

Sec. 501. Clarification of uniform definition of child.
Sec. 502. Investment of operating cash.
Sec. 503. No Federal funding to unlawfully present individuals.

TITLE VI—EFFECTIVE DATE

Sec. 601. Effective date.

# TITLE I—CONNECTING AND SUPPORTING RELATIVE CAREGIVERS

**SEC. 101. KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR CHILDREN.**

(a) STATE PLAN OPTION.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (26);

(2) by striking the period at the end of paragraph (27) and inserting "; and"; and

(3) by adding at the end the following:

"(28) at the option of the State, provides for the State to enter into kinship guardianship assistance agreements to provide kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared as foster parents and for whom they have committed to care on a permanent basis, as provided in section 473(d).".

(b) IN GENERAL.—Section 473 of such Act (42 U.S.C. 673) is amended by adding at the end the following:

"(d) KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR CHILDREN.—

"(1) KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT.—

"(A) IN GENERAL.—In order to receive payments under section 474(a)(5), a State shall—

"(i) negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian of a child who meets the requirements of this paragraph; and

"(ii) provide the prospective relative guardian with a copy of the agreement.

"(B) MINIMUM REQUIREMENTS.—The agreement shall specify, at a minimum—

"(i) the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;

"(ii) the additional services and assistance that the child and relative guardian will be eligible for under the agreement;

"(iii) the procedure by which the relative guardian may apply for additional services as needed; and

"(iv) subject to subparagraph (D), that the State will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed $2,000.

"(C) INTERSTATE APPLICABILITY.—The agreement shall provide that the agreement shall remain in effect without regard to the State residency of the relative guardian.

"(D) NO EFFECT ON FEDERAL REIMBURSEMENT.—Nothing in subparagraph (B)(iv) shall be construed as affecting the ability of the State to obtain reimbursement from the Federal Government for costs described in that subparagraph.

"(2) LIMITATIONS ON AMOUNT OF KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT.—A kinship guardianship assistance payment on behalf of a child shall not exceed the foster care maintenance payment which would have been paid on behalf of the child if the child had remained in a foster family home.

"(3) CHILD'S ELIGIBILITY FOR A KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT.—

"(A) IN GENERAL.—A child is eligible for a kinship guardianship assistance payment under this subsection if the State agency determines the following:

"(i) The child has been—

"(I) removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

"(II) eligible for foster care maintenance payments under section 472 while residing for at least 6 consecutive months in the home of the prospective relative guardian.

"(ii) Being returned home or adopted are not appropriate permanency options for the child.

"(iii) The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child.

"(iv) With respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement.

"(B) TREATMENT OF SIBLINGS.—With respect to a child described in subparagraph (A) whose sibling or siblings are not so described—

"(i) the child and any sibling of the child may be placed in the same kinship guardianship arrangement, in accordance with section 471(a)(31), if the State agency and the relative agree on the appropriateness of the arrangement for the siblings; and

"(ii) kinship guardianship assistance payments may be paid on behalf of each sibling so placed.".

(c) CONFORMING AMENDMENTS.—

(1) ELIGIBILITY FOR ADOPTION ASSISTANCE PAYMENTS.—Section 473(a)(2) of such Act (42 U.S.C. 673(a)(2)) is amended by adding at the end the following:

"(D) In determining the eligibility for adoption assistance payments of a child in a legal guardianship arrangement described in section 471(a)(28), the placement of the child with the relative guardian involved and any kinship guardianship assistance payments made on behalf of the child shall be considered never to have been made.".

(2) STATE PLAN REQUIREMENT.—

(A) IN GENERAL.—Section 471(a)(20) of such Act (42 U.S.C. 671(a)(20)) is amended—

(i) by adding "and" at the end of subparagraph (C); and

(ii) by adding at the end the following:

"(D) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code), on any relative guardian, and for checks described in subparagraph (C) of this paragraph on any relative guardian and any other adult living in the home of any relative guardian, before the relative guardian may receive kinship guardianship assistance payments on behalf of the child under the State plan under this part;".

(B) REDESIGNATION OF NEW PROVISION AFTER AMENDMENT MADE BY PRIOR LAW TAKES EFFECT.—

(i) IN GENERAL.—Section 471(a)(20) of the Social Security Act (42 U.S.C. 671(a)(20)) is amended—

(I) in subparagraph (D), by striking "(C)" and inserting "(B)"; and

(II) by redesignating subparagraph (D) as subparagraph (C).

42 USC 671 note.

(ii) EFFECTIVE DATE.—The amendments made by clause (i) shall take effect immediately after the amendments made by section 152 of Public Law 109–248 take effect.

(3) PAYMENTS TO STATES.—Section 474(a) of such Act (42 U.S.C. 674(a)) is amended—

(A) by striking the period at the end and inserting "; plus"; and

(B) by adding at the end the following:

"(5) an amount equal to the percentage by which the expenditures referred to in paragraph (2) of this subsection are reimbursed of the total amount expended during such quarter as kinship guardianship assistance payments under section 473(d) pursuant to kinship guardianship assistance agreements.".

(4) CASE PLAN REQUIREMENTS.—Section 475(1) of such Act (42 U.S.C. 675(1)) is amended by adding at the end the following:

"(F) In the case of a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under section 473(d), a description of—

"(i) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;

"(ii) the reasons for any separation of siblings during placement;

"(iii) the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;

"(iv) the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;

"(v) the efforts the agency has made to discuss adoption by the child's relative foster parent as a more

permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefor; and

"(vi) the efforts made by the State agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.".

(5) SECTION HEADING AMENDMENT.—The section heading for section 473 of such Act (42 U.S.C. 673) is amended by inserting "AND GUARDIANSHIP" after "ADOPTION".

(d) CONTINUED SERVICES UNDER WAIVER.—Section 474 of such Act (42 U.S.C. 674) is amended by adding at the end the following:

"(g) For purposes of this part, after the termination of a demonstration project relating to guardianship conducted by a State under section 1130, the expenditures of the State for the provision, to children who, as of September 30, 2008, were receiving assistance or services under the project, of the same assistance and services under the same terms and conditions that applied during the conduct of the project, are deemed to be expenditures under the State plan approved under this part.".

(e) ELIGIBILITY FOR INDEPENDENT LIVING SERVICES AND EDUCATION AND TRAINING VOUCHERS FOR CHILDREN WHO EXIT FOSTER CARE FOR RELATIVE GUARDIANSHIP OR ADOPTION AFTER AGE 16.—

(1) INDEPENDENT LIVING SERVICES.—Section 477(a) of such Act (42 U.S.C. 677(a)) is amended—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following:

"(7) to provide the services referred to in this subsection to children who, after attaining 16 years of age, have left foster care for kinship guardianship or adoption.".

(2) EDUCATION AND TRAINING VOUCHERS.—Section 477(i)(2) of such Act (42 U.S.C. 677(i)(2)) is amended by striking "adopted from foster care after attaining age 16" and inserting "who, after attaining 16 years of age, are adopted from, or enter kinship guardianship from, foster care".

(f) CATEGORICAL ELIGIBILITY FOR MEDICAID.—Section 473(b)(3) of such Act (42 U.S.C. 673(b)(3)) is amended—

(1) in subparagraph (A)(ii), by striking "or" at the end;

(2) in subparagraph (B), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(C) with respect to whom kinship guardianship assistance payments are being made pursuant to subsection (d).".

**SEC. 102. FAMILY CONNECTION GRANTS.**

(a) IN GENERAL.—Part B of title IV of the Social Security Act (42 U.S.C. 620–629i) is amended by inserting after section 426 the following:

**"SEC. 427. FAMILY CONNECTION GRANTS.** 42 USC 627.

"(a) IN GENERAL.—The Secretary of Health and Human Services may make matching grants to State, local, or tribal child welfare agencies, and private nonprofit organizations that have experience in working with foster children or children in kinship care arrangements, for the purpose of helping children who are in, or at risk

of entering, foster care reconnect with family members through the implementation of—

"(1) a kinship navigator program to assist kinship caregivers in learning about, finding, and using programs and services to meet the needs of the children they are raising and their own needs, and to promote effective partnerships among public and private agencies to ensure kinship caregiver families are served, which program—

"(A) shall be coordinated with other State or local agencies that promote service coordination or provide information and referral services, including the entities that provide 2–1–1 or 3–1–1 information systems where available, to avoid duplication or fragmentation of services to kinship care families;

"(B) shall be planned and operated in consultation with kinship caregivers and organizations representing them, youth raised by kinship caregivers, relevant government agencies, and relevant community-based or faith-based organizations;

"(C) shall establish information and referral systems that link (via toll-free access) kinship caregivers, kinship support group facilitators, and kinship service providers to—

"(i) each other;

"(ii) eligibility and enrollment information for Federal, State, and local benefits;

"(iii) relevant training to assist kinship caregivers in caregiving and in obtaining benefits and services; and

"(iv) relevant legal assistance and help in obtaining legal services;

"(D) shall provide outreach to kinship care families, including by establishing, distributing, and updating a kinship care website, or other relevant guides or outreach materials;

"(E) shall promote partnerships between public and private agencies, including schools, community based or faith-based organizations, and relevant government agencies, to increase their knowledge of the needs of kinship care families to promote better services for those families;

"(F) may establish and support a kinship care ombudsman with authority to intervene and help kinship caregivers access services; and

"(G) may support any other activities designed to assist kinship caregivers in obtaining benefits and services to improve their caregiving;

"(2) intensive family-finding efforts that utilize search technology to find biological family members for children in the child welfare system, and once identified, work to reestablish relationships and explore ways to find a permanent family placement for the children;

"(3) family group decision-making meetings for children in the child welfare system, that—

"(A) enable families to make decisions and develop plans that nurture children and protect them from abuse and neglect, and

"(B) when appropriate, shall address domestic violence issues in a safe manner and facilitate connecting children exposed to domestic violence to appropriate services, including reconnection with the abused parent when appropriate; or

"(4) residential family treatment programs that—

"(A) enable parents and their children to live in a safe environment for a period of not less than 6 months; and

"(B) provide, on-site or by referral, substance abuse treatment services, children's early intervention services, family counseling, medical, and mental health services, nursery and pre-school, and other services that are designed to provide comprehensive treatment that supports the family.

"(b) APPLICATIONS.—An entity desiring to receive a matching grant under this section shall submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) a description of how the grant will be used to implement 1 or more of the activities described in subsection (a);

"(2) a description of the types of children and families to be served, including how the children and families will be identified and recruited, and an initial projection of the number of children and families to be served;

"(3) if the entity is a private organization—

"(A) documentation of support from the relevant local or State child welfare agency; or

"(B) a description of how the organization plans to coordinate its services and activities with those offered by the relevant local or State child welfare agency; and

"(4) an assurance that the entity will cooperate fully with any evaluation provided for by the Secretary under this section.

"(c) LIMITATIONS.—

"(1) GRANT DURATION.—The Secretary may award a grant under this section for a period of not less than 1 year and not more than 3 years.

"(2) NUMBER OF NEW GRANTEES PER YEAR.—The Secretary may not award a grant under this section to more than 30 new grantees each fiscal year.

"(d) FEDERAL CONTRIBUTION.—The amount of a grant payment to be made to a grantee under this section during each year in the grant period shall be the following percentage of the total expenditures proposed to be made by the grantee in the application approved by the Secretary under this section:

"(1) 75 percent, if the payment is for the 1st or 2nd year of the grant period.

"(2) 50 percent, if the payment is for the 3rd year of the grant period.

"(e) FORM OF GRANTEE CONTRIBUTION.—A grantee under this section may provide not more than 50 percent of the amount which the grantee is required to expend to carry out the activities for which a grant is awarded under this section in kind, fairly evaluated, including plant, equipment, or services.

"(f) USE OF GRANT.—A grantee under this section shall use the grant in accordance with the approved application for the grant.

"(g) RESERVATIONS OF FUNDS.—

"(1) KINSHIP NAVIGATOR PROGRAMS.—The Secretary shall reserve $5,000,000 of the funds made available under subsection (h) for each fiscal year for grants to implement kinship navigator programs described in subsection (a)(1).

"(2) EVALUATION.—The Secretary shall reserve 3 percent of the funds made available under subsection (h) for each fiscal year for the conduct of a rigorous evaluation of the activities funded with grants under this section.

"(3) TECHNICAL ASSISTANCE.—The Secretary may reserve 2 percent of the funds made available under subsection (h) for each fiscal year to provide technical assistance to recipients of grants under this section.

"(h) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary for purposes of making grants under this section $15,000,000 for each of fiscal years 2009 through 2013.".

(b) CONFORMING AMENDMENT.—Section 425 of such Act (42 U.S.C. 625) is amended by inserting "(other than sections 426, 427, and 429)" after "this subpart".

(c) RENAMING OF PROGRAM.—The subpart heading for subpart 1 of part B of title IV of such Act is amended to read as follows:

## "Subpart 1—Stephanie Tubbs Jones Child Welfare Services Program".

**SEC. 103. NOTIFICATION OF RELATIVES.**

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 101(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by adding at the end the following:

Deadline.

"(29) provides that, within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence, that—

"(A) specifies that the child has been or is being removed from the custody of the parent or parents of the child;

"(B) explains the options the relative has under Federal, State, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

"(C) describes the requirements under paragraph (10) of this subsection to become a foster family home and the additional services and supports that are available for children placed in such a home; and

"(D) if the State has elected the option to make kinship guardianship assistance payments under paragraph (28) of this subsection, describes how the relative guardian of the child may subsequently enter into an agreement with the State under section 473(d) to receive the payments.".

**SEC. 104. LICENSING STANDARDS FOR RELATIVES.**

(a) STATE PLAN AMENDMENT.—Section 471(a)(10) of the Social Security Act (42 U.S.C. 671(a)(10)) is amended—

(1) by striking "and provides" and inserting "provides"; and

(2) by inserting before the semicolon the following: ", and provides that a waiver of any such standard may be made only on a case-by-case basis for non-safety standards (as determined by the State) in relative foster family homes for specific children in care".

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that includes the following:

(1) Nationally and for each State, the number and percentage of children in foster care placed in licensed relative foster family homes and the number and percentage of such children placed in unlicensed relative foster family homes.

(2) The frequency with which States grant case-by-case waivers of non-safety licensing standards for relative foster family homes.

(3) The types of non-safety licensing standards waived.

(4) An assessment of how such case-by-case waivers of non-safety licensing standards have affected children in foster care, including their safety, permanency, and well-being.

(5) A review of any reasons why relative foster family homes may not be able to be licensed, despite State authority to grant such case-by-case waivers of non-safety licensing standards.

(6) Recommendations for administrative or legislative actions that may increase the percentage of relative foster family homes that are licensed while ensuring the safety of children in foster care and improving their permanence and well-being.

**SEC. 105. AUTHORITY FOR COMPARISONS AND DISCLOSURES OF INFORMATION IN THE FEDERAL PARENT LOCATOR SERVICE FOR CHILD WELFARE, FOSTER CARE, AND ADOPTION ASSISTANCE PROGRAM PURPOSES.**

Section 453(j)(3) of the Social Security Act (42 U.S.C. 653(j)) is amended, in the matter preceding subparagraph (A), by inserting ", part B, or part E" after "this part".

# TITLE II—IMPROVING OUTCOMES FOR CHILDREN IN FOSTER CARE

**SEC. 201. STATE OPTION FOR CHILDREN IN FOSTER CARE, AND CERTAIN CHILDREN IN AN ADOPTIVE OR GUARDIANSHIP PLACEMENT, AFTER ATTAINING AGE 18.**

(a) DEFINITION OF CHILD.—Section 475 of the Social Security Act (42 U.S.C. 675) is amended by adding at the end the following:

"(8)(A) Subject to subparagraph (B), the term 'child' means an individual who has not attained 18 years of age.

"(B) At the option of a State, the term shall include an individual—

"(i)(I) who is in foster care under the responsibility of the State;

"(II) with respect to whom an adoption assistance agreement is in effect under section 473 if the child had attained 16 years of age before the agreement became effective; or

"(III) with respect to whom a kinship guardianship assistance agreement is in effect under section 473(d) if the child had attained 16 years of age before the agreement became effective;

"(ii) who has attained 18 years of age;

"(iii) who has not attained 19, 20, or 21 years of age, as the State may elect; and

"(iv) who is—

"(I) completing secondary education or a program leading to an equivalent credential;

"(II) enrolled in an institution which provides post-secondary or vocational education;

"(III) participating in a program or activity designed to promote, or remove barriers to, employment;

"(IV) employed for at least 80 hours per month; or

"(V) incapable of doing any of the activities described in subclauses (I) through (IV) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.".

Regulations.

(b) CONFORMING AMENDMENT TO DEFINITION OF CHILD-CARE INSTITUTION.—Section 472(c)(2) of such Act (42 U.S.C. 672(c)(2)) is amended by inserting "except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations," before "but".

(c) CONFORMING AMENDMENTS TO AGE LIMITS APPLICABLE TO CHILDREN ELIGIBLE FOR ADOPTION ASSISTANCE OR KINSHIP GUARDIANSHIP ASSISTANCE.—Section 473(a)(4) of such Act (42 U.S.C. 673(a)(4)) is amended to read as follows:

"(4)(A) Notwithstanding any other provision of this section, a payment may not be made pursuant to this section to parents or relative guardians with respect to a child—

"(i) who has attained—

"(I) 18 years of age, or such greater age as the State may elect under section 475(8)(B)(iii); or

"(II) 21 years of age, if the State determines that the child has a mental or physical handicap which warrants the continuation of assistance;

"(ii) who has not attained 18 years of age, if the State determines that the parents or relative guardians, as the case may be, are no longer legally responsible for the support of the child; or

"(iii) if the State determines that the child is no longer receiving any support from the parents or relative guardians, as the case may be.

"(B) Parents or relative guardians who have been receiving adoption assistance payments or kinship guardianship assistance

payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for the payments, or eligible for the payments in a different amount.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2010. 42 USC 672 note.

**SEC. 202. TRANSITION PLAN FOR CHILDREN AGING OUT OF FOSTER CARE.**

Section 475(5) of the Social Security Act (42 U.S.C. 675) is amended—

(1) in subparagraph (F)(ii), by striking "and" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(H) during the 90-day period immediately prior to the date on which the child will attain 18 years of age, or such greater age as the State may elect under paragraph (8)(B)(iii), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under section 477, a caseworker on the staff of the State agency, and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, and is as detailed as the child may elect.".

**SEC. 203. SHORT-TERM TRAINING FOR CHILD WELFARE AGENCIES, RELATIVE GUARDIANS, AND COURT PERSONNEL.**

(a) IN GENERAL.—Section 474(a)(3)(B) of the Social Security Act (42 U.S.C. 674(a)(3)(B)) is amended—

(1) by inserting "or relative guardians" after "adoptive parents";

(2) by striking "and the members" and inserting ", the members";

(3) by inserting ", or State-licensed or State-approved child welfare agencies providing services," after "providing care";

(4) by striking "foster and adopted" the 1st place it appears;

(5) by inserting "and members of the staff of abuse and neglect courts, agency attorneys, attorneys representing children or parents, guardians ad litem, or other court-appointed special advocates representing children in proceedings of such courts," after "part,";

(6) by inserting "guardians," before "staff members,";

(7) by striking "and institutions" and inserting "institutions, attorneys, and advocates"; and

(8) by inserting "and children living with relative guardians" after "foster and adopted children" the 2nd place it appears.

(b) PHASE-IN.—With respect to an expenditure described in section 474(a)(3)(B) of the Social Security Act by reason of an amendment made by subsection (a) of this section, in lieu of the Applicability. 42 USC 674 note.

percentage set forth in such section 474(a)(3)(B), the percentage that shall apply is—

(1) 55 percent, if the expenditure is made in fiscal year 2009;

(2) 60 percent, if the expenditure is made in fiscal year 2010;

(3) 65 percent, if the expenditure is made in fiscal year 2011; or

(4) 70 percent, if the expenditure is made in fiscal year 2012.

**SEC. 204. EDUCATIONAL STABILITY.**

(a) IN GENERAL.—Section 475 of the Social Security Act (42 U.S.C. 675), as amended by section 101(c)(4) of this Act, is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking clause (iv) and redesignating clauses (v) through (viii) as clauses (iv) through (vii), respectively; and

(B) by adding at the end the following:

"(G) A plan for ensuring the educational stability of the child while in foster care, including—

"(i) assurances that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

"(ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of placement; or

"(II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school."; and

(2) in the 1st sentence of paragraph (4)(A)—

(A) by striking "and reasonable" and inserting "reasonable"; and

(B) by inserting ", and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement" before the period.

(b) EDUCATIONAL ATTENDANCE REQUIREMENT.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by sections 101(a) and 103 of this Act, is amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting "; and"; and

(3) by adding at the end the following:

"(30) provides assurances that each child who has attained the minimum age for compulsory school attendance under State law and with respect to whom there is eligibility for a payment under the State plan is a full-time elementary or secondary

school student or has completed secondary school, and for purposes of this paragraph, the term 'elementary or secondary school student' means, with respect to a child, that the child is—

"(A) enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education, as determined under the law of the State or other jurisdiction in which the institution is located;

"(B) instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which the home is located;

"(C) in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which the program is located, which is administered by the local school or school district; or

"(D) incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the case plan of the child.".

**SEC. 205. HEALTH OVERSIGHT AND COORDINATION PLAN.**

Section 422(b)(15) of the Social Security Act (42 U.S.C. 622(b)(15)) is amended to read as follows:

"(15)(A) provides that the State will develop, in coordination and collaboration with the State agency referred to in paragraph (1) and the State agency responsible for administering the State plan approved under title XIX, and in consultation with pediatricians, other experts in health care, and experts in and recipients of child welfare services, a plan for the ongoing oversight and coordination of health care services for any child in a foster care placement, which shall ensure a coordinated strategy to identify and respond to the health care needs of children in foster care placements, including mental health and dental health needs, and shall include an outline of—

"(i) a schedule for initial and follow-up health screenings that meet reasonable standards of medical practice;

"(ii) how health needs identified through screenings will be monitored and treated;

"(iii) how medical information for children in care will be updated and appropriately shared, which may include the development and implementation of an electronic health record;

"(iv) steps to ensure continuity of health care services, which may include the establishment of a medical home for every child in care;

"(v) the oversight of prescription medicines; and

"(vi) how the State actively consults with and involves physicians or other appropriate medical or non-medical professionals in assessing the health and well-being of children in foster care and in determining appropriate medical treatment for the children; and

"(B) subparagraph (A) shall not be construed to reduce or limit the responsibility of the State agency responsible for administering the State plan approved under title XIX to administer and provide care and services for children with

respect to whom services are provided under the State plan developed pursuant to this subpart;".

**SEC. 206. SIBLING PLACEMENT.**

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by sections 101(a), 103, and 204(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (29);

(2) by striking the period at the end of paragraph (30) and inserting "; and"; and

(3) by adding at the end the following:

"(31) provides that reasonable efforts shall be made—

"(A) to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and

"(B) in the case of siblings removed from their home who are not so jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless that State documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.".

# TITLE III—TRIBAL FOSTER CARE AND ADOPTION ACCESS

**SEC. 301. EQUITABLE ACCESS FOR FOSTER CARE AND ADOPTION SERVICES FOR INDIAN CHILDREN IN TRIBAL AREAS.**

(a) AUTHORITY FOR DIRECT PAYMENT OF FEDERAL TITLE IV–E FUNDS FOR PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.—

(1) IN GENERAL.—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by adding at the end the following:

42 USC 679c.

**"SEC. 479B. PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.**

"(a) DEFINITIONS OF INDIAN TRIBE; TRIBAL ORGANIZATIONS.—In this section, the terms 'Indian tribe' and 'tribal organization' have the meanings given those terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

Applicability.

"(b) AUTHORITY.—Except as otherwise provided in this section, this part shall apply in the same manner as this part applies to a State to an Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part and has a plan approved by the Secretary under section 471 in accordance with this section.

"(c) PLAN REQUIREMENTS.—

"(1) IN GENERAL.—An Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part shall include with its plan submitted under section 471 the following:

"(A) FINANCIAL MANAGEMENT.—Evidence demonstrating that the tribe, organization, or consortium has

not had any uncorrected significant or material audit exceptions under Federal grants or contracts that directly relate to the administration of social services for the 3-year period prior to the date on which the plan is submitted.

"(B) SERVICE AREAS AND POPULATIONS.—For purposes of complying with section 471(a)(3), a description of the service area or areas and populations to be served under the plan and an assurance that the plan shall be in effect in all service area or areas and for all populations served by the tribe, organization, or consortium.

"(C) ELIGIBILITY.—

"(i) IN GENERAL.—Subject to clause (ii) of this subparagraph, an assurance that the plan will provide—

"(I) foster care maintenance payments under section 472 only on behalf of children who satisfy the eligibility requirements of section 472(a);

"(II) adoption assistance payments under section 473 pursuant to adoption assistance agreements only on behalf of children who satisfy the eligibility requirements for such payments under that section; and

"(III) at the option of the tribe, organization, or consortium, kinship guardianship assistance payments in accordance with section 473(d) only on behalf of children who meet the requirements of section 473(d)(3).

"(ii) SATISFACTION OF FOSTER CARE ELIGIBILITY REQUIREMENTS.—For purposes of determining whether a child whose placement and care are the responsibility of an Indian tribe, tribal organization, or tribal consortium with a plan approved under section 471 in accordance with this section satisfies the requirements of section 472(a), the following shall apply: Applicability.

"(I) USE OF AFFIDAVITS, ETC.—Only with respect to the first 12 months for which such plan is in effect, the requirement in paragraph (1) of section 472(a) shall not be interpreted so as to prohibit the use of affidavits or nunc pro tunc orders as verification documents in support of the reasonable efforts and contrary to the welfare of the child judicial determinations required under that paragraph.

"(II) AFDC ELIGIBILITY REQUIREMENT.—The State plan approved under section 402 (as in effect on July 16, 1996) of the State in which the child resides at the time of removal from the home shall apply to the determination of whether the child satisfies section 472(a)(3).

"(D) OPTION TO CLAIM IN-KIND EXPENDITURES FROM THIRD-PARTY SOURCES FOR NON-FEDERAL SHARE OF ADMINISTRATIVE AND TRAINING COSTS DURING INITIAL IMPLEMENTATION PERIOD.—Only for fiscal year quarters beginning after September 30, 2009, and before October 1, 2014, a list of the in-kind expenditures (which shall be fairly evaluated, and may include plants, equipment, administration, or services) and the third-party sources of such expenditures

that the tribe, organization, or consortium may claim as part of the non-Federal share of administrative or training expenditures attributable to such quarters for purposes of receiving payments under section 474(a)(3). The Secretary shall permit a tribe, organization, or consortium to claim in-kind expenditures from third party sources for such purposes during such quarters subject to the following:

"(i) NO EFFECT ON AUTHORITY FOR TRIBES, ORGANIZATIONS, OR CONSORTIA TO CLAIM EXPENDITURES OR INDIRECT COSTS TO THE SAME EXTENT AS STATES.—Nothing in this subparagraph shall be construed as preventing a tribe, organization, or consortium from claiming any expenditures or indirect costs for purposes of receiving payments under section 474(a) that a State with a plan approved under section 471(a) could claim for such purposes.

"(ii) FISCAL YEAR 2010 OR 2011.—

"(I) EXPENDITURES OTHER THAN FOR TRAINING.—With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (C), (D), or (E) of section 474(a)(3), not more than 25 percent of such amounts may consist of in-kind expenditures from third-party sources specified in the list required under this subparagraph to be submitted with the plan.

"(II) TRAINING EXPENDITURES.—With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (A) or (B) of section 474(a)(3), not more than 12 percent of such amounts may consist of in-kind expenditures from third-party sources that are specified in such list and described in subclause (III).

"(III) SOURCES DESCRIBED.—For purposes of subclause (II), the sources described in this subclause are the following:

"(aa) A State or local government.

"(bb) An Indian tribe, tribal organization, or tribal consortium other than the tribe, organization, or consortium submitting the plan.

"(cc) A public institution of higher education.

"(dd) A Tribal College or University (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c)).

"(ee) A private charitable organization.

"(iii) FISCAL YEAR 2012, 2013, OR 2014.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and clause (v) of this subparagraph, with respect to amounts expended

during any fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which the tribe, organization, or consortium is eligible for payments under any subparagraph of section 474(a)(3) of this Act, the only in-kind expenditures from third-party sources that may be claimed by the tribe, organization, or consortium for purposes of determining the non-Federal share of such expenditures (without regard to whether the expenditures are specified on the list required under this subparagraph to be submitted with the plan) are in-kind expenditures that are specified in regulations promulgated by the Secretary under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 and are from an applicable third-party source specified in such regulations, and do not exceed the applicable percentage for claiming such in-kind expenditures specified in the regulations.

"(II) TRANSITION PERIOD FOR EARLY APPROVED TRIBES, ORGANIZATIONS, OR CONSORTIA.—Subject to clause (v), if the tribe, organization, or consortium is an early approved tribe, organization, or consortium (as defined in subclause (III) of this clause), the Secretary shall not require the tribe, organization, or consortium to comply with such regulations before October 1, 2013. Until the earlier of the date such tribe, organization, or consortium comes into compliance with such regulations or October 1, 2013, the limitations on the claiming of in-kind expenditures from third-party sources under clause (ii) shall continue to apply to such tribe, organization, or consortium (without regard to fiscal limitation) for purposes of determining the non-Federal share of amounts expended by the tribe, organization, or consortium during any fiscal year quarter that begins after September 30, 2011, and before such date of compliance or October 1, 2013, whichever is earlier.

Applicability.

"(III) DEFINITION OF EARLY APPROVED TRIBE, ORGANIZATION, OR CONSORTIUM.—For purposes of subclause (II) of this clause, the term 'early approved tribe, organization, or consortium' means an Indian tribe, tribal organization, or tribal consortium that had a plan approved under section 471 in accordance with this section for any quarter of fiscal year 2010 or 2011.

"(iv) FISCAL YEAR 2015 AND THEREAFTER.—Subject to clause (v) of this subparagraph, with respect to amounts expended during any fiscal year quarter beginning after September 30, 2014, for which the tribe, organization, or consortium is eligible for payments under any subparagraph of section 474(a)(3) of this Act, in-kind expenditures from third-party sources may be claimed for purposes of determining the non-Federal share of expenditures under any

subparagraph of such section 474(a)(3) only in accordance with the regulations promulgated by the Secretary under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008.

"(v) CONTINGENCY RULE.—If, at the time expenditures are made for a fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which a tribe, organization, or consortium may receive payments for under section 474(a)(3) of this Act, no regulations required to be promulgated under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 are in effect, and no legislation has been enacted specifying otherwise—

"(I) in the case of any quarter of fiscal year 2012, 2013, or 2014, the limitations on claiming in-kind expenditures from third-party sources under clause (ii) of this subparagraph shall apply (without regard to fiscal limitation) for purposes of determining the non-Federal share of such expenditures; and

"(II) in the case of any quarter of fiscal year 2015 or any fiscal year thereafter, no tribe, organization, or consortium may claim in-kind expenditures from third-party sources for purposes of determining the non-Federal share of such expenditures if a State with a plan approved under section 471(a) of this Act could not claim in-kind expenditures from third-party sources for such purposes.

"(2) CLARIFICATION OF TRIBAL AUTHORITY TO ESTABLISH STANDARDS FOR TRIBAL FOSTER FAMILY HOMES AND TRIBAL CHILD CARE INSTITUTIONS.—For purposes of complying with section 471(a)(10), an Indian tribe, tribal organization, or tribal consortium shall establish and maintain a tribal authority or authorities which shall be responsible for establishing and maintaining tribal standards for tribal foster family homes and tribal child care institutions.

"(3) CONSORTIUM.—The participating Indian tribes or tribal organizations of a tribal consortium may develop and submit a single plan under section 471 that meets the requirements of this section.

"(d) DETERMINATION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE FOR FOSTER CARE MAINTENANCE AND ADOPTION ASSISTANCE PAYMENTS.—

"(1) PER CAPITA INCOME.—For purposes of determining the Federal medical assistance percentage applicable to an Indian tribe, a tribal organization, or a tribal consortium under paragraphs (1), (2), and (5) of section 474(a), the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium shall be based upon the service population of the Indian tribe, tribal organization, or tribal consortium, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive less than the Federal medical assistance percentage for any State in which the tribe, organization, or consortium is located.

"(2) CONSIDERATION OF OTHER INFORMATION.—Before making a calculation under paragraph (1), the Secretary shall consider any information submitted by an Indian tribe, a tribal organization, or a tribal consortium that the Indian tribe, tribal organization, or tribal consortium considers relevant to making the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium.

"(e) NONAPPLICATION TO COOPERATIVE AGREEMENTS AND CONTRACTS.—Any cooperative agreement or contract entered into between an Indian tribe, a tribal organization, or a tribal consortium and a State for the administration or payment of funds under this part that is in effect as of the date of enactment of this section shall remain in full force and effect, subject to the right of either party to the agreement or contract to revoke or modify the agreement or contract pursuant to the terms of the agreement or contract. Nothing in this section shall be construed as affecting the authority for an Indian tribe, a tribal organization, or a tribal consortium and a State to enter into a cooperative agreement or contract for the administration or payment of funds under this part.

"(f) JOHN H. CHAFEE FOSTER CARE INDEPENDENCE PROGRAM.—Except as provided in section 477(j), subsection (b) of this section shall not apply with respect to the John H. Chafee Foster Care Independence Program established under section 477 (or with respect to payments made under section 474(a)(4) or grants made under section 474(e)).

"(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as affecting the application of section 472(h) to a child on whose behalf payments are paid under section 472, or the application of section 473(b) to a child on whose behalf payments are made under section 473 pursuant to an adoption assistance agreement or a kinship guardianship assistance agreement, by an Indian tribe, tribal organization, or tribal consortium that elects to operate a foster care and adoption assistance program in accordance with this section.".

(2) CONFORMING AMENDMENTS.—Section 472(a)(2)(B) of such Act (42 U.S.C. 672(a)(2)(B)) is amended—

(A) in clause (i), by striking "or" at the end;

(B) in clause (ii), by striking "and" at the end and inserting "or"; and

(C) by adding at the end the following:

"(iii) an Indian tribe or a tribal organization (as defined in section 479B(a)) or a tribal consortium that has a plan approved under section 471 in accordance with section 479B; and".

(b) AUTHORITY TO RECEIVE PORTION OF STATE ALLOTMENT AS PART OF AN AGREEMENT TO OPERATE THE JOHN H. CHAFEE FOSTER CARE INDEPENDENCE PROGRAM.—Section 477 of such Act (42 U.S.C. 677) is amended by adding at the end the following:

"(j) AUTHORITY FOR AN INDIAN TRIBE, TRIBAL ORGANIZATION, OR TRIBAL CONSORTIUM TO RECEIVE AN ALLOTMENT.—

"(1) IN GENERAL.—An Indian tribe, tribal organization, or tribal consortium with a plan approved under section 479B, or which is receiving funding to provide foster care under this part pursuant to a cooperative agreement or contract with a State, may apply for an allotment out of any funds authorized

by paragraph (1) or (2) (or both) of subsection (h) of this section.

"(2) APPLICATION.—A tribe, organization, or consortium desiring an allotment under paragraph (1) of this subsection shall submit an application to the Secretary to directly receive such allotment that includes a plan which—

"(A) satisfies such requirements of paragraphs (2) and (3) of subsection (b) as the Secretary determines are appropriate;

"(B) contains a description of the tribe's, organization's, or consortium's consultation process regarding the programs to be carried out under the plan with each State for which a portion of an allotment under subsection (c) would be redirected to the tribe, organization, or consortium; and

"(C) contains an explanation of the results of such consultation, particularly with respect to—

"(i) determining the eligibility for benefits and services of Indian children to be served under the programs to be carried out under the plan; and

"(ii) the process for consulting with the State in order to ensure the continuity of benefits and services for such children who will transition from receiving benefits and services under programs carried out under a State plan under subsection (b)(2) to receiving benefits and services under programs carried out under a plan under this subsection.

"(3) PAYMENTS.—The Secretary shall pay an Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection from the allotment determined for the tribe, organization, or consortium under paragraph (4) of this subsection in the same manner as is provided in section 474(a)(4) (and, where requested, and if funds are appropriated, section 474(e)) with respect to a State, or in such other manner as is determined appropriate by the Secretary, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive a lesser proportion of such funds than a State is authorized to receive under those sections.

"(4) ALLOTMENT.—From the amounts allotted to a State under subsection (c) of this section for a fiscal year, the Secretary shall allot to each Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection for that fiscal year an amount equal to the tribal foster care ratio determined under paragraph (5) of this subsection for the tribe, organization, or consortium multiplied by the allotment amount of the State within which the tribe, organization, or consortium is located. The allotment determined under this paragraph is deemed to be a part of the allotment determined under section 477(c) for the State in which the Indian tribe, tribal organization, or tribal consortium is located.

"(5) TRIBAL FOSTER CARE RATIO.—For purposes of paragraph (4), the tribal foster care ratio means, with respect to an Indian tribe, tribal organization, or tribal consortium, the ratio of—

"(A) the number of children in foster care under the responsibility of the Indian tribe, tribal organization, or tribal consortium (either directly or under supervision of the State), in the most recent fiscal year for which the information is available; to

"(B) the sum of—

"(i) the total number of children in foster care under the responsibility of the State within which the Indian tribe, tribal organization, or tribal consortium is located; and

"(ii) the total number of children in foster care under the responsibility of all Indian tribes, tribal organizations, or tribal consortia in the State (either directly or under supervision of the State) that have a plan approved under this subsection.".

(c) STATE AND TRIBAL COOPERATION.—

(1) STATE PLAN REQUIREMENT TO NEGOTIATE IN GOOD FAITH.—

(A) IN GENERAL.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by sections 101(a), 103, 204(b), and 206 of this Act, is amended—

(i) by striking "and" at the end of paragraph (30);

(ii) by striking the period at the end of paragraph (31) and inserting "; and"; and

(iii) by adding at the end the following:

"(32) provides that the State will negotiate in good faith with any Indian tribe, tribal organization or tribal consortium in the State that requests to develop an agreement with the State to administer all or part of the program under this part on behalf of Indian children who are under the authority of the tribe, organization, or consortium, including foster care maintenance payments on behalf of children who are placed in State or tribally licensed foster family homes, adoption assistance payments, and, if the State has elected to provide such payments, kinship guardianship assistance payments under section 473(d), and tribal access to resources for administration, training, and data collection under this part.".

(B) CHAFEE PROGRAM CONFORMING AMENDMENT.—Section 477(b)(3)(G) of such Act (42 U.S.C. 677(b)(3)(G)) is amended—

(i) by striking "and that" and inserting "that"; and

(ii) by striking the period at the end and inserting "; and that the State will negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the State that does not receive an allotment under subsection (j)(4) for a fiscal year and that requests to develop an agreement with the State to administer, supervise, or oversee the programs to be carried out under the plan with respect to the Indian children who are eligible for such programs and who are under the authority of the tribe, organization, or consortium and to receive from the State an appropriate portion of the State allotment under subsection (c) for the cost of such administration, supervision, or oversight.".

(2) APPLICATION OF TRIBAL FEDERAL MATCHING RATE TO COOPERATIVE AGREEMENTS OR CONTRACTS BETWEEN STATE OR TRIBES.—Paragraphs (1) and (2) of section 474(a) of such Act (42 U.S.C. 674(a)) are each amended by inserting "(or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 479B(d) (in this paragraph referred to as the 'tribal FMAP') if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State)" before the semicolon.

42 USC 671 note.

(d) RULES OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as—

(1) authorization to terminate funding on behalf of any Indian child receiving foster care maintenance payments or adoption assistance payments on the date of enactment of this Act and for which the State receives Federal matching payments under paragraph (1) or (2) of section 474(a) of the Social Security Act (42 U.S.C. 674(a)), regardless of whether a cooperative agreement or contract between the State and an Indian tribe, tribal organization, or tribal consortium is in effect on such date or an Indian tribe, tribal organization, or tribal consortium elects subsequent to such date to operate a program under section 479B of such Act (as added by subsection (a) of this section); or

(2) affecting the responsibility of a State—

(A) as part of the plan approved under section 471 of the Social Security Act (42 U.S.C. 671), to provide foster care maintenance payments, adoption assistance payments, and if the State elects, kinship guardianship assistance payments, for Indian children who are eligible for such payments and who are not otherwise being served by an Indian tribe, tribal organization, or tribal consortium pursuant to a program under such section 479B of such Act or a cooperative agreement or contract entered into between an Indian tribe, a tribal organization, or a tribal consortium and a State for the administration or payment of funds under part E of title IV of such Act; or

(B) as part of the plan approved under section 477 of such Act (42 U.S.C. 677) to administer, supervise, or oversee programs carried out under that plan on behalf of Indian children who are eligible for such programs if such children are not otherwise being served by an Indian tribe, tribal organization, or tribal consortium pursuant to an approved plan under section 477(j) of such Act or a cooperative agreement or contract entered into under section 477(b)(3)(G) of such Act.

42 USC 671 note.

(e) REGULATIONS.—

Deadline.

(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, not later than 1 year after the date of enactment of this section, the Secretary of Health and Human Services, in consultation with Indian tribes, tribal organizations, tribal consortia, and affected States, shall promulgate interim

final regulations to carry out this section and the amendments made by this section. Such regulations shall include procedures to ensure that a transfer of responsibility for the placement and care of a child under a State plan approved under section 471 of the Social Security Act to a tribal plan approved under section 471 of such Act in accordance with section 479B of such Act (as added by subsection (a)(1) of this section) or to an Indian tribe, a tribal organization, or a tribal consortium that has entered into a cooperative agreement or contract with a State for the administration or payment of funds under part E of title IV of such Act does not affect the eligibility of, provision of services for, or the making of payments on behalf of, such children under part E of title IV of such Act, or the eligibility of such children for medical assistance under title XIX of such Act. Procedures.

(2) IN-KIND EXPENDITURES FROM THIRD-PARTY SOURCES FOR PURPOSES OF DETERMINING NON-FEDERAL SHARE OF ADMINISTRATIVE AND TRAINING EXPENDITURES.—

(A) IN GENERAL.—Subject to subparagraph (B) of this paragraph, not later than September 30, 2011, the Secretary of Health and Human Services, in consultation with Indian tribes, tribal organizations, and tribal consortia, shall promulgate interim final regulations specifying the types of in-kind expenditures, including plants, equipment, administration, and services, and the third-party sources for such in-kind expenditures which may be claimed by tribes, organizations, and consortia with plans approved under section 471 of the Social Security Act in accordance with section 479B of such Act, up to such percentages as the Secretary, in such consultation shall specify in such regulations, for purposes of determining the non-Federal share of administrative and training expenditures for which the tribes, organizations, and consortia may receive payments for under any subparagraph of section 474(a)(3) of such Act. Deadline.

(B) EFFECTIVE DATE.—In no event shall the regulations required to be promulgated under subparagraph (A) take effect prior to October 1, 2011.

(C) SENSE OF THE CONGRESS.—It is the sense of the Congress that if the Secretary of Health and Human Services fails to publish in the Federal Register the regulations required under subparagraph (A) of this paragraph, the Congress should enact legislation specifying the types of in-kind expenditures and the third-party sources for such in-kind expenditures which may be claimed by tribes, organizations, and consortia with plans approved under section 471 of the Social Security Act in accordance with section 479B of such Act, up to specific percentages, for purposes of determining the non-Federal share of administrative and training expenditures for which the tribes, organizations, and consortia may receive payments for under any subparagraph of section 474(a)(3) of such Act.

(f) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on October 1, 2009, without regard to whether the regulations required under subsection (e)(1) have been promulgated by such date. 42 USC 671 note.

**SEC. 302. TECHNICAL ASSISTANCE AND IMPLEMENTATION.**

Section 476 of the Social Security Act (42 U.S.C. 676) is amended by adding at the end the following:

"(c) TECHNICAL ASSISTANCE AND IMPLEMENTATION SERVICES FOR TRIBAL PROGRAMS.—

"(1) AUTHORITY.—The Secretary shall provide technical assistance and implementation services that are dedicated to improving services and permanency outcomes for Indian children and their families through the provision of assistance described in paragraph (2).

"(2) ASSISTANCE PROVIDED.—

"(A) IN GENERAL.—The technical assistance and implementation services shall be to—

"(i) provide information, advice, educational materials, and technical assistance to Indian tribes and tribal organizations with respect to the types of services, administrative functions, data collection, program management, and reporting that are required under State plans under part B and this part;

"(ii) assist and provide technical assistance to—

"(I) Indian tribes, tribal organizations, and tribal consortia seeking to operate a program under part B or under this part through direct application to the Secretary under section 479B; and

"(II) Indian tribes, tribal organizations, tribal consortia, and States seeking to develop cooperative agreements to provide for payments under this part or satisfy the requirements of section 422(b)(9), 471(a)(32), or 477(b)(3)(G); and

"(iii) subject to subparagraph (B), make one-time grants, to tribes, tribal organizations, or tribal consortia that are seeking to develop, and intend, not later than 24 months after receiving such a grant to submit to the Secretary a plan under section 471 to implement a program under this part as authorized by section 479B, that shall—

"(I) not exceed $300,000; and

"(II) be used for the cost of developing a plan under section 471 to carry out a program under section 479B, including costs related to development of necessary data collection systems, a cost allocation plan, agency and tribal court procedures necessary to meet the case review system requirements under section 475(5), or any other costs attributable to meeting any other requirement necessary for approval of such a plan under this part.

"(B) GRANT CONDITION.—

"(i) IN GENERAL.—As a condition of being paid a grant under subparagraph (A)(iii), a tribe, tribal organization, or tribal consortium shall agree to repay the total amount of the grant awarded if the tribe, tribal organization, or tribal consortium fails to submit to the Secretary a plan under section 471 to carry out a program under section 479B by the end of the 24-month period described in that subparagraph.

"(ii) EXCEPTION.—The Secretary shall waive the requirement to repay a grant imposed by clause (i) if the Secretary determines that a tribe's, tribal organization's, or tribal consortium's failure to submit a plan within such period was the result of circumstances beyond the control of the tribe, tribal organization, or tribal consortium. Waiver authority.

"(C) IMPLEMENTATION AUTHORITY.—The Secretary may provide the technical assistance and implementation services described in subparagraph (A) either directly or through a grant or contract with public or private organizations knowledgeable and experienced in the field of Indian tribal affairs and child welfare.

"(3) APPROPRIATION.—There is appropriated to the Secretary, out of any money in the Treasury of the United States not otherwise appropriated, $3,000,000 for fiscal year 2009 and each fiscal year thereafter to carry out this subsection.".

# TITLE IV—IMPROVEMENT OF INCENTIVES FOR ADOPTION

**SEC. 401. ADOPTION INCENTIVES PROGRAM.**

(a) 5-YEAR EXTENSION.—Section 473A of the Social Security Act (42 U.S.C. 673b) is amended—

(1) in subsection (b)(4), by striking "in the case of fiscal years 2001 through 2007,";

(2) in subsection (b)(5), by striking "1998 through 2007" and inserting "2008 through 2012";

(3) in subsection (c)(2), by striking "each of fiscal years 2002 through 2007" and inserting "a fiscal year"; and

(4) in each of subsections (h)(1)(D), and (h)(2), by striking "2008" and inserting "2013".

(b) UPDATING OF FISCAL YEAR USED IN DETERMINING BASE NUMBERS OF ADOPTIONS.—Section 473A(g) of such Act (42 U.S.C. 673b(g)) is amended—

(1) in paragraph (3), by striking "means" and all that follows and inserting "means, with respect to any fiscal year, the number of foster child adoptions in the State in fiscal year 2007.";

(2) in paragraph (4)—

(A) by inserting "that are not older child adoptions" before "for a State"; and

(B) by striking "means" and all that follows and inserting "means, with respect to any fiscal year, the number of special needs adoptions that are not older child adoptions in the State in fiscal year 2007."; and

(3) in paragraph (5), by striking "means" and all that follows and inserting "means, with respect to any fiscal year, the number of older child adoptions in the State in fiscal year 2007.".

(c) INCREASE IN INCENTIVE PAYMENTS FOR SPECIAL NEEDS ADOPTIONS AND OLDER CHILD ADOPTIONS.—Section 473A(d)(1) of such Act (42 U.S.C. 673b(d)(1)) is amended—

(1) in subparagraph (B), by striking "$2,000" and inserting "$4,000"; and

(2) in subparagraph (C), by striking "$4,000" and inserting "$8,000".

(d) 24-MONTH AVAILABILITY OF PAYMENTS TO STATES.—Section 473A(e) of such Act (42 U.S.C. 673b(e)) is amended—

(1) in the heading, by striking "2-YEAR" and inserting "24-MONTH"; and

(2) by striking "through the end of the succeeding fiscal year" and inserting "for the 24-month period beginning with the month in which the payments are made".

(e) ADDITIONAL INCENTIVE PAYMENT FOR EXCEEDING THE HIGHEST EVER FOSTER CHILD ADOPTION RATE.—

(1) IN GENERAL.—Section 473A(d) of such Act (42 U.S.C. 673b(d)) is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(B) in paragraph (2), by striking "this section" each place it appears and inserting "paragraph (1)"; and

(C) by adding at the end the following:

"(3) INCREASED INCENTIVE PAYMENT FOR EXCEEDING THE HIGHEST EVER FOSTER CHILD ADOPTION RATE.—

"(A) IN GENERAL.—If—

"(i) for fiscal year 2009 or any fiscal year thereafter the total amount of adoption incentive payments payable under paragraph (1) of this subsection are less than the amount appropriated under subsection (h) for the fiscal year; and

"(ii) a State's foster child adoption rate for that fiscal year exceeds the highest ever foster child adoption rate determined for the State,

then the adoption incentive payment otherwise determined under paragraph (1) of this subsection for the State shall be increased, subject to subparagraph (C) of this paragraph, by the amount determined for the State under subparagraph (B) of this paragraph.

"(B) AMOUNT OF INCREASE.—For purposes of subparagraph (A), the amount determined under this subparagraph with respect to a State and a fiscal year is the amount equal to the product of—

"(i) $1,000; and

"(ii) the excess of—

"(I) the number of foster child adoptions in the State in the fiscal year; over

"(II) the product (rounded to the nearest whole number) of—

"(aa) the highest ever foster child adoption rate determined for the State; and

"(bb) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

"(C) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—For any fiscal year, if the total amount of increases in adoption incentive payments otherwise payable under this paragraph for a fiscal year exceeds the amount available for such increases for the fiscal year, the amount of the increase payable to each State under this paragraph for the fiscal year shall be—

"(i) the amount of the increase that would otherwise be payable to the State under this paragraph for the fiscal year; multiplied by

"(ii) the percentage represented by the amount so available for the fiscal year, divided by the total amount of increases otherwise payable under this paragraph for the fiscal year.".

(2) DEFINITIONS.—Section 473A(g) of such Act (42 U.S.C. 673b(g)) is amended by adding at the end the following:

"(7) HIGHEST EVER FOSTER CHILD ADOPTION RATE.—The term 'highest ever foster child adoption rate' means, with respect to any fiscal year, the highest foster child adoption rate determined for any fiscal year in the period that begins with fiscal year 2002 and ends with the preceding fiscal year.

"(8) FOSTER CHILD ADOPTION RATE.—The term 'foster child adoption rate' means, with respect to a State and a fiscal year, the percentage determined by dividing—

"(A) the number of foster child adoptions finalized in the State during the fiscal year; by

"(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.".

(3) CONFORMING AMENDMENTS.—

(A) STATE ELIGIBILITY.—Section 473A(b)(2) of such Act (42 U.S.C. 673b(b)(2)) is amended—

(i) in subparagraph (A), by striking "or" at the end;

(ii) in subparagraph (B), by adding "or" at the end; and

(iii) by adding at the end the following:

"(C) the State's foster child adoption rate for the fiscal year exceeds the highest ever foster child adoption rate determined for the State;".

(B) DATA.—Section 473A(c)(2) of such Act (42 U.S.C. 673b(c)(2)), as amended by subsection (a)(3) of this section, is amended by inserting "and the foster child adoption rate for the State for the fiscal year," after "during a fiscal year,".

**SEC. 402. PROMOTION OF ADOPTION OF CHILDREN WITH SPECIAL NEEDS.**

Section 473 of the Social Security Act (42 U.S.C. 673), as amended by section 101(b) of this Act, is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) by redesignating items (aa) and (bb) of clause (i)(I) as subitems (AA) and (BB), respectively;

(II) in subitem (BB) of clause (i)(I) (as so redesignated), by striking "item (aa) of this subclause" and inserting "subitem (AA) of this item";

(III) by redesignating subclauses (I) through (III) of clause (i) as items (aa) through (cc), respectively;

(IV) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(V) by realigning the margins of the items, subclauses, and clauses redesignated by subclauses (I) through (IV) accordingly;

(VI) by striking "if the child—" and inserting "if—

"(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child—";

(VII) in subclause (II) of clause (i) (as so redesignated)—

(aa) by striking "(c)" and inserting "(c)(1)"; and

(bb) by striking the period at the end and inserting "; or"; and

(VIII) by adding at the end the following:

"(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child—

"(I)(aa) at the time of initiation of adoption proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to—

"(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

"(BB) a voluntary placement agreement or voluntary relinquishment;

"(bb) meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits; or

"(cc) was residing in a foster family home or child care institution with the child's minor parent, and the child's minor parent was in such foster family home or child care institution pursuant to—

"(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

"(BB) a voluntary placement agreement or voluntary relinquishment; and

"(II) has been determined by the State, pursuant to subsection (c)(2), to be a child with special needs."; and

(ii) in subparagraph (C)—

(I) by redesignating subclauses (I) and (II) of clause (iii) as items (aa) and (bb), respectively;

(II) by redesignating subclauses (I) and (II) of clause (iv) as items (aa) and (bb), respectively;

(III) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively;

(IV) by realigning the margins of the subclauses and clauses redesignated by subclauses (I) through (III) accordingly;

(V) by striking "if the child—" and inserting "if—

"(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child—";

(VI) in clause (i)(I) (as so redesignated), by striking "(A)(ii)" and inserting "(A)(i)(II)";

(VII) in clause (i)(IV) (as so redesignated)—

(aa) in the matter preceding item (aa), by striking "(A)" and inserting "(A)(i)"; and

(bb) by striking the period at the end and inserting "; or"; and

(VIII) by adding at the end the following:

"(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child meets the requirements of subparagraph (A)(ii)(II), is determined eligible for adoption assistance payments under this part with respect to a prior adoption (or who would have been determined eligible for such payments had the Adoption and Safe Families Act of 1997 been in effect at the time that such determination would have been made), and is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died."; and

(B) by adding at the end the following:

"(7)(A) Notwithstanding any other provision of this subsection, no payment may be made to parents with respect to any applicable child for a fiscal year that—

"(i) would be considered a child with special needs under subsection (c)(2);

"(ii) is not a citizen or resident of the United States; and

"(iii) was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

"(B) Subparagraph (A) shall not be construed as prohibiting payments under this part for an applicable child described in subparagraph (A) that is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of the child by the parents described in subparagraph (A).

"(8) A State shall spend an amount equal to the amount of savings (if any) in State expenditures under this part resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year to provide to children or families any service (including post-adoption services) that may be provided under this part or part B.";

(2) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and realigning the margins accordingly;

(B) by striking "this section, a child shall not be considered a child with special needs unless" and inserting "this section—

"(1) in the case of a child who is not an applicable child for a fiscal year, the child shall not be considered a child with special needs unless"; and

(C) in paragraph (1)(B), as so redesignated, by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following:

"(2) in the case of a child who is an applicable child for a fiscal year, the child shall not be considered a child with special needs unless—

"(A) the State has determined, pursuant to a criterion or criteria established by the State, that the child cannot or should not be returned to the home of his parents;

"(B)(i) the State has determined that there exists with respect to the child a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance under this section and medical assistance under title XIX; or

"(ii) the child meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits; and

"(C) the State has determined that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX."; and

(3) by adding at the end the following:

"(e) APPLICABLE CHILD DEFINED.—

"(1) ON THE BASIS OF AGE.—

"(A) IN GENERAL.—Subject to paragraphs (2) and (3), in this section, the term 'applicable child' means a child for whom an adoption assistance agreement is entered into under this section during any fiscal year described in subparagraph (B) if the child attained the applicable age for that fiscal year before the end of that fiscal year.

"(B) APPLICABLE AGE.—For purposes of subparagraph (A), the applicable age for a fiscal year is as follows:

| "In the case of fiscal year: | The applicable age is: |
|---|---|
| 2010 | 16 |
| 2011 | 14 |
| 2012 | 12 |
| 2013 | 10 |
| 2014 | 8 |
| 2015 | 6 |
| 2016 | 4 |
| 2017 | 2 |
| 2018 or thereafter | any age. |

Effective date.

"(2) EXCEPTION FOR DURATION IN CARE.—Notwithstanding paragraph (1) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child—

"(A) has been in foster care under the responsibility of the State for at least 60 consecutive months; and

"(B) meets the requirements of subsection (a)(2)(A)(ii).

"(3) EXCEPTION FOR MEMBER OF A SIBLING GROUP.—Notwithstanding paragraphs (1) and (2) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section without regard to whether the child is described in paragraph (2)(A) of this subsection if the child— Effective date.

"(A) is a sibling of a child who is an applicable child for the fiscal year under paragraph (1) or (2) of this subsection;

"(B) is to be placed in the same adoption placement as an applicable child for the fiscal year who is their sibling; and

"(C) meets the requirements of subsection (a)(2)(A)(ii).".

**SEC. 403. INFORMATION ON ADOPTION TAX CREDIT.**

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by sections 101(a), 103, 204(b), 206, and 301(c)(1)(A) of this Act, is amended—

(1) by striking "and" at the end of paragraph (31);

(2) by striking the period at the end of paragraph (32) and inserting "; and"; and

(3) by adding at the end the following:

"(33) provides that the State will inform any individual who is adopting, or whom the State is made aware is considering adopting, a child who is in foster care under the responsibility of the State of the potential eligibility of the individual for a Federal tax credit under section 23 of the Internal Revenue Code of 1986.".

# TITLE V—CLARIFICATION OF UNIFORM DEFINITION OF CHILD AND OTHER PROVISIONS

**SEC. 501. CLARIFICATION OF UNIFORM DEFINITION OF CHILD.**

(a) CHILD MUST BE YOUNGER THAN CLAIMANT.—Section 152(c)(3)(A) of the Internal Revenue Code of 1986 is amended by inserting "is younger than the taxpayer claiming such individual as a qualifying child and" after "such individual". 26 USC 152.

(b) CHILD MUST BE UNMARRIED.—Section 152(c)(1) of such Code is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) who has not filed a joint return (other than only for a claim of refund) with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.".

(c) RESTRICT QUALIFYING CHILD TAX BENEFITS TO CHILD'S PARENT.—

(1) CHILD TAX CREDIT.—Section 24(a) of such Code is amended by inserting "for which the taxpayer is allowed a deduction under section 151" after "of the taxpayer".

(2) PERSONS OTHER THAN PARENTS CLAIMING QUALIFYING CHILD.—

26 USC 152.

(A) IN GENERAL.—Section 152(c)(4) of such Code is amended by adding at the end the following new subparagraph:

"(C) NO PARENT CLAIMING QUALIFYING CHILD.—If the parents of an individual may claim such individual as a qualifying child but no parent so claims the individual, such individual may be claimed as the qualifying child of another taxpayer but only if the adjusted gross income of such taxpayer is higher than the highest adjusted gross income of any parent of the individual.".

(B) CONFORMING AMENDMENTS.—

(i) Section 152(c)(4)(A) of such Code is amended by striking "Except" through "2 or more taxpayers" and inserting "Except as provided in subparagraphs (B) and (C), if (but for this paragraph) an individual may be claimed as a qualifying child by 2 or more taxpayers".

(ii) The heading for section 152(c)(4) of such Code is amended by striking "CLAIMING" and inserting "WHO CAN CLAIM THE SAME".

26 USC 24 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

**SEC. 502. INVESTMENT OF OPERATING CASH.**

Section 323 of title 31, United States Code, is amended to read as follows:

**"§ 323. Investment of operating cash**

"(a) To manage United States cash, the Secretary of the Treasury may invest any part of the operating cash of the Treasury for not more than 90 days. The Secretary may invest the operating cash of the Treasury in—

"(1) obligations of depositories maintaining Treasury tax and loan accounts secured by pledged collateral acceptable to the Secretary;

"(2) obligations of the United States Government; and

"(3) repurchase agreements with parties acceptable to the Secretary.

"(b) Subsection (a) of this section does not require the Secretary to invest a cash balance held in a particular account.

"(c) The Secretary shall consider the prevailing market in prescribing rates of interest for investments under subsection (a)(1) of this section.

Deadline.
Reports.

"(d)(1) The Secretary of the Treasury shall submit each fiscal year to the appropriate committees a report detailing the investment of operating cash under subsection (a) for the preceding fiscal year. The report shall describe the Secretary's consideration of risks associated with investments and the actions taken to manage such risks.

"(2) For purposes of paragraph (1), the term 'appropriate committees' means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.".

**SEC. 503. NO FEDERAL FUNDING TO UNLAWFULLY PRESENT INDIVIDUALS.** 42 USC 671 note.

Nothing in this Act shall be construed to alter prohibitions on Federal payments to individuals who are unlawfully present in the United States.

# TITLE VI—EFFECTIVE DATE

**SEC. 601. EFFECTIVE DATE.** 42 USC 671 note.

(a) IN GENERAL.—Except as otherwise provided in this Act, each amendment made by this Act to part B or E of title IV of the Social Security Act shall take effect on the date of the enactment of this Act, and shall apply to payments under the part amended for quarters beginning on or after the effective date of the amendment.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan approved under part B or E of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by this Act, the State plan shall not be regarded as failing to comply with the requirements of such part solely on the basis of the failure of the plan to meet such additional requirements before the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that ends after the 1-year period beginning with the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

Approved October 7, 2008.

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LEGISLATIVE HISTORY—H.R. 6893:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 17, considered and passed House.
Sept. 22, considered and passed Senate.

# Public Law 110–352
# 110th Congress

## An Act

Oct. 7, 2008
[S. 3015]

To designate the facility of the United States Postal Service located at 18 S. G Street, Lakeview, Oregon, as the "Dr. Bernard Daly Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DR. BERNARD DALY POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 18 S. G Street in Lakeview, Oregon, as the "Dr. Bernard Daly Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Dr. Bernard Daly Post Office Building".

Approved October 7, 2008.

LEGISLATIVE HISTORY—S. 3015:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 27, considered and passed Senate.
Sept. 27, considered and passed House.

Public Law 110–353
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 1700 Cleveland Avenue in Kansas City, Missouri, as the "Reverend Earl Abel Post Office Building".

Oct. 7, 2008
[S. 3082]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REVEREND EARL ABEL POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1700 Cleveland Avenue in Kansas City, Missouri, shall be known and designated as the "Reverend Earl Abel Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Reverend Earl Abel Post Office Building".

Approved October 7, 2008.

LEGISLATIVE HISTORY—S. 3082 (H.R. 6198):

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 27, considered and passed Senate.
Sept. 27, considered and passed House.

# Public Law 110–354
# 110th Congress

## An Act

Oct. 8, 2008
[H.R. 1157]

To amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Breast Cancer and Environmental Research Act of 2008.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Breast Cancer and Environmental Research Act of 2008".

**SEC. 2. EXPANDING COLLABORATIVE RESEARCH ON BREAST CANCER AND THE ENVIRONMENT.**

(a) IN GENERAL.—Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

42 USC 285a–12.

**"SEC. 417F. INTERAGENCY BREAST CANCER AND ENVIRONMENTAL RESEARCH COORDINATING COMMITTEE.**

"(a) INTERAGENCY BREAST CANCER AND ENVIRONMENTAL RESEARCH COORDINATING COMMITTEE.—

Deadline.

"(1) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this section, the Secretary shall establish a committee, to be known as the Interagency Breast Cancer and Environmental Research Coordinating Committee (in this section referred to as the 'Committee').

"(2) DUTIES.—The Committee shall—

"(A) share and coordinate information on existing research activities, and make recommendations to the National Institutes of Health and other Federal agencies regarding how to improve existing research programs, that are related to breast cancer research;

"(B) develop a comprehensive strategy and advise the National Institutes of Health and other Federal agencies in the solicitation of proposals for collaborative, multidisciplinary research, including proposals to evaluate environmental and genomic factors that may be related to the etiology of breast cancer that would—

"(i) result in innovative approaches to study emerging scientific opportunities or eliminate knowledge gaps in research to improve the research portfolio;

"(ii) outline key research questions, methodologies, and knowledge gaps;

"(iii) expand the number of research proposals that involve collaboration between 2 or more national research institutes or national centers, including proposals for Common Fund research described in section 402(b)(7) to improve the research portfolio; and

"(iv) expand the number of collaborative, multidisciplinary, and multi-institutional research grants;

"(C) develop a summary of advances in breast cancer research supported or conducted by Federal agencies relevant to the diagnosis, prevention, and treatment of cancer and other diseases and disorders; and

"(D) not later than 2 years after the date of the establishment of the Committee, make recommendations to the Secretary— Deadline.

"(i) regarding any appropriate changes to research activities, including recommendations to improve the research portfolio of the National Institutes of Health to ensure that scientifically-based strategic planning is implemented in support of research priorities that impact breast cancer research activities;

"(ii) to ensure that the activities of the National Institutes of Health and other Federal agencies, including the Department of Defense, are free of unnecessary duplication of effort;

"(iii) regarding public participation in decisions relating to breast cancer research to increase the involvement of patient advocacy and community organizations representing a broad geographical area;

"(iv) on how best to disseminate information on breast cancer research progress; and

"(v) on how to expand partnerships between public entities, including Federal agencies, and private entities to expand collaborative, cross-cutting research.

"(3) RULE OF CONSTRUCTION.—For the purposes of the Committee, when focusing on research to evaluate environmental and genomic factors that may be related to the etiology of breast cancer, nothing in this section shall be construed to restrict the Secretary from including other forms of cancer, as appropriate, when doing so may advance research in breast cancer or advance research in other forms of cancer.

"(4) MEMBERSHIP.—

"(A) IN GENERAL.—The Committee shall be composed of the following voting members:

"(i) Not more than 7 voting Federal representatives as follows:

"(I) The Director of the Centers for Disease Control and Prevention.

"(II) The Director of the National Institutes of Health and the directors of such national research institutes and national centers (which may include the National Institute of Environmental Health Sciences) as the Secretary determines appropriate.

"(III) One representative from the National Cancer Institute Board of Scientific Advisors, appointed by the Director of the National Cancer Institute.

"(IV) The heads of such other agencies of the Department of Health and Human Services as the Secretary determines appropriate.

"(V) Representatives of other Federal agencies that conduct or support cancer research, including the Department of Defense.

"(ii) 12 additional voting members appointed under subparagraph (B).

"(B) ADDITIONAL MEMBERS.—The Committee shall include additional voting members appointed by the Secretary as follows:

"(i) 6 members shall be appointed from among scientists, physicians, and other health professionals, who—

"(I) are not officers or employees of the United States;

"(II) represent multiple disciplines, including clinical, basic, and public health sciences;

"(III) represent different geographical regions of the United States;

"(IV) are from practice settings, academia, or other research settings; and

"(V) are experienced in scientific peer review process.

"(ii) 6 members shall be appointed from members of the general public, who represent individuals with breast cancer.

"(C) NONVOTING MEMBERS.—The Committee shall include such nonvoting members as the Secretary determines to be appropriate.

"(5) CHAIRPERSON.—The voting members of the Committee shall select a chairperson from among such members. The selection of a chairperson shall be subject to the approval of the Director of NIH.

"(6) MEETINGS.—The Committee shall meet at the call of the chairperson of the Committee or upon the request of the Director of NIH, but in no case less often than once each year.

"(b) REVIEW.—The Secretary shall review the necessity of the Committee in calendar year 2011 and, thereafter, at least once every 2 years.".

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out research activities under title IV of the Public Health Service Act, including section 417F of such Act as added by subsection (a), there are authorized to be appropriated $40,000,000 for each of fiscal years 2009 through 2012. Amounts authorized to be appropriated under the preceding sentence shall be in addition

to amounts otherwise authorized to be appropriated for such purpose under section 402A of the Public Health Service Act (42 U.S.C. 282a).

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 1157 (S. 579):

HOUSE REPORTS: No. 110–889 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, considered and passed House.
Sept. 27, considered and passed Senate.

# Public Law 110–355
# 110th Congress

## An Act

Oct. 8, 2008
[H.R. 1343]

To amend the Public Health Service Act to provide additional authorizations of appropriations for the health centers program under section 330 of such Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Health Care Safety Net Act of 2008.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Health Care Safety Net Act of 2008".

**SEC. 2. COMMUNITY HEALTH CENTERS PROGRAM OF THE PUBLIC HEALTH SERVICE ACT.**

(a) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FOR THE HEALTH CENTERS PROGRAM OF PUBLIC HEALTH SERVICE ACT.—Section 330(r) of the Public Health Service Act (42 U.S.C. 254b(r)) is amended by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—For the purpose of carrying out this section, in addition to the amounts authorized to be appropriated under subsection (d), there are authorized to be appropriated—

"(A) $2,065,000,000 for fiscal year 2008;
"(B) $2,313,000,000 for fiscal year 2009;
"(C) $2,602,000,000 for fiscal year 2010;
"(D) $2,940,000,000 for fiscal year 2011; and
"(E) $3,337,000,000 for fiscal year 2012.".

42 USC 254b note.

(b) STUDIES RELATING TO COMMUNITY HEALTH CENTERS.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term "community health center" means a health center receiving assistance under section 330 of the Public Health Service Act (42 U.S.C. 254b); and

(B) the term "medically underserved population" has the meaning given that term in such section 330.

(2) SCHOOL-BASED HEALTH CENTER STUDY.—

Deadline.

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall issue a study of the economic costs and benefits of school-based health centers and the impact on the health of students of these centers.

(B) CONTENT.—In conducting the study under subparagraph (A), the Comptroller General of the United States shall analyze—

(i) the impact that Federal funding could have on the operation of school-based health centers;

(ii) any cost savings to other Federal programs derived from providing health services in school-based health centers;

(iii) the effect on the Federal Budget and the health of students of providing Federal funds to school-based health centers and clinics, including the result of providing disease prevention and nutrition information;

(iv) the impact of access to health care from school-based health centers in rural or underserved areas; and

(v) other sources of Federal funding for school-based health centers.

(3) HEALTH CARE QUALITY STUDY.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this Act as the "Secretary"), acting through the Administrator of the Health Resources and Services Administration, and in collaboration with the Agency for Healthcare Research and Quality, shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes agency efforts to expand and accelerate quality improvement activities in community health centers. Deadline. Reports.

(B) CONTENT.—The report under subparagraph (A) shall focus on—

(i) Federal efforts, as of the date of enactment of this Act, regarding health care quality in community health centers, including quality data collection, analysis, and reporting requirements;

(ii) identification of effective models for quality improvement in community health centers, which may include models that—

(I) incorporate care coordination, disease management, and other services demonstrated to improve care;

(II) are designed to address multiple, co-occurring diseases and conditions;

(III) improve access to providers through nontraditional means, such as the use of remote monitoring equipment;

(IV) target various medically underserved populations, including uninsured patient populations;

(V) increase access to specialty care, including referrals and diagnostic testing; and

(VI) enhance the use of electronic health records to improve quality;

(iii) efforts to determine how effective quality improvement models may be adapted for implementation by community health centers that vary by size, budget, staffing, services offered, populations served, and other characteristics determined appropriate by the Secretary;

(iv) types of technical assistance and resources provided to community health centers that may facilitate the implementation of quality improvement interventions;

(v) proposed or adopted methodologies for community health center evaluations of quality improvement interventions, including any development of new measures that are tailored to safety-net, community-based providers;

(vi) successful strategies for sustaining quality improvement interventions in the long-term; and

(vii) partnerships with other Federal agencies and private organizations or networks as appropriate, to enhance health care quality in community health centers.

(C) DISSEMINATION.—The Administrator of the Health Resources and Services Administration shall establish a formal mechanism or mechanisms for the ongoing dissemination of agency initiatives, best practices, and other information that may assist health care quality improvement efforts in community health centers.

(4) GAO STUDY ON INTEGRATED HEALTH SYSTEMS MODEL FOR THE DELIVERY OF HEALTH CARE SERVICES TO MEDICALLY UNDERSERVED AND UNINSURED POPULATIONS.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study on integrated health system models of at least 15 sites for the delivery of health care services to medically underserved and uninsured populations. The study shall include an examination of—

(i) health care delivery models sponsored by public or private non-profit entities that—

(I) integrate primary, specialty, and acute care; and

(II) serve medically underserved and uninsured populations; and

(ii) such models in rural and urban areas.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subparagraph (A). The report shall include—

(i) an evaluation of the models, as described in subparagraph (A), in—

(I) expanding access to primary, preventive, and specialty services for medically underserved and uninsured populations; and

(II) improving care coordination and health outcomes;

(III) increasing efficiency in the delivery of quality health care; and

(IV) conducting some combination of the following services—

(aa) outreach activities;

(bb) case management and patient navigation services;

(cc) chronic care management;

(dd) transportation to health care facilities;

(ee) development of provider networks and other innovative models to engage local physicians and other providers to serve the medically underserved within a community;

(ff) recruitment, training, and compensation of necessary personnel;

(gg) acquisition of technology for the purpose of coordinating care;

(hh) improvements to provider communication, including implementation of shared information systems or shared clinical systems;

(ii) determination of eligibility for Federal, State, and local programs that provide, or financially support the provision of, medical, social, housing, educational, or other related services;

(jj) development of prevention and disease management tools and processes;

(kk) translation services;

(ll) development and implementation of evaluation measures and processes to assess patient outcomes;

(mm) integration of primary care and mental health services; and

(nn) carrying out other activities that may be appropriate to a community and that would increase access by the uninsured to health care, such as access initiatives for which private entities provide non-Federal contributions to supplement the Federal funds provided through the grants for the initiatives; and

(ii) an assessment of—

(I) challenges, including barriers to Federal programs, encountered by such entities in providing care to medically underserved and uninsured populations; and

(II) advantages and disadvantages of such models compared to other models of care delivery for medically underserved and uninsured populations, including—

(aa) quality measurement and quality outcomes;

(bb) administrative efficiencies; and

(cc) geographic distribution of federally-supported clinics compared to geographic distribution of integrated health systems.

(5) GAO STUDY ON VOLUNTEER ENHANCEMENT.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study, and submit a report to Congress, concerning the implications of extending Federal Tort Claims Act (chapter 171 of title

Deadline. Reports.

28, United States Code) coverage to health care professionals who volunteer to furnish care to patients of health centers.

(B) CONTENT.—In conducting the study under subparagraph (A), the Comptroller General of the United States shall analyze—

(i) the potential financial implications for the Federal Government of such an extension, including any increased funding needed for current health center Federal Tort Claims Act coverage;

(ii) an estimate of the increase in the number of health care professionals at health centers, and what types of such professionals would most likely volunteer given the extension of Federal Tort Claims Act coverage;

(iii) the increase in services provided by health centers as a result of such an increase in health care professionals, and in particular the effect of such action on the ability of health centers to secure specialty and diagnostic services needed by their uninsured and other patients;

(iv) the volume of patient workload at health centers and how volunteer health care professionals may help address the patient volume;

(v) the most appropriate manner of extending such coverage to volunteer health care professionals at health centers, including any potential difference from the mechanism currently used for health care professional volunteers at free clinics;

(vi) State laws that have been shown to encourage physicians and other health care providers to provide charity care as an agent of the State; and

(vii) other policies, including legislative or regulatory changes, that have the potential to increase the number of volunteer health care staff at health centers and the financial implications of such policies, including the cost savings associated with the ability to provide more services in health centers rather than more expensive sites of care.

(c) RECOGNITION OF HIGH POVERTY.—

(1) IN GENERAL.—Section 330(c) of the Public Health Service Act (42 U.S.C. 254b(c)) is amended by adding at the end the following new paragraph:

"(3) RECOGNITION OF HIGH POVERTY.—

"(A) IN GENERAL.—In making grants under this subsection, the Secretary may recognize the unique needs of high poverty areas.

"(B) HIGH POVERTY AREA DEFINED.—For purposes of subparagraph (A), the term 'high poverty area' means a catchment area which is established in a manner that is consistent with the factors in subsection (k)(3)(J), and the poverty rate of which is greater than the national average poverty rate as determined by the Bureau of the Census.".

42 USC 254b note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to grants made on or after January 1, 2009.

**SEC. 3. NATIONAL HEALTH SERVICE CORPS.**

(a) FUNDING.—

(1) REAUTHORIZATION OF NATIONAL HEALTH SERVICE CORPS PROGRAM.—Section 338(a) of the Public Health Service Act (42 U.S.C. 254k(a)) is amended by striking "2002 through 2006" and inserting "2008 through 2012".

(2) SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.—Subsection (a) of section 338H of such Act (42 U.S.C. 254q) is amended by striking "appropriated $146,250,000" and all that follows through the period and inserting the following: "appropriated—

"(1) for fiscal year 2008, $131,500,000;
"(2) for fiscal year 2009, $143,335,000;
"(3) for fiscal year 2010, $156,235,150;
"(4) for fiscal year 2011, $170,296,310; and
"(5) for fiscal year 2012, $185,622,980.".

(b) ELIMINATION OF 6-YEAR DEMONSTRATION REQUIREMENT.—Section 332(a)(1) of the Public Health Service Act (42 U.S.C. 254e(a)(1)) is amended by striking "Not earlier than 6 years" and all that follows through "purposes of this section.".

(c) ASSIGNMENT TO SHORTAGE AREA.—Section 333(a)(1)(D)(ii) of the Public Health Service Act (42 U.S.C. 254f(a)(1)(D)(ii)) is amended—

(1) in subclause (IV), by striking "and";

(2) in subclause (V), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(VI) the entity demonstrates willingness to support or facilitate mentorship, professional development, and training opportunities for Corps members.".

(d) PROFESSIONAL DEVELOPMENT AND TRAINING.—Subsection (d) of section 336 of the Public Health Service Act (42 U.S.C. 254h–1) is amended to read as follows:

"(d) PROFESSIONAL DEVELOPMENT AND TRAINING.—

"(1) IN GENERAL.—The Secretary shall assist Corps members in establishing and maintaining professional relationships and development opportunities, including by—

"(A) establishing appropriate professional relationships between the Corps member involved and the health professions community of the geographic area with respect to which the member is assigned;

"(B) establishing professional development, training, and mentorship linkages between the Corps member involved and the larger health professions community, including through distance learning, direct mentorship, and development and implementation of training modules designed to meet the educational needs of offsite Corps members;

"(C) establishing professional networks among Corps members; or

"(D) engaging in other professional development, mentorship, and training activities for Corps members, at the discretion of the Secretary.

"(2) ASSISTANCE IN ESTABLISHING PROFESSIONAL RELATIONSHIPS.—In providing such assistance under paragraph (1), the

Secretary shall focus on establishing relationships with hospitals, with academic medical centers and health professions schools, with area health education centers under section 751, with health education and training centers under section 752, and with border health education and training centers under such section 752. Such assistance shall include assistance in obtaining faculty appointments at health professions schools.

"(3) SUPPLEMENT NOT SUPPLANT.—Such efforts under this subsection shall supplement, not supplant, non-government efforts by professional health provider societies to establish and maintain professional relationships and development opportunities.".

(e) ELIGIBILITY OF THE DISTRICT OF COLUMBIA AND TERRITORIES FOR THE STATE LOAN REPAYMENT PROGRAM.—

(1) IN GENERAL.—Section 338I(h) of the Public Health Service Act (42 U.S.C. 254q–1(h)) is amended by striking "several States" and inserting "50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, Palau, the Marshall Islands, and the Commonwealth of the Northern Mariana Islands".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 338I(i)(1) of such Act (42 U.S.C. 254q–1(i)(1)) is amended by striking "2002" and all that follows through the period and inserting "2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.".

**SEC. 4. REAUTHORIZATION OF RURAL HEALTH CARE PROGRAMS.**

Section 330A(j) of the Public Health Service Act (42 U.S.C. 254c(j)) is amended by striking "$40,000,000" and all that follows through the period and inserting "$45,000,000 for each of fiscal years 2008 through 2012.".

**SEC. 5. REAUTHORIZATION OF PRIMARY DENTAL HEALTH WORKFORCE PROGRAMS.**

Section 340G(f) of the Public Health Service Act (42 U.S.C. 256g(f)) is amended—

(1) by striking "$50,000,000" and inserting "$25,000,000"; and

(2) by striking "2002" and inserting "2008".

**SEC. 6. EMERGENCY RESPONSE COORDINATION OF PRIMARY CARE PROVIDERS.**

(a) IN GENERAL.—Subtitle B of title XXVIII of the Public Health Service Act (42 U.S.C. 300hh–10 et seq.) is amended by adding at the end the following:

42 USC 300hh–17.

**"SEC. 2815. EMERGENCY RESPONSE COORDINATION OF PRIMARY CARE PROVIDERS.**

"The Secretary, acting through Administrator of the Health Resources and Services Administration, and in coordination with the Assistant Secretary for Preparedness and Response, shall

"(1) provide guidance and technical assistance to health centers funded under section 330 and to State and local health departments and emergency managers to integrate health centers into State and local emergency response plans and to better meet the primary care needs of populations served by health centers during public health emergencies; and

"(2) encourage employees at health centers funded under section 330 to participate in emergency medical response programs including the National Disaster Medical System authorized in section 2812, the Volunteer Medical Reserve Corps authorized in section 2813, and the Emergency System for Advance Registration of Health Professions Volunteers authorized in section 319I.".

(b) SENSE OF THE CONGRESS.—It is the Sense of Congress that the Secretary of Health and Human Services, to the extent permitted by law, utilize the existing authority provided under the Federal Tort Claims Act for health centers funded under section 330 of the Public Health Service Act (42 U.S.C. 254b) in order to establish expedited procedures under which such health centers and their health care professionals that have been deemed eligible for Federal Tort Claims Act coverage are able to respond promptly in a coordinated manner and on a temporary basis to public health emergencies outside their traditional service area and sites, and across State lines, as necessary and appropriate.

**SEC. 7. REVISION OF THE TIMEFRAME FOR THE RECOGNITION OF CERTAIN DESIGNATIONS IN CERTIFYING RURAL HEALTH CLINICS UNDER THE MEDICARE PROGRAM.**

(a) IN GENERAL.—The second sentence of section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)) is amended by striking "3-year period" and inserting "4-year period" in the matter in clause (i) preceding subclause (I).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 42 USC 1395x note.

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 1343 (S. 901):

HOUSE REPORTS: No. 110–680 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 110–274 accompanying S. 901 (Comm. on Health, Education, Labor, and Pensions).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 4, considered and passed House.
Sept. 24, considered and passed Senate, amended.
Sept. 25, House concurred in Senate amendment.

Public Law 110–356
110th Congress

# An Act

To prohibit the award of contracts to provide guard services under the contract security guard program of the Federal Protective Service to a business concern that is owned, controlled, or operated by an individual who has been convicted of a felony.

Oct. 8, 2008
[H.R. 3068]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Federal Protective Service Guard Contracting Reform Act of 2008.
40 USC 1315 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Protective Service Guard Contracting Reform Act of 2008".

Regulations.
40 USC 1315 note.

**SEC. 2. FEDERAL PROTECTIVE SERVICE CONTRACTS.**

(a) PROHIBITION ON AWARD OF CONTRACTS TO ANY BUSINESS CONCERN OWNED, CONTROLLED, OR OPERATED BY AN INDIVIDUAL CONVICTED OF A FELONY.—

(1) IN GENERAL.—The Secretary of Homeland Security, acting through the Assistant Secretary of U.S. Immigration and Customs Enforcement—

(A) shall promulgate regulations establishing guidelines for the prohibition of contract awards for the provision of guard services under the contract security guard program of the Federal Protective Service to any business concern that is owned, controlled, or operated by an individual who has been convicted of a felony; and

(B) may consider permanent or interim prohibitions when promulgating the regulations.

(2) CONTENTS.—The regulations under this subsection shall—

(A) identify which serious felonies may prohibit a contractor from being awarded a contract;

(B) require contractors to provide information regarding any relevant felony convictions when submitting bids or proposals; and

(C) provide guidelines for the contracting officer to assess present responsibility, mitigating factors, and the risk associated with the previous conviction, and allow the contracting officer to award a contract under certain circumstances.

(b) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall issue regulations to carry out this section.

**SEC. 3. REPORT ON GOVERNMENT-WIDE APPLICABILITY.**

40 USC 1315 note.

Not later than 18 months after the date of enactment of the Act, the Administrator for Federal Procurement Policy shall submit a report on establishing similar guidelines government-wide to the Committee on Homeland Security and Governmental Affairs and the Committee on Oversight and Government Reform of the House of Representatives.

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 3068:

HOUSE REPORTS: No. 110–328 (Comm. on Transportation and Infrastructure).
SENATE REPORTS: No. 110–455 (Comm. on Homeland Security and Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Oct. 2, considered and passed House.
Vol. 154 (2008): Sept. 23, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendment.

# Public Law 110–357
# 110th Congress

## An Act

Oct. 8, 2008
[H.R. 3229]

To require the Secretary of the Treasury to mint coins in commemoration of the legacy of the United States Army Infantry and the establishment of the National Infantry Museum and Soldier Center.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National Infantry Museum and Soldier Center Commemorative Coin Act.
31 USC 5112 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Infantry Museum and Soldier Center Commemorative Coin Act".

**SEC. 2. COIN SPECIFICATIONS.**

(a) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 350,000 $1 coins in commemoration of the legacy of the United State Army Infantry and the establishment of the National Infantry Museum and Soldier Center, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 3. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the courage, pride, sacrifice, sense of duty, and history of the United States Infantry.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2012"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the National Infantry Foundation and the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee.

**SEC. 4. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—

(1) IN GENERAL.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(2) USE OF THE UNITED STATES MINT AT WEST POINT, NEW YORK.—It is the sense of the Congress that the coins minted under this Act should be struck at the United States Mint at West Point, New York, to the greatest extent possible.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins under this Act only during the calendar year beginning on January 1, 2012.

**SEC. 5. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 6 with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 6. SURCHARGES.**

(a) IN GENERAL.—All sales of coins issued under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be paid to the National Infantry Foundation for the purpose of establishing an endowment to support the maintenance of the National Infantry Museum and Soldier Center following its completion.

(c) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Infantry Foundation as may be related to the expenditures of amounts paid under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the

date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 3229:

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 10, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 110–358
110th Congress

# An Act

To amend title 18, United States Code, to provide for more effective prosecution of cases involving child pornography, and for other purposes.

Oct. 8, 2008
[H.R. 4120]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—EFFECTIVE CHILD PORNOGRAPHY PROSECUTION ACT OF 2007

Sec. 102. Findings.
Sec. 103. Clarifying ban of child pornography.

TITLE II—ENHANCING THE EFFECTIVE PROSECUTION OF CHILD PORNOGRAPHY ACT OF 2007

Sec. 201. Short title.
Sec. 202. Money laundering predicate.
Sec. 203. Knowingly accessing child pornography with the intent to view child pornography.

# TITLE I—EFFECTIVE CHILD PORNOGRAPHY PROSECUTION ACT OF 2007

Effective Child Pornography Prosecution Act of 2007.

**SEC. 101. SHORT TITLE.**

18 USC 1 note.

This title may be cited as the "Effective Child Pornography Prosecution Act of 2007".

**SEC. 102. FINDINGS.**

18 USC 2251 note.

Congress finds the following:

(1) Child pornography is estimated to be a multibillion dollar industry of global proportions, facilitated by the growth of the Internet.

(2) Data has shown that 83 percent of child pornography possessors had images of children younger than 12 years old, 39 percent had images of children younger than 6 years old, and 19 percent had images of children younger than 3 years old.

(3) Child pornography is a permanent record of a child's abuse and the distribution of child pornography images revictimizes the child each time the image is viewed.

(4) Child pornography is readily available through virtually every Internet technology, including Web sites, email, instant

messaging, Internet Relay Chat, newsgroups, bulletin boards, and peer-to-peer.

(5) The technological ease, lack of expense, and anonymity in obtaining and distributing child pornography over the Internet has resulted in an explosion in the multijurisdictional distribution of child pornography.

(6) The Internet is well recognized as a method of distributing goods and services across State lines.

(7) The transmission of child pornography using the Internet constitutes transportation in interstate commerce.

**SEC. 103. CLARIFYING BAN OF CHILD PORNOGRAPHY.**

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended—

(1) in section 2251—

(A) in each of subsections (a), (b), and (d), by inserting "using any means or facility of interstate or foreign commerce or" after "be transported";

(B) in each of subsections (a) and (b), by inserting "using any means or facility of interstate or foreign commerce or" after "been transported";

(C) in subsection (c), by striking "computer" each place that term appears and inserting "using any means or facility of interstate or foreign commerce"; and

(D) in subsection (d), by inserting "using any means or facility of interstate or foreign commerce or" after "is transported";

(2) in section 2251A(c), by inserting "using any means or facility of interstate or foreign commerce or" after "or transported";

(3) in section 2252(a)—

(A) in paragraph (1), by inserting "using any means or facility of interstate or foreign commerce or" after "ships";

(B) in paragraph (2)—

(i) by inserting "using any means or facility of interstate or foreign commerce or" after "distributes, any visual depiction"; and

(ii) by inserting "using any means or facility of interstate or foreign commerce or" after "depiction for distribution";

(C) in paragraph (3)—

(i) by inserting "using any means or facility of interstate or foreign commerce" after "so shipped or transported"; and

(ii) by striking "by any means,"; and

(D) in paragraph (4), by inserting "using any means or facility of interstate or foreign commerce or" after "has been shipped or transported"; and

(4) in section 2252A(a)—

(A) in paragraph (1), by inserting "using any means or facility of interstate or foreign commerce or" after "ships";

(B) in paragraph (2), by inserting "using any means or facility of interstate or foreign commerce" after "mailed, or" each place it appears;

(C) in paragraph (3), by inserting "using any means or facility of interstate or foreign commerce or" after "mails, or" each place it appears;

(D) in each of paragraphs (4) and (5), by inserting "using any means or facility of interstate or foreign commerce or" after "has been mailed, or shipped or transported"; and

(E) in paragraph (6), by inserting "using any means or facility of interstate or foreign commerce or" after "has been mailed, shipped, or transported".

(b) AFFECTING INTERSTATE COMMERCE.—Chapter 110 of title 18, United States Code, is amended in each of sections 2251, 2251A, 2252, and 2252A, by striking "in interstate" each place it appears and inserting "in or affecting interstate".

(c) CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Section 2252(a)(3)(B) of title 18, United States Code, is amended by inserting ", shipped, or transported using any means or facility of interstate or foreign commerce" after "that has been mailed".

(d) CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(a)(6)(C) of title 18, United States Code, is amended by striking "or by transmitting" and all that follows through "by computer," and inserting "or any means or facility of interstate or foreign commerce,".

# TITLE II—ENHANCING THE EFFECTIVE PROSECUTION OF CHILD PORNOGRAPHY ACT OF 2007

Enhancing the Effective Prosecution of Child Pornography Act of 2007.

**SEC. 201. SHORT TITLE.**

18 USC 1 note.

This title may be cited as the "Enhancing the Effective Prosecution of Child Pornography Act of 2007".

**SEC. 202. MONEY LAUNDERING PREDICATE.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "section 2252A (relating to child pornography) where the child pornography contains a visual depiction of an actual minor engaging in sexually explicit conduct, section 2260 (production of certain child pornography for importation into the United States)," before "section 2280".

**SEC. 203. KNOWINGLY ACCESSING CHILD PORNOGRAPHY WITH THE INTENT TO VIEW CHILD PORNOGRAPHY.**

(a) MATERIALS INVOLVING SEXUAL EXPLOITATION OF MINORS.—Section 2252(a)(4) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting ", or knowingly accesses with intent to view," after "possesses"; and

(2) in subparagraph (B), by inserting ", or knowingly accesses with intent to view," after "possesses".

(b) MATERIALS CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(a)(5) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting ", or knowingly accesses with intent to view," after "possesses"; and

(2) in subparagraph (B), by inserting ", or knowingly accesses with intent to view," after "possesses".

Approved October 8, 2008.

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LEGISLATIVE HISTORY—H.R. 4120:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Nov. 13, 14, considered and passed House.
Vol. 154 (2008): Sept. 23, considered and passed Senate, amended.
Sept. 26, House concurred in Senate amendment.

Public Law 110–359
110th Congress

# An Act

To authorize the Administrator of General Services to provide for the redevelopment of the Old Post Office Building located in the District of Columbia.

Oct. 8, 2008
[H.R. 5001]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Old Post Office Building Redevelopment Act of 2008.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Old Post Office Building Redevelopment Act of 2008".

**SEC. 2. OLD POST OFFICE BUILDING DEFINED.**

In this Act, the term "Old Post Office Building" means the land, including any improvements thereon and specifically including the Pavilion Annex, that is located at 1100 Pennsylvania Avenue, NW., in the District of Columbia, and under the jurisdiction, custody, and control of the General Services Administration.

**SEC. 3. FINDINGS.**

Congress finds the following:

(1) For almost a decade the Subcommittee on Economic Development, Public Buildings, and Emergency Management of the Committee on Transportation and Infrastructure of the House of Representatives has expressed considerable concern about the waste and neglect of the valuable, historic Old Post Office Building, centrally located in the heart of the Nation's Capital on Pennsylvania Avenue, and has pressed the General Services Administration to develop and fully use this building.

(2) The policy of the Government long has been to preserve and make usable historic properties rather than sell them for revenue.

(3) Security concerns related to this property's proximity to the White House may hinder the sale of the Old Post Office Building to a private party.

(4) On December 28, 2000, the General Services Administration, pursuant to Public Law 105–277, submitted to the Committee on Transportation and Infrastructure of the House of Representatives and the Committees on Appropriations and Environment and Public Works of the Senate a plan for the comprehensive redevelopment of the Old Post Office.

(5) The Committee on Transportation and Infrastructure approved the redevelopment plan on May 16, 2001, and the Committees on Appropriations and Environment and Public Works approved the plan on June 15, 2001.

(6) The General Services Administration issued a Request for Expression of Interest in 2004 for developing the Old Post

Office Building that generated a healthy, private sector interest, but the General Services Administration has failed to proceed with implementation of the approved redevelopment plan.

(7) Redevelopment of the Old Post Office Building will preserve the historic integrity of this unique and important asset, put it to its highest and best use, and provide a lucrative financial return to the Government.

**SEC. 4. REDEVELOPMENT OF OLD POST OFFICE BUILDING.**

(a) IN GENERAL.—The Administrator of General Services is directed to proceed with redevelopment of the Old Post Office Building, in accordance with existing authorities available to the Administrator and consistent with the redevelopment plan previously approved by the Committee on Transportation and Infrastructure of the House of Representatives and the Committees on Appropriations and Environment and Public Works of the Senate.

(b) RELOCATION OF EXISTING BUILDING TENANTS.—The Administrator is authorized, notwithstanding section 3307 of title 40, United States Code, and otherwise in accordance with existing authorities available to the Administrator, to provide replacement space for Federal agency tenants housed in the Old Post Office Building whose relocation is necessary for redevelopment of the Building.

**SEC. 5. REPORTING REQUIREMENT.**

(a) IN GENERAL.—The Administrator of General Services shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on any proposed redevelopment agreement related to the Old Post Office Building.

(b) CONTENTS.—A report transmitted under this section shall include a summary of a cost-benefit analysis of the proposed development agreement and a description of the material provisions of the proposed agreement.

(c) REVIEW BY CONGRESS.—Any proposed development agreement related to the Old Post Office Building may not become effective until the end of a 30-day period of continuous session of Congress following the date of the transmittal of the report required under this section. For purposes of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and there shall be excluded from the computation of such 30-day period any day during which either House of Congress

is not in session during an adjournment of more than 3 days to a day certain.

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 5001:

HOUSE REPORTS: No. 110–724 (Comm. on Transportation and Infrastructure).
SENATE REPORTS: No. 110–501 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 23, considered and passed House.
Sept. 26, considered and passed Senate.

# Public Law 110–360
# 110th Congress

## An Act

Oct. 8, 2008
[H.R. 5057]

To reauthorize the Debbie Smith DNA Backlog Grant Program, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Debbie Smith Reauthorization Act of 2008.
42 USC 13701 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Debbie Smith Reauthorization Act of 2008".

**SEC. 2. GENERAL REAUTHORIZATION.**

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (c)(3), by—

(A) striking subparagraphs (A) through (D);

(B) redesignating subparagraph (E) and subparagraph (A); and

(C) inserting at the end the following:

"(B) For each of the fiscal years 2010 through 2014, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2)."; and

(2) by amending subsection (j) to read as follows:

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for grants under subsection (a) $151,000,000 for each of fiscal years 2009 through 2014.".

**SEC. 3. TRAINING AND EDUCATION.**

Section 303(b) of the DNA Sexual Assault Justice Act of 2004 (42 U.S.C. 14136(b)) is amended by striking "2005 through 2009" and inserting "2009 through 2014".

**SEC. 4. SEXUAL ASSAULT FORENSIC EXAM GRANTS.**

Section 304(c) of the DNA Sexual Assault Justice Act of 2004 (42 U.S.C. 14136a(c)) is amended by striking "2005 through 2009" and inserting "2009 through 2014".

Approved October 8, 2008.

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LEGISLATIVE HISTORY—H.R. 5057:

HOUSE REPORTS: No. 110–757 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
July 14, considered and passed House.
Sept. 25, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendment.

# Public Law 110–361
# 110th Congress

## An Act

Oct. 8, 2008
[H.R. 5265]

To amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Becker, congenital, distal, Duchenne, Emery-Dreifuss facioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal, muscular dystrophies.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Paul D. Wellstone Muscular Dystrophy Community Assistance, Research, and Education Amendments of 2008.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Paul D. Wellstone Muscular Dystrophy Community Assistance, Research, and Education Amendments of 2008".

**SEC. 2. EXPANSION, INTENSIFICATION, AND COORDINATION OF ACTIVITIES OF NIH WITH RESPECT TO RESEARCH ON MUSCULAR DYSTROPHY.**

(a) TECHNICAL CORRECTION.—Section 404E of the Public Health Service Act (42 U.S.C. 283g) is amended by striking subsection (f) (relating to reports to Congress) and redesignating subsection (g) as subsection (f).

(b) AMENDMENTS.—Section 404E of the Public Health Service Act (42 U.S.C. 283g) is amended—

(1) in subsection (a)(1), by inserting "the National Heart, Lung, and Blood Institute," after "the Eunice Kennedy Shriver National Institute of Child Health and Human Development,";

Federal buildings and facilities.

(2) in subsection (b)(1), by adding at the end of the following: "Such centers of excellence shall be known as the 'Paul D. Wellstone Muscular Dystrophy Cooperative Research Centers'."; and

(3) by adding at the end the following:

"(g) CLINICAL RESEARCH.—The Coordinating Committee may evaluate the potential need to enhance the clinical research infrastructure required to test emerging therapies for the various forms of muscular dystrophy by prioritizing the achievement of the goals related to this topic in the plan under subsection (e)(1).".

**SEC. 3. DEVELOPMENT AND EXPANSION OF ACTIVITIES OF CDC WITH RESPECT TO EPIDEMIOLOGICAL RESEARCH ON MUSCULAR DYSTROPHY.**

Section 317Q of the Public Health Service Act (42 U.S.C. 247b–18) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following:

"(d) DATA.—In carrying out this section, the Secretary may ensure that any data on patients that is collected as part of the

Muscular Dystrophy STARnet (under a grant under this section) is regularly updated to reflect changes in patient condition over time.

"(e) REPORTS AND STUDY.—

"(1) ANNUAL REPORT.—Not later than 18 months after the date of the enactment of the Paul D. Wellstone Muscular Dystrophy Community Assistance, Research, and Education Amendments of 2008, and annually thereafter, the Director of the Centers for Disease Control and Prevention shall submit to the appropriate committees of the Congress a report—

"(A) concerning the activities carried out by MD STARnet site funded under this section during the year for which the report is prepared;

"(B) containing the data collected and findings derived from the MD STARnet sites each fiscal year (as funded under a grant under this section during fiscal years 2008 through 2012); and

"(C) that every 2 years outlines prospective data collection objectives and strategies.

"(2) TRACKING HEALTH OUTCOMES.—The Secretary may provide health outcome data on the health and survival of people with muscular dystrophy.".

**SEC. 4. INFORMATION AND EDUCATION.**

Section 5 of the Muscular Dystrophy Community Assistance, Research and Education Amendments of 2001 (42 U.S.C. 247b–19) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) REQUIREMENTS.—In carrying out this section, the Secretary may—

"(1) partner with leaders in the muscular dystrophy patient community;

"(2) cooperate with professional organizations and the patient community in the development and issuance of care considerations for Duchenne-Becker muscular dystrophy, and other forms of muscular dystrophy, and in periodic review and updates, as appropriate; and

"(3) widely disseminate the Duchenne-Becker muscular dystrophy and other forms of muscular dystrophy care considerations as broadly as possible, including through partnership

opportunities with the muscular dystrophy patient community.".

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 5265:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, 24, considered and passed House.
Sept. 26, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendment.

Public Law 110–362
110th Congress

# An Act

To extend for 5 years the program relating to waiver of the foreign country residence requirement with respect to international medical graduates, and for other purposes.

Oct. 8, 2008
[H.R. 5571]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF WAIVER PROGRAM.**

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "June 1, 2008" and inserting "March 6, 2009".

**SEC. 2. EXPANDING THE FLEXIBILITY OF THE CONRAD STATE 30 PROGRAM.**

Section 214(l)(1)(D)(ii) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)(ii)) is amended by striking "5" and inserting "10".

**SEC. 3. SENSE OF CONGRESS.**

It is the sense of the Congress that—

(1) Federal programs waiving the 2-year foreign residence requirement under section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) for physicians are generally designed to promote the delivery of critically needed medical services to people in the United States lacking adequate access to physician care; and

(2) when determining the qualification of a location for designation as a health professional shortage area, the Secretary of Health and Human Services should consider the needs of vulnerable populations in low-income and impoverished communities, communities with high infant mortality rates,

and communities exhibiting other signs of a lack of necessary physician services.

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 5571:

HOUSE REPORTS: No. 110–646 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
May 19, 21, considered and passed House.
Sept. 26, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendment.

Public Law 110–363
110th Congress

# An Act

To require the Secretary of the Treasury to mint coins in commemoration of the centennial of the Boy Scouts of America, and for other purposes.

Oct. 8, 2008
[H.R. 5872]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Boy Scouts of America Centennial Commemorative Coin Act.
31 USC 5112 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Boy Scouts of America Centennial Commemorative Coin Act".

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) The Boy Scouts of America will celebrate its centennial on February 8, 2010.

(2) The Boy Scouts of America is the largest youth organization in the United States, with 3,000,000 youth members and 1,000,000 adult leaders in the traditional programs of Cub Scouts, Boy Scouts, and Venturing.

(3) Since 1910, more than 111,000,000 youth have participated in Scouting's traditional programs.

(4) The Boy Scouts of America was granted a Federal charter in 1916 by an Act of the 64th Congress which was signed into law by President Woodrow Wilson.

(5) In the 110th Congress, 248 members of the House of Representative and the Senate have participated in Boy Scouts of America as Scouts or adult leaders.

(6) The mission of the Boy Scouts of America is "to prepare young people to make ethical and moral choices over their lifetimes by instilling in them the values of the Scout Oath and Law".

(7) Every day across our Nation, Scouts and their leaders pledge to live up the promise in the Scout Oath—"On my honor I will do my best, To do my duty to God and my country and to obey the Scout Law; To help other people at all times; To keep myself physically strong, mentally awake, and morally straight"—and the Scout Law, according to which a Scout is "Trustworthy, Loyal, Helpful, Friendly, Courteous, Kind, Obedient, Cheerful, Thrifty, Brave, Clean, and Reverent".

(8) In the past 4 years alone, Scouting youth and their leaders have volunteered more than 6,500,000 hours of service to their communities through more than 75,000 service projects, benefiting food banks, local schools, and civic organizations.

**SEC. 3. COIN SPECIFICATIONS.**

(a) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 350,000 $1 coins in commemoration of the centennial of the founding of the Boy Scouts of America, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the 100 years of the largest youth organization in United States, the Boy Scouts of America.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2010"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Chief Scout Executive of the Boy Scouts of America and the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins under this Act only on or after February 8, 2010, and before January 1, 2011.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7 with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) IN GENERAL.—All sales of coins issued under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be paid to the National Boy Scouts of America Foundation, which funds will be made available to local councils in the form of grants for the extension of Scouting in hard to serve areas.

(c) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Boy Scouts of America Foundation as may be related to the expenditures of amounts paid under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 5872:

CONGRESSIONAL RECORD, Vol. 154 (2008):
May 13, 15, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 110–364
110th Congress

# An Act

Oct. 8, 2008
[H.R. 6370]

To transfer excess Federal property administered by the Coast Guard to the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Oregon Surplus Federal Land Act of 2008.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Oregon Surplus Federal Land Act of 2008".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) COMMANDANT.—The term "Commandant" means the Commandant of the Coast Guard.

(2) LIGHT STATION.—The term "Light Station" means the Cape Arago Light Station on Chief's Island in the State of Oregon.

(3) MAPS.—The term "maps" means the maps filed under section 3(d).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) TRIBES.—The Term "Tribes" means the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians in the State of Oregon.

**SEC. 3. TRANSFER OF ADMINISTRATIVE JURISDICTION.**

Deadline.

(a) IN GENERAL.—As soon as practicable, but not later than 5 years, after the date of enactment of this Act and subject to subsection (c), the Commandant shall transfer to the Secretary, to hold in trust for the benefit of the Tribes, administrative jurisdiction over the Federal land described in subsection (b).

(b) DESCRIPTION OF LAND.—The Federal land referred to in subsection (a) consists of the parcels of Coast Guard land (including any improvements to the land) comprising approximately 24 acres, located in Coos County, Oregon, in the areas commonly know as "Gregory Point" and "Chief's Island", as depicted on the maps.

(c) CONDITIONS.—

(1) COMPLIANCE WITH APPLICABLE LAW.—Before completing the transfer of administrative jurisdiction under subsection (a), the Commandant shall execute any actions required to comply with applicable environmental and cultural resources laws.

(2) TRUST STATUS.—On transfer of administrative jurisdiction over the land under subsection (a), the land transferred to the Secretary shall be—

(A) held in trust by the United States for the Tribes; and

(B) included in the reservation of the Tribes.

(3) MAINTENANCE OF CAPE ARAGO LIGHT STATION.—

(A) IN GENERAL.—The transfer of administrative jurisdiction over the Light Station under subsection (a) shall be subject to the conditions that the Tribes—

(i) shall—

(I) use, and make reasonable efforts to maintain, the Light Station in accordance with—

(aa) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(bb) the Secretary of the Interior's Standards for the Treatment of Historic Properties under part 68 of title 36, Code of Federal Regulations; and

(cc) any other applicable laws; and

(II) submit any proposed changes to the Light Station for review and approval by the Secretary, in consultation with the Oregon State Historic Preservation Officer, if the Secretary determines that the changes are consistent with—

(aa) section 800.5(a)(2)(vii) of title 36, Code of Federal Regulations; and

(bb) the Secretary of the Interior's Standards for Rehabilitation under section 67.7 of title 36, Code of Federal Regulations;

(ii) shall make the Light Station available to the general public for educational, park, recreational, cultural, or historic preservation purposes at times and under conditions determined to be reasonable by the Secretary;

(iii) shall not—

(I) sell, convey, assign, exchange, or encumber the Cape Arago Light Station (or any part of the Light Station) or any associated historic artifact conveyed in conjunction with the transfer under subsection (a), unless the sale, conveyance, assignment, exchange, or encumbrance is approved by Secretary; or

(II) conduct any commercial activities at the Cape Arago Light Station (or any part of the Light Station) or in connection with any historic artifact conveyed in conjunction with the transfer under subsection (a) in any manner, unless the commercial activities are approved by the Secretary; and

(iv) shall allow the United States, at any time, to enter the Light Station without notice, for purposes of ensuring compliance with this section, to the extent that it is not practicable to provide advance notice.

(B) REVERSION.—If the Tribes fail to meet any condition described in subparagraph (A), the Light Station, or any associated historic artifact conveyed in conjunction with the transfer under subsection (a), shall, at the option of the Secretary—

(i) revert to the United States; and

(ii) be placed under the administrative control of the Secretary.

(d) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Commandant shall file the maps entitled "Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Land Transfer Maps" and legal descriptions of the parcels to be transferred under subsection (a) with—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Transportation and Infrastructure of the House of Representatives; and

(C) the Secretary.

(2) FORCE OF LAW.—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Commandant may correct any errors in the maps and legal descriptions.

(3) AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate office of the Department of the Interior.

(e) EASEMENTS.—The Coast Guard may retain easements on, or other property interests as may be necessary in, the land described in subsection (b) to operate, maintain, relocate, install, improve, replace, or remove any aid to navigation located on the land as may be required by the Coast Guard.

(f) TRIBAL FISHING RIGHTS.—No fishing rights of the Tribes that are in existence on the date of enactment of this Act shall be enlarged, impaired, or otherwise affected by the transfer of administrative jurisdiction under subsection (a).

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 6370:

HOUSE REPORTS: No. 110–865 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 22, considered and passed House.
Sept. 24, considered and passed Senate.

Public Law 110–365
110th Congress

# An Act

To amend the Federal Water Pollution Control Act to provide for the remediation of sediment contamination in areas of concern, and for other purposes.

Oct. 8, 2008
[H.R. 6460]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Great Lakes Legacy Reauthorization Act of 2008.
33 USC 1251 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Great Lakes Legacy Reauthorization Act of 2008".

**SEC. 2. DEFINITIONS.**

Section 118(a)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)) is amended—

(1) in subparagraph (I) by striking "and" at the end;

(2) in subparagraph (J) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(K) 'site characterization' means a process for monitoring and evaluating the nature and extent of sediment contamination in accordance with the Environmental Protection Agency's guidance for the assessment of contaminated sediment in an area of concern located wholly or partially within the United States; and

"(L) 'potentially responsible party' means an individual or entity that may be liable under any Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Great Lakes.".

**SEC. 3. REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.**

(a) ELIGIBLE PROJECTS.—Section 118(c)(12)(B)(ii) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(12)(B)(ii)) is amended by striking "sediment" and inserting "sediment, including activities to restore aquatic habitat that are carried out in conjunction with a project for the remediation of contaminated sediment".

(b) LIMITATIONS.—Section 118(c)(12)(D) of such Act (33 U.S.C. 1268(c)(12)(D)) is amended—

(1) in the subparagraph heading by striking "LIMITATION" and inserting "LIMITATIONS";

(2) in clause (i) by striking "or" at the end;

(3) in clause (ii) by striking the period and inserting a semicolon; and

(4) by adding at the end the following:

"(iii) unless each non-Federal sponsor for the project has entered into a written project agreement

with the Administrator under which the party agrees to carry out its responsibilities and requirements for the project; or

"(iv) unless the Administrator provides assurance that the Agency has conducted a reasonable inquiry to identify potentially responsible parties connected with the site.".

(c) IN-KIND CONTRIBUTIONS.—Section 118(c)(12)(E)(ii) of such Act (33 U.S.C. 1268(c)(12)(E)(ii)) is amended to read as follows:

"(ii) IN-KIND CONTRIBUTIONS.—

"(I) IN GENERAL.—The non-Federal share of the cost of a project carried out under this paragraph may include the value of an in-kind contribution provided by a non-Federal sponsor.

"(II) CREDIT.—A project agreement described in subparagraph (D)(iii) may provide, with respect to a project, that the Administrator shall credit toward the non-Federal share of the cost of the project the value of an in-kind contribution made by the non-Federal sponsor, if the Administrator determines that the material or service provided as the in-kind contribution is integral to the project.

"(III) WORK PERFORMED BEFORE PROJECT AGREEMENT.—In any case in which a non-Federal sponsor is to receive credit under subclause (II) for the cost of work carried out by the non-Federal sponsor and such work has not been carried out by the non-Federal sponsor as of the date of enactment of this subclause, the Administrator and the non-Federal sponsor shall enter into an agreement under which the non-Federal sponsor shall carry out such work, and only work carried out following the execution of the agreement shall be eligible for credit.

"(IV) LIMITATION.—Credit authorized under this clause for a project carried out under this paragraph—

"(aa) shall not exceed the non-Federal share of the cost of the project; and

"(bb) shall not exceed the actual and reasonable costs of the materials and services provided by the non-Federal sponsor, as determined by the Administrator.

"(V) INCLUSION OF CERTAIN CONTRIBUTIONS.—In this subparagraph, the term 'in-kind contribution' may include the costs of planning (including data collection), design, construction, and materials that are provided by the non-Federal sponsor for implementation of a project under this paragraph.".

(d) NON-FEDERAL SHARE.—Section 118(c)(12)(E) of such Act (33 U.S.C. 1268(c)(12)(E)) is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(2) by inserting after clause (ii) the following:

"(iii) TREATMENT OF CREDIT BETWEEN PROJECTS.—Any credit provided under this subparagraph towards the non-Federal share of the cost of a project carried out under this paragraph may be applied towards the non-Federal share of the cost of any other project carried out under this paragraph by the same non-Federal sponsor for a site within the same area of concern."; and

(3) in clause (iv) (as redesignated by paragraph (1) of this subsection) by striking "service" each place it appears and inserting "contribution".

(e) SITE CHARACTERIZATION.—Section 118(c)(12)(F) of such Act (33 U.S.C. 1268(c)(12)(F)) is amended to read as follows:

"(F) SITE CHARACTERIZATION.—

"(i) IN GENERAL.—The Administrator, in consultation with any affected State or unit of local government, shall carry out at Federal expense the site characterization of a project under this paragraph for the remediation of contaminated sediment.

"(ii) LIMITATION.—For purposes of clause (i), the Administrator may carry out one site assessment per discrete site within a project at Federal expense.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 118(c)(12)(H) of such Act (33 U.S.C. 1268(c)(12)(H)) is amended—

(1) by striking clause (i) and inserting the following:

"(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph $50,000,000 for each of fiscal years 2004 through 2010."; and

(2) by adding at the end the following:

"(iii) ALLOCATION OF FUNDS.—Not more than 20 percent of the funds appropriated pursuant to clause (i) for a fiscal year may be used to carry out subparagraph (F).".

(g) PUBLIC INFORMATION PROGRAM.—Section 118(c)(13)(B) of such Act (33 U.S.C. 1268(c)(13)(B)) is amended by striking "2008" and inserting "2010".

**SEC. 4. RESEARCH AND DEVELOPMENT PROGRAM.**

Section 106(b) of the Great Lakes Legacy Act of 2002 (33 U.S.C. 1271a(b)) is amended by striking paragraph (1) and inserting the following:

Appropriation authorization.

"(1) IN GENERAL.—In addition to any amounts authorized under other provisions of law, there is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2004 through 2010.".

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 6460:

HOUSE REPORTS: No. 110–849, Pt. 1 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 17, 18, considered and passed House.
Sept. 25, considered and passed Senate, amended.
Sept. 28, House concurred in Senate amendment.

Public Law 110–366
110th Congress

# An Act

To extend the waiver authority for the Secretary of Education under section 105 of subtitle A of title IV of division B of Public Law 109–148, relating to elementary and secondary education hurricane recovery relief, and for other purposes.

Oct. 8, 2008
[H.R. 6890]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF WAIVER AUTHORITY TO EASE FISCAL BURDENS.**

Section 105 of subtitle A of title IV of division B of Public Law 109–148 (119 Stat. 2797) is amended—

(1) in the second sentence of subsection (b), by striking "2008" and inserting "2009"; and

(2) in subsection (c)(2), by striking "for fiscal year 2006 or 2007" and inserting "for any fiscal year".

**SEC. 2. HOLD HARMLESS FOR LOCAL EDUCATIONAL AGENCIES SERVING MAJOR DISASTER AREAS.**

In the case of a local educational agency that serves an area in which the President has declared that a major disaster exists in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to severe storms, tornadoes, or flooding in the Midwest or hurricanes in the Gulf of Mexico in calendar year 2008, the amount made available for such local educational agency under each of sections 1124, 1124A, 1125, and 1125A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333, 6334, 6335, and 6337) for fiscal year 2009 shall be not less than the amount made available for such local educational agency under each of such sections for fiscal year 2008.

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 6890:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 22, considered and passed House.
Sept. 25, considered and passed Senate.

# Public Law 110–367
# 110th Congress

## An Act

Oct. 8, 2008
[H.R. 6894]

To extend and reauthorize the Defense Production Act of 1950, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Defense Production Act Extension and Reauthorization of 2008.
50 USC app. 2061 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Defense Production Act Extension and Reauthorization of 2008".

**SEC. 2. EXTENSION OF TERMINATION DATE.**

Section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 2008" and inserting "September 30, 2009".

**SEC. 3. REAUTHORIZATION.**

Section 711(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(b)) is amended by striking "2008" and inserting "2009".

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 6894:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, considered and passed House.
Sept. 25, considered and passed Senate.

Public Law 110–368
110th Congress

# An Act

To make a technical correction in the NET 911 Improvement Act of 2008.

Oct. 8, 2008
[H.R. 6946]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TECHNICAL CORRECTION.**

(a) AMENDMENT.—Section 6(c)(1)(C) of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a–1(c)(1)(C)) is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of July 23, 2008, immediately after the enactment of the NET 911 Improvement Act of 2008 (Public Law 110–283).

47 USC 615a–1 note.

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 6946:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 110–369
110th Congress

# An Act

Oct. 8, 2008
[H.R. 7081]

To approve the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act.
22 USC 8001 note.

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act".

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

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

TITLE I—APPROVAL OF UNITED STATES-INDIA AGREEMENT FOR COOPERATION ON PEACEFUL USES OF NUCLEAR ENERGY

Sec. 101. Approval of Agreement.
Sec. 102. Declarations of policy; certification requirement; rule of construction.
Sec. 103. Additional Protocol between India and the IAEA.
Sec. 104. Implementation of Safeguards Agreement between India and the IAEA.
Sec. 105. Modified reporting to Congress.

TITLE II—STRENGTHENING UNITED STATES NONPROLIFERATION LAW RELATING TO PEACEFUL NUCLEAR COOPERATION

Sec. 201. Procedures regarding a subsequent arrangement on reprocessing.
Sec. 202. Initiatives and negotiations relating to agreements for peaceful nuclear cooperation.
Sec. 203. Actions required for resumption of peaceful nuclear cooperation.
Sec. 204. United States Government policy at the Nuclear Suppliers Group to strengthen the international nuclear nonproliferation regime.
Sec. 205. Conforming amendments.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) AGREEMENT.—The term "United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy" or "Agreement" means the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy that was transmitted to Congress by the President on September 10, 2008.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

# TITLE I—APPROVAL OF UNITED STATES-INDIA AGREEMENT FOR CO-OPERATION ON PEACEFUL USES OF NUCLEAR ENERGY

**SEC. 101. APPROVAL OF AGREEMENT.**

(a) IN GENERAL.—Notwithstanding the provisions for congressional consideration and approval of a proposed agreement for cooperation in section 123 b. and d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153 (b) and (d)), Congress hereby approves the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, subject to subsection (b).

(b) APPLICABILITY OF ATOMIC ENERGY ACT OF 1954, HYDE ACT, AND OTHER PROVISIONS OF LAW.—The Agreement shall be subject to the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8001 et. seq; Public Law 109–401), and any other applicable United States law as if the Agreement had been approved pursuant to the provisions for congressional consideration and approval of a proposed agreement for cooperation in section 123 b. and d. of the Atomic Energy Act of 1954.

(c) SUNSET OF EXEMPTION AUTHORITY UNDER HYDE ACT.—Section 104(f) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8003(f)) is amended by striking "the enactment of" and all that follows through "agreement" and inserting "the date of the enactment of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act".

**SEC. 102. DECLARATIONS OF POLICY; CERTIFICATION REQUIREMENT; RULE OF CONSTRUCTION.**

(a) DECLARATIONS OF POLICY RELATING TO MEANING AND LEGAL EFFECT OF AGREEMENT.—Congress declares that it is the understanding of the United States that the provisions of the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy have the meanings conveyed in the authoritative representations provided by the President and his representatives to the Congress and its committees prior to September 20, 2008, regarding the meaning and legal effect of the Agreement.

(b) DECLARATIONS OF POLICY RELATING TO TRANSFER OF NUCLEAR EQUIPMENT, MATERIALS, AND TECHNOLOGY TO INDIA.—Congress makes the following declarations of policy:

(1) Pursuant to section 103(a)(6) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8002(a)(6)), in the event that nuclear transfers to India are suspended or terminated pursuant to title I of such Act (22 U.S.C. 8001 et seq.), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other United States law, it is the policy of the United States to seek to prevent the transfer to India of nuclear equipment, materials, or technology from other participating governments in the Nuclear Suppliers Group (NSG) or from any other source.

(2) Pursuant to section 103(b)(10) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act

of 2006 (22 U.S.C. 8002(b)(10)), any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

President.

(c) CERTIFICATION REQUIREMENT.—Before exchanging diplomatic notes pursuant to Article 16(1) of the Agreement, the President shall certify to Congress that entry into force and implementation of the Agreement pursuant to its terms is consistent with the obligation of the United States under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly known as the "Nuclear Non-Proliferation Treaty"), not in any way to assist, encourage, or induce India to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices.

(d) RULE OF CONSTRUCTION.—Nothing in the Agreement shall be construed to supersede the legal requirements of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 or the Atomic Energy Act of 1954.

**SEC. 103. ADDITIONAL PROTOCOL BETWEEN INDIA AND THE IAEA.**

Congress urges the Government of India to sign and adhere to an Additional Protocol with the International Atomic Energy Agency (IAEA), consistent with IAEA principles, practices, and policies, at the earliest possible date.

**SEC. 104. IMPLEMENTATION OF SAFEGUARDS AGREEMENT BETWEEN INDIA AND THE IAEA.**

President. Certification.

Licenses may be issued by the Nuclear Regulatory Commission for transfers pursuant to the Agreement only after the President determines and certifies to Congress that—

(1) the Agreement Between the Government of India and the International Atomic Energy Agency for the Application of Safeguards to Civilian Nuclear Facilities, as approved by the Board of Governors of the International Atomic Energy Agency on August 1, 2008 (the "Safeguards Agreement"), has entered into force; and

(2) the Government of India has filed a declaration of facilities pursuant to paragraph 13 of the Safeguards Agreement that is not materially inconsistent with the facilities and schedule described in paragraph 14 of the separation plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the separation plan.

**SEC. 105. MODIFIED REPORTING TO CONGRESS.**

(a) INFORMATION ON NUCLEAR ACTIVITIES OF INDIA.—Subsection (g)(1) of section 104 of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8003) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) any material inconsistencies between the content or timeliness of notifications by the Government of India pursuant to paragraph 14(a) of the Safeguards Agreement and the facilities and schedule described in paragraph (14)

of the separation plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the separation plan;".

(b) IMPLEMENTATION AND COMPLIANCE REPORT.—Subsection (g)(2) of such section is amended—

(1) in subparagraph (K)(iv), by striking "and" at the end;

(2) in subparagraph (L), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(M) with respect to the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy (hereinafter in this subparagraph referred to as the 'Agreement') approved under section 101(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act—

"(i) a listing of—

"(I) all provision of sensitive nuclear technology to India, and other such information as may be so designated by the United States or India under Article 1(Q); and

"(II) all facilities in India notified pursuant to Article 7(1) of the Agreement;

"(ii) a description of—

"(I) any agreed safeguards or any other form of verification for by-product material decided by mutual agreement pursuant to the terms of Article 1(A) of the Agreement;

"(II) research and development undertaken in such areas as may be agreed between the United States and India as detailed in Article 2(2)(a.) of the Agreement;

"(III) the civil nuclear cooperation activities undertaken under Article 2(2)(d.) of the Agreement;

"(IV) any United States efforts to help India develop a strategic reserve of nuclear fuel as called for in Article 2(2)(e.) of the Agreement;

"(V) any United States efforts to fulfill political commitments made in Article 5(6) of the Agreement;

"(VI) any negotiations that have occurred or are ongoing under Article 6(iii.) of the Agreement; and

"(VII) any transfers beyond the territorial jurisdiction of India pursuant to Article 7(2) of the Agreement, including a listing of the receiving country of each such transfer;

"(iii) an analysis of—

"(I) any instances in which the United States or India requested consultations arising from concerns over compliance with the provisions of Article 7(1) of the Agreement, and the results of such consultations; and

"(II) any matters not otherwise identified in this report that have become the subject of consultations pursuant to Article 13(2) of the Agreement, and a statement as to whether such matters were resolved by the end of the reporting period; and

"(iv) a statement as to whether—

"(I) any consultations are expected to occur under Article 16(5) of the Agreement; and

"(II) any enrichment is being carried out pursuant to Article 6 of the Agreement.".

# TITLE II—STRENGTHENING UNITED STATES NONPROLIFERATION LAW RELATING TO PEACEFUL NUCLEAR COOPERATION

### SEC. 201. PROCEDURES REGARDING A SUBSEQUENT ARRANGEMENT ON REPROCESSING.

(a) IN GENERAL.—Notwithstanding section 131 of the Atomic Energy Act of 1954 (42 U.S.C. 2160), no proposed subsequent arrangement concerning arrangements and procedures regarding reprocessing or other alteration in form or content, as provided for in Article 6 of the Agreement, shall take effect until the requirements specified in subsection (b) are met.

(b) REQUIREMENTS.—The requirements referred to in subsection (a) are the following:

President. Reports.

(1) The President transmits to the appropriate congressional committees a report containing—

(A) the reasons for entering into such proposed subsequent arrangement;

(B) a detailed description, including the text, of such proposed subsequent arrangement; and

(C) a certification that the United States will pursue efforts to ensure that any other nation that permits India to reprocess or otherwise alter in form or content nuclear material that the nation has transferred to India or nuclear material and by-product material used in or produced through the use of nuclear material, non-nuclear material, or equipment that it has transferred to India requires India to do so under similar arrangements and procedures.

Time period.

(2) A period of 30 days of continuous session (as defined by section 130 g.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2159 (g)(2)) has elapsed after transmittal of the report required under paragraph (1).

(c) RESOLUTION OF DISAPPROVAL.—Notwithstanding the requirements in subsection (b) having been met, a subsequent arrangement referred to in subsection (a) shall not become effective if during the time specified in subsection (b)(2), Congress adopts, and there is enacted, a joint resolution stating in substance that Congress does not favor such subsequent arrangement. Any such resolution shall be considered pursuant to the procedures set forth in section 130 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2159 (i)), as amended by section 205 of this Act.

**SEC. 202. INITIATIVES AND NEGOTIATIONS RELATING TO AGREEMENTS FOR PEACEFUL NUCLEAR COOPERATION.**

Section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is amended by adding at the end the following:

President.

"e. The President shall keep the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate fully and currently informed of any initiative or negotiations relating to a new or amended agreement for peaceful nuclear cooperation pursuant to this section (except an agreement arranged pursuant to section 91 c., 144 b., 144 c., or 144 d., or an amendment thereto).".

**SEC. 203. ACTIONS REQUIRED FOR RESUMPTION OF PEACEFUL NUCLEAR COOPERATION.**

Section 129 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2158 (a)) is amended by striking "Congress adopts a concurrent resolution" and inserting "Congress adopts, and there is enacted, a joint resolution".

**SEC. 204. UNITED STATES GOVERNMENT POLICY AT THE NUCLEAR SUPPLIERS GROUP TO STRENGTHEN THE INTERNATIONAL NUCLEAR NONPROLIFERATION REGIME.**

President.

(a) CERTIFICATION.—Before exchanging diplomatic notes pursuant to Article 16(1) of the Agreement, the President shall certify to the appropriate congressional committees that it is the policy of the United States to work with members of the Nuclear Suppliers Group (NSG), individually and collectively, to agree to further restrict the transfers of equipment and technology related to the enrichment of uranium and reprocessing of spent nuclear fuel.

(b) PEACEFUL USE ASSURANCES FOR CERTAIN BY-PRODUCT MATERIAL.—The President shall seek to achieve, by the earliest possible date, either within the NSG or with relevant NSG Participating Governments, the adoption of principles, reporting, and exchanges of information as may be appropriate to assure peaceful use and accounting of by-product material in a manner that is substantially equivalent to the relevant provisions of the Agreement.

(c) REPORT.—

(1) IN GENERAL.—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the President shall transmit to the appropriate congressional committees a report on efforts by the United States pursuant to subsections (a) and (b).

(2) TERMINATION.—The requirement to transmit the report under paragraph (1) terminates on the date on which the President transmits a report pursuant to such paragraph stating that the objectives in subsections (a) and (b) have been achieved.

**SEC. 205. CONFORMING AMENDMENTS.**

Section 130 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2159 (i)) is amended—

(1) in paragraph (1), by striking "means a joint resolution" and all that follows through ", with the date" and inserting the following: "means—

"(A) for an agreement for cooperation pursuant to section 123 of this Act, a joint resolution, the matter after the resolving

clause of which is as follows: 'That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on _____.',

"(B) for a determination under section 129 of this Act, a joint resolution, the matter after the resolving clause of which is as follows: 'That the Congress does not favor the determination transmitted to the Congress by the President on _____.', or

"(C) for a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, a joint resolution, the matter after the resolving clause of which is as follows: 'That the Congress does not favor the subsequent arrangement to the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy that was transmitted to Congress by the President on September 10, 2008.', with the date"; and

(2) in paragraph (4)—

(A) by inserting after "45 days after its introduction" the following "(or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15 days after its introduction)"; and

(B) by inserting after "45-day period" the following: "(or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15-day period)".

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.R. 7081:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 26, 27, considered and passed House.
Oct. 1, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
Oct. 8, Presidential remarks and statement.

Public Law 110–370
110th Congress

# Joint Resolution

To honor the achievements and contributions of Native Americans to the United States, and for other purposes.

Oct. 8, 2008
[H.J. Res. 62]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

Native American Heritage Day Act of 2008.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Native American Heritage Day Act of 2008".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) Native Americans are the descendants of the aboriginal, indigenous, native people who were the original inhabitants of the United States;

(2) Native Americans have volunteered to serve in the United States Armed Forces and have served with valor in all of the Nation's military actions from the Revolutionary War through the present day, and in most of those actions, more Native Americans per capita served in the Armed Forces than any other group of Americans;

(3) Native Americans have made distinct and significant contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art, and Native Americans have distinguished themselves as inventors, entrepreneurs, spiritual leaders, and scholars;

(4) Native Americans should be recognized for their contributions to the United States as local and national leaders, artists, athletes, and scholars;

(5) nationwide recognition of the contributions that Native Americans have made to the fabric of American society will afford an opportunity for all Americans to demonstrate their respect and admiration of Native Americans for their important contributions to the political, cultural, and economic life of the United States;

(6) nationwide recognition of the contributions that Native Americans have made to the Nation will encourage self-esteem, pride, and self-awareness in Native Americans of all ages;

(7) designation of the Friday following Thanksgiving of each year as Native American Heritage Day will underscore the government-to-government relationship between the United States and Native American governments; and

(8) designation of Native American Heritage Day will encourage public elementary and secondary schools in the

United States to enhance understanding of Native Americans by providing curricula and classroom instruction focusing on the achievements and contributions of Native Americans to the Nation.

**SEC. 3. IMPLEMENTATION OF NATIVE AMERICAN HERITAGE DAY.**

Congress—

(1) designates Friday, November 28, 2008, as "Native American Heritage Day"; and

(2) encourages the people of the United States, as well as Federal, State, and local governments, and interested groups and organizations to observe Native American Heritage Day with appropriate programs, ceremonies, and activities, including activities relating to—

(A) the historical status of Native American tribal governments as well as the present day status of Native Americans;

(B) the cultures, traditions, and languages of Native Americans; and

(C) the rich Native American cultural legacy that all Americans enjoy today.

Approved October 8, 2008.

LEGISLATIVE HISTORY—H.J. Res. 62:

SENATE REPORTS: No. 110–435 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Nov. 13, considered and passed House.
Vol. 154 (2008): Sept. 22, considered and passed Senate, amended.
Sept. 26, House concurred in Senate amendment.

Public Law 110–371
110th Congress

# An Act

To reauthorize and improve the program authorized by the Apalachian Regional Development Act of 1965.

Oct. 8, 2008
[S. 496]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Appalachian Regional Development Act Amendments of 2008.
40 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Appalachian Regional Development Act Amendments of 2008".

Grants.

**SEC. 2. LIMITATION ON AVAILABLE AMOUNTS; MAXIMUM COMMISSION CONTRIBUTION.**

(a) GRANTS AND OTHER ASSISTANCE.—Section 14321(a) of title 40, United States Code, is amended—

(1) in paragraph (1)(A) by striking clause (i) and inserting the following:

"(i) the amount of the grant shall not exceed—

"(I) 50 percent of administrative expenses;

"(II) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which a distressed county designation is in effect under section 14526, 75 percent of administrative expenses; or

"(III) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which an at-risk county designation is in effect under section 14526, 70 percent of administrative expenses;"; and

(2) in paragraph (2) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), of the cost of any activity eligible for financial assistance under this section, not more than—

"(i) 50 percent may be provided from amounts appropriated to carry out this subtitle;

"(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this subtitle; or

"(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this subtitle.".

(b) DEMONSTRATION HEALTH PROJECTS.—Section 14502 of title 40, United States Code, is amended—

(1) in subsection (d) by striking paragraph (2) and inserting the following:

"(2) LIMITATION ON AVAILABLE AMOUNTS.—Grants under this section for the operation (including initial operating amounts and operating deficits, which include the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with amounts authorized to be appropriated by this section, may be made for up to—

"(A) 50 percent of the cost of that operation;

"(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of the cost of that operation; or

"(C) in the case of a project to be carried out for a county for which an at-risk county designation is in effect under section 14526, 70 percent of the cost of that operation."; and

(2) in subsection (f)—

(A) in paragraph (1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(B) by adding at the end the following:

"(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to the lesser of—

"(A) 70 percent; or

"(B) the maximum Federal contribution percentage authorized by this section.".

(c) ASSISTANCE FOR PROPOSED LOW- AND MIDDLE-INCOME HOUSING PROJECTS.—Section 14503 of title 40, United States Code, is amended—

(1) in subsection (d) by striking paragraph (1) and inserting the following:

"(1) LIMITATION ON AVAILABLE AMOUNTS.—A loan under subsection (b) for the cost of planning and obtaining financing (including the cost of preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts) of a project described in that subsection may be made for up to—

"(A) 50 percent of that cost;

"(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of that cost; or

"(C) in the case of a project to be carried out for a county for which an at-risk county designation is in effect under section 14526, 70 percent of that cost."; and

(2) in subsection (e) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—A grant under this section for expenses incidental to planning and obtaining financing for a project under this section that the Secretary considers to be unrecoverable from the proceeds of a permanent loan made to finance the project shall—

"(A) not be made to an organization established for profit; and

"(B) except as provided in paragraph (2), not exceed—

"(i) 50 percent of those expenses;

"(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of those expenses; or

"(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent of those expenses.".

(d) TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.—Section 14504 of title 40, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section, not more than—

"(1) 50 percent may be provided from amounts appropriated to carry out this section;

"(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

"(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.".

(e) ENTREPRENEURSHIP INITIATIVE.—Section 14505 of title 40, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section, not more than—

"(1) 50 percent may be provided from amounts appropriated to carry out this section;

"(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

"(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.".

(f) REGIONAL SKILLS PARTNERSHIPS.—Section 14506 of title 40, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section, not more than—

"(1) 50 percent may be provided from amounts appropriated to carry out this section;

"(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under

section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

"(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.".

(g) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 14507(g) of title 40, United States Code, is amended—

(1) in paragraph (1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to 70 percent.".

**SEC. 3. ECONOMIC AND ENERGY DEVELOPMENT INITIATIVE.**

(a) IN GENERAL.—Subchapter I of chapter 145 of subtitle IV of title 40, United States Code, is amended by adding at the end the following:

**"§ 14508. Economic and energy development initiative**

"(a) PROJECTS TO BE ASSISTED.—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to persons or entities in the Appalachian region for projects and activities—

"(1) to promote energy efficiency in the Appalachian region to enhance the economic competitiveness of the Appalachian region;

"(2) to increase the use of renewable energy resources, particularly biomass, in the Appalachian region to produce alternative transportation fuels, electricity, and heat; and

"(3) to support the development of regional, conventional energy resources to produce electricity and heat through advanced technologies that achieve a substantial reduction in emissions, including greenhouse gases, over the current baseline.

"(b) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section, not more than—

"(1) 50 percent may be provided from amounts appropriated to carry out this section;

"(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

"(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.

"(c) SOURCES OF ASSISTANCE.—Subject to subsection (b), grants provided under this section may be provided from amounts made available to carry out this section in combination with amounts made available under other Federal programs or from any other source.

"(d) FEDERAL SHARE.—Notwithstanding any provision of law limiting the Federal share under any other Federal program, amounts made available to carry out this section may be used

to increase that Federal share, as the Commission decides is appropriate.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 145 of title 40, United States Code, is amended by inserting after the item relating to section 14507 the following:

"14508. Economic and energy development initiative.".

**SEC. 4. DISTRESSED, AT-RISK, AND ECONOMICALLY STRONG COUNTIES.**

(a) DESIGNATION OF AT-RISK COUNTIES.—Section 14526 of title 40, United States Code, is amended—

(1) in the section heading by inserting "**, at-risk,**" after "**Distressed**"; and

(2) in subsection (a)(1)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) in subparagraph (A) by striking "and" at the end; and

(C) by inserting after subparagraph (A) the following:

"(B) designate as 'at-risk counties' those counties in the Appalachian region that are most at risk of becoming economically distressed; and".

(b) CONFORMING AMENDMENT.—The analysis for chapter 145 of such title is amended by striking the item relating to section 14526 and inserting the following:

"14526. Distressed, at-risk, and economically strong counties.".

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Section 14703(a) of title 40, United States Code, is amended to read as follows:

"(a) IN GENERAL.—In addition to amounts made available under section 14501, there is authorized to be appropriated to the Appalachian Regional Commission to carry out this subtitle—

"(1) $87,000,000 for fiscal year 2008;
"(2) $100,000,000 for fiscal year 2009;
"(3) $105,000,000 for fiscal year 2010;
"(4) $108,000,000 for fiscal year 2011; and
"(5) $110,000,000 for fiscal year 2012.".

(b) ECONOMIC AND ENERGY DEVELOPMENT INITIATIVE.—Section 14703(b) of such title is amended to read as follows:

"(b) ECONOMIC AND ENERGY DEVELOPMENT INITIATIVE.—Of the amounts made available under subsection (a), the following amounts may be used to carry out section 14508—

"(1) $12,000,000 for fiscal year 2008;
"(2) $12,500,000 for fiscal year 2009;
"(3) $13,000,000 for fiscal year 2010;
"(4) $13,500,000 for fiscal year 2011; and
"(5) $14,000,000 for fiscal year 2012.".

(c) ALLOCATION OF FUNDS.—Section 14703 of such title is amended by adding at the end the following:

"(d) ALLOCATION OF FUNDS.—Funds approved by the Appalachian Regional Commission for a project in a State in the Appalachian region pursuant to a congressional directive shall be derived from the total amount allocated to the State by the Appalachian Regional Commission from amounts appropriated to carry out this subtitle.".

**SEC. 6. TERMINATION.**

Section 14704 of title 40, United States Code, is amended by striking "2007" and inserting "2012".

**SEC. 7. ADDITIONS TO APPALACHIAN REGION.**

(a) KENTUCKY.—Section 14102(a)(1)(C) of title 40, United States Code, is amended—

(1) by inserting "Metcalfe," after "Menifee,";
(2) by inserting "Nicholas," after "Morgan,"; and
(3) by inserting "Robertson," after "Pulaski,".

(b) OHIO.—Section 14102(a)(1)(H) of such title is amended—

(1) by inserting "Ashtabula," after "Adams,";
(2) by inserting "Mahoning," after "Lawrence,"; and
(3) by inserting "Trumbull," after "Scioto,".

(c) TENNESSEE.—Section 14102(a)(1)(K) of such title is amended by inserting "Lawrence, Lewis," after "Knox,".

(d) VIRGINIA.—Section 14102(a)(1)(L) of such title is amended—

(1) by inserting "Henry," after "Grayson,"; and
(2) by inserting "Patrick," after "Montgomery,".

Approved October 8, 2008.

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LEGISLATIVE HISTORY—S. 496 (H.R. 799):

HOUSE REPORTS: No. 110–33 accompanying H.R. 799 (Comm. on Transportation and Infrastructure).
SENATE REPORTS: No. 110–63 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Aug. 3, considered and passed Senate.
Vol. 154 (2008): July 15, considered and passed House, amended.
Sept. 26, Senate concurred in House amendment.

Public Law 110–372
110th Congress

# An Act

To modify pay provisions relating to certain senior-level positions in the Federal Government, and for other purposes.

Oct. 8, 2008
[S. 1046]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Senior Professional Performance Act of 2008.
5 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Senior Professional Performance Act of 2008".

**SEC. 2. PAY PROVISIONS RELATING TO CERTAIN SENIOR-LEVEL POSITIONS.**

(a) LOCALITY PAY.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (g), by amending paragraph (2) to read as follows:

"(2) The applicable maximum under this subsection shall be level III of the Executive Schedule for—

"(A) positions under subparagraphs (A) and (B) of subsection (h)(1); and

"(B) any positions under subsection (h)(1)(C) as the President may determine."; and

(2) in subsection (h)—

(A) in paragraph (1)—

(i) by striking subparagraph (A);

(ii) in subparagraph (D)—

(I) in clause (v), by striking "or" at the end;

(II) in clause (vi), by striking the period at the end and inserting "; or"; and

(III) by adding at the end the following:

"(vii) a position to which section 5376 applies (relating to certain senior-level and scientific and professional positions)."; and

(iii) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively; and

(B) in paragraph (2)(B)—

(i) in clause (i)—

(I) by striking "subparagraphs (A) through (C)" and inserting "subparagraphs (A) and (B)"; and

(II) by striking "or (vi)" and inserting "(vi), or (vii)"; and

(ii) in clause (ii)—

(I) by striking "paragraph (1)(D)" and inserting "paragraph (1)(C)"; and

(II) by striking "or (vi)" and inserting "(vi), or (vii)".

(b) ACCESS TO HIGHER MAXIMUM RATE OF BASIC PAY.—Section 5376(b) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking subparagraph (B) and inserting the following:

"(B) subject to paragraph (3), not greater than the rate of basic pay payable for level III of the Executive Schedule."; and

(2) by adding at the end the following:

"(3) In the case of an agency which has a performance appraisal system which, as designed and applied, is certified under section 5307(d) as making meaningful distinctions based on relative performance, paragraph (1)(B) shall apply as if the reference to 'level III' were a reference to 'level II'.

"(4) No employee may suffer a reduction in pay by reason of transfer from an agency with an applicable maximum rate of pay prescribed under paragraph (3) to an agency with an applicable maximum rate of pay prescribed under paragraph (1)(B).".

Regulations.

(c) AUTHORITY FOR EMPLOYMENT; APPOINTMENTS; CLASSIFICATION STANDARDS.—Title 5, United States Code is amended—

(1) in section 3104(a), in the second sentence, by striking "prescribes" and inserting "prescribes and publishes in such form as the Director may determine";

(2) in section 3324(a) by striking "the Office of Personnel Management" and inserting: "the Director of the Office of Personnel Management on the basis of qualification standards developed by the agency involved in accordance with criteria specified in regulations prescribed by the Director";

(3) in section 3325—

(A) in subsection (a), in the second sentence, by striking "or its designee for this purpose" and inserting the following: "on the basis of standards developed by the agency involved in accordance with criteria specified in regulations prescribed by the Director of the Office of Personnel Management"; and

(B) by adding at the end the following:

"(c) The Director of the Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purpose of this section."; and

(4) in section 5108(a)(2) by inserting "published by the Director of the Office of Personnel Management in such form as the Director may determine" after "and procedures".

5 USC 5376 note.

(d) EFFECTIVE DATE AND APPLICATION.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first pay period beginning on or after the 180th day following the date of enactment of this Act.

(2) NO REDUCTIONS IN RATES OF PAY.—

(A) IN GENERAL.—The amendments made by this section may not result, at the time such amendments take effect, in a reduction in the rate of basic pay for an individual holding a position to which section 5376 of title 5, United States Code, applies.

(B) DETERMINATION OF RATE OF PAY.—For the purposes of subparagraph (A), the rate of basic pay for an individual

described in that subparagraph shall be deemed to be the rate of basic pay set for the individual under section 5376 of title 5, United States Code, plus any applicable locality pay paid to that individual on the day before the effective date under paragraph (1), subject to regulations that the Director of the Office of Personnel Management may prescribe.

(3) REFERENCES TO MAXIMUM RATES.—Except as otherwise provided by law, any reference in a provision of law to the maximum rate under section 5376 of title 5, United States Code—

(A) as provided before the effective date of the amendments made by this section, shall be considered a reference to the rate of basic pay for level IV of the Executive Schedule; and

(B) as provided on or after the effective date of the amendments made by this section, shall be considered a reference to—

(i) the rate of basic pay for level III of the Executive Schedule; or

(ii) if the head of the agency responsible for administering the applicable pay system certifies that the employees are covered by a performance appraisal system meeting the certification criteria established by regulation under section 5307(d), level II of the Executive Schedule.

**SEC. 3. LIMITATIONS ON CERTAIN PAYMENTS.**

(a) IN GENERAL.—Section 5307(d) of title 5, United States Code, is amended—

(1) in paragraph (2), by striking all after "purposes of" and inserting: "applying the limitation in the calendar year involved, has a performance appraisal system certified under this subsection as making, in its design and application, meaningful distinctions based on relative performance."; and

(2) in paragraph (3)(B)—

(A) by striking all beginning with "An" through "2 calendar years" and inserting "The certification of an agency performance appraisal system under this subsection shall be for a period not to exceed 24 months beginning on the date of certification, unless extended by the Director of the Office of Personnel Management for up to 6 additional months"; and Time period.

(B) by striking ", for purposes of either or both of those years,".

(b) EXTENSION OF CERTIFICATION.— 5 USC 5307 note.

(1) EXTENSION TO 2009.—

(A) IN GENERAL.—For any certification of a performance appraisal system under section 5307(d) of title 5, United States Code, in effect on the date of enactment of this Act and scheduled to expire at the end of calendar year 2008, the Director of the Office of Personnel Management may provide that such a certification shall be extended without requiring additional justification by the agency.

Deadline.

(B) LIMITATION.—The expiration of any extension under this paragraph shall be not later than the later of—

(i) June 30, 2009; or

(ii) the first anniversary of the date of the certification.

(2) EXTENSION TO 2010.—

(A) IN GENERAL.—For any certification of a performance appraisal system under section 5307(d) of title 5, United States Code, in effect on the date of enactment and scheduled to expire at the end of calendar year 2009, the Director of the Office of Personnel Management may provide that such a certification shall be extended without requiring additional justification by the agency.

Deadline.

(B) LIMITATION.—The expiration of any extension under this paragraph shall be not later than the later of—

(i) June 30, 2010; or

(ii) the second anniversary of the date of the certification.

5 USC 5307 note.

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

Approved October 8, 2008.

LEGISLATIVE HISTORY—S. 1046:

SENATE REPORTS: No. 110–328 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 154 (2008):

July 11, considered and passed Senate.

Sept. 25, 26, considered and passed House.

Public Law 110–373
110th Congress

# An Act

To amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

Oct. 8, 2008
[S. 1382]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

ALS Registry Act.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "ALS Registry Act".

**SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

**"SEC. 399R. AMYOTROPHIC LATERAL SCLEROSIS REGISTRY.**

42 USC 280g–7.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 1 year after the receipt of the report described in subsection (b)(2)(A), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may, if scientifically advisable—

Deadline.

"(A) develop a system to collect data on amyotrophic lateral sclerosis (referred to in this section as 'ALS') and other motor neuron disorders that can be confused with ALS, misdiagnosed as ALS, and in some cases progress to ALS, including information with respect to the incidence and prevalence of the disease in the United States; and

"(B) establish a national registry for the collection and storage of such data to develop a population-based registry of cases in the United States of ALS and other motor neuron disorders that can be confused with ALS, misdiagnosed as ALS, and in some cases progress to ALS.

"(2) PURPOSE.—It is the purpose of the registry established under paragraph (1)(B) to—

"(A) better describe the incidence and prevalence of ALS in the United States;

"(B) examine appropriate factors, such as environmental and occupational, that may be associated with the disease;

"(C) better outline key demographic factors (such as age, race or ethnicity, gender, and family history of individuals who are diagnosed with the disease) associated with the disease;

"(D) better examine the connection between ALS and other motor neuron disorders that can be confused with ALS, misdiagnosed as ALS, and in some cases progress to ALS; and

"(E) other matters as recommended by the Advisory Committee established under subsection (b).

"(b) ADVISORY COMMITTEE.—

Deadline.

"(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this section, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may establish a committee to be known as the Advisory Committee on the National ALS Registry (referred to in this section as the 'Advisory Committee'). The Advisory Committee shall be composed of not more than 27 members to be appointed by the Secretary, acting through the Centers for Disease Control and Prevention, of which—

"(A) two-thirds of such members shall represent governmental agencies—

"(i) including at least one member representing—

"(I) the National Institutes of Health, to include, upon the recommendation of the Director of the National Institutes of Health, representatives from the National Institute of Neurological Disorders and Stroke and the National Institute of Environmental Health Sciences;

"(II) the Department of Veterans Affairs;

"(III) the Agency for Toxic Substances and Disease Registry; and

"(IV) the Centers for Disease Control and Prevention; and

"(ii) of which at least one such member shall be a clinician with expertise on ALS and related diseases, an epidemiologist with experience in data registries, a statistician, an ethicist, and a privacy expert (relating to the privacy regulations under the Health Insurance Portability and Accountability Act of 1996); and

"(B) one-third of such members shall be public members, including at least one member representing—

"(i) national and voluntary health associations;

"(ii) patients with ALS or their family members;

"(iii) clinicians with expertise on ALS and related diseases;

"(iv) epidemiologists with experience in data registries;

"(v) geneticists or experts in genetics who have experience with the genetics of ALS or other neurological diseases and

"(vi) other individuals with an interest in developing and maintaining the National ALS Registry.

"(2) DUTIES.—The Advisory Committee may review information and make recommendations to the Secretary concerning—

"(A) the development and maintenance of the National ALS Registry;

"(B) the type of information to be collected and stored in the Registry;

"(C) the manner in which such data is to be collected;

"(D) the use and availability of such data including guidelines for such use; and

"(E) the collection of information about diseases and disorders that primarily affect motor neurons that are

considered essential to furthering the study and cure of ALS.

"(3) REPORT.—Not later than 270 days after the date on which the Advisory Committee is established, the Advisory Committee may submit a report to the Secretary concerning the review conducted under paragraph (2) that contains the recommendations of the Advisory Committee with respect to the results of such review.

"(c) GRANTS.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may award grants to, and enter into contracts and cooperative agreements with, public or private nonprofit entities for the collection, analysis, and reporting of data on ALS and other motor neuron disorders that can be confused with ALS, misdiagnosed as ALS, and in some cases progress to ALS after receiving the report under subsection (b)(3).

"(d) COORDINATION WITH STATE, LOCAL, AND FEDERAL REGISTRIES.—

"(1) IN GENERAL.—In establishing the National ALS Registry under subsection (a), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may—

"(A) identify, build upon, expand, and coordinate among existing data and surveillance systems, surveys, registries, and other Federal public health and environmental infrastructure wherever possible, which may include—

"(i) any registry pilot projects previously supported by the Centers for Disease Control and Prevention;

"(ii) the Department of Veterans Affairs ALS Registry;

"(iii) the DNA and Cell Line Repository of the National Institute of Neurological Disorders and Stroke Human Genetics Resource Center at the National Institutes of Health;

"(iv) Agency for Toxic Substances and Disease Registry studies, including studies conducted in Illinois, Missouri, El Paso and San Antonio, Texas, and Massachusetts;

"(v) State-based ALS registries;

"(vi) the National Vital Statistics System; and

"(vii) any other existing or relevant databases that collect or maintain information on those motor neuron diseases recommended by the Advisory Committee established in subsection (b); and

"(B) provide for research access to ALS data as recommended by the Advisory Committee established in subsection (b) to the extent permitted by applicable statutes and regulations and in a manner that protects personal privacy consistent with applicable privacy statutes and regulations.

"(C) COORDINATION WITH NIH AND DEPARTMENT OF VETERANS AFFAIRS.—Consistent with applicable privacy statutes and regulations, the Secretary may ensure that epidemiological and other types of information obtained under subsection (a) is made available to the National

Institutes of Health and the Department of Veterans Affairs.

"(e) DEFINITION.—For the purposes of this section, the term 'national voluntary health association' means a national non-profit organization with chapters or other affiliated organizations in States throughout the United States with experience serving the population of individuals with ALS and have demonstrated experience in ALS research, care, and patient services.".

**SEC. 3. REPORT ON REGISTRIES.**

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services may submit to the appropriate committees of Congress a report outlining—

(1) the registries currently under way;

(2) future planned registries;

(3) the criteria involved in determining what registries to conduct, defer, or suspend; and

(4) the scope of those registries.

The report may also include a description of the activities the Secretary undertakes to establish partnerships with research and patient advocacy communities to expand registries.

Approved October 8, 2008.

LEGISLATIVE HISTORY—S. 1382 (H.R. 2295):

HOUSE REPORTS: No. 110–379 accompanying H.R. 2295 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 154 (2008):

Sept. 23, considered and passed Senate.

Sept. 25, 26, considered and passed House.

# Public Law 110–374
# 110th Congress

## An Act

To amend the Public Health Service Act to increase the provision of scientifically sound information and support services to patients receiving a positive test diagnosis for Down syndrome or other prenatally and postnatally diagnosed conditions.

Oct. 8, 2008
[S. 1810]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Prenatally and Postnatally Diagnosed Conditions Awareness Act. 42 USC 201 note.

This Act may be cited as the "Prenatally and Postnatally Diagnosed Conditions Awareness Act".

**SEC. 2. PURPOSES.**

42 USC 280g–8 note.

It is the purpose of this Act to—

(1) increase patient referrals to providers of key support services for women who have received a positive diagnosis for Down syndrome, or other prenatally or postnatally diagnosed conditions, as well as to provide up-to-date information on the range of outcomes for individuals living with the diagnosed condition, including physical, developmental, educational, and psychosocial outcomes;

(2) strengthen existing networks of support through the Centers for Disease Control and Prevention, the Health Resources and Services Administration, and other patient and provider outreach programs; and

(3) ensure that patients receive up-to-date, evidence-based information about the accuracy of the test.

**SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

**"SEC. 399R. SUPPORT FOR PATIENTS RECEIVING A POSITIVE DIAGNOSIS OF DOWN SYNDROME OR OTHER PRENATALLY OR POSTNATALLY DIAGNOSED CONDITIONS.**

42 USC 280g–8.

"(a) DEFINITIONS.—In this section:

"(1) DOWN SYNDROME.—The term 'Down syndrome' refers to a chromosomal disorder caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21.

"(2) HEALTH CARE PROVIDER.—The term 'health care provider' means any person or entity required by State or Federal law or regulation to be licensed, registered, or certified to provide health care services, and who is so licensed, registered, or certified.

"(3) POSTNATALLY DIAGNOSED CONDITION.—The term 'postnatally diagnosed condition' means any health condition identified during the 12-month period beginning at birth.

"(4) PRENATALLY DIAGNOSED CONDITION.—The term 'prenatally diagnosed condition' means any fetal health condition identified by prenatal genetic testing or prenatal screening procedures.

"(5) PRENATAL TEST.—The term 'prenatal test' means diagnostic or screening tests offered to pregnant women seeking routine prenatal care that are administered on a required or recommended basis by a health care provider based on medical history, family background, ethnic background, previous test results, or other risk factors.

"(b) INFORMATION AND SUPPORT SERVICES.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, or the Administrator of the Health Resources and Services Administration, may authorize and oversee certain activities, including the awarding of grants, contracts or cooperative agreements to eligible entities, to—

"(A) collect, synthesize, and disseminate current evidence-based information relating to Down syndrome or other prenatally or postnatally diagnosed conditions; and

"(B) coordinate the provision of, and access to, new or existing supportive services for patients receiving a positive diagnosis for Down syndrome or other prenatally or postnatally diagnosed conditions, including—

Telephone hotline.

"(i) the establishment of a resource telephone hotline accessible to patients receiving a positive test result or to the parents of newly diagnosed infants with Down syndrome and other diagnosed conditions;

"(ii) the expansion and further development of the National Dissemination Center for Children with Disabilities, so that such Center can more effectively conduct outreach to new and expecting parents and provide them with up-to-date information on the range of outcomes for individuals living with the diagnosed condition, including physical, developmental, educational, and psychosocial outcomes;

"(iii) the expansion and further development of national and local peer-support programs, so that such programs can more effectively serve women who receive a positive diagnosis for Down syndrome or other prenatal conditions or parents of infants with a postnatally diagnosed condition;

Adoption.

"(iv) the establishment of a national registry, or network of local registries, of families willing to adopt newborns with Down syndrome or other prenatally or postnatally diagnosed conditions, and links to adoption agencies willing to place babies with Down syndrome or other prenatally or postnatally diagnosed conditions, with families willing to adopt; and

"(v) the establishment of awareness and education programs for health care providers who provide, interpret, or inform parents of the results of prenatal tests for Down syndrome or other prenatally or postnatally

diagnosed conditions, to patients, consistent with the purpose described in section 2(b)(1) of the Prenatally and Postnatally Diagnosed Conditions Awareness Act.

"(2) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

"(A) a State or a political subdivision of a State;

"(B) a consortium of 2 or more States or political subdivisions of States;

"(C) a territory;

"(D) a health facility or program operated by or pursuant to a contract with or grant from the Indian Health Service; or

"(E) any other entity with appropriate expertise in prenatally and postnatally diagnosed conditions (including nationally recognized disability groups), as determined by the Secretary.

"(3) DISTRIBUTION.—In distributing funds under this subsection, the Secretary shall place an emphasis on funding partnerships between health care professional groups and disability advocacy organizations.

"(c) PROVISION OF INFORMATION TO PROVIDERS.—

"(1) IN GENERAL.—A grantee under this section shall make available to health care providers of parents who receive a prenatal or postnatal diagnosis the following:

"(A) Up-to-date, evidence-based, written information concerning the range of outcomes for individuals living with the diagnosed condition, including physical, developmental, educational, and psychosocial outcomes.

"(B) Contact information regarding support services, including information hotlines specific to Down syndrome or other prenatally or postnatally diagnosed conditions, resource centers or clearinghouses, national and local peer support groups, and other education and support programs as described in subsection (b)(2).

"(2) INFORMATIONAL REQUIREMENTS.—Information provided under this subsection shall be—

"(A) culturally and linguistically appropriate as needed by women receiving a positive prenatal diagnosis or the family of infants receiving a postnatal diagnosis; and

"(B) approved by the Secretary.

"(d) REPORT.—Not later than 2 years after the date of enactment of this section, the Government Accountability Office shall submit a report to Congress concerning the effectiveness of current

healthcare and family support programs serving as resources for the families of children with disabilities.".

Approved October 8, 2008.

LEGISLATIVE HISTORY—S. 1810:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, considered and passed Senate.
Sept. 25, considered and passed House.

Public Law 110–375
110th Congress

# An Act

To repeal the provision of title 46, United States Code, requiring a license for employment in the business of salvaging on the coast of Florida.

Oct. 8, 2008
[S. 2482]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REPEAL OF REQUIREMENT OF LICENSE FOR EMPLOYMENT IN THE BUSINESS OF SALVAGING ON THE COAST OF FLORIDA.**

Chapter 801 of title 46, United States Code, is amended—

(1) by striking section 80102; and

(2) in the table of sections at the beginning of the chapter by striking the item relating to that section.

Approved October 8, 2008.

LEGISLATIVE HISTORY—S. 2482:

SENATE REPORTS: No. 110–340 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 154 (2008):
June 5, considered and passed Senate.
Sept. 27, considered and passed House.

# Public Law 110–376
# 110th Congress

## An Act

Oct. 8, 2008
[S. 2606]

To reauthorize the United States Fire Administration, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

United States Fire Administration Reauthorization Act of 2008.
15 USC 2201 note.

**SECTION 1. SHORT TITLE.**

This subtitle may be cited as the "United States Fire Administration Reauthorization Act of 2008".

15 USC 2201 note.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) The number of lives lost each year because of fire has dropped significantly over the last 25 years in the United States. However, the United States still has one of the highest fire death rates in the industrialized world. In 2006, the National Fire Protection Association reported 3,245 civilian fire deaths, 16,400 civilian fire injuries, and $11,307,000,000 in direct losses due to fire.

(2) Every year, more than 100 firefighters die in the line of duty. The United States Fire Administration should continue its leadership to help local fire agencies dramatically reduce these fatalities.

(3) The Federal Government should continue to work with State and local governments and the fire service community to further the promotion of national voluntary consensus standards that increase firefighter safety.

(4) The United States Fire Administration provides crucial support to the 30,300 fire departments of the United States through training, emergency incident data collection, fire awareness and education, and support of research and development activities for fire prevention, control, and suppression technologies.

(5) The collection of data on fire and other emergency incidents is a vital tool both for policy makers and emergency responders to identify and develop responses to emerging hazards. Improving the data collection capabilities of the United States Fire Administration is essential for accurately tracking and responding to the magnitude and nature of the fire problems of the United States.

(6) The research and development performed by the National Institute of Standards and Technology, the United States Fire Administration, other government agencies, and nongovernmental organizations on fire technologies, techniques, and tools advance the capabilities of the fire service of the United States to suppress and prevent fires.

(7) Because of the essential role of the United States Fire Administration and the fire service community in preparing for and responding to national and man-made disasters, the United States Fire Administration should have a prominent place within the Federal Emergency Management Agency and the Department of Homeland Security.

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES FIRE ADMINISTRATION.**

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended—

(1) in subparagraph (C), by striking "and" after the semicolon;

(2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding after subparagraph (D) the following:

"(E) $70,000,000 for fiscal year 2009, of which $2,520,000 shall be used to carry out section 8(f);

"(F) $72,100,000 for fiscal year 2010, of which $2,595,600 shall be used to carry out section 8(f);

"(G) $74,263,000 for fiscal year 2011, of which $2,673,468 shall be used to carry out section 8(f); and

"(H) $76,490,890 for fiscal year 2012, of which $2,753,672 shall be used to carry out section 8(f).".

**SEC. 4. NATIONAL FIRE ACADEMY TRAINING PROGRAM MODIFICATIONS AND REPORTS.**

(a) AMENDMENTS TO FIRE ACADEMY TRAINING.—Section 7(d)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(d)(1)) is amended—

(1) by amending subparagraph (H) to read as follows:

"(H) tactics and strategies for dealing with natural disasters, acts of terrorism, and other man-made disasters;";

(2) in subparagraph (K), by striking "forest" and inserting "wildland";

(3) in subparagraph (M), by striking "response";

(4) by redesignating subparagraphs (I) through (N) as subparagraphs (M) through (R), respectively; and

(5) by inserting after subparagraph (H) the following:

"(I) tactics and strategies for fighting large-scale fires or multiple fires in a general area that cross jurisdictional boundaries;

"(J) tactics and strategies for fighting fires occurring at the wildland-urban interface;

"(K) tactics and strategies for fighting fires involving hazardous materials;

"(L) advanced emergency medical services training;".

(b) ON-SITE TRAINING.—Section 7 of such Act (15 U.S.C. 2206) is amended—

(1) in subsection (c)(6), by inserting ", including on-site training" after "United States";

(2) in subsection (f), by striking "4 percent" and inserting "7.5 percent"; and

(3) by adding at the end the following:

"(m) ON-SITE TRAINING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Administrator may enter into a contract with nationally

recognized organizations that have established on-site training programs that comply with national voluntary consensus standards for fire service personnel to facilitate the delivery of the education and training programs outlined in subsection (d)(1) directly to fire service personnel.

"(2) LIMITATION.—

"(A) IN GENERAL.—The Administrator may not enter into a contract with an organization described in paragraph (1) unless such organization provides training that—

"(i) leads to certification by a program that is accredited by a nationally recognized accreditation organization; or

"(ii) the Administrator determines is of equivalent quality to a fire service training program described by clause (i).

"(B) APPROVAL OF UNACCREDITED FIRE SERVICE TRAINING PROGRAMS.—The Administrator may consider the fact that an organization has provided a satisfactory fire service training program pursuant to a cooperative agreement with a Federal agency as evidence that such program is of equivalent quality to a fire service training program described by subparagraph (A)(i).

"(3) RESTRICTION ON USE OF FUNDS.—The amounts expended by the Administrator to carry out this subsection in any fiscal year shall not exceed 7.5 per centum of the amount authorized to be appropriated in such fiscal year pursuant to section 17.".

(c) TRIENNIAL REPORTS.—Such section 7 (15 U.S.C. 2206) is further amended by adding at the end the following:

"(n) TRIENNIAL REPORT.—In the first annual report filed pursuant to section 16 for which the deadline for filing is after the expiration of the 18-month period that begins on the date of the enactment of the United States Fire Administration Reauthorization Act of 2008, and in every third annual report thereafter, the Administrator shall include information about changes made to the National Fire Academy curriculum, including—

"(1) the basis for such changes, including a review of the incorporation of lessons learned by emergency response personnel after significant emergency events and emergency preparedness exercises performed under the National Exercise Program; and

"(2) the desired training outcome of all such changes.".

(d) REPORT ON FEASIBILITY OF PROVIDING INCIDENT COMMAND TRAINING FOR FIRES AT PORTS AND IN MARINE ENVIRONMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Administrator of the United States Fire Administration shall submit to Congress a report on the feasibility of providing training in incident command for appropriate fire service personnel for fires at United States ports and in marine environments, including fires on the water and aboard vessels.

(2) CONTENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the necessary curriculum for training described in paragraph (1).

(B) A description of existing training programs related to incident command in port and maritime environments,

including by other Federal agencies, and the feasibility and estimated cost of making such training available to appropriate fire service personnel.

(C) An assessment of the feasibility and advisability of the United States Fire Administration developing such a training course in incident command for appropriate fire service personnel for fires at United States ports and in marine environments, including fires on the water and aboard vessels.

(D) A description of the delivery options for such a course and the estimated cost to the United States Fire Administration for developing such a course and providing such training for appropriate fire service personnel.

**SEC. 5. NATIONAL FIRE INCIDENT REPORTING SYSTEM UPGRADES.**

(a) INCIDENT REPORTING SYSTEM DATABASE.—Section 9 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2208) is amended by adding at the end the following:

"(d) NATIONAL FIRE INCIDENT REPORTING SYSTEM UPDATE.—

"(1) IN GENERAL.—The Administrator shall update the National Fire Incident Reporting System to ensure that the information in the system is available, and can be updated, through the Internet and in real time.

"(2) LIMITATION.—Of the amounts made available pursuant to subparagraphs (E), (F), and (G) of section 17(g)(1), the Administrator shall use not more than an aggregate amount of $5,000,000 during the 3-year period consisting of fiscal years 2009, 2010, and 2011 to carry out the activities required by paragraph (1).".

(b) TECHNICAL CORRECTION.—Section 9(b)(2) of such Act (15 U.S.C. 2208(b)(2)) is amended by striking "assist State," and inserting "assist Federal, State,".

**SEC. 6. FIRE TECHNOLOGY ASSISTANCE AND RESEARCH DISSEMINATION.**

(a) ASSISTANCE TO FIRE SERVICES FOR FIRE PREVENTION AND CONTROL IN WILDLAND-URBAN INTERFACE.—Section 8(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2207(d)) is amended to read as follows:

"(d) RURAL AND WILDLAND-URBAN INTERFACE ASSISTANCE.—The Administrator may, in coordination with the Secretary of Agriculture, the Secretary of the Interior, and the Wildland Fire Leadership Council, assist the fire services of the United States, directly or through contracts, grants, or other forms of assistance, in sponsoring and encouraging research into approaches, techniques, systems, equipment, and land-use policies to improve fire prevention and control in—

"(1) the rural and remote areas of the United States; and

"(2) the wildland-urban interface.".

(b) TECHNOLOGY RESEARCH DISSEMINATION.—Section 8 of such Act (15 U.S.C. 2207) is amended by adding at the end the following:

"(h) PUBLICATION OF RESEARCH RESULTS.—

"(1) IN GENERAL.—For each fire-related research program funded by the Administration, the Administrator shall make available to the public on the Internet website of the Administration the following:

Public information. Web site.

"(A) A description of such research program, including the scope, methodology, and goals thereof.

"(B) Information that identifies the individuals or institutions conducting the research program.

"(C) The amount of funding provided by the Administration for such program.

"(D) The results or findings of the research program.

"(2) DEADLINES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the information required by paragraph (1) shall be published with respect to a research program as follows:

"(i) The information described in subparagraphs (A), (B), and (C) of paragraph (1) with respect to such research program shall be made available under paragraph (1) not later than 30 days after the Administrator has awarded the funding for such research program.

"(ii) The information described in subparagraph (D) of paragraph (1) with respect to a research program shall be made available under paragraph (1) not later than 60 days after the date such research program has been completed.

"(B) EXCEPTION.—No information shall be required to be published under this subsection before the date that is 1 year after the date of the enactment of the United States Fire Administration Reauthorization Act of 2008.".

**SEC. 7. ENCOURAGING ADOPTION OF STANDARDS FOR FIREFIGHTER HEALTH AND SAFETY.**

The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by adding at the end the following:

15 USC 2234.

**"SEC. 37. ENCOURAGING ADOPTION OF STANDARDS FOR FIREFIGHTER HEALTH AND SAFETY.**

"The Administrator shall promote adoption by fire services of national voluntary consensus standards for firefighter health and safety, including such standards for firefighter operations, training, staffing, and fitness, by—

"(1) educating fire services about such standards;

"(2) encouraging the adoption at all levels of government of such standards; and

"(3) making recommendations on other ways in which the Federal Government can promote the adoption of such standards by fire services.".

**SEC. 8. STATE AND LOCAL FIRE SERVICE REPRESENTATION AT NATIONAL OPERATIONS CENTER.**

Section 515 of the Homeland Security Act of 2002 (6 U.S.C. 321d) is amended by adding at the end the following:

"(c) STATE AND LOCAL FIRE SERVICE REPRESENTATION.—

"(1) ESTABLISHMENT OF POSITION.—The Secretary shall, in consultation with the Administrator of the United States Fire Administration, establish a fire service position at the National Operations Center established under subsection (b) to ensure the effective sharing of information between the Federal Government and State and local fire services.

"(2) DESIGNATION OF POSITION.—The Secretary shall designate, on a rotating basis, a State or local fire service official for the position described in paragraph (1).

"(3) MANAGEMENT.—The Secretary shall manage the position established pursuant to paragraph (1) in accordance with such rules, regulations, and practices as govern other similar rotating positions at the National Operations Center.".

**SEC. 9. COORDINATION REGARDING FIRE PREVENTION AND CONTROL AND EMERGENCY MEDICAL SERVICES.**

(a) IN GENERAL.—Section 21(e) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(e)) is amended to read as follows:

"(e) COORDINATION.—

"(1) IN GENERAL.—To the extent practicable, the Administrator shall use existing programs, data, information, and facilities already available in other Federal Government departments and agencies and, where appropriate, existing research organizations, centers, and universities.

"(2) COORDINATION OF FIRE PREVENTION AND CONTROL PROGRAMS.—The Administrator shall provide liaison at an appropriate organizational level to assure coordination of the activities of the Administrator with Federal, State, and local government agencies and departments and nongovernmental organizations concerned with any matter related to programs of fire prevention and control.

"(3) COORDINATION OF EMERGENCY MEDICAL SERVICES PROGRAMS.—The Administrator shall provide liaison at an appropriate organizational level to assure coordination of the activities of the Administrator related to emergency medical services provided by fire service-based systems with Federal, State, and local government agencies and departments and nongovernmental organizations so concerned, as well as those entities concerned with emergency medical services generally.".

(b) FIRE SERVICE-BASED EMERGENCY MEDICAL SERVICES BEST PRACTICES.—Section 8(c) of such Act (15 U.S.C. 2207(c)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) The Administrator is authorized to conduct, directly or through contracts or grants, studies of the operations and management aspects of fire service-based emergency medical services and coordination between emergency medical services and fire services. Such studies may include the optimum protocols for on-scene care, the allocation of resources, and the training requirements for fire service-based emergency medical services.".

**SEC. 10. AMENDMENTS TO DEFINITIONS.**

Section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203) is amended—

(1) in paragraph (3), by striking "Administration" and inserting "Administration, within the Federal Emergency Management Agency";

(2) in paragraph (7), by striking the "and" after the semicolon;

(3) in paragraph (8), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(9) 'wildland-urban interface' has the meaning given such term in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511).".

**SEC. 11. SUPPORTING THE ADOPTION OF FIRE SPRINKLERS.**

Congress supports the recommendations of the United States Fire Administration regarding the adoption of fire sprinklers in commercial buildings and educational programs to raise awareness of the important of installing fire sprinklers in residential buildings.

Approved October 8, 2008.

LEGISLATIVE HISTORY—S. 2606 (H.R. 4847):

HOUSE REPORTS: No. 110–559 accompanying H.R. 4847 (Comm. on Science and Technology).

SENATE REPORTS: No. 110–411 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 18, considered and passed Senate.
Sept. 22, 24, considered and passed House.

# Public Law 110–377
# 110th Congress

## An Act

To amend the Public Health Service Act to reauthorize the poison center national toll-free number, national media campaign, and grant program to provide assistance for poison prevention, sustain the funding of poison centers, and enhance the public health of people of the United States.

Oct. 8, 2008
[S. 2932]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Poison Center Support, Enhancement, and Awareness Act of 2008.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Poison Center Support, Enhancement, and Awareness Act of 2008".

42 USC 300d–71 note.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Poison control centers are the primary defense of the United States against injury and deaths from poisoning. Twenty-four hours a day, the general public as well as health care practitioners contact their local poison control centers for help in diagnosing and treating victims of poisoning. In 2007, more than 4,000,000 calls were managed by poison control centers providing ready and direct access for all people of the United States, including many underserved populations in the United States, with vital emergency public health information and response.

(2) Poisoning is the second most common form of unintentional death in the United States. In any given year, there will be between 3,000,000 and 5,000,000 poison exposures. Sixty percent of these exposures will involve children under the age of 6 who are exposed to toxins in their home. Poisoning accounts for 285,000 hospitalizations, 1,200,000 days of acute hospital care, and more than 26,000 fatalities in 2005.

(3) In 2008, the Harvard Injury Control Research Center reported that poisonings from accidents and unknown circumstances more than tripled in rate since 1990. In 2005, the last year for which data are available, 26,858 people died from accidental or unknown poisonings. This represents an increase of 20,000 since 1990 and an increase of 2,400 between 2004 and 2005. Fatalities from poisoning are increasing in the United States in near epidemic proportions. The funding of programs to reverse this trend is needed now more than ever.

(4) In 2004, The Institute of Medicine of the National Academy of Sciences recommended that "Congress should amend the current Poison Control Center Enhancement and Awareness Act Amendments of 2003 to provide sufficient

funding to support the proposed Poison Prevention and Control System with its national network of poison centers. Support for the core activities at the current level of service is estimated to require more than $100 million annually.".

(5) Sustaining the funding structure and increasing accessibility to poison control centers will promote the utilization of poison control centers and reduce the inappropriate use of emergency medical services and other more costly health care services. The 2004 Institute of Medicine Report to Congress determined that for every $1 invested in the Nation's poison control centers $7 of health care costs are saved. In 2005, direct Federal health care program savings totaled in excess of $525,000,000 as the result of poison control center public health services.

(6) More than 30 percent of the cost savings and financial benefits of the Nation's network of poison control centers are realized annually by Federal health care programs (estimated to be more than $1,000,000,000), yet Federal funding support (as demonstrated by the annual authorization of $30,100,000 in Public Law 108–194) comprises less than 11 percent of the annual network expenditures of poison centers.

(7) Real-time data collected from the Nation's certified poison control centers can be an important source of information for the detection, monitoring, and response for contamination of the air, water, pharmaceutical, or food supply.

(8) In the event of a terrorist event, poison control centers will be relied upon as a critical source for accurate medical information and public health emergency response concerning the treatment of patients who have had an exposure to a chemical, radiological, or biological agent.

**SEC. 3. REAUTHORIZATION OF POISON CONTROL CENTERS NATIONAL TOLL-FREE NUMBER.**

Section 1271 of the Public Health Service Act (42 U.S.C. 300d–71) is amended to read as follows:

**"SEC. 1271. MAINTENANCE OF THE NATIONAL TOLL-FREE NUMBER.**

"(a) IN GENERAL.—The Secretary shall provide coordination and assistance to poison control centers for the establishment of a nationwide toll-free phone number, and the maintenance of such number, to be used to access such centers.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for fiscal year 2009 to carry out this section, and $700,000 for each of fiscal years 2010 through 2014 for the maintenance of the nationwide toll free phone number under subsection (a).".

**SEC. 4. REAUTHORIZATION OF NATIONWIDE MEDIA CAMPAIGN TO PROMOTE POISON CONTROL CENTER UTILIZATION.**

(a) IN GENERAL.—Section 1272 of the Public Health Service Act (42 U.S.C. 300d–72) is amended to read as follows:

**"SEC. 1272. NATIONWIDE MEDIA CAMPAIGN TO PROMOTE POISON CONTROL CENTER UTILIZATION.**

"(a) IN GENERAL.—The Secretary shall carry out, and expand upon, a national media campaign to educate the public and health care providers about poison prevention and the availability of poison

control center resources in local communities and to conduct advertising campaigns concerning the nationwide toll-free number established under section 1271(a).

"(b) CONTRACT WITH ENTITY.—The Secretary may carry out subsection (a) by entering into contracts with one or more public or private entities, including nationally recognized organizations in the field of poison control and national media firms, for the development and implementation of a nationwide poison prevention and poison control center awareness campaign, which may include—

"(1) the development and distribution of poison prevention and poison control center awareness materials;

"(2) television, radio, Internet, and newspaper public service announcements; and

"(3) other activities to provide for public and professional awareness and education.

"(c) EVALUATION.—The Secretary shall—

"(1) establish baseline measures and benchmarks to quantitatively evaluate the impact of the nationwide media campaign carried out under this section; and

"(2) on an annual basis, prepare and submit to the appropriate committees of Congress, an evaluation of the nationwide media campaign.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for fiscal year 2009, and $800,000 for each of fiscal years 2010 through 2014.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on the date of the enactment of this Act and shall apply to contracts entered into on or after January 1, 2009. 42 USC 300d–72 note.

**SEC. 5. REAUTHORIZATION OF THE POISON CONTROL CENTER GRANT PROGRAM.**

(a) IN GENERAL.—Section 1273 of the Public Health Service Act (42 U.S.C. 300d–73) is amended to read as follows:

**"SEC. 1273. MAINTENANCE OF THE POISON CONTROL CENTER GRANT PROGRAM.**

"(a) AUTHORIZATION OF PROGRAM.—The Secretary shall award grants to poison control centers certified under subsection (c) (or granted a waiver under subsection (d)) and professional organizations in the field of poison control for the purposes of preventing, and providing treatment recommendations for, poisonings and complying with the operational requirements needed to sustain the certification of the center under subsection (c).

"(b) ADDITIONAL USES OF FUNDS.—In addition to the purposes described in subsection (a), a poison center or professional organization awarded a grant, contract, or cooperative agreement under such subsection may also use amounts received under such grant, contract, or cooperative agreement—

"(1) to establish and evaluate best practices in the United States for poison prevention, poison control center outreach, and emergency and preparedness programs;

"(2) to research, develop, implement, revise, and communicate standard patient management guidelines for commonly encountered toxic exposures;

"(3) to improve national toxic exposure surveillance by enhancing cooperative activities between poison control centers

in the United States and the Centers for Disease Control and Prevention;

"(4) to develop, support, and enhance technology and capabilities of professional organizations in the field of poison control to collect national poisoning, toxic occurrence, and related public health data;

"(5) to develop initiatives to foster the enhanced public health utilization of national poison data collected by organizations described in paragraph (4);

"(6) to support and expand the toxicologic expertise within poison control centers; and

"(7) to improve the capacity of poison control centers to answer high volumes of calls and respond during times of national crisis or other public health emergencies.

"(c) CERTIFICATION.—Except as provided in subsection (d), the Secretary may award a grant to a poison control center under subsection (a) only if—

"(1) the center has been certified by a professional organization in the field of poison control, and the Secretary has approved the organization as having in effect standards for certification that reasonably provide for the protection of the public health with respect to poisoning; or

"(2) the center has been certified by a State government, and the Secretary has approved the State government as having in effect standards for certification that reasonably provide for the protection of the public health with respect to poisoning.

"(d) WAIVER OF CERTIFICATION REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary may grant a waiver of the certification requirements of subsection (c) with respect to a noncertified poison control center that applies for a grant under this section if such center can reasonably demonstrate that the center will obtain such a certification within a reasonable period of time as determined appropriate by the Secretary.

"(2) RENEWAL.—The Secretary may renew a waiver under paragraph (1).

"(3) LIMITATION.—In no case may the sum of the number of years for a waiver under paragraph (1) and a renewal under paragraph (2) exceed 5 years. The preceding sentence shall take effect as of the date of the enactment of the Poison Center Support, Enhancement, and Awareness Act of 2008.

Effective date.

"(e) SUPPLEMENT NOT SUPPLANT.—Amounts made available to a poison control center under this section shall be used to supplement and not supplant other Federal, State or local funds provided for such center.

"(f) MAINTENANCE OF EFFORT.—A poison control center, in utilizing the proceeds of a grant under this section, shall maintain the expenditures of the center for activities of the center at a level that is not less than the level of expenditures maintained by the center for the fiscal year preceding the fiscal year for which the grant is received.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $27,500,000 for fiscal year 2009, and $28,600,000 for each of fiscal years 2010 through 2014. The Secretary may utilize not to exceed 8 percent of the amount appropriated under this preceding sentence in each fiscal year for coordination, dissemination, technical assistance, program

evaluation, data activities, and other program administration functions that do not include grants, contracts, or cooperative agreements under subsections (a) and (b), which are determined by the Secretary to be appropriate for carrying out the program under this section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as of the date of the enactment of this Act and shall apply to grants made on or after January 1, 2009. 42 USC 300d–73 note.

Approved October 8, 2008.

LEGISLATIVE HISTORY—S. 2932 (H.R. 5669):

HOUSE REPORTS: No. 110–681 accompanying H.R. 5669 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, considered and passed Senate.
Sept. 25, 26, considered and passed House.

# Public Law 110–378
# 110th Congress

## An Act

Oct. 8, 2008
[S. 2982]

To amend the Runaway and Homeless Youth Act to authorize appropriations, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Reconnecting Homeless Youth Act of 2008.
42 USC 5601 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Reconnecting Homeless Youth Act of 2008".

**SEC. 2. FINDINGS.**

Section 302 of the Runaway and Homeless Youth Act (42 U.S.C. 5701) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) services to such young people should be developed and provided using a positive youth development approach that ensures a young person a sense of—

"(A) safety and structure;

"(B) belonging and membership;

"(C) self-worth and social contribution;

"(D) independence and control over one's life; and

"(E) closeness in interpersonal relationships.".

**SEC. 3. BASIC CENTER PROGRAM.**

(a) SERVICES PROVIDED.—Section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) is amended—

(1) in subsection (a)(2)(B), by striking clause (i) and inserting the following:

"(i) safe and appropriate shelter provided for not to exceed 21 days; and"; and

(2) in subsection (b)(2)—

(A) by striking "(2) The" and inserting "(2)(A) Except as provided in subparagraph (B), the";

(B) by striking "$100,000" and inserting "$200,000";

(C) by striking "$45,000" and inserting "$70,000"; and

(D) by adding at the end the following:

Allotment.

"(B) For fiscal years 2009 and 2010, the amount allotted under paragraph (1) with respect to a State for a fiscal year shall be not less than the amount allotted under paragraph (1) with respect to such State for fiscal year 2008.

Reallotment.

"(C) Whenever the Secretary determines that any part of the amount allotted under paragraph (1) to a State for a fiscal year will not be obligated before the end of the fiscal year, the Secretary

shall reallot such part to the remaining States for obligation for the fiscal year.".

(b) ELIGIBILITY.—Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(b)) is amended—

(1) in paragraph (11), by striking "and" at the end;

(2) in paragraph (12), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(13) shall develop an adequate emergency preparedness and management plan.".

**SEC. 4. TRANSITIONAL LIVING GRANT PROGRAM.**

(a) ELIGIBILITY.—Section 322(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5714–2(a)) is amended—

(1) in paragraph (1)—

(A) by striking "directly or indirectly" and inserting "by grant, agreement, or contract"; and

(B) by striking "services" the first place it appears and inserting "provide, by grant, agreement, or contract, services,";

(2) in paragraph (2), by striking "a continuous period not to exceed 540 days, except that" and all that follows and inserting the following: "a continuous period not to exceed 540 days, or in exceptional circumstances 635 days, except that a youth in a program under this part who has not reached 18 years of age on the last day of the 635-day period may, in exceptional circumstances and if otherwise qualified for the program, remain in the program until the youth's 18th birthday;";

(3) in paragraph (14), by striking "and" at the end;

(4) in paragraph (15), by striking the period and inserting "; and"; and

(5) by adding at the end the following:

"(16) to develop an adequate emergency preparedness and management plan.".

(b) DEFINITIONS.—Section 322(c) of the Runaway and Homeless Youth Act (42 U.S.C. 5714–2(c)) is amended by—

(1) striking "part, the term" and inserting the following: "part—

"(1) the term";

(2) striking the period and inserting "; and"; and

(3) adding at the end thereof the following:

"(2) the term 'exceptional circumstances' means circumstances in which a youth would benefit to an unusual extent from additional time in the program.".

**SEC. 5. GRANTS FOR RESEARCH EVALUATION, DEMONSTRATION, AND SERVICE PROJECTS.**

Section 343 of the Runaway and Homeless Youth Act (42 U.S.C. 5714–23) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "special consideration" and inserting "priority";

(B) in paragraph (8)—

(i) by striking "to health" and inserting "to quality health";

(ii) by striking "mental health care" and inserting "behavioral health care"; and

(iii) by striking "and" at the end;

(C) in paragraph (9), by striking the period at the end and inserting ", including access to educational and workforce programs to achieve outcomes such as decreasing secondary school dropout rates, increasing rates of attaining a secondary school diploma or its recognized equivalent, or increasing placement and retention in post-secondary education or advanced workforce training programs; and"; and

(D) by adding at the end the following:

"(10) providing programs, including innovative programs, that assist youth in obtaining and maintaining safe and stable housing, and which may include programs with supportive services that continue after the youth complete the remainder of the programs."; and

(2) by striking subsection (c) and inserting the following:

"(c) In selecting among applicants for grants under subsection (a), the Secretary shall—

"(1) give priority to applicants who have experience working with runaway or homeless youth; and

"(2) ensure that the applicants selected—

"(A) represent diverse geographic regions of the United States; and

"(B) carry out projects that serve diverse populations of runaway or homeless youth.".

**SEC. 6. COORDINATING, TRAINING, RESEARCH, AND OTHER ACTIVITIES.**

Part D of the Runaway and Homeless Youth Act (42 U.S.C. 5714–21 et seq.) is amended by adding at the end the following:

42 USC 5714–25.

**"SEC. 345. PERIODIC ESTIMATE OF INCIDENCE AND PREVALENCE OF YOUTH HOMELESSNESS.**

Deadline. Public information. Reports.

"(a) PERIODIC ESTIMATE.—Not later than 2 years after the date of enactment of the Reconnecting Homeless Youth Act of 2008, and at 5-year intervals thereafter, the Secretary, in consultation with the United States Interagency Council on Homelessness, shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate, and make available to the public, a report—

"(1) by using the best quantitative and qualitative social science research methods available, containing an estimate of the incidence and prevalence of runaway and homeless individuals who are not less than 13 years of age but are less than 26 years of age; and

"(2) that includes with such estimate an assessment of the characteristics of such individuals.

"(b) CONTENT.—The report required by subsection (a) shall include—

"(1) the results of conducting a survey of, and direct interviews with, a representative sample of runaway and homeless individuals who are not less than 13 years of age but are less than 26 years of age, to determine past and current—

"(A) socioeconomic characteristics of such individuals; and

"(B) barriers to such individuals obtaining—

"(i) safe, quality, and affordable housing;

"(ii) comprehensive and affordable health insurance and health services; and

"(iii) incomes, public benefits, supportive services, and connections to caring adults; and

"(2) such other information as the Secretary determines, in consultation with States, units of local government, and national nongovernmental organizations concerned with homelessness, may be useful.

"(c) IMPLEMENTATION.—If the Secretary enters into any contract with a non-Federal entity for purposes of carrying out subsection (a), such entity shall be a nongovernmental organization, or an individual, determined by the Secretary to have appropriate expertise in quantitative and qualitative social science research.".

**SEC. 7. SEXUAL ABUSE PREVENTION PROGRAM.**

Section 351(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5714–41(b)) is amended by inserting "public and" after "priority to".

**SEC. 8. PERFORMANCE STANDARDS.**

Part F of the Runaway and Homeless Youth Act (42 U.S.C. 5714a et seq.) is amended by inserting after section 386 the following:

**"SEC. 386A. PERFORMANCE STANDARDS.**

42 USC 5732–1.

"(a) ESTABLISHMENT OF PERFORMANCE STANDARDS.—Not later than 1 year after the date of enactment of the Reconnecting Homeless Youth Act of 2008, the Secretary shall issue rules that specify performance standards for public and nonprofit private entities and agencies that receive grants under sections 311, 321, and 351.

Deadline. Regulations.

"(b) CONSULTATION.—The Secretary shall consult with representatives of public and nonprofit private entities and agencies that receive grants under this title, including statewide and regional nonprofit organizations (including combinations of such organizations) that receive grants under this title, and national nonprofit organizations concerned with youth homelessness, in developing the performance standards required by subsection (a).

"(c) IMPLEMENTATION OF PERFORMANCE STANDARDS.—The Secretary shall integrate the performance standards into the processes of the Department of Health and Human Services for grantmaking, monitoring, and evaluation for programs under sections 311, 321, and 351.".

**SEC. 9. GOVERNMENT ACCOUNTABILITY OFFICE STUDY AND REPORT.**

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study, including making findings and recommendations, relating to the processes for making grants under parts A, B, and E of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq., 5714–1 et seq., 5714–41).

(2) SUBJECTS.—In particular, the Comptroller General shall study—

(A) the Secretary's written responses to and other communications with applicants who do not receive grants under part A, B, or E of such Act, to determine if the information provided in the responses and communications is conveyed clearly;

(B) the content and structure of the grant application documents, and of other associated documents (including grant announcements), to determine if the requirements of the applications and other associated documents are presented and structured in a way that gives an applicant a clear understanding of the information that the applicant must provide in each portion of an application to successfully complete it, and a clear understanding of the terminology used throughout the application and other associated documents;

(C) the peer review process for applications for the grants, including the selection of peer reviewers, the oversight of the process by staff of the Department of Health and Human Services, and the extent to which such staff make funding determinations based on the comments and scores of the peer reviewers;

(D) the typical timeframe, and the process and responsibilities of such staff, for responding to applicants for the grants, and the efforts made by such staff to communicate with the applicants when funding decisions or funding for the grants is delayed, such as when funding is delayed due to funding of a program through appropriations made under a continuing resolution; and

(E) the plans for implementation of, and the implementation of, where practicable, the technical assistance and training programs carried out under section 342 of the Runaway and Homeless Youth Act (42 U.S.C. 5714–22), and the effect of such programs on the application process for the grants.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report containing the findings and recommendations resulting from the study.

**SEC. 10. DEFINITIONS.**

(a) HOMELESS YOUTH.—Section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)) is amended—

(1) in the matter preceding subparagraph (A), by striking "The" and all that follows through "means" and inserting "The term 'homeless', used with respect to a youth, means"; and

(2) in subparagraph (A)—

(A) in clause (i)—

(i) by striking "not more than" each place it appears and inserting "less than"; and

(ii) by inserting after "age" the last place it appears the following: ", or is less than a higher maximum age if the State where the center is located has an applicable State or local law (including a regulation) that permits such higher maximum age in compliance with licensure requirements for child-and youth-serving facilities"; and

(B) in clause (ii), by striking "age;" and inserting the following: "age and either—

"(I) less than 22 years of age; or

"(II) not less than 22 years of age, as of the expiration of the maximum period of stay permitted under section 322(a)(2) if such individual commences such stay before reaching 22 years of age;".

(b) RUNAWAY YOUTH.—Section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a) is amended—

(1) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (3) the following:

"(4) RUNAWAY YOUTH.—The term 'runaway', used with respect to a youth, means an individual who is less than 18 years of age and who absents himself or herself from home or a place of legal residence without the permission of a parent or legal guardian.".

**SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

Section 388(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(a)) is amended—

(1) in paragraph (1)—

(A) by striking "is authorized" and inserting "are authorized";

(B) by striking "part E) $105,000,000 for fiscal year 2004" and inserting "section 345 and part E) $140,000,000 for fiscal year 2009"; and

(C) by striking "2005, 2006, 2007, and 2008" and inserting "2010, 2011, 2012, and 2013";

(2) in paragraph (3)—

(A) by striking "In" and inserting the following:

"(A) IN GENERAL.—In";

(B) by inserting "(other than section 345)" before the period; and

(C) by adding at the end the following:

"(B) PERIODIC ESTIMATE.—There are authorized to be appropriated to carry out section 345 such sums as may be necessary for fiscal years 2009, 2010, 2011, 2012, and 2013."; and

(3) in paragraph (4)—

(A) by striking "is authorized" and inserting "are authorized"; and

(B) by striking "such sums as may be necessary for fiscal years 2004, 2005, 2006, 2007, and 2008" and inserting

"$25,000,000 for fiscal year 2009 and such sums as may be necessary for fiscal years 2010, 2011, 2012, and 2013".

Approved October 8, 2008.

LEGISLATIVE HISTORY—S. 2982 (H.R. 5524):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, considered and passed Senate.
Sept. 26, considered and passed House.

Public Law 110–379
110th Congress

# An Act

To amend title XIX of the Social Security Act to provide additional funds for the qualifying individual (QI) program, and for other purposes.

Oct. 8, 2008
[S. 3560]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

QI Program Supplemental Funding Act of 2008.
42 USC 1305 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "QI Program Supplemental Funding Act of 2008".

**SEC. 2. FUNDING FOR THE QUALIFYING INDIVIDUAL (QI) PROGRAM.**

Section 1933(g)(2) of the Social Security Act (42 U.S.C. 1396u–3(g)(2)), as amended by section 111(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended—

(1) in subparagraph (I), by striking "$300,000,000" and inserting "$315,000,000"; and

(2) in subparagraph (J), by striking "$100,000,000" and inserting "$130,000,000".

**SEC. 3. MANDATORY USE OF STATE PUBLIC ASSISTANCE REPORTING INFORMATION SYSTEM (PARIS) PROJECT.**

(a) IN GENERAL.—Section 1903(r) of the Social Security Act (42 U.S.C. 1396b(r)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by inserting ", in addition to meeting the requirements of paragraph (3)," after "a State must"; and

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

"(3) In order to meet the requirements of this paragraph, a State must have in operation an eligibility determination system which provides for data matching through the Public Assistance Reporting Information System (PARIS) facilitated by the Secretary (or any successor system), including matching with medical assistance programs operated by other States.".

(b) EFFECTIVE DATE.—

42 USC 1396b note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) take effect on October 1, 2009.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State

plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

**SEC. 4. INCENTIVES FOR THE DEVELOPMENT OF, AND ACCESS TO, CERTAIN ANTIBIOTICS.**

(a) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

"(v) ANTIBIOTIC DRUGS SUBMITTED BEFORE NOVEMBER 21, 1997.—

"(1) ANTIBIOTIC DRUGS APPROVED BEFORE NOVEMBER 21, 1997.—

"(A) IN GENERAL.—Notwithstanding any provision of the Food and Drug Administration Modernization Act of 1997 or any other provision of law, a sponsor of a drug that is the subject of an application described in subparagraph (B)(i) shall be eligible for, with respect to the drug, the 3-year exclusivity period referred to under clauses (iii) and (iv) of subsection (c)(3)(E) and under clauses (iii) and (iv) of subsection (j)(5)(F), subject to the requirements of such clauses, as applicable.

"(B) APPLICATION; ANTIBIOTIC DRUG DESCRIBED.—

"(i) APPLICATION.—An application described in this clause is an application for marketing submitted under this section after the date of the enactment of this subsection in which the drug that is the subject of the application contains an antibiotic drug described in clause (ii).

"(ii) ANTIBIOTIC DRUG.—An antibiotic drug described in this clause is an antibiotic drug that was the subject of an application approved by the Secretary under section 507 of this Act (as in effect before November 21, 1997).

"(2) ANTIBIOTIC DRUGS SUBMITTED BEFORE NOVEMBER 21, 1997, BUT NOT APPROVED.—

"(A) IN GENERAL.—Notwithstanding any provision of the Food and Drug Administration Modernization Act of 1997 or any other provision of law, a sponsor of a drug that is the subject of an application described in subparagraph (B)(i) may elect to be eligible for, with respect to the drug—

"(i)(I) the 3-year exclusivity period referred to under clauses (iii) and (iv) of subsection (c)(3)(E) and under clauses (iii) and (iv) of subsection (j)(5)(F), subject to the requirements of such clauses, as applicable; and

"(II) the 5-year exclusivity period referred to under clause (ii) of subsection (c)(3)(E) and under clause (ii) of subsection (j)(5)(F), subject to the requirements of such clauses, as applicable; or

"(ii) a patent term extension under section 156 of title 35, United States Code, subject to the requirements of such section.

"(B) APPLICATION; ANTIBIOTIC DRUG DESCRIBED.—

"(i) APPLICATION.—An application described in this clause is an application for marketing submitted under this section after the date of the enactment of this subsection in which the drug that is the subject of the application contains an antibiotic drug described in clause (ii).

"(ii) ANTIBIOTIC DRUG.—An antibiotic drug described in this clause is an antibiotic drug that was the subject of 1 or more applications received by the Secretary under section 507 of this Act (as in effect before November 21, 1997), none of which was approved by the Secretary under such section.

"(3) LIMITATIONS.—

"(A) EXCLUSIVITIES AND EXTENSIONS.—Paragraphs (1)(A) and (2)(A) shall not be construed to entitle a drug that is the subject of an approved application described in subparagraphs (1)(B)(i) or (2)(B)(i), as applicable, to any market exclusivities or patent extensions other than those exclusivities or extensions described in paragraph (1)(A) or (2)(A).

"(B) CONDITIONS OF USE.—Paragraphs (1)(A) and (2)(A)(i) shall not apply to any condition of use for which the drug referred to in subparagraph (1)(B)(i) or (2)(B)(i), as applicable, was approved before the date of the enactment of this subsection.

"(4) APPLICATION OF CERTAIN PROVISIONS.—Notwithstanding section 125, or any other provision, of the Food and Drug Administration Modernization Act of 1997, or any other provision of law, and subject to the limitations in paragraphs (1), (2), and (3), the provisions of the Drug Price Competition and Patent Term Restoration Act of 1984 shall apply to any drug subject to paragraph (1) or any drug with respect to which an election is made under paragraph (2)(A).".

(b) TRANSITIONAL RULES.—

Deadline.
21 USC 355 note.

(1) With respect to a patent issued on or before the date of the enactment of this Act, any patent information required to be filed with the Secretary of Health and Human Services under subsection (b)(1) or (c)(2) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to be listed on a drug to which subsection (v)(1) of such section 505 (as added by this section) applies shall be filed with the Secretary not later than 60 days after the date of the enactment of this Act.

Publication.

(2) With respect to any patent information referred to in paragraph (1) of this subsection that is filed with the Secretary within the 60-day period after the date of the enactment of this Act, the Secretary shall publish such information in the electronic version of the list referred to at section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)) as soon as it is received, but in no event later than the date that is 90 days after the enactment of this Act.

(3) With respect to any patent information referred to in paragraph (1) that is filed with the Secretary within the

60-day period after the date of enactment of this Act, each applicant that, not later than 120 days after the date of the enactment of this Act, amends an application that is, on or before the date of the enactment of this Act, a substantially complete application (as defined in paragraph (5)(B)(iv) of section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j))) to contain a certification described in paragraph (2)(A)(vii)(IV) of such section 505(j) with respect to that patent shall be deemed to be a first applicant (as defined in paragraph (5)(B)(iv) of such section 505(j)).

**SEC. 5. CLARIFICATION OF AUTHORITY FOR USE OF MEDICAID INTEGRITY PROGRAM FUNDS.**

(a) CLARIFICATION OF AUTHORITY FOR USE OF FUNDS.—

(1) IN GENERAL.—Section 1936 of the Social Security Act (42 U.S.C. 1396u–6) is amended—

(A) in subsection (b)(4), by striking "Education of" and inserting "Education or training, including at such national, State, or regional conferences as the Secretary may establish, of State or local officers, employees, or independent contractors responsible for the administration or the supervision of the administration of the State plan under this title,"; and

(B) in subsection (e), by striking paragraph (2) and inserting the following:

"(2) AVAILABILITY; AUTHORITY FOR USE OF FUNDS.—

"(A) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

"(B) AUTHORITY FOR USE OF FUNDS FOR TRANSPORTATION AND TRAVEL EXPENSES FOR ATTENDEES AT EDUCATION, TRAINING, OR CONSULTATIVE ACTIVITIES.—

"(i) IN GENERAL.—The Secretary may use amounts appropriated pursuant to paragraph (1) to pay for transportation and the travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business, of individuals described in subsection (b)(4) who attend education, training, or consultative activities conducted under the authority of that subsection.".

42 USC 1396u–6 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 1936 of the Social Security Act, as added by section 6034(a) of the Deficit Reduction Act of 2005 (Public Law 109–171).

(b) PUBLIC DISCLOSURE.—

(1) IN GENERAL.—Section 1936(e)(2)(B) of such Act (42 U.S.C. 1396u–6(e)(2)(B)), as added by subsection (a) of this section, is amended by adding at the end the following:

"(ii) PUBLIC DISCLOSURE.—The Secretary shall make available on a website of the Centers for Medicare & Medicaid Services that is accessible to the public—

"(I) the total amount of funds expended for each conference conducted under the authority of subsection (b)(4); and

"(II) the amount of funds expended for each such conference that were for transportation and for travel expenses.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to conferences conducted under the authority of section 1936(b)(4) of the Social Security Act (42 U.S.C. 1396u–6(b)(4)) after the date of enactment of this Act.

42 USC 1396u–6 note.

**SEC. 6. FUNDING FOR THE MEDICARE IMPROVEMENT FUND.**

Section 1898(b)(1) of the Social Security Act (42 U.S.C. 1395iii(b)(1)) is amended by striking "$2,220,000,000" and inserting "$2,290,000,000".

Approved October 8, 2008.

LEGISLATIVE HISTORY—S. 3560:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, considered and passed Senate.
Sept. 27, considered and passed House.

# Public Law 110–380
# 110th Congress

## An Act

Oct. 8, 2008
[S. 3597]

To provide that funds allocated for community food projects for fiscal year 2008 shall remain available until September 30, 2009.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COMMUNITY FOOD PROJECTS.**

7 USC 2034.

(a) TECHNICAL CORRECTION.—Section 4406(a)(7) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–234; 122 Stat. 1902) is amended by striking "Food and Nutrition Act of 2008" and inserting "Food Stamp Act of 1977".

(b) ALLOCATION OF FUNDS.—Funds allocated under section 25(b) of the Food Stamp Act of 1977 (7 U.S.C. 2034(b)) for fiscal year 2008 shall remain available until September 30, 2009, to fund proposals solicited in fiscal year 2008.

Approved October 8, 2008.

LEGISLATIVE HISTORY—S. 3597:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, considered and passed Senate.
Sept. 27, considered and passed House.

Public Law 110–381
110th Congress

# An Act

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to ensure that dependent students who take a medically necessary leave of absence do not lose health insurance coverage, and for other purposes.

Oct. 9, 2008
[H.R. 2851]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Michelle's Law.

**SECTION 1. SHORT TITLE.**

42 USC 201 note.

This Act may be cited as "Michelle's Law".

**SEC. 2. COVERAGE OF DEPENDENT STUDENTS ON MEDICALLY NECESSARY LEAVE OF ABSENCE.**

(a) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Subpart B of part 7 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

**"SEC. 714. COVERAGE OF DEPENDENT STUDENTS ON MEDICALLY NECESSARY LEAVE OF ABSENCE.**

29 USC 1185c.

"(a) MEDICALLY NECESSARY LEAVE OF ABSENCE.—In this section, the term 'medically necessary leave of absence' means, with respect to a dependent child described in subsection (b)(2) in connection with a group health plan or health insurance coverage offered in connection with such plan, a leave of absence of such child from a postsecondary educational institution (including an institution of higher education as defined in section 102 of the Higher Education Act of 1965), or any other change in enrollment of such child at such an institution, that—

"(1) commences while such child is suffering from a serious illness or injury;

"(2) is medically necessary; and

"(3) causes such child to lose student status for purposes of coverage under the terms of the plan or coverage.

"(b) REQUIREMENT TO CONTINUE COVERAGE.—

"(1) IN GENERAL.—In the case of a dependent child described in paragraph (2), a group health plan, or a health insurance issuer that provides health insurance coverage in connection with a group health plan, shall not terminate coverage of such child under such plan or health insurance coverage due to a medically necessary leave of absence before the date that is the earlier of—

"(A) the date that is 1 year after the first day of the medically necessary leave of absence; or

"(B) the date on which such coverage would otherwise terminate under the terms of the plan or health insurance coverage.

"(2) DEPENDENT CHILD DESCRIBED.—A dependent child described in this paragraph is, with respect to a group health plan or health insurance coverage offered in connection with the plan, a beneficiary under the plan who—

"(A) is a dependent child, under the terms of the plan or coverage, of a participant or beneficiary under the plan or coverage; and

"(B) was enrolled in the plan or coverage, on the basis of being a student at a postsecondary educational institution (as described in subsection (a)), immediately before the first day of the medically necessary leave of absence involved.

Applicability.

"(3) CERTIFICATION BY PHYSICIAN.—Paragraph (1) shall apply to a group health plan or health insurance coverage offered by an issuer in connection with such plan only if the plan or issuer of the coverage has received written certification by a treating physician of the dependent child which states that the child is suffering from a serious illness or injury and that the leave of absence (or other change of enrollment) described in subsection (a) is medically necessary.

"(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall include, with any notice regarding a requirement for certification of student status for coverage under the plan or coverage, a description of the terms of this section for continued coverage during medically necessary leaves of absence. Such description shall be in language which is understandable to the typical plan participant.

"(d) NO CHANGE IN BENEFITS.—A dependent child whose benefits are continued under this section shall be entitled to the same benefits as if (during the medically necessary leave of absence) the child continued to be a covered student at the institution of higher education and was not on a medically necessary leave of absence.

"(e) CONTINUED APPLICATION IN CASE OF CHANGED COVERAGE.—If—

"(1) a dependent child of a participant or beneficiary is in a period of coverage under a group health plan or health insurance coverage offered in connection with such a plan, pursuant to a medically necessary leave of absence of the child described in subsection (b);

"(2) the manner in which the participant or beneficiary is covered under the plan changes, whether through a change in health insurance coverage or health insurance issuer, a change between health insurance coverage and self-insured coverage, or otherwise; and

"(3) the coverage as so changed continues to provide coverage of beneficiaries as dependent children,

this section shall apply to coverage of the child under the changed coverage for the remainder of the period of the medically necessary leave of absence of the dependent child under the plan in the same manner as it would have applied if the changed coverage had been the previous coverage.".

(2) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

"Sec. 714. Coverage of dependent students on medically necessary leave of absence.".

(b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.—

(1) GROUP MARKETS.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following new section:

**"SEC. 2707. COVERAGE OF DEPENDENT STUDENTS ON MEDICALLY NECESSARY LEAVE OF ABSENCE.** 42 USC 300gg–7.

"(a) MEDICALLY NECESSARY LEAVE OF ABSENCE.—In this section, the term 'medically necessary leave of absence' means, with respect to a dependent child described in subsection (b)(2) in connection with a group health plan or health insurance coverage offered in connection with such plan, a leave of absence of such child from a postsecondary educational institution (including an institution of higher education as defined in section 102 of the Higher Education Act of 1965), or any other change in enrollment of such child at such an institution, that—

"(1) commences while such child is suffering from a serious illness or injury;

"(2) is medically necessary; and

"(3) causes such child to lose student status for purposes of coverage under the terms of the plan or coverage.

"(b) REQUIREMENT TO CONTINUE COVERAGE.—

"(1) IN GENERAL.—In the case of a dependent child described in paragraph (2), a group health plan, or a health insurance issuer that provides health insurance coverage in connection with a group health plan, shall not terminate coverage of such child under such plan or health insurance coverage due to a medically necessary leave of absence before the date that is the earlier of—

"(A) the date that is 1 year after the first day of the medically necessary leave of absence; or

"(B) the date on which such coverage would otherwise terminate under the terms of the plan or health insurance coverage.

"(2) DEPENDENT CHILD DESCRIBED.—A dependent child described in this paragraph is, with respect to a group health plan or health insurance coverage offered in connection with the plan, a beneficiary under the plan who—

"(A) is a dependent child, under the terms of the plan or coverage, of a participant or beneficiary under the plan or coverage; and

"(B) was enrolled in the plan or coverage, on the basis of being a student at a postsecondary educational institution (as described in subsection (a)), immediately before the first day of the medically necessary leave of absence involved.

"(3) CERTIFICATION BY PHYSICIAN.—Paragraph (1) shall apply to a group health plan or health insurance coverage offered by an issuer in connection with such plan only if the plan or issuer of the coverage has received written certification by a treating physician of the dependent child which states that the child is suffering from a serious illness or injury Applicability.

and that the leave of absence (or other change of enrollment) described in subsection (a) is medically necessary.

"(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall include, with any notice regarding a requirement for certification of student status for coverage under the plan or coverage, a description of the terms of this section for continued coverage during medically necessary leaves of absence. Such description shall be in language which is understandable to the typical plan participant.

"(d) NO CHANGE IN BENEFITS.—A dependent child whose benefits are continued under this section shall be entitled to the same benefits as if (during the medically necessary leave of absence) the child continued to be a covered student at the institution of higher education and was not on a medically necessary leave of absence.

"(e) CONTINUED APPLICATION IN CASE OF CHANGED COVERAGE.—If—

"(1) a dependent child of a participant or beneficiary is in a period of coverage under a group health plan or health insurance coverage offered in connection with such a plan, pursuant to a medically necessary leave of absence of the child described in subsection (b);

"(2) the manner in which the participant or beneficiary is covered under the plan changes, whether through a change in health insurance coverage or health insurance issuer, a change between health insurance coverage and self-insured coverage, or otherwise; and

"(3) the coverage as so changed continues to provide coverage of beneficiaries as dependent children,

this section shall apply to coverage of the child under the changed coverage for the remainder of the period of the medically necessary leave of absence of the dependent child under the plan in the same manner as it would have applied if the changed coverage had been the previous coverage.".

(2) INDIVIDUAL MARKET.—Subpart 3 of part B of title XXVII of such Act (42 U.S.C. 300gg–51 et seq.) is amended by adding at the end the following new section:

42 USC 300gg–54.

**"SEC. 2753. COVERAGE OF DEPENDENT STUDENTS ON MEDICALLY NECESSARY LEAVE OF ABSENCE.**

Applicability.

"The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.".

(c) AMENDMENTS TO THE INTERNAL REVENUE CODE.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other group health plan requirements) is amended by inserting after section 9812 the following new section:

26 USC 9813.

**"SEC. 9813. COVERAGE OF DEPENDENT STUDENTS ON MEDICALLY NECESSARY LEAVE OF ABSENCE.**

"(a) MEDICALLY NECESSARY LEAVE OF ABSENCE.—In this section, the term 'medically necessary leave of absence' means, with respect to a dependent child described in subsection (b)(2) in connection with a group health plan, a leave of absence of such child

from a postsecondary educational institution (including an institution of higher education as defined in section 102 of the Higher Education Act of 1965), or any other change in enrollment of such child at such an institution, that—

"(1) commences while such child is suffering from a serious illness or injury;

"(2) is medically necessary; and

"(3) causes such child to lose student status for purposes of coverage under the terms of the plan or coverage.

"(b) REQUIREMENT TO CONTINUE COVERAGE.—

"(1) IN GENERAL.—In the case of a dependent child described in paragraph (2), a group health plan shall not terminate coverage of such child under such plan due to a medically necessary leave of absence before the date that is the earlier of—

"(A) the date that is 1 year after the first day of the medically necessary leave of absence; or

"(B) the date on which such coverage would otherwise terminate under the terms of the plan.

"(2) DEPENDENT CHILD DESCRIBED.—A dependent child described in this paragraph is, with respect to a group health plan, a beneficiary under the plan who—

"(A) is a dependent child, under the terms of the plan, of a participant or beneficiary under the plan; and

"(B) was enrolled in the plan, on the basis of being a student at a postsecondary educational institution (as described in subsection (a)), immediately before the first day of the medically necessary leave of absence involved.

"(3) CERTIFICATION BY PHYSICIAN.—Paragraph (1) shall apply to a group health plan only if the plan, or the issuer of health insurance coverage offered in connection with the plan, has received written certification by a treating physician of the dependent child which states that the child is suffering from a serious illness or injury and that the leave of absence (or other change of enrollment) described in subsection (a) is medically necessary. Applicability.

"(c) NOTICE.—A group health plan shall include, with any notice regarding a requirement for certification of student status for coverage under the plan, a description of the terms of this section for continued coverage during medically necessary leaves of absence. Such description shall be in language which is understandable to the typical plan participant.

"(d) NO CHANGE IN BENEFITS.—A dependent child whose benefits are continued under this section shall be entitled to the same benefits as if (during the medically necessary leave of absence) the child continued to be a covered student at the institution of higher education and was not on a medically necessary leave of absence.

"(e) CONTINUED APPLICATION IN CASE OF CHANGED COVERAGE.—If—

"(1) a dependent child of a participant or beneficiary is in a period of coverage under a group health plan, pursuant to a medically necessary leave of absence of the child described in subsection (b);

"(2) the manner in which the participant or beneficiary is covered under the plan changes, whether through a change in health insurance coverage or health insurance issuer, a

change between health insurance coverage and self-insured coverage, or otherwise; and

"(3) the coverage as so changed continues to provide coverage of beneficiaries as dependent children,

this section shall apply to coverage of the child under the changed coverage for the remainder of the period of the medically necessary leave of absence of the dependent child under the plan in the same manner as it would have applied if the changed coverage had been the previous coverage.".

(2) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 100 of such Code is amended by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Coverage of dependent students on medically necessary leave of absence.".

26 USC 9813 note.

(d) EFFECTIVE DATE.—The amendments made by this Act shall apply with respect to plan years beginning on or after the date that is one year after the date of the enactment of this Act and to medically necessary leaves of absence beginning during such plan years.

Approved October 9, 2008.

LEGISLATIVE HISTORY—H.R. 2851:

HOUSE REPORTS: No. 110–806, Pt. 1 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 154 (2008):
July 30, considered and passed House.
Sept. 25, considered and passed Senate.

Public Law 110–382
110th Congress

# An Act

To establish a liaison with the Federal Bureau of Investigation in United States Citizenship and Immigration Services to expedite naturalization applications filed by members of the Armed Forces and to establish a deadline for processing such applications.

Oct. 9, 2008
[S. 2840]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Military Personnel Citizenship Processing Act.
8 USC 1101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Military Personnel Citizenship Processing Act".

**SEC. 2. OFFICE OF THE FBI LIAISON.**

(a) ESTABLISHMENT.—Section 451 of the Homeland Security Act of 2002 (6 U.S.C. 271) is amended by adding at the end the following:

"(g) OFFICE OF THE FBI LIAISON.—

"(1) IN GENERAL.—There shall be an Office of the FBI Liaison in the Department of Homeland Security.

"(2) FUNCTIONS.—The Office of the FBI Liaison shall monitor the progress of the functions of the Federal Bureau of Investigation in the naturalization process to assist in the expeditious completion of all such functions pertaining to naturalization applications filed by, or on behalf of—

"(A) current or former members of the Armed Forces under section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 and 1440);

"(B) current spouses of United States citizens who are currently serving on active duty in the Armed Forces, who qualify for naturalization under section 319(b) of the Immigration and Nationality Act (8 U.S.C. 1430(b)), and surviving spouses and children who qualify for naturalization under section 319(d) of such Act; or

"(C) a deceased individual who is eligible for posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.".

(b) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Attorney General, shall promulgate rules to carry out the amendment made by subsection (a).

Deadline.
6 USC 271 note.

**SEC. 3. DEADLINE FOR PROCESSING AND ADJUDICATING NATURALIZATION APPLICATIONS FILED BY CURRENT OR FORMER MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES AND CHILDREN.**

(a) IN GENERAL.—Section 328 of the Immigration and Nationality Act (8 U.S.C. 1439) is amended by adding at the end the following:

"(g) Not later than 6 months after receiving an application for naturalization filed by a current member of the Armed Forces under subsection (a), section 329(a), or section 329A, by the spouse of such member under section 319(b), or by a surviving spouse or child under section 319(d), United States Citizenship and Immigration Services shall—

"(1) process and adjudicate the application, including completing all required background checks to the satisfaction of the Secretary of Homeland Security; or

"(2) provide the applicant with—

"(A) an explanation for its inability to meet the processing and adjudication deadline under this subsection; and

"(B) an estimate of the date by which the application will be processed and adjudicated.

Reports.

"(h) The Director of United States Citizenship and Immigration Services shall submit an annual report to the Subcommittee on Immigration, Border Security, and Refugees and the Subcommittee on Homeland Security of the Senate and the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law and the Subcommittee on Homeland Security of the House of Representatives that identifies every application filed under subsection (a), subsection (b) or (d) of section 319, section 329(a), or section 329A that is not processed and adjudicated within 1 year after it was filed due to delays in conducting required background checks.".

(b) GAO REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit a report to Congress that contains the results of a study regarding the average length of time taken by United States Citizenship and Immigration Services to process and adjudicate applications for naturalization filed by members of the Armed Forces, deceased members of the Armed Forces, and their spouses and children.

**SEC. 4. SUNSET PROVISION.**

6 USC 271 and note; 8 USC 1101 note, 1439.

This Act and the amendments made by this Act are repealed on the date that is 5 years after the date of the enactment of this Act.

Approved October 9, 2008.

LEGISLATIVE HISTORY—S. 2840:

SENATE REPORTS: No. 110–440 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 24, considered and passed Senate.
Sept. 27, 28, considered and passed House.

# Public Law 110–383
# 110th Congress

## An Act

To transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes.

Oct. 10, 2008
[H.R. 2963]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Pechanga Band of Luiseno Mission Indians Land Transfer Act of 2007.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Pechanga Band of Luiseno Mission Indians Land Transfer Act of 2007".

**SEC. 2. TRANSFER OF LAND IN TRUST FOR PECHANGA BAND OF LUISENO MISSION INDIANS.**

(a) TRANSFER AND ADMINISTRATION.—

Effective date.

(1) TRANSFER.—Effective on the date of the enactment of this Act and subject to valid existing rights, all right, title, and interest of the United States in and to the Federal lands described in subsection (b) (including all improvements thereon, appurtenances thereto, and rights to all minerals thereon or therein, including oil and gas, water, and related resources) shall be held by the United States in trust for the Pechanga Band of Luiseno Mission Indians, a federally recognized Indian tribe. Such transfer shall not include the 12.82 acres of lands more or less, including the facilities, improvements, and appurtenances associated with the existing 230 kV transmission line in San Diego County and its 300 foot corridor, more particularly described as a portion of sec. 6, T. 9 S., R. 2 W., San Bernardino Base and Meridian, which shall be sold by the Bureau of Land Management for fair market value to San Diego Gas & Electric Company not later than 30 days after the completion of the cadastral survey described in subsection (c) and the appraisal described in subsection (d).

Deadline.

(2) ADMINISTRATION.—The land transferred under paragraph (1) shall be part of the Pechanga Indian Reservation and administered in accordance with—

(A) the laws and regulations generally applicable to property held in trust by the United States for an Indian tribe; and

(B) a memorandum of understanding entered into between the Pechanga Band of Luiseno Mission Indians the Bureau of Land Management, and the United States Fish and Wildlife Service on November 11, 2005, which shall remain in effect until the date on which the Western

Riverside County Multiple Species Habitat Conservation Plan expires.

(3) NOTIFICATION.—At least 45 days before terminating the memorandum of understanding entered into under paragraph (2)(B), the Director of the Bureau of Land Management, the Director of the United States Fish and Wildlife Service, or the Pechanga Band of Luiseno Mission Indians, as applicable, shall submit notice of the termination to— Deadline.

(A) the Committee on Natural Resources of the House of Representatives;

(B) the Committee on Indian Affairs of the Senate;

(C) the Assistant Secretary for Indian Affairs; and

(D) the members of Congress representing the area subject to the memorandum of understanding.

(4) TERMINATION OR VIOLATION OF THE MEMORANDUM OF UNDERSTANDING.—The Director of the Bureau of Land Management and the Pechanga Band of Luiseno Mission Indians shall submit to Congress notice of the termination or a violation of the memorandum of understanding entered into under paragraph (2)(B) unless the purpose for the termination or violation is the expiration or cancellation of the Western Riverside County Multiple Species Habitat Conservation Plan. Notification.

(b) DESCRIPTION OF LAND.—The lands referred to in subsection (a) consist of approximately 1,178 acres in Riverside County, California, and San Diego County, California, as referenced on the map titled, "H.R. 28, the Pechanga Land Transfer Act" and dated May 2, 2007, 2007, which, before the transfer under such subsection, were administered by the Bureau of Land Management and are more particularly described as follows:

(1) Sections 24, 29, 31, and 32 of township 8 south, range 2 west, San Bernardino base and meridian.

(2) Section 6 of township 9 south, range 2 west, lots 2, 3, 5 and 6, San Bernardino Base and Meridian.

(3) Mineral Survey 3540, section 22 of township 5 south, range 4 west, San Bernardino base and meridian.

(c) SURVEY.—Not later than 180 days after the date of the enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall complete a survey of the lands transferred and to be sold under subsection (a) for the purpose of establishing the boundaries of the lands. Deadline.

(d) CONVEYANCE OF UTILITY CORRIDOR.—

(1) IN GENERAL.—The Secretary shall convey to the San Diego Gas & Electric Company all right, title, and interest of the United States in and to the utility corridor upon—

(A) the completion of the survey required under subsection (c);

(B) the receipt by the Secretary of all rents and other fees that may be due to the United States for use of the utility corridor, if any; and

(C) the receipt of payment by United States from the San Diego Gas & Electric Company of consideration in an amount equal to the fair market value of the utility corridor, as determined by an appraisal conducted under paragraph (2).

(2) APPRAISAL.—

(A) IN GENERAL.—Not later than 90 days after the date on which the survey of the utility corridor is completed Deadline.

under subsection (c), the Secretary shall complete an appraisal of the utility corridor.

(B) APPLICABLE LAW.—The appraisal under subparagraph (A) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

(3) COSTS.—The San Diego Gas & Electric Company shall pay the costs of carrying out the conveyance of the utility corridor under paragraph (1), including any associated survey and appraisal costs.

(4) DISPOSITION OF PROCEEDS.—The Secretary shall deposit any amounts received under paragraph (1)(C) of this section in the Federal Land Disposal Account established under section 206(a) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(a)).

(e) MAP ON FILE.—The map referred to in subsection (b) shall be on file in the appropriate offices of the Bureau of Land Management.

(f) LEGAL DESCRIPTIONS.—

Federal Register, publication.

(1) PUBLICATION.—On approval of the survey completed under subsection (c) by the duly elected tribal council of the Pechanga Band of Luiseno Mission Indians, the Secretary of the Interior shall publish in the Federal Register—

(A) a legal description of the boundary lines; and

(B) legal description of the lands transferred under subsection (a).

Effective date.

(2) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1), such legal descriptions shall be the official legal descriptions of the boundary lines and the lands transferred under subsection (a).

(g) RULES OF CONSTRUCTION.—Nothing in this Act shall—

(1) enlarge, impair, or otherwise affect any right or claim of the Pechanga Band of Luiseno Mission Indians to any land or interest in land that is in existence before the date of the enactment of this Act;

(2) affect any water right of the Pechanga Band of Luiseno Mission Indians in existence before the date of the enactment of this Act; or

(3) terminate any right-of-way or right-of-use issued, granted, or permitted before the date of enactment of this Act.

(h) RESTRICTED USE OF TRANSFERRED LANDS.—

(1) IN GENERAL.—The lands transferred under subsection (a) may be used only as open space and for the protection, preservation, and maintenance of the archaeological, cultural, and wildlife resources thereon.

(2) NO ROADS.—There shall be no roads other than for maintenance purposes constructed on the lands transferred under subsection (a).

(3) DEVELOPMENT PROHIBITED.—

(A) IN GENERAL.—There shall be no development of infrastructure or buildings on the land transferred under subsection (a).

(B) OPEN SPACE.—The land transferred under subsection (a) shall be—

(i) maintained as open space; and

(ii) used only for—

(I) purposes consistent with the maintenance of the land as open space; and

(II) the protection, preservation, and maintenance of the archaeological, cultural, and wildlife resources on the land transferred.

(C) EFFECT.—Nothing in this paragraph prohibits the construction or maintenance of utilities or structures that are—

(i) consistent with the maintenance of the land transferred under subsection (a) as open space; and

(ii) constructed for the protection, preservation, and maintenance of the archaeological, cultural, and wildlife resources on the land transferred.

(4) GAMING PROHIBITED.—The Pechanga Band of Luiseno Mission Indians may not conduct, on any land acquired by the Pechanga Band of Luiseno Mission Indians pursuant to this Act, gaming activities or activities conducted in conjunction with the operation of a casino—

(A) as a matter of claimed inherent authority; or

(B) under any Federal law (including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) (including any regulations promulgated by the Secretary or the National Indian Gaming Commission under that Act)).

Approved October 10, 2008.

LEGISLATIVE HISTORY—H.R. 2963:

SENATE REPORTS: No. 110–503 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 153 (2007): July 30, considered and passed House.
Vol. 154 (2008): Sept. 26, considered and passed Senate, amended.
Sept. 29, House concurred in Senate amendments.

Public Law 110–384
110th Congress

# An Act

Oct. 10, 2008
[H.R. 3480]

To direct the United States Sentencing Commission to assure appropriate punishment enhancements for those involved in receiving stolen property where that property consists of grave markers of veterans, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Let Our Veterans Rest in Peace Act of 2008.
28 USC 994 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Let Our Veterans Rest in Peace Act of 2008".

**SEC. 2. FINDINGS AND DECLARATION.**

The Congress finds and declares that—

(1) every cemetery should do all it can to protect each grave marker, headstone, monument, or other object, intended to permanently mark a grave;

(2) every citizen of the United States should be watchful and mindful of desecrations of any gravesite and report any such suspected behavior to local, State, or Federal law enforcement authorities; and

(3) all citizens, including veterans, have earned the right to rest in peace.

**SEC. 3. DIRECTION TO THE SENTENCING COMMISSION.**

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements to ensure the guidelines and policy statements provide adequate sentencing enhancements for any offense involving the desecration, theft, or trafficking in, a grave marker, headstone, monument, or other object, intended to permanently mark a veteran's grave.

(b) COMMISSION DUTIES.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentences, guidelines, and policy statements relating to offenders convicted of these offenses are appropriately severe and reasonably consistent with other relevant directives and other Federal sentencing guidelines and policy statements;

(2) make any necessary conforming changes to the Federal sentencing guidelines; and

(3) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

Approved October 10, 2008.

LEGISLATIVE HISTORY—H.R. 3480:

HOUSE REPORTS: No. 110–647 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
May 19, 21, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 110–385
110th Congress

An Act

Oct. 10, 2008
[S. 1492]

To improve the quality of Federal and State data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Broadband Data Improvement Act.

# TITLE I—BROADBAND DATA IMPROVEMENT

47 USC 1301 note.

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Broadband Data Improvement Act".

47 USC 1301.

**SEC. 102 FINDINGS.**

The Congress finds the following:

(1) The deployment and adoption of broadband technology has resulted in enhanced economic development and public safety for communities across the Nation, improved health care and educational opportunities, and a better quality of life for all Americans.

(2) Continued progress in the deployment and adoption of broadband technology is vital to ensuring that our Nation remains competitive and continues to create business and job growth.

(3) Improving Federal data on the deployment and adoption of broadband service will assist in the development of broadband technology across all regions of the Nation.

(4) The Federal Government should also recognize and encourage complementary State efforts to improve the quality and usefulness of broadband data and should encourage and support the partnership of the public and private sectors in the continued growth of broadband services and information technology for the residents and businesses of the Nation.

47 USC 1303.

**SEC. 103 IMPROVING FEDERAL DATA ON BROADBAND.**

(a) IMPROVING SECTION 706 INQUIRY.—Section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 note) is amended—

(1) by striking "regularly" in subsection (b) and inserting "annually";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

Lists.

"(c) DEMOGRAPHIC INFORMATION FOR UNSERVED AREAS.—As part of the inquiry required by subsection (b), the Commission

shall compile a list of geographical areas that are not served by any provider of advanced telecommunications capability (as defined by section 706(c)(1) of the Telecommunications Act of 1996 (47 U.S.C. 157 note)) and to the extent that data from the Census Bureau is available, determine, for each such unserved area—

"(1) the population;

"(2) the population density; and

"(3) the average per capita income.".

(b) INTERNATIONAL COMPARISON.—

(1) IN GENERAL.—As part of the assessment and report required by section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 note), the Federal Communications Commission shall include information comparing the extent of broadband service capability (including data transmission speeds and price for broadband service capability) in a total of 75 communities in at least 25 countries abroad for each of the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers.

(2) CONTENTS.—The Commission shall choose communities for the comparison under this subsection in a manner that will offer, to the extent possible, communities of a population size, population density, topography, and demographic profile that are comparable to the population size, population density, topography, and demographic profile of various communities within the United States. The Commission shall include in the comparison under this subsection—

(A) a geographically diverse selection of countries; and

(B) communities including the capital cities of such countries.

(3) SIMILARITIES AND DIFFERENCES.—The Commission shall identify relevant similarities and differences in each community, including their market structures, the number of competitors, the number of facilities-based providers, the types of technologies deployed by such providers, the applications and services those technologies enable, the regulatory model under which broadband service capability is provided, the types of applications and services used, business and residential use of such services, and other media available to consumers.

(c) CONSUMER SURVEY OF BROADBAND SERVICE CAPABILITY.—

(1) IN GENERAL.—For the purpose of evaluating, on a statistically significant basis, the national characteristics of the use of broadband service capability, the Commission shall conduct and make public periodic surveys of consumers in urban, suburban, and rural areas in the large business, small business, and residential consumer markets to determine— Public information.

(A) the types of technology used to provide the broadband service capability to which consumers subscribe;

(B) the amounts consumers pay per month for such capability;

(C) the actual data transmission speeds of such capability;

(D) the types of applications and services consumers most frequently use in conjunction with such capability;

(E) for consumers who have declined to subscribe to broadband service capability, the reasons given by such consumers for declining such capability;

(F) other sources of broadband service capability which consumers regularly use or on which they rely; and

(G) any other information the Commission deems appropriate for such purpose.

(2) PUBLIC AVAILABILITY.—The Commission shall make publicly available the results of surveys conducted under this subsection at least once per year.

(d) IMPROVING CENSUS DATA ON BROADBAND.—The Secretary of Commerce, in consultation with the Federal Communications Commission, shall expand the American Community Survey conducted by the Bureau of the Census to elicit information for residential households, including those located on native lands, to determine whether persons at such households own or use a computer at that address, whether persons at that address subscribe to Internet service and, if so, whether such persons subscribe to dial-up or broadband Internet service at that address.

(e) PROPRIETARY INFORMATION.—Nothing in this title shall reduce or remove any obligation the Commission has to protect proprietary information, nor shall this title be construed to compel the Commission to make publicly available any proprietary information.

**SEC. 104. STUDY ON ADDITIONAL BROADBAND METRICS AND STANDARDS.**

(a) IN GENERAL.—The Comptroller General shall conduct a study to consider and evaluate additional broadband metrics or standards that may be used by industry and the Federal Government to provide users with more accurate information about the cost and capability of their broadband connection, and to better compare the deployment and penetration of broadband in the United States with other countries. At a minimum, such study shall consider potential standards or metrics that may be used—

(1) to calculate the average price per megabit per second of broadband offerings;

(2) to reflect the average actual speed of broadband offerings compared to advertised potential speeds and to consider factors affecting speed that may be outside the control of a broadband provider;

(3) to compare, using comparable metrics and standards, the availability and quality of broadband offerings in the United States with the availability and quality of broadband offerings in other industrialized nations, including countries that are members of the Organization for Economic Cooperation and Development; and

(4) to distinguish between complementary and substitutable broadband offerings in evaluating deployment and penetration.

Recommendations.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the results of the study, with recommendations for how industry and the Federal Communications Commission can use such metrics and comparisons to improve the quality of broadband data and to better evaluate the deployment and penetration of comparable broadband service at comparable rates across all regions of the Nation.

**SEC. 105. STUDY ON THE IMPACT OF BROADBAND SPEED AND PRICE ON SMALL BUSINESSES.**

(a) IN GENERAL.—Subject to appropriations, the Small Business Administration Office of Advocacy shall conduct a study evaluating the impact of broadband speed and price on small businesses.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Office shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Small Business and Entrepreneurship, the House of Representatives Committee on Energy and Commerce, and the House of Representatives Committee on Small Business on the results of the study, including— Survey.

(1) a survey of broadband speeds available to small businesses;

(2) a survey of the cost of broadband speeds available to small businesses;

(3) a survey of the type of broadband technology used by small businesses; and

(4) any policy recommendations that may improve small businesses access to comparable broadband services at comparable rates in all regions of the Nation.

**SEC. 106. ENCOURAGING STATE INITIATIVES TO IMPROVE BROADBAND.** 47 USC 1304.

(a) PURPOSES.—The purposes of any grant under subsection (b) are—

(1) to ensure that all citizens and businesses in a State have access to affordable and reliable broadband service;

(2) to achieve improved technology literacy, increased computer ownership, and broadband use among such citizens and businesses;

(3) to establish and empower local grassroots technology teams in each State to plan for improved technology use across multiple community sectors; and

(4) to establish and sustain an environment ripe for broadband services and information technology investment.

(b) ESTABLISHMENT OF STATE BROADBAND DATA AND DEVELOPMENT GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary of Commerce shall award grants, taking into account the results of the peer review process under subsection (d), to eligible entities for the development and implementation of statewide initiatives to identify and track the availability and adoption of broadband services within each State.

(2) COMPETITIVE BASIS.—Any grant under subsection (b) shall be awarded on a competitive basis.

(c) ELIGIBILITY.—To be eligible to receive a grant under subsection (b), an eligible entity shall—

(1) submit an application to the Secretary of Commerce, at such time, in such manner, and containing such information as the Secretary may require;

(2) contribute matching non-Federal funds in an amount equal to not less than 20 percent of the total amount of the grant; and

(3) agree to comply with confidentiality requirements in subsection (h)(2) of this section.

(d) PEER REVIEW; NONDISCLOSURE.—

Regulations.

(1) IN GENERAL.—The Secretary shall by regulation require appropriate technical and scientific peer review of applications made for grants under this section.

(2) REVIEW PROCEDURES.—The regulations required under paragraph (1) shall require that any technical and scientific peer review group—

(A) be provided a written description of the grant to be reviewed;

(B) provide the results of any review by such group to the Secretary of Commerce; and

Certification.

(C) certify that such group will enter into voluntary nondisclosure agreements as necessary to prevent the unauthorized disclosure of confidential and proprietary information provided by broadband service providers in connection with projects funded by any such grant.

(e) USE OF FUNDS.—A grant awarded to an eligible entity under subsection (b) shall be used—

(1) to provide a baseline assessment of broadband service deployment in each State;

(2) to identify and track—

(A) areas in each State that have low levels of broadband service deployment;

(B) the rate at which residential and business users adopt broadband service and other related information technology services; and

(C) possible suppliers of such services;

(3) to identify barriers to the adoption by individuals and businesses of broadband service and related information technology services, including whether or not—

(A) the demand for such services is absent; and

(B) the supply for such services is capable of meeting the demand for such services;

(4) to identify the speeds of broadband connections made available to individuals and businesses within the State, and, at a minimum, to rely on the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers, to promote greater consistency of data among the States;

(5) to create and facilitate in each county or designated region in a State a local technology planning team—

(A) with members representing a cross section of the community, including representatives of business, telecommunications labor organizations, K–12 education, health care, libraries, higher education, community-based organizations, local government, tourism, parks and recreation, and agriculture; and

(B) which shall—

(i) benchmark technology use across relevant community sectors;

(ii) set goals for improved technology use within each sector; and

Plans. Recommendations.

(iii) develop a tactical business plan for achieving its goals, with specific recommendations for online application development and demand creation;

(6) to work collaboratively with broadband service providers and information technology companies to encourage deployment and use, especially in unserved areas and areas in which

broadband penetration is significantly below the national average, through the use of local demand aggregation, mapping analysis, and the creation of market intelligence to improve the business case for providers to deploy;

(7) to establish programs to improve computer ownership and Internet access for unserved areas and areas in which broadband penetration is significantly below the national average;

(8) to collect and analyze detailed market data concerning the use and demand for broadband service and related information technology services;

(9) to facilitate information exchange regarding the use and demand for broadband services between public and private sectors; and

(10) to create within each State a geographic inventory map of broadband service, including the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers, which shall—

(A) identify gaps in such service through a method of geographic information system mapping of service availability based on the geographic boundaries of where service is available or unavailable among residential or business customers; and

(B) provide a baseline assessment of statewide broadband deployment in terms of households with high-speed availability.

(f) PARTICIPATION LIMIT.—For each State, an eligible entity may not receive a new grant under this section to fund the activities described in subsection (d) within such State if such organization obtained prior grant awards under this section to fund the same activities in that State in each of the previous 4 consecutive years.

(g) REPORTING; BROADBAND INVENTORY MAP.—The Secretary of Commerce shall—

(1) require each recipient of a grant under subsection (b) to submit a report on the use of the funds provided by the grant; and

(2) create a web page on the Department of Commerce website that aggregates relevant information made available to the public by grant recipients, including, where appropriate, hypertext links to any geographic inventory maps created by grant recipients under subsection (e)(10). Web site.

(h) ACCESS TO AGGREGATE DATA.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall provide eligible entities access, in electronic form, to aggregate data collected by the Commission based on the Form 477 submissions of broadband service providers.

(2) LIMITATION.—Notwithstanding any provision of Federal or State law to the contrary, an eligible entity shall treat any matter that is a trade secret, commercial or financial information, or privileged or confidential, as a record not subject to public disclosure except as otherwise mutually agreed to by the broadband service provider and the eligible entity. This paragraph applies only to information submitted by the Commission or a broadband provider to carry out the provisions of this title and shall not otherwise limit or affect the rules Applicability.

governing public disclosure of information collected by any Federal or State entity under any other Federal or State law or regulation.

(i) DEFINITIONS.—In this section:

(1) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) an entity that is either—

(i) an agency or instrumentality of a State, or a municipality or other subdivision (or agency or instrumentality of a municipality or other subdivision) of a State;

(ii) a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and that is exempt from taxation under section 501(a) of such Code; or

(iii) an independent agency or commission in which an office of a State is a member on behalf of the State; and

(B) is the single eligible entity in the State that has been designated by the State to receive a grant under this section.

(j) NO REGULATORY AUTHORITY.—Nothing in this section shall be construed as giving any public or private entity established or affected by this title any regulatory jurisdiction or oversight authority over providers of broadband services or information technology.

# TITLE II—PROTECTING CHILDREN

Protecting Children in the 21st Century Act.

15 USC 6551 note.

**SEC. 201. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the "Protecting Children in the 21st Century Act".

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

Sec. 201. Short title; table of contents.

SUBTITLE A—PROMOTING A SAFE INTERNET FOR CHILDREN

Sec. 211. Internet safety.
Sec. 212. Public awareness campaign.
Sec. 213. Annual reports.
Sec. 214. Online safety and technology working group.
Sec. 215. Promoting online safety in schools.
Sec. 216. Definitions.

SUBTITLE B—ENHANCING CHILD PORNOGRAPHY ENFORCEMENT

Sec. 221. Child pornography prevention; forfeitures related to child pornography violations.

# SUBTITLE A—PROMOTING A SAFE INTERNET FOR CHILDREN

15 USC 6551.

**SEC. 211. INTERNET SAFETY.**

For the purposes of this title, the issue of Internet safety includes issues regarding the use of the Internet in a manner that promotes safe online activity for children, protects children

from cybercrimes, including crimes by online predators, and helps parents shield their children from material that is inappropriate for minors.

**SEC. 212. PUBLIC AWARENESS CAMPAIGN.** 15 USC 6552.

The Federal Trade Commission shall carry out a nationwide program to increase public awareness and provide education regarding strategies to promote the safe use of the Internet by children. The program shall utilize existing resources and efforts of the Federal Government, State and local governments, nonprofit organizations, private technology and financial companies, Internet service providers, World Wide Web-based resources, and other appropriate entities, that includes—

(1) identifying, promoting, and encouraging best practices for Internet safety;

(2) establishing and carrying out a national outreach and education campaign regarding Internet safety utilizing various media and Internet-based resources;

(3) facilitating access to, and the exchange of, information regarding Internet safety to promote up-to-date knowledge regarding current issues; and

(4) facilitating access to Internet safety education and public awareness efforts the Commission considers appropriate by States, units of local government, schools, police departments, nonprofit organizations, and other appropriate entities.

**SEC. 213. ANNUAL REPORTS.** 15 USC 6553.

The Commission shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives not later than March 31 of each year that describes the activities carried out under section 103 by the Commission during the preceding calendar year.

**SEC. 214. ONLINE SAFETY AND TECHNOLOGY WORKING GROUP.** 15 USC 6554.

(a) ESTABLISHMENT.—Within 90 days after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information shall establish an Online Safety and Technology working group comprised of representatives of relevant sectors of the business community, public interest groups, and other appropriate groups and Federal agencies to review and evaluate— Deadline.

(1) the status of industry efforts to promote online safety through educational efforts, parental control technology, blocking and filtering software, age-appropriate labels for content or other technologies or initiatives designed to promote a safe online environment for children;

(2) the status of industry efforts to promote online safety among providers of electronic communications services and remote computing services by reporting apparent child pornography under section 13032 of title 42, United States Code, including any obstacles to such reporting;

(3) the practices of electronic communications service providers and remote computing service providers related to record retention in connection with crimes against children; and

(4) the development of technologies to help parents shield their children from inappropriate material on the Internet.

(b) REPORT.—Within 1 year after the working group is first convened, it shall submit a report to the Assistant Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives that—

(1) describes in detail its findings, including any information related to the effectiveness of such strategies and technologies and any information about the prevalence within industry of educational campaigns, parental control technologies, blocking and filtering software, labeling, or other technologies to assist parents; and

Recommendations.

(2) includes recommendations as to what types of incentives could be used or developed to increase the effectiveness and implementation of such strategies and technologies.

(c) FACA NOT TO APPLY TO WORKING GROUP.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group.

**SEC. 215. PROMOTING ONLINE SAFETY IN SCHOOLS.**

Section 254(h)(5)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(5)(b)) is amended—

(1) by striking "and" after the semicolon in clause (i);

(2) by striking "minors." in clause (ii) and inserting "minors; and"; and

(3) by adding at the end the following:

"(iii) as part of its Internet safety policy is educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.".

15 USC 6555.

**SEC. 216. DEFINITIONS.**

In this title:

(1) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(2) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor successor protocols to such protocol, to communicate information of all kinds by wire or radio.

# SUBTITLE B—ENHANCING CHILD PORNOGRAPHY ENFORCEMENT

**SEC. 221. CHILD PORNOGRAPHY PREVENTION; FORFEITURES RELATED TO CHILD PORNOGRAPHY VIOLATIONS.**

(a) IN GENERAL.—Section 503(b)(1) of the Communications Act of 1934 (47 U.S.C. 503(b)(1)) is amended by striking "or 1464" in subparagraph (D) and inserting "1464, or 2252".

Approved October 10, 2008.

LEGISLATIVE HISTORY—S. 1492:

SENATE REPORTS: No. 110–204 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 26, considered and passed Senate.
Sept. 29, considered and passed House, amended.
Sept. 30, Senate concurred in House amendments.

# Public Law 110–386
# 110th Congress

## An Act

Oct. 10, 2008
[S. 1582]

To reauthorize and amend the Hydrographic Services Improvement Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Hydrographic Services Improvement Act Amendments of 2008.
33 USC 851 note.

**SECTION. 1. SHORT TITLE.**

This Act may be cited as the "Hydrographic Services Improvement Act Amendments of 2008".

**SEC. 2. DEFINITIONS.**

Section 303 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892) is amended by striking paragraphs (3), (4), and (5) and inserting the following:

"(3) HYDROGRAPHIC DATA.—The term 'hydrographic data' means information that—

"(A) is acquired through—

"(i) hydrographic, bathymetric, photogrammetric, lidar, radar, remote sensing, or shoreline and other ocean- and coastal-related surveying;

"(ii) geodetic, geospatial, or geomagnetic measurements;

"(iii) tide, water level, and current observations; or

"(iv) other methods; and

"(B) is used in providing hydrographic services.

"(4) HYDROGRAPHIC SERVICES.—The term 'hydrographic services' means—

"(A) the management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, shoreline, geodetic, geospatial, geomagnetic, and tide, water level, and current information, including the production of nautical charts, nautical information databases, and other products derived from hydrographic data;

"(B) the development of nautical information systems; and

"(C) related activities.

"(5) COAST AND GEODETIC SURVEY ACT.—The term 'Coast and Geodetic Survey Act' means the Act entitled 'An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes', approved August 6, 1947 (33 U.S.C. 883a et seq.).".

**SEC. 3. FUNCTIONS OF THE ADMINISTRATOR.**

Section 303 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892a) is amended—

(1) by striking "the Act of 1947," in subsection (a) and inserting "the Coast and Geodetic Survey Act, promote safe, efficient and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act,";

(2) by striking "data;" in subsection (a)(1) and inserting "data and provide hydrographic services;" and

(3) by striking subsection (b) and inserting the following:

"(b) AUTHORITIES.—To fulfill the data gathering and dissemination duties of the Administration under the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act, subject to the availability of appropriations, the Administrator—

"(1) may procure, lease, evaluate, test, develop, and operate vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services;

"(2) shall, subject to the availability of appropriations, design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency; and

"(3) where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, may acquire hydrographic data and provide hydrographic services to support the conservation and management of coastal and ocean resources;

"(4) where appropriate, may acquire hydrographic data and provide hydrographic services to save and protect life and property and support the resumption of commerce in response to emergencies, natural and man-made disasters, and homeland security and maritime domain awareness needs, including obtaining mission assignments (as defined in section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741));

"(5) may create, support, and maintain such joint centers with other Federal agencies and other entities as the Administrator deems appropriate or necessary to carry out the purposes of this Act; and

"(6) notwithstanding the existence of such joint centers, shall award contracts for the acquisition of hydrographic data in accordance with subchapter VI of chapter 10 of title 40, United States Code.".

**SEC. 4. HYDROGRAPHIC SERVICES REVIEW PANEL.**

Establishment.

Section 305(c)(1)(A) of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892c(c)(1)(A)) is amended to read as follows: "(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Co-directors of the Center for Coastal and Ocean Mapping/Joint Hydrographic Center and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in 1 or more of the disciplines

and fields relating to hydrographic data and hydrographic services, marine transportation, port administration, vessel pilotage, coastal and fishery management, and other disciplines as determined appropriate by the Administrator.".

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

Section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d) is amended to read as follows:

**"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to the Administrator the following:

"(1) To carry out nautical mapping and charting functions under sections 304 and 305, except for conducting hydrographic surveys—

"(A) $55,000,000 for fiscal year 2009;
"(B) $56,000,000 for fiscal year 2010;
"(C) $57,000,000 for fiscal year 2011; and
"(D) $58,000,000 for fiscal year 2012.

"(2) To contract for hydrographic surveys under section 304(b)(1), including the leasing or time chartering of vessels—

"(A) $32,130,000 for fiscal year 2009;
"(B) $32,760,000 for fiscal year 2010;
"(C) $33,390,000 for fiscal year 2011; and
"(D) $34,020,000 for fiscal year 2012.

"(3) To operate hydrographic survey vessels owned by the United States and operated by the Administration—

"(A) $25,900,000 for fiscal year 2009;
"(B) $26,400,000 for fiscal year 2010;
"(C) $26,900,000 for fiscal year 2011; and
"(D) $27,400,000 for fiscal year 2012.

"(4) To carry out geodetic functions under this title—

"(A) $32,640,000 for fiscal year 2009;
"(B) $33,280,000 for fiscal year 2010;
"(C) $33,920,000 for fiscal year 2011; and
"(D) $34,560,000 for fiscal year 2012.

"(5) To carry out tide and current measurement functions under this title—

"(A) $27,000,000 for fiscal year 2009;
"(B) $27,500,000 for fiscal year 2010;
"(C) $28,000,000 for fiscal year 2011; and
"(D) $28,500,000 for fiscal year 2012.

"(6) To acquire a replacement hydrographic survey vessel capable of staying at sea continuously for at least 30 days $75,000,000.".

**SEC. 6. AUTHORIZED NOAA CORPS STRENGTH.**

Section 215 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3005) is amended to read as follows:

**"SEC. 215. NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.**

Effective date.

"Effective October 1, 2009, the total number of authorized commissioned officers on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration shall be increased from 321 to 379 if—

"(1) the Secretary has submitted to the Congress—

"(A) the Administration's ship recapitalization plan for fiscal years 2010 through 2024;

"(B) the Administration's aircraft remodernization plan; and

"(C) supporting workforce management plans;

"(2) appropriated funding is available; and

"(3) the Secretary has justified organizational needs for the commissioned corps for each such fiscal year."

Approved October 10, 2008.

LEGISLATIVE HISTORY—S. 1582:

SENATE REPORTS: No. 110–218 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 26, considered and passed Senate.
Sept. 29, considered and passed House.

# Public Law 110–387
# 110th Congress

## An Act

Oct. 10, 2008
[S. 2162]

To improve the treatment and services provided by the Department of Veterans Affairs to veterans with post-traumatic stress disorder and substance use disorders, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Veterans' Mental Health and Other Care Improvements Act of 2008.
38 USC 101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Mental Health and Other Care Improvements Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—SUBSTANCE USE DISORDERS AND MENTAL HEALTH CARE

Sec. 101. Tribute to Justin Bailey.
Sec. 102. Findings on substance use disorders and mental health.
Sec. 103. Expansion of substance use disorder treatment services provided by Department of Veterans Affairs.
Sec. 104. Care for veterans with mental health and substance use disorders.
Sec. 105. Pilot program for Internet-based substance use disorder treatment for veterans of Operation Iraqi Freedom and Operation Enduring Freedom.
Sec. 106. Report on residential mental health care facilities of the Veterans Health Administration.
Sec. 107. Pilot program on peer outreach and support for veterans and use of community mental health centers and Indian Health Service facilities.

TITLE II—MENTAL HEALTH RESEARCH

Sec. 201. Research program on comorbid post-traumatic stress disorder and substance use disorders.
Sec. 202. Extension of authorization for Special Committee on Post-Traumatic Stress Disorder.

TITLE III—ASSISTANCE FOR FAMILIES OF VETERANS

Sec. 301. Clarification of authority of Secretary of Veterans Affairs to provide mental health services to families of veterans.
Sec. 302. Pilot program on provision of readjustment and transition assistance to veterans and their families in cooperation with Vet Centers.

TITLE IV—HEALTH CARE MATTERS

Sec. 401. Veterans beneficiary travel program.
Sec. 402. Mandatory reimbursement of veterans receiving emergency treatment in non-Department of Veterans Affairs facilities until transfer to Department facilities.
Sec. 403. Pilot program of enhanced contract care authority for health care needs of veterans in highly rural areas.
Sec. 404. Epilepsy centers of excellence.
Sec. 405. Establishment of qualifications for peer specialist appointees.
Sec. 406. Establishment of consolidated patient accounting centers.
Sec. 407. Repeal of limitation on authority to conduct widespread HIV testing program.

Sec. 408. Provision of comprehensive health care by Secretary of Veterans Affairs to children of Vietnam veterans born with Spina Bifida.
Sec. 409. Exemption from copayment requirement for veterans receiving hospice care.

TITLE V—PAIN CARE

Sec. 501. Comprehensive policy on pain management.

TITLE VI—HOMELESS VETERANS MATTERS

Sec. 601. Increased authorization of appropriations for comprehensive service programs.
Sec. 602. Expansion and extension of authority for program of referral and counseling services for at-risk veterans transitioning from certain institutions.
Sec. 603. Permanent authority for domiciliary services for homeless veterans and enhancement of capacity of domiciliary care programs for female veterans.
Sec. 604. Financial assistance for supportive services for very low-income veteran families in permanent housing.

TITLE VII—AUTHORIZATION OF MEDICAL FACILITY PROJECTS AND MAJOR MEDICAL FACILITY LEASES

Sec. 701. Authorization for fiscal year 2009 major medical facility projects.
Sec. 702. Modification of authorization amounts for certain major medical facility construction projects previously authorized.
Sec. 703. Authorization of fiscal year 2009 major medical facility leases.
Sec. 704. Authorization of appropriations.
Sec. 705. Increase in threshold for major medical facility leases requiring Congressional approval.
Sec. 706. Conveyance of certain non-Federal land by City of Aurora, Colorado, to Secretary of Veterans Affairs for construction of veterans medical facility.
Sec. 707. Report on facilities administration.
Sec. 708. Annual report on outpatient clinics.
Sec. 709. Name of Department of Veterans Affairs spinal cord injury center, Tampa, Florida.

TITLE VIII—EXTENSION OF CERTAIN AUTHORITIES

Sec. 801. Repeal of sunset on inclusion of noninstitutional extended care services in definition of medical services.
Sec. 802. Extension of recovery audit authority.
Sec. 803. Permanent authority for provision of hospital care, medical services, and nursing home care to veterans who participated in certain chemical and biological testing conducted by the Department of Defense.
Sec. 804. Extension of expiring collections authorities.
Sec. 805. Extension of nursing home care.
Sec. 806. Permanent authority to establish research corporations.
Sec. 807. Extension of requirement to submit annual report on the Committee on Care of Severely Chronically Mentally Ill Veterans.
Sec. 808. Permanent requirement for biannual report on Women's Advisory Committee.
Sec. 809. Extension of pilot program on improvement of caregiver assistance services.

TITLE IX—OTHER MATTERS

Sec. 901. Technical amendments.

**SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

# TITLE I—SUBSTANCE USE DISORDERS AND MENTAL HEALTH CARE

**SEC. 101. TRIBUTE TO JUSTIN BAILEY.**

This title is enacted in tribute to Justin Bailey, who, after returning to the United States from service as a member of the Armed Forces in Operation Iraqi Freedom, died in a domiciliary facility of the Department of Veterans Affairs while receiving care for post-traumatic stress disorder and a substance use disorder.

38 USC 1720A note.

**SEC. 102. FINDINGS ON SUBSTANCE USE DISORDERS AND MENTAL HEALTH.**

Congress makes the following findings:

(1) More than 1,500,000 members of the Armed Forces have been deployed in Operation Iraqi Freedom and Operation Enduring Freedom. The 2005 Department of Defense Survey of Health Related Behaviors Among Active Duty Personnel reports that 23 percent of members of the Armed Forces on active duty acknowledge a significant problem with alcohol use disorder, with similar rates of acknowledged problems with alcohol use disorder among members of the National Guard.

(2) The effects of substance use disorder are wide ranging, including significantly increased risk of suicide, exacerbation of mental and physical health disorders, breakdown of family support, and increased risk of unemployment and homelessness.

(3) While veterans suffering from mental health conditions, chronic physical illness, and polytrauma may be at increased risk for development of a substance use disorder, treatment for these veterans is complicated by the need to address adequately the physical and mental symptoms associated with these conditions through appropriate medical intervention.

(4) While the Veterans Health Administration has dramatically increased health services for veterans from 1996 through 2006, the number of veterans receiving specialized substance use disorder treatment services decreased 18 percent during that time. No comparable decrease in the national rate of substance use disorder has been observed during that time.

(5) While some facilities of the Veterans Health Administration provide exemplary substance use disorder treatment services, the availability of such treatment services throughout the health care system of the Veterans Health Administration is inconsistent.

(6) According to a 2006 report by the Government Accountability Office, the Department of Veterans Affairs significantly reduced its substance use disorder treatment and rehabilitation services between 1996 and 2006, and the Fiscal Year 2007 National Mental Health Program Monitoring System report shows that little progress has been made in restoring these services to their pre-1996 levels.

38 USC 1720A note.

**SEC. 103. EXPANSION OF SUBSTANCE USE DISORDER TREATMENT SERVICES PROVIDED BY DEPARTMENT OF VETERANS AFFAIRS.**

(a) IN GENERAL.—The Secretary of Veterans Affairs shall ensure the provision of such services and treatment to each veteran enrolled in the health care system of the Department of Veterans

Affairs who is in need of services and treatments for a substance use disorder as follows:

(1) Screening for substance use disorder in all settings, including primary care settings.

(2) Short term motivational counseling services.

(3) Marital and family counseling.

(4) Intensive outpatient or residential care services.

(5) Relapse prevention services.

(6) Ongoing aftercare and outpatient counseling services.

(7) Opiate substitution therapy services.

(8) Pharmacological treatments aimed at reducing craving for drugs and alcohol.

(9) Detoxification and stabilization services.

(10) Coordination with groups providing peer to peer counseling.

(11) Such other services as the Secretary considers appropriate.

(b) PROVISION OF SERVICES.—

(1) ALLOCATION OF RESOURCES FOR PROVISION OF SERVICES.—The Secretary shall ensure that amounts made available for care, treatment, and services provided under this section are allocated in such a manner that a full continuum of care, treatment, and services described in subsection (a) is available to veterans seeking such care, treatment, or services, without regard to the location of the residence of any such veterans.

(2) MANNER OF PROVISION.—The services and treatment described in subsection (a) may be provided to a veteran described in such subsection—

(A) at Department of Veterans Affairs medical centers or clinics;

(B) by referral to other facilities of the Department that are accessible to such veteran; or

(C) by contract or fee-for-service payments with community-based organizations for the provision of such services and treatments.

(c) ALTERNATIVES IN CASE OF SERVICES DENIED DUE TO CLINICAL NECESSITY.—If the Secretary denies the provision to a veteran of services or treatment for a substance use disorder due to clinical necessity, the Secretary shall provide the veteran such other services or treatment as are medically appropriate.

**SEC. 104. CARE FOR VETERANS WITH MENTAL HEALTH AND SUBSTANCE USE DISORDERS.**

38 USC 1720A note.

(a) IN GENERAL.—If the Secretary of Veterans Affairs provides a veteran inpatient or outpatient care for a substance use disorder and a comorbid mental health disorder, the Secretary shall ensure that treatment for such disorders is provided concurrently—

(1) through a service provided by a clinician or health professional who has training and expertise in treatment of substance use disorders and mental health disorders;

(2) by separate substance use disorder and mental health disorder treatment services when there is appropriate coordination, collaboration, and care management between such treatment services; or

(3) by a team of clinicians with appropriate expertise.

(b) TEAM OF CLINICIANS WITH APPROPRIATE EXPERTISE DEFINED.—In this section, the term "team of clinicians with appropriate expertise" means a team consisting of the following:

(1) Clinicians and health professionals with expertise in treatment of substance use disorders and mental health disorders who act in coordination and collaboration with each other.

(2) Such other professionals as the Secretary considers appropriate for the provision of treatment to veterans for substance use and mental health disorders.

38 USC 1720A note.

**SEC. 105. PILOT PROGRAM FOR INTERNET-BASED SUBSTANCE USE DISORDER TREATMENT FOR VETERANS OF OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.**

(a) FINDINGS.—Congress makes the following findings:

(1) Stigma associated with seeking treatment for mental health disorders has been demonstrated to prevent some veterans from seeking such treatment at a medical facility operated by the Department of Defense or the Department of Veterans Affairs.

(2) There is a significant incidence among veterans of post-deployment mental health problems, especially among members of a reserve component who return as veterans to civilian life.

(3) Computer-based self-guided training has been demonstrated to be an effective strategy for supplementing the care of psychological conditions.

(4) Younger veterans, especially those who served in Operation Enduring Freedom or Operation Iraqi Freedom, are comfortable with and proficient at computer-based technology.

(5) Veterans living in rural areas may find access to treatment for substance use disorder limited.

(6) Self-assessment and treatment options for substance use disorders through an Internet website may reduce stigma and provides additional access for individuals seeking care and treatment for such disorders.

Deadline.

(b) IN GENERAL.—Not later than October 1, 2009, the Secretary of Veterans Affairs shall carry out a pilot program to assess the feasibility and advisability of providing veterans who seek treatment for substance use disorders access to a computer-based self-assessment, education, and specified treatment program through a secure Internet website operated by the Secretary. Participation in the pilot program shall be available on a voluntary basis for those veterans who have served in Operation Enduring Freedom or Operation Iraqi Freedom.

(c) ELEMENTS OF PILOT PROGRAM.—

(1) IN GENERAL.—In carrying out the pilot program under this section, the Secretary shall ensure that—

(A) access to the Internet website and the programs available on the website by a veteran (or family member) does not involuntarily generate an identifiable medical record of that access by that veteran in any medical database maintained by the Department of Veterans Affairs;

(B) the Internet website is accessible from remote locations, especially rural areas; and

(C) the Internet website includes a self-assessment tool for substance use disorders, self-guided treatment and

educational materials for such disorders, and appropriate information and materials for family members of veterans.

(2) CONSIDERATION OF SIMILAR PROJECTS.—In designing the pilot program under this section, the Secretary shall consider similar pilot projects of the Department of Defense for the early diagnosis and treatment of post-traumatic stress disorder and other mental health conditions established under section 741 of the John Warner National Defense Authorization Act of Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2304).

(3) LOCATION OF PILOT PROGRAM.—The Secretary shall carry out the pilot program through those medical centers of the Department of Veterans Affairs that have established Centers for Excellence for Substance Abuse Treatment and Education or that have established a Substance Abuse Program Evaluation and Research Center.

(4) CONTRACT AUTHORITY.—The Secretary may enter into contracts with qualified entities or organizations to carry out the pilot program required under this section.

(d) DURATION OF PILOT PROGRAM.—The pilot program required by subsection (a) shall be carried out during the two-year period beginning on the date of the commencement of the pilot program.

(e) REPORT.—Not later than six months after the completion of the pilot program, the Secretary shall submit to Congress a report on the pilot program, and shall include in that report—an assessment of the feasibility and advisability of continuing or expanding the pilot program, of any cost savings or other benefits associated with the pilot program, and any other recommendations.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs $1,500,000 for each of fiscal years 2010 and 2011 to carry out the pilot program under this section.

**SEC. 106. REPORT ON RESIDENTIAL MENTAL HEALTH CARE FACILITIES OF THE VETERANS HEALTH ADMINISTRATION.**

(a) REVIEW.—

(1) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall, acting through the Inspector General of the Department of Veterans Affairs, complete a review of all residential mental health care facilities, including domiciliary facilities, of the Veterans Health Administration.

(2) ASSESSMENT.—As part of the review required by paragraph (1), the Secretary, acting through the Inspector General, shall assess the following:

(A) The availability of care in residential mental health care facilities in each Veterans Integrated Service Network (VISN).

(B) The supervision and support provided in the residential mental health care facilities of the Veterans Health Administration.

(C) The ratio of staff members at each residential mental health care facility to patients at such facility.

(D) The appropriateness of rules and procedures for the prescription and administration of medications to patients in such residential mental health care facilities.

(E) The protocols at each residential mental health care facility for handling missed appointments.

(3) RECOMMENDATIONS.—As part of the review required by paragraph (1), the Secretary, acting through the Inspector General, shall develop such recommendations as the Secretary considers appropriate for improvements to residential mental health care facilities of the Veterans Health Administration and the care provided in such facilities.

Deadline.

(b) FOLLOW-UP REVIEW.—Not later than two years after the date of the completion of the review required by subsection (a), the Secretary of Veterans Affairs shall, acting through the Inspector General of the Department of Veterans Affairs, complete a follow-up review of the facilities reviewed under subsection (a) to evaluate any improvements made or problems remaining since the review under subsection (a) was completed.

(c) REPORT.—Not later than 90 days after the completion of the review required by subsection (a), the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the findings of the Secretary with respect to such review.

38 USC 1712A note.

**SEC. 107. PILOT PROGRAM ON PEER OUTREACH AND SUPPORT FOR VETERANS AND USE OF COMMUNITY MENTAL HEALTH CENTERS AND INDIAN HEALTH SERVICE FACILITIES.**

Deadline.

(a) PILOT PROGRAM REQUIRED.—Commencing not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall carry out a pilot program to assess the feasability and advisability of providing to veterans of Operation Iraqi Freedom and Operation Enduring Freedom, and, in particular, veterans who served in such operations as a member of the National Guard or Reserve, the following:

(1) Peer outreach services.

(2) Peer support services provided by licensed providers of peer support services or veterans who have personal experience with mental illness.

(3) Readjustment counseling services described in section 1712A of title 38, United States Code.

(4) Other mental health services.

(b) PROVISION OF CERTAIN SERVICES.—In providing services described in paragraphs (3) and (4) of subsection (a) under the pilot program to veterans who reside in rural areas and do not have adequate access through the Department of Veterans Affairs to the services described in such paragraphs, the Secretary shall, acting through the Office of Mental Health Services and the Office of Rural Health, provide such services as follows:

(1) Through community mental health centers under contracts or other agreements if entered into by the Secretary of Veterans Affairs and the Secretary of Health and Human Services for the provision of such services for purposes of the pilot program.

(2) Through the Indian Health Service, or an Indian tribe or tribal organization that has entered into an agreement with the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), if a memorandum of understanding is entered into by the Secretary of Veterans Affairs and the Secretary of Health and Human Services for purposes of the pilot program.

(3) Through other appropriate entities under contracts or other agreements entered into by the Secretary of Veterans Affairs for the provision of such services for purposes of the pilot program.

(c) DURATION.—The pilot program shall be carried out during the three-year period beginning on the date of the commencement of the pilot program.

(d) PROGRAM LOCATIONS.—

(1) IN GENERAL.—The pilot program shall be carried out within areas selected by the Secretary for the purpose of the pilot program in at least three Veterans Integrated Service Networks (VISNs).

(2) RURAL GEOGRAPHIC LOCATIONS.—The locations selected shall be in rural geographic locations that, as determined by the Secretary, lack access to comprehensive mental health services through the Department of Veterans Affairs.

(3) QUALIFIED PROVIDERS.—In selecting locations for the pilot program, the Secretary shall select locations in which an adequate number of licensed mental health care providers with credentials equivalent to those of Department mental health care providers are available in Indian Health Service facilities, community mental health centers, and other entities for participation in the pilot program.

(e) PARTICIPATION IN PROGRAM.—Each community mental health center, facility of the Indian Health Service, or other entity participating in the pilot program under subsection (b) shall—

(1) provide the services described in paragraphs (3) and (4) of subsection (a) to eligible veterans, including, to the extent practicable, telehealth services that link the center or facility with Department of Veterans Affairs clinicians;

(2) use the clinical practice guidelines of the Veterans Health Administration or the Department of Defense in the provision of such services; and

(3) meet such other requirements as the Secretary shall require. Requirements.

(f) COMPLIANCE WITH DEPARTMENT PROTOCOLS.—Each community mental health center, facility of the Indian Health Service, or other entity participating in the pilot program under subsection (b) shall comply with—

(1) applicable protocols of the Department before incurring any liability on behalf of the Department for the provision of services as part of the pilot program; and

(2) access and quality standards of the Department relevant to the provision of services as part of the pilot program.

(g) PROVISION OF CLINICAL INFORMATION.—Each community mental health center, facility of the Indian Health Service, or other entity participating in the pilot program under subsection (b) shall, in a timely fashion, provide the Secretary with such clinical information on each veteran for whom such health center or facility provides mental health services under the pilot program as the Secretary shall require.

(h) TRAINING.—

(1) TRAINING OF VETERANS.—As part of the pilot program, the Secretary shall carry out a program of training for veterans described in subsection (a) to provide the services described in paragraphs (1) and (2) of such subsection.

(2) TRAINING OF CLINICIANS.—

(A) IN GENERAL.—The Secretary shall conduct a training program for clinicians of community mental health centers, Indian Health Service facilities, or other entities participating in the pilot program under subsection (b) to ensure that such clinicians can provide the services described in paragraphs (3) and (4) of subsection (a) in a manner that accounts for factors that are unique to the experiences of veterans who served on active duty in Operation Iraqi Freedom or Operation Enduring Freedom (including their combat and military training experiences).

(B) PARTICIPATION IN TRAINING.—Personnel of each community mental health center, facility of the Indian Health Service, or other entity participating in the pilot program under subsection (b) shall participate in the training program conducted pursuant to subparagraph (A).

(i) ANNUAL REPORTS.—Each community mental health center, facility of the Indian Health Service, or other entity participating in the pilot program under subsection (b) shall submit to the Secretary on an annual basis a report containing, with respect to the provision of services under subsection (b) and for the last full calendar year ending before the submission of such report—

(1) the number of—

(A) veterans served; and

(B) courses of treatment provided; and

(2) demographic information for such services, diagnoses, and courses of treatment.

(j) PROGRAM EVALUATION.—

(1) IN GENERAL.—The Secretary shall, through Department of Veterans Affairs Mental Health Services investigators and in collaboration with relevant program offices of the Department, design and implement a strategy for evaluating the pilot program.

(2) ELEMENTS.—The strategy implemented under paragraph (1) shall assess the impact that contracting with community mental health centers, the Indian Health Service, and other entities participating in the pilot program under subsection (b) has on the following:

(A) Access to mental health care by veterans in need of such care.

(B) The use of telehealth services by veterans for mental health care needs.

(C) The quality of mental health care and substance use disorder treatment services provided to veterans in need of such care and services.

(D) The coordination of mental health care and other medical services provided to veterans.

(k) DEFINITIONS.—In this section:

(1) The term "community mental health center" has the meaning given such term in section 410.2 of title 42, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

(2) The term "eligible veteran" means a veteran in need of mental health services who—

(A) is enrolled in the Department of Veterans Affairs health care system; and

(B) has received a referral from a health professional of the Veterans Health Administration to a community mental health center, a facility of the Indian Health Service, or other entity for purposes of the pilot program.

(3) The term "Indian Health Service" means the organization established by section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1661(a)).

(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

# TITLE II—MENTAL HEALTH RESEARCH

**SEC. 201. RESEARCH PROGRAM ON COMORBID POST-TRAUMATIC STRESS DISORDER AND SUBSTANCE USE DISORDERS.**

38 USC 1712A note.

(a) PROGRAM REQUIRED.—The Secretary of Veterans Affairs shall, through the Office of Research and Development, carry out a program of research into comorbid post-traumatic stress disorder (PTSD) and substance use disorder.

(b) DISCHARGE THROUGH NATIONAL CENTER FOR POSTTRAUMATIC STRESS DISORDER.—The research program required by subsection (a) shall be carried out by the National Center for Posttraumatic Stress Disorder. In carrying out the program, the Center shall—

(1) develop protocols and goals with respect to research under the program; and

(2) coordinate research, data collection, and data dissemination under the program.

(c) RESEARCH.—The program of research required by subsection (a) shall address the following:

(1) Comorbid post-traumatic stress disorder and substance use disorder.

(2) The systematic integration of treatment for post-traumatic stress disorder with treatment for substance use disorder.

(3) The development of protocols to evaluate care of veterans with comorbid post-traumatic stress disorder and substance use disorder.

(d) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Veterans Affairs for each of fiscal years 2009 through 2012, $2,000,000 to carry out this section.

(2) AVAILABILITY.—Amounts authorized to be appropriated by paragraph (1) shall be made available to the National Center on Posttraumatic Stress Disorder for the purpose specified in that paragraph.

(3) SUPPLEMENT NOT SUPPLANT.—Any amount made available to the National Center on Posttraumatic Stress Disorder for a fiscal year under paragraph (2) is in addition to any other amounts made available to the National Center on Posttraumatic Stress Disorder for such year under any other provision of law.

**SEC. 202. EXTENSION OF AUTHORIZATION FOR SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER.**

Section 110(e)(2) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note; Public Law 98–528) is amended by striking "through 2008" and inserting "through 2012".

# TITLE III—ASSISTANCE FOR FAMILIES OF VETERANS

**SEC. 301. CLARIFICATION OF AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO PROVIDE MENTAL HEALTH SERVICES TO FAMILIES OF VETERANS.**

(a) IN GENERAL.—Chapter 17 is amended—

38 USC 1701.

(1) in section 1701(5)(B)—

(A) by inserting "marriage and family counseling," after "professional counseling,"; and

(B) by striking "as may be essential to" and inserting "as the Secretary considers appropriate for"; and

(2) in section 1782—

(A) in subsection (a), by inserting "marriage and family counseling," after "professional counseling,"; and

(B) in subsection (b)—

(i) by inserting "marriage and family counseling," after "professional counseling,"; and

(ii) by striking "if—" and all that follows and inserting a period.

38 USC 1701 note.

(b) LOCATION.—Paragraph (5) of section 1701 of title 38, United States Code, shall not be construed to prevent the Secretary of Veterans Affairs from providing services described in subparagraph (B) of such paragraph to individuals described in such subparagraph in centers under section 1712A of such title (commonly referred to as "Vet Centers"), Department of Veterans Affairs medical centers, community-based outpatient clinics, or in such other facilities of the Department of Veterans Affairs as the Secretary considers necessary.

38 USC 1712A note.

**SEC. 302. PILOT PROGRAM ON PROVISION OF READJUSTMENT AND TRANSITION ASSISTANCE TO VETERANS AND THEIR FAMILIES IN COOPERATION WITH VET CENTERS.**

(a) PILOT PROGRAM.—The Secretary of Veterans Affairs shall carry out, through a non-Department of Veterans Affairs entity, a pilot program to assess the feasability and advisability of providing readjustment and transition assistance described in subsection (b) to veterans and their families in cooperation with centers under section 1712A of title 38, United States Code (commonly referred to as "Vet Centers").

(b) READJUSTMENT AND TRANSITION ASSISTANCE.—Readjustment and transition assistance described in this subsection is assistance as follows:

(1) Readjustment and transition assistance that is preemptive, proactive, and principle-centered.

(2) Assistance and training for veterans and their families in coping with the challenges associated with making the transition from military to civilian life.

(c) NON-DEPARTMENT OF VETERANS AFFAIRS ENTITY.—

(1) IN GENERAL.—The Secretary shall carry out the pilot program through any for-profit or non-profit organization selected by the Secretary for purposes of the pilot program that has demonstrated expertise and experience in the provision of assistance and training described in subsection (b).

(2) CONTRACT OR AGREEMENT.—The Secretary shall carry out the pilot program through a non-Department entity described in paragraph (1) pursuant to a contract or other agreement entered into by the Secretary and the entity for purposes of the pilot program.

(d) COMMENCEMENT OF PILOT PROGRAM.—The pilot program shall commence not later than 180 days after the date of the enactment of this Act. Deadline.

(e) DURATION OF PILOT PROGRAM.—The pilot program shall be carried out during the three-year period beginning on the date of the commencement of the pilot program, and may be carried out for additional one-year periods thereafter.

(f) LOCATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall provide assistance under the pilot program in cooperation with 10 centers described in subsection (a) designated by the Secretary for purposes of the pilot program.

(2) DESIGNATIONS.—In designating centers described in subsection (a) for purposes of the pilot program, the Secretary shall designate centers so as to provide a balanced geographical representation of such centers throughout the United States, including the District of Columbia, the Commonwealth of Puerto Rico, tribal lands, and other territories and possessions of the United States.

(g) PARTICIPATION OF CENTERS.—A center described in subsection (a) that is designated under subsection (f) for participation in the pilot program shall participate in the pilot program by promoting awareness of the assistance and training available to veterans and their families through—

(1) the facilities and other resources of such center;

(2) the non-Department of Veterans Affairs entity selected pursuant to subsection (c); and

(3) other appropriate mechanisms.

(h) ADDITIONAL SUPPORT.—In carrying out the pilot program, the Secretary may enter into contracts or other agreements, in addition to the contract or agreement described in subsection (c), with such other non-Department of Veterans Affairs entities meeting the requirements of subsection (c) as the Secretary considers appropriate for purposes of the pilot program.

(i) REPORT ON PILOT PROGRAM.—

(1) REPORT REQUIRED.—Not later than three years after the date of the enactment of this Act, the Secretary shall submit to the congressional veterans affairs committees a report on the pilot program.

(2) ELEMENTS.—Each report under paragraph (1) shall include the following:

(A) A description of the activities under the pilot program as of the date of such report, including the number of veterans and families provided assistance under the pilot program and the scope and nature of the assistance so provided.

(B) A current assessment of the effectiveness of the pilot program.

(C) Any recommendations that the Secretary considers appropriate for the extension or expansion of the pilot program.

(3) CONGRESSIONAL VETERANS AFFAIRS COMMITTEES DEFINED.—In this subsection, the term "congressional veterans affairs committees" means—

(A) the Committees on Veterans' Affairs and Appropriations of the Senate; and

(B) the Committees on Veterans' Affairs and Appropriations of the House of Representatives.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for the Department of Veterans Affairs for each of fiscal years 2009 through 2011 $1,000,000 to carry out this section.

(2) AVAILABILITY.—Amounts authorized to be appropriated by paragraph (1) shall remain available until expended.

# TITLE IV—HEALTH CARE MATTERS

**SEC. 401. VETERANS BENEFICIARY TRAVEL PROGRAM.**

(a) REPEAL OF REQUIREMENT TO ADJUST AMOUNTS DEDUCTED FROM PAYMENTS OR ALLOWANCES FOR BENEFICIARY TRAVEL.—

38 USC 111.

(1) IN GENERAL.—Section 111(c) is amended—

(A) by striking paragraph (5); and

(B) in paragraph (2), by striking ", except as provided in paragraph (5) of this subsection,".

38 USC 111 note.

(2) REINSTATEMENT OF AMOUNT OF DEDUCTION SPECIFIED BY STATUTE.—Notwithstanding any adjustment made by the Secretary of Veterans Affairs under paragraph (5) of section 111(c) of title 38, United States Code, as such paragraph was in effect before the date of the enactment of this Act, the amount deducted under paragraph (1) of such section 111(c) on or after such date shall be the amount specified in such paragraph.

(b) DETERMINATION OF MILEAGE REIMBURSEMENT RATE.—Section 111(g) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Subject to paragraph (3), in determining the amount of allowances or reimbursement to be paid under this section, the Secretary shall use the mileage reimbursement rate for the use of privately owned vehicles by Government employees on official business (when a Government vehicle is available), as prescribed by the Administrator of General Services under section 5707(b) of title 5.";

(2) by striking paragraphs (3) and (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) Subject to the availability of appropriations, the Secretary may modify the amount of allowances or reimbursement to be paid under this section using a mileage reimbursement rate in excess of that prescribed under paragraph (1).".

(c) REPORT.—Not later than 14 months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit

to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report containing an estimate of the additional costs incurred by the Department of Veterans Affairs because of this section, including—

(1) any costs resulting from increased utilization of healthcare services by veterans eligible for travel allowances or reimbursements under section 111 of title 38, United States Code; and

(2) the additional costs that would be incurred by the Department should the Secretary exercise the authority described in subsection (g)(3) of such section.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to travel expenses incurred after the expiration of the 90-day period that begins on the date of the enactment of this Act. 38 USC 111 note.

**SEC. 402. MANDATORY REIMBURSEMENT OF VETERANS RECEIVING EMERGENCY TREATMENT IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES UNTIL TRANSFER TO DEPARTMENT FACILITIES.**

(a) CERTAIN VETERANS WITHOUT SERVICE-CONNECTED DISABILITY.—Section 1725 is amended— 38 USC 1725.

(1) in subsection (a)(1), by striking "may reimburse" and inserting "shall reimburse"; and

(2) in subsection (f)(1), by striking subparagraph (C) and inserting the following new subparagraph (C):

"(C) until—

"(i) such time as the veteran can be transferred safely to a Department facility or other Federal facility and such facility is capable of accepting such transfer; or

"(ii) such time as a Department facility or other Federal facility accepts such transfer if—

"(I) at the time the veteran could have been transferred safely to a Department facility or other Federal facility, no Department facility or other Federal facility agreed to accept such transfer; and

"(II) the non-Department facility in which such medical care or services was furnished made and documented reasonable attempts to transfer the veteran to a Department facility or other Federal facility.".

(b) CERTAIN VETERANS WITH SERVICE-CONNECTED DISABILITY.—Section 1728 is amended—

(1) by striking subsection (a) and inserting the following new subsection (a):

"(a) The Secretary shall, under such regulations as the Secretary prescribes, reimburse veterans eligible for hospital care or medical services under this chapter for the customary and usual charges of emergency treatment (including travel and incidental expenses under the terms and conditions set forth in section 111 of this title) for which such veterans have made payment, from sources other than the Department, where such emergency treatment was rendered to such veterans in need thereof for any of the following: Regulations.

"(1) An adjudicated service-connected disability.

"(2) A non-service-connected disability associated with and held to be aggravating a service-connected disability.

"(3) Any disability of a veteran if the veteran has a total disability permanent in nature from a service-connected disability.

"(4) Any illness, injury, or dental condition of a veteran who—

"(A) is a participant in a vocational rehabilitation program (as defined in section 3101(9) of this title); and

"(B) is medically determined to have been in need of care or treatment to make possible the veteran's entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition.";

(2) in subsection (b), by striking "care or services" both places it appears and inserting "emergency treatment"; and

(3) by adding at the end the following new subsection:

"(c) In this section, the term 'emergency treatment' has the meaning given such term in section 1725(f)(1) of this title.".

38 USC 1703 note.

**SEC. 403. PILOT PROGRAM OF ENHANCED CONTRACT CARE AUTHORITY FOR HEALTH CARE NEEDS OF VETERANS IN HIGHLY RURAL AREAS.**

(a) PILOT PROGRAM REQUIRED.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall conduct a pilot program under which the Secretary provides covered health services to covered veterans through qualifying non-Department of Veterans Affairs health care providers.

Deadline.

(2) COMMENCEMENT.—The Secretary shall commence the conduct of the pilot program on the date that is 120 days after the date of the enactment of this Act.

(3) TERMINATION.—A veteran may receive health services under the pilot program only during the three-year period beginning on the date of the commencement of the pilot program under paragraph (2).

(4) PROGRAM LOCATIONS.—The pilot program shall be carried out within areas selected by the Secretary for the purposes of the pilot program in at least five Veterans Integrated Service Networks (VISNs). Of the Veterans Integrated Service Networks so selected—

(A) not less than four such networks shall include at least three highly rural counties, as determined by the Secretary upon consideration of the most recent decennial census;

(B) not less than one such network, not including a network selected under subparagraph (A), shall include only one highly rural county, as determined by the Secretary upon consideration of the most recent decennial census;

(C) all such networks shall include area within the borders of at least four States; and

(D) no such networks shall be participants in the Healthcare Effectiveness through Resource Optimization pilot program of the Department of Veterans Affairs.

(b) COVERED VETERANS.—

(1) IN GENERAL.—For purposes of the pilot program under this section, a covered veteran is any highly rural veteran who is—

(A) enrolled in the system of patient enrollment established under section 1705(a) of title 38, United States Code, as of the date of the commencement of the pilot program under subsection (a)(2); or

(B) eligible for health care under section 1710(e)(3)(C) of title 38, United States Code.

(2) HIGHLY RURAL VETERANS.—For purposes of this subsection, a highly rural veteran is any veteran who—

(A) resides in a location that is—

(i) more than 60 miles driving distance from the nearest Department health care facility providing primary care services, if the veteran is seeking such services;

(ii) more than 120 miles driving distance from the nearest Department health care facility providing acute hospital care, if the veteran is seeking such care; or

(iii) more than 240 miles driving distance from the nearest Department health care facility providing tertiary care, if the veteran is seeking such care; or

(B) in the case of a veteran who resides in a location less than the distance specified in clause (i), (ii), or (iii) of subparagraph (A), as applicable, experiences such hardship or other difficulties in travel to the nearest appropriate Department health care facility that such travel is not in the best interest of the veteran, as determined by the Secretary pursuant to regulations prescribed for purposes of this subsection.

(c) COVERED HEALTH SERVICES.—For purposes of the pilot program under this section, a covered health service with respect to a covered veteran is any hospital care, medical service, rehabilitative service, or preventative health service that is authorized to be provided by the Secretary to the veteran under chapter 17 of title 38, United States Code, or any other provision of law.

(d) QUALIFYING NON-DEPARTMENT HEALTH CARE PROVIDERS.—For purposes of the pilot program under this section, an entity or individual is a qualifying non-Department health care provider of a covered health service if the Secretary determines that the entity or individual is qualified to furnish such service to veterans under the pilot program.

(e) ELECTION.—A covered veteran seeking to be provided covered health services under the pilot program under this section shall submit to the Secretary an application therefor in such form, and containing such information as the Secretary shall specify for purposes of the pilot program.

(f) PROVISION OF SERVICES THROUGH CONTRACT.—The Secretary shall provide covered health services to veterans under the pilot program under this section through contracts with qualifying non-Department health care providers for the provision of such services.

(g) EXCHANGE OF MEDICAL INFORMATION.—In conducting the pilot program under this section, the Secretary shall develop and utilize a functional capability to provide for the exchange of appropriate medical information between the Department and non-

Department health care providers providing health services under the pilot program.

(h) REPORTS.—Not later than the 30 days after the end of each year in which the pilot program under this section is conducted, the Secretary shall submit to the Committee of Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report which includes—

(1) the assessment of the Secretary of the pilot program during the preceding year, including its cost, volume, quality, patient satisfaction, benefit to veterans, and such other findings and conclusions with respect to pilot program as the Secretary considers appropriate; and

(2) such recommendations as the Secretary considers appropriate regarding—

(A) the continuation of the pilot program;

(B) extension of the pilot program to other or all Veterans Integrated Service Networks of the Department;

(C) making the pilot program permanent.

**SEC. 404. EPILEPSY CENTERS OF EXCELLENCE.**

(a) IN GENERAL.—Subchapter II of chapter 73 is amended by adding at the end the following new section:

**"§ 7330A. Epilepsy centers of excellence**

Deadline.

"(a) ESTABLISHMENT OF CENTERS.—(1) Not later than 120 days after the date of the enactment of the Veterans' Mental Health and Other Care Improvements Act of 2008, the Secretary shall designate at least four but not more than six Department health care facilities as locations for epilepsy centers of excellence for the Department.

"(2) Of the facilities designated under paragraph (1), not less than two shall be centers designated under section 7327 of this title.

"(3) Of the facilities designated under paragraph (1), not less than two shall be facilities that are not centers designated under section 7327 of this title.

"(4) Subject to the availability of appropriations for such purpose, the Secretary shall establish and operate an epilepsy center of excellence at each location designated under paragraph (1).

"(b) DESIGNATION OF FACILITIES.—(1) In designating locations for epilepsy centers of excellence under subsection (a), the Secretary shall solicit proposals from Department health care facilities seeking designation as a location for an epilepsy center of excellence.

"(2) The Secretary may not designate a facility as a location for an epilepsy center of excellence under subsection (a) unless the peer review panel established under subsection (c) has determined under that subsection that the proposal submitted by such facility seeking designation as a location for an epilepsy center of excellence is among those proposals that meet the highest competitive standards of scientific and clinical merit.

"(3) In choosing from among the facilities meeting the requirements of paragraph (2), the Secretary shall also consider appropriate geographic distribution when designating the epilepsy centers of excellence under subsection (a).

"(c) PEER REVIEW PANEL.—(1) The Under Secretary for Health shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary

for the designation of epilepsy centers of excellence under this section.

"(2)(A) The membership of the peer review panel shall consist of experts on epilepsy, including post-traumatic epilepsy.

"(B) Members of the peer review panel shall serve for a period of no longer than two years, except as specified in subparagraph (C).

"(C) Of the members first appointed to the panel, one half shall be appointed for a period of three years and one half shall be appointed for a period of two years, as designated by the Under Secretary at the time of appointment.

"(3) The peer review panel shall review each proposal submitted to the panel by the Under Secretary for Health and shall submit its views on the relative scientific and clinical merit of each such proposal to the Under Secretary.

"(4) The peer review panel shall, in conjunction with the national coordinator designated under subsection (e), conduct regular evaluations of each epilepsy center of excellence established and operated under subsection (a) to ensure compliance with the requirements of this section.

"(5) The peer review panel shall not be subject to the Federal Advisory Committee Act.

"(d) EPILEPSY CENTER OF EXCELLENCE DEFINED.—In this section, the term 'epilepsy center of excellence' means a health care facility that has (or in the foreseeable future can develop) the necessary capacity to function as a center of excellence in research, education, and clinical care activities in the diagnosis and treatment of epilepsy and has (or may reasonably be anticipated to develop) each of the following:

"(1) An affiliation with an accredited medical school that provides education and training in neurology, including an arrangement with such school under which medical residents receive education and training in the diagnosis and treatment of epilepsy (including neurosurgery).

"(2) The ability to attract the participation of scientists who are capable of ingenuity and creativity in health care research efforts.

"(3) An advisory committee composed of veterans and appropriate health care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of the center during the period of the operation of such center.

"(4) The capability to conduct effectively evaluations of the activities of such center.

"(5) The capability to assist in the expansion of the Department's use of information systems and databases to improve the quality and delivery of care for veterans enrolled within the Department's health care system.

"(6) The capability to assist in the expansion of the Department telehealth program to develop, transmit, monitor, and review neurological diagnostic tests.

"(7) The ability to perform epilepsy research, education, and clinical care activities in collaboration with Department medical facilities that have centers for research, education, and clinical care activities on complex multi-trauma associated

with combat injuries established under section 7327 of this title.

Designation.

"(e) NATIONAL COORDINATOR FOR EPILEPSY PROGRAMS.—(1) To assist the Secretary and the Under Secretary for Health in carrying out this section, the Secretary shall designate an individual in the Veterans Health Administration to act as a national coordinator for epilepsy programs of the Veterans Health Administration.

"(2) The duties of the national coordinator for epilepsy programs shall include the following:

"(A) To supervise the operation of the centers established pursuant to this section.

"(B) To coordinate and support the national consortium of providers with interest in treating epilepsy at Department health care facilities lacking such centers in order to ensure better access to state-of-the-art diagnosis, research, clinical care, and education for traumatic brain injury and epilepsy throughout the health care system of the Department.

"(C) To conduct, in conjunction with the peer review panel established under subsection (c), regular evaluations of the epilepsy centers of excellence to ensure compliance with the requirements of this section.

"(D) To coordinate (as part of an integrated national system) education, clinical care, and research activities within all facilities with an epilepsy center of excellence.

"(E) To develop jointly a national consortium of providers with interest in treating epilepsy at Department health care facilities lacking an epilepsy center of excellence in order to ensure better access to state-of-the-art diagnosis, research, clinical care, and education for traumatic brain injury and epilepsy throughout the health care system of the Department. Such consortium should include a designated epilepsy referral clinic in each Veterans Integrated Service Network.

"(3) In carrying out duties under this subsection, the national coordinator for epilepsy programs shall report to the official of the Veterans Health Administration responsible for neurology.

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $6,000,000 for each of fiscal years 2009 through 2013 for the support of the clinical care, research, and education activities of the epilepsy centers of excellence established and operated pursuant to subsection (a)(2).

"(2) There are authorized to be appropriated for each fiscal year after fiscal year 2013 such sums as may be necessary for the support of the clinical care, research, and education activities of the epilepsy centers of excellence established and operated pursuant to subsection (a)(2).

"(3) The Secretary shall ensure that funds for such centers are designated for the first three years of operation as a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.

"(4) In addition to amounts authorized to be appropriated under paragraphs (1) and (2) for a fiscal year, the Under Secretary for Health shall allocate to such centers from other funds appropriated generally for the Department medical services account and medical and prosthetics research account, as appropriate, such amounts as the Under Secretary for Health determines appropriate.

"(5) In addition to amounts authorized to be appropriated under paragraphs (1) and (2) for a fiscal year, there are authorized to

be appropriated such sums as may be necessary to fund the national coordinator established by subsection (e).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7330 the following new item:

"7330A. Epilepsy centers of excellence.".

**SEC. 405. ESTABLISHMENT OF QUALIFICATIONS FOR PEER SPECIALIST APPOINTEES.**

(a) IN GENERAL.—Section 7402(b) is amended— 38 USC 7402.

(1) by redesignating the paragraph (11) relating to other health care positions as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph (13):

"(13) PEER SPECIALIST.—To be eligible to be appointed to a peer specialist position, a person must—

"(A) be a veteran who has recovered or is recovering from a mental health condition; and

"(B) be certified by—

"(i) a not-for-profit entity engaged in peer specialist training as having met such criteria as the Secretary shall establish for a peer specialist position; or

"(ii) a State as having satisfied relevant State requirements for a peer specialist position.".

(b) PEER SPECIALIST TRAINING.—Section 7402 is amended by adding at the end the following new subsection:

"(g) The Secretary may enter into contracts with not-for-profit entities to provide—

"(1) peer specialist training to veterans; and

"(2) certification for veterans under subsection (b)(13)(B)(i).".

**SEC. 406. ESTABLISHMENT OF CONSOLIDATED PATIENT ACCOUNTING CENTERS.**

(a) ESTABLISHMENT OF CENTERS.—Chapter 17 is amended by inserting after section 1729A the following new section:

**"§ 1729B. Consolidated patient accounting centers**

"(a) IN GENERAL.—Not later than five years after the date of the enactment of this section, the Secretary of Veterans Affairs shall establish not more than seven consolidated patient accounting centers for conducting industry-modeled regionalized billing and collection activities of the Department. Deadline.

"(b) FUNCTIONS.—The centers shall carry out the following functions:

"(1) Reengineer and integrate all business processes of the revenue cycle of the Department.

"(2) Standardize and coordinate all activities of the Department related to the revenue cycle for all health care services furnished to veterans for non-service-connected medical conditions.

"(3) Apply commercial industry standards for measures of access, timeliness, and performance metrics with respect to revenue enhancement of the Department.

"(4) Apply other requirements with respect to such revenue cycle improvement as the Secretary may specify.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1729A the following:

"1729B. Consolidated patient accounting centers.".

**SEC. 407. REPEAL OF LIMITATION ON AUTHORITY TO CONDUCT WIDESPREAD HIV TESTING PROGRAM.**

Section 124 of the Veterans' Benefits and Services Act of 1988 (title I of Public Law 100–322, as amended; 38 U.S.C. 7333 note) is repealed.

**SEC. 408. PROVISION OF COMPREHENSIVE HEALTH CARE BY SECRETARY OF VETERANS AFFAIRS TO CHILDREN OF VIETNAM VETERANS BORN WITH SPINA BIFIDA.**

38 USC 1803.

(a) PROVISION OF COMPREHENSIVE HEALTH CARE.—Section 1803(a) is amended by striking "such health care as the Secretary determines is needed by the child for the spina bifida or any disability that is associated with such condition" and inserting "health care under this section".

38 USC 1803 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to care furnished after the date of the enactment of this Act.

**SEC. 409. EXEMPTION FROM COPAYMENT REQUIREMENT FOR VETERANS RECEIVING HOSPICE CARE.**

Section 1710 is amended—

(1) in subsection (f)(1), by inserting "(except if such care constitutes hospice care)" after "nursing home care"; and

(2) in subsection (g)(1), by inserting "(except if such care constitutes hospice care)" after "medical services".

# TITLE V—PAIN CARE

38 USC 7311 note. Deadline.

**SEC. 501. COMPREHENSIVE POLICY ON PAIN MANAGEMENT.**

(a) COMPREHENSIVE POLICY REQUIRED.—Not later than October 1, 2009, the Secretary of Veterans Affairs shall develop and implement a comprehensive policy on the management of pain experienced by veterans enrolled for health care services provided by the Department of Veterans Affairs.

(b) SCOPE OF POLICY.—The policy required by subsection (a) shall cover each of the following:

(1) The Department-wide management of acute and chronic pain experienced by veterans.

(2) The standard of care for pain management to be used throughout the Department.

(3) The consistent application of pain assessments to be used throughout the Department.

(4) The assurance of prompt and appropriate pain care treatment and management by the Department, system-wide, when medically necessary.

(5) Department programs of research related to acute and chronic pain suffered by veterans, including pain attributable to central and peripheral nervous system damage characteristic of injuries incurred in modern warfare.

(6) Department programs of pain care education and training for health care personnel of the Department.

(7) Department programs of patient education for veterans suffering from acute or chronic pain and their families.

(c) UPDATES.—The Secretary shall revise the policy required by subsection (a) on a periodic basis in accordance with experience and evolving best practice guidelines.

(d) CONSULTATION.—The Secretary shall develop the policy required by subsection (a), and revise such policy under subsection (c), in consultation with veterans service organizations and organizations with expertise in the assessment, diagnosis, treatment, and management of pain.

(e) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the completion and initial implementation of the policy required by subsection (a) and on October 1 of every fiscal year thereafter through fiscal year 2018, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the implementation of the policy required by subsection (a).

(2) CONTENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the policy developed and implemented under subsection (a) and any revisions to such policy under subsection (c).

(B) A description of the performance measures used to determine the effectiveness of such policy in improving pain care for veterans system-wide.

(C) An assessment of the adequacy of Department pain management services based on a survey of patients managed in Department clinics.

(D) An assessment of the research projects of the Department relevant to the treatment of the types of acute and chronic pain suffered by veterans.

(E) An assessment of the training provided to Department health care personnel with respect to the diagnosis, treatment, and management of acute and chronic pain.

(F) An assessment of the patient pain care education programs of the Department.

(f) VETERANS SERVICE ORGANIZATION DEFINED.—In this section, the term "veterans service organization" means any organization recognized by the Secretary for the representation of veterans under section 5902 of title 38, United States Code.

# TITLE VI—HOMELESS VETERANS MATTERS

### SEC. 601. INCREASED AUTHORIZATION OF APPROPRIATIONS FOR COMPREHENSIVE SERVICE PROGRAMS.

Section 2013 is amended by striking "$130,000,000" and inserting "$150,000,000". 38 USC 2013.

**SEC. 602. EXPANSION AND EXTENSION OF AUTHORITY FOR PROGRAM OF REFERRAL AND COUNSELING SERVICES FOR AT-RISK VETERANS TRANSITIONING FROM CERTAIN INSTITUTIONS.**

38 USC 2023.

(a) PROGRAM AUTHORITY.—Subsection (a) of section 2023 is amended by striking "a demonstration program for the purpose of determining the costs and benefits of providing" and inserting "a program of".

(b) SCOPE OF PROGRAM.—Subsection (b) of such section is amended—

(1) by striking "DEMONSTRATION" in the subsection heading;

(2) by striking "demonstration"; and

(3) by striking "in at least six locations" and inserting "in at least 12 locations".

Termination date.

(c) EXTENSION OF AUTHORITY.—Subsection (d) of such section is amended by striking "shall cease" and all that follows and inserting "shall cease on September 30, 2012.".

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c)(1) of such section is amended by striking "demonstration".

(2) The heading of such section is amended to read as follows:

**"§ 2023. Referral and counseling services: veterans at risk of homelessness who are transitioning from certain institutions".**

(3) Section 2022(f)(2)(C) of such title is amended by striking "demonstration".

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 20 is amended by striking the item relating to section 2023 and inserting the following:

"2023. Referral and counseling services: veterans at risk of homelessness who are transitioning from certain institutions.".

**SEC. 603. PERMANENT AUTHORITY FOR DOMICILIARY SERVICES FOR HOMELESS VETERANS AND ENHANCEMENT OF CAPACITY OF DOMICILIARY CARE PROGRAMS FOR FEMALE VETERANS.**

Subsection (b) of section 2043 is amended to read as follows:

"(b) ENHANCEMENT OF CAPACITY OF DOMICILIARY CARE PROGRAMS FOR FEMALE VETERANS.—The Secretary shall take appropriate actions to ensure that the domiciliary care programs of the Department are adequate, with respect to capacity and with respect to safety, to meet the needs of veterans who are women.".

**SEC. 604. FINANCIAL ASSISTANCE FOR SUPPORTIVE SERVICES FOR VERY LOW-INCOME VETERAN FAMILIES IN PERMANENT HOUSING.**

38 USC 2044 note.

(a) PURPOSE.—The purpose of this section is to facilitate the provision of supportive services for very low-income veteran families in permanent housing.

(b) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Subchapter V of chapter 20 is amended by adding at the end the following new section:

**"§ 2044. Financial assistance for supportive services for very low-income veteran families in permanent housing**

"(a) DISTRIBUTION OF FINANCIAL ASSISTANCE.—(1) The Secretary shall provide financial assistance to eligible entities approved under this section to provide and coordinate the provision of supportive services described in subsection (b) for very low-income veteran families occupying permanent housing.

"(2) Financial assistance under this section shall consist of grants for each such family for which an approved eligible entity is providing or coordinating the provision of supportive services.

"(3)(A) The Secretary shall provide such grants to each eligible entity that is providing or coordinating the provision of supportive services. Grants.

"(B) The Secretary is authorized to establish intervals of payment for the administration of such grants and establish a maximum amount to be awarded, in accordance with the services being provided and their duration.

"(4) In providing financial assistance under paragraph (1), the Secretary shall give preference to entities providing or coordinating the provision of supportive services for very low-income veteran families who are transitioning from homelessness to permanent housing.

"(5) The Secretary shall ensure that, to the extent practicable, financial assistance under this subsection is equitably distributed across geographic regions, including rural communities and tribal lands.

"(6) Each entity receiving financial assistance under this section to provide supportive services to a very low-income veteran family shall notify that family that such services are being paid for, in whole or in part, by the Department. Notification.

"(7) The Secretary may require entities receiving financial assistance under this section to submit a report to the Secretary that describes the projects carried out with such financial assistance.

"(b) SUPPORTIVE SERVICES.—The supportive services referred to in subsection (a) are the following:

"(1) Services provided by an eligible entity or a subcontractor of an eligible entity that address the needs of very low-income veteran families occupying permanent housing, including—

"(A) outreach services;

"(B) case management services;

"(C) assistance in obtaining any benefits from the Department which the veteran may be eligible to receive, including, but not limited to, vocational and rehabilitation counseling, employment and training service, educational assistance, and health care services; and

"(D) assistance in obtaining and coordinating the provision of other public benefits provided in federal, State, or local agencies, or any organization defined in subsection (f), including—

"(i) health care services (including obtaining health insurance);

"(ii) daily living services;

"(iii) personal financial planning;

"(iv) transportation services;

"(v) income support services;

"(vi) fiduciary and representative payee services;

"(vii) legal services to assist the veteran family with issues that interfere with the family's ability to obtain or retain housing or supportive services;

"(viii) child care;

"(ix) housing counseling; and

"(x) other services necessary for maintaining independent living.

"(2) Services described in paragraph (1) that are delivered to very low-income veteran families who are homeless and who are scheduled to become residents of permanent housing within 90 days pending the location or development of housing suitable for permanent housing.

"(3) Services described in paragraph (1) for very low-income veteran families who have voluntarily chosen to seek other housing after a period of tenancy in permanent housing, that are provided, for a period of 90 days after such families exit permanent housing or until such families commence receipt of other housing services adequate to meet their current needs, but only to the extent that services under this paragraph are designed to support such families in their choice to transition into housing that is responsive to their individual needs and preferences.

"(c) APPLICATION FOR FINANCIAL ASSISTANCE.—(1) An eligible entity seeking financial assistance under subsection (a) shall submit to the Secretary an application therefor in such form, in such manner, and containing such commitments and information as the Secretary determines to be necessary to carry out this section.

"(2) Each application submitted by an eligible entity under paragraph (1) shall contain—

"(A) a description of the supportive services proposed to be provided by the eligible entity and the identified needs for those services;

"(B) a description of the types of very low-income veteran families proposed to be provided such services;

"(C) an estimate of the number of very low-income veteran families proposed to be provided such services;

"(D) evidence of the experience of the eligible entity in providing supportive services to very low-income veteran families; and

"(E) a description of the managerial capacity of the eligible entity—

"(i) to coordinate the provision of supportive services with the provision of permanent housing by the eligible entity or by other organizations;

"(ii) to assess continuously the needs of very low-income veteran families for supportive services;

"(iii) to coordinate the provision of supportive services with the services of the Department;

"(iv) to tailor supportive services to the needs of very low-income veteran families; and

"(v) to seek continuously new sources of assistance to ensure the long-term provision of supportive services to very low-income veteran families.

Criteria.

"(3) The Secretary shall establish criteria for the selection of eligible entities to be provided financial assistance under this section.

"(d) TECHNICAL ASSISTANCE.—(1) The Secretary shall provide training and technical assistance to participating eligible entities regarding the planning, development, and provision of supportive services to very low-income veteran families occupying permanent housing, through the Technical Assistance grants program in section 2064 of this title.

"(2) The Secretary may provide the training described in paragraph (1) directly or through grants or contracts with appropriate public or nonprofit private entities.

"(e) FUNDING.—(1) From amounts appropriated to the Department for Medical Services, there shall be available to carry out subsection (a), (b), and (c) amounts as follows:

"(A) $15,000,000 for fiscal year 2009.

"(B) $20,000,000 for fiscal year 2010.

"(C) $25,000,000 for fiscal year 2011.

"(2) Not more than $750,000 may be available under paragraph (1) in any fiscal year to provide technical assistance under subsection (d).

"(3) There is authorized to be appropriated $1,000,000 for each of the fiscal year 2009 through 2011 to carry out the provisions of subsection (d). Appropriation authorization.

"(f) DEFINITIONS.—In this section:

"(1) The term 'consumer cooperative' has the meaning given such term in section 202 of the Housing Act of 1959 (12 U.S.C. 1701q).

"(2) The term 'eligible entity' means—

"(A) a private nonprofit organization; or

"(B) a consumer cooperative.

"(3) The term 'homeless' has the meaning given that term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).

"(4) The term 'permanent housing' means community-based housing without a designated length of stay.

"(5) The term 'private nonprofit organization' means any of the following:

"(A) Any incorporated private institution or foundation—

"(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(ii) which has a governing board that is responsible for the operation of the supportive services provided under this section; and

"(iii) which is approved by the Secretary as to financial responsibility.

"(B) A for-profit limited partnership, the sole general partner of which is an organization meeting the requirements of clauses (i), (ii), and (iii) of subparagraph (A).

"(C) A corporation wholly owned and controlled by an organization meeting the requirements of clauses (i), (ii), and (iii) of subparagraph (A).

"(D) A tribally designated housing entity (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)).

"(6)(A) Subject to subparagraphs (B) and (C), the term 'very low-income veteran family' means a veteran family whose income does not exceed 50 percent of the median income for

an area specified by the Secretary for purposes of this section, as determined by the Secretary in accordance with this paragraph.

"(B) The Secretary shall make appropriate adjustments to the income requirement under subparagraph (A) based on family size.

"(C) The Secretary may establish an income ceiling higher or lower than 50 percent of the median income for an area if the Secretary determines that such variations are necessary because the area has unusually high or low construction costs, fair market rents (as determined under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f)), or family incomes.

"(7) The term 'veteran family' includes a veteran who is a single person and a family in which the head of household or the spouse of the head of household is a veteran.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 20 is amended by inserting after the item relating to section 2043 the following new item:

"2044. Financial assistance for supportive services for very low-income veteran families in permanent housing.".

(c) STUDY OF EFFECTIVENESS OF PERMANENT HOUSING PROGRAM.—

(1) IN GENERAL.—For fiscal years 2009 and 2010, the Secretary shall conduct a study of the effectiveness of the permanent housing program under section 2044 of title 38, United States Code, as added by subsection (b), in meeting the needs of very low-income veteran families, as that term is defined in that section.

(2) COMPARISON.—In the study required by paragraph (1), the Secretary shall compare the results of the program referred to in that subsection with other programs of the Department of Veterans Affairs dedicated to the delivery of housing and services to veterans.

(3) CRITERIA.—In making the comparison required in paragraph (2), the Secretary shall examine the following:

(A) The satisfaction of veterans targeted by the programs described in paragraph (2).

(B) The health status of such veterans.

(C) The housing provided such veterans under such programs.

(D) The degree to which such veterans are encouraged to productive activity by such programs.

(4) REPORT.—Not later than March 31, 2011, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the results of the study required by paragraph (1).

# TITLE VII—AUTHORIZATION OF MEDICAL FACILITY PROJECTS AND MAJOR MEDICAL FACILITY LEASES

### SEC. 701. AUTHORIZATION FOR FISCAL YEAR 2009 MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2009 in the amount specified for each project:

(1) Seismic corrections, Building 2, at the Department of Veterans Affairs Palo Alto Health Care System, Palo Alto Division Palo Alto, California, in an amount not to exceed $54,000,000.

(2) Construction of a polytrauma healthcare and rehabilitation center at the Department of Veterans Affairs Medical Center, San Antonio, Texas, in an amount not to exceed $66,000,000.

(3) Seismic corrections, Building 1, at the Department of Veterans Affairs Medical Center, San Juan, Puerto Rico, in an amount not to exceed $225,900,000.

### SEC. 702. MODIFICATION OF AUTHORIZATION AMOUNTS FOR CERTAIN MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS PREVIOUSLY AUTHORIZED.

(a) MODIFICATION OF MAJOR MEDICAL FACILITY AUTHORIZATIONS.—Section 801(a) of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109–461) is amended— 120 Stat. 3442.

(1) in paragraph (1)—

(A) by striking "$300,000,000" and inserting "$625,000,000"; and

(B) by striking the second sentence; and

(2) in paragraph (3), by striking "$98,000,000" and inserting "$568,400,000".

(b) MODIFICATION OF AUTHORIZATION FOR CERTAIN MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS PREVIOUSLY AUTHORIZED IN CONNECTION WITH CAPITAL ASSET REALIGNMENT INITIATIVE.—

(1) CORRECTION OF PATIENT PRIVACY DEFICIENCIES AT THE DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, GAINESVILLE, FLORIDA.—Paragraph (5) of section 802 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109–461) is amended by striking "$85,200,000" and inserting "$136,700,000". 120 Stat. 3443.

(2) CONSTRUCTION OF A NEW MEDICAL CENTER FACILITY AT THE DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, LAS VEGAS, NEVADA.—Paragraph (7) of such section is amended by striking "$406,000,000" and inserting "$600,400,000".

(3) CONSTRUCTION OF A NEW OUTPATIENT CLINIC, LEE COUNTY, FLORIDA.—Paragraph (8) of such section is amended—

(A) by striking "ambulatory" and all that follows through "purchase," and inserting "outpatient clinic in"; and

(B) by striking "$65,100,000" and inserting "$131,800,000".

(4) CONSTRUCTION OF A NEW MEDICAL CENTER FACILITY, ORLANDO, FLORIDA.—Paragraph (11) of such section is amended by striking "$377,700,000" and inserting "$656,800,000".

(5) CONSOLIDATION OF CAMPUSES AT THE UNIVERSITY DRIVE AND H. JOHN HEINZ III DIVISIONS, PITTSBURGH, PENNSYLVANIA.—Paragraph (12) of such section is amended by striking "$189,205,000" and inserting "$295,600,000".

**SEC. 703. AUTHORIZATION OF FISCAL YEAR 2009 MAJOR MEDICAL FACILITY LEASES.**

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2009 at the locations specified, and in an amount for each lease not to exceed the amount shown for such location:

(1) For an outpatient clinic, Brandon, Florida, $4,326,000.

(2) For an outpatient clinic, Colorado Springs, Colorado, $10,300,000.

(3) For an outpatient clinic, Eugene, Oregon, $5,826,000.

(4) For the expansion of an outpatient clinic, Green Bay, Wisconsin, $5,891,000.

(5) For an outpatient clinic, Greenville, South Carolina, $3,731,000.

(6) For an outpatient clinic, Mansfield, Ohio, $2,212,000.

(7) For an outpatient clinic, Mayaguez, Puerto Rico, $6,276,000.

(8) For an outpatient clinic, Mesa, Arizona, $5,106,000.

(9) For interim research space, Palo Alto, California, $8,636,000.

(10) For the expansion of an outpatient clinic, Savannah, Georgia, $3,168,000.

(11) For an outpatient clinic, Sun City, Arizona, $2,295,000.

(12) For a primary care annex, Tampa, Florida, $8,652,000.

(13) For an outpatient clinic, Peoria, Illinois, $3,600,000.

**SEC. 704. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2009 MAJOR MEDICAL FACILITY PROJECTS.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2009 for the Construction, Major Projects, account—

(1) $345,900,000 for the projects authorized in section 701; and

(2) $1,493,495,000 for the increased amounts authorized for projects whose authorizations are modified by section 702.

(b) AUTHORIZATION FOR APPROPRIATIONS FOR FISCAL YEAR 2009 MAJOR MEDICAL FACILITY LEASES.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2009 for the Medical Facilities account, $70,019,000, for the leases authorized in section 703.

**SEC. 705. INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY LEASES REQUIRING CONGRESSIONAL APPROVAL.**

38 USC 8104.

Section 8104(a)(3)(B) is amended by striking "$600,000" and inserting "$1,000,000".

**SEC. 706. CONVEYANCE OF CERTAIN NON-FEDERAL LAND BY CITY OF AURORA, COLORADO, TO SECRETARY OF VETERANS AFFAIRS FOR CONSTRUCTION OF VETERANS MEDICAL FACILITY.**

Section 410 of title IV of division I of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2276) is amended to read as follows:

**"SEC. 410. CONVEYANCE OF CERTAIN NON-FEDERAL LAND.**

"(a) DEFINITIONS.—In this section:

"(1) CITY.—The term 'City' means the City of Aurora, Colorado.

"(2) DEED.—The term 'deed' means the quitclaim deed—

"(A) conveyed to the City by the Secretary (acting through the Director of the National Park Service); and

"(B) dated May 24, 1999.

"(3) NON-FEDERAL LAND.—The term 'non-Federal land' means—

"(A) parcel I of the former United States Army Garrison Fitzsimons, Adams County, Colorado, as more specifically described in the deed; and

"(B) the parcel of land described in the deed.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(b) DUTY OF SECRETARY.—To allow the City to convey by donation to the United States the non-Federal land to be used by the Secretary of Veterans Affairs for the construction of a veterans medical facility, not later than 60 days after the date of enactment of this section, the Secretary shall execute each instrument that is necessary to release all rights, conditions, and restrictions retained by the United States in and to the non-Federal land conveyed in the deed.". Deadline.

**SEC. 707. REPORT ON FACILITIES ADMINISTRATION.**

Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the progress of the Secretary in complying with section 312A of title 38, United States Code.

**SEC. 708. ANNUAL REPORT ON OUTPATIENT CLINICS.**

(a) ANNUAL REPORT REQUIRED.—Subchapter I of chapter 81 is amended by adding at the end the following new section:

**"§ 8119. Annual report on outpatient clinics**

"(a) ANNUAL REPORT REQUIRED.—The Secretary shall submit to the committees an annual report on community-based outpatient clinics and other outpatient clinics of the Department. The report shall be submitted each year not later than the date on which the budget for the next fiscal year is submitted to the Congress under section 1105 of title 31.

"(b) CONTENTS OF REPORT.—Each report required under subsection (a) shall include the following:

"(1) A list of each community-based outpatient clinic and other outpatient clinic of the Department, and for each such clinic, the type of clinic, location, size, number of health professionals employed by the clinic, workload, whether the clinic

is leased or constructed and operated by the Secretary, and the annual cost of operating the clinic.

"(2) A list of community-based outpatient clinics and other outpatient clinics that the Secretary opened during the fiscal year preceding the fiscal year during which the report is submitted and a list of clinics the Secretary proposes opening during the fiscal year during which the report is submitted and the subsequent fiscal year, together with the cost of activating each such clinic and the information required to be provided under paragraph (1) for each such clinic and proposed clinic.

"(3) A list of proposed community-based outpatient clinics and other outpatient clinics that are, as of the date of the submission of the report, under review by the National Review Panel and a list of possible locations for future clinics identified in the Department's strategic planning process, including any identified locations in rural and underserved areas.

"(4) A prioritized list of sites of care identified by the Secretary that the Secretary could establish without carrying out construction or entering into a lease, including—

"(A) any such sites that could be expanded by hiring additional staff or allocating staff to Federal facilities or facilities operating in collaboration with the Federal Government; and

"(B) any sites established, or able to be established, under sections 8111 and 8153 of this title.".

38 USC 8119 note.

(b) DEADLINE FOR FIRST ANNUAL REPORT.—The Secretary of Veterans Affairs shall submit the first report required under section 8119(a) of title 38, United States Code, as added by subsection (a), by not later than 90 days after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end of the items relating to subchapter I the following new item:

"8119. Annual report on outpatient clinics.".

**SEC. 709. NAME OF DEPARTMENT OF VETERANS AFFAIRS SPINAL CORD INJURY CENTER, TAMPA, FLORIDA.**

The spinal cord injury center located at the James A. Haley Department of Veterans Affairs Medical Center in Tampa, Florida, shall after the date of the enactment of this Act be known and designated as the "Michael Bilirakis Department of Veterans Affairs Spinal Cord Injury Center". Any reference to such center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the "Michael Bilirakis Department of Veterans Affairs Spinal Cord Injury Center".

# TITLE VIII—EXTENSION OF CERTAIN AUTHORITIES

**SEC. 801. REPEAL OF SUNSET ON INCLUSION OF NONINSTITUTIONAL EXTENDED CARE SERVICES IN DEFINITION OF MEDICAL SERVICES.**

38 USC 1701.

Section 1701 is amended—

(1) by striking paragraph (10); and

(2) in paragraph (6)—

(A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(B) by inserting after subparagraph (D) the following new subparagraph (E):

"(E) Noninstitutional extended care services, including alternatives to institutional extended care that the Secretary may furnish directly, by contract, or through provision of case management by another provider or payer.".

**SEC. 802. EXTENSION OF RECOVERY AUDIT AUTHORITY.**

Section 1703(d)(4) is amended by striking "September 30, 2008" and inserting "September 30, 2013". 38 USC 1703.

**SEC. 803. PERMANENT AUTHORITY FOR PROVISION OF HOSPITAL CARE, MEDICAL SERVICES, AND NURSING HOME CARE TO VETERANS WHO PARTICIPATED IN CERTAIN CHEMICAL AND BIOLOGICAL TESTING CONDUCTED BY THE DEPARTMENT OF DEFENSE.**

(a) PERMANENT AUTHORITY.—Subsection (e)(3) of section 1710 is amended—

(1) in subparagraph (B), by inserting "and" after the semicolon;

(2) in subparagraph (C), by striking "; and" and inserting a period; and

(3) by striking subparagraph (D).

(b) CONFORMING AMENDMENT.—Subsection (e)(1)(E) of such section is amended by striking "paragraphs (2) and (3)" and inserting "paragraph (2)".

**SEC. 804. EXTENSION OF EXPIRING COLLECTIONS AUTHORITIES.**

(a) HEALTH CARE COPAYMENTS.—Section 1710(f)(2)(B) is amended by striking "September 30, 2008" and inserting "September 30, 2010".

(b) MEDICAL CARE COST RECOVERY.—Section 1729(a)(2)(E) is amended by striking "October 1, 2008" and inserting "October 1, 2010".

**SEC. 805. EXTENSION OF NURSING HOME CARE.**

Section 1710A(d) is amended by striking "December 31, 2008" and inserting "December 31, 2013".

**SEC. 806. PERMANENT AUTHORITY TO ESTABLISH RESEARCH CORPORATIONS.**

(a) REPEAL.—Chapter 73 is amended by striking section 7368.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 7368.

**SEC. 807. EXTENSION OF REQUIREMENT TO SUBMIT ANNUAL REPORT ON THE COMMITTEE ON CARE OF SEVERELY CHRONICALLY MENTALLY ILL VETERANS.**

Section 7321(d)(2) is amended by striking "through 2008" and inserting "through 2012".

**SEC. 808. PERMANENT REQUIREMENT FOR BIANNUAL REPORT ON WOMEN'S ADVISORY COMMITTEE.**

Section 542(c)(1) is amended by striking "through 2008".

**SEC. 809. EXTENSION OF PILOT PROGRAM ON IMPROVEMENT OF CAREGIVER ASSISTANCE SERVICES.**

Section 214 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109–461; 38 U.S.C. 1710B note) is amended—

(1) in subsection (b), by striking "two-year period" and inserting "three-year period"; and

(2) in subsection (d), by striking "fiscal years 2007 and 2008" and inserting "fiscal years 2007 through 2009".

# TITLE IX—OTHER MATTERS

**SEC. 901. TECHNICAL AMENDMENTS.**

(a) TITLE 38.—Title 38, United States Code, is amended—

(1) in section 1712A—

(A) by striking subsection (g);

(B) by redesignating subsections (d) through (i) as subsections (c) through (f), respectively; and

(C) in subsection (f), as so redesignated, by striking "(including a Resource Center designated under subsection (h)(3)(A) of this section)";

(2) in section 2065(b)(3)(C), by striking ")";

(3) in the table of sections at the beginning of chapter 36, by striking the item relating to section 3684A and inserting the following new item:

"3684A. Procedures relating to computer matching program.";

(4) in section 4110(c)(1), by striking "15" and inserting "16";

(5) in the table of sections at the beginning of chapter 51, by striking the item relating to section 5121 and inserting the following new item:

"5121. Payment of certain accrued benefits upon death of a beneficiary.";

(6) in section 7458(b)(2), by striking "pro rated" and inserting "pro-rated";

(7) in section 8117(a)(1), by striking "such such" and inserting "such"; and

(8) in each of sections 1708(d), 7314(f), 7320(j)(2), 7325(i)(2), and 7328(i)(2), by striking "medical care account" and inserting "medical services account".

(b) VETERANS BENEFITS, HEALTH CARE, AND INFORMATION TECHNOLOGY ACT OF 2006.—Section 807(e) of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law

109–461) is amended by striking "Medical Care" each place it appears and inserting "Medical Facilities". 120 Stat. 3445.

Approved October 10, 2008.

LEGISLATIVE HISTORY—S. 2162:

SENATE REPORTS: No. 110–281 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 3, considered and passed Senate.
Sept. 24, considered and passed House, amended.
Sept. 27, Senate concurred in House amendment.

Public Law 110–388
110th Congress

An Act

Oct. 10, 2008
[S. 2816]

To provide for the appointment of the Chief Human Capital Officer of the Department of Homeland Security by the Secretary of Homeland Security.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. APPOINTMENT OF THE CHIEF HUMAN CAPITAL OFFICER BY THE SECRETARY OF HOMELAND SECURITY.**

Section 103(d) of the Homeland Security Act of 2002 (6 U.S.C. 113(d)) is amended—

(1) by striking paragraph (3); and

(2) redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

Approved October 10, 2008.

LEGISLATIVE HISTORY—S. 2816:

SENATE REPORTS: No. 110–466 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, considered and passed Senate.
Sept. 27, considered and passed House.

# Public Law 110–389
# 110th Congress

## An Act

To amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes.

Oct. 10, 2008
[S. 3023]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Veterans' Benefits Improvement Act of 2008.
38 USC 101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Improvement Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Reference to title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

Sec. 101. Regulations on contents of notice to be provided claimants by the Department of Veterans Affairs regarding the substantiation of claims.
Sec. 102. Judicial review of adoption and revision by the Secretary of Veterans Affairs of the schedule of ratings for disabilities of veterans.
Sec. 103. Conforming amendment relating to non-deductibility from veterans' disability compensation of disability severance pay for disabilities incurred by members of the Armed Forces in combat zones.
Sec. 104. Report on progress of the Secretary of Veterans Affairs in addressing causes for variances in compensation payments for veterans for service-connected disabilities.
Sec. 105. Extension of temporary authority for the performance of medical disability examinations by contract physicians.
Sec. 106. Addition of osteoporosis to disabilities presumed to be service-connected in former prisoners of war with post-traumatic stress disorder.

TITLE II—MODERNIZATION OF DEPARTMENT OF VETERANS AFFAIRS DISABILITY COMPENSATION SYSTEM

Subtitle A—Benefits Matters

Sec. 211. Authority for temporary disability ratings.
Sec. 212. Substitution upon death of claimant.
Sec. 213. Report on compensation of veterans for loss of earning capacity and quality of life and on long-term transition payments to veterans undergoing rehabilitation for service-connected disabilities.
Sec. 214. Advisory Committee on Disability Compensation.

Subtitle B—Assistance and Processing Matters

Sec. 221. Pilot programs on expedited treatment of fully developed claims and provision of checklists to individuals submitting claims.
Sec. 222. Office of Survivors Assistance.
Sec. 223. Comptroller General report on adequacy of dependency and indemnity compensation to maintain survivors of veterans who die from service-connected disabilities.
Sec. 224. Independent assessment of quality assurance program.
Sec. 225. Certification and training of employees of the Veterans Benefits Administration responsible for processing claims.

Sec. 226. Study of performance measures for claims adjudications of the Veterans Benefits Administration.
Sec. 227. Review and enhancement of use of information technology in Veterans Benefits Administration.
Sec. 228. Study and report on improving access to medical advice.

TITLE III—LABOR AND EDUCATION MATTERS

Subtitle A—Labor and Employment Matters

Sec. 311. Reform of USERRA complaint process.
Sec. 312. Modification and expansion of reporting requirements with respect to enforcement of USERRA.
Sec. 313. Training for executive branch human resources personnel on employment and reemployment rights of members of the uniformed services.
Sec. 314. Report on the employment needs of Native American veterans living on tribal lands.
Sec. 315. Equity powers.
Sec. 316. Waiver of residency requirement for Directors for Veterans' Employment and Training.
Sec. 317. Modification of special unemployment study to cover veterans of Post 9/11 Global Operations.

Subtitle B—Education Matters

Sec. 321. Modification of period of eligibility for Survivors' and Dependents' Educational Assistance of certain spouses of individuals with service-connected disabilities total and permanent in nature.
Sec. 322. Repeal of requirement for report to the Secretary of Veterans Affairs on prior training.
Sec. 323. Modification of waiting period before affirmation of enrollment in a correspondence course.
Sec. 324. Change of programs of education at the same educational institution.
Sec. 325. Repeal of certification requirement with respect to applications for approval of self-employment on-job training.
Sec. 326. Coordination of approval activities in the administration of education benefits.

Subtitle C—Vocational Rehabilitation Matters

Sec. 331. Waiver of 24-month limitation on program of independent living services and assistance for veterans with a severe disability incurred in the Post-9/11 Global Operations period.
Sec. 332. Increase in cap of number of veterans participating in independent living program.
Sec. 333. Report on measures to assist and encourage veterans in completing vocational rehabilitation.
Sec. 334. Longitudinal study of Department of Veterans Affairs vocational rehabilitation programs.

TITLE IV—INSURANCE MATTERS

Sec. 401. Report on inclusion of severe and acute post-traumatic stress disorder among conditions covered by traumatic injury protection coverage under Servicemembers' Group Life Insurance.
Sec. 402. Treatment of stillborn children as insurable dependents under Servicemembers' Group Life Insurance.
Sec. 403. Other enhancements of Servicemembers' Group Life Insurance coverage.
Sec. 404. Administrative costs of service disabled veterans' insurance.

TITLE V—HOUSING MATTERS

Sec. 501. Temporary increase in maximum loan guaranty amount for certain housing loans guaranteed by Secretary of Veterans Affairs.
Sec. 502. Report on impact of mortgage foreclosures on veterans.
Sec. 503. Requirement for regular updates to handbook for design furnished to veterans eligible for specially adapted housing assistance by Secretary of Veterans Affairs.
Sec. 504. Enhancement of refinancing of home loans by veterans.
Sec. 505. Extension of certain veterans home loan guaranty programs.

TITLE VI—COURT MATTERS

Sec. 601. Temporary increase in number of authorized judges of the United States Court of Appeals for Veterans Claims.
Sec. 602. Protection of privacy and security concerns in court records.

Sec. 603. Recall of retired judges of the United States Court of Appeals for Veterans Claims.
Sec. 604. Annual reports on workload of the United States Court of Appeals for Veterans Claims.
Sec. 605. Additional discretion in imposition of practice and registration fees.

TITLE VII—ASSISTANCE TO UNITED STATES PARALYMPIC INTEGRATED ADAPTIVE SPORTS PROGRAM

Sec. 701. Findings and purpose.
Sec. 702. Department of Veterans Affairs provision of assistance to United States Paralympics, Inc.
Sec. 703. Department of Veterans Affairs Office of National Veterans Sports Programs and Special Events.
Sec. 704. Comptroller General report.

TITLE VIII—OTHER MATTERS

Sec. 801. Authority for suspension or termination of claims of the United States against individuals who died while serving on active duty in the Armed Forces.
Sec. 802. Three-year extension of authority to carry out income verification.
Sec. 803. Maintenance, management, and availability for research of assets of Air Force Health Study.
Sec. 804. National Academies study on risk of developing multiple sclerosis as a result of certain service in the Persian Gulf War and Post 9/11 Global Operations theaters.
Sec. 805. Termination or suspension of contracts for cellular telephone service for certain servicemembers.
Sec. 806. Contracting goals and preferences for veteran-owned small business concerns.
Sec. 807. Penalties for violation of interest rate limitation under Servicemembers Civil Relief Act.
Sec. 808. Five-year extension of sunset provision for Advisory Committee on Minority Veterans.
Sec. 809. Authority of Secretary of Veterans Affairs to advertise to promote awareness of benefits under laws administered by the Secretary.
Sec. 810. Memorial headstones and markers for deceased remarried surviving spouses of veterans.

**SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

# TITLE I—COMPENSATION AND PENSION MATTERS

**SEC. 101. REGULATIONS ON CONTENTS OF NOTICE TO BE PROVIDED CLAIMANTS BY THE DEPARTMENT OF VETERANS AFFAIRS REGARDING THE SUBSTANTIATION OF CLAIMS.**

38 USC 5103.

(a) IN GENERAL.—Section 5103(a) is amended—

(1) by inserting "(1)" before "Upon receipt"; and

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

"(2)(A) The Secretary shall prescribe in regulations requirements relating to the contents of notice to be provided under this subsection.

"(B) The regulations required by this paragraph—

"(i) shall specify different contents for notice based on whether the claim concerned is an original claim, a claim for reopening a prior decision on a claim, or a claim for an increase in benefits;

"(ii) shall provide that the contents for such notice be appropriate to the type of benefits or services sought under the claim;

"(iii) shall specify for each type of claim for benefits the general information and evidence required to substantiate the basic elements of such type of claim; and

"(iv) shall specify the time period limitations required pursuant to subsection (b).".

38 USC 5103 note.

(b) APPLICABILITY.—The regulations required by paragraph (2) of section 5103(a) of title 38, United States Code (as amended by subsection (a) of this section), shall apply with respect to notices provided to claimants on or after the effective date of such regulations.

**SEC. 102. JUDICIAL REVIEW OF ADOPTION AND REVISION BY THE SECRETARY OF VETERANS AFFAIRS OF THE SCHEDULE OF RATINGS FOR DISABILITIES OF VETERANS.**

38 USC 502.

Section 502 is amended by striking "(other than an action relating to the adoption or revision of the schedule of ratings for disabilities adopted under section 1155 of this title)".

**SEC. 103. CONFORMING AMENDMENT RELATING TO NON-DEDUCTIBILITY FROM VETERANS' DISABILITY COMPENSATION OF DISABILITY SEVERANCE PAY FOR DISABILITIES INCURRED BY MEMBERS OF THE ARMED FORCES IN COMBAT ZONES.**

(a) CONFORMING AMENDMENT.—Section 1646 of the Wounded Warrior Act (title XVI of Public Law 110–181; 122 Stat. 472) is amended—

10 USC 1212 note.

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) CONFORMING AMENDMENT.—Section 1161 of title 38, United States Code, is amended by striking 'as required by section 1212(c) of title 10' and inserting 'to the extent required by section 1212(d) of title 10'.".

38 USC 1161 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 28, 2008 (the date of the enactment of the Wounded Warrior Act), as if included in that Act, to which they relate.

**SEC. 104. REPORT ON PROGRESS OF THE SECRETARY OF VETERANS AFFAIRS IN ADDRESSING CAUSES FOR VARIANCES IN COMPENSATION PAYMENTS FOR VETERANS FOR SERVICE-CONNECTED DISABILITIES.**

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report describing the progress of the Secretary in addressing the causes of unacceptable variances in compensation payments for veterans for service-connected disabilities.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A description of the efforts of the Veterans Benefits Administration to coordinate with the Veterans Health Administration to improve the quality of examinations of veterans with service-connected disabilities that are performed by the Veterans Health Administration and contract clinicians,

including efforts relating to the use of approved templates for such examinations and of reports on such examinations that are based on such templates prepared in an easily-readable format.

(2) An assessment of the current personnel requirements of the Veterans Benefits Administration, including an assessment of the adequacy of the number of personnel assigned to each regional office of the Administration for each type of claim adjudication position.

(3) A description of the differences, if any, in current patterns of claims submitted to the Secretary of Veterans Affairs regarding ratings for service-connected disabilities among various populations of veterans, including veterans living in rural and highly rural areas, minority veterans, veterans who served in the National Guard or Reserve, and veterans who are retired from the Armed Forces, and a description and assessment of efforts undertaken to reduce such differences.

**SEC. 105. EXTENSION OF TEMPORARY AUTHORITY FOR THE PERFORMANCE OF MEDICAL DISABILITY EXAMINATIONS BY CONTRACT PHYSICIANS.**

Section 704(c) of the Veterans Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2651; 38 U.S.C. 5101 note) is amended by striking "December 31, 2009" and inserting "December 31, 2010".

**SEC. 106. ADDITION OF OSTEOPOROSIS TO DISABILITIES PRESUMED TO BE SERVICE-CONNECTED IN FORMER PRISONERS OF WAR WITH POST-TRAUMATIC STRESS DISORDER.**

38 USC 1112.

Section 1112(b)(2) is amended by adding at the end the following new subparagraph:

"(F) Osteoporosis, if the Secretary determines that the veteran has post-traumatic stress disorder (PTSD).".

# TITLE II—MODERNIZATION OF DEPARTMENT OF VETERANS AFFAIRS DISABILITY COMPENSATION SYSTEM

## Subtitle A—Benefits Matters

**SEC. 211. AUTHORITY FOR TEMPORARY DISABILITY RATINGS.**

(a) IN GENERAL.—Chapter 11 is amended by inserting after section 1155 the following new section:

**"§ 1156. Temporary disability ratings**

"(a) ASSIGNMENT OF TEMPORARY RATINGS.—(1) For the purpose of providing disability compensation under this chapter to veterans, the Secretary shall assign a temporary disability rating to a veteran as follows:

"(A) To a veteran who—

"(i) was discharged or released from active duty not more than 365 days before the date such veteran submits a claim for disability compensation under this chapter;

"(ii) has one or more disabilities for which a rating of total is not immediately assignable—

"(I) under the regular provisions of the schedule of ratings; or

"(II) on the basis of individual unemployability; and

"(iii) has one or more—

"(I) severe disabilities that result in substantially gainful employment not being feasible or advisable; or

"(II) healed, unhealed, or incompletely healed wounds or injuries that make material impairment of employability likely.

"(B) To a veteran who, as a result of a highly stressful in-service event, has a mental disorder that is severe enough to bring about the veteran's discharge or release from active duty.

"(C) To a veteran who has a service-connected disability that requires hospital treatment or observation in a Department of Veterans Affairs or approved hospital for a period in excess of 21 days.

Regulations.

"(D) To a veteran who has a service-connected disability that has required convalescent care or treatment at hospital discharge (regular discharge or release to non-bed care) or outpatient release that meets the requirements of regulations prescribed by the Secretary.

"(2) With respect to a veteran described in paragraph (1)(A), the Secretary may assign a temporary disability rating to such veteran regardless of whether such veteran has obtained a medical examination or a medical opinion concerning such veteran's disability.

Deadline.

"(3) With respect to a veteran described in paragraph (1)(B), the Secretary shall schedule a medical examination for such veteran not later than six months after the separation or discharge of such veteran from active duty.

"(b) TERMINATION OF TEMPORARY DISABILITY RATINGS.—(1) Except as provided in paragraph (2), a temporary disability rating assigned to a veteran under this section shall remain in effect as follows:

"(A) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(A), until the later of the date that is—

"(i) 12 months after the date of discharge or release from active duty; or

Regulations.

"(ii) provided in regulations prescribed by the Secretary.

"(B) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(B), until the date on which a rating decision is issued to such veteran following the medical examination scheduled under subsection (a)(3).

"(C) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(C), until the later of the date that is—

"(i) the last day of the month in which the veteran is discharged from the hospital as described in such subsection (a)(1)(C); or

Regulations.

"(ii) provided in regulations prescribed by the Secretary.

"(D) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(D), until the date that is provided in regulations prescribed by the Secretary. Regulations.

"(2) The Secretary may extend a temporary disability rating assigned to a veteran under subsection (a) beyond the applicable termination date under paragraph (1) if the Secretary determines that such an extension is appropriate.

"(c) REGULATIONS.—The Secretary shall prescribe regulations to carry out the provisions of this section.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to preclude the Secretary from providing a temporary disability rating under an authority other than this section.".

(b) APPLICATION.—Section 1156(a)(1) of title 38, United States Code, as added by subsection (a), shall apply with respect to a veteran who is discharged or released from active duty (as defined in section 101 of title 38, United States Code) on or after the date of the enactment of this Act. 38 USC 1156 note.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 is amended by inserting after the item relating to section 1155 the following new item:

"1156. Temporary disability ratings.".

**SEC. 212. SUBSTITUTION UPON DEATH OF CLAIMANT.**

(a) IN GENERAL.—Chapter 51 is amended by inserting after section 5121 the following new section:

**"§ 5121A. Substitution in case of death of claimant**

"(a) SUBSTITUTION.—(1) If a claimant dies while a claim for any benefit under a law administered by the Secretary, or an appeal of a decision with respect to such a claim, is pending, a living person who would be eligible to receive accrued benefits due to the claimant under section 5121(a) of this title may, not later than one year after the date of the death of such claimant, file a request to be substituted as the claimant for the purposes of processing the claim to completion.

"(2) Any person seeking to be substituted for the claimant shall present evidence of the right to claim such status within such time as prescribed by the Secretary in regulations. Regulations.

"(3) Substitution under this subsection shall be in accordance with such regulations as the Secretary may prescribe.

"(b) LIMITATION.—Those who are eligible to make a claim under this section shall be determined in accordance with section 5121 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 is amended by inserting after the item relating to section 5121 the following new item:

"5121A. Substitution in case of death of claimant.".

(c) EFFECTIVE DATE.—Section 5121A of title 38, United States Code, as added by subsection (a), shall apply with respect to the claim of any claimant who dies on or after the date of the enactment of this Act. 38 USC 5121A note.

**SEC. 213. REPORT ON COMPENSATION OF VETERANS FOR LOSS OF EARNING CAPACITY AND QUALITY OF LIFE AND ON LONG-TERM TRANSITION PAYMENTS TO VETERANS UNDERGOING REHABILITATION FOR SERVICE-CONNECTED DISABILITIES.**

(a) REPORT REQUIRED.—Not later than 210 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report on the findings of the Secretary as a result of the following studies:

(1) The most recent study of the Secretary on the appropriate levels of disability compensation to be paid to veterans to compensate for loss of earning capacity and quality of life as a result of service-related disabilities.

(2) The most recent study of the Secretary on the feasability and appropriate level of long-term transition payments to veterans who are separated from the Armed Forces due to disability while such veterans are undergoing rehabilitation for such disability.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A comprehensive description of the findings and recommendations of the Secretary as a result of the studies described in subsection (a).

(2) A description of the actions proposed to be taken by the Secretary in light of such findings and recommendations, including a description of any modification of the schedule for rating disabilities of veterans under section 1155 of title 38, United States Code, proposed to be undertaken by the Secretary and of any other modification of policy or regulations proposed to be undertaken by the Secretary.

(3) For each action proposed to be taken as described in paragraph (2), a proposed schedule for the taking of such action, including a schedule for the commencement and completion of such action.

(4) A description of any legislative action required in order to authorize, facilitate, or enhance the taking of any action proposed to be taken as described in paragraph (2).

**SEC. 214. ADVISORY COMMITTEE ON DISABILITY COMPENSATION.**

(a) IN GENERAL.—Subchapter III of chapter 5 is amended by adding at the end the following new section:

**"§ 546. Advisory Committee on Disability Compensation**

"(a) ESTABLISHMENT.—(1) There is in the Department the Advisory Committee on Disability Compensation (in this section referred to as the 'Committee').

"(2) The Committee shall consist of not more than 18 members appointed by the Secretary from among individuals who—

"(A) have experience with the provision of disability compensation by the Department; or

"(B) are leading medical or scientific experts in relevant fields.

"(3)(A) Except as provided in subparagraph (B), the Secretary shall determine the terms of service and pay and allowances of the members of the Committee.

"(B) A term of service may not exceed four years and shall be staggered to ensure that the dates for the termination of the members' terms are not all the same.

"(C) The Secretary may reappoint any member for one or more additional terms of service.

"(4) The Secretary shall select a Chair from among the members of the Committee.

"(b) RESPONSIBILITIES OF COMMITTEE.—(1) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the maintenance and periodic readjustment of the schedule for rating disabilities under section 1155 of this title.

"(2)(A) In providing advice to the Secretary under this subsection, the Committee shall—

"(i) assemble and review relevant information relating to the needs of veterans with disabilities;

"(ii) provide information relating to the nature and character of disabilities arising from service in the Armed Forces;

"(iii) provide an on-going assessment of the effectiveness of the schedule for rating disabilities; and

"(iv) provide on-going advice on the most appropriate means of responding to the needs of veterans relating to disability compensation in the future.

"(B) In carrying out its duties under subparagraph (A), the Committee shall take into special account the needs of veterans who have served in a theater of combat operations.

"(c) RESOURCES.—The Secretary shall ensure that appropriate personnel, funding, and other resources are provided to the Committee to carry out its responsibilities.

"(d) BIENNIAL REPORTS TO THE SECRETARY.—(1) Not later than October 31, 2010, and not less frequently than every two years thereafter, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to the payment of disability compensation. Each such report shall include—

"(A) an assessment of the needs of veterans with respect to disability compensation; and

"(B) such recommendations (including recommendations for administrative or legislative action) as the Committee considers appropriate.

"(2) The Committee may submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(e) BIENNIAL REPORTS TO CONGRESS.—(1) Not later than 90 days after the receipt of a report required under subsection (d)(1), the Secretary shall transmit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a copy of such report, together with such comments and recommendations concerning such report as the Secretary considers appropriate.

"(2) The Secretary shall submit with each report required under paragraph (1) a summary of all reports and recommendations of the Committee submitted to the Secretary under subsection (d)(2) since the previous report transmitted by the Secretary under paragraph (1) of this subsection.

"(f) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—(1) Except as provided in paragraph (2), the provisions of the

Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the activities of the Committee under this section.

"(2) Section 14 of such Act shall not apply to the Committee.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end of the items relating to subchapter III the following new item:

"546. Advisory Committee on Disability Compensation.".

# Subtitle B—Assistance and Processing Matters

38 USC 5101 note.

**SEC. 221. PILOT PROGRAMS ON EXPEDITED TREATMENT OF FULLY DEVELOPED CLAIMS AND PROVISION OF CHECKLISTS TO INDIVIDUALS SUBMITTING CLAIMS.**

(a) PILOT PROGRAM ON EXPEDITED TREATMENT OF FULLY DEVELOPED CLAIMS.—

Deadline.

(1) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program to assess the feasibility and advisability of providing expeditious treatment of fully developed compensation or pension claims to ensure that such claims are adjudicated not later than 90 days after the date on which such claim is submitted as fully developed.

(2) DURATION OF PILOT PROGRAM.—The pilot program under this subsection shall be carried out during the one-year period beginning on the date that is 60 days after the date of the enactment of this Act.

(3) PROGRAM LOCATIONS.—The pilot program under this subsection shall be carried out at 10 regional offices of the Department of Veterans Affairs selected by the Secretary for purposes of such pilot program.

(4) FULLY DEVELOPED CLAIM DEFINED.—For purposes of this subsection, the term "fully developed claim" means a claim for a benefit under a law administered by the Secretary—

(A) for which the claimant—

(i) received assistance from a veterans service officer, a State or country veterans service officer, an agent, or an attorney; or

(ii) submits along with the claim an appropriate indication that the claimant does not intend to submit any additional information or evidence in support of the claim and does not require additional assistance with respect to the claim; and

(B) for which the claimant—

(i) submits a certification in writing that is signed and dated by the claimant stating that, as of such date, no additional information or evidence is available or needs to be submitted in order for the claim to be adjudicated; and

(ii) for which the claimant's representative, if any, submits a certification in writing that is signed and dated by the representative stating that, as of such date, no additional information or evidence is available or needs to be submitted in order for the claim to be adjudicated.

(b) PILOT PROGRAM ON PROVISION OF CHECKLISTS TO INDIVIDUALS SUBMITTING CLAIMS.—

(1) IN GENERAL.—The Secretary shall carry out a pilot program to assess the feasibility and advisability of providing to a claimant for whom the Secretary is required under section 5103(a) of title 38, United States Code, to provide notice of required information and evidence to such claimant and such claimant's representative, if any, a checklist that includes information or evidence required to be submitted by the claimant to substantiate the claim.

(2) DURATION OF PILOT PROGRAM.—The pilot program under this subsection shall be carried out—

(A) for original claims filed after the date of the enactment of this Act, during the one-year period beginning on the date that is 60 days after the date of the enactment of this Act; and

(B) for claims to reopen and for claims for increased ratings that were filed after the date of the enactment of this Act, during the three-year period beginning on the date that is 60 days after the date of the enactment of this Act.

(3) PROGRAM LOCATIONS.—The pilot program under this subsection shall be carried out at four regional offices of the Department selected by the Secretary for purposes of such pilot program.

(4) CONSTRUCTION.—A checklist provided under the pilot program under this subsection—

(A) shall be construed to be an addendum to a notice provided under section 5103(a) of title 38, United Sates Code; and

(B) shall not be considered as part of such notice for purposes of reversal or remand of a decision of the Secretary.

(c) REPORTS.—

(1) FIRST INITIAL REPORT.—Not later than 335 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the pilot program under subsection (a) and the pilot program under subsection (b) with respect to claims described in subsection (b)(2)(A).

(2) SECOND INTERIM REPORT.—Not later than 1,065 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the pilot program under subsection (b) with respect to claims described in subsection (b)(2)(B).

(3) ELEMENTS OF INTERIM REPORTS.—The reports required by paragraphs (1) and (2) shall include the following:

(A) Data concerning the number and type of claims covered by the respective pilot program.

(B) The findings of the Secretary with respect to the respective pilot program.

(C) The recommendations of the Secretary on the feasibility and advisability of continuing or expanding the respective pilot program and any necessary modifications to such pilot program for continuation or expansion.

(D) Such other information as the Secretary considers appropriate.

(4) FINAL REPORT.—Not later than 180 days after the completion of each pilot program carried out under this section, the Secretary shall submit to Congress a final report on the feasibility and advisability of continuing or expanding the respective pilot program.

**SEC. 222. OFFICE OF SURVIVORS ASSISTANCE.**

(a) IN GENERAL.—Chapter 3 is amended by adding at the end the following new section:

**"§ 321. Office of Survivors Assistance**

"(a) ESTABLISHMENT.—The Secretary shall establish in the Department an Office of Survivors Assistance (in this section referred to as the 'Office') to serve as a resource regarding all benefits and services furnished by the Department—

"(1) to survivors and dependents of deceased veterans; and

"(2) to survivors and dependents of deceased members of the Armed Forces.

"(b) ADVISORY DUTIES.—The Office shall serve as a primary advisor to the Secretary on all matters related to the policies, programs, legislative issues, and other initiatives affecting the survivors and dependents described in subsection (a).

"(c) GUIDANCE FROM STAKEHOLDERS.—In establishing the Office, the Secretary shall seek guidance from interested stakeholders.

"(d) RESOURCES.—The Secretary shall ensure that appropriate personnel, funding, and other resources are provided to the Office to carry out its responsibilities.

"(e) INCLUSION OF INFORMATION ON OFFICE IN ANNUAL REPORT ON DEPARTMENT ACTIVITIES.—The Secretary shall include in each annual Performance and Accountability report submitted by the Secretary to Congress a description of the activities of the Office during the fiscal year covered by such report.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"321. Office of Survivors Assistance.".

**SEC. 223. COMPTROLLER GENERAL REPORT ON ADEQUACY OF DEPENDENCY AND INDEMNITY COMPENSATION TO MAINTAIN SURVIVORS OF VETERANS WHO DIE FROM SERVICE-CONNECTED DISABILITIES.**

(a) REPORT REQUIRED.—Not later than 10 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the Committees on Veterans' Affairs and Appropriations of the House of Representatives a report on the adequacy of dependency and indemnity compensation payable under chapter 13 of title 38, United States Code, to surviving spouses and dependents of veterans who die as a result of a service-connected disability in replacing the deceased veteran's income.

(b) ELEMENTS.—The report required by subsection (a) shall include—

(1) a description of the current system for the payment of dependency and indemnity compensation to surviving

spouses and dependents described in subsection (a), including a statement of the rates of such compensation so payable;

(2) an assessment of the adequacy of such payments in replacing the deceased veteran's income; and

(3) such recommendations as the Comptroller General considers appropriate in order to improve or enhance the effects of such payments in replacing the deceased veteran's income.

**SEC. 224. INDEPENDENT ASSESSMENT OF QUALITY ASSURANCE PROGRAM.**

(a) IN GENERAL.—Section 7731 is amended by adding at the end the following new subsection: 38 USC 7731.

"(c)(1) The Secretary shall enter into a contract with an independent third-party entity to conduct, during the three-year period beginning on the date of the enactment of the Veterans' Benefits Improvement Act of 2008, an assessment of the quality assurance program carried out under subsection (a). Contracts. Time period.

"(2) The assessment conducted under paragraph (1) shall evaluate the following:

"(A) The quality and accuracy of the work of employees of the Veterans Benefits Administration, using a statistically valid sample of such employees and a statistically valid sample of such work.

"(B) The performance of each regional office of the Veterans Benefits Administration.

"(C) The accuracy of the disability ratings assigned under the schedule for rating disabilities under section 1155 of this title.

"(D) The consistency of disability ratings among regional offices of the Veterans Benefits Administration, based on a sample of specific disabilities.

"(E) The performance of employees and managers of the Veterans Benefits Administration.

"(3) The Secretary shall develop a mechanism for the automated gathering and producing of data that can be used to monitor and assess trends relating to the items described in paragraph (2).

"(4)(A) Beginning on the date that is six months after the date of the enactment of the Veterans' Benefits Improvement Act of 2008, the Secretary shall— Effective date.

"(i) for each claim for disability compensation under laws administered by the Secretary submitted to the Secretary on or after such date, retain, monitor, and store in an accessible format the data described in subparagraph (B); and

"(ii) develop a demographic baseline for the data retained, monitored, and stored under subparagraph (A).

"(B) The data described in this subparagraph includes the following:

"(i) For each claim for disability compensation under laws administered by the Secretary submitted by a claimant—

"(I) the State in which the claimant resided when the claim was submitted;

"(II) the decision of the Secretary with respect to the claim and each issue claimed; and

"(III) the regional office and individual employee of the Department responsible for rating the claim.

"(ii) The State in which the claimant currently resides.

"(iii) Such other data as the Secretary determines is appropriate for monitoring the accuracy and consistency of decisions with respect to such claims.

"(5) Nothing in this subsection shall be construed to require the Secretary to replace the quality assurance program under subsection (a) that was in effect on the day before the date of the enactment of this subsection.".

(b) REPORT TO CONGRESS.—Not later than the end of the three-year period beginning on the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report containing the results and findings of the independent third-party entity described in section 7731(c)(1) of title 38, United States Code, as added by subsection (a), with respect to the assessment conducted under such section 7731(c)(1).

**SEC. 225. CERTIFICATION AND TRAINING OF EMPLOYEES OF THE VETERANS BENEFITS ADMINISTRATION RESPONSIBLE FOR PROCESSING CLAIMS.**

(a) EMPLOYEE CERTIFICATION REQUIRED.—

(1) IN GENERAL.—Subchapter II of chapter 77 is amended by inserting after section 7732 the following new section:

**"§ 7732A. Employee certification**

"(a) DEVELOPMENT OF CERTIFICATION EXAMINATION.—(1) The Secretary shall provide for an examination of appropriate employees and managers of the Veterans Benefits Administration who are responsible for processing claims for compensation and pension benefits under the laws administered by the Secretary.

"(2) In developing the examination required by paragraph (1), the Secretary shall—

Consultation.

"(A) consult with appropriate individuals or entities, including examination development experts, interested stakeholders, and employee representatives; and

"(B) consider the data gathered and produced under section 7731(c)(3) of this title.

"(b) EMPLOYEE AND MANAGER REQUIREMENT.—The Secretary shall require appropriate employees and managers of the Veterans Benefits Administration who are responsible for processing claims for compensation and pension benefits under the laws administered by the Secretary to take the examination provided under subsection (a).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 77 is amended by inserting after the item relating to section 7732 the following new item:

"7732A. Employee certification.".

38 USC 7732A note.

(3) DEADLINES FOR IMPLEMENTATION.—The Secretary of Veterans Affairs shall—

(A) develop an updated certification examination required under section 7732A of title 38, United States Code, as added by subsection (a), not later than one year after the date of the enactment of this Act; and

(B) begin administering such certification examination required under such section not later than 90 days after the date on which the development of such certification examination is complete.

(b) EVALUATION OF TRAINING.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall— Deadline.

(1) evaluate the training programs administered for employees of the Veterans Benefits Administration of the Department of Veterans Affairs; and

(2) submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the findings of the Comptroller General with respect to the evaluation described in paragraph (1). Reports.

**SEC. 226. STUDY OF PERFORMANCE MEASURES FOR CLAIMS ADJUDICATIONS OF THE VETERANS BENEFITS ADMINISTRATION.** 38 USC 5101 note.

(a) STUDY OF WORK CREDIT SYSTEM AND WORK MANAGEMENT SYSTEM REQUIRED.—The Secretary of Veterans Affairs shall conduct a study on the effectiveness of the current employee work credit system and work management system of the Veterans Benefits Administration of the Department of Veterans Affairs, which is used—

(1) to measure and manage the work production of employees of the Veterans Benefits Administration who handle claims for compensation and pension benefits; and

(2) to evaluate more effective means of improving performance.

(b) CONTENTS OF STUDY.—In carrying out the study under subsection (a), the Secretary shall consider—

(1) measures to improve the accountability, quality, and accuracy for processing claims for compensation and pension benefits under laws administered by the Secretary that are adjudicated by the Veterans Benefits Administration;

(2) accountability for claims adjudication outcomes;

(3) the quality of claims adjudicated;

(4) a simplified process to adjudicate claims;

(5) the maximum use of information technology applications;

(6) rules-based applications and tools for processing and adjudicating claims efficiently and effectively;

(7) methods of reducing the time required to obtain information from outside sources; and

(8) the elements needed to implement—

(A) performance standards and accountability measures, intended to ensure that—

(i) claims for benefits under the laws administered by the Secretary are processed in an objective, accurate, consistent, and efficient manner; and

(ii) final decisions with respect to such claims are consistent and issued within the target identified in the most recent annual Performance and Accountability report submitted by the Secretary to Congress for the most recent fiscal year;

(B) guidelines and procedures for the identification and prompt processing of such claims that are ready to rate upon submittal;

(C) guidelines and procedures for the identification and prompt processing of such claims submitted by severely

injured and very severely injured veterans, as determined by the Secretary; and

(D) requirements for assessments of claims processing at each regional office for the purpose of producing lessons learned and best practices.

(c) REPORT TO CONGRESS.—Not later than October 31, 2009, the Secretary shall submit to Congress a report on—

(1) the study conducted under subsection (a); and

(2) the components required to implement the updated system for evaluating employees of the Veterans Benefits Administration required under subsection (d).

(d) EVALUATION OF CERTAIN VETERANS BENEFITS ADMINISTRATION EMPLOYEES RESPONSIBLE FOR PROCESSING CLAIMS FOR COMPENSATION AND PENSION BENEFITS.—Not later than 210 days after the date on which the Secretary submits to Congress the report required under subsection (c), the Secretary shall establish an updated system for evaluating the performance and accountability of employees of the Veterans Benefits Administration who are responsible for processing claims for compensation or pension benefits. Such system shall be based on the findings of the study conducted by the Secretary under subsection (a).

Deadline.

38 USC 5101 note.

**SEC. 227. REVIEW AND ENHANCEMENT OF USE OF INFORMATION TECHNOLOGY IN VETERANS BENEFITS ADMINISTRATION.**

Deadline.

(a) REVIEW AND COMPREHENSIVE PLAN.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall—

(1) conduct a review of the use of information technology in the Veterans Benefits Administration with respect to the processing of claims for compensation and pension benefits; and

(2) develop a comprehensive plan for the use of such technology in processing such claims so as to reduce subjectivity, avoidable remands, and regional office variances in disability ratings for specific disabilities.

(b) INFORMATION TECHNOLOGY.—The plan developed under subsection (a)(2) shall include the following:

(1) The use of rules-based processing or information technology systems utilizing automated decision support software at all levels of processing such claims.

(2) The enhancement of the use of information technology for all aspects of the claims process.

(3) Development of a technological platform that—

(A) allows for the use of information that members of the Armed Forces, veterans, and dependents have submitted electronically, including uploaded military records, medical evidence, and other appropriate documentation; and

(B) to the extent practicable—

(i) provides the capability to such members, veterans, and dependents to view applications for benefits submitted online; and

(ii) complies with the provisions of subchapter III of chapter 35 of title 44, United States Code, section 552a of title 5, United States Code, and other relevant security policies and guidelines.

(4) The use of electronic examination templates in conjunction with the schedule for rating disabilities under section 1155 of title 38, United States Code.

(5) Such changes as may be required to the electronic health record system of the Department of Veterans Affairs and the Department of Defense to ensure that Veterans Benefits Administration claims examiners can access the available electronic medical information of the Department of Veterans Affairs and the Department of Defense.

(6) The provision of bi-directional access to medical records and service records between the Department of Veterans Affairs and the Department of Defense.

(7) The availability, on a secure Internet website of the Department of Veterans Affairs, of a portal that can be used by a claimant to check on the status of any claim submitted by that claimant and that provides information, if applicable, on—

(A) whether a decision has been reached with respect to such a claim and notice of the decision; or

(B) if no such decision has been reached, notice of—

(i) whether the application submitted by the claimant is complete;

(ii) whether the Secretary requires additional information or evidence to substantiate the claim;

(iii) the estimated date on which a decision with respect to the claim is expected to be made; and

(iv) the stage at which the claim is being processed as of the date on which such status is checked.

(c) REVIEW OF BEST PRACTICES AND LESSONS LEARNED.—In carrying out this section, the Secretary shall review—

(1) best practices and lessons learned within the Department of Veterans Affairs; and

(2) the use of the technology known as "VistA" by other Government entities and private sector organizations who employ information technology and automated decision support software.

(d) REDUCTION OF CLAIMS PROCESSING TIME.—In carrying out this section, the Secretary shall ensure that a plan is developed that, not later than three years after implementation, includes information technology to the extent possible to reduce the processing time for each compensation and pension claim processed by the Veterans Benefits Administration. The performance for claims processing under this plan shall be adjusted for changes to the numbers of claims filed in a given period, the complexity of those claims, and any changes to the basic claims processing rules which occur during the assessment period. Deadline.

(e) CONSULTATION.—In carrying out this section, the Secretary of Veterans Affairs shall consult with information technology designers at the Veterans Benefits Administration, the Veterans Health Administration, VistA managers, the Secretary of Defense, appropriate officials of other Government agencies, appropriate individuals in the private and public sectors, veterans service organizations, and other relevant service organizations.

(f) REPORT TO CONGRESS.—Not later than April 1, 2010, the Secretary shall submit to Congress a report on the review and comprehensive plan required under this section.

**SEC. 228. STUDY AND REPORT ON IMPROVING ACCESS TO MEDICAL ADVICE.**

(a) STUDY.—The Secretary of Veterans Affairs shall conduct a study—

(1) to assess the feasibility and advisability of various mechanisms to improve communication between the Veterans Benefits Administration and the Veterans Health Administration to provide Veterans Benefits Administration employees with access to medical advice from the Veterans Health Administration when needed by such employees to carry out their duties; and

(2) to evaluate whether additional medical professionals are necessary to provide the access described in paragraph (1).

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subsection (a).

# TITLE III—LABOR AND EDUCATION MATTERS

## Subtitle A—Labor and Employment Matters

Deadlines.

**SEC. 311. REFORM OF USERRA COMPLAINT PROCESS.**

(a) NOTIFICATION OF RIGHTS WITH RESPECT TO COMPLAINTS.—
38 USC 4322. Subsection (c) of section 4322 is amended to read as follows:

"(c)(1) Not later than five days after the Secretary receives a complaint submitted by a person under subsection (a), the Secretary shall notify such person in writing of his or her rights with respect to such complaint under this section and section 4323 or 4324, as the case may be.

"(2) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer.".

(b) NOTIFICATION OF RESULTS OF INVESTIGATION IN WRITING.—Subsection (e) of such section is amended by inserting "in writing" after "submitted the complaint".

(c) EXPEDITION OF ATTEMPTS TO INVESTIGATE AND RESOLVE COMPLAINTS.—Section 4322 is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Any action required by subsections (d) and (e) with respect to a complaint submitted by a person to the Secretary under subsection (a) shall be completed by the Secretary not later than 90 days after receipt of such complaint.".

(d) EXPEDITION OF REFERRALS.—

(1) EXPEDITION OF REFERRALS TO ATTORNEY GENERAL.—Section 4323(a)(1) is amended by inserting "Not later than 60 days after the Secretary receives such a request with respect to a complaint, the Secretary shall refer the complaint to the Attorney General." after "to the Attorney General.".

(2) EXPEDITION OF REFERRALS TO SPECIAL COUNSEL.—Section 4324(a)(1) is amended by striking "The Secretary shall refer" and inserting "Not later than 60 days after the date the Secretary receives such a request, the Secretary shall refer". 38 USC 4324.

(e) NOTIFICATION OF REPRESENTATION.—

(1) NOTIFICATION BY ATTORNEY GENERAL.—Section 4323(a) is further amended—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph (2):

"(2) Not later than 60 days after the date the Attorney General receives a referral under paragraph (1), the Attorney General shall—

"(A) make a decision whether to appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted; and

"(B) notify such person in writing of such decision.".

(2) NOTIFICATION BY SPECIAL COUNSEL.—Subparagraph (B) of section 4324(a)(2) is amended to read as follows:

"(B) Not later than 60 days after the date the Special Counsel receives a referral under paragraph (1), the Special Counsel shall—

"(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and

"(ii) notify such person in writing of such decision.".

(f) DEADLINES, STATUTES OF LIMITATIONS, AND RELATED MATTERS.—

(1) IN GENERAL.—Subchapter III of chapter 43 is amended by adding at the end the following new section:

**"§ 4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations**

"(a) EFFECT OF NONCOMPLIANCE OF FEDERAL OFFICIALS WITH DEADLINES.—(1) The inability of the Secretary, the Attorney General, or the Special Counsel to comply with a deadline applicable to such official under section 4322, 4323, or 4324 of this title—

"(A) shall not affect the authority of the Attorney General or the Special Counsel to represent and file an action or submit a complaint on behalf of a person under section 4323 or 4324 of this title;

"(B) shall not affect the right of a person—

"(i) to commence an action under section 4323 of this title;

"(ii) to submit a complaint under section 4324 of this title; or

"(iii) to obtain any type of assistance or relief authorized by this chapter;

"(C) shall not deprive a Federal court, the Merit Systems Protection Board, or a State court of jurisdiction over an action or complaint filed by the Attorney General, the Special Counsel, or a person under section 4323 or 4324 of this title; and

"(D) shall not constitute a defense, including a statute of limitations period, that any employer (including a State, a private employer, or a Federal executive agency) or the Office of Personnel Management may raise in an action filed by the

Attorney General, the Special Counsel, or a person under section 4323 or 4324 of this title.

"(2) If the Secretary, the Attorney General, or the Special Counsel is unable to meet a deadline applicable to such official in section 4322(f), 4323(a)(1), 4323(a)(2), 4324(a)(1), or 4324(a)(2)(B) of this title, and the person agrees to an extension of time, the Secretary, the Attorney General, or the Special Counsel, as the case may be, shall complete the required action within the additional period of time agreed to by the person.

"(b) INAPPLICABILITY OF STATUTES OF LIMITATIONS.—If any person seeks to file a complaint or claim with the Secretary, the Merit Systems Protection Board, or a Federal or State court under this chapter alleging a violation of this chapter, there shall be no limit on the period for filing the complaint or claim.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 43 is amended by inserting after the item relating to section 4326 the following new item:

"4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations.".

38 USC 4323.

(3) CONFORMING AMENDMENT.—Section 4323 is further amended—

(A) by striking subsection (i); and

(B) by redesignating subsection (j) as subsection (i).

**SEC. 312. MODIFICATION AND EXPANSION OF REPORTING REQUIREMENTS WITH RESPECT TO ENFORCEMENT OF USERRA.**

(a) DATE OF ANNUAL REPORTS.—Section 4332 is amended by striking "and no later than February 1, 2005" and all that follows through the "such February 1:" and inserting ", transmit to Congress not later than July 1 each year a report on matters for the fiscal year ending in the year before the year in which such report is transmitted as follows:".

(b) MODIFICATION OF ANNUAL REPORTS BY SECRETARY.—Such section is further amended—

(1) by striking "The Secretary shall" and inserting "(a) ANNUAL REPORT BY SECRETARY.—The Secretary shall";

(2) in paragraph (3), by inserting before the period at the end the following: "and the number of actions initiated by the Office of Special Counsel before the Merit Systems Protection Board pursuant to section 4324 during such fiscal year";

(3) by redesignating paragraphs (6) and (7) as paragraphs (9) and (10), respectively;

(4) by inserting after paragraph (5) the following new paragraph (8):

"(8) With respect to the cases reported on pursuant to paragraphs (1), (2), (3), (4), and (5) the number of such cases that involve persons with different occupations or persons seeking different occupations, as designated by the Standard Occupational Classification System.".

(5) by redesignating paragraph (5) as paragraph (7);

(6) by inserting after paragraph (4) the following new paragraphs (5) and (6):

"(5) The number of cases reviewed by the Secretary and the Secretary of Defense through the National Committee for Employer Support of the Guard and Reserve of the Department of Defense that involve the same person.

"(6) With respect to the cases reported on pursuant to paragraphs (1), (2), (3), (4), and (5)—

"(A) the number of such cases that involve a disability-related issue; and

"(B) the number of such cases that involve a person who has a service-connected disability."; and

(7) in paragraph (7), as redesignated by paragraph (5) of this subsection, by striking "or (4)" and inserting "(4), or (5)".

(c) ADDITIONAL REPORTS.—Such section is further amended by adding at the end the following new subsection:

"(b) QUARTERLY REPORTS.—

"(1) QUARTERLY REPORT BY SECRETARY.—Not later than 30 days after the end of each fiscal quarter, the Secretary shall submit to Congress, the Secretary of Defense, the Attorney General, and the Special Counsel a report setting forth, for the previous full quarter, the following:

"(A) The number of cases for which the Secretary did not meet the requirements of section 4322(f) of this title.

"(B) The number of cases for which the Secretary received a request for a referral under paragraph (1) of section 4323(a) of this title but did not make such referral within the time period required by such paragraph.

"(2) QUARTERLY REPORT BY ATTORNEY GENERAL.—Not later than 30 days after the end of each fiscal quarter, the Attorney General shall submit to Congress, the Secretary, the Secretary of Defense, and the Special Counsel a report setting forth, for the previous full quarter, the number of cases for which the Attorney General received a referral under paragraph (1) of section 4323(a) of this title but did not meet the requirements of paragraph (2) of section 4323(a) of this title for such referral.

"(3) QUARTERLY REPORT BY SPECIAL COUNSEL.—Not later than 30 days after the end of each fiscal quarter, the Special Counsel shall submit to Congress, the Secretary, the Secretary of Defense, and the Attorney General a report setting forth, for the previous full quarter, the number of cases for which the Special Counsel received a referral under paragraph (1) of section 4324(a) of this title but did not meet the requirements of paragraph (2)(B) of section 4324(a) of this title for such referral.".

(d) UNIFORM CATEGORIZATION OF DATA.—Such section is further amended by adding at the end the following new subsection:

"(c) UNIFORM CATEGORIZATION OF DATA.—The Secretary shall coordinate with the Secretary of Defense, the Attorney General, and the Special Counsel to ensure that—

"(1) the information in the reports required by this section is categorized in a uniform way; and

"(2) the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel each have electronic access to the case files reviewed under this chapter by the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel with due regard for the provisions of section 552a of title 5.".

(e) COMPTROLLER GENERAL REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that contains the following:

(1) An assessment of the reliability of the data contained in the reports submitted under subsection (b) of section 4332 of title 38, United States Code (as amended by subsection (c) of this section), as of the date of such report.

(2) An assessment of the timeliness of the reports submitted under subsection (b) of section 4332 of title 38, United States Code (as so amended), as of such date.

(3) The extent to which the Secretary of Labor is meeting the timeliness requirements of subsections (c)(1) and (f) of section 4322 of title 38, United States Code (as amended by section 311 of this Act), and section 4323(a)(1) of title 38, United States Code (as so amended), as of the date of such report.

(4) The extent to which the Attorney General is meeting the timeliness requirements of section 4323(a)(2) of title 38, United States Code (as amended by section 311 of this Act), as of the date of such report.

(5) The extent to which the Special Counsel is meeting the timeliness requirements of section 4324(a)(2)(B) of title 38, United States Code (as amended by section 311 of this Act), as of the date of such report.

38 USC 4332 note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to each report required under section 4332 of title 38, United States Code (as amended by this section), after the date of the enactment of this Act.

**SEC. 313. TRAINING FOR EXECUTIVE BRANCH HUMAN RESOURCES PERSONNEL ON EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.**

(a) TRAINING REQUIRED.—Subchapter IV of chapter 43 is amended by adding at the end the following new section:

**"§ 4335. Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations**

"(a) TRAINING REQUIRED.—The head of each Federal executive agency shall provide training for the human resources personnel of such agency on the following:

"(1) The rights, benefits, and obligations of members of the uniformed services under this chapter.

"(2) The application and administration of the requirements of this chapter by such agency with respect to such members.

"(b) CONSULTATION.—The training provided under subsection (a) shall be developed and provided in consultation with the Director of the Office of Personnel Management.

"(c) FREQUENCY.—The training under subsection (a) shall be provided with such frequency as the Director of the Office of Personnel Management shall specify in order to ensure that the human resources personnel of Federal executive agencies are kept fully and currently informed of the matters covered by the training.

"(d) HUMAN RESOURCES PERSONNEL DEFINED.—In this section, the term 'human resources personnel', in the case of a Federal executive agency, means any personnel of the agency who are authorized to recommend, take, or approve any personnel action that is subject to the requirements of this chapter with respect to employees of the agency.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 43 is amended by adding at the end the following new item:

"4335. Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations.".

**SEC. 314. REPORT ON THE EMPLOYMENT NEEDS OF NATIVE AMERICAN VETERANS LIVING ON TRIBAL LANDS.**

(a) REPORT.—Not later than December 1, 2009, the Secretary of Labor shall, in consultation with the Secretary of Veterans Affairs and the Secretary of the Interior, submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report assessing the employment needs of Native American (American Indian, Alaska Native, Native Hawaiian, and Pacific Islander) veterans living on tribal lands, including Indian reservations, Alaska Native villages, and Hawaiian Home Lands. The report shall include—

(1) a review of current and prior government-to-government relationships between tribal organizations and the Veterans' Employment and Training Service of the Department of Labor; and

(2) recommendations for improving employment and job training opportunities for Native American veterans on tribal land, especially through the utilization of resources for veterans.

(b) TRIBAL ORGANIZATION DEFINED.—In this section, the term "tribal organization" has the meaning given such term in section 3765(4) of title 38, United States Code.

**SEC. 315. EQUITY POWERS.**

Section 4323(e) of title 38, United States Code, is amended by striking "may use" and inserting "shall use, in any case in which the court determines it is appropriate,".

**SEC. 316. WAIVER OF RESIDENCY REQUIREMENT FOR DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.**

Section 4103(a)(2) is amended— 38 USC 4103.

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may waive the requirement in subparagraph (A) with respect to a Director for Veterans' Employment and Training if the Secretary determines that the waiver is in the public interest. Any such waiver shall be made on a case-by-case basis.".

**SEC. 317. MODIFICATION OF SPECIAL UNEMPLOYMENT STUDY TO COVER VETERANS OF POST 9/11 GLOBAL OPERATIONS.**

(a) MODIFICATION OF STUDY.—Subsection (a)(1) of section 4110A is amended—

(1) in the matter before subparagraph (A), by striking "a study every two years" and inserting "an annual study"; and

(2) by striking subparagraphs (A) through (E) and inserting the following new subparagraphs:

"(A) Veterans who were called to active duty while members of the National Guard or a Reserve Component.

"(B) Veterans who served in combat or in a war zone in the Post 9/11 Global Operations theaters.

"(C) Veterans who served on active duty during the Post 9/11 Global Operations period who did not serve in the Post 9/11 Global Operations theaters.

"(D) Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era.

"(E) Veterans who served on active duty during the Vietnam era who did not serve in the Vietnam theater of operations.

"(F) Veterans discharged or released from active duty within four years of the applicable study.

"(G) Special disabled veterans.".

(b) DEFINITIONS.—Such section is further amended by adding at the end the following new subsection:

"(c) In this section:

"(1) The term 'Post 9/11 Global Operations period' means the period of the Persian Gulf War beginning on September 11, 2001, and ending on the date thereafter prescribed by Presidential proclamation or law.

"(2) The term 'Post 9/11 Global Operations theaters' means Afghanistan, Iraq, or any other theater in which the Global War on Terrorism Expeditionary Medal is awarded for service.".

# Subtitle B—Education Matters

**SEC. 321. MODIFICATION OF PERIOD OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE OF CERTAIN SPOUSES OF INDIVIDUALS WITH SERVICE-CONNECTED DISABILITIES TOTAL AND PERMANENT IN NATURE.**

38 USC 3512.

Section 3512(b)(1) is amended—

(1) in subparagraph (A), by striking "subparagraph (B) or (C)" and inserting "subparagraph (B), (C), or (D)"; and

(2) by adding at the end the following new subparagraph:

Deadline.

"(D) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph who is made eligible under section 3501(a)(1)(D)(i) of this title by reason of a service-connected disability that was determined to be a total disability permanent in nature not later than three years after discharge from service may be afforded educational assistance under this chapter during the 20-year period beginning on the date the disability was so determined to be a total disability permanent in nature, but only if the eligible person remains the spouse of the disabled person throughout the period.".

**SEC. 322. REPEAL OF REQUIREMENT FOR REPORT TO THE SECRETARY OF VETERANS AFFAIRS ON PRIOR TRAINING.**

Section 3676(c)(4) is amended by striking "and the Secretary".

**SEC. 323. MODIFICATION OF WAITING PERIOD BEFORE AFFIRMATION OF ENROLLMENT IN A CORRESPONDENCE COURSE.**

Section 3686(b) is amended by striking "ten" and inserting "five".

**SEC. 324. CHANGE OF PROGRAMS OF EDUCATION AT THE SAME EDUCATIONAL INSTITUTION.**

Section 3691(d) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(2) by inserting "(1)" after "(d)";

(3) in subparagraph (C) of paragraph (1), as redesignated by paragraphs (1) and (2) of this section, by striking "or" at the end;

(4) in subparagraph (D) of paragraph (1), as so redesignated, by striking the period at the end and inserting "; or"; and

(5) by adding at the end the following:

"(E) the change from the program to another program is at the same educational institution and such educational institution determines that the new program is suitable to the aptitudes, interests, and abilities of the veteran or eligible person and certifies to the Secretary the enrollment of the veteran or eligible person in the new program.

"(2) A veteran or eligible person undergoing a change from one program of education to another program of education as described in paragraph (1)(E) shall not be required to apply to the Secretary for approval of such change.".

**SEC. 325. REPEAL OF CERTIFICATION REQUIREMENT WITH RESPECT TO APPLICATIONS FOR APPROVAL OF SELF-EMPLOYMENT ON-JOB TRAINING.**

Section 3677(b) is amended by adding at the end the following new paragraph: 38 USC 3677.

"(3) The requirement for certification under paragraph (1) shall not apply to training described in section 3452(e)(2) of this title.".

**SEC. 326. COORDINATION OF APPROVAL ACTIVITIES IN THE ADMINISTRATION OF EDUCATION BENEFITS.**

(a) COORDINATION.—

(1) IN GENERAL.—Section 3673 is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection (b):

"(b) COORDINATION OF ACTIVITIES.—The Secretary shall take appropriate actions to ensure the coordination of approval activities performed by State approving agencies under this chapter and chapters 34 and 35 of this title and approval activities performed by the Department of Labor, the Department of Education, and other entities in order to reduce overlap and improve efficiency in the performance of such activities.".

(2) CONFORMING AND CLERICAL AMENDMENTS.—(A) The heading of such section is amended to read as follows:

**"§ 3673. Approval activities: cooperation and coordination of activities".**

(B) The table of sections at the beginning of chapter 36 is amended by striking the item relating to section 3673 and inserting the following new item:

"3673. Approval activities: cooperation and coordination of activities.".

(3) STYLISTIC AMENDMENTS.—Such section is further amended—

(A) in subsection (a), by inserting "COOPERATION IN ACTIVITIES.—" after "(a)"; and

(B) in subsection (c), as redesignated by paragraph (1)(A) of this subsection, by inserting "AVAILABILITY OF INFORMATION MATERIAL.—" after "(c)".

(b) REPORT.—Not later than 240 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report setting forth the following:

(1) The actions taken to establish outcome-oriented performance standards for State approving agencies created or designated under section 3671 of title 38, United States Code, including a description of any plans for, and the status of the implementation of, such standards as part of the evaluations of State approving agencies required by section 3674A of title 38, United States Code.

(2) The actions taken to implement a tracking and reporting system for resources expended for approval and outreach activities by such agencies.

(3) Any recommendations for legislative action that the Secretary considers appropriate to achieve the complete implementation of the standards described in paragraph (1).

# Subtitle C—Vocational Rehabilitation Matters

### SEC. 331. WAIVER OF 24-MONTH LIMITATION ON PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE FOR VETERANS WITH A SEVERE DISABILITY INCURRED IN THE POST-9/11 GLOBAL OPERATIONS PERIOD.

38 USC 3105.

Section 3105(d) is amended—

(1) by striking "Unless the Secretary" and all that follows through "the period of a program" and inserting "(1) Except as provided in paragraph (2), the period of a program"; and

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

"(2)(A) The period of a program of independent living services and assistance for a veteran under this chapter may exceed twenty-four months as follows:

"(i) If the Secretary determines that a longer period is necessary and likely to result in a substantial increase in the veteran's level of independence in daily living.

"(ii) If the veteran served on active duty during the Post-9/11 Global Operations period and has a severe disability (as determined by the Secretary for purposes of this clause) incurred or aggravated in such service.

"(B) In this paragraph, the term 'Post-9/11 Global Operations period' means the period of the Persian Gulf War beginning on September 11, 2001, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

### SEC. 332. INCREASE IN CAP OF NUMBER OF VETERANS PARTICIPATING IN INDEPENDENT LIVING PROGRAM.

Section 3120(e) of title 38, United States Code, is amended by striking "2500 veterans" and inserting "2600 veterans".

**SEC. 333. REPORT ON MEASURES TO ASSIST AND ENCOURAGE VETERANS IN COMPLETING VOCATIONAL REHABILITATION.**

(a) STUDY REQUIRED.—The Secretary of Veterans Affairs shall conduct a study on measures to assist and encourage veterans in completing their vocational rehabilitation plans. The study shall include an identification of the following elements, to the extent that such elements do not duplicate studies conducted or reports released by the Secretary during the one-year period beginning on the date of the enactment of this Act:

(1) The various factors that may prevent or preclude veterans from completing their vocational rehabilitation plans through the Department of Veterans Affairs or otherwise achieving the vocational rehabilitation objectives of such plans.

(2) The actions to be taken by the Secretary to assist and encourage veterans in overcoming the factors identified in paragraph (1) and in otherwise completing their vocational rehabilitation plans or achieving the vocational rehabilitation objectives of such plans.

(b) MATTERS TO BE EXAMINED.—In conducting the study required by subsection (a), the Secretary shall examine the following:

(1) Measures utilized by public and private vocational rehabilitation service providers for individuals with disabilities in the United States, and in other countries, that promote successful outcomes by the program participants.

(2) Any studies or survey data available to the Secretary that relates to the matters covered by the study.

(3) The extent to which disability compensation may be used as an incentive to encourage veterans to participate in and complete a vocational rehabilitation plan.

(4) The report of the Veterans' Disability Benefits Commission established pursuant to section 1501 of the National Defense Authorization Act of 2004 (38 U.S.C. 1101 note).

(5) The report of the President's Commission on Care for America's Returning Wounded Warriors.

(6) Any other matters that the Secretary considers appropriate for purposes of the study.

(c) CONSIDERATIONS.—In conducting the study required by subsection (a), the Secretary shall consider—

(1) the extent to which bonus payments or other incentives may be used to encourage veterans to complete their vocational rehabilitation plans or otherwise achieve the vocational rehabilitation objectives of such plans; and

(2) such other matters as the Secretary considers appropriate.

(d) CONSULTATION.—In conducting the study required by subsection (a), the Secretary—

(1) shall consult with such veterans and military service organizations, and with such other public and private organizations and individuals, as the Secretary considers appropriate; and

(2) may employ consultants.

(e) REPORT.—Not later than 270 days after the commencement of the study required by subsection (a), the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the study. The report shall include the following:

(1) The findings of the Secretary under the study.

(2) Any recommendations that the Secretary considers appropriate for actions to be taken by the Secretary in light of the study, including a proposal for such legislative or administrative action as the Secretary considers appropriate to implement the recommendations.

**SEC. 334. LONGITUDINAL STUDY OF DEPARTMENT OF VETERANS AFFAIRS VOCATIONAL REHABILITATION PROGRAMS.**

(a) STUDY REQUIRED.—Chapter 31 is amended by adding at the end the following new section:

**"§ 3122. Longitudinal study of vocational rehabilitation programs**

"(a) STUDY REQUIRED.—(1) Subject to the availability of appropriated funds, the Secretary shall conduct a longitudinal study of a statistically valid sample of each of the groups of individuals described in paragraph (2). The Secretary shall study each such group over a period of at least 20 years.

"(2) The groups of individuals described in this paragraph are the following:

"(A) Individuals who begin participating in a vocational rehabilitation program under this chapter during fiscal year 2010.

"(B) Individuals who begin participating in such a program during fiscal year 2012.

"(C) Individuals who begin participating in such a program during fiscal year 2014.

"(b) ANNUAL REPORTS.—By not later than July 1 of each year covered by the study required under subsection (a), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the study during the preceding year.

"(c) CONTENTS OF REPORT.—The Secretary shall include in the report required under subsection (b) any data the Secretary determines is necessary to determine the long-term outcomes of the individuals participating in the vocational rehabilitation programs under this chapter. The Secretary may add data elements from time to time as necessary. In addition, each such report shall contain the following information:

"(1) The number of individuals participating in vocational rehabilitation programs under this chapter who suspended participation in such a program during the year covered by the report.

"(2) The average number of months such individuals served on active duty.

"(3) The distribution of disability ratings of such individuals.

"(4) The types of other benefits administered by the Secretary received by such individuals.

"(5) The types of social security benefits received by such individuals.

"(6) Any unemployment benefits received by such individuals.

"(7) The average number of months such individuals were employed during the year covered by the report.

"(8) The average annual starting and ending salaries of such individuals who were employed during the year covered by the report.

"(9) The number of such individuals enrolled in an institution of higher learning, as that term is defined in section 3452(f) of this title.

"(10) The average number of academic credit hours, degrees, and certificates obtained by such individuals during the year covered by the report.

"(11) The average number of visits such individuals made to Department medical facilities during the year covered by the report.

"(12) The average number of visits such individuals made to non-Department medical facilities during the year covered by the report.

"(13) The average annual income of such individuals.

"(14) The average total household income of such individuals for the year covered by the report.

"(15) The percentage of such individuals who own their principal residences.

"(16) The average number of dependents of each such veteran.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3122. Longitudinal study of vocational rehabilitation programs.".

# TITLE IV—INSURANCE MATTERS

**SEC. 401. REPORT ON INCLUSION OF SEVERE AND ACUTE POST-TRAUMATIC STRESS DISORDER AMONG CONDITIONS COVERED BY TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense, submit to the appropriate committees of Congress a report setting forth the assessment of the Secretary of Veterans Affairs as to the feasability and advisability of including severe and acute post-traumatic stress disorder (PTSD) among the conditions covered by traumatic injury protection coverage under Servicemembers' Group Life Insurance under section 1980A of title 38, United States Code.

(b) CONSIDERATIONS.—In preparing the assessment required by subsection (a), the Secretary of Veterans Affairs shall consider the following:

(1) The advisability of providing traumatic injury protection coverage under Servicemembers' Group Life Insurance under section 1980A of title 38, United States Code, for post-traumatic stress disorder incurred by a member of the Armed Forces as a direct result of military service in a combat zone that renders the member unable to carry out the daily activities of living after the member is discharged or released from military service.

(2) The unique circumstances of military service, and the unique experiences of members of the Armed Forces who are deployed to a combat zone.

(3) Any financial strain incurred by family members of members of the Armed Forces who have severe and acute post-traumatic stress disorder.

(4) The recovery time, and any particular difficulty of the recovery process, for recovery from severe and acute post-traumatic stress disorder.

(5) Such other matters as the Secretary considers appropriate.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate; and

(2) the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives.

**SEC. 402. TREATMENT OF STILLBORN CHILDREN AS INSURABLE DEPENDENTS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.**

38 USC 1965.

(a) TREATMENT.—Section 1965(10) is amended by adding at the end the following new subparagraph:

"(C) The member's stillborn child.".

(b) CONFORMING AMENDMENT.—Section 101(4)(A) is amended by striking "section 1965(10)(B)" in the matter preceding clause (i) and inserting "subparagraph (B) or (C) of section 1965(10)".

**SEC. 403. OTHER ENHANCEMENTS OF SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE.**

(a) EXPANSION OF SERVICEMEMBERS' GROUP LIFE INSURANCE TO INCLUDE CERTAIN MEMBERS OF INDIVIDUAL READY RESERVE.—

(1) IN GENERAL.—Section 1967(a)(1)(C) is amended by striking "section 1965(5)(B) of this title" and inserting "subparagraph (B) or (C) of section 1965(5) of this title".

(2) CONFORMING AMENDMENTS.—

(A) Section 1967(a)(5)(C) is amended by striking "section 1965(5)(B) of this title" and inserting "subparagraph (B) or (C) of section 1965(5) of this title"; and

(B) Section 1969(g)(1)(B) is amended by striking "section 1965(5)(B) of this title" and inserting "subparagraph (B) or (C) of section 1965(5) of this title".

(b) REDUCTION IN PERIOD OF DEPENDENTS' COVERAGE AFTER MEMBER SEPARATES.—Section 1968(a)(5)(B)(ii) is amended by striking "120 days after".

(c) AUTHORITY TO SET PREMIUMS FOR READY RESERVISTS' SPOUSES.—Section 1969(g)(1)(B) is amended by striking "(which shall be the same for all such members)".

(d) FORFEITURE OF VETERANS' GROUP LIFE INSURANCE.—Section 1973 is amended by striking "under this subchapter" and inserting "and Veterans' Group Life Insurance under this subchapter".

(e) EFFECTIVE AND APPLICABILITY DATES.—

38 USC 1967 note.

(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

38 USC 1968 note.

(2) The amendment made by subsection (b) shall apply with respect to Servicemembers' Group Life Insurance coverage for an insurable dependent of a member, as defined in section 1965(10) of title 38, United States Code (as amended by section 402 of this Act), that begins on or after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect as if enacted on June 5, 2001, immediately after the enactment of the Veterans' Survivor Benefits Improvements Act of 2001 (Public Law 107–14; 115 Stat. 25). 38 USC 1969 note.

(4) The amendment made by subsection (d) shall apply with respect to any act of mutiny, treason, spying, or desertion committed on or after the date of the enactment of this Act for which a person is found guilty, or with respect to refusal because of conscientious objections to perform service in, or to wear the uniform of, the Armed Forces on or after the date of the enactment of this Act. 38 USC 1973 note.

**SEC. 404. ADMINISTRATIVE COSTS OF SERVICE DISABLED VETERANS' INSURANCE.**

Section 1922(a) is amended by striking "directly from such fund" and inserting "directly from such fund; and (5) administrative costs to the Government for the costs of the program of insurance under this section shall be paid from premiums credited to the fund under paragraph (4), and payments for claims against the fund under paragraph (4) for amounts in excess of amounts credited to such fund under that paragraph (after such administrative costs have been paid) shall be paid from appropriations to the fund". 38 USC 1922.

# TITLE V—HOUSING MATTERS

**SEC. 501. TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY SECRETARY OF VETERANS AFFAIRS.** 38 USC 3703 note.

Notwithstanding subparagraph (C) of section 3703(a)(1) of title 38, United States Code, for purposes of any loan described in subparagraph (A)(i)(IV) of such section that is originated during the period beginning on the date of the enactment of this Act and ending on December 31, 2011, the term "maximum guaranty amount" shall mean an amount equal to 25 percent of the higher of—

(1) the limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for the calendar year in which the loan is originated for a single-family residence; or

(2) 125 percent of the area median price for a single-family residence, but in no case to exceed 175 percent of the limitation determined under such section 305(a)(2) for the calendar year in which the loan is originated for a single-family residence.

**SEC. 502. REPORT ON IMPACT OF MORTGAGE FORECLOSURES ON VETERANS.**

(a) REPORT REQUIRED.—Not later than December 31, 2009, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the effects of mortgage foreclosures on veterans.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A general assessment of the income of veterans who have recently separated from the Armed Forces.

(2) An assessment of the effects of any lag or delay in the adjudication by the Secretary of claims of veterans for disability compensation on the capacity of veterans to maintain adequate or suitable housing.

(3) A description of the extent to which the provisions of the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) protect veterans from mortgage foreclosure, and an assessment of the adequacy of such protections.

(4) A description and assessment of the adequacy of the home loan guaranty programs of the Department of Veterans Affairs, including the authorities of such programs and the assistance provided individuals in the utilization of such programs, in preventing foreclosure for veterans recently separated from the Armed Forces, and for members of the Armed Forces, who have home loans guaranteed by the Secretary.

**SEC. 503. REQUIREMENT FOR REGULAR UPDATES TO HANDBOOK FOR DESIGN FURNISHED TO VETERANS ELIGIBLE FOR SPECIALLY ADAPTED HOUSING ASSISTANCE BY SECRETARY OF VETERANS AFFAIRS.**

38 USC 2103.

Section 2103 is amended—

(1) by striking "The Secretary" and inserting "(a) PLANS AND SPECIFICATIONS.—The Secretary"; and

(2) by adding at the end the following new subsection:

"(b) HANDBOOK FOR DESIGN.—The Secretary shall make available to veterans eligible for assistance under this chapter, without cost to the veterans, a handbook containing appropriate designs for specially adapted housing. The Secretary shall update such handbook at least once every six years to take into account any new or unique disabilities, including vision impairments, impairments specific to the upper limbs, and burn injuries.".

Deadline.

**SEC. 504. ENHANCEMENT OF REFINANCING OF HOME LOANS BY VETERANS.**

(a) INCLUSION OF REFINANCING LOANS AMONG LOANS SUBJECT TO GUARANTY MAXIMUM.—Section 3703(a)(1)(A)(i)(IV) is amended by inserting "(5)," after "(3),".

(b) INCREASE IN MAXIMUM PERCENTAGE OF LOAN-TO-VALUE OF REFINANCING LOANS SUBJECT TO GUARANTY.—Section 3710(b)(8) is amended by striking "90 percent" and inserting "100 percent".

**SEC. 505. EXTENSION OF CERTAIN VETERANS HOME LOAN GUARANTY PROGRAMS.**

(a) EXTENSION OF DEMONSTRATION PROJECT ON ADJUSTABLE RATE MORTGAGES.—Section 3707(a) of title 38, United States Code, is amended by striking "2008" and inserting "2012".

(b) EXTENSION OF DEMONSTRATION PROJECT ON HYBRID ADJUSTABLE RATE MORTGAGES.—Section 3707A(a) of such title is amended by striking "2008" and inserting "2012".

# TITLE VI—COURT MATTERS

**SEC. 601. TEMPORARY INCREASE IN NUMBER OF AUTHORIZED JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

Section 7253 is amended by adding at the end the following new subsection:

"(i) ADDITIONAL TEMPORARY EXPANSION OF COURT.—(1) Subject to paragraph (2), effective as of December 31, 2009, the authorized number of judges of the Court specified in subsection (a) is increased by two. Effective dates.

"(2) Effective as of January 1, 2013, an appointment may not be made to the Court if the appointment would result in there being more judges of the Court than the authorized number of judges of the Court specified in subsection (a).".

**SEC. 602. PROTECTION OF PRIVACY AND SECURITY CONCERNS IN COURT RECORDS.**

Section 7268 is amended by adding at the end the following new subsection:

"(c)(1) The Court shall prescribe rules, in accordance with section 7264(a) of this title, to protect privacy and security concerns relating to all filing of documents and the public availability under this subsection of documents retained by the Court or filed electronically with the Court. Regulations.

"(2) The rules prescribed under paragraph (1) shall be consistent to the extent practicable with rules addressing privacy and security issues throughout the Federal courts.

"(3) The rules prescribed under paragraph (1) shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.".

**SEC. 603. RECALL OF RETIRED JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

(a) REPEAL OF LIMIT ON SERVICE OF RECALLED RETIRED JUDGES WHO VOLUNTARILY SERVE MORE THAN 90 DAYS.—Section 7257(b)(2) is amended by striking "or for more than a total of 180 days (or the equivalent) during any calendar year". 38 USC 7257.

(b) NEW JUDGES RECALLED AFTER RETIREMENT RECEIVE PAY OF CURRENT JUDGES ONLY DURING PERIOD OF RECALL.—

(1) IN GENERAL.—Section 7296(c) is amended by striking paragraph (1) and inserting the following new paragraph:

"(1)(A) A judge who is appointed on or after the date of the enactment of the Veterans' Benefits Improvement Act of 2008 and who retires under subsection (b) and elects under subsection (d) to receive retired pay under this subsection shall (except as provided in paragraph (2)) receive retired pay as follows:

"(i) In the case of a judge who is a recall-eligible retired judge under section 7257 of this title, the retired pay of the judge shall (subject to section 7257(d)(2) of this title) be the rate of pay applicable to that judge at the time of retirement, as adjusted from time to time under subsection (f)(3).

"(ii) In the case of a judge other than a recall-eligible retired judge, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.

"(B) A judge who retired before the date of the enactment of the Veterans' Benefits Improvement Act of 2008 and elected under subsection (d) to receive retired pay under this subsection, or a judge who retires under subsection (b) and elects under subsection (d) to receive retired pay under this subsection, shall (except as provided in paragraph (2)) receive retired pay as follows:

"(i) In the case of a judge who is a recall-eligible retired judge under section 7257 of this title or who was a recall-eligible retired judge under that section and was removed from

recall status under subsection (b)(4) of that section by reason of disability, the retired pay of the judge shall be the pay of a judge of the court.

"(ii) In the case of a judge who at the time of retirement did not provide notice under section 7257 of this title of availability for service in a recalled status, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.

"(iii) In the case of a judge who was a recall-eligible retired judge under section 7257 of this title and was removed from recall status under subsection (b)(3) of that section, the retired pay of the judge shall be the pay of the judge at the time of the removal from recall status.".

38 USC 7296.

(2) COST-OF-LIVING ADJUSTMENT FOR RETIRED PAY OF NEW JUDGES WHO ARE RECALL-ELIGIBLE.—Section 7296(f)(3)(A) is amended by striking "paragraph (2) of subsection (c)" and inserting "paragraph (1)(A)(i) or (2) of subsection (c)".

(3) PAY DURING PERIOD OF RECALL.—Subsection (d) of section 7257 is amended to read as follows:

"(d)(1) The pay of a recall-eligible retired judge to whom section 7296(c)(1)(B) of this title applies is the pay specified in that section.

"(2) A judge who is recalled under this section who retired under chapter 83 or 84 of title 5 or to whom section 7296(c)(1)(A) of this title applies shall be paid, during the period for which the judge serves in recall status, pay at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount of the judge's annuity under the applicable provisions of chapter 83 or 84 of title 5 or the judge's annuity under section 7296(c)(1)(A) of this title, whichever is applicable.".

(4) NOTICE.—The last sentence of section 7257(a)(1) is amended to read as follows: "Such a notice provided by a retired judge to whom section 7296(c)(1)(B) of this title applies is irrevocable.".

(c) LIMITATION ON INVOLUNTARY RECALLS.—Section 7257(b)(3) is amended by adding at the end the following new sentence: "This paragraph shall not apply to a judge to whom section 7296(c)(1)(A) or 7296(c)(1)(B) of this title applies and who has, in the aggregate, served at least five years of recalled service on the Court under this section.".

**SEC. 604. ANNUAL REPORTS ON WORKLOAD OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

(a) IN GENERAL.—Subchapter III of chapter 72 is amended by adding at the end the following new section:

**"§ 7288. Annual report**

"(a) IN GENERAL.—The chief judge of the Court shall submit to the appropriate committees of Congress each year a report summarizing the workload of the Court for the fiscal year ending during the preceding year.

"(b) ELEMENTS.—Each report under subsection (a) shall include, with respect to the fiscal year covered by such report, the following information:

"(1) The number of appeals filed with the Court.

"(2) The number of petitions filed with the Court.

"(3) The number of applications filed with the Court under section 2412 of title 28.

"(4) The total number of dispositions by each of the following:

"(A) The Court as a whole.

"(B) The Clerk of the Court.

"(C) A single judge of the Court.

"(D) A multi-judge panel of the Court.

"(E) The full Court.

"(5) The number of each type of disposition by the Court, including settlement, affirmation, remand, vacation, dismissal, reversal, grant, and denial.

"(6) The median time from filing an appeal to disposition by each of the following:

"(A) The Court as a whole.

"(B) The Clerk of the Court.

"(C) A single judge of the Court.

"(D) Multiple judges of the Court (including a multi-judge panel of the Court or the full Court).

"(7) The median time from filing a petition to disposition by the Court.

"(8) The median time from filing an application under section 2412 of title 28 to disposition by the Court.

"(9) The median time from the completion of briefing requirements by the parties to disposition by the Court.

"(10) The number of oral arguments before the Court.

"(11) The number of cases appealed to the United States Court of Appeals for the Federal Circuit.

"(12) The number and status of appeals and petitions pending with the Court and of applications described in paragraph (3) as of the end of such fiscal year.

"(13) The number of cases pending with the Court more than 18 months as of the end of such fiscal year.

"(14) A summary of any service performed for the Court by a recalled retired judge of the Court.

"(15) An assessment of the workload of each judge of the Court, including consideration of the following:

"(A) The time required of each judge for disposition of each type of case.

"(B) The number of cases reviewed by the Court.

"(C) The average workload of other Federal judges.

"(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Veterans' Affairs of the Senate; and

"(2) the Committee on Veterans' Affairs of the House of Representatives.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 72 is amended by inserting after the item related to section 7287 the following new item:

"7288. Annual report.".

**SEC. 605. ADDITIONAL DISCRETION IN IMPOSITION OF PRACTICE AND REGISTRATION FEES.**

38 USC 7285.

Section 7285(a) is amended—

(1) in the first sentence, by inserting "reasonable" after "impose a";

(2) in the second sentence, by striking ", except that such amount may not exceed $30 per year"; and

(3) in the third sentence, by inserting "reasonable" after "impose a".

# TITLE VII—ASSISTANCE TO UNITED STATES PARALYMPIC INTEGRATED ADAPTIVE SPORTS PROGRAM

38 USC 322 note.

**SEC. 701. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress makes the following findings:

(1) In 1998, Congress enacted the Olympic and Amateur Sports Act Amendments of 1998 (33 U.S.C. 101 note), which amended chapter 2205 of title 36, United States Code, and included a statement that the purpose of the Act was "to encourage and provide assistance to amateur athletic programs and competition for amateur athletes with disabilities, including, where feasible, the expansion of opportunities for meaningful participation by such amateur athletes in programs of athletic competition for able-bodied amateur athletes".

(2) The United States Olympic Committee manages and administers the Paralympic Program for physically disabled athletes.

(3) The Department of Veterans Affairs provides health care to veterans and administers recreational activities for patients including the Golden Age Games, the National Veterans Wheelchair Games, and the Winter Sports Clinic.

(4) In 2005, the United States Olympic Committee entered into a memorandum of understanding with the Secretary of Veterans Affairs to increase interest in and access to Paralympic sports programs for veterans with physical disabilities by coordinating the activities of the United States Olympic Committee with the Department of Veterans Affairs.

(5) The Paralympic Program has a significant positive effect on the quality of life of disabled veterans and disabled members of the Armed Forces who participate in the program, including helping to improve the mobility, vitality, and physical, psychological, and social well-being of such participants and reducing the incidence of secondary medical conditions in those participants.

(6) Because of Operation Iraqi Freedom and Operation Enduring Freedom, the number of disabled veterans and disabled members of the Armed Forces has increased substantially and it is therefore desirable to supplement the rehabilitation and recreation programs of the Department of Veterans Affairs through sports for disabled veterans and members of the Armed Forces.

(b) PURPOSE.—The purposes of this title are as follows:

(1) To promote the lifelong health of disabled veterans and disabled members of the Armed Forces through regular participation in physical activity and sports.

(2) To enhance the recreation activities provided by the Department of Veterans Affairs by promoting disabled sports from the local level through elite levels and by creating partnerships among organizations specializing in supporting, training, and promoting programs for disabled veterans.

(3) To provide training and support to national and local organizations to provide Paralympic sports training to disabled veterans and disabled members of the Armed Forces in their own communities.

(4) To provide support to the United States Paralympics, Inc., to increase the participation of disabled veterans and disabled members of the Armed Forces in sports.

**SEC. 702. DEPARTMENT OF VETERANS AFFAIRS PROVISION OF ASSISTANCE TO UNITED STATES PARALYMPICS, INC.**

(a) PROVISION OF ASSISTANCE AUTHORIZED.—Subchapter II of chapter 5 is amended by inserting after section 521 the following new section:

**"§ 521A. Assistance for United States Paralympics, Inc.**

"(a) AUTHORIZATION TO PROVIDE ASSISTANCE.—The Secretary may award grants to the United States Paralympics, Inc., to plan, develop, manage, and implement an integrated adaptive sports program for disabled veterans and disabled members of the Armed Forces.

"(b) OVERSIGHT BY SECRETARY.—As a condition of receiving a grant under this section, the United States Paralympics, Inc., shall permit the Secretary to conduct such oversight of the use of grant funds as the Secretary determines is appropriate. The United States Paralympics, Inc., shall be responsible for the use of grant funds provided under this section.

"(c) APPLICATION REQUIREMENT.—(1) Before the Secretary may award a grant to the United States Paralympics, Inc., under this section, the United States Paralympics, Inc., shall submit to the Secretary an application that describes the activities to be carried out with the grant, including information on specific measurable goals and objectives to be achieved using grant funds.

"(2) The application shall include—

"(A) a detailed description of all partnerships referred to in paragraph (3) at the national and local levels that will be participating in such activities and the amount of grant funds that the United States Paralympics, Inc., proposes to make available for each of such partnerships; and

"(B) for any fiscal year for which a grant is sought, the amount of private donations received by the United States Paralympics, Inc., expected to be expended to support operations during that fiscal year.

"(3) Partnerships referred to in this paragraph are agreements between the United States Paralympics, Inc., and organizations with significant experience in the training and support of disabled athletes and the promotion of disabled sports at the local and national levels. Such organizations may include Disabled Sports USA, Blaze Sports, Paralyzed Veterans of America, and Disabled American Veterans. The agreements shall detail the scope of activities and funding to be provided by the United States Paralympics, Inc., to the partner.

"(d) USE OF FUNDS.—(1) The United States Paralympics, Inc., with the assistance and cooperation of the Secretary and the heads of other appropriate Federal and State departments and agencies and partnerships referred to in subsection (c)(3), shall use a grant under this section to reimburse grantees with which the United States Paralympics, Inc., has entered into a partnership under Grants.

subsection (c) for the direct costs of recruiting, supporting, equipping, encouraging, scheduling, facilitating, supervising, and implementing the participation of disabled veterans and disabled members of the Armed Forces in the activities described in paragraph (3) by supporting a program described in paragraph (2).

"(2) A program described in this paragraph is a sports program that—

"(A) promotes basic physical activity, games, recreation, training, and competition;

"(B) is approved by the Secretary; and

"(C)(i) provides services and activities described in paragraph (3) for disabled veterans and disabled members of the Armed Forces; and

"(ii) may also provide services and activities described in paragraph (3) for individuals with disabilities who are not veterans or members of the Armed Forces, or both; except that funds made available to carry out this section may not be used to support those individuals with disabilities who are not veterans or members of the Armed Forces.

"(3) Activities described in this paragraph are—

"(A) instruction, participation, and competition in Paralympic sports;

"(B) training and technical assistance to program administrators, coaches, recreational therapists, instructors, Department employees, and other appropriate individuals; and

"(C) coordination, Paralympic classification of athletes, athlete assessment, sport-specific training techniques, program development (including programs at the local level), sports equipment, supplies, program evaluation, and other activities related to the implementation and operation of the program.

"(4) A grant made under this section may include, at the discretion of the Secretary, an amount for the administrative expenses of the United States Paralympics, Inc., but not to exceed five percent of the amount of the grant.

"(5) Funds made available by the United States Paralympics, Inc., to a grantee under subsection (c) may include an amount for administrative expenses, but not to exceed ten percent of the amount of such funds.

"(e) OUTREACH REQUIREMENT.—As a condition of receiving a grant under this section, the United States Paralympics, Inc., shall agree to conduct a joint outreach campaign with the Secretary of Veterans Affairs to inform all eligible veterans and separating members of the Armed Forces with physical disabilities about the existence of the integrated adaptive sports program, as appropriate, and shall provide for, facilitate, and encourage participation of such veterans and separating members of the Armed Forces in programs under this section to the extent possible.

"(f) COORDINATION.—The Secretary shall ensure access to and use of appropriate Department sports, recreation, and fitness facilities by disabled veterans and disabled members of the Armed Forces participating in the integrated adaptive sports program to the maximum extent possible. The Secretary shall ensure that such access does not adversely affect any other assistance provided to veterans.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $8,000,000 for each of fiscal years 2010 through 2013 to carry out this section. Amounts appropriated pursuant

to this subsection shall remain available without fiscal year limitation.

"(h) SEPARATE ACCOUNTING.—The Department shall have a separate line item in budget proposals of the Department for funds to be appropriated to carry out this section. Funds appropriated to carry out this section shall not be commingled with any other funds appropriated to the Department.

"(i) LIMITATION ON USE OF FUNDS.—Except as provided in paragraphs (4) and (5) of subsection (d), funds appropriated to carry out this section may not be used to support or provide services to individuals who are not disabled veterans or disabled members of the Armed Forces.

"(j) ANNUAL REPORT TO SECRETARY.—(1) As a condition of receiving a grant under this section, the United States Paralympics, Inc., shall agree that by not later than 60 days after the last day of a fiscal year for which a grant is provided under this section, the United States Paralympics, Inc., shall submit to the Secretary a report setting forth in detail the use of the grant funds during that fiscal year, including the number of veterans who participated in the integrated adaptive sports program, including any programs carried out through a partnership under subsection (c)(3), and the administrative expenses of the integrated adaptive sports program.

"(2) A report under this subsection may be audited by the Secretary.

"(3) For any fiscal year after fiscal year 2010, the eligibility of the United States Paralympics, Inc., to receive a grant under this section shall be contingent upon the submission of the report under paragraph (1) for the preceding fiscal year.

"(k) ANNUAL REPORT TO CONGRESS.—For any fiscal year during which the Secretary provides assistance under this section, the Secretary shall submit to Congress a report on the use of funds provided under this section.

"(l) TERMINATION.—The Secretary may only provide assistance under this section during fiscal years 2010 through 2013.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 521 the following new item:

"521A. Assistance for United States Paralympics, Inc.".

(c) DEADLINE FOR MEMORANDUM OF UNDERSTANDING.—The Secretary of Veterans Affairs may not award a grant under section 521A of title 38, United States Code, as added by subsection (a), until the United States Paralympics, Inc., and the Secretary have entered into a memorandum of understanding or cooperative agreement regarding implementation of the integrated adaptive sports program under that section. To the extent feasible, such memorandum or agreement shall be concluded not later than 240 days after the date of the enactment of this Act. 38 USC 521A note.

**SEC. 703. DEPARTMENT OF VETERANS AFFAIRS OFFICE OF NATIONAL VETERANS SPORTS PROGRAMS AND SPECIAL EVENTS.**

(a) ESTABLISHMENT OF OFFICE OF NATIONAL VETERANS SPORTS PROGRAMS AND SPECIAL EVENTS.—Chapter 3, as amended by section 222, is amended by adding at the end the following new section:

**"§ 322. Office of National Veterans Sports Programs and Special Events**

"(a) ESTABLISHMENT.—There is in the Department an Office of National Veterans Sports Programs and Special Events. There is at the head of the Office a Director, who shall report to an appropriate official of the Veterans Benefits Administration, as determined by the Secretary, or to the Deputy Secretary or Secretary.

"(b) RESPONSIBILITIES OF DIRECTOR.—Subject to the direction of the Secretary, the Director—

"(1) shall establish and carry out qualifying programs and events;

"(2) may provide for sponsorship by the Department of qualifying programs and events;

"(3) may provide for, facilitate, and encourage participation by disabled veterans in qualifying programs and events;

"(4) shall, to the extent feasible, cooperate with the United States Paralympics, Inc., and its partners to promote the participation of disabled veterans and disabled members of the Armed Forces in sporting events sponsored by the United States Paralympics, Inc., and its partners;

"(5) shall seek sponsorships and donations from the private sector to defray costs of carrying out the responsibilities of the Director to the maximum extent feasible; and

"(6) may carry out such other responsibilities as the Secretary determines are appropriate.

"(c) QUALIFYING PROGRAM OR EVENT.—For purposes of this section, a qualifying program or event is a sports program or other event in which disabled veterans and disabled members of the Armed Forces participate and that is approved by the Secretary as being consistent with the goals and missions of the Department.

"(d) MONTHLY ASSISTANCE ALLOWANCE.—(1) Subject to the availability of appropriations for such purpose, the Secretary may provide a monthly assistance allowance to a veteran with a disability invited by the United States Paralympics, Inc., to compete for a slot on, or selected for, the Paralympic Team for any month in which the veteran is training or competing in any event sanctioned by the United States Paralympics, Inc., or who is residing at a United States Paralympics, Inc., training center.

"(2) The amount of the monthly assistance payable to a veteran under paragraph (1) shall be equal to the monthly amount of subsistence allowance that would be payable to the veteran under chapter 31 of this title if the veteran were eligible for and entitled to rehabilitation under such chapter.

"(3) In providing assistance under this subsection, the Secretary shall give priority to veterans with service-connected disabilities.

Appropriation authorization.

"(4) There is authorized to be appropriated to carry out this subsection $2,000,000 for each of fiscal years 2010 through 2013.

"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on disabled sports and special events supported by the Department as of the date of the enactment of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"322. Office of National Veterans Sports Programs and Special Events.".

(c) ASSISTANCE AT SPORTING EVENTS.—The Secretary of Veterans Affairs shall direct the Under Secretary for Health of the Department of Veterans Affairs—

(1) to make available, to the extent determined appropriate by the Secretary, recreational therapists, physical therapists, and other medical staff to facilitate participation of veterans in sporting events conducted under the auspices of the United States Paralympics, Inc.; and

(2) to allow such personnel to provide support to the programs of the United States Paralympics, Inc., without requiring the use of personal leave.

**SEC. 704. COMPTROLLER GENERAL REPORT.**

Not later than the last day of fiscal year 2012, the Comptroller General shall submit to Congress a report on the assistance provided to the United States Paralympics, Inc., under section 521A of title 38, United States Code, as added by section 702, and the activities of the Office of National Veterans Sports Programs and Special Events under section 322 of such title, as added by section 703. Such report shall include a description of how the United States Paralympics, Inc., used grants provided by the Department of Veterans Affairs, the number of disabled veterans who benefitted from such grants, and how such veterans benefitted.

# TITLE VIII—OTHER MATTERS

**SEC. 801. AUTHORITY FOR SUSPENSION OR TERMINATION OF CLAIMS OF THE UNITED STATES AGAINST INDIVIDUALS WHO DIED WHILE SERVING ON ACTIVE DUTY IN THE ARMED FORCES.**

(a) AUTHORITY.—Section 3711(f) of title 31, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The Secretary of Veterans Affairs may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.".

(b) EQUITABLE REFUND OF AMOUNTS COLLECTED.—The Secretary of Veterans Affairs may refund to the estate of such person any amount collected by the Secretary (whether before, on, or after the date of the enactment of this Act) from a person who died while serving on active duty as a member of the Armed Forces if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so. 38 USC 5302A note.

**SEC. 802. THREE-YEAR EXTENSION OF AUTHORITY TO CARRY OUT INCOME VERIFICATION.**

Section 5317(g) is amended by striking "September 30, 2008" and inserting "September 30, 2011". 38 USC 5317.

**SEC. 803. MAINTENANCE, MANAGEMENT, AND AVAILABILITY FOR RESEARCH OF ASSETS OF AIR FORCE HEALTH STUDY.**

(a) PURPOSE.—The purpose of this section is to ensure that the assets transferred to the Medical Follow-Up Agency from the Air Force Health Study are maintained, managed, and made available as a resource for future research for the benefit of veterans and their families, and for other humanitarian purposes.

(b) ASSETS FROM AIR FORCE HEALTH STUDY.—For purposes of this section, the assets transferred to the Medical Follow-Up Agency from the Air Force Health Study are the assets of the Air Force Health Study transferred to the Medical Follow-Up Agency under section 714 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2290), including electronic data files and biological specimens on all participants in the study (including control subjects).

(c) MAINTENANCE AND MANAGEMENT OF TRANSFERRED ASSETS.—The Medical Follow-Up Agency shall maintain and manage the assets transferred to the Agency from the Air Force Health Study.

(d) ADDITIONAL NEAR-TERM RESEARCH.—

(1) IN GENERAL.—The Medical Follow-Up Agency may, during the period beginning on October 1, 2008, and ending on September 30, 2012, conduct such additional research on the assets transferred to the Agency from the Air Force Health Study as the Agency considers appropriate toward the goal of understanding the determinants of health, and promoting wellness, in veterans.

(2) RESEARCH.—In carrying out research authorized by this subsection, the Medical Follow-Up Agency may, utilizing amounts available under subsection (f)(1)(B), make grants for such pilot studies for or in connection with such research as the Agency considers appropriate.

(e) ADDITIONAL MEDIUM-TERM RESEARCH.—

(1) REPORT.—Not later than March 31, 2012, the Medical Follow-Up Agency shall submit to Congress a report assessing the feasability and advisability of conducting additional research on the assets transferred to the Agency from the Air Force Health Study after September 30, 2012.

(2) DISPOSITION OF ASSETS.—If the report required by paragraph (1) includes an assessment that the research described in that paragraph would be feasible and advisable, the Agency shall, utilizing amounts available under subsection (f)(2), make any disposition of the assets transferred to the Agency from the Air Force Health Study as the Agency considers appropriate in preparation for such research.

(f) FUNDING.—

(1) IN GENERAL.—From amounts available for each of fiscal years 2009 through 2012 for the Department of Veterans Affairs for Medical and Prosthetic Research, amounts shall be available as follows:

(A) $1,200,000 shall be available in each such fiscal year for maintenance, management, and operation (including maintenance of biological specimens) of the assets transferred to the Medical Follow-Up Agency from the Air Force Health Study.

(B) $250,000 shall be available in each such fiscal year for the conduct of additional research authorized by

subsection (d), including the funding of pilot studies authorized by paragraph (2) of that subsection.

(2) MEDIUM-TERM RESEARCH.—From amounts available for fiscal year 2012 for the Department of Veterans Affairs for Medical and Prosthetic Research, $200,000 shall be available for the preparation of the report required by subsection (e)(1) and for the disposition, if any, of assets authorized by subsection (e)(2).

**SEC. 804. NATIONAL ACADEMIES STUDY ON RISK OF DEVELOPING MULTIPLE SCLEROSIS AS A RESULT OF CERTAIN SERVICE IN THE PERSIAN GULF WAR AND POST 9/11 GLOBAL OPERATIONS THEATERS.**

Contracts.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall enter into a contract with the Institute of Medicine of the National Academies to conduct a comprehensive epidemiological study for purposes of identifying any increased risk of developing multiple sclerosis as a result of service in the Armed Forces during the Persian Gulf War in the Southwest Asia theater of operations or in the Post 9/11 Global Operations theaters.

(b) ELEMENTS.—In conducting the study required under subsection (a), the Institute of Medicine shall do the following:

(1) Determine whether service in the Armed Forces during the Persian Gulf War in the Southwest Asia theater of operations, or in the Post 9/11 Global Operations theaters, increased the risk of developing multiple sclerosis.

(2) Identify the incidence and prevalence of diagnosed neurological diseases, including multiple sclerosis, Parkinson's disease, and brain cancers, as well as central nervous system abnormalities that are difficult to precisely diagnose, in each group as follows:

(A) Members of the Armed Forces who served during the Persian Gulf War in the Southwest Asia theater of operations.

(B) Members of the Armed Forces who served in the Post 9/11 Global Operations theaters.

(C) A non-deployed comparison group for those who served in the Persian Gulf War in the Southwest Asia theater of operations and the Post 9/11 Global Operations theaters.

(3) Compare the incidence and prevalence of the named diagnosed neurological diseases and undiagnosed central nervous system abnormalities among veterans who served during the Persian Gulf War in the Southwest Asia theater of operations, or in the Post 9/11 Global Operations theaters, in various locations during such periods, as determined by the Institute of Medicine.

(4) Collect information on risk factors, such as pesticide and other toxic exposures, to which veterans were exposed while serving during the Persian Gulf War in the Southwest Asia theater of operations or the Post 9/11 Global Operations theaters, or thereafter.

(c) REPORTS.—

(1) INTERIM REPORT.—The contract required by subsection (a) shall require the Institute of Medicine to submit to the Secretary, and to appropriate committees of Congress, interim progress reports on the study required under subsection (a).

Such reports shall not be required to include a description of interim results on the work under the study.

(2) FINAL REPORT.—The contract shall require the Institute of Medicine to submit to the Secretary, and to appropriate committees of Congress, a final report on the study by not later than December 31, 2012. The final report shall include such recommendations for legislative or administrative action as the Institute considers appropriate in light of the results of the study.

(d) FUNDING.—The Secretary shall provide the Institute of Medicine with such funds as are necessary to ensure the timely completion of the study required under subsection (a).

(e) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committee on Veterans' Affairs of the Senate; and

(B) the Committee on Veterans' Affairs of the House of Representatives.

(2) The term "Persian Gulf War" has the meaning given that term in section 101(33) of title 38, United States Code.

(3) The term "Post 9/11 Global Operations theaters" means Afghanistan, Iraq, or any other theater in which the Global War on Terrorism Expeditionary Medal is awarded for service.

**SEC. 805. TERMINATION OR SUSPENSION OF CONTRACTS FOR CELLULAR TELEPHONE SERVICE FOR CERTAIN SERVICEMEMBERS.**

(a) IN GENERAL.—Title III of the Servicemembers Civil Relief Act (50 U.S.C. App. 531 et seq.) is amended by inserting after section 305 the following new section:

50 USC app. 535a.

**"SEC. 305A. TERMINATION OR SUSPENSION OF CONTRACTS FOR CELLULAR TELEPHONE SERVICE.**

"(a) IN GENERAL.—A servicemember who receives orders to deploy outside of the continental United States for not less than 90 days or for a permanent change of duty station within the United States may request the termination or suspension of any contract for cellular telephone service entered into by the servicemember before the date of the commencement of such deployment or permanent change if the servicemember's ability to satisfy the contract or to utilize the service will be materially affected by such deployment or permanent change. The request shall include a copy of the servicemember's military orders.

"(b) RELIEF.—Upon receiving the request of a servicemember under subsection (a), the cellular telephone service contractor concerned shall—

"(1) grant the requested relief without imposition of an early termination fee for termination of the contract or a reactivation fee for suspension of the contract; or

"(2) in the case that such servicemember is deployed outside the continental United States as described in subsection (a), permit the servicemember to suspend the contract at no charge until the end of the deployment without requiring, whether as a condition of suspension or otherwise, that the contract be extended.

"(c) CELLULAR TELEPHONE SERVICE DEFINED.—In this section, the term 'cellular telephone service' has the meaning given the

term 'commercial mobile service' in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)).".

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 305 the following new item:

"Sec. 305A. Termination or suspension of contracts for cellular telephone service.".

**SEC. 806. CONTRACTING GOALS AND PREFERENCES FOR VETERAN-OWNED SMALL BUSINESS CONCERNS.**

38 USC 8127.

Section 8127 is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) APPLICABILITY OF REQUIREMENTS TO CONTRACTS.—(1) If after December 31, 2008, the Secretary enters into a contract, memorandum of understanding, agreement, or other arrangement with any governmental entity to acquire goods or services, the Secretary shall include in such contract, memorandum, agreement, or other arrangement a requirement that the entity will comply, to the maximum extent feasible, with the provisions of this section in acquiring such goods or services.

"(2) Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided under the Small Business Act (15 U.S.C. 631 et seq.).".

**SEC. 807. PENALTIES FOR VIOLATION OF INTEREST RATE LIMITATION UNDER SERVICEMEMBERS CIVIL RELIEF ACT.**

Section 207 of the Servicemembers Civil Relief Act (50 U.S.C. App. 527) is amended by adding at the end the following new subsections:

"(e) PENALTY.—Whoever knowingly violates subsection (a) shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

"(f) PRESERVATION OF OTHER REMEDIES.—The penalties provided under subsection (e) are in addition to and do not preclude any other remedy available under law to a person claiming relief under this section, including any award for consequential or punitive damages.".

**SEC. 808. FIVE-YEAR EXTENSION OF SUNSET PROVISION FOR ADVISORY COMMITTEE ON MINORITY VETERANS.**

Subsection (e) of section 544 is amended by striking "December 31, 2009" and inserting "December 31, 2014".

**SEC. 809. AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO ADVERTISE TO PROMOTE AWARENESS OF BENEFITS UNDER LAWS ADMINISTERED BY THE SECRETARY.**

(a) AUTHORITY TO ADVERTISE.—Subchapter II of chapter 5 is amended by adding at the end the following new section:

**"§ 532. Authority to advertise in national media**

"The Secretary may purchase advertising in national media outlets for the purpose of promoting awareness of benefits under laws administered by the Secretary, including promoting awareness of assistance provided by the Secretary, including assistance for programs to assist homeless veterans, to promote veteran-owned small businesses, and to provide opportunities for employment in

the Department of Veterans Affairs and for education, training, compensation, pension, vocational rehabilitation, and healthcare benefits, and mental healthcare (including the prevention of suicide among veterans).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 531 the following:

"532. Authority to advertise in national media.".

**SEC. 810. MEMORIAL HEADSTONES AND MARKERS FOR DECEASED REMARRIED SURVIVING SPOUSES OF VETERANS.**

38 USC 2306.

(a) IN GENERAL.—Section 2306(b)(4)(B) is amended by striking "an unremarried surviving spouse whose subsequent remarriage was terminated by death or divorce" and inserting "a surviving spouse who had a subsequent remarriage".

38 USC 2306 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to deaths occurring on or after the date of the enactment of this Act.

Approved October 10, 2008.

LEGISLATIVE HISTORY—S. 3023:

SENATE REPORTS: No. 110–449 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 16, considered and passed Senate.
Sept. 24, considered and passed House, amended.
Sept. 27, Senate concurred in House amendment.

Public Law 110–390
110th Congress

# An Act

To direct the Secretary of the Interior to provide a loan to the White Mountain Apache Tribe for use in planning, engineering, and designing a certain water system project.

Oct. 10, 2008
[S. 3128]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

White Mountain Apache Tribe Rural Water System Loan Authorization Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "White Mountain Apache Tribe Rural Water System Loan Authorization Act".

**SEC. 2. DEFINITIONS.**

(a) MINER FLAT PROJECT.—The term "Miner Flat Project" means the White Mountain Apache Rural Water System, comprised of the Miner Flat Dam and associated domestic water supply components, as described in the project extension report dated February 2007.

(b) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation (or any other designee of the Secretary).

(c) TRIBE.—The term "Tribe" means the White Mountain Apache Tribe, a federally recognized Indian tribe organized pursuant to section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. 476 et seq.).

**SEC. 3. MINER FLAT PROJECT LOAN.**

(a) LOAN.—Subject to the availability of appropriations and the condition that the Tribe and the Secretary have executed a cooperative agreement under section 4(a), not later than 90 days after the date on which amounts are made available to carry out this section and the cooperative agreement has been executed, the Secretary shall provide to the Tribe a loan in an amount equal to $9,800,000, adjusted, as appropriate, based on ordinary fluctuations in engineering cost indices applicable to the Miner Flat Project during the period beginning on October 1, 2007, and ending on the date on which the loan is provided, as determined by the Secretary, to carry out planning, engineering, and design of the Miner Flat Project in accordance with section 4. Deadline.

(b) TERMS AND CONDITIONS OF LOAN.—The loan provided under subsection (a) shall—

(1) be at a rate of interest of 0 percent; and

(2) be repaid over a term of 25 years, beginning on January 1, 2013.

(c) ADMINISTRATION.—Subject to section 4, the Secretary shall administer the planning, engineering, and design of the Miner Flat Project.

**SEC. 4. PLANNING, ENGINEERING, AND DESIGN.**

(a) COOPERATIVE AGREEMENT.—

Deadline.

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall offer to enter into a cooperative agreement with the Tribe for the planning, engineering, and design of the Miner Flat Project in accordance with this Act.

(2) MANDATORY PROVISIONS.—A cooperative agreement under paragraph (1) shall—

(A) specify, in a manner that is acceptable to the Secretary and the Tribe, the rights, responsibilities, and liabilities of each party to the agreement; and

(B) require that the planning, engineering, design, and construction of the Miner Flat Project be in accordance with all applicable Federal environmental laws.

(b) APPLICABILITY OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—Each activity for the planning, engineering, or design of the Miner Flat Project shall be subject to the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved October 10, 2008.

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LEGISLATIVE HISTORY—S. 3128:

SENATE REPORTS: No. 110–502 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, considered and passed Senate.
Sept. 29, considered and passed House.

Public Law 110–391
110th Congress

# An Act

To extend the special immigrant nonminister religious worker program and for other purposes.

Oct. 10, 2008
[S. 3606]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Special Immigrant Nonminister Religious Worker Program Act.
8 USC 1101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as "Special Immigrant Nonminister Religious Worker Program Act".

**SEC. 2. SPECIAL IMMIGRANT NONMINISTER RELIGIOUS WORKER PROGRAM.**

(a) EXTENSION.—Subclause (II) and subclause (III) of section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)) are amended by striking "October 1, 2008," both places such term appears and inserting "March 6, 2009,".

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall— Deadline.

(1) issue final regulations to eliminate or reduce fraud related to the granting of special immigrant status for special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)); and 8 USC 1101 note.

(2) submit a certification to Congress and publish notice in the Federal Register that such regulations have been issued and are in effect. Certification. Notice. Federal Register, publication.

(c) REPORT.—Not later than March 6, 2009, the Inspector General of the Department of Homeland Security shall submit to Congress a report on the effectiveness of the regulations required by subsection (b)(1).

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that the Secretary of Homeland Security submits the certification described in subsection (b)(2) 8 USC 1101 note.

stating that the final regulations required by subsection (b)(1) have been issued and are in effect.

Approved October 10, 2008.

LEGISLATIVE HISTORY—S. 3606:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 26, considered and passed Senate.
Sept. 27, considered and passed House.

# Public Law 110–392
# 110th Congress

## An Act

To amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

Oct. 13, 2008
[H.R. 1532]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Comprehensive Tuberculosis Elimination Act of 2008.
42 USC 201 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Tuberculosis Elimination Act of 2008".

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

Sec. 1. Short title; table of contents.

TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES IN COORDINATION WITH THE CENTERS FOR DISEASE CONTROL AND PREVENTION AND OTHER APPROPRIATE AGENCIES

Subtitle A—National Strategy for Combating and Eliminating Tuberculosis

Sec. 101. National strategy.

Subtitle B—Interagency Collaboration

Sec. 111. Advisory Council for Elimination of Tuberculosis and the Federal Tuberculosis Task Force .

Subtitle C—Evaluation of Public Health Authorities

Sec. 121. Evaluation of public health authorities.

Subtitle D—Authorization of Appropriations

Sec. 131. Authorizations of appropriations.

TITLE II—NATIONAL INSTITUTES OF HEALTH

Sec. 201. Research and development concerning tuberculosis.

# TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES IN COORDINATION WITH THE CENTERS FOR DISEASE CONTROL AND PREVENTION AND OTHER APPROPRIATE AGENCIES

## Subtitle A—National Strategy for Combating and Eliminating Tuberculosis

**SEC. 101. NATIONAL STRATEGY.**

Section 317E of the Public Health Service Act (42 U.S.C. 247b–6) is amended—

(1) by striking the heading for the section and inserting the following: "NATIONAL STRATEGY FOR COMBATING AND ELIMINATING TUBERCULOSIS";

(2) by amending subsection (b) to read as follows:

"(b) RESEARCH AND DEVELOPMENT; DEMONSTRATION PROJECTS; EDUCATION AND TRAINING.—With respect to the prevention, treatment, control, and elimination of tuberculosis, the Secretary may, directly or through grants to public or nonprofit private entities, carry out the following:

"(1) Research, with priority given to research and development concerning latent tuberculosis infection, strains of tuberculosis resistant to drugs, and research concerning cases of tuberculosis that affect certain populations at risk for tuberculosis.

"(2) Research and development and related activities to develop new tools for the elimination of tuberculosis, including drugs, diagnostics, vaccines, and public health interventions, such as directly observed therapy and non-pharmaceutical intervention, and methods to enhance detection and response to outbreaks of tuberculosis, including multidrug resistant tuberculosis. The Secretary is encouraged to give priority to programmatically relevant research so that new tools can be utilized in public health practice.

"(3) Demonstration projects for—

"(A) the development of regional capabilities to prevent, control, and eliminate tuberculosis and prevent multidrug resistant and extensively drug resistant strains of tuberculosis;

"(B) the intensification of efforts to reduce health disparities in the incidence of tuberculosis;

"(C) the intensification of efforts to control tuberculosis along the United States-Mexico border and among United States-Mexico binational populations, including through expansion of the scope and number of programs that—

"(i) detect and treat binational cases of tuberculosis; and

"(ii) treat high-risk cases of tuberculosis referred from Mexican health departments;

"(D) the intensification of efforts to prevent, detect, and treat tuberculosis among foreign-born persons who are in the United States;

"(E) the intensification of efforts to prevent, detect, and treat tuberculosis among populations and settings documented as having a high risk for tuberculosis; and

"(F) tuberculosis detection, control, and prevention.

"(4) Public information and education activities.

"(5) Education, training, clinical skills improvement activities, and workplace exposure prevention for health professionals, including allied health personnel and emergency response employees.

"(6) Support of Centers to carry out activities under paragraphs (1) through (4).

"(7) Collaboration with international organizations and foreign countries in carrying out such activities.

"(8) Develop, enhance, and expand information technologies that support tuberculosis control including surveillance and database management systems with cross-jurisdictional capabilities, which shall conform to the standards and implementation specifications for such information technologies as recommended by the Secretary."; and

(3) in subsection (d), by adding at the end the following:

"(3) DETERMINATION OF AMOUNT OF NONFEDERAL CONTRIBUTIONS.—

"(A) PRIORITY.—In awarding grants under subsection (a) or (b), the Secretary shall give highest priority to an applicant that provides assurances that the applicant will contribute non-Federal funds to carry out activities under this section, which may be provided directly or through donations from public or private entities and may be in cash or in kind, including equipment or services.

"(B) FEDERAL AMOUNTS NOT TO BE INCLUDED AS CONTRIBUTIONS.—Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of non-Federal contributions as described in subparagraph (A).".

# Subtitle B—Interagency Collaboration

### SEC. 111. ADVISORY COUNCIL FOR ELIMINATION OF TUBERCULOSIS AND THE FEDERAL TUBERCULOSIS TASK FORCE.

(a) IN GENERAL.—Section 317E(f) of the Public Health Service Act (42 U.S.C. 247b–6(f)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by striking paragraphs (2) through (4), and inserting the following:

"(2) DUTIES.—The Council shall provide advice and recommendations regarding the elimination of tuberculosis to the Secretary. In addition, the Council shall, with respect to eliminating such disease, provide to the Secretary and other appropriate Federal officials advice on—

"(A) coordinating the activities of the Department of Health and Human Services and other Federal agencies that relate to the disease, including activities under subsection (b);

"(B) responding rapidly and effectively to emerging issues in tuberculosis; and

"(C) efficiently utilizing the Federal resources involved.

"(3) COMPREHENSIVE PLAN.—

Recommendations.

"(A) IN GENERAL.—In carrying out paragraph (2), the Council shall make or update recommendations on the development, revision, and implementation of a comprehensive plan to eliminate tuberculosis in the United States.

"(B) CONSULTATION.—In carrying out subparagraph (A), the Council may consult with appropriate public and private entities, which may, subject to the direction or discretion of the Secretary, include—

"(i) individuals who are scientists, physicians, laboratorians, and other health professionals, who are not officers or employees of the Federal Government and who represent the disciplines relevant to tuberculosis elimination;

"(ii) members of public-private partnerships or private entities established to address the elimination of tuberculosis;

"(iii) members of national and international nongovernmental organizations whose purpose is to eliminate tuberculosis;

"(iv) members from the general public who are knowledgeable with respect to tuberculosis elimination including individuals who have or have had tuberculosis; and

"(v) scientists, physicians, laboratorians, and other health professionals who reside in a foreign country with a substantial incidence or prevalence of tuberculosis, and who represent the specialties and disciplines relevant to the research under consideration.

"(C) CERTAIN COMPONENTS OF PLAN.—In carrying out subparagraph (A), the Council shall, subject to the direction or discretion of the Secretary—

"(i) consider recommendations for the involvement of the United States in continuing global and cross-border tuberculosis control activities in countries where a high incidence of tuberculosis directly affects the United States; and

"(ii) review the extent to which progress has been made toward eliminating tuberculosis.

"(4) BIENNIAL REPORT.—

"(A) IN GENERAL.—The Council shall submit a biennial report to the Secretary, as determined necessary by the Secretary, on the activities carried under this section. Each such report shall include the opinion of the Council on the extent to which its recommendations regarding the elimination of tuberculosis have been implemented, including with respect to—

"(i) activities under subsection (b); and

"(ii) the national plan referred to in paragraph (3).

"(B) PUBLIC.—The Secretary shall make a report submitted under subparagraph (A) public.

"(5) COMPOSITION.—The Council shall be composed of—

"(A) ex officio representatives from the Centers for Disease Control and Prevention, the National Institutes of Health, the United States Agency for International

Development, the Agency for Healthcare Research and Quality, the Health Resources and Services Administration, the United States-Mexico Border Health Commission, and other Federal departments and agencies that carry out significant activities related to tuberculosis;

"(B) State and local tuberculosis control and public health officials;

"(C) individuals who are scientists, physicians, laboratorians, and other health professionals who represent disciplines relevant to tuberculosis elimination; and

"(D) members of national and international nongovernmental organizations established to address the elimination of tuberculosis.".

42 USC 247b–6 note.

(b) RULE OF CONSTRUCTION REGARDING CURRENT MEMBERSHIP.—With respect to the advisory council under section 317E(f) of the Public Health Service Act, the amendments made by subsection (a) may not be construed as terminating the membership on such council of any individual serving as such a member as of the day before the date of the enactment of this Act.

(c) FEDERAL TUBERCULOSIS TASK FORCE.—Section 317E of the Public Health Service Act (42 U.S.C. 247b–6) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following subsection:

"(g) FEDERAL TUBERCULOSIS TASK FORCE.—

"(1) DUTIES.—The Federal Tuberculosis Task Force (in this subsection referred to as the 'Task Force') shall provide to the Secretary and other appropriate Federal officials advice on research into new tools under subsection (b)(2), including advice regarding the efficient utilization of the Federal resources involved.

"(2) COMPREHENSIVE PLAN FOR NEW TOOLS DEVELOPMENT.—In carrying out paragraph (1), the Task Force shall make recommendations on the development of a comprehensive plan for the creation of new tools for the elimination of tuberculosis, including drugs, diagnostics, and vaccines.

Recommendations.

"(3) CONSULTATION.—In developing the comprehensive plan under paragraph (1), the Task Force shall consult with external parties including representatives from groups such as—

"(A) scientists, physicians, laboratorians, and other health professionals who represent the specialties and disciplines relevant to the research under consideration;

"(B) members from public-private partnerships, private entities, or foundations (or both) engaged in activities relevant to research under consideration;

"(C) members of national and international nongovernmental organizations established to address tuberculosis elimination;

"(D) members from the general public who are knowledgeable with respect to tuberculosis including individuals who have or have had tuberculosis; and

"(E) scientists, physicians, laboratorians, and other health professionals who reside in a foreign country with a substantial incidence or prevalence of tuberculosis, and who represent the specialties and disciplines relevant to the research under consideration.".

# Subtitle C—Evaluation of Public Health Authorities

42 USC 264 note.

**SEC. 121. EVALUATION OF PUBLIC HEALTH AUTHORITIES.**

Deadline. Reports.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Comprehensive Tuberculosis Elimination Act of 2008, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that evaluates and provides recommendations on changes needed to Federal and State public health authorities to address current disease containment challenges such as isolation and quarantine.

(b) CONTENTS OF EVALUATION.—The report described in subsection (a) shall include—

(1) an evaluation of the effectiveness of current policies to detain patients with active tuberculosis;

(2) an evaluation of whether Federal laws should be strengthened to expressly address the movement of individuals with active tuberculosis; and

(3) specific legislative recommendations for changes to Federal laws, if any.

Deadline.

(c) UPDATE OF QUARANTINE REGULATIONS.—Not later than 240 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to update the current interstate and foreign quarantine regulations found in parts 70 and 71 of title 42, Code of Federal Regulations.

# Subtitle D—Authorization of Appropriations

**SEC. 131. AUTHORIZATIONS OF APPROPRIATIONS.**

Section 317E of the Public Health Service Act, as amended by section 111(c) of this Act, is amended by striking subsection (h) and inserting the following:

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) GENERAL PROGRAM.—

"(A) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated $200,000,000 for fiscal year 2009, $210,000,000 for fiscal year 2010, $220,500,000 for fiscal year 2011, $231,525,000 for fiscal year 2012, and $243,101,250 for fiscal year 2013.

"(B) RESERVATION FOR EMERGENCY GRANTS.—Of the amounts appropriated under subparagraph (A) for a fiscal year, the Secretary may reserve not more than 25 percent for emergency grants under subsection (a) for any geographic area, State, political subdivision of a State, or other public entity in which there is, relative to other areas, a substantial number of cases of tuberculosis, multidrug resistant tuberculosis, or extensively drug resistant tuberculosis or a substantial rate of increase in such cases.

"(C) PRIORITY.—In allocating amounts appropriated under subparagraph (A), the Secretary shall give priority to allocating such amounts for grants under subsection (a).

"(D) ALLOCATION OF FUNDS.—

"(i) REQUIREMENT OF FORMULA.—Of the amounts appropriated under subparagraph (A), not reserved under subparagraph (B), and allocated by the Secretary for grants under subsection (a), the Secretary shall distribute a portion of such amounts to grantees under subsection (a) on the basis of a formula.

"(ii) RELEVANT FACTORS.—The formula developed by the Secretary under clause (i) shall take into account the level of tuberculosis morbidity and case complexity in the respective geographic area and may consider other factors relevant to tuberculosis in such area.

"(iii) NO CHANGE TO FORMULA REQUIRED.—This subparagraph does not require the Secretary to modify the formula that was used by the Secretary to distribute funds to grantees under subsection (a) for fiscal year 2009.

"(2) LIMITATION.—The authorization of appropriations established in paragraph (1) for a fiscal year is effective only if the amount appropriated under such paragraph for such year equals or exceeds the amount appropriated to carry out this section for fiscal year 2009.".

# TITLE II—NATIONAL INSTITUTES OF HEALTH

**SEC. 201. RESEARCH AND DEVELOPMENT CONCERNING TUBERCULOSIS.**

Subpart 2 of part C of title IV of the Public Health Service Act (42 U.S.C. 285b et seq.) is amended by inserting after section 424B the following section:

**"SEC. 424C. TUBERCULOSIS.** 42 USC 285b–7c.

"(a) IN GENERAL.—The Director of the National Institutes of Health may expand, intensify, and coordinate research and development and related activities of the Institutes with respect to tuberculosis including activities toward the goal of eliminating such disease.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) enhancing basic and clinical research on tuberculosis, including drug resistant tuberculosis;

"(2) expanding research on the relationship between such disease and the human immunodeficiency virus; and

"(3) developing new tools for the elimination of tuberculosis, including public health interventions and methods to enhance

detection and response to outbreaks of tuberculosis, including multidrug resistant tuberculosis.".

Approved October 13, 2008.

LEGISLATIVE HISTORY—H.R. 1532 (S. 1551):

HOUSE REPORTS: No. 110–873 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 110–329 accompanying S. 1551 (Comm. on Health, Education, Labor, and Pensions).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, 24, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 110–393
110th Congress

# An Act

To authorize the Secretary of Commerce to sell or exchange certain National Oceanic and Atmospheric Administration property located in Norfolk, Virginia, and for other purposes.

Oct. 13, 2008
[H.R. 5350]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SALE OR EXCHANGE OF NOAA PROPERTY IN NORFOLK, VIRGINIA.**

(a) IN GENERAL.—The Secretary of Commerce may sell or exchange to the City of Norfolk, Virginia, in accordance with chapter 13 of title 40, United States Code, real property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration (in this section referred to as "NOAA"), including land and improvements thereon, located at 538 Front Street, Norfolk, Virginia, consisting of approximately 3.78 acres, if the Secretary—

(1) determines that the conveyance is in the best interests of NOAA and the Federal Government; and

(2) has provided prior notification to the Committee on Natural Resources and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate. Notification.

(b) CONSIDERATION.—

(1) IN GENERAL.—For any conveyance under this section the Secretary shall require the City of Norfolk to provide consideration to the United States that is not less than the fair market value of the property conveyed by the United States.

(2) FORM.—Consideration under this subsection may include any combination of—

(A) cash or cash equivalents;

(B) other property (either real or personal); and

(C) consideration in-kind, including—

(i) provision of space, goods, or services of benefit to NOAA including construction, repair, remodeling, or other physical improvements of NOAA property;

(ii) maintenance of NOAA property;

(iii) provision of office, storage, or other useable space; or

(iv) relocation services associated with conveyance of property under this section.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Secretary shall determine fair market value for purposes of paragraph (1) based upon a highest- and best-use appraisal of the property

conveyed under subsection (a) conducted in conformance with the Uniform Appraisal Standards for Professional Appraisal Practice.

(c) USE OF PROCEEDS.—Amounts received under subsection (b)(2)(A) by the United States as proceeds of any conveyance under this section shall be available to the Secretary, subject to appropriation, for—

(1) activities related to the operations of, or capital improvements, to NOAA property; or

(2) relocation and other costs associated with the sale or exchange.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance of property by the United States under subsection (a) as the Secretary considers appropriate to protect the interest of the United States, including the recoupment of any profit the City of Norfolk may realize within three years after the date of conveyance to the City due to resale of the property

(e) TERMINATION.—The authority granted to the Secretary under subsections (a) and (b) shall terminate at the end of the 24-month period beginning on the date of enactment of this Act if no contract for sale or exchange under subsection (a) has been entered into by the City of Norfolk and the United States. Notwithstanding any other provision of law, the Secretary of Commerce, through the Under Secretary and Administrator of the National Oceanic and Atmospheric Administration (NOAA), is authorized to enter into a land lease with Mobile County, Alabama for a period of not less than 40 years, on such terms and conditions as NOAA deems appropriate, for purposes of construction of a Gulf of Mexico Disaster Response Center facility, provided that the lease is at no cost to the government. NOAA may enter into agreements with state, local, or county governments for purposes of joint use, operations and occupancy of such facility.

Real property. Alabama.

Approved October 13, 2008.

LEGISLATIVE HISTORY—H.R. 5350:

HOUSE REPORTS: No. 110–822, Pt. 1 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 15, 17, considered and passed House.
Sept. 26, considered and passed Senate, amended.
Sept. 29, House concurred in Senate amendment.

Public Law 110–394
110th Congress

# An Act

To reauthorize and amend the National Sea Grant College Program Act, and for other purposes.

Oct. 13, 2008
[H.R. 5618]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

National Sea Grant College Program Amendments Act of 2008.
33 USC 1121 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Sea Grant College Program Amendments Act of 2008".

**SEC. 2. REFERENCES.**

Except as otherwise expressly provided therein, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

**SEC. 3. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Section 202(a) (33 U.S.C. 1121(a)) is amended—

(1) by striking subparagraphs (D) and (E) of paragraph (1) and inserting the following:

"(D) encourage the development of preparation, forecast, analysis, mitigation, response, and recovery systems for coastal hazards;

"(E) understand global environmental processes and their impacts on ocean, coastal, and Great Lakes resources; and";

(2) by striking "program of research, education," in paragraph (2) and inserting "program of integrated research, education, extension,"; and

(3) by striking paragraph (6) and inserting the following:

"(6) The National Oceanic and Atmospheric Administration, through the national sea grant college program, offers the most suitable locus and means for such commitment and engagement through the promotion of activities that will result in greater such understanding, assessment, development, management, utilization, and conservation of ocean, coastal, and Great Lakes resources. The most cost-effective way to promote such activities is through continued and increased Federal support of the establishment, development, and operation of programs and projects by sea grant colleges, sea grant institutes, and other institutions, including strong collaborations between Administration scientists and research and outreach personnel at academic institutions.".

(b) PURPOSE.—Section 202(c) (33 U.S.C. 1121(c)) is amended by striking "to promote research, education, training, and advisory service activities" and inserting "to promote integrated research, education, training, and extension services and activities".

(c) TERMINOLOGY.—Subsections (a) and (b) of section 202 (15 U.S.C. 1121(a) and (b)) are amended by inserting "management," after "development," each place it appears.

**SEC. 4. DEFINITIONS.**

(a) IN GENERAL.—Section 203 (33 U.S.C. 1122) is amended—

(1) in paragraph (4) by inserting "management," after "development,";

(2) in paragraph (11) by striking "advisory services" and inserting "extension services"; and

(3) in each of paragraphs (12) and (13) by striking "(33 U.S.C. 1126)".

(b) REPEAL.—Section 307 of the Act entitled "An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary" (Public Law 102–251; 106 Stat. 66) is repealed.

33 USC 1122.

**SEC. 5. NATIONAL SEA GRANT COLLEGE PROGRAM.**

(a) PROGRAM ELEMENTS.—Section 204(b) (33 U.S.C. 1123(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) sea grant programs that comprise a national sea grant college program network, including international projects conducted within such programs and regional and national projects conducted among such programs;";

(2) by amending paragraph (2) to read as follows:

"(2) administration of the national sea grant college program and this title by the national sea grant office and the Administration;"; and

(3) by amending paragraph (4) to read as follows:

"(4) any regional or national strategic investments in fields relating to ocean, coastal, and Great Lakes resources developed in consultation with the Board and with the approval of the sea grant colleges and the sea grant institutes.".

(b) TECHNICAL CORRECTION.—Section 204(c)(2) (33 U.S.C. 1123(c)(2)) is amended by striking "Within 6 months of the date of enactment of the National Sea Grant College Program Reauthorization Act of 1998, the" and inserting "The".

(c) FUNCTIONS OF DIRECTOR OF NATIONAL SEA GRANT COLLEGE PROGRAM.—Section 204(d) (33 U.S.C. 1123(d)) is amended—

(1) in paragraph (2)(A), by striking "long range";

(2) in paragraph (3)(A)—

(A) by striking "(A)(i) evaluate" and inserting "(A) evaluate and assess";

(B) by striking "activities; and" and inserting "activities;"; and

(C) by striking clause (ii); and

(3) in paragraph (3)(B)—

(A) by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively, and by inserting after clause (i) the following:

"(ii) encourage collaborations among sea grant colleges and sea grant institutes to address regional and national priorities established under subsection (c)(1);";

(B) in clause (iii) (as so redesignated) by striking "encourage" and inserting "ensure";

(C) in clause (iv) (as so redesignated) by striking "and" after the semicolon;

(D) by inserting after clause (v) (as so redesignated) the following:

"(vi) encourage cooperation with Minority Serving Institutions to enhance collaborative research opportunities and increase the number of such students graduating in NOAA science areas; and".

**SEC. 6. PROGRAM OR PROJECT GRANTS AND CONTRACTS.**

Section 205 (33 U.S.C. 1124) is amended—

(1) by striking "204(c)(4)(F)." in subsection (a) and inserting "204(c)(4)(F) or that are appropriated under section 208(b)."; and

(2) by striking the matter following paragraph (3) in subsection (b) and inserting the following:

"The total amount that may be provided for grants under this subsection during any fiscal year shall not exceed an amount equal to 5 percent of the total funds appropriated for such year under section 212.".

**SEC. 7. EXTENSION SERVICES BY SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.**

Section 207(a) (33 U.S.C. 1126(a)) is amended in each of paragraphs (2)(B) and (3)(B) by striking "advisory services" and inserting "extension services".

**SEC. 8. FELLOWSHIPS.**

Section 208(a) (33 U.S.C. 1127) is amended—

(1) by striking "Not later than 1 year after the date of the enactment of the National Sea Grant College Program Act Amendments of 2002, and every 2 years thereafter," in subsection (a) and inserting "Every 2 years,"; and

(2) by adding at the end the following:

"(c) Restriction on Use of Funds.—Amounts available for fellowships under this section, including amounts accepted under section 204(c)(4)(F) or appropriated under section 212 to implement this section, shall be used only for award of such fellowships and administrative costs of implementing this section."

**SEC. 9. NATIONAL SEA GRANT ADVISORY BOARD.**

33 USC 1128 note.

(a) REDESIGNATION OF SEA GRANT REVIEW PANEL AS BOARD.—

(1) REDESIGNATION.—The sea grant review panel established by section 209 of the National Sea Grant College Program Act (33 U.S.C. 1128), as in effect before the date of the enactment of this Act, is redesignated as the National Sea Grant Advisory Board.

(2) MEMBERSHIP NOT AFFECTED.—An individual serving as a member of the sea grant review panel immediately before date of the enactment of this Act may continue to serve as a member of the National Sea Grant Advisory Board until the expiration of such member's term under section 209(c) of such Act (33 U.S.C. 1128(c)).

(3) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to such

sea grant review panel is deemed to be a reference to the National Sea Grant Advisory Board.

(4) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 209 (33 U.S.C. 1128) is amended by striking so much as precedes subsection (b) and inserting the following:

**"SEC. 209. NATIONAL SEA GRANT ADVISORY BOARD.**

"(a) ESTABLISHMENT.—There shall be an independent committee to be known as the National Sea Grant Advisory Board.".

(B) DEFINITION.—Section 203(9) (33 U.S.C. 1122(9)) is amended to read as follows:

"(9) The term 'Board' means the National Sea Grant Advisory Board established under section 209.";

(C) OTHER PROVISIONS.—The following provisions are each amended by striking "panel" each place it appears and inserting "Board":

(i) Section 204 (33 U.S.C. 1123).

(ii) Section 207 (33 U.S.C. 1126).

(iii) Section 209 (33 U.S.C. 1128).

(b) DUTIES.—Section 209(b) (33 U.S.C. 1128(b)) is amended to read as follows:

"(b) DUTIES.—

"(1) IN GENERAL.—The Board shall advise the Secretary and the Director concerning—

"(A) strategies for utilizing the sea grant college program to address the Nation's highest priorities regarding the understanding, assessment, development, management, utilization, and conservation of ocean, coastal, and Great Lakes resources;

"(B) the designation of sea grant colleges and sea grant institutes; and

"(C) such other matters as the Secretary refers to the Board for review and advice.

"(2) BIENNIAL REPORT.—The Board shall report to the Congress every two years on the state of the national sea grant college program. The Board shall indicate in each such report the progress made toward meeting the priorities identified in the strategic plan in effect under section 204(c). The Secretary shall make available to the Board such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties under this title.".

(c) MEMBERSHIP, TERMS, AND POWERS.—Section 209(c)(1) (33 U.S.C. 1128(c)(1)) is amended—

(1) by inserting "coastal management," after "resource management,"; and

(2) by inserting "management," after "development,".

(d) EXTENSION OF TERM.—Section 209(c)(3) (33 U.S.C. 1128(c)(3)) is amended by striking the second sentence and inserting the following: "The Director may extend the term of office of a voting member of the Board once by up to 1 year.".

(e) ESTABLISHMENT OF SUBCOMMITTEES.—Section 209(c) (33 U.S.C. 1128(c)) is amended by adding at the end the following:

"(8) The Board may establish such subcommittees as are reasonably necessary to carry out its duties under subsection (b). Such subcommittees may include individuals who are not Board members.".

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

Section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131) is amended—

(1) by striking subsection (a)(1) and inserting the following: "

"(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this title—

"(A) $72,000,000 for fiscal year 2009;

"(B) $75,600,000 for fiscal year 2010;

"(C) $79,380,000 for fiscal year 2011;

"(D) $83,350,000 for fiscal year 2012;

"(E) $87,520,000 for fiscal year 2013; and

"(F) $91,900,000 for fiscal year 2014.";

(2) in subsection (a)(2)—

(A) by striking "fiscal years 2003 through 2008—" and inserting "fiscal years 2009 through 2014—";

(B) by striking "biology and control of zebra mussels and other important aquatic" in subparagraph (A) and inserting "biology, prevention, and control of aquatic"; and

(C) by striking "blooms, including Pfiesteria piscicida; and" in subparagraph (C) and inserting "blooms; and";

(3) in subsection (c)(1) by striking "rating under section 204(d)(3)(A)" and inserting "performance assessments"; and

(4) by striking subsection (c)(2) and inserting the following: "(2) regional or national strategic investments authorized under section 204(b)(4);".

Approved October 13, 2008.

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LEGISLATIVE HISTORY—H.R. 5618 (S. 3160):

HOUSE REPORTS: No. 110–701, Pt. 1 (Comm. on Natural Resources) and Pt. 2 (Comm. on Science and Technology).

SENATE REPORTS: No. 110–508 accompanying S. 3160 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 154 (2008):

July 14, considered and passed House.

Sept. 26, considered and passed Senate, amended.

Sept. 29, House concurred in Senate amendment.

# Public Law 110–395
# 110th Congress

## An Act

Oct. 13, 2008
[H.R. 6199]

To designate the facility of the United States Postal Service located at 245 North Main Street in New City, New York, as the "Kenneth Peter Zebrowski Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. KENNETH PETER ZEBROWSKI POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 245 North Main Street in New City, New York, shall be known and designated as the "Kenneth Peter Zebrowski Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Kenneth Peter Zebrowski Post Office Building".

Approved October 13, 2008.

LEGISLATIVE HISTORY—H.R. 6199 (S. 3625):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 110–396
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 2523 7th Avenue East in North Saint Paul, Minnesota, as the "Mayor William 'Bill' Sandberg Post Office Building".

Oct. 13, 2008
[H.R. 6229]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MAYOR WILLIAM "BILL" SANDBERG POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 2523 7th Avenue East in North Saint Paul, Minnesota, shall be known and designated as the "Mayor William 'Bill' Sandberg Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Mayor William 'Bill' Sandberg Post Office Building".

Approved October 13, 2008.

LEGISLATIVE HISTORY—H.R. 6229 (S. 3309):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 17, 18, considered and passed House.
Sept. 30, considered and passed Senate.

# Public Law 110–397
# 110th Congress

## An Act

Oct. 13, 2008
[H.R. 6338]

To designate the facility of the United States Postal Service located at 4233 West Hillsboro Boulevard in Coconut Creek, Florida, as the "Army SPC Daniel Agami Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ARMY SPC DANIEL AGAMI POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 4233 West Hillsboro Boulevard in Coconut Creek, Florida, shall be known and designated as the "Army SPC Daniel Agami Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Army SPC Daniel Agami Post Office Building".

Approved October 13, 2008.

LEGISLATIVE HISTORY—H.R. 6338:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 17, 18, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 110–398
110th Congress

# An Act

To amend the commodity provisions of the Food, Conservation, and Energy Act of 2008 to permit producers to aggregate base acres and reconstitute farms to avoid the prohibition on receiving direct payments, counter-cyclical payments, or average crop revenue election payments when the sum of the base acres of a farm is 10 acres or less, and for other purposes.

Oct. 13, 2008
[H.R. 6849]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TREATMENT OF FARMS WITH LIMITED BASE ACRES.**

(a) SUSPENSION OF PROHIBITION.—

(1) IN GENERAL.—Section 1101(d) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8711(d)) is amended by adding at the end the following:

"(4) SUSPENSION OF PROHIBITION.—Paragraphs (1) through (3) shall not apply during the 2008 crop year.".

(2) PEANUTS.—Section 1302(d) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8752(d)) is amended by adding at the end the following:

"(4) SUSPENSION OF PROHIBITION.—Paragraphs (1) through (3) shall not apply during the 2008 crop year.".

(b) EXTENSION OF 2008 SIGNUP FOR DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.—

(1) IN GENERAL.—Section 1106 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8716) is amended by adding at the end the following:

"(f) EXTENSION OF 2008 SIGNUP.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall extend the 2008 crop year deadline for the signup for benefits under this subtitle by producers on a farm with base acres of 10 acres or less until the later of— Deadline.

"(A) November 14, 2008; or

"(B) the end of the 45-day period beginning on the date of the enactment of this subsection.

"(2) PENALTIES.—The Secretary shall ensure that no penalty with respect to benefits under this subtitle or subtitle B is assessed against producers on a farm described in paragraph (1) for failure to submit reports under this section or timely comply with other program requirements as a result of compliance with the extended signup deadline under that paragraph.".

(2) PEANUTS.—Section 1305 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8755) is amended by adding at the end the following:

"(f) EXTENSION OF 2008 SIGNUP.—

Deadline.

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall extend the 2008 crop year deadline for the signup for benefits under this subtitle by producers on a farm with base acres of 10 acres or less until the later of—

"(A) November 14, 2008; or

"(B) the end of the 45-day period beginning on the date of the enactment of this subsection.

"(2) PENALTIES.—The Secretary shall ensure that no penalty with respect to benefits under this subtitle is assessed against producers on a farm described in paragraph (1) for failure to submit reports under this section or timely comply with other program requirements as a result of compliance with the extended signup deadline under that paragraph.".

(c) OFFSETTING REDUCTION.—Section 515(k)(1) of the Federal Crop Insurance Act (7 U.S.C. 1515(k)(1)) is amended by striking "2011" and inserting "2010, and not more than $9,000,000 for fiscal year 2011".

**SEC. 2. SUPPLEMENTAL REVENUE ASSISTANCE PROGRAM.**

(a) FEDERAL CROP INSURANCE ACT.—

(1) DEFINITIONS.—Section 531(a) of the Federal Crop Insurance Act (7 U.S.C. 1531(a)) is amended—

(A) in paragraph (3)(B), by inserting "has" after "on a farm that";

(B) in paragraph (4), by striking "section 1102 of the Farm Security and Rural Investment Act of 2002" and all that follows through the end of the paragraph and inserting "under—

"(i) section 1102 or 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912, 7952);

"(ii) section 1102 or 1301(6) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8712, 8751(6)); or

"(iii) a successor section.";

(C) in paragraph (5)(B)(ii), by striking ", the total loss" and all that follows through the end of the paragraph and adding "the actual production on the farm is less than 50 percent of the normal production on the farm.";

(D) in paragraph (7)—

(i) in subparagraph (A), by inserting "for sale or on-farm livestock feeding (including native grassland intended for haying)" after "harvest"; and

(ii) in subparagraph (C), by inserting "for sale" after "crop";

(E) by redesignating paragraphs (2) through (4), (5) through (12), and (13) through (18) as paragraphs (3) through (5), (7) through (14), and (16) through (21), respectively;

(F) by inserting after paragraph (1) the following:

"(2) ACTUAL PRODUCTION ON THE FARM.—The term 'actual production on the farm' means the sum of the value of all crops produced on the farm, as determined under subsection (b)(6)(B).";

(G) by inserting after paragraph (5) (as redesignated by subparagraph (E)) the following:

"(6) CROP OF ECONOMIC SIGNIFICANCE.—The term 'crop of economic significance' shall have the uniform meaning given the term by the Secretary for purposes of subsections (b)(1)(B) and (g)(6).''; and

(H) by inserting after paragraph (14) (as redesignated by subparagraph (E)) the following:

"(15) NORMAL PRODUCTION ON THE FARM.—The term 'normal production on the farm' means the sum of the expected revenue for all crops on the farm, as determined under subsection (b)(6)(A).''.

(2) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—Section 531(b) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)) is amended—

(A) in paragraph (1)—

(i) by striking "(1) IN GENERAL.—The Secretary" and inserting the following:

"(1) PAYMENTS.—

"(A) IN GENERAL.—The Secretary''; and

(ii) by adding at the end the following:

"(B) CROP LOSS.—To be eligible for crop loss assistance under this subsection, the actual production on the farm for at least 1 crop of economic significance shall be reduced by at least 10 percent due to disaster, adverse weather, or disaster-related conditions.'';

(B) in paragraph (2), by adding at the end the following:

"(C) EXCLUSION OF SUBSEQUENTLY PLANTED CROPS.—In calculating the disaster assistance program guarantee under paragraph (3) and the total farm revenue under paragraph (4), the Secretary shall not consider the value of any crop that—

"(i) is produced on land that is not eligible for a policy or plan of insurance under subtitle A or assistance under the noninsured crop assistance program; or

"(ii) is subsequently planted on the same land during the same crop year as the crop for which disaster assistance is provided under this subsection, except in areas in which double-cropping is a normal practice, as determined by the Secretary.'';

(C) in paragraph (3)(A)(ii)(III)—

(i) in the matter before item (aa), by inserting "50 percent of" before "the higher of''; and

(ii) in item (aa), by striking "guarantee'';

(D) in paragraph (4)—

(i) in subparagraph (A)(i)—

(I) by striking subclauses (I) and (II) and inserting the following:

"(I) the actual production by crop on a farm for purposes of determining losses under subtitle A or the noninsured crop assistance program; and''; and

(II) by redesignating subclause (III) as subclause (II);

(ii) in subparagraph (B)—

(I) in clause (i), by striking "and'' at the end;

(II) in clause (ii), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(iii) as the Secretary determines appropriate, to reflect regional variations in a manner consistent with the operation of the crop insurance program under subtitle A and the noninsured crop assistance program.";

(E) in paragraph (5)—

(i) in the matter preceding subparagraph (A), by striking "the sum obtained by adding";

(ii) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "the product" and inserting "for each insurable commodity, the product";

(II) in clause (i), by striking "greatest" and inserting "greater";

(III) in clause (iii), by striking "of the insurance price guarantee; and" and inserting "of the price election for the commodity used to calculate an indemnity for an applicable policy of insurance if an indemnity is triggered; and"; and

(iii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking "the product" and inserting "for each noninsurable crop, the product";

(II) in clause (i), by striking "and" at the end;

(III) by redesignating clause (ii) as clause (iii); and

(IV) by inserting after clause (i) the following:

"(ii) the acreage planted or prevented from being planted for each crop; and"; and

(F) by adding at the end the following:

"(6) PRODUCTION ON THE FARM.—

"(A) NORMAL PRODUCTION ON THE FARM.—The normal production on the farm shall equal the sum of the expected revenue for each crop on a farm as determined under paragraph (5).

"(B) ACTUAL PRODUCTION ON THE FARM.—The actual production on the farm shall equal the sum obtained by adding—

"(i) for each insurable commodity on the farm, the product obtained by multiplying—

"(I) 100 percent of the price election for the commodity used to calculate an indemnity for an applicable policy of insurance if an indemnity is triggered; and

"(II) the quantity of the commodity produced on the farm, adjusted for quality losses; and

"(ii) for each noninsurable commodity on a farm, the product obtained by multiplying—

"(I) 100 percent of the noninsured crop assistance program established price for the commodity; and

"(II) the quantity of the commodity produced on the farm, adjusted for quality losses.".

(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—Section 531(d)(5)(B)(ii) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(5)(B)(ii)) is amended by striking "section" and inserting "subsection".

(4) TREE ASSISTANCE PROGRAM.—Section 531(f)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(f)(2)(A)) is amended by striking "the Secretary shall provide" and inserting "the Secretary shall use such sums as are necessary from the Trust Fund to provide".

(5) DE MINIMIS EXCEPTION TO RISK MANAGEMENT PURCHASE REQUIREMENT.—Section 531(g) of the Federal Crop Insurance Act (7 U.S.C. 1531(g)) is amended by adding at the end the following:

"(6) DE MINIMIS EXCEPTION.—

"(A) IN GENERAL.—For purposes of assistance under subsection (b), at the option of an eligible producer on a farm, the Secretary shall waive paragraph (1)— Waiver authority.

"(i) in the case of a portion of the total acreage of a farm of the eligible producer that is not of economic significance on the farm, as established by the Secretary; or

"(ii) in the case of a crop for which the administrative fee required for the purchase of noninsured crop disaster assistance coverage exceeds 10 percent of the value of that coverage.

"(B) TREATMENT OF ACREAGE.—The Secretary shall not consider the value of any crop exempted under subparagraph (A) in calculating the supplemental revenue assistance program guarantee under subsection (b)(3) and the total farm revenue under subsection (b)(4).".

(6) RISK MANAGEMENT PURCHASE REQUIREMENT WAIVER FOR 2009 CROP YEAR.—Section 531(g) of the Federal Crop Insurance Act (7 U.S.C. 1531(g)) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "(other than subsection (c))" and inserting "(other than subsections (c) and (d))"; and

(ii) in subparagraph (A), by inserting ", excluding grazing land" after "producers on the farm";

(B) in paragraph (2), by striking "grazed, planted," and inserting "planted";

(C) in paragraph (4), by striking "(4)" and all that follows through "In the case" and inserting the following: "(4) WAIVERS FOR CERTAIN CROP YEARS.—

"(A) 2008 CROP YEAR.—In the case"; and

(D) by adding at the end the following:

"(B) 2009 CROP YEAR.—In the case of an insurable commodity or noninsurable commodity for the 2009 crop year that does not meet the requirements of paragraph (1) and the relevant crop insurance program sales closing date or noninsured crop assistance program fee payment date was prior to August 14, 2008, the Secretary shall waive paragraph (1) if the eligible producer of the insurable commodity or noninsurable commodity pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee Deadline.

required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subparagraph.".

(7) PAYMENT LIMITATIONS.—Section 531(h) of the Federal Crop Insurance Act (7 U.S.C. 1531) is amended by adding at the end the following:

Applicability.

"(5) TRANSITION RULE.—Sections 1001, 1001A, 1001B, and 1001D of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.) as in effect on September 30, 2007, shall continue to apply with respect to 2008 crops.".

(b) TRADE ACT OF 1974.—

(1) DEFINITIONS.—Section 901(a) of the Trade Act of 1974 (19 U.S.C. 2497(a)) is amended—

(A) in paragraph (3)(B), by inserting "has" after "on a farm that";

(B) in paragraph (4), by striking "section 1102 of the Farm Security and Rural Investment Act of 2002" and all that follows through the end of the paragraph and inserting "under—

"(i) section 1102 or 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912, 7952);

"(ii) section 1102 or 1301(6) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8712, 8751(6)); or

"(iii) a successor section.";

(C) in paragraph (5)(B)(ii), by striking ", the total loss" and all that follows through the end of the paragraph and adding "the actual production on the farm is less than 50 percent of the normal production on the farm.";

(D) in paragraph (7)—

(i) in subparagraph (A), by inserting "for sale or on-farm livestock feeding (including native grassland intended for haying)" after "harvest"; and

(ii) in subparagraph (C), by inserting "for sale" after "crop";

(E) by redesignating paragraphs (2) through (4), (5) through (12), and (13) through (18) as paragraphs (3) through (5), (7) through (14), and (16) through (21), respectively;

(F) by inserting after paragraph (1) the following:

"(2) ACTUAL PRODUCTION ON THE FARM.—The term 'actual production on the farm' means the sum of the value of all crops produced on the farm, as determined under subsection (b)(6)(B).";

(G) by inserting after paragraph (5) (as redesignated by subparagraph (E)) the following:

"(6) CROP OF ECONOMIC SIGNIFICANCE.—The term 'crop of economic significance' shall have the uniform meaning given the term by the Secretary for purposes of subsections (b)(1)(B) and (g)(6).''; and

(H) by inserting after paragraph (14) (as redesignated by subparagraph (E)) the following:

"(15) NORMAL PRODUCTION ON THE FARM.—The term 'normal production on the farm' means the sum of the expected revenue for all crops on the farm, as determined under subsection (b)(6)(A).".

(2) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—Section 901(b) of the Trade Act of 1974 (19 U.S.C. 2497(b)) is amended—

(A) in paragraph (1)—

(i) by striking "(1) IN GENERAL.—The Secretary" and inserting the following:

"(1) PAYMENTS.—

"(A) IN GENERAL.—The Secretary"; and

(ii) by adding at the end the following:

"(B) CROP LOSS.—To be eligible for crop loss assistance under this subsection, the actual production on the farm for at least 1 crop of economic significance shall be reduced by at least 10 percent due to disaster, adverse weather, or disaster-related conditions.";

(B) in paragraph (2), by adding at the end the following:

"(C) EXCLUSION OF SUBSEQUENTLY PLANTED CROPS.—In calculating the disaster assistance program guarantee under paragraph (3) and the total farm revenue under paragraph (4), the Secretary shall not consider the value of any crop that—

"(i) is produced on land that is not eligible for a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or assistance under the noninsured crop assistance program; or

"(ii) is subsequently planted on the same land during the same crop year as the crop for which disaster assistance is provided under this subsection, except in areas in which double-cropping is a normal practice, as determined by the Secretary.";

(C) in paragraph (3)(A)(ii)(III)—

(i) in the matter before item (aa), by inserting "50 percent of" before "the higher of";

(ii) in item (aa), by striking "guarantee";

(D) in paragraph (4)—

(i) in subparagraph (A)(i)—

(I) by striking subclauses (I) and (II) and inserting the following:

"(I) the actual production by crop on a farm for purposes of determining losses under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or the noninsured crop assistance program; and"; and

(II) by redesignating subclause (III) as subclause (II);

(ii) in subparagraph (B)—

(I) in clause (i), by striking "and" at the end;

(II) in clause (ii), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(iii) as the Secretary determines appropriate, to reflect regional variations in a manner consistent with the operation of the Federal crop insurance program under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and the noninsured crop assistance program.";

(E) in paragraph (5)—

(i) in the matter preceding subparagraph (A), by striking "the sum obtained by adding";

(ii) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "the product" and inserting "for each insurable commodity, the product";

(II) in clause (i), by striking "greatest" and inserting "greater";

(III) in clause (iii), by striking "of the insurance price guarantee; and" and inserting "of the price election for the commodity used to calculate an indemnity for an applicable policy of insurance if an indemnity is triggered; and"; and

(iii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking "the product" and inserting "for each noninsurable crop, the product";

(II) in clause (i), by striking "and" at the end;

(III) by redesignating clause (ii) as clause (iii); and

(IV) by inserting after clause (i) the following:

"(ii) the acreage planted or prevented from being planted for each crop; and"; and

(F) by adding at the end the following:

"(6) PRODUCTION ON THE FARM.—

"(A) NORMAL PRODUCTION ON THE FARM.—The normal production on the farm shall equal the sum of the expected revenue for each crop on a farm as determined under paragraph (5).

"(B) ACTUAL PRODUCTION ON THE FARM.—The actual production on the farm shall equal the sum obtained by adding—

"(i) for each insurable commodity on the farm, the product obtained by multiplying—

"(I) 100 percent of the price election for the commodity used to calculate an indemnity for an applicable policy of insurance if an indemnity is triggered; and

"(II) the quantity of the commodity produced on the farm, adjusted for quality losses; and

"(ii) for each noninsurable commodity on a farm, the product obtained by multiplying—

"(I) 100 percent of the noninsured crop assistance program established price for the commodity; and

"(II) the quantity of the commodity produced on the farm, adjusted for quality losses.".

(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—Section 901(d)(5)(B)(ii) of the Trade Act of 1974 (19 U.S.C. 2497(d)(5)(B)(ii)) is amended by striking "section" and inserting "subsection".

(4) TREE ASSISTANCE PROGRAM.—Section 901(f)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2497(f)(2)(A)) is amended by striking "the Secretary shall provide" and inserting "the Secretary shall use such sums as are necessary from the Trust Fund to provide".

(5) DE MINIMIS EXCEPTION TO RISK MANAGEMENT PURCHASE REQUIREMENT.—Section 901(g) of the Trade Act of 1974 (19 U.S.C. 2497(g)) is amended by adding at the end the following:

"(6) DE MINIMIS EXCEPTION.—

"(A) IN GENERAL.—For purposes of assistance under subsection (b), at the option of an eligible producer on a farm, the Secretary shall waive paragraph (1)— Waiver authority.

"(i) in the case of a portion of the total acreage of a farm of the eligible producer that is not of economic significance on the farm, as established by the Secretary; or

"(ii) in the case of a crop for which the administrative fee required for the purchase of noninsured crop disaster assistance coverage exceeds 10 percent of the value of that coverage.

"(B) TREATMENT OF ACREAGE.—The Secretary shall not consider the value of any crop exempted under subparagraph (A) in calculating the supplemental revenue assistance program guarantee under subsection (b)(3) and the total farm revenue under subsection (b)(4).".

(6) RISK MANAGEMENT PURCHASE REQUIREMENT WAIVER FOR 2009 CROP YEAR.—Section 901(g) of the Trade Act of 1974 (19 U.S.C. 2497(g)) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "(other than subsection (c))" and inserting "(other than subsections (c) and (d))"; and

(ii) in subparagraph (A), by inserting ", excluding grazing land" after "producers on the farm";

(B) in paragraph (2), by striking "grazed, planted," and inserting "planted";

(C) in paragraph (4), by striking "(4)" and all that follows through "In the case" and inserting the following:

"(4) WAIVERS FOR CERTAIN CROP YEARS.—

"(A) 2008 CROP YEAR.—In the case"; and

(D) by adding at the end the following:

"(B) 2009 CROP YEAR.—In the case of an insurable commodity or noninsurable commodity for the 2009 crop year that does not meet the requirements of paragraph (1) and the relevant crop insurance program sales closing date or noninsured crop assistance program fee payment date was prior to August 14, 2008, the Secretary shall waive paragraph (1) if the eligible producer of the insurable commodity or noninsurable commodity pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subparagraph.". Deadline.

(7) PAYMENT LIMITATIONS.—Section 901(h) of the Trade Act of 1974 (19 U.S.C. 2497(h)) is amended by adding at the end the following:

"(5) TRANSITION RULE.—Sections 1001, 1001A, 1001B, and 1001D of the Food Security Act of 1985 (7 U.S.C. 1308 et Applicability.

seq.) as in effect on September 30, 2007, shall continue to apply with respect to 2008 crops.".

Approved October 13, 2008.

LEGISLATIVE HISTORY—H.R. 6849:

HOUSE REPORTS: No. 110–881 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 24, considered and passed House.
Sept. 29, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 110–399
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 156 Taunton Avenue in Seekonk, Massachusetts, as the "Lance Corporal Eric Paul Valdepenas Post Office Building".

Oct. 13, 2008
[H.R. 6874]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LANCE CORPORAL ERIC PAUL VALDEPEÑAS POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 156 Taunton Avenue in Seekonk, Massachusetts, shall be known and designated as the "Lance Corporal Eric Paul Valdepeñas Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Lance Corporal Eric Paul Valdepeñas Post Office Building".

Approved October 13, 2008.

LEGISLATIVE HISTORY—H.R. 6874:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, considered and passed House.
Sept. 30, considered and passed Senate.

# Public Law 110–400
# 110th Congress

## An Act

Oct. 13, 2008
[S. 431]

To require convicted sex offenders to register online identifiers, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Keeping the Internet Devoid of Sexual Predators Act of 2008.
42 USC 16901 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Keeping the Internet Devoid of Sexual Predators Act of 2008" or the "KIDS Act of 2008".

42 USC 16915a.

**SEC. 2. DIRECTION TO THE ATTORNEY GENERAL.**

Records.

(a) REQUIREMENT THAT SEX OFFENDERS PROVIDE CERTAIN INTERNET RELATED INFORMATION TO SEX OFFENDER REGISTRIES.—The Attorney General, using the authority provided in section 114(a)(7) of the Sex Offender Registration and Notification Act, shall require that each sex offender provide to the sex offender registry those Internet identifiers the sex offender uses or will use of any type that the Attorney General determines to be appropriate under that Act. These records of Internet identifiers shall be subject to the Privacy Act (5 U.S.C. 552a) to the same extent as the other records in the National Sex Offender Registry.

(b) TIMELINESS OF REPORTING OF INFORMATION.—The Attorney General, using the authority provided in section 112(b) of the Sex Offender Registration and Notification Act, shall specify the time and manner for keeping current information required to be provided under this section.

(c) NONDISCLOSURE TO GENERAL PUBLIC.—The Attorney General, using the authority provided in section 118(b)(4) of the Sex Offender Registration and Notification Act, shall exempt from disclosure all information provided by a sex offender under subsection (a).

Procedures.

(d) NOTICE TO SEX OFFENDERS OF NEW REQUIREMENTS.—The Attorney General shall ensure that procedures are in place to notify each sex offender of changes in requirements that apply to that sex offender as a result of the implementation of this section.

(e) DEFINITIONS.—

(1) OF "SOCIAL NETWORKING WEBSITE".—As used in this Act, the term "social networking website"—

(A) means an Internet website—

(i) that allows users, through the creation of web pages or profiles or by other means, to provide information about themselves that is available to the public or to other users; and

(ii) that offers a mechanism for communication with other users where such users are likely to include a substantial number of minors; and

(iii) whose primary purpose is to facilitate online social interactions; and

(B) includes any contractors or agents used by the website to act on behalf of the website in carrying out the purposes of this Act.

(2) OF "INTERNET IDENTIFIERS".—As used in this Act, the term "Internet identifiers" means electronic mail addresses and other designations used for self-identification or routing in Internet communication or posting.

(3) OTHER TERMS.—A term defined for the purposes of the Sex Offender Registration and Notification Act has the same meaning in this Act.

**SEC. 3. CHECKING SYSTEM FOR SOCIAL NETWORKING WEBSITES.** 42 USC 16915b.

(a) IN GENERAL.—

(1) SECURE SYSTEM FOR COMPARISONS.—The Attorney General shall establish and maintain a secure system that permits social networking websites to compare the information contained in the National Sex Offender Registry with the Internet identifiers of users of the social networking websites, and view only those Internet identifiers that match. The system—

(A) shall not require or permit any social networking website to transmit Internet identifiers of its users to the operator of the system, and

(B) shall use secure procedures that preserve the secrecy of the information made available by the Attorney General, including protection measures that render the Internet identifiers and other data elements indecipherable. Procedures.

(2) PROVISION OF INFORMATION RELATING TO IDENTITY.—Upon receiving a matched Internet identifier, the social networking website may make a request of the Attorney General for, and the Attorney General shall provide promptly, information related to the identity of the individual that has registered the matched Internet identifier. This information is limited to the name, sex, resident address, photograph, and physical description.

(b) QUALIFICATION FOR USE OF SYSTEM.—A social networking website seeking to use the system shall submit an application to the Attorney General which provides—

(1) the name and legal status of the website;

(2) the contact information for the website;

(3) a description of the nature and operations of the website;

(4) a statement explaining why the website seeks to use the system;

(5) a description of policies and procedures to ensure that—

(A) any individual who is denied access to that website on the basis of information obtained through the system is promptly notified of the basis for the denial and has the ability to challenge the denial of access; and

(B) if the social networking website finds that information is inaccurate, incomplete, or cannot be verified, the site immediately notifies the appropriate State registry and the Department of Justice, so that they may delete Notification.

or correct that information in the respective State and national databases;

(6) the identity and address of, and contact information for, any contractor that will be used by the social networking website to use the system; and

(7) such other information or attestations as the Attorney General may require to ensure that the website will use the system—

(A) to protect the safety of the users of such website; and

(B) for the limited purpose of making the automated comparison described in subsection (a).

(c) SEARCHES AGAINST THE SYSTEM.—

(1) FREQUENCY OF USE OF THE SYSTEM.—A social networking website approved by the Attorney General to use the system may conduct searches under the system as frequently as the Attorney General may allow.

(2) AUTHORITY OF ATTORNEY GENERAL TO SUSPEND USE.—The Attorney General may deny, suspend, or terminate use of the system by a social networking website that—

(A) provides false information in its application for use of the system;

(B) may be using or seeks to use the system for any unlawful or improper purpose;

(C) fails to comply with the procedures required under subsection (b)(5); or

(D) uses information obtained from the system in any way that is inconsistent with the purposes of this Act.

(3) LIMITATION ON RELEASE OF INTERNET IDENTIFIERS.—

(A) NO PUBLIC RELEASE.—Neither the Attorney General nor a social networking website approved to use the system may release to the public any list of the Internet identifiers of sex offenders contained in the system.

(B) ADDITIONAL LIMITATIONS.—The Attorney General shall limit the release of information obtained through the use of the system established under subsection (a) by social networking websites approved to use such system.

(C) STRICT ADHERENCE TO LIMITATION.—The use of the system established under subsection (a) by a social networking website shall be conditioned on the website's agreement to observe the limitations required under this paragraph.

(D) RULE OF CONSTRUCTION.—This subsection shall not be construed to limit the authority of the Attorney General under any other provision of law to conduct or to allow searches or checks against sex offender registration information.

(4) PAYMENT OF FEE.—A social networking website approved to use the system shall pay any fee established by the Attorney General for use of the system.

(5) LIMITATION ON LIABILITY.—

(A) IN GENERAL.—A civil claim against a social networking website, including any director, officer, employee, parent, contractor, or agent of that social networking website, arising from the use by such website of the National Sex Offender Registry, may not be brought in any Federal or State court.

(B) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Subparagraph (A) does not apply to a claim if the social networking website, or a director, officer, employee, parent, contractor, or agent of that social networking website—

(i) engaged in intentional misconduct; or

(ii) acted, or failed to act—

(I) with actual malice;

(II) with reckless disregard to a substantial risk of causing injury without legal justification; or

(III) for a purpose unrelated to the performance of any responsibility or function described in paragraph (3).

(C) MINIMIZING ACCESS.—A social networking website shall minimize the number of employees that are provided access to the Internet identifiers for which a match has been found through the system.

(6) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require any Internet website, including a social networking website, to use the system, and no Federal or State liability, or any other actionable adverse consequence, shall be imposed on such website based on its decision not to do so.

**SEC. 4. MODIFICATION OF MINIMUM STANDARDS REQUIRED FOR ELECTRONIC MONITORING UNITS USED IN SEXUAL OFFENDER MONITORING PILOT PROGRAM.**

(a) IN GENERAL.—Subparagraph (C) of section 621(a)(1) of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16981(a)(1)) is amended to read as follows:

"(C) MINIMUM STANDARDS.—The electronic monitoring units used in the pilot program shall at a minimum—

"(i) provide a tracking device for each offender that contains a central processing unit with global positioning system; and

"(ii) permit continuous monitoring of offenders 24 hours a day.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to grants provided on or after the date of the enactment of this Act.

Approved October 13, 2008.

LEGISLATIVE HISTORY—S. 431 (H.R. 719):

SENATE REPORTS: No. 110–332 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
May 20, considered and passed Senate.
Sept. 27, considered and passed House, amended.
Sept. 30, Senate concurred in House amendment.

# Public Law 110–401
# 110th Congress

## An Act

To require the Department of Justice to develop and implement a National Strategy Child Exploitation Prevention and Interdiction, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute child predators.

Oct. 13, 2008
[S. 1738]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Providing Resources, Officers, and Technology To Eradicate Cyber Threats to Our Children Act of 2008.
42 USC 17601 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Providing Resources, Officers, and Technology To Eradicate Cyber Threats to Our Children Act of 2008" or the "PROTECT Our Children Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION

Sec. 101. Establishment of National Strategy for Child Exploitation Prevention and Interdiction.
Sec. 102. Establishment of National ICAC Task Force Program.
Sec. 103. Purpose of ICAC task forces.
Sec. 104. Duties and functions of task forces.
Sec. 105. National Internet Crimes Against Children Data System.
Sec. 106. ICAC grant program.
Sec. 107. Authorization of appropriations.

TITLE II—ADDITIONAL MEASURES TO COMBAT CHILD EXPLOITATION

Sec. 201. Additional regional computer forensic labs.

TITLE III—EFFECTIVE CHILD PORNOGRAPHY PROSECUTION

Sec. 301. Prohibit the broadcast of live images of child abuse.
Sec. 302. Amendment to section 2256 of title 18, United States Code.
Sec. 303. Amendment to section 2260 of title 18, United States Code.
Sec. 304. Prohibiting the adaptation or modification of an image of an identifiable minor to produce child pornography.

TITLE IV—NATIONAL INSTITUTE OF JUSTICE STUDY OF RISK FACTORS

Sec. 401. NIJ study of risk factors for assessing dangerousness.

TITLE V—SECURING ADOLESCENTS FROM ONLINE EXPLOITATION

Sec. 501. Reporting requirements of electronic communication service providers and remote computing service providers.
Sec. 502. Reports.
Sec. 503. Severability.

**SEC. 2. DEFINITIONS.** 42 USC 17601.

In this Act, the following definitions shall apply:

(1) CHILD EXPLOITATION.—The term "child exploitation" means any conduct, attempted conduct, or conspiracy to engage in conduct involving a minor that violates section 1591, chapter 109A, chapter 110, and chapter 117 of title 18, United States Code, or any sexual activity involving a minor for which any person can be charged with a criminal offense.

(2) CHILD OBSCENITY.—The term "child obscenity" means any visual depiction proscribed by section 1466A of title 18, United States Code.

(3) MINOR.—The term "minor" means any person under the age of 18 years.

(4) SEXUALLY EXPLICIT CONDUCT.—The term "sexually explicit conduct" has the meaning given such term in section 2256 of title 18, United States Code.

# TITLE I—NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION

42 USC 17611.

**SEC. 101. ESTABLISHMENT OF NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION.**

(a) IN GENERAL.—The Attorney General of the United States shall create and implement a National Strategy for Child Exploitation Prevention and Interdiction.

Deadlines.

(b) TIMING.—Not later than 1 year after the date of enactment of this Act and on February 1 of every second year thereafter, the Attorney General shall submit to Congress the National Strategy established under subsection (a).

(c) REQUIRED CONTENTS OF NATIONAL STRATEGY.—The National Strategy established under subsection (a) shall include the following:

(1) Comprehensive long-range, goals for reducing child exploitation.

(2) Annual measurable objectives and specific targets to accomplish long-term, quantifiable goals that the Attorney General determines may be achieved during each year beginning on the date when the National Strategy is submitted.

(3) Annual budget priorities and Federal efforts dedicated to combating child exploitation, including resources dedicated to Internet Crimes Against Children task forces, Project Safe Childhood, FBI Innocent Images Initiative, the National Center for Missing and Exploited Children, regional forensic computer labs, Internet Safety programs, and all other entities whose goal or mission is to combat the exploitation of children that receive Federal support.

(4) A 5-year projection for program and budget goals and priorities.

(5) A review of the policies and work of the Department of Justice related to the prevention and investigation of child exploitation crimes, including efforts at the Office of Justice Programs, the Criminal Division of the Department of Justice, the Executive Office of United States Attorneys, the Federal Bureau of Investigation, the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of Legal

Policy, and any other agency or bureau of the Department of Justice whose activities relate to child exploitation.

(6) A description of the Department's efforts to coordinate with international, State, local, tribal law enforcement, and private sector entities on child exploitation prevention and interdiction efforts.

(7) Plans for interagency coordination regarding the prevention, investigation, and apprehension of individuals exploiting children, including cooperation and collaboration with—

(A) Immigration and Customs Enforcement;

(B) the United States Postal Inspection Service;

(C) the Department of State;

(D) the Department of Commerce;

(E) the Department of Education;

(F) the Department of Health and Human Services; and

(G) other appropriate Federal agencies.

(8) A review of the Internet Crimes Against Children Task Force Program, including—

(A) the number of ICAC task forces and location of each ICAC task force;

(B) the number of trained personnel at each ICAC task force;

(C) the amount of Federal grants awarded to each ICAC task force;

(D) an assessment of the Federal, State, and local cooperation in each task force, including—

(i) the number of arrests made by each task force;

(ii) the number of criminal referrals to United States attorneys for prosecution;

(iii) the number of prosecutions and convictions from the referrals made under clause (ii);

(iv) the number, if available, of local prosecutions and convictions based on ICAC task force investigations; and

(v) any other information demonstrating the level of Federal, State, and local coordination and cooperation, as such information is to be determined by the Attorney General;

(E) an assessment of the training opportunities and technical assistance available to support ICAC task force grantees; and

(F) an assessment of the success of the Internet Crimes Against Children Task Force Program at leveraging State and local resources and matching funds.

(9) An assessment of the technical assistance and support available for Federal, State, local, and tribal law enforcement agencies, in the prevention, investigation, and prosecution of child exploitation crimes.

(10) A review of the backlog of forensic analysis for child exploitation cases at each FBI Regional Forensic lab and an estimate of the backlog at State and local labs.

(11) Plans for reducing the forensic backlog described in paragraph (10), if any, at Federal, State and local forensic labs.

(12) A review of the Federal programs related to child exploitation prevention and education, including those related

to Internet safety, including efforts by the private sector and nonprofit entities, or any other initiatives, that have proven successful in promoting child safety and Internet safety.

(13) An assessment of the future trends, challenges, and opportunities, including new technologies, that will impact Federal, State, local, and tribal efforts to combat child exploitation.

(14) Plans for liaisons with the judicial branches of the Federal and State governments on matters relating to child exploitation.

(15) An assessment of Federal investigative and prosecution activity relating to reported incidents of child exploitation crimes, which shall include a number of factors, including—

(A) the number of high-priority suspects (identified because of the volume of suspected criminal activity or because of the danger to the community or a potential victim) who were investigated and prosecuted;

(B) the number of investigations, arrests, prosecutions and convictions for a crime of child exploitation; and

(C) the average sentence imposed and statutory maximum for each crime of child exploitation.

(16) A review of all available statistical data indicating the overall magnitude of child pornography trafficking in the United States and internationally, including—

(A) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other sources of engaging in, peer-to-peer file sharing of child pornography;

(B) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other reporting sources of engaging in, buying and selling, or other commercial activity related to child pornography;

(C) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other sources of engaging in, all other forms of activity related to child pornography;

(D) the number of tips or other statistical data from the National Center for Missing and Exploited Children's CyberTipline and other data indicating the magnitude of child pornography trafficking; and

(E) any other statistical data indicating the type, nature, and extent of child exploitation crime in the United States and abroad.

(17) Copies of recent relevant research and studies related to child exploitation, including—

(A) studies related to the link between possession or trafficking of child pornography and actual abuse of a child;

(B) studies related to establishing a link between the types of files being viewed or shared and the type of illegal activity; and

(C) any other research, studies, and available information related to child exploitation.

(18) A review of the extent of cooperation, coordination, and mutual support between private sector and other entities

and organizations and Federal agencies, including the involvement of States, local and tribal government agencies to the extent Federal programs are involved.

(19) The results of the Project Safe Childhood Conference or other conferences or meetings convened by the Department of Justice related to combating child exploitation.

(d) APPOINTMENT OF HIGH-LEVEL OFFICIAL.—

(1) IN GENERAL.—The Attorney General shall designate a senior official at the Department of Justice to be responsible for coordinating the development of the National Strategy established under subsection (a).

(2) DUTIES.—The duties of the official designated under paragraph (1) shall include—

(A) acting as a liaison with all Federal agencies regarding the development of the National Strategy;

(B) working to ensure that there is proper coordination among agencies in developing the National Strategy;

(C) being knowledgeable about budget priorities and familiar with all efforts within the Department of Justice and the FBI related to child exploitation prevention and interdiction; and

(D) communicating the National Strategy to Congress and being available to answer questions related to the strategy at congressional hearings, if requested by committees of appropriate jurisdictions, on the contents of the National Strategy and progress of the Department of Justice in implementing the National Strategy.

**SEC. 102. ESTABLISHMENT OF NATIONAL ICAC TASK FORCE PROGRAM.** 42 USC 17612.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice, under the general authority of the Attorney General, a National Internet Crimes Against Children Task Force Program (hereinafter in this title referred to as the "ICAC Task Force Program"), which shall consist of a national program of State and local law enforcement task forces dedicated to developing effective responses to online enticement of children by sexual predators, child exploitation, and child obscenity and pornography cases.

(2) INTENT OF CONGRESS.—It is the purpose and intent of Congress that the ICAC Task Force Program established under paragraph (1) is intended to continue the ICAC Task Force Program authorized under title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, and funded under title IV of the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) NATIONAL PROGRAM.—

(1) STATE REPRESENTATION.—The ICAC Task Force Program established under subsection (a) shall include at least 1 ICAC task force in each State.

(2) CAPACITY AND CONTINUITY OF INVESTIGATIONS.—In order to maintain established capacity and continuity of investigations and prosecutions of child exploitation cases, the Attorney General, shall, in establishing the ICAC Task Force Program under subsection (a) consult with and consider all 59 task forces in existence on the date of enactment of this

Consultation.

Act. The Attorney General shall include all existing ICAC task forces in the ICAC Task Force Program, unless the Attorney General makes a determination that an existing ICAC does not have a proven track record of success.

(3) ONGOING REVIEW.—The Attorney General shall—

(A) conduct periodic reviews of the effectiveness of each ICAC task force established under this section; and

Notification.

(B) have the discretion to establish a new task force if the Attorney General determines that such decision will enhance the effectiveness of combating child exploitation provided that the Attorney General notifies Congress in advance of any such decision and that each state maintains at least 1 ICAC task force at all times.

(4) TRAINING.—

(A) IN GENERAL.—The Attorney General may establish national training programs to support the mission of the ICAC task forces, including the effective use of the National Internet Crimes Against Children Data System.

(B) LIMITATION.—In establishing training courses under this paragraph, the Attorney General may not award any one entity other than a law enforcement agency more than $2,000,000 annually to establish and conduct training courses for ICAC task force members and other law enforcement officials.

(C) REVIEW.—The Attorney General shall—

(i) conduct periodic reviews of the effectiveness of each training session authorized by this paragraph; and

(ii) consider outside reports related to the effective use of Federal funding in making future grant awards for training.

42 USC 17613.

**SEC. 103. PURPOSE OF ICAC TASK FORCES.**

The ICAC Task Force Program, and each State or local ICAC task force that is part of the national program of task forces, shall be dedicated toward—

(1) increasing the investigative capabilities of State and local law enforcement officers in the detection, investigation, and apprehension of Internet crimes against children offenses or offenders, including technology-facilitated child exploitation offenses;

(2) conducting proactive and reactive Internet crimes against children investigations;

(3) providing training and technical assistance to ICAC task forces and other Federal, State, and local law enforcement agencies in the areas of investigations, forensics, prosecution, community outreach, and capacity-building, using recognized experts to assist in the development and delivery of training programs;

(4) increasing the number of Internet crimes against children offenses being investigated and prosecuted in both Federal and State courts;

(5) creating a multiagency task force response to Internet crimes against children offenses within each State;

(6) participating in the Department of Justice's Project Safe Childhood initiative, the purpose of which is to combat

technology-facilitated sexual exploitation crimes against children;

(7) enhancing nationwide responses to Internet crimes against children offenses, including assisting other ICAC task forces, as well as other Federal, State, and local agencies with Internet crimes against children investigations and prosecutions;

(8) developing and delivering Internet crimes against children public awareness and prevention programs; and

(9) participating in such other activities, both proactive and reactive, that will enhance investigations and prosecutions of Internet crimes against children.

**SEC. 104. DUTIES AND FUNCTIONS OF TASK FORCES.** 42 USC 17614.

Each State or local ICAC task force that is part of the national program of task forces shall—

(1) consist of State and local investigators, prosecutors, forensic specialists, and education specialists who are dedicated to addressing the goals of such task force;

(2) work consistently toward achieving the purposes described in section 103;

(3) engage in proactive investigations, forensic examinations, and effective prosecutions of Internet crimes against children;

(4) provide forensic, preventive, and investigative assistance to parents, educators, prosecutors, law enforcement, and others concerned with Internet crimes against children;

(5) develop multijurisdictional, multiagency responses and partnerships to Internet crimes against children offenses through ongoing informational, administrative, and technological support to other State and local law enforcement agencies, as a means for such agencies to acquire the necessary knowledge, personnel, and specialized equipment to investigate and prosecute such offenses;

(6) participate in nationally coordinated investigations in any case in which the Attorney General determines such participation to be necessary, as permitted by the available resources of such task force;

(7) establish or adopt investigative and prosecution standards, consistent with established norms, to which such task force shall comply; Standards.

(8) investigate, and seek prosecution on, tips related to Internet crimes against children, including tips from Operation Fairplay, the National Internet Crimes Against Children Data System established in section 105, the National Center for Missing and Exploited Children's CyberTipline, ICAC task forces, and other Federal, State, and local agencies, with priority being given to investigative leads that indicate the possibility of identifying or rescuing child victims, including investigative leads that indicate a likelihood of seriousness of offense or dangerousness to the community;

(9) develop procedures for handling seized evidence; Procedures.

(10) maintain— Reports. Records.

(A) such reports and records as are required under this title; and

(B) such other reports and records as determined by the Attorney General; and

(11) seek to comply with national standards regarding the investigation and prosecution of Internet crimes against children, as set forth by the Attorney General, to the extent such standards are consistent with the law of the State where the task force is located.

42 USC 17615.

**SEC. 105. NATIONAL INTERNET CRIMES AGAINST CHILDREN DATA SYSTEM.**

(a) IN GENERAL.—The Attorney General shall establish, consistent with all existing Federal laws relating to the protection of privacy, a National Internet Crimes Against Children Data System. The system shall not be used to search for or obtain any information that does not involve the use of the Internet to facilitate child exploitation.

(b) INTENT OF CONGRESS.—It is the purpose and intent of Congress that the National Internet Crimes Against Children Data System established in subsection (a) is intended to continue and build upon Operation Fairplay developed by the Wyoming Attorney General's office, which has established a secure, dynamic undercover infrastructure that has facilitated online law enforcement investigations of child exploitation, information sharing, and the capacity to collect and aggregate data on the extent of the problems of child exploitation.

(c) PURPOSE OF SYSTEM.—The National Internet Crimes Against Children Data System established under subsection (a) shall be dedicated to assisting and supporting credentialed law enforcement agencies authorized to investigate child exploitation in accordance with Federal, State, local, and tribal laws, including by providing assistance and support to—

(1) Federal agencies investigating and prosecuting child exploitation;

(2) the ICAC Task Force Program established under section 102;

(3) State, local, and tribal agencies investigating and prosecuting child exploitation; and

(4) foreign or international law enforcement agencies, subject to approval by the Attorney General.

(d) CYBER SAFE DECONFLICTION AND INFORMATION SHARING.—The National Internet Crimes Against Children Data System established under subsection (a)—

(1) shall be housed and maintained within the Department of Justice or a credentialed law enforcement agency;

(2) shall be made available for a nominal charge to support credentialed law enforcement agencies in accordance with subsection (c); and

(3) shall—

(A) allow Federal, State, local, and tribal agencies and ICAC task forces investigating and prosecuting child exploitation to contribute and access data for use in resolving case conflicts;

(B) provide, directly or in partnership with a credentialed law enforcement agency, a dynamic undercover infrastructure to facilitate online law enforcement investigations of child exploitation;

(C) facilitate the development of essential software and network capability for law enforcement participants; and

(D) provide software or direct hosting and support for online investigations of child exploitation activities, or, in the alternative, provide users with a secure connection to an alternative system that provides such capabilities, provided that the system is hosted within a governmental agency or a credentialed law enforcement agency.

(e) COLLECTION AND REPORTING OF DATA.—

(1) IN GENERAL.—The National Internet Crimes Against Children Data System established under subsection (a) shall ensure the following:

(A) REAL-TIME REPORTING.—All child exploitation cases involving local child victims that are reasonably detectable using available software and data are, immediately upon their detection, made available to participating law enforcement agencies.

(B) HIGH-PRIORITY SUSPECTS.—Every 30 days, at minimum, the National Internet Crimes Against Children Data System shall—

(i) identify high-priority suspects, as such suspects are determined by the volume of suspected criminal activity or other indicators of seriousness of offense or dangerousness to the community or a potential local victim; and

(ii) report all such identified high-priority suspects to participating law enforcement agencies.

(C) ANNUAL REPORTS.—Any statistical data indicating the overall magnitude of child pornography trafficking and child exploitation in the United States and internationally is made available and included in the National Strategy, as is required under section 101(c)(16).

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the ability of participating law enforcement agencies to disseminate investigative leads or statistical information in accordance with State and local laws.

(f) MANDATORY REQUIREMENTS OF NETWORK.—The National Internet Crimes Against Children Data System established under subsection (a) shall develop, deploy, and maintain an integrated technology and training program that provides—

(1) a secure, online system for Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies for use in resolving case conflicts, as provided in subsection (d);

(2) a secure system enabling online communication and collaboration by Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies regarding ongoing investigations, investigatory techniques, best practices, and any other relevant news and professional information;

(3) a secure online data storage and analysis system for use by Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies;

(4) secure connections or interaction with State and local law enforcement computer networks, consistent with reasonable and established security protocols and guidelines;

(5) guidelines for use of the National Internet Crimes Against Children Data System by Federal, State, local, and tribal law enforcement agencies and ICAC task forces; and

Guidelines.

(6) training and technical assistance on the use of the National Internet Crimes Against Children Data System by Federal, State, local, and tribal law enforcement agencies and ICAC task forces.

Establishment.

(g) NATIONAL INTERNET CRIMES AGAINST CHILDREN DATA SYSTEM STEERING COMMITTEE.—The Attorney General shall establish a National Internet Crimes Against Children Data System Steering Committee to provide guidance to the Network relating to the program under subsection (f), and to assist in the development of strategic plans for the System. The Steering Committee shall consist of 10 members with expertise in child exploitation prevention and interdiction prosecution, investigation, or prevention, including—

(1) 3 representatives elected by the local directors of the ICAC task forces, such representatives shall represent different geographic regions of the country;

(2) 1 representative of the Department of Justice Office of Information Services;

(3) 1 representative from Operation Fairplay, currently hosted at the Wyoming Office of the Attorney General;

(4) 1 representative from the law enforcement agency having primary responsibility for hosting and maintaining the National Internet Crimes Against Children Data System;

(5) 1 representative of the Federal Bureau of Investigation's Innocent Images National Initiative or Regional Computer Forensic Lab program;

(6) 1 representative of the Immigration and Customs Enforcement's Cyber Crimes Center;

(7) 1 representative of the United States Postal Inspection Service; and

(8) 1 representative of the Department of Justice.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2009 through 2016, $2,000,000 to carry out the provisions of this section.

42 USC 17616.

**SEC. 106. ICAC GRANT PROGRAM.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Attorney General is authorized to award grants to State and local ICAC task forces to assist in carrying out the duties and functions described under section 104.

(2) FORMULA GRANTS.—

(A) DEVELOPMENT OF FORMULA.—At least 75 percent of the total funds appropriated to carry out this section shall be available to award or otherwise distribute grants pursuant to a funding formula established by the Attorney General in accordance with the requirements in subparagraph (B).

(B) FORMULA REQUIREMENTS.—Any formula established by the Attorney General under subparagraph (A) shall—

(i) ensure that each State or local ICAC task force shall, at a minimum, receive an amount equal to 0.5 percent of the funds available to award or otherwise distribute grants under subparagraph (A); and

(ii) take into consideration the following factors:

(I) The population of each State, as determined by the most recent decennial census performed by the Bureau of the Census.

(II) The number of investigative leads within the applicant's jurisdiction generated by Operation Fairplay, the ICAC Data Network, the CyberTipline, and other sources.

(III) The number of criminal cases related to Internet crimes against children referred to a task force for Federal, State, or local prosecution.

(IV) The number of successful prosecutions of child exploitation cases by a task force.

(V) The amount of training, technical assistance, and public education or outreach by a task force related to the prevention, investigation, or prosecution of child exploitation offenses.

(VI) Such other criteria as the Attorney General determines demonstrate the level of need for additional resources by a task force.

(3) DISTRIBUTION OF REMAINING FUNDS BASED ON NEED.—

(A) IN GENERAL.—Any funds remaining from the total funds appropriated to carry out this section after funds have been made available to award or otherwise distribute formula grants under paragraph (2)(A) shall be distributed to State and local ICAC task forces based upon need, as set forth by criteria established by the Attorney General. Such criteria shall include the factors under paragraph (2)(B)(ii). Criteria.

(B) MATCHING REQUIREMENT.—A State or local ICAC task force shall contribute matching non-Federal funds in an amount equal to not less than 25 percent of the amount of funds received by the State or local ICAC task force under subparagraph (A). A State or local ICAC task force that is not able or willing to contribute matching funds in accordance with this subparagraph shall not be eligible for funds under subparagraph (A).

(C) WAIVER.—The Attorney General may waive, in whole or in part, the matching requirement under subparagraph (B) if the State or local ICAC task force demonstrates good cause or financial hardship.

(b) APPLICATION.—

(1) IN GENERAL.—Each State or local ICAC task force seeking a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this title.

(c) ALLOWABLE USES.—Grants awarded under this section may be used to—

(1) hire personnel, investigators, prosecutors, education specialists, and forensic specialists;

(2) establish and support forensic laboratories utilized in Internet crimes against children investigations;

(3) support investigations and prosecutions of Internet crimes against children;

(4) conduct and assist with education programs to help children and parents protect themselves from Internet predators;

(5) conduct and attend training sessions related to successful investigations and prosecutions of Internet crimes against children; and

(6) fund any other activities directly related to preventing, investigating, or prosecuting Internet crimes against children.

(d) REPORTING REQUIREMENTS.—

(1) ICAC REPORTS.—To measure the results of the activities funded by grants under this section, and to assist the Attorney General in complying with the Government Performance and Results Act (Public Law 103–62; 107 Stat. 285), each State or local ICAC task force receiving a grant under this section shall, on an annual basis, submit a report to the Attorney General that sets forth the following:

(A) Staffing levels of the task force, including the number of investigators, prosecutors, education specialists, and forensic specialists dedicated to investigating and prosecuting Internet crimes against children.

(B) Investigation and prosecution performance measures of the task force, including—

(i) the number of investigations initiated related to Internet crimes against children;

(ii) the number of arrests related to Internet crimes against children; and

(iii) the number of prosecutions for Internet crimes against children, including—

(I) whether the prosecution resulted in a conviction for such crime; and

(II) the sentence and the statutory maximum for such crime under State law.

(C) The number of referrals made by the task force to the United States Attorneys office, including whether the referral was accepted by the United States Attorney.

(D) Statistics that account for the disposition of investigations that do not result in arrests or prosecutions, such as referrals to other law enforcement.

(E) The number of investigative technical assistance sessions that the task force provided to nonmember law enforcement agencies.

(F) The number of computer forensic examinations that the task force completed.

(G) The number of law enforcement agencies participating in Internet crimes against children program standards established by the task force.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report to Congress on—

(A) the progress of the development of the ICAC Task Force Program established under section 102; and

(B) the number of Federal and State investigations, prosecutions, and convictions in the prior 12-month period related to child exploitation.

**SEC. 107. AUTHORIZATION OF APPROPRIATIONS.** 42 USC 17617.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) $60,000,000 for fiscal year 2009;
(2) $60,000,000 for fiscal year 2010;
(3) $60,000,000 for fiscal year 2011;
(4) $60,000,000 for fiscal year 2012; and
(5) $60,000,000 for fiscal year 2013.

(b) AVAILABILITY.—Funds appropriated under subsection (a) shall remain available until expended.

# TITLE II—ADDITIONAL MEASURES TO COMBAT CHILD EXPLOITATION

**SEC. 201. ADDITIONAL REGIONAL COMPUTER FORENSIC LABS.** 42 USC 17631.

(a) ADDITIONAL RESOURCES.—The Attorney General shall establish additional computer forensic capacity to address the current backlog for computer forensics, including for child exploitation investigations. The Attorney General may utilize funds under this title to increase capacity at existing regional forensic laboratories or to add laboratories under the Regional Computer Forensic Laboratories Program operated by the Federal Bureau of Investigation.

(b) PURPOSE OF NEW RESOURCES.—The additional forensic capacity established by resources provided under this section shall be dedicated to assist Federal agencies, State and local Internet Crimes Against Children task forces, and other Federal, State, and local law enforcement agencies in preventing, investigating, and prosecuting Internet crimes against children.

(c) NEW COMPUTER FORENSIC LABS.—If the Attorney General determines that new regional computer forensic laboratories are required under subsection (a) to best address existing backlogs, such new laboratories shall be established pursuant to subsection (d).

(d) LOCATION OF NEW LABS.—The location of any new regional computer forensic laboratories under this section shall be determined by the Attorney General, in consultation with the Director of the Federal Bureau of Investigation, the Regional Computer Forensic Laboratory National Steering Committee, and other relevant stakeholders.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, and every year thereafter, the Attorney General shall submit a report to the Congress on how the funds appropriated under this section were utilized.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 2009 through 2013, $2,000,000 to carry out the provisions of this section.

# TITLE III—EFFECTIVE CHILD PORNOGRAPHY PROSECUTION

**SEC. 301. PROHIBIT THE BROADCAST OF LIVE IMAGES OF CHILD ABUSE.**

Section 2251 of title 18, United States Code is amended—

(1) in subsection (a), by—

(A) inserting "or for the purpose of transmitting a live visual depiction of such conduct" after "for the purpose of producing any visual depiction of such conduct";

(B) inserting "or transmitted" after "if such person knows or has reason to know that such visual depiction will be transported";

(C) inserting "or transmitted" after "if that visual depiction was produced"; and

(D) inserting "or transmitted" after "has actually been transported"; and

(2) in subsection (b), by—

(A) inserting "or for the purpose of transmitting a live visual depiction of such conduct" after "for the purpose of producing any visual depiction of such conduct";

(B) inserting "or transmitted" after "person knows or has reason to know that such visual depiction will be transported";

(C) inserting "or transmitted" after "if that visual depiction was produced"; and

(D) inserting "or transmitted" after "has actually been transported".

**SEC. 302. AMENDMENT TO SECTION 2256 OF TITLE 18, UNITED STATES CODE.**

Section 2256(5) of title 18, United States Code is amended by—

(1) striking "and" before "data";

(2) after "visual image" by inserting ", and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format".

**SEC. 303. AMENDMENT TO SECTION 2260 OF TITLE 18, UNITED STATES CODE.**

Section 2260(a) of title 18, United States Code, is amended by—

(1) inserting "or for the purpose of transmitting a live visual depiction of such conduct" after "for the purpose of producing any visual depiction of such conduct"; and

(2) inserting "or transmitted" after "imported".

**SEC. 304. PROHIBITING THE ADAPTATION OR MODIFICATION OF AN IMAGE OF AN IDENTIFIABLE MINOR TO PRODUCE CHILD PORNOGRAPHY.**

(a) OFFENSE.—Subsection (a) of section 2252A of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "; or" at the end and inserting a semicolon;

(2) in paragraph (6), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (6) the following:

"(7) knowingly produces with intent to distribute, or distributes, by any means, including a computer, in or affecting interstate or foreign commerce, child pornography that is an adapted or modified depiction of an identifiable minor.".

(b) PUNISHMENT.—Subsection (b) of section 2252A of title 18, United States Code, is amended by adding at the end the following:

"(3) Whoever violates, or attempts or conspires to violate, subsection (a)(7) shall be fined under this title or imprisoned not more than 15 years, or both.".

# TITLE IV—NATIONAL INSTITUTE OF JUSTICE STUDY OF RISK FACTORS

### SEC. 401. NIJ STUDY OF RISK FACTORS FOR ASSESSING DANGEROUSNESS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Institute of Justice shall prepare a report to identify investigative factors that reliably indicate whether a subject of an online child exploitation investigation poses a high risk of harm to children. Such a report shall be prepared in consultation and coordination with Federal law enforcement agencies, the National Center for Missing and Exploited Children, Operation Fairplay at the Wyoming Attorney General's Office, the Internet Crimes Against Children Task Force, and other State and local law enforcement. Deadline. Reports.

(b) CONTENTS OF ANALYSIS.—The report required by subsection (a) shall include a thorough analysis of potential investigative factors in on-line child exploitation cases and an appropriate examination of investigative data from prior prosecutions and case files of identified child victims.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the National Institute of Justice shall submit a report to the House and Senate Judiciary Committees that includes the findings of the study required by this section and makes recommendations on technological tools and law enforcement procedures to help investigators prioritize scarce resources to those cases where there is actual hands-on abuse by the suspect.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 to the National Institute of Justice to conduct the study required under this section.

# TITLE V—SECURING ADOLESCENTS FROM ONLINE EXPLOITATION

### SEC. 501. REPORTING REQUIREMENTS OF ELECTRONIC COMMUNICATION SERVICE PROVIDERS AND REMOTE COMPUTING SERVICE PROVIDERS.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2258 the following:

18 USC 2258A.

**"SEC. 2258A. REPORTING REQUIREMENTS OF ELECTRONIC COMMUNICATION SERVICE PROVIDERS AND REMOTE COMPUTING SERVICE PROVIDERS.**

"(a) DUTY TO REPORT.—

"(1) IN GENERAL.—Whoever, while engaged in providing an electronic communication service or a remote computing service to the public through a facility or means of interstate or foreign commerce, obtains actual knowledge of any facts or circumstances described in paragraph (2) shall, as soon as reasonably possible—

"(A) provide to the CyberTipline of the National Center for Missing and Exploited Children, or any successor to the CyberTipline operated by such center, the mailing address, telephone number, facsimile number, electronic mail address of, and individual point of contact for, such electronic communication service provider or remote computing service provider; and

"(B) make a report of such facts or circumstances to the CyberTipline, or any successor to the CyberTipline operated by such center.

"(2) FACTS OR CIRCUMSTANCES.—The facts or circumstances described in this paragraph are any facts or circumstances from which there is an apparent violation of—

"(A) section 2251, 2251A, 2252, 2252A, 2252B, or 2260 that involves child pornography; or

"(B) section 1466A.

"(b) CONTENTS OF REPORT.—To the extent the information is within the custody or control of an electronic communication service provider or a remote computing service provider, the facts and circumstances included in each report under subsection (a)(1) may include the following information:

"(1) INFORMATION ABOUT THE INVOLVED INDIVIDUAL.—Information relating to the identity of any individual who appears to have violated a Federal law described in subsection (a)(2), which may, to the extent reasonably practicable, include the electronic mail address, Internet Protocol address, uniform resource locator, or any other identifying information, including self-reported identifying information.

"(2) HISTORICAL REFERENCE.—Information relating to when and how a customer or subscriber of an electronic communication service or a remote computing service uploaded, transmitted, or received apparent child pornography or when and how apparent child pornography was reported to, or discovered by the electronic communication service provider or remote computing service provider, including a date and time stamp and time zone.

"(3) GEOGRAPHIC LOCATION INFORMATION.—

"(A) IN GENERAL.—Information relating to the geographic location of the involved individual or website, which may include the Internet Protocol address or verified billing address, or, if not reasonably available, at least 1 form of geographic identifying information, including area code or zip code.

"(B) INCLUSION.—The information described in subparagraph (A) may also include any geographic information provided to the electronic communication service or remote computing service by the customer or subscriber.

"(4) IMAGES OF APPARENT CHILD PORNOGRAPHY.—Any image of apparent child pornography relating to the incident such report is regarding.

"(5) COMPLETE COMMUNICATION.—The complete communication containing any image of apparent child pornography, including—

"(A) any data or information regarding the transmission of the communication; and

"(B) any images, data, or other digital files contained in, or attached to, the communication.

"(c) FORWARDING OF REPORT TO LAW ENFORCEMENT.—

"(1) IN GENERAL.—The National Center for Missing and Exploited Children shall forward each report made under subsection (a)(1) to any appropriate law enforcement agency designated by the Attorney General under subsection (d)(2).

"(2) STATE AND LOCAL LAW ENFORCEMENT.—The National Center for Missing and Exploited Children may forward any report made under subsection (a)(1) to an appropriate law enforcement official of a State or political subdivision of a State for the purpose of enforcing State criminal law.

"(3) FOREIGN LAW ENFORCEMENT.—

"(A) IN GENERAL.—The National Center for Missing and Exploited Children may forward any report made under subsection (a)(1) to any appropriate foreign law enforcement agency designated by the Attorney General under subsection (d)(3), subject to the conditions established by the Attorney General under subsection (d)(3).

"(B) TRANSMITTAL TO DESIGNATED FEDERAL AGENCIES.—If the National Center for Missing and Exploited Children forwards a report to a foreign law enforcement agency under subparagraph (A), the National Center for Missing and Exploited Children shall concurrently provide a copy of the report and the identity of the foreign law enforcement agency to—

"(i) the Attorney General; or

"(ii) the Federal law enforcement agency or agencies designated by the Attorney General under subsection (d)(2).

"(d) ATTORNEY GENERAL RESPONSIBILITIES.—

"(1) IN GENERAL.—The Attorney General shall enforce this section.

"(2) DESIGNATION OF FEDERAL AGENCIES.—The Attorney General shall designate promptly the Federal law enforcement agency or agencies to which a report shall be forwarded under subsection (c)(1).

"(3) DESIGNATION OF FOREIGN AGENCIES.—The Attorney General shall promptly—

"(A) in consultation with the Secretary of State, designate the foreign law enforcement agencies to which a report may be forwarded under subsection (c)(3);

"(B) establish the conditions under which such a report may be forwarded to such agencies; and

"(C) develop a process for foreign law enforcement agencies to request assistance from Federal law enforcement agencies in obtaining evidence related to a report referred under subsection (c)(3).

Lists.

"(4) REPORTING DESIGNATED FOREIGN AGENCIES.—The Attorney General shall maintain and make available to the Department of State, the National Center for Missing and Exploited Children, electronic communication service providers, remote computing service providers, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a list of the foreign law enforcement agencies designated under paragraph (3).

"(5) SENSE OF CONGRESS REGARDING DESIGNATION OF FOREIGN AGENCIES.—It is the sense of Congress that—

"(A) combating the international manufacturing, possession, and trade in online child pornography requires cooperation with competent, qualified, and appropriately trained foreign law enforcement agencies; and

"(B) the Attorney General, in cooperation with the Secretary of State, should make a substantial effort to expand the list of foreign agencies designated under paragraph (3).

"(6) NOTIFICATION TO PROVIDERS.—If an electronic communication service provider or remote computing service provider notifies the National Center for Missing and Exploited Children that the electronic communication service provider or remote computing service provider is making a report under this section as the result of a request by a foreign law enforcement agency, the National Center for Missing and Exploited Children shall—

"(A) if the Center forwards the report to the requesting foreign law enforcement agency or another agency in the same country designated by the Attorney General under paragraph (3), notify the electronic communication service provider or remote computing service provider of—

"(i) the identity of the foreign law enforcement agency to which the report was forwarded; and

"(ii) the date on which the report was forwarded; or

"(B) notify the electronic communication service provider or remote computing service provider if the Center declines to forward the report because the Center, in consultation with the Attorney General, determines that no law enforcement agency in the foreign country has been designated by the Attorney General under paragraph (3).

"(e) FAILURE TO REPORT.—An electronic communication service provider or remote computing service provider that knowingly and willfully fails to make a report required under subsection (a)(1) shall be fined—

"(1) in the case of an initial knowing and willful failure to make a report, not more than $150,000; and

"(2) in the case of any second or subsequent knowing and willful failure to make a report, not more than $300,000.

"(f) PROTECTION OF PRIVACY.—Nothing in this section shall be construed to require an electronic communication service provider or a remote computing service provider to—

"(1) monitor any user, subscriber, or customer of that provider;

"(2) monitor the content of any communication of any person described in paragraph (1); or

"(3) affirmatively seek facts or circumstances described in sections (a) and (b).

"(g) CONDITIONS OF DISCLOSURE INFORMATION CONTAINED WITHIN REPORT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a law enforcement agency that receives a report under subsection (c) shall not disclose any information contained in that report.

"(2) PERMITTED DISCLOSURES BY LAW ENFORCEMENT.—

"(A) IN GENERAL.—A law enforcement agency may disclose information in a report received under subsection (c)—

"(i) to an attorney for the government for use in the performance of the official duties of that attorney;

"(ii) to such officers and employees of that law enforcement agency, as may be necessary in the performance of their investigative and recordkeeping functions;

"(iii) to such other government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist the attorney in the performance of the official duties of the attorney in enforcing Federal criminal law;

"(iv) if the report discloses a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law;

"(v) to a defendant in a criminal case or the attorney for that defendant, subject to the terms and limitations under section 3509(m) or a similar State law, to the extent the information relates to a criminal charge pending against that defendant;

"(vi) subject to subparagraph (B), to an electronic communication service provider or remote computing provider if necessary to facilitate response to legal process issued in connection to a criminal investigation, prosecution, or post-conviction remedy relating to that report; and

"(vii) as ordered by a court upon a showing of good cause and pursuant to any protective orders or other conditions that the court may impose.

"(B) LIMITATIONS.—

"(i) LIMITATIONS ON FURTHER DISCLOSURE.—The electronic communication service provider or remote computing service provider shall be prohibited from disclosing the contents of a report provided under subparagraph (A)(vi) to any person, except as necessary to respond to the legal process.

"(ii) EFFECT.—Nothing in subparagraph (A)(vi) authorizes a law enforcement agency to provide child pornography images to an electronic communications service provider or a remote computing service.

"(3) PERMITTED DISCLOSURES BY THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.—The National Center for Missing and Exploited Children may disclose information received in a report under subsection (a) only—

"(A) to any Federal law enforcement agency designated by the Attorney General under subsection (d)(2);

"(B) to any State, local, or tribal law enforcement agency involved in the investigation of child pornography, child exploitation, kidnapping, or enticement crimes;

"(C) to any foreign law enforcement agency designated by the Attorney General under subsection (d)(3); and

"(D) to an electronic communication service provider or remote computing service provider as described in section 2258C.

"(h) PRESERVATION.—

"(1) IN GENERAL.—For the purposes of this section, the notification to an electronic communication service provider or a remote computing service provider by the CyberTipline of receipt of a report under subsection (a)(1) shall be treated as a request to preserve, as if such request was made pursuant to section 2703(f).

"(2) PRESERVATION OF REPORT.—Pursuant to paragraph (1), an electronic communication service provider or a remote computing service shall preserve the contents of the report provided pursuant to subsection (b) for 90 days after such notification by the CyberTipline.

"(3) PRESERVATION OF COMMINGLED IMAGES.—Pursuant to paragraph (1), an electronic communication service provider or a remote computing service shall preserve any images, data, or other digital files that are commingled or interspersed among the images of apparent child pornography within a particular communication or user-created folder or directory.

"(4) PROTECTION OF PRESERVED MATERIALS.—An electronic communications service or remote computing service preserving materials under this section shall maintain the materials in a secure location and take appropriate steps to limit access by agents or employees of the service to the materials to that access necessary to comply with the requirements of this subsection.

"(5) AUTHORITIES AND DUTIES NOT AFFECTED.—Nothing in this section shall be construed as replacing, amending, or otherwise interfering with the authorities and duties under section 2703.

18 USC 2258B.

**"SEC. 2258B. LIMITED LIABILITY FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS, REMOTE COMPUTING SERVICE PROVIDERS, OR DOMAIN NAME REGISTRAR.**

"(a) IN GENERAL.—Except as provided in subsection (b), a civil claim or criminal charge against an electronic communication service provider, a remote computing service provider, or domain name registrar, including any director, officer, employee, or agent of such electronic communication service provider, remote computing service provider, or domain name registrar arising from the performance of the reporting or preservation responsibilities of such electronic communication service provider, remote computing service provider, or domain name registrar under this section, section 2258A, or section 2258C may not be brought in any Federal or State court.

"(b) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Subsection (a) shall not apply to a claim if the electronic communication service provider, remote computing service provider, or domain

name registrar, or a director, officer, employee, or agent of that electronic communication service provider, remote computing service provider, or domain name registrar—

"(1) engaged in intentional misconduct; or

"(2) acted, or failed to act—

"(A) with actual malice;

"(B) with reckless disregard to a substantial risk of causing physical injury without legal justification; or

"(C) for a purpose unrelated to the performance of any responsibility or function under this section, sections 2258A, 2258C, 2702, or 2703.

"(c) MINIMIZING ACCESS.—An electronic communication service provider, a remote computing service provider, and domain name registrar shall—

"(1) minimize the number of employees that are provided access to any image provided under section 2258A or 2258C; and

"(2) ensure that any such image is permanently destroyed, upon a request from a law enforcement agency to destroy the image.

**"SEC. 2258C. USE TO COMBAT CHILD PORNOGRAPHY OF TECHNICAL ELEMENTS RELATING TO IMAGES REPORTED TO THE CYBERTIPLINE.**

18 USC 2258C.

"(a) ELEMENTS.—

"(1) IN GENERAL.—The National Center for Missing and Exploited Children may provide elements relating to any apparent child pornography image of an identified child to an electronic communication service provider or a remote computing service provider for the sole and exclusive purpose of permitting that electronic communication service provider or remote computing service provider to stop the further transmission of images.

"(2) INCLUSIONS.—The elements authorized under paragraph (1) may include hash values or other unique identifiers associated with a specific image, Internet location of images, and other technological elements that can be used to identify and stop the transmission of child pornography.

"(3) EXCLUSION.—The elements authorized under paragraph (1) may not include the actual images.

"(b) USE BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS AND REMOTE COMPUTING SERVICE PROVIDERS.—Any electronic communication service provider or remote computing service provider that receives elements relating to any apparent child pornography image of an identified child from the National Center for Missing and Exploited Children under this section may use such information only for the purposes described in this section, provided that such use shall not relieve that electronic communication service provider or remote computing service provider from its reporting obligations under section 2258A.

"(c) LIMITATIONS.—Nothing in subsections (a) or (b) requires electronic communication service providers or remote computing service providers receiving elements relating to any apparent child pornography image of an identified child from the National Center for Missing and Exploited Children to use the elements to stop the further transmission of the images.

"(d) PROVISION OF ELEMENTS TO LAW ENFORCEMENT.—The National Center for Missing and Exploited Children shall make available to Federal, State, and local law enforcement involved in the investigation of child pornography crimes elements, including hash values, relating to any apparent child pornography image of an identified child reported to the National Center for Missing and Exploited Children.

"(e) USE BY LAW ENFORCEMENT.—Any Federal, State, or local law enforcement agency that receives elements relating to any apparent child pornography image of an identified child from the National Center for Missing and Exploited Children under section (d) may use such elements only in the performance of the official duties of that agency to investigate child pornography crimes.

18 USC 2258D.

**"SEC. 2258D. LIMITED LIABILITY FOR THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.**

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), a civil claim or criminal charge against the National Center for Missing and Exploited Children, including any director, officer, employee, or agent of such center, arising from the performance of the CyberTipline responsibilities or functions of such center, as described in this section, section 2258A or 2258C of this title, or section 404 of the Missing Children's Assistance Act (42 U.S.C. 5773), or from the effort of such center to identify child victims may not be brought in any Federal or State court.

"(b) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Subsection (a) shall not apply to a claim or charge if the National Center for Missing and Exploited Children, or a director, officer, employee, or agent of such center—

"(1) engaged in intentional misconduct; or

"(2) acted, or failed to act—

"(A) with actual malice;

"(B) with reckless disregard to a substantial risk of causing injury without legal justification; or

"(C) for a purpose unrelated to the performance of any responsibility or function under this section, section 2258A or 2258C of this title, or section 404 of the Missing Children's Assistance Act (42 U.S.C. 5773).

"(c) ORDINARY BUSINESS ACTIVITIES.—Subsection (a) shall not apply to an act or omission relating to an ordinary business activity, including general administration or operations, the use of motor vehicles, or personnel management.

"(d) MINIMIZING ACCESS.—The National Center for Missing and Exploited Children shall—

"(1) minimize the number of employees that are provided access to any image provided under section 2258A; and

"(2) ensure that any such image is permanently destroyed upon notification from a law enforcement agency.

18 USC 2258E.

**"SEC. 2258E. DEFINITIONS.**

"In sections 2258A through 2258D—

"(1) the terms 'attorney for the government' and 'State' have the meanings given those terms in rule 1 of the Federal Rules of Criminal Procedure;

"(2) the term 'electronic communication service' has the meaning given that term in section 2510;

"(3) the term 'electronic mail address' has the meaning given that term in section 3 of the CAN–SPAM Act of 2003 (15 U.S.C. 7702);

"(4) the term 'Internet' has the meaning given that term in section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note);

"(5) the term 'remote computing service' has the meaning given that term in section 2711; and

"(6) the term 'website' means any collection of material placed in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol or any successor protocol.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REPEAL OF SUPERCEDED PROVISION.—Section 227 of the Crime Control Act of 1990 (42 U.S.C. 13032) is repealed.

(2) TECHNICAL CORRECTIONS.—Section 2702 of title 18, United States Code, is amended—

(A) in subsection (b)(6), by striking "section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032)" and inserting "section 2258A"; and

(B) in subsection (c)(5), by striking "section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032)" and inserting "section 2258A".

(3) TABLE OF SECTIONS.—The table of sections for chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2258 the following:

"2258A. Reporting requirements of electronic communication service providers and remote computing service providers.
"2258B. Limited liability for electronic communication service providers and remote computing service providers.
"2258C. Use to combat child pornography of technical elements relating to images reported to the CyberTipline.
"2258D. Limited liability for the National Center for Missing and Exploited Children.
"2258E. Definitions.".

**SEC. 502. REPORTS.**

(a) ATTORNEY GENERAL REPORT ON IMPLEMENTATION, INVESTIGATIVE METHODS AND INFORMATION SHARING.—Not later than 12 months after the date of enactment of this Act, the Attorney General shall submit a report to the Committee on the Judiciary of Senate and the Committee on the Judiciary of the House of Representatives on—

(1) the structure established in this Act, including the respective functions of the National Center for Missing and Exploited Children, Department of Justice, and other entities that participate in information sharing under this Act;

(2) an assessment of the legal and constitutional implications of such structure;

(3) the privacy safeguards contained in the reporting requirements, including the training, qualifications, recruitment and screening of all Federal and non-Federal personnel implementing this Act; and

(4) information relating to the aggregate number of incidents reported under section 2258A(b) of title 18, United States Code, to Federal and State law enforcement agencies based on the reporting requirements under this Act and the aggregate number of times that elements are provided to

communication service providers under section 2258C of such title.

(b) GAO AUDIT AND REPORT ON EFFICIENCY AND EFFECTIVENESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall conduct an audit and submit a report to the Committee on the Judiciary of the Senate and to the Committee on the Judiciary of the House of Representatives on—

(1) the efforts, activities, and actions of the CyberTipline of the National Center for Missing and Exploited Children, or any successor to the CyberTipline, and the Attorney General in achieving the goals and purposes of this Act, as well as in carrying out any responsibilities or duties assigned to each such individual or agency under this Act;

(2) any legislative, administrative, or regulatory changes that the Comptroller General recommends be taken by or on behalf of the Attorney General to better achieve such goals and purposes, and to more effectively carry out such responsibilities and duties;

(3) the effectiveness of any actions taken and efforts made by the CyberTipline of the National Center for Missing and Exploited Children, or any successor to the CyberTipline and the Attorney General to—

(A) minimize duplicating the efforts, materials, facilities, and procedures of any other Federal agency responsible for the enforcement, investigation, or prosecution of child pornography crimes; and

(B) enhance the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute child pornography crimes, including the use of existing personnel, materials, technologies, and facilities; and

(4) any actions or efforts that the Comptroller General recommends be taken by the Attorney General to reduce duplication of efforts and increase the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute child pornography crimes.

18 USC 2251 note.

**SEC. 503. SEVERABILITY.**

If any provision of this title or amendment made by this title is held to be unconstitutional, the remainder of the provisions of this title or amendments made by this title—

(1) shall remain in full force and effect; and

(2) shall not be affected by the holding.

Approved October 13, 2008.

LEGISLATIVE HISTORY—S. 1738 (H.R. 3845):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, considered and passed Senate.
Sept. 27, considered and passed House.

# Public Law 110–402
# 110th Congress

## An Act

Oct. 13, 2008
[S. 3296]

To extend the authority of the United States Supreme Court Police to protect court officials off the Supreme Court Grounds and change the title of the Administrative Assistant to the Chief Justice.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. UNITED STATES SUPREME COURT POLICE AND COUNSELOR TO THE CHIEF JUSTICE.**

(a) EXTENSION OF AUTHORITY OF THE UNITED STATES SUPREME COURT POLICE TO PROTECT COURT OFFICIALS OFF THE SUPREME COURT GROUNDS.—Section 6121(b)(2) of title 40, United States Code, is amended by striking "2008" and inserting "2013".

(b) COUNSELOR TO THE CHIEF JUSTICE.—

(1) OFFICE OF FEDERAL JUDICIAL ADMINISTRATION.—Section 133(b)(2) of title 28, United States Code, is amended by striking "administrative assistant" and inserting "Counselor".

(2) JUDICIAL OFFICIAL.—Section 376(a) of title 28, United States Code, is amended—

(A) in paragraph (1)(E), by striking "an administrative assistant" and inserting "a Counselor"; and

(B) in paragraph (2)(E), by striking "an administrative assistant" and inserting "a Counselor".

(3) ADMINISTRATIVE ASSISTANT TO THE CHIEF JUSTICE.—

(A) IN GENERAL.—Section 677 of title 28, United States Code, is amended—

(i) in the section heading, by striking "**Administrative Assistant**" and inserting "**Counselor**";

(ii) in subsection (a)—

(I) in the first sentence, by striking "an Administrative Assistant" and inserting "a Counselor"; and

(II) in the second and third sentences, by striking "Administrative Assistant" each place that term appears and inserting "Counselor"; and

(iii) in subsections (b) and (c), by striking "Administrative Assistant" each place that term appears and inserting "Counselor".

(B) TABLE OF SECTIONS.—The table of sections for chapter 45 of title 28, United States Code, is amended by striking the item relating to section 677 and inserting the following:

"677. Counselor to the Chief Justice.".

**SEC. 2. LIMITATION ON ACCEPTANCE OF HONORARY CLUB MEMBERSHIPS.** 5 USC 7353 note.

(a) DEFINITIONS.—In this section:

(1) GIFT.—The term "gift" has the meaning given under section 109(5) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(2) JUDICIAL OFFICER.—The term "judicial officer" has the meaning given under section 109(10) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(b) PROHIBITION ON ACCEPTANCE OF HONORARY CLUB MEMBERSHIPS.—A judicial officer may not accept a gift of an honorary club membership with a value of more than $50 in any calendar year.

Approved October 13, 2008.

LEGISLATIVE HISTORY—S. 3296:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, considered and passed Senate.
Sept. 27, 29, considered and passed House.

# Public Law 110–403
# 110th Congress

## An Act

Oct. 13, 2008
[S. 3325]

To enhance remedies for violations of intellectual property laws, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Prioritizing Resources and Organization for Intellectual Property Act of 2008.
15 USC 8101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Prioritizing Resources and Organization for Intellectual Property Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Reference.
Sec. 3. Definition.

TITLE I—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY LAWS

Sec. 101. Registration of claim.
Sec. 102. Civil remedies for infringement.
Sec. 103. Treble damages in counterfeiting cases.
Sec. 104. Statutory damages in counterfeiting cases.
Sec. 105. Importation and exportation.

TITLE II—ENHANCEMENTS TO CRIMINAL INTELLECTUAL PROPERTY LAWS

Sec. 201. Criminal copyright infringement.
Sec. 202. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging for works that can be copyrighted.
Sec. 203. Unauthorized fixation.
Sec. 204. Unauthorized recording of motion pictures.
Sec. 205. Trafficking in counterfeit goods or services.
Sec. 206. Forfeiture, destruction, and restitution.
Sec. 207. Forfeiture under Economic Espionage Act.
Sec. 208. Criminal infringement of a copyright.
Sec. 209. Technical and conforming amendments.

TITLE III—COORDINATION AND STRATEGIC PLANNING OF FEDERAL EFFORT AGAINST COUNTERFEITING AND INFRINGEMENT

Sec. 301. Intellectual Property Enforcement Coordinator.
Sec. 302. Definition.
Sec. 303. Joint strategic plan.
Sec. 304. Reporting.
Sec. 305. Savings and repeals.
Sec. 306. Authorization of appropriations.

TITLE IV—DEPARTMENT OF JUSTICE PROGRAMS

Sec. 401. Local law enforcement grants.
Sec. 402. Improved investigative and forensic resources for enforcement of laws related to intellectual property crimes.
Sec. 403. Additional funding for resources to investigate and prosecute intellectual property crimes and other criminal activity involving computers.
Sec. 404. Annual reports.

TITLE V—MISCELLANEOUS

Sec. 501. GAO study on protection of intellectual property of manufacturers.

Sec. 502. GAO audit and report on nonduplication and efficiency.
Sec. 503. Sense of Congress.

**SEC. 2. REFERENCE.**

Any reference in this Act to the "Trademark Act of 1946" refers to the Act entitled "An Act to provide for the registration of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.).

**SEC. 3. DEFINITION.** 15 USC 1801.

In this Act, the term "United States person" means—

(1) any United States resident or national,

(2) any domestic concern (including any permanent domestic establishment of any foreign concern), and

(3) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern,

except that such term does not include an individual who resides outside the United States and is employed by an individual or entity other than an individual or entity described in paragraph (1), (2), or (3).

# TITLE I—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY LAWS

**SEC. 101. REGISTRATION OF CLAIM.**

(a) LIMITATION TO CIVIL ACTIONS; HARMLESS ERROR.—Section 411 of title 17, United States Code, is amended—

(1) in the section heading, by inserting "**CIVIL**" before "**INFRINGEMENT**";

(2) in subsection (a)—

(A) in the first sentence, by striking "no action" and inserting "no civil action"; and

(B) in the second sentence, by striking "an action" and inserting "a civil action";

(3) by redesignating subsection (b) as subsection (c);

(4) in subsection (c), as so redesignated by paragraph (3), by striking "506 and sections 509 and" and inserting "505 and section"; and

(5) by inserting after subsection (a) the following:

"(b)(1) A certificate of registration satisfies the requirements of this section and section 412, regardless of whether the certificate contains any inaccurate information, unless—

"(A) the inaccurate information was included on the application for copyright registration with knowledge that it was inaccurate; and

"(B) the inaccuracy of the information, if known, would have caused the Register of Copyrights to refuse registration.

"(2) In any case in which inaccurate information described under paragraph (1) is alleged, the court shall request the Register of Copyrights to advise the court whether the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration.

"(3) Nothing in this subsection shall affect any rights, obligations, or requirements of a person related to information contained

in a registration certificate, except for the institution of and remedies in infringement actions under this section and section 412.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 412 of title 17, United States Code, is amended by striking "411(b)" and inserting "411(c)".

(2) The item relating to section 411 in the table of sections for chapter 4 of title 17, United States Code, is amended to read as follows:

"Sec. 411. Registration and civil infringement actions.".

**SEC. 102. CIVIL REMEDIES FOR INFRINGEMENT.**

(a) IN GENERAL.—Section 503(a) of title 17, United States Code, is amended to read as follows:

"(a)(1) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable—

"(A) of all copies or phonorecords claimed to have been made or used in violation of the exclusive right of the copyright owner;

"(B) of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies of phonorecords may be reproduced; and

"(C) of records documenting the manufacture, sale, or receipt of things involved in any such violation, provided that any records seized under this subparagraph shall be taken into the custody of the court.

Records. Protective order.

"(2) For impoundments of records ordered under paragraph (1)(C), the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been impounded. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used.

"(3) The relevant provisions of paragraphs (2) through (11) of section 34(d) of the Trademark Act (15 U.S.C. 1116(d)(2) through (11)) shall extend to any impoundment of records ordered under paragraph (1)(C) that is based upon an ex parte application, notwithstanding the provisions of rule 65 of the Federal Rules of Civil Procedure. Any references in paragraphs (2) through (11) of section 34(d) of the Trademark Act to section 32 of such Act shall be read as references to section 501 of this title, and references to use of a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services shall be read as references to infringement of a copyright.".

(b) PROTECTIVE ORDER FOR SEIZED RECORDS.—Section 34(d)(7) of the Trademark Act (15 U.S.C. 1116(d)(7)) is amended to read as follows:

"(7) Any materials seized under this subsection shall be taken into the custody of the court. For seizures made under this section, the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been seized. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used.".

**SEC. 103. TREBLE DAMAGES IN COUNTERFEITING CASES.**

Section 35(b) of the Trademark Act of 1946 (15 U.S.C. 1117(b)) is amended to read as follows:

"(b) In assessing damages under subsection (a) for any violation of section 32(1)(a) of this Act or section 220506 of title 36, United States Code, in a case involving use of a counterfeit mark or designation (as defined in section 34(d) of this Act), the court shall, unless the court finds extenuating circumstances, enter judgment for three times such profits or damages, whichever amount is greater, together with a reasonable attorney's fee, if the violation consists of—

"(1) intentionally using a mark or designation, knowing such mark or designation is a counterfeit mark (as defined in section 34(d) of this Act), in connection with the sale, offering for sale, or distribution of goods or services; or

"(2) providing goods or services necessary to the commission of a violation specified in paragraph (1), with the intent that the recipient of the goods or services would put the goods or services to use in committing the violation.

In such a case, the court may award prejudgment interest on such amount at an annual interest rate established under section 6621(a)(2) of the Internal Revenue Code of 1986, beginning on the date of the service of the claimant's pleadings setting forth the claim for such entry of judgment and ending on the date such entry is made, or for such shorter time as the court considers appropriate.".

**SEC. 104. STATUTORY DAMAGES IN COUNTERFEITING CASES.**

Section 35(c) of the Trademark Act of 1946 (15 U.S.C. 1117) is amended—

(1) in paragraph (1)—

(A) by striking "$500" and inserting "$1,000"; and

(B) by striking "$100,000" and inserting "$200,000"; and

(2) in paragraph (2), by striking "$1,000,000" and inserting "$2,000,000".

**SEC. 105. IMPORTATION AND EXPORTATION.**

(a) IN GENERAL.—The heading for chapter 6 of title 17, United States Code, is amended to read as follows:

**"CHAPTER 6—MANUFACTURING REQUIREMENTS, IMPORTATION, AND EXPORTATION".**

(b) AMENDMENT ON EXPORTATION.—Section 602(a) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and moving such subparagraphs 2 ems to the right;

(2) by striking "(a)" and inserting "(a) INFRINGING IMPORTATION OR EXPORTATION.—

"(1) IMPORTATION.—";

(3) by striking "This subsection does not apply to—" and inserting the following:

"(2) IMPORTATION OR EXPORTATION OF INFRINGING ITEMS.—Importation into the United States or exportation from the United States, without the authority of the owner of copyright under this title, of copies or phonorecords, the making of which

either constituted an infringement of copyright, or which would have constituted an infringement of copyright if this title had been applicable, is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under sections 501 and 506.

"(3) EXCEPTIONS.—This subsection does not apply to—";

(4) in paragraph (3)(A) (as redesignated by this subsection) by inserting "or exportation" after "importation"; and

(5) in paragraph (3)(B) (as redesignated by this subsection)—

(A) by striking "importation, for the private use of the importer" and inserting "importation or exportation, for the private use of the importer or exporter"; and

(B) by inserting "or departing from the United States" after "United States".

(c) CONFORMING AMENDMENTS.—(1) Section 602 of title 17, United States Code, is further amended—

(A) in the section heading, by inserting "**or exportation**" after "**importation**"; and

(B) in subsection (b)—

(i) by striking "(b) In a case" and inserting "(b) IMPORT PROHIBITION.—In a case";

(ii) by striking "the United States Customs Service" and inserting "United States Customs and Border Protection"; and

(iii) by striking "the Customs Service" and inserting "United States Customs and Border Protection".

(2) Section 601(b)(2) of title 17, United States Code, is amended by striking "the United States Customs Service" and inserting "United States Customs and Border Protection".

(3) The item relating to chapter 6 in the table of chapters for title 17, United States Code, is amended to read as follows:

"6. MANUFACTURING REQUIREMENTS, IMPORTATION, AND EXPORTATION ..... 601".

# TITLE II—ENHANCEMENTS TO CRIMINAL INTELLECTUAL PROPERTY LAWS

### SEC. 201. CRIMINAL COPYRIGHT INFRINGEMENT.

(a) FORFEITURE AND DESTRUCTION; RESTITUTION.—Section 506(b) of title 17, United States Code, is amended to read as follows:

"(b) FORFEITURE, DESTRUCTION, AND RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323 of title 18, to the extent provided in that section, in addition to any other similar remedies provided by law.".

(b) SEIZURES AND FORFEITURES.—

(1) REPEAL.—Section 509 of title 17, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by striking the item relating to section 509.

### SEC. 202. TRAFFICKING IN COUNTERFEIT LABELS, ILLICIT LABELS, OR COUNTERFEIT DOCUMENTATION OR PACKAGING FOR WORKS THAT CAN BE COPYRIGHTED.

Section 2318 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by striking "Whoever" and inserting "(1) Whoever";

(2) by amending subsection (d) to read as follows:

"(d) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law."; and

(3) by striking subsection (e) and redesignating subsection (f) as subsection (e).

**SEC. 203. UNAUTHORIZED FIXATION.**

(a) Section 2319A(b) of title 18, United States Code, is amended to read as follows:

"(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.".

(b) Section 2319A(c) of title 18, United States Code, is amended by striking the second sentence and inserting: "The Secretary of Homeland Security shall issue regulations by which any performer may, upon payment of a specified fee, be entitled to notification by United States Customs and Border Protection of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.". Regulations.

**SEC. 204. UNAUTHORIZED RECORDING OF MOTION PICTURES.**

Section 2319B(b) of title 18, United States Code, is amended to read as follows:

"(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.".

**SEC. 205. TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.**

(a) IN GENERAL.—Section 2320 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "WHOEVER" and inserting "OFFENSE.—"

"(1) IN GENERAL.—Whoever;";

(B) by moving the remaining text 2 ems to the right; and

(C) by adding at the end the following:

"(2) SERIOUS BODILY HARM OR DEATH.—

"(A) SERIOUS BODILY HARM.—If the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of paragraph (1), the penalty shall be a fine under this title or imprisonment for not more than 20 years, or both.

"(B) DEATH.—If the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of paragraph (1), the penalty shall be a fine under this title or imprisonment for any term of years or for life, or both."; and

(2) by adding at the end the following:

"(h) TRANSSHIPMENT AND EXPORTATION.—No goods or services, the trafficking in of which is prohibited by this section, shall be transshipped through or exported from the United States. Any such transshipment or exportation shall be deemed a violation of section 42 of an Act to provide for the registration of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes, approved July 5, 1946 (commonly referred to as the 'Trademark Act of 1946' or the 'Lanham Act').".

(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Section 2320(b) of title 18, United States Code, is amended to read as follows:

"(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.".

**SEC. 206. FORFEITURE, DESTRUCTION, AND RESTITUTION.**

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding at the end the following:

Court orders.

**"SEC. 2323. FORFEITURE, DESTRUCTION, AND RESTITUTION.**

"(a) CIVIL FORFEITURE.—

"(1) PROPERTY SUBJECT TO FORFEITURE.—The following property is subject to forfeiture to the United States Government:

"(A) Any article, the making or trafficking of which is, prohibited under section 506 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title.

"(B) Any property used, or intended to be used, in any manner or part to commit or facilitate the commission of an offense referred to in subparagraph (A).

"(C) Any property constituting or derived from any proceeds obtained directly or indirectly as a result of the commission of an offense referred to in subparagraph (A).

"(2) PROCEDURES.—The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. For seizures made under this section, the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been seized. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used. At the conclusion of the forfeiture proceedings, unless otherwise requested by an agency of the United States, the court shall order that any property forfeited under paragraph (1) be destroyed, or otherwise disposed of according to law.

Protective order.

"(b) CRIMINAL FORFEITURE.—

"(1) PROPERTY SUBJECT TO FORFEITURE.—The court, in imposing sentence on a person convicted of an offense under

section 506 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, shall order, in addition to any other sentence imposed, that the person forfeit to the United States Government any property subject to forfeiture under subsection (a) for that offense.

"(2) PROCEDURES.—

"(A) IN GENERAL.—The forfeiture of property under paragraph (1), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

"(B) DESTRUCTION.—At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States shall order that any—

"(i) forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law; and

"(ii) infringing items or other property described in subsection (a)(1)(A) and forfeited under paragraph (1) of this subsection be destroyed or otherwise disposed of according to law.

"(c) RESTITUTION.—When a person is convicted of an offense under section 506 of title 17 or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, the court, pursuant to sections 3556, 3663A, and 3664 of this title, shall order the person to pay restitution to any victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii) of this title.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 2323. Forfeiture, destruction, and restitution.".

**SEC. 207. FORFEITURE UNDER ECONOMIC ESPIONAGE ACT.**

Section 1834 of title 18, United States Code, is amended to read as follows:

**"SEC. 1834. CRIMINAL FORFEITURE.**

"Forfeiture, destruction, and restitution relating to this chapter shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.".

**SEC. 208. CRIMINAL INFRINGEMENT OF A COPYRIGHT.**

Section 2319 of title 18, United States Code, is amended—

(1) in subsection (b)(2)—

(A) by inserting "is a felony and" after "offense" the first place such term appears; and

(B) by striking "paragraph (1)" and inserting "subsection (a)";

(2) in subsection (c)(2)—

(A) by inserting "is a felony and" after "offense" the first place such term appears; and

(B) by striking "paragraph (1)" and inserting "subsection (a)";

(3) in subsection (d)(3)—

(A) by inserting "is a felony and" after "offense" the first place such term appears; and

(B) by inserting "under subsection (a)" before the semicolon; and

(4) in subsection (d)(4), by inserting "is a felony and" after "offense" the first place such term appears.

**SEC. 209. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—

(1) Section 109 (b)(4) of title 17, United States Code, is amended by striking "505, and 509" and inserting "and 505".

(2) Section 111 of title 17, United States Code, is amended—

(A) in subsection (b), by striking "and 509";

(B) in subsection (c)—

(i) in paragraph (2), by striking "and 509";

(ii) in paragraph (3), by striking "sections 509 and 510" and inserting "section 510"; and

(iii) in paragraph (4), by striking "and section 509"; and

(C) in subsection (e)—

(i) in paragraph (1), by striking "sections 509 and 510" and inserting "section 510"; and

(ii) in paragraph (2), by striking "and 509".

(3) Section 115(c) of title 17, United States Code, is amended—

(A) in paragraph (3)(G)(i), by striking "and 509"; and

(B) in paragraph (6), by striking "and 509".

(4) Section 119(a) of title 17, United States Code, is amended—

(A) in paragraph (6), by striking "sections 509 and 510" and inserting "section 510";

(B) in paragraph (7)(A), by striking "and 509";

(C) in paragraph (8), by striking "and 509"; and

(D) in paragraph (13), by striking "and 509".

(5) Section 122 of title 17, United States Code, is amended—

(A) in subsection (d), by striking "and 509";

(B) in subsection (e), by striking "sections 509 and 510" and inserting "section 510"; and

(C) in subsection (f)(1), by striking "and 509".

(6) Section 411(b) of title 17, United States Code, is amended by striking "sections 509 and 510" and inserting "section 510".

(b) OTHER AMENDMENTS.—Section 596(c)(2)(c) of the Tariff Act of 1950 (19 U.S.C. 1595a(c)(2)(c)) is amended by striking "or 509".

# TITLE III—COORDINATION AND STRATEGIC PLANNING OF FEDERAL EFFORT AGAINST COUNTERFEITING AND INFRINGEMENT

15 USC 8111.

**SEC. 301. INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR.**

President. Appointments.

(a) INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR.—The President shall appoint, by and with the advice and consent

of the Senate, an Intellectual Property Enforcement Coordinator (in this title referred to as the "IPEC") to serve within the Executive Office of the President. As an exercise of the rulemaking power of the Senate, any nomination of the IPEC submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on the Judiciary.

(b) DUTIES OF IPEC.—

(1) IN GENERAL.—The IPEC shall—

(A) chair the interagency intellectual property enforcement advisory committee established under subsection (b)(3)(A);

(B) coordinate the development of the Joint Strategic Plan against counterfeiting and infringement by the advisory committee under section 303;

(C) assist, at the request of the departments and agencies listed in subsection (b)(3)(A), in the implementation of the Joint Strategic Plan;

(D) facilitate the issuance of policy guidance to departments and agencies on basic issues of policy and interpretation, to the extent necessary to assure the coordination of intellectual property enforcement policy and consistency with other law;

(E) report to the President and report to Congress, to the extent consistent with law, regarding domestic and international intellectual property enforcement programs; Reports.

(F) report to Congress, as provided in section 304, on the implementation of the Joint Strategic Plan, and make recommendations, if any and as appropriate, to Congress for improvements in Federal intellectual property laws and enforcement efforts; and Reports. Recommendations.

(G) carry out such other functions as the President may direct.

(2) LIMITATION ON AUTHORITY.—The IPEC may not control or direct any law enforcement agency, including the Department of Justice, in the exercise of its investigative or prosecutorial authority.

(3) ADVISORY COMMITTEE.—

(A) ESTABLISHMENT.—There is established an interagency intellectual property enforcement advisory committee composed of the IPEC, who shall chair the committee, and the following members:

(i) Senate-confirmed representatives of the following departments and agencies who are involved in intellectual property enforcement, and who are, or are appointed by, the respective heads of those departments and agencies:

(I) The Office of Management and Budget.

(II) Relevant units within the Department of Justice, including the Federal Bureau of Investigation and the Criminal Division.

(III) The United States Patent and Trademark Office and other relevant units of the Department of Commerce.

(IV) The Office of the United States Trade Representative.

(V) The Department of State, the United States Agency for International Development, and

the Bureau of International Narcotics Law Enforcement.

(VI) The Department of Homeland Security, United States Customs and Border Protection, and United States Immigration and Customs Enforcement.

(VII) The Food and Drug Administration of the Department of Health and Human Services.

(VIII) The Department of Agriculture.

(IX) Any such other agencies as the President determines to be substantially involved in the efforts of the Federal Government to combat counterfeiting and infringement.

(ii) The Register of Copyrights, or a senior representative of the United States Copyright Office appointed by the Register of Copyrights.

Strategic plan.

(B) FUNCTIONS.—The advisory committee established under subparagraph (A) shall develop the Joint Strategic Plan against counterfeiting and infringement under section 303.

15 USC 8112.

**SEC. 302. DEFINITION.**

For purposes of this title, the term "intellectual property enforcement" means matters relating to the enforcement of laws protecting copyrights, patents, trademarks, other forms of intellectual property, and trade secrets, both in the United States and abroad, including in particular matters relating to combating counterfeit and infringing goods.

15 USC 8113.

**SEC. 303. JOINT STRATEGIC PLAN.**

(a) PURPOSE.—The objectives of the Joint Strategic Plan against counterfeiting and infringement that is referred to in section 301(b)(1)(B) (in this section referred to as the "joint strategic plan") are the following:

(1) Reducing counterfeit and infringing goods in the domestic and international supply chain.

(2) Identifying and addressing structural weaknesses, systemic flaws, or other unjustified impediments to effective enforcement action against the financing, production, trafficking, or sale of counterfeit or infringing goods, including identifying duplicative efforts to enforce, investigate, and prosecute intellectual property crimes across the Federal agencies and Departments that comprise the Advisory Committee and recommending how such duplicative efforts may be minimized. Such recommendations may include recommendations on how to reduce duplication in personnel, materials, technologies, and facilities utilized by the agencies and Departments responsible for the enforcement, investigation, or prosecution of intellectual property crimes.

(3) Ensuring that information is identified and shared among the relevant departments and agencies, to the extent permitted by law, including requirements relating to confidentiality and privacy, and to the extent that such sharing of information is consistent with Department of Justice and other law enforcement protocols for handling such information, to aid in the objective of arresting and prosecuting individuals and entities that are knowingly involved in the financing, production, trafficking, or sale of counterfeit or infringing goods.

(4) Disrupting and eliminating domestic and international counterfeiting and infringement networks.

(5) Strengthening the capacity of other countries to protect and enforce intellectual property rights, and reducing the number of countries that fail to enforce laws preventing the financing, production, trafficking, and sale of counterfeit and infringing goods.

(6) Working with other countries to establish international standards and policies for the effective protection and enforcement of intellectual property rights.

(7) Protecting intellectual property rights overseas by—

(A) working with other countries and exchanging information with appropriate law enforcement agencies in other countries relating to individuals and entities involved in the financing, production, trafficking, or sale of counterfeit and infringing goods;

(B) ensuring that the information referred to in subparagraph (A) is provided to appropriate United States law enforcement agencies in order to assist, as warranted, enforcement activities in cooperation with appropriate law enforcement agencies in other countries; and

(C) building a formal process for consulting with companies, industry associations, labor unions, and other interested groups in other countries with respect to intellectual property enforcement.

(b) TIMING.—Not later than 12 months after the date of the enactment of this Act, and not later than December 31 of every third year thereafter, the IPEC shall submit the joint strategic plan to the Committee on the Judiciary and the Committee on Appropriations of the Senate, and to the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives. Deadlines.

(c) RESPONSIBILITY OF THE IPEC.—During the development of the joint strategic plan, the IPEC—

(1) shall provide assistance to, and coordinate the meetings and efforts of, the appropriate officers and employees of departments and agencies represented on the advisory committee appointed under section 301(b)(3) who are involved in intellectual property enforcement; and

(2) may consult with private sector experts in intellectual property enforcement in furtherance of providing assistance to the members of the advisory committee appointed under section 301(b)(3).

(d) RESPONSIBILITIES OF OTHER DEPARTMENTS AND AGENCIES.—In the development and implementation of the joint strategic plan, the heads of the departments and agencies identified under section 301(b)(3) shall—

(1) designate personnel with expertise and experience in intellectual property enforcement matters to work with the IPEC and other members of the advisory committee; and Designations.

(2) share relevant department or agency information with the IPEC and other members of the advisory committee, including statistical information on the enforcement activities of the department or agency against counterfeiting or infringement, and plans for addressing the joint strategic plan, to the extent permitted by law, including requirements relating to confidentiality and privacy, and to the extent that such

sharing of information is consistent with Department of Justice and other law enforcement protocols for handling such information.

(e) CONTENTS OF THE JOINT STRATEGIC PLAN.—Each joint strategic plan shall include the following:

(1) A description of the priorities identified for carrying out the objectives in the joint strategic plan, including activities of the Federal Government relating to intellectual property enforcement.

(2) A description of the means to be employed to achieve the priorities, including the means for improving the efficiency and effectiveness of the Federal Government's enforcement efforts against counterfeiting and infringement.

(3) Estimates of the resources necessary to fulfill the priorities identified under paragraph (1).

(4) The performance measures to be used to monitor results under the joint strategic plan during the following year.

(5) An analysis of the threat posed by violations of intellectual property rights, including the costs to the economy of the United States resulting from violations of intellectual property laws, and the threats to public health and safety created by counterfeiting and infringement.

(6) An identification of the departments and agencies that will be involved in implementing each priority under paragraph (1).

(7) A strategy for ensuring coordination among the departments and agencies identified under paragraph (6), which will facilitate oversight by the executive branch of, and accountability among, the departments and agencies responsible for carrying out the strategy.

(8) Such other information as is necessary to convey the costs imposed on the United States economy by, and the threats to public health and safety created by, counterfeiting and infringement, and those steps that the Federal Government intends to take over the period covered by the succeeding joint strategic plan to reduce those costs and counter those threats.

(f) ENHANCING ENFORCEMENT EFFORTS OF FOREIGN GOVERNMENTS.—The joint strategic plan shall include programs to provide training and technical assistance to foreign governments for the purpose of enhancing the efforts of such governments to enforce laws against counterfeiting and infringement. With respect to such programs, the joint strategic plan shall—

(1) seek to enhance the efficiency and consistency with which Federal resources are expended, and seek to minimize duplication, overlap, or inconsistency of efforts;

(2) identify and give priority to those countries where programs of training and technical assistance can be carried out most effectively and with the greatest benefit to reducing counterfeit and infringing products in the United States market, to protecting the intellectual property rights of United States persons and their licensees, and to protecting the interests of United States persons otherwise harmed by violations of intellectual property rights in those countries;

(3) in identifying the priorities under paragraph (2), be guided by the list of countries identified by the United States

Trade Representative under section 182(a) of the Trade Act of 1974 (19 U.S.C. 2242(a)); and

(4) develop metrics to measure the effectiveness of the Federal Government's efforts to improve the laws and enforcement practices of foreign governments against counterfeiting and infringement.

(g) DISSEMINATION OF THE JOINT STRATEGIC PLAN.—The joint strategic plan shall be posted for public access on the website of the White House, and shall be disseminated to the public through such other means as the IPEC may identify.

Web site. Public information.

**SEC. 304. REPORTING.**

15 USC 8114.

(a) ANNUAL REPORT.—Not later than December 31 of each calendar year beginning in 2009, the IPEC shall submit a report on the activities of the advisory committee during the preceding fiscal year. The annual report shall be submitted to Congress, and disseminated to the people of the United States, in the manner specified in subsections (b) and (g) of section 303.

Public information.

(b) CONTENTS.—The report required by this section shall include the following:

(1) The progress made on implementing the strategic plan and on the progress toward fulfillment of the priorities identified under section 303(e)(1).

(2) The progress made in efforts to encourage Federal, State, and local government departments and agencies to accord higher priority to intellectual property enforcement.

(3) The progress made in working with foreign countries to investigate, arrest, and prosecute entities and individuals involved in the financing, production, trafficking, and sale of counterfeit and infringing goods.

(4) The manner in which the relevant departments and agencies are working together and sharing information to strengthen intellectual property enforcement.

(5) An assessment of the successes and shortcomings of the efforts of the Federal Government, including departments and agencies represented on the committee established under section 301(b)(3).

(6) Recommendations, if any and as appropriate, for any changes in enforcement statutes, regulations, or funding levels that the advisory committee considers would significantly improve the effectiveness or efficiency of the effort of the Federal Government to combat counterfeiting and infringement and otherwise strengthen intellectual property enforcement, including through the elimination or consolidation of duplicative programs or initiatives.

(7) The progress made in strengthening the capacity of countries to protect and enforce intellectual property rights.

(8) The successes and challenges in sharing with other countries information relating to intellectual property enforcement.

(9) The progress made under trade agreements and treaties to protect intellectual property rights of United States persons and their licensees.

(10) The progress made in minimizing duplicative efforts, materials, facilities, and procedures of the Federal agencies and Departments responsible for the enforcement, investigation, or prosecution of intellectual property crimes.

(11) Recommendations, if any and as appropriate, on how to enhance the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute intellectual property crimes, including the extent to which the agencies and Departments responsible for the enforcement, investigation, or prosecution of intellectual property crimes have utilized existing personnel, materials, technologies, and facilities.

15 USC 8115.

**SEC. 305. SAVINGS AND REPEALS.**

(a) TRANSITION FROM NIPLECC TO IPEC.—

Effective date. Publication.

(1) REPEAL OF NIPLECC.—Section 653 of the Treasury and General Government Appropriations Act, 2000 (15 U.S.C. 1128) is repealed effective upon confirmation of the IPEC by the Senate and publication of such appointment in the Congressional Record.

(2) CONTINUITY OF PERFORMANCE OF DUTIES.—Upon confirmation by the Senate, and notwithstanding paragraph (1), the IPEC may use the services and personnel of the National Intellectual Property Law Enforcement Coordination Council, for such time as is reasonable, to perform any functions or duties which in the discretion of the IPEC are necessary to facilitate the orderly transition of any functions or duties transferred from the Council to the IPEC pursuant to any provision of this Act or any amendment made by this Act.

(b) CURRENT AUTHORITIES NOT AFFECTED.—Except as provided in subsection (a), nothing in this title shall alter the authority of any department or agency of the United States (including any independent agency) that relates to—

(1) the investigation and prosecution of violations of laws that protect intellectual property rights;

(2) the administrative enforcement, at the borders of the United States, of laws that protect intellectual property rights; or

(3) the United States trade agreements program or international trade.

(c) RULES OF CONSTRUCTION.—Nothing in this title—

(1) shall derogate from the powers, duties, and functions of any of the agencies, departments, or other entities listed or included under section 301(b)(3)(A); and

(2) shall be construed to transfer authority regarding the control, use, or allocation of law enforcement resources, or the initiation or prosecution of individual cases or types of cases, from the responsible law enforcement department or agency.

15 USC 8116.

**SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.

# TITLE IV—DEPARTMENT OF JUSTICE PROGRAMS

**SEC. 401. LOCAL LAW ENFORCEMENT GRANTS.** 42 USC 3713a.

(a) AUTHORIZATION.—Section 2 of the Computer Crime Enforcement Act (42 U.S.C. 3713) is amended—

(1) in subsection (b), by inserting after "computer crime" each place it appears the following: ", including infringement of copyrighted works over the Internet"; and

(2) in subsection (e)(1), relating to authorization of appropriations, by striking "fiscal years 2001 through 2004" and inserting "fiscal years 2009 through 2013".

(b) GRANTS.—The Office of Justice Programs of the Department of Justice may make grants to eligible State or local law enforcement entities, including law enforcement agencies of municipal governments and public educational institutions, for training, prevention, enforcement, and prosecution of intellectual property theft and infringement crimes (in this subsection referred to as "IP–TIC grants"), in accordance with the following:

(1) USE OF IP–TIC GRANT AMOUNTS.—IP–TIC grants may be used to establish and develop programs to do the following with respect to the enforcement of State and local true name and address laws and State and local criminal laws on anti-infringement, anti-counterfeiting, and unlawful acts with respect to goods by reason of their protection by a patent, trademark, service mark, trade secret, or other intellectual property right under State or Federal law:

(A) Assist State and local law enforcement agencies in enforcing those laws, including by reimbursing State and local entities for expenses incurred in performing enforcement operations, such as overtime payments and storage fees for seized evidence.

(B) Assist State and local law enforcement agencies in educating the public to prevent, deter, and identify violations of those laws.

(C) Educate and train State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions in matters involving those laws.

(D) Establish task forces that include personnel from State or local law enforcement entities, or both, exclusively to conduct investigations and forensic analyses of evidence and prosecutions in matters involving those laws.

(E) Assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analyses of evidence in matters involving those laws.

(F) Facilitate and promote the sharing, with State and local law enforcement officers and prosecutors, of the expertise and information of Federal law enforcement agencies about the investigation, analysis, and prosecution of matters involving those laws and criminal infringement of copyrighted works, including the use of multijurisdictional task forces.

(2) ELIGIBILITY.—To be eligible to receive an IP–TIC grant, a State or local government entity shall provide to the Attorney

General, in addition to the information regularly required to be provided under the Financial Guide issued by the Office of Justice Programs and any other information required of Department of Justice's grantees—

(A) assurances that the State in which the government entity is located has in effect laws described in paragraph (1);

Assessments.

(B) an assessment of the resource needs of the State or local government entity applying for the grant, including information on the need for reimbursements of base salaries and overtime costs, storage fees, and other expenditures to improve the investigation, prevention, or enforcement of laws described in paragraph (1); and

Plans.

(C) a plan for coordinating the programs funded under this section with other federally funded technical assistance and training programs, including directly funded local programs such as the Edward Byrne Memorial Justice Assistance Grant Program authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(3) MATCHING FUNDS.—The Federal share of an IP–TIC grant may not exceed 50 percent of the costs of the program or proposal funded by the IP–TIC grant.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION.—There is authorized to be appropriated to carry out this subsection the sum of $25,000,000 for each of fiscal years 2009 through 2013.

(B) LIMITATION.—Of the amount made available to carry out this subsection in any fiscal year, not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

42 USC 3713b.

**SEC. 402. IMPROVED INVESTIGATIVE AND FORENSIC RESOURCES FOR ENFORCEMENT OF LAWS RELATED TO INTELLECTUAL PROPERTY CRIMES.**

(a) IN GENERAL.—Subject to the availability of appropriations to carry out this subsection, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation, shall, with respect to crimes related to the theft of intellectual property—

(1) ensure that there are at least 10 additional operational agents of the Federal Bureau of Investigation designated to support the Computer Crime and Intellectual Property Section of the Criminal Division of the Department of Justice in the investigation and coordination of intellectual property crimes;

(2) ensure that any Computer Hacking and Intellectual Property Crime Unit in the Department of Justice is supported by at least 1 agent of the Federal Bureau of Investigation (in addition to any agent supporting such unit as of the date of the enactment of this Act) to support such unit for the purpose of investigating or prosecuting intellectual property crimes;

(3) ensure that all Computer Hacking and Intellectual Property Crime Units located at an office of a United States Attorney are assigned at least 2 Assistant United States Attorneys responsible for investigating and prosecuting computer hacking or intellectual property crimes; and

(4) ensure the implementation of a regular and comprehensive training program—

(A) the purpose of which is to train agents of the Federal Bureau of Investigation in the investigation and prosecution of such crimes and the enforcement of laws related to intellectual property crimes; and

(B) that includes relevant forensic training related to investigating and prosecuting intellectual property crimes.

(b) ORGANIZED CRIME PLAN.—Subject to the availability of appropriations to carry out this subsection, and not later than 180 days after the date of the enactment of this Act, the Attorney General, through the United States Attorneys' Offices, the Computer Crime and Intellectual Property section, and the Organized Crime and Racketeering section of the Department of Justice, and in consultation with the Federal Bureau of Investigation and other Federal law enforcement agencies, such as the Department of Homeland Security, shall create and implement a comprehensive, long-range plan to investigate and prosecute international organized crime syndicates engaging in or supporting crimes relating to the theft of intellectual property. Deadline.

(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2009 through 2013.

**SEC. 403. ADDITIONAL FUNDING FOR RESOURCES TO INVESTIGATE AND PROSECUTE INTELLECTUAL PROPERTY CRIMES AND OTHER CRIMINAL ACTIVITY INVOLVING COMPUTERS.** 42 USC 3713c.

(a) ADDITIONAL FUNDING FOR RESOURCES.—

(1) AUTHORIZATION.—In addition to amounts otherwise authorized for resources to investigate and prosecute intellectual property crimes and other criminal activity involving computers, there are authorized to be appropriated for each of the fiscal years 2009 through 2013—

(A) $10,000,000 to the Director of the Federal Bureau of Investigation; and

(B) $10,000,000 to the Attorney General for the Criminal Division of the Department of Justice.

(2) AVAILABILITY.—Any amounts appropriated under paragraph (1) shall remain available until expended.

(b) USE OF ADDITIONAL FUNDING.—Funds made available under subsection (a) shall be used by the Director of the Federal Bureau of Investigation and the Attorney General, for the Federal Bureau of Investigation and the Criminal Division of the Department of Justice, respectively, to—

(1) hire and train law enforcement officers to—

(A) investigate intellectual property crimes and other crimes committed through the use of computers and other information technology, including through the use of the Internet; and

(B) assist in the prosecution of such crimes; and

(2) enable relevant units of the Department of Justice, including units responsible for investigating computer hacking or intellectual property crimes, to procure advanced tools of forensic science and expert computer forensic assistance, including from non-governmental entities, to investigate, prosecute, and study such crimes.

42 USC 3713d.

**SEC. 404. ANNUAL REPORTS.**

(a) REPORT OF THE ATTORNEY GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit a report to Congress on actions taken to carry out this title. The initial report required under this subsection shall be submitted by May 1, 2009. All subsequent annual reports shall be submitted by May 1st of each fiscal year thereafter. The report required under this subsection may be submitted as part of the annual performance report of the Department of Justice, and shall include the following:

Grants.

(1) With respect to grants issued under section 401, the number and identity of State and local law enforcement grant applicants, the number of grants issued, the dollar value of each grant, including a break down of such value showing how the recipient used the funds, the specific purpose of each grant, and the reports from recipients of the grants on the efficacy of the program supported by the grant. The Department of Justice shall use the information provided by the grant recipients to produce a statement for each individual grant. Such statement shall state whether each grantee has accomplished the purposes of the grant as established in section 401(b). Those grantees not in compliance with the requirements of this title shall be subject, but not limited to, sanctions as described in the Financial Guide issued by the Office of Justice Programs at the Department of Justice.

(2) With respect to the additional agents of the Federal Bureau of Investigation authorized under paragraphs (1) and (2) of section 402(a), the number of investigations and actions in which such agents were engaged, the type of each action, the resolution of each action, and any penalties imposed in each action.

(3) With respect to the training program authorized under section 402(a)(4), the number of agents of the Federal Bureau of Investigation participating in such program, the elements of the training program, and the subject matters covered by the program.

(4) With respect to the organized crime plan authorized under section 402(b), the number of organized crime investigations and prosecutions resulting from such plan.

(5) With respect to the authorizations under section 403—

(A) the number of law enforcement officers hired and the number trained;

(B) the number and type of investigations and prosecutions resulting from the hiring and training of such law enforcement officers;

(C) the defendants involved in any such prosecutions;

(D) any penalties imposed in each such successful prosecution;

(E) the advanced tools of forensic science procured to investigate, prosecute, and study computer hacking or intellectual property crimes; and

(F) the number and type of investigations and prosecutions in such tools were used.

(6) Any other information that the Attorney General may consider relevant to inform Congress on the effective use of the resources authorized under sections 401, 402, and 403.

(7) A summary of the efforts, activities, and resources the Department of Justice has allocated to the enforcement, investigation, and prosecution of intellectual property crimes, including—

(A) a review of the policies and efforts of the Department of Justice related to the prevention and investigation of intellectual property crimes, including efforts at the Office of Justice Programs, the Criminal Division of the Department of Justice, the Executive Office of United States Attorneys, the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of Legal Policy, and any other agency or bureau of the Department of Justice whose activities relate to intellectual property;

(B) a summary of the overall successes and failures of such policies and efforts;

(C) a review of the investigative and prosecution activity of the Department of Justice with respect to intellectual property crimes, including—

(i) the number of investigations initiated related to such crimes;

(ii) the number of arrests related to such crimes; and

(iii) the number of prosecutions for such crimes, including—

(I) the number of defendants involved in such prosecutions;

(II) whether the prosecution resulted in a conviction; and

(III) the sentence and the statutory maximum for such crime, as well as the average sentence imposed for such crime; and

(D) a Department-wide assessment of the staff, financial resources, and other resources (such as time, technology, and training) devoted to the enforcement, investigation, and prosecution of intellectual property crimes, including the number of investigators, prosecutors, and forensic specialists dedicated to investigating and prosecuting intellectual property crimes.

(8) A summary of the efforts, activities, and resources that the Department of Justice has taken to—

(A) minimize duplicating the efforts, materials, facilities, and procedures of any other Federal agency responsible for the enforcement, investigation, or prosecution of intellectual property crimes; and

(B) enhance the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute intellectual property crimes, including the extent to which the Department has utilized existing personnel, materials, technologies, and facilities.

(b) INITIAL REPORT OF THE ATTORNEY GENERAL.—The first report required to be submitted by the Attorney General under subsection (a) shall include a summary of the efforts, activities, and resources the Department of Justice has allocated in the 5 years prior to the date of enactment of this Act, as well as the 1-year period following such date of enactment, to the enforcement, investigation, and prosecution of intellectual property crimes, including—

(1) a review of the policies and efforts of the Department of Justice related to the prevention and investigation of intellectual property crimes, including efforts at the Office of Justice Programs, the Criminal Division of the Department of Justice, the Executive Office of United States Attorneys, the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of Legal Policy, and any other agency or bureau of the Department of Justice whose activities relate to intellectual property;

(2) a summary of the overall successes and failures of such policies and efforts;

(3) a review of the investigative and prosecution activity of the Department of Justice with respect to intellectual property crimes, including—

(A) the number of investigations initiated related to such crimes;

(B) the number of arrests related to such crimes; and

(C) the number of prosecutions for such crimes, including—

(i) the number of defendants involved in such prosecutions;

(ii) whether the prosecution resulted in a conviction; and

(iii) the sentence and the statutory maximum for such crime, as well as the average sentence imposed for such crime; and

(4) a Department-wide assessment of the staff, financial resources, and other resources (such as time, technology, and training) devoted to the enforcement, investigation, and prosecution of intellectual property crimes, including the number of investigators, prosecutors, and forensic specialists dedicated to investigating and prosecuting intellectual property crimes.

(c) REPORT OF THE FBI.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Director of the Federal Bureau of Investigation shall submit a report to Congress on actions taken to carry out this title. The initial report required under this subsection shall be submitted by May 1, 2009. All subsequent annual reports shall be submitted by May 1st of each fiscal year thereafter. The report required under this subsection may be submitted as part of the annual performance report of the Department of Justice, and shall include—

(1) a review of the policies and efforts of the Bureau related to the prevention and investigation of intellectual property crimes;

(2) a summary of the overall successes and failures of such policies and efforts;

(3) a review of the investigative and prosecution activity of the Bureau with respect to intellectual property crimes, including—

(A) the number of investigations initiated related to such crimes;

(B) the number of arrests related to such crimes; and

(C) the number of prosecutions for such crimes, including—

(i) the number of defendants involved in such prosecutions;

(ii) whether the prosecution resulted in a conviction; and

(iii) the sentence and the statutory maximum for such crime, as well as the average sentence imposed for such crime; and

(4) a Bureau-wide assessment of the staff, financial resources, and other resources (such as time, technology, and training) devoted to the enforcement, investigation, and prosecution of intellectual property crimes, including the number of investigators, prosecutors, and forensic specialists dedicated to investigating and prosecuting intellectual property crimes.

(d) INITIAL REPORT OF THE FBI.—The first report required to be submitted by the Director of the Federal Bureau of Investigation under subsection (c) shall include a summary of the efforts, activities, and resources the Federal Bureau of Investigation has allocated in the 5 years prior to the date of enactment of this Act, as well as the 1-year period following such date of enactment to the enforcement, investigation, and prosecution of intellectual property crimes, including—

(1) a review of the policies and efforts of the Bureau related to the prevention and investigation of intellectual property crimes;

(2) a summary of the overall successes and failures of such policies and efforts;

(3) a review of the investigative and prosecution activity of the Bureau with respect to intellectual property crimes, including—

(A) the number of investigations initiated related to such crimes;

(B) the number of arrests related to such crimes; and

(C) the number of prosecutions for such crimes, including—

(i) the number of defendants involved in such prosecutions;

(ii) whether the prosecution resulted in a conviction; and

(iii) the sentence and the statutory maximum for such crime, as well as the average sentence imposed for such crime; and

(4) a Bureau-wide assessment of the staff, financial resources, and other resources (such as time, technology, and training) devoted to the enforcement, investigation, and prosecution of intellectual property crimes, including the number of investigators, prosecutors, and forensic specialists dedicated to investigating and prosecuting intellectual property crimes.

# TITLE V—MISCELLANEOUS

### SEC. 501. GAO STUDY ON PROTECTION OF INTELLECTUAL PROPERTY OF MANUFACTURERS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to help determine how the Federal Government could better protect the intellectual property of manufacturers by

quantification of the impacts of imported and domestic counterfeit goods on—

(1) the manufacturing industry in the United States; and

(2) the overall economy of the United States.

(b) CONTENTS.—In conducting the study required under subsection (a), the Comptroller General shall examine—

(1) the extent that counterfeit manufactured goods are actively being trafficked in and imported into the United States;

(2) the impacts on domestic manufacturers in the United States of current law regarding defending intellectual property, including patent, trademark, and copyright protections;

(3) the nature and scope of current statutory law and case law regarding protecting trade dress from being illegally copied;

(4) the extent which such laws are being used to investigate and prosecute acts of trafficking in counterfeit manufactured goods;

(5) any effective practices or procedures that are protecting all types of intellectual property; and

(6) any changes to current statutes or rules that would need to be implemented to more effectively protect the intellectual property rights of manufacturers.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study required under subsection (a).

**SEC. 502. GAO AUDIT AND REPORT ON NONDUPLICATION AND EFFICIENCY.**

Not later than 2 years after the date of enactment of this Act, the Comptroller General shall conduct an audit and submit a report to the Committee on the Judiciary of the Senate and to the Committee on the Judiciary of the House of Representatives on—

(1) the efforts, activities, and actions of the Intellectual Property Enforcement Coordinator and the Attorney General in achieving the goals and purposes of this Act, as well as in carrying out any responsibilities or duties assigned to each such individual or agency under this Act;

(2) any possible legislative, administrative, or regulatory changes that Comptroller General recommends be taken by or on behalf of the Intellectual Property Enforcement Coordinator or the Attorney General to better achieve such goals and purposes, and to more effectively carry out such responsibilities and duties;

(3) the effectiveness of any actions taken and efforts made by the Intellectual Property Enforcement Coordinator and the Attorney General to—

(A) minimize duplicating the efforts, materials, facilities, and procedures of any other Federal agency responsible for the enforcement, investigation, or prosecution of intellectual property crimes; and

(B) enhance the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute intellectual property crimes, including whether the IPEC has utilized existing personnel, materials, technologies, and facilities, such as the National

Intellectual Property Rights Coordination Center established at the Department of Homeland Security; and

(4) any actions or efforts that the Comptroller General recommends be taken by or on behalf of the Intellectual Property Enforcement Coordinator and the Attorney General to reduce duplication of efforts and increase the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute intellectual property crimes.

**SEC. 503. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) the United States intellectual property industries have created millions of high-skill, high-paying United States jobs and pay billions of dollars in annual United States tax revenues;

(2) the United States intellectual property industries continue to represent a major source of creativity and innovation, business start-ups, skilled job creation, exports, economic growth, and competitiveness;

(3) counterfeiting and infringement results in billions of dollars in lost revenue for United States companies each year and even greater losses to the United States economy in terms of reduced job growth, exports, and competitiveness;

(4) the growing number of willful violations of existing Federal criminal laws involving counterfeiting and infringement by actors in the United States and, increasingly, by foreign-based individuals and entities is a serious threat to the long-term vitality of the United States economy and the future competitiveness of United States industry;

(5) terrorists and organized crime utilize piracy, counterfeiting, and infringement to fund some of their activities;

(6) effective criminal enforcement of the intellectual property laws against violations in all categories of works should be among the highest priorities of the Attorney General;

(7) with respect to all crimes related to the theft of intellectual property, the Attorney General shall give priority to cases with a nexus to terrorism and organized crime; and

(8) with respect to criminal counterfeiting and infringement of computer software, including those by foreign-owned or foreign-controlled entities, the Attorney General should give priority to cases—

(A) involving the willful theft of intellectual property for purposes of commercial advantage or private financial gain;

(B) where the theft of intellectual property is central to the sustainability and viability of the commercial activity of the enterprise (or subsidiary) involved in the violation;

(C) where the counterfeited or infringing goods or services enables the enterprise to unfairly compete against the legitimate rights holder; or

(D) where there is actual knowledge of the theft of intellectual property by the directors or officers of the enterprise.

Approved October 13, 2008.

LEGISLATIVE HISTORY—S. 3325:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 26, considered and passed Senate.
Sept. 27, 28, considered and passed House.

Public Law 110–404
110th Congress

# An Act

To amend title 44, United States Code, to authorize grants for Presidential Centers of Historical Excellence.

Oct. 13, 2008
[S. 3477]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Presidential Historical Records Preservation Act of 2008.
44 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Presidential Historical Records Preservation Act of 2008".

**SEC. 2. GRANT PROGRAM.**

Section 2504 of title 44, United States Code, is amended by—

(1) redesignating subsection (f) as subsection (g); and

(2) inserting after subsection (e) the following:

"(f) GRANTS FOR PRESIDENTIAL CENTERS OF HISTORICAL EXCELLENCE.—

"(1) IN GENERAL.—The Archivist, with the recommendation of the Commission, may make grants, on a competitive basis and in accordance with this subsection, to eligible entities to promote the historical preservation of, and public access to, historical records and documents relating to any former President who does not have a Presidential archival depository currently managed and maintained by the Federal Government pursuant to section 2112 (commonly known as the 'Presidential Libraries Act of 1955').

"(2) ELIGIBLE ENTITY.—For purposes of this subsection, an eligible entity is—

"(A) an organization described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code; or

"(B) a State or local government of the United States.

"(3) USE OF FUNDS.—Amounts received by an eligible entity under paragraph (1) shall be used to promote the historical preservation of, and public access to, historical records or historical documents relating to any former President covered under paragraph (1).

"(4) PROHIBITION ON USE OF FUNDS.—Amounts received by an eligible entity under paragraph (1) may not be used for the maintenance, operating costs, or construction of any facility to house the historical records or historical documents relating to any former President covered under paragraph (1).

"(5) APPLICATION.—

"(A) IN GENERAL.—An eligible entity seeking a grant under this subsection shall submit to the Commission an application at such time, in such manner, and containing

or accompanied by such information as the Commission may require, including a description of the activities for which a grant under this subsection is sought.

"(B) APPROVAL OF APPLICATION.—The Commission shall not consider or recommend a grant application submitted under subparagraph (A) unless an eligible entity establishes that such entity—

"(i) possesses, with respect to any former President covered under paragraph (1), historical works and collections of historical sources that the Commission considers appropriate for preserving, publishing, or otherwise recording at the public expense;

"(ii) has appropriate facilities and space for preservation of, and public access to, the historical works and collections of historical sources;

"(iii) shall ensure preservation of, and public access to, such historical works and collections of historical sources at no charge to the public;

"(iv) has educational programs that make the use of such documents part of the mission of such entity;

"(v) has raised funds from non-Federal sources in support of the efforts of the entity to promote the historical preservation of, and public access to, such historical works and collections of historical sources in an amount equal to the amount of the grant the entity seeks under this subsection;

"(vi) shall coordinate with any relevant Federal program or activity, including programs and activities relating to Presidential archival depositories;

"(vii) shall coordinate with any relevant non-Federal program or activity, including programs and activities conducted by State and local governments and private educational historical entities; and

"(viii) has a workable plan for preserving and providing public access to such historical works and collections of historical sources.".

**SEC. 3. TERM LIMITS FOR COMMISSION MEMBERS; RECUSAL.**

(a) TERM LIMITS.—

(1) IN GENERAL.—Section 2501(b)(1) of title 44, United States Code, is amended—

(A) by inserting "not more than 2" after "subsection (a) shall be appointed for"; and

(B) in subparagraph (A), by striking "a term" and inserting "not more than 4 terms".

44 USC 2501 note.

(2) EFFECTIVE DATE.—The restrictions on the terms of members of the National Historical Publications and Records Commission provided in the amendments made by paragraph (1) shall apply to members serving on or after the date of enactment of this Act.

(b) RECUSAL.—

(1) IN GENERAL.—Section 2501 of title 44, United States Code, is amended by adding at the end the following:

"(d) RECUSAL.—Members of the Commission shall recuse themselves from voting on any matter that poses, or could potentially pose, a conflict of interest, including a matter that could benefit them or an entity they represent.".

(2) EFFECTIVE DATE.—The requirement of recusal provided in the amendment made by paragraph (1) shall apply to members of the National Historical Publications and Records Commission serving on or after the date of enactment of this Act. 44 USC 2501 note.

**SEC. 4. ONLINE ACCESS OF FOUNDING FATHERS DOCUMENTS; TRANSFER OF FUNDS.**

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after section 2119 the following:

**"§ 2120. Online access of founding fathers documents**

"The Archivist may enter into a cooperative agreement to provide online access to the published volumes of the papers of—

"(1) George Washington;
"(2) Alexander Hamilton;
"(3) Thomas Jefferson;
"(4) Benjamin Franklin;
"(5) John Adams;
"(6) James Madison; and
"(7) other prominent historical figures, as determined appropriate by the Archivist of the United States.".

(b) TRANSFER OF FUNDS.— 44 USC 2120 note.

(1) IN GENERAL.—The Archivist of the United States, in the role as chairman of the National Historical Publications and Records Commission may enter into cooperative agreements pursuant to section 6305 of title 31, United States Code, that involve the transfer of funds from the National Historical Publications and Records Commission to State and local governments, tribal governments, other public entities, educational institutions, or private nonprofit organizations for the public purpose of carrying out section 2120 of title 44, United States Codes.

(2) REPORT.—Not later than December 31st of each year, the Archivist of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the provisions, amount, and duration of each cooperative agreement entered into as authorized by paragraph (1) during the preceding fiscal year.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 21 of title 44, United States Code, is amended by adding after the item relating to section 2119 the following:

"2120. Online access of founding fathers documents.".

**SEC. 5. ADVISORY COMMITTEE.** 44 USC 2505 note.

(a) ESTABLISHMENT.—The Archivist of the United States may establish an advisory committee to—

(1) review the progress of the Founding Fathers editorial projects funded by the National Historical Publications and Records Commission;

(2) develop, in consultation with the various Founding Fathers editorial projects, appropriate completion goals for the projects described in paragraph (1);

(3) annually review such goals and report to the Archivist on the progress of the various projects in meeting the goals; and

(4) recommend to the Archivist measures that would aid or encourage the projects in meeting such goals.

(b) REPORTS TO THE ADVISORY COMMITTEE.—Each of the projects described in subsection (a)(1) shall provide annually to the advisory committee established under subsection (a) a report on the progress of the project toward accomplishing the completion goals and any assistance needed to achieve such goals, including the following:

(1) The proportion of total project funding for the funding year in which the report is submitted from—

(A) Federal, State, and local government sources;

(B) the host institution for the project;

(C) private or public foundations; and

(D) individuals.

(2) Information on all activities carried out using non-governmental funding.

(3) Any and all information related to performance goals for the funding year in which the report is submitted.

(c) COMPOSITION; MEETINGS; REPORT; SUNSET; ACTION.—The advisory committee established under subsection (a) shall—

(1) be comprised of 3 nationally recognized historians appointed for not more than 2 consecutive 4-year terms;

(2) meet not less frequently than once a year;

(3) provide a report on the information obtained under subsection (b) to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives not later than 1 year after the date of enactment of this Act and annually thereafter;

(4) terminate on the date that is 8 years after the date of enactment of this Act; and

(5) recommend legislative or executive action that would facilitate completion of the performance goals for the Founding Fathers editorial projects.

44 USC 2112 note.

**SEC. 6. CAPITAL IMPROVEMENT PLAN FOR PRESIDENTIAL ARCHIVAL DEPOSITORIES; REPORT.**

(a) IN GENERAL.—

(1) PROVISION OF PLAN.—The Archivist of the United States shall provide to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a 10-year capital improvement plan, in accordance with paragraph (2), for all Presidential archival depositories (as defined in section 2101 of title 44, United States Code), which shall include—

(A) a prioritization of all capital projects at Presidential archival depositories that cost more than $1,000,000;

(B) the current estimate of the cost of each capital project; and

(C) the basis upon which each cost estimate was developed.

(2) PROVIDED TO CONGRESS.—The capital improvement plan shall be provided to the committees, as described in paragraph (1), at the same time as the first Budget of the United States

Government after the date of enactment of this Act is submitted to Congress.

(3) ANNUAL UPDATES AND EXPLANATION OF CHANGES IN COST ESTIMATES.—The Archivist of the United States shall provide to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives—

(A) annual updates to the capital improvement plan described in paragraph (1) at the same time as each subsequent Budget of the United States Government is submitted to Congress; and

(B) an explanation for any changes in cost estimates.

(b) AMENDMENT TO MINIMUM AMOUNT OF ENDOWMENT.—Section 2112(g)(5)(B) of title 44, United States Code, is amended by striking "40" and inserting "60".

(c) REPORT.—Not later than 270 days after the date of enactment of this Act, the Archivist of the United States shall provide a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives, that provides 1 or more alternative models for presidential archival depositories that—

(1) reduce the financial burden on the Federal Government;

(2) improve the preservation of presidential records; and

(3) reduce the delay in public access to all presidential records.

**SEC. 7. ESTABLISHMENT OF NATIONAL DATABASE FOR RECORDS OF SERVITUDE, EMANCIPATION, AND POST-CIVIL WAR RECONSTRUCTION.**

44 USC 2107 note.

(a) IN GENERAL.—The Archivist of the United States may preserve relevant records and establish, as part of the National Archives and Records Administration, an electronically searchable national database consisting of historic records of servitude, emancipation, and post-Civil War reconstruction, including the Refugees, Freedman, and Abandoned Land Records, Southern Claims Commission Records, Records of the Freedmen's Bank, Slave Impressments Records, Slave Payroll Records, Slave Manifest, and others, contained within the agencies and departments of the Federal Government to assist African Americans and others in conducting genealogical and historical research.

(b) MAINTENANCE.—Any database established under this section shall be maintained by the National Archives and Records Administration or an entity within the National Archives and Records Administration designated by the Archivist of the United States.

**SEC. 8. GRANTS FOR ESTABLISHMENT OF STATE AND LOCAL DATABASES FOR RECORDS OF SERVITUDE, EMANCIPATION, AND POST-CIVIL WAR RECONSTRUCTION.**

44 USC 2504 note.

(a) IN GENERAL.—The Executive Director of the National Historical Publications and Records Commission of the National Archives and Records Administration may make grants to States, colleges and universities, museums, libraries, and genealogical associations to preserve records and establish electronically searchable databases consisting of local records of servitude, emancipation, and post-Civil War reconstruction.

(b) MAINTENANCE.—Any database established using a grant under this section shall be maintained by appropriate agencies

or institutions designated by the Executive Director of the National Historical Publications and Records Commission.

Approved October 13, 2008.

LEGISLATIVE HISTORY—S. 3477:

SENATE REPORTS: No. 110–525 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 26, considered and passed Senate.
Sept. 27, considered and passed House.

Public Law 110–405
110th Congress

# An Act

To amend section 5402 of title 39, United States Code, to modify the authority relating to United States Postal Service air transportation contracts, and for other purposes.

Oct. 13, 2008
[S. 3536]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Air Carriage of International Mail Act.
39 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Air Carriage of International Mail Act".

**SEC. 2. AIR CARRIAGE OF INTERNATIONAL MAIL.**

(a) CONTRACTING AUTHORITY.—Section 5402 of title 39, United States Code, is amended by striking subsections (b) and (c) and inserting the following:

"(b) INTERNATIONAL MAIL.—

"(1) IN GENERAL.—

"(A) Except as otherwise provided in this subsection, the Postal Service may contract for the transportation of mail by aircraft between any of the points in foreign air transportation only with certificated air carriers. A contract may be awarded to a certificated air carrier to transport mail by air between any of the points in foreign air transportation that the Secretary of Transportation has authorized the carrier to serve either directly or through a code-share relationship with one or more foreign air carriers.

"(B) If the Postal Service has sought offers or proposals from certificated air carriers to transport mail in foreign air transportation between points, or pairs of points within a geographic region or regions, and has not received offers or proposals that meet Postal Service requirements at a fair and reasonable price from at least 2 such carriers, the Postal Service may seek offers or proposals from foreign air carriers. Where service in foreign air transportation meeting the Postal Service's requirements is unavailable at a fair and reasonable price from at least 2 certificated air carriers, either directly or through a code-share relationship with one or more foreign air carriers, the Postal Service may contract with foreign air carriers to provide the service sought if, when the Postal Service seeks offers or proposals from foreign air carriers, it also seeks an offer or proposal to provide that service from any certificated air carrier providing service between those points, or pairs of points within a geographic region or regions,

on the same terms and conditions that are being sought from foreign air carriers.

"(C) For purposes of this subsection, the Postal Service shall use a methodology for determining fair and reasonable prices for the Postal Service designated region or regions developed in consultation with, and with the concurrence of, certificated air carriers representing at least 51 percent of available ton miles in the markets of interest.

"(D) For purposes of this subsection, ceiling prices determined pursuant to the methodology used under subparagraph (C) shall be presumed to be fair and reasonable if they do not exceed the ceiling prices derived from—

"(i) a weighted average based on market rate data furnished by the International Air Transport Association or a subsidiary unit thereof; or

"(ii) if such data are not available from those sources, such other neutral, regularly updated set of weighted average market rates as the Postal Service, with the concurrence of certificated air carriers representing at least 51 percent of available ton miles in the markets of interest, may designate.

"(E) If, for purposes of subparagraph (D)(ii), concurrence cannot be attained, then the most recently available market rate data described in this subparagraph shall continue to apply for the relevant market or markets.

"(2) CONTRACT PROCESS.—The Postal Service shall contract for foreign air transportation as set forth in paragraph (1) through an open procurement process that will provide—

"(A) potential offerors with timely notice of business opportunities in sufficient detail to allow them to make a proposal;

"(B) requirements, proposed terms and conditions, and evaluation criteria to potential offerors; and

"(C) an opportunity for unsuccessful offerors to receive prompt feedback upon request.

"(3) EMERGENCY OR UNANTICIPATED CONDITIONS; INADEQUATE LIFT SPACE.—The Postal Service may enter into contracts to transport mail by air in foreign air transportation with a certificated air carrier or a foreign air carrier without complying with the requirements of paragraphs (b)(1) and (2) if—

"(A) emergency or unanticipated conditions exist that make it impractical for the Postal Service to comply with such requirements; or

"(B) its demand for lift exceeds the space available to it under existing contracts and—

"(i) there is insufficient time available to seek additional lift using procedures that comply with those requirements without compromising the Postal Service's service commitments to its own customers; and

"(ii) the Postal Service first offers any certificated air carrier holding a contract to carry mail between the relevant points the opportunity to carry such excess volumes under the terms of its existing contract.

"(c) GOOD FAITH EFFORT REQUIRED.—The Postal Service and potential offerors shall put a good-faith effort into resolving disputes concerning the award of contracts made under subsection (b).".

(b) CONFORMING AMENDMENTS TO TITLE 49.—

(1) Section 41901(a) is amended by striking "39." and inserting "39, and in foreign air transportation under section 5402(b) and (c) of title 39.".

(2) Section 41901(b)(1) is amended by striking "in foreign air transportation or".

(3) Section 41902 is amended—

(A) by striking "in foreign air transportation or" in subsection (a);

(B) by striking subsection (b) and inserting the following:

"(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the United States Postal Service a statement showing—

"(1) the places between which the carrier is authorized to transport mail in Alaska; Alaska.

"(2) every schedule of aircraft regularly operated by the carrier between places described in paragraph (1) and every change in each schedule; and

"(3) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each such place.";

(C) by striking "subsection (b)(3)" each place it appears in subsections (c)(1) and (d) and inserting "subsection (b)(2)"; and

(D) by striking subsections (e) and (f).

(4) Section 41903 is amended by striking "in foreign air transportation or" each place it appears.

(5) Section 41904 is amended—

(A) by striking "**to or in foreign countries**" in the section heading;

(B) by striking "to or in a foreign country" and inserting "between two points outside the United States"; and

(C) by inserting after "transportation." the following: "Nothing in this section shall affect the authority of the Postal Service to make arrangements with noncitizens for the carriage of mail in foreign air transportation under subsections 5402(b) and (c) of title 39.".

(6) Section 41910 is amended by striking the first sentence and inserting "The United States Postal Service may weigh mail transported by aircraft between places in Alaska and make statistical and –administrative computations necessary in the interest of mail service.".

(7) Chapter 419 is amended—

(A) by striking sections 41905, 41907, 41908, and 41911; and

(B) redesignating sections 41906, 41909, 41910, and 49112 as sections 41905, 41906, 41907, and 41908, respectively. 49 USC 4105–41910, 41912.

(8) The chapter analysis for chapter 419 is amended by redesignating the items relating to sections 41906, 41909, 41910, and 49112 as relating to sections 41905, 41906, 41907, and 41908, respectively.

(9) Section 101(f) of title 39, United States Code, is amended by striking "mail and shall make a fair and equitable distribution of mail business to carriers providing similar modes

of transportation services to the Postal Service." and inserting "mail.".

(10) Subsections (b) and (c) of section 3401 of title 39, United States Code, are amended—

(A) by striking "at rates fixed and determined by the Secretary of Transportation in accordance with section 41901 of title 49" and inserting "or, for carriage of mail in foreign air transportation, other air carriers, air taxi operators or foreign air carriers as permitted by section 5402 of this title";

(B) by striking "at rates not to exceed those so fixed and determined for scheduled United States air carriers";

(C) by striking "scheduled" each place it appears and inserting "certificated"; and

(D) by striking the last sentence in each such subsection.

(11) Section 5402(a) of title 39, United States Code, is amended—

(A) by inserting "'foreign air carrier'." after "'interstate air transportation'," in paragraph (2);

(B) by redesignating paragraphs (7) through (23) as paragraphs (8) through (24) and inserting after paragraph (6) the following:

"(7) the term 'certificated air carrier' means an air carrier that holds a certificate of public convenience and necessity issued under section 41102(a) of title 49;";

(C) by redesignating paragraphs (9) through (24), as redesignated, as paragraphs (10) through (25), respectively, and inserting after paragraph (8) the following:

"(9) the term 'code-share relationship' means a relationship pursuant to which any certificated air carrier or foreign air carrier's designation code is used to identify a flight operated by another air carrier or foreign air carrier;"; and

(D) by inserting "foreign air carrier," after "terms" in paragraph (2).

39 USC 101 note.

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

Approved October 13, 2008.

LEGISLATIVE HISTORY—S. 3536:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 26, considered and passed Senate.
Sept. 27, 29, considered and passed House.

# Public Law 110–406
# 110th Congress

## An Act

To make improvements in the operation and administration of the Federal courts, and for other purposes.

Oct. 13, 2008
[S. 3569]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Judicial Administration and Technical Amendments Act of 2008.
28 USC 1 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Judicial Administration and Technical Amendments Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Change in composition of divisions of western district of Tennessee.
Sec. 3. Supplemental attendance fee for petit jurors serving on lengthy trials.
Sec. 4. Authority of district courts as to a jury summons.
Sec. 5. Public drawing specifications for jury wheels.
Sec. 6. Assessment of court technology costs.
Sec. 7. Repeal of obsolete provision in the bankruptcy code relating to certain dollar amounts.
Sec. 8. Investment of court registry funds.
Sec. 9. Magistrate judge participation at circuit conferences.
Sec. 10. Selection of chief pretrial services officers.
Sec. 11. Attorney case compensation maximum amounts.
Sec. 12. Expanded delegation authority for reviewing Criminal Justice Act vouchers in excess of case compensation maximums.
Sec. 13. Repeal of obsolete cross-references to the Narcotic Addict Rehabilitation Act.
Sec. 14. Conditions of probation and supervised release.
Sec. 15. Contracting for services for pretrial defendants and post-conviction supervision offenders.
Sec. 16. Judge members of U.S. Sentencing Commission.
Sec. 17. Penalty for failure to appear for jury summons.
Sec. 18. Place of holding court for the District of Minnesota.
Sec. 19. Penalty for employers who retaliate against employees serving on jury duty.

**SEC. 2. CHANGE IN COMPOSITION OF DIVISIONS OF WESTERN DISTRICT OF TENNESSEE.**

(a) IN GENERAL.—Section 123(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "Dyer," after "Decatur,"; and

(B) in the last sentence by inserting "and Dyersburg" after "Jackson"; and

(2) in paragraph (2)—

(A) by striking "Dyer,"; and

(B) in the second sentence, by striking "and Dyersburg".

(b) EFFECTIVE DATE.— 28 USC 123 note.

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—The amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Tennessee on such date.

(3) JURIES NOT AFFECTED.—The amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the United States District Court for the Western District of Tennessee on the effective date of this section.

**SEC. 3. SUPPLEMENTAL ATTENDANCE FEE FOR PETIT JURORS SERVING ON LENGTHY TRIALS.**

(a) IN GENERAL.—Section 1871(b)(2) of title 28, United States Code, is amended by striking "thirty" in each place it occurs and inserting "ten".

28 USC 1871 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2009.

**SEC. 4. AUTHORITY OF DISTRICT COURTS AS TO A JURY SUMMONS.**

Section 1866(g) of title 28, United States Code, is amended in the first sentence—

(1) by striking "shall" and inserting "may"; and

(2) by striking "his".

**SEC. 5. PUBLIC DRAWING SPECIFICATIONS FOR JURY WHEELS.**

(a) DRAWING OF NAMES FROM JURY WHEEL.—Section 1864(a) of title 28, United States Code, is amended—

(1) in the first sentence, by striking "publicly"; and

(2) by inserting "The clerk or jury commission shall post a general notice for public review in the clerk's office and on the court's website explaining the process by which names are periodically and randomly drawn." after the first sentence.

(b) SELECTION AND SUMMONING OF JURY PANELS.—Section 1866(a) of title 28, United States Code, is amended—

(1) in the second sentence, by striking "publicly"; and

(2) by inserting "The clerk or jury commission shall post a general notice for public review in the clerk's office and on the court's website explaining the process by which names are periodically and randomly drawn." after the second sentence.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 1869 of title 28, United States Code, is amended—

(1) in subsection (j), by adding "and" at the end;

(2) by striking subsection (k); and

(3) by redesignating subsection (l) as subsection (k).

**SEC. 6. ASSESSMENT OF COURT TECHNOLOGY COSTS.**

Section 1920 of title 28, United States Code, is amended—

(1) in paragraph (2), by striking "of the court reporter for all or any part of the stenographic transcript" and inserting "for printed or electronically recorded transcripts"; and

(2) in paragraph (4), by striking "copies of papers" and inserting "the costs of making copies of any materials where the copies are".

**SEC. 7. REPEAL OF OBSOLETE PROVISION IN THE BANKRUPTCY CODE RELATING TO CERTAIN DOLLAR AMOUNTS.**

Section 104 of title 11, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsection (b)(1) as subsection (a) and subparagraphs (A) and (B) of that subsection as paragraphs (1) and (2), respectively;

(3) by redesignating subsection (b)(2) as subsection (b);

(4) by redesignating subsection (b)(3) as subsection (c); and

(5) in subsection (c) (as redesignated by paragraph (4) of this section), by striking "paragraph (1)" and inserting "subsection (a)".

**SEC. 8. INVESTMENT OF COURT REGISTRY FUNDS.**

(a) IN GENERAL.—Chapter 129 of title 28, United States Code, is amended by inserting after section 2044 the following:

**"§ 2045. Investment of court registry funds**

"(a) The Director of the Administrative Office of the United States Courts, or the Director's designee under subsection (b), may request the Secretary of the Treasury to invest funds received under section 2041 in public debt securities with maturities suitable to the needs of the funds, as determined by the Director or the Director's designee, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

"(b) The Director may designate the clerk of a court described in section 610 to exercise the authority conferred by subsection (a).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end the following:

"2045. Investment of court registry funds.".

**SEC. 9. MAGISTRATE JUDGE PARTICIPATION AT CIRCUIT CONFERENCES.**

Section 333 of title 28, United States Code, is amended in the first sentence by inserting "magistrate," after "district,".

**SEC. 10. SELECTION OF CHIEF PRETRIAL SERVICES OFFICERS.**

Section 3152 of title 18, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) The pretrial services established under subsection (b) of this section shall be supervised by a chief pretrial services officer appointed by the district court. The chief pretrial services officer appointed under this subsection shall be an individual other than one serving under authority of section 3602 of this title.".

**SEC. 11. ATTORNEY CASE COMPENSATION MAXIMUM AMOUNTS.**

Section 3006A(d)(2) of title 18, United States Code, is amended by adding "The compensation maximum amounts provided in this paragraph shall increase simultaneously by the same percentage, rounded to the nearest multiple of $100, as the aggregate percentage increases in the maximum hourly compensation rate paid pursuant

to paragraph (1) for time expended since the case maximum amounts were last adjusted." at the end.

**SEC. 12. EXPANDED DELEGATION AUTHORITY FOR REVIEWING CRIMINAL JUSTICE ACT VOUCHERS IN EXCESS OF CASE COMPENSATION MAXIMUMS.**

(a) WAIVING MAXIMUM AMOUNTS.—Section 3006A(d)(3) of title 18, United States Code, is amended in the second sentence by inserting "or senior" after "active".

(b) SERVICES OTHER THAN COUNSEL.—Section 3006A(e)(3) of title 18, United States Code, is amended in the second sentence by inserting "or senior" after "active".

(c) COUNSEL FOR FINANCIALLY UNABLE DEFENDANTS.—Section 3599(g)(2) of title 18, United States Code, is amended in the second sentence by inserting "or senior" after "active".

**SEC. 13. REPEAL OF OBSOLETE CROSS-REFERENCES TO THE NARCOTIC ADDICT REHABILITATION ACT.**

Section 3161(h) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking subparagraphs (B) and (C); and

(B) by redesignating subparagraphs (D) through (J) as subparagraphs (B) through (H), respectively;

(2) by striking paragraph (5); and

(3) by redesignating paragraphs (6) through (9) as paragraphs (5) through (8), respectively.

**SEC. 14. CONDITIONS OF PROBATION AND SUPERVISED RELEASE.**

(a) CONDITIONS OF PROBATION.—Section 3563(a)(2) of title 18, United States Code, is amended by striking "(b)(2), (b)(3), or (b)(13)," and inserting "(b)(2) or (b)(12), unless the court has imposed a fine under this chapter, or".

(b) SUPERVISED RELEASE AFTER IMPRISONMENT.—Section 3583(d) of title 18, United States Code, is amended by striking "section 3563(b)(1)" and all that follows through "appropriate." and inserting "section 3563(b) and any other condition it considers to be appropriate, provided, however that a condition set forth in subsection 3563(b)(10) shall be imposed only for a violation of a condition of supervised release in accordance with section 3583(e)(2) and only when facilities are available.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 3563(b)(10) of title 18, United States Code, is amended by inserting "or supervised release" after "probation".

**SEC. 15. CONTRACTING FOR SERVICES FOR PRETRIAL DEFENDANTS AND POST-CONVICTION SUPERVISION OFFENDERS.**

(a) PRETRIAL SERVICE FUNCTIONS.—Section 3154(4) of title 18, United States Code, is amended by inserting ", and contract with any appropriate public or private agency or person, or expend funds, to monitor and provide treatment as well as nontreatment services to any such persons released in the community, including equipment and emergency housing, corrective and preventative guidance and training, and other services reasonably deemed necessary to protect the public and ensure that such persons appear in court as required" before the period.

(b) DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 3672 of title 18, United States Code, is amended in the seventh undesignated paragraph—

(1) in the third sentence, by striking "negotiate and award such contracts" and inserting "negotiate and award contracts identified in this paragraph"; and

(2) in the fourth sentence, by inserting "to expend funds or" after "He shall also have the authority".

**SEC. 16. JUDGE MEMBERS OF U.S. SENTENCING COMMISSION.**

Section 991(a) of title 28, United States Code, is amended in the third sentence by striking "Not more than" and inserting "At least".

**SEC. 17. PENALTY FOR FAILURE TO APPEAR FOR JURY SUMMONS.**

(a) SECTION 1864 SUMMONS.—Section 1864(b) of title 28, United States Code, is amended by striking "$100 or imprisoned not more than three days, or both." each place it appears and inserting "$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.".

(b) SECTION 1866 SUMMONS.—Section 1866(g) of title 28, United States Code, is amended by striking "$100 or imprisoned not more than three days, or both." and inserting "$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.".

**SEC. 18. PLACE OF HOLDING COURT FOR THE DISTRICT OF MINNESOTA.**

Section 103(6) of title 28, United States Code, is amended in the second sentence by inserting "and Bemidji" before the period.

**SEC. 19. PENALTY FOR EMPLOYERS WHO RETALIATE AGAINST EMPLOYEES SERVING ON JURY DUTY.**

Section 1875(b)(3) of title 28, United States Code, is amended by striking "$1,000 for each violation as to each employee." and inserting "$5,000 for each violation as to each employee, and may be ordered to perform community service.".

Approved October 13, 2008.

LEGISLATIVE HISTORY—S. 3569:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, considered and passed Senate and House.

Public Law 110–407
110th Congress

An Act

Oct. 13, 2008
[S. 3598]

To amend titles 46 and 18, United States Code, with respect to the operation of submersible vessels and semi-submersible vessels without nationality.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Drug Trafficking Vessel Interdiction Act of 2008.
18 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Drug Trafficking Vessel Interdiction Act of 2008".

## TITLE I—CRIMINAL PROHIBITION

18 USC 2285 note.

**SEC. 101. FINDINGS AND DECLARATIONS.**

Congress finds and declares that operating or embarking in a submersible vessel or semi-submersible vessel without nationality and on an international voyage is a serious international problem, facilitates transnational crime, including drug trafficking, and terrorism, and presents a specific threat to the safety of maritime navigation and the security of the United States.

**SEC. 102. OPERATION OF SUBMERSIBLE VESSEL OR SEMI-SUBMERSIBLE VESSEL WITHOUT NATIONALITY.**

(a) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 2285. OPERATION OF SUBMERSIBLE VESSEL OR SEMI-SUBMERSIBLE VESSEL WITHOUT NATIONALITY.**

"(a) OFFENSE.—Whoever knowingly operates, or attempts or conspires to operate, by any means, or embarks in any submersible vessel or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country, with the intent to evade detection, shall be fined under this title, imprisoned not more than 15 years, or both.

"(b) EVIDENCE OF INTENT TO EVADE DETECTION.—For purposes of subsection (a), the presence of any of the indicia described in paragraph (1)(A), (E), (F), or (G), or in paragraph (4), (5), or (6), of section 70507(b) of title 46 may be considered, in the totality of the circumstances, to be prima facie evidence of intent to evade detection.

"(c) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section, including an attempt or conspiracy to commit such an offense.

"(d) CLAIM OF NATIONALITY OR REGISTRY.—A claim of nationality or registry under this section includes only—

"(1) possession on board the vessel and production of documents evidencing the vessel's nationality as provided in article 5 of the 1958 Convention on the High Seas;

"(2) flying its nation's ensign or flag; or

"(3) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

"(e) AFFIRMATIVE DEFENSES.—

"(1) IN GENERAL.—It is an affirmative defense to a prosecution for a violation of subsection (a), which the defendant has the burden to prove by a preponderance of the evidence, that the submersible vessel or semi-submersible vessel involved was, at the time of the offense—

"(A) a vessel of the United States or lawfully registered in a foreign nation as claimed by the master or individual in charge of the vessel when requested to make a claim by an officer of the United States authorized to enforce applicable provisions of United States law;

"(B) classed by and designed in accordance with the rules of a classification society;

"(C) lawfully operated in government-regulated or licensed activity, including commerce, research, or exploration; or

"(D) equipped with and using an operable automatic identification system, vessel monitoring system, or long range identification and tracking system.

"(2) PRODUCTION OF DOCUMENTS.—The affirmative defenses provided by this subsection are proved conclusively by the production of—

"(A) government documents evidencing the vessel's nationality at the time of the offense, as provided in article 5 of the 1958 Convention on the High Seas;

"(B) a certificate of classification issued by the vessel's classification society upon completion of relevant classification surveys and valid at the time of the offense; or

"(C) government documents evidencing licensure, regulation, or registration for commerce, research, or exploration.

"(f) FEDERAL ACTIVITIES EXCEPTED.—Nothing in this section applies to lawfully authorized activities carried out by or at the direction of the United States Government.

"(g) APPLICABILITY OF OTHER PROVISIONS.—Sections 70504 and 70505 of title 46 apply to offenses under this section in the same manner as they apply to offenses under section 70503 of such title.

"(h) DEFINITIONS.—In this section, the terms 'submersible vessel', 'semi-submersible vessel', 'vessel of the United States', and 'vessel without nationality' have the meaning given those terms in section 70502 of title 46.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by inserting after the item relating to section 2284 the following:

"2285. Operation of submersible vessel or semi-submersible vessel without nationality".

28 USC 994 note.

**SEC. 103. SENTENCING GUIDELINES.**

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate sentencing guidelines (including policy statements) or amend existing sentencing guidelines (including policy statements) to provide adequate penalties for persons convicted of knowingly operating by any means or embarking in any submersible vessel or semi-submersible vessel in violation of section 2285 of title 18, United States Code.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offense described in section 2285 of title 18, United States Code, and the need for deterrence to prevent such offenses;

(2) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a submersible vessel or semi-submersible vessel described in section 2285 of title 18, United States Code, to facilitate other felonies;

(B) the repeated use of a submersible vessel or semi-submersible vessel described in section 2285 of title 18, United States Code, to facilitate other felonies, including whether such use is part of an ongoing criminal organization or enterprise;

(C) whether the use of such a vessel involves a pattern of continued and flagrant violations of section 2285 of title 18, United States Code;

(D) whether the persons operating or embarking in a submersible vessel or semi-submersible vessel willfully caused, attempted to cause, or permitted the destruction or damage of such vessel or failed to heave to when directed by law enforcement officers; and

(E) circumstances for which the sentencing guidelines (and policy statements) provide sentencing enhancements;

(3) ensure reasonable consistency with other relevant directives, other sentencing guidelines and policy statements, and statutory provisions;

(4) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(5) ensure that the sentencing guidelines and policy statements adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

## TITLE II—CIVIL PROHIBITION

**SEC. 201. OPERATION OF SUBMERSIBLE VESSEL OR SEMI-SUBMERSIBLE VESSEL WITHOUT NATIONALITY.**

(a) FINDING AND DECLARATION.—Section 70501 of title 46, United States Code, is amended—

(1) by inserting "(1)" after "that"; and

(2) by striking "States." and inserting "States and (2) operating or embarking in a submersible vessel or semi-submersible vessel without nationality and on an international voyage is a serious international problem, facilitates transnational crime, including drug trafficking, and terrorism, and presents a specific threat to the safety of maritime navigation and the security of the United States.".

**SEC. 202. OPERATION PROHIBITED.**

(a) IN GENERAL.—Chapter 705 of title 46, United States Code, is amended by adding at the end thereof the following:

### "§ 70508. Operation of submersible vessel or semi-submersible vessel without nationality

"(a) IN GENERAL.—An individual may not operate by any means or embark in any submersible vessel or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country, with the intent to evade detection.

"(b) EVIDENCE OF INTENT TO EVADE DETECTION.—In any civil enforcement proceeding for a violation of subsection (a), the presence of any of the indicia described in paragraph (1)(A), (E), (F), or (G), or in paragraph (4), (5), or (6), of section 70507(b) may be considered, in the totality of the circumstances, to be prima facie evidence of intent to evade detection.

"(c) DEFENSES.—

"(1) IN GENERAL.—It is a defense in any civil enforcement proceeding for a violation of subsection (a) that the submersible vessel or semi-submersible vessel involved was, at the time of the violation—

"(A) a vessel of the United States or lawfully registered in a foreign nation as claimed by the master or individual in charge of the vessel when requested to make a claim by an officer of the United States authorized to enforce applicable provisions of United States law;

"(B) classed by and designed in accordance with the rules of a classification society;

"(C) lawfully operated in government-regulated or licensed activity, including commerce, research, or exploration; or

"(D) equipped with and using an operable automatic identification system, vessel monitoring system, or long range identification and tracking system.

"(2) PRODUCTION OF DOCUMENTS.—The defenses provided by this subsection are proved conclusively by the production of—

"(A) government documents evidencing the vessel's nationality at the time of the offense, as provided in article 5 of the 1958 Convention on the High Seas;

"(B) a certificate of classification issued by the vessel's classification society upon completion of relevant classification surveys and valid at the time of the offense; or

"(C) government documents evidencing licensure, regulation, or registration for research or exploration.

"(d) CIVIL PENALTY.—A person violating this section shall be liable to the United States for a civil penalty of not more than $1,000,000."

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 705 of title 46, United States Code, is amended by inserting after the item relating to section 70507 the following:

"70508. Operation of submersible vessel or semi-submersible vessel without nationality".

(2) Section 70504(b) of title 46, United States Code, is amended by inserting "or 70508" after "70503".

(3) Section 70505 of title 46, United States Code, is amended by striking "this title" and inserting "this title, or against whom a civil enforcement proceeding is brought under section 70508,".

**SEC. 203. SUBMERSIBLE VESSEL AND SEMI-SUBMERSIBLE VESSEL DEFINED.**

Section 70502 of title 46, United States Code, is amended by adding at the end thereof the following:

"(f) SEMI-SUBMERSIBLE VESSEL; SUBMERSIBLE VESSEL.—In this chapter:

"(1) SEMI-SUBMERSIBLE VESSEL.—The term 'semi-submersible vessel' means any watercraft constructed or adapted to be capable of operating with most of its hull and bulk under the surface of the water, including both manned and unmanned watercraft.

"(2) SUBMERSIBLE VESSEL.—The term 'submersible vessel' means a vessel that is capable of operating completely below the surface of the water, including both manned and unmanned watercraft.".

Approved October 13, 2008.

LEGISLATIVE HISTORY—S. 3598 (H.R. 6295):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, considered and passed Senate.
Sept. 27, 29, considered and passed House.

Public Law 110–408
110th Congress

# An Act

To extend the pilot program for volunteer groups to obtain criminal history background checks.

Oct. 13, 2008
[S. 3605]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Criminal History Background Checks Pilot Extension Act of 2008.
42 USC 5101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Criminal History Background Checks Pilot Extension Act of 2008".

**SEC. 2. EXTENSION OF PILOT PROGRAM.**

Section 108(a)(3)(A) of the PROTECT Act (42 U.S.C. 5119a note) is amended by striking "a 66-month" and inserting "a 78-month".

Approved October 13, 2008.

LEGISLATIVE HISTORY—S. 3605:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 26, considered and passed Senate.
Sept. 27, considered and passed House.

# Public Law 110–409
# 110th Congress

## An Act

Oct. 14, 2008
[H.R. 928]

To amend the Inspector General Act of 1978 to enhance the independence of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Inspector General Reform Act of 2008.
5 USC app. 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Inspector General Reform Act of 2008".

**SEC. 2. APPOINTMENT AND QUALIFICATIONS OF INSPECTORS GENERAL.**

Section 8G(c) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end "Each Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.".

**SEC. 3. REMOVAL OF INSPECTORS GENERAL.**

President.
Deadline.

(a) ESTABLISHMENTS.—Section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking the second sentence and inserting "If an Inspector General is removed from office or is transferred to another position or location within an establishment, the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.".

Deadline.

(b) DESIGNATED FEDERAL ENTITIES.—Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "shall promptly communicate in writing the reasons for any such removal or transfer to both Houses of the Congress." and inserting "shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.".

**SEC. 4. PAY OF INSPECTORS GENERAL.**

(a) INSPECTORS GENERAL AT LEVEL III OF EXECUTIVE SCHEDULE.—

(1) IN GENERAL.—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.), is amended by adding at the end the following:

"(e) The annual rate of basic pay for an Inspector General (as defined under section 12(3)) shall be the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, plus 3 percent.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 5315 of title 5, United States Code, is amended by striking the item relating to each of the following positions:

(A) Inspector General, Department of Education.

(B) Inspector General, Department of Energy.

(C) Inspector General, Department of Health and Human Services.

(D) Inspector General, Department of Agriculture.

(E) Inspector General, Department of Housing and Urban Development.

(F) Inspector General, Department of Labor.

(G) Inspector General, Department of Transportation.

(H) Inspector General, Department of Veterans Affairs.

(I) Inspector General, Department of Homeland Security.

(J) Inspector General, Department of Defense.

(K) Inspector General, Department of State.

(L) Inspector General, Department of Commerce.

(M) Inspector General, Department of the Interior.

(N) Inspector General, Department of Justice.

(O) Inspector General, Department of the Treasury.

(P) Inspector General, Agency for International Development.

(Q) Inspector General, Environmental Protection Agency.

(R) Inspector General, Export-Import Bank.

(S) Inspector General, Federal Emergency Management Agency.

(T) Inspector General, General Services Administration.

(U) Inspector General, National Aeronautics and Space Administration.

(V) Inspector General, Nuclear Regulatory Commission.

(W) Inspector General, Office of Personnel Management.

(X) Inspector General, Railroad Retirement Board.

(Y) Inspector General, Small Business Administration.

(Z) Inspector General, Tennessee Valley Authority.

(AA) Inspector General, Federal Deposit Insurance Corporation.

(BB) Inspector General, Resolution Trust Corporation.

(CC) Inspector General, Central Intelligence Agency.

(DD) Inspector General, Social Security Administration.

(EE) Inspector General, United States Postal Service.

(3) APPLICABILITY TO OTHER INSPECTORS GENERAL.— 5 USC app. 3 note.

(A) IN GENERAL.—Notwithstanding any other provision of law, the annual rate of basic pay of the Inspector General of the Central Intelligence Agency, the Special Inspector General for Iraq Reconstruction, and the Special Inspector General for Afghanistan Reconstruction shall be that of an Inspector General as defined under section 12(3) of

the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 7(a) of this Act).

(B) PROHIBITION OF CASH BONUS OR AWARDS.—Section 3(f) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 5 of this Act) shall apply to the Inspectors General described under subparagraph (A).

(4) ADDITIONAL TECHNICAL AND CONFORMING AMENDMENT.—Section 194(b) of the National and Community Service Act of 1990 (42 U.S.C. 12651e(b)) is amended by striking paragraph (3).

5 USC app. 3 note.

(b) INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Inspector General of each designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall, for pay and all other purposes, be classified at a grade, level, or rank designation, as the case may be, at or above those of a majority of the senior level executives of that designated Federal entity (such as a General Counsel, Chief Information Officer, Chief Financial Officer, Chief Human Capital Officer, or Chief Acquisition Officer). The pay of an Inspector General of a designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall be not less than the average total compensation (including bonuses) of the senior level executives of that designated Federal entity calculated on an annual basis.

(2) LIMITATION ON ADJUSTMENT.—

(A) IN GENERAL.—In the case of an Inspector General of a designated Federal entity whose pay is adjusted under paragraph (1), the total increase in pay in any fiscal year resulting from that adjustment may not exceed 25 percent of the average total compensation (including bonuses) of the Inspector General of that entity for the preceding 3 fiscal years.

(B) SUNSET OF LIMITATION.—The limitation under subparagraph (A) shall not apply to any adjustment made in fiscal year 2013 or each fiscal year thereafter.

(c) SAVINGS PROVISION FOR NEWLY APPOINTED INSPECTORS GENERAL.—

Applicability.

(1) IN GENERAL.—The provisions of section 3392 of title 5, United States Code, other than the terms "performance awards" and "awarding of ranks" in subsection (c)(1) of such section, shall apply to career appointees of the Senior Executive Service who are appointed to the position of Inspector General.

(2) NONREDUCTION IN PAY.—Notwithstanding any other provision of law, career Federal employees serving on an appointment made pursuant to statutory authority found other than in section 3392 of title 5, United States Code, shall not suffer a reduction in pay, not including any bonus or performance award, as a result of being appointed to the position of Inspector General.

(d) SAVINGS PROVISION.—Nothing in this section shall have the effect of reducing the rate of pay of any individual serving on the date of enactment of this section as an Inspector General of—

(1) an establishment as defined under section 12(2) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 7(a) of this Act);

(2) a designated Federal entity as defined under section 8G(2) of the Inspector General Act of 1978 (5 U.S.C. App.);

(3) a legislative agency for which the position of Inspector General is established by statute; or

(4) any other entity of the Government for which the position of Inspector General is established by statute.

**SEC. 5. PROHIBITION OF CASH BONUS OR AWARDS.**

Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 4 of this Act) is further amended by adding at the end the following:

"(f) An Inspector General (as defined under section 8G(a)(6) or 12(3)) may not receive any cash award or cash bonus, including any cash award under chapter 45 of title 5, United States Code.".

**SEC. 6. SEPARATE COUNSEL TO SUPPORT INSPECTORS GENERAL.**

(a) COUNSELS TO INSPECTORS GENERAL OF ESTABLISHMENT.—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by sections 4 and 5 of this Act) is further amended by adding at the end the following:

"(g) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service, obtain legal advice from a counsel either reporting directly to the Inspector General or another Inspector General.".

(b) COUNSELS TO INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.—Section 8G(g) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(4) Each Inspector General shall—

"(A) in accordance with applicable laws and regulations governing appointments within the designated Federal entity, appoint a Counsel to the Inspector General who shall report to the Inspector General; Appointments.

"(B) obtain the services of a counsel appointed by and directly reporting to another Inspector General on a reimbursable basis; or

"(C) obtain the services of appropriate staff of the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.".

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to alter the duties and responsibilities of the counsel for any establishment or designated Federal entity, except for the availability of counsel as provided under sections 3(g) and 8G(g) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by this section). The Counsel to the Inspector General shall perform such functions as the Inspector General may prescribe. 5 USC app. 3 note.

**SEC. 7. ESTABLISHMENT OF COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.**

(a) ESTABLISHMENT.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by redesignating sections 11 and 12 as sections 12 and 13, respectively, and by inserting after section 10 the following:

5 USC app. 11.

**"SEC. 11. ESTABLISHMENT OF THE COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.**

"(a) ESTABLISHMENT AND MISSION.—

"(1) ESTABLISHMENT.—There is established as an independent entity within the executive branch the Council of the Inspectors General on Integrity and Efficiency (in this section referred to as the 'Council').

"(2) MISSION.—The mission of the Council shall be to—

"(A) address integrity, economy, and effectiveness issues that transcend individual Government agencies; and

"(B) increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Council shall consist of the following members:

"(A) All Inspectors General whose offices are established under—

"(i) section 2; or

"(ii) section 8G.

"(B) The Inspectors General of the Office of the Director of National Intelligence and the Central Intelligence Agency.

"(C) The Controller of the Office of Federal Financial Management.

"(D) A senior level official of the Federal Bureau of Investigation designated by the Director of the Federal Bureau of Investigation.

"(E) The Director of the Office of Government Ethics.

"(F) The Special Counsel of the Office of Special Counsel.

"(G) The Deputy Director of the Office of Personnel Management.

"(H) The Deputy Director for Management of the Office of Management and Budget.

"(I) The Inspectors General of the Library of Congress, Capitol Police, Government Printing Office, Government Accountability Office, and the Architect of the Capitol.

"(2) CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—

"(A) EXECUTIVE CHAIRPERSON.—The Deputy Director for Management of the Office of Management and Budget shall be the Executive Chairperson of the Council.

"(B) CHAIRPERSON.—The Council shall elect 1 of the Inspectors General referred to in paragraph (1)(A) or (B) to act as Chairperson of the Council. The term of office of the Chairperson shall be 2 years.

"(3) FUNCTIONS OF CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—

"(A) EXECUTIVE CHAIRPERSON.—The Executive Chairperson shall—

"(i) preside over meetings of the Council;

Reports.

"(ii) provide to the heads of agencies and entities represented on the Council summary reports of the activities of the Council; and

"(iii) provide to the Council such information relating to the agencies and entities represented on

the Council as assists the Council in performing its functions.

"(B) CHAIRPERSON.—The Chairperson shall—

"(i) convene meetings of the Council—

"(I) at least 6 times each year;

"(II) monthly to the extent possible; and

"(III) more frequently at the discretion of the Chairperson;

"(ii) carry out the functions and duties of the Council under subsection (c);

"(iii) appoint a Vice Chairperson to assist in carrying out the functions of the Council and act in the absence of the Chairperson, from a category of Inspectors General described in subparagraph (A)(i), (A)(ii), or (B) of paragraph (1), other than the category from which the Chairperson was elected; Appointments.

"(iv) make such payments from funds otherwise available to the Council as may be necessary to carry out the functions of the Council;

"(v) select, appoint, and employ personnel as needed to carry out the functions of the Council subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates;

"(vi) to the extent and in such amounts as may be provided in advance by appropriations Acts, made available from the revolving fund established under subsection (c)(3)(B), or as otherwise provided by law, enter into contracts and other arrangements with public agencies and private persons to carry out the functions and duties of the Council; Contracts.

"(vii) establish, in consultation with the members of the Council, such committees as determined by the Chairperson to be necessary and appropriate for the efficient conduct of Council functions; and

"(viii) prepare and transmit a report annually on behalf of the Council to the President on the activities of the Council. Reports. Deadline.

"(c) FUNCTIONS AND DUTIES OF COUNCIL.—

"(1) IN GENERAL.—The Council shall—

"(A) continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse;

"(B) develop plans for coordinated, Governmentwide activities that address these problems and promote economy and efficiency in Federal programs and operations, including interagency and interentity audit, investigation, inspection, and evaluation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste that exceed the capability or jurisdiction of an individual agency or entity; Plans.

"(C) develop policies that will aid in the maintenance of a corps of well-trained and highly skilled Office of Inspector General personnel;

Web site.

"(D) maintain an Internet website and other electronic systems for the benefit of all Inspectors General, as the Council determines are necessary or desirable;

"(E) maintain 1 or more academies as the Council considers desirable for the professional training of auditors, investigators, inspectors, evaluators, and other personnel of the various offices of Inspector General;

Recommendations.

"(F) submit recommendations of individuals to the appropriate appointing authority for any appointment to an office of Inspector General described under subsection (b)(1)(A) or (B);

Reports.

"(G) make such reports to Congress as the Chairperson determines are necessary or appropriate; and

"(H) perform other duties within the authority and jurisdiction of the Council, as appropriate.

"(2) ADHERENCE AND PARTICIPATION BY MEMBERS.—To the extent permitted under law, and to the extent not inconsistent with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions, each member of the Council, as appropriate, shall—

"(A) adhere to professional standards developed by the Council; and

"(B) participate in the plans, programs, and projects of the Council, except that in the case of a member described under subsection (b)(1)(I) , the member shall participate only to the extent requested by the member and approved by the Executive Chairperson and Chairperson.

"(3) ADDITIONAL ADMINISTRATIVE AUTHORITIES.—

"(A) INTERAGENCY FUNDING.—Notwithstanding section 1532 of title 31, United States Code, or any other provision of law prohibiting the interagency funding of activities described under subclause (I), (II), or (III) of clause (i), in the performance of the responsibilities, authorities, and duties of the Council—

"(i) the Executive Chairperson may authorize the use of interagency funding for—

"(I) Governmentwide training of employees of the Offices of the Inspectors General;

"(II) the functions of the Integrity Committee of the Council; and

"(III) any other authorized purpose determined by the Council; and

"(ii) upon the authorization of the Executive Chairperson, any department, agency, or entity of the executive branch which has a member on the Council shall fund or participate in the funding of such activities.

"(B) REVOLVING FUND.—

"(i) IN GENERAL.—The Council may—

"(I) establish in the Treasury of the United States a revolving fund to be called the Inspectors General Council Fund; or

"(II) enter into an arrangement with a department or agency to use an existing revolving fund.

"(ii) AMOUNTS IN REVOLVING FUND.—

"(I) IN GENERAL.—Amounts transferred to the Council under this subsection shall be deposited in the revolving fund described under clause (i)(I) or (II).

"(II) TRAINING.—Any remaining unexpended balances appropriated for or otherwise available to the Inspectors General Criminal Investigator Academy and the Inspectors General Auditor Training Institute shall be transferred to the revolving fund described under clause (i)(I) or (II).

"(iii) USE OF REVOLVING FUND.—

"(I) IN GENERAL.—Except as provided under subclause (II), amounts in the revolving fund described under clause (i)(I) or (II) may be used to carry out the functions and duties of the Council under this subsection.

"(II) TRAINING.—Amounts transferred into the revolving fund described under clause (i)(I) or (II) may be used for the purpose of maintaining any training academy as determined by the Council.

"(iv) AVAILABILITY OF FUNDS.—Amounts in the revolving fund described under clause (i)(I) or (II) shall remain available to the Council without fiscal year limitation.

"(C) SUPERSEDING PROVISIONS.—No provision of law enacted after the date of enactment of this subsection shall be construed to limit or supersede any authority under subparagraph (A) or (B), unless such provision makes specific reference to the authority in that paragraph.

"(4) EXISTING AUTHORITIES AND RESPONSIBILITIES.—The establishment and operation of the Council shall not affect—

"(A) the role of the Department of Justice in law enforcement and litigation;

"(B) the authority or responsibilities of any Government agency or entity; and

"(C) the authority or responsibilities of individual members of the Council.

"(d) INTEGRITY COMMITTEE.—

"(1) ESTABLISHMENT.—The Council shall have an Integrity Committee, which shall receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and staff members of the various Offices of Inspector General described under paragraph (4)(C).

"(2) MEMBERSHIP.—The Integrity Committee shall consist of the following members:

"(A) The official of the Federal Bureau of Investigation serving on the Council, who shall serve as Chairperson of the Integrity Committee, and maintain the records of the Committee.

"(B) Four Inspectors General described in subparagraph (A) or (B) of subsection (b)(1) appointed by the Chairperson of the Council, representing both establishments and designated Federal entities (as that term is defined in section 8G(a)).

"(C) The Special Counsel of the Office of Special Counsel.

"(D) The Director of the Office of Government Ethics.

"(3) LEGAL ADVISOR.—The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as a legal advisor to the Integrity Committee.

"(4) REFERRAL OF ALLEGATIONS.—

"(A) REQUIREMENT.—An Inspector General shall refer to the Integrity Committee any allegation of wrongdoing against a staff member of the office of that Inspector General, if—

"(i) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and

"(ii) the Inspector General determines that—

"(I) an objective internal investigation of the allegation is not feasible; or

"(II) an internal investigation of the allegation may appear not to be objective.

"(B) DEFINITION.—In this paragraph the term 'staff member' means any employee of an Office of Inspector General who—

"(i) reports directly to an Inspector General; or

"(ii) is designated by an Inspector General under subparagraph (C).

Deadline.

"(C) DESIGNATION OF STAFF MEMBERS.—Each Inspector General shall annually submit to the Chairperson of the Integrity Committee a designation of positions whose holders are staff members for purposes of subparagraph (B).

"(5) REVIEW OF ALLEGATIONS.—The Integrity Committee shall—

"(A) review all allegations of wrongdoing the Integrity Committee receives against an Inspector General, or against a staff member of an Office of Inspector General described under paragraph (4)(C);

"(B) refer any allegation of wrongdoing to the agency of the executive branch with appropriate jurisdiction over the matter; and

"(C) refer to the Chairperson of the Integrity Committee any allegation of wrongdoing determined by the Integrity Committee under subparagraph (A) to be potentially meritorious that cannot be referred to an agency under subparagraph (B).

"(6) AUTHORITY TO INVESTIGATE ALLEGATIONS.—

"(A) REQUIREMENT.—The Chairperson of the Integrity Committee shall cause a thorough and timely investigation of each allegation referred under paragraph (5)(C) to be conducted in accordance with this paragraph.

"(B) RESOURCES.—At the request of the Chairperson of the Integrity Committee, the head of each agency or entity represented on the Council—

"(i) may provide resources necessary to the Integrity Committee; and

"(ii) may detail employees from that agency or entity to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation under this subsection.

"(7) PROCEDURES FOR INVESTIGATIONS.—

"(A) STANDARDS APPLICABLE.—Investigations initiated under this subsection shall be conducted in accordance with the most current Quality Standards for Investigations issued by the Council or by its predecessors (the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency).

"(B) ADDITIONAL POLICIES AND PROCEDURES.—

"(i) ESTABLISHMENT.—The Integrity Committee, in conjunction with the Chairperson of the Council, shall establish additional policies and procedures necessary to ensure fairness and consistency in—

"(I) determining whether to initiate an investigation;

"(II) conducting investigations;

"(III) reporting the results of an investigation; and

"(IV) providing the person who is the subject of an investigation with an opportunity to respond to any Integrity Committee report.

"(ii) SUBMISSION TO CONGRESS.—The Council shall submit a copy of the policies and procedures established under clause (i) to the congressional committees of jurisdiction.

"(C) REPORTS.—

"(i) POTENTIALLY MERITORIOUS ALLEGATIONS.—For allegations described under paragraph (5)(C), the Chairperson of the Integrity Committee shall make a report containing the results of the investigation of the Chairperson and shall provide such report to members of the Integrity Committee.

"(ii) ALLEGATIONS OF WRONGDOING.—For allegations referred to an agency under paragraph (5)(B), the head of that agency shall make a report containing the results of the investigation and shall provide such report to members of the Integrity Committee.

"(8) ASSESSMENT AND FINAL DISPOSITION.—

"(A) IN GENERAL.—With respect to any report received under paragraph (7)(C), the Integrity Committee shall—

"(i) assess the report;

"(ii) forward the report, with the recommendations of the Integrity Committee, including those on disciplinary action, within 30 days (to the maximum extent practicable) after the completion of the investigation, to the Executive Chairperson of the Council and to the President (in the case of a report relating to an Inspector General of an establishment or any employee of that Inspector General) or the head of a designated Federal entity (in the case of a report relating to an Inspector General of such an entity or any employee of that Inspector General) for resolution; and Deadline.

"(iii) submit to the Committee on Government Oversight and Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and other congressional committees of jurisdiction an executive summary of such report and recommendations within 30 days after Executive summary. Deadline.

the submission of such report to the Executive Chairperson under clause (ii).

Reports.

"(B) DISPOSITION.—The Executive Chairperson of the Council shall report to the Integrity Committee the final disposition of the matter, including what action was taken by the President or agency head.

"(9) ANNUAL REPORT.—The Council shall submit to Congress and the President by December 31 of each year a report on the activities of the Integrity Committee during the preceding fiscal year, which shall include the following:

"(A) The number of allegations received.

"(B) The number of allegations referred to other agencies, including the number of allegations referred for criminal investigation.

"(C) The number of allegations referred to the Chairperson of the Integrity Committee for investigation.

"(D) The number of allegations closed without referral.

"(E) The date each allegation was received and the date each allegation was finally disposed of.

"(F) In the case of allegations referred to the Chairperson of the Integrity Committee, a summary of the status of the investigation of the allegations and, in the case of investigations completed during the preceding fiscal year, a summary of the findings of the investigations.

"(G) Other matters that the Council considers appropriate.

"(10) REQUESTS FOR MORE INFORMATION.—With respect to paragraphs (8) and (9), the Council shall provide more detailed information about specific allegations upon request from any of the following:

"(A) The chairperson or ranking member of the Committee on Homeland Security and Governmental Affairs of the Senate.

"(B) The chairperson or ranking member of the Committee on Oversight and Government Reform of the House of Representatives.

"(C) The chairperson or ranking member of the congressional committees of jurisdiction.

"(11) NO RIGHT OR BENEFIT.—This subsection is not intended to create any right or benefit, substantive or procedural, enforceable at law by a person against the United States, its agencies, its officers, or any person.".

5 USC 1211 note.

(b) ALLEGATIONS OF WRONGDOING AGAINST SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.—

(1) DEFINITIONS.—In this section—

(A) the term "Integrity Committee" means the Integrity Committee established under section 11(d) of the Inspector General Act of 1978 (5 U.S.C. App), as amended by this Act; and

(B) the term "Special Counsel" refers to the Special Counsel appointed under section 1211(b) of title 5, United States Code.

(2) AUTHORITY OF INTEGRITY COMMITTEE.—

(A) IN GENERAL.—An allegation of wrongdoing against the Special Counsel or the Deputy Special Counsel may be received, reviewed, and referred for investigation by the Integrity Committee to the same extent and in the

same manner as in the case of an allegation against an Inspector General (or a member of the staff of an Office of Inspector General), subject to the requirement that the Special Counsel recuse himself or herself from the consideration of any allegation brought under this paragraph.

(B) COORDINATION WITH EXISTING PROVISIONS OF LAW.—This subsection does not eliminate access to the Merit Systems Protection Board for review under section 7701 of title 5, United States Code. To the extent that an allegation brought under this subsection involves section 2302(b)(8) of that title, a failure to obtain corrective action within 120 days after the date on which that allegation is received by the Integrity Committee shall, for purposes of section 1221 of such title, be considered to satisfy section 1214(a)(3)(B) of that title. Deadline.

(3) REGULATIONS.—The Integrity Committee may prescribe any rules or regulations necessary to carry out this subsection, subject to such consultation or other requirements as might otherwise apply.

(c) EFFECTIVE DATE AND EXISTING EXECUTIVE ORDERS.—

(1) COUNCIL.—Not later than 180 days after the date of the enactment of this Act, the Council of the Inspectors General on Integrity and Efficiency established under this section shall become effective and operational. Deadline. 5 USC app. 11 note.

(2) EXECUTIVE ORDERS.—Executive Order No. 12805, dated May 11, 1992, and Executive Order No. 12933, dated March 21, 1996 (as in effect before the date of the enactment of this Act) shall have no force or effect on and after the earlier of— Termination date. 31 USC 501 note.

(A) the date on which the Council of the Inspectors General on Integrity and Efficiency becomes effective and operational as determined by the Executive Chairperson of the Council; or

(B) the last day of the 180-day period beginning on the date of enactment of this Act.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in sections 2(1), 4(b)(2), and 8G(a)(1)(A) by striking "section 11(2)" each place it appears and inserting "section 12(2)"; and

(B) in section 8G(a), in the matter preceding paragraph (1), by striking "section 11" and inserting "section 12". 5 USC app. 8G.

(2) SEPARATE APPROPRIATIONS ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by striking the first paragraph (33) and inserting the following:

"(33) a separate appropriation account for appropriations for the Council of the Inspectors General on Integrity and Efficiency, and, included in that account, a separate statement of the aggregate amount of appropriations requested for each academy maintained by the Council of the Inspectors General on Integrity and Efficiency.".

**SEC. 8. SUBMISSION OF BUDGET REQUESTS TO CONGRESS.**

Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(f)(1) For each fiscal year, an Inspector General shall transmit a budget estimate and request to the head of the establishment or designated Federal entity to which the Inspector General reports. The budget request shall specify the aggregate amount of funds requested for such fiscal year for the operations of that Inspector General and shall specify the amount requested for all training needs, including a certification from the Inspector General that the amount requested satisfies all training requirements for the Inspector General's office for that fiscal year, and any resources necessary to support the Council of the Inspectors General on Integrity and Efficiency. Resources necessary to support the Council of the Inspectors General on Integrity and Efficiency shall be specifically identified and justified in the budget request.

"(2) In transmitting a proposed budget to the President for approval, the head of each establishment or designated Federal entity shall include—

"(A) an aggregate request for the Inspector General;

"(B) amounts for Inspector General training;

"(C) amounts for support of the Council of the Inspectors General on Integrity and Efficiency; and

"(D) any comments of the affected Inspector General with respect to the proposal.

President.

"(3) The President shall include in each budget of the United States Government submitted to Congress—

"(A) a separate statement of the budget estimate prepared in accordance with paragraph (1);

"(B) the amount requested by the President for each Inspector General;

"(C) the amount requested by the President for training of Inspectors General;

"(D) the amount requested by the President for support for the Council of the Inspectors General on Integrity and Efficiency; and

"(E) any comments of the affected Inspector General with respect to the proposal if the Inspector General concludes that the budget submitted by the President would substantially inhibit the Inspector General from performing the duties of the office.".

**SEC. 9. SUBPOENA POWER.**

Section 6(a)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting "in any medium (including electronically stored information, as well as any tangible thing)" after "other data"; and

(2) by striking "subpena" and inserting "subpoena".

**SEC. 10. PROGRAM FRAUD CIVIL REMEDIES ACT.**

Section 3801(a)(1) of title 31, United States Code, is amended—

(1) in subparagraph (D), by striking "and" after the semicolon;

(2) in subparagraph (E), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(F) a designated Federal entity (as such term is defined under section 8G(a)(2) of the Inspector General Act of 1978);".

**SEC. 11. LAW ENFORCEMENT AUTHORITY FOR DESIGNATED FEDERAL ENTITIES.**

Section 6(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking "appointed under section 3"; and

(2) by adding at the end the following:

"(9) In this subsection, the term 'Inspector General' means an Inspector General appointed under section 3 or an Inspector General appointed under section 8G.".

**SEC. 12. APPLICATION OF SEMIANNUAL REPORTING REQUIREMENTS WITH RESPECT TO INSPECTION REPORTS AND EVALUATION REPORTS.**

Section 5 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in each of subsections (a)(6), (a)(8), (a)(9), (b)(2), and (b)(3)—

(A) by inserting ", inspection reports, and evaluation reports" after "audit reports" the first place it appears; and

(B) by striking "audit" the second place it appears; and

(2) in subsection (a)(10) by inserting ", inspection reports, and evaluation reports" after "audit reports".

**SEC. 13. INFORMATION ON WEBSITES OF OFFICES OF INSPECTORS GENERAL.**

(a) IN GENERAL.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8K the following:

**"SEC. 8L. INFORMATION ON WEBSITES OF OFFICES OF INSPECTORS GENERAL.**

"(a) DIRECT LINKS TO INSPECTORS GENERAL OFFICES.—

"(1) IN GENERAL.—Each agency shall establish and maintain on the homepage of the website of that agency, a direct link to the website of the Office of the Inspector General of that agency.

"(2) ACCESSIBILITY.—The direct link under paragraph (1) shall be obvious and facilitate accessibility to the website of the Office of the Inspector General.

"(b) REQUIREMENTS FOR INSPECTORS GENERAL WEBSITES.—

"(1) POSTING OF REPORTS AND AUDITS.—The Inspector General of each agency shall—

"(A) not later than 3 days after any report or audit (or portion of any report or audit) is made publicly available, post that report or audit (or portion of that report or audit) on the website of the Office of Inspector General; and

"(B) ensure that any posted report or audit (or portion of that report or audit) described under subparagraph (A)—

"(i) is easily accessible from a direct link on the homepage of the website of the Office of the Inspector General;

"(ii) includes a summary of the findings of the Inspector General; and

"(iii) is in a format that—

"(I) is searchable and downloadable; and

"(II) facilitates printing by individuals of the public accessing the website.

"(2) REPORTING OF FRAUD, WASTE, AND ABUSE.—

"(A) IN GENERAL.—The Inspector General of each agency shall establish and maintain a direct link on the homepage of the website of the Office of the Inspector General for individuals to report fraud, waste, and abuse. Individuals reporting fraud, waste, or abuse using the direct link established under this paragraph shall not be required to provide personally identifying information relating to that individual.

"(B) ANONYMITY.—The Inspector General of each agency shall not disclose the identity of any individual making a report under this paragraph without the consent of the individual unless the Inspector General determines that such a disclosure is unavoidable during the course of the investigation.".

(b) REPEAL.—Section 746(b) of the Financial Services and General Government Appropriations Act, 2008 (5 U.S.C. App. note; 121 Stat. 2034) is repealed.

Deadline.
5 USC app. 8L note.

(c) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the head of each agency and the Inspector General of each agency shall implement the amendment made by this section.

**SEC. 14. OTHER ADMINISTRATIVE AUTHORITIES.**

(a) IN GENERAL.—Section 6(d) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended to read as follows:

Applicability.

"(d)(1)(A) For purposes of applying the provisions of law identified in subparagraph (B)—

"(i) each Office of Inspector General shall be considered to be a separate agency; and

"(ii) the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office, have the functions, powers, and duties of an agency head or appointing authority under such provisions.

"(B) This paragraph applies with respect to the following provisions of title 5, United States Code:

"(i) Subchapter II of chapter 35.

"(ii) Sections 8335(b), 8336, 8344, 8414, 8468, and 8425(b).

"(iii) All provisions relating to the Senior Executive Service (as determined by the Office of Personnel Management), subject to paragraph (2).

"(2) For purposes of applying section 4507(b) of title 5, United States Code, paragraph (1)(A)(ii) shall be applied by substituting 'the Council of the Inspectors General on Integrity and Efficiency (established by section 11 of the Inspector General Act) shall' for 'the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office,'.".

(b) AUTHORITY OF TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION TO PROTECT INTERNAL REVENUE SERVICE EMPLOYEES.—Section 8D(k)(1)(C) of the Inspector General Act of

1978 (5 U.S.C. App.) is amended by striking "physical security" and inserting "protection to the Commissioner of Internal Revenue".

Approved October 14, 2008.

LEGISLATIVE HISTORY—H.R. 928 (S. 2324):

HOUSE REPORTS: No. 110–354 (Comm. on Oversight and Government Reform).
SENATE REPORTS: No. 110–262 accompanying S. 2324 (Comm. on Homeland Security and Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Oct. 3, considered and passed House.
Vol. 154 (2008): Sept. 24, considered and passed Senate, amended.
Sept. 25, 27, House considered and concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
Oct. 14, Presidential statement.

# Public Law 110–410
# 110th Congress

## An Act

Oct. 14, 2008
[H.R. 1594]

To designate the Department of Veterans Affairs Outpatient Clinic in Hermitage, Pennsylvania, as the Michael A. Marzano Department of Veterans Affairs Outpatient Clinic.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF MICHAEL A. MARZANO DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.**

(a) DESIGNATION.—The Department of Veterans Affairs Outpatient Clinic in Hermitage, Pennsylvania, shall after the date of the enactment of this Act be known and designated as the "Michael A. Marzano Department of Veterans Affairs Outpatient Clinic".

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the outpatient clinic referred to in subsection (a) shall be considered to be a reference to the Michael A. Marzano Department of Veterans Affairs Outpatient Clinic.

Approved October 14, 2008.

LEGISLATIVE HISTORY—H.R. 1594:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 15, 17, considered and passed House.
Sept. 30, considered and passed Senate.

# Public Law 110–411
# 110th Congress

## An Act

To reauthorize the programs for housing assistance for Native Americans.

Oct. 14, 2008
[H.R. 2786]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Native American Housing Assistance and Self-Determination Reauthorization Act of 2008.
25 USC 4101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Native American Housing Assistance and Self-Determination Reauthorization Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Congressional findings.
Sec. 3. Definitions.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

Sec. 101. Block grants.
Sec. 102. Indian housing plans.
Sec. 103. Review of plans.
Sec. 104. Treatment of program income and labor standards.
Sec. 105. Regulations.

TITLE II—AFFORDABLE HOUSING ACTIVITIES

Sec. 201. National objectives and eligible families.
Sec. 202. Eligible affordable housing activities.
Sec. 203. Program requirements.
Sec. 204. Low-income requirement and income targeting.
Sec. 205. Availability of records.
Sec. 206. Self-determined housing activities for tribal communities program.

TITLE III—ALLOCATION OF GRANT AMOUNTS

Sec. 301. Allocation formula.

TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

Sec. 401. Remedies for noncompliance.
Sec. 402. Monitoring of compliance.
Sec. 403. Performance reports.

TITLE V—TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS

Sec. 501. Effect on Home Investment Partnerships Act.

TITLE VI—GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES

Sec. 601. Demonstration program for guaranteed loans to finance tribal community and economic development activities.

TITLE VII—FUNDING

Sec. 701. Authorization of appropriations.

TITLE VIII—MISCELLANEOUS

Sec. 801. Limitation on use for Cherokee Nation.

Sec. 802. Limitation on use of funds.
Sec. 803. GAO study of effectiveness of NAHASDA for tribes of different sizes.

**SEC. 2. CONGRESSIONAL FINDINGS.**

Section 2 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) is amended in paragraphs (6) and (7) by striking "should" each place it appears and inserting "shall".

**SEC. 3. DEFINITIONS.**

Section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103) is amended—

(1) by striking paragraph (22);

(2) by redesignating paragraphs (8) through (21) as paragraphs (9) through (22), respectively; and

(3) by inserting after paragraph (7) the following:

"(8) HOUSING RELATED COMMUNITY DEVELOPMENT.—

"(A) IN GENERAL.—The term 'housing related community development' means any facility, community building, business, activity, or infrastructure that—

"(i) is owned by an Indian tribe or a tribally designated housing entity;

"(ii) is necessary to the provision of housing in an Indian area; and

"(iii)(I) would help an Indian tribe or tribally designated housing entity to reduce the cost of construction of Indian housing;

"(II) would make housing more affordable, accessible, or practicable in an Indian area; or

"(III) would otherwise advance the purposes of this Act.

"(B) EXCLUSION.—The term 'housing and community development' does not include any activity conducted by any Indian tribe under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).".

# TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

**SEC. 101. BLOCK GRANTS.**

Section 101 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking "For each" and inserting the following:

"(1) IN GENERAL.—For each";

(ii) by striking "tribes to carry out affordable housing activities." and inserting the following: "tribes—

"(A) to carry out affordable housing activities under subtitle A of title II; and"; and

(iii) by adding at the end the following:

"(B) to carry out self-determined housing activities for tribal communities programs under subtitle B of that title."; and

(B) in the second sentence, by striking "Under" and inserting the following:

"(2) PROVISION OF AMOUNTS.—Under";

(2) in subsection (g), by inserting "of this section and subtitle B of title II" after "subsection (h)"; and

(3) by adding at the end the following:

"(j) FEDERAL SUPPLY SOURCES.—For purposes of section 501 of title 40, United States Code, on election by the applicable Indian tribe—

"(1) each Indian tribe or tribally designated housing entity shall be considered to be an Executive agency in carrying out any program, service, or other activity under this Act; and

"(2) each Indian tribe or tribally designated housing entity and each employee of the Indian tribe or tribally designated housing entity shall have access to sources of supply on the same basis as employees of an Executive agency.

"(k) TRIBAL PREFERENCE IN EMPLOYMENT AND CONTRACTING.—Notwithstanding any other provision of law, with respect to any grant (or portion of a grant) made on behalf of an Indian tribe under this Act that is intended to benefit 1 Indian tribe, the tribal employment and contract preference laws (including regulations and tribal ordinances ) adopted by the Indian tribe that receives the benefit shall apply with respect to the administration of the grant (or portion of a grant).".

**SEC. 102. INDIAN HOUSING PLANS.**

Section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112) is amended—

(1) in subsection (a)(1)—

(A) by striking "(1)(A) for" and all that follows through the end of subparagraph (A) and inserting the following:

"(1)(A) for an Indian tribe to submit to the Secretary, by not later than 75 days before the beginning of each tribal program year, a 1-year housing plan for the Indian tribe; or"; and

Deadline.

(B) in subparagraph (B), by striking "subsection (d)" and inserting "subsection (c)";

(2) by striking subsections (b) and (c) and inserting the following:

"(b) 1-YEAR PLAN REQUIREMENT.—

"(1) IN GENERAL.—A housing plan of an Indian tribe under this section shall—

"(A) be in such form as the Secretary may prescribe; and

"(B) contain the information described in paragraph (2).

"(2) REQUIRED INFORMATION.—A housing plan shall include the following information with respect to the tribal program year for which assistance under this Act is made available:

"(A) DESCRIPTION OF PLANNED ACTIVITIES.—A statement of planned activities, including—

"(i) the types of household to receive assistance;

"(ii) the types and levels of assistance to be provided;

"(iii) the number of units planned to be produced;

"(iv)(I) a description of any housing to be demolished or disposed of;

"(II) a timetable for the demolition or disposition; and

"(III) any other information required by the Secretary with respect to the demolition or disposition;

"(v) a description of the manner in which the recipient will protect and maintain the viability of housing owned and operated by the recipient that was developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); and

"(vi) outcomes anticipated to be achieved by the recipient.

"(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income Indian families residing in the jurisdiction of the Indian tribe, and the means by which those needs will be addressed during the applicable period, including—

"(i) a description of the estimated housing needs and the need for assistance for the low-income Indian families in the jurisdiction, including a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance; and

"(ii) a description of the estimated housing needs for all Indian families in the jurisdiction.

"(C) FINANCIAL RESOURCES.—An operating budget for the recipient, in such form as the Secretary may prescribe, that includes—

"(i) an identification and description of the financial resources reasonably available to the recipient to carry out the purposes of this Act, including an explanation of the manner in which amounts made available will leverage additional resources; and

"(ii) the uses to which those resources will be committed, including eligible and required affordable housing activities under title II and administrative expenses.

"(D) CERTIFICATION OF COMPLIANCE.—Evidence of compliance with the requirements of this Act, including, as appropriate—

"(i) a certification that, in carrying out this Act, the recipient will comply with the applicable provisions of title II of the Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.) and other applicable Federal laws and regulations;

"(ii) a certification that the recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this Act, in compliance with such requirements as the Secretary may establish;

"(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of

families for housing assisted with grant amounts provided under this Act;

"(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents and homebuyer payments charged, including the methods by which the rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this Act;

"(v) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this Act; and

"(vi) a certification that the recipient will comply with section 104(b).";

(3) by redesignating subsections (d) through (f) as subsections (c) through (e), respectively; and

(4) in subsection (d) (as redesignated by paragraph (3)), by striking "subsection (d)" and inserting "subsection (c)".

**SEC. 103. REVIEW OF PLANS.**

Section 103 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4113) is amended—

(1) in subsection (d)—

(A) in the first sentence—

(i) by striking "fiscal" each place it appears and inserting "tribal program"; and

(ii) by striking "(with respect to" and all that follows through "section 102(c))"; and

(B) by striking the second sentence; and

(2) by striking subsection (e) and inserting the following:

"(e) SELF-DETERMINED ACTIVITIES PROGRAM.—Notwithstanding any other provision of this section, the Secretary—

"(1) shall review the information included in an Indian housing plan pursuant to subsections (b)(4) and (c)(7) only to determine whether the information is included for purposes of compliance with the requirement under section 232(b)(2); and

"(2) may not approve or disapprove an Indian housing plan based on the content of the particular benefits, activities, or results included pursuant to subsections (b)(4) and (c)(7).".

**SEC. 104. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.**

Section 104(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4114(a)) is amended by adding at the end the following:

"(4) EXCLUSION FROM PROGRAM INCOME OF REGULAR DEVELOPER'S FEES FOR LOW-INCOME HOUSING TAX CREDIT PROJECTS.—Notwithstanding any other provision of this Act, any income derived from a regular and customary developer's fee for any project that receives a low-income housing tax credit under section 42 of the Internal Revenue Code of 1986, and that is initially funded using a grant provided under this Act, shall not be considered to be program income if the developer's fee is approved by the State housing credit agency.".

Deadlines.

**SEC. 105. REGULATIONS.**

Section 106(b)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4116(b)(2)) is amended—

(1) in subparagraph (B)(i), by striking "The Secretary" and inserting "Not later than 180 days after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this Act, the Secretary"; and

(2) by adding at the end the following:

"(C) SUBSEQUENT NEGOTIATED RULEMAKING.—The Secretary shall—

"(i) initiate a negotiated rulemaking in accordance with this section by not later than 90 days after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this Act; and

"(ii) promulgate regulations pursuant to this section by not later than 2 years after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this Act.

"(D) REVIEW.—Not less frequently than once every 7 years, the Secretary, in consultation with Indian tribes, shall review the regulations promulgated pursuant to this section in effect on the date on which the review is conducted.".

# TITLE II—AFFORDABLE HOUSING ACTIVITIES

**SEC. 201. NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.**

Section 201(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131(b)) is amended—

(1) in paragraph (1), by inserting "and except with respect to loan guarantees under the demonstration program under title VI," after "paragraphs (2) and (4),";

(2) in paragraph (2)—

(A) by striking the first sentence and inserting the following:

"(A) EXCEPTION TO REQUIREMENT.—Notwithstanding paragraph (1), a recipient may provide housing or housing assistance through affordable housing activities for which a grant is provided under this Act to any family that is not a low-income family, to the extent that the Secretary approves the activities due to a need for housing for those families that cannot reasonably be met without that assistance."; and

(B) in the second sentence, by striking "The Secretary" and inserting the following:

"(B) LIMITS.—The Secretary";

(3) in paragraph (3)—

(A) in the paragraph heading, by striking "NON-INDIAN" and inserting "ESSENTIAL"; and

(B) by striking "non-Indian family" and inserting "family"; and

(4) in paragraph (4)(A)(i), by inserting "or other unit of local government," after "county,".

**SEC. 202. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.**

Section 202 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4132) is amended—

(1) in the matter preceding paragraph (1), by striking "to develop or to support" and inserting "to develop, operate, maintain, or support";

(2) in paragraph (2)—

(A) by striking "development of utilities" and inserting "development and rehabilitation of utilities, necessary infrastructure,"; and

(B) by inserting "mold remediation," after "energy efficiency,";

(3) in paragraph (4), by inserting "the costs of operation and maintenance of units developed with funds provided under this Act," after "rental assistance,"; and

(4) by adding at the end the following:

"(9) RESERVE ACCOUNTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the deposit of amounts, including grant amounts under section 101, in a reserve account established for an Indian tribe only for the purpose of accumulating amounts for administration and planning relating to affordable housing activities under this section, in accordance with the Indian housing plan of the Indian tribe.

"(B) MAXIMUM AMOUNT.—A reserve account established under subparagraph (A) shall consist of not more than an amount equal to ¼ of the 5-year average of the annual amount used by a recipient for administration and planning under paragraph (2).".

**SEC. 203. PROGRAM REQUIREMENTS.**

Section 203 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4133) is amended by adding at the end the following:

"(f) USE OF GRANT AMOUNTS OVER EXTENDED PERIODS.—

"(1) IN GENERAL.—To the extent that the Indian housing plan for an Indian tribe provides for the use of amounts of a grant under section 101 for a period of more than 1 fiscal year, or for affordable housing activities for which the amounts will be committed for use or expended during a subsequent fiscal year, the Secretary shall not require those amounts to be used or committed for use at any time earlier than otherwise provided for in the Indian housing plan.

"(2) CARRYOVER.—Any amount of a grant provided to an Indian tribe under section 101 for a fiscal year that is not used by the Indian tribe during that fiscal year may be used by the Indian tribe during any subsequent fiscal year.

"(g) DE MINIMIS EXEMPTION FOR PROCUREMENT OF GOODS AND SERVICES.—Notwithstanding any other provision of law, a recipient shall not be required to act in accordance with any otherwise applicable competitive procurement rule or procedure with respect to the procurement, using a grant provided under this Act, of goods and services the value of which is less than $5,000.".

**SEC. 204. LOW-INCOME REQUIREMENT AND INCOME TARGETING.**

Section 205 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4135) is amended by adding at the end the following:

"(c) APPLICABILITY.—The provisions of paragraph (2) of subsection (a) regarding binding commitments for the remaining useful life of property shall not apply to a family or household member who subsequently takes ownership of a homeownership unit.".

**SEC. 205. AVAILABILITY OF RECORDS.**

Section 208(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4138(a)) is amended by inserting "applicants for employment, and of" after "records of".

**SEC. 206. SELF-DETERMINED HOUSING ACTIVITIES FOR TRIBAL COMMUNITIES PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—Title II of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131 et seq.) is amended—

(1) by inserting after the title designation and heading the following:

## "Subtitle A—General Block Grant Program";

and

(2) by adding at the end the following:

## "Subtitle B—Self-Determined Housing Activities for Tribal Communities

25 USC 4145.

**"SEC. 231. PURPOSE.**

"The purpose of this subtitle is to establish a program for self-determined housing activities for the tribal communities to provide Indian tribes with the flexibility to use a portion of the grant amounts under section 101 for the Indian tribe in manners that are wholly self-determined by the Indian tribe for housing activities involving construction, acquisition, rehabilitation, or infrastructure relating to housing activities or housing that will benefit the community served by the Indian tribe.

25 USC 4145a.

**"SEC. 232. PROGRAM AUTHORITY.**

"(a) DEFINITION OF QUALIFYING INDIAN TRIBE.—In this section, the term 'qualifying Indian tribe' means, with respect to a fiscal year, an Indian tribe or tribally designated housing entity—

"(1) to or on behalf of which a grant is made under section 101;

"(2) that has complied with the requirements of section 102(b)(6); and

"(3) that, during the preceding 3-fiscal-year period, has no unresolved significant and material audit findings or exceptions, as demonstrated in—

"(A) the annual audits of that period completed under chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act'); or

"(B) an independent financial audit prepared in accordance with generally accepted auditing principles.

"(b) AUTHORITY.—Under the program under this subtitle, for each of fiscal years 2009 through 2013, the recipient for each qualifying Indian tribe may use the amounts specified in subsection (c) in accordance with this subtitle.

"(c) AMOUNTS.—With respect to a fiscal year and a recipient, the amounts referred to in subsection (b) are amounts from any grant provided under section 101 to the recipient for the fiscal year, as determined by the recipient, but in no case exceeding the lesser of—

"(1) an amount equal to 20 percent of the total grant amount for the recipient for that fiscal year; and

"(2) $2,000,000.

**"SEC. 233. USE OF AMOUNTS FOR HOUSING ACTIVITIES.** 25 USC 4145b.

"(a) ELIGIBLE HOUSING ACTIVITIES.—Any amounts made available for use under this subtitle by a recipient for an Indian tribe shall be used only for housing activities, as selected at the discretion of the recipient and described in the Indian housing plan for the Indian tribe pursuant to section 102(b)(6), for the construction, acquisition, or rehabilitation of housing or infrastructure in accordance with section 202 to provide a benefit to families described in section 201(b)(1).

"(b) PROHIBITION ON CERTAIN ACTIVITIES.—Amounts made available for use under this subtitle may not be used for commercial or economic development.

**"SEC. 234. INAPPLICABILITY OF OTHER PROVISIONS.** 25 USC 4145c.

"(a) IN GENERAL.—Except as otherwise specifically provided in this Act, title I, subtitle A of title II, and titles III through VIII shall not apply to—

"(1) the program under this subtitle; or

"(2) amounts made available in accordance with this subtitle.

"(b) APPLICABLE PROVISIONS.—The following provisions of titles I through VIII shall apply to the program under this subtitle and amounts made available in accordance with this subtitle:

"(1) Section 101(c) (relating to local cooperation agreements).

"(2) Subsections (d) and (e) of section 101 (relating to tax exemption).

"(3) Section 101(j) (relating to Federal supply sources).

"(4) Section 101(k) (relating to tribal preference in employment and contracting).

"(5) Section 102(b)(4) (relating to certification of compliance).

"(6) Section 104 (relating to treatment of program income and labor standards).

"(7) Section 105 (relating to environmental review).

"(8) Section 201(b) (relating to eligible families).

"(9) Section 203(c) (relating to insurance coverage).

"(10) Section 203(g) (relating to a de minimis exemption for procurement of goods and services).

"(11) Section 206 (relating to treatment of funds).

"(12) Section 209 (relating to noncompliance with affordable housing requirement).

"(13) Section 401 (relating to remedies for noncompliance).

"(14) Section 408 (relating to public availability of information).

"(15) Section 702 (relating to 50-year leasehold interests in trust or restricted lands for housing purposes).

25 USC 4145d.

**"SEC. 235. REVIEW AND REPORT.**

"(a) REVIEW.—During calendar year 2011, the Secretary shall conduct a review of the results achieved by the program under this subtitle to determine—

"(1) the housing constructed, acquired, or rehabilitated under the program;

"(2) the effects of the housing described in paragraph (1) on costs to low-income families of affordable housing;

"(3) the effectiveness of each recipient in achieving the results intended to be achieved, as described in the Indian housing plan for the Indian tribe; and

"(4) the need for, and effectiveness of, extending the duration of the program and increasing the amount of grants under section 101 that may be used under the program.

"(b) REPORT.—Not later than December 31, 2011, the Secretary shall submit to Congress a report describing the information obtained pursuant to the review under subsection (a) (including any conclusions and recommendations of the Secretary with respect to the program under this subtitle), including—

"(1) recommendations regarding extension of the program for subsequent fiscal years and increasing the amounts under section 232(c) that may be used under the program; and

"(2) recommendations for—

"(A)(i) specific Indian tribes or recipients that should be prohibited from participating in the program for failure to achieve results; and

"(ii) the period for which such a prohibition should remain in effect; or

"(B) standards and procedures by which Indian tribes or recipients may be prohibited from participating in the program for failure to achieve results.

"(c) PROVISION OF INFORMATION TO SECRETARY.—Notwithstanding any other provision of this Act, recipients participating in the program under this subtitle shall provide such information to the Secretary as the Secretary may request, in sufficient detail and in a timely manner sufficient to ensure that the review and report required by this section is accomplished in a timely manner.".

(b) TECHNICAL AMENDMENT.—The table of contents in section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended—

(1) by inserting after the item for title II the following:

"Subtitle A—General Block Grant Program";

(2) by inserting after the item for section 205 the following:

"Sec. 206. Treatment of funds.";

and

(3) by inserting before the item for title III the following:

"Subtitle B—Self-Determined Housing Activities for Tribal Communities

"Sec. 231. Purposes.
"Sec. 232. Program authority.
"Sec. 233. Use of amounts for housing activities.
"Sec. 234. Inapplicability of other provisions.
"Sec. 235. Review and report.".

# TITLE III—ALLOCATION OF GRANT AMOUNTS

**SEC. 301. ALLOCATION FORMULA.**

Section 302 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4152) is amended—

(1) in subsection (a)—

(A) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary"; and

(B) by adding at the end the following:

"(2) STUDY OF NEED DATA.—

"(A) IN GENERAL.—The Secretary shall enter into a contract with an organization with expertise in housing and other demographic data collection methodologies under which the organization, in consultation with Indian tribes and Indian organizations, shall— Contracts.

"(i) assess existing data sources, including alternatives to the decennial census, for use in evaluating the factors for determination of need described in subsection (b); and

"(ii) develop and recommend methodologies for collecting data on any of those factors, including formula area, in any case in which existing data is determined to be insufficient or inadequate, or fails to satisfy the requirements of this Act.

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended."; and

(2) in subsection (b), by striking paragraph (1) and inserting the following:

"(1)(A) The number of low-income housing dwelling units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), pursuant to a contract between an Indian housing authority for the tribe and the Secretary, that are owned or operated by a recipient on the October 1 of the calendar year immediately preceding the year for which funds are provided, subject to the condition that such a unit shall not be considered to be a low-income housing dwelling unit for purposes of this section if—

"(i) the recipient ceases to possess the legal right to own, operate, or maintain the unit; or

"(ii) the unit is lost to the recipient by conveyance, demolition, or other means.

"(B) If the unit is a homeownership unit not conveyed within 25 years from the date of full availability, the recipient shall not be considered to have lost the legal right to own, operate, or maintain the unit if the unit has not been conveyed to the homebuyer for reasons beyond the control of the recipient.

"(C) If the unit is demolished and the recipient rebuilds the unit within 1 year of demolition of the unit, the unit may continue to be considered a low-income housing dwelling unit for the purpose of this paragraph.

"(D) In this paragraph, the term 'reasons beyond the control of the recipient' means, after making reasonable efforts, there remain—

"(i) delays in obtaining or the absence of title status reports;

"(ii) incorrect or inadequate legal descriptions or other legal documentation necessary for conveyance;

"(iii) clouds on title due to probate or intestacy or other court proceedings; or

"(iv) any other legal impediment.

Deadline.

"(E) Subparagraphs (A) through (D) shall not apply to any claim arising from a formula current assisted stock calculation or count involving an Indian housing block grant allocation for any fiscal year through fiscal year 2008, if a civil action relating to the claim is filed by not later than 45 days after the date of enactment of this subparagraph.".

# TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

**SEC. 401. REMEDIES FOR NONCOMPLIANCE.**

Section 401(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) SUBSTANTIAL NONCOMPLIANCE.—The failure of a recipient to comply with the requirements of section 302(b)(1) regarding the reporting of low-income dwelling units shall not, in itself, be considered to be substantial noncompliance for purposes of this title.".

**SEC. 402. MONITORING OF COMPLIANCE.**

Section 403(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4163(b)) is amended in the second sentence by inserting "an appropriate level of" after "shall include".

**SEC. 403. PERFORMANCE REPORTS.**

Section 404(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4164(b)) is amended—

(1) in paragraph (2)—

(A) by striking "goals" and inserting "planned activities"; and

(B) by adding "and" after the semicolon at the end;

(2) in paragraph (3), by striking "; and" at the end and inserting a period; and

(3) by striking paragraph (4).

# TITLE V—TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS

**SEC. 501. EFFECT ON HOME INVESTMENT PARTNERSHIPS ACT.**

(a) IN GENERAL.—Title V of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181 et seq.) is amended by adding at the end the following:

**"SEC. 509. EFFECT ON HOME INVESTMENT PARTNERSHIPS ACT.** 25 USC 4184.

"Nothing in this Act or an amendment made by this Act prohibits or prevents any participating jurisdiction (within the meaning of the HOME Investment Partnerships Act (42 U.S.C. 12721 et seq.)) from providing any amounts made available to the participating jurisdiction under that Act (42 U.S.C. 12721 et seq.) to an Indian tribe or a tribally designated housing entity for use in accordance with that Act (42 U.S.C. 12721 et seq.).".

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended by inserting after the item relating to section 508 the following:

"Sec. 509. Effect on HOME Investment Partnerships Act.".

# TITLE VI—GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES

**SEC. 601. DEMONSTRATION PROGRAM FOR GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES.**

(a) IN GENERAL.—Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4191 et seq.) is amended by adding at the end the following:

**"SEC. 606. DEMONSTRATION PROGRAM FOR GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES.** 25 USC 4196.

"(a) AUTHORITY.—

"(1) IN GENERAL.—Subject to paragraph (2), to the extent and in such amounts as are provided in appropriation Acts, subject to the requirements of this section, and in accordance with such terms and conditions as the Secretary may prescribe, the Secretary may guarantee and make commitments to guarantee the notes and obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing activities carried out on Indian reservations and in other Indian areas that, under the first sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), are eligible for financing with notes and other obligations guaranteed pursuant to that section.

"(2) LIMITATION.—The Secretary may guarantee, or make commitments to guarantee, under paragraph (1) the notes or obligations of not more than 4 Indian tribes or tribally designated housing entities located in each Department of Housing and Urban Development Office of Native American Programs region.

"(b) LOW-INCOME BENEFIT REQUIREMENT.—Not less than 70 percent of the aggregate amount received by an Indian tribe or tribally designated housing entity as a result of a guarantee under this section shall be used for the support of activities that benefit low-income families on Indian reservations and other Indian areas.

"(c) FINANCIAL SOUNDNESS.—

Criteria.

"(1) IN GENERAL.—The Secretary shall establish underwriting criteria for guarantees under this section, including fees for the guarantees, as the Secretary determines to be necessary to ensure that the program under this section is financially sound.

"(2) AMOUNTS OF FEES.—Fees for guarantees established under paragraph (1) shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for the program under this section, as determined based on the risk to the Federal Government under the underwriting requirements established under paragraph (1).

"(d) TERMS OF OBLIGATIONS.—

"(1) IN GENERAL.—Each note or other obligation guaranteed pursuant to this section shall be in such form and denomination, have such maturity, and be subject to such conditions as the Secretary may prescribe, by regulation.

"(2) LIMITATION.—The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless—

"(A) the period is more than 20 years; or

"(B) the Secretary determines that the period would cause the guarantee to constitute an unacceptable financial risk.

"(e) LIMITATION ON PERCENTAGE.—A guarantee made under this section shall guarantee repayment of 95 percent of the unpaid principal and interest due on the note or other obligation guaranteed.

"(f) SECURITY AND REPAYMENT.—

"(1) REQUIREMENTS ON ISSUER.—To ensure the repayment of notes and other obligations and charges incurred under this section and as a condition for receiving the guarantees, the Secretary shall require the Indian tribe or housing entity issuing the notes or obligations—

Contracts.

"(A) to enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;

"(B) to demonstrate that the extent of each issuance and guarantee under this section is within the financial capacity of the Indian tribe; and

"(C) to furnish, at the discretion of the Secretary, such security as the Secretary determines to be appropriate in making the guarantees, including increments in local tax receipts generated by the activities assisted by a guarantee under this section or disposition proceeds from the

sale of land or rehabilitated property, except that the security may not include any grant amounts received or for which the issuer may be eligible under title I.

"(2) FULL FAITH AND CREDIT.—

"(A) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section.

"(B) TREATMENT OF GUARANTEES.—

"(i) IN GENERAL.—Any guarantee made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligations for the guarantee with respect to principal and interest.

"(ii) INCONTESTABLE NATURE.—The validity of any such a guarantee shall be incontestable in the hands of a holder of the guaranteed obligations.

"(g) TRAINING AND INFORMATION.—The Secretary, in cooperation with Indian tribes and tribally designated housing entities, may carry out training and information activities with respect to the guarantee program under this section.

"(h) LIMITATIONS ON AMOUNT OF GUARANTEES.—

"(1) AGGREGATE FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law, subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, and to the extent approved or provided for in appropriations Acts, the Secretary may enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount not to exceed $200,000,000 for each of fiscal years 2009 through 2013.

"(2) AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY.—There are authorized to be appropriated to cover the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of guarantees under this section $1,000,000 for each of fiscal years 2009 through 2013.

"(3) AGGREGATE OUTSTANDING LIMITATION.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to this section shall not at any time exceed $1,000,000,000 or such higher amount as may be authorized to be appropriated for this section for any fiscal year.

"(4) FISCAL YEAR LIMITATIONS ON INDIAN TRIBES.—

"(A) IN GENERAL.—The Secretary shall monitor the use of guarantees under this section by Indian tribes.

"(B) MODIFICATIONS.—If the Secretary determines that 50 percent of the aggregate guarantee authority under paragraph (3) has been committed, the Secretary may—

"(i) impose limitations on the amount of guarantees pursuant to this section that any single Indian tribe may receive in any fiscal year of $25,000,000; or

"(ii) request the enactment of legislation increasing the aggregate outstanding limitation on guarantees under this section.

"(i) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall submit to Congress a report describing the use of the authority under this section by Indian tribes and tribally designated housing entities, including—

"(1) an identification of the extent of the use and the types of projects and activities financed using that authority; and

"(2) an analysis of the effectiveness of the use in carrying out the purposes of this section.

"(j) TERMINATION.—The authority of the Secretary under this section to make new guarantees for notes and obligations shall terminate on October 1, 2013.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended by inserting after the item relating to section 605 the following:

"Sec. 606. Demonstration program for guaranteed loans to finance tribal community and economic development activities.".

# TITLE VII—FUNDING

**SEC. 701. AUTHORIZATION OF APPROPRIATIONS.**

(a) BLOCK GRANTS AND GRANT REQUIREMENTS.—Section 108 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended in the first sentence by striking "1998 through 2007" and inserting "2009 through 2013".

(b) FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES.—Section 605 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4195) is amended in subsections (a) and (b) by striking "1997 through 2007" each place it appears and inserting "2009 through 2013".

(c) TRAINING AND TECHNICAL ASSISTANCE.—Section 703 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4212) is amended by striking "1997 through 2007" and inserting "2009 through 2013".

# TITLE VIII—MISCELLANEOUS

**SEC. 801. LIMITATION ON USE FOR CHEROKEE NATION.**

No funds authorized under this Act, or the amendments made by this Act, or appropriated pursuant to an authorization under this Act or such amendments, shall be expended for the benefit of the Cherokee Nation; provided, that this limitation shall not be effective if the Temporary Order and Temporary Injunction issued on May 14, 2007, by the District Court of the Cherokee Nation remains in effect during the pendency of litigation or there is a settlement agreement which effects the end of litigation among the adverse parties.

**SEC. 802. LIMITATION ON USE OF FUNDS.**

No amounts made available pursuant to any authorization of appropriations under this Act, or under the amendments made by this Act, may be used to employ workers described in section 274A(h)(3)) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

**SEC. 803. GAO STUDY OF EFFECTIVENESS OF NAHASDA FOR TRIBES OF DIFFERENT SIZES.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the effectiveness of the Native American Housing Assistance and Self-Determination Act of 1996 in achieving its purposes of meeting the needs for affordable housing for low-income Indian families, as compared to the programs for housing and community development assistance for Indian tribes and families and Indian housing authorities that were terminated under title V of such Act and the amendments made by such title. The study shall compare such effectiveness with respect to Indian tribes of various sizes and types, and specifically with respect to smaller tribes for which grants of lesser or minimum amounts have been made under title I of such Act.

(b) REPORT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the results and conclusions of the study conducted pursuant to subsection (a). Such report shall include recommendations regarding any changes appropriate to the Native American Housing Assistance and Self-Determination Act of 1996 to help ensure that the purposes of such Act are achieved by all Indian tribes, regardless of size or type.

Approved October 14, 2008.

LEGISLATIVE HISTORY—H.R. 2786 (S. 2062):

HOUSE REPORTS: No. 110–295 (Comm. on Financial Services).
SENATE REPORTS: No. 110–238 accompanying S. 2062 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Sept. 6, considered and passed House.
Vol. 154 (2008): Sept. 25, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendment.

# Public Law 110–412
# 110th Congress

## An Act

Oct. 14, 2008
[H.R. 6098]

To amend the Homeland Security Act of 2002 to improve the financial assistance provided to State, local, and tribal governments for information sharing activities, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Personnel Reimbursement for Intelligence Cooperation and Enhancement of Homeland Security Act of 2008.
6 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Personnel Reimbursement for Intelligence Cooperation and Enhancement of Homeland Security Act of 2008" or the "PRICE of Homeland Security Act".

**SEC. 2. CLARIFICATION ON USE OF FUNDS.**

Section 2008 of the Homeland Security Act of 2002 (6 U.S.C. 609) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "Grants" and all that follows through "used" and inserting the following: "The Administrator shall permit the recipient of a grant under section 2003 or 2004 to use grant funds"; and

(B) in paragraph (10), by inserting ", regardless of whether such analysts are current or new full-time employees or contract employees" after "analysts"; and

(2) in subsection (b)—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) LIMITATIONS ON DISCRETION.—

"(A) IN GENERAL.—With respect to the use of amounts awarded to a grant recipient under section 2003 or 2004 for personnel costs in accordance with paragraph (2) of this subsection, the Administrator may not—

"(i) impose a limit on the amount of the award that may be used to pay for personnel, or personnel-related, costs that is higher or lower than the percent limit imposed in paragraph (2)(A); or

"(ii) impose any additional limitation on the portion of the funds of a recipient that may be used for a specific type, purpose, or category of personnel, or personnel-related, costs.

"(B) ANALYSTS.—If amounts awarded to a grant recipient under section 2003 or 2004 are used for paying salary or benefits of a qualified intelligence analyst under subsection (a)(10), the Administrator shall make such

amounts available without time limitations placed on the period of time that the analyst can serve under the grant.".

Approved October 14, 2008.

LEGISLATIVE HISTORY—H.R. 6098:

HOUSE REPORTS: No. 110–752 (Comm. on Homeland Security).
CONGRESSIONAL RECORD, Vol. 154 (2008):
July 29, considered and passed House.
Sept. 27, considered and passed Senate, amended.
Sept. 29, House concurred in Senate amendment.

# Public Law 110–413
# 110th Congress

## An Act

Oct. 14, 2008
[H.R. 7198]

To establish the Stephanie Tubbs Jones Gift of Life Medal for organ donors and the family of organ donors.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Stephanie Tubbs Jones Gift of Life Medal Act of 2008.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Stephanie Tubbs Jones Gift of Life Medal Act of 2008".

42 USC 274i.

**SEC. 2. ELIGIBILITY REQUIREMENTS FOR STEPHANIE TUBBS JONES GIFT OF LIFE MEDAL.**

(a) IN GENERAL.—Subject to the provisions of this section and the availability of funds under this Act, any organ donor, or the family of any organ donor, shall be eligible for a Stephanie Tubbs Jones Gift of Life Medal (hereafter in this Act referred to as a "medal").

(b) DOCUMENTATION.—The Secretary of Health and Human Services shall direct the entity operating the Organ Procurement and Transplantation Network to—

(1) establish an application procedure requiring the relevant organ procurement organization through which an individual or family of the individual made an organ donation, to submit to such entity documentation supporting the eligibility of the individual or the family, respectively, to receive a medal;

(2) determine through the documentation provided and, if necessary, independent investigation whether the individual or family, respectively, is eligible to receive such a medal; and

(3) arrange for the presentation to the relevant organ procurement organization all medals struck pursuant to section 4 to individuals or families that are determined to be eligible to receive medals.

(c) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), only 1 medal may be presented to a family under subsection (b). Such medal shall be presented to the donating family member, or in the case of a deceased donor, the family member who signed the consent form authorizing, or who otherwise authorized, the donation of the organ involved.

(2) EXCEPTION.—In the case of a family in which more than 1 member is an organ donor, a medal may be presented for each such organ donor.

**SEC. 3. SOLICITATION OF DONATIONS; PROHIBITION ON USE OF FEDERAL FUNDS.** 42 USC 274i–1.

(a) IN GENERAL.—The Organ Procurement and Transplantation Network may collect funds to offset expenditures relating to the issuance of medals authorized under this Act.

(b) PAYMENT OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), all funds received by the Organ Procurement and Transplantation Network under subsection (a) shall be promptly paid by the Organ Procurement and Transplantation Network to the Secretary of Health and Human Services for purposes of purchasing medals under this Act for distribution and paying the administrative costs of the Secretary of Health and Human Services and the Secretary of the Treasury in carrying out this Act.

(2) LIMITATION.—Not more than 7 percent of any funds received under subsection (a) may be used to pay administrative costs, and fundraising costs to solicit funds under subsection (a), incurred by the Organ Procurement and Transplantation Network in carrying out this Act.

(c) PROHIBITION ON USE OF FEDERAL FUNDS.—No Federal funds (including amounts appropriated for use by the Organ Procurement and Transplantation Network) may be used for purposes of carrying out this Act, including purchasing medals under this Act or paying the administrative costs of the Secretary of Health and Human Services or the Secretary of the Treasury in carrying out this Act.

**SEC. 4. DESIGN AND PRODUCTION OF MEDAL.** 42 USC 274i–2.

(a) IN GENERAL.—Subject to the provisions of this section, the Secretary of the Treasury shall design and strike the Stephanie Tubbs Jones Gift of Life Medals, each of which shall—

(1) weigh 250 grams;

(2) have a diameter of 3 inches; and

(3) consist of bronze.

(b) DESIGN.—

(1) IN GENERAL.—The design of the medals shall commemorate the compassion and courage manifested by and the sacrifices made by organ donors and their families, and the medals shall bear suitable emblems, devices, and inscriptions.

(2) SELECTION.—The design of medals struck under this section shall be—

(A) selected by the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, the Organ Procurement and Transplantation Network, interested members of the family of Stephanie Tubbs Jones, Dr. William H. Frist, and the Commission of Fine Arts; and

(B) reviewed by the Citizens Coin Advisory Committee.

(c) NATIONAL MEDALS.—The medals struck pursuant to this section are national medals for purposes of chapter 51 of title 31, United States Code.

(d) STRIKING AND DELIVERY OF MINIMUM-SIZED LOTS.—The Secretary of the Treasury shall strike and deliver to the Secretary of Health and Human Services no fewer than 100 medals at any time pursuant to an order by such Secretary.

(e) COST OF MEDALS.—Medals struck under this section and sold to the Secretary of Health and Human Services for distribution in accordance with this Act shall be sold to the Secretary of Health and Human Services at a price sufficient to cover the cost of designing and striking the medals, including labor, materials, dies, use of machinery, and overhead expenses.

(f) NO EXPENDITURES IN ADVANCE OF RECEIPT OF FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall not strike or distribute any medals under this Act until such time as the Secretary of Health and Human Services certifies that sufficient funds have been received by such Secretary to cover the cost of the medals ordered.

(2) DESIGN IN ADVANCE OF ORDER.—Notwithstanding paragraph (1), the Secretary of the Treasury may begin designing the medal at any time after the date of the enactment of this Act and take such other action as may be necessary to be prepared to strike such medals upon receiving the certification described in such paragraph, including preparing dies and striking test pieces.

42 USC 274i–3.

**SEC. 5. MEDALS NOT TREATED AS VALUABLE CONSIDERATION.**

A medal under this Act shall not be treated as valuable consideration for purposes of section 301(a) of the National Organ Transplant Act (42 U.S.C. 274e(a)).

42 USC 274i–4.

**SEC. 6. DEFINITIONS.**

For purposes of this Act:

(1) ORGAN.—The term "organ" has the meaning given such term in section 121.2 of title 42, Code of Federal Regulations.

(2) ORGAN PROCUREMENT ORGANIZATION.—The term "organ procurement organization" means a qualified organ procurement organization described in section 371(b)(1) of the Public Health Service Act (42 U.S.C. 273(b)(1)).

(3) ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.— The term "Organ Procurementand Transplantation Network" means the Organ Procurement and Transplantation Network established under section 372 of the Public Health Service Act (42 U.S.C. 274).

Approved October 14, 2008.

LEGISLATIVE HISTORY—H.R. 7198:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 29, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 110–414
110th Congress

# An Act

To prohibit the sale, distribution, transfer, and export of elemental mercury, and for other purposes.

Oct. 14, 2008
[S. 906]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Mercury Export Ban Act of 2008.
15 USC 2601 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Mercury Export Ban Act of 2008".

15 USC 2611 note.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) mercury is highly toxic to humans, ecosystems, and wildlife;

(2) as many as 10 percent of women in the United States of childbearing age have mercury in the blood at a level that could put a baby at risk;

(3) as many as 630,000 children born annually in the United States are at risk of neurological problems related to mercury;

(4) the most significant source of mercury exposure to people in the United States is ingestion of mercury-contaminated fish;

(5) the Environmental Protection Agency reports that, as of 2004—

(A) 44 States have fish advisories covering over 13,000,000 lake acres and over 750,000 river miles;

(B) in 21 States the freshwater advisories are statewide; and

(C) in 12 States the coastal advisories are statewide;

(6) the long-term solution to mercury pollution is to minimize global mercury use and releases to eventually achieve reduced contamination levels in the environment, rather than reducing fish consumption since uncontaminated fish represents a critical and healthy source of nutrition worldwide;

(7) mercury pollution is a transboundary pollutant, depositing locally, regionally, and globally, and affecting water bodies near industrial sources (including the Great Lakes) and remote areas (including the Arctic Circle);

(8) the free trade of elemental mercury on the world market, at relatively low prices and in ready supply, encourages the continued use of elemental mercury outside of the United States, often involving highly dispersive activities such as artisinal gold mining;

(9) the intentional use of mercury is declining in the United States as a consequence of process changes to manufactured products (including batteries, paints, switches, and measuring devices), but those uses remain substantial in the developing world where releases from the products are extremely likely due to the limited pollution control and waste management infrastructures in those countries;

(10) the member countries of the European Union collectively are the largest source of elemental mercury exports globally;

(11) the European Commission has proposed to the European Parliament and to the Council of the European Union a regulation to ban exports of elemental mercury from the European Union by 2011;

(12) the United States is a net exporter of elemental mercury and, according to the United States Geological Survey, exported 506 metric tons of elemental mercury more than the United States imported during the period of 2000 through 2004; and

(13) banning exports of elemental mercury from the United States will have a notable effect on the market availability of elemental mercury and switching to affordable mercury alternatives in the developing world.

**SEC. 3. PROHIBITION ON SALE, DISTRIBUTION, OR TRANSFER OF ELEMENTAL MERCURY.**

Section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) is amended by adding at the end the following:

"(f) MERCURY.—

Effective date.

"(1) PROHIBITION ON SALE, DISTRIBUTION, OR TRANSFER OF ELEMENTAL MERCURY BY FEDERAL AGENCIES.—Except as provided in paragraph (2), effective beginning on the date of enactment of this subsection, no Federal agency shall convey, sell, or distribute to any other Federal agency, any State or local government agency, or any private individual or entity any elemental mercury under the control or jurisdiction of the Federal agency.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a transfer between Federal agencies of elemental mercury for the sole purpose of facilitating storage of mercury to carry out this Act; or

"(B) a conveyance, sale, distribution, or transfer of coal.

"(3) LEASES OF FEDERAL COAL.—Nothing in this subsection prohibits the leasing of coal.".

**SEC. 4. PROHIBITION ON EXPORT OF ELEMENTAL MERCURY.**

Section 12 of the Toxic Substances Control Act (15 U.S.C. 2611) is amended—

(1) in subsection (a) by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following:

"(c) PROHIBITION ON EXPORT OF ELEMENTAL MERCURY.—

Effective date.

"(1) PROHIBITION.—Effective January 1, 2013, the export of elemental mercury from the United States is prohibited.

"(2) INAPPLICABILITY OF SUBSECTION (a).—Subsection (a) shall not apply to this subsection.

"(3) REPORT TO CONGRESS ON MERCURY COMPOUNDS.—

"(A) REPORT.—Not later than one year after the date of enactment of the Mercury Export Ban Act of 2008, the Administrator shall publish and submit to Congress a report on mercuric chloride, mercurous chloride or calomel, mercuric oxide, and other mercury compounds, if any, that may currently be used in significant quantities in products or processes. Such report shall include an analysis of— Publication.

"(i) the sources and amounts of each of the mercury compounds imported into the United States or manufactured in the United States annually;

"(ii) the purposes for which each of these compounds are used domestically, the amount of these compounds currently consumed annually for each purpose, and the estimated amounts to be consumed for each purpose in 2010 and beyond;

"(iii) the sources and amounts of each mercury compound exported from the United States annually in each of the last three years;

"(iv) the potential for these compounds to be processed into elemental mercury after export from the United States; and

"(v) other relevant information that Congress should consider in determining whether to extend the export prohibition to include one or more of these mercury compounds.

"(B) PROCEDURE.—For the purpose of preparing the report under this paragraph, the Administrator may utilize the information gathering authorities of this title, including sections 10 and 11.

"(4) ESSENTIAL USE EXEMPTION.—(A) Any person residing in the United States may petition the Administrator for an exemption from the prohibition in paragraph (1), and the Administrator may grant by rule, after notice and opportunity for comment, an exemption for a specified use at an identified foreign facility if the Administrator finds that—

"(i) nonmercury alternatives for the specified use are not available in the country where the facility is located;

"(ii) there is no other source of elemental mercury available from domestic supplies (not including new mercury mines) in the country where the elemental mercury will be used;

"(iii) the country where the elemental mercury will be used certifies its support for the exemption;

"(iv) the export will be conducted in such a manner as to ensure the elemental mercury will be used at the identified facility as described in the petition, and not otherwise diverted for other uses for any reason;

"(v) the elemental mercury will be used in a manner that will protect human health and the environment, taking into account local, regional, and global human health and environmental impacts;

"(vi) the elemental mercury will be handled and managed in a manner that will protect human health and the environment, taking into account local, regional, and global human health and environmental impacts; and

"(vii) the export of elemental mercury for the specified use is consistent with international obligations of the United States intended to reduce global mercury supply, use, and pollution.

"(B) Each exemption issued by the Administrator pursuant to this paragraph shall contain such terms and conditions as are necessary to minimize the export of elemental mercury and ensure that the conditions for granting the exemption will be fully met, and shall contain such other terms and conditions as the Administrator may prescribe. No exemption granted pursuant to this paragraph shall exceed three years in duration and no such exemption shall exceed 10 metric tons of elemental mercury.

"(C) The Administrator may by order suspend or cancel an exemption under this paragraph in the case of a violation described in subparagraph (D).

"(D) A violation of this subsection or the terms and conditions of an exemption, or the submission of false information in connection therewith, shall be considered a prohibited act under section 15, and shall be subject to penalties under section 16, injunctive relief under section 17, and citizen suits under section 20.

"(5) CONSISTENCY WITH TRADE OBLIGATIONS.—Nothing in this subsection affects, replaces, or amends prior law relating to the need for consistency with international trade obligations.

"(6) EXPORT OF COAL.—Nothing in this subsection shall be construed to prohibit the export of coal.".

Deadline.
42 USC 6939f.

**SEC. 5. LONG-TERM STORAGE.**

(a) DESIGNATION OF FACILITY.—

(1) IN GENERAL.—Not later than January 1, 2010, the Secretary of Energy (referred to in this section as the "Secretary") shall designate a facility or facilities of the Department of Energy, which shall not include the Y–12 National Security Complex or any other portion or facility of the Oak Ridge Reservation of the Department of Energy, for the purpose of long-term management and storage of elemental mercury generated within the United States.

(2) OPERATION OF FACILITY.—Not later than January 1, 2013, the facility designated in paragraph (1) shall be operational and shall accept custody, for the purpose of long-term management and storage, of elemental mercury generated within the United States and delivered to such facility.

(b) FEES.—

(1) IN GENERAL.—After consultation with persons who are likely to deliver elemental mercury to a designated facility for long-term management and storage under the program prescribed in subsection (a), and with other interested persons, the Secretary shall assess and collect a fee at the time of delivery for providing such management and storage, based on the pro rata cost of long-term management and storage of elemental mercury delivered to the facility. The amount of such fees—

Public information.

(A) shall be made publically available not later than October 1, 2012;

(B) may be adjusted annually; and

(C) shall be set in an amount sufficient to cover the costs described in paragraph (2).

(2) COSTS.—The costs referred to in paragraph (1)(C) are the costs to the Department of Energy of providing such management and storage, including facility operation and maintenance, security, monitoring, reporting, personnel, administration, inspections, training, fire suppression, closure, and other costs required for compliance with applicable law. Such costs shall not include costs associated with land acquisition or permitting of a designated facility under the Solid Waste Disposal Act or other applicable law. Building design and building construction costs shall only be included to the extent that the Secretary finds that the management and storage of elemental mercury accepted under the program under this section cannot be accomplished without construction of a new building or buildings.

(c) REPORT.—Not later than 60 days after the end of each Federal fiscal year, the Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on all of the costs incurred in the previous fiscal year associated with the long-term management and storage of elemental mercury. Such report shall set forth separately the costs associated with activities taken under this section.

(d) MANAGEMENT STANDARDS FOR A FACILITY.—

Procedures. Standards.

(1) GUIDANCE.—Not later than October 1, 2009, the Secretary, after consultation with the Administrator of the Environmental Protection Agency and all appropriate State agencies in affected States, shall make available, including to potential users of the long-term management and storage program established under subsection (a), guidance that establishes procedures and standards for the receipt, management, and long-term storage of elemental mercury at a designated facility or facilities, including requirements to ensure appropriate use of flasks or other suitable shipping containers. Such procedures and standards shall be protective of human health and the environment and shall ensure that the elemental mercury is stored in a safe, secure, and effective manner. In addition to such procedures and standards, elemental mercury managed and stored under this section at a designated facility shall be subject to the requirements of the Solid Waste Disposal Act, including the requirements of subtitle C of that Act, except as provided in subsection (g)(2) of this section. A designated facility in existence on or before January 1, 2013, is authorized to operate under interim status pursuant to section 3005(e) of the Solid Waste Disposal Act until a final decision on a permit application is made pursuant to section 3005(c) of the Solid Waste Disposal Act. Not later than January 1, 2015, the Administrator of the Environmental Protection Agency (or an authorized State) shall issue a final decision on the permit application.

Deadline.

(2) TRAINING.—The Secretary shall conduct operational training and emergency training for all staff that have responsibilities related to elemental mercury management, transfer, storage, monitoring, or response.

(3) EQUIPMENT.—The Secretary shall ensure that each designated facility has all equipment necessary for routine operations, emergencies, monitoring, checking inventory, loading, and storing elemental mercury at the facility.

(4) FIRE DETECTION AND SUPPRESSION SYSTEMS.—The Secretary shall—

(A) ensure the installation of fire detection systems at each designated facility, including smoke detectors and heat detectors; and

(B) ensure the installation of a permanent fire suppression system, unless the Secretary determines that a permanent fire suppression system is not necessary to protect human health and the environment.

(e) INDEMNIFICATION OF PERSONS DELIVERING ELEMENTAL MERCURY.—

(1) IN GENERAL.—(A) Except as provided in subparagraph (B) and subject to paragraph (2), the Secretary shall hold harmless, defend, and indemnify in full any person who delivers elemental mercury to a designated facility under the program established under subsection (a) from and against any suit, claim, demand or action, liability, judgment, cost, or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of elemental mercury as a result of acts or omissions occurring after such mercury is delivered to a designated facility described in subsection (a).

(B) To the extent that a person described in subparagraph (A) contributed to any such release or threatened release, subparagraph (A) shall not apply.

Records.

(2) CONDITIONS.—No indemnification may be afforded under this subsection unless the person seeking indemnification—

Notification.
Deadline.

(A) notifies the Secretary in writing within 30 days after receiving written notice of the claim for which indemnification is sought;

(B) furnishes to the Secretary copies of pertinent papers the person receives;

(C) furnishes evidence or proof of any claim, loss, or damage covered by this subsection; and

(D) provides, upon request by the Secretary, access to the records and personnel of the person for purposes of defending or settling the claim or action.

(3) AUTHORITY OF SECRETARY.—(A) In any case in which the Secretary determines that the Department of Energy may be required to make indemnification payments to a person under this subsection for any suit, claim, demand or action, liability, judgment, cost, or other fee arising out of any claim for personal injury or property damage referred to in paragraph (1)(A), the Secretary may settle or defend, on behalf of that person, the claim for personal injury or property damage.

(B) In any case described in subparagraph (A), if the person to whom the Department of Energy may be required to make indemnification payments does not allow the Secretary to settle or defend the claim, the person may not be afforded indemnification with respect to that claim under this subsection.

(f) TERMS, CONDITIONS, AND PROCEDURES.—The Secretary is authorized to establish such terms, conditions, and procedures as are necessary to carry out this section.

(g) EFFECT ON OTHER LAW.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section changes or affects any Federal, State, or local law or the obligation of any person to comply with such law.

(2) EXCEPTION.—(A) Elemental mercury that the Secretary is storing on a long-term basis shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)). For the purposes of section 3004(j) of the Solid Waste Disposal Act, a generator accumulating elemental mercury destined for a facility designated by the Secretary under subsection (a) for 90 days or less shall be deemed to be accumulating the mercury to facilitate proper treatment, recovery, or disposal.

Certification.

(B) Elemental mercury may be stored at a facility with respect to which any permit has been issued under section 3005(c) of the Solid Waste Disposal Act (42 U.S.C. 6925(c)), and shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)) if—

(i) the Secretary is unable to accept the mercury at a facility designated by the Secretary under subsection (a) for reasons beyond the control of the owner or operator of the permitted facility;

(ii) the owner or operator of the permitted facility certifies in writing to the Secretary that it will ship the mercury to the designated facility when the Secretary is able to accept the mercury; and

(iii) the owner or operator of the permitted facility certifies in writing to the Secretary that it will not sell, or otherwise place into commerce, the mercury.

This subparagraph shall not apply to mercury with respect to which the owner or operator of the permitted facility fails to comply with a certification provided under clause (ii) or (iii).

Deadline.

(h) STUDY.—Not later than July 1, 2014, the Secretary shall transmit to the Congress the results of a study, conducted in consultation with the Administrator of the Environmental Protection Agency, that—

(1) determines the impact of the long-term storage program under this section on mercury recycling; and

(2) includes proposals, if necessary, to mitigate any negative impact identified under paragraph (1).

**SEC. 6. REPORT TO CONGRESS.**

At least 3 years after the effective date of the prohibition on export of elemental mercury under section 12(c) of the Toxic Substances Control Act (15 U.S.C. 2611(c)), as added by section 4 of this Act, but not later than January 1, 2017, the Administrator of the Environmental Protection Agency shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the global supply and trade of elemental mercury, including but not limited to the amount of elemental mercury

traded globally that originates from primary mining, where such primary mining is conducted, and whether additional primary mining has occurred as a consequence of this Act.

Approved October 14, 2008.

LEGISLATIVE HISTORY—S. 906:

SENATE REPORTS: No. 110–477 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 26, considered and passed Senate.
Sept. 27, 29, considered and passed House.

Public Law 110–415
110th Congress

# An Act

To facilitate the creation of methamphetamine precursor electronic logbook systems, and for other purposes.

Oct. 14, 2008
[S. 1276]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Methamphetamine Production Prevention Act of 2008.
21 USC 801 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Methamphetamine Production Prevention Act of 2008".

**SEC. 2. CLARIFICATIONS REGARDING SIGNATURE CAPTURE AND RETENTION FOR ELECTRONIC METHAMPHETAMINE PRECURSOR LOGBOOK SYSTEMS.**

Section 310(e)(1)(A) of the Controlled Substances Act (21 U.S.C. 830(e)(1)(A)) is amended by striking clauses (iv) through (vi) and inserting the following:

"(iv) In the case of a sale to which the requirement of clause (iii) applies, the seller does not sell such a product unless the sale is made in accordance with the following:

"(I) The prospective purchaser—

"(aa) presents an identification card that provides a photograph and is issued by a State or the Federal Government, or a document that, with respect to identification, is considered acceptable for purposes of sections 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B) of title 8, Code of Federal Regulations (as in effect on or after March 9, 2006); and

"(bb) signs the written logbook and enters in the logbook his or her name, address, and the date and time of the sale, or for transactions involving an electronic logbook, the purchaser provides a signature using one of the following means:

"(AA) Signing a device presented by the seller that captures signatures in an electronic format. Such device shall display the notice described in clause (v). Any device used shall preserve each signature in a manner that clearly links that signature to the other electronically-captured logbook information relating to the prospective purchaser providing that signature.

"(BB) Signing a bound paper book. Such bound paper book shall include, for such purchaser, either (aaa) a printed sticker affixed to the bound paper book at the time of sale which either displays the name of each product sold, the quantity sold, the name and address of the purchaser, and the date and time of the sale, or a unique identifier which can be linked to that electronic information, or (bbb) a unique identifier which can be linked to that information and which is written into the book by the seller at the time of sale. The purchaser shall sign adjacent to the printed sticker or written unique identifier related to that sale. Such bound paper book shall display the notice described in clause (v).

"(CC) Signing a printed document that includes, for such purchaser, the name of each product sold, the quantity sold, the name and address of the purchaser, and the date and time of the sale. Such document shall be printed by the seller at the time of the sale. Such document shall contain a clearly identified signature line for a purchaser to sign. Such printed document shall display the notice described in clause (v). Each signed document shall be inserted into a binder or other secure means of document storage immediately after the purchaser signs the document.

"(II) The seller enters in the logbook the name of the product and the quantity sold. Such information may be captured through electronic means, including through electronic data capture through bar code reader or similar technology.

"(III) The logbook maintained by the seller includes the prospective purchaser's name, address, and the date and time of the sale, as follows:

"(aa) If the purchaser enters the information, the seller must determine that the name entered in the logbook corresponds to the name provided on such identification and that the date and time entered are correct.

"(bb) If the seller enters the information, the prospective purchaser must verify that the information is correct.

"(cc) Such information may be captured through electronic means, including through electronic data capture through bar code reader or similar technology.

"(v) The written or electronic logbook includes, in accordance with criteria of the Attorney General, a notice to purchasers that entering false statements

or misrepresentations in the logbook, or supplying false information or identification that results in the entry of false statements or misrepresentations, may subject the purchasers to criminal penalties under section 1001 of title 18, United States Code, which notice specifies the maximum fine and term of imprisonment under such section.

"(vi) Regardless of whether the logbook entry is written or electronic, the seller maintains each entry in the logbook for not fewer than 2 years after the date on which the entry is made.".

Approved October 14, 2008.

LEGISLATIVE HISTORY—S. 1276:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, considered and passed Senate.
Sept. 29, considered and passed House.

# Public Law 110–416
# 110th Congress

## An Act

Oct. 14, 2008
[S. 2304]

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants for the improved mental health treatment and services provided to offenders with mental illnesses, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008.
42 USC 3711 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Reauthorization of the Adult and Juvenile Collaboration Program Grants.
Sec. 4. Law enforcement response to mentally ill offenders improvement grants.
Sec. 5. Examination and report on prevalence of mentally ill offenders.

42 USC 3797aa note.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Communities nationwide are struggling to respond to the high numbers of people with mental illnesses involved at all points in the criminal justice system.

(2) A 1999 study by the Department of Justice estimated that 16 percent of people incarcerated in prisons and jails in the United States, which is more than 300,000 people, suffer from mental illnesses.

(3) Los Angeles County Jail and New York's Rikers Island jail complex hold more people with mental illnesses than the largest psychiatric inpatient facilities in the United States.

(4) State prisoners with a mental health problem are twice as likely as those without a mental health problem to have been homeless in the year before their arrest.

**SEC. 3. REAUTHORIZATION OF THE ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS.**

(a) AUTHORIZATION OF APPROPRIATIONS THROUGH 2014.—Section 2991(h) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797aa(h)) is amended—

(1) in paragraph (1), by striking at the end "and";

(2) in paragraph (2), by striking "for fiscal years 2006 through 2009." and inserting "for each of the fiscal years 2006 and 2007; and"; and

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

"(3) $50,000,000 for each of the fiscal years 2009 through 2014.".

(b) ALLOCATION OF FUNDING FOR ADMINISTRATIVE PURPOSES.—Section 2991(h) of such title is further amended—

(1) by redesignating paragraphs (1), (2), and (3) (as added by subsection (a)(3)) as subparagraphs (A), (B), and (C), respectively, and adjusting the margins accordingly;

(2) by striking "There are authorized" and inserting "(1) IN GENERAL.—There are authorized"; and

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

"(2) ALLOCATION OF FUNDING FOR ADMINISTRATIVE PURPOSES.—For fiscal year 2009 and each subsequent fiscal year, of the amounts authorized under paragraph (1) for such fiscal year, the Attorney General may obligate not more than 3 percent for the administrative expenses of the Attorney General in carrying out this section for such fiscal year.".

(c) ADDITIONAL APPLICATIONS RECEIVING PRIORITY.—Subsection (c) of such section is amended to read as follows:

"(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

"(1) promote effective strategies by law enforcement to identify and to reduce risk of harm to mentally ill offenders and public safety;

"(2) promote effective strategies for identification and treatment of female mentally ill offenders;

"(3) promote effective strategies to expand the use of mental health courts, including the use of pretrial services and related treatment programs for offenders; or

"(4)(A) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

"(B) demonstrate the active participation of each co-applicant in the administration of the collaboration program;

"(C) document, in the case of an application for a grant to be used in whole or in part to fund treatment services for adults or juveniles during periods of incarceration or detention, that treatment programs will be available to provide transition and reentry services for such individuals; and

"(D) have the support of both the Attorney General and the Secretary.".

**SEC. 4. LAW ENFORCEMENT RESPONSE TO MENTALLY ILL OFFENDERS IMPROVEMENT GRANTS.**

Section 2991 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797aa) is amended by—

(1) redesignating subsection (h) as subsection (i); and

(2) inserting after subsection (g) the following:

"(h) LAW ENFORCEMENT RESPONSE TO MENTALLY ILL OFFENDERS IMPROVEMENT GRANTS.—

"(1) AUTHORIZATION.—The Attorney General is authorized to make grants under this section to States, units of local government, Indian tribes, and tribal organizations for the following purposes:

"(A) TRAINING PROGRAMS.—To provide for programs that offer law enforcement personnel specialized and comprehensive training in procedures to identify and respond

appropriately to incidents in which the unique needs of individuals with mental illnesses are involved.

"(B) RECEIVING CENTERS.—To provide for the development of specialized receiving centers to assess individuals in the custody of law enforcement personnel for suicide risk and mental health and substance abuse treatment needs.

"(C) IMPROVED TECHNOLOGY.—To provide for computerized information systems (or to improve existing systems) to provide timely information to law enforcement personnel and criminal justice system personnel to improve the response of such respective personnel to mentally ill offenders.

"(D) COOPERATIVE PROGRAMS.—To provide for the establishment and expansion of cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety through the use of effective intervention with respect to mentally ill offenders.

"(E) CAMPUS SECURITY PERSONNEL TRAINING.—To provide for programs that offer campus security personnel training in procedures to identify and respond appropriately to incidents in which the unique needs of individuals with mental illnesses are involved.

"(2) BJA TRAINING MODELS.—For purposes of paragraph (1)(A), the Director of the Bureau of Justice Assistance shall develop training models for training law enforcement personnel in procedures to identify and respond appropriately to incidents in which the unique needs of individuals with mental illnesses are involved, including suicide prevention.

"(3) MATCHING FUNDS.—The Federal share of funds for a program funded by a grant received under this subsection may not exceed 50 percent of the costs of the program. The non-Federal share of payments made for such a program may be made in cash or in-kind fairly evaluated, including planned equipment or services.".

**SEC. 5. EXAMINATION AND REPORT ON PREVALENCE OF MENTALLY ILL OFFENDERS.**

(a) IN GENERAL.—

(1) IN GENERAL.—The Attorney General shall examine and report on mental illness and the criminal justice system.

(2) SCOPE.—Congress encourages the Attorney General to specifically examine the following:

(A) POPULATIONS.—The rate of occurrence of serious mental illnesses in each of the following populations:

(i) Individuals, including juveniles, on probation.

(ii) Individuals, including juveniles, incarcerated in a jail.

(iii) Individuals, including juveniles, incarcerated in a prison.

(iv) Individuals, including juveniles, on parole.

(B) BENEFITS.—The percentage of individuals in each population described in subparagraph (A) who have—

(i) a serious mental illness; and

(ii) received disability benefits under title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.).

(b) REPORT.—Not later than 36 months after the date of the enactment of this Act, the Attorney General shall submit to Congress the report described in subsection (a).

(c) DEFINITIONS.—In this section—

(1) the term "serious mental illness" means that an individual has, or at any time during the 1-year period ending on the date of enactment of this Act had, a covered mental, behavioral, or emotional disorder; and

(2) the term "covered mental, behavioral, or emotional disorder"—

(A) means a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, or the International Classification of Diseases, Ninth Revision, Clinical Modification equivalent of the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition; and

(B) does not include a disorder that has a V code within the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, a substance use disorder, or a developmental disorder, unless that disorder cooccurs with another disorder described in subparagraph (A) and causes functional impairment which substantially interferes with or limits 1 or more major life activities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for 2009.

Approved October 14, 2008.

LEGISLATIVE HISTORY—S. 2304 (H.R. 3992):

HOUSE REPORTS: No. 110–514 accompanying H.R. 3992 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 26, considered and passed Senate.
Sept. 27, 29, considered and passed House.

# Public Law 110–417
# 110th Congress

## An Act

Oct. 14, 2008
[S. 3001]

To authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Duncan Hunter National Defense Authorization Act for Fiscal Year 2009.

**SECTION 1. SHORT TITLE; FINDINGS; SENSE OF CONGRESS.**

(a) SHORT TITLE.—This Act may be cited as the "Duncan Hunter National Defense Authorization Act for Fiscal Year 2009".

(b) FINDINGS.—Congress makes the following findings:

(1) Representative Duncan Hunter was elected to serve northern and eastern San Diego in 1980 and served in the House of Representatives until the end of the 110th Congress in 2009, representing the people of California's 52d Congressional district.

(2) Previous to his service in Congress, Representative Hunter served in the Army's 173rd Airborne and 75th Ranger Regiment from 1969 to 1971.

(3) During the Vietnam conflict, Representative Hunter's distinguished service was recognized by the award of the Bronze Star and Air Medal, as well as the National Defense Service Medal and the Vietnam Service Medal.

(4) Representative Hunter served on the Committee on Armed Services of the House of Representatives for 28 years, including service as Chairman of the Subcommittee on Military Research and Development from 2001 through 2002 and the Subcommittee on Military Procurement from 1995 through 2000, the Chairman of the full committee from 2003 through 2006, and the ranking member of the full committee from 2007 through 2008.

(5) Representative Hunter has persistently advocated for a more efficient military organization on behalf of the American people, to ensure maximum war-fighting capability and troop safety.

(6) Representative Hunter is known by his colleagues to put the security of the Nation above all else and to provide for the men and women in uniform who valiantly dedicate and sacrifice themselves for the protection of the Nation.

(7) Representative Hunter has demonstrated this devotion to the troops by working to authorize and ensure quick deployment of add-on vehicle armor and improvised explosive device jammers, which have been invaluable in protecting the troops from attack in Iraq.

(8) Representative Hunter worked to increase the size of the U.S. Armed Forces, which resulted in significant increases in the size of the Army and Marine Corps.

(9) Representative Hunter has been a leader in ensuring sufficient force structure and end-strength, including through the 2006 Committee Defense Review, to meet any challenges to the Nation. His efforts to increase the size of the Army and Marine Corps contributed to the enactment by the Congress and the subsequent implementation by the Administration of the larger forces.

(10) Representative Hunter is a leading advocate for securing America's borders.

(11) Representative Hunter led efforts to strengthen the United States Industrial Base by working to enact legislation that ensures that the national industrial base will be able to design and manufacture those products critical to America's national security.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the Honorable Duncan Hunter, Representative from California, has discharged his official duties with integrity and distinction, has served the House of Representatives and the American people selflessly, and deserves the sincere and humble gratitude of Congress and the Nation.

**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

Sec. 1. Short title; findings; sense of Congress.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees.
Sec. 4. Explanatory statement.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. National Guard and Reserve equipment.

Subtitle B—Army Programs

Sec. 111. Separate procurement line items for Future Combat Systems program.
Sec. 112. Clarification of status of Future Combat Systems program lead system integrator.
Sec. 113. Restriction on obligation of funds for Army tactical radio pending report.
Sec. 114. Restriction on obligation of procurement funds for Armed Reconnaissance Helicopter program pending certification.
Sec. 115. Stryker Mobile Gun System.

Subtitle C—Navy Programs

Sec. 121. Refueling and complex overhaul of the U.S.S. Theodore Roosevelt.
Sec. 122. Littoral Combat Ship (LCS) program.
Sec. 123. Report on F/A–18 procurement costs, comparing multiyear to annual.

Sec. 124. Authority for advanced procurement and construction of components for the Virginia-class submarine program.

Subtitle D—Air Force Programs

Sec. 131. Maintenance of retired KC–135E aircraft.
Sec. 132. Repeal of multi-year contract authority for procurement of tanker aircraft.
Sec. 133. Reports on KC–(X) tanker aircraft requirements.
Sec. 134. F-22A fighter aircraft.

Subtitle E—Joint and Multiservice Matters

Sec. 141. Annual long-term plan for the procurement of aircraft for the Navy and the Air Force.
Sec. 142. Report on body armor acquisition strategy.
Sec. 143. Small arms acquisition strategy and requirements review.
Sec. 144. Requirement for common ground stations and payloads for manned and unmanned aerial vehicle systems.
Sec. 145. Report on future jet carrier trainer requirements of the Navy.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Additional determinations to be made as part of Future Combat Systems milestone review.
Sec. 212. Analysis of Future Combat Systems communications network and software.
Sec. 213. Future Combat Systems manned ground vehicle Selected Acquisition Reports.
Sec. 214. Separate procurement and research, development, test, and evaluation line items and program elements for Sky Warrior Unmanned Aerial Systems project.
Sec. 215. Restriction on obligation of funds for the Warfighter Information Network–Tactical program.
Sec. 216. Limitation on source of funds for certain Joint Cargo Aircraft expenditures.
Sec. 217. Requirement for plan on overhead nonimaging infrared systems.
Sec. 218. Advanced energy storage technology and manufacturing.
Sec. 219. Mechanisms to provide funds for defense laboratories for research and development of technologies for military missions.
Sec. 220. Requirements for certain airborne intelligence collection systems.
Sec. 221. Limitation on obligation of funds for Enhanced AN/TPQ–36 radar system pending submission of report.

Subtitle C—Missile Defense Programs

Sec. 231. Annual Director of Operational Test and Evaluation characterization of operational effectiveness, suitability, and survivability of the ballistic missile defense system.
Sec. 232. Independent study of boost-phase missile defense.
Sec. 233. Limitation on availability of funds for procurement, construction, and deployment of missile defenses in Europe.
Sec. 234. Review of the ballistic missile defense policy and strategy of the United States.
Sec. 235. Airborne Laser System.
Sec. 236. Activation and deployment of AN/TPY–2 forward-based X-band radar.

Subtitle D—Reports

Sec. 241. Biennial reports on joint and service concept development and experimentation.
Sec. 242. Report on participation of the historically black colleges and universities and minority-serving institutions in research and educational programs and activities of the Department of Defense.
Sec. 243. Report on Department of Defense response to findings and recommendations of the Defense Science Board Task Force on Directed Energy Weapons.

Subtitle E—Other Matters

Sec. 251. Modification of systems subject to survivability testing oversight by the Director of Operational Test and evaluation.

Sec. 252. Technology-neutral information technology guidelines and standards to support fully interoperable electronic personal health information for the Department of Defense and Department of Veterans Affairs.
Sec. 253. Assessment of technology transition programs and repeal of reporting requirement.
Sec. 254. Trusted defense systems.
Sec. 255. Capabilities-based assessment to outline a joint approach for future development of vertical lift aircraft and rotorcraft.
Sec. 256. Executive agent for printed circuit board technology.
Sec. 257. Review of conventional prompt global strike technology applications and concepts.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.

Subtitle B—Environmental Provisions

Sec. 311. Authorization for Department of Defense participation in conservation banking programs.
Sec. 312. Reimbursement of Environmental Protection Agency for certain costs in connection with Moses Lake Wellfield Superfund Site, Moses Lake, Washington.
Sec. 313. Expand cooperative agreement authority for management of natural resources to include off-installation mitigation.
Sec. 314. Expedited use of appropriate technology related to unexploded ordnance detection.
Sec. 315. Closed loop re-refining of used motor vehicle lubricating oil.
Sec. 316. Comprehensive program for the eradication of the brown tree snake population from military facilities in Guam.

Subtitle C—Workplace and Depot Issues

Sec. 321. Comprehensive analysis and development of single Government-wide definition of inherently governmental function and criteria for critical functions.
Sec. 322. Study on future depot capability.
Sec. 323. Government Accountability Office review of high-performing organizations.
Sec. 324. Consolidation of Air Force and Air National Guard aircraft maintenance.
Sec. 325. Report on Air Force civilian personnel consolidation plan.
Sec. 326. Report on reduction in number of firefighters on Air Force bases.
Sec. 327. Minimum capital investment for certain depots.

Subtitle D—Energy Security

Sec. 331. Annual report on operational energy management and implementation of operational energy strategy.
Sec. 332. Consideration of fuel logistics support requirements in planning, requirements development, and acquisition processes.
Sec. 333. Study on solar and wind energy for use for expeditionary forces.
Sec. 334. Study on alternative and synthetic fuels.
Sec. 335. Mitigation of power outage risks for Department of Defense facilities and activities.

Subtitle E—Reports

Sec. 341. Comptroller General report on readiness of Armed Forces.
Sec. 342. Report on plan to enhance combat skills of Navy and Air Force personnel.
Sec. 343. Comptroller General report on the use of the Army Reserve and National Guard as an operational reserve.
Sec. 344. Comptroller General report on link between preparation and use of Army reserve component forces to support ongoing operations.
Sec. 345. Comptroller General report on adequacy of funding, staffing, and organization of Department of Defense Military Munitions Response Program.

Subtitle F—Other Matters

Sec. 351. Extension of Enterprise Transition Plan reporting requirement.
Sec. 352. Demilitarization of loaned, given, or exchanged documents, historical artifacts, and condemned or obsolete combat materiel.
Sec. 353. Repeal of requirement that Secretary of Air Force provide training and support to other military departments for A–10 aircraft.
Sec. 354. Display of annual budget requirements for Air Sovereignty Alert Mission.

Sec. 355. Revision of certain Air Force regulations required.
Sec. 356. Transfer of C–12 aircraft to California Department of Forestry and Fire Protection.
Sec. 357. Limitation on treatment of retired B–52 aircraft for Air Combat Command headquarters.
Sec. 358. Increase of domestic breeding of military working dogs used by the Department of Defense.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2009 limitation on number of non-dual status technicians.
Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.
Sec. 416. Additional waiver authority of limitation on number of reserve component members authorized to be on active duty.

Subtitle C—Authorization of Appropriations

Sec. 421. Military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy Generally

Sec. 501. Mandatory separation requirements for regular warrant officers for length of service.
Sec. 502. Requirements for issuance of posthumous commissions and warrants.
Sec. 503. Authorized number of general officers on active duty in the Army and Marine Corps, limited exclusion for joint duty requirements, and increase in number of officers serving in grades above major general and rear admiral.
Sec. 504. Modification of authority on Staff Judge Advocate to the Commandant of the Marine Corps.
Sec. 505. Eligibility of reserve officers to serve on boards of inquiry for separation of regular officers for substandard performance and other reasons.
Sec. 506. Delayed authority to alter distribution requirements for commissioned officers on active duty in general officer and flag officer grades and limitations on authorized strengths of general and flag officers on active duty.

Subtitle B—Reserve Component Management

Sec. 511. Extension to other reserve components of Army authority for deferral of mandatory separation of military technicians (dual status) until age 60.
Sec. 512. Modification of authorized strengths for certain Army National Guard, Marine Corps Reserve, and Air National Guard officers and Army National Guard enlisted personnel serving on full-time reserve component duty.
Sec. 513. Clarification of authority to consider for a vacancy promotion National Guard officers ordered to active duty in support of a contingency operation.
Sec. 514. Increase in mandatory retirement age for certain Reserve officers.
Sec. 515. Age limit for retention of certain Reserve officers on active-status list as exception to removal for years of commissioned service.
Sec. 516. Authority to retain Reserve chaplains and officers in medical and related specialties until age 68.
Sec. 517. Modification of authorities on dual duty status of National Guard officers.
Sec. 518. Study and report regarding Marine Corps personnel policies regarding assignments in Individual Ready Reserve.
Sec. 519. Report on collection of information on civilian skills of members of the reserve components of the Armed Forces.

Subtitle C—Joint Qualified Officers and Requirements

Sec. 521. Joint duty requirements for promotion to general or flag officer.
Sec. 522. Technical, conforming, and clerical changes to joint specialty terminology.
Sec. 523. Promotion policy objectives for joint qualified officers.
Sec. 524. Length of joint duty assignments.

Sec. 525. Designation of general and flag officer positions on Joint Staff as positions to be held only by reserve component officers.
Sec. 526. Modification of limitations on authorized strengths of reserve general and flag officers in active status serving in joint duty assignments.
Sec. 527. Reports on joint education courses available through the Department of Defense.

Subtitle D—General Service Authorities

Sec. 531. Increase in maximum period of reenlistment of regular members of the Armed Forces.
Sec. 532. Paternity leave for members of the Armed Forces.
Sec. 533. Pilot programs on career flexibility to enhance retention of members of the Armed Forces.

Subtitle E—Education and Training

Sec. 540. Authorized strength of military service academies and repeal of prohibition on phased increase in midshipmen and cadet strength limit at Naval Academy and Air Force Academy.
Sec. 541. Promotion of foreign and cultural exchange activities at military service academies.
Sec. 542. Increased authority to enroll defense industry employees in defense product development program.
Sec. 543. Expanded authority for institutions of professional military education to award degrees.
Sec. 544. Tuition for attendance of Federal employees at the United States Air Force Institute of Technology.
Sec. 545. Increase in number of permanent professors at the United States Air Force Academy.
Sec. 546. Requirement of completion of service under honorable conditions for purposes of entitlement to educational assistance for reserve component members supporting contingency operations.
Sec. 547. Consistent education loan repayment authority for health professionals in regular components and Selected Reserve.
Sec. 548. Increase in number of units of Junior Reserve Officers' Training Corps.
Sec. 549. Correction of erroneous Army College Fund benefit amounts.
Sec. 550. Enhancing education partnerships to improve accessibility and flexibility for members of the Armed Forces.

Subtitle F—Defense Dependents' Education

Sec. 551. Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 552. Impact aid for children with severe disabilities.
Sec. 553. Transition of military dependent students among local educational agencies.
Sec. 554. Calculation of payments for eligible federally connected children under Department of Education's Impact Aid program.

Subtitle G—Military Justice

Sec. 561. Effective period of military protective orders.
Sec. 562. Mandatory notification of issuance of military protective order to civilian law enforcement.
Sec. 563. Implementation of information database on sexual assault incidents in the Armed Forces.

Subtitle H—Decorations, Awards, and Honorary Promotions

Sec. 571. Replacement of military decorations.
Sec. 572. Authorization and request for award of Medal of Honor to Richard L. Etchberger for acts of valor during the Vietnam War.

Subtitle I—Military Families

Sec. 581. Presentation of burial flag to the surviving spouse and children of deceased members of the Armed Forces.
Sec. 582. Education and training opportunities for military spouses.
Sec. 583. Sense of Congress regarding honor guard details for funerals of veterans.

Subtitle J—Other Matters

Sec. 591. Prohibition on interference in independent legal advice by the Legal Counsel to the Chairman of the Joint Chiefs of Staff.
Sec. 592. Interest payments on certain claims arising from correction of military records.

Sec. 593. Extension of limitation on reductions of personnel of agencies responsible for review and correction of military records.
Sec. 594. Modification of matching fund requirements under National Guard Youth Challenge Program.
Sec. 595. Military salute for the flag during the national anthem by members of the Armed Forces not in uniform and by veterans.
Sec. 596. Military Leadership Diversity Commission.
Sec. 597. Demonstration project on service of retired nurse corps officers as faculty at civilian nursing schools.
Sec. 598. Report on planning for participation and hosting of the Department of Defense in international sports activities, competitions, and events.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Fiscal year 2009 increase in military basic pay.
Sec. 602. Permanent extension of prohibition on charges for meals received at military treatment facilities by members receiving continuous care.
Sec. 603. Increase in maximum authorized payment or reimbursement amount for temporary lodging expenses.
Sec. 604. Availability of second family separation allowance for married couples with dependents.
Sec. 605. Extension of authority for income replacement payments for reserve component members experiencing extended and frequent mobilization for active duty service.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Extension of certain bonus and special pay authorities for Reserve forces.
Sec. 612. Extension of certain bonus and special pay authorities for health care professionals.
Sec. 613. Extension of special pay and bonus authorities for nuclear officers.
Sec. 614. Extension of authorities relating to payment of other title 37 bonuses and special pays.
Sec. 615. Extension of authorities relating to payment of referral bonuses.
Sec. 616. Increase in maximum bonus and stipend amounts authorized under Nurse Officer Candidate Accession Program and health professions stipend program.
Sec. 617. Maximum length of nuclear officer incentive pay agreements for service.
Sec. 618. Technical changes regarding consolidation of special pay, incentive pay, and bonus authorities of the uniformed services.
Sec. 619. Use of new skill incentive pay and proficiency bonus authorities to encourage training in critical foreign languages and foreign cultural studies and authorization of incentive pay for members of precommissioning programs pursuing foreign language proficiency.
Sec. 620. Accession and retention bonuses for the recruitment and retention of officers in certain health professions.

Subtitle C—Travel and Transportation Allowances

Sec. 621. Special weight allowance for transportation of professional books and equipment for spouses.
Sec. 622. Shipment of family pets during evacuation of personnel.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 631. Extension to survivors of certain members who die on active duty of special survivor indemnity allowance for persons affected by required Survivor Benefit Plan annuity offset for dependency and indemnity compensation.
Sec. 632. Correction of unintended reduction in survivor benefit plan annuities due to phased elimination of two-tier annuity computation and supplemental annuity.

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Sec. 641. Use of commissary stores surcharges derived from temporary commissary initiatives for reserve component and retired members.
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10 USC 101 note.

**SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.**

For purposes of this Act, the term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

**SEC. 4. EXPLANATORY STATEMENT.**

The explanatory statement regarding S. 3001, the National Defense Authorization Act for Fiscal Year 2009, as amended by the House of Representatives, printed in the House section of the Congressional Record on or about September 30, 2008, by the Chairman of the Committee on Armed Services of the House, shall have the same effect with respect to the implementation of this Act as if it were a joint explanatory statement of a committee of conference.

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Sec. 144. Requirement for common ground stations and payloads for manned and unmanned aerial vehicle systems.
Sec. 145. Report on future jet carrier trainer requirements of the Navy.

## Subtitle A—Authorization of Appropriations

**SEC. 101. ARMY.**

Funds are hereby authorized to be appropriated for fiscal year 2009 for procurement for the Army as follows:

(1) For aircraft, $4,848,835,000.
(2) For missiles, $2,207,460,000.
(3) For weapons and tracked combat vehicles, $3,516,398,000.
(4) For ammunition, $2,280,791,000.
(5) For other procurement, $11,143,076,000.
(6) For the Joint Improvised Explosive Device Defeat Fund, $200,000,000.

**SEC. 102. NAVY AND MARINE CORPS.**

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2009 for procurement for the Navy as follows:
(1) For aircraft, $14,557,874,000.
(2) For weapons, including missiles and torpedoes, $3,553,282,000.
(3) For shipbuilding and conversion, $14,057,022,000.
(4) For other procurement, $5,463,565,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2009 for procurement for the Marine Corps in the amount of $1,486,189,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2009 for procurement of ammunition for the Navy and the Marine Corps in the amount of $1,110,012,000.

**SEC. 103. AIR FORCE.**

Funds are hereby authorized to be appropriated for fiscal year 2009 for procurement for the Air Force as follows:
(1) For aircraft, $12,826,858,000.
(2) For ammunition, $894,478,000.
(3) For missiles, $5,553,528,000.
(4) For other procurement, $16,087,887,000.

**SEC. 104. DEFENSE-WIDE ACTIVITIES.**

Funds are hereby authorized to be appropriated for fiscal year 2009 for Defense-wide procurement in the amount of $3,382,628,000.

**SEC. 105. NATIONAL GUARD AND RESERVE EQUIPMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2009 for the procurement of aircraft, missiles, wheeled and tracked combat vehicles, tactical wheeled vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces in the amount of $800,000,000.

## Subtitle B—Army Programs

**SEC. 111. SEPARATE PROCUREMENT LINE ITEMS FOR FUTURE COMBAT SYSTEMS PROGRAM.** 10 USC 221 note.

Effective for the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2011 and for each fiscal year thereafter, the Secretary of Defense shall ensure that a separate, dedicated procurement line item is designated for each of the following elements of the Future Combat Systems program (in this section referred to as "FCS"), to the extent the budget includes funding for such elements: Effective dates.
(1) FCS Manned Ground Vehicles.

(2) FCS Unmanned Ground Vehicles.
(3) FCS Unmanned Aerial Systems.
(4) FCS Unattended Ground Systems.
(5) Other FCS elements.

**SEC. 112. CLARIFICATION OF STATUS OF FUTURE COMBAT SYSTEMS PROGRAM LEAD SYSTEM INTEGRATOR.**

Section 802 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 206; 10 U.S.C. 2410p note) is amended by adding at the end the following new subsection:

"(e) STATUS OF FUTURE COMBAT SYSTEMS PROGRAM LEAD SYSTEM INTEGRATOR.—

Deadline. Certification.

"(1) LEAD SYSTEMS INTEGRATOR.—In the case of the Future Combat Systems program, the prime contractor of the program shall be considered to be a lead systems integrator until 45 days after the Secretary of the Army certifies in writing to the congressional defense committees that such contractor is no longer serving as the lead systems integrator.

"(2) NEW CONTRACTS.—In applying subsection (a)(1) or (a)(2), any modification to the existing contract for the Future Combat Systems program, for the purpose of entering into full-rate production of major systems or subsystems, shall be considered a new contract.".

**SEC. 113. RESTRICTION ON OBLIGATION OF FUNDS FOR ARMY TACTICAL RADIO PENDING REPORT.**

(a) REPORT REQUIRED.—Not later than March 30, 2009, the Assistant Secretary of Defense for Networks and Information Integration shall submit to the congressional defense committees a report on Army tactical radio fielding plans. The report shall include the following:

(1) A description of the Army tactical radio fielding strategy, including a description of the overall combination of various tactical radio systems and how they integrate to provide communications and network capability.

(2) A detailed description of the combination of various tactical radio systems in use or planned for use for Army infantry brigade combat teams, heavy brigade combat teams, Stryker brigade combat teams, and Future Combat Systems brigade combat teams.

(3) A description of the combination of various tactical radio systems in use or planned for use for Army support brigades, headquarters elements, and training units.

(4) A description of the plan by the Army to integrate joint tactical radio systems, including the number of each type of joint tactical radio the Army plans to procure.

(5) An assessment of the total cost of the tactical radio fielding strategy of the Army, including procurement of joint tactical radio systems.

(b) RESTRICTION ON OBLIGATION OF FUNDS PENDING REPORT.—Of the amounts appropriated pursuant to an authorization of appropriations in this Act or otherwise made available for fiscal year 2009 for other procurement, Army, for tactical radio systems, not more than 75 percent may be obligated or expended until 30 days after the report required by subsection (a) is received by the congressional defense committees.

**SEC. 114. RESTRICTION ON OBLIGATION OF PROCUREMENT FUNDS FOR ARMED RECONNAISSANCE HELICOPTER PROGRAM PENDING CERTIFICATION.**

(a) CERTIFICATION REQUIRED.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall certify to the congressional defense committees that the Armed Reconnaissance Helicopter has—

(1) satisfactorily been certified under section 2433(e)(2) of title 10, United States Code;

(2) been restructured as an acquisition program by the Army;

(3) satisfactorily completed a Limited User Test; and

(4) been approved to enter Milestone C.

(b) RESTRICTION ON OBLIGATION OF FUNDS PENDING CERTIFICATION.—Of the amounts appropriated pursuant to an authorization of appropriations in this Act or otherwise made available for fiscal year 2009 for aircraft procurement, Army, for the Armed Reconnaissance Helicopter, not more than 20 percent may be obligated until 30 days after the certification required by subsection (a) is received by the congressional defense committees. Deadline.

**SEC. 115. STRYKER MOBILE GUN SYSTEM.**

(a) LIMITATION ON AVAILABILITY OF FUNDS.—None of the amounts authorized to be appropriated by this Act for procurement of weapons and tracked combat vehicles for the Army may be obligated or expended for purposes of the procurement of the Stryker Mobile Gun System until the Under Secretary of Defense for Acquisition, Technology, and Logistics submits to the congressional defense committees a written certification that the Under Secretary has approved a plan for the Army to mitigate all Stryker Mobile Gun System deficiencies. Certification.

(b) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act, and every 180 days thereafter until December 31, 2011, the Secretary of the Army, in consultation with the Director of Operational Test and Evaluation, shall submit to the congressional defense committees a report on the status of actions by the Army to mitigate all Stryker Mobile Gun System deficiencies. Each report shall include the following:

(1) An explanation of the plan by the Army to mitigate all Stryker Mobile Gun System deficiencies.

(2) The cost estimate for implementing each mitigating action, and the status of funding for each mitigating action.

(3) An inventory of the Stryker Mobile Gun System vehicle fleet that specifies which mitigating actions have been implemented.

(4) An updated production and fielding schedule for Stryker Mobile Gun System vehicles required by the Army but not yet fielded as of the date of the report.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary—

(1) determines that continued procurement of Stryker Mobile Gun System vehicles will provide a vital combat capability to the Armed Forces; and

(2) submits to the congressional defense committees written notification of the waiver and a discussion of the reasons for the determination made under paragraph (1). Notification.

(d) STRYKER MOBILE GUN SYSTEM DEFICIENCIES DEFINED.—In this section, the term "Stryker Mobile Gun System deficiencies" means deficiencies of the Stryker Mobile Gun System specified in the memorandum by the Department of Defense titled "Stryker Mobile Gun System (MGS) Acquisition Decision Memorandum" and dated August 5, 2008.

## Subtitle C—Navy Programs

**SEC. 121. REFUELING AND COMPLEX OVERHAUL OF THE U.S.S. THEODORE ROOSEVELT.**

(a) AMOUNT AUTHORIZED FROM SCN ACCOUNT.—Of the amount appropriated pursuant to the authorization of appropriations in section 102 or otherwise made available for shipbuilding, conversion, and repair, Navy, for fiscal year 2009, $124,500,000 is available for the commencement of the nuclear refueling and complex overhaul of the U.S.S. Theodore Roosevelt (CVN–71) during fiscal year 2009. The amount made available in the preceding sentence is the first increment in the three-year funding planned for the nuclear refueling and complex overhaul of that vessel.

(b) CONTRACT AUTHORITY.—The Secretary of the Navy is authorized to enter into a contract during fiscal year 2009 for the nuclear refueling and overhaul of the U.S.S. Theodore Roosevelt (CVN–71).

(c) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (b) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2009 is subject to the availability of appropriations for that purpose for that later fiscal year.

**SEC. 122. LITTORAL COMBAT SHIP (LCS) PROGRAM.**

Section 124 of the National Defense Authorization Act for fiscal Year 2006 (Public Law 109–163; 119 Stat. 3157), as amended by section 125 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 29), is further amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "post-2007 LCS vessels" and inserting "post-2009 LCS vessels"; and

(B) in paragraph (3)—

(i) in the paragraph heading, by striking "POST-2007 LCS VESSELS" and inserting "POST-2009 LCS VESSELS"; and

(ii) by striking "'post-2007 LCS vessel'" and inserting "'post-2009 LCS vessel'";

(2) in subsection (b), by striking "post-2007 LCS vessels" and inserting "post-2009 LCS vessels"; and

(3) in subsection (c), by striking "post-2007 LCS vessels" and inserting "post-2009 LCS vessels".

**SEC. 123. REPORT ON F/A–18 PROCUREMENT COSTS, COMPARING MULTIYEAR TO ANNUAL.**

(a) IN GENERAL.—Not later than March 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report on F/A–18 procurement. The report shall include the following:

(1) The number of F/A–18E/F and EA–18G aircraft programmed for procurement for fiscal years 2010 through 2015.

(2) The estimated procurement costs for those aircraft, if procured through annual procurement contracts.

(3) The estimated procurement costs for those aircraft, if procured through a multiyear procurement contract.

(4) The estimated savings that could be derived from the procurement of those aircraft through a multiyear procurement contract, and whether the Secretary considers the amount of those savings to be substantial.

(5) A discussion comparing the costs and benefits of obtaining those aircraft through annual procurement contracts with the costs and benefits of obtaining those aircraft through a multiyear procurement contract.

(6) The recommendations of the Secretary regarding whether Congress should authorize a multiyear procurement contract for those aircraft.

(b) CERTIFICATIONS REQUIRED.—If the Secretary recommends under subsection (a)(6) that Congress authorize a multiyear procurement contract for the aircraft, the Secretary shall include in the report under subsection (a) the certifications required by section 2306b of title 10, United States Code, to enable the award of a multiyear contract beginning with fiscal year 2010.

**SEC. 124. AUTHORITY FOR ADVANCED PROCUREMENT AND CONSTRUCTION OF COMPONENTS FOR THE VIRGINIA-CLASS SUBMARINE PROGRAM.**

Section 121 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 26) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) ADVANCE PROCUREMENT AND CONSTRUCTION OF COMPONENTS.—The Secretary may enter into one or more contracts for advance procurement and advance construction of those components for the Virginia-class submarine program for which authorization to enter into a multiyear procurement contract is granted under subsection (a) if the Secretary determines that cost savings or construction efficiencies may be achieved for Virginia-class submarines through the use of such contracts.".

## Subtitle D—Air Force Programs

**SEC. 131. MAINTENANCE OF RETIRED KC–135E AIRCRAFT.**

Section 135(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2114) is amended by striking "each KC–135E aircraft that is retired" and inserting "at least 74 of the KC–135E aircraft retired".

**SEC. 132. REPEAL OF MULTI-YEAR CONTRACT AUTHORITY FOR PROCUREMENT OF TANKER AIRCRAFT.**

Section 135 of the National Defense Authorization Act for Fiscal Year 2004 (10 U.S.C. 2401a note) is repealed.

**SEC. 133. REPORTS ON KC–(X) TANKER AIRCRAFT REQUIREMENTS.**

(a) REPORT REQUIRED.—Not later than March 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report regarding the competition for the KC-(X) tanker

aircraft that was terminated on September 10, 2008. The report shall include the following:

(1) An examination of original requirements for the KC–(X) tanker aircraft, including an explanation for the use of the KC–135R tanker aircraft as the baseline for the KC–(X) tanker aircraft.

(2) A summary of commercial derivative or commercial off-the-shelf aircraft available as potential aerial refueling platforms using aerial refueling capabilities (such as range, offload at range, and passenger and cargo capacity) in each of the following ranges:

(A) Maximum gross take-off weight that is less than 300,000 pounds.

(B) Maximum gross take-off weight in the range from 301,000 pounds maximum gross take-off weight to 550,000 pound maximum gross take-off weight.

(C) Maximum gross take-off weight in the range from 551,000 pounds maximum gross take-off weight to 1,000,000 pound maximum gross take-off weight.

(D) Maximum gross take-off weight that is greater than 1,000,000 pounds.

(b) REASSESSMENT REQUIRED.—The Secretary of Defense shall reassess the requirements for aerial refueling that were validated by the Joint Requirements Oversight Council on December 27, 2006. Not later than 30 days after the reassessment, the Secretary shall submit to the congressional defense committees a report containing the complete results of the reassessment.

**SEC. 134. F-22A FIGHTER AIRCRAFT.**

(a) AVAILABILITY OF FUNDS.—Subject to subsection (b), of the amount authorized to be appropriated for procurement of aircraft for the Air Force, $523,000,000 shall be available for advance procurement of F-22A fighter aircraft.

Deadline.

(b) RESTRICTION ON OBLIGATION OF FUNDS PENDING CERTIFICATION.—Of the amounts appropriated pursuant to an authorization of appropriations in this Act or otherwise made available for fiscal year 2009 for advance procurement, Air Force, for the F-22A, not more than $140,000,000 may be obligated until 15 days after the certification required by subsection (c) is received by the congressional defense committees.

(c) CERTIFICATION.—

(1) IN GENERAL.—Of the amount referred to in subsection (a), $383,000,000 shall not be available until the President certifies to the congressional defense committees that—

(A) the procurement of F-22A fighter aircraft is in the national interest of the United States; or

(B) the termination of the production line for F-22A fighter aircraft is in the national interest of the United States.

(2) DATE OF SUBMITTAL.—Any certification submitted under this subsection may not be submitted before January 21, 2009, and must be submitted not later than March 1, 2009.

# Subtitle E—Joint and Multiservice Matters

**SEC. 141. ANNUAL LONG-TERM PLAN FOR THE PROCUREMENT OF AIRCRAFT FOR THE NAVY AND THE AIR FORCE.**

(a) IN GENERAL.—Chapter 9 of title 10, United States Code, is amended by inserting after section 231 the following new section:

**"§ 231a. Budgeting for procurement of aircraft for the Navy and Air Force: annual plan and certification**

"(a) ANNUAL AIRCRAFT PROCUREMENT PLAN AND CERTIFICATION.—The Secretary of Defense shall include with the defense budget materials for each fiscal year—

"(1) a plan for the procurement of the aircraft specified in subsection (b) for the Department of the Navy and the Department of the Air Force developed in accordance with this section; and

"(2) a certification by the Secretary that both the budget for such fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the procurement of aircraft at a level that is sufficient for the procurement of the aircraft provided for in the plan under paragraph (1) on the schedule provided in the plan.

"(b) COVERED AIRCRAFT.—The aircraft specified in this subsection are the aircraft as follows:

"(1) Fighter aircraft.
"(2) Attack aircraft.
"(3) Bomber aircraft.
"(4) Strategic lift aircraft.
"(5) Intratheater lift aircraft.
"(6) Intelligence, surveillance, and reconnaissance aircraft.
"(7) Tanker aircraft.
"(8) Any other major support aircraft designated by the Secretary of Defense for purposes of this section.

"(c) ANNUAL AIRCRAFT PROCUREMENT PLAN.—(1) The annual aircraft procurement plan developed for a fiscal year for purposes of subsection (a)(1) should be designed so that the aviation force provided for under the plan is capable of supporting the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a), except that, if at the time the plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then the plan should be designed so that the aviation force provided for under the plan is capable of supporting the aviation force structure recommended in the report of the most recent Quadrennial Defense Review.

"(2) Each annual aircraft procurement plan shall include the following:

"(A) A detailed program for the procurement of the aircraft specified in subsection (b) for each of the Department of the Navy and the Department of the Air Force over the next 30 fiscal years.

"(B) A description of the necessary aviation force structure to meet the requirements of the national security strategy of the United States or the most recent Quadrennial Defense Review, whichever is applicable under paragraph (1).

"(C) The estimated levels of annual funding necessary to carry out the program, together with a discussion of the procurement strategies on which such estimated levels of annual funding are based.

"(D) An assessment by the Secretary of Defense of the extent to which the combined aircraft forces of the Department of the Navy and the Department of the Air Force meet the national security requirements of the United States.

"(d) ASSESSMENT WHEN AIRCRAFT PROCUREMENT BUDGET IS INSUFFICIENT TO MEET APPLICABLE REQUIREMENTS.—If the budget for a fiscal year provides for funding of the procurement of aircraft for either the Department of the Navy or the Department of the Air Force at a level that is not sufficient to sustain the aviation force structure specified in the aircraft procurement plan for such Department for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of aircraft that will result from funding aircraft procurement at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands.

"(e) DEFINITIONS.—In this section:

"(1) The term 'budget', with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

"(2) The term 'defense budget materials', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

"(3) The term 'Quadrennial Defense Review' means the review of the defense programs and policies of the United States that is carried out every 4 years under section 118 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 9 of such title is amended by inserting after the item relating to section 231 the following new item:

"231a. Budgeting for procurement of aircraft for the Navy and Air Force: annual plan and certification.".

**SEC. 142. REPORT ON BODY ARMOR ACQUISITION STRATEGY.**

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that provides—

(1) a survey and assessment of the capabilities, capacities, and risks of the domestic industrial base of the United States, including critical subcontractor suppliers, in meeting the requirements of the military departments for body armor during the 20 years following the date of the report;

(2) an assessment of the long-term maintenance requirements of the body armor industrial base in the United States;

(3) an assessment of body armor and related research, development, and acquisition objectives, priorities, and funding profiles for—

(A) advances in the level of protection;
(B) weight reduction; and
(C) manufacturing productivity;

(4) an assessment of the feasibility and advisability of establishing a separate, dedicated procurement line item for the acquisition of body armor and associated components for fiscal year 2011 and for each fiscal year thereafter;

(5) an assessment of the feasibility and advisability of establishing an executive agent for the acquisition of body armor and associated components for the military departments beginning in fiscal year 2011; and

(6) an assessment of existing initiatives used by the military departments to manage or execute body armor programs, including the Cross-Service Warfighter Equipment Board, the Joint Clothing and Textiles Governance Board, and advanced planning briefings for industry.

**SEC. 143. SMALL ARMS ACQUISITION STRATEGY AND REQUIREMENTS REVIEW.**

10 USC 2304 note.

(a) SECRETARY OF DEFENSE REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the small arms requirements of the Armed Forces and the industrial base of the United States. The report shall include the following:

(1) An assessment of Department of Defense-wide small arms requirements in terms of capabilities and quantities, based on an analysis of the small arms capability assessments of each military department.

(2) An assessment of plans for small arms research, development, and acquisition programs to meet the requirements identified under paragraph (1).

(3) An assessment of capabilities, capacities, and risks in the small arms industrial base of the United States to meet the requirements of the Department of Defense for pistols, carbines, rifles, and light, medium, and heavy machine guns during the 20 years following the date of the report.

(4) An assessment of the costs, benefits, and risks of full and open competition for the procurement of non-developmental pistols and carbines that are not technically compatible with the M9 pistol or M4 carbine to meet the requirements identified under paragraph (1).

(b) COMPETITION FOR A NEW INDIVIDUAL WEAPON.—

(1) COMPETITION REQUIRED.—If the small arms capabilities based assessments by the Army identifies gaps in small arms capabilities and the Secretary of the Army determines that a new individual weapon is required to address such gaps, the Secretary shall procure the new individual weapon using full and open competition as described in paragraph (2).

(2) FULL AND OPEN COMPETITION.—The full and open competition described in this paragraph is competition among all responsible manufacturers that—

(A) is open to all developmental item solutions and non-developmental item solutions; and

(B) provides for the award of a contract based on selection criteria that reflect the key performance parameters and attributes identified in a service requirements document approved by the Army.

(c) SMALL ARMS DEFINED.—In this section, the term "small arms"—

(1) means man-portable or vehicle-mounted light weapons, designed primarily for use by individual military personnel for anti-personnel use; and

(2) includes pistols, carbines, rifles, and light, medium, and heavy machine guns.

10 USC 113 note.

**SEC. 144. REQUIREMENT FOR COMMON GROUND STATIONS AND PAYLOADS FOR MANNED AND UNMANNED AERIAL VEHICLE SYSTEMS.**

(a) POLICY AND ACQUISITION STRATEGY REQUIRED.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall establish a policy and an acquisition strategy for intelligence, surveillance, and reconnaissance payloads and ground stations for manned and unmanned aerial vehicle systems. The policy and acquisition strategy shall be applicable throughout the Department of Defense and shall achieve integrated research, development, test, and evaluation, and procurement commonality.

(b) OBJECTIVES.—The policy and acquisition strategy required by subsection (a) shall have the following objectives:

(1) Procurement of common payloads by vehicle class, including—

(A) signals intelligence;

(B) electro optical;

(C) synthetic aperture radar;

(D) ground moving target indicator;

(E) conventional explosive detection;

(F) foliage penetrating radar;

(G) laser designator;

(H) chemical, biological, radiological, nuclear, explosive detection; and

(I) national airspace operations avionics or sensors, or both.

(2) Commonality of ground system architecture by vehicle class.

(3) Common management of vehicle and payloads procurement.

(4) Ground station interoperability standardization.

(5) Maximum use of commercial standard hardware and interfaces.

(6) Open architecture software.

(7) Acquisition of technical data rights in accordance with section 2320 of title 10, United States Code.

(8) Acquisition of vehicles, payloads, and ground stations through competitive procurement.

(9) Common standards for exchange of data and metadata.

(c) AFFECTED SYSTEMS.—For the purposes of this section, the Secretary shall establish manned and unmanned aerial vehicle classes for all intelligence, surveillance, and reconnaissance programs of record based on factors such as vehicle weight, payload capacity, and mission.

(d) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a report containing—

(1) the policy required by subsection (a); and
(2) the acquisition strategy required by subsection (a).

**SEC. 145. REPORT ON FUTURE JET CARRIER TRAINER REQUIREMENTS OF THE NAVY.**

Not later than 120 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to the congressional defense committees a report on future jet carrier trainer requirements. In addressing such requirements, the report shall include a plan based on the following:

(1) Studies conducted by independent organizations concerning future jet carrier trainer requirements.

(2) The results of a cost-benefit analysis comparing the creation of a new jet carrier trainer program with the modification of the current jet carrier trainer program in order to fulfill future jet carrier trainer requirements.

# TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Additional determinations to be made as part of Future Combat Systems milestone review.
Sec. 212. Analysis of Future Combat Systems communications network and software.
Sec. 213. Future Combat Systems manned ground vehicle Selected Acquisition Reports.
Sec. 214. Separate procurement and research, development, test, and evaluation line items and program elements for Sky Warrior Unmanned Aerial Systems project.
Sec. 215. Restriction on obligation of funds for the Warfighter Information Network–Tactical program.
Sec. 216. Limitation on source of funds for certain Joint Cargo Aircraft expenditures.
Sec. 217. Requirement for plan on overhead nonimaging infrared systems.
Sec. 218. Advanced energy storage technology and manufacturing.
Sec. 219. Mechanisms to provide funds for defense laboratories for research and development of technologies for military missions.
Sec. 220. Requirements for certain airborne intelligence collection systems.
Sec. 221. Limitation on obligation of funds for Enhanced AN/TPQ–36 radar system pending submission of report.

Subtitle C—Missile Defense Programs

Sec. 231. Annual Director of Operational Test and Evaluation characterization of operational effectiveness, suitability, and survivability of the ballistic missile defense system.
Sec. 232. Independent study of boost-phase missile defense.
Sec. 233. Limitation on availability of funds for procurement, construction, and deployment of missile defenses in Europe.
Sec. 234. Review of the ballistic missile defense policy and strategy of the United States.
Sec. 235. Airborne Laser System.
Sec. 236. Activation and deployment of AN/TPY–2 forward-based X-band radar.

Subtitle D—Reports

Sec. 241. Biennial reports on joint and service concept development and experimentation.
Sec. 242. Report on participation of the historically black colleges and universities and minority-serving institutions in research and educational programs and activities of the Department of Defense.

Sec. 243. Report on Department of Defense response to findings and recommendations of the Defense Science Board Task Force on Directed Energy Weapons.

Subtitle E—Other Matters

Sec. 251. Modification of systems subject to survivability testing oversight by the Director of Operational Test and evaluation.
Sec. 252. Technology-neutral information technology guidelines and standards to support fully interoperable electronic personal health information for the Department of Defense and Department of Veterans Affairs.
Sec. 253. Assessment of technology transition programs and repeal of reporting requirement.
Sec. 254. Trusted defense systems.
Sec. 255. Capabilities-based assessment to outline a joint approach for future development of vertical lift aircraft and rotorcraft.
Sec. 256. Executive agent for printed circuit board technology.
Sec. 257. Review of conventional prompt global strike technology applications and concepts.

# Subtitle A—Authorization of Appropriations

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 2009 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $10,943,840,000.

(2) For the Navy, $19,345,603,000.

(3) For the Air Force, $26,289,508,000.

(4) For Defense-wide activities, $21,131,501,000, of which $188,772,000 is authorized for the Director of Operational Test and Evaluation.

**SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.**

(a) FISCAL YEAR 2009.—Of the amounts authorized to be appropriated by section 201, $11,799,660,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research, applied research, and advanced technology development" means work funded in programs elements for defense research and development under Department of Defense budget activity 1, 2, or 3.

# Subtitle B—Program Requirements, Restrictions, and Limitations

**SEC. 211. ADDITIONAL DETERMINATIONS TO BE MADE AS PART OF FUTURE COMBAT SYSTEMS MILESTONE REVIEW.**

Section 214(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2123) is amended by striking paragraphs (4) through (6) and inserting the following new paragraphs:

"(4) Whether actual demonstrations, rather than simulations, have shown that the software for the program is on a path to achieve threshold requirements on cost and schedule.

"(5) Whether the program's planned major communications network demonstrations are sufficiently complex and realistic to inform major program decision points.

"(6) The extent to which Future Combat Systems manned ground vehicle survivability is likely to be reduced in a degraded Future Combat Systems communications network environment.

"(7) The level of network degradation at which Future Combat Systems manned ground vehicle crew survivability is significantly reduced.

"(8) The extent to which the Future Combat Systems communications network is capable of withstanding network attack, jamming, or other interference.

"(9) What the cost estimate for the program is, including all spin outs, and an assessment of the confidence level for that estimate.

"(10) What the affordability assessment for the program is, given projected Army budgets, based on the cost estimate referred to in paragraph (9).".

**SEC. 212. ANALYSIS OF FUTURE COMBAT SYSTEMS COMMUNICATIONS NETWORK AND SOFTWARE.**

(a) REPORT REQUIRED.—Not later than September 30, 2009, the Assistant Secretary of Defense for Networks and Information Integration shall submit to the congressional defense committees a report on the Future Combat Systems communications network and software. The report shall include the following:

(1) An assessment of the vulnerability of the Future Combat Systems communications network and software to enemy network attack, in particular the effect of the use of significant amounts of commercial software in Future Combat Systems software.

(2) An assessment of the vulnerability of the Future Combat Systems communications network to electronic warfare, jamming, and other potential enemy interference.

(3) An assessment of the vulnerability of the Future Combat Systems communications network to adverse weather and complex terrain.

(4) An assessment of the Future Combat Systems communication network's dependence on satellite communications support, and an assessment of the network's performance in the absence of assumed levels of satellite communications support.

(5) An assessment of the performance of the Future Combat Systems communications network when operating in a degraded condition due to the factors analyzed in paragraphs (1), (2), (3), and (4), and how such a degraded network environment would affect the performance of Future Combat Systems brigades and the survivability of Future Combat Systems manned ground vehicles.

(6) An assessment, developed in coordination with the Director of Operational Test and Evaluation, of the adequacy of the Future Combat Systems communications network testing schedule.

(7) An assessment, developed in coordination with the Director of Operational Test and Evaluation, of the synchronization of the funding, schedule, and technology maturity of the Warfighter Information Network-Tactical and Joint Tactical

Radio System programs in relation to the Future Combat Systems program, including any planned Future Combat Systems spin outs.

(b) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 213. FUTURE COMBAT SYSTEMS MANNED GROUND VEHICLE SELECTED ACQUISITION REPORTS.**

(a) REPORT REQUIRED.—Not later than February 15 of each of the years 2009 through 2015, the Secretary of the Army shall submit a Selected Acquisition Report under section 2432 of title 10, United States Code, to Congress for each Future Combat Systems manned ground vehicle variant.

(b) REQUIRED ELEMENTS.—Each report required by subsection (a) shall include the same information required in comprehensive annual Selected Acquisition Reports under section 2432(c) of title 10, United States Code.

(c) DEFINITION.—In this section, the term "manned ground vehicle variant" means—

(1) the eight distinct variants of manned ground vehicles designated on pages seven and eight of the Future Combat Systems Selected Acquisition Report of the Department of Defense dated December 31, 2007; and

(2) any additional manned ground vehicle variants designated in Future Combat Systems Acquisition Reports of the Department of Defense after the date of the enactment of this Act.

10 USC 221 note.

**SEC. 214. SEPARATE PROCUREMENT AND RESEARCH, DEVELOPMENT, TEST, AND EVALUATION LINE ITEMS AND PROGRAM ELEMENTS FOR SKY WARRIOR UNMANNED AERIAL SYSTEMS PROJECT.**

Effective dates.

Effective for fiscal year 2010 and for each fiscal year thereafter, the Secretary of Defense shall ensure that, in the annual budget submission of the Department of Defense to the President, within both the account for procurement and the account for research, development, test, and evaluation, a separate, dedicated line item and program element is designated for the Sky Warrior Unmanned Aerial Systems project, to the extent such accounts include funding for such project.

**SEC. 215. RESTRICTION ON OBLIGATION OF FUNDS FOR THE WARFIGHTER INFORMATION NETWORK–TACTICAL PROGRAM.**

Deadline.

(a) NOTIFICATION REQUIRED.—Not later than five days after the completion of all actions described in subsection (b), the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees notice in writing of such completion.

(b) COVERED ACTIONS.—An action described in this subsection is any of the following:

(1) Approval by the Under Secretary of a new acquisition program baseline for the Warfighter Information Network–Tactical Increment 3 program (in this section referred to as the "WIN-T Increment 3 program").

(2) Completion of the independent cost estimate for the WIN–T Increment 3 program by the Cost Analysis Improvement

Group, as required by the June 5, 2007, recertification by the Under Secretary.

(3) Completion of the technology readiness assessment of the WIN–T Increment 3 program by the Director, Defense Research and Engineering, as required by the June 5, 2007, recertification by the Under Secretary.

(c) RESTRICTION ON OBLIGATION OF FUNDS PENDING NOTIFICATION.—Of the amounts appropriated pursuant to an authorization of appropriations in this Act or otherwise made available for research, development, test, and evaluation, Army, for fiscal year 2009 for the WIN–T Increment 3 program, not more than 50 percent of those amounts may be obligated or expended until 15 days after the date on which the notification required by subsection (a) is received by the congressional defense committees.

**SEC. 216. LIMITATION ON SOURCE OF FUNDS FOR CERTAIN JOINT CARGO AIRCRAFT EXPENDITURES.**

10 USC 2241 note.

(a) LIMITATION.—Of the amounts appropriated pursuant to an authorization of appropriations in this Act or otherwise made available for fiscal year 2009 or any fiscal year thereafter for the Army or the Air Force, the Secretary of the Army and the Secretary of the Air Force may fund relevant expenditures for the Joint Cargo Aircraft only through amounts made available for procurement or for research, development, test, and evaluation.

(b) RELEVANT EXPENDITURES FOR THE JOINT CARGO AIRCRAFT DEFINED.—In this section, the term "relevant expenditures for the Joint Cargo Aircraft" means expenditures relating to—

(1) support equipment;

(2) initial spares;

(3) training simulators;

(4) systems engineering and management; and

(5) post-production modifications.

**SEC. 217. REQUIREMENT FOR PLAN ON OVERHEAD NONIMAGING INFRARED SYSTEMS.**

(a) IN GENERAL.—The Secretary of Defense, in consultation with the Director of National Intelligence, shall develop a comprehensive plan to conduct and support research, development, and demonstration of technologies that could evolve into the next generation of overhead nonimaging infrared systems.

(b) ELEMENTS.—The plan required by subsection (a) shall include the following:

(1) The research objectives to be achieved under the plan.

(2) A description of the research, development, and demonstration activities under the plan.

(3) An estimate of the duration of the research, development, and demonstration of technologies under the plan.

(4) The cost and duration of any flight or on-orbit demonstrations of the technologies being developed.

(5) A plan for implementing any acquisition programs with respect to technologies determined to be successful under the plan.

(6) An identification of the date by which a decision must be made to begin any follow-on programs and a justification for the date identified.

(7) A schedule for completion of a full analysis of the on-orbit performance characteristics of the Space-Based Infrared System and the Space Tracking and Surveillance

System, and an assessment of how the performance characteristics of such systems will inform the decision to proceed to a next generation overhead nonimaging infrared system.

Deadline.

(c) LIMITATION ON OBLIGATION AND EXPENDITURE OF FUNDS FOR THIRD GENERATION INFRARED SURVEILLANCE PROGRAM.—Not more than 50 percent of the amounts authorized to be appropriated for fiscal year 2009 by section 201(3) for research, development, test, and evaluation for the Air Force and available for the Third Generation Infrared Surveillance program may be obligated or expended until the date that is 30 days after the date on which the Secretary submits to Congress the plan required by subsection (a).

**SEC. 218. ADVANCED ENERGY STORAGE TECHNOLOGY AND MANUFACTURING.**

(a) ROADMAP REQUIRED.—The Secretary of Defense, acting through the Director of Defense Research and Engineering, the Deputy Under Secretary of Defense for Industrial Policy, and service acquisition executives, shall, in coordination with the Secretary of Energy, develop a multi-year roadmap to develop advanced energy storage technologies and sustain domestic advanced energy storage technology manufacturing capabilities and an assured supply chain necessary to ensure that the Department of Defense has assured access to advanced energy storage technologies to support current military requirements and emerging military needs.

(b) ELEMENTS.—The roadmap required by subsection (a) shall include, but not be limited to, the following:

(1) An identification of current and future capability gaps, performance enhancements, cost savings goals, and assured technology access goals that require advances in energy storage technology and manufacturing capabilities.

(2) Specific research, technology, and manufacturing goals and milestones, and timelines and estimates of funding necessary for achieving such goals and milestones.

(3) A summary of applications for energy storage technologies by the Department of Defense and, for each type of application, an assessment of the demand for such technologies, in terms of quantity and military need.

(4) Specific mechanisms for coordinating the activities of Federal agencies, State and local governments, coalition partners, private industry, and academia covered by the roadmap.

(5) Such other matters as the Secretary of Defense and the Secretary of Energy consider appropriate for purposes of the roadmap.

(c) COORDINATION.—

(1) IN GENERAL.—The roadmap required by subsection (a) shall be developed in coordination with the military departments, appropriate Defense Agencies and other elements and organizations of the Department of Defense, other appropriate Federal, State, and local government organizations, and appropriate representatives of private industry and academia.

(2) DEPARTMENT OF DEFENSE SUPPORT.—The Secretary of Defense shall ensure that appropriate elements and organizations of the Department of Defense provide such information and other support as is required for the development of the roadmap.

(d) SUBMITTAL TO CONGRESS.—The Secretary of Defense shall submit to the congressional defense committees the roadmap required by subsection (a) not later than one year after the date of the enactment of this Act.

(e) ADVANCED ENERGY STORAGE TECHNOLOGY INITIATIVE INVESTMENT SUMMARY.—Not later than 6 months after the date of enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the expenditures for energy storage technologies within the Department of Defense, Defense Agencies, and military departments, for fiscal years 2008 and 2009 and the projected expenditures for such technologies for fiscal year 2010. Deadline. Reports.

**SEC. 219. MECHANISMS TO PROVIDE FUNDS FOR DEFENSE LABORATORIES FOR RESEARCH AND DEVELOPMENT OF TECHNOLOGIES FOR MILITARY MISSIONS.** 10 USC 2358 note.

(a) MECHANISMS TO PROVIDE FUNDS.—

(1) IN GENERAL.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall establish mechanisms under which the director of a defense laboratory may use an amount of funds equal to not more than three percent of all funds available to the defense laboratory for the following purposes:

(A) To fund innovative basic and applied research that is conducted at the defense laboratory and supports military missions.

(B) To fund development programs that support the transition of technologies developed by the defense laboratory into operational use.

(C) To fund workforce development activities that improve the capacity of the defense laboratory to recruit and retain personnel with needed scientific and engineering expertise.

(2) CONSULTATION REQUIRED.—The mechanisms established under paragraph (1) shall provide that funding shall be used under paragraph (1) at the discretion of the director of a defense laboratory in consultation with the science and technology executive of the military department concerned.

(b) ANNUAL REPORT ON USE OF AUTHORITY.—

(1) IN GENERAL.—Not later than March 1 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the use of the authority under subsection (a) during the preceding year.

(2) ELEMENTS.—Each report under paragraph (1) shall include, with respect to the year covered by such report, the following:

(A) A description of the mechanisms used to provide funding under subsection (a)(1).

(B) A statement of the amount of funding made available to each defense laboratory for research described under such subsection.

(C) A description of the investments made by each defense laboratory using funds under such subsection.

(D) A description and assessment of any improvements in the performance of the defense laboratories as a result of investments under such subsection.

(E) A description and assessment of the contributions to the development of needed military capabilities provided by research using funds under such subsection.

(F) A description of any modification to the mechanisms under subsection (a) that would improve the efficacy of the authority under such subsection to support military missions.

(c) SUNSET.—The authority under subsection (a) shall expire on October 1, 2013.

**SEC. 220. REQUIREMENTS FOR CERTAIN AIRBORNE INTELLIGENCE COLLECTION SYSTEMS.**

Effective date.

(a) IN GENERAL.—Except as provided pursuant to subsection (b), effective as of October 1, 2012, each airborne intelligence collection system of the Department of Defense that is connected to the Distributed Common Ground/Surface System shall have the capability to operate with the Network-Centric Collaborative Targeting System.

(b) EXCEPTIONS.—The requirement in subsection (a) with respect to a particular airborne intelligence collection system may be waived by the Chairman of the Joint Requirements Oversight Council under section 181 of title 10, United States Code. Waivers under this subsection shall be made on a case-by-case basis.

**SEC. 221. LIMITATION ON OBLIGATION OF FUNDS FOR ENHANCED AN/TPQ–36 RADAR SYSTEM PENDING SUBMISSION OF REPORT.**

Of the amounts appropriated pursuant to section 201(1) of this Act or otherwise made available for fiscal year 2009 for research, development, test, and evaluation, Army, for the Enhanced AN/TPQ–36 radar system, not more than 70 percent of the amounts remaining unobligated as of the date of the enactment of this Act may be obligated until the Secretary of the Army submits to the congressional defense committees a report describing the plan to transition the Counter-Rockets, Artillery, and Mortars program to a program of record.

## Subtitle C—Missile Defense Programs

**SEC. 231. ANNUAL DIRECTOR OF OPERATIONAL TEST AND EVALUATION CHARACTERIZATION OF OPERATIONAL EFFECTIVENESS, SUITABILITY, AND SURVIVABILITY OF THE BALLISTIC MISSILE DEFENSE SYSTEM.**

(a) ANNUAL CHARACTERIZATION.—Section 232(h) of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2431 note) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Director of Operational Test and Evaluation shall also each year characterize the operational effectiveness, suitability, and survivability of the ballistic missile defense system, and its elements, that have been fielded or tested before the end of the preceding fiscal year."; and

(3) in paragraph (3), as redesignated by paragraph (1) of this subsection, by inserting "and the characterization under paragraph (2)" after "the assessment under paragraph (1)".

(b) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows: "ANNUAL OT&E ASSESSMENT AND CHARACTERIZATION OF CERTAIN BALLISTIC MISSILE DEFENSE MATTERS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2008, and shall apply with respect to fiscal years beginning on or after that date. 10 USC 2431 note.

**SEC. 232. INDEPENDENT STUDY OF BOOST-PHASE MISSILE DEFENSE.**

(a) STUDY.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall enter into an agreement with the National Academy of Sciences to conduct an independent study of concepts and systems for boost-phase missile defense. Deadline. Contracts.

(b) ELEMENTS.—

(1) CONTENT.—The study required by subsection (a) shall address the following:

(A) The extent to which boost-phase missile defense is technically feasible and practical.

(B) Whether any demonstration efforts by the Department of Defense of boost-phase missile defense technology existing as of the date of the study (including the Airborne Laser and the Kinetic Energy Interceptor) have a high probability of performing a boost-phase missile defense mission in an operationally effective, suitable, and survivable manner.

(2) SYSTEMS TO BE EXAMINED.—The study required by subsection (a) shall examine each of the following systems:

(A) The Airborne Laser.

(B) The Kinetic Energy Interceptor (land-based and sea-based options).

(C) Other existing boost-phase technology demonstration programs.

(3) FACTORS TO BE EVALUATED.—The study shall evaluate each system identified in paragraph (2) based on the following factors:

(A) Technical capability of the system against scenarios identified in paragraph (4).

(B) Operational issues, including operational effectiveness.

(C) The results of key milestone tests conducted prior to preparation of the report under subsection (c).

(D) Survivability.

(E) Suitability.

(F) Concept of operations, including basing considerations.

(G) Operations and maintenance support.

(H) Command and control considerations, including timelines for detection, decision-making, and engagement.

(I) Shortfall from intercepts.

(J) Force structure requirements.

(K) Effectiveness against countermeasures.

(L) Estimated cost of sustaining the system in the field.

(M) Reliability, availability, and maintainability.

(N) Geographic considerations, including limitations on the ability to deploy systems within operational range of potential targets.

(O) Cost and cost-effectiveness, including total lifecycle cost estimates.

(4) SCENARIOS TO BE ASSESSED.—The study shall include an assessment of each system identified in paragraph (2) regarding the performance and operational capabilities of the system—

(A) to counter short-range, medium-range, and intermediate-range ballistic missile threats from rogue states to the deployed forces of the United States and its allies; and

(B) to defend the territory of the United States against limited ballistic missile attack.

(5) COMPARISON WITH NON-BOOST SYSTEMS.—The study shall include an assessment of the performance and operational capabilities of non-boost missile defense systems to counter the scenarios identified in paragraph (4). The results under this paragraph shall be compared to the results under paragraph (4). For purposes of this paragraph, non-boost missile defense systems include—

(A) the Patriot PAC–3 system and the Medium Extended Air Defense System follow-on system;

(B) the Aegis Ballistic Missile Defense system, with all variants of the Standard Missile-3 interceptor;

(C) the Terminal High Altitude Area Defense system; and

(D) the Ground-based Midcourse Defense system.

(c) REPORT.—

(1) IN GENERAL.—Upon the completion of the study required by subsection (a), but not later than October 31, 2010, the National Academy of Sciences shall submit to the Secretary of Defense and the congressional defense committees a report on the study. The report shall include such recommendations regarding the future direction of the boost-phase ballistic missile defense programs of the United States as the Academy considers appropriate.

(2) FORM.—The report under paragraph (1) shall be submitted to the congressional defense committees in unclassified form, but may include a classified annex.

(d) FUNDING.—Of the funds appropriated pursuant to the authorization of appropriations in section 201(4) for research, development, test, and evaluation, Defense-wide, and available for the Missile Defense Agency, $3,500,000 may be available to conduct the study required by subsection (a).

(e) COOPERATION FROM GOVERNMENT.—In carrying out the study, the National Academy of Sciences shall receive the full and timely cooperation of the Secretary of Defense and any other Federal Government official in providing the Academy with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

**SEC. 233. LIMITATION ON AVAILABILITY OF FUNDS FOR PROCUREMENT, CONSTRUCTION, AND DEPLOYMENT OF MISSILE DEFENSES IN EUROPE.**

10 USC 2431 note.

(a) GENERAL LIMITATION.—No funds authorized to be appropriated by this Act or otherwise made available for the Department of Defense for fiscal year 2009 or any fiscal year thereafter may be obligated or expended for procurement, site activation, construction, preparation of equipment for, or deployment of a long-range missile defense system in Europe until the following conditions have been met:

(1) In the case of the proposed midcourse radar element of such missile defense system, the host nation has signed and ratified the missile defense basing agreement and status of forces agreement that allow for the stationing in such nation of the radar and personnel to carry out the proposed deployment.

(2) In the case of the proposed long-range missile defense interceptor site element of such missile defense system—

(A) the condition in paragraph (1) has been met; and

(B) the host nation has signed and ratified the missile defense basing agreement and status of forces agreement that allow for the stationing in such nation of the interceptor site and personnel to carry out the proposed deployment.

(3) In the case of either element of such missile defense system described in paragraph (1) or (2), 45 days have elapsed following the receipt by the congressional defense committees of the report required by section 226(c)(6) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 42).

Reports. Certification.

(b) ADDITIONAL LIMITATION.—In addition to the limitation in subsection (a), no funds authorized to be appropriated by this Act or otherwise made available for the Department of Defense for fiscal year 2009 may be obligated or expended for the acquisition (other than initial long-lead procurement) or deployment of operational missiles of a long-range missile defense system in Europe until the Secretary of Defense, after receiving the views of the Director of Operational Test and Evaluation, submits to the congressional defense committees a report certifying that the proposed interceptor to be deployed as part of such missile defense system has demonstrated, through successful, operationally realistic flight testing, a high probability of working in an operationally effective manner and the ability to accomplish the mission.

(c) CONSTRUCTION.—Nothing in this section shall be construed to limit continuing obligation and expenditure of funds for missile defense, including for research and development and for other activities not otherwise limited by subsection (a) or (b), including, but not limited to, site surveys, studies, analysis, and planning and design for the proposed missile defense deployment in Europe.

**SEC. 234. REVIEW OF THE BALLISTIC MISSILE DEFENSE POLICY AND STRATEGY OF THE UNITED STATES.**

(a) REVIEW REQUIRED.—The Secretary of Defense shall conduct a review of the ballistic missile defense policy and strategy of the United States.

(b) ELEMENTS.—The matters addressed by the review required by subsection (a) shall include the following:

(1) The ballistic missile defense policy of the United States in relation to the overall national security policy of the United States.

(2) The ballistic missile defense strategy and objectives of the United States in relation to the national security strategy of the United States and the military strategy of the United States.

(3) The ballistic missile threat to the United States, deployed forces of the United States, and friends and allies of the United States from short, medium, intermediate, and long-range ballistic missile threats.

(4) The organization, discharge, and oversight of acquisition for the ballistic missile defense programs of the United States.

(5) The roles and responsibilities of the Office of the Secretary of Defense, defense agencies, combatant commands, the Joint Chiefs of Staff, and the military departments in such programs.

(6) The process for determining requirements for missile defense capabilities under such programs, including input from the joint military requirements process.

(7) The process for determining the force structure and inventory objectives for such programs.

(8) Standards for the military utility, operational effectiveness, suitability, and survivability of the ballistic missile defense systems of the United States.

(9) The method in which resources for the ballistic missile defense mission are planned, programmed, and budgeted within the Department of Defense.

(10) The near-term and long-term affordability and cost-effectiveness of such programs.

(11) The objectives, requirements, and standards for test and evaluation with respect to such programs.

(12) Accountability, transparency, and oversight with respect to such programs.

(13) The role of international cooperation on missile defense in the ballistic missile defense policy and strategy of the United States.

(14) Any other matters the Secretary determines relevant.

(c) REPORT.—

(1) IN GENERAL.—Not later than January 31, 2010, the Secretary shall submit to Congress a report setting forth the results of the review required by subsection (a).

(2) FORM.—The report required by this subsection shall be in unclassified form, but may include a classified annex.

**SEC. 235. AIRBORNE LASER SYSTEM.**

(a) REPORT ON DIRECTOR OF OPERATIONAL TEST AND EVALUATION ASSESSMENT OF TESTING.—Not later than January 15, 2010, the Director of Operational Test and Evaluation shall—

(1) review and evaluate the testing conducted on the first Airborne Laser System aircraft, including the planned shoot-down demonstration testing; and

(2) submit to the Secretary of Defense and to Congress an assessment by the Director of the operational effectiveness, suitability, and survivability of the Airborne Laser System.

(b) LIMITATION ON AVAILABILITY OF FUNDS FOR LATER AIRBORNE LASER SYSTEM AIRCRAFT.—No funds appropriated pursuant to an

authorization of appropriations or otherwise made available for the Department of Defense may be obligated or expended for the procurement of a second or subsequent aircraft for the Airborne Laser System program until the later of the following dates:

Certification.

(1) The date on which the Secretary of Defense, after receiving the assessment under subsection (a)(2), submits to Congress a certification that the Airborne Laser System has demonstrated, through successful testing and operational and cost analysis, a high probability of being operationally effective, suitable, survivable, and affordable.

Deadline.

(2) The date that is 60 days after the date on which Congress receives the independent assessment of boost-phase missile defense required by section 232.

**SEC. 236. ACTIVATION AND DEPLOYMENT OF AN/TPY–2 FORWARD-BASED X-BAND RADAR.**

(a) AVAILABILITY OF FUNDS.—Subject to subsection (b), of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, up to $89,000,000 may be available for Ballistic Missile Defense Sensors for the activation and deployment of the AN/TPY–2 forward-based X-band radar to a classified location.

(b) LIMITATION.—

Reports.

(1) IN GENERAL.—Funds may not be available under subsection (a) for the purpose specified in that subsection until the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives a report on the deployment of the AN/TPY–2 forward-based X-band radar as described in that subsection, including:

(A) The location of deployment of the radar.

(B) A description of the operational parameters of the deployment of the radar, including planning for force protection.

(C) A description of any recurring and non-recurring expenses associated with the deployment of the radar.

(D) A description of the cost-sharing arrangements between the United States and the country in which the radar will be deployed regarding the expenses described in subparagraph (C).

(E) A description of the other terms and conditions of the agreement between the United States and such country regarding the deployment of the radar.

(2) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

# Subtitle D—Reports

**SEC. 241. BIENNIAL REPORTS ON JOINT AND SERVICE CONCEPT DEVELOPMENT AND EXPERIMENTATION.**

(a) IN GENERAL.—Section 485 of title 10, United States Code, is amended to read as follows:

**"§ 485. Joint and service concept development and experimentation**

"(a) BIENNIAL REPORTS REQUIRED.—Not later than January 1 of each even numbered-year, the Secretary of Defense or the Secretary's designee shall submit to the congressional defense

committees a report on the conduct and outcomes of joint and service concept development and experimentation.

"(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall include the following:

"(1) A description of any changes since the latest report submitted under this section to each of the following:

"(A) The organization of the Department of Defense responsible for executing the mission of joint concept development and experimentation, or its specific authorities related to that mission.

"(B) The process for tasking forces (including forces designated as joint experimentation forces) to participate in joint concept development and experimentation, and the specific authority of the organization responsible for executing the mission of joint concept development and experimentation over those forces.

"(C) The resources provided for initial implementation of joint concept development and experimentation, the process for providing such resources to the organization responsible for executing the mission of joint concept development and experimentation, the categories of funding for joint concept development and experimentation, and the authority of the organization responsible for executing the mission of joint concept development and experimentation for budget execution for such activities.

"(D) The assigned role of the organization responsible for executing the mission of joint concept development and experimentation for—

"(i) integrating and testing in joint concept development and experimentation the systems that emerge from warfighting experimentation by the armed forces and the Defense Agencies;

"(ii) assessing the effectiveness of organizational structures, operational concepts, and technologies relating to joint concept development and experimentation; and

"(iii) assisting the Secretary of Defense and the Chairman of the Joint Chiefs of Staff in setting priorities for requirements or acquisition programs in light of joint concept development and experimentation.

"(2) A description of the conduct of joint concept development and experimentation activities, and of concept development and experimentation activities of each of the military departments, during the two-year period ending on the date of such report, including—

"(A) the funding involved;

"(B) the number of activities engaged in;

"(C) the forces involved;

"(D) the national and homeland security challenges addressed;

"(E) the operational concepts assessed;

"(F) the technologies assessed;

"(G) the scenarios and measures of effectiveness utilized; and

"(H) specific interactions under such activities with the commanders of the combatant commands and with

other organizations and entities inside and outside the Department.

"(3) A description of the conduct of joint concept development and experimentation, and of the conduct of concept development and experimentation by each of the military departments, during the two-year period ending on the date of such report with respect to the development of warfighting concepts for operational scenarios more than 10 years in the future, including—

"(A) the funding involved;

"(B) the number of activities engaged in;

"(C) the forces involved;

"(D) the challenges addressed;

"(E) the operational concepts assessed;

"(F) the technologies assessed;

"(G) the scenarios and measures of effectiveness utilized; and

"(H) specific interactions with the commanders of the combatant commands and with other organizations and entities inside and outside the Department.

"(4) A description of the mechanisms used to coordinate joint, service, interagency, Coalition, and other appropriate concept development and experimentation activities.

"(5) An assessment of the return on investment in concept development and experimentation activities, including a description of the following:

"(A) Specific outcomes and impacts within the Department of the results of past joint and service concept development and experimentation in terms of new doctrine, operational concepts, organization, training, materiel, leadership, personnel, or the allocation of resources, or in activities that terminated support for legacy concepts, programs, or systems.

"(B) Specific actions taken to implement the recommendations of the Commander of United States Joint Forces Command based on joint concept development and experimentation activities.

"(6) Such recommendations (based primarily on the results of joint and service concept development and experimentation) as the Secretary considers appropriate for enhancing the development of joint warfighting capabilities by modifying activities throughout the Department relating to—

"(A) the development or acquisition of specific advanced technologies, systems, or weapons or systems platforms;

"(B) key systems attributes and key performance parameters for the development or acquisition of advanced technologies and systems;

"(C) joint or service doctrine, organization, training, materiel, leadership development, personnel, or facilities;

"(D) the reduction or elimination of redundant equipment and forces, including the synchronization of the development and fielding of advanced technologies among the armed forces to enable the development and execution of joint operational concepts; and

"(E) the development or modification of initial capabilities documents, operational requirements, and relative

priorities for acquisition programs to meet joint requirements.

"(7) With respect to improving the effectiveness of joint concept development and experimentation capabilities, such recommendations (based primarily on the results of joint warfighting experimentation) as the Secretary considers appropriate regarding—

"(A) the conduct of, adequacy of resources for, or development of technologies to support such capabilities; and

"(B) changes in support from other elements of the Department responsible for concept development and experimentation by joint or service organizations.

"(8) The coordination of the concept development and experimentation activities of the Commander of the United States Joint Forces Command with the activities of the Commander of the North Atlantic Treaty Organization Supreme Allied Command Transformation.

"(9) Any other matters that the Secretary consider appropriate.

"(c) COORDINATION AND SUPPORT.—The Secretary of Defense shall ensure that the Secretaries of the military departments and the heads of other appropriate elements of the Department of Defense provide such information and support as is required for the preparation of the reports required by this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of such title is amended by striking the item relating to section 485 and inserting the following new item:

"485. Joint and service concept development and experimentation.".

**SEC. 242. REPORT ON PARTICIPATION OF THE HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND MINORITY-SERVING INSTITUTIONS IN RESEARCH AND EDUCATIONAL PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF DEFENSE.**

(a) IN GENERAL.—The Secretary of Defense shall carry out an independent assessment of the participation of covered educational institutions in research and educational programs and activities of the Department of Defense.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the assessment required under subsection (a).

(c) MATTERS INCLUDED.—The report required under subsection (b) shall include the following:

(1) A description of research, training, technical assistance, infrastructure support, and educational programs and activities conducted by the Department of Defense in support of covered educational institutions.

(2) A survey of the level of participation of covered educational institutions in programs described in paragraph (1), and lessons learned from the survey.

(3) An assessment of the relevance, including outcomes and effects, of the programs and activities identified in paragraph (1) to the research and educational programs, activities, and missions of the Department of Defense.

(4) An assessment of additional activities by the Department of Defense that support covered educational institutions whose primary focus is the training and educating of minority scientists, engineers, and technicians.

(5) An assessment of barriers to the participation of covered educational institutions in the research and educational programs and activities of the Department of Defense.

(6) Recommendations to increase the capacity of covered educational institutions to participate in research and educational programs and activities that are critical to the national security functions of the Department of Defense.

(7) Any other matters the Secretary of Defense considers appropriate.

(d) COOPERATION OF DEFENSE ORGANIZATIONS.—The Secretary of Defense shall ensure that the relevant elements of the Department of Defense provide all information necessary for the completion of the assessment required under subsection (a).

(e) DEFINITIONS.—In this section:

(1) The term "covered educational institutions" means—

(A) a historically Black college or university that is a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2));

(B) a minority institution, as defined in section 365(3) of that Act (20 U.S.C. 1067k(3));

(C) a Hispanic-serving institution, as defined in section 502(a)(5) of that Act (20 U.S.C. 1101a(a)(5));

(D) a Tribal College or University, as defined in section 316(b)(3) of that Act (20 U.S.C. 1059c(b)(3)); and

(E) other minority postsecondary institutions.

(2) The term "research and educational programs and activities" includes programs and activities relating to research, development, test, and evaluation and education.

**SEC. 243. REPORT ON DEPARTMENT OF DEFENSE RESPONSE TO FINDINGS AND RECOMMENDATIONS OF THE DEFENSE SCIENCE BOARD TASK FORCE ON DIRECTED ENERGY WEAPONS.**

(a) REPORT REQUIRED.—Not later than January 1, 2010, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of the recommendations of the Defense Science Board Task Force on Directed Energy Weapons.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of each of the findings and recommendations of the Defense Science Board Task Force on Directed Energy Weapons.

(2) A detailed description of the response of the Department of Defense to each finding and recommendation of the Task Force, including—

(A) for each recommendation that is being implemented or that the Secretary plans to implement—

(i) a summary of actions that have been taken to implement such recommendation; and

(ii) a schedule, with specific milestones, for completing the implementation of such recommendation; and

(B) for each recommendation that the Secretary does not plan to implement—

(i) the reasons for the decision not to implement such recommendation; and

(ii) a summary of the alternative actions the Secretary plans to take to address the purposes underlying such recommendation.

(3) A summary of any additional actions the Secretary plans to take to address concerns raised by the Task Force.

## Subtitle E—Other Matters

### SEC. 251. MODIFICATION OF SYSTEMS SUBJECT TO SURVIVABILITY TESTING OVERSIGHT BY THE DIRECTOR OF OPERATIONAL TEST AND EVALUATION.

(a) AUTHORITY TO DESIGNATE ADDITIONAL SYSTEMS AS MAJOR SYSTEMS AND PROGRAMS SUBJECT TO TESTING.—Section 2366(e)(1) of title 10, United States Code, is amended to read as follows:

"(1) The term 'covered system' means—

"(A) a vehicle, weapon platform, or conventional weapon system that—

"(i) includes features designed to provide some degree of protection to users in combat; and

"(ii) is a major system as defined in section 2302(5) of this title; or

"(B) any other system or program designated by the Secretary of Defense for purposes of this section.".

(b) REVISION TO REPORT REQUIREMENT.—Section 2366(d) of such title is amended—

(1) by inserting "(1)" before "At the conclusion"; and

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

"(2) If a decision is made within the Department of Defense to proceed to operational use of a system, or to make procurement funds available for a system, before Milestone C approval of that system, the Secretary of Defense shall submit to the congressional defense committees, as soon as practicable after such decision, the following:

"(A) A report describing the status of survivability and live fire testing of that system.

"(B) The report required under paragraph (1).".

(c) FORCE PROTECTION EQUIPMENT.—Section 139(b) of such title is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

### SEC. 252. TECHNOLOGY-NEUTRAL INFORMATION TECHNOLOGY GUIDELINES AND STANDARDS TO SUPPORT FULLY INTEROPERABLE ELECTRONIC PERSONAL HEALTH INFORMATION FOR THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS.

Section 1635 of the Wounded Warrior Act (title XVI of Public Law 110–181; 122 Stat. 460; 10 U.S.C. 1071 note) is amended—

(1) in subsection (h)(1), by adding at the end the following new subparagraphs:

"(C) A description and analysis of the level of interoperability and security of technologies for sharing healthcare information among the Department of Defense, the Department of Veterans Affairs, and their transaction partners.

"(D) A description and analysis of the problems the Department of Defense and the Department of Veterans Affairs are having with, and the progress such departments are making toward, ensuring interoperable and secure healthcare information systems and electronic healthcare records."; and

(2) by adding at the end the following new subsection:

"(j) TECHNOLOGY-NEUTRAL GUIDELINES AND STANDARDS.—The Director, in consultation with industry and appropriate Federal agencies, shall develop, or shall adopt from industry, technology-neutral information technology infrastructure guidelines and standards for use by the Department of Defense and the Department of Veterans Affairs to enable those departments to effectively select and utilize information technologies to meet the requirements of this section.".

**SEC. 253. ASSESSMENT OF TECHNOLOGY TRANSITION PROGRAMS AND REPEAL OF REPORTING REQUIREMENT.**

(a) ASSESSMENT AND REPORT REQUIRED.—

(1) IN GENERAL.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall assess the feasibility of consolidating the various technology transition programs in the Department of Defense into a unified effort managed by a senior official of the Department.

(2) PROGRAMS INCLUDED.—The assessment required by paragraph (1) shall include—

(A) the technology transition programs managed or overseen by the Secretary of Defense; and

(B) as the Under Secretary considers appropriate, the technology transition programs of the military departments.

(3) REPORT.—Not later than October 1, 2009, the Under Secretary shall submit to the congressional defense committees a report on the assessment required by paragraph (1). The report shall include the following:

(A) A description of each of the technology transition programs considered as part of the assessment.

(B) An evaluation of the extent to which each technology transition program fulfills its intended mission and supports effective and efficient technology transition.

(C) For each technology transition program considered in the assessment, a summary of the funding available for the five fiscal years preceding the date on which the report is submitted.

(D) The conclusion of the Under Secretary as to whether there are any benefits in consolidating the technology transition programs into a unified effort managed by a senior official of the Department of Defense.

(E) Recommendations to add, repeal, or amend statutes or regulations in order to more effectively enable technology transition.

(F) Recommendations regarding the appropriate management structure, fiscal controls, and stakeholder engagement required to ensure that a unified technology transition program will cost-effectively and efficiently enable technology transition.

(b) REPORTING REQUIREMENT REPEALED.—Section 2359a of title 10, United States Code, is amended—

(1) by striking subsection (h); and

(2) by redesignating subsection (i) as subsection (h).

10 USC 2302 note.

**SEC. 254. TRUSTED DEFENSE SYSTEMS.**

(a) VULNERABILITY ASSESSMENT REQUIRED.—The Secretary of Defense shall conduct an assessment of selected covered acquisition programs to identify vulnerabilities in the supply chain of each program's electronics and information processing systems that potentially compromise the level of trust in the systems. Such assessment shall—

(1) identify vulnerabilities at multiple levels of the electronics and information processing systems of the selected programs, including microcircuits, software, and firmware;

(2) prioritize the potential vulnerabilities and effects of the various elements and stages of the system supply chain to identify the most effective balance of investments to minimize the effects of compromise;

(3) provide recommendations regarding ways of managing supply chain risk for covered acquisition programs; and

(4) identify the appropriate lead person, and supporting elements, within the Department of Defense for the development of an integrated strategy for managing risk in the supply chain for covered acquisition programs.

(b) ASSESSMENT OF METHODS FOR VERIFYING THE TRUST OF SEMICONDUCTORS PROCURED FROM COMMERCIAL SOURCES.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, in consultation with appropriate elements of the Department of Defense, the intelligence community, private industry, and academia, shall conduct an assessment of various methods of verifying the trust of semiconductors procured by the Department of Defense from commercial sources for use in mission-critical components of potentially vulnerable defense systems. The assessment shall include the following:

(1) An identification of various methods of verifying the trust of semiconductors, including methods under development at the Defense Agencies, government laboratories, institutions of higher education, and in the private sector.

(2) A determination of the methods identified under paragraph (1) that are most suitable for the Department of Defense.

(3) An assessment of the additional research and technology development needed to develop methods of verifying the trust of semiconductors that meet the needs of the Department of Defense.

(4) Any other matters that the Under Secretary considers appropriate.

(c) STRATEGY REQUIRED.—

(1) IN GENERAL.—The lead person identified under subsection (a)(4), in cooperation with the supporting elements also identified under such subsection, shall develop an integrated strategy—

(A) for managing risk—

(i) in the supply chain of electronics and information processing systems for covered acquisition programs; and

(ii) in the procurement of semiconductors; and

(B) that ensures dependable, continuous, long-term access and trust for all mission-critical semiconductors procured from both foreign and domestic sources.

(2) REQUIREMENTS.—At a minimum, the strategy shall—

(A) address the vulnerabilities identified by the assessment under subsection (a);

(B) reflect the priorities identified by such assessment;

(C) provide guidance for the planning, programming, budgeting, and execution process in order to ensure that covered acquisition programs have the necessary resources to implement all appropriate elements of the strategy;

(D) promote the use of verification tools, as appropriate, for ensuring trust of commercially acquired systems;

(E) increase use of trusted foundry services, as appropriate; and

(F) ensure sufficient oversight in implementation of the plan.

(d) POLICIES AND ACTIONS FOR ASSURING TRUST IN INTEGRATED CIRCUITS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall— Deadline.

(1) develop policy requiring that trust assurance be a high priority for covered acquisition programs in all phases of the electronic component supply chain and integrated circuit development and production process, including design and design tools, fabrication of the semiconductors, packaging, final assembly, and test;

(2) develop policy requiring that programs whose electronics and information systems are determined to be vital to operational readiness or mission effectiveness are to employ trusted foundry services to fabricate their custom designed integrated circuits, unless the Secretary specifically authorizes otherwise;

(3) incorporate the strategies and policies of the Department of Defense regarding development and use of trusted integrated circuits into all relevant Department directives and instructions related to the acquisition of integrated circuits and programs that use such circuits; and

(4) take actions to promote the use and development of tools that verify the trust in all phases of the integrated circuit development and production process of mission-critical parts acquired from non-trusted sources.

(e) SUBMISSION TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees— Deadline.

(1) the assessments required by subsections (a) and (b);

(2) the strategy required by subsection (c); and

(3) a description of the policies developed and actions taken under subsection (d).

(f) DEFINITIONS.—In this section:

(1) The term "covered acquisition programs" means an acquisition program of the Department of Defense that is a major system for purposes of section 2302(5) of title 10, United States Code.

(2) The terms "trust" and "trusted" refer, with respect to electronic and information processing systems, to the ability of the Department of Defense to have confidence that the systems function as intended and are free of exploitable vulnerabilities, either intentionally or unintentionally designed or inserted as part of the system at any time during its life cycle.

(3) The term "trusted foundry services" means the program of the National Security Agency and the Department of Defense, or any similar program approved by the Secretary of Defense, for the development and manufacture of integrated circuits for critical defense systems in secure industrial environments.

**SEC. 255. CAPABILITIES-BASED ASSESSMENT TO OUTLINE A JOINT APPROACH FOR FUTURE DEVELOPMENT OF VERTICAL LIFT AIRCRAFT AND ROTORCRAFT.**

(a) ASSESSMENT REQUIRED.—The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall carry out a capabilities-based assessment that outlines a joint approach to the future development of vertical lift aircraft and rotorcraft for all of the Armed Forces. The assessment shall—

(1) address critical technologies required for future development, including a technology roadmap;

(2) include the development of a detailed science and technology investment and implementation plan and an identification of the resources required to implement such plan; and

(3) include the development of a strategic plan that—

(A) formalizes the strategic vision of the Department of Defense for the next generation of vertical lift aircraft and rotorcraft;

(B) establishes joint requirements for the next generation of vertical lift aircraft and rotorcraft technology; and

(C) emphasizes the development of common service requirements.

(b) REPORT.—The Secretary and the Chairman shall submit to the congressional defense committees a report on the assessment under subsection (a). The report shall include—

(1) the technology roadmap referred to in subsection (a)(1);

(2) the plan and the identification of resources referred to in subsection (a)(2);

(3) the strategic plan referred to in subsection (a)(3); and

(4) a detailed plan to establish a Joint Vertical Lift Aircraft/Rotorcraft Office based on lessons learned from the Joint Advanced Strike Technology Office.

10 USC 2501 note.

**SEC. 256. EXECUTIVE AGENT FOR PRINTED CIRCUIT BOARD TECHNOLOGY.**

Deadline. Designation.

(a) EXECUTIVE AGENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall designate a senior official of the Department of Defense to act as the executive agent for printed circuit board technology.

(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—

Deadline.

(1) ESTABLISHMENT.—Not later than one year after the date of the enactment of this Act, and in accordance with Directive 5101.1, the Secretary of Defense shall prescribe the roles, responsibilities, and authorities of the executive agent designated under subsection (a).

(2) SPECIFICATION.—The roles and responsibilities of the executive agent designated under subsection (a) shall include each of the following:

(A) Development and maintenance of a printed circuit board and interconnect technology roadmap that ensures that the Department of Defense has access to the manufacturing capabilities and technical expertise necessary to meet future military requirements regarding such technology.

(B) Development of recommended funding strategies necessary to meet the requirements of the roadmap developed under subparagraph (A).

(C) Assessment of the vulnerabilities, trustworthiness, and diversity of the printed circuit board supply chain, including the development of trustworthiness requirements for printed circuit boards used in defense systems, and to develop strategies to address matters that are identified as a result of such assessment.

(D) Such other roles and responsibilities as the Secretary of Defense considers appropriate.

(c) SUPPORT WITHIN DEPARTMENT OF DEFENSE.—In accordance with Directive 5101.1, the Secretary of Defense shall ensure that the military departments, Defense Agencies, and other components of the Department of Defense provide the executive agent designated under subsection (a) with the appropriate support and resources needed to perform the roles, responsibilities, and authorities of the executive agent.

(d) DEFINITIONS.—In this section:

(1) The term "Directive 5101.1" means Department of Defense Directive 5101.1, or any successor directive relating to the responsibilities of an executive agent of the Department of Defense.

(2) The term "executive agent" has the meaning given the term "DoD Executive Agent" in Directive 5101.1.

**SEC. 257. REVIEW OF CONVENTIONAL PROMPT GLOBAL STRIKE TECHNOLOGY APPLICATIONS AND CONCEPTS.**

(a) AVAILABILITY OF FUNDS FOR PROMPT GLOBAL STRIKE CAPABILITY DEVELOPMENT.—Notwithstanding any other provision of this Act, funds for conventional prompt global strike capability development are authorized by this Act only for those activities expressly delineated in the expenditure plan for fiscal years 2008 and 2009 that was required by section 243 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 51; 10 U.S.C. 113 note) and submitted to the congressional defense committees and dated March 24, 2008, those activities for which funds are authorized to be appropriated in this Act, or those activities otherwise expressly authorized by Congress.

(b) REPORT ON TECHNOLOGY APPLICATIONS.—Not later than April 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report that contains—

(1) a description of the technology applications developed pursuant to conventional prompt global strike activities during fiscal year 2009; and

(2) for each such technology application, the conventional prompt global strike concept towards which the application could be applied.

(c) REVIEW OF CONVENTIONAL PROMPT GLOBAL STRIKE CONCEPTS.—The Secretary of Defense shall, in consultation with the Secretary of State, conduct a review of each nonnuclear prompt global strike concept with respect to which the President requests funding in the budget of the President for fiscal year 2010 (as submitted to Congress pursuant to section 1105 of title 31, United States Code).

(d) ELEMENTS OF REVIEW.—The review required by subsection (c) shall include, for each concept described in that subsection, the following:

(1) The full cost of demonstrating such concept.

(2) An assessment of any policy, legal, or treaty-related issues that could arise during the course of, or as a result of, deployment of each concept and recommendations to address such issues.

(3) The extent to which the concept could be misconstrued as a nuclear weapon or delivery system and recommendations to mitigate the risk of such a misconstrual.

(4) An assessment of the potential basing and deployment options for the concept.

(5) A description of the types of targets against which the concept might be used.

(6) An assessment of the adequacy of the intelligence that would be needed to support an attack involving the concept.

(e) REPORT ON CONVENTIONAL PROMPT GLOBAL STRIKE CONCEPTS.—Not later than September 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the results of the review required by subsection (c).

# TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.

Subtitle B—Environmental Provisions

Sec. 311. Authorization for Department of Defense participation in conservation banking programs.
Sec. 312. Reimbursement of Environmental Protection Agency for certain costs in connection with Moses Lake Wellfield Superfund Site, Moses Lake, Washington.
Sec. 313. Expand cooperative agreement authority for management of natural resources to include off-installation mitigation.
Sec. 314. Expedited use of appropriate technology related to unexploded ordnance detection.
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Subtitle F—Other Matters

Sec. 351. Extension of Enterprise Transition Plan reporting requirement.
Sec. 352. Demilitarization of loaned, given, or exchanged documents, historical artifacts, and condemned or obsolete combat materiel.
Sec. 353. Repeal of requirement that Secretary of Air Force provide training and support to other military departments for A–10 aircraft.
Sec. 354. Display of annual budget requirements for Air Sovereignty Alert Mission.
Sec. 355. Revision of certain Air Force regulations required.
Sec. 356. Transfer of C–12 aircraft to California Department of Forestry and Fire Protection.
Sec. 357. Limitation on treatment of retired B–52 aircraft for Air Combat Command headquarters.
Sec. 358. Increase of domestic breeding of military working dogs used by the Department of Defense.

# Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2009 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $31,251,702,000.
(2) For the Navy, $34,850,310,000.
(3) For the Marine Corps, $5,604,254,000.
(4) For the Air Force, $35,454,487,000.
(5) For Defense-wide activities, $25,948,864,000.
(6) For the Army Reserve, $2,642,341,000.
(7) For the Naval Reserve, $1,311,085,000.
(8) For the Marine Corps Reserve, $213,131,000.
(9) For the Air Force Reserve, $3,150,692,000.
(10) For the Army National Guard, $5,893,546,000.
(11) For the Air National Guard, $5,882,326,000.
(12) For the United States Court of Appeals for the Armed Forces, $13,254,000.
(13) For Environmental Restoration, Army, $447,776,000.
(14) For Environmental Restoration, Navy, $290,819,000.
(15) For Environmental Restoration, Air Force, $496,277,000.
(16) For Environmental Restoration, Defense-wide, $13,175,000.

(17) For Environmental Restoration, Formerly Used Defense Sites, $257,796,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $83,273,000.

(19) For Cooperative Threat Reduction programs, $434,135,000.

(20) For the Overseas Contingency Operations Transfer Fund, $9,101,000.

## Subtitle B—Environmental Provisions

### SEC. 311. AUTHORIZATION FOR DEPARTMENT OF DEFENSE PARTICIPATION IN CONSERVATION BANKING PROGRAMS.

(a) PARTICIPATION AUTHORIZED.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2694b the following new section:

**"§ 2694c. Participation in conservation banking programs**

"(a) AUTHORITY TO PARTICIPATE.—Subject to the availability of appropriated funds to carry out this section, the Secretary concerned, when engaged or proposing to engage in an activity described in subsection (b) that may or will result in an adverse impact to one or more species protected (or pending protection) under any applicable provision of law, or habitat for such species, may make payments to a conservation banking program or 'in-lieu-fee' mitigation sponsor approved in accordance with—

"(1) the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605; November 28, 1995);

"(2) the Guidance for the Establishment, Use, and Operation of Conservation Banks (68 Fed. Reg. 24753; May 2, 2003);

"(3) the Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act (65 Fed. Reg. 66915; November 7, 2000); or

"(4) any successor or related administrative guidance or regulation.

"(b) COVERED ACTIVITIES.—Payments to a conservation banking program or 'in-lieu-fee' mitigation sponsor under subsection (a) may be made only for the purpose of facilitating one or more of the following activities:

"(1) Military testing, operations, training, or other military activity.

"(2) Military construction.

"(c) TREATMENT OF AMOUNTS FOR CONSERVATION BANKING.—Payments made under subsection (a) to a conservation banking program or 'in-lieu-fee' mitigation sponsor for the purpose of facilitating military construction may be treated as eligible costs of the military construction project.

"(d) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' means—

"(1) the Secretary of a military department; and

"(2) the Secretary of Defense with respect to a Defense Agency.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2694b the following new item:

"2694c. Participation in conservation banking programs.".

(c) EFFECTIVE DATE.—Section 2694c of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2008, and only funds appropriated for fiscal years beginning after September 30, 2008, may be used to carry out such section. 10 USC 2694c note.

**SEC. 312. REIMBURSEMENT OF ENVIRONMENTAL PROTECTION AGENCY FOR CERTAIN COSTS IN CONNECTION WITH MOSES LAKE WELLFIELD SUPERFUND SITE, MOSES LAKE, WASHINGTON.**

(a) AUTHORITY TO REIMBURSE.—

(1) TRANSFER AMOUNT.—Using funds described in subsection (b) and notwithstanding section 2215 of title 10, United States Code, the Secretary of Defense may transfer not more than $64,049.40 during fiscal year 2009 to the Moses Lake Wellfield Superfund Site 10–6J Special Account.

(2) PURPOSE OF REIMBURSEMENT.—The payment under paragraph (1) is to reimburse the Environmental Protection Agency for its costs incurred in overseeing a remedial investigation/feasibility study performed by the Department of the Army under the Defense Environmental Restoration Program at the former Larson Air Force Base, Moses Lake Superfund Site, Moses Lake, Washington.

(3) INTERAGENCY AGREEMENT.—The reimbursement described in paragraph (2) is provided for in the interagency agreement entered into by the Department of the Army and the Environmental Protection Agency for the Moses Lake Wellfield Superfund Site in March 1999.

(b) SOURCE OF FUNDS.—Any payment under subsection (a) shall be made using funds authorized to be appropriated by section 301(17) for operation and maintenance for Environmental Restoration, Formerly Used Defense Sites.

(c) USE OF FUNDS.—The Environmental Protection Agency shall use the amount transferred under subsection (a) to pay costs incurred by the Agency at the Moses Lake Wellfield Superfund Site.

**SEC. 313. EXPAND COOPERATIVE AGREEMENT AUTHORITY FOR MANAGEMENT OF NATURAL RESOURCES TO INCLUDE OFF-INSTALLATION MITIGATION.**

Section 103a(a) of the Sikes Act (16 U.S.C. 670c–1(a)) is amended—

(1) by striking "to provide for the" and inserting "to provide for the following:

"(1) The"; and

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

"(2) The maintenance and improvement of natural resources located off of a Department of Defense installation if the purpose of the cooperative agreement is to relieve or eliminate current or anticipated challenges that could restrict, impede, or otherwise interfere with, whether directly or indirectly, current or anticipated military activities.".

10 USC 2710 note.

**SEC. 314. EXPEDITED USE OF APPROPRIATE TECHNOLOGY RELATED TO UNEXPLODED ORDNANCE DETECTION.**

(a) EXPEDITED USE OF APPROPRIATE TECHNOLOGIES.—The Secretary shall expedite the use of appropriate unexploded ordnance detection instrument technology developed through research funded by the Department of Defense or developed by entities other than the Department of Defense.

(b) REPORT.—Not later than October 1, 2009, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing and evaluating the following:

(1) The amounts allocated for research, development, test, and evaluation for unexploded ordnance detection technologies.

(2) The amounts allocated for transition of new unexploded ordnance detection technologies.

(3) Activities undertaken by the Department to transition such technologies and train operators on emerging detection instrument technologies.

(4) Any impediments to the transition of new unexploded ordnance detection instrument technologies to regular operation in remediation programs.

(5) The transfer of such technologies to private sector entities involved in the detection of unexploded ordnance.

(6) Activities undertaken by the Department to raise public awareness regarding unexploded ordnance.

(c) UNEXPLODED ORDNANCE DEFINED.—In this section, the term "unexploded ordnance" has the meaning given such term in section 101(e)(5) of title 10, United States Code.

**SEC. 315. CLOSED LOOP RE-REFINING OF USED MOTOR VEHICLE LUBRICATING OIL.**

Deadline. Reports.

(a) STUDY AND EVALUATION.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report which reviews the Department of Defense's policies concerning the re-use, recycling, sale, and disposal of used motor vehicle lubricating oil, and shall include in the report an evaluation of the feasibility and desirability of implementing policies to require re-use or recycling through closed loop re-refining of used oil as a means of reducing total indirect energy usage and greenhouse gas emissions.

(b) DEFINITION.—For purposes of this section, the term "closed loop re-refining" means the sale of used oil to entities that re-refine used oil into base oil and vehicle lubricants that meet Department of Defense and industry standards, and the purchase of re-refined oil produced through such re-refining process.

7 USC 8503 note.

**SEC. 316. COMPREHENSIVE PROGRAM FOR THE ERADICATION OF THE BROWN TREE SNAKE POPULATION FROM MILITARY FACILITIES IN GUAM.**

The Secretary of Defense shall establish a comprehensive program to control and, to the extent practicable, eradicate the brown tree snake population from military facilities in Guam and to ensure that military activities, including the transport of civilian and military personnel and equipment to and from Guam, do not contribute to the spread of brown tree snakes.

## Subtitle C—Workplace and Depot Issues

**SEC. 321. COMPREHENSIVE ANALYSIS AND DEVELOPMENT OF SINGLE GOVERNMENT-WIDE DEFINITION OF INHERENTLY GOVERNMENTAL FUNCTION AND CRITERIA FOR CRITICAL FUNCTIONS.**

31 USC 501 note.

(a) DEVELOPMENT AND IMPLEMENTATION.—The Director of the Office of Management and Budget, in consultation with appropriate representatives of the Chief Acquisition Officers Council under section 16A of the Office of Federal Procurement Policy Act (41 U.S.C. 414b) and the Chief Human Capital Officers Council under section 1401 of title 5, United States Code, shall—

(1) review the definitions of the term "inherently governmental function" described in subsection (b) to determine whether such definitions are sufficiently focused to ensure that only officers or employees of the Federal Government or members of the Armed Forces perform inherently governmental functions or other critical functions necessary for the mission of a Federal department or agency;

(2) develop a single consistent definition for such term that would—

(A) address any deficiencies in the existing definitions, as determined pursuant to paragraph (1);

(B) reasonably apply to all Federal departments and agencies; and

(C) ensure that the head of each such department or agency is able to identify each position within that department or agency that exercises an inherently governmental function and should only be performed by officers or employees of the Federal Government or members of the Armed Forces;

(3) develop criteria to be used by the head of each such department or agency to—

(A) identify critical functions with respect to the unique missions and structure of that department or agency; and

(B) identify each position within that department or agency that, while the position may not exercise an inherently governmental function, nevertheless should only be performed by officers or employees of the Federal Government or members of the Armed Forces to ensure the department or agency maintains control of its mission and operations;

(4) in addition to the actions described under paragraphs (1), (2), and (3), provide criteria that would identify positions within Federal departments and agencies that are to be performed by officers or employees of the Federal Government or members of the Armed Forces to ensure that the head of each Federal department or agency—

(A) develops and maintains sufficient organic expertise and technical capability;

(B) develops guidance to implement the definition of inherently governmental as described in paragraph (2) and the criteria for critical functions as described in paragraph (3) in a manner that is consistent with agency missions and operational goals; and

(C) develops guidance to manage internal decisions regarding staffing in an integrated manner to ensure officers or employees of the Federal Government or members of the Armed Forces are filling critical management roles by identifying—

(i) functions, activities, or positions, or some combination thereof, or

(ii) additional mechanisms and factors, including the management or oversight of awarded contracts, statutory mandates, and international obligations; and

(5) solicit the views of the public regarding the matters identified in this section.

(b) DEFINITIONS OF INHERENTLY GOVERNMENTAL FUNCTION.—The definitions of inherently governmental function described in this subsection are the definitions of such term that are contained in—

(1) the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 31 U.S.C. 501 note);

(2) section 2383 of title 10, United States Code;

(3) Office of Management and Budget Circular A–76;

(4) the Federal Acquisition Regulation; and

(5) any other relevant Federal law or regulation, as determined by the Director of the Office of Management and Budget in consultation with the Chief Acquisition Officers Council and the Chief Human Capital Officers Council.

(c) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Chief Acquisition Officers Council and the Chief Human Capital Officers Council, shall submit to the Committees on Armed Services of the Senate and House of Representatives, the Committee on Homeland Security and Governmental Affairs in the Senate, and the Committee on Oversight and Government Reform of the House of Representatives a report on the actions taken by the Director under this section. Such report shall contain each of the following:

(1) A description of the actions taken by the Director under this section to develop a single definition of inherently governmental function and criteria for critical functions.

(2) Such legislative recommendations as the Director determines are necessary to further the purposes of this section.

(3) A description of such steps as may be necessary—

(A) to ensure that the single definition and criteria developed under this section are consistently applied through all Federal regulations, circulars, policy letters, agency guidance, and other documents;

(B) to repeal any existing Federal regulations, circular, policy letters, agency guidance and other documents determined to be superseded by the definition and criteria developed under this section; and

(C) to develop any necessary implementing guidance under this section for agency staffing and contracting decisions, along with appropriate milestones.

Deadline.

(d) REGULATIONS.—Not later than 180 days after submission of the report required by subsection (c), the Director of the Office of Management and Budget shall issue regulations to implement actions taken under this section to develop a single definition of inherently governmental function and criteria for critical functions.

**SEC. 322. STUDY ON FUTURE DEPOT CAPABILITY.**

Deadline. Contracts.

(a) STUDY REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall enter into a contract with an independent research entity that is a not-for-profit entity or a federally-funded research and development center with appropriate expertise in logistics and logistics analytical capability to carry out a study on the capability and efficiency of the depots of the Department of Defense to provide the logistics capabilities and capacity necessary for national defense.

(b) CONTENTS OF STUDY.—The study carried out under subsection (a) shall—

(1) be a quantitative analysis of the post-reset Department of Defense depot capability required to provide life cycle sustainment of military legacy systems and new systems and military equipment;

(2) take into consideration direct input from the Secretary of Defense and the logistics and acquisition leadership of the military departments, including materiel support and depot commanders;

(3) take into consideration input from regular and reserve components of the Armed Forces, both with respect to requirements for sustainment-level maintenance and the capability and capacity to perform depot-level maintenance and repair;

(4) identify and address each type of activity carried out at depots, installation directorates of logistics, regional sustainment-level maintenance sites, reserve component maintenance capability sites, theater equipment support centers, and Army field support brigade capabilities;

(5) examine relevant guidance provided and regulations prescribed by the Secretary of Defense and the Secretary of each of the military departments, including with respect to programming and budgeting and the annual budget displays provided to Congress; and

(6) examine any relevant applicable laws, including the relevant body of work performed by the Government Accountability Office.

(c) ISSUES TO BE ADDRESSED.—The study required under subsection (a) shall address each of the following issues with respect to depots and depot capabilities:

(1) The life cycle sustainment maintenance strategies and implementation plans of the Department of Defense and the military departments that cover—

(A) the role of each type of maintenance activity;

(B) business operations;

(C) workload projection;

(D) outcome-based performance management objectives;

(E) the adequacy of information technology systems, including workload management systems;

(F) the workforce, including skills required and development;

(G) budget and fiscal planning policies; and

(H) capital investment strategies, including the implementation of section 2476 of title 10, United States Code.

(2) Current and future maintenance environments, including—

(A) performance-based logistics;
(B) supply chain management;
(C) condition-based maintenance;
(D) reliability-based maintenance;
(E) consolidation and centralization, including—
(i) regionalization;
(ii) two-level maintenance; and
(iii) forward-based depot capacity;
(F) public-private partnerships;
(G) private-sector depot capability and capacity; and
(H) the impact of proprietary technical documentation.

(3) The adequate visibility of the maintenance workload of each military department in reports submitted to Congress, including—

(A) whether the depot budget lines in current budget displays accurately reflect depot level workloads;

(B) the accuracy of core and 50/50 calculations;

(C) the usefulness of current reporting requirements to the oversight function of senior military and congressional leaders; and

(D) whether current budgetary guidelines provide sufficient financial flexibility during the year of execution to permit the heads of the military departments to make best-value decisions between maintenance activities.

(4) Such other information as determined relevant by the entity carrying out the study.

(d) AVAILABILITY OF INFORMATION.—The Secretary of Defense and the Secretaries of each of the military departments shall make available to the entity carrying out the study under subsection (a) all necessary and relevant information to allow the entity to conduct the study in a quantitative and analytical manner.

(e) REPORTS TO COMMITTEES ON ARMED SERVICES.—

(1) INTERIM REPORT.—The contract that the Secretary enters into under subsection (a) shall provide that not later than one year after the commencement of the study conducted under this section, the chief executive officer of the entity that carries out the study pursuant to the contract shall submit to the Committees on Armed Services of the Senate and House of Representatives an interim report on the study.

(2) FINAL REPORT.—Such contract shall provide that not later than 22 months after the date on which the Secretary of Defense enters into the contract under subsection (a), the chief executive officer of the entity that carries out the study pursuant to the contract shall submit to the Committees on Armed Services of the Senate and House of Representatives a final report on the study. The report shall include each of the following:

(A) A description of the depot maintenance environment, as of the date of the conclusion of the study, and the anticipated future environment, together with the quantitative data used in conducting the assessment of such environments under the study.

(B) Recommendations with respect to what would be required to maintain, in a post-reset environment, an efficient and enduring Department of Defense depot capability necessary for national defense.

(C) Recommendations with respect to any changes to any applicable law that would be appropriate for a post-reset depot maintenance environment.

(D) Recommendations with respect to the methodology of the Department of Defense for determining core logistics requirements, including an assessment of risk.

(E) Proposed business rules that would provide incentives for the Secretary of Defense and the Secretaries of the military departments to keep Department of Defense depots efficient and cost effective, including the workload level required for efficiency.

(F) A proposed strategy for enabling, requiring, and monitoring the ability of the Department of Defense depots to produce performance-driven outcomes and meet materiel readiness goals with respect to availability, reliability, total ownership cost, and repair cycle time.

(G) Comments provided by the Secretary of Defense and the Secretaries of the military departments on the findings and recommendations of the study.

(f) COMPTROLLER GENERAL REVIEW.—Not later than 90 days after the date on which the report under subsection (e)(2) is submitted, the Comptroller General shall review the report and submit to the Committees on Armed Services of the Senate and House of Representatives an assessment of the feasibility of the recommendations and whether the findings are supported by the data and information examined. Deadline. Assessments.

(g) DEFINITIONS.—In this section:

(1) The term "depot-level maintenance and repair" has the meaning given that term under section 2460 of title 10, United States Code.

(2) The term "reset" means actions taken to repair, enhance, or replace military equipment used in support of operations underway as of the date of the enactment of this Act and associated sustainment.

(3) The term "military equipment" includes all weapon systems, weapon platforms, vehicles and munitions of the Department of Defense, and the components of such items.

**SEC. 323. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW OF HIGH-PERFORMING ORGANIZATIONS.**

Not later than 120 days after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a review on the high-performing organization initiatives of the Department of Defense. The review shall include each of the following for each such initiative reviewed: Deadline.

(1) Any policies or guidance developed to implement the initiative.

(2) Whether the initiative was undertaken pursuant to the pilot project under section 337 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 10 U.S.C. 113 note) or under Office of Management and Budget Circular A-76.

(3) The cost of development and implementation of the initiative.

(4) Any cost savings and overall financial improvements promised or realized by reason of the initiative and an analysis of how such savings or improvements were calculated.

(5) Whether criteria were developed to measure the performance, efficiency, and effectiveness improvements of the initiative.

(6) The effect of the initiative on the workforce, including any relocations, change in collective bargaining status, or reductions in force that may have resulted.

(7) Whether and to what extent employees and their representatives were consulted in the development and implementation of the initiative.

10 USC 8062 note.

**SEC. 324. CONSOLIDATION OF AIR FORCE AND AIR NATIONAL GUARD AIRCRAFT MAINTENANCE.**

(a) RESTRICTION ON IMPLEMENTATION OF CONSOLIDATION.—The Secretary of the Air Force shall not implement the consolidation of aircraft repair facilities and personnel of the active Air Force with aircraft repair facilities and personnel of the Air National Guard or the consolidation of aircraft repair facilities and personnel of the Air National Guard with aircraft repair facilities and personnel of the active Air Force unless and until the Secretary of the Air Force submits the reports required by (b) and (c), the Chief of the National Guard Bureau submits the assessment required by subsection (d), and the Secretary of Defense submits the certification required by subsection (e).

(b) REPORT ON CRITERIA.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and House of Representatives a report stating all the criteria being used by the Department of the Air Force and the Rand Corporation to evaluate the feasibility of consolidating Air Force maintenance functions into organizations that would integrate active, Guard, and Reserve components into a total-force approach. The report shall include the assumptions that were provided to or developed by the Rand Corporation for their study of the feasibility of the consolidation proposal.

(c) REPORT ON FEASIBILITY STUDY.—At least 90 days before any consolidation of aircraft repair facilities and personnel of the active Air Force with aircraft repair facilities and personnel of the Air National Guard, the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the findings of the Rand Corporation feasibility study and the Rand Corporation's recommendations, the Air Force's assessment of the findings and recommendations, any plans developed for implementation of the consolidation, and a delineation of all infrastructure costs anticipated as a result of implementation.

Deadline.

(d) ASSESSMENT BY CHIEF OF THE NATIONAL GUARD BUREAU.—Not later than 30 days after the date on which the report required by subsection (c) is submitted, the Chief of the National Guard Bureau shall submit to the Committees on Armed Services of the Senate and House of Representatives a written assessment of—

(1) the proposed actions to consolidate aircraft repair facilities and personnel of the active Air Force with aircraft repair facilities and personnel of the Air National Guard by the Secretary of the Air Force; and

(2) the information included in the report required by subsection (c).

(e) CERTIFICATION BY THE SECRETARY OF DEFENSE.—After the Secretary of the Air Force submits the reports required by subsections (b) and (c), and before any consolidation of aircraft repair facilities and personnel of the active Air Force with aircraft repair facilities and personnel of the Air National Guard by the Secretary of the Air Force, the Secretary of Defense shall certify that such consolidation is in the national interest and will not adversely affect recruitment, retention, or execution of the Air National Guard mission in the individual States.

**SEC. 325. REPORT ON AIR FORCE CIVILIAN PERSONNEL CONSOLIDATION PLAN.**

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the Air Force plan for implementing the direction of the Base Realignment and Closure Commission for the consolidation of transactional workloads from the civilian personnel offices within the service components and defense agencies, retaining sufficient positions and personnel at the large civilian centers to perform the personnel management advisory services, including non-transactional functions, necessary to support the civilian workforce.

(b) CONTENTS OF REPORT.—At a minimum, the report required by subsection (a) shall address the steps taken by the Air Force to ensure that such direction is implemented in a manner that best meets the future needs of the Air Force, and shall address each of the following:

(1) The anticipated positive or negative effect on the productivity and mission accomplishment of the managed workforces at the different commands.

(2) The potential future efficiencies to be achieved through an enterprise-wide transformation of civilian personnel services.

(3) The size and complexity of the civilian workforce.

(4) The extent to which mission accomplishment is dependent upon the productivity of the civilian workforce.

(5) Input from the commanders of the large civilian centers regarding the effect of consolidation on workforce productivity and costs.

(6) The status of ongoing consolidation efforts at the Air Force Personnel Center at Randolph Air Force Base, Texas, and the target timelines for delivery of services to the various installations.

(7) The advantages and disadvantages of retaining certain personnel management and advisory services functions at the large civilian centers under local command authority to include on-site control of staffing of positions filled through internal or external recruitment processes, employee management relations, labor force planning and management, and managing workers compensation programs.

(8) The standards and timeliness for transitioning the personnel classifications currently performed by large civilian centers, the transition plan, particularly as it assures ready access to classifications needed for staffing and other purposes by the large civilian centers, and the expected performance and evaluation standards for providing classification services to the large civilian centers once the transition is complete.

Termination date.

(c) UPDATES OF REPORT.—The Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and House of Representatives biannual updates of the report required under subsection (a) until January 3, 2012.

**SEC. 326. REPORT ON REDUCTION IN NUMBER OF FIREFIGHTERS ON AIR FORCE BASES.**

To ensure that the Air Force is meeting the minimum safety standards for staffing, equipment, and training, as required by Department of Defense Installation and Environment Instruction 6055.6, the Secretary of the Air Force shall submit to Congress, by not later than 90 days after the date of the enactment of this Act, a report on the effects of the reduction in the number of fire fighters on Air Force bases during the three fiscal years preceding the fiscal year in which the report is submitted. Such report shall include each of the following:

(1) An evaluation of current fire fighting capability of the Air Force and whether the reduction in the number of fire fighters on Air Force bases has increased the risk of harm to either fire fighters or those they may serve in response to an emergency.

(2) An evaluation of whether adequate capability exists in the municipal communities surrounding the Air Force bases covered by the report to support a base aircraft rescue or to respond to a fire involving a combat aircraft, cargo aircraft, or weapon system.

(3) An evaluation of the effects that the reductions in fire fighting personnel or functions have had on the certifications of Air Force base fire departments.

(4) If the Secretary determines that reductions in the number of fire fighting personnel during the fiscal years covered by the report have negatively affected the ability of fire fighters on Air Forces bases to perform their missions, a plan to restore the fire fighting personnel needed to adequately support such missions.

**SEC. 327. MINIMUM CAPITAL INVESTMENT FOR CERTAIN DEPOTS.**

(a) ADDITIONAL ARMY DEPOTS.—Subsection (e)(1) of section 2476 of title 10, United States Code, is amended by adding at the end the following new subparagraphs:

"(F) Watervliet Arsenal, New York.

"(G) Rock Island Arsenal, Illinois.

"(H) Pine Bluff Arsenal, Arkansas.".

(b) SEPARATE CONSIDERATION AND REPORTING OF NAVY DEPOTS AND MARINE CORPS DEPOTS.—Such section is further amended—

(1) in subsection (d)(2), by adding at the end the following new subparagraph:

"(D) Separate consideration and reporting of Navy Depots and Marine Corps depots."; and

(2) in subsection (e)(2)—

(A) by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively, and indenting the margins of such clauses, as so redesignated, 6 ems from the left margin;

(B) by inserting after "Department of the Navy:" the following:

"(A) The following Navy depots:";

(C) by inserting after clause (vii), as redesignated by subparagraph (A), the following:

"(B) The following Marine Corps depots:"; and

(D) by redesignating subparagraphs (H) and (I) as clauses (i) and (ii), respectively, and indenting the margins of such clauses, as so redesignated, 6 ems from the left margin.

# Subtitle D—Energy Security

**SEC. 331. ANNUAL REPORT ON OPERATIONAL ENERGY MANAGEMENT AND IMPLEMENTATION OF OPERATIONAL ENERGY STRATEGY.**

(a) REPORT REQUIRED.—Section 2925 of title 10, United States Code, is amended by striking subsection (b) and inserting the following new subsection:

"(b) ANNUAL REPORT RELATED TO OPERATIONAL ENERGY.—(1) Simultaneous with the annual report required by subsection (a), the Secretary of Defense, acting through the Director of Operational Energy Plans and Programs, shall submit to the congressional defense committees a report on operational energy management and the implementation of the operational energy strategy established pursuant to section 139b of this title.

"(2) The annual report under this subsection shall address and include the following:

"(A) Statistical information on operational energy demands, in terms of expenditures and consumption, for the preceding five fiscal years, including funding made available in regular defense appropriations Acts and any supplemental appropriation Acts.

"(B) An estimate of operational energy demands for the current fiscal year and next fiscal year, including funding requested to meet operational energy demands in the budget submitted to Congress under section 1105 of title 31 and in any supplemental requests.

"(C) A description of each initiative related to the operational energy strategy and a summary of funds appropriated for each initiative in the previous fiscal year and current fiscal year and requested for each initiative for the next five fiscal years.

"(D) An evaluation of progress made by the Department of Defense—

"(i) in implementing the operational energy strategy, including the progress of key initiatives and technology investments related to operational energy demand and management; and

"(ii) in meeting the operational energy goals set forth in the strategy.

"(E) Such recommendations as the Director considers appropriate for additional changes in organization or authority within the Department of Defense to enable further implementation of the energy strategy and such other comments and recommendations as the Director considers appropriate.

"(3) If a report under this subsection is submitted in a classified form, the Secretary shall concurrently submit to the congressional

defense committees an unclassified version of the information required by this subsection.

"(4) In this subsection, the term 'operational energy' means the energy required for training, moving, and sustaining military forces and weapons platforms for military operations. The term includes energy used by tactical power systems and generators and weapons platforms.".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 2925. Annual Department of Defense energy management reports".**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of subchapter III of chapter 173 of such title is amended by striking the item relating to section 2925 and inserting the following new item:

"2925. Annual Department of Defense energy management reports.".

10 USC 2911 note.

**SEC. 332. CONSIDERATION OF FUEL LOGISTICS SUPPORT REQUIREMENTS IN PLANNING, REQUIREMENTS DEVELOPMENT, AND ACQUISITION PROCESSES.**

(a) PLANNING.—In the case of analyses and force planning processes that are used to establish capability requirements and inform acquisition decisions, the Secretary of Defense shall require that analyses and force planning processes consider the requirements for, and vulnerability of, fuel logistics.

(b) CAPABILITY REQUIREMENTS DEVELOPMENT PROCESS.—The Secretary of Defense shall develop and implement a methodology to enable the implementation of a fuel efficiency key performance parameter in the requirements development process for the modification of existing or development of new fuel consuming systems.

(c) ACQUISITION PROCESS.—The Secretary of Defense shall require that the life-cycle cost analysis for new capabilities include the fully burdened cost of fuel during analysis of alternatives and evaluation of alternatives and acquisition program design trades.

(d) IMPLEMENTATION PLAN.—The Secretary of Defense shall prepare a plan for implementing the requirements of this section. The plan shall be completed not later than 180 days after the date of the enactment of this Act and provide for the implementation of the requirements by not later than three years after the date of the enactment of this Act.

Deadlines.

(e) PROGRESS REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing progress made to implement the requirements of this section, including an assessment of whether the implementation plan required by section (d) is being carried out on schedule.

(f) NOTIFICATION OF COMPLIANCE.—As soon as practicable during the three-year period beginning on the date of the enactment of this Act, the Secretary of Defense shall notify the congressional defense committees that the Secretary has complied with the requirements of this section. If the Secretary is unable to provide the notification, the Secretary shall submit to the congressional defense committees at the end of the three-year period a report containing—

Reports.

(1) an explanation of the reasons why the requirements, or portions of the requirements, have not been implemented; and

(2) a revised plan under subsection (d) to complete implementation or a rationale regarding why portions of the requirements cannot or should not be implemented.

(g) FULLY BURDENED COST OF FUEL DEFINED.—In this section, the term "fully burdened cost of fuel" means the commodity price for fuel plus the total cost of all personnel and assets required to move and, when necessary, protect the fuel from the point at which the fuel is received from the commercial supplier to the point of use.

**SEC. 333. STUDY ON SOLAR AND WIND ENERGY FOR USE FOR EXPEDITIONARY FORCES.**

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to examine the feasibility of using solar and wind energy to provide electricity for expeditionary forces.

(b) MATTERS EXAMINED.—In conducting the study required by subsection (a), the Secretary shall examine, at a minimum, each of the following:

(1) The potential for solar and wind energy to reduce the fuel supply needed to provide electricity for expeditionary forces and the extent to which such reduction will decrease the risk of casualties by reducing the number of convoys needed to supply fuel to forward operating locations.

(2) The cost of using solar and wind energy to provide electricity.

(3) The potential savings of using solar and wind energy to provide electricity compared to current methods.

(4) The environmental benefits of using solar and wind energy to provide electricity instead of the current methods.

(5) The sustainability and operating requirements of solar and wind energy systems for providing electricity compared to current methods.

(6) Potential opportunities for experimenting with the use of deployable solar and wind energy systems in current training environments, including remote areas of training ranges.

(c) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the results of the study required by subsection (a).

**SEC. 334. STUDY ON ALTERNATIVE AND SYNTHETIC FUELS.**

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on alternatives to reduce the life cycle emissions of alternative and synthetic fuels (including coal-to-liquid fuels).

(b) MATTERS EXAMINED.—The study shall examine, at a minimum, the following:

(1) The potential clean energy alternatives for powering the conversion processes, including nuclear, solar, and wind energies.

(2) The alternatives for reducing carbon emissions during the conversion processes.

(3) The military utility of domestically-produced alternative and synthetic fuels for military operations and for use by expeditionary forces compared with the military utility and

life cycle emissions of mobile, in-theater synthetic fuel processes.

(4) The goals and progress of the military departments related to the research, testing, and certification for use of alternative or synthetic fuels in military vehicles and aircraft.

(5) An analysis of trends, levels of investment, and the development of refining capacity in the alternative or synthetic fuel industry capable of meeting fuel requirements for the Department of Defense.

(c) USE OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER.—The Secretary of Defense shall select a federally funded research and development center to perform the study required by subsection (a).

(d) REPORT.—Not later than March 1, 2009, the federally funded research and development center shall submit to the congressional defense committees and the Secretary of Defense a report on the results of the study required by subsection (a).

10 USC 2911 note.

**SEC. 335. MITIGATION OF POWER OUTAGE RISKS FOR DEPARTMENT OF DEFENSE FACILITIES AND ACTIVITIES.**

(a) RISK ASSESSMENT.—The Secretary of Defense shall conduct a comprehensive technical and operational risk assessment of the risks posed to mission critical installations, facilities, and activities of the Department of Defense by extended power outages resulting from failure of the commercial electricity supply or grid and related infrastructure.

(b) RISK MITIGATION PLANS.—

(1) IN GENERAL.—The Secretary of Defense shall develop integrated prioritized plans to eliminate, reduce, or mitigate significant risks identified in the risk assessment under subsection (a).

(2) ADDITIONAL CONSIDERATIONS.—In developing the risk mitigation plans under paragraph (1), the Secretary of Defense shall—

(A) prioritize the mission critical installations, facilities, and activities that are subject to the greatest and most urgent risks; and

(B) consider the cost effectiveness of risk mitigation options.

(c) ANNUAL REPORT.—

(1) IN GENERAL.—The Secretary of Defense shall submit a report on the efforts of the Department of Defense to mitigate the risks described in subsection (a) as part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2010 and each fiscal year thereafter (as submitted with the budget of the President under section 1105(a) of title 31, United States Code).

(2) CONTENT.—Each report submitted under paragraph (1) shall describe the integrated prioritized plans developed under subsection (b) and the progress made toward achieving the goals established under such subsection.

## Subtitle E—Reports

### SEC. 341. COMPTROLLER GENERAL REPORT ON READINESS OF ARMED FORCES.

(a) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than June 1, 2009, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the readiness of the regular and reserve components of the Armed Forces. The report shall be unclassified but may contain a classified annex.

(2) ONE OR MORE REPORTS.—In complying with the requirements of this section, the Comptroller General may submit a single report addressing all the elements specified in subsection (b) or two or more reports addressing any combination of such elements.

(b) ELEMENTS.—The elements specified in this subsection are the following:

(1) An analysis of the readiness status, as of the date of the enactment of this Act, of the regular and reserve components of the Army and the Marine Corps, including any significant changes in any trends with respect to such components since 2001.

(2) An analysis of the readiness status, as of such date, of the regular and reserve components of the Air Force and the Navy, including a description of any major factors that affect the ability of the Navy or Air Force to provide trained and ready forces for ongoing operations and to meet overall readiness goals.

(3) An analysis of the efforts of the Secretary of each military department to address any major factors affecting the readiness of the regular and reserve components under the jurisdiction of that Secretary.

### SEC. 342. REPORT ON PLAN TO ENHANCE COMBAT SKILLS OF NAVY AND AIR FORCE PERSONNEL.

(a) REPORT REQUIRED.—At the same time as the budget for fiscal year 2010 is submitted to Congress under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on—

(1) the plans of the Secretary of the Navy to improve the combat skills of the members of the Navy; and

(2) the plans of the Secretary of the Air Force to improve the combat skills of the members of the Air Force.

(b) ELEMENTS OF REPORT.—The report required under subsection (a) shall include each of the following:

(1) The criteria that the Secretary of the Air Force and the Secretary of the Navy use to select permanent sites for their Common Battlefield Airmen Training and Expeditionary Combat Skills courses.

(2) An identification of the extent to which the Secretary of the Navy and Secretary of the Air Force coordinated with each other and with the Secretary of the Army and the Commandant of the Marine Corps with respect to their plans to expand combat skills training for members of the Navy and

Air Force, respectively, together with a complete list of bases or locations that were considered as possible sites for the coordinated training.

(3) The estimated implementation and sustainment costs for the Air Force Common Battlefield Airmen Training and Navy Expeditionary Combat Skills courses.

(4) The estimated cost savings, if any, which could result by carrying out such combat skills training at existing Department of Defense facilities or by using existing ground combat training resources.

**SEC. 343. COMPTROLLER GENERAL REPORT ON THE USE OF THE ARMY RESERVE AND NATIONAL GUARD AS AN OPERATIONAL RESERVE.**

(a) REPORT REQUIRED.—Not later than June 1, 2009, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of the Army Reserve and Army National Guard forces as an operational reserve.

(b) ELEMENTS.—The report required by subsection (a) shall include a description of current and programmed resources, force structure, and organizational challenges that the Army Reserve and Army National Guard forces may face serving as an operational reserve, including—

(1) force structure;

(2) manning;

(3) equipment availability, maintenance, and logistics issues;

(4) training constraints limiting access to—

(A) facilities and ranges, including the Combat Training Centers; and

(B) military schools and skill training; and

(5) any conflicts with requirements under title 32, United States Code.

**SEC. 344. COMPTROLLER GENERAL REPORT ON LINK BETWEEN PREPARATION AND USE OF ARMY RESERVE COMPONENT FORCES TO SUPPORT ONGOING OPERATIONS.**

(a) REPORT REQUIRED.—Not later than June 1, 2009, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the correlation between the preparation and operational use of the Army's reserve component forces.

(b) ELEMENTS.—The report required by subsection (a) shall include—

(1) an analysis of the Army's training relative to the employment of reserve component units—

(A) to execute the wartime or primary missions of the Army for which the units are designed; and

(B) to execute missions to which such units are assigned, as of the date of the enactment of this Act, in support of ongoing operations in Iraq and Afghanistan, including factors affecting unit or individual preparation, the effect of notification timelines, and access to training facilities, including the Combat Training Centers;

(2) an analysis of the effect of mobilization and deployment laws, regulations, goals, and policies on the Army's ability

to train and employ reserve component units for the purposes described in paragraph (1); and

(3) any other information that the Comptroller General determines is relevant.

**SEC. 345. COMPTROLLER GENERAL REPORT ON ADEQUACY OF FUNDING, STAFFING, AND ORGANIZATION OF DEPARTMENT OF DEFENSE MILITARY MUNITIONS RESPONSE PROGRAM.**

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the adequacy of the funding, staffing, and organization of the Military Munitions Response Program of the Department of Defense.

(b) ELEMENTS.—The report required by subsection (a) shall include—

(1) an analysis of the funding, staffing, and organization of the Military Munitions Response Program; and

(2) an assessment of the Program mechanisms for the accountability, reporting, and monitoring of the progress of munitions response projects and methods to reduce the length of time of such projects.

## Subtitle F—Other Matters

**SEC. 351. EXTENSION OF ENTERPRISE TRANSITION PLAN REPORTING REQUIREMENT.**

Section 2222(i) of title 10, United States Code, is amended by striking "2009" and inserting "2013".

**SEC. 352. DEMILITARIZATION OF LOANED, GIVEN, OR EXCHANGED DOCUMENTS, HISTORICAL ARTIFACTS, AND CONDEMNED OR OBSOLETE COMBAT MATERIEL.**

Section 2572(d) of title 10, United States Code, is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "The Secretary concerned shall ensure that an item authorized to be donated under this section is demilitarized in the interest of public safety, as determined necessary by the Secretary or the Secretary's delegee."; and

(2) in paragraph (2)(A), by inserting before the period at the end the following: ", including any expense associated with demilitarizing an item under paragraph (1), for which the recipient of the item shall be responsible".

**SEC. 353. REPEAL OF REQUIREMENT THAT SECRETARY OF AIR FORCE PROVIDE TRAINING AND SUPPORT TO OTHER MILITARY DEPARTMENTS FOR A–10 AIRCRAFT.**

(a) REPEAL.—Chapter 901 of title 10, United States Code, is amended by striking section 9316.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 9316.

10 USC 221 note.

**SEC. 354. DISPLAY OF ANNUAL BUDGET REQUIREMENTS FOR AIR SOVEREIGNTY ALERT MISSION.**

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—For fiscal year 2010 and each subsequent fiscal year, the Secretary of Defense shall submit to the President, for consideration by the President for inclusion with the budget materials submitted to Congress under section 1105(a) of title 31, United States Code, a consolidated budget justification display that covers all programs and activities of the Air Sovereignty Alert mission of the Air Force.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) for a fiscal year shall include for such fiscal year the following:

(1) The funding requirements for the Air Sovereignty Alert mission, and the associated Command and Control mission, including such requirements for—

(A) military personnel costs;

(B) flying hours; and

(C) any other associated mission costs.

(2) The amount in the budget for the Air Force for each of the items referred to in paragraph (1).

(3) The amount in the budget for the Air National Guard for each such item.

**SEC. 355. REVISION OF CERTAIN AIR FORCE REGULATIONS REQUIRED.**

Deadline.

(a) REVISION REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Air Force shall revise the Air Freight Transportation Regulation Number 5, dated January 15, 1999, to conform with Defense Transportation Regulations to ensure that freight covered by Air Freight Transportation Regulation Number 5 is carried in accordance with commercial best practices that are based upon a mode-neutral approach.

(b) MODE-NEUTRAL APPROACH DEFINED.—For purposes of this section, the term "mode-neutral approach" means a method of shipment that allows a shipper to choose a carrier with a time-definite performance standard for delivery without specifying a particular mode of conveyance and allows the carrier to select the mode of conveyance using best commercial practices as long as the mode of conveyance can reasonably be expected to ensure the time-definite delivery requested by the shipper.

**SEC. 356. TRANSFER OF C–12 AIRCRAFT TO CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION.**

(a) AUTHORITY.—The Secretary of the Army may convey to the California Department of Forestry and Fire Protection (hereinafter in this section referred to as "CAL FIRE") all right, title, and interest of the United States in three C–12 aircraft that the Secretary has determined are surplus to need.

(b) CONVEYANCE AT NO COST TO THE UNITED STATES.—The conveyance of an aircraft authorized by this section shall be made at no cost to the United States. Any costs associated with such conveyance, costs of determining compliance with terms of the conveyance, and costs of operation and maintenance of the aircraft conveyed shall be borne by CAL FIRE.

**SEC. 357. LIMITATION ON TREATMENT OF RETIRED B–52 AIRCRAFT FOR AIR COMBAT COMMAND HEADQUARTERS.**

Section 131(a)(4) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120

Stat. 2111), as amended by section 137(a)(2) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 32), is further amended by striking "may use not more than 2 such aircraft for maintenance ground training" and inserting "may use not more than 4 such aircraft for maintenance ground training".

**SEC. 358. INCREASE OF DOMESTIC BREEDING OF MILITARY WORKING DOGS USED BY THE DEPARTMENT OF DEFENSE.**

10 USC 2302 note.

(a) INCREASED CAPACITY.—The Secretary of Defense, acting through the Executive Agent for Military Working Dogs (hereinafter in this section referred to as the "Executive Agent"), shall—

(1) identify the number of military working dogs required to fulfill the various missions of the Department of Defense for which such dogs are used, including force protection, facility and check point security, and explosives and drug detection;

(2) take such steps as are practicable to ensure an adequate number of military working dog teams are available to meet and sustain the mission requirements identified in paragraph (1);

(3) ensure that the Department's needs and performance standards with respect to military working dogs are readily available to dog breeders and trainers; and

(4) coordinate with other Federal, State, or local agencies, nonprofit organizations, universities, or private sector entities, as appropriate, to increase the training capacity for military working dog teams.

(b) MILITARY WORKING DOG PROCUREMENT.—The Secretary, acting through the Executive Agent shall work to ensure that military working dogs are procured as efficiently as possible and at the best value to the Government, while maintaining the necessary level of quality and encouraging increased domestic breeding.

(c) MILITARY WORKING DOG DEFINED.—For purposes of this section, the term "military working dog" means a dog used in any official military capacity, as defined by the Secretary of Defense.

# TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2009 limitation on number of non-dual status technicians.
Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.
Sec. 416. Additional waiver authority of limitation on number of reserve component members authorized to be on active duty.

Subtitle C—Authorization of Appropriations

Sec. 421. Military personnel.

# Subtitle A—Active Forces

**SEC. 401. END STRENGTHS FOR ACTIVE FORCES.**

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2009, as follows:

(1) The Army, 532,400.
(2) The Navy, 326,323.
(3) The Marine Corps, 194,000.
(4) The Air Force, 317,050.

**SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.**

Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following new paragraphs:

"(1) For the Army, 532,400.
"(2) For the Navy, 325,300.
"(3) For the Marine Corps, 194,000.
"(4) For the Air Force, 317,050.".

# Subtitle B—Reserve Forces

**SEC. 411. END STRENGTHS FOR SELECTED RESERVE.**

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2009, as follows:

(1) The Army National Guard of the United States, 352,600.
(2) The Army Reserve, 205,000.
(3) The Navy Reserve, 66,700.
(4) The Marine Corps Reserve, 39,600.
(5) The Air National Guard of the United States, 106,756.
(6) The Air Force Reserve, 67,400.
(7) The Coast Guard Reserve, 10,000.

(b) END STRENGTH REDUCTIONS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

(c) END STRENGTH INCREASES.—Whenever units or individual members of the Selected Reserve of any reserve component are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

**SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.**

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2009, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 32,060.
(2) The Army Reserve, 16,170.
(3) The Navy Reserve, 11,099.
(4) The Marine Corps Reserve, 2,261.
(5) The Air National Guard of the United States, 14,360.
(6) The Air Force Reserve, 2,733.

**SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).**

The minimum number of military technicians (dual status) as of the last day of fiscal year 2009 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 8,395.
(2) For the Army National Guard of the United States, 27,210.
(3) For the Air Force Reserve, 10,003.
(4) For the Air National Guard of the United States, 22,452.

**SEC. 414. FISCAL YEAR 2009 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.**

(a) LIMITATIONS.—

(1) NATIONAL GUARD.—Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2009, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) ARMY RESERVE.—The number of non-dual status technicians employed by the Army Reserve as of September 30, 2009, may not exceed 595.

(3) AIR FORCE RESERVE.—The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2009, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given that term in section 10217(a) of title 10, United States Code.

**SEC. 415. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.**

During fiscal year 2009, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

(1) The Army National Guard of the United States, 17,000.
(2) The Army Reserve, 13,000.
(3) The Navy Reserve, 6,200.
(4) The Marine Corps Reserve, 3,000.

(5) The Air National Guard of the United States, 16,000.
(6) The Air Force Reserve, 14,000.

**SEC. 416. ADDITIONAL WAIVER AUTHORITY OF LIMITATION ON NUMBER OF RESERVE COMPONENT MEMBERS AUTHORIZED TO BE ON ACTIVE DUTY.**

(a) ADDITIONAL WAIVER AUTHORITY.—Subsection (a) of section 123a of title 10, United States Code, is amended—

(1) by inserting "(1)" before "If at the end"; and

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

"(2) When a designation of a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) is in effect, the President may waive any statutory limit that would otherwise apply during the period of the designation on the number of members of a reserve component who are authorized to be on active duty under subparagraph (A) or (B) of section 115(b)(1) of this title, if the President determines the waiver is necessary to provide assistance in responding to the major disaster or emergency.".

(b) TERMINATION OF WAIVER.—Subsection (b) of such section is amended—

(1) by striking the subsection heading and inserting the following: "TERMINATION OF WAIVER.—(1)";

(2) by striking "subsection (a)" and inserting "subsection (a)(1)"; and

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

Termination date.

"(2) A waiver granted under subsection (a)(2) shall terminate not later than 90 days after the date on which the designation of the major disaster or emergency that was the basis for the waiver expires.".

(c) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 123a. Suspension of end-strength and other strength limitations in time of war or national emergency".**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 3 of such title is amended by striking the item relating to section 123a and inserting the following new item:

"123a. Suspension of end-strength and other strength limitations in time of war or national emergency.".

# Subtitle C—Authorization of Appropriations

**SEC. 421. MILITARY PERSONNEL.**

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2009 a total of $124,791,336,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2009.

# TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy Generally

Sec. 501. Mandatory separation requirements for regular warrant officers for length of service.
Sec. 502. Requirements for issuance of posthumous commissions and warrants.
Sec. 503. Authorized number of general officers on active duty in the Army and Marine Corps, limited exclusion for joint duty requirements, and increase in number of officers serving in grades above major general and rear admiral.
Sec. 504. Modification of authority on Staff Judge Advocate to the Commandant of the Marine Corps.
Sec. 505. Eligibility of reserve officers to serve on boards of inquiry for separation of regular officers for substandard performance and other reasons.
Sec. 506. Delayed authority to alter distribution requirements for commissioned officers on active duty in general officer and flag officer grades and limitations on authorized strengths of general and flag officers on active duty.

Subtitle B—Reserve Component Management

Sec. 511. Extension to other reserve components of Army authority for deferral of mandatory separation of military technicians (dual status) until age 60.
Sec. 512. Modification of authorized strengths for certain Army National Guard, Marine Corps Reserve, and Air National Guard officers and Army National Guard enlisted personnel serving on full-time reserve component duty.
Sec. 513. Clarification of authority to consider for a vacancy promotion National Guard officers ordered to active duty in support of a contingency operation.
Sec. 514. Increase in mandatory retirement age for certain Reserve officers.
Sec. 515. Age limit for retention of certain Reserve officers on active-status list as exception to removal for years of commissioned service.
Sec. 516. Authority to retain Reserve chaplains and officers in medical and related specialties until age 68.
Sec. 517. Modification of authorities on dual duty status of National Guard officers.
Sec. 518. Study and report regarding Marine Corps personnel policies regarding assignments in Individual Ready Reserve.
Sec. 519. Report on collection of information on civilian skills of members of the reserve components of the Armed Forces.

Subtitle C—Joint Qualified Officers and Requirements

Sec. 521. Joint duty requirements for promotion to general or flag officer.
Sec. 522. Technical, conforming, and clerical changes to joint specialty terminology.
Sec. 523. Promotion policy objectives for joint qualified officers.
Sec. 524. Length of joint duty assignments.
Sec. 525. Designation of general and flag officer positions on Joint Staff as positions to be held only by reserve component officers.
Sec. 526. Modification of limitations on authorized strengths of reserve general and flag officers in active status serving in joint duty assignments.
Sec. 527. Reports on joint education courses available through the Department of Defense.

Subtitle D—General Service Authorities

Sec. 531. Increase in maximum period of reenlistment of regular members of the Armed Forces.
Sec. 532. Paternity leave for members of the Armed Forces.
Sec. 533. Pilot programs on career flexibility to enhance retention of members of the Armed Forces.

Subtitle E—Education and Training

Sec. 540. Authorized strength of military service academies and repeal of prohibition on phased increase in midshipmen and cadet strength limit at Naval Academy and Air Force Academy.
Sec. 541. Promotion of foreign and cultural exchange activities at military service academies.
Sec. 542. Increased authority to enroll defense industry employees in defense product development program.
Sec. 543. Expanded authority for institutions of professional military education to award degrees.

Sec. 544. Tuition for attendance of Federal employees at the United States Air Force Institute of Technology.
Sec. 545. Increase in number of permanent professors at the United States Air Force Academy.
Sec. 546. Requirement of completion of service under honorable conditions for purposes of entitlement to educational assistance for reserve component members supporting contingency operations.
Sec. 547. Consistent education loan repayment authority for health professionals in regular components and Selected Reserve.
Sec. 548. Increase in number of units of Junior Reserve Officers' Training Corps.
Sec. 549. Correction of erroneous Army College Fund benefit amounts.
Sec. 550. Enhancing education partnerships to improve accessibility and flexibility for members of the Armed Forces.

Subtitle F—Defense Dependents' Education

Sec. 551. Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 552. Impact aid for children with severe disabilities.
Sec. 553. Transition of military dependent students among local educational agencies.
Sec. 554. Calculation of payments for eligible federally connected children under Department of Education's Impact Aid program.

Subtitle G—Military Justice

Sec. 561. Effective period of military protective orders.
Sec. 562. Mandatory notification of issuance of military protective order to civilian law enforcement.
Sec. 563. Implementation of information database on sexual assault incidents in the Armed Forces.

Subtitle H—Decorations, Awards, and Honorary Promotions

Sec. 571. Replacement of military decorations.
Sec. 572. Authorization and request for award of Medal of Honor to Richard L. Etchberger for acts of valor during the Vietnam War.

Subtitle I—Military Families

Sec. 581. Presentation of burial flag to the surviving spouse and children of deceased members of the Armed Forces.
Sec. 582. Education and training opportunities for military spouses.
Sec. 583. Sense of Congress regarding honor guard details for funerals of veterans.

Subtitle J—Other Matters

Sec. 591. Prohibition on interference in independent legal advice by the Legal Counsel to the Chairman of the Joint Chiefs of Staff.
Sec. 592. Interest payments on certain claims arising from correction of military records.
Sec. 593. Extension of limitation on reductions of personnel of agencies responsible for review and correction of military records.
Sec. 594. Modification of matching fund requirements under National Guard Youth Challenge Program.
Sec. 595. Military salute for the flag during the national anthem by members of the Armed Forces not in uniform and by veterans.
Sec. 596. Military Leadership Diversity Commission.
Sec. 597. Demonstration project on service of retired nurse corps officers as faculty at civilian nursing schools.
Sec. 598. Report on planning for participation and hosting of the Department of Defense in international sports activities, competitions, and events.

# Subtitle A—Officer Personnel Policy Generally

### SEC. 501. MANDATORY SEPARATION REQUIREMENTS FOR REGULAR WARRANT OFFICERS FOR LENGTH OF SERVICE.

Section 1305(a) of title 10, United States Code, is amended—

(1) by striking "A regular warrant officer who has at least 30 years of active service as a warrant officer that could be

credited to him" and inserting "(1) A regular warrant officer (other than a regular Army warrant officer) who has at least 30 years of active service that could be credited to the officer"; and

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

"(2) In the case of a regular Army warrant officer, the calculation of years of active service under paragraph (1) shall include only years of active service as a warrant officer.".

**SEC. 502. REQUIREMENTS FOR ISSUANCE OF POSTHUMOUS COMMISSIONS AND WARRANTS.**

(a) POSTHUMOUS COMMISSIONS.—Section 1521 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "in line of duty" each place it appears; and

(2) by adding at the end the following new subsection:

"(c) A commission issued under subsection (a) in connection with the promotion of a deceased member to a higher commissioned grade shall require certification by the Secretary concerned that, at the time of death of the member, the member was qualified for appointment to that higher grade.".

(b) POSTHUMOUS WARRANTS.—Section 1522 of such title is amended—

(1) in subsection (a), by striking "in line of duty"; and

(2) by adding at the end the following new subsection:

"(c) A warrant issued under subsection (a) in connection with the promotion of a deceased member to a higher grade shall require a finding by the Secretary concerned that, at the time of death of the member, the member was qualified for appointment to that higher grade.".

**SEC. 503. AUTHORIZED NUMBER OF GENERAL OFFICERS ON ACTIVE DUTY IN THE ARMY AND MARINE CORPS, LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS, AND INCREASE IN NUMBER OF OFFICERS SERVING IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.**

(a) INCREASE IN NUMBER OF ARMY GENERAL OFFICERS.—Section 526(a)(1) of title 10, United States Code, is amended by striking "302" and inserting "307".

(b) INCREASE IN NUMBER OF MARINE CORPS GENERAL OFFICERS.—Section 526(a)(4) of such title is amended by striking "80" and inserting "81".

(c) INCREASE IN EXCLUSION FOR JOINT DUTY REQUIREMENTS.—Section 526(b)(1) of such title is amended by striking "12" and inserting "65".

(d) INCREASE IN NUMBER OF OFFICERS SERVING IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.—Section 525 of such title is amended—

(1) in the first sentence of subsection (a), by striking "that armed force" and inserting "the Army or Air Force, or more than 51 percent of the general officers of the Marine Corps,"; and

(2) in subsection (b)—

(A) in paragraphs (1) and (2)(A), by striking "16.3 percent" each place it appears and inserting "16.4 percent"; and

(B) in paragraph (2)(B), by striking "17.5 percent" and inserting "19 percent".

10 USC 526 note.

(e) ACQUISITION AND CONTRACTING BILLETS.—

(1) RESERVATION OF ARMY INCREASE.—The increase in the number of general officers on active duty in the Army, as authorized by the amendment made by subsection (a) is reserved for general officers in the Army who serve in an acquisition position.

(2) RESERVATION OF PORTION OF INCREASE IN JOINT DUTY ASSIGNMENTS EXCLUDED FROM LIMITATION.—Of the increase in the number of general officer and flag officer joint duty assignments that may be designated for exclusion from the limitations on the number of general officers and flag officers on active duty, as authorized by the amendment made by subsection (c), five of the designated assignments are reserved for general officers or flag officers who serve in an acquisition position, including one assignment in the Defense Contract Management Agency.

**SEC. 504. MODIFICATION OF AUTHORITY ON STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE MARINE CORPS.**

(a) GRADE OF STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE MARINE CORPS.—Section 5046(a) of title 10, United States Code, is amended by striking the last sentence and inserting the following new sentence: "The Staff Judge Advocate to the Commandant of the Marine Corps, while so serving, has the grade of major general.".

(b) EXCLUSION FROM GENERAL OFFICER DISTRIBUTION LIMITATIONS.—Section 525(a) of such title, as amended by section 503, is further amended—

(1) by inserting "(1)" after "(a)"; and

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

"(2) An officer while serving in the position of Staff Judge Advocate to the Commandant of the Marine Corps under section 5046 of this title is in addition to the number that would otherwise be permitted for the Marine Corps for officers in grades above brigadier general under the first sentence of paragraph (1).".

**SEC. 505. ELIGIBILITY OF RESERVE OFFICERS TO SERVE ON BOARDS OF INQUIRY FOR SEPARATION OF REGULAR OFFICERS FOR SUBSTANDARD PERFORMANCE AND OTHER REASONS.**

(a) ELIGIBILITY.—Section 1187 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in subsection (b), by striking "on active duty" in the matter preceding paragraph (1).

(b) CONFORMING AMENDMENT.—The heading of subsection (a) of such section is amended by striking "ACTIVE DUTY OFFICERS" and inserting "IN GENERAL".

10 USC 525 note.

**SEC. 506. DELAYED AUTHORITY TO ALTER DISTRIBUTION REQUIREMENTS FOR COMMISSIONED OFFICERS ON ACTIVE DUTY IN GENERAL OFFICER AND FLAG OFFICER GRADES AND LIMITATIONS ON AUTHORIZED STRENGTHS OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.**

(a) IMPLEMENTATION OF SPECIAL GENERAL OFFICER AND FLAG OFFICER AUTHORITY.—

(1) REPORT ON PROPOSED IMPLEMENTATION.—The Secretary of Defense shall submit to the Committees on Armed Forces of the Senate and House of Representatives a report, reflecting input from the Armed Forces, containing the following:

(A) A statement of the total number of validated and required joint duty assignments for general officers and flag officers and the total number of validated assignments for general officers and flag officers required by the Army, Navy, Air Force, and Marine Corps to meet internal (non-joint) requirements.

(B) A description of the process used by the Secretary of Defense and the Secretary of the military department concerned to validate joint general officer and flag officer requirements and authorizations under the authority provided by this section and how that process will function to make adjustments (increases and reductions) in the numbers of general officers and flag officers required for joint duty assignments and internal requirements of the Armed Force concerned.

(C) A description of how the Secretary of Defense intends to minimize the incremental approaches to increases in the number of general officers and flag officers and the use of exemptions to effect such increases.

(D) A description of how the Secretaries of the military departments intend to manage the increase and development of general officer and flag officer positions under the authority provided by this section.

(E) An explanation of and rationale for the grade distribution of the general and flag officers in the joint pool authorized by subsection (f)(1).

(F) A proposal specifying such legislative changes, including technical and conforming changes, as may be necessary to conform sections 525, 526, and 721 of title 10, United States Code, and such other provisions of such title relating to the management of general officers and flag officers to the authorities provided by this section.

(2) TIME FOR IMPLEMENTATION.—After the end of the one-year period beginning on the date on which the Secretary of Defense submits the report required by paragraph (1), the Secretary of Defense may implement the authorities provided by this section regarding the distribution of commissioned officers on active duty in general officer and flag officer grades and altering the limitations on authorized strengths of general and flag officers on active duty.

(3) EFFECT OF IMPLEMENTATION.—After the implementation date specified in paragraph (2), the authorities provided by this section supersede any requirement of section 525, 526, or 721 of title 10, United States Code, to the contrary.

(b) DISTRIBUTION OF GENERAL AND FLAG OFFICERS.—After the implementation date specified in subsection (a)(2), no appointment of an officer on the active duty list officer may be made—

(1) in the Army, if that appointment would result in more than—

(A) 225 officers serving on active duty above the grade of colonel;

(B) 7 officers in the grade of general;

(C) 45 officers in a grade above the grade of major general; or

(D) 90 officers in the grade of major general;

(2) in the Air Force, if that appointment would result in more than—

(A) 208 officers serving on active duty in a grade above the grade of colonel;

(B) 9 officers in the grade of general;

(C) 43 officers in a grade above the grade of major general; or

(D) 73 officers in the grade of major general;

(3) in the Navy, if that appointment would result in more than—

(A) 160 officers serving on active duty in a grade above the grade of captain;

(B) 6 officers in the grade of admiral;

(C) 32 officers in a grade above the grade of rear admiral; or

(D) 50 officers in the grade of rear admiral; or

(4) in the Marine Corps, if that appointment would result in more than—

(A) 60 officers serving on active duty in a grade above the grade of colonel;

(B) 2 officers in the grade of general;

(C) 15 officers in a grade above the grade of major general; or

(D) 22 officers in the grade of major general.

(c) EXCLUSION OF CERTAIN OFFICERS FROM DISTRIBUTION LIMITS.—

Time period.

(1) JOINT ASSIGNMENTS.—The limitations contained in subsection (b) do not apply to officers serving in joint duty assignments, as designated by the Secretary of Defense under section 526(b) of title 10, United States Code, or this section or for officers released from joint duty assignments, but only during the 60-day period beginning on the date the officer departs the joint duty assignment. Of the officers serving in such joint duty assignments—

(A) the number of officers in the grade of general or admiral may not exceed 20;

(B) the number of officers in a grade above the grade of major general or rear admiral may not exceed 68; and

(C) the number of officers in the grade of major general or rear admiral may not exceed 144.

(2) OFFICERS AFTER RELIEF FROM CERTAIN POSITIONS.—An officer continuing to hold the grade of general or admiral under section 601(b)(4) of title 10 United States Code, after relief from the position of Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps shall not be counted for purposes of subsection (b).

(3) ATTENDING PHYSICIAN.—An officer while serving as Attending Physician to the Congress is in addition to the number that would otherwise be permitted for that officer's Armed Force for officers serving on active duty in grades above brigadier general or rear admiral (lower half) under subsection (b).

(4) OFFICERS PENDING RETIREMENT OR AFTER RELIEF AND RELATED CIRCUMSTANCES.—The following officers shall not be counted for purposes of subsection (b):

(A) An officer of an Armed Force in the grade of brigadier general or above or, in the case of the Navy, in the grade of rear admiral (lower half) or above, who is on leave pending the retirement, separation, or release of that officer from active duty, but only during the 60-day period beginning on the date of the commencement of such leave of such officer.

(B) An officer of an Armed Force who has been relieved from a position designated under section 601(a) of title 10, United States Code, and is under orders to assume another such position, but only during the 60-day period beginning on the date on which those orders are published.

(d) APPOINTMENTS IN EXCESS OF DISTRIBUTION LIMITS.—

(1) APPOINTMENT AUTHORITY.—Subject to paragraph (3), the President— President.

(A) may make appointments in the Army, Air Force, and Marine Corps in the grade of lieutenant general and in the Army, Air Force, and Marine Corps in the grade of general in excess of the applicable numbers determined under subsection (b) if each such appointment is made in conjunction with an offsetting reduction under paragraph (2); and

(B) may make appointments in the Navy in the grades of vice admiral and admiral in excess of the applicable numbers determined under subsection (b) if each such appointment is made in conjunction with an offsetting reduction under paragraph (2).

(2) OFFSETTING REDUCTIONS.—For each appointment made under the authority of paragraph (1) in the Army, Air Force, or Marine Corps in the grade of lieutenant general or general or in the Navy in the grade of vice admiral or admiral, the number of appointments that may be made in the equivalent grade in one of the other Armed Forces (other than the Coast Guard) shall be reduced by one. When such an appointment is made, the President shall specify the Armed Force in which the reduction required by this paragraph is to be made. President.

(3) MAXIMUM.—The number of officers that may be serving on active duty in the grades of lieutenant general and vice admiral by reason of appointments made under the authority of paragraph (1) may not exceed 15. The number of officers that may be serving on active duty in the grades of general and admiral by reason of appointments made under the authority of paragraph (1) may not exceed 5.

(4) DURATION OF REDUCTION.—Upon the termination of the appointment of an officer in the grade of lieutenant general or vice admiral or general or admiral that was made in connection with an increase under paragraph (1) in the number of officers that may be serving on active duty in that Armed Force in that grade, the reduction made under paragraph (2) in the number of appointments permitted in such grade in another Armed Force by reason of that increase shall no longer be in effect.

(e) AUTHORIZED STRENGTH LIMITS FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.—After the implementation date specified in subsection (a)(2), the number of general officers on active duty in the Army, Air Force, and Marine Corps, and the number of flag officers on active duty in the Navy, may not exceed the number specified for the Armed Force concerned as follows:

(1) For the Army, 225.
(2) For the Navy, 160.
(3) For the Air Force, 208.
(4) For the Marine Corps, 60.

(f) LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS.—

(1) DESIGNATION OF POSITIONS.—The Secretary of Defense may designate up to 324 general officer and flag officer positions that are joint duty assignments for the purposes of chapter 38 of title 10, United States Code, for exclusion from the limitations in subsection (e). The Secretary of Defense will allocate these exclusions to the Armed Forces based on the number of general or flag officers required from each Armed Force for assignment to these designated positions.

(2) MINIMUM NUMBER OF POSITIONS.—Unless the Secretary of Defense determines that a lower number is in the best interests of the United States, the minimum number of officers serving in positions designated under paragraph (1) for each Armed Force shall be as follows:

(A) For the Army, 85.
(B) For the Navy, 61.
(C) For the Air Force, 76.
(D) For the Marine Corps, 21.

(g) TEMPORARY EXCLUSION FOR ASSIGNMENT TO CERTAIN TEMPORARY BILLETS.—The limitations in subsection (e) do not apply to a general or flag officer assigned to a temporary joint duty assignment billet designated by the Secretary of Defense for purposes of this section. A general or flag officer assigned to a temporary joint duty assignment as described in this subsection may not be excluded under this subsection from the limitations in subsection (e) for a period longer than one year.

(h) EXCLUSION OF CERTAIN RESERVE OFFICERS.—

(1) DISTRIBUTION LIMITS.—The limitations of subsection (b) do not apply to a reserve component general or flag officer who is on active duty and serving in billets other than joint duty assignments under a call or order specifying a period of not longer than two years.

(2) AUTHORIZED STRENGTH LIMITS.—The limitations in subsection (e) do not apply to a reserve component general or flag officer who is on active duty and serving in a position that is a joint duty assignment for the purposes of chapter 38 of title 10, United States Code, for a period not to exceed three years.

(i) PENDING OR AFTER JOINT DUTY ASSIGNMENTS.—Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may allow the Secretary of a military department to exceed the distribution of general and flag officers established under subsection (b) and the limitation in subsection (e) for up to one year for officers pending assignment to or return from joint duty assignments designated under section 526(b) of title 10, United States Code, or this section.

# Subtitle B—Reserve Component Management

**SEC. 511. EXTENSION TO OTHER RESERVE COMPONENTS OF ARMY AUTHORITY FOR DEFERRAL OF MANDATORY SEPARATION OF MILITARY TECHNICIANS (DUAL STATUS) UNTIL AGE 60.**

Section 10216(f) of title 10, United States Code, is amended by inserting "and the Secretary of the Air Force" after "Secretary of the Army".

**SEC. 512. MODIFICATION OF AUTHORIZED STRENGTHS FOR CERTAIN ARMY NATIONAL GUARD, MARINE CORPS RESERVE, AND AIR NATIONAL GUARD OFFICERS AND ARMY NATIONAL GUARD ENLISTED PERSONNEL SERVING ON FULL-TIME RESERVE COMPONENT DUTY.**

(a) ARMY NATIONAL GUARD AND MARINE CORPS RESERVE OFFICERS.—The table in section 12011(a) of title 10, United States Code, relating to the number of officers of a reserve component who may be serving in the grades of major, lieutenant colonel, or colonel given the total number of members of that reserve component serving on full-time reserve component duty, is amended by striking the portion of the table relating to the Army National Guard and the Marine Corps Reserve and inserting the following:

"Army National Guard:

| | | | |
|---|---|---|---|
| 20,000 | 1,500 | 850 | 325 |
| 22,000 | 1,650 | 930 | 350 |
| 24,000 | 1,790 | 1,010 | 378 |
| 26,000 | 1,930 | 1,085 | 395 |
| 28,000 | 2,070 | 1,168 | 420 |
| 30,000 | 2,200 | 1,245 | 445 |
| 32,000 | 2,330 | 1,315 | 460 |
| 34,000 | 2,450 | 1,385 | 470 |
| 36,000 | 2,570 | 1,455 | 480 |
| 38,000 | 2,670 | 1,527 | 490 |
| 40,000 | 2,770 | 1,590 | 500 |
| 42,000 | 2,837 | 1,655 | 505 |

"Marine Corps Reserve:

| | | | |
|---|---|---|---|
| 1,000 | 99 | 63 | 20 |
| 1,200 | 103 | 67 | 21 |
| 1,300 | 107 | 70 | 22 |
| 1,400 | 111 | 73 | 23 |
| 1,500 | 114 | 76 | 24 |
| 1,600 | 117 | 79 | 25 |
| 1,700 | 120 | 82 | 26 |
| 1,800 | 123 | 85 | 27 |
| 1,900 | 126 | 88 | 28 |

"Marine Corps Reserve:

| | | | |
|---|---|---|---|
| 2,000 | 129 | 91 | 29 |
| 2,100 | 132 | 94 | 30 |
| 2,200 | 134 | 97 | 31 |
| 2,300 | 136 | 100 | 32 |
| 2,400 | 138 | 103 | 33 |
| 2,500 | 140 | 106 | 34 |
| 2,600 | 142 | 109 | 35". |

(b) AIR NATIONAL GUARD OFFICERS.—The table in such section is further amended by striking the portion of the table relating to the Air National Guard and inserting the following:

"Air National Guard:

| | | | |
|---|---|---|---|
| 5,000 | 333 | 335 | 251 |
| 6,000 | 403 | 394 | 260 |
| 7,000 | 472 | 453 | 269 |
| 8,000 | 539 | 512 | 278 |
| 9,000 | 606 | 571 | 287 |
| 10,000 | 673 | 665 | 313 |
| 11,000 | 740 | 759 | 339 |
| 12,000 | 807 | 827 | 353 |
| 13,000 | 873 | 886 | 363 |
| 14,000 | 939 | 945 | 374 |
| 15,000 | 1,005 | 1,001 | 384 |
| 16,000 | 1,067 | 1,057 | 394 |
| 17,000 | 1,126 | 1,113 | 404 |
| 18,000 | 1,185 | 1,169 | 414 |
| 19,000 | 1,235 | 1,224 | 424 |
| 20,000 | 1,283 | 1,280 | 428". |

(c) ARMY NATIONAL GUARD ENLISTED PERSONNEL.—The table in section 12012(a) of such title, relating to the number of members of a reserve component who may be serving in the grade of E–8 or E–9 given the total number of members of that reserve component serving on full-time reserve component duty, is amended by striking the portion of the table relating to the Army National Guard and inserting the following:

"Army National Guard:

| | | |
|---|---|---|
| 20,000 | 1,650 | 550 |
| 22,000 | 1,775 | 615 |
| 24,000 | 1,950 | 645 |
| 26,000 | 2,100 | 675 |
| 28,000 | 2,250 | 715 |
| 30,000 | 2,400 | 735 |
| 32,000 | 2,500 | 760 |

"Army National Guard:

| | | |
|---|---|---|
| 34,000 | 2,600 | 780 |
| 36,000 | 2,700 | 800 |
| 38,000 | 2,800 | 820 |
| 40,000 | 2,900 | 830 |
| 42,000 | 3,000 | 840". |

**SEC. 513. CLARIFICATION OF AUTHORITY TO CONSIDER FOR A VACANCY PROMOTION NATIONAL GUARD OFFICERS ORDERED TO ACTIVE DUTY IN SUPPORT OF A CONTINGENCY OPERATION.**

(a) ADDITIONAL EXCEPTION.—Subsection (d) of section 14317 of title 10, United States Code, is amended—

(1) in the first sentence—

(A) by striking "Except" and inserting "(1) Except";

(B) by striking "unless the officer is ordered" and inserting "unless the officer—

"(A) is ordered";

(C) by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following new subparagraph:

"(B) has been ordered to or is serving on active duty in support of a contingency operation."; and

(2) in the second sentence, by striking "If" and inserting the following:

"(2) If".

(b) CONSIDERATION FOR PROMOTION BY EXAMINATION FOR FEDERAL RECOGNITION.—Subsection (e)(1)(B) of such section is amended by inserting before the period at the end the following: ", or by examination for Federal recognition under title 32".

**SEC. 514. INCREASE IN MANDATORY RETIREMENT AGE FOR CERTAIN RESERVE OFFICERS.**

(a) SELECTIVE SERVICE AND PROPERTY AND FISCAL OFFICERS.—Section 12647 of title 10, United States Code, is amended by striking "60 years" and inserting "62 years".

(b) CERTAIN RESERVE OFFICERS IN GRADES OF MAJOR THROUGH BRIGADIER GENERAL.—Section 14702(b) of such title is amended—

(1) in the subsection heading, by striking "AT AGE 60" and inserting "FOR AGE"; and

(2) by striking "subsection (a)(1) or (a)(2)." and all that follows through the period at the end of the last sentence and inserting the following: "paragraph (1) or (2) of subsection (a). An officer described in paragraph (1) of such subsection may not be retained under this section after the last day of the month in which the officer becomes 62 years of age. An officer described in paragraph (2) of such subsection may not be retained under this section after the last day of the month in which the officer becomes 60 years of age.".

(c) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 14702 of such title is amended to read as follows:

**"§ 14702. Retention on reserve active-status list of certain officers in the grade of major, lieutenant colonel, colonel, or brigadier general".**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 1409 of such title is amended by striking the item relating to section 14702 and inserting the following new item:

"14702. Retention on reserve active-status list of certain officers in the grade of major, lieutenant colonel, colonel, or brigadier general.".

**SEC. 515. AGE LIMIT FOR RETENTION OF CERTAIN RESERVE OFFICERS ON ACTIVE-STATUS LIST AS EXCEPTION TO REMOVAL FOR YEARS OF COMMISSIONED SERVICE.**

Section 14508 of title 10, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) RETENTION OF LIEUTENANT GENERALS.—A reserve officer of the Army or Air Force in the grade of lieutenant general who would otherwise be removed from an active status under subsection (c) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 66 years of age.".

**SEC. 516. AUTHORITY TO RETAIN RESERVE CHAPLAINS AND OFFICERS IN MEDICAL AND RELATED SPECIALTIES UNTIL AGE 68.**

(a) RESERVE CHAPLAINS AND MEDICAL OFFICERS.—Section 14703(b) of title 10, United States Code, is amended by striking "67 years" and inserting "68 years".

(b) NATIONAL GUARD CHAPLAINS AND MEDICAL OFFICERS.—Section 324 of title 32, United States Code, is amended by adding at the end the following new subsection:

"(c) Notwithstanding subsection (a)(1), an officer of the National Guard serving as a chaplain, medical officer, dental officer, nurse, veterinarian, Medical Service Corps officer, or biomedical sciences officer may be retained, with the officer's consent, until the date on which the officer becomes 68 years of age.".

**SEC. 517. MODIFICATION OF AUTHORITIES ON DUAL DUTY STATUS OF NATIONAL GUARD OFFICERS.**

(a) DUAL DUTY STATUS AUTHORIZED FOR ANY OFFICER ON ACTIVE DUTY.—Subsection (a)(2) of section 325 of title 32, United States Code, is amended by striking "in command of a National Guard unit".

(b) ADVANCE AUTHORIZATION AND CONSENT TO DUAL DUTY STATUS.—Such section is further amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) ADVANCE AUTHORIZATION AND CONSENT.—The President and the Governor of a State or Territory, or of the Commonwealth of Puerto Rico, or the commanding general of the District of Columbia National Guard, as applicable, may give the authorization or consent required by subsection (a)(2) with respect to an officer in advance for the purpose of establishing the succession of command of a unit.".

**SEC. 518. STUDY AND REPORT REGARDING MARINE CORPS PERSONNEL POLICIES REGARDING ASSIGNMENTS IN INDIVIDUAL READY RESERVE.**

(a) STUDY.—The Secretary of the Navy shall conduct a study to analyze the policies and procedures used by the Marine Corps Reserve during fiscal years 2001 through 2008 to govern the assignment of members of the Marine Corps Reserve in the Individual Ready Reserve.

(b) ELEMENTS.—The study shall contain, at a minimum, the following elements:

(1) A summary of the actual policies and procedures used to assign members of the Marine Corps Reserve to the Individual Ready Reserve and to remove members from the Individual Ready Reserve, to include the grade and authority of the official responsible for making the decision regarding the assignment.

(2) The number of members of the Marine Corps Reserve assigned to the Individual Ready Reserve during fiscal years 2001 through 2008.

(3) The number of members of the Marine Corps Reserve who spent less than 12 months in the Individual Ready Reserve during fiscal years 2001 through 2008, categorized by the reason provided for assigning the members to the Individual Ready Reserve.

(4) The impact of assigning a member of the Marine Corps Reserve to the Individual Ready Reserve on the eligibility of the member for health care coverage under TRICARE.

(5) The policies and procedures used to account for members of the Marine Corps Reserve who are excess to a unit's authorization document, to include members selected for promotion or command who have not yet been promoted or assumed duties as officers in command.

(6) Recommendations for improvements to policies and procedures used to assign members of the Marine Corps Reserve to the Individual Ready Reserve and to remove members from the Individual Ready Reserve.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and House of Representatives a report containing the results of the study.

**SEC. 519. REPORT ON COLLECTION OF INFORMATION ON CIVILIAN SKILLS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES.**

Not later than March 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and advisability, utility, and cost effectiveness of the following:

(1) The collection by the Department of Defense of information on the civilian skills, qualifications, and professional certifications of members of the reserve components of the Armed Forces that are relevant to military manpower requirements.

(2) The establishment by each military department, and by the Department of Defense generally, of a system that would match billets and personnel requirements with members of the reserve components of the Armed Forces who have skills,

qualifications, and certifications relevant to such billets and requirements.

(3) The establishment by the Department of Defense of one or more systems accessible by private employers who employ individuals with skills, qualifications, and certifications possessed by members of the reserve components of the Armed Forces to assist such employers in hiring and employing such members.

(4) Actions to ensure that employment information collected for and maintained in the Civilian Employment Information database of the Department of Defense is current and accurate.

(5) Actions to incorporate any matter determined feasible and advisable under paragraphs (1) through (4) into the Defense Integrated Military Human Resources System.

# Subtitle C—Joint Qualified Officers and Requirements

### SEC. 521. JOINT DUTY REQUIREMENTS FOR PROMOTION TO GENERAL OR FLAG OFFICER.

(a) IN GENERAL.—Section 619a of title 10, United States Code, is amended—

(1) in subsection (a), by striking "unless—" and all that follows through "the joint specialty" and inserting "unless the officer has been designated as a joint qualified officer";

(2) in subsection (b)—

(A) by striking "paragraph (1) or paragraph (2) of subsection (a), or both paragraphs (1) and (2) of subsection (a)," in the matter preceding paragraph (1) and inserting "subsection (a)"; and

(B) in paragraph (4), by striking "within that immediate organization is not less than two years" and inserting "is not less than two years and the officer has successfully completed a program of education described in subsections (b) and (c) of section 2155 of this title"; and

(3) by striking subsection (h).

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 619a. Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to general or flag grade; exceptions".**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of subchapter II of chapter 36 of such title is amended by striking the item relating to section 619a and inserting the following new item:

"619a. Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to general or flag grade; exceptions.".

### SEC. 522. TECHNICAL, CONFORMING, AND CLERICAL CHANGES TO JOINT SPECIALTY TERMINOLOGY.

(a) REFERENCE TO JOINT QUALIFIED OFFICER.—

(1) IN GENERAL.—Subsection (a) of section 661 of title 10, United States Code, is amended in the second sentence by striking "in such manner as the Secretary of Defense directs"

and inserting "as a joint qualified officer or in such other manner as the Secretary of Defense directs".

(2) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 661. Management policies for joint qualified officers".**

(3) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 38 of such title is amended by striking the item related to section 661 and inserting the following new item:

"661. Management policies for joint qualified officers.".

(b) JOINT DUTY ASSIGNMENTS AFTER COMPLETION OF JOINT PROFESSIONAL MILITARY EDUCATION.—Section 663 of such title is amended—

(1) in subsection (a)—

(A) in the subsection heading, by striking "JOINT SPECIALTY" and inserting "JOINT QUALIFIED"; and

(B) by striking "with the joint specialty" and inserting "designated as a joint qualified officer"; and

(2) in subsection (b)(1), by striking "do not have the joint specialty" and inserting "are not designated as a joint qualified officer".

(c) PROCEDURES FOR MONITORING CAREERS OF JOINT QUALIFIED OFFICERS.—

(1) IN GENERAL.—Section 665 of such title is amended—

(A) in subsection (a)(1)(A), by striking "with the joint specialty" and inserting "designated as a joint qualified officer"; and

(B) in subsection (b)(1), by striking "with the joint specialty" and inserting "designated as a joint qualified officer".

(2) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 665. Procedures for monitoring careers of joint qualified officers".**

(3) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 38 of such title is amended by striking the item related to section 665 and inserting the following new item:

"665. Procedures for monitoring careers of joint qualified officers.".

(d) JOINT SPECIALTY TERMINOLOGY IN ANNUAL REPORT.—Section 667 of such title is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "selected for the joint specialty" and inserting "designated as a joint qualified officer"; and

(B) in subparagraph (B), by striking "selection for the joint specialty" and inserting "designation as a joint qualified officer,";

(2) in paragraph (2), by striking "with the joint specialty" and inserting "designated as a joint qualified officer";

(3) in paragraph (3), by striking "selected for the joint specialty" each place it appears and inserting "designated as a joint qualified officer";

(4) in paragraph (4)—

(A) in subparagraph (A), by striking "selected for the joint specialty" and inserting "designated as a joint qualified officer"; and

(B) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) a comparison of the number of officers who were designated as a joint qualified officer who had served in a Joint Duty Assignment List billet and completed Joint Professional Military Education Phase II, with the number designated as a joint qualified officer based on their aggregated joint experiences and completion of Joint Professional Military Education Phase II.";

(5) by striking paragraphs (5) through (10), (13), and (16), and redesignating paragraphs (11), (12), (14), (15), (17), and (18) as paragraphs (7), (8), (9), (10), (12), and (13), respectively;

(6) by inserting after paragraph (4) the following new paragraphs:

"(5) The promotion rate for officers designated as a joint qualified officer, compared with the promotion rate for other officers considered for promotion from within the promotion zone in the same pay grade and the same competitive category. A similar comparison will be made for officers both below the promotion zone and above the promotion zone.

"(6) An analysis of assignments of officers after their designation as a joint qualified officer."; and

(7) by inserting after paragraph (10), as redesignated by paragraph (5) of this subsection, the following new paragraph (11):

"(11) The number of officers in the grade of captain (or in the case of the Navy, lieutenant) and above certified at each level of joint qualification as established in regulation and policy by the Secretary of Defense with the advice of the Chairman of the Joint Chiefs of Staff. Such numbers shall be reported by service and grade of the officer.".

**SEC. 523. PROMOTION POLICY OBJECTIVES FOR JOINT QUALIFIED OFFICERS.**

Section 662 of title 10, United States Code, is amended—

(1) in subsection (a)(2), by striking "officers who are serving or have served in joint duty assignments" and inserting "officers in the grade of major (or in the case of the Navy, lieutenant commander) or above who have been designated as a joint qualified officer"; and

(2) in subsection (b), by inserting after "joint duty assignments" the following: "or on the Joint Staff, and officers who have been designated as a joint qualified officer in the grades of major (or in the case of the Navy, lieutenant commander) through colonel (or in the case of the Navy, captain)".

**SEC. 524. LENGTH OF JOINT DUTY ASSIGNMENTS.**

(a) SERVICE EXCLUDED FROM TOUR LENGTH.—Subsection (d) of section 664 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking subparagraph (D) and inserting the following new subparagraph (D):

"(D) a qualifying reassignment from a joint duty assignment—

"(i) for unusual personal reasons, including extreme hardship and medical conditions, beyond the control of the officer or the armed forces; or

"(ii) to another joint duty assignment immediately after—

"(I) the officer was promoted to a higher grade, if the reassignment was made because no joint duty assignment was available within the same organization that was commensurate with the officer's new grade; or

"(II) the officer's position was eliminated in a reorganization."; and

(2) by striking paragraph (3) and inserting the following new paragraph (3):

"(3) Service in a joint duty assignment in a case in which the officer's tour of duty in that assignment brings the officer's accrued service for purposes of subsection (f)(3) to the applicable standard prescribed in subsection (a).".

(b) COMPUTING AVERAGE LENGTH OF JOINT DUTY ASSIGNMENTS.—Subsection (e) of such section is amended by striking paragraph (2) and inserting the following new paragraph (2):

"(2) In computing the average length of joint duty assignments for purposes of paragraph (1), the Secretary may exclude the following service:

"(A) Service described in subsection (c).

"(B) Service described in subsection (d).

"(C) Service described in subsection (f)(6).".

(c) COMPLETION OF TOUR OF DUTY.—Subsection (f) of such section is amended—

(1) in paragraph (3), by striking "Cumulative service" and inserting "Accrued joint experience";

(2) in paragraph (4), by striking "(except" and all that follows through "any time)"; and

(3) by striking paragraph (6) and inserting the following new paragraph (6):

"(6) A second and subsequent joint duty assignment that is less than the period required under subsection (a), but not less than two years.".

(d) ACCRUED JOINT EXPERIENCE AS FULL TOUR OF DUTY.—Subsection (g) of such section is amended to read as follows:

"(g) ACCRUED JOINT EXPERIENCE.—For the purposes of subsection (f)(3), the Secretary of Defense may prescribe, by regulation, certain joint experience, such as temporary duty in joint assignments, joint individual training, and participation in joint exercises, that may be aggregated to equal a full tour of duty. The Secretary shall prescribe the regulations with the advice of the Chairman of the Joint Chiefs of Staff.".

(e) CONSTRUCTIVE CREDIT.—Subsection (h) of such section is amended—

(1) in paragraph (1), by striking "subsection (f)(1), (f)(2), (f)(4), or (g)(2)" and inserting "paragraphs (1), (2), and (4) of subsection (f)"; and

(2) by striking paragraph (3).

(f) REPEAL OF JOINT DUTY CREDIT FOR CERTAIN JOINT TASK FORCE ASSIGNMENTS.—Such section is further amended by striking subsection (i).

**SEC. 525. DESIGNATION OF GENERAL AND FLAG OFFICER POSITIONS ON JOINT STAFF AS POSITIONS TO BE HELD ONLY BY RESERVE COMPONENT OFFICERS.**

Section 526(b)(2)(A) of title 10, United States Code, is amended by striking "a general and flag officer position" and inserting "up to three general and flag officer positions".

**SEC. 526. MODIFICATION OF LIMITATIONS ON AUTHORIZED STRENGTHS OF RESERVE GENERAL AND FLAG OFFICERS IN ACTIVE STATUS SERVING IN JOINT DUTY ASSIGNMENTS.**

(a) EXCLUSION OF ARMY AND AIR FORCE OFFICERS SERVING IN JOINT DUTY ASSIGNMENTS.—Subsection (b) of section 12004 of title 10, United States Code, is amended by adding at the end the following new paragraph;

"(4) Those serving in a joint duty assignment for purposes of chapter 38 of this title, except that the number of officers who may be excluded under this paragraph may not exceed the number equal to 20 percent of the number of officers authorized for the armed force concerned by subsection (a).".

(b) EXCLUSION OF NAVY OFFICERS SERVING IN JOINT DUTY ASSIGNMENTS.—Subsection (c) of such section is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) in paragraph (1), by striking "(1)" and all that follows through "as follows:" and inserting the following:

"(1) The following Navy reserve officers shall not be counted for purposes of this section:

"(A) Those counted under section 526 of this title.

"(B) Those serving in a joint duty assignment for purposes of chapter 38 of this title, except that the number of officers who may be excluded under this paragraph may not exceed the number equal to 20 percent of the number of officers authorized for the Navy in subsection (a).

"(2) Of the number of Navy reserve officers authorized by subsection (a), 40 are distributed among the line and staff corps as follows:".

(c) EXCLUSION OF MARINE CORPS OFFICERS SERVING IN JOINT DUTY ASSIGNMENTS.—Subsection (d) of such section is amended to read as follows:

"(d) The following Marine Corps reserve officers shall not be counted for purposes of this section:

"(1) Those counted under section 526 of this title.

"(2) Those serving in a joint duty assignment for purposes of chapter 38 of this title, except that the number of officers who may be excluded under this paragraph may not exceed the number equal to 20 percent of the number of officers authorized for the Marine Corps in subsection (a).".

**SEC. 527. REPORTS ON JOINT EDUCATION COURSES AVAILABLE THROUGH THE DEPARTMENT OF DEFENSE.**

(a) REPORTS REQUIRED.—Not later than April 1 of each of 2009, 2010, and 2011, the Chairman of the Joint Chiefs of Staff shall submit to Congress a report setting forth information on the joint education courses available through the Department of Defense for purposes of the pursuit of joint careers by officers in the Armed Forces.

(b) ELEMENTS.—Each report under subsection (a) shall include, for the preceding year covered by the report, the following:

(1) A list and description of the joint education courses available during the year covered by the report.

(2) A list and description of the joint education courses listed under paragraph (1) that are available to, and may be completed by, officers of the reserve components of the Armed Forces in other than an in-resident duty status under title 10 or 32, United States Code.

(3) For each joint education course listed under paragraph (1), the number of officers from each Armed Force who pursued the course during the year covered by the report, including the number of officers of the Army National Guard and Air National Guard who pursued the course.

# Subtitle D—General Service Authorities

### SEC. 531. INCREASE IN MAXIMUM PERIOD OF REENLISTMENT OF REGULAR MEMBERS OF THE ARMED FORCES.

(a) INCREASE TO EIGHT-YEAR MAXIMUM.—Section 505(d) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking "six years" and inserting "eight years"; and

(2) in paragraph (3)(A), by striking "six years" and inserting "eight years".

(b) CONFORMING AMENDMENT REGARDING REENLISTMENT BONUS.—Section 308(a)(2)(A)(ii) of title 37, United States Code, is amended by striking "not to exceed six".

### SEC. 532. PATERNITY LEAVE FOR MEMBERS OF THE ARMED FORCES.

(a) LEAVE AUTHORIZED.—Section 701 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j)(1) Under regulations prescribed by the Secretary concerned, a married member of the armed forces on active duty whose wife gives birth to a child shall receive 10 days of leave to be used in connection with the birth of the child. Regulations.

"(2) Leave under paragraph (1) is in addition to other leave authorized under this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and applies only with respect to children born on or after that date. 10 USC 701 note.

### SEC. 533. PILOT PROGRAMS ON CAREER FLEXIBILITY TO ENHANCE RETENTION OF MEMBERS OF THE ARMED FORCES. 10 USC 701 note.

(a) PILOT PROGRAMS AUTHORIZED.—

(1) IN GENERAL.—Each Secretary of a military department may carry out pilot programs under which officers and enlisted members of the regular components of the Armed Forces under the jurisdiction of such Secretary may be inactivated from active duty in order to meet personal or professional needs and returned to active duty at the end of such period of inactivation from active duty.

(2) PURPOSE.—The purpose of the pilot programs under this section shall be to evaluate whether permitting inactivation from active duty and greater flexibility in career paths for members of the Armed Forces will provide an effective means to enhance retention of members of the Armed Forces and

the capacity of the Department of Defense to respond to the personal and professional needs of individual members of the Armed Forces.

(b) LIMITATION ON ELIGIBLE MEMBERS.—A member of the Armed Forces is not eligible to participate in a pilot program under this section during any period of service required of the member—

(1) under an agreement upon entry of the member on active duty; or

(2) due to receipt by the member of a retention bonus as a member qualified in a critical military skill or assigned to a high priority unit under section 355 of title 37, United States Code.

(c) LIMITATION ON NUMBER OF PARTICIPANTS.—Not more than 20 officers and 20 enlisted members of each Armed Force may be selected during each of calendar years 2009 through 2012 to participate in the pilot programs under this section.

(d) PERIOD OF INACTIVATION FROM ACTIVE DUTY; EFFECT OF INACTIVATION.—

(1) LIMITATION.—The period of inactivation from active duty under a pilot program under this section of a member participating in the pilot program shall be such period as the Secretary of the military department concerned shall specify in the agreement of the member under subsection (e), except that such period may not exceed three years.

(2) EXCLUSION FROM COMPUTATION OF RESERVE OFFICER'S TOTAL YEARS OF SERVICE.—Any service by a Reserve officer while participating in a pilot program under this section shall be excluded from computation of the officer's total years of service pursuant to section 14706(a) of title 10, United States Code.

(3) RETIREMENT AND RELATED PURPOSES.—Any period of participation of a member in a pilot program under this section shall not count toward—

(A) eligibility for retirement or transfer to the Ready Reserve under either chapter 571 or 1223 of title 10, United States Code; or

(B) computation of retired or retainer pay under chapter 71 or 1223 of title 10, United States Code.

(e) AGREEMENT.—Each member of the Armed Forces who participates in a pilot program under this section shall enter into a written agreement with the Secretary of the military department concerned under which agreement that member shall agree as follows:

(1) To accept an appointment or enlist, as applicable, and serve in the Ready Reserve of the Armed Force concerned during the period of the member's inactivation from active duty under the pilot program.

(2) To undergo during the period of the inactivation of the member from active duty under the pilot program such inactive duty training as the Secretary concerned shall require in order to ensure that the member retains proficiency, at a level determined by the Secretary concerned to be sufficient, in the member's military skills, professional qualifications, and physical readiness during the inactivation of the member from active duty.

(3) Following completion of the period of the inactivation of the member from active duty under the pilot program, to serve two months as a member of the Armed Forces on active duty for each month of the period of the inactivation of the member from active duty under the pilot program.

(f) CONDITIONS OF RELEASE.—The Secretary of Defense shall issue regulations specifying the guidelines regarding the conditions of release that must be considered and addressed in the agreement required by subsection (e). At a minimum, the Secretary shall prescribe the procedures and standards to be used to instruct a member on the obligations to be assumed by the member under paragraph (2) of such subsection while the member is released from active duty.

Regulations. Guidelines.

Procedures. Standards.

(g) ORDER TO ACTIVE DUTY.—Under regulations prescribed by the Secretary of the military department concerned, a member of the Armed Forces participating in a pilot program under this section may, in the discretion of such Secretary, be required to terminate participation in the pilot program and be ordered to active duty.

Regulations.

(h) PAY AND ALLOWANCES.—

(1) BASIC PAY.—During each month of participation in a pilot program under this section, a member who participates in the pilot program shall be paid basic pay in an amount equal to two-thirtieths of the amount of monthly basic pay to which the member would otherwise be entitled under section 204 of title 37, United States Code, as a member of the uniformed services on active duty in the grade and years of service of the member when the member commences participation in the pilot program.

(2) PROHIBITION ON RECEIPT OF SPECIAL AND INCENTIVE PAYS.—

(A) PROHIBITION ON RECEIPT DURING PARTICIPATION.—A member who participates in a pilot program shall not, while participating in the pilot program, be paid any special or incentive pay or bonus to which the member is otherwise entitled under an agreement under chapter 5 of title 37, United States Code, that is in force when the member commences participation in the pilot program.

(B) TREATMENT OF REQUIRED SERVICE.—The inactivation from active duty of a member participating in a pilot program shall not be treated as a failure of the member to perform any period of service required of the member in connection with an agreement for a special or incentive pay or bonus under chapter 5 of title 37, United States Code, that is in force when the member commences participation in the pilot program.

(3) REVIVAL OF SPECIAL PAYS UPON RETURN TO ACTIVE DUTY.—

(A) REVIVAL REQUIRED.—Subject to subparagraph (B), upon the return of a member to active duty after completion by the member of participation in a pilot program—

(i) any agreement entered into by the member under chapter 5 of title 37, United States Code, for the payment of a special or incentive pay or bonus that was in force when the member commenced participation in the pilot program shall be revived, with the term of such agreement after revival being the period

of the agreement remaining to run when the member commenced participation in the pilot program; and

(ii) any special or incentive pay or bonus shall be payable to the member in accordance with the terms of the agreement concerned for the term specified in clause (i).

(B) LIMITATIONS.—

(i) LIMITATION AT TIME OF RETURN TO ACTIVE DUTY.—Subparagraph (A) shall not apply to any special or incentive pay or bonus otherwise covered by that subparagraph with respect to a member if, at the time of the return of the member to active duty as described in that subparagraph—

(I) such pay or bonus is no longer authorized by law; or

(II) the member does not satisfy eligibility criteria for such pay or bonus as in effect at the time of the return of the member to active duty.

(ii) CESSATION DURING LATER SERVICE.—Subparagraph (A) shall cease to apply to any special or incentive pay or bonus otherwise covered by that subparagraph with respect to a member if, during the term of the revived agreement of the member under subparagraph (A)(i), such pay or bonus ceases being authorized by law.

(C) REPAYMENT.—A member who is ineligible for payment of a special or incentive pay or bonus otherwise covered by this paragraph by reason of subparagraph (B)(i)(II) shall be subject to the requirements for repayment of such pay or bonus in accordance with the terms of the applicable agreement of the member under chapter 5 of title 37, United States Code.

(D) CONSTRUCTION OF REQUIRED SERVICE.—Any service required of a member under an agreement covered by this paragraph after the member returns to active duty as described in subparagraph (A) shall be in addition to any service required of the member under an agreement under subsection (e).

(4) CERTAIN TRAVEL AND TRANSPORTATION ALLOWANCES.—

(A) IN GENERAL.—Subject to subparagraph (B), a member who participates in a pilot program is entitled, while participating in the pilot program, to the travel and transportation allowances authorized by section 404 of title 37, United States Code, for—

(i) travel performed from the member's residence, at the time of release from active duty to participate in the pilot program, to the location in the United States designated by the member as his residence during the period of participation in the pilot program; and

(ii) travel performed to the member's residence upon return to active duty at the end of the member's participation in the pilot program.

(B) LIMITATION.—An allowance is payable under this paragraph only with respect to travel of a member to and from a single residence.

(i) PROMOTION.—

(1) OFFICERS.—

(A) LIMITATION ON PROMOTION.—An officer participating in a pilot program under this section shall not, while participating in the pilot program, be eligible for consideration for promotion under chapter 36 or 1405 of title 10, United States Code.

(B) PROMOTION AND RANK UPON RETURN TO ACTIVE DUTY.—Upon the return of an officer to active duty after completion by the officer of participation in a pilot program—

(i) the Secretary of the military department concerned shall adjust the officer's date of rank in such manner as the Secretary of Defense shall prescribe in regulations for purposes of this section; and Regulations.

(ii) the officer shall be eligible for consideration for promotion when officers of the same competitive category, grade, and seniority are eligible for consideration for promotion.

(2) ENLISTED MEMBERS.—An enlisted member participating in a pilot program shall not be eligible for consideration for promotion during the period that— Time period.

(A) begins on the date of the member's inactivation from active duty under the pilot program; and

(B) ends at such time after the return of the member to active duty under the pilot program that the member is treatable as eligible for promotion by reason of time in grade and such other requirements as the Secretary of the military department concerned shall prescribe in regulations for purposes of the pilot program.

(j) MEDICAL AND DENTAL CARE.—A member participating in a pilot program under this section shall, while participating in the pilot program, be treated as a member of the Armed Forces on active duty for a period of more than 30 days for purposes of the entitlement of the member and the member's dependents to medical and dental care under the provisions of chapter 55 of title 10, United States Code. Time period.

(k) REPORTS.—

(1) INTERIM REPORTS.—Not later than June 1, 2011, and June 1, 2013, the Secretary of each military department shall submit to the congressional defense committees a report on the implementation and current status of the pilot programs conducted by such Secretary under this section.

(2) FINAL REPORT.—Not later than March 1, 2016, the Secretary of Defense shall submit to the congressional defense committees a report on the pilot programs conducted under this section.

(3) ELEMENTS OF REPORT.—Each interim report and the final report under this subsection shall include the following:

(A) A description of each pilot program conducted under this section, including a description of the number of applicants for such pilot program and the criteria used to select individuals for participation in such pilot program.

(B) An assessment by the Secretary concerned of the pilot programs, including an evaluation of whether—

(i) the authorities of the pilot programs provided an effective means to enhance the retention of members

of the Armed Forces possessing critical skills, talents, and leadership abilities;

(ii) the career progression in the Armed Forces of individuals who participate in the pilot program has been or will be adversely affected; and

(iii) the usefulness of the pilot program in responding to the personal and professional needs of individual members of the Armed Forces.

(C) Such recommendations for legislative or administrative action as the Secretary concerned considers appropriate for the modification or continuation of the pilot programs.

(l) DURATION OF PROGRAM AUTHORITY.—The authority to conduct a pilot program under this section shall commence on January 1, 2009. No member of the Armed Forces may be released from active duty under a pilot program under this section after December 31, 2012.

# Subtitle E—Education and Training

**SEC. 540. AUTHORIZED STRENGTH OF MILITARY SERVICE ACADEMIES AND REPEAL OF PROHIBITION ON PHASED INCREASE IN MIDSHIPMEN AND CADET STRENGTH LIMIT AT NAVAL ACADEMY AND AIR FORCE ACADEMY.**

(a) MILITARY ACADEMY.—Section 4342(a) of title 10, United States Code, is amended by striking "4,000 or such higher number" and inserting "4,400 or such lower number".

(b) NAVAL ACADEMY.—Section 6954 of such title is amended—

(1) in subsection (a), by striking "4,000 or such higher number" and inserting "4,400 or such lower number"; and

(2) in subsection (h)(1), by striking the last sentence.

(c) AIR FORCE ACADEMY.—Section 9342 of such title is amended—

(1) in subsection (a), by striking "4,000 or such higher number" and inserting "4,400 or such lower number"; and

(2) in subsection (j)(1), by striking the last sentence.

10 USC 4342 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to academic years at the United States Military Academy, the United States Naval Academy, and the Air Force Academy after the 2007-2008 academic year.

**SEC. 541. PROMOTION OF FOREIGN AND CULTURAL EXCHANGE ACTIVITIES AT MILITARY SERVICE ACADEMIES.**

(a) UNITED STATES MILITARY ACADEMY.—

(1) IN GENERAL.—Chapter 403 of title 10, United States Code, is amended by inserting after section 4345 the following new section:

**"§ 4345a. Foreign and cultural exchange activities**

"(a) ATTENDANCE AUTHORIZED.—The Secretary of the Army may authorize the Academy to permit students, officers, and other representatives of a foreign country to attend the Academy for periods of not more than two weeks if the Secretary determines that the attendance of such persons contributes significantly to the development of foreign language, cross cultural interactions and understanding, and cultural immersion of cadets.

"(b) COSTS AND EXPENSES.—The Secretary may pay the travel, subsistence, and similar personal expenses of persons incurred to attend the Academy under subsection (a).

"(c) EFFECT OF ATTENDANCE.—Persons attending the Academy under subsection (a) are not considered to be students enrolled at the Academy and are in addition to persons receiving instruction at the Academy under section 4344 or 4345 of this title.

"(d) SOURCE OF FUNDS; LIMITATION.—(1) The Academy shall bear the costs of the attendance of persons under subsection (a) from funds appropriated for the Academy and from such additional funds as may be available to the Academy from a source, other than appropriated funds, to support cultural immersion, regional awareness, or foreign language training activities in connection with their attendance.

"(2) Expenditures from appropriated funds in support of activities under this section may not exceed $40,000 during any fiscal year.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4345 the following new item:

"4345a. Foreign and cultural exchange activities.".

(b) NAVAL ACADEMY.—

(1) IN GENERAL.—Chapter 603 of title 10, United States Code, is amended by inserting after section 6957a the following new section:

**"§ 6957b. Foreign and cultural exchange activities**

"(a) ATTENDANCE AUTHORIZED.—The Secretary of the Navy may authorize the Naval Academy to permit students, officers, and other representatives of a foreign country to attend the Naval Academy for periods of not more than two weeks if the Secretary determines that the attendance of such persons contributes significantly to the development of foreign language, cross cultural interactions and understanding, and cultural immersion of midshipmen.

"(b) COSTS AND EXPENSES.—The Secretary may pay the travel, subsistence, and similar personal expenses of persons incurred to attend the Naval Academy under subsection (a).

"(c) EFFECT OF ATTENDANCE.—Persons attending the Naval Academy under subsection (a) are not considered to be students enrolled at the Naval Academy and are in addition to persons receiving instruction at the Naval Academy under section 6957 or 6957a of this title.

"(d) SOURCE OF FUNDS; LIMITATION.—(1) The Naval Academy shall bear the costs of the attendance of persons under subsection (a) from funds appropriated for the Naval Academy and from such additional funds as may be available to the Naval Academy from a source, other than appropriated funds, to support cultural immersion, regional awareness, or foreign language training activities in connection with their attendance.

"(2) Expenditures from appropriated funds in support of activities under this section may not exceed $40,000 during any fiscal year.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6957a the following new item:

"6957b. Foreign and cultural exchange activities.".

(c) AIR FORCE ACADEMY.—

(1) IN GENERAL.—Chapter 903 of title 10, United States Code, is amended by inserting after section 9345 the following new section:

**"§ 9345a. Foreign and cultural exchange activities**

"(a) ATTENDANCE AUTHORIZED.—The Secretary of the Air Force may authorize the Air Force Academy to permit students, officers, and other representatives of a foreign country to attend the Air Force Academy for periods of not more than two weeks if the Secretary determines that the attendance of such persons contributes significantly to the development of foreign language, cross cultural interactions and understanding, and cultural immersion of cadets.

"(b) COSTS AND EXPENSES.—The Secretary may pay the travel, subsistence, and similar personal expenses of persons incurred to attend the Air Force Academy under subsection (a).

"(c) EFFECT OF ATTENDANCE.—Persons attending the Air Force Academy under subsection (a) are not considered to be students enrolled at the Air Force Academy and are in addition to persons receiving instruction at the Air Force Academy under section 9344 or 9345 of this title.

"(d) SOURCE OF FUNDS; LIMITATION.—(1) The Air Force Academy shall bear the costs of the attendance of persons under subsection (a) from funds appropriated for the Air Force Academy and from such additional funds as may be available to the Air Force Academy from a source, other than appropriated funds, to support cultural immersion, regional awareness, or foreign language training activities in connection with their attendance.

"(2) Expenditures from appropriated funds in support of activities under this section may not exceed $40,000 during any fiscal year.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 9345 the following new item:

"9345a. Foreign and cultural exchange activities.".

**SEC. 542. INCREASED AUTHORITY TO ENROLL DEFENSE INDUSTRY EMPLOYEES IN DEFENSE PRODUCT DEVELOPMENT PROGRAM.**

Section 7049(a) of title 10, United States Code, is amended by striking "25" and inserting "125".

**SEC. 543. EXPANDED AUTHORITY FOR INSTITUTIONS OF PROFESSIONAL MILITARY EDUCATION TO AWARD DEGREES.**

(a) NATIONAL DEFENSE INTELLIGENCE COLLEGE.—

(1) IN GENERAL.—Section 2161 of title 10, United States Code, is amended to read as follows:

**"§ 2161. Degree granting authority for National Defense Intelligence College**

Regulations.

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the President of the National Defense Intelligence College may, upon the recommendation of the faculty of the National Defense Intelligence College, confer appropriate degrees upon graduates who meet the degree requirements.

"(b) LIMITATION.—A degree may not be conferred under this section unless—

"(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

"(2) the National Defense Intelligence College is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

"(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives— Reports.

"(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and Assessments.

"(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

"(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

"(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the National Defense Intelligence College to award any new or existing degree.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 108 of such title is amended by striking the item relating to section 2161 and inserting the following new item:

"2161. Degree granting authority for National Defense Intelligence College.".

(b) NATIONAL DEFENSE UNIVERSITY.—

(1) IN GENERAL.—Section 2163 of such title is amended to read as follows:

**"§ 2163. Degree granting authority for National Defense University**

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the President of the National Defense University may, upon the recommendation of the faculty of the National Defense University, confer appropriate degrees upon graduates who meet the degree requirements. Regulations.

"(b) LIMITATION.—A degree may not be conferred under this section unless—

"(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

"(2) the National Defense University is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

Reports. "(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

Assessments. "(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

"(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

"(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

"(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the National Defense University to award any new or existing degree.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 108 of such title is amended by striking the item relating to section 2163 and inserting the following new item:

"2163. Degree granting authority for National Defense University.".

(c) UNITED STATES ARMY COMMAND AND GENERAL STAFF COLLEGE.—

(1) IN GENERAL.—Section 4314 of such title is amended to read as follows:

**"§ 4314. Degree granting authority for United States Army Command and General Staff College**

Regulations. "(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Army, the Commandant of the United States Army Command and General Staff College may, upon the recommendation of the faculty and dean of the college, confer appropriate degrees upon graduates who meet the degree requirements.

"(b) LIMITATION.—A degree may not be conferred under this section unless—

"(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

"(2) the United States Army Command and General Staff College is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

Reports. "(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section,

the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

"(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and Assessments.

"(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

"(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

"(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the United States Army Command and General Staff College to award any new or existing degree.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 401 of such title is amended by striking the item relating to section 4314 and inserting the following new item:

"4314. Degree granting authority for United States Army Command and General Staff College.".

(d) UNITED STATES ARMY WAR COLLEGE.—

(1) IN GENERAL.—Section 4321 of title 10, United States Code, is amended to read as follows:

**"§ 4321. Degree granting authority for United States Army War College**

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Army, the Commandant of the United States Army War College may, upon the recommendation of the faculty and dean of the college, confer appropriate degrees upon graduates who meet the degree requirements. Regulations.

"(b) LIMITATION.—A degree may not be conferred under this section unless—

"(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

"(2) the United States Army War College is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

"(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives— Reports.

"(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted Assessments.

to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

"(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

"(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

"(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the United States Army War College to award any new or existing degree.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 401 of such title is amended by striking the item relating to section 4321 and inserting the following new item:

"4321. Degree granting authority for United States Army War College.".

(e) UNITED STATES NAVAL POSTGRADUATE SCHOOL.—

(1) IN GENERAL.—Section 7048 of such title is amended to read as follows:

**"§ 7048. Degree granting authority for United States Naval Postgraduate School**

Regulations.

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Navy, the President of the Naval Postgraduate School may, upon the recommendation of the faculty of the Naval Postgraduate School, confer appropriate degrees upon graduates who meet the degree requirements.

"(b) LIMITATION.—A degree may not be conferred under this section unless—

"(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

"(2) the Naval Postgraduate School is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

Reports.

"(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

Assessments.

"(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

"(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

"(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

"(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Naval Postgraduate School to award any new or existing degree.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 605 of such title is amended by striking the item relating to section 7048 and inserting the following new item:

"7048. Degree granting authority for United States Naval Postgraduate School.".

(f) NAVAL WAR COLLEGE.—

(1) IN GENERAL.—Section 7101 of such title is amended to read as follows:

**"§ 7101. Degree granting authority for Naval War College**

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Navy, the President of the Naval War College may, upon the recommendation of the faculty of the Naval War College components, confer appropriate degrees upon graduates who meet the degree requirements. Regulations.

"(b) LIMITATION.—A degree may not be conferred under this section unless—

"(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

"(2) the Naval War College is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

"(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives— Reports.

"(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and Assessments.

"(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

"(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

"(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives

a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Naval War College to award any new or existing degree.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 609 of such title is amended by striking the item relating to section 7101 and inserting the following new item:

"7101. Degree granting authority for Naval War College.".

(g) MARINE CORPS UNIVERSITY.—

(1) IN GENERAL.—Section 7102 of such title is amended to read as follows:

**"§ 7102. Degree granting authority for Marine Corps University**

Regulations.

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Navy, the President of the Marine Corps University may, upon the recommendation of the directors and faculty of the Marine Corps University, confer appropriate degrees upon graduates who meet the degree requirements.

"(b) LIMITATION.—A degree may not be conferred under this section unless—

"(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

"(2) the Marine Corps University is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

Reports.

"(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

Assessments.

"(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

"(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

"(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

"(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Marine Corps University to award any new or existing degree.

Establishment.

"(d) BOARD OF ADVISORS.—The Secretary of the Navy shall establish a board of advisors for the Marine Corps University. The Secretary shall ensure that the board is established so as to meet all requirements of the appropriate regional accrediting association.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 609 of such title is amended by striking the item relating to section 7102 and inserting the following new item:

"7102. Degree granting authority for Marine Corps University.".

(h) UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY.—

(1) IN GENERAL.—Section 9314 of such title is amended to read as follows:

**"§ 9314. Degree granting authority for United States Air Force Institute of Technology**

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Air Force, the commander of the Air University may, upon the recommendation of the faculty of the United States Air Force Institute of Technology, confer appropriate degrees upon graduates of the United States Air Force Institute of Technology who meet the degree requirements.

"(b) LIMITATION.—A degree may not be conferred under this section unless—

"(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

"(2) the United States Air Force Institute of Technology is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

"(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives— Reports.

"(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and Assessments.

"(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

"(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

"(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the United States Air Force Institute of Technology to award any new or existing degree.

"(d) CIVILIAN FACULTY.—(1) The Secretary of the Air Force may employ as many civilian faculty members at the United States Air Force Institute of Technology as is consistent with the needs of the Air Force and with Department of Defense personnel limits.

"(2) The Secretary shall prescribe regulations determining— Regulations.

"(A) titles and duties of civilian members of the faculty; and

"(B) pay of civilian members of the faculty, notwithstanding chapter 53 of title 5, but subject to the limitation set out in section 5373 of title 5.

"(e) REIMBURSEMENT AND TUITION.—(1) The Department of the Army, the Department of the Navy, and the Department of Homeland Security shall bear the cost of the instruction at the Air Force Institute of Technology that is received by members of the armed forces detailed for that instruction by the Secretaries of the Army, Navy, and Homeland Security, respectively.

"(2) Members of the Army, Navy, Marine Corps, and Coast Guard may only be detailed for instruction at the Institute on a space-available basis.

"(3) In the case of an enlisted member of the Army, Navy, Marine Corps, and Coast Guard permitted to receive instruction at the Institute, the Secretary of the Air Force shall charge that member only for such costs and fees as the Secretary considers appropriate (taking into consideration the admission of enlisted members on a space-available basis).

"(f) ACCEPTANCE OF RESEARCH GRANTS.—(1) The Secretary of the Air Force may authorize the Commandant of the United States Air Force Institute of Technology to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Institute for a scientific, literary, or educational purpose.

"(2) A qualifying research grant under this subsection is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

"(3) A grant may be accepted under this subsection only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(4) The Secretary shall establish an account for administering funds received as research grants under this section. The Commandant of the Institute shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

"(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Institute may be used to pay expenses incurred by the Institute in applying for, and otherwise pursuing, the award of qualifying research grants.

Regulations.

"(6) The Secretary shall prescribe regulations for the administration of this subsection.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 901 of such title is amended by striking the item relating to section 9314 and inserting the following new item:

"9314. Degree granting authority for United States Air Force Institute of Technology.".

(i) AIR UNIVERSITY.—

(1) IN GENERAL.—Section 9317 of such title is amended to read as follows:

**"§ 9317. Degree granting authority for Air University**

"(a) AUTHORITY.—Except as provided in sections 9314 and 9315 of this title, under regulations prescribed by the Secretary of the Air Force, the commander of the Air University may, upon the recommendation of the faculty of the Air University components, confer appropriate degrees upon graduates who meet the degree requirements. Regulations.

"(b) LIMITATION.—A degree may not be conferred under this section unless—

"(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

"(2) the Air University is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

"(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives— Reports.

"(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and Assessments.

"(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

"(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

"(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Air University to award any new or existing degree.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 901 of such title is amended by striking the item relating to section 9317 and inserting the following new item:

"9317. Degree granting authority for Air University.".

(j) EFFECTIVE DATE.—The amendments made by this section shall apply to any degree granting authority established, modified, or redesignated on or after the date of enactment of this Act for an institution of professional military education referred to in such amendments.

**SEC. 544. TUITION FOR ATTENDANCE OF FEDERAL EMPLOYEES AT THE UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY.**

Subsection (e) of section 9314 of title 10, United States Code, as amended by section 543(h), is further amended by adding at the end the following new paragraphs:

"(4)(A) The Institute shall charge tuition for the cost of providing instruction at the Institute for any civilian employee of a military department (other than a civilian employee of the Department of the Air Force), of another component of the Department of Defense, or of another Federal agency who receives instruction at the Institute.

"(B) The cost of any tuition charged an individual under this paragraph shall be borne by the department, agency, or component sending the individual for instruction at the Institute.

"(5) Amounts received by the Institute for the instruction of students under this subsection shall be retained by the Institute. Such amounts shall be available to the Institute to cover the costs of such instruction. The source and disposition of such amounts shall be specifically identified in the records of the Institute.".

**SEC. 545. INCREASE IN NUMBER OF PERMANENT PROFESSORS AT THE UNITED STATES AIR FORCE ACADEMY.**

Section 9331(b)(4) of title 10, United States Code, is amended by striking "21 permanent professors" and inserting "23 permanent professors".

**SEC. 546. REQUIREMENT OF COMPLETION OF SERVICE UNDER HONORABLE CONDITIONS FOR PURPOSES OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS SUPPORTING CONTINGENCY OPERATIONS.**

(a) REQUIREMENT OF HONORABLE SERVICE.—Section 16164(a)(2) of title 10, United States Code, is amended by striking "other than dishonorable conditions" and inserting "honorable conditions".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to a person described in section 16163 of title 10, United States Code, who—

(1) separates from a reserve component on or after January 28, 2008, the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008; and

(2) as of the date of the enactment of this Act, has not used any of the person's entitlement to educational assistance under chapter 1607 of such title.

**SEC. 547. CONSISTENT EDUCATION LOAN REPAYMENT AUTHORITY FOR HEALTH PROFESSIONALS IN REGULAR COMPONENTS AND SELECTED RESERVE.**

Section 16302(c) of title 10, United States Code, is amended by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) The annual maximum amount of a loan that may be repaid under this section shall be the same as the maximum amount in effect for the same year under subsection (e)(2) of section 2173 of this title for the education loan repayment program under such section.".

**SEC. 548. INCREASE IN NUMBER OF UNITS OF JUNIOR RESERVE OFFICERS' TRAINING CORPS.**

Deadline.

(a) PLAN FOR INCREASE.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall develop and implement a plan to establish and support, not later than September 30, 2020, not less than 3,700 units of the Junior Reserve Officers' Training Corps.

(b) EXCEPTIONS.—The requirement imposed in subsection (a) shall not apply—

(1) if the Secretary fails to receive an adequate number or requests for Junior Reserve Officers' Training Corps units by public and private secondary educational institutions; or

(2) during a time of national emergency when the Secretaries of the military departments determine that funding must be allocated elsewhere.

(c) COOPERATION.—The Secretary of Defense, as part of the plan to establish and support additional Junior Reserve Officers' Training Corps units, shall work with local educational agencies to increase the employment in Junior Reserve Officers' Training Corps units of retired members of the Armed Forces who are retired under chapter 61 of title 10, United States Code, especially members who were wounded or injured while deployed in a contingency operation.

(d) REPORT ON PLAN.—Upon completion of the plan, the Secretary of Defense shall provide a report to the congressional defense committees containing, at a minimum, the following:

(1) A description of how the Secretaries of the military departments expect to achieve the number of units of the Junior Reserve Officers' Training Corps specified in subsection (a), including how many units will be established per year by each service.

(2) The annual funding necessary to support the increase in units, including the personnel costs associated.

(3) The number of qualified private and public schools, if any, who have requested a Junior Reserve Officers' Training Corps unit that are on a waiting list.

(4) Efforts to improve the increased distribution of units geographically across the United States.

(5) Efforts to increase distribution of units in educationally and economically deprived areas.

(6) Efforts to enhance employment opportunities for qualified former military members retired for disability, especially those wounded while deployed in a contingency operation.

(e) TIME FOR SUBMISSION.—The plan required under subsection (a), along with the report required by subsection (d), shall be submitted to the congressional defense committees not later than March 31, 2009. The Secretary of Defense shall submit an up-dated report annually thereafter until the minimum number of units of the Junior Reserve Officers' Training Corps specified in subsection (a) is achieved.

**SEC. 549. CORRECTION OF ERRONEOUS ARMY COLLEGE FUND BENEFIT AMOUNTS.**

(a) CORRECTION AND PAYMENT AUTHORITY.—

(1) CONSIDERATION OF REQUESTS FOR CORRECTION.—The Secretary of the Army may consider, through the Army Board for the Correction of Military Records, a request for the correction of military records relating to the amount of the Army College Fund benefit to which a member or former member of the Armed Forces may be entitled under an Army Incentive Program contract.

(2) PAYMENT AUTHORITY.—If the Secretary of the Army determines that the correction of military records is appropriate in response to a request received under paragraph (1), the

Secretary may pay such amounts as the Secretary considers necessary to ensure fairness and equity with regard to the request.

(b) EXCEPTION TO PAYMENT LIMITS.—A payment under subsection (a)(2) may be made without regard to any limits on the total combined amounts established for the Army College Fund and the Montgomery G.I. Bill.

(c) FUNDING SOURCE.—Payments under subsection (a)(2) shall be made solely from funds appropriated for military personnel programs for fiscal year 2009.

(d) TERMINATION DATE.—No payment may be made under subsection (a)(2) after December 31, 2009.

**SEC. 550. ENHANCING EDUCATION PARTNERSHIPS TO IMPROVE ACCESSIBILITY AND FLEXIBILITY FOR MEMBERS OF THE ARMED FORCES.**

(a) AUTHORITY.—The Secretary of a military department may enter into one or more education partnership agreements with educational institutions in the United States for the purpose of—

(1) developing plans to improve the accessibility and flexibility of college courses available to eligible members of the Armed Forces;

(2) improving the application process for the Armed Forces tuition assistance programs and raising awareness regarding educational opportunities available to such members;

(3) developing curriculum, distance education programs, and career counseling designed to meet the professional, financial, academic, and social needs of such members; and

(4) assessing how resources may be applied more effectively to meet the educational needs of such members.

(b) COST.—Except as provided in this section, execution of an education partnership agreement with an educational institution shall be at no cost to the Government.

(c) EDUCATIONAL INSTITUTION DEFINED.—In this section, the term "educational institution" means an accredited college, university, or technical school in the United States.

## Subtitle F—Defense Dependents' Education

**SEC. 551. CONTINUATION OF AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.**

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—Of the amount authorized to be appropriated for fiscal year 2009 pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $35,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of section 572 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3271; 20 U.S.C. 7703b).

(b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT CHANGES DUE TO BASE CLOSURES, FORCE STRUCTURE CHANGES, OR FORCE RELOCATIONS.—Of the amount authorized to be appropriated for

fiscal year 2009 pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $15,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b) of such section 572.

(c) LOCAL EDUCATIONAL AGENCY DEFINED.—In this section, the term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

**SEC. 552. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.**

Of the amount authorized to be appropriated for fiscal year 2009 pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

**SEC. 553. TRANSITION OF MILITARY DEPENDENT STUDENTS AMONG LOCAL EDUCATIONAL AGENCIES.**

Subsection (d) of section 574 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2227; 20 U.S.C. 7703b note) is amended to read as follows:

"(d) TRANSITION OF MILITARY DEPENDENTS AMONG LOCAL EDUCATIONAL AGENCIES.—(1) The Secretary of Defense shall work collaboratively with the Secretary of Education in any efforts to ease the transitions of military dependent students from Department of Defense dependent schools to other schools and among schools of local educational agencies.

"(2) The Secretary of Defense may use funds of the Department of Defense Education Activity for the following purposes:

"(A) To share expertise and experience of the Activity with local educational agencies as military dependent students make the transitions described in paragraph (1), including transitions resulting from the closure or realignment of military installations under a base closure law, global rebasing, and force restructuring.

"(B) To provide programs for local educational agencies with military dependent students undergoing the transitions described in paragraph (1), including—

"(i) distance learning programs; and

"(ii) training programs to improve the ability of military dependent students who attend public schools in the United States and their teachers to meet the educational needs of such students.

"(3) The authority provided by this subsection expires September 30, 2013.". Expiration date.

**SEC. 554. CALCULATION OF PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN UNDER DEPARTMENT OF EDUCATION'S IMPACT AID PROGRAM.**

In fiscal year 2009, section 8003(a)(2)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(2)(C)(i)) shall be applied by substituting "5,000" for "6,500". Applicability.

## Subtitle G—Military Justice

**SEC. 561. EFFECTIVE PERIOD OF MILITARY PROTECTIVE ORDERS.**

(a) IN GENERAL.—Chapter 80 of title 10, United States Code, is amended by adding at the end the following new section:

**"SEC. 1567. DURATION OF MILITARY PROTECTIVE ORDERS.**

"A military protective order issued by a military commander shall remain in effect until such time as the military commander terminates the order or issues a replacement order.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1567. Duration of military protective orders.".

**SEC. 562. MANDATORY NOTIFICATION OF ISSUANCE OF MILITARY PROTECTIVE ORDER TO CIVILIAN LAW ENFORCEMENT.**

(a) IN GENERAL.—Chapter 80 of title 10, United States Code, is amended by inserting after section 1567, as added by section 561, the following new section:

**"SEC. 1567a. MANDATORY NOTIFICATION OF ISSUANCE OF MILITARY PROTECTIVE ORDER TO CIVILIAN LAW ENFORCEMENT.**

"(a) INITIAL NOTIFICATION.—In the event a military protective order is issued against a member of the armed forces and any individual involved in the order does not reside on a military installation at any time during the duration of the military protective order, the commander of the military installation shall notify the appropriate civilian authorities of—

"(1) the issuance of the protective order; and

"(2) the individuals involved in the order.

"(b) NOTIFICATION OF CHANGES OR TERMINATION.—The commander of the military installation also shall notify the appropriate civilian authorities of—

"(1) any change made in a protective order covered by subsection (a); and

"(2) the termination of the protective order.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1567 the following new item:

"1567a. Mandatory notification of issuance of military protective order to civilian law enforcement.".

**SEC. 563. IMPLEMENTATION OF INFORMATION DATABASE ON SEXUAL ASSAULT INCIDENTS IN THE ARMED FORCES.**

(a) DATABASE REQUIRED.—The Secretary of Defense shall implement a centralized, case-level database for the collection, in a manner consistent with Department of Defense regulations for restricted reporting, and maintenance of information regarding sexual assaults involving a member of the Armed Forces, including information, if available, about the nature of the assault, the victim, the offender, and the outcome of any legal proceedings in connection with the assault.

(b) AVAILABILITY OF DATABASE.—The database required by subsection (a) shall be available to personnel of the Sexual Assault Prevention and Response Office of the Department of Defense.

(c) IMPLEMENTATION.— Deadlines.

(1) PLAN FOR IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a plan to provide for the implementation of the database required by subsection (a).

(2) RELATION TO DEFENSE INCIDENT-BASED REPORTING SYSTEM.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(A) a description of the current status of the Defense Incident-Based Reporting System; and

(B) an explanation of how the Defense Incident-Based Reporting System will relate to the database required by subsection (a).

(3) COMPLETION.—Not later than 15 months after the date of enactment of this Act, the Secretary shall complete implementation of the database required by subsection (a).

(d) REPORTS.—The database required by subsection (a) shall be used to develop and implement congressional reports, as required by—

(1) section 577(f) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375);

(2) section 596(c) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163);

(3) section 532 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364); and

(4) sections 4361, 6980, and 9361 of title 10, United States Code.

(e) TERMINOLOGY.—Section 577(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) is amended by adding at the end the following new paragraph: 10 USC 113 note.

"(12) The Secretary shall implement clear, consistent, and streamlined sexual assault terminology for use throughout the Department of Defense.".

# Subtitle H—Decorations, Awards, and Honorary Promotions

**SEC. 571. REPLACEMENT OF MILITARY DECORATIONS.**

(a) REPLACEMENT REQUIRED.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 1135. Replacement of military decorations**

"(a) REPLACEMENT.—In addition to other authorities available to the Secretary concerned to replace a military decoration, the Secretary concerned shall replace, on a one-time basis and without charge, a military decoration upon the request of the recipient of the military decoration or the immediate next of kin of a deceased recipient.

"(b) MILITARY DECORATION DEFINED.—In this section, the term 'decoration' means any decoration or award (other than the medal

of honor) that may be presented or awarded by the President or the Secretary concerned to a member of the armed forces.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1135. Replacement of military decorations.".

**SEC. 572. AUTHORIZATION AND REQUEST FOR AWARD OF MEDAL OF HONOR TO RICHARD L. ETCHBERGER FOR ACTS OF VALOR DURING THE VIETNAM WAR.**

President.

(a) AUTHORIZATION.—Notwithstanding the time limitations specified in section 8744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the Armed Forces, the President is authorized and requested to award the Medal of Honor under section 8741 of such title to former Chief Master Sergeant Richard L. Etchberger for the acts of valor during the Vietnam War described in subsection (b).

(b) ACTS OF VALOR DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of then Chief Master Sergeant Richard L. Etchberger as Ground Radar Superintendent of Detachment 1, 1043rd Radar Evaluation Squadron on March 11, 1968, during the Vietnam War for which he was originally awarded the Air Force Cross.

# Subtitle I—Military Families

**SEC. 581. PRESENTATION OF BURIAL FLAG TO THE SURVIVING SPOUSE AND CHILDREN OF DECEASED MEMBERS OF THE ARMED FORCES.**

(a) INCLUSION OF SURVIVING SPOUSE AND CHILDREN; CONSOLIDATION OF FLAG-RELATED AUTHORITIES.—Subsection (e) of section 1482 of title 10, United States Code, is amended—

(1) by designating the current text as paragraph (2) and redesignating current paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting before paragraph (2), as so designated, the following:

"(e) PRESENTATION OF FLAG OF THE UNITED STATES.—(1) In the case of a decedent covered by section 1481 of this title, the Secretary concerned may pay the necessary expenses for the presentation of a flag of the United States to the following persons:

"(A) The person designated under subsection (c) to direct disposition of the remains of the decedent.

"(B) The parents or parent of the decedent, if the person to be presented a flag under subparagraph (A) is other than a parent of the decedent.

"(C) The surviving spouse of the decedent (including a surviving spouse who remarries after the decedent's death), if the person to be presented a flag under subparagraph (A) is other than the surviving spouse.

"(D) Each child of the decedent, regardless of whether the person to be presented a flag under subparagraph (A) is a child of the decedent."; and

(3) by inserting at the end the following new paragraphs:

"(3) A flag to be presented to a person under subparagraph (B), (C), or (D) of paragraph (1) shall be of equal size to the flag presented under subparagraph (A) of such paragraph to the person designated to direct disposition of the remains of the decedent.

"(4) This subsection does not apply to a military prisoner who dies while in the custody of the Secretary concerned and while under a sentence that includes a discharge.

"(5) In this subsection:

"(A) The term 'parent' includes a natural parent, a stepparent, a parent by adoption, or a person who for a period of not less than one year before the death of the decedent stood in loco parentis to the decedent. Preference under paragraph (1)(B) shall be given to the persons who exercised a parental relationship at the time of, or most nearly before, the death of the decedent.

"(B) The term 'child' has the meaning prescribed by section 1477(d) of this title.".

(b) REPEAL OF SUPERSEDED PROVISIONS.—Subsection (a) of such section is amended by striking paragraphs (10) and (11).

**SEC. 582. EDUCATION AND TRAINING OPPORTUNITIES FOR MILITARY SPOUSES.**

(a) EMPLOYMENT AND PORTABLE CAREER OPPORTUNITIES FOR SPOUSES.—Subchapter I of chapter 88 of title 10, United States Code, is amended by inserting after section 1784 the following new section:

**"§ 1784a. Education and training opportunities for military spouses to expand employment and portable career opportunities**

"(a) PROGRAMS AND TUITION ASSISTANCE.—(1) The Secretary of Defense may establish programs to assist the spouse of a member of the armed forces described in subsection (b) in achieving—

"(A) the education and training required for a degree or credential at an accredited college, university, or technical school in the United States that expands employment and portable career opportunities for the spouse; or

"(B) the education prerequisites and professional licensure or credential required, by a government or government sanctioned licensing body, for an occupation that expands employment and portable career opportunities for the spouse.

"(2) As an alternative to, or in addition to, establishing a program under this subsection, the Secretary may provide tuition assistance to an eligible spouse who is pursuing education, training, or a license or credential to expand the spouse's employment and portable career opportunities.

"(b) ELIGIBLE SPOUSES.—Assistance under this section is limited to a spouse of a member of the armed forces who is serving on active duty.

"(c) EXCEPTIONS.—Subsection (b) does not include—

"(1) a person who is married to, but legally separated from, a member of the armed forces under court order or statute of any State or territorial possession of the United States; and

"(2) a spouse of a member of the armed forces who is also a member of the armed forces.

"(d) PORTABLE CAREER OPPORTUNITIES DEFINED.—In this section, the term 'portable career' includes an occupation identified by the Secretary of Defense, in consultation with the Secretary of Labor, as requiring education and training that results in a credential that is recognized nationwide by industry or specific businesses.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to govern the availability and use of assistance under this section. The Secretary shall ensure that programs established under this section do not result in inequitable treatment for spouses of members of the armed forces who are also members, since they are excluded from participation in the programs under subsection (c)(2).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 1784 the following new item:

"1784a. Education and training opportunities for military spouses to expand employment and portable career opportunities.".

**SEC. 583. SENSE OF CONGRESS REGARDING HONOR GUARD DETAILS FOR FUNERALS OF VETERANS.**

It is the sense of Congress that the Secretaries of the military departments should, to the maximum extent practicable, provide honor guard details for the funerals of veterans as is required under section 1491 of title 10, United States Code, as added by section 567(b) of Public Law 105–261 (112 Stat. 2030).

## Subtitle J—Other Matters

**SEC. 591. PROHIBITION ON INTERFERENCE IN INDEPENDENT LEGAL ADVICE BY THE LEGAL COUNSEL TO THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.**

Section 156(d) of title 10, United States Code, is amended—

(1) by inserting "(1)" before "The Legal Counsel"; and

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

"(2) No officer or employee of the Department of Defense may interfere with the ability of the Legal Counsel to give independent legal advice to the Chairman of the Joint Chiefs of Staff and to the Joint Chiefs of Staff.".

**SEC. 592. INTEREST PAYMENTS ON CERTAIN CLAIMS ARISING FROM CORRECTION OF MILITARY RECORDS.**

(a) INTEREST PAYABLE ON CLAIMS.—Subsection (c) of section 1552 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) If the correction of military records under this section involves setting aside a conviction by court-martial, the payment of a claim under this subsection in connection with the correction of the records shall include interest at a rate to be determined by the Secretary concerned, unless the Secretary determines that the payment of interest is inappropriate under the circumstances. If the payment of the claim is to include interest, the interest shall be calculated on an annual basis, and compounded, using the amount of the lost pay, allowances, compensation, emoluments, or other pecuniary benefits involved, and the amount of any fine

or forfeiture paid, beginning from the date of the conviction through the date on which the payment is made.".

(b) CLERICAL AMENDMENTS.—Subsection (c) of such section is further amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(c)";

(3) by striking "If the claimant" and inserting the following: "(2) If the claimant"; and

(4) by striking "A claimant's acceptance" and inserting the following:

"(3) A claimant's acceptance".

(c) RETROACTIVE EFFECTIVENESS OF AMENDMENTS.—The amendment made by subsection (a) shall apply with respect to any sentence of a court-martial set aside by a Corrections Board on or after October 1, 2007, when the Corrections Board includes an order or recommendation for the payment of a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, that arose as a result of the conviction. In this subsection, the term "Corrections Board" has the meaning given that term in section 1557 of title 10, United States Code. Applicability.

**SEC. 593. EXTENSION OF LIMITATION ON REDUCTIONS OF PERSONNEL OF AGENCIES RESPONSIBLE FOR REVIEW AND CORRECTION OF MILITARY RECORDS.**

Section 1559(a) of title 10, United States Code, is amended by striking "October 1, 2008" and inserting "December 31, 2010".

**SEC. 594. MODIFICATION OF MATCHING FUND REQUIREMENTS UNDER NATIONAL GUARD YOUTH CHALLENGE PROGRAM.**

(a) IN GENERAL.—Subsection (d) of section 509 of title 32, United States Code, is amended to read as follows:

"(d) MATCHING FUNDS REQUIRED.—(1) The amount of assistance provided by the Secretary of Defense to a State program of the Program for a fiscal year under this section may not exceed 60 percent of the costs of operating the State program during that fiscal year.

"(2) The limitation in paragraph (1) may not be construed as a limitation on the amount of assistance that may be provided to a State program of the Program for a fiscal year from sources other than the Department of Defense.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2008, and shall apply with respect to fiscal years beginning on or after that date.

**SEC. 595. MILITARY SALUTE FOR THE FLAG DURING THE NATIONAL ANTHEM BY MEMBERS OF THE ARMED FORCES NOT IN UNIFORM AND BY VETERANS.**

Section 301(b)(1) of title 36, United States Code, is amended by striking subparagraphs (A) through (C) and inserting the following new subparagraphs:

"(A) individuals in uniform should give the military salute at the first note of the anthem and maintain that position until the last note;

"(B) members of the Armed Forces and veterans who are present but not in uniform may render the military

salute in the manner provided for individuals in uniform; and

"(C) all other persons present should face the flag and stand at attention with their right hand over the heart, and men not in uniform, if applicable, should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart; and".

**SEC. 596. MILITARY LEADERSHIP DIVERSITY COMMISSION.**

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the "Military Leadership Diversity Commission" (in this section referred to as the "commission").

(b) COMPOSITION.—

(1) MEMBERSHIP.—The commission shall be composed of the following members:

(A) The Director of the Defense Manpower Management Center.

(B) The Director of the Defense Equal Opportunity Management Institute.

(C) A commissioned officer from each of the Army, Navy, Air Force, and Marine Corps who serves or has served in a leadership position with either a military department command or combatant command.

(D) A retired general or flag officer from each of the Army, Navy, Air Force, and Marine Corps.

(E) A retired noncommissioned officer from each of the Army, Navy, Air Force, and Marine Corps.

(F) Five retired commissioned officers who served in leadership positions with either a military department command or combatant command, of whom no less than three shall represent the views of minority veterans.

(G) Four individuals with expertise in cultivating diverse leaders in private or non-profit organizations.

(H) An attorney with appropriate experience and expertise in constitutional and legal matters related to the duties and responsibilities of the commission.

(2) APPOINTMENT.—The members of the commission referred to in subparagraphs (C) through (H) of paragraph (1) shall be appointed by the Secretary of Defense.

(3) CHAIRMAN.—The Secretary of Defense shall designate one member described in paragraphs (1)(F) or (1)(G) as chairman of the commission.

(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the commission. Any vacancy in the commission shall be filled in the same manner as the original appointment.

(5) DEADLINE FOR APPOINTMENT.—All members of the commission shall be appointed not later than 60 days after the date of the enactment of this Act.

(6) QUORUM.—Fifteen members of the commission shall constitute a quorum but a lesser number may hold hearings.

(c) MEETINGS.—

Deadline.

(1) INITIAL MEETING.—The commission shall conduct its first meeting not later than 30 days after the date on which a majority of the appointed members of the commission have been appointed.

(2) MEETINGS.—The commission shall meet at the call of the chairman.

(d) DUTIES.—

(1) STUDY.—The commission shall conduct a comprehensive evaluation and assessment of policies that provide opportunities for the promotion and advancement of minority members of the Armed Forces, including minority members who are senior officers.

(2) SCOPE OF STUDY.—In carrying out the study, the commission shall examine the following:

(A) The efforts to develop and maintain diverse leadership at all levels of the Armed Forces.

(B) The successes and failures of developing and maintaining a diverse leadership, particularly at the general and flag officer positions.

(C) The effect of expanding Department of Defense secondary educational programs to diverse civilian populations, to include military service academy preparatory schools.

(D) The ability of current recruitment and retention practices to attract and maintain a diverse pool of qualified individuals in sufficient numbers in officer pre-commissioning programs.

(E) The ability of current activities to increase continuation rates for ethnic-and gender-specific members of the Armed Forces.

(F) The benefits of conducting an annual conference attended by civilian military, active-duty and retired military, and corporate leaders on diversity, to include a review of current policy and the annual demographic data from the Defense Equal Opportunity Management Institute.

(G) The status of prior recommendations made to the Department of Defense and to Congress concerning diversity initiatives within the Armed Forces.

(H) The incorporation of private sector practices that have been successful in cultivating diverse leadership.

(I) The establishment and maintenance of fair promotion and command opportunities for ethnic- and gender-specific members of the Armed Forces at the O–5 grade level and above.

(J) An assessment of pre-command billet assignments of ethnic-specific members of the Armed Forces.

(K) An assessment of command selection of ethnic-specific members of the Armed Forces.

(L) The development of a uniform definition, to be used throughout the Department of Defense, of diversity that is congruent with the core values and vision of the Department for the future workforce.

(M) The existing metrics and milestones for evaluating the diversity plans of the Department (including the plans of the military departments) and for facilitating future evaluation and oversight.

(N) The existence and maintenance of fair promotion, assignment, and command opportunities for ethnic- and gender-specific members of the Armed Forces at the levels of warrant officer, chief warrant officer, company and junior grade, field and mid-grade, and general and flag officer.

(O) The current institutional structure of the Office of Diversity Management and Equal Opportunity of the Department, and of similar officers of the military departments, and their ability to ensure effective and accountable diversity management across the Department.

(P) The options available for improving the substance or implementation of current plans and policies of the Department and the military departments.

(3) CONSULTATION WITH PRIVATE PARTIES.—In carrying out the study under this subsection, the commission may consult with appropriate private, for profit, and non-profit organizations and advocacy groups to learn methods for developing, implementing, and sustaining senior diverse leadership within the Department of Defense.

(e) REPORTS.—

(1) IN GENERAL.—Not later than 12 months after the date on which the commission first meets, the commission shall submit to the President and Congress a report on the study. The report shall include the following:

(A) The findings and conclusions of the commission.

(B) The recommendations of the commission for improving diversity within the Armed Forces.

(C) Such other information and recommendations as the commission considers appropriate.

(2) INTERIM REPORTS.—The commission may submit to the President and Congress interim reports as the Commission considers appropriate.

(f) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers appropriate.

(2) INFORMATION FROM FEDERAL AGENCIES.—Upon request by the chairman of the commission, any department or agency of the Federal Government may provide information that the commission considers necessary to carry out its duties.

(g) INCLUSION OF COAST GUARD.—

(1) COAST GUARD REPRESENTATION.—In addition to the members of the commission required by subsection (b), the commission shall include two additional members, appointed by the Secretary of Homeland Security, in consultation with the Commandant of the Coast Guard, as follows:

(A) A retired flag officer of the Coast Guard.

(B) A commissioned officer or noncommissioned officer of the Coast Guard on active duty.

(2) ARMED FORCES DEFINED.—In this section, the term "Armed Forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(h) TERMINATION OF COMMISSION.—The commission shall terminate 60 days after the date on which the commission submits the report under subsection (e)(1).

**SEC. 597. DEMONSTRATION PROJECT ON SERVICE OF RETIRED NURSE CORPS OFFICERS AS FACULTY AT CIVILIAN NURSING SCHOOLS.**

(a) IN GENERAL.—The Secretary of Defense may conduct a demonstration project to encourage retired military nurses to serve as faculty at civilian nursing schools.

(b) ELIGIBILITY REQUIREMENTS.—

(1) INDIVIDUAL.—An individual is eligible to participate in the demonstration project if the individual—

(A) is a retired nurse corps officer of one of the Armed Forces;

(B) has had at least 26 years of active Federal commissioned service before retiring; and

(C) possesses a doctoral or master degree in nursing that qualifies the officer to become a full faculty member of an accredited school of nursing.

(2) INSTITUTION.—An accredited school of nursing is eligible to participate in the demonstration project if the school or its parent institution of higher education—

(A) is a school of nursing that is accredited to award, at a minimum, a bachelor of science in nursing and provides educational programs leading to such degree;

(B) has a resident Reserve Officers' Training Corps unit at the institution of higher education that fulfils the requirements of sections 2101 and 2102 of title 10, United States Code;

(C) does not prevent Reserve Officers' Training Corps access or military recruiting on campus, as defined in section 983 of title 10, United States Code;

(D) provides any retired nurse corps officer participating in the demonstration project a salary and other compensation at the level to which other similarly situated faculty members of the accredited school of nursing are entitled, as determined by the Secretary of Defense; and

(E) agrees to comply with subsection (d).

(c) COMPENSATION.—The Secretary of Defense may authorize a Secretary of a military department to authorize qualified institutions of higher education to employ as faculty those eligible individuals (as described in subsection (b)) who are receiving retired pay, whose qualifications are approved by the Secretary and the institution of higher education concerned, and who request such employment, subject to the following:

(1) A retired nurse corps officer so employed is entitled to receive the officer's retired pay without reduction by reason of any additional amount paid to the officer by the institution of higher education concerned. In the case of payment of any such additional amount by the institution of higher education concerned, the Secretary of the military department concerned may pay to that institution the amount equal to one-half the amount paid to the retired officer by the institution for any period, up to a maximum of one-half of the difference between the officer's retired pay for that period and the active duty pay and allowances that the officer would have received for that period if on active duty. Payments by the Secretary concerned under this paragraph shall be made from funds specifically appropriated for that purpose.

(2) Notwithstanding any other provision of law contained in title 10, title 32, or title 37, United States Code, such a retired nurse corps officer is not, while so employed, considered to be on active duty or inactive duty training for any purpose.

Applicability.

(d) SCHOLARSHIPS FOR NURSE OFFICER CANDIDATES.—For purposes of the eligibility of an institution under subsection (b)(2)(E), the following requirements apply:

(1) Each accredited school of nursing at which a retired nurse corps officer serves on the faculty under this section shall provide full academic scholarships to individuals undertaking an educational program at such school leading to a bachelor of science in nursing degree who agree, upon completion of such program, to accept a commission as an officer in the nurse corps of one of the Armed Forces.

(2) The total number of scholarships provided by an accredited school of nursing under paragraph (1) for each officer serving on the faculty of that school under this section shall be such number as the Secretary of Defense shall specify for purposes of this section.

Payments.

(3) Each accredited school of nursing shall pay to the Department of Defense an amount equal to the value of the scholarship for every nurse officer candidate who fails to be accessed as a nurse corps officer into one of the Armed Forces within one year of receiving a bachelor of science degree in nursing from that school.

(4) The Secretary concerned is authorized to discontinue the demonstration project authorized in this section at any institution of higher education that fails to fulfill the requirements of paragraph (3).

(e) REPORT.—

(1) IN GENERAL.—Not later than 24 months after the commencement of any demonstration project under this section, the Secretary of Defense shall submit to the congressional defense committees a report on the demonstration project. The report shall include a description of the project and a description of plans for the continuation of the project, if any.

(2) ELEMENTS.—The report shall also include, at a minimum, the following:

(A) The current number of retired nurse corps officers who have at least 26 years of active Federal commissioned service who would be eligible to participate in the program.

(B) The number of retired nurse corps officers participating in the demonstration project.

(C) The number of accredited schools of nursing participating in the demonstration project.

(D) The number of nurse officer candidates who have accessed into the military as commissioned nurse corps officers.

(E) The number of scholarships awarded to nurse officer candidates.

(F) The number of nurse officer candidates who have failed to access into the military, if any.

(G) The amount paid to the Department of Defense in the event any nurse officer candidates awarded scholarships by the accredited school of nursing fail to access into the military as commissioned nurse corps officers.

(H) The funds expended in the operation of the demonstration project.

(I) The recommendation of the Secretary of Defense as to whether the demonstration project should be extended.

(f) DEFINITIONS.—In this section, the terms "school of nursing" and "accredited" have the meeting given those terms in section 801 of the Public Health Service Act (42 U.S.C. 296).

(g) SUNSET.—The authority in this section shall expire on June 30, 2014.

**SEC. 598. REPORT ON PLANNING FOR PARTICIPATION AND HOSTING OF THE DEPARTMENT OF DEFENSE IN INTERNATIONAL SPORTS ACTIVITIES, COMPETITIONS, AND EVENTS.**

(a) REPORT REQUIRED.—Not later than October 1, 2009, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth a comprehensive plan for the following:

(1) The participation by personnel of the Department of Defense in international sports activities, competitions, and events (including the Pan American Games, the Olympic Games, the Paralympic Games, the Military World Games, other activities of the International Military Sports Council (CISM), and the Interallied Confederation of Reserve Officers (CIOR)) through fiscal year 2015.

(2) The hosting by the Department of Defense of military international sports activities, competitions, and events through fiscal year 2015.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A discussion of the military international sports activities, competitions, and events that the Department of Defense intends to seek to host, an estimate of the costs of hosting such activities, competitions, and events that the Department intends to seek to host, and a description of the sources of funding for such costs.

(2) A discussion of the use and replenishment of funds in the account in the Treasury for the Support for International Sporting Competitions for the hosting of such activities, competitions, and events that the Department intends to seek to host.

(3) A discussion of the support that may be obtained from other departments and agencies of the Federal Government, State and local governments, and private entities in encouraging participation of members of the Armed Forces in international sports activities, competitions, and events or in hosting of military international sports activities, competitions, and events.

(4) Such recommendations for legislative or administrative action as the Secretary considers appropriate to implement or enhance planning for the matters described in subsection (a).

# TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Fiscal year 2009 increase in military basic pay.
Sec. 602. Permanent extension of prohibition on charges for meals received at military treatment facilities by members receiving continuous care.
Sec. 603. Increase in maximum authorized payment or reimbursement amount for temporary lodging expenses.
Sec. 604. Availability of second family separation allowance for married couples with dependents.
Sec. 605. Extension of authority for income replacement payments for reserve component members experiencing extended and frequent mobilization for active duty service.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Extension of certain bonus and special pay authorities for Reserve forces.
Sec. 612. Extension of certain bonus and special pay authorities for health care professionals.
Sec. 613. Extension of special pay and bonus authorities for nuclear officers.
Sec. 614. Extension of authorities relating to payment of other title 37 bonuses and special pays.
Sec. 615. Extension of authorities relating to payment of referral bonuses.
Sec. 616. Increase in maximum bonus and stipend amounts authorized under Nurse Officer Candidate Accession Program and health professions stipend program.
Sec. 617. Maximum length of nuclear officer incentive pay agreements for service.
Sec. 618. Technical changes regarding consolidation of special pay, incentive pay, and bonus authorities of the uniformed services.
Sec. 619. Use of new skill incentive pay and proficiency bonus authorities to encourage training in critical foreign languages and foreign cultural studies and authorization of incentive pay for members of precommissioning programs pursuing foreign language proficiency.
Sec. 620. Accession and retention bonuses for the recruitment and retention of officers in certain health professions.

Subtitle C—Travel and Transportation Allowances

Sec. 621. Special weight allowance for transportation of professional books and equipment for spouses.
Sec. 622. Shipment of family pets during evacuation of personnel.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 631. Extension to survivors of certain members who die on active duty of special survivor indemnity allowance for persons affected by required Survivor Benefit Plan annuity offset for dependency and indemnity compensation.
Sec. 632. Correction of unintended reduction in survivor benefit plan annuities due to phased elimination of two-tier annuity computation and supplemental annuity.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits and Operations

Sec. 641. Use of commissary stores surcharges derived from temporary commissary initiatives for reserve component and retired members.
Sec. 642. Enhanced enforcement of prohibition on sale or rental of sexually explicit material on military installations.

Subtitle F—Other Matters

Sec. 651. Continuation of entitlement to bonuses and similar benefits for members of the uniformed services who die, are separated or retired for disability, or meet other criteria.

## Subtitle A—Pay and Allowances

### SEC. 601. FISCAL YEAR 2009 INCREASE IN MILITARY BASIC PAY.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2009 required by section

1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2009, the rates of monthly basic pay for members of the uniformed services are increased by 3.9 percent. Effective date.

**SEC. 602. PERMANENT EXTENSION OF PROHIBITION ON CHARGES FOR MEALS RECEIVED AT MILITARY TREATMENT FACILITIES BY MEMBERS RECEIVING CONTINUOUS CARE.**

Section 402(h) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking "during any month covered by paragraph (3)" and all that follows through "this section"; and

(2) by striking paragraph (3).

**SEC. 603. INCREASE IN MAXIMUM AUTHORIZED PAYMENT OR REIMBURSEMENT AMOUNT FOR TEMPORARY LODGING EXPENSES.**

Section 404a(e) of title 37, United States Code, is amended by striking "$180 a day" and inserting "$290 a day".

**SEC. 604. AVAILABILITY OF SECOND FAMILY SEPARATION ALLOWANCE FOR MARRIED COUPLES WITH DEPENDENTS.**

(a) AVAILABILITY.—Section 427(d) of title 37, United States Code, is amended—

(1) by inserting "(1)" before "A member";

(2) by striking "Section 421" and inserting the following: "(3) Section 421";

(3) by striking "However" and inserting "Except as provided in paragraph (2)"; and

(4) by inserting before paragraph (3), as so designated, the following new paragraph:

"(2) If a married couple, both of whom are members of the uniformed services, with dependents are simultaneously assigned to duties described in subparagraph (A), (B), or (C) of subsection (a)(1) and the members resided together with their dependents immediately before their assignments, the Secretary concerned shall pay each of the members the full amount of the monthly allowance specified in such subsection until one of the members is no longer assigned to duties described in such subparagraphs. Upon expiration of the additional allowance, paragraph (1) shall continue to apply to the remaining member so long as the member is assigned to duties described in subparagraph (A), (B), or (C) of such subsection.". Applicability.

(b) APPLICATION OF AMENDMENT.—Paragraph (2) of subsection (d) of section 427 of title 37, United States Code, as added by subsection (a), shall apply with respect to members of the uniformed services described in such paragraph who perform service covered by subparagraph (A), (B), or (C) of subsection (a)(1) such section on or after October 1, 2008.

**SEC. 605. EXTENSION OF AUTHORITY FOR INCOME REPLACEMENT PAYMENTS FOR RESERVE COMPONENT MEMBERS EXPERIENCING EXTENDED AND FREQUENT MOBILIZATION FOR ACTIVE DUTY SERVICE.**

Section 910(g) of title 37, United States Code, is amended by striking "December 31, 2008" and inserting "December 31, 2009".

## Subtitle B—Bonuses and Special and Incentive Pays

**SEC. 611. EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.**

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(g) of title 37, United States Code, is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(b) SELECTED RESERVE AFFILIATION OR ENLISTMENT BONUS.—Section 308c(i) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(d) READY RESERVE ENLISTMENT BONUS FOR PERSONS WITHOUT PRIOR SERVICE.—Section 308g(f)(2) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(e) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.—Section 308h(e) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(f) SELECTED RESERVE ENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.—Section 308i(f) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

**SEC. 612. EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR HEALTH CARE PROFESSIONALS.**

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended—

(1) by striking "before" and inserting "on or before"; and

(2) by striking "January 1, 2009" and inserting "December 31, 2009".

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(e) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(g) ACCESSION BONUS FOR PHARMACY OFFICERS.—Section 302j(a) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(h) ACCESSION BONUS FOR MEDICAL OFFICERS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302k(f) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(i) ACCESSION BONUS FOR DENTAL SPECIALIST OFFICERS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302l(g) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

**SEC. 613. EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.**

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(f) of title 37, United States Code, is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

**SEC. 614. EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER TITLE 37 BONUSES AND SPECIAL PAYS.**

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(b) ASSIGNMENT INCENTIVE PAY.—Section 307a(g) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(c) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(d) ENLISTMENT BONUS.—Section 309(e) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(e) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(f) INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY TO EASE PERSONNEL SHORTAGE.—Section 326(g) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(g) ACCESSION BONUS FOR OFFICER CANDIDATES.—Section 330(f) of such title is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(h) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS OR ASSIGNED TO HIGH PRIORITY UNITS.—Section 355(i) of such title, as redesignated by section 661(c) of the National Defense Authorization Act for Fiscal Year 2008, is amended by striking "December 31, 2008" and inserting "December 31, 2009".

**SEC. 615. EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF REFERRAL BONUSES.**

(a) HEALTH PROFESSIONS REFERRAL BONUS.—Subsection (i) of section 1030 of title 10, United States Code, as added by section 671(b) of the National Defense Authorization Act for Fiscal Year 2008, is amended by striking "December 31, 2008" and inserting "December 31, 2009".

(b) ARMY REFERRAL BONUS.—Subsection (h) of section 3252 of title 10, United States Code, as added by section 671(a) of the National Defense Authorization Act for Fiscal Year 2008, is

amended by striking "December 31, 2008" and inserting "December 31, 2009".

**SEC. 616. INCREASE IN MAXIMUM BONUS AND STIPEND AMOUNTS AUTHORIZED UNDER NURSE OFFICER CANDIDATE ACCESSION PROGRAM AND HEALTH PROFESSIONS STIPEND PROGRAM.**

(a) BONUS UNDER NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended—

(1) by striking "$10,000" and inserting "$20,000"; and

(2) by striking "$5,000" and inserting "$10,000".

(b) MONTHLY STIPEND UNDER NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(2) of title is amended by striking "of not more than $1,000" and inserting "in an amount not to exceed the stipend rate in effect under section 2121(d) of this title".

(c) MONTHLY STIPEND FOR STUDENTS IN NURSING OR OTHER HEALTH PROFESSIONS UNDER HEALTH PROFESSIONS STIPEND PROGRAM.—Section 16201(e)(2)(A) of title is amended by striking "stipend of $100 per month" and inserting "monthly stipend in an amount not to exceed the stipend rate in effect under section 2121(d) of this title".

**SEC. 617. MAXIMUM LENGTH OF NUCLEAR OFFICER INCENTIVE PAY AGREEMENTS FOR SERVICE.**

Section 312(a)(3) of title 37, United States Code, is amended by striking "three, four, or five years" and inserting "not less than three years".

**SEC. 618. TECHNICAL CHANGES REGARDING CONSOLIDATION OF SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES OF THE UNIFORMED SERVICES.**

(a) ELIGIBILITY REQUIREMENTS FOR NUCLEAR OFFICER BONUS AND INCENTIVE PAY.—Section 333 of title 37, United States Code, is amended—

(1) in subsection (a)(2), by striking "and operational"; and

(2) in subsection (b)(2), by striking "and operational".

(b) RELATIONSHIP OF AVIATION INCENTIVE PAY TO OTHER PAY AND ALLOWANCES.—Section 334(f)(1) of such title is amended by striking "section 351" and inserting "section 351(a)(2)".

(c) HEALTH PROFESSIONS INCENTIVE PAY.—Section 335(e)(1)(D)(i) of such title is amended by striking "dental surgeons" and inserting "dental officers".

(d) NO PRO-RATED PAYMENT OF CERTAIN HAZARDOUS DUTY PAYS.—Section 351(c) of such title is amended by striking "subsection (a)" and inserting "paragraph (1) or (3) of subsection (a)".

(e) AVAILABILITY OF HAZARDOUS DUTY PAY.—Section 351(f) of such title is amended—

(1) by striking "in administering subsection (a)" and inserting "in connection with determining whether a triggering event has occurred for the provision of hazardous duty pay under subsection (a)(1)"; and

(2) by striking the last sentence.

**SEC. 619. USE OF NEW SKILL INCENTIVE PAY AND PROFICIENCY BONUS AUTHORITIES TO ENCOURAGE TRAINING IN CRITICAL FOREIGN LANGUAGES AND FOREIGN CULTURAL STUDIES AND AUTHORIZATION OF INCENTIVE PAY FOR MEMBERS OF PRECOMMISSIONING PROGRAMS PURSUING FOREIGN LANGUAGE PROFICIENCY.**

(a) ELIGIBILITY FOR SKILL PROFICIENCY BONUS.—

(1) ELIGIBILITY.—Subsection (b) of section 353 of title 37, United States Code, is amended to read as follows:

"(b) SKILL PROFICIENCY BONUS.—

"(1) AVAILABILITY; ELIGIBLE PERSONS.—The Secretary concerned may pay a proficiency bonus to a member of a regular or reserve component of the uniformed services who—

"(A) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title or is enrolled in an officer training program; and

"(B) is determined to have, and maintains, certified proficiency under subsection (d) in a skill designated as critical by the Secretary concerned or is in training to acquire proficiency in a critical foreign language or expertise in foreign cultural studies or a related skill designated as critical by the Secretary concerned.

"(2) INCLUSION OF CERTAIN SENIOR ROTC MEMBERS.—A proficiency bonus may be paid under this subsection to a student who is enrolled in the Senior Reserve Officers' Training Corps program even though the student is in the first year of the four-year course under the program. During the period covered by the proficiency bonus, the student shall also be entitled to a monthly subsistence allowance under section 209(c) of this title even though the student has not entered into an agreement under section 2103a of title 10. However, if the student receives incentive pay under subsection (g)(2) for the same period, the student may receive only a single monthly subsistence allowance under section 209(c) of this title.".

(2) AVAILABILITY OF INCENTIVE PAY FOR PARTICIPATION IN FOREIGN LANGUAGE EDUCATION OR TRAINING PROGRAMS.—Such section is further amended—

(A) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j), respectively; and

(B) by inserting after subsection (f) the following new subsection (g):

"(g) FOREIGN LANGUAGE STUDIES IN OFFICER TRAINING PROGRAMS.—

"(1) AVAILABILITY OF INCENTIVE PAY.—The Secretary concerned may pay incentive pay to a person enrolled in an officer training program to also participate in an education or training program to acquire proficiency in a critical foreign language or expertise in foreign cultural studies or a related skill designated as critical by the Secretary concerned.

"(2) INCLUSION OF CERTAIN SENIOR ROTC MEMBERS.—Incentive pay may be paid under this subsection to a student who is enrolled in the Senior Reserve Officers' Training Corps program even though the student is in the first year of the four-year course under the program. While the student receives the incentive pay, the student shall also be entitled to a monthly subsistence allowance under section 209(c) of this title even though the student has not entered into an agreement under

section 2103a of title 10. However, if the student receives a proficiency bonus under subsection (b)(2) covering the same month, the student may receive only a single monthly subsistence allowance under section 209(c) of this title.

"(3) CRITICAL FOREIGN LANGUAGE DEFINED.—In this section, the term 'critical foreign language' includes Arabic, Korean, Japanese, Chinese, Pashto, Persian-Farsi, Serbian-Croatian, Russian, Portuguese, or other language designated as critical by the Secretary concerned.".

(b) INCENTIVE PAY AUTHORIZED.—

(1) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by inserting after section 316 the following new section:

**"§ 316a. Special pay: incentive pay for members of precommissioning programs pursuing foreign language proficiency**

"(a) INCENTIVE PAY.—The Secretary of Defense may pay incentive pay under this section to an individual who—

"(1) is enrolled as a member of the Senior Reserve Officers' Training Corps or the Marine Corps Platoon Leaders Class, as determined in accordance with regulations prescribed by the Secretary of Defense under subsection (e); and

"(2) participates in a language immersion program approved for purposes of the Senior Reserve Officers' Training Corps, or in study abroad, or is enrolled in an academic course that involves instruction in a foreign language of strategic interest to the Department of Defense as designated by the Secretary of Defense for purposes of this section.

"(b) PERIOD OF PAYMENT.—Incentive pay is payable under this section to an individual described in subsection (a) for the period of the individual's participation in the language program or study described in paragraph (2) of that subsection.

"(c) AMOUNT.—The amount of incentive pay payable to an individual under this section may not exceed $3,000 per year.

"(d) REPAYMENT.—An individual who is paid incentive pay under this section but who does not satisfactorily complete participation in the individual's language program or study as described in subsection (a)(2), or who does not complete the requirements of the Senior Reserve Officers' Training Corps or the Marine Corps Platoon Leaders Class, as applicable, shall be subject to the repayment provisions of section 303a(e) of this title.

"(e) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.

"(f) REPORTS.—Not later than January 1, 2010, and annually thereafter through 2014, the Secretary of Defense shall submit to the Director of the Office of Management and Budget, and to Congress, a report on the payment of incentive pay under this section during the preceding fiscal year. Each report shall include, for the fiscal year covered by such report, the following:

"(1) The number of individuals paid incentive pay under this section, the number of individuals commencing receipt of incentive pay under this section, and the number of individuals ceasing receipt of incentive pay under this section.

"(2) The amount of incentive pay paid to individuals under this section.

"(3) The aggregate amount recouped under section 303a(e) of this title in connection with receipt of incentive pay under this section.

"(4) The languages for which incentive pay was paid under this section, including the total amount paid for each such language.

"(5) The effectiveness of incentive pay under this section in assisting the Department of Defense in securing proficiency in foreign languages of strategic interest to the Department of Defense, including a description of how recipients of pay under this section are assigned and utilized following completion of the program of study.

"(g) TERMINATION OF AUTHORITY.—No incentive pay may be paid under this section after December 31, 2013.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by inserting after the item relating to section 316 the following new item:

"316a. Special pay: incentive pay for members of precommissioning programs pursuing foreign language proficiency.".

(c) PILOT PROGRAM FOR FOREIGN LANGUAGE PROFICIENCY TRAINING FOR RESERVE MEMBERS.—

(1) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall conduct a pilot program to provide a skill proficiency bonus under section 353(b) of title 37, United States Code, to a member of a reserve component of the uniformed services who is entitled to compensation under section 206 of such title while the member participates in an education or training program to acquire proficiency in a critical foreign language or expertise in foreign cultural studies or a related skill designated as critical under such section 353.

(2) DURATION OF PILOT PROGRAM.—The Secretary shall conduct the pilot program during the period beginning on October 1, 2008, and ending on December 31, 2013. Incentive pay may not be provided under the pilot program after December 31, 2013.

(3) REPORTING REQUIREMENT.—Not later than March 31, 2012, the Secretary shall submit to Congress a report containing the results of the pilot program and the recommendations of the Secretary regarding whether to continue or expand the pilot program.

(d) EXPEDITED IMPLEMENTATION.—Notwithstanding section 662 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 180; 37 U.S.C. 301 note), the Secretary of a military department may immediately implement the amendments made by subsection (a) in order to ensure the prompt availability of proficiency bonuses and incentive pay under section 353 of title 37, United States Code, as amended by such subsections, for persons enrolled in officer training programs.

**SEC. 620. ACCESSION AND RETENTION BONUSES FOR THE RECRUITMENT AND RETENTION OF OFFICERS IN CERTAIN HEALTH PROFESSIONS.**

(a) TARGETED BONUS AUTHORITY TO INCREASE DIRECT ACCESSIONS.—

(1) DESIGNATION OF CRITICALLY SHORT WARTIME HEALTH SPECIALTIES.—For purposes of section 335 of title 37, United States Code, as added by section 661 of the National Defense

Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 169), the following health professions are designated as a critically short wartime specialty under subsection (a)(2) of such section:

(A) Psychologists who have been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology and are fully licensed and such other mental health practitioners as the Secretary concerned determines to be necessary.

(B) Registered nurses.

(2) SPECIAL AGREEMENT AUTHORITY.—Under the authority provided by this section, the Secretary concerned may enter into an agreement under subsection (f) of section 335 of title 37, United States Code, to pay a health professions bonus under such section to a person who accepts a commission or appointment as an officer and whose health profession specialty is specified in paragraph (1) of this subsection.

(3) SECRETARY CONCERNED DEFINED.—In this subsection, the term "Secretary concerned" has the meaning given that term in section 101(5) of title 37, United States Code.

Expiration date.

(4) EFFECTIVE PERIOD.—The designations made by this subsection and the authority to enter into an agreement under paragraph (2) of this subsection expire on September 30, 2010.

(b) ACCESSION AND RETENTION BONUSES FOR PSYCHOLOGISTS.—

(1) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by inserting after section 302c the following new section:

**"§ 302c-1. Special pay: accession and retention bonuses for psychologists**

"(a) ACCESSION BONUS.—

"(1) ACCESSION BONUS AUTHORIZED.—A person described in paragraph (2) who executes a written agreement described in subsection (d) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four consecutive years may, upon acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount, subject to subsection (c)(1), determined by the Secretary concerned.

"(2) ELIGIBLE PERSONS.—A person described in paragraph (1) is any person who—

"(A) is a graduate of an accredited school of psychology; and

"(B) holds a valid State license to practice as a doctoral level psychologist.

"(3) LIMITATION ON ELIGIBILITY.—A person may not be paid a bonus under this subsection if—

"(A) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a course of study in psychology; or

"(B) the Secretary concerned determines that the person is not qualified to become and remain certified as a psychologist.

"(b) MULTIYEAR RETENTION BONUS.—

"(1) RETENTION BONUS AUTHORIZED.—An officer described in paragraph (2) who executes a written agreement described

in subsection (d) to remain on active duty for up to four years after completion of any other active-duty service commitment may, upon acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

"(2) ELIGIBLE OFFICERS.—An officer described in paragraph (1) is an officer of the armed forces who—

"(A) is a psychologist of the armed forces;

"(B) is in a pay grade below pay grade O–7;

"(C) has at least eight years of creditable service (computed as described in section 302b(f) of this title) or has completed any active-duty service commitment incurred for psychology education and training;

"(D) has completed initial residency training (or will complete such training before September 30 of the fiscal year in which the officer enters into the agreement under this subsection); and

"(E) holds a valid State license to practice as a doctoral level psychologist.

"(c) MAXIMUM AMOUNT OF BONUS.—

"(1) ACCESSION BONUS.—The amount of an accession bonus under subsection (a) may not exceed $400,000.

"(2) RETENTION BONUS.—The amount of a retention bonus under subsection (b) may not exceed $25,000 for each year of the agreement of the officer concerned.

"(d) AGREEMENT.—The agreement referred to in subsections (a) and (b) shall provide that, consistent with the needs of the armed force concerned, the person or officer executing the agreement will be assigned to duty, for the period of obligated service covered by the agreement, as an officer of such armed force as a psychologist.

"(e) REPAYMENT.—

"(1) ACCESSION BONUS.—A person who, after signing an agreement under subsection (a), is not commissioned as an officer of the armed forces, does not become licensed as a psychologist, or does not complete the period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.

"(2) RETENTION BONUS.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (b) shall be subject to the repayment provisions of section 303a(e) of this title.

"(f) TERMINATION OF AUTHORITY.—No agreement under subsection (a) or (b) may be entered into after December 31, 2009.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by inserting after the item relating to section 302c the following new item:

"302c–1. Special pay: accession and retention bonuses for psychologists.".

# Subtitle C—Travel and Transportation Allowances

### SEC. 621. SPECIAL WEIGHT ALLOWANCE FOR TRANSPORTATION OF PROFESSIONAL BOOKS AND EQUIPMENT FOR SPOUSES.

Section 406(b)(1)(D) of title 37, United States Code, is amended—

(1) by inserting "(i)" after "(D)";

(2) in the second sentence of clause (i), as designated by paragraph (1), by striking "this subparagraph" and inserting "this clause";

(3) by designating the last sentence as clause (iii) and indenting the margin of such clause, as so designated, two ems from the left margin; and

(4) by inserting after clause (i), as designated by paragraph (1), the following new clause:

"(ii) In addition to the weight allowance authorized for such member with dependents under paragraph (C), the Secretary concerned may authorize up to an additional 500 pounds in weight allowance for shipment of professional books and equipment belonging to the spouse of such member.".

**SEC. 622. SHIPMENT OF FAMILY PETS DURING EVACUATION OF PERSONNEL.**

Section 406(b)(1) of title 37, United States Code, is amended by adding at the end the following new subparagraph:

"(H)(i) Except as provided in paragraph (2) and subject to clause (iii), in connection with an evacuation from a permanent station located in a foreign area, a member is entitled to transportation (including shipment and payment of any quarantine costs) of family household pets.

"(ii) A member entitled to transportation under clause (i) may be paid reimbursement or, at the member's request, a monetary allowance in accordance with the provisions of subparagraph (F) if the member secures by commercial means shipment and any quarantining of the pets otherwise subject to transportation under clause (i).

Regulations.

"(iii) The provision of transportation under clause (i) and the payment of reimbursement under clause (ii) shall be subject to such regulations as the Secretary of Defense shall prescribe with respect to members of the armed forces for purposes of this subparagraph. Such regulations may specify limitations on the types, size, and number of pets for which transportation may be provided or reimbursement paid.".

# Subtitle D—Retired Pay and Survivor Benefits

**SEC. 631. EXTENSION TO SURVIVORS OF CERTAIN MEMBERS WHO DIE ON ACTIVE DUTY OF SPECIAL SURVIVOR INDEMNITY ALLOWANCE FOR PERSONS AFFECTED BY REQUIRED SURVIVOR BENEFIT PLAN ANNUITY OFFSET FOR DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) EXTENSION.—Subsection (m) of section 1450 of title 10, United States Code, as added by section 644 of the National Defense Authorization Act for Fiscal Year 2008, is amended in paragraph (1)(B) by striking "section 1448(a)(1) of this title" and inserting "subsection (a)(1) of section 1448 of this title or by reason of coverage under subsection (d) of such section".

Effective date.

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply with respect to the month beginning on October 1, 2008, and subsequent months as provided by paragraph (6) of subsection (m) of section 1450 of title 10, United

States Code, as added by section 644 of the National Defense Authorization Act for Fiscal Year 2008.

**SEC. 632. CORRECTION OF UNINTENDED REDUCTION IN SURVIVOR BENEFIT PLAN ANNUITIES DUE TO PHASED ELIMINATION OF TWO-TIER ANNUITY COMPUTATION AND SUPPLEMENTAL ANNUITY.**

Effective as of October 28, 2004, and as if included therein as enacted, section 644(c) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1961; 10 U.S.C. 1450 note) is amended by adding at the end the following new paragraph: Effective date.

"(3) SAVINGS PROVISION.—If, as a result of the recomputation of annuities under section 1450 of title 10, United States Code, and supplemental survivor annuities under section 1457 of such title, as required by paragraph (1), the total amount of both annuities to be paid to an annuitant for a month would be less (because of the offset required by section 1450(c) of such title for dependency and indemnity compensation) than the amount that would be paid to the annuitant in the absence of recomputation, the Secretary of Defense shall take such actions as are necessary to adjust the annuity amounts to eliminate the reduction.".

# Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits and Operations

**SEC. 641. USE OF COMMISSARY STORES SURCHARGES DERIVED FROM TEMPORARY COMMISSARY INITIATIVES FOR RESERVE COMPONENT AND RETIRED MEMBERS.**

Section 2484(h) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(2) in such paragraph (4), as so redesignated, by striking "paragraph (1) or (2)" and inserting "paragraph (1), (2), or (3)"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Secretary of Defense may use the proceeds derived from surcharges imposed under subsection (d) in connection with sales of commissary merchandise through initiatives described in subparagraph (B) to offset the cost of such initiatives.

"(B) Subparagraph (A) applies with respect to initiatives, utilizing temporary and mobile equipment, intended to provide members of reserve components, retired members, and other persons eligible for commissary benefits, but without reasonable access to commissary stores, improved access to commissary merchandise.". Applicability.

**SEC. 642. ENHANCED ENFORCEMENT OF PROHIBITION ON SALE OR RENTAL OF SEXUALLY EXPLICIT MATERIAL ON MILITARY INSTALLATIONS.**

(a) ESTABLISHMENT OF RESALE ACTIVITIES REVIEW BOARD.—Section 2495b of title 10, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) RESALE ACTIVITIES REVIEW BOARD.—(1) The Secretary of Defense shall establish a nine-member board to make recommendations to the Secretary regarding whether material sold or rented, or proposed for sale or rental, on property under the jurisdiction of the Department of Defense is barred from sale or rental by subsection (a).

"(2)(A) The Secretary of Defense shall appoint six members of the board to broadly represent the interests of the patron base served by the defense commissary system and the exchange system. The Secretary shall appoint one of the members to serve as the chairman of the board. At least one member appointed under this subparagraph shall be a person with experience managing or advocating for military family programs and who is also an eligible patron of the defense commissary system and the exchange system.

"(B) The Secretary of each of the military departments shall appoint one member of the board.

"(C) A vacancy on the board shall be filled in the same manner as the original appointment.

"(3) The Secretary of Defense may detail persons to serve as staff for the board. At a minimum, the Secretary shall ensure that the board is assisted at meetings by military resale and legal advisors.

Public information.

"(4) The recommendations made by the board under paragraph (1) shall be made available to the public. The Secretary of Defense shall publicize the availability of such recommendations by such means as the Secretary considers appropriate.

"(5) Members of the board shall be allowed travel expense, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the board.".

(b) DEADLINE FOR ESTABLISHMENT AND INITIAL MEETING.—

(1) ESTABLISHMENT.—The board required by subsection (c) of section 2495b of title 10, United States Code, as added by subsection (a), shall be established, and its initial nine members appointed, not later than 120 days after the date of the enactment of this Act.

(2) MEETINGS.—The board shall conduct an initial meeting within one year after the date of the appointment of the initial members of the board. At the discretion of the board, the board may consider all materials previously reviewed under such section as available for reconsideration for a minimum of 180 days following the initial meeting of the board.

# Subtitle F—Other Matters

**SEC. 651. CONTINUATION OF ENTITLEMENT TO BONUSES AND SIMILAR BENEFITS FOR MEMBERS OF THE UNIFORMED SERVICES WHO DIE, ARE SEPARATED OR RETIRED FOR DISABILITY, OR MEET OTHER CRITERIA.**

(a) DISCRETION TO PROVIDE EXCEPTION TO TERMINATION AND REPAYMENT REQUIREMENTS UNDER CERTAIN CIRCUMSTANCES.—Section 303a(e) of title 37, United States Code, is amended—

(1) in the subsection heading, by inserting "; TERMINATION OF ENTITLEMENT TO UNPAID AMOUNTS" after "MET";

(2) in paragraph (1)—

(A) by striking "A member" and inserting "(A) Except as provided in paragraph (2), a member"; and

(B) by striking "the requirements, except in certain circumstances authorized by the Secretary concerned." and inserting "the eligibility requirements and may not receive any unpaid amounts of the bonus or similar benefit after the member fails to satisfy the requirements, unless the Secretary concerned determines that the imposition of the repayment requirement and termination of the payment of unpaid amounts of the bonus or similar benefit with regard to the member would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States."; and

(3) by redesignating paragraph (2) as subparagraph (B) of paragraph (1).

(b) MANDATORY PAYMENT OF UNPAID AMOUNTS UNDER CERTAIN CIRCUMSTANCES; NO REPAYMENT OF UNEARNED AMOUNTS.—Section 303a(e) of title 37, United States Code, is amended by inserting after paragraph (1), as amended by subsection (a), the following new paragraph (2):

"(2)(A) If a member of the uniformed services dies or is retired or separated with a combat-related disability, the Secretary concerned—

"(i) shall not require repayment by the member or the member's estate of the unearned portion of any bonus or similar benefit previously paid to the member; and

"(ii) shall require the payment to the member or the member's estate of the remainder of any bonus or similar benefit that was not yet paid to the member, but to which the member was entitled immediately before the death, retirement, or separation of the member, and would be paid if not for the death, retirement, or separation of the member.

"(B) Subparagraph (A) does not apply if the death or disability of the member is the result the member's misconduct.

"(C) The amount to be paid under subparagraph (A)(ii) shall be equal to the full amount specified by the agreement or contract applicable to the bonus or similar benefit as if the member continued to be entitled to the bonus or similar benefit following the death, retirement, or separation.

"(D) Amounts to be paid to a member or the member's estate under subparagraph (A)(ii) shall be paid in a lump sum not later than 90 days after the date of the death, retirement, or separation of the member, whichever applies. Deadline.

"(E) In this paragraph, the term 'combat-related disability' has the meaning given that term in section 1413a(e) of title 10.".

(c) CONFORMING AMENDMENTS REFLECTING CONSOLIDATED SPECIAL PAY AND BONUS AUTHORITIES.—

(1) CONFORMING AMENDMENTS.—Section 373 of title 37, United States Code, as added by section 661 of the National Defense Authorization Act for Fiscal Year 2008, is amended—

(A) in subsection (a)—

(i) in the subsection heading, by inserting "AND TERMINATION" after "REPAYMENT"; and

(ii) by inserting before the period at the end the following: ", and the member may not receive any unpaid amounts of the bonus, incentive pay, or similar benefit after the member fails to satisfy such service or eligibility requirement"; and

(B) by striking subsection (b) and inserting the following new subsection:

"(b) EXCEPTIONS.—

Regulations.

"(1) DISCRETION TO PROVIDE EXCEPTION TO TERMINATION AND REPAYMENT REQUIREMENTS.—Pursuant to the regulations prescribed to administer this section, the Secretary concerned may grant an exception to the repayment requirement and requirement to terminate the payment of unpaid amounts of a bonus, incentive pay, or similar benefit if the Secretary concerned determines that the imposition of the repayment and termination requirements with regard to a member of the uniformed services would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

"(2) MANDATORY PAYMENT OF UNPAID AMOUNTS UNDER CERTAIN CIRCUMSTANCES; NO REPAYMENT OF UNEARNED AMOUNTS.—(A) If a member of the uniformed services dies or is retired or separated with a combat-related disability, the Secretary concerned—

"(i) shall not require repayment by the member or the member's estate of the unearned portion of any bonus, incentive pay, or similar benefit previously paid to the member; and

"(ii) shall require the payment to the member or the member's estate of the remainder of any bonus, incentive pay, or similar benefit that was not yet paid to the member, but to which the member was entitled immediately before the death, retirement, or separation of the member, and would be paid if not for the death, retirement, or separation of the member.

"(B) Subparagraph (A) does not apply if the death or disability of the member is the result the member's misconduct.

"(C) The amount to be paid under subparagraph (A)(ii) shall be equal to the full amount specified by the agreement or contract applicable to the bonus, incentive pay, or similar benefit as if the member continued to be entitled to the bonus, incentive pay, or similar benefit following the death, retirement, or separation.

Deadline.

"(D) Amounts to be paid to a member or the member's estate under subparagraph (A)(ii) shall be paid in a lump

sum not later than 90 days after the date of the death, retirement, or separation of the member, whichever applies.

"(E) In this paragraph, the term 'combat-related disability' has the meaning given that term in section 1413a(e) of title 10.".

(2) CLERICAL AMENDMENTS.—

(A) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 373. Repayment of unearned portion of bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment not met".**

(B) TABLE OF CONTENTS.—The table of sections at the beginning of chapter 5 of title 37, United States Code, is amended by striking the item relating to section 373 and inserting the following new item:

"373. Repayment of unearned portion of bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment not met.".

# TITLE VII—HEALTH CARE AND WOUNDED WARRIORS PROVISIONS

Subtitle A—Improvements to Health Benefits

Sec. 701. One-year extension of prohibition on increases in certain health care costs for members of the uniformed services.
Sec. 702. Temporary prohibition on increase in copayments under retail pharmacy system of pharmacy benefits program.
Sec. 703. Chiropractic health care for members on active duty.
Sec. 704. Calculation of monthly premiums for coverage under TRICARE Reserve Select after 2008.
Sec. 705. Program for health care delivery at military installations projected to grow.
Sec. 706. Guidelines for combined medical facilities of the Department of Defense and the Department of Veterans Affairs.

Subtitle B—Preventive Care

Sec. 711. Waiver of copayments for preventive services for certain TRICARE beneficiaries.
Sec. 712. Military health risk management demonstration project.
Sec. 713. Smoking cessation program under TRICARE.
Sec. 714. Preventive health allowance.
Sec. 715. Additional authority for studies and demonstration projects relating to delivery of health and medical care.

Subtitle C—Wounded Warrior Matters

Sec. 721. Center of excellence in prevention, diagnosis, mitigation, treatment, and rehabilitation of hearing loss and auditory system injuries.
Sec. 722. Clarification to center of excellence relating to military eye injuries.
Sec. 723. Center of Excellence in the Mitigation, Treatment, and Rehabilitation of Traumatic Extremity Injuries and Amputations.
Sec. 724. Additional responsibilities for the wounded warrior resource center.
Sec. 725. Sense of Congress on research on traumatic brain injury.
Sec. 726. Extension of Senior Oversight Committee with respect to wounded warrior matters.
Sec. 727. Modification of utilization of veterans' presumption of sound condition in establishing eligibility of members of the Armed Forces for retirement for disability.

Subtitle D—Other Matters

Sec. 731. Report on providing the Extended Care Health Option Program to dependents of military retirees.

Sec. 732. Increase in cap on extended benefits under extended health care option (ECHO).
Sec. 733. Department of Defense task force on the prevention of suicide by members of the Armed Forces.
Sec. 734. Transitional health care for certain members of the Armed Forces who agree to serve in the Selected Reserve of the Ready Reserve.
Sec. 735. Enhancement of medical and dental readiness of members of the Armed Forces.

# Subtitle A—Improvements to Health Benefits

### SEC. 701. ONE-YEAR EXTENSION OF PROHIBITION ON INCREASES IN CERTAIN HEALTH CARE COSTS FOR MEMBERS OF THE UNIFORMED SERVICES.

(a) CHARGES UNDER CONTRACTS FOR MEDICAL CARE.—Section 1097(e) of title 10, United States Code, is amended by striking "September 30, 2008" and inserting "September 30, 2009".

(b) CHARGES FOR INPATIENT CARE.—Section 1086(b)(3) of such title is amended by striking "September 30, 2008" and inserting "September 30, 2009".

### SEC. 702. TEMPORARY PROHIBITION ON INCREASE IN COPAYMENTS UNDER RETAIL PHARMACY SYSTEM OF PHARMACY BENEFITS PROGRAM.

Time period.

During the period beginning on October 1, 2008, and ending on September 30, 2009, the cost sharing requirements established under paragraph (6) of section 1074g(a) of title 10, United States Code, for pharmaceutical agents available through retail pharmacies covered by paragraph (2)(E)(ii) of such section may not exceed amounts as follows:

(1) In the case of generic agents, $3.
(2) In the case of formulary agents, $9.
(3) In the case of nonformulary agents, $22.

### SEC. 703. CHIROPRACTIC HEALTH CARE FOR MEMBERS ON ACTIVE DUTY.

Deadline.

Not later than September 30, 2009, the Secretary of Defense shall provide chiropractic services to active duty military personnel at 11 additional military treatment facilities that do not currently provide chiropractic services.

### SEC. 704. CALCULATION OF MONTHLY PREMIUMS FOR COVERAGE UNDER TRICARE RESERVE SELECT AFTER 2008.

(a) CALCULATION OF MONTHLY PREMIUMS FOR YEARS AFTER 2009.—Section 1076d(d)(3) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(3)";
(2) in subparagraph (A), as so designated—
(A) by striking "that the Secretary determines" and inserting "determined"; and
(B) by striking the second sentence; and
(3) by adding at the end the following new subparagraph:

"(B) The appropriate actuarial basis for purposes of subparagraph (A) shall be determined, for each calendar year after calendar year 2009, by utilizing the actual cost of providing benefits under this section to members and their dependents during the calendar years preceding such calendar year.".

(b) CALCULATION OF MONTHLY PREMIUMS FOR 2009.—For purposes of section 1076d(d)(3) of title 10, United States Code, the appropriate actuarial basis for purposes of subparagraph (A) of that section shall be determined for calendar year 2009 by utilizing the reported cost of providing benefits under that section to members and their dependents during calendar years 2006 and 2007, except that the monthly amount of the premium determined pursuant to this subsection may not exceed the amount in effect for the month of March 2007.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 2008.

**SEC. 705. PROGRAM FOR HEALTH CARE DELIVERY AT MILITARY INSTALLATIONS PROJECTED TO GROW.** Plan.

(a) PROGRAM.—The Secretary of Defense is authorized to develop a plan to establish a program to build cooperative health care arrangements and agreements between military installations projected to grow and local and regional non-military health care systems.

(b) REQUIREMENTS OF PLAN.—In developing the plan, the Secretary of Defense shall—

(1) identify and analyze health care delivery options involving the private sector and health care services in military facilities located on military installations;

(2) develop methods for determining the cost avoidance or savings resulting from innovative partnerships between the Department of Defense and the private sector;

(3) develop requirements for Department of Defense health care providers to deliver health care in civilian community hospitals; and

(4) collaborate with State and local authorities to create an arrangement to share and exchange, between the Department of Defense and nonmilitary health care systems, personal health information, and data of military personnel and their families.

(c) COORDINATION WITH OTHER ENTITIES.—The plan shall include requirements for coordination with Federal, State, and local entities, TRICARE managed care support contractors, and other contracted assets around installations selected for participation in the program.

(d) CONSULTATION REQUIREMENTS.—The Secretary of Defense shall develop the plan in consultation with the Secretaries of the military departments.

(e) SELECTION OF MILITARY INSTALLATIONS.—Each selected military installation shall meet the following criteria:

(1) The military installation has members of the Armed Forces on active duty and members of reserve components of the Armed Forces that use the installation as a training and operational base, with members routinely deploying in support of the global war on terrorism.

(2) The military population of an installation will significantly increase by 2013 due to actions related to either Grow the Force initiatives or recommendations of the Defense Base Realignment and Closure Commission.

(3) There is a military treatment facility on the installation that has—

(A) no inpatient or trauma center care capabilities; and

(B) no current or planned capacity that would satisfy the proposed increase in military personnel at the installation.

(4) There is a civilian community hospital near the military installation, and the military treatment facility has—

(A) no inpatient services or limited capability to expand inpatient care beds, intensive care, and specialty services; and

(B) limited or no capability to provide trauma care.

(f) REPORTS.—Not later than one year after the date of the enactment of this Act, and every year thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on any plan developed under subsection (a).

**SEC. 706. GUIDELINES FOR COMBINED MEDICAL FACILITIES OF THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF VETERANS AFFAIRS.**

Contracts.

Before a facility may be designated a combined Federal medical facility of the Department of Defense and the Department of Veterans Affairs, the Secretary of Defense and the Secretary of Veterans Affairs shall execute a signed agreement that specifies, at a minimum, a binding operational agreement on the following areas:

(1) Governance.
(2) Patient priority categories.
(3) Budgeting.
(4) Staffing and training.
(5) Construction.
(6) Physical plant management.
(7) Contingency planning.
(8) Quality assurance.
(9) Information technology.

# Subtitle B—Preventive Care

**SEC. 711. WAIVER OF COPAYMENTS FOR PREVENTIVE SERVICES FOR CERTAIN TRICARE BENEFICIARIES.**

Regulations.

(a) WAIVER OF CERTAIN COPAYMENTS.—Subject to subsection (b) and under regulations prescribed by the Secretary of Defense, the Secretary shall—

(1) waive all copayments under sections 1079(b) and 1086(b) of title 10, United States Code, for preventive services for all beneficiaries who would otherwise pay copayments; and

(2) ensure that a beneficiary pays nothing for preventive services during a year even if the beneficiary has not paid the amount necessary to cover the beneficiary's deductible for the year.

(b) EXCLUSION FOR MEDICARE-ELIGIBLE BENEFICIARIES.—Subsection (a) shall not apply to a medicare-eligible beneficiary.

(c) REFUND OF COPAYMENTS.—

Regulations.

(1) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary may pay a refund to a medicare-eligible beneficiary excluded by subsection (b), subject to

the availability of appropriations specifically for such refunds, consisting of an amount up to the difference between—

(A) the amount the beneficiary pays for copayments for preventive services during fiscal year 2009; and

(B) the amount the beneficiary would have paid during such fiscal year if the copayments for preventive services had been waived pursuant to subsection (a) during that year.

(2) COPAYMENTS COVERED.—The refunds under paragraph (1) are available only for copayments paid by medicare-eligible beneficiaries during fiscal year 2009.

(d) DEFINITIONS.—In this section:

(1) PREVENTIVE SERVICES.—The term "preventive services" includes, taking into consideration the age and gender of the beneficiary:

(A) Colorectal screening.
(B) Breast screening.
(C) Cervical screening.
(D) Prostate screening.
(E) Annual physical exam.
(F) Vaccinations.
(G) Other services as determined by the Secretary of Defense.

(2) MEDICARE-ELIGIBLE.—The term "medicare-eligible" has the meaning provided by section 1111((b) of title 10, United States Code.

**SEC. 712. MILITARY HEALTH RISK MANAGEMENT DEMONSTRATION PROJECT.**

(a) DEMONSTRATION PROJECT REQUIRED.—The Secretary of Defense shall conduct a demonstration project designed to evaluate the efficacy of providing incentives to encourage healthy behaviors on the part of eligible military health system beneficiaries.

(b) ELEMENTS OF DEMONSTRATION PROJECT.—

(1) WELLNESS ASSESSMENT.—The Secretary shall develop a wellness assessment to be offered to beneficiaries enrolled in the demonstration project. The wellness assessment shall incorporate nationally recognized standards for health and healthy behaviors and shall be offered to determine a baseline and at appropriate intervals determined by the Secretary. The wellness assessment shall include the following:

(A) A self-reported health risk assessment.

(B) Physiological and biometric measures, including at least—

(i) blood pressure;
(ii) glucose level;
(iii) lipids;
(iv) nicotine use; and
(v) weight.

(2) POPULATION ENROLLED.—Non-medicare eligible retired beneficiaries of the military health system and their dependents who are enrolled in TRICARE Prime and who reside in the demonstration project service area shall be offered the opportunity to enroll in the demonstration project.

(3) GEOGRAPHIC COVERAGE OF DEMONSTRATION PROJECT.—The demonstration project shall be conducted in at least three geographic areas within the United States where TRICARE

Prime is offered, as determined by the Secretary. The area covered by the project shall be referred to as the demonstration project service area.

(4) PROGRAMS.—The Secretary shall develop programs to assist enrollees to improve healthy behaviors, as identified by the wellness assessment.

(5) INCLUSION OF INCENTIVES REQUIRED.—For the purpose of conducting the demonstration project, the Secretary may offer monetary and non-monetary incentives to enrollees to encourage participation in the demonstration project.

(c) EVALUATION OF DEMONSTRATION PROJECT.—The Secretary shall annually evaluate the demonstration project for the following:

(1) The extent to which the health risk assessment and the physiological and biometric measures of beneficiaries are improved from the baseline (as determined in the wellness assessment).

(2) In the case of baseline health risk assessments and physiological and biometric measures that reflect healthy behaviors, the extent to which the measures are maintained.

Deadline.

(d) IMPLEMENTATION PLAN.—The Secretary of Defense shall submit a plan to implement the health risk management demonstration project required by this section not later than 90 days after the date of the enactment of this Act.

(e) DURATION OF PROJECT.—The health risk management demonstration project shall be implemented for a period of three years, beginning not later than March 1, 2009, and ending three years after that date.

(f) REPORT.—

(1) IN GENERAL.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives an annual report on the effectiveness of the health risk management demonstration project in improving the health risk measures of military health system beneficiaries enrolled in the demonstration project. The first report shall be submitted not later than one year after the date of the enactment of this Act, and subsequent reports shall be submitted for each year of the demonstration project with the final report being submitted not later than 90 days after the termination of the demonstration project.

(2) MATTERS COVERED.—Each report shall address, at a minimum, the following:

(A) The number of beneficiaries who were enrolled in the project.

(B) The number of enrolled beneficiaries who participate in the project.

(C) The incentives to encourage healthy behaviors that were provided to the beneficiaries in each beneficiary category, and the extent to which the incentives encouraged healthy behaviors.

(D) An assessment of the effectiveness of the demonstration project.

(E) Recommendations for adjustments to the demonstration project.

(F) The estimated costs avoided as a result of decreased health risk conditions on the part of each of the beneficiary categories.

(G) Recommendations for extending the demonstration project or implementing a permanent wellness assessment program.

(H) Identification of legislative authorities required to implement a permanent program.

**SEC. 713. SMOKING CESSATION PROGRAM UNDER TRICARE.**

(a) TRICARE SMOKING CESSATION PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall establish a smoking cessation program under the TRICARE program, to be made available to all beneficiaries under the TRICARE program, subject to subsection (b). The Secretary may prescribe such regulations as may be necessary to implement the program. Deadline.

(b) EXCLUSION FOR MEDICARE-ELIGIBLE BENEFICIARIES.—The smoking cessation program shall not be made available to medicare-eligible beneficiaries.

(c) ELEMENTS.—The program shall include, at a minimum, the following elements:

(1) The availability, at no cost to the beneficiary, of pharmaceuticals used for smoking cessation, with a limitation on the availability of such pharmaceuticals to the national mail-order pharmacy program under the TRICARE program if appropriate.

(2) Counseling.

(3) Access to a toll-free quit line that is available 24 hours a day, 7 days a week.

(4) Access to printed and Internet web-based tobacco cessation material.

(d) CHAIN OF COMMAND INVOLVEMENT.—In establishing the program, the Secretary of Defense shall provide for involvement by officers in the chain of command of participants in the program who are on active duty.

(e) PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a plan to implement the program. Deadline.

(f) REFUND OF COPAYMENTS.—

(1) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary may pay a refund to a medicare-eligible beneficiary otherwise excluded by this section, subject to the availability of appropriations specifically for such refunds, consisting of an amount up to the difference between— Regulations.

(A) the amount the beneficiary pays for copayments for smoking cessation services described in subsection (c) during fiscal year 2009; and

(B) the amount the beneficiary would have paid during such fiscal year if the beneficiary had not been excluded under subsection (b) from the smoking cessation program under subsection (a).

(2) COPAYMENTS COVERED.—The refunds under paragraph (1) are available only for copayments paid by medicare-eligible beneficiaries during fiscal year 2009.

(g) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report covering the following:

(1) The status of the program.

(2) The number of participants in the program.

(3) The cost of the program.

(4) The costs avoided that are attributed to the program.

(5) The success rates of the program compared to other nationally recognized smoking cessation programs.

(6) Findings regarding the success rate of participants in the program.

(7) Recommendations to modify the policies and procedures of the program.

(8) Recommendations concerning the future utility of the program.

(h) DEFINITIONS.—In this section:

(1) TRICARE PROGRAM.—The term "TRICARE program" has the meaning provided by section 1072(7) of title 10, United States Code.

(2) MEDICARE-ELIGIBLE.—The term "medicare-eligible" has the meaning provided by section 1111(b) of title 10, United States Code.

**SEC. 714. PREVENTIVE HEALTH ALLOWANCE.**

(a) ALLOWANCE.—Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

**"§ 438. Preventive health services allowance**

Time period.

"(a) DEMONSTRATION PROJECT.—During the period beginning on January 1, 2009, and ending on December 31, 2011, the Secretary of Defense shall conduct a demonstration project designed to evaluate the efficacy of providing an annual allowance (to be known as a 'preventive health services allowance') to members of the armed forces described in subsection (b) to increase the use of preventive health services by such members and their dependents.

"(b) ELIGIBLE MEMBERS.—(1) Subject to the numerical limitations specified in paragraph (2), a member of the armed forces who is serving on active duty for a period of more than 30 days and meets the medical and dental readiness requirements for the armed force of the member may receive a preventive health services allowance.

"(2) Not more than 1,500 members of each of the Army, Navy, Air Force, and Marine Corps may receive a preventive health services allowance during any year, of which half in each armed force shall be members without dependents and half shall be members with dependents.

"(c) AMOUNT OF ALLOWANCE.—The Secretary of the military department concerned shall pay a preventive health services allowance to a member selected to receive the allowance in an amount equal to—

"(1) $500 per year, in the case of a member without dependents; and

"(2) $1,000 per year, in the case of a member with dependents.

"(d) AUTHORIZED PREVENTIVE HEALTH SERVICES.—(1) The Secretary of Defense shall specify the types of preventive health services that may be procured using a preventive health services allowance and the frequency at which such services may be procured.

"(2) At a minimum, authorized preventive health services shall include, taking into consideration the age and gender of the member and dependents of the member:

"(A) Colorectal screening.

"(B) Breast screening.

"(C) Cervical screening.
"(D) Prostate screening.
"(E) Annual physical exam.
"(F) Annual dental exam.
"(G) Weight and body mass screening.
"(H) Vaccinations.

"(3) The Secretary of Defense shall ensure that members selected to receive the preventive health services allowance and their dependents are provided a reasonable opportunity to receive the services authorized under this subsection in their local area.

"(e) DATA COLLECTION.—At a minimum, the Secretary of Defense shall monitor and record the health of members receiving a preventive health services allowance and their dependents and the results of the testing required to qualify for payment of the allowance, if conducted. The Secretary shall assess the medical utility of the testing required to qualify for payment of a preventive health allowance.

"(f) REPORTING REQUIREMENT.—Not later than March 31, 2010, and March 31, 2012, the Secretary of Defense shall submit to Congress a report on the status of the demonstration project, including findings regarding the medical status of participants, recommendations to modify the policies and procedures of the program, and recommendations concerning the future utility of the project.

"(g) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"438. Preventive health care allowance.".

**SEC. 715. ADDITIONAL AUTHORITY FOR STUDIES AND DEMONSTRATION PROJECTS RELATING TO DELIVERY OF HEALTH AND MEDICAL CARE.**

Section 1092(a) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(3) The Secretary of Defense may include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to provide awards and incentives to members of the armed forces and covered beneficiaries who obtain health promotion and disease prevention health care services under the TRICARE program in accordance with terms and schedules prescribed by the Secretary. Such awards and incentives may include cash awards and, in the case of members of the armed forces, personnel incentives.

"(4)(A) The Secretary of Defense may, in consultation with the other administering Secretaries, include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to provide awards or incentives to individual health care professionals under the authority of such Secretaries, including members of the uniformed services, Federal civilian employees, and contractor personnel, to encourage and reward effective implementation of innovative health care programs designed to improve quality, cost-effectiveness, health promotion, medical readiness, and other priority objectives. Such awards and incentives may include cash awards and, in the case of members of the armed forces and Federal civilian employees, personnel incentives.

"(B) Amounts available for the pay of members of the uniformed services shall be available for awards and incentives under this paragraph with respect to members of the uniformed services.

"(5) The Secretary of Defense may include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to improve the medical and dental readiness of members of reserve components of the armed forces, including the provision of health care services to such members for which they are not otherwise entitled or eligible under this chapter.

"(6) The Secretary of Defense may include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to improve the continuity of health care services for family members of mobilized members of the reserve components of the armed forces who are eligible for such services under this chapter, including payment of a stipend for continuation of employer-provided health coverage during extended periods of active duty.".

# Subtitle C—Wounded Warrior Matters

Establishment.

**SEC. 721. CENTER OF EXCELLENCE IN PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF HEARING LOSS AND AUDITORY SYSTEM INJURIES.**

(a) IN GENERAL.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of hearing loss and auditory system injury to carry out the responsibilities specified in subsection (c).

(b) PARTNERSHIPS.—The Secretary shall ensure that the center collaborates to the maximum extent practicable with the Secretary of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

(c) RESPONSIBILITIES.—

(1) IN GENERAL.—The center shall—

(A) implement a comprehensive plan and strategy for the Department of Defense, as developed by the Secretary of Defense, for a registry of information for the tracking of the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of hearing loss and auditory system injury incurred by a member of the Armed Forces while serving on active duty;

(B) ensure the electronic exchange with the Secretary of Veterans Affairs of information obtained through tracking under subparagraph (A); and

(C) enable the Secretary of Veterans Affairs to access the registry and add information pertaining to additional treatments or surgical procedures and eventual hearing outcomes for veterans who were entered into the registry and subsequently received treatment through the Veterans Health Administration.

(2) DESIGNATION OF REGISTRY.—The registry under this subsection shall be known as the "Hearing Loss and Auditory System Injury Registry" (hereinafter referred to as the "Registry").

(3) CONSULTATION IN DEVELOPMENT.—The center shall develop the Registry in consultation with audiologists, speech and language pathologists, otolaryngologists, and other specialist personnel of the Department of Defense and the audiologists, speech and language pathologists, otolaryngologists, and other specialist personnel of the Department of Veterans Affairs. The mechanisms and procedures of the Registry shall reflect applicable expert research on military and other hearing loss.

(4) MECHANISMS.—The mechanisms of the Registry for tracking under paragraph (1)(A) shall ensure that each military medical treatment facility or other medical facility shall submit to the center for inclusion in the Registry information on the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of hearing loss and auditory system injury described in that paragraph as follows (to the extent applicable): Deadlines.

(A) Not later than 30 days after surgery or other operative intervention, including a surgery or other operative intervention carried out as a result of a follow-up examination.

(B) Not later than 180 days after the hearing loss and auditory system injury is reported or recorded in the medical record.

(5) COORDINATION OF CARE AND BENEFITS.—(A) The center shall provide notice to the National Center for Rehabilitative Auditory Research (NCRAR) of the Department of Veterans Affairs and to the auditory system impairment services of the Veterans Health Administration on each member of the Armed Forces described in subparagraph (B) for purposes of ensuring the coordination of the provision of ongoing auditory system rehabilitation benefits and services by the Department of Veterans Affairs after the separation or release of such member from the Armed Forces. Notice.

(B) A member of the Armed Forces described in this subparagraph is a member of the Armed Forces with significant hearing loss or auditory system injury incurred while serving on active duty, including a member with auditory dysfunction related to traumatic brain injury.

(d) UTILIZATION OF REGISTRY INFORMATION.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly ensure that information in the Registry is available to appropriate audiologists, speech and language pathologists, otolaryngologists, and other specialist personnel of the Department of Defense and the Department of Veterans Affairs for purposes of encouraging and facilitating the conduct of research, and the development of best practices and clinical education, on hearing loss or auditory system injury incurred by members of the Armed Forces.

(e) INCLUSION OF RECORDS OF OIF/OEF VETERANS.—The Secretary of Defense shall take appropriate actions to include in the Registry such records of members of the Armed Forces who incurred a hearing loss or auditory system injury while serving on active duty on or after September 11, 2001, but before the establishment of the Registry, as the Secretary considers appropriate for purposes of the Registry.

**SEC. 722. CLARIFICATION TO CENTER OF EXCELLENCE RELATING TO MILITARY EYE INJURIES.**

*Ante*, p. 455.

Section 1623(d) of Public Law 110–181 is amended by striking "in combat" at the end.

Establishment.

**SEC. 723. CENTER OF EXCELLENCE IN THE MITIGATION, TREATMENT, AND REHABILITATION OF TRAUMATIC EXTREMITY INJURIES AND AMPUTATIONS.**

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly establish a center of excellence in the mitigation, treatment, and rehabilitation of traumatic extremity injuries and amputations.

(b) PARTNERSHIPS.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly ensure that the center collaborates with the Department of Defense, the Department of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

(c) RESPONSIBILITIES.—The center shall have the responsibilities as follows:

(1) To implement a comprehensive plan and strategy for the Department of Defense and the Department of Veterans Affairs for the mitigation, treatment, and rehabilitation of traumatic extremity injuries and amputations.

(2) To conduct research to develop scientific information aimed at saving injured extremities, avoiding amputations, and preserving and restoring the function of injured extremities. Such research shall address military medical needs and include the full range of scientific inquiry encompassing basic, translational, and clinical research.

(3) To carry out such other activities to improve and enhance the efforts of the Department of Defense and the Department of Veterans Affairs for the mitigation, treatment, and rehabilitation of traumatic extremity injuries and amputations as the Secretary of Defense and the Secretary of Veterans Affairs consider appropriate.

(d) REPORTS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to Congress a report on the activities of the center.

(2) ELEMENTS.—Each report under this subsection shall include the following:

(A) In the case of the first report under this subsection, a description of the implementation of the requirements of this Act.

(B) A description and assessment of the activities of the center during the one-year period ending on the date of such report, including an assessment of the role of such activities in improving and enhancing the efforts of the Department of Defense and the Department of Veterans Affairs for the mitigation, treatment, and rehabilitation of traumatic extremity injuries and amputations.

**SEC. 724. ADDITIONAL RESPONSIBILITIES FOR THE WOUNDED WARRIOR RESOURCE CENTER.**

Section 1616(a) of the Wounded Warrior Act (title XVI of Public Law 110–181; 122 Stat. 447; 10 U.S.C. 1071 note) is amended in the first sentence by inserting "receiving legal assistance referral information (where appropriate), receiving other appropriate referral information," after "receiving benefits information,".

**SEC. 725. SENSE OF CONGRESS ON RESEARCH ON TRAUMATIC BRAIN INJURY.**

It is the sense of Congress that the requirement under section 1621(c)(7) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 453; 10 U.S.C. 1071 note) to conduct basic science and translational research on traumatic brain injury includes pilot programs designed to test the efficacy of clinical approaches, including the use of pharmacological agents. Congress urges continued studies of the efficacy of pharmacological agents for treatment of traumatic brain injury and supports continued joint research with the National Institutes of Health in this area.

**SEC. 726. EXTENSION OF SENIOR OVERSIGHT COMMITTEE WITH RESPECT TO WOUNDED WARRIOR MATTERS.**

Termination date.

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly take such actions as are appropriate, including the allocation of appropriate personnel, funding, and other resources, to continue the operations of the Senior Oversight Committee until December 31, 2009.

(b) REPORT ON FURTHER EXTENSION OF COMMITTEE.—Not later than August 31, 2009, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to Congress a report setting forth the joint recommendation of the Secretaries as to the advisability of continuing the operations of the Senior Oversight Committee after December 31, 2009. If the Secretaries recommend that continuing the operations of the Senior Oversight Committee after December 31, 2009, is advisable, the report may include such recommendations for the modification of the responsibilities, composition, or support of the Senior Oversight Committee as the Secretaries jointly consider appropriate.

(c) SENIOR OVERSIGHT COMMITTEE DEFINED.—In this section, the term "Senior Oversight Committee" means the Senior Oversight Committee jointly established by the Secretary of Defense and the Secretary of Veterans Affairs in May 2007. The Senior Oversight Committee was established to address concerns related to the treatment of wounded, ill, and injured members of the Armed Forces and veterans and serves as the single point of contact for oversight, strategy, and integration of proposed strategies for the efforts of the Department of Defense and the Department of Veterans Affairs to improve support throughout the recovery, rehabilitation, and reintegration of wounded, ill, or injured members of the Armed Forces.

**SEC. 727. MODIFICATION OF UTILIZATION OF VETERANS' PRESUMPTION OF SOUND CONDITION IN ESTABLISHING ELIGIBILITY OF MEMBERS OF THE ARMED FORCES FOR RETIREMENT FOR DISABILITY.**

(a) RETIREMENT OF REGULARS AND MEMBERS ON ACTIVE DUTY FOR MORE THAN 30 DAYS.—Section 1201(b)(3)(B)(i) of title 10, United States Code, is amended—

(1) by striking "the member has six months or more of active military service and"; and

(2) by striking "(unless compelling evidence" and all that follows through "active duty)" and inserting "(unless clear and unmistakable evidence demonstrates that the disability existed before the member's entrance on active duty and was not aggravated by active military service)".

(b) SEPARATION OF REGULARS AND MEMBERS ON ACTIVE DUTY FOR MORE THAN 30 DAYS.—Section 1203(b)(4)(B) of such title is amended—

(1) by striking "the member has six months or more of active military service, and"; and

(2) by striking "(unless compelling evidence" and all that follows through "active duty)" and inserting "(unless clear and unmistakable evidence demonstrates that the disability existed before the member's entrance on active duty and was not aggravated by active military service)".

## Subtitle D—Other Matters

**SEC. 731. REPORT ON PROVIDING THE EXTENDED CARE HEALTH OPTION PROGRAM TO DEPENDENTS OF MILITARY RETIREES.**

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on including dependents of military retirees in the ECHO program for a limited transitional period following retirement.

(b) CONTENTS OF REPORT.—The report required under subsection (a) shall include the following:

(1) The most current data on the number of military retirees with dependents who are eligible to receive extended benefits under the ECHO program and an estimate of the number of future military retirees with dependents who are eligible to receive such benefits.

(2) The cost estimates of providing extended benefits under the ECHO program to dependents of all current and future military retirees.

(3) The feasibility of including dependents of military retirees in any ongoing demonstration or pilot programs within the ECHO program.

(4) The statutory and regulatory impediments to including dependents of military retirees in the ECHO program.

(c) ECHO PROGRAM.—In this section, the term "ECHO program" means the Extended Care Health Option program provided pursuant to subsections (d), (e), and (f) of section 1079 of title 10, United States Code.

**SEC. 732. INCREASE IN CAP ON EXTENDED BENEFITS UNDER EXTENDED HEALTH CARE OPTION (ECHO).**

Section 1079(f) of title 10, United States Code is amended—

(1) in paragraph (2)(A), by striking "month shall not exceed $2,500," and inserting "year shall not exceed $36,000, prorated as determined by the Secretary of Defense,"; and

(2) in paragraph (2)(B), by striking "month" and inserting "year.".

**SEC. 733. DEPARTMENT OF DEFENSE TASK FORCE ON THE PREVENTION OF SUICIDE BY MEMBERS OF THE ARMED FORCES.**

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to prevention of suicide by members of the Armed Forces.

(b) COMPOSITION.—

(1) MEMBERS.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of suicide prevention and response.

(2) RANGE OF MEMBERS.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Army, Navy, Air Force, and Marine Corps;

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force;

(C) persons who have experience in—

(i) national suicide prevention policy;

(ii) military personnel policy;

(iii) research in the field of suicide prevention;

(iv) clinical care in mental health; or

(v) military chaplaincy or pastoral care; and

(D) at least one family member of a member of the Armed Forces who has experience working with military families.

(3) INDIVIDUALS APPOINTED OUTSIDE DEPARTMENT OF DEFENSE.—Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and local governments, or individuals from the private sector.

(4) DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force shall be made not later than 180 days after the date of the enactment of this Act.

(5) CO-CHAIRS OF TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) ASSESSMENT AND RECOMMENDATIONS ON SUICIDE PREVENTION POLICY.—

Deadline.
Reports.

(1) IN GENERAL.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a report containing recommendations regarding a comprehensive policy designed to prevent suicide by members of the Armed Forces.

(2) UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the military departments to improve the efficacy of suicide prevention programs.

(3) ELEMENTS.—The recommendations (including recommendations for legislative or administrative action) shall include measures to address the following:

(A) Methods to identify trends and common causal factors in suicides by members of the Armed Forces.

(B) Methods to establish or update suicide education and prevention programs conducted by each military department based on identified trends and causal factors.

(C) An assessment of current suicide education and prevention programs of each military department.

(D) An assessment of suicide incidence by military occupation to include identification of military occupations with a high incidence of suicide.

(E) The appropriate type and method of investigation to determine the causes and factors surrounding each suicide by a member of the Armed Forces.

(F) The qualifications of the individual appointed to conduct an investigation of a suicide by a member of the Armed Forces.

(G) The required information to be determined by an investigation in order to determine the causes and factors surrounding suicides by members of the Armed Forces.

(H) The appropriate reporting requirements following an investigation conducted on a suicide by a member of the Armed Forces.

(I) The appropriate official or executive agent within the military department and Department of Defense to receive and analyze reports on investigations of suicides by members of the Armed Forces.

(J) The appropriate use of the information gathered during investigations of suicides by members of the Armed Forces.

(K) Methods for protecting confidentiality of information contained in reports of investigations of suicides by members of the Armed Forces.

(d) ADMINISTRATIVE MATTERS.—

(1) COMPENSATION.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) OVERSIGHT.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) ADMINISTRATIVE SUPPORT.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) ACCESS TO FACILITIES.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) REPORT.—

(1) IN GENERAL.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the assessment and recommendations required by subsection (c); and

(C) such other matters relating to the activities of the task force that the task force considers appropriate.

(2) TRANSMITTAL TO CONGRESS.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) PLAN REQUIRED.—Not later than March 1, 2010, the Secretary of Defense shall develop a plan based on the recommendations of the task force and submit the plan to the congressional defense committees. Deadline.

(g) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

**SEC. 734. TRANSITIONAL HEALTH CARE FOR CERTAIN MEMBERS OF THE ARMED FORCES WHO AGREE TO SERVE IN THE SELECTED RESERVE OF THE READY RESERVE.**

(a) PROVISION OF TRANSITIONAL HEALTH CARE.—Section 1145(a)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(F) A member who is separated from active duty who agrees to become a member of the Selected Reserve of the Ready Reserve of a reserve component.".

(b) EFFECTIVE DATE.—Subparagraph (F) of section 1145(a)(2) of title 10, United States Code, as added by subsection (a), shall apply with respect to members of the Armed Forces separated from active duty after the date of the enactment of this Act.

**SEC. 735. ENHANCEMENT OF MEDICAL AND DENTAL READINESS OF MEMBERS OF THE ARMED FORCES.**

(a) EXPANSION OF AVAILABILITY OF MEDICAL AND DENTAL SERVICES FOR RESERVES.—

(1) EXPANSION OF AVAILABILITY FOR RESERVES ASSIGNED TO UNITS SCHEDULED FOR DEPLOYMENT WITHIN 75 DAYS OF MOBILIZATION.—Subsection (d)(1) of section 1074a of title 10, United States Code, is amended by striking "The Secretary of the Army shall provide to members of the Selected Reserve of the Army" and inserting "The Secretary concerned shall provide to members of the Selected Reserve". Deadline.

(2) AVAILABILITY FOR CERTAIN OTHER RESERVES.—Such section is further amended by adding at the end the following new subsection:

"(g)(1) The Secretary concerned may provide to any member of the Selected Reserve not described in subsection (d)(1) or (f), and to any member of the Individual Ready Reserve described in section 10144(b) of this title the medical and dental services specified in subsection (d)(1) if the Secretary determines that the receipt of such services by such member is necessary to ensure that the member meets applicable standards of medical and dental readiness.

"(2) Services may not be provided to a member under this subsection for a condition that is the result of the member's own misconduct.

"(3) The services provided under this subsection shall be provided at no cost to the member.".

(3) FUNDING.—Such section is further amended by adding at the end the following new subsection:

"(h) Amounts available for operation and maintenance of a reserve component of the armed forces may be available for purposes of this section to ensure the medical and dental readiness of members of such reserve component.".

(b) WAIVER OF CERTAIN COPAYMENTS FOR DENTAL CARE FOR RESERVES FOR READINESS PURPOSES.—Section 1076a(e) of such title is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking "A member or dependent" and inserting "(1) Except as provided pursuant to paragraph (2), a member or dependent"; and

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

Regulations.
Waiver authority.

"(2)(A) During a national emergency declared by the President or Congress and subject to regulations prescribed by the Secretary of Defense, the Secretary may waive, in whole or in part, the charges otherwise payable by a member of the Selected Reserve of the Ready Reserve or a member of the Individual Ready Reserve under paragraph (1) for the coverage of the member alone under the dental insurance plan established under subsection (a)(1) if the Secretary determines that such waiver of the charges would facilitate or ensure the readiness of a unit or individual for deployment.

"(B) The waiver under subparagraph (A) may apply only with respect to charges for coverage of dental care required for readiness.".

(c) REPORT ON POLICIES AND PROCEDURES IN SUPPORT OF MEDICAL AND DENTAL READINESS.—

(1) IN GENERAL.—Not later than March 1, 2009, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the policies and procedures of the Department of Defense to ensure the medical and dental readiness of members of the Armed Forces.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the current standards of each military department with respect to the medical and dental readiness of individual members of the Armed Forces

(including members of the regular components and members of the reserve components), and with respect to the medical and dental readiness of units of the Armed Forces (including units of the regular components and units of the reserve components), under the jurisdiction of such military department.

(B) A description of the manner in which each military department applies the standards described under subparagraph (A) with respect to each of the following:

(i) Performance evaluation.

(ii) Promotion.

(iii) In the case of the members of the reserve components, eligibility to attend annual training.

(iv) Continued retention in the Armed Forces.

(v) Such other matters as the Secretary considers appropriate.

(C) A statement of the number of members of the Armed Forces (including members of the regular components and members of the reserve components) who were determined to be not ready for deployment at any time during the period beginning on October 1, 2001, and ending on September 30, 2008, due to failure to meet applicable medical or dental standards, and an assessment of whether the unreadiness of such members for deployment could reasonably have been mitigated by actions of the members concerned to maintain individual medical or dental readiness.

(D) A description of any actual or perceived barriers to the achievement of full medical and dental readiness in the Armed Forces (including among the regular components and the reserve components), including barriers associated with the following:

(i) Quality or cost of, or access to, medical and dental care.

(ii) Availability of programs and incentives intended to prevent medical or dental problems.

(E) Such recommendations for legislative or administrative action as the Secretary considers appropriate to ensure the medical and dental readiness of individual members of the Armed Forces and units of the Armed Forces, including recommendations regarding the following:

(i) The advisability of requiring that fitness reports of members of the Armed Forces include—

(I) a statement of whether or not a member meets medical and dental readiness standards for deployment; and

(II) in cases in which a member does not meet such standard, a statement of actions being taken to ensure that the member meets such standards and the anticipated schedule for meeting such standards.

(ii) The advisability of establishing a mandatory promotion standard relating to individual medical and dental readiness and, in the case of a unit commander, unit medical and dental readiness.

# TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Policy and Management

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Sec. 887. Report on the implementation of earned value management at the Department of Defense.

# Subtitle A—Acquisition Policy and Management

### SEC. 801. ASSESSMENT OF URGENT OPERATIONAL NEEDS FULFILLMENT.

Study. Reports.

(a) ASSESSMENT REQUIRED.—The Secretary of Defense shall commission a study and report by an independent commission or a federally funded research and development center to assess the effectiveness of the processes used by the Department of Defense for the generation of urgent operational need requirements, and the acquisition processes used to fulfill such requirements. Such assessment shall include the following:

(1) A description and evaluation of the effectiveness of the procedures used to generate, validate, and fulfill warfighting requirements through the urgent operational need and joint urgent operational need processes, including—

(A) the extent to which joint and urgent operational need statements are used to document required capability gaps or are used to request specific acquisition outcomes, such as specific systems or equipment;

(B) the effectiveness of the processes used by each of the military departments and the various elements of the Department of Defense to prioritize and fulfill joint and urgent operational needs, including the rapid acquisition processes of the military departments, as well as the joint improvised explosive device defeat organization and the joint rapid acquisition cell; and

(C) the timeliness and responsiveness of the processes used by the military departments and the various elements of the Department of Defense to review and validate urgent operational needs statements and joint urgent operational needs statements.

(2) An evaluation of the extent to which joint urgent operational need statements are used to avoid using service-specific urgent operational need and acquisition processes or to document non-urgent capability gaps.

(3) An evaluation of the extent to which joint acquisition entities maintain oversight, once a military department or defense agency has been designated as responsible for execution and fielding of a capability in response to a joint urgent operational need statement, including oversight of—

(A) the responsiveness of the military department or agency in execution;

(B) the field performance of the capability delivered in response to the joint urgent operational need statement; and

(C) the concurrent development of a long term acquisition and sustainment strategy.

(8) Recommendations regarding—

(A) best practices and process improvements to ensure that urgent operational needs statements and joint urgent operational needs statements are presented to appropriate authorities for review and validation not later than 60 days after the documents are submitted;

(B) common definitions and standards for urgent operational needs statements and joint urgent operational need statements;

(C) best practices and process improvements for the creation, evaluation, prioritization, and fulfillment of urgent operational need statements and joint urgent operational need statements; and

(D) the extent to which rapid acquisition processes should be consolidated or expanded.

Deadline. Reports.

(b) SUBMISSION TO CONGRESS.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees the report resulting from the study conducted pursuant to subsection (a).

**SEC. 802. IMPLEMENTATION OF STATUTORY REQUIREMENTS REGARDING THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.**

Deadline.

(a) GUIDANCE REQUIRED.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance regarding—

(1) the appropriate application of the authority in sections 2304(b) and 2304(c)(3)(A) of title 10, United States Code, in connection with major defense acquisition programs; and

(2) the appropriate timing and performance of the requirement in section 2440 of title 10, United States Code, to consider the national technology and industrial base in the development and implementation of acquisition plans for each major defense acquisition program.

(b) DEFINITIONS.—In this section;

(1) MAJOR DEFENSE ACQUISITION PROGRAM.—The term "major defense acquisition program" has the meaning provided in section 2430 of title 10, United States Code.

(2) NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The term "national technology and industrial base" has the meaning provided in section 2500(1) of title 10, United States Code.

**SEC. 803. COMMERCIAL SOFTWARE REUSE PREFERENCE.**

(a) IN GENERAL.—The Secretary of Defense shall ensure that contracting officials identify and evaluate, at all stages of the acquisition process (including concept refinement, concept decision, and technology development), opportunities for the use of commercial computer software and other non-developmental software.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall submit to the congressional defense committees a report on actions taken to implement subsection (a), including a description of any relevant regulations and policy guidance.

**SEC. 804. INTERNAL CONTROLS FOR PROCUREMENTS ON BEHALF OF THE DEPARTMENT OF DEFENSE BY CERTAIN NON-DEFENSE AGENCIES.**

(a) INCLUSION OF ADDITIONAL NON-DEFENSE AGENCIES IN REVIEW.—The covered non-defense agencies specified in subsection (c) of this section shall be considered covered non-defense agencies as defined in subsection (i) of section 817 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2326) for purposes of such section.

(b) DEADLINES AND APPLICABILITY FOR ADDITIONAL NON-DEFENSE AGENCIES.—For each covered non-defense agency specified in subsection (c) of this section, section 817 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2326) shall apply to such agency as follows:

(1) The review and determination required by subsection (a)(1) of such section shall be completed by not later than March 15, 2009.

(2) The review and determination required by subsection (a)(2) of such section, if necessary, shall be completed by not later than June 15, 2010, and such review and determination shall be a review and determination of such agency's procurement of property and services on behalf of the Department of Defense in fiscal year 2009.

(3) The memorandum of understanding required by subsection (c)(1) of such section shall be entered into by not later than 60 days after the date of the enactment of this Act.

(4) The limitation specified in subsection (d)(1) of such section shall apply after March 15, 2009, and before June 16, 2010.

(5) The limitation specified in subsection (d)(2) of such section shall apply after June 15, 2010.

(6) The limitation required by subsection (d)(3) of such section shall commence, if necessary, on the date that is 60 days after the date of the enactment of this Act.

(c) DEFINITION OF COVERED NON-DEFENSE AGENCY.—In this section, the term "covered non-defense agency" means each of the following:

(1) The Department of Commerce.

(2) The Department of Energy.

(d) MODIFICATION OF CERTAIN ADDITIONAL AUTHORITIES ON INTERNAL CONTROLS FOR PROCUREMENTS ON BEHALF OF DOD.—Section 801 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 202; 10 U.S.C. 2304 note) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by striking "each of the Department of the Treasury, the Department of the Interior, and the National Aeronautics and Space Administration" and inserting "the Department of the Interior"; and

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

Deadline.

"(D) In the case of each of the Department of Commerce and the Department of Energy, by not later than March 15, 2015."; and

(2) in subsection (f)(2)—

(A) by striking subparagraphs (B) and (D);

(B) by redesignating subparagraphs (C), (E), and (F) as subparagraphs (B), (C), and (D), respectively; and

(C) by adding at the end the following new subparagraphs:

"(E) The Department of Commerce.

"(F) The Department of Energy.".

# Subtitle B—Provisions Relating to Major Defense Acquisition Programs

### SEC. 811. INCLUSION OF MAJOR SUBPROGRAMS TO MAJOR DEFENSE ACQUISITION PROGRAMS UNDER ACQUISITION REPORTING REQUIREMENTS.

(a) AUTHORITY TO DESIGNATE MAJOR SUBPROGRAMS AS SUBJECT TO ACQUISITION REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Chapter 144 of title 10, United States Code, is amended by inserting after section 2430 the following new section:

**"§ 2430a. Major subprograms**

"(a) AUTHORITY TO DESIGNATE MAJOR SUBPROGRAMS AS SUBJECT TO ACQUISITION REPORTING REQUIREMENTS.—(1) If the Secretary of Defense determines that a major defense acquisition program requires the delivery of two or more categories of end items which differ significantly from each other in form and function, the Secretary may designate each such category of end items as a major subprogram for the purposes of acquisition reporting under this chapter.

Notification. Deadline.

"(2) The Secretary shall notify the congressional defense committees in writing of any proposed designation pursuant to paragraph (1) not less than 30 days before the date such designation takes effect.

"(b) REPORTING REQUIREMENTS.—If the Secretary designates a major subprogram of a major defense acquisition program in accordance with subsection (a), Selected Acquisition Reports, unit cost reports, and program baselines under this chapter shall reflect cost, schedule, and performance information—

"(1) for the major defense acquisition program as a whole; and

"(2) for each major subprogram of the major defense acquisition program so designated.

"(c) REQUIREMENT TO COVER ENTIRE MAJOR DEFENSE ACQUISITION PROGRAM.—If a subprogram of a major defense acquisition program is designated as a major subprogram under subsection

(a), all other elements of the major defense acquisition program shall be appropriately organized into one or more subprograms under the major defense acquisition program, each of which subprograms, as so organized, shall be treated as a major subprogram under subsection (a).

"(d) DEFINITIONS.—Notwithstanding paragraphs (1) and (2) of section 2432(a) of this title, in the case of a major defense acquisition program for which the Secretary has designated one or more major subprograms under this section for the purposes of this chapter—

"(1) the term 'program acquisition unit cost' applies at the level of the subprogram and means the total cost for the development and procurement of, and specific military construction for, the major defense acquisition program that is reasonably allocable to each such major subprogram, divided by the relevant number of fully-configured end items to be produced under such major subprogram;

"(2) the term 'procurement unit cost' applies at the level of the subprogram and means the total of all funds programmed to be available for obligation for procurement for each such major subprogram, divided by the number of fully-configured end items to be procured under such major subprogram;

"(3) the term 'major contract', with respect to a designated major subprogram, means each of the six largest prime, associate, or Government furnished equipment contracts under the subprogram that is in excess of $40,000,000 and that is not a firm-fixed price contract; and

"(4) the term 'life cycle cost', with respect to a designated major subprogram, means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2430 the following new item:

"2430a. Major subprograms.".

(b) CONFORMING AMENDMENTS TO SECTION 2432.—Section 2432 of such title is amended—

(1) in subsection (b)(2)(A), by inserting "for the program (or for each designated subprogram under the program)" after "procurement unit cost";

(2) in subsection (c)—

(A) in paragraph (1)(B)—

(i) by inserting "or designated major subprogram" after "for each major defense acquisition program"; and

(ii) by inserting "or subprogram" after "the program";

(B) in paragraph (1)(C)—

(i) by inserting "or designated major subprogram" after "major defense acquisition program"; and

(ii) by inserting "or subprogram" after "the program"; and

(C) in paragraph (3)(A), by inserting "and each designated major subprogram" after "for each major defense acquisition program";

(3) in subsection (e)—

(A) in paragraph (3), by inserting before the period the following: "for the program (or for each designated major subprogram under the program)";

(B) in paragraph (5), by inserting before the period the following: "(or for each designated major subprogram under the program)";

(C) in paragraph (7), by inserting "or subprogram" after "of the program" each place it appears; and

(D) in paragraph (8), by inserting "and designated major subprograms under the program" after "the program";

(4) in subsection (g)—

(A) by inserting "or designated major subprogram" after "major defense acquisition program"; and

(B) by inserting "or subprogram" after "the program" each place it appears; and

(5) in subsection (h)(2)(C), by inserting "and designated major subprograms under the program" after "the development program".

(c) CONFORMING AMENDMENTS TO SECTION 2433.—Section 2433 of such title is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "The terms" and inserting "Except as provided in section 2430a(c) of this title, the terms";

(B) in paragraph (2)—

(i) by inserting "or designated major subprogram" after "major defense acquisition program"; and

(ii) by inserting "or subprogram" after "the program";

(C) in paragraph (4)—

(i) by inserting "or designated major defense subprogram" after "major defense acquisition program" each place it appears; and

(ii) by inserting "or subprogram" after "for the program" each place it appears; and

(D) in paragraph (5)—

(i) by inserting "or designated major defense subprogram" after "major defense acquisition program" each place it appears; and

(ii) by inserting "or subprogram" after "for the program" each place it appears;

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting "(or of each designated major subprogram under the program)" after "unit costs of the program";

(B) in paragraph (1), by inserting before the period the following: "for the program (or for each designated major subprogram under the program)";

(C) in paragraph (2), by inserting before the period the following: "for the program (or for each designated major subprogram under the program)"; and

(D) in paragraph (5), by inserting "or subprogram" after "the program" each place it appears (other than the last place it appears);

(3) in subsection (c)—

(A) by striking "the program acquisition unit cost for the program or the procurement unit cost for the program" and inserting "the program acquisition unit cost for the program (or for a designated major subprogram under the program) or the procurement unit cost for the program (or for such a subprogram)"; and

(B) by striking "for the program" after "significant cost growth threshold";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) by inserting "or any designated major subprogram under the program" after "major defense acquisition program"; and

(ii) by inserting "or subprogram" after "for the program" each place it appears;

(B) in paragraph (2)—

(i) by inserting "or any designated major subprogram under the program" after "major defense acquisition program"; and

(ii) by inserting "or subprogram" after "for the program" each place it appears; and

(C) in paragraph (3), by striking "such program" and inserting "the program or subprogram concerned";

(5) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by inserting "or designated major subprogram" after "major defense acquisition program"; and

(II) by inserting "or subprogram" after "for the program"; and

(ii) in subparagraph (B)—

(I) by inserting "or designated major subprogram" after "major defense acquisition program"; and

(II) by inserting "or subprogram" after "that program"; and

(B) in paragraph (2), in the matter preceding subparagraph (A)—

(i) by inserting "or designated major subprogram" after "major defense acquisition program"; and

(ii) by inserting "or subprogram" after "for the program"; and

(6) in subsection (g)—

(A) in paragraph (1)—

(i) in subparagraph (D)—

(I) by inserting "(and for each designated major subprogram under the program)" after "for the program"; and

(II) by inserting "or subprogram" after "in which the program";

(ii) in subparagraph (E), by inserting "for the program (and for each designated major subprogram under the program)" after "program acquisition cost";

(iii) in subparagraph (F), by inserting before the period the following: "for the program (or for any designated major subprogram under the program)";

(iv) in subparagraph (G)—

(I) by inserting "and each designated major subprogram under the program" after of "the program"; and

(II) by inserting "or subprogram" after "for the program" each place it appears;

(v) in subparagraph (H)—

(I) by inserting "and each designated major subprogram under the program" after "the program" the first place it appears; and

(II) by inserting "or subprogram" after "the program" the second place it appears;

(vi) in subparagraph (J), by inserting "for the program (or for each designated major subprogram under the program)" after "program acquisition unit cost";

(vii) in subparagraph (K), by inserting "for the program (or for each designated major subprogram under the program)" after "procurement unit cost" each place it appears;

(viii) in subparagraph (O), by inserting before the period the following: "for the program (or for any designated major subprogram under the program)";

(ix) in subparagraph (P)—

(I) by inserting "or subprogram" after "the program" the first place it appears; and

(II) by inserting "and any designated major subprogram under the program" after "the program" the second place it appears; and

(x) in subparagraph (Q), by inserting "or any designated major subprogram under the program" after "the program"; and

(B) in paragraph (2)—

(i) by inserting "or designated major subprogram" after "major defense acquisition program";

(ii) by inserting "or subprogram" after "the entire program"; and

(iii) by inserting "or subprogram" after "a program".

(d) CONFORMING AMENDMENTS TO SECTION 2435.—Section 2435 of such title is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "and for each designated major subprogram under the program" after "major defense acquisition program"; and

(B) in paragraph (2), by inserting "or designated major subprogram" after "major defense acquisition program";

(2) in subsection (b)—

(A) by inserting "or any designated major subprogram under the program" after "major defense acquisition program"; and

(B) by inserting "or subprogram" after "the program";

(3) in subsection (c)—

(A) by inserting "or any designated major subprogram under the program" after "major defense acquisition program"; and

(B) by inserting "or subprogram" after "the program" each place it appears;

(4) in subsection (d)—

(A) by inserting "or any designated major subprogram under the program" after "major defense acquisition program" each place it appears;

(B) in paragraph (1)—

(i) by inserting "or subprogram" after "the program" each place it appears; and

(ii) by inserting "or subprogram" after "at program"; and

(C) in paragraph (2), by inserting "or subprogram" after "for the program" each place it appears; and

(5) in subsection (e)—

(A) by inserting "(or in the case of a major defense acquisition program with one or more designated major subprograms, approved baseline descriptions for such subprograms)" after "baseline description";

(B) by striking "the baseline" and inserting "any such baseline description"; and

(C) by inserting "or subprogram" after "of the program".

**SEC. 812. INCLUSION OF CERTAIN MAJOR INFORMATION TECHNOLOGY INVESTMENTS IN ACQUISITION OVERSIGHT AUTHORITIES FOR MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS.**

(a) DEFINITIONS.—

(1) IN GENERAL.—Section 2445a of title 10, United States Code, is amended—

(A) in subsection (a), by striking "IN GENERAL" and inserting "MAJOR AUTOMATED INFORMATION SYSTEM PROGRAM"; and

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

"(d) OTHER MAJOR INFORMATION TECHNOLOGY INVESTMENT PROGRAM.—In this chapter, the term 'other major information technology investment program' means the following:

"(1) An investment that is designated by the Secretary of Defense, or a designee of the Secretary, as a 'pre-Major Automated Information System' or 'pre-MAIS' program.

"(2) Any other investment in automated information system products or services that is expected to exceed the thresholds established in subsection (a), as adjusted under subsection (b), but is not considered to be a major automated information system program because a formal acquisition decision has not yet been made with respect to such investment.".

(2) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

**"§ 2445a. Definitions".**

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144A of such title is amended by striking the item relating to section 2445a and inserting the following new item:

"2445a. Definitions.".

(b) COST, SCHEDULE, AND PERFORMANCE INFORMATION.—Section 2445b of such title is amended—

(1) in subsection (a), by inserting "and each other major information technology investment program" after "each major automated information system program";

(2) in subsection (b), by inserting "REGARDING MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS" after "ELEMENTS"; and

(3) by adding at the end the following new subsection:

"(d) ELEMENTS REGARDING OTHER MAJOR INFORMATION TECHNOLOGY INVESTMENT PROGRAMS.—With respect to each other major information technology investment program, the information required by subsection (a) may be provided in the format that is most appropriate to the current status of the program.".

(c) QUARTERLY REPORTS.—Section 2445c of such title is amended—

(1) in subsection (a)—

(A) by inserting "or other major information technology investment program" after "major automated information system program"; and

(B) by inserting "or information technology investment" after "the major automated information system";

(2) in subsection (b)—

(A) by inserting "or other major information technology investment program" after "major automated information system program" in the matter preceding paragraph (1); and

(B) by inserting "or information technology investment" after "automated information system" each place it appears in paragraphs (1) and (2);

(3) in subsection (d)—

(A) in paragraph (1) and in paragraph (2) in the matter preceding subparagraph (A), by inserting "or other major information technology investment program" after "major automated information system program"; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the automated information system or information technology investment failed to achieve initial operational capability within five years after funds were first obligated for the program;";

(ii) in subparagraph (B), by inserting before the semicolon the following: "or section 2445b(d) of this title, as applicable";

(iii) in subparagraph (C), by inserting before the semicolon the following: "or section 2445b(d) of this title, as applicable"; and

(iv) in subparagraph (D)—

(I) by inserting "or major information technology investment" after "major automated information system"; and

(II) by inserting before the period the following: "or section 2445b(d) of this title, as applicable";

(4) in subsection (e), by inserting "or other major information technology investment program" after "major automated information system program"; and

(5) in subsection (f)—

(A) by inserting "or other major information technology investment program" after "major automated information system program" in the matter preceding paragraph (1);

(B) in paragraph (1), by inserting "or information technology investment" after "automated information system";

(C) in paragraph (2), by inserting "or information technology investment" after "the system"; and

(D) in paragraph (3), by inserting "or information technology investment, as applicable," after "the program and system".

**SEC. 813. TRANSFER OF SECTIONS OF TITLE 10 RELATING TO MILESTONE A AND MILESTONE B FOR CLARITY.**

(a) REVERSAL OF ORDER OF SECTIONS.—Section 2366b of title 10, United States Code, is transferred so as to appear before section 2366a of such title.

(b) REDESIGNATION OF SECTIONS.—Section 2366b (relating to Milestone A) and section 2366a (relating to Milestone B) of such title, as so transferred, are redesignated as sections 2366a and 2366b, respectively.

(c) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of title 10, United States Code, is amended by striking the items relating sections 2366a and 2366b and inserting the following new items:

"2366a. Major defense acquisition programs: certification required before Milestone A or Key Decision Point A approval.
"2366b. Major defense acquisition programs: certification required before Milestone B or Key Decision Point B approval.".

(d) CONFORMING AMENDMENTS.—

(1) SECTION 181 OF TITLE 10, UNITED STATES CODE.—Section 181(b)(4) of title 10, United States Code, is amended by striking "section 2366a(a)(4), section 2366b(b)," and inserting "section 2366a(b), section 2366b(a)(4),".

(2) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008.—The National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) is amended—

(A) in section 212(1) by striking "2366a" and inserting "2366b"; and *Ante*, p. 35.

(B) in section 816— *Ante*, p. 223.

(i) in subsection (a)(2) by striking "2366a" and inserting "2366b";

(ii) in subsection (a)(3) by striking "2366b of title 10, United States Code, as added by section 943 of this Act" and inserting "2366a of title 10, United States Code"; and

(iii) in subsection (c)(2) by striking "2366a" each place such term appears (including in the paragraph heading) and inserting "2366b".

(3) JOHN WARNER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007.—The John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364) is amended in section 812 (120 Stat. 2317), in each of subsections (c)(2)(A) and (d)(2), by striking "2366a" and inserting "2366b". 10 USC 2302 note.

(e) ADDITIONAL TECHNICAL AMENDMENTS.—

(1) Section 2366a of title 10, United States Code, as transferred and redesignated by this section, is amended—

(A) in paragraphs (1), (2), and (4) of subsection (a), by striking "system" each place it appears and inserting "program";

(B) in paragraph (3) of subsection (a)—

(i) by striking "if the system" and inserting "if the program"; and

(ii) by striking "such system" and inserting "such program";

(C) in subsection (b)—

(i) by striking "major system" and inserting "major defense acquisition program"; and

(ii) by striking "the system" each place it appears and inserting "the program"; and

(D) in paragraph (1) of subsection (c)—

(i) by striking "major system" and inserting "major defense acquisition program"; and

(ii) by striking "2302(5)" and inserting "2430".

(2) Section 943 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 288) is amended—

(A) in subsection (b), by striking "major weapon system" and inserting "major defense acquisition program"; and

(B) in subsection (c)—

(i) by striking "major systems" and inserting "major defense acquisition programs"; and

(ii) by adding at the end the following: "In the case of the certification required by paragraph (2) of subsection (a) of such section, during the period prior to the completion of the first quadrennial roles and missions review required by section 118b of title 10, United States Code, the certification required by that paragraph shall be that the system is being executed by an entity with a relevant core competency as identified by the Secretary of Defense.".

**SEC. 814. CONFIGURATION STEERING BOARDS FOR COST CONTROL UNDER MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) CONFIGURATION STEERING BOARDS.—Each Secretary of a military department shall establish one or more boards (to be known as a "Configuration Steering Board") for the major defense acquisition programs of such department.

(b) COMPOSITION.—

(1) CHAIR.—Each Configuration Steering Board under this section shall be chaired by the service acquisition executive of the military department concerned.

(2) PARTICULAR MEMBERS.—Each Configuration Steering Board under this section shall include a representative of the following:

(A) The Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(B) The Chief of Staff of the Armed Force concerned.

(C) Other Armed Forces, as appropriate.

(D) The Joint Staff.

(E) The Comptroller of the military department concerned.

(F) The military deputy to the service acquisition executive concerned.

(G) The program executive officer for the major defense acquisition program concerned.

(H) Other senior representatives of the Office of the Secretary of Defense and the military department concerned, as appropriate.

(c) RESPONSIBILITIES.—

(1) IN GENERAL.—The Configuration Steering Board for a major defense acquisition program under this section shall be responsible for the following:

(A) Preventing unnecessary changes to program requirements and system configuration that could have an adverse impact on program cost or schedule.

(B) Mitigating the adverse cost and schedule impact of any changes to program requirements or system configuration that may be required.

(C) Ensuring that the program delivers as much planned capability as possible, at or below the relevant program baseline.

(2) DISCHARGE OF RESPONSIBILITIES.—In discharging its responsibilities under this section with respect to a major defense acquisition program, a Configuration Steering Board shall—

(A) review and approve or disapprove any proposed changes to program requirements or system configuration that have the potential to adversely impact program cost or schedule; and

(B) review and recommend proposals to reduce program requirements that have the potential to improve program cost or schedule in a manner consistent with program objectives.

(3) PRESENTATION OF RECOMMENDATIONS ON REDUCTION IN REQUIREMENTS.—Any recommendation for a proposed reduction in requirements that is made by a Configuration Steering Board under paragraph (2)(B) shall be presented to appropriate organizations of the Joint Staff and the military departments responsible for such requirements for review and approval in accordance with applicable procedures.

(4) ANNUAL CONSIDERATION OF EACH MAJOR DEFENSE ACQUISITION PROGRAM.—The Secretary of the military department concerned shall ensure that a Configuration Steering Board under this section meets to consider each major defense acquisition program of such military department at least once each year.

(5) CERTIFICATION OF COST AND SCHEDULE DEVIATIONS DURING SYSTEM DESIGN AND DEVELOPMENT.—For a major defense acquisition program that received an initial Milestone B approval during fiscal year 2008, a Configuration Steering Board may not approve any proposed alteration to program requirements or system configuration if such an alteration would—

(A) increase the cost (including any increase for expected inflation or currency exchange rates) for system development and demonstration by more than 25 percent; or

(B) extend the schedule for key events by more than 15 percent of the total number of months between the award of the system development and demonstration contract and the scheduled Milestone C approval date,

unless the Under Secretary of Defense for Acquisition, Technology, and Logistics certifies to the congressional defense committees, and includes in the certification supporting rationale, that approving such alteration to program requirements or system configuration is in the best interest of the Department of Defense despite the cost and schedule impacts to system development and demonstration of such program.

(d) APPLICABILITY.—

(1) IN GENERAL.—The requirements of this section shall apply with respect to any major defense acquisition program that is commenced before, on, or after the date of the enactment of this Act.

Deadline.

(2) CURRENT PROGRAMS.—In the case of any major defense acquisition program that is ongoing as of the date of the enactment of this Act, a Configuration Steering Board under this section shall be established for such program not later than 60 days after the date of the enactment of this Act.

(e) GUIDANCE ON AUTHORITIES OF PROGRAM MANAGERS AFTER MILESTONE B.—

(1) MODIFICATION OF GUIDANCE ON AUTHORITIES.—Paragraph (2) of section 853(d) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2343) is amended to read as follows:

10 USC 2430 note.

"(2) authorities available to the program manager, including—

"(A) the authority to object to the addition of new program requirements that would be inconsistent with the parameters established at Milestone B (or Key Decision Point B in the case of a space program) and reflected in the performance agreement, unless such requirements are approved by the appropriate Configuration Steering Board; and

"(B) the authority to recommend to the appropriate Configuration Steering Board reduced program requirements that have the potential to improve program cost or schedule in a manner consistent with program objectives; and".

Deadline.

(2) APPLICABILITY.—The Secretary of Defense shall modify the guidance described in section 853(d) of the John Warner National Defense Authorization Act for Fiscal Year 2007 in order to take into account the amendment made by paragraph (1) not later than 60 days after the date of the enactment of this Act.

(f) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term "major defense acquisition program" has the meaning given that term in section 2430(a) of title 10, United States Code.

**SEC. 815. PRESERVATION OF TOOLING FOR MAJOR DEFENSE ACQUISITION PROGRAMS.**

Deadline.

(a) GUIDANCE REQUIRED.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance requiring the preservation and storage of unique

tooling associated with the production of hardware for a major defense acquisition program through the end of the service life of the end item associated with such a program. Such guidance shall—

(1) require that the milestone decision authority approve a plan, including the identification of any contract clauses, facilities, and funding required, for the preservation and storage of such tooling prior to Milestone C approval;

(2) require that the milestone decision authority periodically review the plan required by paragraph (1) prior to the end of the service life of the end item, to ensure that the preservation and storage of such tooling remains adequate and in the best interest of the Department of Defense;

(3) provide a mechanism for the Secretary to waive the requirement for preservation and storage of unique production tooling, or any category of unique production tooling, if the Secretary—

(A) makes a written determination that such a waiver is in the best interest of the Department of Defense; and Determination.

(B) notifies the congressional defense committees of the waiver upon making such determination; and Notification.

(4) provide such criteria as necessary to guide a determination made pursuant to paragraph (3)(A).

(b) DEFINITIONS.—In this section:

(1) MAJOR DEFENSE ACQUISITION PROGRAM.—The term "major defense acquisition program" has the meaning provided in section 2430 of title 10, United States Code.

(2) MILESTONE DECISION AUTHORITY.—The term "milestone decision authority" has the meaning provided in section 2366a(f)(2) of such title.

(3) MILESTONE C APPROVAL.—The term "Milestone C approval" has the meaning provided in section 2366(e)(8) of such title.

# Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

### SEC. 821. DEFINITION OF SYSTEM FOR DEFENSE ACQUISITION CHALLENGE PROGRAM.

Section 2359b of title 10, United States Code, is amended by adding at the end the following new subsection:

"(l) SYSTEM DEFINED.—In this section, the term 'system'—

"(1) means—

"(A) the organization of hardware, software, material, facilities, personnel, data, and services needed to perform a designated function with specified results (such as the gathering of specified data, its processing, and its delivery to users); or

"(B) a combination of two or more interrelated pieces (or sets) of equipment arranged in a functional package to perform an operational function or to satisfy a requirement; and

"(2) includes a major system (as defined in section 2302(5) of this title).".

**SEC. 822. TECHNICAL DATA RIGHTS.**

Deadline.

(a) POLICY GUIDANCE.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall issue policy guidance with respect to rights in technical data under a non-FAR agreement. The guidance shall—

(1) establish criteria for defining the legitimate interests of the United States and the party concerned in technical data pertaining to an item or process to be developed under the agreement;

(2) require that specific rights in technical data be established during agreement negotiations and be based upon negotiations between the United States and the potential party to the agreement, except in any case in which the Secretary of Defense determines, on the basis of criteria established in such policy guidance, that the establishment of rights during or through agreement negotiations would not be practicable; and

(3) require the program manager for a major weapon system or an item of personnel protective equipment that is to be developed using a non-FAR agreement to assess the long-term technical data needs of such system or item.

(b) REQUIREMENT TO INCLUDE PROVISIONS IN NON-FAR AGREEMENTS.—A non-FAR agreement shall contain appropriate provisions relating to rights in technical data consistent with the policy guidance issued pursuant to subsection (a).

(c) DEFINITIONS.—In this section:

(1) The term "non-FAR agreement" means an agreement that is not subject to laws pursuant to which the Federal Acquisition Regulation is prescribed, including—

(A) a transaction authorized under section 2371 of this title; and

(B) a cooperative research and development agreement.

(2) The term "party", with respect to a non-FAR agreement, means a non-Federal entity and includes any of the following:

(A) A contractor and its subcontractors (at any tier).

(B) A joint venture.

(C) A consortium.

(d) REPORT ON LIFE CYCLE PLANNING FOR TECHNICAL DATA NEEDS.—Not later than 270 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the requirements in section 2320(e) of title 10, United States Code, for the assessment of long-term technical data needs to sustain major weapon systems. Such report shall include—

(1) a description of all relevant guidance or policies issued;

(2) a description of the extent to which program managers have received training to better assess the long-term technical data needs of major weapon systems and subsystems; and

(3) a description of one or more examples, if any, where a priced contract option has been used on major weapon systems for the future delivery of technical data and one or more examples, if any, where all relevant technical data were acquired upon contract award.

**SEC. 823. REVISION TO THE APPLICATION OF COST ACCOUNTING STANDARDS.**

(a) REQUIREMENT FOR REVIEW OF EXEMPTIONS TO THE COST ACCOUNTING STANDARDS.—The Cost Accounting Standards Board shall—

(1) review the inapplicability of the cost accounting standards, in accordance with existing exemptions, to any contract or subcontract that is executed and performed outside the United States when such a contract or subcontract is performed by a contractor that, but for the fact that the contract or subcontract is being executed and performed entirely outside the United States, would be required to comply with such standards; and

(2) determine whether the application of the standards to such a contract or subcontract (or any category of such contracts and subcontracts) would benefit the Government.

(b) PUBLICATION OF REQUEST FOR INFORMATION.—The Cost Accounting Standards Board shall publish a request for information as part of the review required by subsection (a) and shall provide a copy of the request to the appropriate committees of Congress not less than five days before the publication of such request. Deadline.

(c) REPORT TO CONGRESS UPON COMPLETION OF THE REVIEW.—Not later than 270 days after the date of the enactment of this Act, the Cost Accounting Standards Board shall submit to the appropriate committees of Congress a report containing—

(1) any revision to the cost accounting standards proposed as a result of the review required by subsection (a) and a copy of any proposed rulemaking implementing the revision; or

(2) if no revision and rulemaking are proposed, a detailed justification for such decision.

(d) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means the Committees on Armed Services of the Senate and of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Government Reform of the House of Representatives.

(2) The term "cost accounting standards" means the standards promulgated under section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422).

(3) The term "Cost Accounting Standards Board" means the Board established pursuant to section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422).

**SEC. 824. MODIFICATION AND EXTENSION OF PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS UNDER AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.**

(a) EXPANSION OF SCOPE OF PILOT PROGRAM.—Paragraph (1) of section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended by striking "under prototype projects carried out under this section" and inserting "developed under prototype projects carried out under this section or research projects carried out pursuant to section 2371 of title 10, United States Code".

(b) TWO-YEAR EXTENSION OF AUTHORITY.—Paragraph (4) of such section is amended by striking "September 30, 2008" and inserting "September 30, 2010".

**SEC. 825. CLARIFICATION OF STATUS OF GOVERNMENT RIGHTS IN THE DESIGNS OF DEPARTMENT OF DEFENSE VESSELS, BOATS, CRAFT, AND COMPONENTS THEREOF.**

(a) IN GENERAL.—Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 7317. Status of Government rights in the designs of vessels, boats, and craft, and components thereof**

"(a) IN GENERAL.—Government rights in the design of a vessel, boat, or craft, and its components, including the hull, decks, superstructure, and all shipboard equipment and systems, shall be determined solely as follows:

"(1) In the case of a vessel, boat, craft, or component procured through a contract, in accordance with the provisions of section 2320 of this title.

"(2) In the case of a vessel, boat, craft, or component procured through an instrument not governed by section 2320 of this title, by the terms of the instrument (other than a contract) under which the design for such vessel, boat, craft, or component, as applicable, was developed for the Government.

"(b) CONSTRUCTION OF SUPERSEDING AUTHORITIES.—This section may be modified or superseded by a provision of statute only if such provision expressly refers to this section in modifying or superseding this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by adding at the end the following new item:

"7317. Status of Government rights in the designs of vessels, boats, and craft, and components thereof".

# Subtitle D—Provisions Relating to Acquisition Workforce and Inherently Governmental Functions

**SEC. 831. DEVELOPMENT OF GUIDANCE ON PERSONAL SERVICES CONTRACTS.**

Deadline.

(a) GUIDANCE REQUIRED.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall develop guidance related to personal services contracts to—

(1) require a clear distinction between employees of the Department of Defense and employees of Department of Defense contractors;

(2) provide appropriate safeguards with respect to when, where, and to what extent the Secretary may enter into a contract for the procurement of personal services; and

(3) assess and take steps to mitigate the risk that, as implemented and administered, non-personal services contracts may become personal services contracts.

(b) DEFINITION OF PERSONAL SERVICES CONTRACT.—In this section, the term "personal services contract" has the meaning given that term in section 2330a(g)(5) of title 10, United States Code.

**SEC. 832. SENSE OF CONGRESS ON PERFORMANCE BY PRIVATE SECURITY CONTRACTORS OF CERTAIN FUNCTIONS IN AN AREA OF COMBAT OPERATIONS.**

It is the sense of Congress that—

(1) security operations for the protection of resources (including people, information, equipment, and supplies) in uncontrolled or unpredictable high-threat environments should ordinarily be performed by members of the Armed Forces if they will be performed in highly hazardous public areas where the risks are uncertain and could reasonably be expected to require deadly force that is more likely to be initiated by personnel performing such security operations than to occur in self-defense;

(2) it should be in the sole discretion of the commander of the relevant combatant command to determine whether or not the performance by a private security contractor under a contract awarded by any Federal agency of a particular activity, a series of activities, or activities in a particular location, within a designated area of combat operations is appropriate and such a determination should not be delegated to any person who is not in the military chain of command;

(3) the Secretaries of the military departments and the Chiefs of Staff of the Armed Forces should ensure that the United States Armed Forces have appropriate numbers of trained personnel to perform the functions described in paragraph (1) without the need to rely upon private security contractors; and

(4) the regulations issued by the Secretary of Defense pursuant to section 862(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 254; 10 U.S.C. 2302 note) should ensure that private security contractors are not authorized to perform inherently governmental functions in an area of combat operations.

**SEC. 833. ACQUISITION WORKFORCE EXPEDITED HIRING AUTHORITY.**

Section 1705 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) EXPEDITED HIRING AUTHORITY.—

"(1) For purposes of sections 3304, 5333, and 5753 of title 5, United States Code, the Secretary of Defense may—

"(A) designate any category of acquisition positions within the Department of Defense as shortage category positions; and

"(B) utilize the authorities in such sections to recruit and appoint highly qualified persons directly to positions so designated.

"(2) The Secretary may not appoint a person to a position of employment under this subsection after September 30, 2012.". Termination date.

**SEC. 834. CAREER PATH AND OTHER REQUIREMENTS FOR MILITARY PERSONNEL IN THE ACQUISITION FIELD.**

(a) ACQUISITION PERSONNEL REQUIREMENTS.—

(1) IN GENERAL.—Chapter 87 of title 10, United States Code, is amended by inserting after section 1722 the following new section:

**"§ 1722a. Special requirements for military personnel in the acquisition field**

"(a) REQUIREMENT FOR POLICY AND GUIDANCE REGARDING MILITARY PERSONNEL IN ACQUISITION.—The Secretary of Defense shall require the Secretary of each military department (with respect to such military department) and the Under Secretary of Defense for Acquisition, Technology, and Logistics (with respect to the Office of the Secretary of Defense, the unified combatant commands, the Defense Agencies, and the Defense Field Activities) to establish policies and issue guidance to ensure the proper development, assignment, and employment of members of the armed forces in the acquisition field to achieve the objectives of this section as specified in subsection (b).

"(b) OBJECTIVES.—Policies established and guidance issued pursuant to subsection (a) shall ensure, at a minimum, the following:

"(1) A career path in the acquisition field that attracts the highest quality officers and enlisted personnel.

"(2) A number of command positions and senior noncommissioned officer positions, including acquisition billets reserved for general officers and flag officers under subsection (c), sufficient to ensure that members of the armed forces have opportunities for promotion and advancement in the acquisition field.

"(3) A number of qualified, trained members of the armed forces eligible for and active in the acquisition field sufficient to ensure the optimum management of the acquisition functions of the Department of Defense and the appropriate use of military personnel in contingency contracting.

"(c) RESERVATION OF ACQUISITION BILLETS FOR GENERAL OFFICERS AND FLAG OFFICERS.—(1) The Secretary of Defense shall—

"(A) establish for each military department a sufficient number of billets coded or classified for acquisition personnel that are reserved for general officers and flag officers that are needed for the purpose of ensuring the optimum management of the acquisition functions of the Department of Defense; and

"(B) ensure that the policies established and guidance issued pursuant to subsection (a) by the Secretary of each military department reserve at least that minimum number of billets and fill the billets with qualified and trained general officers and flag officers who have significant acquisition experience.

"(2) The Secretary of Defense shall ensure—

"(A) a sufficient number of billets for acquisition personnel who are general officers or flag officers exist within the Office of the Secretary of Defense, the unified combatant commands, the Defense Agencies, and the Defense Field Activities to ensure the optimum management of the acquisition functions of the Department of Defense; and

"(B) that the policies established and guidance issued pursuant to subsection (a) by the Secretary reserve within the Office of the Secretary of Defense, the unified combatant commands, the Defense Agencies, and the Defense Field Activities at least that minimum number of billets and fill the billets with qualified and trained general officers and flag officers who have significant acquisition experience.

"(3) The Secretary of Defense shall ensure that a portion of the billets referred to in paragraphs (1) and (2) involve command of organizations primarily focused on contracting and are reserved for general officers and flag officers who have significant contracting experience.

"(d) RELATIONSHIP TO LIMITATION ON PREFERENCE FOR MILITARY PERSONNEL.—Any designation or reservation of a position for a member of the armed forces as a result of a policy established or guidance issued pursuant to this section shall be deemed to meet the requirements for an exception under paragraph (2) of section 1722(b) of this title from the limitation in paragraph (1) of such section.

"(e) REPORT.—Not later than January 1 of each year, the Secretary of each military department shall submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report describing how the Secretary fulfilled the objectives of this section in the preceding calendar year. The report shall include information on the reservation of acquisition billets for general officers and flag officers within the department concerned.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 87 of such title is amended by inserting after the item relating to section 1722 the following new item:

"1722a. Special requirements for military personnel in the acquisition field.".

(b) ADDITIONAL ITEM IN STRATEGIC PLAN.—Section 543(f)(3)(E) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat 116) is amended by inserting after "officer assignments and grade requirements" the following: ", including requirements relating to the reservation of billets in the acquisition field for general and flag officers,".

(c) ANNUAL REPORT REQUIRED.—Not later than 270 days after the date of the enactment of this Act, and not later than March 1 of 2010, 2011, and 2012, the Secretary of Defense shall submit to the congressional defense committees a report on—

(1) the number acquisition and contracting billets in each of the Armed Forces and joint activities that are reserved for general officers and flag officers; and

(2) the extent to which these billets have been filled by general officers and flag officers with significant acquisition experience and significant contracting experience, as applicable.

# Subtitle E—Department of Defense Contractor Matters

### SEC. 841. ETHICS SAFEGUARDS RELATED TO CONTRACTOR CONFLICTS OF INTEREST.

(a) POLICY ON PERSONAL CONFLICTS OF INTEREST BY EMPLOYEES OF FEDERAL GOVERNMENT CONTRACTORS.—Not later than 270 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall develop and issue a standard policy to prevent personal conflicts of interest by contractor employees performing acquisition functions closely associated with inherently governmental functions (including the development, award, and administration of Government contracts) for or on behalf of a Federal agency or department. Deadline.

(1) ELEMENTS OF POLICY.—The policy required under subsection (a) shall—

(A) provide a definition of the term "personal conflict of interest" as it relates to contractor employees performing acquisition functions closely associated with inherently governmental functions; and

(B) require each contractor whose employees perform acquisition functions closely associated with inherently governmental functions to—

(i) identify and prevent personal conflicts of interest for employees of the contractor who are performing such functions;

(ii) prohibit contractor employees who have access to non-public government information obtained while performing such functions from using such information for personal gain;

(iii) report any personal conflict-of-interest violation by such an employee to the applicable contracting officer or contracting officer's representative as soon as it is identified;

(iv) maintain effective oversight to verify compliance with personal conflict-of-interest safeguards;

(v) have procedures in place to screen for potential conflicts of interest for all employees performing such functions; and

(vi) take appropriate disciplinary action in the case of employees who fail to comply with policies established pursuant to this section.

(2) CONTRACT CLAUSE.—

(A) The Administrator shall develop a personal conflicts-of-interest clause or a set of clauses for inclusion in solicitations and contracts (and task or delivery orders) for the performance of acquisition functions closely associated with inherently governmental functions that sets forth the personal conflicts-of-interest policy developed under this subsection and that sets forth the contractor's responsibilities under such policy.

Effective date. Applicability.

(B) Subparagraph (A) shall take effect 300 days after the date of the enactment of this Act and shall apply to—

(i) contracts entered into on or after that effective date; and

(ii) task or delivery orders awarded on or after that effective date, regardless of whether the contracts pursuant to which such task or delivery orders are awarded are entered before, on, or after the date of the enactment of this Act.

(3) APPLICABILITY.—

(A) Except as provided in subparagraph (B), this subsection shall apply to any contract for an amount in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) if the contract is for the performance of acquisition functions closely associated with inherently governmental functions.

(B) If only a portion of a contract described in subparagraph (A) is for the performance of acquisition functions

described in that subparagraph, then this subsection applies only to that portion of the contract.

(b) REVIEW OF FEDERAL ACQUISITION REGULATION RELATING TO CONFLICTS OF INTEREST.—

(1) REVIEW.—Not later than 12 months after the date of the enactment of this Act, the Administrator for Federal Procurement Policy, in consultation with the Director of the Office of Government Ethics, shall review the Federal Acquisition Regulation to— Deadline.

(A) identify contracting methods, types and services that raise heightened concerns for potential personal and organizational conflicts of interest; and

(B) determine whether revisions to the Federal Acquisition Regulation are necessary to—

(i) address personal conflicts of interest by contractor employees with respect to functions other than those described in subsection (a); or

(ii) achieve sufficiently rigorous, comprehensive, and uniform government-wide policies to prevent and mitigate organizational conflicts of interest in Federal contracting.

(2) REGULATORY REVISIONS.—If the Administrator determines pursuant to the review under paragraph (1)(B) that revisions to the Federal Acquisition Regulation are necessary, the Administrator shall work with the Federal Acquisition Regulatory Council to prescribe appropriate revisions to the regulations, including the development of appropriate contract clauses.

(3) REPORT.—Not later than March 1, 2010, the Administrator shall submit to the Committees on Armed Services of the Senate and House of Representatives, the Committee on Homeland Security and Governmental Affairs in the Senate, and the Committee on Oversight and Government Reform of the House of Representatives a report setting forth such findings and determinations under subparagraphs (A) and (B) of paragraph (1), together with an assessment of any revisions to the Federal Acquisition Regulation that may be necessary.

(c) BEST PRACTICES.—The Administrator for Federal Procurement Policy shall, in consultation with the Director of the Office Government Ethics, develop and maintain a repository of best practices relating to the prevention and mitigation of organizational and personal conflicts of interest in Federal contracting.

**SEC. 842. INFORMATION FOR DEPARTMENT OF DEFENSE CONTRACTOR EMPLOYEES ON THEIR WHISTLEBLOWER RIGHTS.**

(a) IN GENERAL.—The Secretary of Defense shall ensure that contractors of the Department of Defense inform their employees in writing of employee whistleblower rights and protections under section 2409 of title 10, United States Code, as implemented by subpart 3.9 of part I of title 48, Code of Federal Regulations.

(b) CONTRACTOR DEFINED.—In this section, the term "contractor" has the meaning given that term in section 2409(e)(4) of title 10, United States Code.

**SEC. 843. REQUIREMENT FOR DEPARTMENT OF DEFENSE TO ADOPT AN ACQUISITION STRATEGY FOR DEFENSE BASE ACT INSURANCE.**

(a) IN GENERAL.—The Secretary of Defense shall adopt an acquisition strategy for insurance required by the Defense Base Act (42 U.S.C. 1651 et seq.) which minimizes the cost of such insurance to the Department of Defense and to defense contractors subject to such Act.

(b) CRITERIA.—The Secretary shall ensure that the acquisition strategy adopted pursuant to subsection (a) addresses the following criteria:

(1) Minimize overhead costs associated with obtaining such insurance, such as direct or indirect costs for contract management and contract administration.

(2) Minimize costs for coverage of such insurance consistent with realistic assumptions regarding the likelihood of incurred claims by contractors of the Department.

(3) Provide for a correlation of premiums paid in relation to claims incurred that is modeled on best practices in government and industry for similar kinds of insurance.

(4) Provide for a low level of risk to the Department.

(5) Provide for a competitive marketplace for insurance required by the Defense Base Act to the maximum extent practicable.

(c) OPTIONS.—In adopting the acquisition strategy pursuant to subsection (a), the Secretary shall consider such options (including entering into a single Defense Base Act insurance contract) as the Secretary deems to best satisfy the criteria identified under subsection (b).

(d) REPORT.—(1) Not later than 270 days after the date of enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Government Reform of the House of Representatives a report on the acquisition strategy adopted pursuant to subsection (a).

(2) The report shall include a discussion of each of the options considered pursuant to subsection (c) and the extent to which each option addresses the criteria identified under subsection (b), and shall include a plan to implement within 18 months after the date of enactment of this Act the acquisition strategy adopted by the Secretary.

Deadline.

(e) REVIEW OF ACQUISITION STRATEGY.—As considered appropriate by the Secretary, but not less often than once every 3 years, the Secretary shall review and, as necessary, update the acquisition strategy adopted pursuant to subsection (a) to ensure that it best addresses the criteria identified under subsection (b).

**SEC. 844. REPORT ON USE OF OFF-SHORE SUBSIDIARIES BY DEFENSE CONTRACTORS.**

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall provide a report to the Committees on Armed Services of the Senate and the House of Representatives on the use of off-shore subsidiaries by contractors of the Department of Defense.

(b) MATTERS COVERED.—The report shall comprehensively examine the rationale, implications, and costs and benefits for both

the contractor and the Department of Defense in using off-shore subsidiaries, particularly in respect to—

(1) tax liability (including corporate income taxes and payroll taxes);

(2) legal liability;

(3) compliance with cost accounting standards;

(4) efficiency in contract performance;

(5) contract management and contract oversight; and

(6) such other areas as the Comptroller General determines appropriate.

**SEC. 845. DEFENSE INDUSTRIAL SECURITY.**

(a) DEFENSE INDUSTRIAL SECURITY.—

(1) IN GENERAL.—Subchapter I of chapter 21 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 438. Defense industrial security**

"(a) RESPONSIBILITY FOR DEFENSE INDUSTRIAL SECURITY.—The Secretary of Defense shall be responsible for the protection of classified information disclosed to contractors of the Department of Defense. Classified information.

"(b) CONSISTENCY WITH EXECUTIVE ORDERS AND DIRECTIVES.—The Secretary shall carry out the responsibility assigned under subsection (a) in a manner consistent with Executive Order 12829 (or any successor order to such executive order) and consistent with policies relating to the National Industrial Security Program (or any successor to such program).

"(c) PERFORMANCE OF INDUSTRIAL SECURITY FUNCTIONS FOR OTHER AGENCIES.—The Secretary may perform industrial security functions for other agencies of the Federal government upon request or upon designation of the Department of Defense as executive agent for the National Industrial Security Program (or any successor to such program).

"(d) REGULATIONS AND POLICY GUIDANCE.—The Secretary shall prescribe, and from time to time revise, such regulations and policy guidance as are necessary to ensure the protection of classified information disclosed to contractors of the Department of Defense.

"(e) DEDICATION OF RESOURCES.—The Secretary shall ensure that sufficient resources are provided to staff, train, and support such personnel as are necessary to fully protect classified information disclosed to contractors of the Department of Defense.

"(f) BIENNIAL REPORT.—The Secretary shall report biennially to the congressional defense committees on expenditures and activities of the Department of Defense in carrying out the requirements of this section. The Secretary shall submit the report at or about the same time that the President's budget is submitted pursuant to section 1105(a) of title 31, United States Code, in odd numbered years. The report shall be in an unclassified form (with a classified annex if necessary) and shall cover the activities of the Department of Defense in the preceding two fiscal years, including the following:

"(1) The workforce responsible for carrying out the requirements of this section, including the number and experience of such workforce; training in the performance of industrial security functions; performance metrics; and resulting assessment of overall quality.

"(2) A description of funds authorized, appropriated, or reprogrammed to carry out the requirements of this section, the budget execution of such funds, and the adequacy of budgets provided for performing such purpose.

"(3) Statistics on the number of contractors handling classified information of the Department of Defense, and the percentage of such contractors who are subject to foreign ownership, control, or influence.

"(4) Statistics on the number of violations identified, enforcement actions taken, and the percentage of such violations occurring at facilities of contractors subject to foreign ownership, control, or influence.

"(5) An assessment of whether major contractors implementing the program have adequate enforcement programs and have trained their employees adequately in the requirements of the program.

"(6) Trend data on attempts to compromise classified information disclosed to contractors of the Department of Defense to the extent that such data are available.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 21 of title 10, United States Code, is amended by adding at the end the following new item:

"438. Defense industrial security.".

(b) SUBMISSION OF FIRST BIENNIAL REPORT.—Notwithstanding the deadline in subsection (f) of section 438 of title 10, United States Code, as added by this section, the first biennial report submitted after the date of the enactment of this Act pursuant to such subsection shall be submitted not later than September 1, 2009, and shall address the period from the date of the enactment of this Act to the issuance of such report.

(c) REPORT ON IMPROVING INDUSTRIAL SECURITY.—Not later than March 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report on improving industrial security, including, at a minimum, the following:

(1) The actions taken or actions planned to implement the recommendations of the Comptroller General as embodied in the report entitled "Industrial Security: DOD Cannot Ensure Its Oversight of Contractors Under Foreign Influence Is Sufficient" (GAO-05-681; July 2005).

(2) Other actions taken or action planned to improve industrial security.

(3) An analysis of the impact of emerging financial arrangements such as sovereign wealth funds, hedge funds, and other new financial debt and credit arrangements on the Department's ability to identify and mitigate foreign ownership, control, or influence.

(4) Any recommendations of the Secretary for modifying regulations and policy guidance prescribed pursuant to section 438(d) of title 10, United States Code, or other regulations or policy guidance addressing industrial security, to extend best practices for industrial security across the broadest possible range of defense contractors, and to improve industrial security generally.

# Subtitle F—Matters Relating to Iraq and Afghanistan

### SEC. 851. CLARIFICATION AND MODIFICATION OF AUTHORITIES RELATING TO THE COMMISSION ON WARTIME CONTRACTING IN IRAQ AND AFGHANISTAN.

(a) NATURE OF COMMISSION.—Subsection (a) of section 841 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 230) is amended by inserting "in the legislative branch" after "There is hereby established".

(b) PAY AND ANNUITIES OF MEMBERS AND STAFF ON FEDERAL REEMPLOYMENT.—Subsection (e) of such is amended by adding at the end the following new paragraph:

"(8) PAY AND ANNUITIES OF MEMBERS AND STAFF ON FEDERAL REEMPLOYMENT.—If warranted by circumstances described in subparagraph (A) or (B) of section 8344(i)(1) of title 5, United States Code, or by circumstances described in subparagraph (A) or (B) of section 8468(f)(1) of such title, as applicable, a co-chairman of the Commission may exercise, with respect to the members and staff of the Commission, the same waiver authority as would be available to the Director of the Office of Personnel Management under such section.".

(c) EFFECTIVE DATE.—

(1) NATURE OF COMMISSION.—The amendment made by subsection (a) shall take effect as of January 28, 2008, as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2008.

(2) PAY AND ANNUITIES.—The amendment made by subsection (b) shall apply to members and staff of the Commission on Wartime Contracting in Iraq and Afghanistan appointed or employed, as the case may be, on or after that date. Applicability.

### SEC. 852. COMPREHENSIVE AUDIT OF SPARE PARTS PURCHASES AND DEPOT OVERHAUL AND MAINTENANCE OF EQUIPMENT FOR OPERATIONS IN IRAQ AND AFGHANISTAN.

(a) AUDITS REQUIRED.—The Army Audit Agency, the Navy Audit Service, and the Air Force Audit Agency shall each conduct thorough audits to identify potential waste, fraud, and abuse in the performance of the following:

(1) Department of Defense contracts, subcontracts, and task and delivery orders for—

(A) depot overhaul and maintenance of equipment for the military in Iraq and Afghanistan; and

(B) spare parts for military equipment used in Iraq and Afghanistan; and

(2) Department of Defense in-house overhaul and maintenance of military equipment used in Iraq and Afghanistan.

(b) COMPREHENSIVE AUDIT PLAN.—

(1) PLANS.—The Army Audit Agency, the Navy Audit Service, and the Air Force Audit Agency shall, in coordination with the Inspector General of the Department of Defense, develop a comprehensive plan for a series of audits to discharge the requirements of subsection (a).

(2) INCORPORATION INTO REQUIRED AUDIT PLAN.—The plan developed under paragraph (1) shall be submitted to the

Inspector General of the Department of Defense for incorporation into the audit plan required by section 842(b)(1) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 234; 10 U.S.C. 2302 note).

(c) INDEPENDENT CONDUCT OF AUDIT FUNCTIONS.—All audit functions performed under this section, including audit planning and coordination, shall be performed in an independent manner.

(d) AVAILABILITY OF RESULTS.—All audit reports resulting from audits under this section shall be made available to the Commission on Wartime Contracting in Iraq and Afghanistan established pursuant to section 841 of the National Defense Authorization Act for Fiscal Year 2008 (122 Stat. 230).

(e) CONSTRUCTION.—Nothing in this section shall be construed to require any agency of the Federal Government to duplicate audit work that an agency of the Federal Government has already performed.

**SEC. 853. ADDITIONAL MATTERS REQUIRED TO BE REPORTED BY CONTRACTORS PERFORMING SECURITY FUNCTIONS IN AREAS OF COMBAT OPERATIONS.**

Section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 254; 10 U.S.C. 2302 note) is amended—

(1) in subsection (a)(2)(D)—

(A) by striking "or" at the end of clause (ii); and

(B) by inserting after clause (iii) the following new clauses:

"(iv) a weapon is discharged against personnel performing private security functions in an area of combat operations or personnel performing such functions believe a weapon was so discharged; or

"(v) active, non-lethal countermeasures (other than the discharge of a weapon) are employed by the personnel performing private security functions in an area of combat operations in response to a perceived immediate threat to such personnel;"; and

(2) in subsection (b)(2)(B) in the matter preceding clause (i)—

(A) by inserting "comply with and" before "ensure"; and

(B) by striking "comply with—" and inserting "act in accordance with—".

**SEC. 854. ADDITIONAL CONTRACTOR REQUIREMENTS AND RESPONSIBILITIES RELATING TO ALLEGED CRIMES BY OR AGAINST CONTRACTOR PERSONNEL IN IRAQ AND AFGHANISTAN.**

(a) IN GENERAL.—Section 861(b) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 253; 10 U.S.C. 2302 note) is amended by adding the following new paragraphs:

"(7) Mechanisms for ensuring that contractors are required to report offenses described in paragraph (6) that are alleged to have been committed by or against contractor personnel to appropriate investigative authorities.

"(8) Responsibility for providing victim and witness protection and assistance to contractor personnel in connection with alleged offenses described in paragraph (6).

"(9) Development of a requirement that a contractor shall provide to all contractor personnel who will perform work on a contract in Iraq or Afghanistan, before beginning such work, information on the following:

"(A) How and where to report an alleged offense described in paragraph (6).

"(B) Where to seek the assistance required by paragraph (8).".

(b) IMPLEMENTATION.—

(1) THROUGH MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding required by section 861(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 253; 10 U.S.C. 2302 note) shall be modified to address the requirements under the amendment made by subsection (a) not later than 120 days after the date of the enactment of this Act. Deadline.

(2) AS CONDITION OF CURRENT AND FUTURE CONTRACTS.—The requirements under the amendment made by subsection (a) shall be included in each contract in Iraq or Afghanistan (as defined in section 864(a)(2) of Public Law 110–181; 2302 note) awarded on or after the date that is 180 days after the date of the enactment of this Act. Federal agencies shall make best efforts to provide for the inclusion of such requirements in covered contracts awarded before such date.

(c) REPORTING REQUIREMENT.—Beginning not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall make publicly available a numerical accounting of alleged offenses described in section 861(b)(6) of Public Law 110–181 that have been reported under that section that occurred after the date of the enactment of this Act. The information shall be updated no less frequently than semi-annually.

(d) DEFINITIONS.—Section 864(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 253; 10 U.S.C. 2302 note) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) CONTRACTOR PERSONNEL.—The term 'contractor personnel' means any person performing work under contract for the Department of Defense, the Department of State, or the United States Agency for International Development, in Iraq or Afghanistan, including individuals and subcontractors at any tier.".

**SEC. 855. SUSPENSION OF STATUTES OF LIMITATIONS WHEN CONGRESS AUTHORIZES THE USE OF MILITARY FORCE.**

Section 3287 of title 18, United States Code, is amended—

(1) by inserting "or Congress has enacted a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b))," after "is at war";

(2) by inserting "or directly connected with or related to the authorized use of the Armed Forces" after "prosecution of the war";

(3) by striking "three years" and inserting "5 years";

(4) by striking "proclaimed by the President" and inserting "proclaimed by a Presidential proclamation, with notice to Congress,"; and

(5) by adding at the end the following: "For purposes of applying such definitions in this section, the term 'war' includes a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)).".

Clean Contracting Act of 2008.

# Subtitle G—Governmentwide Acquisition Improvements

**SEC. 861. SHORT TITLE.**

This subtitle may be cited as the "Clean Contracting Act of 2008".

**SEC. 862. LIMITATION ON LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.**

(a) CIVILIAN AGENCY CONTRACTS.—Section 303(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(d)) is amended by adding at the end the following new paragraph:

"(3)(A) The contract period of a contract described in subparagraph (B) that is entered into by an executive agency pursuant to the authority provided under subsection (c)(2)—

"(i) may not exceed the time necessary—

"(I) to meet the unusual and compelling requirements of the work to be performed under the contract; and

"(II) for the executive agency to enter into another contract for the required goods or services through the use of competitive procedures; and

"(ii) may not exceed one year unless the head of the executive agency entering into such contract determines that exceptional circumstances apply.

Applicability.

"(B) This paragraph applies to any contract in an amount greater than the simplified acquisition threshold.".

(b) DEFENSE CONTRACTS.—Section 2304(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) The contract period of a contract described in subparagraph (B) that is entered into by an agency pursuant to the authority provided under subsection (c)(2)—

"(i) may not exceed the time necessary—

"(I) to meet the unusual and compelling requirements of the work to be performed under the contract; and

"(II) for the agency to enter into another contract for the required goods or services through the use of competitive procedures; and

"(ii) may not exceed one year unless the head of the agency entering into such contract determines that exceptional circumstances apply.

Applicability.

"(B) This paragraph applies to any contract in an amount greater than the simplified acquisition threshold.".

**SEC. 863. REQUIREMENTS FOR PURCHASE OF PROPERTY AND SERVICES PURSUANT TO MULTIPLE AWARD CONTRACTS.**

(a) REGULATIONS REQUIRED.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to require enhanced competition in the purchase of property and services by all executive agencies pursuant to multiple award contracts. Deadline.

(b) CONTENT OF REGULATIONS.—

(1) IN GENERAL.—The regulations required by subsection (a) shall provide, at a minimum, that each individual purchase of property or services in excess of the simplified acquisition threshold that is made under a multiple award contract shall be made on a competitive basis unless a contracting officer—

(A) waives the requirement on the basis of a determination that—

(i) one of the circumstances described in paragraphs (1) through (4) of section 303J(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253j(b)) or section 2304c(b) of title 10, United States Code, applies to such individual purchase; or

(ii) a law expressly authorizes or requires that the purchase be made from a specified source; and

(B) justifies the determination in writing.

(2) COMPETITIVE BASIS PROCEDURES.—For purposes of this subsection, an individual purchase of property or services is made on a competitive basis only if it is made pursuant to procedures that—

(A) except as provided in paragraph (3), require fair notice of the intent to make that purchase (including a description of the work to be performed and the basis on which the selection will be made) to be provided to all contractors offering such property or services under the multiple award contract; and

(B) afford all contractors responding to the notice a fair opportunity to make an offer and have that offer fairly considered by the official making the purchase.

(3) EXCEPTION TO NOTICE REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding paragraph (2), and subject to subparagraph (B), notice may be provided to fewer than all contractors offering such property or services under a multiple award contract as described in subsection (d)(2)(A) if notice is provided to as many contractors as practicable.

(B) LIMITATION ON EXCEPTION.—A purchase may not be made pursuant to a notice that is provided to fewer than all contractors under subparagraph (A) unless—

(i) offers were received from at least 3 qualified contractors; or

(ii) a contracting officer of the executive agency determines in writing that no additional qualified contractors were able to be identified despite reasonable efforts to do so.

(c) PUBLIC NOTICE REQUIREMENTS RELATED TO SOLE SOURCE TASK OR DELIVERY ORDERS.—

Deadline.

(1) PUBLIC NOTICE REQUIRED.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to require the head of each executive agency to—

Publication.
Deadline.

(A) publish on FedBizOpps notice of all sole source task or delivery orders in excess of the simplified acquisition threshold that are placed against multiple award contracts not later than 14 days after such orders are placed, except in the event of extraordinary circumstances or classified orders; and

(B) disclose the determination required by subsection (b)(1) related to sole source task or delivery orders in excess of the simplified acquisition threshold placed against multiple award contracts through the same mechanism and to the same extent as the disclosure of documents containing a justification and approval required by section 2304(f)(1) of title 10, United States Code, and section 303(f)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)), except in the event of extraordinary circumstances or classified orders.

(2) EXEMPTION.—This subsection does not require the public availability of information that is exempt from public disclosure under section 552(b) of title 5, United States Code.

(d) DEFINITIONS.—In this section:

(1) The term "executive agency" has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(2) The term "individual purchase" means a task order, delivery order, or other purchase.

(3) The term "multiple award contract" means—

(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of title 10, United States Code;

(B) a multiple award task order contract that is entered into under the authority of sections 2304a through 2304d of title 10, United States Code, or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

(C) any other indefinite delivery, indefinite quantity contract that is entered into by the head of an executive agency with 2 or more sources pursuant to the same solicitation.

(4) The term "sole source task or delivery order" means any order that does not follow the competitive procedures in subsection (b)(2) or (b)(3).

(e) APPLICABILITY.—The regulations required by subsection (a) shall apply to all individual purchases of property or services that are made under multiple award contracts on or after the effective date of such regulations, without regard to whether the multiple award contracts were entered into before, on, or after such effective date.

(f) REPEAL OF REDUNDANT PROVISION.—Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2304 note) is repealed.

**SEC. 864. REGULATIONS ON THE USE OF COST-REIMBURSEMENT CONTRACTS.**

(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to address the use of cost-reimbursement contracts. Deadline.

(b) CONTENT.—The regulations promulgated under subsection (a) shall include, at a minimum, guidance regarding—

(1) when and under what circumstances cost-reimbursement contracts are appropriate;

(2) the acquisition plan findings necessary to support a decision to use cost-reimbursement contracts; and

(3) the acquisition workforce resources necessary to award and manage cost-reimbursement contracts.

(c) INSPECTOR GENERAL REVIEW.—Not later than one year after the regulations required by subsection (a) are promulgated, the Inspector General for each executive agency shall review the use of cost-reimbursement contracts by such agency for compliance with such regulations and shall include the results of the review in the Inspector General's next semiannual report. Deadline.

(d) REPORT.—Subject to subsection (f), the Director of the Office of Management and Budget shall submit an annual report to Congressional committees identified in subsection (e) on the use of cost-reimbursement contracts and task or delivery orders by all executive agencies. The report shall be submitted no later than March 1 and shall cover the fiscal year ending September 30 of the prior year. The report shall include—

(1) the total number and value of contracts awarded and orders issued during the covered fiscal year;

(2) the total number and value of cost-reimbursement contracts awarded and orders issued during the covered fiscal year; and

(3) an assessment of the effectiveness of the regulations promulgated pursuant to subsection (a) in ensuring the appropriate use of cost-reimbursement contracts.

(e) CONGRESSIONAL COMMITTEES DEFINED.—The report required by subsection (d) shall be submitted to the Committee on Oversight and Government Reform of the House of Representatives; the Committee on Homeland Security and Governmental Affairs of the Senate; the Committees on Appropriations of the House of Representatives and the Senate; and, in the case of the Department of Defense and the Department of Energy, the Committees on Armed Services of the Senate and the House of Representatives.

(f) REQUIREMENTS LIMITED TO CERTAIN AGENCIES AND YEARS.—

(1) AGENCIES.—The requirement in subsection (c) shall apply only to those executive agencies that awarded contracts or issued orders (under contracts previously awarded) in a total amount of at least $1,000,000,000 in the fiscal year proceeding the fiscal year in which the assessments and reports are submitted. Applicability.

(2) YEARS.—The report required by subsection (d) shall be submitted from March 1, 2009, until March 1, 2014. Time period.

(g) EXECUTIVE AGENCY DEFINED.—In this section, the term "executive agency" has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

**SEC. 865. PREVENTING ABUSE OF INTERAGENCY CONTRACTS.**

(a) OFFICE OF MANAGEMENT AND BUDGET POLICY GUIDANCE.—

(1) REPORT AND GUIDELINES.—Not later than one year after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(A) submit to Congress a comprehensive report on interagency acquisitions, including their frequency of use, management controls, cost-effectiveness, and savings generated; and

(B) issue guidelines to assist the heads of executive agencies in improving the management of interagency acquisitions.

(2) MATTERS COVERED BY GUIDELINES.—For purposes of paragraph (1)(B), the Director shall include guidelines on the following matters:

(A) Procedures for the use of interagency acquisitions to maximize competition, deliver best value to executive agencies, and minimize waste, fraud, and abuse.

(B) Categories of contracting inappropriate for interagency acquisition.

(C) Requirements for training acquisition workforce personnel in the proper use of interagency acquisitions.

(b) REGULATIONS REQUIRED.—

Deadline. (1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to require that all interagency acquisitions—

(A) include a written agreement between the requesting agency and the servicing agency assigning responsibility for the administration and management of the contract;

(B) include a determination that an interagency acquisition is the best procurement alternative; and

(C) include sufficient documentation to ensure an adequate audit.

Deadline. (2) MULTI-AGENCY CONTRACTS.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to require any multi-agency contract entered into by an executive agency after the effective date of such regulations to be supported by a business case analysis detailing the administration of such contract, including an analysis of all direct and indirect costs to the Federal Government of awarding and administering such contract and the impact such contract will have on the ability of the Federal Government to leverage its purchasing power.

(c) AGENCY REPORTING REQUIREMENT.—The senior procurement executive for each executive agency shall, as directed by the Director of the Office of Management and Budget, submit to the Director annual reports on the actions taken by the executive agency pursuant to the guidelines issued under subsection (a).

(d) DEFINITIONS.—In this section:

(1) The term "executive agency" has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)), except that, in the case of a military department, it means the Department of Defense.

(2) The term "head of executive agency" means the head of an executive agency except that, in the case of a military department, the term means the Secretary of Defense.

(3) The term "interagency acquisition" means a procedure by which an executive agency needing supplies or services (the requesting agency) obtains them from another executive agency (the servicing agency). The term includes acquisitions under section 1535 of title 31, United States Code (commonly referred to as the "Economy Act"), Federal Supply Schedules above $500,000, and Governmentwide acquisition contracts.

(4) The term "multi-agency contract" means a task or delivery order contract established for use by more than one executive agency to obtain supplies and services, consistent with section 1535 of title 31, United States Code (commonly referred to as the "Economy Act").

**SEC. 866. LIMITATIONS ON TIERING OF SUBCONTRACTORS.**

(a) REGULATIONS.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended, for executive agencies other than the Department of Defense, to minimize the excessive use by contractors of subcontractors, or of tiers of subcontractors, that add no or negligible value, and to ensure that neither a contractor nor a subcontractor receives indirect costs or profit on work performed by a lower-tier subcontractor to which the higher-tier contractor or subcontractor adds no, or negligible, value (but not to limit charges for indirect costs and profit based on the direct costs of managing lower-tier subcontracts). Deadline.

(b) COVERED CONTRACTS.—This section applies to any cost-reimbursement type contract or task or delivery order in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the ability of the Department of Defense to implement more restrictive limitations on the tiering of subcontractors.

(d) APPLICABILITY.—The Department of Defense shall continue to be subject to guidance on limitations on tiering of subcontractors issued by the Department pursuant to section 852 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2340).

(e) EXECUTIVE AGENCY DEFINED.—In this section, the term "executive agency" has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

**SEC. 867. LINKING OF AWARD AND INCENTIVE FEES TO ACQUISITION OUTCOMES.**

(a) GUIDANCE FOR EXECUTIVE AGENCIES ON LINKING OF AWARD AND INCENTIVE FEES TO ACQUISITION OUTCOMES.—Not later than 1 year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to provide executive agencies other than the Department of Defense with instructions, including definitions, on the appropriate use of award and incentive fees in Federal acquisition programs. Deadline. Regulations.

(b) ELEMENTS.—The regulations under subsection (a) shall—

(1) ensure that all new contracts using award fees link such fees to acquisition outcomes (which shall be defined in terms of program cost, schedule, and performance);

(2) establish standards for identifying the appropriate level of officials authorized to approve the use of award and incentive fees in new contracts;

(3) provide guidance on the circumstances in which contractor performance may be judged to be "excellent" or "superior" and the percentage of the available award fee which contractors should be paid for such performance;

(4) establish standards for determining the percentage of the available award fee, if any, which contractors should be paid for performance that is judged to be "acceptable", "average", "expected", "good", or "satisfactory";

(5) ensure that no award fee may be paid for contractor performance that is judged to be below satisfactory performance or performance that does not meet the basic requirements of the contract;

(6) provide specific direction on the circumstances, if any, in which it may be appropriate to roll over award fees that are not earned in one award fee period to a subsequent award fee period or periods;

(7) ensure consistent use of guidelines and definitions relating to award and incentive fees across the Federal Government;

(8) ensure that each executive agency—

(A) collects relevant data on award and incentive fees paid to contractors; and

(B) has mechanisms in place to evaluate such data on a regular basis;

(9) include performance measures to evaluate the effectiveness of award and incentive fees as a tool for improving contractor performance and achieving desired program outcomes; and

(10) provide mechanisms for sharing proven incentive strategies for the acquisition of different types of products and services among contracting and program management officials.

(c) GUIDANCE FOR DEPARTMENT OF DEFENSE.—The Department of Defense shall continue to be subject to guidance on award and incentive fees issued by the Secretary of Defense pursuant to section 814 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2321).

(d) EXECUTIVE AGENCY DEFINED.—In this section, the term "executive agency" has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

**SEC. 868. MINIMIZING ABUSE OF COMMERCIAL SERVICES ITEM AUTHORITY.**

Deadline.

(a) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended with respect to the procurement of commercial services.

(b) APPLICABILITY OF COMMERCIAL PROCEDURES.—

(1) SERVICES OF A TYPE SOLD IN MARKETPLACE.—The regulations modified pursuant to subsection (a) shall ensure that services that are not offered and sold competitively in substantial quantities in the commercial marketplace, but are of a type offered and sold competitively in substantial quantities

in the commercial marketplace, may be treated as commercial items for purposes of section 254b of title 41, United States Code (relating to truth in negotiations), only if the contracting officer determines in writing that the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such services.

(2) INFORMATION SUBMITTED.—To the extent necessary to make a determination under paragraph (1), the contracting officer may request the offeror to submit—

(A) prices paid for the same or similar commercial items under comparable terms and conditions by both government and commercial customers; and

(B) if the contracting officer determines that the information described in subparagraph (A) is not sufficient to determine the reasonableness of price, other relevant information regarding the basis for price or cost, including information on labor costs, material costs, and overhead rates.

**SEC. 869. ACQUISITION WORKFORCE DEVELOPMENT STRATEGIC PLAN.**

(a) PURPOSE.—The purpose of this section is to authorize the preparation and completion of a plan (to be known as the "Acquisition Workforce Development Strategic Plan") for Federal agencies other than the Department of Defense to develop a specific and actionable 5-year plan to increase the size of the acquisition workforce, and to operate a government-wide acquisition intern program, for such Federal agencies.

(b) ESTABLISHMENT OF PLAN.—The Associate Administrator for Acquisition Workforce Programs designated under section 855(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 251; 41 U.S.C. 433(a)) shall be responsible for the management, oversight, and administration of the Acquisition Workforce Development Strategic Plan in cooperation and consultation with the Office of Federal Procurement Policy and the assistance of the Federal Acquisition Institute.

(c) CRITERIA.—The Acquisition Workforce Development Strategic Plan shall include, at a minimum, an examination of the following matters:

(1) The variety and complexity of acquisitions conducted by each Federal agency covered by the plan, and the workforce needed to effectively carry out such acquisitions.

(2) The development of a sustainable funding model to support efforts to hire, retain, and train an acquisition workforce of appropriate size and skill to effectively carry out the acquisition programs of the Federal agencies covered by the plan, including an examination of interagency funding methods and a discussion of how the model of the Defense Acquisition Workforce Development Fund could be applied to civilian agencies.

(3) Any strategic human capital planning necessary to hire, retain, and train an acquisition workforce of appropriate size and skill at each Federal agency covered by the plan.

(4) Methodologies that Federal agencies covered by the plan can use to project future acquisition workforce personnel hiring requirements, including an appropriate distribution of such personnel across each category of positions designated

as acquisition workforce personnel under section 37(j) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(j)).

(5) Government-wide training standards and certification requirements necessary to enhance the mobility and career opportunities of the Federal acquisition workforce within the Federal agencies covered by the plan.

(6) If the Associate Administrator recommends as part of the plan a growth in the acquisition workforce of the Federal agencies covered by the plan below 25 percent over the next 5 years, an examination of each of the matters specified in paragraphs (1) through (5) in the context of a 5-year plan that increases the size of such acquisition workforce by not less than 25 percent, or an explanation why such a level of growth would not be in the best interest of the Federal Government.

(d) DEADLINE FOR COMPLETION.—The Acquisition Workforce Development Strategic Plan shall be completed not later than one year after the date of the enactment of this Act and in a fashion that allows for immediate implementation of its recommendations and guidelines.

(e) FUNDS.—The Acquisition Workforce Development Strategic Plan shall be funded from the Acquisition Workforce Training Fund under section 37(h)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(h)(3)).

**SEC. 870. CONTINGENCY CONTRACTING CORPS.**

(a) ESTABLISHMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

**"SEC. 44. CONTINGENCY CONTRACTING CORPS.**

"(a) ESTABLISHMENT.—The Administrator of General Services, pursuant to policies established by the Office of Management and Budget, and in consultation with the Secretary of Defense and the Secretary of Homeland Security, shall establish a Government-wide Contingency Contracting Corps (in this section referred to as the 'Corps'). The members of the Corps shall be available for deployment in responding to an emergency or major disaster, or a contingency operation, both within or outside the continental United States.

"(b) APPLICABILITY.—The authorities provided in this section apply with respect to any procurement of property or services by or for an executive agency that, as determined by the head of such executive agency, are to be used—

"(1) in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code; or

"(2) to respond to an emergency or major disaster as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

"(c) MEMBERSHIP.—Membership in the Corps shall be voluntary and open to all Federal employees and members of the Armed Forces who are members of the Federal acquisition workforce.

"(d) EDUCATION AND TRAINING.—The Administrator may, in consultation with the Director of the Federal Acquisition Institute and the Chief Acquisition Officers Council, establish educational and training requirements for members of the Corps. Education and training carried out pursuant to such requirements shall be

paid for from funds available in the acquisition workforce training fund established pursuant to section 37(h)(3) of this Act.

"(e) SALARY.—The salary for a member of the Corps shall be paid—

"(1) in the case of a member of the Armed Forces, out of funds available to the Armed Force concerned; and

"(2) in the case of a Federal employee, out of funds available to the employing agency.

"(f) AUTHORITY TO DEPLOY THE CORPS.—(1) The Director of the Office of Management and Budget shall have the authority, upon request by an executive agency, to determine when members of the Corps shall be deployed, with the concurrence of the head of the agency or agencies employing the members to be deployed.

"(2) Nothing in this section shall preclude the Secretary of Defense or the Secretary's designee from deploying members of the Armed Forces or civilian personnel of the Department of Defense in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code.

"(g) ANNUAL REPORT.—

"(1) IN GENERAL.—The Administrator of General Services shall provide to the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate and the Committee on Oversight and Government Reform and the Committee on Armed Services of the House of Representatives an annual report on the status of the Contingency Contracting Corps as of September 30 of each fiscal year.

"(2) CONTENT.—At a minimum, each report under paragraph (1) shall include the number of members of the Contingency Contracting Corps, the total cost of operating the program, the number of deployments of members of the program, and the performance of members of the program in deployment.".

(b) CLERICAL AMENDMENT.—The table of contents for that Act (contained in section 1(b) of that Act) is amended by adding at the end the following new item:

"Sec. 44. Contingency Contracting Corps.".

**SEC. 871. ACCESS OF GOVERNMENT ACCOUNTABILITY OFFICE TO CONTRACTOR EMPLOYEES.**

(a) CIVILIAN AGENCIES.—Section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d) is amended in subsection (c)(1) by inserting before the period the following: "and to interview any current employee regarding such transactions".

(b) DEFENSE AGENCIES.—Section 2313 of title 10, United States Code, is amended in subsection (c)(1) by inserting before the period the following: "and to interview any current employee regarding such transactions".

**SEC. 872. DATABASE FOR FEDERAL AGENCY CONTRACT AND GRANT OFFICERS AND SUSPENSION AND DEBARMENT OFFICIALS.**

(a) IN GENERAL.—Subject to the authority, direction, and control of the Director of the Office of Management and Budget, the Administrator of General Services shall establish, not later than one year after the date of the enactment of this Act, and maintain a database of information regarding the integrity and performance

Deadline.

of certain persons awarded Federal agency contracts and grants for use by Federal agency officials having authority over contracts and grants.

(b) PERSONS COVERED.—The database shall cover the following:

(1) Any person awarded a Federal agency contract or grant in excess of $500,000, if any information described in subsection (c) exists with respect to such person.

(2) Any person awarded such other category or categories of Federal agency contract as the Federal Acquisition Regulation may provide, if such information exists with respect to such person.

(c) INFORMATION INCLUDED.—With respect to a covered person the database shall include information (in the form of a brief description) for the most recent 5-year period regarding the following:

(1) Each civil or criminal proceeding, or any administrative proceeding, in connection with the award or performance of a contract or grant with the Federal Government with respect to the person during the period to the extent that such proceeding results in the following dispositions:

(A) In a criminal proceeding, a conviction.

(B) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more.

(C) In an administrative proceeding, a finding of fault and liability that results in—

(i) the payment of a monetary fine or penalty of $5,000 or more; or

(ii) the payment of a reimbursement, restitution, or damages in excess of $100,000.

(D) To the maximum extent practicable and consistent with applicable laws and regulations, in a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the person if the proceeding could have led to any of the outcomes specified in subparagraph (A), (B), or (C).

(2) Each Federal contract and grant awarded to the person that was terminated in such period due to default.

(3) Each Federal suspension and debarment of the person in that period.

(4) Each Federal administrative agreement entered into by the person and the Federal Government in that period to resolve a suspension or debarment proceeding.

(5) Each final finding by a Federal official in that period that the person has been determined not to be a responsible source under subparagraph (C) or (D) of section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)).

(6) Such other information as shall be provided for purposes of this section in the Federal Acquisition Regulation.

(7) To the maximum extent practical, information similar to the information covered by paragraphs (1) through (4) in connection with the award or performance of a contract or grant with a State government.

(d) REQUIREMENTS RELATING TO INFORMATION IN DATABASE.—

(1) DIRECT INPUT AND UPDATE.—The Administrator shall design and maintain the database in a manner that allows the appropriate Federal agency officials to directly input and

update information in the database relating to actions such officials have taken with regard to contractors or grant recipients.

(2) TIMELINESS AND ACCURACY.—The Administrator shall develop policies to require—

(A) the timely and accurate input of information into the database;

(B) the timely notification of any covered person when information relevant to the person is entered into the database; and

(C) opportunities for any covered person to submit comments pertaining to information about such person for inclusion in the database.

(e) USE OF DATABASE.—

(1) AVAILABILITY TO GOVERNMENT OFFICIALS.—The Administrator shall ensure that the information in the database is available to appropriate acquisition officials of Federal agencies, to such other government officials as the Administrator determines appropriate, and, upon request, to the Chairman and Ranking Member of the committees of Congress having jurisdiction.

(2) REVIEW AND ASSESSMENT OF DATA.—

(A) IN GENERAL.—Before awarding a contract or grant in excess of the simplified acquisition threshold under section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), the Federal agency official responsible for awarding the contract or grant shall review the database and shall consider all information in the database with regard to any offer or proposal, and, in the case of a contract, shall consider other past performance information available with respect to the offeror in making any responsibility determination or past performance evaluation for such offeror.

(B) DOCUMENTATION IN CONTRACT FILE.—The contract file for each contract of a Federal agency in excess of the simplified acquisition threshold shall document the manner in which the material in the database was considered in any responsibility determination or past performance evaluation.

(f) DISCLOSURE IN APPLICATIONS.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to require that persons with Federal agency contracts and grants valued in total greater than $10,000,000 shall— Deadline.

(1) submit to the Administrator, in a manner determined appropriate by the Administrator, the information subject to inclusion in the database as listed in subsection (c) current as of the date of submittal of such information under this subsection; and

(2) update such information on a semiannual basis.

(g) RULEMAKING.—The Administrator shall promulgate such regulations as may be necessary to carry out this section.

**SEC. 873. ROLE OF INTERAGENCY COMMITTEE ON DEBARMENT AND SUSPENSION.** 31 USC 6101 note.

(a) REQUIREMENT.—The Interagency Committee on Debarment and Suspension shall—

(1) resolve issues regarding which of several Federal agencies is the lead agency having responsibility to initiate suspension or debarment proceedings;

(2) coordinate actions among interested agencies with respect to such action;

(3) encourage and assist Federal agencies in entering into cooperative efforts to pool resources and achieve operational efficiencies in the Governmentwide suspension and debarment system;

Recommendations.

(4) recommend to the Office of Management and Budget changes to Government suspension and debarment system and its rules, if such recommendations are approved by a majority of the Interagency Committee;

Guidelines.

(5) authorize the Office of Management and Budget to issue guidelines that implement those recommendations;

(6) authorize the chair of the Committee to establish subcommittees as appropriate to best enable the Interagency Committee to carry out its functions; and

Deadline. Reports.

(7) submit to Congress an annual report on—

(A) the progress and efforts to improve the suspension and debarment system;

(B) member agencies' active participation in the committee's work; and

(C) a summary of each agency's activities and accomplishments in the Governmentwide debarment system.

(b) DEFINITION.—The term "Interagency Committee on Debarment and Suspension" means such committee constituted under sections 4 and 5 and of Executive Order No. 12549.

**SEC. 874. IMPROVEMENTS TO THE FEDERAL PROCUREMENT DATA SYSTEM.**

41 USC 405 note. Deadline.

(a) ENHANCED TRANSPARENCY ON INTERAGENCY CONTRACTING AND OTHER TRANSACTIONS.—Not later than one year after the date of the enactment of this Act, the Director of the Office of Management and Budget shall direct appropriate revisions to the Federal Procurement Data System or any successor system to facilitate the collection of complete, timely, and reliable data on interagency contracting actions and on transactions other than contracts, grants, and cooperative agreements issued pursuant to section 2371 of title 10, United States Code, or similar authorities. The Director shall ensure that data, consistent with what is collected for contract actions, is obtained on—

(1) interagency contracting actions, including data at the task or delivery-order level; and

(2) other transactions, including the initial award and any subsequent modifications awarded or orders issued (other than transactions that are reported through the Federal Assistance Awards Data System).

(b) AMENDMENT.—Subsection (d) of section 19 of the Office of Federal Procurement Policy Act (41 U.S.C. 417(d)) is amended to read as follows:

"(d) TRANSMISSION AND DATA ENTRY OF INFORMATION.—The head of each executive agency shall ensure the accuracy of the information included in the record established and maintained by such agency under subsection (a) and shall transmit in a timely manner such information to the General Services Administration

for entry into the Federal Procurement Data System referred to in section 6(d)(4), or any successor system.".

(c) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Administrator of General Services shall submit to Congress a report.

(2) CONTENTS OF REPORT.—The report shall contain the following:

(A) A list of all databases that include information about Federal contracting and Federal grants.

(B) Recommendations for further legislation or administrative action that the Administrator considers appropriate to create a centralized, comprehensive Federal contracting and Federal grant database.

## Subtitle H—Other Matters

### SEC. 881. EXPANSION OF AUTHORITY TO RETAIN FEES FROM LICENSING OF INTELLECTUAL PROPERTY.

Section 2260 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or the Secretary of Homeland Security" after "Secretary of Defense"; and

(2) in subsection (f)—

(A) by striking "(f) DEFINITIONS.—In this section, the" and inserting the following:

"(f) DEFINITIONS.—In this section:

"(1) The"; and

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

"(2) The term 'Secretary concerned' has the meaning provided in section 101(a)(9) of this title and also includes—

"(A) the Secretary of Defense, with respect to matters concerning the Defense Agencies and Department of Defense Field Activities; and

"(B) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy.".

### SEC. 882. REPORT ON MARKET RESEARCH.

Not later than October 1, 2009, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of section 826 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 2377 note) and the amendments made by that section. The report shall address—

(1) actions taken by the Department of Defense to implement the amendments made by section 826(a) of such Act to section 2377 of title 10, United States Code, with a particular focus on—

(A) the guidance issued by the Department on the performance of market research;

(B) the market research being performed pursuant to such guidance; and

(C) the results of such guidance and market research;

(2) training tools the Secretary of Defense has developed to assist contracting officials in performing market research in accordance with section 826(b) of such Act;

(3) actions the Department of Defense intends to take to further implement such section 826 and the amendments made by that section, including dissemination of best practices and corrective actions where necessary; and

(4) such other matters as the Secretary considers appropriate.

**SEC. 883. REPORT RELATING TO MUNITIONS.**

Not later than March 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report detailing how 60mm and 81mm munitions used by the Armed Forces are procured, including, where relevant, an explanation of the decision to procure such munitions from non-domestic sources and the justification for awarding contracts to non-domestic sources.

10 USC 2302 note.

**SEC. 884. MOTOR CARRIER FUEL SURCHARGES.**

(a) PASS THROUGH TO COST BEARER.—The Secretary of Defense shall take appropriate actions to ensure that, to the maximum extent practicable, in all carriage contracts in which a fuel-related adjustment is provided for, any fuel-related adjustment is passed through to the person who bears the cost of the fuel that the adjustment relates to.

(b) USE OF CONTRACT CLAUSE.—The actions taken by the Secretary under subsection (a) shall include the insertion of a contract clause, with appropriate flow-down requirements, into all contracts with motor carriers, brokers, or freight forwarders providing or arranging truck transportation or services in which a fuel-related adjustment is provided for.

(c) DISCLOSURE.—The Secretary shall publicly disclose any decision by the Department of Defense to pay fuel-related adjustments under contracts (or a category of contracts) covered by this section.

(d) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall submit to the committees on Armed Services of the Senate and the House of Representatives a report on the actions taken in accordance with the requirements of subsection (a).

**SEC. 885. PROCUREMENT BY STATE AND LOCAL GOVERNMENTS OF EQUIPMENT FOR HOMELAND SECURITY AND EMERGENCY RESPONSE ACTIVITIES THROUGH THE DEPARTMENT OF DEFENSE.**

(a) EXPANSION OF PROCUREMENT AUTHORITY TO INCLUDE EQUIPMENT FOR HOMELAND SECURITY AND EMERGENCY RESPONSE ACTIVITIES.—

(1) PROCEDURES.—Subsection (a)(1) of section 381 of title 10, United States Code, is amended—

(A) in subsection (a)(1)—

(i) in the matter preceding subparagraph (A)—

(I) by striking "law enforcement"; and

(II) by inserting ", homeland security, and emergency response" after "counter-drug";

(ii) in subparagraph (A)—

(I) in the matter preceding clause (i), by inserting ", homeland security, or emergency response" after "counter-drug"; and

(II) in clause (i), by striking "law enforcement";

(iii) in subparagraph (C), by striking "law enforcement" each place it appears; and

(iv) in subparagraph (D), by striking "law enforcement".

(2) GSA CATALOG.—Subsection (c) of such section is amended—

(A) by striking "law enforcement"; and

(B) by inserting ", homeland security, and emergency response" after "counter-drug".

(3) DEFINITIONS.—Subsection (d) of such section is amended—

(A) in paragraph (2), by inserting "or emergency response" after "law enforcement" both places it appears; and

(B) in paragraph (3)—

(i) by striking "law enforcement";

(ii) by inserting ", homeland security, and emergency response" after "counter-drug"; and

(iii) by inserting "and, in the case of equipment for homeland security activities, may not include any equipment that is not found on the Authorized Equipment List published by the Department of Homeland Security" after "purposes".

(b) CLERICAL AMENDMENTS.—

(1) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

**"§ 381. Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities".**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 18 of such title is amended by striking the item relating to section 381 and inserting the following new item:

"381. Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities.".

**SEC. 886. REVIEW OF IMPACT OF COVERED SUBSIDIES ON ACQUISITION OF KC-45 AIRCRAFT.**

(a) REVIEW OF COVERED SUBSIDIES REQUIRED.—The Secretary of Defense, not later than 10 days after a ruling by the World Trade Organization that the United States, the European Union, or any political entity within the United States or the European Union, has provided a covered subsidy to a manufacturer of large commercial aircraft, shall begin a review, as described in subsection (b), of the impact of such covered subsidy on the source selection for the KC-45 Aerial Refueling Aircraft Program. Deadline.

(b) PERFORMANCE OF THE REVIEW.—In performing the review required by subsection (a), the Secretary of Defense shall consult with experts within the Department of Defense, the Office of Management and Budget, the Office of the United States Trade Representative, and other agencies and offices of the Federal Government, and with such other experts outside the Government as the Secretary considers appropriate, on the potential impact of a covered subsidy on the source selection process for the KC-45 Aerial Refueling Aircraft Program. Consultation.

Deadline.

(c) COMPLETION OF REVIEW.—The Secretary of Defense shall complete the review required by subsection (a) not later than 90 days after the World Trade Organization has completed ruling on all cases involving the allegation of a covered subsidy provided to a manufacturer of large commercial aircraft pending at the World Trade Organization as of the date of the enactment of this Act.

Recommendations.

(d) REPORT ON REVIEW.—Not later than 30 days after the completion of the review required by subsection (a), the Secretary of Defense shall provide a report to the congressional defense committees on the findings of the review, together with any recommendations the Secretary considers appropriate.

(e) DEFINITIONS.—In this section:

(1) The term "covered subsidy" means a subsidy found to constitute a violation of the Agreement on Subsidies and Countervailing Measures.

(2) The term "Agreement on Subsidies and Countervailing Measures" means the agreement described in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)).

(3) The term "source selection", with respect to a program of the Department of Defense, means the selection, through the use of competitive procedures or such other procurement procedures as may be applicable, of a contractor to perform a contract to carry out the program.

**SEC. 887. REPORT ON THE IMPLEMENTATION OF EARNED VALUE MANAGEMENT AT THE DEPARTMENT OF DEFENSE.**

(a) IN GENERAL.—The Secretary of Defense shall prepare a report on the implementation by the Department of Defense of earned value management. The report shall include, at a minimum, the following:

(1) A discussion of the regulations and guidance of the Department applicable to the use and implementation of earned value management.

(2) A discussion of the relative value of earned value management as a tool for program managers and senior Department officials.

(3) A discussion of specific challenges the Department faces in successfully using earned value management because of the nature of the culture, history, systems, and activities of the Department, particularly with regard to requirements and funding instability.

(4) A discussion of the methodology of the Department for earned value management implementation, including data quality issues, training, and information technology systems used to integrate and transmit earned value management data.

(5) An evaluation of the accuracy of the earned value management data provided by vendors to the Federal Government concerning acquisition categories I and II programs, with a discussion of the impact of this data on the ability of the Department to achieve program objectives.

(6) A description of the criteria used by the Department to evaluate the success of earned value management in delivering program objectives, with illustrative data and examples covering not less than three years.

(7) Recommendations for improving earned value management and its implementation within the Department, including a discussion of the merits of possible alternatives.

(b) SUBMISSION OF REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit the report required by subsection (a) to the Committees on Armed Services of the Senate and of the House of Representatives.

(c) DEFINITION.—In this section, the term "earned value management" has the meaning given that term in section 300 of part 7 of Office of Management and Budget Circular A-11 as published in June 2008.

# TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

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Sec. 902. Director of Operational Energy Plans and Programs.
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# Subtitle A—Department of Defense Management

### SEC. 901. PLAN REQUIRED FOR PERSONNEL MANAGEMENT OF SPECIAL OPERATIONS FORCES.

(a) REQUIREMENT FOR PLAN.—The commander of the special operations command, in consultation with the secretaries of the military departments, shall prepare and submit to the Secretary of Defense a plan relating to personnel management of special operations forces.

(b) MATTERS COVERED.—The plan under subsection (a) shall address the following:

(1) Coordination among the military departments in order to enhance the manpower management and improve overall readiness of special operations forces.

(2) Coordination by the commander of the special operations command with the Secretaries of the military departments in order to better execute his responsibility to maintain readiness of special operations forces, including in the areas of accessions, assignments, compensation, promotions, professional development, retention, sustainment, and training.

Deadline.

(c) SUBMISSION OF PLAN TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit the plan required under subsection (a) to the congressional defense committees, together with such additional comments as the Secretary and the Chairman of the Joint Chiefs of Staff consider appropriate.

### SEC. 902. DIRECTOR OF OPERATIONAL ENERGY PLANS AND PROGRAMS.

(a) ESTABLISHMENT OF POSITION; DUTIES.—Chapter 4 of title 10, United States Code, is amended by inserting after section 139a the following new section:

#### "§ 139b. Director of Operational Energy Plans and Programs

President.

"(a) APPOINTMENT.—There is a Director of Operational Energy Plans and Programs in the Department of Defense (in this section referred to as the 'Director'), appointed by the President, by and with the advice and consent of the Senate. The Director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the office of Director.

"(b) DUTIES.—The Director shall—

"(1) provide leadership and facilitate communication regarding, and conduct oversight to manage and be accountable for, operational energy plans and programs within the Department of Defense and the Army, Navy, Air Force, and Marine Corps;

"(2) establish the operational energy strategy;

"(3) coordinate and oversee planning and program activities of the Department of Defense and the Army, Navy, Air Force, and the Marine Corps related to—

"(A) implementation of the operational energy strategy;

"(B) the consideration of operational energy demands in defense planning, requirements, and acquisition processes; and

"(C) research and development investments related to operational energy demand and supply technologies; and

"(4) monitor and review all operational energy initiatives in the Department of Defense.

"(c) PRINCIPAL ADVISOR FOR OPERATIONAL ENERGY PLANS AND PROGRAMS.—(1) The Director is the principal adviser to the Secretary of Defense and the Deputy Secretary of Defense regarding operational energy plans and programs and the principal policy official within the senior management of the Department of Defense regarding operational energy plans and programs.

"(2) The Director may communicate views on matters related to operational energy plans and programs and the operational energy strategy required by subsection (d) directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense.

"(d) OPERATIONAL ENERGY STRATEGY.—(1) The Director shall be responsible for the establishment and maintenance of a department-wide transformational strategy for operational energy. The strategy shall establish near-term, mid-term, and long-term goals, performance metrics to measure progress in meeting the goals, and a plan for implementation of the strategy within the military departments, the Office of the Secretary of Defense, and Defense Agencies.

Deadline. Designation.

"(2) Not later than 90 days after the date on which the Director is first appointed, the Secretary of each of the military departments shall designate a senior official within each armed force under the jurisdiction of the Secretary who will be responsible for operational energy plans and programs for that armed force. The officials shall be responsible for coordinating with the Director and implementing initiatives pursuant to the strategy with regard to that official's armed force.

Procedures.

Consultation.

"(3) By authority of the Secretary of Defense, the Director shall prescribe policies and procedures for the implementation of the strategy. The Director shall provide guidance to, and consult with, the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the officials designated under paragraph (2) with respect to specific operational energy plans and programs to be carried out pursuant to the strategy.

Deadline.

"(4) The initial strategy shall be submitted to the congressional defense committees not later than 180 days after the date on which the Director is first appointed. Subsequent updates to the strategy shall be submitted to the congressional defense committees as soon as practicable after the modifications to the strategy are made.

Recommendations.

"(e) BUDGETARY AND FINANCIAL MATTERS.—(1) The Director shall review and make recommendations to the Secretary of Defense regarding all budgetary and financial matters relating to the operational energy strategy.

"(2) The Secretary of Defense shall require that the Secretary of each military department and the head of each Defense Agency with responsibility for executing activities associated with the strategy transmit their proposed budget for those activities for a fiscal year to the Director for review before submission of the proposed budget to the Under Secretary of Defense (Comptroller).

Deadline. Reports. Certification.

"(3) The Director shall review a proposed budget transmitted under paragraph (2) for a fiscal year and, not later than January 31 of the preceding fiscal year, shall submit to the Secretary of Defense a report containing the comments of the Director with respect to the proposed budget, together with the certification of the Director regarding whether the proposed budget is adequate for implementation of the strategy.

Deadline. Reports.

"(4) Not later than 10 days after the date on which the budget for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to Congress a report on the proposed budgets for that fiscal year that the Director has not certified under paragraph (3). The report shall include the following:

"(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

"(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

"(5) The report required by paragraph (4) shall also include a separate statement of estimated expenditures and requested appropriations for that fiscal year for the activities of the Director in carrying out the duties of the Director.

"(f) ACCESS TO INITIATIVE RESULTS AND RECORDS.—(1) The Secretary of a military department shall submit to the Director the results of all studies and initiatives conducted by the military department in connection with the operational energy strategy.

"(2) The Director shall have access to all records and data in the Department of Defense (including the records and data of each military department) necessary in order to permit the Director to carry out the duties of the Director.

"(g) STAFF.—The Director shall have a dedicated professional staff of military and civilian personnel in a number sufficient to enable the Director to carry out the duties and responsibilities of the Director.

"(h) DEFINITIONS.—In this section:

"(1) OPERATIONAL ENERGY.—The term 'operational energy' means the energy required for training, moving, and sustaining military forces and weapons platforms for military operations. The term includes energy used by tactical power systems and generators and weapons platforms.

"(2) OPERATIONAL ENERGY STRATEGY.—The terms 'operational energy strategy' and 'strategy' mean the operational energy strategy developed under subsection (d).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 139a the following new item:

"139b. Director of Operational Energy Plans and Programs.".

10 USC 2228 note.

**SEC. 903. CORROSION CONTROL AND PREVENTION EXECUTIVES FOR THE MILITARY DEPARTMENTS.**

Deadline.

(a) REQUIREMENT TO DESIGNATE CORROSION CONTROL AND PREVENTION EXECUTIVE.—Not later than 90 days after the date of the enactment of this Act, the Assistant Secretary of each military department with responsibility for acquisition, technology, and logistics shall designate an employee of the military department as the corrosion control and prevention executive. Such executive shall

be the senior official in the department with responsibility for coordinating department-level corrosion control and prevention program activities (including budget programming) with the military department and the Office of the Secretary of Defense, the program executive officers of the military departments, and relevant major subordinate commands of the military departments.

(b) DUTIES.—(1) The corrosion control and prevention executive of a military department shall ensure that corrosion control and prevention is maintained in the department's policy and guidance for management of each of the following:

(A) System acquisition and production, including design and maintenance.

(B) Research, development, test, and evaluation programs and activities.

(C) Equipment standardization programs, including international standardization agreements.

(D) Logistics research and development initiatives.

(E) Logistics support analysis as it relates to integrated logistic support in the materiel acquisition process.

(F) Military infrastructure design, construction, and maintenance.

(2) The corrosion control and prevention executive of a military department shall be responsible for identifying the funding levels necessary to accomplish the items listed in subparagraphs (A) through (F) of paragraph (1).

(3) The corrosion control and prevention executive of a military department shall, in cooperation with the appropriate staff of the department, develop, support, and provide the rationale for resources—

(A) to initiate and sustain an effective corrosion control and prevention program in the department;

(B) to evaluate the program's effectiveness; and

(C) to ensure that corrosion control and prevention requirements for materiel are reflected in budgeting and policies of the department for the formulation, management, and evaluation of personnel and programs for the entire department, including its reserve components.

(4) The corrosion control and prevention executive of a military department shall be the principal point of contact of the department to the Director of Corrosion Policy and Oversight (as assigned under section 2228 of title 10, United States Code).

Deadlines. Reports.

(5) The corrosion control and prevention executive of a military department shall submit an annual report, not later than December 31 of each year, to the Secretary of Defense containing recommendations pertaining to the corrosion control and prevention program of the military department, including corrosion-related funding levels to carry out all of the duties of the executive under this section.

**SEC. 904. PARTICIPATION OF DEPUTY CHIEF MANAGEMENT OFFICER OF THE DEPARTMENT OF DEFENSE ON DEFENSE BUSINESS SYSTEM MANAGEMENT COMMITTEE.**

(a) PARTICIPATION.—Subsection (a) of section 186 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Deputy Chief Management Officer of the Department of Defense."; and

(3) by striking paragraph (7), as redesignated by paragraph (1), and inserting the following new paragraph:

"(7) The Chief Management Officers of the military departments and the heads of such Defense Agencies as may be designated by the Secretary of Defense.".

(b) SERVICE AS VICE CHAIRMAN.—The second sentence of subsection (b) of such section is amended to read as follows: "The Deputy Chief Management Officer of the Department of Defense shall serve as the vice chairman of the Committee, and shall act as chairman in the absence of the Deputy Secretary of Defense.".

**SEC. 905. MODIFICATION OF STATUS OF ASSISTANT TO THE SECRETARY OF DEFENSE FOR NUCLEAR AND CHEMICAL AND BIOLOGICAL DEFENSE PROGRAMS.**

Section 142 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The Assistant to the Secretary shall be considered an Assistant Secretary of Defense for purposes of section 138(d) of this title.".

**SEC. 906. REQUIREMENT FOR THE SECRETARY OF DEFENSE TO PREPARE A STRATEGIC PLAN TO ENHANCE THE ROLE OF THE NATIONAL GUARD AND RESERVES.**

Deadline.

(a) PLAN.—Not later than April 1, 2009, the Secretary of Defense shall prepare a plan for enhancing the roles of the National Guard and Reserve—

(1) when federalized in the case of the National Guard, or activated in the case of the Reserves, in support of operations conducted under title 10, United States Code, including the transition of the reserve component of the Armed Forces from a strategic force to an operational reserve;

(2) in support of operations conducted under title 32, United States Code, or in support to civil authorities; and

(3) with respect to the achievement of a fully-integrated total force (including further development of a continuum of service).

(b) CONSULTATION.—In preparing the plan under subsection (a), the Secretary of Defense shall take into consideration the advice of the Chairman of the Joint Chiefs of Staff, the Secretary and Chief of Staff of the Army, the Secretary and Chief of Staff of the Air Force, the commander of the United States Northern Command, the Chief of the National Guard Bureau, and other appropriate officials, as determined by the Secretary of Defense.

(c) MATTERS TO BE ASSESSED.—In preparing the plan, the Secretary shall assess—

(1) the findings, conclusions, and recommendations of the Final Report to Congress and the Secretary of Defense of the Commission on the National Guard and Reserves, dated January 31, 2008, and titled "Transforming the National Guard and Reserves into a 21st-Century Operational Force"; and

(2) the provisions of H.R. 5603 and S. 2706 of the 110th Congress, as introduced on March 13, 2008 (the National Guard Empowerment and State-National Defense Integration Act of 2008).

(d) REPORT.—Not later than April 1, 2009, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the plan required under this section. The report shall include recommendations on—

(1) any changes to the current Department of Defense organization, structure, command relationships, budget authority, procurement authority, and compensation and benefits;

(2) any legislation that the Secretary considers necessary; and

(3) any other matter the Secretary considers appropriate.

**SEC. 907. GENERAL COUNSEL TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.**

Establishment.

Section 8 of the Inspector General Act of 1978 (50 U.S.C. App. 8) is amended by adding at the end the following new subsection:

5 USC app. 8.

"(h)(1) There is a General Counsel to the Inspector General of the Department of Defense, who shall be appointed by the Inspector General of the Department of Defense.

"(2)(A) Notwithstanding section 140(b) of title 10, United States Code, the General Counsel is the chief legal officer of the Office of the Inspector General.

"(B) The Inspector General is the exclusive legal client of the General Counsel.

"(C) The General Counsel shall perform such functions as the Inspector General may prescribe.

"(D) The General Counsel shall serve at the discretion of the Inspector General.

"(3) There is an Office of the General Counsel to the Inspector General of the Department of Defense. The Inspector General may appoint to the Office to serve as staff of the General Counsel such legal counsel as the Inspector General considers appropriate.".

**SEC. 908. BUSINESS TRANSFORMATION INITIATIVES FOR THE MILITARY DEPARTMENTS.**

10 USC 2222 note.

(a) IN GENERAL.—The Secretary of each military department shall, acting through the Chief Management Officer of such military department, carry out an initiative for the business transformation of such military department.

(b) OBJECTIVES.—The objectives of the business transformation initiative of a military department under this section shall include, at a minimum, the following:

(1) The development of a comprehensive business transformation plan, with measurable performance goals and objectives, to achieve an integrated management system for the business operations of the military department.

(2) The development of a well-defined enterprise-wide business systems architecture and transition plan encompassing end-to-end business processes and capable of providing accurately and timely information in support of business decisions of the military department.

(3) The implementation of the business transformation plan developed pursuant to paragraph (1) and the business systems architecture and transition plan developed pursuant to paragraph (2).

(c) BUSINESS TRANSFORMATION OFFICES.—

Deadline.

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of each military department shall establish within such military department an office (to be known as the "Office of Business Transformation" of such military department) to assist the Chief Management Officer of such military department in carrying out the initiative required by this section for such military department.

(2) HEAD.—The Office of Business Transformation of a military department under this subsection shall be headed by a Director of Business Transformation, who shall be appointed by the Chief Management Officer of the military department, in consultation with the Director of the Business Transformation Agency of the Department of Defense, from among individuals with significant experience managing large-scale organizations or business transformation efforts.

(3) SUPERVISION.—The Director of Business Transformation of a military department under paragraph (2) shall report directly to the Chief Management Officer of the military department, subject to policy guidance from the Director of the Business Transformation Agency of the Department of Defense.

(4) AUTHORITY.—In carrying out the initiative required by this section for a military department, the Director of Business Transformation of the military department under paragraph (2) shall have the authority to require elements of the military department to carry out actions that are within the purpose and scope of the initiative.

(d) RESPONSIBILITIES OF BUSINESS TRANSFORMATION OFFICES.—The Office of Business Transformation of a military department established pursuant to subsection (b) may be responsible for the following:

(1) Transforming the budget, finance, accounting, and human resource operations of the military department in a manner that is consistent with the business transformation plan developed pursuant to subsection (b)(1).

(2) Eliminating or replacing financial management systems of the military department that are inconsistent with the business systems architecture and transition plan developed pursuant to subsection (b)(2).

(3) Ensuring that the business transformation plan and the business systems architecture and transition plan are implemented in a manner that is aggressive, realistic, and accurately measured.

(4) Such other responsibilities as the Secretary of that military department determines are appropriate.

(e) REQUIRED ELEMENTS.—In carrying out the initiative required by this section for a military department, the Chief Management Officer and the Director of Business Transformation of the military department shall ensure that each element of the initiative is consistent with—

(1) the requirements of the Business Enterprise Architecture and Transition Plan developed by the Secretary of Defense pursuant to section 2222 of title 10, United States Code;

(2) the Standard Financial Information Structure of the Department of Defense;

(3) the Federal Financial Management Improvement Act of 1996 (and the amendments made by that Act); and

(4) other applicable requirements of law and regulation.

(f) REPORTS ON IMPLEMENTATION.—

(1) INITIAL REPORTS.—Not later than nine months after the date of the enactment of this Act, the Chief Management Officer of each military department shall submit to the congressional defense committees a report on the actions taken, and on the actions planned to be taken, by such military department to implement the requirements of this section.

(2) UPDATES.—Not later than March 1 of each of 2010, 2011, and 2012, the Chief Management Officer of each military department shall submit to the congressional defense committees a current update of the report submitted by such Chief Management Officer under paragraph (1).

# Subtitle B—Space Activities

### SEC. 911. EXTENSION OF AUTHORITY FOR PILOT PROGRAM FOR PROVISION OF SPACE SURVEILLANCE NETWORK SERVICES TO ENTITIES OUTSIDE UNITED STATES GOVERNMENT.

Section 2274(i) of title 10, United States Code, is amended by striking "September 30, 2009" and inserting "September 30, 2010".

### SEC. 912. INVESTMENT AND ACQUISITION STRATEGY FOR COMMERCIAL SATELLITE CAPABILITIES.

(a) REQUIREMENT.—The Secretary of Defense shall conduct an assessment to determine a recommended investment and acquisition strategy for commercial satellite capabilities.

(b) ELEMENTS.—The assessment required under subsection (a) shall include the following:

(1) Review of national and defense policy relevant to the requirements for, acquisition of, and use of commercial satellite capabilities, and the relationship with commercial satellite providers.

(2) Assessment of the manner in which commercial satellite capabilities are used by the Department of Defense and options for expanding such use or identifying new means to leverage commercial satellite capabilities, such as hosting payloads.

(3) Review of military requirements for satellite communications and remote sensing by quantity, quality, timeline, and any other metric considered appropriate.

(4) Description of current and planned commercial satellite capabilities and an assessment of their ability to meet the requirements identified in paragraph (3).

(5) Assessment of the ability of commercial satellite capabilities to meet other military requirements not identified in paragraph (3).

(6) Description of the use of and resources allocated to commercial satellite communications and remote sensing needed to meet the requirements identified in paragraph (3) during—

(A) the five-year period preceding the date of the assessment;

(B) the period from the date of the assessment through the fiscal years covered under the future-years defense

program under section 221 of title 10, United States Code; and

(C) the period beyond the fiscal years covered under the future-years defense program under such section 221.

(7) Assessment of purchasing patterns that may lead to recommendations in which the Department may consolidate requirements, centralize operations, aggregate purchases, or leverage purchasing power (including the use of multiyear contracting).

(8) Assessment of various models for acquiring commercial satellite capabilities, including funding, management, and operations models.

(c) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2010, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the results of the assessment required under subsection (a) and provide recommendations, including—

(A) the recommended investment and acquisition strategy of the Department for commercial satellite capabilities;

(B) how the investment and acquisition strategy should be addressed in fiscal years after fiscal year 2010; and

(C) a proposal for such legislative action as the Secretary considers necessary to acquire appropriate types and amounts of commercial satellite capabilities.

(2) FORM.—The report shall be in unclassified form, but may include a classified annex.

(d) DEFINITIONS.—In this section:

(1) The term "commercial satellite capabilities" means the system, capability, or service provided by a commercial satellite provider.

(2) The term "commercial satellite provider" refers to privately owned and operated space systems, their technology, components, products, data, services, and related information, as well as foreign systems whose products and services are sold commercially.

**SEC. 913. SPACE POSTURE REVIEW.**

(a) REQUIREMENT FOR COMPREHENSIVE REVIEW.—In order to clarify the national security space policy and strategy of the United States for the near term, the Secretary of Defense and the Director of National Intelligence shall jointly conduct a comprehensive review of the space posture of the United States over the posture review period.

(b) ELEMENTS OF REVIEW.—The review conducted under subsection (a) shall include, for the posture review period, the following:

(1) The definition, policy, requirements, and objectives for each of the following:

(A) Space situational awareness.

(B) Space control.

(C) Space superiority, including defensive and offensive counterspace and protection.

(D) Force enhancement and force application.

(E) Space-based intelligence and surveillance and reconnaissance from space.

(F) Integration of space and ground control and user equipment.

(G) Any other matter the Secretary considers relevant to understanding the space posture of the United States.

(2) A description of current and planned space acquisition programs that are in acquisition categories 1 and 2, including how each program will address the policy, requirements, and objectives described under each of subparagraphs (A) through (G) of paragraph (1).

(3) A description of future space systems and technology development (other than such systems and technology in development as of the date of the enactment of this Act) necessary to address the policy, requirements, and objectives described under each of subparagraphs (A) through (G) of paragraph (1).

(4) An assessment of the relationship among the following:

(A) Military space policy.

(B) National security space policy.

(C) National security space objectives.

(D) Arms control policy.

(E) Export control policy.

(F) Industrial base policy.

(5) An assessment of the effect of the military and national security space policy of the United States on the proliferation of weapons capable of targeting objects in space or objects on Earth from space.

(c) REPORT.—

(1) IN GENERAL.—Not later than December 1, 2009, the Secretary of Defense and the Director of National Intelligence shall jointly submit to the congressional committees specified in paragraph (3) a report on the review conducted under subsection (a).

(2) FORM OF REPORT.—The report under this subsection shall be submitted in unclassified form, but may include a classified annex.

(3) COMMITTEES.—The congressional committees specified in this paragraph are—

(A) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(d) POSTURE REVIEW PERIOD DEFINED.—In this section, the term "posture review period" means the 10-year period beginning on February 1, 2009.

# Subtitle C—Chemical Demilitarization Program

### SEC. 921. RESPONSIBILITIES FOR CHEMICAL DEMILITARIZATION CITIZENS' ADVISORY COMMISSIONS IN COLORADO AND KENTUCKY.

Section 172 of the National Defense Authorization Act for Fiscal Year 1993 (50 U.S.C. 1521 note) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

Transfer authority.

"(f) COLORADO AND KENTUCKY CHEMICAL DEMILITARIZATION CITIZENS' ADVISORY COMMISSIONS.—(1) Notwithstanding subsections (b), (g), and (h), and consistent with section 142 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1521 note) and section 8122 of the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1566; 50 U.S.C. 1521 note), the Secretary of the Army shall transfer responsibilities for the Chemical Demilitarization Citizens' Advisory Commissions in Colorado and Kentucky to the Program Manager for Assembled Chemical Weapons Alternatives.

"(2) In carrying out the responsibilities transferred under paragraph (1), the Program Manager for Assembled Chemical Weapons Alternatives shall take appropriate actions to ensure that each Commission referred to in paragraph (1) retains the capacity to receive citizen and State concerns regarding the ongoing chemical demilitarization program in the State concerned.

"(3) A representative of the Office of the Assistant to the Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall meet with each Commission referred to in paragraph (1) not less often than twice a year.

"(4) Funds appropriated for the Assembled Chemical Weapons Alternatives Program shall be available for travel and associated travel costs for Commissioners on the Commissions referred to in paragraph (1) when such travel is conducted at the invitation of the Special Assistant for Chemical and Biological Defense and Chemical Demilitarization Programs of the Department of Defense.".

**SEC. 922. COST-BENEFIT ANALYSIS OF FUTURE TREATMENT OF HYDROLYSATE AT PUEBLO CHEMICAL DEPOT, COLORADO.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Pueblo Chemical Agent Destruction Pilot Plant, Colorado, is not planned to begin chemical agent destruction operations until 2015.

(2) There will be no hydrolysate byproduct of chemical agent neutralization at the Pueblo Chemical Depot, Colorado, until after chemical agent destruction operations begin.

(3) The Department of Defense has no plans to produce, treat, store, or transport hydrolysate at the Pueblo Chemical Depot, Colorado, during fiscal year 2009.

(4) A January 10, 2007, Department of Defense Acquisition Decision Memorandum requires the Program Manager for the Assembled Chemical Weapons Alternatives to continue to pursue off-site treatment and disposal of hydrolysate as long as doing so would be safe, efficient, and economically beneficial.

(b) COST-BENEFIT ANALYSIS.—The Secretary of Defense shall perform a cost-benefit analysis of future on-site and off-site options for treatment and disposal of hydrolysate expected to be produced at the Pueblo Chemical Depot, Colorado.

(c) REPORT.—Together with the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2010 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), the Secretary of Defense shall submit to the congressional defense

committees a report containing the results of the cost-benefit analysis required by subsection (b).

(d) NOTICE AND WAIT.—After the submission of the report required by subsection (c), if the Secretary of Defense decides to transport hydrolysate from Pueblo Chemical Depot, Colorado, to an off-site location during fiscal year 2009, the Department shall not commence such transport until 60 days after the Secretary provides written notice to the congressional defense committees of the Department's intent to conduct such transport.

# Subtitle D—Intelligence-Related Matters

**SEC. 931. TECHNICAL CHANGES FOLLOWING THE REDESIGNATION OF NATIONAL IMAGERY AND MAPPING AGENCY AS NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.**

(a) TECHNICAL CHANGES TO UNITED STATES CODE.—

(1) TITLE 5.—Title 5, United States Code, is amended by striking "National Imagery and Mapping Agency" each place it appears and inserting "National Geospatial-Intelligence Agency". 5 USC 2302 *et seq.*

(2) TITLE 44.—Title 44, United States Code, is amended by striking "National Imagery and Mapping Agency" each place it appears and inserting "National Geospatial-Intelligence Agency". 44 USC 1336.

(b) TECHNICAL CHANGES TO OTHER ACTS.—

(1) ETHICS IN GOVERNMENT ACT OF 1978.—Section 105(a)(1) of the Ethics in Government Act of 1978 (Public Law 95–521; 5 U.S.C. App. 4) is amended by striking "National Imagery and Mapping Agency" and inserting "National Geospatial-Intelligence Agency". 5 USC app. 105.

(2) INSPECTOR GENERAL ACT OF 1978.—Section 8H of the Inspector General Act of 1978 (Public Law 95–452; 5 U.S.C. App.) is amended—

(A) in subsection (a)(1)(A), by striking "National Imagery and Mapping Agency" and inserting "National Geospatial-Intelligence Agency"; and

(B) in subsection (g)(1), by striking "National Imagery and Mapping Agency" and inserting "National Geospatial-Intelligence Agency".

(3) EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988.—Section 7(b)(2)(A)(i) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2006(b)(2)(A)(i)) is amended by striking "National Imagery and Mapping Agency" and inserting "National Geospatial-Intelligence Agency".

(4) LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1993.—Section 207(a)(2)(B) of the Legislative Branch Appropriations Act, 1993 (Public Law 102–392; 44 U.S.C. 501 note), is amended by striking "National Imagery and Mapping Agency" and inserting "National Geospatial-Intelligence Agency".

(5) HOMELAND SECURITY ACT OF 2002.—Section 201(e)(2) of the Homeland Security Act of 2002 (6 U.S.C. 121(e)(2)) is amended by striking "National Imagery and Mapping Agency" and inserting "National Geospatial-Intelligence Agency".

**SEC. 932. TECHNICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE, ARISING FROM ENACTMENT OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.**

(a) REFERENCES TO HEAD OF INTELLIGENCE COMMUNITY.—Title 10, United States Code, is amended by striking "Director of Central Intelligence" each place it appears and inserting "Director of National Intelligence" in the following:

(1) Section 193(d)(2).
(2) Section 193(e).
(3) Section 201(a).
(4) Section 201(b)(1).
(5) Section 201(c)(1).
(6) Section 425(a).
(7) Section 431(b)(1).
(8) Section 441(c).
(9) Section 441(d).
(10) Section 443(d).
(11) Section 2273(b)(1).
(12) Section 2723(a).

(b) CLERICAL AMENDMENTS.—Such title is further amended by striking "DIRECTOR OF CENTRAL INTELLIGENCE" each place it appears and inserting "DIRECTOR OF NATIONAL INTELLIGENCE" in the following:

(1) Section 441(c).
(2) Section 443(d).

(c) REFERENCE TO HEAD OF CENTRAL INTELLIGENCE AGENCY.—Section 444 of such title is amended by striking "Director of Central Intelligence" each place it appears and inserting "Director of the Central Intelligence Agency".

**SEC. 933. TECHNICAL AMENDMENTS RELATING TO THE ASSOCIATE DIRECTOR OF THE CIA FOR MILITARY AFFAIRS.**

Section 528(c) of title 10, United States Code, is amended—

(1) in the heading, by striking "MILITARY SUPPORT" and inserting "MILITARY AFFAIRS"; and

(2) by striking "Military Support" and inserting "Military Affairs".

## Subtitle E—Other Matters

**SEC. 941. ENHANCEMENT OF AUTHORITIES RELATING TO DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.**

(a) AVAILABILITY OF FUNDS FOR ACTIVITIES ACROSS FISCAL YEARS.—

(1) IN GENERAL.—Section 184(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(6) Funds available to carry out this section, including funds accepted under paragraph (4) and funds available under paragraph (5), shall be available, to the extent provided in appropriations Acts, for programs and activities under this section that begin in a fiscal year and end in the following fiscal year.".

Applicability.
10 USC 184 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2008, and shall apply with respect to programs and activities under section 184 of title

10, United States Code (as so amended), that begin on or after that date.

(b) TEMPORARY WAIVER OF REIMBURSEMENT OF COSTS OF ACTIVITIES FOR NONGOVERNMENTAL PERSONNEL.— 10 USC 184 note.

(1) AUTHORITY FOR TEMPORARY WAIVER.—In fiscal years 2009 and 2010, the Secretary of Defense may, with the concurrence of the Secretary of State, waive reimbursement otherwise required under subsection (f) of section 184 of title 10, United States Code, of the costs of activities of Regional Centers under such section for personnel of nongovernmental and international organizations who participate in activities of the Regional Centers that enhance cooperation of nongovernmental organizations and international organizations with United States forces if the Secretary of Defense determines that attendance of such personnel without reimbursement is in the national security interests of the United States.

(2) LIMITATION.—The amount of reimbursement that may be waived under paragraph (1) in any fiscal year may not exceed $1,000,000.

(3) ANNUAL REPORT.—The Secretary of Defense shall include in the annual report under section 184(h) of title 10, United States Code, in 2010 and 2011 information on the attendance of personnel of nongovernmental and international organizations in activities of the Regional Centers during the preceding fiscal year for which a waiver of reimbursement was made under paragraph (1), including information on the costs incurred by the United States for the participation of personnel of each nongovernmental or international organization that so attended.

**SEC. 942. RESTRICTION ON OBLIGATION OF FUNDS FOR UNITED STATES SOUTHERN COMMAND DEVELOPMENT ASSISTANCE ACTIVITIES.**

(a) REPORT AND CERTIFICATION REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing the development assistance activities carried out by the United States Southern Command during fiscal year 2008 and planned for fiscal year 2009 and containing a certification by the Secretary that such development assistance activities—

(1) will not adversely diminish the ability of the United States Southern Command or its components to carry out its combat or military missions;

(2) do not divert resources from funded or unfunded requirements of the United States Southern Command in connection with the role of the Department of Defense under section 124 of title 10, United States Code, as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States;

(3) are not unnecessarily duplicative of activities already conducted or planned to be conducted by any other Federal department or agency during fiscal year 2009; and

(4) are designed, planned, and conducted to complement joint training and exercises, host-country capacity building, or similar activities directly connected to the responsibilities of the United States Southern Command.

(b) RESTRICTION ON OBLIGATION OF FUNDS PENDING CERTIFICATION.—Of the amounts appropriated pursuant to an authorization of appropriations in this Act or otherwise made available for fiscal year 2009 for operation and maintenance for the United States Southern Command, not more than 90 percent may be obligated or expended until 30 days after the certification required by subsection (a) is received by the congressional defense committees.

(c) DEVELOPMENT ASSISTANCE ACTIVITIES DEFINED.—In this section, the term "development assistance activities" means assistance activities carried out by the United States Southern Command that are comparable to the assistance activities carried out by the United States under—

(1) chapters 1, 10, 11, and 12 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151, 2293, 2295, and 2296 et seq.); and

(2) any other provision of law for purposes comparable to the purposes for which assistance activities are carried out under the provisions of law referred to in paragraph (1).

**SEC. 943. AUTHORIZATION OF NON-CONVENTIONAL ASSISTED RECOVERY CAPABILITIES.**

(a) NON-CONVENTIONAL ASSISTED RECOVERY CAPABILITIES.—Upon a determination by a commander of a combatant command that an action is necessary in connection with a non-conventional assisted recovery effort, and with the concurrence of the relevant Chief of Mission or Chiefs of Mission, an amount not to exceed $20,000,000 of the funds appropriated pursuant to an authorization of appropriations or otherwise made available for "Operation and Maintenance, Navy" may be used to establish, develop, and maintain non-conventional assisted recovery capabilities.

(b) PROCEDURES.—The Secretary of Defense shall establish procedures for the exercise of the authority under subsection (a). The Secretary shall notify the congressional defense committees of those procedures before any exercise of that authority.

Notification.

(c) AUTHORIZED ACTIVITIES.—Non-conventional assisted recovery capabilities authorized under subsection (a) may, in limited and special circumstances, include the provision of support to foreign forces, irregular forces, groups, or individuals in order to facilitate the recovery of Department of Defense or Coast Guard military or civilian personnel, or other individuals who, while conducting activities in support of United States military operations, become separated or isolated and cannot rejoin their units without the assistance authorized in subsection (a). Such support may include the provision of limited amounts of equipment, supplies, training, transportation, or other logistical support or funding.

Deadline.

(d) NOTICE TO CONGRESS ON USE OF AUTHORITY.—Upon using the authority in subsection (a) to make funds available for support of non-conventional assisted recovery activities, the Secretary of Defense shall notify the congressional defense committees within 72 hours of the use of such authority with respect to support of such activities. Any such notice shall be in writing.

(e) ANNUAL REPORT.—Not later than 30 days after the close of each fiscal year during which subsection (a) is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on support provided under that subsection during that fiscal year. Each such report shall describe the support

provided, including a statement of the recipient of support and the amount obligated to provide the support.

(f) LIMITATION ON INTELLIGENCE ACTIVITIES.—This section does not constitute authority to conduct a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(g) LIMITATION ON FOREIGN ASSISTANCE ACTIVITIES.—This section does not constitute authority—

(1) to build the capacity of foreign military forces or provide security and stabilization assistance, as described in sections 1206 and 1207 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3456 and 3458), respectively; and

(2) to provide assistance that is otherwise prohibited by any other provision in law, including any provision of law relating to the control of exports of defense articles or defense services.

(h) PERIOD OF AUTHORITY.—The authority under this section is in effect during each of the fiscal years 2009 through 2011.

**SEC. 944. REPORT ON HOMELAND DEFENSE AND CIVIL SUPPORT ISSUES.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on certain homeland defense and civil support issues.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A description of the progress made by the Department of Defense to address the concerns related to the United States Northern Command identified in the Comptroller General reports GAO-08-251 and GAO-08-252, including improved coordination with other agencies.

(2) A detailed description of the plans and progress made by the Department of Defense to establish forces assigned the mission of managing the consequences of an incident in the United States homeland involving a chemical, biological, radiological, or nuclear device, or high-yield explosives.

**SEC. 945. REPORT ON NATIONAL GUARD RESOURCE REQUIREMENTS.**

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Chief of the National Guard Bureau shall submit to the Secretary of Defense a report—

(1) detailing the extent to which the various provisions in title XVIII of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) have been effective in giving the Chief of the National Guard Bureau the authorities and resources needed to perform the responsibilities and duties of the Chief; and

(2) assessing the adequacy of Department of Defense funding for the resource requirements of the National Guard.

(b) REPORT TO CONGRESS.—Not later than 30 days after the Secretary of Defense receives the report under subsection (a), the Secretary shall submit to Congress such report, along with any explanatory comments the Secretary considers necessary.

# TITLE X—GENERAL PROVISIONS

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Sec. 1059. Modification of deadlines for standards required for entry to military installations in the United States.
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Sec. 1063. Assessment of security measures at consolidated center for North American Aerospace Defense Command and United States Northern Command.

# Subtitle A—Financial Matters

**SEC. 1001. GENERAL TRANSFER AUTHORITY.**

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2009 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION.—Except as provided in paragraph (3), the total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $4,200,000,000.

(3) EXCEPTION FOR TRANSFERS BETWEEN MILITARY PERSONNEL AUTHORIZATIONS.—A transfer of funds between military personnel authorizations under title IV shall not be counted toward the dollar limitation in paragraph (2).

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

**SEC. 1002. ONE-TIME SHIFT OF MILITARY RETIREMENT PAYMENTS.**

(a) REDUCTION OF PAYMENTS.—Notwithstanding any other provision of law, any amounts that would otherwise be payable from the fund to individuals for the month of August 2013 (with

disbursements scheduled for September 2013) shall be reduced by 1 percent.

Effective date.

(b) REVERSION.—Beginning on September 1, 2013 (with disbursements beginning in October 2013), amounts payable to individuals from the fund shall revert back to amounts as specified in law as if the reduction in subsection (a) did not take place.

(c) REFUND.—Any individual who has a payment reduced under subsection (a) shall receive a one-time payment, from the fund, in an amount equal to the amount of such reduction. This one-time payment shall be included with disbursements from the fund scheduled for October 2013.

(d) FUND.—In this section, the term "fund" refers to the Department of Defense Military Retirement Fund established by section 1461 of title 10, United States Code.

Deadline.

(e) TRANSFER.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall transfer $40,000,000 from the unobligated balances of the National Defense Stockpile Transaction Fund to the Miscellaneous Receipts Fund of the United States Treasury to offset estimated costs arising from section 702 and the amendments made by such section.

**SEC. 1003. MANAGEMENT OF PURCHASE CARDS.**

(a) PENALTIES FOR VIOLATIONS.—Section 2784(c)(1) of title 10, United States Code, is amended by striking "(1) provide for" and inserting the following:

"(1) provide—

"(A) for the reimbursement of charges for unauthorized or erroneous purchases, in appropriate cases; and

"(B) for".

(b) REQUIRED REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report detailing actions to be taken by the Department of Defense to implement the recommendations of the Government Accountability Office in its report titled "Actions Needed to Strengthen Internal Controls to Reduce Fraudulent, Improper, and Abusive Purchases" (GAO-08-333) to improve safeguards and internal controls on the use of agency purchase cards.

**SEC. 1004. CODIFICATION OF RECURRING AUTHORITY ON UNITED STATES CONTRIBUTIONS TO THE NORTH ATLANTIC TREATY ORGANIZATION COMMON-FUNDED BUDGETS.**

(a) CODIFICATION OF AUTHORITY.—

(1) IN GENERAL.—Subchapter II of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2263. United States contributions to the North Atlantic Treaty Organization common-funded budgets**

"(a) IN GENERAL.—The total amount contributed by the Secretary of Defense in any fiscal year for the common-funded budgets of NATO may be an amount in excess of the maximum amount that would otherwise be applicable to those contributions in such fiscal year under the fiscal year 1998 baseline limitation.

"(b) REPORTS.—(1) Not later than October 30 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the contributions made by the Secretary

to the common-funded budgets of NATO in the preceding fiscal year.

"(2) Each report under paragraph (1) shall include, for the fiscal year covered by such report, the following:

"(A) The amounts contributed by the Secretary to each of the separate budgets and programs of the North Atlantic Treaty Organization under the common-funded budgets of NATO.

"(B) For each budget and program to which the Secretary made such a contribution, the percentage of such budget or program during the fiscal year that such contribution represented.

"(c) DEFINITIONS.—In this section:

"(1) COMMON-FUNDED BUDGETS OF NATO.—The term 'common-funded budgets of NATO' means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

"(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term 'fiscal year 1998 baseline limitation' means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of chapter 134 of such title is amended by adding at the end the following new item:

"2263. United States contributions to the North Atlantic Treaty Organization common-funded budgets.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2008, and shall apply to fiscal years that begin on or after that date. 10 USC 2263 note.

**SEC. 1005. INCORPORATION OF FUNDING DECISIONS INTO LAW.**

(a) AMOUNTS SPECIFIED IN JOINT EXPLANATORY STATEMENT ARE AUTHORIZED BY LAW.—Wherever a funding table in the Joint Explanatory Statement which is to be printed in the Congressional Record on or about September 23, 2008, to explain the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 specifies a dollar amount for a project, program, or activity, the obligation and expenditure of the specified dollar amount for the indicated project, program, or activity is hereby authorized by law to be carried out to the same extent as if included in the text of the Act, subject to the availability of appropriations. Deadline.

(b) MERIT-BASED DECISIONS.—Decisions by agency heads to commit, obligate, or expend funds with or to a specific entity on the basis of dollar amount authorized pursuant to subsection (a) shall be based on authorized, transparent, statutory criteria, or merit-based selection procedures in accordance with the requirements of sections 2304(k) and 2374 of title 10, United States Code, and other applicable provisions of law.

(c) RELATIONSHIP TO TRANSFER AND REPROGRAMMING AUTHORITY.—This section does not prevent an amount covered by

this section from being transferred or reprogrammed under a transfer or reprogramming authority provided by another provision of this Act or by other law. The transfer or reprogramming of an amount incorporated into the Act by this section shall not count against a ceiling on such transfers or reprogrammings under section 1001 of this Act or any other provision of law, unless such transfer or reprogramming would move funds between appropriation accounts.

(d) APPLICABILITY TO CLASSIFIED ANNEX.—This section applies to any classified annex to the Joint Explanatory Statement referred to in subsection (a).

(e) ORAL AND WRITTEN COMMUNICATION.—No oral or written communication concerning any amount specified in the Joint Explanatory Statement referred to in subsection (a) shall supersede the requirements of this section.

# Subtitle B—Policy Relating to Vessels and Shipyards

**SEC. 1011. CONVEYANCE, NAVY DRYDOCK, ARANSAS PASS, TEXAS.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy is authorized to convey the floating drydock AFDL–23, located in Aransas Pass, Texas, to Gulf Copper Ship Repair, that company being the current lessee of the drydock.

(b) CONDITION OF CONVEYANCE.—The Secretary shall require as a condition of the conveyance under subsection (a) that the drydock remain at the facilities of Gulf Copper Ship Repair, at Aransas Pass, Texas, until at least September 30, 2010.

(c) CONSIDERATION.—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall provide compensation to the United States the value of which, as determined by the Secretary, is equal to the fair market value of the drydock, as determined by the Secretary. The Secretary shall take into account amounts paid by, or due and owing from, the lessee.

Applicability.

(d) TRANSFER AT NO COST TO UNITED STATES.—The provisions of section 7306(c) of title 10, United States Code, shall apply to the conveyance under this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 1012. REPORT ON REPAIR OF NAVAL VESSEL IN FOREIGN SHIPYARDS.**

Section 7310 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) REPORT.—(1) The Secretary of the Navy shall submit to Congress each year, at the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, a report listing all repairs and maintenance performed on any covered naval vessel that has undergone work for the repair of the vessel in any shipyard outside the United States or Guam (in this section referred to as a 'foreign shipyard') during the fiscal year preceding the fiscal year in which the report is submitted.

"(2) The report shall include the percentage of the annual ship repair budget of the Navy that was spent on repair of covered

naval vessels in foreign shipyards during the fiscal year covered by the report.

"(3) The report also shall include the following with respect to each covered naval vessel:

"(A) The justification under law for the repair in a foreign shipyard.

"(B) The name and class of vessel repaired.

"(C) The category of repair and whether the repair qualified as voyage repair as defined in Commander Military Sealift Command Instruction 4700.15C (September 13, 2007) or Joint Fleet Maintenance Manual (Commander Fleet Forces Command Instruction 4790.3 Revision A, Change 7), Volume III. Scheduled availabilities are to be considered as a composite and reported as a single entity without individual repair and maintenance items listed separately.

"(D) The shipyard where the repair work was carried out.

"(E) The number of days the vessel was in port for repair.

"(F) The cost of the repair and the amount (if any) that the cost of the repair was less than or greater than the cost of the repair provided for in the contract.

"(G) The schedule for repair, the amount of work accomplished (stated in terms of work days), whether the repair was accomplished on schedule, and, if not so accomplished, the reason for the schedule over-run.

"(H) The homeport or location of the vessel prior to its voyage for repair.

"(I) Whether the repair was performed under a contract awarded through the use of competitive procedures or procedures other than competitive procedures.

"(4) In this subsection, the term 'covered naval vessel' means any of the following:

"(A) A naval vessel.

"(B) Any other vessel under the jurisdiction of the Secretary of the Navy.".

**SEC. 1013. REPORT ON PLAN FOR DISPOSAL OF CERTAIN VESSELS STRICKEN FROM THE NAVAL VESSEL REGISTER.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Navy, in consultation with the Administrator of the Maritime Administration, shall submit to the congressional defense committees a report containing—

(1) a plan for the sale and disposal of each vessel over 50,000 tons light ship displacement stricken from the Naval Vessel Register but not yet disposed of by the Navy or the Maritime Administration; and

(2) the estimated contribution to the domestic market for steel and other metals that might be made from the scrapping of such vessels.

**SEC. 1014. REIMBURSEMENT OF EXPENSES FOR CERTAIN NAVY MESS OPERATIONS.**

(a) AUTHORITY FOR PAYMENT.—Of the amounts appropriated for operation and maintenance for the Navy, not more that $1,000,000 may be used to pay the charge established under section 1011 of title 37, United States Code, for meals sold by messes for United States Navy and Naval Auxiliary vessels to the following:

(1) Members of nongovernmental organizations and officers or employees of host and foreign nations when participating

in or providing support to United States civil-military operations.

(2) Foreign national patients treated on Naval vessels during the conduct of United States civil-military operations, and their escorts.

(b) EXPIRATION OF AUTHORITY.—The authority to pay for meals under subsection (a) shall expire on September 30, 2010.

(c) REPORT.—Not later than March 31 of each year during which the authority to pay for meals under subsection (a) is in effect, the Secretary of Defense shall submit to Congress a report on the use of such authority.

**SEC. 1015. POLICY RELATING TO MAJOR COMBATANT VESSELS OF THE STRIKE FORCES OF THE UNITED STATES NAVY.**

*Ante,* p. 303.

Section 1012(c)(1) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) is amended by adding at the end the following:

"(D) Amphibious assault ships, including dock landing ships (LSD), amphibious transport–dock ships (LPD), helicopter assault ships (LHA/LHD), and amphibious command ships (LCC), if such vessels exceed 15,000 dead weight ton light ship displacement.".

## Subtitle C—Counter-Drug Activities

**SEC. 1021. EXTENSION OF REPORTING REQUIREMENT REGARDING DEPARTMENT OF DEFENSE EXPENDITURES TO SUPPORT FOREIGN COUNTER-DRUG ACTIVITIES.**

Section 1022(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–255), as most recently amended by section 1024 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2383), is further amended by striking "and February 15, 2008" and inserting "February 15, 2008, and February 15, 2009".

**SEC. 1022. EXTENSION OF AUTHORITY FOR JOINT TASK FORCES TO PROVIDE SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES.**

Section 1022(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 10 U.S.C. 371 note), as amended by section 1021 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 304), is amended by striking "2008" and inserting "2009".

**SEC. 1023. EXTENSION OF AUTHORITY TO SUPPORT UNIFIED COUNTER-DRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA AND CONTINUATION OF NUMERICAL LIMITATION ON ASSIGNMENT OF UNITED STATES PERSONNEL.**

Section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2042), as amended by section 1023 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2382), is further amended—

(1) in subsection (a), by striking "2008" and inserting "2009"; and

(2) in subsection (c), by striking "2008" and inserting "2009".

**SEC. 1024. EXPANSION AND EXTENSION OF AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF CERTAIN FOREIGN GOVERNMENTS.**

(a) EXTENSION OF AUTHORITY.—Subsection (a)(2) of section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881), as amended by section 1021 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136, 117 Stat. 1593), section 1022 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2137), and section 1022 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 304), is further amended by striking "2008" and inserting "2009".

(b) ADDITIONAL GOVERNMENTS ELIGIBLE TO RECEIVE SUPPORT.—Subsection (b) of such section is amended by adding at the end the following new paragraphs:

"(19) The Government of Guinea–Bissau.

"(20) The Government of Senegal.

"(21) The Government of El Salvador.

"(22) The Government of Honduras.".

(c) MAXIMUM ANNUAL AMOUNT OF SUPPORT.—Subsection (e)(2) of such section is amended—

(1) by striking "or" after "2006,"; and

(2) by striking the period at the end and inserting ", or $75,000,000 during fiscal year 2009.".

(d) CONDITION ON PROVISION OF SUPPORT.—Subsection (f) of such section is amended—

(1) in paragraph (2), by inserting after "In the case of" the following: "funds appropriated for fiscal year 2009 to carry out this section and"; and

(2) in paragraph (4)(B), by striking "Committee on International Relations" and inserting "Committee on Foreign Affairs".

(e) COUNTER-DRUG PLAN.—Subsection (h) of such section is amended—

(1) in the matter preceding paragraph (1), by striking "fiscal year 2004" and inserting "fiscal year 2009"; and

(2) in subparagraph (7), by striking "For the first fiscal year" and inserting "For fiscal year 2009, and thereafter, for the first fiscal year".

**SEC. 1025. COMPREHENSIVE DEPARTMENT OF DEFENSE STRATEGY FOR COUNTER-NARCOTICS EFFORTS FOR UNITED STATES AFRICA COMMAND.**

(a) REPORT REQUIRED.—Not later than June 30, 2009, the Secretary of Defense shall submit to the congressional defense committees a comprehensive strategy of the Department of the Defense with regard to counter-narcotics efforts in Africa, with an emphasis on West Africa and the Maghreb. The Secretary of Defense shall prepare the strategy in consultation with the Secretary of State.

(b) MATTERS TO BE INCLUDED.—The comprehensive strategy shall consist of a general overview and a separate detailed section for each of the following:

(1) A description of the overall United States counter-narcotics policy for Africa.

(2) The roles and missions of the Department of Defense in support of the overall United States counter-narcotics policy for Africa.

(3) The priorities for the Department of Defense to meet programmatic objectives one-year, three-years, and five-years after the end of fiscal year 2009, including a description of the expected allocation of resources of the Department of Defense to accomplish these priorities.

(4) The efforts of the Secretary of Defense to coordinate the Department of Defense counter-narcotics activities in Africa with Department of Defense building capacity programs, including programs carried out under the authority of the Secretary under section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3456).

(5) The efforts to coordinate the counter-narcotics activities of the Department of Defense with the counter-narcotics activities of the governments eligible to receive support under section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881) and the counter-narcotics activities in Africa of European countries and other international and regional partners.

(c) PLANS.—The comprehensive strategy shall also include the following plans:

(1) A detailed and comprehensive plan to utilize the capabilities and assets of the combatant commands that geographically surround the United States Africa Command for the counter-narcotics efforts and activities of the United States Africa Command on a temporary basis until the United States Africa Command develops its own commensurate capabilities and assets, including in the plan a description of what measures will be taken to effectuate the transition of the missions.

(2) A detailed and comprehensive plan to enhance cooperation with certain African countries, which are often geographically contiguous to other African countries that have a significant narcotics-trafficking challenges, to increase the effectiveness of the counter-narcotics activities of the Department of Defense and its international and regional partners.

**SEC. 1026. COMPREHENSIVE DEPARTMENT OF DEFENSE STRATEGY FOR COUNTER-NARCOTICS EFFORTS IN SOUTH AND CENTRAL ASIAN REGIONS.**

(a) REPORT REQUIRED.—Not later than June 30, 2009, the Secretary of Defense shall submit to the congressional defense committees a comprehensive strategy of the Department of the Defense with regard to counter-narcotics efforts in the South and Central Asian regions, including the countries of Afghanistan, Turkmenistan, Tajikistan, Kyrgyzstan, Kazakhstan, Pakistan, and India, as well as the countries of Armenia, Azerbaijan, and China.

(b) MATTERS TO BE INCLUDED.—The comprehensive strategy shall consist of a general overview and a separate detailed section for each of the following:

(1) The roles and missions of the Department of Defense in support of the overall United States counter-narcotics policy for countries of the South and Central Asian regions and the other countries specified in subsection (a).

(2) The priorities for the Department of Defense to meet programmatic objectives for fiscal year 2010, including a

description of the expected allocation of resources of the Department of Defense to accomplish these priorities.

(3) The ongoing and planned counter-narcotics activities funded by the Department of Defense for such regions and countries.

(4) The efforts to coordinate the counter-narcotics activities of the Department of Defense with the counter-narcotics activities of such regions and countries and the counter-narcotics activities of other international partners in such regions and countries.

(5) The specific metrics used by the Department of Defense to evaluate progress of activities to reduce the production and trafficking of illicit narcotics in such regions and countries.

# Subtitle D—Miscellaneous Authorities and Limitations

**SEC. 1031. ENHANCEMENT OF THE CAPACITY OF THE UNITED STATES GOVERNMENT TO CONDUCT COMPLEX OPERATIONS.**

(a) IN GENERAL.—Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 409. Center for Complex Operations**

"(a) CENTER AUTHORIZED.—The Secretary of Defense may establish a center to be known as the 'Center for Complex Operations' (in this section referred to as the 'Center').

"(b) PURPOSES.—The purposes of the Center established under subsection (a) shall be the following:

"(1) To provide for effective coordination in the preparation of Department of Defense personnel and other United States Government personnel for complex operations.

"(2) To foster unity of effort during complex operations among—

"(A) the departments and agencies of the United States Government;

"(B) foreign governments and militaries;

"(C) international organizations and international nongovernmental organizations; and

"(D) domestic nongovernmental organizations.

"(3) To conduct research; collect, analyze, and distribute lessons learned; and compile best practices in matters relating to complex operations.

"(4) To identify gaps in the education and training of Department of Defense personnel, and other relevant United States Government personnel, relating to complex operations, and to facilitate efforts to fill such gaps.

"(c) CONCURRENCE OF THE SECRETARY OF STATE.—The Secretary of Defense shall seek the concurrence of the Secretary of State to the extent the efforts and activities of the Center involve the entities referred to in subparagraphs (B) and (C) of subsection (b)(2).

"(d) SUPPORT FROM OTHER UNITED STATES GOVERNMENT DEPARTMENTS OR AGENCIES.—The head of any non-Department of Defense department or agency of the United States Government may—

"(1) provide to the Secretary of Defense services, including personnel support, to support the operations of the Center; and

"(2) transfer funds to the Secretary of Defense to support the operations of the Center.

"(e) ACCEPTANCE OF GIFTS AND DONATIONS.—(1) Subject to paragraph (3), the Secretary of Defense may accept from any source specified in paragraph (2) any gift or donation for purposes of defraying the costs or enhancing the operations of the Center.

"(2) The sources specified in this paragraph are the following:

"(A) The government of a State or a political subdivision of a State.

"(B) The government of a foreign country.

"(C) A foundation or other charitable organization, including a foundation or charitable organization that is organized or operates under the laws of a foreign country.

"(D) Any source in the private sector of the United States or a foreign country.

"(3) The Secretary may not accept a gift or donation under this subsection if acceptance of the gift or donation would compromise or appear to compromise—

"(A) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

"(B) the integrity of any program of the Department or of any person involved in such a program.

"(4) The Secretary shall provide written guidance setting forth the criteria to be used in determining the applicability of paragraph (3) to any proposed gift or donation under this subsection.

"(f) CREDITING OF FUNDS TRANSFERRED OR ACCEPTED.—Funds transferred to or accepted by the Secretary of Defense under this section shall be credited to appropriations available to the Department of Defense for the Center, and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged. Any funds so transferred or accepted shall remain available until expended.

"(g) DEFINITIONS.—In this section:

"(1) The term 'complex operation' means an operation as follows:

"(A) A stability operation.

"(B) A security operation.

"(C) A transition and reconstruction operation.

"(D) A counterinsurgency operation.

"(E) An operation consisting of irregular warfare.

"(2) The term 'gift or donation' means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 20 of such title is amended by adding at the end the following new item:

"409. Center for Complex Operations.".

**SEC. 1032. CREDITING OF ADMIRALTY CLAIM RECEIPTS FOR DAMAGE TO PROPERTY FUNDED FROM A DEPARTMENT OF DEFENSE WORKING CAPITAL FUND.**

Section 7623(b) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) in paragraph (1), as so designated, by striking the last sentence; and

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

"(2)(A) Except as provided in subparagraph (B), amounts received under this section shall be covered into the Treasury as miscellaneous receipts.

"(B) Amounts received under this section for damage or loss to property operated and maintained with funds from a Department of Defense working capital fund or account shall be credited to that fund or account.".

**SEC. 1033. MINIMUM ANNUAL PURCHASE REQUIREMENTS FOR CHARTER AIR TRANSPORTATION SERVICES FROM CARRIERS PARTICIPATING IN THE CIVIL RESERVE AIR FLEET.**

(a) IN GENERAL.—Chapter 931 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 9515. Charter air transportation services: minimum annual purchase amount for carriers participating in Civil Reserve Air Fleet**

"(a) IN GENERAL.—The Secretary of Defense shall take steps to—

"(1) improve the predictability in Department of Defense charter requirements;

"(2) strengthen Civil Reserve Airlift Fleet participation to assure adequate capacity is available to meet steady-state, surge and mobilization requirements; and

"(3) provide incentives for commercial air passenger carriers to provide newer, more efficient and reliable aircraft for Department of Defense service rather than older, fully depreciated aircraft.

"(b) CONSIDERATION OF RECOMMENDATIONS.—In carrying out subsection (a), the Secretary of Defense shall consider the recommendations on courses of action for the Civil Reserve Air Fleet as outlined in the report required by Section 356 of the National Defense Authorization Act for 2008 (Public Law 110-181).

"(c) CONTRACTS FOR CHARTER AIR TRANSPORTATION SERVICES.—The Secretary of Defense may award to an air carrier or an air carrier contractor team arrangement participating in the Civil Reserve Air Fleet on a fiscal year basis a one-year contract for charter air transportation services with a minimum purchase amount under such contract determined in accordance with this section.

"(d) ELIGIBLE CHARTER AIR TRANSPORTATION CARRIERS.—In order to be eligible for payments under the minimum purchase amount provided by this section, an air carrier (or any air carrier participating in an air carrier contractor team arrangement)—

"(1) if under contract with the Department of Defense in the prior fiscal year, shall have an average on-time pick up rate, based on factors within such air carrier's control, of at least 90 percent;

"(2) shall offer such amount of commitment to the Civil Reserve Air Fleet in excess of the minimum required for participation in the Civil Reserve Air Fleet as the Secretary of Defense shall specify for purposes of this section; and

"(3) may not have refused a Department of Defense request to act as a host for other Civil Reserve Air Fleet carriers at intermediate staging bases during the prior fiscal year.

"(e) AGGREGATE MINIMUM PURCHASE AMOUNT.—(1) The aggregate amount of the minimum purchase amount for all contracts awarded under subsection (c) for a fiscal year shall be based on forecast needs, but may not exceed the amount equal to 80 percent of the average annual expenditure of the Department of Defense for charter air transportation services during the five-fiscal year period ending in the fiscal year before the fiscal year for which such contracts are awarded.

"(2) In calculating the average annual expenditure of the Department of Defense for charter air transportation services for purposes of paragraph (1), the Secretary of Defense shall omit from the calculation any fiscal year exhibiting unusually high demand for charter air transportation services if the Secretary determines that the omission of such fiscal year from the calculation will result in a more accurate forecast of anticipated charter air transportation services for purposes of that paragraph.

"(f) ALLOCATION OF MINIMUM PURCHASE AMONG CHARTER AIR TRANSPORTATION CONTRACTS.—(1) The aggregate amount of the minimum purchase amount for all contracts awarded under subsection (c) for a fiscal year, as determined under subsection (e), shall be allocated among all air carriers and air carrier contractor team arrangements awarded contracts under subsection (c) for such fiscal year in proportion to the commitments of such carriers to the Civil Reserve Air Fleet for such fiscal year.

"(2) In determining the minimum purchase amount payable under paragraph (1) under a contract under subsection (c) for charter air transportation services provided by an air carrier or air carrier contractor team arrangement during the fiscal year covered by such contract, the Secretary of Defense may adjust the amount allocated to such carrier or arrangement under paragraph (2) to take into account periods during such fiscal year when charter air transportation services of such carrier or a carrier in such arrangement are unavailable for usage by the Department of Defense, including during periods of refused business or suspended operations or when such carrier is placed in nonuse status pursuant to section 2640 of this title for safety reasons.

"(g) DISTRIBUTION OF AMOUNTS.—If any amount available under this section for the minimum purchase of charter air transportation services from a carrier or air carrier contractor team arrangement for a fiscal year under a contract under subsection (c) is not utilized to purchase charter air transportation services from the carrier or arrangement in such fiscal year, such amount shall be provided to the carrier or arrangement before the first day of the following fiscal year.

"(h) COMMITMENT OF FUNDS.—(1) The Secretary of each military department shall transfer to the transportation working capital fund a percentage of the total amount anticipated to be required in such fiscal year for the payment of minimum purchase amounts under all contracts awarded under subsection (c) for such fiscal year equivalent to the percentage of the anticipated use of charter

air transportation services by such military department during such fiscal year from all carriers under contracts awarded under subsection (c) for such fiscal year.

"(2) Any amounts required to be transferred under paragraph (1) shall be transferred by the last day of the fiscal year concerned to meet the requirements of subsection (g) unless minimum purchase amounts have already been distributed by the Secretary of Defense under subsection (g) as of that date.

"(i) AVAILABILITY OF AIRLIFT SERVICES.—(1) From the total amount of charter air transportation services available for a fiscal year under all contracts awarded under subsection (c) for such fiscal year, a military department shall be entitled to obtain a percentage of such services equal to the percentage of the contribution of the military department to the transportation working capital fund for such fiscal year under subsection (h).

"(2) A military department may transfer any entitlement to charter air transportation services under paragraph (1) to any other military department or to any other agency, element, or component of the Department of Defense.

"(j) DEFINITION.—In this section, the term 'charter air transportation' has the meaning given such term in section 40102(14) of title 49, United States Code, except that it only means such transportation for which the Secretary of Defense has entered into a contract for the purpose of passenger travel.

"(k) SUNSET.—The authorities in this section shall expire on December 31, 2015.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 941 of such title is amended by adding at the end the following new item:

"9515. Charter air transportation services: minimum annual purchase amount for carriers participating in Civil Reserve Air Fleet.".

(c) REPORT TO CONGRESS; LIMITATION ON EXERCISE OF AUTHORITY.— 10 USC 9515 note.

(1) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a written report on the actions taken under subsections (a) and (b) of section 9515 of title 10, United States Code, as added by subsection (a), along with the anticipated risks and benefits of such actions.

(2) LIMITATION.—No authority under subsections (c) through (I) of such section may be implemented until 30 days after the date on which the Secretary submits the report required under paragraph (1).

**SEC. 1034. SEMI-ANNUAL REPORTS ON STATUS OF NAVY NEXT GENERATION ENTERPRISE NETWORKS PROGRAM.**

(a) SEMI-ANNUAL REPORTS REQUIRED.—The Secretary of Defense shall submit to the congressional defense committees semi-annual reports on the status of the development, testing, and deployment of the Navy Next Generation Enterprise Networks program and the transition of the capabilities provided by the Navy Marine Corps Intranet program to the Next Generation Enterprise Networks program. Each such report shall cover such status during the two fiscal quarters preceding the fiscal quarter in which the report is submitted.

(b) COORDINATION.—The Secretary of Defense shall develop each of the semi-annual reports required under subsection (a) in coordination with the Secretary of the Navy, the Under Secretary

of Defense for Acquisition, Technology, and Logistics, the Assistant Secretary of Defense for Networks and Information Integration, and the Director of Operational Test and Evaluation.

(c) CONTENTS OF REPORTS.—Each of the reports required under subsection (a) shall address the following matters for the period covered by the report:

(1) For each Next Generation Enterprise Networks contract entered into by the Secretary of Defense—

(A) the metrics used for quantitatively measuring the performance of the entity with which the Secretary has entered into the contract and, based on such metrics, an assessment of the performance of such entity during such period;

(B) the qualitative measures used to assess the performance of such entity and, based on such qualitative measures, an assessment of the performance of such entity during such period;

(C) the mechanisms for providing incentives to improve the performance of such entity, the processes for determining incentive payments, and the use of incentive payments made during such period; and

(D) the mechanisms for penalizing such entity for poor performance, the processes for determining penalties, and the use of such penalties during such period.

(2) Any progress made during such period to transition information technology services from the Navy Marine Corps Intranet program to the Next Generation Enterprise Networks program, including the transfer of intellectual property and infrastructure, and a description of contracting mechanisms used to facilitate such transition and the provision of services related to such transition.

(3) An assessment of any issues arising during such period that relate to the valuation and ownership of intellectual property and infrastructure in the Navy Marine Corps Intranet program.

(4) Any activities carried out by the Next Generation Enterprise Networks Governance Board to resolve issues related to the Next Generation Enterprise Network program.

(5) An assessment of the operational effectiveness and suitability of the Next Generation Enterprise Networks program during such period based on testing activities and other assessments.

(6) A description of the information security and information assurance posture and performance of the Next Generation Enterprise Networks program during such period.

(7) The schedule, status, and goals of the early transition activities between the Navy Marine Corps Intranet program and the Next Generation Enterprise Networks program carried out during such period.

(8) A description of the role of the Next Generation Enterprise Networks program with the Navy's network environment.

(9) An updated acquisition milestone schedule, including any changes from previous planned schedules, the status of achieving milestones, and mitigation strategies for maintaining program schedule performance.

(d) DEADLINE FOR SUBMITTAL OF REPORTS.—The Secretary of Defense shall submit the semi-annual reports required under this

section by not later than April 1 and October 1 of each year, and shall submit the first report required under this section by not later than April 1, 2009.

(e) TERMINATION.—The requirement to submit semi-annual reports under this section shall terminate on the date that is one year after the date on which the Secretary of Defense completes the full transition of the provision of services from the Navy Marine Corps Intranet program and other transition programs to the Next Generation Enterprise Networks program.

**SEC. 1035. SENSE OF CONGRESS ON NUCLEAR WEAPONS MANAGEMENT.**

(a) FINDINGS.—Congress makes the following findings:

(1) The unauthorized transfer of nuclear weapons from Minot Air Force Base, North Dakota, to Barksdale Air Force Base, Louisiana, in August 2007 was an extraordinary breach of the command and control and security of nuclear weapons.

(2) The reviews conducted following that unauthorized transfer found that the ability of the Department of Defense to provide oversight of nuclear weapons matters had degenerated and that senior level attention to nuclear weapons management is minimal at best.

(3) The lack of attention to nuclear weapons and related equipment by the Department of Defense was demonstrated again when it was discovered in March 2008 that classified equipment from Minuteman III intercontinental ballistic missiles was inadvertently shipped to Taiwan in 2006.

(4) The Department of Defense has insufficient capability and staffing in the Office of the Under Secretary of Defense for Policy to provide the necessary oversight of the nuclear weapons functions of the Department.

(5) The key senior position responsible for nuclear weapons matters in the Department of Defense, the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, a position filled by appointment by and with the advice and consent of the Senate, was vacant for more than 18 months before being filled in July 2008.

(6) The inability to provide consistent senior level emphasis on nuclear weapons policy has contributed to an erosion in the level of attention paid to nuclear weapons matters across the Department of Defense.

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

(1) the United States should maintain clear and unambiguous command and control of its nuclear weapons;

(2) the safety and security of nuclear weapons and related equipment should be a high priority as long as the United States maintains a stockpile of nuclear weapons;

(3) these objectives will be more successfully attained if greater attention is paid to nuclear weapons matters within the Office of the Secretary of Defense, the Office of the Under Secretary of Defense for Policy, and the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics;

(4) the Secretary of Defense should consider establishing and filling a senior position, at the level of Assistant Secretary of Defense or Deputy Under Secretary of Defense, within the Office of the Under Secretary of Defense for Policy to hold

primary responsibility for the strategic and nuclear weapons policy of the Department of Defense; and

(5) the Secretary of Defense should clarify the lines of responsibility and accountability for nuclear weapons matters within the Office of the Secretary of Defense to place greater emphasis on strategic and nuclear weapons policy and management.

**SEC. 1036. SENSE OF CONGRESS ON JOINT DEPARTMENT OF DEFENSE-FEDERAL AVIATION ADMINISTRATION EXECUTIVE COMMITTEE ON CONFLICT AND DISPUTE RESOLUTION.**

(a) FINDINGS.—Congress makes the following findings:

(1) Unmanned aerial systems (UAS) of the Department of Defense, like the Predator and the Global Hawk, have become a critical component of military operations. Unmanned aerial systems are indispensable in the conflict against terrorism and the campaigns in Afghanistan and Iraq.

(2) Unmanned aerial systems of the Department of Defense must operate in the National Airspace System (NAS) for training, operational support to the combatant commands, and support to domestic authorities in emergencies and national disasters.

(3) The Department of Defense has been lax in developing certifications of airworthiness for unmanned aerial systems, qualifications for operators of unmanned aerial systems, databases on safety matters relating to unmanned aerial systems, and standards, technology, and procedures that are necessary for routine access of unmanned aerial systems to the National Airspace System.

(4) As recognized in a Memorandum of Agreement for Operation of Unmanned Aircraft Systems in the National Airspace System signed by the Deputy Secretary of Defense and the Administrator of the Federal Aviation Administration in September 2007, it is vital for the Department of Defense and the Federal Aviation Administration to collaborate closely to achieve progress in gaining access for unmanned aerial systems to the National Airspace System to support military requirements.

(5) The Department of Defense and the Federal Aviation Administration have jointly and separately taken significant actions to improve the access of unmanned aerial systems of the Department of Defense to the National Airspace System, but overall, the pace of progress in access of such systems to the National Airspace System has been insufficient and poses a threat to national security.

(6) Techniques and procedures can be rapidly acquired or developed to temporarily permit safe operations of unmanned aerial systems in the National Airspace System until permanent safe operations of such systems in the National Airspace System can be achieved.

(7) Identifying, developing, approving, implementing, and monitoring the adequacy of these techniques and procedures may require the establishment of a joint Department of Defense-Federal Aviation Administration executive committee reporting to the highest levels of the Department of Defense and the Federal Aviation Administration on matters relating

to the access of unmanned aerial systems of the Department of Defense to the National Airspace System.

(8) Joint management attention at the highest levels of the Department of Defense and the Federal Aviation Administration may also be required on other important issues, such as type ratings for aerial refueling aircraft.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should seek an agreement with the Administrator of the Federal Aviation Administration to jointly establish within the Department of Defense and the Federal Aviation Administration a joint Department of Defense–Federal Aviation Administration executive committee on conflict and dispute resolution which would—

(1) act as a focal point for the resolution of disputes on matters of policy and procedures between the Department of Defense and the Federal Aviation Administration with respect to—

(A) airspace, aircraft certifications, and aircrew training; and

(B) other issues brought before the joint executive committee by the Department of Defense or the Department of Transportation;

(2) identify solutions to the range of technical, procedural, and policy concerns arising in the disputes described in paragraph (1); and

(3) identify solutions to the range of technical, procedural, and policy concerns arising in the integration of Department of Defense unmanned aerial systems into the National Airspace System in order to achieve the increasing, and ultimately routine, access of such systems into the National Airspace System.

**SEC. 1037. SENSE OF CONGRESS ON SALE OF NEW OUTSIZE CARGO, STRATEGIC AIRLIFT AIRCRAFT FOR CIVILIAN USE.**

(a) FINDINGS.—Congress makes the following findings:

(1) The 2006 Quadrennial Defense Review and the 2005 Mobility Capability Study determined that the United States Transportation Command requires a force of 292 to 383 organic strategic airlift aircraft, augmented by procurement of airlift service from commercial air carriers participating in the Civil Reserve Air Fleet, to meet the demands of the National Military Strategy. Congress has authorized and appropriated funds for 316 strategic airlift aircraft.

(2) The commander of the United States Transportation Command has testified to Congress that it is essential to safeguard the capabilities and capacity of the Civil Reserve Air Fleet to meet wartime surge demands in connection with major combat operations and that procurement by the Air Force of excess organic strategic airlift aircraft could be harmful to the health of the Civil Reserve Air Fleet.

(3) The C–17 aircraft is used extensively by the Air Mobility Command in the Global War on Terror. Production of the C–17 aircraft is scheduled to cease in August, 2010.

(4) The Federal Aviation Administration has informed Congress that no fewer than six commercial operators have expressed interest in operating a commercial variant of the C–17 aircraft. Commercial sale of the new C–17 aircraft would require that the Department of Defense determine that it is

in the national interest for the Federal Aviation Administration to proceed with the issuance of a type certificate for C-17 aircraft in accordance with section 21.27 of title 14, Code of Federal Regulations.

(5) New C–17 aircraft sold for commercial use could be made available to the Civil Reserve Air Fleet, thus strengthening the capabilities and capacity of the Civil Reserve Air Fleet.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of Transportation, should—

(1) review the benefits and feasibility of pursuing a new production commercial cargo capability with new C–17 commercial variant aircraft and determine whether such capability is in the national interest; and

(2) if the Secretary of Defense determines that such a capability is in the national interest, take appropriate actions to coordinate with the Federal Aviation Administration to achieve the type certification for a commercial variant of the C-17 required by section 21.27 of title 14, Code of Federal Regulations.

## Subtitle E—Studies and Reports

**SEC. 1041. REPORT ON CORROSION CONTROL AND PREVENTION.**

(a) REPORT REQUIRED.—The Secretary of Defense, acting through the Director of Corrosion Policy and Oversight, shall prepare and submit to the Committees on Armed Services of the Senate and the House of Representatives a report on corrosion control and prevention in weapons systems and equipment.

(b) MATTERS COVERED.—The report shall include the comments and recommendations of the Department of Defense regarding potential improvements in corrosion control and prevention through earlier planning. In particular, the report shall include an evaluation and business case analysis of options for improving corrosion control and prevention in the requirements and acquisition processes of the Department of Defense for weapons systems and equipment. The evaluation shall include an analysis of the impact of such potential improvements on system acquisition costs and life cycle sustainment. The options for improved corrosion control and prevention shall include corrosion control and prevention—

(1) as a key performance parameter for assessing the selection of materials and processes;

(2) as a key performance parameter for sustainment;

(3) as part of the capability development document in the joint capabilities integration and development system; and

(4) as a requirement for weapons systems managers to assess their corrosion control and prevention requirements over a system's life cycle and incorporate the results into their acquisition strategies prior to issuing a solicitation for contracts.

(c) DEADLINE.—The report shall be submitted not later than 120 days after the date of the enactment of this Act.

(d) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General shall review the report required under subsection (a), including the methodology used in the Department's analysis, and shall provide the results of the review to the Committees on Armed Services

of the Senate and the House of Representatives not later than 60 days after the Department submits the report.

**SEC. 1042. STUDY ON USING MODULAR AIRBORNE FIRE FIGHTING SYSTEMS (MAFFS) IN A FEDERAL RESPONSE TO WILDFIRES.**

(a) IN GENERAL.—The Secretary of Defense shall carry out a study to determine—

(1) how to utilize the Department's Modular Airborne Fire Fighting Systems (MAFFS) in all contingencies where there is a Federal response to wildfires; and

(2) how to decrease the costs of using the Department's MAFFS when supporting National Interagency Fire Center (NIFC) fire fighting operations.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the results of the study.

**SEC. 1043. STUDY ON ROTORCRAFT SURVIVABILITY.**

(a) STUDY REQUIRED.—The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall carry out a study on Department of Defense rotorcraft survivability. The study shall—

(1) with respect to actual losses of rotorcraft in combat—

(A) identify the rates of such losses from 1965 through 2008, measured in total annual losses by type of aircraft and by cause, with rates for loss per flight hour and loss per sortie provided;

(B) identify by category of hostile action (such as small arms, Man-Portable Air Defense Systems, and so on), the causal factors for the losses; and

(C) propose candidate solutions for survivability (such as training, tactics, speed, countermeasures, maneuverability, lethality, technology, and so on), in a prioritized list with explanations, to mitigate each such causal factor, along with recommended funding adequate to achieve rates at least equal to the experience in the Vietnam conflict;

(2) with respect to actual losses of rotorcraft in combat theater not related to hostile action—

(A) identify the causal factors of loss in a ranked list; and

(B) propose candidate solutions for survivability (such as training, tactics, speed, countermeasures, maneuverability, lethality, technology, and so on), in a prioritized list, to mitigate each such causal factor, along with recommended funding adequate to achieve the Secretary's Mishap Reduction Initiative goal of not more than 0.5 mishaps per 100,000 flight hours;

(3) with respect to losses of rotorcraft in training or other non-combat operations during peacetime or interwar years—

(A) identify by category (such as inadvertent instrument meteorological conditions, wire strike, and so on) the causal factors of loss in a ranked list; and

(B) identify candidate solutions for survivability and performance (such as candidate solutions referred to in paragraph (2)(B) as well as maintenance, logistics, systems development, and so on) in a prioritized list, to mitigate each such causal factor, along with recommended funding adequate to achieve the goal of rotorcraft loss rates to non-combat causes being reduced to 1.0;

(4) identify the key technical factors (causes of mishaps that are not related to human factors) negatively impacting the rotorcraft mishap rates and survivability trends, to include reliability, availability, maintainability, and other logistical considerations; and

(5) identify what TACAIR is and has done differently to have such a decrease in losses per sortie when compared to rotorcraft, to include—

(A) examination of aircraft, aircraft maintenance, logistics, operations, and pilot and operator training;

(B) an emphasis on the development of common service requirements that TACAIR has implemented already which are minimizing losses within TACAIR; and

(C) candidate solutions, in a prioritized list, to mitigate each causal factor with recommended funding adequate to achieve the goal of rotorcraft loss rates stated above.

(b) REPORT.—Not later than August 1, 2009, the Secretary and the Chairman shall submit to the congressional defense committees a report on the results of the study.

**SEC. 1044. REPORT ON NUCLEAR WEAPONS.**

(a) FINDINGS.—Congress finds that—

(1) numerous nuclear weapons are held in the arsenals of various countries around the world;

(2) some of these weapons make attractive targets for theft and for use by terrorist organizations;

(3) the United States should identify, track, and monitor these weapons as a matter of national security;

(4) the United States should assess the security risks associated with existing stockpiles of nuclear weapons and should assess the risks of nuclear weapons being developed, acquired, or utilized by other countries, particularly rogue states, and by terrorists and other non-state actors; and

(5) the United States should work cooperatively with other countries to improve the security of nuclear weapons and to promote multilateral reductions in the numbers of nuclear weapons.

President.

(b) REVIEW.—The President, in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Energy, and the Director of National Intelligence, shall conduct a review of nuclear weapons world-wide that includes—

(1) an inventory of the nuclear arsenals of all countries that possess, or are believed to possess, nuclear weapons, which indicates, as accurately as possible, the nuclear weapons that are known, or are believed, to exist according to nationality, type, yield, and form of delivery, and an assessment of the methods that are currently employed to identify, track, and monitor nuclear weapons and their component materials;

(2) an assessment of the risks associated with the deployment, transfer, and storage of nuclear weapons deemed to be attractive to terrorists, rogue states, and other state or non-state actors on account of their size or portability, or on account of their accessibility due to the manner of their deployment or storage; and

(3) recommendations for—

(A) mechanisms and procedures to improve security and safeguards for the nuclear weapons deemed to be

attractive to terrorists, rogue states, and other state or non-state actors;

(B) mechanisms and procedures to improve the ability of the United States to identify, track, and monitor the nuclear weapons deemed to be attractive to terrorists, rogue states, and other state or non-state actors;

(C) mechanisms and procedures for implementing transparent multilateral reductions in nuclear weapons arsenals; and

(D) methods for consolidating, dismantling, and disposing of the nuclear weapons in each country that possesses, or is believed to possess, nuclear weapons, including methods of monitoring and verifying consolidation, dismantlement, and disposal.

(c) REPORT.—

(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the President shall submit to Congress a report on the findings and recommendations of the review required under subsection (b). President.

(2) CLASSIFICATION OF REPORT.—The report required under paragraph (1) shall be submitted in unclassified form, but it may be accompanied by a classified annex.

**SEC. 1045. REPORT ON COMPLIANCE BY DEPARTMENT OF DEFENSE WITH GUAM TAX AND LICENSING LAWS.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of the Navy and the Joint Guam Program Office, shall submit to the congressional defense committees a report on the steps that the Department of Defense is taking to ensure that contractors of the Department performing work on Guam comply with local tax and licensing requirements.

**SEC. 1046. REPORT ON DETENTION OPERATIONS IN IRAQ.**

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on detention operations at theater internment facilities in Iraq.

(b) ELEMENTS.—The report required by subsection (a) shall include each of the following:

(1) A detailed description of how counterinsurgency doctrine has been incorporated at theater internment facilities in Iraq.

(2) A detailed description of the policies and programs instituted to prepare detainees for reintegration following their release from detention in theater internment facilities in Iraq.

(3) A description and assessment of the effects of changes in detention operations and reintegration programs at theater internment facilities in Iraq during the period beginning on January 1, 2007, and ending on the date of the completion of the report, including changes in levels of violence within internment facilities and in rates of recapture of detainees released from detention in internment facilities.

(4) A description of—

(A) the lessons learned regarding detention operations in a counterinsurgency operation, an assessment of how such lessons could be applied to detention operations elsewhere (including in Afghanistan and at Guantanamo Bay, Cuba); and

(B) any efforts to integrate such lessons into Department of Defense directives, joint doctrine, mission rehearsal exercises for deploying forces, and training for units involved in detention and interrogation operations.

(c) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 1047. REVIEW OF BANDWIDTH CAPACITY REQUIREMENTS OF THE DEPARTMENT OF DEFENSE AND THE INTELLIGENCE COMMUNITY.**

(a) IN GENERAL.—The Secretary of Defense and the Director of National Intelligence shall conduct a joint review of the bandwidth capacity requirements of the Department of Defense and the intelligence community in the near term, mid term, and long term.

(b) ELEMENTS.—The review required by subsection (a) shall include an assessment of the following:

(1) The current bandwidth capacities and capabilities of the Department of Defense and the intelligence community to transport data, including Government and commercial ground networks, airborne relays, and satellite systems.

(2) The bandwidth capacities and capabilities anticipated to be available to the Department of Defense and the intelligence community to transport data in the near term, mid term, and long term.

(3) Innovative technologies available to the Department of Defense and the intelligence community to increase data transport capacity of existing bandwidth (such as compression techniques or intelligent software agents) that can be applied in the near term, mid term, and long term.

(4) The bandwidth and data requirements of current major operational systems of the Department of Defense and the intelligence community, including an assessment of—

(A) whether such requirements are being appropriately met by the bandwidth capacities and capabilities described in paragraph (1); and

(B) the degree to which any such requirements are not being met by such bandwidth capacities and capabilities.

(5) The anticipated bandwidth and data requirements of major operational systems of the Department of Defense and the intelligence community planned for each of the near term, mid term, and long term, including an assessment of—

(A) whether such anticipated requirements will be appropriately met by the bandwidth capacities and capabilities described in paragraph (2); and

(B) the degree to which any such requirements are not anticipated to be met by such bandwidth capacities and capabilities.

(6) Any mitigation concepts that could be used to satisfy any unmet bandwidth and data requirements.

(7) The costs of meeting the bandwidth and data requirements described in paragraphs (4) and (5).

(8) Any actions necessary to integrate or consolidate the information networks of the Department of Defense and the intelligence community.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Director of National Intelligence shall jointly submit to the congressional defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth the results of the review required by subsection (a).

(d) FORMAL REVIEW PROCESS FOR BANDWIDTH REQUIREMENTS.—The Secretary of Defense and the Director of National Intelligence shall, as part of the Milestone B or Key Decision Point B approval process for any major defense acquisition program or major system acquisition program, establish a formal review process to ensure that— 10 USC 2366a note.

(1) the bandwidth requirements needed to support such program are or will be met; and

(2) a determination will be made with respect to how to meet the bandwidth requirements for such program.

(e) DEFINITIONS.—In this section:

(1) INTELLIGENCE COMMUNITY.—The term "intelligence community" has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) LONG TERM.—The term "long term" means the five-year period beginning on the date that is 10 years after the date of the enactment of this Act.

(3) MID TERM.—The term "mid term" means the five-year period beginning on the date that is five years after the date of the enactment of this Act.

(4) NEAR TERM.—The term "near term" means the five-year period beginning on the date of the enactment of this Act.

**SEC. 1048. REVIEW OF FINDINGS AND RECOMMENDATIONS APPLICABLE TO THE DEPARTMENT OF DEFENSE REGARDING ELECTROMAGNETIC PULSE ATTACK.**

(a) REVIEW.—The Secretary of Defense shall conduct a review of the findings and recommendations applicable to the Department of Defense made in the reports of the Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack established under title XIV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 165A–345).

(b) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit to the congressional defense committees a report on the review required by subsection (a) that shall include the following:

(A) A description of the findings and recommendations described in that subsection that are applicable to the Department of Defense.

(B) A plan for addressing the applicable findings and implementing the applicable recommendations to the extent practicable and feasible.

(C) If the Secretary determines that it is not practicable or feasible to address an applicable finding or implement an applicable recommendation, an explanation clearly explaining each such determination.

(D) A description of the capabilities of the Department of Defense needed to protect and recover from an electromagnetic pulse attack.

(E) Any research and development needed to address any applicable finding or recommendation to enable the Department of Defense to implement such recommendations in the future.

(F) A description of the plans and programs that the Department of Defense has in place or plans to put in place to address the threat from electromagnetic pulse attack.

(G) A description of the organizational and management structure that the Department of Defense has in place or plans to have in place to address the threat from an electromagnetic pulse attack.

(H) A description of any impediments to implementing any applicable recommendations.

(2) SUBMITTAL DATES.—The report required by paragraph (1) shall be submitted not later than September 1 of each odd numbered year beginning in 2009 and ending in 2015.

(3) FORM OF REPORT.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

# Subtitle F—Other Matters

### SEC. 1051. ADDITIONAL INFORMATION UNDER ANNUAL SUBMISSIONS OF INFORMATION REGARDING INFORMATION TECHNOLOGY CAPITAL ASSETS.

Section 351 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2516; 10 U.S.C. 221 note) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (1);

(C) in paragraph (1), as so redesignated, by striking "and an estimated total life cycle cost" and inserting "or an estimated total cost"; and

(D) by adding at the end the following new paragraph (2):

"(2) Information technology capital assets not covered by paragraph (1) that have been determined by the Chief Information Officer of the Department of Defense to be significant investments.";

(2) by striking subsection (b);

(3) by redesignating subsection (c) as subsection (b);

(4) in subsection (b), as so redesignated, by striking "subsection (a)(2)" and inserting "subsection (a)(1)";

(5) by inserting after subsection (b) the following new subsection (c):

"(c) REQUIRED INFORMATION FOR SIGNIFICANT INVESTMENTS.—With respect to each information technology capital asset not covered by paragraph (1) of subsection (a), but covered by paragraph (2) of that subsection, the Secretary of Defense shall include such information in a format that is appropriate to the current status of such asset."; and

(6) in subsection (d), by striking "life cycle".

**SEC. 1052. SUBMISSION TO CONGRESS OF REVISION TO REGULATION ON ENEMY PRISONERS OF WAR, RETAINED PERSONNEL, CIVILIAN INTERNEES, AND OTHER DETAINEES.**

(a) SUBMISSION TO CONGRESS.—A successor regulation to Army Regulation 190–8 Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees (dated October 1, 1997) may not be carried out or implemented until the date that is 60 days after the date on which the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives such successor regulation.

(b) SAVINGS CLAUSE.—Nothing in this section shall affect the continued effectiveness of Army Regulation 190–8 Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees (dated October 1, 1997).

**SEC. 1053. BARNEGAT INLET TO LITTLE EGG INLET, NEW JERSEY.**

(a) PROJECT MODIFICATION.—The project for hurricane and storm damage reduction, Barnegat Inlet to Little Egg Inlet, New Jersey, authorized by section 101(a)(1) of the Water Resources Development Act of 2000 (114 Stat. 2576), is modified to authorize the Secretary of the Army to undertake, at Federal expense, such measures as the Secretary determines to be necessary and appropriate in the public interest to address the handling of munitions placed on the beach during construction of the project before the date of enactment of this section.

(b) TREATMENT OF COSTS.—Costs incurred in carrying out subsection (a) shall not be considered to be a cost of constructing the project.

(c) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the costs incurred by the non-Federal interest with respect to the removal and handling of the munitions referred to in subsection (a).

(d) ELIGIBLE ACTIVITIES.—Measures authorized by subsection (a) include monitoring, removal, and disposal of the munitions referred to in subsection (a).

**SEC. 1054. STANDING ADVISORY PANEL ON IMPROVING COORDINATION AMONG THE DEPARTMENT OF DEFENSE, THE DEPARTMENT OF STATE, AND THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT ON MATTERS OF NATIONAL SECURITY.**

(a) ESTABLISHMENT OF ADVISORY PANEL.—The Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development (USAID) may jointly establish an advisory panel to advise, review, and make recommendations on ways to improve coordination among the Department of Defense, the Department of State, and the United States Agency for International Development on matters relating to national security, including reviewing their respective roles and responsibilities.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The advisory panel shall be composed of 12 members, of whom—

(A) three shall be appointed by the Secretary of Defense, in consultation with the Secretary of State and the Administrator;

(B) three shall be appointed by the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, and in consultation with the Secretary of State and the Administrator;

(C) three shall be appointed by the Secretary of State, in consultation with the Secretary of Defense and the Administrator; and

(D) three shall be appointed by the Administrator, in consultation with the Secretary of Defense and the Secretary of State.

(2) CHAIRMAN.—The Secretary of Defense, the Secretary of State, and the Administrator shall jointly designate one member as chairman.

(3) VICE CHAIRMAN.—The Secretary of Defense, the Secretary of State, and the Administrator shall jointly designate one member as vice chairman. The vice chairman may not be a member appointed to the advisory panel under paragraph (1) by the same Secretary or Administrator who appointed the member under such paragraph who is designated as the chairman under paragraph (2).

(4) EXPERTISE.—Members of the advisory panel shall be private citizens of the United States with national recognition and significant experience in the Federal Government, the Armed Forces, public administration, foreign affairs, or development.

(5) DEADLINE FOR APPOINTMENT.—All members of the advisory panel should be appointed not earlier than January 20, 2009, and not later than March 20, 2009.

(6) TERMS.—The term of each member of the advisory panel is for the life of the advisory panel.

Deadline.

(7) VACANCIES.—A vacancy in the advisory panel shall be filled not later than 30 days after such vacancy occurs and in the manner in which the original appointment was made.

(8) SECURITY CLEARANCES.—The appropriate departments or agencies of the Federal Government shall cooperate with the advisory panel in expeditiously providing to the members and staff of the advisory panel appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this section without the appropriate security clearances.

(9) STATUS.—A member of the advisory panel who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee, except for the purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(10) EXPENSES.—The members of the advisory panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the advisory panel.

(c) MEETINGS AND PROCEDURES.—

(1) INITIAL MEETING.—The advisory panel shall conduct its first meeting not later than 30 days after the date that all appointments to the advisory panel have been made under subsection (b). Deadline.

(2) MEETINGS.—The advisory panel shall meet not less often than once every three months. The advisory panel may also meet at the call of the Secretary of Defense, the Secretary of State, or the Administrator.

(3) PROCEDURES.—The advisory panel shall carry out its duties under procedures established under subsection (d).

(d) SUPPORT OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER.—If the advisory panel is established under subsection (a), the Secretary of Defense, in consultation with the Secretary of State and the Administrator, shall, not later than 60 days after the date of the final appointment of the members of the advisory panel pursuant to subsection (b)(5), enter into a contract with a federally funded research and development center for the provision of administrative and logistical support and assistance to the advisory panel in carrying out its duties under this section. Such support and assistance shall include the establishment of the procedures of the advisory panel. Deadline. Contracts.

(e) DUTIES OF PANEL.—The advisory panel shall—

(1) analyze the roles and responsibilities of the Department of Defense, the Department of State, and the USAID regarding—

(A) stability operations;

(B) foreign assistance (including security assistance); and

(C) other areas the Secretary of Defense, the Secretary of State, and the Administrator jointly agree are appropriate;

(2) review—

(A) the structures and systems that coordinate policymaking;

(B) the national security-related roles and responsibilities of the Department of Defense, the Department of State, USAID, and, as appropriate, other relevant agencies to ensure effective coordination;

(C) the efforts of the Department of Defense, the Department of State, USAID, and such other relevant agencies to ensure that lessons learned and expertise that is developed in carrying out programs related to national security are shared among the departments and agencies of the Federal Government, as appropriate; and

(D) the coordination of activities conducted abroad and carried out by personnel of the Department of Defense, Department of State, USAID, and such other relevant agencies; and

(3) provide advice and make recommendations for otherwise improving coordination between and among the Department of Defense, the Department of State and USAID on matters of national security.

(f) COOPERATION OF OTHER AGENCIES.—Upon request by the advisory panel, any department or agency of the Federal Government shall provide information that the advisory panel considers necessary to carry out its duties.

(g) REPORTS.—

(1) INTERIM REPORT.—Not later than 180 days after the first meeting of the advisory panel, the advisory panel shall submit to the Secretary of Defense, the Secretary of State, and the Administrator a report that identifies—

(A) aspects of the interagency structure and processes relating to matters of national security that should take priority in any effort to improve the coordination among the Department of Defense, the Department of State, and USAID; and

(B) methods to better coordinate the interagency structure and processes relating to matters of national security.

(2) ANNUAL REPORTS.—Not later than December 31 of the year in which the interim report is submitted under paragraph (1), the advisory panel shall submit to the Secretary of Defense, the Secretary of State, and the Administrator a report on—

(A) the activities of the advisory panel;

(B) any deficiencies relating to coordination among the Department of Defense, Department of States and USAID and other relevant agencies on matters of national security;

(C) any improvements made during the period covered by the report to the coordination among the Department of Defense, the Department of State, USAID, and other relevant agencies on matters of national security;

(D) methods to better coordinate the interagency structure and processes among the Department of Defense, the Department of State, USAID, and other relevant agencies on matters relating to national security; and

(E) such findings, conclusions, and recommendations as the advisory panel considers appropriate.

(3) SUBMISSION OF REPORT TO CONGRESS.—The Secretary of Defense, the Secretary of State, and the Administrator shall submit to the appropriate congressional committees the reports required under this subsection and any additional information considered appropriate.

Deadline.

(4) CONGRESSIONAL BRIEFINGS.—Not later than 30 days after the submission of each report required under this subsection, the members of the advisory panel shall make themselves available to meet with the appropriate congressional committees to brief such committees on the matters contained in the report.

(5) APPROPRIATE COMMITTEES.—For the purposes of this subsection, the appropriate congressional committees are the following:

(A) The Committees on Foreign Affairs, Armed Services, and Appropriations of the House of Representatives.

(B) The Committees on Foreign Relations, Armed Services, and Appropriations of the Senate.

(h) TERMINATION OF ADVISORY PANEL.—The advisory panel shall terminate on December 31, 2012.

(i) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the United States Agency for International Development.

(2) STABILITY OPERATIONS.—The term "stability operations" means stability and reconstruction operations conducted by departments or agencies of the Federal Government described by Department of Defense Directive 3000.05, National Security

Presidential Directive 1, or National Security Presidential Directive 44.

(3) FEDERAL AGENCY.—The term "Federal agency" means any entity included in chapter 1 of title 5, United States code.

**SEC. 1055. REPORTS ON STRATEGIC COMMUNICATION AND PUBLIC DIPLOMACY ACTIVITIES OF THE FEDERAL GOVERNMENT.**

(a) REPORT BY PRESIDENT.—

(1) INITIAL REPORT.—Not later than December 31, 2009, the President shall submit to the appropriate committees of Congress a report on a comprehensive interagency strategy for public diplomacy and strategic communication of the Federal Government, including benchmarks and a timetable for achieving such benchmarks.

(2) ELEMENTS OF REPORT.—The report required under paragraph (1) shall include the following elements:

(A) STRATEGY.—A comprehensive interagency strategy, which shall include the following:

(i) Prioritizing the mission of supporting specific foreign policy objectives, such as counterterrorism and efforts to combat extremist ideology, in parallel and in complement with, as appropriate, the broad mission of communicating the policies and values of the United States to foreign audiences.

(ii) Consolidating and elevating, as appropriate, Federal Government leadership to prioritize, manage, and implement the strategy required by this subsection, including consideration of whether to establish strategic communication and public diplomacy positions at the National Security Council and to establish a single office to coordinate strategic communication and public diplomacy efforts.

(iii) Improving coordination across departments and agencies of the Federal Government on strategic communications and public diplomacy.

(iv) Consideration of whether resources devoted to strategic communication and public diplomacy efforts should be increased.

(B) STUDY.—A study of whether to establish an independent, not-for-profit organization responsible for providing independent assessment and strategic guidance to the Federal Government on strategic communication and public diplomacy, as recommended by the Task Force on Strategic Communication of the Defense Science Board.

(C) ROLES OF DEPARTMENTS OR AGENCIES OF THE FEDERAL GOVERNMENT.—A description of the respective roles of the National Security Council, the Department of Defense, and the Department of State regarding strategic communication and public diplomacy, including—

(i) a description of the roles of the offices within the National Security Council, the Department of Defense, and the Department of State engaged in message outreach to audiences abroad; and

(ii) an explanation of how the National Security Council, the Department of Defense, and the Department of State coordinate strategic communication and public diplomacy activities.

(3) SUBSEQUENT REPORT.—Two years after the submission of the initial report under paragraph (1), the President shall submit to the appropriate committees of Congress a report on—

(A) the status of the implementation of the strategy;

(B) progress toward achievement of benchmarks; and

(C) any changes to the strategy since the submission of the initial report.

(b) REPORT BY SECRETARY OF DEFENSE.—Not later than December 31, 2009, the Secretary of Defense shall review, and submit to the congressional defense committees a report on, the organizational structure within the Department of Defense for advising the Secretary on the direction and priorities for strategic communication activities, including an assessment of the option of establishing a board, composed of representatives from among the organizations within the Department responsible for strategic communications, public diplomacy, and public affairs, and including advisory members from the broader interagency community as appropriate, for purposes of—

(1) providing strategic direction for Department of Defense efforts related to strategic communications and public diplomacy; and

(2) setting priorities for the Department of Defense in the areas of strategic communications and public diplomacy.

(c) FORM AND AVAILABILITY OF REPORTS.—

(1) FORM.—The reports required by this section may be submitted in a classified form.

(2) AVAILABILITY.—Any unclassified portions of the reports required by this section shall be made available to the public.

(d) APPROPRIATE COMMITTEES.—For the purposes of this section, the appropriate committees of Congress are the following:

(1) The Committees on Foreign Relations, Armed Services, and Appropriations of the Senate.

(2) The Committees on Foreign Affairs, Armed Services, and Appropriations of the House of Representatives.

10 USC 2241 note.

**SEC. 1056. PROHIBITIONS RELATING TO PROPAGANDA.**

(a) PROHIBITION.—No part of any funds authorized to be appropriated in this or any other Act shall be used by the Department of Defense for publicity or propaganda purposes within the United States not otherwise specifically authorized by law.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Inspector General of the Department of Defense shall submit to Congress a report on the findings of their project number D2008–DIPOEF–0209.000, entitled "Examination of Allegations Involving DoD Office of Public Affairs Outreach Program".

Deadline.

(c) LEGAL OPINION.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General of the United States shall issue a legal opinion to Congress on whether the Department of Defense violated appropriations prohibitions on publicity or propaganda activities established in Public Laws 107–117, 107–248, 108–87, 108–287, 109–148, 109–289, and 110–116, the Department of Defense Appropriations Acts for fiscal years 2002 through 2008, respectively, by offering special access to prominent persons in the private sector who serve as media analysts, including briefings and information on war efforts, meetings with

high level government officials, and trips to Iraq and Guantanamo Bay, Cuba.

(d) RULE OF CONSTRUCTION RELATED TO INTELLIGENCE ACTIVITIES.—Nothing in this section shall be construed to apply to any lawful and authorized intelligence activity of the United States Government.

**SEC. 1057. SENSE OF CONGRESS ON INTERROGATION OF DETAINEES BY CONTRACTOR PERSONNEL.**

It is the sense of Congress that—

(1) the interrogation of enemy prisoners of war, civilian internees, retained persons, other detainees, terrorists, and criminals when captured, transferred, confined, or detained during or in the aftermath of hostilities is an inherently governmental function and cannot appropriately be transferred to private sector contractors;

(2) not later than one year after the date of the enactment of this Act, the Secretary of Defense should develop the resources needed to ensure that interrogations described in paragraph (1) can be conducted by government personnel and not by private sector contractors; and

(3) properly trained and cleared contractors may appropriately be used as linguists, interpreters, report writers, information technology technicians, and other employees filling ancillary positions, if the private sector contractors are subject to the same rules, procedures, policies, and laws pertaining to detainee operations and interrogations that govern the execution of these positions by government personnel.

**SEC. 1058. SENSE OF CONGRESS WITH RESPECT TO VIDEOTAPING OR OTHERWISE ELECTRONICALLY RECORDING STRATEGIC INTELLIGENCE INTERROGATIONS OF PERSONS IN THE CUSTODY OF OR UNDER THE EFFECTIVE CONTROL OF THE DEPARTMENT OF DEFENSE.**

(a) IN GENERAL.—It is the sense of Congress that the Secretary of Defense should take such actions as are necessary to ensure that each strategic intelligence interrogation of any person who is in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility is videotaped or otherwise electronically recorded.

(b) STRATEGIC INTELLIGENCE INTERROGATION DEFINED.—For purposes of this section, the term "strategic intelligence interrogation" means an interrogation of a person described in subsection (a) conducted at a theater-level detention facility.

**SEC. 1059. MODIFICATION OF DEADLINES FOR STANDARDS REQUIRED FOR ENTRY TO MILITARY INSTALLATIONS IN THE UNITED STATES.**

10 USC 113 note.

Section 1069(c) of the National Defense Authorization Act of Fiscal Year 2008 (Public Law 110–181; 122 Stat. 327) is amended—

(1) in paragraph (1)—

(A) by striking "July 1, 2008" and inserting "February 1, 2009"; and

(B) by striking "January 1, 2009" and inserting "October 1, 2010"; and

(2) in paragraph (2), by striking "implemented" and inserting "developed".

**SEC. 1060. EXTENSION OF CERTAIN DATES FOR CONGRESSIONAL COMMISSION ON THE STRATEGIC POSTURE OF THE UNITED STATES.**

(a) EXTENSION OF DATES.—Section 1062 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) is amended— *Ante,* p. 319.

(1) in subsection (e), by striking "December 1, 2008" and inserting "April 1, 2009"; and

(2) in subsection (g), by striking "June 1, 2009" and inserting "September 30, 2009".

(b) INTERIM REPORT.—Not later than December 1, 2008, the Congressional Commission on the Strategic Posture of the United States shall submit to the President, the Secretary of Defense, the Secretary of Energy, the Secretary of State, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives an interim report on the commission's initial findings, conclusions, and recommendations. To the extent practicable, the interim report shall address the matters required to be included in the report under subsection (e) of such section 1062.

**SEC. 1061. TECHNICAL AND CLERICAL AMENDMENTS.**

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The table of sections at the beginning of chapter 2 is amended by inserting after the item relating to 118a the following new item:

"118b. Quadrennial roles and missions review.".

(2) The table of sections at the beginning of chapter 5 is amended in the item relating to section 156 by inserting a period at the end.

(3) The table of sections at the beginning of chapter 7 is amended in the item relating to section 183 by inserting a period at the end.

(4) Section 1477(e) is amended by inserting a period at the end.

(5) Section 2192a is amended—

(A) in subsection (e)(4), by striking "title 11, United States Code," and inserting "title 11"; and

(B) in subsection (f), by striking "title 10, United States Code" and inserting "this title".

(6) The table of chapters at the beginning of subtitle C, and the table of chapters at the beginning of part IV of such subtitle, are each amended by striking the item relating to chapter 667 and inserting the following new item:

**"667. Issue of Serviceable Material Other Than to Armed Forces ..... 7911".**

(b) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008.—Effective as of January 28, 2008, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) is amended as follows: Effective date.

(1) Section 371(c) (122 Stat. 80) is amended by striking "'operational strategies'" and inserting "'operational systems'".

(2) Section 585(b)(3)(C) (122 Stat. 132) is amended by inserting "both places it appears" before the period at the end.

(3) Section 703(b) (122 Stat. 103) is amended by striking "as amended by" and inserting "as inserted by".

(4) Section 805(a) (122 Stat. 212) is amended by striking "Act ," and inserting "Act,".

(5) Section 883(b) (122 Stat. 264) is amended by striking "Section 832(c)(1) of such Act, as redesignated by subsection (a), is amend by" and inserting "Section 832(b)(1) of such Act is amended by".

(6) Section 890(d)(2) (122 Stat. 270) is amended by striking "sections" and inserting "parts".

(7) Section 904(a)(4) (122 Stat. 274) is amended by striking "131(b)(2)" and inserting "131(b)".

(8) Section 954(a)(3)(B) (122 Stat. 294) is amended by inserting ", as redesignated by section 524(a)(1)(A)," after "of such title".

(9) Section 954(b)(2) (122 Stat. 294) is amended—

(A) by striking "2114(e) of such title" and inserting "2114(f) of such title, as redesignated by section 524(a)(1)(A),"; and

(B) by striking the period at the end and inserting "and inserting 'President'.".

(10) Section 1063(d)(1) (122 Stat. 323) is amended by striking "a semicolon after 'subsection'" and inserting "a comma after 'subsection'".

(11) Section 1229(i)(3) (122 Stat. 383) is amended by striking "publically" and inserting "publicly".

(12) Section 1422(e)(2) (122 Stat. 422) is amended by striking "subsection (c)" and inserting "subsection (c)(1)".

(13) Section 1602(4) (122 Stat. 432) is amended by striking "section 411 h(b)" and inserting "section 411h(b)(1)".

(14) Section 1617(b) (122 Stat. 449) is amended by striking "by adding at the end" and inserting "by inserting after the item relating to section 1074k".

(15) Section 2106 (122 Stat. 508) is amended by striking "for 2007" both places it appears and inserting "for Fiscal Year 2007".

(16) Section 2826(a)(2)(A) (122 Stat. 546) is amended by striking "'Secretary of the Army'" and inserting "'Secretary of Army'".

(c) TITLE 31, UNITED STATES CODE.—Title 31, United States Code, is amended as follows:

(1) Chapter 35 is amended by striking the first section 3557.

(2) The second section 3557 is amended in the section heading by striking "**Public-Private**" and inserting "**public-private**".

(3) The table of sections at the beginning of chapter 35 is amended by striking the second item relating to section 3557.

(d) TITLE 28, UNITED STATES CODE.—Section 1491(b) of title 28, United States Code, is amended by striking the first paragraph (5).

(e) RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005.—Section 721(e) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1988; 10 U.S.C. 1092 note) is

amended by striking "fiscal years 2005" and all that follows through "2010" and inserting "fiscal years 2005 through 2010".

50 USC 2370.

**SEC. 1062. NOTIFICATION OF COMMITTEES ON ARMED SERVICES WITH RESPECT TO CERTAIN NONPROLIFERATION AND PROLIFERATION ACTIVITIES.**

(a) NOTIFICATION WITH RESPECT TO NONPROLIFERATION ACTIVITIES.—The Secretary of Defense, the Secretary of Energy, the Secretary of Commerce, the Secretary of State, and the Nuclear Regulatory Commission shall keep the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives informed with respect to—

(1) any activities undertaken by any such Secretary or the Commission to carry out the purposes and policies of the Secretaries and the Commission with respect to nonproliferation programs; and

(2) any other activities undertaken by any such Secretary or the Commission to prevent the proliferation of nuclear, chemical, or biological weapons or the means of delivery of such weapons.

(b) NOTIFICATION WITH RESPECT TO PROLIFERATION ACTIVITIES IN FOREIGN NATIONS.—

(1) IN GENERAL.—The Director of National Intelligence shall keep the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives fully and currently informed with respect to any activities of foreign nations that are significant with respect to the proliferation of nuclear, chemical, or biological weapons or the means of delivery of such weapons.

(2) FULLY AND CURRENTLY INFORMED DEFINED.—For purposes of paragraph (1), the term "fully and currently informed" means the transmittal of credible information with respect to an activity described in such paragraph not later than 60 days after becoming aware of the activity.

**SEC. 1063. ASSESSMENT OF SECURITY MEASURES AT CONSOLIDATED CENTER FOR NORTH AMERICAN AEROSPACE DEFENSE COMMAND AND UNITED STATES NORTHERN COMMAND.**

(a) ASSESSMENT REQUIRED.—The Secretary of Defense shall conduct an assessment of the adequacy of security measures for the consolidated command center for North American Aerospace Defense Command and United States Northern Command at Peterson Air Force Base, Colorado.

(b) ELEMENTS.—The assessment required in paragraph (a) shall include the following:

(1) A description of the security measures taken and planned for the consolidated command center as of October 1, 2008.

(2) An assessment of whether existing and planned security measures for the consolidated command center are adequate to provide the necessary level of protection.

(3) An estimate of the total costs associated with such security measures adequate to provide the necessary level of protection.

(c) REPORT REQUIRED.—Not later than March 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report containing the results of the assessment required in subsection (a).

(d) ADDITIONAL REQUIREMENT.—The Secretary of Defense shall ensure that redundant facilities and equipment, along with the appropriate manning necessary to ensure the continuity of operations, are maintained at Cheyenne Mountain Air Force Station until the Secretary certifies that security measures have been instituted that bring the consolidated command center for North American Aerospace Defense Command and United States Northern Command into full compliance with Protection Level One requirements, as defined by Air Force Instruction 31-101, dated March 1, 2007. Certification.

# TITLE XI—CIVILIAN PERSONNEL MATTERS

Sec. 1101. Authority to waive annual limitation on premium pay and aggregate limitation on pay for Federal civilian employees working overseas.
Sec. 1102. Temporary discretionary authority to grant allowances, benefits, and gratuities to personnel on official duty in a combat zone.
Sec. 1103. Election of insurance coverage by Federal civilian employees deployed in support of a contingency operation.
Sec. 1104. Extension of authority to make lump-sum severance payments.
Sec. 1105. Extension of voluntary reduction-in-force authority of Department of Defense.
Sec. 1106. Enhancement of authorities relating to additional positions under the national security personnel system.
Sec. 1107. Expedited hiring authority for health care professionals.
Sec. 1108. Direct hire authority at personnel demonstration laboratories for certain candidates.
Sec. 1109. Status reports relating to laboratory personnel demonstration projects.
Sec. 1110. Technical amendment relating to definition of professional accounting position for purposes of certification and credentialing standards.
Sec. 1111. Exceptions and adjustments to limitations on personnel and reports on such exceptions and adjustments.

## SEC. 1101. AUTHORITY TO WAIVE ANNUAL LIMITATION ON PREMIUM PAY AND AGGREGATE LIMITATION ON PAY FOR FEDERAL CIVILIAN EMPLOYEES WORKING OVERSEAS.

(a) WAIVER AUTHORITY.—During calendar year 2009, and notwithstanding section 5547 of title 5, United States Code, the head of an Executive agency may waive the premium pay limitations established in that section up to the annual rate of salary payable to the Vice President under section 104 of title 3, United States Code, for an employee who performs work while in an overseas location that is in the area of responsibility of the Commander of the United States Central Command, or an overseas location that was formerly in the area of responsibility of the Commander of the United States Central Command but has been moved to the area of responsibility of the Commander of the United States Africa Command, in direct support of, or directly related to—

(1) a military operation, including a contingency operation; or

(2) an operation in response to a national emergency declared by the President.

(b) APPLICABILITY OF AGGREGATE LIMITATION ON PAY.—Section 5307 of title 5, United States Code, shall not apply to any employee in any calendar year in which that employee is granted a waiver under subsection (a).

(c) ADDITIONAL PAY NOT CONSIDERED BASIC PAY.—To the extent that a waiver under subsection (a) results in payment of additional premium pay of a type that is normally creditable as

basic pay for retirement or any other purpose, such additional pay shall not be considered to be basic pay for any purpose, nor shall it be used in computing a lump-sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States Code.

(d) REGULATIONS.—The Director of the Office of Personnel Management may issue regulations to ensure appropriate consistency among heads of executive agencies in the exercise of authority granted by this section.

**SEC. 1102. TEMPORARY DISCRETIONARY AUTHORITY TO GRANT ALLOWANCES, BENEFITS, AND GRATUITIES TO PERSONNEL ON OFFICIAL DUTY IN A COMBAT ZONE.**

(a) IN GENERAL.—Section 1603(a) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 443) is amended—

(1) by striking "During fiscal years 2006, 2007, and 2008" and inserting "(1) During fiscal years 2006 (including the period beginning on October 1, 2005, and ending on June 15, 2006), 2007, and 2008"; and

(2) by adding at the end the following:

"(2) During fiscal years 2009, 2010, and 2011, the head of an agency may, in the agency head's discretion, provide to an individual employed by, or assigned or detailed to, such agency allowances, benefits, and gratuities comparable to those provided by the Secretary of State to members of the Foreign Service under section 413 and chapter 9 of title I of the Foreign Service Act of 1980, if such individual is on official duty in a combat zone (as defined by section 112(c) of the Internal Revenue Code of 1986).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234).

**SEC. 1103. ELECTION OF INSURANCE COVERAGE BY FEDERAL CIVILIAN EMPLOYEES DEPLOYED IN SUPPORT OF A CONTINGENCY OPERATION.**

(a) AUTOMATIC COVERAGE.—Section 8702(c) of title 5, United States Code, is amended—

(1) by inserting "an employee who is deployed in support of a contingency operation (as that term is defined in section 101(a)(13) of title 10) or" after "subsection (b),"; and

(2) by striking "the date of the" and inserting "the date of notification of deployment or".

(b) OPTIONAL INSURANCE.—Section 8714a(b) of such title is amended—

(1) by designating the text as paragraph (2); and

(2) by inserting before paragraph (2), as so designated, the following new paragraph (1):

Deadline.

"(1) An employee who is deployed in support of a contingency operation (as that term is defined in section 101(a)(13) of title 10) or an employee of the Department of Defense who is designated as emergency essential under section 1580 of title 10 shall be insured under the policy of insurance under this section if the employee, within 60 days after the date of notification of deployment or designation, elects to be insured under the policy of insurance. An election under this paragraph shall be effective when provided

to the Office in writing, in the form prescribed by the Office, within such 60-day period.".

(c) ADDITIONAL OPTIONAL LIFE INSURANCE.—Section 8714b(b) of such title is amended—

(1) by designating the text as paragraph (2); and

(2) by inserting before paragraph (2), as so designated, the following new paragraph (1):

"(1) An employee who is deployed in support of a contingency operation (as that term is defined in section 101(a)(13) of title 10) or an employee of the Department of Defense who is designated as emergency essential under section 1580 of title 10 shall be insured under the policy of insurance under this section if the employee, within 60 days after the date of notification of deployment or designation, elects to be insured under the policy of insurance. An election under this paragraph shall be effective when provided to the Office in writing, in the form prescribed by the Office, within such 60-day period.". Deadline.

**SEC. 1104. EXTENSION OF AUTHORITY TO MAKE LUMP-SUM SEVERANCE PAYMENTS.**

Section 5595(i)(4) of title 5, United States Code, is amended by striking "October 1, 2010" and inserting "October 1, 2014".

**SEC. 1105. EXTENSION OF VOLUNTARY REDUCTION-IN-FORCE AUTHORITY OF DEPARTMENT OF DEFENSE.**

Section 3502(f)(5) of title 5, United States Code, is amended by striking "September 30, 2010" and inserting "September 30, 2014".

**SEC. 1106. ENHANCEMENT OF AUTHORITIES RELATING TO ADDITIONAL POSITIONS UNDER THE NATIONAL SECURITY PERSONNEL SYSTEM.**

Section 9902(i) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking "the requirements of chapter 71 and the limitations in subsection (b)(3)" and inserting "the requirements and limitations in paragraph (3)"; and

(2) by striking the period at the end of paragraph (2) and inserting ", in a manner comparable to that in which such provisions are applied under chapter 33.

"(3) Any action taken by the Secretary pursuant to the authority of this subsection shall be subject to—

"(A) the requirements of chapter 71; and

"(B) the limitations in subsection (b)(3), except that the requirements of chapter 33 may be waived to the extent necessary to achieve the purposes of this subsection.". Waiver authority.

**SEC. 1107. EXPEDITED HIRING AUTHORITY FOR HEALTH CARE PROFESSIONALS.**

(a) EXPEDITED HIRING AUTHORITY.—Section 1599c(a) of title 10, United States Code, is amended—

(1) by inserting "(1)" before "The Secretary of Defense may"; and

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

"(2)(A) For purposes of sections 3304, 5333, and 5753 of title 5, the Secretary of Defense may—

"(i) designate any category of medical or health professional positions within the Department of Defense as shortage category positions; and

"(ii) utilize the authorities in such sections to recruit and appoint highly qualified persons directly to positions so designated.

Applicability.

"(B) In using the authority provided by this paragraph, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter 1 of chapter 33 of title 5.".

(b) TERMINATION OF AUTHORITY.—Section 1599c(c) of such title is amended—

(1) by inserting "(1)" before "The authority of";

(2) by striking "September 30, 2010" and inserting "September 30, 2012"; and

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

"(2) The Secretary may not appoint a person to a position of employment under subsection (a)(2) after September 30, 2012.".

10 USC 1580 note.

**SEC. 1108. DIRECT HIRE AUTHORITY AT PERSONNEL DEMONSTRATION LABORATORIES FOR CERTAIN CANDIDATES.**

(a) AUTHORITY.—The Secretary of Defense may appoint qualified candidates possessing an advanced degree to positions described in subsection (b) without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, other than sections 3303 and 3328 of such title.

(b) APPLICABILITY.—This section applies with respect to candidates for scientific and engineering positions within any laboratory identified in section 9902(c)(2) of title 5, United States Code.

(c) LIMITATION.—(1) Authority under this section may not, in any calendar year and with respect to any laboratory, be exercised with respect to a number of candidates greater than the number equal to 2 percent of the total number of scientific and engineering positions within such laboratory that are filled as of the close of the fiscal year last ending before the start of such calendar year.

(2) For purposes of this subsection, positions and candidates shall be counted on a full-time equivalent basis.

(d) EMPLOYEE DEFINED.—As used in this section, the term "employee" has the meaning given such term by section 2105 of title 5, United States Code.

(e) TERMINATION.—The authority to make appointments under this section shall not be available after December 31, 2013.

10 USC 2358 note.

**SEC. 1109. STATUS REPORTS RELATING TO LABORATORY PERSONNEL DEMONSTRATION PROJECTS.**

Section 1107 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 357) is amended by adding at the end the following:

"(e) STATUS REPORTS.—

"(1) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act and not later than March 1 of each year beginning after the date on which the first report under this subsection is submitted, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing, with respect to the year before the year in which such report is submitted, the information described in paragraph (2).

"(2) INFORMATION REQUIRED.—Each report under this subsection shall describe the following:

"(A) The actions taken by the Secretary of Defense under subsection (a) during the year covered by the report.

"(B) The progress made by the Secretary of Defense during such year in developing and implementing the plan required by subsection (b), including the anticipated date for completion of such plan and a list and description of any issues relating to the development or implementation of such plan.

"(C) With respect to any applications by any Department of Defense laboratories seeking to be designated as a demonstration laboratory or to otherwise obtain any of the personnel flexibilities available to a demonstration laboratory—

"(i) the number of applications that were received, pending, or acted on during such year;

"(ii) the status or disposition of any applications under clause (i), including, in the case of any application on which a final decision was rendered, the laboratory involved, what the laboratory had requested, the decision reached, and the reasons for the decision; and

"(iii) in the case of any applications under clause (i) on which a final decision was not rendered, the date by which a final decision is anticipated.

"(3) DEFINITION.—For purposes of this subsection, the term 'demonstration laboratory' means a laboratory designated by the Secretary of Defense under the provisions of section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (as cited in subsection (a)).".

**SEC. 1110. TECHNICAL AMENDMENT RELATING TO DEFINITION OF PROFESSIONAL ACCOUNTING POSITION FOR PURPOSES OF CERTIFICATION AND CREDENTIALING STANDARDS.**

Section 1599d(e) of title 10, United States Code, is amended by striking "GS–510, GS–511, and GS–505" and inserting "0505, 0510, 0511, or equivalent".

**SEC. 1111. EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL AND REPORTS ON SUCH EXCEPTIONS AND ADJUSTMENTS.** 10 USC 143 note.

(a) EXCEPTION TO LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and fiscal years thereafter, the baseline personnel limitations in sections 143, 194, 3014, 5014, and 8014 of title 10, United States Code (as adjusted pursuant to subsection (b)), shall not apply to—

(1) acquisition personnel hired pursuant to the expedited hiring authority provided in section 1705(h) of title 10, United States Code, as amended by section 821 of this Act, or otherwise hired with funds in the Department of Defense Acquisition Workforce Development Fund established in accordance with section 1705(a) of such title; or

(2) personnel hired pursuant to a shortage category designation by the Secretary of Defense or the Director of the Office of Personnel Management.

(b) AUTHORITY TO ADJUST LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and for four fiscal years thereafter, the Secretary

of Defense or a secretary of a military department may adjust the baseline personnel limitations in sections 143, 194, 3014, 5014 and 8014 of title 10, United States Code, to—

(1) fill a gap in the civilian workforce of the Department of Defense identified by the Secretary of Defense in a strategic human capital plan submitted to Congress in accordance with the requirements of—

(A) section 1122 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 10 U.S.C. prec. 1580 note);

(B) section 1102 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2407); or

(C) section 851 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. note prec. 1580); or

(2) accommodate increases in workload or modify the type of personnel required to accomplish work, for any purpose described in paragraphs (1) through (4) of subsection (c).

(c) LIMITATION ON AUTHORITY TO ADJUST LIMITATIONS ON PERSONNEL.—The Secretary of Defense or the secretary of a military department may not increase a baseline personnel limitation under paragraph (2) of subsection (b) by more than 5 percent in a fiscal year. An increase in a baseline personnel limitation under such paragraph may be made for any of the following purposes:

(1) Performance of inherently governmental functions.

(2) Performance of work pursuant to section 2463 of title 10 United States Code.

(3) Ability to maintain sufficient organic expertise and technical capability.

(4) Performance of work that, while the position may not exercise an inherently governmental function, nevertheless should be performed only by officers or employees of the Federal Government or members of the Armed Forces because of the critical nature of the work.

(d) REPORT REQUIRED.—The Secretary of Defense shall submit a report to the congressional defense committees on the implementation of this section at the same time that the defense budget materials for each of the four fiscal years after fiscal year 2009 are presented to Congress. The report shall include the following information regarding the implementation of this section during the preceding fiscal year:

(1) The average number of military personnel, civilian employees of the Department of Defense, and contractor employees assigned to or detailed to permanent duty in—

(A) the Office of the Secretary of Defense;

(B) the management headquarters activities and management headquarters support activities in the Defense Agencies and Department of Defense Field Activities;

(C) the Office of the Secretary of the Army and the Army Staff;

(D) the Office of the Secretary of the Navy, the Office of Chief of Naval Operations, and the Headquarters, Marine Corps; and

(E) the Office of the Secretary of the Air Force and the Air Staff.

(2) An estimate of the number of personnel hired pursuant to an exception in subsection (a) in each office described in subparagraphs (A) through (E) of paragraph (1).

(3) The amount of any adjustment in the limitation on personnel made by the Secretary of Defense or the secretary of a military department, and, for each adjustment made pursuant to subsection (b)(2), the purpose of the adjustment.

# TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

Subtitle A—Assistance and Training

Sec. 1201. Extension of authority to build the capacity of the Pakistan Frontier Corps.
Sec. 1202. Availability across fiscal years of funds for military-to-military contacts and comparable activities.
Sec. 1203. Availability across fiscal years of funds to pay incremental expenses for participation of developing countries in combined exercises.
Sec. 1204. Extension of temporary authority to use acquisition and cross-servicing agreements to lend military equipment for personnel protection and survivability.
Sec. 1205. Authority for distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability with the Armed Forces.
Sec. 1206. Modification and extension of authorities relating to program to build the capacity of foreign military forces.
Sec. 1207. Extension of authority and increased funding for security and stabilization assistance.
Sec. 1208. Extension and expansion of authority for support of special operations to combat terrorism.
Sec. 1209. Increase in amount available for costs of education and training of foreign military forces under Regional Defense Combating Terrorism Fellowship Program.

Subtitle B—Matters Relating to Iraq and Afghanistan

Sec. 1211. Limitation on availability of funds for certain purposes relating to Iraq.
Sec. 1212. Report on status of forces agreements between the United States and Iraq.
Sec. 1213. Strategy for United States-led Provincial Reconstruction Teams in Iraq.
Sec. 1214. Commanders' Emergency Response Program.
Sec. 1215. Performance monitoring system for United States-led Provincial Reconstruction Teams in Afghanistan.
Sec. 1216. Report on command and control structure for military forces operating in Afghanistan.
Sec. 1217. Reports on enhancing security and stability in the region along the border of Afghanistan and Pakistan.
Sec. 1218. Study and report on Police Transition Teams to train, assist, and advise units of the Iraqi Police Service.

Subtitle C—Other Matters

Sec. 1231. Payment of personnel expenses for multilateral cooperation programs.
Sec. 1232. Participation of the Department of Defense in multinational military centers of excellence.
Sec. 1233. Review of security risks of participation by defense contractors in certain space activities of the People's Republic of China.
Sec. 1234. Report on Iran's capability to produce nuclear weapons.
Sec. 1235. Employment for resettled Iraqis.
Sec. 1236. Extension and modification of updates on report on claims relating to the bombing of the Labelle Discotheque.
Sec. 1237. Report on utilization of certain global partnership authorities.
Sec. 1238. Modification and repeal of requirement to submit certain annual reports to Congress regarding allied contributions to the common defense.

# Subtitle A—Assistance and Training

**SEC. 1201. EXTENSION OF AUTHORITY TO BUILD THE CAPACITY OF THE PAKISTAN FRONTIER CORPS.**

(a) AUTHORITY.—Subsection (a) of section 1206 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 366) is amended by striking "during fiscal year 2008" and inserting "during fiscal years 2008 and 2009".

(b) FUNDING LIMITATION.—Subsection (c)(1) of such section is amended by inserting after "fiscal year 2008" the following: "and up to $25,000,000 of funds available to the Department of Defense for operation and maintenance for fiscal year 2009".

**SEC. 1202. AVAILABILITY ACROSS FISCAL YEARS OF FUNDS FOR MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES.**

(a) IN GENERAL.—Section 168(e) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) Funds available to carry out this section shall be available, to the extent provided in appropriations Acts, for programs or activities under this section that begin in a fiscal year and end in the following fiscal year.".

10 USC 168 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2008, and shall apply with respect to programs and activities under section 168 of title 10, United States Code, as so amended, that begin on or after that date.

**SEC. 1203. AVAILABILITY ACROSS FISCAL YEARS OF FUNDS TO PAY INCREMENTAL EXPENSES FOR PARTICIPATION OF DEVELOPING COUNTRIES IN COMBINED EXERCISES.**

(a) IN GENERAL.—Section 2010 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) Funds available to carry out this section shall be available, to the extent provided in appropriations Acts, for bilateral or multilateral military exercises that begin in a fiscal year and end in the following fiscal year.".

10 USC 2010 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2008, and shall apply with respect to bilateral and multilateral military exercises described in section 2010 of title 10, United States Code, as so amended, that begin on or after that date.

**SEC. 1204. EXTENSION OF TEMPORARY AUTHORITY TO USE ACQUISITION AND CROSS-SERVICING AGREEMENTS TO LEND MILITARY EQUIPMENT FOR PERSONNEL PROTECTION AND SURVIVABILITY.**

(a) SEMIANNUAL REPORTS TO CONGRESSIONAL COMMITTEES.—Subsection (b)(3) of section 1202 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2412) is amended by adding at the end the following new subparagraph:

"(E) With respect to equipment provided to each foreign force that is not returned to the United States, a description

of the terms of disposition of the equipment to the foreign force.

"(F) The percentage of equipment provided to foreign forces under the authority of this section that is not returned to the United States.".

(b) EXPIRATION.—Subsection (e) of such section, as amended by section 1252(b) of National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 402), is further amended by striking "September 30, 2009" and inserting "September 30, 2011".

**SEC. 1205. AUTHORITY FOR DISTRIBUTION TO CERTAIN FOREIGN PERSONNEL OF EDUCATION AND TRAINING MATERIALS AND INFORMATION TECHNOLOGY TO ENHANCE MILITARY INTEROPERABILITY WITH THE ARMED FORCES.**

(a) AUTHORITY FOR DISTRIBUTION.—

(1) IN GENERAL.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2249d. Distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability with the armed forces**

"(a) DISTRIBUTION AUTHORIZED.—To enhance interoperability between the armed forces and military forces of friendly foreign nations, the Secretary of Defense, with the concurrence of the Secretary of State, may—

"(1) provide to personnel referred to in subsection (b) electronically-distributed learning content for the education and training of such personnel for the development or enhancement of allied and friendly military and civilian capabilities for multinational operations, including joint exercises and coalition operations; and

"(2) provide information technology, including computer software developed for such purpose, but only to the extent necessary to support the use of such learning content for the education and training of such personnel.

"(b) AUTHORIZED RECIPIENTS.—The personnel to whom learning content and information technology may be provided under subsection (a) are military and civilian personnel of a friendly foreign government, with the permission of that government.

"(c) EDUCATION AND TRAINING.—Any education and training provided under subsection (a) shall include the following:

"(1) Internet-based education and training.

"(2) Advanced distributed learning and similar Internet learning tools, as well as distributed training and computer-assisted exercises.

"(d) APPLICABILITY OF EXPORT CONTROL REGIMES.—The provision of learning content and information technology under this section shall be subject to the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.) and any other export control regime under law relating to the transfer of military technology to foreign nations.

"(e) GUIDANCE ON UTILIZATION OF AUTHORITY.—

"(1) GUIDANCE REQUIRED.—The Secretary of Defense shall develop and issue guidance on the procedures for the use of the authority in this section.

Reports. Deadline.

"(2) MODIFICATION.—If the Secretary modifies the guidance issued under paragraph (1), the Secretary shall submit to the appropriate committees of Congress a report setting forth the modified guidance not later than 30 days after the date of such modification.

"(f) ANNUAL REPORT.—

"(1) REPORT REQUIRED.—Not later than October 31 following each fiscal year in which the authority in this section is used, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the exercise of the authority during such fiscal year.

"(2) ELEMENTS.—Each report under paragraph (1) shall include, for the fiscal year covered by such report, the following:

"(A) A statement of the recipients of learning content and information technology provided under this section.

"(B) A description of the type, quantity, and value of the learning content and information technology provided under this section.

"(g) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 134 of such title is amended by adding at the end the following new item:

"2249d. Distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability with the armed forces.".

10 USC 2249d note. Deadline.

(b) GUIDANCE ON UTILIZATION OF AUTHORITY.—

(1) SUBMITTAL TO CONGRESS.—Not later than 30 days after issuing the guidance required by section 2249d(e) of title 10, United States Code, as added by subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth such guidance.

(2) UTILIZATION OF SIMILAR GUIDANCE.—In developing the guidance required by section 2249d(e) of title 10, United States Code, as so added, the Secretary may utilize applicable portions of the current guidance developed by the Secretary under subsection (f) of section 1207 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2419) for purposes of the exercise of the authority in such section 1207.

(c) REPEAL OF SUPERSEDED AUTHORITY.—

120 Stat. 2419.

(1) IN GENERAL.—Section 1207 of the John Warner National Defense Authorization Act for Fiscal Year 2007 is repealed.

(2) SUBMITTAL OF FINAL REPORT ON EXERCISE OF AUTHORITY.—If the Secretary of Defense exercised the authority in section 1207 of the John Warner National Defense Authorization Act for Fiscal Year 2007 during fiscal year 2008, the Secretary shall submit the report required by subsection (g) of such section for such fiscal year in accordance with the

provisions of such subsection (g) without regard to the repeal of such section under paragraph (1).

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 2008. 10 USC 2249d note.

**SEC. 1206. MODIFICATION AND EXTENSION OF AUTHORITIES RELATING TO PROGRAM TO BUILD THE CAPACITY OF FOREIGN MILITARY FORCES.**

(a) BUILDING OF CAPACITY OF ADDITIONAL FOREIGN FORCES.—Subsection (a) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3456), as amended by section 1206 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2418), is further amended by striking "a program" and all that follows and inserting "a program or programs as follows:

"(1) To build the capacity of a foreign country's national military forces in order for that country to—

"(A) conduct counterterrorism operations; or

"(B) participate in or support military and stability operations in which the United States Armed Forces are participating.

"(2) To build the capacity of a foreign country's maritime security forces to conduct counterterrorism operations.".

(b) FUNDING.—Subsection (c) of such section, as so amended, is further amended—

(1) in paragraph (1), by striking "$300,000,000" and inserting "$350,000,000"; and

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

"(4) AVAILABILITY OF FUNDS FOR ACTIVITIES ACROSS FISCAL YEARS.—Amounts available under this subsection for the authority in subsection (a) for a fiscal year may be used for programs under that authority that begin in such fiscal year but end in the next fiscal year.".

(c) THREE-YEAR EXTENSION OF AUTHORITY.—Subsection (g) of such section, as so amended, is further amended—

(1) by striking "September 30, 2008" and inserting "September 30, 2011"; and

(2) by striking "fiscal year 2006, 2007, or 2008" and inserting "fiscal years 2006 through 2011".

(d) EFFECTIVE DATE.—The amendment made by subsection (b)(2) shall take effect on October 1, 2008, and shall apply with respect to programs under the authority in subsection (a) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006, as so amended, that begin on or after that date.

**SEC. 1207. EXTENSION OF AUTHORITY AND INCREASED FUNDING FOR SECURITY AND STABILIZATION ASSISTANCE.**

(a) PROHIBITION ON BUDGET SUPPORT.—Subsection (a) of section 1207 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3458) is amended—

(1) by striking "The Secretary of Defense" and inserting the following:

"(1) IN GENERAL.—The Secretary of Defense"; and

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

"(2) PROHIBITION ON BUDGET SUPPORT.—Nothing in this section shall be construed to authorize the provision of budget support to any foreign country.".

(b) ASSISTANCE TO GEORGIA DURING FISCAL YEAR 2009.—Subsection (b) of such section is amended—

(1) by striking "The aggregate value" and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), the aggregate value"; and

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

"(2) ASSISTANCE TO GEORGIA DURING FISCAL YEAR 2009.—

"(A) IN GENERAL.—The Secretary of Defense is authorized during fiscal year 2009 to exercise the authority of subsection (a) to provide services to, and transfer defense articles and funds to, the Secretary of State for the purposes of facilitating the provision by the Secretary of State of reconstruction, security, or stabilization assistance to the country of Georgia.

"(B) LIMITATION.—The aggregate value of all services, defense articles, and funds provided or transferred to the Secretary of State under this section for Georgia in fiscal year 2009—

"(i) may not exceed $50,000,000; and

"(ii) shall not count against the dollar amount limitation specified in paragraph (1) for such fiscal year.".

(c) EXTENSION OF AUTHORITY.—Subsection (g) of such section, as amended by section 1210(b) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 369), is further amended by striking "September 30, 2008" and inserting "September 30, 2009".

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

**SEC. 1208. EXTENSION AND EXPANSION OF AUTHORITY FOR SUPPORT OF SPECIAL OPERATIONS TO COMBAT TERRORISM.**

(a) IN GENERAL.—Subsection (a) of section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2086) is amended—

(1) by inserting ", with the concurrence of the relevant Chief of Mission," after "may"; and

(2) by striking "$25,000,000" and inserting "$35,000,000".

(b) TIMING OF NOTICE ON PROVISION OF SUPPORT.—Subsection (c) of such section is amended by striking "in not less than 48 hours" and inserting "within 48 hours".

(c) EXTENSION.—Subsection (h) of such section, as amended by section 1202(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 364), is further amended by striking "2010" and inserting "2013".

(d) TECHNICAL AMENDMENT.—The heading of such section is amended by striking "**MILITARY OPERATIONS**" and inserting "**SPECIAL OPERATIONS**".

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

**SEC. 1209. INCREASE IN AMOUNT AVAILABLE FOR COSTS OF EDUCATION AND TRAINING OF FOREIGN MILITARY FORCES UNDER REGIONAL DEFENSE COMBATING TERRORISM FELLOWSHIP PROGRAM.**

(a) INCREASE IN AMOUNT.—Section 2249c(b) of title 10, United States Code, is amended by striking "$25,000,000" and inserting "$35,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2008, and shall apply with respect to fiscal years beginning on or after that date. 10 USC 2249c note.

# Subtitle B—Matters Relating to Iraq and Afghanistan

**SEC. 1211. LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN PURPOSES RELATING TO IRAQ.**

No funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control of the oil resources of Iraq.

**SEC. 1212. REPORT ON STATUS OF FORCES AGREEMENTS BETWEEN THE UNITED STATES AND IRAQ.** President.

(a) REQUIREMENT FOR REPORT.—

(1) IN GENERAL.—(A) Not later than 90 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report on any agreement that has been completed between the United States and Iraq relating to—

(i) the legal status of United States military personnel, civilian personnel, and contractor personnel of contracts awarded by any department or agency of the United States Government;

(ii) the establishment of or access to military bases;

(iii) the rules of engagement under which United States Armed Forces operate in Iraq; and

(iv) any security commitment, arrangement, or assurance that obligates the United States to respond to internal or external threats against Iraq.

(B) If, on the date that is 90 days after the date of the enactment of this Act, no agreement between the United States and Iraq described in subparagraph (A) has been completed, the President shall notify the appropriate congressional committees that no such agreement has been completed, and shall transmit to the appropriate congressional committees the report required under subparagraph (A) as soon as practicable after such an agreement or agreements are completed. Notification.

(2) UPDATE OF REPORT.—The President shall transmit to the appropriate congressional committees an update of the report required under paragraph (1) whenever an agreement between the United States and Iraq relating to the matters described in the report is substantially revised.

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include, with respect to each agreement described in subsection (a), the following:

(1) A description of any conditions placed on United States combat operations by the Government of Iraq, including required coordination, if any, before such operations can be undertaken.

(2) A description of any constraints placed on United States military personnel, civilian personnel, and contractor personnel of contracts awarded by any department or agency of the United States Government as a result of such conditions.

(3) A description of the conditions under which United States military personnel, civilian personnel, or contractor personnel of contracts awarded by any department or agency of the United States Government could be tried by an Iraqi court for alleged crimes occurring both during the performance of official duties and during other such times, and the protections that such personnel would be extended in an Iraqi court, if applicable.

(4) An assessment of authorities under the agreement for United States Armed Forces and Coalition partners to apprehend, detain, and interrogate prisoners and otherwise collect intelligence.

(5) A description of any security commitment, arrangement, or assurance that obligates the United States to respond to internal or external threats against Iraq, including the manner in which such commitment, arrangement, or assurance may be implemented.

(6) An assessment of any payments required under the agreement to be paid to the Government of Iraq or other Iraqi entities for rights, access, or support for bases and facilities.

(7) An assessment of any payments required under the agreement for any claims for deaths and damages caused by United States military personnel, civilian personnel, and contractor personnel of contracts awarded by any department or agency of the United States Government in the performance of their official duties.

(8) A description of the arrangements required under the agreement to resolve disputes arising over matters contained in the agreement or to consider changes to the agreement.

(9) A discussion of the extent to which the agreement applies to other Coalition partners.

(10) A description of how the agreement can be terminated by the United States or Iraq.

(c) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

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

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

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

(e) TERMINATION OF REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the requirement to transmit the report and updates of the report under subsection (a) terminates on December 31, 2009.

(2) EXCEPTION.—The requirement to transmit the report and updates of the report under subsection (a) terminates before December 31, 2009, if the following conditions are met:

(A) The President transmits to the appropriate congressional committees the text of any agreement between the United States and Iraq described in subsection (a)(1)(A) and any amendment or update thereto.

(B) Within 30 days of transmission of the agreement, the President makes available appropriate senior officials to brief the appropriate congressional committees on the matters covered by the agreement or any amendment or update thereto. Deadline.

**SEC. 1213. STRATEGY FOR UNITED STATES-LED PROVINCIAL RECONSTRUCTION TEAMS IN IRAQ.** President. 22 USC 2151 note.

(a) IN GENERAL.—The President shall establish and implement a strategy for United States-led Provincial Reconstruction Teams (PRTs), including embedded PRTs and Provincial Support Teams, in Iraq that ensures that such United States-led PRTs are—

(1) supporting the operational and strategic goals of the Multi-National Force–Iraq; and

(2) developing the capacity of national, provincial, and local government and other civil institutions in Iraq to assume increasing responsibility for the formulation, implementation, and oversight of reconstruction and development activities.

(b) ELEMENTS OF STRATEGY.—At a minimum, the strategy required under subsection (a) shall include—

(1) a mission statement and clearly defined objectives for United States-led PRTs as a whole;

(2) a mission statement and clearly defined objectives for each United States-led PRT; and

(3) measures of effectiveness and performance indicators for meeting the objectives of each United States-led PRT as described in paragraph (2).

(c) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter through the end of fiscal year 2010, the President shall transmit to the appropriate congressional committees a report on the implementation of the strategy required under subsection (a), including an assessment of the specific contributions United States-led PRTs are making to implement the strategy. The initial report required under this subsection should include a general description of the strategy required under subsection (a) and a general discussion of the elements of the strategy required under subsection (b).

(2) INCLUSION IN OTHER REPORT.—The report required under this subsection may be included in the report required by section 1227 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3465).

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

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

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

**SEC. 1214. COMMANDERS' EMERGENCY RESPONSE PROGRAM.**

(a) AUTHORITY FOR FISCAL YEARS 2008 AND 2009.—Subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3455), as amended by section 1205 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 366), is further amended in the matter preceding paragraph (1)—

(1) by striking "$977,441,000" and inserting "$1,700,000,000 in fiscal year 2008 and $1,500,000,000 in fiscal year 2009,"; and

(2) by striking "in such fiscal year".

(b) QUARTERLY REPORTS.—Subsection (b) of such section, as so amended, is further amended—

(1) in the heading, by inserting "AND BRIEFINGS" after "REPORTS";

(2) by striking "Not later than" and inserting the following: "(1) IN GENERAL.—Not later than"; and

(3) by adding at the end the following new paragraphs:

"(2) ADDITIONAL MATTERS TO BE INCLUDED.—In addition to the information described in paragraph (1), each report required under paragraph (1) that contains information on projects carried out using funds authorized under the Commanders' Emergency Response Program in Iraq shall include the following:

"(A) A listing of each project for which amounts in excess of $500,000 provided through the Commanders' Emergency Response Program in Iraq were expended.

"(B) A written statement by the Secretary of Defense, or the Deputy Secretary of Defense if the authority under subsection (f) is delegated to the Deputy Secretary of Defense, affirming that the certification required under subsection (f) was issued for each project in Iraq for which amounts in excess of $1,000,000 provided through the Commanders' Emergency Response Program in Iraq were expended.

"(C) For each project listed in subparagraph (A), the following information:

"(i) A description and justification for carrying out the project

"(ii) A description of the extent of involvement by the Government of Iraq in the project, including—

"(I) the amount of funds provided by the Government of Iraq for the project; and

"(II) a description of the plan for the transition of such project upon completion to the people of Iraq and for the sustainment of any completed facilities, including any commitments by the Government of Iraq to sustain projects requiring the support of the Government of Iraq for sustainment.

"(iii) A description of the current status of the project, including, where appropriate, the projected completion date.

"(D) A description of the status of transitioning activities carried out under the Commanders' Emergency Response Program in Iraq to the Government of Iraq, including—

"(i) the level of funding provided by the Government of Iraq for the Government of Iraq Commanders' Emergency Response Program (commonly known as 'I-CERP');

"(ii) the level of funding provided and expended by the Government of Iraq in other programs designed to meet urgent humanitarian relief and reconstruction requirements that immediately assist the Iraqi people; and

"(iii) a description of the progress made in transitioning the responsibility for the Sons of Iraq Program to the Government of Iraq.

"(3) BRIEFINGS.—Not later than 15 days after the submission of each report under paragraph (1), appropriate officials of the Department of Defense shall meet with the congressional defense committees to brief such committees on the matters contained in the report.". Deadline.

(c) PROHIBITION ON CERTAIN PROJECTS UNDER THE COMMANDERS' EMERGENCY RESPONSE PROGRAM IN IRAQ.—Such section, as so amended, is further amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) PROHIBITION ON CERTAIN PROJECTS UNDER THE COMMANDERS' EMERGENCY RESPONSE PROGRAM IN IRAQ.—

"(1) PROHIBITION.—Except as provided in paragraph (2), funds made available under this section for the Commanders' Emergency Response Program in Iraq may not be obligated or expended to carry out any project commenced after the date of the enactment of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 if the total amount of such funds made available for the purpose of carrying out the project exceeds $2,000,000.

"(2) EXCEPTION.—The prohibition contained in paragraph (1) shall not apply with respect to funds managed or controlled by the Department of Defense that were otherwise provided by another department or agency of the United States Government, the Government of Iraq, the government of a foreign country, a foundation or other charitable organization (including a foundation or charitable organization that is organized or operates under the laws of a foreign country), or any source in the private sector of the United States or a foreign country.

"(3) WAIVER.—The Secretary of Defense may waive the prohibition contained in paragraph (1) if the Secretary of Defense—

"(A) determines that such a waiver is required to meet urgent humanitarian relief and reconstruction requirements that will immediately assist the Iraqi people; and

Deadline. Notification.

"(B) submits in writing, within 15 days of issuing such waiver, to the congressional defense committees a notification of the waiver, together with a discussion of—

"(i) the unmet and urgent needs to be addressed by the project; and

"(ii) any arrangements between the Government of the United States and the Government of Iraq regarding the provision of Iraqi funds for carrying out and sustaining the project .".

(d) CERTIFICATION ON CERTAIN PROJECTS UNDER THE COMMANDERS' EMERGENCY RESPONSE PROGRAM IN IRAQ.—Such section, as so amended, is further amended—

(1) by redesignating subsection (f), as redesignated by subsection (c) of this section, as subsection (g); and

(2) by inserting after subsection (e), as added by subsection (c) of this section, the following new subsection:

"(f) CERTIFICATION ON CERTAIN PROJECTS UNDER THE COMMANDERS' EMERGENCY RESPONSE PROGRAM IN IRAQ.—

"(1) CERTIFICATION.—Funds made available under this section for the Commanders' Emergency Response Program in Iraq may not be obligated or expended to carry out any project commenced after the date of the enactment of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 if the total amount of such funds made available for the purpose of carrying out the project exceeds $1,000,000 unless the Secretary of Defense certifies that the project addresses urgent humanitarian relief and reconstruction requirements that will immediately assist the Iraqi people.

"(2) DELEGATION.—The Secretary may delegate the authority under paragraph (1) to the Deputy Secretary of Defense.".

(e) SENSE OF CONGRESS.—It is the sense of Congress that the Government of Iraq should assume increasing responsibility for funding and carrying out projects currently funded by the United States through the Commanders' Emergency Response Program, and should assume all costs associated with the Sons of Iraq program as expeditiously as possible.

22 USC 7513 note.

**SEC. 1215. PERFORMANCE MONITORING SYSTEM FOR UNITED STATES-LED PROVINCIAL RECONSTRUCTION TEAMS IN AFGHANISTAN.**

President.

(a) IN GENERAL.—The President, acting through the Secretary of Defense and the Secretary of State, shall develop and implement a system to monitor the performance of United States-led Provincial Reconstruction Teams (PRTs) in Afghanistan.

(b) ELEMENTS OF PERFORMANCE MONITORING SYSTEM.—The performance monitoring system required under subsection (a) shall include—

(1) PRT-specific work plans that incorporate the long-term strategy, mission, and clearly defined objectives required by section 1230(c)(3) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 386), and include plans for developing the capacity of national, provincial, and local government and other civil institutions in Afghanistan to assume increasing responsibility for the formulation, implementation, and oversight of reconstruction and development activities; and

(2) comprehensive performance indicators and measures of progress toward sustainable long-term security and stability in Afghanistan, and include performance standards and progress goals together with a notional timetable for achieving such goals, consistent with the requirements of section 1230(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 388).

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report on the implementation of the performance monitoring system required under subsection (a). President.

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

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

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

**SEC. 1216. REPORT ON COMMAND AND CONTROL STRUCTURE FOR MILITARY FORCES OPERATING IN AFGHANISTAN.** 10 USC 113 note.

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, or December 1, 2008, whichever occurs later, the Secretary of Defense shall submit to the appropriate congressional committees a report on the command and control structure for military forces operating in Afghanistan.

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

(1) A detailed description of efforts by the Secretary of Defense, in coordination with senior leaders of NATO ISAF forces, including the commander of NATO ISAF forces, to modify the chain of command structure for military forces operating in Afghanistan to better coordinate and de-conflict military operations and achieve unity of command whenever possible in Afghanistan, and the results of such efforts, including—

(A) any United States or NATO ISAF plan for improving the command and control structure for military forces operating in Afghanistan; and

(B) any efforts to establish a headquarters in Afghanistan that is led by a commander—

(i) with command authority over NATO ISAF forces and separate United States forces operating under Operation Enduring Freedom and charged with closely coordinating the efforts of such forces; and

(ii) responsible for coordinating other United States and international security efforts in Afghanistan.

(2) A description of how rules of engagement are determined and managed for United States forces operating under NATO ISAF or Operation Enduring Freedom, and a description of any key differences between rules of engagement for NATO ISAF forces and separate United States forces operating under Operation Enduring Freedom.

(3) An assessment of how any modifications to the command and control structure for military forces operating in Afghanistan would impact coordination of military and civilian efforts in Afghanistan.

(c) UPDATE OF REPORT.—The Secretary of Defense shall submit to the appropriate congressional committees an update of the report required under subsection (a) as warranted by any modifications to the command and control structure for military forces operating in Afghanistan as described in the report.

(d) FORM.—The report required under subsection (a) and any update of the report required under subsection (c) shall be submitted in an unclassified form, but may include a classified annex, if necessary.

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

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

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

**SEC. 1217. REPORTS ON ENHANCING SECURITY AND STABILITY IN THE REGION ALONG THE BORDER OF AFGHANISTAN AND PAKISTAN.**

(a) ADDITIONAL REPORTS REQUIRED.—Subsection (a) of section 1232 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 392) is amended—

(1) in the heading of paragraph (1), by striking "IN GENERAL" and inserting "INITIAL REPORT";

(2) by striking paragraph (4);

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) SUBSEQUENT REPORTS.—Concurrent with the submission of each report submitted under section 1230 after the date of the enactment of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate congressional committees, a report on enhancing security and stability in the region along the border of Afghanistan and Pakistan. Each such report shall include the following:

"(A) A description of the matters required to be included in the initial report required under paragraph (1).

"(B) A description of any peace agreements between the Government of Pakistan and tribal leaders from regions along the Afghanistan-Pakistan border that contain commitments to prevent cross-border incursions into Afghanistan and any mechanisms in such agreements to enforce such commitments.

"(C) An assessment of the effectiveness of such peace agreements in preventing cross-border incursions and of the Government of Pakistan in enforcing those agreements.".

(b) COPY OF NOTIFICATION RELATING TO DEPARTMENT OF DEFENSE COALITION SUPPORT FUNDS FOR PAKISTAN.—Subsection

(b)(1) of such section is amended by adding at the end the following new subparagraph:

"(C) COPY OF NOTIFICATION.—The Secretary of Defense shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a copy of each notification required under subparagraph (A).".

(c) ADDITIONAL INFORMATION ON DEPARTMENT OF DEFENSE COALITION SUPPORT FUNDS FOR PAKISTAN.—Subsection (b) of such section is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) REQUIREMENT TO SUBMIT INFORMATION RELATING TO CLAIMS DISALLOWED OR DEFERRED BY THE UNITED STATES.—

"(A) IN GENERAL.—The Secretary of Defense shall submit, in the manner specified in subparagraph (B), an itemized description of the costs claimed by the Government of Pakistan for logistical, military, or other support provided by Pakistan to the United States for which the United States will disallow or defer reimbursement to the Government of Pakistan under the authority of any provision of law described in paragraph (1)(B).

"(B) MANNER OF SUBMISSION.—

"(i) IN GENERAL.—To the maximum extent practicable, the Secretary shall submit each itemized description of costs required under subparagraph (A) as part of the notification required under paragraph (1).

"(ii) ALTERNATIVE SUBMISSION.—To the extent that an itemized description of costs required under subparagraph (A) is not submitted in accordance with clause (i), the Secretary shall submit such description not later than 180 days after the date on which a decision to disallow or defer reimbursement for the costs claimed is made.

"(C) FORM.—Each itemized description of costs required under subparagraph (B) shall be submitted in an unclassified form, but may include a classified annex, if necessary.".

(d) EXTENSION OF NOTIFICATION REQUIREMENT RELATING TO DEPARTMENT OF DEFENSE COALITION SUPPORT FUNDS FOR PAKISTAN.—Subsection (b)(6) of such section, as redesignated by subsection (c) of this section, is amended by striking "September 30, 2009" and inserting "September 30, 2010".

(e) REPORT RELATING TO DEPARTMENT OF DEFENSE COALITION SUPPORT FUNDS FOR PAKISTAN.—Such section is further amended by adding at the end the following new subsection:

"(c) REPORT RELATING TO DEPARTMENT OF DEFENSE COALITION SUPPORT FUNDS FOR PAKISTAN.—

"(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, the Secretary of Defense shall submit to the appropriate congressional committees a report that contains a detailed description of efforts by the Secretary of Defense to address the findings and implement the recommendations made by the Government Accountability Office in its report entitled 'Combating Terrorism: Increased

Oversight and Accountability Needed Over Pakistan Reimbursement Claims for Coalition Support Funds' (GAO-08-806; June 24, 2008).

"(2) APPROPRIATE CONGRESSIONAL COMMITTEE DEFINED.—In this subsection, the term 'appropriate congressional committees' has the meaning given the term in subsection (a)(5).".

**SEC. 1218. STUDY AND REPORT ON POLICE TRANSITION TEAMS TO TRAIN, ASSIST, AND ADVISE UNITS OF THE IRAQI POLICE SERVICE.**

(a) STUDY AND REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State and the Government of Iraq, shall conduct a study and submit to the appropriate congressional committees a report containing the recommendations of the Secretary of Defense on—

(1) the number of personnel required for Police Transition Teams to train, assist, and advise units of the Iraqi Police Service in fiscal year 2009 and in fiscal year 2010;

(2) the funding required to support the level of personnel described in paragraph (1) in fiscal year 2009 and in fiscal year 2010; and

(3) the feasibility of transferring responsibility for the provision of the personnel described in paragraph (1) and the support described in paragraph (2) from the Department of Defense to the Department of State.

(b) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex if required.

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

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

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

## Subtitle C—Other Matters

**SEC. 1231. PAYMENT OF PERSONNEL EXPENSES FOR MULTILATERAL COOPERATION PROGRAMS.**

(a) EXPANSION OF AUTHORITY FOR BILATERAL AND REGIONAL PROGRAMS TO COVER MULTILATERAL PROGRAMS.—Section 1051 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "a bilateral" and inserting "a multilateral, bilateral,"; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "to and" and inserting "to, from, and"; and

(ii) by striking "bilateral" and inserting "multilateral, bilateral,"; and

(B) in paragraph (2), by striking "bilateral" and inserting "multilateral, bilateral,".

(b) AVAILABILITY OF FUNDS FOR PROGRAMS AND ACTIVITIES ACROSS FISCAL YEARS.—

(1) IN GENERAL.—Such section is further amended by adding at the end the following new subsection:

"(e) Funds available to carry out this section shall be available, to the extent provided in appropriations Acts, for programs and activities under this section that begin in a fiscal year and end in the following fiscal year.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2008, and shall apply with respect to programs and activities under section 1051 of title 10, United States Code, as so amended, that begin on or after that date. 10 USC 1051 note.

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

**"§ 1051. Multilateral, bilateral, or regional cooperation programs: payment of personnel expenses".**

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by striking the item relating to section 1051 and inserting the following new item:

"1051. Multilateral, bilateral, or regional cooperation programs: payment of personnel expenses.".

**SEC. 1232. PARTICIPATION OF THE DEPARTMENT OF DEFENSE IN MULTINATIONAL MILITARY CENTERS OF EXCELLENCE.**

(a) PARTICIPATION AUTHORIZED.—

(1) IN GENERAL.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2350m. Participation in multinational military centers of excellence**

"(a) PARTICIPATION AUTHORIZED.—The Secretary of Defense may, with the concurrence of the Secretary of State, authorize the participation of members of the armed forces and Department of Defense civilian personnel in any multinational military center of excellence for purposes of—

"(1) enhancing the ability of military forces and civilian personnel of the nations participating in such center to engage in joint exercises or coalition or international military operations; or

"(2) improving interoperability between the armed forces and the military forces of friendly foreign nations.

"(b) MEMORANDUM OF UNDERSTANDING.—(1) The participation of members of the armed forces or Department of Defense civilian personnel in a multinational military center of excellence under subsection (a) shall be in accordance with the terms of one or more memoranda of understanding entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and the foreign nation or nations concerned.

"(2) If Department of Defense facilities, equipment, or funds are used to support a multinational military center of excellence under subsection (a), the memoranda of understanding under paragraph (1) with respect to that center shall provide details of any cost-sharing arrangement or other funding arrangement.

"(c) AVAILABILITY OF APPROPRIATED FUNDS.—(1) Funds appropriated to the Department of Defense for operation and maintenance are available as follows:

"(A) To pay the United States share of the operating expenses of any multinational military center of excellence in which the United States participates under this section.

"(B) To pay the costs of the participation of members of the armed forces and Department of Defense civilian personnel in multinational military centers of excellence under this section, including the costs of expenses of such participants.

"(2) No funds may be used under this section to fund the pay or salaries of members of the armed forces and Department of Defense civilian personnel who participate in multinational military centers of excellence under this section.

"(d) USE OF DEPARTMENT OF DEFENSE FACILITIES AND EQUIPMENT.—Facilities and equipment of the Department of Defense may be used for purposes of the support of multinational military centers of excellence under this section that are hosted by the Department.

"(e) ANNUAL REPORTS ON USE OF AUTHORITY.—(1) Not later than October 31, 2009, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the use of the authority in this section during the preceding fiscal year.

"(2) Each report required by paragraph (1) shall include, for the fiscal year covered by such report, the following:

"(A) A detailed description of the participation of the Department of Defense, and of members of the armed forces and civilian personnel of the Department, in multinational military centers of excellence under the authority of this section.

"(B) For each multinational military center of excellence in which the Department of Defense, or members of the armed forces or civilian personnel of the Department, so participated—

"(i) a description of such multinational military center of excellence;

"(ii) a description of the activities participated in by the Department, or by members of the armed forces or civilian personnel of the Department; and

"(iii) a statement of the costs of the Department for such participation, including—

"(I) a statement of the United States share of the expenses of such center and a statement of the percentage of the United States share of the expenses of such center to the total expenses of such center; and

"(II) a statement of the amount of such costs (including a separate statement of the amount of costs paid for under the authority of this section by category of costs).

"(f) MULTINATIONAL MILITARY CENTER OF EXCELLENCE DEFINED.—In this section, the term 'multinational military center of excellence' means an entity sponsored by one or more nations that is accredited and approved by the Military Committee of the North Atlantic Treaty Organization (NATO) as offering recognized expertise and experience to personnel participating in the activities

of such entity for the benefit of NATO by providing such personnel opportunities to—

"(1) enhance education and training;

"(2) improve interoperability and capabilities;

"(3) assist in the development of doctrine; and

"(4) validate concepts through experimentation.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of chapter 138 of such title is amended by adding at the end the following new item:

"2350m. Participation in multinational military centers of excellence.".

(b) REPEAL OF SUPERSEDED AUTHORITY.—Section 1205 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2416) is repealed.

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

10 USC 2350m note.

**SEC. 1233. REVIEW OF SECURITY RISKS OF PARTICIPATION BY DEFENSE CONTRACTORS IN CERTAIN SPACE ACTIVITIES OF THE PEOPLE'S REPUBLIC OF CHINA.**

(a) REVIEW REQUIRED.—The Secretary of Defense shall conduct a review to determine whether there are any security risks associated with participation by covered contractors in certain space activities of the People's Republic of China.

(b) MATTERS TO BE INCLUDED.—The review required under subsection (a) shall include, at a minimum, a review of the following:

(1) Whether there have been any incidents with respect to which a determination has been made that an improper disclosure of covered information by a covered contractor has occurred during the five-year period ending on the date of the enactment of this Act.

(2) The increase, if any, in the number of covered contractors expected to occur during the 5-year period beginning on the date of the enactment of this Act.

(3) The extent to which the policies and procedures of the Department of Defense are sufficient to protect against the improper disclosure of covered information by a covered contractor during the 5-year period beginning on the date of the enactment of this Act.

(4) The Secretary's conclusions regarding awards of contracts by the Department of Defense to covered contractors after the date of the enactment of this Act.

(5) Any other matters that the Secretary determines to be appropriate to include in the review.

(c) COOPERATION FROM OTHER DEPARTMENTS AND AGENCIES.—The Secretary of State, the Director of National Intelligence, and the head of any other United States Government department or agency shall cooperate in a complete and timely manner to provide the Secretary of Defense with data and other information necessary for the Secretary of Defense to carry out the review required under subsection (a).

(d) REPORT.—

(1) IN GENERAL.—Not later than March 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report on the review required under subsection (a).

(2) FORM.—The report required under this subsection shall include a summary in unclassified form to the maximum extent practicable.

(e) DEFINITIONS.—In this section:

(1) CERTAIN SPACE ACTIVITIES OF THE PEOPLE'S REPUBLIC OF CHINA.—The term "certain space activities of the People's Republic of China" means—

(A) the development or manufacture of satellites for launch from the People's Republic of China; and

(B) the launch of satellites from the People's Republic of China.

(2) COVERED CONTRACTOR.—The term "covered contractor" means a contractor of the Department of Defense, and any subcontractor (at any tier) of the contractor, that—

(A) has access to covered information; and

(B) participates, or is part of a joint venture that participates, or whose parent, sister, subsidiary, or affiliate company participates, in certain space activities in the People's Republic of China.

(3) COVERED INFORMATION.—The term "covered information" means classified information and sensitive controlled unclassified information obtained under contracts (or subcontracts of such contracts) of the Department of Defense.

50 USC 2367 note.

**SEC. 1234. REPORT ON IRAN'S CAPABILITY TO PRODUCE NUCLEAR WEAPONS.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Director of National Intelligence shall submit to Congress a report on Iran's capability to produce nuclear weapons. The report required under this subsection may be submitted in classified form.

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

(1) The locations, types, and number of centrifuges and other specialized equipment necessary for the enrichment of uranium and any plans to acquire, manufacture, and operate such equipment in the future.

(2) An estimate of the amount, if any, of highly enriched uranium and weapons grade plutonium acquired or produced to date, an estimate of the amount of weapons grade plutonium that is likely to be produced or acquired in the near- and midterms and the amount of highly enriched uranium that is likely to be produced or acquired in the near- and midterms, and the number of nuclear weapons that could be produced with such materials.

(3) A evaluation of the extent to which security and safeguards at any nuclear site prevent, slow, verify, or help monitor the enrichment of uranium or the reprocessing of plutonium into weapons-grade materials.

(4) A description of any weaponization activities, such as the research, design, development, or testing of nuclear weapons or weapons-related components.

(5) A description of any programs to construct, acquire, test, or improve methods to deliver nuclear weapons, including an assessment of the likely progress of such programs in the near- and mid-terms.

(6) A summary of assessments made by allies of the United States of Iran's nuclear weapons program and nuclear-capable delivery systems programs.

(c) NOTIFICATION.—The President shall notify Congress, in writing, within 15 days of determining that— President.

(1) Iran has resumed a nuclear weapons program;

(2) Iran has met or surpassed any major milestone in its nuclear weapons program; or

(3) Iran has undertaken to accelerate, decelerate, or cease the development of any significant element within its nuclear weapons program.

**SEC. 1235. EMPLOYMENT FOR RESETTLED IRAQIS.** 10 USC 1580 note.

(a) IN GENERAL.—The Secretary of Defense and the Secretary of State are authorized to jointly establish and operate a temporary program to offer employment as translators, interpreters, or cultural awareness instructors to individuals described in subsection (b). Individuals described in such subsection may be appointed to temporary positions of one year or less outside Iraq with either the Department of Defense or the Department of State, without competition and without regard for the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code. Such individuals may also be hired as personal services contractors by either of such Departments to provide translation, interpreting, or cultural awareness instruction, except that such individuals so hired shall not by virtue of such employment be considered employees of the United States Government, except for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(b) ELIGIBILITY.—Individuals referred to in subsection (a) are Iraqi nationals who—

(1) have received a special immigrant visa issued pursuant to section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) or section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181); and

(2) are lawfully present in the United States.

(c) FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), the program established under subsection (a) shall be funded from the annual general operating budget of the Department of Defense.

(2) EXCEPTION.—The Secretary of State shall reimburse the Department of Defense for any costs associated with individuals described in subsection (b) whose work is for or on behalf of the Department of State.

(d) RULE OF CONSTRUCTION REGARDING ACCESS TO CLASSIFIED INFORMATION.—Nothing in this section may be construed as affecting in any manner practices and procedures regarding the handling of or access to classified information.

(e) INFORMATION SHARING.—The Secretary of Defense and the Secretary of State shall work with the Secretary of Homeland Security and the Office of Refugee Resettlement of the Department of Health and Human Services to ensure that individuals described in subsection (b) are informed of the program established under subsection (a).

(f) REGULATION.—The Secretary of Defense, jointly with the Secretary of State and with the concurrence of the Director of the Office of Personnel Management, shall prescribe such regulations as are necessary to carry out the program established under subsection (a), including ensuring the suitability for employment described in subsection (a) of individuals described in subsection (b), determining the number of positions, and establishing pay scales and hiring procedures.

(g) TERMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the program established under subsection (a) shall terminate on December 31, 2014.

Notification. Deadline.

(2) EARLIER TERMINATION.—If the Secretary of Defense, jointly with the Secretary of State, determines that the program established under subsection (a) should terminate before the date specified in paragraph (1), the Secretaries may terminate the program if the Secretaries notify Congress in writing of such termination at least 180 days before such termination.

**SEC. 1236. EXTENSION AND MODIFICATION OF UPDATES ON REPORT ON CLAIMS RELATING TO THE BOMBING OF THE LABELLE DISCOTHEQUE.**

Section 1225(b) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3465), as amended by section 1261(1)(B) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 405), is further amended—

(1) in paragraph (2)—

Deadlines.

(A) by striking "Not later than one year after enactment of this Act, and not later than two years after enactment of this Act" and inserting "Not later than 90 days after the date of the enactment of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, and every 180 days thereafter"; and

(B) by adding at the end the following new sentence: "Each update under this paragraph after the date of the enactment of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 shall be submitted in unclassified form, but may include a classified annex."; and

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

"(3) TERMINATION.—The requirement to submit updates under paragraph (2) shall terminate upon submission by the Secretary of State to Congress of the certification described in section 5(a)(2) of the Libya Claims Resolution Act (Public Law 110–301; 122 Stat. 3000).".

**SEC. 1237. REPORT ON UTILIZATION OF CERTAIN GLOBAL PARTNERSHIP AUTHORITIES.**

(a) IN GENERAL.—Not later than December 31, 2010, the Secretary of Defense and the Secretary of State shall jointly submit to the appropriate committees of Congress a report on the implementation of the Building Global Partnership authorities during the period beginning on the date of the enactment of this Act and ending on September 30, 2010.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A detailed summary of the programs conducted under the Building Global Partnership authorities during the period covered by the report, including, for each country receiving assistance under such a program, a description of the assistance provided and its cost.

(2) An assessment of the impact of the assistance provided under the Building Global Partnership authorities with respect to each country receiving assistance under such authorities.

(3) A description of—

(A) the processes used by the Department of Defense and the Department of State to jointly formulate, prioritize, and select projects to be funded under the Building Global Partnership authorities; and

(B) the processes, if any, used by the Department of Defense and the Department of State to evaluate the success of each project so funded after its completion.

(4) A statement of the projects initiated under the Building Global Partnership authorities that were subsequently transitioned to and sustained under the authorities of the Foreign Assistance Act of 1961 or other authorities.

(5) An assessment of the utility of the Building Global Partnership authorities, and of any gaps in such authorities, including an assessment of the feasability and advisability of continuing such authorities beyond their current dates of expiration (whether in their current form or with such modifications as the Secretary of Defense and the Secretary of State jointly consider appropriate).

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives.

(2) BUILDING GLOBAL PARTNERSHIP AUTHORITIES.—The term "Building Global Partnership authorities" means the following:

(A) AUTHORITY FOR BUILDING CAPACITY OF FOREIGN MILITARY FORCES.—The authorities provided in section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3456), as amended by section 1206 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2418) and section 1206 of this Act.

(B) AUTHORITY FOR SECURITY AND STABILIZATION ASSISTANCE.—The authorities provided in section 1207 of the National Defense Authorization Act for Fiscal Year 2006 (119 Stat. 3458), as amended by section 1210 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 369) and section 1207 of this Act.

(C) CIVIC ASSISTANCE AUTHORITIES UNDER COMBATANT COMMANDER INITIATIVE FUND.—The authority to engage in urgent and unanticipated civic assistance under the Combatant Commander Initiative Fund under section 166a(b)(6) of title 10, United States Code, as a result of

the amendments made by section 902 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (120 Stat. 2351).

**SEC. 1238. MODIFICATION AND REPEAL OF REQUIREMENT TO SUBMIT CERTAIN ANNUAL REPORTS TO CONGRESS REGARDING ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE.**

(a) MODIFICATION OF CERTAIN REPORTS ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE.—Section 1003 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2576) is amended—

22 USC 1928 note.

(1) by striking subsections (c) and (d); and

(2) adding at the end the following new subsections:

"(c) The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives each year, not later than March 1, a report containing a description of—

"(1) annual defense spending by each member nation of NATO, by each member nation of the Euro-Atlantic Partnership Council (EAPC), and by Japan, including available nominal budget figures and defense spending as a percentage of the respective nation's gross domestic product for the fiscal year immediately preceding the fiscal year in which the report is submitted;

"(2) activities of each NATO member nation, each EAPC member nation, and Japan to contribute to military or stability operations in which the United States Armed Forces are a participant;

"(3) any limitations that such nations place on the use of their national contributions described in paragraph (2); and

"(4) any actions undertaken by the United States Government to minimize those limitations described in paragraph (3).

"(d) The report required under subsection (c) shall be submitted in unclassified form, but may include a classified annex."

(b) REPEAL OF REPORT ON COST-SHARING.—Section 1313 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2894) is amended—

22 USC 1928 note.

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsections (c).

# TITLE XIII—COOPERATIVE THREAT REDUCTION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.

**SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.**

(a) SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501 of the National Defense Authorization Act for Fiscal Year 1997 (50 U.S.C. 2362 note).

(b) FISCAL YEAR 2009 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2009 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for fiscal years 2009, 2010, and 2011.

**SEC. 1302. FUNDING ALLOCATIONS.**

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $434,135,000 authorized to be appropriated to the Department of Defense for fiscal year 2009 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $79,985,000.

(2) For strategic nuclear arms elimination in Ukraine, $6,400,000.

(3) For nuclear weapons storage security in Russia, $24,101,000.

(4) For nuclear weapons transportation security in Russia, $40,800,000.

(5) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $59,286,000.

(6) For biological threat reduction in the former Soviet Union, $184,463,000.

(7) For chemical weapons destruction, $1,000,000.

(8) For defense and military contacts, $8,000,000.

(9) For new Cooperative Threat Reduction initiatives, $10,000,000.

(10) For activities designated as Other Assessments/Administrative Costs, $20,100,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2009 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (10) of subsection (a) until 15 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2009 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2009 for a purpose listed in paragraphs (1) through (10) of subsection (a) in excess of the specific amount authorized for that purpose.

(2) NOTICE-AND-WAIT REQUIRED.—An obligation of funds for a purpose stated in paragraphs (1) through (10) of subsection (a) in excess of the specific amount authorized for such purpose

may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

# TITLE XIV—OTHER AUTHORIZATIONS

Subtitle A—Military Programs

Sec. 1401. Working capital funds.
Sec. 1402. National Defense Sealift Fund.
Sec. 1403. Defense Health Program.
Sec. 1404. Chemical agents and munitions destruction, defense.
Sec. 1405. Drug Interdiction and Counter-Drug Activities, Defense-wide.
Sec. 1406. Defense Inspector General.
Sec. 1407. National Defense Sealift Fund amendments.

Subtitle B—National Defense Stockpile

Sec. 1411. Authorized uses of National Defense Stockpile funds.
Sec. 1412. Revisions to previously authorized disposals from the National Defense Stockpile.

Subtitle C—Armed Forces Retirement Home

Sec. 1421. Authorization of appropriations for Armed Forces Retirement Home.

## Subtitle A—Military Programs

**SEC. 1401. WORKING CAPITAL FUNDS.**

Funds are hereby authorized to be appropriated for fiscal year 2009 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $198,150,000.

(2) For the Defense Working Capital Fund, Defense Commissary, $1,291,084,000.

**SEC. 1402. NATIONAL DEFENSE SEALIFT FUND.**

Funds are hereby authorized to be appropriated for fiscal year 2009 for the National Defense Sealift Fund in the amount of $1,608,572,000.

**SEC. 1403. DEFENSE HEALTH PROGRAM.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2009 for expenses, not otherwise provided for, for the Defense Health Program, in the amount of $24,966,917,000, of which—

(1) $24,467,074,000 is for Operation and Maintenance;

(2) $195,938,000 is for Research, Development, Test, and Evaluation; and

(3) $303,905,000 is for Procurement.

(b) SOURCE OF CERTAIN FUNDS.—Of the amount available under subsection (a), $1,300,000,000 shall, to the extent provided in advance in an Act making appropriations for fiscal year 2009, be available by transfer from the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h).

**SEC. 1404. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2009 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, in the amount of $1,485,634,000, of which—

(1) $1,152,668,000 is for Operation and Maintenance;

(2) $268,881,000 is for Research, Development, Test, and Evaluation; and

(3) $64,085,000 is for Procurement.

(b) USE.—Amounts authorized to be appropriated under subsection (a) are authorized for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

**SEC. 1405. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2009 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, in the amount of $1,060,463,000.

**SEC. 1406. DEFENSE INSPECTOR GENERAL.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2009 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, in the amount of $273,845,000, of which—

(1) $270,445,000 is for Operation and Maintenance; and

(2) $3,400,000 is for Procurement.

**SEC. 1407. NATIONAL DEFENSE SEALIFT FUND AMENDMENTS.**

Section 2218 of title 10, United States Code, is amended—

(1) by striking subsection (j) and redesignating subsections (k) and (l) as subsections (j) and (k), respectively; and

(2) in paragraph (2) of subsection (k) (as so redesignated), by striking subparagraphs (B) thru (I) and inserting the following new subparagraph (B):

"(B) Any other auxiliary vessel that was procured or chartered with specific authorization in law for the vessel, or class of vessels, to be funded in the National Defense Sealift Fund.".

## Subtitle B—National Defense Stockpile

**SEC. 1411. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2009, the National Defense Stockpile Manager may obligate up to $41,153,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of

such section, including the disposal of hazardous materials that are environmentally sensitive.

Notification.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

**SEC. 1412. REVISIONS TO PREVIOUSLY AUTHORIZED DISPOSALS FROM THE NATIONAL DEFENSE STOCKPILE.**

(a) FISCAL YEAR 1999 DISPOSAL AUTHORITY.—Section 3303(a)(7) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 98d note), as most recently amended by section 1412(b) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 418), is further amended by striking "$1,066,000,000 by the end of fiscal year 2015" and inserting "$1,386,000,000 by the end of fiscal year 2016".

(b) FISCAL YEAR 1998 DISPOSAL AUTHORITY.—Section 3305(a)(5) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 98d note), as most recently amended by section 3302(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2513), is further amended by striking "2008" and inserting "2009".

## Subtitle C—Armed Forces Retirement Home

**SEC. 1421. AUTHORIZATION OF APPROPRIATIONS FOR ARMED FORCES RETIREMENT HOME.**

There is authorized to be appropriated for fiscal year 2009 from the Armed Forces Retirement Home Trust Fund the sum of $63,010,000 for the operation of the Armed Forces Retirement Home.

# TITLE XV—AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Sec. 1501. Authorization of additional appropriations for operations in Afghanistan and Iraq for fiscal year 2009.
Sec. 1502. Requirement for separate display of budgets for Afghanistan and Iraq.
Sec. 1503. Joint Improvised Explosive Device Defeat Fund.
Sec. 1504. Science and technology investment strategy to defeat or counter improvised explosive devices.
Sec. 1505. Limitations on Iraq Security Forces Fund.
Sec. 1506. Limitations on Afghanistan Security Forces Fund.
Sec. 1507. Special transfer authority.

Sec. 1508. Prohibition on use of United States funds for certain facilities projects in Iraq and contributions by the Government of Iraq to combined operations and other activities in Iraq.

**SEC. 1501. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR OPERATIONS IN AFGHANISTAN AND IRAQ FOR FISCAL YEAR 2009.**

(a) AUTHORIZATION OF PREVIOUSLY APPROPRIATED AMOUNTS.—In addition to the amounts otherwise authorized to be appropriated by division A of this Act, the amounts appropriated for fiscal year 2009 in chapter 2 of title IX of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2405–2414) are hereby authorized to be appropriated.

(b) ADDITIONAL AUTHORIZATION.—In addition to the amounts otherwise authorized to be appropriated by division A of this Act and subsection (a), funds in the amount of $2,076,000,000 are hereby authorized to be appropriated for aircraft procurement, Air Force, for the purpose of acquiring six C–17 aircraft.

**SEC. 1502. REQUIREMENT FOR SEPARATE DISPLAY OF BUDGETS FOR AFGHANISTAN AND IRAQ.**

10 USC 221 note.

(a) OPERATIONS IN IRAQ AND AFGHANISTAN.—In any annual or supplemental budget request for the Department of Defense that is submitted to Congress after the date of the enactment of this Act, the Secretary of Defense shall set forth separately any funding requested in such budget request for—

(1) operations of the Department of Defense in Afghanistan; and

(2) operations of the Department of Defense in Iraq.

(b) SPECIFICITY OF DISPLAY.—Each budget request covered by subsection (a) shall, for any funding requested for operations in Iraq or Afghanistan—

(1) clearly display the amount of such funding at the appropriation account level and at the program, project, or activity level; and

(2) include a detailed description of the assumptions underlying the funding for the period covered by the budget request, including the anticipated troop levels, the operations intended to be carried out, and the equipment reset requirements necessary to support such operations.

**SEC. 1503. JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND.**

(a) USE AND TRANSFER OF FUNDS.—Subsections (b) and (c) of section 1514 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2439), as amended by subsection (b), shall apply to the funds appropriated pursuant to the authorization of appropriations in section 1501 of this Act and made available to the Department of Defense for the Joint Improvised Explosive Device Defeat Fund.

Applicability.

(b) MODIFICATION OF FUNDS TRANSFER AUTHORITY.—Section 1514(c)(1) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2439) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(c) PRIOR NOTICE OF TRANSFER OF FUNDS.—Section 1514(c)(4) of the John Warner National Defense Authorization Act for Fiscal

Year 2007 (Public Law 109–364; 120 Stat. 2439) is amended by inserting after "five days" the following: "(in the case of the obligation of funds) or 15 days (in the case of a transfer of funds)".

(d) MONTHLY OBLIGATIONS AND EXPENDITURE REPORTS.—Not later than 15 days after the end of each month of fiscal year 2009, the Secretary of Defense shall provide to the congressional defense committees a report on the Joint Improvised Explosive Device Defeat Fund explaining monthly commitments, obligations, and expenditures by line of action.

(e) MODIFICATION OF SUBMITTAL DATE OF OTHER REPORTS.—Section 1514(e) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2440) is amended by striking "30 days" and inserting "60 days".

10 USC 2358 note.

**SEC. 1504. SCIENCE AND TECHNOLOGY INVESTMENT STRATEGY TO DEFEAT OR COUNTER IMPROVISED EXPLOSIVE DEVICES.**

(a) STRATEGY REQUIRED.—The Director of the Joint Improvised Explosive Device Defeat Organization (JIEDDO), jointly with the Director of Defense Research and Engineering, shall develop a comprehensive science and technology investment strategy for countering the threat of improvised explosive devices (IEDs).

(b) ELEMENTS.—The strategy developed under subsection (a) shall include the following:

(1) Identification of counter-IED capability gaps.

(2) A taxonomy describing the major technical areas for the Department of Defense to address the counter-IED capability gaps and in which science and technology funding investments should be made.

(3) Identification of funded programs to develop or mature technologies from or to the level of system or subsystem model or prototype demonstration in a relevant environment, and investment levels for those initiatives.

(4) Identification of JIEDDO's mechanisms for coordinating Department of Defense and Federal Government science and technology activities in areas covered by the strategy.

(5) Identification of technology transition mechanisms developed or utilized to efficiently transition technologies to acquisition programs of the Department of Defense or into operational use, including a summary of counter-IED technologies transitioned from JIEDDO, the military departments, and other Defense Agencies to the acquisition programs or into operational use.

(6) Identification of high priority basic research efforts that should be addressed through JIEDDO or other Department of Defense activities to support development of next generation IED defeat capabilities.

(7) Identification of barriers or issues, such as industrial base, workforce, or statutory or regulatory barriers, that could hinder the efficient and effective development and operational use of advanced IED defeat capabilities, and discussion of activities undertaken to address them.

(8) Identification of the measures of effectiveness for the overall Department of Defense science and technology counter-IED effort.

(9) Such other matters as the Director of the JIEDDO and the Director of Defense Research and Engineering consider appropriate.

(c) REPORT.—Not later than March 1, 2009, and each March 1 thereafter through March 1, 2013, the Director of the JIEDDO and the Director of Defense Research and Engineering shall jointly submit to the congressional defense committees a report describing the implementation of the strategy developed under subsection (a). The report may be in unclassified and classified format, as necessary.

**SEC. 1505. LIMITATIONS ON IRAQ SECURITY FORCES FUND.**

Funds appropriated pursuant to the authorization of appropriations in section 1501 of this Act or in the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2407) and made available to the Department of Defense for the Iraq Security Forces Fund shall be subject to the conditions contained in subsections (b) through (g) of section 1512 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 426).

**SEC. 1506. LIMITATIONS ON AFGHANISTAN SECURITY FORCES FUND.**

Funds appropriated pursuant to the authorization of appropriations in section 1501 of this Act or in the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2407) and made available to the Department of Defense for the Afghanistan Security Forces Fund shall be subject to the conditions contained in subsections (b) through (g) of section 1513 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 428).

**SEC. 1507. SPECIAL TRANSFER AUTHORITY.**

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2009 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $4,000,000,000.

(b) TERMS AND CONDITIONS.—Transfers under this section shall be subject to the same terms and conditions as transfers under section 1001.

(c) ADDITIONAL AUTHORITY.—The transfer authority provided by this section is in addition to the transfer authority provided under section 1001.

**SEC. 1508. PROHIBITION ON USE OF UNITED STATES FUNDS FOR CERTAIN FACILITIES PROJECTS IN IRAQ AND CONTRIBUTIONS BY THE GOVERNMENT OF IRAQ TO COMBINED OPERATIONS AND OTHER ACTIVITIES IN IRAQ.**

(a) PROHIBITION RELATED TO FACILITIES FOR GOVERNMENT OF IRAQ.—

(1) PROHIBITION ON AVAILABILITY OF UNITED STATES FUNDS FOR PROJECTS.—Except as provided in paragraph (2), amounts authorized to be appropriated by this title may not be obligated or expended for the acquisition, conversion, rehabilitation, or installation of facilities in Iraq for the use of the Government

of Iraq, political subdivisions of Iraq, or agencies, departments, or forces of the Government of Iraq or such political subdivisions.

(2) EXCEPTIONS.—

(A) EXCEPTION FOR CERP.—The prohibition in paragraph (1) does not apply to amounts authorized to be appropriated by this title for the Commanders' Emergency Response Program (CERP).

(B) EXCEPTION FOR MILITARY CONSTRUCTION.—The prohibition in paragraph (1) does not apply to military construction (as defined in section 2801 of title 10, United States Code), carried out in Iraq.

(C) EXCEPTION FOR TECHNICAL ASSISTANCE.—The prohibition in paragraph (1) does not apply to the provision of technical assistance necessary to assist the Government of Iraq to carry out facilities projects on its own behalf.

(b) COMBINED OPERATIONS.—

(1) COST SHARING.—The United States Government shall initiate negotiations with the Government of Iraq on an agreement under which the Government of Iraq shall share with the United States Government the costs of combined operations of the Government of Iraq and the Multi-National Forces Iraq undertaken as part of Operation Iraqi Freedom.

(2) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall, in conjunction with the Secretary of Defense, submit to Congress a report describing the status of negotiations under paragraph (1).

(c) IRAQI SECURITY FORCES.—

(1) USE OF IRAQ FUNDS.—The United States Government shall take actions to ensure that Iraq funds are used to pay the costs of the salaries, training, equipping, and sustainment of Iraqi Security Forces.

President.

(2) REPORTS.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to Congress a report setting forth an assessment of the progress made in meeting the requirements of paragraph (1).

Reconstruction and Stabilization Civilian Management Act of 2008.

# TITLE XVI—RECONSTRUCTION AND STABILIZATION CIVILIAN MANAGEMENT

Sec. 1601. Short title.
Sec. 1602. Findings.
Sec. 1603. Definitions.
Sec. 1604. Authority to provide assistance for reconstruction and stabilization crises.
Sec. 1605. Reconstruction and stabilization.
Sec. 1606. Authorities related to personnel.
Sec. 1607. Reconstruction and stabilization strategy.
Sec. 1608. Annual reports to Congress.

22 USC 2151 note.

**SEC. 1601. SHORT TITLE.**

This title may be cited as the "Reconstruction and Stabilization Civilian Management Act of 2008".

**SEC. 1602. FINDINGS.**

22 USC 2368 note.

Congress finds the following:

(1) In June 2004, the Office of the Coordinator for Reconstruction and Stabilization (referred to as the "Coordinator") was established in the Department of State with the mandate to lead, coordinate, and institutionalize United States Government civilian capacity to prevent or prepare for post-conflict situations and help reconstruct and stabilize a country or region that is at risk of, in, or is in transition from, conflict or civil strife.

(2) In December 2005, the Coordinator's mandate was reaffirmed by the National Security Presidential Directive 44, which instructed the Secretary of State, and at the Secretary's direction, the Coordinator, to coordinate and lead integrated United States Government efforts, involving all United States departments and agencies with relevant capabilities, to prepare, plan for, and conduct reconstruction and stabilization operations.

(3) National Security Presidential Directive 44 assigns to the Secretary, with the Coordinator's assistance, the lead role to develop reconstruction and stabilization strategies, ensure civilian interagency program and policy coordination, coordinate interagency processes to identify countries at risk of instability, provide decision-makers with detailed options for an integrated United States Government response in connection with reconstruction and stabilization operations, and carry out a wide range of other actions, including the development of a civilian surge capacity to meet reconstruction and stabilization emergencies. The Secretary and the Coordinator are also charged with coordinating with the Department of Defense on reconstruction and stabilization responses, and integrating planning and implementing procedures.

(4) The Department of Defense issued Directive 3000.05, which establishes that stability operations are a core United States military mission that the Department of Defense must be prepared to conduct and support, provides guidance on stability operations that will evolve over time, and assigns responsibilities within the Department of Defense for planning, training, and preparing to conduct and support stability operations.

(5) The President's Fiscal Year 2009 Budget Request to Congress includes $248.6 million for a Civilian Stabilization Initiative that would vastly improve civilian partnership with United States Armed Forces in post-conflict stabilization situations, including by establishing a Active Response Corps of 250 persons, a Standby Response Corps of 2,000 persons, and a Civilian Response Corps of 2,000 persons.

**SEC. 1603. DEFINITIONS.**

22 USC 2734a note.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the United States Agency for International Development.

(2) AGENCY.—The term "agency" means any entity included in chapter 1 of title 5, United States Code.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee

on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(4) DEPARTMENT.—Except as otherwise provided in this title, the term "Department" means the Department of State.

(5) PERSONNEL.—The term "personnel" means individuals serving in any service described in section 2101 of title 5, United States Code, other than in the legislative or judicial branch.

(6) SECRETARY.—The term "Secretary" means the Secretary of State.

**SEC. 1604. AUTHORITY TO PROVIDE ASSISTANCE FOR RECONSTRUCTION AND STABILIZATION CRISES.**

Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2351 et seq.) is amended by inserting after section 617 the following new section:

22 USC 2368.

**"SEC. 618. ASSISTANCE FOR A RECONSTRUCTION AND STABILIZATION CRISIS.**

"(a) ASSISTANCE.—

"(1) IN GENERAL.—If the President determines that it is in the national security interests of the United States for United States civilian agencies or non-Federal employees to assist in reconstructing and stabilizing a country or region that is at risk of, in, or is in transition from, conflict or civil strife, the President may, in accordance with the provisions set forth in section 614(a)(3), but notwithstanding any other provision of law, and on such terms and conditions as the President may determine, furnish assistance to such country or region for reconstruction or stabilization using funds described in paragraph (2).

"(2) FUNDS DESCRIBED.—The funds referred to in paragraph (1) are funds made available under any other provision of this Act, and transferred or reprogrammed for purposes of this section, and such transfer or reprogramming shall be subject to the procedures applicable to a notification under section 634A of this Act.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide authority to transfer funds between accounts or between Federal departments or agencies.

"(b) LIMITATION.—The authority contained in this section may be exercised only during fiscal years 2009, 2010, and 2011.".

**SEC. 1605. RECONSTRUCTION AND STABILIZATION.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by adding at the end the following new section:

22 USC 2734.

**"SEC. 62. RECONSTRUCTION AND STABILIZATION.**

"(a) OFFICE OF THE COORDINATOR FOR RECONSTRUCTION AND STABILIZATION.—

"(1) ESTABLISHMENT.—There is established within the Department of State the Office of the Coordinator for Reconstruction and Stabilization.

"(2) COORDINATOR FOR RECONSTRUCTION AND STABILIZATION.—The head of the Office shall be the Coordinator for Reconstruction and Stabilization, who shall be appointed by

President.

the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary.

"(3) FUNCTIONS.—The functions of the Office of the Coordinator for Reconstruction and Stabilization shall include the following:

"(A) Monitoring, in coordination with relevant bureaus and offices of the Department of State and the United States Agency for International Development (USAID), political and economic instability worldwide to anticipate the need for mobilizing United States and international assistance for the reconstruction and stabilization of a country or region that is at risk of, in, or are in transition from, conflict or civil strife.

"(B) Assessing the various types of reconstruction and stabilization crises that could occur and cataloging and monitoring the non-military resources and capabilities of agencies (as such term is defined in section 1603 of the Reconstruction and Stabilization Civilian Management Act of 2008) that are available to address such crises.

"(C) Planning, in conjunction with USAID, to address requirements, such as demobilization, disarmament, rebuilding of civil society, policing, human rights monitoring, and public information, that commonly arise in reconstruction and stabilization crises.

"(D) Coordinating with relevant agencies to develop interagency contingency plans and procedures to mobilize and deploy civilian personnel and conduct reconstruction and stabilization operations to address the various types of such crises.

"(E) Entering into appropriate arrangements with agencies to carry out activities under this section and the Reconstruction and Stabilization Civilian Management Act of 2008.

"(F) Identifying personnel in State and local governments and in the private sector who are available to participate in the Civilian Reserve Corps established under subsection (b) or to otherwise participate in or contribute to reconstruction and stabilization activities.

"(G) Taking steps to ensure that training and education of civilian personnel to perform such reconstruction and stabilization activities is adequate and is carried out, as appropriate, with other agencies involved with stabilization operations.

"(H) Taking steps to ensure that plans for United States reconstruction and stabilization operations are coordinated with and complementary to reconstruction and stabilization activities of other governments and international and nongovernmental organizations, to improve effectiveness and avoid duplication.

"(I) Maintaining the capacity to field on short notice an evaluation team consisting of personnel from all relevant agencies to undertake on-site needs assessment.

"(b) RESPONSE READINESS CORPS.—

"(1) RESPONSE READINESS CORPS.—The Secretary, in consultation with the Administrator of the United States Agency for International Development and the heads of other appropriate agencies of the United States Government, may establish

and maintain a Response Readiness Corps (referred to in this section as the 'Corps') to provide assistance in support of reconstruction and stabilization operations in countries or regions that are at risk of, in, or are in transition from, conflict or civil strife. The Corps shall be composed of active and standby components consisting of United States Government personnel, including employees of the Department of State, the United States Agency for International Development, and other agencies who are recruited and trained (and employed in the case of the active component) to provide such assistance when deployed to do so by the Secretary to support the purposes of this Act.

"(2) CIVILIAN RESERVE CORPS.—The Secretary, in consultation with the Administrator of the United States Agency for International Development, may establish a Civilian Reserve Corps for which purpose the Secretary is authorized to employ and train individuals who have the skills necessary for carrying out reconstruction and stabilization activities, and who have volunteered for that purpose. The Secretary may deploy members of the Civilian Reserve Corps pursuant to a determination by the President under section 618 of the Foreign Assistance Act of 1961.

"(3) MITIGATION OF DOMESTIC IMPACT.—The establishment and deployment of any Civilian Reserve Corps shall be undertaken in a manner that will avoid substantively impairing the capacity and readiness of any State and local governments from which Civilian Reserve Corps personnel may be drawn.

"(c) EXISTING TRAINING AND EDUCATION PROGRAMS.—The Secretary shall ensure that personnel of the Department, and, in coordination with the Administrator of USAID, that personnel of USAID, make use of the relevant existing training and education programs offered within the Government, such as those at the Center for Stabilization and Reconstruction Studies at the Naval Postgraduate School and the Interagency Training, Education, and After Action Review Program at the National Defense University.".

22 USC 2734a.

**SEC. 1606. AUTHORITIES RELATED TO PERSONNEL.**

(a) EXTENSION OF CERTAIN FOREIGN SERVICE BENEFITS.—The Secretary, or the head of any agency with respect to personnel of that agency, may extend to any individuals assigned, detailed, or deployed to carry out reconstruction and stabilization activities pursuant to section 62 of the State Department Basic Authorities Act of 1956 (as added by section 1605 of this title), the benefits or privileges set forth in sections 413, 704, and 901 of the Foreign Service Act of 1980 (22 U.S.C. 3973, 22 U.S.C. 4024, and 22 U.S.C. 4081) to the same extent and manner that such benefits and privileges are extended to members of the Foreign Service.

(b) AUTHORITY REGARDING DETAILS.—The Secretary is authorized to accept details or assignments of any personnel, and any employee of a State or local government, on a reimbursable or nonreimbursable basis for the purpose of carrying out this title, and the head of any agency is authorized to detail or assign personnel of such agency on a reimbursable or nonreimbursable basis to the Department of State for purposes of section 62 of the State Department Basic Authorities Act of 1956, as added by section 1605 of this title.

**SEC. 1607. RECONSTRUCTION AND STABILIZATION STRATEGY.**

22 USC 2368 note.

(a) IN GENERAL.—The Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall develop an interagency strategy to respond to reconstruction and stabilization operations.

(b) CONTENTS.—The strategy required under subsection (a) shall include the following:

(1) Identification of and efforts to improve the skills sets needed to respond to and support reconstruction and stabilization operations in countries or regions that are at risk of, in, or are in transition from, conflict or civil strife.

(2) Identification of specific agencies that can adequately satisfy the skills sets referred to in paragraph (1).

(3) Efforts to increase training of Federal civilian personnel to carry out reconstruction and stabilization activities.

(4) Efforts to develop a database of proven and best practices based on previous reconstruction and stabilization operations.

(5) A plan to coordinate the activities of agencies involved in reconstruction and stabilization operations.

**SEC. 1608. ANNUAL REPORTS TO CONGRESS.**

Not later than 180 days after the date of the enactment of this Act and annually for each of the five years thereafter, the Secretary of State shall submit to the appropriate congressional committees a report on the implementation of this title. The report shall include detailed information on the following:

(1) Any steps taken to establish a Response Readiness Corps and a Civilian Reserve Corps, pursuant to section 62 of the State Department Basic Authorities Act of 1956 (as added by section 1605 of this title).

(2) The structure, operations, and cost of the Response Readiness Corps and the Civilian Reserve Corps, if established.

(3) How the Response Readiness Corps and the Civilian Reserve Corps coordinate, interact, and work with other United States foreign assistance programs.

(4) An assessment of the impact that deployment of the Civilian Reserve Corps, if any, has had on the capacity and readiness of any domestic agencies or State and local governments from which Civilian Reserve Corps personnel are drawn.

(5) The reconstruction and stabilization strategy required by section 1607 and any annual updates to that strategy.

(6) Recommendations to improve implementation of subsection (b) of section 62 of the State Department Basic Authorities Act of 1956, including measures to enhance the recruitment and retention of an effective Civilian Reserve Corps.

(7) A description of anticipated costs associated with the development, annual sustainment, and deployment of the Civilian Reserve Corps.

# DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Military Construction Authorization Act for Fiscal Year 2009.

**SEC. 2001. SHORT TITLE.**

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2009".

**SEC. 2002. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.**

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVII and title XXIX for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2011; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2012.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2011; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2012 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment Program.

10 USC 2687 note.

**SEC. 2003. EFFECTIVE DATE.**

Titles XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, and XXIX shall take effect on the later of—

(1) October 1, 2008; or

(2) the date of the enactment of this Act.

# TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Modification of authority to carry out certain fiscal year 2008 projects.
Sec. 2106. Modification of authority to carry out certain fiscal year 2007 projects.
Sec. 2107. Extension of authorizations of certain fiscal year 2006 projects.
Sec. 2108. Extension of authorization of certain fiscal year 2005 project.

**SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Army: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Alabama | Anniston Army Depot | $46,400,000 |
| | Fort Rucker | $6,800,000 |
| | Redstone Arsenal | $16,500,000 |
| Alaska | Fort Richardson | $18,100,000 |
| | Fort Wainwright | $110,400,000 |
| Arizona | Fort Huachuca | $13,200,000 |
| | Yuma Proving Ground | $3,800,000 |
| California | Fort Irwin | $39,600,000 |
| | Presidio, Monterey | $15,000,000 |
| | Sierra Army Depot | $12,400,000 |
| Colorado | Fort Carson | $534,000,000 |
| Georgia | Fort Benning | $267,800,000 |
| | Fort Stewart/Hunter Army Air Field | $432,300,000 |
| Hawaii | Pohakuloa Training Area | $30,000,000 |
| | Schofield Barracks | $279,000,000 |
| | Wahiawa | $40,000,000 |
| Indiana | Crane Army Ammunition Activity | $8,300,000 |
| Kansas | Fort Leavenworth | $4,200,000 |
| | Fort Riley | $158,000,000 |
| Kentucky | Fort Campbell | $118,113,000 |
| Louisiana | Fort Polk | $29,000,000 |
| Michigan | Detroit Arsenal | $6,100,000 |
| Missouri | Fort Leonard Wood | $42,550,000 |
| New Jersey | Picatinny Arsenal | $9,900,000 |
| New York | Fort Drum | $96,900,000 |
| | United States Military Academy | $67,000,000 |
| North Carolina | Fort Bragg | $58,400,000 |
| Oklahoma | Fort Sill | $63,000,000 |

| | | |
|---|---|---|
| Pennsylvania | McAlester Army Ammunition Plant | $5,800,000 |
| | Carlisle Barracks | $13,400,000 |
| | Letterkenny Army Depot | $7,500,000 |
| | Tobyhanna Army Depot | $15,000,000 |
| South Carolina | Fort Jackson | $30,000,000 |
| Texas | Camp Bullis | $4,200,000 |
| | Corpus Christi Army Depot | $39,000,000 |
| | Fort Bliss | $1,044,300,000 |
| | Fort Hood | $49,500,000 |
| | Fort Sam Houston | $96,000,000 |
| | Red River Army Depot | $6,900,000 |
| Virginia | Fort Belvoir | $7,200,000 |
| | Fort Eustis | $31,900,000 |
| | Fort Lee | $100,600,000 |
| | Fort Myer | $14,000,000 |
| Washington | Fort Lewis | $158,000,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Army: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Afghanistan | Bagram Air Base | $67,000,000 |
| Germany | Katterbach | $19,000,000 |
| | Wiesbaden Air Base | $119,000,000 |
| Japan | Camp Zama | $2,350,000 |
| | Sagamihara | $17,500,000 |
| Korea | Camp Humphreys | $20,000,000 |

**SEC. 2102. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

**Army: Family Housing**

| Country | Installation or Location | Units | Amount |
|---|---|---|---|
| Germany | Wiesbaden Air Base. | 326 | $133,000,000 |
| Korea | Camp Humphreys | 216 | $125,000,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $579,000.

**SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $420,001,000.

**SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $5,973,388,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $4,010,063,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $185,350,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $23,000,000.

(4) For host nation support and architectural and engineering services and construction design under section 2807 of title 10, United States Code, $178,685,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $646,580,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $716,110,000.

(6) For the construction of increment 3 of a barracks complex at Fort Lewis, Washington, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year

2007 (division B of Public Law 109–364; 120 Stat. 2445), as amended by section 20814 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289), as added by section 2 of the Revised Continuing Resolution, 2007 (Public Law 110–5; 121 Stat 41), $102,000,000.

(7) For the construction of increment 2 of the United States Southern Command Headquarters at Miami Doral, Florida, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 504), $81,600,000.

(8) For the construction of increment 2 of the brigade complex operations support facility at Vicenza, Italy, authorized by section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 505), $15,000,000.

(9) For the construction of increment 2 of the brigade complex barracks and community support facility at Vicenza, Italy, authorized by section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 505), $15,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $60,000,000 (the balance of the amount authorized under section 2101(a) for barracks and a dining facility at Fort Carson, Colorado).

(3) $80,000,000 (the balance of the amount authorized under section 2101(a) for barracks and a dining facility at Fort Stewart, Georgia).

(4) $59,500,000 (the balance of the amount authorized under section 2101(b) for the construction of a headquarters element in Wiesbaden, Germany).

(5) $101,000,000 (the balance of the amount authorized under section 2102(a) for family housing at Wiesbaden, Germany).

**SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2008 PROJECTS.**

(a) INSIDE THE UNITED STATES PROJECTS.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 504) is amended—

(1) in the item relating to Hawthorne Army Ammunition Plant, Nevada, by striking "$11,800,000" in the amount column and inserting "$7,300,000";

(2) in the item relating to Fort Drum, New York, by striking "$311,200,000" in the amount column and inserting "$304,600,000"; and

(3) in the item relating to Fort Bliss, Texas, by striking "$118,400,000" in the amount column and inserting "$111,900,000".

(b) CONFORMING AMENDMENTS.—Section 2104(a) of that Act (122 Stat. 506) is amended—

(1) in the matter preceding paragraph (1), by striking "$5,106,703,000" and inserting "$5,089,103,000"; and

(2) in paragraph (1), by striking "$3,198,150,000" and inserting "$3,180,550,000".

**SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2007 PROJECTS.**

(a) INSIDE THE UNITED STATES PROJECTS.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2445), as amended by section 20814 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289) and section 2105(a) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 507), is further amended in the item relating to Fort Bragg, North Carolina, by striking "$96,900,000" in the amount column and inserting "$75,900,000".

(b) OUTSIDE THE UNITED STATES PROJECTS.—The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2446), as amended by section 2106(a) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 508), is further amended in the item relating to Vicenza, Italy, by striking "$223,000,000" in the amount column and inserting "$208,280,000".

(c) CONFORMING AMENDMENTS.—Section 2104(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2447), as amended by section 2105(b) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 508), is further amended—

(1) in the matter preceding paragraph (1), by striking "$3,275,700,000" and inserting "$3,239,980,000";

(2) in paragraph (1), by striking "$1,119,450,000" and inserting "$1,098,450,000"; and

(3) in paragraph (2), by striking "$510,582,00" and inserting "$495,862,000".

**SEC. 2107. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2006 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3501), the authorizations set forth in the table in subsection (b), as provided in section 2101 of that Act (119 Stat. 3485), shall remain in effect until October 1, 2009, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2010, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Army: Extension of 2006 Project Authorizations**

| State | Installation or Location | Project | Amount |
|---|---|---|---|
| Hawaii | Pohakuloa | Tactical Vehicle Wash Facility | $9,207,000 |
| | | Battle Area Complex | $33,660,000 |
| Virginia | Fort Belvoir | Defense Access Road | $18,000,000 |

**SEC. 2108. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 2005 PROJECT.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2116), the authorization set forth in the table in subsection (b), as provided in section 2101 of that Act (118 Stat. 2101) and extended by section 2108 of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 508), shall remain in effect until October 1, 2009, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2010, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Army: Extension of 2005 Project Authorization**

| State | Installation or Location | Project | Amount |
|---|---|---|---|
| Hawaii | Schofield Barracks | Training Facility | $35,542,000 |

# TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Modification of authority to carry out certain fiscal year 2005 project.
Sec. 2206. Modification of authority to carry out certain fiscal year 2007 projects.

**SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Arizona | Marine Corps Air Station, Yuma | $19,490,000 |
| California | Marine Corps Logistics Base, Barstow | $7,830,000 |
| | Marine Corps Base, Camp Pendleton | $799,870,000 |
| | Naval Air Facility, El Centro | $8,900,000 |
| | Marine Corps Air Station, Miramar | $48,770,000 |
| | Naval Post Graduate School, Monterey | $9,900,000 |
| | Naval Air Station, North Island | $60,152,000 |
| | Naval Facility, San Clemente Island | $34,020,000 |
| | Marine Corps Recruit Depot, San Diego | $51,220,000 |
| | Marine Corps Base, Twentynine Palms | $155,310,000 |
| Connecticut | Naval Submarine Base, Groton | $46,060,000 |
| | Naval Submarine Base, New London | $11,000,000 |
| District of Columbia | Naval Support Activity, Washington | $24,220,000 |
| Florida | Naval Air Station, Jacksonville | $12,890,000 |
| | Naval Station, Mayport | $18,280,000 |
| | Naval Support Activity, Tampa | $29,000,000 |
| Georgia | Marine Corps Logistics Base, Albany | $15,320,000 |
| | Naval Submarine Base, Kings Bay | $6,130,000 |
| Hawaii | Pacific Missile Range, Barking Sands | $28,900,000 |
| | Marine Corps Base, Kaneohe | $28,200,000 |
| | Naval Station, Pearl Harbor | $80,290,000 |
| Illinois | Recruit Training Command, Great Lakes | $62,940,000 |
| Maine | Portsmouth Naval Shipyard | $30,640,000 |
| Maryland | Naval Surface Warfare Center, Carderock | $6,980,000 |
| | Naval Surface Warfare Center, Indian Head | $25,980,000 |
| Mississippi | Naval Construction Battalion Center, Gulfport | $12,770,000 |
| | Naval Air Station, Meridian | $6,340,000 |
| New Jersey | Naval Air Warfare Center, Lakehurst | $15,440,000 |

**Inside the United States**—Continued

| State | Installation or Location | Amount |
|---|---|---|
| North Carolina | Naval Weapons Station, Earle | $8,160,000 |
| | Marine Corps Base, Camp Lejeune | $353,090,000 |
| | Marine Corps Air Station, Cherry Point | $77,420,000 |
| | Marine Corps Air Station, New River | $86,280,000 |
| Pennsylvania | Naval Support Activity, Philadelphia | $22,020,000 |
| Rhode Island | Naval Station, Newport | $39,800,000 |
| South Carolina | Marine Corps Air Station, Beaufort | $5,940,000 |
| | Marine Corps Recruit Depot, Parris Island | $64,750,000 |
| Texas | Naval Air Station, Corpus Christi | $3,500,000 |
| | Naval Air Station, Kingsville | $11,580,000 |
| Virginia | Naval Station, Norfolk | $73,280,000 |
| | Marine Corps Base, Quantico | $150,290,000 |
| Washington | Naval Base, Kitsap | $5,110,000 |
| | Naval Air Station Whidbey Island | $6,160,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installation or location outside the United States, and in the amounts, set forth in the following table:

**Navy: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Cuba | Naval Air Station, Guantanamo Bay. | $20,600,000 |
| Diego Garcia | Diego Garcia | $35,060,000 |
| Djibouti | Camp Lemonier | $31,410,000 |
| Guam | Naval Activities, Guam | $88,430,000 |

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2204(3), the Secretary of the Navy may acquire real property and carry out military construction projects for unspecified installations or locations in the amounts set forth in the following table:

**Navy: Unspecified Worldwide**

| Location | Installation or Location | Amount |
|---|---|---|
| Worldwide Unspecified. | Unspecified Worldwide | $101,020,000 |

**SEC. 2202. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(6)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amount set forth in the following table:

**Navy: Family Housing**

| Location | Installation or Location | Units | Amount |
|---|---|---|---|
| Guantanamo Bay | Naval Air Station, Guantanamo Bay. | 146 | $59,943,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(6)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $2,169,000.

**SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(6)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $318,011,000.

**SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $4,046,354,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $2,564,312,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $175,500,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2201(c), $101,020,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $13,670,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $246,528,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $380,123,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $376,062,000.

(7) For the construction of increment 2 of the wharf extension at Naval Forces Marianas Islands, Guam, authorized by section 2201(b) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 510), $50,912,000.

(8) For the construction of increment 2 of the submarine drive-in magnetic silencing facility at Naval Submarine Base, Pearl Harbor, Hawaii, authorized in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 510), $41,088,000.

(9) For the construction of increment 3 of the National Maritime Intelligence Center, Suitland, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2448), $12,439,000.

(10) For the construction of increment 2 of hangar 5 recapitalizations at Naval Air Station, Whidbey Island, Washington, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2448), $34,000,000.

(11) For the construction of increment 5 of the limited area production and storage complex at Naval Submarine Base, Kitsap, Bangor, Washington (formerly referred to as a project at the Strategic Weapons Facility Pacific, Bangor), authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2106), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public law 109–163; 119 Stat. 3493) and section 2206 of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 514) $50,700,000.

**SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2005 PROJECT.**

The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3493) and section 2206 of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 514), is further amended—

(1) in the item relating to Strategic Weapons Facility Pacific, Bangor, Washington, by striking "$295,000,000" in the amount column and inserting "$311,670,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$1,084,497,000".

**SEC. 2206. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2007 PROJECTS.**

(a) MODIFICATIONS.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2448), as amended by section 2205(a)(17) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 513), is further amended—

(1) in the item relating to NMIC/Naval Support Activity, Suitland, Maryland, by striking "$67,939,000" in the amount column and inserting "$76,288,000"; and

(2) in the item relating to Naval Air Station, Whidbey Island, Washington, by striking "$57,653,000" in the amount column and inserting "$60,500,000".

(b) CONFORMING AMENDMENTS.—Section 2204(b) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2452) is amended—

(1) in paragraph (2), by striking "$56,159,000" and inserting "$64,508,000"; and

(2) in paragraph (3), by striking "$31,153,000" and inserting "$34,000,000".

# TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.

Sec. 2305. Extension of authorizations of certain fiscal year 2006 projects.
Sec. 2306. Extension of authorizations of certain fiscal year 2005 projects.

**SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Air Force: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Alabama | Maxwell Air Force Base | $15,556,000 |
| Alaska | Elmendorf Air Force Base | $138,300,000 |
| Arizona | Davis Monthan Air Force Base | $15,000,000 |
| California | Edwards Air Force Base | $9,100,000 |
| | Travis Air Force Base | $12,100,000 |
| Colorado | Peterson Air Force Base | $4,900,000 |
| | United States Air Force Academy | $18,000,000 |
| Delaware | Dover Air Force Base | $19,000,000 |
| Florida | Cape Canaveral Air Station | $8,000,000 |
| | Eglin Air Force Base | $19,000,000 |
| | MacDill Air Force Base | $26,000,000 |
| | Tyndall Air Force Base | $11,600,000 |
| Georgia | Robins Air Force Base | $29,350,000 |
| Kansas | McConnell Air Force Base | $6,800,000 |
| Louisiana | Barksdale Air Force Base | $14,600,000 |
| Maryland | Andrews Air Force Base | $77,648,000 |
| Mississippi | Columbus Air Force Base | $8,100,000 |
| | Keesler Air Force Base | $6,600,000 |
| Missouri | Whiteman Air Force Base | $4,200,000 |
| Montana | Malmstrom Air Force Base | $10,000,000 |
| Nevada | Creech Air Force Base | $48,500,000 |
| | Nellis Air Force Base | $63,100,000 |
| New Jersey | McGuire Air Force Base | $7,200,000 |
| New Mexico | Holloman Air Force Base | $25,450,000 |
| North Carolina | Seymour Johnson Air Force Base | $12,200,000 |
| North Dakota | Grand Forks Air Force Base | $13,000,000 |
| Ohio | Wright Patterson Air Force Base | $14,000,000 |
| Oklahoma | Altus Air Force Base | 10,200,000 |

| | | |
|---|---|---|
| | Tinker Air Force Base | $54,000,000 |
| South Carolina | Charleston Air Force Base | $4,500,000 |
| | Shaw Air Force Base | $9,900,000 |
| South Dakota | Ellsworth Air Force Base | $11,000,000 |
| Texas | Dyess Air Force Base | $21,000,000 |
| | Fort Hood | $10,800,000 |
| | Lackland Air Force Base | $75,515,000 |
| Utah | Hill Air Force Base | $41,400,000 |
| Washington | McChord Air Force Base | $5,500,000 |
| Wyoming | Francis E. Warren Air Force Base | $8,600,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Air Force: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Afghanistan | Bagram Airfield | $57,200,000 |
| Guam | Andersen Air Force Base | $10,600,000 |
| Kyrgyzstan | Manas Air Base | $6,000,000 |
| United Kingdom | Royal Air Force Lakenheath | $7,400,000 |

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2304(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for unspecified installations or locations in the amounts set forth in the following table:

**Air Force: Unspecified Worldwide**

| Location | Installation or Location | Amount |
|---|---|---|
| Worldwide Unspecified ..... | Unspecified Worldwide Locations ..... | $38,391,000 |

**SEC. 2302. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

**Air Force: Family Housing**

| Country | Installation or Location | Purpose | Amount |
|---|---|---|---|
| United Kingdom ... | Royal Air Force Lakenheath | 182 Units .... | $71,828,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $7,708,000.

**SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $316,343,000.

**SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,108,090,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $889,719,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $81,200,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2301(c), $38,391,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $15,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $93,436,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $395,879,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $594,465,000.

**SEC. 2305. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2006 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3501), authorizations set forth in the tables in subsection (b), as provided in section 2302 of that Act, shall remain in effect until October 1, 2009, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2010, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Air Force: Extension of 2006 Project Authorizations**

| State | Installation or Location | Project | Amount |
|---|---|---|---|
| Alaska | Eielson Air Force Base | Replace Family Housing (92 units) | $37,650,000 |
| | | Purchase Build/ Lease Housing (300 units) | $18,144,000 |
| California | Edwards Air Force Base | Replace Family Housing (226 units) | $59,699,000 |
| Florida | MacDill Air Force Base | Replace Family Housing (109 units) | $40,982,000 |
| Missouri | Whiteman Air Force Base | Replace Family Housing (111 units) | $26,917,000 |
| North Carolina. | Seymour Johnson Air Force Base | Replace Family Housing (255 units) | $48,868,000 |
| North Dakota | Grand Forks Air Force Base | Replace Family Housing (150 units) | $43,353,000 |

**SEC. 2306. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2005 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2116), authorizations set forth in the table in subsection (b), as provided in sections 2301 and 2302 of that Act and extended by section 2307 of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 519), shall remain in effect until October 1, 2009, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2010, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Air Force: Extension of 2005 Project Authorizations**

| State/Country | Installation or Location | Project | Amount |
|---|---|---|---|
| Arizona | Davis-Monthan Air Force Base | Replace Family Housing (250 units) | $48,500,000 |
| California | Vandenberg Air Force Base | Replace Family Housing (120 units) | $30,906,000 |
| Florida | MacDill Air Force Base | Construct Housing Maintenance Facility | $1,250,000 |
| Missouri | Whiteman Air Force Base | Replace Family Housing (160 units) | $37,087,000 |
| North Carolina | Seymour Johnson Air Force Base | Replace Family Housing (167 units) | $32,693,000 |
| Germany | Ramstein Air Base | USAFE Theater Aerospace Operations Support Center | $24,204,000 |

# TITLE XXIV—DEFENSE AGENCIES

Subtitle A—Defense Agency Authorizations

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Energy conservation projects.
Sec. 2403. Authorization of appropriations, Defense Agencies.
Sec. 2404. Modification of authority to carry out certain fiscal year 2007 project.
Sec. 2405. Modification of authority to carry out certain fiscal year 2005 projects.
Sec. 2406. Extension of authorization of certain fiscal year 2006 project.

Subtitle B—Chemical Demilitarization Authorizations

Sec. 2411. Authorized chemical demilitarization program construction and land acquisition projects.
Sec. 2412. Authorization of appropriations, chemical demilitarization construction, defense-wide.
Sec. 2413. Modification of authority to carry out certain fiscal year 1997 project.
Sec. 2414. Modification of authority to carry out certain fiscal year 2000 project.

## Subtitle A—Defense Agency Authorizations

### SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following tables:

**Defense Education Activity**

| State | Installation or Location | Amount |
|---|---|---|
| Kentucky | Fort Campbell | $21,400,000 |
| North Carolina | Fort Bragg | $78,471,000 |

**Defense Intelligence Agency**

| State | Installation or Location | Amount |
|---|---|---|
| Illinois | Scott Air Force Base | $13,977,000 |

**Defense Logistics Agency**

| State | Installation or Location | Amount |
|---|---|---|
| California | Defense Distribution Depot, Tracy | $50,300,000 |
| Delaware | Defense Fuel Supply Center, Dover Air Force Base. | $3,373,000 |
| Florida | Defense Fuel Support Point, Jacksonville. | $34,000,000 |
| Georgia | Hunter Army Air Field | $3,500,000 |
| Hawaii | Pearl Harbor | $27,700,000 |
| New Mexico | Kirtland Air Force Base | $14,400,000 |
| Oklahoma | Altus Air Force Base | $2,850,000 |
| Pennsylvania | Philadelphia | $1,200,000 |
| Utah | Hill Air Force Base | $20,400,000 |
| Virginia | Craney Island | $39,900,000 |

**National Security Agency**

| State | Installation or Location | Amount |
|---|---|---|
| Maryland | Fort Meade | $31,000,000 |

**Special Operations Command**

| State | Installation or Location | Amount |
|---|---|---|
| California | Naval Amphibious Base, Coronado. | $9,800,000 |
| Florida | Eglin Air Force Base | $40,000,00 |
| | Hurlburt Field | $8,900,000 |
| | MacDill Air Force Base | $10,500,000 |
| Kentucky | Fort Campbell | $15,000,000 |
| New Mexico | Cannon Air Force Base | $26,400,000 |
| North Carolina | Fort Bragg | $38,250,000 |
| Virginia | Fort Story | $11,600,000 |
| Washington | Fort Lewis | $38,000,000 |

**TRICARE Management Activity**

| State | Installation or Location | Amount |
|---|---|---|
| Alaska | Fort Richardson | $6,300,000 |
| Colorado | Buckley Air Force Base | $3,000,000 |
| Georgia | Fort Benning | $3,900,000 |
| Kentucky | Fort Campbell | $24,000,000 |
| Maryland | Aberdeen Proving Ground | $430,000,000 |
| Missouri | Fort Leonard Wood | $22,000,000 |
| Oklahoma | Tinker Air Force Base | $65,000,000 |
| Texas | Fort Sam Houston | $13,000,000 |

**Washington Headquarters Services**

| State | Installation or Location | Amount |
|---|---|---|
| Virginia ..... | Pentagon Reservation ..... | $38,940,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following tables:

**Defense Logistics Agency**

| Country | Installation or Location | Amount |
|---|---|---|
| Germany | Germersheim | $48,000,000 |
| Greece | Souda Bay | $8,000,000 |

**Missile Defense Command**

| Country | Installation or Location | Amount |
|---|---|---|
| Czech Republic | Various Locations | $176,100,000 |
| Poland | Various Locations | $661,380,000 |

**Special Operations Command**

| Country | Installation or Location | Amount |
|---|---|---|
| Qatar | Al Udeid | $9,200,000 |

**TRICARE Management Activity**

| Country | Installation or Location | Amount |
|---|---|---|
| Guam | Naval Activities | $30,000,000 |

**SEC. 2402. ENERGY CONSERVATION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(6), the Secretary of Defense may carry out energy conservation projects under chapter 173 of title 10, United States Code, in the amount of $90,000,000.

**SEC. 2403. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $1,639,050,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $740,811,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $246,360,000.

(3) For unspecified minor military construction projects under section 2805 of title 10, United States Code, $28,853,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $5,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $133,225,000.

(6) For energy conservation projects authorized by section 2402 of this Act, $90,000,000.

(7) For support of military family housing, including functions described in section 2833 of title 10, United States Code, and credits to the Department of Defense Family Housing Improvement Fund under section 2883 of title 10, United States Code, and the Homeowners Assistance Fund established under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), $54,581,000.

(8) For the construction of increment 4 of the regional security operations center at Augusta, Georgia, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3497), as amended by section 7016 of the Emergency Supplemental Appropriation Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 485), $100,220,000.

(9) For the construction of increment 2 of the Army Medical Research Institute of Infectious Diseases Stage 1 at Fort Detrick, Maryland, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2457), $209,000,000.

(10) For the construction of increment 2 of the special operations forces operational facility at Dam Neck, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 521), $31,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $402,000,000 (the balance of the amount authorized for the TRICARE Management Activity under section 2401(a) for the construction of the United States Army Medical Research Institute of Infectious Diseases at Aberdeen Proving Ground, Maryland).

(3) $618,780,000 (the balance of the amount authorized for the Missile Defense Command under section 2401(b) for the construction of the Ballistic Missile Defense, European Interceptor Site).

(4) $67,540,000 (the balance of the amount authorized for the Missile Defense Command under section 2401(b) for the construction of the Ballistic Missile Defense, European Mid-Course Radar Site).

**SEC. 2404. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2007 PROJECT.**

(a) MODIFICATION.—The table relating to the TRICARE Management Activity in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2457) is amended in the item relating to Fort Detrick, Maryland, by striking "$550,000,000" in the amount column and inserting "$683,000,000".

(b) CONFORMING AMENDMENT.—Section 2405(b)(3) of that Act (120 Stat. 2461) is amended by striking "$521,000,000" and inserting "$654,000,000".

**SEC. 2405. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2005 PROJECTS.**

(a) MODIFICATION.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2112) is amended—

(1) by striking the item relating to Defense Fuel Support Point, Naval Air Station, Oceana, Virginia; and

(2) by striking the amount identified as the total in the amount column and inserting "$485,193,000".

(b) CONFORMING AMENDMENTS.—Section 2404(a) of that Act (118 Stat. 2113) is amended—

(1) in the matter preceding paragraph (1), by striking "$1,055,663,000" and inserting "$1,052,074,000"; and

(2) in paragraph (1), by striking "$411,782,000" and inserting "$408,193,000".

**SEC. 2406. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 2006 PROJECT.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3501), authorizations set forth in the tables in subsection (b), as provided in section 2401 of that Act, shall remain in effect until October 1, 2009, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2010, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Defense Logistics Agency: Extension of 2006 Project Authorization**

| Installation or Location | Project | Amount |
|---|---|---|
| Defense Logistics Agency ..... | Defense Distribution Depot Susquehanna, New Cumberland, Pennsylvania. | $6,500,000 |

## Subtitle B—Chemical Demilitarization Authorizations

### SEC. 2411. AUTHORIZED CHEMICAL DEMILITARIZATION PROGRAM CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2412(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Chemical Demilitarization Program: Inside the United States**

| Army | Installation or Location | Amount |
|---|---|---|
| Army | Blue Grass Army Depot, Kentucky | $12,000,000 |

**SEC. 2412. AUTHORIZATION OF APPROPRIATIONS, CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for military construction and land acquisition for chemical demilitarization in the total amount of $144,278,000, as follows:

(1) For military construction projects inside the United States authorized by section 2411(a), $12,000,000.

(2) For the construction of phase 10 of a munitions demilitarization facility at Pueblo Chemical Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $65,060,000.

(3) For the construction of phase 9 of a munitions demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $67,218,000.

**SEC. 2413. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1997 PROJECT.**

(a) MODIFICATIONS.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2699), is amended—

(1) under the agency heading relating to the Chemical Demilitarization Program, in the item relating to Pueblo Army Depot, Colorado, by striking "$261,000,000" in the amount column and inserting "$484,000,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$830,454,000".

(b) CONFORMING AMENDMENT.—Section 2406(b)(2) of the Military Construction Authorization Act for Fiscal Year 1997 (110 Stat. 2779), as so amended, is further amended by striking "$261,000,000" and inserting "$484,000,000".

**SEC. 2414. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECT.**

(a) MODIFICATIONS.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section

2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), is amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Blue Grass Army Depot, Kentucky, by striking "$290,325,000" in the amount column and inserting "$492,000,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$949,920,000".

(b) CONFORMING AMENDMENT.—Section 2405(b)(3) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), is further amended by striking "$267,525,000" and inserting "$469,200,000".

# TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

### SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

### SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment Program authorized by section 2501, in the amount of $230,867,000.

# TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Army National Guard construction and land acquisition projects.
Sec. 2602. Authorized Army Reserve construction and land acquisition projects.
Sec. 2603. Authorized Navy Reserve and Marine Corps Reserve construction and land acquisition projects.
Sec. 2604. Authorized Air National Guard construction and land acquisition projects.
Sec. 2605. Authorized Air Force Reserve construction and land acquisition projects.
Sec. 2606. Authorization of appropriations, National Guard and Reserve.
Sec. 2607. Modification of authority to carry out certain fiscal year 2008 project.
Sec. 2608. Extension of authorizations of certain fiscal year 2006 projects.
Sec. 2609. Extension of Authorization of certain fiscal year 2005 project.

**SEC. 2601. AUTHORIZED ARMY NATIONAL GUARD CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(1)(A), the Secretary of the Army may acquire real property and carry out military construction projects for the Army National Guard locations, and in the amounts, set forth in the following table:

## Army National Guard

| State | Location | Amount |
|---|---|---|
| Alabama | Fort McClellan | $3,000,000 |
| Alaska | Bethel Armory | $16,000,000 |
| Arizona | Camp Navajo | $13,000,000 |
| | Florence | $13,800,000 |
| | Papago Military Reservation | $24,000,000 |
| Arkansas | Cabot | $10,868,000 |
| Colorado | Denver | $9,000,000 |
| | Grand Junction | $9,000,000 |
| Connecticut | Camp Rell | $28,000,000 |
| | East Haven | $13,800,000 |
| Delaware | New Castle | $28,000,000 |
| Florida | Camp Blanding | $33,307,000 |
| Georgia | Dobbins Air Reserve Base | $45,000,000 |
| Idaho | Orchard Training Area | $1,850,000 |
| Illinois | Urbana Armory | $16,186,000 |
| Indiana | Camp Atterbury | $5,800,000 |
| | Lawrence | $21,000,000 |
| | Muscatatuck | $6,000,000 |
| Iowa | Camp Dodge | $1,500,000 |
| | Davenport | $1,550,000 |
| | Mount Pleasant | $1,500,000 |
| Kentucky | London | $7,191,000 |
| Maine | Bangor | $20,000,000 |
| Maryland | Edgewood | $28,000,000 |
| | Salisbury | $9,800,000 |
| Massachusetts | Methuen | $21,000,000 |
| Michigan | Camp Grayling | $22,943,000 |
| Minnesota | Arden Hills | $15,000,000 |

**Army National Guard**—Continued

| State | Location | Amount |
|---|---|---|
| Nevada | Elko | $11,375,000 |
| New York | Fort Drum | $11,000,000 |
| | Queensbury | $5,900,000 |
| Ohio | Camp Perry | $2,000,000 |
| | Ravenna | $2,000,000 |
| Pennsylvania | Honesdale | $6,117,000 |
| Rhode Island | North Kingstown | $5,000,000 |
| South Carolina | Anderson | $12,000,000 |
| | Beaufort | $3,400,000 |
| | Eastover | $28,000,000 |
| | Hemingway | $4,600,000 |
| South Dakota | Camp Rapid | $14,463,000 |
| | Rapid City | $29,000,000 |
| Tennessee | Tullahoma | $10,372,000 |
| Utah | Camp Williams | $17,500,000 |
| Vermont | Ethan Allen Firing Range | $10,200,000 |
| Virginia | Arlington | $15,500,000 |
| | Fort Pickett | $2,950,000 |
| Washington | Fort Lewis (Gray Army Airfield) | $32,000,000 |
| West Virginia | Camp Dawson | $9,000,000 |

**SEC. 2602. AUTHORIZED ARMY RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(1)(B), the Secretary of the Army may acquire real property and carry out military construction projects for the Army Reserve locations, and in the amounts, set forth in the following table:

**Army Reserve**

| State | Location | Amount |
|---|---|---|
| California | Fort Hunter Liggett | $3,950,000 |
| Hawaii | Fort Shafter | $19,199,000 |
| Idaho | Hayden Lake | $9,580,000 |
| Kansas | Dodge City | $8,100,000 |
| Maryland | Baltimore | $11,600,000 |
| Massachusetts | Fort Devens | $1,900,000 |
| Michigan | Saginaw | $11,500,000 |
| Missouri | Weldon Springs | $11,700,000 |
| Nevada | Las Vegas | $33,900,000 |
| New Jersey | Fort Dix | $3,825,000 |
| New York | Kingston | $13,494,000 |
| | Shoreham | $15,031,000 |
| | Staten Island | $18,550,000 |
| North Carolina | Raleigh | $25,581,000 |
| Pennsylvania | Letterkenny Army Depot | $14,914,000 |
| Tennessee | Chattanooga | $10,600,000 |
| Texas | Sinton | $9,700,000 |
| Washington | Seattle | $37,500,000 |
| Wisconsin | Fort McCoy | $4,000,000 |

**SEC. 2603. AUTHORIZED NAVY RESERVE AND MARINE CORPS RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the Navy Reserve and Marine Corps Reserve locations, and in the amounts, set forth in the following table:

**Navy Reserve and Marine Corps Reserve**

| State | Location | Amount |
|---|---|---|
| California | Lemoore | $15,420,000 |
| Delaware | Wilmington | $11,530,000 |
| Georgia | Marietta | $7,560,000 |
| Virginia | Norfolk | $8,170,000 |
| | Williamsburg | $12,320,000 |

**SEC. 2604. AUTHORIZED AIR NATIONAL GUARD CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(3)(A), the Secretary of the Air Force may acquire real property and carry out military construction projects for the Air National Guard locations, and in the amounts, set forth in the following table:

**Air National Guard**

| State | Location | Amount |
|---|---|---|
| Arkansas | Little Rock Air Force Base | $4,000,000 |
| Colorado | Buckley Air Force Base | $4,200,000 |
| Connecticut | Bradley International Airport | $7,200,000 |
| Delaware | New Castle County Airport | $14,800,000 |
| Georgia | Savannah Combat Readiness Training Center | $7,500,000 |
| Indiana | Fort Wayne International Airport | $5,600,000 |
| Iowa | Fort Dodge | $5,600,000 |
| Kansas | Smoky Hill Air National Guard Range | $7,100,000 |
| Maryland | Martin State Airport | $7,900,000 |
| Massachusetts | Otis Air National Guard Base | $14,300,000 |
| Minnesota | Duluth 148th Fighter Wing Base | $4,500,000 |
| | Minneapolis-St. Paul | $1,500,000 |
| Mississippi | Gulfport-Biloxi International Airport | $3,400,000 |
| New Jersey | Atlantic City International Airport | $8,400,000 |
| New York | Gabreski Airport, Westhampton | $7,500,000 |
| | Hancock Field | $10,400,000 |
| Ohio | Springfield Air National Guard Base | $12,800,000 |
| Rhode Island | Quonset State Airport | $7,700,000 |
| South Dakota | Joe Foss Field | $4,500,000 |
| Tennessee | Knoxville | $8,000,000 |
| Texas | Ellington Field | $7,600,000 |
| | Fort Worth Naval Air Station Joint Reserve Base | $5,000,000 |
| Vermont | Burlington International Airport | $6,600,000 |
| Washington | McChord Air Force Base | $8,600,000 |
| West Virginia | Yeager Airport, Charleston | $27,000,000 |
| Wisconsin | Truax Field | $6,300,000 |
| Wyoming | Cheyenne Municipal Airport | $7,000,000 |

**SEC. 2605. AUTHORIZED AIR FORCE RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(3)(B), the Secretary of the Air Force may acquire real property and carry out military construction projects for the Air Force Reserve locations, and in the amounts, set forth in the following table:

**Air Force Reserve**

| State | Location | Amount |
|---|---|---|
| Georgia | Dobbins Air Reserve Base | $6,450,000 |
| Oklahoma | Tinker Air Force Base | $9,900,000 |
| New York | Niagara Falls Air Reserve Station | $9,000,000 |

**SEC. 2606. AUTHORIZATION OF APPROPRIATIONS, NATIONAL GUARD AND RESERVE.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), in the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $736,317,000; and

(B) for the Army Reserve, $282,607,000.

(2) For the Department of the Navy, for the Navy and Marine Corps Reserve, $57,045,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $242,924,000; and

(B) for the Air Force Reserve, $36,958,000.

**SEC. 2607. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2008 PROJECT.**

The table in section 2601 of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 527) is amended in the item relating to North Kingstown, Rhode Island, by striking "$33,000,000" in the amount column and inserting "$38,000,000".

**SEC. 2608. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2006 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3501), the authorizations set forth in the table in subsection (b), as provided in section 2601 of that Act, shall remain in effect until October 1, 2009, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2010, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Army National Guard: Extension of 2006 Project Authorizations**

| State | Installation or Location | Project | Amount |
|---|---|---|---|
| California | Camp Roberts | Urban Assault Course | $1,485,000 |
| Idaho | Gowen Field | Railhead, Phase 1 | $8,331,000 |
| Mississippi | Biloxi | Readiness Center | $16,987,000 |
| | Camp Shelby | Modified Record Fire Range | $2,970,000 |
| Montana | Townsend | Automated Qualification Training Range. | $2,532,000 |
| Pennsylvania | Philadelphia | Stryker Brigade Combat Team Readiness Center. | $11,806,000 |
| | | Organizational Maintenance Shop #7. | $6,144,930 |

**SEC. 2609. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 2005 PROJECT.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2116), the authorization set forth in the table in subsection (b), as provided in section 2601 of that Act, shall remain in effect until October 1, 2009, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2010, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Army National Guard: Extension of 2005 Project Authorization**

| State | Installation or Location | Project | Amount |
|---|---|---|---|
| California | Dublin | Readiness Center, Add/Alt (ADRS). | $11,318,000 |

# TITLE XXVII—BASE CLOSURE AND REALIGNMENT ACTIVITIES

Subtitle A—Authorizations

Sec. 2701. Authorization of appropriations for base closure and realignment activities funded through Department of Defense Base Closure Account 1990.
Sec. 2702. Authorized base closure and realignment activities funded through Department of Defense Base Closure Account 2005.
Sec. 2703. Authorization of appropriations for base closure and realignment activities funded through Department of Defense Base Closure Account 2005.

Subtitle B—Amendments to Base Closure and Related Laws

Sec. 2711. Modification of annual base closure and realignment reporting requirements.
Sec. 2712. Technical corrections regarding authorized cost and scope of work variations for military construction and military family housing projects related to base closures and realignments.

Subtitle C—Other Matters

Sec. 2721. Independent design review of National Naval Medical Center and military hospital at Fort Belvoir.
Sec. 2722. Report on use of BRAC properties as sites for refineries or nuclear power plants.

## Subtitle A—Authorizations

### SEC. 2701. AUTHORIZATION OF APPROPRIATIONS FOR BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for base closure and realignment activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 1990 established by section 2906 of such Act, in the total amount of $458,377,000, as follows:

(1) For the Department of the Army, $87,855,000.
(2) For the Department of the Navy, $228,700,000.
(3) For the Department of the Air Force, $139,155,000.
(4) For the Defense Agencies, $2,667,000.

### SEC. 2702. AUTHORIZED BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.

Using amounts appropriated pursuant to the authorization of appropriations in section 2703, the Secretary of Defense may carry out base closure and realignment activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, in the amount of $6,982,334,000.

**SEC. 2703. AUTHORIZATION OF APPROPRIATIONS FOR BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for base closure and realignment activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, in the total amount of $9,065,386,000, as follows:

(1) For the Department of the Army, $4,486,178,000.

(2) For the Department of the Navy, $871,492,000.

(3) For the Department of the Air Force, $1,072,925,000.

(4) For the Defense Agencies, $2,634,791,000.

## Subtitle B—Amendments to Base Closure and Related Laws

**SEC. 2711. MODIFICATION OF ANNUAL BASE CLOSURE AND REALIGNMENT REPORTING REQUIREMENTS.**

(a) TERMINATION OF REPORTING REQUIREMENTS AFTER FISCAL YEAR 2014.—Section 2907 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by striking "As part of the budget request for fiscal year 2007 and for each fiscal year thereafter" and inserting "(a) REPORTING REQUIREMENT.—As part of the budget request for fiscal year 2007 and for each fiscal year thereafter through fiscal year 2016"; and

(2) by adding at the end the following new subsection:

"(b) TERMINATION OF REPORTING REQUIREMENTS RELATED TO REALIGNMENT ACTIONS.—The reporting requirements under subsection (a) shall terminate with respect to realignment actions after the report submitted with the budget for fiscal year 2014.".

(b) EXCLUSION OF DESCRIPTIONS OF REALIGNMENT ACTIONS.—Subsection (a) of such section, as designated and amended by subsection (a)(1) of this section, is further amended—

(1) in paragraph (1), by striking "and realignment" both places it appears;

(2) in paragraph (2), by striking "and realignments"; and

(3) in paragraphs (3), (4), (5), (6), and (7), by striking "or realignment" each place it appears.

**SEC. 2712. TECHNICAL CORRECTIONS REGARDING AUTHORIZED COST AND SCOPE OF WORK VARIATIONS FOR MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING PROJECTS RELATED TO BASE CLOSURES AND REALIGNMENTS.**

(a) CORRECTION OF CITATION IN AMENDATORY LANGUAGE.—

(1) IN GENERAL.—Section 2704(a) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 532) is amended—

(A) in subsection (a), by striking "Section 2905A" and inserting "Section 2906A"; and

(B) in subsection (b), by striking "section 2905A" and inserting "section 2906A".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 28, 2008, as if included in the enactment of section 2704 of the Military Construction Authorization Act for Fiscal Year 2008.

(b) CORRECTION OF SCOPE OR WORK VARIATION LIMITATION.—Subsection (f) of section 2906A of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 2704(a) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 532) and amended by subsection (a), is amended by striking "20 percent or $2,000,000, whichever is greater" and inserting "20 percent or $2,000,000, whichever is less".

## Subtitle C—Other Matters

Maryland.
Virginia.

**SEC. 2721. INDEPENDENT DESIGN REVIEW OF NATIONAL NAVAL MEDICAL CENTER AND MILITARY HOSPITAL AT FORT BELVOIR.**

(a) FINDINGS.—Congress makes the following findings:

(1) Military personnel and their families, as well as veterans and retired military personnel living in the National Capital region, deserve to be treated in world class medical facilities.

(2) World class medical facilities are defined as incorporating the best practices of the premier private health facilities in the country as well as the collaborative input of military health care professionals into a design that supports the unique needs of military personnel and their families.

(3) The closure of the Walter Reed Army Medical Center in Washington, D.C., and the resulting construction of the National Military Medical Center at the National Naval Medical Center, Bethesda, Maryland, and a new military hospital at Fort Belvoir, Virginia, offer the Department of Defense the opportunity to provide state-of-the-art and world-class medical facilities offering the highest quality of joint service care for members of the Armed Forces and their families.

(4) Congress has supported a Department of Defense request to expedite the construction of the new facilities at Bethesda and Fort Belvoir in order to provide care in better facilities as quickly as possible.

(5) The Department of Defense has a responsibility to ensure that the expedited design and construction of such facilities do not result in degradation of the quality standards required for world class facilities.

(b) INDEPENDENT DESIGN REVIEW.—

(1) ESTABLISHMENT OF DESIGN REVIEW PANEL.—The Secretary of Defense shall establish a panel consisting of medical facility design experts, military healthcare professionals, representatives of premier health care facilities in the United States, and patient representatives—

(A) to review design plans for the National Military Medical Center and the new military hospital at Fort Belvoir; and

(B) to advise the Secretary regarding whether the design, in the view of the panel, will achieve the goal of providing world-class medical facilities; and

(2) RECOMMENDATIONS FOR CHANGES TO DESIGN PLAN.—If the panel determines that the design plans will not meet such goal, the panel shall make recommendations for changes to those plans to ensure the construction of world-class medical facilities.

(3) REPORT.—Not later than 90 days after the date of the enactment of this Act, the panel shall submit to the Secretary of Defense a report on the findings and recommendations of the panel to address any deficiencies in the conceptual design plans.

(4) ASSESSMENT OF RECOMMENDATIONS.—Not later than 30 days after submission of the report under paragraph (3), the Secretary of Defense shall submit to the congressional defense committees a report including— Deadline. Reports.

(A) an assessment by the Secretary of the findings and recommendations of the panel; and

(B) the plans of the Secretary for addressing such findings and recommendations.

(c) COST ESTIMATE.—

(1) PREPARATION.—The Department of Defense shall prepare a cost estimate of the total cost to be incurred by the United States to close Walter Reed Army Medical Center, design and construct replacement facilities at the National Naval Medical Center and Fort Belvoir, and relocate operations to the replacement facilities.

(2) SUBMISSION.—The Secretary of Defense shall submit the resulting cost estimate to the congressional defense committees as soon as possible, but in no case later than 120 days after the date of the enactment of this Act. Deadline.

(d) MILESTONE SCHEDULE.—

(1) PREPARATION.—The Secretary of Defense shall prepare a complete milestone schedule for the closure of Walter Reed Army Medical Center, the design and construction of replacement facilities at the National Naval Medical Center and Fort Belvoir, and the relocation of operations to the replacement facilities. The schedule shall include a detailed plan regarding how the Department of Defense will carry out the transition of operations between Walter Reed Army Medical Center and the replacement facilities. Transition plan.

(2) SUBMISSION.—The Secretary of Defense shall submit the resulting milestone schedule and transition plan to the congressional defense committees as soon as possible, but in no case later than 45 days after the date of the enactment of this Act. Deadline.

**SEC. 2722. REPORT ON USE OF BRAC PROPERTIES AS SITES FOR REFINERIES OR NUCLEAR POWER PLANTS.**

Not later than October 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report evaluating the feasibility of using military installations selected for closure under the base closure and realignment process as locations for the construction of petroleum or natural gas refineries or nuclear power plants.

# TITLE XXVIII—MILITARY CONSTRUCTION GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Incorporation of principles of sustainable design in documents submitted as part of proposed military construction projects.
Sec. 2802. Revision of maximum lease amount applicable to certain domestic Army family housing leases to reflect previously made annual adjustments in amount.
Sec. 2803. Use of military family housing constructed under build and lease authority to house members without dependents.
Sec. 2804. Leasing of military family housing to Secretary of Defense.
Sec. 2805. Improved oversight and accountability for military housing privatization initiative projects.
Sec. 2806. Authority to use operation and maintenance funds for construction projects inside the United States Central Command and United States Africa Command areas of responsibility.
Sec. 2807. Cost-benefit analysis of dissolution of Patrick Family Housing LLC.

Subtitle B—Real Property and Facilities Administration

Sec. 2811. Clarification of congressional reporting requirements for certain real property transactions.
Sec. 2812. Authority to lease non-excess property of military departments and Defense Agencies.
Sec. 2813. Modification of utility system conveyance authority.
Sec. 2814. Defense access roads.
Sec. 2815. Report on application of force protection and anti-terrorism standards to gates and entry points on military installations.

Subtitle C—Provisions Related to Guam Realignment

Sec. 2821. Sense of Congress regarding military housing and utilities related to Guam realignment.
Sec. 2822. Federal assistance to Guam.
Sec. 2823. Eligibility of the Commonwealth of the Northern Mariana Islands for military base reuse studies and community planning assistance.
Sec. 2824. Support for realignment of military installations and relocation of military personnel on Guam.

Subtitle D—Energy Security

Sec. 2831. Certification of enhanced use leases for energy-related projects.
Sec. 2832. Annual report on Department of Defense installations energy management.

Subtitle E—Land Conveyances

Sec. 2841. Land conveyance, former Naval Air Station, Alameda, California.
Sec. 2842. Transfer of administrative jurisdiction, decommissioned Naval Security Group Activity, Skaggs Island, California.
Sec. 2843. Transfer of proceeds from property conveyance, Marine Corps Logistics Base, Albany, Georgia.
Sec. 2844. Land conveyance, Sergeant First Class M.L. Downs Army Reserve Center, Springfield, Ohio.
Sec. 2845. Land conveyance, John Sevier Range, Knox County, Tennessee.
Sec. 2846. Land conveyance, Army property, Camp Williams, Utah.
Sec. 2847. Extension of Potomac Heritage National Scenic Trail through Fort Belvoir, Virginia.

Subtitle F—Other Matters

Sec. 2851. Revised deadline for transfer of Arlington Naval Annex to Arlington National Cemetery.
Sec. 2852. Acceptance and use of gifts for construction of additional building at National Museum of the United States Air Force, Wright-Patterson Air Force Base.
Sec. 2853. Lease involving pier on Ford Island, Pearl Harbor Naval Base, Hawaii.
Sec. 2854. Use of runway at NASJRB Willow Grove, Pennsylvania.
Sec. 2855. Naming of health facility, Fort Rucker, Alabama.

# Subtitle A—Military Construction Program and Military Family Housing Changes

**SEC. 2801. INCORPORATION OF PRINCIPLES OF SUSTAINABLE DESIGN IN DOCUMENTS SUBMITTED AS PART OF PROPOSED MILITARY CONSTRUCTION PROJECTS.**

(a) DEFINITION OF LIFE-CYCLE COST-EFFECTIVE.—Subsection (c) of section 2801 of title 10, United States Code, is amended—

(1) by transferring paragraph (4) to appear as the first paragraph in the subsection and redesignating such paragraph as paragraph (1);

(2) by redesignating the subsequent three paragraphs as paragraphs (2), (4), and (5), respectively; and

(3) by inserting after paragraph (2), as so redesignated, the following new paragraph:

"(3) The term 'life-cycle cost-effective', with respect to a project, product, or measure, means that the sum of the present values of investment costs, capital costs, installation costs, energy costs, operating costs, maintenance costs, and replacement costs, as estimated for the lifetime of the project, product, or measure, does not exceed the base case (current or standard) for the practice, product, or measure.".

(b) INCLUSION.—Section 2802 of such title is amended by adding at the end the following new subsection:

"(c) In determining the scope of a proposed military construction project, the Secretary concerned shall submit to the President such recommendations as the Secretary considers to be appropriate regarding the incorporation and inclusion of life-cycle cost-effective practices as an element in the project documents submitted to Congress in connection with the budget submitted pursuant to section 1105 of title 31 for the fiscal year in which a contract is proposed to be awarded for the project.". Recommendations.

**SEC. 2802. REVISION OF MAXIMUM LEASE AMOUNT APPLICABLE TO CERTAIN DOMESTIC ARMY FAMILY HOUSING LEASES TO REFLECT PREVIOUSLY MADE ANNUAL ADJUSTMENTS IN AMOUNT.**

Section 2828(b)(7)(A) of title 10, United States Code, is amended by striking "$18,620 per unit" and inserting "$35,000 per unit".

**SEC. 2803. USE OF MILITARY FAMILY HOUSING CONSTRUCTED UNDER BUILD AND LEASE AUTHORITY TO HOUSE MEMBERS WITHOUT DEPENDENTS.**

(a) IN GENERAL.—Subchapter II of chapter 169 of title 10, United States Code, is amended by inserting after section 2835 the following new section:

**"§ 2835a. Use of military family housing constructed under build and lease authority to house other members**

"(a) INDIVIDUAL ASSIGNMENT OF MEMBERS WITHOUT DEPENDENTS.—(1) To the extent that the Secretary concerned determines that military family housing constructed and leased under section 2835 of this title is not needed to house members of the armed forces eligible for assignment to military family housing, the Secretary may assign, without rental charge, members without dependents to the housing.

"(2) A member without dependents who is assigned to housing pursuant to paragraph (1) shall be considered to be assigned to quarters pursuant to section 403(e) of title 37.

"(b) CONVERSION TO LONG-TERM LEASING OF MILITARY UNACCOMPANIED HOUSING.—(1) If the Secretary concerned determines that military family housing constructed and leased under section 2835 of this title is excess to the long-term needs of the family housing program of the Secretary, the Secretary may convert the lease contract entered into under subsection (a) of such section into a long-term lease of military unaccompanied housing.

"(2) The term of the lease contract for military unaccompanied housing converted from military family housing under paragraph (1) may not exceed the remaining term of the lease contract for the family housing so converted.

"(c) NOTICE AND WAIT REQUIREMENTS.—(1) The Secretary concerned may not convert military family housing to military unaccompanied housing under subsection (b) until—

"(A) the Secretary submits to the congressional defense committees a notice of the intent to undertake the conversion; and

Time periods.

"(B) a period of 21 days has expired following the date on which the notice is received by the committees or, if earlier, a period of 14 days has expired following the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title.

"(2) The notice required by paragraph (1) shall include—

"(A) an explanation of the reasons for the conversion of the military family housing to military unaccompanied housing;

"(B) a description of the long-term lease to be converted;

"(C) amounts to be paid under the lease; and

"(D) the expiration date of the lease.

"(d) APPLICATION TO HOUSING LEASED UNDER FORMER AUTHORITY.—This section also shall apply to housing initially acquired or constructed under the former section 2828(g) of this title (commonly known as the 'Build to Lease program'), as added by section 801 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat 782).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2835 the following new item:

"2835a. Use of military family housing constructed under build and lease authority to house other members.".

**SEC. 2804. LEASING OF MILITARY FAMILY HOUSING TO SECRETARY OF DEFENSE.**

(a) LEASING OF HOUSING.—Subchapter II of chapter 169 of title 10, United States Code, is amended by inserting after section 2837 the following new section:

**"§ 2838. Leasing of military family housing to Secretary of Defense**

"(a) AUTHORITY.—(1) The Secretary of a military department may lease to the Secretary of Defense military family housing in the National Capital Region (as defined in section 2674(f) of this title).

"(2) In determining the military housing unit to lease under this section, the Secretary of Defense should first consider any

available military housing units that are already substantially equipped for executive communications and security.

"(b) RENTAL RATE.—A lease under subsection (a) shall provide for the payment by the Secretary of Defense of consideration in an amount equal to 105 percent of the monthly rate of basic allowance for housing prescribed under section 403(b) of title 37 for a member of the uniformed services in the pay grade of O–10 with dependents assigned to duty at the military installation on which the leased housing unit is located. A rate so established shall be considered the fair market value of the lease interest.

"(c) TREATMENT OF PROCEEDS.—(1) The Secretary of a military department shall deposit all amounts received pursuant to leases entered into by the Secretary under this section into a special account in the Treasury established for such military department.

"(2) The proceeds deposited into the special account of a military department pursuant to paragraph (1) shall be available to the Secretary of that military department, without further appropriation, for the maintenance, protection, alteration, repair, improvement, or restoration of military housing on the military installation at which the housing leased pursuant to subsection (a) is located.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2838. Leasing of military family housing to Secretary of Defense.".

**SEC. 2805. IMPROVED OVERSIGHT AND ACCOUNTABILITY FOR MILITARY HOUSING PRIVATIZATION INITIATIVE PROJECTS.**

(a) OVERSIGHT AND ACCOUNTABILITY.—

(1) IN GENERAL.—Subchapter IV of chapter 169 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2885. Oversight and accountability for privatization projects**

"(a) OVERSIGHT AND ACCOUNTABILITY MEASURES.—Each Secretary concerned shall prescribe regulations to effectively oversee and manage military housing privatization projects carried out under this subchapter. The regulations shall include the following requirements for each privatization project: Regulations.

"(1) The installation asset manager shall conduct monthly site visits and provide quarterly reports on the progress of the construction or renovation of the housing units. The reports shall be submitted quarterly to the assistant secretary for installations and environment of the respective military department. Deadlines. Reports.

"(2) The installation asset manager, and, as applicable, the resident construction manager, privatization asset manager, bondholder representative, project owner, developer, general contractor, and construction consultant for the project shall conduct meetings to ensure that the construction or renovation of the units meets performance and schedule requirements and that appropriate operating and ground lease agreements are in place and adhered to.

"(3) If a project is 90 days or more behind schedule or otherwise appears to be substantially failing to adhere to the Notice.

obligations or milestones under the contract, the assistant secretary for installations and environment of the respective military department shall submit a notice of deficiency to the Deputy Under Secretary of Defense (Installations and Environment), the Secretary concerned, the managing member, and the trustee for the project.

Deadlines.

"(4)(A) Not later than 15 days after the submittal of a notice of deficiency under paragraph (3), the Secretary concerned or designated representative shall submit to the project owner, developer, or general contractor responsible for the project a summary of deficiencies related to the project.

"(B) If the project owner, developer, or general contractor responsible for the privatization project is unable, within 60 days after receiving a notice of deficiency under subparagraph (A), to make progress on the issues outlined in such notice, the Secretary concerned shall notify the congressional defense committees of the status of the project, and shall provide a recommended course of action to correct the problems.

"(b) REQUIRED QUALIFICATIONS.—The Secretary concerned or designated representative shall ensure that the project owner, developer, or general contractor that is selected for each military housing privatization initiative project has construction experience commensurate with that required to complete the project.

"(c) BONDING LEVELS.—The Secretary concerned shall ensure that the project owner, developer, or general contractor responsible for a military housing privatization initiative project has sufficient payment and performance bonds or suitable instruments in place for each phase of a construction or renovation portion of the project to ensure successful completion of the work in amounts as agreed to in the project's legal documents, but in no case less than 50 percent of the total value of the active phases of the project, prior to the commencement of work for that phase.

"(d) REPORTING OF EFFORTS TO SELECT SUCCESSOR IN EVENT OF DEFAULT.—In the event a military housing privatization initiative project enters into default, the assistant secretary for installations and environment of the respective military department shall submit a report to the congressional defense committees every 90 days detailing the status of negotiations to award the project to a new project owner, developer, or general contractor.

Records.

"(e) EFFECT OF NOTICES OF DEFICIENCY ON CONTRACTORS AND AFFILIATED ENTITIES.—(1) The Secretary concerned shall keep a record of all plans of action or notices of deficiency issued to a project owner, developer, or general contractor under subsection (a)(4), including the identity of each parent, subsidiary, affiliate, or other controlling entity of such owner, developer, or contractor.

"(2) Each military department shall consult all records maintained under paragraph (1) when reviewing the past performance of owners, developers, and contractors in the bidding process for a contract or other agreement for a military housing privatization initiative project.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2885. Oversight and accountability for privatization projects.".

(b) REPORT FOR IDENTIFYING AND COMMUNICATING BEST PRACTICES FOR TRANSACTIONS.—Section 2884(b) of such title is amended by adding at the end the following new paragraph:

"(7) A report on best practices for the execution of housing privatization initiatives, including—

"(A) effective means to track and verify proper performance, schedule, and cash flow;

"(B) means of overseeing the actions of bondholders to properly monitor construction progress and construction draws;

"(C) effective structuring of transactions to ensure the United States Government has adequate abilities to oversee project owner performance;

"(D) ensuring that notices to proceed on new work are not issued until proper bonding is in place; and

"(E) such other topics that are identified as pertinent by the Department of Defense.".

(c) PARTNERSHIP WITH ELIGIBLE ENTITY REQUIRED.—Section 2871(5) of title 10, United States Code, is amended by inserting before the period at the end the following: "that is prepared to enter into a contract as a partner with the Secretary concerned for the construction of military housing units and ancillary supporting facilities".

(d) COMPETITIVE PROCESS FOR CONVEYANCE OR LEASE OF PROPERTY.—Section 2878 of such title is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e); respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) COMPETITIVE PROCESS.—The Secretary concerned shall ensure that the time, method, and terms and conditions of the reconveyance or lease of property or facilities under this section from the eligible entity permit full and free competition consistent with the value and nature of the property or facilities involved.".

(e) TREATMENT OF ACQUIRED OR CONSTRUCTED HOUSING UNITS.—

(1) REPEAL OF SEPARATE ASSIGNMENT AUTHORITY.—Section 2882 of such title is amended to read as follows:

**"§ 2882. Effect of assignment of members to housing units acquired or constructed under alternative authority**

"(a) TREATMENT AS QUARTERS OF THE UNITED STATES.—Except as provided in subsection (b), housing units acquired or constructed under this subchapter shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403 of title 37.

"(b) AVAILABILITY OF BASIC ALLOWANCE FOR HOUSING.—A member of the armed forces who is assigned to a housing unit acquired or constructed under this subchapter that is not owned or leased by the United States shall be entitled to a basic allowance for housing under section 403 of title 37.

"(c) LEASE PAYMENTS THROUGH PAY ALLOTMENTS.—The Secretary concerned may require members of the armed forces who lease housing in housing units acquired or constructed under this subchapter to make lease payments for such housing pursuant

to allotments of the pay of such members under section 701 of title 37.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter IV of chapter 169 of such title is amended by striking the item relating to section 2882 and inserting the following new item:

"2882. Effect of assignment of members to housing units acquired or constructed under alternative authority.".

(f) ANNUAL REPORT ON MAINTENANCE AND REPAIR TO PRIVATIZED GENERAL AND FLAG OFFICER QUARTERS.—Section 2884(b) of such title, as amended by subsection (b), is further amended by adding at the end the following new paragraph:

"(8) A report identifying each family housing unit acquired or constructed under this subchapter that is used, or intended to be used, as quarters for a general officer or flag officer and for which the total operation, maintenance, and repair costs for the unit exceeded $50,000. For each housing unit so identified, the report shall also include the total of such operation, maintenance, and repair costs.".

**SEC. 2806. AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS INSIDE THE UNITED STATES CENTRAL COMMAND AND UNITED STATES AFRICA COMMAND AREAS OF RESPONSIBILITY.**

(a) ONE-YEAR EXTENSION OF AUTHORITY.—Subsection (a) of section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723), as amended by section 2810 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2128), section 2809 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3508), section 2802 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2466), and section 2801 of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 538), is further amended—

(1) by striking "2008" and inserting "2009"; and

(2) by striking "outside the United States" and inserting "inside the United States Central Command and United States Africa Command areas of responsibility".

(b) EXCEPTION FOR PROJECTS IN AFGHANISTAN FROM LIMITATION ON AUTHORITY RELATED TO LONG-TERM UNITED STATES PRESENCE.—Such subsection, as so amended, is further amended by inserting before the period at the end of paragraph (2) the following: ", unless the military installation is located in Afghanistan, for which projects using this authority may be carried out at installations deemed as supporting a long-term presence".

(c) MODIFICATION OF ANNUAL LIMITATION ON USE OF AUTHORITY.—Subsection (c) of section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723) is amended to read as follows:

"(c) ANNUAL LIMITATION ON USE OF AUTHORITY.—(1) The total cost of the construction projects carried out under the authority of this section using, in whole or in part, appropriated funds available for operation and maintenance shall not exceed $200,000,000 in a fiscal year.

"(2) If the Secretary of Defense certifies to the congressional defense committees that additional construction in Afghanistan is required to meet urgent military requirements in Afghanistan, up to an additional $300,000,000 in funds available for operation and maintenance may be used in Afghanistan upon completing the prenotification requirements under subsection (b). Under no circumstances shall the total appropriated funds available from operation and maintenance for fiscal year 2009 exceed $500,000,000.". Certification.

(d) QUARTERLY REPORTS.—Subsection (d)(1) of such section, as amended by section 2810 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2128) and section 2809 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3508), is further amended by striking "30 days" and inserting "45 days".

**SEC. 2807. COST-BENEFIT ANALYSIS OF DISSOLUTION OF PATRICK FAMILY HOUSING LLC.**

Not later than 30 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a cost-benefit analysis of dissolving Patrick Family Housing LLC without exercising the full range of rights available to the United States Government to recover damages from the partnership. Deadline.

# Subtitle B—Real Property and Facilities Administration

**SEC. 2811. CLARIFICATION OF CONGRESSIONAL REPORTING REQUIREMENTS FOR CERTAIN REAL PROPERTY TRANSACTIONS.**

Section 2662(c) of title 10, United States Code, is amended by striking "river and harbor projects or flood control projects" and inserting "water resource development projects of the Corps of Engineers".

**SEC. 2812. AUTHORITY TO LEASE NON-EXCESS PROPERTY OF MILITARY DEPARTMENTS AND DEFENSE AGENCIES.**

(a) CONSOLIDATION OF SEPARATE AUTHORITIES.—

(1) ESTABLISHMENT OF SINGLE AUTHORITY.—Subsection (a) of section 2667 of title 10, United States Code, is amended to read as follows:

"(a) LEASE AUTHORITY.—Whenever the Secretary concerned considers it advantageous to the United States, the Secretary concerned may lease to such lessee and upon such terms as the Secretary concerned considers will promote the national defense or to be in the public interest, real or personal property that—

"(1) is under the control of the Secretary concerned;

"(2) is not for the time needed for public use; and

"(3) is not excess property, as defined by section 102 of title 40.".

(2) SECRETARY CONCERNED DEFINED.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

"(4) The term 'Secretary concerned' means—

"(A) the Secretary of a military department, with respect to matters concerning that military department; and

"(B) the Secretary of Defense, with respect to matters concerning the Defense Agencies.".

(b) PROHIBITION ON LEASEBACK WITH EXCESSIVE ANNUAL PAYMENTS.—Subsection (b) of such section is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

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

"(7) may not provide for a leaseback by the Secretary concerned with an annual payment in excess of $500,000.".

(c) IMPROVED CONGRESSIONAL NOTIFICATION REQUIREMENTS.—Paragraph (4) of subsection (c) of such section is amended to read as follows:

Deadlines. Reports.

"(4)(A) Not later than 30 days before issuing a contract solicitation or other lease offering under this section for a lease whose annual payment, including any in-kind consideration to be accepted under subsection (b)(5) or this subsection, will exceed $750,000, the Secretary concerned shall submit to the congressional defense committees a report containing—

"(i) a description of the proposed lease, including the proposed duration of the lease;

"(ii) a description of the authorities to be used in entering the lease and the intended participation of the United States in the lease, including a justification of the intended method of participation;

"(iii) a statement of the scored cost of the lease, determined using the scoring criteria of the Office of Management and Budget;

"(iv) a determination that the property involved in the lease is not excess property, as required by subsection (a)(3), including the basis for the determination;

"(v) a determination that the proposed lease is directly compatible with the mission of the military installation or Defense Agency whose property is to be subject to the lease and the anticipated long-term use of the property at the conclusion of the lease; and

"(vi) a description of the requirements or conditions within the contract solicitation or other lease offering for the offeror to address taxation issues, including payments-in-lieu-of taxes, and other development issues related to local municipalities.

"(B) In the case of a lease described in subparagraph (A), the Secretary concerned also shall submit to the congressional defense committees a report at least 30 days before the date on which the Secretary concerned enters into a lease the following information:

"(i) A copy of the report submitted under subparagraph (A).

"(ii) A description of the differences between the report submitted under that subparagraph and the new report.

"(iii) A description of the lessee payment required under this section.".

(d) CONFORMING AMENDMENTS TO REFERENCES TO MILITARY DEPARTMENTS AND INSTALLATIONS.—

(1) COMMUNITY SUPPORT FACILITIES AND COMMUNITY SUPPORT SERVICES.—Subsection (d) of such section is amended—

(A) in paragraph (2), by striking "Secretary of a military department" and inserting "Secretary concerned"; and

(B) in paragraphs (3), (4), and (6), by striking "of the military department" each place it appears.

(2) DEPOSIT AND USE OF PROCEEDS.—Subsection (e) of such section is amended—

(A) in paragraph (1)(A)—

(i) in the matter preceding clause (i)—

(I) by striking "Secretary of a military department" and inserting "Secretary concerned"; and

(II) by striking "such military department" and inserting "that Secretary"; and

(ii) in clause (iii), by striking "military department" and inserting "Secretary";

(B) in paragraph (1)(B)(i), by striking "Secretary of a military department" and inserting "Secretary concerned";

(C) in paragraph (1)(C), by striking "of a military department pursuant to subparagraph (A) shall be available to the Secretary of that military department" and inserting "established for the Secretary concerned shall be available to the Secretary";

(D) in paragraph (1)(D)—

(i) by striking "of a military department under subparagraph (A)" and inserting "established for the Secretary concerned"; and

(ii) by inserting "or Defense Agency location" after "military installation";

(E) in paragraph (1)(E), by striking "installation" and inserting "military installation or Defense Agency location"; and

(F) in paragraph (3), by striking "Secretary of a military department" and inserting "Secretary concerned".

(3) BASE CLOSURE PROPERTY.—Subsection (g)(1) of such section is amended by striking "Secretary of a military department" and inserting "Secretary concerned".

(e) REPEAL OF SEPARATE DEFENSE AGENCY AUTHORITY.—

(1) REPEAL.—Section 2667a of such title is repealed.

(2) EFFECT ON EXISTING CONTRACTS.—The repeal of section 2667a of title 10, United States Code, shall not affect the validity or terms of any lease with respect to property of a Defense Agency entered into by the Secretary of Defense under such section before the date of the enactment of this Act. 10 USC 2667a note.

(3) TREATMENT OF MONEY RENTS.—Amounts in any special account established for a Defense Agency pursuant to subsection (d) of section 2667a of title 10, United States Code, before repeal of such section by paragraph (1), and amounts that would be deposited in such an account in connection with a lease referred to in paragraph (2), shall—

(A) remain available until expended for the purposes specified in such subsection, notwithstanding the repeal of such section by paragraph (1); or

(B) to the extent provided in appropriations Acts, be transferred to the special account required for the Secretary

of Defense by subsection (e) of section 2667 of such title, as amended by subsection (d)(2) of this section.

(f) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 2667 of such title is amended to read as follows:

**"§ 2667. Leases: non-excess property of military departments and Defense Agencies".**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 159 of such title is amended by striking the items relating to sections 2667 and 2667a and inserting the following new item:

"2667. Leases: non-excess property of military departments and Defense Agencies.".

**SEC. 2813. MODIFICATION OF UTILITY SYSTEM CONVEYANCE AUTHORITY.**

Section 2688 of title 10, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(j) CONSTRUCTION OF UTILITY INFRASTRUCTURE AFTER CONVEYANCE OF A UTILITY SYSTEM.—(1) Upon conveyance of a utility system, the Secretary of a military department may convey additional utility infrastructure under the jurisdiction of the Secretary on a military installation to a utility or entity to which a utility system for the installation has been conveyed under subsection (a) if the Secretary determines that—

"(A) the additional utility infrastructure was constructed or installed after the date of the conveyance of the utility system;

"(B) the additional utility infrastructure cannot operate without being a part of the conveyed utility system;

"(C) the additional utility infrastructure was planned and coordinated with the entity operating the conveyed utility system; and

"(D) the military department receives as consideration an amount equal to the fair market value of the utility infrastructure determined in the same manner as the consideration the Secretary could require under subsection (c) for a conveyance under subsection (a).

"(2) The conveyance under this paragraph may consist of all right, title, and interest of the United States or such lesser estate as the Secretary considers appropriate to serve the interests of the United States.".

**SEC. 2814. DEFENSE ACCESS ROADS.**

(a) BASIS FOR TRANSPORTATION NEEDS ASSESSMENT.—Section 210(a) of title 23, United States Code, is amended—

(1) by striking "(a)" and inserting "(a)(1)"; and

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

"(2) If it is determined that an action of the Department of Defense will cause a significant transportation impact to access to a military reservation, the Secretary of Defense shall conduct a transportation needs assessment to assess the magnitude of the improvement required to address the impact.".

(b) REPORT ON RECENTLY IDENTIFIED TRANSPORTATION IMPACTS.—Not later than April 1, 2009, the Secretary of Defense

shall submit to the congressional defense committees and the Committee on Transportation and Infrastructure of the House of Representatives a report that details the significant transportation impacts resulting from actions of the Department of Defense since January 1, 2005. In the report, the Secretary shall assess the funding requirements necessary to address transportation needs resulting from these significant transportation impacts.

**SEC. 2815. REPORT ON APPLICATION OF FORCE PROTECTION AND ANTI-TERRORISM STANDARDS TO GATES AND ENTRY POINTS ON MILITARY INSTALLATIONS.**

(a) REPORT REQUIRED.—Not later than February 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of Department of Defense Anti-Terrorism/Force Protection standards at gates and entry points of military installations.

(b) CONTENT.—The report required under subsection (a) shall include the following:

(1) A description of the anti-terrorism/force protection standards for gates and entry points.

(2) An assessment, by installation, of whether the gates and entry points meet anti-terrorism/force protection standards.

(3) An assessment of whether the standards are met with either temporary or permanent measures, facilities, or equipment.

(4) A description and cost estimate of each action to be taken by the Secretary of Defense for each installation to ensure compliance with Department of Defense Anti-Terrorism/Force Protection standards using permanent measures and construction methods.

(5) An investment plan to complete all action required to ensure compliance with the standards described under paragraph (1).

# Subtitle C—Provisions Related to Guam Realignment

**SEC. 2821. SENSE OF CONGRESS REGARDING MILITARY HOUSING AND UTILITIES RELATED TO GUAM REALIGNMENT.**

(a) NATURE OF SPECIAL PURPOSE ENTITIES.—It is the sense of Congress that any military family housing provided in connection with the realignment of military installations and the relocation of military personnel on Guam should—

(1) be operated, to the extent practicable, in the manner provided for public-private ventures under subchapter IV of chapter 169 of title 10, United States Code; and

(2) should be constructed in accordance with current Department of Defense building standards.

(c) UTILITY INFRASTRUCTURE IMPROVEMENTS.—It is the sense of Congress that the proposed utility infrastructure improvements on Guam should incorporate the civilian and military infrastructure into a single grid to realize and maximize the effectiveness of the overall utility system, if appropriate cost sharing and quality standards are met.

**SEC. 2822. FEDERAL ASSISTANCE TO GUAM.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Interagency Group on Insular Areas, in coordination with the appropriate Federal agencies, should enter into a memorandum of understanding with the Government of Guam to identify, before the realignment of military installations and the relocation of military personnel on Guam, local funding requirements for civilian infrastructure development and other needs related to the realignment and relocation.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the status of interagency coordination through the Interagency Group on Insular Areas of budgetary requests to assist the Government of Guam with its budgetary requirements related to the realignment of military forces on Guam. The report shall address to what extent and how the Interagency Group on Insular Areas will be able to coordinate interagency budgets so the realignment of military forces on Guam will meet the 2014 completion date as stipulated in the May 2006 security agreement between the United States and Japan.

(c) INTERAGENCY GROUP ON INSULAR AREAS DEFINED.—In this section, the term "Interagency Group on Insular Areas" means the interagency group established by Executive Order No. 13299 of May 12, 2003 (68 Fed. Reg. 25477; 48 U.S.C. note prec. 1451). The term includes any sub-group or working group of that interagency group.

**SEC. 2823. ELIGIBILITY OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS FOR MILITARY BASE REUSE STUDIES AND COMMUNITY PLANNING ASSISTANCE.**

(a) INCLUSION IN DEFINITION OF MILITARY INSTALLATION.—Section 2687(e)(1) of title 10, United States Code, is amended by inserting after "Virgin Islands," the following: "the Commonwealth of the Northern Mariana Islands,".

(b) INCLUSION OF FACILITIES OWNED AND OPERATED BY COMMONWEALTH.—Section 2391(d)(1) of title 10, United States Code, is amended by inserting after "Guam," the following: "the Commonwealth of the Northern Mariana Islands,".

10 USC 2687 note.

**SEC. 2824. SUPPORT FOR REALIGNMENT OF MILITARY INSTALLATIONS AND RELOCATION OF MILITARY PERSONNEL ON GUAM.**

(a) ESTABLISHMENT OF ACCOUNT.—There is established on the books of the Treasury an account to be known as the "Support for United States Relocation to Guam Account" (in this section referred to as the "Account").

(b) CREDITS TO ACCOUNT.—

(1) AMOUNTS IN FUND.—There shall be credited to the Account all contributions received during fiscal year 2009 and subsequent fiscal years under section 2350k of title 10, United States Code, for the realignment of military installations and the relocation of military personnel on Guam.

Deadline.

(2) NOTICE OF RECEIPT OF CONTRIBUTIONS.—The Secretary of Defense shall submit to the congressional defense committees written notice of the receipt of contributions referred to in paragraph (1), including the amount of the contributions, not later than 30 days after receiving the contributions.

(c) USE OF ACCOUNT.—

(1) AUTHORIZED USES.—Subject to paragraph (2), amounts in the Account may be used as follows:

(A) To carry out or facilitate the carrying out of a transaction authorized by this section in connection with the realignment of military installations and the relocation of military personnel on Guam, including military construction, military family housing, unaccompanied housing, general facilities constructions for military forces, and utilities improvements.

(B) To carry out improvements of property or facilities on Guam as part of such a transaction.

(C) To obtain property support services for property or facilities on Guam resulting from such a transaction.

(D) To develop military facilities or training ranges in the Commonwealth of the Northern Mariana Islands.

(2) COMPLIANCE WITH GUAM MASTER PLAN.—Transactions authorized by paragraph (1) shall be consistent with the Guam Master Plan, as incorporated in decisions made in the manner provided in section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(3) LIMITATION REGARDING MILITARY HOUSING.—To extent that the authorities provided under subchapter IV of chapter 169 of title 10, United States Code, are available to the Secretary of Defense, the Secretary shall use such authorities to acquire, construct, or improve family housing units or ancillary supporting facilities in connection with the relocation of military personnel on Guam.

(4) SPECIAL REQUIREMENTS REGARDING USE OF CONTRIBUTIONS.—

(A) TREATMENT OF CONTRIBUTIONS.—Except as provided in subparagraph (C), the use of contributions referred to in subsection (b)(1) shall not be subject to conditions imposed on the use of appropriated funds by chapter 169 of title 10, United States Code, or contained in annual military construction appropriations Acts.

(B) NOTICE OF OBLIGATION.—Contributions referred to in subsection (b)(1) may not be obligated for a transaction authorized by paragraph (1) until the Secretary of Defense submits to the congressional defense committees notice of the transaction, including a detailed cost estimate, and a period of 21 days has elapsed after the date on which the notification is received by the committees or, if earlier, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium. Time periods.

(C) COST AND SCOPE OF WORK VARIATIONS.—Section 2853 of title 10, United States Code, shall apply to the use of contributions referred to in subsection (b)(1).

(d) TRANSFER AUTHORITY.—

(1) TRANSFER TO HOUSING FUNDS.—The Secretary of Defense may transfer funds from the Account to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code.

(2) TREATMENT OF TRANSFERRED AMOUNTS.—Amounts transferred under paragraph (1) to a fund referred to in that paragraph shall be available in accordance with the provisions

of section 2883 of title 10, United States Code for activities on Guam authorized under subchapter IV of chapter 169 of such title.

(e) REPORT REGARDING GUAM MILITARY CONSTRUCTION.—Not later than February 15 of each year, the Secretary of Defense shall submit to Congress a report containing information on each military construction project included in the budget submission for the next fiscal year related to the realignment of military installations and the relocation of military personnel on Guam. The Secretary shall present the information in manner consistent with the presentation of projects in the military construction accounts for each of the military departments in the budget submission. The report shall also include projects associated with the realignment of military installations and relocation of military personnel on Guam that are included in the future-years defense program pursuant to section 221 of title 10, United States Code.

(f) SENSE OF CONGRESS.—It is the sense of Congress that the use of the Account to facilitate construction projects associated with the realignment of military installations and the relocation of military personnel on Guam, as authorized by subsection (c)(1), provides a great opportunity for business enterprises of the United States and its territories to contribute to the United States strategic presence in the western Pacific by competing for contracts awarded for such construction. Congress urges the Secretary of Defense to ensure maximum participation by business enterprises of the United States and its territories in such construction.

## Subtitle D—Energy Security

### SEC. 2831. CERTIFICATION OF ENHANCED USE LEASES FOR ENERGY-RELATED PROJECTS.

Section 2667(h) of title 10, United States Code, is amended by adding at the end the following new paragraph:

Deadline.

"(5) If a proposed lease under subsection (a) involves a project related to energy production and the term of the lease exceeds 20 years, the Secretary concerned may not enter into the lease until at least 30 days after the date on which the Secretary of Defense submits to the congressional defense committees a certification that the project is consistent with the Department of Defense performance goals and plan required by section 2911 of this title.".

### SEC. 2832. ANNUAL REPORT ON DEPARTMENT OF DEFENSE INSTALLATIONS ENERGY MANAGEMENT.

Section 2925(a) of title 10, United States Code, is amended—

(1) by striking the subsection heading and inserting the following: "ANNUAL REPORT RELATED TO INSTALLATIONS ENERGY MANAGEMENT.—";

(2) in paragraph (1), by inserting ", the Energy Independence and Security Act of 2007 (Public Law 110–140)," after "58)"; and

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

"(6) A description and estimate of the progress made by the military departments to meet the certification requirements for sustainable green-building standards in construction and major renovations as required by section 433 of the Energy

Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1612).".

## Subtitle E—Land Conveyances

**SEC. 2841. LAND CONVEYANCE, FORMER NAVAL AIR STATION, ALAMEDA, CALIFORNIA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the redevelopment authority for the former Naval Air Station Alameda, California (in this section referred to as the "redevelopment authority"), all right, title and interest of the United States in and to the real and personal property comprising Naval Air Station Alameda, except those parcels identified for public benefit conveyance and certain surplus lands at the Naval Air Station Alameda described in the Federal Register on November 5, 2007. In this section, the real and personal property to be conveyed under this section is referred to as the "NAS Property".

(b) MULTIPLE CONVEYANCES.—The conveyance of the NAS Property may be conducted through multiple parcel transfers.

(c) CONSIDERATION.—As consideration for the conveyance of the NAS Property under subsection (a), the Secretary of the Navy shall seek to obtain fair market value.

(d) EXISTING USES.—During the three-year period beginning on the date on which the first conveyance under this section is made, the redevelopment authority shall make reasonable efforts to accommodate the continued use by the United States of those portions of the NAS Property covered by a request for Federal Land Transfer so long as the accommodation of such use is at no cost or expense to the redevelopment authority. Such accommodations shall provide adequate protection for the endangered California Least Tern in accordance with the requirements of the existing Biological Opinion for Naval Air Station Alameda dated March 22, 1999, and any future amendments to the Biological Opinion.

(e) SAVINGS PROVISION.—Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by a survey satisfactory to the Department.

(g) MASTER LEASE.—The Lease in Furtherance of Conveyance, dated June 2000, as amended, between the Secretary of the Navy and the redevelopment authority shall remain in full force and effect until conveyance of the NAS Property in accordance with this section, and a lease amendment recognizing this section shall be offered by the Secretary.

(h) TREATMENT OF AMOUNTS RECEIVED.—Amounts received by the United States under this section shall be credited to the fund or account intended to receive proceeds from the disposal of the NAS Property pursuant to the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2842. TRANSFER OF ADMINISTRATIVE JURISDICTION, DECOMMISSIONED NAVAL SECURITY GROUP ACTIVITY, SKAGGS ISLAND, CALIFORNIA.**

(a) TRANSFER MEMORANDUM OF AGREEMENT.—The Secretary of the Navy and the Secretary of the Interior shall negotiate a memorandum of agreement that stipulates the conditions upon which the decommissioned Naval Security Group Activity, Skaggs Island, Sonoma, California shall be transferred from the administrative jurisdiction of the Department of the Navy to the United States Fish and Wildlife Service for inclusion in the National Wildlife Refuge System.

(b) ACCEPTANCE OF DONATIONS; USE.—The Secretary of the Navy and the Secretary of the Interior may accept contributions from the State of California and other entities to help cover the costs of demolishing and removing structures on the property described in subsection (a) and to facilitate future environmental restoration that furthers the ultimate end use of the property for conservation purposes. Amounts received may be merged with other amounts available to the Secretaries to carry out this section and shall remain available, without further appropriation and until expended.

**SEC. 2843. TRANSFER OF PROCEEDS FROM PROPERTY CONVEYANCE, MARINE CORPS LOGISTICS BASE, ALBANY, GEORGIA.**

(a) TRANSFER AUTHORIZED.—The Secretary of Defense may transfer any proceeds from the sale of approximately 120.375 acres of improved land located at the former Boyett Village Family Housing Complex at the Marine Corps Logistics Base, Albany, Georgia, into the Department of Defense Family Housing Improvement Fund established under section 2883(a)(1) of title 10, United States Code, for carrying out activities under subchapter IV of chapter 169 of that title with respect to military family housing.

Time period.

(b) NOTIFICATION REQUIREMENT.—A transfer of proceeds under subsection (a) may be made only after the end of the 30-day period beginning on the date the Secretary of Defense submits written notice of the transfer to the congressional defense committees.

**SEC. 2844. LAND CONVEYANCE, SERGEANT FIRST CLASS M.L. DOWNS ARMY RESERVE CENTER, SPRINGFIELD, OHIO.**

(a) CONVEYANCE AUTHORIZED.—At such time as the Army Reserve vacates the Sergeant First Class M.L. Downs Army Reserve Center at 1515 West High Street in Springfield, Ohio, the Secretary of the Army may convey, without consideration, to the City of Springfield, Ohio (in this section referred to as the "City"), all right, title, and interest of the United States in and to the parcel of real property, including improvements thereon, containing the Reserve Center and approximately three acres for the purpose of permitting the City to utilize the property for municipal government activities.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance, all right, title, and interest in and to such real property, including

any improvements and appurtenant easements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) PAYMENT OF COSTS OF CONVEYANCES.—

(1) PAYMENT REQUIRED.—The Secretary shall require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) ADDITIONAL TERM AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2845. LAND CONVEYANCE, JOHN SEVIER RANGE, KNOX COUNTY, TENNESSEE.**

(a) CONVEYANCE AUTHORIZATION.—The Secretary of the Army may convey, without consideration, to the State of Tennessee all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon and appurtenant easements thereto, consisting of approximately 124 acres known as the John Sevier Range in Knox County, Tennessee, for the purpose of using such real property as a public firing range and for other public recreational activities.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the terms of the conveyance, all right, title, and interest in and to such real property, including any improvements and appurtenant easements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) ADMINISTRATIVE EXPENSES.—In accordance with section 2695 of title 10, United State Code, the Secretary may accept amounts provided by the State to cover administrative expenses

incurred by the Secretary with respect to the conveyance authorized under subsection (a), including survey expenses, expenses related to environmental documentation, and other administrative expenses related to such conveyance. Such amounts shall be credited, pursuant to subsection (c) of section 2695 of such title, to the appropriation, fund, or account from which such expenses were paid. If amounts are collected from the State in advance of the Secretary incurring such expenses, and the amount collected exceeds the expenses actually incurred by the Secretary, the Secretary shall refund the excess amount to the State.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property authorized to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary and the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2846. LAND CONVEYANCE, ARMY PROPERTY, CAMP WILLIAMS, UTAH.**

(a) CONVEYANCE AUTHORIZED.—If the Secretary of the Army determines that it is the national security interest of the United States, the Secretary may convey, without consideration, to the State of Utah (in this section, the "State") on behalf of the Utah National Guard all right, title, and interest of the United States in and to two parcels of real property, including improvements thereon, that are located within the boundaries of Camp Williams, Utah, consisting of approximately 608 acres and 308 acres, respectively, and are identified in the Utah National Guard master plan.

Deadline. Reports. Certification.

(b) CONDITION.—As a condition of the conveyance, the Secretary shall, not later than 21 days before carrying out the conveyance, submit a report to Congress certifying that the purpose of the conveyance is to further the interest of national security and the property conveyed will be used for military purposes only.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a), or any portion thereof, has been sold or is not being used in a manner consistent with subsection (b), the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after consultation with the Governor of the State of Utah and an opportunity for a hearing.

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the State in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the State.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2847. EXTENSION OF POTOMAC HERITAGE NATIONAL SCENIC TRAIL THROUGH FORT BELVOIR, VIRGINIA.**

(a) AGREEMENT AUTHORITY.—The Secretary of the Army may enter into a revocable at will easement with the Secretary of the Interior to provide land along the perimeter of Fort Belvoir, Virginia, to be used as a segment of the Potomac Heritage National Scenic Trail.

(b) SELECTION CRITERIA.—In determining the extent of the easement, the Secretary of the Army shall provide for a single trail, and select alignments of the trail, along the perimeter of Fort Belvoir. In making that determination, the Secretary shall consider—

(1) the perimeter security requirements to protect the assets, people, and agency missions located at Fort Belvoir;

(2) the appropriate setback from adjacent roadways to provide for a safe and enjoyable experience for users of the trail; and

(3) any planned future expansion of roadways, including United States Route 1, so that the trail will not be adversely impacted by roadway construction.

(c) TRAIL ADMINISTRATION AND MANAGEMENT.—A written agreement confirming an administration and management arrangement of any segment of the Potomac Heritage National Scenic Trail along the perimeter of Fort Belvoir shall be co-signed by the parties to the easement agreement.

# Subtitle F—Other Matters

**SEC. 2851. REVISED DEADLINE FOR TRANSFER OF ARLINGTON NAVAL ANNEX TO ARLINGTON NATIONAL CEMETERY.**

Virginia.

Section 2881(h)(1) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 879), as amended by section 2871 of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 561), is further amended by striking "January 1, 2011" and inserting "January 1, 2012".

Ohio.

**SEC. 2852. ACCEPTANCE AND USE OF GIFTS FOR CONSTRUCTION OF ADDITIONAL BUILDING AT NATIONAL MUSEUM OF THE UNITED STATES AIR FORCE, WRIGHT-PATTERSON AIR FORCE BASE.**

(a) ACCEPTANCE AUTHORIZED.—The Secretary of the Air Force may accept from the Air Force Museum Foundation, a private nonprofit corporation, gifts in the form of cash, treasury instruments, or comparable United States securities for the purpose of paying the costs of design and construction of a fourth building for the National Museum of the United States Air Force at Wright-Patterson Air Force Base, Ohio. In making a gift, the Air Force Museum Foundation may specify that all or part of the amount of the gift be utilized solely for the purpose of the design and construction of a particular portion of the building and for contract management related to such design and construction.

(b) ESCROW ACCOUNT.—

(1) DEPOSIT OF GIFTS.—The Secretary of the Air Force, acting through the Director of Financial Management of the Air Force Materiel Command (in this section referred to as the "Director"), shall deposit the amount of any gift accepted under subsection (a) in an escrow account established for that purpose.

(2) INVESTMENT.—Amounts in the escrow account not required to meet current requirements of the account shall be invested in public debt securities with maturities suitable to the needs of the account, as determined by the Director, and bearing interest at rates that take into consideration current market yields on outstanding marketable obligations of the United States of comparable securities. The income on such investments shall be credited to and form a part of the account.

(3) LIQUIDATION.—Upon final payment of all invoices and claims associated with the design and construction of the building described in subsection (a), the Secretary shall terminate the escrow account. Any amounts remaining in the account upon termination shall be available to the Secretary, in such amounts as are provided in advance in appropriations Acts, for such purposes as the Secretary considers appropriate.

(c) USE OF GIFTS.—

(1) DESIGN, CONSTRUCTION, AND CONTRACT MANAGEMENT.—Subject to any conditions imposed by the Air Force Museum Foundation under subsection (a), the Director shall use amounts in the escrow account, including income on investments, to pay all costs for the design and construction of a fourth building for the National Museum of the United States Air Force and all costs for contract management related to such design and construction. The requirement imposed by this paragraph includes making progress payments for such design and construction.

(2) SOLE SOURCE OF FUNDS.—Gifts received under subsection (a) and income on investments made under subsection (b)(2) shall be the sole source of funds used to pay all costs for the design and construction of a fourth building for the National Museum of the United States Air Force and all costs for contract management related to such design and construction.

(3) TIME FOR PAYMENT.—Amounts shall be payable under paragraph (1) upon receipt by the Director of a notification from the technical representative of the contracting officer that construction activities for which such amounts are payable under paragraph (1) have been undertaken. To the maximum extent practicable consistent with good business practice, the Director shall limit payment of amounts from the account in order to maximize the return on investment of amounts in the account.

(d) LIMITATION ON CONTRACTS.—The Secretary of the Air Force may not initiate a contract for the design or construction of a particular portion of the building described in subsection (a) until amounts in the escrow account are sufficient to cover the amount of the contract.

**SEC. 2853. LEASE INVOLVING PIER ON FORD ISLAND, PEARL HARBOR NAVAL BASE, HAWAII.**

(a) LEASE.—The Secretary of the Navy shall enter into a lease with the USS Missouri Memorial Association to authorize the USS Missouri Memorial Association to use the pier Foxtrot Five and related real property on Ford Island, Pearl Harbor Naval Base, Hawaii, during calendar years 2009 and 2010.

(b) CONSIDERATION.—The lease required by subsection (a) shall be made without consideration.

(c) CONDITIONS ON USE OF LEASED PROPERTY.—As conditions on the lease under subsection (a), the USS Missouri Memorial Association shall agree—

(1) to preserve and maintain the ex-USS Missouri for education purposes, historic preservation, and community outreach;

(2) that the Navy may use the leased property without charge for purposes that do not interfere with the use of such property by the USS Missouri Memorial Association; and

(3) that the Navy may use the ex-USS Missouri for official functions at no cost.

(d) EFFECT OF VIOLATION.—If the Secretary determines at any time that the USS Missouri Memorial Association is not in compliance with the conditions imposed by subsection (c), the Secretary may terminate the lease referred to in subsection (a). Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

**SEC. 2854. USE OF RUNWAY AT NASJRB WILLOW GROVE, PENNSYLVANIA.**

(a) CONDITIONS ON CONVEYANCE, GRANT, LEASE, OR LICENSE.—Any conveyance, grant, lease, or license from the United States to the Commonwealth of Pennsylvania or other legal entity that includes the airfield property located at NASJRB Willow Grove and designated for operation as a Joint Interagency Installation pursuant to section 3703 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 145) shall be subject to the restrictions on the use of the airfield set forth in subsection (b).

(b) RESTRICTIONS ON USE.—The airfield at the installation shall not be used for any of the following purposes:

(1) Commercial passenger operations.

(2) Commercial cargo operations.

(3) Commercial, business, or nongovernment aircraft operations for purposes not related to the missions of the installation, except that this paragraph shall not apply in exigent circumstances or prohibit use of the airfield by or on behalf of any associated user which is a tenant of the installation.

(4) As a reliever airport to relieve congestion at other airports or to provide improved general aviation access to the overall community, except that this paragraph shall not apply in exigent circumstances.

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to diminish or alter authorized uses of the installation, including the military enclave that is part thereof, by the United States or its agencies or instrumentalities or to limit use of the property in exigent circumstances.

(d) DEFINITIONS.—In this section:

(1) AIRFIELD.—The term "airfield" means the airfield referred to in subsection (a).

(2) ASSOCIATED USERS.—The term "associated users" means nongovernmental organizations and private entities that use the airfield for purposes related to the national defense, homeland security, and emergency preparedness missions of the installation.

(3) EXIGENT CIRCUMSTANCES.—The term "exigent circumstances" means unusual conditions, including adverse or unusual weather conditions, alerts, and actual or threatened emergencies that are determined by the installation to require limited-duration use of the installation or its airfield for operations, including flying operations, for uses otherwise restricted under subsection (b).

(4) COMMERCIAL CARGO OPERATIONS.—The term "commercial cargo operations" means aircraft operations by a commercial cargo or freight carrier in cases in which cargo is delivered to or flown from the installation under established schedules, except that the term does not include any cargo operations undertaken by or on behalf of any user of the installation or cargo operations related to the national defense, homeland security, and emergency preparedness missions of the installation.

(5) COMMERCIAL PASSENGER OPERATIONS.—The term "commercial passenger operations" means aircraft passenger operations by commercial passenger carriers involving flights where passengers are boarded or enplaned at the installation, except that the term does not include passenger operations undertaken by or on behalf of any user of the installation or passenger operations related to the national defense, homeland security, and emergency preparedness missions of the installation.

(6) INSTALLATION.—The term "installation" means the Joint Interagency Installation referred to in subsection (a).

**SEC. 2855. NAMING OF HEALTH FACILITY, FORT RUCKER, ALABAMA.**

The health facility located at 301 Andrews Avenue in Fort Rucker, Alabama, shall be known and designated as the "Lyster Army/VA Health Clinic". Any reference in a law, map, regulation, document, paper, or other record of the United States to such facility shall be deemed to be a reference to the Lyster Army/VA Health Clinic.

# TITLE XXIX—WAR-RELATED MILITARY CONSTRUCTION AUTHORIZATIONS

Subtitle A—Fiscal Year 2008 Projects

Sec. 2901. Authorized Army construction and land acquisition projects.
Sec. 2902. Authorized Navy construction and land acquisition projects.
Sec. 2903. Authorized Air Force construction and land acquisition projects.
Sec. 2904. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2905. Termination of authority to carry out fiscal year 2008 Army projects.

Subtitle B—Fiscal Year 2009 Projects

Sec. 2911. Authorized Army construction and land acquisition projects.
Sec. 2912. Authorized Navy construction and land acquisition projects.

## Subtitle A—Fiscal Year 2008 Projects

### SEC. 2901. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Army: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Alaska | Fort Wainwright | $17,000,000 |
| California | Fort Irwin | $11,800,000 |
| Colorado | Fort Carson | $8,400,000 |
| Georgia | Fort Gordon | $39,800,000 |
| Hawaii | Schofield Barracks | $12,500,000 |
| Kentucky | Fort Campbell | $9,900,000 |
| | Fort Knox | $7,400,000 |
| North Carolina | Fort Bragg | $8,500,000 |
| Oklahoma | Fort Sill | $9,000,000 |
| Texas | Fort Bliss | $17,300,000 |
| | Fort Hood | $7,200,000 |
| | Fort Sam Houston | $54,000,000 |
| Virginia | Fort Lee | $7,400,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Army: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Iraq | Camp Adder | $13,200,000 |

**Army: Outside the United States**—Continued

| Country | Installation or Location | Amount |
|---|---|---|
| | Camp Ramadi ..... | $6,200,000 |
| | Fallujah ..... | $5,500,000 |

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds authorized to be appropriated under 2901(c) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 571), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $241,100,000 as follows:

(1) For military construction projects inside the United States authorized by subsection (a), $210,200,000.

(2) For military construction projects outside the United States authorized by subsection (b), $24,900,000.

(3) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $6,000,000.

**SEC. 2902. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (b)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Navy: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| California | Camp Pendleton | $9,270,000 |
| | China Lake | $7,210,000 |
| | Point Mugu | $7,250,000 |
| | San Diego | $12,299,000 |
| | San Diego Marine Corps Recruit Depot (MCRD) | $43,200,000 |
| | Twentynine Palms | $11,250,000 |
| Florida | Eglin Air Force Base | $780,000 |
| Mississippi | Gulfport | $6,570,000 |
| North Carolina | Camp Lejeune | $27,980,000 |
| Virginia | Yorktown | $8,070,000 |

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds authorized to be appropriated under 2902(d) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 572), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $137,931,000 as follows:

(1) For military construction projects inside the United States authorized by subsection (a), $133,879,000.

(2) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $4,052,000.

**SEC. 2903. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Air Force: Inside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| California | Beale Air Force Base | $17,600,000 |
| Florida | Eglin Air Force Base | $11,000,000 |
| New Mexico | Cannon Air Force Base | $8,000,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Air Force: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Qatar | Al Udeid | $60,400,000 |

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds authorized to be appropriated under 2903(b) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 573), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $98,427,000, as follows:

(1) For military construction projects inside the United States authorized by subsection (a), $36,600,000.

(2) For military construction projects outside the United States authorized by subsection (b), $60,400,000.

(3) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $1,427,000.

**SEC. 2904. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (b)(1), the Secretary of Defense may acquire real property and carry out the military construction project for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Defense Agencies: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| North Carolina ..... | Camp Lejeune ..... | $57,900,000 |

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds authorized to be appropriated under 2904(c) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 573), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2007, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $110,735,000, as follows:

(1) For military construction projects inside the United States authorized by subsection (a), $57,900,000.

(2) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $52,835,000.

**SEC. 2905. TERMINATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 2008 ARMY PROJECTS.**

(a) TERMINATION OF AUTHORITY.—The table in section 2901(b) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 570), is amended—

(1) in the item relating to Camp Adder, Iraq, by striking "$80,650,000" in the amount column and inserting "$75,800,000";

(2) in the item relating to Camp Anaconda, Iraq, by striking "$53,500,000" in the amount column and inserting "$10,500,000";

(3) in the item relating to Camp Victory, Iraq, by striking "$65,400,000" in the amount column and inserting "$60,400,000";

(4) by striking the item relating to Tikrit, Iraq; and

(5) in the item relating to Camp Speicher, Iraq, by striking "$83,900,000" in the amount column and inserting "$74,100,000".

(b) CONFORMING AMENDMENTS.—Section 2901(c) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 571) is amended—

(1) by striking "$1,257,750,000" and inserting "$1,152,100,000"; and

(2) in paragraph (2), by striking "$1,055,450,000" and inserting "$949,800,000".

## Subtitle B—Fiscal Year 2009 Projects

**SEC. 2911. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (b)(1), the Secretary of the Army may acquire real property and carry out military construction projects to construct or renovate warrior transition unit facilities at the installations or locations inside the United States set forth in the following table:

**Army: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Various ..... | Various locations ..... | $400,000,000 |

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $450,000,000, as follows:

(1) For military construction projects inside the United States authorized by subsection (a), $400,000,000.

(2) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $50,000,000.

(c) REPORT REQUIRED BEFORE COMMENCING CERTAIN PROJECTS.—Funds may not be obligated for the projects authorized by this section until 14 days after the date on which the Secretary of Defense submits to the congressional defense committees a report containing a detailed justification for the projects.

**SEC. 2912. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (b)(1), the Secretary of the Navy may acquire real property and carry out military construction projects to construct or renovate warrior transition unit facilities at the installations or locations inside the United States set forth in the following table:

**Navy: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Various ..... | Various locations ..... | $40,000,000 |

(b) AUTHORIZATION OF APPROPRIATIONS.—Subject to section 2825 of title 10, United States Code, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $50,000,000, as follows:

(1) For military construction projects inside the United States authorized by subsection (a), $40,000,000.

(2) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $10,000,000.

(c) REPORT REQUIRED BEFORE COMMENCING CERTAIN PROJECTS.—Funds may not be obligated for the projects authorized by this section until 14 days after the date on which the Secretary of Defense submits to the congressional defense committees a report containing a detailed justification for the projects.

# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

# TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Defense environmental cleanup.
Sec. 3103. Other defense activities.
Sec. 3104. Defense nuclear waste disposal.
Sec. 3105. Energy security and assurance.

Subtitle B—Program Authorizations, Restrictions, and Limitations

Sec. 3111. Modification of functions of Administrator for Nuclear Security to include elimination of surplus fissile materials usable for nuclear weapons.
Sec. 3112. Limitation on Funding for Project 04-D-125 Chemistry and Metallurgy Research Replacement facility project, Los Alamos National Laboratory, Los Alamos, New Mexico.
Sec. 3113. Nonproliferation and national security scholarship and fellowship program.
Sec. 3114. Enhancing nuclear forensics capabilities.
Sec. 3115. Utilization of contributions to International Nuclear Materials Protection and Cooperation program and Russian plutonium disposition program.
Sec. 3116. Review of and reports on Global Initiatives for Proliferation Prevention program.
Sec. 3117. Limitation on availability of funds for Global Nuclear Energy Partnership.

Subtitle C—Reports

Sec. 3121. Extension of deadline for Comptroller General report on Department of Energy protective force management.
Sec. 3122. Report on compliance with Design Basis Threat issued by the Department of Energy in 2005.
Sec. 3123. Modification of submittal of reports on inadvertent releases of restricted data.

## Subtitle A—National Security Programs Authorizations

### SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2009 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $9,752,507,000, to be allocated as follows:

(1) For weapons activities, $6,625,111,000.

(2) For defense nuclear nonproliferation activities, including $528,782,000 for fissile materials disposition, $1,895,261,000.

(3) For naval reactors, $828,054,000.

(4) For the Office of the Administrator for Nuclear Security, $404,081,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for the National Nuclear Security Administration as follows:

(1) For readiness in technical base and facilities, the following new plant projects:

Project 09–D–404, Test Capabilities Revitalization Phase 2, Sandia National Laboratory, Albuquerque, New Mexico, $3,200,000.

Project 08–D–806, Ion Beam Laboratory Project, Sandia National Laboratory, Albuquerque, New Mexico, $10,014,000.

(2) For naval reactors, the following new plant projects:

Project 09–D–902, Naval Reactors Facility Production Support Complex, Naval Reactors Facility, Idaho Falls, Idaho, $8,300,000.

Project 09–D–190, Project engineering and design, Knolls Atomic Power Laboratory infrastructure upgrades, Knolls Atomic Power Laboratory, Kesselring Site, Schenectady, New York, $1,000,000.

**SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2009 for defense environmental cleanup activities in carrying out programs necessary for national security in the amount of $5,297,256,000.

**SEC. 3103. OTHER DEFENSE ACTIVITIES.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2009 for other defense activities in carrying out programs necessary for national security in the amount of $826,453,000.

**SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2009 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $222,371,000.

**SEC. 3105. ENERGY SECURITY AND ASSURANCE.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2009 for energy security and assurance programs necessary for national security in the amount of $7,622,000.

## Subtitle B—Program Authorizations, Restrictions, and Limitations

**SEC. 3111. MODIFICATION OF FUNCTIONS OF ADMINISTRATOR FOR NUCLEAR SECURITY TO INCLUDE ELIMINATION OF SURPLUS FISSILE MATERIALS USABLE FOR NUCLEAR WEAPONS.**

Section 3212(b) of the National Nuclear Security Administration Act (50 U.S.C. 2402(b)) is amended—

(1) by redesignating paragraph (18) as paragraph (19); and

(2) by inserting after paragraph (17) the following new paragraph (18):

"(18) Eliminating inventories of surplus fissile materials usable for nuclear weapons.".

**SEC. 3112. LIMITATION ON FUNDING FOR PROJECT 04-D-125 CHEMISTRY AND METALLURGY RESEARCH REPLACEMENT FACILITY PROJECT, LOS ALAMOS NATIONAL LABORATORY, LOS ALAMOS, NEW MEXICO.**

Of the amounts appropriated pursuant to an authorization of appropriations in this Act or otherwise made available for fiscal year 2009 for Project 04-D-125 Chemistry and Metallurgy Research Replacement (in this section referred to as "CMRR") facility project, Los Alamos National Laboratory, Los Alamos, New Mexico, not more than $50,200,000 may be made available until—

Certifications.

(1) the Administrator for Nuclear Security and the Defense Nuclear Facilities Safety Board have each submitted a certification to the congressional defense committees stating that the concerns raised by the Defense Nuclear Facilities Safety Board regarding the design of CMRR safety class systems (including ventilation systems) and seismic issues have been resolved; and

Time period.

(2) a period of 15 days has elapsed after both certifications under paragraph (1) have been submitted.

50 USC 2444.

**SEC. 3113. NONPROLIFERATION AND NATIONAL SECURITY SCHOLARSHIP AND FELLOWSHIP PROGRAM.**

(a) ESTABLISHMENT.—The Administrator for Nuclear Security shall carry out a program to provide scholarships and fellowships for the purpose of enabling individuals to qualify for employment in the nonproliferation and national security programs of the Department of Energy.

(b) ELIGIBLE INDIVIDUALS.—An individual shall be eligible for a scholarship or fellowship under the program established under this section if the individual—

(1) is a citizen or national of the United States or an alien lawfully admitted to the United States for permanent residence;

(2) has been accepted for enrollment or is currently enrolled as a full-time student at an institution of higher education (as defined in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a));

(3) is pursuing a program of education that leads to an appropriate higher education degree in a qualifying field of study, as determined by the Administrator;

(4) enters into an agreement described in subsection (c); and

(5) meets such other requirements as the Administrator prescribes.

(c) AGREEMENT.—An individual seeking a scholarship or fellowship under the program established under this section shall enter into an agreement, in writing, with the Administrator that includes the following:

(1) The agreement of the Administrator to provide such individual with a scholarship or fellowship in the form of educational assistance for a specified number of school years (not to exceed five school years) during which such individual is pursuing a program of education in a qualifying field of study, which educational assistance may include payment of tuition, fees, books, laboratory expenses, and a stipend.

(2) The agreement of such individual—

(A) to accept such educational assistance;

(B) to maintain enrollment and attendance in a program of education described in subsection (b)(2) until such individual completes such program;

(C) while enrolled in such program, to maintain satisfactory academic progress in such program, as determined by the institution of higher education in which such individual is enrolled; and

(D) after completion of such program, to serve as a full-time employee in a nonproliferation or national security position in the Department of Energy or at a laboratory of the Department for a period of not less than 12 months for each school year or part of a school year for which such individual receives a scholarship or fellowship under the program established under this section.

(3) The agreement of such individual with respect to the repayment requirements specified in subsection (d).

(d) REPAYMENT.—

(1) IN GENERAL.—An individual receiving a scholarship or fellowship under the program established under this section shall agree to pay to the United States the total amount of educational assistance provided to such individual under such program, plus interest at the rate prescribed by paragraph (4), if such individual—

(A) does not complete the program of education agreed to pursuant to subsection (c)(2)(B);

(B) completes such program of education but declines to serve in a position in the Department of Energy or at a laboratory of the Department as agreed to pursuant to subsection (c)(2)(D); or

(C) is voluntarily separated from service or involuntarily separated for cause from the Department of Energy or a laboratory of the Department before the end of the period for which such individual agreed to continue in the service of the Department pursuant to subsection (c)(2)(D).

(2) FAILURE TO REPAY.—If an individual who received a scholarship or fellowship under the program established under this section is required to repay, pursuant to an agreement under paragraph (1), the total amount of educational assistance provided to such individual under such program, plus interest at the rate prescribed by paragraph (4), and fails repay such amount, a sum equal to such amount (plus such interest) is recoverable by the United States Government from such individual or the estate of such individual by—

(A) in the case of an individual who is an employee of the United States Government, setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; or

(B) such other method as is provided by law for the recovery of amounts owed to the Government.

(3) WAIVER OF REPAYMENT.—The Administrator may waive, in whole or in part, repayment by an individual under this subsection if the Administrator determines that seeking recovery under paragraph (2) would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) RATE OF INTEREST.—For purposes of repayment under this subsection, the total amount of educational assistance provided to an individual under the program established under this section shall bear interest at the applicable rate of interest under section 427A(c) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)).

(e) PREFERENCE FOR COOPERATIVE EDUCATION STUDENTS.—In evaluating individuals for the award of a scholarship or fellowship under the program established under this section, the Administrator may give a preference to an individual who is enrolled in, or accepted for enrollment in, an institution of higher education that has a cooperative education program with the Department of Energy.

(f) COORDINATION OF BENEFITS.—A scholarship or fellowship awarded under the program established under this section shall be taken into account in determining the eligibility of an individual receiving such scholarship or fellowship for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(g) REPORT TO CONGRESS.—Not later than January 1, 2010, the Administrator shall submit to the congressional defense committees a report on the activities carried out under the program established under this section, including any recommendations for future activities under such program.

(h) FUNDING.—Of the amounts authorized to be appropriated by section 3101(a)(2) for defense nuclear nonproliferation activities, $3,000,000 shall be available to carry out the program established under this section.

50 USC 2574.

**SEC. 3114. ENHANCING NUCLEAR FORENSICS CAPABILITIES.**

(a) RESEARCH AND DEVELOPMENT PLAN FOR NUCLEAR FORENSICS AND ATTRIBUTION.—

(1) RESEARCH AND DEVELOPMENT.—The Secretary of Energy shall prepare and implement a research and development plan to improve nuclear forensics capabilities in the Department of Energy and at the national laboratories overseen by the Department of Energy. The plan shall focus on improving the technical capabilities required—

(A) to enable a robust and timely nuclear forensic response to a nuclear explosion or to the interdiction of nuclear material or a nuclear weapon anywhere in the world; and

(B) to develop an international database that can attribute nuclear material or a nuclear weapon to its source.

(2) REPORTS.—

(A) The Secretary of Energy shall submit to the congressional defense committees—

(i) not later than 6 months after the date of the enactment of this Act, a report on the contents of the research and development plan described in paragraph (1), and any legislative changes required to implement the plan; and

(ii) not later than 18 months after the date of the enactment of this Act, a report on the status of implementing the plan.

(B) The Secretary shall submit each report required by this subsection in unclassified form, but may include a classified annex with such report.

(b) ADDITIONAL INFORMATION IN THE REPORT ON NUCLEAR FORENSICS CAPABILITIES.—Section 3129(b) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 585) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) any legislative, regulatory, or treaty actions necessary to facilitate international cooperation in enhancement of international nuclear-material databases and the linking of those databases to enable prompt access to data.".

(c) PRESIDENTIAL REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate committees of Congress a report on the involvement of senior-level executive branch leadership in nuclear terrorism preparedness exercises that include nuclear forensics analysis.

(2) APPROPRIATE COMMITTEES OF CONGRESS.—In this subsection, the term "appropriate committees of Congress" means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security and Governmental Affairs of the Senate.

**SEC. 3115. UTILIZATION OF CONTRIBUTIONS TO INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM AND RUSSIAN PLUTONIUM DISPOSITION PROGRAM.**

Section 3114 of the National Defense Authorization Act for Fiscal Year 2007 (50 U.S.C. 2301 note) is amended—

(1) in the heading, by striking "**SECOND LINE OF DEFENSE PROGRAM**" and inserting "**INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM AND RUSSIAN PLUTONIUM DISPOSITION PROGRAM**";

(2) by striking "Second Line of Defense program" each place it appears and inserting "International Nuclear Materials Protection and Cooperation program or Russian Plutonium Disposition program"; and

(3) in subsection (f), by striking "2013" and inserting "2015".

**SEC. 3116. REVIEW OF AND REPORTS ON GLOBAL INITIATIVES FOR PROLIFERATION PREVENTION PROGRAM.**

(a) REVIEW OF PROGRAM.—

(1) IN GENERAL.—The Administrator for Nuclear Security shall conduct a review of the Global Initiatives for Proliferation Prevention program.

(2) REPORT REQUIRED.—Not later than October 1, 2009, the Administrator shall submit to the congressional defense committees a report setting forth the results of the review required under paragraph (1). The report shall include each of the following:

(A) A description of the goals of the Global Initiatives for Proliferation Prevention program and the criteria for partnership projects under the program.

(B) Recommendations regarding the following:

(i) Whether to continue or bring to a close each of the partnership projects under the program in existence on the date of the enactment of this Act, and, if any such project is recommended to be continued, a description of how that project will meet the criteria under subparagraph (A).

(ii) Whether to enter into new partnership projects under the program with Russia or other countries of the former Soviet Union.

(iii) Whether to enter into new partnership projects under the program in countries other than countries of the former Soviet Union.

(C) A plan and criteria for completing partnership projects under the program.

(b) REPORT ON FUNDING FOR PROJECTS UNDER PROGRAM.—(1) IN GENERAL.—The Administrator shall submit to the congressional defense committees a report on—

(A) the purposes for which amounts made available for the Global Initiatives for Proliferation Prevention program for fiscal year 2009 will be obligated or expended; and

(B) the amount to be obligated or expended for each partnership project under the program in fiscal year 2009.

(2) LIMITATION ON FUNDING BEFORE SUBMITTAL OF REPORT.—None of the amounts authorized to be appropriated for fiscal year 2009 by section 3101(a)(2) for defense nuclear nonproliferation activities and available for the Global Initiatives for Proliferation Prevention program may be obligated or expended until the date that is 30 days after the date on which the Administrator submits to the congressional defense committees the report required under paragraph (1).

**SEC. 3117. LIMITATION ON AVAILABILITY OF FUNDS FOR GLOBAL NUCLEAR ENERGY PARTNERSHIP.**

(a) LIMITATION.—Of the amounts authorized to be appropriated for fiscal year 2009 by section 3101(a)(2) for defense nuclear nonproliferation activities, not more than $3,000,000 may be used for projects that are specifically designed for the Global Nuclear Energy Partnership. Any amount so used may not be expended until 30 days after the date on which the Administrator of the National Nuclear Security Administration submits to Congress a report that describes in detail the full amount of funding that the Administrator plans to expend for any effort related to the Global Nuclear Energy Partnership.

(b) USE OF FUNDS.—Any amount made available pursuant to an authorization of appropriations under section 3101(a)(2) that is covered by the limitation under subsection (a) shall only be available for nonproliferation risk assessments relating to the Global Nuclear Energy Partnership and related work on export control reviews and determinations.

## Subtitle C—Reports

**SEC. 3121. EXTENSION OF DEADLINE FOR COMPTROLLER GENERAL REPORT ON DEPARTMENT OF ENERGY PROTECTIVE FORCE MANAGEMENT.**

Section 3124(a)(1) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 580) is amended by striking "Not later than 180 days after the date of the enactment of this Act," and inserting "Not later than March 1, 2009,".

**SEC. 3122. REPORT ON COMPLIANCE WITH DESIGN BASIS THREAT ISSUED BY THE DEPARTMENT OF ENERGY IN 2005.**

(a) IN GENERAL.—Not later than January 2, 2009, the Secretary of Energy shall submit to the congressional defense committees a report setting forth the status of the compliance of Department of Energy sites with the Design Basis Threat issued by the Department in November 2005 (in this section referred to as the "2005 Design Basis Threat").

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) For each Department of Energy site subject to the 2005 Design Basis Threat, an assessment of whether the site has achieved compliance with the 2005 Design Basis Threat.

(2) For each such site that has not achieved compliance with the 2005 Design Basis Threat—

(A) a description of the reasons for the failure to achieve compliance;

(B) a plan to achieve compliance;

(C) a description of the actions that will be taken to mitigate any security shortfalls until compliance is achieved; and

(D) an estimate of the annual funding requirements to achieve compliance.

(3) A list of such sites with Category I nuclear materials that the Secretary determines will not achieve compliance with the 2005 Design Basis Threat.

(4) For each site identified under paragraph (3), a plan to remove all Category I nuclear materials from such site, including—

(A) a schedule for the removal of such nuclear materials from such site;

(B) a clear description of the actions that will be taken to ensure the security of such nuclear materials; and

(C) an estimate of the annual funding requirements to remove such nuclear materials from such site.

(5) An assessment of the adequacy of the 2005 Design Basis Threat in addressing security threats at Department of Energy sites, and a description of any plans for updating, modifying, or otherwise revising the approach taken by the 2005 Design Basis Threat to establish enhanced security requirements for Department of Energy sites.

**SEC. 3123. MODIFICATION OF SUBMITTAL OF REPORTS ON INADVERTENT RELEASES OF RESTRICTED DATA.**

(a) IN GENERAL.—Section 4522 of the Atomic Energy Defense Act (50 U.S.C. 2672) is amended—

(1) in subsection (e), by striking "on a periodic basis" and inserting "in each even-numbered year"; and

(2) in subsection (f), by striking paragraph (2) and inserting the following new paragraph (2):

"(2) The Secretary of Energy shall, in each even-numbered year beginning in 2010, submit to the committees and Assistant to the President specified in subsection (d) a report identifying any inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 12958 discovered in the two-year period preceding the submittal of the report.".

(b) TECHNICAL CORRECTION.—Subsection (e) of such section, as amended by subsection (a)(1) of this section, is further amended by striking "subsection (b)(4)" and inserting "subsection (b)(5)".

# TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

**SEC. 3201. AUTHORIZATION.**

There are authorized to be appropriated for fiscal year 2009, $25,499,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

# TITLE XXXIV—NAVAL PETROLEUM RESERVE

Sec. 3401. Authorization of appropriations.

**SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.**

(a) AMOUNT.—There is hereby authorized to be appropriated to the Secretary of Energy $19,099,000 for fiscal year 2009 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

# TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for fiscal year 2009.
Sec. 3502. Limitation on export of vessels owned by the Government of the United States for the purpose of dismantling, recycling, or scrapping.
Sec. 3503. Student incentive payment agreements.
Sec. 3504. Riding gang member requirements.
Sec. 3505. Maintenance and Repair Reimbursement Program for the Maritime Security Fleet.
Sec. 3506. Temporary program authorizing contracts with adjunct professors at the United States Merchant Marine Academy and for other purposes.
Sec. 3507. Actions to address sexual harassment and violence at the United States Merchant Marine Academy.
Sec. 3508. Assistance for small shipyards and maritime communities.
Sec. 3509. Marine war risk insurance.
Sec. 3510. MarAd consultation on Jones Act Waivers.

Sec. 3511. Transportation in American vessels of government personnel and certain cargoes.
Sec. 3512. Port of Guam Improvement Enterprise Program.

**SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2009.**

Funds are hereby authorized to be appropriated for fiscal year 2009, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $142,803,000, of which—

(A) $79,858,000 shall remain available until expended for expenses at the United States Merchant Marine Academy,

(B) $26,640,000 shall remain available until expended for capital improvements at the United States Merchant Marine Academy, and

(C) $10,987,000 shall remain available until expended for maintenance and repair of school ships of the State Maritime Academies.

(2) For expenses to maintain and preserve a United States-flag merchant fleet to serve the national security needs of the United States under chapter 531 of title 46, Unites States Code, $193,500,000, of which $19,500,000 will be available for costs associated with the maintenance reimbursement pilot program under section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note).

(3) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, $18,000,000.

(4) For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) of loan guarantees under the program authorized by chapter 537 of title 46, United States Code, $30,000,000.

(5) For administrative expenses related to the implementation of the loan guarantee program under chapter 537 of title 46, United States Code, administrative expenses related to implementation of the reimbursement program under section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note), and administrative expenses related to the implementation of the small shipyards and maritime communities assistance program under section 54101 of title 46, United States Code, $6,000,000.

**SEC. 3502. LIMITATION ON EXPORT OF VESSELS OWNED BY THE GOVERNMENT OF THE UNITED STATES FOR THE PURPOSE OF DISMANTLING, RECYCLING, OR SCRAPPING.**

46 USC 57102 note.

(a) IN GENERAL.—Except as provided in subsection (b), no vessel that is owned by the Government of the United States shall be approved for export to a foreign country for purposes of dismantling, recycling, or scrapping.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to a vessel if the Administrator of the Maritime Administration certifies to the Committee on Armed Services of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that—

(1) a compelling need for dismantling, recycling, or scrapping the vessel exists;

(2) there is no available capacity in the United States to conduct the dismantling, recycling, or scrapping of the vessel;

(3) any dismantling, recycling, or scrapping of the vessel in a foreign country will be conducted in full compliance with environmental, safety, labor, and health requirements for ship dismantling, recycling, or scrapping that are equivalent to the laws of the United States; and

(4) the export of the vessel under this section will only be for dismantling, recycling, or scrapping of the vessel.

(c) UNITED STATES DEFINED.—In this section the term "United States" means the States of the United States, Puerto Rico, and Guam.

**SEC. 3503. STUDENT INCENTIVE PAYMENT AGREEMENTS.**

Section 51509(b) of title 46, United States Code, is amended—

(1) by striking "$4,000" and inserting "$8,000";

(2) by inserting "tuition," after "uniforms,"; and

(3) by inserting "before the start of each academic year" after "and be paid".

**SEC. 3504. RIDING GANG MEMBER REQUIREMENTS.**

10 USC 2401 note.

Section 1018 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2380) is amended to read as follows:

**"SEC. 1018. RIDING GANG MEMBER REQUIREMENTS.**

"(a) IN GENERAL.—The Secretary of Defense may not award, renew, extend, or exercise an option to extend any charter of a vessel documented under chapter 121 of title 46, United States Code, for the Department of Defense, or any contract for the carriage of cargo by a vessel documented under that chapter for the Department of Defense, unless the charter or contract, respectively, includes provisions that—

"(1) subject to paragraph (2), allow riding gang members to perform work on the vessel during the effective period of the charter or contract only under terms, conditions, restrictions, and requirements as provided in section 8106 of title 46, United States Code; and

"(2) require that riding gang members hold a merchant mariner's document issued under chapter 73 of title 46, United States Code, or a transportation security card issued under section 70105 of such title.

"(b) EXEMPTION.—

"(1) IN GENERAL.—In accordance with regulations issued by the Secretary of Defense, an individual shall not be treated as a riding gang member for the purposes of section 8106 of title 46, United States Code, and this section if—

"(A) the individual is aboard a vessel that is under charter or contract for the carriage of cargo for the Department of Defense, for purposes other than engaging in the operation or maintenance of the vessel; and

"(B) the individual—

"(i) accompanies, supervises, guards, or maintains unit equipment aboard a ship, commonly referred to as supercargo personnel;

"(ii) is one of the force protection personnel of the vessel;

"(iii) is a specialized repair technician; or

"(iv) is otherwise required by the Secretary of Defense to be aboard the vessel.

"(2) BACKGROUND CHECK.—

"(A) IN GENERAL.—This section shall not apply to an individual unless—

"(i) the name and other necessary identifying information for the individual is submitted to the Secretary for a background check; and

"(ii) except as provided in subparagraph (B), the individual successfully passes a background check by the Secretary prior to going aboard the vessel.

"(B) WAIVER.—The Secretary may waive the application of subparagraph (A)(ii) for an individual who holds a merchant mariner's document issued under chapter 73 of title 46, United States Code, or a transportation security card issued under section 70105 of such title.

"(3) EXEMPTED INDIVIDUAL NOT TREATED AS IN ADDITION TO THE CREW.—An individual who, under paragraph (1), is not treated as a riding gang member shall not be counted as an individual in addition to the crew for the purposes of section 3304 of title 46, United States Code.".

**SEC. 3505. MAINTENANCE AND REPAIR REIMBURSEMENT PROGRAM FOR THE MARITIME SECURITY FLEET.**

Section 3517(a) of the Maritime Security Act of 2003 (46 U.S.C. 53101 note; as amended by section 3503 of the National Defense Authorization Act for Fiscal Year 2006 (119 Stat. 3548)) is amended by adding at the end the following:

"(3) EXISTING OPERATING AGREEMENTS.—The Secretary of Transportation shall, subject to the availability of appropriations, seek to enter into an agreement under this section with one or more contractors under an operating agreement under that chapter that is in effect on the date of the enactment of this paragraph, regarding maintenance and repair of all vessels that are subject to the operating agreement.".

**SEC. 3506. TEMPORARY PROGRAM AUTHORIZING CONTRACTS WITH ADJUNCT PROFESSORS AT THE UNITED STATES MERCHANT MARINE ACADEMY AND FOR OTHER PURPOSES.**

46 USC 53101 note.

(a) IN GENERAL.—The Maritime Administrator may establish a temporary program for the purpose of, subject to the availability of appropriations, contracting with individuals as personal services contractors to provide services as adjunct professors at the Academy, if the Maritime Administrator determines that there is a need for adjunct professors and the need is not of permanent duration.

(b) CONTRACT REQUIREMENTS.—Each contract under the program—

(1) must be approved by the Maritime Administrator;

(2) subject to paragraph (3), shall be for a duration, including options, of not to exceed one year unless the Maritime Administrator finds that exceptional circumstances justify an extension of up to one additional year; and

(3) shall terminate not later than 6 months after the termination of contract authority under subsection (d).

Termination date.

(c) LIMITATION ON NUMBER OF CONTRACTORS.—In awarding contacts under the program, the Maritime Administrator shall ensure that not more than 25 individuals actively provide services

in any one academic trimester, or equivalent, as contractors under the program.

(d) TERMINATION OF CONTRACTING AUTHORITY.—The authority to award contracts under the program shall terminate upon the end of the academic year 2008–2009.

(e) EXISTING CONTRACTS.—Any contract entered into before the effective date of this section for the services of an adjunct professor at the Academy shall remain in effect for the trimester (or trimesters) for which the services were contracted.

(f) DEFINITIONS.—In this section:

(1) ACADEMY.—The term "Academy" means the United States Merchant Marine Academy.

(2) MARITIME ADMINISTRATOR.—The term "Maritime Administrator" means the Administrator of the Maritime Administration, or a designee of the Administrator.

(3) PROGRAM.—The term "program" means the program established under subsection (a).

(g) GIFTS TO THE ACADEMY.—

(1) IN GENERAL.—Chapter 513 of title 46, United States Code, is amended by adding at the end thereof the following:

**"§ 51315. Gifts to the Merchant Marine Academy**

"(a) IN GENERAL.—The Maritime Administrator may accept and use conditional or unconditional gifts of money or property for the benefit of the United States Merchant Marine Academy, including acceptance and use for non-appropriated fund instrumentalities of the Merchant Marine Academy. The Maritime Administrator may accept a gift of services in carrying out the Administrator's duties and powers. Property accepted under this section and proceeds from that property must be used, as nearly as possible, in accordance with the terms of the gift.

"(b) ESTABLISHMENT OF ACADEMY GIFT FUND.—There is established in the Treasury a fund, to be known as the 'Academy Gift Fund'. Disbursements from the Fund shall be made on order of the Maritime Administrator. Unless otherwise specified by the terms of the gift, the Maritime Administrator may use monies in the Fund for appropriated or non-appropriated purposes at the Academy. The Fund consists of—

"(1) gifts of money;

"(2) income from donated property accepted under this section;

"(3) proceeds from the sale of donated property; and

"(4) income from securities under subsection (c) of this section.

"(c) INVESTMENT OF FUND BALANCES.—On request of the Maritime Administrator, the Secretary of the Treasury may invest and reinvest amounts in the Fund in securities of, or in securities the principal and interest of which is guaranteed by, the United States Government.

"(d) DISBURSEMENT AUTHORITY.—There are hereby authorized to be disbursed from the Fund such sums as may be on deposit, to remain available until expended.

"(e) DEDUCTIBILITY OF GIFTS.—Gifts accepted under this section are a gift to or for the use of the Government under the Internal Revenue Code of 1986.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 513 of title 46, United States Code, is amended by adding at the end the following:

"51315. Gifts to the Merchant Marine Academy.".

(h) TEMPORARY APPOINTMENTS TO THE ACADEMY.—

(1) IN GENERAL.—Chapter 513 of title 46, United States Code, as amended by section 3513 of this Act, is further amended by adding at the end thereof the following:

**"§ 51316. Temporary appointments to the Academy**

"Notwithstanding any other provision of law, the Maritime Administrator may appoint any present employee of the United States Merchant Marine Academy non-appropriated fund instrumentality to a position on the General Schedule of comparable pay. Eligible personnel shall be engaged in work permissibly funded by annual appropriations, and such appointments to the Civil Service shall be without regard to competition, for a term not to exceed 2 years.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 513 of title 46, United States Code, as amended by section 3513 of this Act, is further amended by adding at the end the following:

"51316. Temporary appointments to the Academy.".

**SEC. 3507. ACTIONS TO ADDRESS SEXUAL HARASSMENT AND VIOLENCE AT THE UNITED STATES MERCHANT MARINE ACADEMY.**

46 USC 51301 note.

(a) REQUIRED POLICY.—The Secretary of Transportation shall direct the Superintendent of the United States Merchant Marine Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy.

(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence prescribed under this section shall include—

(1) a program to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel;

(2) procedures that a cadet should follow in the case of an occurrence of sexual harassment or sexual violence, including—

(A) a specification of the person or persons to whom an alleged occurrence of sexual harassment or sexual violence should be reported by a cadet and the options for confidential reporting;

(B) a specification of any other person whom the victim should contact; and

(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault;

(3) a procedure for disciplinary action in cases of alleged criminal sexual assault involving a cadet or other Academy personnel;

(4) any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence

involving a cadet or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible; and

(5) required training on the policy for all cadets and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual violence involving Academy personnel.

(c) ANNUAL ASSESSMENT.—

(1) The Secretary shall direct the Superintendent to conduct an assessment at the Academy during each Academy program year, to be administered by the Department of Transportation, to determine the effectiveness of the policies, training, and procedures of the Academy with respect to sexual harassment and sexual violence involving Academy personnel.

(2) For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Superintendent shall conduct a survey, to be administered by the Department, of Academy personnel—

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to officials of the Academy; and

(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to officials of the Academy; and

(B) to assess the perceptions of Academy personnel of—

(i) the policies, training, and procedures on sexual harassment and sexual violence involving Academy personnel;

(ii) the enforcement of such policies;

(iii) the incidence of sexual harassment and sexual violence involving Academy personnel; and

(iv) any other issues relating to sexual harassment and sexual violence involving Academy personnel.

(d) ANNUAL REPORT.—

(1) The Secretary shall direct the Superintendent of the Academy to submit to the Secretary a report on sexual harassment and sexual violence involving cadets or other personnel at the Academy for each Academy program year.

(2) Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

(A) The number of sexual assaults, rapes, and other sexual offenses involving cadets or other Academy personnel that have been reported to Academy officials during the program year and, of those reported cases, the number that have been substantiated.

(B) The policies, procedures, and processes implemented by the Superintendent and the leadership of the Academy in response to sexual harassment and sexual violence involving cadets or other Academy personnel during the program year.

(C) A plan for the actions that are to be taken in the following Academy program year regarding prevention

of and response to sexual harassment and sexual violence involving cadets or other Academy personnel.

(3) Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

(4)(A) The Superintendent shall transmit to the Secretary, and to the Board of Visitors of the Academy, each report received by the Superintendent under this subsection, together with the Superintendent's comments on the report.

(B) The Secretary shall transmit each such report, together with the Secretary's comments on the report, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

**SEC. 3508. ASSISTANCE FOR SMALL SHIPYARDS AND MARITIME COMMUNITIES.**

(a) IN GENERAL.—Title 46, United States Code, is amended by inserting the following new chapter after chapter 539:

## "CHAPTER 541—MISCELLANEOUS

"Sec
"54101. Assistance for small shipyards and maritime communities

### "§ 54101. Assistance for small shipyards and maritime communities

"(a) ESTABLISHMENT OF PROGRAM.—Subject to the availability of appropriations, the Administrator of the Maritime Administration shall execute agreements with shipyards to provide assistance— Contracts.

"(1) in the form of grants, loans, and loan guarantees to small shipyards for capital improvements; and

"(2) for maritime training programs to foster technical skills and operational productivity in communities whose economies are related to or dependent upon the maritime industry.

"(b) AWARDS.—In providing assistance under the program, the Administrator shall—

"(1) take into account—

"(A) the economic circumstances and conditions of maritime communities;

"(B) projects that would be effective in fostering efficiency, competitive operations, and quality ship construction, repair, and reconfiguration; and

"(C) projects that would be effective in fostering employee skills and enhancing productivity; and

"(2) make grants within 120 days after the date of enactment of the appropriations Act for the fiscal year concerned. Grants. Deadline.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Assistance provided under this section may be used—

"(A) to make capital and related improvements in small shipyards located in or near maritime communities;

"(B) to provide training for workers in communities whose economies are related to the maritime industry; and

"(C) for such other purposes as the Administrator determines to be consistent with and supplemental to such activities.

"(2) ADMINISTRATIVE COSTS.—Not more than 2 percent of amounts made available to carry out the program may be used for the necessary costs of grant administration.

"(d) PROHIBITED USES.—Grants awarded under this section may not be used to construct buildings or other physical facilities or to acquire land unless such use is specifically approved by the Administrator in support of subsection (c)(1)(C).

"(e) MATCHING REQUIREMENTS; ALLOCATION.—

"(1) FEDERAL FUNDING.—Except as provided in paragraph (2), Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

"(2) EXCEPTION.—If the Administrator determines that a proposed project merits support and cannot be undertaken without a higher percentage of Federal financial assistance, the Administrator may award a grant for such project with a lesser matching requirement than is described in paragraph (1).

"(3) ALLOCATION OF FUNDS.—The Administrator may not award more than 25 percent of the funds appropriated to carry out this section for any fiscal year to any small shipyard in one geographic location that has more than 600 employees.

"(f) APPLICATIONS.—

Deadline.

"(1) IN GENERAL.—To be eligible for assistance under this section, an applicant shall submit an application, in such form, and containing such information and assurances as the Administrator may require, within 60 days after the date of enactment of the appropriations Act for the fiscal year concerned.

"(2) MINIMUM STANDARDS FOR PAYMENT OR REIMBURSEMENT.—Each application submitted under paragraph (1) shall include—

"(A) a comprehensive description of—

"(i) the need for the project;

"(ii) the methodology for implementing the project; and

"(iii) any existing programs or arrangements that can be used to supplement or leverage assistance under the program.

Guidelines.

"(3) PROCEDURAL SAFEGUARDS.—The Administrator, in consultation with the Office of the Inspector General, shall issue guidelines to establish appropriate accounting, reporting, and review procedures to ensure that—

"(A) grant funds are used for the purposes for which they were made available;

"(B) grantees have properly accounted for all expenditures of grant funds; and

"(C) grant funds not used for such purposes and amounts not obligated or expended are returned.

"(4) PROJECT APPROVAL REQUIRED.—The Administrator may not award a grant under this section unless the Administrator determines that—

"(A) sufficient funding is available to meet the matching requirements of subsection (e);

"(B) the project will be completed without unreasonable delay; and

"(C) the recipient has authority to carry out the proposed project.

"(g) AUDITS AND EXAMINATIONS.—All grantees under this section shall maintain such records as the Administrator may require and make such records available for review and audit by the Administrator. Records.

"(h) SMALL SHIPYARD DEFINED.—In this section, the term 'small shipyard' means a shipyard facility in one geographic location that does not have more than 1,200 employees.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Maritime Administration for each of fiscal years 2009 through 2013 to carry out this section—

"(1) $5,000,000 for training grants; and

"(2) $25,000,000 for capital and related improvements.".

(b) CONFORMING AMENDMENT.—Section 3506 of the National Defense Authorization Act for Fiscal Year 2006 (46 U.S.C. 53101 note) is repealed. 46 USC 54101.

**SEC. 3509. MARINE WAR RISK INSURANCE.**

Section 53912 of title 46, United States Code, is amended by striking "December 31, 2010." and inserting "December 31, 2015.".

**SEC. 3510. MARAD CONSULTATION ON JONES ACT WAIVERS.**

Section 501(b) of title 46, United States Code, is amended to read as follows:

"(b) BY HEAD OF AGENCY.—When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual, following a determination by the Maritime Administrator, acting in the Administrator's capacity as Director, National Shipping Authority, of the non-availability of qualified United States flag capacity to meet national defense requirements, may waive compliance with those laws to the extent, in the manner, and on the terms the individual, in consultation with the Administrator, acting in that capacity, prescribes.".

**SEC. 3511. TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES.**

(a) IN GENERAL.—Section 55305(b) of title 46, United States Code, is amended—

(1) by striking "country" and inserting "country, organization, or persons";

(2) by inserting "or obtaining" after "furnishing"; and

(3) by striking "commodities," the first place it appears and inserting "commodities, or provides financing in any way with Federal funds for the account of any persons unless otherwise exempted,".

(b) OTHER AGENCIES.—Section 55305(d) of title 46, United States Code, is amended to read as follows:

"(d) PROGRAMS OF OTHER AGENCIES.—

"(1) Each department or agency that has responsibility for a program under this section shall administer that program with respect to this section under regulations and guidance issued by the Secretary of Transportation. The Secretary, after consulting with the department or agency or organization or

person involved, shall have the sole responsibility for determining if a program is subject to the requirements of this section.

"(2) The Secretary—

Review.

"(A) shall conduct an annual review of the administration of programs determined pursuant to paragraph (1) as subject to the requirements of this section;

"(B) may direct agencies to require the transportation on United States-flagged vessels of cargo shipments not otherwise subject to this section in equivalent amounts to cargo determined to have been shipped on foreign carriers in violation of this section;

"(C) may impose on any person that violates this section, or a regulation prescribed under this section, a civil penalty of not more than $25,000 for each violation willfully and knowingly committed, with each day of a continuing violation following the date of shipment to be a separate violation; and

"(D) may take other measures as appropriate under the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1) or contract with respect to each violation.".

46 USC 55305 note.

(c) REGULATIONS.—The Secretary of Transportation shall prescribe such rules as are necessary to carry out section 55305(d) of title 46, United States Code. The Secretary may prescribe interim rules necessary to carry out section 55305(d) of such title. An interim rule prescribed under this subsection shall remain in effect until superseded by a final rule.

(d) CHANGE OF YEAR.—Section 55314(a) of title 46, United States Code, is amended by striking "calendar" each place it appears and inserting "fiscal".

48 USC 1421r.

**SEC. 3512. PORT OF GUAM IMPROVEMENT ENTERPRISE PROGRAM.**

(a) IN GENERAL.—The Secretary of Transportation, acting through the Administrator of the Maritime Administration (in this section referred to as the "Administrator"), may establish a Port of Guam Improvement Enterprise Program (in this section referred to as the "Program") to provide for the planning, design, and construction of projects for the Port of Guam to improve facilities, relieve port congestion, and provide greater access to port facilities.

(b) AUTHORITIES OF THE ADMINISTRATOR.—In carrying out the Program, the Administrator may—

(1) receive funds provided for the Program from Federal and non-Federal entities, including private entities;

(2) provide for coordination among appropriate governmental agencies to expedite the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects carried out under the Program;

(3) provide for coordination among appropriate governmental agencies in connection with other reviews and requirements applicable to projects carried out under the Program; and

(4) provide technical assistance to the Port Authority of Guam (and its agents) as needed for projects carried out under the Program.

(c) PORT OF GUAM IMPROVEMENT ENTERPRISE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate account to be known as the "Port of Guam Improvement Enterprise Fund" (in this section referred to as the "Fund").

(2) DEPOSITS.—There shall be deposited into the Fund—

(A) amounts received by the Administrator from Federal and non-Federal sources under subsection (b)(1);

(B) amounts transferred to the Administrator under subsection (d); and

(C) amounts appropriated to carry out this section under subsection (f).

(3) USE OF AMOUNTS.—Amounts in the Fund shall be available to the Administrator to carry out the Program.

(4) ADMINISTRATIVE EXPENSES.—Not to exceed 3 percent of the amounts appropriated to the Fund for a fiscal year may be used for administrative expenses of the Administrator.

(5) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall remain available until expended.

(d) TRANSFERS OF AMOUNTS.—Amounts appropriated or otherwise made available for any fiscal year for an intermodal or marine facility comprising a component of the Program shall be transferred to and administered by the Administrator.

(e) LIMITATION.—Nothing in this section shall be construed to authorize amounts made available under section 215 of title 23, United States Code, or any other amounts made available for the construction of highways or amounts otherwise not eligible for making port improvements to be deposited into the Fund.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary to carry out this section

Approved October 14, 2008.

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LEGISLATIVE HISTORY—S. 3001 (H.R. 5658):

HOUSE REPORTS: No. 110–652 and Pt. 2 accompanying H.R. 5658 (both from Comm. on Armed Services).

SENATE REPORTS: No. 110–335 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 154 (2008):

Sept. 9–12, 15–17, considered and passed Senate.

Sept. 24, considered and passed House, amended.

Sept. 27, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):

Oct. 14, Presidential statement.

Public Law 110–418
110th Congress

An Act

Oct. 14, 2008
[S. 3550]

To designate a portion of the Rappahannock River in the Commonwealth of Virginia as the "John W. Warner Rapids".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JOHN W. WARNER RAPIDS, FREDERICKSBURG, VIRGINIA.**

(a) DESIGNATION.—The portion of the Rappahannock River comprised of the manmade rapids located at the site of the former Embrey Dam in Fredericksburg, Virginia, and centered at the coordinates of N. 38.3225 latitude, W. 077.4900 longitude, shall be known and designated as the "John W. Warner Rapids".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the portion of the Rappahannock River referred to in subsection (a) shall be deemed to be a reference to the John W. Warner Rapids.

Approved October 14, 2008.

LEGISLATIVE HISTORY—S. 3550:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 24, considered and passed Senate.
Sept. 29, considered and passed House.

Public Law 110–419
110th Congress

# An Act

To clarify the boundaries of Coastal Barrier Resources System Clam Pass Unit FL–64P.

Oct. 15, 2008
[H.R. 1714]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REPLACEMENT OF CERTAIN COASTAL BARRIER RESOURCES SYSTEM MAPS.**

16 USC 3503 note.

(a) IN GENERAL.—The map subtitled "FL–64P", relating to the Coastal Barrier Resources System unit designated as Coastal Barrier Resources System Clam Pass Unit FL–64P, that is included in the set of maps entitled "Coastal Barrier Resources System" and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), is hereby replaced by another map relating to that unit entitled "Coastal Barrier Resources System Clam Pass Unit, FL–64P" and dated July 21, 2005

(b) AVAILABILITY.—The Secretary of the Interior shall keep the map referred to in subsection (a) on file and available for inspection in accordance with section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.R. 1714:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 14, considered and passed House.
Sept. 30, considered and passed Senate.

# Public Law 110–420
# 110th Congress

## An Act

Oct. 15, 2008
[H.R. 4544]

To require the issuance of medals to recognize the dedication and valor of Native American code talkers.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Code Talkers Recognition Act of 2008.
Armed Forces.
31 USC 5111 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Code Talkers Recognition Act of 2008".

**SEC. 2. PURPOSE.**

The purpose of this Act is to require the issuance of medals to express the sense of the Congress that—

(1) the service of Native American code talkers to the United States deserves immediate recognition for dedication and valor; and

(2) honoring Native American code talkers is long overdue.

**SEC. 3. FINDINGS.**

The Congress finds the following:

(1) When the United States entered World War I, Native Americans were not accorded the status of citizens of the United States.

(2) Without regard to that lack of citizenship, members of Indian tribes and nations enlisted in the Armed Forces to fight on behalf of the United States.

(3) The first reported use of Native American code talkers was on October 17, 1918.

(4) Because the language used by the Choctaw code talkers in the transmission of information was not based on a European language or on a mathematical progression, the Germans were unable to understand any of the transmissions.

(5) This use of Native American code talkers was the first time in modern warfare that such a transmission of messages in a native language was used for the purpose of confusing an enemy.

(6) On December 7, 1941, Japan attacked Pearl Harbor, Hawaii, and the Congress declared war the following day.

(7) The Federal Government called on the Comanche Nation to support the military effort during World War II by recruiting and enlisting Comanche men to serve in the Army to develop a secret code based on the Comanche language.

(8) The United States Army recruited approximately 50 Native Americans for special native language communication assignments.

(9) The United States Marine Corps recruited several hundred Navajos for duty in the Pacific region.

(10) During World War II, the United States employed Native American code talkers who developed secret means of communication based on native languages and were critical to winning the war.

(11) To the frustration of the enemies of the United States, the code developed by the Native American code talkers proved to be unbreakable and was used extensively throughout the European theater.

(12) In 2001, the Congress and President Bush honored Navajo code talkers with congressional gold medals for the contributions of the code talkers to the United States Armed Forces as radio operators during World War II.

(13) The heroic and dramatic contributions of Native American code talkers were instrumental in driving back Axis forces across the Pacific during World War II.

(14) The Congress should provide to all Native American code talkers the recognition the code talkers deserve for the contributions of the code talkers to United States victories in World War I and World War II.

**SEC. 4. DEFINITIONS.**

In this Act, the following definitions shall apply:

(1) CODE TALKER.—The term "code talker" means a Native American who—

(A) served in the Armed Forces during a foreign conflict in which the United States was involved; and

(B) transmitted (encoded and translated) secret coded messages for tactical military operations during World War I and World War II using their native tribal language (non-spontaneous communications)

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

**SEC. 5. CONGRESSIONAL GOLD MEDALS.**

(a) AWARD AUTHORIZATION.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the award, on behalf of the Congress, of gold medals of appropriate design in recognition of the service of Native American code talkers during World War I and World War II.

(b) IDENTIFICATION OF RECIPIENTS.—The Secretary, in consultation with the Secretary of Defense and the tribes, shall—

(1) determine the identity, to the maximum extent practicable, of each Native American tribe that had a member of that tribe serve as a Native American code talker, with the exception of the Navajo Nation;

(2) include the name of each Native American tribe identified under subparagraph (A) on a list; and

(3) provide the list, and any updates to the list, to the Smithsonian Institution for maintenance under section 5(c)(2).

(c) DESIGN AND STRIKING OF MEDALS.—

(1) IN GENERAL.—The Secretary shall strike the gold medals awarded under subsection (a) with appropriate emblems, devices, and inscriptions, as determined by the Secretary.

(2) DESIGNS OF MEDALS EMBLEMATIC OF TRIBAL AFFILIATION AND PARTICIPATION.—The design of a gold medal under paragraph (1) shall be emblematic of the participation of the code talkers of each recognized tribe.

(3) TREATMENT.—Each medal struck pursuant to this subsection shall be considered to be a national medal for purposes of chapter 51 of title 31, United States Code.

(d) ACTION BY SMITHSONIAN INSTITUTION.—The Smithsonian Institution—

(1) shall accept and maintain such gold medals, and such silver duplicates of those medals, as recognized tribes elect to send to the Smithsonian Institution;

(2) shall maintain the list developed under section 6(1) of the names of Native American code talkers of each recognized tribe; and

(3) is encouraged to create a standing exhibit for Native American code talkers or Native American veterans.

**SEC. 6. NATIVE AMERICAN CODE TALKERS.**

The Secretary, in consultation with the Secretary of Defense and the tribes, shall—

(1) with respect to tribes recognized as of the date of the enactment of this Act —

(A) determine the identity, to the maximum extent practicable, of each Native American code talker of each recognized tribe with the exception of the Navajo Nation;

(B) include the name of each Native American code talker identified under subparagraph (A) on a list, to be organized by recognized tribe; and

(C) provide the list, and any updates to the list, to the Smithsonian Institution for maintenance under section 5(d)(2);

(2) in the future, determine whether any Indian tribe that is not a recognized as of the date of the enactment of this Act, should be eligible to receive a gold medal under this Act; and

(3) with consultation from the tribes listed in following subsection, examine the following specific tribes to determine the existence of Code Talkers:

(A) Assiniboine.
(B) Chippewa and Oneida.
(C) Choctaw.
(D) Comanche.
(E) Cree.
(F) Crow.
(G) Hopi.
(H) Kiowa.
(I) Menominee.
(J) Mississauga.
(K) Muscogee.
(L) Sac and Fox.
(M) Sioux.

**SEC. 7. DUPLICATE MEDALS.**

(a) SILVER DUPLICATE MEDALS.—

(1) IN GENERAL.—The Secretary shall strike duplicates in silver of the gold medals struck under section 5(b), to be awarded in accordance with paragraph (2).

(2) ELIGIBILITY FOR AWARD.—

(A) IN GENERAL.—A Native American shall be eligible to be awarded a silver duplicate medal struck under paragraph (1) in recognition of the service of Native American code talkers of the recognized tribe of the Native American, if the Native American served in the Armed Forces as a code talker in any foreign conflict in which the United States was involved during the 20th century.

(B) DEATH OF CODE TALKER.—In the event of the death of a Native American code talker who had not been awarded a silver duplicate medal under this subsection, the Secretary may award a silver duplicate medal to the next of kin or other personal representative of the Native American code talker.

(C) DETERMINATION.—Eligibility for an award under this subsection shall be determined by the Secretary in accordance with section 6.

(b) BRONZE DUPLICATE MEDALS.—The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 4 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold and silver medals.

**SEC. 8. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.**

(a) AUTHORITY TO USE FUND AMOUNTS.—There are authorized to be charged against the United States Mint Public Enterprise Fund such amounts as may be necessary to pay for the cost of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 7(b) shall be deposited into the United States Mint Public Enterprise Fund.

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.R. 4544:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, 25, considered and passed House.
Sept. 30, considered and passed Senate.

# Public Law 110–421
# 110th Congress

## An Act

Oct. 15, 2008
[H.R. 6045]

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to extend the authorization of the Bulletproof Vest Partnership Grant Program through fiscal year 2012.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Bulletproof Vest Partnership Grant Act of 2008.
42 USC 3711 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Bulletproof Vest Partnership Grant Act of 2008".

**SEC. 2. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR BULLETPROOF VEST PARTNERSHIP GRANT PROGRAM.**

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking "2009" and inserting "2012".

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.R. 6045:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, 26, considered and passed House.
Sept. 30, considered and passed Senate.

# Public Law 110–422
# 110th Congress

## An Act

To authorize the programs of the National Aeronautics and Space Administration, and for other purposes.

Oct. 15, 2008
[H.R. 6063]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National Aeronautics and Space Administration Authorization Act of 2008.
42 USC 17701 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "National Aeronautics and Space Administration Authorization Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2009

Sec. 101. Fiscal year 2009.

TITLE II—EARTH SCIENCE

Sec. 201. Goal.
Sec. 202. Governance of United States Earth Observations activities.
Sec. 203. Decadal survey missions.
Sec. 204. Transitioning experimental research into operational services.
Sec. 205. Landsat thermal infrared data continuity.
Sec. 206. Reauthorization of Glory Mission.
Sec. 207. Plan for disposition of Deep Space Climate Observatory.
Sec. 208. Tornadoes and other severe storms.

TITLE III—AERONAUTICS

Sec. 301. Sense of Congress.
Sec. 302. Environmentally friendly aircraft research and development initiative.
Sec. 303. Research alignment.
Sec. 304. Research program to determine perceived impact of sonic booms.
Sec. 305. External review of NASA's aviation safety-related research programs.
Sec. 306. Aviation weather research plan.
Sec. 307. Funding for research and development activities in support of other mission directorates.
Sec. 308. Enhancement of grant program on establishment of university-based centers for research on aviation training.

TITLE IV—EXPLORATION INITIATIVE

Sec. 401. Sense of Congress.
Sec. 402. Reaffirmation of exploration policy.
Sec. 403. Stepping stone approach to exploration.
Sec. 404. Lunar outpost.
Sec. 405. Exploration technology development.
Sec. 406. Exploration risk mitigation plan.
Sec. 407. Exploration crew rescue.
Sec. 408. Participatory exploration.
Sec. 409. Science and exploration.
Sec. 410. Congressional Budget Office report update.

TITLE V—SPACE SCIENCE

Sec. 501. Technology development.

Sec. 502. Provision for future servicing of observatory-class scientific spacecraft.
Sec. 503. Mars exploration.
Sec. 504. Importance of a balanced science program.
Sec. 505. Suborbital research activities.
Sec. 506. Restoration of radioisotope thermoelectric generator material production.
Sec. 507. Assessment of impediments to interagency cooperation on space and Earth science missions.
Sec. 508. Assessment of cost growth.
Sec. 509. Outer planets exploration.

TITLE VI—SPACE OPERATIONS

Subtitle A—International Space Station

Sec. 601. Plan to support operation and utilization of the ISS beyond fiscal year 2015.
Sec. 602. International Space Station National Laboratory Advisory Committee.
Sec. 603. Contingency plan for cargo resupply.
Sec. 604. Sense of Congress on use of Space Life Sciences Laboratory at Kennedy Space Center.

Subtitle B—Space Shuttle

Sec. 611. Space Shuttle flight requirements.
Sec. 612. United States commercial cargo capability status.
Sec. 613. Space Shuttle transition.
Sec. 614. Aerospace skills retention and investment reutilization report.
Sec. 615. Temporary continuation of coverage of health benefits.
Sec. 616. Accounting report.

Subtitle C—Launch Services

Sec. 621. Launch services strategy.

TITLE VII—EDUCATION

Sec. 701. Response to review.
Sec. 702. External review of explorer schools program.
Sec. 703. Sense of Congress on EarthKAM and robotics competitions.
Sec. 704. Enhancement of educational role of NASA.

TITLE VIII—NEAR-EARTH OBJECTS

Sec. 801. Reaffirmation of policy.
Sec. 802. Findings.
Sec. 803. Requests for information.
Sec. 804. Establishment of policy with respect to threats posed by near-earth objects.
Sec. 805. Planetary radar capability.
Sec. 806. Arecibo observatory.
Sec. 807. International resources.

TITLE IX—COMMERCIAL INITIATIVES

Sec. 901. Sense of Congress.
Sec. 902. Commercial crew initiative.

TITLE X—REVITALIZATION OF NASA INSTITUTIONAL CAPABILITIES

Sec. 1001. Review of information security controls.
Sec. 1002. Maintenance and upgrade of Center facilities.
Sec. 1003. Assessment of NASA laboratory capabilities.
Sec. 1004. Study and report on project assignment and work allocation of field centers.

TITLE XI—OTHER PROVISIONS

Sec. 1101. Space weather.
Sec. 1102. Initiation of discussions on development of framework for space traffic management.
Sec. 1103. Astronaut health care.
Sec. 1104. National Academies decadal surveys.
Sec. 1105. Innovation prizes.
Sec. 1106. Commercial space launch range study.
Sec. 1107. NASA outreach program.
Sec. 1108. Reduction-in-force moratorium.
Sec. 1109. Protection of scientific credibility, integrity, and communication within NASA.

Sec. 1110. Sense of Congress regarding the need for a robust workforce.
Sec. 1111. Methane inventory.
Sec. 1112. Exception to alternative fuel procurement requirement.
Sec. 1113. Sense of Congress on the importance of the NASA Office of Program Analysis and Evaluation.
Sec. 1114. Sense of Congress on elevating the importance of space and aeronautics within the Executive Office of the President.
Sec. 1115. Study on leasing practices of field centers.
Sec. 1116. Cooperative unmanned aerial vehicle activities.
Sec. 1117. Development of enhanced-use lease policy.
Sec. 1118. Sense of Congress with respect to the Michoud Assembly Facility and NASA's other centers and facilities.
Sec. 1119. Report on U.S. industrial base for launch vehicle engines.
Sec. 1120. Sense of Congress on precursor International Space Station research.
Sec. 1121. Limitation on funding for conferences.
Sec. 1122. Report on NASA efficiency and performance.

**SEC. 2. FINDINGS.** 42 USC 17701.

The Congress finds, on this, the 50th anniversary of the establishment of the National Aeronautics and Space Administration, the following:

(1) NASA is and should remain a multimission agency with a balanced and robust set of core missions in science, aeronautics, and human space flight and exploration.

(2) Investment in NASA's programs will promote innovation through research and development, and will improve the competitiveness of the United States.

(3) Investment in NASA's programs, like investments in other Federal science and technology activities, is an investment in our future.

(4) Properly structured, NASA's activities can contribute to an improved quality of life, economic vitality, United States leadership in peaceful cooperation with other nations on challenging undertakings in science and technology, national security, and the advancement of knowledge.

(5) NASA should assume a leadership role in a cooperative international Earth observations and research effort to address key research issues associated with climate change and its impacts on the Earth system.

(6) NASA should undertake a program of aeronautical research, development, and where appropriate demonstration activities with the overarching goals of—

(A) ensuring that the Nation's future air transportation system can handle up to 3 times the current travel demand and incorporate new vehicle types with no degradation in safety or adverse environmental impact on local communities;

(B) protecting the environment;

(C) promoting the security of the Nation; and

(D) retaining the leadership of the United States in global aviation.

(7) Human and robotic exploration of the solar system will be a significant long-term undertaking of humanity in the 21st century and beyond, and it is in the national interest that the United States should assume a leadership role in a cooperative international exploration initiative.

(8) Developing United States human space flight capabilities to allow independent American access to the International Space Station, and to explore beyond low Earth orbit, is a strategically important national imperative, and all prudent steps should thus be taken to bring the Orion Crew Exploration

Vehicle and Ares I Crew Launch Vehicle to full operational capability as soon as possible and to ensure the effective development of a United States heavy lift launch capability for missions beyond low Earth orbit.

(9) NASA's scientific research activities have contributed much to the advancement of knowledge, provided societal benefits, and helped train the next generation of scientists and engineers, and those activities should continue to be an important priority.

(10) NASA should make a sustained commitment to a robust long-term technology development activity. Such investments represent the critically important "seed corn" on which NASA's ability to carry out challenging and productive missions in the future will depend.

(11) NASA, through its pursuit of challenging and relevant activities, can provide an important stimulus to the next generation to pursue careers in science, technology, engineering, and mathematics.

(12) Commercial activities have substantially contributed to the strength of both the United States space program and the national economy, and the development of a healthy and robust United States commercial space sector should continue to be encouraged.

(13) It is in the national interest for the United States to have an export control policy that protects the national security while also enabling the United States aerospace industry to compete effectively in the global market place and the United States to undertake cooperative programs in science and human space flight in an effective and efficient manner.

42 USC 17702.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of NASA.

(2) NASA.—The term "NASA" means the National Aeronautics and Space Administration.

(3) NOAA.—The term "NOAA" means the National Oceanic and Atmospheric Administration.

(4) OSTP.—The term "OSTP" means the Office of Science and Technology Policy.

# TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2009

**SEC. 101. FISCAL YEAR 2009.**

There are authorized to be appropriated to NASA for fiscal year 2009 $20,210,000,000, as follows:

(1) For Science, $4,932,200,000, of which—

(A) $1,518,000,000 shall be for Earth Science, including $29,200,000 for suborbital activities and $2,500,000 for carrying out section 313 of the National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109–155);

(B) $1,483,000,000 shall be for Planetary Science, including $486,500,000 for the Mars Exploration program, $2,000,000 to continue planetary radar operations at the

Arecibo Observatory in support of the Near-Earth Object program, and $5,000,000 for radioisotope material production, to remain available until expended;

(C) $1,290,400,000 shall be for Astrophysics, including $27,300,000 for suborbital activities;

(D) $640,800,000 shall be for Heliophysics, including $50,000,000 for suborbital activities; and

(E) $75,000,000 shall be for Intra-Science Mission Directorate Technology Development, to be taken on a proportional basis from the funding subtotals under subparagraphs (A), (B), (C), and (D).

(2) For Aeronautics, $853,400,000, of which $406,900,000 shall be for system-level research, development, and demonstration activities related to—

(A) aviation safety;

(B) environmental impact mitigation, including noise, energy efficiency, and emissions;

(C) support of the Next Generation Air Transportation System initiative; and

(D) investigation of new vehicle concepts and flight regimes.

(3) For Exploration, $4,886,000,000, of which—

(A) $3,886,000,000 shall be for baseline exploration activities, of which $100,000,000 shall be for the activities under sections 902(a)(4) and 902(d), such funds to remain available until expended; no less than $1,101,400,000 shall be for the Orion Crew Exploration Vehicle; no less than $1,018,500,000 shall be for Ares I Crew Launch Vehicle; and $737,800,000 shall be for Advanced Capabilities, including $106,300,000 for the Lunar Precursor Robotic Program (of which $30,000,000 shall be for the lunar lander mission), $276,500,000 shall be for International Space Station-related research and development activities, and $355,000,000 shall be for research and development activities not related to the International Space Station; and

(B) $1,000,000,000 shall be available to be used to accelerate the initial operating capability of the Orion Crew Exploration Vehicle and the Ares I Crew Launch Vehicle, to remain available until expended.

(4) For Education, $128,300,000, of which $14,200,000 shall be for the Experimental Program to Stimulate Competitive Research and $32,000,000 shall be for the Space Grant program.

(5) For Space Operations, $6,074,700,000, of which—

(A) $150,000,000 shall be for an additional Space Shuttle flight to deliver the Alpha Magnetic Spectrometer to the International Space Station;

(B) $100,000,000 shall be to augment funding for research utilization of the International Space Station National Laboratory, to remain available until expended; and

(C) $50,000,000 shall be to augment funding for Space Operations Mission Directorate reserves and Shuttle Transition and Retirement activities.

(6) For Cross-Agency Support Programs, $3,299,900,000, of which $4,000,000 shall be for the program established under section 1107(a), to remain available until expended.

(7) For Inspector General, $35,500,000.

# TITLE II—EARTH SCIENCE

42 USC 17711.

**SEC. 201. GOAL.**

The goal for NASA's Earth Science program shall be to pursue a program of Earth observations, research, and applications activities to better understand the Earth, how it supports life, and how human activities affect its ability to do so in the future. In pursuit of this goal, NASA's Earth Science program shall ensure that securing practical benefits for society will be an important measure of its success in addition to securing new knowledge about the Earth system and climate change. In further pursuit of this goal, NASA shall, together with NOAA and other relevant agencies, provide United States leadership in developing and carrying out a cooperative international Earth observations-based research program.

**SEC. 202. GOVERNANCE OF UNITED STATES EARTH OBSERVATIONS ACTIVITIES.**

Consultation.

(a) STUDY.—The Director of OSTP shall consult with NASA, NOAA, and other relevant agencies with an interest in Earth observations and enter into an arrangement with the National Academies for a study to determine the most appropriate governance structure for United States Earth Observations programs in order to meet evolving United States Earth information needs and facilitate United States participation in global Earth Observations initiatives.

Plan.

(b) REPORT.—The Director shall transmit the study to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 18 months after the date of enactment of this Act, and shall provide OSTP's plan for implementing the study's recommendations not later than 24 months after the date of enactment of this Act.

**SEC. 203. DECADAL SURVEY MISSIONS.**

(a) IN GENERAL.—The missions recommended in the National Academies' decadal survey "Earth Science and Applications from Space" provide the basis for a compelling and relevant program of research and applications, and the Administrator should work to establish an international cooperative effort to pursue those missions.

Consultation.
Deadline.

(b) PLAN.—The Administrator shall consult with all agencies referenced in the survey as responsible for spacecraft missions and prepare a plan for submission to Congress not later than 270 days after the date of enactment of this Act that shall describe how NASA intends to implement the missions recommended for NASA to conduct as described in subsection (a), whether by means of dedicated NASA missions, multi-agency missions, international cooperative missions, data sharing, or commercial data buys, or by means of long-term technology development to determine whether specific missions would be executable at a reasonable cost and within a reasonable schedule.

**SEC. 204. TRANSITIONING EXPERIMENTAL RESEARCH INTO OPERATIONAL SERVICES.** 42 USC 17712.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that experimental NASA sensors and missions that have the potential to benefit society if transitioned into operational monitoring systems be transitioned into operational status whenever possible.

(b) INTERAGENCY PROCESS.—The Director of OSTP, in consultation with the Administrator, the Administrator of NOAA, and other relevant stakeholders, shall develop a process to transition, when appropriate, NASA Earth science and space weather missions or sensors into operational status. The process shall include coordination of annual agency budget requests as required to execute the transitions.

(c) RESPONSIBLE AGENCY OFFICIAL.—The Administrator and the Administrator of NOAA shall each designate an agency official who shall have the responsibility for and authority to lead NASA's and NOAA's transition activities and interagency coordination. Designation.

(d) PLAN.—For each mission or sensor that is determined to be appropriate for transition under subsection (b), NASA and NOAA shall transmit to Congress a joint plan for conducting the transition. The plan shall include the strategy, milestones, and budget required to execute the transition. The transition plan shall be transmitted to Congress not later than 60 days after the successful completion of the mission or sensor critical design review. Deadline.

**SEC. 205. LANDSAT THERMAL INFRARED DATA CONTINUITY.**

(a) PLAN.—In view of the importance of Landsat thermal infrared data for both scientific research and water management applications, the Administrator shall prepare a plan for ensuring the continuity of Landsat thermal infrared data or its equivalent, including allocation of costs and responsibility for the collection and distribution of the data, and a budget plan. As part of the plan, the Administrator shall provide an option for developing a thermal infrared sensor at minimum cost to be flown on the Landsat Data Continuity Mission with minimum delay to the schedule of the Landsat Data Continuity Mission.

(b) DEADLINE.—The plan shall be provided to Congress not later than 60 days after the date of enactment of this Act.

**SEC. 206. REAUTHORIZATION OF GLORY MISSION.** 42 USC 17713.

(a) REAUTHORIZATION.—Congress reauthorizes NASA to continue with development of the Glory Mission, which will examine how aerosols and solar energy affect the Earth's climate.

(b) BASELINE REPORT.—Pursuant to the National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109–155), not later than 90 days after the date of enactment of this Act, the Administrator shall transmit a new baseline report consistent with section 103(b)(2) of such Act. The report shall include an analysis of the factors contributing to cost growth and the steps taken to address them.

**SEC. 207. PLAN FOR DISPOSITION OF DEEP SPACE CLIMATE OBSERVATORY.**

(a) PLAN.—NASA shall develop a plan for the Deep Space Climate Observatory (DSCOVR), including such options as using the parts of the spacecraft in the development and assembly of other science missions, transferring the spacecraft to another

agency, reconfiguring the spacecraft for another Earth science mission, establishing a public-private partnership for the mission, and entering into an international cooperative partnership to use the spacecraft for its primary or other purposes. The plan shall include an estimate of budgetary resources and schedules required to implement each of the options.

(b) CONSULTATION.—NASA shall consult, as necessary, with NOAA and other Federal agencies, industry, academic institutions, and international space agencies in developing the plan.

(c) REPORT.—The Administrator shall transmit the plan required under subsection (a) to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of enactment of this Act.

42 USC 17714.

**SEC. 208. TORNADOES AND OTHER SEVERE STORMS.**

The Administrator shall ensure that NASA gives high priority to those parts of its existing cooperative activities with NOAA that are related to the study of tornadoes and other severe storms, tornado-force winds, and other factors determined to influence the development of tornadoes and other severe storms, with the goal of improving the Nation's ability to predict tornados and other severe storms. Further, the Administrator shall examine whether there are additional cooperative activities with NOAA that should be undertaken in the area of tornado and severe storm research.

# TITLE III—AERONAUTICS

**SEC. 301. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) aeronautics research continues to be an important core element of NASA's mission and should be supported;

(2) NASA aeronautics research should be guided by and consistent with the national policy to guide aeronautics research and development programs of the United States developed in accordance with section 101(c) of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16611); and

(3) technologies developed by NASA as described in paragraph (2) would help to secure the leadership role of the United States in global aviation and greatly enhance competitiveness of the United States in aeronautics in the future.

42 USC 17721.

**SEC. 302. ENVIRONMENTALLY FRIENDLY AIRCRAFT RESEARCH AND DEVELOPMENT INITIATIVE.**

The Administrator shall establish an initiative involving NASA, universities, industry, and other research organizations as appropriate, of research, development, and demonstration, in a relevant environment, of technologies to enable the following commercial aircraft performance characteristics:

(1) Noise levels on takeoff and on airport approach and landing that do not exceed ambient noise levels in the absence of flight operations in the vicinity of airports from which such commercial aircraft would normally operate, without increasing energy consumption or nitrogen oxide emissions compared to aircraft in commercial service as of the date of enactment of this Act.

(2) Significant reductions in greenhouse gas emissions compared to aircraft in commercial services as of the date of enactment of this Act.

**SEC. 303. RESEARCH ALIGNMENT.** 42 USC 17722.

In addition to pursuing the research and development initiative described in section 302, the Administrator shall, to the maximum extent practicable within available funding, align the fundamental aeronautics research program to address high priority technology challenges of the National Academies' Decadal Survey of Civil Aeronautics, and shall work to increase the degree of involvement of external organizations, and especially of universities, in the fundamental aeronautics research program.

**SEC. 304. RESEARCH PROGRAM TO DETERMINE PERCEIVED IMPACT OF SONIC BOOMS.** 42 USC 17723.

(a) IN GENERAL.—The ability to fly commercial aircraft over land at supersonic speeds without adverse impacts on the environment or on local communities would open new markets and enable new transportation capabilities. In order to have the basis for establishing appropriate sonic boom standards for such flight operations, a research program is needed to assess the impact in a relevant environment of commercial supersonic flight operations.

(b) ESTABLISHMENT.—The Administrator shall establish a cooperative research program with industry, including the conduct of flight demonstrations in a relevant environment, to collect data on the perceived impact of sonic booms. The data could enable the promulgation of appropriate standards for overland commercial supersonic flight operations.

(c) COORDINATION.—The Administrator shall ensure that sonic boom research is coordinated as appropriate with the Administrator of the Federal Aviation Administration, and as appropriate make use of the expertise of the Partnership for Air Transportation Noise and Emissions Reduction Center of Excellence sponsored by NASA and the Federal Aviation Administration.

**SEC. 305. EXTERNAL REVIEW OF NASA'S AVIATION SAFETY-RELATED RESEARCH PROGRAMS.**

(a) REVIEW.—The Administrator shall enter into an arrangement with the National Research Council for an independent review of NASA's aviation safety-related research programs. The review shall assess whether—

(1) the programs have well-defined, prioritized, and appropriate research objectives;

(2) the programs are properly coordinated with the safety research programs of the Federal Aviation Administration and other relevant Federal agencies;

(3) the programs have allocated appropriate resources to each of the research objectives; and

(4) suitable mechanisms exist for transitioning the research results from the programs into operational technologies and procedures and certification activities in a timely manner.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review required in subsection (a).

**SEC. 306. AVIATION WEATHER RESEARCH PLAN.**

The Administrator and the Administrator of NOAA shall develop a collaborative research plan on convective weather events. The goal of the research is to significantly improve the reliability of 2-hour to 6-hour aviation weather forecasts. Within 270 days after the date of enactment of this Act, the Administrator and the Administrator of NOAA shall submit this plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives.

Deadline.

42 USC 17724.

**SEC. 307. FUNDING FOR RESEARCH AND DEVELOPMENT ACTIVITIES IN SUPPORT OF OTHER MISSION DIRECTORATES.**

Research and development activities performed by the Aeronautics Research Mission Directorate with the primary objective of assisting in the development of a flight project in another Mission Directorate shall be funded by the Mission Directorate seeking assistance.

**SEC. 308. ENHANCEMENT OF GRANT PROGRAM ON ESTABLISHMENT OF UNIVERSITY-BASED CENTERS FOR RESEARCH ON AVIATION TRAINING.**

Section 427(a) of the National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109–155) is amended by striking "may" and inserting "shall".

42 USC 16727.

# TITLE IV—EXPLORATION INITIATIVE

**SEC. 401. SENSE OF CONGRESS.**

It is the sense of Congress that the President of the United States should invite America's friends and allies to participate in a long-term international initiative under the leadership of the United States to expand human and robotic presence into the solar system, including the exploration and utilization of the Moon, near Earth asteroids, Lagrangian points, and eventually Mars and its moons, among other exploration and utilization goals. When appropriate, the United States should lead confidence building measures that advance the long-term initiative for international cooperation.

**SEC. 402. REAFFIRMATION OF EXPLORATION POLICY.**

Congress hereby affirms its support for—

(1) the broad goals of the space exploration policy of the United States, including the eventual return to and exploration of the Moon and other destinations in the solar system and the important national imperative of independent access to space;

(2) the development of technologies and operational approaches that will enable a sustainable long-term program of human and robotic exploration of the solar system;

(3) activity related to Mars exploration, particularly for the development and testing of technologies and mission concepts needed for eventual consideration of optional mission architectures, pursuant to future authority to proceed with the consideration and implementation of such architectures; and

(4) international participation and cooperation, as well as commercial involvement in space exploration activities.

**SEC. 403. STEPPING STONE APPROACH TO EXPLORATION.** 42 USC 17731.

In order to maximize the cost-effectiveness of the long-term exploration and utilization activities of the United States, the Administrator shall take all necessary steps, including engaging international partners, to ensure that activities in its lunar exploration program shall be designed and implemented in a manner that gives strong consideration to how those activities might also help meet the requirements of future exploration and utilization activities beyond the Moon. The timetable of the lunar phase of the long-term international exploration initiative shall be determined by the availability of funding. However, once an exploration-related project enters its development phase, the Administrator shall seek, to the maximum extent practicable, to complete that project without undue delays.

**SEC. 404. LUNAR OUTPOST.** 42 USC 17732.

(a) ESTABLISHMENT.—As NASA works toward the establishment of a lunar outpost, NASA shall make no plans that would require a lunar outpost to be occupied to maintain its viability. Any such outpost shall be operable as a human-tended facility capable of remote or autonomous operation for extended periods.

(b) DESIGNATION.—The United States portion of the first human-tended outpost established on the surface of the Moon shall be designated the "Neil A. Armstrong Lunar Outpost".

(c) SENSE OF CONGRESS.—It is the sense of Congress that NASA should make use of commercial services to the maximum extent practicable in support of its lunar outpost activities.

**SEC. 405. EXPLORATION TECHNOLOGY DEVELOPMENT.** 42 USC 17733.

(a) IN GENERAL.—A robust program of long-term exploration-related technology research and development will be essential for the success and sustainability of any enduring initiative of human and robotic exploration of the solar system.

(b) ESTABLISHMENT.—The Administrator shall carry out a program of long-term exploration-related technology research and development, including such things as in-space propulsion, power systems, life support, and advanced avionics, that is not tied to specific flight projects. The program shall have the funding goal of ensuring that the technology research and development can be completed in a timely manner in order to support the safe, successful, and sustainable exploration of the solar system. In addition, in order to ensure that the broadest range of innovative concepts and technologies are captured, the long-term technology program shall have the goal of having a significant portion of its funding available for external grants and contracts with universities, research institutions, and industry.

**SEC. 406. EXPLORATION RISK MITIGATION PLAN.**

(a) PLAN.—The Administrator shall prepare a plan that identifies and prioritizes the human and technical risks that will need to be addressed in carrying out human exploration beyond low Earth orbit and the research and development activities required to address those risks. The plan shall address the role of the International Space Station in exploration risk mitigation and

include a detailed description of the specific steps being taken to utilize the International Space Station for that purpose.

(b) REPORT.—The Administrator shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the plan described in subsection (a) not later than one year after the date of enactment of this Act.

42 USC 17734.

**SEC. 407. EXPLORATION CREW RESCUE.**

In order to maximize the ability to rescue astronauts whose space vehicles have become disabled, the Administrator shall enter into discussions with the appropriate representatives of spacefaring nations who have or plan to have crew transportation systems capable of orbital flight or flight beyond low Earth orbit for the purpose of agreeing on a common docking system standard.

**SEC. 408. PARTICIPATORY EXPLORATION.**

Technology plan.

(a) IN GENERAL.—The Administrator shall develop a technology plan to enable dissemination of information to the public to allow the public to experience missions to the Moon, Mars, or other bodies within our solar system by leveraging advanced exploration technologies. The plan shall identify opportunities to leverage technologies in NASA's Constellation systems that deliver a rich, multimedia experience to the public, and that facilitate participation by the public, the private sector, nongovernmental organizations, and international partners. Technologies for collecting high-definition video, 3-dimensional images, and scientific data, along with the means to rapidly deliver this content through extended high bandwidth communications networks, shall be considered as part of this plan. It shall include a review of high bandwidth radio and laser communications, high-definition video, stereo imagery, 3-dimensional scene cameras, and Internet routers in space, from orbit, and on the lunar surface. The plan shall also consider secondary cargo capability for technology validation and science mission opportunities. In addition, the plan shall identify opportunities to develop and demonstrate these technologies on the International Space Station and robotic missions to the Moon, Mars, and other solar system bodies. As part of the technology plan, the Administrator shall examine the feasibility of having NASA enter into contracts and other agreements with appropriate public, private sector, and international partners to broadcast electronically, including via the Internet, images and multimedia records delivered from its missions in space to the public, and shall identify issues associated with such contracts and other agreements. In any such contracts and other agreements, NASA shall adhere to a transparent bidding process to award such contracts and other agreements, pursuant to United States law. As part of this plan, the Administrator shall include estimates of associated costs.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit the plan to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

**SEC. 409. SCIENCE AND EXPLORATION.**

It is the sense of Congress that NASA's scientific and human exploration activities are synergistic; science enables exploration and human exploration enables science. The Congress encourages

the Administrator to coordinate, where practical, NASA's science and exploration activities with the goal of maximizing the success of human exploration initiatives and furthering our understanding of the Universe that we explore.

**SEC. 410. CONGRESSIONAL BUDGET OFFICE REPORT UPDATE.**

Not later than 6 months after the date of enactment of this Act, the Congressional Budget Office shall update its report from 2004 on the budgetary analysis of NASA's Vision for the Nation's Space Exploration Program, including new estimates for Project Constellation, NASA's new generation of spacecraft designed for human space flight that will replace the Space Shuttle program.

# TITLE V—SPACE SCIENCE

**SEC. 501. TECHNOLOGY DEVELOPMENT.** 42 USC 17741.

The Administrator shall establish an intra-Directorate long-term technology development program for space and Earth science within the Science Mission Directorate for the development of new technology. The program shall be independent of the flight projects under development. NASA shall have a goal of funding the intra-Directorate technology development program at a level of 5 percent of the total Science Mission Directorate annual budget. The program shall be structured to include competitively awarded grants and contracts.

**SEC. 502. PROVISION FOR FUTURE SERVICING OF OBSERVATORY-CLASS SCIENTIFIC SPACECRAFT.** 42 USC 17742.

The Administrator shall take all necessary steps to ensure that provision is made in the design and construction of all future observatory-class scientific spacecraft intended to be deployed in Earth orbit or at a Lagrangian point in space for robotic or human servicing and repair to the extent practicable and appropriate.

**SEC. 503. MARS EXPLORATION.**

Congress reaffirms its support for a systematic, integrated program of exploration of the Martian surface to examine the planet whose surface is most like Earth's, to search for evidence of past or present life, and to examine Mars for future habitability and as a long-term goal for future human exploration. To the extent affordable and practical, the program should pursue the goal of launches at every Mars launch opportunity, leading to an eventual robotic sample return.

**SEC. 504. IMPORTANCE OF A BALANCED SCIENCE PROGRAM.**

It is the sense of Congress that a balanced and adequately funded set of activities, consisting of NASA's research and analysis grants programs, technology development, small-, medium-, and large-sized space science missions, and suborbital research activities, contributes to a robust and productive science program and serves as a catalyst for innovation.

**SEC. 505. SUBORBITAL RESEARCH ACTIVITIES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that suborbital flight activities, including the use of sounding rockets, aircraft, and high-altitude balloons, and suborbital reusable launch vehicles, offer valuable opportunities to advance science, train the

next generation of scientists and engineers, and provide opportunities for participants in the programs to acquire skills in systems engineering and systems integration that are critical to maintaining the Nation's leadership in space programs. The Congress believes that it is in the national interest to expand the size of NASA's suborbital research program. It is further the sense of Congress that funding for suborbital research activities should be considered part of the contribution of NASA to United States competitive and educational enhancement and should represent increased funding as contemplated in section 2001 of the America COMPETES Act (42 U.S.C. 16611(a)).

(b) REVIEW OF SUBORBITAL MISSION CAPABILITIES.—

Deadline.

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Administrator shall enter into an arrangement with the National Academies to conduct a review of the suborbital mission capabilities of NASA.

(2) MATTERS REVIEWED.—The review required by paragraph (1) shall include a review of the following:

(A) Existing programs that make use of suborbital flights.

(B) The status, capability, and availability of suborbital platforms, and the infrastructure and workforce necessary to support them.

(C) Existing or planned launch facilities for suborbital missions.

(D) Opportunities for scientific research, training, and educational collaboration in the conduct of suborbital missions by NASA, especially as they relate to the findings and recommendations of the National Academies decadal surveys and report on "Building a Better NASA Workforce: Meeting the Workforce Needs for the National Vision for Space Exploration".

(3) REPORT.—

(A) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the review required by this subsection.

(B) CONTENTS.—The report required by this paragraph shall include a summary of the review; the findings of the Administrator with respect to such review; recommendations regarding the growth of suborbital launch programs conducted by NASA; and the steps necessary to ensure such programs are conducted using domestic launch facilities to the maximum extent practicable, including any rationale and justification for using non-domestic facilities for such missions.

**SEC. 506. RESTORATION OF RADIOISOTOPE THERMOELECTRIC GENERATOR MATERIAL PRODUCTION.**

(a) PLAN.—The Director of OSTP shall develop a plan for restarting and sustaining the domestic production of radioisotope thermoelectric generator material for deep space and other space science missions.

(b) REPORT.—The plan developed under subsection (a) shall be transmitted to Congress not later than 270 days after the date of enactment of this Act.

**SEC. 507. ASSESSMENT OF IMPEDIMENTS TO INTERAGENCY COOPERATION ON SPACE AND EARTH SCIENCE MISSIONS.**

(a) ASSESSMENTS.—The Administrator, in consultation with other agencies with space science programs, shall enter into an arrangement with the National Academies to assess impediments, including cost growth, to the successful conduct of interagency cooperation on space science missions, to provide lessons learned and best practices, and to recommend steps to help facilitate successful interagency collaborations on space science missions. As part of the same arrangement with the National Academies, the Administrator, in consultation with NOAA and other agencies with civil Earth observation systems, shall have the National Academies assess impediments, including cost growth, to the successful conduct of interagency cooperation on Earth science missions, to provide lessons learned and best practices, and to recommend steps to help facilitate successful interagency collaborations on Earth science missions.

(b) REPORT.—The report of the assessments carried out under subsection (a) shall be transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 15 months after the date of enactment of this Act.

**SEC. 508. ASSESSMENT OF COST GROWTH.**

(a) STUDY.—The Administrator shall enter into an arrangement for an independent external assessment to identify the primary causes of cost growth in the large-, medium-, and small-sized space and Earth science spacecraft mission classes, and make recommendations as to what changes, if any, should be made to contain costs and ensure frequent mission opportunities in NASA's science spacecraft mission programs. Recommendations.

(b) REPORT.—The report of the assessment conducted under subsection (a) shall be submitted to Congress not later than 15 months after the date of enactment of this Act.

**SEC. 509. OUTER PLANETS EXPLORATION.**

It is the sense of Congress that the outer solar system planets and their satellites can offer important knowledge about the formation and evolution of the solar system, the nature and diversity of these solar system bodies, and the potential for conditions conducive to life beyond Earth. NASA should move forward with plans for an Outer Planets flagship mission to the Europa-Jupiter system or the Titan-Saturn system as soon as practicable within a balanced Planetary Science program.

# TITLE VI—SPACE OPERATIONS

## Subtitle A—International Space Station

**SEC. 601. PLAN TO SUPPORT OPERATION AND UTILIZATION OF THE ISS BEYOND FISCAL YEAR 2015.** 42 USC 17751.

(a) IN GENERAL.—The Administrator shall take all necessary steps to ensure that the International Space Station remains a

viable and productive facility capable of potential United States utilization through at least 2020 and shall take no steps that would preclude its continued operation and utilization by the United States after 2015.

(b) PLAN TO SUPPORT OPERATIONS AND UTILIZATION OF THE INTERNATIONAL SPACE STATION BEYOND FISCAL YEAR 2015.—

Deadline.

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to support the operations and utilization of the International Space Station beyond fiscal year 2015 for a period of not less than 5 years. The plan shall be an update and expansion of the operation plan of the International Space Station National Laboratory submitted to Congress in May 2007 under section 507 of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16767).

(2) CONTENT.—

(A) REQUIREMENTS TO SUPPORT OPERATION AND UTILIZATION OF THE ISS BEYOND FISCAL YEAR 2015.—As part of the plan required in paragraph (1), the Administrator shall provide each of the following:

(i) A list of critical hardware necessary to support International Space Station operations through the year 2020.

(ii) Specific known or anticipated maintenance actions that would need to be performed to support International Space Station operations and research through the year 2020.

(iii) Annual upmass and downmass requirements, including potential vehicles that will deliver such upmass and downmass, to support the International Space Station after the retirement of the Space Shuttle and through the year 2020.

(B) ISS NATIONAL LABORATORY RESEARCH MANAGEMENT PLAN.—As part of the plan required in paragraph (1), the Administrator shall develop a Research Management Plan for the International Space Station. Such Plan shall include a process for selecting and prioritizing research activities (including fundamental, applied, commercial, and other research) for flight on the International Space Station. Such Plan shall be used to prioritize resources such as crew time, racks and equipment, and United States access to international research facilities and equipment. Such Plan shall also identify the organization to be responsible for managing United States research on the International Space Station, including a description of the relationship of the management institution with NASA (e.g., internal NASA office, contract, cooperative agreement, or grant), the estimated length of time for the arrangement, and the budget required to support the management institution. Such Plan shall be developed in consultation with other Federal agencies, academia, industry, and other relevant stakeholders. The Administrator may request the support of the National Academy of Sciences or other appropriate

independent entity, including an external consultant, in developing the Plan.

(C) ESTABLISHMENT OF PROCESS FOR ACCESS TO NATIONAL LABORATORY.—As part of the plan required in paragraph (1), the Administrator shall—

(i) establish a process by which to support International Space Station National Laboratory users in identifying their requirements for transportation of research supplies to and from the International Space Station, and for communicating those requirements to NASA and International Space Station transportation services providers; and

(ii) develop an estimate of the transportation requirements needed to support users of the International Space Station National Laboratory and develop a plan for satisfying those requirements by dedicating a portion of volume on NASA supply missions to the International Space Station. Plan.

(D) ASSESSMENT OF EQUIPMENT TO SUPPORT RESEARCH.—As part of the plan required in paragraph (1), the Administrator shall—

(i) provide a list of critical hardware that is anticipated to be necessary to support nonexploration-related and exploration-related research through the year 2020;

(ii) identify existing research equipment and racks and support equipment that are manifested for flight; and

(iii) provide a detailed description of the status of research equipment and facilities that were completed or in development prior to being cancelled, and provide the budget and milestones for completing and preparing the equipment for flight on the International Space Station.

(E) BUDGET PLAN.—As part of the plan required in paragraph (1), the Administrator shall provide a budget plan that reflects the anticipated use of such activities and the projected amounts to be required for fiscal years 2010 through 2020 to accomplish the objectives of the activities described in subparagraphs (A) through (D).

**SEC. 602. INTERNATIONAL SPACE STATION NATIONAL LABORATORY ADVISORY COMMITTEE.** 42 USC 17752.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall establish under the Federal Advisory Committee Act a committee to be known as the "International Space Station National Laboratory Advisory Committee" (hereafter in this section referred to as the "Committee"). Deadline.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Committee shall be composed of individuals representing organizations who have formal agreements with NASA to utilize the United States portion of the International Space Station, including allocations within partner elements.

Appointments.

(2) CHAIR.—The Administrator shall appoint a chair from among the members of the Committee, who shall serve for a 2-year term.

(c) DUTIES OF THE COMMITTEE.—

Recommendations.

(1) IN GENERAL.—The Committee shall monitor, assess, and make recommendations regarding effective utilization of the International Space Station as a national laboratory and platform for research.

(2) ANNUAL REPORT.—The Committee shall submit to the Administrator, on an annual basis or more frequently as considered necessary by a majority of the members of the Committee, a report containing the assessments and recommendations required by paragraph (1).

(d) DURATION.—The Committee shall exist for the life of the International Space Station.

42 USC 17753.

**SEC. 603. CONTINGENCY PLAN FOR CARGO RESUPPLY.**

(a) IN GENERAL.—The International Space Station represents a significant investment of national resources, and it is a facility that embodies a cooperative international approach to the exploration and utilization of space. As such, it is important that its continued viability and productivity be ensured, to the maximum extent possible, after the Space Shuttle is retired.

(b) CONTINGENCY PLAN.—The Administrator shall develop a contingency plan and arrangements, including use of International Space Station international partner cargo resupply capabilities, to ensure the continued viability and productivity of the International Space Station in the event that United States commercial cargo resupply services are not available during any extended period after the date that the Space Shuttle is retired. The plan shall be delivered to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than one year after the date of enactment of this Act.

Deadline.

**SEC. 604. SENSE OF CONGRESS ON USE OF SPACE LIFE SCIENCES LABORATORY AT KENNEDY SPACE CENTER.**

It is the sense of Congress that the Space Life Sciences Laboratory at Kennedy Space Center represents a key investment and asset in the International Space Station National Laboratory capability. The laboratory is specifically designed to provide pre-flight, in-flight, and post-flight support services for International Space Station end-users, and should be utilized in this manner when appropriate.

# Subtitle B—Space Shuttle

**SEC. 611. SPACE SHUTTLE FLIGHT REQUIREMENTS.**

(a) REPORT ON U.S. HUMAN SPACEFLIGHT CAPABILITIES.—Section 501(c) of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16761(c)) is amended by striking the matter before paragraph (1) and inserting the following: "Not later than 90 days after the date of enactment of the National Aeronautics and Space Administration Authorization Act of 2008, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report

on the lack of a United States human space flight system to replace the Space Shuttle upon its planned retirement, currently scheduled for 2010, and the ability of the United States to uphold the policy described in subsection (a), including a description of—".

(b) BASELINE MANIFEST.—In addition to the Space Shuttle flights listed as part of the baseline flight manifest as of January 1, 2008, the Utilization flights ULF–4 and ULF–5 shall be considered part of the Space Shuttle baseline flight manifest and shall be flown prior to the retirement of the Space Shuttle, currently scheduled for 2010.

(c) ADDITIONAL FLIGHT TO DELIVER THE ALPHA MAGNETIC SPECTROMETER AND OTHER SCIENTIFIC EQUIPMENT AND PAYLOADS TO THE INTERNATIONAL SPACE STATION.—

(1) IN GENERAL.—In addition to the flying of the baseline manifest as described in subsection (b), the Administrator shall take all necessary steps to fly one additional Space Shuttle flight to deliver the Alpha Magnetic Spectrometer and other scientific equipment and payloads to the International Space Station prior to the retirement of the Space Shuttle. The purpose of the mission required to be planned under this subsection shall be to ensure the active use of the United States portion of the International Space Station as a National Laboratory by the delivery of the Alpha Magnetic Spectrometer, and to the extent practicable, the delivery of flight-ready research experiments prepared under the Memoranda of Understanding between NASA and other entities to facilitate the utilization of the International Space Station National Laboratory, as well as other fundamental and applied life sciences and other microgravity research experiments to the International Space Station as soon as the assembly of the International Space Station is completed.

(2) FLIGHT SCHEDULE.—If the Administrator, within 12 months before the scheduled date of the additional Space Shuttle flight authorized by paragraph (1), determines that— Deadline. President. Notification.

(A) NASA will be unable to meet that launch date before the end of calendar year 2010, unless the President decides to extend Shuttle operations beyond 2010, or

(B) implementation of the additional flight requirement would, in and of itself, result in—

(i) significant increased costs to NASA over the cost estimate of the additional flight as determined by the Independent Program Assessment Office, or

(ii) unacceptable safety risks associated with making the flight before termination of the Space Shuttle program,

the Administrator shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology of the determination, and provide a detailed explanation of the basis for that determination. After the notification is provided to the Committees, the Administrator shall remove the flight from the Space Shuttle schedule unless the Congress by law reauthorizes the flight or the President certifies that it is in the national interest to fly the mission. Certification.

(d) TERMINATION OR SUSPENSION OF ACTIVITIES THAT WOULD PRECLUDE CONTINUED FLIGHT OF SPACE SHUTTLE PRIOR TO REVIEW BY THE INCOMING 2009 PRESIDENTIAL ADMINISTRATION.—

(1) IN GENERAL.—The Administrator shall terminate or suspend any activity of the Agency that, if continued between the date of enactment of this Act and April 30, 2009, would preclude the continued safe and effective flight of the Space Shuttle after fiscal year 2010 if the President inaugurated on January 20, 2009, were to make a determination to delay the Space Shuttle's scheduled retirement.

(2) REPORT ON IMPACT OF COMPLIANCE.—Within 90 days after the date of enactment of this Act, the Administrator shall provide a report to the Congress describing the expected budgetary and programmatic impacts from compliance with paragraph (1). The report shall include—

(A) a summary of the actions taken to ensure the option to continue space shuttle flights beyond the end of fiscal year 2010 is not precluded before April 30, 2009;

(B) an estimate of additional costs incurred by each specific action identified in the summary provided under subparagraph (A);

(C) a description of the proposed plan for allocating those costs among anticipated fiscal year 2009 appropriations or existing budget authority;

(D) a description of any programmatic impacts within the Space Operations Mission Directorate that would result from reallocations of funds to meet the requirements of paragraph (1);

(E) a description of any additional authority needed to enable compliance with the requirements of paragraph (1); and

(F) a description of any potential disruption to the timely progress of development milestones in the preparation of infrastructure or work-force requirements for shuttle follow-on launch systems.

(e) REPORT ON IMPACTS OF SPACE SHUTTLE EXTENSION.—Within 120 days after the date of enactment of this Act, the Administrator shall provide a report to the Congress outlining options, impacts, and associated costs of ensuring the safe and effective operation of the Space Shuttle at the minimum rate necessary to support International Space Station operations and resupply, including for both a near-term, 1-to-2 year extension of Space Shuttle operations and for a longer term, 3-to-6 year extension. The report shall include an assessment of—

(1) annual fixed and marginal costs, including identification and cost impacts of options for cost-sharing with the Constellation program and including the impact of those cost-sharing options on the Constellation program;

(2) the safety of continuing the use of the Space Shuttle beyond 2010, including a probability risk assessment of a catastrophic accident before completion of the extended Space Shuttle flight program, the underlying assumptions used in calculating that probability, and comparing the associated safety risks with those of other existing and planned human-rated launch systems, including the Soyuz and Constellation vehicles;

(3) a description of the activities and an estimate of the associated costs that would be needed to maintain or improve Space Shuttle safety throughout the periods described in the first sentence of this subsection were the President inaugurated

on January 20, 2009, to extend Space Shuttle operations beyond 2010, the currently anticipated date of Space Shuttle retirement;

(4) the impacts on facilities, workforce, and resources for the Constellation program and on the cost and schedule of that program;

(5) assumptions regarding workforce, skill mix, launch and processing infrastructure, training, ground support, orbiter maintenance and vehicle utilization, and other relevant factors, as appropriate, used in deriving the cost and schedule estimates for the options studied;

(6) the extent to which program management, processes, and workforce and contractor assignments can be integrated and streamlined for maximum efficiency to support continued shuttle flights while transitioning to the Constellation program, including identification of associated cost impacts on both the Space Shuttle and the Constellation program;

(7) the impact of a Space Shuttle flight program extension on the United States' dependence on Russia for International Space Station crew rescue services; and

(8) the potential for enhancements of International Space Station research, logistics, and maintenance capabilities resulting from extended Shuttle flight operations and the costs associated with implementing any such enhancements.

**SEC. 612. UNITED STATES COMMERCIAL CARGO CAPABILITY STATUS.**

The Administrator shall determine the degree to which an increase in the amounts authorized to be appropriated under section 101(3) for the Commercial Orbital Transportation Services project to be used by Phase One team members of such project in fiscal year 2009 would reasonably be expected to accelerate development of Capabilities A, B, and C of such project to an effective operational capability as close to 2010 as possible.

**SEC. 613. SPACE SHUTTLE TRANSITION.** 42 USC 17761.

(a) DISPOSITION OF SHUTTLE-RELATED ASSETS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall submit to Congress a plan describing the process for the disposition of the remaining Space Shuttle Orbiters and other Space Shuttle program-related hardware after the retirement of the Space Shuttle fleet. Deadline. Plan.

(2) PLAN REQUIREMENTS.—The plan submitted under paragraph (1) shall include a description of a process by which educational institutions, science museums, and other appropriate organizations may acquire, through loan or disposal by the Federal Government, Space Shuttle program hardware.

(3) PROHIBITION ON DISPOSITION BEFORE COMPLETION OF PLAN.—The Administrator shall not dispose of any Space Shuttle program hardware before the plan required by paragraph (1) is submitted to Congress.

(b) SPACE SHUTTLE TRANSITION LIAISON OFFICE.—

(1) ESTABLISHMENT.—The Administrator shall develop a plan and establish a Space Shuttle Transition Liaison Office within the Office of Human Capital Management of NASA to assist local communities affected by the termination of the Space Shuttle program in mitigating the negative impacts on such communities caused by such termination. The plan shall Plan.

define the size of the affected local community that would receive assistance described in paragraph (2).

(2) MANNER OF ASSISTANCE.—In providing assistance under paragraph (1), the office established under such paragraph shall—

(A) offer nonfinancial, technical assistance to communities described in such paragraph to assist in the mitigation described in such paragraph; and

(B) serve as a clearinghouse to assist such communities in identifying services available from other Federal, State, and local agencies to assist in such mitigation.

(3) TERMINATION OF OFFICE.—The office established under paragraph (1) shall terminate 2 years after the completion of the last Space Shuttle flight.

Deadline. Records.

(4) SUBMISSION.—Not later than 180 days after the date of enactment of this Act, NASA shall provide a copy of the plan required by paragraph (1) to the Congress.

**SEC. 614. AEROSPACE SKILLS RETENTION AND INVESTMENT REUTILIZATION REPORT.**

(a) IN GENERAL.—The Administrator shall, in consultation with other Federal agencies, as appropriate—

(1) carry out an analysis of the facilities and human capital resources that will become available as a result of the retirement of the Space Shuttle program; and

(2) identify on-going or future Federal programs and projects that could use such facilities and resources.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report—

(1) on the analysis required by paragraph (1) of subsection (a), including the findings of the Administrator with respect to such analysis; and

(2) describing the programs and projects identified under paragraph (2) of such subsection.

**SEC. 615. TEMPORARY CONTINUATION OF COVERAGE OF HEALTH BENEFITS.**

(a) IN GENERAL.—Section 8905a(d) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(6)(A) If the basis for continued coverage under this section is, as a result of the termination of the Space Shuttle Program, an involuntary separation from a position due to a reduction-in-force or declination of a directed reassignment or transfer of function, or a voluntary separation from a surplus position in the National Aeronautics and Space Administration—

"(i) the individual shall be liable for not more than the employee contributions referred to in paragraph (1)(A)(i); and

Payments.

"(ii) the National Aeronautics and Space Administration shall pay the remaining portion of the amount required under paragraph (1)(A).

Applicability.

"(B) This paragraph shall only apply with respect to individuals whose continued coverage is based on a separation occurring on or after the date of enactment of this paragraph and before December 31, 2010.

"(C) For purposes of this paragraph, 'surplus position' means a position which is—

"(i) identified in pre-reduction-in-force planning as no longer required, and which is expected to be eliminated under formal reduction-in-force procedures as a result of the termination of the Space Shuttle Program; or

"(ii) encumbered by an employee who has received official certification from the National Aeronautics and Space Administration consistent with the Administration's career transition assistance program regulations that the position is being abolished as a result of the termination of the Space Shuttle Program.".

(b) CONFORMING AMENDMENT.—Paragraph (1)(A) of such subsection (d) is amended by striking "(4) and (5)" and inserting "(4), (5), and (6)".

**SEC. 616. ACCOUNTING REPORT.**

Within 180 days after the date of enactment of this Act, the Administrator shall provide to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that will summarize any actions taken or planned to be taken during fiscal years 2008 and 2009 to begin reductions in expenditures and activities related to the Space Shuttle program. The report shall include a summary of any actual or anticipated cost savings to the Space Shuttle program relative to the FY 2008 and FY 2009 Space Shuttle program budgets and runout projections as a result of such actions, as well as a summary of any actual or anticipated liens or budgetary challenges to the Space Shuttle program during fiscal years 2008 and 2009.

## Subtitle C—Launch Services

**SEC. 621. LAUNCH SERVICES STRATEGY.** 42 USC 17771.

(a) IN GENERAL.—In preparation for the award of contracts to follow up on the current NASA Launch Services (NLS) contracts, the Administrator shall develop a strategy for providing domestic commercial launch services in support of NASA's small and medium-sized Science, Space Operations, and Exploration missions, consistent with current law and policy.

(b) REPORT.—The Administrator shall transmit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the strategy developed under subsection (a) not later than 90 days after the date of enactment of this Act. The report shall provide, at a minimum—

(1) the results of the Request for Information on small to medium-sized launch services released on April 22, 2008;

(2) an analysis of possible alternatives to maintain small and medium-sized lift capabilities after June 30, 2010, including the use of the Department of Defense's Evolved Expendable Launch Vehicle (EELV);

(3) the recommended alternatives, and associated 5-year budget plans starting in October 2010 that would enable their implementation; and

(4) a contingency plan in the event the recommended alternatives described in paragraph (3) are not available when needed.

# TITLE VII—EDUCATION

**SEC. 701. RESPONSE TO REVIEW.**

(a) PLAN.—The Administrator shall prepare a plan identifying actions taken or planned in response to the recommendations of the National Academies report, "NASA's Elementary and Secondary Education Program: Review and Critique". For those actions that have not been implemented, the plan shall include a schedule and budget required to support the actions.

(b) REPORT.—The plan prepared under subsection (a) shall be transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

**SEC. 702. EXTERNAL REVIEW OF EXPLORER SCHOOLS PROGRAM.**

(a) REVIEW.—The Administrator shall make arrangements for an independent external review of the Explorer Schools program to evaluate its goals, status, plans, and accomplishments.

(b) REPORT.—The report of the independent external review shall be transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

**SEC. 703. SENSE OF CONGRESS ON EARTHKAM AND ROBOTICS COMPETITIONS.**

It is the sense of Congress that NASA's educational programs are important sources of inspiration and hands-on learning for the next generation of engineers and scientists and should be supported. In that regard, programs such as EarthKAM, which brings NASA directly into American classrooms by enabling students to talk directly with astronauts aboard the International Space Station and to take photographs of Earth from space, and NASA involvement in robotics competitions for students of all levels, are particularly worthy undertakings and NASA should support them and look for additional opportunities to engage students through NASA's space and aeronautics activities.

42 USC 17781.

**SEC. 704. ENHANCEMENT OF EDUCATIONAL ROLE OF NASA.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the International Space Station offers a unique opportunity for Federal agencies to engage students in science, technology, engineering, and mathematics education. Congress encourages NASA to include other Federal agencies in its planning efforts to use the International Space Station National Laboratory for science, technology, engineering, and mathematics educational activities.

(b) EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.—In order to ensure that research expertise and talent throughout the Nation is developed and engaged in NASA research and education activities, NASA shall, as part of its annual budget submission, detail additional steps that can be taken to further

integrate the participating EPSCoR States in both existing and new or emerging NASA research programs and center activities.

(c) NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM.—NASA shall continue its emphasis on the importance of education to expand opportunities for Americans to understand and participate in NASA's aeronautics and space projects by supporting and enhancing science and engineering education, research, and public outreach efforts.

# TITLE VIII—NEAR-EARTH OBJECTS

**SEC. 801. REAFFIRMATION OF POLICY.** 42 USC 17791.

(a) REAFFIRMATION OF POLICY ON SURVEYING NEAR-EARTH ASTEROIDS AND COMETS.—Congress reaffirms the policy set forth in section 102(g) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451(g)) (relating to surveying near-Earth asteroids and comets).

(b) SENSE OF CONGRESS ON BENEFITS OF NEAR-EARTH OBJECT PROGRAM ACTIVITIES.—It is the sense of Congress that the near-Earth object program activities of NASA will provide benefits to the scientific and exploration activities of NASA.

**SEC. 802. FINDINGS.** 42 USC 17792.

Congress makes the following findings:

(1) Near-Earth objects pose a serious and credible threat to humankind, as many scientists believe that a major asteroid or comet was responsible for the mass extinction of the majority of the Earth's species, including the dinosaurs, nearly 65,000,000 years ago.

(2) Several such near-Earth objects have only been discovered within days of the objects' closest approach to Earth and recent discoveries of such large objects indicate that many large near-Earth objects remain undiscovered.

(3) Asteroid and comet collisions rank as one of the most costly natural disasters that can occur.

(4) The time needed to eliminate or mitigate the threat of a collision of a potentially hazardous near-Earth object with Earth is measured in decades.

(5) Unlike earthquakes and hurricanes, asteroids and comets can provide adequate collision information, enabling the United States to include both asteroid-collision and comet-collision disaster recovery and disaster avoidance in its public-safety structure.

(6) Basic information is needed for technical and policy decisionmaking for the United States to create a comprehensive program in order to be ready to eliminate and mitigate the serious and credible threats to humankind posed by potentially hazardous near-Earth asteroids and comets.

(7) As a first step to eliminate and to mitigate the risk of such collisions, situation and decision analysis processes, as well as procedures and system resources, must be in place well before a collision threat becomes known.

**SEC. 803. REQUESTS FOR INFORMATION.** 42 USC 17793.

The Administrator shall issue requests for information on—

(1) a low-cost space mission with the purpose of rendezvousing with, attaching a tracking device, and characterizing the Apophis asteroid; and

(2) a medium-sized space mission with the purpose of detecting near-Earth objects equal to or greater than 140 meters in diameter.

42 USC 17794.

**SEC. 804. ESTABLISHMENT OF POLICY WITH RESPECT TO THREATS POSED BY NEAR-EARTH OBJECTS.**

Deadline.

Within 2 years after the date of enactment of this Act, the Director of the OSTP shall—

(1) develop a policy for notifying Federal agencies and relevant emergency response institutions of an impending near-Earth object threat, if near-term public safety is at risk; and

Recommendations.

(2) recommend a Federal agency or agencies to be responsible for—

(A) protecting the United States from a near-Earth object that is expected to collide with Earth; and

(B) implementing a deflection campaign, in consultation with international bodies, should one be necessary.

42 USC 17795.

**SEC. 805. PLANETARY RADAR CAPABILITY.**

The Administrator shall maintain a planetary radar that is comparable to the capability provided through the Deep Space Network Goldstone facility of NASA.

**SEC. 806. ARECIBO OBSERVATORY.**

Congress reiterates its support for the use of the Arecibo Observatory for NASA-funded near-Earth object-related activities. The Administrator, using funds authorized in section 101(a)(1)(B), shall ensure the availability of the Arecibo Observatory's planetary radar to support these activities until the National Academies' review of NASA's approach for the survey and deflection of near-Earth objects, including a determination of the role of Arecibo, that was directed to be undertaken by the Fiscal Year 2008 Omnibus Appropriations Act, is completed.

**SEC. 807. INTERNATIONAL RESOURCES.**

It is the sense of Congress that, since an estimated 25,000 asteroids of concern have yet to be discovered and monitored, the United States should seek to obtain commitments for cooperation from other nations with significant resources for contributing to a thorough and timely search for such objects and an identification of their characteristics.

# TITLE IX—COMMERCIAL INITIATIVES

**SEC. 901. SENSE OF CONGRESS.**

It is the sense of Congress that a healthy and robust commercial sector can make significant contributions to the successful conduct of NASA's space exploration program. While some activities are inherently governmental in nature, there are many other activities, such as routine supply of water, fuel, and other consumables to low Earth orbit or to destinations beyond low Earth orbit, and provision of power or communications services to lunar outposts, that potentially could be carried out effectively and efficiently by

the commercial sector at some point in the future. Congress encourages NASA to look for such service opportunities and, to the maximum extent practicable, make use of the commercial sector to provide those services. It is further the sense of Congress that United States entrepreneurial space companies have the potential to develop and deliver innovative technology solutions at affordable costs. NASA is encouraged to use United States entrepreneurial space companies to conduct appropriate research and development activities. NASA is further encouraged to seek ways to ensure that firms that rely on fixed-price proposals are not disadvantaged when NASA seeks to procure technology development.

**SEC. 902. COMMERCIAL CREW INITIATIVE.** 42 USC 17801.

(a) IN GENERAL.—In order to stimulate commercial use of space, help maximize the utility and productivity of the International Space Station, and enable a commercial means of providing crew transfer and crew rescue services for the International Space Station, NASA shall—

(1) make use of United States commercially provided International Space Station crew transfer and crew rescue services to the maximum extent practicable, if those commercial services have demonstrated the capability to meet NASA-specified ascent, entry, and International Space Station proximity operations safety requirements;

(2) limit, to the maximum extent practicable, the use of the Crew Exploration Vehicle to missions carrying astronauts beyond low Earth orbit once commercial crew transfer and crew rescue services that meet safety requirements become operational;

(3) facilitate, to the maximum extent practicable, the transfer of NASA-developed technologies to potential United States commercial crew transfer and rescue service providers, consistent with United States law; and

(4) issue a notice of intent, not later than 180 days after the date of enactment of this Act, to enter into a funded, competitively awarded Space Act Agreement with 2 or more commercial entities for a Phase 1 Commercial Orbital Transportation Services crewed vehicle demonstration program. Notice. Deadline. Contracts.

(b) CONGRESSIONAL INTENT.—It is the intent of Congress that funding for the program described in subsection (a)(4) shall not come at the expense of full funding of the amounts authorized under section 101(3)(A), and for future fiscal years, for Orion Crew Exploration Vehicle development, Ares I Crew Launch Vehicle development, or International Space Station cargo delivery.

(c) ADDITIONAL TECHNOLOGIES.—NASA shall make International Space Station-compatible docking adaptors and other relevant technologies available to the commercial crew providers selected to service the International Space Station.

(d) CREW TRANSFER AND CREW RESCUE SERVICES CONTRACT.—If a commercial provider demonstrates the capability to provide International Space Station crew transfer and crew rescue services and to satisfy NASA ascent, entry, and International Space Station proximity operations safety requirements, NASA shall enter into an International Space Station crew transfer and crew rescue services contract with that commercial provider for a portion of NASA's anticipated International Space Station crew transfer and crew

rescue requirements from the time the commercial provider commences operations under contract with NASA through calendar year 2016, with an option to extend the period of performance through calendar year 2020.

# TITLE X—REVITALIZATION OF NASA INSTITUTIONAL CAPABILITIES

**SEC. 1001. REVIEW OF INFORMATION SECURITY CONTROLS.**

(a) REPORT ON CONTROLS.—Not later than one year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a review of information security controls that protect NASA's information technology resources and information from inadvertent or deliberate misuse, fraudulent use, disclosure, modification, or destruction. The review shall focus on networks servicing NASA's mission directorates. In assessing these controls, the review shall evaluate—

(1) the network's ability to limit, detect, and monitor access to resources and information, thereby safeguarding and protecting them from unauthorized access;

(2) the physical access to network resources; and

(3) the extent to which sensitive research and mission data is encrypted.

(b) RESTRICTED REPORT ON INTRUSIONS.—Not later than one year after the date of enactment of this Act, and in conjunction with the report described in subsection (a), the Comptroller General shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a restricted report detailing results of vulnerability assessments conducted by the Government Accountability Office on NASA's network resources. Intrusion attempts during such vulnerability assessments shall be divulged to NASA senior management prior to their application. The report shall put vulnerability assessment results in the context of unauthorized accesses or attempts during the prior two years and the corrective actions, recent or ongoing, that NASA has implemented in conjunction with other Federal authorities to prevent such intrusions.

42 USC 17811.

**SEC. 1002. MAINTENANCE AND UPGRADE OF CENTER FACILITIES.**

(a) IN GENERAL.—In order to sustain healthy Centers that are capable of carrying out NASA's missions, the Administrator shall ensure that adequate maintenance and upgrading of those Center facilities is performed on a regular basis.

Strategy.
Budget plan.

(b) REVIEW.—The Administrator shall determine and prioritize the maintenance and upgrade backlog at each of NASA's Centers and associated facilities, and shall develop a strategy and budget plan to reduce that maintenance and upgrade backlog by 50 percent over the next five years.

(c) REPORT.—The Administrator shall deliver a report to Congress on the results of the activities undertaken in subsection (b) concurrently with the delivery of the fiscal year 2011 budget request.

**SEC. 1003. ASSESSMENT OF NASA LABORATORY CAPABILITIES.** 42 USC 17812.

(a) IN GENERAL.—NASA's laboratories are a critical component of NASA's research capabilities, and the Administrator shall ensure that those laboratories remain productive.

(b) REVIEW.—The Administrator shall enter into an arrangement for an independent external review of NASA's laboratories, including laboratory equipment, facilities, and support services, to determine whether they are equipped and maintained at a level adequate to support NASA's research activities. The assessment shall also include an assessment of the relative quality of NASA's in-house laboratory equipment and facilities compared to comparable laboratories elsewhere. The results of the review shall be provided to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 18 months after the date of enactment of this Act. Deadline.

**SEC. 1004. STUDY AND REPORT ON PROJECT ASSIGNMENT AND WORK ALLOCATION OF FIELD CENTERS.**

(a) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall complete a study of all field centers of NASA, including the Michoud Assembly Facility.

(2) MATTERS STUDIED.—The study required by paragraph (1) shall include the mission and future roles and responsibilities of the field centers, including the Michoud Assembly Facility, described in paragraph (1).

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the appropriate congressional committees a report on the study required by subsection (a)(1).

(2) CONTENT.—The report required by paragraph (1) shall include the following:

(A) A comprehensive analysis of the work allocation of all field centers of NASA, including the Michoud Assembly Facility.

(B) A description of the program and project roles, functions, and activities assigned to each field center, including the Michoud Assembly Facility.

(C) Details on how field centers, including the Michoud Assembly Facility, are selected and designated for lead and support role work assignments (including program and contract management assignments).

# TITLE XI—OTHER PROVISIONS

**SEC. 1101. SPACE WEATHER.**

(a) PLAN FOR REPLACEMENT OF ADVANCED COMPOSITION EXPLORER AT L–1 LAGRANGIAN POINT.—

(1) PLAN.—The Director of OSTP shall develop a plan for sustaining space-based measurements of solar wind from the L–1 Lagrangian point in space and for the dissemination of the data for operational purposes. OSTP shall consult with Consultation.

NASA, NOAA, and other Federal agencies, and with industry, in developing the plan.

(2) REPORT.—The Director shall transmit the plan to Congress not later than 1 year after the date of enactment of this Act.

(b) ASSESSMENT OF THE IMPACT OF SPACE WEATHER ON AVIATION.—

(1) STUDY.—The Director of OSTP shall enter into an arrangement with the National Research Council for a study of the impacts of space weather on the current and future United States aviation industry, and in particular to examine the risks for Over-The-Pole (OTP) and Ultra-Long-Range (ULR) operations. The study shall—

(A) examine space weather impacts on, at a minimum, communications, navigation, avionics, and human health in flight;

(B) assess the benefits of space weather information and services to reduce aviation costs and maintain safety; and

(C) provide recommendations on how NOAA, the National Science Foundation, and other relevant agencies, can most effectively carry out research and monitoring activities related to space weather and aviation.

(2) REPORT.—A report containing the results of the study shall be provided to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

42 USC 17821.

**SEC. 1102. INITIATION OF DISCUSSIONS ON DEVELOPMENT OF FRAMEWORK FOR SPACE TRAFFIC MANAGEMENT.**

(a) FINDING.—Congress finds that as more countries acquire the capability for launching payloads into outer space, there is an increasing need for a framework under which information intended to promote safe access into outer space, operations in outer space, and return from outer space to Earth free from physical or radio-frequency interference can be shared among those countries.

(b) DISCUSSIONS.—The Administrator shall, in consultation with such other agencies of the Federal Government as the Administrator considers appropriate, initiate discussions with the appropriate representatives of other space-faring countries to determine an appropriate frame-work under which information intended to promote safe access into outer space, operations in outer space, and return from outer space to Earth free from physical or radio-frequency interference can be shared among those nations.

42 USC 17822.

**SEC. 1103. ASTRONAUT HEALTH CARE.**

(a) SURVEY.—The Administrator shall administer an anonymous survey of astronauts and flight surgeons to evaluate communication, relationships, and the effectiveness of policies. The survey questions and the analysis of results shall be evaluated by experts independent of NASA. The survey shall be administered on at least a biennial basis.

Deadlines.

(b) REPORT.—The Administrator shall transmit a report of the results of the survey to Congress not later than 90 days following completion of the survey.

**SEC. 1104. NATIONAL ACADEMIES DECADAL SURVEYS.** 42 USC 17823.

(a) IN GENERAL.—The Administrator shall enter into agreements on a periodic basis with the National Academies for independent assessments, also known as decadal surveys, to take stock of the status and opportunities for Earth and space science discipline fields and Aeronautics research and to recommend priorities for research and programmatic areas over the next decade.

(b) INDEPENDENT COST ESTIMATES.—The agreements described in subsection(a) shall include independent estimates of the life cycle costs and technical readiness of missions assessed in the decadal surveys whenever possible.

(c) REEXAMINATION.—The Administrator shall request that each National Academies decadal survey committee identify any conditions or events, such as significant cost growth or scientific or technological advances, that would warrant NASA asking the National Academies to reexamine the priorities that the decadal survey had established.

**SEC. 1105. INNOVATION PRIZES.**

(a) IN GENERAL.—Prizes can play a useful role in encouraging innovation in the development of technologies and products that can assist NASA in its aeronautics and space activities, and the use of such prizes by NASA should be encouraged. 42 USC 2459f–1 note.

(b) AMENDMENTS.—Section 314 of the National Aeronautics and Space Act of 1958 is amended— 42 USC 2459f–1.

(1) by amending subsection (b) to read as follows:

"(b) TOPICS.—In selecting topics for prize competitions, the Administrator shall consult widely both within and outside the Federal Government, and may empanel advisory committees. The Administrator shall give consideration to prize goals such as the demonstration of the ability to provide energy to the lunar surface from space-based solar power systems, demonstration of innovative near-Earth object survey and deflection strategies, and innovative approaches to improving the safety and efficiency of aviation systems."; and Consultation.

(2) in subsection (i)(4) by striking "$10,000,000" and inserting "$50,000,000".

**SEC. 1106. COMMERCIAL SPACE LAUNCH RANGE STUDY.**

(a) STUDY BY INTERAGENCY COMMITTEE.—The Director of OSTP shall work with other appropriate Federal agencies to establish an interagency committee to conduct a study to— Establishment.

(1) identify the issues and challenges associated with establishing space launch ranges and facilities that are fully dedicated to commercial space missions in close proximity to Federal launch ranges or other Federal facilities; and

(2) develop a coordinating mechanism such that States seeking to establish such commercial space launch ranges will be able to effectively and efficiently interface with the Federal Government concerning issues related to the establishment of such commercial launch ranges in close proximity to Federal launch ranges or other Federal facilities.

(b) REPORT.—The Director shall, not later than May 31, 2010, submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under subsection (a).

42 USC 17824.

**SEC. 1107. NASA OUTREACH PROGRAM.**

(a) ESTABLISHMENT.—NASA shall competitively select an organization to partner with NASA centers, aerospace contractors, and academic institutions to carry out a program to help promote the competitiveness of small, minority-owned, and women-owned businesses in communities across the United States through enhanced insight into the technologies of NASA's space and aeronautics programs. The program shall support the mission of NASA's Innovative Partnerships Program with its emphasis on joint partnerships with industry, academia, government agencies, and national laboratories.

(b) PROGRAM STRUCTURE.—In carrying out the program described in subsection (a), the organization shall support the mission of NASA's Innovative Partnerships Program by undertaking the following activities:

(1) Facilitating the enhanced insight of the private sector into NASA's technologies in order to increase the competitiveness of the private sector in producing viable commercial products.

(2) Creating a network of academic institutions, aerospace contractors, and NASA centers that will commit to donating appropriate technical assistance to small businesses, giving preference to socially and economically disadvantaged small business concerns, small business concerns owned and controlled by service-disabled veterans, and HUBZone small business concerns. This paragraph shall not apply to any contracting actions entered into or taken by NASA.

(3) Creating a network of economic development organizations to increase the awareness and enhance the effectiveness of the program nationwide.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administrator shall submit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the efforts and accomplishments of the program established under subsection (a) in support of NASA's Innovative Partnerships Program. As part of the report, the Administrator shall provide—

(1) data on the number of small businesses receiving assistance, jobs created and retained, and volunteer hours donated by NASA, contractors, and academic institutions nationwide;

(2) an estimate of the total dollar value of the economic impact made by small businesses that received technical assistance through the program; and

(3) an accounting of the use of funds appropriated for the program.

**SEC. 1108. REDUCTION-IN-FORCE MORATORIUM.**

NASA shall not initiate or implement a reduction-in-force, or conduct any other involuntary separations of permanent, non-Senior Executive Service, civil servant employees before December 31, 2010, except for cause on charges of misconduct, delinquency, or inefficiency.

**SEC. 1109. PROTECTION OF SCIENTIFIC CREDIBILITY, INTEGRITY, AND COMMUNICATION WITHIN NASA.** 42 USC 17825.

(a) SENSE OF THE CONGRESS.—It is the sense of Congress that NASA should not dilute, distort, suppress, or impede scientific research or the dissemination thereof.

(b) STUDY.—Within 60 days after the date of enactment of this Act, the Comptroller General shall— Deadlines.

(1) initiate a study to be completed within 270 days to determine whether the regulations set forth in part 1213 of title 14, Code of Federal Regulations, are being implemented in a clear and consistent manner by NASA to ensure the dissemination of research; and

(2) transmit a report to the Congress setting forth the Comptroller General's findings, conclusions, and recommendations. Reports.

(c) RESEARCH.—The Administrator shall work to ensure that NASA's policies on the sharing of climate related data respond to the recommendations of the Government Accountability Office's report on climate change research and data-sharing policies and to the recommendations on the processing, distribution, and archiving of data by the National Academies Earth Science Decadal Survey, "Earth Science and Applications from Space", and other relevant National Academies reports, to enhance and facilitate their availability and widest possible use to ensure public access to accurate and current data on global warming.

**SEC. 1110. SENSE OF CONGRESS REGARDING THE NEED FOR A ROBUST WORKFORCE.**

It is the sense of Congress that—

(1) a robust and highly skilled workforce is critical to the success of NASA's programs;

(2) voluntary attrition, the retirement of many senior workers, and difficulties in recruiting could leave NASA without access to the intellectual capital necessary to compete with its global competitors; and

(3) NASA should work cooperatively with other agencies of the United States Government responsible for programs related to space and the aerospace industry to develop and implement policies, including those with an emphasis on improving science, technology, engineering, and mathematics education at all levels, to sustain and expand the diverse workforce available to NASA.

**SEC. 1111. METHANE INVENTORY.** 42 USC 17826.

Within 12 months after the date of enactment of this Act, the Director of OSTP, in conjunction with the Administrator, the Administrator of NOAA, and other appropriate Federal agencies and academic institutions, shall develop a plan, including a cost estimate and timetable, and initiate an inventory of natural methane stocks and fluxes in the polar region of the United States. Deadline. Plan.

**SEC. 1112. EXCEPTION TO ALTERNATIVE FUEL PROCUREMENT REQUIREMENT.** 42 USC 17827.

Section 526(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142(a)) does not prohibit NASA from entering into a contract to purchase a generally available fuel that is not an alternative or synthetic fuel or predominantly produced from a nonconventional petroleum source, if—

(1) the contract does not specifically require the contractor to provide an alternative or synthetic fuel or fuel from a nonconventional petroleum source;

(2) the purpose of the contract is not to obtain an alternative or synthetic fuel or fuel from a nonconventional petroleum source; and

(3) the contract does not provide incentives for a refinery upgrade or expansion to allow a refinery to use or increase its use of fuel from a nonconventional petroleum source.

**SEC. 1113. SENSE OF CONGRESS ON THE IMPORTANCE OF THE NASA OFFICE OF PROGRAM ANALYSIS AND EVALUATION.**

(a) OFFICE OF PROGRAM ANALYSIS AND EVALUATION.—It is the sense of Congress that it is important for NASA to maintain an Office of Program Analysis and Evaluation that has as its mission:

(1) To develop strategic plans for NASA in accordance with section 306 of title 5, United States Code.

(2) To develop annual performance plans for NASA in accordance with section 1115 of title 31, United States Code.

(3) To provide analysis and recommendations to the Administrator on matters relating to the planning and programming phases of the Planning, Programming, Budgeting, and Execution system of NASA.

(4) To provide analysis and recommendations to the Administrator on matters relating to acquisition management and program oversight, including cost-estimating processes, contractor cost reporting processes, and contract performance assessments.

(b) OBJECTIVES.—It is further the sense of Congress that in performing those functions, the objectives of the Office should be the following:

(1) To align NASA's mission, strategic plan, budget, and performance plan with strategic goals and institutional requirements of NASA.

(2) To provide objective analysis of programs and institutions of NASA—

(A) to generate investment options for NASA; and

(B) to inform strategic decision making in NASA.

(3) To enable cost-effective, strategically aligned execution of programs and projects by NASA.

(4) To perform independent cost estimation in support of NASA decision making and establishment of standards for agency cost analysis.

(5) To ensure that budget formulation and execution are consistent with strategic investment decisions of NASA.

(6) To provide independent program and project reviews that address the credibility of technical, cost, schedule, risk, and management approaches with respect to available resources.

(7) To facilitate progress by NASA toward meeting the commitments of NASA.

**SEC. 1114. SENSE OF CONGRESS ON ELEVATING THE IMPORTANCE OF SPACE AND AERONAUTICS WITHIN THE EXECUTIVE OFFICE OF THE PRESIDENT.**

It is the sense of Congress that the President should elevate the importance of space and aeronautics within the Executive Office of the President by organizing the interagency focus on space and

aeronautics matters in as effective a manner as possible, such as by means of the National Space Council authorized by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471) or other appropriate mechanisms.

**SEC. 1115. STUDY ON LEASING PRACTICES OF FIELD CENTERS.**

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Administrator shall complete a study on the leasing practices of all field centers of NASA, including the Michoud Assembly Facility. Such study shall include the following: Deadline.

(1) The method by which overhead maintenance expenses are distributed among tenants of such field centers.

(2) Identification of the impacts of such method on attracting businesses and partnerships to such field centers.

(3) Identification of the steps that can be taken to mitigate any adverse impacts identified under paragraph (2).

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the study required by subsection (a), including the following:

(1) The findings of the Administrator with respect to such study.

(2) A description of the impacts identified under subsection (a)(2).

(3) The steps identified under subsection (a)(3).

**SEC. 1116. COOPERATIVE UNMANNED AERIAL VEHICLE ACTIVITIES.** 42 USC 17828.

The Administrator, in cooperation with the Administrator of NOAA and in coordination with other agencies that have existing civil capabilities, shall continue to utilize the capabilities of unmanned aerial vehicles as appropriate in support of NASA and interagency cooperative missions. The Administrator may enter into cooperative agreements with universities with unmanned aerial vehicle programs and related assets to conduct collaborative research and development activities, including development of appropriate applications of small unmanned aerial vehicle technologies and systems in remote areas.

**SEC. 1117. DEVELOPMENT OF ENHANCED-USE LEASE POLICY.** 42 USC 17829.

(a) IN GENERAL.—The Administrator shall develop an agency-wide enhanced-use lease policy that—

(1) is based upon sound business practices and lessons learned from the demonstration centers; and

(2) establishes controls and procedures to ensure accountability and protect the interests of the Government.

(b) CONTENTS.—The policy required by subsection (a) shall include the following:

(1) Criteria for determining whether enhanced-use lease provides better economic value to the Government than other options, such as—

(A) Federal financing through appropriations; or

(B) sale of the property.

(2) Requirement for the identification of proposed physical and procedural changes needed to ensure security and restrict access to specified areas, coordination of proposed changes with

existing site tenants, and development of estimated costs of such changes.

(3) Measures of effectiveness for the enhanced-use lease program.

(4) Accounting controls and procedures to ensure accountability, such as an audit trail and documentation to readily support financial transactions.

(c) ANNUAL REPORT.—Section 315(f) of the National Aeronautics and Space Administration Act of 1958 (42 U.S.C. 2459j(f)) is amended to read as follows:

"(f) REPORTING REQUIREMENTS.—The Administrator shall submit an annual report by January 31st of each year. Such report shall include the following:

"(1) Information that identifies and quantifies the value of the arrangements and expenditures of revenues received under this section.

"(2) The availability and use of funds received under this section for the Agency's operating plan.".

(d) DISTRIBUTION OF CASH CONSIDERATION RECEIVED.—

(1) IN GENERAL.—Section 315(b)(3)(B) of such Act (42 U.S.C. 2459j(b)(3)(B)) is amended to read as follows:

"(B) Of any amounts of cash consideration received under this subsection that are not utilized in accordance with subparagraph (A)—

"(i) 35 percent shall be deposited in a capital asset account to be established by the Administrator, shall be available for maintenance, capital revitalization, and improvements of the real property assets and related personal property under the jurisdiction of the Administrator, and shall remain available until expended; and

"(ii) the remaining 65 percent shall be available to the respective center or facility of the Administration engaged in the lease of nonexcess real property, and shall remain available until expended for maintenance, capital revitalization, and improvements of the real property assets and related personal property at the respective center or facility subject to the concurrence of the Administrator.".

(2) CONFORMING AMENDMENTS.—Section 533 of the Consolidated Appropriations Act, 2008 (Pub1ic Law 110–161; 121 Stat. 1931) is amended—

42 USC 2459j.

(A) by amending subsection (b)(4) to read as follows:

"(4) in paragraph (2), as redesignated by paragraph (3) of this subsection, by adding at the end the following new subparagraph:

"'(C) Amounts utilized under subparagraph (B) may not be utilized for daily operating costs.'."; and

(B) in subsection (d)—

(i) by striking "the following new subsection (f)" and inserting "the following new subsection"; and

(ii) in the quoted matter, by redesignating subsection (f) as subsection (g).

**SEC. 1118. SENSE OF CONGRESS WITH RESPECT TO THE MICHOUD ASSEMBLY FACILITY AND NASA'S OTHER CENTERS AND FACILITIES.**

It is the sense of Congress that the Michoud Assembly Facility represents a unique resource in the facilitation of the Nation's exploration programs and that every effort should be made to ensure the effective utilization of that resource, as well as NASA's other centers and facilities.

**SEC. 1119. REPORT ON U.S. INDUSTRIAL BASE FOR LAUNCH VEHICLE ENGINES.**

Not later than 180 days after the date of Enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report setting forth the assessment of the Director as to the capacity of the United States industrial base for development and production of engines to meet United States Government and commercial requirements for space launch vehicles. The report required by this section shall include information regarding existing, pending, and planned engine developments across a broad spectrum of thrust capabilities, including propulsion for sub-orbital, small, medium, and heavy-lift space launch vehicles.

**SEC. 1120. SENSE OF CONGRESS ON PRECURSOR INTERNATIONAL SPACE STATION RESEARCH.**

It is the Sense of Congress that NASA is taking positive steps to utilize the Space Shuttle as a platform for precursor International Space Station research by maximizing to the extent practicable the use of middeck accommodations, including soft stowage, for near-term scientific and commercial applications on remaining Space Shuttle flights, and the Administrator is strongly encouraged to continue to promote the effective utilization of the Space Shuttle for precursor research within the constraints of the International Space Station assembly requirements.

**SEC. 1121. LIMITATION ON FUNDING FOR CONFERENCES.**

(a) IN GENERAL.—There are authorized to be appropriated not more than $5,000,000 for any expenses related to conferences, including conference programs, travel costs, and related expenses. No funds authorized under this Act may be used to support a Space Flight Awareness Launch Honoree Event conference. The total amount of the funds available under this Act for other Space Flight Awareness Honoree-related activities in fiscal year 2009 may not exceed ½ of the total amount of funds from all sources obligated or expended on such activities in fiscal year 2008.

(b) QUARTERLY REPORTS.—The Administrator shall submit quarterly reports to the Inspector General of NASA regarding the costs and contracting procedures relating to each conference held by NASA during fiscal year 2009 for which the cost to the Government is more than $20,000. Each report shall include, for each conference described in that subsection held during the applicable quarter—

(1) a description of the subject of and number of participants attending, the conference, including the number of NASA employees attending and the number of contractors attending at agency expense;

(2) a detailed statement of the costs to the Government relating to the conference, including—

(A) the cost of any food or beverages;

(B) the cost of any audio-visual services; and

(C) a discussion of the methodology used to determine which costs relate to the conference; and

D) cost of any room, board, travel, and per diem expenses; and

(3) a description of the contracting procedures relating to the conference, including—

(A) whether contracts were awarded on a competitive basis for that conference; and

(B) a discussion of any cost comparison conducted by NASA in evaluating potential contractors for that conference.

**SEC. 1122. REPORT ON NASA EFFICIENCY AND PERFORMANCE.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that contains a review of NASA programs and associated activities with an annual funding level of more than $50,000,000 that appear to be similar in scope and purpose to other activities within the Federal government, that includes—

(1) a brief description of each NASA program reviewed and its subordinate activities;

(2) the annual and cumulative appropriation amounts expended for each program reviewed and its subordinate activities since fiscal year 2005;

(3) a brief description of each Federal program and its subordinate activities that appears to have a similar scope and purpose to a NASA program; and

(4) a review of the formal and informal processes by which NASA coordinates with other Federal agencies to ensure that its programs and activities are not duplicative of similar efforts within the Federal government and that the programs and activities meet the core mission of NASA, and the degree of transparency and accountability afforded by those processes.

(b) DUPLICATIVE PROGRAMS.—If the Comptroller General determines, under subsection (a)(4), that any deficiency exists in the NASA procedures intended to avoid or eliminate conflict or duplication with other Federal agency activities, the Comptroller General shall include a recommendation as to how such procedures should be modified to ensure similar programs and associated activities

can be consolidated, eliminated, or streamlined within NASA or within other Federal agencies to improve efficiency.

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.R. 6063 (S. 3270):

HOUSE REPORTS: No. 110–702 (Comm. on Science and Technology).
SENATE REPORTS: No. 110–422 accompanying S. 3270 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 154 (2008):
June 12, 18, considered and passed House.
Sept. 25, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendment.

# Public Law 110–423
# 110th Congress

## An Act

Oct. 15, 2008
[H.R. 6073]

To provide that Federal employees receiving their pay by electronic funds transfer shall be given the option of receiving their pay stubs electronically.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

31 USC 3332 note.

**SECTION 1. ELECTRONIC PAY STUBS.**

(a) IN GENERAL.—The Office of Personnel Management shall take such measures as may be appropriate to ensure that all employees who receive their pay by electronic funds transfer shall be given the option of receiving their pay stubs electronically.

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

(1) the term "electronic funds transfer" has the meaning given such term by section 3332 of title 31, United States Code;

(2) the term "employee" means an individual employed in or under an Executive agency; and

(3) the term "Executive agency" has the meaning given such term by section 105 of title 5, United States Code.

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.R. 6073:

HOUSE REPORTS: No. 110–780 (Comm. on Oversight and Government Reform).
CONGRESSIONAL RECORD, Vol. 154 (2008):
July 29, 30, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 110–424
110th Congress

# An Act

To authorize funding to conduct a national training program for State and local prosecutors.

Oct. 15, 2008
[H.R. 6083]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

42 USC 3721 note.

**SECTION 1. TRAINING FOR STATE AND LOCAL PROSECUTORS.**

Grants.

The Attorney General is authorized to award a grant to a national nonprofit organization (such as the National District Attorneys Association) to conduct a national training program for State and local prosecutors for the purpose of improving the professional skills of State and local prosecutors and enhancing the ability of Federal, State, and local prosecutors to work together.

**SEC. 2. COMPREHENSIVE CONTINUING LEGAL EDUCATION.**

The Attorney General may provide assistance to the grantee under section 1 to carry out the training program described in such section, including comprehensive continuing legal education in the areas of trial practice, substantive legal updates, support staff training, and any other assistance the Attorney General determines to be appropriate.

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Attorney General to carry out this Act $4,750,000 for each of the fiscal years 2009 through 2012, to remain available until expended.

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.R. 6083 (S. 2942):

HOUSE REPORTS: No. 110–784 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 154 (2008):
July 29, 31, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 110–425
110th Congress

# An Act

Oct. 15, 2008
[H.R. 6353]

To amend the Controlled Substances Act to address online pharmacies.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Ryan Haight Online Pharmacy Consumer Protection Act of 2008.
21 USC 801 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Ryan Haight Online Pharmacy Consumer Protection Act of 2008".

**SEC. 2. REQUIREMENT OF A VALID PRESCRIPTION FOR CONTROLLED SUBSTANCES DISPENSED BY MEANS OF THE INTERNET.**

Section 309 of the Controlled Substances Act (21 U.S.C. 829) is amended by adding at the end the following:

"(e) CONTROLLED SUBSTANCES DISPENSED BY MEANS OF THE INTERNET.—

"(1) No controlled substance that is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act may be delivered, distributed, or dispensed by means of the Internet without a valid prescription.

"(2) As used in this subsection:

"(A) The term 'valid prescription' means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by—

"(i) a practitioner who has conducted at least 1 in-person medical evaluation of the patient; or

"(ii) a covering practitioner.

"(B)(i) The term 'in-person medical evaluation' means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.

"(ii) Nothing in clause (i) shall be construed to imply that 1 in-person medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the usual course of professional practice.

"(C) The term 'covering practitioner' means, with respect to a patient, a practitioner who conducts a medical evaluation (other than an in-person medical evaluation) at the request of a practitioner who—

"(i) has conducted at least 1 in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine, within the previous 24 months; and

"(ii) is temporarily unavailable to conduct the evaluation of the patient.

"(3) Nothing in this subsection shall apply to—

"(A) the delivery, distribution, or dispensing of a controlled substance by a practitioner engaged in the practice of telemedicine; or

"(B) the dispensing or selling of a controlled substance pursuant to practices as determined by the Attorney General by regulation, which shall be consistent with effective controls against diversion.".

**SEC. 3. AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT RELATING TO THE DELIVERY OF CONTROLLED SUBSTANCES BY MEANS OF THE INTERNET.**

(a) IN GENERAL.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

"(50) The term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol to such protocol, to communicate information of all kinds by wire or radio.

"(51) The term 'deliver, distribute, or dispense by means of the Internet' refers, respectively, to any delivery, distribution, or dispensing of a controlled substance that is caused or facilitated by means of the Internet.

"(52) The term 'online pharmacy'—

"(A) means a person, entity, or Internet site, whether in the United States or abroad, that knowingly or intentionally delivers, distributes, or dispenses, or offers or attempts to deliver, distribute, or dispense, a controlled substance by means of the Internet; and

"(B) does not include—

"(i) manufacturers or distributors registered under subsection (a), (b), (d), or (e) of section 303 who do not dispense controlled substances to an unregistered individual or entity;

"(ii) nonpharmacy practitioners who are registered under section 303(f) and whose activities are authorized by that registration;

"(iii) any hospital or other medical facility that is operated by an agency of the United States (including the Armed Forces), provided such hospital or other facility is registered under section 303(f);

"(iv) a health care facility owned or operated by an Indian tribe or tribal organization, only to the extent such facility is carrying out a contract or compact under the Indian Self-Determination and Education Assistance Act;

"(v) any agent or employee of any hospital or facility referred to in clause (iii) or (iv), provided such agent or employee is lawfully acting in the usual course of business or employment, and within the scope of the official duties of such agent or employee, with such hospital or facility, and, with respect to agents or employees of health care facilities specified in clause (iv), only to the extent such individuals are furnishing services pursuant to the contracts or compacts described in such clause;

"(vi) mere advertisements that do not attempt to facilitate an actual transaction involving a controlled substance;

"(vii) a person, entity, or Internet site that is not in the United States and does not facilitate the delivery, distribution, or dispensing of a controlled substance by means of the Internet to any person in the United States;

"(viii) a pharmacy registered under section 303(f) whose dispensing of controlled substances via the Internet consists solely of—

"(I) refilling prescriptions for controlled substances in schedule III, IV, or V, as defined in paragraph (55); or

"(II) filling new prescriptions for controlled substances in schedule III, IV, or V, as defined in paragraph (56); or

"(ix) any other persons for whom the Attorney General and the Secretary have jointly, by regulation, found it to be consistent with effective controls against diversion and otherwise consistent with the public health and safety to exempt from the definition of an 'online pharmacy'.

"(53) The term 'homepage' means the opening or main page or screen of the website of an online pharmacy that is viewable on the Internet.

"(54) The term 'practice of telemedicine' means, for purposes of this title, the practice of medicine in accordance with applicable Federal and State laws by a practitioner (other than a pharmacist) who is at a location remote from the patient and is communicating with the patient, or health care professional who is treating the patient, using a telecommunications system referred to in section 1834(m) of the Social Security Act, which practice—

"(A) is being conducted—

"(i) while the patient is being treated by, and physically located in, a hospital or clinic registered under section 303(f); and

"(ii) by a practitioner—

"(I) acting in the usual course of professional practice;

"(II) acting in accordance with applicable State law; and

"(III) registered under section 303(f) in the State in which the patient is located, unless the practitioner—

"(aa) is exempted from such registration in all States under section 302(d); or

"(bb) is—

"(AA) an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract; and

"(BB) registered under section 303(f) in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 303(f);

"(B) is being conducted while the patient is being treated by, and in the physical presence of, a practitioner—

"(i) acting in the usual course of professional practice;

"(ii) acting in accordance with applicable State law; and

"(iii) registered under section 303(f) in the State in which the patient is located, unless the practitioner—

"(I) is exempted from such registration in all States under section 302(d); or

"(II) is—

"(aa) an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract; and

"(bb) registered under section 303(f) in any State or is using the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 303(f);

"(C) is being conducted by a practitioner—

"(i) who is an employee or contractor of the Indian Health Service, or is working for an Indian tribe or tribal organization under its contract or compact with the Indian Health Service under the Indian Self-Determination and Education Assistance Act;

"(ii) acting within the scope of the employment, contract, or compact described in clause (i); and

"(iii) who is designated as an Internet Eligible Controlled Substances Provider by the Secretary under section 311(g)(2);

"(D)(i) is being conducted during a public health emergency declared by the Secretary under section 319 of the Public Health Service Act; and

"(ii) involves patients located in such areas, and such controlled substances, as the Secretary, with the concurrence of the Attorney General, designates, provided that such designation shall not be subject to the procedures prescribed by subchapter II of chapter 5 of title 5, United States Code;

"(E) is being conducted by a practitioner who has obtained from the Attorney General a special registration under section 311(h);

"(F) is being conducted—

"(i) in a medical emergency situation—

"(I) that prevents the patient from being in the physical presence of a practitioner registered under section 303(f) who is an employee or contractor of the Veterans Health Administration acting in the usual course of business and employment and within the scope of the official duties or contract of that employee or contractor;

"(II) that prevents the patient from being physically present at a hospital or clinic operated by the Department of Veterans Affairs registered under section 303(f);

"(III) during which the primary care practitioner of the patient or a practitioner otherwise practicing telemedicine within the meaning of this paragraph is unable to provide care or consultation; and

"(IV) that requires immediate intervention by a health care practitioner using controlled substances to prevent what the practitioner reasonably believes in good faith will be imminent and serious clinical consequences, such as further injury or death; and

"(ii) by a practitioner that—

"(I) is an employee or contractor of the Veterans Health Administration acting within the scope of that employment or contract;

"(II) is registered under section 303(f) in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 303(f); and

"(III) issues a controlled substance prescription in this emergency context that is limited to a maximum of a 5-day supply which may not be extended or refilled; or

"(G) is being conducted under any other circumstances that the Attorney General and the Secretary have jointly, by regulation, determined to be consistent with effective controls against diversion and otherwise consistent with the public health and safety.

"(55) The term 'refilling prescriptions for controlled substances in schedule III, IV, or V'—

"(A) means the dispensing of a controlled substance in schedule III, IV, or V in accordance with refill instructions issued by a practitioner as part of a valid prescription that meets the requirements of subsections (b) and (c) of section 309, as appropriate; and

"(B) does not include the issuance of a new prescription to an individual for a controlled substance that individual was previously prescribed.

"(56) The term 'filling new prescriptions for controlled substances in schedule III, IV, or V' means filling a prescription for an individual for a controlled substance in schedule III, IV, or V, if—

"(A) the pharmacy dispensing that prescription has previously dispensed to the patient a controlled substance other than by means of the Internet and pursuant to the valid prescription of a practitioner that meets the applicable requirements of subsections (b) and (c) of section 309 (in this paragraph referred to as the 'original prescription');

"(B) the pharmacy contacts the practitioner who issued the original prescription at the request of that individual to determine whether the practitioner will authorize the issuance of a new prescription for that individual for the controlled substance described in subparagraph (A); and

"(C) the practitioner, acting in the usual course of professional practice, determines there is a legitimate medical purpose for the issuance of the new prescription.".

(b) REGISTRATION REQUIREMENTS.—Section 303(f) of the Controlled Substances Act (21 U.S.C. 823(f)) is amended in the matter preceding paragraph (1)—

(1) in the first sentence, by adding after "schedule II, III, IV, or V" the following: "and shall modify the registrations of pharmacies so registered to authorize them to dispense controlled substances by means of the Internet"; and

(2) in the second sentence, by striking "if he determines that the issuance of such registration" and inserting "or such modification of registration if the Attorney General determines that the issuance of such registration or modification".

(c) REPORTING REQUIREMENTS.—Section 307(d) of the Controlled Substances Act (21 U.S.C. 827(d)) is amended by—

(1) striking "(d) Every" and inserting "(d)(1) Every"; and

(2) adding at the end the following:

"(2) Each pharmacy with a modified registration under section 303(f) that authorizes the dispensing of controlled substances by means of the Internet shall report to the Attorney General the controlled substances it dispenses, in the amount specified, and in such time and manner as the Attorney General by regulation shall require, except that the Attorney General, under this paragraph, may not require any pharmacy to report any information other than the total quantity of each controlled substance that the pharmacy has dispensed each month. For purposes of this paragraph, no reporting shall be required unless the pharmacy has met 1 of the following thresholds in the month for which the reporting is required: Regulations.

"(A) 100 or more prescriptions dispensed.

"(B) 5,000 or more dosage units of all controlled substances combined.".

(d) ONLINE PRESCRIPTION REQUIREMENTS.—

(1) IN GENERAL.—The Controlled Substances Act is amended by inserting after section 310 (21 U.S.C. 830) the following:

"ADDITIONAL REQUIREMENTS RELATING TO ONLINE PHARMACIES AND TELEMEDICINE

"SEC. 311. (a) IN GENERAL.—An online pharmacy shall display in a visible and clear manner on its homepage a statement that it complies with the requirements of this section with respect to the delivery or sale or offer for sale of controlled substances and shall at all times display on the homepage of its Internet site a declaration of compliance in accordance with this section. 21 USC 831.

"(b) LICENSURE.—Each online pharmacy shall comply with the requirements of State law concerning the licensure of pharmacies in each State from which it, and in each State to which it, delivers, distributes, or dispenses or offers to deliver, distribute, or dispense controlled substances by means of the Internet, pursuant to applicable licensure requirements, as determined by each such State.

"(c) INTERNET PHARMACY SITE DISCLOSURE INFORMATION.—Each online pharmacy shall post in a visible and clear manner on the homepage of each Internet site it operates, or on a page directly linked thereto in which the hyperlink is also visible and clear on the homepage, the following information for each pharmacy that delivers, distributes, or dispenses controlled substances pursuant to orders made on, through, or on behalf of, that website:

"(1) The name and address of the pharmacy as it appears on the pharmacy's Drug Enforcement Administration certificate of registration.

"(2) The pharmacy's telephone number and email address.

"(3) The name, professional degree, and States of licensure of the pharmacist-in-charge, and a telephone number at which the pharmacist-in-charge can be contacted.

"(4) A list of the States in which the pharmacy is licensed to dispense controlled substances.

"(5) A certification that the pharmacy is registered under this part to deliver, distribute, or dispense by means of the Internet controlled substances. Certification.

"(6) The name, address, telephone number, professional degree, and States of licensure of any practitioner who has a contractual relationship to provide medical evaluations or issue prescriptions for controlled substances, through referrals from the website or at the request of the owner or operator of the website, or any employee or agent thereof.

"(7) The following statement, unless revised by the Attorney General by regulation: 'This online pharmacy will only dispense a controlled substance to a person who has a valid prescription issued for a legitimate medical purpose based upon a medical relationship with a prescribing practitioner. This includes at least one prior in-person medical evaluation or medical evaluation via telemedicine in accordance with applicable requirements of section 309.'.

"(d) NOTIFICATION.—

Deadline.

"(1) IN GENERAL.—Thirty days prior to offering a controlled substance for sale, delivery, distribution, or dispensing, the online pharmacy shall notify the Attorney General, in such form and manner as the Attorney General shall determine, and the State boards of pharmacy in any States in which the online pharmacy offers to sell, deliver, distribute, or dispense controlled substances.

"(2) CONTENTS.—The notification required under paragraph (1) shall include—

"(A) the information required to be posted on the online pharmacy's Internet site under subsection (c) and shall notify the Attorney General and the applicable State boards of pharmacy, under penalty of perjury, that the information disclosed on its Internet site under subsection (c) is true and accurate;

"(B) the online pharmacy's Internet site address and a certification that the online pharmacy shall notify the Attorney General of any change in the address at least 30 days in advance; and

"(C) the Drug Enforcement Administration registration numbers of any pharmacies and practitioners referred to in subsection (c), as applicable.

Deadline.

"(3) EXISTING ONLINE PHARMACIES.—An online pharmacy that is already operational as of the effective date of this section, shall notify the Attorney General and applicable State boards of pharmacy in accordance with this subsection not later than 30 days after such date.

Regulations.

"(e) DECLARATION OF COMPLIANCE.—On and after the date on which it makes the notification under subsection (d), each online pharmacy shall display on the homepage of its Internet site, in such form as the Attorney General shall by regulation require, a declaration that it has made such notification to the Attorney General.

"(f) REPORTS.—Any statement, declaration, notification, or disclosure required under this section shall be considered a report required to be kept under this part.

"(g) NOTICE AND DESIGNATIONS CONCERNING INDIAN TRIBES.—

"(1) IN GENERAL.—For purposes of sections 102(52) and 512(c)(6)(B), the Secretary shall notify the Attorney General, at such times and in such manner as the Secretary and the Attorney General determine appropriate, of the Indian tribes or tribal organizations with which the Secretary has contracted

or compacted under the Indian Self-Determination and Education Assistance Act for the tribes or tribal organizations to provide pharmacy services.

"(2) DESIGNATIONS.—

"(A) IN GENERAL.—The Secretary may designate a practitioner described in subparagraph (B) as an Internet Eligible Controlled Substances Provider. Such designations shall be made only in cases where the Secretary has found that there is a legitimate need for the practitioner to be so designated because the population served by the practitioner is in a sufficiently remote location that access to medical services is limited.

"(B) PRACTITIONERS.—A practitioner described in this subparagraph is a practitioner who is an employee or contractor of the Indian Health Service, or is working for an Indian tribe or tribal organization under its contract or compact under the Indian Self-Determination and Education Assistance Act with the Indian Health Service.

"(h) SPECIAL REGISTRATION FOR TELEMEDICINE.—

"(1) IN GENERAL.—The Attorney General may issue to a practitioner a special registration to engage in the practice of telemedicine for purposes of section 102(54)(E) if the practitioner, upon application for such special registration—

"(A) demonstrates a legitimate need for the special registration; and

"(B) is registered under section 303(f) in the State in which the patient will be located when receiving the telemedicine treatment, unless the practitioner—

"(i) is exempted from such registration in all States under section 302(d); or

"(ii) is an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract and is registered under section 303(f) in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 303(f).

"(2) REGULATIONS.—The Attorney General shall, with the concurrence of the Secretary, promulgate regulations specifying the limited circumstances in which a special registration under this subsection may be issued and the procedures for obtaining such a special registration.

"(3) DENIALS.—Proceedings to deny an application for registration under this subsection shall be conducted in accordance with section 304(c).

"(i) REPORTING OF TELEMEDICINE BY VHA DURING MEDICAL EMERGENCY SITUATIONS.—

"(1) IN GENERAL.—Any practitioner issuing a prescription for a controlled substance under the authorization to conduct telemedicine during a medical emergency situation described in section 102(54)(F) shall report to the Secretary of Veterans Affairs the authorization of that emergency prescription, in accordance with such requirements as the Secretary of Veterans Affairs shall, by regulation, establish. Regulations.

"(2) TO ATTORNEY GENERAL.—Not later than 30 days after the date that a prescription described in subparagraph (A) is issued, the Secretary of Veterans Affairs shall report to

the Attorney General the authorization of that emergency prescription.

Regulations.

"(j) CLARIFICATION CONCERNING PRESCRIPTION TRANSFERS.—Any transfer between pharmacies of information relating to a prescription for a controlled substance shall meet the applicable requirements under regulations promulgated by the Attorney General under this Act.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513; 84 Stat. 1236) is amended by inserting after the item relating to section 310 the following:

"Sec. 311. Additional requirements relating to online pharmacies and telemedicine.".

(e) OFFENSES INVOLVING CONTROLLED SUBSTANCES IN SCHEDULES III, IV, AND V.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking "or in the case of any controlled substance in schedule III (other than gamma hydroxybutyric acid), or 30 milligrams of flunitrazepam"; and

(B) by adding at the end the following:

Penalties.

"(E)(i) Except as provided in subparagraphs (C) and (D), in the case of any controlled substance in schedule III, such person shall be sentenced to a term of imprisonment of not more than 10 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 15 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,500,000 if the defendant is other than an individual, or both.

"(ii) If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 30 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both.

"(iii) Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 4 years in addition to such term of imprisonment.";

(2) in paragraph (2)—

(A) by striking "3 years" and inserting "5 years";

(B) by striking "6 years" and inserting "10 years";

(C) by striking "after one or more prior convictions" and all that follows through "have become final," and inserting "after a prior conviction for a felony drug offense has become final,"; and

(3) in paragraph (3)—

(A) by striking "2 years" and inserting "4 years";

(B) by striking "after one or more convictions" and all that follows through "have become final," and inserting "after a prior conviction for a felony drug offense has become final,"; and

(C) by adding at the end the following "Any sentence imposing a term of imprisonment under this paragraph may, if there was a prior conviction, impose a term of supervised release of not more than 1 year, in addition to such term of imprisonment.".

(f) OFFENSES INVOLVING DISPENSING OF CONTROLLED SUBSTANCES BY MEANS OF THE INTERNET.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end the following:

"(h) OFFENSES INVOLVING DISPENSING OF CONTROLLED SUBSTANCES BY MEANS OF THE INTERNET.—

"(1) IN GENERAL.—It shall be unlawful for any person to knowingly or intentionally—

"(A) deliver, distribute, or dispense a controlled substance by means of the Internet, except as authorized by this title; or

"(B) aid or abet (as such terms are used in section 2 of title 18, United States Code) any activity described in subparagraph (A) that is not authorized by this title.

"(2) EXAMPLES.—Examples of activities that violate paragraph (1) include, but are not limited to, knowingly or intentionally—

"(A) delivering, distributing, or dispensing a controlled substance by means of the Internet by an online pharmacy that is not validly registered with a modification authorizing such activity as required by section 303(f) (unless exempt from such registration);

"(B) writing a prescription for a controlled substance for the purpose of delivery, distribution, or dispensation by means of the Internet in violation of section 309(e);

"(C) serving as an agent, intermediary, or other entity that causes the Internet to be used to bring together a buyer and seller to engage in the dispensing of a controlled substance in a manner not authorized by sections 303(f) or 309(e);

"(D) offering to fill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire; and

"(E) making a material false, fictitious, or fraudulent statement or representation in a notification or declaration under subsection (d) or (e), respectively, of section 311.

"(3) INAPPLICABILITY.—

"(A) This subsection does not apply to—

"(i) the delivery, distribution, or dispensation of controlled substances by nonpractitioners to the extent authorized by their registration under this title;

"(ii) the placement on the Internet of material that merely advocates the use of a controlled substance or includes pricing information without attempting to propose or facilitate an actual transaction involving a controlled substance; or

"(iii) except as provided in subparagraph (B), any activity that is limited to—

"(I) the provision of a telecommunications service, or of an Internet access service or Internet information location tool (as those terms are defined in section 231 of the Communications Act of 1934); or

"(II) the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication, without selection or alteration of the content of the communication, except that deletion of a particular communication or material made by another person in a manner consistent with section 230(c) of the Communications Act of 1934 shall not constitute such selection or alteration of the content of the communication.

"(B) The exceptions under subclauses (I) and (II) of subparagraph (A)(iii) shall not apply to a person acting in concert with a person who violates paragraph (1).

"(4) KNOWING OR INTENTIONAL VIOLATION.—Any person who knowingly or intentionally violates this subsection shall be sentenced in accordance with subsection (b).".

(g) PUBLICATION.—Section 403(c) of the Controlled Substances Act (21 U.S.C. 843(c)) is amended by—

(1) striking "(c)" and inserting "(c)(1)"; and

(2) adding at the end the following:

"(2)(A) It shall be unlawful for any person to knowingly or intentionally use the Internet, or cause the Internet to be used, to advertise the sale of, or to offer to sell, distribute, or dispense, a controlled substance where such sale, distribution, or dispensing is not authorized by this title or by the Controlled Substances Import and Export Act.

"(B) Examples of activities that violate subparagraph (A) include, but are not limited to, knowingly or intentionally causing the placement on the Internet of an advertisement that refers to or directs prospective buyers to Internet sellers of controlled substances who are not registered with a modification under section 303(f).

"(C) Subparagraph (A) does not apply to material that either—

"(i) merely advertises the distribution of controlled substances by nonpractitioners to the extent authorized by their registration under this title; or

"(ii) merely advocates the use of a controlled substance or includes pricing information without attempting to facilitate an actual transaction involving a controlled substance.".

(h) INJUNCTIVE RELIEF.—Section 512 of the Controlled Substances Act (21 U.S.C. 882) is amended by adding at the end the following:

"(c) STATE CAUSE OF ACTION PERTAINING TO ONLINE PHARMACIES.—

"(1) IN GENERAL.—In any case in which the State has reason to believe that an interest of the residents of that State has been or is being threatened or adversely affected by the action of a person, entity, or Internet site that violates the provisions of section 303(f), 309(e), or 311, the State may

bring a civil action on behalf of such residents in a district court of the United States with appropriate jurisdiction—

"(A) to enjoin the conduct which violates this section;

"(B) to enforce compliance with this section;

"(C) to obtain damages, restitution, or other compensation, including civil penalties under section 402(b); and

"(D) to obtain such other legal or equitable relief as the court may find appropriate.

"(2) SERVICE; INTERVENTION.—

Records.

"(A) Prior to filing a complaint under paragraph (1), the State shall serve a copy of the complaint upon the Attorney General and upon the United States Attorney for the judicial district in which the complaint is to be filed. In any case where such prior service is not feasible, the State shall serve the complaint on the Attorney General and the appropriate United States Attorney on the same day that the State's complaint is filed in Federal district court of the United States. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or any other proceedings under this title or any other laws of the United States.

"(B) Upon receiving notice respecting a civil action pursuant to this section, the United States shall have the right to intervene in such action and, upon so intervening, to be heard on all matters arising therein, and to file petitions for appeal.

"(C) Service of a State's complaint on the United States as required in this paragraph shall be made in accord with the requirements of rule 4(i)(1) of the Federal Rule of Civil Procedure.

"(3) POWERS CONFERRED BY STATE LAW.—For purposes of bringing any civil action under paragraph (1), nothing in this Act shall prevent an attorney general of a State from exercising the powers conferred on the attorney general of a State by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses of or the production of documentary or other evidence.

"(4) VENUE.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

"(5) NO PRIVATE RIGHT OF ACTION.—No private right of action is created under this subsection.

"(6) LIMITATION.—No civil action may be brought under paragraph (1) against—

"(A) the United States;

"(B) an Indian Tribe or tribal organization, to the extent such tribe or tribal organization is lawfully carrying out a contract or compact under the Indian Self-Determination and Education Assistance Act; or

"(C) any employee of the United States or such Indian tribe or tribal organization, provided such agent or employee is acting in the usual course of business or

employment, and within the scope of the official duties of such agent or employee therewith.".

(i) IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraph (4)—

(A) by striking "or any quantity of a controlled substance in schedule III, IV, or V, (except a violation involving flunitrazepam and except a violation involving gamma hydroxybutyric acid)";

(B) by inserting "or" before "less than one kilogram of hashish oil"; and

(C) by striking "imprisoned" and all that follows through the end of the paragraph and inserting "sentenced in accordance with section 401(b)(1)(D).";

(2) by adding at the end the following:

"(5) In the case of a violation of subsection (a) involving a controlled substance in schedule III, such person shall be sentenced in accordance with section 401(b)(1).

"(6) In the case of a violation of subsection (a) involving a controlled substance in schedule IV, such person shall be sentenced in accordance with section 401(b)(2).

"(7) In the case of a violation of subsection (a) involving a controlled substance in schedule V, such person shall be sentenced in accordance with section 401(b)(3)."; and

(3) in paragraph (3), by striking ", nor shall a person so sentenced be eligible for parole during the term of such a sentence" in the final sentence.

21 USC 802 note.

(j) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(2) DEFINITION OF PRACTICE OF TELEMEDICINE.—

Deadline.

(A) IN GENERAL.—Until the earlier of 3 months after the date on which regulations are promulgated to carry out section 311(h) of the Controlled Substances Act, as amended by this Act, or 15 months after the date of enactment of this Act—

(i) the definition of the term "practice of telemedicine" in subparagraph (B) of this paragraph shall apply for purposes of the Controlled Substances Act; and

(ii) the definition of the term "practice of telemedicine" in section 102(54) of the Controlled Substances Act, as amended by this Act, shall not apply.

(B) TEMPORARY PHASE-IN OF TELEMEDICINE REGULATION.—During the period specified in subparagraph (A), the term "practice of telemedicine" means the practice of medicine in accordance with applicable Federal and State laws by a practitioner (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) (other than a pharmacist) who is at a location remote from the patient and is communicating with the patient, or health care professional who is treating the patient, using a telecommunications system referred to in section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)), if the practitioner is using an interactive telecommunications system that satisfies the requirements of section 410.78(a)(3) of title 42, Code of Federal Regulations.

(C) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to create a precedent that any specific course of conduct constitutes the "practice of telemedicine" (as that term is defined in section 102(54) of the Controlled Substances Act, as amended by this Act) after the end of the period specified in subparagraph (A).

(k) GUIDELINES AND REGULATIONS.—

(1) IN GENERAL.—The Attorney General may promulgate and enforce any rules, regulations, and procedures which may be necessary and appropriate for the efficient execution of functions under this Act or the amendments made by this Act, and, with the concurrence of the Secretary of Health and Human Services where this Act or the amendments made by this Act so provide, promulgate any interim rules necessary for the implementation of this Act or the amendments made by this Act, prior to its effective date. 21 USC 802 note.

(2) SENTENCING GUIDELINES.—The United States Sentencing Commission, in determining whether to amend, or establish new, guidelines or policy statements, to conform the Federal sentencing guidelines and policy statements to this Act and the amendments made by this Act, should not construe any change in the maximum penalty for a violation involving a controlled substance in a particular schedule as being the sole reason to amend, or establish a new, guideline or policy statement. 28 USC 994 note.

(l) ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually for 2 years after the initial report, the Drug Enforcement Administration, in consultation with the Department of State, shall submit to Congress a report describing—

(1) the foreign supply chains and sources of controlled substances offered for sale without a valid prescription on the Internet;

(2) the efforts and strategy of the Drug Enforcement Administration to decrease the foreign supply chain and sources of controlled substances offered for sale without a valid prescription on the Internet; and

(3) the efforts of the Drug Enforcement Administration to work with domestic and multinational pharmaceutical companies and others to build international cooperation and a commitment to fight on a global scale the problem of distribution of controlled substances over the Internet without a valid prescription.

21 USC 802 note.

**SEC. 4. RULE OF CONSTRUCTION.**

Nothing in this Act or the amendments made by this Act shall be construed as authorizing, prohibiting, or limiting the use of electronic prescriptions for controlled substances.

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.R. 6353 (S. 980):

HOUSE REPORTS: No. 110–869, Pt. 1 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 110–426
110th Congress

# An Act

To amend the Public Health Service Act to authorize increased Federal funding for the Organ Procurement and Transplantation Network.

Oct. 15, 2008
[H.R. 6469]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Stephanie Tubbs Jones Organ Transplant Authorization Act of 2008.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Stephanie Tubbs Jones Organ Transplant Authorization Act of 2008".

**SEC. 2. INCREASED FUNDING FOR THE ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.**

Section 372(a) of the Public Health Service Act (42 U.S.C. 274(a)) is amended by striking "$2,000,000" and inserting "$7,000,000".

**SEC. 3. REPORT.**

42 USC 274 note.

(a) IN GENERAL.—The Secretary of Health and Human Services shall request that the Executive Director of the Organ Procurement and Transplantation Network submit to Congress, not later than 1 year after the date of enactment of this Act, a report that shall include—

(1) the identity of transplant programs that have become inactive or have closed since the heart allocation policy change of 2006;

(2) the distance to the next closest operational heart transplant center from such inactivated or closed programs and an evaluation of whether or not access to care has been reduced to the population previously serviced by such inactive or closed program;

(3) the number of patients with rural zip codes that received transplants after the heart allocation policy change of 2006 as compared with the number of such patients that received such transplants prior to such heart allocation policy change;

(4) a comparison of the number of transplants performed, the mortality rate for individuals on the transplant waiting lists, and the post-transplant survival rate nationally and by region prior to and after the heart allocation policy change of 2006; and

(5) specifically with respect to allosensitized patients, a comparison of the number of heart transplants performed, the mortality rate for individuals on the heart transplant waiting lists, and the post heart transplant survival rate nationally and by region prior to and after the heart allocation policy change of 2006.

(b) LIMITATION ON FUNDING.—The increase provided for in the amendment made by section 2 shall not apply with respect to contracts entered into under section 372(a) of the Public Health Service Act (42 U.S.C. 274(a)) after the date that is 1 year after the date of enactment of this Act if the Executive Director of the Organ Procurement and Transplantation Network fails to submit the report under subsection (a).

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.R. 6469:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, 25, considered and passed House.
Oct. 2, considered and passed Senate, amended.
Oct. 3, House concurred in Senate amendment.

Public Law 110–427
110th Congress

# An Act

To authorize the Administrator of General Services to take certain actions with respect to parcels of real property located in Eastlake, Ohio, and Koochiching County, Minnesota, and for other purposes.

Oct. 15, 2008
[H.R. 6524]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EASTLAKE, OHIO.**

(a) RELEASE OF RESTRICTIONS.—Subject to the requirements of this section, the Administrator of General Services is authorized to release the restrictions contained in the deed that conveyed to the city of Eastlake, Ohio, the parcel of real property described in subsection (b).

(b) PROPERTY DESCRIPTION.—The parcel of real property referred to in subsection (a) is the site of the John F. Kennedy Senior Center located at 33505 Curtis Boulevard, city of Eastlake, Ohio, on 10.873 acres more or less as conveyed by the deed from the General Services Administration dated July 20, 1964, and recorded in the Lake County Ohio Recorder's Office in volume 601 at pages 40–47.

(c) CONSIDERATION.—

(1) IN GENERAL.—The city of Eastlake shall pay to the Administrator $30,000 as consideration for executing the release under subsection (a).

(2) DEPOSIT OF PROCEEDS.—The Administrator shall deposit any funds received under paragraph (1) into the Federal Buildings Fund established under section 592 of title 40, United States Code.

(3) AVAILABILITY OF AMOUNTS DEPOSITED.—To the extent provided in appropriations Acts, amounts deposited into the Federal Buildings Fund under paragraph (2) shall be available for the uses described in section 592(b) of title 40, United States Code.

(d) FILING OF INSTRUMENTS TO EXECUTE RELEASE.—The Administrator shall execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release under subsection (a).

**SEC. 2. KOOCHICHING COUNTY, MINNESOTA.**

(a) CONVEYANCE AUTHORIZED.—Subject to the requirements of this section, the Administrator of General Services shall convey to Koochiching County, Minnesota, the parcel of real property described in subsection (b), including any improvements thereon.

(b) PROPERTY DESCRIPTION.—The parcel of real property referred to in subsection (a) is the approximately 5.84 acre parcel

located at 1804 3rd Avenue in International Falls, Minnesota, which is the former site of the Koochiching Army Reserve Training Center.

(c) QUITCLAIM DEED.—The conveyance of real property under subsection (a) shall be made through a quit claim deed.

(d) CONSIDERATION.—

(1) IN GENERAL.—Koochiching County shall pay to the Administrator $30,000 as consideration for a conveyance of real property under subsection (a).

(2) DEPOSIT OF PROCEEDS.—The Administrator shall deposit any funds received under paragraph (1) (less expenses of the conveyance) into a special account in the Treasury established under section 572(b)(5)(A) of title 40, United States Code.

(3) AVAILABILITY OF AMOUNTS DEPOSITED.—To the extent provided in appropriations Acts, amounts deposited into a special account under paragraph (2) shall be available to the Secretary of the Army in accordance with section 572(b)(5)(B) of title 40, United States Code.

(e) REVERSION.—The conveyance of real property under subsection (a) shall be made on the condition that the property will revert to the United States, at the option of the United States, without any obligation for repayment of the purchase price for the property, if the property ceases to be held in public ownership or ceases to be used for a public purpose.

(f) OTHER TERMS AND CONDITIONS.—The conveyance of real property under subsection (a) shall be made subject to such other terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

(g) DEADLINE.—The conveyance of real property under subsection (a) shall be made not later than 90 days after the date of enactment of this Act.

Approved October 15, 2008.

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LEGISLATIVE HISTORY—H.R. 6524:

HOUSE REPORTS: No. 110–866, Pt. 1 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 22, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 110–428
110th Congress

# An Act

To amend the Internal Revenue Code of 1986 to permit the Secretary of the Treasury to disclose certain prisoner return information to the Federal Bureau of Prisons, and for other purposes.

Oct. 15, 2008
[H.R. 7082]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Inmate Tax Fraud Prevention Act of 2008.
26 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Inmate Tax Fraud Prevention Act of 2008".

**SEC. 2. DISCLOSURE OF PRISONER RETURN INFORMATION TO FEDERAL BUREAU OF PRISONS.**

(a) IN GENERAL.—Subsection (k) of section 6103 of the Internal Revenue Code of 1986 (relating to disclosure of certain return and return information for tax administration purposes) is amended by adding at the end the following new paragraph: 26 USC 6103.

"(10) DISCLOSURE OF CERTAIN RETURN INFORMATION OF PRISONERS TO FEDERAL BUREAU OF PRISONS.—

"(A) IN GENERAL.—Under such procedures as the Secretary may prescribe, the Secretary may disclose to the head of the Federal Bureau of Prisons any return information with respect to individuals incarcerated in Federal prison whom the Secretary has determined may have filed or facilitated the filing of a false return to the extent that the Secretary determines that such disclosure is necessary to permit effective Federal tax administration.

"(B) RESTRICTION ON REDISCLOSURE.—Notwithstanding subsection (n), the head of the Federal Bureau of Prisons may not disclose any information obtained under subparagraph (A) to any person other than an officer or employee of such Bureau.

"(C) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information received under this paragraph shall be used only for purposes of and to the extent necessary in taking administrative action to prevent the filing of false and fraudulent returns, including administrative actions to address possible violations of administrative rules and regulations of the prison facility.

"(D) TERMINATION.—No disclosure may be made under this paragraph after December 31, 2011.".

(b) RECORDKEEPING.—Paragraph (4) of section 6103(p) of such Code is amended by striking "(k)(8)" both places it appears and inserting "(k)(8) or (10)".

26 USC 7803.

(c) EVALUATION BY TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Paragraph (3) of section 7803(d) of such Code is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting "; and", and by adding at the end the following new subparagraph:

Deadline. Reports.

"(C) not later than December 31, 2010, submit a written report to Congress on the implementation of section 6103(k)(10).".

26 USC 6103 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made after December 31, 2008.

Public information. 26 USC 7207 note.

(e) ANNUAL REPORTS.—The Secretary of the Treasury shall annually submit to Congress and make publicly available a report on the filing of false and fraudulent returns by individuals incarcerated in Federal and State prisons. Such report shall include statistics on the number of false and fraudulent returns associated with each Federal and State prison.

**SEC. 3. RESTORATION OF CERTAIN JUDICIAL SURVIVORS' ANNUITIES.**

(a) IN GENERAL.—Section 376 of title 28, United States Code, is amended by adding at the end the following:

"(x) In the case of a widow or widower whose annuity under clause (i) or (ii) of subsection (h)(1) is terminated because of remarriage before attaining 55 years of age, the annuity shall be restored at the same rate commencing on the day the remarriage is dissolved by death, divorce, or annulment, if—

"(1) the widow or widower elects to receive this annuity instead of any other survivor annuity to which such widow or widower may be entitled, under this chapter or under another retirement system for Government employees, by reason of the remarriage; and

"(2) any payment made to such widow or widower under subsection (o) or (p) on termination of the annuity is returned to the Judicial Survivors' Annuities Fund.".

(b) CONFORMING AMENDMENT.—Section 376(h)(2) of title 28, United States Code, is amended by striking the period at the end and inserting ", subject to subsection (x).".

Applicability. 28 USC 376 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the first day of the first month beginning at least 30 days after the date of the enactment of this Act and shall apply in the case of a remarriage which is dissolved by death, divorce, or annulment on or after such first day.

(2) LIMITED RETROACTIVE EFFECT.—

(A) IN GENERAL.—In the case of a remarriage which is dissolved by death, divorce, or annulment within the 4-year period ending on the day before the effective date of this section, the amendments made by this section shall apply only if the widow or widower satisfies the requirements of paragraphs (1) and (2) of section 376(x) of title 28, United States Code (as amended by this section) before—

(i) the end of the 1-year period beginning on the effective date of this section; or

(ii) such later date as Director of the Administrative Office of the United States Courts may by regulation prescribe.

(B) RESTORATION.—If the requirements of paragraph (1) are satisfied, the survivor annuity shall be restored, commencing on the date the remarriage was dissolved by death, annulment, or divorce, at the rate which was in effect when the annuity was terminated.

(C) LUMP-SUM PAYMENT.—Any amounts becoming payable to the widow or widower under this subsection for the period beginning on the date on which the annuity was terminated and ending on the date on which periodic annuity payments resume shall be payable in a lump-sum payment.

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.R. 7082:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 110–429
110th Congress

An Act

Oct. 15, 2008
[H.R. 7177]

To authorize the transfer of naval vessels to certain foreign recipients, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# TITLE I—NAVAL VESSEL TRANSFER

Naval Vessel Transfer Act of 2008.

**SECTION 101. SHORT TITLE.**

This title may be cited as the "Naval Vessel Transfer Act of 2008".

**SEC. 102. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.**

President.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer the vessels specified in paragraphs (1), (3), and (4) of section 501(a) of H.R. 5916 of the 110th Congress, as passed the House of Representatives on May 15, 2008, to the foreign recipients specified in paragraphs (1), (3), and (4) of such section, respectively, on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(b) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to a recipient on a grant basis pursuant to authority provided by subsection (a) shall not be counted against the aggregate value of excess defense articles transferred in any fiscal year under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(c) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e))).

President.

(d) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the recipient to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of the recipient, performed at a shipyard located in the United States, including a United States Navy shipyard.

(e) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

# TITLE II—UNITED STATES ARMS EXPORTS

**SEC. 201. ASSESSMENT OF ISRAEL'S QUALITATIVE MILITARY EDGE OVER MILITARY THREATS.**

President. 22 USC 2776 note.

(a) ASSESSMENT REQUIRED.—The President shall carry out an empirical and qualitative assessment on an ongoing basis of the extent to which Israel possesses a qualitative military edge over military threats to Israel. The assessment required under this subsection shall be sufficiently robust so as to facilitate comparability of data over concurrent years.

(b) USE OF ASSESSMENT.—The President shall ensure that the assessment required under subsection (a) is used to inform the review by the United States of applications to sell defense articles and defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.) to countries in the Middle East.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than June 30, 2009, the President shall transmit to the appropriate congressional committees a report on the initial assessment required under subsection (a).

(2) QUADRENNIAL REPORT.—Not later than four years after the date on which the President transmits the initial report under paragraph (1), and every four years thereafter, the President shall transmit to the appropriate congressional committees a report on the most recent assessment required under subsection (a).

(d) CERTIFICATION.—Section 36 of the Arms Export Control Act (22 U.S.C. 2776) is amended by adding at the end the following:

"(h) CERTIFICATION REQUIREMENT RELATING TO ISRAEL'S QUALITATIVE MILITARY EDGE.—

"(1) IN GENERAL.—Any certification relating to a proposed sale or export of defense articles or defense services under this section to any country in the Middle East other than Israel shall include a determination that the sale or export of the defense articles or defense services will not adversely affect Israel's qualitative military edge over military threats to Israel.

"(2) QUALITATIVE MILITARY EDGE DEFINED.—In this subsection, the term 'qualitative military edge' means the ability to counter and defeat any credible conventional military threat from any individual state or possible coalition of states or from non-state actors, while sustaining minimal damages and casualties, through the use of superior military means, possessed in sufficient quantity, including weapons, command, control, communication, intelligence, surveillance, and reconnaissance capabilities that in their technical characteristics are superior in capability to those of such other individual or possible coalition of states or non-state actors.".

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) QUALITATIVE MILITARY EDGE.—The term "qualitative military edge" has the meaning given the term in section 36(h)

of the Arms Export Control Act, as added by subsection (d) of this section.

**SEC. 202. IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING WITH ISRAEL.**

(a) IN GENERAL.—Of the amount made available for fiscal year 2009 for assistance under the program authorized by section 23 of the Arms Export Control Act (22 U.S.C. 2763) (commonly referred to as the "Foreign Military Financing Program"), the amount specified in subsection (b) is authorized to be made available on a grant basis for Israel.

(b) COMPUTATION OF AMOUNT.—The amount referred to in subsection (a) is the amount equal to—

(1) the amount specified under the heading "Foreign Military Financing Program" for Israel for fiscal year 2008; plus

(2) $150,000,000.

(c) OTHER AUTHORITIES.—

(1) AVAILABILITY OF FUNDS FOR ADVANCED WEAPONS SYSTEMS.—To the extent the Government of Israel requests the United States to provide assistance for fiscal year 2009 for the procurement of advanced weapons systems, amounts authorized to be made available for Israel under this section shall, as agreed to by Israel and the United States, be available for such purposes, of which not less than $670,650,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development.

Deadline.

(2) DISBURSEMENT OF FUNDS.—Amounts authorized to be made available for Israel under this section shall be disbursed not later than 30 days after the date of the enactment of an Act making appropriations for the Department of State, foreign operations, and related programs for fiscal year 2009, or October 31, 2008, whichever occurs later.

22 USC 2753 note.

**SEC. 203. SECURITY COOPERATION WITH THE REPUBLIC OF KOREA.**

(a) FINDINGS.—Congress makes the following findings:

(1) Close and continuing defense cooperation between the United States and the Republic of Korea continues to be in the national security interest of the United States.

(2) The Republic of Korea was designated a major non-NATO ally in 1987, the first such designation.

(3) The Republic of Korea has been a major purchaser of United States defense articles and services through the Foreign Military Sales (FMS) program, totaling $6,900,000,000 in deliveries over the last 10 years.

(4) Purchases of United States defense articles, services, and major defense equipment facilitate and increase the interoperability of Republic of Korea military forces with the United States Armed Forces.

(5) Congress has previously enacted important, special defense cooperation arrangements for the Republic of Korea, as in the Act entitled "An Act to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea", approved December 30, 2005 (Public Law 109–159; 119 Stat. 2955), which authorized the President, notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), to transfer to the Republic of Korea certain defense items to be included in a war reserve stockpile for that country.

(6) Enhanced support for defense cooperation with the Republic of Korea is important to the national security of the United States, including through creation of a status in law for the Republic of Korea similar to the countries in the North Atlantic Treaty Organization, Japan, Australia, and New Zealand, with respect to consideration by Congress of foreign military sales to the Republic of Korea.

(b) SPECIAL FOREIGN MILITARY SALES STATUS FOR REPUBLIC OF KOREA.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(1) in sections 3(d)(2)(B), 3(d)(3)(A)(i), 3(d)(5), 21(e)(2)(A), 36(b), 36(c), 36(d)(2)(A), 62(c)(1), and 63(a)(2), by inserting "the Republic of Korea," before "or New Zealand" each place it appears; 22 USC 2753, 2761, 2776, 2796a, 2796b.

(2) in section 3(b)(2), by inserting "the Government of the Republic of Korea," before "or the Government of New Zealand";

(3) in section 21(h)(1)(A), by inserting "the Republic of Korea," before "or Israel"; and

(4) in section 21(h)(2), by striking "or to any member government of that Organization if that Organization or member government" and inserting ", to any member government of that Organization, or to the Governments of the Republic of Korea, Australia, New Zealand, Japan, or Israel if that Organization, member government, or the Governments of the Republic of Korea, Australia, New Zealand, Japan, or Israel".

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.R. 7177:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, considered and passed House.
Oct. 1, considered and passed Senate.

# Public Law 110–430
# 110th Congress

## Joint Resolution

Oct. 15, 2008
[H.J. Res. 100]

Appointing the day for the convening of the first session of the One Hundred Eleventh Congress and establishing the date for the counting of the electoral votes for President and Vice President cast by the electors in December 2008.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DAY FOR CONVENING OF ONE HUNDRED ELEVENTH CONGRESS.**

The first regular session of the One Hundred Eleventh Congress shall begin at noon on Tuesday, January 6, 2009.

3 USC 15 note.

**SEC. 2. DATE FOR COUNTING 2008 ELECTORAL VOTES IN CONGRESS.**

The meeting of the Senate and House of Representatives to be held in January 2009 pursuant to section 15 of title 3, United States Code, to count the electoral votes for President and Vice President cast by the electors in December 2008 shall be held on January 8, 2009 (rather than on the date specified in the first sentence of that section).

Approved October 15, 2008.

LEGISLATIVE HISTORY—H.J. Res. 100:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 28, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 110–431
110th Congress

# An Act

To authorize funding for the National Crime Victim Law Institute to provide support for victims of crime under Crime Victims Legal Assistance Programs as a part of the Victims of Crime Act of 1984.

Oct. 15, 2008
[S. 3641]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REAUTHORIZATION.**

Section 103(b) of the Justice for All Act of 2004 (Public Law 108–405; 118 Stat. 2264) is amended in paragraphs (1) through (5) by striking "2006, 2007, 2008, and 2009" each place it appears and inserting "2010, 2011, 2012, and 2013".

Approved October 15, 2008.

LEGISLATIVE HISTORY—S. 3641:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, considered and passed Senate.
Oct. 2, considered and passed House.

Public Law 110–432
110th Congress

An Act

Oct. 16, 2008
[H.R. 2095]

To amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Rail Safety Improvement Act of 2008.

# DIVISION A—RAIL SAFETY

**SEC. 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF TITLE 49.**

49 USC 20101 note.

(a) SHORT TITLE.—This division may be cited as the "Rail Safety Improvement Act of 2008".

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

Sec. 1. Short title; table of contents; amendment of title 49.
Sec. 2. Definitions.
Sec. 3. Authorization of appropriations.

TITLE I—RAILROAD SAFETY IMPROVEMENTS

Sec. 101. Federal Railroad Administration officers and duties.
Sec. 102. Railroad safety strategy.
Sec. 103. Railroad safety risk reduction program.
Sec. 104. Implementation of positive train control.
Sec. 105. Railroad safety technology grants.
Sec. 106. Reports on statutory mandates and recommendations.
Sec. 107. Rulemaking process.
Sec. 108. Hours-of-service reform.
Sec. 109. Protection of railroad safety risk analyses information.
Sec. 110. Pilot projects.

TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY AND TRESPASSER PREVENTION

Sec. 201. Pedestrian crossing safety.
Sec. 202. State action plans.
Sec. 203. Improvements to sight distance at highway-rail grade crossings.
Sec. 204. National crossing inventory.
Sec. 205. Telephone number to report grade crossing problems.
Sec. 206. Operation Lifesaver.
Sec. 207. Federal grants to States for highway-rail grade crossing safety.
Sec. 208. Trespasser prevention and highway-rail grade crossing safety.
Sec. 209. Accident and incident reporting.
Sec. 210. Fostering introduction of new technology to improve safety at highway-rail grade crossings.

TITLE III—FEDERAL RAILROAD ADMINISTRATION

Sec. 301. Human capital increases.
Sec. 302. Civil penalty increases.
Sec. 303. Enforcement report.

Sec. 304. Expansion of emergency order authority.
Sec. 305. Prohibition of individuals from performing safety-sensitive functions for a violation of hazardous materials transportation law.
Sec. 306. Railroad radio monitoring authority.
Sec. 307. Update of Federal Railroad Administration's website.
Sec. 308. Emergency waivers.
Sec. 309. Enforcement by the Attorney General.
Sec. 310. Criminal penalties.

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

Sec. 401. Minimum training standards and plans.
Sec. 402. Certification of certain crafts or classes of employees.
Sec. 403. Track inspection time study.
Sec. 404. Study of methods to improve or correct station platform gaps.
Sec. 405. Locomotive cab studies.
Sec. 406. Development and use of rail safety technology.
Sec. 407. Unified treatment of families of railroad carriers.
Sec. 408. Study of repeal of Conrail provision.
Sec. 409. Limitations on non-Federal alcohol and drug testing by railroad carriers.
Sec. 410. Critical incident stress plan.
Sec. 411. Railroad carrier employee exposure to radiation study.
Sec. 412. Alcohol and controlled substance testing for maintenance-of-way employees.
Sec. 413. Emergency escape breathing apparatus.
Sec. 414. Tunnel information.
Sec. 415. Museum locomotive study.
Sec. 416. Safety inspections in Mexico.
Sec. 417. Railroad bridge safety assurance.
Sec. 418. Railroad safety infrastructure improvement grants.
Sec. 419. Prompt medical attention.
Sec. 420. Employee sleeping quarters.

TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

Sec. 501. Assistance by National Transportation Safety Board to families of passengers involved in rail passenger accidents.
Sec. 502. Rail passenger carrier plan to assist families of passengers involved in rail passenger accidents.
Sec. 503. Establishment of task force.

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

Sec. 601. Short title.
Sec. 602. Clarification of general jurisdiction over solid waste transfer facilities.
Sec. 603. Regulation of solid waste rail transfer facilities.
Sec. 604. Solid waste rail transfer facility land-use exemption authority.
Sec. 605. Effect on other statutes and authorities.

TITLE VII—TECHNICAL CORRECTIONS

Sec. 701. Technical corrections.

(c) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**SEC. 2. DEFINITIONS.**

49 USC 20102 note.

(a) IN GENERAL.—In this division:

(1) CROSSING.—The term "crossing" means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks at grade where—

(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

(B) a pathway explicitly authorized by a public authority or a railroad carrier that is dedicated for the

use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

(2) DEPARTMENT.—The term "Department" means the Department of Transportation.

(3) RAILROAD.—The term "railroad" has the meaning given that term by section 20102 of title 49, United States Code.

(4) RAILROAD CARRIER.—The term "railroad carrier" has the meaning given that term by section 20102 of title 49, United States Code.

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(6) STATE.—The term "State" means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

49 USC 20102.

(b) IN TITLE 49.—Section 20102 is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) 'Class I railroad', 'Class II railroad', and 'Class III railroad' mean railroad carriers that have annual carrier operating revenues that meet the threshold amount for Class I carriers, Class II carriers, and Class III carriers, respectively, as determined by the Surface Transportation Board under section 1201.1-1 of title 49, Code of Federal Regulations."; and

(3) by adding at the end thereof the following:

"(4) 'safety-related railroad employee' means—

"(A) a railroad employee who is subject to chapter 211;

"(B) another operating railroad employee who is not subject to chapter 211;

"(C) an employee who maintains the right of way of a railroad;

"(D) an employee of a railroad carrier who is a hazmat employee as defined in section 5102(3) of this title;

"(E) an employee who inspects, repairs, or maintains locomotives, passenger cars, or freight cars; and

"(F) any other employee of a railroad carrier who directly affects railroad safety, as determined by the Secretary.".

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

Section 20117(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Transportation to carry out this part and to carry out responsibilities under chapter 51 as delegated or authorized by the Secretary—

"(A) $225,000,000 for fiscal year 2009;

"(B) $245,000,000 for fiscal year 2010;

"(C) $266,000,000 for fiscal year 2011;

"(D) $289,000,000 for fiscal year 2012; and

"(E) $293,000,000 for fiscal year 2013.

"(2) With amounts appropriated pursuant to paragraph (1), the Secretary shall purchase Gage Restraint Measurement System

vehicles and track geometry vehicles or other comparable technology as needed to assess track safety consistent with the results of the track inspection study required by section 403 of the Rail Safety Improvement Act of 2008.

"(3) There are authorized to be appropriated to the Secretary $18,000,000 for the period encompassing fiscal years 2009 through 2013 to design, develop, and construct the Facility for Underground Rail Station and Tunnel at the Transportation Technology Center in Pueblo, Colorado. The facility shall be used to test and evaluate the vulnerabilities of above-ground and underground rail tunnels to prevent accidents and incidents in such tunnels, to mitigate and remediate the consequences of any such accidents or incidents, and to provide a realistic scenario for training emergency responders.

"(4) Such sums as may be necessary from the amount appropriated pursuant to paragraph (1) for each of the fiscal years 2009 through 2013 shall be made available to the Secretary for personnel in regional offices and in Washington, D.C., whose duties primarily involve rail security.".

# TITLE I—RAILROAD SAFETY IMPROVEMENTS

### SEC. 101. FEDERAL RAILROAD ADMINISTRATION OFFICERS AND DUTIES.

Section 103 is amended by striking subsections (b) through (e) and inserting the following: 49 USC 103.

"(c) SAFETY AS HIGHEST PRIORITY.—In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in railroad transportation.

"(d) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in railroad safety, hazardous materials safety, or other transportation safety. The Administrator shall report directly to the Secretary of Transportation. President.

"(e) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

"(f) CHIEF SAFETY OFFICER.—The Administration shall have an Associate Administrator for Railroad Safety appointed in the career service by the Secretary. The Associate Administrator shall be the Chief Safety Officer of the Administration. The Associate Administrator shall carry out the duties and powers prescribed by the Administrator.

"(g) DUTIES AND POWERS OF THE ADMINISTRATOR.—The Administrator shall carry out—

"(1) duties and powers related to railroad safety vested in the Secretary by section 20134(c) and chapters 203 through 211 of this title, and by chapter 213 of this title for carrying out chapters 203 through 211;

"(2) the duties and powers related to railroad policy and development under subsection (j); and

"(3) other duties and powers prescribed by the Secretary.

"(h) LIMITATION.—A duty or power specified in subsection (g)(1) may be transferred to another part of the Department of Transportation or another Federal Government entity only when specifically provided by law. A decision of the Administrator in carrying out the duties or powers of the Administration and involving notice and hearing required by law is administratively final.

"(i) AUTHORITIES.—Subject to the provisions of subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), the Secretary of Transportation may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions at the Administration. The authority of the Secretary granted by this subsection shall be carried out by the Administrator. Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subsection shall be effective, except as provided for in appropriations Acts.".

Plan.
49 USC 20101 note.

**SEC. 102. RAILROAD SAFETY STRATEGY.**

(a) SAFETY GOALS.—In conjunction with existing federally-required and voluntary strategic planning efforts ongoing at the Department and the Federal Railroad Administration as of the date of enactment of this Act, the Secretary shall develop a long-term strategy for improving railroad safety to cover a period of not less than 5 years. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

(1) Reducing the number and rates of accidents, incidents, injuries, and fatalities involving railroads including train collisions, derailments, and human factors.

(2) Improving the consistency and effectiveness of enforcement and compliance programs.

(3) Improving the identification of high-risk highway-rail grade crossings and strengthening enforcement and other methods to increase grade crossing safety.

(4) Improving research efforts to enhance and promote railroad safety and performance.

(5) Preventing railroad trespasser accidents, incidents, injuries, and fatalities.

(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic failures and other bridge and tunnel failures.

(b) RESOURCE NEEDS.—The strategy and annual plan shall include estimates of the funds and staff resources needed to accomplish the goals established by subsection (a). Such estimates shall also include the staff skills and training required for timely and effective accomplishment of each such goal.

(c) SUBMISSION WITH THE PRESIDENT'S BUDGET.—The Secretary shall submit the strategy and annual plan to the Senate Committee

on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure at the same time as the President's budget submission.

(d) ACHIEVEMENT OF GOALS.—

(1) PROGRESS ASSESSMENT.—No less frequently than annually, the Secretary shall assess the progress of the Department toward achieving the strategic goals described in subsection (a). The Secretary shall identify any deficiencies in achieving the goals within the strategy and develop and institute measures to remediate such deficiencies. The Secretary and the Administrator shall convey their assessment to the employees of the Federal Railroad Administration and shall identify any deficiencies that should be remediated before the next progress assessment. Deadline.

(2) REPORT TO CONGRESS.—Beginning in 2009, not later than November 1 of each year, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the performance of the Federal Railroad Administration containing the progress assessment required by paragraph (1) toward achieving the goals of the railroad safety strategy and annual plans under subsection (a).

**SEC. 103. RAILROAD SAFETY RISK REDUCTION PROGRAM.**

(a) IN GENERAL.—Subchapter II of chapter 201 is amended by adding at end thereof the following:

**"§ 20156. Railroad safety risk reduction program**

"(a) IN GENERAL.—

"(1) PROGRAM REQUIREMENT.—Not later than 4 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation, by regulation, shall require each railroad carrier that is a Class I railroad, a railroad carrier that has inadequate safety performance (as determined by the Secretary), or a railroad carrier that provides intercity rail passenger or commuter rail passenger transportation— Deadline. Regulations.

"(A) to develop a railroad safety risk reduction program under subsection (d) that systematically evaluates railroad safety risks on its system and manages those risks in order to reduce the numbers and rates of railroad accidents, incidents, injuries, and fatalities;

"(B) to submit its program, including any required plans, to the Secretary for review and approval; and

"(C) to implement the program and plans approved by the Secretary.

"(2) RELIANCE ON PILOT PROGRAM.—The Secretary may conduct behavior-based safety and other research, including pilot programs, before promulgating regulations under this subsection and thereafter. The Secretary shall use any information and experience gathered through such research and pilot programs under this subsection in developing regulations under this section.

"(3) REVIEW AND APPROVAL.—The Secretary shall review and approve or disapprove railroad safety risk reduction program plans within a reasonable period of time. If the proposed plan is not approved, the Secretary shall notify the affected Notification.

Deadline.

railroad carrier as to the specific areas in which the proposed plan is deficient, and the railroad carrier shall correct all deficiencies within a reasonable period of time following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroad carriers are complying with their plans.

"(4) VOLUNTARY COMPLIANCE.—A railroad carrier that is not required to submit a railroad safety risk reduction program under this section may voluntarily submit a program that meets the requirements of this section to the Secretary. The Secretary shall approve or disapprove any program submitted under this paragraph.

"(b) CERTIFICATION.—The chief official responsible for safety of each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall certify that the contents of the program are accurate and that the railroad carrier will implement the contents of the program as approved by the Secretary.

"(c) RISK ANALYSIS.—In developing its railroad safety risk reduction program each railroad carrier required to submit such a program pursuant to subsection (a) shall identify and analyze the aspects of its railroad, including operating rules and practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure, employee training, and other matters, including those not covered by railroad safety regulations or other Federal regulations, that impact railroad safety.

"(d) PROGRAM ELEMENTS.—

"(1) IN GENERAL.—Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop a comprehensive safety risk reduction program to improve safety by reducing the number and rates of accidents, incidents, injuries, and fatalities that is based on the risk analysis required by subsection (c) through—

"(A) the mitigation of aspects that increase risks to railroad safety; and

"(B) the enhancement of aspects that decrease risks to railroad safety.

"(2) REQUIRED COMPONENTS.—Each railroad carrier's safety risk reduction program shall include a risk mitigation plan in accordance with this section, a technology implementation plan that meets the requirements of subsection (e), and a fatigue management plan that meets the requirements of subsection (f).

"(e) TECHNOLOGY IMPLEMENTATION PLAN.—

"(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop, and periodically update as necessary, a 10-year technology implementation plan that describes the railroad carrier's plan for development, adoption, implementation, maintenance, and use of current, new, or novel technologies on its system over a 10-year period to reduce safety risks identified under the railroad safety risk reduction program. Any updates to the plan are subject to review and approval by the Secretary.

"(2) TECHNOLOGY ANALYSIS.—A railroad carrier's technology implementation plan shall include an analysis of the safety impact, feasibility, and cost and benefits of implementing

technologies, including processor-based technologies, positive train control systems (as defined in section 20157(i)), electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position monitors and indicators, trespasser prevention technology, highway-rail grade crossing technology, and other new or novel railroad safety technology, as appropriate, that may mitigate risks to railroad safety identified in the risk analysis required by subsection (c).

"(3) IMPLEMENTATION SCHEDULE.—A railroad carrier's technology implementation plan shall contain a prioritized implementation schedule for the development, adoption, implementation, and use of current, new, or novel technologies on its system to reduce safety risks identified under the railroad safety risk reduction program.

"(4) POSITIVE TRAIN CONTROL.—Except as required by section 20157 (relating to the requirements for implementation of positive train control systems), the Secretary shall ensure that—

"(A) each railroad carrier's technology implementation plan required under paragraph (1) that includes a schedule for implementation of a positive train control system complies with that schedule; and

"(B) each railroad carrier required to submit such a plan implements a positive train control system pursuant to such plan by December 31, 2018. Deadline.

"(f) FATIGUE MANAGEMENT PLAN.—

"(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop and update at least once every 2 years a fatigue management plan that is designed to reduce the fatigue experienced by safety-related railroad employees and to reduce the likelihood of accidents, incidents, injuries, and fatalities caused by fatigue. Any such update shall be subject to review and approval by the Secretary. Deadline.

"(2) TARGETED FATIGUE COUNTERMEASURES.—A railroad carrier's fatigue management plan shall take into account the varying circumstances of operations by the railroad on different parts of its system, and shall prescribe appropriate fatigue countermeasures to address those varying circumstances.

"(3) ADDITIONAL ELEMENTS.—A railroad shall consider the need to include in its fatigue management plan elements addressing each of the following items, as applicable:

"(A) Employee education and training on the physiological and human factors that affect fatigue, as well as strategies to reduce or mitigate the effects of fatigue, based on the most current scientific and medical research and literature.

"(B) Opportunities for identification, diagnosis, and treatment of any medical condition that may affect alertness or fatigue, including sleep disorders.

"(C) Effects on employee fatigue of an employee's short-term or sustained response to emergency situations, such as derailments and natural disasters, or engagement in other intensive working conditions.

"(D) Scheduling practices for employees, including innovative scheduling practices, on-duty call practices, work and rest cycles, increased consecutive days off for employees, changes in shift patterns, appropriate scheduling practices for varying types of work, and other aspects of employee scheduling that would reduce employee fatigue and cumulative sleep loss.

"(E) Methods to minimize accidents and incidents that occur as a result of working at times when scientific and medical research have shown increased fatigue disrupts employees' circadian rhythm.

"(F) Alertness strategies, such as policies on napping, to address acute drowsiness and fatigue while an employee is on duty.

"(G) Opportunities to obtain restful sleep at lodging facilities, including employee sleeping quarters provided by the railroad carrier.

"(H) The increase of the number of consecutive hours of off-duty rest, during which an employee receives no communication from the employing railroad carrier or its managers, supervisors, officers, or agents.

"(I) Avoidance of abrupt changes in rest cycles for employees.

"(J) Additional elements that the Secretary considers appropriate.

"(g) CONSENSUS.—

Consultation.

"(1) IN GENERAL.—Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall consult with, employ good faith and use its best efforts to reach agreement with, all of its directly affected employees, including any non-profit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program.

"(2) STATEMENT.—If the railroad carrier and its directly affected employees, including any nonprofit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, cannot reach consensus on the proposed contents of the plan, then directly affected employees and such organization may file a statement with the Secretary explaining their views on the plan on which consensus was not reached. The Secretary shall consider such views during review and approval of the program.

"(h) ENFORCEMENT.—The Secretary shall have the authority to assess civil penalties pursuant to chapter 213 for a violation of this section, including the failure to submit, certify, or comply with a safety risk reduction program, risk mitigation plan, technology implementation plan, or fatigue management plan.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20155 the following:

"20156. Railroad safety risk reduction program.".

**SEC. 104. IMPLEMENTATION OF POSITIVE TRAIN CONTROL.**

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 103 of this division, is further amended by adding at the end thereof the following:

**"§ 20157. Implementation of positive train control systems**

"(a) IN GENERAL.—

"(1) PLAN REQUIRED.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, each Class I railroad carrier and each entity providing regularly scheduled intercity or commuter rail passenger transportation shall develop and submit to the Secretary of Transportation a plan for implementing a positive train control system by December 31, 2015, governing operations on— Deadlines.

"(A) its main line over which intercity rail passenger transportation or commuter rail passenger transportation, as defined in section 24102, is regularly provided;

"(B) its main line over which poison- or toxic-by-inhalation hazardous materials, as defined in parts 171.8, 173.115, and 173.132 of title 49, Code of Federal Regulations, are transported; and

"(C) such other tracks as the Secretary may prescribe by regulation or order.

"(2) IMPLEMENTATION.—The plan shall describe how it will provide for interoperability of the system with movements of trains of other railroad carriers over its lines and shall, to the extent practical, implement the system in a manner that addresses areas of greater risk before areas of lesser risk. The railroad carrier shall implement a positive train control system in accordance with the plan.

"(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance and guidance to railroad carriers in developing the plans required under subsection (a).

"(c) REVIEW AND APPROVAL.—Not later than 90 days after the Secretary receives a plan, the Secretary shall review and approve or disapprove it. If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier or other entity as to the specific areas in which the proposed plan is deficient, and the railroad carrier or other entity shall correct all deficiencies within 30 days following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroad carriers are complying with their plans. Deadlines. Notification.

"(d) REPORT.—Not later than December 31, 2012, the Secretary shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the progress of the railroad carriers in implementing such positive train control systems.

"(e) ENFORCEMENT.—The Secretary is authorized to assess civil penalties pursuant to chapter 213 for a violation of this section, including the failure to submit or comply with a plan for implementing positive train control under subsection (a).

"(f) OTHER RAILROAD CARRIERS.—Nothing in this section restricts the discretion of the Secretary to require railroad carriers other than those specified in subsection (a) to implement a positive train control system pursuant to this section or section 20156, or to specify the period by which implementation shall occur that does not exceed the time limits established in this section or section 20156. In exercising such discretion, the Secretary shall, at a minimum, consider the risk to railroad employees and the public associated with the operations of the railroad carrier.

"(g) REGULATIONS.—The Secretary shall prescribe regulations or issue orders necessary to implement this section, including regulations specifying in appropriate technical detail the essential functionalities of positive train control systems, and the means by which those systems will be qualified.

"(h) CERTIFICATION.—The Secretary shall not permit the installation of any positive train control system or component in revenue service unless the Secretary has certified that any such system or component has been approved through the approval process set forth in part 236 of title 49, Code of Federal Regulations, and complies with the requirements of that part.

"(i) DEFINITIONS.—In this section:

"(1) INTEROPERABILITY.—The term 'interoperability' means the ability to control locomotives of the host railroad and tenant railroad to communicate with and respond to the positive train control system, including uninterrupted movements over property boundaries.

"(2) MAIN LINE.—The term 'main line' means a segment or route of railroad tracks over which 5,000,000 or more gross tons of railroad traffic is transported annually, except that—

"(A) the Secretary may, through regulations under subsection (g), designate additional tracks as main line as appropriate for this section; and

"(B) for intercity rail passenger transportation or commuter rail passenger transportation routes or segments over which limited or no freight railroad operations occur, the Secretary shall define the term 'main line' by regulation.

"(3) POSITIVE TRAIN CONTROL SYSTEM.—The term 'positive train control system' means a system designed to prevent train-to-train collisions, over-speed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 103 of this division, is amended by inserting after the item relating to section 20156 the following:

"20157. Implementation of positive train control systems.".

**SEC. 105. RAILROAD SAFETY TECHNOLOGY GRANTS.**

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 104 of this division, is further amended by adding at the end thereof the following:

### "§ 20158. Railroad safety technology grants

"(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a grant program for the deployment of train control technologies, train control component technologies, processor-based technologies, electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators and monitors, remote control power switch technologies, track integrity circuit technologies, and other new or novel railroad safety technology.

"(b) GRANT CRITERIA.—

"(1) ELIGIBILITY.—Grants shall be made under this section to eligible passenger and freight railroad carriers, railroad suppliers, and State and local governments for projects described

in subsection (a) that have a public benefit of improved safety and network efficiency.

"(2) CONSIDERATIONS.—Priority shall be given to projects that—

"(A) focus on making technologies interoperable between railroad systems, such as train control technologies;

"(B) accelerate train control technology deployment on high-risk corridors, such as those that have high volumes of hazardous materials shipments or over which commuter or passenger trains operate; or

"(C) benefit both passenger and freight safety and efficiency.

"(3) IMPLEMENTATION PLANS.—Grants may not be awarded under this section to entities that fail to develop and submit to the Secretary the plans required by sections 20156(e)(2) and 20157.

"(4) MATCHING REQUIREMENTS.—Federal funds for any eligible project under this section shall not exceed 80 percent of the total cost of such project.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $50,000,000 for each of fiscal years 2009 through 2013 to carry out this section. Amounts appropriated pursuant to this section shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 104 of this division, is further amended by inserting after the item relating to section 20157 the following:

"20158. Railroad safety technology grants.".

**SEC. 106. REPORTS ON STATUTORY MANDATES AND RECOMMENDATIONS.**

49 USC 20101 note.

Not later than December 31, 2008, and annually thereafter, the Secretary shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the specific actions taken to implement unmet statutory mandates regarding railroad safety and each open railroad safety recommendation made by the National Transportation Safety Board or the Department's Inspector General.

**SEC. 107. RULEMAKING PROCESS.**

(a) AMENDMENT.—Subchapter I of chapter 201 is amended by inserting after section 20115 the following new section:

**"§ 20116. Rulemaking process**

"No rule or order issued by the Secretary under this part shall be effective if it incorporates by reference a code, rule, standard, requirement, or practice issued by an association or other entity that is not an agency of the Federal Government, unless the date on which the code, rule, standard, requirement, or practice was adopted is specifically cited in the rule or order, or the code, rule, standard, requirement, or practice has been subject to notice and comment under a rule or order issued under this part.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20115 the following:

"20116. Rulemaking process.".

**SEC. 108. HOURS-OF-SERVICE REFORM.**

(a) CHANGE IN DEFINITION OF SIGNAL EMPLOYEE.—Section 21101(4) is amended by striking "employed by a railroad carrier". 49 USC 21101.

(b) LIMITATION ON DUTY HOURS OF TRAIN EMPLOYEES.—Section 21103 is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—Except as provided in subsection (d) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to—

"(1) remain on duty, go on duty, wait for deadhead transportation, be in deadhead transportation from a duty assignment to the place of final release, or be in any other mandatory service for the carrier in any calendar month where the employee has spent a total of 276 hours—

"(A) on duty;

"(B) waiting for deadhead transportation, or in deadhead transportation from a duty assignment to the place of final release; or

"(C) in any other mandatory service for the carrier;

"(2) remain or go on duty for a period in excess of 12 consecutive hours;

"(3) remain or go on duty unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours; or

"(4) remain or go on duty after that employee has initiated an on-duty period each day for—

"(A) 6 consecutive days, unless that employee has had at least 48 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier except that—

"(i) an employee may work a seventh consecutive day if that employee completed his or her final period of on-duty time on his or her sixth consecutive day at a terminal other than his or her home terminal; and

"(ii) any employee who works a seventh consecutive day pursuant to subparagraph (i) shall have at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier; or

"(B) except as provided in subparagraph (A), 7 consecutive days, unless that employee has had at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier, if—

"(i) for a period of 18 months following the date of enactment of the Rail Safety Improvement Act of 2008, an existing collective bargaining agreement expressly provides for such a schedule or, following the expiration of 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, collective

bargaining agreements entered into during such period expressly provide for such a schedule;

"(ii) such a schedule is provided for by a pilot program authorized by a collective bargaining agreement; or

"(iii) such a schedule is provided for by a pilot program under section 21108 of this chapter related to employees' work and rest cycles.

The Secretary may waive paragraph (4), consistent with the procedural requirements of section 20103, if a collective bargaining agreement provides a different arrangement and such an arrangement is in the public interest and consistent with railroad safety.";

Waiver authority.

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

"(c) LIMBO TIME LIMITATION AND ADDITIONAL REST REQUIREMENT.—

"(1) A railroad carrier may not require or allow an employee—

"(A) to exceed a total of 40 hours per calendar month spent—

"(i) waiting for deadhead transportation; or

"(ii) in deadhead transportation from a duty assignment to the place of final release,

following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period from the date of enactment of the Rail Safety Improvement Act of 2008 to one year after such date of enactment; and

"(B) to exceed a total of 30 hours per calendar month spent—

"(i) waiting for deadhead transportation; or

"(ii) in deadhead transportation from a duty assignment to the place of final release,

following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period beginning one year after the date of enactment of the Rail Safety Improvement Act of 2008 except that the Secretary may further limit the monthly limitation pursuant to regulations prescribed under section 21109.

"(2) The limitations in paragraph (1) shall apply unless the train carrying the employee is directly delayed by—

Applicability.

"(A) a casualty;

"(B) an accident;

"(C) an act of God;

"(D) a derailment;

"(E) a major equipment failure that prevents the train from advancing; or

"(F) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

"(3) Each railroad carrier shall report to the Secretary, in accordance with procedures established by the Secretary, each instance where an employee subject to this section spends time waiting for deadhead transportation or in deadhead

Reports.
Procedures.

transportation from a duty assignment to the place of final release in excess of the requirements of paragraph (1).

"(4) If—

"(A) the time spent waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release that is not time on duty, plus

"(B) the time on duty,

exceeds 12 consecutive hours, the railroad carrier and its officers and agents shall provide the employee with additional time off duty equal to the number of hours by which such sum exceeds 12 hours."; and

(3) by adding at the end thereof the following:

"(e) COMMUNICATION DURING TIME OFF DUTY.—During a train employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a) or during an interim period of at least 4 consecutive hours available for rest under subsection (b)(7) or during additional off-duty hours under subsection (c)(4), a railroad carrier, and its officers and agents, shall not communicate with the train employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary. The Secretary may waive the requirements of this paragraph for commuter or intercity passenger railroads if the Secretary determines that such a waiver will not reduce safety and is necessary to maintain such railroads' efficient operations and on-time performance of its trains.".

Waiver authority.

(c) LIMITATION ON DUTY HOURS OF SIGNAL EMPLOYEES.—Section 21104 is amended—

49 USC 21104.

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow its signal employees to remain or go on duty and a contractor or subcontractor to a railroad carrier and its officers and agents may not require or allow its signal employees to remain or go on duty —

"(1) for a period in excess of 12 consecutive hours; or

"(2) unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours.";

(2) by striking "duty, except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty." in subsection (b)(3) and inserting "duty.";

(3) by inserting "A signal employee may not be allowed to remain or go on duty under the emergency authority provided under this subsection to conduct routine repairs, routine maintenance, or routine inspection of signal systems." after "service." in subsection (c); and

(4) by adding at the end the following:

"(d) COMMUNICATION DURING TIME OFF DUTY.—During a signal employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), a railroad carrier or a contractor or subcontractor to a railroad carrier, and its officers and agents, shall not communicate with the signal employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall

prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary.

"(e) EXCLUSIVITY.—The hours of service, duty hours, and rest periods of signal employees shall be governed exclusively by this chapter. Signal employees operating motor vehicles shall not be subject to any hours of service rules, duty hours or rest period rules promulgated by any Federal authority, including the Federal Motor Carrier Safety Administration, other than the Federal Railroad Administration.".

(d) ALTERNATE HOURS OF SERVICE REGIME.—

(1) APPLICATION OF HOURS OF SERVICE REGIME.—Section 21102 is amended— 49 USC 21102.

(A) by striking the section caption and inserting the following:

**"§ 21102. Nonapplication, exemption, and alternate hours of service regime"; and**

(B) by adding at the end thereof the following:

"(c) APPLICATION OF HOURS OF SERVICE REGIME TO COMMUTER AND INTERCITY PASSENGER RAILROAD TRAIN EMPLOYEES.—

"(1) When providing commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of railroad carriers, including public authorities operating passenger service, shall be solely governed by old section 21103 until the earlier of—

"(A) the effective date of regulations prescribed by the Secretary under section 21109(b) of this chapter; or

"(B) the date that is 3 years following the date of enactment of the Rail Safety Improvement Act of 2008.

"(2) After the date on which old section 21103 ceases to apply, pursuant to paragraph (1), to the limitations on duty hours for train employees of railroad carriers with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of such railroad carriers shall be governed by new section 21103, except as provided in paragraph (3).

"(3) After the effective date of the regulations prescribed by the Secretary under section 21109(b) of this title, such carriers shall—

"(A) comply with the limitations on duty hours for train employees with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation as prescribed by such regulations; and

"(B) be exempt from complying with the provisions of old section 21103 and new section 21103 for such employees.

"(4) In this subsection:

"(A) The terms 'commuter rail passenger transportation' and 'intercity rail passenger transportation' have the meaning given those terms in section 24102 of this title.

"(C) The term 'new section 21103' means section 21103 of this chapter as amended by the Rail Safety Improvement Act of 2008.

"(D) The term 'old section 21103' means section 21103 of this chapter as it was in effect on the day before the enactment of that Act.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 211 is amended by striking the item relating to section 21102 and inserting the following:

"21102. Nonapplication, exemption, and alternate hours of service regime.".

(e) REGULATORY AUTHORITY.—

(1) IN GENERAL.—Chapter 211 is amended by adding at the end thereof the following:

**"§ 21109. Regulatory authority**

"(a) IN GENERAL.—In order to improve safety and reduce employee fatigue, the Secretary may prescribe regulations—

"(1) to reduce the maximum hours an employee may be required or allowed to go or remain on duty to a level less than the level established under this chapter;

"(2) to increase the minimum hours an employee may be required or allowed to rest to a level greater than the level established under this chapter;

"(3) to limit or eliminate the amount of time an employee spends waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release that is considered neither on duty nor off duty under this chapter;

"(4) for signal employees—

"(A) to limit or eliminate the amount of time that is considered to be neither on duty nor off duty under this chapter that an employee spends returning from an outlying worksite after scheduled duty hours or returning from a trouble call to the employee's headquarters or directly to the employee's residence; and

"(B) to increase the amount of time that constitutes a release period, that does not break the continuity of service and is considered time off duty; and

"(5) to require other changes to railroad operating and scheduling practices, including unscheduled duty calls, that could affect employee fatigue and railroad safety.

"(b) REGULATIONS GOVERNING THE HOURS OF SERVICE OF TRAIN EMPLOYEES OF COMMUTER AND INTERCITY PASSENGER RAILROAD CARRIERS.—Within 3 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary shall prescribe regulations and issue orders to establish hours of service requirements for train employees engaged in commuter rail passenger transportation and intercity rail passenger transportation (as defined in section 24102 of this title) that may differ from the requirements of this chapter. Such regulations and orders may address railroad operating and scheduling practices, including unscheduled duty calls, communications during time off duty, and time spent waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release, that could affect employee fatigue and railroad safety.

Deadline.
Orders.

"(c) CONSIDERATIONS.—In issuing regulations under subsection (a) the Secretary shall consider scientific and medical research related to fatigue and fatigue abatement, railroad scheduling and operating practices that improve safety or reduce employee fatigue,

a railroad's use of new or novel technology intended to reduce or eliminate human error, the variations in freight and passenger railroad scheduling practices and operating conditions, the variations in duties and operating conditions for employees subject to this chapter, a railroad's required or voluntary use of fatigue management plans covering employees subject to this chapter, and any other relevant factors.

"(d) TIME LIMITS.—

Deadlines. Regulations.

"(1) If the Secretary determines that regulations are necessary under subsection (a), the Secretary shall first request that the Railroad Safety Advisory Committee develop proposed regulations and, if the Committee accepts the task, provide the Committee with a reasonable time period in which to complete the task.

"(2) If the Secretary requests that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (b) and the Committee accepts the task, the Committee shall reach consensus on the rulemaking within 18 months after accepting the task. If the Committee does not reach consensus within 18 months after the Secretary makes the request, the Secretary shall prescribe appropriate regulations within 18 months.

"(3) If the Secretary does not request that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (b), the Secretary shall prescribe regulations within 3 years after the date of enactment of the Rail Safety Improvement Act of 2008.

"(e) PILOT PROJECTS.—

Deadline.

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary shall conduct at least 2 pilot projects of sufficient size and scope to analyze specific practices which may be used to reduce fatigue for train and engine and other railroad employees as follows:

"(A) A pilot project at a railroad or railroad facility to evaluate the efficacy of communicating to employees notice of their assigned shift time 10 hours prior to the beginning of their assigned shift as a method for reducing employee fatigue.

"(B) A pilot project at a railroad or railroad facility to evaluate the efficacy of requiring railroads who use employee scheduling practices that subject employees to periods of unscheduled duty calls to assign employees to defined or specific unscheduled call shifts that are followed by shifts not subject to call, as a method for reducing employee fatigue.

"(2) WAIVER.—The Secretary may temporarily waive the requirements of this section, if necessary, to complete a pilot project under this subsection.

"(f) DUTY CALL DEFINED.—In this section the term 'duty call' means a telephone call that a railroad places to an employee to notify the employee of his or her assigned shift time.".

(2) CONFORMING AMENDMENTS.—

(A) The chapter analysis for chapter 211 is amended by adding at the end thereof the following:

"21109. Regulatory authority.".

49 USC 21303.

(B) The first sentence of section 21303(a)(1) is amended by inserting "including section 21103 (as such section was in effect on the day before the date of enactment of the Rail Safety Improvement Act of 2008)," after "this title," the second place it appears.

49 USC 21101 note.

(f) RECORD KEEPING AND REPORTING.—

(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prescribe a regulation revising the requirements for recordkeeping and reporting for Hours of Service of Railroad Employees contained in part 228 of title 49, Code of Federal Regulations—

(A) to adjust record keeping and reporting requirements to support compliance with chapter 211 of title 49, United States Code, as amended by this Act;

(B) to authorize electronic record keeping, and reporting of excess service, consistent with appropriate considerations for user interface; and

(C) to require training of affected employees and supervisors, including training of employees in the entry of hours of service data.

(2) PROCEDURE.—In lieu of issuing a notice of proposed rulemaking as contemplated by section 553 of title 5, United States Code, the Secretary may utilize the Railroad Safety Advisory Committee to assist in development of the regulation. The Secretary may propose and adopt amendments to the revised regulations thereafter as may be necessary in light of experience under the revised requirements.

49 USC 21101 note. Effective date.

(g) DELAY IN IMPLEMENTATION OF DUTY HOURS LIMITATION CHANGES.—The amendments made by subsections (a), (b), and (c) shall take effect 9 months after the date of enactment of this Act.

**SEC. 109. PROTECTION OF RAILROAD SAFETY RISK ANALYSES INFORMATION.**

(a) AMENDMENT.—Subchapter I of chapter 201 is amended by adding at the end thereof the following:

**"§ 20118. Prohibition on public disclosure of railroad safety analysis records**

"(a) IN GENERAL.—Except as necessary for the Secretary of Transportation or another Federal agency to enforce or carry out any provision of Federal law, any part of any record (including, but not limited to, a railroad carrier's analysis of its safety risks and its statement of the mitigation measures it has identified with which to address those risks) that the Secretary has obtained pursuant to a provision of, or regulation or order under, this chapter related to the establishment, implementation, or modification of a railroad safety risk reduction program or pilot program is exempt from the requirements of section 552 of title 5 if the record is—

"(1) supplied to the Secretary pursuant to that safety risk reduction program or pilot program; or

"(2) made available for inspection and copying by an officer, employee, or agent of the Secretary pursuant to that safety risk reduction program or pilot program.

"(b) EXCEPTION.—Notwithstanding subsection (a), the Secretary may disclose any part of any record comprised of facts otherwise available to the public if, in the Secretary's sole discretion, the

Secretary determines that disclosure would be consistent with the confidentiality needed for that safety risk reduction program or pilot program.

"(c) DISCRETIONARY PROHIBITION OF DISCLOSURE.—The Secretary may prohibit the public disclosure of risk analyses or risk mitigation analyses that the Secretary has obtained under other provisions of, or regulations or orders under, this chapter if the Secretary determines that the prohibition of public disclosure is necessary to promote railroad safety.

**"§ 20119. Study on use of certain reports and surveys**

"(a) STUDY.—The Federal Railroad Administration shall complete a study to evaluate whether it is in the public interest, including public safety and the legal rights of persons injured in railroad accidents, to withhold from discovery or admission into evidence in a Federal or State court proceeding for damages involving personal injury or wrongful death against a carrier any report, survey, schedule, list, or data compiled or collected for the purpose of evaluating, planning, or implementing a railroad safety risk reduction program required under this chapter, including a railroad carrier's analysis of its safety risks and its statement of the mitigation measures with which it will address those risks. In conducting this study, the Secretary shall solicit input from the railroads, railroad non-profit employee labor organizations, railroad accident victims and their families, and the general public.

"(b) AUTHORITY.—Following completion of the study required under subsection (a), the Secretary, if in the public interest, including public safety and the legal rights of persons injured in railroad accidents, may prescribe a rule subject to notice and comment to address the results of the study. Any such rule prescribed pursuant to this subsection shall not become effective until 1 year after its adoption.". Effective date.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20117 the following:

"20118. Prohibition on public disclosure of railroad safety analysis records.
"20119. Study on use of certain reports and surveys.".

**SEC. 110. PILOT PROJECTS.**

Section 21108 is amended to read as follows: 49 USC 21108.

**"§ 21108. Pilot projects**

"(a) IN GENERAL.—As of the date of enactment of the Rail Safety Improvement Act of 2008, a railroad carrier or railroad carriers and all nonprofit employee labor organizations representing any class or craft of directly affected covered service employees of the railroad carrier or railroad carriers, may jointly petition the Secretary of Transportation for approval of—

"(1) a waiver of compliance with this chapter as in effect on the date of enactment of the Rail Safety Improvement Act of 2008; or

"(2) a waiver of compliance with this chapter as it will be effective 9 months after the enactment of the Rail Safety Improvement Act of 2008,

to enable the establishment of one or more pilot projects to demonstrate the possible benefits of implementing alternatives to the strict application of the requirements of this chapter, including

requirements concerning maximum on-duty and minimum off-duty periods.

Notice.

"(b) GRANTING OF WAIVERS.—The Secretary may, after notice and opportunity for comment, approve such waivers described in subsection (a) for a period not to exceed two years, if the Secretary determines that such a waiver of compliance is in the public interest and is consistent with railroad safety.

"(c) EXTENSIONS.—Any such waiver, based on a new petition, may be extended for additional periods of up to two years, after notice and opportunity for comment. An explanation of any waiver granted under this section shall be published in the Federal Register.

Federal Register, publication.

"(d) REPORT.—The Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, no later than December 31, 2012, or, if no projects are completed prior to December 31, 2012, no later than 6 months after the completion of a pilot project, a report that—

"(1) explains and analyzes the effectiveness of any pilot project established pursuant to a waiver granted under subsection (a);

"(2) describes the status of all other waivers granted under subsection (a) and their related pilot projects, if any; and

"(3) recommends any appropriate legislative changes to this chapter.

"(e) DEFINITION.—For purposes of this section, the term 'directly affected covered service employees' means covered service employees to whose hours of service the terms of the waiver petitioned for specifically apply.".

# TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY AND TRESPASSER PREVENTION

49 USC 20134 note. Deadline. Guidance.

**SEC. 201. PEDESTRIAN CROSSING SAFETY.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall provide guidance to railroads on strategies and methods to prevent pedestrian accidents, incidents, injuries, and fatalities at or near passenger stations, including—

(1) providing audible warning of approaching trains to the pedestrians at railroad passenger stations;

(2) using signs, signals, or other visual devices to warn pedestrians of approaching trains;

(3) installing infrastructure at pedestrian crossings to improve the safety of pedestrians crossing railroad tracks;

(4) installing fences to prohibit access to railroad tracks; and

(5) other strategies or methods as determined by the Secretary.

49 USC 22501 note. Deadline.

**SEC. 202. STATE ACTION PLANS.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall identify the 10 States that

have had the most highway-rail grade crossing collisions, on average, over the past 3 years and require those States to develop a State grade crossing action plan within a reasonable period of time, as determined by the Secretary. The plan shall identify specific solutions for improving safety at crossings, including highway-rail grade crossing closures or grade separations, and shall focus on crossings that have experienced multiple accidents or are at high risk for such accidents. The Secretary shall provide assistance to the States in developing and carrying out, as appropriate, the plan. The plan may be coordinated with other State or Federal planning requirements and shall cover a period of time determined to be appropriate by the Secretary. The Secretary may condition the awarding of any grants under section 20158, 20167, or 22501 of title 49, United States Code, to a State identified under this section on the development of such State's plan.

(b) REVIEW AND APPROVAL.—Not later than 60 days after the Secretary receives a plan under subsection (a), the Secretary shall review and approve or disapprove it. If the proposed plan is disapproved, the Secretary shall notify the affected State as to the specific areas in which the proposed plan is deficient, and the State shall correct all deficiencies within 30 days following receipt of written notice from the Secretary. Deadlines. Notification.

**SEC. 203. IMPROVEMENTS TO SIGHT DISTANCE AT HIGHWAY-RAIL GRADE CROSSINGS.**

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 105 of this division, is further amended by inserting after section 20158 the following:

**"§ 20159. Roadway user sight distance at highway-rail grade crossings**

"Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary, after consultation with the Federal Railroad Administration, the Federal Highway Administration, and States, shall develop and make available to States model legislation providing for improving safety by addressing sight obstructions, including vegetation growth, topographic features, structures, and standing railroad equipment, at highway-rail grade crossings that are equipped solely with passive warnings, as recommended by the Inspector General of the Department of Transportation in Report No. MH–2007–044.". Deadline.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 105 of this division, is amended by inserting after the item relating to section 20158 the following new item:

"20159. Roadway user sight distance at highway-rail grade crossings.".

**SEC. 204. NATIONAL CROSSING INVENTORY.**

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 203 of this division, is further amended by adding at the end the following new section:

**"§ 20160. National crossing inventory**

"(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or 6 Deadlines.

months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall—

"(1) report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing through which it operates or with respect to the trackage over which it operates; or

"(2) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

Deadlines.

"(b) UPDATING OF CROSSING INFORMATION.—

"(1) On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

"(A) report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing through which it operates or with respect to the trackage over which it operates; or

"(B) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

"(2) A railroad carrier that sells a crossing or any part of a crossing on or after the date of enactment of the Rail Safety Improvement Act of 2008 shall, not later than the date that is 18 months after the date of enactment of that Act or 3 months after the sale, whichever occurs later, or as otherwise specified by the Secretary, report to the Secretary current information, as specified by the Secretary, concerning the change in ownership of the crossing or part of the crossing.

Regulations.

"(c) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instruction for States and railroads that is in effect on the date of enactment of the Rail Safety Improvement Act of 2008, until such provision is superseded by a regulation issued under this section.

"(d) DEFINITIONS.—In this section:

"(1) CROSSING.—The term 'crossing' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

"(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

"(B) a pathway explicitly authorized by a public authority or a railroad carrier that is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

"(2) STATE.—The term 'State' means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 203 of this division, is amended by inserting after the item relating to section 20159 the following:

"20160. National crossing inventory.".

(c) REPORTING AND UPDATING.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

"(l) NATIONAL CROSSING INVENTORY.—

"(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported public crossing located within its borders.

"(2) PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each public crossing located within its borders.

"(3) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this subsection. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instructions for States and railroads that is in effect on the date of enactment of the Rail Safety Improvement Act of 2008, until such provision is superseded by a regulation issued under this subsection. Regulations.

"(4) DEFINITIONS.—In this subsection—

"(A) 'public crossing' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

"(i) a public highway, road, or street, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

"(ii) a publicly owned pathway explicitly authorized by a public authority or a railroad carrier and dedicated for the use of non-vehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated; and

"(B) 'State' means a State of the United States, the District of Columbia, or Puerto Rico.".

(d) CIVIL PENALTIES.—

(1) Section 21301(a)(1) is amended— 49 USC 21301.

(A) by inserting "with section 20160 or" after "comply" in the first sentence; and

(B) by inserting "section 20160 of this title or" after "violating" in the second sentence.

49 USC 21301.

(2) Section 21301(a)(2) is amended by inserting "The Secretary shall impose a civil penalty for a violation of section 20160 of this title." after the first sentence.

**SEC. 205. TELEPHONE NUMBER TO REPORT GRADE CROSSING PROBLEMS.**

(a) IN GENERAL.—Section 20152 is amended to read as follows:

**"§ 20152. Notification of grade crossing problems**

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall require each railroad carrier to—

"(1) establish and maintain a toll-free telephone service for rights-of-way over which it dispatches trains, to directly receive calls reporting—

"(A) malfunctions of signals, crossing gates, and other devices to promote safety at the grade crossing of railroad tracks on those rights-of-way and public or private roads;

"(B) disabled vehicles blocking railroad tracks at such grade crossings;

"(C) obstructions to the view of a pedestrian or a vehicle operator for a reasonable distance in either direction of a train's approach; or

"(D) other safety information involving such grade crossings;

"(2) upon receiving a report pursuant to paragraph (1)(A) or (B), immediately contact trains operating near the grade crossing to warn them of the malfunction or disabled vehicle;

"(3) upon receiving a report pursuant to paragraph (1)(A) or (B), and after contacting trains pursuant to paragraph (2), contact, as necessary, appropriate public safety officials having jurisdiction over the grade crossing to provide them with the information necessary for them to direct traffic, assist in the removal of the disabled vehicle, or carry out other activities as appropriate;

"(4) upon receiving a report pursuant to paragraph (1)(C) or (D), timely investigate the report, remove the obstruction if possible, or correct the unsafe circumstance; and

"(5) ensure the placement at each grade crossing on rights-of-way that it owns of appropriately located signs, on which shall appear, at a minimum—

"(A) a toll-free telephone number to be used for placing calls described in paragraph (1) to the railroad carrier dispatching trains on that right-of-way;

"(B) an explanation of the purpose of that toll-free telephone number; and

"(C) the grade crossing number assigned for that crossing by the National Highway-Rail Crossing Inventory established by the Department of Transportation.

"(b) WAIVER.—The Secretary may waive the requirement that the telephone service be toll-free for Class II and Class III rail carriers if the Secretary determines that toll-free service would be cost prohibitive or unnecessary.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by striking the item relating to section 20152 and inserting the following:

"20152. Notification of grade crossing problems.".

**SEC. 206. OPERATION LIFESAVER.**

49 USC 22501 note.

(a) GRANT.—The Federal Railroad Administration shall make a grant or grants to Operation Lifesaver to carry out a public information and education program to help prevent and reduce pedestrian, motor vehicle, and other accidents, incidents, injuries, and fatalities, and to improve awareness along railroad rights-of-way and at highway-rail grade crossings. The program shall include, as appropriate, development, placement, and dissemination of Public Service Announcements in newspaper, radio, television, and other media. The program shall also include, as appropriate, school presentations, brochures and materials, support for public awareness campaigns, and related support for the activities of Operation Lifesaver's member organizations. As part of an educational program funded by grants awarded under this section, Operation Lifesaver shall provide information to the public on how to identify and report to the appropriate authorities unsafe or malfunctioning highway-rail grade crossings.

(b) PILOT PROGRAM.—The Secretary may allow funds provided under subsection (a) also to be used by Operation Lifesaver to implement a pilot program, to be known as the Railroad Safety Public Awareness Program, that addresses the need for targeted and sustained community outreach on the subjects described in subsection (a). Such a pilot program shall be established in 1 or more States identified under section 202 of this division. In carrying out such a pilot program Operation Lifesaver shall work with the State, community leaders, school districts, and public and private partners to identify the communities at greatest risk, to develop appropriate measures to reduce such risks, and shall coordinate the pilot program with the State grade crossing action plan.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Administration for carrying out this section—

(1) $2,000,000 for each of fiscal years 2010 and 2011; and

(2) $1,500,000 for each of fiscal years 2012 and 2013.

**SEC. 207. FEDERAL GRANTS TO STATES FOR HIGHWAY-RAIL GRADE CROSSING SAFETY.**

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end thereof the following:

## "CHAPTER 225—FEDERAL GRANTS TO STATES FOR HIGHWAY-RAIL GRADE CROSSING SAFETY

"Sec.
"22501. Financial assistance to States for certain projects.
"22502. Distribution.
"22503. Standards for awarding grants.
"22504. Use of funds.
"22505. Authorization of appropriations.

### "§ 22501. Financial assistance to States for certain projects

"The Secretary of Transportation shall make grants—

"(1) to a maximum of 3 States per year for development or continuance of enhanced public education and awareness activities, in combination with targeted law enforcement, to significantly reduce violations of traffic laws at highway-rail grade crossings and to help prevent and reduce injuries and fatalities along railroad rights-of-way; and

"(2) to provide for priority highway-rail grade crossing safety improvements, including the installation, repair, or improvement of—

"(A) railroad crossing signals, gates, and related technologies, including median barriers and four quadrant gates;

"(B) highway traffic signalization, including highway signals tied to railroad signal systems;

"(C) highway lighting and crossing approach signage;

"(D) roadway improvements, including railroad crossing panels and surfaces; and

"(E) related work to mitigate dangerous conditions.

**"§ 22502. Distribution**

"The Secretary shall provide the grants to the State agency or agencies responsible for highway-rail grade crossing safety.

**"§ 22503. Standards for awarding grants**

"(a) SECTION 22501(1) GRANTS.—The Secretary shall provide grants under section 22501(1) based upon the merits of the proposed program of activities provided by the State and upon a determination of where the grants will provide the greatest safety benefits. The Secretary may give priority to States that have developed and implemented a State grade crossing action plan, as described under section 202 of the Rail Safety Improvement Act of 2008.

"(b) SECTION 22501(2) GRANTS.—The Secretary shall provide grants to State and local governments under section 22501(2) to provide priority grade crossing safety improvements on an expedited basis at a location where there has been a highway-rail grade crossing collision within the previous two years involving major loss of life or multiple serious bodily injuries.

**"§ 22504. Use of funds**

"(a) IN GENERAL.—Any State receiving a grant under section 22501(1) shall use the funds to develop, implement, and continue to measure the effectiveness of a dedicated program of public education and enforcement of highway-rail crossing safety laws and to prevent casualties along railroad rights-of-way. The Secretary may not make a grant under this chapter available to assist a State or political subdivision thereof in establishing or continuing a quiet zone pursuant to part 222 of title 49, Code of Federal Regulations.

"(b) MAXIMUM GRANT AMOUNT UNDER SECTION 22501(2).—No grant awarded under section 22501(2) may exceed $250,000.

**"§ 22505. Authorization of appropriations**

"There are authorized to be appropriated to the Secretary $1,500,000 for each of fiscal years 2010 through 2013 to carry out the provisions of section 22501(1) of this chapter. There are authorized to be appropriated to the Secretary $1,500,000 for each of fiscal years 2010 through 2013 to carry out the provisions of

section 22501(2) of this chapter. Amounts appropriated pursuant to this section shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The subtitle analysis for subtitle V is amended by inserting after the item relating to chapter 223 the following:

"225. Federal grants to States for highway-rail grade crossing safety .....22501".

**SEC. 208. TRESPASSER PREVENTION AND HIGHWAY-RAIL GRADE CROSSING SAFETY.**

(a) TRESPASSER PREVENTION AND HIGHWAY-RAIL GRADE CROSSING WARNING SIGN VIOLATIONS.—Section 20151 is amended— 49 USC 20151.

(1) by striking the section heading and inserting the following:

**"§ 20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy";**

(2) by striking subsection (a) and inserting the following:

"(a) EVALUATION OF EXISTING LAWS.—In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property, vandalism affecting railroad safety, and violations of highway-rail grade crossing signs, signals, markings, or other warning devices and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review shall be completed within 1 year after the date of enactment of the Rail Safety Improvement Act of 2008. The Secretary shall revise the model prevention strategies and enforcement codes periodically."; Deadline.

(3) by inserting "FOR TRESPASSING AND VANDALISM PREVENTION" in the subsection heading of subsection (b) after "OUTREACH PROGRAM";

(4) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting "(1)" after "MODEL LEGISLATION.—"; and

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

"(2) Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of highway-rail grade crossing signs, signals, markings, or other warning devices."; and Deadline.

(5) by adding at the end the following new subsection:

"(d) DEFINITION.—In this section, the term 'violation of highway-rail grade crossing signs, signals, markings, or other warning devices' includes any action by a motorist, unless directed by an authorized safety officer—

"(1) to drive around a grade crossing gate in a position intended to block passage over railroad tracks;

"(2) to drive through a flashing grade crossing signal;

"(3) to drive through a grade crossing with passive warning signs without ensuring that the grade crossing could be safely crossed before any train arrived; and

"(4) in the vicinity of a grade crossing, who creates a hazard of an accident involving injury or property damage at the grade crossing.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by striking the item relating to section 20151 and inserting the following:

"20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy.".

(c) EDUCATIONAL OR AWARENESS PROGRAM ITEMS FOR DISTRIBUTION.—Section 20134(a) is amended by adding at the end the following: "The Secretary may purchase items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to preventing trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority.". Guidelines.

49 USC 20901 note. Audits.

**SEC. 209. ACCIDENT AND INCIDENT REPORTING.**

The Federal Railroad Administration shall conduct an audit of each Class I railroad at least once every 2 years and conduct an audit of each non-Class I railroad at least once every 5 years to ensure that all grade crossing collisions and fatalities are reported to any Federal national accident database.

**SEC. 210. FOSTERING INTRODUCTION OF NEW TECHNOLOGY TO IMPROVE SAFETY AT HIGHWAY-RAIL GRADE CROSSINGS.**

(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 204 of this division, is further amended by adding at the end the following:

**"§ 20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings**

"(a) FINDINGS.—

"(1) Collisions between highway users and trains at highway-rail grade crossings continue to cause an unacceptable loss of life, serious personal injury, and property damage.

"(2) While elimination of at-grade crossings through consolidation of crossings and grade separations offers the greatest long-term promise for optimizing the safety and efficiency of the two modes of transportation, over 140,000 public grade crossings remain on the general rail system—approximately one for each route mile on the general rail system.

"(3) Conventional highway traffic control devices such as flashing lights and gates are often effective in warning motorists of a train's approach to an equipped crossing.

"(4) Since enactment of the Highway Safety Act of 1973, over $4,200,000,000 of Federal funding has been invested in safety improvements at highway-rail grade crossings, yet a majority of public highway-rail grade crossings are not yet equipped with active warning systems.

"(5) The emergence of new technologies presents opportunities for more effective and affordable warnings and safer passage of highway users and trains at remaining highway-rail grade crossings.

"(6) Implementation of new crossing safety technology will require extensive cooperation between highway authorities and railroad carriers.

"(7) Federal Railroad Administration regulations establishing performance standards for processor-based signal and train control systems provide a suitable framework for qualification of new or novel technology at highway-rail grade crossings, and the Federal Highway Administration's Manual on Uniform Traffic Control Devices provides an appropriate means of determining highway user interface with such new technology.

"(b) POLICY.—It is the policy of the United States to encourage the development of new technology that can prevent loss of life and injuries at highway-rail grade crossings. The Secretary of Transportation is designated to carry out this policy in consultation with States and necessary public and private entities.

"(c) SUBMISSION OF NEW TECHNOLOGY PROPOSALS.—Railroad carriers and railroad suppliers may submit for review and approval to the Secretary such new technology designed to improve safety at highway-rail grade crossings. The Secretary shall approve by order the new technology designed to improve safety at highway-rail grade crossings in accordance with Federal Railroad Administration standards for the development and use of processor-based signal and train control systems and shall consider the effects on safety of highway-user interface with the new technology.

"(d) EFFECT OF SECRETARIAL APPROVAL.—If the Secretary approves by order new technology to provide warning to highway users at a highway-rail grade crossing and such technology is installed at a highway-rail grade crossing in accordance with the conditions of the approval, this determination preempts any State statute or regulation concerning the adequacy of the technology in providing warning at the crossing.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 204 of this division, is further amended by inserting after the item relating to section 20160, the following:

"20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings.".

# TITLE III—FEDERAL RAILROAD ADMINISTRATION

**SEC. 301. HUMAN CAPITAL INCREASES.**

(a) IN GENERAL.—The Secretary shall increase the number of Federal Railroad Administration employees by—

(1) 50 employees in fiscal year 2009;
(2) 50 employees in fiscal year 2010;
(3) 50 employees in fiscal year 2011;
(4) 25 employees in fiscal year 2012; and
(5) 25 employees in fiscal year 2013.

(b) FUNCTIONS.—In increasing the number of employees pursuant to subsection (a), the Secretary shall focus on hiring employees—

(1) specifically trained to conduct on-site railroad and highway-rail grade crossing accident investigations;
(2) to implement the Railroad Safety Strategy;

(3) to administer and implement section 20156 of title 49, United States Code, relating to the Railroad Safety Risk Reduction Program;

(4) to conduct routine inspections and audits of railroad and hazardous materials facilities and records for compliance with railroad safety laws and regulations;

(5) to inspect railroad bridges, tunnels, and related infrastructure, and to review or analyze railroad bridge, tunnel, and related infrastructure inspection reports;

(6) to prevent or respond to natural or manmade emergency situations or events involving rail infrastructure or employees;

(7) to implement section 20157 of title 49, United States Code, relating to positive train control systems;

(8) to implement section 20164 of title 49, United States Code, relating to the development and use of rail safety technology; and

(9) to support the Federal Railroad Administration's safety mission.

**SEC. 302. CIVIL PENALTY INCREASES.**

49 USC 21301.

(a) GENERAL VIOLATIONS OF CHAPTER 201.—Section 21301(a)(2) is amended—

(1) by striking "$10,000." and inserting "$25,000."; and

(2) by striking "$20,000." and inserting "$100,000.".

(b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER 201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—Section 21302(a)(2) is amended—

(1) by striking "$10,000." and inserting "$25,000."; and

(2) by striking "$20,000." and inserting "$100,000.".

(c) VIOLATIONS OF CHAPTER 211.—Section 21303(a)(2) is amended—

(1) by striking "$10,000." and inserting "$25,000."; and

(2) by striking "$20,000." and inserting "$100,000.".

**SEC. 303. ENFORCEMENT REPORT.**

(a) IN GENERAL.—Subchapter I of chapter 201, as amended by section 109 of this division, is amended by adding at the end the following:

**"§ 20120. Enforcement report**

Effective date. Public information. Web site.

"(a) IN GENERAL.—Beginning not later than December 31, 2009, the Secretary of Transportation shall make available to the public and publish on its public website an annual report that—

"(1) provides a summary of railroad safety and hazardous materials compliance inspections and audits that Federal or State inspectors conducted in the prior fiscal year organized by type of alleged violation, including track, motive power and equipment, signal, grade crossing, operating practices, accident and incidence reporting, and hazardous materials;

"(2) provides a summary of all enforcement actions taken by the Secretary or the Federal Railroad Administration during the prior fiscal year, including—

"(A) the number of civil penalties assessed;

"(B) the initial amount of civil penalties assessed;

"(C) the number of civil penalty cases settled;

"(D) the final amount of civil penalties assessed;

"(E) the difference between the initial and final amounts of civil penalties assessed;

"(F) the number of administrative hearings requested and completed related to hazardous materials transportation law violations or enforcement actions against individuals;

"(G) the number of cases referred to the Attorney General for civil or criminal prosecution;

"(H) the number and subject matter of all compliance orders, emergency orders, or precursor agreements;

"(3) analyzes the effect of the number of inspections conducted and enforcement actions taken on the number and rate of reported accidents and incidents and railroad safety;

"(4) provide the information required by paragraphs (2) and (3)—

"(A) for each Class I railroad individually; and

"(B) in the aggregate for—

"(i) Class II railroads;

"(ii) Class III railroads;

"(iii) hazardous materials shippers; and

"(iv) individuals;

"(5) identifies the number of locomotive engineer certification denial or revocation cases appealed to and the average length of time it took to be decided by—

"(A) the Locomotive Engineer Review Board;

"(B) an Administrative Hearing Officer or Administrative Law Judge; or

"(C) the Administrator of the Federal Railroad Administration;

"(6) provides an explanation regarding any changes in the Secretary's or the Federal Railroad Administration's enforcement programs or policies that may substantially affect the information reported; and

"(7) includes any additional information that the Secretary determines is useful to improve the transparency of its enforcement program.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 109 of this division, is amended by inserting after the item relating to section 20119 the following:

"20120. Enforcement report.".

**SEC. 304. EXPANSION OF EMERGENCY ORDER AUTHORITY.**

Section 20104(a)(1) is amended by striking "death or personal injury" and inserting "death, personal injury, or significant harm to the environment". 49 USC 20104.

**SEC. 305. PROHIBITION OF INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS FOR A VIOLATION OF HAZARDOUS MATERIALS TRANSPORTATION LAW.**

Section 20111(c) is amended to read as follows:

"(c) ORDERS PROHIBITING INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS.—

"(1) If an individual's violation of this part, chapter 51 of this title, or a regulation prescribed, or an order issued, by the Secretary under this part or chapter 51 of this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after providing notice and an opportunity for a hearing, may issue an order prohibiting the individual from performing safety-sensitive Notice.

functions in the railroad industry for a specified period of time or until specified conditions are met.

"(2) This subsection does not affect the Secretary's authority under section 20104 of this title to act on an emergency basis.".

**SEC. 306. RAILROAD RADIO MONITORING AUTHORITY.**

49 USC 20107.

Section 20107 is amended by inserting at the end the following:

"(c) RAILROAD RADIO COMMUNICATIONS.—

"(1) IN GENERAL.—To carry out the Secretary's responsibilities under this part and under chapter 51, the Secretary may authorize officers, employees, or agents of the Secretary to conduct, with or without making their presence known, the following activities in circumstances the Secretary finds to be reasonable:

"(A) Intercepting a radio communication, with or without the consent of the sender or other receivers of the communication, but only where such communication is broadcast or transmitted over a radio frequency which is—

"(i) authorized for use by one or more railroad carriers by the Federal Communications Commission; and

"(ii) primarily used by such railroad carriers for communications in connection with railroad operations.

"(B) Communicating the existence, contents, substance, purport, effect, or meaning of the communication, subject to the restrictions in paragraph (3).

"(C) Receiving or assisting in receiving the communication (or any information therein contained).

"(D) Disclosing the contents, substance, purport, effect, or meaning of the communication (or any part thereof of such communication) or using the communication (or any information contained therein), subject to the restrictions in paragraph (3), after having received the communication or acquired knowledge of the contents, substance, purport, effect, or meaning of the communication (or any part thereof).

"(E) Recording the communication by any means, including writing and tape recording.

"(2) ACCIDENT AND INCIDENT PREVENTION AND INVESTIGATION.—The Secretary, and officers, employees, and agents of the Department of Transportation authorized by the Secretary, may engage in the activities authorized by paragraph (1) for the purpose of accident and incident prevention and investigation.

"(3) USE OF INFORMATION.—(A) Information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except—

"(i) in a prosecution of a felony under Federal or State criminal law; or

"(ii) to impeach evidence offered by a party other than the Federal Government regarding the existence, electronic characteristics, content, substance, purport, effect, meaning, or timing of, or identity of parties to, a communication intercepted pursuant to paragraphs (1) and (2) in proceedings pursuant to section 5122, 5123, 20702(b), 20111, 20112, 20113, or 20114 of this title.

"(B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment purposes in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

"(C) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

"(D) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

"(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.

"(4) APPLICATION WITH OTHER LAW.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18 shall not apply to conduct authorized by and pursuant to this subsection.".

**SEC. 307. UPDATE OF FEDERAL RAILROAD ADMINISTRATION'S WEBSITE.** 49 USC 103 note.

(a) IN GENERAL.—The Secretary shall update the Federal Railroad Administration's public website to better facilitate the ability of the public, including those individuals who are not regular users of the public website, to find current information regarding the Federal Railroad Administration's activities.

(b) PUBLIC REPORTING OF VIOLATIONS.—On the Federal Railroad Administration's public website's home page, the Secretary shall provide a mechanism for the public to submit written reports of potential violations of Federal railroad safety and hazardous materials transportation laws, regulations, and orders to the Federal Railroad Administration.

**SEC. 308. EMERGENCY WAIVERS.**

Section 20103 is amended— 49 USC 20103.

(1) by striking "WAIVERS.—" in subsection (d) and inserting "NONEMERGENCY WAIVERS.—";

(2) by striking subsection (e) and inserting the following:

"(e) HEARINGS.—The Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this part, including a regulation or order establishing, amending, or providing a waiver, described in subsection (d), of compliance with a railroad safety regulation prescribed or order issued under this part. An opportunity for an oral presentation shall be provided."; and

(3) by adding at the end thereof the following:

"(g) EMERGENCY WAIVERS.—

"(1) IN GENERAL.—The Secretary may waive compliance with any part of a regulation prescribed or order issued under

this part without prior notice and comment if the Secretary determines that—

"(A) it is in the public interest to grant the waiver;

"(B) the waiver is not inconsistent with railroad safety; and

"(C) the waiver is necessary to address an actual or impending emergency situation or emergency event.

Notice.

"(2) PERIOD OF WAIVER.—A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this part.

"(3) STATEMENT OF REASONS.—The Secretary shall state in the decision issued under this subsection the reasons for granting the waiver.

"(4) CONSULTATION.—In granting a waiver under this subsection, the Secretary shall consult and coordinate with other Federal agencies, as appropriate, for matters that may impact such agencies.

"(5) EMERGENCY SITUATION; EMERGENCY EVENT.—In this subsection, the terms 'emergency situation' and 'emergency event' mean a natural or manmade disaster, such as a hurricane, flood, earthquake, mudslide, forest fire, snowstorm, terrorist act, biological outbreak, release of a dangerous radiological, chemical, explosive, or biological material, or a war-related activity, that poses a risk of death, serious illness, severe injury, or substantial property damage. The disaster may be local, regional, or national in scope.".

**SEC. 309. ENFORCEMENT BY THE ATTORNEY GENERAL.**

49 USC 20112.

Section 20112(a) is amended—

(1) by inserting "this part, except for section 20109 of this title, or" in paragraph (1) after "enforce,";

(2) by striking "21301" in paragraph (2) and inserting "21301, 21302, or 21303";

(3) by striking "subpena" in paragraph (3) and inserting "subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition"; and

(4) by striking "chapter." in paragraph (3) and inserting "part.".

**SEC. 310. CRIMINAL PENALTIES.**

Section 21311(b) is amended to read as follows:

"(b) ACCIDENT AND INCIDENT REPORTS.—A railroad carrier not filing a report in violation of section 20901 of this title shall be fined not more than $2,500. A separate violation occurs for each day the violation continues.".

# TITLE IV—RAILROAD SAFETY ENHANCEMENTS

**SEC. 401. MINIMUM TRAINING STANDARDS AND PLANS.**

(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 210 of this division, is further amended by adding at the end the following new section:

**"§ 20162. Minimum training standards and plans**

"(a) IN GENERAL.—The Secretary of Transportation shall, not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008, establish— Deadline.

"(1) minimum training standards for each class and craft of safety-related railroad employee (as defined in section 20102) and equivalent railroad carrier contractor and subcontractor employees, which shall require railroad carriers, contractors, and subcontractors to qualify or otherwise document the proficiency of such employees in each such class and craft regarding their knowledge of, and ability to comply with, Federal railroad safety laws and regulations and railroad carrier rules and procedures promulgated to implement those Federal railroad safety laws and regulations;

"(2) a requirement that railroad carriers, contractors, and subcontractors develop and submit training and qualification plans to the Secretary for approval, including training programs and information deemed necessary by the Secretary to ensure that all safety-related railroad employees receive appropriate training in a timely manner; and Requirements.

"(3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that safety-related railroad employees, and contractor and subcontractor employees, charged with the inspection of track or railroad equipment are qualified to assess railroad compliance with Federal standards to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, incidents, or injuries, and, in implementing the requirements of this paragraph, take into consideration existing training programs of railroad carriers.

"(b) APPROVAL.—The Secretary shall review and approve the plans required under subsection (a)(2) utilizing an approval process required for programs to certify the qualification of locomotive engineers pursuant to part 240 of title 49, Code of Federal Regulations.

"(c) EXEMPTION.—The Secretary may exempt railroad carriers and railroad carrier contractors and subcontractors from submitting training plans for which the Secretary has issued training regulations before the date of enactment of the Rail Safety Improvement Act of 2008.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 210 of this division, is amended by inserting after the item relating to section 20161 the following:

"20162. Minimum training standards and plans.".

**SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASSES OF EMPLOYEES.**

(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 401 of this division, is further amended by adding at the end the following new section:

**"§ 20163. Certification of train conductors**

Deadline.

"(a) REGULATIONS.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall prescribe regulations to establish a program requiring the certification of train conductors. In prescribing such regulations, the Secretary shall require that train conductors be trained, in accordance with the training standards developed pursuant to section 20162.

"(b) PROGRAM REQUIREMENTS.—In developing the regulations required by subsection (a), the Secretary may consider the requirements of section 20135(b) through (e).".

49 USC 20162 note.

(b) REPORT.—Not later than 6 months after promulgating regulations under section 20162 of title 49, United States Code, the Secretary shall issue a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure about whether the certification of certain crafts or classes of railroad carrier or railroad carrier contractor or subcontractor employees is necessary to reduce the number and rate of accidents and incidents or to improve railroad safety.

(c) CRAFTS AND CLASSES TO BE CONSIDERED.—As part of the report, the Secretary shall consider—

(1) car repair and maintenance employees;
(2) onboard service workers;
(3) rail welders;
(4) dispatchers;
(5) signal repair and maintenance employees; and
(6) any other craft or class of employees that the Secretary determines appropriate.

(d) REGULATIONS.—The Secretary may prescribe regulations requiring the certification of certain crafts or classes of employees that the Secretary determines pursuant to the report required by paragraph (1) are necessary to reduce the number and rate of accidents and incidents or to improve railroad safety.

49 USC 20162 note.

(e) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 401 of this division, is amended by inserting after the item relating to section 20162 the following:

"20163. Certification of train conductors.".

49 USC 20142 note.

**SEC. 403. TRACK INSPECTION TIME STUDY.**

Deadlines. Reports.

(a) STUDY.—Not later that 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of a study to determine whether—

(1) the required intervals of track inspections for each class of track should be amended;
(2) track remedial action requirements should be amended;
(3) different track inspection and repair priorities or methods should be required; and

(4) the speed at which railroad track inspection vehicles operate and the scope of the territory they generally cover allow for proper inspection of the track and whether such speed and appropriate scope should be regulated by the Secretary.

(b) CONSIDERATIONS.—In conducting the study the Secretary shall consider—

(1) the most current rail flaw, rail defect growth, rail fatigue, and other relevant track- or rail-related research and studies;

(2) the availability and feasibility of developing and implementing new or novel rail inspection technology for routine track inspections;

(3) information from National Transportation Safety Board or Federal Railroad Administration accident investigations where track defects were the cause or a contributing cause; and

(4) other relevant information, as determined by the Secretary.

(c) UPDATE OF REGULATIONS.—Not later than 2 years after the completion of the study required by subsection (a), the Secretary shall prescribe regulations based on the results of the study conducted under subsection (a).

(d) CONCRETE CROSS TIES.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate regulations for concrete cross ties. In developing the regulations for class 1 through 5 track, the Secretary may address, as appropriate— Regulations.

(1) limits for rail seat abrasion;
(2) concrete cross tie pad wear limits;
(3) missing or broken rail fasteners;
(4) loss of appropriate toeload pressure;
(5) improper fastener configurations; and
(6) excessive lateral rail movement.

**SEC. 404. STUDY OF METHODS TO IMPROVE OR CORRECT STATION PLATFORM GAPS.**

Not later than 2 years after the enactment of this Act, the Secretary shall complete a study to determine the most safe, efficient, and cost-effective way to improve the safety of rail passenger station platforms gaps in order to increase compliance with the requirements under the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), including regulations issued pursuant to section 504 of such Act (42 U.S.C. 12204) and to minimize the safety risks associated with such gaps for railroad passengers and employees. Deadline.

**SEC. 405. LOCOMOTIVE CAB STUDIES.**

49 USC 20103 note.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, through the Railroad Safety Advisory Committee if the Secretary makes such a request, shall complete a study on the safety impact of the use of personal electronic devices, including cell phones, video games, and other distracting devices, by safety-related railroad employees (as defined in section 20102(4) of title 49, United States Code), during the performance of such employees' duties. The study shall consider the prevalence of the use of such devices. Deadline.

(b) LOCOMOTIVE CAB ENVIRONMENT.—The Secretary may also study other elements of the locomotive cab environment and their effect on an employee's health and safety.

(c) REPORT.—Not later than 6 months after the completion of any study under this section, the Secretary shall issue a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(d) AUTHORITY.—Based on the conclusions of the study required under (a), the Secretary of Transportation may prohibit the use of personal electronic devices, such as cell phones, video games, or other electronic devices that may distract employees from safely performing their duties, unless those devices are being used according to railroad operating rules or for other work purposes. Based on the conclusions of other studies conducted under subsection (b), the Secretary may prescribe regulations to improve elements of the cab environment to protect an employee's health and safety.

**SEC. 406. DEVELOPMENT AND USE OF RAIL SAFETY TECHNOLOGY.**

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 402 of this division, is further amended by adding at the end the following new section:

**"§ 20164. Development and use of rail safety technology**

Deadline. Standards. Guidance. Regulations. Orders.

"(a) IN GENERAL.—Not later than 1 year after enactment of the Railroad Safety Enhancement Act of 2008, the Secretary of Transportation shall prescribe standards, guidance, regulations, or orders governing the development, use, and implementation of rail safety technology in dark territory, in arrangements not defined in section 20501 or otherwise not covered by Federal standards, guidance, regulations, or orders that ensure the safe operation of such technology, such as—

"(1) switch position monitoring devices or indicators;

"(2) radio, remote control, or other power-assisted switches;

"(3) hot box, high water, or earthquake detectors;

"(4) remote control locomotive zone limiting devices;

"(5) slide fences;

"(6) grade crossing video monitors;

"(7) track integrity warning systems; or

"(8) other similar rail safety technologies, as determined by the Secretary.

"(b) DARK TERRITORY DEFINED.—In this section, the term 'dark territory' means any territory in a railroad system that does not have a signal or train control system installed or operational.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 402 of this division, is amended by inserting after the item relating to section 20163 the following:

"20164. Development and use of rail safety technology.".

**SEC. 407. UNIFIED TREATMENT OF FAMILIES OF RAILROAD CARRIERS.**

49 USC 20102.

Section 20102(3), as redesignated by section 2(b) of this division, is amended to read as follows:

"(3) 'railroad carrier' means a person providing railroad transportation, except that, upon petition by a group of commonly controlled railroad carriers that the Secretary determines is operating within the United States as a single, integrated

rail system, the Secretary may by order treat the group of railroad carriers as a single railroad carrier for purposes of one or more provisions of part A, subtitle V of this title and implementing regulations and order, subject to any appropriate conditions that the Secretary may impose.".

**SEC. 408. STUDY OF REPEAL OF CONRAIL PROVISION.**

Deadlines.

Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a study of the impacts of repealing section 711 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797j). Not later than 6 months after completing the study, the Secretary shall transmit a report with the Secretary's findings, conclusions, and recommendations to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

Reports.

**SEC. 409. LIMITATIONS ON NON-FEDERAL ALCOHOL AND DRUG TESTING BY RAILROAD CARRIERS.**

(a) IN GENERAL.—Chapter 201, as amended by section 406 of this division, is further amended by adding at the end the following:

**"§ 20165. Limitations on non-Federal alcohol and drug testing**

"(a) TESTING REQUIREMENTS.—Any non-Federal alcohol and drug testing program of a railroad carrier must provide that all post-employment tests of the specimens of employees who are subject to both the program and chapter 211 of this title be conducted using a scientifically recognized method of testing capable of determining the presence of the specific analyte at a level above the cut-off level established by the carrier.

"(b) REDRESS PROCESS.—Each railroad carrier that has a non-Federal alcohol and drug testing program must provide a redress process to its employees who are subject to both the alcohol and drug testing program and chapter 211 of this title for such an employee to petition for and receive a carrier hearing to review his or her specimen test results that were determined to be in violation of the program. A dispute or grievance raised by a railroad carrier or its employee, except a probationary employee, in connection with the carrier's alcohol and drug testing program and the application of this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153).".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 406 of this division, is further amended by inserting after the item relating to section 20164 the following:

"20165. Limitations on non-Federal alcohol and drug testing by railroad carriers.".

**SEC. 410. CRITICAL INCIDENT STRESS PLAN.**

49 USC 20109 note.

(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, as appropriate, shall require each Class I railroad carrier, each intercity passenger railroad carrier, and each commuter railroad carrier to develop and submit for approval to the Secretary a critical incident stress plan that provides for debriefing, counseling, guidance, and other appropriate support services to be offered to an employee affected by a critical incident.

(b) PLAN REQUIREMENTS.—Each such plan shall include provisions for—

(1) relieving an employee who was involved in a critical incident of his or her duties for the balance of the duty tour, following any actions necessary for the safety of persons and contemporaneous documentation of the incident;

(2) upon the employee's request, relieving an employee who witnessed a critical incident of his or her duties following any actions necessary for the safety of persons and contemporaneous documentation of the incident; and

(3) providing such leave from normal duties as may be necessary and reasonable to receive preventive services, treatment, or both, related to the incident.

Deadline. Regulations.

(c) SECRETARY TO DEFINE WHAT CONSTITUTES A CRITICAL INCIDENT.—Within 30 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to define the term "critical incident" for the purposes of this section.

49 USC 5103 note.

**SEC. 411. RAILROAD CARRIER EMPLOYEE EXPOSURE TO RADIATION STUDY.**

(a) STUDY.—The Secretary of Transportation shall, in consultation with the Secretary of Energy, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission, as appropriate, conduct a study of the potential hazards to which employees of railroad carriers and railroad contractors or subcontractors are exposed during the transportation of high-level radioactive waste and spent nuclear fuel (as defined in section 5101(a) of title 49, United States Code), supplementing the report submitted under section 5101(b) of that title, which may include—

(1) an analysis of the potential application of "as low as reasonably achievable" principles for exposure to radiation to such employees with an emphasis on the need for special protection from radiation exposure for such employees during the first trimester of pregnancy or who are undergoing or have recently undergone radiation therapy;

(2) the feasibility of requiring real-time dosimetry monitoring for such employees;

(3) the feasibility of requiring routine radiation exposure monitoring in fixed railroad locations, such as yards and repair facilities; and

(4) a review of the effectiveness of the Department's packaging requirements for radioactive materials.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall transmit a report on the results of the study required by subsection (a) and any recommendations to further protect employees of a railroad carrier or of a contractor or subcontractor to a railroad carrier from unsafe exposure to radiation during the transportation of high-level radioactive waste and spent nuclear fuel to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) REGULATORY AUTHORITY.—The Secretary of Transportation may issue regulations that the Secretary determines appropriate, pursuant to the report required by subsection (b), to protect railroad

employees from unsafe exposure to radiation during the transportation of radioactive materials.

**SEC. 412. ALCOHOL AND CONTROLLED SUBSTANCE TESTING FOR MAINTENANCE-OF-WAY EMPLOYEES.**

49 USC 20140 note.

Deadline.

Not later than 2 years following the date of enactment of this Act, the Secretary of Transportation shall complete a rulemaking proceeding to revise the regulations prescribed under section 20140 of title 49, United States Code, to cover all employees of railroad carriers and contractors or subcontractors to railroad carriers who perform maintenance-of-way activities.

**SEC. 413. EMERGENCY ESCAPE BREATHING APPARATUS.**

(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 409 of this division, is further amended by adding at the end the following new section:

**"§ 20166. Emergency escape breathing apparatus**

Deadline. Regulations.

"Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall prescribe regulations that require railroad carriers—

"(1) to provide emergency escape breathing apparatus suitable to provide head and neck coverage with respiratory protection for all crewmembers in locomotive cabs on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of release;

"(2) to provide convenient storage in each freight train locomotive to enable crewmembers to access such apparatus quickly;

"(3) to maintain such equipment in proper working condition; and

"(4) to provide their crewmembers with appropriate training for using the breathing apparatus.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 409 of this division, is amended by inserting after the item relating to section 20165 the following:

"20166. Emergency escape breathing apparatus.".

**SEC. 414. TUNNEL INFORMATION.**

49 USC 20103 note.

Deadline. Time period. Records.

Not later than 120 days after the date of enactment of this Act, each railroad carrier shall, with respect to each of its tunnels which—

(1) are longer than 1000 feet and located under a city with a population of 400,000 or greater; or

(2) carry 5 or more scheduled passenger trains per day, or 500 or more carloads of poison- or toxic-by-inhalation hazardous materials (as defined in parts 171.8, 173.115, and 173.132 of title 49, Code of Federal Regulations) per year,

maintain, for at least two years, historical documentation of structural inspection and maintenance activities for such tunnels, including information on the methods of ingress and egress into and out of the tunnel, the types of cargos typically transported through the tunnel, and schematics or blueprints for the tunnel, when available. Upon request, a railroad carrier shall provide periodic briefings on such information to the governments of the local jurisdiction in which the tunnel is located, including updates whenever a repair or rehabilitation project substantially alters the

Briefings.

methods of ingress and egress. Such governments shall use appropriate means to protect and restrict the distribution of any security sensitive information (as defined in part 1520.5 of title 49, Code of Federal Regulations) provided by the railroad carrier under this section, consistent with national security interests.

**SEC. 415. MUSEUM LOCOMOTIVE STUDY.**

(a) STUDY.—The Secretary shall conduct a study of the requirements relating to safety inspections of diesel-electric locomotives and equipment that are operated in limited service by railroad-related museums, historical societies, and tourist or scenic railroads. The study shall include an analysis of the safety consequences of requiring less frequent inspections of such locomotives and equipment, including periodic inspections or inspections based on service days and air brake inspections.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit a report on the results of the study conducted under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

49 USC 20107 note. Certification.

**SEC. 416. SAFETY INSPECTIONS IN MEXICO.**

Mechanical and brake inspections of rail cars performed in Mexico shall not be treated as satisfying United States rail safety laws or regulations unless the Secretary of Transportation certifies that—

(1) such inspections are being performed under regulations and standards equivalent to those applicable in the United States;

(2) the inspections are being performed by employees that have received training similar to the training received by similar railroad employees in the United States;

(3) inspection records that are required to be available to the crewmembers on board the train, including air slips and blue cards, are maintained in both English and Spanish, and such records are available to the Federal Railroad Administration for review; and

(4) the Federal Railroad Administration is permitted to perform onsite inspections for the purpose of ensuring compliance with the requirements of this subsection.

49 USC 20103 note. Deadline. Regulations.

**SEC. 417. RAILROAD BRIDGE SAFETY ASSURANCE.**

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary shall promulgate a regulation requiring owners of track carried on one or more railroad bridges to adopt a bridge safety management program to prevent the deterioration of railroad bridges and reduce the risk of human casualties, environmental damage, and disruption to the Nation's railroad transportation system that would result from a catastrophic bridge failure.

(b) REQUIREMENTS.—The regulations shall, at a minimum, require each track owner to—

(1) to develop and maintain an accurate inventory of its railroad bridges, which shall identify the location of each bridge, its configuration, type of construction, number of spans, span lengths, and all other information necessary to provide for the safe management of the bridges;

(2) to ensure that a professional engineer competent in the field of railroad bridge engineering, or a qualified person under the supervision of the track owner, determines bridge capacity;

(3) to maintain, and update as appropriate, a record of the safe capacity of each bridge which carries its track and, if available, maintain the original design documents of each bridge and a documentation of all repairs, modifications, and inspections of the bridge;

(4) to develop, maintain, and enforce a written procedure that will ensure that its bridges are not loaded beyond their capacities;

(5) to conduct regular comprehensive inspections of each bridge, at least once every year, and maintain records of those inspections that include the date on which the inspection was performed, the precise identification of the bridge inspected, the items inspected, an accurate description of the condition of those items, and a narrative of any inspection item that is found by the inspector to be a potential problem;

(6) to ensure that the level of detail and the inspection procedures are appropriate to the configuration of the bridge, conditions found during previous inspections, and the nature of the railroad traffic moved over the bridge, including car weights, train frequency and length, levels of passenger and hazardous materials traffic, and vulnerability of the bridge to damage;

(7) to ensure that an engineer who is competent in the field of railroad bridge engineering—

(A) is responsible for the development of all inspection procedures;

(B) reviews all inspection reports; and

(C) determines whether bridges are being inspected according to the applicable procedures and frequency, and reviews any items noted by an inspector as exceptions; and

(8) to designate qualified bridge inspectors or maintenance personnel to authorize the operation of trains on bridges following repairs, damage, or indications of potential structural problems.

(c) USE OF BRIDGE MANAGEMENT PROGRAMS REQUIRED.—The Secretary shall instruct bridge experts to obtain copies of the most recent bridge management programs of each railroad within the expert's areas of responsibility, and require that experts use those programs when conducting bridge observations.

(d) REVIEW OF DATA.—The Secretary shall establish a program to periodically review bridge inspection and maintenance data from railroad carrier bridge inspectors and Federal Railroad Administration bridge experts.

**SEC. 418. RAILROAD SAFETY INFRASTRUCTURE IMPROVEMENT GRANTS.**

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 413 of this division, is further amended by adding at the end thereof the following:

**"§ 20167. Railroad safety infrastructure improvement grants**

"(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a grant program for safety improvements to railroad infrastructure, including the acquisition, improvement, or rehabilitation of intermodal or rail equipment or facilities, including track, bridges, tunnels, yards, buildings, passenger stations, facilities, and maintenance and repair shops.

"(b) ELIGIBILITY.—Grants shall be made under this section to eligible passenger and freight railroad carriers, and State and local governments for projects described in subsection (a). Grants shall also be made available to assist a State or political subdivision thereof in establishing a quiet zone pursuant to part 222 of title 49, Code of Federal Regulations.

"(c) CONSIDERATIONS.—In awarding grants, the Secretary shall consider, at a minimum—

"(1) the age and condition of the rail infrastructure of the applicant;

"(2) the railroad carrier's safety record, including accident and incident numbers and rates;

"(3) the volume of hazardous materials transported by the railroad;

"(4) the operation of passenger trains over the railroad; and

"(5) whether the railroad carrier has submitted a railroad safety risk reduction program, as required by section 20156.

"(d) MATCHING REQUIREMENTS.—Federal funds for any eligible project under this section shall not exceed 50 percent of the total cost of such project.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2010 through 2013 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 413 of this division, is amended by inserting after the item relating to section 20166 the following:

"20167. Railroad safety infrastructure improvement grants.".

**SEC. 419. PROMPT MEDICAL ATTENTION.**

49 USC 20109.

(a) IN GENERAL.—Section 20109 is amended—

(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

(2) by inserting after subsection (b) the following:

"(c) PROMPT MEDICAL ATTENTION.—

"(1) PROHIBITION.—A railroad carrier or person covered under this section may not deny, delay, or interfere with the medical or first aid treatment of an employee who is injured during the course of employment. If transportation to a hospital is requested by an employee who is injured during the course of employment, the railroad shall promptly arrange to have the injured employee transported to the nearest hospital where the employee can receive safe and appropriate medical care.

"(2) DISCIPLINE.—A railroad carrier or person covered under this section may not discipline, or threaten discipline to, an employee for requesting medical or first aid treatment,

or for following orders or a treatment plan of a treating physician, except that a railroad carrier's refusal to permit an employee to return to work following medical treatment shall not be considered a violation of this section if the refusal is pursuant to Federal Railroad Administration medical standards for fitness of duty or, if there are no pertinent Federal Railroad Administration standards, a carrier's medical standards for fitness for duty. For purposes of this paragraph, the term 'discipline' means to bring charges against a person in a disciplinary proceeding, suspend, terminate, place on probation, or make note of reprimand on an employee's record.".

(b) CONFORMING AMENDMENTS.—Section 20109 is amended— 49 USC 20109.

(1) in subsection (d), as redesignated by subsection (a) of this section—

(A) by striking "(a) or (b)" in paragraph (1) and inserting "(a), (b), or (c)";

(B) by striking "(c)(1)" in paragraph (2)(A)(i) and inserting "(d)(1)";

(C) by striking "(a) or (b)" in paragraph (2)(A)(ii) and inserting "(a), (b), or (c)"; and

(2) in subsection (e), as so redesignated—

(A) by striking "(c)" in paragraph (1) and inserting "(d)";

(B) by striking "(c)" in paragraph (2) and inserting "(d)";

(C) by striking "(c)(3)" in paragraph (2) and inserting "(d)(3)"; and

(D) by striking "(c)" in paragraph (3) and inserting "(d)".

**SEC. 420. EMPLOYEE SLEEPING QUARTERS.**

Section 21106 is amended—

(1) by inserting "(a) IN GENERAL.—" before "A railroad carrier";

(2) by striking "sanitary and give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier;" in paragraph (1) and inserting "sanitary, give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier, and provide indoor toilet facilities, potable water, and other features to protect the health of employees;"; and

(3) by adding at the end the following:

"(b) CAMP CARS.—Not later than December 31, 2009, any railroad carrier that uses camp cars shall fully retrofit or replace such cars in compliance with subsection (a). Deadline.

"(c) REGULATIONS.—Not later than April 1, 2010, the Secretary of Transportation, in coordination with the Secretary of Labor, shall prescribe regulations to implement subsection (a)(1) to protect the safety and health of any employees and individuals employed to maintain the right of way of a railroad carrier that uses camp cars, which shall require that all camp cars comply with those regulations by December 31, 2010. In prescribing the regulations, the Secretary shall assess the action taken by any railroad carrier to fully retrofit or replace its camp cars pursuant to this section. Deadlines.

"(d) COMPLIANCE AND ENFORCEMENT.—The Secretary shall determine whether a railroad carrier has fully retrofitted or replaced

a camp car pursuant to subsection (b) and shall prohibit the use of any non-compliant camp car. The Secretary may assess civil penalties pursuant to chapter 213 for violations of this section.".

# TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

**SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.**

(a) IN GENERAL.—Chapter 11 is amended by adding at the end of subchapter III the following:

**"§ 1139. Assistance to families of passengers involved in rail passenger accidents**

Designations.

"(a) IN GENERAL.—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

"(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

"(2) designate an independent nonprofit organization, with experience in disasters and post trauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

"(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for—

"(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

"(2) communicating with the families of passengers involved in the accident as to the roles, with respect to the accident and the post-accident activities, of—

"(A) the organization designated for an accident under subsection (a)(2);

"(B) Government agencies; and

"(C) the rail passenger carrier involved.

"(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

"(1) To provide mental health and counseling services, in coordination with the disaster response team of the rail passenger carrier involved.

"(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

"(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the

accident under subsection (a)(1), determines that further assistance is no longer needed.

"(4) To arrange a suitable memorial service, in consultation with the families.

"(d) PASSENGER LISTS.—

"(1) REQUESTS FOR PASSENGER LISTS.—

"(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier's train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

"(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

"(2) USE OF INFORMATION.—Except as provided in subsection (k), the director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

"(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

"(1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and

"(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

"(f) USE OF RAIL PASSENGER CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

"(g) PROHIBITED ACTIONS.—

"(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision thereof) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

"(2) UNSOLICITED COMMUNICATIONS.—No unsolicited communication concerning a potential action or settlement offer for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other

representative of an attorney) or any potential party to the litigation, including the railroad carrier or rail passenger carrier, to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

"(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision thereof may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

"(h) DEFINITIONS.—In this section:

"(1) RAIL PASSENGER ACCIDENT.—The term 'rail passenger accident' means any rail passenger disaster resulting in a major loss of life occurring in the provision of—

"(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

"(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

regardless of its cause or suspected cause.

"(2) RAIL PASSENGER CARRIER.—The term 'rail passenger carrier' means a rail carrier providing—

"(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

"(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

except that such term does not include a tourist, historic, scenic, or excursion rail carrier.

"(3) PASSENGER.—The term 'passenger' includes—

"(A) an employee of a rail passenger carrier aboard a train;

"(B) any other person aboard the train without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the rail transportation; and

"(C) any other person injured or killed in a rail passenger accident, as determined appropriate by the Board.

"(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

"(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

"(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to a railroad passenger accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

"(2) BOARD ASSISTANCE.—If this section does not apply to a railroad passenger accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

"(k) SAVINGS CLAUSE.—Nothing in this section shall be construed to abridge the authority of the Board or the Secretary of Transportation to investigate the causes or circumstances of any rail accident, including development of information regarding the nature of injuries sustained and the manner in which they were sustained for the purposes of determining compliance with existing laws and regulations or for identifying means of preventing similar injuries in the future, or both.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 11 is amended by inserting after the item relating to section 1138 the following:

"1139. Assistance to families of passengers involved in rail passenger accidents.".

**SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.**

(a) IN GENERAL.—Chapter 243 is amended by adding at the end the following:

**"§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents**

"(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Safety Improvement Act of 2008, a rail passenger carrier shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a rail passenger carrier intercity train and resulting in a major loss of life. Deadline.

"(b) CONTENTS OF PLANS.—A plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

"(1) A process by which a rail passenger carrier will maintain and provide to the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for the rail passenger carrier to use reasonable efforts to ascertain the names of passengers aboard a train involved in an accident.

"(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1139(a)(2) of this title or the services of other suitably trained individuals.

"(3) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident

occurs, and for providing staff, to handle calls from the families of the passengers.

"(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as the rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

"(5) An assurance that, upon request of the family of a passenger, the rail passenger carrier will inform the family of whether the passenger's name appeared on any preliminary passenger manifest for the train involved in the accident.

"(6) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the rail passenger carrier and by which any possession of the passenger within the control of the rail passenger carrier (regardless of its condition)—

"(A) will be retained by the rail passenger carrier for at least 18 months; and

"(B) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

"(7) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

"(8) An assurance that the rail passenger carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

"(9) An assurance that the family of each passenger or other person killed in the accident will be consulted about construction by the rail passenger carrier of any monument to the passengers, including any inscription on the monument.

"(10) An assurance that the rail passenger carrier will work with any organization designated under section 1139(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

"(11) An assurance that the rail passenger carrier will provide reasonable compensation to any organization designated under section 1139(a)(2) of this title for services provided by the organization.

"(c) USE OF INFORMATION.—Neither the National Transportation Safety Board, the Secretary of Transportation, the Secretary of Homeland Security, nor a rail passenger carrier may release to the public any personal information on a list obtained under subsection (b)(1), but may provide information on the list about a passenger to the passenger's family members to the extent that the Board or a rail passenger carrier considers appropriate.

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—

"(1) RAIL PASSENGER CARRIERS.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

"(2) INVESTIGATIONAL AUTHORITY OF BOARD AND SECRETARY.—Nothing in this section shall be construed to abridge

the authority of the Board or the Secretary of Transportation to investigate the causes or circumstances of any rail accident, including the development of information regarding the nature of injuries sustained and the manner in which they were sustained, for the purpose of determining compliance with existing laws and regulations or identifying means of preventing similar injuries in the future.

"(e) LIMITATION ON LIABILITY.—A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the rail passenger carrier in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by the rail passenger carrier under subsection (b), unless such liability was caused by conduct of the rail passenger carrier which was grossly negligent or which constituted intentional misconduct.

"(f) DEFINITIONS.—In this section, the terms 'passenger' and 'rail passenger accident' have the meaning given those terms by section 1139 of this title.

"(g) FUNDING.—Out of funds appropriated pursuant to section 20117(a)(1)(A), there shall be made available to the Secretary of Transportation $500,000 for fiscal year 2010 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting after the item relating to section 24315 the following:

"24316.Plan to assist families of passengers involved in rail passenger accidents.".

**SEC. 503. ESTABLISHMENT OF TASK FORCE.**

49 USC 1139 note.

(a) ESTABLISHMENT.—The Secretary, in cooperation with the National Transportation Safety Board, organizations potentially designated under section 1139(a)(2) of title 49, United States Code, rail passenger carriers (as defined in section 1139(h)(2) of title 49, United States Code), and families which have been involved in rail accidents, shall establish a task force consisting of representatives of such entities and families, representatives of rail passenger carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) MODEL PLAN AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

(1) a model plan to assist rail passenger carriers in responding to passenger rail accidents;

(2) recommendations on methods to improve the timeliness of the notification provided by passenger rail carriers to the families of passengers involved in a passenger rail accident;

(3) recommendations on methods to ensure that the families of passengers involved in a passenger rail accident who are not citizens of the United States receive appropriate assistance; and

(4) recommendations on methods to ensure that emergency services personnel have as immediate and accurate a count of the number of passengers onboard the train as possible.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and

Transportation containing the model plan and recommendations developed by the task force under subsection (b).

Clean Railroads Act of 2008.

# TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

49 USC 10101 note.

**SEC. 601. SHORT TITLE.**

This title may be cited as the "Clean Railroads Act of 2008".

**SEC. 602. CLARIFICATION OF GENERAL JURISDICTION OVER SOLID WASTE TRANSFER FACILITIES.**

49 USC 10501.

Section 10501(c)(2) is amended to read as follows:

"(2) Except as provided in paragraph (3), the Board does not have jurisdiction under this part over—

"(A) mass transportation provided by a local government authority; or

"(B) a solid waste rail transfer facility as defined in section 10908 of this title, except as provided under sections 10908 and 10909 of this title.".

**SEC. 603. REGULATION OF SOLID WASTE RAIL TRANSFER FACILITIES.**

(a) IN GENERAL.—Chapter 109 is amended by adding at the end thereof the following:

**"§ 10908. Regulation of solid waste rail transfer facilities**

"(a) IN GENERAL.—Each solid waste rail transfer facility shall be subject to and shall comply with all applicable Federal and State requirements, both substantive and procedural, including judicial and administrative orders and fines, respecting the prevention and abatement of pollution, the protection and restoration of the environment, and the protection of public health and safety, including laws governing solid waste, to the same extent as required for any similar solid waste management facility, as defined in section 1004(29) of the Solid Waste Disposal Act (42 U.S.C. 6903(29)) that is not owned or operated by or on behalf of a rail carrier, except as provided for in section 10909 of this chapter.

"(b) EXISTING FACILITIES.—

Deadline.

"(1) STATE LAWS AND STANDARDS.—Not later than 90 days after the date of enactment of the Clean Railroads Act of 2008, a solid waste rail transfer facility operating as of such date of enactment shall comply with all Federal and State requirements pursuant to subsection (a) other than those provisions requiring permits.

"(2) PERMIT REQUIREMENTS.—

"(A) STATE NON-SITING PERMITS.—Any solid waste rail transfer facility operating as of the date of enactment of the Clean Railroads Act of 2008 that does not possess a permit required pursuant to subsection (a), other than a siting permit for the facility, as of the date of enactment of the Clean Railroads Act of 2008 shall not be required to possess any such permits in order to operate the facility—

Deadline.

"(i) if, within 180 days after such date of enactment, the solid waste rail transfer facility has submitted, in good faith, a complete application for all

permits, except siting permits, required pursuant to subsection (a) to the appropriate permitting agency authorized to grant such permits; and

"(ii) until the permitting agency has either approved or denied the solid waste rail transfer facility's application for each permit.

"(B) SITING PERMITS AND REQUIREMENTS.—A solid waste rail transfer facility operating as of the date of enactment of the Clean Railroads Act of 2008 that does not possess a State siting permit required pursuant to subsection (a) as of such date of enactment shall not be required to possess any siting permit to continue to operate or comply with any State land use requirements. The Governor of a State in which the facility is located, or his or her designee, may petition the Board to require the facility to apply for a land-use exemption pursuant to section 10909 of this chapter. The Board shall accept the petition, and the facility shall be required to have a Board-issued land-use exemption in order to continue to operate, pursuant to section 10909 of this chapter.

"(c) COMMON CARRIER OBLIGATION.—No prospective or current rail carrier customer may demand solid waste rail transfer service from a rail carrier at a solid waste rail transfer facility that does not already possess the necessary Federal land-use exemption and State permits at the location where service is requested.

"(d) NON-WASTE COMMODITIES.—Nothing in this section or section 10909 of this chapter shall affect a rail carrier's ability to conduct transportation-related activities with respect to commodities other than solid waste.

"(e) DEFINITIONS.—

"(1) IN GENERAL.—In this section:

"(A) COMMERCIAL AND RETAIL WASTE.—The term 'commercial and retail waste' means material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities.

"(B) CONSTRUCTION AND DEMOLITION DEBRIS.—The term 'construction and demolition debris' means waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings, and other structures.

"(C) HOUSEHOLD WASTE.—The term 'household waste' means material discarded by residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities.

"(D) INDUSTRIAL WASTE.—The term 'industrial waste' means the solid waste generated by manufacturing and industrial and research and development processes and operations, including contaminated soil, nonhazardous oil spill cleanup waste and dry nonhazardous pesticides and chemical waste, but does not include hazardous waste regulated under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), mining or oil and gas waste.

"(E) INSTITUTIONAL WASTE.—The term 'institutional waste' means material discarded by schools, nonmedical

waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities.

"(F) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means—

"(i) household waste;

"(ii) commercial and retail waste; and

"(iii) institutional waste.

"(G) SOLID WASTE.—With the exception of waste generated by a rail carrier during track, track structure, or right-of-way construction, maintenance, or repair (including railroad ties and line-side poles) or waste generated as a result of a railroad accident, incident, or derailment, the term 'solid waste' means—

"(i) construction and demolition debris;

"(ii) municipal solid waste;

"(iii) household waste;

"(iv) commercial and retail waste;

"(v) institutional waste;

"(vi) sludge;

"(vii) industrial waste; and

"(viii) other solid waste, as determined appropriate by the Board.

"(H) SOLID WASTE RAIL TRANSFER FACILITY.—The term 'solid waste rail transfer facility'—

"(i) means the portion of a facility owned or operated by or on behalf of a rail carrier (as defined in section 10102 of this title) where solid waste, as a commodity to be transported for a charge, is collected, stored, separated, processed, treated, managed, disposed of, or transferred, when the activity takes place outside of original shipping containers; but

"(ii) does not include—

"(I) the portion of a facility to the extent that activities taking place at such portion are comprised solely of the railroad transportation of solid waste after the solid waste is loaded for shipment on or in a rail car, including railroad transportation for the purpose of interchanging railroad cars containing solid waste shipments; or

"(II) a facility where solid waste is solely transferred or transloaded from a tank truck directly to a rail tank car.

"(I) SLUDGE.—The term 'sludge' means any solid, semisolid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

"(2) EXCEPTIONS.—Notwithstanding paragraph (1), the terms 'household waste', 'commercial and retail waste', and 'institutional waste' do not include—

"(A) yard waste and refuse-derived fuel;

"(B) used oil;

"(C) wood pallets;

"(D) clean wood;

"(E) medical or infectious waste; or

"(F) motor vehicles (including motor vehicle parts or vehicle fluff).

"(3) STATE REQUIREMENTS.—In this section the term 'State requirements' does not include the laws, regulations, ordinances, orders, or other requirements of a political subdivision of a State, including a locality or municipality, unless a State expressly delegates such authority to such political subdivision.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 109 is amended by inserting after the item relating to section 10907 the following:

"10908. Regulation of solid waste rail transfer facilities.".

**SEC. 604. SOLID WASTE RAIL TRANSFER FACILITY LAND-USE EXEMPTION AUTHORITY.**

(a) IN GENERAL.—Chapter 109 is further amended by adding at the end thereof the following:

**"§ 10909. Solid waste rail transfer facility land-use exemption**

"(a) AUTHORITY.—The Board may issue a land-use exemption for a solid waste rail transfer facility that is or is proposed to be operated by or on behalf of a rail carrier if—

"(1) the Board finds that a State, local, or municipal law, regulation, order, or other requirement affecting the siting of such facility unreasonably burdens the interstate transportation of solid waste by railroad, discriminates against the railroad transportation of solid waste and a solid waste rail transfer facility, or a rail carrier that owns or operates such a facility petitions the Board for such an exemption; or

"(2) the Governor of a State in which a facility that is operating as of the date of enactment of the Clean Railroads Act of 2008 is located, or his or her designee, petitions the Board to initiate a permit proceeding for that particular facility.

"(b) LAND-USE EXEMPTION PROCEDURES.—Not later than 90 days after the date of enactment of the Clean Railroad Act of 2008, the Board shall publish procedures governing the submission and review of applications for solid waste rail transfer facility land-use exemptions. At a minimum, the procedures shall address— Deadline. Publication.

"(1) the information that each application should contain to explain how the solid waste rail transfer facility will not pose an unreasonable risk to public health, safety, or the environment;

"(2) the opportunity for public notice and comment including notification of the municipality, the State, and any relevant Federal or State regional planning entity in the jurisdiction of which the solid waste rail transfer facility is proposed to be located;

"(3) the timeline for Board review, including a requirement that the Board approve or deny an exemption within 90 days after the full record for the application is developed;

"(4) the expedited review timelines for petitions for modifications, amendments, or revocations of granted exemptions;

"(5) the process for a State to petition the Board to require a solid waste transfer facility or a rail carrier that owns or operates such a facility to apply for a siting permit; and

"(6) the process for a solid waste transfer facility or a rail carrier that owns or operates such a facility to petition the Board for a land-use exemption.

"(c) STANDARD FOR REVIEW.—

"(1) The Board may only issue a land-use exemption if it determines that the facility at the existing or proposed location does not pose an unreasonable risk to public health, safety, or the environment. In deciding whether a solid waste rail transfer facility that is or proposed to be constructed or operated by or on behalf of a rail carrier poses an unreasonable risk to public health, safety, or the environment, the Board shall weigh the particular facility's potential benefits to and the adverse impacts on public health, public safety, the environment, interstate commerce, and transportation of solid waste by rail.

"(2) The Board may not grant a land-use exemption for a solid waste rail transfer facility proposed to be located on land within any unit of or land affiliated with the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National Trails System, the National Wild and Scenic Rivers System, a National Reserve, a National Monument, or lands referenced in Public Law 108–421 for which a State has implemented a conservation management plan, if operation of the facility would be inconsistent with restrictions placed on such land.

"(d) CONSIDERATIONS.—When evaluating an application under this section, the Board shall consider and give due weight to the following, as applicable:

"(1) the land-use, zoning, and siting regulations or solid waste planning requirements of the State or State subdivision in which the facility is or will be located that are applicable to solid waste transfer facilities, including those that are not owned or operated by or on behalf of a rail carrier;

"(2) the land-use, zoning, and siting regulations or solid waste planning requirements applicable to the property where the solid waste rail transfer facility is proposed to be located;

"(3) regional transportation planning requirements developed pursuant to Federal and State law;

"(4) regional solid waste disposal plans developed pursuant to State or Federal law;

"(5) any Federal and State environmental protection laws or regulations applicable to the site;

"(6) any unreasonable burdens imposed on the interstate transportation of solid waste by railroad, or the potential for discrimination against the railroad transportation of solid waste, a solid waste rail transfer facility, or a rail carrier that owns or operates such a facility; and

"(7) any other relevant factors, as determined by the Board.

"(e) EXISTING FACILITIES.—Upon the granting of petition from the State in which a solid waste rail transfer facility is operating as of the date of enactment of the Clean Railroads Act of 2008 by the Board, the facility shall submit a complete application for a siting permit to the Board pursuant to the procedures issued pursuant to subsection (b). No State may enforce a law, regulation, order, or other requirement affecting the siting of a facility that is operating as of the date of enactment of the Clean Railroads

Act of 2008 until the Board has approved or denied a permit pursuant to subsection (c).

"(f) EFFECT OF LAND-USE EXEMPTION.—If the Board grants a land-use exemption to a solid waste rail transfer facility, all State laws, regulations, orders, or other requirements affecting the siting of a facility are preempted with regard to that facility. An exemption may require compliance with such State laws, regulations, orders, or other requirements.

"(g) INJUNCTIVE RELIEF.—Nothing in this section precludes a person from seeking an injunction to enjoin a solid waste rail transfer facility from being constructed or operated by or on behalf of a rail carrier if that facility has materially violated, or will materially violate, its land-use exemption or if it failed to receive a valid land-use exemption under this section.

"(h) FEES.—The Board may charge permit applicants reasonable fees to implement this section, including the costs of third-party consultants.

"(i) DEFINITIONS.—In this section the terms 'solid waste', 'solid waste rail transfer facility', and 'State requirements' have the meaning given such terms in section 10908(e).".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 109, as amended by section 603 of this division, is amended by inserting after the item relating to section 10908 the following:

"10909. Solid waste rail transfer facility land-use exemption.".

**SEC. 605. EFFECT ON OTHER STATUTES AND AUTHORITIES.**

(a) IN GENERAL.—Chapter 109, as amended by section 604, is further amended by adding at the end thereof the following:

**"§ 10910. Effect on other statutes and authorities**

"Nothing in section 10908 or 10909 is intended to affect the traditional police powers of the State to require a rail carrier to comply with State and local environmental, public health, and public safety standards that are not unreasonably burdensome to interstate commerce and do not discriminate against rail carriers.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 109, as amended by section 604 of this division, is amended by inserting after the item relating to section 10909 the following:

"10910. Effect on other statutes and authorities.".

# TITLE VII—TECHNICAL CORRECTIONS

**SEC. 701. TECHNICAL CORRECTIONS.**

(a) LIMITATIONS ON FINANCIAL ASSISTANCE.—Section 22106 is amended— 49 USC 22106.

(1) by striking the second sentence of subsection (a);

(2) by striking subsection (b) and inserting the following:

"(b) STATE USE OF REPAID FUNDS AND CONTINGENT INTEREST RECOVERIES.—The State shall place the United States Government's share of money that is repaid and any contingent interest that is recovered in an interest-bearing account. The repaid money, contingent interest, and any interest thereof shall be considered to be State funds. The State shall use such funds to make other grants and loans, consistent with the purposes for which financial

assistance may be used under subsection (a), as the State considers to be appropriate."; and

(3) by striking subsections (c) and (e) and redesignating subsection (d) as subsection (c).

(b) GRANTS FOR CLASS II AND III RAILROADS.—Section 22301(a)(1)(A)(iii) is amended by striking "and" and inserting "or". 49 USC 22301.

(c) RAIL TRANSPORTATION OF RENEWABLE FUEL STUDY.—Section 245(a)(1) of the Energy Independence and Security Act of 2007 is amended by striking "Secretary, in coordination with the Secretary of Transportation," and inserting "Secretary and the Secretary of Transportation". 121 Stat. 1546.

(d) MOTOR CARRIER DEFINITION.—

Section 14504a is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting "(except as provided in paragraph (5))" after "14506";

(B) in paragraph (1), by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'commercial motor vehicle'—

"(i) for calendar years 2008 and 2009, has the meaning given the term in section 31101; and

"(ii) for years beginning after December 31, 2009, means a self-propelled vehicle described in section 31101."; and

(C) by striking paragraph (5) and inserting the following:

"(5) MOTOR CARRIER.—

"(A) THIS SECTION.—In this section:

"(i) IN GENERAL.—The term 'motor carrier' includes all carriers that are otherwise exempt from this part—

"(I) under subchapter I of chapter 135; or

"(II) through exemption actions by the former Interstate Commerce Commission under this title.

"(ii) EXCLUSIONS.—In this section, the term 'motor carrier' does not include—

"(I) any carrier subject to section 13504; or

"(II) any other carrier that the board of directors of the unified carrier registration plan determines to be appropriate pursuant to subsection (d)(4)(C).

"(B) SECTION 14506.—In section 14506, the term 'motor carrier' includes all carriers that are otherwise exempt from this part—

"(i) under subchapter I of chapter 135; or

"(ii) through exemption actions by the former Interstate Commerce Commission under this title."; and

(2) in subsection (d)(4)(C), by inserting before the period at the end the following: ", except that a decision to approve the exclusion of carriers from the definition of the term 'motor carrier' under subsection (a)(5) shall require an affirmative vote of ¾ of all such directors.".

(e) EXTENSION OF LOAN PERIOD.—Section 502(g)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(g)(1)) is amended by striking "25 years" and inserting "35 years".

# DIVISION B—AMTRAK

Passenger Rail Investment and Improvement Act of 2008.

49 USC 20101 note.

**SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This division may be cited as the "Passenger Rail Investment and Improvement Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of title 49, United States Code.
Sec. 3. Definition.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorization for Amtrak capital and operating expenses.
Sec. 102. Repayment of long-term debt and capital leases.
Sec. 103. Authorization for the Federal Railroad Administration.

TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

Sec. 201. National railroad passenger transportation system defined.
Sec. 202. Amtrak board of directors.
Sec. 203. Establishment of improved financial accounting system.
Sec. 204. Development of 5-year financial plan.
Sec. 205. Restructuring long-term debt and capital leases.
Sec. 206. Establishment of grant process.
Sec. 207. Metrics and standards.
Sec. 208. Methodologies for Amtrak route and service planning decisions.
Sec. 209. State-supported routes.
Sec. 210. Long-distance routes.
Sec. 211. Northeast Corridor state-of-good-repair plan.
Sec. 212. Northeast Corridor infrastructure and operations improvements.
Sec. 213. Passenger train performance.
Sec. 214. Alternate passenger rail service pilot program.
Sec. 215. Employee transition assistance.
Sec. 216. Special passenger trains.
Sec. 217. Access to Amtrak equipment and services.
Sec. 218. General Amtrak provisions.
Sec. 219. Study of compliance requirements at existing intercity rail stations.
Sec. 220. Oversight of Amtrak's compliance with accessibility requirements.
Sec. 221. Amtrak management accountability.
Sec. 222. On-board service improvements.
Sec. 223. Incentive pay.
Sec. 224. Passenger rail service studies.
Sec. 225. Report on service delays on certain passenger rail routes.
Sec. 226. Plan for restoration of service.
Sec. 227. Maintenance and repair facility utilization study.
Sec. 228. Sense of the Congress regarding the need to maintain Amtrak as a national passenger rail system.

TITLE III—INTERCITY PASSENGER RAIL POLICY

Sec. 301. Capital assistance for intercity passenger rail service.
Sec. 302. Congestion grants.
Sec. 303. State rail plans.
Sec. 304. Tunnel project.
Sec. 305. Next generation corridor train equipment pool.
Sec. 306. Rail cooperative research program.
Sec. 307. Federal rail policy.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Commuter rail mediation.
Sec. 402. Routing efficiency discussions with Amtrak.
Sec. 403. Sense of Congress regarding commuter rail expansion.
Sec. 404. Locomotive biofuel study.
Sec. 405. Study of the use of biobased technologies.
Sec. 406. Cross-border passenger rail service.
Sec. 407. Historic preservation of railroads.

TITLE V—HIGH-SPEED RAIL

Sec. 501. High-speed rail corridor program.

Sec. 502. Additional high-speed rail projects.

TITLE VI—CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS FOR WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Sec. 601. Authorization for capital and preventive maintenance projects for Washington Metropolitan Area Transit Authority.

**SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

Except as otherwise specifically provided, whenever in this division an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

49 USC 24101 note.

**SEC. 3. DEFINITION.**

In this division, the term "Secretary" means the Secretary of Transportation.

# TITLE I—AUTHORIZATIONS

**SEC. 101. AUTHORIZATION FOR AMTRAK CAPITAL AND OPERATING EXPENSES.**

(a) OPERATING GRANTS.—There are authorized to be appropriated to the Secretary for the use of Amtrak for operating costs the following amounts:

(1) For fiscal year 2009, $530,000,000.
(2) For fiscal year 2010, $580,000,000.
(3) For fiscal year 2011, $592,000,000.
(4) For fiscal year 2012, $616,000,000.
(5) For fiscal year 2013, $631,000,000.

(b) INSPECTOR GENERAL.—There are authorized to be appropriated to the Secretary for the Office of the Inspector General of Amtrak the following amounts:

(1) For fiscal year 2009, $20,000,000.
(2) For fiscal year 2010, $21,000,000.
(3) For fiscal year 2011, $22,000,000.
(4) For fiscal year 2012, $22,000,000.
(5) For fiscal year 2013, $23,000,000.

(c) CAPITAL GRANTS.—There are authorized to be appropriated to the Secretary for the use of Amtrak for capital projects (as defined in subparagraphs (A) and (B) of section 24401(2) of title 49, United States Code) to bring the Northeast Corridor (as defined in section 24102 of such title) to a state-of-good-repair and for capital expenses of the national rail passenger transportation system the following amounts:

(1) For fiscal year 2009, $715,000,000.
(2) For fiscal year 2010, $975,000,000.
(3) For fiscal year 2011, $1,025,000,000.
(4) For fiscal year 2012, $1,275,000,000.
(5) For fiscal year 2013, $1,325,000,000.

(d) PROJECT MANAGEMENT OVERSIGHT.—The Secretary may withhold up to ½ of 1 percent of amounts appropriated pursuant to subsection (c) for the costs of project management oversight of capital projects carried out by Amtrak.

**SEC. 102. REPAYMENT OF LONG-TERM DEBT AND CAPITAL LEASES.**

(a) PRINCIPAL AND INTEREST ON DEBT SERVICE.—There are authorized to be appropriated to the Secretary for the use of Amtrak

for retirement of principal and payment of interest on loans for capital equipment, or capital leases, not more than the following amounts:

(1) For fiscal year 2009, $285,000,000.
(2) For fiscal year 2010, $264,000,000.
(3) For fiscal year 2011, $288,000,000.
(4) For fiscal year 2012, $290,000,000.
(5) For fiscal year 2013, $277,000,000.

(b) EARLY BUYOUT OPTION.—There are authorized to be appropriated to the Secretary such sums as may be necessary for the use of Amtrak for the payment of costs associated with early buyout options if the exercise of those options is determined to be advantageous to Amtrak.

(c) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest on secured debt, with the proceeds of grants authorized by this section shall not—

(1) modify the extent or nature of any indebtedness of Amtrak to the United States in existence as of the date of enactment of this Act;

(2) change the private nature of Amtrak's or its successors' liabilities; or

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

**SEC. 103. AUTHORIZATION FOR THE FEDERAL RAILROAD ADMINISTRATION.**

There are authorized to be appropriated to the Secretary for the use of the Federal Railroad Administration such sums as necessary to implement the provisions required under this division for fiscal years 2009 through 2013.

# TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

**SEC. 201. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.**

(a) IN GENERAL.—Section 24102 is amended— 49 USC 24102.

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

"(5) 'national rail passenger transportation system' means—

"(A) the segment of the continuous Northeast Corridor railroad line between Boston, Massachusetts, and Washington, District of Columbia;

"(B) rail corridors that have been designated by the Secretary of Transportation as high-speed rail corridors (other than corridors described in subparagraph (A)), but only after regularly scheduled intercity service over a corridor has been established;

"(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Passenger Rail Investment and Improvement Act of 2008; and

"(D) short-distance corridors, or routes of not more than 750 miles between endpoints, operated by—

"(i) Amtrak; or

"(ii) another rail carrier that receives funds under chapter 244.".

(b) AMTRAK ROUTES WITH STATE FUNDING.—

(1) IN GENERAL.—Chapter 247 is amended by inserting after section 24701 the following:

**"§ 24702. Transportation requested by States, authorities, and other persons**

"(a) CONTRACTS FOR TRANSPORTATION.—Amtrak may enter into a contract with a State, a regional or local authority, or another person for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

"(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

"24702. Transportation requested by States, authorities, and other persons".

49 USC 24101 note.

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this division is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

49 USC 24706.

(d) APPLICABILITY OF SECTION 24706.—Section 24706 is amended by adding at the end the following:

"(c) APPLICABILITY.—This section applies to all service over routes provided by Amtrak, notwithstanding any provision of section 24701 of this title or any other provision of this title except section 24702(b).".

(e) AMTRAK'S MISSION.—

(1) AMENDMENTS.—Section 24101 is amended—

(A) by striking "**purpose**" in the section heading and inserting "**mission**";

(B) by striking subsection (b) and inserting the following:

"(b) MISSION.—The mission of Amtrak is to provide efficient and effective intercity passenger rail mobility consisting of high quality service that is trip-time competitive with other intercity travel options and that is consistent with the goals of subsection (d).";

(C) by redesignating paragraphs (9) through (11) in subsection (c) as paragraphs (10) through (12), respectively, and inserting after paragraph (8) the following:

"(9) provide additional or complementary intercity transportation service to ensure mobility in times of national disaster or other instances where other travel options are not adequately available;"; and

(D) in subsection (d), by striking "subsection (c)(11)" and inserting "subsection (c)(12)".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 241 is amended by striking the item relating to section 24101 and inserting the following:

"24101. Findings, mission, and goals.".

**SEC. 202. AMTRAK BOARD OF DIRECTORS.**

(a) IN GENERAL.—Section 24302 is amended to read as follows: 49 USC 24302.

**"§ 24302. Board of directors**

"(a) COMPOSITION AND TERMS.—

"(1) The Amtrak Board of Directors (referred to in this section as the 'Board') is composed of the following 9 directors, each of whom must be a citizen of the United States:

"(A) The Secretary of Transportation.

"(B) The President of Amtrak.

"(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with general business and financial experience, experience or qualifications in transportation, freight and passenger rail transportation, travel, hospitality, cruise line, or passenger air transportation businesses, or representatives of employees or users of passenger rail transportation or a State government. President.

"(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate and try to provide adequate and balanced representation of the major geographic regions of the United States served by Amtrak. President. Consultation.

"(3) An individual appointed under paragraph (1)(C) of this subsection shall be appointed for a term of 5 years. Such term may be extended until the individual's successor is appointed and qualified. Not more than 5 individuals appointed under paragraph (1)(C) may be members of the same political party.

"(4) The Board shall elect a chairman and a vice chairman, other than the President of Amtrak, from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

"(5) The Secretary may be represented at Board meetings by the Secretary's designee.

"(b) PAY AND EXPENSES.—Each director not employed by the United States Government or Amtrak is entitled to reasonable pay when performing Board duties. Each director not employed by the United States Government is entitled to reimbursement from Amtrak for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending Board meetings.

"(c) TRAVEL.—(1) Each director not employed by the United States Government shall be subject to the same travel and reimbursable business travel expense policies and guidelines that apply to Amtrak's executive management when performing Board duties.

Deadline. Reports.

"(2) Not later than 60 days after the end of each fiscal year, the Board shall submit a report describing all travel and reimbursable business travel expenses paid to each director when performing Board duties to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(3) The report submitted under paragraph (2) shall include a detailed justification for any travel or reimbursable business travel expense that deviates from Amtrak's travel and reimbursable business travel expense policies and guidelines.

"(d) VACANCIES.—A vacancy on the Board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

Deadline.

"(e) QUORUM.—A majority of the members serving shall constitute a quorum for doing business.

"(f) BYLAWS.—The Board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.".

(b) EFFECTIVE DATE FOR DIRECTORS' PROVISION.—The amendment made by subsection (a) shall take effect 6 months after the date of enactment of this Act. The members of the Amtrak Board of Directors serving as of the date of enactment of this Act may continue to serve for the remainder of the term to which they were appointed.

49 USC 24101 note.

**SEC. 203. ESTABLISHMENT OF IMPROVED FINANCIAL ACCOUNTING SYSTEM.**

Deadlines.

(a) IN GENERAL.—The Amtrak Board of Directors—

(1) may employ an independent financial consultant with experience in railroad accounting to assist Amtrak in improving Amtrak's financial accounting and reporting system and practices;

(2) shall implement a modern financial accounting and reporting system not later than 3 years after the date of enactment of this Act; and

(3) shall, not later than 90 days after the end of each fiscal year through fiscal year 2013—

Reports.

(A) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a comprehensive report that allocates all of Amtrak's revenues and costs to each of its routes, each of its lines of business, and each major activity within each route and line of business activity, including—

(i) train operations;
(ii) equipment maintenance;
(iii) food service;
(iv) sleeping cars;
(v) ticketing;
(vi) reservations; and
(vii) unallocated fixed overhead costs;

(B) include the report described in subparagraph (A) in Amtrak's annual report; and

(C) post such report on Amtrak's website. Web site.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his or her findings and conclusions, together with any recommendations, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) CATEGORIZATION OF REVENUES AND EXPENSES.—In carrying out subsection (a), the Amtrak Board of Directors shall separately categorize assigned revenues and attributable expenses by type of service, including long-distance routes, State-sponsored routes, commuter contract routes, and Northeast Corridor routes.

**SEC. 204. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.**

49 USC 24101 note. Deadline.

(a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—The Amtrak Board of Directors shall submit an annual budget and business plan for Amtrak, and a 5-year financial plan for the fiscal year to which that budget and business plan relate and the subsequent 4 years, prepared in accordance with this section, to the Secretary and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriations Act for the fiscal year, if later.

(b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for non-passenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service in order to accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including State-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as anticipated Federal funding of capital and operating costs, Amtrak's ability to efficiently recruit, retain, and manage its workforce, and Amtrak's ability to effectively provide passenger rail service;

(8) estimates of long-term and short-term debt and associated principal and interest payments (both current and anticipated);

(9) annual cash flow forecasts;

(10) a statement describing methods of estimation and significant assumptions;

(11) specific measures that demonstrate measurable improvement year over year in the financial results of Amtrak's operations;

(12) prior fiscal year and projected operating ratio, cash operating loss, and cash operating loss per passenger on a route, business line, and corporate basis;

(13) prior fiscal year and projected specific costs and savings estimates resulting from reform initiatives;

(14) prior fiscal year and projected labor productivity statistics on a route, business line, and corporate basis;

(15) prior fiscal year and projected equipment reliability statistics; and

(16) capital and operating expenditures for anticipated security needs.

(c) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b), Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices;

(2) use the categories specified in the financial accounting and reporting system developed under section 203 when preparing its 5-year financial plan; and

(3) ensure that the plan is consistent with the authorizations of appropriations under title I of this division.

Deadline.

(d) REVIEW BY DOT INSPECTOR GENERAL.—Within 60 days after their submission by Amtrak, the Inspector General of the Department of Transportation shall review the annual budget and the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b) and shall furnish any relevant findings to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Appropriations of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Appropriations of the Senate.

49 USC 24101 note.

**SEC. 205. RESTRUCTURING LONG-TERM DEBT AND CAPITAL LEASES.**

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary and Amtrak, may make agreements to restructure Amtrak's indebtedness as of the date of enactment of this Act. This authorization expires 2 years after the date of enactment of this Act.

Expiration date.

(b) DEBT RESTRUCTURING.—The Secretary of the Treasury, in consultation with the Secretary and Amtrak, shall enter into negotiations with the holders of Amtrak debt, including leases, outstanding as of the date of enactment of this Act for the purpose of restructuring (including repayment) and repaying that debt. The Secretary of the Treasury may secure agreements for restructuring or repayment on such terms as the Secretary of the Treasury deems favorable to the interests of the United States Government.

(c) CRITERIA.—In restructuring Amtrak's indebtedness, the Secretary of the Treasury and Amtrak—

(1) shall take into consideration repayment costs, the term of any loan or loans, and market conditions; and

(2) shall ensure that the restructuring results in significant savings to Amtrak and the United States Government.

(d) PAYMENT OF RENEGOTIATED DEBT.—If the criteria under subsection (c) are met, the Secretary of the Treasury may assume or repay the restructured debt, as appropriate.

(e) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of the Treasury makes sufficient payments to creditors under subsection (d) so that Amtrak is required to make no payments to creditors in a fiscal year, the Secretary shall use funds authorized by section 102 of this division for the use of Amtrak for retirement of principal or payment of interest on loans for capital equipment, or capital leases.

(2) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (a) results in reductions in amounts of principal or interest that Amtrak must service on existing debt, the corresponding amounts authorized by section 102 shall be reduced accordingly.

(f) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest on secured debt, other than debt assumed under subsection (d), with the proceeds of grants under subsection (e) shall not—

(1) modify the extent or nature of any indebtedness of Amtrak to the United States in existence as of the date of enactment of this Act;

(2) change the private nature of Amtrak's or its successors' liabilities; or

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

(g) SECRETARY APPROVAL.—Amtrak may not incur more debt after the date of enactment of this Act without the express advance approval of the Secretary.

(h) REPORT.—The Secretary of the Treasury shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Appropriations of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Appropriations of the Senate, by June 1, 2010—

(1) describing in detail any agreements to restructure the Amtrak debt; and

(2) providing an estimate of the savings to Amtrak and the United States Government.

**SEC. 206. ESTABLISHMENT OF GRANT PROCESS.**

49 USC 24101 note.

(a) GRANT REQUESTS.—Amtrak shall submit grant requests (including a schedule for the disbursement of funds), consistent with the requirements of this division, to the Secretary for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 101(a), (b), and (c), 102, 219(b), and 302.

Requirements. Deadline.

(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies of such requirements and schedules to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. As part of those requirements, the Secretary shall require, at a minimum, that Amtrak deposit grant funds, consistent with

the appropriated amounts for each area of expenditure in a given fiscal year, in the following 2 accounts:

(1) The Amtrak Operating account.

(2) The Amtrak General Capital account.

Amtrak may not transfer such funds to another account or expend such funds for any purpose other than the purposes covered by the account in which the funds are deposited without approval by the Secretary.

Deadlines.

(c) REVIEW AND APPROVAL.—

(1) 30-DAY APPROVAL PROCESS.—The Secretary shall complete the review of a grant request (including the disbursement schedule) and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request.

Notification.

If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall include the reason for disapproval or the incomplete items or deficiencies in a notice to Amtrak.

(2) 15-DAY MODIFICATION PERIOD.—Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

49 USC 24101 note.

**SEC. 207. METRICS AND STANDARDS.**

Deadline.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Federal Railroad Administration and Amtrak shall jointly, in consultation with the Surface Transportation Board, rail carriers over whose rail lines Amtrak trains operate, States, Amtrak employees, nonprofit employee organizations representing Amtrak employees, and groups representing Amtrak passengers, as appropriate, develop new or improve existing metrics and minimum standards for measuring the performance and service quality of intercity passenger train operations, including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services. Such metrics, at a minimum, shall include the percentage of avoidable and fully allocated operating costs covered by passenger revenues on each route, ridership per train mile operated, measures of on-time performance and delays incurred by intercity passenger trains on the rail lines of each rail carrier and, for long-distance routes, measures of connectivity with other routes in all regions currently receiving Amtrak service and the transportation needs of communities and populations that are not well-served by other forms of intercity transportation. Amtrak shall provide reasonable access to the Federal Railroad Administration in order to enable the Administration to carry out its duty under this section.

Publication.

(b) QUARTERLY REPORTS.—The Administrator of the Federal Railroad Administration shall collect the necessary data and publish

a quarterly report on the performance and service quality of intercity passenger train operations, including Amtrak's cost recovery, ridership, on-time performance and minutes of delay, causes of delay, on-board services, stations, facilities, equipment, and other services.

(c) CONTRACTS WITH HOST RAIL CARRIERS.—To the extent practicable, Amtrak and its host rail carriers shall incorporate the metrics and standards developed under subsection (a) into their access and service agreements.

(d) ARBITRATION.—If the development of the metrics and standards is not completed within the 180-day period required by subsection (a), any party involved in the development of those standards may petition the Surface Transportation Board to appoint an arbitrator to assist the parties in resolving their disputes through binding arbitration.

**SEC. 208. METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.**

Deadlines. 49 USC 24101 note. Recommendations.

(a) METHODOLOGY DEVELOPMENT.—Within 180 days after the date of enactment of this Act, the Federal Railroad Administration shall obtain the services of a qualified independent entity to develop and recommend objective methodologies for Amtrak to use in determining what intercity passenger routes and services it will provide, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes. In developing such methodologies, the entity shall consider—

(1) the current or expected performance and service quality of intercity passenger train operations, including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services;

(2) connectivity of a route with other routes;

(3) the transportation needs of communities and populations that are not well served by intercity passenger rail service or by other forms of intercity transportation;

(4) Amtrak's and other major intercity passenger rail service providers in other countries' methodologies for determining intercity passenger rail routes and services; and

(5) the views of the States and other interested parties.

(b) SUBMITTAL TO CONGRESS.—Within 1 year after the date of enactment of this Act, the entity shall submit recommendations developed under subsection (a) to Amtrak, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(c) CONSIDERATION OF RECOMMENDATIONS.—Within 90 days after receiving the recommendations developed under subsection (a) by the entity, the Amtrak Board of Directors shall consider the adoption of those recommendations. The Board shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate explaining its reasons for adopting or not adopting the recommendations.

Reports.

**SEC. 209. STATE-SUPPORTED ROUTES.**

49 USC 24101 note. Deadline.

(a) IN GENERAL.—Within 2 years after the date of enactment of this Act, the Amtrak Board of Directors, in consultation with the Secretary, the governors of each relevant State, and the Mayor

of the District of Columbia, or entities representing those officials, shall develop and implement a single, nationwide standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak associated with trains operated on each of the routes described in section 24102(5)(B) and (D) and section 24702 that—

Deadline.

(1) ensures, within 5 years after the date of enactment of this Act, equal treatment in the provision of like services of all States and groups of States (including the District of Columbia); and

(2) allocates to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route.

(b) REVISIONS.—The Amtrak Board of Directors, in consultation with the Secretary, the governors of each relevant State, and the Mayor of the District of Columbia, or entities representing those officials, may revise or amend the methodology established under subsection (a) as necessary, consistent with the intent of this section, including revisions or modifications based on Amtrak's financial accounting system developed pursuant to section 203 of this division.

Deadline.

(c) REVIEW.—If Amtrak and the States (including the District of Columbia) in which Amtrak operates such routes do not voluntarily adopt and implement the methodology developed under subsection (a) in allocating costs and determining compensation for the provision of service in accordance with the date established therein, the Surface Transportation Board shall determine the appropriate methodology required under subsection (a) for such services in accordance with the procedures and procedural schedule applicable to a proceeding under section 24904(c) of title 49, United States Code, and require the full implementation of this methodology with regards to the provision of such service within 1 year after the Board's determination of the appropriate methodology.

(d) USE OF CHAPTER 244 FUNDS.—Funds provided to a State under chapter 244 of title 49, United States Code, may be used, as provided in that chapter, to pay capital costs determined in accordance with this section.

**SEC. 210. LONG-DISTANCE ROUTES.**

(a) IN GENERAL.—Chapter 247 is amended by adding at the end thereof the following:

**"§ 24710. Long-distance routes**

"(a) ANNUAL EVALUATION.—Using the financial and performance metrics developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008, Amtrak shall—

"(1) evaluate annually the financial and operating performance of each long-distance passenger rail route operated by Amtrak; and

"(2) rank the overall performance of such routes for 2008 and identify each long-distance passenger rail route operated by Amtrak in 2008 according to its overall performance as belonging to the best performing third of such routes, the second best performing third of such routes, or the worst performing third of such routes.

"(b) PERFORMANCE IMPROVEMENT PLAN.—Amtrak shall develop and post on its website a performance improvement plan for its long-distance passenger rail routes to achieve financial and operating improvements based on the data collected through the application of the financial and performance metrics developed under section 207 of that Act. The plan shall address— Web site.

"(1) on-time performance;

"(2) scheduling, frequency, routes, and stops;

"(3) the feasibility of restructuring service into connected corridor service;

"(4) performance-related equipment changes and capital improvements;

"(5) on-board amenities and service, including food, first class, and sleeping car service;

"(6) State or other non-Federal financial contributions;

"(7) improving financial performance;

"(8) anticipated Federal funding of operating and capital costs; and

"(9) other aspects of Amtrak's long-distance passenger rail routes that affect the financial, competitive, and functional performance of service on Amtrak's long-distance passenger rail routes.

"(c) IMPLEMENTATION.—Amtrak shall implement the performance improvement plan developed under subsection (b)—

"(1) beginning in fiscal year 2010 for those routes identified as being in the worst performing third under subsection (a)(2);

"(2) beginning in fiscal year 2011 for those routes identified as being in the second best performing third under subsection (a)(2); and

"(3) beginning in fiscal year 2012 for those routes identified as being in the best performing third under subsection (a)(2).

"(d) ENFORCEMENT.—The Federal Railroad Administration shall monitor the development, implementation, and outcome of improvement plans under this section. If the Federal Railroad Administration determines that Amtrak is not making reasonable progress in implementing its performance improvement plan or, after the performance improvement plan is implemented under subsection (c)(1) in accordance with the terms of that plan, Amtrak has not achieved the outcomes it has established for such routes, under the plan for any calendar year, the Federal Railroad Administration—

"(1) shall notify Amtrak, the Inspector General of the Department of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate of its determination under this subsection; Notification.

"(2) shall provide Amtrak with an opportunity for a hearing with respect to that determination; and

"(3) may withhold appropriated funds otherwise available to Amtrak for the operation of a route or routes from among the worst performing third of routes currently served by Amtrak on which Amtrak is not making reasonable progress, other than funds made available for passenger safety or security measures.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24709 the following:

"24710. Long distance routes.".

49 USC 24902 note.

**SEC. 211. NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR PLAN.**

Deadline.

(a) IN GENERAL.—Within 6 months after the date of enactment of this Act, Amtrak, in consultation with the Secretary and the States (including the District of Columbia) that make up the Northeast Corridor (as defined in section 24102 of title 49, United States Code), shall prepare a capital spending plan for capital projects required to return the railroad right-of-way (including track, signals, and auxiliary structures), facilities, stations, and equipment, of the Northeast Corridor main line to a state-of-good-repair by the end of fiscal year 2018, consistent with the funding levels authorized in this division, and shall submit the plan to the Secretary.

Deadlines.

(b) REVIEW AND APPROVAL BY THE SECRETARY.—

(1) 60-DAY APPROVAL PROCESS.—The Secretary shall complete the review of the capital spending plan and approve or disapprove the plan within 60 days after the date on which Amtrak submits the plan. During review, the Secretary may seek comments from the Commission established under section 24905 of title 49, United States Code, and other Northeast Corridor users regarding the plan. If the Secretary disapproves the plan or determines that the plan is incomplete or deficient, the Secretary shall include the reason for disapproval or the incomplete items or deficiencies in a notice to Amtrak.

(2) 15-DAY MODIFICATION PERIOD.—Within 15 days after receiving notification from the Secretary under paragraph (1), Amtrak shall submit a modified plan for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified plan from Amtrak, the Secretary shall either approve the modified plan, or, if the Secretary finds that the plan is still incomplete or deficient, the Secretary shall identify in writing to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the remaining deficiencies and recommend a process for resolving the outstanding portions of the plan.

Deadline.

(c) PLAN UPDATES.—The plan shall be updated at least annually and the Secretary shall review and approve such updates, in accordance with the procedures described in subsection (b).

(d) GRANTS.—The Secretary shall make grants to Amtrak with funds authorized by section 101(c) for Northeast Corridor capital investments contained within the capital spending plan prepared by Amtrak and approved by the Secretary.

(e) OVERSIGHT.—Using the funds authorized by section 101(d), the Secretary shall review Amtrak's capital expenditures funded by this section to ensure that such expenditures are consistent with the capital spending plan and that Amtrak is providing adequate project management oversight and fiscal controls.

(f) ELIGIBILITY OF EXPENDITURES.—The Federal share of expenditures for capital improvements under this section may not exceed 100 percent.

**SEC. 212. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS IMPROVEMENTS.**

(a) IN GENERAL.—Section 24905 is amended to read as follows: 49 USC 24905.

**"§ 24905. Northeast Corridor Infrastructure and Operations Advisory Commission; Safety Committee**

"(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.—

"(1) Within 180 days after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Secretary of Transportation shall establish a Northeast Corridor Infrastructure and Operations Advisory Commission (referred to in this section as the 'Commission') to promote mutual cooperation and planning pertaining to the rail operations and related activities of the Northeast Corridor. The Commission shall be made up of— Deadline. Establishment.

"(A) members representing Amtrak;

"(B) members representing the Department of Transportation, including the Federal Railroad Administration;

"(C) 1 member from each of the States (including the District of Columbia) that constitute the Northeast Corridor as defined in section 24102, designated by, and serving at the pleasure of, the chief executive officer thereof; and

"(D) non-voting representatives of freight railroad carriers using the Northeast Corridor selected by the Secretary.

"(2) The Secretary shall ensure that the membership belonging to any of the groups enumerated under paragraph (1) shall not constitute a majority of the Commission's memberships.

"(3) The Commission shall establish a schedule and location for convening meetings, but shall meet no less than four times per fiscal year, and the Commission shall develop rules and procedures to govern the Commission's proceedings. Rules. Procedures.

"(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(5) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

"(6) The Chairman of the Commission shall be elected by the members.

"(7) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

"(8) Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

"(9) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

"(10) The Commission shall consult with other entities as appropriate. Consultation.

"(b) STATEMENT OF GOALS AND RECOMMENDATIONS.—

"(1) STATEMENT OF GOALS.—The Commission shall develop a statement of goals concerning the future of Northeast Corridor rail infrastructure and operations based on achieving expanded and improved intercity, commuter, and freight rail services operating with greater safety and reliability, reduced travel times, increased frequencies and enhanced intermodal connections designed to address airport and highway congestion, reduce transportation energy consumption, improve air quality, and increase economic development of the Northeast Corridor region.

"(2) RECOMMENDATIONS.—The Commission shall develop recommendations based on the statement developed under this section addressing, as appropriate—

"(A) short-term and long-term capital investment needs beyond those specified in the state-of-good-repair plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008;

"(B) future funding requirements for capital improvements and maintenance;

"(C) operational improvements of intercity passenger rail, commuter rail, and freight rail services;

"(D) opportunities for additional non-rail uses of the Northeast Corridor;

"(E) scheduling and dispatching;

"(F) safety and security enhancements;

"(G) equipment design;

"(H) marketing of rail services;

"(I) future capacity requirements; and

"(J) potential funding and financing mechanisms for projects of corridor-wide significance.

"(c) ACCESS COSTS.—

Deadline.

"(1) DEVELOPMENT OF FORMULA.—Within 2 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Commission shall—

"(A) develop a standardized formula for determining and allocating costs, revenues, and compensation for Northeast Corridor commuter rail passenger transportation, as defined in section 24102 of this title, on the Northeast Corridor main line between Boston, Massachusetts, and Washington, District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, that use Amtrak facilities or services or that provide such facilities or services to Amtrak that ensures that—

"(i) there is no cross-subsidization of commuter rail passenger, intercity rail passenger, or freight rail transportation;

"(ii) each service is assigned the costs incurred only for the benefit of that service, and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 service; and

"(iii) all financial contributions made by an operator of a service that benefit an infrastructure owner other than the operator are considered, including but not limited to, any capital infrastructure investments and in-kind services;

"(B) develop a proposed timetable for implementing the formula before the end of the 6th year following the date of enactment of that Act;

"(C) transmit the proposed timetable to the Surface Transportation Board; and

"(D) at the request of a Commission member, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through non-binding mediation to reach an agreement under this section.

"(2) IMPLEMENTATION.—Amtrak and public authorities providing commuter rail passenger transportation on the Northeast Corridor shall implement new agreements for usage of facilities or services based on the formula proposed in paragraph (1) in accordance with the timetable established therein. If the entities fail to implement such new agreements in accordance with the timetable, the Commission shall petition the Surface Transportation Board to determine the appropriate compensation amounts for such services in accordance with section 24904(c) of this title. The Surface Transportation Board shall enforce its determination on the party or parties involved.

"(3) REVISIONS.—The Commission may make necessary revisions to the formula developed under paragraph (1), including revisions based on Amtrak's financial accounting system developed pursuant to section 203 of the Passenger Rail Investment and Improvement Act of 2008.

"(d) TRANSMISSION OF STATEMENT OF GOALS AND RECOMMENDATIONS.—The Commission shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(1) the statement of goals developed under subsection (b) within 1 year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008; and

"(2) the recommendations developed under subsection (b) and the formula and timetable developed under subsection (c)(1) annually.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as may be necessary for the period encompassing fiscal years 2009 through 2013 to carry out this section.

"(f) NORTHEAST CORRIDOR SAFETY COMMITTEE.—

"(1) IN GENERAL.—The Secretary shall establish a Northeast Corridor Safety Committee composed of members appointed by the Secretary. The members shall be representatives of— Establishment.

"(A) the Department of Transportation, including the Federal Railroad Administration;

"(B) Amtrak;

"(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

"(D) commuter rail agencies;

"(E) rail passengers;

"(F) rail labor; and

"(G) other individuals and organizations the Secretary decides have a significant interest in rail safety or security.

"(2) FUNCTION; MEETINGS.—The Secretary shall consult with the Committee about safety and security improvements Consultation.

on the Northeast Corridor main line. The Committee shall meet at least two times per year to consider safety and security matters on the main line.

"(3) REPORT.—At the beginning of the first session of each Congress, the Secretary shall submit a report to the Commission and to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of efforts to improve safety and security on the Northeast Corridor main line. The report shall include the safety and security recommendations of the Committee and the comments of the Secretary on those recommendations.".

(b) CONFORMING AMENDMENTS.—(1) The item relating to section 24905 in the table of sections of chapter 249 is amended to read as follows:

"24905. Northeast Corridor Infrastructure and Operations Advisory Commission; Safety Committee.".

49 USC 24904.

(2) Section 24904(c)(2) is amended by—

(A) inserting "commuter rail passenger and" after "between"; and

(B) striking "freight" in the second sentence.

Deadlines.

(c) RIDOT ACCESS AGREEMENT.—

(1) IN GENERAL.—Not later than July 1, 2009, Amtrak and the Rhode Island Department of Transportation shall enter into an agreement governing access fees and other costs or charges related to the operation of the South County commuter rail service on the Northeast Corridor between Providence and Wickford Junction, Rhode Island.

(2) FAILURE TO REACH AGREEMENT.—If Amtrak and the Rhode Island Department of Transportation fail to reach the agreement specified under paragraph (1), the Administrator of the Federal Railroad Administration shall, after consultation with both parties, resolve any outstanding disagreements between the parties, including setting access fees and other costs or charges related to the operation of the South County commuter rail service that do not allow for the cross-subsidization of intercity rail passenger and commuter rail passenger service, not later than January 1, 2010.

(3) INTERIM ACCESS COSTS.—Any agreement between Amtrak and the Rhode Island Department of Transportation relating to access costs made under this subsection shall be superseded by any access cost formula developed by the Northeast Corridor Infrastructure and Operations Advisory Commission under section 24905(c)(1) of title 49, United States Code, as amended by subsection (a) of this section.

(d) HIGH-SPEED SERVICE STUDY.—

Reports.

(1) IN GENERAL.—Amtrak shall submit a report detailing the infrastructure and equipment improvements necessary to provide regular high-speed service—

(A) between Washington, District of Columbia, and New York, New York, in 2 hours and 30 minutes; and

(B) between New York, New York, and Boston, Massachusetts, in 3 hours and 15 minutes.

(2) ISSUES.—The report shall include—

(A) an estimated time frame for achieving the trip time described in paragraph (1);

(B) an analysis of any significant obstacles that would hinder such an achievement;

(C) a detailed description and cost estimate of the specific infrastructure and equipment improvements necessary for such an achievement; and

(D) an initial assessment of the infrastructure and equipment improvements, including an order of magnitude cost estimate of such improvements, that would be necessary to provide regular high-speed service—

(i) between Washington, District of Columbia, and New York, New York, in 2 hours and 15 minutes; and

(ii) between New York, New York, and Boston, Massachusetts, in 3 hours.

(3) REPORT.—Within 1 year after the date of enactment of this Act, Amtrak shall submit the report required under this subsection to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Transportation and Infrastructure of the House of Representatives;

(D) the Committee on Appropriations of the House of Representatives; and

(E) the Federal Railroad Administration.

(e) REPORT ON NORTHEAST CORRIDOR ECONOMIC DEVELOPMENT.—Within 2 years after the date of enactment of this Act, the Northeast Corridor Infrastructure and Operations Advisory Commission shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the role of Amtrak's Northeast Corridor service between Washington, District of Columbia, and New York, New York, in the economic development of the Northeast Corridor region. The report shall examine how to enhance the utilization of the Northeast Corridor for greater economic development, including improving—

(1) real estate utilization;

(2) improved intercity, commuter, and freight services; and

(3) optimum utility utilization.

**SEC. 213. PASSENGER TRAIN PERFORMANCE.**

(a) IN GENERAL.—Section 24308 is amended by adding at the end the following: 49 USC 24308.

"(f) PASSENGER TRAIN PERFORMANCE AND OTHER STANDARDS.—

"(1) INVESTIGATION OF SUBSTANDARD PERFORMANCE.—If the on-time performance of any intercity passenger train averages less than 80 percent for any 2 consecutive calendar quarters, or the service quality of intercity passenger train operations for which minimum standards are established under section 207 of the Passenger Rail Investment and Improvement Act of 2008 fails to meet those standards for 2 consecutive calendar quarters, the Surface Transportation Board (referred to in this section as the 'Board') may initiate an investigation, or upon the filing of a complaint by Amtrak, an intercity passenger rail operator, a host freight railroad over which Amtrak operates, or an entity for which Amtrak operates intercity passenger rail service, the Board shall initiate such an investigation,

to determine whether and to what extent delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over whose tracks the intercity passenger train operates or reasonably addressed by Amtrak or other intercity passenger rail operators. As part of its investigation, the Board has authority to review the accuracy of the train performance data and the extent to which scheduling and congestion contribute to delays. In making its determination or carrying out such an investigation, the Board shall obtain information from all parties involved and identify reasonable measures and make recommendations to improve the service, quality, and on-time performance of the train.

Recommendations.

"(2) PROBLEMS CAUSED BY HOST RAIL CARRIER.—If the Board determines that delays or failures to achieve minimum standards investigated under paragraph (1) are attributable to a rail carrier's failure to provide preference to Amtrak over freight transportation as required under subsection (c), the Board may award damages against the host rail carrier, including prescribing such other relief to Amtrak as it determines to be reasonable and appropriate pursuant to paragraph (3) of this subsection.

"(3) DAMAGES AND RELIEF.—In awarding damages and prescribing other relief under this subsection the Board shall consider such factors as—

"(A) the extent to which Amtrak suffers financial loss as a result of host rail carrier delays or failure to achieve minimum standards; and

"(B) what reasonable measures would adequately deter future actions which may reasonably be expected to be likely to result in delays to Amtrak on the route involved.

"(4) USE OF DAMAGES.—The Board shall, as it deems appropriate, order the host rail carrier to remit the damages awarded under this subsection to Amtrak or to an entity for which Amtrak operates intercity passenger rail service. Such damages shall be used for capital or operating expenditures on the routes over which delays or failures to achieve minimum standards were the result of a rail carrier's failure to provide preference to Amtrak over freight transportation as determined in accordance with paragraph (2).".

49 USC 24308 note.

(b) FEES.—The Surface Transportation Board may establish and collect filing fees from any entity that files a complaint under section 24308(f)(1) of title 49, United States Code, or otherwise requests or requires the Board's services pursuant to this division. The Board shall establish such fees at levels that will fully or partially, as the Board determines to be appropriate, offset the costs of adjudicating complaints under that section and other requests or requirements for Board action under this division. The Board may waive any fee established under this subsection for any governmental entity as determined appropriate by the Board.

Waiver authority.

(c) AUTHORIZATION OF ADDITIONAL STAFF.—The Surface Transportation Board may increase the number of Board employees by up to 15 for the 5 fiscal year period beginning with fiscal year 2009 to carry out its responsibilities under section 24308 of title 49, United States Code, and this division.

49 USC 24308.

(d) CHANGE OF REFERENCE.—Section 24308 is amended—

(1) by striking "Interstate Commerce Commission" in subsection (a)(2)(A) and inserting "Surface Transportation Board";

(2) by striking "Commission" each place it appears and inserting "Board";

(3) by striking "Secretary of Transportation" in subsection (c) and inserting "Board"; and

(4) by striking "Secretary" the last 3 places it appears in subsection (c) and each place it appears in subsections (d) and (e) and inserting "Board".

**SEC. 214. ALTERNATE PASSENGER RAIL SERVICE PILOT PROGRAM.**

(a) IN GENERAL.—Chapter 247, as amended by section 210, is amended by adding at the end thereof the following:

**"§ 24711. Alternate passenger rail service pilot program**

Deadline. Regulations.

"(a) IN GENERAL.—Within 1 year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Federal Railroad Administration shall complete a rulemaking proceeding to develop a pilot program that—

"(1) permits a rail carrier or rail carriers that own infrastructure over which Amtrak operates a passenger rail service route described in subparagraph (B), (C), or (D) of section 24102(5) or in section 24702 to petition the Administration to be considered as a passenger rail service provider over that route in lieu of Amtrak for a period not to exceed 5 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008;

Notification. Deadlines.

"(2) requires the Administration to notify Amtrak within 30 days after receiving a petition under paragraph (1) and establish a deadline by which both the petitioner and Amtrak would be required to submit a bid to provide passenger rail service over the route to which the petition relates;

"(3) requires that each bid describe how the bidder would operate the route, what Amtrak passenger equipment would be needed, if any, what sources of non-Federal funding the bidder would use, including any State subsidy, among other things;

"(4) requires the Administration to select winning bidders by evaluating the bids against the financial and performance metrics developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008 and to give preference in awarding contracts to bidders seeking to operate routes that have been identified as one of the five worst performing Amtrak routes under section 24710;

"(5) requires the Administration to execute a contract within a specified, limited time after the deadline established under paragraph (2) and award to the winning bidder—

"(A) the right and obligation to provide passenger rail service over that route subject to such performance standards as the Administration may require, consistent with the standards developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008; and

"(B) an operating subsidy—

"(i) for the first year at a level not in excess of the level in effect during the fiscal year preceding the fiscal year in which the petition was received, adjusted for inflation;

"(ii) for any subsequent years at such level, adjusted for inflation; and

"(6) requires that each bid contain a staffing plan describing the number of employees needed to operate the service, the job assignments and requirements, and the terms of work for prospective and current employees of the bidder for the service outlined in the bid, and such staffing plan be made available by the winning bidder to the public after the bid award.

"(b) ROUTE LIMITATIONS.—The Administration may not make the program available with respect to more than 2 Amtrak intercity passenger rail routes.

"(c) PERFORMANCE STANDARDS; ACCESS TO FACILITIES; EMPLOYEES.—If the Administration awards the right and obligation to provide passenger rail service over a route under the program to a rail carrier or rail carriers—

"(1) it shall execute a contract with the rail carrier or rail carriers for rail passenger operations on that route that conditions the operating and subsidy rights upon—

"(A) the service provider continuing to provide passenger rail service on the route that is no less frequent, nor over a shorter distance, than Amtrak provided on that route before the award; and

"(B) the service provider's compliance with the minimum standards established under section 207 of the Passenger Rail Investment and Improvement Act of 2008 and such additional performance standards as the Administration may establish;

"(2) it shall, if the award is made to a rail carrier other than Amtrak, require Amtrak to provide access to its reservation system, stations, and facilities directly related to operations to any rail carrier or rail carriers awarded a contract under this section, in accordance with section 217 of that Act, necessary to carry out the purposes of this section;

"(3) the employees of any person used by a rail carrier or rail carriers (as defined in section 10102(5) of this title) in the operation of a route under this section shall be considered an employee of that carrier or carriers and subject to the applicable Federal laws and regulations governing similar crafts or classes of employees of Amtrak, including provisions under section 121 of the Amtrak Reform and Accountability Act of 1997 relating to employees that provide food and beverage service; and

"(4) the winning bidder shall provide hiring preference to qualified Amtrak employees displaced by the award of the bid, consistent with the staffing plan submitted by the bidder and shall be subject to the grant conditions under section 24405 of this title.

"(d) CESSATION OF SERVICE.—If a rail carrier or rail carriers awarded a route under this section cease to operate the service or fail to fulfill their obligations under the contract required under subsection (c), the Administrator, in collaboration with the Surface Transportation Board, shall take any necessary action consistent with this title to enforce the contract and ensure the continued provision of service, including the installment of an interim service provider and re-bidding the contract to operate the service. The entity providing service shall either be Amtrak or a rail carrier defined in subsection (a)(1).

Certification.

"(e) ADEQUATE RESOURCES.—Before taking any action allowed under this section, the Secretary shall certify that the Administrator

has sufficient resources that are adequate to undertake the program established under this section.".

(b) REPORT.—Within 1 year after the conclusion of the pilot program established under subsection (a), the Federal Railroad Administration shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results on the pilot program established under section 24711, and any recommendations for further action.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 247, as amended by section 210, is amended by inserting after the item relating to section 24710 the following:

"24711. Alternate passenger rail service pilot program.".

**SEC. 215. EMPLOYEE TRANSITION ASSISTANCE.**

49 USC 24711 note.

(a) PROVISION OF FINANCIAL INCENTIVES.—For Amtrak employees who are adversely affected by the cessation of the operation of a long-distance route or any other route under section 24711 of title 49, United States Code, previously operated by Amtrak, the Secretary shall develop a program under which the Secretary may, at the Secretary's discretion, provide grants for financial incentives to be provided to Amtrak employees who voluntarily terminate their employment with Amtrak and relinquish any legal rights to receive termination-related payments under any contractual agreement with Amtrak.

Certification.

(b) CONDITIONS FOR FINANCIAL INCENTIVES.—As a condition for receiving financial assistance grants under this section, Amtrak must certify that—

(1) a reasonable attempt was made to reassign an employee adversely affected under section 24711 of title 49, United States Code, or by the elimination of any route, to other positions within Amtrak in accordance with any contractual agreements;

(2) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

(3) the financial assistance results in a net reduction in total employment expense equivalent to the total employment expenses associated with the employees receiving financial incentives; and

(4) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

(c) AMOUNT OF FINANCIAL INCENTIVES.—The financial incentives authorized under this section may be no greater than $100,000 per employee.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to make grants to Amtrak to provide financial incentives under subsection (a).

Grants.

(e) TERMINATION-RELATED PAYMENTS.—If Amtrak employees adversely affected by the cessation of Amtrak service resulting from the awarding of a grant to an operator other than Amtrak for the operation of a route under section 24711 of title 49, United States Code, or any other route, previously operated by Amtrak do not receive financial incentives under subsection (a), then the Secretary shall make grants to Amtrak from funds authorized by

section 101 of this division for termination-related payments to employees under existing contractual agreements.

49 USC 24308 note.

**SEC. 216. SPECIAL PASSENGER TRAINS.**

Amtrak is encouraged to increase the operation of special trains funded by, or in partnership with, private sector operators through competitive contracting to minimize the need for Federal subsidies. Amtrak shall utilize the provisions of section 24308 of title 49, United States Code, when necessary to obtain access to facilities, train and engine crews, or services of a rail carrier or regional transportation authority that are required to operate such trains.

49 USC 24702 note.

**SEC. 217. ACCESS TO AMTRAK EQUIPMENT AND SERVICES.**

If a State desires to select or selects an entity other than Amtrak to provide services required for the operation of an intercity passenger train route described in section 24102(5)(D) or 24702 of title 49, United States Code, the State may make an agreement with Amtrak to use facilities and equipment of, or have services provided by, Amtrak under terms agreed to by the State and Amtrak to enable the State to utilize an entity other than Amtrak to provide services required for operation of the route. If the parties cannot agree upon terms, and the Surface Transportation Board finds that access to Amtrak's facilities or equipment, or the provision of services by Amtrak, is necessary to carry out this provision and that the operation of Amtrak's other services will not be impaired thereby, the Surface Transportation Board shall, within 120 days after submission of the dispute, issue an order that the facilities and equipment be made available, and that services be provided, by Amtrak, and shall determine reasonable compensation, liability, and other terms for use of the facilities and equipment and provision of the services. Compensation shall be determined, as appropriate, in accordance with the methodology established pursuant to section 209 of this division, if available.

Deadline. Order.

**SEC. 218. GENERAL AMTRAK PROVISIONS.**

(a) CONFORMING CHANGES.—

49 USC 24101.

(1) PLAN REQUIRED.—Section 24101(d) is amended—

(A) by striking "plan to operate within the funding levels authorized by section 24104 of this chapter, including the budgetary goals for fiscal years 1998 through 2002." and inserting "plan, consistent with section 204 of the Passenger Rail Investment and Improvement Act of 2008, including the budgetary goals for fiscal years 2009 through 2013."; and

(B) by striking the last sentence and inserting "Amtrak and its Board of Directors shall adopt a long-term plan that minimizes the need for Federal operating subsidies.".

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

49 USC 24101 note.

49 USC 24305 note.

(b) LEASE ARRANGEMENTS AND OTHER PURCHASES.—Amtrak may obtain from the Administrator of General Services, and the Administrator may provide to Amtrak, services under sections 502(a) and 602 of title 40, United States Code.

**SEC. 219. STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS.**

49 USC 24307 note.

(a) IN GENERAL.—Amtrak, in consultation with station owners and other railroads operating service through the existing stations that it serves, shall evaluate the improvements necessary to make these stations readily accessible to and usable by individuals with disabilities, as required by such section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include, for each applicable station, improvements required to bring it into compliance with the applicable parts of such section 242(e)(2), any potential barriers to achieving compliance, including issues related to passenger rail station platforms, the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. The evaluation shall also include a detailed plan and schedule for bringing all applicable stations into compliance with the applicable parts of section 242(e)(2) by the 2010 statutory deadline for station accessibility. Amtrak shall submit the evaluation to the Committee on Transportation and Infrastructure of the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; the Department of Transportation; and the National Council on Disability by February 1, 2009, along with recommendations for funding the necessary improvements. Should the Department of Transportation issue any rule related to transportation for individuals with disabilities by intercity passenger rail after Amtrak submits its evaluation, Amtrak shall, within 120 days after the date that such rule is published, submit to the above parties a supplemental evaluation on any impact of the rule on its cost and schedule for achieving full compliance.

Evaluation. Deadlines.

Plan.

(b) ACCESSIBILITY IMPROVEMENTS AND BARRIER REMOVAL FOR PEOPLE WITH DISABILITIES.—There are authorized to be appropriated to the Secretary for the use of Amtrak such sums as may be necessary to improve the accessibility of facilities, including rail platforms, and services.

Appropriation authorization.

**SEC. 220. OVERSIGHT OF AMTRAK'S COMPLIANCE WITH ACCESSIBILITY REQUIREMENTS.**

49 USC 24307 note.

Using the funds authorized by section 103 of this division, the Federal Railroad Administration shall monitor and conduct periodic reviews of Amtrak's compliance with applicable sections of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1974 to ensure that Amtrak's services and facilities are accessible to individuals with disabilities to the extent required by law.

**SEC. 221. AMTRAK MANAGEMENT ACCOUNTABILITY.**

(a) IN GENERAL.—Chapter 243 is amended by inserting after section 24309 the following:

**"§ 24310. Management accountability**

"(a) IN GENERAL.—Within 3 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, and 2 years thereafter, the Inspector General of the Department of Transportation shall complete an overall assessment of the

Deadlines. Assessment.

progress made by Amtrak management and the Department of Transportation in implementing the provisions of that Act.

"(b) ASSESSMENT.—The management assessment undertaken by the Inspector General may include a review of—

"(1) effectiveness in improving annual financial planning;

"(2) effectiveness in implementing improved financial accounting;

"(3) efforts to implement minimum train performance standards;

"(4) progress maximizing revenues, minimizing Federal subsidies, and improving financial results; and

"(5) any other aspect of Amtrak operations the Inspector General finds appropriate to review.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting after the item relating to section 24309 the following:

"24310. Management accountability.".

49 USC 24101 note.

**SEC. 222. ON-BOARD SERVICE IMPROVEMENTS.**

Deadline. Plan.

(a) IN GENERAL.—Within 1 year after metrics and standards are established under section 207 of this division, Amtrak shall develop and implement a plan to improve on-board service pursuant to the metrics and standards for such service developed under that section.

(b) REPORT.—Amtrak shall provide a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the on-board service improvements proscribed in the plan and the timeline for implementing such improvements.

**SEC. 223. INCENTIVE PAY.**

The Amtrak Board of Directors is encouraged to develop an incentive pay program for Amtrak management employees.

**SEC. 224. PASSENGER RAIL SERVICE STUDIES.**

Deadline.

(a) INTERCITY RAIL SERVICE STUDIES.—Within 1 year after the date of enactment of this Act, Amtrak shall conduct studies of the following routes:

(1) The Pioneer Route between Seattle and Chicago, which was operated by Amtrak until 1997, to determine whether to reinstate passenger rail service along the route or along segments of the route.

(2) The North Coast Hiawatha Route between Chicago and Seattle, through southern Montana, which was operated by Amtrak until 1979, to determine whether to reinstate passenger rail service along the route or along segments of the route, provided that such service will not negatively impact existing Amtrak routes.

(3) Between Cornwells Heights, Pennsylvania, and New York, New York, to determine whether to expand passenger rail service by increasing the frequency of stops or reducing commuter ticket prices for this route.

(4) Between Princeton Junction, New Jersey, and Philadelphia, Pennsylvania, to determine whether to expand passenger rail service along the route.

(5) Between Harrisburg and Pittsburgh, Pennsylvania, to determine whether to increase frequency of passenger rail service along the route or along segments of the route.

(6) The Capitol Limited Route between Cumberland, Maryland, and Pittsburgh, Pennsylvania, to determine whether to reinstate a station stop at Rockwood, Pennsylvania.

(b) ASSISTANCE.—The Comptroller General of the General Accountability Office shall, upon request by Amtrak, assist Amtrak in conducting the studies under subsection (a).

(c) HIGH-SPEED RAIL CORRIDOR STUDIES.—(1) The Secretary shall conduct—

(A) an analysis of the Secretary's December 1, 1998, extension of the designation of the Southeast High-Speed Rail Corridor as authorized under section 104(d)(2) of title 23, United States Code, including an analysis of alternative routings for the corridor;

(B) a feasibility analysis regarding the expansion of the South Central High-Speed Rail Corridor—

(i) to Memphis, Tennessee;

(ii) to the Port of Houston, Texas;

(iii) through Killeen, Texas; and

(iv) south of San Antonio, Texas, to a location in far south Texas to be chosen at the discretion of the Secretary; and

(C) a feasibility analysis regarding the expansion of the Keystone Corridor to Cleveland, Ohio.

These analyses shall consider changes that have occurred in the region's population, anticipated patterns of population growth, connectivity with other modes of transportation, the ability of the proposed corridor to reduce regional traffic congestion, and the ability of current and proposed routings to enhance tourism. Within 1 year after the date of enactment of this Act, the Secretary shall submit a report on these analyses to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and shall redesignate or modify corridor designations based on these analyses, if necessary.

Deadline. Reports.

(2) The Secretary shall establish a process for a State or group of States to petition the Secretary to redesignate or modify any designated high-speed rail corridors.

**SEC. 225. REPORT ON SERVICE DELAYS ON CERTAIN PASSENGER RAIL ROUTES.**

Within 6 months after the date of the enactment of this Act, the Inspector General of the Department of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes service delays and the sources of such delays on—

(A) the Amtrak passenger rail route between Seattle, Washington, and Los Angeles, California (commonly known as the "Coast Starlight"); and

(B) the Amtrak passenger rail route between Vancouver, British Columbia, Canada, and Eugene, Oregon (commonly known as "Amtrak Cascades"); and

(2) contains recommendations for improving the on-time performance of such routes.

**SEC. 226. PLAN FOR RESTORATION OF SERVICE.**

Deadline.

Within 9 months after the date of enactment of this Act, Amtrak shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for restoring passenger rail service between New Orleans, Louisiana, and Sanford, Florida. The plan shall include a projected timeline for restoring such service, the costs associated with restoring such service, and any proposals for legislation necessary to support such restoration of service. In developing the plan, Amtrak shall consult with representatives from the States of Louisiana, Alabama, Mississippi, and Florida, railroad carriers whose tracks may be used for such service, rail passengers, rail labor, and other entities as appropriate.

**SEC. 227. MAINTENANCE AND REPAIR FACILITY UTILIZATION STUDY.**

Deadline.
Reports.

Within 9 months after the date of enactment of this Act, the Inspector General of the Department of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on Amtrak's utilization of its equipment maintenance and repair facilities, including the Beech Grove Mechanical Facility in Indiana. The report shall include an examination of Amtrak's utilization of its existing equipment maintenance and repair facilities, the productivity of such facilities, and the extent to which Amtrak is maximizing opportunities for utilizing each facility, including the provision of maintenance and repair to other rail carriers. In developing this report, the Inspector General shall consult with the Inspector General of Amtrak, Amtrak management, rail labor, and other railroad carriers, as it deems appropriate.

Consultation.

**SEC. 228. SENSE OF THE CONGRESS REGARDING THE NEED TO MAINTAIN AMTRAK AS A NATIONAL PASSENGER RAIL SYSTEM.**

(a) FINDINGS.—The Congress makes the following findings:

(1) In fiscal year 2007, 3,800,000 passengers traveled on Amtrak's long-distance trains, an increase of 2.4 percent over fiscal year 2006.

(2) Amtrak long-distance routes generated $376,000,000 in revenue in fiscal year 2007, an increase of 5 percent over fiscal year 2006.

(3) Amtrak operates 15 long-distance trains over 18,500 route miles that serve 39 States and the District of Columbia. These trains provide the only rail passenger service to 23 States.

(4) Amtrak's long-distance trains provide an essential transportation service for many communities and to a significant percentage of the general public.

(5) Many long-distance trains serve small communities with limited or no significant air or bus service, especially in remote or isolated areas in the United States.

(6) As a result of airline deregulation and decisions by national bus carriers to leave many communities, rail transportation may provide the only feasible common carrier transportation option for a growing number of areas.

(7) If long-distance trains were eliminated, 23 States and 243 communities would be left with no intercity passenger rail service and 16 other States would lose some rail service. These trains provide a strong economic benefit for the States and communities that they serve.

(8) Long-distance trains also provide transportation during periods of severe weather or emergencies that stall other modes of transportation.

(9) Amtrak provided the only reliable long-distance transportation following the September 11, 2001, terrorist attacks that grounded air travel.

(10) The majority of passengers on long-distance trains do not travel between the endpoints, but rather between any combination of cities along the route.

(11) Passenger trains provide transportation options, mobility for underserved populations, congestion mitigation, and jobs in the areas they serve.

(12) Passenger rail has a positive impact on the environment compared to other modes of transportation by conserving energy, reducing greenhouse gas emissions, and cutting down on other airborne particulate and toxic emissions.

(13) Amtrak communities that are served use passenger rail and passenger rail stations as a significant source of economic development.

(14) This division makes meaningful and important reforms to increase the efficiency, profitability and on-time performance of Amtrak's long-distance routes.

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

(1) long-distance passenger rail is a vital and necessary part of our national transportation system and economy; and

(2) Amtrak should maintain a national passenger rail system, including long-distance routes, that connects the continental United States from coast to coast and from border to border.

# TITLE III—INTERCITY PASSENGER RAIL POLICY

### SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE.

(a) IN GENERAL.—Part C of subtitle V is amended by inserting the following after chapter 243:

## "CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

"Sec.
"24401. Definitions.
"24402. Capital investment grants to support intercity passenger rail service.
"24403. Project management oversight.
"24404. Use of capital grants to finance first-dollar liability of grant project.
"24405. Grant conditions.
"24406. Authorization of appropriations.

### "§ 24401. Definitions

"In this chapter:

"(1) APPLICANT.—The term 'applicant' means a State (including the District of Columbia), a group of States, an Interstate Compact, or a public agency established by one or more States and having responsibility for providing intercity passenger rail service.

"(2) CAPITAL PROJECT.—The term 'capital project' means a project or program in a State rail plan developed under chapter 227 of this title for—

"(A) acquiring, constructing, improving, or inspecting equipment, track and track structures, or a facility for use in or for the primary benefit of intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, highway-rail grade crossing improvements related to intercity passenger rail service, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

"(B) rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service;

"(C) costs associated with developing State rail plans; and

"(D) the first-dollar liability costs for insurance related to the provision of intercity passenger rail service under section 24404.

"(3) INTERCITY PASSENGER RAIL SERVICE.—The term 'intercity passenger rail service' means intercity rail passenger transportation, as defined in section 24102 of this title.

### "§ 24402. Capital investment grants to support intercity passenger rail service

"(a) GENERAL AUTHORITY.—

"(1) The Secretary of Transportation may make grants under this section to an applicant to assist in financing the capital costs of facilities, infrastructure, and equipment necessary to provide or improve intercity passenger rail transportation.

Procedures.

"(2) Consistent with the requirements of this chapter, the Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section and shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures and a record of decision on applicant eligibility. The Secretary shall issue a final rule establishing such procedures not later than 2 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008. For the period prior to the earlier of the issuance of such a rule or 2 years after the date of enactment of such Act, the Secretary shall issue interim guidance to applicants covering such procedures, and

Regulations.
Deadline.

Guidance.

administer the grant program authorized under this section pursuant to such guidance.

"(b) PROJECT AS PART OF STATE RAIL PLAN.—

"(1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of a State rail plan developed under chapter 227 of this title, or under the plan required by section 211 of the Passenger Rail Investment and Improvement Act of 2008, and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

"(2) An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

"(3) If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is the best, taking into account price and other factors, and that use of the proposed operator will not unnecessarily increase the cost of the project.

"(c) PROJECT SELECTION CRITERIA.—The Secretary, in selecting the recipients of financial assistance to be provided under subsection (a), shall—

"(1) require—

"(A) that the project be part of a State rail plan developed under chapter 227 of this title, or under the plan required by section 211 of the Passenger Rail Investment and Improvement Act of 2008;

"(B) that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities;

"(C) that the applicant provides sufficient information upon which the Secretary can make the findings required by this subsection;

"(D) that if an applicant has selected the proposed operator of its service competitively, that the applicant provide written justification to the Secretary showing why the proposed operator is the best, taking into account costs and other factors;

"(E) that each proposed project meet all safety and security requirements that are applicable to the project under law; and

"(F) that each project be compatible with, and operated in conformance with—

"(i) plans developed pursuant to the requirements of section 135 of title 23, United States Code; and

"(ii) the national rail plan (if it is available);

"(2) select projects—

"(A) that are anticipated to result in significant improvements to intercity rail passenger service, including, but not limited to, consideration of—

"(i) the project's levels of estimated ridership, increased on-time performance, reduced trip time, additional service frequency to meet anticipated or existing demand, or other significant service enhancements as measured against minimum standards developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008;

"(ii) the project's anticipated favorable impact on air or highway traffic congestion, capacity, or safety; and

"(iii) identification of the project by the Surface Transportation Board as necessary to improve the on-time performance and reliability of intercity passenger rail under section 24308(f);

"(B) for which there is a high degree of confidence that the proposed project is feasible and will result in the anticipated benefits, as indicated by—

"(i) the project's precommencement compliance with environmental protection requirements;

"(ii) the readiness of the project to be commenced;

"(iii) the timing and amount of the project's future noncommitted investments;

"(iv) the commitment of any affected host rail carrier to ensure the realization of the anticipated benefits; and

"(v) other relevant factors as determined by the Secretary; and

"(C) for which the level of the anticipated benefits compares favorably to the amount of Federal funding requested under this chapter; and

"(3) give greater consideration to projects—

"(A) that are anticipated to result in benefits to other modes transportation and to the public at large, including, but not limited to, consideration of the project's—

"(i) encouragement of intermodal connectivity through provision of direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

"(ii) anticipated improvement of freight or commuter rail operations;

"(iii) encouragement of the use of positive train control technologies;

"(iv) environmental benefits, including projects that involve the purchase of environmentally sensitive, fuel-efficient, and cost-effective passenger rail equipment;

"(v) anticipated positive economic and employment impacts;

"(vi) encouragement of State and private contributions toward station development, energy and environmentally efficiency, and economic benefits; and

"(vii) falling under the description in section 5302(a)(1)(G) of this title as defined to support intercity passenger rail service; and

"(B) that incorporate equitable financial participation in the project's financing, including, but not limited to, consideration of—

"(i) donated property interests or services;

"(ii) financial contributions by freight and commuter rail carriers commensurate with the benefit expected to their operations; and

"(iii) financial commitments from host railroads, non-Federal governmental entities, nongovernmental entities, and others.

"(d) STATE RAIL PLANS.—State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 that substantially meet the requirements of chapter 227 of this title, as determined by the Secretary pursuant to section 22506 of this title, shall be deemed by the Secretary to have met the requirements of subsection (c)(1)(A) of this section.

"(e) AMTRAK ELIGIBILITY.—To receive a grant under this section, Amtrak may enter into a cooperative agreement with 1 or more States to carry out 1 or more projects on a State rail plan's ranked list of rail capital projects developed under section 22504(a)(5) of this title. For such a grant, Amtrak may not use Federal funds authorized under section 101(a) or (c) of the Passenger Rail Investment and Improvement Act of 2008 to fulfill the non-Federal share requirements under subsection (g) of this section.

"(f) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—

"(1) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

"(2) At least 30 days before issuing a letter under paragraph (1) of this subsection, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the House and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement, the criteria used in subsection (c) for selecting the project for a grant award, and a description of how the project meets such criteria. Deadline. Notification.

"(3) An obligation or administrative commitment may be made only when amounts are appropriated. The letter of intent shall state that the contingent commitment is not an obligation of the Federal Government, and is subject to the availability of appropriations under Federal law and to Federal laws in force or enacted after the date of the contingent commitment.

"(g) FEDERAL SHARE OF NET PROJECT COST.—

"(1)(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

"(B) A grant for the project shall not exceed 80 percent of the project net capital cost.

"(C) The Secretary shall give priority in allocating future obligations and contingent commitments to incur obligations to grant requests seeking a lower Federal share of the project net capital cost.

"(2) Up to an additional 20 percent of the required non-Federal funds may be funded from amounts appropriated to

or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

"(3) The following amounts, not to exceed $15,000,000 per fiscal year, shall be available to each applicant as a credit toward an applicant's matching requirement for a grant awarded under this section—

"(A) in each of fiscal years 2009, 2010, and 2011—

"(i) 50 percent of the average of amounts expended in fiscal years 2002 through 2008 by an applicant for capital projects related to intercity passenger rail service; and

"(ii) 50 percent of the average of amounts expended in fiscal years 2002 through 2008 by an applicant for operating costs of such service; and

"(B) in each of fiscal years 2010, 2011 and 2012, 50 percent of the amount by which the amounts expended for capital projects and operating costs related to intercity passenger rail service by an applicant in the prior fiscal year exceed the average capital and operating expenditures made for such service in fiscal years 2006, 2007, and 2008.

The Secretary may require such information as necessary to verify such expenditures. Credits made available to an applicant in a fiscal year under this paragraph may only be applied towards grants awarded in that fiscal year.

"(4) The Federal share of expenditures for capital improvements under this chapter may not exceed 100 percent.

"(h) 2-YEAR AVAILABILITY.—Funds appropriated under this section shall remain available until expended. If any amount provided as a grant under this section is not obligated or expended for the purposes described in subsection (a) within 2 years after the date on which the State received the grant, such sums shall be returned to the Secretary for other intercity passenger rail development projects under this section at the discretion of the Secretary.

"(i) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—A metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this chapter.

"(2) FORMS OF PARTICIPATION.—Participation by an entity under paragraph (1) may consist of—

"(A) ownership or operation of any land, facility, locomotive, rail car, vehicle, or other physical asset associated with the project;

"(B) cost-sharing of any project expense;

"(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

"(D) any other form of participation approved by the Secretary.

"(3) SUBALLOCATION.—A State may allocate funds under this section to any entity described in paragraph (1).

"(j) SPECIAL TRANSPORTATION CIRCUMSTANCES.—In carrying out this section, the Secretary shall allocate an appropriate portion of the amounts available under this section to provide grants to States—

"(1) in which there is no intercity passenger rail service for the purpose of funding freight rail capital projects that are on a State rail plan developed under chapter 227 of this title that provide public benefits (as defined in chapter 227) as determined by the Secretary; or

"(2) in which the rail transportation system is not physically connected to rail systems in the continental United States or may not otherwise qualify for a grant under this section due to the unique characteristics of the geography of that State or other relevant considerations, for the purpose of funding transportation-related capital projects.

"(k) SMALL CAPITAL PROJECTS.—The Secretary shall make not less than 5 percent annually available from the amounts authorized under section 101(c) of the Passenger Rail Investment and Improvement Act of 2008 beginning in fiscal year 2009 for grants for capital projects eligible under this section not exceeding $2,000,000, including costs eligible under section 209(d) of that Act. For grants awarded under this subsection, the Secretary may waive requirements of this section, including state rail plan requirements, as appropriate.

Waiver authority.

"(l) NONMOTORIZED TRANSPORTATION ACCESS AND STORAGE.—Grants under this chapter may be used to provide access to rolling stock for nonmotorized transportation, including bicycles, and recreational equipment, and to provide storage capacity in trains for such transportation, equipment, and other luggage, to ensure passenger safety.

**"§ 24403. Project management oversight**

"(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this chapter, an applicant must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

"(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

"(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

"(3) a construction schedule for the project;

"(4) a document control procedure and recordkeeping system;

"(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

"(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

"(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

"(8) material testing policies and procedures;

"(9) internal plan implementation and reporting requirements;

"(10) criteria and procedures to be used for testing the operational system or its major components;

"(11) periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

"(12) the recipient's commitment to submit periodically a project budget and project schedule to the Secretary.

"(b) SECRETARIAL OVERSIGHT.—

"(1) The Secretary may use no more than 1 percent of amounts made available in a fiscal year for capital projects under this chapter to enter into contracts to oversee the construction of such projects.

"(2) The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

Payments.

"(3) The Federal Government shall pay the entire cost of carrying out a contract under this subsection.

"(c) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

**"§ 24404. Use of capital grants to finance first-dollar liability of grant project**

"Notwithstanding the requirements of section 24402 of this chapter, the Secretary of Transportation may approve the use of a capital assistance grant under this chapter to fund self-insured retention of risk for the first tier of liability insurance coverage for rail passenger service associated with the grant, but the coverage may not exceed $20,000,000 per occurrence or $20,000,000 in aggregate per year.

**"§ 24405. Grant conditions**

"(a) BUY AMERICA.—(1) The Secretary of Transportation may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

Waiver authority.

"(2) The Secretary of Transportation may waive paragraph (1) of this subsection if the Secretary finds that—

"(A) applying paragraph (1) would be inconsistent with the public interest;

"(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

"(C) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time; or

"(D) including domestic material will increase the cost of the overall project by more than 25 percent.

"(3) For purposes of this subsection, in calculating the components' costs, labor costs involved in final assembly shall not be included in the calculation.

"(4) If the Secretary determines that it is necessary to waive the application of paragraph (1) based on a finding under paragraph (2), the Secretary shall, before the date on which such finding takes effect—

"(A) publish in the Federal Register a detailed written justification as to why the waiver is needed; and

Federal Register, publication.

"(B) provide notice of such finding and an opportunity for public comment on such finding for a reasonable period of time not to exceed 15 days.

Notice.

"(5) Not later than December 31, 2012, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on any waivers granted under paragraph (2).

Deadline. Reports.

"(6) The Secretary of Transportation may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

"(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

"(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

"(7) A person is ineligible to receive a contract or subcontract made with amounts authorized under this chapter if a court or department, agency, or instrumentality of the Government decides the person intentionally—

"(A) affixed a 'Made in America' label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

"(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

"(8) The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

"(9) The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

"(10) A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

"(11) The requirements of this subsection shall only apply to projects for which the costs exceed $100,000.

Applicability.

"(b) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this chapter shall

be considered a rail carrier as defined in section 10102(5) of this title for purposes of this title and any other statute that adopts that definition or in which that definition applies, including—

"(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

"(2) the Railway Labor Act (43 U.S.C. 151 et seq.); and

"(3) the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

"(c) GRANT CONDITIONS.—The Secretary shall require as a condition of making any grant under this chapter for a project that uses rights-of-way owned by a railroad that—

"(1) a written agreement exist between the applicant and the railroad regarding such use and ownership, including—

"(A) any compensation for such use;

"(B) assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations;

"(C) an assurance by the railroad that collective bargaining agreements with the railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and

"(D) an assurance that an applicant complies with liability requirements consistent with section 28103 of this title; and

"(2) the applicant agrees to comply with—

"(A) the standards of section 24312 of this title, as such section was in effect on September 1, 2003, with respect to the project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under section 24308(a) of this title; and

"(B) the protective arrangements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) with respect to employees affected by actions taken in connection with the project to be financed in whole or in part by grants under this chapter.

"(d) REPLACEMENT OF EXISTING INTERCITY PASSENGER RAIL SERVICE.—

"(1) COLLECTIVE BARGAINING AGREEMENT FOR INTERCITY PASSENGER RAIL PROJECTS.—Any entity providing intercity passenger railroad transportation that begins operations after the date of enactment of this Act on a project funded in whole or in part by grants made under this chapter and replaces intercity rail passenger service that was provided by Amtrak, unless such service was provided solely by Amtrak to another entity, as of such date shall enter into an agreement with the authorized bargaining agent or agents for adversely affected employees of the predecessor provider that—

"(A) gives each such qualified employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within 3 years after the termination of the service being replaced;

"(B) establishes a procedure for notifying such an employee of such positions;

"(C) establishes a procedure for such an employee to apply for such positions; and

"(D) establishes rates of pay, rules, and working conditions.

"(2) IMMEDIATE REPLACEMENT SERVICE.—

Deadlines.
Notice.

"(A) NEGOTIATIONS.—If the replacement of preexisting intercity rail passenger service occurs concurrent with or within a reasonable time before the commencement of the replacing entity's rail passenger service, the replacing entity shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the potentially adversely affected employees of the predecessor provider at least 90 days before the date on which it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

"(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1) as described in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of seven arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only 1 name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues among the matters set forth in subparagraphs (A) through (D) of paragraph (1). The arbitrator shall be guided by prevailing national standard rates of pay, benefits, and working conditions for comparable work. This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties; all other expenses shall be paid by the party incurring them.

Notification.
Lists.

"(3) SERVICE COMMENCEMENT.—A replacing entity under this subsection shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1) or the decision of the arbitrator has been rendered.

Contracts.

"(4) SUBSEQUENT REPLACEMENT OF SERVICE.—If the replacement of existing rail passenger service takes place within 3 years after the replacing entity commences intercity passenger rail service, the replacing entity and the collective bargaining agent or agents for the adversely affected employees of the predecessor provider shall enter into an agreement with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1). If the parties have not entered into an agreement with respect to all such matters within 60 days after the date on which the replacing entity replaces the predecessor provider, the parties shall select an arbitrator using the procedures set forth in paragraph (2)(B), who shall, within 20 days after the commencement of the arbitration, conduct a hearing and decide all unresolved issues. This decision shall be final, binding, and conclusive upon the parties.

Deadlines.

"(e) INAPPLICABILITY TO CERTAIN RAIL OPERATIONS.—Nothing in this section applies to—

"(1) commuter rail passenger transportation (as defined in section 24102(4) of this title) operations of a State or local government authority (as those terms are defined in section 5302(11) and (6), respectively, of this title) eligible to receive financial assistance under section 5307 of this title, or to its contractor performing services in connection with commuter rail passenger operations (as so defined);

"(2) the Alaska Railroad or its contractors; or

"(3) Amtrak's access rights to railroad rights of way and facilities under current law.

"(f) LIMITATION.—No grants shall be provided under this chapter for commuter rail passenger transportation, as defined in section 24102(4) of this title.

**"§ 24406. Authorization of appropriations**

"There are authorized to be appropriated to the Secretary of Transportation for capital grants under this chapter the following amounts:

"(1) For fiscal year 2009, $100,000,000.

"(2) For fiscal year 2010, $300,000,000.

"(3) For fiscal year 2011, $400,000,000.

"(4) For fiscal year 2012, $500,000,000.

"(5) For fiscal year 2013, $600,000,000.".

(b) CONFORMING AMENDMENT.—The chapter analysis for subtitle V is amended by inserting the following after the item relating to chapter 243:

"244. INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE ..... 24401".

49 USC 24405 note.

(c) ASSISTANCE.—In implementing section 24405(a) of title 49, United States Code, the Federal Highway Administration shall, upon request by the Federal Railroad Administration, assist the Federal Railroad Administration in developing a process for posting on its website or distributing via email notices of waiver requests received pursuant to such subsection and soliciting public comments on the intent to issue a waiver. The Federal Railroad Administration's development of such a process does not relieve the Federal Railroad Administration of the requirements under paragraph (4) of such subsection.

**SEC. 302. CONGESTION GRANTS.**

(a) AMENDMENT.—Chapter 241 of title 49, United States Code, is amended by adding at the end the following new section:

**"§ 24105. Congestion grants**

"(a) AUTHORITY.—The Secretary of Transportation may make grants to States, or to Amtrak in cooperation with States, for financing the capital costs of facilities, infrastructure, and equipment for high priority rail corridor projects necessary to reduce congestion or facilitate ridership growth in intercity rail passenger transportation.

"(b) ELIGIBLE PROJECTS.—Projects eligible for grants under this section include projects—

"(1) identified by Amtrak as necessary to reduce congestion or facilitate ridership growth in intercity rail passenger transportation along heavily traveled rail corridors;

"(2) identified by the Surface Transportation Board as necessary to improve the on time performance and reliability of intercity rail passenger transportation under section 24308(f); and

"(3) designated by the Secretary as being sufficiently advanced in development to be capable of serving the purposes described in subsection (a) on an expedited schedule.

"(c) FEDERAL SHARE.—The Federal share of the cost of a project financed under this section shall not exceed 80 percent.

"(d) GRANT CONDITIONS.—The Secretary of Transportation shall require each recipient of a grant under this section to comply with the grant requirements of section 24405 of this title.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from amounts made available under section 301 of the Passenger Rail Investment and Improvement Act of 2008, to the Secretary to carry out this section—

"(1) $50,000,000 for fiscal year 2010;

"(2) $75,000,000 for fiscal year 2011;

"(3) $100,000,000 for fiscal year 2012; and

"(4) $100,000,000 for fiscal year 2013.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for such chapter 241 is amended by adding at the end the following new item:

"24105. Congestion grants.".

**SEC. 303. STATE RAIL PLANS.**

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end the following:

**"CHAPTER 227—STATE RAIL PLANS**

"Sec.
"22701. Definitions.
"22702. Authority.
"22703. Purposes.
"22704. Transparency; coordination; review.
"22705. Content.
"22706. Review.

**"§ 22701. Definitions**

"In this subchapter:

"(1) PRIVATE BENEFIT.—

"(A) IN GENERAL.—The term 'private benefit'—

"(i) means a benefit accrued to a person or private entity, other than Amtrak, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

"(ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

"(B) CONSULTATION.—The Secretary may seek the advice of the States and rail carriers in further defining this term.

"(2) PUBLIC BENEFIT.—

"(A) IN GENERAL.—The term 'public benefit'—

"(i) means a benefit accrued to the public, including Amtrak, in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

"(ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

"(B) CONSULTATION.—The Secretary may seek the advice of the States and rail carriers in further defining this term.

"(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.

"(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term 'State rail transportation authority' means the State agency or official responsible under the direction of the Governor of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan.

**"§ 22702. Authority**

"(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

"(b) REQUIREMENTS.—The Secretary shall establish the minimum requirements for the preparation and periodic revision of a State rail plan, including that a State shall—

"(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

"(2) establish or designate a State rail plan approval authority to approve the plan;

"(3) submit the State's approved plan to the Secretary of Transportation for review; and

"(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

**"§ 22703. Purposes**

"(a) PURPOSES.—The purposes of a State rail plan are as follows:

"(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

"(2) To establish the period covered by the State rail plan.

"(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

"(4) To serve as the basis for Federal and State rail investments within the State.

"(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs, including the plan required under section 135 of title 23, and set forth rail transportation's role within the State transportation system.

**"§ 22704. Transparency; coordination; review**

"(a) PREPARATION.—A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan. Notice.

"(b) INTERGOVERNMENTAL COORDINATION.—A State shall review the freight and passenger rail service activities and initiatives by regional planning agencies, regional transportation authorities, and municipalities within the State, or in the region in which the State is located, while preparing the plan, and shall include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.

**"§ 22705. Content**

"(a) IN GENERAL.—Each State rail plan shall, at a minimum, contain the following:

"(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

"(2) A review of all rail lines within the State, including proposed high-speed rail corridors and significant rail line segments not currently in service.

"(3) A statement of the State's passenger rail service objectives, including minimum service levels, for rail transportation routes in the State.

"(4) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

"(5) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

"(6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development.

"(7) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stakeholders.

"(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.

"(9) A review of publicly funded projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

"(10) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

"(11) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this subchapter, and a plan for funding any recommended development of such corridors in the State.

"(12) A statement that the State is in compliance with the requirements of section 22102.

"(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

"(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall, at a minimum, include the following matters:

"(A) A list of any rail capital projects expected to be undertaken or supported in whole or in part by the State.

"(B) A detailed funding plan for those projects.

"(2) PROJECT LIST CONTENT.—The list of rail capital projects shall contain—

"(A) a description of the anticipated public and private benefits of each such project; and

"(B) a statement of the correlation between—

"(i) public funding contributions for the projects; and

"(ii) the public benefits.

"(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority should take into consideration the following matters:

"(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

"(B) Rail capacity and congestion effects.

"(C) Effects on highway, aviation, and maritime capacity, congestion, or safety.

"(D) Regional balance.

"(E) Environmental impact.

"(F) Economic and employment impacts.

"(G) Projected ridership and other service measures for passenger rail projects.

**"§ 22706. Review**

Procedures.

"The Secretary shall prescribe procedures for States to submit State rail plans for review under this title, including standardized format and data requirements. State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 that substantially meet the requirements of this chapter, as determined by the Secretary, shall be deemed by the Secretary to have met the requirements of this chapter.".

(b) CONFORMING AMENDMENT.—The chapter analysis for subtitle V is amended by inserting the following after the item relating to chapter 223:

**"227. State rail plans ..... 22701".**

**SEC. 304. TUNNEL PROJECT.**

Maryland.

(a) NEW TUNNEL ALIGNMENT AND ENVIRONMENTAL REVIEW.—Not later than September 30, 2013, the Federal Railroad Administration, working with Amtrak, the Surface Transportation Board, the City of Baltimore, the State of Maryland, and rail operators described in subsection (b), as appropriate, shall— Deadline.

(1) select and approve, as applicable, a new rail tunnel alignment in Baltimore that will permit an increase in train speed and service reliability; and

(2) ensure completion of the related environmental review process.

(b) AFFECTED RAIL OPERATORS.—Rail operators other than Amtrak may participate in activities described in subsection (a) to the extent that they can demonstrate the intention and ability to contribute to the construction of the new tunnel.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $60,000,000 for the period encompassing fiscal years 2009 through 2013.

**SEC. 305. NEXT GENERATION CORRIDOR TRAIN EQUIPMENT POOL.**

49 USC 24101 note.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, Amtrak shall establish a Next Generation Corridor Equipment Pool Committee, comprised of representatives of Amtrak, the Federal Railroad Administration, host freight railroad companies, passenger railroad equipment manufacturers, interested States, and, as appropriate, other passenger railroad operators. The purpose of the Committee shall be to design, develop specifications for, and procure standardized next-generation corridor equipment. Deadline. Establishment.

(b) FUNCTIONS.—The Committee may—

(1) determine the number of different types of equipment required, taking into account variations in operational needs and corridor infrastructure;

(2) establish a pool of equipment to be used on corridor routes funded by participating States; and

(3) subject to agreements between Amtrak and States, utilize services provided by Amtrak to design, maintain and remanufacture equipment.

(c) COOPERATIVE AGREEMENTS.—Amtrak and States participating in the Committee may enter into agreements for the funding, procurement, remanufacture, ownership, and management of corridor equipment, including equipment currently owned or leased by Amtrak and next-generation corridor equipment acquired as a result of the Committee's actions, and may establish a corporation, which may be owned or jointly-owned by Amtrak, participating States, or other entities, to perform these functions.

(d) FUNDING.—In addition to the authorizations provided in this section, capital projects to carry out the purposes of this section shall be eligible for grants made pursuant to chapter 244 of title 49, United States Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $5,000,000 for fiscal year 2010, to remain available until expended, for grants to Amtrak and States participating in the Next Generation Corridor Train Equipment Pool Committee established under this section for the purpose of designing, developing specifications for, and initiating the procurement of an initial order of 1 or more types of standardized next-generation corridor train equipment and establishing a jointly-owned corporation to manage that equipment.

**SEC. 306. RAIL COOPERATIVE RESEARCH PROGRAM.**

(a) ESTABLISHMENT AND CONTENT.—Chapter 249 is amended by adding at the end the following:

**"§ 24910. Rail cooperative research program**

"(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

"(1) address, among other matters, intercity rail passenger and freight rail services, including existing rail passenger and freight technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems;

"(2) address ways to expand the transportation of international trade traffic by rail, enhance the efficiency of intermodal interchange at ports and other intermodal terminals, and increase capacity and availability of rail service for seasonal freight needs;

"(3) consider research on the interconnectedness of commuter rail, passenger rail, freight rail, and other rail networks; and

"(4) give consideration to regional concerns regarding rail passenger and freight transportation, including meeting research needs common to designated high-speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

"(b) CONTENT.—The program to be carried out under this section shall include research designed—

"(1) to identify the unique aspects and attributes of rail passenger and freight service;

"(2) to develop more accurate models for evaluating the impact of rail passenger and freight service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

"(3) to develop a better understanding of modal choice as it affects rail passenger and freight transportation, including development of better models to predict utilization;

"(4) to recommend priorities for technology demonstration and development;

"(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

"(6) to explore improvements in management, financing, and institutional structures;

"(7) to address rail capacity constraints that affect passenger and freight rail service through a wide variety of options,

ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

"(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger and freight service;

"(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

"(10) to review the impact of equipment and operational safety standards on the further development of high-speed passenger rail operations connected to or integrated with non-high-speed freight or passenger rail operations;

"(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high-speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high-speed freight or passenger rail operations;

"(12) to review rail crossing safety improvements, including improvements using new safety technology; and

"(13) to review and develop technology designed to reduce train horn noise and its effect on communities, including broadband horn technology.

"(c) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

"(2) MEMBERSHIP.—The advisory board shall include—

"(A) representatives of State transportation agencies;

"(B) transportation and environmental economists, scientists, and engineers; and

"(C) representatives of Amtrak, the Alaska Railroad, freight railroads, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2010 through 2013 for carrying out this section.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

"24910. Rail cooperative research program.".

**SEC. 307. FEDERAL RAIL POLICY.**

Section 103 is amended— 49 USC 103.

(1) by inserting "IN GENERAL.—" before "The Federal" in subsection (a);

(2) by striking the second and third sentences of subsection (a);

(3) by inserting after subsection (a) the following:

"(b) SAFETY.—To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices."; and

(4) by adding at the end the following:

"(j) ADDITIONAL DUTIES OF THE ADMINISTRATOR.—The Administrator shall—

"(1) provide assistance to States in developing State rail plans prepared under chapter 227 and review all State rail plans submitted under that section;

"(2) develop a long-range national rail plan that is consistent with approved State rail plans and the rail needs of the Nation, as determined by the Secretary in order to promote an integrated, cohesive, efficient, and optimized national rail system for the movement of goods and people;

"(3) develop a preliminary national rail plan within a year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008;

"(4) develop and enhance partnerships with the freight and passenger railroad industry, States, and the public concerning rail development;

"(5) support rail intermodal development and high-speed rail development, including high speed rail planning;

"(6) ensure that programs and initiatives developed under this section benefit the public and work toward achieving regional and national transportation goals; and

"(7) facilitate and coordinate efforts to assist freight and passenger rail carriers, transit agencies and authorities, municipalities, and States in passenger-freight service integration on shared rights of way by providing neutral assistance at the joint request of affected rail service providers and infrastructure owners relating to operations and capacity analysis, capital requirements, operating costs, and other research and planning related to corridors shared by passenger or commuter rail service and freight rail operations.

"(k) PERFORMANCE GOALS AND REPORTS.—

"(1) PERFORMANCE GOALS.—In conjunction with the objectives established and activities undertaken under subsection (j) of this section, the Administrator shall develop a schedule for achieving specific, measurable performance goals.

"(2) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each goal and the additional duties required under subsection (j).

Effective date.

"(3) SUBMISSION WITH PRESIDENT'S BUDGET.—Beginning with fiscal year 2010 and each fiscal year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, at the same time as the President's budget submission, the Administration's performance goals and schedule developed under paragraph (1), including an assessment of the progress of the Administration toward achieving its performance goals.".

# TITLE IV—MISCELLANEOUS PROVISIONS

**SEC. 401. COMMUTER RAIL MEDIATION.**

(a) AMENDMENT.—Part E of subtitle V is amended by adding at the end the following:

## "CHAPTER 285—COMMUTER RAIL MEDIATION

"Sec.
"28501. Definitions
"28502. Surface Transportation Board mediation of trackage use requests.
"28503. Surface Transportation Board mediation of rights-of-way use requests.
"28504. Applicability of other laws.
"28505. Rules and regulations.

### "§ 28501. Definitions

"In this chapter—

"(1) the term 'Board' means the Surface Transportation Board;

"(2) the term 'capital work' means maintenance, restoration, reconstruction, capacity enhancement, or rehabilitation work on trackage that would be treated, in accordance with generally accepted accounting principles, as a capital item rather than an expense;

"(3) the term 'commuter rail passenger transportation' has the meaning given that term in section 24102;

"(4) the term 'public transportation authority' means a local governmental authority (as defined in section 5302(a)(6)) established to provide, or make a contract providing for, commuter rail passenger transportation;

"(5) the term 'rail carrier' means a person, other than a governmental authority, providing common carrier railroad transportation for compensation subject to the jurisdiction of the Board under chapter 105;

"(6) the term 'segregated fixed guideway facility' means a fixed guideway facility constructed within the railroad right-of-way of a rail carrier but physically separate from trackage, including relocated trackage, within the right-of-way used by a rail carrier for freight transportation purposes; and

"(7) the term 'trackage' means a railroad line of a rail carrier, including a spur, industrial, team, switching, side, yard, or station track, and a facility of a rail carrier.

### "§ 28502. Surface Transportation Board mediation of trackage use requests

"If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to use trackage of, and have related services provided by, the rail carrier for purposes of commuter rail passenger transportation, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

**"§ 28503. Surface Transportation Board mediation of rights-of-way use requests**

"If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to acquire an interest in a railroad right-of-way for the construction and operation of a segregated fixed guideway facility to provide commuter rail passenger transportation, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

**"§ 28504. Applicability of other laws**

"Nothing in this chapter shall be construed to limit a rail transportation provider's right under section 28103(b) to enter into contracts that allocate financial responsibility for claims.

**"§ 28505. Rules and regulations**

Deadline.

"Within 1 year after the date of enactment of this section, the Board shall issue such rules and regulations as may be necessary to carry out this chapter.".

(b) CLERICAL AMENDMENT.—The table of chapters of such subtitle is amended by adding after the item relating to chapter 283 the following:

"285. COMMUTER RAIL MEDIATION .....28501".

**SEC. 402. ROUTING EFFICIENCY DISCUSSIONS WITH AMTRAK.**

Amtrak, commuter rail entities, regional and State public transportation authorities, and freight railroad carriers are encouraged to engage in good faith discussions with respect to the routing and timing of trains to efficiently move a maximum number of commuter, intercity, and regional rail passengers, particularly during the peak times of commuter usage.

**SEC. 403. SENSE OF CONGRESS REGARDING COMMUTER RAIL EXPANSION.**

(a) FINDINGS.—The Congress find the following:

(1) In 2006, Americans took 10.1 billion trips on public transportation for the first time since 1949.

(2) The Northeast region is one of the Nation's largest emerging transportation "megaregions" where infrastructure expansion and improvements are most needed.

(3) New England's road traffic has increased two to three times faster than its population since 1990.

(4) Connecticut has one of the Nation's longest average commute times according to the United States Census Bureau, and 80 percent of Connecticut commuters drive by themselves to work, demonstrating the need for expanded commuter rail access.

(5) The Connecticut Department of Transportation has pledged to modernize, repair, and strengthen the rail line infrastructure to provide for increased safety and security along a crucial transportation corridor in the Northeast.

(6) Expanded New Haven-Springfield rail service would improve access to Bradley International Airport, one the region's busiest airports, as well as to Hartford, Connecticut,

and Springfield, Massachusetts, two of the region's commercial, residential, and industrial centers.

(7) Expanded commuter rail service on the New Haven-Springfield line could result in an estimated 630,000 additional trips per year and 2,215,384 passenger miles per year, helping to curb pollution and greenhouse gas emissions from road vehicle traffic.

(8) The MetroNorth New Haven Line and Shore Line East railways saw respective 3.43 percent and 4.93 percent increases in ridership over the course of 2007, demonstrating the need for expanded commuter rail service in Connecticut.

(9) Expanded New Haven-Springfield commuter rail service could provide transportation nearly 17 times more efficient in terms of average mileage versus road vehicles, alleviating road congestion and providing a significant savings to consumers during a time of high gas prices.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that expanded commuter rail service on the rail line between New Haven, Connecticut, and Springfield, Massachusetts, is an important transportation priority, and Amtrak should work cooperatively with the States of Connecticut and Massachusetts to enable expanded commuter rail service on such line.

(c) INFRASTRUCTURE MAINTENANCE REPORT.—Amtrak shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and to the State Departments of Transportation of Connecticut and Massachusetts, on the total cost of uncompleted infrastructure maintenance on the rail line between New Haven, Connecticut, and Springfield, Massachusetts.

**SEC. 404. LOCOMOTIVE BIOFUEL STUDY.**

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall conduct a study to determine the extent to which freight railroads, Amtrak, and other passenger rail operators could use biofuel blends to power locomotives and other vehicles that can operate on diesel fuel, as appropriate.

(b) DEFINITION.—In this section, the term "biofuel" has the meaning given such term by section 9001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101).

(c) FACTORS.—In conducting the study, the Secretary shall consider—

(1) the energy intensity of various biofuel blends compared to diesel fuel;

(2) environmental and energy effects of using various biofuel blends compared to diesel fuel, including emission effects;

(3) the cost of purchasing biofuel blends;

(4) whether sufficient biofuel is readily available;

(5) any public benefits derived from the use of such fuels; and

(6) the effect of biofuel use on locomotive and other vehicle performance and warranty specifications.

(d) LOCOMOTIVE TESTING.—As part of the study, the Secretary shall test locomotive engine performance and emissions using blends

of biofuel and diesel fuel in order to recommend premium locomotive biofuel blends.

(e) REPORT.—Within 1 year after the date of enactment of this Act, the Secretary shall issue the results of this study to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

**SEC. 405. STUDY OF THE USE OF BIOBASED TECHNOLOGIES.**

Deadline. Reports.

Within 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of a study of the feasibility of using readily biodegradable lubricants for freight and passenger railroad locomotives, rolling stock, or other equipment. The Secretary shall work with an agricultural-based lubricant testing facility or facilities to complete this study. The study shall include—

(1) an analysis of the potential use of soy-based grease and soy-based hydraulic fluids to perform according to railroad industry standards;

(2) an analysis of the potential use of other readily biodegradable lubricants to perform according to railroad industry standards;

(3) a comparison of the health and safety of petroleum-based lubricants with biobased lubricants, which shall include an analysis of fire safety; and

(4) a comparison of the environmental impact of petroleum-based lubricants with biobased lubricants, which shall include the rate and effects of biodegradability.

49 USC 24709 note. Deadline.

**SEC. 406. CROSS-BORDER PASSENGER RAIL SERVICE.**

(a) PLAN.—Not later than 1 year after the date of the enactment of this Act, Amtrak shall, in consultation with the Secretary, the Secretary of Homeland Security, the Washington State Department of Transportation, and the owners of the relevant railroad infrastructure—

(1) develop a strategic plan to facilitate expanded passenger rail service across the international border between the United States and Canada during the 2010 Olympic Games on the Amtrak passenger rail route between Vancouver, British Columbia, Canada, and Eugene, Oregon (commonly known as "Amtrak Cascades");

Recommendations.

(2) develop recommendations for the Department of Homeland Security to process efficiently rail passengers traveling on Amtrak Cascades across such international border during the 2010 Olympic Games; and

Reports.

(3) submit to Congress a report containing the strategic plan described in paragraph (1) and the recommendations described in paragraph (2).

Procedures.

(b) TRAVEL FACILITATION.—Using existing authority or agreements, or upon reaching additional agreements with Canada, the Secretary and other Federal agencies, as appropriate, are authorized to establish facilities and procedures to conduct preclearance of passengers traveling on Amtrak trains from Canada to the United States. The Secretary shall seek to establish such facilities and procedures—

(1) in Vancouver, Canada, no later than June 1, 2009; and Canada. Deadline.

(2) in other areas as determined appropriate by the Secretary.

**SEC. 407. HISTORIC PRESERVATION OF RAILROADS.**

(a) STUDY; OTHER ACTIONS.—The Secretary of Transportation shall— State listing.

(1) conduct a study, in consultation with the Advisory Council on Historic Preservation, the National Conference of State Historic Preservation Officers, the Department of the Interior, appropriate representatives of the railroad industry, and representative stakeholders, on ways to streamline compliance with the requirements of section 303 of title 49, United States Code, and section 106 of the National Historic Preservation Act (16 U.S.C. 470f) for federally funded railroad infrastructure repair and improvement projects;

(2) take immediate action to cooperate with the Alaska Railroad, the Alaska State Historic Preservation Office, the Advisory Council on Historic Preservation, and the Department of the Interior, in expediting the decisionmaking process for safety-related projects of the railroad involving property and facilities that have disputed historic significance; and

(3) take immediate action to cooperate with the North Carolina Department of Transportation, the North Carolina State Historic Preservation Office, the Virginia State Historic Preservation Office, the Advisory Council on Historic Preservation, and the Department of the Interior, in expediting the decisionmaking process for safety-related railroad projects of the North Carolina Department of Transportation and the Southeast High Speed Rail Corridor involving property and facilities that have disputed historic significance.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report on the results of the study conducted under subsection (a)(1) and the actions directed under subsection (a)(2) and (3). The report shall include recommendations for any regulatory or legislative amendments that may streamline compliance with the requirements described in subsection (a)(1) in a manner consistent with railroad safety and the policies and purposes of section 106 of the National Historic Preservation Act (16 U.S.C. 470f), section 303 of title 49, United States Code, and section 8(d) of Public Law 90–543 (16 U.S.C. 1247(d)).

# TITLE V—HIGH-SPEED RAIL

**SEC. 501. HIGH-SPEED RAIL CORRIDOR PROGRAM.**

(a) CORRIDOR PLANNING.—Section 26101 is amended— 49 USC 26101.

(1) in the section heading, by striking "**Corridor development**" and inserting "**High-speed rail corridor planning**";

(2) in the heading of subsection (a), by striking "CORRIDOR DEVELOPMENT" and inserting "CORRIDOR PLANNING";

(3) by striking "corridor development" each place it appears and inserting "corridor planning"; and

(4) in subsection (c)(2), by striking "development" and inserting "planning".

49 USC 26104.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 26104 is amended in paragraph (1) of subsection (a) by striking "$70,000,000" and inserting "$30,000,000".

(c) CONFORMING AMENDMENT.—The item relating to section 26101 in the table of sections of chapter 261 is amended by striking "Corridor development" and inserting "High-speed rail corridor planning".

(d) HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.—Chapter 261 is amended by adding at the end thereof the following:

**"§ 26106. High-speed rail corridor development**

"(a) IN GENERAL.—The Secretary of Transportation shall establish and implement a high-speed rail corridor development program.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) APPLICANT.—The term 'applicant' means a State, a group of States, an Interstate Compact, a public agency established by one or more States and having responsibility for providing high-speed rail service, or Amtrak.

"(2) CORRIDOR.—The term 'corridor' means a corridor designated by the Secretary pursuant to section 104(d)(2) of title 23.

"(3) CAPITAL PROJECT.—The term 'capital project' means a project or program in a State rail plan developed under chapter 227 of this title for acquiring, constructing, improving, or inspecting equipment, track, and track structures, or a facility of use in or for the primary benefit of high-speed rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, highway-rail grade crossing improvements related to high-speed rail service, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing.

"(4) HIGH-SPEED RAIL.—The term 'high-speed rail' means intercity passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour.

"(5) INTERCITY PASSENGER RAIL SERVICE.—The term 'intercity passenger rail service' has the meaning given the term 'intercity rail passenger transportation' in section 24102 of this title.

"(6) STATE.—The term 'State' means any of the 50 States or the District of Columbia.

"(c) GENERAL AUTHORITY.—The Secretary may make grants under this section to an applicant to finance capital projects in high-speed rail corridors.

"(d) APPLICATIONS.—Each applicant seeking to receive a grant under this section to develop a high-speed rail corridor shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

"(e) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) establish criteria for selecting among projects that meet the criteria specified in paragraph (2);

"(B) conduct a national solicitation for applications; and

"(C) award grants on a competitive basis.

"(2) GRANT CRITERIA.—The Secretary, in selecting the recipients of high-speed rail development grants to be provided under subsection (c), shall—

"(A) require—

"(i) that the project be part of a State rail plan developed under chapter 227 of this title, or under the plan required by section 211 of the Passenger Rail Investment and Improvement Act of 2008;

"(ii) that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities;

"(iii) that the project be based on the results of preliminary engineering studies or other planning, including corridor planning activities funded under section 26101 of this title;

"(iv) that the applicant provides sufficient information upon which the Secretary can make the findings required by this subsection;

"(v) that if an applicant has selected the proposed operator of its service, that the applicant provide written justification to the Secretary showing why the proposed operator is the best, taking into account costs and other factors;

"(vi) that each proposed project meet all safety and security requirements that are applicable to the project under law; and

"(vii) that each project be compatible with, and operated in conformance with—

"(I) plans developed pursuant to the requirements of section 135 of title 23; and

"(II) the national rail plan (if it is available);

"(B) select high-speed rail projects—

"(i) that are anticipated to result in significant improvements to intercity rail passenger service, including, but not limited to, consideration of the project's—

"(I) levels of estimated ridership, increased on-time performance, reduced trip time, additional service frequency to meet anticipated or existing demand, or other significant service enhancements as measured against minimum standards developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008;

"(II) anticipated favorable impact on air or highway traffic congestion, capacity, or safety; and

"(ii) for which there is a high degree of confidence that the proposed project is feasible and will result in the anticipated benefits, as indicated by—

"(I) the project's precommencement compliance with environmental protection requirements;

"(II) the readiness of the project to be commenced;

"(III) the commitment of any affected host rail carrier to ensure the realization of the anticipated benefits; and

"(IV) other relevant factors as determined by the Secretary;

"(iii) for which the level of the anticipated benefits compares favorably to the amount of Federal funding requested under this section; and

"(C) give greater consideration to projects—

"(i) that are anticipated to result in benefits to other modes of transportation and to the public at large, including, but not limited to, consideration of the project's—

"(I) encouragement of intermodal connectivity through provision of direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

"(II) anticipated improvement of conventional intercity passenger, freight, or commuter rail operations;

"(III) use of positive train control technologies;

"(IV) environmental benefits, including projects that involve the purchase of environmentally sensitive, fuel-efficient, and cost-effective passenger rail equipment;

"(V) anticipated positive economic and employment impacts;

"(VI) encouragement of State and private contributions toward station development, energy and environmental efficiency, and economic benefits; and

"(VII) falling under the description in section 5302(a)(1)(G) of this title as defined to support intercity passenger rail service; and

"(ii) that incorporate equitable financial participation in the project's financing, including, but not limited to, consideration of—

"(I) donated property interests or services;

"(II) financial contributions by intercity passenger, freight, and commuter rail carriers commensurate with the benefit expected to their operations; and

"(III) financial commitments from host railroads, non-Federal governmental entities, nongovernmental entities, and others.

"(3) GRANT CONDITIONS.—The Secretary shall require each recipient of a grant under this chapter to comply with the grant requirements of section 24405 of this title.

"(4) STATE RAIL PLANS.—State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 that substantially meet the requirements of chapter 227 of this title, as determined by the Secretary pursuant to section 22506 of this title, shall be deemed

by the Secretary to have met the requirements of paragraph (2)(A)(i) of this subsection.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project financed under this section shall not exceed 80 percent of the project net capital cost.

"(g) ISSUANCE OF REGULATIONS.—Within 1 year after the date of enactment of this section, the Secretary shall issue regulations to carry out this section. Deadline.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

"(1) $150,000,000 for fiscal year 2009;
"(2) $300,000,000 for fiscal year 2010;
"(3) $350,000,000 for fiscal year 2011;
"(4) $350,000,000 for fiscal year 2012; and
"(5) $350,000,000 for fiscal year 2013.".

(e) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 261 is amended by adding after the item relating to section 26105 the following new item:

"26106. High-speed rail corridor development.".

**SEC. 502. ADDITIONAL HIGH-SPEED RAIL PROJECTS.** 49 USC 26106 note.

(a) SOLICITATION OF PROPOSALS.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall issue a request for proposals for projects for the financing, design, construction, operation, and maintenance of a high-speed intercity passenger rail system operating within a high-speed rail corridor, including— Deadline.

(A) the Northeast Corridor;
(B) the California Corridor;
(C) the Empire Corridor;
(D) the Pacific Northwest Corridor;
(E) the South Central Corridor;
(F) the Gulf Coast Corridor;
(G) the Chicago Hub Network;
(H) the Florida Corridor;
(I) the Keystone Corridor;
(J) the Northern New England Corridor; and
(K) the Southeast Corridor.

(2) SUBMISSION.—Proposals shall be submitted to the Secretary not later than 270 days after the publication of such request for proposals under paragraph (1). Deadline.

(3) PERFORMANCE STANDARD.—Proposals submitted under paragraph (2) must meet any standards established by the Secretary. For corridors with existing intercity passenger rail service, proposals shall also be designed to achieve a reduction of existing minimum intercity rail service trip times between the main corridor city pairs by a minimum of 25 percent. In the case of a proposal submitted with respect to paragraph (1)(A), the proposal must be designed to achieve a 2-hour or less express service between Washington, District of Columbia, and New York City, New York.

(4) CONTENTS.—A proposal submitted under this subsection shall include—

(A) the names and qualifications of the persons submitting the proposal and the entities proposed to finance,

design, construct, operate, and maintain the railroad, railroad equipment, and related facilities, stations, and infrastructure;

(B) a detailed description of the proposed rail service, including possible routes, required infrastructure investments and improvements, equipment needs and type, train frequencies, peak and average operating speeds, and trip times;

(C) a description of how the project would comply with Federal rail safety and security laws, orders, and regulations governing high-speed rail operations;

(D) the locations of proposed stations, which maximize the usage of existing infrastructure to the extent possible, and the populations such stations are intended to serve;

(E) the type of equipment to be used, including any technologies, to achieve trip time goals;

(F) a description of any proposed legislation needed to facilitate all aspects of the project;

(G) a financing plan identifying—

(i) projected revenue, and sources thereof;

(ii) the amount of any requested public contribution toward the project, and proposed sources;

(iii) projected annual ridership projections for the first 10 years of operations;

(iv) annual operations and capital costs;

(v) the projected levels of capital investments required both initially and in subsequent years to maintain a state-of-good-repair necessary to provide the initially proposed level of service or higher levels of service;

(vi) projected levels of private investment and sources thereof, including the identity of any person or entity that has made or is expected to make a commitment to provide or secure funding and the amount of such commitment; and

(vii) projected funding for the full fair market compensation for any asset, property right or interest, or service acquired from, owned, or held by a private person or Federal entity that would be acquired, impaired, or diminished in value as a result of a project, except as otherwise agreed to by the private person or entity;

(H) a description of how the project would contribute to the development of a national high-speed rail system and an intermodal plan describing how the system will facilitate convenient travel connections with other transportation services;

(I) a description of how the project will ensure compliance with Federal laws governing the rights and status of employees associated with the route and service, including those specified in section 24405 of title 49, United States Code;

(J) a description of how the design, construction, implementation, and operation of the project will accommodate and allow for future growth of existing and projected intercity, commuter, and freight rail service;

(K) a description of how the project would comply with Federal and State environmental laws and regulations, of what the environmental impacts would result from the project, and how any adverse impacts would be mitigated; and

(L) a description of the project's impacts on highway and aviation congestion, energy consumption, land use, and economic development in the service area.

(b) DETERMINATION AND ESTABLISHMENT OF COMMISSIONS.—Not later than 60 days after receipt of the proposals under subsection (a), the Secretary shall— Deadline.

(1) make a determination as to whether any such proposals—

(A) contain the information required under subsection (a)(3) and (4);

(B) are sufficiently credible to warrant further consideration;

(C) are likely to result in a positive impact on the Nation's transportation system; and

(D) are cost-effective and in the public interest; and

(2) establish a commission under subsection (c) for each corridor with one or more proposals that the Secretary determines satisfies the requirements of paragraph (1), and forward to each commission such proposals for review and consideration.

(c) COMMISSIONS.—

(1) MEMBERS.—Each commission referred to in subsection (b)(2) shall include—

(A) the governors of the affected States, or their respective designees;

(B) mayors of appropriate municipalities along the proposed corridor, or their respective designees;

(C) a representative from each freight railroad carrier using the relevant corridor, if applicable;

(D) a representative from each transit authority using the relevant corridor, if applicable;

(E) representatives of nonprofit employee labor organizations representing affected railroad employees; and

(D) the President of Amtrak or his or her designee.

(2) APPOINTMENT AND SELECTION.—The Secretary shall appoint the members under paragraph (1). In selecting each commission's members to fulfill the requirements under paragraph (1)(B) and (E), the Secretary shall consult with the Chairmen and Ranking Members of the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. Consultation.

(3) CHAIRPERSON AND VICE-CHAIRPERSON SELECTION.—The Chairperson and Vice-Chairperson shall be elected from among members of each commission.

(4) QUORUM AND VACANCY.—

(A) QUORUM.—A majority of the members of each commission shall constitute a quorum.

(B) VACANCY.—Any vacancy in each commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(5) APPLICATION OF LAW.—Except where otherwise provided by this section, the Federal Advisory Committee Act (P.L. 92–463) shall apply to each commission created under this section.

(d) COMMISSION CONSIDERATION.—

Deadline. Reports.

(1) IN GENERAL.—Each commission established under subsection (b)(2) shall be responsible for reviewing the proposal or proposals forwarded to it under that subsection and not later than 90 days after the establishment of the commission, shall transmit to the Secretary a report which includes—

(A) a summary of each proposal received;

(B) services to be provided under each proposal, including projected ridership, revenues, and costs;

(C) proposed public and private contributions for each proposal;

(D) the advantages offered by the proposal over existing intercity passenger rail services;

(E) public operating subsidies or assets needed for the proposed project;

(F) possible risks to the public associated with the proposal, including risks associated with project financing, implementation, completion, safety, and security;

(G) a ranked list of the proposals recommended for further consideration under subsection (e) in accordance with each proposal's projected positive impact on the Nation's transportation system;

(H) an identification of any proposed Federal legislation that would facilitate implementation of the projects and Federal legislation that would be required to implement the projects; and

(I) any other recommendations by the commission concerning the proposed projects.

(2) VERBAL PRESENTATION.—Proposers shall be given an opportunity to make a verbal presentation to the commission to explain their proposals.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the use of each commission established under subsection (b)(2) such sums as are necessary to carry out this section.

(e) SELECTION BY SECRETARY.—

Deadline.

(1) Not later than 60 days after receiving the recommended proposals of the commissions established under subsection (b)(2), the Secretary shall—

(A) review such proposals and select any proposal which provides substantial benefits to the public and the national transportation system, is cost-effective, offers significant advantages over existing services, and meets other relevant factors determined appropriate by the Secretary; and

Reports.

(B) issue a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate containing any proposal with respect to subsection (a)(1)(A) that is selected by the Secretary under subparagraph (A) of this paragraph, all the information regarding the proposal provided to the Secretary under subsection (d), and any other relevant information deemed appropriate.

(2) Following the submission of the report under paragraph (1)(B), the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing any proposal with respect to subparagraphs (B) through (K) of subsection (a)(1) that are selected by the Secretary under paragraph (1) of this subsection, all the information regarding the proposal provided to the Secretary under subsection (d), and any other relevant information deemed appropriate. Reports.

(3) The report required under paragraph (2) shall not be submitted by the Secretary until the report submitted under paragraph (1) has been considered through a hearing by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the report submitted under paragraph (1)(B).

(f) PRELIMINARY ENGINEERING.—For planning and preliminary engineering activities that meet the criteria of section 26101 of title 49, United States Code, (other than subsections (a) and (b)(2)) that are undertaken after the Secretary submits reports to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate as required under subsection (e), not to exceed $5,000,000 is authorized to be appropriated from funds made available under section 26104(a) of such title. Only 1 proposal for each corridor under subsection (a) shall be eligible for such funds. Appropriation authorization.

(g) NO ACTIONS WITHOUT ADDITIONAL AUTHORITY.—No Federal agency may take any action to implement, establish, facilitate, or otherwise act upon any proposal submitted under this section, other than those actions specifically authorized by this section, without explicit statutory authority enacted after the date of enactment of this Act.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) INTERCITY PASSENGER RAIL.—The term "intercity passenger rail" means intercity rail passenger transportation as defined in section 24102 of title 49, United States Code.

(2) STATE.—The term "State" means any of the 50 States or the District of Columbia.

(3) NORTHEAST CORRIDOR.—The term "Northeast Corridor" has the meaning given under section 24102 of title 49, United States Code.

(4) HIGH-SPEED RAIL CORRIDOR.—The terms "high-speed rail corridor" and "corridor" mean a corridor designated by the Secretary pursuant to section 104(d)(2) of title 23, United States Code, and the Northeast Corridor.

# TITLE VI—CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS FOR WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

## SEC. 601. AUTHORIZATION FOR CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS FOR WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY.

Grants.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized under sections 3, 14, and 17 of the National Capital Transportation Act of 1969 (sec. 9–1101.01 et seq., D.C. Official Code), for the purpose of financing in part the capital and preventive maintenance projects included in the Capital Improvement Program approved by the Board of Directors of the Transit Authority.

(2) DEFINITIONS.—In this section—

(A) the term "Transit Authority" means the Washington Metropolitan Area Transit Authority established under Article III of the Compact; and

(B) the term "Compact" means the Washington Metropolitan Area Transit Authority Compact (80 Stat. 1324; Public Law 89–774).

Grants.

(b) USE OF FUNDS.—The Federal grants made pursuant to the authorization under this section shall be subject to the following limitations and conditions:

(1) The work for which such Federal grants are authorized shall be subject to the provisions of the Compact (consistent with the amendments to the Compact described in subsection (d)).

(2) Each such Federal grant shall be for 50 percent of the net project cost of the project involved, and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Consistent with the terms of the amendment to the Compact described in subsection (d)(1), any funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

(3) Such Federal grants may be used only for the maintenance and upkeep of the systems of the Transit Authority as of the date of the enactment of this Act and may not be used to increase the mileage of the rail system.

(c) APPLICABILITY OF REQUIREMENTS FOR MASS TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS UNDER FEDERAL TRANSPORTATION LAW.—Except as specifically provided in this section, the use of any amounts appropriated pursuant to the authorization under this section shall be subject to the requirements applicable to capital projects for which funds are provided under chapter 53 of title 49, United States Code, except to the extent that the Secretary of Transportation determines that the requirements are inconsistent with the purposes of this section.

(d) AMENDMENTS TO COMPACT.—No amounts may be provided to the Transit Authority pursuant to the authorization under this section until the Transit Authority notifies the Secretary of Transportation that each of the following amendments to the Compact (and any further amendments which may be required to implement such amendments) have taken effect: Notification.

(1)(A) An amendment requiring that all payments by the local signatory governments for the Transit Authority for the purpose of matching any Federal funds appropriated in any given year authorized under subsection (a) for the cost of operating and maintaining the adopted regional system are made from amounts derived from dedicated funding sources.

(B) For purposes of this paragraph, the term "dedicated funding source" means any source of funding which is earmarked or required under State or local law to be used to match Federal appropriations authorized under this division for payments to the Transit Authority.

(2) An amendment establishing an Office of the Inspector General of the Transit Authority.

(3) An amendment expanding the Board of Directors of the Transit Authority to include 4 additional Directors appointed by the Administrator of General Services, of whom 2 shall be nonvoting and 2 shall be voting, and requiring one of the voting members so appointed to be a regular passenger and customer of the bus or rail service of the Transit Authority.

(e) ACCESS TO WIRELESS SERVICE IN METRORAIL SYSTEM.—

(1) REQUIRING TRANSIT AUTHORITY TO PROVIDE ACCESS TO SERVICE.—No amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority ensures that customers of the rail service of the Transit Authority have access within the rail system to services provided by any licensed wireless provider that notifies the Transit Authority (in accordance with such procedures as the Transit Authority may adopt) of its intent to offer service to the public, in accordance with the following timetable: Deadlines. Notification.

(A) Not later than 1 year after the date of the enactment of this Act, in the 20 underground rail station platforms with the highest volume of passenger traffic.

(B) Not later than 4 years after such date, throughout the rail system.

(2) ACCESS OF WIRELESS PROVIDERS TO SYSTEM FOR UPGRADES AND MAINTENANCE.—No amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority ensures that each licensed wireless provider who provides service to the public within the rail system pursuant to paragraph (1) has access to the system on an ongoing basis (subject to such restrictions as the Transit Authority may impose to ensure that such access will not unduly impact rail operations or threaten the safety of customers or employees of the rail system) to carry out emergency repairs, routine maintenance, and upgrades to the service.

(3) PERMITTING REASONABLE AND CUSTOMARY CHARGES.—Nothing in this subsection may be construed to prohibit the Transit Authority from requiring a licensed wireless provider

to pay reasonable and customary charges for access granted under this subsection.

(4) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and each of the 3 years thereafter, the Transit Authority shall submit to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the implementation of this subsection.

(5) DEFINITION.—In this subsection, the term "licensed wireless provider" means any provider of wireless services who is operating pursuant to a Federal license to offer such services to the public for profit.

Appropriation authorization.

(f) AMOUNT.—There are authorized to be appropriated to the Secretary of Transportation for grants under this section an aggregate amount not to exceed $1,500,000,000 to be available in increments over 10 fiscal years beginning in fiscal year 2009, or until expended.

(g) AVAILABILITY.—Amounts appropriated pursuant to the authorization under this section shall remain available until expended.

Approved October 16, 2008.

LEGISLATIVE HISTORY—H.R. 2095 (S. 1889):

HOUSE REPORTS: No. 110–336 (Comm. on Transportation and Infrastructure).
SENATE REPORTS: No. 110–270 accompanying S. 1889 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 153 (2007): Oct. 17, considered and passed House.
Vol. 154 (2008): Aug. 1, considered and passed Senate, amended.
Sept. 24, House concurred in Senate amendment with an amendment pursuant to H. Res. 1492.
Oct. 1, Senate concurred in House amendment.

# Public Law 110–433
# 110th Congress

## An Act

To extend through 2013 the authority of the Federal Election Commission to impose civil money penalties on the basis of a schedule of penalties established and published by the Commission.

Oct. 16, 2008
[H.R. 6296]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF ADMINISTRATIVE PENALTY AUTHORITY OF FEDERAL ELECTION COMMISSION THROUGH 2013.**

(a) EXTENSION OF AUTHORITY.—Section 309(a)(4)(C) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(4)(C)) is amended by adding at the end the following new clause:

"(iv) This subparagraph shall apply with respect to violations that relate to reporting periods that begin on or after January 1, 2000, and that end on or before December 31, 2013.". Applicability.

(b) CONFORMING AMENDMENT.—Section 640 of the Treasury and General Government Appropriations Act, 2000 (Public Law 106–58; 2 U.S.C. 437g note) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Treasury and General Government Appropriations Act, 2000. 2 USC 437g note.

Approved October 16, 2008.

LEGISLATIVE HISTORY—H.R. 6296:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 15, considered and passed House.
Oct. 2, considered and passed Senate.

# Public Law 110–434
# 110th Congress

## An Act

Oct. 16, 2008
[H.R. 6531]

To amend chapter 13 of title 17, United States Code (relating to the vessel hull design protection), to clarify the definitions of a hull and a deck.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Vessel Hull Design Protection Amendments of 2008.
17 USC 101 note.

**SECTION 1. VESSEL HULL DESIGN PROTECTION.**

(a) SHORT TITLE.—This Act may be cited as the "Vessel Hull Design Protection Amendments of 2008".

(b) DESIGNS PROTECTED.—Section 1301(a) of title 17, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) VESSEL FEATURES.—The design of a vessel hull, deck, or combination of a hull and deck, including a plug or mold, is subject to protection under this chapter, notwithstanding section 1302(4).".

(c) EXCEPTIONS.—Section 1301(a) of title 17, United States Code, is amended by adding at the end the following:

"(3) EXCEPTIONS.—Department of Defense rights in a registered design under this chapter, including the right to build to such registered design, shall be determined solely by operation of section 2320 of title 10 or by the instrument under which the design was developed for the United States Government.".

(d) DEFINITIONS.—Section 1301(b) of title 17, United States Code, is amended—

(1) in paragraph (2), by striking "vessel hull, including a plug or mold," and inserting "vessel hull or deck, including a plug or mold,";

(2) by striking paragraph (4) and inserting the following:

"(4) A 'hull' is the exterior frame or body of a vessel, exclusive of the deck, superstructure, masts, sails, yards, rigging, hardware, fixtures, and other attachments."; and

(3) by adding at the end the following:

"(7) A 'deck' is the horizontal surface of a vessel that covers the hull, including exterior cabin and cockpit surfaces,

and exclusive of masts, sails, yards, rigging, hardware, fixtures, and other attachments.".

Approved October 16, 2008.

LEGISLATIVE HISTORY—H.R. 6531:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 22, considered and passed House.
Sept. 30, considered and passed Senate.

# Public Law 110–435
# 110th Congress

## An Act

Oct. 16, 2008
[H.R. 7084]

To amend section 114 of title 17, United States Code, to provide for agreements for the reproduction and performance of sound recordings by webcasters.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Webcaster Settlement Act of 2008.
Copyrights.
17 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Webcaster Settlement Act of 2008".

**SEC. 2. AGREEMENTS ON BEHALF OF WEBCASTERS.**

Section 114(f)(5) of title 17, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "small commercial" each place it appears and inserting "commercial";

(B) by striking "during the period beginning on October 28, 1998, and ending on December 31, 2004" and inserting "for a period of not more than 11 years beginning on January 1, 2005";

(C) by striking "a copyright arbitration royalty panel or decision by the Librarian of Congress" and inserting "the Copyright Royalty Judges"; and

(D) in the second sentence, by striking "webcasters shall include" and inserting "webcasters may include";

(2) in subparagraph (B), by striking "small commercial" and inserting "commercial";

(3) in subparagraph (C)—

(A) by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

(B) by striking "small webcasters" and inserting "webcasters"; and

(C) by adding at the end the following: "This subparagraph shall not apply to the extent that the receiving agent and a webcaster that is party to an agreement entered into pursuant to subparagraph (A) expressly authorize the submission of the agreement in a proceeding under this subsection.";

(4) in subparagraph (D)—

(A) by striking "the Small Webcasters Settlement Act of 2002" and inserting "the Webcaster Settlement Act of 2008" ; and

(B) by striking "Librarian of Congress of July 8, 2002" and inserting "Copyright Royalty Judges of May 1, 2007"; and

(5) in subparagraph (F), by striking "December 15, 2002" and all that follows through "2003" and inserting "February 15, 2009".

Approved October 16, 2008.

LEGISLATIVE HISTORY—H.R. 7084:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, considered and passed House.
Sept. 30, considered and passed Senate.

# Public Law 110–436
# 110th Congress

## An Act

Oct. 16, 2008
[H.R. 7222]

To extend the Andean Trade Preference Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF ANDEAN TRADE PREFERENCE ACT.**

(a) EXTENSION.—Section 208 of the Andean Trade Preference Act (19 U.S.C. 3206) is amended to read as follows:

President.

**"SEC. 208. TERMINATION OF PREFERENTIAL TREATMENT.**

Foreign countries. Time period. Reports. Deadline.

"(a) IN GENERAL.—No duty-free treatment or other preferential treatment extended to beneficiary countries under this title shall—

"(1) remain in effect with respect to Colombia or Peru after December 31, 2009;

"(2) remain in effect with respect to Ecuador after June 30, 2009, except that duty-free treatment and other preferential treatment under this title shall remain in effect with respect to Ecuador during the period beginning on July 1, 2009, and ending on December 31, 2009, unless the President reviews the criteria set forth in section 203, and on or before June 30, 2009, reports to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives pursuant to subsection (b) that—

"(A) the President has determined that Ecuador does not satisfy the requirements set forth in section 203(c) for being designated as a beneficiary country; and

"(B) in making that determination, the President has taken into account each of the factors set forth in section 203(d); and

"(3) remain in effect with respect to Bolivia after June 30, 2009, except that duty-free treatment and other preferential treatment under this title shall remain in effect with respect to Bolivia during the period beginning on July 1, 2009, and ending on December 31, 2009, only if the President reviews the criteria set forth in section 203, and on or before June 30, 2009, reports to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives pursuant to subsection (b) that—

"(A) the President has determined that Bolivia satisfies the requirements set forth in section 203(c) for being designated as a beneficiary country; and

"(B) in making that determination, the President has taken into account each of the factors set forth in section 203(d).

"(b) REPORTS.—On or before June 30, 2009, the President shall make determinations pursuant to subsections (a)(2)(A) and (a)(3)(A) and report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on—

"(1) such determinations; and

"(2) the reasons for such determinations.".

(b) TREATMENT OF CERTAIN APPAREL ARTICLES.—Section 204(b)(3) of such Act (19 U.S.C. 3203(b)(3)) is amended—

(1) in subparagraph (B)—

(A) in clause (iii)—

(i) in subclause (II), by striking "6 succeeding 1-year periods" and inserting "7 succeeding 1-year periods"; and

(ii) in subclause (III)(bb), by striking "and for the succeeding 1-year period" and inserting "and for the succeeding 2-year period"; and

(B) in clause (v)(II), by striking "5 succeeding 1-year periods" and inserting "6 succeeding 1-year periods"; and

(2) in subparagraph (E)(ii)(II), by striking "December 31, 2008" and inserting "December 31, 2009".

**SEC. 2. EARNED IMPORT ALLOWANCE PROGRAM.**

(a) IN GENERAL.—Title IV of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Public Law 109–53; 119 Stat. 495) is amended by adding at the end the following:

**"SEC. 404. EARNED IMPORT ALLOWANCE PROGRAM.** 19 USC 4112.

"(a) PREFERENTIAL TREATMENT.—

"(1) IN GENERAL.—Eligible apparel articles wholly assembled in an eligible country and imported directly from an eligible country shall enter the United States free of duty, without regard to the source of the fabric or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate that reflects the amount of credits equal to the total square meter equivalents of fabric in such apparel articles, in accordance with the program established under subsection (b).

"(2) DETERMINATION OF QUANTITY OF SME.—For purposes of determining the quantity of square meter equivalents under paragraph (1), the conversion factors listed in 'Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America, 2008', or its successor publications, of the United States Department of Commerce, shall apply. Applicability.

"(b) EARNED IMPORT ALLOWANCE PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Commerce shall establish a program to provide earned import allowance certificates to any producer or entity controlling production of eligible apparel articles in an eligible country for purposes of subsection (a), based on the elements described in paragraph (2).

"(2) ELEMENTS.—The elements referred to in paragraph (1) are the following:

"(A) One credit shall be issued to a producer or an entity controlling production for every two square meter equivalents of qualifying fabric that the producer or entity

controlling production can demonstrate that it has purchased for the manufacture in an eligible country of articles like or similar to any article eligible for preferential treatment under subsection (a). The Secretary of Commerce shall, if requested by a producer or entity controlling production, create and maintain an account for such producer or entity controlling production, into which such credits may be deposited.

"(B) Such producer or entity controlling production may redeem credits issued under subparagraph (A) for earned import allowance certificates reflecting such number of earned credits as the producer or entity may request and has available.

"(C) Any textile mill or other entity located in the United States that exports qualifying fabric to an eligible country may submit, upon such export or upon request, the Shipper's Export Declaration, or successor documentation, to the Secretary of Commerce—

"(i) verifying that the qualifying fabric was exported to a producer or entity controlling production in an eligible country; and

"(ii) identifying such producer or entity controlling production, and the quantity and description of qualifying fabric exported to such producer or entity controlling production.

"(D) The Secretary of Commerce may require that a producer or entity controlling production submit documentation to verify purchases of qualifying fabric.

"(E) The Secretary of Commerce may make available to each person or entity identified in the documentation submitted under subparagraph (C) or (D) information contained in such documentation that relates to the purchase of qualifying fabric involving such person or entity.

"(F) The program shall be established so as to allow, to the extent feasible, the submission, storage, retrieval, and disclosure of information in electronic format, including information with respect to the earned import allowance certificates required under subsection (a)(1).

"(G) The Secretary of Commerce may reconcile discrepancies in the information provided under subparagraph (C) or (D) and verify the accuracy of such information.

Procedures. Deadline.

"(H) The Secretary of Commerce shall establish procedures to carry out the program under this section by September 30, 2008, and may establish additional requirements to carry out the program.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriate congressional committees' means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

"(2) the term 'eligible apparel articles' means the following articles classified in chapter 62 of the HTS (and meeting the requirements of the rules relating to chapter 62 of the HTS contained in general note 29(n) of the HTS) of cotton (but not of denim): trousers, bib and brace overalls, breeches and shorts, skirts and divided skirts, and pants;

"(3) the term 'eligible country' means the Dominican Republic; and

"(4) the term 'qualifying fabric' means woven fabric of cotton wholly formed in the United States from yarns wholly formed in the United States and certified by the producer or entity controlling production as being suitable for use in the manufacture of apparel items such as trousers, bib and brace overalls, breeches and shorts, skirts and divided skirts or pants, all the foregoing of cotton, except that—

"(A) fabric otherwise eligible as qualifying fabric shall not be ineligible as qualifying fabric because the fabric contains nylon filament yarn with respect to which section 213(b)(2)(A)(vii)(IV) of the Caribbean Basin Economic Recovery Act applies;

"(B) fabric that would otherwise be ineligible as qualifying fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric, except that any elastomeric yarn contained in an eligible apparel article must be wholly formed in the United States; and

"(C) fabric otherwise eligible as qualifying fabric shall not be ineligible as qualifying fabric because the fabric contains yarns or fibers that have been designated as not commercially available pursuant to—

"(i) article 3.25(4) or Annex 3.25 of the Agreement;

"(ii) Annex 401 of the North American Free Trade Agreement;

"(iii) section 112(b)(5) of the African Growth and Opportunity Act;

"(iv) section 204(b)(3)(B)(i)(III) or (ii) of the Andean Trade Preference Act;

"(v) section 213(b)(2)(A)(v) or 213A(b)(5)(A) of the Caribbean Basin Economic Recovery Act; or

"(vi) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement entered into by the United States that is in effect at the time the claim for preferential treatment is made.

"(d) REVIEW AND REPORT.—

"(1) REVIEW.—The United States International Trade Commission shall carry out a review of the program under this section annually for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.

"(2) REPORT.—The United States International Trade Commission shall submit to the appropriate congressional committees annually a report on the results of the review carried out under paragraph (1).

"(e) EFFECTIVE DATE AND APPLICABILITY.—

"(1) EFFECTIVE DATE.—The program under this section shall be in effect for the 10-year period beginning on the date on which the President certifies to the appropriate congressional committees that sections A, B, C, and D of the Annex to Presidential Proclamation 8213 (December 20, 2007) have taken effect.

President. Certification.

"(2) APPLICABILITY.—The program under this section shall apply with respect to qualifying fabric exported to an eligible country on or after August 1, 2007.".

(b) CLERICAL AMENDMENT.—The table of contents for the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act is amended by inserting after the item relating to section 403 the following:

"Sec. 404. Earned import allowance program.".

**SEC. 3. AFRICAN GROWTH AND OPPORTUNITY ACT.**

(a) IN GENERAL.—Section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721) is amended—

(1) in subsection (b)(6)(A), by striking "ethic" in the second sentence and inserting "ethnic"; and

(2) in subsection (c)—

(A) in paragraph (1), by striking ", and subject to paragraph (2),";

(B) by striking paragraphs (2) and (3);

(C) in paragraph (4)—

(i) by striking "Subsection (b)(3)(C)" and inserting "Subsection (b)(3)(B)"; and

(ii) by redesignating such paragraph (4) as paragraph (2); and

(D) by striking paragraph (5) and inserting the following:

"(3) DEFINITION.—In this subsection, the term 'lesser developed beneficiary sub-Saharan African country' means—

"(A) a beneficiary sub-Saharan African country that had a per capita gross national product of less than $1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

"(B) Botswana;

"(C) Namibia; and

"(D) Mauritius.".

19 USC 3721 note.

(b) APPLICABILITY.—The amendments made by subsection (a) apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(c) REVIEW AND REPORTS.—

(1) ITC REVIEW AND REPORT.—

(A) REVIEW.—The United States International Trade Commission shall conduct a review to identify yarns, fabrics, and other textile and apparel inputs that through new or increased investment or other measures can be produced competitively in beneficiary sub-Saharan African countries.

(B) REPORT.—Not later than 7 months after the date of the enactment of this Act, the United States International Trade Commission shall submit to the appropriate congressional committees and the Comptroller General a report on the results of the review carried out under subparagraph (A).

(2) GAO REPORT.—Not later than 90 days after the submission of the report under paragraph (1)(B), the Comptroller General shall submit to the appropriate congressional committees a report that, based on the results of the report submitted

under paragraph (1)(B) and other available information, contains recommendations for changes to United States trade preference programs, including the African Growth and Opportunity Act (19 U.S.C. 3701 et seq.) and the amendments made by that Act, to provide incentives to increase investment and other measures necessary to improve the competitiveness of beneficiary sub-Saharan African countries in the production of yarns, fabrics, and other textile and apparel inputs identified in the report submitted under paragraph (1)(B), including changes to requirements relating to rules of origin under such programs.

(3) DEFINITIONS.—In this subsection—

(A) the term "appropriate congressional committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) the term "beneficiary sub-Saharan African countries" has the meaning given the term in section 506A(c) of the Trade Act of 1974 (19 U.S.C. 2466a(c)).

(d) CLERICAL AMENDMENT.—Section 6002(a)(2)(B) of Public Law 109–432 is amended by striking "(B) by striking" and inserting "(B) in paragraph (3), by striking". 19 USC 3721.

**SEC. 4. GENERALIZED SYSTEM OF PREFERENCES.**

Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking "December 31, 2008" and inserting "December 31, 2009".

**SEC. 5. CUSTOMS USER FEES.**

(a) IN GENERAL.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking "November 14, 2017" and inserting "February 14, 2018"; and

(2) in subparagraph (B)(i), by striking "October 7, 2017" and inserting "January 31, 2018".

(b) REPEAL.—Section 15201 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246) is amended by striking subsections (c) and (d). *Ante,* p. 2262.

**SEC. 6. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.** 26 USC 6655 note.

The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 2 percentage points.

**SEC. 7. TECHNICAL CORRECTIONS.**

Section 15402 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246) is amended— *Ante,* p. 2289.

(1) in subsections (a) and (b), by striking "Carribean" each place it appears and inserting "Caribbean"; and

(2) in subsection (d), by striking "231A(b)" and inserting "213A(b)".

Approved October 16, 2008.

LEGISLATIVE HISTORY—H.R. 7222:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 29, considered and passed House.
Oct. 2, considered and passed Senate, amended.
Oct. 3, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
Oct. 16, Presidential remarks.

# Public Law 110–437
# 110th Congress

## An Act

To establish the Office of the Capitol Visitor Center within the Office of the Architect of the Capitol, headed by the Chief Executive Officer for Visitor Services, to provide for the effective management and administration of the Capitol Visitor Center, and for other purposes.

Oct. 20, 2008
[H.R. 5159]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Capitol Visitor Center Act of 2008.
2 USC 2201 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Capitol Visitor Center Act of 2008".

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

Sec. 1. Short title; table of contents.

TITLE I—CAPITOL VISITOR CENTER

Sec. 101. Designation of facility as Capitol Visitor Center; purposes of facility; treatment of the Capitol Visitor Center.
Sec. 102. Designation and naming within the Capitol Visitor Center.
Sec. 103. Use of the Emancipation Hall of the Capitol Visitor Center.

TITLE II—OFFICE OF THE CAPITOL VISITOR CENTER

Sec. 201. Establishment.
Sec. 202. Appointment and supervision of Chief Executive Officer for Visitor Services.
Sec. 203. General duties of Chief Executive Officer.
Sec. 204. Assistant to the Chief Executive Officer.
Sec. 205. Gift shop.
Sec. 206. Food service operations.

TITLE III—CAPITOL VISITOR CENTER REVOLVING FUND

Sec. 301. Establishment and accounts.
Sec. 302. Deposits in the Fund.
Sec. 303. Use of monies.
Sec. 304. Administration of Fund.

TITLE IV—CAPITOL GUIDE SERVICE AND OFFICE OF CONGRESSIONAL ACCESSIBILITY SERVICES

Subtitle A—Capitol Guide Service

Sec. 401. Transfer of Capitol Guide Service.
Sec. 402. Duties of employees of Capitol Guide Service.

Subtitle B—Office of Congressional Accessibility Services

Sec. 411. Office of Congressional Accessibility Services.
Sec. 412. Transfer from Capitol Guide Service.

Subtitle C—Transfer Date and Technical and Conforming Amendments

Sec. 421. Transfer date.
Sec. 422. Technical and conforming amendments.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Jurisdictions unaffected.

Sec. 502. Student loan repayment authority.
Sec. 503. Acceptance of volunteer services.
Sec. 504. Coins treated as gifts.
Sec. 505. Flexible work schedule pilot program.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS

Sec. 601. Authorization of appropriations.

# TITLE I—CAPITOL VISITOR CENTER

2 USC 2201.

**SEC. 101. DESIGNATION OF FACILITY AS CAPITOL VISITOR CENTER; PURPOSES OF FACILITY; TREATMENT OF THE CAPITOL VISITOR CENTER.**

(a) DESIGNATION.—The facility authorized for construction under the heading "CAPITOL VISITOR CENTER" under chapter 5 of title II of division B of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–569) is designated as the Capitol Visitor Center and is a part of the Capitol.

(b) PURPOSES OF THE FACILITY.—The Capitol Visitor Center shall be used—

(1) to provide enhanced security for persons working in or visiting the United States Capitol;

(2) to improve the visitor experience by providing a structure that will afford improved visitor orientation and enhance the educational experience of those who have come to learn about the Congress and the Capitol; and

(3) for other purposes as determined by Congress or the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

(c) TREATMENT OF THE CAPITOL VISITOR CENTER.—

(1) OVERSIGHT.—The Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives shall have oversight of the Capitol Visitor Center.

(2) TREATMENT OF EXPANSION SPACE OF THE SENATE AND HOUSE OF REPRESENTATIVES IN THE CAPITOL VISITOR CENTER.—

(A) SENATE.—The expansion space of the Senate described as unassigned space under the heading "CAPITOL VISITOR CENTER" under the heading "ARCHITECT OF THE CAPITOL" under title II of the Act entitled "An Act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes", approved November 12, 2001 (Public Law 107–68; 115 Stat. 588) shall be part of the Senate wing of the Capitol.

(B) HOUSE OF REPRESENTATIVES.—The expansion space of the House of Representatives described as unassigned space under the heading "CAPITOL VISITOR CENTER" under the heading "ARCHITECT OF THE CAPITOL" under title II of the Act entitled "An Act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes", approved November 12, 2001 (Public Law 107–68; 115 Stat. 588) shall be part of the House of Representatives wing of the Capitol.

(d) TREATMENT OF CONGRESSIONAL AUDITORIUM AND RELATED ADJACENT AREAS.—

Regulations.

(1) IN GENERAL.—The Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives shall jointly prescribe regulations for the assignment of the space in the Capitol Visitor Center known as the Congressional Auditorium and the related adjacent areas.

(2) RELATED ADJACENT AREAS.—The regulations under paragraph (1) shall include a designation of the areas that are related adjacent areas to the Congressional Auditorium.

(e) VISITOR CENTER SPACE IN THE CAPITOL.—Section 301 of the National Visitor Center Facilities Act of 1968 (2 U.S.C. 2165) is repealed.

(f) EXHIBITS FOR DISPLAYS.—

(1) IN GENERAL.—

(A) LOAN AGREEMENTS.—Subject to subparagraph (B), the Architect of the Capitol may enter into loan agreements to place historical objects for display in the Exhibition Hall of the Capitol Visitor Center.

(B) CONSULTATION AND APPROVAL.—The Architect of the Capitol may exercise the authority under subparagraph (A) with respect to each loan agreement—

(i) after consultation with—

(I) the Senate Commission on Art; and

(II) the House of Representatives Fine Arts Board; and

(ii) subject to the approval of—

(I) the Committee on Rules and Administration of the Senate; and

(II) the Committee on House Administration of the House of Representatives.

(C) EFFECTIVE DATE.—This paragraph shall take effect on December 3, 2008.

(2) EXHIBITION PROHIBITION.—Section 1815 of the Revised Statutes (2 U.S.C. 2134) is amended by inserting "Emancipation Hall of the Capitol Visitor Center," after "Rotunda,".

(3) EXCEPTIONS TO EXHIBITION PROHIBITION.—Section 1815 of the Revised Statutes (2 U.S.C. 2134) shall not apply to any historical object placed within an exhibit in the Exhibition Hall of the Capitol Visitor Center that—

(A)(i) is directly related to the purpose of the Capitol Visitor Center under subsection (b)(2);

(ii) is the subject of a loan agreement entered into by the Architect of the Capitol before December 2, 2008; and

(iii) has been approved by the Capitol Preservation Commission; or

(B) is the subject of a loan agreement described under paragraph (1)(A).

(4) SUBSTITUTION OF HISTORICAL OBJECT.—A loan agreement described under paragraph (3)(A)(ii) may provide for the removal of an historical object from exhibition for preservation purposes and the substitution of that object with another historical object having a comparable educational purpose.

2 USC 2202.

**SEC. 102. DESIGNATION AND NAMING WITHIN THE CAPITOL VISITOR CENTER.**

(a) IN GENERAL.—Except as provided under subsection (b), no part of the Capitol Visitor Center may be designated or named without the approval of—

(1) not less than ¾ of all members on the Capitol Preservation Commission who are members of the Democratic party; and

(2) not less than ¾ of all members on the Capitol Preservation Commission who are members of the Republican party.

(b) EXCEPTION.—Subsection (a) shall not apply to any room or space under the jurisdiction of the Senate or the House of Representatives.

2 USC 2203.

**SEC. 103. USE OF THE EMANCIPATION HALL OF THE CAPITOL VISITOR CENTER.**

The Emancipation Hall of the Capitol Visitor Center may not be used for any event, except upon the passage of a resolution agreed to by both houses of Congress authorizing the use of the Emancipation Hall for that event.

# TITLE II—OFFICE OF THE CAPITOL VISITOR CENTER

2 USC 2211.

**SEC. 201. ESTABLISHMENT.**

There is established within the Office of the Architect of the Capitol the Office of the Capitol Visitor Center (in this Act referred to as the "Office"), to be headed by the Chief Executive Officer for Visitor Services (in this Act referred to as the "Chief Executive Officer").

2 USC 2212.

**SEC. 202. APPOINTMENT AND SUPERVISION OF CHIEF EXECUTIVE OFFICER FOR VISITOR SERVICES.**

(a) APPOINTMENT.—The Chief Executive Officer shall be appointed by the Architect of the Capitol.

(b) SUPERVISION AND OVERSIGHT.—The Chief Executive Officer shall report directly to the Architect of the Capitol and shall be subject to oversight by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

Notice.

(c) REMOVAL.—Upon removal of the Chief Executive Officer, the Architect of the Capitol shall immediately provide notice of the removal to the Committee on Rules and Administration of the Senate, the Committee on House Administration of the House of Representatives, and the Committees on Appropriations of the House of Representatives and Senate. The notice shall include the reasons for the removal.

(d) COMPENSATION.—The Chief Executive Officer shall be paid at an annual rate of pay equal to the annual rate of pay of the Deputy Architect of the Capitol.

(e) TRANSITION FOR CURRENT CHIEF EXECUTIVE OFFICER FOR VISITOR SERVICES.—

(1) APPOINTMENT.—The individual who serves as the Chief Executive Officer for Visitor Services under section 6701 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriation Act of 2007 (2 U.S.C.

1806) as of the date of the enactment of this Act shall be the first Chief Executive Officer for Visitor Services appointed by the Architect under this section.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 6701 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriation Act of 2007 (2 U.S.C. 1806) is repealed.

**SEC. 203. GENERAL DUTIES OF CHIEF EXECUTIVE OFFICER.** 2 USC 2213.

(a) ADMINISTRATION OF FACILITIES, SERVICES, AND ACTIVITIES.—

(1) IN GENERAL.—Except to the extent otherwise provided in this Act, the Chief Executive Officer shall be responsible for—

(A) the operation, management, and budget preparation and execution of the Capitol Visitor Center, including all long term planning and daily operational services and activities provided within the Capitol Visitor Center; and

(B) in accordance with sections 401 and 402, the management of guided tours of the interior of the United States Capitol.

(2) INDEPENDENT BUDGET CONSIDERATION.—

(A) IN GENERAL.—The Architect of the Capitol, upon recommendation of the Chief Executive Officer, shall submit the proposed budget for the Office for a fiscal year in the proposed budget for that year for the Office of the Architect of the Capitol (as submitted by the Architect of the Capitol to the President). The proposed budget for the Office shall be considered independently from the other components of the proposed budget for the Architect of the Capitol.

(B) EXCLUSION OF COSTS OF GENERAL MAINTENANCE AND REPAIR OF VISITOR CENTER.—In preparing the proposed budget for the Office under subparagraph (A), the Chief Executive Officer shall exclude costs attributable to the activities and services described under section 501(b) (relating to continuing jurisdiction of the Architect of the Capitol for the care and superintendence of the Capitol Visitor Center).

(b) PERSONNEL, DISBURSEMENTS, AND CONTRACTS.—In carrying out this Act, the Architect of the Capitol shall have the authority to, upon recommendation of the Chief Executive Officer—

(1) appoint, hire, and fix the compensation of such personnel as may be necessary for operations of the Office, except that no employee may be paid at an annual rate in excess of the maximum rate payable for level 15 of the General Schedule;

(2) disburse funds as may be necessary and available for the needs of the Office (consistent with the requirements of section 303 in the case of amounts in the Capitol Visitor Center Revolving Fund); and

(3) designate an employee of the Office to serve as contracting officer for the Office, subject to subsection (c).

(c) REQUIRING APPROVAL OF CERTAIN CONTRACTS.—The Architect of the Capitol may not enter into a contract for the operations of the Capitol Visitor Center for which the amount

involved exceeds $250,000 without the prior approval of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

(d) SEMIANNUAL REPORTS.—The Chief Executive Officer shall submit a report to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives not later than 45 days following the close of each semiannual period ending on March 31 or September 30 of each year on the financial and operational status during the period of each function under the jurisdiction of the Chief Executive Officer. Each such report shall include financial statements and a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

2 USC 2214.

**SEC. 204. ASSISTANT TO THE CHIEF EXECUTIVE OFFICER.**

Appointment.

(a) IN GENERAL.—The Architect of the Capitol shall—

(1) upon recommendation of the Chief Executive Officer, appoint an assistant who shall perform the responsibilities of the Chief Executive Officer during the absence or disability of the Chief Executive Officer, or during a vacancy in the position of the Chief Executive Officer; and

(2) notwithstanding section 203(b)(1), fix the rate of basic pay for the position of the assistant appointed under subparagraph (A) at a rate not to exceed the highest total rate of pay for the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code, for the locality involved.

(b) TRANSITION FOR CURRENT ASSISTANT CHIEF EXECUTIVE OFFICER.—

(1) APPOINTMENT.—The individual who serves as the assistant under section 1309 of the Legislative Branch Appropriations Act, 2008 (2 U.S.C. 1807) as of the date of the enactment of this Act shall be the first Assistant Chief Executive Officer for Visitor Services appointed by the Architect under this section.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 1309 of the Legislative Branch Appropriations Act, 2008 (2 U.S.C. 1807) is repealed.

2 USC 2215.

**SEC. 205. GIFT SHOP.**

(a) ESTABLISHMENT.—The Architect of the Capitol, acting through the Chief Executive Officer, shall establish a Capitol Visitor Center Gift Shop within the Capitol Visitor Center for the purpose of providing for the sale of gift items. All moneys received from sales and other services by the Capitol Visitor Center Gift Shop shall be deposited in the Capitol Visitor Center Revolving Fund established under section 301 and shall be available for purposes of this section.

(b) EXCEPTION TO PROHIBITION OF SALE OR SOLICITATION ON CAPITOL GROUNDS.—Section 5104(c) of title 40, United States Code, shall not apply to any activity carried out under this section.

2 USC 2216.

**SEC. 206. FOOD SERVICE OPERATIONS.**

(a) RESTAURANT, CATERING, AND VENDING.—The Architect of the Capitol, acting through the Chief Executive Officer, shall establish within the Capitol Visitor Center a restaurant and other food service facilities, including catering services and vending machines.

(b) CONTRACT FOR FOOD SERVICE OPERATIONS.—

(1) IN GENERAL.—The Architect of the Capitol, acting through the Chief Executive Officer, may enter into a contract for food service operations within the Capitol Visitor Center.

(2) EXISTING CONTRACT UNAFFECTED.—Nothing in paragraph (1) shall be construed to affect any contract for food service operations within the Capitol Visitor Center in effect on the date of enactment of this Act.

(c) DEPOSITS.—All net profits from the food service operations within the Capitol Visitor Center and all commissions received from the contractor for such food service operations shall be deposited in the Capitol Visitor Center Revolving Fund established under section 301.

(d) EXCEPTION TO PROHIBITION OF SALE OR SOLICITATION ON CAPITOL GROUNDS.—Section 5104(c) of title 40, United States Code, shall not apply to any activity carried out under this section.

# TITLE III—CAPITOL VISITOR CENTER REVOLVING FUND

**SEC. 301. ESTABLISHMENT AND ACCOUNTS.** 2 USC 2231.

There is established in the Treasury of the United States a revolving fund to be known as the Capitol Visitor Center Revolving Fund (in this section referred to as the "Fund"), consisting of the following individual accounts:

(1) The Gift Shop Account.

(2) The Miscellaneous Receipts Account.

**SEC. 302. DEPOSITS IN THE FUND.** 2 USC 2232.

(a) GIFT SHOP ACCOUNT.—There shall be deposited in the Gift Shop Account all monies received from sales and other services by the gift shop established under section 205, together with any interest accrued on balances in the Account.

(b) MISCELLANEOUS RECEIPTS ACCOUNT.—There shall be deposited in the Miscellaneous Receipts Account each of the following (together with any interest accrued on balances in the Account):

(1) Any amounts deposited under section 206(c).

(2) Any other receipts received from the operation of the Capitol Visitor Center.

(3) Any amounts described under section 504(d).

**SEC. 303. USE OF MONIES.** 2 USC 2233.

(a) GIFT SHOP ACCOUNT.—

(1) IN GENERAL.—All monies in the Gift Shop Account shall be available without fiscal year limitation for disbursement by the Architect of the Capitol, upon recommendation of the Chief Executive Officer, in connection with the operation of the gift shop under section 205, including supplies, inventories, equipment, and other expenses. In addition, such monies may be used by the Architect of the Capitol, upon recommendation of the Chief Executive Officer, to reimburse any applicable appropriations account for amounts used from such appropriations account to pay the salaries of employees of the gift shops.

(2) USE OF REMAINING FUNDS.—To the extent monies in the Gift Shop Account are available after disbursements and reimbursements are made under paragraph (1), the Architect

of the Capitol, upon recommendation of the Chief Executive Officer, may disburse such monies for the operation of the Capitol Visitor Center, after consultation with—

(A) the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives; and

(B) the Committees on Appropriations of the House of Representatives and Senate.

(b) MISCELLANEOUS RECEIPTS ACCOUNT.—All monies in the Miscellaneous Receipts Account shall be available without fiscal year limitation for disbursement by the Architect of the Capitol, upon recommendation of the Chief Executive Officer, for the operations of the Capitol Visitor Center, after consultation with—

(1) the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives; and

(2) the Committees on Appropriations of the House of Representatives and Senate.

2 USC 2234.

**SEC. 304. ADMINISTRATION OF FUND.**

(a) DISBURSEMENTS.—Disbursements from the Fund may be made by the Architect of the Capitol, upon recommendation of the Chief Executive Officer.

(b) INVESTMENT AUTHORITY.—The Secretary of the Treasury shall invest any portion of the Fund that, as determined by the Architect of the Capitol, upon recommendation of the Chief Executive Officer, is not required to meet current expenses. Each investment shall be made in an interest-bearing obligation of the United States or an obligation guaranteed both as to principal and interest by the United States that, as determined by the Architect of the Capitol, upon recommendation of the Chief Executive Officer, has a maturity date suitable for the purposes of the Fund. The Secretary of the Treasury shall credit interest earned on the obligations to the Fund.

(c) AUDIT.—The Fund shall be subject to audit by the Comptroller General at the discretion of the Comptroller General.

# TITLE IV—CAPITOL GUIDE SERVICE AND OFFICE OF CONGRESSIONAL ACCESSIBILITY SERVICES

## Subtitle A—Capitol Guide Service

2 USC 2241.

**SEC. 401. TRANSFER OF CAPITOL GUIDE SERVICE.**

(a) TRANSFER OF AUTHORITIES AND PERSONNEL TO OFFICE OF THE CAPITOL VISITOR CENTER.—In accordance with the provisions of this title, effective on the transfer date—

(1) the Capitol Guide Service shall be an office within the Office;

(2) the contracts, liabilities, records, property, appropriations, and other assets and interests of the Capitol Guide Service, established under section 441 of the Legislative Reorganization Act of 1970 (2 U.S.C. 2166), and the employees of the Capitol Guide Service, are transferred to the Office, except that the transfer of any amounts appropriated to the Capitol

Guide Service that remain available as of the transfer date shall occur only upon the approval of the Committees on Appropriations of the House of Representatives and Senate; and

(3) the Capitol Guide Service shall be subject to the direction of the Architect of the Capitol, upon recommendation of the Chief Executive Officer, in accordance with this subtitle.

(b) TREATMENT OF EMPLOYEES OF CAPITOL GUIDE SERVICE AT TIME OF TRANSFER.—

(1) IN GENERAL.—Any individual who is an employee of the Capitol Guide Service on a non-temporary basis on the transfer date who is transferred to the Office under subsection (a) shall be subject to the authority of the Architect of the Capitol under section 402(b), except that the individual's grade, compensation, rate of leave, or other benefits that apply with respect to the individual at the time of transfer shall not be reduced while such individual remains continuously so employed in the same position within the Office, other than for cause.

(2) ELIGIBILITY FOR IMMEDIATE RETIREMENT ON BASIS OF INVOLUNTARY SEPARATION.—For purposes of section 8336(d) and section 8414(b) of title 5, United States Code, an individual described in paragraph (1) who is separated from service with the Office shall be considered to have separated from the service involuntarily if, at the time the individual is separated from service—

(A) the individual has completed 25 years of service under such title; or

(B) the individual has completed 20 years of service under such title and is 50 years of age or older.

(c) EXCEPTION FOR CONGRESSIONAL SPECIAL SERVICES OFFICE.—This section does not apply with respect to any employees, contracts, liabilities, records, property, appropriations, and other assets and interests of the Congressional Special Services Office of the Capitol Guide Service that are transferred to the Office of Congressional Accessibility Services under subtitle B.

**SEC. 402. DUTIES OF EMPLOYEES OF CAPITOL GUIDE SERVICE.** 2 USC 2242.

(a) PROVISION OF GUIDED TOURS.—

(1) TOURS.—In accordance with this section, the Capitol Guide Service shall provide without charge guided tours of the interior of the United States Capitol, including the Capitol Visitor Center, for the education and enlightenment of the general public.

(2) ACCEPTANCE OF FEES PROHIBITED.—An employee of the Capitol Guide Service shall not charge or accept any fee, or accept any gratuity, for or on account of the official services of that employee.

(3) REGULATIONS OF THE ARCHITECT OF THE CAPITOL.—All such tours shall be conducted in compliance with regulations approved by the Architect of the Capitol, upon recommendation of the Chief Executive Officer.

(b) AUTHORITY OF THE ARCHITECT OF THE CAPITOL.—In providing for the direction, supervision, and control of the Capitol Guide Service, the Architect of the Capitol, upon recommendation of the Chief Executive Officer, is authorized to—

(1) subject to the availability of appropriations, establish and revise such number of positions of Guide in the Capitol

Guide Service as the Architect of the Capitol considers necessary to carry out effectively the activities of the Capitol Guide Service;

(2) appoint, on a permanent basis without regard to political affiliation and solely on the basis of fitness to perform their duties, a Chief Guide and such deputies as the Architect of the Capitol considers appropriate for the effective administration of the Capitol Guide Service and, in addition, such number of Guides as may be authorized;

(3) with the approval of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, with respect to the individuals appointed under paragraph (2)—

(A) prescribe the individual's duties and responsibilities; and

(B) fix, and adjust from time to time, respective rates of pay at single per annum (gross) rates;

(4) with respect to the individuals appointed under paragraph (2), take appropriate disciplinary action, including, when circumstances warrant, suspension from duty without pay, reduction in pay, demotion, or termination of employment with the Capitol Guide Service, against any employee who violates any provision of this section or any regulation prescribed by the Architect of the Capitol under paragraph (8);

(5) prescribe a uniform dress, including appropriate insignia, which shall be worn by personnel of the Capitol Guide Service;

(6) from time to time and as may be necessary, procure and furnish such uniforms to such personnel without charge to such personnel;

(7) receive and consider advice and information from any private historical or educational organization, association, or society with respect to those operations of the Capitol Guide Service which involve the furnishing of historical and educational information to the general public; and

Regulations.

(8) with the approval of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, prescribe such regulations as the Architect of the Capitol considers necessary and appropriate for the operation of the Capitol Guide Service, including regulations with respect to tour routes and hours of operation, number of visitors per guide, staff-led tours, and non-law enforcement security and special event related support.

(c) PROVISION OF ACCESSIBLE TOURS IN COORDINATION WITH OFFICE OF CONGRESSIONAL ACCESSIBILITY SERVICES.—The Chief Executive Officer shall coordinate the provision of accessible tours for individuals with disabilities with the Office of Congressional Accessibility Services established under subtitle B.

(d) DETAIL OF PERSONNEL.—The Architect of the Capitol shall detail personnel of the Capitol Guide Service based on a request from the Capitol Police Board to assist the United States Capitol Police by providing ushering and informational services, and other services not directly involving law enforcement, in connection with—

(1) the inauguration of the President and Vice President of the United States;

(2) the official reception of representatives of foreign nations and other persons by the Senate or House of Representatives; or

(3) other special or ceremonial occasions in the United States Capitol or on the United States Capitol Grounds that—

(A) require the presence of additional Government personnel; and

(B) cause the temporary suspension of the performance of regular duties.

(e) EFFECTIVE DATE.—This section shall take effect on the transfer date.

## Subtitle B—Office of Congressional Accessibility Services

**SEC. 411. OFFICE OF CONGRESSIONAL ACCESSIBILITY SERVICES.** 2 USC 2251.

(a) IN GENERAL.—Section 310 of the Legislative Branch Appropriations Act, 1990 (2 U.S.C. 130e) is amended to read as follows:

**"SEC. 310. OFFICE OF CONGRESSIONAL ACCESSIBILITY SERVICES.**

"(a) ESTABLISHMENT OF OFFICE OF CONGRESSIONAL ACCESSIBILITY SERVICES.—

"(1) ESTABLISHMENT.—There is established in the legislative branch the Office of Congressional Accessibility Services, to be headed by the Director of Accessibility Services.

"(2) CONGRESSIONAL ACCESSIBILITY SERVICES BOARD.—

"(A) ESTABLISHMENT.—There is established the Congressional Accessibility Services Board, which shall be composed of—

"(i) the Sergeant at Arms and Doorkeeper of the Senate;

"(ii) the Secretary of the Senate;

"(iii) the Sergeant at Arms of the House of Representatives;

"(iv) the Clerk of the House of Representatives; and

"(v) the Architect of the Capitol.

"(B) DIRECTION OF BOARD.—The Office of Congressional Accessibility Services shall be subject to the direction of the Congressional Accessibility Services Board.

"(3) MISSION AND FUNCTIONS.—

"(A) IN GENERAL.—The Office of Congressional Accessibility Services shall—

"(i) provide and coordinate accessibility services for individuals with disabilities, including Members of Congress, officers and employees of the House of Representatives and the Senate, and visitors, in the United States Capitol Complex; and

"(ii) provide information regarding accessibility for individuals with disabilities, as well as related training and staff development, to Members of Congress and employees of the Senate and the House of Representatives.

"(B) UNITED STATES CAPITOL COMPLEX DEFINED.—In this paragraph, the term 'United States Capitol Complex' means the Capitol buildings (as defined in section 5101

of title 40, United States Code) and the United States Capitol Grounds (as described in section 5102 of such title).

"(b) DIRECTOR OF ACCESSIBILITY SERVICES.—

"(1) APPOINTMENT, PAY, AND REMOVAL.—

"(A) APPOINTMENT AND PAY.—The Director of Accessibility Services shall be appointed by the Congressional Accessibility Services Board and shall be paid at a rate of pay determined by the Congressional Accessibility Services Board.

Notice.

"(B) REMOVAL.—Upon removal of the Director of Accessibility Services, the Congressional Accessibility Services Board shall immediately provide notice of the removal to the Committee on Rules and Administration of the Senate, the Committee on House Administration of the House of Representatives, and the Committees on Appropriations of the House of Representatives and Senate. The notice shall include the reasons for the removal.

"(2) PERSONNEL AND OTHER ADMINISTRATIVE FUNCTIONS.—

"(A) PERSONNEL, DISBURSEMENTS, AND CONTRACTS.—In carrying out the functions of the Office of Congressional Accessibility Services under subsection (a), the Director of Accessibility Services shall have the authority to—

"(i) appoint, hire, and fix the compensation of such personnel as may be necessary for operations of the Office of Congressional Accessibility Services, except that no employee may be paid at an annual rate in excess of the annual rate of pay for the Director of Accessibility Services;

"(ii) take appropriate disciplinary action, including, when circumstances warrant, suspension from duty without pay, reduction in pay, demotion, or termination of employment with the Office of Congressional Accessibility Services, against any employee;

"(iii) disburse funds as may be necessary and available for the needs of the Office of Congressional Accessibility Services; and

"(iv) serve as contracting officer for the Office of Congressional Accessibility Services.

"(B) AGREEMENTS WITH THE OFFICE OF THE ARCHITECT OF THE CAPITOL, WITH OTHER LEGISLATIVE BRANCH AGENCIES, AND WITH OFFICES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—Subject to the approval of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, the Director of Accessibility Services may place orders and enter into agreements with the Office of the Architect of the Capitol, with other legislative branch agencies, and with any office or other entity of the Senate or House of Representatives for procuring goods and providing financial and administrative services on behalf of the Office of Congressional Accessibility Services, or to otherwise assist the Director in the administration and management of the Office of Congressional Accessibility Services.

"(3) SEMIANNUAL REPORTS.—The Director of Accessibility Services shall submit a report to the Committee on Rules and Administration of the Senate and the Committee on House

Administration of the House of Representatives not later than 45 days following the close of each semiannual period ending on March 31 or September 30 of each year on the financial and operational status during the period of each function under the jurisdiction of the Director. Each such report shall include financial statements and a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.".

(b) SPECIFIC FUNCTIONS.—The Director of Accessibility Services shall submit to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives a list of the specific functions that the Office of Congressional Accessibility Services will perform in carrying out this subtitle with the approval of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives. The Director of Accessibility Services shall submit the list not later than 30 days after the transfer date. Lists. Deadline.

(c) TRANSITION FOR CURRENT DIRECTOR.—The individual who serves as the head of the Congressional Special Services Office as of the date of the enactment of this Act shall be the first Director of Accessibility Services appointed by the Congressional Accessibility Services Board under section 310 of the Legislative Branch Appropriations Act, 1990 (2 U.S.C. 130e) (as amended by this section).

**SEC. 412. TRANSFER FROM CAPITOL GUIDE SERVICE.** 2 USC 2252.

(a) TRANSFER OF AUTHORITIES AND PERSONNEL OF CONGRESSIONAL SPECIAL SERVICES OFFICE OF CAPITOL GUIDE SERVICE.—In accordance with the provisions of this title, effective on the transfer date—

(1) the contracts, liabilities, records, property, appropriations, and other assets and interests of the Congressional Special Services Office of the Capitol Guide Service, and the employees of such Office, are transferred to the Office of Congressional Accessibility Services established under section 310(a) of the Legislative Branch Appropriations Act, 1990 (2 U.S.C. 130e) (as amended by section 411 of this Act), except that the transfer of any amounts appropriated to the Congressional Special Services Office that remain available as of the transfer date shall occur only upon the approval of the Committees on Appropriations of the House of Representatives and Senate; and

(2) the employees of such Office shall be subject to the direction, supervision, and control of the Director of Accessibility Services.

(b) TREATMENT OF EMPLOYEES AT TIME OF TRANSFER.—

(1) IN GENERAL.—Any individual who is an employee of the Congressional Special Services Office of the Capitol Guide Service on a non-temporary basis on the transfer date who is transferred under subsection (a) shall be subject to the authority of the Director of Accessibility Services under section 310(b) of the Legislative Branch Appropriations Act, 1990 (2 U.S.C. 130e) (as amended by section 411 of this Act), except that the individual's grade, compensation, rate of leave, or other benefits that apply with respect to the individual at the time of transfer shall not be reduced while such individual

remains continuously so employed in the same position within the Office of Congressional Accessibility Services established under section 310(a) of the Legislative Branch Appropriations Act, 1990 (2 U.S.C. 130e) (as amended by section 411 of this Act), other than for cause.

(2) ELIGIBILITY FOR IMMEDIATE RETIREMENT ON BASIS OF INVOLUNTARY SEPARATION.—For purposes of section 8336(d) and section 8414(b) of title 5, United States Code, an individual described in paragraph (1) who is separated from service with the Office of Congressional Accessibility Services shall be considered to have separated from the service involuntarily if, at the time the individual is separated from service—

(A) the individual has completed 25 years of service under such title; or

(B) the individual has completed 20 years of service under such title and is 50 years of age or older.

(3) PROHIBITING IMPOSITION OF PROBATIONARY PERIOD.—The Director of Accessibility Services may not impose a period of probation with respect to the transfer of any individual who is transferred to the Office of Congressional Accessibility Services under subsection (a).

# Subtitle C—Transfer Date and Technical and Conforming Amendments

2 USC 2261.

**SEC. 421. TRANSFER DATE.**

In this title, the term "transfer date" means the date occurring on the first day of the first pay period (applicable to employees transferred under section 401) occurring on or after 30 days after the date of enactment of this Act.

**SEC. 422. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) EXISTING AUTHORITY OF CAPITOL GUIDE SERVICE.—Section 441 of the Legislative Reorganization Act of 1970 (2 U.S.C. 2166) is repealed.

(b) COVERAGE UNDER CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) TREATMENT OF EMPLOYEES AS COVERED EMPLOYEES.—Section 101(3)(C) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(3)(C)) is amended to read as follows:

"(C) the Office of Congressional Accessibility Services;".

(2) TREATMENT OF OFFICE AS EMPLOYING OFFICE.—Section 101(9)(D) of such Act (2 U.S.C. 1301(9)(D)) is amended by striking "the Capitol Guide Board," and inserting "the Office of Congressional Accessibility Services,".

(3) RIGHTS AND PROTECTIONS RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS.—Section 210(a)(4) of such Act (2 U.S.C. 1331(a)(4)) is amended to read as follows:

"(4) the Office of Congressional Accessibility Services;".

(4) PERIODIC INSPECTIONS FOR OCCUPATIONAL SAFETY AND HEALTH COMPLIANCE.—Section 215(e)(1) of such Act (2 U.S.C. 1341(e)(1)) is amended by striking "the Capitol Guide Service," and inserting "the Office of Congressional Accessibility Services,".

(c) TREATMENT AS CONGRESSIONAL EMPLOYEES FOR RETIREMENT PURPOSES.—Section 2107(9) of title 5, United States Code, is amended to read as follows:

"(9) an employee of the Office of Congressional Accessibility Services.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date. 2 USC 1301 note.

# TITLE V—MISCELLANEOUS PROVISIONS

**SEC. 501. JURISDICTIONS UNAFFECTED.** 2 USC 2271.

(a) SECURITY JURISDICTION UNAFFECTED.—Nothing in this Act granting any authority to the Architect of the Capitol or Chief Executive Officer shall be construed to affect the exclusive jurisdiction of the Capitol Police, the Capitol Police Board, the Sergeant at Arms and Doorkeeper of the Senate, and the Sergeant at Arms of the House of Representatives to provide security for the Capitol, including the Capitol Visitor Center.

(b) ARCHITECT OF THE CAPITOL JURISDICTION UNAFFECTED.—

(1) IN GENERAL.—Nothing in this Act granting any authority to the Chief Executive Officer shall be construed to affect the exclusive jurisdiction of the Architect of the Capitol for the care and superintendence of the Capitol Visitor Center. All maintenance services, groundskeeping services, improvements, alterations, additions, and repairs for the Capitol Visitor Center shall be made under the direction and supervision of the Architect, subject to the approval of the Committee on Rules and Administration of the Senate and the House Office Building Commission as to matters of general policy.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 1305 of the Legislative Branch Appropriations Act, 2008 (2 U.S.C. 1825) is repealed.

**SEC. 502. STUDENT LOAN REPAYMENT AUTHORITY.**

Section 5379(a)(1)(A) of title 5, United States Code, is amended by inserting ", the Architect of the Capitol, the Botanic Garden, and the Office of Congressional Accessibility Services" after "title".

**SEC. 503. ACCEPTANCE OF VOLUNTEER SERVICES.** 2 USC 2272.

Notwithstanding section 1342 of title 31, United States Code, the Architect of the Capitol, upon the recommendation of the Chief Executive Officer, may accept and use voluntary and uncompensated services for the Capitol Visitor Center as the Architect of the Capitol determines necessary. No person shall be permitted to donate personal services under this section unless such person has first agreed, in writing, to waive any and all claims against the United States arising out of or connection with such services, other than a claim under the provisions of chapter 81 of title 5, United States Code. No person donating personal services under this section shall be considered an employee of the United States for any purpose other than for purposes of chapter 81 of such title. In no case shall the acceptance of personal services under this subsection result in the reduction of pay or displacement of any employee of the Office of the Architect of the Capitol.

2 USC 2273.

**SEC. 504. COINS TREATED AS GIFTS.**

(a) DEFINITION.—In this section, the term "covered grounds" means—

(1) the grounds described under section 5102 of title 40, United States Code;

(2) the Capitol Buildings defined under section 5101 of title 40, United States Code, including the Capitol Visitor Center; and

(3) the Library of Congress buildings and grounds described under section 11 of the Act entitled "An Act relating to the policing of the buildings and grounds of the Library of Congress", approved August 4, 1950 (2 U.S.C. 167j).

(b) TREATMENT OF COINS.—In the case of any coins in any fountains on covered grounds—

(1) such coins shall be treated as gifts to the United States; and

(2) the Architect of the Capitol shall—

(A) collect such coins at such times and in such manner as the Architect determines appropriate; and

(B) except as provided under subsection (c), deposit the collected coins in accordance with subsection (d).

(c) COST REIMBURSEMENT.—Any amount collected under this section shall first be used to reimburse the Architect of the Capitol for any costs incurred in the collection and processing of the coins. The amount of any such reimbursement is appropriated to the account from which such costs were paid and may be used for any authorized purpose of that account.

(d) DEPOSIT OF COINS.—The Architect of the Capitol shall deposit coins collected under this section in the Miscellaneous Receipts Account of the Capitol Visitor Center Revolving Fund established under section 301.

(e) AUTHORIZED USE AND AVAILABILITY.—Amounts deposited in the Miscellaneous Receipts Account of the Capitol Visitor Center Revolving Fund under this section shall be available as provided under section 303(b).

**SEC. 505. FLEXIBLE WORK SCHEDULE PILOT PROGRAM.**

(a) IN GENERAL.—Section 1302 of the Legislative Branch Appropriations Act, 2008 (2 U.S.C. 1831 note; 121 Stat. 2242) is amended in the third sentence by striking "September 30, 2008" and inserting "September 30, 2010".

2 USC 1831 note.

(b) EFFECTIVE DATE.—The amendment made under subsection (a) shall take effect as though enacted as part of the Legislative Branch Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2218 et seq.).

# TITLE VI—AUTHORIZATION OF APPROPRIATIONS

**SEC. 601. AUTHORIZATION OF APPROPRIATIONS.** 2 USC 2281.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved October 20, 2008.

LEGISLATIVE HISTORY—H.R. 5159:

HOUSE REPORTS: No. 110–535 (Comm. on House Administration).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Mar. 5, considered and passed House.
Sept. 27, considered and passed Senate, amended.
Oct. 2, House concurred in Senate amendment.

# Public Law 110–438
# 110th Congress

## An Act

A bill to amend title 11, United States Code, to exempt for a limited period, from the application of the means-test presumption of abuse under chapter 7, qualifying members of reserve components of the Armed Forces and members of the National Guard who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 90 days.

Oct. 20, 2008
[S. 3197]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National Guard and Reservists Debt Relief Act of 2008.
Bankruptcy.
11 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Guard and Reservists Debt Relief Act of 2008".

**SEC. 2. AMENDMENTS.**

Section 707(b)(2)(D) of title 11, United States Code, is amended—

(1) in clauses (i) and (ii)—

(A) by indenting the left margin of such clauses 2 ems to the right, and

(B) by redesignating such clauses as subclauses (I) and (II), respectively,

(2) by striking "testing, if the debtor is a disabled veteran" and inserting the following:

"testing—

"(i) if the debtor is a disabled veteran",

(3) by striking the period at the end and inserting "; or", and

(4) by adding at the end the following:

"(ii) with respect to the debtor, while the debtor is—

"(I) on, and during the 540-day period beginning immediately after the debtor is released from, a period of active duty (as defined in section 101(d)(1) of title 10) of not less than 90 days; or

"(II) performing, and during the 540-day period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901(1) of title 32) performed for a period of not less than 90 days;

if after September 11, 2001, the debtor while a member of a reserve component of the Armed Forces or a member of the National Guard, was called to such active duty or performed such homeland defense activity.".

**SEC. 3. GAO STUDY.**

Deadline.

(a) COMPTROLLER GENERAL STUDY.—Not later than 2 years after the effective date of this Act, the Comptroller General shall

complete and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a study of the use and the effects of the provisions of law amended (and as amended) by this Act. Such study shall address, at a minimum—

(1) whether and to what degree members of reserve components of the Armed Forces and members of the National Guard avail themselves of the benefits of such provisions,

(2) whether and to what degree such members are debtors in cases under title 11 of the United States Code that are substantially related to service that qualifies such members for the benefits of such provisions,

(3) whether and to what degree such members are debtors in cases under such title that are materially related to such service, and

(4) the effects that the use by such members of section 707(b)(2)(D) of such title, as amended by this Act, has on the bankruptcy system, creditors, and the debt-incurrence practices of such members.

(b) FACTORS.—For purposes of subsection (a)—

(1) a case shall be considered to be substantially related to the service of a member of a reserve component of the Armed Forces or a member of the National Guard that qualifies such member for the benefits of the provisions of law amended (and as amended) by this Act if more than 33 percent of the aggregate amount of the debts in such case is incurred as a direct or indirect result of such service,

(2) a case shall be considered to be materially related to the service of a member of a reserve component of the Armed Forces or a member of the National Guard that qualifies such member for the benefits of such provisions if more than 10 percent of the aggregate amount of the debts in such case is incurred as a direct or indirect result of such service, and

(3) the term "effects" means—

(A) with respect to the bankruptcy system and creditors—

(i) the number of cases under title 11 of the United States Code in which members of reserve components of the Armed Forces and members of the National Guard avail themselves of the benefits of such provisions,

(ii) the aggregate amount of debt in such cases,

(iii) the aggregate amount of debt of such members discharged in cases under chapter 7 of such title,

(iv) the aggregate amount of debt of such members in cases under chapter 7 of such title as of the time such cases are converted to cases under chapter 13 of such title,

(v) the amount of resources expended by the bankruptcy courts and by the bankruptcy trustees, stated separately, in cases under title 11 of the United States Code in which such members avail themselves of the benefits of such provisions, and

(vi) whether and to what extent there is any indicia of abuse or potential abuse of such provisions, and

(B) with respect to debt-incurrence practices—

(i) any increase in the average levels of debt incurred by such members before, during, or after such service,

(ii) any indicia of changes in debt-incurrence practices adopted by such members in anticipation of benefitting from such provisions in any potential case under such title; and

(iii) any indicia of abuse or potential abuse of such provisions reflected in the debt-incurrence of such members.

11 USC 707 note.

**SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 60 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code in the 3-year period beginning on the effective date of this Act.

Approved October 20, 2008.

LEGISLATIVE HISTORY—S. 3197 (H.R. 4044):

HOUSE REPORTS: No. 110–726 accompanying H.R. 4044 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 30, considered and passed Senate.
Oct. 2, 3, considered and passed House.

Public Law 110–439
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 2150 East Hardtner Drive in Urania, Louisiana, as the "Murphy A. Tannehill Post Office Building".

Oct. 21, 2008
[H.R. 3511]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MURPHY A. TANNEHILL POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 2150 East Hardtner Drive in Urania, Louisiana, shall be known and designated as the "Murphy A. Tannehill Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Murphy A. Tannehill Post Office Building".

Approved October 21, 2008.

LEGISLATIVE HISTORY—H.R. 3511:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 23, considered and passed House.
Sept. 30, considered and passed Senate.

# Public Law 110–440
# 110th Congress

## An Act

Oct. 21, 2008
[H.R. 4010]

To designate the facility of the United States Postal Service located at 100 West Percy Street in Indianola, Mississippi, as the "Minnie Cox Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MINNIE COX POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 100 West Percy Street in Indianola, Mississippi, shall be known and designated as the "Minnie Cox Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Minnie Cox Post Office Building".

Approved October 21, 2008.

LEGISLATIVE HISTORY—H.R. 4010:

CONGRESSIONAL RECORD, Vol. 154 (2008):
July 14, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 110–441
110th Congress

# An Act

To designate a portion of California State Route 91 located in Los Angeles County, California, as the "Juanita Millender-McDonald Highway".

Oct. 21, 2008
[H.R. 4131]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

The Congress finds the following:

(1) Juanita Millender-McDonald was born on September 7, 1938, in Birmingham, Alabama, to the Reverend Shelly and Everlina Dortch Millender.

(2) Juanita Millender-McDonald earned her bachelor's degree from the University of Redlands in 1981, and her master's degree from California State University, Los Angeles, in 1987.

(3) Juanita Millender-McDonald was a true trailblazer, entering public service in 1990 as a member of the Carson City Council and becoming the first African-American woman to serve on the Carson City Council.

(4) Continuing as a pioneer, Juanita Millender-McDonald served in the California State Assembly from 1992 to 1996, and in her first term, she became the first assembly member to hold the position of chairwoman of two powerful California State Assembly committees (Insurance and Revenue and Taxation).

(5) Continuing to make history, Juanita Millender-McDonald served in the United States House of Representatives from 1996–2007, becoming the first African-American woman to chair any full House Committee when on December 19, 2006, she was named Chairwoman of the House Committee on House Administration.

(6) A leader among leaders, a University of California study named Juanita Millender-McDonald one of the most effective Members of Congress.

(7) As a Member of Congress, Juanita Millender-McDonald was the first African-American woman to give the national Democratic response to President Bush's weekly radio address.

(8) Juanita Millender-McDonald initiated the first annual Memorial Day tribute to women in the military at the Women in Military Service For America Memorial at Arlington National Cemetery.

(9) As the founder of the Congressional Goods Movement Caucus, Juanita Millender-McDonald was a leader in the promotion of interstate commerce and a tireless advocate for the Port of Long Beach, and the Port of Los Angeles.

(10) Juanita Millender-McDonald was instrumental in the $2,500,000,000 project that created the Alameda Corridor, a 20-mile rail expressway that opened in April 2002 and is a vital connection between the ports and America's rail system.

(11) As the founder and executive director of the League of African-American Women, an organization responsible for the annual "AIDS Walk for Minority Women and Children", the legacy of Juanita Millender-McDonald as a humble, selfless champion for women will endure for generations to come.

**SEC. 2. DESIGNATION.**

The portion of California State Route 91 located in Los Angeles County, California, from post mile 10.4 to post mile 11.1 shall be known and designated as the "Juanita Millender-McDonald Highway".

**SEC. 3. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the portion of California State Route 91 referred to in section 2 shall be deemed to be a reference to the "Juanita Millender-McDonald Highway".

Approved October 21, 2008.

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LEGISLATIVE HISTORY—H.R. 4131:

HOUSE REPORTS: No. 110–895 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, 29, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 110–442
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 1750 Lundy Avenue in San Jose, California, as the "Gordon N. Chan Post Office Building".

Oct. 21, 2008
[H.R. 6558]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. GORDON N. CHAN POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1750 Lundy Avenue in San Jose, California, shall be known and designated as the "Gordon N. Chan Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Gordon N. Chan Post Office Building".

Approved October 21, 2008.

LEGISLATIVE HISTORY—H.R. 6558:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, considered and passed House.
Oct. 2, considered and passed Senate.

# Public Law 110–443
# 110th Congress

## An Act

Oct. 21, 2008
[H.R. 6681]

To designate the facility of the United States Postal Service located at 300 Vine Street in New Lenox, Illinois, as the "Jacob M. Lowell Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JACOB M. LOWELL POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 300 Vine Street in New Lenox, Illinois, shall be known and designated as the "Jacob M. Lowell Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Jacob M. Lowell Post Office Building".

Approved October 21, 2008.

LEGISLATIVE HISTORY—H.R. 6681:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 17, 18, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 110–444
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 4 South Main Street in Wallingford, Connecticut, as the "CWO Richard R. Lee Post Office Building".

Oct. 21, 2008
[H.R. 6834]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CWO RICHARD R. LEE POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 4 South Main Street in Wallingford, Connecticut, shall be known and designated as the "CWO Richard R. Lee Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "CWO Richard R. Lee Post Office Building".

Approved October 21, 2008.

LEGISLATIVE HISTORY—H.R. 6834:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, considered and passed House.
Oct. 2, considered and passed Senate.

# Public Law 110–445
# 110th Congress

## An Act

Oct. 21, 2008
[H.R. 6847]

To designate the facility of the United States Postal Service located at 801 Industrial Boulevard in Ellijay, Georgia, as the "First Lieutenant Noah Harris Ellijay Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FIRST LIEUTENANT NOAH HARRIS ELLIJAY POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 801 Industrial Boulevard in Ellijay, Georgia, shall be known and designated as the "First Lieutenant Noah Harris Ellijay Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "First Lieutenant Noah Harris Ellijay Post Office Building".

Approved October 21, 2008.

LEGISLATIVE HISTORY—H.R. 6847:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 24, 25, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 110–446
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 513 6th Avenue in Dayton, Kentucky, as the "Staff Sergeant Nicholas Ray Carnes Post Office".

Oct. 21, 2008
[H.R. 6902]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. STAFF SERGEANT NICHOLAS RAY CARNES POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 513 6th Avenue in Dayton, Kentucky, shall be known and designated as the "Staff Sergeant Nicholas Ray Carnes Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Staff Sergeant Nicholas Ray Carnes Post Office".

Approved October 21, 2008.

LEGISLATIVE HISTORY—H.R. 6902:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, considered and passed House.
Oct. 2, considered and passed Senate.

# Public Law 110–447
# 110th Congress

## An Act

Oct. 21, 2008
[H.R. 6982]

To designate the facility of the United States Postal Service located at 210 South Ellsworth Avenue in San Mateo, California, as the "Leo J. Ryan Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LEO J. RYAN POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 210 South Ellsworth Avenue in San Mateo, California, shall be known and designated as the "Leo J. Ryan Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Leo J. Ryan Post Office Building".

Approved October 21, 2008.

LEGISLATIVE HISTORY—H.R. 6982:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 110–448
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 7095 Highway 57 in Counce, Tennessee, as the "Pickwick Post Office Building".

Oct. 22, 2008
[H.R. 6197]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PICKWICK POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 7095 Highway 57 in Counce, Tennessee, shall be known and designated as the "Pickwick Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Pickwick Post Office Building".

Approved October 22, 2008.

LEGISLATIVE HISTORY—H.R. 6197:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, considered and passed House.
Oct. 2, considered and passed Senate.

# Public Law 110–449
# 110th Congress

## An Act

Nov. 21, 2008
[H.R. 6867]

To provide for additional emergency unemployment compensation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Unemployment Compensation Extension Act of 2008.
26 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Unemployment Compensation Extension Act of 2008".

**SEC. 2. ADDITIONAL FIRST-TIER BENEFITS.**

Section 4002(b)(1) of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended—

(1) in subparagraph (A), by striking "50" and inserting "80"; and

(2) in subparagraph (B), by striking "13" and inserting "20".

**SEC. 3. SECOND-TIER BENEFITS.**

Section 4002 of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended by adding at the end the following:

"(c) SPECIAL RULE.—

"(1) IN GENERAL.—If, at the time that the amount established in an individual's account under subsection (b)(1) is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), such account shall be augmented by an amount equal to the lesser of—

"(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under the State law, or

"(B) 13 times the individual's average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

"(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

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

"(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

"(i) were applied by substituting '4' for '5' each place it appears; and

"(ii) did not include the requirement under paragraph (1)(A) thereof; or

"(C) such a period would then be in effect for such State under such Act if—

"(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

"(ii) such section 203(f)—

"(I) were applied by substituting '6.0' for '6.5' in paragraph (1)(A)(i) thereof; and

"(II) did not include the requirement under paragraph (1)(A)(ii) thereof.

"(3) LIMITATION.—The account of an individual may be augmented not more than once under this subsection.".

**SEC. 4. PHASEOUT PROVISIONS.**

Section 4007(b) of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended—

(1) in paragraph (1), by striking "paragraph (2)," and inserting "paragraphs (2) and (3),"; and

(2) by striking paragraph (2) and inserting the following:

"(2) NO AUGMENTATION AFTER MARCH 31, 2009.—If the amount established in an individual's account under subsection (b)(1) is exhausted after March 31, 2009, then section 4002(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

"(3) TERMINATION.—No compensation under this title shall be payable for any week beginning after August 27, 2009.".

**SEC. 5. TEMPORARY FEDERAL MATCHING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR STATES WITH NO WAITING WEEK.**

26 USC 3304 note.

With respect to weeks of unemployment beginning after the date of the enactment of this Act and ending on or before December 8, 2009, subparagraph (B) of section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) shall not apply.

**SEC. 6. EFFECTIVE DATE.**

26 USC 3304 note.

(a) IN GENERAL.—The amendments made by sections 2, 3, and 4 shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, subject to subsection (b).

(b) ADDITIONAL BENEFITS.—In applying the amendments made by sections 2 and 3, any additional emergency unemployment compensation made payable by such amendments (which would not otherwise have been payable if such amendments had not been enacted) shall be payable only with respect to any week of

unemployment beginning on or after the date of the enactment of this Act.

Approved November 21, 2008.

LEGISLATIVE HISTORY—H.R. 6867:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Oct. 3, considered and passed House.
Nov. 20, considered and passed Senate.

Public Law 110–450
110th Congress

# An Act

To require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army in 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the Colonial period to today.

Dec. 1, 2008
[H.R. 5714]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

United States Army Commemorative Coin Act of 2008. 31 USC 5112 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "United States Army Commemorative Coin Act of 2008".

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) the United States Army, founded in 1775, has served this country well for over 230 years;

(2) the United States Army has played a decisive role in protecting and defending freedom throughout the history of the United States, from the Colonial period to today, in wartime and in peace, and has consistently answered the call to serve the American people at home and abroad since the Revolutionary War;

(3) the sacrifice of the American soldier, of all ranks, since the earliest days of the Republic has been immense and is deserving of the unique recognition bestowed by commemorative coinage;

(4) the Army, the Nation's oldest and largest military service, is the only service branch that currently does not have a comprehensive national museum celebrating, preserving, and displaying its heritage and honoring its veterans;

(5) the National Museum of the United States Army will be—

(A) the Army's only service-wide, national museum honoring all soldiers, of all ranks, in all branches since 1775; and

(B) located at Fort Belvoir, Virginia, across the Potomac River from the Nation's Capitol, a 10-minute drive from Mount Vernon, the home of the Army's first Commander-in-Chief, and astride the Civil War's decisive Washington-Richmond corridor;

(6) the Army Historical Foundation (hereafter in this Act referred to as the "Foundation"), founded in 1983—

(A) is dedicated to preserving the history and heritage of the American soldier; and

(B) seeks to educate future Americans to fully appreciate the sacrifices that generations of American soldiers have made to safeguard the freedoms of this Nation;

(7) the completion and opening to the public of the National Museum of the United States Army will immeasurably help in fulfilling that mission;

(8) the Foundation is a nongovernmental, member-based, and publicly supported nonprofit organization that is dependent on funds from members, donations, and grants for support;

(9) the Foundation uses such support to help create the National Museum of the United States Army, refurbish historical Army buildings, acquire and conserve Army historical art and artifacts, support Army history educational programs, for research, and publication of historical materials on the American soldier, and to provide support and counsel to private and governmental organizations committed to the same goals as the Foundation;

(10) in 2000, the Secretary of the Army designated the Foundation as its primary partner in the building of the National Museum of the United States Army; and

(11) the Foundation is actively engaged in executing a major capital campaign to support the National Museum of the United States Army.

**SEC. 3. COIN SPECIFICATIONS.**

(a) DENOMINATIONS.—In recognition and celebration of the founding of the United States Army in 1775, and notwithstanding any other provision of law, the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue the following coins:

(1) $5 GOLD COINS.—Not more than 100,000 $5 coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 500,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(3) HALF DOLLAR CLAD COINS.—Not more than 750,000 half dollar coins, which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins, contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the traditions, history, and

heritage of the United States Army, and its role in American society from the Colonial period to today.

(2) DESIGNATIONS AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2011"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall—

(1) contain motifs that specifically honor the American soldier of both today and yesterday, in wartime and in peace, such designs to be consistent with the traditions and heritage of the United States Army, the mission and goals of the National Museum of the United States Army, and the missions and goals of the Foundation;

(2) be selected by the Secretary, after consultation with the Secretary of the Army, the Foundation, and the Commission of Fine Arts; and

(3) be reviewed by the Citizens Coinage Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITIES.—For each of the 3 coins minted under this Act, at least 1 facility of the United States Mint shall be used to strike proof quality coins, while at least 1 other such facility shall be used to strike the uncirculated quality coins.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2011.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge as follows:

(1) A surcharge of $35 per coin for the $5 coin.

(2) A surcharge of $10 per coin for the $1 coin.

(3) A surcharge of $5 per coin for the half dollar coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Foundation to help finance the National Museum of the United States Army.

(c) AUDITS.—The Foundation shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Foundation under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

Approved December 1, 2008.

LEGISLATIVE HISTORY—H.R. 5714 (S. 2579):

CONGRESSIONAL RECORD, Vol. 154 (2008):
Oct. 3, considered and passed House.
Nov. 17, considered and passed Senate.

Public Law 110–451
110th Congress

# An Act

To require the Secretary of the Treasury to mint coins in commemoration of the semicentennial of the enactment of the Civil Rights Act of 1964.

Dec. 2, 2008
[H.R. 2040]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Civil Rights Act of 1964 Commemorative Coin Act.
31 USC 5112 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Civil Rights Act of 1964 Commemorative Coin Act".

**SEC. 2. FINDINGS.**

The Congress hereby finds as follows:

(1) On December 1, 1955, Rosa Parks' brave act of defiance, refusing to give up her seat to a white person on a segregated bus in Montgomery, Alabama, galvanized the modern civil rights movement and led to the desegregation of the South.

(2) On February 1, 1960, 4 college students, Joseph McNeil, Franklin McCain, David Richmond, and Ezell Blair, Jr., asked to be served at a lunch counter in Greensboro, North Carolina, and lunch counter sit-ins began to occur throughout the South to challenge segregation in places of public accommodation.

(3) On May 4, 1961, the Freedom Rides into the South began to test new court orders barring segregation in interstate transportation, and riders were jailed and beaten by mobs in several places, including Birmingham and Montgomery, Alabama.

(4) Dr. Martin Luther King, Jr., was the leading civil rights advocate of the time, spearheading the civil rights movement in the United States during the 1950s and 1960s with the goal of nonviolent social change and full civil rights for African Americans.

(5) On August 28, 1963, Dr. Martin Luther King, Jr., led over 250,000 civil rights supporters in the March on Washington and delivered his famous "I Have A Dream" speech to raise awareness and support for civil rights legislation.

(6) Mrs. Coretta Scott King, a leading participant in the American civil rights movement, was side-by-side with her husband, Dr. Martin Luther King, Jr., during many civil rights marches, organized Freedom Concerts to draw attention to the Movement, and worked in her own right to create an America in which all people have equal rights.

(7) The mass movement sparked by Rosa Parks and led by Dr. Martin Luther King, Jr., among others, called upon the Congress and Presidents John F. Kennedy and Lyndon

B. Johnson to pass civil rights legislation which culminated in the enactment of the Civil Rights Act of 1964.

(8) The Civil Rights Act of 1964 greatly expanded civil rights protections, outlawing racial discrimination and segregation in public places and places of public accommodation, in federally funded programs, and employment and encouraging desegregation in public schools, and has served as a model for subsequent anti-discrimination laws.

(9) We are an eminently better Nation because of Rosa Parks, Dr. Martin Luther King, Jr., and all those men and women who have confronted, and continue to confront, injustice and inequality wherever they see it.

(10) Equality in education was one of the cornerstones of the civil rights movement.

(11) On September 10, 1961, Dr. Martin Luther King, Jr., wrote that African American "students are coming to understand that education and learning have become tools for shaping the future and not devices of privilege for an exclusive few".

(12) Over its long and distinguished history, the United Negro College Fund has provided scholarships and operating funds to its member colleges that have enabled more than 300,000 young African Americans to earn college degrees and become successful members of society.

(13) Those graduates include Dr. Martin Luther King, Jr., as well as leaders in the fields of education, science, medicine, law, entertainment, literature, the military, and politics who have made major contributions to the civil rights movement and the creation of a more equitable society.

(14) Congress has an obligation to lead America's continued struggle to fight discrimination and ensure equal rights for all.

(15) The year 2014 will mark the semicentennial of the passage of the Civil Rights Act of 1964.

**SEC. 3. COIN SPECIFICATIONS.**

(a) DENOMINATIONS.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue not more than 350,000 $1 coins each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—The design of the coins minted under this Act shall be emblematic of the enactment of the Civil Rights Act of 1964 and its contribution to civil rights in America.

(b) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(1) a designation of the value of the coin;

(2) an inscription of the year "2014"; and

(3) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee established under section 5135 of title 31, United States Code.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning January 1, 2014, except that the Secretary may initiate sales of such coins, without issuance, before such date.

(c) TERMINATION OF MINTING AUTHORITY.—No coins shall be minted under this Act after December 31, 2014.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge required under section 7(a) for the coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, and marketing).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the United Negro College Fund (UNCF) to carry out the purposes of the Fund, including providing scholarships and internships for minority students and operating funds and technology enhancement services for 39 member historically black colleges and universities.

(c) AUDITS.—The United Negro College Fund shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Fund under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the

date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

Approved December 2, 2008.

LEGISLATIVE HISTORY—H.R. 2040:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 1, considered and passed House.
Nov. 19, considered and passed Senate.

Public Law 110–452
110th Congress

# An Act

To develop the next generation of parental control technology.

Dec. 2, 2008
[S. 602]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Child Safe Viewing Act of 2007.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Child Safe Viewing Act of 2007".

**SEC. 2. EXAMINATION OF ADVANCED BLOCKING TECHNOLOGIES AND EXISTING PARENTAL EMPOWERMENT TOOLS.**

Deadline. Notice.

(a) INQUIRY REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Federal Communications Commission shall initiate a notice of inquiry to consider measures to examine—

(1) the existence and availability of advanced blocking technologies that are compatible with various communications devices or platforms;

(2) methods of encouraging the development, deployment, and use of such technology by parents that do not affect the packaging or pricing of a content provider's offering; and

(3) the existence, availability, and use of parental empowerment tools and initiatives already in the market.

(b) CONTENT OF PROCEEDING.—In conducting the inquiry required under subsection (a), the Commission shall consider advanced blocking technologies that—

(1) may be appropriate across a wide variety of distribution platforms, including wired, wireless, and Internet platforms;

(2) may be appropriate across a wide variety of devices capable of transmitting or receiving video or audio programming, including television sets, DVD players, VCRs, cable set top boxes, satellite receivers, and wireless devices;

(3) can filter language based upon information in closed captioning;

(4) operate independently of ratings pre-assigned by the creator of such video or audio programming; and

(5) may be effective in enhancing the ability of a parent to protect his or her child from indecent or objectionable programming, as determined by such parent.

(c) REPORTING.—Not later than 270 days after the enactment of this Act, the Commission shall issue a report to Congress detailing any findings resulting from the inquiry required under subsection (a).

(d) DEFINITION.—In this section, the term "advanced blocking technologies" means technologies that can improve or enhance the ability of a parent to protect his or her child from any indecent or objectionable video or audio programming, as determined by

such parent, that is transmitted through the use of wire, wireless, or radio communication.

Approved December 2, 2008.

LEGISLATIVE HISTORY—S. 602:

SENATE REPORTS: No. 110–268 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 154 (2008):

Oct. 1, considered and passed Senate.

Oct. 3, considered and passed House, amended.

Nov. 17, Senate concurred in House amendment.

Public Law 110–453
110th Congress

An Act

To direct the Secretary of the Interior to take into trust 2 parcels of Federal land for the benefit of certain Indian Pueblos in the State of New Mexico, and for other purposes.

Dec. 2, 2008
[S. 1193]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# TITLE I—ALBUQUERQUE INDIAN SCHOOL ACT

Albuquerque Indian School Act.

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Albuquerque Indian School Act".

**SEC. 102. DEFINITIONS.**

In this title:

(1) 19 PUEBLOS.—The term "19 Pueblos" means the New Mexico Indian Pueblos of—

(A) Acoma;
(B) Cochiti;
(C) Isleta;
(D) Jemez;
(E) Laguna;
(F) Nambe;
(G) Ohkay Owingeh (San Juan);
(H) Picuris;
(I) Pojoaque;
(J) San Felipe;
(K) San Ildefonso;
(L) Sandia;
(M) Santa Ana;
(N) Santa Clara;
(O) Santo Domingo;
(P) Taos;
(Q) Tesuque;
(R) Zia; and
(S) Zuni.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior (or a designee).

(3) SURVEY.—The term "survey" means the survey plat entitled "Department of the Interior, Bureau of Indian Affairs, Southern Pueblos Agency, BIA Property Survey" (prepared by

John Paisano, Jr., Registered Land Surveyor Certificate No. 5708), and dated March 7, 1977.

**SEC. 103. LAND TAKEN INTO TRUST FOR BENEFIT OF 19 PUEBLOS.**

(a) ACTION BY SECRETARY.—

(1) IN GENERAL.—The Secretary shall take into trust all right, title, and interest of the United States in and to the land described in subsection (b) for the benefit of the 19 Pueblos immediately after the Secretary has confirmed that the National Environmental Policy Act of 1969 has been complied with regarding the trust acquisition of these Federal lands.

(2) ADMINISTRATION.—The Secretary shall—

(A) take such action as the Secretary determines to be necessary to document the transfer under paragraph (1); and

(B) appropriately assign each applicable private and municipal utility and service right or agreement.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a)(1) is the 2 tracts of Federal land, the combined acreage of which is approximately 8.4759 acres, that were historically part of the Albuquerque Indian School, more particularly described as follows:

(1) EASTERN PART TRACT B.—The approximately 2.2699 acres located in sec. 7 and sec. 8 of T. 10 N., R. 3 E., of the New Mexico Principal Meridian in the city of Albuquerque, New Mexico, as identified on the survey and does not include the Western Part of Tract B containing 3.6512 acres.

(2) NORTHERN PART TRACT D.—The approximately 6.2060 acres located in sec. 7 and sec. 8 of T. 10 N., R. 3 E., of the New Mexico Principal Meridian in the city of Albuquerque, New Mexico, as identified on the survey and does not include the Southern Part of Tract D containing 6.1775 acres.

(c) SURVEY.—The Secretary shall perform a survey of the land to be transferred consistent with subsection (b), and may make minor corrections to the survey and legal description of the Federal land described in subsection (b) as the Secretary determines to be necessary to correct clerical, typographical, and surveying errors.

(d) USE OF LAND.—The land taken into trust under subsection (a) shall be used for the educational, health, cultural, business, and economic development of the 19 Pueblos.

(e) LIMITATIONS AND CONDITIONS.—The land taken into trust under subsection (a) shall remain subject to any private or municipal encumbrance, right-of-way, restriction, easement of record, or utility service agreement in effect on the date of enactment of this Act.

**SEC. 104. EFFECT OF OTHER LAWS.**

(a) IN GENERAL.—Except as otherwise provided in this section, land taken into trust under section 103(a) shall be subject to Federal laws relating to Indian land.

(b) GAMING.—No gaming activity (within the meaning of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)) shall be carried out on land taken into trust under section 103(a).

# TITLE II—NATIVE AMERICAN TECHNICAL CORRECTIONS

**SEC. 201. COLORADO RIVER INDIAN TRIBES.**

The Secretary of the Interior may make, subject to amounts provided in subsequent appropriations Acts, an annual disbursement to the Colorado River Indian Tribes. Funds disbursed under this section shall be used to fund the Office of the Colorado River Indian Tribes Reservation Energy Development and shall not be less than $200,000 and not to exceed $350,000 annually.

**SEC. 202. GILA RIVER INDIAN COMMUNITY CONTRACTS.**

Subsection (f) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(f)), is amended by striking "lease, affecting" and inserting "lease or construction contract, affecting".

**SEC. 203. LAND AND INTERESTS OF THE SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS OF MICHIGAN.**

(a) IN GENERAL.—Subject to subsections (b) and (c), notwithstanding any other provision of law (including regulations), the Sault Ste. Marie Tribe of Chippewa Indians of Michigan (including any agent or instrumentality of the Tribe) (referred to in this section as the "Tribe"), may transfer, lease, encumber, or otherwise convey, without further authorization or approval, all or any part of the Tribe's interest in any real property that is not held in trust by the United States for the benefit of the Tribe.

(b) EFFECT OF SECTION.—Nothing in this section is intended to authorize the Tribe to transfer, lease, encumber, or otherwise convey, any lands, or any interest in any lands, that are held in trust by the United States for the benefit of the Tribe.

(c) LIABILITY.—The United States shall not be held liable to any party (including the Tribe or any agent or instrumentality of the Tribe) for any term of, or any loss resulting from the term of any transfer, lease, encumbrance, or conveyance of land made pursuant to this Act unless the United States or an agent or instrumentality of the United States is a party to the transaction or the United States would be liable pursuant to any other provision of law. This subsection shall not apply to land transferred or conveyed by the Tribe to the United States to be held in trust for the benefit of the Tribe.

(d) EFFECTIVE DATE.—This section shall be deemed to have taken effect on January 1, 2005.

**SEC. 204. MORONGO BAND OF MISSION INDIANS LEASE EXTENSION.**

Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)) is amended in the second sentence by inserting "and except leases of land held in trust for the Morongo Band of Mission Indians which may be for a term of not to exceed 50 years," before "and except leases of land for grazing purposes which may be for a term of not to exceed ten years".

**SEC. 205. COW CREEK BAND OF UMPQUA TRIBE OF INDIANS LEASING AUTHORITY.**

(a) AUTHORIZATION FOR 99-YEAR LEASES.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence by inserting "and lands held in trust for the Cow Creek Band of Umpqua Tribe of Indians,"

after "lands held in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon,".

25 USC 415 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this Act.

**SEC. 206. NEW SETTLEMENT COMMON STOCK ISSUED TO DESCENDANTS, LEFT-OUTS, AND ELDERS.**

Section 7(g)(1)(B) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(g)(1)(B)) is amended by striking clause (iii) and inserting the following:

"(iii) CONDITIONS ON CERTAIN STOCK.—

"(I) IN GENERAL.—An amendment under clause (i) may provide that Settlement Common Stock issued to a Native pursuant to the amendment (or stock issued in exchange for that Settlement Common Stock pursuant to subsection (h)(3) or section 29(c)(3)(D)) shall be subject to 1 or more of the conditions described in subclause (II).

"(II) CONDITIONS.—A condition referred to in subclause (I) is a condition that—

"(aa) the stock described in that subclause shall be deemed to be canceled on the death of the Native to whom the stock is issued, and no compensation for the cancellation shall be paid to the estate of the deceased Native or any person holding the stock;

"(bb) the stock shall carry limited or no voting rights; and

"(cc) the stock shall not be transferred by gift under subsection (h)(1)(C)(iii).".

**SEC. 207. INDIAN LAND CONSOLIDATION ACT.**

(a) DEFINITIONS.—Section 202 of the Indian Land Consolidation Act (25 U.S.C. 2201) is amended—

(1) in paragraph (4)—

(A) by inserting "(i)" after "(4)";

(B) by striking " 'trust or restricted interest in land' or" and inserting the following: "(ii) 'trust or restricted interest in land' or"; and

(C) in clause (ii) (as designated by sub paragraph (B)), by striking "an interest in land, title to which" and inserting "an interest in land, the title to which interest"; and

(2) by striking paragraph (7) and inserting the following: "(7) the term 'land' means any real property;".

(b) PARTITION OF HIGHLY FRACTIONATED INDIAN LANDS.—Section 205(c)(2)(D)(i) of the Indian Land Consolidation Act (25 U.S.C. 2204(c)(2)(D)(i)) is amended in the matter following subclause (III) by striking "by Secretary" and inserting "by the Secretary".

(c) DESCENT AND DISTRIBUTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(D)—

(i) in clause (i), by striking "clauses (ii) through (iv)" and inserting "clauses (ii) through (v)";

(ii) in clause (iv)(II), by striking "decedent" and inserting "descent"; and

(iii) by striking clause (v) and inserting the following:

"(v) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph limits the right of any person to devise any trust or restricted interest pursuant to a valid will in accordance with subsection (b)."; and

(B) by adding at the end the following:

"(2) INTESTATE DESCENT OF PERMANENT IMPROVEMENTS.—

"(A) DEFINITION OF COVERED PERMANENT IMPROVEMENT.—In this paragraph, the term 'covered permanent improvement' means a permanent improvement (including an interest in such an improvement) that is—

"(i) included in the estate of a decedent; and

"(ii) attached to a parcel of trust or restricted land that is also, in whole or in part, included in the estate of that decedent.

"(B) RULE OF DESCENT.—Except as otherwise provided in a tribal probate code approved under section 206 or a consolidation agreement approved under subsection (j)(9), a covered permanent improvement in the estate of a decedent shall—

"(i) descend to each eligible heir to whom the trust or restricted interest in land in the estate descends pursuant to this subsection; or

"(ii) pass to the recipient of the trust or restricted interest in land in the estate pursuant to a renunciation under subsection (j)(8).

"(C) APPLICATION AND EFFECT.—The provisions of this paragraph apply to a covered permanent improvement—

"(i) even though that covered permanent improvement is not held in trust; and

"(ii) without altering or otherwise affecting the non-trust status of such a covered permanent improvement.'";

(2) in subsection (b)(2)(B)—

(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting the subclauses appropriately;

(B) by striking "Any interest" and inserting the following:

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), any interest";";

(C) in subclause (III) of clause (i) (as designated by subparagraphs (A) and (B)), by striking the semicolon and inserting a period;

(D) by striking "provided that nothing" and inserting the following:

"(iii) EFFECT.—Except as provided in clause (ii), nothing; and".

(E) by inserting after clause (i) (as designated by subparagraph (B)) the following:

"(ii) EXCEPTION.—

"(I) IN GENERAL.—Notwithstanding clause (i), in any case in which a resolution, law, or other duly adopted enactment of the Indian tribe with jurisdiction over the land of which an interest

described in clause (i) is a part requests the Secretary to apply subparagraph (A)(ii) to devises of trust or restricted land under the jurisdiction of the Indian tribe, the interest may be devised in fee in accordance with subparagraph (A)(ii).

"(II) EFFECT.—Subclause (I) shall apply with respect to a devise of a trust or restricted interest in land by any decedent who dies on or after the date on which the applicable Indian tribe adopts the resolution, law, or other enactment described in subclause (I), regardless of the date on which the devise is made.

"(III) NOTICE OF REQUEST.—An Indian tribe shall provide to the Secretary a copy of any resolution, law, or other enactment of the Indian tribe that requests the Secretary to apply subparagraph (A)(ii) to devises of trust or restricted land under the jurisdiction of the Indian tribe.";

(3) in subsection (h)(1)—

(A) by striking "A will" and inserting the following: "(A) IN GENERAL.—A will"; and

(B) by adding at the end the following:

"(B) PERMANENT IMPROVEMENTS.—Except as otherwise expressly provided in the will, a devise of a trust or restricted interest in a parcel of land shall be presumed to include the interest of the testator in any permanent improvements attached to the parcel of land.

"(C) APPLICATION AND EFFECT.—The provisions of this paragraph apply to a covered permanent improvement—

"(i) even though that covered permanent improvement is not held in trust; and

"(ii) without altering or otherwise affecting the non-trust status of such a covered permanent improvement.";

(4) in subsection (i)(4)(C), by striking "interest land" and inserting "interest in land";

(5) in subsection (j)(2)(A)(ii), by striking "interest land" and inserting "interest in land";

(6) in subsection (k), in the matter preceding paragraph (1), by inserting "a" after "receiving"; and

(7) in subsection (o)—

(A) in paragraph (3)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) and indenting the clauses appropriately;

(ii) by striking "(3)" and all that follows through "No sale" and inserting the following:

"(3) REQUEST TO PURCHASE; CONSENT REQUIREMENTS; MULTIPLE REQUESTS TO PURCHASE.—

"(A) IN GENERAL.—No sale";

(iii) by striking the last sentence and inserting the following:

"(B) MULTIPLE REQUESTS TO PURCHASE.—Except for interests purchased pursuant to paragraph (5), if the Secretary receives a request with respect to an interest from more than 1 eligible purchaser under paragraph (2), the Secretary shall sell the interest to the eligible purchaser

that is selected by the applicable heir, devisee, or surviving spouse.";

(B) in paragraph (4)—

(i) in subparagraph (A), by adding "and" at the end;

(ii) in subparagraph (B), by striking "; and" and inserting a period; and

(iii) by striking subparagraph (C); and

(C) in paragraph (5)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i)—

(aa) by inserting "or surviving spouse" after "heir";

(bb) by striking "paragraph (3)(B)" and inserting "paragraph (3)(A)(ii)"; and

(cc) by striking "auction and";

(II) in clause (i), by striking "and" at the end;

(III) in clause (ii)—

(aa) by striking "auction" and inserting "sale";

(bb) by striking "the interest passing to such heir represents" and inserting ", at the time of death of the applicable decedent, the interest of the decedent in the land represented"; and

(cc) by striking the period at the end and inserting "; and";

(IV) by adding at the end the following:

"(iii)(I) the Secretary is purchasing the interest under the program authorized under section 213(a)(1); or

"(II) after receiving a notice under paragraph (4)(B), the Indian tribe with jurisdiction over the interest is proposing to purchase the interest from an heir or surviving spouse who is not residing on the property in accordance with clause (i), and who is not a member, and is not eligible to become a member, of that Indian tribe."; and

(ii) in subparagraph (B)—

(I) by inserting "or surviving spouse" after "heir" each place it appears; and

(II) by striking "heir's interest" and inserting "interest of the heir or surviving spouse".

(d) CONFORMING AMENDMENT.—Section 213(a)(1) of the Indian Land Consolidation Act (25 U.S.C. 2212(a)(1)) is amended by striking "section 207(p)" and inserting "section 207(o)".

(e) OWNER-MANAGED INTERESTS.—Section 221(a) of the Indian Land Consolidation Act (25 U.S.C. 2220(a)) is amended by inserting "owner or" before "co-owners".

(f) EFFECTIVE DATES.—

25 USC 2206 note.

(1) TESTAMENTARY DISPOSITION.—The amendments made by subsection (c)(2) of this section to section 207(b) of the Indian Land Consolidation Act (25 U.S.C. 2206(b)) shall not apply to any will executed before the date that is 1 year after the date of enactment of this Act.

(2) SMALL UNDIVIDED INTERESTS IN INDIAN LANDS.—The amendments made by subsection (c)(7)(C) of this section to

subsection (o)(5) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) shall not apply to or affect any sale of an interest under subsection (o)(5) of that section that was completed before the date of enactment of this Act.

# TITLE III—REAUTHORIZATION OF MEMORIAL TO MARTIN LUTHER KING, JR.

**SEC. 301. REAUTHORIZATION.**

Section 508(b)(2) of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 8903 note; 110 Stat. 4157, 114 Stat. 26, 117 Stat. 1347, 119 Stat. 527) is amended by striking "November 12, 2008" and inserting "November 12, 2009".

Approved December 2, 2008.

LEGISLATIVE HISTORY—S. 1193:

SENATE REPORTS: No. 110–434 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 22, considered and passed Senate.
Sept. 29, considered and passed House, amended.
Nov. 19, Senate concurred in House amendments.

Public Law 110–454
110th Congress

# An Act

To designate the facility of the United States Postal Service located at 1501 South Slappey Boulevard in Albany, Georgia, as the "Dr. Walter Carl Gordon, Jr. Post Office Building".

Dec. 19, 2008
[H.R. 6859]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DR. WALTER CARL GORDON, JR. POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1501 South Slappey Boulevard in Albany, Georgia, shall be known and designated as the "Dr. Walter Carl Gordon, Jr. Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Dr. Walter Carl Gordon, Jr. Post Office Building".

Approved December 19, 2008.

LEGISLATIVE HISTORY—H.R. 6859:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 27, considered and passed House.
Nov. 20, considered and passed Senate.

# Public Law 110–455
# 110th Congress

## Joint Resolution

Dec. 19, 2008
[S.J. Res. 46]

Ensuring that the compensation and other emoluments attached to the office of Secretary of State are those which were in effect on January 1, 2007.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

5 USC 5312 note.

**SECTION 1. COMPENSATION AND OTHER EMOLUMENTS ATTACHED TO THE OFFICE OF SECRETARY OF STATE.**

(a) IN GENERAL.—The compensation and other emoluments attached to the office of Secretary of State shall be those in effect January 1, 2007, notwithstanding any increase in such compensation or emoluments after that date under any provision of law, or provision which has the force and effect of law, that is enacted or becomes effective during the period beginning at noon of January 3, 2007, and ending at noon of January 3, 2013.

(b) CIVIL ACTION AND APPEAL.—

(1) JURISDICTION.—Any person aggrieved by an action of the Secretary of State may bring a civil action in the United States District Court for the District of Columbia to contest the constitutionality of the appointment and continuance in office of the Secretary of State on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States District Court for the District of Columbia shall have exclusive jurisdiction over such a civil action, without regard to the sum or value of the matter in controversy.

(2) THREE JUDGE PANEL.—Any claim challenging the constitutionality of the appointment and continuance in office of the Secretary of State on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution, in an action brought under paragraph (1) shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. It shall be the duty of the district court to advance on the docket and to expedite the disposition of any matter brought under this subsection.

(3) APPEAL.—

(A) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order upon the validity of the appointment and continuance in office of the Secretary of State under article I, section 6, clause 2, of the Constitution, entered in any action brought under this subsection. Any such appeal

Deadline.

shall be taken by a notice of appeal filed within 20 days after such judgment, decree, or order is entered.

(B) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question presented by an appeal taken under subparagraph (A), accept jurisdiction over the appeal, advance the appeal on the docket, and expedite the appeal.

(c) EFFECTIVE DATE.—This joint resolution shall take effect at 12:00 p.m. on January 20, 2009.

Approved December 19, 2008.

LEGISLATIVE HISTORY—S.J. Res. 46:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Dec. 10, considered and passed Senate and House.

Public Law 110–456
110th Congress

An Act

Dec. 23, 2008
[H.R. 6184]

To provide for a program for circulating quarter dollar coins that are emblematic of a national park or other national site in each State, the District of Columbia, and each territory of the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

America's Beautiful National Parks Quarter Dollar Coin Act of 2008.
31 USC 5101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "America's Beautiful National Parks Quarter Dollar Coin Act of 2008".

# TITLE I—NATIONAL SITE QUARTER DOLLARS

31 USC 5112 note.

**SEC. 101. FINDINGS.**

The Congress finds as follows:

(1) Yellowstone National Park was established by an Act signed by President Ulysses S. Grant on March 1, 1872, as the Nation's first national park.

(2) The summer and autumn of 1890 saw the establishment of a number of national sites:

(A) August 19: Chickamauga and Chattanooga established as national military parks in Georgia and Tennessee.

(B) August 30: Antietam established as a national battlefield site in Maryland.

(C) September 25: Sequoia National Park established in California.

(D) September 27: Rock Creek Park established in the District of Columbia.

(E) October 1: General Grant National Park established in California (and subsequently incorporated in Kings Canyon National Park).

(F) October 1: Yosemite National Park established in California.

(3) Theodore Roosevelt was this nation's 26th President and is considered by many to be our "Conservationist President".

(4) As a frequent visitor to the West, Theodore Roosevelt witnessed the virtual destruction of some big game species and the overgrazing that destroyed the grasslands and with them the habitats for small mammals and songbirds and conservation increasingly became one of his major concerns.

(5) When he became President in 1901, Roosevelt pursued this interest in conservation by establishing the first 51 Bird Reserves, 4 Game Preserves, and 150 National Forests.

(6) He also established the United States Forest Service, signed into law the creation of 5 National Parks, and signed the Act for the Preservation of American Antiquities in 1906 under which he proclaimed 18 national monuments.

(7) Approximately 230,000,000 acres of area within the United States was placed under public protection by Theodore Roosevelt.

(8) Theodore Roosevelt said that nothing short of defending this country in wartime "compares in importance with the great central task of leaving this land even a better land for our descendants than it is for us".

(9) The National Park Service was created by an Act signed by President Woodrow Wilson on August 25, 1916.

(10) The National Park System comprises 391 areas covering more than 84,000,000 acres in every State (except Delaware), the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

(11) The sites or areas within the National Park System vary widely in size and type from vast natural wilderness to birthplaces of Presidents to world heritage archaeology sites to an African burial ground memorial in Manhattan and include national parks, monuments, battlefields, military parks, historical parks, historic sites, lakeshores, seashores, recreation areas, scenic rivers and trails, and the White House.

(12) In addition to the sites within the National Park System, the United States has placed numerous other types of sites under various forms of conservancy, such as the national forests and sites within the National Wildlife Refuge System and on the National Register of Historic Places.

**SEC. 102. ISSUANCE OF REDESIGNED QUARTER DOLLARS EMBLEMATIC OF NATIONAL PARKS OR OTHER NATIONAL SITES IN EACH STATE, THE DISTRICT OF COLUMBIA, AND EACH TERRITORY.**

Section 5112 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(t) REDESIGN AND ISSUANCE OF QUARTER DOLLARS EMBLEMATIC OF NATIONAL SITES IN EACH STATE, THE DISTRICT OF COLUMBIA, AND EACH TERRITORY.—

"(1) REDESIGN BEGINNING UPON COMPLETION OF PRIOR PROGRAM.—

"(A) IN GENERAL.—Notwithstanding the fourth sentence of subsection (d)(1) and subsection (d)(2), quarter dollars issued beginning in 2010 shall have designs on the reverse selected in accordance with this subsection which are emblematic of the national sites in the States, the District of Columbia and the territories of the United States.

"(B) FLEXIBILITY WITH REGARD TO PLACEMENT OF INSCRIPTIONS.—Notwithstanding subsection (d)(1), the Secretary may select a design for quarter dollars referred to in subparagraph (A) in which—

"(i) the inscription described in the second sentence of subsection (d)(1) appears on the reverse side of any such quarter dollars; and

"(ii) any inscription described in the third sentence of subsection (d)(1) or the designation of the value of the coin appears on the obverse side of any such quarter dollars.

"(C) INCLUSION OF DISTRICT OF COLUMBIA, AND TERRITORIES.—For purposes of this subsection, the term 'State' has the same meaning as in section 3(a)(3) of the Federal Deposit Insurance Act.

"(2) SINGLE SITE IN EACH STATE.—The design on the reverse side of each quarter dollar issued during the period of issuance under this subsection shall be emblematic of 1 national site in each State.

"(3) SELECTION OF SITE AND DESIGN.—

"(A) SITE.—

"(i) IN GENERAL.—The selection of a national park or other national site in each State to be honored with a coin under this subsection shall be made by the Secretary of the Treasury, after consultation with the Secretary of the Interior and the governor or other chief executive of each State with respect to which a coin is to be issued under this subsection, and after giving full and thoughtful consideration to national sites that are not under the jurisdiction of the Secretary of the Interior so that the national site chosen for each State shall be the most appropriate in terms of natural or historic significance.

"(ii) TIMING.—The selection process under clause (i) shall be completed before the end of the 270-day period beginning on the date of the enactment of the America's Beautiful National Parks Quarter Dollar Coin Act of 2008.

"(B) DESIGN.—Each of the designs required under this subsection for quarter dollars shall be—

"(i) selected by the Secretary after consultation with—

"(I) the Secretary of the Interior; and

"(II) the Commission of Fine Arts; and

"(ii) reviewed by the Citizens Coinage Advisory Committee.

"(C) SELECTION AND APPROVAL PROCESS.—Recommendations for site selections and designs for quarter dollars may be submitted in accordance with the site and design selection and approval process developed by the Secretary in the sole discretion of the Secretary.

"(D) PARTICIPATION IN DESIGN.—The Secretary may include participation by officials of the State, artists from the State, engravers of the United States Mint, and members of the general public.

"(E) STANDARDS.—Because it is important that the Nation's coinage and currency bear dignified designs of which the citizens of the United States can be proud, the Secretary shall not select any frivolous or inappropriate design for any quarter dollar minted under this subsection.

"(F) PROHIBITION ON CERTAIN REPRESENTATIONS.—No head and shoulders portrait or bust of any person, living or dead, no portrait of a living person, and no outline or map of a State may be included in the design on the reverse of any quarter dollar under this subsection.

"(4) ISSUANCE OF COINS.—

"(A) ORDER OF ISSUANCE.—The quarter dollar coins issued under this subsection bearing designs of national sites shall be issued in the order in which the sites selected under paragraph (3) were first established as a national site.

"(B) RATE OF ISSUANCE.—The quarter dollar coins bearing designs of national sites under this subsection shall be issued at the rate of 5 new designs during each year of the period of issuance under this subsection.

"(C) NUMBER OF EACH OF 5 COIN DESIGNS IN EACH YEAR.—Of the quarter dollar coins issued during each year of the period of issuance, the Secretary of the Treasury shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of quarter dollars which shall be issued with each of the designs selected for such year.

"(5) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

"(6) ISSUANCE.—

"(A) QUALITY OF COINS.—The Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (3) in uncirculated and proof qualities as the Secretary determines to be appropriate.

"(B) SILVER COINS.—Notwithstanding subsection (b), the Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (3) as the Secretary determines to be appropriate, with a content of 90 percent silver and 10 percent copper.

"(7) PERIOD OF ISSUANCE.—

"(A) IN GENERAL.—Subject to paragraph (2), the program established under this subsection shall continue in effect until a national site in each State has been honored.

"(B) SECOND ROUND AT DISCRETION OF SECRETARY.—

"(i) DETERMINATION.—The Secretary may make a determination before the end of the 9-year period beginning when the first quarter dollar is issued under this subsection to continue the period of issuance until a second national site in each State, the District of Columbia, and each territory referred to in this subsection has been honored with a design on a quarter dollar.

"(ii) NOTICE AND REPORT.—Within 30 days after making a determination under clause (i), the Secretary shall submit a written report on such determination to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(iii) APPLICABILITY OF PROVISIONS.—If the Secretary makes a determination under clause (i), the provisions of this subsection applicable to site and

design selection and approval, the order, timing, and conditions of issuance shall apply in like manner as the initial issuance of quarter dollars under this subsection, except that the issuance of quarter dollars pursuant to such determination bearing the first design shall commence in order immediately following the last issuance of quarter dollars under the first round.

"(iv) CONTINUATION UNTIL ALL STATES ARE HONORED.—If the Secretary makes a determination under clause (i), the program under this subsection shall continue until a second site in each State has been so honored.

"(8) DESIGNS AFTER END OF PROGRAM.—Upon the completion of the coin program under this subsection, the design on—

"(A) the obverse of the quarter dollar shall revert to the same design containing an image of President Washington in effect for the quarter dollar before the institution of the 50-State quarter dollar program; and

"(B) notwithstanding the fourth sentence of subsection (d)(1), the reverse of the quarter dollar shall contain an image of General Washington crossing the Delaware River prior to the Battle of Trenton.

"(9) NATIONAL SITE.—For purposes of this subsection, the term 'national site' means any site under the supervision, management, or conservancy of the National Park Service, the United States Forest Service, the United States Fish and Wildlife Service, or any similar department or agency of the Federal Government, including any national park, national monument, national battlefield, national military park, national historical park, national historic site, national lakeshore, seashore, recreation area, parkway, scenic river, or trail and any site in the National Wildlife Refuge System.

"(10) APPLICATION IN EVENT OF INDEPENDENCE.—If any territory becomes independent or otherwise ceases to be a territory or possession of the United States before quarter dollars bearing designs which are emblematic of such territory are minted pursuant to this subsection, this subsection shall cease to apply with respect to such territory.".

# TITLE II—BULLION INVESTMENT PRODUCTS

**SEC. 201. SILVER BULLION COIN.**

Section 5112 of title 31, United States Code, is amended by inserting after subsection (t) (as added by title I of this Act) the following new subsection:

"(u) SILVER BULLION INVESTMENT PRODUCT.—

"(1) IN GENERAL.—The Secretary shall strike and make available for sale such number of bullion coins as the Secretary determines to be appropriate that are exact duplicates of the quarter dollars issued under subsection (t), each of which shall—

"(A) have a diameter of 3.0 inches and weigh 5.0 ounces;

"(B) contain .999 fine silver;

"(C) have incused into the edge the fineness and weight of the bullion coin;

"(D) bear an inscription of the denomination of such coin, which shall be 'quarter dollar'; and

"(E) not be minted or issued by the United States Mint as so-called 'fractional' bullion coins or in any size other than the size described in paragraph (A).

"(2) AVAILABILITY FOR SALE.—Bullion coins minted under paragraph (1)—

"(A) shall become available for sale no sooner than the first day of the calendar year in which the circulating quarter dollar of which such bullion coin is a duplicate is issued; and

"(B) may only be available for sale during the year in which such circulating quarter dollar is issued.

"(3) DISTRIBUTION.—

"(A) IN GENERAL.—In addition to the authorized dealers utilized by the Secretary in distributing bullion coins and solely for purposes of distributing bullion coins issued under this subsection, the Director of the National Park Service, or the designee of the Director, may purchase numismatic items issued under this subsection, but only in units of no fewer than 1,000 at a time, and the Director, or the Director's designee, may resell or repackage such numismatic items as the Director determines to be appropriate.

"(B) RESALE.—The Director of the National Park Service, or the designee of the Director, may resell, at cost and without repackaging, numismatic items acquired by the Director or such designee under subparagraph (A) to any party affiliated with any national site honored by a quarter dollar under subsection (t) for repackaging and resale by such party in the same manner and to the same extent as such party would be authorized to engage in such activities under subparagraph (A) if the party were acting as the designee of the Director under such subparagraph.".

Approved December 23, 2008.

LEGISLATIVE HISTORY—H.R. 6184:

HOUSE REPORTS: No. 110–748 (Comm. on Financial Services).
CONGRESSIONAL RECORD, Vol. 154 (2008):
July 9, considered and passed House.
Dec. 10, considered and passed Senate.

# Public Law 110–457
# 110th Congress

## An Act

Dec. 23, 2008
[H.R. 7311]

To authorize appropriations for fiscal years 2008 through 2011 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in persons, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.
22 USC 7101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008".

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

Sec. 1. Short title; table of contents.

TITLE I—COMBATING INTERNATIONAL TRAFFICKING IN PERSONS

Sec. 101. Interagency Task Force to Monitor and Combat Trafficking.
Sec. 102. Office to Monitor and Combat Trafficking.
Sec. 103. Prevention and prosecution of trafficking in foreign countries.
Sec. 104. Assistance for victims of trafficking in other countries.
Sec. 105. Increasing effectiveness of anti-trafficking programs.
Sec. 106. Minimum standards for the elimination of trafficking.
Sec. 107. Actions against governments failing to meet minimum standards.
Sec. 108. Research on domestic and international trafficking in persons.
Sec. 109. Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons.
Sec. 110. Report on activities of the Department of Labor to monitor and combat forced labor and child labor.
Sec. 111. Sense of Congress regarding multilateral framework between labor exporting and labor importing countries.

TITLE II—COMBATING TRAFFICKING IN PERSONS IN THE UNITED STATES

Subtitle A—Ensuring Availability of Possible Witnesses and Informants

Sec. 201. Protecting trafficking victims against retaliation.
Sec. 202. Protections for domestic workers and other nonimmigrants.
Sec. 203. Protections, remedies, and limitations on issuance for A–3 and G–5 visas.
Sec. 204. Relief for certain victims pending actions on petitions and applications for relief.
Sec. 205. Expansion of authority to permit continued presence in the United States.

Subtitle B—Assistance for Trafficking Victims

Sec. 211. Assistance for certain nonimmigrant status applicants.
Sec. 212. Interim assistance for children.
Sec. 213. Ensuring assistance for all victims of trafficking in persons.

Subtitle C—Penalties Against Traffickers and Other Crimes

Sec. 221. Restitution of forfeited assets; enhancement of civil action.
Sec. 222. Enhancing penalties for trafficking offenses.
Sec. 223. Jurisdiction in certain trafficking offenses.
Sec. 224. Bail conditions, subpoenas, and repeat offender penalties for sex trafficking.

Sec. 225. Promoting effective State enforcement.

Subtitle D—Activities of the United States Government

Sec. 231. Annual report by the Attorney General.
Sec. 232. Investigation by the Inspectors General.
Sec. 233. Senior Policy Operating Group.
Sec. 234. Preventing United States travel by traffickers.
Sec. 235. Enhancing efforts to combat the trafficking of children.
Sec. 236. Restriction of passports for sex tourism.
Sec. 237. Additional reporting on crime.
Sec. 238. Processing of certain visas.
Sec. 239. Temporary increase in fee for certain consular services.

TITLE III—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 301. Trafficking Victims Protection Act of 2000.
Sec. 302. Trafficking Victims Protection Reauthorization Act of 2005.
Sec. 303. Rule of construction.
Sec. 304. Technical amendments.

TITLE IV—CHILD SOLDIERS PREVENTION

Sec. 401. Short title.
Sec. 402. Definitions.
Sec. 403. Sense of Congress.
Sec. 404. Prohibition.
Sec. 405. Reports.
Sec. 406. Training for foreign service officers.
Sec. 407. Effective date; applicability.

# TITLE I—COMBATING INTERNATIONAL TRAFFICKING IN PERSONS

### SEC. 101. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.

Section 105(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(b)) is amended by inserting "the Secretary of Education," after "the Secretary of Homeland Security,".

### SEC. 102. OFFICE TO MONITOR AND COMBAT TRAFFICKING.

Section 105(e) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(e)) is amended—

(1) in the subsection heading, by striking "SUPPORT FOR THE TASK FORCE" and inserting "OFFICE TO MONITOR AND COMBAT TRAFFICKING";

(2) by striking "The Secretary of State is authorized to" and inserting the following:

"(1) IN GENERAL.—The Secretary of State shall"; and

(3) by adding at the end the following:

"(2) COORDINATION OF CERTAIN ACTIVITIES.—

"(A) PARTNERSHIPS.—The Director, in coordination and cooperation with other officials at the Department of State involved in corporate responsibility, the Deputy Under Secretary for International Affairs of the Department of Labor, and other relevant officials of the United States Government, shall promote, build, and sustain partnerships between the United States Government and private entities (including foundations, universities, corporations, community-based organizations, and other nongovernmental organizations) to ensure that—

"(i) United States citizens do not use any item, product, or material produced or extracted with the use of labor from victims of severe forms of trafficking; and

"(ii) such entities do not contribute to trafficking in persons involving sexual exploitation.

"(B) UNITED STATES ASSISTANCE.—The Director shall be responsible for—

"(i) all policy, funding, and programming decisions regarding funds made available for trafficking in persons programs that are centrally controlled by the Office to Monitor and Combat Trafficking; and

"(ii) coordinating any trafficking in persons programs of the Department of State or the United States Agency for International Development that are not centrally controlled by the Director.".

**SEC. 103. PREVENTION AND PROSECUTION OF TRAFFICKING IN FOREIGN COUNTRIES.**

(a) PREVENTION.—Section 106 of the Trafficking Victims Protection Act of 2000 (22 U.S. C. 7104) is amended by adding at the end the following:

"(i) ADDITIONAL MEASURES TO PREVENT AND DETER TRAFFICKING.—The President shall establish and carry out programs to prevent and deter trafficking in persons, including— President.

"(1) technical assistance and other support to improve the capacity of foreign governments to investigate, identify, and carry out inspections of private entities, including labor recruitment centers, at which trafficking victims may be exploited, particularly exploitation involving forced and child labor;

"(2) technical assistance and other support for foreign governments and nongovernmental organizations to provide immigrant populations with information, in the native languages of the major immigrant groups of such populations, regarding the rights of such populations in the foreign country and local in-country nongovernmental organization-operated hotlines;

"(3) technical assistance to provide legal frameworks and other programs to foreign governments and nongovernmental organizations to ensure that—

"(A) foreign migrant workers are provided the same protection as nationals of the foreign country;

"(B) labor recruitment firms are regulated; and

"(C) workers providing domestic services in households are provided protection under labor rights laws; and

"(4) assistance to foreign governments to register vulnerable populations as citizens or nationals of the country to reduce the ability of traffickers to exploit such populations.".

(b) PROSECUTION.—Section 134(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152d(a)(2)) is amended by adding at the end before the semicolon the following: ", including investigation of individuals and entities that may be involved in trafficking in persons involving sexual exploitation".

**SEC. 104. ASSISTANCE FOR VICTIMS OF TRAFFICKING IN OTHER COUNTRIES.**

Section 107(a) of Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(a)) is amended—

(1) in paragraph (1)—

(A) in the second sentence, by inserting before the period at the end the following: ", and shall be carried out in a manner which takes into account the cross-border,

regional, and transnational aspects of trafficking in persons"; and

(B) by adding at the end the following:

"(F) In cooperation and coordination with relevant organizations, such as the United Nations High Commissioner for Refugees, the International Organization for Migration, and private nongovernmental organizations that contract with, or receive grants from, the United States Government to assist refugees and internally displaced persons, support for—

"(i) increased protections for refugees and internally displaced persons, including outreach and education efforts to prevent such refugees and internally displaced persons from being exploited by traffickers; and

"(ii) performance of best interest determinations for unaccompanied and separated children who come to the attention of the United Nations High Commissioner for Refugees, its partner organizations, or any organization that contracts with the Department of State in order to identify child trafficking victims and to assist their safe integration, reintegration, and resettlement."; and

(2) in paragraph (2), by adding at the end the following: "In carrying out this paragraph, the Secretary and the Administrator shall take all appropriate steps to ensure that cooperative efforts among foreign countries are undertaken on a regional basis.".

**SEC. 105. INCREASING EFFECTIVENESS OF ANTI-TRAFFICKING PROGRAMS.**

The Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.) is amended by inserting after section 107 the following:

**"SEC. 107A. INCREASING EFFECTIVENESS OF ANTI-TRAFFICKING PROGRAMS.** 22 USC 7105a.

"(a) AWARDING OF GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—In administering funds made available to carry out this Act within and outside the United States—

"(1) solicitations of grants, cooperative agreements, and contracts for such programs shall be made publicly available;

"(2) grants, cooperative agreements, and contracts shall be subject to full and open competition, in accordance with applicable laws; and

"(3) the internal department or agency review process for such grants, cooperative agreements, and contracts shall not be subject to ad hoc or intermittent review or influence by individuals or organizations outside the United States Government except as provided under paragraphs (1) and (2).

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—An applicant desiring a grant, contract, or cooperative agreement under this Act shall certify that, to the extent practicable, persons or entities providing legal services, social services, health services, or other assistance have completed, or will complete, training in connection with trafficking in persons. Certification.

"(2) DISCLOSURE.—If appropriate, applicants should indicate collaboration with nongovernmental organizations, including organizations with expertise in trafficking in persons.

President. "(c) EVALUATION OF ANTI-TRAFFICKING PROGRAMS.—

"(1) IN GENERAL.—The President shall establish a system to evaluate the effectiveness and efficiency of the assistance provided under anti-trafficking programs established under this Act on a program-by-program basis in order to maximize the long-term sustainable development impact of such assistance.

"(2) REQUIREMENTS.—In carrying out paragraph (1), the President shall—

"(A) establish performance goals for the assistance described in paragraph (1), expressed in an objective and quantifiable form, to the extent practicable;

"(B) ensure that performance indicators are used for programs authorized under this Act to measure and assess the achievement of the performance goals described in subparagraph (A);

"(C) provide a basis for recommendations for adjustments to the assistance described in paragraph (1) to enhance the impact of such assistance; and

"(D) ensure that evaluations are conducted by subject matter experts in and outside the United States Government, to the extent practicable.

"(d) TARGETED USE OF ANTI-TRAFFICKING PROGRAMS.—In providing assistance under this division, the President should take into account the priorities and country assessments contained in the most recent report submitted by the Secretary of State to Congress pursuant to section 110(b).

President. "(e) CONSISTENCY WITH OTHER PROGRAMS.—The President shall ensure that the design, monitoring, and evaluation of United States assistance programs for emergency relief, development, and poverty alleviation under part I and chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq. and 2346 et seq.) and other similar United States assistance programs are consistent with United States policies and other United States programs relating to combating trafficking in persons.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2008 through 2011, not more than 5 percent of the amounts made available to carry out this division may be used to carry out this section, including—

"(1) evaluations of promising anti-trafficking programs and projects funded by the disbursing agency pursuant to this Act; and

"(2) evaluations of emerging problems or global trends.".

**SEC. 106. MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.**

Section 108 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7106) is amended—

(1) in subsection (a), by striking "a significant number of"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking the period at the end of the first sentence and inserting the following: ", including, as appropriate, requiring incarceration of individuals convicted of such acts. For purposes of the

preceding sentence, suspended or significantly-reduced sentences for convictions of principal actors in cases of severe forms of trafficking in persons shall be considered, on a case-by-case basis, whether to be considered an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons.";

(B) in paragraph (2), by inserting before the period at the end the following: ", including by providing training to law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches that focus on the needs of the victims";

(C) in paragraph (3), by striking "measures to reduce the demand for commercial sex acts and for participation in international sex tourism by nationals of the country" and inserting "measures to establish the identity of local populations, including birth registration, citizenship, and nationality"; and

(D) by adding at the end the following:

"(11) Whether the government of the country has made serious and sustained efforts to reduce the demand for—

"(A) commercial sex acts; and

"(B) participation in international sex tourism by nationals of the country.".

**SEC. 107. ACTIONS AGAINST GOVERNMENTS FAILING TO MEET MINIMUM STANDARDS.**

(a) COUNTRIES ON SPECIAL WATCH LIST RELATING TO TRAFFICKING IN PERSONS FOR 2 CONSECUTIVE YEARS.—Section 110(b)(3) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)(3)) is amended by adding at the end the following:

"(D) COUNTRIES ON SPECIAL WATCH LIST FOR 2 CONSECUTIVE YEARS.—

"(i) IN GENERAL.—Except as provided under clause (ii), a country that is included on the special watch list described in subparagraph (A) for 2 consecutive years after the date of the enactment of this subparagraph, shall be included on the list of countries described in paragraph (1)(C).

"(ii) EXERCISE OF WAIVER AUTHORITY.—The President may waive the application of clause (i) for up to 2 years if the President determines, and reports credible evidence to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, that such a waiver is justified because—

"(I) the country has a written plan to begin making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking;

"(II) the plan, if implemented, would constitute making such significant efforts; and

"(III) the country is devoting sufficient resources to implement the plan.".

(b) CLARIFICATION OF MEASURES AGAINST CERTAIN FOREIGN COUNTRIES.—Section 110(d)(1)(A)(ii) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(d)(1)(A)) is amended by inserting "such assistance to the government of the country for

the subsequent fiscal year and will not provide" after "will not provide".

22 USC 7107 note.

(c) TRANSLATION OF TRAFFICKING IN PERSONS REPORT.—The Secretary of State shall—

(1) timely translate the annual report submitted under section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)) into the principal languages of as many countries as possible, with particular emphasis on the languages of the countries on the lists described in subparagraphs (B) and (C) of section 110(b)(1) of such Act; and

Public information. Web site.

(2) ensure that the translations described in paragraph (1) are made available to the public through postings on the Internet website of the Department of State and other appropriate websites.

**SEC. 108. RESEARCH ON DOMESTIC AND INTERNATIONAL TRAFFICKING IN PERSONS.**

(a) INTEGRATED DATABASE.—Section 112A of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7109a) is amended—

(1) in subsection (a), by amending paragraph (5) to read as follows:

Deadline.

"(5) An effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis, which shall include, not later than 2 years after the date of the enactment of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, the establishment and maintenance of an integrated database within the Human Smuggling and Trafficking Center."; and

(2) by amending subsection (b) to read as follows:

"(b) ROLE OF HUMAN SMUGGLING AND TRAFFICKING CENTER.—

"(1) IN GENERAL.—The research initiatives described in paragraphs (4) and (5) of subsection (a) shall be carried out by the Human Smuggling and Trafficking Center, established under section 7202 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1777).

"(2) DATABASE.—The database described in subsection (a)(5) shall be established by combining all applicable data collected by each Federal department and agency represented on the Interagency Task Force to Monitor and Combat Trafficking, consistent with the protection of sources and methods, and, to the maximum extent practicable, applicable data from relevant international organizations, to—

"(A) improve the coordination of the collection of data related to trafficking in persons by each agency of the United States Government that collects such data;

"(B) promote uniformity of such data collection and standards and systems related to such collection;

"(C) undertake a meta-analysis of patterns of trafficking in persons, slavery, and slave-like conditions to develop and analyze global trends in human trafficking;

"(D) identify emerging issues in human trafficking and establishing integrated methods to combat them; and

"(E) identify research priorities to respond to global patterns and emerging issues.

"(3) CONSULTATION.—The database established in accordance with paragraph (2) shall be maintained in consultation

with the Director of the Office to Monitor and Combat Trafficking in Persons of the Department of State.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to the Human Smuggling and Trafficking Center for each of the fiscal years 2008 through 2011 to carry out the activities described in this subsection.".

(b) REPORT.—Section 110(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)(1)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(E) reporting and analysis on the emergence or shifting of global patterns in human trafficking, including data on the number of victims trafficked to, through, or from major source and destination countries, disaggregated by nationality, gender, and age, to the extent possible; and

"(F) emerging issues in human trafficking.".

**SEC. 109. PRESIDENTIAL AWARD FOR EXTRAORDINARY EFFORTS TO COMBAT TRAFFICKING IN PERSONS.**

The Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.) is amended by inserting after section 112A the following:

**"SEC. 112B. PRESIDENTIAL AWARD FOR EXTRAORDINARY EFFORTS TO COMBAT TRAFFICKING IN PERSONS.** 22 USC 7109b.

"(a) ESTABLISHMENT OF AWARD.—The President is authorized to establish an award, to be known as the 'Presidential Award for Extraordinary Efforts To Combat Trafficking in Persons', for extraordinary efforts to combat trafficking in persons. To the maximum extent practicable, the Secretary of State shall present the award annually to not more than 5 individuals or organizations, including—

"(1) individuals who are United States citizens or foreign nationals; and

"(2) United States or foreign nongovernmental organizations.

"(b) SELECTION.—The President shall establish procedures for selecting recipients of the award authorized under subsection (a). Procedures.

"(c) CEREMONY.—The Secretary of State shall host an annual ceremony for recipients of the award authorized under subsection (a) as soon as practicable after the date on which the Secretary submits to Congress the report required under section 110(b)(1). The Secretary of State may pay the travel costs of each recipient and a guest of each recipient who attends the ceremony.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out this section.".

**SEC. 110. REPORT ON ACTIVITIES OF THE DEPARTMENT OF LABOR TO MONITOR AND COMBAT FORCED LABOR AND CHILD LABOR.**

(a) FINAL REPORT; PUBLIC AVAILABILITY OF LIST.—Not later than January 15, 2010, the Secretary of Labor shall—

(1) submit to the appropriate congressional committees a final report that—

(A) describes the implementation of section 105(b) of the Trafficking Victims Protection Reauthorization Act of 2005 (22 U.S.C. 7103(b)); and

(B) includes an initial list of goods described in paragraph (2)(C) of such section; and

(2) make the list of goods described in paragraph (1)(B) available to the public.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" has the meaning given the term in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

**SEC. 111. SENSE OF CONGRESS REGARDING MULTILATERAL FRAMEWORK BETWEEN LABOR EXPORTING AND LABOR IMPORTING COUNTRIES.**

It is the sense of Congress that the Secretary of State, in conjunction with the International Labour Organization, the United Nations Office of Drug and Crime Prevention, and other relevant international and nongovernmental organizations, should seek to establish a multilateral framework between labor exporting and labor importing countries to ensure that workers migrating between such countries are protected from trafficking in persons.

# TITLE II—COMBATING TRAFFICKING IN PERSONS IN THE UNITED STATES

## Subtitle A—Ensuring Availability of Possible Witnesses and Informants

**SEC. 201. PROTECTING TRAFFICKING VICTIMS AGAINST RETALIATION.**

(a) T VISAS.—Section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking "Security and the Attorney General jointly;" and inserting "Security, in consultation with the Attorney General,";

(B) in subclause (I), by striking the comma at the end and inserting a semicolon;

(C) in subclause (II), by adding at the end the following: "including physical presence on account of the alien having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or a perpetrator of trafficking;";

(D) in subclause (III)—

(i) in item (aa), by striking "or" at the end;

(ii) by redesignating item (bb) as item (cc);

(iii) by inserting after item (aa) the following:

"(bb) in consultation with the Attorney General, as appropriate, is unable to cooperate with a request described in item (aa) due to physical or psychological trauma; or"; and

(iv) in item (cc), as redesignated, by striking ", and" at the end and inserting "; and"; and

(E) in subclause (IV), by adding "and" at the end;

(2) in clause (ii)—

(A) in subclause (I), by striking "or" at the end;

(B) in subclause (II), by striking "and" at the end and inserting "or"; and

(C) by adding at the end the following:

"(III) any parent or unmarried sibling under 18 years of age of an alien described in subclause (I) or (II) who the Secretary of Homeland Security, in consultation with the law enforcement officer investigating a severe form of trafficking, determines faces a present danger of retaliation as a result of the alien's escape from the severe form of trafficking or cooperation with law enforcement."; and

(3) by striking clause (iii).

(b) REQUIREMENTS FOR T VISA ISSUANCE.—Section 214(o)(7) of the Immigration and Nationality Act (8 U.S.C. 1184(o)(7)) is amended—

(1) in subparagraph (B)—

(A) by striking "subparagraph (A) if a Federal" and inserting the following: "subparagraph (A) if—

"(i) a Federal";

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(ii) the alien is eligible for relief under section 245(l) and is unable to obtain such relief because regulations have not been issued to implement such section; or

"(iii) the Secretary of Homeland Security determines that an extension of the period of such nonimmigrant status is warranted due to exceptional circumstances."; and

(2) by adding at the end the following:

"(C) Nonimmigrant status under section 101(a)(15)(T) shall be extended during the pendency of an application for adjustment of status under section 245(l).".

(c) CONDITIONS ON NONIMMIGRANT STATUS FOR CERTAIN CRIME VICTIMS.—Section 214(p)(6) of the Immigration and Nationality Act (8 U.S.C. 1184(p)(6)) is amended by adding at the end the following: "The Secretary of Homeland Security may extend, beyond the 4-year period authorized under this section, the authorized period of status of an alien as a nonimmigrant under section 101(a)(15)(U) if the Secretary determines that an extension of such period is warranted due to exceptional circumstances. Such alien's nonimmigrant status shall be extended beyond the 4-year period authorized under this section if the alien is eligible for relief under section 245(m) and is unable to obtain such relief because regulations have not been issued to implement such section and shall be extended during the pendency of an application for adjustment of status under section 245(m). The Secretary may grant work authorization to any alien who has a pending, bona fide application for nonimmigrant status under section 101(a)(15)(U).".

(d) ADJUSTMENT OF STATUS FOR TRAFFICKING VICTIMS.—Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "the Attorney General,," and inserting "in the opinion of the Secretary of Homeland Security, in consultation with the Attorney General, as appropriate";

(B) in subparagraph (B)—

(i) by inserting "subject to paragraph (6)," after "(B)"; and

(ii) by striking ", and" and inserting "; and"; and (C) in subparagraph (C)—

(i) in clause (i), by striking ", or" and inserting a semicolon;

(ii) in clause (ii), by striking ", or in the case of subparagraph (C)(i), the Attorney General, as appropriate"; and

(iii) by striking the period at the end and inserting the following: "; or

"(iii) was younger than 18 years of age at the time of the victimization qualifying the alien for relief under section 101(a)(15)(T).";

(2) in paragraph (3), by striking the period at the end and inserting the following: ", unless—

"(A) the absence was necessary to assist in the investigation or prosecution described in paragraph (1)(A); or

"(B) an official involved in the investigation or prosecution certifies that the absence was otherwise justified."; and

(3) by adding at the end the following:

Waiver authority.

"(6) For purposes of paragraph (1)(B), the Secretary of Homeland Security may waive consideration of a disqualification from good moral character with respect to an alien if the disqualification was caused by, or incident to, the trafficking described in section 101(a)(15)(T)(i)(I).

"(7) The Secretary of Homeland Security shall permit aliens to apply for a waiver of any fees associated with filing an application for relief through final adjudication of the adjustment of status for a VAWA self-petitioner and for relief under sections 101(a)(15)(T), 101(a)(15)(U), 106, 240A(b)(2), and 244(a)(3) (as in effect on March 31, 1997).".

(e) ADJUSTMENT OF STATUS FOR CRIME VICTIMS.—Section 245(m) of the Immigration and Nationality Act (8 U.S.C. 1255(m)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "unless the Attorney General" and inserting "unless the Secretary"; and

(2) by adding at the end the following:

Consultation.

"(5)(A) The Secretary of Homeland Security shall consult with the Attorney General, as appropriate, in making a determination under paragraph (1) whether affirmative evidence demonstrates that the alien unreasonably refused to provide assistance to a Federal law enforcement official, Federal prosecutor, Federal judge, or other Federal authority investigating or prosecuting criminal activity described in section 101(a)(15)(U)(iii).

"(B) Nothing in paragraph (1)(B) may be construed to prevent the Secretary from consulting with the Attorney General in making a determination whether affirmative evidence demonstrates that the alien unreasonably refused to provide assistance to a State or local law enforcement official, State or local prosecutor, State or local judge, or other State or local authority investigating or prosecuting criminal activity described in section 101(a)(15)(U)(iii).".

8 USC 1101 note.

(f) EFFECTIVE DATE.—The amendments made by this section shall—

(1) take effect on the date of enactment of the Act; and

(2) apply to applications for immigration benefits filed on or after such date. Applicability.

**SEC. 202. PROTECTIONS FOR DOMESTIC WORKERS AND OTHER NON-IMMIGRANTS.** 8 USC 1375b.

(a) INFORMATION PAMPHLET.—

(1) DEVELOPMENT AND DISTRIBUTION.—The Secretary of State, in consultation with the Secretary of Homeland Security, the Attorney General, and the Secretary of Labor, shall develop an information pamphlet on legal rights and resources for aliens applying for employment- or education-based nonimmigrant visas.

(2) CONSULTATION.—In developing the information pamphlet under paragraph (1), the Secretary of State shall consult with nongovernmental organizations with expertise on the legal rights of workers and victims of severe forms of trafficking in persons.

(b) CONTENTS.—The information pamphlet developed under subsection (a) shall include information concerning items such as—

(1) the nonimmigrant visa application processes, including information about the portability of employment;

(2) the legal rights of employment or education-based nonimmigrant visa holders under Federal immigration, labor, and employment law;

(3) the illegality of slavery, peonage, trafficking in persons, sexual assault, extortion, blackmail, and worker exploitation in the United States;

(4) the legal rights of immigrant victims of trafficking in persons and worker exploitation, including—

(A) the right of access to immigrant and labor rights groups;

(B) the right to seek redress in United States courts;

(C) the right to report abuse without retaliation;

(D) the right of the nonimmigrant to relinquish possession of his or her passport to his or her employer;

(E) the requirement of an employment contract between the employer and the nonimmigrant; and

(F) an explanation of the rights and protections included in the contract described in subparagraph (E); and

(5) information about nongovernmental organizations that provide services for victims of trafficking in persons and worker exploitation, including—

(A) anti-trafficking in persons telephone hotlines operated by the Federal Government;

(B) the Operation Rescue and Restore hotline; and

(C) a general description of the types of victims services available for individuals subject to trafficking in persons or worker exploitation.

(c) TRANSLATION.—

(1) IN GENERAL.—To best serve the language groups having the greatest concentration of employment-based nonimmigrant visas, the Secretary of State shall translate the information pamphlet developed under subsection (a) into all relevant foreign languages, to be determined by the Secretary based on the languages spoken by the greatest concentrations of employment- or education-based nonimmigrant visa applicants.

Deadline.

(2) REVISION.—Every 2 years, the Secretary of State, in consultation with the Attorney General and the Secretary of Homeland Security, shall determine the specific languages into which the information pamphlet will be translated based on the languages spoken by the greatest concentrations of employment- or education-based nonimmigrant visa applicants.

(d) AVAILABILITY AND DISTRIBUTION.—

(1) POSTING ON FEDERAL WEBSITES.—The information pamphlet developed under subsection (a) shall be posted on the websites of the Department of State, the Department of Homeland Security, the Department of Justice, the Department of Labor, and all United States consular posts processing applications for employment- or education-based nonimmigrant visas.

(2) OTHER DISTRIBUTION.—The information pamphlet developed under subsection (a) shall be made available to any—

(A) government agency;

(B) nongovernmental advocacy organization; or

(C) foreign labor broker doing business in the United States.

(3) DEADLINE FOR PAMPHLET DEVELOPMENT AND DISTRIBUTION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall distribute and make available the information pamphlet developed under subsection (a) in all the languages referred to in subsection (c).

(e) RESPONSIBILITIES OF CONSULAR OFFICERS OF THE DEPARTMENT OF STATE.—

(1) INTERVIEWS.—A consular officer conducting an interview of an alien for an employment-based nonimmigrant visa shall—

(A)(i) confirm that the alien has received, read, and understood the contents of the pamphlet described in subsections (a) and (b); and

(ii) if the alien has not received, read, or understood the contents of the pamphlet described in subsections (a) and (b), distribute and orally disclose to the alien the information described in paragraphs (2) and (3) in a language that the alien understands; and

(B) offer to answer any questions the alien may have regarding the contents of the pamphlet described in subsections (a) and (b).

(2) LEGAL RIGHTS.—The consular officer shall disclose to the alien—

(A) the legal rights of employment-based nonimmigrants under Federal immigration, labor, and employment laws;

(B) the illegality of slavery, peonage, trafficking in persons, sexual assault, extortion, blackmail, and worker exploitation in the United States; and

(C) the legal rights of immigrant victims of trafficking in persons, worker exploitation, and other related crimes, including—

(i) the right of access to immigrant and labor rights groups;

(ii) the right to seek redress in United States courts; and

(iii) the right to report abuse without retaliation.

(3) VICTIM SERVICES.—In carrying out the disclosure requirement under this subsection, the consular officer shall

disclose to the alien the availability of services for victims of human trafficking and worker exploitation in the United States, including victim services complaint hotlines.

(f) DEFINITIONS.—In this section:

(1) EMPLOYMENT- OR EDUCATION-BASED NONIMMIGRANT VISA.—The term "employment- or education-based nonimmigrant visa" means—

(A) a nonimmigrant visa issued under subparagraph (A)(iii), (G)(v), (H), or (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(B) any nonimmigrant visa issued to a personal or domestic servant who is accompanying or following to join an employer.

(2) SEVERE FORMS OF TRAFFICKING IN PERSONS.—The term "severe forms of trafficking in persons" has the meaning given the term in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(3) SECRETARY.—The term "Secretary" means the Secretary of State.

(4) ABUSING AND EXPLOITING.—The term "abusing and exploiting" means any conduct which would constitute a violation of section 1466A, 1589, 1591, 1592, 2251, or 2251A of title 18, United States Code.

**SEC. 203. PROTECTIONS, REMEDIES, AND LIMITATIONS ON ISSUANCE FOR A–3 AND G–5 VISAS.** 8 USC 1375c.

(a) LIMITATIONS ON ISSUANCE OF A–3 AND G–5 VISAS.—

(1) CONTRACT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of State may not issue—

(A) an A–3 visa unless the applicant is employed, or has signed a contract to be employed containing the requirements set forth in subsection (d)(2), by an officer of a diplomatic mission or consular post; or

(B) a G–5 visa unless the applicant is employed, or has signed a contract to be employed by an employee in an international organization.

(2) SUSPENSION REQUIREMENT.—Notwithstanding any other provision of law, the Secretary shall suspend, for such period as the Secretary determines necessary, the issuance of A–3 visas or G–5 visas to applicants seeking to work for officials of a diplomatic mission or an international organization, if the Secretary determines that there is credible evidence that 1 or more employees of such mission or international organization have abused or exploited 1 or more nonimmigrants holding an A–3 visa or a G–5 visa, and that the diplomatic mission or international organization tolerated such actions.

(3) ACTION BY DIPLOMATIC MISSIONS OR INTERNATIONAL ORGANIZATIONS.—The Secretary may suspend the application of the limitation under paragraph (2) if the Secretary determines and reports to the appropriate congressional committees that a mechanism is in place to ensure that such abuse or exploitation does not reoccur with respect to any alien employed by an employee of such mission or institution.

(b) PROTECTIONS AND REMEDIES FOR A–3 AND G–5 NONIMMIGRANTS EMPLOYED BY DIPLOMATS AND STAFF OF INTERNATIONAL ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may not issue or renew an A–3 visa or a G–5 visa unless—

(A) the visa applicant has executed a contract with the employer or prospective employer containing provisions described in paragraph (2); and

(B) a consular officer has conducted a personal interview with the applicant outside the presence of the employer or any recruitment agent in which the officer reviewed the terms of the contract and the provisions of the pamphlet required under section 202.

(2) MANDATORY CONTRACT.—The contract between the employer and domestic worker required under paragraph (1) shall include—

(A) an agreement by the employer to abide by all Federal, State, and local laws in the United States;

(B) information on the frequency and form of payment, work duties, weekly work hours, holidays, sick days, and vacation days; and

(C) an agreement by the employer not to withhold the passport, employment contract, or other personal property of the employee.

(3) TRAINING OF CONSULAR OFFICERS.—The Secretary shall provide appropriate training to consular officers on the fair labor standards described in the pamphlet required under section 202, trafficking in persons, and the provisions of this section.

(4) RECORD KEEPING.—

(A) IN GENERAL.—The Secretary shall maintain records on the presence of nonimmigrants holding an A–3 visa or a G–5 visa in the United States, including—

(i) information about when the nonimmigrant entered and permanently exited the country of residence;

(ii) the official title, contact information, and immunity level of the employer; and

(iii) information regarding any allegations of employer abuse received by the Department of State.

(c) PROTECTION FROM REMOVAL DURING LEGAL ACTIONS AGAINST FORMER EMPLOYERS.—

(1) REMAINING IN THE UNITED STATES TO SEEK LEGAL REDRESS.—

(A) EFFECT OF COMPLAINT FILING.—Except as provided in subparagraph (B), if a nonimmigrant holding an A–3 visa or a G–5 visa working in the United States files a civil action under section 1595 of title 18, United States Code, or a civil action regarding a violation of any of the terms contained in the contract or violation of any other Federal, State, or local law in the United States governing the terms and conditions of employment of the nonimmigrant that are associated with acts covered by such section, the Attorney General and the Secretary of Homeland Security shall permit the nonimmigrant to remain legally in the United States for time sufficient to fully and effectively participate in all legal proceedings related to such action.

(B) EXCEPTION.—An alien described in subparagraph (A) may be deported before the conclusion of the legal

proceedings related to a civil action described in such subparagraph if such alien is—

(i) inadmissible under paragraph (2)(A)(i)(II), (2)(B), (2)(C), (2)(E), (2)(H), (2)(I), (3)(A)(i), (3)(A)(iii), (3)(B), (3)(C), or (3)(F) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)); or

(ii) deportable under paragraph (2)(A)(ii), (2)(A)(iii), (4)(A)(i), (4)(A)(iii), (4)(B), or (4)(C) of section 237(a) of such Act (8 U.S.C. 1227(a)).

(C) FAILURE TO EXERCISE DUE DILIGENCE.—If the Secretary of Homeland Security, after consultation with the Attorney General, determines that the nonimmigrant holding an A–3 visa or a G–5 visa has failed to exercise due diligence in pursuing an action described in subparagraph (A), the Secretary may terminate the status of the A–3 or G–5 nonimmigrant.

(2) AUTHORIZATION TO WORK.—The Attorney General and the Secretary of Homeland Security shall authorize any nonimmigrant described in paragraph (1) to engage in employment in the United States during the period the nonimmigrant is in the United States pursuant to paragraph (1).

(d) STUDY AND REPORT.—

(1) INVESTIGATION REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and every 2 years thereafter for the following 10 years, the Secretary shall submit a report to the appropriate congressional committees on the implementation of this section.

(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

(i) an assessment of the actions taken by the Department of State and the Department of Justice to investigate allegations of trafficking or abuse of nonimmigrants holding an A–3 visa or a G–5 visa; and

(ii) the results of such investigations.

(2) FEASIBILITY OF OVERSIGHT OF EMPLOYEES OF DIPLOMATS AND REPRESENTATIVES OF OTHER INSTITUTIONS REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on the feasibility of—

(A) establishing a system to monitor the treatment of nonimmigrants holding an A–3 visa or a G–5 visa who have been admitted to the United States;

(B) a range of compensation approaches, such as a bond program, compensation fund, or insurance scheme, to ensure that such nonimmigrants receive appropriate compensation if their employers violate the terms of their employment contracts; and

(C) with respect to each proposed compensation approach described in subparagraph (B), an evaluation and proposal describing the proposed processes for—

(i) adjudicating claims of rights violations;

(ii) determining the level of compensation; and

(iii) administering the program, fund, or scheme.

(e) ASSISTANCE TO LAW ENFORCEMENT INVESTIGATIONS.—The Secretary shall cooperate, to the fullest extent possible consistent

with the United States obligations under the Vienna Convention on Diplomatic Relations, done at Vienna, April 18, 1961, (23 U.S.T. 3229), with any investigation by United States law enforcement authorities of crimes related to abuse or exploitation of a nonimmigrant holding an A–3 visa or a G–5 visa.

(f) DEFINITIONS.—In this section:

(1) A–3 VISA.—The term "A–3 visa" means a nonimmigrant visa issued pursuant to section 101(a)(15)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)(iii)).

(2) G–5 VISA.—The term "G–5 visa" means a nonimmigrant visa issued pursuant to section 101(a)(15)(G)(v) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(G)(v)).

(3) SECRETARY.—The term "Secretary" means the Secretary of State.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

**SEC. 204. RELIEF FOR CERTAIN VICTIMS PENDING ACTIONS ON PETITIONS AND APPLICATIONS FOR RELIEF.**

Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following:

"(d)(1) If the Secretary of Homeland Security determines that an application for nonimmigrant status under subparagraph (T) or (U) of section 101(a)(15) filed for an alien in the United States sets forth a prima facie case for approval, the Secretary may grant the alien an administrative stay of a final order of removal under section 241(c)(2) until—

"(A) the application for nonimmigrant status under such subparagraph (T) or (U) is approved; or

"(B) there is a final administrative denial of the application for such nonimmigrant status after the exhaustion of administrative appeals.

"(2) The denial of a request for an administrative stay of removal under this subsection shall not preclude the alien from applying for a stay of removal, deferred action, or a continuance or abeyance of removal proceedings under any other provision of the immigration laws of the United States.

"(3) During any period in which the administrative stay of removal is in effect, the alien shall not be removed.

"(4) Nothing in this subsection may be construed to limit the authority of the Secretary of Homeland Security or the Attorney General to grant a stay of removal or deportation in any case not described in this subsection.".

**SEC. 205. EXPANSION OF AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES.**

(a) EXPANSION OF AUTHORITY.—

(1) IN GENERAL.—Section 107(c)(3) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(c)(3)) is amended to read as follows:

"(3) AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES.—

"(A) TRAFFICKING VICTIMS.—

"(i) IN GENERAL.—If a Federal law enforcement official files an application stating that an alien is a victim of a severe form of trafficking and may be a potential witness to such trafficking, the Secretary of Homeland Security may permit the alien to remain in the United States to facilitate the investigation and prosecution of those responsible for such crime.

"(ii) SAFETY.—While investigating and prosecuting suspected traffickers, Federal law enforcement officials described in clause (i) shall endeavor to make reasonable efforts to protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.

"(iii) CONTINUATION OF PRESENCE.—The Secretary shall permit an alien described in clause (i) who has filed a civil action under section 1595 of title 18, United States Code, to remain in the United States until such action is concluded. If the Secretary, in consultation with the Attorney General, determines that the alien has failed to exercise due diligence in pursuing such action, the Secretary may revoke the order permitting the alien to remain in the United States.

"(iv) EXCEPTION.—Notwithstanding clause (iii), an alien described in such clause may be deported before the conclusion of the administrative and legal proceedings related to a complaint described in such clause if such alien is inadmissible under paragraph (2)(A)(i)(II), (2)(B), (2)(C), (2)(E), (2)(H), (2)(I), (3)(A)(i), (3)(A)(iii), (3)(B), or (3)(C) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

"(B) PAROLE FOR RELATIVES.—Law enforcement officials may submit written requests to the Secretary of Homeland Security, in accordance with section 240A(b)(6) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(6)), to permit the parole into the United States of certain relatives of an alien described in subparagraph (A)(i).

"(C) STATE AND LOCAL LAW ENFORCEMENT.—The Secretary of Homeland Security, in consultation with the Attorney General, shall—

"(i) develop materials to assist State and local law enforcement officials in working with Federal law enforcement to obtain continued presence for victims of a severe form of trafficking in cases investigated or prosecuted at the State or local level; and

"(ii) distribute the materials developed under clause (i) to State and local law enforcement officials.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)— 22 USC 7105 note.

(A) shall take effect on the date of the enactment of this Act;

(B) shall apply to pending requests for continued presence filed pursuant to section 107(c)(3) of the Trafficking Victims Protection Act (22 U.S.C. 7105(c)(3)) and requests filed on or after such date; and Applicability.

(C) may not be applied to an alien who is not present in the United States.

(b) PAROLE FOR DERIVATIVES OF TRAFFICKING VICTIMS.—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended by adding at the end the following:

"(6) RELATIVES OF TRAFFICKING VICTIMS.—

"(A) IN GENERAL.—Upon written request by a law enforcement official, the Secretary of Homeland Security may parole under section 212(d)(5) any alien who is a relative of an alien granted continued presence under section 107(c)(3)(A) of the Trafficking Victims Protection Act (22 U.S.C. 7105(c)(3)(A)), if the relative—

"(i) was, on the date on which law enforcement applied for such continued presence—

"(I) in the case of an alien granted continued presence who is under 21 years of age, the spouse, child, parent, or unmarried sibling under 18 years of age, of the alien; or

"(II) in the case of an alien granted continued presence who is 21 years of age or older, the spouse or child of the alien; or

"(ii) is a parent or sibling of the alien who the requesting law enforcement official, in consultation with the Secretary of Homeland Security, as appropriate, determines to be in present danger of retaliation as a result of the alien's escape from the severe form of trafficking or cooperation with law enforcement, irrespective of age.

"(B) DURATION OF PAROLE.—

"(i) IN GENERAL.—The Secretary may extend the parole granted under subparagraph (A) until the final adjudication of the application filed by the principal alien under section 101(a)(15)(T)(ii).

"(ii) OTHER LIMITS ON DURATION.—If an application described in clause (i) is not filed, the parole granted under subparagraph (A) may extend until the later of—

"(I) the date on which the principal alien's authority to remain in the United States under section 107(c)(3)(A) of the Trafficking Victims Protection Act (22 U.S.C. 7105(c)(3)(A)) is terminated; or

"(II) the date on which a civil action filed by the principal alien under section 1595 of title 18, United States Code, is concluded.

"(iii) DUE DILIGENCE.—Failure by the principal alien to exercise due diligence in filing a visa petition on behalf of an alien described in clause (i) or (ii) of subparagraph (A), or in pursuing the civil action described in clause (ii)(II) (as determined by the Secretary of Homeland Security in consultation with the Attorney General), may result in revocation of parole.

"(C) OTHER LIMITATIONS.—A relative may not be granted parole under this paragraph if—

"(i) the Secretary of Homeland Security or the Attorney General has reason to believe that the relative was knowingly complicit in the trafficking of

an alien permitted to remain in the United States under section 107(c)(3)(A) of the Trafficking Victims Protection Act (22 U.S.C. 7105(c)(3)(A)); or

"(ii) the relative is an alien described in paragraph (2) or (3) of section 212(a) or paragraph (2) or (4) of section 237(a).".

# Subtitle B—Assistance for Trafficking Victims

**SEC. 211. ASSISTANCE FOR CERTAIN NONIMMIGRANT STATUS APPLICANTS.**

(a) IN GENERAL.—Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)) is amended—

(1) in paragraph (2)(B), by striking "or" at the end;

(2) in paragraph (3)(B), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (3) the following:

"(4) an alien who has been granted nonimmigrant status under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) or who has a pending application that sets forth a prima facie case for eligibility for such nonimmigrant status.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for public benefits and public benefits provided on or after the date of the enactment of this Act without regard to whether regulations have been implemented to carry out such amendments.

Applicability.
8 USC 1641 note.

**SEC. 212. INTERIM ASSISTANCE FOR CHILDREN.**

(a) IN GENERAL.—Section 107(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)) is amended—

(1) in subparagraph (E)(i)(I), by inserting "or is unable to cooperate with such a request due to physical or psychological trauma" before the semicolon; and

(2) by adding at the end the following:

"(F) ELIGIBILITY FOR INTERIM ASSISTANCE OF CHILDREN.—

"(i) DETERMINATION.—Upon receiving credible information that a child described in subparagraph (C)(ii)(I) who is seeking assistance under this paragraph may have been subjected to a severe form of trafficking in persons, the Secretary of Health and Human Services shall promptly determine if the child is eligible for interim assistance under this paragraph. The Secretary shall have exclusive authority to make interim eligibility determinations under this clause. A determination of interim eligibility under this clause shall not affect the independent determination whether a child is a victim of a severe form of trafficking.

"(ii) NOTIFICATION.—The Secretary of Health and Human Services shall notify the Attorney General and the Secretary of Homeland Security not later than 24 hours after all interim eligibility determinations have been made under clause (i).

Deadline.

"(iii) DURATION.—Assistance under this paragraph may be provided to individuals determined to be eligible under clause (i) for a period of up to 90 days and may be extended for an additional 30 days.

"(iv) LONG-TERM ASSISTANCE FOR CHILDREN.—

"(I) ELIGIBILITY DETERMINATION.—Before the expiration of the period for interim assistance under clause (iii), the Secretary of Health and Human Services shall determine if the child referred to in clause (i) is eligible for assistance under this paragraph.

"(II) CONSULTATION.—In making a determination under subclause (I), the Secretary shall consult with the Attorney General, the Secretary of Homeland Security, and nongovernmental organizations with expertise on victims of severe form of trafficking.

"(III) LETTER OF ELIGIBILITY.—If the Secretary, after receiving information the Secretary believes, taken as a whole, indicates that the child is eligible for assistance under this paragraph, the Secretary shall issue a letter of eligibility. The Secretary may not require that the child cooperate with law enforcement as a condition for receiving such letter of eligibility.

"(G) NOTIFICATION OF CHILDREN FOR INTERIM ASSISTANCE.—Not later than 24 hours after a Federal, State, or local official discovers that a person who is under 18 years of age may be a victim of a severe form of trafficking in persons, the official shall notify the Secretary of Health and Human Services to facilitate the provision of interim assistance under subparagraph (F).". Deadline.

(b) TRAINING OF GOVERNMENT PERSONNEL.—Section 107(c)(4) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(c)(4)) is amended—

(1) by inserting ", the Department of Homeland Security, the Department of Health and Human Services," after "the Department of State"; and

(2) by inserting ", including juvenile victims. The Attorney General and the Secretary of Health and Human Services shall provide training to State and local officials to improve the identification and protection of such victims" before the period at the end.

**SEC. 213. ENSURING ASSISTANCE FOR ALL VICTIMS OF TRAFFICKING IN PERSONS.**

(a) AMENDMENTS TO TRAFFICKING VICTIMS PROTECTION ACT OF 2000.—

(1) ASSISTANCE FOR UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Section 107 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105) is amended by inserting after subsection (e) the following:

"(f) ASSISTANCE FOR UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services and the Attorney General, in consultation with the Secretary of Labor, shall establish a program to assist United

States citizens and aliens lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) who are victims of severe forms of trafficking. In determining the assistance that would be most beneficial for such victims, the Secretary and the Attorney General shall consult with nongovernmental organizations that provide services to victims of severe forms of trafficking in the United States. Consultation.

"(2) USE OF EXISTING PROGRAMS.—In addition to specialized services required for victims described in paragraph (1), the program established pursuant to paragraph (1) shall—

"(A) facilitate communication and coordination between the providers of assistance to such victims;

"(B) provide a means to identify such providers; and

"(C) provide a means to make referrals to programs for which such victims are already eligible, including programs administered by the Department of Justice and the Department of Health and Human Services.

"(3) GRANTS.—

"(A) IN GENERAL.—The Secretary of Health and Human Services and the Attorney General may award grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victim service organizations to develop, expand, and strengthen victim service programs authorized under this subsection.

"(B) MAXIMUM FEDERAL SHARE.—The Federal share of a grant awarded under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted by the grantee.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 113 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7110) is amended—

(A) in subsection (b)—

(i) by striking "To carry out" and inserting the following:

"(1) ELIGIBILITY FOR BENEFITS AND ASSISTANCE.—To carry out"; and

(ii) by adding at the end the following:

"(2) ADDITIONAL BENEFITS FOR TRAFFICKING VICTIMS.—To carry out the purposes of section 107(f), there are authorized to be appropriated to the Secretary of Health and Human Services—

"(A) $2,500,000 for fiscal year 2008;

"(B) $5,000,0000 for fiscal year 2009;

"(C) $7,000,000 for fiscal year 2010; and

"(D) $7,000,000 for fiscal year 2011."; and

(B) in subsection (d)—

(i) by striking "To carry out the purposes of section 107(b)" and inserting the following:

"(A) ELIGIBILITY FOR BENEFITS AND ASSISTANCE.—To carry out the purposes of section 107(b)";

(ii) by striking "To carry out the purposes of section 134" and inserting the following:

"(B) ASSISTANCE TO FOREIGN COUNTRIES.—To carry out the purposes of section 134"; and

(iii) by adding at the end the following:

"(C) ADDITIONAL BENEFITS FOR TRAFFICKING VICTIMS.—To carry out the purposes of section 107(f), there are authorized to be appropriated to the Attorney General—

"(i) $2,500,000 for fiscal year 2008;

"(ii) $5,000,0000 for fiscal year 2009;

"(iii) $7,000,000 for fiscal year 2010; and

"(iv) $7,000,000 for fiscal year 2011.".

(3) TECHNICAL ASSISTANCE.—Section 107(b)(2)(B)(ii) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(2)(B)(ii)) is amended to read as follows:

"(ii) 5 percent for training and technical assistance, including increasing capacity and expertise on security for and protection of service providers from intimidation or retaliation for their activities.".

(b) STUDY.—

Deadline. Reports.

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall submit a report to the appropriate congressional committees that identifies the existence and extent of any service gap between victims described in section 107(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105) and individuals described in section 107(f) of such Act, as amended by section 213(a) of this Act.

(2) ELEMENTS.—In carrying out the study under subparagraph (1), the Attorney General and the Secretary of Health and Human Services shall—

(A) investigate factors relating to the legal ability of the victims described in paragraph (1) to access government-funded social services in general, including the application of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(5)) and the Illegal Immigration and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009 et seq.);

(B) investigate any other impediments to the access of the victims described in paragraph (1) to government-funded social services;

(C) investigate any impediments to the access of the victims described in paragraph (1) to government-funded services targeted to victims of severe forms of trafficking;

(D) investigate the effect of trafficking service-provider infrastructure development, continuity of care, and availability of caseworkers on the eventual restoration and rehabilitation of the victims described in paragraph (1); and

(E) include findings, best practices, and recommendations, if any, based on the study of the elements described in subparagraphs (A) through (D) and any other related information.

# Subtitle C—Penalties Against Traffickers and Other Crimes

**SEC. 221. RESTITUTION OF FORFEITED ASSETS; ENHANCEMENT OF CIVIL ACTION.**

Chapter 77 of title 18, United States Code, is amended—

(1) in section 1593(b), by adding at the end the following:

"(4) The forfeiture of property under this subsection shall be governed by the provisions of section 413 (other than subsection (d) of such section) of the Controlled Substances Act (21 U.S.C. 853).''; and

(2) in section 1595—

(A) in subsection (a)—

(i) by striking "of section 1589, 1590, or 1591"; and

(ii) by inserting "(or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter)" after "perpetrator"; and

(B) by adding at the end the following:

"(c) No action may be maintained under this section unless it is commenced not later than 10 years after the cause of action arose.". Deadline.

**SEC. 222. ENHANCING PENALTIES FOR TRAFFICKING OFFENSES.**

(a) DETENTION.—Section 3142(e) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" before "If, after a hearing";

(3) by inserting "(2)" before "In a case";

(4) by inserting "(3)" before "Subject to rebuttal";

(5) by striking "paragraph (1) of this subsection" each place it appears and inserting "subparagraph (A)";

(6) in paragraph (3), as redesignated—

(A) by striking "committed an offense" and inserting the following: "committed—

"(A) an offense";

(B) by striking "46, an offense" and inserting the following: "46;

"(B) an offense";

(C) by striking "title, or an offense" and inserting the following: "title;

"(C) an offense"; and

(D) by striking "prescribed or an offense" and inserting the following: "prescribed;

"(D) an offense under chapter 77 of this title for which a maximum term of imprisonment of 20 years or more is prescribed; or

"(E) an offense".

(b) PREVENTING OBSTRUCTION.—

(1) ENTICEMENT INTO SLAVERY.—Section 1583 of title 18, United States Code, is amended to read as follows:

**"§ 1583. Enticement into slavery**

"(a) Whoever—

"(1) kidnaps or carries away any other person, with the intent that such other person be sold into involuntary servitude, or held as a slave;

"(2) entices, persuades, or induces any other person to go on board any vessel or to any other place with the intent that he or she may be made or held as a slave, or sent out of the country to be so made or held; or

"(3) obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section,

shall be fined under this title, imprisoned not more than 20 years, or both.

"(b) Whoever violates this section shall be fined under this title, imprisoned for any term of years or for life, or both if—

"(1) the violation results in the death of the victim; or

"(2) the violation includes kidnaping, an attempt to kidnap, aggravated sexual abuse, an attempt to commit aggravated sexual abuse, or an attempt to kill.".

(2) SALE INTO INVOLUNTARY SERVITUDE.—Section 1584 of such title is amended—

(A) by striking "Whoever" and inserting the following: "(a) Whoever"; and

(B) by adding at the end the following:

"(b) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties described in subsection (a).".

(3) PUNISHING FINANCIAL GAIN FROM TRAFFICKED LABOR.—Section 1589 of such title is amended to read as follows:

**"SEC. 1589. FORCED LABOR.**

"(a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means—

"(1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;

"(2) by means of serious harm or threats of serious harm to that person or another person;

"(3) by means of the abuse or threatened abuse of law or legal process; or

"(4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint,

shall be punished as provided under subsection (d).

"(b) Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in subsection (a), knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means, shall be punished as provided in subsection (d).

"(c) In this section:

"(1) The term 'abuse or threatened abuse of law or legal process' means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed,

in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

"(2) The term 'serious harm' means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

"(d) Whoever violates this section shall be fined under this title, imprisoned not more than 20 years, or both. If death results from a violation of this section, or if the violation includes kidnaping, an attempt to kidnap, aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title, imprisoned for any term of years or life, or both.".

(4) TRAFFICKING.—Section 1590 of such title is amended—

(A) by striking "Whoever" and inserting the following: "(a) Whoever"; and

(B) by adding at the end the following:

"(b) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties under subsection (a).".

(5) SEX TRAFFICKING OF CHILDREN.—Section 1591 of such title is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "or obtains" and inserting "obtains, or maintains"; and

(ii) in the matter following paragraph (2), by striking "that force, fraud, or coercion described in subsection (c)(2)" and inserting ", or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means";

(B) by redesignating subsection (c) as subsection (e);

(C) in subsection (b)(1), by striking "force, fraud, or coercion" and inserting "means of force, threats of force, fraud, or coercion described in subsection (e)(2), or by any combination of such means,";

(D) by inserting after subsection (b) the following:

"(c) In a prosecution under subsection (a)(1) in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained or maintained, the Government need not prove that the defendant knew that the person had not attained the age of 18 years.

"(d) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be fined under this title, imprisoned for a term not to exceed 20 years, or both.";

(E) in subsection (e), as redesignated—

(i) by redesignating paragraph (3) as paragraph (5);

(ii) by redesignating paragraph (1) as paragraph (3);

(iii) by inserting before paragraph (2) the following:

"(1) The term 'abuse or threatened abuse of law or legal process' means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any

manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action."; and

(iv) by inserting after paragraph (3), as redesignated, the following:

"(4) The term 'serious harm' means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.".

(6) UNLAWFUL CONDUCT.—Section 1592 of such title is amended by adding at the end the following:

"(c) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties described in subsection (a).".

(c) HOLDING CONSPIRATORS ACCOUNTABLE.—Section 1594 of title 18, United States Code, is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (a) the following:

"(b) Whoever conspires with another to violate section 1581, 1583, 1589, 1590, or 1592 shall be punished in the same manner as a completed violation of such section.

"(c) Whoever conspires with another to violate section 1591 shall be fined under this title, imprisoned for any term of years or for life, or both.".

(d) BENEFITTING FINANCIALLY FROM PEONAGE, SLAVERY, AND TRAFFICKING IN PERSONS.—

(1) IN GENERAL.—Chapter 77 of title 18, United States Code, is amended by inserting after section 1593 the following:

**"§ 1593A. Benefitting financially from peonage, slavery, and trafficking in persons**

"Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in any act in violation of section 1581(a), 1592, or 1595(a), knowing or in reckless disregard of the fact that the venture has engaged in such violation, shall be fined under this title or imprisoned in the same manner as a completed violation of such section.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1593 the following:

"Sec. 1593A. Benefitting financially from peonage, slavery, and trafficking in persons.".

(e) RETALIATION IN FOREIGN LABOR CONTRACTING.—Chapter 63 of title 18, United States Code, is amended—

(1) in the chapter heading, by adding at the end the following: "**AND OTHER FRAUD OFFENSES**";

(2) by adding at the end the following:

**"§ 1351. Fraud in foreign labor contracting**

"Whoever knowingly and with intent to defraud recruits, solicits or hires a person outside the United States for purposes of employment in the United States by means of materially false or fraudulent pretenses, representations or promises regarding that employment shall be fined under this title or imprisoned for not more than 5 years, or both."; and

(3) in the table of sections, by inserting after the item relating to section 1350 the following:

"1351. Fraud in foreign labor contracting.".

(f) TIGHTENING IMMIGRATION PROHIBITIONS.—

(1) GROUND OF INADMISSIBILITY FOR TRAFFICKING.—Section 212(a)(2)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(H)(i)) is amended by striking "who is listed in a report submitted pursuant to section 111(b) of the Trafficking Victims Protection Act of 2000" and inserting "who commits or conspires to commit human trafficking offenses in the United States or outside the United States".

(2) GROUND OF REMOVABILITY.—Section 237(a)(2) of such Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

"(F) TRAFFICKING.—Any alien described in section 212(a)(2)(H) is deportable.".

(g) AMENDMENT TO SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of alien harboring to ensure conformity with the sentencing guidelines applicable to persons convicted of promoting a commercial sex act if— 28 USC 994 note.

(1) the harboring was committed in furtherance of prostitution; and

(2) the defendant to be sentenced is an organizer, leader, manager, or supervisor of the criminal activity.

**SEC. 223. JURISDICTION IN CERTAIN TRAFFICKING OFFENSES.**

(a) IN GENERAL.—Chapter 77 of title 18, United States Code, is amended by adding at the end the following:

**"§ 1596. Additional jurisdiction in certain trafficking offenses**

"(a) IN GENERAL.—In addition to any domestic or extra-territorial jurisdiction otherwise provided by law, the courts of the United States have extra-territorial jurisdiction over any offense (or any attempt or conspiracy to commit an offense) under section 1581, 1583, 1584, 1589, 1590, or 1591 if—

"(1) an alleged offender is a national of the United States or an alien lawfully admitted for permanent residence (as those terms are defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); or

"(2) an alleged offender is present in the United States, irrespective of the nationality of the alleged offender.

"(b) LIMITATION ON PROSECUTIONS OF OFFENSES PROSECUTED IN OTHER COUNTRIES.—No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such

offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 77 of title 18, United States Code, is amended by adding at the end the following:

"1596. Additional jurisdiction in certain trafficking offenses.".

**SEC. 224. BAIL CONDITIONS, SUBPOENAS, AND REPEAT OFFENDER PENALTIES FOR SEX TRAFFICKING.**

(a) RELEASE AND DETENTION.—Subsections (f)(1)(A) and (g)(1) of section 3142 of title 18, United States Code, are amended by striking "violence," each place such term appears and inserting "violence, a violation of section 1591,".

(b) SUBPOENAS.—Section 3486(a)(1)(D) of title 18, United States Code, is amended by inserting "1591," after "1201,".

(c) REPEAT OFFENDERS.—Section 2426(b)(1)(A) of title 18, United States Code, is amended, by striking "or chapter 110" and inserting "chapter 110, or section 1591".

22 USC 7101 note.

**SEC. 225. PROMOTING EFFECTIVE STATE ENFORCEMENT.**

(a) RELATIONSHIP AMONG FEDERAL AND STATE LAW.—Nothing in this Act, the Trafficking Victims Protection Act of 2000, the Trafficking Victims Protection Reauthorization Act of 2003, the Trafficking Victims Protection Reauthorization Act of 2005, chapters 77 and 117 of title 18, United States Code, or any model law issued by the Department of Justice to carry out the purposes of any of the aforementioned statutes—

(1) may be construed to treat prostitution as a valid form of employment under Federal law; or

(2) shall preempt, supplant, or limit the effect of any State or Federal criminal law.

(b) MODEL STATE CRIMINAL PROVISIONS.—In addition to any model State antitrafficking statutes in effect on the date of the enactment of this Act, the Attorney General shall facilitate the promulgation of a model State statute that—

(1) furthers a comprehensive approach to investigation and prosecution through modernization of State and local prostitution and pandering statutes; and

(2) is based in part on the provisions of the Act of August 15, 1935 (49 Stat. 651; D.C. Code 22–2701 et seq.) (relating to prostitution and pandering).

(c) DISTRIBUTION.—The model statute described in subsection (b) and the text of chapter 27 of the Criminal Code of the District of Columbia (D.C. Code 22–2701 et seq.) shall be—

Web site.

(1) posted on the website of the Department of Justice; and

(2) distributed to the Attorney General of each State.

# Subtitle D—Activities of the United States Government

**SEC. 231. ANNUAL REPORT BY THE ATTORNEY GENERAL.**

Section 105(d)(7) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)(7)) is amended—

(1) in subparagraph (A)—

(A) by striking "section 107(b)" and inserting "subsections (b) and (f) of section 107"; and

(B) by inserting "the Attorney General," after "the Secretary of Labor,";

(2) in subparagraph (G), by striking "and" at the end;

(3) by redesignating subparagraph (H) as subparagraph (J); and

(4) by inserting after subparagraph (G) the following:

"(H) activities by the Department of Defense to combat trafficking in persons, including—

"(i) educational efforts for, and disciplinary actions taken against, members of the United States Armed Forces;

"(ii) the development of materials used to train the armed forces of foreign countries; and

"(iii) efforts to ensure that United States Government contractors and their employees or United States Government subcontractors and their employees do not engage in trafficking in persons;

"(I) activities or actions by Federal departments and agencies to enforce—

"(i) section 106(g) and any similar law, regulation, or policy relating to United States Government contractors and their employees or United States Government subcontractors and their employees that engage in severe forms of trafficking in persons, the procurement of commercial sex acts, or the use of forced labor, including debt bondage;

"(ii) section 307 of the Tariff Act of 1930 (19 U.S.C. 1307; relating to prohibition on importation of convict-made goods), including any determinations by the Secretary of Homeland Security to waive the restrictions of such section; and

"(iii) prohibitions on the procurement by the United States Government of items or services produced by slave labor, consistent with Executive Order 13107 (December 10, 1998); and".

**SEC. 232. INVESTIGATION BY THE INSPECTORS GENERAL.**

(a) IN GENERAL.—For each of the fiscal years 2010 through 2012, the Inspectors General of the Department of Defense, the Department of State, and the United States Agency for International Development shall investigate a sample of the contracts described in subsection (b).

(b) CONTRACTS DESCRIBED.—

(1) IN GENERAL.—The contracts described in subsection (a) are contracts, or subcontracts at any tier, under which there is a heightened risk that a contractor may engage, knowingly or unknowingly, in acts related to trafficking in persons, such as—

(A) confiscation of an employee's passport;

(B) restriction on an employee's mobility;

(C) abrupt or evasive repatriation of an employee;

(D) deception of an employee regarding the work destination; or

(E) acts otherwise described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104).

(2) CONSULTATION AND INFORMATION RECEIVED.—In determining the type of contact that should be investigated pursuant to subsection (a), the Inspectors General shall—

(A) consult with the Director of the Office to Combat Trafficking in Persons of the Department of State; and

(B) take into account any credible information received regarding report of trafficking in persons.

(c) CONGRESSIONAL NOTIFICATION.—

Deadlines. Reports.

(1) IN GENERAL.—Not later than January 15, 2009, and annually thereafter through January 15, 2011, each Inspector General shall submit a report to the congressional committees listed in paragraph (3)—

(A) summarizing the findings of the investigations conducted in the previous year, including any findings regarding trafficking in persons or any improvements needed to prevent trafficking in persons; and

(B) in the case of any contractor or subcontractor with regard to which the Inspector General has found substantial evidence of trafficking in persons, report as to—

(i) whether or not the case has been referred for prosecution; and

(ii) whether or not the case has been treated in accordance with section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104) (relating to termination of certain grants, contracts and cooperative agreements).

(2) JOINT REPORT.—The Inspectors General described in subsection (a) may submit their reports jointly.

(3) CONGRESSIONAL COMMITTEES.—The committees list in this paragraph are—

(A) the Committee on Armed Services of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on Armed Services of the House of Representatives; and

(D) the Committee on Foreign Affairs of the House of Representatives.

**SEC. 233. SENIOR POLICY OPERATING GROUP.**

Section 206 of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044d) is amended by striking ", as the department or agency determines appropriate,".

**SEC. 234. PREVENTING UNITED STATES TRAVEL BY TRAFFICKERS.**

Section 212(a)(2)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(H)(i)) is amended by striking "consular officer" and inserting "consular officer, the Secretary of Homeland Security, the Secretary of State,".

8 USC 1232.

**SEC. 235. ENHANCING EFFORTS TO COMBAT THE TRAFFICKING OF CHILDREN.**

(a) COMBATING CHILD TRAFFICKING AT THE BORDER AND PORTS OF ENTRY OF THE UNITED STATES.—

(1) POLICIES AND PROCEDURES.—In order to enhance the efforts of the United States to prevent trafficking in persons, the Secretary of Homeland Security, in conjunction with the Secretary of State, the Attorney General, and the Secretary of Health and Human Services, shall develop policies and procedures to ensure that unaccompanied alien children in the

United States are safely repatriated to their country of nationality or of last habitual residence.

(2) SPECIAL RULES FOR CHILDREN FROM CONTIGUOUS COUNTRIES.—

(A) DETERMINATIONS.—Any unaccompanied alien child who is a national or habitual resident of a country that is contiguous with the United States shall be treated in accordance with subparagraph (B), if the Secretary of Homeland Security determines, on a case-by-case basis, that—

(i) such child has not been a victim of a severe form of trafficking in persons, and there is no credible evidence that such child is at risk of being trafficked upon return to the child's country of nationality or of last habitual residence;

(ii) such child does not have a fear of returning to the child's country of nationality or of last habitual residence owing to a credible fear of persecution; and

(iii) the child is able to make an independent decision to withdraw the child's application for admission to the United States.

(B) RETURN.—An immigration officer who finds an unaccompanied alien child described in subparagraph (A) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may—

(i) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

(ii) return such child to the child's country of nationality or country of last habitual residence.

(C) CONTIGUOUS COUNTRY AGREEMENTS.—The Secretary of State shall negotiate agreements between the United States and countries contiguous to the United States with respect to the repatriation of children. Such agreements shall be designed to protect children from severe forms of trafficking in persons, and shall, at a minimum, provide that—

(i) no child shall be returned to the child's country of nationality or of last habitual residence unless returned to appropriate employees or officials, including child welfare officials where available, of the accepting country's government;

(ii) no child shall be returned to the child's country of nationality or of last habitual residence outside of reasonable business hours; and

(iii) border personnel of the countries that are parties to such agreements are trained in the terms of such agreements.

(3) RULE FOR OTHER CHILDREN.—The custody of unaccompanied alien children not described in paragraph (2)(A) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with subsection (b).

Deadline.

(4) SCREENING.—Within 48 hours of the apprehension of a child who is believed to be described in paragraph (2)(A), but in any event prior to returning such child to the child's country of nationality or of last habitual residence, the child shall be screened to determine whether the child meets the criteria listed in paragraph (2)(A). If the child does not meet such criteria, or if no determination can be made within 48 hours of apprehension, the child shall immediately be transferred to the Secretary of Health and Human Services and treated in accordance with subsection (b). Nothing in this paragraph may be construed to preclude an earlier transfer of the child.

(5) ENSURING THE SAFE REPATRIATION OF CHILDREN.—

(A) REPATRIATION PILOT PROGRAM.—To protect children from trafficking and exploitation, the Secretary of State shall create a pilot program, in conjunction with the Secretary of Health and Human Services and the Secretary of Homeland Security, nongovernmental organizations, and other national and international agencies and experts, to develop and implement best practices to ensure the safe and sustainable repatriation and reintegration of unaccompanied alien children into their country of nationality or of last habitual residence, including placement with their families, legal guardians, or other sponsoring agencies.

Consultation.

(B) ASSESSMENT OF COUNTRY CONDITIONS.—The Secretary of Homeland Security shall consult the Department of State's Country Reports on Human Rights Practices and the Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

(C) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—Not later than 18 months after the date of the enactment of this Act, and annually thereafter, the Secretary of State and the Secretary of Health and Human Services, with assistance from the Secretary of Homeland Security, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on efforts to improve repatriation programs for unaccompanied alien children. Such report shall include—

(i) the number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States;

(ii) a statement of the nationalities, ages, and gender of such children;

(iii) a description of the policies and procedures used to effect the removal of such children from the United States and the steps taken to ensure that such children were safely and humanely repatriated to their country of nationality or of last habitual residence, including a description of the repatriation pilot program created pursuant to subparagraph (A);

(iv) a description of the type of immigration relief sought and denied to such children;

(v) any information gathered in assessments of country and local conditions pursuant to paragraph (2); and

(vi) statistical information and other data on unaccompanied alien children as provided for in section 462(b)(1)(J) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)(J)).

(D) PLACEMENT IN REMOVAL PROCEEDINGS.—Any unaccompanied alien child sought to be removed by the Department of Homeland Security, except for an unaccompanied alien child from a contiguous country subject to exceptions under subsection (a)(2), shall be—

(i) placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a);

(ii) eligible for relief under section 240B of such Act (8 U.S.C. 1229c) at no cost to the child; and

(iii) provided access to counsel in accordance with subsection (c)(5).

(b) COMBATING CHILD TRAFFICKING AND EXPLOITATION IN THE UNITED STATES.—

(1) CARE AND CUSTODY OF UNACCOMPANIED ALIEN CHILDREN.—Consistent with section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279), and except as otherwise provided under subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services.

(2) NOTIFICATION.—Each department or agency of the Federal Government shall notify the Department of Health and Human services within 48 hours upon— Deadline.

(A) the apprehension or discovery of an unaccompanied alien child; or

(B) any claim or suspicion that an alien in the custody of such department or agency is under 18 years of age.

(3) TRANSFERS OF UNACCOMPANIED ALIEN CHILDREN.—Except in the case of exceptional circumstances, any department or agency of the Federal Government that has an unaccompanied alien child in custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours after determining that such child is an unaccompanied alien child. Deadline.

(4) AGE DETERMINATIONS.—The Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security, shall develop procedures to make a prompt determination of the age of an alien, which shall be used by the Secretary of Homeland Security and the Secretary of Health and Human Services for children in their respective custody. At a minimum, these procedures shall take into account multiple forms of evidence, including the non-exclusive use of radiographs, to determine the age of the unaccompanied alien. Procedures.

(c) PROVIDING SAFE AND SECURE PLACEMENTS FOR CHILDREN.—

(1) POLICIES AND PROGRAMS.—The Secretary of Health and Human Services, Secretary of Homeland Security, Attorney General, and Secretary of State shall establish policies and programs to ensure that unaccompanied alien children in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity, including policies

and programs reflecting best practices in witness security programs.

(2) SAFE AND SECURE PLACEMENTS.—Subject to section 462(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(2)), an unaccompanied alien child in the custody of the Secretary of Health and Human Services shall be promptly placed in the least restrictive setting that is in the best interest of the child. In making such placements, the Secretary may consider danger to self, danger to the community, and risk of flight. Placement of child trafficking victims may include placement in an Unaccompanied Refugee Minor program, pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)), if a suitable family member is not available to provide care. A child shall not be placed in a secure facility absent a determination that the child poses a danger to self or others or has been charged with having committed a criminal offense. The placement of a child in a secure facility shall be reviewed, at a minimum, on a monthly basis, in accordance with procedures prescribed by the Secretary, to determine if such placement remains warranted.

Review.

(3) SAFETY AND SUITABILITY ASSESSMENTS.—

(A) IN GENERAL.—Subject to the requirements of subparagraph (B), an unaccompanied alien child may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being. Such determination shall, at a minimum, include verification of the custodian's identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.

(B) HOME STUDIES.—Before placing the child with an individual, the Secretary of Health and Human Services shall determine whether a home study is first necessary. A home study shall be conducted for a child who is a victim of a severe form of trafficking in persons, a special needs child with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2))), a child who has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened, or a child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence. The Secretary of Health and Human Services shall conduct follow-up services, during the pendency of removal proceedings, on children for whom a home study was conducted and is authorized to conduct follow-up services in cases involving children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency.

Deadline.

(C) ACCESS TO INFORMATION.—Not later than 2 weeks after receiving a request from the Secretary of Health and Human Services, the Secretary of Homeland Security shall provide information necessary to conduct suitability

assessments from appropriate Federal, State, and local law enforcement and immigration databases.

(4) LEGAL ORIENTATION PRESENTATIONS.—The Secretary of Health and Human Services shall cooperate with the Executive Office for Immigration Review to ensure that custodians receive legal orientation presentations provided through the Legal Orientation Program administered by the Executive Office for Immigration Review. At a minimum, such presentations shall address the custodian's responsibility to attempt to ensure the child's appearance at all immigration proceedings and to protect the child from mistreatment, exploitation, and trafficking.

(5) ACCESS TO COUNSEL.—The Secretary of Health and Human Services shall ensure, to the greatest extent practicable and consistent with section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), that all unaccompanied alien children who are or have been in the custody of the Secretary or the Secretary of Homeland Security, and who are not described in subsection (a)(2)(A), have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking. To the greatest extent practicable, the Secretary of Health and Human Services shall make every effort to utilize the services of pro bono counsel who agree to provide representation to such children without charge.

(6) CHILD ADVOCATES.—The Secretary of Health and Human Services is authorized to appoint independent child advocates for child trafficking victims and other vulnerable unaccompanied alien children. A child advocate shall be provided access to materials necessary to effectively advocate for the best interest of the child. The child advocate shall not be compelled to testify or provide evidence in any proceeding concerning any information or opinion received from the child in the course of serving as a child advocate. The child advocate shall be presumed to be acting in good faith and be immune from civil and criminal liability for lawful conduct of duties as described in this provision.

(d) PERMANENT PROTECTION FOR CERTAIN AT-RISK CHILDREN.—

(1) IN GENERAL.—Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended—

(A) in clause (i), by striking "State and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment;" and inserting "State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "the Attorney General expressly consents to the dependency order serving as a precondition to the grant of special immigrant juvenile status;" and inserting "the Secretary of Homeland Security consents to the grant of special immigrant juvenile status,"; and

(ii) in subclause (I), by striking "in the actual or constructive custody of the Attorney General unless

the Attorney General specifically consents to such jurisdiction;" and inserting "in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction;".

Deadline.

(2) EXPEDITIOUS ADJUDICATION.—All applications for special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) shall be adjudicated by the Secretary of Homeland Security not later than 180 days after the date on which the application is filed.

(3) ADJUSTMENT OF STATUS.—Section 245(h)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(A)) is amended to read as follows:

"(A) paragraphs (4), (5)(A), (6)(A), (6)(C), (6)(D), (7)(A), and (9)(B) of section 212(a) shall not apply; and".

(4) ELIGIBILITY FOR ASSISTANCE.—

(A) IN GENERAL.—A child who has been granted special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) and who was either in the custody of the Secretary of Health and Human Services at the time a dependency order was granted for such child or who was receiving services pursuant to section 501(a) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) at the time such dependency order was granted, shall be eligible for placement and services under section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) until the earlier of—

(i) the date on which the child reaches the age designated in section 412(d)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1522(d)(2)(B)); or

(ii) the date on which the child is placed in a permanent adoptive home.

(B) STATE REIMBURSEMENT.—Subject to the availability of appropriations, if State foster care funds are expended on behalf of a child who is not described in subparagraph (A) and has been granted special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), the Federal Government shall reimburse the State in which the child resides for such expenditures by the State.

(5) STATE COURTS ACTING IN LOCO PARENTIS.—A department or agency of a State, or an individual or entity appointed by a State court or juvenile court located in the United States, acting in loco parentis, shall not be considered a legal guardian for purposes of this section or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(6) TRANSITION RULE.—Notwithstanding any other provision of law, an alien described in section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by paragraph (1), may not be denied special immigrant status under such section after the date of the enactment of this Act based on age if the alien was a child on the date on which the alien applied for such status.

(7) ACCESS TO ASYLUM PROTECTIONS.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended—

(A) in subsection (a)(2), by adding at the end the following:

"(E) APPLICABILITY.—Subparagraphs (A) and (B) shall not apply to an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)))."; and

(B) in subsection (b)(3), by adding at the end the following:

"(C) INITIAL JURISDICTION.—An asylum officer (as defined in section 235(b)(1)(E)) shall have initial jurisdiction over any asylum application filed by an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))), regardless of whether filed in accordance with this section or section 235(b).".

(8) SPECIALIZED NEEDS OF UNACCOMPANIED ALIEN CHILDREN.—Applications for asylum and other forms of relief from removal in which an unaccompanied alien child is the principal applicant shall be governed by regulations which take into account the specialized needs of unaccompanied alien children and which address both procedural and substantive aspects of handling unaccompanied alien children's cases.

(e) TRAINING.—The Secretary of State, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Attorney General shall provide specialized training to all Federal personnel, and upon request, state and local personnel, who have substantive contact with unaccompanied alien children. Such personnel shall be trained to work with unaccompanied alien children, including identifying children who are victims of severe forms of trafficking in persons, and children for whom asylum or special immigrant relief may be appropriate, including children described in subsection (a)(2).

(f) AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002.—

(1) ADDITIONAL RESPONSIBILITIES.—Section 462(b)(1)(L) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)(L)) is amended by striking the period at the end and inserting ", including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements.".

(2) TECHNICAL CORRECTIONS.—Section 462(b) of such Act (6 U.S.C. 279(b)) is further amended—

(A) in paragraph (3), by striking "paragraph (1)(G)," and inserting "paragraph (1),"; and

(B) by adding at the end the following:

"(4) RULE OF CONSTRUCTION.—Nothing in paragraph (2)(B) may be construed to require that a bond be posted for an unaccompanied alien child who is released to a qualified sponsor.".

(g) DEFINITION OF UNACCOMPANIED ALIEN CHILD.—For purposes of this section, the term "unaccompanied alien child" has the meaning given such term in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).

(h) EFFECTIVE DATE.—This section—

(1) shall take effect on the date that is 90 days after the date of the enactment of this Act; and

(2) shall also apply to all aliens in the United States in pending proceedings before the Department of Homeland

Applicability.

Security or the Executive Office for Immigration Review, or related administrative or Federal appeals, on the date of the enactment of this Act.

(i) GRANTS AND CONTRACTS.—The Secretary of Health and Human Services may award grants to, and enter into contracts with, voluntary agencies to carry out this section and section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

22 USC 212a.

**SEC. 236. RESTRICTION OF PASSPORTS FOR SEX TOURISM.**

Notification.

(a) IN GENERAL.—Following any conviction of an individual for a violation of section 2423 of title 18, United States Code, the Attorney General shall notify in a timely manner—

(1) the Secretary of State for appropriate action under subsection (b); and

(2) the Secretary of Homeland Security for appropriate action under the Immigration and Nationality Act.

(b) AUTHORITY TO RESTRICT PASSPORT.—

(1) INELIGIBILITY FOR PASSPORT.—

(A) IN GENERAL.—The Secretary of State shall not issue a passport or passport card to an individual who is convicted of a violation of section 2423 of title 18, United States Code, during the covered period if the individual used a passport or passport card or otherwise crossed an international border in committing the offense.

(B) PASSPORT REVOCATION.—The Secretary of State shall revoke a passport or passport card previously issued to an individual described in subparagraph (A).

(2) EXCEPTIONS.—

(A) EMERGENCY AND HUMANITARIAN SITUATIONS.—Notwithstanding paragraph (1), the Secretary of State may issue a passport or passport card, in emergency circumstances or for humanitarian reasons, to an individual described in paragraph (1)(A).

(B) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding paragraph (1), the Secretary of State may, prior to revocation, limit a previously issued passport or passport card only for return travel to the United States, or may issue a limited passport or passport card that only permits return travel to the United States.

(3) DEFINITIONS.—In this subsection—

(A) the term "covered period" means the period beginning on the date on which an individual is convicted of a violation of section 2423 of title 18, United States Code, and ending on the later of—

(i) the date on which the individual is released from a sentence of imprisonment relating to the offense; and

(ii) the end of a period of parole or other supervised release of the covered individual relating to the offense; and

(B) the term "imprisonment" means being confined in or otherwise restricted to a jail, prison, half-way house, treatment facility, or another institution, on a full or part-time basis, pursuant to the sentence imposed as the result of a criminal conviction.

**SEC. 237. ADDITIONAL REPORTING ON CRIME.**

(a) TRAFFICKING OFFENSE CLASSIFICATION.—The Director of the Federal Bureau of Investigation shall— 28 USC 534 note.

(1) classify the offense of human trafficking as a Part I crime in the Uniform Crime Reports;

(2) to the extent feasible, establish subcategories for State sex crimes that involve—

(A) a person who is younger than 18 years of age;

(B) the use of force, fraud or coercion; or

(C) neither of the elements described in subparagraphs (A) and (B); and

(3) classify the offense of human trafficking as a Group A offense for purpose of the National Incident-Based Reporting System.

(b) ADDITIONAL INFORMATION.—The Director of the Federal Bureau of Investigation shall revise the Uniform Crime Reporting System and the National Incident-Based Reporting System to distinguish between reports of— Revision. 28 USC 534 note.

(1) incidents of assisting or promoting prostitution, which shall include crimes committed by persons who—

(A) do not directly engage in commercial sex acts; and

(B) direct, manage, or profit from such acts, such as State pimping and pandering crimes;

(2) incidents of purchasing prostitution, which shall include crimes committed by persons who purchase or attempt to purchase or trade anything of value for commercial sex acts; and

(3) incidents of prostitution, which shall include crimes committed by persons providing or attempting to provide commercial sex acts.

(c) REPORTS AND STUDIES.—

(1) REPORTS.—Not later than February 1, 2010, the Attorney General shall submit to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate reports on the following:

(A) Activities or actions, in fiscal years 2001 through 2009, by Federal departments and agencies to enforce the offenses set forth in chapter 117 of title 18, United States Code, including information regarding the number of prosecutions, the number of convictions, an identification of multiple-defendant cases and the results thereof, and, for fiscal years 2008 and 2009, the number of prosecutions, the number of convictions, and an identification of multiple-defendant case and the results thereof, the use of expanded statutes of limitation and other tools to prosecute crimes against children who reached the age of eighteen years since the time the crime was committed.

(B) The interaction, in Federal human trafficking prosecutions in fiscal years 2001 through 2010, of Federal restitution provisions with those provisions of law allowing restoration and remission of criminally and civilly forfeited property, including the distribution of proceeds among multiple victims.

(C) Activities or actions, in fiscal years 2001 through 2010, to enforce the offenses set forth in chapters 95 and

96 of title 18, United States Code, in cases involving human trafficking, sex trafficking, or prostitution offenses.

(D) Activities or actions, in fiscal years 2008 and 2009, by Federal departments and agencies to enforce the offenses set forth in the Act of August 15, 1935 (49 Stat. 651; D.C. Code 22–2701 et seq.) (relating to prostitution and pandering), including information regarding the number of prosecutions, the number of convictions, and an identification of multiple-defendant cases and the results thereof.

(2) STUDIES.—Subject to availability of appropriations, the head of the National Institute of Justice shall conduct—

(A) a comprehensive study to examine the use of Internet-based businesses and services by criminal actors in the sex industry, and to disseminate best practices for investigation and prosecution of trafficking and prostitution offenses involving the Internet; and

(B) a comprehensive study to examine the application of State human trafficking statutes, including such statutes based on the model law developed by the Department of Justice, cases prosecuted thereunder, and the impact, if any, on enforcement of other State criminal statutes.

Deadline. Reports.

(3) STUDIES PREVIOUSLY REQUIRED BY LAW.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall report to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate on the status of the studies required by paragraph (B)(i) and (ii) of section 201(a)(1) of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044(a)(1)) and indicate the projected date when such studies will be completed.

**SEC. 238. PROCESSING OF CERTAIN VISAS.**

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate a report on the operations of the specially-trained Violence Against Women Act Unit at the Citizenship and Immigration Service's Vermont Service Center.

(b) ELEMENTS.—The report required by subsection (a) shall include the following elements:

(1) Detailed information about the funds expended to support the work of the Violence Against Women Act Unit at the Vermont Service Center.

(2) A description of training for adjudicators, victim witness liaison officers, managers, and others working in the Violence Against Women Act Unit, including general training and training on confidentiality issues.

(3) Measures taken to ensure the retention of specially-trained staff within the Violence Against Women Act Unit.

(4) Measures taken to ensure the creation and retention of a core of supervisory staff within the Violence Against Women Act Unit and the Vermont Service Center with responsibility over resource allocation, policy, program development,

training and other substantive or operational issues affecting the Unit, who have historical knowledge and experience with the Trafficking Victims Protection Act of 2000, the Violence Against Women Act of 1994, Violence Against Women Act of 1994 confidentiality, and the specialized policies and procedures of the Department of Homeland Security and its predecessor agencies in such cases.

(5) Measures taken to ensure routine consultation between the Violence Against Women Act Unit, U.S. Citizenship and Immigration Services Headquarters, and the Office of Policy and Strategy during the development of any Department of Homeland Security regulations or policies that impact Violence Against Women Act of 1994 confidentiality-protected victims and their derivative family members.

(6) Information on any circumstances in which victim-based immigration applications have been adjudicated by entities other than the Violence Against Women Act Unit at the Vermont Service Center, including reasons for such action and what steps, if any, were taken to ensure that such applications were handled by trained personnel and what steps were taken to comply with the confidentiality provisions of the Violence Against Women Act of 1994.

(7) Information on the time in which it takes to adjudicate victim-based immigration applications, including the issuance of visas, work authorization and deferred action in a timely manner consistent with the safe and competent processing of such applications, and steps taken to improve in this area.

**SEC. 239. TEMPORARY INCREASE IN FEE FOR CERTAIN CONSULAR SERVICES.**

8 USC 1351 note.

(a) INCREASE IN FEE.—Notwithstanding any other provision of law, not later than October 1, 2009, the Secretary of State shall increase by $1 the fee or surcharge assessed under section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note) for processing machine-readable nonimmigrant visas and machine-readable combined border crossing identification cards and nonimmigrant visas.

Deadline.

(b) DEPOSIT OF AMOUNTS.—Notwithstanding section 140(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note), the additional amount collected pursuant the fee increase under subsection (a) shall be deposited in the Treasury.

(c) DURATION OF INCREASE.—The fee increase authorized under subsection (a) shall terminate on the date that is 3 years after the first date on which such increased fee is collected.

Termination date.

# TITLE III—AUTHORIZATIONS OF APPROPRIATIONS

**SEC. 301. TRAFFICKING VICTIMS PROTECTION ACT OF 2000.**

Section 113 of the Trafficking Victims Protection Act of 2000, as amended by section 213(a)(2), is amended—

22 USC 7110.

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking "section 104, and"; and

(ii) by striking "$1,500,000" and all that follows through "$5,500,000 for each of the fiscal years 2006 and 2007" and inserting "$5,500,000 for each of the fiscal years 2008 through 2011"; and

(B) in the second sentence—

(i) by striking "for official reception and representation expenses $3,000" and inserting "$1,500,000 for additional personnel for each of the fiscal years 2008 through 2011, and $3,000 for official reception and representation expenses"; and

(ii) by striking "2006 and 2007" and inserting "2008 through 2011";

(2) in subsection (b)(1), by striking "$5,000,000" and all that follows and inserting "$12,500,000 for each of the fiscal years 2008 through 2011";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "2004, 2005, 2006, and 2007" each place it appears and inserting "2008 through 2011"; and

(ii) in subparagraph (B), by adding at the end the following: "To carry out the purposes of section 107(a)(1)(F), there are authorized to be appropriated to the Secretary of State $1,000,000 for each of the fiscal years 2008 through 2011.";

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as redesignated—

(i) by striking "section 104" and inserting "sections 116(f) and 502B(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(f) and 2304(h))"; and

(ii) by striking ", including the preparation" and all that follows and inserting a period;

(4) in subsection (d)—

(A) in the first sentence, by striking "$5,000,000" and all that follows through "2007" and inserting "$10,000,000 for each of the fiscal years 2008 through 2011"; and

(B) in the second sentence, by striking "2004, 2005, 2006, and 2007" and inserting "2008 through 2011";

(5) in subsection (e)—

(A) in paragraph (1), by striking "$5,000,000" and all that follows and inserting "$15,000,000 for each of the fiscal years 2008 through 2011.";

(B) in paragraph (2)—

(i) by striking "section 109" and inserting "section 134 of the Foreign Assistance Act of 1961 (22 U.S.C. 2152d)"; and

(ii) by striking "$5,000,000" and all that follows and inserting "$15,000,000 for each of the fiscal years 2008 through 2011."; and

(C) in paragraph (3), by striking "$300,000" and all that follows and inserting "$2,000,000 for each of the fiscal years 2008 through 2011.";

(6) in subsection (f), by striking "$5,000,000" and all that follows and inserting "$10,000,000 for each of the fiscal years 2008 through 2011.";

(7) in subsection (h), by striking "fiscal year 2006" and inserting "each of the fiscal years 2008 through 2011"; and

(8) in subsection (i), by striking "2006 and 2007" and inserting "2008 through 2011".

**SEC. 302. TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2005.**

The Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164) is amended—

(1) in section 102(b)(7), by striking "2006 and 2007" and inserting "2008 through 2011"; 22 USC 7105 note.

(2) in section 201(c)— 42 USC 14044.

(A) in paragraph (1), by striking "$2,500,000 for each of the fiscal years 2006 and 2007" each place it appears and inserting "$1,500,000 for each of the fiscal years 2008 through 2011"; and

(B) in paragraph (2), by striking "2006 and 2007" and inserting "2008 through 2011";

(3) in section 202(d), by striking "$10,000,000 for each of the fiscal years 2006 and 2007" and inserting "$8,000,000 for each of the fiscal years 2008 through 2011"; 42 USC 14044a.

(4) in section 203(g), by striking "2006 and 2007" and inserting "2008 through 2011"; and 42 USC 14044b.

(5) in section 204(d), by striking "$25,000,000 for each of the fiscal years 2006 and 2007" and inserting "$20,000,000 for each of the fiscal years 2008 through 2011". 42 USC 14044c.

**SEC. 303. RULE OF CONSTRUCTION.** 22 USC 7110 note.

The amendments made by sections 301 and 302 may not be construed to affect the availability of funds appropriated pursuant to the authorizations of appropriations under the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7101 et seq.) and the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164) before the date of the enactment of this Act.

**SEC. 304. TECHNICAL AMENDMENTS.**

(a) TRAFFICKING VICTIMS PROTECTION ACT OF 2000.—Sections 103(1) and 105(d)(7) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(1) and 7103(d)(7)) are each amended by striking "Committee on International Relations" each place it appears and inserting "Committee on Foreign Affairs".

(b) TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2005.—Section 102(b)(6) and subsections (c)(2)(B)(i) and (e)(2) of section 104 of the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164) are amended by striking "Committee on International Relations" each place it appears and inserting "Committee on Foreign Affairs". 22 USC 7109a, 7111.

# TITLE IV—CHILD SOLDIERS PREVENTION

Child Soldiers Prevention Act of 2008.

**SEC. 401. SHORT TITLE.** 22 USC 2151 note.

This title may be cited as the "Child Soldiers Prevention Act of 2008".

22 USC 2370c.

**SEC. 402. DEFINITIONS.**

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Foreign Affairs of the House of Representatives; and

(D) the Committee on Appropriations of the House of Representatives.

(2) CHILD SOLDIER.—Consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child, the term "child soldier"—

(A) means—

(i) any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces;

(ii) any person under 18 years of age who has been compulsorily recruited into governmental armed forces;

(iii) any person under 15 years of age who has been voluntarily recruited into governmental armed forces; or

(iv) any person under 18 years of age who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state; and

(B) includes any person described in clauses (ii), (iii), or (iv) of subparagraph (A) who is serving in any capacity, including in a support role such as a cook, porter, messenger, medic, guard, or sex slave.

**SEC. 403. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) the United States Government should condemn the conscription, forced recruitment, or use of children by governments, paramilitaries, or other organizations;

(2) the United States Government should support and, to the extent practicable, lead efforts to establish and uphold international standards designed to end the abuse of human rights described in paragraph (1);

(3) the United States Government should expand ongoing services to rehabilitate recovered child soldiers and to reintegrate such children back into their respective communities by—

(A) offering ongoing psychological services to help such children—

(i) to recover from the trauma suffered during their forced military involvement;

(ii) to relearn how to interact with others in nonviolent ways so that such children are no longer a danger to their respective communities; and

(iii) by taking into consideration the needs of girl soldiers, who may be at risk of exclusion from disarmament, demobilization, and reintegration programs;

(B) facilitating reconciliation with such communities through negotiations with traditional leaders and elders

to enable recovered abductees to resume normal lives in such communities; and

(C) providing educational and vocational assistance;

(4) the United States should work with the international community, including, as appropriate, third country governments, nongovernmental organizations, faith-based organizations, United Nations agencies, local governments, labor unions, and private enterprises—

(A) to bring to justice rebel and paramilitary forces that kidnap children for use as child soldiers;

(B) to recover those children who have been abducted; and

(C) to assist such children to be rehabilitated and reintegrated into their respective communities;

(5) the Secretary of State, the Secretary of Labor, and the Secretary of Defense should coordinate programs to achieve the goals described in paragraph (3);

(6) United States diplomatic missions in countries in which the use of child soldiers is an issue, whether or not such use is supported or sanctioned by the governments of such countries, should include in their mission program plans a strategy to achieve the goals described in paragraph (3);

(7) United States diplomatic missions in countries in which governments use or tolerate child soldiers should develop strategies, as part of annual program planning—

(A) to promote efforts to end such abuse of human rights; and

(B) to identify and integrate global best practices, as available, into such strategies to avoid duplication of effort; and

(8) in allocating or recommending the allocation of funds or recommending candidates for programs and grants funded by the United States Government, United States diplomatic missions should give serious consideration to those programs and candidates that are expected to promote the end to the abuse of human rights described in this section.

**SEC. 404. PROHIBITION.** 22 USC 2370c–1.

(a) IN GENERAL.—Subject to subsections (b), (c), and (d), the authorities contained in section 516 or 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j or 2347) or section 23 of the Arms Export Control Act (22 U.S.C. 2763) may not be used to provide assistance to, and no licenses for direct commercial sales of military equipment may be issued to, the government of a country that is clearly identified, pursuant to subsection (b), for the most recent year preceding the fiscal year in which the authorities or license would have been used or issued in the absence of a violation of this title, as having governmental armed forces or government-supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit and use child soldiers.

(b) IDENTIFICATION AND NOTIFICATION TO COUNTRIES IN VIOLATION OF STANDARDS.—

(1) PUBLICATION OF LIST OF FOREIGN GOVERNMENTS.—The Secretary of State shall include a list of the foreign governments that have violated the standards under this title and are subject to the prohibition in subsection (a) in the report required under

section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

(2) NOTIFICATION OF FOREIGN COUNTRIES.—The Secretary of State shall formally notify any government identified pursuant to subsection (a).

(c) NATIONAL INTEREST WAIVER.—

(1) WAIVER.—The President may waive the application to a country of the prohibition in subsection (a) if the President determines that such waiver is in the national interest of the United States.

Deadline. President.

(2) PUBLICATION AND NOTIFICATION.—Not later than 45 days after each waiver is granted under paragraph (1), the President shall notify the appropriate congressional committees of the waiver and the justification for granting such waiver.

(d) REINSTATEMENT OF ASSISTANCE.—The President may provide to a country assistance otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that the government of such country—

(1) has implemented measures that include an action plan and actual steps to come into compliance with the standards outlined in section 404(b); and

(2) has implemented policies and mechanisms to prohibit and prevent future government or government-supported use of child soldiers and to ensure that no children are recruited, conscripted, or otherwise compelled to serve as child soldiers.

(e) EXCEPTION FOR PROGRAMS DIRECTLY RELATED TO ADDRESSING THE PROBLEM OF CHILD SOLDIERS OR PROFESSIONALIZATION OF THE MILITARY.—

(1) IN GENERAL.—The President may provide assistance to a country for international military education, training, and nonlethal supplies (as defined in section 2557(d)(1)(B) of title 10, United States Code) otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that—

(A) the government of such country is taking reasonable steps to implement effective measures to demobilize child soldiers in its forces or in government-supported paramilitaries and is taking reasonable steps within the context of its national resources to provide demobilization, rehabilitation, and reintegration assistance to those former child soldiers; and

(B) the assistance provided by the United States Government to the government of such country will go to programs that will directly support professionalization of the military.

(2) LIMITATION.—The exception under paragraph (1) may not remain in effect for a country for more than 5 years.

22 USC 2370c–2.

**SEC. 405. REPORTS.**

(a) INVESTIGATION OF ALLEGATIONS REGARDING CHILD SOLDIERS.—United States missions abroad shall thoroughly investigate reports of the use of child soldiers.

(b) INFORMATION FOR ANNUAL HUMAN RIGHTS REPORTS.—In preparing those portions of the annual Human Rights Report that relate to child soldiers under sections 116 and 502B of the Foreign

Assistance Act of 1961 (22 U.S.C. 2151n(f) and 2304(h)), the Secretary of State shall ensure that such reports include a description of the use of child soldiers in each foreign country, including—

(1) trends toward improvement in such country of the status of child soldiers or the continued or increased tolerance of such practices; and

(2) the role of the government of such country in engaging in or tolerating the use of child soldiers.

(c) ANNUAL REPORT TO CONGRESS.—If, during any of the 5 years following the date of the enactment of this Act, a country is notified pursuant to section 404(b)(2), or a wavier is granted pursuant to section 404(c)(1), the President shall submit a report to the appropriate congressional committees not later than June 15 of the following year. The report shall include— President.

(1) a list of the countries receiving notification that they are in violation of the standards under this title;

(2) a list of any waivers or exceptions exercised under this title;

(3) justification for any such waivers and exceptions; and

(4) a description of any assistance provided under this title pursuant to the issuance of such waiver.

**SEC. 406. TRAINING FOR FOREIGN SERVICE OFFICERS.**

Section 708 of the Foreign Service Act of 1980 (22 U.S.C. 4028) is amended by adding at the end the following:

"(c) The Secretary of State, with the assistance of other relevant officials, shall establish as part of the standard training provided for chiefs of mission, deputy chiefs of mission, and other officers of the Service who are or will be involved in the assessment of child soldier use or the drafting of the annual Human Rights Report instruction on matters related to child soldiers, and the substance of the Child Soldiers Prevention Act of 2008.".

**SEC. 407. EFFECTIVE DATE; APPLICABILITY.** 22 USC 2370c note.

This title, and the amendments made by this title, shall take effect 180 days after the date of the enactment of this Act.

Approved December 23, 2008.

LEGISLATIVE HISTORY—H.R. 7311:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Dec. 10, considered and passed House and Senate.

# Public Law 110–458
# 110th Congress

## An Act

Dec. 23, 2008
[H.R. 7327]

To make technical corrections related to the Pension Protection Act of 2006, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Worker, Retiree, and Employer Recovery Act of 2008.
29 USC 1001 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Worker, Retiree, and Employer Recovery Act of 2008".

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

Sec. 1. Short title; table of contents.

TITLE I—TECHNICAL CORRECTIONS RELATED TO THE PENSION PROTECTION ACT OF 2006

Sec. 100. References in title.

Subtitle A—Technical Corrections Related to the Pension Protection Act of 2006

Sec. 101. Amendments related to Title I.
Sec. 102. Amendments related to title II.
Sec. 103. Amendments related to title III.
Sec. 104. Amendments related to title IV.
Sec. 105. Amendments related to title V.
Sec. 106. Amendments related to title VI.
Sec. 107. Amendments related to title VII.
Sec. 108. Amendments related to title VIII.
Sec. 109. Amendments related to title IX.
Sec. 110. Amendments related to title X.
Sec. 111. Amendments related to title XI.
Sec. 112. Effective date.

Subtitle B—Other Provisions

Sec. 121. Amendments Related to Sections 102 and 112 of the Pension Protection Act of 2006.
Sec. 122. Modification of interest rate assumption required with respect to certain small employer plans.
Sec. 123. Determination of market rate of return for governmental plans.
Sec. 124. Treatment of certain reimbursements from governmental plans for medical care.
Sec. 125. Rollover of amounts received in airline carrier bankruptcy to Roth IRAs.
Sec. 126. Determination of asset value for special airline funding rules.
Sec. 127. Modification of penalty for failure to file partnership returns.
Sec. 128. Modification of penalty for failure to file S corporation returns.

TITLE II—PENSION PROVISIONS RELATING TO ECONOMIC CRISIS

Sec. 201. Temporary waiver of required minimum distribution rules for certain retirement plans and accounts.
Sec. 202. Transition rule clarification.
Sec. 203. Temporary modification of application of limitation on benefit accruals.
Sec. 204. Temporary delay of designation of multiemployer plans as in endangered or critical status.

Sec. 205. Temporary extension of the funding improvement and rehabilitation periods for multiemployer pension plans in critical and endangered status for 2008 or 2009.

# TITLE I—TECHNICAL CORRECTIONS RELATED TO THE PENSION PROTECTION ACT OF 2006

**SEC. 100. REFERENCES IN TITLE.** 26 USC 72 note.

For purposes of this title:

(1) AMENDMENT OF 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) AMENDMENT OF ERISA.—The term "ERISA" means the Employee Retirement Income Security Act of 1974.

(3) 2006 ACT.—The term "2006 Act" means the Pension Protection Act of 2006.

## Subtitle A—Technical Corrections Related to the Pension Protection Act of 2006

**SEC. 101. AMENDMENTS RELATED TO TITLE I.**

(a) AMENDMENTS RELATED TO SECTIONS 101 AND 111.—

(1) AMENDMENTS TO ERISA.—

(A) Clause (i) of section 302(c)(1)(A) of ERISA is amended by striking "the plan is" and inserting "the plan are". 29 USC 1082.

(B) Section 302(c)(7) of ERISA is amended by inserting "which reduces the accrued benefit of any participant" after "subsection (d)(2)" in subparagraph (A).

(C) Section 302(d)(1) of ERISA is amended by striking ", the valuation date,".

(2) AMENDMENTS TO 1986 CODE.—

(A) Clause (i) of section 412(c)(1)(A) of the 1986 Code is amended by striking "the plan is" and inserting "the plan are". 26 USC 412.

(B) Section 412(c)(7) of the 1986 Code is amended by inserting "which reduces the accrued benefit of any participant" after "subsection (d)(2)" in subparagraph (A).

(C) Section 412(d)(1) of the 1986 Code is amended by striking ", the valuation date,".

(b) AMENDMENTS RELATED TO SECTIONS 102 AND 112.—

(1) AMENDMENTS TO ERISA.—

(A) Section 303(b) of ERISA is amended to read as follows: 29 USC 1083.

"(b) TARGET NORMAL COST.—For purposes of this section:

"(1) IN GENERAL.—Except as provided in subsection (i)(2) with respect to plans in at-risk status, the term 'target normal cost' means, for any plan year, the excess of—

"(A) the sum of—

"(i) the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year, plus

"(ii) the amount of plan-related expenses expected to be paid from plan assets during the plan year, over

"(B) the amount of mandatory employee contributions expected to be made during the plan year.

"(2) SPECIAL RULE FOR INCREASE IN COMPENSATION.—For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.".

29 USC 1083.

(B) Section 303(c)(5)(B)(iii) of ERISA is amended by inserting "beginning" before "after 2008".

(C) Section 303(c)(5)(B)(iv)(II) of ERISA is amended by inserting "for such year" after "beginning in 2007)".

(D) Section 303(f)(4)(A) of ERISA is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(E) Section 303(h)(2)(F) of ERISA is amended—

(i) by striking "section 205(g)(3)(B)(iii)(I)) for such month" and inserting "section 205(g)(3)(B)(iii)(I) for such month)", and

(ii) by striking "subparagraph (B)" and inserting "subparagraph (C)".

(F) Section 303(i) of ERISA is amended—

(i) in paragraph (2)—

(I) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the excess of—

"(i) the sum of—

"(I) the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year, determined using the additional actuarial assumptions described in paragraph (1)(B), plus

"(II) the amount of plan-related expenses expected to be paid from plan assets during the plan year, over

"(ii) the amount of mandatory employee contributions expected to be made during the plan year, plus", and

(II) in subparagraph (B), by striking "the target normal cost (determined without regard to this paragraph) of the plan for the plan year" and inserting "the amount determined under subsection (b)(1)(A)(i) with respect to the plan for the plan year", and

(ii) by striking "subparagraph (A)(ii)" in the last sentence of paragraph (4)(B) and inserting "subparagraph (A)".

(G) Section 303(j)(3) of ERISA—

(i) is amended by adding at the end of subparagraph (A) the following new sentence: "In the case of plan years beginning in 2008, the funding shortfall for the preceding plan year may be determined using such methods of estimation as the Secretary of the Treasury may provide.",

(ii) by adding at the end of subparagraph (E) the following new clause:

"(iii) PLAN WITH ALTERNATE VALUATION DATE.—The Secretary of the Treasury shall prescribe regulations for the application of this paragraph in the case of a plan which has a valuation date other than the first day of the plan year.", and Regulations.

(iii) by striking "AND SHORT YEARS" in the heading of subparagraph (E) and inserting ", SHORT YEARS, AND YEARS WITH ALTERNATE VALUATION DATE".

(H) Section 303(k)(6)(B) of ERISA is amended by striking ", except" and all that follows and inserting a period. 29 USC 1083.

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 430(b) of the 1986 Code is amended to read as follows: 26 USC 430.

"(b) TARGET NORMAL COST.—For purposes of this section:

"(1) IN GENERAL.—Except as provided in subsection (i)(2) with respect to plans in at-risk status, the term 'target normal cost' means, for any plan year, the excess of—

"(A) the sum of—

"(i) the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year, plus

"(ii) the amount of plan-related expenses expected to be paid from plan assets during the plan year, over

"(B) the amount of mandatory employee contributions expected to be made during the plan year.

"(2) SPECIAL RULE FOR INCREASE IN COMPENSATION.—For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.".

(B) Section 430(c)(5)(B)(iii) of the 1986 Code is amended by inserting "beginning" before "after 2008".

(C) Section 430(c)(5)(B)(iv)(II) of the 1986 Code is amended by inserting "for such year" after "beginning in 2007)".

(D) Section 430(f) of the 1986 Code is amended—

(i) by striking "as of the first day of the plan year" the second place it appears in the first sentence of paragraph (3)(A),

(ii) by striking "paragraph (2)" in paragraph (4)(A) and inserting "paragraph (3)",

(iii) by striking "paragraph (1), (2), or (4) of section 206(g)" in paragraph (6)(B)(iii) and inserting "subsection (b), (c), or (e) of section 436",

(iv) by striking "the sum of" in paragraph (6)(C), and

(v) by striking "of the Treasury" in paragraph (8).

(E) Section 430(h)(2) of the 1986 Code is amended—

(i) by inserting "and target normal cost" after "funding target" in subparagraph (B),

(ii) by striking "liabilities" and inserting "benefits" in subparagraph (B),

(iii) by striking "section 417(e)(3)(D)(i)) for such month" in subparagraph (F) and inserting "section 417(e)(3)(D)(i) for such month)", and

(iv) by striking "subparagraph (B)" in subparagraph (F) and inserting "subparagraph (C)".

26 USC 430.

(F) Section 430(i) of the 1986 Code is amended—

(i) in paragraph (2)—

(I) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the excess of—

"(i) the sum of—

"(I) the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year, determined using the additional actuarial assumptions described in paragraph (1)(B), plus

"(II) the amount of plan-related expenses expected to be paid from plan assets during the plan year, over

"(ii) the amount of mandatory employee contributions expected to be made during the plan year, plus", and

(II) in subparagraph (B), by striking "the target normal cost (determined without regard to this paragraph) of the plan for the plan year" and inserting "the amount determined under subsection (b)(1)(A)(i) with respect to the plan for the plan year", and

(ii) by striking "subparagraph (A)(ii)" in the last sentence of paragraph (4)(B) and inserting "subparagraph (A)".

(G) Section 430(j)(3) of the 1986 Code is amended—

(i) by adding at the end of subparagraph (A) the following new sentence: "In the case of plan years beginning in 2008, the funding shortfall for the preceding plan year may be determined using such methods of estimation as the Secretary may provide.",

(ii) by striking "section 302(c)" in subparagraph (D)(ii)(II) and inserting "section 412(c)",

(iii) by adding at the end of subparagraph (E) the following new clause:

"(iii) PLAN WITH ALTERNATE VALUATION DATE.—The Secretary shall prescribe regulations for the application of this paragraph in the case of a plan which has a valuation date other than the first day of the plan year.", and

Regulations.

(iv) by striking "AND SHORT YEARS" in the heading of subparagraph (E) and inserting ", SHORT YEARS, AND YEARS WITH ALTERNATE VALUATION DATE".

(H) Section 430(k) of the 1986 Code is amended—

(i) by inserting "(as provided under paragraph (2))" after "applies" in paragraph (1), and

(ii) by striking ", except" and all that follows in paragraph (6)(B) and inserting a period.

26 USC 430 note.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by paragraphs (1)(A), (1)(F)(i),

(2)(A), and (2)(F)(i) shall apply to plan years beginning after December 31, 2008.

(B) ELECTION FOR EARLIER APPLICATION.—The amendments made by such paragraphs shall apply to a plan for the first plan year beginning after December 31, 2007, if the plan sponsor makes the election under this subparagraph. An election under this subparagraph shall be made at such time and in such manner as the Secretary of the Treasury or the Secretary's delegate may prescribe, and, once made, may be revoked only with the consent of the Secretary.

(c) AMENDMENTS RELATED TO SECTIONS 103 AND 113.—

(1) AMENDMENTS TO ERISA.—

(A) Section 101(j) of ERISA is amended— 29 USC 1021.

(i) in paragraph (2), by striking "section 206(g)(4)(B)" and inserting "section 206(g)(4)(A)"; and

(ii) by adding at the end the following: "The Secretary of the Treasury, in consultation with the Secretary, shall have the authority to prescribe rules applicable to the notices required under this subsection.".

(B) Section 206(g)(1)(B)(ii) of ERISA is amended by striking "a funding" and inserting "an adjusted funding". 29 USC 1056.

(C) The heading for section 206(g)(1)(C) of ERISA is amended by inserting "BENEFIT" after "EVENT".

(D) Section 206(g)(3)(E) of ERISA is amended by adding at the end the following new flush sentence:

"Such term shall not include the payment of a benefit which under section 203(e) may be immediately distributed without the consent of the participant.".

(E) Section 206(g)(5)(A)(iv) of ERISA is amended by inserting "adjusted" before "funding".

(F) Section 206(g)(9)(C) of ERISA is amended—

(i) by striking "without regard to this subparagraph and" in clause (i), and

(ii) in clause (iii)—

(I) by striking "without regard to this subparagraph" and inserting "without regard to the reduction in the value of assets under section 303(f)(4)", and

(II) by inserting "beginning" before "after" each place it appears.

(G) Section 206(g) of ERISA is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) SECRETARIAL AUTHORITY FOR PLANS WITH ALTERNATE VALUATION DATE.—In the case of a plan which has designated a valuation date other than the first day of the plan year, the Secretary of the Treasury may prescribe rules for the application of this subsection which are necessary to reflect the alternate valuation date.".

(H) Section 502(c)(4) of ERISA is amended by striking "by any person" and all that follows through the period and inserting "by any person of subsection (j), (k), or (l) of section 101 or section 514(e)(3).". 29 USC 1132.

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 436(b)(2) of the 1986 Code is amended— 26 USC 436.

(i) by striking "section 303" and inserting "section 430" in the matter preceding subparagraph (A), and

(ii) by striking "a funding" and inserting "an adjusted funding" in subparagraph (B).

26 USC 436.

(B) Section 436(b)(3) of the 1986 Code is amended—

(i) by inserting "BENEFIT" after "EVENT" in the heading, and

(ii) by striking "any event" in subparagraph (B) and inserting "an event".

(C) Section 436(d)(5) of the 1986 Code is amended by adding at the end the following new flush sentence: "Such term shall not include the payment of a benefit which under section 411(a)(11) may be immediately distributed without the consent of the participant.".

(D) Section 436(f) of the 1986 Code is amended—

(i) by inserting "adjusted" before "funding" in paragraph (1)(D), and

(ii) by striking "prefunding balance under section 430(f) or funding standard carryover balance" in paragraph (2) and inserting "prefunding balance or funding standard carryover balance under section 430(f)".

(E) Section 436(j)(3) of the 1986 Code is amended—

(i) in subparagraph (A)—

(I) by striking "without regard to this paragraph and",

(II) by striking "section 430(f)(4)(A)" and inserting "section 430(f)(4)", and

(III) by striking "paragraph (1)" and inserting "paragraphs (1) and (2)", and

(ii) in subparagraph (C)—

(I) by striking "without regard to this paragraph" and inserting "without regard to the reduction in the value of assets under section 430(f)(4)", and

(II) by inserting "beginning" before "after" each place it appears.

(F) Section 436 of the 1986 Code is amended by redesignating subsection (k) as subsection (m) and by inserting after subsection (j) the following new subsections:

"(k) SECRETARIAL AUTHORITY FOR PLANS WITH ALTERNATE VALUATION DATE.—In the case of a plan which has designated a valuation date other than the first day of the plan year, the Secretary may prescribe rules for the application of this section which are necessary to reflect the alternate valuation date.

"(l) SINGLE-EMPLOYER PLAN.—For purposes of this section, the term 'single-employer plan' means a plan which is not a multiemployer plan.".

(3) AMENDMENTS TO 2006 ACT.—Sections 103(c)(2)(A)(ii) and 113(b)(2)(A)(ii) of the 2006 Act are each amended—

29 USC 1021; 26 USC 436 note.

(A) by striking "subsection" and inserting "section", and

(B) by striking "subparagraph" and inserting "paragraph".

(d) AMENDMENTS RELATED TO SECTIONS 107 AND 114.—

(1) AMENDMENTS TO ERISA.—

29 USC 1023.

(A) Section 103(d) of ERISA is amended—

(i) in paragraph (3), by striking "the normal costs, the accrued liabilities" and inserting "the normal costs or target normal costs, the accrued liabilities or funding target", and

(ii) by striking paragraph (7) and inserting the following new paragraph:

"(7) A certification of the contribution necessary to reduce the minimum required contribution determined under section 303, or the accumulated funding deficiency determined under section 304, to zero.".

(B) Section 4071 of ERISA is amended by striking "as section 303(k)(4) or 307(e)" and inserting "or section 303(k)(4),". 29 USC 1371.

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 401(a)(29) of the 1986 Code is amended by striking "ON PLANS IN AT-RISK STATUS" in the heading. 26 USC 401.

(B) Section 401(a)(32)(C) of the 1986 Code is amended—

(i) by striking "section 430(j)" and inserting "section 430(j)(3)", and

(ii) by striking "paragraph (5)(A)" and inserting "section 430(j)(4)(A)".

(C) Section 401(a)(33) of the 1986 Code is amended—

(i) by striking "section 412(c)(2)" in subparagraph (B)(iii) and inserting "section 412(d)(2)", and

(ii) by striking "section 412(b)(2) (without regard to subparagraph (B) thereof)" in subparagraph (D) and inserting "section 412(b)(1), without regard to section 412(b)(2)".

(D) Section 411 of the 1986 Code is amended— 26 USC 411.

(i) by striking "section 412(c)(2)" in subsection (a)(3)(C) and inserting "section 412(d)(2)", and

(ii) by striking "section 412(e)(2)" in subsection (d)(6)(A) and inserting "section 412(d)(2)".

(E) Section 414(l)(2)(B)(i)(I) of the 1986 Code is amended to read as follows: 26 USC 414.

"(I) the sum of the funding target and target normal cost determined under section 430, over".

(F) Section 4971 of the 1986 Code is amended— 26 USC 4971.

(i) by striking "required minimum" in subsection (b)(1) and inserting "minimum required",

(ii) by inserting "or unpaid minimum required contribution, whichever is applicable" after "accumulated funding deficiency" each place it appears in subsections (c)(3) and (d)(1), and

(iii) by striking "section 412(a)(1)(A)" in subsection (e)(1) and inserting "section 412(a)(2)".

(3) AMENDMENT TO 2006 ACT.—Section 114 of the 2006 Act is amended by adding at the end the following new subsection:

"(g) EFFECTIVE DATES.— Applicability. 26 USC 401 note.

"(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after 2007.

"(2) EXCISE TAX.—The amendments made by subsection (e) shall apply to taxable years beginning after 2007, but only with respect to plan years described in paragraph (1) which end with or within any such taxable year.".

(e) AMENDMENT RELATED TO SECTION 116.—Section 409A(b)(3)(A)(ii) of the 1986 Code is amended by inserting "to an applicable covered employee" after "under the plan". 26 USC 409A.

**SEC. 102. AMENDMENTS RELATED TO TITLE II.**

(a) AMENDMENT RELATED TO SECTIONS 201 AND 211.—Section 201(b)(2)(A) of the 2006 Act is amended by striking "has not used" and inserting "has not adopted, or ceased using,". 29 USC 1084 note.

(b) AMENDMENTS RELATED TO SECTIONS 202 AND 212.—

(1) AMENDMENTS TO ERISA.—

(A) Section 302(b)(3) of ERISA is amended by striking "the plan adopts" and inserting "the plan sponsor adopts". 29 USC 1082.

(B) Section 305(b)(3)(C) of ERISA is amended by striking "section 101(b)(4)" and inserting "section 101(b)(1)". 29 USC 1085.

(C) Section 305(b)(3)(D) of ERISA is amended by striking "The Secretary" in clause (iii) and inserting "The Secretary of the Treasury, in consultation with the Secretary".

(D) Section 305(c)(7) of ERISA is amended—

(i) by striking "to agree on" and all that follows in subparagraph (A)(ii) and inserting "to adopt a contribution schedule with terms consistent with the funding improvement plan and a schedule from the plan sponsor,", and

(ii) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) DATE OF IMPLEMENTATION.—The date specified in this subparagraph is the date which is 180 days after the date on which the collective bargaining agreement described in subparagraph (A) expires.", and

(iii) by adding at the end the following new subparagraph:

"(C) FAILURE TO MAKE SCHEDULED CONTRIBUTIONS.—Any failure to make a contribution under a schedule of contribution rates provided under this paragraph shall be treated as a delinquent contribution under section 515 and shall be enforceable as such.".

(E) Section 305(e) of ERISA is amended—

(i) in paragraph (3)(C)—

(I) by striking all that follows "to adopt a" in clause (i)(II) and inserting "to adopt a contribution schedule with terms consistent with the rehabilitation plan and a schedule from the plan sponsor under paragraph (1)(B)(i),",

(II) by striking clause (ii) and inserting the following new clause:

"(ii) DATE OF IMPLEMENTATION.—The date specified in this clause is the date which is 180 days after the date on which the collective bargaining agreement described in clause (i) expires.", and

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

"(iii) FAILURE TO MAKE SCHEDULED CONTRIBUTIONS.—Any failure to make a contribution under a

schedule of contribution rates provided under this subsection shall be treated as a delinquent contribution under section 515 and shall be enforceable as such.",

(ii) in paragraph (4)—

(I) by striking "the date of" in subparagraph (A)(ii), and

(II) by striking "and taking" in subparagraph (B) and inserting "but taking",

(iii) in paragraph (6)—

(I) by striking "paragraph (1)(B)(i)" and inserting "the last sentence of paragraph (1)", and

(II) by striking "established" and inserting "establish",

(iv) in paragraph (8)(C)(iii)—

(I) by striking "the Secretary" in subclause (I) and inserting "the Secretary of the Treasury, in consultation with the Secretary", and

(II) by striking "Secretary" in the last sentence and inserting "Secretary of the Treasury", and

(v) by striking "an employer's withdrawal liability" in paragraph (9)(B) and inserting "the allocation of unfunded vested benefits to an employer".

(F) Section 305(f)(2)(A)(i) of ERISA is amended by adding at the end the following: "to a participant or beneficiary whose annuity starting date (as defined in section 205(h)(2)) occurs after the date such notice is sent,". 29 USC 1085.

(G) Section 305(g) of ERISA is amended by inserting "under subsection (c)" after "funding improvement plan" the first place it appears.

(H) Section 502(c)(2) of ERISA is amended by striking "101(b)(4)" and inserting "101(b)(1)". 29 USC 1132.

(I) Section 502(c)(8)(A) of ERISA is amended by inserting "plan" after "multiemployer".

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 432(b)(3)(C) of the 1986 Code is amended by striking "section 101(b)(4)" and inserting "section 101(b)(1)". 26 USC 432.

(B) Section 432(b)(3)(D)(iii) of the 1986 Code is amended by striking "The Secretary of Labor" and inserting "The Secretary, in consultation with the Secretary of Labor".

(C) Section 432(c) of the 1986 Code is amended—

(i) in paragraph (3), by striking "section 304(d)" in subparagraph (A)(ii) and inserting "section 431(d)", and

(ii) in paragraph (7)—

(I) by striking "to agree on" and all that follows in subparagraph (A)(ii) and inserting "to adopt a contribution schedule with terms consistent with the funding improvement plan and a schedule from the plan sponsor,", and

(II) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) DATE OF IMPLEMENTATION.—The date specified in this subparagraph is the date which is 180 days after the date on which the collective bargaining agreement described in subparagraph (A) expires.".

26 USC 432.

(D) Section 432(e) of the 1986 Code is amended—

(i) in paragraph (3)(C)—

(I) by striking all that follows "to adopt a" in clause (i)(II) and inserting "to adopt a contribution schedule with terms consistent with the rehabilitation plan and a schedule from the plan sponsor under paragraph (1)(B)(i),", and

(II) by striking clause (ii) and inserting the following new clause:

"(ii) DATE OF IMPLEMENTATION.—The date specified in this clause is the date which is 180 days after the date on which the collective bargaining agreement described in clause (i) expires.",

(ii) in paragraph (4)—

(I) by striking "the date of" in subparagraph (A)(ii), and

(II) by striking "and taking" in subparagraph (B) and inserting "but taking",

(iii) in paragraph (6)—

(I) by striking "paragraph (1)(B)(i)" and inserting "the last sentence of paragraph (1)", and

(II) by striking "established" and inserting "establish",

(iv) in paragraph (8)—

(I) by striking "section 204(g)" in subparagraph (A)(i) and inserting "section 411(d)(6)",

(II) by inserting "of the Employee Retirement Income Security Act of 1974" after "4212(a)" in subparagraph (C)(i)(II),

(III) by striking "the Secretary of Labor" in subparagraph (C)(iii)(I) and inserting "the Secretary, in consultation with the Secretary of Labor", and

(IV) by striking "the Secretary of Labor" in the last sentence of subparagraph (C)(iii) and inserting "the Secretary", and

(v) by striking "an employer's withdrawal liability" in paragraph (9)(B) and inserting "the allocation of unfunded vested benefits to an employer".

(E) Section 432(f)(2)(A)(i) of the 1986 Code is amended—

(i) by striking "section 411(b)(1)(A)" and inserting "section 411(a)(9)"; and

(ii) by inserting at the end the following: "to a participant or beneficiary whose annuity starting date (as defined in section 417(f)(2)) occurs after the date such notice is sent,".

(F) Section 432(g) of the 1986 Code is amended by inserting "under subsection (c)" after "funding improvement plan" the first place it appears.

(G) Section 432(i) of the 1986 Code is amended—

(i) by striking "section 412(a)" in paragraph (3) and inserting "section 431(a)", and

(ii) by striking paragraph (9) and inserting the following new paragraph:

"(9) PLAN SPONSOR.—For purposes of this section, section 431, and section 4971(g):

"(A) IN GENERAL.—The term 'plan sponsor' means, with respect to any multiemployer plan, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

"(B) SPECIAL RULE FOR SECTION 404(c) PLANS.—In the case of a plan described in section 404(c) (or a continuation of such plan), such term means the bargaining parties described in paragraph (1).".

(H) Section 412(b)(3) of the 1986 Code is amended by striking "the plan adopts" and inserting "the plan sponsor adopts". 26 USC 412.

(I) Section 4971(g)(4) of the 1986 Code is amended— 26 USC 4971.

(i) in subparagraph (B)(ii), by striking "first day of" and inserting "day following the close of", and

(ii) by striking clause (ii) of subparagraph (C) and inserting the following new clause:

"(ii) PLAN SPONSOR.—For purposes of clause (i), the term 'plan sponsor' has the meaning given such term by section 432(i)(9).".

(3) AMENDMENTS TO 2006 ACT.—

(A) Section 212(b)(2) of the 2006 Act is amended by striking "Section 4971(c)(2) of such Code" and inserting "Section 4971(e)(2) of such Code". 26 USC 4971.

(B) Section 212(e)(1) of the 2006 Act is amended by inserting ", except that the amendments made by subsection (b) shall apply to taxable years beginning after 2007, but only with respect to plan years beginning after 2007 which end with or within any such taxable year" before the period at the end. Applicability. 26 USC 412 note.

(C) Section 212(e)(2) of the 2006 Act is amended by striking "section 305(b)(3) of the Employee Retirement Income Security Act of 1974" and inserting "section 432(b)(3) of the Internal Revenue Code of 1986".

**SEC. 103. AMENDMENTS RELATED TO TITLE III.**

(a) AMENDMENT RELATED TO SECTION 301.—Clause (ii) of section 101(c)(2)(A) of the Pension Funding Equity Act of 2004, as amended by section 301(c) of the 2006 Act, is amended by striking "2008" and inserting "2009". 26 USC 411 note.

(b) AMENDMENTS RELATED TO SECTION 302.—

(1) AMENDMENT TO ERISA.—Section 205(g)(3)(B)(iii)(II) of ERISA is amended by striking "section 205(g)(3)(B)(iii)(II)" and inserting "section 205(g)(3)(A)(ii)(II)". 29 USC 1055.

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 417(e)(3)(D)(i) of the 1986 Code is amended by striking "clause (ii)" and inserting "subparagraph (C)". 26 USC 417.

(B)(i) Section 415(b)(2)(E)(v) of the 1986 Code is amended to read as follows: 26 USC 415.

"(v) For purposes of adjusting any benefit or limitation under subparagraph (B), (C), or (D), the mortality table used shall be the applicable mortality table (within the meaning of section 417(e)(3)(B)).". Applicability.

(ii)(I) Except as provided in subclause (II), the amendment made by clause (i) shall apply to years beginning after December 31, 2008. Effective date. 26 USC 415 note.

(II) A plan sponsor may elect to have the amendment made by clause (i) apply to any year beginning after December 31, 2007, and before January 1, 2009, or to any portion of any such year.

**SEC. 104. AMENDMENTS RELATED TO TITLE IV.**

29 USC 1306. (a) AMENDMENT RELATED TO SECTION 401.—Section 4006(a)(3)(A)(i) of ERISA is amended by striking "1990" and inserting "2005".

26 USC 430 note. (b) AMENDMENT RELATED TO SECTION 402.—Section 402(c)(1)(A) of the 2006 Act is amended by striking "commercial airline" and inserting "commercial".

29 USC 1344. (c) AMENDMENT RELATED TO SECTION 408.—Section 4044(e) of ERISA, as added by section 408(b)(2) of the 2006 Act, is redesignated as subsection (f).

29 USC 1341. (d) AMENDMENTS RELATED TO SECTION 409.—Section 4041(b)(5)(A) of ERISA is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (D)".

29 USC 1350. (e) AMENDMENTS RELATED TO SECTION 410.—Section 4050(d)(4)(A) of ERISA is amended—

(1) by striking "and" at the end of clause (i), and

(2) by striking clause (ii) and inserting the following new clauses:

"(ii) which is not a plan described in paragraph (2), (3), (4), (6), (7), (8), (9), (10), or (11) of section 4021(b), and

"(iii) which, was a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust exempt from tax under section 501(a) of such Code, and".

**SEC. 105. AMENDMENTS RELATED TO TITLE V.**

29 USC 1021. (a) AMENDMENT RELATED TO SECTION 501.—Section 101(f)(2)(B)(ii) of ERISA is amended—

(1) by striking "for which the latest annual report filed under section 104(a) was filed" in subclause (I)(aa) and inserting "to which the notice relates", and

(2) by striking subclause (II) and inserting the following new subclause:

"(II) in the case of a multiemployer plan, a statement, for the plan year to which the notice relates and the preceding 2 plan years, of the value of the plan assets (determined both in the same manner as under section 304 and under the rules of subclause (I)(bb)) and the value of the plan liabilities (determined in the same manner as under section 304 except that the method specified in section 305(i)(8) shall be used),".

(b) AMENDMENTS RELATED TO SECTION 502.—

(1) Section 101(k)(2) of ERISA is amended by filing at the end the following new flush sentence:

"Subparagraph (C)(i) shall not apply to individually identifiable information with respect to any plan investment manager or adviser, or with respect to any other person (other than an employee of the plan) preparing a financial report required to be included under paragraph (1)(B).".

(2) Section 4221 of ERISA is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively. 29 USC 1401.

(c) AMENDMENTS RELATED TO SECTION 503.—

(1) AMENDMENTS TO ERISA.—

(A) Section 104(b)(3) of ERISA is amended by— 29 USC 1024.

(i) striking "section 103(f)" and inserting "section 101(f)", and

(ii) striking "the administrators" and inserting "the administrator".

(B) Section 104(d)(1)(E)(ii) of ERISA is amended by inserting "funding" after "plan's".

(2) AMENDMENTS TO 2006 ACT.—Section 503(e) of the 2006 Act is amended by striking "section 101(f)" and inserting "section 104(d)". 29 USC 1021 note.

(d) AMENDMENT RELATED TO SECTION 505.—Section 4010(d)(2)(B) of ERISA is amended by striking "section 302(d)(2)" and inserting "section 303(d)(2)". 29 USC 1310.

(e) AMENDMENTS RELATED TO SECTION 506.—

(1) Section 4041(c)(2)(D)(i) of ERISA is amended by striking "subsection (a)(2)" the second place it appears and inserting "subparagraph (A) or the regulations under subsection (a)(2)". 29 USC 1341.

(2) Section 4042(c)(3)(C)(i) of ERISA is amended— 29 USC 1342.

(A) by striking "and plan sponsor" and inserting ", the plan sponsor, or the corporation", and

(B) by striking "subparagraph (A)(i)" and inserting "subparagraph (A)".

(f) AMENDMENTS RELATED TO SECTION 508.—Section 209(a) of ERISA is amended— 29 USC 1059.

(1) in paragraph (1)—

(A) by striking "regulations prescribed by the Secretary" and inserting "such regulations as the Secretary may prescribe", and

(B) by striking the last sentence and inserting "The report required under this paragraph shall be in the same form, and contain the same information, as periodic benefit statements under section 105(a).", and

(2) by striking paragraph (2) and inserting the following:

"(2) If more than one employer adopts a plan, each such employer shall furnish to the plan administrator the information necessary for the administrator to maintain the records, and make the reports, required by paragraph (1). Such administrator shall maintain the records, and make the reports, required by paragraph (1).". Records. Reports.

(g) AMENDMENT RELATED TO SECTION 509.—Section 101(i)(8)(B) of ERISA is amended to read as follows: 29 USC 1021.

"(B) ONE-PARTICIPANT RETIREMENT PLAN.—For purposes of subparagraph (A), the term 'one-participant retirement plan' means a retirement plan that on the first day of the plan year—

"(i) covered only one individual (or the individual and the individual's spouse) and the individual (or the individual and the individual's spouse) owned 100 percent of the plan sponsor (whether or not incorporated), or

"(ii) covered only one or more partners (or partners and their spouses) in the plan sponsor.".

**SEC. 106. AMENDMENTS RELATED TO TITLE VI.**

(a) AMENDMENTS RELATED TO SECTION 601.—

(1) AMENDMENTS TO ERISA.—

29 USC 1108.

(A) Section 408(g)(3)(D)(ii) of ERISA is amended by striking "subsection (b)(14)(B)(ii)" and inserting "subsection (b)(14)(A)(ii)".

(B) Section 408(g)(6)(A)(i) of ERISA is amended by striking "financial adviser" and inserting "fiduciary adviser".

(C) Section 408(g)(11)(A) of ERISA is amended—

(i) by striking "the participant" each place it appears and inserting "a participant", and

(ii) by striking "section 408(b)(4)" in clause (ii) and inserting "subsection (b)(4)".

(2) AMENDMENTS TO 1986 CODE.—

26 USC 4975.

(A) Section 4975(d)(17) of the 1986 Code, in the matter preceding subparagraph (A), is amended by striking "and that permits" and inserting "that permits".

(B) Section 4975(f)(8) of the 1986 Code is amended—

(i) in subparagraph (A), by striking "subsection (b)(14)" and inserting "subsection (d)(17)",

(ii) in subparagraph (C)(iv)(II), by striking "subsection (b)(14)(B)(ii)" and inserting "(d)(17)(A)(ii)",

(iii) in subparagraph (F)(i)(I), by striking "financial adviser" and inserting "fiduciary adviser,",

(iv) in subparagraph (I), by striking "section 406" and inserting "subsection (c)", and

(v) in subparagraph (J)(i)—

(I) by striking "the participant" each place it appears and inserting "a participant",

(II) in the matter preceding subclause (I), by inserting "referred to in subsection (e)(3)(B)" after "investment advice", and

(III) in subclause (II), by striking "section 408(b)(4)" and inserting "subsection (d)(4)".

(3) AMENDMENT TO 2006 ACT.—Section 601(b)(4) of the 2006 Act is amended by striking "section 4975(c)(3)(B)" and inserting "section 4975(e)(3)(B)".

26 USC 4975 note.

(b) AMENDMENTS RELATED TO SECTION 611.—

29 USC 1108.

(1) AMENDMENT TO ERISA.—Section 408(b)(18)(C) of ERISA is amended by striking "or less".

(2) AMENDMENTS TO 1986 CODE.—Section 4975(d) of the 1986 Code is amended—

26 USC 4975.

(A) in the matter preceding subparagraph (A) of paragraph (18)—

(i) by striking "party in interest" and inserting "disqualified person", and

(ii) by striking "subsection (e)(3)(B)" and inserting "subsection (e)(3)",

(B) in paragraphs (19), (20), and (21), by striking "party in interest" each place it appears and inserting "disqualified person", and

(C) by striking "or less" in paragraph (21)(C).

(c) AMENDMENTS RELATED TO SECTION 612.—Section 4975(f)(11)(B)(i) of the 1986 Code is amended by—

(1) inserting "of the Employee Retirement Income Security Act of 1974" after "section 407(d)(1)", and

(2) inserting "of such Act" after "section 407(d)(2)".

(d) AMENDMENTS RELATED TO SECTION 624.—Section 404(c)(5) of ERISA is amended by striking "participant" each place it appears and inserting "participant or beneficiary". 29 USC 1104.

**SEC. 107. AMENDMENTS RELATED TO TITLE VII.**

(a) AMENDMENTS TO ERISA.—

(1) Section 203(f)(1)(B) of ERISA is amended to read as follows: 29 USC 1053.

"(B) the requirements of section 204(c) or 205(g), or the requirements of subsection (e), with respect to accrued benefits derived from employer contributions,".

(2) Section 204(b)(5) of ERISA is amended— 29 USC 1054.

(A) by striking "clause" in subparagraph (A)(iii) and inserting "subparagraph", and

(B) by inserting "otherwise" before "allowable" in subparagraph (C).

(3) Subclause (II) of section 204(b)(5)(B)(i) of ERISA is amended to read as follows:

"(II) PRESERVATION OF CAPITAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the plan provides that an interest credit (or equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.".

(b) AMENDMENTS TO 1986 CODE.—

(1) Section 411(b)(5) of the 1986 Code is amended— 26 USC 411.

(A) by striking "clause" in subparagraph (A)(iii) and inserting "subparagraph", and

(B) by inserting "otherwise" before "allowable" in subparagraph (C).

(2) Section 411(a)(13)(A) of the 1986 Code is amended—

(A) by striking "paragraph (2)" in clause (i) and inserting "subparagraph (B)",

(B) by striking clause (ii) and inserting the following new clause:

"(ii) the requirements of subsection (a)(11) or (c), or the requirements of section 417(e), with respect to accrued benefits derived from employer contributions,", and

(C) by striking "paragraph (3)" in the matter following clause (ii) and inserting "subparagraph (C)".

(3) Subclause (II) of section 411(b)(5)(B)(i) of the 1986 Code is amended to read as follows:

"(II) PRESERVATION OF CAPITAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the plan provides that an interest credit (or equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.".

(c) AMENDMENTS TO 2006 ACT.—

(1) Section 701(d)(2) of the 2006 Act is amended by striking "204(g)" and inserting "205(g)". 26 USC 411 note.

26 USC 411.

(2) Section 701(e) of the 2006 Act is amended—

(A) by inserting "on or" after "period" in paragraph (3),

(B) in paragraph (4)—

(i) by inserting "the earlier of" after "before" in the matter preceding subparagraph (A), and

(ii) by striking "earlier" and inserting "later" in subparagraph (A),

(C) by inserting "on or" before "after" each place it appears in paragraph (5), and

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

"(6) SPECIAL RULE FOR VESTING REQUIREMENTS.—The requirements of section 203(f)(2) of the Employee Retirement Income Security Act of 1974 and section 411(a)(13)(B) of the Internal Revenue Code of 1986 (as added by this Act)—

"(A) shall not apply to a participant who does not have an hour of service after the effective date of such requirements (as otherwise determined under this subsection); and

Applicability.

"(B) in the case of a plan other than a plan described in paragraph (3) or (4), shall apply to plan years ending on or after June 29, 2005.".

**SEC. 108. AMENDMENTS RELATED TO TITLE VIII.**

(a) AMENDMENTS RELATED TO SECTION 801.—

26 USC 404.

(1) Section 404(o) of the 1986 Code is amended—

(A) by striking "430(g)(2)" in paragraph (2)(A)(ii) and inserting "430(g)(3)", and

(B) by striking "412(f)(4)" in paragraph (4)(B) and inserting "412(d)(3)".

(2) Section 404(a)(7)(A) of the 1986 Code is amended—

(A) by striking the next to last sentence, and

(B) by striking "the plan's funding shortfall determined under section 430" in the last sentence and inserting "the excess (if any) of the plan's funding target (as defined in section 430(d)(1)) over the value of the plan's assets (as determined under section 430(g)(3))".

(b) AMENDMENT RELATED TO SECTION 802.—Section 404(a)(1)(D)(i) of the 1986 Code is amended by striking "431(c)(6)(C)" and inserting "431(c)(6)(D)".

(c) AMENDMENT RELATED TO SECTION 803.—Clause (iii) of section 404(a)(7)(C) of the 1986 Code is amended to read as follows:

"(iii) LIMITATION.—In the case of employer contributions to 1 or more defined contribution plans—

"(I) if such contributions do not exceed 6 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under such plans, this paragraph shall not apply to such contributions or to employer contributions to the defined benefit plans to which this paragraph would otherwise apply by reason of contributions to the defined contribution plans, and

Applicability.

"(II) if such contributions exceed 6 percent of such compensation, this paragraph shall be applied by only taking into account such contributions to the extent of such excess.

For purposes of this clause, amounts carried over from preceding taxable years under subparagraph (B) shall be treated as employer contributions to 1 or more defined contributions plans to the extent attributable to employer contributions to such plans in such preceding taxable years.".

(d) AMENDMENTS RELATED TO SECTION 824.—

(1) Section 408A(c)(3)(B) of the 1986 Code, as in effect after the amendments made by section 824(b)(1) of the 2006 Act, is amended— 26 USC 408A.

(A) by striking the second "an" before "eligible",

(B) by striking "other than a Roth IRA", and

(C) by adding at the end the following new flush sentence:

"This subparagraph shall not apply to a qualified rollover contribution from a Roth IRA or to a qualified rollover contribution from a designated Roth account which is a rollover contribution described in section 402A(c)(3)(A)."

(2) Section 408A(d)(3)(B), as in effect after the amendments made by section 824(b)(2)(B) of the 2006 Act, is amended by striking "(other than a Roth IRA)" and by inserting at the end the following new sentence: "This paragraph shall not apply to a distribution which is a qualified rollover contribution from a Roth IRA or a qualified rollover contribution from a designated Roth account which is a rollover contribution described in section 402A(c)(3)(A)".

(e) AMENDMENT TO SECTION 827.—The first sentence of section 72(t)(2)(G)(iv) of the 1986 Code is amended by inserting "on or" before "before". 26 USC 72.

(f) AMENDMENTS RELATED TO SECTION 829.—

(1) Section 402(c)(11) of the 1986 Code is amended— 26 USC 402.

(A) by inserting "described in paragraph (8)(B)(iii)" after "eligible retirement plan" in subparagraph (A), and

(B) by striking "trust" before "designated beneficiary" in subparagraph (B).

(2)(A) Section 402(f)(2)(A) of the 1986 Code is amended by adding at the end the following new sentence: "Such term shall include any distribution to a designated beneficiary which would be treated as an eligible rollover distribution by reason of subsection (c)(11), or section 403(a)(4)(B), 403(b)(8)(B), or 457(e)(16)(B), if the requirements of subsection (c)(11) were satisfied."

(B) Clause (i) of section 402(c)(11)(A) of the 1986 Code is amended by striking "for purposes of this subsection".

(C) The amendments made by this paragraph shall apply with respect to plan years beginning after December 31, 2009. Effective date. 26 USC 402 note.

(g) AMENDMENT RELATED TO SECTION 832.—Section 415(f) of the 1986 Code is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2). 26 USC 415.

(h) AMENDMENTS RELATED TO SECTION 833.—

(1) Section 408A(c)(3)(C) of the 1986 Code, as added by section 833(c) of the 2006 Act, is redesignated as subparagraph (E).

(2) In the case of taxable years beginning after December 31, 2009, section 408A(c)(3)(E) of the 1986 Code (as redesignated by paragraph (1))—

(A) is redesignated as subparagraph (D), and

(B) is amended by striking "subparagraph (C)(ii)" and inserting "subparagraph (B)(ii)".

(i) AMENDMENTS RELATED TO SECTION 841.—

26 USC 420. (1) Section 420(c)(1)(A) of the 1986 Code is amended by adding at the end the following new sentence: "In the case of a qualified future transfer or collectively bargained transfer to which subsection (f) applies, any assets so transferred may also be used to pay liabilities described in subsection (f)(2)(C)."

(2) Section 420(f)(2) of the 1986 Code is amended by striking "such" before "the applicable" in subparagraph (D)(i)(I).

26 USC 4980. (3) Section 4980(c)(2)(B) of the 1986 Code is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end the following new clause:

"(iii) any transfer described in section 420(f)(2)(B)(ii)(II).".

(j) AMENDMENTS RELATED TO SECTION 845.—

26 USC 402. (1) Subsection (l) of section 402 of the 1986 Code is amended—

(A) in paragraph (1)—

(i) by inserting "maintained by the employer described in paragraph (4)(B)" after "an eligible retirement plan", and

(ii) by striking "of the employee, his spouse, or dependents (as defined in section 152)" ,

(B) in paragraph (4)(D), by—

(i) inserting "(as defined in section 152)" after "dependents", and

(ii) striking "health insurance plan" and inserting "health plan", and

(C) in paragraph (5)(A), by striking "health insurance plan" and inserting "health plan".

(2) Subparagraph (B) of section 402(l)(3) of the 1986 Code is amended by striking "all amounts distributed from all eligible retirement plans were treated as 1 contract for purposes of determining the inclusion of such distribution under section 72" and inserting "all amounts to the credit of the eligible public safety officer in all eligible retirement plans maintained by the employer described in paragraph (4)(B) were distributed during such taxable year and all such plans were treated as 1 contract for purposes of determining under section 72 the aggregate amount which would have been so includible".

(k) AMENDMENTS RELATED TO SECTION 854.—

26 USC 3121. (1) Section 3121(b)(5)(E) of the 1986 Code is amended by striking "or special trial judge".

42 USC 410. (2) Section 210(a)(5)(E) of the Social Security Act is amended by striking "or special trial judge".

Applicability. (l) AMENDMENTS RELATED TO SECTION 856.—Section 856 of the 2006 Act, and the amendments made by such section, are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such sections and amendments had not been enacted.

26 USC 7443B and note.

(m) AMENDMENT RELATED TO SECTION 864.—Section 864(a) of the 2006 Act is amended by striking "Reconciliation".

26 USC 3401 note.

**SEC. 109. AMENDMENTS RELATED TO TITLE IX.**

(a) AMENDMENT RELATED TO SECTION 901.—Section 401(a)(35)(E)(iv) of the 1986 Code is amended to read as follows: 26 USC 401.

"(iv) ONE-PARTICIPANT RETIREMENT PLAN.—For purposes of clause (iii), the term 'one-participant retirement plan' means a retirement plan that on the first day of the plan year—

"(I) covered only one individual (or the individual and the individual's spouse) and the individual (or the individual and the individual's spouse) owned 100 percent of the plan sponsor (whether or not incorporated), or

"(II) covered only one or more partners (or partners and their spouses) in the plan sponsor.".

(b) AMENDMENTS RELATED TO SECTION 902.—

(1) Section 401(k)(13)(D)(i)(I) of the 1986 Code is amended by striking "such compensation as exceeds 1 percent but does not" and inserting "such contributions as exceed 1 percent but do not".

(2) Sections 401(k)(8)(E) and 411(a)(3)(G) of the 1986 Code are each amended— 26 USC 411.

(A) by striking "an erroneous automatic contribution" and inserting "a permissible withdrawal", and

(B) by striking "ERRONEOUS AUTOMATIC CONTRIBUTION" in the heading and inserting "PERMISSIBLE WITHDRAWAL".

(3) Section 402(g)(2)(A)(ii) of the 1986 Code is amended by inserting "through the end of such taxable year" after "such amount". 26 USC 402.

(4) Section 414(w)(3) of the 1986 Code is amended— 26 USC 414.

(A) in subparagraph (B), by inserting "and" after the comma at the end,

(B) by striking subparagraph (C), and

(C) by redesignating subparagraph (D) as subparagraph (C).

(5) Section 414(w)(5) of the 1986 Code is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting a comma, and by adding at the end the following:

"(D) a simplified employee pension the terms of which provide for a salary reduction arrangement described in section 408(k)(6), and

"(E) a simple retirement account (as defined in section 408(p)).".

(6) Section 414(w)(6) of the 1986 Code is amended by inserting "or for purposes of applying the limitation under section 402(g)(1)" before the period at the end.

(c) AMENDMENTS RELATED TO SECTION 903.—

(1) AMENDMENT OF 1986 CODE.—Section 414(x)(1) of the 1986 Code is amended by adding at the end of paragraph (1) the following new sentence: "In the case of a termination of the defined benefit plan and the applicable defined contribution plan forming part of an eligible combined plan, the plan administrator shall terminate each such plan separately."

(2) AMENDMENTS OF ERISA.—Section 210(e) of ERISA is amended— 29 USC 1060.

(A) by adding at the end of paragraph (1) the following new sentence: "In the case of a termination of the defined

benefit plan and the applicable defined contribution plan forming part of an eligible combined plan, the plan administrator shall terminate each such plan separately.", and

(B) by striking paragraph (3) and by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(d) AMENDMENTS RELATED TO SECTION 906.—

26 USC 415.

(1) Section 906(b)(1)(B)(ii) of the 2006 Act is amended by striking "paragraph (1)" and inserting "paragraph (10)".

29 USC 1321.

(2) Section 4021(b) of ERISA is amended by inserting "or" at the end of paragraph (12), by striking "; or" at the end of paragraph (13) and inserting a period, and by striking paragraph (14).

**SEC. 110. AMENDMENTS RELATED TO TITLE X.**

(a) AMENDMENTS TO RAILROAD RETIREMENT ACT.—

(1) Section 14(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231m(b)) is amended by adding at the end the following:

"(3)(A) Payments made pursuant to paragraph (2) of this subsection shall not require that the employee be entitled to an annuity under section 2(a)(1) of this Act: Provided, however, That where an employee is not entitled to such an annuity, payments made pursuant to paragraph (2) may not begin before the month in which the following three conditions are satisfied:

"(i) The employee has completed ten years of service in the railroad industry or, five years of service all of which accrues after December 31, 1995.

"(ii) The spouse or former spouse attains age 62.

"(iii) The employee attains age 62 (or if deceased, would have attained age 62).

"(B) Payments made pursuant to paragraph (2) of this subsection shall terminate upon the death of the spouse or former spouse, unless the court document provides for termination at an earlier date. Notwithstanding the language in a court order, that portion of payments made pursuant to paragraph (2) which represents payments computed pursuant to section 3(f)(2) of this Act shall not be paid after the death of the employee.

"(C) If the employee is not entitled to an annuity under section 2(a)(1) of this Act, payments made pursuant to paragraph (2) of this subsection shall be computed as though the employee were entitled to an annuity.".

(2) Subsection (d) of section 5 of the Railroad Retirement Act (45 U.S.C. 231d) is repealed.

(b) EFFECTIVE DATES.—

45 USC 231m note.

(1) SUBSECTION (a)(1).—The amendment made by subsection (a)(1) shall apply with respect to payments due for months after August 2007. If, prior to the effective date of such amendment, payment pursuant to paragraph (2) of section 14(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231m(b)) was terminated because of the employee's death, payment to the former spouse may be reinstated for months after August 2007.

45 USC 231d note.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall take effect upon the date of the enactment of this Act.

**SEC. 111. AMENDMENTS RELATED TO TITLE XI.**

(a) AMENDMENT RELATED TO SECTION 1104.—Section 1104(d)(1) of the 2006 Act is amended by striking "Act" the first place it appears and inserting "section". 26 USC 457 note.

(b) AMENDMENTS RELATED TO SECTION 1105.—Section 3304(a) of the 1986 Code is amended— 26 USC 3304.

(1) in paragraph (15)—

(A) by redesignating clauses (i) and (ii) of subparagraph (A) as subclauses (I) and (II),

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(C) by striking the semicolon at the end of clause (ii) (as so redesignated) and inserting ", and",

(D) by striking "(15)" and inserting "(15)(A) subject to subparagraph (B),", and

(E) by adding at the end the following:

"(B) the amount of compensation shall not be reduced on account of any payments of governmental or other pensions, retirement or retired pay, annuity, or other similar payments which are not includible in the gross income of the individual for the taxable year in which it was paid because it was part of a rollover distribution;", and

(2) by striking the last sentence.

(c) AMENDMENTS RELATED TO SECTION 1106.—Section 3(37)(G) of ERISA is amended by— 29 USC 1002.

(1) striking "paragraph" each place it appears in clauses (ii), (iii), and (v)(I) and inserting "subparagraph",

(2) striking "subclause (i)(II)" in clause (iii) and inserting "clause (i)(II)",

(3) striking "subparagraph" in clause (v)(II) and inserting "clause", and

(4) by striking "section 101(b)(4)" in clause (v)(III) and inserting "section 101(b)(1)".

**SEC. 112. EFFECTIVE DATE.** 26 USC 72 note.

Except as otherwise provided in this subtitle, the amendments made by this subtitle shall take effect as if included in the provisions of the 2006 Act to which the amendments relate.

## Subtitle B—Other Provisions

**SEC. 121. AMENDMENTS RELATED TO SECTIONS 102 AND 112 OF THE PENSION PROTECTION ACT OF 2006.**

(a) AMENDMENT OF ERISA.—The last sentence of section 303(g)(3)(B) of ERISA is amended to read as follows: "Any such averaging shall be adjusted for contributions, distributions, and expected earnings (as determined by the plan's actuary on the basis of an assumed earnings rate specified by the actuary but not in excess of the third segment rate applicable under subsection (h)(2)(C)(iii)), as specified by the Secretary of the Treasury.". 29 USC 1083.

(b) AMENDMENT OF 1986 CODE.—The last sentence of section 430(g)(3)(B) of the 1986 Code is amended to read as follows: "Any such averaging shall be adjusted for contributions, distributions, and expected earnings (as determined by the plan's actuary on the basis of an assumed earnings rate specified by the actuary 26 USC 430.

but not in excess of the third segment rate applicable under subsection (h)(2)(C)(iii)), as specified by the Secretary.".

26 USC 430 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the 2006 Act to which the amendments relate.

**SEC. 122. MODIFICATION OF INTEREST RATE ASSUMPTION REQUIRED WITH RESPECT TO CERTAIN SMALL EMPLOYER PLANS.**

26 USC 415.

(a) IN GENERAL.—Subparagraph (E) of section 415(b)(2) of the 1986 Code (relating to limitation on certain assumptions) is amended by adding at the end the following new clause:

Applicability.

"(vi) In the case of a plan maintained by an eligible employer (as defined in section 408(p)(2)(C)(i)), clause (ii) shall be applied without regard to subclause (II) thereof.".

26 USC 415 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2008.

**SEC. 123. DETERMINATION OF MARKET RATE OF RETURN FOR GOVERNMENTAL PLANS.**

Applicability.

(a) AMENDMENT OF ADEA.—Section 4(i)(10)(B)(i)(III) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(i)(10)(B)(i)(III)) is amended by adding at the end the following: "In the case of a governmental plan (as defined in the first sentence of section 414(d) of the Internal Revenue Code of 1986), a rate of return or a method of crediting interest established pursuant to any provision of Federal, State, or local law (including any administrative rule or policy adopted in accordance with any such law) shall be treated as a market rate of return for purposes of subclause (I) and a permissible method of crediting interest for purposes of meeting the requirements of subclause (I), except that this sentence shall only apply to a rate of return or method of crediting interest if such rate or method does not violate any other requirement of this Act.".

29 USC 623 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of the Pension Protection Act of 2006 to which such amendment relates.

**SEC. 124. TREATMENT OF CERTAIN REIMBURSEMENTS FROM GOVERNMENTAL PLANS FOR MEDICAL CARE.**

26 USC 105.

(a) IN GENERAL.—Section 105 of the 1986 Code (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:

"(j) SPECIAL RULE FOR CERTAIN GOVERNMENTAL PLANS.—

"(1) IN GENERAL.—For purposes of subsection (b), amounts paid (directly or indirectly) to the taxpayer from an accident or health plan described in paragraph (2) shall not fail to be excluded from gross income solely because such plan, on or before January 1, 2008, provides for reimbursements of health care expenses of a deceased plan participant's beneficiary.

"(2) PLAN DESCRIBED.—An accident or health plan is described in this paragraph if such plan is funded by a medical trust that is established in connection with a public retirement system and that—

"(A) has been authorized by a State legislature, or

"(B) has received a favorable ruling from the Internal Revenue Service that the trust's income is not includible in gross income under section 115.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments before, on, or after the date of the enactment of this Act. 26 USC 105 note.

**SEC. 125. ROLLOVER OF AMOUNTS RECEIVED IN AIRLINE CARRIER BANKRUPTCY TO ROTH IRAS.** 26 USC 408A note.

(a) GENERAL RULE.—If a qualified airline employee receives any airline payment amount and transfers any portion of such amount to a Roth IRA within 180 days of receipt of such amount (or, if later, within 180 days of the date of the enactment of this Act), then such amount (to the extent so transferred) shall be treated as a qualified rollover contribution described in section 408A(e) of the Internal Revenue Code of 1986, and the limitations described in section 408A(c)(3) of such Code shall not apply to any such transfer. Deadlines.

(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) AIRLINE PAYMENT AMOUNT.—

(A) IN GENERAL.—The term "airline payment amount" means any payment of any money or other property which is payable by a commercial passenger airline carrier to a qualified airline employee—

(i) under the approval of an order of a Federal bankruptcy court in a case filed after September 11, 2001, and before January 1, 2007, and

(ii) in respect of the qualified airline employee's interest in a bankruptcy claim against the carrier, any note of the carrier (or amount paid in lieu of a note being issued), or any other fixed obligation of the carrier to pay a lump sum amount.

The amount of such payment shall be determined without regard to any requirement to deduct and withhold tax from such payment under sections 3102(a) and 3402(a).

(B) EXCEPTION.—An airline payment amount shall not include any amount payable on the basis of the carrier's future earnings or profits.

(2) QUALIFIED AIRLINE EMPLOYEE.—The term "qualified airline employee" means an employee or former employee of a commercial passenger airline carrier who was a participant in a defined benefit plan maintained by the carrier which—

(A) is a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust exempt from tax under section 501(a) of such Code, and

(B) was terminated or became subject to the restrictions contained in paragraphs (2) and (3) of section 402(b) of the Pension Protection Act of 2006.

(3) REPORTING REQUIREMENTS.—If a commercial passenger airline carrier pays 1 or more airline payment amounts, the carrier shall, within 90 days of such payment (or, if later, within 90 days of the date of the enactment of this Act), report—

(A) to the Secretary of the Treasury, the names of the qualified airline employees to whom such amounts were paid, and

(B) to the Secretary and to such employees, the years and the amounts of the payments.

Such reports shall be in such form, and contain such additional information, as the Secretary may prescribe.

(c) EFFECTIVE DATE.—This section shall apply to transfers made after the date of the enactment of this Act with respect to airline payment amounts paid before, on, or after such date.

**SEC. 126. DETERMINATION OF ASSET VALUE FOR SPECIAL AIRLINE FUNDING RULES.**

26 USC 430.

(a) IN GENERAL.—Section 402(e)(4)(C) of the 2006 Act is amended to read as follows:

"(C) the value of plan assets shall be determined under sections 303(g)(3) of such Act and 430(g)(3) of such Code.".

26 USC 430 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 2007.

**SEC. 127. MODIFICATION OF PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURNS.**

26 USC 6698.

(a) IN GENERAL.—Section 6698(b)(1) of the 1986 Code is amended by striking "$85" and inserting "$89".

26 USC 6698 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns required to be filed after December 31, 2008.

**SEC. 128. MODIFICATION OF PENALTY FOR FAILURE TO FILE S CORPORATION RETURNS.**

26 USC 6699.

(a) IN GENERAL.—Section 6699(b)(1) of the 1986 Code is amended by striking "$85" and inserting "$89".

26 USC 6699 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns required to be filed after December 31, 2008.

# TITLE II—PENSION PROVISIONS RELATING TO ECONOMIC CRISIS

**SEC. 201. TEMPORARY WAIVER OF REQUIRED MINIMUM DISTRIBUTION RULES FOR CERTAIN RETIREMENT PLANS AND ACCOUNTS.**

26 USC 401.

(a) IN GENERAL.—Section 401(a)(9) of the Internal Revenue Code of 1986 (relating to required distributions) is amended by adding at the end the following new subparagraph:

"(H) TEMPORARY WAIVER OF MINIMUM REQUIRED DISTRIBUTION.—

"(i) IN GENERAL.—The requirements of this paragraph shall not apply for calendar year 2009 to—

"(I) a defined contribution plan which is described in this subsection or in section 403(a) or 403(b),

"(II) a defined contribution plan which is an eligible deferred compensation plan described in section 457(b) but only if such plan is maintained by an employer described in section 457(e)(1)(A), or

"(III) an individual retirement plan.

"(ii) SPECIAL RULES REGARDING WAIVER PERIOD.—For purposes of this paragraph—

"(I) the required beginning date with respect to any individual shall be determined without regard to this subparagraph for purposes of applying this paragraph for calendar years after 2009, and

"(II) if clause (ii) of subparagraph (B) applies, the 5-year period described in such clause shall be determined without regard to calendar year 2009.".

(b) ELIGIBLE ROLLOVER DISTRIBUTIONS.—Section 402(c)(4) of the Internal Revenue Code of 1986 (defining eligible rollover distribution) is amended by adding at the end the following new flush sentence: 26 USC 402.

"If all or any portion of a distribution during 2009 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under section 401(a)(9) had applied during 2009, such distribution shall not be treated as an eligible rollover distribution for purposes of section 401(a)(31) or 3405(c) or subsection (f) of this section.".

(c) EFFECTIVE DATES.— 26 USC 401 note.

(1) IN GENERAL.—The amendments made by this section shall apply for calendar years beginning after December 31, 2008.

(2) PROVISIONS RELATING TO PLAN OR CONTRACT AMENDMENTS.—

(A) IN GENERAL.—If this paragraph applies to any pension plan or contract amendment, such pension plan or contract shall not fail to be treated as being operated in accordance with the terms of the plan during the period described in subparagraph (B)(ii) solely because the plan operates in accordance with this section.

(B) AMENDMENTS TO WHICH PARAGRAPH APPLIES.—

(i) IN GENERAL.—This paragraph shall apply to any amendment to any pension plan or annuity contract which—

(I) is made pursuant to the amendments made by this section, and

(II) is made on or before the last day of the first plan year beginning on or after January 1, 2011.

In the case of a governmental plan, subclause (II) shall be applied by substituting "2012" for "2011".

(ii) CONDITIONS.—This paragraph shall not apply to any amendment unless during the period beginning on the effective date of the amendment and ending on December 31, 2009, the plan or contract is operated as if such plan or contract amendment were in effect.

**SEC. 202. TRANSITION RULE CLARIFICATION.**

(a) AMENDMENT TO ERISA.—Subparagraph (B) of section 303(c)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)(5)) is amended—

(1) by striking clause (iii) and redesignating clause (iv) as clause (iii); and

(2) by striking clause (i) and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (iii), in the case of plan years beginning after 2007

and before 2011, only the applicable percentage of the funding target shall be taken into account under paragraph (3)(A) in determining the funding shortfall for purposes of paragraph (3)(A) and subparagraph (A).".

(b) AMENDMENT TO 1986 CODE.—Subparagraph (B) of section 430(c)(5) of the Internal Revenue Code of 1986 is amended— 26 USC 430.

(1) by striking clause (iii) and redesignating clause (iv) as clause (iii); and

(2) by striking clause (i) and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (iii), in the case of plan years beginning after 2007 and before 2011, only the applicable percentage of the funding target shall be taken into account under paragraph (3)(A) in determining the funding shortfall for purposes of paragraph (3)(A) and subparagraph (A).".

26 USC 430 note. (c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply as if included in the enactment of sections 102 and 112, respectively, of the Pension Protection Act of 2006.

26 USC 436 note.

**SEC. 203. TEMPORARY MODIFICATION OF APPLICATION OF LIMITATION ON BENEFIT ACCRUALS.**

Time period. In the case of the first plan year beginning during the period beginning on October 1, 2008, and ending on September 30, 2009, sections 206(g)(4)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(g)(4)(A)) and 436(e)(1) of the Internal Revenue Code of 1986 shall be applied by substituting the plan's adjusted funding target attainment percentage for the preceding plan year for such percentage for such plan year but only if the adjusted funding target attainment percentage for the preceding plan year is greater.

26 USC 432 note.

**SEC. 204. TEMPORARY DELAY OF DESIGNATION OF MULTIEMPLOYER PLANS AS IN ENDANGERED OR CRITICAL STATUS.**

(a) IN GENERAL.—Notwithstanding the actuarial certification under section 305(b)(3) of the Employee Retirement Income Security Act of 1974 and section 432(b)(3) of the Internal Revenue Code of 1986, if a plan sponsor of a multiemployer plan elects the application of this section, then, for purposes of section 305 of such Act and section 432 of such Code—

Time period. (1) the status of the plan for its first plan year beginning during the period beginning on October 1, 2008, and ending on September 30, 2009, shall be the same as the status of such plan under such sections for the plan year preceding such plan year, and

(2) in the case of a plan which was in endangered or critical status for the preceding plan year described in paragraph (1), the plan shall not be required to update its plan or schedules under section 305(c)(6) of such Act and section 432(c)(6) of such Code, or section 305(e)(3)(B) of such Act and section 432(e)(3)(B) of such Code, whichever is applicable, until the plan year following the first plan year described in paragraph (1).

Certification. If section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 did not apply to the preceding plan year described in paragraph (1), the plan actuary shall make a certification of the status of the plan under section 305(b)(3) of such Act and section 432(b)(3)

of such Code for the preceding plan year in the same manner as if such sections had applied to such preceding plan year.

(b) EXCEPTION FOR PLANS BECOMING CRITICAL DURING ELECTION.—If—

(1) an election was made under subsection (a) with respect to a multiemployer plan, and

(2) such plan has, without regard to such election, been certified by the plan actuary under section 305(b)(3) of such Act and section 432(b)(3) of such Code to be in critical status for the first plan year described in subsection (a)(1),

then such plan shall be treated as a plan in critical status for such plan year for purposes of applying section 4971(g)(1)(A) of such Code, section 302(b)(3) of such Act (without regard to the second sentence thereof), and section 412(b)(3) of such Code (without regard to the second sentence thereof).

(c) ELECTION AND NOTICE.—

(1) ELECTION.—An election under subsection (a) shall—

(A) be made at such time and in such manner as the Secretary of the Treasury or the Secretary's delegate may prescribe and, once made, may be revoked only with the consent of the Secretary, and

(B) if the election is made—

(i) before the date the annual certification is submitted to the Secretary or the Secretary's delegate under section 305(b)(3) of such Act and section 432(b)(3) of such Code, be included with such annual certification, and

(ii) after such date, be submitted to the Secretary or the Secretary's delegate not later than 30 days after the date of the election. Deadline.

(2) NOTICE TO PARTICIPANTS.—

(A) IN GENERAL.—Notwithstanding section 305(b)(3)(D) of such Act and section 431(b)(3)(D) of such Code, if the plan is neither in endangered nor critical status by reason of an election made under subsection (a)—

(i) the plan sponsor of a multiemployer plan shall not be required to provide notice under such sections, and

(ii) the plan sponsor shall provide to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, and the Secretary of Labor a notice of the election and such other information as the Secretary of the Treasury (in consultation with the Secretary of Labor) may require— Deadlines.

(I) if the election is made before the date the annual certification is submitted to the Secretary or the Secretary's delegate under section 305(b)(3) of such Act and section 432(b)(3) of such Code, not later than 30 days after the date of the certification, and

(II) if the election is made after such date, not later than 30 days after the date of the election.

(B) NOTICE OF ENDANGERED STATUS.—Notwithstanding section 305(b)(3)(D) of such Act and section 431(b)(3)(D) of such Code, if the plan is certified to be in critical status for any plan year but is in endangered status by reason

of an election made under subsection (a), the notice provided under such sections shall be the notice which would have been provided if the plan had been certified to be in endangered status.

26 USC 432 note.

**SEC. 205. TEMPORARY EXTENSION OF THE FUNDING IMPROVEMENT AND REHABILITATION PERIODS FOR MULTIEMPLOYER PENSION PLANS IN CRITICAL AND ENDANGERED STATUS FOR 2008 OR 2009.**

(a) IN GENERAL.—If the plan sponsor of a multiemployer plan which is in endangered or critical status for a plan year beginning in 2008 or 2009 (determined after application of section 204) elects the application of this section, then, for purposes of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986—

(1) except as provided in paragraph (2), the plan's funding improvement period or rehabilitation period, whichever is applicable, shall be 13 years rather than 10 years, and

(2) in the case of a plan in seriously endangered status, the plan's funding improvement period shall be 18 years rather than 15 years.

(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) ELECTION.—An election under this section shall be made at such time, and in such manner and form, as (in consultation with the Secretary of Labor) the Secretary of the Treasury or the Secretary's delegate may prescribe.

(2) DEFINITIONS.—Any term which is used in this section which is also used in section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such sections.

(c) EFFECTIVE DATE.—This section shall apply to plan years beginning after December 31, 2007.

Approved December 23, 2008.

LEGISLATIVE HISTORY—H.R. 7327:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Dec. 10, considered and passed House.
Dec. 11, considered and passed Senate.

Public Law 110–459
110th Congress

# An Act

To require the Federal Communications Commission to provide for a short-term extension of the analog television broadcasting authority so that essential public safety announcements and digital television transition information may be provided for a short time during the transition to digital television broadcasting.

Dec. 23, 2008
[S. 3663]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Short-term Analog Flash and Emergency Readiness Act.
47 USC 309 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Short-term Analog Flash and Emergency Readiness Act".

**SEC. 2. COMMISSION ACTION REQUIRED.**

Deadline.

(a) PROGRAM REQUIRED.—Notwithstanding any other provision of law, the Federal Communications Commission shall, not later than January 15, 2009, develop and implement a program to encourage and permit, to the extent technically feasible and subject to such limitations as the Commission finds to be consistent with the public interest and the requirements of this Act, the broadcasting in the analog television service of only the public safety information and digital transition information specified in subsection (b) during the 30-day period beginning on the day after the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 for termination of all licenses for full-power television stations in the analog television service and the cessation of broadcasting by full-power stations in the analog television service.

(b) INFORMATION REQUIRED.—The program required by subsection (a) shall provide for the broadcast of—

(1) emergency information, including critical details regarding the emergency, as broadcast or required to be broadcast by full-power stations in the digital television service;

(2) information, in both English and Spanish, and accessible to persons with disabilities, concerning—

(A) the digital television transition, including the fact that a transition has taken place and that additional action is required to continue receiving television service, including emergency notifications; and

(B) the steps required to enable viewers to receive such emergency information via the digital television service and to convert to receiving digital television service, including a phone number and Internet address by which help with such transition may be obtained in both English and Spanish; and

(3) such other information related to consumer education about the digital television transition or public health and safety or emergencies as the Commission may find to be consistent with the public interest.

**SEC. 3. LIMITATIONS.**

In designing the program required by this Act, the Commission shall—

(1) take into account market-by-market needs, based upon factors such as channel and transmitter availability;

(2) ensure that broadcasting of the program specified in section 2(b) will not cause harmful interference with signals in the digital television service;

(3) not require the analog television service signals broadcast under this Act to be retransmitted or otherwise carried pursuant to section 325(b), 338, 339, 340, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 325(b), 338, 339, 340, 614, or 615);

(4) take into consideration broadcasters' digital power levels and transition and coordination plans that already have been adopted with respect to cable systems and satellite carriers' systems;

(5) prohibit any broadcast of analog television service signals under section 2(b) on any spectrum that is approved or pending approval by the Commission to be used for public safety radio services, including television channels 14-20; and

(6) not include the analog spectrum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television broadcasting pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

**SEC. 4. DEFINITIONS.**

As used in this Act, the term "emergency information" has the meaning such term has under part 79 of the regulations of the Federal Communications Commission (47 C.F.R. part 79).

Approved December 23, 2008.

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LEGISLATIVE HISTORY—S. 3663:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Nov. 20, considered and passed Senate.
Dec. 10, considered and passed House.

Public Law 110–460
110th Congress

# An Act

To make a technical correction in the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

Dec. 23, 2008
[S. 3712]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TECHNICAL CORRECTION IN MENTAL HEALTH PARITY EFFECTIVE DATE.**

Section 512(e)(2)(B) of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (subtitle B of title V of division C of Public Law 110–343) is amended by striking "January 1, 2009" and inserting "January 1, 2010".

*Ante,* p. 3891.

Approved December 23, 2008.

LEGISLATIVE HISTORY—S. 3712:

CONGRESSIONAL RECORD, Vol. 154 (2008):
Nov. 20, considered and passed Senate.
Dec. 10, considered and passed House.

# CONCURRENT RESOLUTIONS

SECOND SESSION, ONE HUNDRED TENTH CONGRESS

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Jan. 22, 2008
[H. Con. Res. 279]

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on the legislative day of Wednesday, January 23, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, January 28, 2008, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Tuesday, January 29, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Wednesday, February 6, 2008, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker or her designee, after consultation with the Minority Leader, shall notify the Members of the House to reassemble at such place and time as she may designate if, in her opinion, the public interest shall warrant it.

Agreed to January 22, 2008.

## JOINT SESSION

Jan. 24, 2008
[H. Con. Res. 282]

*Resolved by the House of Representatives (the Senate concurring),* That the two Houses of Congress assemble in the Hall of the House of Representatives on Monday, January 28, 2008, at 9 p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

Agreed to January 24, 2008.

## NATIONAL ACADEMY OF RECORDING ARTS AND SCIENCES—50TH ANNIVERSARY

Feb. 8, 2008
[H. Con. Res. 273]

Whereas, in 1957, a group of visionary leaders gathered at the famed Brown Derby in Los Angeles to form The National Academy of Recording Arts & Sciences;

Whereas The Recording Academy soon created the GRAMMY Award which is the world's most visible and prestigious award for music;

Whereas the GRAMMY was created as a peer award, given by music makers, for music makers, to honor the highest quality recording music of the year without regard to sales or chart position;

Whereas The Recording Academy expanded its mission beyond recognition of musical excellence to include groundbreaking professional development, cultural enrichment, advocacy, education, and human services programs;

Whereas through its 12 chapters across America, The Recording Academy serves more than 18,000 musicians, singers, songwriters, producers, engineers, and other music professionals;

Whereas, in 1989, The Recording Academy created the GRAMMY Foundation to cultivate the understanding, appreciation, and advancement of the contribution of recorded music to American culture, from the artistic and technical legends of the past to the still unimagined musical breakthroughs of future generations of music professionals;

Whereas that same year, The Recording Academy created MusiCares, to provide a safety net of critical assistance for music people in times of need;

Whereas the GRAMMYs on the Hill Initiative, based in Washington, DC, works to advance the rights of the music community through advocacy, education, and dialogue; and

Whereas through this initiative, The Recording Academy has become a leading advocate for music makers: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress congratulates The Recording Academy during its 50th GRAMMY celebration for its important work in improving the environment for music and music makers.

Agreed to February 8, 2008.

Feb. 14, 2008
[H. Con. Res. 293]

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on the legislative day of Thursday, February 14, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Friday, February 15, 2008, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; that when the House adjourns on the legislative day of Friday, February 15, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 10 a.m. on Tuesday, February 19, 2008, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; that when the House adjourns on the legislative day of Tuesday, February 19, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until noon on Thursday, February 21, 2008, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; that when the House adjourns on the legislative day of Thursday, February 21, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, February 25, 2008, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Friday, February 15, 2008, through Friday, February 22, 2008,

on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, February 25, 2008, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to February 14, 2008.

## JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES—ESTABLISHMENT

Feb. 28, 2008
[S. Con. Res. 67]

*Resolved by the Senate (the House of Representatives concurring),*

**SECTION 1. ESTABLISHMENT OF JOINT COMMITTEE.**

There is established a Joint Congressional Committee on Inaugural Ceremonies (in this resolution referred to as the "joint committee"), consisting of 3 Senators and 3 Members of the House of Representatives appointed by the President of the Senate and the Speaker of the House of Representatives, respectively. The joint committee is authorized to make the necessary arrangements for the inauguration of the President-elect and the Vice President-elect of the United States.

**SEC. 2. SUPPORT OF THE JOINT COMMITTEE.**

The joint committee—

(1) is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between the joint committee and the heads of the departments and agencies, in connection with the inaugural proceedings and ceremonies; and

(2) may accept gifts and donations of goods and services to carry out its responsibilities.

Agreed to February 28, 2008.

Feb. 28, 2008
[S. Con. Res. 68]

## PRESIDENTIAL INAUGURATION—CAPITOL ROTUNDA AUTHORIZATION

*Resolved by the Senate (the House of Representatives concurring),*

**SECTION 1. USE OF THE ROTUNDA OF THE CAPITOL BY THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES.**

The rotunda of the United States Capitol is authorized to be used on January 20, 2009, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

Agreed to February 28, 2008.

Mar. 5, 2008
[H. Con. Res. 289]

## NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE—99TH ANNIVERSARY RECOGNITION

Whereas the National Association for the Advancement of Colored People (NAACP), originally known as the National Negro Committee, was founded in New York City on February 12, 1909, the centennial of Abraham Lincoln's birth, by a multiracial group of activists who answered 'The Call' for a national conference to discuss the civil and political rights of African-Americans;

Whereas the National Association for the Advancement of Colored People was founded by a distinguished group of leaders in the struggle for civil and political liberty, including Ida Wells-Barnett, W.E.B. DuBois, Henry Moscowitz, Mary White Ovington, Oswald Garrison Villard, and William English Walling;

Whereas the NAACP is the oldest and largest civil rights organization in the United States;

Whereas the mission of the NAACP is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination;

Whereas the NAACP is committed to achieving its goals through nonviolence;

Whereas the NAACP advances its mission through reliance upon the press, the petition, the ballot, and the courts, and has been persistent in the use of legal and moral persuasion, even in the face of overt and violent racial hostility;

Whereas the NAACP has used political pressure, marches, demonstrations, and effective lobbying to serve as the voice, as well as the shield, for minority Americans;

Whereas after years of fighting segregation in public schools, the NAACP, under the leadership of Special Counsel Thurgood Marshall, won one of its greatest legal victories in the Supreme Court's 1954 decision in Brown v. Board of Education;

Whereas in 1955, NAACP member Rosa Parks was arrested and fined for refusing to give up her seat on a segregated bus in Montgomery, Alabama—an act of courage that would serve as the catalyst for the largest grassroots civil rights movement in the history of the United States;

Whereas the NAACP was prominent in lobbying for the passage of the Civil Rights Acts of 1957, 1960, and 1964, the Voting Rights Act of 1965, the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, and the Fair Housing Act, laws which ensured Government protection for legal victories achieved;

Whereas in 2005, the National Association for the Advancement of Colored People launched the Disaster Relief Fund to help survivors in Louisiana, Mississippi, Texas, Florida, and Alabama to rebuild their lives; and

Whereas in 2007, the NAACP was prominent in lobbying for the passage of H. Res. 826, "The Noose Intimidation Bill", which expresses "that the hanging of nooses is a horrible act when used for the purpose of intimidation and which under certain circumstances can be a criminal act that should be thoroughly investigated by Federal law enforcement authorities and that any criminal violations should be vigorously prosecuted": Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress—

(1) recognizes the 99th anniversary of the historic founding of the National Association for the Advancement of Colored People; and

(2) honors and praises the National Association for the Advancement of Colored People on the occasion of its anniversary for its work to ensure the political, educational, social, and economic equality of all persons.

Agreed to March 5, 2008

## ENROLLMENT CORRECTIONS—H.R. 1593

Mar. 11, 2008
[H. Con. Res. 270]

*Resolved by the House of Representatives (the Senate concurring),* That, in the enrollment of the bill H.R. 1593, the Clerk of the House of Representatives shall make the following corrections (with page and line numbers referring to the page and line numbers of the bill as engrossed in the House):

(1) Page 17, strike line 21 through page 18, line 23 and insert the following:

"(1) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of a grant received under this section may not exceed 50 percent of the project funded under such grant.

"(B) IN-KIND CONTRIBUTIONS.—

"(i) IN GENERAL.—Subject to clause (ii), the recipient of a grant under this section may meet the matching requirement under subparagraph (A) by

making in-kind contributions of goods or services that are directly related to the purpose for which such grant was awarded.

"(ii) MAXIMUM PERCENTAGE.—Not more than 50 percent of the amount provided by a recipient of a grant under this section to meet the matching requirement under subparagraph (A) may be provided through in-kind contributions under clause (i).".

(2) Page 37, strike line 22 through page 38, line 4 and insert the following:

"(e) FEDERAL SHARE.—

"(1) MATCHING REQUIREMENT.—The Federal share of a grant under this section may not exceed 50 percent of the program funded under such grant.

"(2) IN-KIND CONTRIBUTIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the recipient of a grant under this section may meet the matching requirement under paragraph (1) by making in-kind contributions of goods or services that are directly related to the purpose for which such grant was awarded.

"(B) MAXIMUM PERCENTAGE.—Not more than 50 percent of the amount provided by a recipient of a grant under this section to meet the matching requirement under paragraph (1) may be provided through in-kind contributions under subparagraph (A).

"(3) SUPPLEMENT NOT SUPPLANT.—Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for the activities funded under this section.".

(3) Page 43, strike lines 19 through 24 and insert the following:

**"SEC. 2904. FEDERAL SHARE.**

"(a) MATCHING REQUIREMENT.—The Federal share of a grant under this part may not exceed 50 percent of the total costs of the qualified drug treatment program funded under such grant.

"(b) IN-KIND CONTRIBUTIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the recipient of a grant under this part may meet the matching requirement under subsection (a) by making in-kind contributions of goods or services that are directly related to the purpose for which such grant was awarded.

"(2) MAXIMUM PERCENTAGE.—Not more than 50 percent of the amount provided by a recipient of a grant under this part to meet the matching requirement under subsection (a) may be provided through in-kind contributions under paragraph (1).".

(4) Page 80, after line 4 insert the following:

(C) WAIVER.—The Attorney General is authorized to waive the requirements of section 3624 of title 18, United States Code, as necessary to provide for the release of

some or all eligible elderly offenders from the Bureau of Prisons facility to home detention for the purposes of the pilot program under this subsection.

(5) Page 80, line 18, strike "a Bureau of Prisons facility" and insert "at least one Bureau of Prisons facility".

(6) Page 81, strike line 11 through page 83, line 12 and insert the following:

(A) ELIGIBLE ELDERLY OFFENDER.—The term "eligible elderly offender" means an offender in the custody of the Bureau of Prisons—

(i) who is not less than 65 years of age;

(ii) who is serving a term of imprisonment that is not life imprisonment based on conviction for an offense or offenses that do not include any crime of violence (as defined in section 16 of title 18, United States Code), sex offense (as defined in section 111(5) of the Sex Offender Registration and Notification Act), offense described in section 2332b(g)(5)(B) of title 18, United States Code, or offense under chapter 37 of title 18, United States Code, and has served the greater of 10 years or 75 percent of the term of imprisonment to which the offender was sentenced;

(iii) who has not been convicted in the past of any Federal or State crime of violence, sex offense, or other offense described in clause (ii);

(iv) who has not been determined by the Bureau of Prisons, on the basis of information the Bureau uses to make custody classifications, and in the sole discretion of the Bureau, to have a history of violence, or of engaging in conduct constituting a sex offense or other offense described in clause (ii);

(v) who has not escaped, or attempted to escape, from a Bureau of Prisons institution;

(vi) with respect to whom the Bureau of Prisons has determined that release to home detention under this section will result in a substantial net reduction of costs to the Federal Government; and

(vii) who has been determined by the Bureau of Prisons to be at no substantial risk of engaging in criminal conduct or of endangering any person or the public if released to home detention.

(7) Page 84, line 25, strike "section 231" and insert "this section".

Agreed to March 11, 2008.

## DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST COMMEMORATION CEREMONY—CAPITOL ROTUNDA AUTHORIZATION

Mar. 11, 2008
[H. Con. Res. 306]

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. USE OF ROTUNDA FOR HOLOCAUST DAYS OF REMEMBRANCE CEREMONY.**

The Rotunda of the Capitol is authorized to be used on May 1, 2008, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

Agreed to March 11, 2008.

## ARMED FORCES SERVING IN AFGHANISTAN AND IRAQ CEREMONY—CAPITOL ROTUNDA AUTHORIZATION

Mar. 11, 2008
[H. Con. Res. 313]

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. USE OF ROTUNDA FOR CEREMONY HONORING THOSE SERVING IN AFGHANISTAN AND IRAQ.**

(a) USE OF ROTUNDA.—The Rotunda of the Capitol is authorized to be used on March 13, 2008, for a ceremony to honor the 5 years of service and sacrifice of our troops and their families in the war in Iraq and to remember those who are serving our Nation in Afghanistan and throughout the world.

(b) PREPARATIONS.—Physical preparations for the ceremony referred to in subsection (a) shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

Agreed to March 11, 2008.

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Mar. 14, 2008
[H. Con. Res. 316]

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on the legislative day of Thursday, March 13, 2008, or Friday, March 14, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, March 31, 2008, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, March 13, 2008, through Friday, March 28, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader

or his designee, it stand recessed or adjourned until noon on Monday, March 31, 2008, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to March 14, 2008.

## MICHAEL ELLIS DEBAKEY, CONGRESSIONAL GOLD MEDAL CEREMONY—CAPITOL ROTUNDA AUTHORIZATION

Mar. 14, 2008
[S. Con. Res. 71]

*Resolved by the Senate (the House of Representatives concurring),*

**SECTION 1. USE OF THE ROTUNDA OF THE CAPITOL FOR THE PRESENTATION OF THE CONGRESSIONAL GOLD MEDAL.**

The rotunda of the United States Capitol is authorized to be used on April 23, 2008, for the presentation of the Congressional Gold Medal to Michael Ellis DeBakey, M.D.. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

Agreed to March 14, 2008.

## ISRAEL—60TH ANNIVERSARY

Apr. 24, 2008
[H. Con. Res. 322]

Whereas on November 29, 1947, the United Nations General Assembly voted to partition the British Mandate of Palestine and create a Jewish state;

Whereas on May 14, 1948, the people of Israel proclaimed the establishment of the sovereign and independent State of Israel, and the United States Government established full diplomatic relations with Israel;

Whereas the desire of the Jewish people to establish an independent modern State of Israel is an outgrowth of the existence of the historic kingdom of Israel established in the Land of Israel 3,000 years ago, with the city of Jerusalem as its capital;

Whereas for over 2,000 years, there has been continuous Jewish presence and residence in the land comprising the modern State of Israel;

Whereas the establishment of the modern State of Israel as a homeland for the Jewish people followed the slaughter of more than 6,000,000 European Jews during the Holocaust;

Whereas since its establishment 60 years ago, the modern State of Israel has rebuilt a nation, forged a new and dynamic democratic society, and created a thriving economic, political, cultural, and intellectual life despite the heavy costs of war, terrorism, and unjustified diplomatic and economic boycotts against the people of Israel;

Whereas the people of Israel have established a vibrant, pluralistic, democratic political system, including freedom of speech, association, and religion; a vigorously free press; free, fair and open elections; the rule of law; a fully independent judiciary; and other democratic principles and practices;

Whereas Israel has developed some of the leading universities in the world, and 8 Israeli citizens have been awarded the Nobel Prize;

Whereas Israel has developed an advanced, entrepreneurial economy, is among the world's leaders in the high-tech industry, and is at the forefront of research and development in the field of renewable energy sources;

Whereas Israel regularly sends humanitarian aid, search-and-rescue teams, mobile hospitals, and other emergency supplies, to help victims of disasters around the world, including the 1994 Rwandan civil war, the 1998 bombing of the United States Embassy in Kenya, the 1999 earthquakes in Turkey, the 2004 Indian Ocean tsunami, the 2005 hurricanes along the southern coast of the United States, and the 2007 fires in Greece;

Whereas Israel has absorbed millions of Jews from countries throughout the world and fully integrated them into Israeli society;

Whereas Israel has bravely defended itself from repeated terrorist and military attacks since its independence;

Whereas successive leaders of Israel have sought to achieve peace with Israel's Arab neighbors;

Whereas Israel has established peaceful bilateral relations with neighboring Egypt and Jordan and has made its desire to establish peaceful relations with all Arab states abundantly clear;

Whereas for 6 decades, the United States and Israel have maintained a special relationship based on mutually shared democratic values, common strategic interests, and moral bonds of friendship and mutual respect;

Whereas the American people feel a strong affinity for the Israeli people based on common values and shared cultural heritage; and

Whereas the United States continues to regard Israel as a strong and trusted ally and an important strategic partner: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress—

(1) recognizes the historic significance of the 60th anniversary of the reestablishment of the sovereign and independent State of Israel as a homeland for the Jewish people;

(2) reaffirms its enduring support for Israel as Israel pursues peace with its neighbors;

(3) reaffirms its support for Israel's right to defend itself against threats to its security and existence;

(4) commends the people of Israel for their remarkable achievements in building a new state and a pluralistic, democratic society in the face of terrorism, as well as hostility, ostracism, and belligerence from many of their neighbors;

(5) reaffirms the bonds of friendship and cooperation which have existed between the United States and Israel for the past 60 years, and commits to strengthening those bonds; and

(6) extends the warmest congratulations and best wishes to the State of Israel and the Israeli people for a peaceful, prosperous, and successful future.

Agreed to April 24, 2008.

## NATIONAL CHILD CARE WORTHY WAGE DAY—SUPPORT

May 2, 2008
[H. Con. Res. 112]

Whereas approximately 63 percent of the Nation's children under 5 are in nonparental care during part or all of the day while their parents work;

Whereas the early care and education industry employs more than 2,300,000 workers;

Whereas the average salary of early care and education workers is $18,180 per year, and only ⅓ have health insurance and even fewer have a pension plan;

Whereas the quality of early care and education programs is directly linked to the quality of early childhood educators;

Whereas the turnover rate of early childhood program staff is roughly 30 percent per year, and low wages and lack of benefits, among other factors, make it difficult to retain high quality educators who have the consistent, caring relationships with young children that are important to children's development;

Whereas the compensation of early childhood program staff should be commensurate with the importance of the job of helping the young children of the Nation develop their social, emotional, physical, and cognitive skills, and to help them be ready for school;

Whereas providing adequate compensation to early childhood program staff should be a priority, and resources may be allocated to improve the compensation of early childhood educators to ensure that quality care and education are accessible for all families;

Whereas additional training and education for the early care and education workforce is critical to ensuring high-quality early learning environments;

Whereas child care workers should receive compensation commensurate with such training and experience; and

Whereas the Center for the Child Care Workforce, a project of the American Federation of Teachers Educational Foundation,

with support by the National Association for the Education of Young Children and other early childhood organizations, recognizes May 1 as National Child Care Worthy Wage Day: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress supports the goals and ideas of National Child Care Worthy Wage Day, and urges public officials and the general public to honor early childhood care and education staff and programs in their communities and to work together to resolve the early childhood care and education staff compensation crisis.

Agreed to May 2, 2008.

May 2, 2008
[H. Con. Res. 340]

## ENROLLMENT CORRECTIONS—H.R. 493

*Resolved by the House of Representatives (the Senate concurring),* That in the enrollment of the bill H.R. 493 (to prohibit discrimination on the basis of genetic information with respect to health insurance and employment) the Clerk of the House of Representatives shall make the following technical corrections:

(1) In section 104(d)—

(A) in paragraph (2), strike "June 30, 2008" and insert "October 31, 2008";

(B) in paragraph (3), strike "October 1, 2008" and insert "July 1, 2009"; and

(C) in paragraph (4)—

(i) in subparagraph (A)(ii), strike "October 1, 2008" and insert "July 1, 2009"; and

(ii) in subparagraph (B)(ii)—

(I) strike "in 2008" and insert "in 2009"; and

(II) strike "July 1, 2008" and insert "July 1, 2009".

(2) In section 202(b)(6), strike "law enforcement" and all that follows through "and requests" and insert "law enforcement purposes as a forensic laboratory or for purposes of human remains identification, and requests".

(3) In section 205(b)(6), strike "law enforcement" and all that follows through "and requests" and insert "law enforcement purposes as a forensic laboratory or for purposes of human remains identification, and requests".

Agreed to May 2, 2008.

## NATIONAL PEACE OFFICERS' MEMORIAL SERVICE—CAPITOL GROUNDS AUTHORIZATION

May 7, 2008
[H. Con. Res. 308]

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE.**

(a) IN GENERAL.—The Grand Lodge of the Fraternal Order of Police and its auxiliary (in this resolution referred to as the "sponsor") shall be permitted to sponsor a public event, the 27th annual National Peace Officers' Memorial Service (in this resolution referred to as the "event"), on the Capitol Grounds, in order to honor the law enforcement officers who died in the line of duty during 2007.

(b) DATE OF EVENT.—The event shall be held on May 15, 2008, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate jointly designate.

**SEC. 2. TERMS AND CONDITIONS.**

(a) IN GENERAL.—Under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board, the event shall be—

(1) free of admission charge and open to the public; and

(2) arranged not to interfere with the needs of Congress.

(b) EXPENSES AND LIABILITIES.—The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

**SEC. 3. EVENT PREPARATIONS.**

Subject to the approval of the Architect of the Capitol, the sponsor is authorized to erect upon the Capitol Grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event.

**SEC. 4. ENFORCEMENT OF RESTRICTIONS.**

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, in connection with the event.

Agreed to May 7, 2008.

## LYNDON BAINES JOHNSON—100TH BIRTHDAY ANNIVERSARY RECOGNITION

May 20, 2008
[H. Con. Res. 354]

Whereas August 27, 2008, marks the 100th birthday of Lyndon Baines Johnson;

Whereas Lyndon B. Johnson was born in Stonewall, Texas, to Samuel Ealy Johnson, Jr., a Texas representative, and Rebekah Baines, on August 27, 1908;

Whereas upon graduation, Lyndon B. Johnson enrolled in Southwest Texas State Teachers' College, where he vigorously participated in debate, campus politics, and edited the school newspaper;

Whereas Lyndon B. Johnson had several teaching positions throughout Texas, including at the Welhausen School in La Salle County, at Pearsall High School, and as a public speaking teacher at Sam Houston High School in Houston;

Whereas Lyndon B. Johnson went to work as a congressional assistant at the age of 23;

Whereas Lyndon B. Johnson served the 10th Congressional District in the Texas House of Representatives from April 10, 1937, to January 3, 1949;

Whereas Lyndon B. Johnson became a commissioned officer in the Navy Reserves in December 1941;

Whereas during World War II, Lyndon B. Johnson was recommended by Undersecretary of the Navy James Forrestal to President Franklin D. Roosevelt, who assigned Johnson to a three-man survey team in the southwest Pacific;

Whereas Lyndon B. Johnson was conferred the Silver Star, which is the military's third highest medal, by General Douglas MacArthur;

Whereas in 1948, Lyndon B. Johnson was elected to the Senate at the age of 41;

Whereas in 1951, Lyndon B. Johnson was elected Senate minority leader at the age of 44 and elected Senate majority leader at the age of 46, the youngest in our history;

Whereas Lyndon B. Johnson was elected Vice President at the age of 52, becoming president of the Senate;

Whereas Lyndon B. Johnson's congressional career and his leadership spanned the stock market crash, the Great Depression, World War II, the nuclear age, the Cold War, the space age, and the civil rights movement, some of the most turbulent years in American history;

Whereas Vice President Lyndon B. Johnson was appointed as head of the President's Committee on Equal Employment Opportunities, through which he worked with African Americans and other minorities;

Whereas an hour and 38 minutes after the assassination of President Kennedy, Lyndon B. Johnson was sworn in as President aboard Air Force One;

Whereas Lyndon B. Johnson was a bold leader;

Whereas as President, Lyndon B. Johnson believed that government could guarantee human rights, could lift people out of poverty, and provide access to quality education and health care throughout the Nation;

Whereas Lyndon B. Johnson was an idealist, a force of nature, and had the energy and determination and leadership to turn those dreams into reality;

Whereas Lyndon B. Johnson was a "can-do" President because no matter how difficult and daunting the task at hand, he never rested until it was completed;

Whereas in 1964, the Johnson Administration passed the landmark Civil Rights Act of 1964, which banned de jure segregation in the Nation's schools and public places;

Whereas the Johnson Administration passed the Voting Rights Act of 1965, which outlawed obstructive provisions that were rendered impractical and impartial to potential voters;

Whereas in January of 1965, the Johnson Administration introduced the Great Society, which included provisions for aid to education, Medicare, urban renewal, beautification, conservation, the development of depressed regions, a wide-scale fight against poverty, and the removal of obstacles to the right to vote;

Whereas in 1967, President Johnson nominated Thurgood Marshall as the first African-American to serve on the Supreme Court;

Whereas during Johnson's presidency, the National Aeronautics and Space Administration made spectacular steps forward in space exploration when 3 astronauts successfully orbited the moon in December 1968;

Whereas Lyndon B. Johnson died at 4:33 p.m. on January 22, 1973, at his ranch in Johnson City, Texas, at the age of 64;

Whereas Lyndon B. Johnson was posthumously awarded the Presidential Medal of Freedom in 1980;

Whereas Lyndon B. Johnson is honored, venerated, and revered for his drive to establish equality for all Americans, illustrated in the momentous legislation passed during his Administration;

Whereas Congress recognizes the 100th birthday of Lyndon B. Johnson, the 36th president;

Whereas Congress extols the contributions of Lyndon B. Johnson to the United States and his commitment to the War on Poverty through the Economic Opportunity Act;

Whereas Congress commends Lyndon B. Johnson for establishing the Medicare Act of 1965 that has helped millions of Americans; and

Whereas Congress requests that the President issue a proclamation calling upon the American people to observe the Centennial Celebration of Lyndon B. Johnson and his "can-do spirit" with appropriate ceremonies, programs, and activities: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress—

(1) reaffirms its support for the Civil Rights Act of 1964 and the Voting Rights Act of 1965;

(2) recognizes the significance of the Voting Rights Act of 1965; and

(3) honors Lyndon B. Johnson for his work as a civil rights enforcer.

Agreed to May 20, 2008

June 3, 2008
[H. Con. Res. 309]

# 2008 DISTRICT OF COLUMBIA SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN—CAPITOL GROUNDS AUTHORIZATION

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. AUTHORIZATION OF USE OF CAPITOL GROUNDS FOR D.C. SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN.**

On June 6, 2008, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate, the 2008 District of Columbia Special Olympics Law Enforcement Torch Run (in this resolution referred to as the "event") may be run through the Capitol Grounds as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics summer games.

**SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.**

The Capitol Police Board shall take such actions as may be necessary to carry out the event.

**SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.**

The Architect of the Capitol may prescribe conditions for physical preparations for the event.

**SEC. 4. ENFORCEMENT OF RESTRICTIONS.**

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, in connection with the event.

Agreed to June 3, 2008.

June 5, 2008
[H. Con. Res. 311]

# SOAP BOX DERBY RACES—CAPITOL GROUNDS AUTHORIZATION

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. AUTHORIZATION OF SOAP BOX DERBY RACES ON CAPITOL GROUNDS.**

The Greater Washington Soap Box Derby Association (in this resolution referred to as the "Association") shall be permitted to sponsor a public event, soap box derby races, on the Capitol Grounds on June 21, 2008, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate.

**SEC. 2. CONDITIONS.**

The event to be carried out under this resolution shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board; except

that the Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

**SEC. 3. STRUCTURES AND EQUIPMENT.**

For the purposes of this resolution, the Association is authorized to erect upon the Capitol Grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment as may be required for the event to be carried out under this resolution.

**SEC. 4. ADDITIONAL ARRANGEMENTS.**

The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event under this resolution.

**SEC. 5. ENFORCEMENT OF RESTRICTIONS.**

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, with respect to the event to be carried out under this resolution.

Agreed to June 5, 2008.

# FEDERAL BUDGET—FISCAL YEAR 2009

June 5, 2008
[S. Con. Res. 70]

Setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013.

*Resolved by the Senate (the House of Representatives concurring),*

**SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2009.**

(a) DECLARATION.—Congress declares that this resolution is the concurrent resolution on the budget for fiscal year 2009 and that this resolution sets forth the appropriate budgetary levels for fiscal year 2008 and for fiscal years 2010 through 2013.

(b) TABLE OF CONTENTS.—

Sec. 1. Concurrent resolution on the budget for fiscal year 2009.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.
Sec. 102. Social Security.
Sec. 103. Postal Service discretionary administrative expenses.
Sec. 104. Major functional categories.

TITLE II—RESERVE FUNDS

Subtitle A—House Reserve Funds

Sec. 201. Deficit-neutral reserve fund for SCHIP legislation.
Sec. 202. Deficit-neutral reserve fund for America's veterans and servicemembers.
Sec. 203. Deficit-neutral reserve fund for education benefits for servicemembers, veterans, and their families.
Sec. 204. Deficit-neutral reserve fund for infrastructure investment.
Sec. 205. Deficit-neutral reserve fund for renewable energy and energy efficiency.

Sec. 206. Deficit-neutral reserve fund for middle-income tax relief and economic equity.
Sec. 207. Deficit-neutral reserve fund for reform of the alternative minimum tax.
Sec. 208. Deficit-neutral reserve fund for higher education.
Sec. 209. Deficit-neutral reserve fund for affordable housing.
Sec. 210. Deficit-neutral reserve fund for Medicare improvements.
Sec. 211. Deficit-neutral reserve fund for health care quality, effectiveness, and efficiency.
Sec. 212. Deficit-neutral reserve fund for Medicaid and other programs.
Sec. 213. Deficit-neutral reserve fund for a 9/11 health program.
Sec. 214. Deficit-neutral reserve fund for trade adjustment assistance and unemployment insurance modernization.
Sec. 215. Deficit-neutral reserve fund for county payments legislation.
Sec. 216. Deficit-neutral reserve fund for San Joaquin River restoration and Navajo Nation water rights settlements.
Sec. 217. Deficit-neutral reserve fund for the National Park Centennial Fund.
Sec. 218. Deficit-neutral reserve fund for child support enforcement.
Sec. 219. Deficit-neutral reserve fund for children and families.
Sec. 220. Reserve fund adjustment for revenue measures in the House.

Subtitle B—Senate Reserve Funds

Sec. 221. Deficit-neutral reserve fund to strengthen and stimulate the American economy and provide economic relief to American families.
Sec. 222. Deficit-neutral reserve fund for improving education.
Sec. 223. Deficit-neutral reserve fund for investments in America's infrastructure.
Sec. 224. Deficit-neutral reserve fund to invest in clean energy, preserve the environment, and provide for certain settlements.
Sec. 225. Deficit-neutral reserve fund for America's veterans and servicemembers.
Sec. 226. Deficit-neutral reserve fund for education benefits for servicemembers, veterans, and their families.
Sec. 227. Deficit-neutral reserve fund to improve America's health.
Sec. 228. Deficit-neutral reserve fund for reform of the alternative minimum tax.
Sec. 229. Deficit-neutral reserve fund for judicial pay and judgeships.
Sec. 230. Deficit-neutral reserve fund for immigration enforcement and reform.
Sec. 231. Deficit-neutral reserve fund for science parks.
Sec. 232. Deficit-neutral reserve fund to terminate deductions from mineral revenue payments to States.
Sec. 233. Deficit-reduction reserve fund for increased use of recovery audits.
Sec. 234. Deficit-neutral reserve fund for food safety.
Sec. 235. Deficit-neutral reserve fund for demonstration project regarding Medicaid coverage of low-income HIV-infected individuals.
Sec. 236. Deficit-neutral reserve fund for reducing the income threshold for the refundable child tax credit, and other selected tax relief policies.
Sec. 237. Deficit-neutral reserve fund for a 9/11 health program.

TITLE III—BUDGET ENFORCEMENT

Subtitle A—House Enforcement Provisions

Sec. 301. Program integrity initiatives and other adjustments.
Sec. 302. Point of order against advance appropriations.

Subtitle B—Senate Enforcement Provisions

Sec. 311. Senate point of order against legislation increasing long-term deficits.
Sec. 312. Discretionary spending limits, program integrity initiatives, and other adjustments.
Sec. 313. Point of order against advance appropriations.
Sec. 314. Senate point of order against provisions of appropriations legislation that constitute changes in mandatory programs with net costs.
Sec. 315. Senate point of order against legislation increasing short-term deficit.

Subtitle C—Other Provisions

Sec. 321. Oversight of government performance.
Sec. 322. Budgetary treatment of certain discretionary administrative expenses.
Sec. 323. Application and effect of changes in allocations and aggregates.
Sec. 324. Adjustments to reflect changes in concepts and definitions.
Sec. 325. Exercise of rulemaking powers.

TITLE IV—POLICY

Sec. 401. Policy of the House on middle-income tax relief.
Sec. 402. Policy on defense priorities.

TITLE V—SENSE OF THE SENATE AND CONGRESS

Subtitle A—Sense of the Senate

Sec. 501. Sense of the Senate regarding Medicaid administrative regulations.

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Sec. 511. Sense of the Congress on servicemembers' and veterans' health care and other priorities.
Sec. 512. Sense of the Congress on homeland security.
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Sec. 514. Sense of the Congress regarding waste, fraud, and abuse.
Sec. 515. Sense of the Congress regarding extension of the statutory pay-as-you-go rule.
Sec. 516. Sense of the Congress on long-term budgeting.
Sec. 517. Sense of the Congress regarding affordable health coverage.
Sec. 518. Sense of the Congress regarding pay parity.
Sec. 519. Sense of the Congress regarding subprime lending and foreclosures.
Sec. 520. Sense of the Congress regarding the need to maintain and build upon efforts to fight hunger.
Sec. 521. Sense of the Congress regarding the importance of child support enforcement.
Sec. 522. Sense of the Congress on the Innovation Agenda and America COMPETES Act.

# TITLE I—RECOMMENDED LEVELS AND AMOUNTS

**SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.**

The following budgetary levels are appropriate for each of fiscal years 2008 through 2013:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2008: $1,875,392,000,000.
Fiscal year 2009: $2,029,612,000,000.
Fiscal year 2010: $2,204,652,000,000.
Fiscal year 2011: $2,413,249,000,000.
Fiscal year 2012: $2,506,049,000,000.
Fiscal year 2013: $2,626,582,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 2008: –$4,000,000,000.
Fiscal year 2009: –$67,755,000,000.
Fiscal year 2010: $21,270,000,000.
Fiscal year 2011: –$14,824,000,000.
Fiscal year 2012: –$151,572,000,000.
Fiscal year 2013: –$123,689,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2008: $2,563,262,000,000.
Fiscal year 2009: $2,530,703,000,000.
Fiscal year 2010: $2,562,856,000,000.
Fiscal year 2011: $2,693,843,000,000.
Fiscal year 2012: $2,736,865,000,000.
Fiscal year 2013: $2,868,813,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2008: $2,465,711,000,000.
Fiscal year 2009: $2,565,903,000,000.
Fiscal year 2010: $2,621,939,000,000.
Fiscal year 2011: $2,712,795,000,000.

Fiscal year 2012: $2,722,056,000,000.
Fiscal year 2013: $2,860,225,000,000.

(4) DEFICITS (ON-BUDGET).—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:

Fiscal year 2008: $590,319,000,000.
Fiscal year 2009: $536,291,000,000.
Fiscal year 2010: $417,287,000,000.
Fiscal year 2011: $299,546,000,000.
Fiscal year 2012: $216,007,000,000.
Fiscal year 2013: $233,643,000,000.

(5) DEBT SUBJECT TO LIMIT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2008: $9,575,000,000,000.
Fiscal year 2009: $10,207,000,000,000.
Fiscal year 2010: $10,732,000,000,000.
Fiscal year 2011: $11,137,000,000,000.
Fiscal year 2012: $11,484,000,000,000.
Fiscal year 2013: $11,832,000,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2008: $5,404,000,000,000.
Fiscal year 2009: $5,761,000,000,000.
Fiscal year 2010: $5,989,000,000,000.
Fiscal year 2011: $6,080,000,000,000.
Fiscal year 2012: $6,075,000,000,000.
Fiscal year 2013: $6,081,000,000,000.

**SEC. 102. SOCIAL SECURITY.**

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2008: $666,706,000,000.
Fiscal year 2009: $695,870,000,000.
Fiscal year 2010: $733,562,000,000.
Fiscal year 2011: $772,459,000,000.
Fiscal year 2012: $809,789,000,000.
Fiscal year 2013: $845,034,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2008: $463,746,000,000.
Fiscal year 2009: $493,602,000,000.
Fiscal year 2010: $520,149,000,000.
Fiscal year 2011: $540,478,000,000.
Fiscal year 2012: $566,240,000,000.
Fiscal year 2013: $595,534,000,000.

(c) SOCIAL SECURITY ADMINISTRATIVE EXPENSES.—In the Senate, the amounts of new budget authority and budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for administrative expenses are as follows:

Fiscal year 2008:
(A) New budget authority, $5,010,000,000.
(B) Outlays, $4,944,000,000.
Fiscal year 2009:
(A) New budget authority, $5,233,000,000.
(B) Outlays, $5,160,000,000.
Fiscal year 2010:
(A) New budget authority, $5,359,000,000.
(B) Outlays, $5,332,000,000.
Fiscal year 2011:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $5,475,000,000.
Fiscal year 2012:
(A) New budget authority, $5,653,000,000.
(B) Outlays, $5,626,000,000.
Fiscal year 2013:
(A) New budget authority, $5,817,000,000.
(B) Outlays, $5,789,000,000.

**SEC. 103. POSTAL SERVICE DISCRETIONARY ADMINISTRATIVE EXPENSES.**

In the Senate, the amounts of new budget authority and budget outlays of the Postal Service for discretionary administrative expenses are as follows:

Fiscal year 2008:
(A) New budget authority, $250,000,000.
(B) Outlays, $237,000,000.
Fiscal year 2009:
(A) New budget authority, $258,000,000.
(B) Outlays, $258,000,000.
Fiscal year 2010:
(A) New budget authority, $267,000,000.
(B) Outlays, $267,000,000.
Fiscal year 2011:
(A) New budget authority, $275,000,000.
(B) Outlays, $275,000,000.
Fiscal year 2012:
(A) New budget authority, $284,000,000.
(B) Outlays, $284,000,000.
Fiscal year 2013:
(A) New budget authority, $293,000,000.
(B) Outlays, $293,000,000.

**SEC. 104. MAJOR FUNCTIONAL CATEGORIES.**

The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2008 through 2013 for each major functional category are:

(1) National Defense (050):
Fiscal year 2008:
(A) New budget authority, $590,686,000,000.
(B) Outlays, $576,173,000,000.
Fiscal year 2009:
(A) New budget authority, $542,497,000,000.
(B) Outlays, $573,362,000,000.
Fiscal year 2010:
(A) New budget authority, $550,414,000,000.
(B) Outlays, $560,726,000,000.
Fiscal year 2011:

(A) New budget authority, $557,026,000,000.
(B) Outlays, $560,099,000,000.
Fiscal year 2012:
(A) New budget authority, $565,800,000,000.
(B) Outlays, $556,699,000,000.
Fiscal year 2013:
(A) New budget authority, $576,233,000,000.
(B) Outlays, $568,829,000,000.
(2) International Affairs (150):
Fiscal year 2008:
(A) New budget authority, $32,648,000,000.
(B) Outlays, $32,843,000,000.
Fiscal year 2009:
(A) New budget authority, $37,158,000,000.
(B) Outlays, $35,749,000,000.
Fiscal year 2010:
(A) New budget authority, $37,901,000,000.
(B) Outlays, $36,591,000,000.
Fiscal year 2011:
(A) New budget authority, $38,221,000,000.
(B) Outlays, $36,864,000,000.
Fiscal year 2012:
(A) New budget authority, $38,491,000,000.
(B) Outlays, $36,824,000,000.
Fiscal year 2013:
(A) New budget authority, $38,451,000,000.
(B) Outlays, $36,537,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 2008:
(A) New budget authority, $27,407,000,000.
(B) Outlays, $26,456,000,000.
Fiscal year 2009:
(A) New budget authority, $30,639,000,000.
(B) Outlays, $29,072,000,000.
Fiscal year 2010:
(A) New budget authority, $31,701,000,000.
(B) Outlays, $31,192,000,000.
Fiscal year 2011:
(A) New budget authority, $32,863,000,000.
(B) Outlays, $32,642,000,000.
Fiscal year 2012:
(A) New budget authority, $34,115,000,000.
(B) Outlays, $33,891,000,000.
Fiscal year 2013:
(A) New budget authority, $35,450,000,000.
(B) Outlays, $34,694,000,000.
(4) Energy (270):
Fiscal year 2008:
(A) New budget authority, $3,550,000,000.
(B) Outlays, $1,681,000,000.
Fiscal year 2009:
(A) New budget authority, $6,514,000,000.
(B) Outlays, $2,795,000,000.
Fiscal year 2010:
(A) New budget authority, $6,615,000,000.
(B) Outlays, $4,092,000,000.
Fiscal year 2011:

(A) New budget authority, $6,450,000,000.
(B) Outlays, $4,969,000,000.
Fiscal year 2012:
(A) New budget authority, $6,550,000,000.
(B) Outlays, $5,417,000,000.
Fiscal year 2013:
(A) New budget authority, $6,474,000,000.
(B) Outlays, $5,659,000,000.
(5) Natural Resources and Environment (300):
Fiscal year 2008:
(A) New budget authority, $33,169,000,000.
(B) Outlays, $34,723,000,000.
Fiscal year 2009:
(A) New budget authority, $40,515,000,000.
(B) Outlays, $36,868,000,000.
Fiscal year 2010:
(A) New budget authority, $35,278,000,000.
(B) Outlays, $37,472,000,000.
Fiscal year 2011:
(A) New budget authority, $36,307,000,000.
(B) Outlays, $37,865,000,000.
Fiscal year 2012:
(A) New budget authority, $37,396,000,000.
(B) Outlays, $38,356,000,000.
Fiscal year 2013:
(A) New budget authority, $38,033,000,000.
(B) Outlays, $38,923,000,000.
(6) Agriculture (350):
Fiscal year 2008:
(A) New budget authority, $24,296,000,000.
(B) Outlays, $22,179,000,000.
Fiscal year 2009:
(A) New budget authority, $22,572,000,000.
(B) Outlays, $22,312,000,000.
Fiscal year 2010:
(A) New budget authority, $22,145,000,000.
(B) Outlays, $21,241,000,000.
Fiscal year 2011:
(A) New budget authority, $22,026,000,000.
(B) Outlays, $21,022,000,000.
Fiscal year 2012:
(A) New budget authority, $20,889,000,000.
(B) Outlays, $17,463,000,000.
Fiscal year 2013:
(A) New budget authority, $22,304,000,000.
(B) Outlays, $21,606,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 2008:
(A) New budget authority, $11,216,000,000.
(B) Outlays, $5,381,000,000.
Fiscal year 2009:
(A) New budget authority, $9,560,000,000.
(B) Outlays, $3,722,000,000.
Fiscal year 2010:
(A) New budget authority, $13,887,000,000.
(B) Outlays, $5,835,000,000.
Fiscal year 2011:

(A) New budget authority, $8,998,000,000.
(B) Outlays, $2,193,000,000.
Fiscal year 2012:
(A) New budget authority, $9,246,000,000.
(B) Outlays, $1,735,000,000.
Fiscal year 2013:
(A) New budget authority, $9,642,000,000.
(B) Outlays, $1,648,000,000.
(8) Transportation (400):
Fiscal year 2008:
(A) New budget authority, $80,189,000,000.
(B) Outlays, $77,795,000,000.
Fiscal year 2009:
(A) New budget authority, $74,682,000,000.
(B) Outlays, $80,781,000,000.
Fiscal year 2010:
(A) New budget authority, $77,999,000,000.
(B) Outlays, $84,318,000,000.
Fiscal year 2011:
(A) New budget authority, $78,900,000,000.
(B) Outlays, $86,468,000,000.
Fiscal year 2012:
(A) New budget authority, $79,741,000,000.
(B) Outlays, $88,453,000,000.
Fiscal year 2013:
(A) New budget authority, $80,641,000,000.
(B) Outlays, $90,675,000,000.
(9) Community and Regional Development (450):
Fiscal year 2008:
(A) New budget authority, $20,149,000,000.
(B) Outlays, $27,820,000,000.
Fiscal year 2009:
(A) New budget authority, $15,220,000,000.
(B) Outlays, $24,401,000,000.
Fiscal year 2010:
(A) New budget authority, $15,376,000,000.
(B) Outlays, $22,109,000,000.
Fiscal year 2011:
(A) New budget authority, $15,603,000,000.
(B) Outlays, $18,330,000,000.
Fiscal year 2012:
(A) New budget authority, $15,840,000,000.
(B) Outlays, $16,301,000,000.
Fiscal year 2013:
(A) New budget authority, $16,007,000,000.
(B) Outlays, $15,986,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 2008:
(A) New budget authority, $90,077,000,000.
(B) Outlays, $90,729,000,000.
Fiscal year 2009:
(A) New budget authority, $94,277,000,000.
(B) Outlays, $91,351,000,000.
Fiscal year 2010:
(A) New budget authority, $103,716,000,000.
(B) Outlays, $99,477,000,000.

Fiscal year 2011:
(A) New budget authority, $105,910,000,000.
(B) Outlays, $103,453,000,000.
Fiscal year 2012:
(A) New budget authority, $107,399,000,000.
(B) Outlays, $103,992,000,000.
Fiscal year 2013:
(A) New budget authority, $100,625,000,000.
(B) Outlays, $102,451,000,000.
(11) Health (550):
Fiscal year 2008:
(A) New budget authority, $285,601,000,000.
(B) Outlays, $287,188,000,000.
Fiscal year 2009:
(A) New budget authority, $310,260,000,000.
(B) Outlays, $307,474,000,000.
Fiscal year 2010:
(A) New budget authority, $325,344,000,000.
(B) Outlays, $325,681,000,000.
Fiscal year 2011:
(A) New budget authority, $345,817,000,000.
(B) Outlays, $345,055,000,000.
Fiscal year 2012:
(A) New budget authority, $368,395,000,000.
(B) Outlays, $367,257,000,000.
Fiscal year 2013:
(A) New budget authority, $393,337,000,000.
(B) Outlays, $391,872,000,000.
(12) Medicare (570):
Fiscal year 2008:
(A) New budget authority, $390,458,000,000.
(B) Outlays, $390,454,000,000.
Fiscal year 2009:
(A) New budget authority, $420,191,000,000.
(B) Outlays, $419,974,000,000.
Fiscal year 2010:
(A) New budget authority, $445,207,000,000.
(B) Outlays, $445,333,000,000.
Fiscal year 2011:
(A) New budget authority, $494,337,000,000.
(B) Outlays, $494,162,000,000.
Fiscal year 2012:
(A) New budget authority, $491,305,000,000.
(B) Outlays, $491,065,000,000.
Fiscal year 2013:
(A) New budget authority, $552,329,000,000.
(B) Outlays, $552,445,000,000.
(13) Income Security (600):
Fiscal year 2008:
(A) New budget authority, $389,926,000,000.
(B) Outlays, $394,161,000,000.
Fiscal year 2009:
(A) New budget authority, $415,547,000,000.
(B) Outlays, $416,039,000,000.
Fiscal year 2010:
(A) New budget authority, $420,430,000,000.
(B) Outlays, $420,710,000,000.

Fiscal year 2011:
(A) New budget authority, $429,946,000,000.
(B) Outlays, $429,463,000,000.
Fiscal year 2012:
(A) New budget authority, $416,447,000,000.
(B) Outlays, $416,044,000,000.
Fiscal year 2013:
(A) New budget authority, $432,148,000,000.
(B) Outlays, $431,699,000,000.
(14) Social Security (650):
Fiscal year 2008:
(A) New budget authority, $19,378,000,000.
(B) Outlays, $19,378,000,000.
Fiscal year 2009:
(A) New budget authority, $21,313,000,000.
(B) Outlays, $21,313,000,000.
Fiscal year 2010:
(A) New budget authority, $23,803,000,000.
(B) Outlays, $23,803,000,000.
Fiscal year 2011:
(A) New budget authority, $27,338,000,000.
(B) Outlays, $27,338,000,000.
Fiscal year 2012:
(A) New budget authority, $30,349,000,000.
(B) Outlays, $30,349,000,000.
Fiscal year 2013:
(A) New budget authority, $33,170,000,000.
(B) Outlays, $33,170,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 2008:
(A) New budget authority, $86,365,000,000.
(B) Outlays, $83,551,000,000.
Fiscal year 2009:
(A) New budget authority, $93,320,000,000.
(B) Outlays, $92,486,000,000.
Fiscal year 2010:
(A) New budget authority, $96,233,000,000.
(B) Outlays, $95,912,000,000.
Fiscal year 2011:
(A) New budget authority, $102,038,000,000.
(B) Outlays, $101,706,000,000.
Fiscal year 2012:
(A) New budget authority, $99,359,000,000.
(B) Outlays, $98,511,000,000.
Fiscal year 2013:
(A) New budget authority, $105,344,000,000.
(B) Outlays, $104,513,000,000.
(16) Administration of Justice (750):
Fiscal year 2008:
(A) New budget authority, $46,237,000,000.
(B) Outlays, $44,282,000,000.
Fiscal year 2009:
(A) New budget authority, $48,303,000,000.
(B) Outlays, $48,097,000,000.
Fiscal year 2010:
(A) New budget authority, $48,673,000,000.
(B) Outlays, $49,291,000,000.

Fiscal year 2011:
(A) New budget authority, $49,348,000,000.
(B) Outlays, $49,763,000,000.
Fiscal year 2012:
(A) New budget authority, $50,139,000,000.
(B) Outlays, $50,172,000,000.
Fiscal year 2013:
(A) New budget authority, $51,051,000,000.
(B) Outlays, $50,767,000,000.
(17) General Government (800):
Fiscal year 2008:
(A) New budget authority, $56,407,000,000.
(B) Outlays, $56,920,000,000.
Fiscal year 2009:
(A) New budget authority, $23,987,000,000.
(B) Outlays, $24,411,000,000.
Fiscal year 2010:
(A) New budget authority, $19,929,000,000.
(B) Outlays, $19,974,000,000.
Fiscal year 2011:
(A) New budget authority, $20,470,000,000.
(B) Outlays, $20,369,000,000.
Fiscal year 2012:
(A) New budget authority, $21,004,000,000.
(B) Outlays, $21,026,000,000.
Fiscal year 2013:
(A) New budget authority, $21,463,000,000.
(B) Outlays, $21,251,000,000.
(18) Net Interest (900):
Fiscal year 2008:
(A) New budget authority, $349,351,000,000.
(B) Outlays, $349,351,000,000.
Fiscal year 2009:
(A) New budget authority, $334,409,000,000.
(B) Outlays, $334,409,000,000.
Fiscal year 2010:
(A) New budget authority, $370,805,000,000.
(B) Outlays, $370,805,000,000.
Fiscal year 2011:
(A) New budget authority, $407,916,000,000.
(B) Outlays, $407,916,000,000.
Fiscal year 2012:
(A) New budget authority, $433,193,000,000.
(B) Outlays, $433,193,000,000.
Fiscal year 2013:
(A) New budget authority, $448,812,000,000.
(B) Outlays, $448,812,000,000.
(19) Allowances (920):
Fiscal year 2008:
(A) New budget authority, $4,426,000,000.
(B) Outlays, $2,075,000,000.
Fiscal year 2009:
(A) New budget authority, –$13,201,000,000.
(B) Outlays, –$6,462,000,000.
Fiscal year 2010:
(A) New budget authority, –$11,955,000,000.
(B) Outlays, –$9,385,000,000.

Fiscal year 2011:
(A) New budget authority, –$12,307,000,000.
(B) Outlays, –$11,769,000,000.
Fiscal year 2012:
(A) New budget authority, –$12,689,000,000.
(B) Outlays, –$13,764,000,000.
Fiscal year 2013:
(A) New budget authority, –$13,000,000,000.
(B) Outlays, –$13,396,000,000.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2008:
(A) New budget authority, –$86,330,000,000.
(B) Outlays, –$86,330,000,000.
Fiscal year 2009:
(A) New budget authority, –$67,060,000,000.
(B) Outlays, –$67,060,000,000.
Fiscal year 2010:
(A) New budget authority, –$70,645,000,000.
(B) Outlays, –$70,645,000,000.
Fiscal year 2011:
(A) New budget authority, –$73,364,000,000.
(B) Outlays, –$73,364,000,000.
Fiscal year 2012:
(A) New budget authority, –$76,104,000,000.
(B) Outlays, –$76,104,000,000.
Fiscal year 2013:
(A) New budget authority, –$79,691,000,000.
(B) Outlays, –$79,691,000,000.
(21) Overseas Deployments and Other Activities (970):
Fiscal year 2008:
(A) New budget authority, $108,056,000,000.
(B) Outlays, $28,901,000,000.
Fiscal year 2009:
(A) New budget authority, $70,000,000,000.
(B) Outlays, $74,809,000,000.
Fiscal year 2010:
(A) New budget authority, $0.
(B) Outlays, $47,407,000,000.
Fiscal year 2011:
(A) New budget authority, $0.
(B) Outlays, $18,251,000,000.
Fiscal year 2012:
(A) New budget authority, $0.
(B) Outlays, $5,176,000,000.
Fiscal year 2013:
(A) New budget authority, $0.
(B) Outlays, $1,775,000,000.

# TITLE II—RESERVE FUNDS

## Subtitle A—House Reserve Funds

**SEC. 201. DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION.**

In the House, the Chairman of the Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for any bill, joint

resolution, amendment, or conference report, which contains matter within the jurisdiction of the Committee on Energy and Commerce that expands coverage and improves children's health through the State Children's Health Insurance Program (SCHIP) under title XXI of the Social Security Act and the program under title XIX of such Act (commonly known as Medicaid) and that increases new budget authority that will result in no more than $50,000,000,000 in outlays in fiscal years 2008 through 2013, and others which contain offsets so designated for the purpose of this section within the jurisdiction of another committee or committees, if the combined changes would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 202. DEFICIT-NEUTRAL RESERVE FUND FOR AMERICA'S VETERANS AND SERVICEMEMBERS.**

The Chairman of the House Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would—

(1) enhance medical care, disability evaluations, or disability benefits for wounded or disabled military personnel or veterans (including measures to expedite the claims process);

(2) maintain affordable health care for military retirees and veterans;

(3) expand the number of disabled military retirees who receive both disability compensation and retired pay, or would accelerate the date by which eligible retirees under section 1414 of title 10, United States Code, will fully receive both veterans' disability compensation and retired pay;

(4) eliminate the offset between Survivor Benefit Plan annuities and Veterans' Dependency and Indemnity Compensation;

(5) provide for the continuing payment to members of the Armed Forces who are retired or separated from the Armed Forces due to a combat-related injury after September 11, 2001, of bonuses that such members were entitled to before the retirement or separation and would continue to be entitled to if such members were not retired or separated;

(6) enhance programs and activities to increase the availability of health care and other veterans services for veterans living in rural areas; or

(7) provide or increase benefits for Filipino veterans of World War II or their survivors and dependents

by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 203. DEFICIT-NEUTRAL RESERVE FUND FOR EDUCATION BENEFITS FOR SERVICEMEMBERS, VETERANS, AND THEIR FAMILIES.**

The Chairman of the House Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would—

(1) enhance educational benefits or assistance for servicemembers and veterans with service on active duty in the Armed Forces on or after September 11, 2001;

(2) allow for the transfer of education benefits from servicemembers to spouses, survivors, or dependents; or

(3) otherwise enhance education benefits or assistance for servicemembers (including Active Duty, National Guard, and Reserve), veterans, or their spouses, survivors, or dependents

by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit or decrease the surplus over either the period of fiscal years 2008 through 2013 or the period of fiscal years 2008 through 2018.

**SEC. 204. DEFICIT-NEUTRAL RESERVE FUND FOR INFRASTRUCTURE INVESTMENT.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that provides for a robust Federal investment in America's infrastructure, which may include projects for transit, rail (including high-speed passenger rail), airport, seaport, public housing, energy, water, highway, bridge, or other infrastructure projects by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 205. DEFICIT-NEUTRAL RESERVE FUND FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that provides tax incentives for or otherwise encourages the production of renewable energy or increased energy efficiency; encourages investment in emerging energy or vehicle technologies or carbon capture and sequestration; provides for reductions in greenhouse gas emissions; or facilitates the training of workers for these industries ("green collar jobs") by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 206. DEFICIT-NEUTRAL RESERVE FUND FOR MIDDLE-INCOME TAX RELIEF AND ECONOMIC EQUITY.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that provides for tax relief for middle-income families and taxpayers or enhanced economic equity, such as extension of the child tax credit, extension of marriage penalty relief, extension of the 10 percent individual income tax bracket, elimination of estate taxes on all but a minute fraction of estates by reforming and substantially increasing the unified credit, extension of the research and experimentation tax credit, extension of the deduction for small business expensing, extension of the deduction for State and local sales taxes, or a tax credit for school construction bonds, by the amounts provided in such measure if such measure

would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 207. DEFICIT-NEUTRAL RESERVE FUND FOR REFORM OF THE ALTERNATIVE MINIMUM TAX.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that provides for reform of the Internal Revenue Code of 1986 by reducing the tax burden of the alternative minimum tax on middle-income families by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 208. DEFICIT-NEUTRAL RESERVE FUND FOR HIGHER EDUCATION.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that makes college more affordable or accessible through reforms to the Higher Education Act of 1965 or other legislation by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 209. DEFICIT-NEUTRAL RESERVE FUND FOR AFFORDABLE HOUSING.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that provides for an affordable housing fund, offset by reforming the regulation of certain government-sponsored enterprises, by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 210. DEFICIT-NEUTRAL RESERVE FUND FOR MEDICARE IMPROVEMENTS.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that improves the Medicare program for beneficiaries and protects access to care, which may include measures such as—

(1) increasing the reimbursement rate for physicians while protecting beneficiaries from associated premium increases;

(2) providing for—

(A) an increase in the asset allowance under the Medicare Part D low-income subsidy program so that individuals with very limited incomes, but modest retirement savings, can obtain the assistance that the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 was intended to deliver with respect to the payment of premiums and cost-sharing under the Medicare Part D prescription drug benefit;

(B) an update in the income and asset allowances under the Medicare Savings Program and an annual inflationary adjustment for those allowances; or

(C) improved outreach and enrollment under the Medicare Savings Program and the Medicare Part D low-income subsidy program to ensure that low-income senior citizens and other low-income Medicare beneficiaries receive the low-income assistance for which they are eligible in accordance with the improvements provided for in such legislation;

(3) reductions in beneficiary cost-sharing for preventive benefits under Medicare Part B; or

(4) limiting inappropriate or abusive marketing tactics by private insurers and their agents offering Medicare Advantage or Medicare prescription drug plans

by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 211. DEFICIT-NEUTRAL RESERVE FUND FOR HEALTH CARE QUALITY, EFFECTIVENESS, AND EFFICIENCY.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that—

(1) provides incentives or other support for adoption of modern information technology, including electronic prescribing, to improve quality and protect privacy in health care;

(2) establishes a new Federal or public-private initiative for research on the comparative effectiveness of different medical interventions;

(3) provides parity between health insurance coverage of mental health benefits and benefits for medical and surgical services, including parity in public programs;

(4) improves health care, provides quality health insurance for the uninsured and underinsured, and protects individuals with current health coverage; or

(5) reauthorizes the special diabetes program for Indians and the special diabetes programs for Type 1 diabetes

by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 212. DEFICIT-NEUTRAL RESERVE FUND FOR MEDICAID AND OTHER PROGRAMS.**

(a) REGULATIONS AND ADMINISTRATIVE ACTIONS.—In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that prevents or delays the implementation or administration of regulations or other administrative actions that would affect the Medicaid, SCHIP, or other programs by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

(b) TRANSITIONAL MEDICAL ASSISTANCE AND QUALIFYING INDIVIDUALS.—In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that extends the transitional medical assistance program or the qualifying individuals program, which are included in title XIX of the Social Security Act, by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

(c) DEMONSTRATION PROJECT REGARDING MEDICAID COVERAGE OF LOW-INCOME HIV-INFECTED INDIVIDUALS.—In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that provides for a demonstration project under which a State may apply under section 1115 of the Social Security Act (42 U.S.C. 1315) to provide medical assistance under a State Medicaid program to HIV-infected individuals who are not eligible for medical assistance under such program under section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)) by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

(d) PEDIATRIC DENTAL CARE.—In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that would provide for improved access to pediatric dental care for children from low-income families by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 213. DEFICIT-NEUTRAL RESERVE FUND FOR A 9/11 HEALTH PROGRAM.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that would establish a program, including medical monitoring and treatment, addressing the adverse health impacts linked to the September 11, 2001, attacks by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 214. DEFICIT-NEUTRAL RESERVE FUND FOR TRADE ADJUSTMENT ASSISTANCE AND UNEMPLOYMENT INSURANCE MODERNIZATION.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that reauthorizes the trade adjustment assistance program to better meet the challenges of globalization or modernizes the unemployment insurance system to improve access to needed benefits by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period

of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 215. DEFICIT-NEUTRAL RESERVE FUND FOR COUNTY PAYMENTS LEGISLATION.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that provides for the reauthorization of the Secure Rural Schools and Community Self Determination Act of 2000 (Public Law 106–393) or makes changes to the Payments in Lieu of Taxes Act of 1976 (Public Law 94–565) by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 216. DEFICIT-NEUTRAL RESERVE FUND FOR SAN JOAQUIN RIVER RESTORATION AND NAVAJO NATION WATER RIGHTS SETTLEMENTS.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that would fulfill the purposes of the San Joaquin River Restoration Settlement Act or implement a Navajo Nation water rights settlement and other provisions authorized by the Northwestern New Mexico Rural Water Projects Act by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 217. DEFICIT-NEUTRAL RESERVE FUND FOR THE NATIONAL PARK CENTENNIAL FUND.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that provides for the establishment of the National Park Centennial Fund by the amounts provided in such measure for that purpose if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 218. DEFICIT-NEUTRAL RESERVE FUND FOR CHILD SUPPORT ENFORCEMENT.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that improves Federal child support collection efforts or results in more collected child support reaching families by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 219. DEFICIT-NEUTRAL RESERVE FUND FOR CHILDREN AND FAMILIES.**

In the House, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels

in this resolution for any bill, joint resolution, amendment, or conference report that assists children and families by improving child welfare programs, extending and improving provisions in the Temporary Assistance for Needy Families program, or providing up to $5,000,000,000 for the child care entitlement to States by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 220. RESERVE FUND ADJUSTMENT FOR REVENUE MEASURES IN THE HOUSE.**

(a) In the House, with respect to consideration of any bill, joint resolution, amendment, or conference report that would have the net effect of increasing the deficit or reducing the surplus for the period of fiscal years 2008 through 2013 or the period of fiscal years 2008 through 2018 and that would decrease total revenues for the period of fiscal years 2009 through 2013 below the Congressional Budget Office baseline for this concurrent resolution on the budget, the Chairman of the Committee on the Budget shall increase the revenue aggregates by $340,570,000,000 for the period of fiscal years 2009 through 2013 if the Chairman determines that such legislation does not include language consistent with the applicable provision set forth in the joint explanatory statement of managers accompanying this concurrent resolution. The Chairman may readjust such levels upon disposition of any measure under this section.

(b) Section 321 of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, shall no longer apply.

## Subtitle B—Senate Reserve Funds

**SEC. 221. DEFICIT-NEUTRAL RESERVE FUND TO STRENGTHEN AND STIMULATE THE AMERICAN ECONOMY AND PROVIDE ECONOMIC RELIEF TO AMERICAN FAMILIES.**

(a) TAX RELIEF.—The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would provide tax relief, including extensions of expiring and expired tax relief and refundable tax relief, by the amounts provided in that legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(b) MANUFACTURING.—The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports, including tax legislation, that would revitalize the United States domestic manufacturing sector by increasing Federal research and development, by expanding the scope and effectiveness of manufacturing programs across the Federal government, by increasing efforts to train and retrain manufacturing workers, by increasing support for development of alternative fuels and leap-ahead automotive

and energy technologies, or by establishing tax incentives to encourage the continued production in the United States of advanced technologies and the infrastructure to support such technologies, by the amounts provided in that legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(c) HOUSING.—The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would provide housing assistance, which may include low income rental assistance, or establish an affordable housing fund financed by the housing government sponsored enterprises or other sources, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(d) FLOOD INSURANCE REFORM.—The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would provide for flood insurance reform and modernization, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(e) TRADE.—The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports relating to trade, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(f) ECONOMIC RELIEF FOR AMERICAN FAMILIES.—The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports which—

(1) reauthorizes the Temporary Assistance for Needy Families supplemental grants or makes improvements to the Temporary Assistance for Needy Families program, child welfare programs, or the child support enforcement program;

(2) provides up to $5,000,000,000 for the child care entitlement to States;

(3) provides up to $40,000,000 for the emergency food assistance program established under the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.);

(4) improves the unemployment compensation program; or

(5) reauthorizes trade adjustment assistance programs

by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(g) AMERICA'S FARMS AND ECONOMIC INVESTMENT IN RURAL AMERICA.—

(1) FARM BILL.—The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that provide for the reauthorization of the programs of the Food Security and Rural Investment Act of 2002 or prior Acts, authorize similar or related programs, provide for revenue changes, or any combination of the preceding purposes, by the amounts provided in such legislation for those purposes up to $15,000,000,000 over the period of the total of fiscal years 2008 through 2013, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(2) COUNTY PAYMENTS.—The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that provide for the reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393), make changes to the Payments in Lieu of Taxes Act of 1976 (Public Law 94–565), or both, by the amounts provided by that legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 222. DEFICIT-NEUTRAL RESERVE FUND FOR IMPROVING EDUCATION.**

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would improve education, which may include—

(1) making higher education more accessible or more affordable, which may include increasing funding for the Federal Pell Grant program or increasing Federal student loan limits;

(2) facilitating modernization of school facilities through renovation or construction bonds, reducing the cost of teachers' out-of-pocket expenses for school supplies, or providing tax incentives for highly-qualified teachers to serve in high-needs schools;

(3) improving student achievement during secondary education, including middle school completion, increasing high school graduation, and preparing students for higher education and the workforce; or

(4) promoting flexibility and accountability in Federal education programs

by the amounts provided in such legislation for such purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 223. DEFICIT-NEUTRAL RESERVE FUND FOR INVESTMENTS IN AMERICA'S INFRASTRUCTURE.**

The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that provide for a robust Federal investment in America's infrastructure, which may include projects for transit, rail (including high-speed passenger rail), airport, seaport, public housing, energy, water, highway, bridge, or other infrastructure projects, by the amounts provided in that legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 224. DEFICIT-NEUTRAL RESERVE FUND TO INVEST IN CLEAN ENERGY, PRESERVE THE ENVIRONMENT, AND PROVIDE FOR CERTAIN SETTLEMENTS.**

(a) ENERGY AND THE ENVIRONMENT.—The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would decrease greenhouse gas emissions, reduce our Nation's dependence on imported energy, produce green jobs, encourage consumers to install smart electricity meters in homes and businesses, encourage the capture and storage of carbon dioxide emissions from coal projects, or preserve or protect national parks, oceans, or coastal areas, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018. The legislation may include tax legislation such as a proposal to extend for 5 years energy tax incentives like the production tax credit for electricity produced from renewable resources, the biodiesel production tax credit, or the Clean Renewable Energy Bond program, to provide a tax credit for clean burning wood stoves, a tax credit for production of cellulosic ethanol, a tax credit for plug-in hybrid vehicles, or provisions to encourage energy efficient buildings, products, and power plants. Tax legislation under this section may be paid for by adjustments to section 167(h)(1) of the Internal Revenue Code of 1986 as it relates to integrated oil companies.

(b) SETTLEMENTS.—The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would fulfill the purposes of the San Joaquin River Restoration Settlement Act or implement a Navajo Nation water rights settlement and other provisions authorized by the Northwestern New Mexico Rural Water Projects Act, by the amounts provided by that legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 225. DEFICIT-NEUTRAL RESERVE FUND FOR AMERICA'S VETERANS AND SERVICEMEMBERS.**

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would—

(1) enhance medical care, disability evaluations, or disability benefits for wounded or disabled military personnel or veterans (including measures to expedite the claims process);

(2) maintain affordable health care for military retirees and veterans;

(3) expand the number of disabled military retirees who receive both disability compensation and retired pay, or would accelerate the date by which eligible retirees under section 1414 of title 10, United States Code, will fully receive both veterans' disability compensation and retired pay;

(4) eliminate the offset between Survivor Benefit Plan annuities and Veterans' Dependency and Indemnity Compensation;

(5) provide for the continuing payment to members of the Armed Forces who are retired or separated from the Armed Forces due to a combat-related injury after September 11, 2001, of bonuses that such members were entitled to before the retirement or separation and would continue to be entitled to if such members were not retired or separated;

(6) enhance programs and activities to increase the availability of health care and other veterans services for veterans living in rural areas; or

(7) provide or increase benefits for Filipino veterans of World War II or their survivors and dependents

by the amounts provided in such legislation for those purposes, provided that such legislation does not include increased fees charged to veterans for pharmacy co-payments, annual enrollment, or third-party insurance payment offsets, and further provided that such legislation would not increase the deficit or decrease the surplus for the period of fiscal years 2008 through 2013 or for the period of fiscal years 2008 through 2018.

**SEC. 226. DEFICIT-NEUTRAL RESERVE FUND FOR EDUCATION BENEFITS FOR SERVICEMEMBERS, VETERANS, AND THEIR FAMILIES.**

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would—

(1) enhance educational benefits or assistance for servicemembers and veterans with service on active duty in the Armed Forces on or after September 11, 2001;

(2) allow for the transfer of education benefits from servicemembers to spouses, survivors, or dependents; or

(3) otherwise enhance education benefits or assistance for servicemembers (including Active Duty, National Guard, and Reserve), veterans, or their spouses, survivors, or dependents

by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over

either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 227. DEFICIT-NEUTRAL RESERVE FUND TO IMPROVE AMERICA'S HEALTH.**

(a) SCHIP.—The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for a bill, joint resolution, amendment, motion, or conference report that provides up to $50,000,000,000 in outlays over the period of the total of fiscal years 2008 through 2013 for reauthorization of SCHIP, if such legislation maintains coverage for those currently enrolled in SCHIP, continues efforts to enroll uninsured children who are already eligible for SCHIP or Medicaid but are not enrolled, or supports States in their efforts to move forward in covering more children, by the amounts provided in that legislation for those purposes, provided that the outlay adjustment shall not exceed $50,000,000,000 in outlays over the period of the total of fiscal years 2008 through 2013, and provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(b) MEDICARE IMPROVEMENTS.—

(1) PHYSICIAN PAYMENTS.—The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels in this resolution for a bill, joint resolution, amendment, motion, or conference report that increases the reimbursement rate for physician services under section 1848(d) of the Social Security Act and that includes financial incentives for physicians to improve the quality and efficiency of items and services furnished to Medicare beneficiaries through the use of consensus-based quality measures, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(2) OTHER IMPROVEMENTS TO MEDICARE.—The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels in this resolution for a bill, joint resolution, amendment, motion, or conference report that makes improvements to the Medicare program, which may include—

(A) reductions in beneficiary cost-sharing for preventive benefits under Medicare Part B;

(B) the preservation or promotion of payment provisions that support America's rural health care delivery system;

(C) limits to inappropriate or abusive marketing tactics by private insurers and their agents offering Medicare Advantage or Medicare prescription drug plans by enacting any or all of the recommendations agreed to by leaders of the health insurance industry on March 3, 2008, including prohibitions on cold calling and telephone solicitations for in-home sales appointments with Medicare beneficiaries;

(D) a three-year extension of the pilot program for national and State background checks on direct patient access employees of long-term care facilities or providers under section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395aa note) and removing the limit on the number of participating States under such pilot program; or

(E) measures to encourage physicians to train in primary care residencies and attract more physicians and other health care providers to States that face a shortage of health care providers

by the amounts provided in such legislation for those purposes up to $10,000,000,000, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(3) MEDICARE LOW-INCOME PROGRAMS.—The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels in this resolution for a bill, joint resolution, amendment, motion, or conference report that makes improvements to the Medicare Savings Program and the Medicare Part D low-income subsidy program, which may include the provisions that—

(A) provide for an increase in the asset allowance under the Medicare Part D low-income subsidy program so that individuals with very limited incomes, but modest retirement savings, can obtain the assistance that the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 was intended to deliver with respect to the payment of premiums and cost-sharing under the Medicare Part D prescription drug benefit;

(B) provide for an update in the income and asset allowances under the Medicare Savings Program and provide for an annual inflationary adjustment for those allowances; and

(C) improve outreach and enrollment under the Medicare Savings Program and the Medicare Part D low-income subsidy program to ensure that low-income senior citizens and other low-income Medicare beneficiaries receive the low-income assistance for which they are eligible in accordance with the improvements provided for in such legislation

by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(c) HEALTH CARE QUALITY, EFFECTIVENESS, EFFICIENCY, AND TRANSPARENCY.—

(1) COMPARATIVE EFFECTIVENESS RESEARCH.—The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that establish a new Federal or public-private initiative for comparative effectiveness research, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the

total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(2) IMPROVING THE HEALTH CARE SYSTEM.—The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other levels in this resolution for a bill, joint resolution, motion, amendment, or conference report that—

(A) creates a framework and parameters for the use of Medicare data for the purpose of conducting research, public reporting, and other activities to evaluate health care safety, effectiveness, efficiency, quality, and resource utilization in Federal programs and the private health care system; and

(B) includes provisions to protect beneficiary privacy and to prevent disclosure of proprietary or trade secret information with respect to the transfer and use of such data

by the amounts provided for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(3) HEALTH INFORMATION TECHNOLOGY AND ADHERENCE TO BEST PRACTICES.—

(A) HEALTH INFORMATION TECHNOLOGY.—The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that provide incentives or other support for adoption of modern information technology, including incentives or other supports for the adoption of electronic prescribing technology, to improve quality and protect privacy in health care, such as activities by the Department of Defense and the Department of Veterans Affairs to integrate their electronic health record data, by the amounts provided in such legislation for that purpose, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(B) ADHERENCE TO BEST PRACTICES.—The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that provide incentives for Medicare providers or suppliers to comply with, where available and medically appropriate, clinical protocols identified as best practices, by the amounts provided in such legislation for that purpose, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(d) FOOD AND DRUG ADMINISTRATION.—

(1) REGULATION.—The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for a bill, joint resolution,

motion, amendment, or conference report that authorizes the Food and Drug Administration to regulate products and assess user fees on manufacturers and importers of those products to cover the cost of the Food and Drug Administration's regulatory activities, by the amounts provided in that legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(2) DRUG IMPORTATION.—The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other levels in this resolution for a bill, joint resolution, motion, amendment, or conference report that permits the safe importation of prescription drugs approved by the Food and Drug Administration from a specified list of countries, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(e) MEDICAID.—

(1) RULES OR ADMINISTRATIVE ACTIONS.—The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for a bill, joint resolution, amendment, motion, or conference report that includes provisions regarding the implementation or administration of regulations or other administrative actions pertaining to Medicaid or SCHIP or includes provisions regarding administrative guidance issued in August 2007 affecting SCHIP or any other administrative action that would affect SCHIP in a similar manner by the amounts provided in that legislation for those purposes, provided that such legislation would not increase the deficit over either the total of the period of fiscal years 2008 through 2013 or the total of the period of fiscal years 2008 through 2018.

(2) TRANSITIONAL MEDICAL ASSISTANCE.—The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions or conference reports that extend the Transitional Medical Assistance program, included in title XIX of the Social Security Act, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the total of the period of fiscal years 2008 through 2013 or the total of the period of fiscal years 2008 through 2018.

(f) OTHER IMPROVEMENTS IN HEALTH.—The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports which—

(1) make health insurance coverage more affordable or available to small businesses and their employees, through pooling arrangements that provide appropriate consumer protections, or through reducing barriers to cafeteria plans;

(2) improve health care, provide quality health insurance for the uninsured and underinsured, and protect individuals with current health coverage;

(3) reauthorize the special diabetes program for Indians and the special diabetes programs for Type 1 diabetes;

(4) improve long-term care, enhance the safety and dignity of patients, encourage appropriate use of institutional and community-based care, promote quality care, or provide for the cost-effective use of public resources; or

(5) provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services, including parity in public programs

by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

(g) PEDIATRIC DENTAL CARE.—The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels in this resolution for a bill, joint resolution, amendment, motion, or conference report that would provide for improved access to pediatric dental care for children from low-income families, by the amounts provided in such legislation for such purpose, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 228. DEFICIT-NEUTRAL RESERVE FUND FOR REFORM OF THE ALTERNATIVE MINIMUM TAX.**

The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other levels in this resolution for a bill, joint resolution, amendment, motion, or conference report that provides for reform of the Internal Revenue Code of 1986 by reducing the tax burden of the alternative minimum tax on middle-income families, by the amounts provided in such measure for that purpose, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 229. DEFICIT-NEUTRAL RESERVE FUND FOR JUDICIAL PAY AND JUDGESHIPS.**

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would authorize salary adjustments for justices and judges of the United States or increase the number of Federal judgeships, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 230. DEFICIT-NEUTRAL RESERVE FUND FOR IMMIGRATION ENFORCEMENT AND REFORM.**

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels in this resolution for one or more bills, joint

resolutions, amendments, motions or conference reports that would provide for greater border security, enforcement of immigration laws, backlog reduction and improvement of immigration services, reimbursement to states for the costs of incarcerating criminal aliens, or immigration reform, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 231. DEFICIT-NEUTRAL RESERVE FUND FOR SCIENCE PARKS.**

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would provide grants and loan guarantees for the development and construction of science parks to promote the clustering of innovation through high technology activities, by the amounts provided in such legislation for such purpose, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 232. DEFICIT-NEUTRAL RESERVE FUND TO TERMINATE DEDUCTIONS FROM MINERAL REVENUE PAYMENTS TO STATES.**

The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other levels and limits in this resolution by the amounts provided for those purposes for a bill, joint resolution, amendment, motion, or conference report that would terminate the authority to deduct certain amounts from mineral revenues payable to States under the second undesignated paragraph of the matter under the heading "ADMINISTRATIVE PROVISIONS" under the heading "MINERALS MANAGEMENT SERVICE" of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2109), provided that such legislation would not increase the deficit over the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 233. DEFICIT-REDUCTION RESERVE FUND FOR INCREASED USE OF RECOVERY AUDITS.**

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that achieves savings by requiring that agencies increase their use of recovery audits authorized under subchapter VI of chapter 35 of title 31, United States Code, (commonly referred to as the Erroneous Payments Recovery Act of 2001) and uses such savings to reduce the deficit, by the amounts provided in such legislation for such purpose, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 234. DEFICIT-NEUTRAL RESERVE FUND FOR FOOD SAFETY.**

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels and limits in this resolution for one or more

bills, joint resolutions, amendments, motions, or conference reports that would expand the level of Food and Drug Administration and Department of Agriculture food safety inspection services, develop effective approaches to the inspection of domestic and imported food products, provide for infrastructure and information technology systems to enhance the safety of the food supply, expand scientific capacity and training programs, invest in improved surveillance and testing technologies, provide for foodborne illness awareness and education programs, or enhance the Food and Drug Administration's recall authority, by the amounts provided in such legislation for such purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 235. DEFICIT-NEUTRAL RESERVE FUND FOR DEMONSTRATION PROJECT REGARDING MEDICAID COVERAGE OF LOW-INCOME HIV-INFECTED INDIVIDUALS.**

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions or conference reports that provide for a demonstration project under which a State may apply under section 1115 of the Social Security Act (42 U.S.C. 1315) to provide medical assistance under a State Medicaid program to HIV-infected individuals who are not eligible for medical assistance under such program under section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)), by the amounts provided in that legislation for those purposes, provided that such legislation would not increase the deficit over either the total of the period of fiscal years 2008 through 2013 or the total of the period of fiscal years 2008 through 2018.

**SEC. 236. DEFICIT-NEUTRAL RESERVE FUND FOR REDUCING THE INCOME THRESHOLD FOR THE REFUNDABLE CHILD TAX CREDIT, AND OTHER SELECTED TAX RELIEF POLICIES.**

The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would reduce the income threshold for the refundable child tax credit under section 24 of the Internal Revenue Code of 1986 to $10,000 for taxable years 2009 and 2010 with no inflation adjustment; extend enhanced charitable giving from individual retirement accounts, including life-income gifts; or incentivize utilization of accumulated alternative minimum tax and research and development credits, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

**SEC. 237. DEFICIT-NEUTRAL RESERVE FUND FOR A 9/11 HEALTH PROGRAM.**

The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other levels and limits in this resolution for a bill, joint resolution, motion, amendment, or conference report that would establish a program, including medical monitoring and treatment, addressing the adverse health impacts

linked to the September 11, 2001 attacks, by the amounts provided in such legislation for those purposes, if such legislation would not increase the deficit over either the period of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

# TITLE III—BUDGET ENFORCEMENT

## Subtitle A—House Enforcement Provisions

### SEC. 301. PROGRAM INTEGRITY INITIATIVES AND OTHER ADJUSTMENTS.

(a) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—

(1) CONTINUING DISABILITY REVIEWS AND SUPPLEMENTAL SECURITY INCOME REDETERMINATIONS.—In the House, prior to consideration of any bill, joint resolution, amendment, or conference report making appropriations for fiscal year 2009 that appropriates $264,000,000 for continuing disability reviews and Supplemental Security Income redeterminations for the Social Security Administration, and provides an additional appropriation of up to $240,000,000, and the amount is designated for continuing disability reviews and Supplemental Security Income redeterminations for the Social Security Administration, the allocation to the Committee on Appropriations shall be increased by the amount of the additional budget authority and outlays resulting from that budget authority for fiscal year 2009.

(2) INTERNAL REVENUE SERVICE TAX COMPLIANCE.—In the House, prior to consideration of any bill, joint resolution, amendment, or conference report making appropriations for fiscal year 2009 that appropriates $6,997,000,000 to the Internal Revenue Service and the amount is designated to improve compliance with the provisions of the Internal Revenue Code of 1986 and provides an additional appropriation of up to $490,000,000, and the amount is designated to improve compliance with the provisions of the Internal Revenue Code of 1986, the allocation to the Committee on Appropriations shall be increased by the amount of the additional budget authority and outlays resulting from that budget authority for fiscal year 2009.

(3) HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM.—In the House, prior to consideration of any bill, joint resolution, amendment, or conference report making appropriations for fiscal year 2009 that appropriates up to $198,000,000 and the amount is designated to the health care fraud and abuse control program at the Department of Health and Human Services, the allocation to the Committee on Appropriations shall be increased by the amount of additional budget authority and outlays resulting from that budget authority for fiscal year 2009.

(4) UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ACTIVITIES.—In the House, prior to consideration of any bill, joint resolution, amendment, or conference report making appropriations for fiscal year 2009 that appropriates $10,000,000 for in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews for the

Department of Labor and provides an additional appropriation of up to $40,000,000, and the amount is designated for in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews for the Department of Labor, the allocation to the Committee on Appropriations shall be increased by the amount of additional budget authority and outlays resulting from that budget authority for fiscal year 2009.

(b) COSTS OF OVERSEAS DEPLOYMENTS AND EMERGENCY NEEDS.—

(1) OVERSEAS DEPLOYMENTS AND RELATED ACTIVITIES.—

(A) In the House, if any bill, joint resolution, amendment, or conference report makes appropriations for fiscal year 2008 or fiscal year 2009 for overseas deployments and related activities and such amounts are so designated pursuant to this subparagraph, then the allocation to the Committee on Appropriations may be adjusted by the amounts provided in such legislation for that purpose up to the amounts of budget authority specified in section 104(21) for fiscal year 2008 or fiscal year 2009 and the new outlays resulting therefrom.

(B) In the House, if any bill, joint resolution, amendment, or conference report makes appropriations for fiscal year 2008 or fiscal year 2009 for overseas deployments and related activities above the amounts of budget authority and new outlays specified in subparagraph (A) and such amounts are so designated pursuant to this subparagraph, then new budget authority, outlays, or receipts resulting therefrom shall not count for the purposes of titles III and IV of the Congressional Budget Act of 1974.

(2) EMERGENCY NEEDS.—In the House, if any bill, joint resolution, amendment, or conference report makes appropriations for discretionary amounts and such amounts are designated as necessary to meet emergency needs, then the new budget authority and outlays resulting therefrom shall not count for the purposes of titles III and IV of the Congressional Budget Act of 1974.

(c) PROCEDURE FOR ADJUSTMENTS.—

(1) IN GENERAL.—In the House, prior to consideration of any bill, joint resolution, amendment, or conference report, the Chairman of the Committee on the Budget shall make the adjustments set forth in subsection (a) for the incremental new budget authority in that measure and the outlays resulting from that budget authority if that measure meets the requirements set forth in subsection (a), except that no adjustment shall be made for provisions exempted for the purposes of titles III and IV of the Congressional Budget Act of 1974 under subsection (b) of this section.

(2) MATTERS TO BE ADJUSTED.—The adjustments referred to in paragraph (1) are to be made to the allocations made under this concurrent resolution on the budget pursuant to section 302(a) of the Congressional Budget Act of 1974.

(d) SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008.—In the House, if any measure making supplemental appropriations for fiscal year 2008 is enacted, the Chairman of the Committee on the Budget shall make the appropriate adjustments in allocations

and aggregates to reflect the difference between such measure and the corresponding levels assumed in this resolution.

**SEC. 302. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS.**

(a) IN GENERAL.—In the House, except as provided in subsection (b), any bill, joint resolution, amendment, or conference report making a general appropriation or continuing appropriation may not provide for advance appropriations.

(b) EXCEPTIONS.—In the House, an advance appropriation may be provided for fiscal year 2010 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers to accompany this resolution under the heading "Accounts Identified for Advance Appropriations" in an aggregate amount not to exceed $28,852,000,000 in new budget authority, and for 2011, accounts separately identified under the same heading.

(c) DEFINITION.—In this section, the term "advance appropriation" means any new discretionary budget authority provided in a bill or joint resolution making general appropriations or any new discretionary budget authority provided in a bill or joint resolution continuing appropriations for fiscal year 2009 that first becomes available for any fiscal year after 2009.

## Subtitle B—Senate Enforcement Provisions

**SEC. 311. SENATE POINT OF ORDER AGAINST LEGISLATION INCREASING LONG-TERM DEFICITS.**

(a) CONGRESSIONAL BUDGET OFFICE ANALYSIS OF PROPOSALS.—The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill and joint resolution reported from committee (except measures within the jurisdiction of the Committee on Appropriations), and amendments thereto and conference reports thereon, an estimate of whether the measure would cause, relative to current law, a net increase in deficits in excess of $5,000,000,000 in any of the 4 consecutive 10-year periods beginning with the first fiscal year that is 10 years after the budget year provided for in the most recently adopted concurrent resolution on the budget.

(b) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a net increase in deficits in excess of $5,000,000,000 in any of the 4 consecutive 10-year periods described in subsection (a).

(c) SUPERMAJORITY WAIVER AND APPEAL IN THE SENATE.—

(1) WAIVER.—This section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATIONS OF BUDGET LEVELS.—For purposes of this section, the levels of net deficit increases shall be determined on the basis of estimates provided by the Senate Committee on the Budget.

(e) SUNSET.—This section shall expire on September 30, 2017.

(f) REPEAL.—In the Senate, subsections (a) through (d) and subsection (f) of section 203 of S. Con. Res. 21 (110th Congress) shall no longer apply.

**SEC. 312. DISCRETIONARY SPENDING LIMITS, PROGRAM INTEGRITY INITIATIVES, AND OTHER ADJUSTMENTS.**

(a) SENATE POINT OF ORDER.—

(1) IN GENERAL.—Except as otherwise provided in this section, it shall not be in order in the Senate to consider any bill or joint resolution (or amendment, motion, or conference report on that bill or joint resolution) that would cause the discretionary spending limits in this section to be exceeded.

(2) SUPERMAJORITY WAIVER AND APPEALS.—

(A) WAIVER.—This subsection may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(B) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(b) SENATE DISCRETIONARY SPENDING LIMITS.—In the Senate and as used in this section, the term "discretionary spending limit" means—

(1) for fiscal year 2008, $1,050,478,000,000 in new budget authority and $1,094,944,000,000 in outlays; and

(2) for fiscal year 2009, $1,011,718,000,000 in new budget authority and $1,106,112,000,000 in outlays;

as adjusted in conformance with the adjustment procedures in subsection (c).

(c) ADJUSTMENTS IN THE SENATE.—

(1) IN GENERAL.—After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment thereto or the submission of a conference report thereon—

(A) the Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, budgetary aggregates, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing therefrom; and

(B) following any adjustment under subparagraph (A), the Senate Committee on Appropriations may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(2) MATTERS DESCRIBED.—Matters referred to in paragraph (1) are as follows:

(A) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—If a bill or joint resolution is reported making appropriations for fiscal year 2009 that appropriates $264,000,000 for continuing disability reviews and Supplemental Security Income redeterminations for the Social

Security Administration, and provides an additional appropriation of up to $240,000,000 for continuing disability reviews and Supplemental Security Income redeterminations for the Social Security Administration, then the discretionary spending limits, allocation to the Senate Committee on Appropriations, and aggregates may be adjusted by the amounts provided in such legislation for that purpose, but not to exceed $240,000,000 in budget authority and outlays flowing therefrom for fiscal year 2009.

(B) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—If a bill or joint resolution is reported making appropriations for fiscal year 2009 that appropriates $6,997,000,000 for the Internal Revenue Service for enhanced tax enforcement to address the Federal tax gap (taxes owed but not paid) and provides an additional appropriation of up to $490,000,000 for the Internal Revenue Service for enhanced tax enforcement to address the Federal tax gap, then the discretionary spending limits, allocation to the Senate Committee on Appropriations, and aggregates may be adjusted by the amounts provided in such legislation for that purpose, but not to exceed $490,000,000 in budget authority and outlays flowing therefrom for fiscal year 2009.

(C) HEALTH CARE FRAUD AND ABUSE CONTROL.—If a bill or joint resolution is reported making appropriations for fiscal year 2009 that appropriates up to $198,000,000 to the Health Care Fraud and Abuse Control program at the Department of Health and Human Services, then the discretionary spending limits, allocation to the Senate Committee on Appropriations, and aggregates may be adjusted by the amounts provided in such legislation for that purpose, but not to exceed $198,000,000 in budget authority and outlays flowing therefrom for fiscal year 2009.

(D) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—If a bill or joint resolution is reported making appropriations for fiscal year 2009 that appropriates $10,000,000 for in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews, and provides an additional appropriation of up to $40,000,000 for in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews, then the discretionary spending limits, allocation to the Senate Committee on Appropriations, and aggregates may be adjusted by the amounts provided in such legislation for that purpose, but not to exceed $40,000,000 in budget authority and outlays flowing therefrom for fiscal year 2009.

(3) ADJUSTMENTS FOR OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—The Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, allocations to the Senate Committee on Appropriations, and aggregates for one or more—

(A) bills reported by the Senate Committee on Appropriations or passed by the House of Representatives;

(B) joint resolutions or amendments reported by the Senate Committee on Appropriations;

(C) amendments between the Houses received from the House of Representatives or Senate amendments offered by the authority of the Senate Committee on Appropriations; or

(D) conference reports;

making appropriations for fiscal year 2008 or 2009 for overseas deployments and other activities, by the amounts provided in such legislation for those purposes (and so designated pursuant to this paragraph), up to the amounts of budget authority specified in section 104(21) for fiscal years 2008 and 2009 and the new outlays flowing therefrom.

(d) SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008.—If legislation making supplemental appropriations for fiscal year 2008 is enacted, the Chairman of the Senate Committee on the Budget may make the appropriate adjustments in allocations, aggregates, discretionary spending limits, and other levels of new budget authority and outlays for 2008 and 2009 to reflect the difference between such measure and the corresponding levels assumed in this resolution.

(e) INAPPLICABILITY.—In the Senate, subsections (a), (b), (c), (e), and (f) of section 207 of S. Con. Res. 21 (110th Congress) shall no longer apply.

**SEC. 313. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS.**

(a) IN GENERAL.—

(1) POINT OF ORDER.—Except as provided in subsection (b), it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would provide an advance appropriation.

(2) DEFINITION.—In this section, the term "advance appropriation" means any new budget authority provided in a bill or joint resolution making appropriations for fiscal year 2009 that first becomes available for any fiscal year after 2009, or any new budget authority provided in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2010, that first becomes available for any fiscal year after 2010.

(b) EXCEPTIONS.—Advance appropriations may be provided—

(1) for fiscal years 2010 and 2011 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading "Accounts Identified for Advance Appropriations" in an aggregate amount not to exceed $28,852,000,000 in new budget authority in each year; and

(2) for the Corporation for Public Broadcasting.

(c) SUPERMAJORITY WAIVER AND APPEAL.—

(1) WAIVER.—In the Senate, subsection (a) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

(d) FORM OF POINT OF ORDER.—A point of order under subsection (a) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(e) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(f) INAPPLICABILITY.—In the Senate, section 206(a) of S. Con. Res. 21 (110th Congress) shall no longer apply.

**SEC. 314. SENATE POINT OF ORDER AGAINST PROVISIONS OF APPROPRIATIONS LEGISLATION THAT CONSTITUTE CHANGES IN MANDATORY PROGRAMS WITH NET COSTS.**

(a) IN GENERAL.—In the Senate, it shall not be in order to consider any appropriations legislation, including any amendment thereto, motion in relation thereto, or conference report thereon, that includes any provision which constitutes a change in a mandatory program producing net costs, as defined in subsection (b), that would have been estimated as affecting direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002) were they included in legislation other than appropriations legislation. A point of order pursuant to this section shall be raised against such provision or provisions as described in subsections (e) and (f).

(b) CHANGES IN MANDATORY PROGRAMS PRODUCING NET COSTS.—A provision or provisions shall be subject to a point of order pursuant to this section if—

(1) the provision would increase budget authority in at least 1 of the 9 fiscal years that follow the budget year and over the period of the total of the budget year and the 9 fiscal years following the budget year;

(2) the provision would increase net outlays over the period of the total of the 9 fiscal years following the budget year; and

(3) the sum total of all changes in mandatory programs in the legislation would increase net outlays as measured over the period of the total of the 9 fiscal years following the budget year.

(c) DETERMINATION.—The determination of whether a provision is subject to a point of order pursuant to this section shall be made by the Committee on the Budget of the Senate.

(d) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(e) GENERAL POINT OF ORDER.—It shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provision of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(f) FORM OF THE POINT OF ORDER.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(g) EFFECTIVENESS.—This section shall not apply to any provision constituting a change in a mandatory program in appropriations legislation if such provision has been enacted in each of the 3 fiscal years prior to the budget year.

(h) INAPPLICABILITY.—In the Senate, section 209 of S. Con. Res. 21 (110th Congress) shall no longer apply.

**SEC. 315. SENATE POINT OF ORDER AGAINST LEGISLATION INCREASING SHORT-TERM DEFICIT.**

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report (except measures within the jurisdiction of the Committee on Appropriations) that would cause a net increase in the deficit in excess of $10,000,000,000 in any fiscal year provided for in the most recently adopted concurrent resolution on the budget unless it is fully offset over the period of all fiscal years provided for in the most recently adopted concurrent resolution on the budget.

(b) SUPERMAJORITY WAIVER AND APPEAL IN THE SENATE.—

(1) WAIVER.—This section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(c) DETERMINATIONS OF BUDGET LEVELS.—For purposes of this section, the levels shall be determined on the basis of estimates provided by the Senate Committee on the Budget.

(d) SUNSET.—This section shall expire on September 30, 2017.

## Subtitle C—Other Provisions

### SEC. 321. OVERSIGHT OF GOVERNMENT PERFORMANCE.

All committees are directed to review programs within their jurisdiction to root out waste, fraud, and abuse in program spending, giving particular scrutiny to issues raised by Government Accountability Office reports. Based on these oversight efforts and committee performance reviews of programs within their jurisdiction, committees are directed to include recommendations for improved governmental performance in their annual views and estimates reports required under section 301(d) of the Congressional Budget Act of 1974 to the appropriate Committee on the Budget.

### SEC. 322. BUDGETARY TREATMENT OF CERTAIN DISCRETIONARY ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—In the House and Senate, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974, section 13301 of the Budget Enforcement Act of 1990, and section 2009a of title 39, United States Code, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committees on Appropriations amounts for the discretionary administrative expenses of the Social Security Administration and of the Postal Service.

(b) SPECIAL RULE.—In the House, for purposes of applying section 302(f) of the Congressional Budget Act of 1974, estimates of the level of total new budget authority and total outlays provided by a measure shall include any off-budget discretionary amounts.

### SEC. 323. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution, the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined

on the basis of estimates made by the appropriate Committee on the Budget.

(d) ADJUSTMENTS.—The Chairmen of the Budget Committees in the House and the Senate may adjust the aggregates, allocations, and other levels in this resolution for legislation which has received final Congressional approval in the same form by the House of Representatives and the Senate, and is either waiting to be presented to the President or awaiting Presidential signature at the time of final consideration of this resolution.

**SEC. 324. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.**

Upon the enactment of any bill or joint resolution providing for a change in concepts or definitions, the Chairman of the appropriate Committee on the Budget may make adjustments to the levels and allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002).

**SEC. 325. EXERCISE OF RULEMAKING POWERS.**

Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate and as such they shall be considered as part of the rules of each House or of that House to which they specifically apply, and these rules shall supersede other rules only to the extent that they are inconsistent with other such rules; and

(2) with full recognition of the constitutional right of either the House of Representatives or the Senate to change those rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House of Representatives or the Senate.

# TITLE IV—POLICY

**SEC. 401. POLICY OF THE HOUSE ON MIDDLE-INCOME TAX RELIEF.**

It is the policy of the House to—

(1) minimize fiscal burdens on middle-income families and their children and grandchildren;

(2) provide immediate relief for the tens of millions of middle-income households who would otherwise be subject to the alternative minimum tax (AMT) under current law, in the context of permanent, revenue-neutral AMT reform; and

(3) support extension of middle-income tax relief and enhanced economic equity through policies such as—

(A) extension of the child tax credit;

(B) extension of marriage penalty relief;

(C) extension of the 10 percent individual income tax bracket;

(D) elimination of estate taxes on all but a minute fraction of estates by reforming and substantially increasing the unified tax credit;

(E) extension of the research and experimentation tax credit;

(F) extension of the deduction for State and local sales taxes;

(G) extension of the deduction for small business expensing; and

(H) enactment of a tax credit for school construction bonds.

The House assumes that the cost of enacting such policies is offset by reforms within the Internal Revenue Code of 1986 that promote a fairer distribution of taxes across families and generations, economic efficiency, higher rates of tax compliance to close the tax gap, and reduced taxpayer burdens through tax simplification.

**SEC. 402. POLICY ON DEFENSE PRIORITIES.**

It is the policy of this resolution that—

(1) the Administration's budget requests should comply with section 1008, Public Law 109–364, the John Warner National Defense Authorization Act for Fiscal Year 2007, and the Administration should no longer attempt to fund overseas military operations through emergency supplemental appropriations requests;

(2) the Department of Defense should exclude nonwar requirements from its funding requests for Iraq and Afghanistan;

(3) implementing the recommendation of the National Commission on Terrorist Attacks Upon the United States (commonly referred to as the 9/11 Commission) to adequately fund cooperative threat reduction and nuclear nonproliferation programs (securing "loose nukes") is a high priority and should receive far greater emphasis than the President's budget provides;

(4) readiness of our troops, particularly the National Guard and Reserve, is a high priority, and that greater emphasis needs to be placed on mitigating equipment and training shortfalls;

(5) TRICARE fees for military retirees under the age of 65 should not be increased as the President's budget proposes;

(6) military pay and benefits should be enhanced to improve the quality of life of military personnel;

(7) improving military health care services continues to be a high priority and adequate funding to ensure quality health care for returning combat veterans should be provided;

(8) sufficient funds should be provided to the military services to expedite review of cases involving servicemembers who could have been erroneously discharged from service for a personality disorder, which resulted in a loss of benefits or care, as a result of a combat-related psychological injury (such as Post Traumatic Stress Disorder) or a closed head injury (such as Traumatic Brain Injury);

(9) higher priority defense needs could be addressed by funding missile defense at an adequate but lower level, not providing funding for development of space-based missile defense interceptors, and by restraining excessive cost and schedule growth in defense research, development and procurement programs;

(10) the Department of Defense should reassess current defense plans to ensure that weapons developed to counter Cold War-era threats are not redundant and are applicable to 21st century threats;

(11) sufficient resources should be provided for the Department of Defense to do an aggressive job of addressing as many as possible of the 1,260 pending recommendations made by the Government Accountability Office (GAO) over the last 7 years to improve practices at the Department of Defense, including investigation of the billions of dollars of obligations, disbursements and overcharges for which the Department of Defense cannot account;

(12) savings from the actions recommended in paragraphs (9) and (11) of this section should be used to fund the priorities identified in paragraphs (3) through (8);

(13) the Department of Defense report to Congress on its assessment of cold war weapons and progress on implementing GAO recommendations as outlined in paragraphs (10) and (11) by a time determined by the appropriate authorizing committees; and

(14) the GAO report to the appropriate congressional committees by the end of the 110th Congress regarding the Department of Defense's progress in implementing its audit recommendations.

# TITLE V—SENSE OF THE SENATE AND CONGRESS

## Subtitle A—Sense of the Senate

### SEC. 501. SENSE OF THE SENATE REGARDING MEDICAID ADMINISTRATIVE REGULATIONS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Medicaid program provides essential health care and long-term care services to approximately 60,000,000 low-income children, pregnant women, parents, individuals with disabilities, and senior citizens. It is a Federal guarantee that ensures the most vulnerable will have access to needed medical services.

(2) Medicaid provides critical access to long-term care and other services for the elderly and individuals living with disabilities, and is the single largest provider of long-term care services. Medicaid also pays for personal care and other supportive services that are typically not provided by private health insurance or Medicare, but are necessary to enable individuals with spinal cord injuries, developmental disabilities, neurological degenerative diseases, serious and persistent mental illnesses, HIV/AIDS, and other chronic conditions to remain in the community, to work, and to maintain independence.

(3) Medicaid supplements the Medicare program for about 7,500,000 low-income elderly or disabled Medicare beneficiaries, assisting them with their Medicare premiums and co-insurance, wrap-around benefits, and the costs of nursing home care that Medicare does not cover. The Medicaid program spends over $100,000,000,000 on uncovered Medicare services.

(4) Medicaid provides health insurance for more than one-quarter of America's children and is the largest purchaser of maternity care, paying for more than one-third of all the births in the United States each year. Medicaid also provides

critical access to care for children with disabilities, covering more than 70 percent of poor children with disabilities.

(5) More than 21,000,000 women depend on Medicaid for their health care. Women comprise the majority of seniors (64 percent) on Medicaid. Half of nonelderly women with permanent mental or physical disabilities have health coverage through Medicaid. Medicaid provides treatment for low-income women diagnosed with breast or cervical cancer in every State.

(6) Medicaid is the Nation's largest source of payment for mental health services, HIV/AIDS care, and care for children with special needs. Much of this care is either not covered by private insurance or limited in scope or duration. Medicaid is also a critical source of funding for health care for children in foster care and for health services in schools.

(7) Medicaid funds help ensure access to care for all Americans. Medicaid is the single largest source of revenue for the Nation's safety net hospitals, health centers, and nursing homes, and is critical to the ability of these providers to adequately serve all Americans.

(8) Medicaid serves a major role in ensuring that the number of Americans without health insurance, approximately 47,000,000 in 2006, is not substantially higher. The system of Federal matching for State Medicaid expenditures ensures that Federal funds will grow as State spending increases in response to unmet needs, enabling Medicaid to help buffer the drop in private coverage during recessions.

(9) The Bush Administration has issued several regulations that shift Medicaid cost burdens onto States and put at risk the continued availability of much-needed services. The regulations relate to Federal payments to public providers, and for graduate medical education, rehabilitation services, school-based administration, school-based transportation, optional case management services.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that administrative regulations should not—

(1) undermine the role the Medicaid program plays as a critical component of the health care system of the United States;

(2) cap Federal Medicaid spending, or otherwise shift Medicaid cost burdens to State or local governments and their taxpayers and health providers, forcing a reduction in access to essential health services for low-income elderly individuals, individuals with disabilities, and children and families; or

(3) undermine the Federal guarantee of health insurance coverage Medicaid provides, which would threaten not only the health care safety net of the United States, but the entire health care system.

## Subtitle B—Sense of the Congress

### SEC. 511. SENSE OF THE CONGRESS ON SERVICEMEMBERS' AND VETERANS' HEALTH CARE AND OTHER PRIORITIES.

It is the sense of the Congress that—

(1) the Congress supports excellent health care for current and former members of the United States Armed Services—

they have served well and honorably and have made significant sacrifices for this Nation;

(2) this resolution provides $48,202,000,000 in discretionary budget authority for 2009 for Function 700 (Veterans Benefits and Services), including veterans' health care, which is $4,940,000,000 more than the 2008 level, $3,654,000,000 more than the Congressional Budget Office's baseline level for 2009, and $3,284,000,000 more than the President's budget for 2009; and also provides more discretionary budget authority than the President's budget in every year after 2009;

(3) this resolution provides funding to continue addressing problems such as those identified at Walter Reed Army Medical Center to improve military and veterans' health care facilities and services;

(4) this resolution assumes the rejection of the health care enrollment fees and pharmaceutical co-payment increases in the President's budget;

(5) this resolution provides additional funding above the President's inadequate budget levels for the Department of Veterans Affairs to research and treat veterans' mental health, post-traumatic stress disorder, and traumatic brain injury; and

(6) this resolution provides additional funding above the President's inadequate budget levels for the Department of Veterans Affairs to improve the speed and accuracy of its processing of disability compensation claims, including funding to hire additional personnel above the President's requested level.

**SEC. 512. SENSE OF THE CONGRESS ON HOMELAND SECURITY.**

It is the sense of the Congress that—

(1) this resolution assumes additional homeland security funding above the President's requested level for 2009 and every subsequent year;

(2) this resolution assumes funding above the President's requested level for 2009, and additional amounts in subsequent years, in the four budget functions—Function 400 (Transportation), Function 450 (Community and Regional Development), Function 550 (Health), and Function 750 (Administration of Justice)—that fund most nondefense homeland security activities; and

(3) the homeland security funding provided in this resolution will help to strengthen the security of our Nation's transportation system, particularly our ports where significant security shortfalls still exist and foreign ports, by expanding efforts to identify and scan all high-risk United States-bound cargo, equip, train and support first responders (including enhancing interoperable communications and emergency management), strengthen border patrol, and increase the preparedness of the public health system.

**SEC. 513. SENSE OF THE CONGRESS REGARDING LONG-TERM FISCAL REFORM.**

It is the sense of the Congress that—

(1) both the Government Accountability Office and the Congressional Budget Office have warned that the Federal budget is on an unsustainable path of rising deficits and debt;

(2) using recent trend data and reasonable policy assumptions, CBO has projected that the gap between spending and

revenues over the next 75 years will reach 6.9 percent of GDP;

(3) publicly held debt will rise from 36 percent today to 400 percent of GDP by the decade beginning in 2050 under CBO's alternative policy scenario;

(4) the most significant factor affecting the long-term Federal fiscal landscape is the expectation that total public and private health spending will continue to grow faster than the economy;

(5) the Congress calls upon governmental and nongovernmental experts to develop specific options to reform the health care system and control costs, that further research and analysis on topics including comparative effectiveness, health information technology, preventative care, and provider incentives is needed, and that of critical importance is the development of a consensus on the appropriate methods for estimating the budgetary impact and health outcome effects of these proposals; and

(6) immediate policy action is needed to address the long-term fiscal challenges facing the United States, including the rising costs of entitlements, in a manner that is fiscally responsible, equitable, and lasting, and that also honors commitments made to beneficiaries, and that such action should be bipartisan, bicameral, involve both legislative and executive branch participants, as well as public participation, and be conducted in a manner that ensures full, fair, and timely Congressional consideration.

**SEC. 514. SENSE OF THE CONGRESS REGARDING WASTE, FRAUD, AND ABUSE.**

It is the sense of the Congress that—

(1) all committees should examine programs within their jurisdiction to identify wasteful and fraudulent spending;

(2) title III of this resolution includes cap adjustments to provide appropriations for agencies that control programs that accounted for a significant share of improper payments reported by Federal agencies: Social Security Administration Continuing Disability Reviews, the Medicare/Medicaid Health Care Fraud and Abuse Control Program, and Unemployment Insurance Program Integrity;

(3) title III also includes a cap adjustment for the Internal Revenue Services for tax compliance efforts to close the $345,000,000,000 tax gap;

(4) the resolution's deficit-neutral reserve funds require authorizing committees to cut lower priority and wasteful spending to accommodate any new high-priority entitlement benefits; and

(5) title III of the resolution directs all committees to review the performance of programs within their jurisdiction and report recommendations annually to the appropriate Committee on the Budget as part of the views and estimates process required by section 301(d) of the Congressional Budget Act.

**SEC. 515. SENSE OF THE CONGRESS REGARDING EXTENSION OF THE STATUTORY PAY-AS-YOU-GO RULE.**

It is the sense of the Congress that to reduce the deficit, Congress should extend PAYGO consistent with provisions of the Budget Enforcement Act of 1990.

**SEC. 516. SENSE OF THE CONGRESS ON LONG-TERM BUDGETING.**

It is the sense of the Congress that the determination of the congressional budget for the United States Government and the President's budget request should include consideration of the Financial Report of the United States Government, especially its information regarding the Government's net operating cost, financial position, and long-term liabilities.

**SEC. 517. SENSE OF THE CONGRESS REGARDING AFFORDABLE HEALTH COVERAGE.**

It is the sense of the Congress that—

(1) nearly 47 million Americans, including nine million children, lack health insurance;

(2) people without health insurance are more likely to experience problems getting medical care and to be hospitalized for avoidable health problems;

(3) most Americans receive health coverage through their employers, and a major issue facing all employers is the rising cost of health insurance;

(4) small businesses, which have generated most of the new jobs annually over the last decade, have an especially difficult time affording health coverage, because of higher administrative costs and fewer people over whom to spread the risk of catastrophic costs;

(5) because it is especially costly for small businesses to provide health coverage, their employees make up a large proportion of the Nation's uninsured individuals; and

(6) legislation consistent with the pay-as-you-go principle should be adopted that makes health insurance more affordable and accessible, with attention to the special circumstances affecting employees of small businesses, and that lowers costs and improves the quality of health care by encouraging integration of health information technology tools into the practice of medicine, by expanding comparative effectiveness research, and by promoting improvements in disease management and disease prevention.

**SEC. 518. SENSE OF THE CONGRESS REGARDING PAY PARITY.**

It is the sense of the Congress that rates of compensation for civilian employees of the United States should be adjusted at the same time, and in the same proportion, as are rates of compensation for members of the uniformed services.

**SEC. 519. SENSE OF THE CONGRESS REGARDING SUBPRIME LENDING AND FORECLOSURES.**

It is the sense of the Congress that—

(1) over the last six months, the Nation has experienced a significant increase in the number of homeowners facing the risk of foreclosure with estimates of as many as 2.8 million subprime and other distressed borrowers facing the loss of their homes over the next five years;

(2) the rise in foreclosures not only has an immediate, devastating impact on homeowners and their families, but it also has ripple effects—

(A) local communities experiencing high levels of foreclosures experience deterioration as a result of the large number of vacant foreclosed and abandoned homes;

(B) rising foreclosure rates can accelerate drops in home prices, affecting all homeowners; and

(C) home mortgage default and foreclosure rates increase risk for lenders, further restricting the availability of credit, which can in turn slow economic growth; and

(3) the rise in foreclosures is not only a crisis for subprime borrowers, but a larger problem for communities as a whole, and considering the multi-layered effects of increasing foreclosures, the Congress should consider steps to address this complex problem.

**SEC. 520. SENSE OF THE CONGRESS REGARDING THE NEED TO MAINTAIN AND BUILD UPON EFFORTS TO FIGHT HUNGER.**

It is the sense of the Congress that—

(1) 35.5 million Americans (12.6 million of them children) are food insecure—uncertain of having, or unable to acquire, enough food, and that 11.1 million Americans are hungry because of lack of food;

(2) despite the critical contributions of the Department of Agriculture nutrition programs (particularly the food stamp program), which significantly reduced payment error rates while providing help to partially mitigate the effects of rising poverty and unemployment, significant need remains, even among families that receive food stamps;

(3) nearly 25 million people, including more than nine million children and nearly three million seniors, sought emergency food assistance from food pantries, soup kitchens, shelters, and local charities last year;

(4) additional resources are needed to ensure that nutrition assistance keeps up with inflation and rising food prices; and

(5) Department of Agriculture programs that help us fight hunger should be maintained and the Congress should continue to seize opportunities to reach Americans in need and to fight hunger.

**SEC. 521. SENSE OF THE CONGRESS REGARDING THE IMPORTANCE OF CHILD SUPPORT ENFORCEMENT.**

It is the sense of the Congress that—

(1) additional legislative action is needed to ensure that States have the necessary resources to collect all child support that is owed to families and to allow them to pass 100 percent of support on to families without financial penalty; and

(2) when 100 percent of child support payments are passed to the child, rather than administrative expenses, program integrity is improved and child support participation increases.

**SEC. 522. SENSE OF THE CONGRESS ON THE INNOVATION AGENDA AND AMERICA COMPETES ACT.**

It is the sense of the Congress that—

(1) the Congress should provide sufficient funding so that our Nation may continue to be the world leader in education, innovation and economic growth;

(2) last year, Congress passed and the President signed the America COMPETES Act, bipartisan legislation designed to ensure that American students, teachers, businesses, and workers are prepared to continue leading the world in innovation, research, and technology well into the future;

(3) this resolution supports the efforts authorized in the America COMPETES Act, providing substantially increased funding above the President's requested level for 2009, and increased amounts after 2009 in Function 250 (General Science, Space and Technology) and other functions;

(4) additional increases for scientific research and education are included in Function 270 (Energy), Function 300 (Environment and Natural Resources), Function 500 (Education, Employment, Training and Social Services), and Function 550 (Health), all of which receive more funding than the President's budget provides;

(5) because America's greatest resource for innovation resides within classrooms across the country, the increased funding provided in this resolution will support initiatives within the America COMPETES Act to educate tens of thousands of new scientists, engineers, and mathematicians, and place highly qualified teachers in math and science K–12 classrooms; and

(6) because independent scientific research provides the foundation for innovation and future technologies, this resolution will keep us on the path toward doubling funding for the National Science Foundation, basic research in the physical sciences, and collaborative research partnerships, and toward achieving energy independence through the development of clean and sustainable alternative energy technologies.

Agreed to June 5, 2008.

June 12, 2008
[H. Con. Res. 325]

## MACKINAC ISLAND STATE PARK COMMISSION'S HISTORICAL PRESERVATION AND MUSEUM PROGRAM—50TH ANNIVERSARY COMMEMORATION

Whereas the Mackinac Island State Park Commission was created, in 1895, to care for and manage Mackinac Island State Park;

Whereas Michilimackinac State Park and Mill Creek State Park were later added to the family of parks and historic sites under the authority of the Commission;

Whereas, in 1958, Michigan granted authority to the Commission to restore and interpret Fort Mackinac and other historical properties at the Straits of Mackinac;

Whereas, in 1958, the Commission began restoration, installed exhibits, and opened Fort Mackinac to the public;

Whereas, in 1959, the Commission began archaeological excavation of Colonial Michilimackinac and opened it to the public one year later;

Whereas, in 1984, the Commission opened Historic Mill Creek Discovery Park;

Whereas, in 2004, after 14 years of being closed, Old Mackinac Point Lighthouse was reopened with an ongoing restoration program;

Whereas, for 50 years, the Commission has professionally and successfully developed, promoted, and improved the Mackinac State Historic Parks complex, which has been continuously recognized by the American Association of Museums; and

Whereas the Mackinac State Historic Parks complex has hosted more than 10,000,000 visitors since 1958, making it one of the most successful historic site complexes in North America and an important contributor to the tourism economy of northern Michigan: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress—

(1) celebrates the 50th anniversary of the Mackinac Island State Park Commission's Historical Preservation and Museum Program; and

(2) respectfully requests the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to the Mackinac Island State Park Commission as evidence of the Commission successfully fulfilling its mission to protect, preserve, and present the historical and natural wonders of Mackinac Island.

Agreed to June 12, 2008.

## SEEDS OF PEACE—15TH ANNIVERSARY RECOGNITION

June 18, 2008
[H. Con. Res. 337]

Whereas Seeds of Peace, founded by the late John Wallach, is a program that brings together young people and educators from regions of conflict to study and learn about coexistence and conflict resolution;

Whereas these young people study and learn primarily at an international conflict resolution summer camp operated by Seeds of Peace in Otisfield, Maine, and also through its regional programs such as the facilitation training course in the Middle East, the homestay programs in South Asia, and international regional conferences;

Whereas the first international conflict resolution camp welcomed Israeli, Palestinian, Jordanian, and Egyptian youths in the summer of 1993, and has since expanded to involve youths from other regions of conflict, including from Greece, Turkey and divided Cyprus, the Balkans, India, Pakistan, and Afghanistan;

Whereas Seeds of Peace utilizes the summer camp to initiate dialogue between the youths of the United States and the youths from various conflict regions to dispel hatred and create religious and cultural understanding;

Whereas Seeds of Peace regional programs have trained hundreds of educators to teach peaceful conflict resolutions techniques in their classrooms, positively influencing thousands of students;

Whereas Seeds of Peace works to dispel fear, mistrust, and prejudice, which among others are root causes of violence and conflict, and to build a new generation of leaders who are committed to achieving peace;

Whereas Seeds of Peace reveals the human face of those whom youth may have been taught to hate, by engaging campers in both guided coexistence sessions and ordinary summer camp activities such as living together in cabins, sharing meals, canoeing, swimming, playing sports, and creative exploration through the arts and computers;

Whereas long-term peace between Arabs and Israelis, Indians and Pakistanis, and Afghans and Pakistanis can only be achieved with the emergence of a new generation of leaders who will choose dialogue, friendship, and openness over violence and hatred;

Whereas Seeds of Peace provides year-round opportunities via regional programming and innovative technology to enable former participants to build on the relationships forged at camp, so that the learning processes begun at camp may continue subsequently in the participants' home countries;

Whereas youth graduates of the camp, known as Seeds, currently number over 4,000, with an additional 567 adult delegation leaders also having completed Seeds of Peace training;

Whereas this graduate network receives continued support from Seeds of Peace in promoting professional cooperation;

Whereas Seeds of Peace is strongly supported by participating governments and many world leaders; and

Whereas continued partial Federal funding for Seeds of Peace demonstrates its recognized importance in promoting peaceful resolution of conflicts as a primary goal of United States policy: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress—

(1) reaffirms that youth should be involved in long-term, visionary solutions to violent conflicts;

(2) honors the accomplishments of Seeds of Peace in its 15 years of promoting understanding, reconciliation, acceptance, coexistence, and peace among youth from the Middle East and other regions of conflict around the world; and

(3) views Seeds of Peace as a highly creative and successful effort to achieve reconciliation among peoples from areas of conflict, which inspires great hope that nations in conflict ultimately can learn to live together in peace, cooperation, and security.

Agreed to June 18, 2008.

June 20, 2008
[H. Con. Res. 307]

## CONGRESSIONAL PAPERS—MANAGING AND PRESERVING

Whereas Members' Congressional papers (including papers of Delegates and Resident Commissioners to the Congress) serve as indispensable sources for the study of American representative democracy;

Whereas these papers document vital national, regional, and local public policy issues;

Whereas these papers are crucial to the public's understanding of the role of Congress in making the Nation's laws and responding to the needs of its citizens;

Whereas because these papers serve as essential primary sources for the history of Congress, the study of these papers will illuminate the careers of individual Members;

Whereas by custom, these papers are considered the personal property of the Member who receives and creates them, and it is therefore the Member who is responsible to decide on their ultimate disposition; and

Whereas resources are available through the Office of the Clerk of the House of Representatives and the Secretary of the Senate to assist Members with the professional and cost-effective management and preservation of these papers: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of Congress that—

(1) Members' Congressional papers (including papers of Delegates and Resident Commissioners to the Congress) should be properly maintained;

(2) each Member of Congress should take all necessary measures to manage and preserve the Member's own Congressional papers; and

(3) each Member of Congress should be encouraged to arrange for the deposit or donation of the Member's own noncurrent Congressional papers with a research institution that is properly equipped to care for them, and to make these papers available for educational purposes at a time the Member considers appropriate.

Agreed to June 20, 2008.

## ALPHA KAPPA ALPHA SORORITY, 100TH ANNIVERSARY CELEBRATION—CAPITOL GROUNDS AUTHORIZATION

June 20, 2008
[H. Con. Res. 335]

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. USE OF CAPITOL GROUNDS FOR 100TH ANNIVERSARY CELEBRATION OF ALPHA KAPPA ALPHA SORORITY, INCORPORATED.**

(a) IN GENERAL.—Alpha Kappa Alpha Sorority, Incorporated (in this resolution referred to as the "sponsor"), shall be permitted to sponsor a public event (in this resolution referred to as the "event") on the Capitol Grounds to celebrate the 100th anniversary of Alpha Kappa Alpha Sorority, Incorporated.

(b) DATE OF EVENT.—The event shall be held on July 17, 2008, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate jointly designate.

**SEC. 2. TERMS AND CONDITIONS.**

(a) IN GENERAL.—Under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board, the event shall be—

(1) free of admission charge and open to the public; and

(2) arranged not to interfere with the needs of Congress.

(b) EXPENSES AND LIABILITIES.—The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

**SEC. 3. EVENT PREPARATIONS.**

Subject to the approval of the Architect of the Capitol, the sponsor is authorized to erect upon the Capitol Grounds such stage, sound amplification devices, and other related structures and equipment as may be required for the event.

**SEC. 4. ENFORCEMENT OF RESTRICTIONS.**

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, in connection with the event.

Agreed to June 20, 2008.

June 24, 2008
[H. Con. Res. 32]

## KHOBAR TOWERS TERRORIST BOMBING, AIR FORCE MEMBERS—HONORING

Whereas June 25, 2008, marks the 12th anniversary of the terrorist bombing of the Khobar Towers United States military housing compound in Dhahran, Saudi Arabia, on June 25, 1996;

Whereas 19 members of the United States Air Force were killed, more than 500 other Americans were injured, and 297 innocent Saudi or Bangladeshi citizens were killed or injured in the terrorist attack;

Whereas the 19 airmen killed while serving their country were Captain Christopher J. Adams, Staff Sergeant Daniel B. Cafourek, Sergeant Millard D. Campbell, Senior Airman Earl F. Cartrette, Jr., Technical Sergeant Patrick P. Fennig, Captain Leland T. Haun, Master Sergeant Michael G. Heiser, Staff Sergeant Kevin J. Johnson, Staff Sergeant Ronald L. King, Master Sergeant Kendall K. Kitson, Jr., Airman First Class Christopher B. Lester, Airman First Class Brent E. Marthaler, Airman First Class Brian W. McVeigh, Airman First Class Peter J. Morgera, Technical Sergeant Thanh V. Nguyen, Airman First Class Joseph E. Rimkus, Senior Airman Jeremy A. Taylor, Airman First Class Justin R. Wood, and Airman First Class Joshua E. Woody;

Whereas the families of these brave airmen still mourn their loss;

Whereas three months after that terrorist bombing, on September 24, 1996, the House of Representatives agreed to House Concurrent Resolution 200 of the 104th Congress, honoring the victims of that terrorist bombing;

Whereas on the fifth anniversary of that terrorist bombing, on June 25, 2001, the House of Representatives agreed to House Concurrent Resolution 161 of the 107th Congress, which was concurred in by the Senate on July 12, 2002, further honoring the victims of that bombing;

Whereas on June 27, 2005, the House of Representatives agreed to House Concurrent Resolution 188 of the 109th Congress, further honoring the victims of that terrorist bombing;

Whereas those guilty of carrying out the attack have yet to be brought to justice; and

Whereas terrorism remains a constant and ever-present threat around the world: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That, on the occasion of the 12th anniversary of the terrorist bombing of the Khobar Towers United States military housing compound in Dhahran, Saudi Arabia, Congress—

(1) recognizes the service and sacrifice of the 19 members of the United States Air Force who died in that attack;

(2) calls upon every American to pause and pay tribute to those brave airmen;

(3) extends its continued sympathies to the families of those who died; and

(4) assures the members of the Armed Forces serving anywhere in the world that their well-being and interests will at all times be given the highest priority.

Agreed to June 24, 2008.

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

June 26, 2008
[H. Con. Res. 379]

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on the legislative day of Thursday, June 26, 2008, or Friday, June 27, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, July 8, 2008, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, June 26, 2008, through Friday, July 4, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, July 7, 2008, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to June 26, 2008.

June 27, 2008
[H. Con. Res. 377]

# ARMED FORCES INTEGRATION, 60TH ANNIVERSARY COMMEMORATION CEREMONY—CAPITOL ROTUNDA AUTHORIZATION

Whereas African American men and women have served with distinction, courage, and honor in the United States Armed Forces throughout the history of the nation, even when they were denied the basic constitutional freedoms promised to all citizens;

Whereas the practice of racial segregation and discrimination in the military prevented African Americans from receiving the full recognition to which they were entitled as a result of their service;

Whereas African Americans, in leading the effort to protest discriminatory treatment in the armed forces, paved the way for successful integration of women, Asians, Hispanics, and other ethnic minorities;

Whereas the dedicated and heroic service of African American men and women during World War II led to President Truman's historic executive order 60 years ago that marked the beginning of racial integration in the United States Armed Forces;

Whereas as a result of President Truman's action, the United States Armed Forces has become one of the nation's best examples of an institution committed to equality, opportunity, and advancement based on merit rather than race, religion, or ethnicity; and

Whereas the heroic contributions of each member of the United States Armed Forces should be honored and celebrated: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. USE OF ROTUNDA FOR CEREMONY COMMEMORATING 60TH ANNIVERSARY OF INTEGRATION OF THE ARMED FORCES.**

(a) USE OF ROTUNDA.—The rotunda of the Capitol is authorized to be used on July 23, 2008, for a ceremony commemorating the 60th anniversary of President Truman's Executive Order No. 9981, which states, "It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin.".

(b) PREPARATIONS.—Physical preparations for the ceremony referred to in subsection (a) shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

Agreed to June 27, 2008.

## THURGOOD MARSHALL—100TH BIRTHDAY ANNIVERSARY RECOGNITION

July 16, 2008
[H. Con. Res. 381]

Whereas Thurgood Marshall was born in Baltimore, Maryland, on July 2, 1908, the grandson of a slave;

Whereas Thurgood Marshall developed an interest in the Constitution and the rule of law in his youth;

Whereas Thurgood Marshall graduated from Lincoln University in Pennsylvania with honors in 1930, but was denied acceptance at the all-white University of Maryland Law School because he was African-American;

Whereas Thurgood Marshall attended law school at Howard University, the country's most prominent black university, and graduated first in his class in 1933;

Whereas Thurgood Marshall served as the legal director of the National Association for the Advancement of Colored People (NAACP) from 1940 to 1961;

Whereas Thurgood Marshall argued 32 cases before the Supreme Court of the United States, beginning with the case of Chambers v. Florida in 1940, and won 29 of them, earning more victories in the Supreme Court than any other individual;

Whereas, as Chief Counsel of the NAACP, Thurgood Marshall fought to abolish segregation in schools and challenged laws that discriminated against African-Americans;

Whereas Thurgood Marshall argued Brown v. Board of Education before the Supreme Court in 1954, which resulted in the famous decision declaring racial segregation in public schools unconstitutional, overturning the 1896 decision in Plessy v. Ferguson;

Whereas Thurgood Marshall was nominated to the United States Court of Appeals for the Second Circuit by President John F. Kennedy in 1961, and was confirmed by the United States Senate in spite of heavy opposition from many Southern Senators;

Whereas Thurgood Marshall served on the United States Court of Appeals for the Second Circuit from 1961 to 1965, during which time he wrote 112 opinions, none of which were overturned on appeal;

Whereas Thurgood Marshall was nominated as Solicitor General of the United States by President Lyndon Johnson, and served as the first African-American Solicitor General from 1965 to 1967;

Whereas Thurgood Marshall was nominated as an Associate Justice of the Supreme Court by President Johnson in 1967, and served as the first African-American member of the Supreme Court;

Whereas Thurgood Marshall sought to protect the rights of all Americans during his 24 years as a justice on the Supreme Court;

Whereas Thurgood Marshall was honored with the Liberty Medal in 1992, in recognition of his long history of protecting the rights of women, children, prisoners, and the homeless; and

Whereas Thurgood Marshall died on January 24, 1993, at the age of 84: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress—

(1) honors the dedication and achievements of Thurgood Marshall;

(2) recognizes the contributions of Thurgood Marshall to the struggle for equal rights and justice in the United States; and

(3) celebrates the lifetime achievements of Thurgood Marshall on the 100th anniversary of his birth.

Agreed to July 16, 2008.

July 26, 2008
[H. Con. Res. 395]

## POCKET VERSION OF THE UNITED STATES CONSTITUTION—HOUSE PRINT

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. AUTHORIZING PRINTING OF ADDITIONAL NUMBER OF COPIES OF POCKET VERSION OF THE UNITED STATES CONSTITUTION.**

Under the direction of the Joint Committee on Printing, there shall be printed an additional number of copies of the 23rd edition of the pocket version of the United States Constitution (House Document 110—51) equal to the lesser of—

(1) 550,000 copies, of which 440,000 copies shall be for the use of the House of Representatives, 100,000 copies shall be for the use of the Senate, and 10,000 copies shall be for the use of the Joint Committee on Printing; or

(2) such number of copies as does not exceed a total production and printing cost of $180,949, with distribution to be allocated in the same proportion as described in paragraph (1), except that in no case shall the number of copies be less than 1 per Member of Congress.

Agreed to July 26, 2008.

Aug. 1, 2008
[H. Con. Res. 318]

## INTERNATIONAL YEAR OF SANITATION—SUPPORT

Whereas, in 2000, the United States, along with other world leaders, at the 55th United Nations General Assembly, committed to achieving the Millennium Development Goals which provide a

framework for countries and international organizations to combat such global social ills as poverty, hunger, and disease;

Whereas one target of the Millennium Development Goals is to halve by 2015 the proportion of people without access to safe drinking water and basic sanitation, the only target to be codified into United States law in the Senator Paul Simon Water for the Poor Act of 2005 (Public Law 109–121);

Whereas the lack of access to safe water and sanitation is one of the most pressing environmental public health issues in the world;

Whereas over 1,000,000,000 people live without potable water and an estimated 2,600,000,000 people do not have access to basic sanitation facilities, which includes 980,000,000 children;

Whereas every 20 seconds a child dies as a direct result of a lack of access to basic sanitation facilities;

Whereas only 36 percent of sub-Saharan Africa and 37 percent of South Asia have access to safe drinking water and sanitation, the lowest rates in the world;

Whereas at any one time almost half of the developing world's people are suffering from diseases associated with lack of water, sanitation, and hygiene;

Whereas improved sanitation decreases the incidences of debilitating and deadly maladies such as cholera, intestinal worms, diarrhea, pneumonia, dysentery, and skin infections;

Whereas sanitation is the foundation of health, dignity, and development;

Whereas increased sanitation is fundamental for reaching all of the Millennium Development Goals;

Whereas access to basic sanitation helps economic and social development in countries where poor sanitation is a major cause of lost work and school days because of illness;

Whereas sanitation in schools enables children, particularly girls reaching puberty, to remain in the educational system;

Whereas according to the World Health Organization, every dollar spent on proper sanitation by governments generates an average of $7 in economic benefit;

Whereas improved disposal of human waste protects the quality of water sources used for drinking, preparation of food, agriculture, and bathing;

Whereas, in 2006, the United Nations, at the 61st Session of the General Assembly, declared 2008 as the International Year of Sanitation to recognize the progress made in achieving the global sanitation target detailed in the Millennium Development Goals, as well as to call upon all Member States, United Nations agencies, regional and international organizations, civil society organizations, and other relevant stakeholders to renew their commitment to attaining that target;

Whereas the official launching of the International Year of Sanitation at the United Nations was on November 21, 2007; and

Whereas the thrust of the International Year of Sanitation has three parts, including—

(1) raising awareness of the importance of sanitation and its impact on reaching other Millennium Development Goals;

(2) encouraging governments and their partners to promote and implement policies and actions for meeting the sanitation target; and

(3) mobilizing communities, particularly women's groups, towards changing sanitation and hygiene practices through sanitation health education campaigns: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress—

(1) supports the goals and ideals of the International Year of Sanitation;

(2) recognizes the importance of sanitation on public health, poverty reduction, economic and social development, and the environment; and

(3) encourages the people of the United States to observe the International Year of Sanitation with appropriate recognition, ceremonies, activities, and programs to demonstrate the importance of sanitation and hygiene in achieving the Millennium Development Goals, and to support developing countries in their efforts to achieve the Millennium Development Goal target on basic sanitation among populations at greatest need.

Agreed to August 1, 2008.

Sept. 22, 2008
[H. Con. Res. 163]

## DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH—COMMENDATION

Whereas Dandy-Walker syndrome is the most common congenital malformation of the cerebellum and its causes are largely unknown;

Whereas between 10,000 and 40,000 people have Dandy-Walker syndrome in the United States;

Whereas the incidence of Dandy-Walker syndrome is at least 1 case per every 25,000 to 35,000 live births, however this is likely a significant underestimate because of difficulties diagnosing the syndrome;

Whereas the Metropolitan Atlanta Congenital Defects Program, Centers for Disease Control and Prevention reports that Dandy-Walker syndrome may affect as many as 1 in 5000 live born infants;

Whereas approximately 70 to 90 percent of patients with Dandy-Walker syndrome have hydrocephalus;

Whereas Dandy-Walker syndrome accounts for approximately 1 to 4 percent of hydrocephalus cases;

Whereas patients with Dandy-Walker syndrome present with developmental delay, enlarged head circumference, or signs and symptoms of hydrocephalus;

Whereas Dandy-Walker syndrome affects males and females approximately equally;

Whereas seizures occur in 15 to 30 percent of patients with Dandy-Walker syndrome;

Whereas subnormal intelligence is manifested in 41 to 71 percent of patients with Dandy-Walker syndrome;

Whereas failure to diagnose Dandy-Walker syndrome with hydrocephalus in a Neonate or a child can cause serious neurologic complications;

Whereas Dandy-Walker syndrome is named after former University of New Mexico neurosurgeon and professor Arthur E. Walker (1907–1995) and Walter E. Dandy (1883–1941), who first described the disorder in 1914; and

Whereas there are 2 known researchers dedicated to Dandy-Walker Syndrome in the United States and additional investigators are needed: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That—

(1) Congress commends the Director of the National Institutes of Health for working with leading scientists and researchers to organize the first National Institutes of Health conference on hydrocephalus in September 2005 and the Inaugural "Cerebellar Development: Bench to Bedside International Conference" in November 2006; and

(2) it is the sense of Congress that—

(A) the Director of the National Institutes of Health should continue the current collaboration, with respect to Dandy-Walker syndrome, among the National Human Genome Research Institute, the National Institute of Biomedical Imaging and Bioengineering, the National Institute of Child Health and Human Development, the National Institute of Neurological Disorders and Stroke, and the Office of Rare Diseases;

(B) further research into the epidemiology, diagnosis, pathophysiology, disease burden, and improved treatment of Dandy-Walker syndrome and hydrocephalus should be conducted and supported; and

(C) public awareness and professional education regarding Dandy-Walker research should increase through partnerships between the Federal Government and patient advocacy organizations, such as the Dandy-Walker Alliance and the Hydrocephalus Association.

Agreed to September 22, 2008.

## NATIONAL HEAT STROKE AWARENESS MONTH—SUPPORT

Sept. 22, 2008
[H. Con. Res. 296]

Whereas heat stroke is a medical emergency that can be fatal if not properly and promptly treated, and 50 percent of those with heat stroke die from it;

Whereas children absorb more heat from a hot environment because they have greater surface area-to-body mass ratio than adults;

Whereas the smaller the child, the faster he or she can overheat;

Whereas children and adolescents may have a reduced ability to dissipate heat through sweating;

Whereas children and adolescents frequently do not have the physiological drive to drink enough fluids to replenish sweat losses during prolonged exercise;

Whereas youth athletes may be more easily distracted by teammates and spectators when given the opportunity to rest and rehydrate;

Whereas a recent study found that 70 percent of afterschool athletes arrive on the playing field already dehydrated;

Whereas heat-induced illness is one of the most preventable sports ailments and parents, young athletes, and coaches need to understand the physiological factors that increase the risk for heat-related illness and take steps to prevent it;

Whereas 13-year-old Kendrick Fincher from Rogers, Arkansas, collapsed during an August pre-season football practice, was rushed to the hospital, and for the next 18 days his family waited anxiously for him to regain consciousness, tragically never regained consciousness, and died on August 25, 1995, from multi-system organ failure as a result of heat stroke;

Whereas Kendrick's parents, Rhonda and Mike Fincher, founded the Kendrick Fincher Memorial Foundation in honor of their son, with the aim to raise awareness of the potentially deadly consequences of dehydration for student athletes and to provide schools with the information and equipment needed to ensure other students do not suffer from heat stroke;

Whereas the Kendrick Fincher Memorial Foundation has distributed more than 130,000 water bottles and heat illness prevention pamphlets to children and athletes throughout the United States;

Whereas the Kendrick Fincher Memorial Foundation oversees consultation with school district athletic programs to ensure they have procedures in place to prevent heat illness and dehydration;

Whereas the Kendrick Fincher Memorial Foundation provides heat stroke awareness and steps for prevention at local health fairs, community events, and the Annual Youth Run through "cool huts", misting stations, and free ice water;

Whereas Gatorade Company joined forces with the National Football League to lead a nationwide "Beat the Heat" campaign aimed at educating parents and football coaches about the importance of hydration in order to keep athletes safe in the hot summer months; and

Whereas Gatorade Company and the National Football League held Gatorade Donation Days at training camps to raise money to raise awareness of the Kendrick Fincher Memorial Foundation: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That—

(1) it is the sense of Congress that—

(A) National Heat Stroke Awareness Month provides an opportunity to educate the people of the United States about heat stroke;

(B) the Kendrick Fincher Memorial Foundation should be applauded for its efforts in promoting awareness about heat stroke; and

(C) policymakers, parents, coaches, student athletes, not-for-profit organizations, and other members of the

community should work to increase awareness and prevention of heat stroke; and

(2) Congress urges national and community organizations, businesses in the private sector, and the media, through National Heat Stroke Awareness Month to promote the awareness of heat stroke.

Agreed to September 22, 2008.

## NATIONAL DYSPHAGIA AWARENESS MONTH—SUPPORT

Sept. 27, 2008
[H. Con. Res. 195]

Whereas dysphagia, or difficulty with swallowing, is a medical dysfunction that affects as many as 15,000,000 Americans;

Whereas the Centers for Disease Control and Prevention has estimated that 1,000,000 people in the United States annually are diagnosed with dysphagia;

Whereas the Agency for Healthcare Research and Quality has estimated that 60,000 Americans die annually from complications associated with dysphagia;

Whereas based on Centers for Disease Control and Prevention mortality data, this is more than the total number of Americans dying from all forms of liver disease, kidney disease, and HIV/AIDS combined—and nearly as many as those dying from diabetes, the number 6 killer of Americans;

Whereas the most common complication arising from dysphagia is aspiration pneumonia—caused by food or saliva entering the windpipe and into the lungs;

Whereas one in 17 people will develop some form of dysphagia in their lifetime, including 50 to 75 percent of stroke patients and 60 to 75 percent of patients who undergo radiation therapy for head and neck cancer;

Whereas as many as half of all Americans over 60 will experience dysphagia at some point;

Whereas complications due to dysphagia increase health care costs by resultant hospital readmissions, emergency room visits, extended hospital stays, the necessity for long-term institutional care, and the need for expensive respiratory and nutritional support;

Whereas the cost of managing a patient with a feeding tube, which for many has been the primary treatment option for this condition, is reported to average over $31,000 per patient per year;

Whereas the total annual cost to Medicare just for enteral feeding supplies for outpatients was more than $670,000,000 in 2003, nearly 6 percent of the total Medicare budget for that year;

Whereas including the monies spent in hospitals, the total cost of dysphagia to the health care system is well over $1,000,000,000 annually;

Whereas the condition of dysphagia is a vastly underreported condition and not widely understood by the general public; and

Whereas observing June 2008 as National Dysphagia Awareness Month would raise public awareness about dysphagia and the need for early detection and treatment: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of the Congress that a National Dysphagia Awareness Month should be established.

Agreed to September 27, 2008.

Sept. 27, 2008
[S. Con. Res. 84]

## ROBERT MONDAVI—HONORING

Whereas Robert Mondavi, a much-loved and admired man of many talents, passed away on May 16, 2008, at the age of 94;

Whereas Robert Mondavi will be fondly and most famously remembered for his work in producing and promoting California wines on an international scale;

Whereas Robert Gerald Mondavi was born to Italian immigrant parents, Cesare and Rosa, on June 18, 1913, in Virginia, Minnesota, and his family later moved to Lodi, California, where he attended Lodi High School;

Whereas after graduating from Stanford University in 1937 with a degree in economics and business administration, Robert Mondavi joined his father and younger brother Peter in running the Charles Krug Winery in the Napa Valley of California;

Whereas Robert Mondavi left Krug Winery in 1965 to establish his own winery in the Napa Valley, and, in 1966, motivated by his vision that California could produce world-class wines, he founded the first major winery built in Napa Valley since Prohibition: the Robert Mondavi Winery;

Whereas in the late 1960s, the release of the Robert Mondavi Winery's Cabernet Sauvignon opened the eyes of the world to the potential of the Napa Valley region;

Whereas Robert Mondavi introduced new and innovative techniques of wine production, such as the use of stainless steel tanks to produce wines like his now-legendary Fumé Blanc;

Whereas as a tireless advocate for California wine and food, and the Napa Valley, Robert Mondavi was convinced that California wines could compete with established European brands, and his confidence in the potential of Napa Valley wines was confirmed in 1976 when California wines defeated some well-known French vintages at the historic Paris Wine Tasting, or "Judgment of Paris", wine competition;

Whereas in the late 1970s, Robert Mondavi created the first French-American wine venture when he joined with Baron Philippe de Rothschild in creating the Opus One Winery in Oakville, which produced its first vintage in 1979;

Whereas the success of the Robert Mondavi Winery, and the many international ventures Robert Mondavi pursued, allowed him to donate generously to various charitable causes, including the Robert Mondavi Institute for Wine and Food Science and Robert

and Margrit Mondavi Center for the Performing Arts, both affiliated with the University of California, Davis, and the establishment of the American Center for Wine, Food and the Arts;

Whereas those who knew Robert Mondavi recognized him as a uniquely passionate and brilliant man who took pride in promoting causes that he held close to his heart;

Whereas Robert Mondavi's work as an ambassador for wine will be remembered fondly by all those whose lives he touched; and

Whereas Robert Mondavi will be deeply missed in the Napa Valley, in California, and throughout the world: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress honors the life of Robert Mondavi, a true pioneer and a patriarch of the California wine industry.

Agreed to September 27, 2008.

## BARTER THEATRE—75TH ANNIVERSARY

Sept. 30, 2008
[H. Con. Res. 416]

Whereas Barter Theatre in Abingdon, Virginia, presents its 75th anniversary season in 2008;

Whereas Barter Theatre was founded in 1933 by visionary Robert Porterfield, who originated the idea of offering people admission to artistic performances in exchange for fresh produce and livestock, inspiring the name, "Barter Theatre";

Whereas in 1946, the Virginia General Assembly designated Barter Theatre as the State Theatre of Virginia, the first theater to receive this distinction;

Whereas Barter Theatre is a favorite destination for regional, national, and international visitors, and its patrons have more than doubled over the past 10 years;

Whereas in 2006, the company's 2 stages drew 160,000 patrons for live theatrical productions, including comedies, musicals, dramas, mysteries, and innovative new works, to educate and entertain audiences;

Whereas, as one of the few resident theaters still functioning, Barter Theatre is the longest continuously operating Equity theater in the country;

Whereas the Barter Players, the touring company of the theater, travel to 8 States each year, performing at schools and community venues, augmenting the artistic education for all ages;

Whereas Barter Theatre's Appalachian Festival of Plays and Playwrights is an annual arts festival that celebrates the richness of Appalachian history and culture by providing a venue where the story of the region, both past and present, can be explored and showcased by area playwrights and writers;

Whereas Barter Theatre has created and implemented an award-winning Internet Distance Learning Program which teaches students about artistic and technical theatrical elements using a web-based interactive program available to classrooms across the region;

Whereas the Barter Theatre Student Matinee Program provides the opportunity for students to attend professional theater performances, ask questions of the actors and other theater professionals, participate in set design and acting workshops, and learn about the inner workings of a professional theater;

Whereas the Barter Theatre Young Playwrights Festival offers a contest for local high school students to write and submit plays of their own, with the winning plays performed by professionals at Barter Theatre, encouraging the development of students' writing skills and creativity and providing training to educators in teaching playwriting; and

Whereas Barter Theatre is a premiere tourist attraction in Southwest Virginia and one of the cornerstones of tourism for the entire region: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress—

(1) commends and congratulates Barter Theatre on the occasion of its 75th anniversary;

(2) recognizes Barter Theatre for providing 75 years of high quality artistic programs to visitors and the surrounding community, educational programs, and a venue for artistic development in Southwest Virginia;

(3) recognizes that Barter Theatre is a valuable educational resource, reaching 18,000 students each season through its productions on two stages; and

(4) recognizes that educational outreach of Barter Theatre, which includes the Young Playwrights Festival, the Internet Distance Learning Program, the Student Matinee Program, and the touring company of Barter Theatre, the Barter Players, exposes young people to playwriting and performances and encourages artistic expression.

Agreed to September 30, 2008.

Oct. 2, 2008
[H. Con. Res. 378]

## LOUISA SWAIN DAY—SUPPORT

Whereas the Wyoming Territorial Legislature passed, and Governor John A. Campbell signed into law on December 10, 1869, a measure stating, "That every woman of the age of twenty-one years, residing in this territory, may, at every election, to be holden under the law thereof, cast her vote.";

Whereas this Suffrage Act granted women in the Wyoming Territory the right to vote with full civil and judicial equality to men;

Whereas Louisa Swain, on September 6, 1870, became the Nation's first woman voter under laws guaranteeing absolute political equality to women;

Whereas she cast that vote as a 70 year-old woman in the town of Laramie's municipal election;

Whereas, the Laramie Daily Sentinel wrote, "It is comforting to note that our first woman voter was really a lady . . . of the highest social standing in the community, universally beloved and respected. The scene was in the highest degree interesting

and impressive. There was too much good sense in our community for any jeers or sneers to be seen on such an occasion";

Whereas this vote was inspirational to the women's suffrage movement and to the cause of civil rights;

Whereas, Wyoming's statehood, in 1890, brought the codification of this suffrage right through the ratification of the new Wyoming State constitution under Article 6, section 1;

Whereas, when the Congress threatened to withhold statehood from Wyoming, territory legislators replied with a telegram stating that Wyoming would remain out of the Union 100 years rather than join without women's suffrage;

Whereas President Benjamin Harrison, on July 10, 1890, signed into law a bill admitting Wyoming into the Union, and recognizing it as the Nation's "Equality State";

Whereas these actions instigated a path to the passage of the 19th Amendment to the United States Constitution 50 years after Louisa Swain's historical first vote; and

Whereas September 6, 2008, would be an appropriate date to designate as Louisa Swain Day: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress supports the designation of a Louisa Swain Day.

Agreed to October 2, 2008.

## MINORITY AIDS INITIATIVE—10TH ANNIVERSARY

Oct. 2, 2008
[H. Con. Res. 426]

Whereas the Minority AIDS Initiative was established on October 28, 1998, under the leadership of the Congressional Black Caucus, to target funds for the awareness, prevention, testing, and treatment of HIV/AIDS toward racial and ethnic minority communities and toward community-based organizations and health care providers serving these communities;

Whereas HIV/AIDS is a devastating epidemic that continues to spread in communities throughout the United States;

Whereas there are more than 1,000,000 people living with HIV/AIDS in the United States today;

Whereas there are more than 14,000 AIDS-related deaths every year in the United States;

Whereas approximately 1 in 4 of the people living with HIV/AIDS in the United States do not know they are infected;

Whereas racial and ethnic minorities are disproportionately impacted by HIV/AIDS;

Whereas African-Americans account for about half of new AIDS cases, although approximately 13 percent of the population as a whole is Black, and the Centers for Disease Control and Prevention (CDC) estimates that African-Americans accounted for 45 percent of new HIV infections in 2006;

Whereas Hispanic-Americans account for 19 percent of new AIDS cases, although only 15 percent of the population as a whole

is Hispanic, and the CDC estimates that Hispanic-Americans accounted for 17 percent of new HIV infections in 2006;

Whereas Asian-Americans and Pacific Islanders account for 1 percent of new AIDS cases, and Native Americans and Alaskan Natives account for up to 1 percent of new AIDS cases;

Whereas approximately 70 percent of new AIDS cases are racial and ethnic minorities;

Whereas the CDC recently released new estimates of HIV infection, which indicate that approximately 56,300 new HIV infections occurred in the United States in 2006;

Whereas these new estimates are approximately 40 percent higher than the CDC's previous estimates of 40,000 new infections per year;

Whereas the CDC's data confirms that the most severe impact continues to be among gay and bisexual men of all races, and Black men and women;

Whereas the purpose of the Minority AIDS Initiative is to enable community based organizations and health care providers in minority communities to improve their capacity to deliver culturally and linguistically appropriate HIV/AIDS care and services;

Whereas concerned Members of Congress, including members of the Congressional Black Caucus, the Congressional Hispanic Caucus, the Congressional Asian Pacific American Caucus, and the Congressional Hispanic Conference, continue to support the Minority AIDS Initiative;

Whereas the Minority AIDS Initiative continues to provide funding to community-based organizations, research institutions, minority-serving colleges and universities, health care organizations, State and local health departments, correctional institutions, and other providers of health information and services to help such entities address the HIV/AIDS epidemic within the minority populations they serve;

Whereas Congress codified the Minority AIDS Initiative within the most recent reauthorization of the Ryan White CARE Act;

Whereas the Minority AIDS Initiative fills gaps in HIV/AIDS outreach, awareness, prevention, treatment, surveillance, and infrastructure across communities of color; and

Whereas, October 28, 2008, is the 10th anniversary of the establishment of the Minority AIDS Initiative: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress—

(1) recognizes and commemorates the 10th anniversary of the establishment of the Minority AIDS Initiative;

(2) commends the efforts of community-based organizations and health care providers in minority communities to deliver culturally and linguistically appropriate HIV/AIDS care and services within the minority populations they serve;

(3) encourages racial and ethnic minorities and all Americans to educate themselves about the prevention and treatment of HIV/AIDS and reduce HIV related stigma;

(4) encourages the Centers for Disease Control and Prevention to appropriately address populations significantly impacted

by HIV/AIDS not only through the Minority AIDS Initiative, but through all available programs; and

(5) supports the continuing efforts of the Minority AIDS Initiative to stop the spread of HIV/AIDS and urges effective, compassionate treatment and care to individuals affected by HIV/AIDS.

Agreed to October 2, 2008.

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Oct. 2, 2008
[H. Con. Res. 440]

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on any legislative day on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 11 a.m. on Saturday, January 3, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and the Senate may adjourn or recess at any time from Thursday, October 2, 2008, through January 3, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee until such time as specified in that motion, but not beyond noon on January 3, 2009, and it may reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and respective time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to October 2, 2008.

## ENROLLMENT CORRECTIONS—H.R. 6063

Oct. 2, 2008
[S. Con. Res. 105]

*Resolved by the Senate (the House of Representatives concurring),* That in the enrollment of the bill H.R. 6063, an Act to authorize the programs of the National Aeronautics and Space Administration, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

In section 601(b)(2)(A)(iii) of the bill, strike "Orbiter".

In section 611(d)(1) of the bill, strike "first President" and insert "President".

In section 611(e)(3) of the bill, strike "correctly" and insert "currently".

In section 611(e)(7) of the bill, strike "extention" and insert "extension".

In section 612 of the bill, strike "operations" and insert "operational".

In section 1119 of the bill, strike "The Report" and insert "The report".

Agreed to October 2, 2008.

Oct. 3, 2008
[H. Con. Res. 442]

## ENROLLMENT CORRECTIONS—S. 3001

*Resolved by the House of Representatives (the Senate concurring),* That in the enrollment of the bill S. 3001, the Secretary of the Senate shall make the following corrections:

(1) In section 201(1), strike "$11,045,052,000" and insert "$10,943,840,000".

(2) In section 202(a), strike "$11,799,660" and insert "$11,799,660,000".

Agreed to October 3, 2008.

Nov. 20, 2008
[H. Con. Res. 435]

## CAPITOL VISITOR CENTER CEREMONIES—EMANCIPATION HALL AUTHORIZATION

*Resolved by the House of Representatives (the Senate concurring),* That Emancipation Hall may be used on December 2, 2008, for ceremonies and activities held in connection with the opening of the Capitol Visitor Center to the public. Physical preparations for such ceremonies and activities shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

Agreed to November 20, 2008.

# PROCLAMATIONS

**Proclamation 8213 of December 20, 2007**

## To Implement an Amendment to the Dominican Republic-Central America-United States Free Trade Agreement

*By the President of the United States of America*

*A Proclamation*

1. On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (the ''Agreement'';) with Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua (the ''Agreement countries'';). The Congress approved the Agreement in section 101(a) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the ''CAFTA–DR Act'';) (19 U.S.C. 4011).

2. The Parties to the Agreement entered into an amendment to the Agreement on July 27, August 6, and August 14, 2007 (the ''Amendment'';). The terms of the Amendment are contained in letters of understanding between the United States and the Agreement countries described in sections 1634(a)(2) and 1634(b)(2) of the Pension Protection Act of 2006 (Public Law 109–280, 120 Stat. 780).

3. Section 1634 of the Pension Protection Act authorizes the President to proclaim modifications to the Harmonized Tariff Schedule of the United States (HTS) as necessary to carry out the understandings described therein subject, in the case of certain provisions of the Amendment, to the consultation and layover requirements in section 104 of the CAFTA–DR Act (19 U.S.C. 4014).

4. Section 203(o) of the CAFTA–DR Act (19 U.S.C. 4033) authorizes the President to proclaim, as part of the HTS, the provisions set out in Annex 4.1 of the Agreement.

5. Executive Order 11651 of March 3, 1972, as amended, established the Committee for the Implementation of Textile Agreements (CITA), consisting of representatives of the Departments of State, the Treasury, Commerce, and Labor, and the Office of the United States Trade Representative, with the representative of the Department of Commerce as Chairman, to supervise the implementation of textile trade agreements. Consistent with 3 U.S.C. 301, when carrying out functions vested in the President by statute and assigned by the President to CITA, the officials collectively exercising those functions are all to be officers required to be appointed by the President with the advice and consent of the Senate.

6. Section 604 of the Trade Act of 1974, as amended (the ''1974 Act'';) (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 203 of the CAFTA–DR Act, section 1634 of the Pension Protection Act, section 301 of title 3, United States Code, and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide generally for the modifications in the rules for determining whether goods imported into the customs territory of the United States are eligible for preferential tariff treatment under the Agreement, to provide preferential tariff treatment for certain other goods under the Agreement, and to make technical and conforming changes in the general notes to the HTS, the HTS is modified as set forth in:

(a) Sections A, B, and C of the Annex to this proclamation; and

(b) Section D of that Annex.

(2) The modifications to the HTS made by paragraph (1)(a) of this proclamation shall enter into effect on the date, as announced by the United States Trade Representative in the **Federal Register**, that the Amendment enters into force and shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after that date.

(3) The modifications to the HTS made by paragraph (1)(b) of this proclamation shall enter into effect on the date, as announced by the United States Trade Representative in the **Federal Register**, that the Amendment has entered into force and the conditions set forth in paragraph (a), paragraph (b), or both, of footnote 1 to Appendix 4.1–B of the Agreement have been fulfilled, and shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after that date.

(4) The CITA is authorized to exercise my authority under section 203(o) of the CAFTA–DR Act to implement Appendix 4.1–B of the Agreement by determining whether and, if so, by what amount, to increase in accordance with paragraph 3 or footnote 2 of that Appendix the quantitative limits in the provisions of the HTS set out in section D of the Annex to this proclamation.

(5)The United States Trade Representative shall modify U.S. note 21 to subchapter XXII of chapter 98 of the HTS in a notice published in the **Federal Register** to reflect determinations pursuant to paragraph (4) of this proclamation by the CITA.

(6) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of December, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**ANNEX**

**TO IMPLEMENT AN AMENDMENT TO THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT**

Effective with respect to goods that are entered, or withdrawn from warehouse for consumption, on or after the dates announced by the United States Trade Representative and published in the *Federal Register* for each annex section below, the Harmonized Tariff Schedule of the United States (HTS) is hereby modified as follows:

Section A. General note 29(n) to the HTS is modified as set forth below:

1. Chapter rules 3 and 4 for chapter 61 are deleted and the following new chapter rules are inserted in lieu thereof:

> **"Chapter rule 3.** Notwithstanding chapter rule 2 to this chapter, a good of this chapter, other than a good of subheading 6102.20, tariff item 6102.90.90 (for goods subject to cotton restraints), 6104.12.00 (for jackets imported as parts of suits), 6104.13.20, 6104.19.15, 6104.19.80 (for jackets imported as parts of suits and subject to cotton restraints), 6104.19.80 (for goods subject to man-made fiber restraints), 6104.22.00 (for garments described in heading 6102 or jackets and blazers described in heading 6104), 6104.29.20 (for garments described in heading 6102 or jackets and blazers described in heading 6104, the foregoing subject to cotton restraints), subheading 6104.32, tariff item 6104.39.20 (for goods subject to cotton restraints), 6112.11.00 (for women's or girls' garments described in headings 6101 or 6102), 6113.00.90 (for coats and jackets of cotton, for women or girls) or 6117.90.90 (for coats and jackets of cotton), containing fabrics of subheading 5806.20 or heading 6002 shall be considered originating only if such fabrics are both formed from yarn and finished in the territory of one or more of the parties to the Agreement.
>
> **Chapter rule 4.** Notwithstanding chapter rule 2 to this chapter, a good of this chapter, other than a good of subheading 6102.20, tariff item 6102.90.90 (for goods subject to cotton restraints), 6104.12.00 (for jackets imported as parts of suits), 6104.13.20, 6104.19.15, 6104.19.80 (for jackets imported as parts of suits and subject to cotton restraints or for goods subject to man-made fiber restraints), 6104.22.00 (for garments described in heading 6102 or jackets and blazers described in heading 6104), 6104.29.20 (for garments described in heading 6102 or jackets and blazers described in heading 6104, the foregoing subject to cotton restraints), subheading 6104.32, tariff item 6104.39.20 (for goods subject to cotton restraints), 6112.11.00 (for women's or girls' garments described in headings 6101 or 6102), 6113.00.90 (for coats and jackets of cotton, for women or girls) or 6117.90.90 (for coats and jackets of cotton), containing sewing thread of heading 5204, 5401 or 5508 shall be considered originating only if such sewing thread is both formed and finished in the territory of one or more of the parties to the Agreement.
>
> **Chapter rule 5.** Notwithstanding chapter rule 2, a good of this chapter, other than a good of subheading 6102.20, tariff item 6102.90.90 (for goods subject to cotton restraints), 6104.12.00 (for jackets imported as parts of suits), 6104.13.20, 6104.19.15, 6104.19.80 (for jackets imported as parts of suits and subject to cotton restraints or for goods subject to man-made fiber restraints), 6104.22.00 (for garments described in heading 6102 or jackets and blazers described in heading 6104), 6104.29.20 (for garments described in heading 6102 or jackets and blazers described in heading 6104, the foregoing subject to cotton restraints), subheading 6104.32, tariff item 6104.39.20 (for goods subject to cotton restraints), 6112.11.00 (for women's or girls' garments described in headings 6101 or 6102), 6113.00.90 (for coats and jackets of cotton, for women or girls) or 6117.90.90 (for coats and jackets of cotton), that contains a pocket or pockets shall be considered originating only if the pocket bag fabric has been formed and finished in the territory of one or more of the parties to the Agreement from yarn wholly formed in the territory of one or more of the parties to the Agreement."

2. Tariff classification rules (TCRs) 3 and 4 for chapter 61 are deleted and the following new TCRs are inserted in lieu thereof:

> "3. A change to subheading 6102.10 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61.

3A. A change to subheading 6102.20 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

3B. A change to subheading 6102.30 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61.

4. A change to goods subject to cotton restraints of tariff item 6102.90.90 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

4A. A change to any other good of subheading 6102.90 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

3. TCRs 13 and 14 for chapter 61 are deleted and the following new TCRs are inserted in lieu thereof:

"13. A change to subheading 6104.11 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61.

13A. A change to jackets imported as parts of suits of subheading 6104.12 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

13B. A change to any other good of subheading 6104.12 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61.

13C. A change to tariff item 6104.13.20 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

13D. A change to any other tariff item of subheading 6104.13 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61.

14. A change to tariff item 6104.19.40 or 6104.19.80 (except jackets imported as parts of suits and subject to cotton restraints and except goods subject to man-made fiber restraints) from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

14A. A change to tariff items 6104.19.15 or 6104.19.80 (for jackets imported as parts of suits and subject to cotton restraints or for goods subject to man-made fiber restraints) from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

4. TCRs 16 and 17 for chapter 61 are deleted and the following new TCRs are inserted in lieu thereof:

"16. A change to subheading 6104.21 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) with respect to a garment described in heading 6102, a jacket or a blazer described in heading 6104 or a skirt described in heading 6104, of wool, fine animal hair, cotton or man-made fibers, imported as part of an ensemble of these subheadings, any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61.

16A. A change to garments described in heading 6102 or to jackets and blazers described in heading 6104 and subject to cotton restraints, imported as parts of ensembles of subheading 6104.22 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

16B. A change to any other good of subheading 6104.22 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) with respect to a garment described in heading 6102, a jacket or a blazer described in heading 6104, or a skirt described in heading 6104, of wool, fine animal hair, cotton or man-made fibers, imported as part of an ensemble of these subheadings, any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61.

16C. A change to subheading 6104.23 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) with respect to a garment described in heading 6102, a jacket or a blazer described in heading 6104, or a skirt described in heading 6104, of wool, fine animal hair, cotton or man-made fibers, imported as part of an ensemble of these subheadings, any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61.

16D. A change to garments described in heading 6102 or to jackets and blazers described in heading 6104 and subject to cotton restraints, imported as parts of ensembles of subheading 6104.29 from any other

chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

16E. A change to any other good of subheading 6104.29 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) with respect to a garment described in heading 6102, a jacket or a blazer described in heading 6104, or a skirt described in heading 6104, of wool, fine animal hair, cotton or man-made fibers, imported as part of an ensemble of these subheadings, any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61.

17. A change to subheading 6104.31 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61.

17A. A change to subheading 6104.32 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

17B. A change to subheading 6104.33 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61."

5. The following new TCR 18A for chapter 61 is inserted immediately below TCR 18 for such chapter:

"18A. A change to garments described in heading 6102 or to jackets and blazers described in heading 6104 and subject to cotton restraints, imported as parts of ensembles of tariff item 6104.39.20 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

6. TCR 19 for chapter 61 is modified by deleting "tariff item" and by inserting in lieu thereof "good".

7. TCRs 25 through 33 for chapter 61 are deleted and the following new TCRs are inserted in lieu thereof:

"25. A change to headings 6105 through 6111 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

33. A change to women's or girls' garments described in heading 6102 imported as parts of track suits of tariff item 6112.11.00 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

33A. A change to any other good of tariff item 6112.11.00 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516

or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

33B. A change to subheadings 6112.12 through 6112.19 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

8. TCR 36 for chapter 61 is deleted and the following new TCRs are inserted in lieu thereof:

"36. A change to coats or jackets of cotton, for women or girls, of tariff item 6113.00.90 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

37. A change to any other good of heading 6113 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

38. A change to headings 6114 through 6116 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

39. A change to subheadings 6117.10 through 6117.80 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

40. A change to coats or jackets of cotton of tariff item 6117.90.90 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

41. A change to any other good of subheading 6117.90 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

9. Chapter rules 1, 3 and 4 for chapter 62 are deleted, and the following new chapter rules 1, 3, 4 and 5 are inserted in numerical sequence:

"**Chapter rule 1.** Except for fabrics classified in tariff item 5408.22.10, 5408.23.11, 5408.23.21 or 5408.24.10, the fabrics identified in the following headings and subheadings, when used as visible lining material in certain men's and women's suits, suit-type jackets, skirts, overcoats, carcoats, anoraks, windbreakers and similar articles, other than men's and boys' and women's and girls' suits, trousers, suit-type jackets and blazers, vests and women's and girls' skirts of wool fabric, of subheadings 6203.11, 6203.31, 6203.41, 6204.11, 6204.31, 6204.51, 6204.61, 6211.39 or 6211.41, provided that such goods are not made of carded wool fabric or made from wool yarn having an average fiber diameter of less than or equal to 18.5 microns, must be both formed from yarn and finished in the territory of one or more of the parties to the Agreement:

5111 through 5112, 5208.31 through 5208.59, 5209.31 through 5209.59, 5210.31 through 5210.59, 5211.31 through 5211.59, 5212.13 through 5212.15, 5212.23 through 5212.25, 5407.42 through 5407.44, 5407.52 through 5407.54, 5407.61, 5407.72 through 5407.74, 5407.82 through 5407.84, 5407.92 through 5407.94, 5408.22 through 5408.24, 5408.32 through 5408.34, 5512.19, 5512.29, 5512.99, 5513.21 through 5513.49, 5514.21 through 5515.99, 5516.12 through 5516.14, 5516.22 through 5516.24, 5516.32 through 5516.34, 5516.42 through 5516.44, 5516.92 through 5516.94, 6001.10, 6001.92, 6005.31 through 6005.44 or 6006.10 through 6006.44.

**Chapter rule 3.** Notwithstanding chapter rule 2 to this chapter, a good of this chapter, other than--

(a) a good of headings 6207 through 6208 (for boxers, pajamas, and nightwear only), subheading 6204.23, 6204.29, 6204.32, 6212.10, tariff item 6202.12.20, 6202.19.90 (for goods subject to cotton restraints), 6202.91.20 (for goods for women), 6202.92.15, 6202.92.20 (other than padded, sleeveless jackets without attachments for sleeves), 6202.93.45, 6202.99.90 (for goods subject to cotton restraints), 6203.39.90 (for goods subject to wool restraints), 6204.12.00 (for jackets imported as parts of suits), 6204.13.20, 6204.19.20, 6204.19.80 (for jackets imported as parts of suits and subject to cotton restraints, or for goods subject to man-made fiber restraints), 6204.22.30 (for garments described in heading 6202, or for jackets and blazers described in heading 6204), 6204.33.20, 6204.39.80, 6204.42.30 (for garments for girls, other than of corduroy), 6204.43.40 (for garments for girls), 6204.44.40 (for garments for girls), 6205.20.20 (for dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale), 6205.30.20 (for dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale), 6209.20.10, 6210.30.90 (for garments other than of linen), 6210.50.90 (for anoraks), 6211.20.15 (for anoraks (including ski-jackets), windbreakers, and similar articles (including padded, sleeveless jackets), for women or girls, of cotton, imported as parts of ski suits), 6211.20.58 (for goods of cotton), 6211.41.00 (for jackets and jacket-type garments excluded from heading 6202), 6211.42.00 (for track suits, other than trousers, or for jackets and jacket-type garments excluded from heading 6202) or 6217.90.90 (for coats and jackets, of cotton); or

(b) men's and boys' and women's and girls' suits, trousers, suit-type jackets and blazers, vests, and women's and girls' skirts of wool fabric, of subheadings 6203.11, 6203.31, 6203.41, 6204.11, 6204.31, 6204.51, 6204.61, 6211.39, or 6211.41, provided that such goods are not made of carded wool fabric or made from wool yarn having an average fiber diameter of less than or equal to 18.5 microns,

containing fabrics of heading 6002 or subheading 5806.20 shall be considered originating only if such fabrics are both formed from yarn and finished in the territory of one or more of the parties to the Agreement.

**Chapter rule 4.** Notwithstanding chapter rule 2, a good of this chapter, other than--

(a) a good of headings 6207 through 6208 (for boxers, pajamas, and nightwear only), subheading 6204.23, 6204.29, 6204.32, 6212.10, tariff item 6202.12.20, 6202.19.90 (for goods subject to cotton restraints), 6202.91.20 (for goods for women), 6202.92.15, 6202.92.20 (other than padded, sleeveless jackets without attachments for sleeves), 6202.93.45, 6202.99.90 (for goods subject to cotton restraints), 6203.39.90 (for goods subject to wool restraints), 6204.12.00 (for jackets imported as parts of suits), 6204.13.20, 6204.19.20, 6204.19.80 (for jackets imported as parts of suits and subject to cotton restraints, or for goods subject to man-made fiber restraints), 6204.22.30 (for garments described in heading 6202, or for jackets and blazers described in heading 6204), 6204.33.20, 6204.39.80, 6204.42.30 (for garments for girls, other than of corduroy), 6204.43.40 (for garments for girls), 6204.44.40 (for garments for girls), 6205.20.20 (for dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale), 6205.30.20 (for dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags each for retail sale), 6209.20.10, 6210.30.90 (for garments other than of linen), 6210.50.90 (for anoraks), 6211.20.15 (for anoraks (including ski-jackets), windbreakers, and similar articles (including padded, sleeveless jackets), for women or girls, of cotton, imported as parts of ski suits), 6211.20.58 (for goods of cotton), 6211.41.00 (for jackets and jacket-type garments excluded from heading 6202), 6211.42.00 (for track suits, other than trousers, or for jackets and jacket-type garments excluded from heading 6202) or 6217.90.90 (for coats and jackets, of cotton); or

(b) men's and boys' and women's and girls' suits, trousers, suit-type jackets and blazers, vests and women's and girls' skirts of wool fabric, of subheadings 6203.11, 6203.31, 6203.41, 6204.11, 6204.31, 6204.51, 6204.61, 6211.39 or 6211.41, provided that such goods are not made of carded wool fabric or made from wool yarn having an average fiber diameter of less than or equal to 18.5 microns,

containing sewing thread of heading 5204, 5401 or 5508 shall be considered originating only if such sewing thread is both formed and finished in the territory of one or more of the parties to the Agreement.

**Chapter Rule 5.** Notwithstanding chapter rule 2, a good of this chapter, other than--

(a) a good of headings 6207 through 6208 (for boxers, pajamas, and nightwear only), subheading 6204.23, 6204.29, 6204.32, 6212.10, tariff item 6202.12.20, 6202.19.90 (for goods subject to cotton restraints), 6202.91.20 (for goods for women), 6202.92.15, 6202.92.20 (other than padded, sleeveless jackets without attachments for sleeves), 6202.93.45, 6202.99.90 (for goods subject to cotton restraints), 6203.39.90 (for goods subject to wool restraints), 6204.12.00 (for jackets imported as parts of suits), 6204.13.20, 6204.19.20, 6204.19.80 (for jackets imported as parts of suits and subject to cotton restraints, or for goods subject to man-made fiber restraints), 6204.22.30 (for garments described in heading 6202, or for jackets and blazers described in heading 6204), 6204.33.20, 6204.39.80, 6204.42.30 (for garments for girls, other than of corduroy), 6204.43.40 (for garments for girls), 6204.44.40 (for garments for girls), 6205.20.20 (for dress shirts for men, with two or more colors in the warp and/or the filling with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale), 6205.30.20 (for dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale), 6209.20.10, 6210.30.90 (for garments other than of linen), 6210.50.90 (for anoraks), 6211.20.15 (for anoraks (including ski-jackets), windbreakers, and similar articles (including padded, sleeveless jackets), for women or girls, of cotton, imported as parts of ski suits), 6211.20.58 (for goods of cotton), 6211.41.00 (for jackets and jacket-type garments excluded from heading 6202), 6211.42.00 (for track suits, other than trousers, or for jackets and jacket-type garments excluded from heading 6202) or 6217.90.90 (for coats and jackets, of cotton); or

(b) men's and boys' and women's and girls' suits, trousers, suit-type jackets and blazers, vests and women's and girls' skirts of wool fabric, of subheadings 6203.11, 6203.31, 6203.41, 6204.11, 6204.31, 6204.51, 6204.61, 6211.39 or 6211.41, provided that such goods are not made of carded wool fabric or made from wool yarn having an average fiber diameter of less than or equal to 18.5 microns,

that contains a pocket or pockets shall be considered originating only if the pocket bag fabric has been formed and finished in the territory of one or more of the parties to the Agreement from yarn wholly formed in the territory of one or more of the parties to the Agreement."

10. TCRs 5 through 8, inclusive, for chapter 62 are deleted and the following new TCRs are inserted in lieu thereof:

"5. A change to subheading 6202.11 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

5A. A change to tariff item 6202.12.20 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

5B. A change to any other tariff item of subheading 6202.12 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

5C. A change to subheading 6202.13 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

6. A change to goods subject to cotton restraints of tariff item 6202.19.90 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

6A. A change to any other good of subheading 6202.19 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

7. A change to goods for women of tariff item 6202.91.20 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

7A. A change to any other good of subheading 6202.91 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

7B. A change to tariff items 6202.92.15 or 6202.92.20 (other than padded, sleeveless jackets without attachments for sleeves) from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

7C. A change to any other good of subheading 6202.92 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

7D. A change to tariff item 6202.93.45 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

7E. A change to any other good of subheading 6202.93 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

8. A change to goods subject to cotton restraints of tariff item 6202.99.90 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

8A. A change to any other good of subheading 6202.99 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

11. The following new TCR for chapter 62 is inserted immediately below TCR 13 for such chapter, and TCR 14 for such chapter is modified by deleting "tariff item" and by inserting in lieu thereof "good":

"13A. A change to goods subject to wool restraints of tariff item 6203.39.90 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

12. TCR 16 for chapter 62 is deleted and the following new TCRs are inserted in lieu thereof:

"16. A change to subheading 6204.11 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 58.01 through 58.02,or 60.01 through 60.06, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

16A. A change to jackets imported as parts of suits of subheading 6204.12 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

16B. A change to any other good of subheading 6204.12 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 58.01 through 58.02,or 60.01 through 60.06, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

16C. A change to tariff item 6204.13.20 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

16D. A change to any other tariff item of subheading 6204.13 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 58.01 through 58.02,or 60.01 through 60.06, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62."

13. The following new TCR for chapter 62 is inserted immediately below TCR 17 for such chapter:

"17A. A change to tariff item 6204.19.20 or to jackets imported as parts of suits and subject to cotton restraints or to goods subject to man-made fiber restraints of tariff item 6204.19.80 from any other

chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

14. TCRs 19, 20 and 21 for chapter 62 are deleted and the following new TCRs are inserted in lieu thereof:

"19. A change to subheading 6204.21 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) with respect to a garment described in heading 6202, a jacket or a blazer described in heading 6204 or a skirt described in heading 6204, of wool, fine animal hair, cotton or man-made fibers, imported as part of an ensemble of these subheadings, any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

19A. A change to garments described in heading 6202 or to jackets or blazers described in heading 6204 of tariff item 6204.22.30 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

19B. A change to any other good of subheading 6204.22 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) with respect to a garment described in heading 6202, a jacket or a blazer described in heading 6204 or a skirt described in heading 6204, of wool, fine animal hair, cotton or man-made fibers, imported as part of an ensemble of these subheadings, any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

19C. A change to subheadings 6204.23 through 6204.29 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

20. A change to subheading 6204.31 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

20A. A change to subheading 6204.32 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

20B. A change to tariff item 6204.33.20 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

20C. A change to any other tariff item in subheading 6204.33 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

21. A change to tariff item 6204.39.60 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

21A. A change to tariff item 6204.39.80 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

15. TCRs 24 and 25 for chapter 62 are deleted and the following new TCRs are inserted in lieu thereof:

"24. A change to goods for girls, other than of corduroy, of tariff item 6204.42.30 or to goods for girls of tariff items 6204.43.40 or 6204.44.40 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

25. A change to any other good of subheadings 6204.42 through 6204.49 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

16. TCR 30 for chapter 62 is deleted and the following new TCRs are inserted in lieu thereof:

"30. A change to subheading 6205.10 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

30A. A change to dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale, of tariff item 6205.20.20 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

30B. A change to any other good of subheading 6205.20 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

30C. A change to dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale, of tariff item 6205.30.20 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

30D. A change to any other good of subheading 6205.30 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

30E. A change to subheading 6205.90 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

17. TCR 32 for chapter 62 is deleted and the following new TCR is inserted in lieu thereof, and TCR 34 for chapter 62 is modified by deleting "tariff item" and by inserting in lieu thereof "good":

"32. A change to boxer shorts of subheading 6207.11, tariff items 6207.19.90 or 6208.91.30 or subheading 6208.92 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

18. TCR 35 for chapter 62 is deleted and the following new TCRs are inserted in lieu thereof:

"35. A change to tariff item 6209.20.10 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

35A. A change to any other tariff item of heading 6209 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

35B. A change to goods other than of linen tariff item 6210.30.90 or to anoraks (including ski-jackets), windbreakers and similar articles of tariff item 6210.50.90 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

35C. A change to any other good of heading 6210 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

19. TCRs 37 and 38 for chapter 62 are deleted and the following new TCRs are inserted in lieu thereof:

"37. A change to anoraks (including ski-jackets), windbreakers and similar articles (including padded, sleeveless jackets), imported as parts of ski-suits, of cotton, for women or girls, of tariff items 6211.20.15 or 6211.20.58 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

37A. A change to any other good of subheading 6211.20 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that:

(a) the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and

(b) with respect to a garment described in heading 61.01, 6102, 62.01, or 62.02, of wool, fine animal hair, cotton, or man-made fibers, imported as part of a ski-suit of this subheading, any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 62.

38. A change to subheadings 6211.31 through 6211.39 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

38A. A change to jackets and jacket-type garments excluded from heading 6202 of subheading 6211.41 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

38B. A change to any other good of subheading 6211.41 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

38C. A change to track suits (other than trousers) or to jackets and jacket-type garments excluded from heading 6202 of subheading 6211.42 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

38D. A change to any other good of subheading 6211.42 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

38E. A change to subheadings 6211.43 through 6211.49 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

20. TCR 41 for chapter 62 is deleted and the following new TCRs are inserted in lieu thereof:

"41. A change to headings 6213 through 6216 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut and knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

42. A change to coats or jackets of cotton of tariff item 6217.90.90 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.

43. A change to any other good of heading 6217 from any other chapter, except from headings 5111 through 5113, 5204 through 5212, 5310 through 5311, chapter 54, headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is cut and knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement."

Section B. U.S. note 15 to subchapter XV of chapter 99 of the HTS is modified--

(1). by inserting at the end of the tabulation in subdivision (b) of such note the following new material:

"The tariff treatment provided for in subheading 9915.61.01 shall also apply to men's sport coats, containing 23 percent or more by weight of wool or fine animal hair, of subheadings 6103.23.00, 6103.29.05, 6103.31.00, 6103.33.10, 6103.39.80, 6203.23.00, 6203.29.10, 6203.29.15, 6203.31.50, 6203.31.90, 6203.33.10 or 6203.39.10, provided that the component that determines the tariff classification of the good is of carded wool fabric of subheading 5111.11.70, 5111.19.60 or 5111.90.90, and provided that the good satisfies all other applicable requirements of this note."

(2). by deleting from the tabulation in subdivision (c) of such note the quantities enumerated for the years 2011, 2012, 2013 and 2014 followed by the abbreviation "SME" and by inserting in lieu thereof for each such year the quantity "100,000,000 SME"; and by adding immediately below the tabulation and before the sentence beginning "For purposes..." the following new sentence:

"Of the quantity specified above for any such year, not more than 1,500,000 SME may be men's sport coats, containing 23 percent or more by weight of wool or fine animal hair, that are described in the final sentence of subdivision (b) of this note."

Section C. The following new HTS provisions are inserted in numerical sequence in subchapter XXII of chapter 98, with the material inserted in the columns entitled "Heading/Subheading", "Article Description", and "Rates of Duty 1 General":

| | | | |
|---|---|---|---|
| : "Goods of a party to the Agreement as defined in general note 29(a) to the tariff schedule that do not qualify for the tariff treatment provided for in such general note 29, the foregoing goods cut or knit to | : | : | : |

| | | |
|---|---|---|
| | : shape, and sewn or otherwise assembled, in the territory of a party, provided that such goods meet the conditions for an originating good set forth in chapter rules 1 (subject to the limitation in the second sentence of chapter rule 2), 3, 4 and 5 for chapter 62, as set forth in general note 29(n) to the tariff schedule: | : |
| 9822.05.30 | : Goods classifiable in subheading 6202.11.00 | : The duty rate provided in such subheading minus 0.5% |
| 9822.05.35 | : Goods classifiable in subheading 6203.31.90 | : The duty rate provided in such subheading minus 0.5% |
| 9822.05.40 | : Goods classifiable in subheading 6203.33.10 | : The duty rate provided in such subheading minus 0.5% |
| 9822.05.45 | : Goods classifiable in subheading 6203.41.18 | : The duty rate provided in such subheading minus 0.5% |
| 9822.05.50 | : Goods classifiable in subheadings 6203.42.40 or 6204.62.40 | : The duty rate provided in such subheading minus 0.5% |
| 9822.05.55 | : Goods classifiable in subheading 6203.43.30 | : The duty rate provided in such subheading minus 0.5% |
| 9822.05.60 | : Goods classifiable in subheading 6203.12.20 (except goods for boys) | : The duty rate provided in such subheading minus 2.0% |
| 9822.05.65 | : Goods classifiable in subheading 6203.43.40 | : The duty rate provided in such subheading minus 2.0% |
| 9822.05.70 | : Goods classifiable in subheading 6204.63.35 | : The duty rate provided in such subheading minus 2.0%" |

Section D. In order to provide for measures relating to certain apparel goods of chapter 62, the HTS is modified as follows:

1. General note 29(d) to the HTS is modified by inserting in numerical sequence the following new subdivision:

"(vii) Notwithstanding other provisions of this note, for purposes of determining whether a good of chapter 62 of the tariff schedule is an originating good, materials used in the production of such a good that are produced in the territory of Canada or of Mexico and that would be originating under this note if produced in the territory of a party to the Agreement shall be considered as having been produced in the territory of a party to the Agreement, provided that the United States Trade Representative has determined in a notice published in the Federal Register that the requirements of Appendix 4.1-B of the Agreement specified in subdivision (a) of this note have been met with respect to Canada or Mexico, as the case may be, and has announced the effective date of U.S. note 21 to subchapter XXII of chapter 98 of the tariff schedule. Such goods shall be entered under subheading 9822.05.05 of the tariff schedule, subject to the terms of such U.S. note 21, on or after the effective date specified in such notice."

2. The following new U.S. note 21 is inserted in numerical sequence in subchapter XXII of chapter 98:

"21. (a) For purposes of heading 9822.05.05, the treatment provided for in general note 29(d)(vii) to the tariff schedule shall be limited to goods imported into the territory of the United States from a party to the Agreement as defined in general note 29(a) in aggregate quantities not to exceed the overall limit set forth in subdivision (b) of this note, except as provided in subdivision (c) of this note. For purposes of determining the quantity of square meter equivalents (SME) to be charged against the overall limit, the conversion factors listed in *Correlation: U.S. Textile and*

*Apparel Category System with the Harmonized Tariff Schedule of the United States of America 2003*, U.S. Department of Commerce, Office of Textiles and Apparel, or successor publication, shall apply.

(b) Subject to the sublimits set out below and the exclusion provided in subdivision (c) of this note, the overall limit in the first calendar year that goods qualify for entry under this provision shall not exceed 100,000,000 SME. If this provision enters into force after January 1 of that year, the overall limit and sublimits shall be reduced in proportion to the number of full months of that year that have expired. Subject to the sublimits set out below, the overall limit for each successive calendar year that the Agreement as specified in general note 29(a) is in effect may increase up to a maximum of 200,000,000 SME in any calendar year, and the sublimits may increase so that they represent the same proportion of the overall limit as in the first calendar year that goods qualify for entry under this provision. Each percentage increase of the limits shall correspond to the percentage increase in imports into the territory of the United States from the other parties to the Agreement as defined in general note 29(a) of originating goods of chapter 62 of the tariff schedule.

(i) Not more than 45,000,000 SME may be trousers and skirts and parts thereof, of cotton or man-made fibers, or subject to cotton or manmade fiber restraints, within subheadings 6203.19.10, 6203.19.90, 6203.22.30, 6203.23.00, 6203.29.20, 6203.42.40, 6203.43.25, 6203.43.35, 6203.43.40, 6203.49.15, 6203.49.20, 6203.49.80, 6204.12.00, 6204.19.80, 6204.22.30, 6204.23.00, 6204.29.20, 6204.29.40, 6204.52.10, 6204.52.20, 6204.53.10, 6204.53.30, 6204.59.10, 6204.59.30, 6204.59.40, 6204.62.30, 6204.62.40, 6204.63.20, 6204.63.30, 6204.63.35, 6204.69.25, 6204.69.60, 6204.69.90, 6210.40.50, 6210.40.90, 6210.50.50, 6210.50.90, 6211.20.15, 6211.20.38, 6211.20.68, 6211.32.00, 6211.33.00, 6211.42.00, 6211.43.00 and 6217.90.90, excluding goods identified in subdivision (b)(ii) of this note.

(ii) Not more than 20,000,000 SME may be cotton blue denim trousers within subheadings 6203.42.40 or 6204.62.40 and blue denim skirts within subheading 6204.52.20.

(iii) Not more than 1,000,000 SME may be the following apparel goods, not knitted or crocheted, containing 36 percent or more by weight of wool or subject to wool restraints:

(A) suits for men or boys described in subheading 6203.11.15, 6203.11.30, 6203.11.60, 6203.11.90, 6203.12.10, 6203.19.20, 6203.19.90 or 6203.21.30;

(B) suit-type jackets and blazers for men or boys described in subheading 6203.21.30, 6203.21.90, 6203.23.00, 6203.31.50, 6203.31.90, 6203.33.10, 6203.39.10 or 6203.39.90;

(C) trousers, breeches and shorts for men or boys described in subheading 6203.21.30, 6203.21.90, 6203.23.00, 6203.41.05, 6203.41.12, 6203.41.18, 6203.43.30, 6203.49.20 or 6203.49.80;

(D) suits for women or girls described in subheading 6204.11.00, 6204.13.10, 6204.19.10 or 6204.19.80;

(E) suit-type jackets and blazers for women or girls described in subheading 6204.31.10, 6204.31.20, 6204.33.40, 6204.39.20 or 6204.39.80;

(F) skirts for women or girls described in subheading 6204.21.00, 6204.23.00, 6204.29.40, 6204.51.00, 6204.53.20, 6204.59.20 or 6204.59.40; or

(G) trousers, breeches or shorts for women or girls described in subheading 6204.21.00, 6402.23.00, 6204.29.40, 6204.61.10, 6204.61.90, 6204.63.25, 6204.69.20, 6204.69.60 or 6204.69.90.

(c) The limit in subdivision (b) of this note shall not apply to the following goods made from wool fabric: men's and boys' and women's and girls' suits, trousers, suit-type jackets and blazers and vests and women's and girls' skirts, provided that such goods are not made of carded wool fabric or made from wool yarn having an average fiber diameter of not over 18.5 microns.

(d) The United States Trade Representative (USTR) may modify, in a notice published in the Federal Register, the overall limit and sublimits set forth in subdivision (b) of this note, to reflect CITA

determinations, subject to the maximum limitation and percentages set forth in such subdivision (b). The USTR may likewise modify, in a notice published in the Federal Register, such overall limit and sublimits to reflect a CITA determination to implement a decision of the parties to the Agreement, as defined in general note 29(a) to the tariff schedule, to take into account the ability of the Dominican Republic to participate in such limits."

3. The following new HTS provision is inserted in numerical sequence in subchapter XXII of chapter 98, with the material inserted in the columns entitled "Heading/Subheading", "Article Description", and "Rates of Duty 1 General":

| | | | |
|---|---|---|---|
| "9822.05.05 | : Apparel goods of chapter 62 for which the treatment : provided in U.S. note 21 to this subchapter is appro- : appropriate, if entered into the customs territory of the : United States in aggregate quantities not to exceed the : limits set forth in U.S. note 21 to this subchapter..... | : | : Free (P)": |

**Proclamation 8214 of December 27, 2007**

## To Adjust the Rules of Origin Under the United States-Chile Free Trade Agreement and the United States-Singapore Free Trade Agreement

*By the President of the United States of America*
*A Proclamation*

1. Section 1206(a) of the Omnibus Trade and Competitiveness Act of 1988 (the ''1988 Act'';) (19 U.S.C. 3006(a)) authorizes the President to proclaim modifications to the Harmonized Tariff Schedule of the United States (HTS) based on the recommendations of the U.S. International Trade Commission (the ''Commission'';) under section 1205 of the 1988 Act (19 U.S.C. 3005), if he determines that the modifications are in conformity with United States obligations under the International Convention on the Harmonized Commodity Description and Coding System (the ''Convention'';) and do not run counter to the national economic interest of the United States. In 2006, the Commission recommended modifications to the HTS pursuant to section 1205 of the 1988 Act to conform the HTS to amendments made to the Convention. In Presidential Proclamation 8097 of December 29, 2006, I modified the HTS pursuant to section 1206 of the 1988 Act to conform the HTS to the amendments to the Convention.

2. Presidential Proclamation 7746 of December 30, 2003, implemented the United States-Chile Free Trade Agreement (USCFTA) with respect to the United States and, pursuant to section 201 of the United States-Chile Free Trade Agreement Implementation Act (the ''USCFTA Act'';) (19 U.S.C. 3805 note), the staged reductions in rates of duty that I determined to be necessary or appropriate to carry out or apply articles 3.3 (including the schedule of United States duty reductions with respect to originating goods set forth in Annex 3.3 to the USCFTA), 3.7, 3.9, and 3.20(8), (9), (10), and (11) of the USCFTA.

3. In order to ensure the continuation of the staged reductions in rates of duty for originating goods from Chile in categories that were modified to conform to the Convention, I proclaimed in Presidential Proclamation 8097 modifications to the HTS that I determined were necessary or appropriate to carry out the duty reductions proclaimed in Proclamation 7746.

4. Chile is a party to the Convention. Because the substance of changes to the Convention are reflected in slightly differing form in the national tariff schedules of the parties to the USCFTA, the rules of origin set out in Annex 4.1 of that Agreement must be changed to ensure that the tariff and certain other treatment accorded under the USCFTA to originating goods will continue to be provided under the tariff categories that were modified in Proclamation 8097. The USCFTA parties have agreed to make these changes.

5. Section 202 of the USCFTA provides certain rules for determining whether a good is an originating good for the purposes of implementing tariff treatment under the USCFTA. Section 202(o) of the USCFTA Act authorizes the President to proclaim the rules of origin set out in the USCFTA and any subordinate tariff categories necessary

to carry out the USCFTA, subject to the exceptions stated in section 202(o)(2)(A).

6. I have determined that the modifications to the HTS proclaimed pursuant to section 202 of the USCFTA Act and section 1206(a) of the 1988 Act are necessary or appropriate to ensure the continuation of tariff and certain other treatment accorded originating goods under tariff categories modified in Proclamation 8097 and to carry out the duty reductions proclaimed in Proclamation 7746.

7. Presidential Proclamation 7747 of December 30, 2003, implemented the United States-Singapore Free Trade Agreement (USSFTA) with respect to the United States and, pursuant to section 201 of the United States-Singapore Free Trade Agreement Implementation Act (the ''USSFTA Act'';) (19 U.S.C. 3805 note), the staged reductions in rates of duty that I determined necessary or appropriate to carry out or apply articles 2.2, 2.5, 2.6, and 2.12 of the USSFTA and the schedule of reductions with respect to the United States set forth in Annex 2B of the USSFTA.

8. In order to ensure the continuation of the staged reductions in rates of duty for originating goods from Singapore in categories that were modified to conform to the Convention, in Presidential Proclamation 8097, I proclaimed modifications to the HTS that I determined were necessary or appropriate to carry out the duty reductions proclaimed in Proclamation 7747.

9. Singapore is a party to the Convention. Because the substance of the changes to the Convention are reflected in slightly differing form in the national tariff schedules of the parties to the USSFTA, the provisions set out in Annexes 3A and 3B of that Agreement must be changed to ensure that the tariff and certain other treatment accorded under the USSFTA to originating goods will continue to be provided under the tariff categories that were modified in Presidential Proclamation 8097. The USSFTA parties have agreed to make these changes.

10. Section 202 of the USSFTA Act provides certain rules for determining whether a good is an originating good for the purposes of implementing tariff treatment under the USSFTA. Section 202(o) of the USSFTA Act authorizes the President to proclaim the rules of origin set out in the USSFTA and any subordinate tariff categories necessary to carry out the USSFTA, subject to certain exceptions set out in section 202(o)(2)(A).

11. I have determined that the modifications to the HTS proclaimed pursuant to section 202 of the USSFTA Act are necessary or appropriate to ensure that the tariff and certain other treatment accorded originating goods under tariff categories modified in Proclamation 8097 and to carry out the duty reductions proclaimed in Proclamation 7747.

12. Section 604 of the Trade Act of 1974, as amended (the ''Trade Act'';) (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the provisions of that Act, and of other Acts, affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction. Section 1206(c) of the 1988 Act, as amended (19 U.S.C. 3006(c)), provides that any modifications proclaimed by the President under section 1206(a) of that Act may not take effect before

the thirtieth day after the date on which the text of the proclamation is published in the **Federal Register**.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 1206(a) of the 1988 Act, section 202 of the USSFTA Act, section 202 of the USCFTA Act, and section 604 of the Trade Act, do proclaim that:

(1) In order to reflect in the HTS the modifications to the rules of origin under the USCFTA, general note 26 to the HTS is modified as provided in Annex I to this proclamation.

(2) In order to reflect in the HTS the modifications to the rules of origin under the USSFTA, general note 25 to the HTS is modified as provided in Annex II to this proclamation.

(3) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(4) The modifications and technical rectifications to the HTS set forth in Annexes I and II to this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the later of (i) February 1, 2008, or (ii) the thirtieth day after the date of publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of December, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**ANNEX I**

**TECHNICAL RECTIFICATIONS TO THE RULES OF ORIGIN FOR THE UNITED STATES-CHILE FREE TRADE AGREEMENT, AS REFLECTED IN THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

Effective with respect to goods of Chile, under the terms of general note 26 to the Harmonized Tariff Schedule of the United States (HTS), that are entered, or withdrawn from warehouse for consumption, on or after the later of (1) February 1, 2008, or (2) the thirtieth day after the date of publication of this proclamation in the *Federal Register*, general note 26(n) to the HTS is modified as follows:

1. Tariff classification rule (TCR) 16 for chapter 28 is modified by deleting "2811.23" and by inserting in lieu thereof "2811.29".

2. TCR 37 for chapter 28 is modified by deleting "2826.11" and by inserting in lieu thereof "2826.12".

3. TCR 38 for chapter 28 is modified by deleting "2827.36" and by inserting in lieu thereof "2827.35".

4. TCR 40 for chapter 28 is deleted and the following new TCR is inserted in lieu thereof:

"40. (A) A change to barium, iron, cobalt or zinc chlorides of subheading 2827.39 from other chlorides of subheading 2827.39 or any other subheading; or

(B) A change to other chlorides of subheading 2827.39 from barium, iron, cobalt or zinc chloride of subheading 2827.39 or any other subheading."

5. TCR 43 for chapter 28 is modified by deleting "2833.26" and by inserting in lieu thereof "2833.25".

6. TCR 45 for chapter 28 is deleted and the following new TCR is inserted in lieu thereof:

"45. (A) A change to sulfates of chromium or zinc of subheading 2833.29 from any other subheading; or

(B) A change to other sulfates of subheading 2833.29 from any other subheading except from heading 2520."

7. TCRs 52 and 57 for chapter 28 are deleted.

8. TCR 60 for chapter 28 is deleted and the following new TCR is inserted in lieu thereof:

"60. (A) A change to commercial ammonium carbonate or other ammonium carbonates of subheading 2836.99 from any other subheading;

(B) A change to bismuth carbonate of subheading 2836.99 from from any other subheading, except from subheading 2617.90;

(C) A change to lead carbonates of subheading 2836.99 from any other subheading, except from heading 26.07; or

(D) A change to other goods of subheading 2836.99, provided that the good classified in subheading 2836.99 is the product of a chemical reaction."

9. TCR 62 for chapter 28 is deleted.

10. TCR 64 for chapter 28 is deleted and the following new TCR is inserted in lieu thereof:

"64. A change to subheading 2839.90 from any other subheading."

11. TCRs 67 and 68 for chapter 28 are deleted and the following new TCRs are inserted in lieu thereof:

"67. A change to subheading 2841.30 from any other subheading.

68. (A) A change to chromates of zinc or lead of subheading 2841.50 from any other subheading;

(B) A change to potassium dichromate of subheading 2841.50 from any other good of subheading 2841.50 or any other subheading; or

(C) A change to other chromates, dichromates or peroxochromates of subheading 2841.50 from potassium dichromate of subheading 2841.50 or any other subheading, except from heading 2610."

12. TCR 72 for chapter 28 is deleted and the following new TCR is inserted in lieu thereof:

"72. (A) A change to aluminates of subheading 2841.90 from any other subheading; or

(B) A change to any other good of subheading 2841.90 from aluminates of subheading 2841.90 or from any other subheading, provided that the good classified in subheading 2841.90 is the product of a chemical reaction."

13. TCR 74 for chapter 28 is deleted and the following new TCR is inserted in lieu thereof:

"74. (A) A change to fulminates, cyanates or thiocyanates of subheading 2842.90 from any other subheading; or

(B) A change to any other good of subheading 2842.90 from any other subheading, provided that the good classified in subheading 2842.90 is the product of a chemical reaction."

14. TCR 86 for chapter 28 is deleted and the following new TCR is inserted in lieu thereof:

"86. A change to heading 2850 from any other heading."

15. The following new TCRs for chapter 28 are inserted in numerical sequence:

"87. A change to heading 2852 from any other heading.

88. A change to heading 2853 from any other heading."

16. TCR 12 for chapter 29 is modified by deleting "2903.30" and by inserting in lieu thereof "2903.39".

17. TCRs 24 and 25 for chapter 29 are deleted and the following new TCR is inserted in lieu thereof:

"25. (A) A change to terpineols of subheading 2906.19 from any other good, except from heading 3805; or

(B) A change to any other good of subheading 2906.19 from pine oils of subheading 3805.90 or any other subheading, except from subheading 3301.90 or any other goods of subheading 3805.90."

18. TCRs 38 and 39 for chapter 29 are deleted and the following new TCRs are inserted in lieu thereof:

"38. A change to subheadings 2912.11 through 2912.12 from any other subheading, including another subheading within that group."

39. (A) A change to n-butanal (butyraldehyde, normal isomer) of subheading 2912.19 from any other subheading; or

(B) A change to other goods of subheadings 2912.19 through 2912.49 from any other subheading, except from subheading 3301.90."

19. TCRs 49 and 50 for chapter 29 are deleted and the following new TCRs are inserted in lieu thereof:

"49. A change to subheadings 2915.11 through 2915.33 from any other subheading, including another subheading within that group.

49A. A change to subheading 2915.36 from any other subheading, except from subheading 3301.90.

49B. (A) A change to isobutyl acetate or 2-ethoxyethyl acetate of subheading 2915.39 from any other subheading; or

(B) A change to any other good of 2915.39 from any other subheading except from subheading 3301.10."

20. The following new TCRs are inserted immediately below TCR 55 for chapter 29, and the subdivisions designated as (A) and (B) now appearing immediately above TCR 56 for chapter 29 are deleted:

"55A. A change to subheading 2918.18 from any other subheading.

55B. (A) A change to phenylglycolic acid (mandelic acid), its salts or esters of subheading 2918.19 from any other good of subheading 2918.19 or any other subheading; or

(B) A change to any other good of subheading 2918.19 from phenylglycolic acid (mandelic acid), its salts or esters of subheading 2918.19 or any other subheading, except from subheading 2918.18."

21. TCR 61 for chapter 29 is deleted and the following new TCR is inserted in lieu thereof:

"61. A change to subheadings 2918.91 through 2918.99 from any other subheading, except from subheading 3301.90."

22. TCR 63 for chapter 29 is modified by deleting "2920.10" and by inserting in lieu thereof "2920.11".

23. TCR 81 for chapter 29 is deleted and the following new TCR is inserted in lieu thereof:

"81. A change to subheadings 2925.21 through 2925.29 from any other subheading."

24. TCR 100 for chapter 29 is modified by deleting "2936.10" and by inserting in lieu thereof "2936.21".

25. TCR 101 for chapter 29 is deleted and the following new TCR is inserted in lieu thereof:

"101. (A) A change to unmixed provitamins of subheading 2936.90 from any other good of subheading 2936.90 or from any other subheading; or

(B) A change to any other good of subheading 2936.90 from any other subheading, except from subheadings 2936.21 through 2936.29."

26. TCRs 1 and 2 for chapter 30 are deleted and the following new TCRs are inserted in lieu thereof:

"1. A change to subheading 3001.20 from any other subheading, including another subheading within that group, except from subheading 3006.92.

2. (A) A change to dried glands or other dried organs of subheading 3001.90 from any other good of subheading 3001.90 or from any other subheading, except from subheadings 3006.92, 0206.10 through 0208.90 or 0305.20, headings 0504 or 0510 or subheading 0511.99 if the change from these provisions is not a powder classified in subheading 3001.90; or

(B) A change to any other good of subheading 3001.90 from dried glands or other dried organs of subheading 3001.90 or from any other subheading, except from subheading 3006.92."

27. TCRs 3 through 12, inclusive, and TCRs 14 through 22, inclusive, for chapter 30 are each modified by deleting "3006.80" at each instance and by inserting in lieu thereof "3006.92".

28. TCR 13 for chapter 30 is deleted and the following new TCR is inserted in lieu thereof:

"13. (A) A change to hormone derivatives of corticosteroid hormones of subheading 3004.32 from any other subheading or corticosteroid hormones or structural analogues of corticosteroid hormones of subheading 3004.32, except from subheadings 3004.39 or 3006.92 or from adrenal cortical hormones classified in chapter 29;

(B) A change to structural analogues of corticosteroid hormones of subheading 3004.32 from any other subheading or corticosteroid hormones or derivatives of subheading 3004.32, except from subheadings 3003.39, 3004.39 or 3006.92, or hormones or derivatives thereof classified in chapter 29;

(C) A change to any other good of subheading 3004.32 from any other subheading, except from subheadings 3003.39 or 3006.92 or from adrenal cortical hormones classified in chapter 29."

29. TCR 23 for chapter 30 is deleted and the following new TCRs are inserted in lieu thereof:

"23. A change to subheading 3006.91 from any other heading.

24. A change to subheading 3006.92 from any other chapter."

30. TCR 8 for chapter 31 is deleted.

31. TCRs 10 through 14, inclusive, for chapter 31 are deleted and the following new TCRs are inserted in lieu thereof:

"10. (A) A change to calcium cyanamide of subheading 3102.90 from any other subheading; or

(B) A change to any other good of subheading 3102.90 from any other subheading, except from subheadings 3102.10 through 3102.80.

11. A change to subheading 3103.10 from any other subheading.

12. (A) A change to basic slag of subheading 3103.90 from any other subheading; or

(B) A change to any other good of subheading 3103.90 from any other subheading, except from subheading 3103.10.

13. A change to subheadings 3104.20 through 3104.30 from any other subheading, including another subheading within that group.

14. (A) A change to carnallite, sylvite or other crude natural potassium salts of subheading 3104.90 from any other subheading; or

(B) A change to any other good of subheading 3104.90 from any other subheading, except from subheadings 3104.20 through 3104.30."

32. TCR 8 for chapter 32 is deleted and the following new TCRs are inserted in lieu thereof:

"8. A change to subheadings 3206.20 through 3206.42 from any other subheading, including another subheading within that group.

8A. (A) A change to pigments and preparations based on cadmium compounds of subheading 3206.49 from any other good of subheading 3206.49 or from any other subheading;

(B) A change to pigments and preparations based on hexacyanoferrates (ferrocyanides and ferricyanides) of subheading 3206.49 from any other good of subheading 3206.49 or from any other subheading; or

(C) A change to any other good of subheading 3206.49 from any other subheading.

8B. A change to subheadings 3206.50 through 3207.40 from any other subheading, including another subheading within that group."

3. TCR 1 for chapter 33 is deleted and the following new TCRs are inserted in lieu thereof:

"1. (A) A change to subheadings 3301.12 through 3301.13 from any other chapter; or

(B) A change to subheadings 3301.12 through 3301.13 from any other subheading within chapter 33, including another subheading within that group, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

1A. (A) A change to essential oils of bergamot or of lime of subheading 3301.19 from any other chapter; or

(B) A change to essential oils of bergamot or of lime of subheading 3301.19 from any other subheading within chapter 33, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

1B. (A) A change to any other good of subheading 3301.19 from any other chapter; or

(B) A change to any other good of subheading 3301.19 from essential oils of bergamot or of lime of subheading 3301.19 or from any other subheading within chapter 33, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

1C. (A) A change to subheadings 3301.24 through 3301.25 from any other chapter; or

(B) A change to subheadings 3301.24 through 3301.25 from any other subheading within chapter 33, including another subheading within that group, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

1D. (A) A change to essential oils of geranium, jasmine, lavender, lavandin or vetiver of subheading 3301.29 from any other chapter; or

(B) A change to essential oils of geranium, jasmine, lavender, lavandin or vetiver of subheading 3301.29 from any other subheading within chapter 33, including another subheading within that group, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

1E. (A) A change to any other good of subheading 3301.29 from any other chapter; or

(B) A change to any other good of subheading 3301.29 from essential oils of geranium, jasmine, lavender, lavandin or vetiver of subheading 3301.29 or from any other subheading within chapter 33, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

1F. (A) A change to subheadings 3301.30 through 3301.90 from any other chapter; or

(B) A change to subheadings 3301.30 through 3301.90 from any other subheading within chapter 33, including another subheading within that group, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used."

34. TCRs 8 and 9 for chapter 34 are deleted and the following new TCRs are inserted in lieu thereof:

"8. A change to subheading 3404.20 from any other subheading.

9. (A) A change to artificial waxes or prepared waxes of chemically modified lignite of subheading 3404.90 from any other good of subheading 3404.90 or from any other subheading; or

(B) A change to any other good of subheading 3404.90 from any other subheading, except from heading 15.21 or subheadings 2712.20 or 2712.90."

35. TCRs 9 through 12, inclusive, for chapter 38 are deleted and the following new TCRs are inserted in lieu thereof:

"11. A change to subheading 3808.50 from any other subheading, provided that not less than 40 percent by weight of the active ingredient or ingredients is originating.

12. A change to subheadings 3808.91 through 3808.92 from any other heading, provided there is a regional value content of not less than:

(A) 35 percent when the build-up method is used, or

(B) 45 percent when the build-down method is used.

12A. (A) A change to subheading 3808.93 from any other subheading, except from herbicides, antisprouting products and plant-growth regulators classified in chapters 28 or 29; or

(B) A change to a mixture of subheading 3808.93 from any other subheading, provided that the mixture is made from two or more active ingredients and a domestic active ingredient constitutes not less than 40 percent by weight of the total active ingredients.

12B. A change to subheading 3808.94 from any other subheading.

12C. (A) A change to subheading 3808.99 from any other subheading, except from rodenticides and other pesticides classified in chapters 28 or 29; or

(B) A change to a mixture of subheading 3808.99 from any other subheading, provided that the mixture is made from two or more active ingredients and a domestic active ingredient constitutes not less than 40 percent by weight of the total active ingredients."

36. TCR 25 for chapter 38 is deleted and the following new TCR is inserted in lieu thereof:

"25. A change to subheading 3824.10 from any other subheading."

37. TCR 28 for chapter 38 is deleted and the following new TCRs are inserted in lieu thereof:

"28. (A) A change to subheadings 3824.71 through 3824.83 from any other heading within chapters 28 through 38; or

(B) A change to subheadings 3824.71 through 3824.83 from any other subheading within chapters 28 through 38, including another subheading within that group, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

28A. (A) A change to naphthenic acids, their water-insoluble salts or their esters of subheading 3824.90 from any other subheading; or

(B) A change to any other good of subheading 3824.90 from any other subheading within chapters 28 through 38, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used."

38. TCR 13 for chapter 42 is deleted and the following new TCRs are inserted in lieu thereof:

"13. (A) A change to articles of leather or of composition leather, of a kind used in machinery or mechanical appliances or for other technical uses of heading 4205 from any other good of heading 4205 or from any other heading; or

(B) A change to any other good of heading 4205 from articles of leather or of composition leather, of a kind used in machinery or mechanical appliances or for other technical uses of heading 4205 or from any other heading.

14. A change to heading 4206 from any other heading."

39. TCR 1 for chapter 61 is modified by deleting "6101.10" and by inserting in lieu thereof "6101.20".

40. TCR 2 for chapter 61 is deleted and the following new TCR is inserted in lieu thereof:

"2. (A) A change to goods of wool or fine animal hair of subheading 6101.90 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that:

(i) the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or both of the parties, and

(ii) the visible lining fabric listed in chapter rule 1 to chapter 61 satisfies the tariff change requirements provided therein; or

(B) A change to any other good of subheading 6101.90 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or both of the parties."

41. TCRs 5 and 6 for chapter 61 are deleted and the following new TCR is inserted in lieu thereof:

"5. (A) A change to suits of textile materials other than wool or fine animal hair, synthetic fibres, artificial fibres or cotton of subheading 6103.10 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Chile or of the United States, or both;

(B) A change to suits of textile materials other than wool or fine animal hair, cotton or man-made fiber, and not containing more than 70 percent or more by weight of silk or silk waste of subheading 6103.10 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Chile or of the United States, or both; or

(C) A change to any other good of subheading 6103.10 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that:

(i) the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Chile or of the United States, or both, and

(ii) any visible lining material used in the apparel article as imported into the territory of the United States must satisfy the requirements of chapter rule 1 for chapter 61."

42. TCR 7 for chapter 61 is modified by deleting "6103.21" and by inserting in lieu thereof "6103.22".

43. TCRs 11 and 12 for chapter 61 are deleted and the following new TCRs are inserted in lieu thereof:

"11. A change to subheading 6104.13 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that:

(A) the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Chile or of the United States, or both, and

(B) any visible lining material used in the apparel article as imported into the U.S. must satisfy the requirements of chapter rule 1 for chapter 61.

12. (A) A change to tariff items 6104.19.40 or 6104.19.60 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Chile or of the United States, or both; or

(B) A change to any other good of subheading 6104.19.from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that:

(i) the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Chile or of the United States, or both; and

(ii) any visible lining material used in the apparel article as imported into the U.S. must satisfy the requirements of chapter rule 1 for chapter 61."

44. TCR 13 for chapter 61 is modified by deleting "6104.21" and by inserting in lieu thereof "6104.22".

45. TCR 11 for chapter 62 is modified by deleting "6203.21" and by inserting in lieu thereof "6203.22".

46. TCR 29 for chapter 62 is modified by deleting "6211.31" and by inserting in lieu thereof "6211.32".

47. TCR 3 for chapter 64 is modified by deleting "6402.30" and by inserting in lieu thereof "6402.91".

48. TCR 2 for chapter 65 is modified by deleting "6503" and by inserting in lieu thereof "6504".

49. TCR 19 for chapter 70 is modified by adding the following expression before the final period:

", or glass inners for vacuum flasks or other vacuum vessels of heading 7020"

50. TCR 12 for chapter 73 is modified by deleting at each instance "7321.83" and by inserting in lieu thereof "7321.89".

51. TCR 2 for chapter 78 is deleted and the following new TCRs are inserted in lieu thereof:

"2. A change to heading 7804 from any other heading.

3. (A) A change to lead bars, rods, profiles and wire of heading 7806 from any other good of heading 7806 or any other heading;

(B) A change to lead tubes, pipes and tube or pipe fittings of heading 7806 from any other good of heading 7806 or any other heading; or

(C) A change to any other good of heading 7806 from lead bars, rods, profiles or wire of heading 7806, or from lead tubes, pipes or tube or pipe fittings of heading 7806 or any other heading."

52. TCR 4 for chapter 79 is deleted and the following new TCRs are inserted in lieu thereof:

"4. A change to headings 7904 through 7905 from any other heading, including another heading within that group.

5. (A) A change to zinc tubes, pipes or tube or pipe fittings of heading 7907 from any other good of heading 7907 or any other heading; or

(B) A change to any other goods of heading 7907 from zinc tubes, pipes or tube or pipe fittings of heading 7907 or any other heading."

53. TCRs 2 through 4, inclusive, for chapter 80 are deleted and the following new TCRs are inserted in lieu thereof:

"2. A change to heading 8003 from any other heading.

4. (A) A change to plates, sheets or strip, of a thickness exceeding 0.2 mm, of heading 8007 from any other good of heading 8007 or any other heading;

(B) A change to tin foil, of a thickness not exceeding 0.2 mm, tin powders or flakes of heading 8007 from any other good of heading 8007, except from plates, sheets or strip, of a thickness exceeding 0.2mm of heading 8007, or any other heading;

(C) A change to tin tubes, pipes and tube or pipe fittings of heading 8007 from any other good of heading 8007 or any other heading;

(D) A change to any other good of heading 8007 from plates, sheets or strip, of thickness exceeding 0.2 mm, tin foil of thickness not exceeding 0.2 mm, tin powders or flakes, tin tubes, pipes or tube or pipe fittings of heading 8007 or any other heading."

54. TCR 2 for chapter 81 is deleted.

55. TCR 5 for chapter 81 is deleted and the following new TCR is inserted in lieu thereof:

"5. (A) A change to bars or rods, other than those obtained simply by sintering, profiles, plates, sheets, strip or foil of subheading 8101.99 from any other good of subheading 8101.99 or any other subheading; or

(B) A change to any other good of subheading 8109.99 from bars, rods (other than those obtained simply by sintering), profiles, plates, sheets, strip or foil of subheading 8101.99 or any other heading."

56. TCR 28 for chapter 81 is deleted and the following new TCR is inserted in lieu thereof:

"28. (A) A change to subheadings 8112.21 through 8112.29 from any other chapter, or

(B) No change in tariff classification is required, provided that there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used."

57. TCRs 31 and 32 for chapter 81 are deleted and the following new TCRs are inserted in lieu thereof:

"31. (A) A change to unwrought germanium or vanadium, germanium or vanadium waste, scrap or powders of subheading 8112.92 from any other chapter; or

(B) No change in tariff classification is required for articles of unwrought germanium or vanadium, germanium or vanadium waste, scrap or powders of subheading 8112.92, provided that there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used; or

(C) A change to any other good of subheading 8112.92 from any other chapter.

32. (A) A change to articles of vanadium or germanium of subheading 8112.99 from any other chapter; or

(B) No change in tariff classification is required for articles of germanium or vanadium, provided that there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used; or

(C) A change to any other good of subheading 8221.99 from articles of germanium or vanadium of subheading 8112.99 or from any other subheading."

58. TCR 11 for chapter 84 is deleted and the following new TCRs are inserted in lieu thereof:

"11. A change to subheadings 8425.11 through 8425.19 from any other subheading, including another subheading within that group.

11A. (A) A change to pit-head winding gear or winches specially designed for use underground of subheading 8425.31 from any other good of subheading 8425.31 or from any other subheading, except from pit-head winding gear or winches specially designed for use underground of subheading 8425.39; or

(B) A change to any other good of subheading 8425.31 from pit-head winding gear or winches specially designed for use underground of subheading 8425.31 or from any other subheading.

11B. (A) A change to pit-head winding gear or winches specially designed for use underground of subheading 8425.39 from any other good of subheading 8425.39 or from any other subheading, except from pit-head winding gear or winches specially designed for use underground of subheading 8425.31; or

(B) A change to any other good of subheading 8425.39 from pit-head winding gear or winches specially designed for use underground of subheading 8425.39 or from any other subheading.

11C. A change to subheadings 8425.41 through 8428.60 from any other subheading, including another subheading within that group.

11D. (A) A change to mine wagon pushers, locomotive or wagon traversers, wagon tippers or similar railway wagon handling equipment from any other good of subheading 8428.90 or from any other subheading; or

(B) A change to any other good of subheading 8428.90 or from mine wagon pushers, locomotive or wagon traversers, wagon tippers or similar railway wagon handling equipment of subheading 8428.90 or from any other subheading.

11E. A change to subheadings 8429.11 through 8429.59 from any other subheading, including another subheading within that group."

59. TCR 87 for chapter 84 is deleted and the following new TCR is inserted in lieu thereof:

"87. A change to subheading 8442.30 from any other subheading."

60. TCR 90 for chapter 84 is deleted and the following new TCRs are inserted in lieu thereof:

"90. (A) A change to subheadings 8443.11 through 8443.19 from any other subheading outside that group, except from machines for uses ancillary to printing of subheading 8443.91; or

(B) A change to subheadings 8443.11 through 8443.19 from machines for uses ancillary to printing of subheading 8443.91 provided that there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

90A. A change to subheading 8443.31 from any other subheading.

90B. A change to subheading 8443.32 from any other subheading.

90C. A change to subheading 84443.39 from any other subheading.

90D. (A) A change to machines for uses ancillary to printing of subheading 8443.91 from any other good of subheading 8443.91 or from any other subheading, except from subheadings 8443.11 through 8443.39; or

(B) A change to any other good of subheading 8443.91 from any other heading.

90E. A change to subheading 8443.39 from any other heading."

61. TCRs 91 and 92 for chapter 84 are deleted.

62. TCRs 121 through 124, inclusive, for chapter 84 are deleted and the following new TCR is inserted in lieu thereof:

"121. (A) A change to word-processing machines or automatic typewriters of heading 8469 from any other good of heading 8469 or from any other heading; or

(B) A change to any other good of heading 8469 from word-processing machines or automatic typewriters of heading 8469 or from any other heading."

63. TCR 154 for chapter 84 is deleted and the following new TCRs are inserted immediately below TCR 153:

"155. (A) A change to subheadings 8486.10 through 8486.40 from any other subheading outside that group; or

(B) No change in tariff classification required provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

156. (A) A change to subheading 8486.90 from any other heading; or

(B) No change of tariff classification required provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

157. A change to heading 8487 from any other heading."

64. TCR 9 for chapter 85 is modified by deleting "8505.30" and by inserting in lieu thereof "8505.20".

65. TCR 13 for chapter 85 is deleted and the following new TCR is inserted in lieu thereof:

"13. (A) A change to electro magnetic lifting heads of subheading 8505.90 from any other subheading, or from any other good of subheading 8505.90; or

(B) A change to any other good of subheading 8505.90 from any other heading."

66. The following new TCRs for chapter 85 are inserted immediately below TCR 16 for such chapter:

"16A. (A) A change to subheadings 8508.11 through 8508.60 from any other heading; or

(B) A change to subheadings 8508.11 through 8508.60 from any other subheading, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

16B. A change to subheading 8508.70 from any other heading."

67. TCR 17 for chapter 85 is modified by deleting at each instance "8509.10" and by inserting in lieu thereof "8509.40".

68. TCR 37 for chapter 85 is deleted and the following new TCRs are inserted in lieu thereof:

"37. A change to subheadings 8517.11 through 8517.69 from any other subheading, including another subheading within that group.

37A. A change to subheading 8517.70 from any other heading."

69. TCRs 43 through 62, inclusive, for chapter 85 are deleted and the following new TCRs are inserted in lieu thereof:

"43. A change to subheadings 8519.20 through 8519.89 from any other subheading, including another subheading within that group.

54. A change to heading 8522 from any other heading.

54A. (A) A change to heading 8523 from any other heading; or

(B) A change to recorded media of heading 8523 from unrecorded media of heading 8523.

57. A change to subheading 8525.50 from any other subheading, except from subheading 8525.60.

57A. A change to subheading 8525.60 from any other subheading, except from subheading 8525.50.

57B. A change to subheading 8525.80 from any other subheading.

57C. A change to subheadings 8526.10 through 8526.92 from any other subheading, including another subheading within that group.

57D. A change to subheadings 8527.12 through 8527.99 from any other subheading, including another subheading within that group.

61. A change to subheading 8528.41 from any other subheading.

62. (A) A change to color video monitors of subheading 8528.49 from any other good of subheading 8528.49 or from any other subheading, except from subheadings 7011.20, 8540.11 or 8540.91; or

(B) A change to any other good of subheading 8528.49 from any other subheading.

62A. A change to subheading 8528.51 from any other subheading.

62B. A change to subheading 8528.59 from any other subheading.

62C. A change to subheading 8528.61 from any other subheading.

62D. A change to subheading 8528.69 from any other subheading.

62E. A change to subheading 8528.71 from any other subheading.

62F. A change to subheading 8528.72 from any other subheading, except from subheadings 7011.20, 8528.73, 8540.11 or 8540.91.

62G. A change to subheading 8528.73 from any other subheading."

70. TCRs 95 through 98, inclusive, for chapter 85 are deleted and the following new TCR is inserted in lieu thereof:

"96. A change to subheading 8543.10 from any other subheading except from ion implanters for doping semiconductor materials of subheading 8486.20."

71. TCRs 100 and 101 for chapter 85 are deleted and the following new TCR is inserted in lieu thereof:

"100. A change to subheading 8543.70 from any other subheading."

72. TCR 105 for chapter 85 is modified by deleting "8544.51" and by inserting in lieu thereof "8544.42".

73. The following new TCRs for chapter 85 are inserted immediately below TCR 105:

"105A. A change to electric conductors, for a voltage not exceeding 80V, not fitted with connectors of subheading 8544.49 from any other good of subheading 8544.49 or from any other subheading, provided there is also a regional value content of not less than:

(A) 35 percent when the build-up method is used, or

(B) 45 percent when the build-down method is used.

105B. (A) A change to any other good of subheading 8544.49 from electric conductors, for a voltage not exceeding 80V, not fitted with connectors of subheading 8544.49 or from any other subheading outside subheadings 8544.11 through 8544.60, except from headings 7408, 7413, 7605 or 7614; or

(B) A change to subheading 8544.49 from headings 7408, 7413, 7605 or 7614, whether or not there is also a change from any other subheading, provided there is also a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used."

74. TCR 112 for chapter 85 is deleted and the following new TCRs are inserted in lieu thereof:

"112. A change to subheading 8548.10 from any other heading.

113. A change to electronic microassemblies of subheading 8548.90 from any other good of subheading 8548.90 or from any other subheading.

114. A change to any other good of subheading 8548.90 from electronic microassemblies of subheading 8548.90 or from any other heading."

75. TCRs 6 through 11, inclusive, for chapter 87 are deleted and the following new TCR is inserted in lieu thereof:

"6. (A) A change to subheadings 8708.30 through 8708.99 from any other heading; or

(B) No required change in tariff classification, provided there is a regional value content of not less than:

(i) 30 percent when the build-up method is used, or

(ii) 50 percent when the build-down method is used."

76. TCR 1 for chapter 88 is deleted and the following new TCRs are inserted in lieu thereof:

"1. (A) A change to gliders and hang gliders of heading 8801 from any other good of heading 8801 or any other heading; or

(B) A change to any other good of heading 8801 from gliders and hang gliders of heading 8801 or any other heading.

1A. A change to subheadings 8801.00 through 8803.90 from any other subheading, including another subheading within that group."

77. TCRs 24 through 27, inclusive, for chapter 90 are deleted.

78. TCR 29 for chapter 90 is deleted and the following new TCR is inserted in lieu thereof:

"29. (A) A change to subheading 9010.50 from any other heading; or

(B) A change to subheading 9010.50 from any other subheading, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used."

79. TCR 55 for chapter 90 is deleted and the following new TCRs are inserted in lieu thereof:

"55. (A) A change to subheadings 9027.10 through 9027.50 from any other heading; or

(B) A change to subheadings 9027.10 through 9027.50 from any other subheading, including another subheading within that group, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

55A. (A) A change to subheading 9027.80 from any other heading; or

(B) A change to exposure meters of subheading 9027.80 from any other good of subheading 9027.80 or from any other subheading, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used; or

(C) A change to any other good of subheading 9027.80 from exposure meters of subheading 9027.80 or from any other subheading, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used."

80. TCR 61 for chapter 90 is deleted and the following new TCRs are inserted in lieu thereof:

"61. (A) A change to subheading 9030.10 from any other heading; or

(B) A change to subheading 9030.10 from any other subheading, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

61A. (A) A change to subheading 9030.20 from any other heading; or

(B) A change to other instruments and apparatus with a recording device of subheading 9030.20 from any other good of subheading 9030.20 or from any other subheading, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

61B. A change to parts and accessories of oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities of subheading 9030.20 from any other good of subheading 9030.20 or from any other subheading, provided there is a regional value content of not less than:

(A) 35 percent when the build-up method is used, or

(B) 45 percent when the build-down method is used.

61C. A change to any other good of subheading 9030.20 from other instruments and apparatus with a recording device of subheading 9030.20 or from parts and accessories of oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities of subheading 9030.20 or from any other subheading, provided there is a regional value content of not less than:

(A) 35 percent when the build-up method is used, or

(B) 45 percent when the build-down method is used.

61D. (A) A change to subheading 9030.31 from any other heading; or

(B) A change to subheading 9030.31 from any other subheading, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

61E. (A) A change to subheading 9030.32 from any other heading; or

(B) A change to other instruments and apparatus with a recording device of subheading 9030.32 from any other good of subheading 9030.32 or from any other subheading, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

61F. A change to any other good of subheading 9030.32 from other instruments and apparatus with a recording device of subheading 9030.32 or from any other subheading, provided there is a regional value content of not less than:

(A) 35 percent when the build-up method is used, or

(B) 45 percent when the build-down method is used.

61G. (A) A change to subheadings 9030.33 through 9030.39 from any other heading; or

(B) A change to subheadings 9030.33 through 9030.39 from any other subheading outside that group, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

61H. (A) A change to subheadings 9030.40 through 9030.89 from any other heading; or

(B) A change to subheadings 9030.40 through 9030.89 from any other subheading, including another subheading within that group, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used."

81. TCR 63 for chapter 90 is deleted and the following new TCRs are inserted in lieu thereof:

"63. (A) A change to subheadings 9031.10 through 9031.41 from any other heading; or

(B) A change to subheadings 9031.10 through 9031.41 from any other subheading, including another heading within that group, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used.

63A. (A) A change to subheading 9031.49 from any other heading; or

(B) A change to profile projectors of subheading 9031.49 from any other good of subheading 9031.49 or from any other subheading, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(i) 45 percent when the build-down method is used.

63B. A change to any other good of subheading 9031.49 from profile projectors of subheading 9031.49 or from any other subheading, provided there is a regional value content of not less than:

(A) 35 percent when the build-up method is used, or

(B) 45 percent when the build-down method is used.

63C. (A) A change to subheading 9031.80 from any other heading; or

(B) A change to subheading 9031.80 from any other subheading, provided there is a regional value content of not less than:

(i) 35 percent when the build-up method is used, or

(ii) 45 percent when the build-down method is used."

82. TCR 4 for chapter 95 is deleted and the following new TCRs are inserted in lieu thereof:

"4. (A) A change to dolls, whether or not dressed, of heading 9503 from dolls' parts and accessories of heading 9503, provided there is a regional value content of not less than 35 percent based on the build-up method or 45 percent based on the build-down method, or

(B) A change to dolls, whether or not dressed, of heading 9503 from any other good of heading 9503 or from any other heading;

4A. (A) A change to dolls' parts and accessories of heading 9503 from any other good of heading 9503, except from dolls whether or not dressed, or from any other heading; or

(B) A change to any other good of heading 9503 from any other chapter.

4B. A change to headings 9504 through 9508 from any other chapter."

83. TCRs 19 and 20 for chapter 96 are deleted and the following new TCR is inserted in lieu thereof:

"19. A change to heading 9614 from any other heading."

**ANNEX II**

**TECHNICAL RECTIFICATIONS TO THE RULES OF ORIGIN FOR THE UNITED STATES-SINGAPORE FREE TRADE AGREEMENT, AS REFLECTED IN THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

A. Effective with respect to goods of Singapore, under the terms of general note 25 to the Harmonized Tariff Schedule of the United States (HTS), that are entered, or withdrawn from warehouse for consumption, on or after the later of (1) February 1, 2008, or (2) the thirtieth day after the date of publication of this proclamation in the *Federal Register*, general note 25(o) to the HTS is modified as follows:

1. Tariff classification rule (TCR) 17 for chapter 28 is deleted and the following new TCR is inserted:

"17. A change to subheading 2811.29 from any other subheading."

2. TCR 41 for chapter 28 is deleted and the following new TCR is inserted:

"41. A change to subheadings 2826.12 through 2826.90 from any other subheading, including another subheading within that group."

3. TCR 50 for chapter 28 is deleted.

4. TCR 52 for chapter 28 is deleted and the following new TCR is inserted:

"52. A change to subheadings 2833.22 through 2833.25 from any other subheading, including another subheading within that group."

5. TCRs 61 and 66 for chapter 28 are deleted.

6. TCR 69 for chapter 28 is deleted and the following new TCR is inserted:

"69. (A) A change to bismuth carbonate of subheading 2836.99 from ammonium carbonates or lead carbonates of subheading 2836.99 or from any other subheading, except from subheading 2617.90;

(B) A change to lead carbonates of subheading 2836.99 from any other good of 2836.99 or from any other subheading, except from heading 26.07; or

(C ) A change to other goods of subheading 2836.99 from any other subheading, provided that the good classified in subheading 2836.99 is the product of a chemical reaction."

7. TCR 71 for chapter 28 is deleted.

8. TCR 74 for chapter 28 is deleted and the following new TCR is inserted:

"74. A change to subheading 2839.90 from any other subheading."

9. TCRs 79 and 80 for chapter 28 are deleted and the following new TCRs are inserted:

"79. A change to subheading 2841.30 from any other subheading.

80. (A) A change to chromates of zinc or lead of subheading 2841.50 from any other subheading; or

(B) A change to any other good of subheading 2841.50 from any other subheading, except from heading 2610."

10. TCR 85 for chapter 28 is deleted and the following new TCR is inserted:

"85. (A) A change to aluminate or chromate salts of zinc or lead of subheading 2841.90 from any other subheading; or

(B) A change to any other good of subheading 2841.90 from any other subheading, provided that the good classified in subheading 2841.90 is the product of a chemical reaction."

11. TCR 87 for chapter 28 is deleted and the following new TCR is inserted:

"87. (A) A change to fulminates, cyanates or thiocyanates of subheading 2842.90 from any other good of subheading 2842.90 or from any other subheading; or

(B) A change to other goods of subheading 2842.90 from any other good of subheading 2842.90 or any other subheading, provided that the good classified in subheading 2842.90 is the product of a chemical reaction."

12. TCR 101 for chapter 28 is deleted and the following new TCRs are inserted:

"101. A change to heading 2852 from any other heading, provided that the good classified in heading 2852 is the product of a chemical reaction.

102. A change to heading 2853 from any other heading."

13. TCR 10 for chapter 29 is deleted and the following new TCR is inserted:

"10. A change to subheadings 2903.11 through 2903.39 from any other subheading, including another subheading within that group."

14. TCR 22 for chapter 29 is deleted and the following new TCR is inserted:

"22. A change to subheadings 2905.22 through 2905.29 from lac of subheading 1301.90, pine oil of subheading 3805.90 or any other subheading, except from other goods of subheadings 1301.90 or 3805.90."

15. TCR 28 for chapter 29 is deleted.

16. TCR 29 for chapter 29 is deleted and the following new TCR is inserted:

"29. (A) A change to terpineols of subheading 2906.19 from any other good, except from heading 3805; or

(B) A change to other goods of subheading 2906.19 from pine oils of subheading 3805.90 or any other subheading, except from subheading 3301.90 or any other goods of subheading 3805.90."

17. TCRs 31 and 32 for chapter 29 are deleted and the following new TCRs are inserted:

"31. A change to subheading 2906.29 from any other subheading, except from subheadings 2707.99 or 3301.90.

32. A change to subheading 2907.11 from any other subheading, except from subheading 2707.99."

18. TCRs 42 and 43 for chapter 29 are deleted and the following new TCRs are inserted:

"42. A change to subheadings 2912.11 through 2912.12 from any other subheading, including another subheading within that group.

43. (A) A change to subheadings 2912.19 through 2912.49 from any other subheading, except from subheading 3301.90; or

(B) A change to *n*-butanal (butyraldehyde, normal isomer) from any other subheading."

19. TCR 49 for chapter 29 is deleted and the following new TCR is inserted:

"49. A change to subheading 2914.29 from pine oils of subheading 3805.90 or from any other subheading, except from subheading 3301.90 or from goods other than pine oils of subheading 3805.90."

20. TCRs 53 and 54 for chapter 29 are deleted and the following new TCRs are inserted:

"53. A change to subheadings 2915.11 through 2915.33 from any other subheading, including another subheading within that group.

54. A change to subheadings 2915.36 through 2915.39 from any other subheading, including another subheading within that group, except from subheading 3301.90."

21. TCRs 62 and 63 for chapter 29 are deleted and the following new TCR is inserted:

"63. A change to subheadings 2918.91 through 2918.99 from any other subheading, including another subheading within that group, except from subheading 3301.90."

22. TCR 65 for chapter 29 is deleted and the following new TCR is inserted:

"65. A change to subheadings 2920.11 through 2920.90 from any other subheading, including another subheading within that group."

23. TCR 70 for chapter 29 is deleted and the following new TCR is inserted:

"70. A change to subheadings 2925.11 through 2925.29 from any other subheading, including another subheading within that group."

24. TCR 74 for chapter 29 is deleted and the following new TCR is inserted:

"74. A change to subheadings 2930.20 through 2930.90 from any other subheading, including another subheading within that group."

25. TCRs 80 and 81 for chapter 29 are deleted and the following new TCRs are inserted:

"80. A change to subheadings 2936.21 through 2936.29 from any other subheading, including another subheading within that group.

81. (A) A change to unmixed provitamins of subheading 2936.90 from any other good of subheading 2936.90 or from any other subheading; or

(B) A change to other goods of subheading 2936.90 from any other subheading, except from subheadings 2936.21 through 2936.29."

26. TCRs 1 and 2 for chapter 30 are deleted and the following new TCRs are inserted:

"1. A change to subheading 3001.20 from any other subheading.

2. A change to glands and other organs, dried, whether or not powdered of subheading 3001.90 from any other good of subheading 3001.90 or from any other subheading, except from subheadings 0206.10 through 0208.90 or subheading 0305.20, headings 0504 or 0510 or subheading 0511.99, if the change from these provisions is not to a powder classified in subheading 3001.90."

27. TCR 6 for chapter 30 is deleted and the following new TCR is inserted:

"6. A change to subheading 3003.31 from any other subheading, except from subheading 2937.12."

28. TCR 12 for chapter 30 is deleted and the following new TCR is inserted:

"12. A change to subheading 3004.31 from any other subheading, except from subheading 2937.12."

29. TCR 20 for chapter 30 is deleted and the following new TCR is inserted:

"20. A change to subheadings 3006.20 through 3006.92 from any other subheading, including another subheading within that group."

30. TCR 8 for chapter 31 is deleted.

31. TCRs 10 through 15, inclusive, for chapter 31 are deleted and the following new TCRs are inserted:

"10. (A) A change to calcium cyanamide of subheading 3102.90 from other goods of subheading 3102.90 or from any other subheading; or

(B) A change to any other goods of subheading 3102.90 from any other heading.

11. A change to subheading 3103.10 from any other subheading.

12. (A) A change to basic slag of subheading 3103.90 from any other goods of subheading 3103.90 or from any other subheading; or

(B) A change to any other goods of subheading 3103.90 from any other heading.

13. A change to subheadings 3104.20 through 3104.30 from any other subheading, including another subheading within that group.

14. (A) A change to carnallite, sylvite or other crude natural potassium salts of subheading 3104.90 from any other subheading or from other goods of subheading 3104.90; or

(B) A change to other goods of subheading 3104.90 from any other heading.

15. A change to subheading 3105.10 from any other chapter."

32. TCR 10 for chapter 32 is deleted and the following new TCRs are inserted:

"10. A change to subheadings 3206.20 through 3206.42 from any other subheading, including another subheading within that group.

10A. (A) A change to pigments or preparations based on cadmium compounds of subheading 3206.49 from any other good of subheading 3206.49 or from any other subheading; or

(B) A change to pigments or preparations based on hexacyanoferrates of subheading 3206.49 from any other good of subheading 3206.49 or from any other subheading; or

(C) A change to other goods of subheading 3206.49 from any other subheading.

10B. A change to subheading 3206.50 from any other subheading."

33. TCR 1 for chapter 33 is deleted and the following new TCRs are inserted:

"1. A change to subheadings 3301.12 through 3301.13 from any other subheading, including another subheading within that group.

1A. (A) A change to essential oils of bergamot or lime of subheading 3301.19 from any other good; or

(B) A change to other goods of subheading 3301.19 from essential oils of bergamot or lime of subheading 3301.19 or from any other subheading.

1B. A change to subheadings 3301.24 through 3301.25 from any other subheading, including another subheading within that group.

1C. (A) A change to essential oils of geranium, jasmine, lavender, lavandin or vetiver of subheading 3301.29 from any other good; or

(B) A change to other goods of subheading 3301.29 from essential oils of geranium, jasmine, lavender, lavandin or vetiver or from any other subheading.

1D. A change to subheadings 3301.30 through 3301.90 from any other subheading, including another subheading within that group."

34. TCR 2 for chapter 34 is deleted and the following new TCR is inserted:

"2. A change to subheading 3402.11 from any other subheading, except from mixed alkylbenzenes of heading 3817."

35. TCRs 7 and 8 for chapter 34 are deleted and the following new TCRs are inserted:

"7. A change to subheading 3404.20 from any other subheading.

8. (A) A change to artificial waxes of chemically prepared lignite of subheading 3404.90 from any other good of subheading 3404.90 or from any other subheading; or

(B) A change to other goods of subheading 3404.90 from any other subheading, except from heading 1521 or subheadings 2712.20 or 2712.90."

36. TCR 2 for chapter 35 is deleted and the following new TCR is inserted:

"2. A change to subheadings 3502.11 through 3502.19 from any other subheading outside that group, except from heading 0407."

37. TCR 9 for chapter 35 is deleted and the following new TCR is inserted:

"9. A change to subheadings 3507.10 through 3507.90 from any other heading."

38. TCRs 8 though 12, inclusive, for chapter 38 are deleted and the following new TCRs are inserted:

"8. A change to subheading 3808.50 from any other subheading, provided that 40 percent by weight of the active ingredient or ingredients is originating."

9. A change to subheading 3808.91 from any other subheading, except from subheading 1302.19 or from any insecticide classified in chapter 28 or 29.

10. A change to subheading 3808.92 from any other subheading, except from fungicides classified in chapter 28 or 29.

11. (A) A change to subheading 3808.93 from any other subheading, except from herbicides, antisprouting products and plant-growth regulators classified in chapter 28 or 29; or

(B) A change to a mixture of subheading 3808.93 from any other subheading, provided that the mixture is made from two or more active ingredients and a domestic active ingredient constitutes not less than 40 percent by weight of the total active ingredients.

12. A change to subheading 3808.94 from any other subheading.

12A. (A) A change to subheading 3808.99 from any other subheading, except from rodenticides and other pesticides classified in chapter 28 or 29; or

(B) A change to a mixture of subheading 3808.99 from any other subheading, provided that the mixture is made from two or more active ingredients and a domestic active ingredient constitutes not less than 40 percent by weight of the total active ingredients."

39. TCR 26 for chapter 38 is deleted.

40. TCR 13 for chapter 42 is deleted and the following new TCRs are inserted:

"13. (A) A change to goods of a kind used in machinery or mechanical appliances or for other technical uses of heading 4205 from any other heading or from other goods of heading 4205; or

(B) A change to other goods of heading 4205 from any other heading.

14. A change to heading 4206 from any other heading."

41. TCR 9 for chapter 48 is modified by deleting "4815" and by inserting in lieu thereof "4814".

42. TCR 12 for chapter 48 is deleted.

43. TCR 14 for chapter 48 is deleted and the following new TCR is inserted:

"14. A change to subheadings 4823.61 through 4823.70 from any other subheading, including another subheading within that group."

44. TCR 1 for chapter 61 is modified by deleting "6101.10" and by inserting in lieu thereof "6101.20".

45. TCR 2 for chapter 61 is deleted and the following new TCR is inserted:

"2. (A) A change to goods of wool or fine animal hair of subheading 6101.90 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that:

(1) the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Singapore or of the United States, or both, and

(2) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61; or

(B) A change to any other good of subheading 6101.90 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Singapore or of the United States, or both."

46. TCRs 5 through 7, inclusive, for chapter 61 are deleted and the following new TCRs are inserted:

"5. (A) A change to tariff items 6103.10.70 or 6103.10.90 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Singapore or of the United States, or both; or

(B) A change to other goods of subheading 6103.10 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that:

(1) the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Singapore or of the United States, or both, and

(2) any visible lining material used in the apparel article as imported into the territory of the United States must satisfy the requirements of chapter rule 1 for chapter 61.

6. A change to subheadings 6103.22 through 6103.29 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that:

(1) the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Singapore or of the United States, or both; and

(2) with respect to a garment described in heading 6101 or a jacket or a blazer described in heading 6103, of wool, fine animal hair, cotton or man-made fibers, that is imported as part of an ensemble of these subheadings, any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61."

47. TCR 11 for chapter 61 is modified by deleting "6104.11" and by inserting in lieu thereof "6104.13".

48. TCRs 12 and 13 for chapter 61 are deleted and the following new TCR is inserted:

"12. (A) A change to tariff items 6104.19.40 or 6104.19.80 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Singapore or of the United States, or both.

(B) A change to other goods of subheading 6104.19 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that:

(1) the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Singapore or of the United States, or both; and

(2) any visible lining material contained in the apparel article must satisfy the requirements of chapter rule 1 for chapter 61."

49. TCR 46 for chapter 61 is deleted.

50. TCR 20 for chapter 62 is deleted.

51. TCR 64 for chapter 62 is deleted.

52. TCRs 71 through 73, inclusive, for chapter 61 are deleted and the following new TCR is inserted:

"71. A change to subheadings 6211.32 through 6211.90 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516, 5801 through 5802 or 6001 through 6006, provided that the good is both cut and sewn or otherwise assembled in the territory of Singapore or of the United States, or both."

53. TCR 4 for chapter 64 is deleted and the following new TCRs are inserted:

"4. A change to subheading 6404.11 from any other heading, except from subheading 6406.10, provided there is a regional value content of not less than 55 percent based on the build-up method.

4A. A change to subheading 6404.19 from any other heading except from headings 6401 through 6403, 6405 or subheading 6406.10, provided there is a regional value content of not less than 55 percent based on the build-up method.

4B. A change to subheading 6404.20 from any other heading, provided there is a regional value content of not less than 35 percent based on build-up method or 45 percent based on the build-down method."

54. TCRs 2 through 5, inclusive, for chapter 65 are deleted and the following new TCRs are inserted:

"3. A change to heading 6504 from any other heading, except from headings 6505 through 6507.

4. A change to heading 6505 from any other heading, except from headings 6504 or 6506 through 6507.

5. A change to heading 6506 from any other heading, except from headings 6505 or 6507."

55. TCR 2 for chapter 68 is deleted and the following new TCR is inserted:

"2. A change to subheadings 6809.11 through 6810.19 from any other heading, including another heading within that group."

56. TCRs 6 through 8, inclusive, for chapter 68 are deleted and the following new TCRs are inserted:

"6. A change to subheading 6812.80 from any other subheading.

7. A change to subheading 6812.91 from any other subheading.

8. A change to subheadings 6812.92 through 6812.93 from any other subheading outside that group.

8A. A change to subheading 6812.99 from any other heading."

57. TCRs 15 and 16 for chapter 70 are deleted and the following new TCR is inserted:

"16. A change to heading 7013 from any other heading, except from headings 7007 through 7011 or 7014 through 7020."

58. TCR 3 for chapter 71 is deleted and the following new TCR is inserted:

"3. A change to headings 7104 through 7105 from any other heading, including another heading within that group."

59. TCR 8 for chapter 73 is modified by deleting "7321.83" at each instance and by inserting in lieu thereof "7321.89".

60. TCR 1 for chapter 78 is modified by deleting "7803" and by inserting in lieu thereof "7802".

61. TCRs 3 and 4 for chapter 78 are deleted and the following new TCR is inserted:

"4. (A) A change to bars, rods, profiles or wire of heading 7806 from other goods of heading 7806 or from any other heading; or

(B) A change to tubes, pipes and tube or pipe fittings of heading 7806 from any other goods of heading 7806 or from any other heading, provided that there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method; or

(C) A change to other goods of heading 7806 from any other heading, provided there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method."

62. TCR 1 for chapter 79 is modified by deleting "7906" and by inserting in lieu thereof "7905".

63. TCR 2 for chapter 79 is deleted and the following new TCR is inserted:

"2. (A) A change to tubes, pipes and tube or pipe fittings of heading 7907 from any other goods of heading 7907 or from any other heading, provided there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method; or

(B) A change to other goods of heading 7907 from any other heading."

64. TCR 2 for chapter 80 is deleted and the following new TCRs are inserted:

"2. A change to headings 8002 through 8003 from any other heading, including another heading within that group, provided there is a regional value content of not less than:

(A) 35 percent based on the build-up method, or

(B) 45 percent based on the build-down method.

3. (A) A change to plates, sheet or strip (including foil) of tin of heading 8007 from other goods of heading 8007 or from any other heading, provided there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method; or

(B) A change to tubes, pipes and tube or pipe fittings of heading 8007 from other goods of heading 8007 or from any other heading, provided there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method; or

(C) A change to other goods of heading 8007 from any other heading, provided there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method."

65. TCR 2 for chapter 81 is deleted and the following new TCR is inserted:

"2. A change to subheading 8101.96 from any other subheading."

66. TCR 4 for chapter 81 is deleted and the following new TCR is inserted:

"4. (A) A change to bars, rods (other than those obtained simply by sintering), profiles, plates, sheets, strip or foil of subheading 8101.99 from any other goods of subheading 8101.99 or from any other subheading; or

(B) A change to other goods of subheading 8101.99 from any other heading, provided there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method."

67. TCR 18 for chapter 81 is deleted and the following new TCRs are inserted:

"18. (A) A change to unwrought germanium or vanadium, germanium or vanadium waste, scrap or powders of subheading 8112.92 from any other good or subheading 8112.92 or from any other subheading; or

(B) A change to other goods of subheading 8112.92 from any other subheading.

18A. (A) A change to articles of vanadium or germanium of subheading 8112.99 from any other goods of subheading 8112.99 or from any other subheading; or

(B) A change to other goods of subheading 8112.99 from any other subheading."

68. TCR 80 for chapter 84 is deleted and the following new TCR is inserted:

"80. A change to subheading 8442.30 from any other subheading."

69. TCRs 83 through 85, inclusive, for chapter 84 are deleted and the following new TCRs are inserted:

"83. (A) A change to subheadings 8443.11 through 8443.19 from any other subheading outside that group, except from machines for uses ancillary to printing of subheading 8443.91; or

(B) A change to subheadings 8443.11 through 8443.19 from machines for uses ancillary to printing in subheading 8443.91, provided there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method.

83A. A change to subheading 8443.31 from any other subheading.

83B. A change to subheading 8443.32 from any other subheading.

83C. A change to subheading 8443.39 from any other subheading.

84. (A) A change to machines for uses ancillary to printing of subheading 8443.91 from any other good of subheading 8443.91 or from any other subheading, except from subheadings 8443.11 through 8443.39; or

(B) No required change in tariff classification to machines for uses ancillary to printing of subheading 8443.91, provided there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method; or

(C) A change to any other good of subheading 8443.91 from any other heading.

85. (A) A change to subheading 8443.99 from any other subheading; or

(B) No change in tariff classification required, provided that there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method."

70. TCRs 115 through 119, inclusive, for chapter 84 are deleted and the following new TCRs are inserted:

"115. A change to heading 8469 from any other heading.

119. A change to subheading 8472.30 from any other subheading."

71. TCRs 148 and 149 for chapter 84 are deleted and the following new TCRs are inserted:

"148. (A) A change to subheading 8486.10 through 8486.40 from any other subheading outside that group; or

(B) No change in tariff classification required provided there is a regional value content of not less than:

(1) 35 percent on the build-up method, or

(2) 45 percent on the build-down method.

149. (A) A change to subheading 8486.90 from any other heading; or

(B) No change of tariff classification required provided there is a regional value content of not less than:

(1) 35 percent on the build-up method, or

(2) 45 percent on the build-down method.

150. A change to subheading 8487.10 from any other heading.

151. (A) A change to subheading 8487.90 from any other heading; or

(B) No required change in tariff classification to subheading 8487.90, provided there is a regional value content of not less than:

(1) 35 percent on the build-up method, or

(2) 45 percent on the build-down method."

72. TCR 9 for chapter 85 is modified by deleting "8505.30" and by inserting in lieu thereof "8505.20".

73. TCR 10 for chapter 85 is deleted and the following new TCRs are inserted:

"10. (A) A change to electro-magnetic lifting heads of subheading 8505.90 from other goods of subheading 8505.90 or from any other subheading; or

(B) A change to other goods of subheading 8505.90 from any other heading."

74. The following new TCRs for chapter 85 are inserted in numerical sequence:

"15A. A change to subheadings 8508.11 through 8508.60 from any other subheading.

15B. A change to subheading 8508.70 from any other heading."

75. TCR 16 for chapter 85 is modified by deleting "8509.11" and by inserting in lieu thereof "8509.40".

76. TCRs 39 through 46, inclusive, for chapter 85 are deleted and the following new TCR is inserted:

"39. A change to subheadings 8519.20 through 8521.90 from any other subheading, including another subheading within that group."

77. TCRs 51 through 60, inclusive, for chapter 85 are deleted and the following new TCRs are inserted:

"51. (A) A change to heading 8523 from any other heading; or

(B) Recording of sound or other similarly recorded phenomena onto blank or unrecorded media of heading 8523 shall confer origin whether or not there has been a change in tariff classification.

53. A change to subheadings 8525.50 through 8527.60 from any other subheading outside that group, except from transmission apparatus of subheadings 8517.61 though 8517.62 and except from transmission apparatus incorporating reception apparatus of subheadings 8517.12, 8517.61 or 8517.62.

54. A change to subheadings 8525.80 through 8527.99 from any other subheading, including another subheading within that group.

56. A change to subheading 8528.41 from any other subheading.

57. A change to subheading 8528.49 from any other subheading, except from subheadings 7011.20, 8528.59, 8540.11 or 8540.91.

58. A change to subheading 8528.51 from any other subheading.

59. A change to subheading 8529.59 from any other subheading, except from subheadings 7011.20, 8528.49, 8540.11 or 8540.91.

60. A change to subheading 8528.61 from any other subheading.

60A. A change to subheading 8528.69 from any other subheading.

60B. A change to subheading 8528.71 from any other subheading, except from subheadings 7011.20, 8540.11 or 8540.91.

60C. A change to subheading 8528.72 from any other subheading, except from subheadings 7011.20, 8528.73, 8540.11 or 8540.91.

60D. A change to subheading 8528.73 from any other subheading."

78. The text of TCR 62(A) for chapter 85 is deleted and the following new text for such subdivision (A) is inserted:

"A change to subheading 8529.90 from any other subheading, except from subheading 8517.70; or"

79. TCR 89 for chapter 85 is deleted and the following new TCR is inserted:

"89. A change to subheading 8543.10 from any other subheading, except from ion implanters for doping semiconductor materials of subheading 8486.20."

80. TCRs 92 through 94, inclusive, for chapter 85 are deleted and the following new TCRs are inserted:

"92. A change to subheading 8543.70 from any other subheading, except from subheading 8523.52 or proximity cards and tags of subheading 8523.59.

94. (A) A change to subheading 8543.90 from any other heading, except from subheading 8486.90, or

(B) No required change in tariff classification to subheading 8543.90, provided there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method."

81. TCR 97 for chapter 85 is deleted and the following new TCRs are inserted:

"97. A change to subheadings 8544.30 through 8544.42 from any other subheading, including another subheading within that group, provided there is a regional value content of not less than:

(A) 35 percent based on the build-up method, or

(B) 45 percent based on the build-down method."

82. TCR 98 for chapter 85 is modified by deleting "8544.59" at each instance in subdivisions (A) and (B) and by inserting in lieu thereof "8544.49" in such subheadings.

83. TCRs 11 and 12 for chapter 87 are deleted and the following new TCR is inserted:

"11. (A) A change to brakes and servo-brakes and parts thereof of subheading 8708.30 from any other heading; or

(B) A change to brakes and servo-brakes and parts thereof of subheading 8708.30 from any other good of subheadings 8708.30 or 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 30 percent based on the build-up method."

84. The text of subdivision (B) of TCR 13 for chapter 87 is deleted and the following new text is inserted in such subdivision:

"A change to gear boxes of subheading 8708.40 from parts of subheading 8708.40 or from subheading 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 30 percent based on the build-up method."

85. The text of subdivision (B) of TCR 14 for chapter 85 is deleted and the following new text is inserted in such subdivision:

"A change to drive axles with differential, whether or not provided with other transmission components or to non-driving axles of subheading 8708.50 from parts of subheading 8708.50 or from subheadings 8708.99 or 8482.10 through 8482.80, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 30 percent based on the build-up method."

86. The text of subdivision (B) of TCR 17 for chapter 87 is deleted and the following new text is inserted in such subdivision:

"A change to suspension systems of subheading 8708.80 from parts of subheading 8708.80 or from subheading 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 30 percent based on the build-up method."

87. The text of subdivision (B) of TCR 18 for chapter 87 is deleted and the following new text is inserted in such subdivision:

"A change to radiators of subheading 8708.91 from parts of subheading 8708.91 or from subheading 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 30 percent based on the build-up method."

88. The text of subdivision (B) of TCR 19 for chapter 87 is deleted and the following new text is inserted in such subdivision:

"A change to silencers and exhaust pipes of subheading 8708.92 from parts of subheading 8708.92 or from subheading 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 30 percent based on the build-up method."

89. The text of subdivision (B) of TCR 21 for chapter 87 is deleted and the following new text is inserted in such subdivision:

"A change to steering wheels, steering columns and steering boxes of subheading 8708.94 from parts of subheading 8708.94 or from subheading 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 30 percent based on the build-up method."

90. New TCR 21A for chapter 87 is inserted in numerical sequence:

"21A. (A) A change to subheading 8708.95 from any other heading; or

(B) A regional value content of not less than 30 percent based on the build-up method, whether or not there is a change in tariff classification."

91. TCRs 1 and 2 for chapter 88 are deleted and the following new TCR is inserted:

"1. A change to heading 8801 from any other heading."

92. TCRs 22 through 28, inclusive, for chapter 90 are deleted and the following new TCRs are inserted:

"22. A change to subheadings 9008.20 through 9008.40 from any other subheading, including another subheading within that group.

22A. A change to subheading 9008.90 from any other heading."

93. TCR 30 for chapter 90 is deleted.

94. TCR 50 for chapter 90 is deleted and the following new TCR is inserted:

"50. A change to headings 9018 through 9021 from any other heading."

95. TCR 52 for chapter 90 is deleted and the following new TCR is inserted:

"52. A change to subheadings 9022.19 through 9022.90 from any other subheading, including another subheading within that group."

96. TCR 56 for chapter 90 is deleted and the following new TCR is inserted:

"56. A change to subheadings 9025.11 through 9025.80 from any other subheading, including another subheading within that group."

97. TCRs 64 and 65 for chapter 90 are deleted and the following new TCRs are inserted:

"64. A change to subheadings 9030.10 through 9030.20 from any other subheading, including another subheading within that group.

64A. A change to subheading 9030.32 from any other subheading, except from subheading 9030.84.

64B. A change to subheadings 9030.33 through 9030.82 from any other subheading, including another subheading within that group.

64C. A change to subheading 9030.84 from any other subheading, except from subheading 9030.32.

64D. A change to subheadings 9030.89 through 9030.90 from any other subheading, including another subheading within that group.

65. A change to subheadings 9031.10 through 9031.20 from any other subheading."

98. TCR 67 for chapter 90 is deleted and the following new TCR is inserted:

"67. (A) A change to profile projectors of subheading 9031.49 from any other subheading; or

(B) A change to other optical instruments and appliances of subheading 9031.49 from any other subheading, except from subheading 9031.41 and from any other optical instruments and appliances of subheading 9031.49."

99. TCR 70 for chapter 90 is modified by inserting after before the final comma the following text:

", including another subheading within that group."

100. TCRs 2 and 3 for chapter 91 are deleted and the following new TCR is inserted:

"2. (A) A change to electrically operated wrist-watches, whether or not incorporating a stop-watch facility, of subheading 9101.19 from any other heading, provided that there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method; or

(B) A change to other goods of subheading 9101.19 from heading 9114, provide that there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method; or

(C) A change to any good of subheading 9101.19 from any other chapter."

101. TCR 9 for chapter 91 is deleted and the following new TCR is inserted:

"9. A change to headings 9108 through 9110 from any other heading, including another heading within that group, provided there is a regional value content of not less than:

(A) 35 percent based on the build-up method, or

(B) 45 percent based on the build-down method."

102. TCR 2 for chapter 93 is deleted and the following new TCR is inserted:

"2. A change to headings 9302 through 9303 from any other heading, including another heading within that group, except from heading 9305 when that change is pursuant to general rule of interpretation 2(a)."

103. TCR 1 for chapter 94 is deleted and the following new TCR is inserted:

"1. A change to subheadings 9401.10 through 9401.80 from any other subheading, except from subheadings 9401.10 through 9401.80, 9403.10 through 9403.89, and except from subheadings 9401.90 or 9403.90 when that change is pursuant to general rule of interpretation 2(a)."

104. TCR 4 for chapter 94 is deleted and the following new TCR is inserted:

"4. A change to subheadings 9403.10 through 9403.89 from any other subheading, except from subheadings 9401.10 through 9401.90, 9403.10 through 9403.89 and except from subheadings 9401.90 or 9403.90 when that change is pursuant to general rule of interpretation 2(a)."

105. TCR 5 for chapter 94 is deleted and the following new TCR is inserted:

"5. A change to subheadings 9403.90 through 9404.21 from any other heading, including another heading within that group."

106. TCRs 1 through 7, inclusive, for chapter 95 are deleted and the following new TCR is inserted:

"4. (A) A change to heading 9503 from any other chapter; or

(B) No required change in tariff classification provided there is a regional value content of not less than:

(1) 35 percent based on the build-up method, or

(2) 45 percent based on the build-down method."

107. TCRs 8, 10, 11, 13, 15 and 17 for chapter 95 are each modified by adding the following text before the final period:

", including another subheading within that group"

108. TCRs 1 and 20 for chapter 96 are each modified by adding the following text before the final period:

", including another subheading within that group"

109. TCRs 25 and 26 for chapter 96 are deleted and the following new TCR is inserted:

"26. A change to heading 9614 from any other heading."

110. TCRs 1 and 2 for chapter 97 are each modified by adding the following text before the final period:

", including another subheading within that group"

B. Effective with respect to goods of Singapore, under the terms of general note 25 of the Harmonized Tariff Schedule of the United States (HTS), that are entered, or withdrawn from warehouse for consumption, on or after January 1, 2008, the tabulation in general note 25(m) is deleted and the following new tabulation is inserted in lieu thereof:

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| "(1) | 3818 | Chemical elements doped for use in electronics, in form of disks, wafers or similar forms; chemical compounds doped for use in electronics |
| (2) | 7017.10.30, 7020.00.30 | Quartz reactor tubes and holders designed for insertion into diffusion and oxidation furnaces for production of semiconductor wafers |
| (3) | 8443.31.00, 8443.32.10, 8443.39.00, 8471.49.00, 9017.10.40, 9017.20.70, 9017.90.01 | Plotters, whether input or output units of the automatic data processing machines of heading 8471 or drawing or drafting machines of heading 9017 |
| (4) | 8443.31.00, 8443.32.50 | Facsimile machines |
| (5) | 8443.31.00, 8443.32.10, 8443.99, 8471.60, 8528.41.00, 8528.51.00, 8528.61.00 | Input or output units (including printers), whether or not containing storage units in the same housing; parts of printers |
| (6) | 8443.32.50 | Teleprinters |

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| (7) | 8443.39.10 | Electrostatic photocopying apparatus, operating by reproducing the original image directly onto the copy (direct process) |
| (8) | 8443.39.30 | Other photocopying apparatus, incorporating an optical system |
| (9) | 8443.99.25, 8443.99.35, 8443.99.40, 8443.99.45, 8471.50.01, 8473.30.11, 8473.50.30, 8473.10.20, 8473.21.00, 8473.29.00, 8473.40.10, 8486.90.00, 8504.40.60, 8504.40.85, 8504.90.20, 8504.90.65, 8517.62.00, 8517.70.00, 8518.90.20, 8518.90.60, 8520.20.00, 8522.90.45, 8531.90.15, 8538.90.10, 9013.90.50, 9017.90.01, 9026.90.20, 9026.90.60, 9027.90.45, 9027.90.54, 9027.90.64, 9027.90.84, 9030.90.64, 9030.90.84, 9031.90.54, 9031.90.70 | Printed circuit assemblies for products falling within this agreement, including such assemblies for external connections such as cards that conform to the PCMCIA standard (Such printed circuit assemblies consist of one or more printed circuits of heading 8534 with one or more active elements assembled thereon, with or without passive elements. "Active elements" means diodes, transistors, and similar semiconductor devices, whether or not photosensitive, of the heading 8541,and integrated circuits and micro assemblies of heading 8542.) |
| (10) | 8443.99.30, 8443.99.35, 8443.99.50, 8517.70.00 | Parts of facsimile machines or teleprinters; parts of the apparatus of heading 8517 |
| (11) | 8443.99.40, 8443.99.45 | Parts and accessories of copying machines |
| (12) | 8469 | Word processing machines |
| (13) | 8470 | Calculating machines and pocket-size data recording, reproducing and displaying machines with calculating functions; accounting machines, postage-franking machines, ticket-issuing machines and similar machines, incorporating a calculating device; cash registers |
| (14) | 8471 | Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included |
| (15) | 8471 | Automatic data processing machines capable of (1) storing the processing program or programs and at least the data immediately necessary for the execution of the program; (2) being freely programmed in accordance with the requirements of the user; (3) performing arithmetical computations specified by the user; and (4) executing, without human intervention, a processing program which requires them to modify their execution, by logical decision during the processing run (The agreement covers such automatic data processing machines whether or not they are able to receive and process with the assistance of central processing unit telephony signals, television signals or other analogue or digitally processed audio or video signals. Machines performing a specific function other than data processing, or incorporating or working in conjunction with an automatic data processing machine, and not otherwise specified herein, are not covered by this agreement.) |
| (16) | 8471.30.01 | Portable digital automatic data processing machines, weighing no more than 10 kg, consisting of at least a central processing unit, a keyboard and a display |
| (17) | 8471.30.01, 8471.41.01, 8471.49.00, 8471.50.01 | Analogue or hybrid automatic data processing machines |

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| (18) | 8471.41.01 | Other digital automatic data processing machines comprising in the same housing at least a central processing unit and an input and output unit, whether or not combined |
| (19) | 8471.49.00 | Other digital automatic data processing machines presented in the form of systems |
| (20) | 8471.49.00, 8471.70.60, 8471.70.90 | Optical disc storage units, for automatic data processing machines (including CD drives and DVD drives), whether or not having the capability of writing/ recording as well as reading, whether or not in their own housings |
| (21) | 8471.49.00, 8471.70, 8523.29.10, 8523.40.10, 8523.51.00, 8523.59.00, 8523.80.20, 8523.40.20, 8523.40.40, 8523.29.90 | Proprietary format storage devices including media therefor for automatic data processing machines, with or without removable media and whether magnetic, optical or other technology, including Bernoulli Box, Syquest, or Zipdrive cartridge storage units |
| (22) | 8471.49.00, 8471.60.10, 8473.30.11, 8486.90.00, 8517.70.00, 8473.30.51, 8531.20.00, 8531.90.15, 8531.90.75, 8543.70.92, 8543.90.65, 8543.90.85, 8528.51.00, 8528.61.00, 9013.80.70, 9013.90.50 | Flat panel displays (including LCD, electro luminescence, plasma and other technologies) for products falling within this note, and parts thereof |
| (23) | 8471.50.01 | Digital processing units other than those of subheadings 8471.41 and 8471.49, whether or not in the same housing one or two of the following types of units: storage units, input units, output units |
| (24) | 8471.70 | Storage units, including central storage units, optical disk storage units, hard disk drives and magnetic tape storage units |
| (25) | 8471.80, 8517.62.00, 8517.69.00 | Other units of automatic data processing machines |
| (26) | 8471.80.10, 8471.80.40, 8471.80.90, 8471.49.00, 8517.61.00, 8517.62.00, 8517.69.00 | Network equipment: Local Area Network (LAN) and Wide Area Network (WAN) apparatus, including those products dedicated for use solely or principally to permit the interconnection of automatic data processing machines and units thereof for a network that is used primarily for the sharing of resources such as central processor units, data storage devices and input and output units including the adapters, hubs, in line repeaters, converters, concentrators, bridges and routers, and printed circuit assemblies for physical incorporation into automatic data processing machines and units thereof |
| (26A) | 8471.80.40, 8517.62.00 | Multimedia upgrade kits for automatic data processing machines, and units thereof, put up for retail sale, consisting of, at least, speakers and/or microphones as well as a printed circuit assembly that enables the ADP machines and units thereof to process audio signals (sound cards) |
| (27) | 8471.90.00 | Other |
| (28) | 8472.90.10 | Automatic teller machines |
| (29) | 8473.21 | Parts and accessories of the machines of heading 8470 of the electronic calculating machines of subheading 8470.10, 8470.21 or 8470.29 |
| (30) | 8473.29 | Parts and accessories of the machines of heading 8470, other than electronic calculating machines of subheadings 8470.10, 8470.21 or 8470.29 |
| (31) | 8473.30 | Parts and accessories of the machines of heading 8471 |

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| (32) | 8473.50 | Parts and accessories equally suitable for use with machines of two or more of headings 8469 to 8472 |
| (33) | 8486.10.00 | Chemical vapor deposition apparatus for semiconductor production |
| (34) | 8486.10.00, 8486.20.00 | Dicing machine for scribing or scoring semiconductor wafers |
| (35) | 8486.10.00, 8486.20.00, 8486.30.00, 8486.40.00 | Apparatus for wet etching, developing, stripping or cleaning semiconductor wafers and flat panel displays |
| (36) | 8486.10.00, 8486.20.00 | Spin dryers for semiconductor wafer processing |
| (37) | 8486.10.00 | Machines for working any material by removal of material, by laser or other light or photo-beam in the production of semiconductor wafers |
| (38) | 8486.10.00 | Machines for sawing monocrystal semiconductor boules into slices, or wafers into chips |
| (39) | 8486.10.00, 8486.20.00 | Grinding, polishing and lapping machines for processing of semiconductor wafers |
| (40) | 8486.10.00 | Apparatus for growing or pulling monocrystal semiconductor boules |
| (41) | 8486.20.00 | Ion implanters designed for doping semiconductor materials |
| (42) | 8486.20.00 | Apparatus for physical deposition by sputtering on semiconductor wafers |
| (43) | 8486.20.00 | Epitaxial deposition machines for semiconductor wafers |
| (44) | 8486.20.00 | Lasercutters for cutting contacting tracks in semiconductor production by laser beam |
| (45) | 8486.20.00 | Machines for dry-etching patterns on semiconductor materials |
| (46) | 8486.20.00 | Apparatus for stripping or cleaning semiconductor wafers |
| (47) | 8486.20.00 | Physical deposition apparatus for semiconductor production |
| (48) | 8486.20.00 | Spraying appliances for etching, stripping or cleaning semiconductor wafers |
| (49) | 8486.20.00 | Spinners for coating photographic emulsions on semiconductor wafers |
| (50) | 8486.20.00 | Resistance heated furnaces and ovens for the manufacture of semiconductor devices on semiconductor wafers |
| (51) | 8486.20.00 | Inductance or dielectric furnces and ovens for the manufacture of semiconductor devices on semiconductor wafers |
| (52) | 8486.20.00 | Apparatus for the projection, drawing or plating circuit patterns on sensitized semiconductor materials or flat panel displays |
| (53) | 8486.20.00 | Apparatus for rapid heating of semiconductor wafers |
| (54) | 8486.40.00 | Focused ion beam milling machines to produce or repair masks and reticles for patterns on semiconductor devices |
| (55) | 8486.40.00 | Machines for bending, folding and straightening semiconductor leads |

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| (56) | 8486.40.00 | Deflash machines for cleaning and removing contaminants from the metal leads of semiconductor packages prior to the electroplating process |
| (57) | 8486.40.00 | Encapsulation equipment for assembly of semiconductors |
| (58) | 8486.40.00 | Pattern generating apparatus of a kind for producing masks and reticles from photoresist coated substrates |
| (59) | 8486.40.00 | Automated machines for transport, handling and storage of semiconductor wafers, wafer cassettes, wafer boxes and other material for semiconductor devices |
| (60) | 8486.40.00 | Die attach apparatus, tape automated bonders, and wire bonders for assembly of semiconductors |
| (61) | 8486.40.00 | Injection and compression molds for the manufacture of semiconductor devices |
| (62) | 8486.90.00 | Parts of apparatus for wet etching, developing, stripping or cleaning semiconductor wafers and flat panel displays |
| (63) | 8486.90.00 | Parts and accessories of the apparatus of subheading 8486.20 |
| (64) | 8486.90.00 | Parts of epitaxial deposition machines for semiconductor wafers |
| (65) | 8486.90.00 | Parts of automated machines for transport, handling and storage of semiconductor wafers, wafer cassettes, wafer boxes and other material for semiconductor devices |
| (66) | 8486.90.00 | Parts of apparatus for growing or pulling monocrystal semiconductor boules |
| (67) | 8486.90.00 | Parts for spinners for coating photographic emulsions on semiconductor wafers |
| (68) | 8486.90.00 | Parts for die attach apparatus, tape automated bonders, and wire bonders for assembly of semiconductors |
| (69) | 8486.90.00 | Parts of physical deposition apparatus for semiconductor production |
| (70) | 8486.90.00 | Parts of encapsulation equipment for assembly of semiconductors |
| (71) | 8486.90.00 | Parts of apparatus for rapid heating of wafers |
| (72) | 8486.90.00 | Parts and accessories for pattern generating apparatus of a kind used for producing masks or reticles from photoresist-coated substrates |
| (73) | 8486.90.00 | Parts of furnaces and ovens classified in subheadings 8486.10 through 8486.40 |
| (74) | 8486.90.00 | Parts of chemical vapor deposition apparatus for semiconductor production |
| (75) | 8486.90.00 | Parts of resistance heated furnaces and ovens for the manufacture of semiconductor devices on semiconductor wafers |
| (76) | 8486.90.00 | Parts of spin dryers for semiconductor wafer processing |
| (77) | 8486.90.00 | Parts of ion implanters for doping semiconductor materials |
| (78) | 8486.90.00 | Parts of machines for dry etching patterns on semiconductor wafers |

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| (79) | 8486.90.00 | Parts of spraying appliances for etching, stripping or cleaning semiconductor wafers |
| (80) | 8486.90.00 | Parts of apparatus for stripping or cleaning semiconductor wafers |
| (81) | 8486.90.00 | Parts of machines for working any material by removal of material, by laser or other light or photon beam in the production of semiconductor wafers |
| (82) | 8486.90.00 | Parts of lasercutters for cutting contacting tracks in semiconductor production by laser beam |
| (83) | 8486.90.00 | Parts of machines for bending, folding and straightening semiconductor leads |
| (84) | 8486.90.00 | Parts of focused ion beam milling machines to produce or repair masks and reticles for patterns on semiconductor devices |
| (85) | 8486.90.00 | Parts of grinding, polishing and lapping machines for processing of semiconductor wafers |
| (86) | 8486.90.00 | Parts of dicing machines for scribing or scoring semiconductor wafers |
| (87) | 8486.90.00 | Parts for machines for sawing monocrystal semiconductor boules into slices, or wafers into chips |
| (88) | 8486.90.00 | Parts of apparatus for physical deposition by sputtering on semiconductor wafers |
| (89) | 8504.40.60, 8504.40.70, 8504.40.85 | Static converters for automatic data processing machines and units thereof, and telecommunication apparatus |
| (90) | 8504.50.40 | Other inductors for power supplies for automatic data processing machines and units thereof, and telecommunication apparatus |
| (91) | 8517 | Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line systems; videophones; parts thereof |
| (92) | 8517.11.00 | Line sets with cordless handsets |
| (93) | 8517.18.00 | Other telephone sets and videophones |
| (94) | 8517.61.00, 8517.62.00, 8517.69.00 | Transmission apparatus other than apparatus for radio-broadcasting or television |
| (95) | 8517.61.00, 8517.62.00 | Other apparatus, for carrier-current line systems or for digital line systems |
| (96) | 8517.61.00, 8517.62.00, 8517.12.00, 8525.60 | Transmission apparatus incorporating reception apparatus |
| (97) | 8517.62.00 | Telephonic or telegraphic switching apparatus |
| (98) | 8517.62.00, 8517.69.00, 8517.70.00 | Paging alert devices, and parts thereof |
| (99) | 8517.69.00 | Portable receivers for calling, alerting or paging |
| (100) | 8517.69.00 | Other apparatus including entry phone systems |

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| (101) | 8517.70.00 | Aerials or antennae of a kind used with apparatus for radio-telephony and radio-telegraphy |
| (102) | 8517.70.00 | Parts of transmission apparatus other than apparatus for radio-broadcasting or television transmission apparatus incorporating reception apparatus and parts of portable receivers for calling, alerting or paging |
| (103) | 8518.10.40 | Microphones having a frequency range of 300 Hz to 3.4 KHz with a diameter of not exceeding 10 mm and a height not exceeding 3 mm, for telecommunication use |
| (104) | 8518.29.40 | Loudspeakers, without housing, having a frequency range of 300 Hz to 3.4 KHz with a diameter of not exceeding 50 mm, for telecommunication use |
| (105) | 8518.30.10 | Line telephone handsets |
| (106) | 8518.40.10, 8518.90.20, 8518.90.60 | Electric amplifiers when used as repeaters in line telephony products falling within this agreement, and parts thereof |
| (107) | 8519.50.00 | Telephone answering machines |
| (108) | 8523.29.10 | Magnetic tapes of a width not exceeding 4 mm |
| (109) | 8523.29.10 | Magnetic tapes of a width exceeding 4 mm but not exceeding 6.5 mm |
| (110) | 8523.29.10 | Magnetic tapes of a width exceeding 6.5 mm |
| (111) | 8523.29.10, 8523.40.10, 8523.51.00, 8523.59.00, 8523.80.20 | Other |
| (112) | 8523.29.10 | Magnetic discs |
| (113) | 8523.29.20 | Magnetic tapes for reproducing phenomena other than sound or image |
| (114) | 8523.29.90, 8523.80.20, 8523.59.00 | Other: For reproducing representations of instructions, data, sound and image, recorded in a machine readable binary form, and capable of being manipulated or providing interactivity to a user, by means of an automatic data processing machine |
| (115) | 8523.29.90, 8523.59.00, 8523.80.20 | Media for reproducing phenomena other than sound or image |
| (116) | 8523.40.20 | Discs for laser reading systems for reproducing phenomena other than sound or images |
| (117) | 8523.40.40 | Other: For reproducing representations of instructions, data, sound and image, recorded in a machine readable binary form, and capable of being manipulated or providing interactivity to a user, by means of an automatic data processing machine |
| (118) | 8523.52.00 | Proximity cards and tags |
| (119) | 8525.50.10, 8528.71.20 | Set top boxes which have a communication function: a microprocessor-based device incorporating a modem for gaining access to the internet, and having a function of interactive information exchange |
| (120) | 8525.80.40 | Digital still image video cameras |

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| (121) | 8528.41.00 | Monitors: display units of automatic data processing machines with a cathode ray tube with a dot screen pitch smaller than 0.4 mm, not capable of receiving and processing television signals or other analogue or digitally processed audio or video signals without assistance of a central processing unit of a computer as defined in this agreement. The agreement does not, therefore, cover televisions, including high definition televisions |
| (122) | 8528.61.00 | Projection type flat panel display units used with automatic data processing machines which can display digital information generated by the central processing unit |
| (123) | 8531.20.00 | Indicator panels incorporating liquid crystal devices (LCD ) or light emitting diodes (LED) |
| (124) | 8531.90.15, 8531.90.75 | Parts of apparatus of subheading 8531.20 |
| (125) | 8532 | Electrical capacitors, fixed, variable or adjustable (pre-set); parts thereof |
| (126) | 8533 | Electrical resistors (including rheostats and potentiometers), other than heating resistors; parts thereof |
| (127) | 8534 | Printed circuits |
| (128) | 8536.50.70 | Electronic switches, including temperature protected electronic switches, consisting of a transistor and a logic chip (chip-on-chip technology) for a voltage not exceeding 1000 volts |
| (129) | 8536.50.70 | Electromechanical snap-action switches for a current not exceeding 11 amps |
| (130) | 8536.50.70 | Electronic AC switches consisting of optically coupled input and output circuits (Insulated thyristor AC switches) |
| (131) | 8536.69.40 | Plugs and sockets for co-axial cables and printed circuits |
| (132) | 8536.90.40 | Connection and contact elements for wires and cables |
| (133) | 8536.90.40 | Wafer probers |
| (134) | 8541 | Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes; mounted piezoelectric crystals; parts thereof |
| (135) | 8542, 8523.52.00, 8548.90.01 | Electronic integrated circuits and microassemblies; parts thereof |
| (136) | 8543.70.92 | Electrical machines with translation or dictionary functions |
| (137) | 8544.42.20 | Other electric conductors, for a voltage exceeding 80 V but not exceeding 1000 V, fitted with connectors, of a kind used for telecommunications |
| (138) | 8544.42.20 | Other electric conductors, for a voltage not exceeding 80 V, fitted with connectors, of a kind used for telecommunications |
| (139) | 8544.49.10 | Other electric conductors, for a voltage not exceeding 80 V, not fitted with connectors, of a kind used for telecommunication |
| (140) | 8544.70.00 | Optical fiber cables |

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| (141) | 9018.11, 9018.12, 9018.13, 9018.14, 9018.19 | Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight testing instruments; parts and accessories thereof |
| (142) | 9019 | Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof |
| (143) | 9021 | Orthopedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; parts and accessories thereof |
| (144) | 9026 | Instruments and apparatus for measuring or checking the flow, level, or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading 9014, 9015, 9028 or 9032; parts and accessories thereof |
| (145) | 9027.20 | Chromatographs and electrophoresis instruments |
| (146) | 9027.30 | Spectrometers, spectrophotometers and spectrographs using optical radiations (UV, visible, IR) |
| (147) | 9027.50.40, 9027.50.80 | Other instruments and apparatus using optical radiations (UV, visible, IR) of heading 9027 |
| (148) | 9027.80 | Other instruments and apparatus of heading 9027 (other than those of heading 9027.10) |
| (149) | 9027.90.45, 9027.90.54, 9027.90.64, 9027.90.84 | Parts and accessories of products of heading 9027, other than for gas or smoke analysis apparatus and microtomes |
| (150) | 9030.40 | Instruments and apparatus for measuring and checking, specially designed for telecommunications (for example, cross-talk meters, gain measuring instruments, distortion factor meters, psophometers) |
| (151) | 9030.82 | Instruments and apparatus for measuring or checking semiconductor wafers or devices |
| (152) | 9030.90.64 | Parts and accessories of instruments and apparatus of subheading 9030.82 |
| (153) | 9030.90.84 | Parts of instruments and appliances for measuring or checking semiconductor wafers or devices |
| (154) | 9031.41.00 | Photomicrographic microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafers or reticles |
| (155) | 9031.41.00 | Optical stereoscopic microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafer or reticles |
| (156) | 9031.41.00, 9031.49.70 | Optical instruments and appliances for inspecting semiconductor wafers or devices or for inspecting masks, photomasks or reticles used in manufacturing semiconductor devices |
| (157) | 9031.49.70 | Optical instruments and appliances for measuring surface particulate contamination on semiconductor wafers |

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| (158) | 9031.80.40 | Electron beam microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafers or reticles |
| (159) | 9031.90.54 | Parts and accessories of optical instruments and appliances for inspecting semiconductor wafers or devices or for inspecting masks, photomasks or reticles used in manufacturing semiconductor devices |
| (160) | 9031.90.54 | Parts and accessories of photomicrographic microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafers or reticles |
| (161) | 9031.90.54 | Parts and accessories of optical instruments and appliances for measuring surface particulate contamination on semiconductor wafers |
| (162) | 9031.90.54 | Parts and accessories of optical stereoscopic microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafers or reticles |
| (163) | 9031.90.70 | Parts and accessories of electron beam microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafers or reticles" |

**Proclamation 8215 of January 14, 2008**

## Religious Freedom Day, 2008

*By the President of the United States of America*
*A Proclamation*

Thomas Jefferson counted the freedom of worship as one of America's greatest blessings. He said it was ''a liberty deemed in other countries incompatible with good government, and yet proved by our experience to be its best support.'' On Religious Freedom Day, we celebrate the 1786 passage of the Virginia Statute for Religious Freedom.

The freedom to worship according to one's conscience is one of our Nation's most cherished values. It is the first protection offered in the Bill of Rights: that ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.'' In America, people of different faiths can live together united in peace, tolerance, and humility. We are committed to the proposition that as equal citizens of the United States of America, all are free to worship as they choose.

In an era during which an unprecedented number of nations have embraced individual freedom, we have also witnessed the stubborn endurance of religious repression. Religious freedom belongs not to any one nation, but to the world, and my Administration continues to support freedom of worship at home and abroad. On Religious Freedom Day and throughout the year, we recognize the importance of religious freedom and the vital role it plays in spreading liberty and ensuring human dignity.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 16, 2008, as Religious Freedom Day. I call on all Americans to reflect on the great blessing of religious liberty, endeavor to preserve this freedom for future generations, and commemorate this day with appropriate events and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of January, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8216 of January 16, 2008**

## Martin Luther King, Jr., Federal Holiday, 2008

*By the President of the United States of America*
*A Proclamation*

Dr. Martin Luther King, Jr., changed our Nation forever through his leadership, service, and clarity of vision. On the Martin Luther King, Jr., Federal Holiday, we honor the lasting legacy of this great American, remember the ideals for which he fought, and recommit ourselves to

ensuring that our country's promise extends to all Americans across this great land.

In the brief time Dr. King walked upon this earth, he devoted his life to strengthening the content of the American character and called on our Nation to live up to its founding principles of life, liberty, and the pursuit of happiness for all its citizens. Dr. King's faith in the Almighty gave him the courage to confront discrimination and segregation, and he preached that all the powers of evil are ultimately no match for even one individual armed with eternal truths. Through his determination, spirit, and resolve, Dr. King helped lift souls and lead one of the greatest movements for equality and freedom in history.

Our Nation has made progress toward realizing Dr. King's dream, yet the work to achieve liberty and justice for all is never-ending. In July of 2006, I was honored to sign the ''Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006,'' to renew the Voting Rights Act of 1965 and reaffirm our commitment to securing the voting rights of all Americans. My Administration will continue to protect the rights won through the sacrifice of Dr. King and other civil rights leaders, and our country will never rest until equality is real, opportunity is universal, and all citizens are empowered to realize their dreams.

As we observe Dr. King's birthday, I encourage all Americans to celebrate his memory by performing acts of kindness through service to others. Let us live out Dr. King's teachings as we continue to work for the day when the dignity and humanity of every person is respected.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 21, 2008, as the Martin Luther King, Jr., Federal Holiday. I encourage all Americans to observe this day with appropriate civic, community, and service programs and activities in honor of Dr. King's life and legacy.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of January, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8217 of January 18, 2008**

## National Sanctity of Human Life Day, 2008

*By the President of the United States of America*

*A Proclamation*

On National Sanctity of Human Life Day, we recognize that each life has inherent dignity and matchless value, and we reaffirm our steadfast determination to defend the weakest and most vulnerable members of our society.

America was founded on the belief that all men are created equal and have an inalienable right to life, liberty, and the pursuit of happiness, and our country remains committed to upholding that founding prin-

ciple. Since taking office, I have signed legislation to help protect life at all stages, and my Administration will continue to encourage adoption, fund abstinence education and crisis pregnancy programs, and support faith-based groups. Today, as our society searches for new ways to ease human suffering, we must pursue the possibilities of science in a manner that respects the sacred gift of life and upholds our moral values.

Our Nation has made progress in its efforts to protect human life, and we will strive to change hearts and minds with compassion and decency. On National Sanctity of Human Life Day and throughout the year, we help strengthen the culture of life in America and work for the day when every child is welcomed in life and protected in law.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Sunday, January 20, 2008, as National Sanctity of Human Life Day. I call upon all Americans to recognize this day with appropriate ceremonies and to underscore our commitment to respecting and protecting the life and dignity of every human being.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of January, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8218 of January 28, 2008**

## National African American History Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National African American History Month, we honor the achievements and celebrate the rich heritage of African Americans.

Throughout our Nation's history, African Americans from all walks of life have offered their talents to the betterment of American society. Scholars such as Frederick Douglass and W.E.B. DuBois were early leaders who placed great importance on educating all people about the need for justice and racial equality. Athletes such as Jackie Robinson and Althea Gibson persevered while breaking the color barrier and competing at the highest levels of sports. Musicians like Nat King Cole and Billie Holiday lifted the American spirit with their creativity and musical gifts. Through their extraordinary accomplishments, these leaders helped bring our Nation closer to fulfilling its founding ideals.

This year's theme, ''Carter G. Woodson and the Origins of Multiculturalism,'' honors an educator who taught his fellow citizens about the traditions and contributions of African Americans. His dedication to educating Americans about cultural diversity initiated this celebration of African-American history. Our Nation is now stronger and more hopeful because generations of leaders like him have worked

to help America live up to its promise of equality and the great truth that all of God's children are created equal.

Throughout African American History Month, we celebrate the many contributions African Americans have made to our Nation, and we are reminded of their courage in their struggle to change the hearts and minds of our citizens. While much progress has been made, we must continue to work together to achieve the promise and vision of our great Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim February 2008 as National African American History Month. I call upon public officials, educators, and all the people of the United States to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of January, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8219 of January 28, 2008**

## Sixth Anniversary of USA Freedom Corps, 2008

*By the President of the United States of America*

*A Proclamation*

People across this great Nation have heard the universal call to love a neighbor and are using their time and talents to make a difference in the lives of others. On the sixth anniversary of the USA Freedom Corps, we celebrate the spirit of service in America and honor the volunteers whose good work represents the generous character of our country.

After the terrorist attacks of September 11, 2001, I created the USA Freedom Corps to build on the countless acts of service, sacrifice, and generosity undertaken by our citizens. The USA Freedom Corps is dedicated to expanding volunteer service and extending the goodwill of the American people across our country and around the globe. By connecting individuals with volunteer opportunities, the USA Freedom Corps has helped ensure that millions of people have a chance to make a difference in the lives of those in need. The USA Freedom Corps also helps strengthen the non-profit sector and supports other national service programs and initiatives such as the Peace Corps, Citizen Corps, AmeriCorps, and Senior Corps. These efforts can help us build a more hopeful country and create a chain of compassion for generations to come.

Volunteers demonstrate kindness and touch lives. With hard work and dedication, volunteers help the less fortunate, respond to crises, mentor children, assist the elderly, and strengthen our communities. I urge all Americans to serve others and to learn more about service opportunities by visiting the USA Freedom Corps website at volunteer.gov. By

providing help and hope to others, Americans can lead the world toward a more caring and compassionate tomorrow.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 29, 2008, as the Sixth Anniversary of the USA Freedom Corps. I call upon the citizens of this great country to find ways to volunteer and to use their time, energy, and talents to help their fellow Americans, and I commend the efforts of the USA Freedom Corps and all those who answer the call to serve.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of January, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8220 of February 1, 2008**

## American Heart Month, 2008

*By the President of the United States of America*
*A Proclamation*

Heart disease is the number one killer of both men and women in the United States. As we observe American Heart Month, we renew our commitment to raising awareness of the serious impact of cardiovascular disease, and we encourage all citizens to take steps to help prevent it.

By exercising regularly, avoiding tobacco, limiting consumption of alcohol, following a nutritious diet, and monitoring high blood cholesterol and high blood pressure, we all can work to decrease the chances of developing cardiovascular disease. I urge all Americans to take advantage of regular screenings and consult their doctors about how to reduce their personal risk for heart disease.

In 2002, the National Heart, Lung, and Blood Institute, coordinating with other Federal agencies and national organizations, established the national campaign ''The Heart Truth'' to raise awareness among women of the dangers of cardiovascular disease. Today, more Americans are aware that it is the leading cause of death. The National Ambassador of ''The Heart Truth'' campaign, First Lady Laura Bush, continues to lead the Federal Government's efforts to send the urgent message to women about their risk for heart disease. Through this campaign, millions of women across the country have come to recognize the red dress as an important reminder to make healthy choices for their heart and encourage others to do the same.

During American Heart Month, we express our gratitude to the dedicated medical professionals, researchers, and others whose tireless efforts help save lives and make a difference for countless Americans. As we work together to fight this deadly disease, we recognize that every person can take action to reduce his or her risk for heart disease and make the decision to live a healthier life.

In acknowledgement of the importance of the ongoing fight against cardiovascular disease, the Congress, by Joint Resolution approved December 30, 1963, as amended (77 Stat. 843; 36 U.S.C. 101), has requested that the President issue an annual proclamation designating February as ''American Heart Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim February 2008 as American Heart Month, and I invite all Americans to participate in National Wear Red Day on February 1, 2008. I also invite the Governors of the States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in recognizing and reaffirming our commitment to fighting cardiovascular disease.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8221 of February 28, 2008**

## American Red Cross Month, 2008

*By the President of the United States of America*
*A Proclamation*

In 1881, Clara Barton established the American Red Cross, and for years afterward, she led that organization in its noble cause to provide healing, comfort, and hope to those in need. Today, her legacy lives on through the millions of individuals who have answered the timeless call to serve others. During American Red Cross Month, we honor this charitable organization, and we reflect on its remarkable achievements and contributions to our country.

The American Red Cross exemplifies the good heart of this Nation by leading humanitarian efforts at home and around the world. This past year the American Red Cross provided food, comfort, and medical assistance to the victims of the tragic bridge collapse in Minnesota, the devastating wildfires in California, and the tornadoes that affected several Southern States. From the mountains of Peru to the lowlands of Bangladesh, the American Red Cross and its partners helped to provide relief abroad to those affected by natural disasters and humanitarian emergencies.

The American Red Cross also helps provide vital assistance by organizing blood drives, teaching health and safety programs, and providing lifesaving supplies. By compassionately supporting our men and women in uniform and their families, it helps to lift the spirits of our wounded warriors. During this month, we send our heartfelt gratitude to the volunteers and staff of the American Red Cross.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America and Honorary Chairman of the American Red Cross, by virtue of the authority vested in me by the Constitution and laws

of the United States, do hereby proclaim March 2008 as American Red Cross Month. I commend the dedicated efforts of the American Red Cross, and I encourage all Americans to help make our world a better place by volunteering their time, energy, and talents for others.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of February, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8222 of February 28, 2008**

## Save Your Vision Week, 2008

*By the President of the United States of America*
*A Proclamation*

Early diagnosis and proper treatment of eye disease can help preserve the gift of sight. During Save Your Vision Week, we encourage Americans to receive routine vision screenings and to understand the importance of keeping their eyes healthy and safe.

Today, millions of Americans live with some form of eye disease, such as glaucoma, corneal disease, macular degeneration, or diabetic eye disease. Individuals can help to avoid these diseases and maintain healthy eyes by following good eating habits, using appropriate protective eyewear, and maintaining a healthy lifestyle. Citizens should discuss with their physician the dangers of eye disease and see that their children are tested before their first year of school.

My Administration will continue to seek better ways to prevent and treat eye diseases. The National Eye Institute's website, www.nei.nih.gov, provides many resources to help Americans find information on eye disease and on where to find local eye-care professionals. By being proactive, Americans can help prevent vision loss and live healthier lives.

The Congress, by joint resolution approved December 30, 1963, as amended (77 Stat. 629; 36 U.S.C. 138), has authorized and requested the President to proclaim the first week in March of each year as ''Save Your Vision Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim March 2 through March 8, 2008, as Save Your Vision Week. I encourage all Americans to learn more about eye care and eye safety and to take measures to help ensure a lifetime of healthy vision.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of February, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8223 of February 29, 2008**

## Irish-American Heritage Month, 2008

*By the President of the United States of America*
*A Proclamation*

Since the earliest days of our Republic, Irish Americans have enriched our culture with their faith, values, and hard work. During the month of March, we celebrate the contributions of Americans who trace their ancestry back to Ireland's shores.

Many of the sons and daughters of Erin came to America fleeing famine and poverty. They came with dreams of opportunity, and they helped to build our democracy and advance the cause of liberty. Irish Americans in all walks of life have made lasting contributions to our Nation, and we honor the service of Irish Americans in America's Armed Forces. Throughout our history, those claiming Irish ancestry have helped shape and strengthen America, including as signers of the Declaration of Independence and as Presidents of the United States.

This month, we celebrate the patriotic and proud people who originated from the Emerald Isle and who have played a vital role in the story of this Nation of immigrants.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2008 as Irish-American Heritage Month. I call upon all Americans to observe this month by celebrating the contributions of Irish Americans to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of February, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8224 of February 29, 2008**

## National Consumer Protection Week, 2008

*By the President of the United States of America*
*A Proclamation*

As we face new challenges in the 21st century, we must work to ensure that Americans are kept safe in the marketplace. During National Consumer Protection Week, as my Administration works with Congress to improve our consumer product safety system, we also encourage Americans to make informed financial decisions and take advantage of the resources that can help them become responsible consumers, savers, and investors.

This year's theme for National Consumer Protection Week, ''Financial Literacy: A Sound Investment,'' encourages consumers to take steps to build a firm financial foundation. By becoming informed consumers,

individuals can help plan for their future, protect their identity, and effectively manage their finances. It is important for citizens to be knowledgeable on financial matters such as choosing a health insurance plan, comparing savings and retirement plans, and realizing how credit scores can affect them. Education is the first line of defense in helping consumers manage their money wisely and safeguard themselves against fraud and identity theft.

My Administration is working to expand the American people's financial education. In January of this year, I signed an Executive Order establishing the President's Advisory Council on Financial Literacy. This Council will help keep America competitive and assist Americans in understanding and addressing financial matters. By visiting consumer.gov and mymoney.gov, Americans can discover the tools they need to make financial decisions and be successful in today's marketplace.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2 through March 8, 2008, as National Consumer Protection Week. I call upon Government officials, industry leaders, and consumer advocates to make available information about how citizens can help to prevent fraud and identity theft, and I encourage all Americans to gain the financial literacy they need to compete in the 21st century.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of February, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8225 of March 10, 2008**

## Women's History Month, 2008

*By the President of the United States of America*
*A Proclamation*

During Women's History Month, we celebrate the courage, foresight, and resolve of women who have strengthened our democracy.

America has been transformed by strong women whose contributions shaped the history of our country. Amelia Earhart became the first woman to fly solo across the Atlantic, and she inspired generations of women to follow their dreams. Physicist Chien-Shiung Wu helped advance our knowledge and understanding of the world through her achievements in atomic research. Harriet Tubman fought racial injustice and opened doors for more Americans to participate fully in our society.

Today, women are continuing this legacy of leadership as entrepreneurs, doctors, teachers, scientists, lawyers, artists, and public officials. They are also providing guidance and care to their loved ones and strengthening America's families and communities. We also re-

member the women of the United States Armed Forces who are serving our country with honor and distinction across the world.

This month, we honor the extraordinary women of our Nation's past and recognize the countless women who are demonstrating leadership in every aspect of American life.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2008 as Women's History Month. I call upon all our citizens to observe this month with appropriate programs, ceremonies, and activities that honor the history, accomplishments, and contributions of American women.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8226 of March 14, 2008**

## National Poison Prevention Week, 2008

*By the President of the United States of America*

*A Proclamation*

Since 1962, National Poison Prevention Week has helped to raise awareness about the dangers of potentially poisonous medicines and household chemicals. During this week, we underscore our commitment to protect our fellow citizens from accidental poisonings and to educate families about the preventive steps that can be taken to ensure the safety of our young people.

More than 2 million poisonings are reported each year across the country. In order to help prevent these poisonings, parents should place household chemicals out of the reach of children, keep items in their original containers, and read the labels and dosages on all products thoroughly before use. Installing carbon monoxide alarms in homes to help monitor air quality can also save lives.

To learn more about the ways to keep children safe and help prevent poisonings, I encourage all Americans to visit the Poison Prevention Week Council website at poisonprevention.org. In case of an emergency, individuals can contact the nearest Poison Control Center 24 hours a day, 7 days a week at 1–800–222–1222. By taking precautions, properly supervising children, and knowing what to do in an emergency, we can protect the health and well-being of more Americans.

To encourage Americans to learn more about the dangers of accidental poisonings and to take appropriate preventive measures, the Congress, by joint resolution approved September 26, 1961, as amended (75 Stat. 681), has authorized and requested the President to issue a proclamation designating the third week of March each year as ''National Poison Prevention Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim March 16 through March 22, 2008, as National Poison Prevention Week. I call upon all Americans to observe this week by participating in appropriate activities and by learning how to prevent poisonings.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of March, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8227 of March 20, 2008**

## Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2008

*By the President of the United States of America*
*A Proclamation*

On Greek Independence Day, we recognize the important contributions Greek Americans have made to our national character, celebrate the deep friendship between our two countries, and honor the anniversary of the Greek call for independence.

The United States and Greece share a close relationship based on our common belief in the power of freedom. The ancient Athenians gave birth to the principles of democracy, and America's Founding Fathers were inspired by Greek ideals that honored and respected human dignity and rights. When the people of Greece claimed their independence in 1821, they had the strong support of the United States. Greek patriots risked their lives because they knew freedom and democracy were both their proud legacy and their ultimate destiny. Today, our nations remain allies in the cause of freedom and are working to lay the foundations of peace and spread the blessings of liberty around the world.

In celebrating Greek Independence Day, we commemorate the heritage of freedom our countries hold dear, and we remember the Greek Americans whose strong spirit, resolve, and courage helped shape America.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 25, 2008, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. I call upon all Americans to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of March, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8228 of March 28, 2008**

## To Modify the Harmonized Tariff Schedule of the United States and for Other Purposes

*By the President of the United States of America*
*A Proclamation*

1. Section 1205(a) of the Omnibus Trade and Competitiveness Act of 1988 (the ''1988 Act'') (19 U.S.C. 3005(a)) directs the United States International Trade Commission (the ''Commission'') to keep the Harmonized Tariff Schedule of the United States (HTS) under continuous review and periodically to recommend to the President such modifications to the HTS as the Commission considers necessary or appropriate to accomplish the purposes set forth in that subsection. In 2006, the Commission recommended modifications to the HTS pursuant to section 1205 of the 1988 Act to conform the HTS to amendments made to the International Convention on the Harmonized Commodity Description and Coding System (the ''Convention''). In Presidential Proclamation 8097 of December 29, 2006, I modified the HTS pursuant to section 1206(a) of the 1988 Act (19 U.S.C. 3006(a)) to conform the HTS to the Convention.

2. The Commission has recommended further modifications to the HTS pursuant to sections 1205(a) and (d) of the 1988 Act (19 U.S.C. 3005(a) and (d)) to alleviate unnecessary administrative burdens, and to ensure that the prior modifications proclaimed in Proclamation 8097 maintain substantial rate neutrality.

3. Section 1206(a) of the 1988 Act authorizes the President to proclaim modifications to the HTS based on the recommendations of the Commission under section 1205 of the 1988 Act, if he determines that the modifications are in conformity with United States obligations under the Convention and do not run counter to the national economic interest of the United States. I have determined that the modifications to the HTS proclaimed in this proclamation pursuant to section 1206(a) of the 1988 Act are in conformity with United States obligations under the Convention and do not run counter to the national economic interest of the United States.

4. Presidential Proclamation 7746 of December 30, 2003, implemented the United States-Chile Free Trade Agreement with respect to the United States, and Presidential Proclamation 7747 of December 30, 2003, implemented the United States-Singapore Free Trade Agreement with respect to the United States. In Presidential Proclamation 8097, I proclaimed modifications to the HTS that I determined were necessary or appropriate to continue to carry out the duty reductions proclaimed in Proclamations 7746 and 7747.

5. In Presidential Proclamation 8214 of December 27, 2007, I further modified the HTS pursuant to section 1206(a) of the 1988 Act to ensure the continuation of tariff and certain other treatment accorded originating goods under tariff categories modified in Proclamation 8097 and to carry out the duty reductions proclaimed in Proclamations 7746 and 7747. Technical rectifications to the HTS are required to provide the intended tariff treatment.

6. On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) with Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua. The Congress approved the CAFTA-DR in section 101(a) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the ''CAFTA-DR Act'') (19 U.S.C. 4011).

7. Sections 321–328 of the CAFTA-DR Act (19 U.S.C. 4081–4088) authorize the President to take certain actions in response to a request by an interested party for relief from serious damage or actual threat thereof to a domestic industry producing certain textile or apparel articles. I assigned certain functions under these provisions to the Committee for the Implementation of Textile Agreements (CITA) in Proclamation 7987 of February 28, 2006.

8. Executive Order 11651 of March 3, 1972, as amended, established CITA, consisting of representatives of the Departments of State, the Treasury, Commerce, and Labor, and the Office of the United States Trade Representative, with the representative of the Department of Commerce as Chairman, to supervise the implementation of textile trade agreements. Consistent with 3 U.S.C. 301, when carrying out functions vested in the President by statute and assigned by the President to CITA, the officials collectively exercising those functions are all to be officers required to be appointed by the President with the advice and consent of the Senate.

9. Section 604 of the Trade Act of 1974, as amended (the ''Trade Act'') (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the provisions of that Act, and of other Acts affecting import treatment, and actions thereunder, including removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 1206 of the 1988 Act, sections 321–328 of the CAFTA-DR Act, section 301 of title 3, United States Code, and section 604 of the Trade Act do proclaim that:

(1) In order to modify the HTS to conform it to the Convention or any amendment thereto recommended for adoption, to promote the uniform application of the Convention, to establish additional subordinate tariff categories, and to make technical and conforming changes to existing provisions, the HTS is modified as set forth in Annex I to this proclamation.

(2) In order to provide the intended tariff treatment to imports of originating goods from Chile, the HTS is modified as set out in section A of Annex II to this proclamation.

(3) In order to provide the intended tariff treatment to imports of originating goods from Singapore, the HTS is modified as set out in section B of Annex II to this proclamation.

(4) The CITA is authorized to exercise my authority under sections 321–328 of the CAFTA-DR Act to provide relief from imports that are the subject of a determination under section 322(a) of the CAFTA-DR

Act, to the extent necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry.

(5) The United States Trade Representative shall modify the HTS in a notice published in the **Federal Register** to reflect determinations pursuant to paragraph (4) of this proclamation by the CITA.

(6) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(7) The modifications to the HTS set forth in Annex I and Annex II to this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the respective dates specified in each section of such Annexes for the goods described therein.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of March, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

## ANNEX I

## MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after February 3, 2007, the Harmonized Tariff Schedule of the United States is modified as set forth herein, with the material inserted in the columns titled "Heading/Subheading", "Article Description", "Rates of Duty 1 General", "Rates of Duty 1 Special" and "Rates of Duty 2", respectively.

1. Subheading 4412.10.00 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| | [Plywood, veneered panels and similar laminated...] | | | |
| "4412.10 | Of bamboo: | | | |
| 4412.10.05 | Plywood | 8% | Free (A*,AU,BH,CA,CL, E,IL,J,JO,MA,MX,P,SG) | 40% |
| 4412.10.90 | Other | Free | | 40%" |

Conforming change: General note 4(d) is modified by deleting "4412.10.00" and by inserting in lieu thereof "4412.10.05".

2. Subheading 4418.72.90 is deleted and the following new provisions are inserted in lieu thereof::

| | | | | |
|---|---|---|---|---|
| | [Builders' joinery and carpentry of wood,...] | | | |
| | [Assembled flooring panels:] | | | |
| | [Other, multilayer:] | | | |
| | "Other: | | | |
| "4418.72.91 | Of unidirectional bamboo | Free | | 40% |
| 4418.72.95 | Other | 8% | Free (A*,AU,BH,CA,CL, E,IL,J,JO,MA,MX,P,SG) | 40%" |

Conforming change: General note 4(d) is modified by deleting "4418.72.90" and by inserting in lieu thereof "4418.72.95".

3. Additional U.S. Note 1 to chapter 69 is deleted, and Additional U.S. Notes 2 through 4 are renumbered as 1 through 3, respectively.

4. Heading 7506 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| "7506 | Nickel plates, sheets, strip and foil: | | | |
| 7506.10 | Of nickel, not alloyed: | | | |
| 7506.10.05 | Not exceeding 0.15 mm in thickness | 2.5% | Free (A,AU,BH,CA,CL,E, IL,J,JO,MA,MX,P,SG) | 45% |
| | Other: | | | |
| 7506.10.10 | Cold-formed | 3% | Free (A,AU,BH,CA,CL,E, IL,J,JO,MA.MX,P,SG) | 35% |
| 7506.10.30 | Not cold-formed | 2.5% | Free (A,AU,BH,CA,CL,E, IL,J,JO,MA,MX, P,SG) | 25% |
| 7506.20 | Of nickel alloys: | | | |
| 7506.20.05 | Not exceeding 0.15 mm in thickness | 3% | Free (A,AU,BH,CA,CL,E, IL,J,JO,MA,MX,P,SG) | 45% |
| | Other: | | | |
| 7506.20.10 | Cold-formed | 3% | Free (A,AU,BH,CA,CL,E, IL,J,JO,MA,MX,P,SG) | 35% |
| 7506.20.30 | Not cold-formed | 2.5% | Free (A,AU,BH,CA,CL,E, IL,J,JO,MA,MX,P,SG) | 25%" |

5. Additional U.S. Note 3 to chapter 82 is modified by deleting "8205, 8211" and inserting "8205, 8206, 8211" in lieu thereof.

6. Subheadings 8205.59.40 through 8205.59.80 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| | [Handtools (including glass cutters)...:] | | | |
| | [Other handtools (including ...:] | | | |
| | [Other:] | | | |
| | [Other:] | | | |

**ANNEX** I (continued)

| | | | | | |
|---|---|---|---|---|---|
| | | "Of iron or steel: | | | |
| 8205.59.45 | | Caulking guns | 5.3% | Free (A,AU,BH,CA,CL,E, IL,J,JO,MA,MX,P,SG) | 40% |
| 8205.59.55 | | Other | 5.3% | Free (A,AU,BH,CA,CL,E, IL,J,JO,MA,MX,P,SG) | 40% |
| 8205.59.60 | | Of copper | Free | | 40% |
| 8205.59.70 | | Of aluminum | 1.5¢/g + 3.5% | Free (A,AU,BH,CA,CL,E, IL,J,JO,MA,MX,P,SG) | 19¢/kg + 40% |
| 8205.59.80 | | Other | 3.7% | Free (A,AU,BH,CA,CL,E, IL,J,JO,MA,MX,P,SG) | 40%" |

7. The immediately superior text to subheading 8214.20.60 is modified to read as follows:

"Manicure and pedicure sets, and combinations thereof:"

8. Subheadings 8527.99.20 and 8527.99.50 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | | |
|---|---|---|---|---|---|
| | [Reception apparatus for radiobroadcasting, ...] | | | | |
| | [Other:] | | | | |
| | [Other:] | | | | |
| " 8527.99.15 | Other radio receivers | 3% | Free(A,AU,B,BH,C,CA, CL,E,IL,J,JO,MA,MX, P,SG) | 35% | |
| 8527.99.40 | Other | 6% | Free (A,AU,B,BH,C,CA, CL,E,IL,J,JO,MA,MX,P, SG) | 35%" | |

Conforming change: Heading 9902.02.25 is modified by deleting "8527.99.20" and by inserting in lieu thereof "8527.99.15".

## ANNEX II

## TECHNICAL CORRECTIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

A. Effective with respect to goods of Chile, under the terms of general note 26 to the Harmonized Tariff Schedule of the United States (HTS), that are entered, or withdrawn from warehouse for consumption, on or after February 8, 2008, general note 26(n) is modified as follows:

1. Tariff classification rule (TCR) 39 for chapter 28 is deleted.

2. TCR 49B(B) for chapter 29 is modified by inserting "subheading" after the word "of".

3. TCR 1 for chapter 30 is modified by deleting "including another subheading within that group,".

4. TCR 13 for chapter 30 is modified by deleting "3006.80" at each instance and by inserting in lieu thereof "3006.92".

5. TCR 32(C) for chapter 81 is modified by deleting "8221.99" and by inserting in lieu thereof "8112.99".

B. Effective with respect to goods of Singapore, under the terms of general note 25 to the Harmonized Tariff Schedule of the United States (HTS), that are entered, or withdrawn from warehouse for consumption, on or after February 8, 2008, general note 25(o) to the HTS is modified as follows:

1. TCR 6 for chapter 61 is modified by redesignating subdivisions (1) and (2) as (A) and (B) and by positioning such designators immediately below the initial text of TCR 6.

2. The change previously proclaimed in item 52 of annex II to Presidential Proclamation 8214 of December 27, 2007, is modified so as to delete TCRs 71 through 73 for chapter 62.

3. TCR 16 for chapter 85 is modified to read as follows:

"16. A change to subheadings 8509.40 through 8509.80 from any other subheading, including another subheading within that group."

4. TCR 4 for chapter 94 is modified by deleting "9401.90" and by inserting in lieu thereof "9401.80".

**Proclamation 8229 of April 1, 2008**

## Cancer Control Month, 2008

*By the President of the United States of America*

*A Proclamation*

During Cancer Control Month, we honor cancer victims and survivors, raise awareness of the impact cancer has on our citizens, and underscore our commitment to battling this deadly disease.

Cancer is the second-leading cause of death in the United States, and we remain committed to making the medical advances necessary to prevent and treat this disease. Scientists and medical professionals have made great progress in developing innovative treatments, improving diagnostic tools, and increasing our understanding of cancer. These advances have helped people with cancer live longer, healthier lives.

All Americans can reduce their risk of developing cancer by following healthy eating habits, exercising regularly, avoiding tobacco and excessive use of alcohol, and controlling their weight. By scheduling regular physicals, getting preventive health screenings, and being aware of their family history, individuals who do develop cancer can increase the likelihood that it will be discovered at an earlier and more treatable stage. I encourage all our citizens to talk to their doctors and learn more about preventive measures that can save lives.

My Administration remains dedicated to finding a cure for cancer. Since 2005, the Cancer Genome Atlas has played a role in advancing cancer research, and it is helping scientists learn more about the genetic sources of cancer. We continue to support the innovative advances needed to bring hope to those affected, and we will continue to fight cancer.

As we observe Cancer Control Month, we honor cancer survivors for their determination, courage, and strength, and we remember those who lost their valiant fight against cancer. Their stories are an inspiration to all Americans. We also recognize medical professionals, researchers, family members, and friends who help support cancer patients. Their efforts improve the quality of life for those suffering from cancer, and their compassion embodies the true spirit of our Nation.

The Congress of the United States, by joint resolution approved March 28, 1938 (52 Stat. 148; 36 U.S.C. 103), as amended, has requested the President to issue an annual proclamation declaring April as ''Cancer Control Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim April 2008 as Cancer Control Month. I encourage citizens, government agencies, private businesses, nonprofit organizations, and other interested groups to join in activities that raise awareness about how all Americans can prevent and control cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8230 of April 1, 2008**

## National Child Abuse Prevention Month, 2008

*By the President of the United States of America*
*A Proclamation*

Children are the hope and promise of our Nation, and our society has a special duty to ensure young Americans get the care and attention they need to succeed in life. During National Child Abuse Prevention Month, we underscore our commitment to preventing child abuse and neglect so that all children can live in safety and security.

Parents have a responsibility to safeguard their children from danger and to provide the love, protection, and guidance youngsters need to grow into confident and caring adults. In every community across the Nation, good and courageous citizens are improving the lives of our most vulnerable children with acts of compassion. The strength of America lies in the ability of our citizens to make a positive difference in the lives of our young people.

My Administration is committed to the safety of our Nation's youth. In 2006, I signed into law the Adam Walsh Child Protection and Safety Act, which was designed to protect children from sexual and other violent crimes, help prevent child pornography, and make the Internet safer for our children. This law expands sex offender registration and notification on a nationwide basis, provides a statutory basis for the Project Safe Childhood program, and gives communities and law enforcement the tools necessary to keep children out of harm's way. Additionally, with strengthened Federal penalties, we will ensure that those who prey on our children will be caught, prosecuted, and punished to the fullest extent of the law.

As we observe National Child Abuse Prevention Month, we reaffirm our loving commitment to America's youth and our dedication to building a society in which all children can realize their full potential.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 2008 as National Child Abuse Prevention Month. I encourage all citizens to help protect our children from abuse and neglect and to take an active role in creating safe communities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8231 of April 1, 2008**

## National Donate Life Month, 2008

*By the President of the United States of America*
*A Proclamation*

Every human life has matchless value, and during National Donate Life Month, we reaffirm our commitment to raising awareness about the importance of organ donation. We also express our appreciation to those who have donated organs, tissue, and marrow.

Thousands of Americans are currently on the waiting list for an organ or tissue transplant. I urge all Americans to register with their State's donor registry; fill out, sign, and carry an organ donor card; say yes to organ donation on their driver's license; and share their decision with family and friends. By taking these steps, Americans can help save lives. My Administration is committed to strengthening organ and tissue donation programs and awareness activities. Just last year, I was pleased to sign the ''Charlie W. Norwood Living Organ Donation Act,'' which helps match more donors with those in need of transplants. The kindness and generosity of donors reflect the compassionate spirit of our Nation.

During National Donate Life Month, we celebrate the life-saving work of medical professionals and researchers and the many others whose actions reflect our commitment to a brighter tomorrow. Individuals can visit organdonor.gov to learn more about organ and tissue donation and how they can give the gift of life.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 2008 as National Donate Life Month. I call upon health care professionals, volunteers, educators, government agencies, faith-based and community groups, and private organizations to help raise awareness of the urgent need for organ and tissue donors throughout our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8232 of April 1, 2008**

## National Fair Housing Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National Fair Housing Month, our Nation commemorates the 40th anniversary of the Fair Housing Act and reaffirms our dedication to maintaining equal access to housing for every American.

On April 11, 1968, President Lyndon B. Johnson signed the Fair Housing Act. This important legislation was one of a series of civil rights

laws that sought to secure the rights of individuals and extend the full blessings of liberty to all Americans. The Fair Housing Act prohibits discrimination in the sale, rental, and financing of housing and, in doing so, furthers the ideals championed by Dr. Martin Luther King, Jr., and other heroes of the civil rights movement.

Our Nation has come a long way, yet our journey to justice is not complete. While the housing market works through this difficult period, my Administration remains steadfast in its commitment to help responsible homeowners, to end discrimination, and to work to ensure that all citizens have access to housing. During National Fair Housing Month, we acknowledge our responsibility to ensure that all Americans enjoy the opportunities that this great land of liberty offers.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 2008 as National Fair Housing Month. I call upon the people of the United States to learn more about their rights and responsibilities under the Fair Housing Act.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8233 of April 4, 2008**

## National Tartan Day, 2008

*By the President of the United States of America*
*A Proclamation*

Americans of Scottish descent have made enduring contributions to our Nation with their hard work, faith, and values. On National Tartan Day, we celebrate the spirit and character of Scottish Americans and recognize their many contributions to our culture and our way of life.

Scotland and the United States have long shared ties of family and friendship, and many of our country's most cherished customs and ideals first grew to maturity on Scotland's soil. The Declaration of Arbroath, the Scottish Declaration of Independence signed in 1320, embodied the Scots' strong dedication to liberty, and the Scots brought that tradition of freedom with them to the New World. Sons and daughters of many Scottish clans were among the first immigrants to settle in America, and their determination and optimism helped build our Nation's character. Several of our Founding Fathers were of Scottish descent, as have been many Presidents and Justices of the United States Supreme Court. Many Scottish Americans, such as Andrew Carnegie, were great philanthropists, founding and supporting numerous scientific, educational, and civic institutions. From the evocative sounds of the bagpipes to the great sport of golf, the Scots have also left an indelible mark on American culture.

National Tartan Day is an opportunity to celebrate all Americans who claim Scottish ancestry, and we are especially grateful for the service in our Armed Forces of Scottish Americans who have answered the call to protect our Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 6, 2008, as National Tartan Day. I call upon all Americans to observe this day by celebrating the continued friendship between the people of Scotland and the United States and by recognizing the contributions of Scottish Americans to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8234 of April 8, 2008**

## National Former Prisoner of War Recognition Day, 2008

*By the President of the United States of America*
*A Proclamation*

America is blessed to have brave men and women willing to step forward to defend our freedoms and keep us safe. The members of the United States Armed Forces have proudly held fast against determined and ruthless enemies, protected our citizens from harm, and freed millions from oppression. On National Former Prisoner of War Recognition Day, we pay tribute to the courageous and selfless individuals who were taken captive while serving the cause of peace and securing liberty across the globe.

America's former prisoners of war set an example of vision, valor, and unshakeable love of country that inspires our citizens. Through unspeakable conditions, they upheld their oath to defend America with honor and dignity. Their extraordinary spirit, patriotism, and resolve helped defeat tyranny and build democratic and just societies, enabling decent men and women around the world to live in freedom.

Our Nation is extremely proud of our former prisoners of war, and we owe them and their families a debt we can never fully repay. On National Former Prisoner of War Recognition Day, we honor our country's heroes who were prisoners of war, recognize their sacrifice, and express our deepest gratitude to those who helped write a more hopeful chapter in our history.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 9, 2008, as National Former Prisoner of War Recognition Day. I call upon the people of the United States to join me in honoring the service and sacrifices of all of America's former prisoners of war. I call upon Fed-

eral, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8235 of April 9, 2008**

## National D.A.R.E. Day, 2008

*By the President of the United States of America*
*A Proclamation*

For 25 years, Drug Abuse Resistance Education (D.A.R.E.) has given school children across America an opportunity to gain the skills they need to avoid involvement in drugs, gangs, and violence. On National D.A.R.E. Day, we recognize those individuals who teach America's children how to resist peer pressure and live productive, drug-free, and violence-free lives.

Millions of our Nation's young people have learned about the dangerous effects of drug abuse with the help of the D.A.R.E. program. Parents, law enforcement officials, teachers, and counselors are on the front lines of this effort and are sending our kids a clear message that drug use is dangerous and unacceptable. In classrooms across the country, police officers are answering students' tough questions about drugs and crime and encouraging an open line of communication between students and law enforcement.

My Administration is committed to reducing drug use among young people, and we are working to cut the supply of drugs coming into our country and fight demand here at home. Additionally, we are helping spread the message of drug prevention through the National Youth Anti-Drug Media Campaign and the Partnership for a Drug-Free America. The Helping America's Youth initiative, led by First Lady Laura Bush, is working with community leaders to address challenges facing young people on a daily basis. These and other efforts are helping to combat the destructive cycle of drug addiction.

All Americans have a responsibility to encourage others to turn away from drug abuse and to make good choices in life. During National D.A.R.E. Day, we renew our commitment to providing our youth the knowledge and encouragement they need to resist the pressures that can lead them to experiment with drugs and violent activities. By working together, we can help our children build lives of purpose and strengthen our communities, one heart and one soul at a time.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 10, 2008, as National D.A.R.E. Day. I urge all young people to make right choices and call upon all Americans to recognize our collective respon-

sibility to combat every form of drug abuse and to support all those who work to help our children avoid drug use and violence.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8236 of April 10, 2008**

## Pan American Day and Pan American Week, 2008

*By the President of the United States of America*

*A Proclamation*

On Pan American Day and during Pan American Week, we underscore the importance of a peaceful, democratic, and prosperous Western Hemisphere where our common values continue to strengthen friendships, advance freedom, and encourage fair trade.

The love of liberty is deeply rooted in our hemisphere. In the earliest days of our Republic, the people of the United States inspired patriots throughout the Americas to take their own stand for independence. Today, the decent and honorable people of both American continents are united in the desire for freedom and democracy. The United States stands with those who respect human rights and those who seek to bring change and hope to their countries. We look forward to the day when all of the Americas are wholly free and democratic.

My Administration remains committed to helping our friends as they advance the cause of justice and economic opportunity throughout the Western Hemisphere. Through Millennium Challenge Compacts, we support development in countries that govern justly, invest in their people, and promote economic freedom. In addition, the Dominican Republic-Central America-United States Free Trade Agreement, signed in 2005, has opened markets and created opportunities for American businesses, strengthened economic ties with our neighbors to the south, and brought hope to people so that they can better care for themselves and for their families. In December of 2007, I signed the United States-Peru Trade Promotion Agreement Implementation Act to bring economic gains for both of our countries, empower workers, and foster accountability and the rule of law. We seek to build on these successes by working with the Congress to approve the United States-Colombia Trade Promotion Agreement and the United States-Panama Trade Promotion Agreement. These and other free trade agreements enhance prosperity in the United States and signal our firm support for those who share our values of freedom and democracy.

As we recognize Pan American Day and Pan American Week, we will continue to work together to advance our common interests and build a future in which opportunity reaches into every community.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April

14, 2008, as Pan American Day and April 13 through April 19, 2008, as Pan American Week. I urge the Governors of the 50 States, the Governor of the Commonwealth of Puerto Rico, and the officials of other areas under the flag of the United States of America to honor these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8237 of April 11, 2008**

## National Crime Victims' Rights Week, 2008

*By the President of the United States of America*
*A Proclamation*

During National Crime Victims' Rights Week we highlight our dedication to protecting and strengthening the rights of crime victims and their families.

My Administration is committed to providing services and resources for victims of crime so that they can find justice, hope, and healing in their lives. To assist victims of domestic violence and their children, my Family Justice Center Initiative established comprehensive support centers in communities across the country. Through the Justice for All Act of 2004, we expanded DNA testing and enhanced the scope and enforceability of crime victims' rights. In 2006, I signed into law the Adam Walsh Child Protection and Safety Act to expand the National Sex Offender Registry, increase Federal penalties for crimes against children, and protect our children while on the Internet. I also support a Crime Victims' Rights Amendment to the Constitution. Through these and other efforts, we can better protect our citizens and our communities.

During National Crime Victims' Rights Week, we recognize the advocates, counselors, and others who assist victims in their time of need, and the law enforcement personnel who work to bring offenders to justice. To learn more about victims' rights, Americans can visit www.crimevictims.gov. By working together, we can help protect crime victims and build a society that respects the life and value of every person.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 13 through April 19, 2008, as National Crime Victims' Rights Week. I encourage all Americans to promote awareness of victims' rights and advance this important cause.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of April, in the year of our Lord two thousand eight, and of the

Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8238 of April 15, 2008**

## Education and Sharing Day, U.S.A., 2008

*By the President of the United States of America*

*A Proclamation*

A hopeful society helps ensure that its citizens develop the character, knowledge, and skills they need to succeed. On Education and Sharing Day, we underscore our dedication to encouraging our Nation's youth to build a solid foundation for a lifetime of accomplishment.

Education and Sharing Day pays tribute to the unique efforts of Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe. The Rebbe helped create numerous education and outreach centers, which continue to provide social service programs and humanitarian aid at home and around the globe.

On this day and throughout the year, we encourage our children to set high goals, make the right choices, and put character first. By instilling respect, responsibility, civic duty, compassion, and honesty in our youth, we can help more of our citizens realize the great promise of America.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 16, 2008, as Education and Sharing Day, U.S.A. I call upon government officials, educators, volunteers, and all the people of the United States to reach out to young people and work to create a better, brighter, and more hopeful future for all.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8239 of April 15, 2008**

## National Park Week, 2008

*By the President of the United States of America*

*A Proclamation*

President Franklin D. Roosevelt once said, ''There is nothing so American as our National Parks.'' During National Park Week, we underscore our commitment to conserving these magnificent places and recognize the many employees and volunteers who give their time and energy to keep them beautiful for all Americans to enjoy.

This year's theme for National Park Week, ''Kids In Parks,'' highlights youth programs and initiatives offered by the National Park Service to encourage children to be good stewards of the land. The Junior Ranger program is one such program that encourages America's youth to explore, protect, and learn about our national parks. Today, many national parks have active Junior Ranger programs. By visiting nps.gov/webrangers, young people can sign up to become WebRangers, enabling them to learn about different parks, monuments, and historic sites right from their homes.

Across the United States, the Federal Government plays a vital role in protecting our natural and historical treasures. My Administration launched the National Park Centennial Initiative to preserve and enhance these scenic wonders and to prepare for the 100th anniversary of the National Park Service in 2016. Serving as the Honorary Chair of the National Park Foundation, First Lady Laura Bush has also played a significant role in preserving our national parks. The First Lady is actively involved in programs such as First Bloom, which teaches children how to preserve native plants across America. In addition, this past Christmas, the White House highlighted our national parks with the theme ''Holiday in the National Parks.''

Our National Parks belong to each of us, and they are natural places to learn, exercise, volunteer, spend time with family and friends, and enjoy the magnificent beauty of our great land. During National Park Week and throughout the year, Americans of all ages can pledge to help maintain and enhance America's national treasures for future generations.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 19 through April 27, 2008, as National Park Week. I invite all my fellow citizens to join me in celebrating America's national parks by visiting these wonderful spaces, discovering all they have to offer, and becoming active participants in park conservation.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8240 of April 17, 2008**

## To Take Certain Actions Under the African Growth and Opportunity Act and the Generalized System of Preferences and for Other Purposes

*By the President of the United States of America*

*A Proclamation*

1. Section 506A(a)(1) of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2466a(a)(1)), as added by section 111(a) of the African Growth and Opportunity Act (title I of Public Law 106–200) (AGOA),

authorizes the President to designate a country listed in section 107 of the AGOA (19 U.S.C. 3706) as a ''beneficiary sub-Saharan African country'' if the President determines that the country meets the eligibility requirements set forth in section 104 of the AGOA (19 U.S.C. 3703), as well as the eligibility criteria set forth in section 502 of the 1974 Act (19 U.S.C. 2462).

2. Section 104 of the AGOA authorizes the President to designate a country listed in section 107 of the AGOA as an ''eligible sub-Saharan African country'' if the President determines that the country meets certain eligibility requirements.

3. Section 112(c) of the AGOA, as amended in section 6002 of the Africa Investment Incentive Act of 2006 (Division D, Title VI, Public Law 109–432) (19 U.S.C. 3721(c)), provides special rules for certain apparel articles imported from ''lesser developed beneficiary sub-Saharan African countries.''

4. Pursuant to section 104 of the AGOA and section 506A(a)(1) of the 1974 Act, I have determined that the Republic of Togo (Togo) meets the eligibility requirements set forth or referenced therein, and I have decided to designate Togo as an eligible sub-Saharan African country and as a beneficiary sub-Saharan African country.

5. I further determine that Togo satisfies the criterion for treatment as a ''lesser developed beneficiary sub-Saharan African country'' under section 112(c)(5)(D) of the AGOA, as amended.

6. Presidential Proclamation 8114 of March 19, 2007, implemented section 112 of the AGOA, as amended. Technical corrections to the Harmonized Tariff Schedule of the United States (HTS) are necessary to implement the intended tariff treatment.

7. Pursuant to sections 501 and 502(a) of the 1974 Act (19 U.S.C. 2461, 2462(a)), the President is authorized to designate countries as beneficiary developing countries, and to designate any beneficiary developing country as a least-developed beneficiary developing country, for purposes of the Generalized System of Preferences (GSP) program.

8. In Executive Order 12302 of April 1, 1981, the President designated the Solomon Islands as a beneficiary developing country for purposes of the GSP program. Pursuant to section 502(a)(2) of the 1974 Act, and having considered the factors set forth in sections 501 and 502(c), I have determined that the Solomon Islands should be designated as a least-developed beneficiary developing country for purposes of the GSP program.

9. In calendar year 2006, imports from Jamaica under subheading 2202.90.37 of the HTS exceeded the relevant competitive need limitation (CNL) set forth in 19 U.S.C. 2463(c)(2). Pursuant to section 503(c)(2)(A) of the 1974 Act, where imports of articles exceed the relevant CNL in a calendar year, the President shall withdraw duty-free treatment for such article by July 1 of the following year and modify the HTS accordingly.

10. On January 6, 1987, Colombia was granted a waiver of the CNL for imports under HTS subheading 1701.11.05. Despite the existing waiver of the CNL, on July 5, 2001, duty-free treatment was withdrawn in error for imports from Colombia under HTS subheading 1701.11.05 because import levels exceeded the relevant CNL in calendar year 2000.

A technical correction to the HTS is required to reflect the waiver of the CNL for imports from Colombia under HTS subheading 1701.11.05.

11. In Presidential Proclamation 8097 of December 29, 2006, I modified the HTS pursuant to section 1206(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3006(a)) to conform the HTS to the International Convention on the Harmonized Commodity Description and Coding System (the ''Convention''). Additional conforming changes to the HTS are required to implement the intended tariff treatment.

12. Section 604 of the 1974 Act (19 U.S.C. 2483), as amended, authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 104 of the AGOA and title V and section 604 of the 1974 Act (19 U.S.C. 2461–67, 2483), do proclaim that:

(1) Togo is designated as an eligible sub-Saharan African country and as a beneficiary sub-Saharan African country for purposes of the AGOA.

(2) In order to reflect this designation in the HTS, general note 16(a) to the HTS is modified by inserting in alphabetical sequence in the list of beneficiary sub-Saharan African countries ''Republic of Togo,'' effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the thirtieth day after the date of this proclamation.

(3) For purposes of section 112(c) of the AGOA, as amended, Togo is a lesser developed beneficiary sub-Saharan African country.

(4) In order to provide the tariff treatment intended under section 112 of the AGOA, as amended, the HTS is modified as set forth in the Annex to this proclamation.

(5) The Solomon Islands is designated as a least-developed beneficiary developing country for purposes of the GSP program.

(6) In order to reflect this designation in the HTS, general note 4(b)(i) is modified by adding in alphabetical order ''The Solomon Islands,'' effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the sixty-fifth day after the date of this proclamation.

(7) For purposes of the GSP program, in order to provide the intended tariff treatment for imports from Jamaica, under HTS subheading 2202.90.37, general note 4(d) is modified by adding in numerical order ''2202.90.37'' and by inserting ''Jamaica'' next to ''2202.90.37.''

(8) For purposes of the GSP program, in order to provide the intended tariff treatment for imports from Colombia, under HTS subheading 1701.11.05, general note 4(d) is modified by deleting ''Colombia'' from the list of countries enumerated next to HTS subheading ''1701.11.05.''

(9) In order to conform the HTS to the Convention, additional U.S. note 3(d) to subchapter XX of chapter 98 and additional U.S. note 4(d) to subchapter XXI of chapter 98 of the HTS are each modified by delet-

ing ''5402.10.30, 5402.10.60,'' each place it occurs and by inserting in lieu thereof ''5402.11.30, 5402.11.60, 5402.19.30, 5402.19.60,'' in each case.

(10) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8241 of April 17, 2008**

## Small Business Week, 2008

*By the President of the United States of America*

*A Proclamation*

In communities across America, small business owners are working hard to turn their dreams into enterprises. Small Business Week is a time to celebrate the many achievements of small business owners, entrepreneurs, and employees, who contribute to the vitality and prosperity of our Nation and create new job opportunities for our citizens.

Small businesses are the backbone of the American economy, and my Administration is committed to fostering an environment in which the entrepreneurial spirit can thrive. By keeping taxes low, we leave more money in the hands of Americans to save, spend, and invest. This year, we have also temporarily expanded incentives to help small businesses invest in new equipment and expand their enterprises. We have also expanded market access and opened new markets for American goods and services abroad, helping our small businesses compete in the global economy. To make health care more affordable and accessible, we continue to support Association Health Plans so small businesses can band together to get the same discounts that big companies receive.

The underpinnings of our economy are strong, competitive, and resilient enough to overcome the challenges we face, and in the long run, Americans can be confident that our economy will continue to grow. During Small Business Week and throughout the year, we recognize the determination and ingenuity of America's workers and entrepreneurs who play a vital role in building a more prosperous future for our country.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 20 through April 26, 2008, as Small Business Week. I call upon all Americans to observe this week with appropriate ceremonies, activities, and programs that celebrate the achievements of small business owners and their employees and encourage the development of new small businesses.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8242 of April 21, 2008**

## National Day of Prayer, 2008

*By the President of the United States of America*
*A Proclamation*

America trusts in the abiding power of prayer and asks for the wisdom to discern God's will in times of joy and of trial. As we observe this National Day of Prayer, we recognize our dependence on the Almighty, we thank Him for the many blessings He has bestowed upon us, and we put our country's future in His hands.

From our Nation's humble beginnings, prayer has guided our leaders and played a vital role in the life and history of the United States. Americans of many different faiths share the profound conviction that God listens to the voice of His children and pours His grace upon those who seek Him in prayer. By surrendering our lives to our loving Father, we learn to serve His eternal purposes, and we are strengthened, refreshed, and ready for all that may come.

On this National Day of Prayer, we ask God's continued blessings on our country. This year's theme, ''Prayer! America's Strength and Shield,'' is taken from Psalm 28:7, ''The Lord is my strength and my shield; my heart trusts in him, and I am helped.'' On this day, we pray for the safety of our brave men and women in uniform, for their families, and for the comfort and recovery of those who have been wounded.

The Congress, by Public Law 100–307, as amended, has called on our Nation to reaffirm the role of prayer in our society by recognizing each year a ''National Day of Prayer.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 1, 2008, as a National Day of Prayer. I ask the citizens of our Nation to give thanks, each according to his or her own faith, for the freedoms and blessings we have received and for God's continued guidance, comfort, and protection. I invite all Americans to join in observing this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8243 of April 22, 2008**

## Older Americans Month, 2008

*By the President of the United States of America*
*A Proclamation*

During Older Americans Month, we recognize the many ways older citizens have enriched our Nation through their character, wisdom, and love.

Our country remains strong because of the foundation our elders have helped lay. This year's Older Americans Month theme, ''Working Together for Strong, Healthy, and Supportive Communities,'' highlights the importance of building partnerships to ensure that older Americans are able to live with dignity and independence.

Every week thousands of older Americans give back to their communities by volunteering through groups like Senior Corps. From teaching young children how to read, to helping provide relief to those affected by natural disasters, seniors play an important and compassionate role in our Nation.

My Administration is dedicated to ensuring that our seniors are treated with the respect they have earned. They deserve to have choices and access to the best possible health care, so we have added new preventive care measures and prescription drug benefits as part of our effort to modernize Medicare and make medication more affordable. In this way and many others, our country honors our elders' legacy and recognizes their countless contributions to our Nation.

America's seniors provide an example for younger generations, and during Older Americans Month, we reflect on their efforts toward building a stronger and brighter future for all. Our country remains forever in their debt, as they have provided a guiding light for the rest of the Nation to follow.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 2008 as Older Americans Month. I commend older Americans for the many contributions they have made and continue to make to our Nation. I also commend the Federal, State, local, and tribal organizations, service and health care providers, caregivers, and volunteers who dedicate their time and talents to our seniors. I encourage all citizens to honor their elders, care for those in need, and reaffirm our country's commitment to older Americans this month and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8244 of April 22, 2008**

## National Volunteer Week, 2008

*By the President of the United States of America*
*A Proclamation*

Through countless acts of kindness, volunteers across America are changing our Nation for the better. During National Volunteer Week, we recognize those who take the time to help their fellow citizens realize the full potential of America.

Through volunteer work, Americans can demonstrate the kindness and generosity that make our Nation great. Mentoring a child, teaching someone to read, visiting the elderly, feeding the hungry, and finding shelter for the homeless are all examples of how Americans can and do aid those in need. Americans are volunteering in record numbers. Each year, millions of Americans volunteer, and more of our fellow citizens are discovering that the pursuit of happiness leads to the path of service. The cumulative effort of the love and compassion from our Nation's volunteers will help secure a more hopeful future for all our citizens.

My Administration remains committed to building a culture of service, citizenship, and responsibility. The USA Freedom Corps strengthens civic engagement and volunteer service in America and helps people connect with volunteer opportunities. By visiting the USA Freedom Corps website at volunteer.gov, individuals can find information about ways they can help in their local areas and across the country.

The strength of America comes from its compassionate and loving citizens. National Volunteer Week is an opportunity to show appreciation for our Nation's volunteers. The time and energy they dedicate to helping those in need reflect the true spirit of America.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 27 through May 3, 2008, as National Volunteer Week. I call upon all Americans to recognize and celebrate the important work that volunteers do every day throughout our country. I also encourage citizens to explore ways to help their neighbors in need and serve a cause greater than self.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8245 of April 22, 2008**

## Loyalty Day, 2008

*By the President of the United States of America*
*A Proclamation*

Americans believe that every man, woman, and child has unalienable rights, dignity, and matchless value. Advancing these ideals was the honorable vision of our Founders and the mission that helped shape this great country. On Loyalty Day, we celebrate the legacy of freedom and the shared ideals that bind us together.

Our Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen demonstrate their love of country by stepping forward when America needs them most. By putting our country's security before their own, the men and women of the Armed Forces have strengthened our Nation and brought hope to millions around the world. All Americans are grateful to the members of the military and their families for their service, sacrifice, and dedication, and we are proud of their accomplishments.

Through their good works, our Nation's volunteers bear witness to their steadfast love for America, as exemplified in their commitment to service and good citizenship. Loyalty to this country brings with it a commitment to aid our family, friends, and fellow citizens all across this broad and welcoming land. These volunteers demonstrate their gratitude for the blessings of freedom by helping build a more hopeful future for our children and grandchildren. All Americans can put their loyalty into practice by learning more about the history of our country, flying the American flag, and contributing to our communities.

Two hundred and thirty-two years after the founding of our country, we remain committed to advancing freedom and renewing the values that sustain our liberty. Through the spirit and determination of our people, our Nation will prosper and our liberty will be secure.

The Congress, by Public Law 85–529, as amended, has designated May 1 of each year as ''Loyalty Day.'' This Loyalty Day, and throughout the year, I ask all Americans to join me in reaffirming our allegiance to our Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 1, 2008, as Loyalty Day. I call upon all people of the United States to join in support of this national observance and to display the flag of the United States on Loyalty Day as a symbol of pride in our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8246 of April 25, 2008**

## Malaria Awareness Day, 2008

*By the President of the United States of America*
*A Proclamation*

On Malaria Awareness Day, our Nation recognizes all who suffer from this devastating disease, and we remember the lives lost to an illness that is entirely preventable and treatable. Today, we renew our commitment to lead the world toward the urgent goal and noble mission of turning the tide against malaria in Africa and around the world.

My Administration and our partners are working together to save lives in Africa through the President's Malaria Initiative. On a recent trip to Africa, First Lady Laura Bush and I personally saw this Initiative working and making incredible progress against malaria. By distributing insecticide-treated bed nets, expanding indoor insecticide spraying, providing cutting-edge drugs to those in need, and empowering African leaders to determine the best strategy for their country, we have brought an extraordinary achievement within reach: together, we can eradicate a disease that has claimed the lives of children for centuries. Millions of lives are being saved because of the kindness and generosity of the American people, and we will continue to work to ensure that our aggressive and comprehensive strategy achieves its goal.

America is a compassionate country that feeds the hungry and protects the vulnerable because we believe every human life has inherent dignity and matchless value. As the people of Africa continue their struggle against malaria, we offer our support and steadfast commitment. We call on all nations to join us in a great humanitarian effort.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 25, 2008, as Malaria Awareness Day. I encourage Americans to answer the universal call to love a neighbor and join in our goal of eliminating malaria on the African continent and elsewhere.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8247 of April 29, 2008**

## Asian/Pacific American Heritage Month, 2008

*By the President of the United States of America*
*A Proclamation*

Americans who trace their ancestry to Asia and the Pacific Islands have contributed much to our Nation. During Asian/Pacific American Heritage Month, we highlight their importance to our great Nation.

Asian/Pacific Americans have made our country better with their talents and hard work. Their values and commitment to family and community have helped shape and strengthen America. These citizens speak many languages, honor countless traditions, and practice different faiths, but they are bound by a shared commitment to freedom and liberty. The diversity among Asian/Pacific Americans adds to the cultural fabric of our society.

Asian/Pacific Americans have enriched our culture, excelling in many fields, including education, business, science, technology, government, sports, and the arts. We especially honor those Asian/Pacific Americans who have answered the call to protect the cause of freedom by serving in our Armed Forces. These brave men and women set a powerful example for all Americans.

As we celebrate Asian/Pacific American Heritage Month, we are reminded of the richness of the Asian and Pacific cultures. Asian/Pacific Americans enhance the American experience and contribute to our country's legacy of diversity.

To honor the achievements and contributions of Asian/Pacific Americans, the Congress, by Public Law 102–450, as amended, has designated the month of May each year as ''Asian/Pacific American Heritage Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 2008 as Asian/Pacific American Heritage Month. I call upon the people of the United States to learn more about the history of Asian/Pacific Americans and their many contributions to our Nation and to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8248 of April 29, 2008**

## Jewish American Heritage Month, 2008

*By the President of the United States of America*

*A Proclamation*

Jewish American Heritage Month is an opportunity to celebrate the history, culture, and faith of Jewish Americans and their contributions to our Nation.

The story of the Jewish people in America is the story of America itself. When the first Jewish settlers arrived on our shores hundreds of years ago, they saw a land of promise and liberty. With hard work and determination, these individuals helped build our country and strengthen our values. Their commitment to religious freedom and their belief in democracy have enriched our society and helped make our country a beacon of hope for all.

Many Jewish Americans have served in our military with valor and distinction in times of war and peace. We pay special tribute to all those who stepped forward when our country needed them most. These American heroes confronted grave dangers to protect our Nation.

During Jewish American Heritage Month and throughout the year, we honor Jewish Americans who played an integral role in shaping the cultural fabric of our Nation. Their spirit and talents have helped America succeed and prosper, and their efforts continue to remind us of the many blessings of this great country.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 2008 as Jewish American Heritage Month. I call upon all Americans to observe this month with appropriate programs and activities to honor Jewish Americans across the country.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8249 of April 29, 2008**

## National Physical Fitness and Sports Month, 2008

*By the President of the United States of America*

*A Proclamation*

Health and fitness are personal responsibilities and important national goals for our citizens. During National Physical Fitness and Sports Month, we highlight the benefits of exercise and the value of participating in sports.

It is important for all Americans to participate in activities that help maintain a healthy lifestyle. Outdoor activities such as walking, running, swimming, and biking are good for the mind, body, and soul. Regular physical activity and healthy eating habits can help reduce stress and lower the risk for many chronic health conditions such as heart disease, diabetes, and depression.

My Administration is committed to encouraging all Americans to remain physically active. Through the President's Council on Physical Fitness and Sports, the National President's Challenge allows participants of all ages to set a fitness goal and keep track of their progress as they work to achieve it. To get more information, or to sign up to participate, people can visit presidentschallenge.org. By getting involved and exercising for 30 minutes a day, 5 days a week, Americans can improve their health and happiness and set a positive example for others.

During National Physical Fitness and Sports month and throughout the year, I encourage all Americans to make physical fitness a priority in their lives.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 2008 as National Physical Fitness and Sports Month. I call upon my fellow citizens to recognize the importance of exercise and participate in athletic activities. I also encourage individuals, schools, and communities to celebrate this month with appropriate activities and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8250 of April 30, 2008**

## Law Day, U.S.A., 2008

*By the President of the United States of America*
*A Proclamation*

The right of ordinary men and women to determine their own future, protected by the rule of law, lies at the heart of America's founding principles. As our country celebrates the 50th anniversary of Law Day, we renew our commitment to the ideals on which this great Nation was established and to a robust system of ordered liberty.

The American legal system is central to protecting the rights and freedoms our Nation holds dear. The theme of this year's Law Day, ''The Rule of Law: Foundation for Communities of Opportunity and Equity,'' recognizes the fundamental role that the rule of law plays in preserving liberty in our Nation and in all free societies. We pay tribute to the men and women in America's legal community. Through hard work and dedication to the rule of law, members of the judiciary and the legal profession help secure the rights of individuals, bring justice to our communities, and reinforce the proud traditions that make America a beacon of light for the world.

Nearly 800 years ago, the Magna Carta placed the authority of government under the rule of law; centuries later, the Declaration of Independence and the United States Constitution marked tremendous advances in the march of liberty. These documents established enduring principles that guide modern democracies. Today, we are reminded of that past and look toward a hopeful future as we work to secure the liberty that is the natural right of every man, woman, and child.

On Law Day, U.S.A., our Nation celebrates our belief in the equality of each person before God and renews our commitment to strive to bring America ever closer to its founding ideals.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, in accordance with Public Law 87–20, as amended, do hereby proclaim May 1, 2008, as Law Day, U.S.A. I call upon all the people of the United States to observe this day with appropriate ceremonies and activities. I also call upon Government officials to dis-

play the flag of the United States in support of this national observance.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8251 of May 2, 2008**

## National Charter Schools Week, 2008

*By the President of the United States of America*
*A Proclamation*

Education is the cornerstone of a hopeful tomorrow. During National Charter Schools Week, we highlight the contributions of charter schools to ensuring that our Nation's future leaders have the skills and knowledge necessary for a lifetime of achievement.

Charter schools are educational alternatives that empower families with additional choices for their children. By providing flexibility to educators while insisting on results, charter schools are helping foster a culture of educational innovation, accountability, and excellence. Charter schools also encourage parental involvement and help contribute to the national effort to close the achievement gap.

The No Child Left Behind Act has played a central role in America's efforts to improve our public schools and expand the opportunities available to our children. In 2007, American students reached record achievement levels on reading and math tests, and the achievement gap is beginning to close. Charter schools have been an important part of this success. National Charter Schools Week is an opportunity to recognize the strength, vitality, and excellence of outstanding schools.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 4 through May 10, 2008, as National Charter Schools Week. I applaud our Nation's charter schools and all those who make them a success, and I call on parents of charter school students to share their success stories and help Americans understand more about the important work of charter schools.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8252 of May 5, 2008**

## Military Spouse Day, 2008

*By the President of the United States of America*
*A Proclamation*

Military spouses embody the courage, nobility of duty, and love of country that inspire every American. On Military Spouse Day, we pay tribute to the husbands and wives who support their spouses in America's Armed Forces during times of war and peace.

The legacy of military spouses began when colonial Americans were fighting for independence. Martha Washington boosted the morale of her husband's troops by visiting battlefields and tending to the wounded. Since then, members of our Armed Forces have served our Nation accompanied by the steadfast love and support of their spouses and families.

While our men and women in uniform are protecting our country's founding ideals of liberty, democracy, and justice, their spouses live with uncommon challenges, endure sleepless nights, and spend long periods raising children alone. Many military spouses are also committed volunteers, serving other military families and local communities. Our Nation benefits from the sacrifices of our military families, and we are inspired by their courage, strength, and leadership.

On Military Spouse Day and throughout the year, we honor the commitment spouses have made to freedom's cause. To learn about ways to support our troops and their spouses and families, I encourage all Americans to visit www.americasupportsyou.mil.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 9, 2008, as Military Spouse Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities and by expressing their gratitude to the husbands and wives of those serving in the United States Armed Forces.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8253 of May 8, 2008**

## Mother's Day, 2008

*By the President of the United States of America*
*A Proclamation*

On Mother's Day, we honor the grace, wisdom, and strength of our mothers, and we celebrate the special bonds shared between mothers and their children.

Mothers work tirelessly to help their children build healthy and successful lives. Through their positive examples and countless acts of kindness, mothers teach the values of generosity and compassion and the importance of family and community. As President Ronald Reagan said, ''From our mothers, we first learn about values and caring and the difference between right and wrong.'' By providing a nurturing environment where their children can grow in confidence and character, mothers lay the foundation for the next generation of Americans to realize their full potential.

Our Nation is grateful for the sacrifices mothers make every day and for the unconditional love they give their children. We are especially thankful for the mothers who support their sons and daughters serving in our Armed Forces and for the mothers who bring honor to the uniform of the United States by defending our freedom at home and abroad.

Every child blessed with a mother's love has been given one of life's great gifts. On this Mother's Day, we recognize the extraordinary contributions America's mothers make to their children, their families, and our country.

To honor mothers, the Congress, by a joint resolution approved May 8, 1914, as amended (38 Stat. 770), has designated the second Sunday in May each year as ''Mother's Day'' and has requested the President to call for its appropriate observance. May God bless mothers across America on this special day and throughout the year.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 11, 2008, as Mother's Day. I encourage all Americans to show their gratitude and love to mothers for making a difference in the lives of their children, families, and communities. I call upon citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8254 of May 9, 2008**

## National Defense Transportation Day and National Transportation Week, 2008

*By the President of the United States of America*

*A Proclamation*

America's transportation system strengthens our national security and keeps our country moving. On National Defense Transportation Day and during National Transportation Week, we thank the men and women of the transportation industry for their efforts to ensure that our Nation's infrastructure operates effectively and efficiently.

Innovation, investment, and imagination have enabled new modes of transportation to revolutionize the world. Today, businesses can de-

liver goods and services faster than ever, first responders can quickly bring hope and healing to those in need, and people can visit loved ones across the country or around the globe. The Armed Forces utilize modern transportation to deploy troops, move supplies, and bring our heroes home from the front lines. We are grateful for the hard work of all transportation professionals.

My Administration supports the continued creation of safer, more secure, and more reliable roadways, bridges, airports, seaports, and mass transit systems. We are addressing the challenges facing our transportation system today, helping lay the groundwork for future demands, and giving State and local authorities the flexibility to solve transportation problems in their communities. By promoting research in advanced transportation technologies, my Administration is also working to help end our reliance on foreign sources of energy, improve our environment, and strengthen our economic and national security.

To recognize the men and women who work in the transportation industry and who contribute to our Nation's well-being and defense, the Congress, by joint resolution approved May 16, 1957, as amended (36 U.S.C. 120), has requested that the President designate the third Friday in May of each year as ''National Defense Transportation Day,'' and, by joint resolution approved May 14, 1962, as amended (36 U.S.C. 133), that the week during which that Friday falls be designated as ''National Transportation Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Friday, May 16, 2008, as National Defense Transportation Day and May 11 through May 17, 2008, as National Transportation Week. I encourage all Americans to learn how our modern transportation system contributes to the security of our citizens and the prosperity of our country and to celebrate these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8255 of May 9, 2008**

## Peace Officers' Memorial Day and Police Week, 2008

*By the President of the United States of America*

*A Proclamation*

Across our Nation, law enforcement officers carry the great responsibility of protecting their fellow citizens. On Peace Officers' Memorial Day and during Police Week, we honor these brave public servants who fight crime, violence, and terrorism, and we pay homage to the heroes who have fallen in the line of duty.

With valor and devotion, our country's law enforcement officers stand watch on the front lines and help make our communities safer and more secure. Fulfilling their duties with courage and commitment, they

work tirelessly and put themselves in harm's way, exemplifying the good and decent character of America.

As we observe Peace Officers' Memorial Day and Police Week, we pause to pay tribute to those who serve in law enforcement. On this occasion, we especially remember those who have made the ultimate sacrifice, and we pray for the families and friends they have left behind. We thank all the extraordinary American men and women who have answered the call to serve in law enforcement for their commitment to justice and to their communities.

By a joint resolution approved October 1, 1962, as amended (76 Stat. 676), and by Public Law 103–322, as amended (36 U.S.C. 136–137), the President has been authorized and requested to designate May 15 of each year as ''Peace Officers' Memorial Day'' and the week in which it falls as ''Police Week,'' and to direct that the flag be flown at half staff on Peace Officers' Memorial Day.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 15, 2008, as Peace Officers' Memorial Day and May 11 through May 17, 2008, as Police Week. I call on all Americans to observe these events with appropriate ceremonies and activities. I also call on Governors of the United States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction of the United States, as well as appropriate officials of all units of government, to direct that the flag be flown at half staff on Peace Officers' Memorial Day. I further encourage all Americans to display the flag at half staff from their homes and businesses on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8256 of May 15, 2008**

## National Safe Boating Week, 2008

*By the President of the United States of America*
*A Proclamation*

Our Nation's beautiful waterways provide opportunities for recreational activities for millions of Americans. During National Safe Boating Week, we raise awareness of the importance of practicing and promoting safe boating.

Recreational boating is one of America's most popular pastimes, and it is important for every boater to take proper safety precautions. The United States Coast Guard encourages citizens to take preventive measures such as wearing a life jacket, never boating under the influence of drugs or alcohol, and taking a boating safety course. Too often, accidents occur on boats where the operator had not received boating safety instruction. Receiving a vessel safety check once a year will also help ensure a safe boating experience. To learn important information

about boating, visit uscgboating.org. During National Safe Boating Week and throughout the year, I urge all Americans to put safety first when enjoying our country's magnificent waters.

In recognition of the importance of safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 131), as amended, has authorized and requested the President to proclaim annually the 7-day period prior to Memorial Day weekend as ''National Safe Boating Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 17 through May 23, 2008, as National Safe Boating Week. I encourage the Governors of the 50 States and the Commonwealth of Puerto Rico, and officials of other areas subject to the jurisdiction of the United States, to join in observing this week. I also urge all Americans to learn more about safe boating practices and always act responsibly while on the water.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8257 of May 15, 2008**

## World Trade Week, 2008

*By the President of the United States of America*

*A Proclamation*

Free and fair trade helps secure a future of freedom and promise. During World Trade Week, we recognize the positive effects of opening markets around the world. Open markets play an integral role in America's economic progress, creating better-paying jobs, expanding consumer choices, and providing increased opportunities for American workers and employers. Free and fair trade also increases economic growth among our trading partners.

My Administration is committed to expanding economic freedom worldwide. We will continue to seek an ambitious outcome in the Doha Round that will reduce and eliminate tariffs and other barriers on goods and open new markets for services trade. The Doha Round provides a once-in-a-generation opportunity to advance open markets, strengthen economic growth, and help millions rise out of poverty.

We also encourage the Congress to approve our pending trade agreements with Colombia, Panama, and South Korea. Our free trade agreement with Colombia is important, because it will support one of our closest allies in the Western Hemisphere currently under assault from a terrorist network. Congressional approval of this agreement would make clear America's unshakeable commitment to advancing the benefits of free markets and the interests of free people.

Today, nearly 250,000 U.S. firms export U.S. products. Ninety-seven percent of those exporters are small- or medium-sized businesses. The number of U.S. small business exporters has more than doubled since

1992. Those businesses have surpassed a quarter of a trillion dollars in annual export sales.

Free and fair trade helps reinforce our Nation's commitments to democracy, transparency, and the rule of law. This week and throughout the year, we recognize the importance of trade in promoting prosperity and freedom in the United States and around the world.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 18 through May 24, 2008, as World Trade Week. I encourage all Americans to observe this week with events, trade shows, and educational programs that celebrate the benefits of trade to our Nation and the global economy.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8258 of May 20, 2008**

## A Day of Solidarity With the Cuban People, 2008

*By the President of the United States of America*

*A Proclamation*

Freedom of speech, freedom of assembly, and freedom of worship are among the liberties that Americans cherish. Our Nation fully supports the brave people who work to secure these liberties in the countries where they are denied. And on this Day of Solidarity with the Cuban People, we focus our attention on the men and women working to secure freedom, democracy, and human rights for the citizens of Cuba.

For half a century, the Cuban people have suffered under oppressive dictatorship. Under the rule of Fidel and Raul Castro, Cubans have seen their political freedoms denied, their economy reduced to shambles, and their families torn apart. The Cuban people deserve better—and the American people stand with them as they work to achieve it.

The United States is rallying the free world to the cause of Cuban liberty. We continue to shine a bright light on the Castro regime's abuses—and America calls on the Government of Cuba to immediately and unconditionally release all prisoners of conscience.

We keep these prisoners, their families, and all Cubans in our prayers. Especially on this Day of Solidarity, we ask the Almighty to comfort and strengthen those who suffer under the Castro dictatorship—and to hasten the day when Cuba's suffering comes to an end.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 21, 2008, as A Day of Solidarity with the Cuban People to recognize those who are suffering in Cuba, especially Cuba's prisoners of conscience.

I call upon the citizens of the United States to mark this observance with appropriate ceremonies and activities that demonstrate America's resolute support for those living under the Castro regime.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8259 of May 21, 2008**

## National Maritime Day, 2008

*By the President of the United States of America*
*A Proclamation*

On National Maritime Day, America honors our highly skilled mariners who sail the high seas, support those on the front lines of the war on terror, and promote commerce around the world.

Since 1775, the United States Merchant Marine has served our country, helping America become a great maritime power. During the Second World War, courageous mariners were among those who suffered greatly—hundreds of ships were lost to enemy action, and many mariners made the ultimate sacrifice. We pay tribute to these heroes who answered the call to serve when our Nation needed them most. Today, our merchant mariners continue to protect our homeland, including by supporting our troops in Iraq and Afghanistan.

In times of peace and war, these brave patriots help keep our Nation safe and strengthen our economy. By transporting American goods across the oceans, merchant mariners facilitate commerce and advance trade. These Americans honor the noble traditions of seafarers and enrich our country's maritime heritage.

In recognition of the importance of the U.S. Merchant Marine, the Congress, by joint resolution approved on May 20, 1933, as amended, has designated May 22 of each year as ''National Maritime Day,'' and has authorized and requested that the President issue an annual proclamation calling for its appropriate observance.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 22, 2008, as National Maritime Day. I call upon the people of the United States to mark this observance by honoring the service of merchant mariners and by displaying the flag of the United States at their homes and in their communities. I also request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8260 of May 22, 2008**

## Prayer for Peace, Memorial Day, 2008

*By the President of the United States of America*
*A Proclamation*

On Memorial Day, we honor the heroes who have laid down their lives in the cause of freedom, resolve that they will forever be remembered by a grateful Nation, and pray that our country may always prove worthy of the sacrifices they have made.

Throughout our Nation's history, our course has been secured by brave Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen. These courageous and selfless warriors have stepped forward to protect the Nation they love, fight for America's highest ideals, and show millions that a future of liberty is possible. Freedoms come at great costs, yet the world has been transformed in unimaginable ways because of the noble service and devotion to duty of these brave individuals. Our country honors the sacrifice made by those who have given their lives to spread the blessings of liberty and lay the foundations of peace, and we mourn their loss.

Today, our service men and women continue to inspire and strengthen our Nation, going above and beyond the call of duty as part of the greatest military the world has ever known. Americans are grateful to all those who have put on our Nation's uniform and to their families, and we will always remember their service and sacrifice for our freedoms.

On this solemn day our country unites to pay tribute to the fallen, who demonstrated the strength of their convictions and paid the cost of freedom. We pray for the members of our Armed Forces and their families, and we ask for God's continued guidance of our country.

In respect for their devotion to America, the Congress, by a joint resolution approved on May 11, 1950, as amended (64 Stat. 158), has requested the President to issue a proclamation calling on the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the people of the United States might unite in prayer. The Congress, by Public Law 106–579, has also designated the minute beginning at 3:00 p.m. local time on that day as a time for all Americans to observe the National Moment of Remembrance.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Memorial Day, May 26, 2008, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11:00 a.m. of that day as a time to unite in prayer. I also ask all Americans to observe the National Moment of Remembrance beginning at 3:00 p.m., local time, on Memorial Day. I encourage the media to participate in these observances. I also request the Governors of the United States and the Commonwealth of Puerto Rico, and the appropriate officials of all units of government, to direct that the flag be flown at half staff until noon on this Memorial Day on all buildings, grounds, and naval vessels throughout the United States, and in all areas under its jurisdiction and control. I also request the

people of the United States to display the flag at half staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8261 of May 23, 2008**

## National Hurricane Preparedness Week, 2008

*By the President of the United States of America*
*A Proclamation*

National Hurricane Preparedness Week highlights the vital importance of being prepared when natural disasters strike.

Tropical storms can cause destruction over entire regions and claim the lives of many of our citizens. We can help reduce vulnerability in our communities by encouraging all citizens to be prepared and to work together. Maintaining emergency supply kits and family communication plans, and knowing what to do in an emergency can help save lives. For more information on hurricane preparedness, Americans can visit ready.gov and fema.gov to find checklists and other valuable resources to help them get prepared.

My Administration continues to support efforts to strengthen how Americans prepare for and respond to disasters. The National Oceanic and Atmospheric Administration works to predict and track storms so that citizens are more aware of potential storms. The Department of Homeland Security's Federal Emergency Management Agency (FEMA) has improved communication between Federal, State, local government, and the private sector in order to help citizens stay informed and receive the help they need. By working together, we can better prepare for, respond to, and recover from hurricanes and reduce the harm to our citizens and our communities.

As hurricane season approaches, we also express our gratitude to the volunteers and first responders who help their fellow citizens in their time of need.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 25 through May 31, 2008, as National Hurricane Preparedness Week. I call upon government agencies, private organizations, schools, and the media to share information about hurricane preparedness. I also urge all Americans living in vulnerable coastal areas to take appropriate measures and precautions to protect themselves, their homes, and their communities against the effects of hurricanes.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of May, in the year of our Lord two thousand eight, and of

the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8262 of May 29, 2008**

## Caribbean-American Heritage Month, 2008

*By the President of the United States of America*
*A Proclamation*

Caribbean-American Heritage Month is an opportunity to show our appreciation for the many ways Caribbean Americans have contributed to our country.

Caribbean Americans have helped to shape our national fabric with their vibrant traditions and their unique history. They have brightened our lives with the spirit and vitality of their culture. Through strong leadership and pride in their heritage, they have enriched America. In all walks of life, they have contributed their many talents and added to our Nation's development and prosperity.

We especially show our gratitude for the men and women of Caribbean descent who have served bravely in our Armed Forces and those still serving today. These heroes have answered a call greater than self, and we keep them in our thoughts and prayers.

During June, we celebrate and recognize the Caribbean Americans whose determination and hard work have helped make our country a better place.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2008 as Caribbean-American Heritage Month. I encourage all Americans to learn more about the history and culture of Caribbean Americans and their contributions to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8263 of May 29, 2008**

## National Homeownership Month, 2008

*By the President of the United States of America*
*A Proclamation*

For many Americans, owning a home represents freedom, independence, and the American dream. During National Homeownership

Month, we highlight the benefits of owning a home and encourage our fellow citizens to be responsible homeowners.

My Administration is committed to helping Americans achieve their dreams of homeownership. We have worked to ensure that the mortgage industry is more transparent, reliable, and fair, and in order to sustain homeownership, we have launched initiatives to help responsible homeowners keep their homes. The FHASecure program has given the Federal Housing Administration more flexibility in refinancing mortgages for homeowners who have good credit histories but cannot afford their current payments. In addition, the HOPE NOW Alliance connects struggling homeowners with lenders, loan servicers, and mortgage counselors to help families stay in their homes. Homeowners deserve our help, and these initiatives assist those in need.

During National Homeownership Month and throughout the year, I encourage all Americans to take advantage of financial education opportunities to explore homeownership. My Advisory Council on Financial Literacy is finding ways to help educate people from all walks of life about matters pertaining to their finances and their futures. By practicing fiscal responsibility, Americans can contribute to the strength of our neighborhoods and our country.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2008 as National Homeownership Month. I call upon the people of the United States to join me in recognizing the importance of homeownership and building a more prosperous future for themselves and their communities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8264 of May 30, 2008**

## Black Music Month, 2008

*By the President of the United States of America*
*A Proclamation*

America's diverse musical heritage exemplifies the creativity and optimism of our Nation. During Black Music Month, we celebrate the extraordinary talents and creativity of African-American singers, musicians, and composers whose achievements have enriched our culture and enhanced our lives.

For generations, African-American artists have created music that communicates across racial boundaries and expresses both joy and sorrow. When facing the cruelty of slavery and injustice, African Americans lifted spirituals to the heavens, bringing comfort to troubled souls. These timeless declarations of hope and faith evolved into the more modern genres of gospel, blues, ragtime, and jazz, and they are given

voice in the musical genius of Scott Joplin, Marian Anderson, Eubie Blake, and Mahalia Jackson. During the Civil Rights era, African-American musicians such as Duke Ellington, Muddy Waters, and Ruth Brown conveyed the struggles of their communities while bringing people of all backgrounds together. Today, this music continues to inspire America's citizens and advance its creative spirit.

Throughout the course of American history, black musicians have used their great talents to share the richness of the African-American experience and to develop a uniquely American style of music enjoyed throughout the world. This month, we honor the pioneers of African-American music and today's contemporary artists who have enriched the lives of people everywhere.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2008 as Black Music Month. I encourage all Americans to learn more about the history of black music and to enjoy the great contributions of African-American singers, musicians, and composers.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8265 of May 30, 2008**

## Great Outdoors Month, 2008

*By the President of the United States of America*
*A Proclamation*

From the Appalachian Mountains to the Grand Canyon, America is blessed with places of natural beauty where our citizens can discover the full splendor of this great Nation. During Great Outdoors Month, our Nation celebrates the grandeur of our open spaces, strengthens our commitment to preserving this heritage, and reaffirms our dedication to protecting our air, water, and lands.

My Administration remains dedicated to wise stewardship of the environment, and we will continue to protect our Nation's natural wonders. This past year, we have made great strides in helping wildlife thrive and in restoring habitat for migratory birds through cooperative conservation. Working with State and tribal officials, we are preserving important wildlife habitats and expanding the National Wildlife Refuge system. Citizens can visit takepride.gov to learn more about opportunities to care for our environment.

Great Outdoors Month is an opportunity to honor those who work to keep our natural places beautiful and to celebrate some of our country's favorite outdoor pastimes. These activities encourage a healthy lifestyle and give Americans pride in the great American landscape. As responsible stewards of our natural resources, we can help ensure that

the great outdoors will be available for enjoyment by generations to come.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2008 as Great Outdoors Month. I call on all Americans to observe this month with appropriate programs and activities, and to take time to visit and enjoy the great outdoors.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8266 of May 30, 2008**

## Italian Independence Day, 2008

*By the President of the United States of America*
*A Proclamation*

On Italian Independence Day, we recognize our friendship with the nation of Italy, and we celebrate the generations of Italian Americans who have made significant contributions to our national character.

June 2, 1946, marks the birth of the Italian Republic, the long-awaited triumph of liberty and democracy in an ancient land. Today, Italy is a friend of the United States and an ally of freedom and peace. Italians and Americans join together on Italian Independence Day to commemorate Italy's independence and celebrate its rich history.

The people of our two countries share special ties rooted in history, friendship, and family. Millions of American citizens have Italian ancestry, and they and their forebears have helped shape our way of life. Americans are grateful for the many contributions Italians and Italian Americans have made to our history and our culture, and we are proud that our nations are allies in the cause of peace and security around the world.

In celebrating Italian Independence Day, we commemorate the freedoms our countries hold dear, and we honor the generations of Italian Americans who came to our shores seeking opportunity. They have helped to shape our great Nation and influenced American life for the better.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2, 2008, as Italian Independence Day. I call upon all Americans to observe this day by celebrating the contributions of Italians and Italian Americans to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of May, in the year of our Lord two thousand eight, and of the

Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8267 of May 30, 2008**

## National Child's Day, 2008

*By the President of the United States of America*
*A Proclamation*

America has a duty to provide its children with the support and skills they need to become the next generation of responsible leaders. On National Child's Day, we underscore the importance of fostering the love, encouragement, and protection that empowers our children to become happy and successful adults.

Children are a precious gift who need the love and support of family and friends to lead lives rich in promise and fulfillment. Parents are the most vital part of a child's life, providing them with the guidance and discipline to make the right choices and understand the consequences of their actions. Family, teachers, and others inspire our youth to use their talents and to become confident and caring adults. Religious and community leaders also have a role in teaching values and encouraging children to love their neighbors just as they would like to be loved themselves. Together, we can all help our children be prepared to meet life's challenges and realize the great promise of our country.

My Administration continues to support programs that help prepare America's youth for the opportunities ahead. The No Child Left Behind Act requires that every child have access to a quality education. We have made significant progress toward that goal across the country, with students achieving record math and reading scores. The America COMPETES Act, which was built upon my American Competitiveness Initiative, helped strengthen our goal of staying competitive within the global economy. The Helping America's Youth initiative, led by First Lady Laura Bush, encourages adults to work to help our young people reach their full potential.

On National Child's Day and throughout the year, we honor the boys and girls of America and show our gratitude to those who work to support them. This day is a reminder to us all that our commitment to children helps make our country a better place.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 1, 2008, as National Child's Day. I call upon all our citizens to celebrate National Child's Day with appropriate ceremonies and activities. I also urge all Americans to dedicate time and energy to educating our youth and providing them with a safe and caring environment.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of May, in the year of our Lord two thousand eight, and of the

Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8268 of June 2, 2008**

## National Oceans Month, 2008

*By the President of the United States of America*
*A Proclamation*

Oceans have provided an important part of our heritage, economy, and recreation, and they are a vital resource for our country and the world. During National Oceans Month, we reaffirm our commitment to protect and wisely use these precious waters and the habitat beneath them.

We have a solemn responsibility to care for our seas and show concern for the plant and animal life that inhabit them. Oceans bring enjoyment and prosperity to countless people, from boating and fishing, to transporting goods, to traveling the waterways. By being good stewards of the oceans, we can ensure that future generations are able to enjoy the great blessings of our natural heritage.

My Administration is committed to safeguarding the oceans and ensuring effective conservation. Since the release of my Ocean Action Plan in 2004, we have taken steps to prevent pollution and improve the health of marine wildlife by working with State, tribal, and local governments, as well as private sector and international partners. We are working to end overfishing in U.S. waters and to stop destructive fishing practices on the high seas. We are also supporting ocean programs to educate the public on the need to prevent marine debris and improve the quality of the marine environment, as well as other projects such as the International Coral Reef Initiative that can help conserve and restore delicate and essential ecosystems. By working to protect our oceans, we ensure that natural wonders like the Papahānaumokuākea Marine National Monument in the Northwestern Hawaiian Islands will be enjoyed for generations to come.

This month is an opportunity to show our gratitude toward all those who work to protect the oceans, to learn more about the vital role oceans play in the life of our country, and to discover ways we can conserve their many natural treasures.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2008 as National Oceans Month. I encourage all our citizens to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of June, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8269 of June 6, 2008**

## Flag Day and National Flag Week, 2008

*By the President of the United States of America*
*A Proclamation*

The American flag has been our national symbol for 231 years, and it remains a beacon of freedom wherever it is flown. Since the Second Continental Congress adopted the Stars and Stripes as our flag in 1777, it has stood for freedom, justice, and the resolve of our Nation.

When Francis Scott Key saw the American flag flying over Fort McHenry in 1814, he believed that liberty would triumph. The flag that inspired Key to write our National Anthem still energizes and emboldens the American spirit today. As our Nation faces the challenges of a new era, Old Glory reminds us that liberty can prevail over oppression.

Since the first days of our Republic, Americans have flown the flag to show their pride and appreciation for the freedoms they enjoy in this great Nation. Every day, Americans pledge their allegiance to the flag of the United States, and our troops carry it before them as they defend the liberties for which it stands.

On Flag Day and during National Flag Week, we remember those in uniform whose courage and sacrifice inspire us here at home. We also remember the rich history of one of our oldest national symbols and reflect on our duty to carry our heritage of freedom into the future.

To commemorate the adoption of our flag, the Congress, by joint resolution approved August 3, 1949, as amended (63 Stat. 492), designated June 14 of each year as ''Flag Day'' and requested that the President issue an annual proclamation calling for its observance and for the display of the flag of the United States on all Federal Government buildings. The Congress also requested, by joint resolution approved June 9, 1966, as amended (80 Stat. 194), that the President issue annually a proclamation designating the week in which June 14 occurs as ''National Flag Week'' and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim June 14, 2008, as Flag Day and the week beginning June 8, 2008, as National Flag Week. I direct the appropriate officials to display the flag on all Federal Government buildings during that week, and I urge all Americans to observe Flag Day and National Flag Week by flying the Stars and Stripes from their homes and other appropriate places. I also call upon the people of the United States to observe with pride and all due ceremony those days from Flag Day through Independence Day, also set aside by the Congress (89 Stat. 211), as a time to honor America, to celebrate our heritage in public gatherings and activities, and to publicly recite the Pledge of Allegiance to the Flag of the United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of June, in the year of our Lord two thousand eight, and of the Inde-

pendence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8270 of June 12, 2008**

## Father's Day, 2008

*By the President of the United States of America*
*A Proclamation*

On Father's Day, we honor our Nation's fathers for the unconditional love they give to their children and for their selfless dedication to the well-being of their families.

Fathers play a unique and irreplaceable part in the lives of their children and pass along values that help children grow into responsible adults. By providing their sons and daughters with a positive example, fathers help give their children the necessary foundation they need to make wise decisions throughout their lives. Fathers strive to inspire their children to lead lives of integrity, honor, and purpose, and they pray for wisdom and the strength to give their children the love and support they need to achieve their dreams.

All Americans are thankful for the extraordinary efforts of our Nation's fathers, stepfathers, grandfathers, and guardians. Their devotion and encouragement as mentors, providers, and role models help strengthen their families and our country. We are especially grateful for the fathers who serve in our Nation's Armed Forces. These dedicated fathers protect liberty so that all children can have a more promising future. We pray for the safe return of all those serving overseas, and we thank the fathers who support sons and daughters who are defending our freedom around the globe.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, in accordance with a joint resolution of the Congress approved April 24, 1972, as amended (36 U.S.C. 109), do hereby proclaim June 15, 2008, as Father's Day. I encourage all Americans to express their appreciation to all fathers for their many contributions to our Nation's children. I direct the appropriate officials of the Government to display the flag of the United States on all Government buildings on this day. I also call upon State and local governments and citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of June, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8271 of June 26, 2008**

## Termination of the Exercise of Authorities Under the Trading With the Enemy Act With Respect to North Korea

*By the President of the United States of America*
*A Proclamation*

I, GEORGE W. BUSH, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, including section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note), hereby find that the continuation of the exercise of authorities under the Trading With the Enemy Act (50 U.S.C. App. 1 *et seq.*) (TWEA) with respect to North Korea, as authorized in Proclamation 2914 of December 16, 1950, most recently continued under Presidential Determination 2007–32 of September 13, 2007 (72 *FR* 53407), and implemented by the regulations set forth below, is no longer in the national interest of the United States.

**Section 1.** The exercise of TWEA authorities with respect to North Korea, which were implemented by the Foreign Assets Control Regulations, 31 C.F.R. part 500, and the Transaction Control Regulations, 31 C.F.R. part 505, and that were continued by Presidential Determination 2007–32 of September 13, 2007, is terminated, and Presidential Determination 2007–32 is rescinded with respect to North Korea.

**Sec. 2.** The Secretary of the Treasury is authorized and directed to take all appropriate measures within the Secretary's authority to give effect to this proclamation.

**Sec. 3.** This proclamation is not intended to, and does not, create any right, benefit, or privilege, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

**Sec. 4.** This proclamation is effective at 12:01 a.m. eastern daylight time on June 27, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of June, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**Proclamation 8272 of June 30, 2008**

## To Modify Duty-Free Treatment Under the Generalized System of Preferences, Take Certain Actions Under the African Growth and Opportunity Act, and for Other Purposes

*By the President of the United States of America*

*A Proclamation*

1. Pursuant to section 503(c)(2)(A) of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2463(c)(2)(A)), beneficiary developing countries, except those designated as least-developed beneficiary developing countries or beneficiary sub-Saharan African countries as provided in section 503(c)(2)(D) of the 1974 Act (19 U.S.C. 2463(c)(2)(D)), are subject to competitive need limitations on the preferential treatment afforded under the Generalized System of Preferences (GSP) to eligible articles.

2. Pursuant to sections 501 and 503(a)(1)(A) of the 1974 Act (19 U.S.C. 2461 and 2463(a)(1)(A)), the President may designate articles as eligible for preferential tariff treatment under the GSP.

3. Section 503(c)(2)(F)(i) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(i)) provides that the President may disregard the competitive need limitation provided in section 503(c)(2)(A) (i)(II) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)(i)(II)) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed an amount set forth in section 503(c)(2)(F)(ii) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(ii)).

4. Pursuant to section 503(d)(1) of the 1974 Act (19 U.S.C. 2463(d)(1)), the President may waive the application of the competitive need limitations in section 503(c)(2)(A) of the 1974 Act with respect to any eligible article from any beneficiary developing country if certain conditions are met.

5. Pursuant to section 503(d)(5) of the 1974 Act (19 U.S.C. 2463(d)(5)), any waiver granted under section 503(d) shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

6. Section 502(e) of the 1974 Act (19 U.S.C. 2462(e)) provides that the President shall terminate the designation of a country as a beneficiary developing country for purposes of the GSP if the President determines that such country has become a ''high income'' country as defined by the official statistics of the International Bank for Reconstruction and Development. Termination is effective on January 1 of the second year following the year in which such determination is made.

7. Pursuant to section 503(c)(2)(A) of the 1974 Act, I have determined that in 2007 certain beneficiary developing countries have exported certain eligible articles in quantities exceeding the applicable competitive need limitations, and I therefore terminate the duty-free treatment for such articles from such beneficiary developing countries.

8. Pursuant to section 503(c)(2)(F) of the 1974 Act, I have determined that the competitive need limitation provided in section

503(c)(2)(A)(i)(II) of the 1974 Act should be disregarded with respect to certain eligible articles from certain beneficiary developing countries.

9. Pursuant to section 503(d)(1) of the 1974 Act, I have received the advice of the United States International Trade Commission on whether any industries in the United States are likely to be adversely affected by such waivers, and I have determined, based on that advice and on the considerations described in sections 501 and 502(c) of the 1974 Act (19 U.S.C. 2462(c)), and after giving great weight to the considerations in section 503(d)(2) of the 1974 Act (19 U.S.C. 2463(d)(2)), that such waivers are in the national economic interest of the United States. Accordingly, I have determined that the competitive need limitations of section 503(c)(2)(A) of the 1974 Act should be waived with respect to certain eligible articles from certain beneficiary developing countries.

10. Pursuant to section 503(d)(5) of the 1974 Act, I have determined that certain previously granted waivers of the competitive need limitations of section 503(c)(2)(A) of the 1974 Act are no longer warranted due to changed circumstances.

11. Pursuant to section 502(e) of the 1974 Act, I have determined that Trinidad and Tobago has become a ''high income'' country, and I am terminating the designation of that country as a beneficiary developing country for purposes of the GSP, effective January 1, 2010.

12. Section 502(a)(1) of the 1974 Act (19 U.S.C. 2462(a)(1)) authorizes the President to designate countries as beneficiary developing countries for purposes of the GSP. In Proclamation 7912 of June 29, 2005, I designated Serbia and Montenegro as a beneficiary developing country for purposes of the GSP. On June 3, 2006, upon Montenegro's declaration of independence from Serbia and Montenegro, the country separated into two independent republics: the Republic of Serbia and the Republic of Montenegro. Pursuant to section 502 of the 1974 Act, and taking into account the factors set forth in section 502(c) of that Act, I have determined that, in light of the separation of Serbia and Montenegro into two countries, the Republic of Serbia and the Republic of Montenegro should each be designated as a beneficiary developing country for purposes of the GSP.

13. Section 506A(a)(1) of the 1974 Act (19 U.S.C. 2466a(a)(1)), as added by section 111(a) of the African Growth and Opportunity Act (title I of Public Law 106–200, 114 Stat. 254) (AGOA), authorizes the President to designate a country listed in section 107 of the AGOA (19 U.S.C. 3706) as a beneficiary sub-Saharan African country if the President determines that the country meets the eligibility requirements set forth in section 104 of the AGOA (19 U.S.C. 3703) and the eligibility criteria set forth in section 502 of the 1974 Act (19 U.S.C. 2462).

14. Section 104 of the AGOA authorizes the President to designate a country listed in section 107 of the AGOA as an eligible sub-Saharan African country if the President determines that the country meets certain eligibility requirements.

15. Section 112(c) of the AGOA (19 U.S.C. 3721(c)), as added by section 6002(a) of the Africa Investment Incentive Act of 2006 (division D of title VI of Public Law 109–432, 120 Stat. 2922), provides special rules for certain apparel articles imported from lesser developed beneficiary sub-Saharan African countries.

16. Pursuant to section 104 of the AGOA and section 506A(a)(1) of the 1974 Act, I have determined that the Union of the Comoros (Comoros) meets the eligibility requirements set forth or referenced therein, and I have decided to designate Comoros as an eligible sub-Saharan African country and beneficiary sub-Saharan African country.

17. I have further determined that Comoros satisfies the criterion for treatment as a lesser developed beneficiary sub- Saharan African country under section 112(c)(5)(D)(i) of the AGOA.

18. On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (the ''Agreement'') with Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua. The Congress approved the Agreement in section 101(a) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the ''CAFTA-DR Act'') (19 U.S.C. 4011).

19. Pursuant to section 403(a) of the CAFTA-DR Act (19 U.S.C. 4111(a)), the President is to report biennially to the Congress on the matters described in that section and, as the President deems appropriate, in section 403(b)(2) of the CAFTA-DR Act (19 U.S.C. 4111(b)(2)).

20. Pursuant to section 403(a)(4) of the CAFTA-DR Act (19 U.S.C. 4111(a)(4)), the President is to establish a mechanism to solicit public comments on the matters described in section 403(a)(3)(D) of the CAFTA-DR Act (19 U.S.C. 4111(a)(3)(D)).

21. In Presidential Proclamation 8213 of December 20, 2007, I modified the Harmonized Tariff Schedule of the United States (HTS) pursuant to section 1634 of the Pension Protection Act of 2006 (Public Law 109–280, 120 Stat. 780) to carry out the understandings described in that section. Technical rectifications to the HTS are required to provide the intended tariff treatment.

22. In Presidential Proclamation 8240 of April 17, 2008, pursuant to section 503(c)(2)(A) of the 1974 Act, I modified the HTS to withdraw duty-free treatment for certain articles from Jamaica. A technical rectification to the HTS is required to provide the intended tariff treatment.

23. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other Acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to title V and section 604 of the 1974 Act, section 104 of the AGOA, section 301 of title 3, United States Code (3 U.S.C. 301), and section 403 of the CAFTA-DR Act, do proclaim that:

(1) In order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to one or more eligible articles for purposes of the GSP, general note 4(d) to the HTS is modified as set forth in section A of Annex I to this proclamation.

(2) In order to provide that one or more countries should not be treated as beneficiary developing countries with respect to certain eligible arti-

cles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for such HTS subheadings is modified as set forth in section B of Annex I to this proclamation.

(3) In order to designate certain articles as eligible articles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for such HTS subheadings is modified as set forth in section C of Annex I to this proclamation.

(4) The competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act is disregarded with respect to the eligible articles in the HTS subheadings and to the beneficiary developing countries listed in Annex II to this proclamation.

(5) A waiver of the application of section 503(c)(2)(A) of the 1974 Act shall apply to the eligible articles in the HTS subheadings and to the beneficiary developing countries set forth in Annex III to this proclamation.

(6) The waivers of the application of section 503(c)(2)(A) of the 1974 Act to the articles in the HTS subheadings and to the beneficiary developing countries listed in Annex IV to this proclamation are revoked.

(7) The designation of Trinidad and Tobago as a beneficiary developing country for purposes of the GSP is terminated, effective on January 1, 2010.

(8) In order to reflect this termination in the HTS, general note 4(a) to the HTS is modified by deleting ''Trinidad and Tobago'' from the list of independent countries, effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 2010.

(9) The Republic of Serbia is designated as a beneficiary developing country for purposes of the GSP.

(10) In order to reflect this designation in the HTS, general note 4(a) is modified by deleting ''Serbia and Montenegro'' and adding in alphabetical order ''Serbia'' to the list of independent countries, effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the thirtieth day after the date of this proclamation.

(11) The Republic of Montenegro is designated as a beneficiary developing country for purposes of the GSP.

(12) In order to reflect this designation in the HTS, general note 4(a) is modified by adding in alphabetical order ''Montenegro'' to the list of independent countries, effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the thirtieth day after the date of this proclamation.

(13) Comoros is designated as an eligible sub-Saharan African country and as a beneficiary sub-Saharan African country for purposes of the AGOA.

(14) In order to reflect this designation in the HTS, general note 16(a) to the HTS is modified by inserting in alphabetical sequence in the list of beneficiary sub-Saharan African countries ''Union of the Comoros,'' effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2008.

(15) For purposes of section 112(c) of the AGOA, Comoros is a lesser developed beneficiary sub-Saharan African country.

(16) The modifications to the HTS set forth in Annexes I and IV to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates set forth in the respective annex.

(17) The Secretary of Labor, in consultation with the United States Trade Representative, shall carry out the reporting function under sections 403(a) and 403(b)(2) of the CAFTA-DR Act.

(18) The Secretary of Labor, in consultation with the United States Trade Representative, shall solicit public comments under section 403(a)(4) of the CAFTA-DR Act.

(19) In order to provide the intended tariff treatment to certain articles of Jamaica, the HTS is modified as set forth in Annex V to this proclamation.

(20) The modifications to the HTS set forth in Annex V to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date set forth in Annex V.

(21) In order to provide the intended tariff treatment to goods subject to the understandings carried out in Proclamation 8213, the HTS is modified as set forth in Annex VI to this proclamation.

(22) The modifications to the HTS set forth in Annex VI to this proclamation shall enter into effect on the date that the modifications to the HTS set out in section C or D of the Annex to Proclamation 8213, as appropriate, enter into force, and shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after that date.

(23) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

**ANNEX I**

**MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

Section A. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2008, general note 4(d) to the Harmonized Tariff Schedule of the United States (HTS) is modified by:

(1). adding, in numerical sequence, the following subheading numbers and the countries set out opposite such subheading numbers:

| | | | |
|---|---|---|---|
| 0711.20.18 | Argentina | 1901.20.45 | Argentina |
| 0711.90.30 | Turkey | 2008.30.37 | Argentina |
| 0802.50.20 | Turkey | 2008.99.28 | Turkey |
| 0804.20.60 | Turkey | 3301.24.00 | India |
| 0910.99.40 | Turkey | 3824.90.40 | Indonesia |
| 1007.00.00 | Argentina | 7113.19.29 | India |
| 1202.20.40 | Argentina | 7202.41.00 | Kazakhstan |
| 1701.91.10 | Philippines | 7202.93.80 | Brazil |
| 1701.91.80 | Brazil | 7413.00.50 | Turkey |
| 1901.20.05 | Turkey | 9602.00.50 | Colombia |

(2). adding, in alphabetical order, the following countries opposite the following subheading numbers:

| | | | |
|---|---|---|---|
| 2306.30.00 | Argentina | 7901.12.50 | Kazakhstan |
| 2401.20.57 | India | 8544.30.00 | Indonesia |
| 7113.19.50 | Turkey | | |

Section B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2008, the HTS is modified as provided in this section. For each of the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A" and inserting the symbol "A*" in lieu thereof:

| | | |
|---|---|---|
| 0711.20.18 | 1701.91.80 | 7113.19.29 |
| 0711.90.30 | 1901.20.05 | 7202.41.00 |
| 0802.50.20 | 1901.20.45 | 7202.93.80 |
| 0804.20.60 | 2008.30.37 | 7413.00.50 |
| 0910.99.40 | 2008.99.28 | 9602.00.50 |
| 1007.00.00 | 3301.24.00 | |
| 1202.20.40 | 3824.90.40 | |
| 1701.91.10 | | |

Section C. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2008, the HTS is modified as provided in this section. For each of the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A+" and inserting the symbol "A" in lieu thereof:

7601.10.30
7601.20.30
7604.21.00

**ANNEX II**

**HTS Subheadings and Countries for Which the Competitive Need Limitation Provided in Section 503(c)(2)(A)(i)(II) Is Disregarded**

| | | | | | |
|---|---|---|---|---|---|
| 0410.00.00 | Indonesia | 2903.69.05 | India | 4107.91.40 | India |
| 0603.13.00 | Thailand | 2907.29.25 | India | 4107.92.40 | India |
| 0708.10.20 | Peru | 2908.99.20 | India | 4202.22.35 | India |
| 0710.80.50 | Turkey | 2909.30.10 | India | 4202.92.04 | Philippines |
| 0711.40.00 | India | 2909.50.40 | Indonesia | 4601.22.40 | Indonesia |
| 0713.90.60 | India | 2912.49.10 | India | 4602.19.05 | India |
| 0804.10.60 | Pakistan | 2913.00.50 | India | 5208.31.20 | India |
| 0810.60.00 | Thailand | 2914.40.10 | Brazil | 5208.41.20 | India |
| 0813.40.10 | Thailand | 2918.21.50 | Brazil | 5208.42.10 | India |
| 0813.40.80 | Thailand | 2921.42.21 | India | 5209.31.30 | India |
| 1601.00.40 | Brazil | 2921.42.23 | India | 5209.41.30 | India |
| 1604.14.50 | Philippines | 2921.42.55 | India | 5209.51.30 | India |
| 1701.11.05 | Costa Rica | 2924.21.50 | India | 5308.90.10 | Brazil |
| 1806.10.43 | Venezuela | 2926.90.08 | India | 5311.00.60 | India |
| 2001.90.45 | India | 2927.00.30 | India | 5607.90.35 | Philippines |
| 2008.30.96 | Thailand | 2930.20.10 | India | 6304.99.25 | India |
| 2008.99.50 | Thailand | 2932.29.25 | India | 7113.20.21 | Thailand |
| 2516.20.20 | India | 2934.20.35 | India | 7202.99.20 | Argentina |
| 2603.00.00 | Peru | 3808.93.20 | Indonesia | 7403.12.00 | India |
| 2827.39.25 | India | 3808.94.10 | Argentina | 7407.10.15 | Thailand |
| 2827.39.45 | India | 3824.75.00 | Brazil | 7801.99.30 | Colombia |
| 2827.41.00 | India | 3824.90.32 | Brazil | 8102.99.00 | Russia |
| 2830.90.20 | Russia | 4006.10.00 | India | 8107.90.00 | India |
| 2831.90.00 | India | 4101.20.35 | Thailand | 8112.12.00 | Kazakhstan |
| 2833.29.40 | India | 4101.90.35 | Pakistan | 8112.19.00 | Kazakhstan |
| 2836.99.40 | India | 4104.11.40 | Argentina | 8112.59.00 | Russia |
| 2840.11.00 | Turkey | 4104.19.30 | Pakistan | 8507.40.40 | Philippines |
| 2840.19.00 | Turkey | 4104.41.40 | Argentina | 8528.72.16 | Thailand |
| 2841.50.10 | Colombia | 4106.22.00 | Pakistan | 8528.72.36 | Thailand |
| 2841.61.00 | India | 4107.11.60 | Brazil | 9027.50.10 | Philippines |
| 2843.30.00 | Brazil | 4107.12.70 | Colombia | 9603.10.90 | Sri Lanka |
| 2903.19.10 | India | 4107.19.40 | India | | |

**ANNEX III**

**HTS Subheadings and Countries Granted a Waiver of the Application of Section 503(c)(2)(A) of the 1974 Act**

| | |
|---|---|
| 2001.10.00 | India |
| 4011.10.10 | Indonesia |
| 7413.00.50 | Turkey |

**ANNEX IV**

**HTS Subheadings and Countries for a which a Waiver of the Application of Section 503(c)(2)(A) of the 1974 Act is Revoked**

Effective July 1, 2008, the waiver of the application of section 503(c)(2)(A) of the 1974 Act is revoked for the following HTS subheadings and the countries set out opposite such subheadings.

| | |
|---|---|
| 1202.20.40 | Argentina |
| 7113.19.29 | India |
| 7113.19.50 | Turkey |
| 7202.93.80 | Brazil |

**ANNEX V**

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after April 17, 2008, the Rates of Duty 1-Special subcolumn for subheading 2202.90.37 is modified by deleting the symbol "A" and by inserting of the symbol"A*" in lieu there.

**ANNEX VI**

Effective with respect to goods that are entered, or withdrawn from warehouse for consumption, on or after the effective date of sections D and C, respectively, of the Annex to Presidential Proclamation 8213 of December 20, 2007, the Harmonized Tariff Schedule of the United States (HTS) is hereby modified as follows:

1. Subheading 9822.05.05 (as established by section D, item 3 of the Annex to such Proclamation 8213) is deleted and the following new provisions are inserted in numerical sequence in subchapter XXII of chapter 98, with the material inserted in the columns entitled "Heading/Subheading", "Article Description", and "Rates of Duty 1 Special":

| | | |
|---|---|---|
| | "Apparel goods of chapter 62 for which the treatment provided in U.S. note 21 to this subchapter is appropriate: | |
| 9822.05.11 | If entered into the customs territory of the United States in aggregate quantities not to exceed the quantitative limit specified in U.S. note 21(b) to this subchapter | Free (P) |
| 9822.05.13 | Goods specified in U.S. note 21(c) to this subchapter | Free (P)" |

Conforming change: U.S. note 21(a) (as established by section D, item 2 of the Annex to Proclamation 8213) is modified by deleting "heading 9822.05.05" and by inserting in lieu thereof "subheadings 9822.05.11 and 9822.05.13".

2. The article description of subheading 9822.05.60 (as established by section C of the Annex to Proclamation 8213) is modified by deleting the phrase "(except goods for boys)" and by inserting in lieu thereof "(for goods for boys only)".

**Proclamation 8273 of July 14, 2008**

## FBI Day, 2008

*By the President of the United States of America*
*A Proclamation*

For 100 years, the committed men and women of the Federal Bureau of Investigation have worked diligently to deliver justice and keep Americans safe. On FBI Day, we recognize the Bureau's many accomplishments and pay tribute to all who have served in its ranks with valor and dedication.

The FBI traces its origins to 1908, when under the leadership of President Theodore Roosevelt and Attorney General Charles Bonaparte, a force of Special Agents was created, later to be called the Bureau of Investigation. As a Federal agency with the power to investigate crimes across State lines and enforce Federal law, the FBI has protected our country against threats from abroad and caught dangerous criminals like ''Baby Face'' Nelson, John Dillinger, Ted Kaczynski, and Ramzi Yousef. Today, the FBI is charged with guarding our Nation from terrorist attacks, combating public corruption and organized crime, resisting cyber attacks, and opposing other high-technology crimes. The FBI also has a deep commitment to civil rights, helping protect the values we cherish.

With an abiding respect for the Constitution, the men and women of the FBI bring strength, impartiality, and devotion to their pursuit of justice. They continue to uphold their motto of ''Fidelity, Bravery, Integrity.'' On FBI Day, we especially remember the fallen agents who paid the ultimate price in serving our country and keeping our Nation safe.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim July 26, 2008, as FBI Day. I call upon all Americans to recognize the 100th anniversary of the Federal Bureau of Investigation.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of July, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8274 of July 18, 2008**

## Captive Nations Week, 2008

*By the President of the United States of America*
*A Proclamation*

Freedom is the longing of every soul and the birthright of all mankind. During Captive Nations Week, we underscore our commitment to advancing democracy, defending liberty, and protecting human rights around the world.

It is in our Nation's interest to help those who are suffering under oppressive regimes defeat the ideologues of hate with an ideology of hope. Advancing the cause of liberty advances the cause of peace. A free society upholds justice and defends human dignity. Over the years, many have underestimated the power of freedom to overcome tyranny, but history has shown us that freedom will prevail.

In the 20th century, the evils of Soviet communism and Nazi fascism were defeated and freedom spread around the world as new democracies emerged. Today, our Nation faces new struggles with adversaries who murder the innocent and seek to subject millions to their violent, totalitarian rule. Still, we remain confident that the light of liberty will again overcome this darkness.

To bring that day about, we must support young democracies in places like Afghanistan and Iraq. In countries like Belarus, Burma, Cuba, Iran, North Korea, Sudan, Syria, and Zimbabwe, people continue to live under oppressive regimes, and we will work for the day when all these nations are free. By opposing these despots and helping young democracies grow, we will lay the foundation of peace and prosperity for generations to come. Throughout Captive Nations Week, we renew our pledge that as people across the world find their own paths to freedom, they will also find a friend in the United States of America.

The Congress, by Joint Resolution approved July 17, 1959 (73 Stat. 212), has authorized and requested the President to issue a proclamation designating the third week in July of each year as ''Captive Nations Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim July 20 through July 26, 2008, as Captive Nations Week. I call upon the people of the United States to reaffirm our commitment to all those seeking liberty, justice, and self-determination.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of July, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8275 of July 23, 2008**

## 60th Anniversary of the Integration of the United States Armed Forces

*By the President of the United States of America*
*A Proclamation*

The United States is founded upon the belief that every person has unalienable rights and matchless value. Throughout our Nation's history, brave patriots have made great sacrifices to protect this ideal and to advance the cause of freedom around the world. On the 60th anniversary of the integration of the United States Armed Forces, we pay

tribute to all our service members and veterans, and we underscore our Nation's commitment to equality.

On July 26, 1948, President Harry Truman signed Executive Order 9981, declaring ''that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin.'' Today, members of our Armed Forces come from many different backgrounds and cultures and are answering the call to service with bravery, decency, and resolve.

Our Nation has long drawn strength from the diversity of its citizens. Groups such as the Buffalo Soldiers, the 442nd Regimental Combat Team, the Tuskegee Airmen, and the ''Borinqueneers'' risked their lives while proudly wearing the uniform of the United States. By performing their missions with integrity and honor, they highlighted the power of liberty, helped open the door of opportunity, and earned the respect and admiration of a grateful Nation.

On this anniversary, we celebrate the legacy of those who refused to allow adversity to diminish their spirit or extinguish their drive to help America live up to its promise of equality for all people. We also commemorate our veterans and service members whose noble and selfless actions have inspired generations of men and women to follow in their footsteps and made our country a more hopeful place.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim July 26, 2008, as the 60th Anniversary of the Integration of the United States Armed Forces and urge all Americans to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of July, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8276 of July 24, 2008**

## Anniversary of the Americans with Disabilities Act, 2008

*By the President of the United States of America*

*A Proclamation*

The Americans with Disabilities Act (ADA) has helped tear down barriers for millions of people living with disabilities. On the anniversary of this important legislation, our Nation underscores our commitment to ensuring that all individuals have an equal opportunity to realize their full potential.

On July 26, 1990, President George H. W. Bush signed this groundbreaking Act into law, better enabling citizens with disabilities to participate fully in all aspects of life. Over the course of nearly two decades, this Act has made our schools and workplaces more welcoming, helped change attitudes that once seemed unchangeable, and expanded opportunity for many exceptional Americans. The ADA is

one of the most successful civil rights laws in our history and has been an essential part of countless American lives.

My Administration is committed to working to empower those with disabilities so that all our people can achieve the American dream. Building on the success of the ADA, the New Freedom Initiative of 2001 has had a positive impact for many of our citizens. Technological advances have helped individuals gain greater access to everyday life. Students with disabilities are given the tools they need to succeed, and in the workplace, innovative hiring and employment practices are helping to integrate Americans with disabilities into the workforce. The Ticket to Work and AbilityOne programs have helped them become more self-sufficient by expanding access to employment. Our Nation has benefited from the progress we have made since the enactment of the ADA, and it is our responsibility to continue working toward a country where all people are treated with the respect and dignity they deserve.

On this anniversary, we highlight our commitment to the ADA and celebrate the progress that has been made toward full participation of people with disabilities in our society.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim July 26, 2008, as a day in celebration of the 18th Anniversary of the Americans with Disabilities Act. I call on all Americans to celebrate the vital contributions of individuals with disabilities as we work towards fulfilling the promise of the ADA to give all our citizens the opportunity to live with dignity, work productively, and achieve their dreams.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of July, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8277 of July 24, 2008**

## Parents' Day, 2008

*By the President of the United States of America*
*A Proclamation*

Parents teach their children timeless values to help them make the most of life's opportunities and overcome its challenges. On Parents' Day, we pay tribute to the parents who provide their children with guidance, support, and unconditional love and who help make our country a better place.

Mothers and fathers are a source of stability and great comfort in society, and they have a vital obligation to love and care for their children. Through patient instruction and a loving example, they instill in children the principles that make our Nation strong and ensure that children have the skills to lead lives of character and integrity. As a child's primary teachers, parents are responsible for their child's education,

and their efforts will contribute to a more hopeful future for our country. Parents can help shape our Nation by encouraging young people to make the right choices, become responsible citizens, and achieve their dreams.

My Administration remains dedicated to promoting Federal, State, and faith-based and community programs to assist American families and support healthy marriages and responsible parenting. We are committed to helping parents and schools enable the next generation of Americans to realize their full potential.

On Parents' Day, we honor mothers and fathers and thank them for their many years of patience and selflessness. We take this opportunity also to recognize parents of adopted children and foster parents, who generously provide children with a loving family to call their own. We also recognize the parents who serve in our Armed Forces and the parents of the brave men and women wearing our Nation's uniform. The members of our Armed Forces are defending our freedom with dignity and honor, and America is grateful for the sacrifices that they and their families make in the name of duty.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States and consistent with Public Law 103–362, as amended, do hereby proclaim Sunday, July 27, 2008, as Parents' Day. I call upon citizens, private organizations, and governmental bodies at all levels to engage in activities and educational efforts that recognize, support, and honor parents, and I encourage American sons and daughters to convey their love, respect, and appreciation to their parents.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of July, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8278 of August 22, 2008**

## Women's Equality Day, 2008

*By the President of the United States of America*

*A Proclamation*

With vision and determination, American women have helped build our great Nation. On Women's Equality Day, we remember the dedication of women who overcame many obstacles in order to secure the right to vote.

The struggle for women's rights is a story of strong women willing to take the lead and pave the way toward equal voting rights for all American citizens. In 1848, a group of determined women came together in Seneca Falls, New York, to proclaim that ''all men and women are created equal,'' and demand suffrage. On August 26, 1920, their voices were finally heard, and the 19th Amendment to the Constitution guaranteed women the right to vote.

As we look back on the journey to women gaining suffrage, we remember the sacrifices of people like Susan B. Anthony and Elizabeth Cady Stanton. More than 160 years after the Seneca Falls Convention, we celebrate the spirit, leadership, and hard work of those pioneering women. We also recognize the women who continue in this tradition by acting as role models in their communities, helping raise the next generation of Americans, leading in their professions, and serving in the Armed Forces protecting our country. These women are continuing on the path set by those who came before them, so that all Americans can realize the great promise of our Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 26, 2008, as Women's Equality Day. I call upon the people of the United States to celebrate the achievements of women and observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of August, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8279 of August 25, 2008**

## National Prostate Cancer Awareness Month, 2008

*By the President of the United States of America*

*A Proclamation*

National Prostate Cancer Awareness Month is an opportunity to underscore our commitment to fighting prostate cancer and to raise awareness about this highly treatable disease.

Prostate cancer is the second most common type of cancer found in men, and one in six men will develop it during their lifetime. The cause of prostate cancer remains unknown, but early detection can lead to better treatment and increase the chances of survival. It is important for men to talk to their physicians about risk factors, prevention, and preventive screenings.

My Administration remains committed to helping America's dedicated medical professionals learn more about the cause of prostate cancer and develop new and better ways to combat it. Since 2005, the Cancer Genome Atlas has studied the genetic sources of all types of cancer. By supporting medical research, conducting clinical trials, and developing new surgical techniques to help patients recover quickly, the National Institutes of Health, the National Cancer Institute, and the Centers for Disease Control and Prevention are helping lead the fight against prostate cancer.

During National Prostate Cancer Awareness Month, we remember those who lost the battle against prostate cancer, and we pray for their families and friends. We also remember those living with prostate cancer, celebrate the lives of survivors, and thank all the medical professionals

who aid in these victories. By continuing our fight against this disease, we will make our Nation a healthier and more hopeful place.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 2008 as National Prostate Cancer Awareness Month. I call upon government officials, businesses, communities, health care professionals, educators, and the people of the United States to reaffirm our Nations strong and ongoing commitment to the fight against prostate cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8280 of August 25, 2008**

## Minority Enterprise Development Week, 2008

*By the President of the United States of America*
*A Proclamation*

The opportunities of America make our land a beacon of hope for people from every corner of the world. America's minority-owned businesses contribute greatly to our economy and the richness of our country. During Minority Enterprise Development Week, we recognize minority entrepreneurs and recommit ourselves to fostering an environment where everyone can attain the American dream.

In America, people's dreams matter more than their background. Across our country, minority business owners are working hard to achieve their goals and helping to extend the promises of America to their fellow citizens. These businesses and their employees are vital contributors to our national prosperity.

My Administration has lowered taxes, supported pro-growth policies, and enacted an economic stimulus package to encourage small and medium-sized business growth. By keeping more money in the hands of families and small businesses, they can save, invest, spend, and give back to their communities. Our economy is resilient and dynamic because Americans are the most industrious, creative, and enterprising people in the world and because we believe in a free market economy that rewards those qualities.

During Minority Enterprise Development Week, we recognize the value minority entrepreneurs and their employees add to our country. They are vital to our Nation's economic strength and an essential part of our national heritage.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 31 through September 6, 2008, as Minority Enterprise Development Week. I call upon all Americans to celebrate this week with appropriate pro-

grams, ceremonies, and activities to recognize the many contributions of our Nation's minority enterprises.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8281 of August 26, 2008**

## National Ovarian Cancer Awareness Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National Ovarian Cancer Awareness Month, we remember those whose lives have been affected by this deadly disease, and we underscore our commitment to battling ovarian cancer for the sake of women around the world.

Each year, thousands of American women are diagnosed with ovarian cancer. Many will lose their lives to this disease. Because ovarian cancer is often diagnosed at an advanced stage, it is vital for women to make regular visits to their doctors for screenings and to discuss risk factors and warning signs. Early detection is the best way to help doctors diagnose cancer before it has a chance to spread. It also makes treatment more effective and increases the chances for survival. I encourage all women to learn more about preventive measures and screening options that may help to save their lives.

America leads the world in medical research, and my Administration remains dedicated to the fight against ovarian cancer. I signed the ''Gynecologic Cancer Education and Awareness Act of 2005,'' or ''Johanna's Law,'' that helps to raise awareness among women and health care providers about female reproductive cancers. Additionally, the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention are conducting important research to help make the innovative advances we need in order to eradicate this disease. NIH's Cancer Genome Atlas is also helping researchers gain a greater understanding of the genetic sources of cancer. Together, we will continue building on our progress until there is a cure for cancer. As we observe National Ovarian Cancer Awareness Month, we honor those who have fought this disease. We also recognize the compassionate caregivers, doctors, and researchers who are dedicated to preventing, detecting, and treating ovarian cancer.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2008 as National Ovarian Cancer Awareness Month. I call upon government officials, businesses, communities, health care professionals, educators, volunteers, and the people of the United States to continue our Nation's strong commitment to preventing and treating ovarian cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of August, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8282 of August 26, 2008**

## National Preparedness Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National Preparedness Month, we underscore the important responsibility Americans have to be ready for emergencies in our homes, businesses, and communities.

The Department of Homeland Security's *Ready* campaign highlights preparedness steps, including having an emergency supply kit, making a family emergency plan, and becoming informed about different types of emergencies. After preparing themselves and their families, Americans can take the next step and get involved in helping to prepare their communities for all types of emergencies. For more information, citizens may visit www.ready.gov and citizencorps.gov.

During National Preparedness Month, we also honor our Nation's police officers, firefighters, and emergency personnel for their hard work and commitment to protecting others. As first responders, they have demonstrated the true meaning of heroism by taking great risks to safeguard our communities, and all Americans are grateful for their efforts.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 2008 as National Preparedness Month. I call upon the people of the United States to recognize the importance of preparing for potential emergencies and to observe this month by participating in appropriate events, activities, and preparedness programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of August, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8283 of August 27, 2008**

## National Alcohol and Drug Addiction Recovery Month, 2008

*By the President of the United States of America*
*A Proclamation*

Substance abuse is an unrelenting evil that destroys lives, ruins families, and endangers neighborhoods. During National Alcohol and Drug Addiction Recovery Month, we emphasize our commitment to alcohol and drug addiction prevention. This month is also an opportunity to recognize those who have had the courage to combat and overcome addiction.

Alcohol and drug abuse require an aggressive response. My Administration will continue to help educate our children through the National Youth Anti-Drug Media Campaign. This Campaign urges parents and adults to safeguard our young people from the abuse of prescription drugs, focuses on random drug-testing in schools and in the workplace, and creates drug-free community coalitions. First Lady Laura Bush leads the Helping America's Youth initiative, which assists our youth in making healthy life choices through the participation of caring adults in their lives. The dedicated efforts of families, teachers, law enforcement, faith-based groups, and community activists are all important.

We are also working to reduce the supply of illegal drugs coming into our country and fighting demand here at home. In order to disrupt the market for illegal drugs, the National Drug Control Strategy report has coordinated law enforcement efforts throughout our Nation to help dismantle channels of distribution, and we are also working with foreign governments to eradicate the trafficking of illegal drugs.

Too many of our citizens have been swept up in a cycle of addiction. Through faith-based and community groups, we have revolutionized the way we help people break the chains of addiction. The Access to Recovery program provides addicts with vouchers so that they can attend the treatment center of their choice. Our Nation's armies of compassion have helped nearly 200,000 clients rediscover their dignity and purpose through this program.

During National Alcohol and Drug Addiction Recovery Month and throughout the year, we underscore the worthy mission of confronting substance abuse. This year's theme, ''Join the Voices of Recovery: Real People, Real Recovery,'' highlights the importance of providing hope and love to those who are trying to overcome drug and alcohol addiction and rebuild their lives. For more information on how to help fellow citizens and continue building a stronger community, visit recoverymonth.gov.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 2008 as National Alcohol and Drug Addiction Recovery Month. I call upon the people of the United States to observe this month with the appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of August, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8284 of August 28, 2008**

## National Days of Prayer and Remembrance, 2008

*By the President of the United States of America*
*A Proclamation*

During National Days of Prayer and Remembrance, we pay special tribute to the thousands of innocent victims who died on September 11, 2001. Our Nation honors the brave citizens, service members, police officers, and firefighters who heroically responded in the face of terror. On these important days, we reflect on the terrible events of September 11, 2001, and lift the victims and their families in our prayers.

Our Nation will never forget the individuals who lost their lives in New York, Pennsylvania, and at the Pentagon. America remains inspired by the countless acts of kindness and sacrifice we saw that day—fearless rescuers who rushed toward danger, a beloved priest who died helping others, two office workers who carried a disabled person 68 floors to safety.

We also pray for the safety and success of the members of our Armed Forces now serving freedom's cause. We seek God's grace on their families, and commit to Heaven's care those brave men and women He has called home. We ask the Almighty to watch over America and pray for His providence and continued blessings on our country. May He always guide the United States of America. As we defend our country against its enemies, we pray for help in protecting the gift of freedom from those who seek to destroy it, and we ask the Almighty to strengthen all those securing liberty on distant shores.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Friday, September 5, through Sunday, September 7, 2008, as National Days of Prayer and Remembrance. I ask that the people of the United States and their places of worship mark these National Days of Prayer and Remembrance with memorial services, the ringing of bells, and evening candlelight remembrance vigils. I also invite all people across the world to share in these Days of Prayer and Remembrance.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of August, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8285 of September 3, 2008**

## National Historically Black Colleges and Universities Week, 2008

*By the President of the United States of America*

*A Proclamation*

Historically Black Colleges and Universities (HBCUs) are helping to extend lifelines of learning throughout our country. During Historically Black Colleges and Universities Week, we pay tribute to these distinguished institutions.

Our Nation's HBCUs help unlock the great potential within students by providing quality higher education to traditionally underserved communities. By offering all students an opportunity to develop their skills and talents, HBCUs are helping more Americans realize the promise of our Nation.

My Administration is committed to promoting equal opportunities and access to higher education for all students. Since 2001, funding for HBCUs and Historically Black Graduate Institutions has increased. Additionally, the College Cost Reduction and Access Act of 2007 makes college more affordable for low-income students by increasing funding for Federal Pell Grants by more than $11 billion. The Act also helps HBCUs increase educational opportunities in the critical fields of math, science, technology, and foreign languages. By educating all of America's students, we are investing in our next generation of leaders and contributing to a more hopeful people and a more prosperous America.

Throughout this week, we renew the call for this country to never rest until equality is real, opportunity is universal, and all citizens can realize their dreams. We also recognize our country's HBCUs and their important role in making these goals a reality.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 7 through September 13, 2008, as National Historically Black Colleges and Universities Week. I call upon public officials, educators, librarians, and all the people of the United States to observe this week with appropriate programs, ceremonies, and activities in respect and appreciation for the contributions these valuable institutions and their graduates have made to our country.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of September, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8286 of September 8, 2008**

## Patriot Day, 2008

*By the President of the United States of America*
*A Proclamation*

September 11, 2001, was etched into America's memory when 19 terrorists attacked us with barbarity unequaled in our history. On Patriot Day, we cherish the memory of the thousands of innocent victims lost, extend our thoughts and prayers to their families, and honor the heroic men and women who risked and sacrificed their lives so others might survive.

Since 9/11, we have recognized the threat posed by terrorists to the safety of the American people and worked to protect our homeland by fighting terrorists abroad. We are confronting terrorism by advancing freedom, liberty, and prosperity as an alternative to the ideologies of hatred and repression. Our Nation pays tribute to our courageous men and women in uniform serving around the world and the devoted members of our law enforcement, public safety, and intelligence communities at home who work night and day to protect us from harm and preserve the freedom of this great Nation.

Seven years ago, ordinary citizens rose to the challenge, united in prayer, and responded with extraordinary acts of courage, with some giving their lives for the country they loved. On Patriot Day, we remember all those who were taken from us in an instant and seek their lasting memorial in a safer and more hopeful world. We must not allow our resolve to be weakened by the passage of time. We will meet the test that history has given us and continue to fight to rid the world of terrorism and promote liberty around the globe.

By a joint resolution approved December 18, 2001 (Public Law 107–89), the Congress has designated September 11 of each year as ''Patriot Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim September 11, 2008, as Patriot Day. I call upon the Governors of the United States and the Commonwealth of Puerto Rico, as well as appropriate officials of all units of government, to direct that the flag be flown at half-staff on Patriot Day. I also call upon the people of the United States to observe Patriot Day with appropriate ceremonies, activities, and remembrance services, to display the flag at half-staff from their homes on that day, and to observe a moment of silence beginning at 8:46 a.m. eastern daylight time to honor the innocent Americans and people from around the world who lost their lives as a result of the terrorist attacks of September 11, 2001.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8287 of September 12, 2008**

## National Hispanic Heritage Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National Hispanic Heritage Month, we recognize the many Americans of Hispanic descent who have made outstanding contributions to our Nation.

The rich cultural traditions of the Hispanic-American community have made a remarkable impact on American society. The diverse backgrounds of Hispanic Americans and their dedication to family have become an integral part of America. With a deep commitment to faith and a strong desire to live the American dream, these citizens are realizing the full blessings of liberty. Educational opportunities are helping a new generation work toward success, and many Hispanic Americans operate thriving small businesses.

We also honor Hispanic Americans for their strong tradition of service in the Armed Forces. These proud patriots have fought in every war since our founding, and many have earned the Medal of Honor for their courage. Hispanic service men and women have shown their love for the United States by answering the call to serve, and we owe them and their families a tremendous debt of gratitude. Their patriotism and valor have added to the character of our Nation.

National Hispanic Heritage Month is an opportunity to celebrate the spirit and accomplishments of Hispanic Americans everywhere. To honor those achievements, the Congress, by Public Law 100–402, as amended, has authorized and requested the President to issue annually a proclamation designating September 15 through October 15 as ''National Hispanic Heritage Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 15 through October 15, 2008, as National Hispanic Heritage Month. I call upon public officials, educators, librarians, and all the people of the United States to observe this month with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of September, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8288 of September 12, 2008**

## National Employer Support of the Guard and Reserve Week, 2008

*By the President of the United States of America*
*A Proclamation*

Throughout history, America has counted on brave individuals willing to put on the uniform to protect our land and defend our way of life. This week we honor and recognize the many contributions members of our National Guard and Reserve make to our Nation, and we thank the civilian employers who support these individuals as they answer the call of duty.

The men and women of the National Guard and Reserve have demonstrated the highest form of citizenship, and their service is vital to the security of our country and the peace of the world. As the early patriots who claimed our Nation's liberty did, today's Guard and Reserve are fighting a new and unprecedented war and pledging their lives and honor to defend our freedom. As many of those early patriots did, members of today's Guard and Reserve lead civilian lives but stand ready to wear our Nation's uniform when liberty is threatened. The families of the National Guard and Reserve serve our Nation by proudly standing behind these brave men and women, and America appreciates their sacrifice as well.

In all they do, the National Guard and Reserve and their families represent the best of the American spirit.

Our Nation also depends on the commitment of the civilian employers of the members of the National Guard and Reserve. In offices and factories across America, organizations do without the talents of many hard-working people who have been called upon to protect our country. Our Nation's employers provide time off, pay, healthcare benefits, and job security because they care about and love their country. These businesses have put patriotism above profit, and they deserve the gratitude of all Americans.

During National Employer Support of the Guard and Reserve Week, a grateful country pays tribute to the men and women of the National Guard and Reserve, and we express our gratitude to the employers who support them and help enable them to serve.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 14 through September 20, 2008, as National Employer Support of the Guard and Reserve Week. I encourage all Americans to join me in expressing our thanks to members of our National Guard and Reserve and their civilian employers for their patriotism and sacrifices on behalf of our Nation. I also call upon State and local officials, private organizations, businesses, and all military commanders to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of September, in the year of our Lord two thousand eight, and of the

Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8289 of September 17, 2008**

## Constitution Day and Citizenship Day, Constitution Week, 2008

*By the President of the United States of America*
*A Proclamation*

Americans are united by the ideals of equal justice, limited government, and the rule of law. On Constitution Day and Citizenship Day and during Constitution Week, we remember the vision and determination of the Framers to build a free society, and we celebrate the historical document they created to achieve that goal.

More than two centuries ago, our Founding Fathers gathered in Philadelphia and produced a charter that would promote justice and preserve the liberty of all our citizens. The Founders established three separate branches of Government with a system of checks and balances among them. Ours is the oldest written constitution in the world, and the American experiment remains the world's best hope for freedom.

The Constitution forged the American creed of liberty and equality and has lifted the lives of countless individuals. Whether they are citizens by birth or by oath, Americans share a great tradition of enjoying liberty protected by a constitutional government of their choosing.

On Constitution Day and Citizenship Day, and during Constitution Week, Americans come together and recognize the blessings bestowed upon our great Nation. On this occasion we celebrate the courage of the Constitution's drafters and recommit ourselves to making the United States a more perfect union.

In recognition of the signing of the Constitution and of Americans who strive to fulfill the duties and responsibilities of citizenship, the Congress, by joint resolution of February 29, 1952 (36 U.S.C. 106, as amended), designated September 17 as ''Constitution Day and Citizenship Day,'' and by joint resolution of August 2, 1956 (36 U.S.C. 108, as amended), requested that the President proclaim the week beginning September 17 and ending September 23 of each year as ''Constitution Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim September 17, 2008, as Constitution Day and Citizenship Day, and September 17 through September 23, 2008, as Constitution Week. I encourage Federal, State, and local officials, as well as leaders of civic, social, and educational organizations, to conduct ceremonies and programs that celebrate our Constitution and reaffirm our rights and responsibilities as citizens of this great Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of September, in the year of our Lord two thousand eight, and of

the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8290 of September 17, 2008**

## National POW/MIA Recognition Day, 2008

*By the President of the United States of America*
*A Proclamation*

On National POW/MIA Recognition Day, we honor the brave and patriotic Americans who were held as prisoners of war, and we remember those who are still missing in action. For their valor and selfless devotion to protect the country they love, our Nation owes them a debt we can never fully repay. On this day we underscore our commitment and pledge to those who are still missing in action and to their families that we will not rest until we have achieved the fullest possible accounting for every member of our Armed Forces missing in the line of duty.

To observe this important day, the National League of Families POW/MIA flag is flown over the Capitol, the White House, the World War II Memorial, the Korean War Veterans Memorial, the Vietnam Veterans Memorial, and other locations across our country. The flag is a solemn reminder of our Nation's enduring obligation and promise to our courageous service members who remain missing and a tribute to those who have been imprisoned while serving their country in conflicts around the world.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Friday, September 19, 2008, as National POW/MIA Recognition Day. I call upon the people of the United States to join me in honoring and remembering all former American prisoners of war and those missing in action for their valiant service to our Nation. I also call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of September, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8291 of September 18, 2008**

## National Farm Safety and Health Week, 2008

*By the President of the United States of America*
*A Proclamation*

Agriculture has always been a vital part of America's economy and culture, and our farmers and ranchers are among the best stewards of our land. During National Farm Safety and Health Week, we recognize those working in agriculture for their contributions to our Nation's prosperity, security, and health, and we also seek to raise awareness about the occupational hazards of this industry.

Farming and ranching are strenuous occupations, and workers can be exposed to many dangers, including those associated with extreme weather conditions, operating heavy machinery, and working with livestock. Teaching awareness about potential dangers, implementing preventative measures, and supervising children as they work and play can help mitigate risks and reduce the number of injuries and fatalities on farms and ranches.

Our Nation's farmers and ranchers exemplify the American values of hard work, deep commitment to faith, and love of family. During National Farm Safety and Health Week, we celebrate these extraordinary men and women who are building a prosperous future for our country.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 21 through September 27, 2008, as National Farm Safety and Health Week. I call upon the agencies, organizations, and businesses that serve America's agricultural workers to continue to strengthen their commitment to promoting farm safety and health programs. I also urge all Americans to honor our agricultural heritage and to recognize our farmers and ranchers for their remarkable contributions to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of September, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8292 of September 19, 2008**

## Family Day, 2008

*By the President of the United States of America*
*A Proclamation*

Strong families are essential to the well-being of our Nation. On Family Day, we celebrate the relationship between parents and their children, and we recognize the importance of families spending time together.

As a source of hope, guidance, stability, and love for every generation, families both teach and exemplify the values and virtues needed in to-

day's changing world. As parents and as role models to America's children, we can help prepare our children for a bright future by offering steadfast support and unconditional love.

The character of a child is formed in his or her earliest years by the love and guidance of family members and other caring individuals. Since 2001, my Administration has worked to strengthen the American family, and we have worked with faith-based and community organizations to promote healthy marriages and responsible fatherhood. By striving to ensure that children remain connected to their families, communities, places of worship, and schools, we are helping them make good choices and build lives of purpose.

Parents are the primary teachers of our Nation's youth, and they are the first ones to educate them about the differences between right and wrong. By being proactive and involved in a child's life, families pass along the traditions and principles that help make America a compassionate, decent, and hopeful society.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 22, 2008, as Family Day. I call upon the people of the United States to observe this day by engaging in activities that strengthen the bonds between children and parents.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of September, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8293 of September 24, 2008**

## Gold Star Mother's Day, 2008

*By the President of the United States of America*

*A Proclamation*

Throughout our history, the men and women of the Armed Forces have put our Nation's security before their own, doing their duty in the face of grave danger. On Gold Star Mother's Day, we pay solemn tribute to the mothers of the patriots lost serving this great Nation.

Gold Star Mothers inspire our Nation with their deep devotion to family and country. These extraordinary women serve their communities, dedicate their time to helping members of our Armed Forces and veterans, and bring comfort and hope to families whose loved ones laid down their lives in the defense of our liberty. Nothing can compensate for their sacrifice and loss, yet Gold Star Mothers demonstrate tremendous courage and resolve while working to preserve the memory and legacy of all our fallen heroes.

On this day, we honor our country's Gold Star Mothers and remember their sons' and daughters' noble service and great sacrifice. We offer them our deepest gratitude and our most profound respect, and we ask for God's blessings to be upon them and their families.

The Congress, by Senate Joint Resolution 115 of June 23, 1936 (49 Stat. 1895 as amended), has designated the last Sunday in September as ''Gold Star Mother's Day'' and has authorized and requested the President to issue a proclamation in its observance.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Sunday, September 28, 2008, as Gold Star Mother's Day. I call upon all Government officials to display the flag of the United States over Government buildings on this special day. I also encourage the American people to display the flag and hold appropriate ceremonies as a public expression of our Nation's sympathy and respect for our Gold Star Mothers.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of September, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8294 of September 26, 2008**

## To Implement Amendments to the Burmese Freedom and Democracy Act of 2003

*By the President of the United States of America*

*A Proclamation*

1. Section 3A(b)(1) of the Burmese Freedom and Democracy Act of 2003 (Public Law 108–61) (the ''Burmese Freedom and Democracy Act''), as amended by section 6(a) of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (Public Law 110–286) (the ''JADE Act''), directs the President to prohibit the importation of jadeite and rubies mined or extracted from Burma, as well as the importation of articles of jewelry containing jadeite and rubies mined or extracted from Burma (Burmese covered articles), until such time as the President determines and certifies to the appropriate congressional committees that Burma has met the conditions described in section 3(a)(3) of the Burmese Freedom and Democracy Act.

2. Sections 3A(c)(1) and 3A(c)(2) of the Burmese Freedom and Democracy Act, as amended, set forth certain conditions for the importation of jadeite and rubies mined or extracted from countries other than Burma, as well as for the importation of articles of jewelry containing jadeite and rubies mined or extracted from countries other than Burma (non-Burmese covered articles).

3. Section 3A(c)(2) of the Act, as amended, also permits the President to waive the conditions for importation set forth in section 3A(c)(1) of non-Burmese covered articles from any country with respect to which the President determines and certifies to the appropriate congressional committees that the country has implemented certain measures to prevent the trade in Burmese covered articles. 4. In order to implement the prohibitions on the importation of Burmese covered articles and the conditions for importation of non-Burmese covered articles set forth in sections 3A(b)(1), 3A(c)(1), and 3A(c)(2) of the Burmese Free-

dom and Democracy Act, as amended, it is necessary to modify the Harmonized Tariff Schedule of the United States (HTS) to include an additional U.S. Note to chapter 71.

5. Section 604 of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

6. Sections 3A(b)(2) and 3A(c)(3) of the Burmese Freedom and Democracy Act, as amended, authorize the President to issue such proclamations, regulations, licenses, and orders, and conduct such investigations, as may be necessary to implement the prohibition on Burmese covered articles set forth in section 3A(b)(1) of that Act and the conditions for importation of non-Burmese covered articles set forth in sections 3A(c)(1) and 3A(c)(2) of that Act.

7. I have determined that it is appropriate to authorize the Secretary of the Treasury and the Secretary of Homeland Security, pursuant to sections 3A(b)(2) and 3A(c)(3) of the Burmese Freedom and Democracy Act, as amended, to issue regulations, licenses, and orders, and conduct such investigations as may be necessary, to implement the prohibition on importation of Burmese covered articles set forth in section 3A(b)(1) of that Act and the conditions for importation of non-Burmese covered articles set forth in sections 3A(c)(1) and 3A(c)(2) of that Act. I further determine that it is appropriate to authorize the Secretary of the Treasury and the Secretary of Homeland Security to redelegate, as necessary, any of these functions to other officers and agencies of the United States Government consistent with applicable law.

8. I have determined that it is appropriate to authorize the Secretary of the Treasury, in consultation with the Secretary of State, to perform the functions set forth in section 3A(c)(2)(A) of the Burmese Freedom and Democracy Act, as amended, relating to the issuance waivers of the conditions for importation set forth in section 3A(c)(1) of non-Burmese covered articles from any country that has implemented certain measures to prevent the trade in Burmese covered articles. I further determine that it is appropriate to authorize the Secretary of the Treasury to redelegate, as necessary, any of these functions to other officers and agencies of the United States Government consistent with applicable law.

9. Section 3A(b)(3)(A) of the Burmese Freedom and Democracy Act, as amended, directs the President to take all appropriate actions to seek issuance of a draft waiver decision by the Council for Trade in Goods of the World Trade Organization (WTO) granting a waiver of the applicable WTO obligations with respect to the provisions of section 3A of the Burmese Freedom and Democracy Act, as amended, and any measures taken to implement it.

10. I have determined that it is appropriate to authorize the United States Trade Representative to perform the functions specified in section 3A(b)(3)(A) of the Burmese Freedom and Democracy Act, as amended.

11. Section 3A(b)(3)(B) of the Burmese Freedom and Democracy Act, as amended, directs the President to take all appropriate actions to

seek the adoption of a resolution by the United Nations General Assembly expressing the need to address trade in Burmese covered articles and calling for the creation and implementation of a workable certification scheme for non-Burmese covered articles to prevent the trade in Burmese covered articles.

12. I have determined that it is appropriate to authorize the Secretary of State to perform the functions specified in section 3A(b)(3)(B) of the Burmese Freedom and Democracy Act, as amended.

13. Section 3A(g) of the Burmese Freedom and Democracy Act, as amended, directs the President to, not later than January 26, 2009, transmit to the appropriate congressional committees a report describing what actions the United States has taken during the 60-day period beginning on the date of the enactment of the JADE Act to seek (i) the issuance of a draft waiver decision by the Council for Trade in Goods of the WTO, as specified in section 3A(b)(3)(A) of the Burmese Freedom and Democracy Act, as amended; (ii) the adoption of a resolution by the United Nations General Assembly, as specified in section 3A(b)(3)(B) of that Act; and (iii) the negotiation of an international arrangement, as specified in section 3A(f)(1) of that Act.

14. I have determined that it is appropriate to authorize the Secretary of State, in consultation with the United States Trade Representative, to perform the functions specified in section 3A(g) of the Burmese Freedom and Democracy Act, as amended.

15. Under section 3(b) of the Burmese Freedom and Democracy Act, as amended by section 6(c) of the JADE Act, the President may waive the restrictions described above if the President determines and notifies the Committees on Appropriations, Finance, and Foreign Relations of the Senate and the Committees on Appropriations, Foreign Affairs, and Ways and Means of the House of Representatives that to do so is in the national interest of the United States.

16. I have determined that it is appropriate to authorize the Secretary of State to perform the functions and authorities specified in section 3(b) of the Burmese Freedom and Democracy Act, as amended.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including sections 3 and 3A of the Burmese Freedom and Democracy Act, as amended by section 6 of the JADE Act, section 604 of the 1974 Act, and section 301 of title 3, United States Code, do proclaim that:

(1) In order to implement the prohibition on the importation of Burmese covered articles and the conditions for the importation of non-Burmese covered articles provided for in sections 3A(b)(1) and 3A(c)(1) of the Burmese Freedom and Democracy Act, as amended, an additional U.S. Note as set forth in the Annex to this proclamation is included in chapter 71 of the HTS.

(2) Beginning on September 27, 2008, the importation into the United States of any Burmese covered article shall be prohibited, except as provided for (i) in section 3A(d) of the Burmese Freedom and Democracy Act, as amended; (ii) in regulations, orders, directives, or licenses that may be issued pursuant to this proclamation and section 3A(b)(2) of the Burmese Freedom and Democracy Act, as amended; or (iii) by

waiver issued pursuant to section 3(b) of the Burmese Freedom and Democracy Act, as amended.

(3) Beginning on September 27, 2008, as a condition for the importation into the United States of any non-Burmese covered article, the importer and exporter of such article must meet the conditions set forth in section 3A(c)(1) of the Burmese Freedom and Democracy Act, as amended, except as provided for (i) in section 3A(d) of that Act; (ii) in regulations, orders, directives, or licenses issued pursuant to this proclamation and section 3A(c)(3) of the Burmese Freedom and Democracy Act, as amended; or (iii) by waiver issued pursuant to either section 3(b) or section 3A(c)(2) of the Burmese Freedom and Democracy Act, as amended.

(4) The Secretary of the Treasury and the Secretary of Homeland Security are hereby authorized, pursuant to sections 3A(b)(2) and 3A(c)(3) of the Burmese Freedom and Democracy Act, as amended, to issue regulations, licenses, and orders, and conduct such investigations as may be necessary, to implement the prohibition on Burmese covered articles set forth in section 3A(b)(1) of that Act and the conditions for importation of non-Burmese covered articles set forth in sections 3A(c)(1) and 3A(c)(2) of that Act. The Secretary of the Treasury and the Secretary of Homeland Security are further authorized to redelegate, as necessary, any of these functions to other officers and agencies of the United States Government consistent with applicable law.

(5) The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to perform the functions set forth in section 3A(c)(2)(A) of the Burmese Freedom and Democracy Act, as amended, relating to the issuance of waivers of the conditions for importation set forth in section 3A(c)(1) of non-Burmese covered articles from any country that has implemented certain measures to prevent the trade in Burmese covered articles. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law.

(6) The United States Trade Representative is hereby authorized to perform the functions specified in section 3A(b)(3)(A) of the Burmese Freedom and Democracy Act, as amended.

(7) The Secretary of State is hereby authorized to perform the functions specified in section 3A(b)(3)(B) of the Burmese Freedom and Democracy Act, as amended.

(8) The Secretary of State is hereby authorized, in consultation with the United States Trade Representative, to perform the functions specified in section 3A(g) of the Burmese Freedom and Democracy Act, as amended.

(9) The Secretary of State is hereby authorized to perform the functions specified in section 3(b) of the Burmese Freedom and Democracy Act, as amended.

(10) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of September, in the year of our Lord two thousand eight,

and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

## ANNEX

## TO MODIFY CHAPTER 71 OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after September 27, 2008, chapter 71 of the Harmonized Tariff Schedule is modified by inserting in numerical sequence the following new Additional U.S. Note:

"4. Prohibition on the importation of certain goods of Burma.

(a) Pursuant to section 3A of the Burmese Freedom and Democracy Act of 2003 (Public Law 108-61; 50 U.S.C. 1701 note), as amended by the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (Public Law 110-286), for purposes of goods provided for in headings 7103, 7113 and 7116, except as set forth in subdivisions (c) and (d) of this note, the importation of any of the following goods shall be prohibited--

(i) jadeite mined in or extracted from Burma and classifiable in heading 7103 of the tariff schedule,

(ii) rubies mined in or extracted from Burma and classifiable in heading 7103 of the tariff schedule,

(iii) articles of jewelry containing jadeite described in subdivision (a)(i) of this note, whether classifiable in heading 7113 or 7116 of the tariff schedule; and

(iv) articles of jewelry containing rubies described in subdivision a(ii) of this note, whether classifiable in heading 7113 or 7116 of the tariff schedule.

With respect to goods entered or withdrawn from warehouse for consumption, on or after September 27, 2008, should an importer choose to enter any good under heading 7103, 7113 or 7116, the presentation of such entry shall be deemed to be a certification by the importer that any jadeite or rubies contained in such good were not mined in or extracted from Burma.

(b) Notwithstanding the deemed certification under subdivision (a) of this note, the importation of the following goods--

(i) jadeite mined in or extracted from a country other than Burma and classifiable in heading 7103 of the tariff schedule,

(ii) rubies mined in or extracted from a country other than Burma and classifiable in heading 7103 of the tariff schedule,

(iii) articles of jewelry containing jadeite described in subdivision (b)(i) or rubies described in subdivision (b)(ii) of this note, whether classifiable in heading 7113 or 7116 of the tariff schedule,

is not permitted unless such goods comply with the terms of any regulations issued by the Secretary of the Treasury to implement section 3A(c)(1) of the Burmese Freedom and Democracy Act of 2003, as amended, or are covered by any waiver or certification scheme that may be established pursuant to the provisions of sections 3(b) and 3A of Act, as amended.

(c) The provisions of this note shall not apply to Burmese covered articles and non-Burmese covered articles that were previously exported from the United States, including those that accompanied an individual outside the United States for personal use, if they are reimported into the United States by the same person, without having been advanced in value or improved in condition by any process or other means while outside the United States.

(d) The certification established under subdivision (a) of this note shall not apply to the importation of non-Burmese covered articles by or on behalf of an individual for personal use and accompanying an individual upon entry into the United States, with a proper claim under subheading 9804.00.20, 9804.00.45 or other appropriate provision of chapter 98 of the tariff schedule."

**Proclamation 8295 of September 26, 2008**

## National Hunting and Fishing Day, 2008

*By the President of the United States of America*
*A Proclamation*

From our rugged peaks and mountains to our shining seas, our Nation is blessed with remarkable natural treasures. These magnificent landscapes are places where families and friends can create lasting memories and enjoy the outdoors. On National Hunting and Fishing Day, our country honors the many contributions of America's hunters and anglers, who add to our heritage and keep our wildlife populations healthy and strong.

Our Nation's sportsmen and women are among our foremost conservationists. They care deeply about our wildlife habitats, and they have contributed billions of dollars to wildlife restoration through the Pittman-Robertson Act, which is a levy on certain sporting goods. This investment has helped restore many species, including the American elk, black bear, and wild turkey. Through the Federal Waterfowl Stamp program, the conservation of habitats for migratory birds has been greatly improved. By protecting our Nation's wildlife, we can continue to advance the values of good stewardship.

My Administration has created, protected, and restored millions of acres of wetlands. Through my Ocean Action Plan, we are protecting fish populations and marine habitat. I was pleased to amend Executive Order 12962 to recognize the value of recreational fishing as a sustainable activity in Federal waters. We have also improved the health of millions of acres of forests under the Healthy Forests Restoration Act. This important legislation is helping to protect our public lands from the risk of catastrophic wildfires and contributes to a healthier environment for all Americans.

On this special day, we remember our responsibility to preserve the great American landscape for future generations, and we celebrate the joy of hunting and fishing in the great outdoors.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 27, 2008, as National Hunting and Fishing Day. I call upon the people of the United States to join me in recognizing the contributions of America's hunters and anglers, and all those who work to conserve our Nation's fish and wildlife resources.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of September, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8296 of September 30, 2008**

## To Modify Duty-free Treatment Under The Caribbean Basin Economic Recovery Act and for Other Purposes

*By the President of the United States of America*

*A Proclamation*

1. Section 213A(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(b)) (the ''CBERA''), as amended by section 15402(a)(2) of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (part 1 of subtitle D of title XV of Public Law 110–246, 122 Stat. 2289) (the ''HOPE II Act''), provides that preferential tariff treatment may be provided for certain apparel and other articles originating in Haiti that are imported directly from Haiti or the Dominican Republic into the customs territory of the United States.

2. Pursuant to section 213A(f)(3) of CBERA (19 U.S.C. 2703a(f)(3)), as redesignated by section 15403(2) of the HOPE II Act (122 Stat. 2302), apparel and other articles described in section 213A(b) of CBERA that are shipped from the Dominican Republic to the United States directly or through the territory of an intermediate country shall not qualify for the preferential tariff treatment provided for under section 213A(b) until the President certifies to the Congress that Haiti and the Dominican Republic have developed procedures to prevent unlawful transshipment of the articles and the use of counterfeit documents related to the importation of the articles into the United States.

3. I have determined, and hereby certify, that Haiti and the Dominican Republic have developed the procedures described in section 213A(f)(3) of CBERA.

4. Section 15406 of the HOPE II Act (122 Stat. 2308) authorizes the President to exercise the authority provided under section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483) (the ''1974 Act''), to proclaim such modifications to the Harmonized Tariff Schedule of the United States (HTS) as may be necessary to carry out the HOPE II Act.

5. I have determined that it is appropriate to authorize the United States Trade Representative (USTR) to perform the following functions: the functions set forth in section 213A(d)(4) of CBERA, as amended (122 Stat. 2307; 19 U.S.C. 2703a(d)(4)); the reporting function set forth in section 213A(e)(1)(B)(ii) of CBERA, as amended (122 Stat. 2302; 19 U.S.C. 2703a(e)(1)(B)(ii)); the consultation function set forth in section 213A(e)(1)(C)(i) of CBERA, as amended (122 Stat. 2302–3; 19 U.S.C. 2703a(e)(1)(C)(i)); and the functions set forth in section 213A(e)(5) of CBERA, as amended (122 Stat. 2307; 19 U.S.C. 2703a(e)(5)).

6. I have determined that it is appropriate to authorize the Secretary of Labor, in consultation with the USTR, to perform the functions related to identifying producers and seeking to provide assistance to such producers set forth in section 213A(e)(4)(B)(i) and (ii) of CBERA, as amended (122 Stat. 2306; 19 U.S.C. 2703a(e)(4)(B)(i), (ii)).

7. In Presidential Proclamation 8272 of June 30, 2008, I waived, pursuant to section 503(d)(1) of the 1974 Act (19 U.S.C. 2463(d)(1)), the application of the competitive need limitations in section 503(c)(2)(A) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)) with respect to certain articles

from Turkey. A technical rectification to the HTS is required to provide the intended tariff treatment.

8. Section 604 of the 1974 Act authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including section 15406 of the HOPE II Act, section 604 of the 1974 Act, and section 301 of title 3, United States Code, do proclaim that:

(1) In order to provide the tariff treatment for articles imported directly from Haiti or the Dominican Republic provided for in section 213A(b) of CBERA, as amended by the HOPE II Act, the HTS is modified as set forth in the Annex to this proclamation.

(2) The modifications to the HTS set forth in the Annex to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date set forth in the Annex.

(3) The USTR is hereby authorized to perform the functions set forth in section 213A(d)(4) of CBERA; the reporting function set forth in section 213A(e)(1)(B)(ii) of CBERA; the consultation function set forth in section 213A(e)(1)(C)(i) of CBERA; and the functions set forth in section 213A(e)(5) of CBERA.

(4) The Secretary of Labor, in consultation with the USTR, is hereby authorized to perform the functions related to identifying producers and seeking to provide assistance to such producers set forth in section 213A(e)(4)(B)(i) and (ii) of CBERA.

(5) In order to correct technical errors in Presidential Proclamation 8272, General Note 4(d) of the HTS is modified by deleting ''7413.00.50 Turkey,'' and the Rates of Duty 1-Special subcolumn for HTS subheading 7413.00.50 is modified by deleting the symbol ''A*'' and inserting the symbol ''A'' in lieu thereof, effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after July 1, 2008.

(6) The USTR shall notify the Congress of this proclamation and certification.

(7) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of September, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**ANNEX**

**TO MODIFY CERTAIN PROVISIONS OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 2008, subchapter XX of chapter 98 of the Harmonized Tariff Schedule of the United States (HTS) is hereby modified as set forth below.

1. U.S. note 6(c) to such subchapter is modified by inserting after "from Haiti" the phrase "or the Dominican Republic".

2. U.S. note 6(e)(iv) and its subdivisions (A), (B), and (C) are all deleted, and the following new subdivision is inserted in lieu thereof:

"(iv) Entries of apparel articles that receive preferential treatment under any provision of law other than this note or are subject to the column 1-general rate of duty under the tariff schedule are not included in the annual aggregation under subdivision (e)(i) or (e)(ii) of this note unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation."

3. U.S. note 6(g) is modified by--

(a) designating the existing text as subdivision (i);

(b) striking "9820.61.25, 9820.61.30 and 9820.62.12" and inserting in lieu thereof "9820.61.25 and 9820.61.30";

(c) striking "1.5", "1.75", and "2" from the column labeled "Percentage" in the table and inserting in lieu thereof "1.25", "1.25", and "1.25", respectively; and

(d) by inserting the following new subdivision (ii):

"(ii) Any apparel article that qualifies for preferential treatment under subdivisions (h) through (p), inclusive, of this note or any other provision of the tariff schedule shall not be subject to, or included in the calculation of, the quantitative limitations under subdivision (g)(i) of this note."

4. Subdivision (h) of U.S. note 6 is deleted and the following new provisions are inserted in lieu thereof:

"(h) (i) The preferential treatment provided under heading 9820.62.05 shall be extended to any apparel article classifiable under chapter 62 of the tariff schedule that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, subject to subdivisions (h)(ii) and (h)(iii) of this note, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made.

(ii) The preferential treatment provided under subdivision (h)(i) of this note shall be extended, in the 1-year period beginning October 1, 2008, and in each of the nine succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such subdivision.

(iii) Any apparel article that qualifies for preferential treatment under subdivision (g) or subdivisions (i) through (p), inclusive, of this note or any other provision of the

tariff schedule shall not be subject to, or included in the calculation of, the quantitative limitation under subdivision (ii) of this note."

5. The text of U.S. note 6(i) is modified to read as follows:

"The preferential treatment provided under heading 9820.62.12 shall be extended to any article classifiable in subheading 6212.10 of the tariff schedule, if the article is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made."

6. U.S. note 6 is modified by inserting the following new subdivisions in alphabetical sequence:

"(j) (i) The preferential treatment provided in heading 9820.61.35 shall be extended to any apparel article classifiable under chapter 61 of the tariff schedule that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, subject to subdivisions (j)(ii), (j)(iii) and (j)(iv) of this note, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made.

(ii) The preferential treatment described in subdivision (j)(i) of this note shall not apply to the following:

(A) the following apparel articles of cotton, for men or boys, that are classifiable under subheading 6109.10.00 of the tariff schedule:

(1) all white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the center of the V, and without pockets, trim or embroidery;

(2) all white singlets, without pockets, trim or embroidery;

(3) other T-shirts, but not including thermal undershirts;

(B) T-shirts for men or boys that are classifiable under subheading 6109.90.10;

(C) the following apparel articles of cotton, for men or boys, that are classifiable under subheading 6110.20.20 of the tariff schedule:

(1) sweatshirts; or

(2) pullovers, other than sweaters, vests or garments imported as part of playsuits; or

(D) sweatshirts for men or boys, of man-made fibers and containing less than 65 percent by weight of man-made fibers, that are classifiable under subheading 6110.30.30 of the tariff schedule.

(iii) The preferential treatment described in subdivision (j)(i) of this note shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such subdivision.

(iv) Any apparel that qualifies for preferential treatment under subdivisions (g) through (i) or (k) through (p), inclusive, of this note or any other provision of the tariff schedule shall not be subject to, or included in the calculation of, the quantitative limitation under subdivision (j)(iii) of this note.

(k) The preferential treatment provided in heading 9820.61.40 shall be extended to any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made:

(i) with respect to chapter 61, subheadings 6102.20.00, 6102.90.90 (for goods subject to cotton restraints), 6104.13.20, 6104.19.15, 6104.19.60 (for jackets imported as parts of suits), 6104.19.80 (for jackets imported as parts of suits and subject to cotton restraints or subject to man-made fiber restraints), 6104.22.00 (for garments described in heading 6102 or jackets and blazers described in heading 6104), 6104.29.20 (for garments described in heading 6102 or jackets and blazers described in heading 6104, the foregoing subject to cotton restraints), 6104.32.00, 6104.39.20 (for goods subject to cotton restraints), 6112.11.00 (for women's or girls' garments described in heading 6101 or 6102), 6113.00.90 (for coats and jackets of cotton, for women or girls) or 6117.90.90 (for coats and jackets of cotton); or

(ii) with respect to chapter 62, subheadings 6202.12.20, 6202.19.90 (for goods subject to cotton restraints), 6202.91.20 (for goods for women), 6202.92.15, 6202.92.20 (other than padded, sleeveless jackets without attachments for sleeves), 6202.93.45, 6202.99.90 (for goods subject to cotton restraints), 6203.39.90 (for goods subject to wool restraints), 6204.12.00 (for jackets imported as parts of suits), 6204.13.20, 6204.19.20, 6204.19.80 (for jackets imported as parts of suits and subject to cotton restraints, or for goods subject to man-made fiber restraints), 6204.22.30 (for garments described in heading 6202, or for jackets and blazers described in heading 6204), 6204.23.00, 6204.29, 6204.32, 6204.33.20, 6204.39.80, 6204.42.30 (for garments for girls, other than of corduroy), 6204.43.40 (for garments for girls), 6204.44.40 (for garments for girls), 6205.20.20 (for dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale), 6205.30.20 (for dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale), 6207 (for boxers, pajamas or nightwear only), 6208 (for boxers, pajamas or nightwear only), 6209.20.10, 6210.30.90 (for garments other than of linen), 6210.50.90 (for anoraks), 6211.20.15 (for anoraks (including ski-jackets), windbreakers and similar articles (including padded, sleeveless jackets), for women or girls, of cotton, imported as parts of ski suits), 6211.20.58 (for goods of cotton), 6211.41.00 (for jackets and jacket-type garments excluded from heading 6202), 6211.42.00 (for track suits, other than trousers, or for jackets and jacket-type garments excluded from heading 6202), 6212.10 or 6217.90.90 (for coats and jackets, of cotton).

(l) The preferential tariff treatment provided in heading 9820.42.05 shall be extended to any article classifiable under subheadings 4202.12, 4202.22, 4202.32 or 4202.92 of the tariff schedule that is wholly assembled in Haiti and is imported directly from Haiti or the

Dominican Republic, without regard to the source of the fabric, components or materials from which the article is made.

(m) The preferential tariff treatment provided in headings 9820.65.05 shall be extended to any article classifiable under heading 6501, 6502 or 6504 or subheading 6505.90 of the tariff schedule that is wholly assembled, knit-to-shape or formed in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made.

(n) The preferential tariff treatment provided in heading 9820.62.20 shall be extended to any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made:

(i) Pajama bottoms and other sleepwear for women and girls, of cotton, that are classifiable under subheading 6208.91.30, or of man-made fibers, that are classifiable under subheading 6208.92.00; or

(ii) Pajama bottoms and other sleepwear for girls, of other textile materials, that are classifiable under subheading 6208.99.20.

(o) The preferential treatment provided under heading 9820.62.25 shall be extended to apparel articles wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and imported directly from Haiti or the Dominican Republic, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate that reflects the amount of credits equal to the total square meter equivalents of such apparel articles, in accordance with the program established by the Secretary of Commerce pursuant to section 15402 of Public Law 110-246. For purposes of determining the quantity of square meter equivalents under this subdivision, the conversion factors listed in "Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America, 2008" or its successor publications of the United States Department of Commerce shall apply.

(p) The preferential treatment provided under heading 9820.62.30 shall be extended to any apparel article that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, without regard to the source of the fabrics, fabric components, components knit-to-shape or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape or yarns comprising the component that determines the tariff classification of the article are of any of the following:

(i) fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under general note 12(t) to the tariff schedule;

(ii) fabrics or yarns, to the extent that such fabrics or yarns are designated as not being available in commercial quantities for purposes of--

(A) heading 9820.11.27;

(B) heading 9819.11.24;

(C) heading 9821.11.10;

(D) heading 9822.05.01; or

(E) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement entered into by the United States that is in effect at the time the claim for preferential treatment is made,

without regard to the source of the fabrics or yarns."

7. The article description of heading 9820.61.25 is modified to read as follows:

"Apparel articles described in U.S. note 6(c) to this subchapter imported directly from Haiti or the Dominican Republic during an applicable 1-year period specified in U.S. note 6(b)(ii) to this subchapter, subject to the limitations provided in U.S. note 6(g)(i) to this subchapter".

8. The article description of heading 9820.61.30 is modified to read as follows:

"Apparel articles described in U.S. note 6(e) to this subchapter imported directly from Haiti or the Dominican Republic during an applicable 1-year period specified in U.S. note 6(b)(ii) to this subchapter, subject to the limitations provided in such U.S. note 6(g)(i) to this subchapter".

9. The article description of heading 9820.62.05 is modified to read as follows:

"Apparel articles of chapter 62 to the tariff schedule, under the terms of U.S. note 6(h) to this subchapter and imported directly from Haiti or the Dominican Republic during an applicable 1-year period specified in U.S. note 6(h)(ii) to this subchapter, subject to the limitations provided in such U.S. note 6(h)(ii)".

10. The article description of heading 9820.62.12 is modified to read as follows:

"Brassieres of subheading 6212.10, under the terms of U.S. note 6(i) to this subchapter and imported directly from Haiti or the Dominican Republic".

11. The following new headings are inserted in numerical sequence in such subchapter, with the material inserted in the columns entitled "Heading/Subheading", "Article Description", and "Rates of Duty Special", respectively:

| | | |
|---|---|---|
| "9820.42.05 | Articles of heading 4202 described in U.S. note 6(l) to this subchapter and imported directly from Haiti or the Dominican Republic | Free |
| 9820.61.35 | Apparel articles of chapter 61 described in U.S. note 6(j) to this subchapter and imported directly from Haiti or the Dominican Republic during any 1-year period specified in U.S. note 6(j)(iii) to this subchapter, subject to the limitations provided in such U.S. note 6(j)(iii) | Free |
| 9820.61.40 | Apparel articles described in U.S. note 6(k) to this subchapter and imported directly from Haiti or the Dominican Republic | Free |
| 9820.62.20 | Pajama bottoms and other sleepwear described in U.S. note 6(n) to this subchapter and imported directly from Haiti or the Dominican Republic | Free |
| 9820.62.25 | Apparel articles described in U.S. note 6(o) to this subchapter and imported directly from Haiti or the Dominican Republic | Free |
| 9820.62.30 | Apparel articles described in U.S. note 6(p) to this subchapter and imported directly from Haiti or the Dominican Republic | Free |
| 9820.65.05 | Articles described in U.S. note 6(m) to this subchapter and imported directly from Haiti or the Dominican Republic | Free" |

**Proclamation 8297 of October 1, 2008**

## National Breast Cancer Awareness Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National Breast Cancer Awareness Month, we underscore our commitment to fighting and preventing this devastating disease. Breast cancer is one of the most common types of cancer among women, and we must strengthen our support of those who are living with this disease while continuing to work toward a cure.

Breast cancer can be attributed to many factors, including age, genetics, obesity, and family history. Women who exercise regularly, maintain healthy diets, and have yearly visits with their doctors are less likely to get breast cancer. Various screening measures such as mammograms, regular breast self-exams, and clinical breast exams can help detect cancer before it has a chance to spread. Early detection allows for early intervention, helps make treatment more effective, and gives hope to patients and saves lives.

America leads the world in medical research, and my Administration will continue to support efforts to treat and cure breast cancer. Since 2005, the Cancer Genome Atlas has studied the genetic sources of all types of cancer, and last year, I signed the ''National Breast and Cervical Cancer Early Detection Program Reauthorization Act of 2007,'' which will help millions of low-income and uninsured women get the screenings they need to detect cancer early. First Lady Laura Bush has encouraged women around the world to take charge of their health and emphasized the importance of screenings and early detection. In partnership with Federal agencies, State health agencies, and other medical professionals, my Administration has taken action to improve our Nation's healthcare system and helped promote the prevention, detection, and treatment of breast cancer.

This month, we honor those currently battling the disease and all who have survived the fight against breast cancer. We are inspired by their strength and determination. We recognize and applaud the hard-working caregivers and researchers who are dedicated to providing comfort and assistance to those with breast cancer and to treating and curing this disease. We also remember those lost to breast cancer and extend our thoughts and prayers to their families.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2008 as National Breast Cancer Awareness Month. I call upon Government officials, businesses, communities, health care professionals, educators, volunteers, and the people of the United States to continue our Nation's strong commitment to preventing, treating, and ultimately curing breast cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8298 of October 1, 2008**

## National Disability Employment Awareness Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National Disability Employment Awareness Month, we reaffirm our commitment to ensuring that our Nation's promise extends to all our citizens.

Millions of Americans live with disabilities, and many other Americans will become disabled at some point in their lives. To integrate people with disabilities more fully into every aspect of life, our country is working to advance greater freedoms at work, in schools, and throughout communities. By expanding employment opportunities and fighting false perceptions that hinder people living with disabilities from joining the workforce, we can uphold America's moral values, strengthen our economy, and make America a more hopeful place.

More than 7 years ago, my Administration announced the New Freedom Initiative, which expanded upon the landmark reforms of the Americans with Disabilities Act. Since then, the Initiative has increased access for people with disabilities through technology, provided additional educational opportunities for youth, and integrated more Americans into the workforce. My Administration remains committed to empowering all people to reach their full educational, social, and professional goals. To learn more about the Federal Government's disability-related programs, please visit DisabilityInfo.gov.

To recognize the contributions of Americans with disabilities and to encourage all citizens to ensure equal opportunity in the workforce, the Congress has designated October of each year (36 U.S.C. 121) as ''National Disability Employment Awareness Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 2008 as National Disability Employment Awareness Month. I call upon Government officials, labor leaders, employers, and the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8299 of October 1, 2008**

## National Domestic Violence Awareness Month, 2008

*By the President of the United States of America*
*A Proclamation*

Our Nation has a moral obligation to work to prevent domestic violence and address its brutal and destructive effects. During National

Domestic Violence Awareness Month, we underscore our commitment to helping individuals across our country who face such devastating violence.

My Administration remains dedicated to eradicating domestic violence and helping victims find the compassion, comfort, and healing they need. In 2003, I announced the creation of the Family Justice Center Initiative to help local communities provide comprehensive services at one location for victims of domestic violence. In 2006, I was proud to sign legislation that reauthorized the Violence Against Women Act to improve criminal justice responses to domestic violence, sexual assault, and stalking. The Department of Justice's Domestic Violence Transitional Housing Assistance Program also offers victims of violence counseling and transitional housing services so they can escape the cycle of abuse.

During this month, we rededicate ourselves to protecting vulnerable members of our society and ensuring domestic abusers are punished to the full extent of the law. We encourage victims of domestic violence and their families to seek assistance through Family Justice Centers and the National Domestic Violence Hotline at 1–800–799–SAFE. Together, we can help heal hearts and build a culture in which all Americans can pursue their dreams and realize the great promise of our Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 2008, as National Domestic Violence Awareness Month. I urge all Americans to reach out to victims of domestic violence and take action to make ending domestic violence a national priority.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8300 of October 3, 2008**

## Child Health Day, 2008

*By the President of the United States of America*
*A Proclamation*

Americans have a duty to promote the health and safety of our children. On Child Health Day, we affirm that all children are a precious gift, and we underscore our commitment to helping them realize their full potential.

Families are the foundation of our society, and parents play the vital role of providing stability, guidance, and discipline so children can lead healthy lives. Teachers, caregivers, and mentors can also help teach children about the importance of making good choices. All Americans can help our Nation's youth become healthy and respon-

sible adults by encouraging them to avoid risky behaviors such as early sexual activity, drugs, alcohol, and violence.

My Administration remains dedicated to helping younger generations achieve their dreams by supporting programs that encourage children to maintain healthy and active lifestyles. The Helping America';s Youth initiative, led by First Lady Laura Bush, is helping children make smart decisions so they can confront challenges and live longer and better lives. The HealthierUS initiative encourages positive habits and addresses public health issues facing our Nation's youth, such as childhood obesity. Through the President's Challenge, we are promoting personal fitness and encouraging youth to stay active beyond the school gym. Through these and other efforts, we can make our country stronger by teaching children the importance of healthy choices.

The Congress, by a joint resolution approved May 18, 1928, as amended (36 U.S.C. 105), has called for the designation of the first Monday in October as ''Child Health Day'' and has requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Monday, October 6, 2008, as Child Health Day. I call upon families, schools, child health professionals, faith-based and community organizations, and State and local governments to reach out to our Nation's young people, encourage them to avoid dangerous behavior, and help them make the right choices to achieve their dreams.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8301 of October 3, 2008**

## German-American Day, 2008

*By the President of the United States of America*
*A Proclamation*

For generations, German Americans have contributed to our Nation's identity, culture, and prosperity. On German-American Day, we recognize the many Americans with German ancestry who helped make our country great, and we celebrate our strong friendship with Germany.

The people of Germany and the United States share important family and cultural ties, and millions of American citizens are of German descent. Some of their forebears were among the first to settle Jamestown, and they and many others like them helped lay the foundation for our country, which has become the most prominent symbol of freedom in the world. Many German Americans have shaped our way of life and added to our country's rich heritage.

In celebrating German-American Day, we honor generations of German Americans who came to our shores with dreams of opportunity and contributed to the greatness of our country.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 6, 2008, as German-American Day. I encourage all Americans to celebrate the many contributions German Americans have made to our Nation's liberty and prosperity.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8302 of October 3, 2008**

## Fire Prevention Week, 2008

*By the President of the United States of America*

*A Proclamation*

Fire Prevention Week is an opportunity to call attention to the importance of fire safety, especially in the home, and to honor our Nation's firefighters for their heroism.

Americans can help reduce home fires by taking simple steps such as regularly inspecting furnaces and fireplaces, keeping space heaters at least 3 feet from flammable materials, and checking the condition of electrical cords. Making sure that smoke alarms and fire extinguishers work can also help minimize the impact of home and building fires. I encourage all Americans to remember this year's theme—''It's Fire Prevention Week: Prevent Home Fires!''—and to check their homes for fire hazards to help prevent disasters.

Across our Nation, firefighters put themselves at risk to protect our communities, and their selfless dedication has saved countless lives. America's Bravest hold a cherished place in our hearts, and we honor those who have paid the ultimate price to protect citizens in harm's way. The sacrifice of these men and women is an inspiration to all and epitomizes the true meaning of heroism.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 5 through October 11, 2008, as Fire Prevention Week. On Sunday, October 5, 2008, in accordance with Public Law 107–51, the flag of the United States will be flown at half staff on all Federal office buildings in honor of the National Fallen Firefighters Memorial Service. I call on all Americans to participate in this observance through appropriate programs and activities and by renewing their efforts to prevent fires and their tragic consequences.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord two thousand eight, and of the Inde-

pendence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8303 of October 8, 2008**

## Leif Erikson Day, 2008

*By the President of the United States of America*
*A Proclamation*

On Leif Erikson Day, we remember that son of Iceland and grandson of Norway for his journey to North America, and we celebrate the influential role Nordic Americans have played in our society.

Leif Erikson was among the world's greatest and most daring explorers. More than 1,000 years ago, he led a crew across the Atlantic to North America. Today, the same desire to explore and open new frontiers inspires our citizens and contributes to the strength of our Nation.

America's friendships with Denmark, Finland, Iceland, Norway, and Sweden are strong, and Nordic Americans have added to our rich cultural diversity and proud ancestry. On this day, we recognize these individuals for their remarkable achievements in all sectors of our society. America is grateful for the many contributions of Nordic Americans, and we continue to draw inspiration from the courage and optimism of the adventurous Leif Erikson.

To honor Leif Erikson and to celebrate our citizens of Nordic American heritage, the Congress, by joint resolution (Public Law 88–566) approved on September 2, 1964, has authorized the President to proclaim October 9 of each year as ''Leif Erikson Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 9, 2008, as Leif Erikson Day. I call upon all Americans to observe this day with appropriate ceremonies, activities, and programs to honor our rich Nordic-American heritage.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8304 of October 10, 2008**

## National School Lunch Week, 2008

*By the President of the United States of America*
*A Proclamation*

During National School Lunch Week, we underscore the importance of providing America's children with access to nutritious meals and help-

ing them develop good eating habits through the National School Lunch Program.

The National School Lunch Program is a federally assisted meal program administered by the Department of Agriculture's Food and Nutrition Service in cooperation with State agencies. Since 1946, the National School Lunch Program has served more than 187 billion lunches to students across America. The program is designed to ensure that each day millions of children are receiving the healthy food necessary to succeed by providing access to nutritious low-cost or free meals. By serving well-balanced meals that are lower in fat and have plenty of fruits, vegetables, and whole-grain foods, this program helps children learn healthy eating habits, reduce their risk of serious health problems, and perform better in the classroom.

Throughout National School Lunch Week, we recognize the school officials and parents who encourage young people to develop good eating habits. We also thank the dedicated food service professionals who serve our children healthy foods each day at school.

In recognition of the contributions of the National School Lunch Program to the health, education, and well-being of America's children, the Congress, by joint resolution of October 9, 1962 (Public Law 87–780), as amended, has designated the week beginning on the second Sunday in October of each year as ''National School Lunch Week'' and has requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim the week of October 12 through October 18, 2008, as National School Lunch Week. I call upon all Americans to join the dedicated individuals who administer the National School Lunch Program in appropriate activities that support the health and well-being of our Nation's children.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8305 of October 10, 2008**

## Columbus Day, 2008

*By the President of the United States of America*

*A Proclamation*

Christopher Columbus' bold voyage across the Atlantic changed the world forever. On Columbus Day, we remember this Italian explorer's courage in traveling to the unknown and celebrate his landmark achievements and lasting legacy.

History holds remarkable examples of heroism and adventure, and the journey of the navigator from Genoa in 1492 is one of history's great stories of daring and bravery. Columbus' expedition became an epic of discovery and opened up the New World for future generations. His

journey will forever stand as a testament to his intrepid spirit and persistence. Today, his legacy of discovery and determination is an example for innovators and dreamers as they pursue broader understanding and use their talents to benefit humanity.

Columbus Day is also an opportunity to reaffirm the close ties between the United States and Italy. Our two countries will continue to work together to advance liberty, peace, and prosperity around the globe. Our Nation recognizes the many inspiring contributions made by Americans of Italian descent. We also honor the dedication and sacrifice of Italian Americans who are serving in our country's Armed Forces. In commemoration of Columbus' journey, the Congress has requested (36 U.S.C. 107) that the President proclaim the second Monday of October of each year as ''Columbus Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 13, 2008, as Columbus Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8306 of October 10, 2008**

## General Pulaski Memorial Day, 2008

*By the President of the United States of America*
*A Proclamation*

On General Pulaski Memorial Day, we celebrate General Casimir Pulaski's selfless dedication to the cause of freedom during the American Revolution.

In our Nation's struggle for independence, brave individuals such as Casimir Pulaski came to our shores and risked their lives to help bring liberty to a new continent. General Pulaski fought first against Russian domination of his Polish homeland and later joined General George Washington's Continental Army. Pulaski's valor in battle and love of freedom earned him the rank of Brigadier General and authority to organize an independent corps of cavalry. Through his skilled leadership and cavalry tactics he became known as the ''Father of the American Cavalry.'' During the siege of Savannah, General Pulaski was mortally wounded, making the ultimate sacrifice for our country and the cause of freedom.

General Pulaski's life exemplifies the courage and determination of the many Polish immigrants who have helped make the United States the greatest Nation on Earth. On General Pulaski Memorial Day, we recognize our time-honored friendship with Poland, and we are reminded of the great price our forefathers paid so that we might live in liberty.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 11, 2008, as General Pulaski Memorial Day. I urge Americans to commemorate this occasion with appropriate activities and ceremonies honoring General Casimir Pulaski and all those who defend our freedom.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8307 of October 13, 2008**

## White Cane Safety Day, 2008

*By the President of the United States of America*
*A Proclamation*

Compassion is one of our Nation's defining values, and we must work to ensure that all Americans are able to participate fully in society. The white cane allows many of our citizens who are blind or visually impaired to enjoy increased mobility. On White Cane Safety Day, we celebrate the symbolism of the white cane and highlight the importance of ensuring that individuals who are blind or visually impaired can live independently and realize their full potential.

Through the New Freedom Initiative, my Administration has put into action our strong commitment to helping more individuals with disabilities participate in all aspects of life. Since 2001, this initiative has built on the progress of the Americans with Disabilities Act and helped create greater access to schools, the workplace, and community life. These efforts are helping to remove barriers and enabling more Americans to live with greater dignity and freedom.

The Congress, by joint resolution approved on October 6, 1964 (Public Law 88–628), as amended, has designated October 15 of each year as ''White Cane Safety Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 15, 2008, as White Cane Safety Day. I call upon public officials, business leaders, educators, librarians, and all the people of the United States to observe this day with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8308 of October 16, 2008**

## National Character Counts Week, 2008

*By the President of the United States of America*
*A Proclamation*

The strength of our Nation is found in the character of our citizens. During National Character Counts Week, we recommit ourselves to instilling strong values in our youth and encourage all Americans to develop good character.

Parents and families can teach children the timeless principles of respect, responsibility, honesty, commitment, and compassion. In our communities, parents, mentors, clergy members, teachers, coaches, and neighbors serve as role models by dedicating their time and talents to help others. At home and abroad, members of our Armed Forces exemplify the true character of our Nation by bravely protecting our freedom and serving a cause greater than self.

The Helping America's Youth initiative, led by First Lady Laura Bush, connects young people with caring adults and community organizations that help them avoid risky behavior and achieve success. By becoming actively involved in the lives of children, we can help our young people make the right choices and lead lives of integrity and achievement.

National Character Counts Week is an opportunity for our citizens to reaffirm their responsibility to their communities and to recognize the importance of teaching strong values to our next generation of leaders. For more information on ways to set a positive example and make a lasting contribution to the future of our country, citizens can visit volunteer.gov.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 19 through October 25, 2008, as National Character Counts Week. I call upon public officials, educators, librarians, parents, students, and all Americans to observe this week with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8309 of October 16, 2008**

## National Forest Products Week, 2008

*By the President of the United States of America*
*A Proclamation*

During National Forest Products Week, we highlight our country's commitment to protect and wisely use America's forests for our Nation's prosperity and well-being.

Across our country, citizens rely on forest products to meet their daily needs. Our forests enable us to produce goods such as paper and furniture, provide raw materials such as lumber for homes and buildings, and offer job opportunities that bring economic security for many Americans.

My Administration is steadfast in its commitment to protect our forests from both manmade and natural harm. It is vital that we continue to make progress in conserving our natural resources and using them responsibly. Since 2002, we have worked to restore our forests and protected them against catastrophic fires as part of the Healthy Forests Initiative. Americans take great pride in our country's natural splendor, and by working together to be good stewards of the environment, we can leave our children and grandchildren a healthy and flourishing land.

Recognizing the importance of our forests in ensuring our Nation's well-being, the Congress, by Public Law 86–753 (36 U.S.C. 123), as amended, has designated the week beginning on the third Sunday in October of each year as ''National Forest Products Week'' and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 19 through October 25, 2008, as National Forest Products Week. I call upon all Americans to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8310 of October 23, 2008**

## United Nations Day, 2008

*By the President of the United States of America*
*A Proclamation*

On October 24, 1945, in the wake of the devastation left by World War II, the United Nations was formally established. Today, we recognize the many contributions of the United Nations and renew our commitment to its founding principles.

Sixty-three years ago, representatives from around the world completed the founding charter of the United Nations and pledged to reaffirm faith in fundamental human rights and to unite their strength to maintain international peace and security. It is vital that this noble pledge continue to guide the United Nations throughout the 21st century. By taking an unequivocal stand against terrorists, those who traffic in persons, and all who exploit the poor, the needy, and the marginalized, the United Nations can live up to the noble ideals of the Universal Declaration of Human Rights.

The United Nations is an organization with extraordinary potential for good works. On United Nation's Day, we recommit ourselves to reforming the U.N., ensuring the highest standards are upheld throughout the organization, and renewing the principals of its charter for the 21st century.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 24, 2008, as United Nations Day. I urge the Governors of the 50 States, the Governor of the Commonwealth of Puerto Rico, and the officials of other areas under the flag of the United States to observe United Nations Day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8311 of October 29, 2008**

## National Family Caregivers Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National Family Caregivers Month we recognize and celebrate the many individuals throughout our country who work each day to ensure a better quality of life for their family members. Through their selfless action, these caregivers provide their loved ones support and comfort as they age, combat illness, or suffer from disability.

Our Nation is compassionate, and we believe in the sanctity of life at all stages. Through tireless efforts and inspiring deeds, many Americans care for loved ones in need. By acting as in-home care providers, people across our Nation are helping to ensure that their family members are provided with love, comfort, and security. My Administration has worked to offer caregivers support and training. In 2006, I signed the Lifespan Respite Care Act of 2006, which established a program to help family caregivers get access to affordable and high-quality respite care. In addition, the National Family Caregiver Support Program encourages cooperation among government agencies and other organizations that support and work with family caregivers.

National Family Caregivers Month is an opportunity to recognize those who serve a cause greater than self and contribute to the well-being of their loved ones. Family caregivers are soldiers in America's armies of compassion and set an inspiring example for their fellow citizens.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2008 as National Family Caregivers Month. I encourage all Americans to honor the selfless service of caregivers who support their loved ones in need.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8312 of October 29, 2008**

## National Alzheimer's Disease Awareness Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National Alzheimer's Disease Awareness Month, we recognize the dignity and courage of the men and women living with Alzheimer's disease. We also honor the devoted family members and caretakers who bring them love and comfort, and we underscore our dedication to finding a cure for this tragic disease.

Alzheimer's disease is a brain disorder that seriously impairs a person's ability to function normally. Age is the most important known risk factor, and scientists are studying the role that genetics, education, diet, and environment might play in the development of this debilitating disease. Through research supported by the National Institutes of Health and the Department of Veterans Affairs, we are learning more about the disease and enhancing the quality of life for those affected. In addition, the Department of Health and Human Services is improving the delivery of home and community-based services to people with Alzheimer's.

National Alzheimer's Disease Awareness Month is an opportunity to pay tribute to the courageous individuals facing this disease and remember the precious lives lost due to Alzheimer's. All Americans appreciate the strong support and dedication of the families, medical professionals, scientific researchers, and caregivers who are helping build a society that values the life and dignity of every person.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2008 as National Alzheimer's Disease Awareness Month. I call upon the people of the United States to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8313 of October 30, 2008**

## National American Indian Heritage Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National American Indian Heritage Month, we celebrate the rich ancestry of American Indians and Alaska Natives and recognize their many contributions to our national story.

Native Americans have enriched our heritage and added to all aspects of our society. Our country is blessed to have their character and strength, and we are especially grateful for the generations of Native Americans who have answered the call to defend our country. During World War II, these brave patriots used their native languages to create an unbreakable oral code. Today, that legacy continues as Native Americans work to advance freedom's cause.

My Administration remains committed to protecting tribal sovereignty and the right to self-determination and to working with tribes on a government-to-government basis. To help more Native Americans realize the dream of home ownership, I signed the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008. For nearly eight years, we have also worked to strengthen educational opportunities for all Americans. In 2004, I issued an executive order to help Native American students fulfill the challenging standards of the No Child Left Behind Act. This order established the Interagency Working Group on American Indian and Alaska Native Education to improve educational programs consistent with tribal traditions, languages, and cultures. By setting high standards for academic achievement, we are enabling more Americans throughout our country to pursue their dreams. During this month, we honor our native peoples and recognize them for strengthening the diversity of our society.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2008 as National American Indian Heritage Month. I call upon all Americans to commemorate this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8314 of October 30, 2008**

## National Diabetes Month, 2008

*By the President of the United States of America*
*A Proclamation*

Many Americans, of all ages and backgrounds, are affected by diabetes. National Diabetes Month is an opportunity to inform individuals about the risk factors, prevention, and treatment of this serious disease.

Diabetes is a debilitating disease that results from the body's inability to produce or use insulin effectively. Type 1 diabetes, once known as juvenile diabetes, usually affects children and young adults who are dependant on medication for their lack of insulin. The most common form of diabetes is Type 2 diabetes. Family history and lifestyle risk factors contribute to the possibility of developing Type 2 diabetes. Regular physical activity, healthy eating habits, and consultation with a doctor can help prevent and reduce the effects of this disease.

My Administration is committed to preventing diabetes and finding a cure for this disease. We have provided substantial funding for diabetes education programs and research initiatives. Through the Department of Health and Human Services and other organizations, the National Diabetes Education Program is helping increase awareness among Americans about the risk factors of diabetes and the benefits of making healthy choices. Our Nation must continue to support initiatives that will help turn today's research opportunities into tomorrow's medical success stories.

During National Diabetes Month, we celebrate the medical professionals, researchers, and all those whose time, talents, and energy support the fight against diabetes. Through these efforts and enhanced public awareness of this serious disease, we will work to continue to bring the hope of a healthier future to more Americans.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2008 as National Diabetes Month. I call upon all Americans to learn more about the risk factors and symptoms associated with diabetes and to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8315 of October 31, 2008**

## National Adoption Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National Adoption Month, we recognize the compassion of adoptive and foster families as we seek to raise awareness of the need for every child in America to have a safe, loving, and permanent home.

Adopting a child is a great joy and also a great responsibility. Parents are a child's first teachers, and adoptive families can help children learn character and values, the importance of giving back to their community and country, and the courage to realize their potential. On November 15, caring parents across our Nation will celebrate National Adoption Day by finalizing their adoptions and bringing home children in need of a hopeful life.

My Administration is committed to helping young people find the love, stability, and support that a family can provide. We have joined with community and faith-based organizations to raise public awareness of foster children awaiting adoption. With the help of the Congress, we are assisting families in overcoming the financial barriers to adopting children through programs such as the Adoption Incentives Program. In addition, the Collaboration to AdoptUsKids project, which can be found at adoptuskids.org, provides guidance and resources for parents exploring adoption.

During National Adoption Month, we honor adoptive and foster parents who have shown America the depth and kindness of the human heart. Their love and dedication inspire the next generation of Americans to achieve their dreams and demonstrate the true spirit of our Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2008 as National Adoption Month. I call upon all Americans to observe this month with appropriate programs and activities to honor adoptive families and to participate in efforts to find permanent homes for waiting children.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8316 of October 31, 2008**

## National Hospice Month, 2008

*By the President of the United States of America*
*A Proclamation*

During National Hospice Month, we honor the dedicated health care professionals and volunteers who help the terminally ill spend their final days in comfort and with dignity. Hospice care providers and other compassionate individuals are a constant reminder that the greatness of America lies in the hearts and souls of its citizens.

Americans believe that every person has matchless value throughout all of life's stages. Hospice physicians, nurses, counselors, and volunteers put this belief into action by using their talents and energy to care for those who are terminally ill and by providing support and comfort to their loved ones. As an alternative to traditional services, hospice care frequently provides assistance in the home so that patients can be surrounded by family and friends. Hospice counselors offer guidance to patients, as well as to those close to them, as they deal with grief, anxiety, and other end-of-life issues. Through these and countless other acts of compassion, our Nation's hospice caregivers lift up souls, offer peace of mind, and strengthen America's culture of life.

Throughout National Hospice Month, we recognize hospice care professionals and volunteers for their selfless efforts to provide physical, psychological, and spiritual assistance to terminally ill patients and their families.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2008 as National Hospice Month. I encourage all Americans to observe this month with appropriate programs and activities. I also ask Americans to recognize our health care professionals and volunteers for their contributions to helping provide comfort and care to those facing terminal illness.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8317 of October 31, 2008**

## Veterans Day, 2008

*By the President of the United States of America*
*A Proclamation*

On Veterans Day, we pay tribute to the service and sacrifice of the men and women who in defense of our freedom have bravely worn the uniform of the United States.

From the fields and forests of war-torn Europe to the jungles of Southeast Asia, from the deserts of Iraq to the mountains of Afghanistan, brave patriots have protected our Nation's ideals, rescued millions from tyranny, and helped spread freedom around the globe. America's veterans answered the call when asked to protect our Nation from some of the most brutal and ruthless tyrants, terrorists, and militaries the world has ever known. They stood tall in the face of grave danger and enabled our Nation to become the greatest force for freedom in human history. Members of the Army, Navy, Air Force, Marines, and Coast Guard have answered a high calling to serve and have helped secure America at every turn.

Our country is forever indebted to our veterans for their quiet courage and exemplary service. We also remember and honor those who laid down their lives in freedom's defense. These brave men and women made the ultimate sacrifice for our benefit. On Veterans Day, we remember these heroes for their valor, their loyalty, and their dedication. Their selfless sacrifices continue to inspire us today as we work to advance peace and extend freedom around the world.

With respect for and in recognition of the contributions our service members have made to the cause of peace and freedom around the world, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor America's veterans.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim November 11, 2008, as Veterans Day and urge all Americans to observe November 9 through November 15, 2008, as National Veterans Awareness Week. I encourage all Americans to recognize the bravery and sacrifice of our veterans through ceremonies and prayers. I call upon Federal, State, and local officials to display the flag of the United States and to support and participate in patriotic activities in their communities. I invite civic and fraternal organizations, places of worship, schools, businesses, unions, and the media to support this national observance with commemorative expressions and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8318 of November 7, 2008**

## World Freedom Day, 2008

*By the President of the United States of America*
*A Proclamation*

On World Freedom Day, we celebrate the anniversary of the historic fall of the Berlin Wall and honor the brave citizens of East and West Germany who helped secure freedom and liberty for future generations.

The Berlin Wall stood as a barrier that isolated the victims of imperial Communism and totalitarian power from the promise of the free world. Standing in the presence of the wall, with an unshakable belief in the power of liberty, President Ronald Reagan issued a resounding challenge on behalf of the free and the unfree alike: ''Mr. Gorbachev, tear down this wall.'' On November 9, 1989, the citizens of East Germany finally triumphed over their Communist oppressors, and the Berlin Wall came tumbling down. As the hope of freedom spread, the Soviet empire collapsed, the Iron Curtain was lifted, and Eastern and Central Europe were liberated from decades of cruel tyranny.

The Cold War demonstrated once again that freedom is precious and cannot be taken for granted, that evil is real and must be confronted, and that if they are allowed to do so, harsh rulers will subjugate others in the name of hateful ideologies. History has also proven that the transformative power of liberty overcomes this oppression. Today, many former Communist countries are using their sovereignty to aid the rise of other young democracies and to shine the light of conscience on human rights abuses. Our belief in the universality of freedom is challenged time and again, but we continue to go forward with confidence that free nations will always prevail over the enemies of liberty, peace, and justice.

On World Freedom Day, we are reminded that injustice overseas can threaten our way of life at home, and we renew our commitment to helping those who suffer under the weight of oppression.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 9, 2008, as World Freedom Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities, reaffirming our dedication to freedom and democracy.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of November, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8319 of November 14, 2008**

## America Recycles Day, 2008

*By the President of the United States of America*

*A Proclamation*

On America Recycles Day, we highlight the importance of recycling as a way to safeguard and protect the environment and preserve our precious natural resources.

We live in a country of splendor and beauty, and no matter which State each of us calls home, we all have a responsibility to practice good environmental stewardship. It is in our Nation's best interest that government, businesses, community organizations, and individuals work together to conserve our natural resources. The Environmental

Protection Agency, through its Resource Conservation Challenge, is encouraging communities to increase recycling collection. Through the Plug-In To eCycling Campaign, we are working to make it easier for Americans to donate or safely recycle old electronics, including TVs, computers, and cell phones. By recycling we can strengthen local economies, reduce greenhouse gases, conserve natural resources, and save landfill space. Using our resources wisely, we can make our communities more livable and our world a cleaner place for our children and grandchildren.

On this day, we remember our opportunity to preserve the great American landscape through recycling. By continuing to work together, we can maintain and enjoy the beauty of our land for generations to come.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 15, 2008, as America Recycles Day. I call upon the people of the United States to observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of November, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8320 of November 19, 2008**

## National Farm-City Week, 2008

*By the President of the United States of America*

*A Proclamation*

Farmers and ranchers display the values of hard work and good stewardship, and National Farm-City Week is an opportunity to recognize these individuals and their urban partners for contributing to our Nation's well-being.

Farming, America's first industry, helps feed and clothe our citizens and increasingly provides more of our energy. The agricultural sector also employs more than a million people across our Nation. Farming has been a cornerstone of our country since its founding and continues to be a vital part of our economy.

Our farmers and ranchers provide a safe, healthy, and abundant food supply, yet they could not succeed in doing so without essential partnerships with urban communities to supply, sell, and deliver finished products across our country and around the world. These cooperative efforts help to create a prosperous future for our citizens and people everywhere.

Since 2001, my Administration has been committed to strengthening our agricultural sector, and we have worked to create an environment that will stimulate growth by opening new markets, encouraging free and fair trade, and keeping taxes low. As we celebrate this week, we recognize the vital work of farmers and ranchers, and we pay tribute

to all those who strengthen the relationships between our rural and urban communities.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 21 through November 27, 2008, as National Farm-City Week. I encourage all Americans to join in recognizing farmers, ranchers, and all those who contribute to the strength of America's agricultural industry.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of November, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8321 of November 20, 2008**

## National Family Week, 2008

*By the President of the United States of America*

*A Proclamation*

During National Family Week, we reflect on the important values and character that families instill in their children and in our society.

Families offer a stable and nurturing environment for children by providing support and comfort. A child's parents, siblings, grandparents, aunts and uncles, and other family members show them love and teach them right from wrong. Strong families set a positive example and help young people grow into compassionate and responsible citizens.

My Administration believes families strengthen our communities and help shape the character and future of our Nation. Over the years, we have demonstrated our deeply held commitment to supporting America's families by signing laws that respect the sanctity of life, lower taxes, double the child tax credit, reduce the marriage penalty, and empower parents to make choices about their children's education. In addition, the Helping America's Youth initiative, led by First Lady Laura Bush, is dedicated to raising awareness about the importance of positive youth development by keeping children connected to family, school, and community.

National Family Week is also a time to show our appreciation to our Nation's military families. We recognize their sacrifices, and we pray for their loved ones in the Armed Forces who are laying a foundation of peace for future generations. We owe a debt of gratitude to the brave men and women who have answered the call to serve our country and their families who support them.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 23 through November 29, 2008, as National Family Week. I invite the States, communities, and all the people of the United States to join together in observing this week with appropriate ceremonies and activities to honor our Nation's families.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of November, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8322 of November 21, 2008**

## Thanksgiving Day, 2008

*By the President of the United States of America*
*A Proclamation*

Thanksgiving is a time for families and friends to gather together and express gratitude for all that we have been given, the freedoms we enjoy, and the loved ones who enrich our lives. We recognize that all of these blessings, and life itself, come not from the hand of man but from Almighty God.

Every Thanksgiving, we remember the story of the Pilgrims who came to America in search of religious freedom and a better life. Having arrived in the New World, these early settlers gave thanks to the Author of Life for granting them safe passage to this abundant land and protecting them through a bitter winter. Our Nation's first President, George Washington, stated in the first Thanksgiving proclamation that ''It is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for His benefits, and humbly to implore His protection and favor.'' While in the midst of the Civil War, President Abraham Lincoln revived the tradition of proclaiming a day of thanksgiving, asking God to heal our wounds and restore our country.

Today, as we look back on the beginnings of our democracy, Americans recall that we live in a land of many blessings where every person has the right to live, work, and worship in freedom. Our Nation is especially thankful for the brave men and women of our Armed Forces who protect these rights while setting aside their own comfort and safety. Their courage keeps us free, their sacrifice makes us grateful, and their character makes us proud. Especially during the holidays, our whole country keeps them and their families in our thoughts and prayers. Americans are also mindful of the need to share our gifts with others, and our Nation is moved to compassionate action. We pay tribute to all caring citizens who reach out a helping hand and serve a cause larger than themselves.

On this day, let us all give thanks to God who blessed our Nation's first days and who blesses us today. May He continue to guide and watch over our families and our country always.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 27, 2008, as a National Day of Thanksgiving. I encourage all Americans to gather together in their homes and places of worship with family, friends, and loved ones to strengthen the ties that bind us and give thanks for the freedoms and many blessings we enjoy.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of November, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8323 of November 25, 2008**

## To Provide for Duty-Free Treatment Under the Earned Import Allowance Program, and for Other Purposes

*By the President of the United States of America*
*A Proclamation*

1. Section 404 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the ''CAFTA-DR Act''), as added by section 2 of Public Law 110–436, 122 Stat. 4976, provides for preferential tariff treatment of eligible apparel articles wholly assembled in an eligible country and imported directly from an eligible country, if such articles are accompanied by an earned import allowance certificate issued under a program established by the Secretary of Commerce.

2. Section 404(e)(1) of the CAFTA-DR Act, as amended, provides that the program providing this preferential treatment shall be in effect for the 10-year period beginning on the date on which the President certifies to the appropriate congressional committees that sections A, B, C, and D of the Annex to Presidential Proclamation 8213 of December 20, 2007, have taken effect.

3. On August 7, 2008, the United States Trade Representative (USTR) published a notice in the *Federal Register* (73 *FR* 46057) announcing that August 15, 2008, would be the effective date for sections A, B, C, and D of the Annex to Presidential Proclamation 8213.

4. I have determined, and hereby certify, that the provisions of Proclamation 8213 referenced in section 404(e)(1) of the CAFTA-DR Act, as amended, have taken effect.

5. Section 6002 of the Africa Investment Incentive Act of 2006 (division D, title VI of Public Law 109–432) (the ''2006 Act'') amended section 112(c) of the African Growth and Opportunity Act (AGOA) (19 U.S.C. 3721(c)) to modify the preferential tariff treatment accorded to designated lesser developed beneficiary sub-Saharan African countries.

6. Pursuant to section 6002 of the 2006 Act, in Proclamation 8114 of March 19, 2007, I proclaimed modifications to the Harmonized Tariff Schedule of the United States (HTS) to provide the tariff treatment authorized by the 2006 Act. The HTS provisions proclaimed in Proclamation 8114 were modified by Proclamation 8157 of June 28, 2007, and Proclamation 8240 of April 17, 2008, to provide the tariff treatment authorized by the 2006 Act.

7. Section 3 of Public Law 110–436 amends section 112(c) of the AGOA to modify the tariff treatment applicable to lesser developed beneficiary sub-Saharan African countries, and to provide that Mauri-

tius is to be treated as a lesser developed beneficiary sub-Saharan African country for purposes of the AGOA.

8. Accordingly, in order to reflect the amendments to section 112(c) of the AGOA, I have determined that it is appropriate to modify the HTS to reflect the tariff treatment provided to lesser developed beneficiary sub-Saharan African countries and to provide that Mauritius is to be treated as a lesser developed beneficiary sub-Saharan African country for purposes of the AGOA.

9. Section 203(e)(1)(A)(i) of the Andean Trade Preference Act, as amended (ATPA) (19 U.S.C. 3202(e)(1)(A)(i)), authorizes the President to withdraw or suspend the designation of any country as a beneficiary country for purposes of the ATPA if, after such designation, the President determines that as a result of changed circumstances such country should be barred from designation as a beneficiary country.

10. Section 3103 of the Andean Trade Promotion and Drug Eradication Act (Title XXXI of the Trade Act of 2002, Public Law 107–210) (ATPDEA) amended section 203(e)(1) of the ATPA (19 U.S.C. 3202(e)(1)) by adding a new subparagraph (B)(i) authorizing the President to withdraw or suspend the designation of any country as a beneficiary country for purposes of the ATPDEA if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the eligibility criteria set forth in section 204(b)(6)(B) of the ATPA, as amended (19 U.S.C. 3203(b)(6)(B)).

11. Section 203(e)(2)(A) of the ATPA, as amended (19 U.S.C. 3202(e)(2)(A)) requires the President to publish notice of the action he proposes to take at least 30 days before taking action under section 203(e)(1) (19 U.S.C. 3202(e)(1)).

12. On October 1, 2008, the USTR, at my direction, published a notice in the *Federal Register* (73 *FR* 57158) announcing that I proposed to suspend the designation of Bolivia as a beneficiary country for purposes of the ATPA and the ATPDEA based on Bolivia's failure to satisfy the eligibility criteria set forth in section 203(d)(11) and section 204(b)(6)(B)(v) of the ATPA, as amended (19 U.S.C. 3202(d)(11), 3203(b)(6)(B)(v)).

13. I have determined that Bolivia no longer satisfies the eligibility criterion in section 203(d)(11) of the ATPA, as amended. Therefore, pursuant to section 203(e)(1)(A)(i) of the ATPA, I have determined that, as a result of this changed circumstance, Bolivia's designation as an ATPA beneficiary country should be suspended.

14. I have determined that Bolivia is no longer performing satisfactorily under the eligibility criterion in section 204(b)(6)(B)(v) of the ATPA, as amended. Therefore, pursuant to section 203(e)(1)(B)(i) of the ATPA, I have determined that, as a result of this changed circumstance, Bolivia's designation as an ATPDEA beneficiary country should be suspended.

15. Presidential Proclamation 6641 of December 15, 1993, implemented the North American Free Trade Agreement (NAFTA) with respect to the United States and, pursuant to the North American Free Trade Agreement Implementation Act (Public Law 103–182) (the ''NAFTA Implementation Act''), incorporated in the HTS the tariff modifications and rules of origin necessary or appropriate to carry out the NAFTA.

16. Section 202 of the NAFTA Implementation Act (19 U.S.C. 3332) provides rules for determining whether goods imported into the United States originate in the territory of a NAFTA country and thus are eligible for the tariff and other treatment contemplated under the NAFTA. Section 202(q) of the NAFTA Implementation Act (19 U.S.C. 3332(q)) authorizes the President to proclaim, as a part of the HTS, the rules of origin set out in the NAFTA, and to proclaim modifications to such previously proclaimed rules of origin, subject to the consultation and layover requirements of section 103(a) of the NAFTA Implementation Act (19 U.S.C. 3313(a)).

17. The United States and Canada have agreed to modify certain NAFTA rules of origin and to apply the modified rules to their bilateral trade. It is therefore necessary to modify the NAFTA rules of origin set out in Proclamation 6641.

18. Section 1230 of the Tax Relief and Health Care Act of 2006 (Public Law 109–432) temporarily modified the rate of duty on triphenyl phosphine. Modifications to the HTS are necessary to provide the intended tariff treatment.

19. Presidential Proclamation 7011 of June 30, 1997, implemented the World Trade Organization Ministerial Declaration on Trade in Information Technology Products for the United States. Annex 1 to that proclamation failed to include certain products. Technical corrections and conforming changes to the HTS are necessary to provide the intended tariff treatment for those products.

20. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483) (the ''1974 Act''), authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including section 404 of the CAFTA-DR Act, as amended, section 104 of the AGOA, section 202 of the NAFTA Implementation Act, section 203 of the ATPA, as amended, section 604 of the 1974 Act, and section 301 of title 3, United States Code, do proclaim that:

(1) In order to provide the tariff treatment for eligible articles provided for in section 404 of the CAFTA-DR Act, as added by Public Law 110–436, the HTS is modified as set forth in Annex A to this proclamation.

(2) In order to reflect changes to the tariff treatment for certain apparel products under the AGOA, U.S. note 5 to subchapter XIX of chapter 98 of the HTS, subheadings 9819.15.10 through 9819.15.42, inclusive, and the superior text thereto are deleted from the HTS, effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 31, 2008.

(3) For purposes of section 112(c) of the AGOA, as amended, Mauritius is included as a lesser developed beneficiary sub-Saharan African country effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 31, 2008.

(4) The designation of Bolivia as a beneficiary country for purposes of the ATPA and ATPDEA is suspended effective on December 15, 2008. Accordingly, effective on that date, general note 11(a) to the HTS is

modified by deleting ''Bolivia'' from the list of ATPA beneficiary countries. Further, general note 11(d) to the HTS is modified by deleting ''Bolivia'' from the list of ATPDEA beneficiary countries. In addition, U.S. note 1 to subchapter XXII of chapter 98 of the HTS is modified by removing ''Bolivia'' from the list of ATPDEA beneficiary countries.

(5) In order to modify the rules of origin under the NAFTA, general note 12 to the HTS is modified as set forth in Annex B to this proclamation.

(6) (a) The modifications to the HTS set forth in Annex A to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date set forth in Annex A.

(b) The modifications to the HTS set forth in Annex B to this proclamation shall enter into effect on the date that the USTR announces in a notice published in the *Federal Register* that Canada has completed its applicable domestic procedures to give effect to corresponding modifications to be applied to goods of the United States and shall be effective with respect to goods of Canada entered, or withdrawn from warehouse for consumption, on or after the date indicated in the notice.

(7) In order to provide the intended tariff treatment to triphenyl phosphine and to correct the error identified in paragraph 19, the HTS is modified as provided in Annex C to this proclamation.

(8) The modifications to the HTS made in Annex C to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date set out in that Annex.

(9) The USTR shall notify the Congress of this proclamation and my certification as provided in section 404(e) of the CAFTA-DR Act, as amended.

(10) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of November, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

## ANNEX A

## TO MODIFY THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES REGARDING CERTAIN IMPORTED APPAREL ARTICLES

Effective with respect to goods of a party to the Dominican Republic-Central America-United States Free Trade Agreement ("DR-CAFTA") as defined in general note 29(a) to the Harmonized Tariff Schedule of the United States ("HTS") which are entered, or withdrawn from warehouse for consumption, on or after December 1, 2008, Chapter XXII of chapter 98 of the HTS is hereby modified as follows:

1. The following new U.S. note is inserted in numerical sequence in such subchapter:

"27. Earned import allowance program.

(a) For purposes of heading 9822.06.05, eligible apparel articles wholly assembled in and imported directly from the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate that reflect the amount of credits equal to the total square meter equivalents (SMEs) of fabric in such apparel articles, in accordance with the earned import allowance program established by the Secretary of Commerce. For purposes of determining the quantity of SMEs under this note, the conversion factors listed in "Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America, 2008," or its successor publications, of the United States Department of Commerce shall apply.

(b) For purposes of subdivision (a) of this note, the term "eligible apparel articles" means the following articles classified in chapter 62 of the tariff schedule (and meeting the requirements of the rules relating to chapter 62 of the tariff schedule contained in general note 29(n) of such schedule) of cotton (but not of denim): trousers, bib and brace overalls, breeches and shorts, skirts and divided skirts and pants."

2. The following new subheading is inserted in numerical sequence in such subchapter, with the material inserted in the columns entitled "Heading/Subheading", "Article Description", and "Rates of Duty 1 General", respectively:

| | | | | |
|---|---|---|---|---|
| "9822.06.05 | : Eligible apparel articles of chapter 62 assembled in | : | : | : |
| | : the Dominican Republic and imported directly therefrom, | : | : | : |
| | : under the terms of U.S. note 27 to this subchapter..... | : Free" | : | : |

## ANNEX B

## TO MODIFY CERTAIN RULES OF ORIGIN FOR PURPOSES OF THE NORTH AMERICAN FREE TRADE AGREEMENT

Effective with respect to goods originating in the territory of Canada, under the terms of general note 12 to the Harmonized Tariff Schedule of the United States ("HTS"), that are entered, or withdrawn from warehouse for consumption, on or after the date announced by the United States Trade Representative and published in the *Federal Register*, subdivision (t) of such general note is hereby modified as follows:

1. The Note immediately above tariff classification rule ("TCR") 1 for chapter 58 is modified to read as follows:

> "**Note:** The following TCRs 1 and 1A apply only to goods of Canada under the terms of this note."

2. TCR 1 is modified by striking "warp" and inserting in lieu thereof "woven-warp", and by striking "5515" and inserting in lieu thereof "5516".

3. The following new TCR is inserted immediately below TCR 1:

> "1A. A change to subheading 5801.36 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54, headings 5501 through 5502, subheadings 5503.10 through 5503.20 or 5503.40 through 5503.90 or headings 5504 through 5516."

## ANNEX C

(A) Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after July 1, 1997, subheading 9030.90.64 is modified by deleting "9030.82" and inserting in lieu thereof "9030.40 or 9030.82" and by renumbering it as 9030.90.66.

(B) Conforming changes, effective on July 1, 1997:

1. Tariff classification rule 70 for chapter 90, as set forth in general note 12(t) is modified by deleting "9030.90.64" and by inserting in lieu thereof "9030.90.66".

2. General note 25(m)(9) and (152) are each modified by deleting "9030.90.64" and by inserting in lieu thereof "9030.90.66".

3. General Note 25(m)(152) is modified by deleting "9030.82" in the description opposite 9030.90.64 and replacing it with "9030.40 or 9030.82"

(C) Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 4, 2007, heading 9902.23.23 is modified by deleting "2931.00.90" and inserting in lieu thereof "2931.00.60".

**Proclamation 8324 of November 26, 2008**

## National Drunk and Drugged Driving Prevention Month, 2008

*By the President of the United States of America*

*A Proclamation*

During National Drunk and Drugged Driving Prevention Month, we underscore our commitment to raising awareness about the tragedies that often result from driving under the influence of drugs or alcohol.

Nearly 13,000 Americans died last year as a result of drunk driving. During the holidays, people are more likely to drive in an impaired state, and in order to better protect our citizens this holiday season, we must educate all Americans about the seriousness of this offense and its devastating consequences. Individuals across America can help prevent drunk and drugged driving by making responsible choices, identifying sober designated drivers, and educating young people about ways to avoid drunk and drugged driving. All Americans can work together to make our roads safer and help save lives by preventing others from driving under the influence of alcohol and drugs.

My Administration is committed to keeping our citizens safe from drunk and drugged drivers this holiday season. The National Highway Traffic Safety Administration (NHTSA) is raising public awareness through advertising, urging the increased use of ignition interlocks, and encouraging greater law enforcement presence. The NHTSA has extended their ''Drunk Driving. Over the Limit. Under Arrest.'' campaign through the holiday season, and we must continue to be vigilant in stopping impaired driving throughout the year. In addition, the Office of National Drug Control Policy is working hard to ensure that our law enforcement officers have the tools they need to detect when drivers are under the influence of drugs.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 2008 as National Drunk and Drugged Driving Prevention Month. I encourage all Americans to help keep our Nation's roads safe by making responsible choices and taking appropriate measures to prevent drunk and drugged driving.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of November, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8325 of November 26, 2008**

## World AIDS Day, 2008

*By the President of the United States of America*
*A Proclamation*

As Americans, we believe in the inherent dignity and value of every man, woman, and child. On World AIDS Day, we recommit ourselves to the global challenge of combating the HIV/AIDS pandemic, and to showing our compassion for those affected here at home and around the world.

The fight against HIV/AIDS is a noble and necessary battle. As part of this fight, in 2003 my Administration launched the President's Emergency Plan for AIDS Relief (PEPFAR). Through this program, the United States has partnered with other countries, local communities, and faith-based organizations around the world to support HIV/AIDS treatment, care, and prevention activities. In July 2008, we worked with the Congress to reauthorize this important program for another 5 years.

PEPFAR is the largest international commitment in history by any nation to combat a single disease, and so far the results are promising. PEPFAR has supported care for millions of people around the world. We have also made great strides in the fight against HIV/AIDS through PEPFAR's commitment to evidence-based prevention interventions, including the ABC approach: abstinence, be faithful, and correct and consistent condom use. PEPFAR is spreading hope around the world by saving lives and showing the good heart of our Nation.

To advance our domestic battle against HIV/AIDS, we must continue to research and develop new methods of treatment and prevention. In 2006, the Congress reauthorized the Ryan White CARE Act. This legislation also focuses on life-saving and life-extending services, increased accountability for funding, and supports HIV testing to prevent the further spread of this disease.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 1, 2008, as World AIDS Day. On this day and throughout the year, the red ribbon is a symbol that helps raise awareness of the importance of fighting against HIV/AIDS. Again this year, the White House will display the red ribbon from the North Portico to represent America's commitment to this struggle. I urge the Governors of the States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction of the United States, and the American people to join me in appropriate activities to remember those who have lost their lives to AIDS and provide support and comfort to those living with this disease.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of November, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8326 of December 5, 2008**

## National Pearl Harbor Remembrance Day, 2008

*By the President of the United States of America*
*A Proclamation*

On National Pearl Harbor Remembrance Day, we mourn the more than 2,400 Americans whose lives were lost in the surprise attack on our homeland that changed the course of history. Their service and sacrifice and the service and sacrifice of all our World War II veterans will be forever honored on this day by the citizens of a free and grateful Nation.

On December 7, 1941, the enemy nearly destroyed our Pacific Fleet, and the United States was forced into a long and terrible war. A generation of Americans stepped forward to fight for our country. Their message to America's enemies was clear: If you attack this country and harm our people, there is no corner of the Earth remote enough to protect you from the reach of our Nation's Armed Forces.

Following the war the United States worked to make our most bitter enemies into our closest friends through the transformative power of freedom. The joys of liberty are often secured by the sacrifices of those who serve a cause greater than self. To honor and recognize the sacrifice of our Armed Forces, I have designated nine sites as the World War II Valor in the Pacific National Monument. This monument will preserve our history and help share this heritage with future generations. On this anniversary, we honor the heroes who risked and lost their lives for our security and freedom. Their selfless dedication exemplifies the great character of America and continues to inspire our Nation.

The Congress, by Public Law 103–308, as amended, has designated December 7 of each year as ''National Pearl Harbor Remembrance Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim December 7, 2008, as National Pearl Harbor Remembrance Day. I encourage all Americans to observe this solemn occasion with appropriate ceremonies and activities. I urge all Federal agencies and interested organizations, groups, and individuals to fly the flag of the United States at half-staff this December 7 in honor of those who died as a result of their service at Pearl Harbor.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of December, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8327 of December 5, 2008**

## Establishment of the World War II Valor In the Pacific National Monument

*By the President of the United States of America*
*A Proclamation*

Beginning at Pearl Harbor with the day of infamy that saw the sinking of the USS ARIZONA and ending on the deck of the USS MISSOURI in Tokyo Bay, many of the key battles of World War II were waged on and near American shores and throughout the Pacific. We must always remember the debt we owe to the members of the Greatest Generation for our liberty. Their gift is an enduring peace that transformed enemies into steadfast allies in the cause of democracy and freedom around the globe.

Americans will never forget the harrowing sacrifices made in the Pacific by soldiers and civilians that began at dawn on December 7, 1941, at Pearl Harbor on the island of Oahu. The surprise attack killed more than 2,000 American military personnel and dozens of civilians and thrust the United States fully into World War II.

America responded and mobilized our forces to fight side-by-side with our allies in the European, Atlantic, and Pacific theaters. The United States Navy engaged in epic sea battles, such as Midway, and our Armed Forces fought extraordinary land battles for the possession of occupied islands. These battles led to significant loss of life for both sides, as well as for the island's native peoples. Battlegrounds such as Guadalcanal, Tarawa, Saipan, Guam, Peleliu, the Philippines, Iwo Jima, and Okinawa are remembered for the heroic sacrifices and valor displayed there.

The conflict raged as far north as the Alaskan territory. The United States ultimately won the encounter in the Aleutian Island chain but not without protracted and costly battles.

There were also sacrifices on the home front. Tens of millions of Americans rallied to support the war effort, often at great personal cost. Men and women of all backgrounds were called upon as industrial workers, volunteers, and civil servants. Many Americans valiantly supported the war effort even as they struggled for their own civil rights.

In commemoration of this pivotal period in our Nation's history, the World War II Valor in the Pacific National Monument adds nine historic sites to our national heritage of monuments and memorials representing various aspects of the war in the Pacific.

Five of those sites are in the Pearl Harbor area, which is the home of both the USS ARIZONA and the USS MISSOURI—milestones of the Pacific campaign that mark the beginning and the end of the war. The sites in this area include: the USS ARIZONA Memorial and Visitor Center, the USS UTAH Memorial, the USS OKLAHOMA Memorial, the six Chief Petty Officer Bungalows on Ford Island, and mooring quays F6, F7, and F8, which constituted part of Battleship Row. The USS ARIZONA and USS UTAH vessels will not be designated as part of the national monument, but instead will be retained by the Department of Defense (through the Department of the Navy) as the final resting place for those entombed there.

Three sites are located in Alaska's Aleutian Islands. The first is the crash site of a Consolidated B-24D Liberator bomber—an aircraft of a type that played a highly significant role in World War II—located on Atka Island. The second is the site of Imperial Japan's occupation of Kiska Island, beginning in June 1942, which marks the northern limit of Imperial Japan's expansion in the Pacific. The Kiska site includes historic relics such as Imperial Japanese coastal and antiaircraft defenses, camps, roads, an airfield, a submarine base, a seaplane base, and other installations, as well as the remains of Allied defenses, including runway facilities and gun batteries.

The third Aleutian designation is on Attu Island, the site of the only land battle fought in North America during World War II. It still retains the scars of the battle: thousands of shell and bomb craters in the tundra; Japanese trenches, foxholes, and gun encampments; American ammunition magazines and dumps; and spent cartridges, shrapnel, and shells located at the scenes of heavy fighting. Attu later served as a base for bombing missions against Japanese holdings.

The last of the nine designations will bring increased understanding of the high price paid by some Americans on the home front. The Tule Lake Segregation Center National Historic Landmark and nearby Camp Tule Lake in California were both used to house Japanese-Americans relocated from the west coast of the United States. They encompass the original segregation center's stockade, the War Relocation Authority Motor Pool, the Post Engineer's Yard and Motor Pool, a small part of the Military Police Compound, several historic structures used by internees and prisoners of war at Camp Tule Lake, and the sprawling landscape that forms the historic setting.

WHEREAS much of the Federal property within the World War II Valor in the Pacific National Monument is easily accessible to visitors from around the world;

WHEREAS the Secretary of the Interior should be authorized and directed to interpret the broader story of World War II in the Pacific in partnership with the Department of Defense, the States of Hawaii, Alaska, and California, and other governmental and non-profit organizations;

WHEREAS the World War II Valor in the Pacific National Monument will promote understanding of related resources, encourage continuing research, present interpretive opportunities and programs for visitors to better understand and honor the sacrifices borne by the Greatest Generation, and tell the story from Pearl Harbor to Peace;

WHEREAS section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431) (the ''Antiquities Act'') authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon lands owned or controlled by the Government of the United States to be national monuments, and to reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

WHEREAS it is in the public interest to preserve the areas described above and on the attached maps as the World War II Valor in the Pacific National Monument;

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by the authority vested in me by section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the World War II Valor in the Pacific National Monument for the purpose of protecting the objects described above, all lands and interests in lands owned or controlled by the Government of the United States within the boundaries described on the accompanying maps, which are attached and form a part of this proclamation. The Federal lands and interests in land reserved consist of approximately 6,310 acres, which is the smallest area compatible with the proper care and management of the objects to be protected.

All Federal lands and interests in lands within the boundaries of this monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, leasing, or other disposition under the public land laws, including, but not limited to, withdrawal from location, entry, and patent under mining laws, and from disposition under all laws relating to mineral and geothermal leasing.

**Management of the National Monument**

The Secretary of the Interior shall manage the monument through the National Park Service and the U.S. Fish and Wildlife Service, pursuant to applicable legal authorities, to implement the purposes of this proclamation. The National Park Service shall generally administer the national monument, except that the U.S. Fish and Wildlife Service shall administer the portions of the national monument that are within a national wildlife refuge. The National Park Service and the U.S. Fish and Wildlife Service may prepare an agreement to share, consistent with applicable laws, whatever resources are necessary to properly manage the monument.

For the purposes of preserving, interpreting, and enhancing public understanding and appreciation of the national monument and the broader story of World War II in the Pacific, the Secretary of the Interior, in consultation with the Secretary of Defense, shall prepare a management plan within 3 years of the date of this proclamation.

The Secretary of the Interior shall have management responsibility for the monument sites and facilities in Hawaii within the boundaries designated on the accompanying maps to the extent necessary to implement this proclamation, including the responsibility to maintain and repair the Chief Petty Officer Bungalows and other monument facilities. The Department of Defense may retain the authority to control access to those sites. The Department of the Interior through the National Park Service and the Department of the Navy may execute an agreement to provide for the operational needs and responsibilities of each Department in implementing this proclamation.

**Armed Forces Actions**

1. The prohibitions required by this proclamation shall not restrict activities and exercises of the Armed Forces (including those carried out by the United States Coast Guard).

2. All activities and exercises of the Armed Forces shall be carried out in a manner that avoids, to the extent practicable and consistent with operational requirements, adverse impacts on monument resources and qualities.

3. In the event of threatened or actual destruction of, loss of, or injury to a monument resource or quality resulting from an incident, including but not limited to spills and groundings, caused by a component of the Department of Defense or any other Federal agency, the cognizant component shall promptly coordinate with the Secretary of the Interior for the purpose of taking appropriate actions to respond to and mitigate the harm and, if possible, restore or replace the monument resource or quality.

4. Nothing in this proclamation or any regulation implementing it shall limit or otherwise affect the Armed Forces' discretion to use, maintain, improve, or manage any real property under the administrative control of a Military Department or otherwise limit the availability of such real property for military mission purposes.

The establishment of this monument is subject to valid existing rights.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the national monument shall be the dominant reservation.

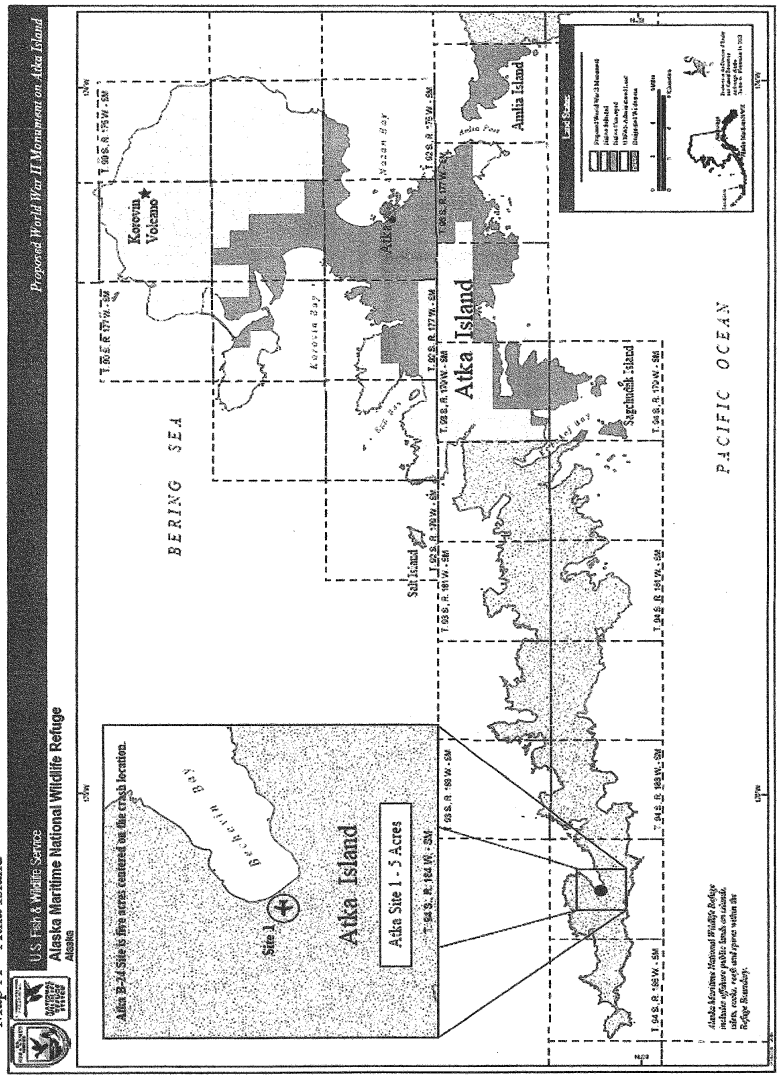
Nothing in this proclamation shall alter the authority of any Federal agency to take action in the monument area where otherwise authorized under applicable legal authorities, except as provided by this proclamation.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any lands thereof.

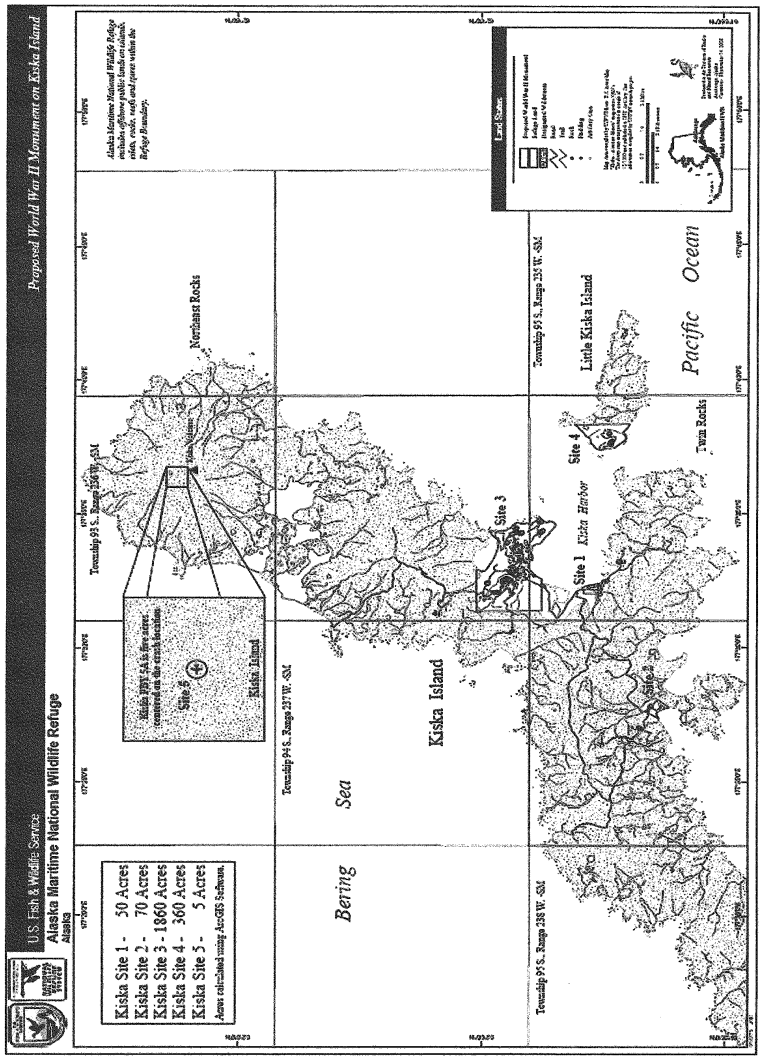
IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of December, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

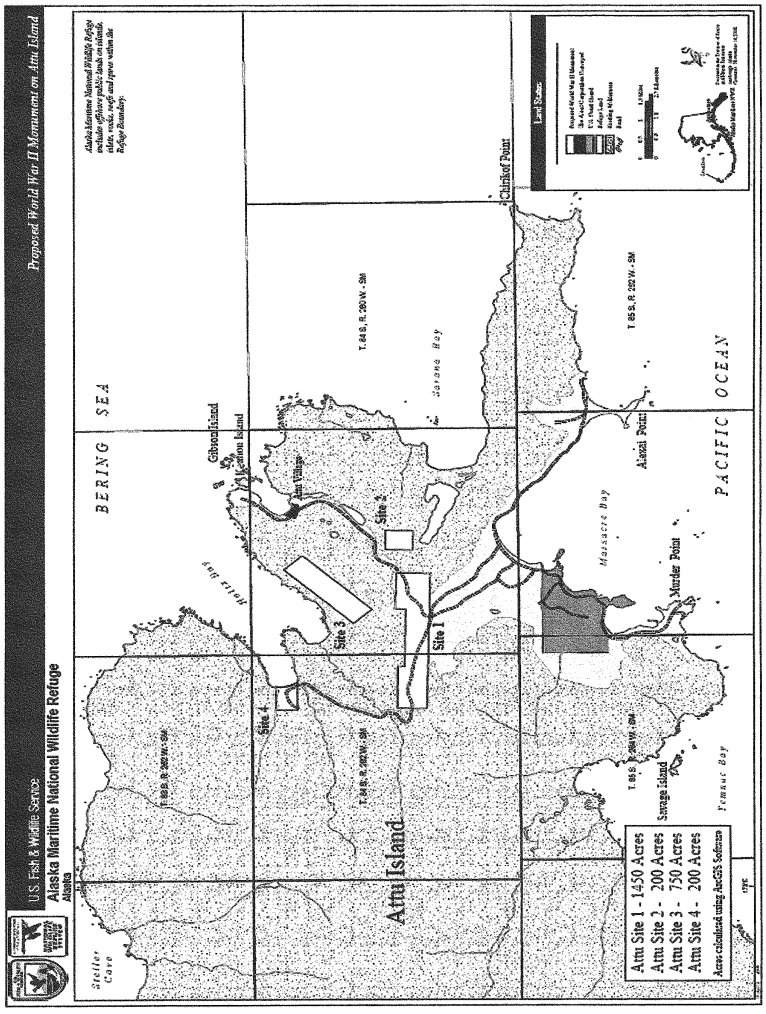
Map A – Atka Island

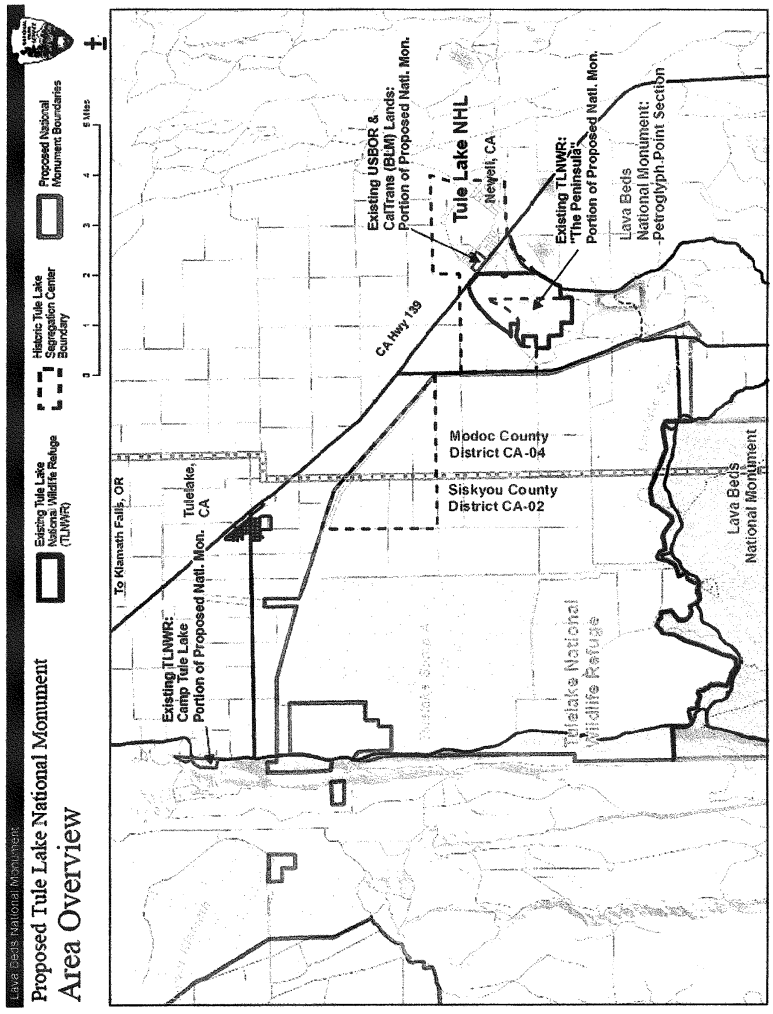


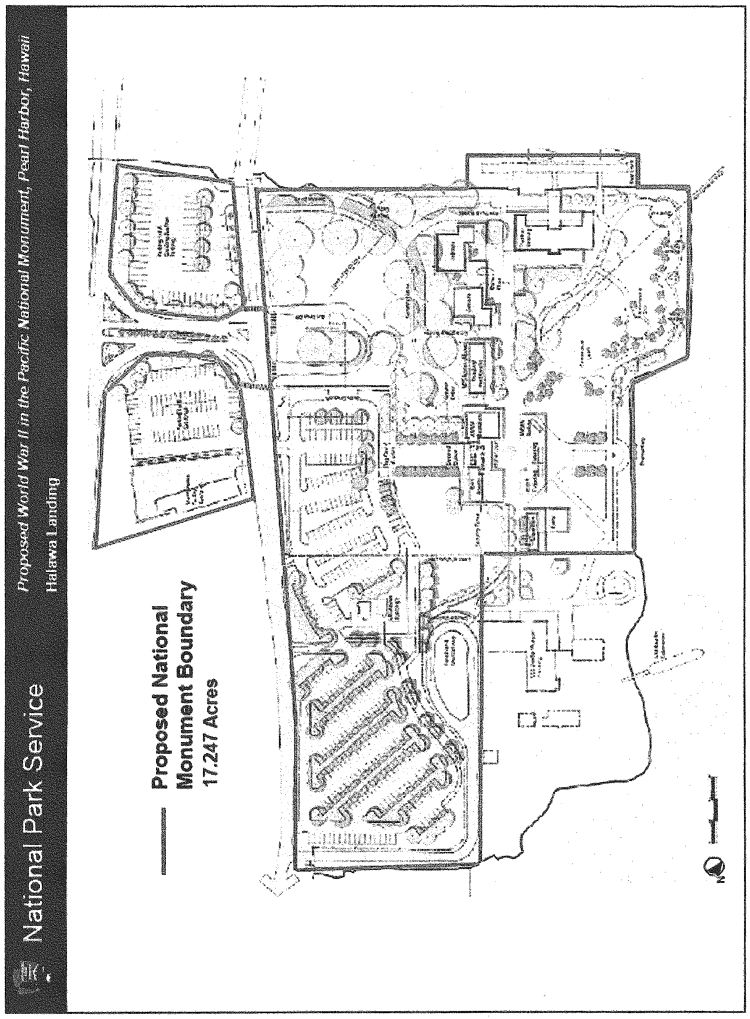
Map B – Kiska Island



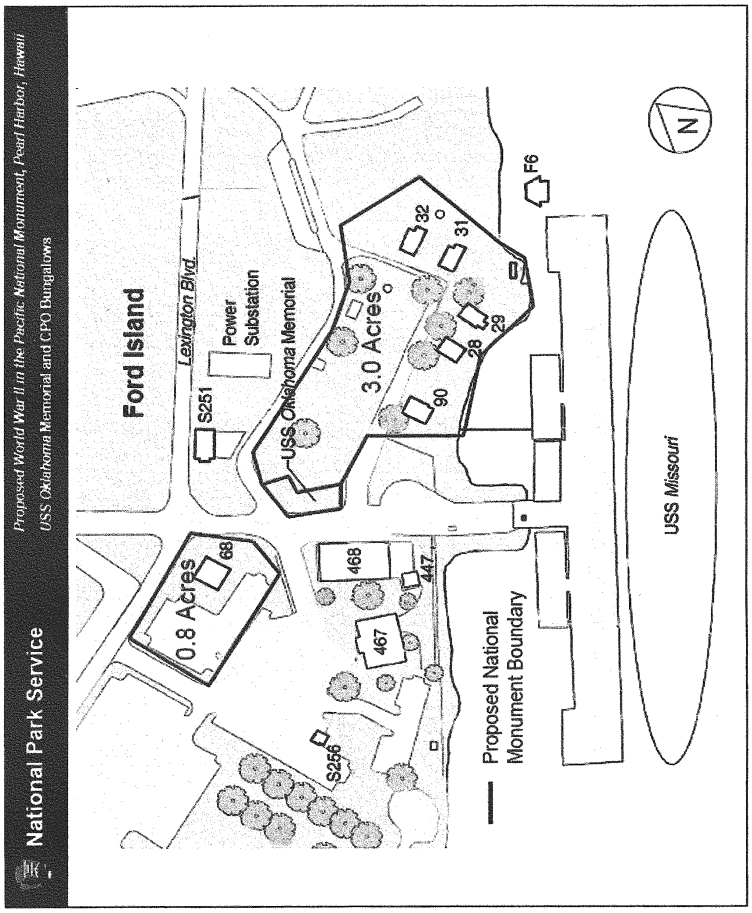
Map C – Attu Island



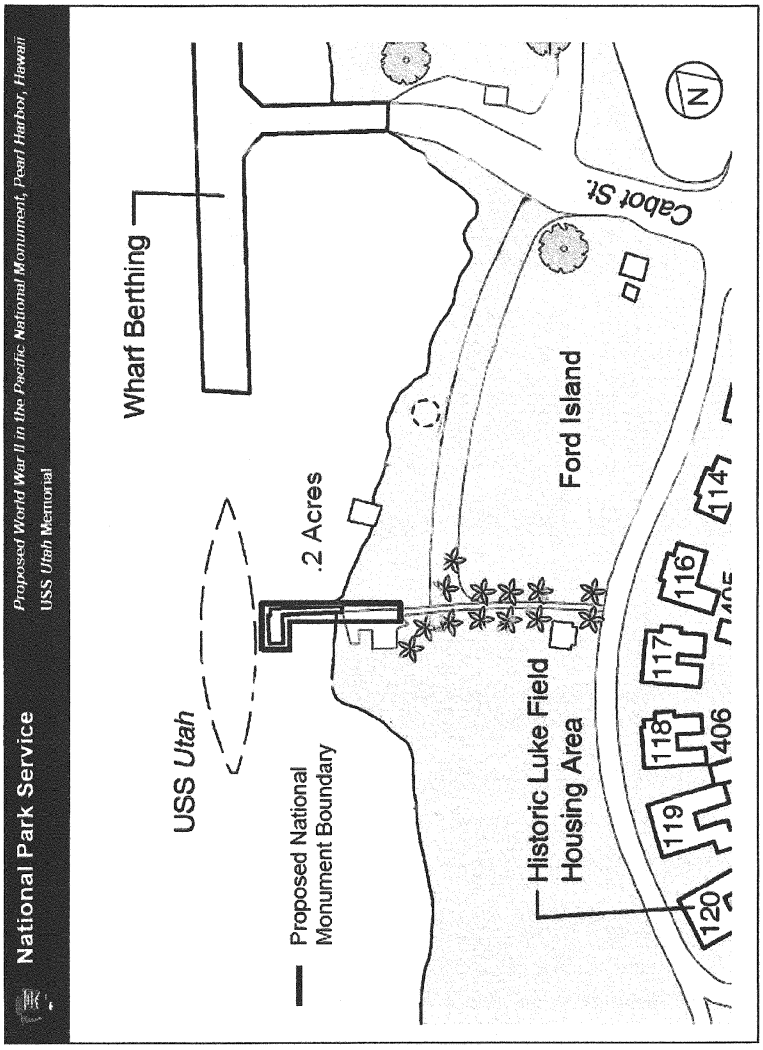

Map D – Tule Lake
Lava Beds National Monument
Proposed Tule Lake National Monument
Area Overview
Existing Tule Lake National Wildlife Refuge (TLNWR)
Historic Tule Lake Segregation Center Boundary
Proposed National Monument Boundaries
0 1 2 3 4 5 Miles
To Klamath Falls, OR
Tulelake, CA
Existing TLNWR: Camp Tule Lake Portion of Proposed Natl. Mon.
CA Hwy 139
Existing USBOR & CalTrans (BLM) Lands: Portion of Proposed Natl. Mon.
Tule Lake NHL
Newell, CA
Existing TLNWR: "The Peninsula" Portion of Proposed Natl. Mon.
Lava Beds National Monument: Petroglyph Point Section
Modoc County District CA-04
Siskyou County District CA-02
Tulelake National Wildlife Refuge
Lava Beds National Monument




Map E - Halawa Landing and Pearl Harbor Visitor Center

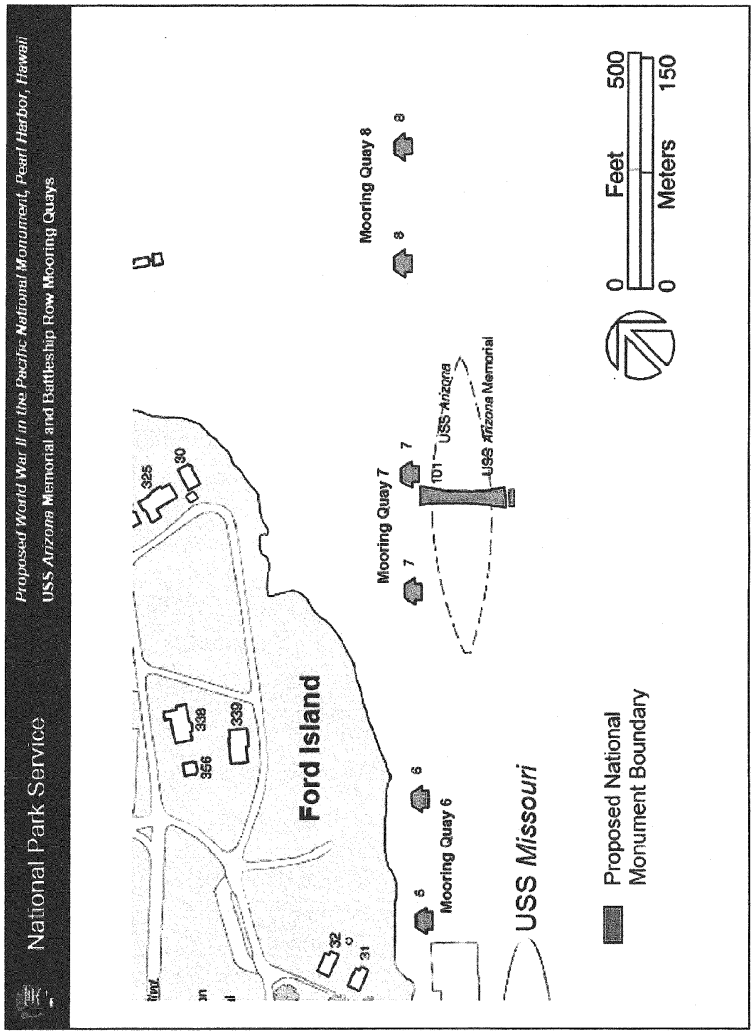



Map F - Bungalow and USS *Oklahoma* Memorial




Map G - USS *Utah* Memorial

Map H – USS *Arizona* Memorial and Mooring Quays



**Proclamation 8328 of December 8, 2008**

## Human Rights Day, Bill of Rights Day, and Human Rights Week, 2008

*By the President of the United States of America*
*A Proclamation*

The United States was founded on the principle that government must respect people's rights to speak freely, worship as they choose, and pursue their dreams in liberty. As we remember the enduring importance of our Constitution's Bill of Rights, our thoughts turn to those who have yet to secure these precious liberties. During Human Rights Day, Bill of Rights Day, and Human Rights Week, Americans celebrate the rights bestowed upon all by our Creator and reaffirm our deep commitment to helping those whose desire for liberty and justice is still dismissed and denied.

In a free society, every person is treated with dignity and can rise as high as their talents and hard work will take them. Yet in countries like Belarus, Burma, Cuba, Iran, North Korea, Sudan, Syria, and Zimbabwe, fervent pleas for freedom are silenced by tyranny and oppression. So long as there are people who fight for liberty, the United States will stand with them and speak out for those who have no other voice.

Freedom is the eternal birthright of all mankind, and during Human Rights Day, Bill of Rights Day, and Human Rights Week, we renew our commitment to lead the cause of human rights and pray for the day when the light of liberty will shine on all of humanity.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 10, 2008, as Human Rights Day; December 15, 2008, as Bill of Rights Day; and the week beginning December 10, 2008, as Human Rights Week. I call upon the people of the United States to mark these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of December, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8329 of December 16, 2008**

## Wright Brothers Day, 2008

*By the President of the United States of America*
*A Proclamation*

Our history is rich with pioneers and innovators who used their God-given talents to improve our Nation and the world. On Wright Brothers Day, we commemorate two brothers, Orville and Wilbur Wright, who took great risks and ushered in a new era of travel and discovery.

With intrepid spirits and a passion for innovation, Orville and Wilbur Wright became the first to experience the thrill of manned, powered flight. On December 17, 1903, Orville Wright flew for 12 seconds over the North Carolina sand dunes in the presence of only five people. In the span of one lifetime, our Nation has seen aviation progress from the first tentative takeoff at Kitty Hawk to an age of supersonic flight and space exploration.

On this Wright Brothers Day, we recognize all those who have taken great risks and contributed to our country's legacy of exploration and discovery. This year, we also celebrate the centennial of the world's first passenger flight. By remaining dedicated to extending the frontiers of knowledge, we can ensure that the United States will continue to lead the world in science, innovation, and technology, and build a better future for generations to come.

The Congress, by a joint resolution approved December 17, 1963, as amended (77 Stat. 402; 36 U.S.C. 143), has designated December 17 of each year as ''Wright Brothers Day'' and has authorized and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim December 17, 2008, as Wright Brothers Day.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of December, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8330 of December 19, 2008**

## To Take Certain Actions Under the African Growth and Opportunity Act and the Generalized System of Preferences

*By the President of the United States of America*

*A Proclamation*

1. Section 506A(a)(1) of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2466a(a)(1)), as added by section 111(a) of the African Growth and Opportunity Act (title I of Public Law 106–200) (AGOA), authorizes the President to designate a country listed in section 107 of the AGOA (19 U.S.C. 3706) as a beneficiary sub-Saharan African country if the President determines that the country meets the eligibility requirements set forth in section 104 of the AGOA (19 U.S.C. 3703) and the eligibility criteria set forth in section 502 of the 1974 Act (19 U.S.C. 2462).

2. Section 104 of the AGOA authorizes the President to designate a country listed in section 107 of the AGOA as an eligible sub-Saharan African country if the President determines that the country meets certain eligibility requirements.

3. Section 112(c) of the AGOA (19 U.S.C. 3721(c)), as added by section 6002(a) of the Africa Investment Incentive Act of 2006 (division D, title VI of Public Law 109–432), provides special rules for certain apparel articles imported from lesser developed beneficiary sub-Saharan African countries.

4. In Proclamation 8157 of June 28, 2007, I designated the Islamic Republic of Mauritania (Mauritania) as an eligible sub-Saharan African country and a beneficiary sub-Saharan African country pursuant to section 104 of the AGOA and section 506A(a)(1) of the 1974 Act and provided that it would be considered a lesser developed beneficiary sub-Saharan African country for purposes of section 112(c) of the AGOA.

5. Section 506A(a)(3) of the 1974 Act (19 U.S.C. 2466a(a)(3)) authorizes the President to terminate the designation of a country as a beneficiary sub-Saharan African country for purposes of section 506A if he determines that the country is not making continual progress in meeting the requirements described in section 506A(a)(1) of the 1974 Act.

6. Pursuant to section 506A(a)(3) of the 1974 Act, I have determined that Mauritania is not making continual progress in meeting the requirements described in section 506A(a)(1) of the 1974 Act. Accordingly, I have decided to terminate the designation of Mauritania as a beneficiary sub-Saharan African country for purposes of section 506A of the 1974 Act, effective on January 1, 2009.

7. Pursuant to sections 501 and 502(a) of the 1974 Act (19 U.S.C. 2461, 2462(a)), the President is authorized to designate countries as beneficiary developing countries for purposes of the Generalized System of Preferences (GSP) program.

8. Pursuant to section 502(a)(1) of the 1974 Act, and having considered the factors set forth in sections 501 and 502(c) (19 U.S.C. 2462(c)), I have determined that the Republic of Kosovo (Kosovo) should be designated as a beneficiary developing country for purposes of the GSP program.

9. Pursuant to section 502 of the 1974 Act, and having considered the factors set forth in sections 501 and 502(c), I have determined that the Republic of Azerbaijan (Azerbaijan) should be designated as a beneficiary developing country for purposes of the GSP program.

10. Section 604 of the 1974 Act (19 U.S.C. 2483), as amended, authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to section 104 of the AGOA (19 U.S.C. 3703), and title V and section 604 of the 1974 Act (19 U.S.C. 2461–67, 2483), do proclaim that:

(1) The designation of Mauritania as a beneficiary sub-Saharan African country for purposes of section 506A of the 1974 Act is terminated, effective on January 1, 2009.

(2) In order to reflect in the HTS that beginning on January 1, 2009, Mauritania shall no longer be designated as a beneficiary sub-Saharan African country, general note 16(a) to the HTS is modified by deleting

''Islamic Republic of Mauritania'' from the list of beneficiary sub-Saharan African countries.

(3) Kosovo is designated as a beneficiary developing country for purposes of the GSP program.

(4) In order to reflect this designation in the HTS, general note 4(a) to the HTS is modified by adding in alphabetical order ''Kosovo,'' effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after February 1, 2009.

(5) Azerbaijan is designated as a beneficiary developing country for purposes of the GSP program.

(6) In order to reflect this designation in the HTS, general note 4(a) to the HTS is modified by adding in alphabetical order ''Azerbaijan,'' effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after February 1, 2009.

(7) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of December, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8331 of December 23, 2008**

## To Implement the Dominican Republic-Central America-United States Free Trade Agreement With Respect to Costa Rica and for Other Purposes

*By the President of the United States of America*

*A Proclamation*

1. On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (the ''Agreement'') with Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua (the ''Agreement countries''). The Agreement was approved by the Congress in section 101(a) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the ''Act'') (19 U.S.C. 4011).

2. The Parties to the Agreement entered into an amendment of the Agreement on July 27, August 6, and August 14, 2007 (the ''Amendment''). The Amendment provides for temporary duty-free treatment for certain goods of Costa Rica. The terms of the Amendment with respect to Costa Rica are contained in letters of understanding described in section 1634(b)(2) of the Pension Protection Act of 2006 (Public Law 109–280, 120 Stat. 780).

3. Section 201(a)(1) of the Act (19 U.S.C. 4031(a)(1)) authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty free or excise treatment, or such additional

duties, as the President determines to be necessary or appropriate to carry out or apply Articles 3.3 and 3.27, and Annexes 3.3 (including the schedule of United States duty reductions with respect to originating goods) and 3.27 of the Agreement.

4. Consistent with section 201(a)(2) of the Act (19 U.S.C. 4031(a)(2)), each Agreement country is to be removed from the enumeration of designated beneficiary developing countries eligible for the benefits of the Generalized System of Preferences (GSP) on the date the Agreement enters into force with respect to that country.

5. Consistent with section 201(a)(3) of the Act (19 U.S.C. 4031(a)(3)), each Agreement country is to be removed from the enumeration of designated beneficiary countries under the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2701 *et seq.*) on the date the Agreement enters into force with respect to that country, subject to the exceptions set out in section 201(a)(3)(B) of the Act (19 U.S.C. 4031(a)(3)(B)).

6. Consistent with section 213(b)(5)(D) of the CBERA (19 U.S.C. 2703(b)(5)(D)), as amended by the United States-Caribbean Basin Trade Partnership Act (CBTPA) (Public Law 106–200), each Agreement country is to be removed from the enumeration of designated CBTPA beneficiary countries on the date the Agreement enters into force with respect to that country.

7. Section 201(b) of the Act (19 U.S.C. 4031(b)) authorizes the President, subject to the consultation and layover requirements of section 104(a) of the Act (19 U.S.C. 4014(a)), to proclaim such modifications or continuation of any duty, such modifications as the United States may agree to with an Agreement country regarding the staging of any duty treatment set forth in Annex 3.3 of the Agreement, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions provided for by the Agreement. The consultation and layover requirements of section 104(a) of the Act have been satisfied with respect to providing temporary duty free treatment for certain goods of Costa Rica as set forth in the Amendment.

8. Pursuant to section 201(b) of the Act, I have determined that the modifications herein proclaimed of duties on goods of Costa Rica are necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Costa Rica provided for by the Agreement.

9. In Proclamation 8095 of December 29, 2006, consistent with the authority set out in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)), I modified the Harmonized Tariff Schedule of the United States (HTS) to implement the multilateral agreement negotiated under the auspices of the World Trade Organization to eliminate tariffs on certain pharmaceutical products and chemical intermediates. I have determined that technical corrections to the pharmaceuticals annex to the HTS are necessary to ensure that certain products receive the intended duty treatment.

10. Section 604 of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2483), as amended, authorizes the President to embody in the HTS the substance of relevant provisions of that Act, and of other Acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 201 of the Act and section 604 of the 1974 Act, and the Act having taken effect pursuant to section 107, do proclaim that:

(1) In order to provide generally for the preferential tariff treatment being accorded to Costa Rica under the Agreement, as amended, to provide certain other treatment to originating goods for the purposes of the Agreement, to provide tariff-rate quotas with respect to certain goods, to reflect the removal of Costa Rica from the enumeration of designated beneficiary developing countries for purposes of the GSP, to reflect the removal of Costa Rica from the enumeration of designated beneficiary countries for purposes of the CBERA and the CBTPA, and to make technical and conforming changes in the general notes to the HTS, the HTS is modified as set forth in Annexes I and II of Publication 4038 of the United States International Trade Commission, entitled *Modifications to the Harmonized Tariff Schedule of the United States to Implement the Dominican Republic-Central America-United States Free Trade Agreement With Respect to Costa Rica* (Publication 4038), which is incorporated by reference into this proclamation.

(2) In order to make technical corrections necessary to provide the intended duty treatment to certain pharmaceutical products and chemical intermediaries, the HTS is modified as set forth in Annex III of Publication 4038.

(3) The amendments to the HTS made by paragraphs (1) and (2) of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the relevant dates indicated in Annex I, II, or III of Publication 4038.

(4) Except as provided in paragraph (3) of this proclamation, this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2009.

(5) Any provisions of previous proclamations and executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of December, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8332 of December 29, 2008**

## To Implement the United States-Oman Free Trade Agreement

*By the President of the United States of America*
*A Proclamation*

1. On January 19, 2006, the United States entered into the United States-Oman Free Trade Agreement (the ''Agreement''). The Congress

approved the Agreement in section 101(a) of the United States-Oman Free Trade Agreement Implementation Act (the ''Implementation Act'') (Public Law 109–283, 120 Stat. 1191) (19 U.S.C. 3805 note).

2. Section 105(a) of the Implementation Act authorizes the President to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement.

3. Section 201 of the Implementation Act authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to carry out or apply Articles 2.3, 2.5, 2.6, 3.2.8, and 3.2.9, and the schedule of duty reductions with respect to Oman set forth in Annex 2–B of the Agreement.

4. Consistent with section 201(a)(2) of the Implementation Act, Oman is to be removed from the enumeration of designated beneficiary developing countries eligible for the benefits of the Generalized System of Preferences (GSP) on the date the Agreement entered into force. Further, consistent with section 604 of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2483), I have determined that other technical and conforming changes to the Harmonized Tariff Schedule of the United States (HTS) are necessary to reflect that Oman is no longer eligible to receive the benefits of the GSP.

5. Section 202 of the Implementation Act sets forth certain rules for determining whether a good is an originating good for the purpose of implementing preferential tariff treatment provided for under the Agreement. I have decided that it is necessary to include these rules of origin, together with particular rules applicable to certain other goods, in the HTS.

6. Section 204 of the Implementation Act authorizes the President to take certain enforcement actions relating to trade with Oman in textile and apparel goods.

7. Subtitle B of title III of the Implementation Act authorizes the President to take certain actions in response to a request by an interested party for relief from serious damage or actual threat thereof to a domestic industry producing certain textile or apparel articles.

8. Executive Order 11651 of March 3, 1972, as amended, established the Committee for the Implementation of Textile Agreements (CITA), consisting of representatives of the Departments of State, the Treasury, Commerce and Labor, and the Office of the United States Trade Representative, with the representative of the Department of Commerce as Chairman, to supervise the implementation of textile trade agreements. Consistent with section 301 of title 3, United States Code, when carrying out functions vested in the President by statute and assigned by the President to CITA, the officials collectively exercising those functions are all to be officers required to be appointed by the President with the advice and consent of the Senate.

9. Section 604 of the 1974 Act, as amended, authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other Acts affecting import treatment, and of actions taken thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 604 of the 1974 Act; sections 105(a), 201, 202, and 204, and subtitle B of title III, of the Implementation Act; and section 301 of title 3, United States Code, and having made the determination under section 101(b) of the Implementation Act necessary for the exchange of notes, do hereby proclaim:

(1) In order to provide generally for the preferential tariff treatment being accorded under the Agreement, to set forth rules for determining whether goods imported into the customs territory of the United States are eligible for preferential tariff treatment under the Agreement, to provide certain other treatment to originating goods of Oman for the purposes of the Agreement, to provide tariff-rate quotas with respect to certain originating goods of Oman, to reflect Oman's removal from the enumeration of designated beneficiary developing countries for purposes of the GSP, and to make technical and conforming changes in the general notes to the HTS, the HTS is modified as set forth in Annex I of Publication 4050 of the United States International Trade Commission, entitled, *Modifications to the Harmonized Tariff Schedule of the United States Implementing the United States-Oman Free Trade Agreement* (Publication 4050), which is incorporated by reference into this proclamation.

(2) In order to implement the initial stage of duty elimination provided for in the Agreement and to provide for future staged reductions in duties for originating goods of Oman for purposes of the Agreement, the HTS is modified as provided in Annex II of Publication 4050, effective on the dates specified in the relevant sections of such publication and on any subsequent dates set forth for such duty reductions in that publication.

(3) The amendments to the HTS made by paragraphs (1) and (2) of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the relevant dates indicated in Annex II of Publication 4050.

(4) The Secretary of Commerce is authorized to exercise my authority under section 105(a) of the Implementation Act to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section.

(5) The CITA is authorized to exercise my authority under section 204 of the Implementation Act to exclude textile and apparel goods from the customs territory of the United States; to determine whether an enterprise's production of, and capability to produce, goods are consistent with statements by the enterprise; to find that an enterprise has knowingly or willfully engaged in circumvention; and to deny preferential tariff treatment to textile and apparel goods.

(6) The CITA is authorized to exercise the functions of the President under subtitle B of title III of the Implementation Act to review requests, and to determine whether to commence consideration of such requests; to cause to be published in the *Federal Register* a notice of commencement of consideration of a request and notice seeking public comment thereon; to determine whether imports of an Omani textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly

competitive with, the imported article; and to provide relief from imports of an article that is the subject of such a determination.

(7) All provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of December, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8333 of December 30, 2008**

## National Mentoring Month, 2009

*By the President of the United States of America*

*A Proclamation*

During National Mentoring Month, we recognize the millions of individuals who dedicate themselves to making a difference in the lives of others, and we underscore our commitment to supporting these soldiers in America's armies of compassion.

Every day across our great Nation, men and women of many different backgrounds work to inspire our next generation of leaders. By sharing their time and experiences, mentors help instill important values that encourage America's youth to set high goals and achieve their dreams. Mentors demonstrate that the strength of our Nation lies in the hearts and souls of our citizens and that a positive influence in someone's life helps them secure a more hopeful future.

My Administration has been committed to building a culture of service, citizenship, and responsibility. Through the Mentoring Children of Prisoners program, volunteers help provide consistent guidance and support so that these children can lead lives of opportunity and achievement. The USA Freedom Corps is strengthening mentoring opportunities in America and spreading a message of hope across our Nation. The Helping America's Youth initiative, led by First Lady Laura Bush, motivates caring adults to connect with youth to help them to grow up to be responsible and successful adults. By working together, we can enrich the lives of our next generation and continue a legacy of kindness and encouragement.

I appreciate our Nation's mentors and all those who contribute to their community by helping to change a child's life. For more information on volunteering to be a mentor, visit volunteer.gov. During National Mentoring Month, we honor the many Americans who have touched the lives of others with their compassion, and we reflect on their efforts toward building a stronger and brighter future for all.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 2009 as National Mentoring Month. I call upon the people of the United States to recognize the importance of mentoring, to look for op-

portunities to serve as mentors in their communities, and to observe this month with appropriate activities and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of December, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

**Proclamation 8334 of December 31, 2008**

## To Extend Duty-Free Treatment for Certain Agricultural Products of Israel and for Other Purposes

*By the President of the United States of America*

*A Proclamation*

1. On April 22, 1985, the United States and Israel entered into the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel (USIFTA), which the Congress approved in the United States-Israel Free Trade Area Implementation Act of 1985 (the ''USIFTA Act'') (19 U.S.C. 2112 note).

2. In order to maintain the general level of reciprocal and mutually advantageous concessions with respect to agricultural trade with Israel, on July 27, 2004, the United States entered into an agreement with Israel concerning certain aspects of trade in agricultural products during the period January 1, 2004, through December 31, 2008 (the ''2004 Agreement''). The 2004 Agreement reflects an effort by the United States and Israel to address, through 2008, their continuing differences over the meaning of certain provisions in the USIFTA governing access for U.S. agricultural products to Israel's market.

3. Section 4(b) of the USIFTA Act provides that, whenever the President determines that it is necessary to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the USIFTA, the President may proclaim such withdrawal, suspension, modification, or continuance of any duty, or such continuance of existing duty-free or excise treatment, or such additional duties as the President determines to be required or appropriate to carry out the USIFTA.

4. In Proclamation 7826 of October 4, 2004, consistent with the 2004 Agreement, I proclaimed modifications to the Harmonized Tariff Schedule of the United States (HTS) to provide duty-free access into the United States through December 31, 2008, for specified quantities of certain agricultural products of Israel.

5. On December 10, 2008, the United States entered into an agreement with Israel to extend the period that the 2004 Agreement is in force through December 31, 2009, to allow additional time for the two governments to conclude an agreement to replace the 2004 Agreement.

6. Pursuant to section 4(b) of the USIFTA Act, I have determined that it is necessary, in order to maintain the general level of reciprocal and

mutually advantageous concessions with respect to Israel provided for by the USIFTA, to provide duty-free access into the United States through the close of December 31, 2009, for specified quantities of certain agricultural products of Israel.

7. On June 6, 2003, the United States and Chile entered into the United States-Chile Free Trade Agreement (USCFTA). The Congress approved the USCFTA in section 101(a) of the United States-Chile Free Trade Agreement Implementation Act (the ''USCFTA Act'') (19 U.S.C. 3805 note). In Proclamation 7746 of December 30, 2003, I proclaimed the tariff treatment called for under the USCFTA.

8. Section 201(b) of the USCFTA Act authorizes the President, subject to the consultation and layover requirements of section 103(a) of the USCFTA Act, to proclaim such modifications to the staging of duty treatment set forth in Annex 3.3 of the USCFTA as the United States may agree to with Chile, as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Chile provided for by the USCFTA.

9. On November 26, 2008, the United States entered into an agreement with Chile that includes an accelerated schedule of duty elimination under the USCFTA for specific originating goods of Chile. The consultation and layover requirements of section 103(a) of the USCFTA Act with respect to the accelerated schedule of duty elimination were satisfied as of November 8, 2008.

10. Pursuant to section 201(b) of the USCFTA Act, I have determined that modifications hereinafter proclaimed of rates of duties on originating goods of Chile are necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Chile provided for by the USCFTA and to carry out the agreement with Chile on an accelerated schedule of duty elimination for specific originating goods of Chile.

11. On May 18, 2004, the United States and Australia entered into the United States-Australia Free Trade Agreement (USAFTA). The Congress approved the USAFTA in section 101(a) of the United States-Australia Free Trade Agreement Implementation Act (the ''USAFTA Act'') (19 U.S.C. 3805 note). In Proclamation 7857 of December 20, 2004, I proclaimed the rules of origin called for under the USAFTA.

12. Section 203(o) of the USAFTA Act authorizes the President, subject to the consultation and layover requirements of section 104 of the USAFTA Act, to proclaim such modifications to the rules of origin as are necessary to implement an agreement with Australia pursuant to article 4.2.5 of the USAFTA.

13. On October 10, 2008, the United States entered into an agreement with Australia pursuant to article 4.2.5 of the USAFTA to amend the USAFTA rule of origin for certain yarns of viscose rayon fiber. The consultation and layover requirements of section 104 of the USAFTA Act with respect to the proposed modification of the USAFTA rules of origin were satisfied as of December 24, 2008.

14. Section 604 of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including section 4 of the USIFTA Act, section 201(b) of the USCFTA Act, section 203(o) of the USAFTA Act, section 604 of the 1974 Act, and section 301 of title 3, United States Code, do proclaim that:

(1) In order to implement U.S. tariff commitments under the 2004 Agreement through December 31, 2009, the HTS is modified as provided in Annex I to this proclamation.

(2)(a) The modifications to the HTS made by Annex I to this proclamation shall be effective with respect to goods that are the product of Israel and are entered, or withdrawn from warehouse for consumption, on or after January 1, 2009.

(b) The provisions of subchapter VIII of chapter 99 of the HTS, as modified by Annex I to this proclamation, shall continue in effect through December 31, 2009.

(3) In order to provide for an accelerated schedule of duty elimination for specific originating goods of Chile, the tariff treatment set forth in the HTS is modified as provided in Annex II to this proclamation.

(4) The modifications made to the HTS by Annex II to this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2009.

(5) In order to implement the agreement with Australia to change the USAFTA rules of origin for certain yarns of viscose rayon fiber, the HTS is modified as provided in Annex III to this proclamation.

(6) The modifications made to the HTS by Annex III to this proclamation shall enter into effect on the date that the United States Trade Representative announces in a notice published in the *Federal Register* that Australia has completed its applicable domestic procedures to give effect to the agreement to change the USAFTA rules of origin for certain yarns of viscose rayon fiber and shall be effective with respect to originating goods of Australia entered, or withdrawn from warehouse for consumption, on or after the date indicated in the notice.

(7) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of December, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

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